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PROCEEDINGS AND DEBATES OF THE 92^{d} CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, March 29, 1972*

The House met at 10 o'clock a.m.

Jack P. Lowndes, president, Home Mission Board, Southern Baptist Convention, and pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

Let us not grow weary in well-doing for in due season we shall reap, if we do not lose heart.—Galatians 6: 9 RSV.

Our Father, we are thankful for the miracle of life. We are thankful for this season that reminds us of rebirth as we see green things springing up to leaf and flower. May we, who have been granted the swift and solemn trust of life, use it in the the light of Thy great promise of life eternal.

Today, we are grateful for this body and the emphasis given not only to temporal matters but also to spiritual values. In the spirit of the resolution passed by this body that this be a national week of prayer and concern, we pray for our Nation and our world. Give us peace on earth we pray. May the living presence of Christ be with the Members of this body as they travel home in the next few days. Bring them back renewed in spirit and hope.

Please, Lord, give us wisdom, give us courage for the facing of these days. In the name of the living Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title.

H.R. 8787. An act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 13955. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13955) entitled "An act making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. ELLENDER, Mr. INOUYE, Mr. COTTON, Mr. BROOKE, and Mr. YOUNG to be the conferees on the part of the Senate.

PERMISSION FOR SPECIAL SUBCOMMITTEE ON LABOR TO SIT WHILE HOUSE IS IN SESSION TODAY

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that the special Subcommittee on Labor may sit while the House is in session today.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

INEQUITY IN 235 HOUSING PROGRAM SHOULD BE CORRECTED

(Mr. MARTIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MARTIN. Mr. Speaker, yesterday I introduced H.R. 14162, a bill to correct an inequity in the 235 housing program which I feel never was the intent of the Congress.

Under the 235 plan, families within certain income limits may purchase homes with practically all of the interest subsidized by the Federal Government. The purchaser in many cases pays only 1-percent interest and the balance of the interest on the loan is subsidized by the taxpayers.

Now I find that the Internal Revenue Service has ruled that such a taxpayer may deduct the full amount of the interest even though he pays only 1 percent.

For instance, if the loan is at 8 percent, the purchaser pays 1 percent and the taxpayer 7 percent. But the Internal Revenue Service allows the purchaser to deduct the full 8 percent from his income tax.

This is a double subsidy. The Internal Revenue Service seem to be adamant in their position. I feel that this misinterpretation should be corrected by the legislative route. I trust that the Ways and Means Committee will give early consideration to this important matter.

NIXON ADMINISTRATION PROGRAMS FIGHT UNEMPLOYMENT

(Mr. CONABLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CONABLE. Mr. Speaker, all the attention focused on the President's phase II economic program tends to obscure the administration's determined efforts to fight unemployment. While the administration's programs to reduce unemployment are less dramatic than the anti-inflationary effort, they, nevertheless, carry an equally high priority.

In addition to the stimulative fiscal policies being pursued, the administration is also carrying out numerous programs which are directly providing employment. For example, the veterans employment programs have helped find jobs for more than 270,000 Vietnam-era veterans. The administration's public employment program has created 145,000 new jobs among more than 6,000 State and local jurisdictions at a cost of $2 billion over a 2-year period. The Department of Labor has announced that a record number of federally supported job opportunities for youth will be available this summer: Nearly 1.1 million jobs will be funded, 89,000 more than last year.

This administration is currently spending more than $4.3 billion on manpower programs, expanding enrollment to 2.3 million trainees. The Department of Labor has also financed computerized job banks to match available jobs with available manpower in 46 States, covering well over half of the Nation's labor force.

The administration's fiscal policies are designed to increase GNP by $100 billion over the last year and bring the unemployment rate down. Efforts to improve America's competitive position in world markets will increase our sales abroad and generate more jobs here at home.

In short, the administration is conducting a major effort to fight unemployment through its general public employment program as well as through the stimulative thrust of its general economics policies.

WHY ARE NOT OUR ANTITRUST LAWS WORKING?

(Mr. MIKVA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I hesitate to get into a "hissing" contest with the minority leader of the other body or the minority leader of this body, but in this morning's Washington Post, beneath a picture of those two distinguished minority leaders, appeared a story in which the Senator from Pennsylvania went into an epexegetic sesquipedalian attack on the Senate Judiciary Committee's ITT inquiry.

Senator Scott accused some Members of the other body of indulging in a form of "jackassry." I think he used the wrong animal. I think he ought to worry more about the elephantiasis of ITT, a group so immense that they have to have their own state department, their own CIA, their own health department, their own justice department, and apparently their own political convention. I think he ought to worry about the elephantiais of a Justice Department which allowed ITT to acquire a substantial number of more companies since the settlement.

But more seriously, he ought to worry about the thorough disgust of a body politic which does not trust its Government, its institutions, its elected officials, all with apparently good cause. The gentleman from Pennsylvania ought to worry about an antitrust policy that has developed arthritis either in the law or in its enforcement such that free enterprise and a competitive society have become terms only to be used in Fourth of July speeches but never to be taken seriously.

And this House of Representatives, Mr. Speaker, has to have similar concerns. I would hope that the Judiciary Committee, of which I am a member, will diligently pursue its investigation of conglomerate mergers and hold immediate hearings on Chairman Celler's bill to improve and redistribute antitrust enforcement responsibilities. I refer to H.R. 12004. The importance of such concerns transcends the issue of the identity of the next Attorney General and perhaps even the identity of the President who designates the next Attorney General. Unless there is an antitrust policy which is aimed at achieving and maintaining a free economic society, the world will little note nor long remember who it was that followed Martha Mitchell's husband as Attorney General of the United States.

ITT

Mr. CEDERBERG. Mr. Speaker, I have listened with interest to the remarks of the gentleman from Illinois, talking about various types of animals and ITT. My only comment would be that ITT grew like an elephant when the jackasses were in charge.

CALL OF THE HOUSE

Mr. GROVER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 96]

Abernethy
Abourezk
Anderson, Tenn.
Badillo
Baring
Blanton
Bow
Brown, Ohio
Celler
Chappell
Chisholm
Clark
Clawson, Del
Clay
Collier
Davis, Ga.
Dorn
Dowdy
Dwyer
Edwards, La.
Gallagher
Gaydos
Goldwater
Gray
Hagan
Hawkins
Hays
Hébert
Hogan
Hull
Johnson, Calif.
Keith
Kuykendall
Landrum
Mills, Ark.
Mills, Md.
Mitchell
Morse
Murphy, N.Y.
O'Hara
Patman
Pryor, Ark.
Rangel
Rarick
Rees
Reid
Rogers
Rostenkowski
Sandman
Saylor
Scherle
Scheuer
Stokes
Stubblefield
Stuckey
Teague, Tex.
Van Deerlin
White
Yates

The SPEAKER. On this rollcall, 372 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERSONAL ANNOUNCEMENT

Mr. CONTE. Mr. Speaker, on the recorded teller vote yesterday regarding the amendment offered by the gentlewoman from New York (Mrs. Abzug), rollcall No. 93, I voted "no." I meant to vote "aye." I wish at this time to indicate my wholehearted support of this amendment.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Mr. JONES of Alabama. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11896) to amend the Federal Water Pollution Control Act.

The SPEAKER. The question is on the motion offered by the gentleman from Alabama.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11896, with Mr. Smith of Iowa in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Before the Committee rose on yesterday the Clerk had read the section 2 of the committee amendment in the nature of a substitute, ending on line 25, page 396, and it had been agreed that debate on all amendments to the bill would be limited to 2 hours.

Mr. THOMPSON of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

If I may have the attention of my distinguished colleague from Alabama (Mr. Jones) I have a question for the gentleman.

At section 204(b)(4) of the committee bill, at page 59, concerning the terms and conditions to govern the Administrator in making the financial grants authorized by the bill to the States and interstate agencies for the construction of "treatment works," the bill states, and I quote:

> Approved by the Administrator of a grant to an interstate agency established by interstate compact for any treatment works shall satisfy any other requirement that such works be authorized by Act of Congress.

We have such an interstate compact agency in my district, the Delaware River Basin Commission, comprised of the States of Delaware, New Jersey, New York, and Pennsylvania as well as the Federal Government, which has substantial powers and duties pertaining to the control of water pollution.

With funds provided by the EPA's predecessor agency, the DRBC recently completed a regional waste treatment program for the protection and enhancement of the waters of the Upper Delaware Basin, including the authorized Tocks Island Reservoir project. The commissioner recently adopted a resolution committing itself to undertake construction of this regional system, if need be, in the interests of insuring the protection and enhancement of those basin and reservoir waters.

The commission's regional approach in this particular matter was commended by the Council on Environmental Quality on February 3, and the commission's specific plan to implement this regional system, that is, its so-called alternative V, was endorsed unreservedly by the Environmental Protection Agency in the DRBC's public hearing last February 22.

I now come to the point of my question: Last February 3 the Council on Environmental Quality stated that the Governors of the concerned Delaware River Basin States should make a committment or affirmation that their respective States will provide their share of the DRBC cost of implementing this regional plan. My question is, Does the committee's language at section 204(b)(4), intend that the Administrator may make a grant to the DRBC, of the full Federal share of from 60 to 75 percent, of the cost of this regional program for the protection of Upper Delaware Basin and Tocks Island Reservoir waters?

Mr. JONES of Alabama. The answer to the gentleman's question is "yes," provided, as he explained it, the EPA has endorsed the program, or that it meets the regional and other standards of the committee's bill. The intent of section 204(b)(4) is to make it clear to the States, and to their interstate compact agencies in the water pollution area, that the Federal Government will bear the bulk of the cost of these costly, necessary programs, and that the States or their interstate agencies may move ahead as quickly as possible, confident that the Federal Government is going to pay the lion's share of the way. That is the intent of section 204(b)(4).

Mr. THOMPSON of New Jersey. I thank the gentleman very much, and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. HEINZ

Mr. HEINZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEINZ: On page 350 following line 6:

"SEC. 319(a) It is the purpose of this Section to supplement the enforcement procedures of this Act by providing for desirable economic incentives to water users to conserve water and to minimize pollution through reduction in the quantity of waste products dumped into these waterways. It is also the purpose of this Section to encourage the formation of regional waste treatment management organizations pursuant to section 208(a) of this Act.

"(b)(1) In furtherance of the purpose of this Section, the Administrator and the Secretary of the Treasury shall prescribe such regulations as are necessary to establish and put into effect two years after the enactment of this Act a schedule of national effluent charges for all those discharges including municipal sewage which detract from the quality of the water for municipal agricultural, industrial, recreational, sport, wildlife, and commercial fish uses. These discharges shall include, but not be limited to, biochemical oxygen demand (BOD), suspended solids, thermal discharges, and toxic wastes. The charges shall be set at a level which will provide for the attainment of the standards and goals of this Act. Such regulations shall also provide for making available as public informtion all amounts collected pursuant to such charges.

"(2) Any person who willfully fails to pay any charge as required by regulations established pursuant to this Section or who willfully fails to make any return, keep any records, supply any information, or to do any other act required by such regulations shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than one year, or both, together with costs of prosecution.

"(3) The United States district courts shall, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States, have jurisdiction to restrain violations of regulations established pursuant to this Section.

"(c) Revenues collected by the Secretary of the Treasury pursuant to such charges shall be deposited in a trust fund (hereinafter referred to as the 'fund') in the Treasury to be available without further appropriation to the Administrator for use as prescribed in subsection (d).

"(d) Money from the fund shall be available for distribution by the Administrator in each year for the purpose of funding Section 106 of this Act (to assist water pollution control programs of States and interstate agencies), except that any owner or operator of a point source of pollution including publicly-owned treatment plants, who installs pollution abatement equipment or revises production methods to comply with standards shall receive a rebate of 50% of the aggregate amount of effluent charges paid prior to the installation or revision, such rebate not to exceed 100% of the cost of the pollution control facility. Money in the fund in excess of the amounts required to fund Section 106 shall be available for the general purposes of Title II, of this Act (grants for construction of treatment works).

"(e) Organizations established pursuant to Section 208(a) of this Act shall, not later than two years after the enactment of this Act, or, in the case of organizations designated two years or later after the enactment of this Act, not later than 180 days after they are designated, provide for a schedule of effluent charges covering all navigable waterways within the boundaries of the area designated pursuant to Section 208(a)(2). Charges may be set at or above the level and on substances in addition to those designated by the Administrator pursuant to subsection (b)(1) of this Section. After approval by the Administrator, the charges may be imposed by the State or interstate agency, and all revenues therefrom shall henceforth accrue to the State or interstate agency to be used for the purposes of attaining the standards and goals of this Act."

Mr. HEINZ (during the reading). Mr. Chairman, I ask unanimous consent to dispense with the reading of the amendment and ask that it be printed at this point in the RECORD.

PARLIAMENTARY INQUIRY

Mr. HARSHA. Mr. Chairman, reserving the right to object, I want to make a parliamentary inquiry.

The CHAIRMAN (Mr. SMITH of Iowa). The gentleman will state it.

Mr. HARSHA. Mr. Chairman, I intend to make a point of order against this amendment and, if the unanimous-consent request is granted, do I then waive my right to make that point of order at the appropriate time?

The CHAIRMAN. The gentleman will not wavie his right if he makes it immediately after the unanimous consent is granted.

Mr. HARSHA. I reserve a point of order against the amendment, and if the waiver of the reading of the amendment will not waive my right to a point of order——

The CHAIRMAN. The gentleman can make his point of order immediately following the granting of the unanimous-consent request.

Mr. HEINZ. I am willing, certainly, to let the gentleman reserve his point of order until after discussion.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. HARSHA. Mr. Chairman, I reserve a point of order against the amendment.

Mr. HEINZ. May the gentleman reserve his point of order?

The CHAIRMAN. The gentleman from Ohio reserves a point of order.

Mr. HEINZ. I thank the gentleman for reserving the point of order.

Mr. JONES of Alabama. Mr. Chairman, I would like to make the same reservation on the point of order against the amendment that the gentleman just offered.

The CHAIRMAN. The point of order is reserved.

The Chair recognizes the gentleman from Pennsylvania for 5 minutes.

Mr. HEINZ. Thank you.

Mr. Chairman, my amendment to add effluent charges to this bill, I believe, can effectively insure that the promise of clean water becomes a reality. It would provide the necessary incentive to industry and municipalities alike to halt the waste and degradation of this Nation's precious and irreplaceable water resources.

In effect, the effluent charge in the amendment I propose places part of the burden for a pollution clean-up where it belongs—on the polluter himself—and ultimately in the marketplace where the cost structure and price of the product or service can be judged by the consumer.

I support this bill and many of the strengthening amendments. I am well aware that a thorough job of investigation and preparation went into this legislation, and I applaud the committee, its distinguished chairman, and, especially, the gentleman from Ohio (Mr. HARSHA), for a sincere and generally successful attempt to protect our Nation's water. However, I see the effluent charge as a necessary and vital extension of this bill in order to save the taxpayers' dollars, to attack pollution at its source, and to provide a more responsive and flexible incentive to adopt innovative and less costly methods of pollution abatement.

My amendment requires that the Administrator of EPA establish a reasonable and appropriate schedule of effluent charges to be paid by polluters on all discharge, including municipal sewage, which detract from the quality and serviceability of using water for municipal, agricultural, recreational, wildlife propagation, and other important purposes.

As an added incentive to reduce the amounts of discharge to a point within and below the limits of the law, owners or operators may claim a 50-percent rebate of those charges after installing proper facilities, including changed production methods, to abate pollution. Rebates would at no time exceed 100 percent of the total cost of the capital expenditures.

I have just sent out a questionnaire to my constituents on the water pollution bill and have talked to a great many people about their willingness to spend the billions of dollars required by this bill. The returns are running overwhelmingly in the affirmative. They realize, as we all must, that generations of neglect of our water will not be inexpensive to reverse.

I contend, however, that there is a wiser way to implement this objective than simply through spending billions of dollars on vast public works projects to build water treatment facilities. I submit this is through the use of effluent charges.

Effluent charges can save taxpayer money in several ways.

First, and most important, I would like to emphasize that the increased incentive to industry, in particular, as provided by effluent charges and their partial rebate, will have the desirable and necessary effect on reducing the need to spend the very large amounts authorized to construct water treatment plants. This means a substantial savings in tax dollars. Second, half or more of the effluent charges paid would be used to fund section 106 and title II of this bill, which, as it stands now, would authorize the expenditure of $7 billion in the first year alone. We must either raise taxes or further increase the vast Federal deficit, unless we find another means to pay for this bill, and that is why I propose the self-financing vehicle of effluent charges. I am firmly convinced we must make every effort to minimize or reduce the devastating tax burden the people of this country now bear.

The administration and effectiveness of this bill also are of concern to me.

I am aware that this bill and its amendments commit us to the principle of environmental restoration. But I believe there is also a crying need for an effective bridge between the administration of pollution control, as set by law, and the goal of a pollution-free environment.

Let us be as realistic as possible. It is not simply a question of passing laws that we face, but how to administer the law. The procedures of this bill are necessarily complex at both Federal and State levels. The effluent charge I propose will minimize the need to further expand the bureaucracy by applying to all polluters—across the board—a built-in and easily administered incentive to meet or surpass our water quality goals.

There is one final and additional concern that I believe we must take into account, and that is our economy and the effect of this legislation on jobs.

I would add that there is a real added benefit to be derived from my amendment, to add effluent charges to this bill, and that is that the economy of this Nation could well be greatly expanded by the creation of a whole new generation of technology, the role of which would be to realize the need for polluters to pay effluent charges by finding and applying the means to control pollution through the elimination of damaging discharges. Countless new jobs could and would be developed through the demand for the manufacture and installation of devices, and other capital equipment, to halt the free flow of effluents into our water. The creation of a new industry to employ our expanding work force is urgent business if this country is to avoid the specter of unemployment.

Mr. Chairman, I submit that my amendment complements and improves this bill, and I urge my colleagues who are interested in lower taxes, increased employment, a smaller bureaucracy, and meeting the goals of this legislation, to support this amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Ohio insist upon his point of order?

Mr. HARSHA. I do insist upon my point of order, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, my point of order is as follows:

First, the amendment proposed is nongermane and therefore violates rule XVI, clause 7. The purposes of the amendment as contained in a letter circulated by the proponent on March 22, 1972, includes the purpose of producing revenues. Now, the production of revenues is completely alien to this committee, and is properly a matter for the consideration of the Committee on Ways and Means under rule XI. Moreover, another purpose stated in the letter is to permit industry to choose the most cost-effective means of reducing pollutants. This too is nongermane to the bill, which concerns itself with the control of pollution and enforcement. Another stated purpose in the letter is to encourage industry to sell products which take a smaller environmental toll. This too is not germane to the bill, as the encouragement of business practice is not necessarily related to any item within the bill.

Second, this amendment is not within the jurisdiction of the Committee on Public Works. It proposes a tax on effluents, and raises revenues, and therefore violates rule XI, which places jurisdiction of revenue raising in the Committee on Ways and Means.

Section 319(c), Mr. Chairman, categorically refers to revenues collected by the Secretary of the Treasury pursuant to such charges.

Third, the amendment violates rule XXI, clause 4 prohibiting appropriations in legislative bills. Section 319(c) and (d) of the amendment directs the action to be taken with the revenues raised in accordance with the amendment. In addition to the clear language of the amendment, the stated purpose of the amendment in the proponent's March 22, 1972, letter demonstrates the intent that these funds be used for a specific purpose in violation of rule XXI, clause 4.

Therefore, Mr. Chairman, I insist upon my point of order.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, as many of us on the committee recognize, there are certain alternate methods of studying the means and values that might be available, and in so doing we did address ourselves to this proposition in section 317(a), wherein we state:

> "SEC. 317. (a) The Administrator shall continue to investigate and study the feasibility of alternate methods of financing the cost of preventing, controlling and abating pollution as directed in the Water Quality Improvement Act of 1970 (Public Law 91–224), including, but not limited to, the feasibility of establishing a pollution abatement trust fund. The results of such investigation and study shall be reported to the Congress not later than two years after enactment of this title, together with recommendations of the Administrator for financing the programs for preventing, controlling and abating pollution for the fiscal years beginning after fiscal year 1976, including any necessary legislation.

So we are addressing ourselves to that, and it is in the report, as well as part of the bill under section 317 for the financing of that.

Mr. HEINZ. Mr. Chairman, would the gentleman yield so that I may address an inquiry to the gentleman from California?

Mr. HARSHA. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Chairman, I wonder if the gentleman from California would state whether this subject is addressed to the National Academy of Scientists for the purpose of studying this?

Mr. DON H. CLAUSEN. My suggestion to the gentleman would be that he convey his ideas to the administrator during the course of the study.

Mr. HEINZ. I thank the gentleman. May I speak to the point of order?

The CHAIRMAN. The Chair will hear the gentleman from Pennsylvania (Mr. HEINZ) on the point of order.

Mr. HEINZ. Mr. Chairman, I would argue, in response to the statement of the distinguished gentleman from Ohio (Mr. HARSHA) in urging his point of order, that effluent charges are basically user charges, and user charges are fundamental to the bill. The bill would not work without them; they are the primary means of financing the operation and construction of the water treatment works herein.

And I would add further that this in itself is an important consideration in ruling on this.

Also I would hasten to add that clearly under sections 204(b)(2) and 204(b)(3) that in fact the purpose of this bill is to raise revenues for the purposes of the bill, and without this we could not possibly construct any water treatment facilities.

Finally—and to be brief—there are two historical precedents that I believe are important that establish the principle that user charges are germane to the legislation.

Volume IV, section 4119 of Hinds' Precedents of the House of Representatives—no relation, I would add—state that on February 23, 1905, the River and Harbor Appropriations Bill was under consideration, and included in such bill was a section permitting the collection of tolls on freight and passengers. A point of order was made to that. The point of order was not sustained.

Similarly, at a later date, in Volume VII, section 1929 of the same precedents, a bill that included a provision calling for fines and penalties for offenses on lands of the public domain was reported from the Committee on Public Lands, now called the Department of the Interior, and it was determined that those charges might properly be considered by the Committee of the House as a Whole.

Mr. Chairman, I respectfully request that the Chair consider these precedents in ruling on the point of order raised by the gentleman from Ohio.

The CHAIRMAN (Mr. SMITH of Iowa). The Chair is prepared to rule.

The gentleman from Pennsylvania has submitted an amendment to which a point of order has been raised on the ground that it is not germane and that it violates rule XXI, clause 4 prohibiting appropriations on legislative bills.

The Chair has examined the amendment.

The gentleman from Pennsylvania states that the bill contains similar provisions. However, the rule under which we are operating specifically waives all points of order against sections 2, 8, and 12 of the committee amendment, but it does not waive such points of order against an amendment to the committee amendment.

So far as nongermaneness is concerned, the Chair finds in clause 3(c) of the amendment submitted a provision for collecting revenues or taxes. Also in section 3(d) it provides for money collected from the fund shall be available for distribution—in other words, an appropriation.

So the Chair finds it is not germane for the reason that it provides for raising revenue, or a tax, and appropriates money. Therefore, the amendment is in violation of clause 7, rule XVI and also it is in violation of clause 4, rule XXI, prohibiting appropriations on legislative bills.

The Chair sustains the point of order.

AMENDMENT OFFERED BY MR. MAHON

Mr. MAHON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAHON: On page 245, in line 13, strike out all after the word "submitted"; strike out all of lines 14 and 15, and all of line 16 down to the period.

On page 250, strike out all of line 18 after the word "shall"; strike out all of line 19; and strike out the words "for obligation" in line 20.

On page 251, strike out the words "for obligation" in line 12.

On page 254, add the following at the end of line 18: "To the end of affording eligible recipients of grants for costs of construction adequate notice of available Federal financial assistance therefor, appropriations pursuant to this section with respect to the fiscal years ending June 30, 1974 and June 30, 1975, respectively, are authorized to be included in the applicable appropriation Act for the fiscal year next preceding the fiscal year 1974 or 1975, as the case may be. Appropriations made pursuant to this section are authorized to be made available without fiscal year limitation."

Mr. MAHON. Mr. Chairman, the amendment which has just been read appears in the CONGRESSIONAL RECORD, volume 118, part 8, page 10739.

I had hoped, Mr. Chairman, that the committee itself would offer this amendment. It is a procedural amendment which retains the full 3-year authorization in the committee bill, but provides for annual funding by the Congress—but on an advance basis—in lieu of the 3-year contract authorization proposed by the committee.

Thus the amendment would keep Congress where it ought to be—in the center of the action on this vital and momentous issue each year—annually, not once every 3 years.

Water pollution control activities are vital and will become more so from year to year. They require profound and lively debate and action by Congress each year.

My amendment provides for 1-year advance funding in order to accommodate sound planning by the cities and localities and to achieve the objectives of the bill. Under my amendment, the money would remain available from year to year until expended, further facilitating administration of the program. Funding by Congress each year—a year in advance—would provide maximum impact to keep the issue alive in Congress and among the people, and would have far more impact on the executive branch than the one-shot, 3-year contract authority.

The 3-year contract authority provided in the bill would tend to shelve the issue for 3 years. It would send it to the legislative graveyard rather than keep it alive and dynamic and before us an annual issue.

Some seem to think that contract authority will guarantee full funding of the authorization. Of course, nobody is so naive as to think that you can bypass the President or the executive branch. The President is the top official in all departments and agencies, and he would permit or not permit full-scale application of the contract authority—or appropriations, for that matter. But if we deal with the question annually, we in Congress can have maximum impact and we can better monitor the program.

The highway program is funded by contract authority, and on the matter of full funding there is no magic to it. In the current budget, the executive branch is proposing to impound about $1.3 billion of the 1973 amount, bringing the total accumulated impounding in the highway fund to about $8 billion. So there is no magic in a contract authorization. A 3-year contract authority just takes Congress out of the picture for the next two sessions, and puts the Executive in there with both feet.

I think experience shows that it is less painful for the Executive to impound contract authority. I say to you without fear of successful contradiction that Members who want to get something big and meaningful done—I mean really want to get something big and meaningful done—about water pollution should support a program of lively and profound debate on annual appropriations, keeping us in the act where we ought to be, where the people expect us to be. Yes, this would keep Congress in the picture, have a greater impact on the Executive and, importantly, tend to create national public sentiment to get an effective job done.

Congress, for the current fiscal year 1972, under the leadership of the Committee on Appropriations, has already appropriated $2 billion in the appropriations bill handled by Mr. WHITTEN—$2 billion for waste treatment construction grants—which is $350 million more than has even yet been authorized by law.

Why should we then abdicate for 3 years, my friends?

Take note of this: Already, 71 percent of the spending budget submitted in January for 1973 is classified as "relatively uncontrolled under existing law." This 3-year contract authority would put more of the annual budget in that category. What next?

Pollution is a big and a growing problem. Shall we further surrender our authority and power to annually work our collective will on Government spending?

The American people demean Congress for giving too much power to the Executive. Shall we continue to march toward congressional oblivion, surrendering our real authority to the Executive, or shall we take the ball and run with it? The power of the purse is our supreme power over government in behalf of the American people and annual review and control is at the very heart of that power.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. MAHON was allowed to proceed for 1 additional minute.)

Mr. MAHON. My amendment is a vital step toward preserving congressional prestige, dignity and power, and I urge you to support it. It would greatly improve the pending bill. It would fully facilitate carrying out the big program we have launched in recent years. While the amendment is procedural, it is also fundamental.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. MAHON. If I have time remaining, I yield to the distinguished minority leader.

Mr. GERALD R. FORD. As I understand the gentleman's amendment, the Committee on Appropriations would recommend full funding for fiscal year 1973 of $5 billion and the full funding for fiscal year 1974 of $6 billion. Thereafter it would only require one-year funding, because you have the advance funding in the one instance. Is that correct?

Mr. MAHON. The amendment specifically contemplates one-year advance funding, and the Congress itself would decide this year, next year, and every year how much the funding would be. Congress ought to be willing to trust itself to deal appropriately with this vitally important and expanding issue. We cannot of course say today with any certainty what the situation will be during the forthcoming 3-year period and thereafter. But the advance funding contemplated by the amendment is designed to give appropriate certainty and flexibility to the program.

I prefer to trust the Congress each year, not leave it entirely up to the executive branch for the 3 years.

Mr. GERALD R. FORD. But in the first year there would be double funding under the gentleman's proposal.

Mr. MAHON. Double funding is what the amendment contemplates.

Mr. ROE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am honored to follow the most distinguished gentleman from Texas, the chairman of the Appropriations Committee, Mr. GEORGE MAHON, in his eloquent presentation made in this House, but let me present something for the attention of the Members.

The moment of truth is at hand. The heart of the bill is involved: Whether or not this Congress is going to make a full commitment to the people of the United States or whether it is not. That is the point involved. We talk about priorities. Yes, there is ending the Vietnam war, as priority No. 1 but the second priority is the very health and safety of the people of the United States. We cannot live more than 3 minutes without air and we cannot live more than 4 days without water. It is not a question of what priority comes first. The first priority is the health and safety of the people of this country. That is what this commitment is all about.

Whether we make that commitment now or in the future is the question before this House. We know we are systematically poisoning ourselves. We know the situation we are faced with right now is literally involved in the survival of our society. The determination we make, the order of financial authorization voted here today means the success or failure of this particular bill.

Previous water pollution legislation—every bit of it—failed, and it failed because of the fact that this Government, our Federal Government, built in acres and acres of redtape. The States cannot function under it and the municipalities cannot function under it. They are burdened with bureaucracy, bureaucracy, bureaucracy. The people of America are tired of being had. They want the truth. They want the truth, and they want what they want as the citizens of this country.

The legislation before this House has been debated before this House and before the Senate.

Some people say the States are not participating and the States did not do anything and the States are to blame. This is not the truth. The State of New York voted a $1 billion bond issue, and the State of New Jersey voted a half billion dollar issue, and a half dozen other States have also acted.

The fact of the matter, as I see it, which must be said, is that the Federal Government has not appropriated the money to do the job and they are using the fiscal resources of every single State that is participating in the development of this vital water pollution control program. That is the truth.

When we talk about precontract authority, we are talking basically about paying the States back on the money they are providing to build the program, the Federal water pollution control program.

So to anybody who says the States are not doing their job, I have to reply that it is not true. The States are tired of taking the blame and being had and being the "black hats" in this issue.

I know the time is short and I know it appears we are saying we neel more money. But we give it with one hand and take it away with the other. We put our hand in one pocket and say, hooray, look at the testimony today, the headlines in the papers, see what a great job we did in the Congress of the United States—except for one thing. We did not provide the money to do the job. The States are bilked again. They cannot go any further.

Who is the servant and who is the master? Were we not elected from the States to serve the States of this country? Were we not elected to be the Representatives in the Congress of the United States of the people of this country? We are not here to fight the executive branch and the President of the United States. We are here to serve the people.

The priority No. 1 in this country of ours is the health and safety of the people of this country. They should not be manipulated politically as a counterpressure on the Executive. Every day we fritter away and waste our time, costs on construction will be going up. They go up year after year after year. Then who pays through the nose? It is the American taxpayer. Congress cannot fritter away time on this issue while the people of our country drown in their own swill.

Woe to any Member of this Congress who votes for this amendment, because if he does he will be voting against the health and safety of every man, woman, and child in his district and in this country, and voting against priority No. 1, against the health and environment and safety for our people. I say the precontract provision must be retained and this amendment should be soundly defeated.

Mr. GROVER. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from New York.

Mr. GROVER. I want to compliment the gentleman on that statement. I do believe this amendment will indeed "gut" the spirit of the bill.

I do not believe that all the Members of the House realize the gentleman who just presented this statement is one of the most distinguished and knowledgeable persons in this field, as a former commissioner of conservation and economic development in New Jersey. I want to compliment him again on a very fine statement.

Mr. ROE. I thank the gentleman.

Mr. JONAS. I move to strike the last two words.

Mr. Chairman and members of the committee, I take this time to express my support of the amendment of the chairman of the Committee on Appropriations, the distinguished gentleman from Texas. I associate myself with the remarks he made in support of his amendment.

I am sure the gentleman from Texas is not parochial in his attitude, nor is he oversolicitous of the prerogatives of the Committee on Appropriations; but he is seeking to preserve the prerogatives of the House of Representatives and of the Congress. He just does not believe it would be wise for the Congress to vote $18 billion in a blank check to the executive branch of the Government. He feels that Congress should retain some oversight over this program, to see how it functions and to see what progress is being made.

There is not a word in the amendment that would reduce the total commitment.

The gentleman from New Jersey made a very eloquent speech about priorities. There was not one syllable uttered by the gentleman from Texas in support of his amendment, and there is not one line in the amendment that would take anything whatsoever off the total commitment to proceed vigorously with this program.

The gentleman from Texas believes, and I concur in that belief, that the Congress should not abdicate all of its responsibilities and all of its prerogatives to the executive branch of the Government.

We hear the charge made frequently that the Congress is surrendering prerogatives to the executive branch of the Government. This is an effort to retain some jurisdiction in the Congress of the United States to supervise and oversee the development of this program.

The language of the amendment itself is very clear. I should like to read the final part of it:

> To the end of affording eligible recipients of grants for costs of construction adequate notice of available Federal financial assistance therefor, appropriations pursuant to this section with respect to the fiscal years ending June 30, 1974 and June 30, 1975, respectively, are authorized to be included in the applicable appropriation Act for the fiscal year next preceding the fiscal year 1974 or 1975, as the case may be. Appropriations made pursuant to this section are authorized to be made available without fiscal year limitation.

I believe the position of the gentleman from Texas is sound. I concur in his argument in support of his amendment. I believe it ought to appeal to the good judgment of the House, and I believe it ought to be adopted.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. JONAS. I am glad to yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman from North Carolina for yielding.

Anyone who has studied the evolution of the parliamentary process over 700 years knows that the power of the parliaments has arisen out of the control of the purse. If we give up this power of the purse—control authority feature of this bill is one more significant part of the erosion of that power—we might as well give up the idea that the American Congress is an equal and coordinate branch of the Government.

I support the amendment offered by the gentleman from Texas.

Mr. JONAS. The gentleman from Maryland is absolutely correct, and I was glad to yield to him to make a profound contribution in support of the Mahon amendment. I fully concur in the views he so eloquently expressed.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. JONAS. I am glad to yield to the gentleman from Michigan.

Mr. CEDERBERG. I want to associate myself with the remarks of the gentleman from North Carolina and also those of the gentleman from Texas, and I share the sentiments expressed by the gentleman from Maryland.

We have been talking about many, many times—about how the Congress is abdicating its responsibility to the Executive—here we are going to have to make a decision as to whether or not we are going to take that step. In my opinion we should not do that. We have gone too far already.

Mr. JONAS. Mr. Chairman, in conclusion let me emphasize the language of the last sentence I read:

> Appropriations made pursuant to this section are authorized to be made available without fiscal year limitation.

This means there is no limitation on the availability of the funds appropriated. They continue to be available until spent.

The Mahon amendment deserves support from all who believe in the doctrine of separation of powers and I urge the committee to adopt it.

Mr. JONES of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this is a rather useless discussion. The reason I think so is based on the letter of the gentleman from Texas. We have a 3-year program for the expenditure of $18 billion. The gentleman from Texas in his letter says that he does not object to those appropriations; that he is reconciled to the fact that we will pay $18 billion in the next 3 years. Consequently, I ask what are we talking about? If he is agreeable to these appropriations, why cannot the States in an orderly fashion then proceed, with his agreement, to schedule the works and make the plans and make the useful and necessary programs available?

Let me remind you of something. Since 1916 we have had contractual authorizations under the Federal-Aid Highway Act. There has not been a single dissent from the Committee on Appropriations to the fact that that was a contractual obligation. It was necessary in order that the States could make the necessary arrangements or that the contracts could be made for this construction, which was gigantic in nature.

We recognize this again in 1956 with the Federal Interstate highway program. This was a tremendous undertaking, to the extent of spending many, many billions of dollars on the part of the Federal Government. We invited the States to come in and make the appropriate plans as long ago as 1946.

Now, when they come to these conclusions, why are we here now talking about not giving the States the contractual obligations that they need in order to pursue a building program amounting to $18 billion?

A decade ago we made an estimate of the flood control and river and harbor projects, and we found out that they were 10 years and 2 months behind the authorization in the first appropriation that they received.

I do not understand why we need to have these consequential delays in programing and execution. The Committee on Public Works came back here in cooperation with the Committee on Appropriations and modified the basin authorizations in order to cut down the time, the delay, and the delinquencies on the approved projects.

Now do we want to go back to that same situation? Do we want to tell the people of this country we have established this high priority for these great needs and for the desirability of the people to have a high degree of water quality and then have them come back here every year in large groups as they do on flood control and river and harbor projects to attest to the validity of their claims?

Why of course not.

Here, Mr. Chairman, we are providing the same proposition that the gentleman from Texas (Mr. MAHON) suggests, that we are going to appropriate the money. We are authorizing it and providing contract authority which would accomplish the job.

Mr. Chairman, to adopt such an amendment is not a question of trespassing upon the constitutionality and the sovereignty of the people on the Appropriations Committee.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(By unanimous consent, Mr. JONES of Alabama was allowed to proceed for 1 additional minute.)

Mr. JONES of Alabama. Mr. Chairman, what we are trying to do in our bill is give assurances to the American people that we are dedicated to the proposition of action in preserving and enhancing the waters of our Nation.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

(By unanimous consent, Mr. WHITTEN asked and was given permission to proceed for 5 additional minutes.)

Mr. WHITTEN. Mr. Chairman, I happen to be the chairman of the Appropriations Subcommittee on Agriculture, Environmental and Consumer Protection which will handle the appropriations for this program.

Some of you will recall that when this jurisdiction was assigned to our subcommittee there were quite a number of eyebrows raised about the experience and objectivity of our subcommittee, wrongfully I feel. Luckily for me, in 1966 I had written a book, "That We May Live" a half chapter—page 176–81—of which is devoted to the absolute necessity that we do something to restore and protect the environment. In that book I pointed out many of the factors with which we have to deal to get the job done; the help, the cooperation we would need; the cost we would incur; the decisions we would have to make separating the undesirable from the downright dangerous; pointing out that we had to maintain our day-to-day business as we proceeded.

For instance, we could not ask the people of New York City to move out of town for a month while we clean up the Hudson River. We could not ask the factories to close down and thus throw many people out of work, for hungry people will not care about the environment. At the conclusion of my remarks I shall read to you the statements I made in that book, published in 1966.

Mr. Chairman, there is no finer group of Americans or a better informed group in this Congress than the members of the Committee on Public Works which brings this bill here today. There is not a harder working group that I know of than the chairman, the gentleman from Minnesota (Mr. BLATNIK), the gentleman from Alabama (Mr. JONES), the gentleman from Texas (Mr. WRIGHT), and all the rest. However in this bill heeding public clamor we are trying to do overnight that which cannot be done that quickly without proper plans but with purpose we commit billions of dollars—as though that alone will get the job done. We provide penalties as though we could force people to stay in business. The committee would lead us to believe you can write into any law provisions for self-execution.

May I say to the surprise of some, but not to those who know me, when our subcommittee held hearings on the request of the EPA and the various agencies for funds recommended by the Office of Budget and Management, we recommended those funds to the Congress after trying to tie them down to get maximum results.

So far as grants are concerned, our committee recommended, and Congress approved funds "to be made available when authorized." We did our part to ward carrying out all our commitments.

This $2 billion, to be available as soon as the appropriate legislative committee got the authorization through Congress shows our attitude, and our effective efforts.

As chairman of the subcommittee, I have met with Mr. Ruckelshaus, Mr. Train, and the others and we are working together. I sincerely believe we are making mistakes here in leaving too much latitude to the Administrator. Because the need is so urgent, the desire so strong and the press and news media so powerful in forming public opinion, we are trying to legislate to do by force that which cannot be done that way at least not successfully.

The Congress cannot force people to stay in busines, to stay on the farm, to stay away from the bathroom or to keep paying employees until the employer goes broke, if the purpose be to eliminate undesirable pollution.

If you were to bring together all the authority, all the responsibility you have give to William Ruckelshaus you would be amazed: He has the power of life and death over our economy.

As I told Mr. Ruckelshaus when he was before my subcommittee:

> Mr. Ruckelshaus, I feel sorry for you. Congress has given you far more power than a good man would want, or a bad man should have, or that any 10 men could handle.

I understand he has come to realize that fact. You all know the basic fact that you cannot change the sum total of matter. You can change its form. You can move from water to the land and bury it, you may move it from land, put it in the water, or in the air. You break it into its different parts but you cannot change the sum total of it.

Incidentally—and this is beside the the point—but my friend, the gentleman from New Jersey, which is in the vicinity of New York City, will remember that we had the representative from the State of New York who had the overall job of pollution control for New York State, come before our committee this past year.

I asked him:

> What can we as the Congress do, or what can our committee do to help you folks in New York?

He answered:

> Well, if you can find somebody to pick up the garbage it would do more good than anything I can think of.

I tell you we support the good intentions of the Committee on Public Works. We should support their overall program but we can proceed only at a practical rate to get the most done to restore and protect the environment.

To this end we need the most complete annual reviews by our committee.

We need to know that contracts are necessary; that the contractors are qualified and the plans sound.

I tell you—and I say this to my friend, the gentleman from Minnesota—there are not 10 men who together could carry out this act and discharge responsibly the authority that is given under it to the Administrator of the Environmental Protection Agency.

But in addition to that we have the other environmental acts which have given additional duties, powers, and responsibilities to one man whom most of you don't know. The EPA is still trying to get organized so that one branch knows what the other is doing and we keep adding all this power and all this money without thought or at least without proper restriction for its use.

The fact is that we cannot move as fast as the press, the extremists and some organizations would like us to; we can only move as far as we can on a sound basis. The bill without the Mahon amendment, lessens our opportunity to review, to recommend or to require sound progress in an orderly manner.

It is not humanly possible to move as fast as we all want to or, as I say , as the public wants us to do. We need to do the day-by-day hard work, taking detailed testimony, to find out just how best we can possibly help Mr. Ruckelshaus to meet the terrific responsibility that is his. I repeat, our subcommittee and the full committee for the current year appropriated $2 billion in advance of authorization, so that there would be no delay in meeting commitments to the cities. And may I say that notwithstanding that fact that $350 million have never been authorized yet.

So I am just saying let us not surrender the obligation that we have to conduct annual hearings so that we can go over their problems with the different departmental witnesses so that we can work out together how we can do the job most effectively. We could change this law and make it 10 times as strong, but you would still have the job of administering it. You would still have to find out where qualified engineers and other experts are. You would still have to find out who is doing what, and where, and you would still have to find out what laboratories we have, what they are doing and can do and work out plans for carrying out the act. All of those things involve long, hard, and grueling work, but your committee and, indeed, the subcommittees, are willing to do this. The Environmental Protection Agency does not have this information now.

Whatever we do we want to do our best. But I say let us reserve full commitment until we can find out; until Mr. Ruckelshaus can find out. Let us retain the annual review so necessary in every other area on how much can be done in the coming 2 years.

Mr. CASEY of Texas. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas.

Mr. CASEY of Texas. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Mississippi (Mr. WHITTEN).

I would also like to ask the gentleman if it is not true that if we do not adopt this amendment we will have no means in the future to control this program; we will not have the oversight or the ability to hold hearings after the program is started, once we pass this bill without this amendment, and in fact we are just turning it all over to the executive branch.

Mr. WHITTEN. The gentleman makes a sound point. With all due deference to the Administrator, neither he nor any 10 people could set up a sound organization or fully understand all the responsibilities we have given to him. The Administrator needs us to review with his proposed program annually as much as Congress needs to do so. For this Congress to push all this power on him and wash our hands of it is not to get the job done but can waste billions of dollars and get less than half the relief from water pollution we need.

Mr. CASEY of Texas. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. CASEY of Texas. I am sure most Members agree with me. I want Congress to say each year where the emphasis should be put. This we can do with an annual review, but not otherwise. I want us to have that opportunity.

Mr. WHITTEN. I thank my friend and colleague from Texas. He is right.

Let us wake up to the fact that we could waste half of the money provided in this bill, money we do not have, and lose half the benefits we so badly need.

I think the gentleman's amendment is reasonable in that funds will not lapse, and if we appropriate for a full year in advance, which means 2 years, we thereby provide for forward planning.

Let us keep all the supervision that is possible. Let us keep all the review that is possible in order that we may reap the maximum results from our efforts and really get ahead in eliminating pollution.

I hope that you will vote for this amendment. I think the records show that our committee will use its position to go over the record each year with those who are charged with the responsibility to make this program work effectively.

It is easy to pass this law and say that it does everything in the world. It will not unless we work to make it work.

Mr. Chairman, I repeat my words written in 1966 in my book "That We May Live":

Excerpt From "That We May Live," Written by Jamie L. Whitten, Member of Congress, Published 1966

This is not to say that pollution of air and water does not exist, for, of course, it does. Pollution is part and parcel of man's unplanned and unthinking change of his environment; and particularly is it a part of the subject under discussion in *Silent Spring* and here. Public opinion here seems to be on the move toward action. This public temper can be good if held in balance. It can do more harm than good if not kept on an even keel.

Pollution comes from many sources and becomes greater as our population increases; unless we take corrective action, it will become worse as we become more and more industrial. We do have pollution of the air and water and apparently are going to do something about it. These facts lead me to point to some of the factors with which we must deal as we attempt to meet this problem.

The fact that air is essential to life is as old as knowledge. The fact that polluted air can cause discomfort is probably just as old. As soon as primitive man moved his fire into his cave, he certainly became aware of air pollution in the form of smoke. He also probably soon learned to reduce the smoke in his cave by careful placement and stoking. He then decided to accept some smoke in return for the warmth and convenience of the fire nearby.

We have been weighing pollution against convenience ever since. Now we are beginning to realize that more than convenience is involved and that the air around us is not a limitless sea into which we can continue to pour waste without serious consequences.

Our health and our well-being are threatened.

Thus did the *Agriculture Yearbook of 1963, A Plea To Live*, describe one of the serious problems of our day, air pollution.

The increasing pollution of our water unquestionably is a threat to fish and health. This became a matter of public concern in the United States in the late nineteenth century, when virulent typhoid epidemics appeared in various cities. The then new science of bacteriology identified many of these outbreaks as the result of contaminated water supplies. The public outcry against pollution was great. Public health officers attempted to meet this challenge in two principal ways.

The first was to select certain streams for waste disposal and to reserve other, and protected, streams for municipal supplies. This is the method followed by communities fortunate enough to own or control adequate watersheds. However, with our increasing population, it is virtually impossible today for one city to live separately and apart from another. While one city may protect its water supply, it will be adversely affected if those in adjoining areas do not do likewise.

The other method was the filtration and disinfection of water. This has permitted many cities to have reasonably safe and palatable water, even from such heavily polluated sources as the Missouri, the Mississippi, and the Ohio rivers.

While these systems have worked for many years we now face a period when we must give full attention to water pollution, or else pay substantial penalties in the future. We have some 30,000 sewerage systems and industrial complexes pouring waste into our streams. Included are 10,00 municipal sewerage systems, serving more than 100 million people, which dump sewage into the waterways. Twenty-five per cent of this load is without any treatment whatsoever.

Pollution degrades the physical, chemical, biological, and esthetic qualities of the water. The degree depends upon the kind and amount of pollution in relation to the extent and nature of reuse. Pollution can be just as effective as a drought, or excessive withdrawals, in reducing or eliminating water resources.

Over 2600 new or enlarged sewage treatment works are needed to serve 27.8 million persons living in communities presently discharging untreated or inadequately treated sewage. Another 2598 new sewage collection systems and treatment works are required to serve a population of 5 million living in urban areas where individual disposal systems have failed to function properly.

By the year 2000, thirty-four years from now, we will be around 330 million Americans as against today's 194 million. We will have nearly doubled the quantity of sewage going into our streams and protecting the public health will really be a problem.

Today's 194 million Americans are abusing our resources so far as our use and handling of water is concerned. Our lakes and rivers have become catch basins for the residues of our factories, automobiles, household and agricultural chemicals, for human wastes from thousands of villages, towns, and cities. How well we clear up this situation and learn to handle it without restricting man's means of providing our high standard of living may well determine the future of our nation.

As we approach this problem we must keep in mind that the power to control water quality or quantity is not only the power to make or break business but is a power over the life of the nation itself.

Since water is an absolute essential to health and to all man's activities, any group we set up to control water on any basis, by restrictions for protection of its quality or quantity and use, must have not only the cooperation and co-ordination of all departments and agencies, but all interests must be represented. The Department of Agriculture and the Department of Health, Education and Welfare, whose interests are tied together, should have a place in any such group, as should the Department of Commerce; but these are not enough. The states and municipalities must be represented so that the varied interests of all our citizens may be recognized and provided for, including riparian rights, established use, and the determination of priority to use. All this need carries with it the problem of built-in bureaucracy, of too many cooks, yet there is seldom an easy answer to a difficult problem.

If we closed all our manufacturing plants, that would greatly improve the purity of the water in our streams; if we stopped driving automobiles, just think what that would do to improve the atmosphere—and a single departmental head could have done that under several bills; if we could return to the 800,000 population level of this country at the time it was discovered by Columbus, nature would be able to largely eliminate the pollution problem. But with 194 million people we could never live in the simplified way of that day. Neither can we ask nor could we force the residents of New York City to quit eating, quit living, and quit breathing while we clean up the Hudson. The same is true for Washington and the Potomac, as well as the people of thousands of towns and villages. The power to set standards is the power to control, yet some Members of Congress have urged that such power be granted to a single government department.

Agriculture's claims and responsibilities for the use of water are second to none, for agriculture provides our food, clothing, and shelter, the basic necessities for life. In addition, agriculture has a great responsibility in the use of water, for land is the great gathering place and reservoir for storage of water. Just a few years from now we will need three times the water we use today, all of which points up the need to protect and manage the quality and quantity of our water supply.

In our work with the Appropriations Subcommittee for Agriculture, we find the close cooperation and coordination of efforts by both the Corps of Engineers and the Soil Conservation Service are necessary in watershed and flood control programs, both of which are highly essential to water protection. We would not expect a skilled surgeon to use only one instrument for all operations, nor a mechanic to fix our car with a sledge hammer. Thus it is with water pollution; we must use the tools required for the job; and most importantly, we must keep the factory running in the process and not turn the surgeon's scapel over to the mechanic or vice versa.

To do the cleaning up job on pollution, we must call on industry, on the federal, state, and city governments, and on individuals. We need financing and regulations, in the meantime, we must maintain a sense of balance, so that we do not tear up more than we correct. We are not merely limited to the practical but to the possible.

I believe all of you agree on that. My presentation is here today. My efforts shall be along that line.

Mr. COLLINS of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, never during my public life have I seen a more dedicated and well-directed committee than the House Committee on Public Works.

We have throughout our deliberations on this bill taken into account as many problems as were presented and resolved them, in my opinion, in a most satisfactory arrangement.

I take pride in our accomplishments for the Great Lakes, the interceptor sewer systems, and all the other necessary devices to deal with water quality.

Our problems in Chicago and Illinois, through neglect and inattention as in other parts of the country, have come to a pitiful state of affairs. Unless we have this contractual authority, this bill with its magnificent forward thrust will not be very meaningful.

If the contractual authority is removed, as the amendment proposes, we would raise great doubts as to the sincerity of the Congress to meet our obligations for the improvement of our Nation's waters.

We must reject the amendment.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Illinois. I yield to the gentleman.

Mr. RAILSBACK. I want to commend my colleague for his remarks and I join with him in his remarks. As the State of Illinois has, I think, been extremely progressive in trying to do something about the serious problems that confront communities, not only the Chicago area but also literally hundreds and hundreds of small towns that have been attempting to meet their responsibilities. The States come up with their fair share, but the Federal Government, which has mandated the programs by law, has not done its fair share. It is about time that we did something so that cities could rely on the Federal Government, which did mandate them to come up with these clean-water programs. I agree 100 percent. It seems to me the amendment would be bad.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Illinois. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I rise in reluctant opposition to the amendment, but I rise also to drive a deal or a bargain. It would take a tremendous amount of appeal for me to depart from my colleagues on this great Public Works Committee and to support the amendment offered by the eminent chairman of the full Appropriations Committee. But I would do so if I thought for 1 minute that what is good in this Chamber for the goose will also be good for the gander.

Last fall a military appropriation of $21.5 billion was proposed. Some of us wanted to know where $2.5 billion of that request was to be spent. We never were able to find out. Later last fall we were again asked to appropriate moneys in a "continuing resolution" bill, a relatively new procedure to me, and at which time we discovered that we were unable to separate the hundreds of millions of dollars requested for the Pentagon from money requested for the George Washington Bicentennial Commission, of all things, and a dozen other wholly unrelated expenditures proposed at the time.

If I thought the principle of making multiannual appropriations for the Pentagon was responsible for the waste that we have there in the last 10 years, and that it was going to be repeated in this water pollution program, then I would be constrained to follow the chairman of the full committee.

If we could be given some assurance that what would be good in relation to this program would apply to every military dollar that we spend and that we will have the right to look into it instead of being told, as my colleague from Ohio (Mr. SEIBERLING) was told last year that you cannot do that, that it had to be voted up or down, I would be constrained to vote for it.

Mr. WRIGHT. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the chairman.

Mr. BLATNIK. Following the speech by the gentleman from Texas and the very able leader of the committee, can we get an agreement to have a time limitation of 10 minutes on the amendment following the conclusion of his speech.

Mr. SIKES. I object.

Mr. BLATNIK. I should like to attempt to come to some understanding. I regret even suggesting a time limitation, but we have less than 1 hour and we have how many more amendments on the table?

The CHAIRMAN. Fourteen.

Mr. BLATNIK. That is correct. I would like some other Members to be heard on their amendments in the time available, which has been limited. That is why, with great reluctance, I made the proposal.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman.

Mr. GROSS. Would it be possible for a Member who is not a member of the Public Works Committee or the Appropriations Committee to get 1 minute on this subject?

Mr. BLATNIK. That is what I am trying to provide. I was trying to get some agreement.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. WRIGHT. Mr. Chairman, some of the amendments offered yesterday were predicated upon the argument that the bill is too weak, that it does not do enough.

Now, interestingly, we have an amendment deriving from the premise that the bill is too strong, that it goes too far and does too much.

My wonderful friend and colleague (Mr. MAHON) is concerned—and understandably so—with protecting the jurisdiction of the Appropriations Committee of which he is the very able chairman.

He fears that the obligational authority contained in the bill will commit the Congress in advance to appropriate moneys sufficient to complete the construction of multiyear projects once they are approved and undertaken by the cities and towns of this country.

And that is in truth what the bill sets out to do. Some comprehensive pollution abatement projects, particularly areawide projects and those in our larger metropolitan sectors, may require as long as 3 or even 4 years to complete.

Your committee takes the position that we have a responsibility in good faith to give solid assurance to the municipalities of this country that we shall not lure them out onto a limb only to saw it off behind them for want of available funds.

The bill requires that by 1976 every publicly owned plant in the Nation must provide at least secondary treatment, and that by 1981 it must employ as a minimum "the best practicable technology."

The bill promises that the Federal Government will contribute its pro rata share of the cost.

But what good is that requirement, and what good is that promise, if we do not absolutely intend to deliver upon our part of the bargain?

Why should advance obligational authority be necessary? The events of the last few years suggest the answer.

The authorization for fiscal 1969 was $700 million, but the appropriation was only $214 million—less than one-third—and the amount actually spent was only $134 million.

For the 4 years, 1968 through 1971, the shortfall of appropriations below the amounts held out in the authorization bill totaled approximately $1.2 billion. And because of periodic administrative freezes on construction grants, the shortfall in the amounts actually granted came to approximately $1.6 billion.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Mr. Chairman, I cannot yield to the gentleman until I have finished my statement.

Mr. RHODES. Will the gentleman yield? The gentleman is making a misstatement.

Mr. WRIGHT. I cannot yield until I have finished my statement. But I am certain of the facts that I am quoting and, if I had sufficient time, I would be glad to enter into a colloquy with the gentleman from Arizona.

Mr. Chairman, I ask unanimous consent that I may have 2 additional minutes, so that when I conclude, I may yield to this gentleman.

Mr. GROSS. Mr. Chairman, I object to that.

Mr. WRIGHT. Then I am sorry, Mr. Chairman, I cannot yield. I have 5 minutes in which to say all this, and I am quoting the facts.

Mr. Chairman, many municipalities, faced with truly critical water pollution problems and intent on solving those problems in a timely fashion notwithstanding the failure of the Federal Government to live up to its part of the bargain, went ahead on their own and built the plants.

Obviously it would not be our intention to penalize those communities for having demonstrated the initiative and the determination to move ahead. And so this bill authorizes more than $2 billion to reimburse them for that portion of the authorized Federal share that was withheld from them.

But other communities waited, because they were unsure of the strength of the congressional commitment. And because they waited, the cost both to them and to the Federal Government is considerably greater today than it would have been had they been encouraged to proceed 4 years ago.

So this is the acid test. We decide right now just how serious we are about cleaning up the streams of this country. Do we mean it, or do we not? Are we certain, or are we uncertain?

I for one am certain. I believe that most of the Members are. I am ready to make that commitment. I think the Public Works Committee is certain, and the majority of the House is certain. We can prove it by voting down this amendment and saying to the communities of this Nation that once they put their hands to the plow, they need not turn back.

PREFERENTIAL MOTION OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. FINDLEY moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Illinois is recognized for 5 minutes in support of the preferential motion.

Mr. FINDLEY. I thank the chairman, and I thank the gentleman from Iowa for coming through with proper language forthwith.

I rise in support of the amendment offered by the gentleman from Texas. I believe it is an important step for the House to take in order to retain some semblance of fiscal responsibility.

I know it is perhaps considered in bad taste to talk about budget control and deficits at a time like this, when we are considering a bill that does have such attractive and universally appealing label as clean water, getting rid of pollution in water, but it was not too long ago that the President sent forth this budget that showed a deficit of $25 billion.

During the course of consideration of this bill I looked up the item in the President's budget that had to do with clean water. The President asked for just a bit more than $2 billion in respect to water quality control for fiscal year 1973.

As I understand the first year cost of this bill, it will be in the neighborhood of $7 billion to $8 billion, at least $5 billion for the grants and about $2 billion or more for research and development.

I hope the amendment offered by the gentleman from Texas does prevail. I believe it is an important step forward. But it would certainly be a serious mistake for anyone to conclude that the acceptance of that amendment will really bring us to the point of fiscal responsibility in dealing with the Federal budget.

The gentleman from Texas heads the important Appropriations Committee. We heard from the gentleman from Mississippi (Mr. WHITTEN) the chairman of the subcommittee which would ordinarily deal with appropriation matters like clean water.

If we accept the amendment of the gentleman from Texas and report out a bill with about a $8 billion first year price tag, that request will go to the gentleman's subcommittee of the Appropriations Committee. How in the world will he adjust that figure to fit in to even the President's budget, which is already $15 billion out of whack?

I would be glad to hear from the chairman of the Appropriations Committee or from the chairman of the subcommittee of the Appropriations Committee as to how they would deal with the dilemma they will face when and if this amendment is adopted and when and if the appropriations request does come before the Appropriations Committee.

You will face a tough problem. How are you going to meet it? What are we going to do to bring this runaway budget under control?

As the gentlemen will recall, I have been urging that the House change its procedures to require that we first adopt a budget for the Federal Government before we can appropriate any money.

I believe it is a mistake for us to assume that the price tags on authorization bills have no importance whatever, that we can go ahead and authorize virtually without limit and assume that the Appropriations Committee will take care of the problem. We seem glad to shift responsibility to the Appropriation Committee. But is that really any solution at all?

Can the gentleman from Mississippi (Mr. WHITTEN) shed any light on how he will resolve the dilemma that soon may come before that subcommittee? Are we not really feeding the lion of inflation by passing out a bill like this that has an $8 billion price tax for the first year, four times the President's request?

I am glad to yield to the gentleman from Mississippi.

Mr. WHITTEN. May I say to my colleague, I hope I may shed some light, but so far as solving the dilemma is concerned I do not know how I can do that here.

I am certain the Congress has passed so much legislation requiring so many things, and granting so much power that if we give to the Administrator of the Environmental Agency billions of dollars to enter into contracts, companies will be organized to accept the money, many times without firm plans and a new organization. This may be through the cities and it may be otherwise.

Of course, our subcommittee will do its best through our hearings, through our reports and through our bill to see that projects are sound, that they are planned and that Congress gets a look before hand.

If the Mahon amendment is not adopted our job will be just that much harder, for Congress by denying the Mahon amendment will limit our ability, to get full value for a dollar spent.

Mr. MICHEL. Mr. Chairman, I rise in opposition to the preferential motion.

The CHAIRMAN. The gentleman from Illinois is recognized for 5 minutes.

Mr. MICHEL. Mr. Chairman and members of the committee, I am glad to have the gentleman who preceded me in the well (Mr. FINDLEY) raise the very important questions about how we are going to pay for this bill. Everybody has been talking about bestowing all of these goodies, these benefits, upon the American people, but I have heard very little about how much it is all going to cost the taxpayer.

The gentleman from New Jersey talked about being truthful. We also want to be truthful with the people, and we think we can be just that by making these amounts appropriated more visible each year.

As a matter of fact, if his is such a popular issue, just think of the points that you can make back home by going to the well every year and appropriating bigger and bigger amounts of money to get this job done.

But, Mr. Chairman, we are only talking about water here today. Just think what additional sums will be required to clean up the air and solid waste disposal?

We have been talking today and in the previous 2 days about a multi-multi-billion-dollar bill. There is no question about the popularity of the cause, but it is expensive.

I said in our Republican conference the other morning and will repeat it here that to be really fiscally responsible we should be down here saying truthfully to the people, "We have to have a Federal tax increase." I say that because we are talking about $18 billion here in this bill over and above, as the gentleman said, a $25 billion deficit this year. Where are we going to get the money for this? Well quite obviously it has to first come out of the taxpayer's hide.

Mr. HARSHA. Will the gentleman yield?

Mr. MICHEL. In a minute I will.

With no more congressional control than what is inherent in contract authority, I do fear the consequences. That is why I support the chairman's amendment. We should retain our power to fund by appropriating for this program in an orderly fashion. As the chairman indicated, his amendment provides for forward funding of 1 year. We have been doing this in the field of education. We can do that also in this bill. The chairman's amendment also says "no year funds," which means that once appropriated they do not lapse. So you will not be short-circuiting your constituents by supporting this amendment. By taking the route advocated by our chairman, these expenditures will be made much more visible.

As a matter of fact, if we have to have a tax increase, would it not be better to have a vehicle, a popular vehicle like this as a means for getting the tax increase to fund it? Somebody has to pay for it.

The gentleman from Illinois mentioned our environmental bond referendum passed in Illinois of $1 billion. We are paying for it by raising our own taxes. I do not think we should go back and reimburse my State because we recognized the problem earlier than others, because the job is so big that it will take billions and billions upon additional billions of dollars, to complete the job. Before long expenditures in this clean-up effort will rival all of the health activities and conceivably the Department of Defense budget itself.

The chairman of the full committee (Mr. JONES) made mention of the contract authority in the highway program. Bear in mind that in this case there is a trust fund. People are being taxed for it with a cent a gallon on gas and it is going into a trust fund and then is disbursed by contract authority. We have to face up to the fact that we are talking about untold billions of dollars here and there ought to be some oversight of it.

How many times have we said that the legislative committees ought to recognize their responsibility and engage more in oversight as we do on a yearly basis in our Committee on Appropriations.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. Yes, I yield to the chairman of the committee.

Mr. BLATNIK. The gentleman is right in his statement to the effect that there should be oversight, and I pledge that there will be such oversight.

First of all, the Committee on Appropriations justly should have jurisdiction over the program of appropriations, and it is with reluctance that I get into this question of jurisdiction. I would point out that the bill authorizes $24 billion. Over $8 billion would still be subject to the annual appropriations procedure.

However, the EPA is working with the States and municipalities in planning waste treatment works. We know that in the next 3 years in order for the States and municipalities to assemble the necessary data and to submit specific projects they will have to have assurance that the Federal grant money will be available. But to match that provided by the local governments each year, EPA will have to come before the Committee on Appropriations and make a thorough accounting with reference to their use of this grant money, and to submit a progress report. In addition to this, we are going to have our own House Investigating Committee involved in reviewing the manner in which the program is operating and whether funds are being spent effectively.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Illinois (Mr. FINDLEY).

The preferential motion was rejected.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one must either have an overabundant supply of intestinal fortitude or be foolhardy to get up here and oppose the distinguished Appropriations Committee, but because I feel so strongly about this issue, I am willing to take that risk.

Now, certainly, there is a lot of money involved. We heard this from the two gentlemen from Illinois who referred to the deficit. I must point out that under this amendment the gentleman from Texas would now appropriate the $5 billion for 1973 and would also advance for 1974 another appropriation of $6 billion. In other words, he would appropriate $11 billion, if I understand his amendment correctly. Add that to the budget deficit and then you can see that this would enormously expand our budgetary problems.

However, under contract authority, all that would be obligated for 1973 is $20 million and for fiscal 1974, $250 million.

Thus, if you are worried about the effect of this bill on the deficit, the much better route is contract authority. This is because in these years when the deficit is so great we would have very small obligations, because the construction program would be stretched out over a number of years.

Because of the magnitude of this program, it is essential that the States, the interstate agencies and the cities have both the ability for and a basis for long-range planning, construction scheduling and financing waste treatment plants, including the sale of bonds that they have to sometimes negotiate.

Now, this can only be accomplished if there is assured availability of Federal grant funds for future years. This necessary assurance is not provided by merely advancing appropriations for 1 year. That will not meet the needed assurance of long-term planning. This is a continuing program.

We must at this time, right now, set up the mechanism for future year financing. Congress is not abdicating its authority. It has control over the program, because this bill provides that we must approve a needs estimate on the odd year, and every 2 years thereafter.

Next year we are coming back to the Congress and asking the Congress to approve a needs report, and at that time we can review it. We will have some control over it. Then we have to come back under this legislation every 2 years thereafter. So we will have some control and some jurisdiction over it as the program progresses.

In addition to that, we are coming back here in 1974 after the National Academies of Science and Engineering have completed their studies, and we are going to have to take whatever action is necessary at that time to further implement the program. We will again have an opportunity to review it.

The construction of a waste treatment plant consists of planning; economic and engineering feasibility studies; preliminary engineering for the preparation of plans, specifications, and estimates; the acquisition of land where appropriate; and the actual physical construction of the building itself. Under this legislation each one of these steps is ordinarily a separate project, a separate contract, and it is funded as completed or as work progresses. This is not the case under existing law where 25 percent of the total project must be completed before any payment can be made.

At the time any one of these preliminary steps is taken, such as the plans, specifications, and estimates, there is no assurance that appropriated funds would be available for subsequent projects for land acquisition and the actual building of this plant for which the plans, specifications, and estimates are being prepared. This, therefore, makes the orderly continuous planning and scheduling of work impossible.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. HARSHA. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. GROSS. Mr. Chairman, reserving the right to object, does it mean that everybody else is going to be locked out from being allowed to speak on this bill by virtue of these continual extensions of time?

Mr. BLATNIK. Mr. Chairman, if the gentleman will yield, I am not asking for any extension of time.

Mr. GROSS. I understand that, but the gentleman happens to be the chairman of the committee, and the one who will be up here asking to cut off debate.

Mr. BLATNIK. I would like to say that following the conclusion of the remarks of the gentleman in the well that I would like to get some agreement on a time limitation.

Mr. GROSS. That is exactly what I thought.

Mr. BLATNIK. But that is only because of the reason that we have some 20 other amendments with less than an hour's time, and I would like to be able to give a few minutes to each of the sponsors of those amendments.

But that is the situation we are faced with.

Mr. GROSS. Let me say that very few of the committee members have been permitted to speak on these amendments, practically only members of the Committee on Appropriations have had any time, and I would like to have a little assurance that some members of the committee will receive a minute or two on this amendment.

Mr. BLATNIK. I understand that, but as the chairman of the committee I do not have the authority to recognize the gentleman.

Mr. GROSS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HARSHA. Mr. Chairman, I would like to call the attention of the House to the President's environmental message which the President sent up in February of 1970, requesting legislation to implement a forceful water quality control program.

In the message that he sent up he requested contract authority—the President of the United States in February of 1970 requested contract authority.

I read from his environmental message supporting the legislation that he sent up. He said:

> By thus assuring communities of full Federal support, we can enable planning to begin now for all needed facilities and construction to proceed at an accelerated rate.

That was the President of the United States.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. Not at this time. I further point out that the Secretary of the Interior, Mr. Hickle, testified before the Congress in favor of contract authority.

Now, here in 1972 I am advised that the administration is opposed to the provisions for contract authority. I am also advised the administration opposes all amendments. I submit that the position of the administration is untenable. If this was a good proposal in 1970 it is a better proposal in 1972.

The administration sent up legislation requesting contract authority. I point out to my friends on this side of the aisle, which 143 Republican Members introduced including 12 Republican members of the Committee on Appropriations. I have the bills here. If you would like to see them, and if you would like to be identified, just ask me and I will read out your name. I can show you where you committed yourselves to contract authority.

Twelve members from the Committee on Appropriations on this side of the aisle asked for contract authority.

I rest my case, Mr. Chairman.

Mr. BLATNIK. Mr. Chairman, I ask unanimous consent that debate on this amendment, and any amendments thereto, conclude in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

(By unanimous consent, Messrs. McEWEN and MARTIN yielded their time to Mr. RHODES.)

The CHAIRMAN. The gentleman from Arizona (Mr. RHODES) is recognized.

Mr. RHODES. Mr. Chairman, I congratulate the Committee on Public Works on bringing out this bill, which I support. However, I also support the amendment offered by the gentleman from Texas to take contract authority out of this bill and substitute therefor authorization for appropriations which will assure that every community in this country will know without a doubt how much money it can spend for the very important purpose of insuring clean water for everyone.

We are all for clean water. But it just happens that the Members who are in favor of this amendment feel that there is another important issue before the House today. That is whether or not you are going to keep the Committee on Appropriations in business to order the priorities on expenditures.

If this amendment does not succeed and we get a bill with contract authority, I can imagine that those who have their favorite programs, whether they be in education, health, or whatever, and who ask for full funding on these programs, will now ask for contract authority to completely bypass the appropriations process. If we do that, we might just as well abolish the Appropriations Committee. I think it would be much more merciful if you do it openly in one fell swoop instead of trying to do it in degrees the way you have been doing for the last several years.

To me, it is very necessary and very important that this amendment be adopted. Otherwise, I do not know how it is going to be possible for us ever to make any fiscal sense in this country.

I suggest that we need fiscal sense just as much as we need clean water.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. HENDERSON).

Mr. HENDERSON. Mr. Chairman, this is a tough bill. This bill is tough on American industry. We are saying to the business and industry of our Nation in this bill that they have to spend billions of dollars to clean up their effluent. So our commitment to clean up pollution in the public sector ought to be as strong as the bill is on industry, and for that reason, I am opposed to the amendment that is presently before the committee and I support the committee bill.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. SIKES).

(By unanimous consent, Mr. EVINS of Tennessee yielded his time to Mr. SIKES.)

Mr. SIKES. Mr. Chairman, I want it understood that I support the bill. I feel that the Committee on Public Works under its distinguished chairman (Mr. BLATNIK) and the chairman of the subcommittee, Mr. JONES of Alabama, have done a very creditable job of restoring realism to a major program, a necessary program, but one which must be a workable program. We want the Nation to achieve water quality standards at the highest possible level at the earliest practical date consistent with technological advancement. I think this is possible under the House bill. I feel that we would be courting serious danger if we were to follow the procedures set up under the Senate bill. That program could be unworkable and it could certainly be excessively costly in dollars and in damage to the economy.

I support the proposed amendment for it is most important that we reverse the trend of delegating to the administration our responsibility for the annual review and control of Federal expenditures.

The language of the committee bill authorizes the administration to make commitments over the next 3 years for $18 billion worth of waste treatment works without further control by the Congress. It takes Congress out of the picture for the next 3 years, and yet leaves flexibility to the administration as to the level of the program to be carried out. The language of the committee bill seeks to delegate the determination of the rate of obligation under the program to the administrator of the act. It provides that the administrator shall act upon project plans submitted by applicants "as soon as practicable after the same have been submitted," and his approval shall be determined a contractual obligation of the United States. "As soon as practicable" leaves great latitude as to when the contract commitments are made.

There is nothing to prevent the administration from impounding the funds, or slowing down the rate of obligation under the program and yet the Congress as a practical matter would be powerless, for it would have delegated its authority in this regard for the next 3 years.

The main reason set forth for granting the contract authority is to provide State and local interests with adequate notice of funding levels for their planning purposes. The pending amendment would assure such advance notice by providing for 1 year advance funding of the grant program on a direct appropriation basis. For example, in the appropriation bill for fiscal year 1973 we would fund the grant program not only for fiscal year 1973, but also for fiscal year 1974. States would know more than a year in advance the level of funding that they could depend on in planning their projects. Yet this revised funding procedure assures that Congress retains its prerogatives to take annual action on this major grant program.

The track record of Congress in support of this program is excellent. At the end of fiscal year 1970 there was a carryover balance of $440 million and at the end of last fiscal year there was a carryover balance of $211 million. I believe this is ample evidence that we have provided a funding level more than adequate to meet the local abilities to participate in the grant program.

By adoption of this amendment we can meet the local requirements for advance funding and, at the same time, retain in the Congress our responsibility for exercising an annual review and control of the program.

In other words, the Mahon amendment proposes only to retain congressional control on expenditures for water pollution control. We are embarking upon a gargantuan program in an effort to insure clean water for America. It is going to be a costly program. It will touch every corner of the Nation.

Unless there is congressional control, it should be obvious the program could get completely out of hand as unchecked bureaucracy builds itself a huge new empire.

The Mahon amendment would not injure the program for clean water or hinder the orderly operation of any contract. It would simply insure year by year congressional funding. Once projects are authorized and funded, the money would remain available until each project is completed.

We have all heard of the evils of "back-door spending." Without the curbs contained in the Mahon amendment, I believe the bill represents an invitation for back-door spending.

I had felt that the committee would accept this amendment for it is intended only to help control the flow of taxpayers' dollars into sound areas under the control of Congress. Now I urge the approval of the amendment.

The CHAIRMAN. The gentleman from Illinois (Mr. Michel) is recognized.

Mr. MICHEL. Mr. Chairman, I just want to clear up one point that was made here, that if we go the appropriating route rather than a contract authority route, we would bring the budget that much more out of balance. The two are treated the same, whether it is authorized on a contract basis or under an appropriation. There is no difference in the budget picture itself. But more importantly is the fact that it makes visible what we are really spending in this particular area, and I think that is a point to be made here in support of the Mahon amendment.

The CHAIRMAN. The gentleman from Indiana is recognized.

Mr. JACOBS. Mr. Chairman, I support the Mahon amendment. I request that the various Members of this House ask yourselves, When is the last time you were invited to a meeting at the White House? Now, let me read to you an old political formula: Reduction in the number of White House meetings with Members of the Congress is in direct proportion to the amount of constitutional authority surrendered to the White House by the Congress. One of these days, if Congress keeps on this path of authority giveway, this body might just wind up with all the authority of the Saigon Legislature.

The CHAIRMAN. The gentleman from New York is recognized.

(By unanimous consent, Mr. Don H. Clausen yielded his time to Mr. Terry.)

Mr. TERRY. Mr. Chairman, I rise in reluctant opposition to the distinguished and competent Mr. Mahon's amendment to strike contract authority from H.R. 11896.

Over the years, a great deal of misinformation about the States' needs has been generated.

Just recently, for example, I was advised that, as of the end of 1971, the States had used only $200 million of their allocations for the first $650 million which had been made available to them through October 31, 1971. New York, it was asserted, had used only $2 million of its $54 million allocation; Pennsylvania had used only 3 percent of its $35 million allocation, and so on.

In checking for the reasons, I learned that New York had submitted applications to EPA to use all but a fraction of its funds, and the State was negotiating with municipalities to use its fractional balance. Pennsylvania had submitted 25 applications last August to use its entire allocation; by January, EPA had given final clearance to only $2 million for New York's projects, and 3 percent of Pennsylvania's request—the remainder of the applications were pending in EPA's regional offices, and neither New York nor Pennsylvania could get them to budge on giving further final approvals.

Now, when it comes to fiscal year 1973 funds, the EPA has budgeted $2 billion. In spite of the needs of the States, and the demands being made upon them to step up their antipollution efforts, we can expect to hear considerable justification for staying within the $2 billion figure. If the justification is to stay within a budget, that is one thing, but if the justification is based on alleged States' needs, that is quite another matter.

I would like to give a short summary of New York's immediate needs.

The State recently withdrew 45 projects that had a total eligible cost of $546 million. If the Federal share of these costs is to be 75 percent, as provided in H.R. 11896, New York will require $410 million in Federal funds to resubmit all these projects.

In addition, New York has 112 projects in the pipeline, ready to be submitted to EPA for approval, with a total eligible cost of $937 million. With Federal financing at the 75-percent level, New York will require $563 million in Federal funds to finance these 112 projects.

In summary, New York could go ahead immediately on all these 157 projects if $873 million in Federal funds were available.

But, let us look at the $2 billion budgeted for fiscal year 1973. Depending upon the allocation formula finally to be agreed upon, New York will receive an allocation as little as $160 million, but no higher than $220 million.

A $11 billion appropriation for fiscal year 1973 would be required if New York were to receive an allocation of $873 million.

With a $2 billion Federal budget for fiscal year 1973, New York could be able to submit, at the most, only three or four projects over the next year—the number of projects would depend upon their size. We have a large project in Niagara Falls, another in New York City, ready to go now—they have a high priority, since raw sewage is being dumped in both areas. Both projects together would consume our entire allocation from the $2 billion allocation.

Mr. Chairman, if we are going to require the States to move at a faster pace with their antipollution efforts, we must do all we can to keep the faith with them that we in Congress are facing up to the costs that will be required.

The States have not known from year to year what the appropriation will be, so that they will be able to some reasonable degree to know what kind of Federal funds they will be receiving. Without some kind of assurance, such as contract authority as provided in H.R. 11896, the States will continue to be called the "laggards." Let us give them the assurance they must have.

The CHAIRMAN. The gentleman from Connecticut (Mr. Giaimo) is recognized.

Mr. GIAIMO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas (Mr. Mahon). What is at issue here is not the question of more or less money. Those who oppose this amendment seem to think that they are automatically going to get the whole amount of the contract authority set forth in the bill. Do not you believe it. You are going to get as much money as the administration and the Office of Management and Budget gives you each year. What you are doing by having contract authority rather than an appropriation procedure is that you are cutting out congressional control, not Appropriations Committee control, but congressional control over a program, and turning it over to the bureaucrats and the Office of Management and Budget. I, for one, do not want to give up congressional contact and I urge support of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Gray).

(By unanimous consent, Mr. Blatnik yielded his time to Mr. Gray.)

Mr. GRAY. Mr. Chairman, I think what we must ask ourselves here today is whether or not we want a smooth rolling program or a stumbling program. If the Members have ever driven an automobile with water in the gasoline tank, they know the car hesitates when it gets to that water, and there is not a smooth running motor.

As the gentleman from Connecticut just pointed out, it is not just a question of more or less money. It is a question of the communities, the States and industry who are in this partnership arrangement knowing what they can expect in the way of money for this program. Contract authority gives them that smooth running operation. That is all we are trying to do. I have great respect for the Committee on Appropriations, but we know some years it is September, October or later before appropriations are made for a fiscal year that begins on July 1. In most cases it is the fault of the other body, however, the year is almost gone before a community will know how much money this Congress is going to appropriate.

Let us do this in a smooth-running fashion and get on with the job of cleaning up the Nation's waters. I can assure you we will save both time and money for the taxpayers.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. Gross).

Mr. GROSS. Mr. Chairman, I rise in strong support of the amendment offered by the chairman of the House Appropriations Committee, the gentleman from Texas (Mr. Mahon).

This bill provides a further vast delegation of power at a time when we cannot have too many checks and balances as between Congress and the White House. Why should we deliberately write ourselves out of oversight in this matter of expenditure? I am surprised that the Public Works Committee did not accept this amendment in the first instance for the committee has no crystal ball by which it can gage the future as to the financial and economic health of the Nation.

If I have any criticism of this amendment, it is that it does not go far enough and place full responsibility on the Appropriations Committee. Not a single Member of this House knows what the situation will be a year from now, much less 5 to 10 years, with respect to revenue and with respect to deficits and debt.

Mr. Chairman, the total cost of this program for only 5 fiscal years, as estimated in the report accompanying the bill, is $24,623,000,000—twenty-four billion, six hundred and twenty-three million dollars.

That is a huge amount of money and yet the Appropriations Committees of the House and Senate, charged with the responsibility of guarding the purse strings of the Federal Government, are, under the terms of the bill, relegated to the role of rubber stamps. For all practical purposes they will simply supply the money—no questions asked; no answers given.

Meanwhile, no such restrictions apply to the White House, its Office of Management and Budget, and the bureaucracy which will dish out the billions under contracting authority.

Mr. Chairman, every Member of the House wants every section of this Nation to have an adequate supply of clean water. No one wants pollution of any nature. But there is no such thing as instant salvation from the neglect and mismanagement of the past. In view of the financial crisis now confronting the country, the greatest prudence must be exercised in the spending of these billions. In fact, no one has bothered to even suggest from what source the billions here authorized are to be obtained.

It is because I believe this legislation goes far beyond reason, and because it denies the proper oversight to the House Appropriations Committee that I must vote against it.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Pickle).

Mr. PICKLE. Mr. Chairman, both the Public Works Committee and the Appropriations Committee, I think, are kidding themselves about the effect of the pending amendment. No matter what we decide on this particular amendment, the agency that is going to run the business of Congress is the Office of Management and Budget. Every Member listening to me knows the heavy hand of the Office of Management and Budget and knows what they do to control all appropriations. We had a project in Texas which had money authorized and appropriated for a basinwide survey in the Colorado River, but it is 8 months later and the OMB has not released those funds. This type of delay has happened to every Member of this House. Until the Appropriations Committee can address itself to who does control the appropriations, we will have this debate again and again. The OMB must be harnessed, and we the Congress must give some time to that debate later and in full measure.

The OMB has set itself up to be both judge and jury on how all appropriations are handled. That is for the Congress to decide.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Grover).

Mr. GROVER. Mr. Chairman, I have seen a badly needed multibillion dollar bond issue for a badly needed treatment plant voted down because the taxpayers were uncertain about whether the Government share was going to be there and forthcoming. Hundreds of our communities around the country have charters which require the taxpayers to saddle themselves with this burden through direct referendum, and they simply are not going to do it if the Congress does not defeat this amendment, because it is going to be known as the "uncertain funding amendment" passed by an uncertain funding Congress.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. Boland).

Mr. BOLAND. Mr. Chairman, all of us here, of course, seek the same objectives, the objectives as outlined in the bill itself. This is not a new problem, the problem of contract authority, and annual funding. These halls reverberate with the arguments between the great Member from Alabama, Al Rains and the late beloved Member from Texas, Albert Thomas. We have fought this battle before, and the Congress has won the fight. This is not the first time we have been engaged in a problem of contract authority. When bills were brought to the floor in the past for housing and for urban renewal and for grants in airways and airports, they were all brought to the floor under contract authority, and the Congress exercised its own will.

We want to do that here. The power of the purse rests here, and if we give it away, we give away the most important power this body has.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Harsha).

Mr. HARSHA. Mr. Chairman, I yield back my time.

Mr. EVINS of Tennessee. Mr. Chairman, I have great respect for the distinguished chairman of the Committee on Public Works and for the members of his committee, but rise in support of the amendment of the gentleman from Texas (Mr. Mahon), chairman of the Committee on Appropriations.

Under the present procedure Congress appropriates annually—and generously—for waste treatment grants—including a $2 billion appropriation in the bill this year.

As a matter of fact, there have been large carryover balances of $440 million for fiscal year 1971 and $211 million for fiscal year 1972—a total of more than $650 million in carryover funds.

This demonstrates that the funding level for this program has been adequate and substantial.

Under the committee bill, contract authority for 3 years would be authorized.

This represents another effort to evade the appropriations process and meaningful congressional oversight.

There is constant pressure from many agencies and departments to circumvent Congress in the matter of direct appropriations—and approval of this bill would open another hole in the dike.

This program needs review and oversight and Congress must continue to exercise oversight and control through its constitutional appropriations process.

Under the Mahon amendment, advance funding will be provided for 2 years—1973 and 1974—1 year of advance funding thereafter. This should be sufficient.

Advance funding will assure the continuity desired—and at the same time Congress will retain its control and oversight authority.

Congress should not continue to delegate its authority and responsibility to executive administrators—as capable as they may be. This blank check endorsement procedure should be stopped.

I urge the adoption of the Mahon amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. MAHON. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. MAHON. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered: and the Chairman appointed as tellers Messrs. MAHON, ROE, JONAS, and RHODES.

The Committee divided, and the tellers reported that there were—ayes 161, noes 232, not voting 39, as follows:

[Roll No. 97]
[Recorded Teller Vote]

AYES—161

Abbitt
Addabbo
Alexander
Andrews
Archer
Arends
Ashbrook
Aspinall
Belcher
Bennett
Betts
Bevill
Biaggi
Blackburn
Boland
Bray
Brinkley
Brown, Ohio
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Camp
Casey, Tex.
Cederberg
Clancy
Collins, Tex.
Colmer
Conable
Conte
Crane
Daniel, Va.
Danielson
Davis, Wis.
Delaney
Dellenback
Dennis
Derwinski
Devine
Dowdy
Edwards, Ala.
Erlenborn
Evans, Colo.
Evins, Tenn.
Findley
Fisher
Flood
Flynt
Ford, Gerald R.
Giaimo
Goodling
Griffin
Griffiths
Gross
Gubser
Hagan
Haley
Hall
Hansen, Idaho
Hansen, Wash.
Harvey
Hathaway
Hébert
Heckler, Mass.
Hosmer
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Pa.
Jonas
Jones, N.C.
Keith
King
Kyl
Landrum
Lennon
Lent
Lloyd
Long, La.
Long, Md.
Lujan
McClory
McClure
McCollister
McDade
McEwen
McFall
McKay
McKevitt
McMillan
Mahon
Mailliard
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Michel
Mills, Md.
Montgomery
Myers
Natcher
Patten
Pelly
Pirnie
Poage
Poff
Powell
Price, Tex.
Purcell
Quillen
Randall
Rhodes
Robinson, Va.
Robison, N.Y.
Rooney, N.Y.
Roush
Rousselot
Roybal
Runnels
Ruppe
Ruth
Satterfield
Schmitz
Schneebeli
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Springer
Staggers
Steed
Steiger, Ariz.
Stubblefield
Talcott
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Veysey
Waggonner
Wampler
Ware
Whalley
Whitten
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wyatt
Wydler
Wyman

NOES—232

Abourezk
Abzug
Adams
Albert
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Annunzio
Ashley
Aspin
Badillo
Baker
Barrett
Begich
Bell
Bergland
Biester
Bingham
Blatnik
Boggs
Bolling
Brademas
Brasco
Brooks
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burton
Byrne, Pa.
Cabell
Caffery
Carey, N.Y.
Carney
Celler
Chamberlain
Clausen, Don H.
Clay
Cleveland
Collier
Collins, Ill.
Conyers
Corman
Cotter
Coughlin
Culver
Curlin
Daniels, N.J.
Davis, Ga.
Davis, S.C.
de la Garza
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Esch
Eshleman
Fascell
Fish
Flowers
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Galifianakis
Garmatz
Gettys
Gibbons
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Grover
Gude
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Harrington
Harsha
Hastings
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Horton
Howard
Johnson, Calif.
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kee
Kemp
Kluczynski
Koch
Kyros
Landgrebe
Latta
Leggett
Link
McCloskey
McCormack
McDonald, Mich.
McKinney
Macdonald, Mass.
Madden
Mallary
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mink
Minshall
Mitchell
Mizell
Monagan
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Preyer, N.C.
Price, Ill.
Pucinski
Quie
Railsback
Rees
Reuss
Riegle
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney, Pa.
Rosenthal
Roy
Ryan
St Germain
Sarbanes
Schwengel
Seiberling
Sisk
Smith, N.Y.
Snyder
Stanton, J. William
Stanton, James V.
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Sullivan
Symington
Taylor
Terry
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Vander Jagt
Vanik
Vigorito
Waldie
Whalen
White
Whitehurst
Widnall
Wolff
Wright
Wylie
Yatron
Young, Fla.
Zablocki
Zion
Zwach

NOT VOTING—39

Abernethy
Baring
Blanton
Bow
Carter
Chappell
Chisholm
Clark
Clawson, Del
Dickinson
Dwyer
Edwards, La.
Gallagher
Gaydos
Goldwater
Hawkins
Hays
Holifield
Hull
Kuykendall
McCulloch
Mills, Ark.
Mollohan
Morse
Passman
Patman
Pryor, Ark.
Rangel
Rarick
Reid
Rostenkowski
Sandman
Saylor
Scherle
Scheuer
Spence
Van Deerlin
Yates
Young, Tex.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: on p. 241 add new section as follows:

"SEC. (115) (a) The Administrator is authorized, in consultation with the Tahoe Regional Planning Agency (established pursuant to an interstate compact approved in Public Law 91-148, 83 Stat. 360, hereinafter referred to in this section as 'Agency') and other Federal and State agencies, to design and carry out projects to develop and demonstrate comprehensive water pollution control programs in areas subject to the jurisdiction of the Agency. Such demonstration programs and projects shall provide controls over nonpoint sources and shall maintain and enhance water quality within the Lake Tahoe Basin, and may include—

"(1) the preparation of detailed plans for development and conservation of the region's water resources, accompanied by a study of possible alternative sources of water for municipal uses;

"(2) the development of reliable and economical programs for recycling of pollutants and reclamation of water for municipal and recreational purposes within the interstate area;

"(3) the development of comprehensive programs for storm water collection and treatment;

"(4) the development of data on the impact of urban development in the area on regional water quality through soil siltation and other runoff; and

(5) assist the Agency in the development of plans for meeting the demands of user populations with the limits imposed upon the area by its fragile ecology.

(b) With respect to the area subject to the jurisdiction of the Agency, the Administrator shall review, in consultation with the Agency, any Federal or federally assisted public works project, any expenditures of Federal funds, any Federal licenses or permits, any Federal insurance, and Federal guarantees of loans where in the judgment of the Administrator such projects, licenses or permits, or activities may result directly or indirectly in discharge or runoff into the navigable waters of such area. No such project shall be undertaken, no such funds shall be expended or licenses or permits granted and no such insurance, guarantees or loans shall be provided in the area subject to the jurisdiction of such Agency until the Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any Federal action to which section 102(2)(C) of Public Law 91-190 applies. Such written comment shall be made public at the conclusion of any such review. In the event the Administrator determines that any such action is unsatisfactory from the standpoint of public health or welfare or environmental quality he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

(c) The Administrator shall report to the Congress, within one hundred and eighty days after the date of enactment of this Act and annually hereafter, on (1) the environmental impact of development in the Tahoe Basin; (2) the adequacy of plans developed by the Agency and the status of implementation of such plans; and (3) demonstration projects authorized by this section, including an analysis of the results.

(d) There is authorized to be appropriated $6,000,000 to carry out the provisions of subsection (a) of this section, which sum shall be available until expended."

Mr. McCLOSKEY (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McCLOSKEY. Mr. Chairman, this amendment relates to Lake Tahoe, which is the location of the single successful federally supported tertiary sewage treatment system in the United States. With respect to the details of this amendment, I defer and yield to my colleague, the gentleman from California (Mr. Waldie).

Mr. WALDIE. Mr. Chairman, I thank the gentleman for yielding me this time.

I had introduced the amendment which is known as the Tahoe amendment, but because of the restrictions on time, the gentleman from California (Mr. McCloskey) agreed to introduce the amendment so that it might be debated on the floor.

What this amendment seeks to do is to prevent what happened to Lake Erie from happening to Lake Tahoe. You will note that in the bill there is a great deal of attention paid to Lake Erie by the provisions of the bill to attempt to restore Lake Erie to a situation where it is tolerable.

Lake Tahoe is one of the two lakes perhaps in the world presently that is unique in the clarity and quality of the water it contains. If prompt, efficient and effective measures are not taken, Lake Tahoe is confronted with the same fate every lake and every body of water in this Nation is presently experiencing, massive deterioration.

This amendment was heard in the other body, and was supported by both of the California Senators, by both of the Nevada Senators, and by the Governor of Nevada, and was voted upon and acted upon unanimously.

What it does is to recognize that Lake Tahoe is presently jeopardized by sources of pollution that are essentially what are described as non-point pollution, the major part of that pollution being siltation from construction projects.

This amendment will permit the Administrator of the Environmental Protection Agency to support the efforts being made locally to protect Lake Tahoe from pollution.

There is at the present time, by reason of an inter-State compact, a body known as the Tahoe Regional Planning Agency comprised of 10 members, three of whom are from local government divisions that surround the lake, from Nevada and California, and four of whom are appointed, two each, by the respective Governors of Nevada and California. They have done a reasonably good job in protecting the lake, but this bill recognizes that the protection of Lake Tahoe is not solely and exclusively the responsibility, nor is it within the purview and province, of local authorities.

Lake Tahoe is an asset that belongs to others than those who own land surrounding the lake. It is an asset so unique and so priceless that it has attained national stature. Therefore, a national interest in its preservation ought to be implemented into this act.

This amendment which was adopted by the Senate imposes a national interest in terms and provisions that are aimed to protect the lake from further pollution.

The national control, very frankly, is expressed as a very, very light national interest that has no authority whatsoever to overrule or change any decision of the Tahoe Regional Planning Agency, the local body that has presently control of the administration of the problems of pollution of the lake.

What this bill does is to say that any Federal activity that in any way threatens pollution of that lake, and most of the activity around the lake is Federal activity, will be required to have an environmental protection statement filed by the Administrator of the Environmental Protection Agency. That statement shall be published and publicly disclosed.

It is hoped that if an environmental impact statement is sufficiently adverse as to polluting the lake that the local agency will refrain from what acts it might contemplate contrary to that environmental impact statement.

But if they do not, there is not a single thing the Administrator can do to compel them to change their decision. All they can do with the environmental impact statement is to forward it to the Environmental Quality Council where it can come to the attention of the President and, conceivably but unlikely, the President could reverse the decision of the Tahoe Regional Planning Agency if the President felt those decisions were inconsistent with the interest of the Nation in preserving the lake.

So it would be very difficult to suggest that this amendment in any way limits and curtails the local control of pollution of Lake Tahoe.

Mr. EDMONDSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, everybody recognizes that Lake Tahoe is a beautiful lake. Everybody recognizes that every lake that is beautiful and unique in its beauty has special ecological and environmental problems associated with it.

But this amendment would authorize a special allocation of $6 million for demonstration programs and development of plans to protect the Lake Tahoe basin and would authorize EPA to review and to comment on all actions by Federal agencies affecting the ecology of the Tahoe basin.

The bill we have before us allots water pollution grants to the States on the basis of actual waste treatment needs and it should adequately meet the problems associated with water pollution in the Lake Tahoe region which originate from point sources.

The other needs which include real estate development and the environment should be undertaken by the Tahoe Regional Planning Agency in cooperation with other Federal programs dealing with land and with air. There is no justification for dealing with problems not associated with water pollution in this bill.

There is no justification to go into this particular authorization to get $6 million for what is an overall and comprehensive program going far beyond a mere water pollution problem.

We do have research studies on nonpoint sources authorized in this bill which should aid in arriving at a solution, but we hope that the basic approach under this bill dealing with the States alike and giving to the States responsibility for their allocation of resources within the States and to the municipalities as well will be kept intact and will not be disturbed by this amendment.

Mr. HENDERSON. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentleman.

Mr. HENDERSON. Mr. Chairman, I would like to address myself to the gentleman from Texas (Mr. Wright) in order to inquire about the "point source" definition in section 502(15).

In section 502(15) which defines "point source," we find the language "concentrated animal feeding operation."

I have had some inquiries about the extent of the definition of this term as it relates to a "point source."

It is my understanding that only those concentrated animal feeding operations which would collect and concentrate waste for discharge through a definite point source outlet are covered under this definition and that it does not apply to nonpoint source discharge, associated with a feedlot operation.

Mr. EDMONDSON. I yield to the gentleman from Texas (Mr. Wright).

Mr. WRIGHT. Mr. Chairman, in response to the question of the gentleman from North Carolina, the gentleman is exactly correct. It does not apply to nonpoint source discharge.

I would like to point out that subsection 304(e) does call for the development of guidelines, processes, procedures, and methods to control nonpoint sources of pollutants including those from agricultural activities. That would include discharge from livestock operations other than the "point source" discharge covered in section 502(15).

Mr. HENDERSON. Mr. Chairman, I thank the gentleman for his response and I thank the gentleman from Oklahoma.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. VANIK. Mr. Chairman, I take this time to ask the chairman of the committee whether section 7 of this bill in its present form gives the President the authority to enter into international agreements affecting the Great Lakes.

Mr. JONES of Alabama. I am sorry. I did not understand the gentleman.

Mr. VANIK. My question is whether section 7 in its present form gives the President of the United States the authority to enter into international agreements affecting the Great Lakes.

Mr. JONES of Alabama. Yes, the President has ample constitutional and statutory authority at the present time to negotiate and enter into such international agreements such as the gentleman proposes.

Mr. VANIK. I thank the gentleman.

Mr. Chairman, my distinguished colleague from Ohio, the Honorable John F. Seiberling, and I intended to introduce the following amendment to section 7 of this bill:

Page 402, strike lines 2 through 12, and insert the following:

> "SEC. 7. The President shall undertake to enter into international agreements for the control of the discharge and emission of pollutants into the oceans and the Great Lakes. Such agreements should endeavor to control not only existing pollutants but activities including, but not limited to, oil, gas, sand, and mineral exploration, drilling, development, extraction, and transportation which have the potential for producing or allowing a discharge of pollutants. For this purpose, the President should encourage the use of existing international organizations including the International Joint Commission and shall negotiate treaties, conventions, resolutions, or other agreements and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums."

The principal purpose of this amendment was to give the President the express authority to enter into international agreements to curb pollution of the Great Lakes not only by the discharge of pollutants but by the extraction and transportation of oil, sand, and other minerals.

During the debate on this bill, I asked the Chairman of the House Public Works Committee whether the language of Section 7 of the bill, in its present form, gives the President the authority to enter into international agreements on the Great Lakes.

In view of the assurances given by the gentleman from Alabama (Mr. JONES) and the legislative history which it establishes—the fact that the bill, in its present form, gives the President the authority to enter into such international agreements—Mr. SEIBERLING and I decided not to offer our amendment.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words.

I take this time to ask the gentleman from Ohio (Mr. HARSHA) a question: Section 312(f)(3) of section 2, H.R. 11896 states:

> If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

The language is identical in both Senate and House bills.

Would the gentleman from Ohio (Mr. HARSHA) give me his interpretation of the meaning of the new language of section 312(f)(3) of section 2 of H.R. 11896 in order to establish to what extent it can be used to grant exemptions for waters within a particular State?

Mr. HARSHA. The gentleman will remember that the purpose of Congress in enacting vessel pollution laws is to establish uniformity among the States. When the House considered this legislation during the 90th Congress, it was very reluctant to include small boats used for recreational purposes in the same category as larger vessels. During the 91st Congress extensive hearings were held from which it became clear that the wide variety of State laws presented a very difficult problem interfering with the movement of those vessels in interstate commerce. It was for that purpose that we enacted in the Water Quality Improvement Act of 1970 legislation to provide for a uniform Federal law for vessel pollution control.

The no discharge exception was, of course, necessary to protect sensitive waters within a State. These included from the drinking water supply, shellfish beds and areas designated for body contact, and the legislative history clearly limited the law in that regard.

The language in the form we have before us today retains that basic concept by limiting the exceptions to "specified waters." In addition, it requires that the Administrator find that the protection and enhancement of the quality of these waters requires such a prohibition.

The intent of this language is clear on its face and does not go beyond it. The suggestion that a State may receive a blanket prohibition for all of its waters—its rivers, its lakes—its coastal waters—clearly would act to negate not only the preemptive clause contained in 312 (f)(1) and (2), but, indeed the entire section dealing with vessel pollution control. The purpose and intent of section 312(f)(3) is to provide a safeguard for those waters which do, in fact, as determined by the Administrator, need special and extra protection, and is not a blanket authority for a State to impose its requirements on all vessels that enter its waters.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. MILLER of Ohio. Mr. Chairman, the committee is opposed to the amendment because the general provisions of the pending bill are sufficient to carry out any pollution control involving Lake Tahoe. There are present efforts being made in the Lake Tahoe area for pollution control which specifically the Lake Tahoe regional planning agency is involved in, a pollution control program for the Tahoe area.

The Committee recognizes the natural wonder of Lake Tahoe, and it is our firm intent to enhance its natural beauty and repair any involvement done by discharge of pollutants into the lake. We believe the general provisions under the pending bill will adequately take care of Lake Tahoe. It is the committee's intent to allow the States to receive the grants on the basis of need.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, we on this side of the aisle rise in opposition to the amendment offered. I would just like to point out this amendment singles out a special problem in the entire United States and gives preferential treatment to it. We think the language we have, setting forth studies and demonstration projects and authority of the Administrator, can cover it without giving preferential treatment to one particular area or pinpointing it.

Mr. WALDIE. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from California.

Mr. WALDIE. Mr. Chairman, the problem is not unique to this bill. The bill has singled out and properly so, the tremendous problem presented by Lake Erie. All this amendment seeks to do is to take care of Lake Tahoe. The millions of dollars which will be necessary to restore Lake Erie may not be necessary to restore Lake Tahoe if we act now. I think it is utterly consistent with what we have done with Lake Erie.

Mr. MILLER of Ohio. The committee feels that under section 104, research, investigations, training, and information; and section 105, grants for research and development; and section 106, grants for pollution control programs; and section 314, clean lakes; and the entire title II, the grants title, that Lake Tahoe will be protected.

Mr. WALDIE. Mr. Chairman, if the gentleman will yield further, I appreciate the gentleman's assurances. I only suggest to the gentleman that those who are deeply concerned with the preservation of Lake Tahoe in the other body, as well as the Governor of the State of Nevada, though, unhappily, not the Governor of California, did not feel the bill places sufficient emphasis on the effort to protect Lake Tahoe.

Mr. JOHNSON of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, we have members of the Committee on Public Works and Committee on Government Operations who have been out to Lake Tahoe on two different occasions in order to try to make some assessment of the injury or pollution in that lake. We have had, I think, very intimate knowledge about the problems with Lake Tahoe. We have not been indifferent to those problems. In this bill I think we are trying to make the necessary repairs that will bring Lake Tahoe up to the same standards of the rest of our streams and lakes.

Mr. JOHNSON of California. Mr. Chairman, I thank the chairman of our committee for his statement.

I merely want to say, Mr. Chairman, to all the Members here in the Committee of the Whole that I have been acquainted with Lake Tahoe since I was 10 years old. I have served now for 24 years in State and Federal Government. We have had many studies authorized and many studies made of Lake Tahoe. Recently there was an action taken by the State legislature, ratified by the Congress of the United States, to set up a Tahoe Regional Planning Agency. That was perfected and signed into law by the President. The memberships were appointed within the authority. They are working very well, and just recently they have adopted their first master plan.

Certainly I want to do everything I possibly can to save the beauty and the purity of Lake Tahoe. It has now become a year-round resort area. It used to be just a summer resort prior to the advent of the snowplow, but today it is a year-round recreation area. We have about 30,000 people living within the area at the present time year-round. We have a maximum population there of 150,000 in the summertime and probably 70,000 in the wintertime.

At the present time, the National Science Foundation, through the University of California, is making studies there. The California State Division of Highways is making several studies there as they relate to the transportation grid.

The California Fish and Game Department is making studies. Save the Lake Tahoe League, a private organization, is funding many foundations and private enterprises to come in and make certain studies. The Forest Service and the Soil Conservation District are studying all of their lands.

I might say that the Federal Government owns a major part of the lands surrounding Lake Tahoe. The need for additional acquisition of lands is much more important than anything here, and we are going to ask the Congress again for a sum of money to acquire private lands, so that it will balance out 85 percent public in the area and 15 percent private.

Now, the Secretary of Transportation is also making a study, along with the Bureau of Public Roads, as to the relocation of highways throughout this area.

When we passed the Environmental Control Act of 1969, we brought into being the Commission and the Environmental Protection Agency. They have been working with all the groups at Tahoe in previous studies, and they have effected a very fine control there on many of the problems at the present time.

With the Water Pollution Control Act of 1972 and its provisions they are going to follow up and do away with all source point pollution at Lake Tahoe. This is a mandate on the area of Lake Tahoe as well as it is throughout the rest of the Nation.

There is $18.350 billion in the bill for construction. There is a sizable amount of money for planning. There is a sizable amount of money for studies. We have asked the National Academies of Sciences and Engineering to make these additional studies.

We are coming to Congress to require a huge sum of money for land acquisition, but I believe as far as source point pollution is concerned, the bill before us, which comes from the committee, will do the job. I ask all Members to vote down the amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

This is a very difficult amendment for those of us, who come from California, to comment on what appears to be a desirable amendment, because we all recognize the beauty of Lake Tahoe and want to preserve that unique beauty, but I want to point out that the committee has not ignored the problem of water quality of our lakes.

Under section 314, which is a section of the bill on page 345, there is language devoted to clean lakes specifically.

Because of the fact that we are moving in the direction of adopting a new needs formula study, by the time we could gear up for an action program under the new allocation formula, I am convinced Lake Tahoe would be more than adequately taken care of in any instance. This needs formula study, based upon estimates, is also to be considered because of the language contained in section 314(b), wherein it relates to "methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes." It says:

> The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this section.

Then we go to the final subsection (2), which says:

> There is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973; and $150,000,000 for the fiscal year 1974 for grants to States under this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

With the above stated provisions in the legislation before us, coupled with the new needs study allocation formula, I will do everything within my power to assist the Tahoe regional area compact, created by this Congress and approved as Public Law 91-148, to control pollution in Lake Tahoe—in addition to restoring and/or enhancing the water quality and environment of the lakes in my congressional district and others throughout the Nation.

I look forward to working with my California colleagues toward this worthwhile objective and am pleased to provide this legislative history.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and on a division (demanded by Mr. WALDIE) there were—ayes 16, noes 65.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. WRIGHT: Page 251, line 17, strike out "1971," and insert "1972,".
>
> Page 251, line 25, after "lack of" insert "authority or of".
>
> Page 252, line 10, after "and" insert "authority for and".

Mr. WRIGHT. Mr. Chairman, this is a corrective amendment and I offer it in behalf of the committee.

This amendment has been cleared with both sides. There is an inadvertence in which we left the date of 1971 in as the cut-off date for reimbursement, and we are simply correcting that.

Mr. HARSHA. Mr. Chairman, if the gentleman will yield, we accept this amendment on this side.

Mr. JONES of Alabama. Mr. Chairman, if the gentleman will yield, the purpose of the amendment, as the gentleman from Texas has stated, is corrective in nature, and we accept it.

Mr. EDMONDSON. Will the gentleman yield?

Mr. WRIGHT. Yes. I yield to the gentleman.

Mr. EDMONDSON. Mr. Chairman, I appreciate the gentleman's offering this amendment.

The State Department of Health of the State of Oklahoma has been very much concerned about implications of this particular date, and the corrections are very, very helpful. I hope it will be unanimously approved.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WRIGHT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer a second amendment in the nature of a committee amendment.

The Clerk read as follows:

> Amendment offered by Mr. WRIGHT: Page 389, strike out lines 17 through 22 and reletter succeeding subsections and references thereto accordingly.

Mr. WRIGHT. Mr. Chairman, this, too, is a corrective amendment which I understand has been cleared on both sides of the aisle. It would make the Fish and Wildlife Act applicable in every respect that it applies by its own terms to all sections of the bill. There was an inadvertence by which this particular section was put in the bill that renders the Fish and Wildlife Act inapplicable in certain instances. This was not the intention of the committee to do this.

Mr. DINGELL. Will the gentleman yield?

Mr. WRIGHT. Of course I yield to the gentleman from Michigan.

Mr. DINGELL. This is one of the amendments my colleagues and I were going to offer although in slightly different form. It is eminently satisfactory to us. I thank the committee and commend them for it and rise in support of it.

Mr. HARSHA. Mr. Chairman, I join with the distinguished gentleman from Texas in urging the adoption of this amendment. We on this side of the aisle support it wholeheartedly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WRIGHT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. RONCALIO: Page 372, section 502(6), after line 24 insert the following:
>
> "(E) As used in Sections 301(a), 302 and 402, this term does not mean irrigation water which is introduced into water from a point source when such irrigation water has been used solely for agricultural irrigation purposes."

Mr. RONCALIO. Mr. Chairman, I, too, have submitted this amendment to both sides and it meets with the approval of both sides of the committee.

I offer my amendment so that a serious omission to H.R. 11896 can be corrected before we end up with a law that would be virtually impossible to enforce. My amendment would specifically exempt irrigated agriculture from sections 301 (a), 302 and 304 of the Federal Water Pollution Control Act.

I think my colleagues will agree that the type of salinity problems created by irrigation runoff are simply not as alarming as the more common pollutants discharged by industrial and municipal facilities. Substantial salinity concentrations have little effect on recreational use of water or its suitability for the propagation of fish.

My amendment is necessary, Mr. Chairman, because at the present time we could not enforce pollution control on irrigation systems. It is virtually impossible to trace pollutants to specific irrigation lands, making these pollutants a nonpoint source in most cases. Second, we do not have the technology to deal with irrigation runoff (as contrasted to industrial pollution and if we begin making laws to control something that cannot be handled with our given technological knowledge, we will be doing many thousand farmers and ranchers a great disservice. In fact, we will be doing the Federal Government a great disservice if we actually pass a Federal water pollution control bill that cannot be fully enforced.

Furthermore, Mr. Chairman, I sincerely believe that our constituents in rural areas are fed up with Federal controls. I know this is the case with my Wyoming constituents. We have tried to do too much in too short of time. During the three short months of 1972 my constituents have been hit with the following: First, the beginning of the enforcement of the Occupational Safety and Health Act which was passed in 1970 when I was not a Member of Congress, but which has resulted in a profusion of Department of Labor inspectors running around the countryside issuing fines for violations even before the Department has gotten around to supplying each and every person who is affected by the act with information on what he must do to comply with the new law; second, a Bald Eagle Protection Act passed by the House of Representatives which would not allow a farmer or rancher to shoot an eagle even if he should see one in the process of attacking his livestock; and third, a White House ban on predator control on all Federal lands, without any consideration to alternatives such as a Federal insurance plan that would at least reimburse a stockman for losses suffered by predators.

Mr. Chairman, a Federal water pollution control bill that would include irrigation runoff, when it is unrealistic to even meet the law, would be the last straw in my State of Wyoming.

Even though I wholeheartedly support effluent control as the best method of controlling pollution contributed by industrial and municipal waste, I submit that it is not now, at the present time, a practical method of controlling irrigation runoff.

If you have any irrigated farming in your State, whether on a reclamation project or otherwise, my amendment is vital to your constituents. I urge my colleagues to exclude from the definition of "pollutant" irrigated water which is introduced into water from a point source when such irrigation water has been used solely for agricultural irrigation purposes.

I respectfully ask all Members of the House of Representatives to support this amendment.

Mr. BLATNIK. Mr. Chairman, I rise in support of the amendment. I am in full agreement with the gentleman's statement, and we urge its adoption on this side.

Mr. WALDIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time in order to ask a question of the gentleman from Wyoming relative to the amendment.

In California there is a vast irrigation basin that collects all the waste resident of irrigation water in the Central Valley and places it in a drain—the San Luis Draining—and transport it several hundreds of miles and then dumps it into the San Joaquin River which flows into the estuary and then into San Francisco Bay.

It is highly polluted water that is being dumped in waters already jeopardized by pollution.

Will the gentleman's amendment establish that as a nonpoint source pollution or will it come under the point-source solution discharge?

Mr. RONCALIO. Mr. Chairman, if the gentleman will yield, my amendment would not require Federal permits to remove that water. I do this to try and avoid irreparable harm to one part of the country from laws welcomed in another.

Mr. WALDIE. I suggest not only to the Members from California but to Representatives of other States that have massive irrigation waste drains that are dumped into navigable waters, if you do not require that as a point-source pollution and require a permit, you will jeopardize those waters.

This residue that is dumped into the San Joaquin River is desperately polluting the river and the bay, and if a permit is not required to dump it, you will have no control over the quality of water that you are dumping into rivers and lakes from these sources.

Mr. RONCALIO. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman's concern, but if you are going to impose upon the small agricultural farmers of Wyoming, Montana, Idaho, and Colorado, Federal permits on top of the other Federal inspections, and agents prevalent today, we are presenting small irrigation farmers a matter with which they cannot cope.

Mr. WALDIE. That was not the question I asked.

The permit is not for the individual farmer who dumps it into the drain but the question I asked is at the end of that drain with hundreds of thousands of farmers dumping into it, does the drain itself require a permit to dump that into the water?

Mr. RONCALIO. Most discharge as the result of irrigation damage is a most difficult thing to handle and is a nonpoint source discharge, but is percolation.

Mr. WALDIE. I understand the gentleman's amendment. What he says is that these hundreds of thousands of farmers that will be dumping their residue into a pipe and that pipe transports it out of the basin and dumps it into a waterway, you no longer will require a permit for the waterway dumping of that material? I think that is desperately dangerous to every one of our States.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. WALDIE. Yes, I yield to my colleague from California.

Mr. WIGGINS. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from California (Mr. WALDIE).

This is potentially a very dangerous amendment and at least it is entitled to the careful and mature consideration of a legislative committee. It should not be enacted too hastily on the floor at this time.

I would urge that this amendment be voted down and that the legislative committee give careful consideration to the problem of irrigation runoff as a source of pollution.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Will this come under the effluent limitation provisions of the bill?

Mr. RONCALIO. Mr. Chairman, if the gentleman will yield, let me say to the gentleman that this amendment does not do what has been indicated. It does not remove irrigation waters from the provisions of this bill, except in those two specific instances, one, from the effluent water quality standards and, second, from the Federal permit section.

It is still in the study program, there still has to be the methodology developed to remove high salinity from such water after its use and re-use for irrigation purposes, and this would be continued under this legislation, without wrecking havoc in California or other areas where you have huge irrigation programs.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming (Mr. RONCALIO).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARSHA: On page 397, lines 3 and 4, strike out "$6,000,000", and insert in lieu thereof "$11,000,000".

Mr. HARSHA. Mr. Chairman, I have cleared this amendment with the majority side, and they are willing to accept it in the nature of a committee amendment.

This is at the request of the administration. The money has already been appropriated.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I am glad to yield to the gentleman from Minnesota.

Mr. BLATNIK. Mr. Chairman, the gentleman from Ohio had good justification for offering his amendment, and we certainly accept it on this side of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HARSHA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WILLIAM D. FORD

Mr. WILLIAM D. FORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAM D. FORD: Page 384, between lines 7 and 8, insert the following:

"(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this Act, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued under this Act."

Page 385, line 21, after the comma, insert the following: "or carrying out section 507 (e) of this Act,".

Mr. WILLIAM D. FORD. Mr. Chairman, this amendment is designed to free workers from the fear that an employer or corporation may cite environmental standards and orders as a reason for threatening to close their plants or reduce employment. It is also designed to protect environmental protection legislation from being rendered partially ineffective due to misguided or self-serving threats by any employer or corporation. And finally, it is designed to protect communities from any adverse economic effects which might also arise from these types of threats.

In other words Mr. Chairman, the purpose of this amendment is to insure that the burdens and sacrifices resulting from legislation designed to protect our environment and benefit all Americans shall not be borne disproportionately by some Americans.

Our amendment simply provides a mechanism to determine whether or not an employer or corporation is threatening to discharge employees or curtail its activities because of alleged results which might possibly arise from an effluent limitation or order which may be issued under the provisions of this act. I want to emphasize that it provides only for a determination of this issue. It does not involve any cease and desist powers and it does not involve any civil or criminal penalties.

The amendment states that any person discharged or threatened with discharge may request the Administrator to conduct a full investigation of the matter. Following such a request the Administrator is merely required to conduct a public hearing and review the information relating to the actual or potential effect of any limitation or order on employment and to inquire into the reasons for any alleged discharge or layoff.

Upon receipt of this information the Administrator is required to make findings of fact and make any recommendations which he deems appropriate. These findings and recommendations would then be available to the public.

Mr. Chairman, in offering this amendment we are only seeking to protect workers and communities from those very few in industry who refuse to face up to the fact that they are polluting our waterways, and who hope, that by pressuring their employees and frightening communities with economic threats, they will gain relief from the requirements of any effluent limitation or abatement order.

We need only recall, I am sure, how one company—Union Carbide—in West Virginia, threatened massive job loss if EPA insisted that it comply with air pollution control standards. But when public pressure was brought to bear, the company finally admitted that it could comply without such job loss occurring. It is our contention that if a mechanism exists to investigate actions such as this, and make the findings available to the public, we will be able to achieve similar results in the future and therefore avoid the enactment of more stringent Federal regulations in this area.

This amendment has received widespread support from many civic-minded organizations, as well as the environmental groups and labor organizations such as the United Auto Workers, the United Steelworkers, and the AFL–CIO.

Mr. Chairman, I urge the adoption of this amendment.

Mr. DULSKI. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. DULSKI. Mr. Chairman, I rise in support of the amendments offered by my colleague from Michigan (Mr. WILLIAM D. FORD).

In the pending bill, we have the opportunity to deal once again—and more effectively as a result of experience—with one of the great domestic problems of our day: Water pollution.

Because of years of neglect and a refusal to recognize the many warning signs, our Nation's waters have reached the crisis stage. We are forced to take drastic steps to try to bring the situation under control as fast as possible.

We have had laws on the books as far back as the end of the 19th century. Of more recent vintage is the current comprehensive Federal Water Pollution Control Act. This latter act—the current basic law—has given us an excellent start on modern control mechanism. We have gained broad experience, and now we are moving forward with necessary refinements and adjustments.

Water pollution control is expensive—indeed, to a degree often not easily understood. For the homeowner who finds it necessary, he finds it plenty costly to install a septic tank in his backyard or to hook up to a new municipal sewage system.

As one might suspect, the outlay rises in direct proportion when industrial firms are required to install treatment works to handle their huge volume of waste.

No longer can industry be allowed to dump raw sewage into our Nation's waters. Neither can we any longer accept halfhearted or partial attempts to treat waste.

Corrective steps not only are expensive, but also are disruptive in long-established major industrial installations. Old-style plants, although they may still be able to do an acceptable production job, often do not adapt easily to efficient pollution control systems and devices. As a result, management understandably is required to face up to changing circumstances. In particular, management must look at the broad-range factor of economics and the likely effect on the company balance sheet.

For me, these industrial facts of life are very fundamental. They strike home in a very practical sense. The Niagara frontier is one of the older and foremost industrial areas in our country. My congressional district is entirely urban and contains much of the basic industry which has become the backbone of our highly developed Niagara frontier over the years.

There is no question about the need to halt water pollution of all kinds, including industrial pollution. Effective pollution control is essential if we are to protect our vital water supply and rescue our lakes and rivers from stagnation beyond repair.

In dealing with industrial pollution, we must recognize that some industries are going to use the pollution control rules as an excuse for phasing out or sharply curtailing certain operations. Either action would cost jobs. We can ill-afford more unemployment—particularly in my home area of Buffalo, N.Y., where the current rate already is half-again larger than the national average.

The pending amendments deal with industrial pollution. In particular, they deal with employee protection. Certain employee protections are included in the bill as it came from the committee. But those protections unfortunately do not go far enough.

The committee bill deals only with protections for those employees who face loss of their jobs or discriminatory action for having filed pollution complaints against their employers. We have no quarrel with these provisions as far as they go.

But there is no protection provided for industrial employees who are laid off or threatened with layoffs because their employers claim they must cut back or close shop as a result of pollution control requirements.

What we are proposing in simplest terms is that the Environmental Protection Agency constantly monitor the economic effect on industry of pollution control rules. In this way, hopefully, the Agency can anticipate trouble spots.

Further, when an industry claims it must cut back or close down because of pollution control regulations, an employee can ask the Agency to conduct a full study of the facts on the industry decision.

Perhaps, even more important, this study can be expanded to include public hearings on the request of the employee or any other party so that all the facts can be spread upon the public record for everyone to see. In other words, answers to the question as to exactly why a shutdown or cutback was ordered.

It seems to me vital that the "employee protection" section of the pending bill be expanded to provide protection for employees facing loss of their jobs through plant shutdown as well as protection for the employees who face firing or discrimination because they filed or participated in a complaint against their employer.

Mr. Chairman, these pending amendments are essential to the "employee protection" section of the bill before us. I urge their adoption as a simple matter of equity for the workers who may become the "job or no-job" pawns in the antipollution drive.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. MEEDS. Mr. Chairman, I rise in support of this amendment. The major city of my congressional district has just received the announcement of a pulp mill shutdown. The company in question announced that the shutdown was "strictly environmental." A closer examination of the facts shows that environmental requirements played only a small part in the closure decision. Other factors including obsolescence, source of market, source of supply, and labor costs all added up to a hard decisive decision based on economics.

The effect upon our community has been almost disastrous. People are engaged in the windmill tilting exercise of attempting to roll back the pollution efforts thus far advanced. This company is being required to meet standards which any pulp mill, anywhere in the United States will be required to meet. Yet they have convinced the citizenry that they are somehow being discriminated against.

When this situation arises, or is threatened, the workers and other people of the community have a right to know the truth. If indeed, the closure is caused by pollution controls, there should be no difficulty in establishing that fact. If, on the other hand, there are other factors involved, pollution controls ought not to be made the scapegoat for an unpopular decision.

The amendment of the gentleman from Michigan (Mr. WILLIAM D. FORD) furnishes a forum for a disclosure of the facts. Hopefully it will place industry on notice that if pollution controls are to be blamed, they had better be prepared to substantiate that fact.

Mrs. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentlewoman.

Mrs. ABZUG. Mr. Chairman, I am pleased to rise in support of the amendment, which would require the Environmental Protection Administration to study and evaluate, on a continuing basis, the effects of effluent limitations upon employment.

One argument commonly raised in opposition to strong antipollution efforts is the claim that enforcement of antipollution laws will lead to the closing of manufacturing facilities and a resulting loss of jobs. I believe that this argument is little more than a red herring, suggested by industry as a device to play upon the economic concerns of working people and I lead them to join with corporate interests in their fight against cleaning up the environment.

It may be that there are instances in which corporations have moved their facilities to avoid compliance with antipollution requirements; to combat this, we should have national minimum standards, leaving their ecological blackmailers with no place to go. Alternatively, there is the suggestion of Leonard Woodcock that employers who move to avoid environmental protection requirements be required to pay the workers who suffer as a result.

This amendment will allow the Congress to get a close look at the effects on employment of legislation such as this, and will thus place us in a position to consider such remedial legislation as may be necessary to ameliorate those effects. This is a good amendment and I urge its adoption.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the chairman of the committee.

Mr. BLATNIK. Mr. Chairman, though I do not speak in opposition to the intent of the amendment, I do hope it will not be adopted at this time and in this manner. The problem is a real one. There is no question about that. The Public Works Committee is presently holding hearings on legislation concerning economic development and the Economic Development Administration. The entire matter of employee protection brought about by the need for industry to comply with environmental standards requires a comprehensive examination. This matter will definitely be considered, and I assure you that we will come up with a measure to take care of the problem which the gentleman has noted.

Mr. MILLER of Ohio. Mr. Chairman, I rise in opposition to the amendment.

The effect of the amendment would be merely to authorize public hearings regarding threatened plant shutdowns or worker layoffs resulting from pollution control requirements. The committee is presently conducting hearings on the Public Works and Economic Development Act, as amended, and is in the process of drafting a bill to extend this act. The committee has purposefully left these hearings open so that following action on the pending bill we may look into the problem of potential plant shutdowns and worker layoffs due to pollution control requirements. It is the committee's intention to include a comprehensive section regarding layoffs, plant shutdowns, and other economic hardships to communities resulting from the pending Water Pollution Control Act amendments.

The committee realizes that some economic hardship, especially in smaller communities who rely on single, older plants, may result from the requirements of the pending bill. Since economic relief properly comes under EDA, it would be more appropriate to include comprehensive language in the EDA extension to take care of this matter. It is not the intent of the committee to establish within EPA an office to deal with economic impact, a subject property belonging within EDA. The committee and I personally, does stress its sympathy and support for the intent of the amendment.

Mr. FRASER. Mr. Chairman, I rise for the purpose of clarifying the intent of the amendment.

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. FRASER. As I understand it, the purpose of the amendment is to provide for a public hearing in the case of an industry claim that enforcement of these water-control standards will force it to relocate or otherwise shut down operations. I do not understand that it has to do with economic adjustment assistance, which would or might properly come up under another legislative area. Since this deals just with the public hearings, I would hope that the amendment would be adopted.

I think too many companies use the excuse of compliance, or the need for compliance, to change operations that are going to change anyway. It is this kind of action that gives the whole antipollution effort a bad name and causes a great deal of stress and strain in the community.

I would think that this is the right place for the amendment to be adopted. It is a very limited amendment. I strongly urge that it be supported.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. REUSS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. REUSS. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. WILLIAM D. FORD, BLATNIK, HARSHA, and FRASER.

The Committee divided, and the tellers reported that there were—ayes 274, noes 118, not voting 40, as follows:

[Roll No. 98]

[Recorded Teller Vote]

AYES—274

Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews
Annunzio
Arends
Ashley
Aspin
Badillo
Barrett
Begich
Bell
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Bingham
Boland
Brademas
Brasco
Bray
Brooks
Broomfield
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Carney
Chamberlain
Clancy
Clausen, Don H.
Clay
Cleveland
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Daniels, N.J.
Danielson
de la Garza
Dellenback
Dellums
Denholm
Dent
Derwinski
Devine
Diggs
Dingell
Donohue
Dow
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Flood
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Fulton
Galifianakis
Gallagher
Gibbons
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gude
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Harvey
Hathaway
Hechler, W. Va.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Holifield
Horton
Hosmer
Howard
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Johnson, Pa.
Jonas
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kemp
King
Koch
Kyl
Kyros
Landgrebe
Lennon
Lent
Link
Long, Md.
Lujan
McCloskey
McClure
McCollister
McCormack
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
Macdonald, Mass.
Madden
Mahon
Mailliard
Mallary
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Miller, Calif.
Mills, Md.
Minish
Mink
Minshall
Mitchell
Monagan
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Konski
O'Neill
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Poff
Preyer, N.C.
Price, Ill.
Pucinski
Quie
Railsback
Randall
Reuss
Rhodes
Riegle
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ryan
St Germain
Sarbanes
Schneebeli
Sebelius
Seiberling
Shoup
Shriver
Skubitz
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Stratton
Stubblefield
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Tiernan
Udall
Ullman
Vanik
Veysey
Vigorito
Waldie
Wampler
Ware
Whalen
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wydler
Wylie
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zwach

NOES—118

Abbitt
Albert
Archer
Ashbrook
Aspinall
Baker
Belcher
Blackburn
Blatnik
Boggs
Bolling
Brinkley
Brown, Mich.
Burleson, Tex.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carey, N.Y.
Carter
Casey, Tex.
Cederberg
Celler
Collier
Collins, Tex.
Colmer
Crane
Curlin
Daniel, Va.
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dennis
Dorn
Dowdy
Edmondson
Edwards, Ala.
Evins, Tenn.
Fisher
Flowers
Flynt
Frey
Fuqua
Garmatz
Gettys
Giaimo
Gray
Griffin
Gross
Grover
Gubser
Hagan
Haley
Hall
Hammerschmidt
Hansen, Idaho
Harsha
Hastings
Hébert
Henderson
Hillis
Hogan
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Kee
Kluczynski
Landrum
Latta
Leggett
Lloyd
Long, La.
McClory
McMillan
Mann
Martin
Mathis, Ga.
Miller, Ohio
Mizell
Montgomery
Nichols
Patten
Pirnie
Powell
Purcell
Quillen
Rees
Roberts
Robinson, Va.
Roncalio
Ruth
Satterfield
Schmitz
Schwengel
Scott
Shipley
Sikes
Slack
Smith, Calif.
Snyder
Spence
Springer
Stanton, James V.
Steiger, Wis.
Stephens
Teague, Tex.
Thone
Vander Jagt
Waggonner
Whalley
White
Whitehurst
Wyatt
Wyman
Zion

NOT VOTING—40

Abernethy
Baring
Blanton
Bow
Chappell
Chisholm
Clark
Clawson, Del
Dickinson
Dwyer
Edwards, La.
Gaydos
Goldwater
Hawkins
Hays
Heckler, Mass.
Hull
Keith
Kuykendall
McCulloch
Mills, Ark.
Mollohan
Passman
Patman
Price, Tex.
Pryor, Ark.
Rangel
Rarick
Reid
Rostenkowski
Sandman
Saylor
Scherle
Scheuer
Sisk
Stokes
Stuckey
Van Deerlin
Wright
Yates

Messrs. **BROOKS, STEIGER** of Wisconsin, and **YOUNG** of Texas changed their votes from "no" to "aye."

So the amendment was agreed to.

Mr. **GUBSER.** Mr. Chairman, within the next two hours we will be voting upon one of the most significant bills of all time. For more than two centuries the balance of nature in this continent has been violated by man. Today we will take a meaningful step toward correcting the wrongs we have committed in the past hundreds of years. Because this bill does so much for the environment and because it is well within the bounds of reason, I intend to vote for it.

Like any hallmark legislation, some will think the bill before us goes too far while others will believe it does not go far enough. I sincerely hope the American public in its serious concern for our environment will not look upon the limitations of reason which we have written into the bill as less than a complete dedication by this Congress to improving the environment in which we live. I hope the public will never lose sight of the positive things which this bill accomplishes. It is a meaningful and far-reaching step which we take today.

GOALS AND POLICY

H.R. 11896 establishes for the first time a national goal in removing pollutants from our water supply. It establishes an interim goal for 1981 to achieve water quality suitable for recreation purposes and the propagation of marine life in all waters. It establishes a 1985 goal of "zero discharge" of pollutants into the nation's waters. The bill sharply increases Federal grants for municipal waste treatment facilities in the amount of $18,000,000 for the next 3 fiscal years. It preserves the right and responsibility of the States to prevent pollution and in so doing, it preserves the considerable expertise available at the State level. It allows States which are ahead of the national standards to remain ahead. It does not allow any State to drag its feet but provides national standards which each State must meet if it is to retain its right to issue discharge permits.

RESEARCH, TRAINING, AND RELATED PROGRAMS

The bill grants the Environmental Protection Agency broad authority to participate in and encourage research in pollution. It provides for demonstration projects aimed at developing new pollution control and waste treatment techniques. For fiscal year 1974, $315,000,000 is authorized for these programs.

GRANT ASSISTANCE FOR CONSTRUCTION OF PUBLIC WASTE TREATMENT FACILITIES

For fiscal year 1973, $5 billion, $6 billion for fiscal year 1974, and $7 billion for fiscal year 1975 is authorized for construction of municipal waste treatment works. Under this legislation the Federal share of such project costs will be 75 percent instead of 55 percent as at present. Retroactive payments of between 30 percent and 55 percent are authorized for local communities which have already constructed waste treatment works.

EFFLUENT LIMITS AND PERMIT PROGRAMS

This landmark bill establishes a national discharge permit system and requires that by 1976 the "best practical control technology" be utilized by private industry. A further requirement is that industry achieve zero discharge by 1981 or utilize the "best available demonstrated technology" if the cost of achieving zero discharge is unreasonable.

EVALUATION OF ZERO DISCHARGE GOAL

The bill quite reasonably calls for a study by the National Academies of Science and Engineering on the effectiveness of the 1981 and 1985 water quality goals so that future congressional action can be taken on the basis of scientific data. Though some feel that the Congress should have sailed blindly into the scientific unknown and mandated goals which might prove unrealistic, I feel that the authorized study is one of the bill's strongest features. If the study is not made and if the future goals prove to be unrealistic, Congress would be floundering in scientific ignorance. The National Academies are well qualified and we need the information which their study will produce. Personnel of the National Academies are as dedicated to a clean environment as anyone. I have no fear of the truths they will develop.

STATE ROLE

As I have previously stated, this bill does not abdicate responsibility for pollution-free water by handing it over to the States with no strings attached. The

States must submit acceptable plans and demonstrate a capacity to administer their program of issuing permits effectively. The EPA can terminate the delegation of this authority to the States if the State program is not run in accordance with EPA regulations.

Many of us remember the concern of Californians when national legislation to prevent air pollution was far behind the steps California has already taken. California Congressmen of both parties fought and won the right to exceed national standards. This bill will allow State discharge standards more stringent than those required by Federal law.

ENFORCEMENT

Penalties for those who violate the act are provided up to $10,000 per day and criminal penalties of $2,500 to $25,000 per day and/or 1 year imprisonment are provided for. This shows what a tough antipollution measure we are passing today.

OTHER PROVISIONS

Citizens will be allowed to bring a civil action against individuals or government agencies who violate the act. The fact that suits must be brought by residents of the geographical area affected by the violation is not an unreasonable diminution of the right to sue. Conservation groups should experience no difficulty in finding a qualified local citizen to bring a suit. On the other hand, harassing lawsuits which would glut court calendars could not be filed across the entire Nation by individuals from areas not affected.

Of great significance is the portion of the bill which provides an environment financing agency to purchase municipal bonds to finance the local share of waste treatment plant construction projects. Also important is the authorization of $800 million assistance to small businesses to help them meet the pollution abatement requirements of the act.

No person could deny the fact that this bill is a wholesale attack upon pollution. By going further than anything we have ever passed, it truly reflects the proper concern for our environment, which has swept the Nation.

Some have argued for exclusive Federal responsibility for administration and enforcement of the water pollution program and say the bill is deficient in this regard. This is a false issue. As I have previously stated, the bill assigns overriding authority to the Federal Government and gives administration responsibility to the States only when they demonstrate the ability and reliability to live up to their responsibility. When a State fails to discharge its responsibility, the Federal authority can take complete charge of that State's program.

I have already addressed myself to the objections raised by some conservation groups to the 2-year study by the National Academies of Science and Engineering. So I will only ask the question—what is there to fear from learning scientific truth from the groups most qualified to seek it out? Had we such knowledge years ago, perhaps we could have avoided the current level of pollution of our environment.

The fact that Congress must take affirmative action following completion of the study is certainly not a weakness in the bill. What Congress passes today, it could repeal next year. But with the scientific facts before it, Congress will be in a strong position to take affirmative action to protect our environment and to rebut the arguments of those who place profit above a clean environment.

The House bill is estimated by some to involve a price tag of at least $300 billion. Governor Rockefeller has estimated the cost of the Senate bill to exceed $2 trillion. Others estimate the 25-year cost will be $2.34 trillion. Testimony before the Public Works Committee was received indicating that it would cost $700 million per incremental percentage point to remove 85–90 percent of pollutants. To achieve the last percentage point of removal or no discharge would cost $317 billion and raise the total cost from $700 million per incremental percentage point to $66 billion. Let us hope that by 1985 science will have drastically reduced these costs but, in the meantime, we must recognize current reality.

Objections to the House bill are simply not realistic. We must remember that we are passing a law which people must live with. I want to go full speed ahead in cleaning up our environment, but to vote for something which ignores reality is to run the risk of sabotaging responsible, long-range action.

Even though H.R. 11896 is an excellent bill, it nevertheless could have been improved had certain amendments been adopted.

I voted for the Hechler amendment that required a recycling of mine waste water.

I voted for the Abzug amendment to eliminate the provision that compliance with the National Environmental Protection Act could be certified by States. Personally, I believe that compliance with a Federal law should be determined by the Federal officials responsible for administering that law.

I also voted for that provision in the so-called Dingell-Reuss clean water package, which would have prevented a transfer of authority to issue discharge permits prior to the time that national standards are developed. This same amendment would have allowed 60 days for the Environmental Protection Agency to review discharge permits granted by the States. It would also have eliminated immunity until 1976 from national standards. I feel that this amendment would have improved the bill.

I also voted for an amendment by Representative Aspin which would have applied the same standards to water discharged into the underground as apply to surface discharge. I come from an area which depends completely upon storage of water in the underground basin and I would like to see that type storage given equal protection.

I felt the amendment to do more about cleaning up Lake Tahoe should have passed and there were others which could have improved the bill.

But despite the fact that I voted for these strengthening amendments, and I was on the losing side, I still say that the bill we will pass today is a great and a meaningful step toward the goal of providing clean water for this and future generations. This is a proud moment in the history of the U.S. House of Representatives.

Mr. ANDERSON of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to direct a question to the gentleman from Alabama (Mr. Jones).

Mr. Jones, I understand that during hearings before the Rules Committee, the gentleman from Alabama stated that the allocation of funds under title II would be based on the most recent study conducted by the Environmental Protection Agency.

The bill, as reported, allocates grants under title II according to a 1970 needs survey. The Senate bill allocates grants according to population.

Am I correct that in conference, the managers of the House bill will make every effort to use the EPA study conducted in 1971 as the basis for the allocation of grants under title II, and not the outdated 1970 study?

Mr. JONES of Alabama. Mr. Chairman, if the gentleman will yield, the gentleman is correct. We are making every effort to bring up to date the figures and calculations for the 1971 needs survey and that information will be submitted to us.

Mr. ANDERSON of California. I am sure that the gentleman is aware that the substance of the 1971 needs survey has been released to the Public Works Committee.

According to a response that I received from the White House regarding the 1971 survey, "the substance of the report containing the survey of State needs to implement clean water measures has been released" to the Public Works Committee.

Even if the formal report is not available by the time H.R. 11896 is considered by conference, I would anticipate that the House conferees would base title II allocations on the 1971 survey, the substance of which they now possess.

The CHAIRMAN. Under the unanimous-consent agreement of yesterday, all time has expired.

Are there further amendments to this section of the bill?

AMENDMENT OFFERED BY MR. VANDER JAGT

Mr. VANDER JAGT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Vander Jagt: Page 241, between lines 23 and 24 insert the following:

"(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

"(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture or aquaculture products, or any combination thereof;

"(2) the confined and contained disposal of pollutants not recycled;

"(3) the reclamation of wastewater; and

"(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

"(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

"(f) The Administrator shall encourage waste treatment management which combines 'open space' and recreational considerations with such management.

Page 241, line 24, strike "(d)" and insert "(g)".

Mr. VANDER JAGT. Mr. Chairman and members of the committee, I am delighted that the committee has finally recognized that there is no bill so perfect that it cannot be improved upon at least a little bit.

Mr. Chairman, this amendment is designed to ask the Administrator to encourage the development in areas of resources management system the recycling of pollutants into resources, thereby producing income rather than just incurring operating costs.

Actually, in my opinion, of the package of three amendments I plan to offer, this is the easiest one to support and the most difficult to oppose.

It simply asks people to take a look at the problem as to whether it is technically feasible and economically beneficial to recycle our wastes. Who could be opposed to that? Certainly not the administration which is supporting this system with the largest demonstration grant in its history, and certainly not the committee, because throughout the committee report the language of the report indicates this approach to be a desirable one.

Mr. Chairman, this will enable us to do something about the split personality in the bill before us, because in the opening section of this bill we proclaim the goal of zero discharge of pollutants by 1985, but then we turn around and make this an open-ended program of billions and billions of dollars through the use of conventional equipment which can only give us dirty water, in effect a goal of dirty water by 1976.

This conventional equipment will be virtually useless to us if we ever decide that we meant anything when we talked about the clean water goal of 1985 If we do mean that, then we will have to start from scratch and write off most of the money that we will have spent between now and then as wasted billions of dollars of the taxpayers' money.

If that proclamation of 1985 is to mean really to stop pollution by 1985, if it is to mean anything more than the wishful dream of a drunk lying in a gutter who mutters that he is going to stop getting boiled by some certain day, then we ought to take a much more careful look at the alternative systems.

The committee also contends, on page 83 of the report, that if the goal of zero discharge is to be attained, then land treatment systems will be necessary. So then what is wrong with encouraging just taking a look at land treatment system costs, as long as we are trying to reach a zero discharge of pollutants, when we can only wring out of the nack of conventional equipment those systems which probably will cost hundreds of billions and even trillions of dollars?

Let me point out that in my congressional district in Muskegon we are constructing a system that will provide zero discharge of pollutants today for all the industries and municipalities in that entire county, and we are doing it at a lower unit cost than a convention system being constructed now just 20 miles away.

The Corps of Army Engineers in an extensive 2-year study has conducted feasibility studies for Boston, Cleveland, Detroit, Chicago, and San Francisco, and concluded that land treatment systems were feasible in all of these regions. At my urgent request 43 days ago the Corps of Army Engineers did an in-depth study with respect to the Chicago region and its 8 million people, and the conclusion of that study is that this system can provide substantially cleaner water than any alternative at significantly lower cost than any alternative.

To those who are concerned about costs, I would say can we not just take a careful look at this system? In addition the Corps of Engineers study in Chicago said that because of the likelihood of a location of a nuclear plant there, because this system solves the thermal pollution problem, that just by paying normal user charges to the system for the cooling water services rendered it would be possible to retire a bond issue far in excess of the total cost of the construction. Can we not strongly encourage a look at the possibility of the total elimination of pollutants now, through the use of a system which in effect will not cost anything?

The concept of clean water for America is a new concept, and we need to encourage our people all we can to look at anything that is new and promising.

James Russell Lowell told us years ago that:

> New occasions teach new ideas; we
> Cannot make their creed our jailer.
> They must forever onward sweep,
> and upward,
> Who would keep abreast of truth.
> Nor attempt a future's portal with
> A past's outdated key.

Today we stand before the future's portal of a new America. To open that door we should not automatically pass one of nature's own keys. Can we not choose the key of tomorrow? If it does not fit then nothing is lost, but if it does fit then for heaven's sake let us open the door and walk into the future of clean water for America.

Is that too much to ask this House to encourage? I hope not, for the House's sake as well as America's.

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in this bill we are doing everything that the distinguished gentleman from Michigan asks for. We recognize the system—we recognize its merits. We require that every grant application must have considered the method that the gentleman is interested in. It is a fine method. The only problem is that it is not applicable to every area in the United States.

We provide that every application for a grant must consider the method that the gentleman is describing. We further provide that every application must contain an analysis that the proposed system is the most cost efficient—the most cost efficient system under the intent of this act over the life of the project. So thus, if it should develop in the analysis of the various systems to be employed that the system of the gentleman from Michigan is the most cost efficient system, then grant applications cannot be approved unless that system is utilized.

Mr. GROVER. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman.

Mr. GROVER. Is it not true that the very mesmerizing persuasion of the gentleman from Michigan before our committee impelled us to put language in the bill which you refer to which does give access to this Muskegon type of innovative technique.

Mr. HARSHA. That is quite right. The gentleman came before the committee and made a very persuasive argument, as he did here today. As a matter of fact, because of his interest and concern for this type of method, we changed the definition of treatment plants so that you can include the cost of the land necessary to dispose of the sludge or the spray irrigation system that he has up in Michigan.

In addition to that, we provide in this bill that the Corps of Engineers shall design and describe a pilot project for the entire Lake Erie region to see if that is one of the most workable and effective systems to eliminate pollution.

Thus, we have recognized everything the gentleman says about this legislation. His amendment is unnecessary.

Mr. Chairman, I urge the defeat of the amendment.

Mr. JONES of Alabama. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the Muskegon approach to the treatment of water pollution has far-reaching possibilities for the future. I congratulate the Congressman for the interest and support that he has given to this approach.

The committee devoted extensive time to hearing testimony by those who were knowledgeable regarding the Muskegon plan. However, research has not yet been completed and demonstrated technology established. Until this has been done, the committee does not believe that a special priority should be given to any one method of treatment as contrasted with others.

The committee firmly believes that applicants must in the future examine a much broader range of alternatives for the treatment of pollutants than they have heretofore typically done. Research must be encouraged by EPA to insure the development and application of new treatment technologies which must give full consideration to the impact of a proposed technology not only on the water but also on land and air resources.

The committee has incorporated in the bill a requirement that the consideration of all alternatives for the treatment of pollutants must be fully considered in connection with any application for a waste treatment grant. The bill also includes specific language which would authorize grants to be made for waste treatment systems which adopt the Muskegon technology.

Accordingly, I see no need for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. VANDER JAGT).

PARLIAMENTARY INQUIRY

Mr. VANDER JAGT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. VANDER JAGT. Mr. Chairman, if the statement of the ranking minority Member about the 10-percent Federal contribution went to a second amendment to be offered, but did not relate in any way to the amendment that is before the House and we are voting on, would there be any way that I could get time to make that clear for the record.

The CHAIRMAN. The gentleman does not state a parliamentary inquiry.

The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. VANDER JAGT. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. VANDER JAGT. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. VANDER JAGT, JONES of Alabama, HARSHA, and MCCLOSKEY.

The Committee divided, and the tellers reported that there were—ayes 251, noes 130, not voting 51, as follows:

[Roll No. 99]

[Recorded Teller Vote]

AYES—251

Abbitt
Abourezk
Abzug
Adams
Anderson, Calif.
Anderson, Ill.
Andrews
Archer
Arends
Ashbrook
Aspin
Badillo
Belcher
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Blackburn
Brademas
Brasco
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burton
Byrnes, Wis.
Byron
Camp
Carney
Carter
Cederberg
Chamberlain
Clancy
Clay
Collier
Collins, Tex.
Conable
Conte
Conyers
Cotter
Coughlin
Crane
Culver
Daniel, Va.
Davis, Wis.
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Diggs
Dingell
Dow
Dowdy
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Fascell
Findley
Fish
Flood
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Galifianakis
Goodling
Grasso
Green, Pa.
Gross
Gubser
Gude
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Harrington
Harvey
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks, Mass.
Hicks, Wash.
Hillis
Horton
Hosmer
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Pa.
Karth
Kastenmeier
Keating
Kemp
King
Koch
Kyros
Landgrebe
Latta
Leggett
Lent
Link
Lloyd
Lujan
McClory
McCloskey
McClure
McCollister
McCulloch
McDade
McDonald, Mich.
McEwen
McKevitt
McKinney
Macdonald, Mass.
Madden
Mailliard
Mallary
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Minish
Mink
Minshall
Mitchell
Montgomery
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelsen
Obey
O'Hara
O'Konski
O'Neill
Pelly
Pepper
Pettis
Peyser
Pike
Pirnie
Poage
Podell
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Quie
Railsback
Randall
Reuss
Rhodes
Riegle
Robinson, Va.
Robison, N.Y.
Rodino
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sarbanes
Satterfield
Schmitz
Schneebeli
Sebelius
Shoup
Shriver
Skubitz
Smith, N.Y.
Spence
Springer
Staggers
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Stuckey
Talcott
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Thomson, Wis.
Udall
Vanik
Veysey
Vigorito
Wampler
Ware
Whalen
Whalley
Whitehurst
Widnall
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wyatt
Wylie
Wyman
Yatron
Young, Fla.
Zion
Zwach

NOES—130

Addabbo
Alexander
Anderson, Tenn.
Annunzio
Aspinall
Baker
Barrett
Begich
Betts
Bevill
Boggs
Boland
Bolling
Brooks
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byrne, Pa.
Cabell
Caffery
Casey, Tex.
Clausen, Don H.
Cleveland
Collins, Ill.
Colmer
Corman
Curlin
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Donohue
Dorn
Edmondson
Evans, Colo.
Fisher
Flowers
Fountain
Fulton
Fuqua
Gettys
Giaimo
Gonzalez
Gray
Green, Oreg.
Griffin
Griffiths
Grover
Hagan
Haley
Hansen, Idaho
Hansen, Wash.
Harsha
Hathaway
Helstoski
Henderson
Holifield
Howard
Jacobs
Johnson, Calif.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Kee
Kluczynski
Kyl
Landrum
Lennon
Long, La.
Long, Md.
McCormack
McFall
McKay
McMillan
Mahon
Mann
Martin
Mathis, Ga.
Mayne
Miller, Ohio
Mills, Md.
Mizell
Monagan
Moorhead
Myers
Natcher
Nichols
Nix
Passman
Patten
Perkins
Pickle
Poff
Purcell
Quillen
Roberts
Roe
Roncalio
Roush
Schwengel
Seiberling
Shipley
Sikes
Slack
Smith, Calif.
Smith, Iowa
Snyder
Stanton, James V.
Stephens
Stubblefield
Sullivan
Symington
Taylor
Terry
Thompson, N.J.
Thone
Tiernan
Ullman
Waggonner
White
Whitten
Wiggins
Wright
Wydler
Young, Tex.
Zablocki

NOT VOTING—51

Abernethy
Ashley
Baring
Blanton
Blatnik
Bow
Carey, N.Y.
Celler
Chappell
Chisholm
Clark
Clawson, Del
Dickinson
Dwyer
Edwards, La.
Evins, Tenn.
Gallagher
Garmatz
Gaydos
Gibbons
Goldwater
Hawkins
Hays
Hébert
Hogan
Hull
Keith
Kuykendall
Miller, Calif.
Mills, Ark.
Mollohan
Morse
Patman
Pryor, Ark.
Rangel
Rarick
Rees
Reid
Rostenkowski
Sandman
Saylor
Scherle
Scheuer
Scott
Sisk
Van Deerlin
Vander Jagt
Waldie
Wolff
Yates

Messrs. ARCHER and TEAGUE of California changed their votes from "no" to "aye."

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCLOSKEY: Page 377, line 24, strike the word "citizen" and insert the word "person".

Page 379, line 5, strike the word "citizen" and insert the word "person".

Page 379, line 14, strike the words "issued by the Administrator".

Page 381, strike lines 1 through 6; and in line 7, change "(h)" to "(g)".

The CHAIRMAN. Did the gentleman have the amendment printed in the RECORD?

Mr. McCLOSKEY. It is printed in the CONGRESSIONAL RECORD, volume 118, part 8, page 9690, Mr. Chairman.

The CHAIRMAN. The gentlemen from California is recognized for 5 minutes in support of his amendment.

Mr. McCLOSKEY. Mr. Chairman, this is a simple amendment, which is intended to clarify the citizen litigation section of the bill.

I commend the distinguished committee for placing in this bill a very strong provision for citizen litigation, but I point out that the bill, in the language in which it is framed, adds a new definition of "citizen" for the first time in history.

I invite the Judiciary Committee to comment upon this. In my judgment, I believe the distinction made between citizens who can sue under the bill and citizens who cannot, to be an improper, if not an unconstitutional distinction.

In all other actions where this House has recently provided for citizen litigation we have provided that any "person" may bring suit. In the Clean Air Act Amendments of 1970, passed less than 2 years ago, we described the standing to sue precisely:

> Any person may commence a civil action on his own behalf . . .

When we enacted the Noise Control Act 2 months ago we said again: "Any person" can sue. Yet in this bill the committee attempts to say that only a citizen can sue and then defines a citizen in terms that are extremely strained. Instead of using the simple language based on a body of evolving law over the last 100 years as to who has standing to sue, the committee put in the bill the limitation that suit can be brought only by a citizen who is "a citizen of the geographic area and has a direct interest which is or may be affected," or by "any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy." These terms are susceptible of different interpretation by reasonable men.

When we complicate legislation by attempting to define a simple term in new and complex language we invite litigation. If there is one area where we lawmakers should feel an obligation, it is that of clarity in the language we write into law so that such language can be clearly understood and does not require lawsuits to define or interpret.

The bill uses the term: "a citizen of a geographic area." Does this mean a citizen of a county, a State, or of a watershed? The citizen "who has a direct interest;" does that mean a man who lives alongside of a waterway or a man who lives within sight of the water or one who swims in it or one who drinks the water? I suggest that it will require lawsuits to determine the interpretation of this kind of language.

When we talk about a group of persons who "has been actively engaged in the administrative process," it may be that no one is actively engaged in the administrative process other than administrators themselves.

What this law does is to take a simple area of law which is well known to citizens and attorneys, the question of who has standing to sue, and make a complex definition which can be interpreted differently by different judges.

In our other enactments, the Clean Air Act and the noise control bill, any person can sue.

Moreover, when the administration gave its approval to this bill, if you will look at page 169 of the report, when the Environmental Protection Agency submitted its letter of approval to the committee bill, it said:

> Section 505 provides that any person may commence a civil action.

Yet when the bill was finally drafted several weeks later, the bill's language had been changed to say that only a citizen may sue, and defined a citizen in this strange way.

I think, if we have any obligation to our constituents, it is to pass laws that use clear language and do not invite litigation.

As a matter of fact, I think this particular law will hurt the orderly processes of justice. I can understand, of course, the committee being concerned somewhat with the fact that someone 3,000 miles away might come into an area and bring a lawsuit. Yet by its terms the bill requires that nonprofit corporations such as the Sierra Club or the Audubon Society cannot sue unless there has been an administrative process in which they were one of a group of persons actively participating in such process. This section of the bill may well be unconstitutional both for vagueness and for making a classification between individuals which cannot reasonably be sustained.

Mr. WIGGINS. Will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. WIGGINS. I intend to support the gentleman's amendment and I do so although I frankly oppose the expansion of citizen suits in class actions. This is an abuse that we will have to deal with one day, but we will have to do it in a constitutional manner.

This section creates a cause of action in favor of some plaintiffs and denies it to others without any apparent good reason for it. The record of the committee's deliberations is completely absent of any justification for that classification.

For example, the only plaintiffs permitted to sue here are natural persons, as I read the act. I do not understand—a corporate plaintiff will not be permitted to maintain a cause of action even though he may be as seriously and genuinely aggrieved as an individual. That classification to me is at best constitutionally suspect, and the gentleman's amendment has the virtue of removing that error.

Mr. McCLOSKEY. I may say in conclusion that all my amendment does is to put in the act the same language which we carefully considered and which we put in the clean air amendments and the noise pollution control bill. The term "person" is a term that has been carefully defined by the courts; it is understood by citizens and courts alike and we as lawmakers can take pride in the fact that it will not further burden an already overburdened judicial system with a variety of problems of definition which can easily be avoided.

Mr. EDMONDSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me say this: I make no claim to being a constitutional lawyer. The gentleman from California (Mr. McCLOSKEY) has in one portion of his amendment a provision that in my opinion has some appeal because I can see some justification for substituting the word "person" for the word "citizen" in this language used by the committee. But when the gentleman says that you can adopt his amendment and not have any major effect one way or the other upon this legislation and upon the scope of the rights of citizens provided in it, I think he neglects to consider at all the second part of the amendment which he has offered. The second part of the amendment which he has offered—and I have it here before me—would strike from the bill the language appearing at the top of page 381, lines 1 through 6. That is the language that requires that the plaintiff maintaining one of these citizen suits or "person" suits if you want to call it that, must be a citizen of the geographic area having a direct interest which is or may be affected, and second, any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographical area in controversy.

These are words of definite limitation and if you remove these words—while the gentleman says he does not propose to have someone 3,000 miles away bring a lawsuit, he certainly will open the door to anyone 3,000 miles away who wants to come in and file one of these lawsuits. That is what he is going to do if he eliminates this language.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. Yes, I yield to the gentleman from California.

Mr. HOSMER. I thank the gentleman for yielding. The gentleman has stated the situation precisely as it is. We already have itinerant intervenors who go around the country and persons meddling in problems that have significance locally and not nationally for purposes where they are worthy. However, if this amendment were adopted, they could take over an installation and hold it for ransom because of the delay in time involved in the litigation and cause the expenditure of millions of dollars while this litigation is going on.

This kind of provision is really required for the protection of the country.

Mr. EDMONDSON. I thank the gentleman for his contribution.

I am a lawyer and I do not want to do anything that unfairly takes the fees out of the pockets of lawyers, but I am telling you that if you do not keep these words of limitation—and I do not care whether you call the litigants "persons" or "citizens"—you will have some people making a business of traveling all over the country and going into your part of the country when they do not live within 1,500 or 3,000 miles of you and intervening in matters that do not directly concern them, but who will try to block the development of these water-treatment plants, who will try to block the development of sewage-treatment plants and thus interfere with the orderly development of this program.

Mr. Chairman, we have a door open as wide as a barn door for the intervention in these lawsuits by persons or citizens, whichever you want to call them, who are in the area or who have become involved in the administrative process and who want to take it into court. But we are trying to put some reasonable limitation upon the scope of the right to bring these citizen suits.

That is the intent of this language and I hope the gentleman's amendment will be defeated.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

I understood the gentleman to state that he was not a constitutional lawyer. I do not claim to be the greatest expert in this field, but I know of no other case in America where we have attempted to segregate those who can sue and those who cannot sue on one of these questions.

Is the gentleman familiar with any constitutional law or precedent which would justify defining who could bring this kind of lawsuit and who could not?

Mr. EDMONDSON. I could call the attention of the gentleman to two cases in which the limitation theory is mentioned by the court as a theory with validity: 354 F. 2d 608 (2 cir. 1965), the case of *Scenic Hudson Preservation Conference* v. *Federal Power Commission*, and the case of *Smith Hill Neighborhood Association* v. *Romney*, 421 F. 2d 454, 1969.

Mr. McCLOSKEY. I will say to the gentleman that those two cases do not stand for the kind of limitation placed in this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCloskey).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WILLIAM D. FORD

Mr. WILLIAM D. FORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. William D. Ford:
>
> On page 338, amend lines 4 through 25 to read as follows:
>
> "(f) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such state require greater environmental protection, such State may completely prohibit the discharge from a vessel of any sewage, whether treated or not, into such waters."

The CHAIRMAN. The Chair will ask the gentleman from Michigan whether the amendment just offered by the gentleman has been printed in the Record?

Mr. WILLIAM D. FORD. Yes, Mr. Chairman, it has, at page 10045 on March 23.

The CHAIRMAN. The gentleman from Michigan is recognized for 5 minutes in support of his amendment.

Mr. WILLIAM D. FORD. Mr. Chairman and members of the committee, this is a simple amendment designed to preserve the rights of individual States to prohibit discharge of sewage from vessels. I might attempt to explain it on the basis of a lengthy argument in defense of States rights. Some of my distinguished colleagues might find it surprising that my cosponsor, the distinguished gentleman from Minnesota (Mr. Fraser) and I would be making an argument on the basis of States' rights, but I think the States' rights approach would be appropriate at this point.

I could also make, I believe, a strong argument on the basis of the overall wisdom of this approach to pollution control. But I would like to make a more direct approach, and that is, to ask you to consider the Detroit River, which is a major connection between the Great Lakes, and realize that now with the St. Lawrence Seaway open we carry more tonnage of shipping through that river in its short season than the annual tonnage which passes through the Panama and Suez Canals combined.

Then I would like you to think about what happens to our drinking water in Michigan each time somebody flushes a toilet on one of those ships. If you do this, I am sure you will understand the kind of appeal that I am making to you here today and I think you will want to support this amendment.

It is not necessary to talk about States rights in order for you to understand, and you do not need, as has been suggested, a Geiger counter to tell you what kind of pollution contamination is going into the water supplies of some 4 million people in the immediate area of my congressional district.

Twenty of the States, particularly around the Great Lakes, and along the Mississippi River, have now adopted and have in effect stringent regulations with regard to equipping all boats that carry toilet equipment with them, so that they will retain on board their sewage and waste and take it to the shore, and have it pumped out. If we do not adopt this amendment these existing statutes will, in effect, be wiped out.

Mr. Chairman, I know my time is running out, but I would like to close by reading a telegram from Governor William Milliken, of Michigan, which shows very clearly what the dilemma is for these States:

> Concerning H.R. 11896 which is now before you, we have not been able to obtain assurances from the EPA that Michigan's position concerning marine pollution would be protected under the new Federal Water Pollution Act. Therefore: I support amending the bill as reported to preserve the right for a State under a State law to adopt restrictions which are more stringent than those adopted by the Federal Government. This is important to the maintenance of Michigan's "no-discharge" boat pollution law.

The other Governors are joining with Governor Milliken of Michigan in asking us not to bar their right to enforce such legislation in the future, or enact legislation which can bar programs already underway, and not, by virtue of the provisions of this act, suspend these State laws for any length of time.

As I read the act, unless we adopt this amendment, laws like Michigan, Minnesota, and Wisconsin laws could become automatically suspended until such time as the EPA decided to write regulations to replace it and that could be up to 5 years. There are 45,000 boats registered in the State of Michigan now and we expect 75,000 by the end of the next 5 years—boats that are big enough to be equipped with toilets or, as some of my Navy friends say—have "heads" on them.

Mr. Chairman, by adopting this amendment we will simply be permitting Michigan and other States which determine the necessity, to enforce as they see fit, the control of vessel discharges within their own lakes and rivers.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. FRASER. Mr. Chairman, I want to join the gentleman in urging support for this amendment, permitting States to completely prohibit the discharge from a vessel of any sewage, whether treated or not.

The bill before us marks a new and much needed approach to water pollution abatement. It sets admirable goals, provides generous funds, and employs some genuinely innovative and effective administrative procedures, such as the practices of "contract authority" and "user charges." Why then, does it take a backward step with regard to State regulation of marine sanitation devices?

We are still waiting for the final issuance of the Federal regulations required under existing law—Federal Water Quality Act of 1970, section 13f. When issued, these regulations will become effective 5 years after promulgation for existing vessels, and 2 years after promulgation for new vessels. States have had to act. They could not wait 5 years from some indefinite date in the future to stop waterborne polluters from dumping sewage.

Some have traditionally opposed State sanitary codes, health regulations, factory inspections, and such, on the grounds that it interfered with interstate commerce. Federal courts have, just as traditionally, upheld the right of States to protect the health and safety of their citizens.

The most recent Federal District Court decision, *New York State Waterways Ass'n* v. *Diamond,* F. Supp. (W.D.N.Y. Jan. 12, 1972) has found that "there is no merit to the claim of the plaintiffs that the statute—New York's law banning sewage-discharge from boats—constitutes an unconstitutional burden on interstate commerce."

The argument is raised that a no-discharge requirement is impractical inasmuch as pumpout facilities do not exist. Pumpout facilities have sprung up wherever and whenever there was a need for them. Michigan, which had 75 pumpout facilities a year ago, has 175 today. On the St. Croix River, within 12 miles of a spot where I have a summer place, there are six pumpout stations, with charges ranging from $3 to $4.50. In addition, "midstreamer services" on the Mississippi are beginning to add pumpout facilities to their other services. They can service vessels on the move. Pumpout facilities are economically viable. When a boatowner stops to have his holding tank pumped out, he probably gets fuel and possibly provisions as well.

As to the cry of "chaos," the amendment I am proposing will not permit 50 gradations of standards. It will permit only two—a no-discharge policy for those States that need it, and whatever standards the EPA sets for others.

Without the threat of Federal preemption, I am convinced that many other States will follow the example of the 20 or so which already prohibit dumping sewage from boats.

The States I refer to are the States of Arizona, California, Colorado, Illinois, Indiana, Maine, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Oregon, Texas, Utah, Vermont, and Wisconsin.

We need this amendment to preserve the right of the States to require holding tanks, otherwise those State laws are going to be wiped out and boats are going to be dumping into the waters that we swim in.

In a way, the struggle over this small issue is a microcosm of the larger struggle to clean up our environment. We all realize the gravity of the water pollution problem. It may already be too late in the case of Lake Erie. But the temptation is still to put off the personal commitment that is necessary if we are to succeed in averting the doom being predicted so graphically by such authorities as Dr. Commoner and the Club of Rome.

Our amendment will cost the Federal Government nothing. But it will require some effort and expense on the part of individual boatowners. It is easier, after all, to eject wastes into the water. The facts are that the actual costs for boatowners to avoid polluting the waters upon which they navigate are within reason. For larger commercial vessels the Ford Motor Co. has set an example. It took only 4 weeks to install a $20,000 retention system in each of its six Great Lakes vessels in order to comply with Michigan law.

If we back down on this one—take this step backward in the struggle to clean up our waters, we will have done a double harm. We will have undone the good work of those States which have had the courage and initiative to pioneer in this field, and we will have indicated to an administration already subject to much pressure that the Congress is willing to go along with weaker regulations.

I urge you to support the marine sanitary devices amendment.

Mr. JONES of Alabama. Mr. Chairman, I will not belabor the point of the gentleman's amendment, but I would like to point out that we here in 1970 did exactly what the gentleman from Michigan, the author of this amendment, asked us to do. That was to preempt the States' rights in these circumstances in order that we could have some uniform approach to this problem.

So it seems to me we are coming back here today and saying: "Well, in 1970 you were not correct in your judgment of voting for the Water Quality Act and you want to come back and preempt the Federal Government and give it back to the States."

So it seems to me, that is a total inconsistency with what we are dealing with here in this proposition.

The committee recognizes that after the Federal preemption goes into effect, there could be such situations where the need for prohibiting discharges in certain bodies of waters outweighs the need for uniformity among the States.

Where those circumstances occur, subsection F3 of section 312 permits the Administrator, at the request of a State, to require a complete prohibition of discharge from a vessel of any sewage whether treated or not into any portions of the waters within the State.

Mr. Chairman, I regret to oppose the gentleman's amendment, but in all good conscience I do not see how we can march in here one day and take a position and come back and renege on it the next day.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman.

Mr. WRIGHT. Mr. Chairman, I can sympathize with what the gentleman from Michigan seeks to achieve. Surely a State should not be prevented from improving upon the quality of its navigable waters. It is clearly the intention of the committee that the standards to be promulgated by the Administrator for marine sanitation devices shall be strong and forceful standards, coming as near as technology will permit to zero discharge. It also is the intention that the Administrator shall give full and due consideration to the application of any State, as set forth in the committee bill, to require no discharge within its own waters wherever available on-shore treatment and disposal warrant it.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman.

Mr. PIKE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, everyone is for pure water, but I expect those who use it most care most about it.

No one needs, appreciates, or is more willing to make sacrifices to achieve clean water than the boatmen who use it and love it.

But enough of generalities—here are some specifics. There were 428,114 boats registered in New York last year. All of them combined contribute less sewage to the waters of our State in 2 years than the city of New York does in 1 day. The Army Engineers tell me that approximately 450 million gallons of raw sewage is dumped into New York Harbor by New York City every single day. But boats shall have holding tanks.

In my own county there were 58,993 boats last year—and all of them combined contributed less sewage to the waters of my county than just one State institution—the State University at Stormy Brook. The State, nevertheless, says boats must have holding tanks.

Because they are an easy target—a cheap shot—the State has singled out the boatowners. Not the huge ocean liners or cargo ships. New York would not think of enforcing its holding tank law against them—just the private boatowners and fishermen and clamdiggers. Sewage is neither better nor worse when it comes out of a boat instead of a house or an apartment or a school. It should be treated exactly the same way. When we are ready to stop sewage or put stringent controls on—fine, hallelujah! But let us not create the illusion of a solution by whipping a scapegoat.

Finally, of course, there has to be uniformity. We who live on Long Island like to sail across Long Island Sound to Connecticut and across Block Island Sound to Rhode Island. But these States have a different law, so when I comply with the law in New York I cannot take my boat on a vacation across the sound for they have no facilities for pumping out the holding tanks. I have a boat—and I also have a car. I use my boat in interstate trips in the same manner I use my car or a train on interstate trips. For each State to use its own judgment, not on effluent, but on boat effluent alone, not on sewage treatment equipment, but on boat equipment alone, makes no more sense than to have 50 different gages of railroad tracks or 50 different requirements for automobile carburetors. This amendment should be defeated.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman.

Mr. TERRY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the present law, which we enacted in 1970, and the regulations promulgated thereunder are so strict that at the present time the only item that would be approved would be a holding tank.

The intent of Congress was set forth when we passed the Federal preemption which was established in 1970. We would be totally repealing that if we would adopt the amendment that is before us.

Those provisions were passed by the Congress because we recognized that vessels in interstate commerce and also many pleasure boats were faced with changing laws from one State to another.

I remember my own State of New York where we first passed the holding tank provision and then did not have holding tanks on certain lakes in order to accommodate the effluent.

We cannot afford to go back to the point of having situations where it cannot be a pleasurable experience to pass from one State to another.

Mr. Chairman, this amendment should be defeated.

We recognize that this amendment is unnecessary. We see nothing that the gentleman has proposed that will not be contained in the new law. The administrator has the right, and as the gentleman from Alabama stated, he can exercise that right where they find a situation that is not covered within the present exemption.

Mr. JONES of Alabama. Mr. Chairman, I should like to make one observation in relation to the attitude of Governors. There has not been a single Governor of any State who has not advocated passage of this bill.

Mr. WILLIAM D. FORD. I agree.

Mr. JONES of Alabama. So I do not think that any petition on behalf of any Governor to change any portion of our bill should cause us to do so. If the National League of Cities, the Governors and county government agencies come in asking us to pass this bill without amendment, why should we now hear about Governors requesting a change in one portion of this bill?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. FRASER. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. FRASER. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. WILLIAM D. FORD, GROVER, WRIGHT, and FRASER.

The Committee divided, and the tellers reported that there were—ayes 210, noes 173, not voting 49, as follows:

[Roll No. 100]

[Recorded Teller Vote]

AYES—210

Abourezk
Abzug
Adams
Anderson, Ill.
Anderson, Tenn.
Andrews
Archer
Arends
Ashley
Aspin
Badillo
Bell
Bergland
Bingham
Blackburn
Brademas
Brasco
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.

Burke, Mass.
Burlison, Mo.
Burton
Byrnes, Wis.
Byron
Carney
Carter
Cederberg
Chamberlain
Clancy
Clay
Collier
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Culver
Daniels, N.J.
Danielson
Davis, Wis.
Dellenback
Dellums
Dennis
Derwinski
Diggs
Dingell
Donohue
Dow
Downing
Drinan
Dulski
Duncan
du Pont
Edwards, Calif.
Esch
Fascell
Fish
Foley
Ford, Gerald R.
Ford, William D.
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Gallagher
Gibbons
Goodling
Green, Pa.
Griffiths
Gross
Gude
Hagan
Halpern
Hamilton
Hanna
Harrington
Harvey
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Hunt
Hutchinson
Jacobs
Johnson, Pa.
Karth
Kastenmeier
Keating
Kemp
Koch
Kyl
Kyros
Landgrebe
Leggett
Lent
Link
Lloyd
Long, Md.
Lujan
McCloskey
McClure
McDade
McDonald, Mich.
McKay
McKevitt
McKinney
Macdonald, Mass.
Madden
Mailliard
Mallary
Mann
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Mills, Md.
Minish
Mink
Mitchell
Mizell
Monagan
Morgan
Murphy, Ill.
Nedzi
Obey
O'Hara
O'Konski
Pelly
Pepper
Pettis
Peyser
Pickle
Poage
Podell
Poff
Price, Ill.
Price, Tex.
Quie
Railsback
Randall
Rees
Reuss
Rhodes
Riegle
Rodino
Rogers
Rooney, Pa.
Rosenthal
Roush
Rousselot
Roybal
Ruppe
Ryan
Sarbanes
Schmitz
Schneebeli
Seiberling
Shipley
Shoup
Shriver
Smith, Calif.
Smith, Iowa
Spence
Springer
Steele
Steiger, Wis.
Stokes
Stuckey
Sullivan
Symington
Teague, Calif.
Thompson, Ga.
Thomson, Wis.
Tiernan
Udall
Ullman
Vanik
Vigorito
Waldie
Wampler
Ware
Whalley
White
Whitehurst
Widnall
Williams
Wilson, Charles H.
Winn
Wyatt
Wylie
Yatron
Young, Fla.
Zablocki
Zwach

NOES—173

Abbitt
Addabbo
Albert
Alexander
Anderson, Calif.
Annunzio
Ashbrook
Aspinall
Baker
Barrett
Begich
Belcher
Bennett
Betts
Bevill
Biaggi
Biester
Boggs
Boland
Bolling
Bray
Brooks
Burleson, Tex.
Byrne, Pa.
Cabell
Caffery
Camp
Casey, Tex.
Celler
Clausen, Don H.
Cleveland
Collins, Ill.
Collins, Tex.
Colmer
Conable
Curlin
Daniel, Va.
Davis, S.C.
de la Garza
Delaney
Denholm
Dent
Devine
Dorn
Dowdy
Eckhardt
Edmondson
Edwards, Ala.
Eilberg
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fisher
Flood
Flowers
Flynt
Forsythe
Fountain
Fuqua
Galifianakis
Garmatz
Gettys
Giaimo
Gonzalez
Grasso
Gray
Green, Oreg.
Griffin
Grover
Gubser
Haley
Hall
Hammerschmidt
Hanley
Hansen, Idaho
Harsha
Hastings
Hathaway
Henderson
Holifield
Horton
Hosmer
Howard
Hungate
Ichord
Jarman
Johnson, Calif.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Kee
King
Kluczynski
Landrum
Latta
Lennon
Long, La.
McClory
McCollister
McCormack
McEwen
McFall
McMillan
Mahon
Martin
Mathias, Calif.
Mayne
Miller, Calif.
Miller, Ohio
Minshall
Montgomery
Moorhead
Mosher
Myers
Natcher
Nichols
Nix
O'Neill
Passman
Patten
Perkins
Pike
Pirnie
Powell
Preyer, N.C.
Purcell
Quillen
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Roncalio
Rooney, N.Y.
Roy
Runnels
Ruth
St Germain
Satterfield
Schwengel
Scott
Sebelius
Sikes
Sisk
Skubitz
Slack
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Talcott
Taylor
Teague, Tex.
Terry
Thompson, N.J.
Thone
Waggonner
Whalen
Whitten
Wiggins
Wilson, Bob
Wolff
Wydler
Wyman
Young, Tex.
Zion

NOT VOTING—49

Abernethy
Baring
Blanton
Blatnik
Bow
Carey, N.Y.
Chappell
Chisholm
Clark
Clawson, Del
Davis, Ga.
Dickinson
Dwyer
Edwards, La.
Gaydos
Goldwater
Hansen, Wash.
Hawkins
Hays
Hébert
Heinz
Hull
Keith
Kuykendall
McCulloch
Mills, Ark.
Mollohan
Morse
Moss
Murphy, N.Y.
Nelsen
Patman
Pryor, Ark.
Pucinski
Rangel
Rarick
Reid
Rostenkowski
Sandman
Saylor
Scherle
Scheuer
Stanton, James V.
Steed
Van Deerlin
Vander Jagt
Veysey
Wright
Yates

Mr. GALLAGHER changed his vote from "no" to "aye."

So the amendment was agreed to.

Mr. MAHON. Mr. Chairman, the vote on my amendment to the pending water pollution control bill has been taken. The amendment did not prevail, although a very substantial number of Members of the House voted for it—in fact, 161 Members.

It was, as I said, a procedural amendment, but as I pointed out in my remarks on the amendment—and otherwise on Monday and Tuesday of this week—it involved a very fundamental question: the orderly processes of legislative consideration and actions annually. Not every few years, but each year, each session of each Congress.

I had hoped—indeed planned—to support the pending measure, especially since in many respects it is, in my opinion, far superior to the Senate version of the bill. On further consideration of the whole matter, and especially in view of the defeat of the procedural and yet fundamental amendment which I offered, I feel reluctant to vote to approve a 3-year, $18-billion expenditure program without requiring further action by the Congress.

In the debate today, reference has been made to a letter which I wrote on Monday of this week to all Members of the House. In view of the references made, I submit the letter for the Record at this point:

Congress of the United States,
Committee on Appropriations,
Washington, D.C., March 27, 1972.

Dear Colleague: Let me make two points very clear about the pending *Water Pollution* Control Bill, H.R. 11896:

1. I have not had the remotest thought of offering any amendment to alter the dollar figures for waste treatment construction grants or any other program involved in the bill. It is within the province of the Committee on Public Works to recommend whatever levels of authorization it deems appropriate.

2. My concern arises over the *multi-year contract authority* provision. I have now decided to offer an amendment to substitute *one-year advance appropriation* funding for the three year contract provision. With multi-year contract authority we downgrade Congress—abrogate our annual authority—more or less write the next two congressional sessions out of the act. To me it makes no sense for us to abdicate our power.

One-year advance funding of the waste treatment grant program with direct appropriations would assure that State and local interests would have adequate notice for their planning purposes. Congress would act every year and be solidly in the picture from the standpoint of our people. Why detract from the power and prestige of the Legislative Branch by vesting authority for a 3-year period in the Executive Branch? Why surrender the right and—as I see it—the duty of annual action on this momentous issue?

Just prior to World War II, 18% of the spending budget was classified as relatively uncontrollable. The current budget classifies 71% of spending as relatively uncontrollable under present law! Contract authorizations for waste treatment would continue to move us toward almost complete abdication to the Executive Branch. This is unnecessary. Let's not do it!

Please give this problem your best attention and let's work out an approach which will be acceptable to the House and retain the power and dignity of Congress.

Sincerely,

George Mahon.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The Speaker resumed the chair.

The SPEAKER. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

The SPEAKER. The Committee will resume its sitting.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

The Committee resumed its sitting.

AMENDMENT OFFERED BY MR. GALLAGHER

Mr. GALLAGHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gallagher: Page 254, immediately after line 12 insert the following:

"(e) Any publicly owned treatment works in a State on which construction was initiated after June 30, 1952, but before June 30, 1956, as a result of a court order, or a ruling by an interstate agency, or both, shall qualify for payments and reimbursements of State or local funds used for such project from sums allocated to such State under this subsection in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 per centum of the total cost of such project. There is authorized to be appropriated to carry out this subsection not to exceed $17,000,000."

Mr. GALLAGHER. Mr. Chairman, my amendment was printed in the RECORD.

The CHAIRMAN. The gentleman from New Jersey is recognized for 5 minutes.

Mr. GALLAGHER. Mr. Chairman, I appreciate the long hours and hard toil of the Public Works Committee that went into the bill before us today. It is an altogether impressive legislative accomplishment, and I intend to support H.R. 11896 on final passage.

Viewed in the context of this $24.6 billion package my amendment designed to provide equal treatment under the law for Bayonne and Jersey City may seem like small potatoes. But I assure the House that this amendment matters a great deal to these two communities in my district.

What my amendment does is to enable Bayonne and Jersey City to receive Federal reimbursements for sewage treatment plants they constructed prior to the June 30, 1956, cutoff as a direct result of governmental mandates.

The background is straightforward enough. Bayonne initiated its sewerage facility in November 1952—and Jersey City did likewise in September 1954. In moving out in front in responding to the needs of their citizens these two communities showed commendable public spirit.

By the same token, these communities could have dragged their feet in responding to the imperative of water pollution control. And that is the irony. By being early birds in meeting their obligations in the water pollution field, Bayonne and Jersey City merit commendations. But instead they are being penalized cruelly by being cut out altogether of reimbursements under subsection 206(b) of this bill.

Moreover, it is not as if either city had a meaningful choice in the matter. Each community, of course, wanted to do its best for its citizens. But this high motivation was reinforced by governmental mandates that neither Bayonne nor Jersey City could ignore.

The Interstate Sanitation Agency ordered both cities to invest in modern sewerage systems. And the agency's orders were backed by court orders.

Thus once again we encounter a deplorable breach of faith between the Governors and the governed. Bayonne and Jersey City responded to orders of the Government to start in on modern sewerage facilities at a prematurely early date. But instead of being rewarded, these two communities are penalized for obeying the orders of their Government.

How does one explain this anomaly to the communities involved? Bayonne raised $16 million through a bond issue. That is $16 million that is now not available for improving Bayonne schools, hiring more police and judges, upgrading hospitals, and so forth.

Jersey City raised $39.4 million through three bond issues. That is $39.4 million that is now not available for drug rehabilitation programs for youthful addicts, dealing with other water as well as air pollution problems in the community, and doing something about traffic snarls.

The fact is that my amendment will not be especially costly. It provides just $17 million as the 30-percent Federal reimbursement for the two communities that would otherwise be available under subsection 206(b).

This $17 million, moreover, is especially important for Bayonne and Jersey City. Both are hosts for Federal installation, and this has had the effect of shrinking their tax bases.

Were these installations not there, Bayonne and Jersey City would have significantly greater tax revenues available for public works projects. But as it stands, both sewage treatment facilities had to be financed from bond issues rather than tax revenues.

For these reasons I urgently ask that the House grant appropriate relief to Bayonne and Jersey City by approving my amendment.

Quite apart from the fate of this amendment, however, it appears to me that Jersey City is entitled to partial reimbursement under subsection 206(b) for its sewage treatment facility. I refer specifically to the $4.4 million that Jersey City committed for this project after June 30, 1956.

An examination of the language of subsection 206(b) is instructive. In both the House and Senate bills the pertinent language is the same. This subsection does not talk in terms of projects "initiated" after June 30, 1956, but rather in terms of projects "constructed or eligible for assistance" between June 30, 1956, and June 30, 1966. This suggests strongly that the legislative intent was to finance both projects—and segments of projects—that were constructed after the June 30, 1956, cutoff.

The first rule of legislative interpretation is to look at the language of the bill itself. Subsection 206(b) could have been drafted in terms of projects "initiated" after June 30, 1956. But it was not. By way of contrast, subsection 206(a) in both the Senate and House versions talks in terms of projects "initiated" after a particular date.

If "initiated" was used in subsection 206(a), why was it not in subsection 206(b)? Apparently, the legislative intent was to provide under 206(b) for projects underway as well as projects initiated after June 30, 1956. Otherwise, why not use "initiated" in both subsections?

The only other likely explanation is inconsistency in legislative drafting. But given the many hours of expert draftsmanship involved in this omnibus bill, this seems improbable.

What I would urge, therefore, is that in the conference report the managers address themselves to this inconsistency in language between the two subsections, and furnish an authoritative interpretation of the inconsistency. I hope and trust this interpretation will hold that segments of projects underway after June 30, 1956, are eligible for reimbursement.

Mr. JONES of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is with reluctance that I oppose the gentleman's amendment because I can appreciate the great difficulties which the gentleman has described with reference to these two cities located in the gentleman's congressional district which was occasioned by the fact that they did not have ample money.

However, under our bill we go back to the 1956 act in making retroactive payments. If they had made an application and had received approval of a plan prior to 1956, we would not have a grant program. Prior to 1956, we did not have a grant program. We had a very meager loan program.

So, consequently, there were no applications for loans which were made.

Now, at this time we could not have any reliance on any kind of figures if we are going to make some kind of reasonable estimate to reimburse every community that has improved and has carried out the construction which the gentleman has described out of their own resources.

Accordingly, as I say—I am reluctant to oppose the amendment. I hope the amendment is not adopted.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from New Jersey.

Mr. GALLAGHER. I would like to point out, Mr. Chairman, that we have made a study and there are no other communities affected. If there are some at a future point, the limitation of $17 million would apply.

Actually, if this amendment is voted down it means that these two cities that complied with the court orders—while all the other cities along the Hudson River did not—will, in effect, be penalized for complying with the law.

I hope that the committee will understand the equity involved here, so that these two cities might benefit as the rest of the country will from this $24 billion program.

Mr. JONES of Alabama. As I explained yesterday in our conversation to the gentleman, the author of the amendment, the committee would be glad to make an inquiry into the subject matter. However, we have not had an opportunity to go back retroactively and consider anything beyond the 1956 act.

So, I hope the gentleman realizes that we have not made a study and we would not know how to bring in an amendment of $17 million in order to accommodate the two cities. Further, we do not know the other municipalities throughout the country which are in a similar situation. It may be that there is an equal need for it in other locations.

Mr. GALLAGHER. Mr. Chairman, if the gentleman will yield further, I would say to the gentleman that my amendment limits the amount that could be distributed to all cities who may qualify. These are the first two cities in the country where a Federal court ordered them to pay for their sewerage systems out of their own funds—funds, incidentally, that should have been used for many other important purposes.

Mr. JONES of Alabama. I do not see how the committee could have been more generous. If you examine the bill, you will see that there is $2,750,000,000 for reimbursements from 1956 up until the present time. We did not have an opportunity to go into the matter to which the amendment offered by the gentleman from New Jersey's amendment gives rise to, so that our committee is not informed upon this; we have not had the opportunity to make a total examination of the problem the gentleman poses. I would hope that the gentleman would not insist upon his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. GALLAGHER).

The question was taken; and on a division (demanded by Mr. GALLAGHER) there were—ayes 16, noes 72.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 2? If not, the Clerk will read.

The Clerk read as follows:

AUTHORIZATIONS FOR FISCAL YEAR 1972

SEC. 3. (a) There is authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $6,000,000 for the purpose of carrying out section 5(n) (other than for salaries and related expenses) of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(b) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $350,000,000 for the purpose of making grants under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(c) The Federal share of all grants made under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from sums herein and heretofore authorized for the fiscal year ending June 30, 1972, shall be that authorized by section 202 of such Act as established by the Federal Water Pollution Control Act Amendments of 1972.

(d) Sums authorized by this section shall be in addition to any amounts heretofore authorized for such fiscal year for sections 5(n) and 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

Mr. JONES of Alabama (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to section 3? If not, the Clerk will read.

The Clerk read as follows:

SAVINGS PROVISION

SEC. 4. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendment made by section 2 of this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Federal Water Pollution Control Act as amended by this Act.

(c) The Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall remain applicable to all grants made from funds authorized for the fiscal year ending June 30, 1972, and prior fiscal years, including any increases in the monetary amount of any such grant which may be paid from authorizations for fiscal years beginning after June 30, 1972, except as specifically otherwise provided in section 202 of the Federal Water Pollution Control Act as amended by this Act and in subsection (c) of section 3 of this Act.

Mr. JONES of Alabama (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to section 4? If not, the Clerk will read.

The Clerk read as follows:

OVERSIGHT STUDY

SEC. 5. In order to assist the Congress in the conduct of oversight responsibilities the Comptroller General of the United States shall conduct a study and review of the research, pilot, and demonstration programs related to prevention and control of water pollution, including waste treatment and disposal techniques, which are conducted, supported, or assisted by any agency of the Federal Government pursuant to any Federal law or regulation and assess conflicts between, and the coordination and efficacy of, such programs, and make a report to the Congress thereon by October 1, 1973.

INTERNATIONAL TRADE STUDY

SEC. 6. (a) the Secretary of Commerce, in cooperation with other interested Federal agencies and with representatives of industry and the public, shall undertake immediately an investigation and study to determine—

(1) the extent to which pollution abatement and control programs will be imposed on, or voluntarily undertaken by United States manufacturers in the near future and the probable short- and long-range effects of the costs of such programs (computed to the greatest extent practicable on an industry-by-industry basis) on (A) the production costs of such domestic manufacturers, and (B) the market prices of the goods produced by them;

(2) the probable extent to which pollution abatement and control programs will be implemented in foreign industrial nations in the near future and the extent to which the production costs (computed to the greatest extent practicable on an industry-by-industry basis) of foreign manufacturers will be affected by the costs of such programs;

(3) the probable competitive advantage which any article manufactured in a foreign nation will likely have in relation to a comparable article made in the United States if that foreign nation—

(A) does not require its manufacturers to implement pollution abatement and control programs,

(B) requires a lesser degree of pollution abatement and control in its programs, or

(C) in any way reimburses or otherwise subsidizes its manufacturers for the costs of such programs;

(4) alternative means by which any competitive advantage accruing to the products of any foreign nation as a result of any factor described in paragraph (3) may be (A) accurately and quickly determined, and (B) equalized, for example, by the imposition of a surcharge or duty, on a foreign product in an amount necessary to compensate for such advantage; and

(5) the impact, if any, which the imposition of a compensating tariff or other equalizing measure may have in encouraging foreign nations to implement pollution and abatement control programs.

(b) The Secretary shall make an initial report to the President and Congress within six months after the date of enactment of this section of the results of the study and investigation carried out pursuant to this section and shall make additional reports thereafter at such times as he deems appropriate taking into account the development of relevant data, but not less than once every twelve months.

INTERNATIONAL AGREEMENTS

SEC. 7. The President shall undertake to enter into international agreements to apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform controls over the discharge of pollutants into the ocean. For this purpose the President shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums.

LOANS TO SMALL BUSINESS CONCERNS FOR WATER POLLUTION CONTROL FACILITIES

SEC. 8. (a) Section 7 of the Small Business Act is amended by inserting at the end thereof a new subsection as follows:

"(g)(1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any small business concern in affecting additions to or alterations in the equipment, facilities (including the construction of pretreatment facilities and interceptor sewers), or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this subsection.

"(2) Any such loan—

"(A) shall be made in accordance with provisions applicable to loans made pursuant to subsection (b)(5) of this section, except as otherwise provided in this subsection;

"(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency or, if appropriate, the State, that such additions or alterations are necessary and adequate to comply with requirements established under the Federal Water Pollution Control Act.

"(3) The Administrator of the Environmental Protection Agency shall, as soon as practicable after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and not later than one hundred and eighty days thereafter, promulgate regulations establishing uniform rules for the issuance of statements for the purpose of paragraph (2)(B) of this subsection.

"(4) There is authorized to be appropriated to the disaster loan fund established pursuant to section 4(c) of this Act not to exceed $800,000,000 solely for the purpose of carrying out this subsection."

(b) Section 4(c)(1)(A) of the Small Business Act is amended by striking out "and 7(c)(2)" and inserting in lieu thereof "7(c)(2), and 7(g)".

ENVIRONMENTAL COURT

SEC. 9. The President, acting through the Attorney General, shall make a full and complete investigation and study of the feasibility of establishing a separate court, or court system, having jurisdiction over environmental matters and shall report the results of such investigation and study together with his recommendations to Congress not later than one year after the date of enactment of this Act.

NATIONAL POLICIES AND GOALS STUDY

SEC. 10. The President shall make a full and complete investigation and study of all of the national policies and goals established by law for the purpose of determining what the relationship should be between these policies and goals, taking into account the resources of the Nation. He shall report the results of such investigation and study together with his recommendations to Congress not later than two years after the date of enactment of this Act. There is authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this section.

EFFICIENCY STUDY

SEC. 11. The President shall conduct a full and complete investigation and study of ways and means of utilizing in the most effective manner all of the various resources, facilities, and personnel of the Federal Government in order most efficiently to carry out the objective of the Federal Water Pollution Control Act. He shall report the results of such investigation and study together with his recommendations to Congress not later than two hundred and seventy days after the date of enactment of this Act.

ENVIRONMENTAL FINANCING

SEC. 12. (a) This section may be cited as the "Environmental Financing Act of 1972".

(b) There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The Authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

(c) The purpose of this section is to assure that inability to borrow necesary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to subsection (e) of this section.

(d)(1) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such executive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

(e)(1) The Authority is authorized to make commitments to purchase, and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act.

(2) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (A) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (B) has approved the project as eligible under the Federal Water Pollution Control Act; and (C) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guarantees. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guarantees, and such payments are authorized to be made from such appropriations.

(3) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this section.

(4) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (B) the market yields on municipal bonds.

(5) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

(f) To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this subsection without fiscal year limitation.

(g)(1) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

(2) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitation, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to paragraph (1) of this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph. All purchases and sales by the Secretary of the Treasury of such obligations under this paragraph shall be treated as public debt transactions of the United States.

(h) The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority on account of obligations purchased by it pursuant to subsection (e) of this section.

(i) The Authority shall have power—

(1) to sue and be sued, complain and defend, in its corporate name;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible, or intangible, in aid of any of the purposes of the Authority;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (A) any real property and any tangible personal property of the Authority shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (B) any and all obligations issued by the Authority shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

(k) All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

(l) In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

(m) The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

(n) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by insertnig "or obligations of the Environmental Financing Authority" immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

(o) The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 846) shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations.

(p) Section 3689 of the Revised Statutes, as amended (31 U.S.C. 711), is further amended by adding a new paragraph following the last paragraph appropriating moneys for the purposes under the Treasury Department to read as follows:

"Payment to the Environmental Financing Authority: For payment to the Environmental Financing Authority under subsection (h) of the Environmental Financing Act of 1972."

SEX DISCRIMINATION

SEC. 13. No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act, the Federal Water Pollution Control Act, or the Environmental Financing Act. This section shall be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

Mr. JONES of Alabama (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to the other sections of the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. DINGELL. Mr. Chairman, I am deeply concerned that H.R. 11896 as reported by the committee has not been amended to take care of the many serious weaknesses in the bill, particularly:

Elimination of the unreasonable and unnecessary provision in section 315 of the bill which calls for a delay in establishing, in the next decade, a requirement for the use of the best available technology, taking into consideration costs, by all polluters.

Failure to adopt the clean water amendment, which would have deleted this backward provision, was a mistake. I sincerely hope that in conference the Senate's more progressive version of the law establishing the 1891 requirements will prevail.

Moreover, even in providing for a study I believe it is essential that we insure a mechanism which will provide a broader based study by organizations and institutions other than just the National Academy of Sciences and the National Academy of Engineering. The study provision in the committee's bill was placed there at the insistence of the National Association of Manufacturers—NAM.

The provision in the bill relating to the establishment of the permit program.

It is my firm belief that we must provide, as Governor Anderson of Minnesota strongly recommended last December to the Public Works Committee, that EPA be given an opportunity for a veto over individual permits, where appropriate. It is incomprehensible to me that the only way that the Federal Government can review a permit program, once it has been transferred to the State, is by totally taking back that program. It seems to me that any State Governor would be opposed to such a Federal takeover provision except in the most dire of circumstances. It seems much more reasonable to me to have EPA review the permit applications that it will, after all, be receiving even under the committee bill, and to make comments and recommendations on those permit applications, when appropriate.

The present Federal Refuse Act permit program is far superior to the one included in the committee bill and I hope that, if a more workable solution cannot be reached on section 402 of the bill which provides greater Federal control over individual permits, section 402 will be deleted from the bill and that the present and very successful Refuse Act permit program established in December 1970 be retained.

The provisions in the bill for the issuance of subpenas.

It seems unfortunate, as I have stated before, that the House committee bill would not adopt a recommendation of the Senate by providing for the issuance of subpenas in support of enforcement actions under the bill. Certainly such subpena power should be included in the bill on final passage.

Provisions in the bill for citizen suits quite obviously must be revised to conform with the more realistic provisions of the Clean Air Act and the Noise Control Act.

It is unfortunate that the committee saw fit to restrict the rights of citizens to bring suits against polluters when they violate the law and against EPA when it fails to comply with the law. It is also unfortunate that in employing restrictive language in the definition of citizen, the committee bill used such vague and ambiguous terms. Again, I hope that the conferees will resolve this matter in favor of the Senate version of the citizen suit provision of the bill which leaves the question of "standing" to the courts where it belongs.

There are many other provisions of the bill which I and my colleagues have pointed out in the debate on this bill in the last 3 days, and in the additional views by Represetnatives ABZUG and RANGEL, that deserve careful study by the conferees and substantial revision if we are to have a truly clean water bill.

I am, however, particularly pleased that both the House and Senate versions of the bill have recognized that the Refuse Act of 1899 should be continued as an antipollution tool. I note with great pleasure that Mr. ROE said on page 10662 of the CONGRESSIONAL RECORD of March 28 that—

> The Refuse Act is continued without modification as a valuable enforcement tool.

I know that all environmentalists join with me and Representative REUSS in praising the committee for retaining this important statute.

At this point in the record, I would like to insert a statement by the assistant U.S. attorney for the southern district of New York, Mr. Ross Sandler, who last January explained how valuable and important the Refuse Act is:

PROSECUTING WATER POLLUTION CASES

(By Ross Sandler)

For persons genuinely interested in the environment and the abatement of pollution, the last year or possibly two years must surely look like the dawning of a new age. Never before, at least in recent history, have as many people been motivated to do something to save our environment; never before have so many candidates for political office run on platforms calling for massive abatement of water pollution; and never before has so many enforcement agencies at various levels of government been actively and methodically prosecuting polluters.

The distinction in my opinion between today's relatively optimistic picture, and the past, is the emerging concensus that government must use its enforcement powers to bring a halt to pollution and to reclaim our natural environment. By enforcement I mean simply the power to order that something be done, and that, if not done, the imposition of sanctions. A few examples might help explain the distinction.

It is one thiing for the federal government to purchase or retain ownership of forest land for recreation and protection of a watershed—it is quite another to enforce pollution abatement by criminally indicting an otherwise reputable industry for using a watershed for its private waste disposal system. It is one thing for the government to spend millions of dollars to build sewers and plants to treat the waste of industries, and homes as well—but it is quite another to enforce sewer codes by cutting off a company's water until the company installs adequate and costly pre-treatment facilities. It is one thing for the government to give industry a tax break for installing pollution control equipment—and it is quite another to enforce pollution abatement by seeking an injunction against the company halting full operation of its plant until the adequate pollution control machinery is installed.

Although bills currently pending in Congress would give the Federal government a comprehensive and detailed scheme of enforcement, the actual work of enforcement currently being carried out by the federal government through the Department of Justice, the Environmental Protection Agency and the Army Corps of Engineers is built upon what is almost a common law of water pollution abatement. The Primary federal statute remains the Refuse Act of 1899. That statute says simply, in language that approaches a Biblical commandment, that no one may discharge refuse into the navigable waters of the United States. While there is some legislative history to the contrary it is fairly clear that the refuse to which the statute referred to was primarily the type of refuse which would tend to affect navigation, and not refuse causing pollution. Even as late at 1970, J. Clarence Davies in his book *The Politics of Pollution* could dismiss the Refuse Act with one sentence stating that the 1899 Act was designed only to prevent impediments to navigation, "not to clean up the water." (page 38).

But the Refuse Act has emerged as the primary pollution abatement statute on the federal level for the simple reason that it, alone, has proven enforcible.

In my law school criminal class, the professor repeatedly taught that in criminal law, it was the certainty of being caught and punished that caused people to conform to the law, even more than the harshness of the penalty.

The professor gave as his example of the rule the reputed fact that the Norwegian people during the World War II would engage in the most dangerous partisan activities, but would not turn on their lights during blackouts to lead in Allied aircraft. While there is of course many differences, the analogy holds true; The Refuse Act of 1899 has emerged as the premier anti-pollution statute because of the certaintly that persons violating its simple command will be caught and punished.

The certainty is not seen entirely by even a careful reading the statute. It has taken the courts and imaginative litigation by numerous prosecutors to round out the full meaning of the statute. Let me list some of the clauses which have been judicially read into the statute and which have made real enforcement possible.

1. The Refuse Act appears on first reading to create nothing more than a misdemeanor penal provision and is therefor a statute essentially lacking in a credible punishment. The statute provides that if convicted, a defendant can be fined a minimum of $500 and a maximum of $2500, and, if a natural person, can receive a term of imprisonment of not less than 30 days nor more than one year. Yet the statute has ample teeth, since prosecutors may charge defendants with multiple counts based on the actual workings of the defendant's plants. Thus, if a plant has one shift a day, and the polluting discharge virtually stops with the ending of that shift, each day becomes a separate count in the indictment or information.

Recently in the Southern District a defendant felt the full impact of this aspect of the Refuse Act. Anaconda Wire & Cable Co., a division of Anaconda Company, routinely discharged large amounts of copper from its plant in Hastings-on-Hudson. The metal, which is highly toxic to virtually all life, was discharged from the plant as traces in its process water. After hearing the evidence our Special Grand Jury charged Anaconda with 100 counts—an alleged violation of the Act on practically every working day in the first half of 1971. Anaconda pleaded guilty to the indictment, and was fined $2000 per count for a total fine of $200,000. There is no doubt that a fine of such severity has the desired impact of deterrence. The fine, of course, buys no capital equipment, and the corporation must still pay for and install abatement equipment. Other fines in the Southern District have been relatively as severe, running on the order of $25,000, $50,000 and, in the case of Standard Brands, $125,000.

2. The Refuse Act makes no provision for civil relief. It reads as if it were only a criminal provision. It would appear that the statute was defective as the corner stone of federal enforcement in that it contains no provision for the federal government to require a polluter to abate his pollution. But judicial interpretation has entirely filled that void. Relying on Supreme Court cases under companion sections of the Rivers and Harbors Act which held that the government could sue to enjoin violations, the Department of Justice brought, in March, 1970, the first two cases seeking civil relief under the Refuse Act—one in Florida against Florida Power and Light, and the second in the Southern District of New York, against Oceana Terminals. In both cases the courts upheld the federal government's right to sue to enjoin pollution. Since March of 1970, the Department of Justice has brought 90 additional civil actions. These suits were often brought in conjunction with a criminal action. In all of the approximately fifteen criminal cases brought in the Southern District, we initiated a civil action calling for abatement of the pollution. The only exceptions were cases where the pollution resulted from a one time operation or accident, or where the State or local agencies stepped in with an adequate abatement order.

The civil relief obtained has been designed to abate the particular pollution at issue. In Oceana Terminals, where the problem was oil leaching into the East River from an oil saturated shore, the defendant was required to maintain an adequate boom and to continuously clean the oil from the water, while at the same time he was required to repair the underground leaks from his tanks. In Marathon Battery, the defendant was required to install pre-treatment equipment to clean the toxic metal cadmium from its effluent.

Marathon Battery is a particularly interesting case. Marathon and its predecessor companies operated a cadmium-nickel battery plant at Cold Spring, and routinely discharged waste water into a sluggish tidal marsh area in Foundry Cove. The cadmium and nickel built up in the area over a 20-year period, so that today, in some areas the bottom muds are almost 16% cadmium. We have asked the Court to order Marathon and its predecessors to dredge the bottom muds—virtually cadmium ore—out. The issue is still in litigation; but if we are successful we will have firmly established the principle that a polluter can be held to correct the damage he has caused.

3. The Refuse Act appears defective because it has no standards of any kind written into it. It merely states that it is unlawful to discharge refuse. The absence of fixed standards bothers many people, and in large measure the so-called Muskie Bill is an attempt to create standards. But I really doubt that the Muskie Bill in fact says more in the way of standards than that which has already been developed as standards under the Refuse Act. There have been no Court decisions to deal directly with this problem, yet the prosecutor in enforcing the Refuse Act, works with the only standards that as a practical matter can work—the maximum feasible abatement under the present technology. That is the standard for the relief that we seek in our civil suits; and that is the abatement sought by the EPA, as I understand it, in evaluating permit applications.

While I do not wish to seem too cavalier about standards, there really is to my mind much too much made of the fact that no one has precisely stated as law what standards are applicable to each and every discharge under each and every condition. It is ludicrous to observe responsible enforcement officials discussing whether 5 parts or .5 parts per million of copper, for instance, should be the standard for industrial discharge. The fact is that many companies are discharging 50 and 100 parts per million, and that technology exists which can reduce the discharge down to about 5 parts per million or less without exorbitant costs.

In my judgment, the absence of absolute standards is, and has been, no bar to adequate enforcement. As Martin Lang, the Commissioner of Water Resources of New York City stated recently, the only certainty about standards is that they are going to get tougher. Logic and practicality dictate, as a result, that the only acceptable standard for abatement, is the maximum feasible abatement under the present technology.

4. The Refuse Act appears defective in another regard. It creates no laboratories, no investigative arms and no enforcement machinery. No administrative program is included to process and evaluate permit applications. These defects were, of course, in large measure corrected with the executive order establishing the Refuse Act Permit Program and by the creation and reorganization of the EPA. But one of the strongest tools of enforcement comes directly from the Refuse Act itself without special proclamations or funding. The Refuse Act is a criminal statute and violation of it may be investigated in same manner as any criminal conduct—by Grand Jury investigation. In the Southern District of New York we have had a Special Grand Jury sitting since September, 1970. It has indicted 15 companies, and investigated many more. It has the power to subpoena anyone it wishes to hear testify. This is a significant power. Most potential defendants are corporations, and do not enjoy a Fifth Amendment privilege. In the past, and even today, much of the investigative work by the Corps of Engineers begins and ends with a boat ride and the dipping of a glass jar into some noxious smelling liquid. But the Grand Jury can circumvent that procedure of evidence gathering entirely. It simply subpoenas the corporation's responsible officials before it and asks them to explain under oath just what chemicals and other refuse the plant discharges.

The actual investigation may well take many months, however, since often detailed laboratory tests must be made by the defendant before it can adequately report to the Grand Jury the content of its discharge.

This method of investigation has, for the prosecutor, the added advantage that the defendant cannot readily challenge the evidence against him. Most indictments are based on admissions by corporate officials in the Grand Jury, or on tests made by the defendant at the request of the Grand Jury. By the end of the investigation, there is little left for the defendant to dispute, and, as has been our experience, practically all defendants enter guilty pleas.

It should be obvious that I am of the opinion that the Refuse Act has developed into a superior enforcement tool for the betterment of our environment. An examination of the record of enforcement bears this out.

Criminal indictments are increasingly being voted by Grand Juries around the country. In the two years ending July 1, 1969 a total of 87 criminal cases were brought under the Refuse Act. In the next two years ending July 1, 1971, almost four times as many criminal actions were brought—a total of 320. Once convicted, defendants can expect a substantial fine. As Judge Croake stated when he imposed the $200,000 fine upon Anaconda, no longer can pollution fines be viewed as merely a cost of doing business.

Such actions by the Department of Justice and the United States Attorneys bring credibility to the commitment to clean up. Without the certainty of being caught and punished, there is little left to that commitment, no matter how grand the administrative machinery or how stringent the standards. Business Week magazine reported in its first issue of this year that Dow Chemical spent $30.5 million on capital equipment and operations in 1971 for pollution abatement. GM reported to the Southern District that it was spending $43.7 million on abatement equipment to be completed by 1973. These kind of expenditures will only be made when strong enforcement action creates a climate in which businessmen sense that they must abate or face even sterner action by the government.

Strong enforcement of the Refuse Act, along with the growing momentum brought on by knowledgeable and concerned private citizens and organizations, has in addition created the climate in which local and state governments must now emphasize enforcement to a greater extent than ever before. Practically every municipality running a sewage treatment plant has enacted codes which, if enforced, would reduce the amount of toxic metals and oils passing through these plants into the water.

The State has vast powers and resources both for preventing direct pollution and indirect pollution of the waterways. A United States Attorney who vigorously enforces the Refuse Act, such as has Whitney North Seymour, Jr., in this District cannot help but cause the competitive fires to ignite in these local and state agencies. The same competition works between the EPA and the United States Attorney offices, as well as between United States Attorneys in neighboring districts. While it may not be obvious to even the most well informed people, this has been one of the most important products of the Refuse Act. Competition in the form of concurrent jurisdiction is of course not unusual in law enforcement. But there is probably no other area where the competition fostered by concurrent jurisdiction had a more beneficial effect. The Refuse Act is necessary and has been successful on this basis alone—actions under it have proven enforcement is possible and desirable, and have made others uncomfortable if they were not being equally as tough.

If I were to grade the importance of the Refuse Act and enforcement under it I would list these things as the most important, above even the significant successes of individual cases:

It has and is creating a climate in which industry—the potential defendants—now feels a growing certainty that it can no longer pollute with impunity, and;

It has and is creating a climate in which local and state agencies can become more stern in their enforcement policies.

Much remains to be done. But in my opinion, there could not be a more explicit mandate than is now found in the Refuse Act; nor could that be a more workable scheme of enforcement than has evolved under the present statute.

Finally, Mr. Chairman, I bring to the attention of the Committee a matter of utmost importance which will need study by the conferees. It relates to the definition in the bill of the term "contiguous zone."

In 1970 Congress passed the Water Quality Improvement Act. Among other things, that law provided for the prevention and removal of oil spills. The provisions of that law are restated in section 311 of title III of the committee bill.

The 1970 law applies to the contiguous zone of the United States which is the 9-mile belt extending from our territorial seas seaward.

When we enacted that law, we all understood from the State Department and other executive branch witnesses that this zone had been established pursuant to article 24 of the Convention on the Territorial Sea and the Contiguous Zone. Thus, the 1970 law defined the term "contiguous zone" to mean "the entire zone established or to be established by the United States" under the Convention.

The committee bill also contains that same definition, section 311, for oil spills and the spills of hazardous substances. The committee bill also makes other provisions of the bill applicable to the zone, and thus repeats this definition in section 502 of the bill.

A few days ago Congressman Reuss and I learned from the Coast Guard that this zone has not been established. They told us that, in August of 1970, Secretary Volpe had sent a proposed Presidential Proclamation to the Office of Management and Budget which, if issued, would establish the contiguous zone. The Transportation Department letter to OMB and proposed proclamation follow:

Under Secretary of Transportation,
Washington, D.C. August 24, 1970.

Hon. George P. Shultz,
Director, Office of Management and Budget, Washington, D.C.

Dear Mr. Shultz: Enclosed for your approval is a draft of proposed regulations which provide procedures and reporting requirements for the expenditure of funds from and the collection of monies for deposit into the revolving fund, established by the President on May 20, 1970 in accordance with the provisions of the Water Quality Improvement Act of 1970. The President announced on May 20, 1970 that he was delegating responsibility for the administration of the fund to the Secretary of Transportation and that he will forward to Congress a request for $35 million to finance its operations as soon as regulations governing the operation of the fund are completed. The regulations are to be codified in Subchapter O (Pollution) of Title 33, Code of Federal Regulations and have been tentatively included in Part 150.

Also enclosed for your approval is a proposed Presidential Proclamation which establishes the contigous zone of the United States, in consonance with the provisions of Article 24 of the Convention on the Territorial Sea and Contiguous Zone. The formal establishment of the contiguous zone is necessary since it is specifically referred to in the Act. and has not been previously established.

It is requested that the two enclosures be reviewed for your approval.

Sincerely,

J. M. Beggs.

A Proclamation Establishing the Contiguous Zone

(By the President of the United States)

Whereas the Proclamation of September 8, 1964 did proclaim and make public the Convention on the Territorial Sea and Contiguous Zone to the end that the same and every article and clause thereof shall be observed and fulfilled with good faith by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof; and

Whereas the enactment of certain statutes by the Government of the United States of America to control pollution of the sea by oil and other hazardous polluting substances, as well as for other purposes, contemplate the exercise of control by the United States of America in a zone of the high seas contiguous to its territorial sea as provided for in the Convention on the Territorial Sea and Contiguous Zone;

Now therefore be it known that I, Richard M. Nixon, President of the United States of America, do hereby proclaim and establish a zone contiguous to the territorial sea of the United States of America extending twelve miles from the baseline from which the breadth of the territorial sea is measured, in consonance with the provisions of Article 24 of the Convention on the Territorial Sea and Contiguous Zone in which the United States of America shall exercise the control necessary to prevent infringement of its customs, fiscal, immigration and sanitary regulations within its territory or territorial sea.

In testimony whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this —— day of —— in the year of our Lord one thousand nine hundred and seventy and of the Independence of the United States of America the one hundred ninety-fifth.

The OMB has failed to act on that proclamation. Once more, the executive branch has apparently failed to tell Congress that the zone has never been established. Thus, today we are including in the bill, according to the executive branch, what amounts to a defective definition of the zone.

On March 23, Congressman Reuss wrote to Secretary Volpe and asked:

First, if he still believes, despite strong legislative history to the contrary, that the zone has not been established as yet, and

Second, why OMB failed to act on the proclamation for nearly 2 years.

Secretary Volpe responded late Monday afternoon.

He told Congressman Reuss that the 1970 Act "does not thereby set the outer limits of such zone for enforcement purposes as has been the practice of Congress" in other legislation for fisheries and customs.

He concludes therefore that:

> This Department is of the opinion that an outer limit must be established to assure enforcement of sanctions and other measures.

Mr. Chairman, Congressman Reuss and myself believe that the zone is established. But the fact is that the Coast Guard and the executive branch does not agree. I urge the conference committee to consider this problem. We cannot and should not let this opportunity pass to correct this situation.

At this juncture I insert the letter of my colleague, Henry S. Reuss, to the Secretary of Transportation, John A. Volpe, dated March 23, 1972:

House of Representatives,
Washington, D.C., March 23, 1972.

Secretary, Department of Transportation, Washington, D.C.

Dear Mr. Volpe: On February 2, 1972, we requested the Coast Guard to provide us data on its actions in enforcing the Refuse Act of 1899 (33 U.S. Code 407) and the Water Quality Improvement Act of 1970 (Public Law 91–224) concerning the discharge of oil into navigable waterways and the waters of the contiguous zone.

On March 7, 1972, Vice Admiral T. R. Sargent of the Coast Guard replied that there were more than 10,000 recorded oil spills into these waters in the period from September 11, 1970 to November 30, 1971. He also said that the Federal Government had spent, as of May 31, 1971, over $170,000 to remove spilled oil and had not recovered any of this sum.

In subsequent discussions with Coast Guard officials, we were informed (a) that nearly one-third of all oil spills occur in ocean waters between the 3-mile limit and the 12-mile limit (here referred to as the contiguous zone), and (b) that the Coast Guard has not assessed civil penalties, as authorized under the 1970 Act, against anyone responsible for any spills in the contiguous zone.

Upon further inquiry, we learned that the Coast Guard apparently assumes that it lacks authority to assess civil penalties for spills into the contiguous zone, on the ground that the contiguous zone has not been established. Acting on this assumption, Under Secretary of Transportation J. M. Beggs sent to the Director of the Office of Management and Budget, on August 24, 1970, for his "approval", (a) a draft of a proposed Presidential proclamation to "establish the contiguous zone", and (b) a draft of proposed regulations to provide procedures for using money from the revolving fund to contain and remove spilled oil, and for collecting money from oil dischargers to deposit into that fund, as authorized by the 1970 Act. The fund was established by the President on May 20, 1970 (H. Doc. 91–340).

We understand that the Office of Management and Budget has not approved the proclamation. The Coast Guard, on the assumption that it lacks authority in the contiguous zone until that proclamation is issued, has apparently suspended its efforts to enforce in the zone the oil pollution provisions of the Water Quality Improvement Act of 1970 which is now almost two years old. We doubt whether any Member of Congress knows that the Coast Guard is failing to enforce the 1970 Act on the assumption that the contiguous zone had not yet been established.

Article 24 of the Convention on the Territorial Sea and the Contiguous Zone simply states the powers of each coastal nation in that zone and specifies that the contiguous zone may not extend beyond the 12-mile limit. It does not expressly require a Proclamation to make the contiguous zone come into being.

Section 11(a)(9) of the 1970 Act defines the "contiguous zone" to mean:

"The entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zones."

The legislative history of the 1970 Act clearly indicates that the Congress thought then that this zone had already been established.

The Senate Committee on Public Works stated in its report (S. Rept. 91–351) p. 66), as follows:

"The definition of a 'contiguous zone' is the zone established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone (TI AS 5639). The authority under which the United States may regulate, with regard to pollution by oil, the conduct of foreign vessels beyond the territorial sea and impose sanctions for violation of such regulations is contained in article 24 of the Convention on the Territorial Sea and the Contiguous Zone. Article 24(a) allows the coastal State "in a zone of the high seas contiguous to its territorial seas" to exercise the control necessary to 'prevent infringement of its . . . sanitary regulations within its territory or territorial sea.'

"Article 24 1(b) allows the State to 'punish infringement of the above regulations committed within its territory or territorial sea.' The Department of State, in testifying before the Senate Foreign Relations Committee, took the position that article 24 confirmed the U.S. practice of exercising customs jurisdiction in a zone beyond the territorial sea and extended such jurisdiction to fiscal, immigration and sanitary matters as well. (Hearing before the Committee on Foreign Relations, U.S. Senate, 86th Cong., second sess., Jan. 20, 1960, pp. 82, 93). Such customary practice included the right to arrest and impose criminal sanctions for violations of U.S. customs laws in the zone beyond the territorial sea."

The report of the House Committee on Public Works (H. Report 91–127) refers to the "contiguous zone" as the "zone *established* by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone" (p. 10). An identical statement was also made in the Conference report (H. Rept. 91–940, p. 34).

It is our understanding that the words "to be established" were included in the law to allow for future expansion of the contiguous zone through possible future changes in the Convention.

The Coast Guard, despite the above legislative history, apparently has chosen to ignore the first part of that definition which states that the zone has already been "established", and has assumed that the contiguous zone must be established by some further proclamation. That assumption is inconsistent with the views of the Navy Department. In a letter to the Director of OMB, dated October 19, 1970, the Navy Department pointed out that, in the six years since the United States ratified the Convention on the Territorial Sea and Contiguous Zone, the Navy has "clearly demonstrated adherence to and compliance with Article 24 of the Convention." The Navy Department's letter commented on the proposed proclamation as follows:

"Execution of the proclamation will in no way enhance the position of the United States in international law under Article 24 of the Convention. Neither international nor domestic law requires that the United States establish a contiguous zone by Executive proclamation. Perhaps the reason for offering this proclamation can be found in section 11(a)(9) of the Water Quality Improvement Act of 1970. That section indicates that the contiguous zone is to be defined as the entire zone established or to be established by the United States under Article 24 of the Convention. Use of the phrase "to be established" is unfortunate. It appears to require domestic implementing action. As earlier indicated, this is not the case. Since there are potential detriments if the proclamation is in fact made, issuance of the proposed proclamation creates unnecessary problems. Accordingly, the Department of the Navy, on behalf of the Department of Defense, opposes the issuance of the proposed Executive proclamation." (Emphasis in Navy's letter.)

We agree with the Navy's view that the proclamation is unnecessary.

Moreover, the Coast Guard Commandant on March 31, 1971 approved regulations governing the administration of the pollution revolving fund (presumably the regulations which had been forwarded in August 1970 to OMB for its review and approval). These regulations, printed in the Federal Register of April 13, 1971 (36 F.R. 7009) specifically state in section 153.303(a)(1) that the fund may be used to contain or remove oil discharged "into or upon the waters of the contiguous zone". Furthermore sec. 153.315 specifically directs "the cognizant District Commander" to assert claims against the responsible party for the costs of these actions, and sec. 153.317 directs him to deposit in the fund all moneys received as payment for fines, civil penalties, and claims for reimbursement of the Coast Guard's costs in containing and removing oil spills.

It is evident that this regulation constitutes ample directive to the Coast Guard's operating personnel to enforce the oil pollution laws and regulations "in the contiguous zone". We do not understand how or why the Coast Guard's operating personnel now fail to enforce the law in the contiguous zone.

But even if the Coast Guard is correct in its interpretation of the law—and we think it is not—the public interest in assuring effective enforcement of our laws against oil pollution, and in the collection of fines and penalties and moneys owed to the government, was certainly not served during the period that the OMB pigeon-holed the Transportation Department's proposed proclamation. It is apparent that our country's oil pollution enforcement program is being frustrated until either OMB approves the proposed proclamation, or the Coast Guard re-examines its assumption that it has no authority to enforce these laws in the contiguous zone and adopts our view that it does have such authority.

Next week the House is scheduled to vote on H.R. 11896—the Federal Water Pollution Control Act Amendments of 1972. That bill makes a number of changes in the oil pollution control provisions of existing law and is applicable to the contiguous zone. In doing so, the bill uses the current definition of the term "contiguous zone."

We are unable to discover, in the testimony last year by the Administration officials, any reference to the problem raised by the proposed proclamation. Apparently, it is the intention of your Department and OMB to allow the House to vote on this bill, in full belief that the contiguous zone is already established.

If the Coast Guard's previous assumption is correct, it seems imperative to amend the pending bill to clarify the Coast Guard's authority. If the Coast Guard's previous assumption is erroneous, it is imperative that it promptly begin enforcing the law in the contiguous zone.

We request that you provide to us by noon Monday, March 27, 1972:

(a) Your views on whether or not further executive or legislative action is needed to establish the contiguous zone; and

(b) If no such action is needed, please state when the Coast Guard will begin enforcing the law in the contiguous zone.

Sincerely,

HENRY S. REUSS,
Chairman, Conservation and Natural Resources Subcommittee.

At this point in the RECORD I insert matters of significant importance to this legislation:

[From the New York Times, Mar. 26, 1972]

CLEAN WATERS

The water-pollution control bill, which Senator Muskie sponsored and his colleagues long ago approved by a vote of 86 to 0, is even more far-reaching and hence in worse trouble. Between heavy fire from industry and moderate fire from the Administration the Senate bill may be shot down, or existing controls may be seriously weakened in the name of improvement.

Of the changes made by the House Public Works Committee, one of the sharpest setbacks is the drastic modification of the Senate's objective to decrease effluents into the nation's waters for the next thirteen years, by which time (at least this is the goal) they would be eliminated altogether. The House committee, while theoretically retaining the goal, would subject the plan to a study by the National Academy of Sciences, to be followed by a second vote in Congress—by which time a lot of foul water will have flowed under the bridge. Not content to weaken the Senate bill, the committee would also reduce the effectiveness of the EPA by shifting primary responsibility for the issuing of effluent permits to the states, a grave backward step.

Representatives Reuss of Wisconsin and Dingell of Michigan are striving to reverse these stultifying changes with a "clean-water package" of amendments. Unless the efforts of these two outstanding conservationists succeed, there may be no clean water legislation in this Congress at all—a disastrous setback to a cause that cannot afford any delay.

[From the Grand Rapids Press, Mar. 22, 1972]

NO SUBSTITUTE FOR S. 2770

What happens on the federal level to curb water pollution will be determined by whether the Senate or House has its way. Last November the Senate passed a bill (S2770) that has been described as the toughest water pollution control measure ever written in Congress, although even this bill leaves some things to be desired. But the House bill (HR11896) isn't even a pale shadow of the Senate measure.

The most important feature of the Senate bill is that it would set a date—1985—for achieving zero water pollution, although the senators (they approved the bill 86–0) were realistic enough to recognize that this might be beyond achieving. The important point is that the Senate bill has a goal—and goals can be changed if time and experience prove them beyond reach.

The House bill would actually have no goal. Instead, it would in effect call a halt for two years while still another study was being made of the problem. Meanwhile water pollution, which some estimate is causing losses amounting to $13 billion a year, would continue except where states were making a stern effort on their own to eliminate it.

That brings us to another vital difference between Senate and House bills. The Senate bill would not in effect nullify the stringent antipollution laws written by Michigan and some other states but would make their provisions generally applicable on a national basis. As an example, under Michigan law any citizen, whether directly affected or not, can bring suit against an alleged water-polluter. The Senate bill would extend this powerful deterrent to all states. But the House bill would give the separate states extraordinary latitude in dealing with the water pollution problem. Under this kind of setup, some states would be sorely tempted to adopt weak antipollution bills to entice polluting industries away from those states—such as Michigan—that have strong laws.

All citizens would suffer from this kind of rank competition; pollution might well be encouraged rather than discouraged in some states for the sake of temporary economic gain. We say "temporary" because by now everyone should realize that the long-range costs of water pollution not only can totally offset any economic savings or advantages that may result from it—that, in fact, pollution can destroy waterways for recreational and scenic attractions, can make them carriers of disease and permanently alter the environment for the worse.

No citizen who views the protection of the enviroment as one of our most urgent duties or who wishes to see our natural assets preserved for his children and those who come after them should be content with accepting anything less than the Senate bill. The House bill is an outrage and a fraud on the public.

[From the New York Times, Mar. 28, 1972]

RARE OPPORTUNITY

The House of Representatives will decide, perhaps today, whether to support or to undermine the Senate's unanimous and unequivocal move to clean up this country's waters. A Senate bill aims to eliminate all discharge of pollutants by 1985. It would give the Federal Government enough authority, through a veto power over discharge permits issued by the states, to assure uniformity and thus to prevent industries from shopping around for indulgent regulations. And it would allow any citizen to sue polluters, and even the authorities themselves, where standards are not enforced.

The corresponding measure that came out of the House Public Works Committee would eliminate or gravely compromise all of these objectives, although it does have the merit of providing more money than the Senate bill for waste treatment plants. Led by Representatives Dingell of Michigan and Reuss of Wisconsin, a large contingent of Congressmen is pressing on the House a "clean water package" of amendments that would rid the committee bill of its deficiencies, giving the 92d Congress a rare chance to score a historic achievement.

A look at the poisonous Potomac before the final voting should be enough to stiffen the resolve of any Congressman to do right not only by that decaying river but by all the rivers, lakes and streams of America that once sparkled in the sun and now, in polluted gray, offend the eye, the nose and the very spirit of man.

[From the Wall Street Journal, Jan. 7, 1972]

LEAKY LEGISLATION: AN ANTIPOLLUTION PLAN CONTAINS A BIG LOOPHOLE FAVORING OIL COMPANIES

(By John Pierson)

WASHINGTON.—The oil industry has drilled itself a loophole in the clean water bill that Congress is due to pass early in its 1972 session.

Down this loophole, some pollution-fighters fear, could flow enough contaminants to foul water and water-bearing rock in oil-producing states for centuries to come.

Oil's loophole is tucked away near the end of the pending Federal Water Pollution Control Act amendments in a harmless-sounding section called "general definitions." The section resembles the fine print on an insurance policy. Section 502(F) says that the term "pollutant," as used in the bill, means "dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes" and a lot of other dirty things. But it does *not* mean:

". . . water, gas or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located."

WHAT THAT PARAGRAPH MEANS

That's a lawyer's way of saying that while the federal government is going to crack down on other industries, it will let oil producers continue to dump all sorts of chemicals—some of them harmful to humans—as well as very salty water into the ground. Only the states are left to watch out for trouble, and by the oil industry's own admission, some states watch less sharply than others.

When carefully done, even environmentalists agree, these oil operations are safe. Carelessly done, they can poison, and have poisoned, well water and the rock formations through which water creeps.

Democratic Rep. Les Aspin of Wisconsin urged the House Public Works Committee to treat oil like other industries. "I don't want to change that (oil) process. I think the process is right," Rep. Aspin told the committee. "I just want to protect the groundwater in the process."

"You want to subject the oil and petroleum industry to regulation by EPA," snapped Rep. Ray Roberts, a Texas Democrat. The EPA is the Environmental Protection Agency, the federal government's antipollution arm.

The Roberts view prevailed. Just before the Christmas recess, the committee, 31 of whose 37 members hail from oil states, okayed the bill, loophole intact. The full House will take up the legislation soon, and the loophole is expected to remain. The Senate passed a similar measure in November, 86-to-0.

"A LITTLE BIT OF WEAKNESS"

Oil's exemption was largely the work of another Texas Democrat, Sen. Lloyd Bentsen, and of industry representatives, including officials of the American Petroleum Institute. Ron Katz, Sen. Bentsen's pollution specialist, defends the exemption largely on the ground that oil wells are already regulated under state law, and oil industry spokesmen hammer on the same point.

"The states exercise extremely close control over the thousands of wells into which materials are injected," contends P. N. Gammelgard of the petroleum institute. "These states feel they have things in hand." He stresses that they require producers to get permits for injection operations and that they deploy hundreds of field inspectors to watch for trouble.

An EPA official says that behind the exemption for oil is "the presumption that the states are doing a good job." But he concedes that the exemption is "a protection of existing practices in oil-producing states" and "perhaps a little bit of weakness."

Groundwater, the stuff that Rep. Aspin wants to protect, is the water beneath the earth's surface that supplies wells and springs, There's more water underground than on the surface in the U.S., and groundwater is usually purer than surface water.

According to Jack Keeley, an EPA water expert, about 20% of the nation is entirely dependent on groundwater. About a third of the 100 largest U.S. cities get all or part of their drinking water from wells. Nine of 10 rural families drink groundwater. More than half the water used for irrigation and livestock comes from underground. Industry consumes more than seven billion gallons of groundwater a day.

Unlike surface water, groundwater once polluted stays polluted long after the source of contamination has come under control, Mr. Keeley told a Senate Public Works subcommittee. "The restoration of a polluted groundwater resource is very expensive, very lengthy and very difficult," he said.

"POLLUTED FOR CENTURIES"

In its report on the antipollution bill, the Senate committee said that polluted groundwater, because it lacks living organisms and flows slowly, "could remain polluted for centuries."

The loophole in the bill exempts a number of oil operations from the kind of federal-state supervision that other industries will face. In drilling a well, for example, oil men lubricate the drill bit with "muds," which can contain phosphates, caustic soda, formaldehyde and other chemicals. Once a well is drilled, oil geologists explain, they may pump hydrochloric acid down it to enlarge the little spaces in the oil-bearing rock. Often, when a well appears to have stopped producing, they'll force oil, gas, water or chemicals down to flush out more oil.

Finally, when a well is deemed dry, it may be used for disposal of the brine that often comes up a well along with oil. Oil-field brine is a lot saltier than sea water and may contain lithium, potassium, bromine, sulphur and iodine in amounts that exceed acceptable levels for drinking water.

Oil men used to get rid of brine by putting it in evaporation pits on the surface. But according to Mr. Gammelgard, state officials saw long ago that this was fouling lakes and streams. Many states then told oil producers to put their brine wastes deep underground. Now, each day some nine million gallons of brine are pumped into 40,000 wells.

These methods of producing oil and disposing of brine are recognized as useful and legitimate. The EPA's Mr. Keeley told the subcommittee that all other ways of getting rid of brine are "less satisfactory." David Evans, a geologist at the Colorado School of Mines, recently wrote that injecting brine back into the rock formation from which it came helps keep the ground above from sinking.

Nevertheless, these operations risk polluting the groundwater, environmentalists say. Brine, acid, chemicals and other things are pumped down wells under great pressure to force them out into the rock formations at the bottom. In most places, groundwater lies at a shallower level than oil and is separated from it by layers of impenetrable rock. Still, when an oil well is improperly constructed or when the tubing gets rusty, pollutants can escape into the groundwater on their way down to the deeper oil layers.

Because groundwater moves so slowly, it may be a long time before pollution shows up in a water well—20 to 30 years, according to Jay Lehr, executive director of the National Water Well Association.

SOME ACCIDENTS

Some oil men pooh-pooh the danger. Rep. Roberts of Texas told the House committee that "there is no way" leaks could happen "in any of the reasonable oil-producing states." Wilson Land, director of the Petroleum Institute's committee on exploration, said that each of the nation's 33 oil-producing states regulates brine injection. But in some states, he conceded, regulation "is probably not as stringent as in some of the other states."

And accidents do occur. In a statement submitted to the Senate subcommittee last year, the National Water Well Association said that "instances of water pollution . . . have been reported in operations involving injection of oil-field brines." EPA experts say brine has polluted groundwater in Texas, Kansas, Arkansas, Ohio, California and Oklahoma.

According to a U.S. Public Health Service study, about 10 brine-injection failures are reported to Kansas state authorities each year. Ralph O'Connor, a geologist with the Kansas Board of Health, says there have been "some instances" of groundwater pollution from brine injection wells, usually older wells that lack an inner tubing providing extra safety.

AN AMBIGUOUS APPROACH

Mr. Evans of the Colorado School of Mines reports that injected brine has erupted from the ground "like geysers" in Michigan, Texas and Kansas. And Frank Conselman, past president of the American Association of Petroleum Geologists, while stressing that underground injection of brine is safe if properly done, says the process can cause trouble if precautions aren't taken to insure that the brine gets to its destination. Monitoring is essential, he adds.

Despite these warnings, Congress' approach to the groundwater problem has been ambiguous at best.

Acting on behalf of the Nixon administration, Republican Sen. John Sherman Cooper of Kentucky introduced a bill that would have set up a program of federal-state water quality standards for groundwater as well as navigable waters. The Senate Public Works Committee rejected this approach because "the jurisdiction regarding groundwaters is so complex and varied from state to state."

Both the pending Senate and House clean water bills establish a federal-state system of permits for the discharge of pollutants "into the navigable waters" but not into groundwater. In the next breath however, both bills say that the permits must "control the disposal of pollutants in wells"—to protect groundwater, according to the Senate committee's report.

And elsewhere the legislation requires the EPA to prepare programs for "eliminating pollution of navigable waters and groundwaters." It requires states and localities by 1974 to develop areawide waste-treatment management plans that control the "disposal of pollutants on land or in subsurface excavations . . . to protect ground and surface water quality."

The EPA is required to publish information on how health and welfare are affected by "the presence of pollutants in any body of water, including groundwater," and to issue information on how to control pollution resulting from "the disposal of pollutants in wells or in subsurface excavations."

This is bad news for chemical, steel, paper and other companies that have a small but growing number of waste-injection wells. They'll have to meet federal or federally approved standards. But the oil industry won't have to. For oil, the saving word is "pollutant"—defined as not including the stuff oil producers put in the ground.

[From the Cleveland Plain Dealer, Mar. 22, 1972]

For Clean Water Amendments

A group of environmental-minded legislators in the U.S. House of Representatives has mounted a campaign for a "clean water package" of amendments to a water pollution bill written by the House Public Works Committee.

The bill, much weaker in its present form than the water pollution bill that cleared the Senate last fall, is tentatively scheduled for House vote next Monday.

The environmentalists, who include U.S. Rep. Charles A. Vanik, D-22, Cleveland, hope to bring it nearer to the Senate version with a package of floor amendments. We hope other Ohio congressmen will join in the effort.

The amendments seek to correct four major weaknesses in the House bill.

One—It abdicates to the states nearly all federal authority over water pollution control. Both Senate and House versions establish a national pollution permit system to be operated by the states, but the Senate bill allows the federal Environmental Protection Agency to veto a permit issued by a state; the House bill does not, except in very limited circumstances. This veto power should be retained to discourage industries from "shopping around" for a state that is soft on pollution control, and to encourage uniform standards around the nation.

Two—It fudges on the target date for eliminating water pollution. Each bill fixes 1981 as the year when all discharges must cease unless it is technically impossible, in which case polluters are required to use the best available technology to minimize pollution. The House bill, though, adds two qualifiers: a two-year study by the National Academy of Sciences, and what in effect is reenactment by a later Congress of the 1981 requirements. The House "clean water package" would go along with the study, bill eliminate the requirement for reenactment. This requirement would only encourage polluters to procrastinate in solving pollution problems in the hope that a later Congress would eliminate the tough deadline.

Three—Its language on the citizens' right to sue EPA or polluters is vague and restrictive. It would bar suits by citizens who do not live in the "geographic area" of the pollution, who do not have a direct interest at stake and who have not been "actively engaged" in any administrative proceedings related to the pollution. This seems to be designed to hit at environmental groups whose legal activities have achieved much of the progress that has been attained in recent years in environmental cleanup.

Four—It weakens the National Environmental Policy Act by exempting many federally licensed activities, such as the construction of power plants, from its reqiurements (so does the Senate bill). This is the act that requires environmental impact statements from federal agencies. It should not be weakened with exclusions.

[From the Cleveland Press, Mar. 27, 1972]

For Strict Clean Water Bill

Environmental groups are waging their first major battle since they helped defeat the SST.

This time they have their eye on the water pollution bill reported out of the House Public Works Committee. Environmentalists maintain the House version is considerably weakened from the version passed 86–0 by the Senate.

They hope to have the weaker bill strengthened when it comes up before the full House, probably next week.

The Dingle-Reuss-Saylor Clean Water Package, sponsored by congressmen whose names it bears, is what they are plugging. And rightfully so.

Probably the worst element in the doctored bill is its almost total reliance on state water pollution agencies to control issuance of permits to waste dischargers.

The sorry history of state control is strong evidence of the need for a strong federal presence. The Government should have the right to veto individual permits where necessary as in the Senate bill.

The Senate set goals of zero discharge of pollutants by 1985 and best available treatment by 1981. The House version calls only for a study—not good enough for a country with such seriously threatened waters as those of Lake Erie.

The limitation on citizens who may file waste pollution lawsuits in the House Bill is wrong. Any person may sue under the Senate bill. And properly so.

It's unfortunate, too, that the House proposes in effect to repeal the 1899 Refuse Act which has proven to be the only potent tool against industrial polluters.

The Dingle-Reuss-Saylor Clean Water Package would correct these and other deficiencies in the legislation that will help govern this nation's environmental future. It deserves and should get the support of congressmen from Cleveland, from Ohio and from the rest of the U.S.

Further Congressional Studies Needed

Why should the 1981 "best available" technology requirements for industry and the 1985 goal of eliminating discharges of pollutants into the navigable waters be established in this legislation, rather than requiring further Congressional action after the Section 315 study?

I. Astronomical cost estimates for the implementation of the 1981 best available technology requirements of section 301 are misleading in light of the bill's specific requirement that State and Federal officials take costs into account in setting control requirements. The 1985 date for the elimination of all discharges into the navigable waters is not a rigid legislatively enforceable deadline, but rather a target date for planning purposes.

Section 101 declares it a "national goal" that "the discharge of pollutants into the navigable waters be eliminated by 1985." This is not enforceable, but is a target to stimulate research and planning.

Section 301(b)(2) requires industries to eliminate their discharges of pollutants by 1981, provided they can do it at a "reasonable cost." If zero-discharge can't be achieved at a reasonable cost by a particular industrial polluter, then that industry must use the "best available demonstrated technology," which is to be determined "taking into account the cost of such controls."

Section 304 lists the factors to be taken into consideration in determining what is "best available" technology in 1981 as including "the age of equipment . . . engineering aspects of the application of various types of demonstrated control techniques . . . the cost . . . foreign competition . . . and such other factors as the Administrator deems appropriate." Section 302's requirement that, by 1981, controls for point sources provide for water of high enough quality for swimming and fish propagation is qualified by a cost-benefit balancing requirement. This section specifically provides that if the costs of going to that level of control are greater than the benefits, then these high water quality requirements do not go into effect.

Thus, even without the provisions of Section 315, the bill bends over backwards to insure that any unreasonable costs are avoided. But Section 315 then provides that none of these basic requirements take effect unless Congress enacts them in new legislation, after a feasibility study by the National Academy of Sciences and the National Academy of Engineering.

The requirements are all reasonable ones—each containing specific provisions to guard against exorbitant costs—and they should be established now, as in the Senate version.

II. The "zero discharge" provisions are aimed at stimulating recycling, which will produce net benefits in the long run. Low cost recycling techniques are available now which were ignored by the administration in making their inflated estimates of cleanup costs.

Administration cost projections were based on traditional treatment technology which filters wastes out of the water by physical, chemical and/or biological means before dumping the partially cleansed wastewater stream back into the lake or river. The aim of the policy of elimination of discharges is not to promote finer and finer technological filtering prior to dumping (which, it is true, becomes increasingly more expensive with the removal of each additional percentage point of waste), but rather to stimulate entirely new ways of looking at the waste disposal problem, so that wastes and wastewater can be reused and recycled where possible rather than simply discarded. The goal of eliminating discharges is, in other words, intended to spark a search for, and the implementation of, ecologically sound waste disposal methodology.

Recycling waste control methods—methods that the Administration and other critics of the "zero discharge" policy ignored in making their cost projections—are already available. One alternative is spraying wastewater on the land; the wastewater is purified by the soil (typically to drinking water quality) before it joins the groundwater. A recently-completed survey of land disposal methodology contains detailed descriptions of 27 of these systems in this country alone (Green Land—Clean Streams: The Beneficial Use of Waste Water Through Land Treatment. Temple University, 1971). Many of these systems have been operating for twenty years or more. The land disposal systems reviewed are, in general, much more cost-effective than the conventional treatment systems the Administration and other critics had in mind in making their projections of exorbitant costs. Note also that, unlike conventional treatment, a land treatment project can provide benefits to offset the costs. The land treatment system in Muskegon County, Michigan, for example, will fertilize the land and provide new crops and new jobs. The phosphates in detergents (a fertilizer) become a blessing instead of a curse. It is planned that an electric power plant will locate on the waste water lagoon. The thermal discharges improve the biological treatment process while the power company saves the cost of cooling towers.

Another waste control method which avoids the heavy costs of increased percentage removal prior to dumping is the closed cycle system, in which "waste" products are reclaimed from the wastewater stream, which is then reused. Because the products retrieved from the stream are often valuable, this kind of system has achieved cost savings for a number of companies. Dow Chemical expects to make a profit from it. (Business Week, January 1, 1972). Closed cycle systems are becoming available to most industries in this country. (Hearings of Senate Subcommittee on Air and Water Pollution, March 1971, Part 1; Lacey and Cywin and George, "Industrial Water Reuse: Future Pollution Solution," Environmental Science and Technology, Vol. V, 1971).

Another system which uses wastes for constructive purposes is controlled aquaculture, using "waste" nutrients to support underwater farming, with "crops" and "livestock," under confined and controlled conditions.

All of these systems avoid the problem of exponentially increasing costs with higher percentage removal.

The point is not that one or more of these control methods which can provide "zero discharge" is currently available "at a reasonable cost" (in the language of the House and Senate bills) to use in every single situation, though they may be. The point is rather that we need to begin to apply these methods and improve upon them where they are available at a reasonable cost and to begin looking hard for new ones.

III. By not establishing the post-1976 requirements of the Senate bill, the House committee version perpetuates indefinitely the existing water quality standards approach to water pollution control, under which streams are given different use classifications which are then supposed to be reflected in the amount of pollution that is permitted.

Numerical standards are, in many cases arbitrary (since we don't know enough about our complex ecosystem), deal with only a few of the many pollutants and combinations of pollutants, and do not provide for sufficient protection of our sensitive estuarine areas. In addition, relating a given level of water quality to the specific discharge levels needed to attain it is difficult; where it can be done, it places a tremendous technical burden on the government to make these complicated computations before imposing control requirements, a burden the government has not been capable of meeting.

IV. Establishing 1981 and 1985 requirements and goals now, as the Senate bill does, will save money by stimulating rational long-run planning: Postponing a decision, as the House version does, will waste money. Polluters will be encouraged to install minimal treatment equipment now which would not be compatible with future recycling systems that will become mandatory sooner or later.

Up to now, polluters have tightened their controls on pollution increment by increment, not anticipating even more stringent controls that growth in our population's industrial capacity would necessitate further down the road. Each incremental improvement (e.g., installing a device that will strain out an additional percentage point of waste) may look like the cheapest way to meet the control requirement of the moment. When the cost of a series of these short-run incremental improvements is added together, however, it begins to add up to a great deal more money than would have been spent had the polluter shifted over to a better methodology (e.g., recycling) to begin with. If we push polluters along that incremental path to cleanup, they will not only have to bear the heavy cost of straining fine and finer particles out of their wastewater, but also will have to bear the wasteful cost of eventually scrapping their expensive old-technology treatment facilities anyway. Telling polluters to shift to recycling ("zero discharge") systems when they can make the shift at a reasonable cost is aimed at avoiding these excessive costs that will otherwise occur.

Thus by postponing a decision to go ahead with tougher controls until after the NAS study, the House committee is increasing the costs of eventually cleaning up (since polluters will be encouraged to install minimal treatment equipment now which they will have to get rid of later on when higher control requirements are imposed.) Similarly, research by polluting companies and by the "pollution control industry" which could reduce the costs of "zero discharge" waste handling methodology will not really begin to take place in earnest until the requirement to eventually shift to "zero discharge" is a firm one. In other words, by putting off making the decision, as the House committee version does, we will forego savings which research and planning for the future could otherwise produce. Industry needs to know what will be expected of them later on, to avoid making wasteful expenditures.

Note that immediate establishment of the 1981 and 1985 requirements and goals would make many industries see that it is in their advantage to join together with municipalities in regional treatment systems. On the other hand, if industries face only low control requirements and can see no higher ones on the horizon, many of them will think they can handle their wastes more cheaply by themselves, thus forcing our municipalities to operate alone in these regional systems and sacrificing savings that can come with larger scale operation. Thus by relaxing controls on industry, the House committee version forces higher cost on municipalities.

V. Postponing the establishment of the Senate bill's goals and requirements also biases the NAS study itself in the wrong direction. The cleanup costs the study projects will be higher because of our indecision. We should give the environment a fair chance to come out on top by deciding now, and letting the results of the study alter our course later if need be.

VI. The burden of proof should not be on the public to prove that eliminating pollution is feasible: the burden should be on the polluters to prove why they should not have to install the most pollution-free systems.

The public should not have the burden of proving that the polluters can afford to clean up before making them do it. The polluters should have to make their own case, since it is they who have all the data (about their cleanup costs, for example) under lock and key. We should start with the presumption that polluters must eliminate their pollution and place the burden on them to demonstrate that the social and economic costs are so great that the requirements should be temporarily relaxed.

Setting high cleanup requirements now rather than later, as the Senate bill does, would help force heretofore tightly-guarded cost information out into the open, by placing the burden of producing it on those who have it—the polluters. By waiting to give the go-ahead until after a National Academy of Science study of the costs involved, the House committee bill would, on the other hand, give the public, in effect, the burden of proving that we can afford cleanup before we require it. Under this approach, industries will have the same incentive they have always had to exaggerate the costs of cleanup and keep information which might show that waste handling can be accomplished at lower costs concealed.

If we really want our NAS/NAE study to produce accurate information about the costs of cleanup, we should establish the requirements and goals now. Congress will respond if the study shows there is any need for change.

[From Business Week, Feb. 5, 1972]

The Stormy Debate Over "Zero Discharge"

When Senate bill S. 2770 came to a vote last Nov. 2, it roared through on a rollcall vote of 86-to-0. Such Senatorial unanimity is usually reserved for nonbinding resolutions in support of motherhood, and the casual observer might well have thought that S. 2770 was an innocuous piece of legislation. He would have been dead wrong. S. 2770, the Federal Water Pollution Control Act, now stands as the toughest, most controversial environmental legislation. It states unequivocally that no one has the right to pollute, and establishes a tight timetable to achieve an ambitious goal; the total elimination of all effluent discharges into the nation's waterways by 1985.

This month, as the legislative action shifts to the House floor, a belated fight has erupted, focusing on the 1985 goal, popularly known as "zero discharge." Arrayed against the bill are the Nixon Administration, some economists, and virtually all business groups. Supporting the bill are the environmentalists and, as the Senate vote indicates, large sectors of the public. And since the bill's principal author happens to be Senator Edmund Muskie, the issue is smack in the middle of election-year politics.

The critical barrage, like a high-powered fusilade, is well under way. New York Governor Nelson Rockefeller calls zero discharge "totally impossible." Allied Chemical Chairman John T. Connor says "the Muskie bill . . . raises hopes on which it can't possibly deliver." Paul McCracken, recently departed head of the Council of Economic Advisers, warns that the benefits of zero discharge are not worth the multibillion-dollar costs. And Willard Rockwell, chairman of North American Rockwell, recently proclaimed that the cost of achieving zero discharge is "enough to shake the economic foundations of this country."

Industry groups, too, have weighed in with dire predictions. The American Paper Institute says that zero discharge would cause plant closings, create unemployment, and drive paper prices up by 50%. The American Iron & Steel Institute estimates that zero discharge would add $1-billion to the industry's $3.5-billion cleanup bill over the next few years. And the chemical industry figures it would cost $25-billion in capital equipment by 1985, plus $10-billion a year for operating expenses.

But judging from the language and intent of the Senate bill, much of this gloomy outlook seems unwarranted. Though the legislation is indeed tough, it sets zero discharge as a goal, not a legal requirement. And every step toward achieving that goal is clearly circumscribed by cost considerations.

The bill has two stages. During its first phase ending in 1976, all companies must apply the "best practicable" technology to control water pollution. In its second phase companies must achieve zero discharge by 1981 unless they can show it cannot be done at "reasonable cost." In that case, they must employ the "best available" technology. The aim: to achieve water clean enough for swimming and fish propagation by 1981 and to eliminate all effluents by 1985.

But the language of the bill is careful not to eliminate affluence along with effluents. The phrases "best practicable" and "best available" are defined to consider the ages of the plants, their sizes, their processes, and the cost of controls—thereby ruling out ruinously expensive techniques. Furthermore, the bill requires the Environmental Protection Agency to study the cost and feasibility of zero discharge. If the costs outweigh the benefits, Congress is charged with making a "midcourse correction" by 1976, eliminating zero discharge as a national goal altogether.

A PHILOSOPHIC SHIFT

So why the fuss? Why is industry so adamantly opposed to a bill that safeguards its economic interests? With all those constraints, why did the Senate bother postulating the zero discharge goal? The answers lie in the bill's shift away from the philosophy embodied in the last major water pollution law, enacted in 1965. Under that law, each state is allowed to determine how it wants its rivers and lakes used. Some waterways might be zoned for industrial use, others for swimming. The states next set water-quality standards consistent with the intended uses, then translate these standards into specific effluent limits for all polluters. The effluent limits would vary from stream to stream, depending on its intended use, its assimilative capacity, the nature of the pollutant, and a host of other factors. No company would have to go to zero discharge unless that were necessary to achieve the desired water-quality standard.

In theory, the water-quality approach is sensible. It focuses not on means but on ends: the cleanliness of a river or lake. And by linking cause (effluent) to effect (water quality), it directly relates abatement costs to benefits. But in practice, as experience with the 1965 act shows, the scheme is hard to implement. It is ecologically difficult to link water-quality standards to scores of discharges, and even more difficult to sustain such tenuous links in court. After six years, many states still have not set water-quality standards, while others are still struggling to establish complex relationships between pollutants and water use.

Faced with these difficulties, the Senate Committee on Public Works decided to shift from water-quality standards to direct effluent limits, with the ultimate goal of zero discharge. That was a radical change, for it ended the longstanding policy assumption that one legitimate use of water ways is to assimilate waste. Thou shalt not pollute became the committee's commandment, constrained only by the availability of suitable control technology. It is this basic shift that both the Administration and industry oppose.

To apply the system of effluent limits, the bill requires all polluters to apply for a discharge permit from the EPA. In the second phase, for example, every company would have to show in its permit application that it could not achieve zero discharge at reasonable cost. Thus, the system shifts the burden of proof from the regulator to the polluter, which will probably ease the enforcement task.

The committee also decided that strict effluent limits were needed to spur the development of recycling technology. With water-quality standards, the traditional approach has been "treat and dump"—treat the wastes partially and dump the rest. In the long run, this is ecologically unsound, for what is dumped eventually causes pollution somewhere. Says a committee staffer. "What we want is 14 years of R&D based on the assumption that closed-cycle systems are the norm, not waste discharge."

BALANCING COSTS AND BENEFITS

The Administration, however, does not want a complete shift to effluent limits. It argues that pollution legislation should balance costs against benefits and not impose an arbitrary goal of zero discharge on every stream. It is economically wasteful, the Administration believes, to make the Houston Ship Channel clean enough for swimming. Implicit in this reasoning is the very assumption the Senate rejected: that waste disposal is a desirable, use of at least some waterways. Conceding that progress under the 1965 act has been slow, the Administration nonetheless believes the water-quality approach has worked on some waterways and can work elsewhere.

Like industry, the Administration fears the high cost of strict effluent limits. Russell Train, head of the Council on Environmental Quality, points out that cleanup costs rise exponentially with the degree of cleanliness sought. "The last 1% of treatment costs as much as the first 99%," he says. Preliminary CEQ data estimate the current water program, aimed at reducing pollution by about 85%, would eventually cost $60.8-billion. To achieve a 95% to 99% reduction would nearly double the tab to $118-billion. And to go that last effortful step to zero discharge would escalate the cost incredibly to $316-billion—or some $21-billion a year between now and 1985.

Senator Muskie counters that these estimates, admittedly based on scanty data, are meaningless. "To apply a price tag to a 100% elimination of pollution can serve no purpose other than to frighten the people and intimidate the Congress," he said angrily on the Senate floor. If the costs prove too high, Muskie emphasizes, the goal will be abandoned. But he insists that the nation must move in the direction of zero discharge.

While no one knows precisely what zero discharge would eventually cost, there are signs that the price tag will not be as high as some fear. Several companies, including Dow Chemical and Hercules, are already operating plants that have achieved zero discharge through recycling. And General Motors plans to convert a Chevrolet assembly plant on the Hudson River to complete recycling of waste water. Since no one has compelled these companies to eliminate pollution, the costs are obviously not prohibitive. Indeed, as Dow has found (bw—Jan. 1), it is often cheaper to recycle wastes than to build expensive treatment facilities. With recycling, the waste water need not be purged of all pollutants; it need only be treated to a quality sufficient for the plant's own manufacturing use. The EPA, despite its objections to the Muskie bill, stated that the technology for closed-loop recycling seems within reach for many industries.

The toughest problems of all will confront municipalities. Under the bill's first phase, they are required to have secondary treatment plants under way by 1974. Then they face the same second-phase requirements as industry. But strapped for funds and unable to recoup costs through higher product prices, cities must rely on federal subsidy. The Senate bill authorizes $14-billion over four years, but even if the entire sum were budgeted, it would still fall far short of the cities' needs.

THE LAND DISPOSAL ANSWER

One hope is a land disposal system soon to be built in Muskegon County, Mich. Municipal waste—and some industrial effluent, too—will be routed through relatively simple treatment, stored in holding lagoons, then sprayed on 10,000 acres of nearby farmland. Ecologists have long favored land disposal, for it returns valuable nutrients to the soil, replenishes ground water tables, and minimizes the amount of sludge dumped from treatment plans. Perhaps more important, the costs look reasonable. The Muskegon system is contracted for $34-million, compared with $43-million for a conventional system of smaller size now under construction in suburban Chicago.

Can land disposal be applied in large metropolitan areas? Dr. John Sheaffer, who helped design the Muskegon system and is now a consultant to the Corps of Engineers, says yes, based on studies of San Francisco, Chicago, Boston, Detroit, and Cleveland. The EPA is more skeptical, estimating that versions of the Muskegon system adapted nationally to really large cities would require 7.7 million acres, assuming the land could be found. But Sheaffer says that is only 1% of total farmland. "Everywhere we looked for available land, we found it," he says.

As matters now stand, the House will vote on its version of the zero-discharge bill this month. The House bill also includes the shift to effluent limits and the zero discharge goal. But it calls on the National Academy of Sciences to prepare a detailed cost study in 1974, then requires new legislation to implement the second phase. The House bill also gives more enforcement power to the states at the expense of the EPA, but ups the municipal ante to $20-billion. Environmentalists are hoping to strike the new legislation requirement; the Administration is fighting to preserve some form of water quality standards. The likely outcome: Both effluent limits and the zero discharge goal will remain, but the new legislation requirement may have to be resolved in a House-Senate conference.

Ultimately, zero discharge, or anything close to it, may end up costing more than the nation is willing or able to pay. In that case, both bills provide for a policy shift. For now, though, the goal will spur both industry and municipalities in the direction they must go if the nation is to purge pollution from its waterways.

Commonwealth of Virginia,
Office of the Governor,
Richmond, Va., March 21, 1972.

Hon. David E. Satterfield III,
Congress of the United States,
House of Representatives,
Washington, D.C.

Dear Dave: The Virginia State Water Control Board has actively followed the proposed water pollution legislation, and I have been kept advised of the progress of both H.R. 11896 and S. 2770. Virginia supports the concept of this ambitious legislation.

I would like to pass on to you the consensus of the State Water Control Board as to this legislation:

"Specifically, we think that the requirements of 'best available technology' as passed by the Senate should be established in the legislation now. Postponing the establishment of this goal will result in continued confusion and groping for a national policy.

"It is likewise imperative that contract authorization be provided for the municipal grant program of Title II. Unless state and local governments are assured that matching funds will be available, pollution abatement efforts will be seriously impaired. The $20 billion authorized in H.R. 11896 should be retained. The proposed House authorization is much more realistic than the smaller authorization in the Senate legislation.

"Finally, a strong permit program is absolutely essential to the fulfillment of the goals of this legislation. Virginia has an effective permit program, but has no objection to the empowering EPA to review selected permits. A review procedure seems preferable to EPA's being required to revoke an entire state permit program."

If you have any questions on these or other aspects of the bill, I suggest that you contact Mr. Noman Cole, Chairman, State Water Control Board, 5917 River Drive, Lorton, Virginia 22079; Mr. Andrew W. McThenia, Jr., State Water Control Board, 604 Marshall Street, Lexington, Virginia 24450; Mr. Gerald L. McCarthy, Governor's Council on the Environment, Eighth Street Office Building, Richmond, Virginia 23219.

Best wishes.

Cordially,

Linwood Holton.

State of Connecticut,
Department of Environmental Protection,
Hartford, Conn., December 7, 1971.

Hon. John A. Blatnik,
Chairman, Committee on Public Works, House of Representatives, Washington, D.C.

Dear Sir: Your proposed "Federal Water Pollution Control Amendment of 1971", H.R. 11896, represents a major step towards restoring the integrity of the nation's water. I, as Commissioner of the Department of Environmental Protection for the State of Connecticut, strongly support the concept of nationwide effluent standards as the most effective and equitable means for abating water pollution. Yet I am concerned over the lack of a veto provision of specific state permits at the Federal level.

Failure to include the veto provision not only weakens the Federal bill, it undermines our program in Connecticut. I am proud of that program. While still a beginning, it is, I believe, among the best in the country. The State of Connecticut now requires municipalities and industry to install the best feasible control technology. We fully expect to further define and tighten our requirements wherever appropriate in the future. But as we press forward, we are sometimes told that if we require additional effort, polluters will move their operations to areas where environmental laws are nonexistent or not enforced. Citizens in our state—and all citizens—deserve an assurance that an industry seeking to abdicate its environmental responsibilities by moving elsewhere will find no havens of lax enforcement anywhere in this country.

H.R. 11896 would deprive the Environmental Protection Agency of the power, provided in the Senate-passed version of the bill, to review and reject any permits for industrial discharge proposed to be issued by a state. The enforcement mechanism contained in Title IV of both versions of the bill is a permit system under which Environmental Protection Agency authority to issue industrial discharge permits would be delegated to any state whose own program conforms to Federal requirements. Under both versions, EPA could withdraw its approval of a state program—and reassume responsibility for issuing all permits within that state—if the overall program were not administered in accordance with such requirements. But that awkward authority to withdraw total approval which will obviously be invoked as a last resort, if at all as in the House bill is no substitute for the precise power to reject any permit which is inconsistent with Federal policy, as in the Senate bill. It is unwise and unnecessary to limit EPA to a choice between ignoring a state's error and discarding that state's entire permit program.

I urge that the Administrator of the Environmental Protection Agency be empowered to veto any permit within 60 days of his notification under Sec. 402(d)(1) that a state proposes to issue such permit. I believe that to be a workable means of promoting consistent enforcement of effluent standards across the nation.

Finally, I strongly endorse the authorization levels and methodology of disbursement which will allow Connecticut, included present levels of state funding, to complete its presently planned treatment programs on schedule. For the moment, we are at a standstill due to uncertainty in Federal funding; thus I urge immediate passage of this Act.

Sincerely,

Dan W. Lufkin,
Commissioner.

[From the Washington Evening Star, Mar. 26]

NADER CLAIMS MUZZLING OF CLEAN-WATER STUDY

(By Roberta Hornig)

Ralph Nader yesterday accused the Nixon administration of muzzling a government report containing "convincing evidence" that it is economically feasible to aim for zero discharge of pollutants into the nation's navigable waters.

The House tomorrow begins debate on its version of a clean waters bill—a less stringent measure than the one the Senate passed by a unanimous 86–0 vote.

In a 3½-page letter to Office of Management and Budget Director George Shultz, Nader urged that the report, compiled by the U.S. Army Corps of Engineers, be released tomorrow.

"A MAJOR BOOST"

The information it contains, he said, "could give a major boost to House proponents of tougher controls on industrial pollution."

"By withholding this information from the public at the very time the Congress and the American people most need it to make rational legislative decisions for the future, the administration again demonstrates its willingness to place the interests of corporate polluters ahead of the public's interest in a clean and healthy environment," Nader charged.

The "convincing evidence," he said, is that the cost of eliminating water pollution is but a small fraction of earlier administration estimates and even less than the cost of using present-day inadequate control systems. The administration, in fighting the Senate-passed water pollution bill, had projected a price tag of $316 billion for its attainment.

The corps study, Nader said, was based on how much it would cost to eliminate all discharges of pollutants in waterways in the Chicago metropolitan area and came up with a price tag of $2 billion.

He called the keeping of the report from the public ". . . a most serious example of the invisible and illegitimate controls the Office of Management and Budget and the White House have begun to extend over information developed by federal agencies."

Nader said the first details concerning the report came out, Wednesday at a meeting between representatives of several environmental groups and Environmental Protection Agency Administrator William D. Ruckelshaus. He said the corps defended the accuracy of its price figures but made it clear "that they had been muzzled at the instructions of the White House and the OMB."

"REVIEW" OF REPORT

According to Nader, both corps and EPA officials have reported the study has been undergoing "review" by Don Crabil of OMB and White House officials, including presidential aide John Whitaker, for one week.

"Placing this report under wraps constitutes a continuation of administration efforts to defeat those strong elements of the Senate version of the water pollution bill by throwing up a smokescreen of confusion concerning control costs," Nader wrote Shultz. He also sent a copy of his letter to Speaker Carl Albert.

In its present form, Nader charged, the House bill "is designed to protect industrial polluters."

"It has been rendered so full of loopholes that the corporate lobbyists, far from opposing it, are working hard to preserve its swiss cheese characteristics fully intact," he wrote.

A fight on the House floor is expected when the House Public Works Committee bill comes up tomorrow. Several congressmen led by Rep. John Dingell, D-Mich., and Rep. Henry Reuss, D-Wis., will offer at least seven amendments to bring the measure more in line with the Senate bill which was sponsored by Sen. Edward Muskie, D-Maine.

THE IZAAK WALTON LEAGUE OF AMERICA, INC.,
March 19, 1972.

To: Honorable John Brademas, William Bray, Andrew Jacobs, Earl Landgrebe, John Myers, Elwood Hillis, David Dennis, Ray Madden, J. Edward Roush, Lee Hamilton, Roger Zion.

HONORABLE SIRS: The Board of Directors and members of the Indiana Division, Izaak Walton League urge your support of the Dingell-Reuss proposals which will greatly strengthen the 1972 amendments to the Water Pollution Control Act. The Indiana Izaak Walton League fully supports the version adopted unanimously by the Senate, and urges your opposition to Administration attempts to undercut the strong features of this bill. Specifically, we urge:

(1) Restoration of the 1981 requirements for national effluents standards, and 1985 requirements for zero discharge of pollutants. We see no need for an intervening period of "study" by the National Academy of Sciences. Pollution had already been "studied" to death, and even the Senate version will allow nine years for the effluent standards and thirteen for zero discharge;

(2) Restoration of individual review and veto of proposed permits under the Refuse Act by the Environmental Protection Agency. The House Public Works Committee version would for all practical purposes necessitate EPA rejection of a state "package" of permits when only a few might warrant rejection. The effect would be to make a rubber stamp out of EPA, and virtual repeal of the 1899 Federal Refuse Act;

(3) Restoration of the Senate feature giving legal standing to all citizens to sue polluters in the public interest. The Committee version would severely limit this right to those who could show specific damage to their interests. The 1970 Clean Air Act establishes citizens' legal rights, and so should the water pollution amendments;

(4) Restoration of the full intent of the 1969 National Environmental Policy Act. The Committee version would greatly restrict the outstanding value of NEPA. We especially support the requirement for Environmental Impact Statements under Section 102 of this Act, and oppose any impairment of this principle;

(5) Restoration of employee protection features and national standards which will prevent any "shopping" advantages for a polluting industry seeking a state where pollution enforcement is more permissive; and

(6) Full review and veto power under provisions of the Fish and Wildlife Coordination Act of the Department of the Interior.

The Izaak Walton League deplores the efforts to destroy the effectiveness of the 1972 water pollution control amendments passed in the Senate, and we expect to stay aware of every action of the Congress through enactment of a version at least as strong as that approved by the Senate.

We will thank you for your support of the Dingell-Reuss amendments.

Very truly yours,
KAREN GRIGGS *and 21 others.*

CITIZEN'S CRUSADE FOR CLEAN WATERS,
Washington, D.C., February 14, 1972.

Hon. JOHN A. BLATNIK,
2449 Rayburn House Office Building,
Washington, D.C.

DEAR MR. BLATNIK: Many members of the Citizens Crusade for Clean Waters have been following the work of the House Public Works Committee to extend and expand the Federal Water Pollution Control Act. We are pleased with the attention and time you have given this program and we appreciate your leadership in our joint concern for cleaning up our nation's water resources.

However, since the bill was ordered reported on December 16, we have had difficulty in obtaining specific proposals to be contained in the final version of the legislation. We are concerned that the bill which is finally reported out of committee will not, in fact, strengthen present water pollution control efforts, but weaken them.

We understand that there is before the Committee language which would seriously limit the application of the National Environmental Policy Act, the Fish and Wildlife Coordination Act, and the Refuse Act of 1899. These laws have been basic to the protection of environmental qualtiy and have provided an important avenue for citizen participation in clean-up activities. To remove the opportunity for citizen participation seems contrary to the public interest. We feel that it is not appropriate to deal with these Acts in proposed water pollution control amendments. Instead we believe there are other issues which are important to labor, environmental, consumer and other public interest groups in this legislation. Any of us would be pleased to meet with you to discuss these matters.

Sincerely,
RUTH CLUSEN and 10 others.

Finally, I insert in the RECORD an example of the intense pressure put on Members of Congress, under the direction of the White House, by the big industrial polluters of the Nation:

YOU MUST ACT NOW ON THIS WATER POLLUTION CONTROL BILL

NATIONAL ASSOCIATION OF MANUFACTURERS,
New York, N.Y., March 21, 1972.

This concerns a matter of vital importance to every manufacturing company which uses water—whether or not it has its own waste treatment facilities, or discharges into a municipal system.

The Senate has passed a water pollution control bill, S. 2770, which would require elimination of the discharge of industrial pollutants by 1985. The related costs to manufacturers would be considerable, to say the least. The House is now debating a bill (H.R. 11896) which will provide a more sensible approach. The House bill would make the so-called "zero discharge" requirement contingent on a two-year study by the National Academy of Sciences (NAS) and on added Congressional action.

Strong efforts are being made on the House floor to fight the NAS study approach. You must wire or telephone today to urge your Representatives in Washington to support the sensible NAS study provision and vote to defeat any efforts to eliminate this study or otherwise revise the House bill.

H.R. 11896 would establish a tough, but realistic program for progress in water pollution control, whereas S. 2770 could actually impede such progress through shifting and unrealistic requirements imposing tremendous costs to manufacturers. For this reason, H.R. 11896 is highly preferable to S. 2770.

Tomorrow is too late. It is important that you contact your Congressman today on the House water pollution control debate.

Sincerely,
M. P. GULLANDER.

P.S. Obviously, the pressures on Congress to enact added unrealistic legislation will continue and NAM will be calling on companies across the nation to speak up to their Representatives in Washington. You could help us speed future actions by giving us, on the enclosed self-addressed card, the name(s) of the person(s) in your company responsible for pollution control.

Mr. HANLEY. Mr. Chairman, I rise in support of H.R. 11896, the 1972 amendments to the Federal Water Pollution Control Act. While I sincerely believe that this proposal, painstakingly prepared by the Public Works Committee, is a sound and progressive bill, there are areas in the measure which I feel can and should be strengthened. I intend to support a number of the various clean water amendments.

With regard to the committee bill, I am particularly pleased with the intent to commit the Federal Government to a program of paying back to States and municipalities those funds which have been used to prefinance the promised but undelivered Federal share of waste treatment facilities. To be sure, the real battle over reimbursement funds will be fought out in the appropriations process, but the clear language of H.R. 11896 gives States like New York a good headstart toward gaining repayment of funds advanced to cover the Federal share. The New York share of the reimbursement funds is nearly $1.3 billion.

I am pleased with the provisions in the House bill which will shift the emphasis in water pollution control from the idea of classifying bodies of water to the idea of placing standards on the effluents dumped into those bodies of water. It seems to me to make sense to deal with pollutants at their source.

The committee's increased authorization for the construction of wastewater treatment facilities is vitally needed, and the increase in the percentage of the Federal share should ease the burden on financially hard-pressed local communities who are finding it very difficult to produce the needed funds from local property taxes.

Mr. Chairman, I have one overriding concern about the committee bill which I see being eased by the clean water amendments. I am very much disturbed by the uneven progress in the 50 States toward controlling and abating water pollution. The citizens of New York State have expended or committed $1.4 billion in State funds for water pollution control facilities. Local government financing within the State has amounted to $1.2 billion, and both figures include the $1.3 billion prefinancing of the Federal share. The actual Federal commitment of funds has been $273 million. These figures clearly indicate a massive financial commitment by the people of New York.

Industries in New York State have also borne a heavy burden in terms of complying with State pollution standards and enforcement actions. Many New York workers have lived with the threat of plant closings should pollution standards be enforced. Plants in the State have closed down and moved elsewhere because of the necessity to comply with State water pollution control standards.

The citizens of the State, and the industries on which so many of them depend for their economic livelihood, have made great sacrifices. I want to make sure that the citizens of our sister States, and their industries, are moving ahead at the same pace New Yorkers are. I want them to bear the same burdens we are. I want to guarantee that the Federal Government will insist that all of the States measure up to the same mark. I feel that the power to set national standards for effluent control must be maintained by the Federal Government, and the power to enforce those standards must be kept at the national level.

In New York these days, with our highest unemployment rate in a decade, and with no real signs of bustling economic development on the horizon, one hears about the "high costs of doing business in the State." What this really means is that it is less costly to do business in other States, and I want to make sure that in every State in the Union, industry will be required to make equal sacrifices in behalf of pollution control. Industries have left New York for other States and even foreign countries, leaving the worker stranded and without a job. National standards and national enforcement ought to remove water pollution control as a factor in the competition among the States for industry.

In conclusion, Mr. Chairman, I want to comment on the matter of the national goal or policy of no pollution by 1985. It seems right and proper to me to seek such a goal. There are tremendous fears abroad in the land over this provision and not a little hysteria. It seems to me that the path to this goal is carefully marked with full considerations of costs. The matter of best available or best practicable technology is and must be tempered by considerations of cost. This point must not be overlooked. It is clearly stated that the age of the equipment and facilities involved is a factor to be considered. The nature of the industrial process employed is to be taken into account. So also are questions of the economic, social, and environmental impact of achieving effluent reduction. The matter of foreign competition is specifically set out as a consideration.

The clean water amendments call for cities, towns, and industries to do the best they can. No more and no less. I support this invitation to participate in the restoration of the waters of the United States.

Mr. ANDERSON of California. Mr. Chairman, as coauthor of H.R. 11896, the Federal Water Pollution Control Act of 1972, I rise in support of this historic bill which is designed to clean up the Nation's waters in this decade.

This bill is not perfect. Seldom, if ever, does a bill of this magnitude meet all of the objections of the various States and the various groups.

However, I do not criticize the committee, simply because I do not agree with every provision in the bill's 414 pages. Rather, I commend the committee, especially Mr. Blatnik, our chairman, Mr. Jones and Mr. Harsha for producing what I believe to be the best water pollution control bill ever introduced in the Congress.

GOALS

The bill, H.R. 11896, establishes a national goal to eliminate the discharge of pollutants into the waters by 1985 and to achieve water quality capable of supporting fish and wildlife and capable for safe water recreation by 1981. In addition, the bill would prohibit the discharge of toxic pollutants in dangerous amounts.

In implementing the bill, the agencies are required to consider all potential impacts relating to land, water, and air to insure that in enhancing the water quality, other significant environmental problems are not created.

However, the stated requirements and goals would not go into effect until further congressional action is taken. Thus, I supported the clean water amendment introduced by Mr. Reuss which would require industry to use the best available technology to eliminate pollutants by 1981. But, in requiring industry to meet this standard, the Administrator is required to consider the cost of pollution control equipment, its effect on prices and foreign competition, and the age of the industrial facility.

The clean water amendment would have allowed the 1981 effluent standards to go into effect without further congressional action and, thus, would have allowed industry to undertake long-range planning and avoid wasteful expenditures. In addition, this amendment would have given industries an added incentive to join with municipalities in regional treatment systems and, therefore, provide economies of scale.

STATE PERMITS

For years, those of us from California have fought to allow the California authorities to establish more stringent pollution control regulations than those established by the Federal Government. In addition, we feel that California can best regulate and control activities in order to meet the local needs and conditions.

The bill before us today allows California to establish a water pollution control program, subject to general Federal guidelines, and it allows the States to regulate the program. If a State is not adequately enforcing the law, then the Environmental Protection Agency would take over the responsibility.

ALLOCATION OF FUNDS

Under the bill, H.R. 11896, Federal funds will be allocated to the various States on the basis of a survey of States' needs conducted by the Environmental Protection Agency in 1970. Using this formula, California would receive $645 million in Federal funds in fiscal year 1973 and 1974.

This level of funding is completely inadequate for California. According to State officials, California would be required to spend $1.42 billion over the next 2 years to clean up the State's waters. Thus, to construct needed treatment facilities, the local taxpayer would be called upon to pay the difference between $645 million and $1.42 billion.

In order to correct this inequitable situation and to base the formula for allocating funds on a more recent study, I have urged the committee to allocate funds according to the 1971 Environmental Protection Agency survey.

Using the most recent 1971 survey, California's share of Federal pollution control funds would be $1.078 billion, instead of the $645 million which would be California's share under the 1970 survey. Thus, under the 1971 survey I have advocated, the local California taxpayers would be called upon to pay $342 million, instead of $775 million.

At this point, I would like to place in the Record the two surveys conducted by the EPA. First, I am including the 1970 survey which will be used as the basis for allocating funds if H.R. 11896, as reported, is enacted into law. Second, I am including the more recent 1971 survey which I believe should be used as the basis for allocating funds.

1970 survey—Estimated cost of construction of municipal sewage treatment works for the period December 1970 through June 1974***

[Million dollars]

Totals	$12,565.2
Alabama	27.0
Alaska	28.1
Arizona	51.0
Arkansas	42.0
California	737.5
Colorado	47.4
Connecticut	229.5
Delaware	62.0
Dist. of Columbia	347.2
Florida	444.2
Georgia	74.0
Hawaii	50.8
Idaho	14.5
Illinois	1,043.6
Indiana	174.8
Iowa	111.9
Kansas	52.7
Kentucky	117.0
Louisiana	132.7
Maine	$157.4
Maryland	349.7
Massachusetts	422.6
Michigan	788.8
Minnesota	295.2
Mississippi	34.1
Missouri	268.2
Montana	31.4
Nebraska	49.0
Nevada	47.2
New Hampshire	137.8
New Jersey	1,308.7
New Mexico	19.6
New York	1,721.0
North Carolina	125.3
North Dakota	8.4
Ohio	733.5
Oklahoma	69.8
Oregon	78.6
Pennsylvania	616.4
Rhode Island	37.7
South Carolina	57.6
South Dakota	13.5
Tennessee	88.9
Texas	398.7
Utah	22.6
Vermont	38.0
Virginia	280.1
Washington	216.3
West Virginia	51.4
Wisconsin	190.8
Wyoming	1.7
Guam	9.7
Puerto Rico	93.0
Virgin Islands	14.6

*Based on 1970 dollars.

**Excluding Storm Water Overflow Facilities.

1971 Survey—Estimated construction cost of sewage treatment facilities planned for the period fiscal year 1972–76

[Million dollars]

Totals	$14,557.2
Alabama	52.7
Alaska	32.8
Arizona	19.6
Arkansas	51.5
California	1,429.7
Colorado	46.1
Connecticut	244.8
Delaware	95.6
Dist. of Columbia	103.6
Florida	528.1

1971 Survey—Estimated construction cost of sewage treatment facilities planned for the period fiscal year 1972–76—Continued

Georgia	141.7
Hawaii	48.1
Idaho	31.7
Illinois	909.9
Indiana	490.1
Iowa	168.3
Kansas	54.5
Kentucky	96.2
Louisiana	137.2
Maine	140.9
Maryland	620.1
Massachusetts	547.2
Michigan	1,162.2
Minnesota	295.9
Mississippi	57.3
Missouri	241.0
Montana	24.3
Nebraska	54.1
Nevada	41.8
New Hampshire	121.0
New Jersey	1,122.0
New Mexico	30.8
New York	1,610.4
North Carolina	134.4
North Dakota	6.8
Ohio	840.9
Oklahoma	67.1
Oregon	123.6
Pennsylvania	789.5
Rhode Island	71.2
South Carolina	94.0
South Dakota	13.9
Tennessee	169.0
Texas	408.4
Utah	20.5
Vermont	32.3
Virginia	$424.9
Washington	129.7
West Virginia	72.8
Wisconsin	253.6
Wyoming	3.9
Guam	12.7
Puerto Rico	128.8
Virginia Island	13.0

I was pleased that the gentleman from Alabama (Mr. JONES) gave his assurance that the Public Works Committee would support the most recent needs formula, if available, when the bill goes to conference with the Senate to iron out the differences in the two versions of water pollution control legislation. I would like to point out that, according to a response I received from the White House regarding the 1971 survey, that "the substance of the report containing the survey of State needs to implement clean water measures has been released" to the Public Works Committee.

At this point, I place in the RECORD the correspondence I received from the White House in response to my request that the formal 1971 EPA study be released to Congress by March 28:

THE WHITE HOUSE,
Washington, D.C., March 25, 1972.

Hon. GLENN M. ANDERSON,
House of Representatives,
Washington, D.C.

DEAR MR. ANDERSON: I wish to acknowledge and thank you for your March 24 telegram to the President asking that the report of the Environmental Protection Agency, "Cost of Clean Water," be released by March 28.

I have been advised that the formal report has not been completed but that it should be available in the not too distant future. However, I have been told that the substance of the report containing the survey of state needs to implement clean water measures has been released to the Interior and Insular Affairs and the Public Works Committees.

With cordial regards,
Sincerely,
MAX L. FRIEDERSDORF,
Special Assistant to the President.

REIMBURSEMENT

For those States and localities which have constructed publicly owned treatment works for which the full Federal contribution has not been received, H.R. 11896 authorizes the Environmental Protection Agency to reimburse those States and localities for a portion of their expenses.

These progressive jurisdictions have acted in a commendable manner to expedite the cleaning of the Nation's waters and they deserve sufficient and timely reimbursement. However, there is a flaw in the bill which does not allow reimbursement to States and localities for projects that they began after June 30, 1971.

Thus, unless this flaw is removed, California would lose at least $23 million because of projects which were begun after June 30, 1971, and, therefore, are not eligible for reimbursement.

STATE RESEARCH PROJECTS

Mr. Chairman, many jurisdictions recently have undertaken studies in order to determine the principle causes of pollution, the effects of discharges, and the cost of implementing new systems.

In southern California, the local agencies have formed and funded the Southern California Coastal Water Research Project Authority to conduct a comprehensive study of the effect of treated waste water on the off-coast marine environment. This study is scheduled to be released in October of this year.

Mr. Chairman, it is my belief that any proposal requiring an expensive change in the current southern California outfall discharge system should be based on the conclusions of the $951,180 study. I would be most disturbed if the Environmental Protection Agency required the city or county of Los Angeles to undertake an expensive project that was not based on the best, most current, scientific data.

CONCLUSION

Mr. Chairman, this is a good bill which deserves our support. It was not hastily conceived, nor was it hastily considered.

I was proud to participate in the forming of this bill and I am proud to support it.

I urge all of my colleagues to vote for the passage of H.R. 11896, the Federal Water Pollution Control Act of 1972.

Mr. MOLLOHAN. Mr. Chairman, the last 5 years have witnessed a rising tide of concern and resentment across this Nation about the continued and alarming rate of the pollution of our rivers, lakes, ground waters, and the poisoning of our environment.

What was once the concern of a few environmentalists, conservation groups and some public officials has now developed into a national movement. And in my opinion, there are no real substantive disagreements on this issue. We are all against water pollution. We all want government and industry to act against it. We may disagree about techniques, about levels of funding, or about time sequences, but our ultimate goal is identical—to use the best technology we have or can develop, to invest an effective amount of public resources over the next 3 years, and to create a close local-State-Federal partnership which will bring us clean rivers, clean lakes, and pure drinking water to support animal and human life and recreate national pride in America as a land of beauty and health.

The excellent bill before us continues a cycle of impressive clean water and antipollution legislation which dates back to 1956, and was expanded in 1961, 1965, and 1970. But H.R. 11896 goes far beyond its predecessors. It launches a massive and comprehensive fight for improved water quality, sets up strict enforceable tough standards with penalties for violations, and backs this up with a $24.6 billion appropriation—$18.350 billion of which would be used over the next 3 years for grants for the construction of local and regional water treatment plans and for upgrading municipal sewer systems.

The bill contains money for research on new control systems. It contains money for rural areas and for regional planning. It provides funds to help small businesses meet the cost of upgrading pollution controls. In short, it touches every vital area of water pollution control.

One of the more attractive features of the measure for me as a representative of a smaller State such as West Virginia which in some areas is heavily industrialized, is that the bill delegates a good deal of authority to the States. Congress can legislate on important national issues. It can allocate large sums of money. But if its programs are not realistic, and if they do not fully involve local governments, then they are merely going to add to the Federal bureaucratic structure without discernible results.

I like the idea of the States having primary responsibility for issuing permits under this bill so that a State can determine whether its own industries or public facilities are meeting the new pollution standards. If we are serious in our effort to strengthen State government; and if we are serious in wanting to decentralize the powers of the Federal Government to pinpoint responsibility and accountability at the grass roots level, then the House measure should be adopted without significant change.

If we want to be realistic and practical in helping industry meet its commitments to reduce, abate, and possibly eliminate pollution of navigable waterways, then we should retain the provision in this bill calling for a 2-year study of the technological, economic, and social consequences of reaching for our 1981 and 1985 pollution-free goals.

Somehow there is a public misconception that the House version of the Water Pollution Control Act is a weak measure which would let polluters—both private and public—off the hook. Nothing could be farther from the truth. H.R. 11896 is not only realistic in its goals, but it is one of the toughest and far-reaching water pollution control measures ever to emerge from a congressional committee.

First, it establishes a strict State-Federal permit system for any private or public source wishing to discharge waste into navigable waters. If the Federal Government does not feel that a State is being stringent enough, the Environmental Protection Agency has the power to step in and enforce standards.

Second, this bill establishes for the first time the concept of the user charge. This will compel an industry or facility using a public water treatment plant to return a certain portion of construction costs by way of a user charge. User fees would be retained by the local body to underwrite a share of the cost and improvement of the public water treatment facility. This is an effective and fair method of properly allocating costs of public water treatment facilities. Simply stated, those who use will have to pay.

Third, the House bill would base the amount of Federal construction grants on the proven and established antipollution needs of a State, rather than on its population. Coming from a State which has a smaller population than most, I believe the "needs" formula would give smaller States a better chance for grants if they can document their needs. This would apply particularly to some highly industrialized areas in West Virginia, for example, which though small in population has a significant water pollution problem because so many private industries and municipal governments discharge wastes into navigable waterways like the Ohio River.

Fourth, the House bill would provide total grants over 3 years in excess of $18 billion for the construction of waste treatment plans. This is three times the $6 billion proposed by the Nixon administration. The House version would also provide as much as 75 percent in Federal construction grants if State governments provided 15 percent toward costs. This could mean that the matching share for a local government pollution project could be as low as 10 percent—if local-State-Federal cooperation became a working reality rather than a stated ideal.

Fifth, there is a strong emphasis in the present bill on assistance to small businesses to help them meet the increased costs of pollution control without going bankrupt. There is also a call for the establishment of a new Environmental Financing Authority which help local communities borrow their matching share of local capital funds at greatly reduced interest rates. Such an Authority is long overdue and would serve as a vital shot-in-the-arm for many local governments which have tremendous water pollution problems but may have reached the limits of their borrowing capacity.

Sixth, this bill would continue current law which provides funds for pilot projects in the area of acid mine drainage pollution control, and for mining States like West Virginia, this is a provision I am happy to see retained in the law.

Finally, there has been a great deal of controversy raised over one provision—section 315—which would authorize the National Academy of Science and Engineering to undertake a 2-year evaluation of the technological ability and social and economic effects of pollution-free goals set for 1981 and 1985. I believe the provision is fair and realistic. We do not know the costs involved in moving toward zero pollution by a certain date. We really do not know all the implications of what is involved in getting there. The committee in its own report said:

> The differential in the cost of 100% elimination of pollutants as compared to the cost of removal of 97–99% of pollutants in an effluent, can far exceed any reasonable benefits to be received.

For example, cost estimate figures supplied by the Environmental Protection Agency indicate the following cost-benefit ratio:

Municipal costs—capital and operating—to reach 95 to 99 percent pollution reduction would be about $54.9 billion. Municipal costs to reach 100 percent pollution control would be almost three times as much: $141.8 billion.

Industrial costs—operating and capital—to reach 95 to 99 percent reduction would be about $63.9 billion. The costs for zero pollution by industry would be about $174.7 billion, or three times as much.

No bill is perfect. Certainly a water pollution control measure as comprehensive as this one will have some defects. But I would remind you that over a 7-month period, the House Public Works Committee held 38 days of hearings, listened to 294 witnesses, and received 135 additional statements for the record. It seems to me that we have a good bill which strikes at the heart of the water pollution problem. I urge the House to adopt it without significantly altering its thrust, its proposed appropriation, or its basic language. When it becomes law, it will form part of a record of achievement which we can carry proudly to all the people.

Mr. WILLIAM D. FORD. Mr. Chairman, not all of us have been directly affected by plant closures in our own districts. It is difficult to say how we would respond if we were. One Member, Mr. Meeds, of Washington, has had this happen. His response has been to work with me and cosponsor the amendment we passed today providing a hearing when pollution control is blamed for closure. Additionally, he has written and sent to his constituency a newsletter which "tells it straight." Mr. Chairman, I commend Mr. Meeds on his position and insert at this point the text of his newsletter:

Your Congressman—Lloyd Meeds Reports to the People

"If we could first determine where we are, and whither we are tending, we could better judge what to do, and how to do it."—Abraham Lincoln, 1858.

THE RIGHT ROAD TO RECOVERY

President Lincoln's "House divided" speech quoted above applies to Snohomish County today. Our economy has gone from prosperous to pitiful. Now comes the searing shock of the Everett pulp mill closures. People are lashing out at the pollution control regulations. They are aiming at the wrong target. Efforts to promote economic recovery can't succeed until we face reality.

Prior to delivery, Lincoln showed his "House divided" speech to his advisors. They told him not to give it. Fortunately for our country, he rejected their advice. I have pondered this newsletter for many weeks and have been advised by my older colleagues in the House not to write it. "Never take on such an emotion-charged issue", they counseled.

But getting people back to work is our most important priority. We cannot move ahead by pretending reality doesn't exist. People have been misled. You placed your confidence in me and now I must return it, regardless of political consequences. I intend to give you the facts and help point the way to positive actions our community can take to get on the road to economic recovery. Using Lincoln's common sense formula, let us proceed:

BAD NEWS IN MILL TOWN

Where We Are: Three hundred and thirty people, many of whom I know personally, will lose their jobs at the Weyerhaeuser sulphite mill in Everett. Already crippled by the Boeing layoffs, the Snohomish County economy was jolted by the pending loss of 330 Weyerhaeuser jobs, 750 jobs at Simpson-Lee, and 100 jobs at Scott Paper.

Scott said that it was laying off men due to a surplus in certain kinds of pulp. The Simpson-Lee mill was built in 1892 and was losing $100,000 a year, according to plant manager Ken Perkins. Its fate was sealed in late 1971 when the company bought a larger, more modern mill from Kimberly-Clark in Anderson, California.

Weyerhaeuser, on the other hand, blamed the pending death of Mill A solely on pollution control requirements. "Strictly an environmental closure," said Mr. George Weyerhaeuser on January 14. They said it would cost $52 million to build a new mill or $10 million to install a recovery process to meet environmental standards.

Whither we are tending: Shock and disbelief spread rapidly. "Just change the pollution laws and Weyerhaeuser will stay open," people said. But that would require changing the pollution control efforts of the entire United States. Weyerhaeuser was asked only to meet standards required of every pulp mill in the nation. To make an exception for Weyerhaeuser would be unfair to all the companies that are meeting cleanup schedules.

As John Biggs, director of the State Ecology Department, said, "The environmental laws in the State of Washington are no harsher nor less harsh than any other state. They are literally the same laws as any other state."

Attacks on these uniform standards are aimed at the wrong target and serve no useful purpose. This sort of windmill-tilting distracts our energies from working on economic recovery. In our anxiety we could make Washington State a Shangri-la for polluters. This must not happen.

What to do: We must correct the misleading notion that our economy can recover or survive only if we go easy on polluters. To do that, we must understand the truth behind the Weyerhaeuser closure. Our best long-range interest lies in attracting industry and payrolls. But it must be industry that respects pollution control and is willing to be an environmental good citizen.

How to do it: With leadership and imagination our community can cushion the immediate shock of lost jobs and work toward long-range prosperity. Together with Senators Warren G. Magnuson and Henry M. Jackson, Everett Mayor Bob Anderson, labor leaders, and the Snohomish County Economic Development Council, I am helping sponsor an Economic Recovery Conference aimed at self-help.

But this conference cannot succeed if we continue to delude ourselves that our salvation lies in softening our pollution control laws. To understand why, it is necessary to understand the regulations themselves, what they seek to prevent and why Weyerhaeuser is really closing Mill A. Here are the facts:

The Regulations and why: The Water Quality Act of 1965 required states to devise and enforce clean water standards. Washington State's regulations were approved by the Federal government in 1968. The state uses a water discharge permit system to enforce the standards.

Mill A and the Scott mill discharge a fluid known as sulphite waste liquor. According to a 473-page report released in 1967 at a Federal-State Enforcement Conference, . . . "the prevailing water quality of Everett harbor, the lower reach of the Snohomish River, and the surface waters of the broad reaches of the study area has been found to be injurious, or less than satisfactory for many marine forms . . . such damages derive almost wholly from the weak pulping wastes discharged by the Scott and Weyerhaeuser mills." State official Jerry Harper puts it more graphically: "The beaches within two miles of the Everett mills are completely void of any clam population."

The waste liquor kills in two ways. First, it is highly toxic to shellfish, oyster larvae, and small salmon. Second, it 'feeds' the water and produces bacteria which consume oxygen needed by marine life. This latter pollution is called BOD—biochemical oxygen demand. An official of the U.S. Environmental Protection Agency estimates that the BOD level of Port Gardner Bay is equal to that from the wastes of 5 to 6 million human beings. Each day the two mills dump 19,631 tons of waste liquor into the water.

Earlier this year, Mr. Weyerhaeuser said, "We stand by our statement that water studies have proved and will continue to prove that the closure was needless from an environmental standpoint." The company seems to have done quite a bit of research to alleviate effects of this "harmless" discharge.

Mr. Oliver Morgan, Technical Director of the Weyerhaeuser mill in Springfield, Oregon, wrote an article for Pulp and Paper magazine about the company's efforts at Kamloops, B.C. Said Mr. Morgan: "The primary purpose of the treatment facilities at Kamloops is to protect salmon during the fresh water periods of their life by removing possible toxicity from the effluent. Removal of 60% of the BOD was found to render the effluent non-toxic to salmon. . ."

Weyerhaeuser said that the regulations would force Mill A to burn waste material and "add to Everett's air pollution load". But ample technology exists to combat pulp mill air pollution. The most common devices are called 'mechanical dust collectors', 'scrubbers', and 'electrostatic precipitators.' Weyerhaeuser pioneered by developing the 'vaporsphere', 'black liquid oxidation', and the magnesium oxide pulping process.

The Weyerhaeuser mill in New Bern, North Carolina, eliminates 99.6% of the air pollution particles. At Valliant, Oklahoma, the company's new plant emits about as much pollution as a large apartment house with a coal furnace. It is rated 99.7% effective.

Crown Zellerbach in Port Townsend spent $14 million on a new Combustion Engineering recovery boiler that virtually eliminates the smoke and "rotten egg" smell of a kraft mill. The mill's emissions are now less than the state regulations require. Air pollution will be reduced under standards of the Clean Air Act of 1970.

The Weyerhaeuser sulphite mill in Everett was built in 1936. It is obsolete because of its pulping process and other factors. Sulphite is a dying technology. Compared to the kraft process, it is high cost, low yield. Mill A is one of the least efficient sulphite mills because it uses the calcium base to cook the pulp. This costly method does not permit recovery of the cooking chemicals. Many sulphite mills, including Scott in Everett, have converted to the newer and much more efficient ammonia or magnesium methods.

The Council on Economic Priorities, a private research group, did a massive, eight-month study in 1970 on pulp and paper pollution. The study said that:

"Everett is the only one of the company's three sulphite mills still using the non-recoverable calcium process . . . Weyerhaeuser has taken no visible pollution control activity and will probably close it rather than convert to magnesium . . . The lack of any investment at this plant indicates that Weyerhaeuser has long planned this action."

"UNITS" MUST BE PRODUCTIVE

"The basic problem which we—all of us—face, is the national productivity crisis . . . Neither industry nor government has paid enough attention to the technological innovation essential to increasing productivity per unit of labor."—George H. Weyerhaeuser quoted in Jan. '72 issue of Pulp and Paper.

Weyerhaeuser Pulp Mill (date built):

Everett Sulphite (1936) 330 employees, daily production 300 tons.

Grays Harbor (1957) 250 employees, daily production 400 tons.

New Bern, N.C. (1969) 440 employees, daily production 800 tons.

Valliant, Okla. (1972) 450* employees, daily production 1,600 tons.

WHICH STORY TELLS IT STRAIGHT

During a strike against Weyerhaeuser last summer, the company placed an ad in the Seattle P-1. Among other things that ad said,

"Those familiar with the Everett mill know that it exists principally because of one major pulp contract with a large eastern customer (65% of the total Everett sulphite production goes to this customer.) One more day of closure would jeopardize that business. Its loss could mean that the mill would move into an even more marginal position than it already is in. Conceivably, its closure."

"Even more marginal." But on January 14, 1972, six short months later, we were told by Weyerhaeuser that:

"The closure of our Everett sulphite mill, which has and continues to contribute a significant amount to our annual operating profit, is strictly an environmental closure, it is, in fact, the mill that we would be least likely to close if economics were the reason."

It is difficult to understand how so "marginal" a plant can become so "significant" a profit-maker in six short months—especially after losing its "exclusive contract" with duPont.

Perhaps Mr. Weyerhaeuser was referring to Mill A when he told the stockholders on April 15, 1971: "But the pressure which environmentalism has brought about has had one salutary effect which outweighs all of the occasional exercises in irrationality. It has forced industry to face up to the obsolescence of some of its technology and many of its mills. . . . we will have several closures. . . . The mills which will be forced to close are almost without exception not only poor environmental performers, but the least productive of our mills."

Weyerhaeuser said it would cost $10 million to clean up Mill A. Scott's program in Everett may cost $60 million. But let's consider the tax laws. All plant equipment can be depreciated against the company's federal taxes. It can be written off. For pollution control equipment, section 704 of the Tax Reform Act of 1969 allows much faster depreciation. That's not all. Congress has just voted to let industry subtract 7½ percent of the cost of new equipment from federal corporate taxes. Pollution abatements devices are exempt from the Washington State sales tax and can be depreciated over 25 years against our business and occupation tax.

THE BILLION-DOLLAR DECISION

In 1968 Weyerhaeuser had a 75% increase in net profits over 1967. A year later the company announced that it was going to spend $1 billion on new production capacity. The expansion involves ten new facilities in the south, plus six more on the East Coast, Canada, Oregon, and overseas. Unfortunately the Weyerhaeuser expansion came at a time when the recission was beginning. Cost cutting became very important.

Mill A in Everett makes a special "dissolving" pulp. It is used to make products such as rayon, cellophane, film, and acetate yarn. The market for dissolving pulp is mainly on the East Coast. Weyerhaeuser has contracts with DuPont and Olin.

Closer to these markets is the new mill in New Bern, North Carolina. It is a computerized mill that produces a wide range of products, including dissolving pulp. My office spoke with a New Bern employee who can't be identified for obvious reasons. He revealed that he had seen the company's records and that it cost millions of dollars every year to ship the pulp from Everett to the East Coast. "Weyerhaeuser started hiring men in 1969," he explained. "They told a lot of the guys that the old Everett sulphite mill was to be phased out and replaced with our plant here." The New Bern mill turned out its first batch of dissolving pulp on February 15, 1972, about a month after the company announced it was closing the Everett mill.

Pollution controls which will meet at least the standards required in Everett cost $6 million at New Bern. Question: Why spend $10 million to keep Mill A in Everett going when it is further from the markets and much less efficient?

LABOR LAWS ARE HELPFUL

Like textiles and steel, the pulp and paper industry is moving south. One advantage is faster timber growth. Ten of Weyerhaeuser's new facilities are in the Southern or border states. Section 14(b) of the Taft-Hartley Act allows state option on the union shop. Eighteen states, including North Carolina, have barred the union shop with these "right to work" laws.

According to the U.S. Department of Labor, the average weekly wage in the lumber and forest products industry in Washington State in December of 1971 was $168.66. For the same period, North Carolina averaged $98.70.

Importantly, Section 13(A) (13) of the Federal Wage and Hour Act says that a logging crew or any forestry operation with fewer than 8 persons does not have to pay overtime over the federal minimum wage of $1.60 an hour.

Testimony on this law was given by sworn affidavits in 1965 from several loggers. Mr. James Roberts of McClain, Mississippi said that he worked 60 hours a week and got $35. Wilson Gulby of Warren, Arkansas, said that he worked 60 hours and earned $30. In 1972, James Simpson, a pulpwood cutter from Mississippi, said he formed a labor union after the lumber companies refused to pay the minimum wage or provide Social Security and workmen's compensation.

Don't lose perspective: Is the pending death of Mill A "strictly an environmental closure"? No. We have seen other factors. Now let's ask ourselves a simple question: If the pollution regulations are so unreasonable and unnecessary, then why are the other pulp mills in the United States on schedule in meeting them? They are the minimum standards required of any pulp mill in this country.

The inherent danger of the Weyerhaeuser

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*Estimate given by plant's Personnel Supervisor for when the Valliant mill reaches full production in April or May.

ploy is obvious. The pulp mill closures could become Exhibit A in industry's fight against pollution rules. "Don't let Everett happen again," they would tell us. We might then forsake efforts toward a cleaner place to live. To industry we would plead, "Do what you want. Just stay."

The main goal of the Weyerhaeuser Board of Directors is to maximize profits. That makes it easier to understand why they decided to close the Everett sulphite mill. It was a hard business decision based on economics. Sure, environmental controls played a part, but a small part, and a part necessary to run any pulp mill in America.

TO FIND OUR FUTURE

You don't find your way out of the forest by sitting down and bawling. One pulp mill nearing death is not going to be revived by changing pollution control laws. Abandoning these regulations would injure our water quality and be unfair to the vast majority of Pacific Northwest pulp mills that are cleaning up. Nor is one pulp mill the only employer in Snohomish County. The county's quarter-million residents work at a host of pursuits.

Economic recovery depends on the spirit of the people. Other communities have been shell-shocked but have come back. We've been bitter before too, but being negative never brought in a new payroll. That's why we have to count our blessings, not our miseries. Let's stop staring hopelessly at the ground and start looking ahead. We must follow new paths toward economic development. We need a new, positive view of the future. We need hard work, ingenuity and above all, staying power.

We can be more optimistic about the economy. We were badly hurt by the Administration's tight money, high interest rates policy, coupled with its "hands-off" posture toward inflationary increases by business and labor. Now the President has reversed his economic policies. Price stability is returning, and interest rates are lower. Washington State's lumber and plywood business is in better shape. Nationally, the unemployment rate is dropping.

In surveying our assets we see first the people of Snohomish County. We have one of the best educated populations anywhere in the United States. We have good schools, a fine place to live, ample land, and very useful transportation resources.

Senator Magnuson, Senator Jackson and I have worked to clear away red tape blocking local development of the now surplus Paine Field complex. The final obstacles are nearly conquered. Paine Field offers superb possibilities as an industrial park as well as a site for education and recreation. The federal government could help local officials implement a comprehensive plan they draw up for the site.

Don't underestimate the job-creating possibilities of Puget Sound shipping and the Port of Everett. Today's vessels increasingly require deep water ports like Port Gardener Bay. Already the Port has constructed an aluminum-loading facility. Other plans in progress will create additional jobs. Firms throughout the county will benefit. Then there's China and the Far East. Not only are the markets of Japan growing rapidly, but President Nixon's China trip may bring increased trade with Peking.

The Air Force intends to update its aerial command posts. Boeing wants to sell its new EC-747, and the Washington State Congressional delegation is working to secure the necessary funds. Another Air Force project for the future, AWACS, could mean 40 to 100 Boeing planes.

A door manufacturer in Everett announced recently that it was expanding by 300 new jobs. A mining firm interested in a site near Sultan may create 800 environmentally sound jobs.

ALASKA MEANS JOBS

Unemployment is the cruelest environment. It saps a person's vitality, corrodes his pride, takes food from his kids. Like massive physical pollution, it degrades and injuries. "Environment" means the whole of man's surroundings: his job, his health, his neighborhood, the air, land and water he uses.

Building the proposed Trans-Alaska Pipeline system can create at least 6,000 jobs in the Puget Sound region by 1980, not counting jobs in existing and future oil refineries.

Just as Weyerhaeuser's decision to close Mill A brought an unwise reaction against pollution control, so has the prospect of Alaskan oil brought an over-reaction against industry. Like the people who would scrap pollution regulations to save jobs, the extreme environmentalists are also negative. They are unrealistic. They would like to kill the pipeline and "keep oil tankers out of Puget Sound."

Some of these extremists would ignore the economy and turn the United States into a museum. Senator Jackson had it right when he said: "Any fool can bring about clean air by shutting down the economy and going fishing. It's fine for the people who have it made to say that we won't have any more economic growth."

The Alaskan oil is coming out. Period. We will have to live with it, just as the pulp companies must accept clean up schedules. Steps are being taken to make oil more compatible with our physical environment. As required by the Environmental Policy Act of 1969, the government has written step-by-step regulations to accompany the building of the pipeline. A 1970 law makes oil companies liable for any petroleum they spill. New legislation that I have sponsored will give the Coast Guard vast new powers to regulate shipping.

MOVING TOWARD RECOVERY

Our Economic Recovery Conference will be held soon. The idea is to help the county help itself. Local leadership is the only path to recovery.

The conference has three objectives: (1) cushion the shock of unemployment, (2) create jobs now and (3) take long range actions to attract clean, diversified industry. To be frank, not all Snohomish County officials and business leaders have been aggressive in seeking new industry. Up in Bellingham, for example, a community team went out and looked for companies. Result many new jobs.

We're going to bring in a federal team of experts to advise on how to bid for government contracts. High-jobless areas get certain preferences. Above all, the team's purpose is to spark local leaders into action with constructive suggestions.

Because of the budget deficit and other factors, federal governmental help is limited. The Emergency Employment Act has already created 6,416 direct jobs in the state. I helped write this law and am trying to expand the program and improve its administration. Congress may also pass an Economic Disaster Relief Act providing a wide variety of limited aid, including unemployment compensation and mortgage assistance.

Public works projects, business development loans, job training assistance, and ship construction are just a few of the aids available. But they can't be had until the community works for them and for itself.

In the short run, we can explore debt counseling and mortgage payment waivers for the unemployed, expand knowledge of veteran's benefits and Social Security, start job retraining, and complete the county's water and sewer plan.

Our local economy hummed along for a long time without much effort on our part. But now we're suffering. And while we're hurting, we aren't trying hard enough to get moving again. We're wasting time condemning pollution control laws when we should be seeking out new industry to replace the Simpson-Lee and Weyerhaeuser mills. There's no point in trying to put toothpaste back into the tube.

I grew up in Snohomish County. I know the potential of our county and its government, business and labor leaders. We've got to seize the initiative now, and develop possibilities into realities. The Economic Recovery Conference will seek clean jobs. We can have clean jobs. But we won't get anything but trouble by sitting around and whining. Lethargy is the enemy of progress. Working together today can bring a better tomorrow.

BUT WE'VE ALWAYS RECOVERED

"The Panic of 1893, which was a panic of lost confidence, crumbled cities like Everett for which confidence was the only adhesive in the foundation of comunity life . . . In December, 1921, mass meetings were again held in Everett, but there were no questions of unions or militancy, of villains or moderation, of peace or conflict. With quiet voices men talked of how they might feed hungry children as the face of winter grew dark and cold."—Norman H. Clark, *Mill Town*.

JOBS GONE, JOBS GAINED

"Edward Hartley also found that his grandfather, as he extracted every dollar of profit the system would yield, had worked the machines beyond obsolescence and to the brink of ruin . . . He then dutifully supervised the junking of the saws, belts, and engines that had once kept the skies dark with smoke and cinders, and he sold the land to the Scott Paper Company, which soon commanded the waterfront with the largest sulphite pulp mill in the world. Closing out the past, Edward Hartley turned away from what was done and finished to find a new and and uncertain future."—Norman H. Clark, *Mill Town*.

Mr. ROBISON of New York. Mr. Chairman, as we approach the moment of decision on this historic bill—the Federal Water Pollution Control Act Amendments of 1972—I am inescapably reminded of Abraham Lincoln's story of the weary nighttime traveler, stumbling on horseback through a thunderstorm-torn woods, who prayed:

> Oh, Lord, if it's all the same to you, send us a little more light and a little less noise!

There has been a great deal of noise here, Mr. Chairman—and precious little light—as we sought, those of us who had not worked on this bill in its formative stages, to ascertain who was right and who was wrong in the debate that raged around us.

But, one thing is crystal clear. This is an historic measure—at the very least—insofar as environmental legislation is concerned. It is a complex and confusing measure as well, presenting us as it does with a bill in the form of a committee amendment that is, itself, 216 pages long, and is accompanied by a 425-page report written in some of the most technical language I have ever seen. Talk of "Philadelphia lawyers" as you might—however that figure of speech developed—but here the conscientious legislator faced a situation, truly, where all the lawyers in Philadelphia might be of little help to him.

In such a situation, the simplest thing to do—the obvious political decision to make—would have been to go with the environmentalists, to vote for that clean water package of amendments in support of which my office is presently being inundated by a floodtide of letters, postcards, and telegrams. Those letters, cards, and telegrams come from members of a temporary coalition of at least some 25 environmentalist organizations, labor unions—or the leaders thereof—and consumer and public-interest groups, and basically they all say the same thing: "Give us the 'strong' Senate water-pollution bill, and not the 'weak' House version thereof."

Is the House bill, as now finally before us, a weak water-pollution bill?

Surely, it is not—and most certainly not if it were here standing on its own merits.

If that were more clearly the case—by which I mean, if this House bill had emerged before its Senate counterpart—I have no doubt but that its present critics among the organized environmentalists would be singing its praises and would, quite literally, be enraptured over its scope and reach.

Why?

Well, the reasons why have been enumerated, over and over again by members of the committee and others, both on Monday and on yesterday and today. At the risk of being redundant, let me just briefly enumerate, again, some of those major reasons.

First—and, perhaps, foremost—this bill would shift the principal means of water pollution control from water-quality standards, the measuring tool we have used thus far, to effluent limitations. Water quality standards, as already determined, would remain—to be used in tandem with the shift toward the new emphasis on effluent limitations on point discharges—but the stronger measurement in this dual approach would prevail. By contrast, the Senate bill would have us go at once to point discharge limitations, abandoning water quality standards altogether—and the unknowns, and the inevitable delays that would accompany those unknowns in such a precipitate reversal of course, would clearly seem to make this an impractical, if not unworkable, ambition. In that sense, then, the House bill, one can argue, is "stronger."

Like the Senate bill, this House measure sets up certain new national antipollution goals—although in the Senate version these are referred to as representing new, national policies. The difference would seem to be largely semantical, but it may be of some value to here restate the nature, as I understand them, of these national goals as set forth in the House bill. First, from the water quality standpoint, by 1981 an interim water quality goal must be achieved which results in water suitable for recreational purposes and the propagation of marine life in all navigable waters. Second, by 1985 all discharges of pollutants into navigable waters must be eliminated—zero discharge, in effect. These goals are, as in the Senate bill, made applicable both to industry, or industrial point sources, as well as to publicly-owned treatment works. It would be well to remember, in this connection, that we are still speaking of water quality goals.

Now, then, to achieve these goals, the House bill sets forth—in its section 301 and following—a schedule of effluent limitations for both industrial point sources of pollution and for public treatment works, which can be summarized as follows: For industry, by January 1, 1976, all industrial discharges must be subjected to the "best practicable control technology," which means, as explained in the committee report, control at the point of discharge rather than at some prior point in the industrial process, whatever it might be, thus bearing in mind the totality of the point source and the plant processes behind that source. However, by January 1, 1981—just a decade hence—industry must achieve that zero-discharge goal, unless, that is, compliance cannot be achieved at a "reasonable cost," a term that requires some definition and, one hopes, some application of commonsense. In this latter event, however, industrial discharges must still be subjected, by January 1, 1981, to the "best available demonstrated control technology"—with the word "demonstrated" being a key one in this regard.

Finally, for public treatment works, this bill's timetable calls for all such to achieve secondary treatment levels, as defined by EPA regulation, by January 1, 1976, and, as a further interim goal, to apply the "best practical waste treatment technology" by January 1, 1981.

For both private industry and public facilities, EPA has—under this bill—the authority to further revise effluent limitations when this is seen as necessary to meet those 1981 and 1985 water quality goals of recreational quality and, then, zero-discharge, respectively. However, and here comes one major point of departure from the Senate bill, those 1981 and 1985 water quality goals, as well as the effluent limitations necessary to meet those goals, must first be evaluated through a $15 million study to be conducted by the National Academy of Sciences and the National Academy of Engineers—thus bringing together the best technological and scientific brains in the Nation—which will focus on the economic, social and environmental effects of achieving, or not achieving, the 1981 and 1985 goals.

I believe this study to be essential. I still say that after carefully evaluating the arguments advanced by the organized environmentalists to the effect that the time to finally set those 1981 and 1985 goals is now, and that any national commitment to clean water is meaningless if it has to be reconsidered, and voted on again 2 years hence, after such a study has been completed.

I say this for a variety of reasons, foremost among which is the patent fact that we simply do not know that the 1985 goal of zero-discharge is an attainable one at a price this Nation, and its citizens, can bear. Senator MUSKIE, the principal sponsor of this bill's counterpart in the other body, admitted as much during the Senate debate thereon when he said:

> The 1985 target has not been related to costs. The bill (the Senate's) does provide for water quality inventories which by the mid-seventies are designed to give us some hard estimates as to the cost of achieving no pollution discharge by 1985. When we have that information, then it would be for Congress to decide whether achieving no discharge by 1985 is within the ability of the American people to absorb the cost.

Mr. Chairman, the organized environmentalists are most sincere—I am sure—in advancing their argument for action, now. And, yet, we who have been here a period of years, can remember any number of "strong" bills that were passed by Congress only to prove to achieve results that fell far short of the original goals thereof. I think we need to know—especially since the cost of achieving zero-discharge increases, expotentially, the closer one gets thereto—whether we ought to strive for that Icarian goal, or not. Put another way, what I am saying is that we may find—and possibly will find—that the difference in the cost of 100 percent elimination of pollutants, as compared to the cost of removal of 97 to 99 percent of the pollutants in an affluent, can far exceed any reasonable benefit to mankind achievable therefrom.

Thus, I have voted to retain the contemplated study as a necessary—and desirable—bulwark through which to strengthen the eventual, and final, national policy decision with respect to the zero-discharge goal. This vote may well bring me a black-mark in future voting-indices as compiled and issued by environmental organizations. But I would say to them, now, that unless we know where we are going, and how we can get there, in this regard, the necessary base of public support for carrying us successfully through to the end of that journey will have to remain more or less suspect. In support of that conclusion, I quote these words from Sunday's edition of the Washington Star, which noted:

> The Senate, with its bill, has raised the Nation's environmental aspirations. The House version, though, because it does not sacrifice wisdom for simplicity, represents better government.

And, finally on this point, I would also say to my organized environmentalist friends who presently seem to worry about their political clout with whoever may be representing them in Congress 2 years hence, that the probabilities are—as all of us lift gradually our level of consciousness about environmental degradation—that future Congresses, reflecting public attitudes as they inevitably will, will be even more responsive to the need for clean water and purer air than is now the case, especially if this Congress can bring the people along with them as we advance toward our common goals.

Now, Mr. Chairman, before proceeding onward to touch upon the highlights of the bill before us, let me comment on that other item in the so-called package of Clean Water Amendments, concerning which I am receiving so much mail, which also represents a major point of departure between the thrust of this bill and its Senate counterpart. Here, I refer to that amendment which would—in effect—bring this bill in line with its Senate counterpart insofar as Federal versus State enforcement of the expanded water pollution control program we contemplate is concerned.

The organized environmentalists exhibit, in this instance, both a suspicion and a disdain for the real progress made, and the expertise gained, by the vast majority of our States in what has been, up to now, a Federal-State partnership in the fight against water pollution. The Senate bill reflects that suspicion and disdain and, by and large, would junk that progress and expertise in favor of letting the Federal Government, through the Environmental Protection Agency, take over the whole burden of administrative and enforcement procedures in the water pollution field.

Now, as the gentleman from Minnesota (Mr. BLATNIK), whose environmental concern has never previously been questioned and who has been a real leader in fashioning prior water pollution legislation, has pointed out to all of us, a careful reading of the House bill shows that it assigns overriding authority to the Federal Government and direct administrative responsibilities to the States only when, and as, the individual States demonstrate their ability and reliability to live up to that responsibility. As he has further pointed out, EPA is empowered, under the House bill, to take complete control of any State program whenever and wherever that State fails to discharge its assigned responsibility. He further argues that the House bill thus "retains the wealth of organization, expertise and experience that the individual States have built up over the years—while—proponents of a complete takeover by the Washington bureaucracy would consign that wealth to the scrapheap."

Mr. Chairman, these are convincing words. The States have not—certainly not yet, at least—supplied us with sufficient evidence of need to now terminate the existing Federal-State partnership in this overall effort. The organized environmentalists argue, nevertheless, that it is essential for EPA to retain—evidently in case this picture changes—the right to veto any State-issued discharge permit, apparently as a safeguard against political intimidation by polluters against State or local authorities, as well as to insure uniform water quality standards across the Nation so that those same polluters cannot escalate that intimidation through threats to move to a State where pollution might still be allowed. But these arguments miss the point that it is EPA, under the House bill, which will set, in the first instance, the uniform, national standards by way of guidelines—with which all State programs will have to comply. And they seem to miss the further point, as well, that it would be an administrative nightmare if EPA had to examine each and every State discharge permit against the need for a veto—as well as the further point that, if any State's pattern and practice of permit issuance began to clearly deviate from those uniform guidelines, then EPA could recapture the enforcement initiative therein.

Thus, at the risk of incurring another of those black marks on future environmental voting indices, I have also voted against that amendment which would—as Mr. BLATNIK suggested, consign the existing Federal-State partnership in the water pollution fight to the "scrapheap."

I have also voted—as the record will show—for the amendment offered by the gentleman from Texas (Mr. MAHON), today, which would have struck out the 3-year contract authority as made applicable for the $18 billion construction-grant program set up under the House bill, and substitute therefor what is known as the 1-year advance funding process. If this amendment had carried, appropriations would have had to be made to fund the new, and much higher, level of authorization for the familiar program of Federal dollars toward the cost of sewage treatment facilities. This would permit—in a way the contract authority route does not—congressional oversight, on an annual basis, of this portion of the expanding program, and permit it, also, on the basis of appropriations being made a year in advance of the normal, annual funding procedures so that local and State authorities could plan their programs with more assurance than has in the past been the case.

The arguments against the Mahon amendment, predictably, centered around the failure of the Congress to have adequately funded the waste treatment program in past years—or to have funded it at levels substantially below the authorization. Admittedly, our early track record in this regard left something to be desired and, as a result, abatement progress was delayed. However, in large part this was due to the failure of prior administrations to give this program the priority it deserved in their budgetary requests—and it was not until the advent of the Nixon administration that this program, with congressional concurrence, began to be fully funded.

I believe the Appropriations Committee—on which I am privileged to serve—recognizes, now, the priority of these, and other, environmental programs. But, even in saying that, I also believe our committee has a balancing role to play in seeing to it that this Nation does not, inadvertently, overbalance its overall effort toward a better environment in favor of clean water, let us say, as opposed to clean air, or to solid waste programs, or whatever. With some 71 percent of the 1973 spending budget already falling into that category regarded as relatively uncontrollable, we opt for contract authority as the funding method for new programs only—and let me emphasize this—only at the expense of many other existing programs, be they in the field of education, of health, or whatever. We do, that is, unless we are ready, here in this or the next Congress, to give serious consideration to the need of additional Federal revenues—a portion of which might come, however grudgingly, through closing some of those currently well-publicized tax "loopholes," but with the major portion having to come, assuredly, through higher levels of Federal taxation overall.

In the euphoric mood that is so evident, here today, as we prepare to give our approval to this bill—whose price tag, over the next 3 years, adds up to a grand total of $24.6 billion, thus making it probably the largest nondefense authorization in the history of Congress—it may seem out of place to ask that we reserve to ourselves, through the Mahon amendment, the right to retain some control over the expenditure of that large sum, as well as to ask, generally, how this Nation is going to pay for both this and such other new programs in other areas of concern as may now be pending before us. But, Mr. Chairman, I do so ask—and I am concerned.

Now, in brief, permit me to touch upon a few other highlights embodied in this measure, for which I intend to vote.

As others have noted, the bill contemplates a large increase in spending for essential research into new technologies in the field of waste disposal, for area-wide treatment management, and for comprehensive river basin planning. All of these are programs falling within the jurisdiction—at least in part—of the Public Works Subcommittee of the Appropriations Committee, on which I serve, and I view them all as essential tools in our abatement program. Included herein is a specific authorization of $450 million to both EPA and the Corps of Engineers to carry forward the pilot programs in waste-water management which the corps, chiefly, has so far advanced. One of those pilot programs of the corps is being completed at the present time for Codorus Creek in the York, Pa., area. Its authority stems from a section in the Flood Control Act of 1970, relating to the Susquehanna River—with the wording of which section I had something to do. If we are serious about the concept of zero discharge, it is on the basis of such studies that we can hope to attain such a goal. I am excited—as is the corps—about the tentative results of the Codorus Creek study and plan for action and, without being able to be more specific about it now, am hopeful of seeing the same concept applied on one of the upper reaches of the Susquehanna in the near future.

Next, there is also contained in this bill, though subject to future appropriations, the long-awaited resolution of that plaguing question of reimbursement—with an authorization, separate from the expanded grant program, of $2.75 billion to repay those States, like New York, which have prefinanced, in recent years, Federal grant moneys as anticipated but delayed under the old construction-grant program. It is time, Mr. Chairman, that this moral indebtedness on the part of the Federal Government toward such States, and the communities therein, was thus recognized.

A portion of those reimbursement moneys, as the same are made available, will go to the local communities that have moved ahead on their own in this essential job of cleaning up our water resources, and will help to relieve them, and their citizens, of some of the load of indebtedness they have thus been carrying. The balance of such moneys will go to the States which, with their own funds, have supplemented that local investment and, presumably, can be applied to new and badly needed projects.

Considering the further fact that, for the first time, this bill will make grant moneys also available for sewage-collection systems—as well as to treatment plants—and likewise establish the basic Federal share of the cost of such combined projects at 60 percent of the total, and on up to 75 percent if a State will pay as much as 15 percent of the overall cost, this bill should engender a great spurt of forward progress toward getting this essential job of ending water pollution done, and enabling us to meet at least the 1981 water quality goal we have now set for ourselves.

I could go on, Mr. Chairman, for there is much more that could be said—but my point is made. A "weak" bill? Far from it. An historic bill, instead, as I said at the beginning, as well as a carefully considered and balanced measure with far more to recommend it than its Senate counterpart—and I am pleased to give it my support.

Mr. DICKINSON. Mr. Chairman, I rise in support of H.R. 11896 as reported by the House Committee on Public Works. I do not believe anyone in this House or in this Nation will rebut the urgent need for legislation to clean up our waters. However, I will oppose the views of those who want to pass legislation which goes beyond the knowledge we have of the pollution problem and the cost of taking care of that problem.

It is easy to lay blame at the feet of our industries for the terrible state we find our waters in, but we must remember that we have all shared in the advantages our industries have afforded us, and now we must all share in the effort and cost of undoing the wrong. Therefore, I believe it would be unjust to blithely order the polluters to clean up the waters without first finding out what will be involved in the cleaning-up process.

I am well aware, Mr. Chairman, that we need measures to protect the environment, and I support such measures, but I also realize that we must pass realistic measures which do not create undue hardships on anyone. I believe H.R. 11896 is just such a realistic measure—one which will get the job done without going overboard for the sake of putting on paper a task that we are not yet sure can be accomplished.

I oppose any amendments to the bill on the basis that the bill, as reported, is a sufficient beginning to the end of water pollution. In time, I am sure other measures will be passed to encompass whatever new knowledge is developed on the subject, and those measures will carry on the fight against pollution in a realistic manner.

Mr. RANDALL. Mr. Chairman, I rise in support of the Federal Water Pollution Control Act of 1972. The Committee on Public Works is to be commended for bringing out a bill that will go a long way toward conquering the problem of water pollution in this country. I recall with pleasant memories approximately 10 years ago, it was my privilege to serve on a subcommittee with the gentleman from Alabama (Mr. JONES). During the years 1962 and 1963 we traveled from coast to coast considering the problems of water pollution. Those experiences and the knowledge that I gained as a member of his subcommittee 10 years ago were helpful in supporting several enactments between that time and the present. Because the gentleman from Alabama was the floor manager of this bill provides all the confidence needed that this is the kind of bill that every Member of this House could support. I make such a strong assertion because I know that, along with the chairman of the full committee, the gentleman from Minnesota, the ranking majority Member is truly an expert in the field of water pollution.

The basic provisions of the bill are covered in its five titles. Title I provides for research programs. Title II provides for grants for waste treatment works. Title III covers standards and enforcement. Title IV has to do with permits and licenses, and title V contains some general provisions and some authorizations for funding.

There were some differences between the House and Senate bills as to the zero discharge goals. The House declared a goal to eliminate pollutants by 1985 with the interim goal of water quality suitable for swimming and fish propagation by 1981. The Senate simply said that this goal of zero discharge by 1985 should be a policy rather than a goal. Another difference was in the funding level. Our bill authorized a total funding level of $24.62 billion through fiscal year 1975, whereas the Senate authorized a total funding level of $20 billion. The Senate bill allowed any citizen to bring a suit against polluters, and while our bill allows citizen suits, it would restrict such suits to those directly affected in the area where the violation occurred, or to groups actively engaged in administrative proceedings.

Now, Mr. Chairman, there was a whole package of amendments referred to as the clean water amendments. They covered such matters as technology requirements, the permit program, citizen suits, worker protection, consultation requirements, and boat sewage.

Mr. Chairman, the two words, "clean water," present a very attractive image. Who can oppose an effort to provide our population with an abundance of pure, fresh, clean water? Whoever figured out the name of the "clean water" package came up with a masterpiece that could not be improved upon by Madison Avenue, if indeed that is not the source of these words. No one can oppose "clean water" any more than they can be against our flag or motherhood.

However, the ways of this world and the complexities of our civilization are not that simplistic. We all hold clean water as an ideal and one that may well be achieved within the time frames established by this bill. I am sure all of the membership prefer to be idealistic, and if anything short of such a characterization, like to be known as optimists, rather than pessimists. Most of us are happy to be described as realists. The foregoing thoughts serve simply as a background or a foundation for the thought that it is well and good to strive for the objective of clean water in this country just as quickly as the capability of our present technology and our national resources will make this goal possible. Yet, always following right upon the heels of this struggle to achieve the goal is the fact not only of the costs in terms of dollars, but the consequences in terms of loss of jobs.

I cannot recall the exact time or the exact place, but over in Pennsylvania not too many years ago, a vocal minority in a community rose up against one of its industrial polluters. I do not recall whether it was water pollution or air pollution, but I do know this one single industry employed a majority of the people living in this town. The minority kept hammering away at the elimination of pollution in the air and in the water. The company could not meet the demands and after their usual protest, finally gave up and closed down the plant. Now, in this particular town there is no pollution, either of the air or of the water, but there are no jobs. This was the only source of employment and now the majority of this community are not working. Their unemployment compensation has run out. They are trying to get on welfare. About all that is left for most of them is to move away. This kind of a story could be repeated again and again across this Nation unless we try to conquer our problems of pollution in a deliberate way, instead of demanding that all of these problems be solved so suddenly that there will be no jobs left to enjoy the cleaner air and better water.

I supported the Mahon so-called contract authority amendment because it deletes the contract authority provided in the committee bill which would commit the Environmental Protection Agency to a firm, fast, and irrevocable commitment by the Federal Government to pay for the Federal portion of individual waste treatment construction grants. Those who argue for the necessity of this contract authority say that it is necessary and essential for the States to carry out their responsibility if we are to meet the Nation's waste treatment needs in a timely manner, or to kind of or sort of reassure them that the program can be continued in full reliance that the funds will be available.

Mr. Chairman, I had thought that we were all committed to the proposition of the general purpose of this bill which is known as the Federal Water Pollution Control Act of 1972, and that means that we are going to vote for the necessary funding. But here under the committee approach, we are very near to falling into the old back-door spending approach which we have been plagued with for years, and which we had finally conquered as to many of the ongoing programs associated with back-door spending. The Mahon contract authority amendment is necessary to restore the safeguards of any kind of budgetary or appropriations control. We hear so much today about deficit spending. If the Mahon amendment to delete this contract authority does not prevail, then we may be in for some deep trouble.

Aside from the matter of control over the budget, there is another point which makes the Mahon amendment highly desirable and that is that this whole program will be subject to constantly changing needs and constantly changing costs assessments. Maybe the contract authority of the committee will not be enough. On the other hand, maybe it is far too much.

One argument that, so far as I know, was not advanced during the course of the debate on this amendment was the fact that the amendment should be called the congressional control amendment. If the Mahon amendment does not prevail somewhere along the line, all of the control of water pollution, every bit of it, will wind up in the hands of the Executive. Congress will have no voice in or even be given the privilege to indicate the course of this program. Again and again we will see pictures of the head of the Environmental Protection Agency handing checks to the Governors of the several States but Congress will have no voice at all as to priorities, even though the greater portion of these funds will be Federal funds. There is a deep, underlying reason why I supported the Mahon amendment, not simply because of the concept of fiscal responsibility and congressional control but in order to try to maintain some semblance of authority for this very important program between the Congress and the executive branch.

It should be abundantly clear that not all of the so-called clean water amendments dealt solely with more stringent water pollution controls. One of this package of so-called "clean" bills was not offered by the two leaders of the "clean water" package but was in fact offered by another member from Michigan (Mr. FORD).

This amendment should be properly described as a worker protection amendment because it will require national pollutant discharge standards that will prevent movement of those industries that do move their plants from one State to another in order to avoid pollution control; in other words, move to the most favorable State. It has been argued that in industry this bill could be used as an available opportunity to close down a plant or in the event that there is not a complete closure, to use this act as a kind of threat or pressure device against its employees. Well, I don't know that this kind of thing has ever been done, or will now be contemplated. I doubt if a going industry would use these kinds of tactics to defeat itself in order to gain some kind of advantage against its employees.

But Mr. Chairman, the really important thing is that this amendment will provide some worker protection. It will establish a system of economic assistance for those workers in communities affected by plant closures which are genuinely and in all truthfulness under and by bona fide environmental regulations required to close down. This amendment is important, not because it may have some effectiveness in preventing an industry moving from one State to another but because of its help as a result of economic hardship and loss of jobs which may result from the enactment of this bill.

There should be appropriate worker safeguards and those who argue this should not be a part of a water pollution control bill do not make a very persuasive case. If the act itself results in loss of jobs, then the act itself should make some kind of provision for the economic loss or damage in the very provisions of the act that causes such loss.

No industry will be hurt by the provisions of Mr. FORD's amendment because each will be given a full and fair hearing as to whether in truth or in fact they are being forced to close because of too stringent pollution controls, or whether they are closing down the plant for other reasons and using the pollution act as a means to achieve a desired end but altogether unrelated to problems of pollution.

Finally, Mr. Chairman, in my judgment the amendments which have been adopted have improved the bill and those which were rejected have been defeated because they deserved to be beaten and not made a part of this pollution bill. The real struggle all along has been between the ideal of elimination of all pollution but to try to avoid elimination of jobs at the same time. That is a big order. Controls can be made so stringent that there is no way for an industry to adjust itself to these controls, particularly over a short period of time.

The reasonable, responsible approach to this problem is to proceed toward the elimination of pollution and yet try to limit the economic impact to avoid large unemployment as we go about trying to achieve our goal. As has been expressed many times, the two words, "clean water," bring to mind a beautiful image. But there are two other words, "clean plates," which bring to mind the image of a family sitting around the dinner table, unemployed and with not enough to eat because of the loss of jobs occasioned by the economic impact of too hurried, too stringent pollution controls with no provision for worker protection and no provision for the adverse economic impact of trying to reach the ideal of clean water by some arbitrarily fixed date. In my judgment, this bill will not carry us to the extreme of having clean water but also clean plates, but rather strive for the goal of elimination of pollution by 1985, with the hope and prayer that we will have the national resources and the will to attain that objective.

Mr. CULVER. Mr. Chairman, currently the House of Representatives is considering a landmark piece of legislation—the Water Pollution Control Act Amendments of 1972. This broad bill seeks to give reality to an effective, comprehensively funded program to restore and enhance the quality of our waters and to insure their future as a lasting national asset.

Aside from these large common objectives, there is in this environmental measure a key provision which will greatly benefit Cedar Rapids, Dubuque, and Mount Vernon. Under this section, these cities qualify for reimbursement by the Federal Government for part of the cost of sewage treatment plants constructed in recent years. Current estimates are that Cedar Rapids would be eligible for as much as $2.5 million, Dubuque $1.5 million, and Mount Vernon $150,000.

The Iowa delegation, with special help from Congressman SCHERLE and key State officials, has been working on this proposal for some time, and we are happy to see it included in the present bill. We thought that it was only fair that those localities which have committed their own funds to prefinance a portion of waste treatment facilities should be retroactively reimbursed. Such commitments on the part of Cedar Rapids, Dubuque, and Mount Vernon, as well as other cities in Iowa that have built these plants, have accorded with and reinforced the national program to clean up the Nation's waters.

We in Iowa are especially proud of our water resources—two great rivers that set the borders of the State and a multitude of rivers that flow through and lakes that lie within it. This legislation is an historic step in improving the quality of all these water resources and a compelling reminder of the important environment mission in which the Nation, our State, and our communities all share. The Federal Water Pollution Control Act of 1972 will give that effort new strength and sinew.

Mr. SCHWENGEL. Mr. Chairman, the Water Pollution Control Act Amendments of 1972 which so overwhelmingly passed the House today is, indeed, a major step forward in our fight against pollution. It provides many necessary programs, and is fair to both business and the public. That we should authorize $24 billion is a recognition of the problem and an attempt to control and eliminate it. But much more is needed.

While the water pollution control bill hits hard at many areas of water pollution, it does not address itself to many other areas of deep concern. A very large percentage of our national water pollution problems are not covered by this bill. Soil erosion, flood control, and animal wastes all contribute significantly to the pollution of our rivers, lakes, and streams. Programs designed to eliminate these problems must be acted upon.

Perhaps foremost in this area is development of a comprehensive watershed bill. The idea of planning and carrying out conservation measures over an entire watershed is widely recognized today as an appropriate and effective way to approach natural resource problems.

One of the most effective programs to meet this aim has been the Public Law 566 small watershed program administered by the Soil Conservation Service. The program's aims are the multiple ones of flood prevention, soil conservation, sediment reduction, and the better use of an area's water resources.

The Public Law 566 watershed projects have scored notable successes in their multiple aims. During fiscal year 1969 and 1970 alone, they prevented almost $59 million in agricultural flood damages, and more than $11 million in nonagricultural damages; reduced sediment production by millions of tons; provided land conservation and development benefits of more than $87½ million; provided water recreation opportunities for hundreds of thousands of people, and augmented the municipal and industrial water supplies for 16 communities.

However, new legislation is needed to make the watershed program even more effective, and to satisfy the rising expectations of the American people for a higher standard of good resource use. This needed legislation would include authorization for:

The use of Federal funds already available to local sponsoring organizations under other programs for the purpose of acquiring land, easements, and rights-of-way in watershed projects. Currently, Federal funds can be used for this purpose only for public recreation or public fish and wildlife developments within a project.

Water quality management to authorize the Secretary of Agriculture to cost-share in providing storage for this purpose in a watershed project. Federal cost-sharing for water quality management is not provided for in Public Law 566 watershed projects, but is authorized for mainstem developments under other Federal programs. An amendment would remove this inconsistency and help to maintain high water quality beginning at the farthest upstream point where pollution might occur.

Action such as this is urgently needed to accelerate the reduction and control of pollutants in rivers and streams in watershed project areas, and to make a major contribution to downstream water quality management.

An increased monetary limit for administrative approval of Public Law 566 projects, that would authorize State conservationists to administratively approve projects where the Federal dollar contribution totals $500,000 or less.

Currently, administrative approval is limited to projects where the Federal share of construction costs is $250,000 or less. This limitation has been in effect since 1954. During the intervening 17 years, construction costs have approximately doubled. The proposed increase of authorization amount would, therefore, be consistent with the original intent of Congress, and would contribute to efficient administration of the program.

This modification would also be consistent with an increase, in recent years, from $500,000 to $1,000,000, for administrative approval of small Corps of Engineers' projects. It would also reflect President Nixon's expressed wish to return more governmental authority to State and local areas.

Federal cost sharing for water storage of municipal and industrial water supplies. This would allow the Secretary of Agriculture to cost share on those features of an authorized watershed project that help store water for the area's municipal or industrial water supply needs.

An adequate, dependable supply of good quality water is basic to the stability and life of any community. Reservoirs authorized under the small watershed program can provide dependable water supplies for many small communities, as one feature in overall water supply planning and use. This can make a major contribution to improving rural life and to providing the kind of jobs and environment that will slow the outmigration of people from smaller communities.

Long-term contracting in watersheds. This would authorize the Secretary of Agriculture to sign long-term contracts with landowners and operators for changes in cropping systems and other land uses, and for the installation of necessary conservation measures to develop and improve the soil and water resources within a watershed project area.

The timely installation of needed land treatment measures on a systematic basis, with guaranteed cost-sharing and technical assistance, has proved its value in the Great Plains conservation program. Good conservation practices on the land also reduce the construction and maintenance cost of dams and other engineering works in the watershed program and help to increase their effective life expectancy.

Legislation authorizing these improvements in the small watershed program would be beneficial to all Americans. In addition, I would like to see the entire program speeded up. In my State of Iowa, there are some 473 small watersheds needing this type of treatment. Public Law 566 applications have been received for about 20 percent of these, or 90 watersheds. Some 15 of these 90 applications are currently authorized for planning or construction; 30 more are now under construction, and five are completed and doing their job of improving land and water use.

That leaves 40 applications—out of a total of 90—still awaiting planning authorization. It is my understanding this is representative of the situation in all States.

We need to remedy this by greatly increasing the $76 million proposed for watershed construction in the 1972 fiscal year budget.

The agricultural conservation program, now called the rural environmental assistance program—REAP—and the Soil Conservation Service, have for more than 35 years been conducting successful programs to preserve and enhance our land and water resources. Soil conservation measures, when properly applied, have reduced erosion enormously—in some areas up to 90 percent. The kinds of measures that can do this must be applied even more intensively.

A major thrust of the new REAP program will be to reduce water pollution. Water retaining and retarding measures on farms will be encouraged in the form of dams, ponds, permanent grass cover, waterways, buffer strips and tree plantings. These reduce the amount of sediments reaching our streams and other waterways, as well as the amounts of animal wastes, fertilizers and pesticides swept into waterways by eroding soil. All of this directly benefits the cities, industries and people downstream.

Such legislation must also address itself to animal waste and related agricultural problems. The National Symposium on Animal Waste Management notes that animal wastes and other agricultural problems are significant contributors to our water pollution. Meaningful programs must be developed to eliminate this source of pollution.

Farmers themselves bear a substantial part of the cost of conservation measures. The Soil Conservation Service provides much of the technical know-how for their installation and maintenance. Yet much more can, and must, be done.

These individual and community programs of erosion control, pollution reduction and better land and water use are sound, proven, and successful.

They need to be greatly strengthened. As President Nixon has said:

> The 1970's must be the years in which America pays its debt to the past by reclaiming the parity of its air, its waters and our living environment.

Mr. DELLUMS. Mr. Chairman, vague promises and rhetorical procrastinations are not going to end our Nation's environmental problems. Nor will basically high-minded but weakly enforced legislation.

It is a fraud to tell our constituents that Congress is approving a major advance in cleaning up the Nation's waters. This bill is nothing more than a dirty water bill in a clean water wrapping.

We must not lull the public into thinking that Congress is forging ahead in passing adequate legislation to control water pollution. This bill is just a sketch of what-should-be. It is neither tough enough nor strong enough to meet the goals it so loftily sets.

As a sponsor of the clean water amendments I am committed to a much more stringent and open means of achieving the imperative objective of unpolluted and usuable waters by the end of this decade.

Therefore, it is with very great reluctance that I vote for this bill. True, it has many positive features—the shift to effluent limitations, the user charge systems, the worker protection clauses, the funding level increases, the incentives to progressive State and localities.

Yet those features are just overwhelmed by the bill's weaknesses and drawbacks. Hopefully, the conference committee will see fit to bring back a stronger version for this body to consider. The Nation cannot afford any half-hearted attempts in so key an area.

Mr. CRANE. Mr. Chairman, anticipating some demagogic expressions of horror, misrepresentation, and half-truths from both the media and special interest groups for what I am about to say, let me preface my remarks by stating that: First, I believe in cleaning up our water systems in America as I believe in cleaning the atmosphere and recycling solid waste; second, as a strict constructionist, I nevertheless feel the National Government has a paramount responsibility in this effort since it is a problem of trespass that does not recognize State boundaries; and third, I sponsored the Waste Reclamation and Recycle Act, the Environmental Financing Act, the Clean Water Financing Act—all immediately after coming to Congress—and in addition I have voted for the Water Quality Improvement Act of 1970, the extension of that act in 1971, the Water Resources Planning Act of 1971, as well as legislation to establish feasibility studies in water resources development projects and to create a Water Resources Research Institute. But I cannot in good conscience support the bill before us today.

I have spoken to many Members of this body—on both sides of the aisle—on this bill. I have discovered a distinct lack of enthusiasm for it. But most take the position that: First, we are going to get a comprehensive water pollution control bill this election year; second, the House version is preferable to the equivalent legislation passed in the Senate; and, third, it would be at the least quixotic and at the worst politically suicidal to be caught voting against a piece of legislation as politically glamorous as this.

To take the first position is, in my judgment, to abdicate our responsibility to attempt to defeat that which we know to be wrong in concept even though we may be defeated in the effort. I have heard many Americans say there is no point in fighting to preserve free institutions since the battle is hopeless. This prophecy is self-fulfilling if enough people accept it and quit fighting.

The second point is simply the argument that this is the lesser of evils. But the lesser of evils is still an evil, and as such warrants our opposition. We should not let ourselves be saddled with alternatives resting upon false premises or myopic reasoning, much less alternatives generated by pressure groups in a climate of hysteria or alternatives initiated by those who do not subscribe to the principles of a free society.

On the third point, let me issue the caveat that this bill may have a sex appeal that is only superficially attractive. My colleague from Indiana (Mr. ZION) noted yesterday that even the AFL–CIO agreed that this bill may throw literally millions of Americans out of work before fully implemented. He noted further that only one industry testified before the committee in hearings and warned that it would be priced out of the market with this bill. Surely, its case will be multiplied by the thousands. Today's newspapers report that February recorded the second highest trade deficit in our Nation's history. We can anticipate either continuing and mounting trade deficits growing out of this legislation or a return to the economic isolationism of the McKinley era—both of which will gravely injure the American economy and American consumers.

The ultimate cost of this legislation has been estimated at $2.5 trillion, more than the GNP of the entire world. We deceive the public when we suggest that such an objective can be realized. But we deceive the public even about lesser costs if we do not portray an accurate picture of the astronomical tax increases that will be required to meet the objectives of the bill, not to mention the astronomical increases in prices and the hardships wrought through massive hikes in the unemployment rate.

There are many other noxious aspects to this type of "crisis" legislation that could be cited if time permitted. Suffice it to say, we are taking a giant step toward a totally regulated economy with all the human costs such regulated economies have traditionally levied. We have heard much emotional testimony in support of this bill. We have been told that this is the No. 1 priority of the Nation. The oaths we have taken to support the Constitution commit us to promote the general welfare of the Nation. To have 100 percent clean water by 1985 at the expense of our total economy, at the expense of crushing tax levels, skyrocketing price levels, millions of lost jobs, and the risk of national bankruptcy does not meet the constitutional mandate to promote the general welfare. Who, in good conscience, can support legislation that runs such a risk? If this legislation passes, as I am sure it will, history will render a sorry judgment on us for our stewardship.

Mr. SIKES. Mr. Chairman, we have before us today in the Water Pollution Control Act a matter of vital importance to our Nation's future. This is a problem which must have concerted and coordinated action. Water pollution problems are very serious in many areas. These conditions did not develop overnight. They got their start long ago, but in recent years they have worsened rapidly as industrial development has been accentuated and city slums have mushroomed. Attention has fully been focused on the need. Now there is a requirement for correction of abuses in water pollution. But there remains a necessity for commonsense; a balance between what we want and what is practical.

I believe that the House bill seeks to achieve water quality standards at the highest possible level at the earliest practical date consistent with technological advancement.

Nevertheless, there are strong voices which urge us to reject the House bill because it allows the States to administer Federal standards and it provides for congressional review before proceeding into the highly expensive and, in some areas, as yet unknown methods of banning all discharge into our lakes and streams by 1981.

Last November, the Senate passed amendments to the Water Pollution Control Act which would bypass the organization, expertise, and experience of the States and would, instead, provide a full-fledged Federal bureaucracy in Washington to administer the program. Further, the Senate version would commit this Nation to completing a program of action less than a dozen years from now without intervening Congresses having a voice in that program.

The House Committee on Public Works has wisely altered these Senate proposals to provide for State administration of federally established water standards while, at the same time, allowing the Congress of 1985 the right to determine whether or not the "zero discharge" provisions of the act are possible and practical.

Mr. Chairman, the House version now before us is clearly more workable than the version adopted by the other body last year. I do not think we are ready for a now-or-never program which can be ruinous to commerce and industry.

Let us look at a few of the basic differences of the two bills.

Both the House and Senate bills declare their objective is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The Senate bill declares this to be national policy which means it is enforceable by law. The House bill declares this to be a national goal.

Both bills change from the present policy of water quality control to a "point source discharge" program. This means eventual elimination of any effluent discharge into the streams, rivers, and public waters.

The Senate bill has a "zero discharge" effective not later than 1981. The House position is that technology is not available to enforce "zero discharge" without serious disruption of industry. Certain industries, such as the pulp industry, the steel industry, and the chemical industries, produce pollutants for which we have no satisfactory method of disposal. So the House bill moves the effective date to 1985 and further provides that the National Science Foundation shall undertake a national study to determine feasibility, desirability, and the best available technology for achieving "zero discharge."

The Senate bill would require all industry and designated plants to secure permits indicating the volume of discharge and type of pollution being discharged. The Senate version leaves all permit and enforcement policies with the Federal Environmental Protection Agency.

The House version would require EPA to provide guidelines and leave enforcement to the States so long as they maintain Federal standards. This is one of the major objections of the environmentalists. The House bill is "long" on research program grants totaling approximately $800 million. It also provides for $24.6 billion authorization for the program as against $16 billion-plus in the Senate bill.

The environmentalists are attacking the House bill as a weak bill, yet my personal opinion is that the House version itself would result in the closing of some 4 to 5 percent of our industrial capacity. But the Senate version could close as much as 20 percent.

Now let us again consider the fact that in some areas there is no technology available with which to achieve the "zero discharge" goals of this measure. The House version carefully provides funds for a 2-year study during which all possible avenues of technology will be studied in a crash effort to find means of achieving this worthwhile goal. Without this study, it may be a long time before we can discover how to reach the "zero discharge" goal with reason and economy.

A flat requirement for "zero discharge" in 1981 would be an extremely dangerous thing to the Nation's economy. We simply cannot close down this country's business and industry just for the sake of the ecology. We must work for sound programs to bring the problem of pollution fully under control. The recommendations of the House Committee on Public Works provide a commonsense manner in which to achieve this goal.

It is obvious that we are going to have either the Senate bill or the House bill. Let's take the more reasonable approach of the two.

So, Mr. Chairman, I urge passage of H.R. 11896 as recommended by the Committee on Public Works. It is a good bill. It provides logical and reasonable means of achieving what each of us knows is sorely needed—the national will to provide clean, pure water for ourselves and our future generations.

At the same time, it maintains things in order. It provides for uniform standards nationwide, yet it allows each State to enforce the standards.

It also provides for proper congressional review of final plans in connection with the "zero discharge" goal rather than paving the way for possible chaos in future years.

This is the way to get what we want, Mr. Chairman. We can have clean water and we must. But we must have it in concert with a great many other things. If all we get from this is clean water at the expense of too many other things, we will have done great harm and little good.

Let us proceed to the goal of clean water through the provisions of H.R. 11896.

Mr. DRINAN. Mr. Chairman, the measure before us today, the Federal Water Pollution Control Act of 1972, is by any test, one of the most important bills to be considered by the 92d Congress.

This bill, which establishes comprehensive regulations and Federal grant programs to control and abate water pollution, arises at a time when the quality of America's rivers and lakes has degraded into a national emergency.

A 1970 Public Health Service report found that 30 percent of the Nation's drinking water contains potentially hazardous amounts of chemicals. In 1971, the U.S. Geological Survey reported that the drinking water of 12 urban areas fell below public health standards. It is no exaggeration to state that almost every substantial body of water in the United States is dangerously contaminated in one way or another.

Television, newspapers, magazines and books have vividly brought to our attention beaches too filthy in which to swim, lakes whose oxygen supply has been exhausted and which no longer can support any organic life, drinking water which is brown and unpalatable, and the ugly vision of raw sewage and noxious industrial wastes floating in our historic rivers.

Previous Congresses have attempted to deal with the national water pollution emergency, but their best efforts have been inadequate. The Federal Water Pollution Control Act of 1956 established a national water pollution control program. That act regulated pollution of interstate waters and authorized grants for construction of sewage treatment plants and research programs. 1961 legislation extended pollution abatement programs to navigable intrastate and coastal waters.

The Water Quality Act of 1965 further amended the 1956 act by authorizing the States to adopt water quality standards for their interstate waters. In 1966, Congress passed the Clean Water Restoration Act authorizing a 4-year appropriation of 3.55 billion in Federal grants for the construction of sewerage treatment plants, but appropriations have totaled only 50 percent of the authorized amount.

In 1970, the 91st Congress passed the Water Quality Act, which strengthened the law concerning Federal permits and licenses and regulated oil pollution and discharges of hazardous substances.

On November 2, 1971, the Senate passed the companion measure to the bill we consider today, S. 2770. The Senate bill shifts the focus of water pollution control programs from water quality standards to effluent limitations.

The measure which we are considering today declares the elimination of pollutants into navigable waters a national goal to be achieved by 1985. An interim goal provided for by the bill is to achieve water quality suitable for swimming and fish propagation by 1981.

The policy and intention of this bill, in the words of the Public Works Committee report, is—

> To prohibit the discharge of toxic pollutants in toxic amounts, to provide financial assistance to communities to construct publicly owned waste treatment facilities, to increase research and development, to expand the regional and basin planning and management programs, and eliminate red tape in the administration of water pollution control programs.

I will not here summarize the many imaginative and essential provisions of this legislation. The Public Works Committee in its excellent 424-page report on this measure has performed that function with great competence.

I am, however, particularly eager to endorse section 8 of the bill, which contains a provision for $800 million in low-cost loans to industries "likely to suffer substantial economic injury without assistance." These funds may be used to assist any small business concern "in affecting additions to or alterations in the equipment, facilities—including the construction of pretreatment facilities and interceptor sewers—or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act."

Mr. Chairman, in my testimony before the Public Works Committee on this bill, I tried to indicate as forcefully as possible the potential adverse consequences to many responsible businesses in my district and throughout the country resulting from passage of this bill. Although the $800 million authorized by the bill for small business assistance is not enough, it is an important start, and it constitutes essential help. It is my hope and expectation that the Environmental Protection Agency, in its administration of these funds and of this bill as a whole, will very closely monitor the demand for loans under section 8, and will report to the Congress on the extent of that demand. I know that most of my colleagues will be eager to support an increase in small business funding under this bill should the demand be substantially greater than the drafters of the bill anticipated.

Mr. Chairman, in further elaboration of the foregoing points, I wish to insert in the Record at this point the text of my statement to the Public Works Committee on the implications of this bill for businesses in the Third Congressional District of Massachusetts and throughout the country:

STATEMENT OF CONGRESSMAN ROBERT F. DRINAN

Mr. Chairman and Members of the Committee: I am very grateful for the opportunity to appear today to relate to you some of the actual experiences I have had with the present Federal water pollution laws in the course of my work with communities and industries in the Third Congressional District of Massachusetts, and to discuss proposals to reduce water pollution. At the outset I want to note clearly that I am by no means as authoritative on the overall subject of water pollution as some of the outstanding witnesses who have testified before your Committee. I do believe, however, a description of the complex and critical situation that exists in my District may add to the Committee's understanding of the practical aspects of implementing an effective pollution program on the local level.

On a subject such as water pollution, it is a simple matter to acknowledge there is a threat to our well-being which rises to the level of a crisis; it is another, and far more difficult, matter to conceive of and take the steps necessary to deal effectively with such a threat. In the case of water pollution, however, not only do wise and well-trained men recognize the extent of the problem, but these same men also know how to solve that problem. This fact, I believe, represents a solid basis for an increased commitment to cleaning up our despoiled waters; the knowledge is there—it remains only to be effectively implemented.

As with every social problem which involves abstract theory and concrete implementation, it is the manner of approach which dictates the ultimate success or failure of our efforts. The manner of approach in the matter of water quality control *must* be comprehensive. Partial solutions are not the order of the day and in the long run are very dangerous.

Earlier testimony from many distinguished witnesses has pointed out many central needs, including consolidation of water pollution control activities into one principal Federal agency, and administrative separation of water pollution control activities from housing programs. The need to provide greater Federal funding for construction of waste treatment projects, and vastly increased funding for separation of sanitary and storm lines, has not been overstated. We also need to provide greater opportunities for citizens to participate in the national goal of clean water, and we must—perhaps above all else—do everything in our power to come to the aid of our cities and towns which are hard-pressed economically to pay next week's payroll, let alone appropriate twenty-five percent of multi-million dollar wastewater treatment plants. All of these objectives, gentlemen, I believe must be provided for in new water pollution legislation.

When I speak of the need for a comprehensive approach to the problem, I want to stress that it is absolutely essential that any such program be considered in relation to the many other components of human life. Our efforts in the field of ecology must be integrated with our attempts to better all other aspects of human life. As I stated before, a water quality program that is concerned only with clean water—to the exclusion of the economic implications of Federal programs—bodes human and economic catastrophe. Innovative water control programs will generate a certain number of new employment opportunities, but a water pollution program that does not consider specific economic problems threatens a far greater number of already existing jobs, with all the consequently grave and needless human implications, loss-of-revenue implications, and government expenditure implications.

To underscore the absolute necessity that the proposed new legislation relate ecology to the economy, I want to zero in on the Third Congressional District of Massachusetts. This District, which I represent, is a microcosm of New England. Old manufacturing communities, whose reliance upon a single industry dates back to the turn of the century, form the backbone of this region of the country. In many cases the industries from which the people of these communities draw their employment and economic life are housed in the old factory buildings located in a river valley. The buildings, which once were ample in size, now leave the industries cramped, and the rivers, which once carried the industrial wastes away from the factories can no longer be relied upon to do so.

It is in the New England area, according to the Federal Water Quality Administration's 1970 Clean Water Status Report, that the greatest municipal waste problem exists, and it is in this area that the greatest backlong exists in the construction of wastewater treatment facilities.

Constructive programs to clean up the rivers of New England are underway. Of particular notes is the Nashua River Clean-Up effort. This river, which is perhaps the most polluted river in New England, flows through both Massachusetts and New Hampshire before emptying into the Merrimac River. Long thought hopeless by the residents who live in the many communities through which it flows, the river now, thanks to the Federal Water Quality Act, has real chance of becoming a national model of what can be done through cooperative action by the Federal, state, and local governments working with citizen groups and industries. So important is the clean-up of this river that the New England Regional Commission has designated the Nashua River Clean-Up Program as a model river clean-up and has allocated special funds to provide an office to coordinate the activities of the many communities through which the river flows.

Very briefly I would like to relate to you what is being done to clean this river, and in this way give you a very vivid example of what great strides have been made as a result of the Water Quality Act of 1966, and of the dangers on the horizon.

Following the enactment of the Water Quality Act, a group of citizens organized the Nashua River Clean-Up Committee. The purpose of this Committee was to see that constructive action was taken by every level of government to clean the river. The Committee's activities were very successful. The largest single polluter, the City of Fitchburg, sponsored a year-long comprehensive study of the river in 1967 to determine how best to clean the river.

A comprehensive plan, completed in August 1968, called for the construction of two wastewater treatment facilities in Fitchburg. One, known as the East Fitchburg Waste Water Treatment Plant, would handle all the domestic sewage from the residential areas of the City of Fitchburg. The second, known as the West Fitchburg Waste Water Treatment Plant, is designed to handle the effluent from the western section of Fitchburg, the Fitchburg Paper Company and the Weyerhauser Paper Company. Fitchburg and its paper companies have entered into a contract to build and operate the West Fitchburg treatment plant.

The combined cost of the project will be more than twenty million dollars. Under existing law, seventy-five percent of the cost will be borne by Federal and state government funding sources while the remaining twenty-five percent will be shared by local government and industries. The local industries will pay the entire local share of the facility to process the industrial wastes.

At the present time the East Fitchburg Treatment facility has been completely designed and is being reviewed by Federal and state authorities prior to the awarding of the grants for construction. The West Fitchburg Treatment Facility is being reviewed by state and Federal authorities. It is expected that this plant will also be under construction very shortly, unless there are major changes in the Federal legislation.

According to the current time-table the construction could begin this year. It will require three years to complete these very extensive wastewater facilities. We are all anticipating that by the fall of 1974 there will be clean water in the Nashua River. This water—now filthy and inert—will be odorless, colorless, tasteless and fully capable of supporting natural wildlife.

The success of this river pollution clean-up program has been largely the result of a great amount of effort expended by citizens and their determination to insist that the entire project be completed as quickly as possible.

These citizens have not stopped. They have formed a group called the Nashua River Watershed Association. The group is taking steps to acquire land along the river so that once it is clean there will be plenty of areas in which to have bridle paths, walking trails, general recreation, and camp sites. The Association has just received a $2,000 grant from the Fund for the Preservation of Wildlife and Natural Areas which will be used to study stream regulation, dams, reservoirs, and channelization proposed for the upper North Nashua River Basin.

The project of cleaning the Nashua River is an example of what citizens and governments can begin to accomplish by working together. The cooperative and energetic spirit exhibited by all concerned was a major reason for the City of Fitchburg's designation as an "All American City" for 1970 and for the New England Regional Commission's choice of the Nashua River Basin as a demonstration project for the New England area.

Will the Nashua River story, and many others like it, have a successful ending? Will the combined efforts of citizens, government, and industrial leaders result in the reclamation of a river once given up for lost?

It is likely that the decision as to whether or not the Nashua River becomes a success story or a tragedy, will be made by this, the 92nd Congress. *Any substantial change in the current funding eligibility requirements could wipe out six long years of citizen actions to clean the Nashua River.*

Current legislation makes it possible for communities like those situated along the Nashua River to construct, with full Federal support, joint industrial and municipal wastewater treatment facilities. Such arrangements, in my judgment, should continue to be encouraged and supported by any new legislation. Any attempt to exclude participation in such processes—any onerous financial obligations on marginal businesses or businesses in economically depressed areas such as Fitchburg—would not only scuttle carefully prepared plans such as those for the Nashua River, but, more importantly, would have dire and far-reaching economic consequences on whole regions of the country, including New England.

In Massachusetts alone, any abrupt change in the current funding eligibility requirements would adverely affect projects now in the design phases in no less than eleven communities. Besides the City of Fitchburg, the communities of Springfield, Haverhill, Irving, Millers Falls, Templeton, Russell, Great Barrington, Hardwick, Lawrence, and Barre, which have or are planning shared industrial-municipal treatment plants, would be dealt a crippling set-back.

The need for such industry-government collaboration can best be exemplified by a look at the precarious economic position of a number of large manufacturing facilities throughout New England. These facilities are in many cases teetering on the brink of bankruptcy. In our coolly impersonal economic jargon, we classify these industries as being, at best, "marginal." Although these industries may be "marginal" at the present moment, the unhappy fact is that few of them *can bear*, without assistance, the financial burden of absorbing the enormous cost of water pollution control. Should we place on them the responsibility of shouldering alone this extra financial burden, we are virtually guaranteeing their financial ruin and ultimate shut-down. I can fully document this fact should the Committee so desire.

Few can argue in conscience that Federal laws should be the vehicles which cost people their jobs, render the death blow to failing companies and deprive communities of their economic stability. We could someday have clean water without the necessity of treatment plants; however, this purity would have been won by placing on the polluting industries financial responsibilities so heavy that industries and thousands of jobs were wiped out along with the pollution.

The peril of this situation can best be highlighted by taking a quick look at New England, where in 1970, 27% of the total of national closures of paper mills occurred. In 1970 there was a 218,000 ton reduction in the paper production of New England. Almost half of this reduction occurred in a single community in my District, the City of Fitchburg.

In New England, even a Federal loan program would not be sufficient to sustain industries which must carry the weight of the financial responsibility for water pollution control and abatement.

In addition to the economic benefits of municipal-industrial joint projects, there are important ecological advantages. According to the Federal Water Quality Administration's Status Report for 1970, increased use of joint municipal-industrial treatment systems will facilitate abatement of industrial pollution. The report further indicates that combinations of municipal and industrial wastes actually improve the treatment process by reducing the nutrients in waste discharges.

The FWQA Report recommended that the grants program encourage development of regional treatment facilities which process municipal and other wastes on an area-wide basis and which provide for treatment of many kinds of industrial wastes, as well as municipal sewage. Joint treatment is also effective because it locates responsibility for operation and maintenance within a single authority. In addition, complementary characteristics of sewage and industrial wastes, if properly controlled, can often permit more effective waste reduction within the plant. Joint treatment facilities offer significant advantages to both communities and businesses in terms of lower treatment costs through economies of scale.

More and more communities, with industry and the public sector working together, are designing their facilities to accommodate a larger portion of the total waste load, with the cost of construction shared by the local, state and Federal governments and, under current, reasonable formulas, by businesses. This is the wave of the future if we are to have both clean water and employed men and women to enjoy it.

Mr. Chairman, the bill which we consider today is the product of nearly a full year's work and study by many Members of Congress. The Public Works Committee held 22 days of public hearings on this measure between July and November 1971, and additional hearings in December 1971. Thousands of ways to achieve the goal of clean water have been studied and restudied; thousands of pages of testimony and statutes have been drafted and redrafted. I believe that this measure is the best possible approach to the water pollution emergency under all of the circumstances. It is my hope that by passing this bill we are taking a giant step toward preventing the day when, in the words of two of my colleagues, our Nation's waters will be "transformed into a vast, rancid sewer."

A recent study by the General Accounting Office concluded that the $2 billion spent since 1956 on water pollution control have merely slowed the deterioration of water quality. By passing this bill today, we have very good reason to expect that the next GAO study on this subject will show that we have begun to clean our Nation's waters systematically.

Mr. FRENZEL. Mr. Chairman, yesterday the gentleman from California (Mr. HOLIFIELD) and the gentleman from California (Mr. HOSMER) engaged in discussion with the gentleman from Alabama (Mr. JONES) and the gentleman from Ohio (Mr. HARSHA) in a professed attempt to establish "legislative history." Their exchange is recorded on page 10666 of the CONGRESSIONAL RECORD of March 28.

The intent of the discussion was to establish in debate that H.R. 11896 did not apply to pollution, radioactive or thermal, from nuclear powerplants controlled or regulated by the Atomic Energy Commission.

A discussion on the floor of this House may or may not be helpful in determining legislative intent. More often than not it simply determines the intent or purposes of the few people engaging in that particular discussion.

In the case of H.R. 11896, the bill clearly applies to various kinds of pollutants which the gentlemen referred to above are trying to cut out of the bill by their discussions yesterday.

For instance, section 316(d) states quite clearly that this bill applies to thermal discharges from "all sources unless the Administrator determines otherwise after a public hearing." In section 316(a) the bill is quite explicit in covering thermal discharges from facilities operated or controlled by the U.S. Government.

In the definition section 502, radioactive waste is defined as a pollutant. Reference to radioactive wastes are made elsewhere throughout the bill. My statement on page 10648 of yesterday's RECORD details other references in the bill.

No matter what kinds of discussions may take place on the floor of this House, it seems to me quite obvious in the legislation itself that it was a clear intent to include all kinds of pollution except the four specified exemptions in section 502(6) A, B, C, D. No matter what some of our Members would like to be the intent of the bill, the bill is quite clear in this respect and needs no amplification. As long as the bill has stipulated what is to be exempted and what is to be controlled, nothing that is said on the floor of the House can change the language of this bill.

Mr. VANDER JAGT. Mr. Chairman, I wish to express my appreciation to the House for adopting my amendment urging the Administrator of EPA to encourage the development of resource management systems that recycle wastes into resources through the land treatment system. The House should be proud of its overwhelming encouragement for this system and I am confident that the House will grow prouder of its decision with each passing year.

It is my understanding that if these systems do, in fact, produce revenue, industry would be permitted to share in the benefits that are produced as a result of their proportionate contribution to the system. Since industry is required by the bill to share in the cost, there is nothing in the bill that would prevent industry from sharing in the benefit of the revenues.

Because of the overwhelming encouragement that the House has given to this system and because there is present the necessary industrial incentive to encourage such systems, I am willing to withdraw my two remaining amendments at the desk.

Mr. HARSHA. The gentleman from Michigan gave a fine speech. Nothing in the language would prevent what he was suggesting, and I am delighted that he is so satisfied with the encouragement of the Muskegon approach to recycling that he is withdrawing his amendments.

Mr. HORTON. Mr. Chairman, I rise in support of this bill to bring the commitment of the Federal Government and of the Congress into line with the needs of the Nation for a priority, and adequately funded clean waters program.

It was only 6 years ago this summer, in 1966, when I, as a member of the House Natural Resources and Power Subcommittee, traveled to Rochester and Western New York to survey the pollution problems of Lake Ontario, Lake Erie, and their tributaries in that area.

What we found, under the able leadership of the distinguished gentleman from Alabama (Mr. JONES) was deplorable pollution, and even worse, we found that little was being done to correct it, except to close Ontario beaches to protect would-be swimmers from filthy water.

Today, Mr. Chairman, the picture is different, and far more hopeful. In my home county of Monroe in New York State, there is over $200,000,000 in construction in progress to clean up the effluent of the Rochester metropolitan area. Industry as well as the municipalities and the county and State are cooperating fully in this effort.

The sad fact is that the Federal commitment, at the present time, lags behind all of the others. While the ongoing antipollution projects are being built with Federal grant commitments, the actual Federal grants received have been a fraction of the authorized Federal percentage grants.

So uncoordinated and underfunded has the Federal program been that a few short weeks ago, after waiting and waiting for Congress to pass a new antipollution bill with adequate funding and updated provisions, the State of New York had to hold back 112 new antipollution construction projects which at this moment are sitting in Albany ready for construction to be authorized. A number of these projects are in my own congressional district.

Today, I am proud to say that many of the Federal stumbling blocks, in fact nearly all of them, are being remedied by this bill.

There has been a great deal of debate about this House Committee bill being inadequate to solve the water pollution problem compared to the Senate bill. A great number of strengthening, and weakening amendments have been offered, and some have been adopted.

As one who has been engaged in a 6-year-long study of the water pollution problem, and a particularly detailed study in the past 5 months, I want to say that the House Committee has done a magnificent job with this bill. It is as realistic in its funding and grant provisions as it is idealistic in its zealous commitment to once, and for all, cleaning up every American body of water.

At the present time the Federal Government owes over $2 billion to the several States in reimbursements for prefinanced shares of Federal grants, $1.3 billion of this money is owed to the State of New York alone. This bill provides for its repayment, so these States can get on with the job.

At the present time, Federal grant commitments for pollution control projects range from 30 to 55 percent of the project cost. In this bill they are raised to 75 percent, which in light of the extremely tight financial situation of the States and localities of America is extremely beneficial. In this respect, the House bill goes further than its Senate companion.

The Senate bill would distribute the authorized pollution grant funds based on a population formula among the several States. In this bill, wisely, the formula is based on need—a provision that is not only sensible nationally, but is particularly helpful to New York, whose need for pollution control dollars is so pressing.

Further, and perhaps most important, this bill authorizes more money for the Federal share of pollution control over the next few years than does the Senate bill. Since both bills contain a national goal of total water cleanup by the 1980's, it is important that at an early stage, we begin putting enough Federal dollars behind this commitment.

I did support some of the amendments offered to strengthen this bill. I supported the amendment which would eliminate the 4-year grace period exempting violators from penalties under the Refuse Act. This is no time to loosen enforcement efforts even when it is understood that many communities and industries will have to tool up to meet the stringent standards this act contains for the years ahead.

I also supported Mr. VANDER JAGT'S amendment to offer special incentive for those who successfully implement antipollution methods which result in the recycling of wastes. At the rate our Nation is using up our resources, it is crucial that our Government encourage the development of the greatest possible recycling technology.

My hope is that the provisions of the House bill will survive the conference with the Senate, particularly those I have cited as being superior and more generous than the Senate bill, and that the President will sign into law what will be the most far-reaching national commitment to eliminate water pollution ever undertaken anywhere in the world. For at the moment this act is signed, States like my own can again pick up their shovels, and resume the job of carrying out the national mandate to our waters to the condition they were in when the earliest European settlers arrived on this continent.

Mr. KOCH. Mr. Chairman, I rise in support of H.R. 11896, the 1972 amendments to the Federal Water Pollution Act. While I believe that this proposal, as prepared by the Public Works Committee, is generally a sound and progressive bill, I think that certain areas of the bill must be strengthened, if this country is truly going to commit itself to a clean water program, and I intend to support all those amendments which will most rapidly and effectively restore our lakes, rivers, and seashores to their natural beauty.

The newspapers have lately been filled with articles prophesying ecological doom, and, certainly, the evidence for these predictions stands very alarmingly before us. The Great Lakes, supposedly the world's largest body of fresh water, are rapidly being poisoned. Lake Erie, which once supported a thriving freshwater fishing industry, is virtually dead. The Cuyahoga River near Cleveland, Ohio, burst into flames in 1969. How many of us have noticed that the beaches, lakes, and rivers we always have swum in have in the last few years been closed or posted dangerous to human health? Not only our recreational refuges are being destroyed, however, but our supply of safe drinking water is also being seriously endangered. A 1970 Public Health Service report found that 30 percent of the Nation's drinking water contains potentially hazardous amounts of chemicals. The clean water crisis is not a specter of the future; it is here with us right now.

There are certain aspects of the committee bill which represent a real advance in our Nation's approach to clean water. Especially important is the shift of emphasis from water quality standards to effluent limitations, for this would strike pollutants at their source. And since the power to set national standards for effluent control lies with the Federal Government, New York State is assured that other States are being compelled to move ahead at the same pace in their water pollution control programs and will be making sacrifices comparable to those New Yorkers are already making.

I am also pleased that the bill provides for the Federal reimbursement of States like New York, which have been in the forefront of pollution control efforts, for those funds which have been used to prefinance the promised but undelivered Federal share of waste treatment facilities. In addition, the bill's increased authorization for the construction of these facilities is vitally needed and the increase of the Federal share from 30 to 60 percent should ease the financial burden on local communities. The cost of waste treatment itself is made more equitable by that section of the bill instituting a system of user charges under which industries will pay for their use of water treatment facilities in proportion to the volume and strength of the waste products which they discharge.

While the committee bill sets the admirable national goal of eliminating the discharge of pollutants into navigable waters by 1985, with an interim goal of achieving a water quality suitable for swimming and fish propagation by 1981, these goals would not be implemented unless Congress enacts affirmative legislation after a 2-year feasibility study by the National Academy of Sciences. One of the excellent strengthening amendments offered by Representatives REUSS and DINGELL in their clean water package would allow the 1981 effluent standards to go into effect without further congressional action and would thus allow industry to undertake long-range planning.

Other amendments in this package would require industry to use the best available waste treatment technology by 1981—with costs taken into consideration; would empower the Environmental Protection Agency to review and, when appropriate, veto individual discharge permits issued by the States; would allow any citizen, rather than only those directly affected, to bring suit against polluters or against the administrators of EPA; and would protect workers by preventing industries from shopping for less strict State pollution regulations and by establishing an equitable system of economic assistance to those workers and communities affected by plant closures due to environmental regulations.

I believe there are several other areas of the bill which need strengthening, and I urge my colleagues to join in support of amendments which will make this a landmark piece of legislation, leading this Nation's antipollution efforts.

Indeed, when we consider that the intestinal bacteria concentration in the Hudson River is 170 times the safe limit set by EPA, due to the dumping there of more than 400 million gallons of human waste, how can we possibly delay any longer in enacting the strongest water pollution bill available to us? Rather than abandon our waters and waterways to sewage disposal, let us restore them and our pride in them as our Nation's most valuable resource.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. BOGGS, having assumed the Chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11896) to amend the Federal Water Pollution Control Act, pursuant to House Resolution 913, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. KYL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 380, nays 14, not voting 37, as follows:

[Roll No. 101]

YEAS—380

Abbitt
Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews
Annunzio
Archer
Arends
Ashley
Aspin
Aspinall
Badillo
Baker
Barrett
Begich
Belcher
Bell
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Caffery
Carey, N.Y.
Carney
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Clancy
Clausen, Don H.
Clay
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Colmer
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Diggs
Dingell
Donohue
Dorn
Dowdy
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edmondson
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Galifianakis
Gallagher
Garmatz
Gettys
Giaimo
Gibbons
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Grover
Gubser
Gude
Hagan
Haley
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hébert
Hechler, W. Va.

Heckler, Mass.
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hungate
Hunt
Hutchinson
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kee
Kemp
King
Kluczynski
Koch
Kyl
Kyros
Landrum
Latta
Leggett
Lennon
Lent
Link
Lloyd
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
McMillan
Macdonald, Mass.
Madden
Mailliard
Mallary
Mann
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills, Md.
Minish
Mink
Minshall
Mitchell
Mizell
Monagan
Montgomery
Moorhead
Morgan
Morse
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Podell
Poff
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rees
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roush
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarbanes
Satterfield
Schneebeli
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—14

Ashbrook
Blackburn
Burleson, Tex.
Camp
Crane
Dow
Findley
Gross
Hall
Landgrebe
Mahon
Martin
Rousselot
Schmitz

NOT VOTING—37

Abernethy
Baring
Blanton
Bow
Chappell
Chisholm
Clark
Clawson, Del
Davis, Ga.
Dickinson
Dwyer
Edwards, La.
Gaydos
Goldwater
Griffiths
Hawkins
Hays
Heinz
Hull
Ichord
Keith
Kuykendall
Mills, Ark.
Mollohan
Moss
Patman
Pryor, Ark.
Rangel
Rarick
Reid
Rostenkowski
Saylor
Scherle
Scheuer
Stuckey
Van Deerlin
Yates

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Dickinson for, with Mr. Bow against.

Until further notice:

Mr. Moss with Mr. Del Clawson.
Mr. Rostenkowski with Mrs. Dwyer.
Mr. Chappell with Mr. Scherle.
Mr. Blanton with Mr. Heinz.
Mr. Hays with Mr. Goldwater.
Mr. Hawkins with Mr. Reid.
Mr. Baring with Mr. Keith.
Mr. Clark with Mr. Saylor.
Mr. Rangel with Mr. Yates.
Mr. Rarick with Mr. Kuykendall.
Mr. Mollohan with Mr. Hull.
Mr. Van Deerlin with Mrs. Chisholm.
Mr. Davis of Georgia with Mr. Mills of Arkansas.
Mr. Ichord with Mr. Patman.
Mrs. Griffiths with Mr. Pryor of Arkansas.
Mr. Scheuer with Mr. Abernethy.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 913, the Committee on Public Works is discharged from the further consideration of the Senate bill (S. 2770) to amend the Federal Water Pollution Control Act.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. JONES OF ALABAMA

Mr. JONES of Alabama. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Jones of Alabama moves to strike out all after the enacting clause of S. 2770 and insert in lieu thereof the provisions of H.R. 11896, as passed, as follows:

That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1972".

Sec. 2. The Federal Water Pollution Control Act is amended to read as follows:

"TITLE I—RESEARCH AND RELATED PROGRAMS

"DECLARATION OF GOALS AND POLICY

"Sec. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

"(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

"(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by 1981;

"(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

"(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

"(5) it is the national policy that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State; and

"(6) it is the national policy that a major research and demonstration effort be made to technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans.

"(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent and abate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this Act. It is further the policy of the Congress to support and aid research relating to the prevention and abatement of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention and abatement of pollution.

"(c) It is further the policy of Congress that the President, acting through the Secretary of State and such national and international organizations as he determines appropriate, shall take such action as may be necessary to insure that to the fullest extent possible all foreign countries shall take meaningful action for the prevention, control, and abatement of pollution in their waters and in international waters and for the achievement of goals regarding the elimination of discharge of pollutants and the improvement of water quality to at least the same extent as the United States does under its laws.

"(d) Except as otherwise expressly provided in this Act, the Administrator of the Environmental Protection Agency (hereinafter in this Act called 'Administrator') shall administer this Act.

"(e) Public participation in the development, revision, and enforcement of any regulation, standard, or effluent limitation established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

"(f) It is the national policy that to the maximum extent possible the procedures utilized for implementing this Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government.

"(g) In the implementation of this Act, agencies responsible therefor shall consider all potential impacts relating to the water, land, and air to insure that other significant environmental degradation and damage to the health and welfare of man does not result.

"COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

"Sec. 102. (a) The Administrator shall, after careful investigation, and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved, prepare or develop comprehensive programs for abating or reducing the pollution of the navigable waters and ground waters and improving the sanitary condition of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses. For the purposes of this section, the Administrator is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial wastes, or substance which may adversely affect such waters.

"(b) (1) In the survey or planning of any reservoir by the Corps of Engineers, Bureau of Reclamation, or other Federal agency, consideration shall be given to inclusion of storage for regulation of streamflow for the purpose of water quality control, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source.

"(2) The need for and the value of storage for this purpose shall be determined by these agencies, with the advice of the Administrator, and his views on these matters shall be set forth in any report or presentation to the Congress proposing authorization or construction of any reservoir including such storage.

"(3) The value of such storage shall be taken into account in determining the economic value of the entire project of which it is a part, and costs shall be allocated to the purpose of water quality control in a manner which will insure that all project purposes share equitably in the benefits of multiple-purpose construction.

"(4) Costs of water quality control features incorporated in any Federal reservoir or other impoundment under the provisions of this Act shall be determined and the beneficiaries identified and if the benefits are widespread or national in scope, the costs of such features shall be nonreimbursable.

"(5) No license granted by the Federal Power Commission for a hydroelectric power project shall include storage for regulation of streamflow for the purpose of water quality control unless the Administrator shall recommend its inclusion and such reservoir storage capacity shall not exceed such proportion of the total storage required for the water quality control plan as the drainage area of such reservoir bears to the drainage area of the river basin or basins involved in such water quality control plan.

"(c)(1) The Administrator shall, at the request of the Governor of a State, or a majority of the Governors when more than one State is involved, make a grant to pay not to exceed 50 per centum of the administrative expenses of a planning agency for a period not to exceed three years, which period shall begin after the date of enactment of the Federal Water Pollution Control Act amendments of 1972, if such agency provides for adequate representation of appropriate State, interstate, local, or (when appropriate) international interests in the basin or portion thereof involved and is capable of developing an effective, comprehensive water quality control and abatement plan for a basin or portion thereof.

"(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control and abatement plan for the basin or portion thereof which—

"(A) is consistent with any applicable water quality standards, effluent and other limitations, and thermal discharge regulations established pursuant to current law within the basin;

"(B) recommends such treatment works as will provide the most effective and economical means of collection, storage, treatment, and elimination of pollutants and recommends means to encourage both municipal and industrial use of such works;

"(C) recommends maintenance and improvement of water quality within the basin or portion thereof and recommends methods of adequately financing those facilities as may be necessary to implement the plan; and

"(D) as appropriate, is developed in cooperation with, and is consistent with any comprehensive plan prepared by the Water Resources Council any areawide waste management plans developed pursuant to section 208 of this Act, and any State plan developed pursuant to section 303(e) of this Act.

"(3) For the purposes of this subsection the term 'basin' includes, but is not limited to rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof, as well as the lands drained thereby.

"INTERSTATE COOPERATION AND UNIFORM LAWS

"SEC. 103. (a) The Administrator shall encourage cooperative activities by the States for the prevention and abatement of pollution, encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and abatement of pollution; and encourage compacts between States for the prevention and control of pollution.

"(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by the Congress.

"RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

"SEC. 104. (a) The Administrator shall establish national programs for the prevention and abatement of pollution and as part of such programs shall—

"(1) in cooperation with other Federal, State, and local aegncies, conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and abatement of pollution;

"(2) encourage, cooperate with, and render technical services to pollution control agencies and other appropriate agencies, institutions, and organizations, public or private and individuals, including the general public, in the conduct of activities referred to in paragraph (1) of this subsection;

"(3) conduct, in cooperation with State water pollution control agencies and other interested agencies, organizations and persons, public investigations concerning the pollution of any navigable waters, and report on the results of such investigations;

"(4) establish advisory committees composed of recognized experts in various aspects of pollution and representatives of the public to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research;

"(5) in cooperation with the States, and their political subdivisions, and other Federal agencies establish, equip, and maintain a water quality surveillance system for the purpose of monitoring the quality of the navigable waters and ground waters and the contiguous zone and the oceans and the Administrator shall, to the extent practicable, conduct such surveillance by utilizing the resources of the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and the Coast Guard, and shall report on such quality in the report required under subsection (a) of section 516; and

"(6) initiate, and promote the coordination and acceleration of research designed to develop the most effective practicable tools and techniques for measuring the social and economic costs and benefits of activities which are subject to regulation under this Act; and shall transmit a report on the results of such research to the Congress not later than July 1, 1973.

"(b) In carrying out the provisions of subsection (a) of this section the Administrator is authorized to—

"(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities referred to in paragraph (1) of subsection (a);

"(2) cooperate with other Federal departments and agencies, State water pollution control agencies, interstate agencies, other public and private agencies, institutions, organizations, industries involved, and individuals, in the preparation and conduct of such research and other activities referred to in paragraph (1) of subsection (a);

"(3) make grants to State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals, for purposes stated in paragraph (1) of subsection (a) of this section;

"(4) contract with public or private agencies, institutions, organizations, and individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5), referred to in paragraph (1) of subsection (a);

"(5) establish and maintain research fellowships at public or nonprofit private educational institutions or research organizations;

"(6) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying water quality and other information pertaining to pollution and the prevention and abatement thereof; and

"(7) develop effective and practical processes, methods, and prototype devices for the prevention or abatement of pollution.

"(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons caused by pollutants. In order to avoid duplication of effort, the Administrator shall, to the extent practicable, conduct such research in cooperation with and through the facilities of the Secretary of Health, Education, and Welfare.

"(d) In carrying out the provisions of this section the Administrator shall develop and demonstrate under varied conditions (including conducting such basic and applied research, studies, and experiments as may be necessary):

"(1) Practicable means of treating municipal sewage and other waterborne waste to remove the maximum possible amounts of pollutants in order to restore and maintain the maximum amount of the Nation's water at a quality suitable for repeated reuse;

"(2) Improved methods and procedures to identify and measure the effects of pollutants on water uses, including those pollutants created by new technological developments; and

"(3) Methods and procedures for evaluating the effects on water quality and water uses of augmented streamflows to control pollution not susceptible to other means of abatement.

"(e) The Administrator shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and training relating to the prevention and control of pollution. Insofar as practicable, each such facility shall be located near institutions of higher learning in which graduate training in such research might be carried out.

"(f) The Administrator shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, an evaluation of the water quality needs of those to be served by such waters, an evaluation of municipal, industrial, and vessel waste treatment and disposal practices with respect to such waters, and a study of alternate means of solving pollution problems (including additional waste treatment measures) with respect to such waters.

"(g)(1) For the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities, and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Administrator shall finance pilot programs, in cooperation with State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, on entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, and supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Administrator is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

"(2) The Administrator is authorized to enter into agreements with public and private agencies and institutions, and individuals to develop and maintain an effective system for forecasting the supply of, and demand for, various professional and other occupational categories needed for the prevention, control, and abatement of pollution in each region, State, or area of the United States and, from time to time, to publish the results of such forecasts.

"(3) In furtherance of the purposes of this Act, the Administrator is authorized to—

"(A) make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;

"(B) establish and maintain research fellowships in the Environmental Protection Agency with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellowships; and

"(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, and control of pollution for personnel of public agencies and other persons with suitable qualifications.

"(4) The Administrator shall submit, through the President, a report to the Congress not later than December 31, 1973, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the number of persons trained, the occupational categories for which training was provided, the effectiveness of other Federal, State, and local training programs in this field, together with estimates of future needs, recommendations on improving training programs, and such other information and recommendations, including legislative recommendations, as he deems appropriate.

"(h) The Administrator is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, and abatement of pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

"(i) The Administrator, in cooperation with the Secretary of the department in which the Coast Guard is operating, shall—

"(1) engage in such research, studies, experiments, and demonstrations as he deems appropriate, relative to the removal of oil from any waters and to the prevention, control, and elimination of oil and hazardous substances pollution;

"(2) publish from time to time the results of such activities; and

"(3) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used in the control of oil and hazardous substances spills.

In carrying out this subsection, the Administrator may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

"(j) The Secretary of the department in which the Coast Guard is operating shall engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to equipment which is to be installed on board a vessel and is designed to receive, retain, treat, or discharge human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes with particular emphasis on equipment to be installed on small recreational vessels. The Secretary of the department in which the Coast Guard is operating shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any regulations established under section 312 of this Act. In carrying out this subsection the Secretary of the department in which the Coast Guard is operating may enter into contracts with, or make grants to public or private organizations and individuals.

"(k) In carrying out the provisions of this section relating to the conduct by the Administrator of demonstration projects and the development of field laboratories and research facilities, the Administrator may acquire land and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Administrator as the circumstances require.

"(l)(1) The Administrator shall, after consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, as soon as practicable but not later than October 3, 1972, develop and issue to the States for the purpose of carrying out this Act the latest scientific knowledge available in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add to such information whenever necessary to reflect developing scientific knowledge.

"(2) The President shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct studies and investigations of methods to control the release of pesticides into the environment which study shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The President shall submit reports, from time to time, on such investigations to Congress together with his recommendations for any necessary legislation.

"(m)(1) The Administrator shall, in an effort to prevent degradation of the environment from the disposal of waste oil, conduct a study of (A) the generation of used engine, machine, cooling, and similar waste oil, including quantities generated, the nature and quality of such oil, present collecting methods and disposal practices, and alternate uses of such oil; (B) the long-term, chronic biological effects of the disposal of such waste oil; and (C) the potential market for such oils, including the economic and legal factors relating to the sale of products made from such oils, the level of subsidy, if any, needed to encourage the purchase by public and private nonprofit agencies of products from such oil, and the practicability of Federal procurement, on a priority basis, of products made from such oil. In conducting such study, the Administrator shall consult with affected industries and other persons.

"(2) The Administrator shall report the results of such study to the Congress within 18 months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

"(n)(1) The Administrator shall, in cooperation with the Secretary of the Army, the Secretary of Agriculture, the Water Resources Council, and with other appropriate Federal, State, interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote, and encourage contributions to, continuing comprehensive studies of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on fish and wildlife, on sport and commercial fishing, on recreation, on water supply and water power, and on other beneficial purposes. Such studies shall also consider the effect of demographic trends, the exploitation of mineral resources and fossil fuels, land and industrial development, navigation, flood and erosion control, and other uses of estuaries and estuarine zones upon the pollution of the waters therein.

"(2) In conducting such studies, the Administrator shall assemble, coordinate, and organize all existing pertinent information on the Nation's estuaries and estuarine zones; carry out a program of investigations and surveys to supplement existing information in representative estuaries and estuarine zones; and identify the problems and areas where further research and study are required.

"(3) The Administrator shall submit to Congress, from time to time, reports of the studies authorized by this subsection but at least one such report during any three year period. Copies of each support report shall be made available to all interested parties, public and private.

"(4) For the purpose of this subsection, the term 'estuarine zones' means an environmental system consisting of an estuary and those transitional areas which are consistently influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and inter-tidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term 'estuary' means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

"(o)(1) The Administrator shall conduct research and investigations on devices, systems, incentives, pricing policy, and other methods of reducing the total flow of sewage, including, but not limited to, unnecessary water consumption in order to reduce the requirements for, and the costs of sewage and waste treatment services. Such research and investigations shall be directed to develop devices, systems, policies, and methods capable of achieving the maximum reduction of unnecessary water consumption.

"(2) The Administrator shall report the preliminary results of such studies and investigations to the Congress within one year after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and annually thereafter in the report required under subsection (a) of section 516. Such report shall include recommendations for any legislation that may be required to provide for the adoption and use of devices, systems, policies, or other methods of reducing water consumption and reducing the total flow of sewage. Such report shall include an estimate of the benefits to be derived from adoption and use of such devices, systems, policies, or other methods and also shall reflect estimates of any increase in private, public, or other cost that would be occasioned thereby.

"(p) In carrying out the provisions of subsection (a) of this section the Administrator shall, in cooperation with the Secretary of Agriculture, other Federal agencies, and the States, carry out a comprehensive study and research program to determine new and improved methods and the better application of existing methods of preventing and abating pollution from agriculture, including the legal, economic, and other implications of the use of such methods.

"(q) (1) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods of preventing, abating, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems.

"(2) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods for the collection and treatment of sewage and other liquid wastes combined with the treatment and disposal of solid wastes.

"(r) The Administrator is authorized to make grants to colleges and universities to conduct basic research into the structure and function of fresh water aquatic ecosystems, and to improve understanding of the ecological characteristics necessary to the maintenance of the chemical, physical, and biological integrity of freshwater aquatic ecosystems.

"(s) The Administrator is authorized to make grants to one or more institutions of higher education (regionally located and to be designated as 'River Study Centers') for the purpose of conducting and reporting on interdisciplinary studies on the nature of river systems, including hydrology, biology, ecology, economics, the relationships between river uses and land uses, and the effects of development within river basins on river systems and on the value of water resources and water development activities. No such grant in any fiscal year shall exceed $1,000,000.

"(t) The Administrator shall, in cooperation with State and Federal agencies and public and private organizations, conduct continuing comprehensive studies of the effects and methods of control of thermal discharges. In evaluating alternative methods of control the studies shall consider (1) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, and (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources. Such studies shall consider methods of minimizing adverse effects and maximizing beneficial effects of thermal discharges. The results of these studies shall be reported by the Administrator as soon as practicable, but not later than one year after enactment of this subsection, and shall be made available to the public and the States, and utilized by the Administrator in proposing regulations with respect to thermal discharges under section 316 of this Act.

"(u) There is authorized to be appropriated (1) $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, for carrying out the provisions of this section other than subsections (g), (p), and (r); (2) not to exceed $7,500,000 for fiscal year 1973 for carrying out the provisions of subsection (g) (1); (3) not to exceed $2,500,000 for fiscal year 1973 for carrying out the provisions of subsection (g) (2); (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, for carrying out the provisions of subsection (p); and not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, for carrying out the provisions of subsection (r).

"GRANTS FOR RESEARCH AND DEVELOPMENT

"SEC. 105. (a) The Administrator is authorized to conduct in the Environmental Protection Agency, and to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of—

"(1) any project which will demonstrate a new or improved method of preventing and abating the discharge into any waters of pollutants from sewers which carry storm water or both storm water and pollutants; or

"(2) any project which will demonstrate advanced waste treatment and water purification methods (including the temporary use of new or improved chemical additives which provide substantial immediate improvement to existing treatment processes), or new or improved methods of joint treatment systems for municipal and industrial wastes;

and to include in such grants such amounts as are necessary for the purpose of reports, plans, and specifications in connection therewith.

"(b) The Administrator is authorized to make grants to any State or States or interstate agency to demonstrate, in river basins or portions thereof, advanced pollution treatment and environmental enhancement techniques to control pollution from all sources, within such basins or portions thereof, including nonpoint sources, together with instream water quality improvement techniques.

"(c) The Administrator is authorized to conduct in the Environmental Protection Agency, to make grants to, and to enter into contracts with, persons for, research and demonstration projects for prevention of pollution by industry including, but not limited to, treatment of industrial waste. No grant shall be made for any project under this subsection unless the Administrator determines that such project will develop or demonstrate a new or improved method of treating industrial wastes or otherwise prevent pollution by industry, which method shall have industrywide application.

"(d) In carrying out the provisions of this section, the Administrator shall conduct, on a priority basis, an accelerated effort to develop, refine, and achieve practical application of:

"(1) waste management methods applicable to point and nonpoint sources of pollutants, including, but not limited to, elimination of runoff of pollutants and the effects of pollutants from inplace or accumulated sources;

"(2) advanced waste treatment methods applicable to point and nonpoint sources, including inplace or accumulated sources of pollutants, and methods for reclaiming and recycling water and confining and containing pollutants so they will not migrate to cause water or other environmental pollution; and

"(3) improved methods and procedures to identify and measure the effects of pollutants on the chemical, physical, and biological integrity of water, including those pollutants created by new technological developments.

"(e) (1) The Administrator is authorized to (A) make, in consultation with the Secretary of Agriculture, grants to persons for research and demonstration projects with respect to new and improved methods of preventing and abating pollution from agriculture, and (B) disseminate, in cooperation with the Secretary of Agriculture, such information obtained under this subsection, section 104(p), and section 304 as will encourage and enable the adoption of such methods in the agricultural industry.

"(2) The Administrator is authorized, (A) in consultation with other interested Federal agencies, to make grants for demonstration projects with respect to new and improved methods of preventing, abating, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems, and (B) in cooperation with other interested Federal and State agencies, to disseminate such information obtained under this subsection as will encourage and enable the adoption of new and improved methods developed pursuant to this subsection.

"(f) Federal grants under subsection (a) of this section shall be subject to the following limitations:

"(1) No grant shall be made for any project unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator;

"(2) No grant shall be made for any project in an amount exceeding 75 per centum of the cost thereof as determined by the Administrator; and

"(3) No grant shall be made for any project unless the Administrator determines that such project will serve as a useful demonstration for the purpose set forth in clause (1) or (2) of subsection (a).

"(g) Federal grants under subsections (c) and (d) of this section shall not exceed 75 per centum of the cost of the project.

"(h) For the purpose of this section there is authorized to be appropriated $70,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, and from such appropriations at least 10 per centum of the funds actually appropriated in each fiscal year shall be available only for the purposes of subsection (e).

"GRANTS FOR POLLUTION CONTROL PROGRAMS

"SEC. 106. (a) There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section—

"(1) $60,000,000 for the fiscal year ending June 30, 1973; and

"(2) $75,000,000 for the fiscal year ending June 30, 1974;

for grants to States and to interstate agencies to assist them in carrying out programs for the prevention and abatement of pollution.

"(b) From the sums appropriated in any fiscal year, the Administrator shall make allotments to the several States and interstate agencies in accordance with regulations promulgated by him on the basis of the extent of the pollution problem in the respective States.

"(c) The Administrator is authorized to pay to each State and interstate agency each fiscal year either—

"(1) the allotment of such State or agency for such fiscal year under subsection (b), or

"(2) the reasonable costs as determined by the Administrator of developing and carrying out a pollution program by such State or agency during such fiscal year,

whichever amount is the lesser.

"(d) No grant shall be made under this section to any State or interstate agency for any fiscal year when the expenditure of non-Federal funds by such State or interstate agency during such fiscal year for the recurrent expenses of carrying out its pollution control program are less than the expenditure by such State or interstate agency of non-Federal funds for such recurrent program expenses during the fiscal year ending June 30, 1971.

"(e) Grants shall be made under this section on condition that—

"(1) Such State (or interstate agency) files with the Administrator within one hundred and twenty days after the date of enactment of this section:

"(A) a summary report of the current status of the State pollution control program, including the criteria used by the State in determining priority of treatment works; and

"(B) such additional information, data, and reports as the Administrator may require.

"(2) No federally assumed enforcement as defined in section 309(a)(2) is in effect with respect to such State or interstate agency.

"(3) Such State (or interstate agency) submits within one hundred and twenty days after the date of enactment of this section and before July 1 of each year thereafter for the Administrator's approval its program for the prevention and abatement of pollution in accordance with purposes and provisions of this Act in such form and content as the Administrator may prescribe.

"(f) Any sums allotted under subsection (b) in any fiscal year which are not paid shall be reallotted by the Administrator in accordance with regulations promulgated by him.

"AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

"SEC. 107. (a) The Administrator in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State or interstate agency to carry out one or more projects to demonstrate methods for the elimination or control, within all or part of a watershed, of acid or other mine water pollution resulting from active or abandoned mines. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control, including techniques that demonstrate the engineering and economic feasibility and practicality of using sewage sludge materials and other municipal wastes to diminish or prevent pollution from acid, sedimentation, or other water pollutants and to restore the lands on which such projects are located to usefulness for forestry, agriculture, recreation, or other beneficial uses.

"(b) The Administrator, in selecting watersheds for the purposes of this section, shall (1) require such feasibility studies as he deems appropriate, (2) give preference to areas which have the greatest present or potential value for public use for recreation, fish and wildlife, water supply, and other public uses, and (3) be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

"(c) Federal participation in such projects shall be subject to the conditions—

"(1) that the State or interstate agency shall pay not less than 25 per centum of the actual project costs which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, or personal property or services, the value of which shall be determined by the Administrator; and

"(2) that the State or interstate agency shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

"(d) There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended. No more than 25 per centum of the total funds available under this section in any one year shall be granted to any one State.

"POLLUTION CONTROL IN GREAT LAKES

"SEC. 108. (a) The Administrator, in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State, political subdivision, interstate agency, or other public agency, or combination thereof, to carry out one or more projects to demonstrate new methods and techniques and to develop preliminary plans for the elimination or control of pollution, within all or any part of the watersheds of the Great Lakes. Such projects shall demonstrate the engineering and economic feasibility and practicality of removal of pollutants and prevention of any polluting matter from entering into the Great Lakes in the future and other abatement and remedial techniques which will contribute substantially to effective and practical methods of pollution elimination or control.

"(b) Federal participation in such projects shall be subject to the condition that the State, political subdivision, interstate agency, or other public agency, or combination thereof, shall pay not less than 25 per centum of the actual project costs, which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, and personal property or services the value of which shall be determined by the Administrator.

"(c) There is authorized to be appropriated $20,000,000 to carry out the provisions of subsections (a) and (b) of this section, which sum shall be available until expended.

"(d)(1) In recognition of the serious conditions which exist in Lake Erie, the Secretary of the Army, acting through the Chief of Engineers, is directed to design and develop a demonstration waste water management program for the rehabilitation and environmental repair of Lake Erie. Prior to the initiation of detailed engineering and design, the program, along with the specific recommendations of the Chief of Engineers, and recommendations for its financing, shall be submitted to the Congress for statutory approval. This authority is in addition to, and not in lieu of, other waste water studies aimed at eliminating pollution emanating from select sources around Lake Erie.

"(2) This program is to be developed in cooperation with the Environmental Protection Agency, other interested departments, agencies, and instrumentalities of the Federal Government, and the States and their political subdivisions. This program shall set forth alternative systems for managing waste water on a regional basis and shall provide local and State governments with a range of choice as to the type of system to be used for the treatment of waste water. These alternative systems shall include both advanced waste treatment technology and land disposal systems including aerated treatment-spray irrigation technology and will also include provisions for the disposal of solid wastes, including sludge. Such program should include measures to control point sources of pollution, area sources of pollution, including acid-mine drainage, urban runoff and rural runoff, and sources of in-place pollutants, including bottom loads, sludge banks, and polluted harbor dredgings.

"(e) There is authorized to be appropriated $5,000,000 to carry out the provisions of subsection (d) of this section, which sum shall be available until expended.

"TRAINING GRANTS AND CONTRACTS

"SEC. 109. The Administrator is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works, and other facilities whose purpose is water quality control. Such grants or contracts may include payment of all or part of the cost of programs or projects such as—

"(A) planning for the development or expansion of programs or projects for training persons in the operation and maintenance of treatment works;

"(B) training and retraining of faculty members;

"(C) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works;

"(D) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works; and

"(E) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

"APPLICATION FOR TRAINING GRANT OR CONTRACT; ALLOCATION OF GRANTS OR CONTRACTS

"SEC. 110. (1) A grant or contract authorized by section 109 may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

"(A) sets forth programs, activities, research, or development for which a grant is authorized under section 109 and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 111;

"(B) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

"(C) provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"(2) The Administrator shall allocate grants or contracts under section 109 in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purpose of this section.

"(3)(A) Payment under this section may be used in accordance with regulations of the Administrator, and subject to the terms and conditions set forth in an application approved under subsection (a), to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee in connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

"(B) Departments and agencies of the United States are encouraged, to the extent consistent with efficient administration, to enter into arrangements with institutions of higher education for the full-time, part-time, or temporary employment, whether in the competitive or excepted service, of students enrolled in programs set forth in applications approved under subsection (a).

"AWARD OF SCHOLARSHIPS

"SEC. 111. (1) The Administrator is authorized to award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Administrator may determine but not to exceed four academic years.

"(2) The Administrator shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs, in such manner and according to such plan as will insofar as practicable—

"(A) provide an equitable distribution of such scholarships throughout the United States; and

"(B) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

"(3) The Administrator shall approve a program of any institution of higher education for the purposes of this section only upon application by the institution and only upon his finding—

"(A) that such program has a principal objective the education and training of persons in the operation and maintenance of treatment works;

"(B) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality;

"(C) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application if any, submitted pursuant to section 110 of this Act; and

"(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Administrator for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (ii) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

"(4)(A) The Administrator shall pay to persons awarded scholarships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(B) The Administrator shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(5) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods as the Administrator finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Administrator by or pursuant to regulation.

"(6) The Administrator shall by regulation provide that any person awarded a scholarship under this section shall agree in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period after completion of his course of studies as the Administrator determines appropriate.

"DEFINITIONS AND AUTHORIZATIONS

"SEC. 112. (a) As used in sections 109 through 112 of this Act—

"(1) The term 'institution of higher education' means an educational institution described in the first sentence of section 1201 of the Higher Education Act of 1965 (other than an institution of any agency of the United States) which is accredited by a nationally recognized accrediting agency or association approved by the Administrator for this purpose. For purposes of this subsection, the Administrator shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(2) The term 'academic year' means an academic year or its equivalent, as determined by the Administrator.

"(b) The Administrator shall annually report his activities under sections 109 through 112 of this Act, including recommendations for needed revisions in the provisions thereof.

"(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out sections 109 through 112 of this Act.

"ALASKA VILLAGE DEMONSTRATION PROJECTS

"SEC. 113. (a) The Administrator is authorized to enter into agreements with the State of Alaska to carry out one or more projects to demonstrate methods to provide for central community facilities for safe water and elimination or control of pollution in those native villages of Alaska without such facilities. Such project shall include provisions for community safe water supply systems, toilets, bathing and laundry facilities, sewage disposal facilities, and other similar facilities, and educational and informational facilities and programs relating to health and hygiene. Such demonstration projects shall be for the further purpose of developing preliminary plans for providing such safe water and such elimination or control of pollution for all native villages in such State.

"(b) In carrying out this section the Administrator shall cooperate with the Secretary of Health, Education, and Welfare for the purpose of utilizing such of the personnel and facilities of that Department as may be appropriate.

"(c) The Administrator shall report to Congress not later than January 31, 1974, the results of the demonstration projects authorized by this section together with his recommendations, including any necessary legislation, relating to the establishment of a statewide program.

"(d) There is authorized to be appropriated not to exceed $2,000,000 to carry out this section.

"ECONOMIC GROWTH CENTERS

"SEC. 114. In the case of any economic growth center designated under section 143 of title 23, United States Code, the Administrator is authorized to make a supplemental grant to such center in any case where such center receives a grant for construction of treatment works under this Act. Such supplemental grant shall be for such percentage of the costs of such works as the Administrator determines. There is authorized to be appropriated to carry out this section not to exceed $5,000,000.

"TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

"PURPOSE

"SEC. 201. (a) It is the purpose of this title to require, and to assist the development and implementation of, waste treatment management plans and practices.

"(b) Waste treatment management plans and practices shall provide for the application of the best practicable waste treatment technology before any discharge into receiving waters, including reclaiming and recycling of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution and shall provide for consideration of advanced waste treatment technology and aerated treatment-spray-irrigation technology.

"(c) To the extent practicable, waste treatment management shall be on an areawide basis and provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

"(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

"(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, or any combination thereof;

"(2) the confined and contained disposal of pollutants not recycled;

"(3) the reclamation of wastewater; and

"(4) the ultimate disposal of sludge in a matter that will not result in environmental hazards.

"(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of, or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

"(f) The Administrator shall encourage waste treatment management which combines 'open space' and recreational considerations with such management.

"(g)(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works.

"(2) The Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that—

"(A) alternative waste management techniques have been studied and evaluated and the works proposed for grant assistance will provide for the application of the best practicable waste treatment technology over the life of the works consistent with the purposes of this title; and

"(B) as appropriate, the works proposed for grant assistance will take into account and allow to the extent practicable the application of technology at a later date which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants.

"(3) The Administrator shall not approve any grant after July 1, 1973, for treatment works under this section unless the applicant shows to the satisfaction of the Administrator that each sewer collection system discharging into such treatment works is not subject to excessive infiltration.

"(4) The Administrator is authorized to make grants to applicants for treatment works grants under this section for such sewer system evaluation studies as may be necessary to carry out the requirements of paragraph (3) of this subsection. Such grants shall be made in accordance with rules and regulations promulgated by the Administrator. Initial rules and regulations shall be promulgated under this paragraph not later than 120 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

"FEDERAL SHARE

"SEC. 202. (a) The amount of any grant for treatment works made under this Act from funds authorized for any fiscal year beginning after June 30, 1971, shall be 60 per centum of the cost of construction thereof (as approved by the Administrator); except that the amount of such grant shall be increased to 75 per centum of such cost if the State agrees to pay at least 15 per centum of the cost of construction of each treatment works for which Federal grants are to be made from funds allocated to such State for such fiscal year. Any grant (other than for reimbursement) made prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section.

"(b) The amount of the grant for any project approved by the Administrator after January 1, 1971, and before July 1, 1971, for the construction of treatment works, the actual erection, building or acquisition of which was not commenced prior to July 1, 1971, shall, uopn the request of the applicant, be increased to the applicable percentage under subsection (a) of this section for grants for treatment works from funds for fiscal years beginning after June 30, 1971, with respect to the cost of such actual erection, building, or acquisition. Such increased amount shall be paid from any funds allocated to the State in which the treatment works is located without regard to the fiscal year for which such funds were authorized. Such increased amount shall be paid for such project only if—

"(1) a sewage collection system that is a part of the same total waste treatment system as the treatment works for which such grant was approved is under construction or is to be constructed for use in conjunction with such treatment works, and if the cost of such sewage collection system exceeds the cost of such treatment works, and

"(2) the State water pollution control agency certifies that the quantity of available ground water will be insufficient to meet the future requirements for public water supply, unless effluents from publicly owned treatment works, after adequate treatment are injected into the ground to replenish the supply of ground water.

"PLANS, SPECIFICATIONS, ESTIMATES, AND PAYMENTS

"SEC. 203. (a) Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 201(d)(1) from funds allotted to the State under section 205 and which otherwise meets the requirements of this Act. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project.

"(b) The Administrator shall, from time to time as the work progresses, make payments to the recipient of a grant for costs of construction incurred on a project. These payments shall at no time exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

"(c) After completion of a project and approval of the final voucher by the Administrator, he shall pay out of the appropriate sums the unpaid balance of the Federal share payable on account of such project.

"LIMITATIONS AND CONDITIONS

"SEC. 204. (a) Before approving grants for any project for any treatment works under section 201(d)(1) the Administrator shall determine—

"(1) that such works are included in any applicable areawide waste treatment management plan developed under section 208 of this Act;

"(2) that such works are in conformity with any applicable State plan under section 303(e) of this Act;

"(3) that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable State plan under section 303(e) of this Act;

"(4) that the applicant proposing to construct such works agrees to pay the non-Federal costs of such works and has made adequate provisions satisfactory to the Administrator for assuring proper and efficient operation, including the employment of trained management and operations personnel, and the maintenance of such works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency, after construction thereof;

"(5) that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capacity will be required;

"(6) that no specification for bids in connection with such works shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words 'or equal'.

"(b)(1) Notwithstanding any other provision of this title, the Administrator shall not approve any grant for any treatment works under section 201(d)(1) after June 30, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share of the costs of operation, maintenance (including replacement), and expansion of any waste treatment services provided by the applicant; (B) has made provision for the payment to such applicant by the industrial users of the treatment works, of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of such industrial wastes to the extent attributable to the Federal share of the cost of construction; and (C) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, maintenance, and expansion of treatment works throughout the applicant's jurisdiction, as determined by the Administrator.

"(2) The Administrator shall, within one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and after consultation with appropriate State, interstate, municipal, and intermunicipal agencies, issue guidelines applicable to payment of waste treatment costs by industrial and nonindustrial recipients of waste treatment services which shall establish (A) classes of users of such services, including categories of industrial users; (B) criteria against which to determine the adequacy of charges imposed on classes and categories of users reflecting all factors that influence the cost of waste treatment, including strength, volume, and delivery flow rate characteristics of waste; and (C) model systems and rates of user charges typical of various treatment works serving municipal-industrial communities.

"(3) Revenues derived from the payment of costs by industrial users of waste treatment services, to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to this title, as determined by the Administrator, shall be retained by the grantee for use solely for the operation, maintenance, expansion, and construction of treatment works which are publicly owned, in accordance with regulations promulgated by the Administrator.

"(4) Approval by the Administrator of a grant to an interstate agency established by interstate compact for any treatment works shall satisfy any other requirement that such works be authorized by Act of Congress.

"ALLOTMENT

"SEC. 205. (a) All sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after June 30, 1972, shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than thirty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of the table on page 18 of volume I of Senate Document 92–93 entitled 'The Cost of Clean Water'. Allotments for fiscal years which begin after the fiscal year ending June 30, 1974, shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 516(b) of this Act and only after such revised cost estimate shall have been approved by law specifically enacted hereafter.

"(b) (1) Any sums allotted to a State under subsection (a) shall be available for obligation under section 203 on and after the date of such allotment. Such sums shall continue available for obligation in such State for a period of one year after the close of the fiscal year for which such sums are authorized. Any amounts so allotted which are not obligated by the end of such one-year period shall be immediately reallotted by the Administrator, in accordance with regulations promulgated by him, generally on the basis of the ratio used in making the last allotment of sums under this section. Such reallotted sums shall be added to the last allotments made to the States. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

"(2) Any sums which have been obligated under section 203 and which are released by the payment of the final voucher for the project shall be immediately credited to the State to which such sums were last allotted. Such released sums shall be added to the amounts last allotted to such State and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

"REIMBURSEMENT AND ADVANCED CONSTRUCTION

"SEC. 206. (a) Any publicly owned treatment works in a State on which construction was initiated after June 30, 1966, but before July 1, 1972, which was approved by the appropriate State water pollution control agency and which the Administrator finds an application was made prior to initiation of construction for financial assistance under this Act and which the Administrator finds meets the requirements of section 8 of this Act in effect at the time of the initiation of construction but which was constructed (1) without financial assistance authorized by such section 8 solely because of the lack of authority or of Federal funds or (2) with financial assistance authorized by such section 8 but in a lesser percentage of the cost of construction than authorized by such section 8 shall qualify for payment and reimbursement of State or local funds used or committed (including retroactive use or commitment of State funds) for such project prior to July 1, 1974, from sums allocated to such State under this section for any fiscal year ending prior to July 1, 1975, to the maximum extent that assistance could have been provided under such section 8 and for which it would have qualified if such project had been approved thereunder and authority for and adequate funds had been available (including retroactive State participation).

"(b) Any publicly owned treatment works constructed with or eligible for Federal financial assistance under this Act in a State between June 30, 1956, and June 30, 1966, which was approved by the State water pollution control agency and which the Administrator finds meets the requirements of section 8 of this Act immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 but which was constructed without assistance under such section 8 or which received such assistance in an amount less than 30 per centum of the cost of such project shall qualify for payments and reimbursement of State or local funds used for such project from sums allocated to such State under this section in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 per centum of the cost of such project.

"(c) There is authorized to be appropriated to carry out subsection (a) of this section not to exceed $2,000,000,000 and, to carry out subsection (b) of this section, not to exceed $750,000,000. The authorizations contained in this subsection shall be the sole source of funds for reimbursements authorized by this section.

"(d) (1) In any case where all funds allotted to a State under this title have been obligated under section 203 of this Act, and there is construction of any treatment works project without the aid of Federal funds and in accordance with all procedures and all requirements applicable to treatment works projects, except those procedures and requirements which limit construction of projects to those constructed with the aid of previously allotted Federal funds, the Administrator, upon his approval of an application made under this subsection therefor, is authorized to pay the Federal share of the cost of construction of such project when additional funds are allotted to the State under this title if prior to the construction of the project the Administrator approves plans, specifications, and estimates therefor in the same manner as other treatment works projects. The Administrator may not approve an application under this subsection unless an authorization is in effect for the future fiscal year for which the application requests payment, which authorization will insure such payment without exceeding the State's expected allotment from such authorization.

"(2) In determining the allotment for any fiscal year under this title, any treatment works project constructed in accordance with this section and without the aid of Federal funds shall not be considered completed until an application under the provisions of this subsection with respect to such project has been approved by the Administrator, or the availability of funds from which this project is eligible for reimbursement has expired, whichever first occurs.

"AUTHORIZATION

"SEC. 207. There is authorized to be appropriated to carry out this title, other than sections 208 and 209, for the fiscal year ending June 30, 1973, $5,000,000,000, for the fiscal year ending June 30, 1974, $6,000,000,000, and for the fiscal year ending June 30, 1975, $7,000,000,000.

"AREAWIDE WASTE TREATMENT MANAGEMENT

"SEC. 208. (a) For the purpose of encouraging and facilitating the development and implementation of areawide waste treatment management plans—

"(1) The Administrator, within ninety days after the date of enactment of this Act and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems.

"(2) The Governor of each State, within sixty days after publication of the guidelines issued pursuant to pargraph (1) of this subsection, shall identify each area within the State which, as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. Not later than one hundred and twenty days following such identification and after appropriate consultation with the officials of all local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization capable of developing effective areawide waste treatment management plans for such area. The Governor may in the same manner at any later time identify any additional area (or modify an existing area) for which he determines areawide waste treatment management to be appropriate, designate the boundaries of such area, and designate an organization capable of developing effective areawide waste treatment management plans for such area.

"(3) With respect to any area which, pursuant to the guidelines published under paragraph (1) of this subsection, is located in two or more States, the Governors of the respective States shall consult and cooperate in carrying out the provisions of paragraph (2), with a view toward designating the boundaries of the interstate area having common water quality control problems and for which areawide waste treatment management plans would be most effective, and toward designating, within one hundred and eighty days after publication of guidelines issued pursuant to paragraph (1) of this subsection, of a single representative organization capable of developing effective areawide waste treatment management plans for such area.

"(4) Existing regional agencies may be designated under paragraphs (2) and (3) of this subsection.

"(5) Designations under this subsection shall be subject to the approval of the Administrator.

"(b) (1) No later than two years after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 201 of this Act. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved.

"(2) Any plan prepared under such process shall include, but not be limited to—

"(A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works;

"(B) the establishment of construction priorities for such treatment works and time schedules for the initiation and completion of all treatment works;

"(C) the establishment of a regulatory program to —

"(i) implement the waste treatment management requirements of section 201(c),

"(ii) regulate the location, modification, and construction of any facilities within such area which may result in any discharge in such area, and

"(iii) assure that any industrial or commercial wastes discharged into any treatment works in such area meet applicable pretreatment requirements;

"(D) the identification of those agencies necessary to construct, operate, and maintain all facilities required by the plan and otherwise to carry out the plan;

"(E) the identification of the measures necessary to carry out the plan (including financing), the period of time necessary to carry out the plan, the costs of carrying out the plan within such time, and the economic, social, and environmental impact of carrying out the plan within such time;

"(F) a process to (i) identify, if appropriate, agriculturally related nonpoint sources of pollution, including runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

"(G) a process to (i) identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

"(H) a process to (i) identify construction activities related sources of pollution, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources; and

"(I) a process to (i) identify, if appropriate, salt water intrusion into rivers, lakes, and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, and (ii) set forth procedures and methods to control such intrusion to the extent feasible where such procedures and methods are otherwise a part of the waste treatment management plan.

"(3) Areawide waste treatment management plans shall be certified annually by the Governor or his designee (or Governors or their designees, where more than one State is involved) as being consistent with applicable basin plans and such areawide waste treatment management plans shall be submitted to the Administrator for his approval.

"(c)(1) The Governor of each State, in consultation with the planning agency designated under subsection (a) of this section, at the time a plan is submitted to the Administrator, may designate one or more waste treatment management agencies for each area designated under subsection (a) of this section and submit a list of such designations to the Administrator.

"(2) The Administrator shall approve any such designation, within ninety days of designation, only if he finds that the designated management agency (or agencies) is authorized—

"(A) to carry out appropriate portions of an areawide waste treatment management plan developed under subsection (b) of this section;

"(B) to manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;

"(C) directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;

"(D) to accept and utilize grants, or other funds from any source, for waste treatment management purposes;

"(E) to raise revenues, including the assessment of waste treatment charges;

"(F) to incur short- and long-term indebtedness;

"(G) to assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;

"(H) to refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and

"(I) to accept for treatment industrial wastes.

"(d) After a waste treatment management agency has been designated under this subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under section 201(d)(1) within such area except to such designated agency and for works in conformity with such plan.

"(e) No permit under section 402 of this Act shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section.

"(f)(1) The Administrator shall make grants to any agency designated under subsection (a) of this section for payment of the reasonable costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

"(2) The amount granted to any agency under paragraph (1) of this subsection shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section for each of the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, and shall not exceed 75 per centum of such costs in each succeeding fiscal year.

"(3) There is authorized to be appropriated to the Administrator to carry out this subsection not to exceed $100,000,000 for the fiscal year ending June 30, 1973, and not to exceed $150,000,000 for the fiscal year ending June 30, 1974.

"(g) The Administrator is authorized, upon request of the Governor or the designated planning agency, and without reimbursement, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of areawide waste treatment management plans under subsection (b) of this section.

"(h)(1) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Administrator is authorized and directed, upon request of the Governor or the designated planning organization, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

"(2) There is authorized to be appropriated to the Secretary of the Army, to carry out this subsection, not to exceed $50,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974.

"BASIN PLANNING

"SEC. 209. (a) The President, acting through the Water Resources Council, shall, as soon as practicable, prepare a Level B plan under the Water Resources Planning Act for all basins in the United States. All such plans shall be completed not later than January 1, 1980, except that priority in the preparation of such plans shall be given to those basins and portions thereof which are within those areas designated by a Governor or Governors under paragraphs (2) and (3) of subsection (a) of section 208 of this Act.

"(b) The President, acting through the Water Resources Council, shall report annually to Congress on progress being made in carrying out this section. The first such report shall be submitted not later than January 31, 1973.

"(c) There is authorized to be appropriated to carry out this section not to exceed $200,000,000.

"ANNUAL SURVEY

"SEC. 210. The Administrator shall annually make a survey to determine the efficiency of the operation and maintenance of treatment works constructed with grants made under this Act, as compared to the efficiency planned at the time the grant was made. The results of such annual survey shall be included in the report required under section 516(a) of this Act.

"SEWAGE COLLECTION SYSTEMS

"SEC. 211. No grant shall be made under this title for a sewage collection system unless such system is for an existing community and is necessary to the integrity of a total waste treatment works system.

"DEFINITIONS

"SEC. 212. As used in this title—

"(1) The term 'construction' means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

"(2)(A) The term 'treatment works' means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

"(B) In addition to the definition contained in subparagraph (A) of this paragraph, 'treatment works' means any other methods or system for preventing, abating, reducting, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. Any application for construction grants which includes wholly or in part such methods or systems shall, in accordance with guidelines published by the Administrator pursuant to subparagraph (C) of this paragraph, contain adequate data and analysis demonstrating such proposal to be, over the life of such works, the most cost efficient alternative to comply with sections 301 or 302 of this Act, or the requirements of section 201 of this Act.

"(C) For the purposes of subparagraph (B) of this paragraph, the Administrator shall, within one hundred and eighty days after the date of enactment of this title, publish and thereafter revise no less often than annually, guidelines for the evaluation of methods, including cost-effective analysis, described in subparagraph (B) of this paragraph.

"(3) The term 'replacement' as used in this title means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

"(4) The term 'industrial user' means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category 'Division D—Manufacturing' and such other classes of significant waste producers as, by regulation the Administrator deems appropriate under this title.

"TITLE III—STANDARDS AND ENFORCEMENT

"EFFLUENT LIMITATIONS

"SEC. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

"(b) In order to carry out the objective of this Act there shall be achieved—

"(1)(A) not later than January 1, 1976, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of this Act, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirements under section 307 of this Act; and

"(B) for publicly owned treatment works in existence on January 1, 1976, or approved pursuant to section 203 of this Act prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 304(d)(1) of this Act; or,

"(C) not later than January 1, 1976, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, establish pursuant to any other State or Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this Act.

"(2)(A) except as provided in section 315, not later than January 1, 1981, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the elimination of the discharge of pollutants, unless on the basis of facts presented by the owner or operator of any such sources, among other information, the State under a program approved pursuant to section 402 of this Act (or, where no such program is approved, the Administrator) finds, that compliance is not attainable at a reasonable cost, in which event there shall be applied an effluent limitation based on that degree of effluent control achievable through the application of the best available demonstrated technology, taking into account the cost of such controls, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of this Act, and the environmental impact, or (ii) in the case of a discharge of a pollutant into a publicly owned treatment works which meets the requirement of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirement under section 307 of this Act; and

"(B) not later than January 1, 1981, compliance by all publicly owned treatment works with the requirements set forth in section 201(d)(2)(A) of this Act.

"(3) The Administrator may extend for any point source the dates prescribed in subparagraphs (A) and (B) of paragraph (1) of this subsection. No extension or extensions of such date shall exceed a total of two years from the date prescribed in such subparagraph. Public hearings must be held by the Administrator in connection with any such extension prior to granting such extension. No extension shall be granted unless the Administrator determines (i) that it is not possible either physically or legally to complete the necessary construction within the statutory time limit, or (ii) that a longer time period is provided in the plan of implementation for the applicable water quality standard. An extension of dates under this authority may also include a waiver for the same period of any applicable water quality standard.

"(c) Any effluent limitation required by paragraph (2) of subsection (b) of this section shall be reviewed at least every five years and, if appropriate, revised pursuant to the procedure established under such paragraph.

"(d) Effluent limitations established pursuant to this section or section 302 of this Act shall be applied to all point sources of discharge of pollutants in accordance with the provisions of this Act.

"(e) Notwithstanding any other provisions of this Act it shall be unlawful to discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters.

"(f) Notwithstanding any other provision of this Act, any point source the construction or modification of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and before the expiration of the one-year period which begins on the date of submission of the report required by section 315 of this Act, and which is so constructed or modified as to meet effluent limitations based upon the best available technology at the time of such construction or modification, shall not be subject to any more stringent effluent limitations with respect to such effluents during a 12 year period beginning on the date of completion of such construction or modification or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

"WATER QUALITY RELATED EFFLUENT LIMITATIONS

"SEC. 302. (a) Whenever, in the judgment of a State or the Administrator, discharges of pollutants from a point source or group of point sources, with the application of effluent limitations required under section 301(b)(2) of this Act, would interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, effluent limitations (including alternative effluent control strategies) for such point source or sources shall be established which can reasonably be expected to contribute to the attainment or maintenance of such water quality.

"(b)(1) Before establishing any effluent limitation under subsection (a) of this section, the Administrator shall issue a notice of intent to establish such limitation to the Chairman of the Council of Economic Advisers, the Chairman of the Council on Environmental Quality, and the Director of the Office of Science and Technology. Each person so notified shall have a ninety-day period to submit to the Administrator written comments and recommendations which shall be made part of the public record with respect to the establishment of such limitation. If any part of such written recommendations are not accepted by the Administrator, then the Administrator shall notify, in writing, the person submitting such recommendation, of his failure to so accept such recommendations together with his reasons for so doing. Thereafter, the Administrator shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the economic, social, and environmental benefits to be obtained (including the attainment of the objective of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other atlernative control strategies.

"(2) Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the State shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the economic, social, and environmental benefits to be obtained (including the attainment of the objective of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

"(3) If a person affected by such limitation demonstrates at such hearing that (whether or not such technology or other alternative control strategies are available) there is no reasonable relationship between the economic, social, and environmental costs and the benefits to be obtained (including attainment of the objective of this Act), such limitation shall not become effective and the State or the Administrator shall adjust such limitation as it applies to such person. Whenever the Administrator adjusts or refuses to adjust any limitation as it applies to any person under this paragraph he shall, prior to the time such limitation takes effect, set forth in writing his reasons for such action, and such reasons shall be part of the public record with respect to such limitation.

"(c) The establishment of effluent limitations under this section shall not operate to delay the application of any effluent limitation established under section 301 of this Act.

"WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

"SEC. 303. (a)(1) In order to carry out the purpose of this Act, any water quality standard applicable to interstate waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, within three months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, notify the State and specify the changes needed to meet such requireemnts. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

"(2) Any State which, before the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, has adopted, pursuant to its own law, water quality standards applicable to intrastate waters shall submit such standards to the Administrator within thirty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Each such standard shall remain in effect, in the same manner and to the same extent as any other water quality standard established under this Act unless the Administrator determines that such standard is inconsistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall not later than the one hundred and twentieth day after the date of submission of such standards, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

"(3) (A) Any State which prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 has not adopted pursuant to its own laws water quality standards applicable to intrastate waters shall, not later than one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, adopt and submit such standards to the Administrator.

"(B) If the Administrator determines that any such standards are consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall approve such standards.

"(C) If the Administrator determines that any such standards are not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall, not later than the ninetieth day after the date of submission of such standards, notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standards pursuant to subsection (b) of this section.

"(b) (1) The Administrator shall promptly prepare and publish proposed regulations setting forth water quality standards for a State in accordance with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if—

"(A) the State fails to submit water quality standards within the times prescribed in subsection (a) of this section,

"(B) a water quality standard submitted by such State under subsection (a) of this section is determined by the Administrator not to be consistent with the applicable requirements of subsection (a) of this section.

"(2) The Administrator shall promulgate any water quality standard published in a proposed regulation not later than one hundred and ninety days after the date he publishes any such proposed standard, unless prior to such promulgation, such State has adopted a water quality standard which the Administrator determines to be in accordance with subsection (a) of this section.

"(c) (1) The Governor of a State or the State water pollution control agency of such State shall from time to time (but at least once each three year period beginning with the date of enactment of the Federal Water Pollution Control Act Amendments of 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. Results of such review shall be made available to the Administrator.

"(2) Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standards shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses, and also taking into consideration their use and value for navigation.

"(3) If the Administrator, within sixty days after the date of submission of the revised or new standard, determines that such standard meets the requirements of this Act, such standard shall thereafter be the water quality standard for the applicable waters of that State. If the Administrator determines that any such revised or new standard is not consistent with the applicable requirements of this Act, he shall not later than the ninetieth day after the date of submission of such standard notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standard pursuant to paragraph (4) of this subsection.

"(4) The Administrator shall promptly prepare and publish proposed regulations setting forth a revised or new water quality standard for the navigable waters involved—

"(A) if a revised or new water quality standard submitted by such State under paragraph (3) of this subsection for such waters is determined by the Administrator not to be consistent with the applicable requirements of this Act, or

"(B) in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements of this Act.

The Administrator shall promulgate any revised or new standard under this paragraph not later than ninety days after he publishes such proposed standards, unless prior to such promulgation, such State has adopted a revised or new water quality standard which the Administrator determines to be in accordance with this Act.

"(5) No revised or new standard under this subsection shall have any application to thermal discharges in accordance with regulations issued pursuant to section 316 of this Act.

"(d) (1) Each State shall identify those waters within its boundaries for which the effluent limitations required by section 301(b) (1) (A) and section 301(b) (1) (B) are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters. Each State shall establish for the waters so identified, and in accordance with the priority ranking, the total maximum daily load, with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a) (2) as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

"(2) Each State shall submit to the Administrator from time to time, with the first such submission not later than one hundred eighty days after the date of publication of the first identification of pollutants under section 304(a) (2) (D), for his approval the waters identified and the load established under paragraph (1) of this subsection. The Administrator shall either approve or disapprove such identification and load not later than thirty days after the date of submission. If the Administrator approves such identification and load such State shall incorporate them into its current plan under subsection (e) of this section. If the Administrator disapproves such identification and load, he shall not later than thirty days after the date of such disapproval identify such waters in such State and establish such loads for such waters as he determines necessary to implement the water quality standards applicable to such waters and upon such identification and establishment the State shall incorporate them into its current plan under subsection (e) of this section.

"(3) For the purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1) of this subsection and establish for such waters the total maximum daily load, with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a) (2) as suitable for such calculation, at a level that would implement the water quality standards.

"(e) (1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this Act.

"(2) Each State shall submit not later than 120 days after the date of the enactment of the Water Pollution Control Amendments of 1972 to the Administrator for his approval a proposed continuing planning process which is consistent with this Act. Not later than thirty days after the date of submission of such a process the Administrator shall either approve or disapprove such process. The Administrator shall from time to time review each State's approved planning process for the purpose of insuring that such planning process is at all times consistent with this Act. The Administrator shall not approve any State permit program under title IV of this Act for any State which does not have an approved continuing planning process under this section.

"(3) The Administrator shall approve any continuing planning process submitted to him under this section which will result in plans for all navigable waters within such State, which include, but are not limited to, the following:

"(A) effluent limitations and schedules of compliance at least as stringent as those required by section 301(b) (1), section 301 (b) (2) (B), section 306, and section 307, and at least as stringent as any requirements contained in any applicable water quality standard in effect under authority of this section;

"(B) the incorporation of all elements of any applicable areawide waste management plans under section 208, and applicable basin plans under section 209 of this Act;

"(C) total maximum daily load for pollutants in accordance with subsection (d) of this section;

"(D) procedures for revision;

"(E) adequate authority for intergovernmental cooperation;

"(F) adequate implementation, including schedules of compliance, for revised or new water quality standards under subsection (c) of this section;

"(G) controls over the disposition of all residual waste from any water treatment processing;

"(H) an inventory and ranking, in order of priority, of needs for construction of waste treatment works required to meet the applicable requirements of sections 301 and 302.

"(f) Nothing in this section shall be construed to affect any effluent limitation, or schedule of compliance required by any State to be implemented prior to the dates set forth in sections 301(b) (1) and 301(b) (2) nor to preclude any State from requiring compliance with any effluent limitation or schedule of compliance at dates earlier than such dates.

"INFORMATION AND GUIDELINES

"SEC. 304. (a) (1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

"(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the natural chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) on and the identification of pollutants suitable for maximum daily load measurement correlated with the achievement of water quality objectives.

"(3) Such criteria and information and revisions thereof shall be issued to the States and shall be published in the Federal Register and otherwise made available to the public.

"(b) For the purpose of adopting or revising effluent limitations under this Act the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of enactment of this title, regulations, providiing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

"(1)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best practicable control technology currently available for classes and categories of point sources (other than publicly owned treatment works); and

"(B) specify factors to be taken into account in determining the control measures and practices to be applicable to any point sources (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best practicable control technology currently available to comply with subsection (b)(1) of section 301 of this Act, shall take into account the age of equipment and facilities involved, the process employed (including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate;

"(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best available demonstrated control measures and practices including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

"(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b)(2) of section 301 of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available demonstrated technology shall take into account the age of equipment and facilities involved, the process employed (including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate; and

"(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants.

"(c) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to the States and appropriate water pollution control agencies within one year after enactment of this title (and from time to time thereafter) information on the processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of this Act. Such information shall include technical and other data, including costs, as are available on alternative methods of elimination or reduction of the discharge of pollutants. Such information, and revisions thereof, shall be published in the Federal Register and otherwise shall be made available to the public.

"(d)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within sixty days after enactment of this title (and from time to time thereafter) information, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, on the degree of effluent reduction attainable through the application of secondary treatment.

"(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within nine months after the date of enactment of this title (and from time to time thereafter) information on alternative waste treatment management techniques and systems available to implement section 201 of this Act.

"(e) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 208 of this Act, within one year after the effective date of this subsection (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of pollutants, and (2) processes, procedures, and methods to control pollution resulting from—

"(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

"(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

"(C) all construction activity, including runoff from the facilities resulting from such construction;

"(D) the disposal of pollutants in wells or in subsurface excavations;

"(E) salt water intrusion resulting from reductions of fresh water flown from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

"(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

"(f)(1) For the purpose of assisting States in carrying out programs under section 402 of this Act, the Administrator shall publish, within one hundred and twenty days after the date of enactment of this title, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which interferes with, passes through, or otherwise is incompatible with such works.

"(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

"(g) The Administrator shall, within one hundred and eighty days from the date of enactment of this title, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit application pursuant to section 402 of this Act.

"(h) The Administrator shall (1) within ninety days after the enactment of this title promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point sources of discharge subject to any State program under section 402 of this Act, and (2) within ninety days from the date of enactment of this title promulgate guidelines establishing the minimum procedural and other elements of any State program under section 402 of this Act which shall include:

"(A) monitoring requirements;

"(B) reporting requirements (including procedures to make information available to the public);

"(C) enforcement provisions; and

"(D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

"(i) The Administrator shall, within one year after the effective date of this subsection (and from time to time thereafter), issue such information on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned fresh water lakes.

"(j)(1) The Administrator shall, within six months from the date of enactment of this title, enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior to provide for the maximum utilization of the appropriate programs authorized under other Federal law to be carried out by such Secretaries for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this Act.

"(2) The Administrator, pursuant to any agreement under paragraph (1) of this subsection is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, or the Secretary of the Interior any funds appropriated under paragraph (3) of this subsection to supplement any funds otherwise appropriated to carry out appropriate programs authorized to be carried out by such Secretaries.

"(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974. Sums so appropriated shall remain available until expended.

"WATER QUALITY INVENTORY

"SEC. 305. (a) The Administrator, in cooperation with the States and with the assistance of appropriate Federal agencies, shall prepare a report to be submitted to the Congress on or before July 1, 1973, which shall—

"(1) describe the specific quality, during 1972, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, of all navigable waters and the waters of the contiguous zone;

"(2) include an inventory of all point sources of discharge (based on a qualitative and quantitative analysis of discharges) of pollutants into all navigable waters and the waters of the contiguous zone; and

"(3) identify specifically those navigable waters, the quality of which

"(A) is adequate to provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allow recreational activities in and on the water;

"(B) can reasonably be expected to attain such level by 1976 or 1981; and

"(C) can reasonably be expected to attain such level by any later date.

"(b)(1) Each State shall prepare and submit to the Administrator by July 1, 1974, and shall bring up to date each year thereafter, a report which shall include—

"(A) a description of the water quality of all navigable waters in such State during the preceding year, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, correlated with the quality of water required by the objective of this Act (as identified by the Administrator pursuant to criteria published under section 304(a) of this Act) and the water quality described in subparagraph (B) of this paragraph;

"(B) an analysis of the extent to which all navigable waters of such State provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water;

"(C) an analysis of the extent to which the elimination of the discharge of pollutants and a level of water quality which provides for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allows recreational activities in and on the water, have been or will be achieved by the requirements of this Act, together with recommendations as to additional action necessary to achieve such objectives and for what waters such additional action is necessary;

"(D) an estimate of (i) the economic, social, and environmental costs necessary to achieve the objectives of this Act in such State; (ii) the economic, social, and environmental benefits of such achievement; and (iii) an estimate of the date of such achievement; and

"(E) a description of the nature and extent of nonpoint sources of pollutants, and recommendations as to the programs which must be undertaken to control each category of such sources, including an estimate of the costs of implementing such programs.

"(2) The Administrator shall transmit such State reports, together with an analysis thereof, to Congress on or before April 1, 1975, and annually thereafter.

"NATIONAL STANDARDS OF PERFORMANCE

"SEC. 306. (a) For purposes of this section:

"(1) The term 'standard of performance' means a standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

"(2) The term 'new source' means any source, the construction or modification of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section.

"(3) The term 'source' means any building, structure, facility, or installation from which there is or may be the discharge of pollutants.

"(4) The term 'owner or operator' means any person who owns, leases, operates, controls, or supervises a source.

"(5) The term 'modification' means any construction (other than construction of pollution abatement facilities as determined by the Administrator or appropriate State agency) which may alter the nature or may increase the amounts of pollutants, or combinations of such pollutants discharged by a source.

"(6) The term 'construction' means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

"(b)(1)(A) The Administrator shall, within ninety days after the date of enactment of this title publish (and from time to time thereafter shall revise) a list of categories of sources, which shall, at the minimum, include:

"pulp and paper mills;

"paperboard, builders paper, and board mills;

"meat product and rendering processing;

"dairy product processing;

"grain mills;

"canned and preserved fruits and vegetables processing;

"canned and preserved seafood processing;

"sugar processing;

"textile mills;

"cement manufacturing;

"feedlots;

"electroplating;

"organic chemicals manufacturing;

"inorganic chemicals manufacturing;

"plastic and synthetic materials manufacturing;

"soap and detergent manufacturing;

"fertilizer manufacturing;

"petroleum refining;

"iron and steel manufacturing;

"ironferrous metals manufacturing;

"phosphate manufacturing;

"steam electric powerplants;

"ferroalloy manufacturing;

"leather tanning and finishing;

"glass and asbestos manufacturing;

"rubber processing; and

"timber products processing.

"(B) As soon as practicable, but in no case more than one year, after a category of sources is included in a list under subparagraph (A) of this paragraph, the Administrator shall propose and publish regulations establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, such standards with such adjustments as he deems appropriate. The Administrator shall, from time to time, as technology and alternatives change, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance, or revisions thereof, shall become effective upon promulgation. In establishing or revising Federal standards of performance for new sources under this section, the Administrator shall take into consideration factors relating to the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost of and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as he determines appropriate.

"(C) Such standards of performance shall apply to all sources within such category, unless, upon application from an owner or operator of any source which as a result of modification is subject to this section, the Administrator determines, after public hearing, that the economic, social, and environmental costs of implementing such standard bear no reasonable relationship to the economic, social, and environmental benefits (including water quality objectives) to be obtained. Any such determination shall be accompanied by an appropriate adjustment of such standard for such source, which shall reflect the greatest degree of effluent reduction which the Administrator determines can reasonably be achieved by such source.

"(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards and shall consider the type of process employed (including whether batch or continuous).

"(3) The provisions of this section shall apply to any new source owned or operated by the United States.

"(c) After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

"TOXIC AND PRETREATMENT EFFLUENT STANDARDS

"SEC. 307. (a)(1) The Administrator shall, within ninety days after the date of enactment of this title, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include a prohibition of the discharge of such pollutants or combination of such pollutants) will be established under this section. The Administrator in publishing such list shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in the receiving waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms.

"(2) Within one hundred and eighty days after the date of publication of any list, or revision thereof, containing toxic pollutants or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with section 553 of title 5 of the United States Code, shall publish a proposed effluent standard (or a prohibition) for such pollutant or combination of pollutants which shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in the receiving waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and he shall publish a notice for a public hearing on such proposed standard to be held within thirty days. As soon as possible after such hearing, but not later than six months after publication of the proposed effluent standard (or prohibition), unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, such standard (or prohibition) shall be promulgated.

"(3) If after a public hearing the Administrator finds that a modification of such proposed standard (or prohibition) is justified, a revised effluent standard (or prohibition) for such pollutant or combination of pollutants shall be promulgated immediately. Such standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.

"(4) Any effluent standard promulgated under this section shall be at that level which the Administrator determines provides an ample margin of safety.

"(5) When proposing or promulgating any effluent standard (or prohibition) under this section, the Administrator shall designate the category or categories of sources to which the effluent standard (or prohibition) shall apply.

"(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case more than one year from the date of such promugation.

"(7) Prior to publishing any regulations pursuant to this section the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, States, independent experts, and Federal departments and agencies.

"(8) After the effective date of any effluent standard or prohibition promulgated under this subsection, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition.

"(b)(1) The Administrator shall, within one hundred and eighty days after the date of enactment of this title and from time to time thereafter, publish proposed regulation establishing pretreatment standards for introduction of pollutants into treatment works (as defined in section 212 of this Act) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. Not later than ninety days after such publication, and after opportunity for public hearing, the Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge of any pollutant through treatment works (as defined in section 212 of this Act) which are publicly owned, which pollutant interferes with, passes through, or otherwise is incompatible with such works.

"(2) The Administrator shall, from time to time, as control technology, processes, operating methods, or other alternatives change, revise such standards following the procedure established by this subsection for promulgation of such standards.

"(3) When proposing or promulgating any pretreatment standard under this section, the Administrator shall designate the category or categories of sources to which such standard shall apply.

"(4) Nothing in this subsection shall affect any pretreatment requirement established by any State or local law not in conflict with any pretreatment standard established under this subsection.

"INSPECTIONS, MONITORING AND ENTRY

"SEC. 308. (a) Whenever required to carry out the objective of this Act, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this Act; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 305, 311, 402, and 504 of this Act—

"(A) the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require; and

"(B) the Administrator or his authorized representative, upon presentation of his credentials—

"(i) shall have a right of entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under clause (A) of this subsection are located, and

"(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (A), and sample any effluents which the owner or operator of such source is required to sample under such clause.

"(b) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"FEDERAL ENFORCEMENT

"SEC. 309. (a)(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any condition or limitation which implements section 301, 302, 306, 307, 308, or 316 of this Act in a permit issued by a State under an approved permit program under section 402 of this Act, he shall proceed under his authority in paragraph (3) of this subsection or he shall notify the person in alleged violation and such State of such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such condition or limitation or shall bring a civil action in accordance with subsection (b) of this section.

"(2) Whenever, on the basis of information available to him, the Administrator finds that violations of permit conditions or limitations as set forth in paragraph (1) of this subsection are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such conditions and limitations (hereafter referred to in this section as the period of 'federally assumed enforcement'), the Administrator shall enforce any permit condition or limitation with respect to any person—

"(A) by issuing an order to comply with such condition or limitation, or

"(B) by bringing a civil action under subsection (b) of this section.

"(3) Whenever on the basis of any information available to him the Administrator finds that any person is in violation of section 301, 302, 306, 307, 308, or 316 of this Act, or is in violation of any permit condition or limitation implementing any of such sections, in a permit issued under section 402 of this Act by him or by a State, he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.

"(4) A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1) of this subsection) is issued to a corporation, a copy of such order (or notice) shall be served on any appropriate corporate officers. An order issued under this subsection relating to a violation of section 308 of this Act shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation.

"(b) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection (a) of this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

"(c)(1) Any person who willfully or negligently violates section 301, 302, 306, 307, 308, or 316 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"(3) For the purposes of this subsection, the term 'person' shall mean, in addition to the definition contained in section 505(5) of this Act, any responsible corporate officer.

"(d) Any person who violates section 301, 302, 306, 307, 308, or 316 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator, or by a State, and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

"(e) Whenever a municipality is a party to a civil action brought by the United States under this section, the State in which such municipality is located shall be joined as a party. Such State shall be liable for payment of any judgment, or any expenses incurred as a result of complying with any judgment, entered against the municipality in such action to the extent that the laws of that State prevent the municipality from raising revenues needed to comply with such judgment.

"INTERNATIONAL POLLUTION ABATEMENT

"SEC. 310. (a) Whenever the Administrator, upon receipts of reports, surveys, or studies from any duly constituted international agency, has reason to believe that pollution is occurring which endangers the health or welfare of persons in a foreign country, and the Secretary of State requests him to abate such pollution, he shall give formal notification thereof to the State water pollution control agency of the State or States in which such discharge or discharges originate and to the appropriate interstate agency, if any. He shall also promptly call such a hearing, if he believes that such pollution is occurring in sufficient quantity to warrant such action, and if such foreign country has given the United States essentially the same rights with respect to the prevention and control of pollution occurring in that country as is given that country by this subsection. The Administrator, through the Secretary of State, shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the hearing, and the representative of such country shall, for the purpose of the hearing and any further proceeding resulting from such hearing, have all the rights of a State water pollution control agency. Nothing in this subsection shall be construed to modify, amend, repeal, or otherwise affect the provisions of the 1909 Boundary Waters Treaty between Canada and the United States or the Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of pollution in waters covered by those treaties.

"(b) The calling of a hearing under this section shall not be construed by the courts, the Administrator, or any person as limiting, modifying, or otherwise affecting the functions and responsibilities of the Administrator under this section to establish and enforce water quality requirements under this Act.

"(c) The Administrator shall publish in the Federal Register a notice of a public hearing before a hearing board of five or more persons appointed by the Administrator. A majority of the members of the board and the chairman who shall be designated by the Administrator shall not be officers or employees of Federal, State, or local governments. On the basis of the evidence presented at such hearing, the board shall within sixty days after completion of the hearing make findings of fact as to whether or not such pollution is occurring and shall thereupon by decision, incorporating its findings therein, make such recommendations to abate the pollution as may be appropriate and shall transmit such decision and the record of the hearings to the Administrator. All such decisions shall be public. Upon receipt of such decision, the Administrator shall promptly implement the board's decision in accordance with the provisions of this Act.

"(d) In connection with any hearing called under this subsection, the board is authorized to require any person whose alleged activities result in discharges causing or contributing to pollution to file with it in such forms as it may prescribe, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quanity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. Such report shall be made under oath or otherwise, as the board may prescribe, and shall be filed with the board within such reasonable period as it may prescribe, unless additional time is granted by it. Upon a showing satisfactory to the board by the person filing such report that such report or portion thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge trade secrets or secret processes of such person, the board shall consider such report or portion thereof confidential for the purposes of section 1905 of title 18 of the United States Code. If any person required to file any report under this paragraph shall fail to do so within the time fixed by the board for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $1,000 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States in the district court of the United States where such person has his principal office or in any district in which he does business. The Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection.

"(e) Board members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing board business, entitled to receive compensation at a rate fixed by the Administrator but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

"(f) When any such recommendation adopted by the Administrator involves the institution of enforcement proceedings against any person to obtain the abatement of pollution subject to such recommendation, the Administrator shall institute such proceedings if he believes that the evidence warrants such proceedings. The district court of the United States shall consider and determine de novo all relevant issues, but shall receive in evidence the record of the proceedings before the conference or hearing board. The court shall have jurisdiction to enter such judgment and orders enforcing such judgment as it deems appropriate or to remand such proceedings to the Administrator for such further action as it may direct.

"OIL AND HAZARDOUS SUBSTANCE LIABILITY

"SEC. 311. (a) For the purpose of this section, the term—

"(1) 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

"(2) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

"(3) 'vessel' means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

"(4) 'public vessel' means a vessel owned or bareboat-chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(5) 'United States' means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(6) 'owner and operator' means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

"(7) 'person' includes an individual, firm, corporation, association, and a partnership;

"(8) 'remove' or 'removal' refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

"(9) 'contiguous zone' means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

"(10) 'onshore facility' means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

"(11)) 'offshore facility' means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel;

"(12) 'act of God' means an act occasioned by an unanticipated grave natural disaster;

"(13) 'barrel' means 42 United States gallons at 60 degrees Fahrenheit;

"(14) 'hazardous substance' means any substance designated pursuant to subsection (b)(2) of this section.

"(b)(1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

"(2)(A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

"(B)(i) The Administrator shall include in any designation under subparagraph (A) of this subsection a determination whether any such designated hazardous substance is itself actually removable.

"(ii) The owner or operator of any vessel, onshore facility, or offshore facility from which there is discharged any hazardous substance determined not removable under clause (i) of this subparagraph shall be liable, subject to the defenses to liability provided under subsection (f) of this section, as appropriate, to the United States for a civil penalty per discharge established by the Administrator based on toxicity, degradability, and disposal characteristics of such substance, in an amount not to exceed $50,000, except that where the United States can show that such discharge was a result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States for a civil penalty in such amount as the Administrator shall establish, based upon the toxicity, degradability, and disposal characteristics of such substance.

"(3) The discharge of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in harmful quantities as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges of oil into the waters of the contiguous zone, where permitted under article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

"(4) The President shall by regulation, to be issued as soon as possible after the date of enactment of this paragraph, determine for the purposes of this section, those quantities of oil and any hazardous substance the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches except that in the case of the discharge of oil into or upon the waters of the contiguous zone, only those discharges which threaten the fishery resources of the contiguous zone or threaten to pollute or contribute to the pollution of the territory or the territorial sea of the United States may be determined to be harmful.

"(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (2) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. Any such person who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

"(6) Any owner or operator of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (2) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

"(c)(1) Whenever any oil or a hazardous substance is discharged, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, the President is authorized to act to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

"(2) Within sixty days after the effective date of this section, the President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances, pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to—

"(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, conservation, and port authorities;

"(B) identification, procurement, maintenance, and storage of equipment and supplies;

"(C) establishment or designation of a strike force consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the Plan, including the establishment at major ports, to be determined by the President, of emergency task forces of trained personnel, adequate oil and hazardous substance pollution control equipment and material, and a detailed oil and hazardous substance pollution prevention and removal plan;

"(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances to the appropriate Federal agency;

"(E) establishment of a national center to provide coordination and direction for operations in carrying out the Plan;

"(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances; and

"(G) a schedule, prepared in cooperation with the States, identifying (i) dispersants and other chemicals, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants and chemicals may be used, and (iii) the quantities of such dispersant or chemical which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemical, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants and other chemicals which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters.

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

"(d) Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and the public and private shortlines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil, or of a hazardous substance from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection shall be a cost incurred by the United States Government for the purposes of subsection (f) in the removal of oil or hazardous substance.

"(e) In addition to any other action taken by a State or local government, when the President determines there is an imminent and substantial threat to the public health or welfare of the United States, including, but not limited to fish, shellfish and wildlife and public and private property, shorelines, and beaches within the United States, because of an actual or threatened discharge of oil or hazardous substances into or upon the navigable waters of the United States from an onshore or offshore facility, the President may require the United States attorney of the district in which the threat occurs to secure such relief as may be necessary to abate such threat, and the district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

"(f)(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $100 per gross ton of such vessel or $14,000,000, whichever is lesser, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

"(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Secretary is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

"(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

"(g) In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section, the liability of such third party under this subsection shall not exceed $100 per gross ton of such vessel or $14,000,000, whichever is the lesser. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

"(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore facility or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) the United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil or hazardous substance.

"(i)(1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section acts to remove such oil or substance in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Court of Claims, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing causes.

"(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act.

"(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the fund established pursuant to subsection (k).

"(j)(1) Consistent with the National Contingency Plan required by subsection (c)(2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharged oil and hazardous substances, (B) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, (C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges and (D) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

"(2) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulation, shall be liable to a civil penalty of not more than $5,000 for each such violation. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the President.

"(k) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $35,000,000 to carry out the provisions of subsections (c), (d), (i), and (l) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to, or deposited in, said fund shall remain available until expended.

"(l) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Any moneys in the fund established by subsection (k) of this section shall be available to such Federal departments, agencies, and instrumentalities to carry out the provisions of subsections (c) and (i) of this section. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

"(m) Anyone authorized by the President to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i)(1), arising under this section. In the case of Guam and the Trust Territory of the Pacific Islands, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

"(o)(1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly owned or privately owned property resulting from a discharge of any oil or hazardous substance or from the removal of any such oil or hazardous substance.

"(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State.

"(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

"(p)(1) Any vessel over three hundred gross tons, including any barge of equivalent size, but not including any barge that is not self-propelled and that does not carry oil or hazardous substances as cargo or fuel, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of $100 per gross ton, or $14,000,000 whichever is the lesser, to meet the liability to the United States which such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

"(2) The provisions of paragraph (1) of this subsection shall be effective April 3, 1971, with respect to oil and one year after the date of enactment of this section with respect to hazardous substances. The President shall delegate the responsibility to carry out the provisions of this subsection to the appropriate agency head within sixty days after the date of enactment of this section. Regulations necessary to implement this subsection shall be issued within six months after the date of enactment of this section.

"(3) Any claim for costs incurred by such vessel may be brought directly against the insurer or any other person providing evidence of financial responsibility as required under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

"MARINE SANITATION DEVICES

"SEC. 312. (a) For the purpose of this section, the term—

"(1) 'new vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated after promulgation of standards and regulations under this section;

"(2) 'existing vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated before promulgation of standards and regulations under this section;

"(3) 'public vessel' means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(4) 'United States' includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

"(5) 'marine sanitation device' includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

"(6) 'sewage' means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;

"(7) 'manufacturer' means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

"(8) 'person' means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

"'(9) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"(b)(1) As soon as possible, after the enactment of this section and subject to the provisions of section 104(j) of this Act, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as 'standards') which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and with maritime safety and the marine and navigation laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

"(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

"(c)(1) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

"(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Administrator, may distinguish among classes, type, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels (including existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

"(d) The provisions of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b)(1) of this section and certifications under subsection (g)(2) of this section shall be promulgated and issued by the Secretary of Defense.

"(e) Before the standards and regulations under this section are promulgated, the Administrator and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

"(f) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from a vessel of any sewage, whether treated or not, into such waters.

"(g)(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

"(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Administrator as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

"(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Administrator or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Administrator or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to or otherwise obtained by the Administrator or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

"(h) After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

"(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

"(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

"(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

"(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

"(i) The district courts of the United States shall have jurisdictions to restrain violations of subsection (g) (1) of this section and subsection (h) (1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(j) Any person who violates subsection (g) (1) of this section or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than $5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than $2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

"(k) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States to carry out the provisions of this section.

"(l) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(m) In the case of Guam and the Trust Territory of the Pacific Islands, actions arising under this section may brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the disrtict court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

"FEDERAL FACILITIES POLLUTION CONTROL

"SEC. 313. Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants shall comply with Federal, State, interstate, and local requirements respecting control and abatement of pollution to the same extent that any person is subject to such requirements, including the payment of reasonable service charges. The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

"CLEAN LAKES

"SEC. 314. (a) Each State shall prepare or establish, and submit to the Administrator for his approval—

"(1) an identification and classification according to eutrophic condition of all publicly owned fresh water lakes in such States;

"(2) procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes; and

(3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes.

"(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this section.

"(c) (1) The amount granted to any State for any fiscal year under this section shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this section.

"(2) There is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973; and $150,000,000 for the fiscal year 1974 for grants to States under this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

"NATIONAL ACADEMIES STUDY

"SEC. 315. (a) The National Academy of Sciences and the National Academy of Engineering, acting through the National Research Council, shall make a full and complete investigation and study of all of the technological aspects of achieving, and all aspects of the total economic, social, and environmental effects of achieving or not achieving, the effluent limitations and goals set forth for 1981 in section 301(b) (2) of this title. A report shall be submitted to Congress of the results of such investigation and study, together with recommendations, not later than two years after the date of enactment of this title. Notwithstanding the provisions of section 301(b) (2) of this title or any other provision of this Act to the contrary, effluent limitations, goals, and policies establish for 1981 for point and nonpoint sources (other than publicly owned treatment works) and later years for point and nonpoint sources, by this Act shall not take effect until such time as Congress shall, by statute enacted after the submission of the report required by this subsection, specifically so provide.

"(b) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Academies in carrying out the requirements of subsection (a) of this section, and shall furnish to such Academies such information as the Academies deem necessary to carry out this section.

"(c) There is authorized to be appropriated to the President, for use in carrying out this section, not to exceed $15,000,000.

"REGULATION OF THERMAL DISCHARGES

"SEC. 316. (a) As soon as practicable, but not later than one year after enactment of this section, the Administrator shall issue proposed regulations with respect to control of thermal discharges.

"(b) Such proposed regulations shall recognize that the optimum method of control of any thermal discharge may depend upon local conditions, including the type and size of the receiving body of water. The regulations shall require any person proposing to make such a discharge to consider all alternative methods for controlling such a discharge, including, but not limited to (1) utilization of available water bodies or cooling devices, including once-through cooling, mixing zones, cooling ponds, spray ponds, evaporative or nonevaporative cooling towers, (2) dilution of heated waters with cooler waters, and (3) an alteration of the outlet configuration. In evaluating such alternative methods of control consideration shall be given to (1) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources, and (4) methods of minimizing adverse effects and maximizing beneficial effects of such discharges.

"(c) The Administrator shall afford interested persons an opportunity, not to exceed sixty days, for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, final regulations. The Administrator shall, from time to time, as technology and alternatives change, revise such regulations.

"(d) Such regulations shall apply to thermal discharges from all sources, unless the Administrator determines, after a public hearing requested by the owner or operator of a point source, that the economic and social costs of implementing the regulations at a point source bear no reasonable relationship to the economic and social benefits (including water quality objectives) to be attained. Any such determination shall be accompanied by an appropriate adjustment of such regulations for such sources, which shall reflect the greatest degree of control which the Administrator determines can reasonably be achieved at such source.

"(e) The provisions of this section shall apply to point sources owned or operated by the United States or instrumentalities thereof.

"FINANCING STUDY

"SEC. 317. (a) The Administrator shall continue to investigate and study the feasibility of alternate methods of financing the cost of preventing, controlling, and abating pollution as directed in the Water Quality Improvement Act of 1970 (Public Law 91–224), including, but not limited to, the feasibility of establishing a pollution abatement trust fund. The results of such investigation and study shall be reported to the Congress not later than two years after enactment of this title, together with recommendations of the Administrator for financing the programs for preventing, controlling and abating pollution for the fiscal years beginning after fiscal year 1976, including any necessary legislation.

"(b) There is authorized to be appropriated for use in carrying out this section, not to exceed $1,000,000.

"AQUACULTURE

"SEC. 318. (a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision.

"(b) The Administrator shall by regulation, not later than January 1, 1974, establish any procedures and guidelines he deems necessary to carry out this section.

"TITLE IV—PERMITS AND LICENSES

"CERTIFICATION

"SEC. 401. (a) (1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 306, 307, and 316 of this Act. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 301(b) and 302, and there is not an applicable standard under sections 306 and 307, and there is not an applicable regulation under section 316, the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(d) of this Act. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

"(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirement in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

"(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit reuired for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of sections 301, 302, 306, 307, and 316 of this Act because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed chanegs in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 301, 302, 306, 307, or 316 of this Act.

"(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations or other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 301, 302, 306, 307, or 316 of this Act.

"(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this Act that such facility or activity has been operated in violation of the applicable provisions of section 301, 302, 306, 307, or 316 of this Act.

"(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

"(7) In any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

"(b) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations, standards, regulations, requirements, or criteria.

"(c) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

"(d) Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, or any regulation under section 316 of this Act, and shall become a condition on any Federal license or permit subject to the provisions of this section.

"NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

"SEC. 402. (a) (1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants or any thermal discharge, notwithstanding section 301(a), upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, 316, and 403 of this Act, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

"(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

"(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

"(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

"(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator may authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on the date of enactment of this Act and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 304(h) (2) of this Act, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

"(b) At any time after the promulgation of the guidelines required by subsection (h) (2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

"(1) To issue permits which—

"(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;

"(B) are for fixed terms not exceeding five years; and

"(C) can be terminated or modified for cause including, but not limited to, the following:

"(i) violation of any condition of the permit;

"(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

"(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

"(D) control the disposal of pollutants into wells;

"(2) (A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

"(B) Except with respect to sources owned or operated by the United States, to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

"(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

"(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

"(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

"(6) (A) To issue permits which apply, and insure compliance with, all applicable requirements of section 316 of this Act; or

"(B) Except with respect to sources owned or operated by the United States, to apply and enforce control of thermal discharges from point sources located in such State to at least the same extent as is provided in section 316 of this Act;

"(7) To insure that no permit will be issue if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby; and

"(8) To abate violations of the permit program, including civil and criminal penalties and other ways and means of enforcement.

"(c) (1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those navigable waters subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(h) (2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

"(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(h) (2) of this Act.

"(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have made public, in writing, the reasons for such withdrawal.

"(d) (1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

"(2) No permit shall issue if the Administrator within sixty days of the date of his notification under subsection (b) (5) of this section objects in writing to the issuance of such permit.

"(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

"(e) In accordance with guidelines promulgated pursuant to subsection (h) (2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this subsection at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

"(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

"(g) The Administrator or any State shall not issue a permit under this section for any point source unless such permit shall assure the maintenance or enhancement of the quality of any affected waters.

"(h) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

"(i) In the event any condition of a permit for discharges from a treatment works (as defined in section 210 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

"(j) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

"(k) A copy of each permit application and each permit issued under this section shall be available to the public, in an appropriate place (1) in each State; (2) in a regional office of the Environmental Protection Agency; or (3) with the Administrator, whichever is appropriate. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

"(l) Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 302, 306, 307, 316, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until January 1, 1976, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, and such discharge is not in violation of any applicable water quality standard under subsections (a) and (b) of section 303 of this Act, and is not in violation of any applicable regulation under section 316 of this Act, such discharge shall not be a violation of (1) this Act (other than an order under section 504), or (2) section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

"OCEAN DISCHARGE CRITERIA

"SEC. 403. (a) No permit under section 402 of this Act for a discharge into the territorial sea, the waters of the contiguous zone, or the oceans shall be issued, after promulgation of guidelines established under subsection (c) of this section, except in compliance with such guidelines.

"(b) The requirements of subsection (d) of section 402 of this Act may not be waived in the case of permits for discharges into the territorial sea.

"(c)(1) The Administrator shall, within one hundred and eighty days after enactment of this Act (and from time to time thereafter), promulgate guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone, and the oceans, which shall include:

"(A) the effect of disposal of pollutants on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

"(B) the effect of disposal of pollutants on marine life including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes; changes in marine ecosystem diversity, productivity, and stability; and species and community population changes;

"(C) the effect of disposal, of pollutants on esthetic, recreation, and economic values;

"(D) the persistence and permanence of the effects of disposal of pollutants;

"(E) the effect of the disposal at varying rates, of particular volumes and concentrations of pollutants;

"(F) other possible locations and methods of disposal or recycling of pollutants including land-based alternatives; and

"(G) the effect on alternative uses of the oceans, such as mineral exploitation and scientific study.

"(2) In any event where insufficient information exists on any proposed discharge to make a reasonable judgment on any of the guidelines established pursuant to this subsection no permit shall be issued under section 402 of this Act.

"PERMITS FOR DREDGED OR FILL MATERIAL

"SEC. 404. (a) The Secretary of the Army, acting through the Chief of Engineers, may issue permits, after notice and opportunity for public hearing, for the discharge of dredged or fill material into the navigable waters, where the Secretary determines that such discharge will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

"(b) In making the determination required by subsection (a) of this section as to whether a permit may be issued, the Secretary shall apply any guidelines which have been promulgated by the Administrator pursuant to section 403 (c)(1), together with an evaluation by the Secretary of the effect on navigation, economic and industrial development, and foreign and domestic commerce of the United States. In applying the guidelines established by the Administrator, the Secretary shall consult with the Administrator and shall give due consideration to the views and recommendations of the Administrator in that regard and also in regard to the designations of the Administrator of recommended sites for disposal. The Secretary may issue no permit for discharge of dredged or fill material which would violate the designation of the Administrator, found necessary to protect critical areas, of a site within which certain material may not be discharged. In regard to the designation of recommended sites or sites where certain material may not be discharged, the Secretary after consultation with the Administrator, need not follow the designation of the Administrator where the Secretary certifies that there is no economically feasible alternative reasonably available.

"(c) In connection with Federal projects involving dredged or fill material the Secretary may, in lieu of the permit procedure, issue regulations to govern the discharge of dredged or fill material into the navigable waters which shall require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirements which are made applicable to the issuance of permits under subsections (a) and (b) of this section.

"TITLE V—GENERAL PROVISIONS

"ADMINISTRATION

"SEC. 501. (a) The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this Act.

"(c) Each recipient of financial assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(d) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act.

"(e)(1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs. The Administrator shall, in consultation with the appropriate State water pollution control agencies, establish regulations under which such recognition may be applied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality requirements under this Act, or otherwise does not have a satisfactory record with respect to environmental quality.

"(2) The Administrator shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established under this subsection.

"(3) The President of the United States, the Governor of the appropriate State, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall be notified of the award by the Administrator and the awarding of such recognition shall be published in the Federal Register.

"(f) Upon the request of a State water pollution control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

"GENERAL DEFINITIONS

"SEC. 502. Except as otherwise specifically provided, when used in this Act:

"(1) The term 'State water pollution control agency' means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

"(2) The term 'interstate agency' means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

"(3) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(4) The term 'municipality' means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of this Act.

"(5) The term 'person' means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

"(6) The term 'pollutant' means, but is not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, agricultural, and other waste discharged into water. This term does not mean (A) 'sewage from vessels' within the meaning of section 312 of this Act; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines the injection or disposal of such water, gas, or other material will not result in the degradation of ground or surface water resources; or (C) thermal discharges in accordance with regulations issued pursuant to section 316 of this Act; or (D) organic fish wastes.

"(7) The term 'pollution' means the man-made or man-induced alteration of the natural chemical, physical, biological, and radiological integrity of water.

"(8) The term 'navigable waters' means the navigable waters of the United States, including the territorial seas.

"(9) The term 'territorial seas' means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

"(10) The term 'contiguous zone' means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

"(11) The term 'ocean' means any portion of the high seas beyond the contiguous zone.

"(12) The term 'effluent limitation' means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents (other than thermal discharges) which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules and timetables for compliance.

"(13) The term 'discharge of a pollutant' and the term 'discharge of pollutants' each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

"(14) The term 'toxic pollutant' means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) and physical deformations, in such organisms or their offspring.

"(15) The term 'point source' means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, or from which there is or may be a thermal discharge.

"(16) The term 'biological monitoring' shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain, appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and (B) at appropriate frequencies and locations.

"(17) The term 'thermal discharge' means the introduction of water into the navigable waters of the contiguous zone from a point source at a temperature different from the ambient temperature of the receiving waters.

"(18) The term 'discharge' when used without qualification includes a discharge of a pollutant, a discharge of pollutants, and a thermal discharge.

"WATER POLLUTION CONTROL ADVISORY BOARD

"SEC. 503. (a)(1) There is hereby established in the Environmental Protection Agency a Water Pollution Control Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with pollution, and of other public and private agenices, organizations, or groups demonstrating an active interest in the field of pollution prevention and control, as well as other individuals who are expert in this field.

"(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding term.

"(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while otherwise serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

"(b) The Board shall advise, consult with, and make recommendations to the Administrator on matters of policy relating to the activities and functions of the Administrator under this Act.

"(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Environmental Protection Agency.

"EMERGENCY POWERS

"SEC. 504. Notwithstanding any other provision of this Act, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

"CITIZEN SUITS

"SEC. 505. (a) Except as provided in subsection (b) of this section, any citizen may commence a civil action on his own behalf—

"(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (A) an effluent standard or limitation under this Act or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an effluent standard or limitation, or such an order, or to order the Administrator to perfom such act or duty, as the case may be, and to apply any appropriate civil penalties under section 309(d) of this Act.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Administrator, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

"(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any citizen may intervene as a matter of right.

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator,

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of sections 301, 302, 306, and 307 of this Act, or in violation of a permit, or conditions thereunder, issued by the Administrator under section 402 of this Act, or in violation of an order issued by the Administrator pursuant to section 309 of this Act. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c)(1) Any action respecting a violation by a discharge source of an effluent standard or limitation or an order respecting such standard or limitation may be brought under this section only in the judicial district in which such source is located.

"(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any effluent standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

"(f) For purposes of this section, the term 'effluent standard or limitation under this Act' means (1) effective July 1, 1973, an unlawful act under subsection (a) of section 301 of this Act; (2) an effluent limitation or other limitation under section 301 or 302 of this Act; (3) standard of performance under section 306 of this Act; (4) prohibition, effluent standard or pretreatment standard under section 307 of this Act; (5) certification under section 401 of this Act; or (6) a permit or condition thereof issued under section 402 of this Act, which is in effect under this Act (including a requirement applicable by reason of section 313 of this Act).

"(g) For the purposes of this section the term 'citizen' means (1) a citizen (A) of the geographic area and (B) having a direct interest which is or may be affected, and (2) any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy.

"(h) A Governor of a State may commence a civil action under subsection (a), without regard to the limitations of subsection (b) of this section, against the Administrator where there is alleged a failure of the Administrator to enforce an effluent standard or limitation under this Act the violation of which is occurring in another State and is causing an adverse effect on the public health or welfare in his State, or is causing a violation of any water quality requirement in his State.

"APPEARANCE

"SEC. 506. The Administrator shall request the Attorney General to appear and represent the United States in any civil or criminal action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administrator within a reasonable time, that he will appear in a civil action, attorneys who are officers or employees of the Environmental Protection Agency shall appear and represent the United States in such action.

"EMPLOYEE PROTECTION

"SEC. 507. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

"(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decision of the Administrator are subject to judicial review under this Act.

"(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

"(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any prohibition of effluent limitation or other limitation under section 301 or 302 of this Act, standards of performance under section 306 of this Act, effluent standard, prohibition or pretreatment standard under section 307 of this Act, thermal discharge regulation under section 316 of this Act, or any other prohibition or limitation established under this Act.

"(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this Act, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearing require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued under this Act.

"FEDERAL PROCUREMENT

"SEC. 508. (a) No Federal agency may enter into any contract with any person, who has been convicted of any offense under section 309(c) of this Act, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

"(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than one hundred and eighty days after enactment of this Act, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

"(e) The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

"ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

"SEC. 509. (a) In connection with any determination under section 301(b)(3) of this Act, or for purposes of obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, doument, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b) Review of the Administrator's action (1) in promulgating any standard of performance under section 306, (2) in making any determination pursuant to section 306 (b)(1)(C), (3) in promulgating any effluent standard, prohibition, or treatment standard under section 307, (4) in making any determination as to a State permit program submitted under section 402(b), (5) in approving or promulgating any effluent limitation or other limitation under section 301, 302, or 306, and (6) in issuing or denying any permit under section 402, may be had by any interested person in the district court of the United States for the district in which such person resides or transacts such business upon application by such person. Any such application shall be made within thirty days from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such application is based solely on grounds which arose after such thirtieth day.

"(c) In any judicial proceeding brought under subsection (b) of this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"STATE AUTHORITY

"SEC. 510. Except as expressly provided in this Act, nothing in this Act shall (1) preclude or deny the right of any State or political subdivision thereof or interstate agency to adopt or enforce (A) any standard or limitation respecting discharges of pollutants, or (B) any requirement respecting control or abatement of pollution; except that if an effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation is in effect under this Act, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation under this Act; or (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

"OTHER AFFECTED AUTHORITY

"SEC. 511.(a) This Act shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this Act; (2) affecting or impairing the authority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899 (30 Stat. 1112); except that any permit issued under section 404 of this Act shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 10 of the Act of March 3, 1899, or (3) affecting or impairing the provisions of any treaty of the United States.

"(b) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441–451b) shall be regulated pursuant to this Act, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

"(c) The requirements of the National Environmental Policy Act of 1969 (83 Stat. 852) as to water quality considerations shall be deemed to be satisfied—

"(1) by certification pursuant to section 401 of this Act with respect to any Federal license or permit for the construction of any activity; and

"(2) by certification pursuant to section 401 of this Act and the issuance of a permit pursuant to section 13 of the Act of March 3, 1899, or section 402 of this Act with respect to any Federal license or permit for the operation of any activity.

"SEPARABILITY

"SEC. 512. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

"LABOR STANDARDS

"SEC. 513. The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on treatment works for which grants are made under this Act shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., sec. 276a through 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

"AGRICULTURAL FACILITIES

"SEC. 514. In the case of any water pollution control facility required to be constructed for any property used for any agricultural purpose, no owner or operator of any such property shall be required to expend any funds for the construction of any such facility (A) until a plan for such facility and its operation shall have been approved by the Administrator; and (B) until a certification by the Administrator that such plan, and the construction and operation of any facility in accordance with such plan, will not result in a violation of the laws or regulations of any local, State, or Federal health agency or other governmental agency.

"EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

"SEC. 515. (a) (1) There is established an Effluent Standards and Water Quality Information Advisory Committee, which shall be composed of a Chairman and eight members who shall be appointed by the Administrator within sixty days after the date of enactment of this Act.

"(2) All members of the Committee shall be selected from the scientific community, qualified by education, training, and experience to provide, assess, and evaluate scientific and technical information on effluent standards and limitations.

"(3) Members of the Committee shall serve for a term of four years, and may be reappointed.

"(b) (1) No later than one hundred and eighty days prior to the date on which the Administrator is required to publish any proposed regulations required by section 304 (b) of this Act, any proposed standard of performance for new sources required by section 306 of this Act, or any proposed toxic effluent standard required by section 307 of this Act, he shall transmit to the Committee a notice of intent to propose such regulations. The Chairman of the Committee within ten days after receipt of such notice may publish a notice of a public hearing by the Committee, to be held within thirty days.

"(2) No later than one hundred and twenty days after receipt of such notice, the Committee shall transmit to the Administrator such scientific and technical information as is in its possession including that presented at any public hearing, related to the subject matter contained in such notice.

"(3) Information so transmitted to the Administrator shall constitute a part of the administrative record and comments on any proposed regulations or standards as information to be considered with other comments and information in making any final determinations.

"(4) In preparing information for transmittal, the Committee shall avail itself of the technical and scientific services of any Federal agency, including the United States Geological Survey and any national environmental laboratories which may be established.

"(c) (1) The Committee shall appoint and prescribe the duties of a Secretary, and such legal counsel as it deems necessary. The Committee shall appoint such other employees as it deems necessary to exercise and fulfill its powers and responsibilities. The compensation of all employees appointed by the Committee shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title V of the United States Code.

"(2) Members of the Committee shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title V of the United States Code.

"(d) Five members of the Committee shall constitute a quorum, and official actions of the Committee shall be taken only on the affirmative vote of at least five members. A special panel composed of one or more members upon order of the Committee shall conduct any hearing authorized by this section and submit the transcript of such hearing to the entire Committee for its action thereon.

"(e) The Committee is authorized to make such rules as are necessary for the orderly transaction of its business.

"REPORTS TO CONGRESS

"SEC. 516. (a) Within ninety days following the convening of each session of Congress, the Administrator shall submit to the Congress a report, in addition to any other report required by this Act, on measures taken toward implementing the objective of this Act, including, but not limited to, (1) the progress and problems associated with developing comprehensive plans under section 102 of this Act, areawide plans under section 208 of this Act, basin plans under section 209 of this Act, and plans under section 303(e) of this Act; (2) a summary of actions taken and results achieved in the field of water pollution control research, experiments, studies, and related matters by the Administrator and other Federal agencies and by other persons and agencies under Federal grants or contracts; (3) the progress and problems associated with the development of effluent limitations and recommended control techniques; (4) the status of State programs, including a detailed summary of the progress obtained as compared to that planned under State program plans for development and enforcement of water quality requirements; (5) the identification and status of enforcement actions pending or completed under such Act during the preceding year; (6) the status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this Act; (7) a summary of the results of the survey required to be taken under section 210 of this Act; (8) his activities including recommendations under sections 109 through 111 of this Act; and (9) all reports and recommendations made by the Water Pollution Control Advisory Board.

"(b) The Administrator, in cooperation with the States, including water pollution control agencies and other water pollution control planning agencies, shall make (1) a detailed estimate of the cost of carrying out the provisions of this Act; (2) a detailed estimate, biennially revised, of the cost of construction of all needed publicly owned treatment works in all of the States and of the cost of construction of all needed publicly owned treatment works in each of the States; (3) a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and (4) a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives as established by this Act or applicable State law. The Administrator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each odd-numbered year. Whenever the Administrator, pursuant to this subsection, requests and receives an estimate of cost from a State, he shall furnish copies of such estimate together with such detailed estimate to Congress.

"GENERAL AUTHORIZATION

"SEC. 517. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 206, 207, 208 (f) and (h), 209, 304, 311 (c), (d), (i), (l), and (k), 314, 315, and 317, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, and $350,000,000 for the fiscal year ending June 30, 1975.

"SHORT TITLE

"SEC. 518. This Act may be cited as the 'Federal Water Pollution Control Act'."

AUTHORIZATIONS FOR FISCAL YEAR 1972

SEC. 3. (a) There is authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $11,000,000 for the purpose of carrying out section 5(n) (other than for salaries and related expenses) of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(b) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $350,000,000 for the purpose of making grants under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(c) The Federal share of all grants made under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from sums herein and heretofore authorized for the fiscal year ending June 30, 1972, shall be that authorized by section 202 of such Act as established by the Federal Water Pollution Control Act Amendments of 1972.

(d) Sums authorized by this section shall be in addition to any amounts heretofore authorized for such fiscal year for sections 5(n) and 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

SAVING PROVISION

SEC. 4. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendment made by section 2 of this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Federal Water Pollution Control Act as amended by this Act.

(c) The Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall remain applicable to all grants made from funds authorized for the fiscal year ending June 30, 1972, and prior fiscal years, including any increases in the monetary amount of any such grant which may be paid from authorizations for fiscal years beginning after June 30, 1972, except as specifically otherwise provided in section 202 of the Federal Water Pollution Control Act as amended by this Act and in subsection (c) of section 3 of this Act.

OVERSIGHT STUDY

SEC. 5. In order to assist the Congress in the conduct of oversight responsibilities the Comptroller General of the United States shall conduct a study and review of the research, pilot, and demonstration programs related to prevention and control of water pollution, including waste treatment and disposal techniques, which are conducted, supported, or assisted by any agency of the Federal Government pursuant to any Federal law or regulation and assess conflicts between, and the coordination and efficacy of, such programs, and make a report to the Congress thereon by October 1, 1973.

INTERNATIONAL TRADE STUDY

SEC. 6. (a) the Secretary of Commerce, in cooperation with other interested Federal agencies and with representatives of industry and the public, shall undertake immediately an investigation and study to determine—

(1) the extent to which pollution abatement and control programs will be imposed on, or voluntarily undertaken by United States manufacturers in the near future and the probable short- and long-range effects of the costs of such programs (computed to the greatest extent practicable on an industry-by-industry basis) on (A) the production costs for such domestic manufacturers, and (B) the market prices of the goods produced by them;

(2) the probable extent to which pollution abatement and control programs will be implemented in foreign industrial nations in the near future and the extent to which the production costs (computed to the greatest extent practicable on an industry-by-industry basis) of foreign manufacturers will be affected by the costs of such programs;

(3) the probable competitive advantage which any article manufactured in a foreign nation will likely have in relation to a comparable article made in the United States if that foreign nation—

(A) does not require its manufacturers to implement pollution abatement and control programs,

(B) requires a lesser degree of pollution abatement and control in its programs, or

(C) in any way reimburses or otherwise subsidizes its manufacturers for the costs of such programs;

(4) alternative means by which any competitive advantage accruing to the products of any foreign nation as a result of any factor described in paragraph (3) may be (A) accurately and quickly determined, and (B) equalized, for example, by the imposition of a surcharge or duty, on a foreign product in an amount necessary to compensate for such advantage; and

(5) the impact, if any, which the imposition of a compensating tariff or other equalizing measure may have in encouraging foreign nations to implement pollution and abatement control programs.

(b) The Secretary shall make an initial report to the President and Congress within six months after the date of enactment of this section of the results of the study and investigation carried out pursuant to this section and shall make additional reports thereafter at such times as he deems appropriate taking into account the development of relevant data, but not less than once every twelve months.

INTERNATIONAL AGREEMENTS

SEC. 7. The President shall undertake to enter into international agreements to apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform controls over the discharge of pollutants into the ocean. For this purpose the President shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums.

LOANS TO SMALL BUSINESS CONCERNS FOR WATER POLLUTION CONTROL FACILITIES

SEC. 8. (a) Section 7 of the Small Business Act is amended by inserting at the end thereof a new subsection as follows:

"(g)(1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any small business concern in affecting additions to or alterations in the equipment, facilities (including the construction of pretreatment facilities and interceptor sewers), or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this subsection.

"(2) Any such loan—

"(A) shall be made in accordance with provisions applicable to loans made pursuant to subsection (b)(5) of this section, except as otherwise provided in this subsection;

"(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency or, if appropriate, the State, that such additions or alterations are necessary and adequate to comply with requirements established under the Federal Water Pollution Control Act.

"(3) The Administrator of the Environmental Protection Agency shall, as soon as practicable after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and not later than one hundred and eighty days thereafter, promulgate regulations establishing uniform rules for the issuance of statements for the purpose of paragraph (2)(B) of this subsection.

"(4) There is authorized to be appropriated to the disaster loan fund established pursuant to section 4(c) of this Act not to exceed $800,000,000 solely for the purpose of carrying out this subsection."

(b) Section 4(c)(1)(A) of the Small Business Act is amended by striking out "and 7 (c)(2)" and inserting in lieu thereof "7(c) (2), and 7(g)".

ENVIRONMENTAL COURT

SEC. 9. The President, acting through the Attorney General, shall make a full and complete investigation and study of the feasibility of establishing a separate court, or court system, having jurisdiction over environmental matters and shall report the results of such investigation and study together with his recommendations to Congress not later than one year after the date of enactment of this Act.

NATIONAL POLICIES AND GOALS STUDY

SEC. 10. The President shall make a full and complete investigation and study of all of the national policies and goals established by law for the purpose of determining what the relationship should be between these policies and goals, taking into account the resources of the Nation. He shall report the results of such investigation and study together with his recommendations to Congress not later than two years after the date of enactment of this Act. There is authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this section.

EFFICIENCY STUDY

SEC. 11. The President shall conduct a full and complete investigation and study of ways and means of utilizing in the most effective manner all of the various resources, facilities, and personnel of the Federal Government in order most efficiently to carry out the objective of the Federal Water Pollution Control Act. He shall report the results of such investigation and study together with his recommendations to Congress not later than two hundred and seventy days after the date of enactment of this Act.

ENVIRONMENTAL FINANCING

SEC. 12. (a) This section may be cited as the "Environmental Financing Act of 1972".

(b) There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The Authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

(c) The purpose of this section is to assure that inability to borrow necessary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to subsection (e) of this section.

(d) (1) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such excutive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

(e) (1) The Authority is authorized to make commitments to purchase, and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act.

(2) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (A) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (B) has approved the project as eligible under the Federal Water Pollution Control Act; and (C) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guarantees. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guarantees, and such payments are authorized to be made from such appropriations.

(3) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this section.

(4) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (B) the market yields on municipal bonds.

(5) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

(f) To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this subsection without fiscal year limitation.

(g) (1) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

(2) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitation, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to paragraph (1) of this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph. All purchases and sales by the Secretary of the Treasury of such obligations under this paragraph shall be treated as public debt transactions of the United States.

(h) The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority on account of obligations purchased by it pursuant to subsection (e) of this section.

(i) The Authority shall have power—

(1) to sue and be sued, complain and defend, in its corporate name;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Authority;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (A) any real property and any tangible personal property of the Authority shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (B) any and all obligations issued by the Authority shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

(k) All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

(l) In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody and delivery of such obligations.

(m) The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

(n) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations of the Environmental Financing Authority" immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

(o) The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 846) shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations.

(p) Section 3689 of the Revised Statutes, as amended (31 U.S.C. 711), is further amended by adding a new paragraph following the last paragraph appropriating moneys for the purposes under the Treasury Department to read as follows:

"Payment to the Environmental Financing Authority: For payment to the Environmental Financing Authority under subsection (h) of the Environmental Financing Act of 1972."

SEX DISCRIMINATION

Sec. 13. No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act, the Federal Water Pollution Control Act, or the Environmental Financing Act. This section shall be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

The motion was agreed to.

The Senate bill, as amended, was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11896) was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 571. Concurrent resolution providing for an adjournment of the House from March 29, 1972, until April 10, 1972.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3054) entitled "An act to amend the Manpower Development and Training Act of 1962."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes.

TOBACCO QUOTA TRANSFERS

Mr. ABBITT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 13361) to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the bill as follows:

H.R. 13361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of subsection (c) of section 316 of the Agricultural Adjustment Act of 1938, as amended, is amended to read as follows: "Any lease of Flue-cured tobacco acreage-poundage marketing quotas filed on or after June 1 in any year shall not be effective unless the acreage planted on both the lessor and the lessee farms during the current marketing year was at much as 75 per centum of the farm acreage allotment in effect for such year."

With the following committee amendment:

Page 1, line 7, strike out the words "June 1" and insert in lieu thereof the words "June 15".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ADJOURNMENT FROM MARCH 29 TO APRIL 10, 1972

The SPEAKER laid before the House the concurrent resolution (H. Con. Res. 571) providing for an adjournment of the House from March 29, 1972, until April 10, 1972, together with the Senate amendment thereto.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

Page 1, line 4, strike out "1972." and insert "1972, and that when the Senate adjourns on Thursday, March 30, 1972, it stand adjourned until 12 o'clock meridian, Tuesday, April 4, 1972."

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR INCREASES IN APPROPRIATIONS CEILINGS AND BOUNDARY CHANGES IN CERTAIN UNITS OF THE NATIONAL PARK SYSTEM

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 2601) to provide for increases in appropriation ceilings and boundary changes in certain units of National Park System, and for other purposes, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 2, line 19, of the House engrossed amendment, after ""$10,804,000";" insert "and".

Page 2, of the House engrossed amendment, strike out lines 20 to 23, inclusive.

Page 2, line 24, of the House engrossed amendment, strike out "9" and insert "8".

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, would the distinguished gentleman from Colorado (Mr. Apinall) explain the Senate amendments?

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Colorado.

Mr. ASPINALL. Mr. Speaker, this has to do with striking from the multiple park bill the additional authorization of this category of the national parks, which is not germane at this time, and it is simply to provide to strike it out at this time so as not to hold up the consideration of the other matters.

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Senate amendments to the House amendment were concurred in.

A motion to reconsider was laid on the table.

REFORM OF EXECUTIVE BRANCH—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92–273)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

The sand is running in the glass, and the hour is growing late, for enactment of a critically needed reform, one that merits the very best support which you as legislators for 208 million Americans, and I as their Chief Executive, are able to give it.

That reform is reorganization of the executive branch of the Federal Government—the most comprehensive and carefully planned such reorganization since the executive was first constituted in George Washington's administration 183 years ago. Its purpose is to make American government a more effective servant to, and a more responsive instrument of, the American people. Its method is to organize departments around the ends which public policy seeks, rather than (as too often in the past) around the means employed in seeking them.

The broad outlines of the reorganization proposals which I presented to the Congress just over a year ago are now well known. The seven domestic departments which sprang into being under pressure of necessity one at a time since

1849 would be viewed as a single system for the first time, and their functions regrouped accordingly. *The product would be four entirely new, goal-oriented departments concerned with our communities, our earth, our economy, and our potential as individuals—plus a revitalized fifth department concerned with keeping America in food and fiber.*

A Department of Community Development, a Department of Natural Resources, a Department of Economic Affairs, and a Department of Human Resources would be created to replace the present Departments of Interior, Commerce, Labor, Health, Education, and Welfare and Housing and Urban Development, and Transportation. And the Department of Agriculture—under our plans as I ordered them revised last fall—would be streamlined to increase its ability to serve the farmer and so to serve us all. Several independent Federal agencies would be drawn into the consolidation process as appropriate. Further management reforms would be instituted *within* the new departments, to provide authority commensurate with responsibility at every level and to make form follow function intelligently.

ELECTING BETTER GOVERNMENT MACHINERY

I do not speak lightly or loosely in characterizing this measure as *critically needed*. To say that we must prepare government to perform satisfactorily in the years ahead is only another way of saying that we must provide for its very survival. *This Republic, soon to begin its third century, will surely grow old unless we take wise and decisive action to keep it young.* "Adapt or die"—the Darwinian choice is ours to make.

Hard evidence of this danger abounds—dismal statistics about the low effectiveness of Federal spending, case upon case of national problems stubbornly resisting national programs. "Most Americans today," as I put it in announcing these executive reorganization proposals in my 1971 state of the Union message, and again in transmitting the detailed legislation for them, "are simply fed up with government at all levels."

For us here and now to make a strong beginning at making government work better for the ordinary citizen would hearten the Nation immensely; and it would do so honestly, by getting at the real roots of the fed-up feeling. Yet some may question whether this political year is a time when public men can afford to meet public frustrations head on. "Mollifying gestures, yes," they may say in effect, "but fundamental reform, no—at least not in 1972." Our reply should be that this is a most appropriate year to move ahead with reorganization.

For what is it, after all, that the people want and deserve from the public processes of any year, an election year especially? More effective government. One way they seek to get it is by calling the officials who run the Government to account at the polls, as is being done in 1972. Another way is by regulating the Federal purse strings through their elected representatives in the Congress, as is also being done in 1972. Yet this necessary periodic scrutiny of men and money alone will not reach the heart of the problem. For it is axiomatic among those who know Washington best that, as I pointed out in my earlier message on this subject, "the major cause of the ineffectiveness of government is not a matter of men or of money (but) principally a matter of machinery." We cannot, therefore, in good conscience hold out to the people the hope that this will be a year of change for the better, if we fail to come to grips with reform of government's jerry-built mechanisms.

Institutional structure here in Washington tends to coast along all too comfortably under the protection of an inertia which does not shield elected officials and public expenditures. These last come up for renewal every one, two, four, or six years; not so the structure, which endures with little or no burden of proof for its own worthiness to continue. Now, though, the structure has been weighed in the balances and found wanting.

In less sweeping reorganizations than the one I am urging, of course, a President can institute changes through plans submitted under the Reorganization Act, whereby the burden of proof rests with defenders of the status quo. However such authority no longer extends to the creation, consolidation, or abolition of executive departments. In any event we would have felt it wise to submit so massive a reform as this one for regular statutory enactment, so as to permit consideration of amendments and to provide time for full hearings and review. *My hope now is that the Congress will honor the best spirit of democratic change by electing now, in this election year, to modernize the executive structure and redeem the lagging public faith in our ability to order our national affairs effectively.*

AN OPPORTUNITY WE MUST NOT LOSE

Considerations of practicality, equally with those of principle, make the present time the best time to move ahead on this reform. The efforts of the past several years have amassed significant momentum toward overcoming the inertia which protects obsolete institutions. My proposals of last March 25 have behind them the weight of two years' exhaustive study and analysis by my Advisory Council on Executive Organization, and behind that the substantially similar recommendations of President Johnson's Task Forces of 1964 and 1967 on Government Organization. Since I laid those proposals before the Congress, the Administration and the Government Operations Committees in both Houses have made further headway on perfecting the reform legislation. A spirit of cooperation has been established; good faith and constructive attitudes have been demonstrated on all sides. We must not let these gains go to waste.

The pace of Progress so far has not been disappointing, for no measure this broad and this complex can or should be pushed through the Congress overnight. *What would be deeply disappointing, though—to me, and far more importantly to millions of Americans who deserve better than their government is now organized to give them—is to lose, in this rapidly passing Second Session of the 92nd Congress, our opportunity to record some solid achievement by creating at the very least one, and hopefully two or more, of the four proposed new departments.*

The men and women who begin a new Presidential term and a new Congress next January should not have to start over again on reorganization. They will not have to, if we push ahead now with the realism to see what is wrong with the old structures, the vision to see what benefits new forms can bring, and the courage to take the long step from old to new.

OBSOLETE STRUCTURE: HOW IT HURTS

What is wrong, and what reorganization could do to set it right, is best illustrated with two actual examples. We cannot remind ourselves often enough that this matter of government organization is no mere shuffling of abstract blocks and lines on a wall chart—that it has to do with helping real people, building real communities, husbanding real resources.

The plethora of diverse and fragmented Federal activities aimed at assisting our communities is a glaring case in point. If there is any one social concept which has clearly come of age in recent years, that concept would certainly be the idea of balanced, comprehensively planned community development. Yet where do we find this reflected in government organization? We grope toward it, as with the well-intentioned and (at the time) fairly progressive formation of a Department of Housing and Urban Development; but even that step was premised on an unrealistic, artificial, and harmful distinction between urban and rural communities. In altogether too many instances the dollars and efforts earmarked for communities end up producing more derangement than development.

This is hardly surprising when we consider that:

—A city or town may now seek Federal grants or loans for sewer or sewage treatment facilities from three departments and one independent agency, each with different criteria, different procedures, and a separate bureaucracy.

—Responsibilities for housing assistance are also entrusted to different offices in some of the same departments, and to several other entities as well.

—Highway and mass transit programs have been isolated in a separate department with only partial consideration for what such programs do to our communities, large and small, forcing us to learn the hard way that highways and mass transit must be developed integrally with land use decisions, housing plans, and provisions for other essential community facilities.

Efforts have been made to clarify agency roles on the basis of urban/rural, type of facility, type of applicant, et cetera—but the real need is for unified authority, not artificial jurisdictional clarifications. *In sum, it has become painfully clear that effective integration of all Federal activities relating to community development can be achieved only under a vigorous new Department of Community Development created expressly for that purpose.*

The conservation and development of our rivers offers another pointed example. This important trust, where stakes are high and mistakes irretrievable, has at present so many guardians in Washington that in the crunch it sometimes seems to have none at all. The Department of the Interior, the Department of Agriculture, and the U.S. Army Corps of Engineers, together with several independent agencies, are all empowered to plan river basin development, to build dams and impound water, and to control water use. Elaborate interagency coordination efforts and all good intentions have not prevented waste and error from thriving under this crippling fragmentation of responsibility. Such costly fiascos as the reservoir built by the Bureau of Reclamation for drinking water supply but severely polluted and depleted by conflicting Soil Conservation Service projects upstream have been repeated too frequently. *The answer? A unified Department of Natural Resources, where comprehensive authority to develop and manage water resources would be concentrated under a single departmental secretary.*

Additional examples of dispersed responsibility could be cited in such areas as consumer protection, manpower and job training programs, and economic development activities. In each case, obsolete departmental structures have made it difficult to move forward effectively.

Even the newest of our domestic departments, like Housing and Urban Development and Transportation, now see the challenges of the seventies and beyond outrunning their own relatively narrow mandates. Departmental missions long circumscribed by law or historical development are suddenly outgrown; departmental preoccupations with limited constituencies no longer serve the public interest as reliably as before. Too often the ability of one department to achieve an important goal proves dependent upon the authority and resources of other departments, departments which inevitably attach only secondary importance to that goal. The new Federal commitments undertaken year by year are increasingly difficult to locate in any one department—usually several can claim partial jurisdiction, but none can show full ability to follow through and get the job done.

DECENTRALIZATION AND ACCOUNTABILITY

The solution to this rapidly worsening snarl of problems is regrouping of related programs by major purpose in a smaller number of executive departments. Besides opening the way for sharp improvements in government performance, such a consolidation would make the executive branch more sensitive to national needs and more responsive to the will of the people, in two ways.

First, it would decentralize decision-making. Far too many matters must now be handled above the department level by the Executive Office of the President or within the White House itself—not because of the inherent importance of those matters, but because no single department or agency head has broad enough authority to make and enforce decisions on them. But the four new Secretaries created by my reorganization proposal would have such breadth of authority. Their resultant ability to conduct domestic policy on the President's behalf should speed, streamline, and strengthen the whole process significantly.

Comparable decentralization could also be achieved within each department. At present, too many questions can be decided only in Washington, because of the multiplicity of field organizations and the limited authority of their regional directors. By enlarging the scope of responsibility of the departmental Secretaries and by giving them the tools they need, we could facilitate broad delegation of authority to appropriate field officials. And this in turn means that citizens across the country would receive faster and better service from their Federal Government.

Secondly, the new alignment of domestic departments would enhance the accountability of Federal officials to the people. It is easy to see how the new Secretaries, each with his or her own broad area of responsibility to discharge, would be useful to the President and the Congress in monitoring compliance with direction and accomplishment of objectives. Once scattered responsibility was concentrated, today's frequently used and often quite accurate excuse, "It was the other fellow's fault," would no longer apply.

More importantly, though, whatever slack and tangle can be taken out of the lines of control *within* the Federal establishment will then result in a tightening of those same lines *between* elected Federal officials and a democratic electorate. Notwithstanding the famous sign on President Truman's desk—"The buck stops here"—there will be no stopping of the buck, no ultimate clarification of blame and credit, and no assurance that voters will get what they contracted for in electing Presidents, Senators, and Congressmen, until the present convoluted and compartmentalized Washington bureaucracy can be formed anew and harnessed more directly to the people's purposes.

COOPERATING FOR REFORM

Where, then, does the reform effort stand today? I am pleased to note that the Congress, acting through its Committees on Government Operations, has held extensive hearings on my proposals; that testimony, most of it favorable, has been taken from a broad, bipartisan array of expert witnesses; and that committee work on the House side is nearly complete on the bill to establish a Department of Community Development.

For our part, we in the Administration have continued working to perfect the legislation and the management concepts set forth in my message of March 25, 1971. The Office of Management and Budget has taken the lead in working with Members of the Congress, adopting a flexible and forthcoming approach which has led to refinements in our legislation: one to clarify responsibility for highway safety, another to remove doubts concerning the reform's impact on the Appalachian Regional Commission and the Title V regional planning and development commissions, another to guarantee Community Development participation in airport access and siting decisions, and several more. They have also clarified that the reorganization need not entail any shift in congressional committee jurisdiction.

I am confident that this refinement and clarification process has improved our bills. *I pledge the fullest continuing cooperation of my Administration in seeing that the Congress has what it needs to move forward.*

COMMUNITY DEVELOPMENT AND NATURAL RESOURCES: ACHIEVABLE GOALS FOR 1972

There is still much work to do. For all the excellent hearings conducted to date, action has yet to be completed on any of the departmental bills which were sent to the Congress 370 days ago. Yet their passage by this Congress is still possible—especially for the Departments of Community Development and Natural Resources.

I would call special attention to H.R. 6962, the legislation for a Department of Community Development, which has now undergone 15 days of hearings in the House Government Operations Committee. Prompt, favorable action on this bill would represent a much-needed victory for common sense and the public good. Its defeat or emasculation would serve no interest except entrenched privilege and private advantage, and would cruelly disserve the interest of literally thousands of urban and rural communities with millions of people who are tired of waiting for Washington to get itself together and help them.

I urge all those concerned with the cause of executive reorganization to redouble their efforts to bring H.R. 6962 to my desk for signature during 1972—and, further, to press ahead on enactment of H.R. 6959, the Department of Natural Resources bill, and of legislation for the other two new departments which we need to govern effectively in the seventies.

ORGANIZING TO MEET THE CHALLENGES OF PEACE

Twenty-five years ago, when the United States was realizing that World War II had marked not the end, but only the beginning, of its leadership responsibilities in the world, a reorganization of the executive machinery in the defense area was undertaken. That reform, which created the Department of Defense, marks the only major streamlining of the Cabinet and the only departmental consolidation in our history. The new structure thus established has served America and the free world well in the challenging period since.

Now the time has come to take a similar bold and visionary step on the domestic side of national affairs. The 1960s, troubled, eventful, and full of progress as they were, were only the prelude to a period of still faster change in American life. The peace which we find increasing reason to hope will prevail during the coming generation is already permitting us to turn somewhat from the formerly absorbing necessity to "provide for the common defence," the necessity which motivated the last major executive branch reorganization.

Other great purposes now move to the foreground: "to form a more perfect Union, establish Justice, insure domestic Tranquility, . . . promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity." To serve these purposes, let us act decisively once again, and forge new institutions to serve a new America.

RICHARD NIXON.

THE WHITE HOUSE, *March 29, 1972.*

GENERAL LEAVE

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the bill, H.R. 11896, which was just passed.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON GOVERNMENT OPERATIONS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 911 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 911

Resolved, That the further expenses of conducting the studies and investigations authorized by rule XI(8) and H. Res. 304, Ninety-second Congress, by the Committee on Government Operations, acting as a whole or by subcommittee, not to exceed $835,800, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), which shall be available for expenses incurred by said committee or subcommittee within and without the continental limits of the United States, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $100,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Government Operations shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HALL. Mr. Speaker, reserving the right to object, I wonder if it is the plan of the gentleman, my friend from New Jersey, to explain this rather large add-on amount for the Committee on Government Operations. Anything that he might say in general pertaining to all of these investigating resolutions might expedite their passage.

I appreciate the gentleman's cooperation. On the face of it, it seems to me that on this, the first one of them, the committee has cut it down $35,800, for which I am deeply appreciative.

This is almost as much as the committee report said was originally recommended and was equal to the amount of the first session.

With what they have held over, in spite of the known works of this committee, I just wonder why we need an additional $800,000 in the short session of the Congress when we are planning to get out of here at an early date?

Mr. THOMPSON of New Jersey. I will say to my friend from Missouri that last year the Committee on Government Operations authorized $1,032,600. The new chairman of the committee, the distinguished gentleman from California (Mr. HOLIFIELD) spent considerable time and effort in revising the committee staff and modernizing procedures. He had a carryover. His request for additional funds this year amounts to $800,000, which amounts to a decrease including the carryover of $232,600.

The chairman, the ranking Member, and the subcommittee chairmen all appeared before the committee and satisfied us as to their needs for this year.

Mr. HALL. Further reserving the right to object, Mr. Speaker, would the gentleman advise me if this includes additional expenses for this committee brought on by the pay raise?

Mr. THOMPSON of New Jersey. Yes, it does.

Mr. HALL. I thank the gentleman.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey (Mr. THOMPSON)?

There was no objection.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, line 5, strike out "$835,800" and insert in lieu thereof "$800,000"

The committee amendment was agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

IMPROVEMENTS IN THE HOUSE RESTAURANT AND RELATED FACILITIES IN THE LONGWORTH HOUSE OFFICE BUILDING

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 862 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 862

Resolved, That during the Ninety-second Congress the Committee on House Administration is authorized to incur such expenses, not in excess of $146,200, as the committee considers necessary (acting through the Architect of the Capitol or otherwise) in making improvements in the House Restaurant and cafeteria and food service facilities in the Longworth House Office Building. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, signed by the chairman thereof.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE SPECIAL COMMITTEE TO INVESTIGATE CAMPAIGN EXPENDITURES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 907 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 907

Resolved, That effective February 28, 1972, the expenses of the investigations and studies to be conducted pursuant to H. Res. 819, by the Special Committee To Investigate Campaign Expenditures, 1972, acting as a whole or by subcommittee, not to exceed $185,000 including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $150,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. The official stenographers to committees may be used at all hearings held in the District of Columbia if not otherwise engaged.

SEC. 3. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Special Committee To Investigate Campaign Expenditures, 1972, shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 908 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES 908

Resolved, That the further expenses of investigations and studies to be made pursuant to H. Res. 170 by the Committee on Interstate and Foreign Commerce, acting as a whole or by subcommittee, not to exceed $485,000, including expenditures for the employment of professional, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purposes by any other committee of the House and the chairman of the Committee on Interstate and Foreign Commerce shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON VETERANS' AFFAIRS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 909 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 909

Resolved, That for the further expenses of the investigation and study authorized by H. Res. 20 of the Ninety-second Congress incurred by the Committee on Veterans' Affairs, acting as a whole or by subcommittee, not to exceed $110,000 in addition to the unexpended balance of any sum heretofore made available for conducting such study and investigation, including expenditures for the employment of experts, consultants, and clerical, stenographic, and other assistance, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman thereof and approved by the Committee on House Administration. Not to exceed $18,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. The official stenographers to committees may be used at all meetings held in the District of Columbia unless otherwise officially engaged.

SEC. 3. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Veterans' Affairs shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON ARMED SERVICES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 912 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 912

Resolved, That the further expenses of the investigation and study to be conducted pursuant to H. Res. 201, by the Committee on Armed Services, acting as a whole or by subcommittee, not to exceed $150,000, including expenditures for the employment of special counsel, consultants, investigators, attorneys, experts, and clerical stenographic, and other assistants appointed by the chairman of the Committee on Armed Services, shall be paid out of the contingent fund of the House on vouchers by such committee or subcommittee, signed by the chairman of the Committee on Armed Services, and approved by the Committee on House Administration.

SEC. 2. The chairman of the Committee on Armed Services shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing laws.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR THE WEEK OF APRIL 10

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished majority leader the program for the rest of the week, if any, and the schedule for the next week when the House is in session.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Louisiana.

Mr. BOGGS. In reply to my good friend, the distinguished minority leader, we have completed the legislative program for this week and, as the gentleman knows, we have adopted an adjournment resolution. The House will go over until noon on Monday, April 10.

Monday of that week is District Day. There are no bills scheduled.

For Tuesday and the balance of the week we have the following:

House Resolution 910, Select Committee on Crime investigation authority;

H.R. 9552, Merchant Marine Act amendment, open rule, 1 hour of debate;

H.R. 13324, maritime authorization, open rule, 1 hour of debate;

H.R. 13188, Coast Guard authorization, open rule, 1 hour of debate; and

H.R. 13336, Arms Control and Disarmament Act Amendments, open rule, 1 hour of debate.

Thursday is Pan American Day.

Conference reports may be called up at any time and any further program will be announced later.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Iowa.

Mr. GROSS. It is observed that Thursday of that week is Pan American Day. Will there be any business on that day in addition, or is business scheduled for Thursday?

Mr. BOGGS. The whip notice says "Tuesday and the balance of the week." There are four authorization bills. Each has an hour of debate. It is possible that we would conclude that by Wednesday night. But that does not mean that we will. We have had business on Pan American Day from time to time and we will if we do not complete the program by Wednesday night.

GENERAL LEAVE TO REVISE AND EXTEND NOTWITHSTANDING ADJOURNMENT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until April 10, 1972, all Members of the House shall have the privilege to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject. If they so desire, and may also include therein such short quotations as may be necessary to explain or complete such Extensions of Remarks; but this order shall not apply to any subject matter which may have occurred or to any speech delivered subsequent to the said adjournment.

The **SPEAKER.** Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOT WITHSTANDING ADJOURNMENT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until April 10, 1972, the Speaker be authorized to accept resignations and to appoint commissions, boards, and committees authorized by law or by the House.

The **SPEAKER.** Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM THE SENATE AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House from March 29 to April 10, 1972, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The **SPEAKER.** Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS IN ORDER ON WEDNESDAY, APRIL 12

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday, April 12, 1972, may be dispensed with.

The **SPEAKER.** Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERSONAL EXPLANATION

Mr. ICHORD. Mr. Speaker, on rollcall No. 101 I was called from the floor of the House on an emergency matter and was unable to return until after the voting had closed. If I had been present, I would have voted "yea."

PERSONAL EXPLANATION

Mrs. HECKLER of Massachusetts. Mr. Speaker, on the recorded teller vote on the amendment proposed by the gentleman from Michigan (Mr. WILLIAM D. FORD), rollcall No. 98, I arrived a few seconds too late to be recorded. Had I been present in time, I would have voted "aye."

REDUCING MANDATORY RETIREMENT AGE FOR NON-U.S. CITIZEN EMPLOYEES OF PANAMA CANAL COMPANY OR CANAL ZONE GOVERNMENT

(Mr. MURPHY of New York asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, I introduce for appropriate reference legislation which will be one of a series of bills I will introduce along with other members of the Panama Canal Subcommittee intended to rectify some of the problems of which the subcommittee became aware during its recent factfinding trip to the Panama Canal Zone. In a report of March 9, 1972, on the subcommittee visit to Panama, it was pointed out that over and above current treaty negotiations which are being conducted to eliminate some of the irritants which have hurt U.S.–Panama relations in the past years, there are a number of areas where changes can be brought about that will engender better relations and will help the Canal Zone government function more efficiently in the 1970's.

This first of a series of bills will require the Panamanian employees of the U.S. Government to retire at the age of 62 which will bring the Panamanian retirement age in line with the retirement age of U.S. employees under the Civil Service Retirement Act. This legislation was recommended by Governor Parker to the Panama Canal Subcommittee. Not only will this result in the retirement of persons who are too old to physically carry out their labors at optimal efficiency, it will help to relieve an unemployment problem among hundreds of young Panamanians who live in the zone by making immediately available hundreds of employment opportunities that would result from the lowered retirement age.

Such a retirement age reduction for non-U.S. citizens would result in increased efficiency among the total work force of the canal company agencies. Of the 11,000 non-U.S. employees, 3.6 are over the age of 62. The mandatory requirement for retirement at age 62 would immediately make available 400 positions which would have a salutary impact on the serious unemployment problem among younger Panamanians. Further, in the 5 years after enactment of the law there will be an additional 150 to 200 positions made available annually over and above the normal rate of retirement.

The bulk of semiskilled and unskilled positions including longshoremen, seamen, and other laborers are filled from the local labor market. These three groups comprise 3.4 percent of the work force over the age of 62. Governor Parker has said that:

> Generally, these older employees do not have the agility and physical stamina to meet the demands of handling cargo and heavy lines or of boarding ships by climbing Jacob's ladders. Despite their lower levels of performance, it is considered that termination for cause is not supportable or appropriate. Neither do they qualify for disability retirement under these circumstances.

The Governor has concluded that:

> Mandatory retirement at age 62 would permit their replacement by younger employees. This would be a desirable result not only from the standpoint of greater efficiency but also in terms of improved safety inasmuch as our experience has shown these older employees to be more accident prone. This poses a problem because positions requiring heavy manual labor are filled almost entirely by non-U.S. citizen employees.

Mr. Speaker, I and other members of the Panama Canal Subcommittee feel that this is an amendment that can have benefits and a salutary effect on the Canal Zone work force. There are 800 young unemployed Panamanians who are desperately seeking jobs in the zone. They are a constant source of concern to officials and those responsible for running the canal. This amendment would provide immediate relief for this problem while not exerting any hardships on the older persons who would be retired.

While it should be mentioned that the positions that would be available are at the lower level of the employment scale, subcommittee legislation will be introduced in subsequent weeks which addresses itself to the existing inequities in educational opportunities and the low level of subsequent employment opportunities that result.

I commend this bill to my colleagues and urge its immediate consideration. It has the desirable dual qualities of being noncontroversial and good law.

NIXON ADMINISTRATION TURNS DEAF EAR TO PLEAS OF FARMERS

(Mr. MATHIS of Georgia asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MATHIS of Georgia. Mr. Speaker, the Nixon administration is still sitting on $75 million appropriated by the Congress for farm operating loans. While many farmers have their backs against the wall, the Nixon administration continues to turn a deaf ear to their plea for help.

I received a call late last night from a young farmer in Cook County, Ga., whose application for an $18,000 operating loan was approved by Farmers Home Administration but not funded. Based on these assurances from FHA, he leased land, put out fertilizer and is now facing a March 31 deadline for planting the tobacco and peanut allotments he has agreed to lease.

His application has not been funded because the Office of Management and Budget will not release the $75 million appropriated by Congress. Such action by any administration reflects a callous attitude toward the Nation's farmers that is unpardonable.

The young farmer from Cook County is representative of so many farmers who need tangible assistance from the Department of Agriculture. They do not need more rhetoric about how much the new Secretary of Agriculture loves them or how he is fighting their battles like a wounded steer. They need help, and they need it now.

The farmer from Cook County asked me:

> What can I do? My back is against the wall.

I could not give him any hope or any advise. His deadline is Friday. I can only ask President Nixon, "What can this young man do?"

McALPINE DAM, LOUISVILLE, KY.

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. MAZZOLI. Mr. Speaker, I would like to address myself briefly to a matter of considerable concern in my district, that is the construction and operation of the McAlpine Dam which lies across the Ohio River at Louisville, Ky.

This structure, including navigational locks, was redesigned and rebuilt by the U.S. Army Corps of Engineers during the 1960's with work on the dam completed in September 1964.

Since completion of the project in 1964, there have been persistent complaints about frequent fluctuations in the level of the Ohio River pool impounded above McAlpine Dam. Such fluctuations create considerable distress for those who moor recreational boats to fixed docks situated along the river's edge.

But, of far more concern to me than the discomfort or inconvenience experienced by pleasure craft owners is a recent rash of commercial barge accidents in and around the spillways, gates, and locks of the McAlpine Dam.

I am concerned, as are many of my constituents, that these accidents may somehow be related to the design, or operation, or both, of the reconstructed McAlpine Dam.

At this moment, a barge containing 600 tons of liquid chlorine is wedged into one of the gates of the dam and is lodged precariously at the edge of the spillway. Salvage and recovery operations are now underway, but great dangers are involved in this mission because of the type of cargo involved, and because of the great turbulances and pressures of the water in the area of the barge itself. This barge was one of several which broke away from a tow as it was being positioned for entry into the channel leading to the locks of the McAlpine Dam.

Another barge which broke away from this same tow contained a load of sulfuric acid. This barge was recovered, temporarily moored to the Louisville Gas & Electric Co.'s hydroplant, and has only just been removed by a rescue vessel. No less than six other barges, either sunken or partially sunken—are in the immediate vicinity of the dam structure.

All of these incidents impel me to conclude that it is entirely appropriate, at this time, to suggest that the Corps of Engineers undertake an immediate study to determine whether additional construction modifications to McAlpine Dam or changes in its operation, are needed to insure safe use by commercial and recreational vessels on the Ohio River at and around this dam.

There are some who contend that the primary fault for this series of barge accidents lies with the operators of the tow boats and that more stringent regulations are urgently needed with respect to licensure of river pilots. This certainly is true.

At the same time, however, there remains a clear need to get at the facts pertaining to the reconstructed McAlpine Dam itself. Has the new structure made it more difficult or hazardous for barges and tows to operate in its vicinity? If so, would a modification or redesign of the dam remedy this situation? What would be the costs involved of such modification or redesign?

If the Corps of Engineers study determines that modification of the dam is, in fact, not necessary, we are then faced with the question of what steps ought to be taken by the U.S. Coast Guard or other appropriate regulatory agencies to require greater competence and experience on the part of the barge operators who increasingly handle cargos which can be dangerous if accidentally spilled or released into the air.

There is certainly a need for a study to get all the facts regarding the apparent instability of the McAlpine pool at certain times of the year. If the complaints I have received of excessive flood-stage pooling are valid, the study might recommend modifications in the dam or its operation which could remedy this problem.

Another important consideration is the effects that the McAlpine Dam now has upon the Devonian fossil beds which begin immediately at the foot of the dam. Plans are currently underway to preserve this unique area, known as Falls of the Ohio, as a national park. It appears that because of the construction, McAlpine Dam has partly covered over these unique fossil beds with silt.

In conclusion, Mr. Speaker, I believe that the Corps of Engineers should conduct a detailed study of all the facts—environmental, navigational, economic, and esthetic—pertaining to the existing McAlpine Dam. The results of such a study should be made available at the earliest possible date so that corrective steps, if any are found necessary, can be undertaken without delay.

CREATING COMMISSION ON U.S. PARTICIPATION IN THE UNITED NATIONS

(Mr. MAILLIARD asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. MAILLIARD. Mr. Speaker, on behalf of myself, Representatives Bingham, Morse, Pepper, and 38 other Members who have asked to join with us, I have today introduced a joint resolution creating the Commission on United States Participation in the United Nations.

I have a special relationship with the United Nations. It was founded in 1945 at a historic conference in my own home city, San Francisco. And I had the honor to be a U.S. delegate to the 18th General Assembly in 1963. So I have known and followed the United Nations' development for a long time. I and many of my distinguished colleagues in the House have been concerned in recent months with developments at the U.N. and here in this city. I am certain that few would disagree that the U.N. faces monumental problems.

Not the least of these is a growing loss of confidence in that organization's ability to achieve its major objective—a peaceful developing world community. But we cannot really blame the U.N. for failures influenced or effected by its individual member nations' indifference or inaction. It is a matter of the greatest immediate importance that this Nation, which led in the assemblage of states which put the U.N. together as an alternative to the bloody world conflict which had just ended in 1945, should not now turn its back on a potential for peace as yet unrealized but very definitely realizable.

In 1970, President Nixon appointed the President's Commission for the Observance of the 25th Anniversary of the United Nations. This Commission was ably led by the Honorable Henry Cabot Lodge. It enjoyed the distinguished participation of Representatives Gallagher, Lloyd, Morgan, and the late Bourke B. Hickenlooper and Senators Aiken, Cooper, Fulbright, and Sparkman. Their report, issued on April 23, 1971, after extensive hearings across the United States, made 96 excellent recommendations for the improvement not only of the U.N. but also of American participation in it.

This brings me back to my original point. If we are to help the U.N. to improve its performance and to realize its great potential for building a better world for us and our children, we are not going to do it by turning our backs on it when it most needs our support and informed attention. The Commission which this resolution establishes will help us to make fact the promise of the Lodge Commission. It will provide us with a continuing organizational forum for dealing with the responsibility for implementation of U.S. policies and programs toward the U.N. and its specialized agencies and the International Court of Justice.

The record of fulfillment of the promice of San Francisco to the American people leaves much to be desired. This Commission may or may not accomplish a great deal. But if we can establish this Commission, we will be paying a small price for a building block that may indeed bring us closer to fulfilling that promise made to the world 25 years ago.

This Commission, precisely because it would be removed from the daily pressures of legislation and decisionmaking, would be able to make recommendations and provide guidance to those in the legislative and executive branches responsible for policy formation, implementation, and oversight.

An identical joint resolution, Senate Joint Resolution 216, has already been introduced in the other body under the sponsorship of Senators WILLIAMS, CASE, MATHIAS, MOSS, HUGHES, GRAVEL, CRANSTON, COOPER, MUSKIE, HARTKE, PELL, HARRIS, TUNNEY, HART, and JAVITS. The issues at stake, I believe, provide compelling reasons for the prompt establishment of this Commission. The generation of peace which the President and all decent Americans want to build for our children and all the world's children will be brought closer to fruition by the Congress favorable action on this bill. The modest expenditure involved will be a very small price to pay for a significant contribution to world order and justice under law. It deserves our support.

TRANSPORTATION FOR GLACIER NATIONAL PARK

(Mr. SHOUP asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. SHOUP. Mr. Speaker, it is important that all of us be concerned about the potential overloading of our national parks by the millions of visitors who properly visit these parks each year. One of the most difficult problems that Glacier National Park in Montana and others throughout the Nation have is the large number of automobiles that are driven into the parks. This problem is increasing and in my opinion must be properly resolved very soon.

Instead of the simplistic solution involving a total ban on all automobiles in national parks at this time, I am interested in exploring an alternative solution. I propose that the Congress authorize a study of the most desirable and feasible means of transporting visitors within certain portions of one park, specifically Glacier National Park in Montana, so that we can consider such innovative techniques as aerial tramways, and other possibilities.

I believe it is important for the national parks to be accessible to people, but I also believe it is not only possible but imperative that these visitors be managed so that they can enjoy the beauty of the parks and do so in a way that will not damage the natural resources in the parks.

The bill I am introducing today authorizes and directs the Secretary of the Interior to conduct a study of alternative means of transporting visitors from West Glacier to Saint Mary over the Going-to-the-Sun Road. It further requires the Secretary to submit a report thereon, with recommendations, to the Congress within 1 year from the date that funds for the study are made available.

Mr. Speaker, I include the entire bill in the RECORD following my statement:

H.R. 14207

A bill to provide for a study of the most desirable and feasible means of transporting visitors within certain portions of Glacier National Park, Montana, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to conduct a study of alternative means of transporting park visitors over the general route of the Going-to-the-Sun Road from West Glacier to Saint Mary within Glacier National Park in the State of Montana. Not later than one year from the date that funds for such study are made available to him, the Secretary shall submit to the Congress a report thereon, including his recommendation as to the most desirable and feasible means of transporting park visitors over the route referred to herein.

SEC. 2. There are authorized to be appropriated $30,000 to carry out the purposes of this Act.

CONFERENCE REPORT ON S. 3054, TO AMEND THE MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

Mr. PERKINS submitted the following conference report and statement on the bill (S. 3054) to amend the Manpower Development and Training Act of 1962:

CONFERENCE REPORT (H. REPT. No. 92-966)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3054) to amend the Manpower Development and Training Act of 1962, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That (a) section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is amended by striking out "1972" the first time it appears in such section and inserting in lieu thereof "1973".

(b) Section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is further amended by striking out the colon and the following: "*Provided,* That no disbursement of funds shall be made pursuant to the authority conferred under title II of this Act after December 30, 1972".

SEC. 2. All real property of the United States which was transferred to the United States Postal Service and was, prior to such transfer, treated as Federal property for purposes of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), shall continue to be treated as Federal property for such purpose for two years beyond the end of the fiscal year in which such transfer occurred.

And the House agree to the same.

CARL D. PERKINS,
DOMINICK V. DANIELS,
LLOYD MEEDS,
ALBERT H. QUIE,
MARVIN L. ESCH,
Managers on the Part of the House.
GAYLORD NELSON,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
ALAN CRANSTON,
HAROLD E. HUGHES,
ADLAI E. STEVENSON III,
JENNINGS RANDOLPH,
BOB TAFT, Jr.,
JACOB K. JAVITS,
RICHARD SCHWEIKER,
PETER H. DOMINICK,
J. GLENN BEALL, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendment of the House to the Senate bill (S. 3054) to amend the Manpower Development and Training Act of 1962 submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The points in disagreement and the conference resolution of them are as follows:

1. The House-passed amendment would extend the authority conferred under title II of the Manpower Development and Training Act for one year beyond the existing law's expiration date of June 30, 1972, by inserting in lieu thereof the termination date of June 30, 1973.

The Senate-passed bill does not contain the above provision.

The Senate recedes.

2. The House-passed amendment would extend for one year the existing law's provision that no funds to carry out obligations entered into prior to the termination date may be disbursed later than December 30, 1972—six months after the termination date.

The Senate-passed bill would delete this six months limitation altogether.

The House recedes.

3. The Senate-passed bill also contains the following provision, providing that for purposes of Public Law 874, relating to assistance for schools in federally impacted areas, Federal property transferred to the United States Postal Service shall continue to be treated as Federal property for two years.

The House passed H.R. 11809 on December 6, 1971, containing the same language as section 2 of the Senate-passed S. 3054.

The House recedes.

CARL D. PERKINS,
DOMINICK V. DANIELS,
LLOYD MEEDS,
ALBERT H. QUIE,
MARVIN L. ESCH,
Managers on the Part of the House.
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RICHARD SCHWEIKER,
PETER H. DOMINICK,
J. GLENN BEALL, Jr.,
Managers on the Part of the Senate.

OCCUPATIONAL SAFETY AND HEALTH

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. STEIGER) is recognized for 1 hour.

(Mr. STEIGER of Wisconsin asked and was given permission to revise and extend his remarks and include extraneous matter.)

GENERAL LEAVE

Mr. STEIGER of Wisconsin. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their own remarks and include therein extraneous matter on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. STEIGER of Wisconsin. Mr. Speaker, at the end of the 91st Congress we passed the Occupational Safety and Health Act of 1970. While there were many disagreements as to how the act should be structured to improve the safety and health of the Nation's workers, there was general recognition that something had to be done to reduce the rising rate of occupational injuries and to curtail the human and economic costs of occupationally related injuries, illnesses, and deaths. The overall increasing concern with the quality of the environment in which we live was a major factor in making us aware of the need for an improved work environment. Just a little over 15 months ago, this House passed the bill by a vote of 308 to 60, and the act will have been in force for 1 year on April 28 of this year.

I have been struck, Mr. Speaker, by the number of Members of Congress and business and labor people who have apparently forgotten the extraordinary amount of work that went into the passage of this act. There are many who have forgotten the 3 years of hearings and committee work involved in the consideration of this legislation. The controversy was real and substantive. It may be in order to simply review briefly some of that background.

It was President Johnson in 1968 who proposed the first occupational safety and health bill. During 1968 the Committee on Education and Labor held extensive hearings on that legislation and eventually did report a bill which became known as the Hathaway bill. At that time I offered a number of suggestions which were turned down by the committee and made known my views in the minority views of the committee report which accompanied that bill. Because it was late in the session, nothing was done and the House never considered that legislation.

In 1969 when President Nixon came into office, he asked each department to assess its legislative priorities. The Department of Labor placed safety and health at the top of its list. President Nixon, after consultation with all segments of the business, labor, and safety communities, then proposed the original administration's safety and health bill. Congressman DANIELS subsequently proposed a new bill which was cosponsored in the other body by Senator WILLIAMS of New Jersey.

Throughout all of 1969 and 1970 hearings were held on these proposals and a number of factors went into the decision by Congress to eventually consider and pass legislation of this kind. For example, the AFL–CIO made this subject their No. 1 legislative priority for the 91st Congress. The business community represented through the Chamber of Commerce and the National Association of Manufacturers as well as various trade associations switched from opposition to a Federal law to support for a Federal law. The Nixon administration's leadership and initiative as well as the emphasis on safety as reflected in the Coal Mine Safety Act and the Construction Safety Act all were a part of the backyard leading to the eventual signing of the Williams-Steiger Act.

Some may have forgotten the controversy between the Daniels bill and the Steiger-Sikes bill and the fact that there are significant differences in these bills. For example, there was the question of whether an inspector could on his own shut down a plant at the worksite; the question of separation of powers between the promulgation of standards, inspections and enforcement; insuring the right to due process at each stage. All of these were involved in the House debate and were, I believe, reasons for the vote by the House to adopt the Steiger-Sikes substitute. The Williams bill was different and the conference committee had to wrestle with the task of reconciling major differences.

The Williams-Steiger Act is a compromise—one which did not then and does not now reflect 100 percent the views of the AFL–CIO, the Chamber of Commerce, the Nixon administration, Senator WILLIAMS or BILL STEIGER. But it does, in my judgment, reflect a bill which at the time it was passed was supported by all of the organizations, associations and individuals who were active in this field. It is a legitimate, just, and fair bill.

That background is important because while there are differences there are also similarities. The confusion, misunderstanding and controversy which now is to be seen across the country and here in Congress comes to me as no surprise given the magnitude of this law. But all of these questions were addressed by both committees in both Houses and thoroughly discussed in committee reports accompanying the bill and during the floor debate.

The President created the Occupational Safety and Health Administration in the Department of Labor to set and enforce occupational safety and health standards and to seek compliance through educational, promotional, and other techniques. In the short time this organization has existed, much has been done—a large number of standards have been promulgated and others are being developed; compliance officers and industrial hygienists have been recruited and trained, nearly all existing State efforts have been continued while the States are being aided in developing their own programs; educational programs have been developed and training for employers and employees has begun; and, enforcement activities have been undertaken. I am proud of the efforts of this administration in implementing the act, and of those men and women who have worked so hard to get this necessary new program off the ground.

However, in any law of this scope and in any program this new there are inevitably many who feel that either progress is being made too slowly or else that too much change is being required at too rapid a rate. I am sure that nearly all of you in this House have received a number of letters and phone calls from constitutents complaining about the act and its administration. For example, one of my constituents wrote saying:

> I do object to the manner of enforcement. Perhaps large corporations have engineers who have the savvy to comprehend the 744 columns (of standards published in the Federal Register), and the staff to bring everything into compliance. Few small businesses have, or can do so. The $65 "assessment" won't break us. I do consider it unfair and discriminatory.

Another said:

> No one is against safety and health. We do, however, strenuously object to the procedure under this law where a proposed penalty is set up before expiration of the correction period and no opportunity to correct is given without a penalty being proposed.

Such reactions from constituents have led many of my colleagues in this House to demand changes in the administration of the act and to introduce bills to amend it, feeling that too much is being done too fast. However, there are strong voices raised saying just the opposite, that not enough has been done. At its recent convention in Bal Harbour, Fla., the AFL–CIO issued a statement on the program which says in part:

> We have weighed the President's words against his deed and found them wanting. The record is one of foot dragging flabby enforcement and adulteration of the special provisions of the Act setting forth specific rights and protections for employees . . . On the basis of the present enforcement staff of over 300 plus, with 9,800 establishments inspected in five months, the 4.1 million workplaces covered by the Act would all be finally inspected once in the next 170 years.

In addition, the AFL–CIO statement, referring to the Occupational Safety and Health Administration's summary report on its enforcement actions between July and November 1971, says:

> According to the report, $512,000 in fines were assessed against 8,257 employers for violations—an average fine of $62. That is too cheap a price tag to be placed on the lives and health of workers. More stringent fines are necessary to prevent employers from deciding that it is cheaper to violate the law than to correct the hazard.

And, my distinguished colleague from New Jersey (Mr. DANIELS) recently remarked that:

> Now the hopes of this Congress and their constitutents have been undermined by the inept and lax administration of important parts of the occupational safety and health law. A spirit of protecting the lives and health of our workers is barely discernible in many of the Department of Labor's actions. As the chairman of the committee charged with oversight of this act, I feel that

> if the Department does not speedily correct its attitudes and actions in this matter, I will exercise full authority to bring about these changes.

Obviously, the Occupational Safety and Health Administration is caught between the pressures from businessmen, farmers, labor, consumer advocates, and others. These pressures raise some fundamental issues on which I would like to comment.

First, why were the present occupational safety and health standards adopted? In passing the act, we recognized that there was a considerable body of safety and health standards that had been developed by national consensus organizations such as the American National Standards Institute and the National Fire Protection Association or by the Federal Government under other statutes. Since these standards embodied a great deal of experience with existing conditions and had provided for the inputs from affected groups in the country over a long period of time, special provision was made for the Department to adopt these standards immediately without further public hearings. In adopting these initial standards, however, the Department carefully edited them to pick those affording the greatest protection for employees while avoiding inconsistencies and impracticalities. A major package of these standards was promulgated last May 29 for general industry. This package also adopts pre-existing Federal standards for the construction and maritime industries. These standards do contain some problem areas such as those dealing with toilet partitions and ice water which have little relationship to occupational safety and health. However, OSHA is moving rapidly to identify and change such standards and there will always be some standards of less importance than others.

In the Extensions of Remarks section of the CONGRESSIONAL RECORD on March 9, 1972, I made available to the House the list from the Department of Labor of the proposed timetable for standards changes. I hope this information will be useful to my colleagues in considering these questions.

The act also provides for new standards to be developed through a careful process which insures adequate research and public hearings before they are promulgated. Temporary emergency standards may be issued to be effective immediately to meet the demands of special situations. The first such standard, on asbestos, was issued in December 1971. We also recognized that employers may do things in many different ways which are as effective in terms of safety and health as would be compliance with the standards, and the act provides for variances in such situations.

It should be clearly understood that the Department of Labor has not arbitrarily adopted the standards now in effect. Rather, they have followed specific congressional direction and, I might add, have done so remarkably well, considering the complexity of the issues involved.

Second, how does an employer get help in understanding what is required of him under the act?

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I would be glad to yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I listened with great interest to the explanation of the gentleman from Wisconsin of the section to which he has just mentioned. I have received numerous calls from Wyoming regarding the lack of cooperation on the part of the officials of the Department of Labor.

Several weeks ago a businessman, the owner of a small operation in New Castle, Wyo., called the Denver office of the Department of Labor and said:

> I have here the standards. I employ 85 or 90 people in my operation and I would like to have some help in determining how to comply with the law.

He said:

> Will you please send someone up here so that I will know how to be in conformance with the law?

The answer was:

> No, we are not familiarizing you with these regulations and we will not help you. If we come to see you, we come to fine you.

So, I look with displeasure upon what has happened in the administration of the bill because there has not been the necessary education done nor the necessary assistance in helping people to comply with the requirements of this act.

It is also a fact that it is not inconsistent to find criticism by the AFL–CIO with reference to the question of lack of enforcement.

I happen to know from Akron, Ohio, and other industrial places, of the absence of such examiners from premises notorious for high industrial injuries. Yet, at Rock Springs, Wyo., a city of virtually no industry and less than 15,000 souls, four officials got there on one day from the Department of Labor.

And three of them walked into one small barbershop at the same time.

I submit to you there is somebody downtown wasting manpower needed in the heavily industrialized areas, who need the effects of this law, and concentrating in the little Western towns, bringing officials in there, and working on the little barbershops and the small businesses. That is the last thing in the world that the Federal employees need to be doing in these difficult and hard times.

So I hope that what the gentleman is doing will prove of some benefit, and will remove some of the hardship of this law. I also hope that the gentleman can come up with rapid hearings with amendments—not necessarily amendments that would exempt employers of a certain size. I do not believe anyone wishes to exempt anybody from the concept of this law. But something has gone wrong between the law concept and the regulations that were promulgated for it downtown in the Labor Department.

Mr. STEIGER of Wisconsin. I might say to the gentleman from Wyoming that I had a call of this very sort this morning from my sister who, incidentally, lives in Sundance, and she, among other things said:

> Would you please help me, because everybody knows that I am your sister, and you are my brother, and we are having a real problem when they talk about the Steiger act. Can't you get your name off of it, or do something else?

But I would like to make two comments: one is do not criticize the Department of Labor for what it does in terms of responding to the calls that come in from Newcastle, because clearly the Department of Labor in fact was being helpful to that individual by saying:

> Look, if we come on your plant site we can't under the act come there to give you guidance and counsel. We can come there and make an inspection. After the inspection is finished the compliance officer does, under the law, and has in practice, sat down with the employer and gone through those problems wherever they were found during the inspection. But you cannot ask the Department of Labor to come there for the sole purpose of simply providing information and guidance.

Second, let me also tell you that the Department of Labor is prepared to respond to people who have questions about the implementation of the act; about the effect of a specific standard on their particular worksite, and will be delighted to do so. I do know that the person cannot meet them at the plantsite, but the person who has a question can call Denver, or, if it is required, go to Denver. And as part of my remarks, at the end I am including a list of all the district officers and all the area officers, with the name of the man in charge and the phone number, so that if anybody has a question he knows here is the man to go to.

Third, may I suggest—and I will get into this in just a moment in terms of my further discussion, on the very point the gentleman raises, it is not, in my judgment, fair to assume that the Department of Labor is somehow picking out Rock Springs, Hulett, Sundance, Newcastle, or any of the other communities in the State of Wyoming, and not doing the job in Akron, Canton, Milwaukee, Chicago, Rockford, or any of the other cities across this country.

In my remarks, may I say to the gentleman from Wyoming, I do go into the target priorities of the Department of Labor, first, taking care of the situation in which a death takes place; second, those in which there is a demand for inspection by employees; third, the target industries program; fourth, a general random selection inspection program of employers, large and small, across the United States. It is a limited inspection force, and the point that the AFL–CIO is making, which was the point I am trying to draw to my colleague's attention, is between those who say let us exempt certain categories, let us make certain changes in it. But there is the additional suggestion, again by the AFL–CIO, that it is too weak and that we need to have more enforcement, it is this position of the Department of Labor in which it finds itself between the rock and the hard place.

And it is my purpose today to at least try to bring some of this to the attention of the House so that they might consider more carefully the question of whether or not it is appropriate or not to start making modifications in the Occupational Safety and Health Act.

Mr. RONCALIO. I just want to thank the gentleman very much for allowing this discussion. I am sorry, we have had a tremendously complicated and difficult 3 days just concluded, and there are very few Members in the Hall.

But I do not know of anything that is more important right now than this legislation, and I am grateful to you for the time you have taken trying to point the way.

I only hope you recognize a bill providing for amendments by my friend and colleague in the other House, Senator CLIFFORD P. HANSEN, the junior Senator from Wyoming, legislation together with Senator CARL T. CURTIS of Nebraska. It calls for exemptions.

My bill is now in the hopper, and I hope it will get some attention because I just do not think we can go on without ugliness and resentment that adds further to the loss of confidence that people have in their elected officials.

I will say to you in all candor, Mr. STEIGER, if I had been a member I may have voted for the bill, I do not know. But I tell you it is not working well. It is causing irritation and loss of confidence and ugliness that I have never experienced before in a lifetime dedicated to the public service. It is very, very serious.

Mr. RONCALIO. Mr. Speaker, I have taken several occasions over the last few weeks to speak against the injustices arising from the implementation of the Occupational Safety and Health Act of 1970.

We are all aware of the confusion and the furor that has been created by this act, particularly among small businessmen, ranchers, and farmers who have never before been affected by Federal safety laws.

The major concern in my State of Wyoming is not that businessmen, farmers, and ranchers must now run "safe" places of business, for I find my constituents more than willing to comply with reasonable safety requirements. What does upset them is the fact that they are in many cases being fined by Department of Labor inspectors even before that Department has gotten around to seeing that each and every individual affected by the new law has received a copy of the regulations to which he or she must comply.

Even though I was not a Member of the House of Representatives when the Occupational Safety and Health Act was passed, I am certain that it was not the intent of this body to impose specific laws upon the citizens of this Nation before they are made aware of what these laws are.

For this reason, I introduced into the House of Representatives on March 20 an amendment to the Occupational Safety and Health Act (H.R. 13926) which would provide that the first inspection by Department of Labor officials would be for the purpose of pointing out to the owner or manager of a business what changes he must make to be in compliance with OSHA and to allow a reasonable period of time for him to make the necessary changes before he is hit with a fine. In short, my amendment would allow that the first on-site inspection would be to give advice, not fines.

As we all know, my proposal is just one of several amendments that have been offered to correct the injustices and abuses of the Occupational Safety and Health Act.

What I want to urge today, Mr. Speaker, is that the House of Representatives do more than talk about the Occupational Safety and Health Act. We have an opportunity here to take positive action on a matter of major concern to the citizens of this Nation—to show them that Congress is not an unresponsive body isolated from the needs of the people.

I respectfully call on you for hearings on all Occupational Safety and Health Act amendments, and I would suggest that the sooner the amendments can be properly considered by the committee and get on to the floor of the House for discussion and vote, the better.

I am hopeful you will not let this opportunity to act pass us by.

Mr. STEIGER of Wisconsin. There is only one further comment that I would like to make, and that is to suggest as best as I can understand what is happening in Wyoming. There seems to be some confusion on the part of those involved in the State program as to exactly what the Federal program is all about. At least from my sister's standpoint and my brother-in-law's standpoint, they are receiving misinformation about this act. I contacted the Department of Labor in an effort to try to find out exactly what is happening between the State personnel and the Federal personnel.

Then let me go on, if I might say to the gentleman from Wyoming, I dare say there is a responsibility on the part of the Members of Congress to do a job in alerting their constituents in terms of the farmers and ranchers—only 450,000 farmers and ranchers were circulated as to the impact of OSHA when the original standards were promulgated.

There are four specific standards with reference to agriculture. Those standards are not difficult to comprehend or to understand.

There is not any reason at all why a farmer or rancher should not be familiar with them and to be able to comply with them to the extent that they may apply to his operation.

I think there is a serious failing on the part of some of our colleagues who have been unwilling no matter how much they attack the law to say there is also a responsibility on our part to inform our constituents as to the implications of this act and put it in our newsletters and put it in our weekly reports so that we do not get this kind of confusion and misinformation.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman.

Mr. RONCALIO. Those who voted for this law do more than that.

If the Secretary of Labor does not correct the situation, he should be summarily dismissed. Who else is responsible for it?

Mr. STEIGER of Wisconsin. I will say to the gentleman, I think he is 100 percent wrong. I do not know any way that the Department of Labor can undertake to do this job that it has not already done.

It has put out public service ads and made every effort to create an awareness on the part of all businessmen, farmers and ranchers across the Nation, in connection with alerting employers.

The Safety Standards magazine for this month has to do with agriculture. It is available from the Superintendent of Documents for $1 per year.

I urge the gentleman from Wyoming to read them, but I would suggest also to the gentleman that trade associations have a responsibility, labor unions have a responsibility, the chamber of commerce and Members of Congress have a responsibility to make sure at least that if an inspection takes place, their constituents ought to be aware of it so that they will not be fined for not being in compliance with this act.

I think it totally misses the point to attack and blame the Department of Labor for not having done this job when it was given to them by the Congress. Theirs is an intolerable burden in terms of an act that was given to them not long enough before it went into effect. They should have had more time. I recognize that. But I lost on that issue during the conference to reconcile the differences between the Williams bill and the Steiger-Sikes bill.

I think it is very unfair to say that the Department of Labor is to bear the full blame for the fact that some of our constituents are not aware of what we have done.

Mr. RONCALIO. Would the gentleman concur in now recognizing at least a 6-month or a 1-year educational period so that citizens might have at least a 6-month or 1 year education period in which officials can enter the premises and help the citizens to comply?

Mr. STEIGER of Wisconsin. No, I would have to say in all honesty—I do not think this approach would be appropriate.

Mr. RONCALIO. Then what you are saying in effect is if my bill were to come up here, you would testify against it?

Mr. STEIGER of Wisconsin. No. I am not saying that I would testify against it. I serve on the committee, and I would listen sympathetically to the point which the gentleman is making. My point to the gentleman from Wyoming is this. The gentleman wants a 6-month or a year's period of education. I suggest that there are forces, as forceful, perhaps more forceful, than the gentleman from Wyoming, who would come in and want to make some changes which would make it even more difficult for the employers and the employees.

Mr. RONCALIO. Why do we not do what the facts warrant? Why do we not do what the situation justifies and not pay too much attention to the pressures which push to one side or the other? In those areas where there are industrial accidents now, where there are 14,000 to 16,000 deaths a year from unsafe premises, let there be inspection. I submit that you can go through States such as Utah, Wyoming, Idaho, and Montana and you will not find justification for dozens and dozens of labor inspectors running over the premises of little farmers and ranchers, some barely able to make a living now. They find that they are required to put a hard hat on when they work around cows and a coat hanger for coats available in out-houses.

Mr. STEIGER of Wisconsin. If the gentleman is going to talk about his constituents, at least he should know what he is talking about. There is no requirement that you have to have a hard hat on when you work around cows, and the requirement of a coat hanger is a de minimis violation.

Mr. RONCALIO. You are not getting precisely to what this is directed to. There are 400 pages of such de minimis items to bother ranchers who are trying to make a living and small farmers who are trying to make a living. How about hard hats for shoe clerks?

Mr. STEIGER of Wisconsin. I will suggest to the gentleman that there are but four standards that specifically relate to agriculture. They are not difficult to understand. Most have no application to the kind of ranching situation that I know of in Wyoming. I would find it difficult to justify saying that suddenly the act has become, in your words, so very burdensome to small farmers and ranchers, because I just do not see that happening in my State of Wisconsin or across the country as I have watched the way this act has been implemented.

Mr. RONCALIO. From time to time I have inserted in the CONGRESSIONAL RECORD—on at least five occasions—letters of indignation and hardship, indicating the injustice of this legislation upon the small farmer. If the gentleman is not familiar with that——

Mr. STEIGER of Wisconsin. I am familiar with it.

Mr. RONCALIO. There must be some type of delay in these things for the people in the rural Rocky Mountain area. This legislation will only diminish confidence in elected officials. It does not make much difference to me personally. I did not vote for the bill. I am home free on that. But I am trying to work in the best interests of this legislation. I think it had good motivation. That is why I have engaged in this colloquy today.

Mr. STEIGER of Wisconsin. Let me make one more point, if I may. Let us understand, also, that, difficult as it may be, I heard about one alleged violation and one alleged fine that is being levied as a result of a hay hand. The man was being fined $50 according to my information. I do not understand that. But, you know, agriculture across the United States is the third most hazardous occupation of all industries in the United States. While it has about 5 percent of the employment, it bears, if my memory is correct, about 17 to 20 percent of the number of deaths that take place in industry across the country. It is an industry which, with its problems, is exceedingly hazardous. It is for that reason, it seems to me, to simply take out the Rocky Mountain States would suggest just as good an argument to the people in Kiel, Wis., as to what their status should be, for what is good for your goose may be good for my gander. I am not sure that that is the direction we should take at this point.

Mr. RONCALIO. In light of the water quality amendment regarding irrigation proposed today, I can appreciate this argument and the need for that kind of approach.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's interest in this. I would urge him to continue his efforts, at least to make sure that his constituents are aware of what the act is about.

Mr. RONCALIO. Have no fear. They know.

Mr. DENNIS. I did not realize the gentleman from Wisconsin was holding this special order today; I just happened to come into the room and I am not really prepared to discuss the problem in detail. But I did not want to let the opportunity pass, since I did happen to be here, without putting on record the fact that I have received a great many complaints about the Occupational Health and Safety Act from people in my district, from small businessmen of various kinds, particularly in the construction industry, light construction industry, and also others. I do not claim to be an expert on this subject at all, but these men do claim very seriously that they simply cannot comply with the provisions of the act we passed here and stay in business; and actually they would rather discontinue operations, in many instances, than try to comply.

As a result of, or because of all these complaints and my general feeling along these lines, I have joined recently with some of my colleagues in amendatory legislation which is designed to reach the complaints and objections of these people. I would like to very strongly recommend to the gentleman from Wisconsin and his colleagues on the committee that they give those bills early hearing and serious and favorable consideration.

Mr. STEIGER of Wisconsin. Mr. Speaker, I thank the gentleman from Indiana for his comment and contribution.

On the question frankly of separation of light and heavy construction standards, I would have to say I do not think it is at all appropriate to take that step for a very simple reason, not because it is not important to recognize that there are, in fact, some differences, but because that is something that can be, and in my judgment, should be handled administratively and not legislatively in terms of amending the basic act.

The National Association of Home Builders is extremely active in this. I have had many letters. The Department, with which I have worked as well as with NAHB, is cognizant of the impact of certain of the heavy construction standards and has begun to work to modify that. I think most of those complaints can be taken care of when they are, in fact, legitimate complaints as to reasons about the separation between light and heavy construction.

Mr. DENNIS. If the gentleman will yield further, that may well be true. I may, however, add this caveat. We do not want to put these small businessmen too much at the mercy of the whims of administrators. Granted, we cannot always legislate about everything, but statutory protection—if we are going to have statutory enactment at all in the first place—has got its virtues, because a man who is trying to make a little business go should not have to depend too much on what some bureaucrat in Washington thinks. The man ought to have some protection in the law.

Mr. STEIGER of Wisconsin. May I say to the gentleman from Indiana that the simple act of differentiating in the statute between light and heavy construction is no protection. I do not pretend to be an expert in construction standards, but I am here to tell the gentleman the number of areas in which I can find substance to the complaints about the standards is very small. Most of them apply equally in any construction situation.

Mr. DENNIS. I said to the gentleman in the beginning, I am not really prepared at all to discuss this matter with him, with his acknowledged expertise in the matter. I want to get my thoughts across, however, because I have met a very genuine feeling on the part of these smaller business people. They point out and say to me—and I do not know anything about construction either—that "I have been building these houses for years. It is foolish and ruinous in cost to require me to put up this type of scaffolding, and to do this and to do that under this law. Do the fellows in Washington want to drive me out of business. What is the idea?"

I do not think we do want to do that. I will have to say to the gentleman, that while I got very few requests from home to even pass this bill in the first place, I have heard a great deal about it since. I have been getting a great many complaints since it has been passed. I think we should pay more attention to the people we hear from and whom we represent than we do to those organized groups and to the media which get us to pass more and more legislation, which more and more ties the hands of the man back home who wants to make a living. I am sure the gentleman agrees with me on that philosophy.

Mr. STEIGER of Wisconsin. Absolutely. I spend a great deal of time, about a third of my time responding to complaints from my constituents as well as to suggestions and letters and ideas from people across the country.

I follow the Bureau of National Affairs, BNA, publications, the Commerce Clearing House publications, to make sure the intent of the Congress is being fulfilled, because I believe very strongly what we have done, which I believe was right, can nevertheless cause a problem to that fellow back home unless it is carefully done and unless we watch to make sure we are not doing a hardship to somebody back there being asked to comply with it.

This is something with which I do deal, about which I feel strongly.

Mr. DENNIS. I thank the gentleman for yielding. I appreciate his concern and interest. I encourage him to take it to the other Members of his good committee.

Mr. STEIGER of Wisconsin. I thank the gentleman from Indiana very much.

Mr. LINK. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to the gentleman from North Dakota.

Mr. LINK. I should like to associate myself with the concerns expressed by the gentleman from Wyoming, because I represent largely those who are in small industry, who operate small shops, and particularly the farming and ranching community of my State. Some of them hire as few as one employee.

I was not a Member of the Congress that enacted the Occupational Safety and Health Act of 1970. Nevertheless I recognize the importance of adequate health and safety for all of our people.

I am receiving considerable communication of concern from my people, particularly the farmers and ranchers, indicating that the full impact is upon them at this time.

I would at this point wish to inquire of the gentleman in the well, as one of the authors of this act, as to the timetable for the implementation of the provisions as they might apply to the kinds of operators to whom I have referred, namely the small businesses and the farmers and ranchers.

Mr. STEIGER of Wisconsin. The act became fully effective on April 28, 1971, almost 1 year ago. The Department of Labor at that time granted an additional 90-day familiarization period for all industries covered under the act. At that point those initial standards, which are the consensus standards, took effect almost no exception. There were some on which there was a later effective date.

In direct response to the question, I would say that in almost every instance all standards that have up to now been promulgated are now in place, are now in effect, and do cover all places of business across the United States, 4.1 million, with 57 million workers.

Mr. LINK. In other words, the full impact of the act is now bearing upon all the people who are covered by the act?

Mr. STEIGER of Wisconsin. I suppose the answer to that is "yes" and "no," because the full impact of the Act is only to the extent that there are standards now in place. There obviously are going to be, over a period of time, promulgation and development of additional standards in areas in which no standards now exist. There will continue to be an increasing in emphasis on health and health-related problems.

So far as the act today is concerned, yes, the full extent of the act is now in operation and it does apply across the board.

Mr. LINK. It was my understanding, from your colloquy with the gentleman from Wyoming that the act would apply in three stages, depending upon the importance and the applicability of the provisions as they relate to occupational hazards.

Mr. STEIGER of Wisconsin. No. What I was talking about were what were the priorities for inspections; not in terms of whether or not a place of business was covered but, rather, how does the Department determine, with a limited inspector force, how to go about making the inspections required under the act.

Mr. LINK. I thank the gentleman from Wisconsin. I would encourage him and the committee to give proper consideration to those measures that would lend themselves to alleviating those areas of hardship and certainly those areas of misunderstanding that apparently exist at the present time.

Mr. STEIGER of Wisconsin. I thank the gentleman from North Dakota very much for his contribution and his interest.

The standards are voluminous and complex and it is often difficult for the employer to know what is required, especially for the small and middle-sized business which does not have its own expert personnel. Recognizing this, OSHA built into the initial standards a 90-day familiarizaiton period and spent much of its compliance efforts until August 27, 1971, in informing employers as to the requirements. OSHA is also developing training materials and conducting regular orientation sessions for employers and their representatives.

The Department's intentions in this regard are illustrated by the training technique it developed under the Federal Construction Safety Act of 1969. By December 31, some 930 instructors were trained in the construction industry and given materials to go back to their workplaces and pass on the training. Approximately 22,000 had received this training by the end of 1971. Similar courses are now being developed for general industry. The Department has commenced seminars all over the country for employers at the rate of at least 600 a year, and this program will be continued or expanded. In addition, trade associations have been consulted and asked to explain the act to their memberships. For example, more than 10,000 people attended a closed-circuit TV broadcast in 27 cities last June put on by the National Association of Manufacturers, with OSHA officials participating.

During actual inspections, OSHA compliance officers and industrial hygienists meet with employers both before and after the inspection to explain the act and how the establishment may be in violation. When citations are issued, informal consultation on how to come into compliance continues until the citations become final orders of the independent Occupational Safety and Health Review Commission. Even then, OSHA is available for consultation within limitations prescribed by the act or by the Commission. Consultative procedures are spelled out in detail in the Compliance Operations Manual developed by OSHA. The manual is available at $2 a copy from the Public Documents Department, Government Printing Office, Washington, D.C. 20402. It should be noted that the act does not require this compliance manual, an internal operating document, to be made generally available to the public. OSHA has voluntarily published it, and since February, the Superintendent of Documents has sold about 25,000 copies, an indication of the propriety of the decision to publish and of the great interest in the program.

OSHA is not, however, in a consultative business to the exclusion of the private sector. A major responsibility for such consultation rests with the insurance industry, the National Safety Council, trade associations, the States, and private consulting firms which have the necessary expertise to aid employers in understanding the act and its compliance requirements. Indeed, the consultative role of these organizations is of paramount importance since the language of the act generally prohibits the presence of OSHA personnel in the workplace unless full enforcement procedures, such as the walk-around and issuance of citations for alleged violations, are in effect. The act requires that OSHA personnel must take note of violations disclosed while on any worksite and take appropriate enforcement action including the issuance of citations and the proposal of penalties, as necessary. It is this requirement of sanctions rather than warnings that gives real meaning to the enforcement provisions. Finally, in the matter of consultation, I believe I would be remiss if I did not point out the responsibility of the Members of the House to be well informed on this vital act and to advise and assist their constituents, be they employees or employers, in exercising their rights and meeting their responsibilities.

I must say in all honesty that regardless of how one feels about the act I do believe it is the responsibility of those of us who pass the laws to help make sure our constituents are familiar with the law. I have discussed OSHA in my newsletter, for example, and have said I would be pleased to supply information and respond to questions in order to make sure that those within the Sixth District of Wisconsin are aware of this act. I urge my colleagues to undertake the same kind of effort. As a matter of fact, I spend a considerable amount of time following the implementation of this act to make sure the intent of the Congress is complied with. In each speech I make to business or labor organizations, I urge them to keep in touch with their own representative in order to pass on their reactions and comments about this act. I have received letters from people all over the country who have had suggestions and criticisms, and I have tried my best to deal with all the questions being raised.

Third, why is OSHA picking on certain industries and small businesses? This is a loaded question. OSHA is not picking on anyone, but it is trying to handle the worst situations first. To do this, investigations and inspections have been broken down into four general categories and placed in priority order. The highest priority in making investigations is in the case of a catastrophe or fatality. For example, in December when the water tunnel being constructed in Port Huron, Mich., exploded killing 22 workers, OSHA compliance officers were on the scene within 4 hours. The next priority is the investigation of valid employee complaints, a subject I will cover in greater detail later.

As its third priority, OSHA has instituted two special programs designed to eliminate some of the worst known hazards within the limits of available manpower. In one of these two programs, five industries were selected as targets based primarily on the injury frequency rate figures from the Bureau of Labor Statistics. In 1970, these industries all had rates more than double the all-manufacturing average injury frequency rate of 15.2 disabling injuries per million employee hours worked.

The five industries with their associated rates are: marine cargo handling, 69.9; roofing and sheet metal work, 43; meat and meat products, 43.1; miscellaneous transportation equipment, primarily mobile homes, 33.3; and lumber and wood products, 34.1. In the other special program, five substances known to be toxic and potentially affecting large numbers of employees were selected for concentrated attention as target health hazards. These substances are: asbestos; lead; silica; cotton dust; and carbon monoxide.

As its last priority, OSHA is scheduling inspections of all industries and sizes of establishments in all parts of the country on a random selection basis. Through this means covered employers from every segment of the economy are being inspected and made aware of their responsibilities, though the number of businesses of any size or type that will be inspected is not very large. While many small businessmen have complained of harassment and amendments to the act have been introduced by many Members to exempt them, very few have actually been inspected. There seems to be more smoke than fire in this matter. In fact, the act gives special treatment to small businesses by providing for consideration being given to the size of the establishment in proposing penalties and by authorizing loans through the Small Business Administration to aid qualifying employers to come into compliance.

Fourth, why are only employers subject to citations and penalties under the act? We looked at this question in considerable depth before the act was passed and both labor and management generally agreed that the Government should not get involved in issuing citations and proposing penalties against employees. To have made employees subject to direct action by the Government would have set a major new precedent of intervention between labor and management in discipline cases that would have unnecessarily threatened the whole fabric of labor-management relations. Employees are responsible for complying with all applicable standards, though employers are generally held responsible for hazardous conditions in the workplace even if resulting from employee action. The employer retains the longstanding management prerogative of appropriately disciplining employees for their violations.

OSHA is developing and conducting training for employees to insure that they know their responsibilities under the act as well as their rights. A minimum of 600 such seminars are being conducted annually, and new types of courses are under development. Despite these efforts, we must recognize that OSHA will never be able to train all 60 million covered employees and that much of this burden will have to be borne by employers or accomplished through a multiplier effect of training instructors.

At this point I want to include the full text of a letter from the Assistant Secretary of Labor for Occupational Safety and Health, George Guenther, regarding this question.

The letter follows:

U.S. DEPARTMENT OF LABOR,
OCCUPATIONAL SAFETY AND
HEALTH ADMINISTRATION,
Washington, D.C., December 22, 1972.

Hon. WILLIAM A. STEIGER,
House of Representatives,
Washington, D.C.

DEAR BILL: This is in further response to your letter of July 9, 1971, in which you inquired about a speech made by Edward E. Estkowski, Regional Administrator for the Occupational Safety and Health Administration in Chicago, relating to the proposing of penalties under the Occupational Safety and Health Act against employers whose employees refuse to wear personal protective equipment required by standards.

As you know, section 5(b) of the Act requires employees to comply with occupational safety and health standards issued pursuant to the Act which are applicable to their own actions and conduct. However, the Act provides for the issuance of citations and proposed penalties only to employers, and not to employees (sections 9(a) and 17 (a), (b), (c) and (d)).

The legislative history of the Act makes clear that employers are responsible for assuring compliance with standards applicable to employee actions and conduct. The Report of the Senate Committee on Labor and Public Welfare expressly states:

"The committee does not intend the employee-duty provided in section 5(b) to diminish in any way the employer's compliance responsibility or his responsibility to assure compliance by his own employes. Final responsibility for compliance with the requirements of this Act remains with the employer (S. Rept. No. 91–1282)."

Therefore, consistent with both the provisions of the Act and its objective of achieving safe and healthful working conditions, employers will be subject to citation and proposed penalties where their employees violate standards which are applicable to their own actions and conduct. If the Department did not issue appropriate citations and proposed penalties to employers in such cases, the result could be widespread noncompliance with the Act.

The nature of the enforcement action in a particular case will, of course, depend upon a careful evaluation of all the relevant facts. In order to constitute a "serious" violation within the meaning of section 17(k) of the Act, the employer must have known, or with the exercise of reasonable diligence should have known, of the presence of the violation. The fact that a hazardous condition resulted from employee conduct violative of employer work rules may be relevant as to whether the employer knew or should have known of the presence of the violation and, accordingly, whether the violation will be cited as serious or other than serious. Under the Act, the assessment of penalties for serious violations is mandatory (section 17(b)), while the assessment of penalties for violations which are other than serious is discretionary (section 17(c)). Moreover, where the employer has made a good faith effort to secure compliance by his employees with an applicable standard, but the employees systematically refuse to comply, these circumstances will be taken into consideration in determining whether to issue citation and, if a citation is issued, whether a penalty should be proposed and the amount of any proposed penalty.

The Act, of course, contains no provision which would preclude exercise by the employer of the usual management prerogatives in cases involving employee disregard of safety and health rules, including requirements under section 5(b) of the Act. Thus, the employer may make compliance with these requirements a condition of employment, and subject to the provisions of any applicable collective bargaining agreements, he may discharge employees who refuse to comply or invoke such other disciplinary measures as he deems appropriate.

Finally, extensive educational training programs are being undertaken by the Department of Labor and various employer associations, unions and other organizations. By increasing employer and employee awareness of their respective rights and obligation under the Act, such programs will serve to minimize the occurrence of situations such as the one mentioned by Mr. Estkowski.

I hope that this letter will be of assistance to you. If I can be of further help, please do not hesitate to call upon me.

Very truly yours,
GEORGE C. GUENTHER,
Assistant Secretary for Occupational Safety and Health.

It was feared by some that employees would abuse the right to complain about hazardous conditions, especially since they are not subject to penalties. The act provides that if the Department "determines there are reasonable grounds to believe that such violation or danger exist," an investigation shall be made. OSHA is careful to evaluate every complaint received to insure that it appears valid before scheduling an investigation. Through January of this year, 1,519 such complaints have been received from employees and their representatives. With few exceptions, these complaints have shown that employees are very concerned about safety and health conditions and that they are acting responsibly in the manner and timing of their complaints. Assistant Secretary George Guenther has repeatedly stated OSHA's intentions to confine itself to safety and health issues and to avoid involvement in labor-management disputes. He informed me that, to date, this policy is being effectively carried out with regard to compaints and other issues.

Fifth, why is the act structured for immediate enforcement action, rather than for consultation first and enforcement later? This question goes to the heart of the reasons for the passage of the act itself. The uneven past efforts of private industry, insurance companies, and of the States proved generally ineffective in dealing with the growing occupational safety and health problem. Many State programs, including that in my own State of Wisconsin, were based on a system of making inspections and warning employers of violations, with penalties only proposed after subsequent visits showed that action was not being taken. Were we to have adopted this concept, there would be little reason for an employer to comply with the act until after an inspection has been made.

Such a traditional approach would have seriously impaired the effectiveness of the act since it covers nearly 5 million establishments. Congress therefore provided for citations and, where appropriate, penalties when violations, even in the first instance, were found to exist.

It should be noted that the penalties proposed by OSHA for violations cited give due regard to the gravity of the violation, the good faith of the employer, the size of the business, and the history of past violations. Consistent with the act, substantially greater penalties are proposed for violations which, after citation, are not abated in a timely manner than for violations disclosed during an initial inspection. This approach is designed to provide a strong incentive for employers to promptly eliminate cited hazardous conditions from the workplace. The overwhelming majority of employers have complied with initial citations, indicating the effectiveness of the approach.

In drafting the act, we attempt to insure "due process" so that enforcement actions provide full opportunity fcr all affected parties to be given a fair hearing. The employer has 15 working days from the time of receipt of the proposed penalty to contest the issuance of the citation, the length of the period for abatement, and/or the amount of any proposed penalty. Employees may also contest the abatement period as being unreasonable. When a timely notice of contest is filed, the independent Occupational Safety and Health Review Commission assigns a judge to conduct a public hearing. The judge's decision may be appealed further to the Commission itself and further still to the appropriate U.S. court of appeals.

While I believe that enforcement in the first instance is a necessary tool to gain compliance, I also firmly believe, as does OSHA, that in the long run the goals of the act can only be achieved through education, training, and the voluntary compliance of both employers and employees. To this end, OSHA has established a broad, long-range approach to training and education. In January, I was proud to attend the opening ceremony of their new training institute in Chicago which will be used as a "pilot" center for the development of needed programs for the training of Government personnel, employers and employees.

Sixth, what are the factors that led to the present size of the inspection force in OSHA? And where do they grow from here? Basically, there are two major factors which have determined the size of the compliance staff in OSHA. I think that we would all agree that there is no point in recruiting vast numbers of Federal inspectors until we know the dimensions of the programs to be run by the States. The Congress declared as its purpose and policy that the Secretary should encourage "the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws."

I am happy to report that this encouragement effort is well along and that the States are actively responding. As of the middle of January 47 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands have agreed to continue present levels of activities concurrent with the Federal compliance activities. These interim agreements have preserved full effectiveness of more than 1,500 State and local inspectors at a continued program cost to the States of approximately $80 million. Planning grants have been made to 47 States, the District of Columbia, and Puerto Rico and others are applying. Forty-nine States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands have made formal statements during the past few months that it is their intention to develop and submit plans for participation under the act. The first actual submission is expected momentarily. This is the year of decision for the States since the interim agreements expire in December. With this great interest in the States, the level of the Federal staff has been tailored for short term efficiency, but with an eye to the eventual workload that can reasonably be anticipated for assumption by the States.

I am concerned by the effort being made by some to deny to the States an effective role in the implementation of this act. The State plans which are now being drafted in many States must, according to the law, be at least as effective as the Federal act. This does not mean, in my judgment, that the State plan has to be a carbon copy of the Williams-Steiger Act. The language may differ but the effectiveness may not.

I am confident that within a number of States there is the competence on the part of labor officials, business leaders and State officials to develop a State plan as effective as the Federal law. Were the States not to participate fully in OSHA, the end result would be less enforcement and fewer resources nationwide being used in this field. Every bill considered by the Congress in this field, whether the original Johnson administration bill, the Daniels bill, the Steiger-Sikes bill, or the Williams-Steiger Act, envisioned an important role for the States. It may be that the 50–50 matching program is not sufficient; and that question, I believe, should be considered by the Congress. But it is my best judgment that the act cannot succeed if the whole effort is operated solely by the Federal Government.

The other major factor in determining the size of the Federal staff is purely a pragmatic one. Compliance officers can only be recruited, trained, and absorbed so fast. We must remember that OSHA is less than 1 year old, yet already has 49 areas offices and two maritime district offices around the country. I am including at the end of my remarks a copy of the Directory of Field Offices of OSHA for the information of my colleagues.

During the debates on the act, it was universally agreed that the professional staff to be deployed meet strict requirements of experience and expertise. Assembling such a staff and then training them in the complex procedures of the new program cannot be done overnight.

It is too early, then, to accurately assess exactly how many compliance officers will be needed in the combined Federal and State force to achieve the optimum level of compliance. I know, however, that the Department has already made long-range plans for the integrated operation of the Federal efforts with that of approved State programs. I consider such planning to be administratively prudent and fiscally responsible.

There has been one other issue which has recently become important and which was raised vigorously with me at a machinists union meeting which I attended in Fond du Lac, Wis., last Saturday. This has to do with a complaint filed by the Oil, Chemical, and Atomic Workers Union, AFL-CIO, on behalf of the employees of the Mobil Oil Corp., refinery in New Jersey. Since this issue is important and since I believe the Department of Labor's decision is a correct one, I want to include for the Record at this point the memorandum prepared by the Department of Labor's Solicitor. This is the basis for the decision by the Department to rule that Mobil did not engage in discrimination because of its refusal to compensate employees who accompanied the compliance officers during the inspcetion. A letter follows:

U.S. Department of Labor,
March 1, 1972.

Memorandum for Assistant Secretary George C. Guenther.

Subject: Complaint against Mobil Oil Corp., under section 11(c) of the Williams-Steiger Occupational Safety and Health Act of 1970.

On November 29, 1971, the President of the Oil, Chemical and Atomic Workers Union, AFL–CIO (hereinafter OCAW), filed a complaint on behalf of employees of the Mobil Oil Corporation Refinery at Paulsboro, New Jersey. The complaint alleged that by refusing to compensate employees who accompanied the Compliance Safety and Health Officers of the Occupational Safety and Health Administration during inspection of the refinery under section 8 of the Act, Mobil Oil Corporation (hereinafter Mobil) violated section 11(c) of the Williams-Steiger Occupational Safety and Health Act of 1970.[1]

In accordance with the requirements of section 11(c)(2) of the Act an investigation of this complaint has been conducted. For the reasons stated below, on the basis of such investigation, it is believed that Mobil's conduct was not in violation of section 11(c).

There is no basic dispute as to the pertinent facts. Mobil operates a refinery at Paulsboro, New Jersey, employing more than 1500 employees. The production and maintenance employees at the refinery are represented by the Independent Oil Workers, which is affiliated with OCAW. Mobil and the local union are parties to a collective bargaining agreement which is effective from March 9, 1971, until March 1, 1973.

The compliance inspection conducted by the Administration of Mobil's Paulsboro refinery was based on a request for inspection by OCAW under section 8(f) of the Act. The inspection began on October 15, 1971, and continued October 19–21; November 8–9, 11–12, 15–19, 22, and December 1–3. On January 20, 1972, citations were issued against Mobil alleging three serious violations and ninety other violations. Penalties were proposed for a number of these violations. No notice of contest has been filed by Mobil under section 10(a) of the Act.

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[1] A Statement of Position in Support of the Complaint was filed by OCAW on January 11, 1972.

At the opening conference the Compliance Safety and Health Officers decided that the inspection should be divided into a safety team and a health team. In accordance with section 8(e) of the Act, representatives of Mobil and representatives of the employees at the Paulsboro refinery accompanied the Compliance Safety and Health Officers during the inspection. At various times during the inspection the following five employees at the refinery accompanied the Compliance Officers: Richard Meyer, Frank Leone, Harry Bailey, Louis Giorgianni, and George Giovanni.

On October 27, 1971, Mobil's Manager of Employee Relations informed the employees who had participated in the walkaround that the Company was paying them for the time spent in the inspection to that date, but that this payment has not to be considered as a precedent and that the company reserved the right to "determine whether or not such payments will be made in the future." On November 16, Mobil informed employees participating in the walkaround that they would not be paid for walkaround time during their regular working hours, effective November 11. There are slight discrepancies in the estimate as to the amounts of time not compensated. The higher estimate, submitted by OCAW, is 115.4 hours for the five employees. However, in view of the determination herein, it is unnecessary to resolve this issue.

Mobil does not deny that it refused to compensate employees for the time during which they participated in the walkaround during their normal work hours. It contends, however, that Mobil was not required to pay for such time unless required under the applicable collective bargaining agreement, and that such payment was not required under the current agreement between Mobil and the local union.

OCAW contends basically that the refusal to compensate for walkaround time is *per se* discrimination under section 11(c). OCAW argues that by refusing to compensate employee representatives the "employer is effectively interfering with the exercise of a basic statutory right," and that it would be "contrary to the spirit of the statute" to permit the employer to refuse to compensate employees for participation in the walkaround. OCAW further relies on an internal memorandum of the Department of Labor of July 1, 1971, which expresses the view that the time spent by employees in participating in a walkaround during normal working hours is hours worked under the Fair Labor Standards Act.

1. It is concluded initially that the failure of an employer to compensate employees for the time during their regular working hours that they participate in the walkaround is not discriminatory *per se* under section 11(c).

At the outset, it is deemed significant that, although the Act contains a number of specific provisions dealing with the rights of employees,[2] it contains no requirements that employees be compensated for their regular wages for walkaround time. Congress attached considerable importance to the walkaround,[3] and a separate provision of the Act, section 8(e), delineates the scope of the walkaround. In view of this, the fact that Congress did not expressly provide compensation for walkaround is strong evidence that it was not within its contemplation that such compensation be required.

Viewed in this context, it is concluded that the failure to compensate for walkaround time is not discriminatory *per se* under section 11(c). Participation in the walkaround is the exercise of a right under the Act within the meaning of section 11(c) and, therefore, the discharge of an employee for participating in the walkaround would be discriminatory under that section. However, it is believed that, where the employer refuses to compensate an employee participating in the walkaround, there is no discrimination *per se* under section 11(c). An employee participating in the walkaround is not engaging in normal work activity. Therefore, the employer's refusal to compensate for such time is not "because" of the exercise of rights under the Act but because the activity was not normal work activity.

The situation could best be analogized to the refusal by an employer to pay an employee for testifying in a proceeding before the National Labor Relations Board during norrmal working time. Although the testifying is plainly protected activity under section 7 of the National Labor Relations Act, as amended, the refusal to compensate employees for doing so is not unlawful discrimination under section 8(a) of that Act. *Electronic Research Co.*, 190 NLRB No. 143.

As quoted, OCAW's position is based in large measure on the July 1 memorandum dealing with the Fair Labor Standards Act. On further consideration it is concluded that where an employee participates in the walkaround during his normal working hours, such time is not hours worked under the Fair Labor Standards Act.

The July 1 memorandum, concluding that the accompaniment of compliance officers during inspections under the Act is compensable under the Fair Labor Standards Act, was based on the assumption that such activity was a "service" required by the employer and was an "inherent part of [the] employer's business." Upon reconsideration of the statutory language and careful review of the legislative history, however, it is now believed that this assumption was in error.

As is apparent from its language, Section 8(e) does not require that a representative authorized by employees to accompany the compliance officer during the inspection. Moreover, even where there is a representative authorized by employees, the Act imposes no duty upon the employer to require such representative to accompany the compliance officer during the inspection. Rather, the Act requires only that such representative "be given an opportunity to accompany" the compliance officer, and when the representative avails himself of this opportunity he does so on a voluntary basis. All that is required of the employer is that he permit the employee representative to be relieved of his usual production duties during the inspection.

Not only is the time spent by the employee representative voluntary, but also the principal beneficiaries of the participation by the employee representative in the walkaround are the employees themselves. The legislative history indicates that the purpose of such participation is to allow the employees an opportunity ". . . to inform [the Compliance Safety and Health Officer] of the alleged hazards . . ." and thus to ". . . provide an appropriate degree of involvement of employees themselves in the physical inspections of their own places of employment . . ." Senate Report No. 91–1282, p. 11.

Accordingly, based on the statutory language, and absent any legislative history to the contrary, it is concluded that time voluntarily spent by representatives of employees in accompanying Compliance Safety and Health Officers during OSHA inspections is not working time within the meaning of the Fair Labor Standards Act and is therefore not compensable. ***Walling* v. *Portland Terminal*, 330 U.S. 148; *Isaacson* v. *Penn Community Services, Inc.* 66 CCH Lab. Cas. ¶ 32,583.**

OCAW's further argument is, in substance, that nonpayment for walkaround time will discourage the employee representatives from participating in the walkaround. This argument is without merit because it misconstrues section 11(c)(1) of the Act by confusing the limited scope of that section with the broader ambit of section 8(a)(3) of the National Labor Relations Act, as amended. Section 8(a)(3) makes it an unfair labor practice for an employer to discriminate "in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization. . . ." This language is couched in terms of the intent or necessary effect of the employer conduct. See *Radio Officers Union* v. *N.L.R.B.*, 347 U.S. 17 (1954). Section 11(c), on the other hand, does not prohibit conduct which discourages the walkaround; it makes it unlawful for an employer to engage in certain conduct "because" of the exercise of statutory rights. It has already been shown that refusal to compensate here was not "because" of such exercise of statutory rights. Accordingly, assuming *arguendo* that the failure to compensate would discourage participation in the walkaround, this fact would not in itself make the conduct discriminatory under section 11(c).

2. Although it has been concluded that refusal to compensate for walkaround time is not discriminatory per se, there may be situations in which a finding of discrimination would be warranted on the basis of specific facts in the proceeding. Thus, for example, an employer's past practice respecting payment for certain other safety and health activities on regular working time may well require the conclusion that the failure to compensate for walkaround is discriminatory. However, OCAW in its complaint has alluded to no such special facts nor has our investigation disclosed any such facts. Determination of the specific circumstances under which discrimination would be found based on refusal to compensate must await development on a case-by-case basis.

3. In implementing the provisions of section 11(c) this Department should be mindful of the national policy favoring the voluntary resolution of disputes under procedures in collective bargaining agreements. See, for example, *Boys Markets, Inc.* v. *Retail Clerks*, 398 U.S. 235 (1970); *Republic Steel Corp.* v. *Maddox*, 379 U.S. 650 (1965); *Carey* v. *Westinghouse Electric Co.*, 375 U.S. 261 (1964); *Collyer Insulated Wire*, 192 NLRB No. 150 (1971). Therefore, in some circumstances, it would be appropriate to postpone the resolution by this Department of complaints under section 11(c) until completion of grievance-arbitration proceedings relating to such complaints under the applicable collective bargaining agreement. It may be appropriate, for example, where a grievance-arbitration proceeding has been commenced by a party relating to the same or substantially the same issues presented by a section 11(c) complaint. Similarly, it may also be appropriate for the Department to await the decision of

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[2] See, for example, section 8(f)(1), dealing with requests for inspection by employees or representatives of employees; section 8(f)(2) providing for procedures for informal review of any refusal by the Secretary to issue a citation with respect to violations alleged by employees or their representatives; section 10(c) requiring that the rules of procedure of the Review Commission provide affected employees or their representatives an opportunity to participate as parties in Commission hearings; section 20(a)(6) allowing authorized representatives of employees to request from the Secretary of Health, Education, and Welfare an evaluation of toxic effects of any substance normally found in the workplace.

[3] See, for example, Report of the Senate Committee on Labor and Public Welfare No. 91–1282.

an arbitrator interpreting the collective bargaining agreement where the complaint of employees under section 11(c) is based solely or largely on the provisions of a collective bargaining agreement. Here, too, the precise contours of this policy must be spelled out on a case-by-case basis. However, the circumstances here do not warrant our postponing of the resolution of this matter.

In view of the foregoing, it is believed, on the basis of all the facts in this case, that Mobil did not engage in discrimination under section 11(c) of the Act.

RICHARD F. SCHUBERT,
Solicitor of Labor.

Mr. Speaker, I have taken this time to attempt to dispel some of the myths and misconceptions that have grown up around the administration of the Occupational Safety and Health Act of 1970. I feel that the administration of the act has gotten off to a good start and has built the necessary foundation to carry out the intent of the Congress. To some extent, the fact that OSHA is being attacked from all quarters is testimony that it is steering a good course. Undoubtedly some mistakes have been made and there are some problems. To the extent that these are within the province of OSHA, I am convinced that they are being worked on. However, many of the disagreements as to how the act should work that I listed at the beginning of these remarks go to the provisions of the act itself, and it has been the purpose of my remarks to clarify some of the misunderstandings which seem to exist. Last month, a Member of the other House, Senator CURTIS recognized these misunderstandings when he introduced a bill to amend the act. He said:

> I have been investigating the problems and their causes, and have found that, contrary to the belief of some, the problems are not basically due to ill-advised administrative actions by the Secretary of Labor in carrying out the law. The problems are rooted in the basic law which Congress passed. It is, therefore, not a matter which the Secretary of Labor or the President can remedy. Rather, the problems to which I refer are the responsibility of Congress.

With this in mind, I call upon all concerned Members of this House to both recognize that the responsibility is our own, and that while many people want exceptions, changes, or mitigation of the act, many others want much more strenuous enforcement than has occurred to date.

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[1] FTS phone numbers are used by federal government employees, and commercial phone numbers are used by the general public. When there is direct dialing, as for the Boston Regional Office, one number is used for both purposes. In other cases, as for the Concord Area Office, separate numbers are used.

[2] All heads of Area Offices are Area Directors unless otherwise specified.

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Mr. BAKER. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. STEIGER) for reserving this special order on the implementation of the Occupational Safety and Health Act.

Although I was not a Member of the Congress which passed this law, I was well aware of its impact on my own business since we reluctantly dropped some services previously furnished our customers—we could simply not afford to undertake the expense of complying with certain national standards.

Immediately upon taking office here, I heard from constituents regarding situations wherein this act was creating many more problems in addition to those it was intended to solve.

It seems to me that many uncalled-for hardships are being worked upon our retailers, small manufacturers, other small businesses, and farmers.

One small businessman wrote to me as follows:

> The most frightening thing confronting us today is the OSHA Act and the manner in which it is being enforced. Workers' safety should be our first interest. However, unfortunately, harassment and heavy fines for violations (imaginary or real) seem to be the primary thought of the inspectors. Invasion of privacy and unreasonable search and seizure, without due process, up until the advent of OSHA, was thought to be unconstitutional. We believe it still is!

Inspectors drop in, inspect, deliver the rather voluminous book covering the OSHA Act, and assess a fine all in one trip. When I checked into this, feeling that is was basically wrong, I found it is in the law. Requests for assistance bring threats. This does not lead to the improvement of the health and safety of employees. Yet the 1970 act puts the Labor Department in this position.

Now that the act has been in existence for a year, I believe it is time for this Congress to review the myriad of problems and take affirmative action on amending the OSHA Act to encourage voluntary compliance, to insure reason in the rules and interpretations of the rules, and flexibility for the Department.

For these and many reasons, I was pleased to join with our distinguished colleague from Nebraska (Mr. THONE) earlier this month in sponsoring legislation which includes the amendments I believe are necessary for a responsible reform of the 1970 OSHA Act while reinforcing the basic purpose for which it was enacted.

Mr. SCHERLE. Mr. Speaker, this Special Order could not have come at a better time. The dissatisfaction, uncertainty and unreasonable costs to employer and employee alike engendered by the Occupational Safety and Health Act of 1970 have, I feel sure, been repeatedly brought to the attention of many Members of Congress by their irate constituents. My office has been flooded with letters requesting information on the applicability of Occupational Safety and Health Standards and advocating support of legislation to amend this law. In response to these letters and in accordance with my own reservations concerning the effectiveness of the law in its present form, I have introduced or cosponsored three bills to make needed changes (H.R. 12679, H.R. 12759, H.R. 13943).

I was a member of the Committee on Education and Labor when this bill was first being considered. I am familiar with its evolution from a useful piece of legislation designed to protect America's workers into an amorphous mass of crippling regulations which has tightened the economic stranglehold on American independent business enterprise. At that time, the committee report on the Occupational Safety and Health Act included additional minority views which I feel are still relevant to the issue. Therefore, I include these views in the RECORD at this point:

ADDITIONAL MINORITY VIEWS OF REPRESENTATIVES SCHERLE, ASHBROOK, ESHLEMAN, COLLINS, LANDGREBE, AND RUTH

There are few matters of greater importance to both employers and working people than that of on-the-job safety and health. Yet, regrettably, for the second year now, the members of this committee have failed to reach public agreement on this vital issue.

The situation has not been helped by the excessive emotion generated mostly by people with little knowledge or practical experience in these fields. This emotionalism has brought us to the verge of making this issue a partisan one. That is unfortunate.

In our view, it is wrong to imply that accidents will end or substantially diminish if only Congress would pass a law. Poor safety laws can and have done more harm than good. Mistakes we make now will have a serious impact on workers and on the state of our economy.

We must also recognize that this legislation will affect nearly every aspect of the employment relationship. The federal government will be called on to regulate such diverse matters as the height of railings, the amount of dust in the air, noise levels and the type of equipment to be used to perform a particular task. Potentially, regulations could be adopted fixing the number of hours employees should work, the qualifications needed to perform a job and the size of crews thought necessary for safe work performance.

Because of the importance of these subjects to both employers and employees, great care must be taken by us. For that reason we have decided to expand on the minority views.

The goal of any occupational safety and health bill can be stated simply: we must foster improved standards of health and safety for American workers and do it in a way that is reasonable and fair. We have little patience with those who believe that to be effective we must destroy fair trial procedures and due process. Neither justice nor safety will be achieved by that kind of approach. We will, therefore, oppose H.R. 16785. It is a penalty oriented bill that does little to build upon and encourage what has already been done by private employer and employee groups in the field of occupational safety and health. It also raises several serious constitutional problems.

No Separation of Powers.—The committee bill vests all authority to write, police and enforce standards in the Secretary of Labor. This procedure is contrary to the basic constitutional theory of separation of powers. It is tantamount to having the chief of police, in addition to his regular duties, also write criminal laws and then act as judge and jury.

In order to provide for effective safety standards, provision must be made for the establishment of an independent, impartial board of experts to develop, on the basis of facts and upon their knowledge and experience, regulations in this field.

Undefined Obligations.—Although H.R. 16785 requires compliance with all interim, permanent and emergency standards promulgated by the Secretary, it also imposes an additional *general duty* upon employers to keep a safe and healthful workplace. A penalty of $1,000 per day can be imposed on violators of this catch-all provision. The Supreme Court has ruled that statutes must designate the standard of conduct expected so that affected parties can govern their actions in order to avoid violations. (See: *International Harvester* v. *Kentucky,* 243 U.S. 216; *U.S.* v. *Pennsylvania Railroad Company* 242 U.S. 208). It seems inconceivable for anyone to suggest that we pass a law prohibiting the doing of wrong to anyone. Yet, in effect, that is what Congress has been asked to do by the sponsors of H.R. 16785. The ruling of the Supreme Court makes good sense. We should heed its wisdom here.

Full Protection of the Administrative Procedure Act Denied.—When Congress passed the Administrative Procedure Act we recognized the importance of requiring government agencies to follow uniform procedures that preserved the effectiveness of the laws to be enforced and at the same time compelled fair methods of developing and enforcing regulations. H.R. 16785 departs from the provisions of the APA in at least two important respects.

First, Section 7 permits adoption of administrative regulations based upon "views and arguments" rather than solely on probative evidence. No reason has been offered justifying this deviation from regular and fair procedures. The requirements that administrative decisions be based upon facts and sound reasons mean little when a loophole of this type is included in a statute.

Second, the bill also authorizes the establishment of an extensive measurement, accident and health reporting system (See Section 19(a) (4) (C) and Section 19(a) (5) (D)).

Regulations under these provisions are a matter of great importance to employees and also will have a substantial financial impact on employers—particularly in the health field where regular psychological studies and medical examinations are obviously contemplated.

Yet, the validity of any regulations developed in this area could not be tested in court pursuant to the normal appeals procedures of Section 10 of the Administrative Procedures Act. This is so, because administrative action by the specific langauge of the bill is committed to the *discretion* of the Secretary. (See *Attorney General Manual* on the Administrative Procedures Act at page 94.)

No Assistance to Employers.—During the hearing estimates were made indicating that between 12 and 16 thousand consensus codes alone have been developed by businessmen themselves. These codes now are intended as non-mandatory guides. Shortly after this legislation is adopted, however, they will in all likelihood become a matter of law.

Experience with other safety regulations shows that some employers will have considerable financial difficulty in obtaining necessary funds to comply with the new mandatory regulations. H.R. 16785 makes no provisions for federal assistance to these individuals. Certainly a federally insured loans program should be made available in order to protect against forced business closedowns and against the unemployment that will follow.

Ill-advised provisions.—H.R. 16785 authorizes searches of employer establishments for safety and health violations. Such searches may be conducted without a warrant and individuals who are not government officials may participate in the search. Evidence so obtained may be used in a criminal prosecution. Anyone who gives advance notice of, or who forceably resists such a search may be subject to criminal prosecution.

These provisions, in our view, indicate the unfortunate direction of this bill. The major approach is penal. It is more concerned with catching employers at some wrong doing than with obtaining safe and healthful working conditions.

The fourth amendment of our Constitution was designed to safeguard the privacy and security of individuals against arbitrary invasions and searches by government officials. (*Norman See* v. *City of Seattle* 387 U.S. 541; *Camera* v. *Municipal Court* 387 U.S. 523). The amendment is a concrete expression of a right that is basic to a free society. (*Wolf* v. *Conorado,* 338 U.S. 25, 27). As a general rule, a search of private property must be decided by "a judicial official, not by a police or government enforcement agent." (*Johnson* v. *U.S.* 33 U.S. 10, 14).

Yet, instead of limiting this extraordinary power to government agents acting in carefully restricted circumstances the bill provides for participation in the search by non-government personnel. Even the use of advance notice of intention to search, relied on by some jurists to justify non-warrant inspections in some limited circumstances, is prohibited by the bill. (*See* v. *Seattle* 387 U.S. 541, 549). Advance notice of inspection should obviously be permitted not only to satisfy constitutional consideration but also to permit appropriate company officials to be present in order to immediately correct any violation found.

Lastly, it should be noted that the only way an employer may test the constitutional validity of the search provided for by this legislation is by risking a conviction for forceably resisting the effort to inspect.

We do not oppose inspections designed to protect the public or employees from unsafe and unhealthy working conditions. But we believe that the penal and other provisions that accompany the search procedures provided for in H.R. 16785 are untenable and unnecessary.

Imminent Danger Procedures.—It is equally distressing to note that H.R. 16785 is replete with potentially disruptive intrusions into harmonious labor-management relations.

The procedures to counteract imminent dangers, for example, contained in Section 12 of the bill, simply stated call for giving a federal safety inspector the power to issue an order closing down a place of employment if he discovers what he believes to be an "imminent danger." "An imminent danger" is defined as a danger which could reasonably be expected to cause death or serious physical harm before the imminence of such danger can be eliminated.

The stated purpose of giving this extreme power to one person was that the federal safety inspector would be able to protect employees in case a roof was about to collapse or a boiler about to explode. The prospect of a federal inspector happening upon a scene of imminent disaster is highly unlikely, at best. Nor would any federal safety inspector be needed to point out such situation to an employer; no employer would continue operating if such were actually the case. More realistically, the all powerful inspector would become a pawn in labor disputes.

The great potential for misuse that would be created if this power were put into the hands of an inspector in the field was amply demonstrated during the public hearings. The testimony reflected fears that pressure would be brought to bear upon federal inspectors to shut down plants in cases other than *bona fide* imminent danger situations. Thus, this unrestricted power in one person would realistically find itself in the middle of labor-management disputes. It would be far simpler for a disgruntled employee to pass by established labor-management grievance procedures and complain to a federal safety inspector that unsafe conditions existed when the real basis of a dispute was properly a labor-management problem, to be settled by established collective bargaining methods.

One witness citing examples of experience in his industry stated:

"The following incidents are noted for the purpose of illustrating how the cause of safety and safety legislation has been invoked for other purposes.

"(1) In a Texas refinery, the union workers went out on strike at 2:00 a.m. on a Sunday morning. The unions gave the company only a few minutes notice of the impending strike and walked out leaving the refinery units unattended. The refinery, which had a contract with the Federal Government to supply jet fuel to the Air Force, was able to keep the plant operating with management personnel.

"The union sent a complaint to the Secretary of Labor (and published it in the local newspaper) charging that the plant was unsafe because it was not being operated by a full crew. It asked the Secretary to use his authority under the Walsh-Healey Act to find that the operation of the plant was not safe.

"The union issued a strike bulletin to its members stating that it was going to see that a safety investigation would follow so that the company's Government contracts would be cancelled. This plant had two safety inspections under the Walsh-Healey Act earlier the same year. Furthermore, its safety record during the strike period was considerably better than its average during the normal operation."

This example and others reflected in the record indicate that giving a federal safety inspector complete authority over operations of a business enterprise would certainly subject the inspector to intimidation pressures to act, and in many cases, he would be requested to inspect a plant simply to harass or intimidate employers. In essence, the exercise of this shut-down power amounts to summary punishment which is contrary to our established standards of law.

This is not to say, of course, that the Government should not have the power to abate a *bona fide* potential disaster. This is an inherent power of the Government, both Federal and local. What is objectionable here is the method outlined in H.R. 16785, which has no safeguards or guidelines and realistically would lend itself to misuse.

Clearly, any Occupational Safety and Health Bill should recognize the possibility of disaster potential situations, and provide means for dealing with them. The appropriate means to this end would be through Courts. If a federal safety inspector comes upon what he believes to be an imminent danger situation, he should first notify the employer in an attempt to abate or clarify the situation. Then the Government official should seek injunctive relief in the Federal Courts.

This method would act as a safeguard against possible misuse of power or possible error on the part of the inspector, and more important, with the swift and ready access to our Federal Courts, a bona fide potential disaster situation could be dealt with in short measure. Thus, the health and safety of employees on the job could be reasonably safeguarded, while at the same time, the rights of the employer and the viability of the collective bargaining process would be assured.

A Better Bill.—A better bill than H.R. 16785 is obviously needed. The above are just some of what we believe are valid objections to this measure. There are other important problems, such as: the inequities of the posting requirements and the inadequate protection of trade secrets. The cumulative effects of all of these defects indicate that improvement of this legislation by amendment is not feasible. A complete substitute is necessary. A number of committee members are planning to take this step and we urge that their efforts be given support.

There are other matters developed during the hearing that need decisions.

Safety in America Today.—During the hearings we became deeply concerned over the status of safety in America today. Charges of "on the job slaughter" of the American worker were alleged. Businessmen were portrayed as villains, reaping profits through the abuse of employees.

The facts do not support this picture.

Statistics gathered by the National Safety Council show that the average American is safer at his workplace than he is at home, on the highway, or at play. This is directly attributable to the fact that, for many decades, businessmen have worked hard to improve industrial safety and health conditions. They know they are dealing with the lives and limbs of other human beings. Moreover, they know that operating a safe shop is good business; production losses and medical and insurance costs are expensive byproducts of on-the-job accidents, whereas accident prevention programs boost employee morale and promote efficiency.

The results of business' voluntary and continuing dedication to provide a safe workplace are dramatic. In 1912, an estimated 18,000 to 21,000 workers' lives were lost while producing $100 billion worth of gross national product. In 1968, *in a workforce more than double in size and producing over eight times as much*, there were only 14,300 work deaths.

Likewise, during the last 40 years the frequency and severity rates of injuries have been drastically reduced. And while there has been some plateauing of industry's accident frequency record in recent years, it is generally conceded that this is to be expected during periods of highly increasing productivity and employment. Significantly, during the last two decades alone productivity has risen by 93.7 percent and employment has also been up sharply.

Finally, a look at the most recent year for which full statistics are available—1968—provides equally dramatic evidence as to why the safety record of American business has no equal anywhere in the world.

In 1968, there were 14,300 occupational fatalities and 2,200,000 occupational injuries (some were serious, but most were of a temporary nature) *out of a total labor force of nearly 80 million people.**

Statistically, these injury and fatality experiences figure out, respectively, to an extremely low .0275 and an incredibly low .00018.

One accident, of course, is one too many. Greater improvements can and must be made. But these figures make it abundantly clear that American business owes no apology for its safety record, and deserves to be treated fairly in any legislation adopted.

A FEDERAL ROLE IS NEEDED

Notably, too, our present system is based on state-determined standards adapted to local needs, consensus codes voluntarily agreed to by employers, education and cooperation. This pluralistic system has stimulated individual and local commitments and has been largely responsible for the splendid achievements to date. Logically, then, the most prudent and constructive way to attain still greater improvements would be to provide additional encouragement and support for these state, local and voluntary efforts. The federal role, in other words, should be a helping hand, rather than a stiff-arm. The value of such an approach was underscored for the Committee by many industrial safety experts. As a result of extensive personal experiences, these men know that safety cannot be legislated. Their testimony made clear that the cause of occupational injuries is some type of "people failure," rather than inadequate equipment or facilities. All too often the worker himself rebels at wearing safety shoes or hard hats, ignores the warning signs, and tries to beat the machine guards or removes them because they "get in the way."

Nor can we afford to close our eyes to the fact that authoritarian federalization of job safety may well have the opposite effect of that intended.

In Europe, for example, safety programs are nationalized. Yet the safety performance of American industry is far better. A British safety expert who compared the record of the United Kingdom found that the accident frequency rate of U.S. firms in each of the 17 industrial groupings compared was better than the accident rate in his own country. The record of our chemical companies, for example, was seven times better than that of similar British firms; and in the steel industry the accident frequency rate of U.S. firms was ten times better.

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*There were a total of 115,000 accidental deaths in the United States in 1968. Fourteen thousand three hundred were job-related, and of this amount approximately 20 percent were caused by motor vehicles and 11 percent involved government employees. If accidents attributable to occupations already covered by federal regulations, i.e. mining, government contract employers and transportation, are excluded, the total number of industrial accidents affected by this legislation becomes less than 10 percent.

CONCLUSION

All of these considerations clearly seem to mandate that any federal legislation be a cautious and reasonable effort genuinely tailored to strengthen our present safety system through incentives and cooperation.

Recognition of this, significantly, was mirrored in the message President Nixon sent to the Congress on August 6, 1969 with his own proposal:

> . . . The comprehensive Occupational Safety and Health Act . . . will correct some of the important deficiencies of earlier approaches . . . It will separate the function of setting safety and health standards from the function of enforcing them. Appropriate procedures to guarantee due process of law and the right to appeal will be incorporated. The proposal will also provide a flexible mechanism which can reach quickly to the new technologies of tomorrow.
>
> Under the suggested legislation, maximum use will be made of standards established through a voluntary consensus of industry, labor, and other experts. No standard will be set until the views of all interested parties have been heard. This proposal would also encourage stronger efforts at the State level, sharing enforcement responsibility with states which have adequate programs. Greater emphasis will also be given to research and education, for the effects of modern technologies on the physical well-being of workers who are complex and poorly understood . . .
>
> (This legislation) . . . can do much to improve environment of the American worker. But it will take much more than new government efforts if we are to achieve our objectives. Employers and employees alike must be committed to the prevention of accident and disease and alert to every opportunity for promoting that end. Together the private and public sectors can do much that we cannot do separately.

Regrettably, this philosophy has been rejected by the majority members of the Committee in favor of the authoritarian, penalty-oriented, "bull-in-the-china-shop" approach of H.R. 16785.

Admittedly, industrial accidents are tragic. But to those who cherish constitutional due process to those who know from long experience that job-safety and health programs developed in an uncoerced, cooperative context hold the best hope for continued progress—and to those who believe that American working men and women deserve more than an unworkable legislative deception—the Committee's action in approving H.R. 16785 is a tragedy without equal.

For these reasons, and the reasons set forth in the minority report, me must oppose H.R. 16785.

Bill Scherle.
John M. Ashbrook.
Edwin D. Eshleman.
James M. Collins.
Earl F. Landgrebe.
Earl B. Ruth.

A BILL FOR AMNESTY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. Abzug) is recognized for 30 minutes.

Mrs. ABZUG. Mr. Speaker, while our President soothes us with regular reports of his troop withdrawals and claims of success in his Vietnamization program, our forces increasingly devastate the land and people of Southeast Asia and Asians continue to kill Asians with American weapons. A vast and cynical effort is underway to transform the American people's bitterness against the war into a pacified, postwar mentality, even while the computerized destruction in Southeast Asia continues apace.

Perhaps one indication that this new deception is enjoying some success is the recent upsurge in public discussion of the question of amnesty. In one sense the popularity of the subject is a good sign. It is evidence of the widespread judgment that the war is immoral and that steps should be taken to vindicate those who reached this judgment long ago. But at the same time talk of amnesty may show a willingness to close the book on the war, to resolve the war issue prematurely. Amnesty is regarded by some as part of a post-war program of reconciliation—one of those issues we deal with now that peace is restored, now that the fighting is over.

Well some of us are not reconciled yet. Some of us are not fooled. We know that without sending troops into the field we still kill hundreds of Asian soldiers and civilians every week, victims of our new electronic monsters, of our remote control warfare. Our Government is still eagerly perpetuating an immoral war, and talk of postwar programs is not going to pacify us.

Still, most of us are deeply sensitive to the issue of amnesty. We are aware of the needs of those other victims of the war—those conscientious Americans whose moral commitment to peace subjected them to prison sentences or exile. We feel a strong sympathy for those war resisters because we know that the war is and has been morally wrong.

Thus the dilemma: how to talk about amnesty, while not compromising our fierce opposition to the continuing war? I, for one, feel that we can and we must discuss amnesty as long as we deal with the war as a first priority, and as long as we support the kind of amnesty measure which recognizes our constituents' assessment of the whole war policy. In other words, we need amnesty legislation which responds to the war resisters by confronting the war issue straight on—an amnesty measure which focuses, rather than dilutes our bitterness against the war.

Mr. Speaker, I would like to propose just such a measure. I am submitting today legislation which I regard as the first honest, consistent, comprehensive response to the problem of amnesty. My bill is not simply a means to grant relief to certain persons. It is first and foremost a demand for peace and a demand for a new direction in our national goals. My bill would grant relief to war-resisters of course, and it would acknowledge their hardships and their courage. But first it would echo their conscientious opposition to the continuing war.

CESSATION OF HOSTILITIES

My bill embodies six major features. First, of course, it demands a speedy and total cessation of U.S. involvement in Southeast Asia. It does this not only by implication—through vindication of war-resisters—but also by specific language.

Consistent with this first goal, the amnesty I propose would not become effective until the war is really ended. This is necessary if we are to validate the stand taken by war-resisters, and the fact is that the resisters themselves would have it no other way. They have taken their stand on principle and they will not be reconciled except on principle. They would be degraded and their acts of resistance rendered meaningless if they were to accept reinstatement while the war which prompted their acts continues.

UNCONDITIONAL AMNESTY

Second, my bill would grant, after the cessation of hostilities, unconditional restoration of rights to war-resisters, without imposing requirements of alternative service or a showing of "repentance." Imposition of such conditions would imply two fallacious assumptions: first, that recipients of amnesty shirked some legitimate duty to contribute to the war effort, and second, that by avoiding this duty they enjoyed some unfair personal advantage. The answer to the first of these points should be obvious to anyone who has judged the war immoral. How can a citizen have a legitimate duty to support an immoral war? And on the second point, how can it be said that one who has had the courage to face imprisonment or exile has enjoyed an unfair personal advantage? One cannot fail to recognize the bitter hardship that a young man suffers when he must abandon family, friends, job, and home for an uncertain life in a strange country, or worse a life of degradation in prison, with the permanent stigma which that attaches. For the Government to impose these hardships for the sake of a corrupt war policy is equally as unjust as conscripting men and sending them to risk their lives to defend such a policy. A proper amnesty measure must mitigate these hardships while an alternative service requirement would only supplement them.

UNIVERSAL AMNESTY

Not only is the amnesty I propose thus unconditional, but it is broad enough to cover all classes of essentially nonviolent war resisters. I feel that amnesty should extend not just to draft evaders but to deserters and antiwar demonstrators as well. Under my bill amnesty would be granted automatically to anyone who refused or evaded induction under the draft laws, to anyone who absented himself from the Armed Forces, and to violators of associated statutes when such violations occurred or will occur during the war years. In addition, my bill proposes the establishment of an Amnesty Commission appointed by the Congress and the President to grant amnesty to violators of any other Federal, State or local laws when the Commission finds that the violation was motivated substantially by opposition to the war and that it did not result in significant property damage or personal injury. The bill gives the Commission leeway to grant amnesty further when it finds in rare instances that although the violation did result in damage it was nevertheless justifiable on the basis of a deeply held ethical or moral belief.

FULL RESTORATION OF RIGHTS

The amnesty I propose is thorough enough to negate every legal consequence suffered as a result of war resistance. With respect to the violations I have mentioned, a grant of amnesty under my bill would restore all civil, political, citizenship and property rights. It would release those imprisoned. It would immunize from criminal prosecution. It would expunge all criminal records. And it would require the Armed Forces to grant an honorable discharge to anyone who received other than an honorable discharge because of the violations I have mentioned. A further provision would require restoration of citizenship upon simple request, to anyone who renounced his citizenship because of his opposition to the war.

AVOIDING UNFAIR DISCRIMINATION

In developing amnesty legislation it is essential to insure that a grant of amnesty will not discriminate unfairly between resisters in different formal legal classifications, or from different socioeconomic backgrounds. It would be hypocritical in the extreme to restore the rights of draft evaders while denying reinstatement to deserters, who simply came to their moral awareness after entry into the service rather than before. The legal distinction between draft evaders on the one hand, and deserters on the other is not relevant to the question of amnesty. The question is a moral one, and no moral distinction can be made between these two groups.

Other amnesty proposals have suggested automatic amnesty for draft violators but more careful consideration or no consideration at all for deserters. The theory, supposedly, is that the motives of draft evaders are more easily identifiable as conscientious, while the motives of deserters are more diverse or tend to be selfish. While this theory is not supported by the facts, I question its relevancy, since it is impossible to devise a fair administrative mechanism to identify motives. The records of draft boards and military boards who have ruled on the sincerity of conscientious objectors show that such proceedings are by nature arbitrary and capricious, discriminating flagrantly against those who are less well educated and less articulate in stating their beliefs. In fact, many war resisters, both convicts and fugitives, are themselves conscientious objectors who were unable to convince their draft boards but unwilling to compromise their beliefs. It would be absurd to require such men to submit their consciences to further governmental scrutiny. What recourse would they have if they failed a second time to establish their sincerity in an arbitrary administrative proceeding?

At the same time there are a great many other convicts or exiles who have never applied for CO status or perhaps would not consider themselves CO's under the law, who might be unable to articulate their beliefs but who, nevertheless acted upon a deeply felt opposition to the war. The only way to restore justice for those individuals is to grant a blanket amnesty, for certain acts, which undeniably would apply to all regardless of motive.

But is this a real problem? Must we really be concerned as to the motives of those who refused to fight? In the final analysis, if we affirm and stand by the judgment voiced by the majority of the people that the war is immoral, then it follows that no one could rightly be compelled to participate in it. If the duty to fight was not legitimate then we cannot punish anyone who failed to fight, regardless of the motives for his failure. Under our birthright as Americans none of us can be deprived of life, liberty and the pursuit of happiness without just cause. I submit that our war policy in Southeast Asia has never constituted such a just cause.

BRINGING HOME THE WAR-RESISTERS

The final unique feature of my legislation is its effectiveness in responding to the just demands of war-resisters themselves. It is an unprecedented and tragic fact that this country has lost to self-imposed exile, an enormous number of its finest, most conscientious, most creative young people. One of the most important purposes of any amnesty measure must be to bring these exiles home, so they can lend their energies to rebuilding the Nation, to effecting the changes we need, and to working with the political structure to insure that we have no more Vietnams. No measure short of the one I propose can succeed in accomplishing this purpose.

Every communication from war exiles abroad which I have seen in the press, in my own mail, and at recent congressional hearings, makes it clear that virtually none of the war exiles would return home under the half-way amnesty proposals which we have seen in Congress up to the present.

War-resisters to whom amnesty would apply have rejected previous amnesty legislation for a number of sound reasons. First, they must, on principle, oppose any attempt to reconcile them or the American people to a war policy which they have found unconscionable, and which our Government continues to espouse. Second, they reject discriminatory amnesty measures which grant relief to some members of their group while ignoring others, especially deserters. Third, they reject amnesty measures which impose essentially punitive conditions such as alternative service. They regard the war as criminal, and they ask, "Since we refused to commit the crime, why should we be punished?"

I join with war-resisters in rejecting the tokenism inherent in previous amnesty legislation.

To summarize, my bill would grant unconditional amnesty upon a stipulated end of the war. It would grant amnesty to all classes of essentially non-violent war-resisters who have violated Federal, State, and local laws in the course of their protest. It will restore to the recipient every right of citizenship and negate every legal disadvantage suffered as a consequence of war protest. My bill will avoid discrimination against those who are less well educated, by not requiring a sophisticated explication of the philosophical motives behind the acts subject to amnesty. Finally my bill will effectively reconcile and repatriate war-resisters, as soon as that is made possible by an end to the war.

This bill embodies honesty, consistency, and true compassion, while not compromising an unalterable opposition to the war. I feel that only by adopting such a measure can we hope to end the war decisively, restore justice to the war's victims and begin to renew our country morally.

Critics of amnesty are numerous, vocal, and, in the main, sincere. Two arguments are most frequently advanced by them to counter the idea of amnesty. First, while few critics attempt to justify the war policy itself, they argue that amnesty for war-resisters would dishonor or disown the sacrifices made by those Americans who fought in Southeast Asia. I do not belittle these sacrifices. On the contrary I mourn them bitterly and deeply because I deem them to have been purposeless, squandered by the Government for wrongful ends or no ends at all. I am angered and I am sickened when I consider all of the tragedies of the war, but I do not direct my anger at those who refused to fight, who were themselves victimized. I direct my anger at the responsible parties—the war makers in our Government. They are the ones who dishonored our soldiers, by using them and wasting them in a corrupt enterprise. If the Government had listened to the draft refusers, the demonstrators, and the deserters long ago many lives could have been saved and much suffering averted.

To make an analogy, when a court system sentences a man to death and later strikes down the law under which he was sentenced, reversal is ordered. The courts do not insist upon the sentence for the sake of consistency or to honor others who were wrongfully executed. In the carrying out of this war, it is the Government which, as it were, pronounced sentence erroneously against 55,000 young soldiers. It is time for the Government to reverse itself now, and not blindly perpetuate the wrong by punishing those who refused to fight.

Furthermore, how can we be so concerned that amnesty would dishonor the veterans and casualties of Vietnam, when many of the veterans themselves are the most active, dedicated opponents of the war, and the most vocal proponents of amnesty. Many veterans, having experienced the war first-hand, having witnessed its consequences, and having examined the war's deceptive rationale, have concluded that they should not have fought and would themselves have refused to fight had they been aware at the appropriate time.

A second argument commonly advanced to oppose amnesty is that amnesty now would lead young men of the future to believe that they could shirk their military duties with impunity. Thus, the agrument goes, in some future national emergency we would be unable to raise armies. But I would point out that amnesty measures have followed nearly every major war this country has fought. Historically, amnesty is an American tradition. And yet history also shows that whenever the country has been in danger, young citizens have responded and sacrificed willingly in combat. In fact, this country never has experienced significant difficulty in raising armies for its military endeavors. I have faith in the patriotism of young Americans. I have faith that they would rise to defend this country if a national emergency really required it. But I also have faith in their ability to think for themselves, to distinguish right from wrong where their Government's policies are concerned, and to have the courage to resist official policies where they are manifestly immoral.

For these reasons I reject the contentions of those who would deny amnesty. I submit, to the contrary, that a broad amnesty measure would honor us as a nation and serve our most vital national interests.

Mr. Speaker, I urge my colleagues to consider carefully this legislation, the text of which I am including in the RECORD. Enclosed also is a list of cosponsors. I invite your attention to a brief compilation of statements which support unconditional amnesty eloquently and from various points of view.

H.R. —

A bill to exonerate and to provide for a general and unconditional amnesty for certain persons who have violated or are alleged to have violated laws in the course of protest against the involvement of the United States in Indochina, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "War Resisters Exoneration Act of 1972".

FINDINGS AND DECLARATION

SEC. 2. (a) The Congress finds and declares that a general and unconditional amnesty with full restoration of all civil, political, property, and other rights is a necessary measure, after the cessation of United States military operations in Indochina, for the reconciliation and reinstatement of persons who have been prosecuted, or who may be subject to prosecution, for failing to comply with any requirement of, or relating to, service in the Armed Forces during the involvement of the United States in Indochina, or for engaging in any nonviolent activity or activity justified by deeply held moral or ethical belief in protest of, or opposition to, the involvement of the United States in Indochina.

(b) The Congress further finds and declares that it is an immunity of citizens of the United States (within the meaning of section 1 of the Fourteenth Amendment to the Constitution of the United States) to enjoy the annulment of all legal disadvantages that have been incurred or suffered by reason of opposition to the involvement of the United States in Indochina, to the greatest extent consistent with the preservation of life and property.

EFFECT OF GENERAL AMNESTY

SEC. 3. The general amnesty granted by or under this Act shall, with respect to any violation of law enumerated in section 4 or covered under section 6—

(1) restore to the grantee all civil, political, citizenship and property rights which have been or might be lost, suspended, or otherwise limited as a consequence of such violation;

(2) immunize the grantee from criminal prosecution for such violation;

(3) expunge all notation relating to such violation from the records of courts and law enforcement agencies;

(4) require the granting of an honorable discharge to any person who received a discharge other than an honorable discharge from the Armed Forces if such violation was solely the cause, or a substantial cause, of the granting of such other than honorable discharge; and

(5) nullify all other legal consequences of such violation.

AUTOMATIC GENERAL AMNESTY

SEC. 4. (a) Notwithstanding any other provision of law, general amnesty is hereby granted to any person for violation of one or more of the laws enumerated in this section, or regulations and policies promulgated pursuant thereto, if such violation was committed between August 4, 1964, and the effective date of this section. Such amnesty is automatic, and no application to the Amnesty Commission or any other agency is necessary to effectuate it.

(b) General amnesty is granted for violations of any of the following laws:

(1) Section 12 of the Military Selective Service Act (50 App. U.S.C. 462) with respect to the following prohibited acts—

(A) evading or refusing registration, evading or refusing induction into the Armed Forces, or willfully failing to perform any other duty under such Act, or conspiring to do so;

(B) knowingly counseling, aiding, or abetting others to refuse or evade registration or service in the Armed Forces of the United States, or conspiring to do so; or

(C) publicly and knowingly destroying or mutilating any registration or classification card issued or prescribed pursuant to such Act and knowingly violating or evading any of the provisions of such Act, or rules and regulations promulgated pursuant thereto relating to the issuance, transfer or possession of any registration or classification card.

(2) Section 882 of title 10 United States Code, which prohibits the soliciting or advising another, or attempting to solicit or advise others, to desert the Armed Forces of the United States.

(3) Sections 885 and 886 of title 10 United States Code, which prohibit deserting or going absent without leave from the Armed Forces of the United States.

(4) Section 887 of title 10 United States Code, which prohibits missing the movement of a ship, aircraft, or unit with which it is required in the course of duty to move.

(5) Section 888 of title 10 United States Code, which prohibits using contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of the Treasury, or the Governor or legislature of any State, territory, Commonwealth, or possession on which he is on duty or present while a commissioned officer in the United States Armed Forces.

(6) Section 1381 of title 18 United States Code, which prohibits the enticing or procuring, or conspiring or attempting to entice or procure any person in the Armed Forces of the United States, or who has been recruited for service therein, to desert therefrom, or aiding any such person in deserting, or in attempting to desert from such service; or harboring, concealing, protecting, or assisting any such person who may have deserted from such service, knowing him to have deserted therefrom, or refusing to give up and deliver such person on the demand of any officer authorized to receive him.

(7) Section 2387 of title 18 United States Code, which prohibits the advising, counseling, urging or in any manner causing or attempting to cause insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States, with the intent to interfere with, impair, or influence the loyalty, morale, or discipline of the military or naval forces of the United States.

AMNESTY COMMISSION

SEC. 5. (a) There is established a commission to be known as the Amnesty Commission (hereinafter in this Act referred to as the "Commission").

(b) The Commission shall be composed of five members, qualified to serve on the Commission by virtue of their education, training, or experience, as follows:

(1) One appointed by the President.

(2) One appointed by the President pro tempore of the Senate.

(3) One appointed by the Speaker of the House of Representatives.

(4) One appointed by the minority leader of the Senate.

(5) One appointed by the minority leader of the House of the Representatives.

Individuals who are officers or employees of any government are not eligible for appointment to the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) Members shall be appointed for the life of the Commission.

(d) (1) Members of the Commission shall each be entitled to receive an annual salary equal to the annual salary payable to a judge of a United States district court.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(e) Three members of the Commission shall constitute a quorum. The Chairman of the Commission shall be elected by the members of the Commission.

(f) The Commission may appoint and fix the pay of such personnel as it deems desirable, including such hearing examiners as are necessary for proceedings under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5 are applicable to hearing examiners appointed pursuant to this subsection.

(g) (1) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(2) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(3) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

GRANT OF GENERAL AMNESTY BY THE COMMISSION

SEC. 6. (a) Notwithstanding any other provision of law, the Commission shall grant general amnesty as provided for in section 3 of this Act to any individual who, during the period beginning August 5, 1964, and ending on the effective date of this Act, violated any Federal law (other than one enumerated in section 4 of this Act) or State or local law if the Commission finds that—

(1) such violation was in substantial part motivated by the individual's opposition to, or protest against, the involvement of the United States in Indochina; and

(2) the individual was not personally responsible for any significant property damage or substantial personal injury to others

in the course of his violation of any such law;

except that, in any case in which the Commission finds that an individual was personally responsible for significant property damage or substantial personal injury to others in the course of his violation of any such law, the Commission shall grant amnesty if it finds that such conduct was justifiable on the basis of a moral or ethical belief deeply held by the individual.

(b) (1) Whenever the Commission grants general amnesty under this section to an applicant who received a discharge other than an honorable discharge from the Armed Forces, it shall make a finding as to whether any violation of law for which general amnesty is granted was solely the cause, or a substantial cause, of the granting of such discharge.

(2) The Commission shall also have jurisdiction to hear and determine applications from individuals entitled to automatic amnesty under section 4 of this Act and aggrieved by the refusal of the military board concerned to grant an honorable discharge to him under section 3(4) of this Act.

(3) Any finding or determination made by the Commission pursuant to this subsection shall be conclusive upon the military board concerned and is not reviewable by any agency or member of the Armed Forces or any civilian officer of the military establishment.

(c) Any individual desiring amnesty under this section, or review of the decision by a military board to deny him an honorable discharge, shall make application therefor to the Commission in such form as it shall prescribe. The Commission shall not receive any application for amnesty or discharge review under this Act after the close of the 48th month after the month in which this section takes effect.

(d) Any application for amnesty or discharge review which is timely filed shall be determined on the record after opportunity for hearing in accordance with sections 554, 556, and 557 of title 5, United States Code. The entire record developed at the hearing on any application shall be certified to the Commission for decision. All decisions of the Commission shall be by majority vote.

(e) Any applicant may obtain judicial review of a decision by the Commission which is adverse to him by filing a petition for review in the United States court of appeals for the circuit wherein he resides within 60 days after the date on which the decision is made. The Commission shall thereupon file in the court the record of the proceedings on which the Commission based its decision, as provided in section 2112 of title 28. The court shall have jurisdiction to review the decision in accordance with chapter 7 of title 5 and to grant appropriate relief as provided for in such chapter.

(f) Any individual not able to apply to the Commission for a determination under subsection (b) (2) of this subsection because the decision of the military board concerned to deny him an honorable discharge was made after a date sixty days prior to the closing date specified in subsection (c) of this section may obtain judicial review of such decision by filing a petition for review in the United States district court for the district wherein he resides within sixty days after the date of such decision. The military board concerned shall thereupon file in the court the record of the proceedings on which the board based its decision. The court shall have jurisdiction to review the decision of the military board in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided for in such chapter.

RESTORATION OF CITIZENSHIP

SEC. 7. Upon petition to any district court of the United States, the United States citizenship of any former citizen who states that he renounced such citizenship solely or partly because of disapproval of involvement of the United States in Indochina shall be fully and unconditionally restored.

SUITS IN THE DISTRICT COURTS

SEC. 8. (a) The district courts of the United States shall have jurisdiction without regard to the amount in controversy to hear actions brought to redress the deprivation of rights granted by section 3 of this Act, and to grant such legal and equitable relief as may be appropriate.

(b) Notwithstanding the provisions of section 2283 of title 28, United States Code, or any successor provision thereto, a district court hearing an action brought pursuant to subsection (a) of this section may grant injunctive relief staying proceedings in a State court.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEPARABILITY OF PROVISIONS

SEC. 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons or to other circumstances shall not be affected thereby.

EFFECTIVE DATES

SEC. 11. Sections 4, 6, 7 and 8 of this Act shall take effect upon the date of cessation of United States military operations in or over South Vietnam, North Vietnam, Cambodia, Laos, and Thailand which date shall be proclaimed by the President and shall be not later than three months after the date of enactment of this Act.

RESTORATION OF CIVIL LIBERTIES—A POSITION PAPER

Written as a reply to the so-called "amnesty issue" by a collective of U.S. war resisters in Canada representing individuals and the major aid centers throughout Canada.

PART I—NIXON'S WAR, A NEW ESCALATION

Death, injury, destruction and determination by the people of Indochina to decide for themselves their own future—these are perhaps the only constants in war-ravaged Southeast Asia.

American intervention into the internal struggles has taken on three basic characterizations depending mainly on the political goals set in Washington and technology available.

The first two forms of involvement by the United States government are outlined in detail in the Pentagon Papers as published by the New York Times and other North American newspapers.

Essentially, the first type of U.S. involvement goes through 1964 during which time a succession of U.S. presidents attempted to impose American political goals onto South Vietnam via indirect political and covert means avoiding the prospect of a full-scale Asian ground war.

When that failed, President Lyndon Johnson brought the U.S. into its second phase of involvement in 1965—full-scale ground warfare using "conventional" weaponry, air and naval forces.

That also failed, and Johnson quit, unable to impose his will on Vietnam. President Nixon, however, under the guise of "winding down the war," has ushered America into its third form of war, a war of technology which is not only as deadly as Johnson's war, but is escalated into Laos, Cambodia, and Thailand in addition to the re-escalation into North Vietnam. Apparently the aim of U.S. foreign policy is to control all of Indochina, not just Vietnam.

What Nixon has done that Johnson could not do is to introduce a refined computer technology and automatic remote-controlled warfare most of which was unavailable to Johnson. The U.S. government can now kill as many or more Indochinese as was done during the Johnson years without having to send American troops into the field.

A comparison of the war between the Nixon and Johnson years shows the nature of escalation during the Nixon administration with automated replacement of troops by computers and the change to technological from conventional in war characterization.

The United States began bombing North Vietnam steadily in March, 1965, and by the time Johnson's announcement of the end of the bombing of the North in November, 1968, the Pentagon says about one million tons of bombs were dropped on the North Vietnamese.

The Pentagon says about 115,000 missions were flown during this time. Admiral Sharp, writing his final report on the war from 1964 to 1968, said "up to 1,600 tons of ordnance were dropped each week" on North Vietnam.

The Associated Press reported in November, 1968, that 2,825, 824 tons of bombs were dropped on the North and the South during the same period—leaving the conclusion that more than 1.8 million tons were dropped on the South.

About 120,000 tons of this was defoliant, agent orange, according to Dr. E. W. Pfeiffer, a zoology professor at the University of Montana. Agent orange, contains a chemical, 2,4,5–t, which causes the same kind of birth defects as thalidomide, Dr. Pfeiffer has said in numerous publications.

An associate of Dr. Pfeiffer's, Dr. Arthur Westing, chairman of the biology department of Windham College in Putney, Vt., reports that at least five million acres of land in South Vietnam, about 12 per cent of the South's land surface, has been hit with some form of defoliant. The National Liberation Front says about 44 per cent of the South's land has been sprayed. In addition, Dr. Wosting reported a half million acres of land had been cleared by bulldozers.

In a country whose economy is based on agriculture, the effect has been devastating. Rice and rubber exports, the backbone of South Vietnam's pre-war economy, are virtually ended.

In 1964, the South exported $33 million worth of rice. With the destruction of the countryside and the flight of millions of rural refugees to the cities, by 1969 about $15 million worth of rice had to be imported—much of it from California. Rubber exports dropped to $8 million in 1968 from $43 million in 1961. Total South Vietnamese exports dropped to below $20 million in 1968 from $76 million in 1961.

The human toll in North and South Vietnam during the Johnson years is incalculable. The North has not released figures on its dead or injured. However, Richard Ward, Foreign editor of The Guardian, has said the North Vienamese have told him two-thirds of the victims of U.S. bombing were non-combatants—women and children.

In the South, U.S. military figures would indicate hundreds of thousands of Vietnamese killed up to 1968 and even more Vietnamese injured.

Atrocities abound. In the Winter Soldier Investigation held in Detroit a year ago, scores of honorably discharged U.S. veterans of the Indochina War told of the My Lais they had individually seen or committed. Still other returned GIs have testified about similar atrocities before the U.S. Senate last spring.

With the Johnson decision to escalate the war in 1965 with troops and bombings of the North and South, millions of persons fled the South Vietnam countryside and became urban refugees.

James Clark, a land refugee officer in South Vietnam for the Agency for International Development (AID) prior to his resignation in 1968, has said AID figures show upwards of three million refugees went from rural to urban areas. Other estimates in the western press go upwards from seven million.

Clark quotes Aid figures that 80 per cent of the refugees fled or were sent to strategic hamlets due to ground war, bombing or governmental force. About 90 per cent moved for fear of their personal safety, Clark says AID figures state, and they moved in fear of either the U.S. and its "allies" or the NLF. In other words, the 90 per cent feared for their personal safety and did not move because of anyone's political ideology.

Thus, the characterization of Johnson's war was based upon massive bombings, massive troop deployments (about 525,000 U.S. troops in 1968) and wholesale chemical-biological warfare (CBW).

The brunt of the bombing was in North and South Vietnam, with troop actions mainly in the South. There seems to have been only a limited use of CBW and U.S. troops outside of Vietnam during the Johnson years, according to the Pentagon Papers published last summer.

The New York Times version of the Pentagon Papers indicates Johnson felt further troop escalations would cause a domestic crisis in the U.S. and he held back, eventually stopping the bombing of the North,

Johnson's ability in escalating the war was to a large degree limited by the war technology of his day.

However, the character of the American side of the war has changed. No longer are more than a half million U.S. troops necessary in Indochina for the war to be executed.

Quietly at first but today evident is the new technology of computerized warfare which became available and is being used.

Hearings before the U.S. Senate Armed Services Committee regarding the electronic battlefield released in Jan., 1971, show the U.S. not only has the capability, but is putting into use electronic sensors which can smell people and hear their voices and footsteps.

This data is then relayed automatically back to a computer which locates the persons on a computerized map flashed on a TV screen, testimony indicated.

An assessment officer pushes the button, and an airplane is ordered by the computer into action and guided by the computer into the area where the computer automatically drops the bombs. The bombs are frequently laser-guided bombs, which the U.S. Department of Defense says are 10 times more accurate than the bombs used in LBJ's days.

The hearings showed no U.S. or South Vietnamese troops are necessary in the area. The Electronic sensors and computer locate and kill the "enemy" automatically.

The hearings revealed almost all U.S. ground units were "flying sensors" to detect the "enemy" a year ago. In addition, the testimony pointed out the U.S. government has a central sensor training school in South Vietnam to train the South Vietnamese in computerized warfare, and that as of the hearings a year ago, the South Vietnamese army was taking over something in excess of 47 percent of the ground sensor work.

Nixon's Vietnamization of the war includes giving the South Vietnamese government computer warfare "Made in U.S.A."

The "automated battlefield," as the military calls it, is a development of the Nixon years. Electronic ground sensors were first used in South Vietnam in the late summer of 1968, but according to the Senate hearings sensors had not been introduced into a computerized system at that time.

In July, 1969, the U.S. Army was authorized by the government to set up Surveillance Target Acquisition and Night Observation (STANO) to plan, test, and put into operation a totally computerized electronic battlefield.

By October, 1969, Gen. William Westmoreland, chairman of the joint chiefs of staff, was calling it the "battlefield of the future."

Apparently recognizing the futility of American ground troops in Southeast Asia, Westmoreland told the U.S. Army Association in a speech on Oct. 14, 1969: "In Vietnam where artillery and tactical air forces inflict over two-thirds of the enemy casualties, firepower is responsive as never before. It (computerized warfare) can rain destruction anywhere on the battlefield within minutes . . . whether friendly troops are present or not."

Going on to describe the "battlefield of the future" as being almost completely automated with the use of electronic sensors and computers, he said that "the need for large forces to fix the opposition will be less important."

This is exactly what the present administration appears to have done. Under the guise of "winding down the war," Nixon has reduced curent American troop levels to about 159,000 while beefing up computerized warfare.

It may be no coincidence that Nixon started cutting back troops in the summer of 1969 when computerized warfare was just beginning, and that his "phased withdrawal plan" neatly coincides with a commensurate development of the automated battlefield.

The computer scheme is not yet a total operational system, according to the hearings before the Senate, but neither have American troops pulled out of Indochina completely nor is there any firm date set by the Nixon administration for a complete pull-out.

Apparently, with the blessing of U.S. government leaders, the Pentagon has authorized "the highest industrial priority" for development of computerized warfare, which means any Pentagon group or private company working on the automated battlefield is first in line for any resources it needs, according to the senate hearings.

The idea of developing new war technology for Southeast Asia is not a new one. In 1963, General Maxwell Taylor told a U.S. House Subcommittee on Appropriations that South Vietnam "has been a challenge not just for the armed services, but for several of the agencies of government, as many of them are involved in one way or another in South Vietnam."

"On the military side, however," he continued, "we have recognized the importance of the area as a laboratory."

The notion of Vietnam as a military laboratory was further expanded by Gen. Westmoreland in the above-quoted speech in 1969 when he said the Vietnam laboratory has produced a "quiet revolution in ground warfare—tactics, techniques, and technology" that will "influence the future directions of our Army both in fundamental concepts of organization and development of equipment."

Westmoreland gave a clear outline of the nature of the civilian involvement in the laboratory of Indochina when he credited the logical-advances to military-industrial-labor-academic-scientific co-operation." Far more sectors of society than the military have a vested interest in this war technology.

The Senate hearings revealed the military-industrial complex has been pushing so hard for computer warfare that the normal time-lag from research and development to implementation has been reduced to 15–21 months from five to seven years. The U.S. government obviously wants this technology for the Indochina War and not some future conflict.

As of those hearings a year ago, $1.6 billion had been spent on automated battlefield development with estimates ranging up to $4 billion to be spent for research and development. There seems to be no indication how much implementation and installation has cost or might yet cost, but computers and B–52 bombers are expensive.

Currently day-to-day operations by U.S. troops in Vietnam are being planned by a Seek Data computer system in Saigon, which reduces planning for daily operations to two hours from two days. That part of the war is run by a machine right now.

The senate hearings indicated computerized warfare has already been used experimentally in Laos and Cambodia, a clear indication of what the government plans to do with its new technology.

With the development of computerized warfare has come an escalation in the technology of bombs used in association with the automated battlefield.

The old standby bombs which simply explode when hitting the ground are still used, but the Senate hearings showed the military's arsenal of anti-personnel weapons designed for automatic useage have been expanded tremendously.

The new weapons described mainly are designed to maim, said the hearings, but a direct hit could kill. One such bomb hits and sends out a series of smaller bomblets attached on strings about 60 yards long (the size of a rice paddy). The strings are trip wires which when hit by a human foot explode the bomblet into hundreds of pieces of shrapnel designed not to kill but to injure.

With computerized warfare, the Nixon administration has executed a technological escalation of the war, yet more conventional methods of escalation have not been ignored.

By early 1970, the average bombing tonnage dropped by U.S. aircraft over South Vietnam averaged about 100,000 tons per month, according to an article by Derek Shoarer in the May 30, 1970 issue of New Republic.

A lower figure of about 70,000 tons per month in Indochina was reported in 1971 in a study done at Cornell University by Professor Raphael Littauer of the Center for International Studies. The Cornell study says Nixon plans to continue the air war in Indochina throughout 1972 at a cost of between $1.2 billion and $4 billion a year.

The two-month American invasion of Cambodia in spring, 1970, was followed by an escalation of bombing to about 90,000 tons per year in Cambodia, according to the Cornell study.

Bombing of Laos began in 1968 according to the Royal Laotian Government, but it was escalated to a level of about 400,000 tons per year, the Cornell study says. In addition, with U.S. support, the South Vietnamese government invaded Laos a year ago with 20,000 troops.

Thailand has now become a major staging area for U.S. air strikes throughout Southeast Asia as well as the largest centre in Indochina for CIA activities. Western press reports indicate tens of thousands of CIA mercenaries are in training for or operating in covert operations—far in excess of the few thousands CIA mercenaries the Pentagon Papers attribute to the Kennedy-Johnson years.

According to the June 18, 1970 issue of the New York Review of Books, 20,000 to 27,000 bombing sorties monthly were sent into Laos and the Ho Chi Minh trail during Nixon's first year and a half in office, and that was seven times higher than LBJ's 1968 levels.

This massive escalation of the war into three other countries not previously invaded by U.S. forces or their south Vietnamese "allies," has resulted in the U.S. unleashing about three million tons of bombs on four countries in Indochina, according to the Cornell study, which said it would be at least as much tonnage as Johnson unleashed.

The Cornell figures would probably be low because the study was completed before Nixon re-escalated the air war into North Vietnam at the end of December, 1971. Western press reports quoted U.S. military spokesmen saying 1,000 American sorties were flown over North Vietnam in the five-day blitz which matched Johnson's highest bombing levels of the North.

American technological planners have not forgotten escalation in conventional weaponry, either. The recently developed concussion bomb, which Dr. Pfeiffer found flattens everything in an area the size of two football fields and kills everything for a square mile, has been used 150 times in Vietnam, Cambodia and Laos to clear areas for helicopters to land.

Defoliation, which during the Johnson years appeared to be limited to Vietnam, was escalated in April and May, 1969 in spraying incidents in Laos and Cambodia involving hundreds of thousands of acres, according to Dr. Pfeiffer.

Defoliation and associated birth defects rose to the point in 1969 that by the end of that year, the Saigon government classified as "secret" the number of birth defects in the country.

By April, 1970, the Department of Defense announced the U.S. government would not use any more defoliants in Vietnam. This was done due to U.S. civilians protesting birth defects from defoliants. However, part of Nixon's Vietnamization program seems to be to get the South Vietnamese to do everything including defoliate.

Doug Hostetter, of Harrisonburg, Va., and a graduate student in sociology at the New School of Social Research in New York City, reports that by December, 1970, the U.S. was supplying agent orange, the thalidomide-like defoliant, to the Saigon air force which would get an American pilot to fly the Vietnamese C123 plane on defoliation missions.

In order to reduce the number of refugees, the Nixon administration appears to be using a statistical merry-go-round to make things to look better.

John Hannah, head of AID, told Senator Edward Kennedy's Senate Judiciary Subcommittee on Refugees in June, 1969 that South Vietnamese refugees in government camps were administratively reclassified as "resettled" in the refugee camps after being paid a lump sum of money. He said no attempt was made to either train them for employment in an urban area or return them to their native countryside.

By the end of 1968, the Royal Laotian Government reported about 150,000 persons had become refugees because of American bombing. With the U.S. escalation of the war into Laos, one can only conclude that there are even more refugees today in Laos.

Even by conventional standards of LBJ's day, Nixon has escalated the war beyond what Johnson dared to do: invasions of Laos and Cambodia, Thailand's staging areas and the re-opening of the bombing of the North prove that.

Yet the biggest myth of the Nixon administration is "winding down the war." Once again, the American people have been given a lie by their president; and they are believing it, or at least that belief seems to be what some media outlets would have us think.

Nixon is not winding down the war. The most inhuman escalation of death and destruction goes on behind Nixon's curtains of troop withdrawals.

Troops are not needed for computerized warfare. The Pentagon makes no secret of that, yet people still cling to the deception that fewer American deaths mean the war is ending.

The war is not ending. Ask the families of the dead Indochinese or ask the maimed from Southeast Asia. The incredible arrogance of the American government once again is shown when it can claim a war is ending when only Asians are being killed and not Americans. Nixon has not fooled us.

Nixon can cut draft call-ups because troops are not needed, but he has yet to announce any cancellation of computer calls-ups. We said "No" to the war once, we say "No!" to the war again.

As long as America supplies the means of war to the South Vietnamese government, whether it be half a million troops or computer links, it is still an American war.

PART II—WHAT A GENUINE END TO THE WAR WOULD CONSIST OF

With the United States government already in the process of escalating war to even more insane levels of technology, the naive and ludicrous nature of various "amnesty" proposals put forth by the U.S. political leaders becomes glaringly evident.

The "amnesty issue" cannot be allowed to obscure the grave situation of an escalated war. "Amnesty" is being used among many other things to hide the real actions in Indochina.

Troop withdrawals are simply another ploy to cover up the truth. Nixon has been forced to withdraw troops because of massive popular pressure. Now he is trying to convince people this means the war is "winding down" when in fact massive troops are not needed to execute computerized detection and automated bombing runs.

A restoration of our civil liberties would be an entirely valid issue in itself if the Indochina War were actually ending, but the issue used as a smoke-screen to mask a technological monstrosity serves only Nixon's purposes in covering up the war. The issue of a further escalation of the war takes precedence.

For the war to be genuinely ending, we would look for certain clear-cut indicators pointing to an end.

Specifically, a restoration of civil liberties would make sense in conjunction with an immediate unilateral cease-fire by the United States, the initiation of a *total* withdrawal of *all* United States involvement in Indochina and a recognition by the U.S. of the right of the Indochinese peoples to self-determination and indigenous national institutions.

A withdrawal must include not only the conventional support of the Johnson years, but a withdrawal of the technological support Nixon has created in addition to the indirect support of the Indochinese regimes by U.S. money and CIA involvement.

United States troops, support troops, associated military personnel and advisors, war materials, weaponry, CBW agents, computers, computer link-ups with the U.S., associated computer hardware and software, CIA money and all American civilian support either from the private or public sector must be taken out of all the Indochinese countries of Vietnam, Laos, Cambodia and Thailand for a full American withdrawal to be complete.

In other words, the war must be truly over and the U.S. and its influence removed before the Indochinese people will have the ability to choose their own destiny. In Cambodia, for instance, there must be a return to a neutral coalition government such as that which existed prior to the Lon Nol regime.

In South Vietnam, it would mean replacing the Thieu-Ky regime with a neutral coalition government to oversee the general elections prescribed in the 1954 Geneva accords, freeing of all political detainees and an overall return to the provisions of the 1954 Geneva accords as they apply not only to Vietnam but to all of Indochina.

With an end to the war and the establishment of a coalition government, the United States could enter into negotiations with North Vietnam for the release of prisoners of war under mutually agreeable terms.

An international tribunal must be established representing the Indochinese peoples and non-governmental representatives of the peoples of other countries to try the United States government leaders for violations of international law stemming from the American involvement in Indochina. American government leaders and war planners must stand trial as the aggressor.

America's unilateral intervention into Indochina violates the United Nations Charter, and no American law gives any person or branch of the U.S. Government the right to violate the U.N. Charter.

The U.S. Congress never declared war, as prescribed by the U.S. Constitution, and the U.S. violated the 1954 Geneva accords on Indochina as well as the earlier Geneva accords barring chemical biological warfare.

In addition, the wholesale death, injury and destruction wrought upon the civilian populations of Indochina violates almost every known principle of international law governing warfare, including the principles the U.S. help lay down in Nuremburg.

The United States government pay reparations to the Indochinese peoples.

For the hundreds of thousands dead and disabled. Indochinese, there are no reparations which could ever right the wrong. However, for whatever can be salvaged from the destruction of Southeast Asia to enable the Indochinese to rebuild new countries, the U.S. must pay.

The U.S. cannot be allowed to administer reparations, because of its past history in Indochina, so much reparations would have to be funneled through some agency of the above-mentioned international tribunal would see fit.

PART III—A VALID RESTORATION OF CIVIL LIBERTIES, NOT "AMNESTY"

The Nixon administration appears to be making every effort to orchestrate public opinion into the belief that the war is ending. The emergence of the so-called "amnesty" issue in the United States only reinforces this miscarriage of the truth.

We refuse to be part of Nixon's lies. The war is not only continuing but it is being escalated to points even Lyndon Johnson could not or dared not attempt. A cut-back of U.S. troops and U.S. casualities does not mean an end to the war. Instead, it has signalled a new form of technological war just as deadly and more expansive than conventional armies were previously capable of.

It seems that some well-meaning U.S. political leaders, in proposing their version of an "amnesty," have been deceived by the Nixon mythology. We ask them to stop. Don't be sucked in by a political football in a presidential election year. The war has been escalated again.

The irony of this escalating war is that there has developed in America a trend to talk about "amnesty" for war resisters. We want the war to be genuinely ending so that the issue of restoration of our civil liberties is not used as a pawn in a political game. Escalating is not ending.

First, we, as U.S. war resisters in Canada, have no interest in what is now being called "amnesty" in the States. "Amnesty" implies forgiveness, but for what are we to be forgiven? We refused to commit the crime.

Second, the current "amnesty" proposals do not include deserters from the armed forces, Using that kind of logic, the conclusion would have to be drawn that saying "No" to the Indochinese War before being drafted is acceptable, but after taking one step forward, saying "No" is criminal. We do not need that kind of existential absurdity, either.

All deserters must be included in any restoration of civil liberties.

Deserters, generally, are from working- or lower-class backgrounds, and are the first to get drafted and are the most likely to have received orders to go to Indochina. These are the people from the U.S. who have borne the brunt of Washington's war policies.

Deserters also have the more difficult adjustment to make to Canadian society since most have a high school or less education with only minimal job skills, thus giving them limited ability to integrate into the contracted Canadian job market.

Draft dodgers, on the other hand, generally come from middle class backgrounds, have carried a student deferment to enable them to get an education while temporarily fending off the draft and usually arrive in Canada with enough college and/or work skills to enable them to make a relatively rapid adjustment to Canadian society and the labor market.

In terms of social class, deserters have the justifiable claim to a full restoration of civil liberties as they have carried the worst part of the load.

Third, current "amnesty" talk from the States also seems to incorporate a concept of "alternate service." This we also reject. "Alternate service", such as the three years suggested by Senator Taft, is punitive.

Since we refused to commit the crime, why must we be punished? Are not the criminals those who perpetrated the crime called the Indochinese War.

Lastly, "amnesty", as currently proposed, we reject. What we are talking about is a totally non-punitive restoration of complete civil liberties for all persons charged, persons who might be charged, and/or persons convicted under any American municipal, state, federal and/or military law due to actions relating directly or indirectly to the Indochinese War.

This restoration must include that for the above persons:

If charges are contemplated, the charges are not to be laid;

If there are any charges laid, they be dropped;

If there are any convictions, their records be expunged;

If they are in jail, they be set free;

If there is a discharge from the armed forces other than honorable, it be made honorable;

No discrimination is to be made based on military experience or the lack thereof and all questions relating to the military be removed from all public and private records and forms;

If they are underground, whether charged or not, they be alowed to surface and resume their normal lives;

If they are abroad, they be allowed to return, if they so choose.

The restoration we talk of includes us, but it also includes hundreds of thousands of others like us who said "No" in their own way but did not choose to come to Canada. They, too, deserve a full restoration of their rights.

This is designed to provide a full restoration of all rights in a non-punitive fashion to all persons whose lives have been disrupted by the Indochina conflict. Anything less than that is a form of tokenism which we will not accept.

STATEMENT ON AMNESTY

PREPARED BY REPRESENTATIVES OF:

American Exile Counseling Center, Montreal, Quebec

American Red Patriots, Toronto, Ontario, Canada

American Refugee Service, Montreal, Quebec

AMEX-Canada Magazine, Toronto, Ontario, Canada

Cabal Newspaper, Toronto, Ontario, Canada.

Fort Devens United Front, Fort Devens, Massachusetts, U.S.A.

Guerrilla Newspaper, Toronto, Ontario, Canada

Montreal Counsel to Aid War Objectors, Montreal, Quebec

Nova Scotia Committee to Aid American War Objectors, Halifax, Nova Scotia, Canada

Toronto Anti-Draft Project, Toronto, Ontario, Canada

Vancouver Committee to Aid American War Objectors, Vancouver, British Columbia, Canada

Vietnam Veterans Against the War, Inc., New York, New York, U.S.A.

ON MARCH 25, 1972, TORONTO, ONTARIO, CANADA

The question of amnesty must be considered inseparable from that of a total and rapid American withdrawal of all aggressive forces involved in the war in Indochina. But the amnesty issue cannot be allowed to obscure the fact of an escalated war—escalated vertically into the air with massive bombing and technologically with the use of computerized warfare—which is so obvious as to expose the United States Government's "gradual withdrawal" for the brutal lie that it is.

In an election year, we reject this kind of political evasion of the main issue before the American people—an escalated war, not a war allegedly "ending."

President Nixon's troop withdrawals and lower casualty figures among U.S. troops are only another carefully hung cloak to cover up the truth of what his administration has done. Nixon has been forced to withdraw troops because of massive popular pressure, the refusal of U.S. troops to fight, and the resistance of the Vietnamese, Laotians and Cambodians.

Now he is trying to convince the peoples of the world that this means the war is ending when in fact massive troops are not needed to execute electronic sensor detection and automated bombing runs.

For a genuine end to the war we call for the accession to the peace proposals of the Democratic Republic of (North) Vietnam, the Provisional Revolutionary Government of the Republic of South Vietnam, the Lao Patriotic Front and the National United Front of Cambodia; that is, the initiation of a total ceasefire and withdrawal of all U.S. conventional and computerized involvement in Indochina, a recognition by the U.S. Government of the right of the Indochinese to self-determination, and a return to the Geneva accords of 1954 for Vietnam, and 1962 for Laos.

Some "amnesty" proposals in the U.S. must be rejected because they serve to mask the U.S. escalation of the war, they do not include the same provisions for deserters from the armed forces as they do for draft resisters, they have punitive conditions called "alternative service", and they imply guilt on our part when the crimes against the people of Indochina, the United States, and the world were committed by U.S. imperialism.

What we are talking about is a totally non-punitive, unconditional and universal amnesty for all persons charged, persons who might be charged, and/or persons convicted under any U.S. municipal, state, federal and/ or military law due to actions relating directly or indirectly to opposition to the U.S. war of aggression against the peoples of Vietnam, Laos and Cambodia.

This must include for these persons that: if charges are contemplated, the charges are not laid; if charges are laid, they be dropped; if there are any convictions, their records be expunged; if they are in jail, they be set free; all discharges—past, present and future—from the armed forces be classified as general; all questions relating to the military be removed from all records and forms in the public and private sectors; if they are underground, they be allowed to surface and resume their normal lives; if they are abroad, they be allowed to return.

The U.S. Government must bear responsibility for the loss of life or injuries to all victims during the war in Indochina; that is, all possible retribution to the families of those lost, and free medical and psychiatric care, and drug rehabilitation.

This racist war has also caused an increase of racist repression against non-white peoples who have never had full citizenship in the United States. A just amnesty must involve an end to this repression and a freeing of all political prisoners.

The perpetration of this aggressive war by the United States has violated the honor that should surround service to one's country, and perverted the values of our society. A total end to the war, and a universal, unconditional amnesty are part of the struggle for the restructuring of our society.

STATEMENT BY TIMOTHY J. MALONEY, MSW, FEBRUARY 29, 1972

The last time I arrived in Washington, D.C., I was proud to be a U.S. citizen and anxious to serve my country. It was 1964 and I was accepting an appointment with the Federal Bureau of Investigation as a file clerk in the Justice Building. Five years later, in February of 1969, I discarded a Presidential order that instructed me to report for induction into the United States Army. At that time my wife and I were living in Canada where I was assisting war objectors as a social worker and attending graduate school.

Today I am again in Washington, D.C., not proud this time of being a U.S. citizen but willing to give you my views on the amnesty issue that has been raised by you and your colleagues. In doing so, I pray that you, who are leaders in this country, may see a way of reconciling the tragic wrongs that have alienated thousands of people like myself and have created grievous differences within the country that have torn asunder the American Dream.

While many tragic wrongs have been committed and are being perpetuated they all have one common denominator—the Indochinese War. Before any substantive reconciliation of the many wrongs can occur there has to be a genuine U.S. commitment to ending the war. Yet, the issue of granting an amnesty to some of the victims of the war has been raised and it would be ludicrous not to discuss it. If discussion does no more than kill the inept bills of Senator Taft and Representative Koch it will have been worthwhile. Though, to stop there without constructively dealing with the issue only fosters more frustration that has been so characteristic of the entire Vietnam-Indochinese experience. *Newsweek's* recent Gallop Poll disclosed that 71% of the people interviewed favored some form of amnesty. To ignore that, to be unresponsive to the will of the people, or to consider solutions such as Representative Hébert's "I would send them out on a ship like a man without a country" is characteristic of much government policy and attitude, but hopefully a change is in sight for the seventies.

If there is a sincere commitment on the part of government to deal realistically with developing an amnesty proposal that will be beneficial for the nation and the victims, i.e., some of the 354 thousand soldiers classified as deserters since 1967 and the thousands of draft evaders, the government will have to have a thorough understanding of the phenomenon. To date, most elected representatives have illustrated through their statements and bills that they have an appalling ignorance of the phenomenon and the possible encompassing, constructive solutions.

In Canada the exile community has viewed the development and discussion of the amnesty issue in the United States with deep concern. There is a wide consensus, as was illustrated at a National Press Conference in Toronto on January 17, 1972, that the word amnesty itself is inherently problematic. It implies forgiveness, and the exile community wonders what they are to be forgiven for—they refused to commit the crime! There is also concern that the present intensity of discussion over amnesty in the United States will end after the Presidential election. The exiles see themselves being used as pawns in a political game. They see the issue being used by some politicians in an attempt to relieve American war guilt, to buy the votes of the newly enfranchised youth, to give the false impression that the war is winding down, etc.

They see the American news media portraying the exile community as being composed of sad, lonely, ill-begotten, misguided youth who made a mistake and are crying at the border to return; and that, the United States, being all-powerful and forgiving, is now in a position to show its paternal concern for its erring sons. They resent the fact that some people may be using them for personal gain and that others are definitely presenting an erroneous portrayal of them. Also, they fear that in the process of being used they may be hurt, i.e., that one of the current amnesty proposals might be passed. Both Senator Taft's and Representative Koch's proposals attach a punitive string called alternative service. Plus, both proposals exclude deserters, who comprise the majority of the exile community in Canada. I have not yet met a war objector in Canada who accepts either of the proposals, nor do I or anyone else I have spoken with see justice in them.

What the exile community would like is a complete totally non-punitive restoration of their civil liberties. That would turn the amnesty issue right side up by removing the indignity of having to accept forgiveness and punitive service. Also, it would apply to everyone and allow each individual maximum freedom in deciding upon whether to stay in Canada or return to the country which had no room for him.

Since the majority of men in exile and prison are deserters any substantive "amnesty proposal" must incorporate provisions that will enable them to easily regain their civil liberties. None of the current proposals or suggested proposals to date allow for this. Suggesting that each deserter be judged individually is ludicrous, if not mechanically impractical, due to the sheer numbers involved. Surely the 1947 Truman amnesty illustrates the injustices of establishing criteria and attempting to judge thousands of men individually. Yet, there appears to be a gross misconception that operates on the premise that deserters have less morality and that their motives are less genuine and thus more suspect than the motives of their civilian peers. While a draft evader may have had a premature morality due to more education and social class benefits, the deserter's decision to leave the military and the United States is often a more difficult individual decision. His reasons for leaving, may, in fact, be based on a greater struggle with his conscience. His actual decision to leave is difficult as he cannot reflect upon his future from a relative position of ease and he is in a hostile environment where he can obtain very little support. His military experience, contact with returning veterans, and concurrent mental agony is often his only education, but an extremely valid one that helps him decide upon his future. When he makes his decision to leave based on such a gut level education I can only respect, not question, his motives.

A Statement by George P. Barbour, Jr., Legislative Representative for the National Committee for Amnesty Now, in Support of Congresswoman Bella Abzug's Bill on Amnesty

The National Committee for Amnesty Now supports the bill introduced into Congress today by Congresswoman Bella Abzug. We believe that amnesty is an essential ingredient in the reconciliation of the young generation of this country that has had to bear the brunt of the war in Southeast Asia. Amnesty Now supports the important features of this bill and strongly applauds the inclusion of not only draft resisters but military deserters and those that suffer legal and social disabilities from having received less-than-honorable discharges. The inclusiveness of this bill insures that racism and petty class distinction will not be present in a general amnesty.

The unconditional and non-punitive nature of this amnesty is also most welcomed. It cannot possibly serve the national interest to exact punishment or additional servitude from those that have suffered so dramatically because of our involvement in Southeast Asia.

The automatic features of this general amnesty will go a long way in insuring that those covered by the amnesty will be dealt with in an equitable manner.

This bill is a welcomed alternative to the Taft and Koch bills. What should follow now is a national discussion of this issue on every political stump in the country. This bill provides the needed focus.

Amnesty Now will martial the support of its membership behind any bill that contains the breadth, non-punitive, automatic features and timeliness that are exhibited in this proposed legislation. In addition to supporting legislation, Amnesty Now is working to insure that all major presidential candidates are on record in support of amnesty that includes not only draft resisters, but military deserters and those with less than honorable discharges. We have borrowed as our national statement of purpose a slogan that was once used by Richard Nixon but quickly discarded once he was safely in office: "Bring Us Together." We view amnesty as an essential ingredient in realizing that goal.

Testimony of David Harris

As I understand it, you gentlemen are considering the question of amnesty.

If amnesty were granted, I would be subject to it. In January of 1968 I refused to submit to induction into the United States Armed Forces. My refusal bought me a sentence of thirty six months in Federal Prison. I was released from the Federal Correctional Institution at La Tuna, Texas in March of 1971 after serving twenty months of my sentence. I am presently under the supervision of the United States Board of Parole and will remain so until July of this year when my original sentence expires.

My own history makes amnesty a pressing question. I am now a convict. I have no rights or civil liberties as they are commonly understood, I have a parole officer instead. But I didn't start out as a convict. I started out as a high school football player who believed everything he was taught in all his classes on American government. I believed in liberty and justice for all. I believed in peace and democracy and freedom and all the virtues the American state recites in its own honor. I believed in them all so hard that I discovered they didn't exist. It's hard to say when that discovery began, but it's easy for me to remember when it became obvious. It was then that I decided to be a convict.

I decided to be a convict because I believe in the peace and justice and freedom and democracy I'd heard so many people talk about. I decided to break the law because the law obviously stood between me and those things I'd learned to want. Before you gentlemen decide to give or not give amnesty to criminals such as myself, you should understand why we became criminals in the first place. I can't speak for the thousands who now live outside the law, but I can speak for myself.

I broke the law for three reasons.

First, the law defined me and all the people I knew as pieces of property to be owned and manipulated however the government sees fit. We aren't citizens making the decisions citizens make. We are chattels who receive orders. The law I violated makes all of us pawns whose lives and deaths aren't even our own. Terms such as those, no matter how comfortable they are made, are unacceptable to people whose freedom matters to them.

I didn't make the law I violated. Neither did any of the people I know or see every day. The law that I was punished for breaking was a law made two thousands miles away by men with power such as yourselves. And you are a very few men. The rest of us live with little or no control over the situations we find ourselves in. What we live with are the embodied interests of a few people who are allowed to sit on the top and look down while the rest of us must squat on our haunches and look up. To submit to those interests and the power they exercise is to destroy the democracy the law claims to defend. Democracy, it seems to me, is a practice. And if it isn't a practice, it's nothing. The law I violated is a witness to its absence.

But the law I violated isn't an abstraction, as we all know. The law was made to serve a policy. And it was that policy that made me into a convict. We are all living in an empire, a society that has attempted to extend its control over as many people as it possibly can. It, like all empires before it, has accomplished its ends in a very simple fashion. It destroys whatever opposes it. That policy invaded the subcontinent of Southeast Asia determined to dictate the terms that the Vietnamese, the Lao, the Thai and the Khmer people must live under. It meets the attempt of those people to control their own fates with battalions of marines and enough raw explosives to turn all of Indochina into barren craters and graveyards. The policy pursued itself without mercy. It sent Americans five thousand miles away to deny an entire subcontinent of Asians their right to live and exist as human beings. Any one who respects his own liberty and the liberty of others has no choice but to refuse to be used for such slavery.

For acting upon all those reasons, I became a convict. And there are more pleasant occupations. For twenty months I lived inside the operation of American justice. I learned to live inside bars and cages, I learned to exercise my freedom in very small and very dank places. I watched the police beat, extort, control and deny myself and all my fellow convicts. I learned to watch my son grow once a month for eight hours in a prison visiting yard under the eyes of the Department of Justice. I learned to live without the simple rights that were supposed to be inalienable in my birthright. And I learned to wait for doors to open and lights to come on and for the screaming late at night to stop. And I don't regret it. Given a choice between being a butcher and being a convict, I will choose convict every time.

And now you gentlemen are considering giving amnesty to people such as myself. That means a lot. It means that thousands of young men like myself can walk out of their cell blocks and dungeons, return from their exile and their hiding places and walk on the streets like men are supposed to. I obviously have no objection to giving us amnesty. Of course it should be given. None of us should have ever been made criminals in the first place.

But I see some dangers in you gentlemen granting amnesty.

The first is that amnesty is traditionally considered an act of forgiveness. And I for one don't want to be forgiven. I don't think I did anything wrong. The wrong rests with the law and the twelve months on a maximum security cell block. There were two others in for offenses similar to mine. One burned draft files and the other refused induction. We used to talk about the possibility you men are discussing. And the conclusion we reached represents at least my feelings. We decided that we wouldn't accept a pardon but that we would take an apology.

The second is that I sense you gentlemen find amnesty an acceptable solution for people such as myself that have clear explanations for their actions and a constituency that you want to appease. But that you aren't nearly as inclined to give it to the nineteen year olds that deserted from the army because they were in love with the Chevrolet they left behind in Detroit. I think amnesty should be given to everyone or not at all.

And the last is that I believe in giving things to those who need them most. Right now the people of Southeast Asia live under a death sentence. The policy that provoked my disobedience still flourishes. It now uses machines instead of marines but it does the same thing. It is now massacreing an entire civilization from thirty thousand feet in the air. If amnesty is given, give it to Southeast Asia first.

And the next day, after Southeast Asia has been spared from death by jellied gasoline and fragmentation bomb, release the rest of us from all the cages we've been put in and let all of us set making the nice words we recite into realities that live and breathe out where people live and not just in the documents we left behind two hundred years ago.

Statement of Mrs. Valerie M. Kushner, February 28, 1972

Senator Kennedy, Members of the Committee, I greatly appreciate the opportunity you have given me today to testify before this body on the question of amnesty. I am not directly or by personal knowledge involved in the problems of those young Americans, who for a variety of reasons, decided not to serve in Vietnam.

For I come to you as the wife of a man who voluntarily enlisted in the Army in 1966, who in 1967 chose to serve in Vietnam, and who has spent the last four years as a prisoner of war. But there is something to be said for the platitude which insists that the best teacher of compassion is personal grief.

The Americans who have been imprisoned by the enemy in Indochina and the draft dodgers and deserters share a certain area in common. Most noticeably, they are all unwilling exiles. There is not one among them who wanted to be presented with the choices which had to be made. In all cases, families have been separated and suffering has occurred. The lives of the men have been abruptly changed, and in many cases, rendered non-productive. I am not here to debate the wisdom of decisions already made, but rather to encourage an attitude of tolerance toward the men who made them. As a country we are all so young and prone to error.

I would ask you to open your hearts to the words of Ecclesiastes "To everything there is a season, and a time to every purpose under the heaven: . . . a time to kill, and a time to heal; a time to break down, and a time to build up;". We have had our time of killing and now we must prepare ourselves for the time of healing. We cannot expect to make whole the body America if we amputate from her flesh so many of her sons.

The last decade has seen a tragic breakdown in many of our societal structures. If we are to begin the task of building up, we cannot deny ourselves the contribution of all who would participate.

The vast majority of the exiles still consider themselves to be Americans. Several years residency in Montreal should not involve loss of citizenship any more than the same period of time spent in the "Hanoi Hilton". The refugees wish, as does my husband, the soonest possible return to the land which nurtured them and the memories of which sustain them in exile.

I've heard it said that no amnesty can be given until the prisoners of war have been repatriated. I agree that neither will come to pass until first this terrible war is ended. But just as the Pentagon has formulated contingency plans for the return of the POW's Congress must give thought to preparing the structure by which amnesty will be granted.

I can only hope that such a plan will not seek punishment or retribution, but has as its guide, compassion. For compassion is the most soothing balm for healing and the strongest bond for building up

Finally, it has been said that the young men who chose exile in other lands have betrayed their heritage and rights as Americans. I can only remind you of a passage by Stephen Vincent Benet. It is a favorite of my husband's and one he marked long ago.

"Remember that when you say,
'I will have none of this exile and this stranger
For his face is not like my face and his speech is strange',
'You have denied America with that word.' "

Gentlemen, the question before you should not be whether or not these young men who departed from the majority have betrayed America. In all humility, we must ask ourselves, "Will America, by refusing amnesty, betray itself."

Group of Clergy Supports Amnesty for Everyone But War Criminals

(By Ronald Taylor)

An interdenominational group of clergymen yesterday called for a sweeping general amnesty that would pardon all but those convicted of violent war crimes from legal jeopardy as a result of their opposition to the Vietnam war.

Draft resisters, deserters, Vietnam veterans with less than honorable discharges and those convicted or facing prosecution for acts of war resistance would be subject to the amnesty.

The action capped a two-day Interreligious Conference on Amnesty held at the Lutheran Church of the Reformation, 222 East Capitol St. The four-page statement was addressed to the "Religious community of America."

The meeting was sponsored by the National Council of Churches of Christ. Among the participants were the Rev. Dr. John C. Bennett, president emeritus of the Union Theological Seminary; Rabbi Abraham Heschel, of the Jewish Theological Seminary, and Bishop John J. Dougherty, bishop of the Roman Catholic Diocese of Newark, N.J.

Conference officials said yesterday's action will be followed by what they called an "educational effort" within the sects of the conference participants. They voiced the hope that efforts would spur a national movement toward amnesty.

"The conference feels that the first step (toward a general amnesty) must be a religious step," remarked Dr. Robert V. Moss, president of the United Church of Christ.

"Church support of amnesty is intimately linked to (commitment) of securing justice to the human family," Bishop Dougherty added.

The conference, in its statement, labeled amnesty a "blessed act of oblivion" and concluded that it would "demonstrate that America is still capable of a communal moral act.

"It would be bitterly ironic if we were to make peace with the peoples of China and Southeast Asia but persisted in vindictiveness toward those of the young generation who refused to share in the brutalities and restruction of the war," it read.

According to Justice Department estimates, there are 4,200 fugitives from draft evasion prosecution, 2,300 of them now living in Canada. In addition, Pentagon estimates put the number of military deserters at 30,000, and 2,300 of them have been identified as exiles in foreign countries.

The group also called on the Nixon administration to end the war and spoke of the need for amnesty at the war's conclusion:

"Proposals for amnesty have come from those who favor and those who oppose the war because both recognize a crisis of conscience caused by this war (which is) unparalleled in this nation's history."

COLUMBIA UNIVERSITY,
New York, N.Y., March 25, 1972.

Hon. BELLA S. ABZUG,
Longworth Office Building,
Washington, D.C.

MY DEAR CONGRESSWOMAN: Yesterday Jim Crawford of your office phoned to tell me you will introduce, next Wednesday, the amnesty bill you sent me for comment a week or so ago. He also extended to me your most gracious invitation to be present at a press conference you will have at 10 a.m. Wednesday to announce the event.

Were it possible for me to be there, I would. To me, your bill exemplifies the highest principles of statesmanship. It undertakes to identify and serve the enlightened self-interest of the whole American people—which, in my opinion, requires the speedy termination not only of the war in Southeast Asia but also of its destructive consequences here in the United States—and it offers a sound institutional mechanism for achieving that end. And the bill is timely, in that it lays bare the basic issues soon enough to stimulate public debate and crystallization of opinion in time for effective expression at the polls in November. It would be an honor to be present at the formal inauguration of such an enterprise.

What makes it impossible is that I have two classes to teach next Wednesday, one of them at 11 a.m. My presence in Washington would require postponement of that class. In my entire teaching career I have missed only one of my classes, so far as I can recall—because I had to argue, in Washington, a case I had undertaken before leaving law practice for teaching in 1963. Even laryngitis and three degrees of fever have not kept me from meeting my classes. I mention this so you will understand the seriousness with such which I accept my primary obligation to the Law School and my students.

Of course I stand ready to assist your amnesty efforts in any way I can, and hope you will call on me if you think I can be of service.

Respectfully yours,

LOUIS LUSKY,
Professor of Law.

[From the Washington Post, Jan. 9, 1972]

Amnesty: What Sort Will Bind Our Wounds?

(By Louis Lusky)

The writer is professor of constitutional law at Columbia University Law School where his seminar is currently drafting an amnesty bill.

Mr. Justice Holmes once remarked that the most important thing is to get on to the next thing. From our earliest days we have done it, after every divisive conflict. From the Shays and Whisky rebellions in the 18th Century, through the Civil War, down to the Korean conflict, the ending of hostilities has always been followed by amnesty in one form or another.

President Nixon, in a Jan. 2 television interview, said—with a later qualification—that "we always, under our system, provide amnesty. You remember Abraham Lincoln in the last year—the last days, as a matter of fact—of the Civil War, just before his death, decided to give amnesty to anyone who had deserted, if he would come back and rejoin his unit and serve out his period of time." He added that he "would be very liberal with regard to amnesty."

Clearly, amnesty for Vietnam war resisters is an idea whose time has come. As the war grinds toward a halt, we must turn to the task of binding wounds, whether we be military veterans or jailed objectors, supporters of Calley or of the Berrigans. What is important now is that Americans sort out their feelings about what form amnesty should take.

Public debate has already started, and the coming months will see it proliferate. The formulation of positions began more than a year ago when the American Civil Liberties Union recommended broad amnesty for draft violators, exiles and military offenders. Last March, Rep. Edward I. Koch (D-N.Y.) introduced a bill to give relief to conscientious objectors to particular wars. Sen. George S. McGovern (D-S.D.) has declared amnesty to be part of his program in seeking his party's presidential nomination. Last month, Sen. Robert Taft Jr. (R-Ohio) proposed a broader bill, and Rep. Koch is said to be ready to introduce the Taft bill in the House, along with another that would further extend the coverage.

THE POLITICAL REALITIES

What action do we want ultimately to emerge? This, of course, does not mean "what we wished had happened." Politics does not concern itself with trying to lure back the moving finger. Many Americans wish that the Southeast Asia war had never happened. But it did, and we must deal with facts as they now are—and as they may be in the future. Objectors by the tens of thousands have broken the law in their opposition to the war. Some have avoided prosecution by self-exile, some are serving sentences, some have completed their sentences but bear the stigma of criminal status—and, as exconvicts, may face the loss or impairment of such rights as eligibility for public employment and admission to the bar.

The primary political reality, for the time being, was noted by President Nixon: So long as Americans are fighting in Southeast Asia, and probably so long as American prisoners of war are held there, amnesty is virtually impossible. The exception might be clemency for those convicted because their cases were decided before later decisions narrowed the reach of the law. For example, draft refusers punished for conscientious but nonreligious refusal before the Supreme Court ruled in 1970 that such objection should be recognized might win amnesty now. But this is a relatively small group, and they may well be able to wipe out their criminal status through habeas corpus or some other post-conviction remedy even before amnesty is forthcoming.

Granted, however, that amnesty will not materialize until the war is virtually ended, it does not follow that significant congressional action at present is impossible or even premature. Within the foregoing restrictions, there is a considerable range of possibilities for useful legislation, and the range will widen as the end of the war is approached and accomplished.

How soon the widening will come, or how far it extends, will depend largely on the way the war ends. Should it cease at a defined moment—whether by presidential or congressional action—amnesty is likely to be broader and quicker. Should the war trail off as gradually as it began, with nobody really sure whether there is still a war, amnesty will be meager and slow.

THE ULTIMATE JUDGMENT

Still more fundamentally, the extent of amnesty will depend on the ultimate judgment of Americans on the war itself. Public opinion today still favors the ending of the war. But it is not so clear how many would go farther and say that the whole war has been wrong, and how many would say only that, right or wrong, it has been a frightful and divisive experience that we should thrust into history as soon as possible.

If it turns out that most Americans believe the war to have been basically wrong, amnesty promises to be broad. The central judgment then is likely to be that every American should be relieved of all legal disadvantage he would not have suffered if the war had never begun. That implies not only remission of criminal penalties, but erasure of criminal status for every offender whose crime would not have been committed but for the war.

There might however, be some qualifications. It would not be illogical—though it would be administratively difficult—to limit clemency to those whose offenses were motivated wholly or partly by conscientious opposition to the war. (To be sure, such a limitation would discriminate against the inarticulate ghetto dweller who, without seeking any particular religious or philosophical justification, simply repudiated the obligation to fight in a white man's war.)

Neither would it be illogical—though, again, it would be administratively difficult—to deny full clemency to those whose offenses have been "violent"—this is not an easy term to define: Does it include sit-ins? Scrambling draft board records?—and who, such acts as arson and assault, became menaces to their neighbors. Even with these limitations, however, most acts of criminal opposition to the war would be pardoned.

If, on the other hand, it turns out that most Americans can agree only that the war should be put behind us, amnesty will be narrower. There may be liberation of prisoners, but no erasure of the stigma of conviction or restoration of political and civil rights. There may be amnesty for federal offenders (most of whom are draft refusers) but not for state law violators (most of whom have been convicted for some violence or near-violence, though the great majority have done no more than engage in illegal demonstrations).

CONGRESSIONAL ACTION

But even if the exact shape and timing of the ultimate amnesty is not now knowable, it is not too soon for congressional action. Though clemency for federal offenses is an executive function (Article II, Section 2 of the Constitution gives pardoning power to the President), the moral support of Congress may be important. Because of the divisiveness of this long war, the act of clemency will require political courage (particularly if it is relatively quick and relatively broad.) The least Congress can and should do is to affirm by concurrent resolution its support for such amnesty as the President may see fit to grant.

But Congress can and should go further. In 1896, the Supreme Court declared that Congress, too, has amnesty power. On this basis, Congress could assume more of the political responsibility by enacting its own amnesty grant, effective upon the cessation of hostilities and the release of war prisoners. Any constitutional doubt could be avoided by providing that the statute be ineffective unless the President, by signing the bill or by a later public proclamation, had manifested his approval.

In addition, there are some acts of clemency that the President cannot perform without congressional authorization. He probably lacks power to restore citizenship that has been renounced as a protest against the war; Congress, possessing the power to naturalize, could restore it. Nor can the President grant amnesty to offenders against state law, such as illegal demonstrators.

AMNESTY BY THE STATES

There may be some doubt whether state offenses can constitutionally be pardoned even by joint action of Congress and the President. Possibly a constitutional amendment would be necessary. An amnesty amendment would not be unprecedented; Section 3 of the Fourteenth Amendment, adopted in 1868, authorized Congress to lift the political disabilities that the section legitimated for ex-rebels. But in my opinion a new amendment is not needed because another provision of the Fourteenth gives Congress the power to pardon state law offenses in the present circumstances.

Section 1, after providing that all persons born or naturalized in the United States and subject to its jurisdiction are its citizens, goes on to provide: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." The clause has been little used, largely because of a restrictive—and, I believe, erroneous—interpretation by the Supreme Court in 1873 in the Slaughterhouse Cases. But the original purpose of the clause is precisely applicable here. The purpose was to enable Congress, by defining the privileges and immunities of federal citizenship, to afford protection against hostile state action. The newly freed slaves were, of course, the main subjects of concern, but the clause is not limited to them.

If Congress believes that our national interest requires the early restoration of domestic harmony and that such harmony will be promoted by amnesty for antiwar demonstrators and others, then Congress has the power to grant them amnesty. What it takes is a declaration by statute that it is a "privilege and immunity" of United States citizens to gain annulment of convictions and other legal disadvantages suffered by reason of specified acts of opposition to the war. If Congress so provided, the amnesty could be conditioned upon presidential activation, and it could be made subject to such conditions (for example, an oath of allegiance) as Congress might stipulate or empower the President to impose.

Even in advance of federal action, state governors could grant amnesty for state offenses. A federal signal in any form, however, would provide much-needed political support and encouragement and lead the nation toward clearing the social debris of the war and turning tragedies into bygones.

[From the National Observer, Mar. 11, 1972]

AMNESTY FOR WHOM AND HOW MUCH?

(By Louis Lusky)

"Why should we forgive these traitors and cowards, pardon their crimes, welcome them back from Canada and Sweden?"

The question is asked whenever amnesty for war resisters is debated. There are myriad variations on this same theme; sometimes the bluntness is softened, sometimes the rightness or wrongness of the war is acknowledged to be relevant, sometimes distinctions are recognized between those who have fled and those who have submitted to punishment. But the core of the question is constant. It always starts with "Why" and it always is premised on the following assumptions:

(1) That those who have broken the law to show their opposition to the war in Southeast Asia are "traitors" (meaning "disloyal" rather than actually guilty of treason as defined by Article III, Section 3 of the U.S. Constitution).

(2) That those who have broken or evaded the law in order to avoid service in the war are also cowards.

(3) That the society can well do without these people if they choose to leave or stay away, and can well relegate them to the status of fugitives, convicts, or ex-convicts if they elect to return or remain.

(4) That the only real problem is how to be fair to these law violators (and their families)—the remaining 200,000,000 or so of us having nothing to worry about except the general ethical responsibility to let the punishment fit the crime.

(5) That the "we" (Why should *we* forgive) does not include the law violators, but includes only the great law-abiding majority who have made laws and have at least acquiesced in the war.

Believing that each of these assumptions is fallacious, I shall try to show that the dominant concern for amnesty is a concern for the welfare of society as a whole and that preposssession with the problem of fairness to the violators involves a sad distraction from the main point. Secondarily, I shall mention a few undisputed facts that, in my opinion, cast serious doubt on the accuracy of the first three of the five listed assumptions—facts that suggest that amnesty may be called for even if we disregard the needs of the larger society and seek nothing but fairness to the law violators. In addition, I shall very briefly describe the legal tools that are available to do whatever the American people ultimately say they want done—as they may say at the polls this November.

First, let us examine the root question, the starting point for appraisal of any proposal for public action: Whose ox is being gored? The fourth and fifth of our five propositions both say, in different ways, that fairness to the lawbreakers is our only concern. I submit that, though by no means unimportant, it should not be even our primary concern. I say that our primary concern is to thrust this long and divisive war into history as completely and rapidly as we can, to let time get on with its healing, to cleanse our society of a continuing legal fallout whose half life is measurable in decades, and—without denying ourselves the honor of mourning the dead, supporting the crippled, and comforting the bereaved—to turn our minds and hearts to the future.

LESSONS CAN BE LEARNED

Dirty and frightful as the war experience has been, lessons can be learned from it that may help us deal with future challenges in a manner more humane, more effective, and less expensive: The war has demonstrated that a society such as ours, in which the people have the ultimate power of decision (however long the exercise of that power may be delayed), will tear itself apart if led into a war whose necessity cannot be made clear to all or nearly all of the people. The war has also done much to liberate us from the fiction, so carefully nurtured by Sen. Joseph McCarthy and his latter-day disciples, that communism is a unitary, monolithic phenomenon comparable to a killing disease—leprosy, say, or tuberculosis—which we are honor bound to fight wherever we find it, and which we can effectively handle with the same sovereign remedies wherever and whenever it shows itself. The war has done a great deal to dispel the dogma that our nation (militarily encumbered, as it is, by its dependence on consent and its humanitarian ideals) can lick anyone we elect to fight, and the still more dangerous dogma that a "white" nation can lick a "non-white" nation in any fair and equal combat. The war has also reminded us, as we have not been reminded since the Great Depression, that our liberties are fragile—lovely flowers that flourish and blossom only in the sunlight of common consent—and that our society can remain open only if the policies of our Government command the support, or at least the acquiescence of nearly everybody (not just a 51 per cent majority).

All these lessons, and others too, will serve us well when we grapple with the problems of today and tomorrow, if only we can allow ourselves to learn. But our ability to understand and profit from the dearly bought experience is, and will remain, gravely impaired so long as the legal debris of the Southeast Asia war remains to distract us, so long as our eyes are blinded by the ashes of dead issues.

What is this legal debris? Let us suppose that tomorrow morning the fighting ends and all war prisoners are sent home. (For years we have been told that the war's end is imminent; and it is a good bet that it will in fact end, or practically end, no later than a few weeks before the November election.) What, then, will our situation be? At that time we shall have terminated the war in its international aspect only. On the domestic side, these quite substantial vestiges will remain—and, barring amnesty, will remain for years and decades to come:

(1) Tens of thousands of objectors to the war have broken the criminal law and, if not already prosecuted, are subject to prosecution. Numerically, the largest groups are draft refusers (or evaders) and participants in illegal demonstrations. The great majority have engaged in no act that has involved or threatened injury to any person, or substantial damage to (or theft of) any property; but some few have committed assault, arson, burglary, and perhaps worse.

(2) Some of these people have exiled themselves in Canada, Sweden, and other foreign countries. Others, who have not fled, either (a) have been convicted and have completed their sentences, or (b) are presently being prosecuted, or (c) are subject to prosecution.

(3) This last group—those who are subject to prosecution but have not yet been arrested or indicted—is by far the largest. The war's end may lead most prosecutors to ignore them in favor of more dangerous offenders. Even so, however, each of them (and probably his spouse and close associates) will know that prosecution may ensue—at any time before the applicable statute of limitations has run (and some of them run a long time)—if anything is said, published, or done that awakes the prosecutor's unfavorable attention. The violator will in effect be a probationer, and as such he will have reason to keep his mouth shut on controversial issues. His one venture in political expression—opposition to the war by illegal means—may prove to be his last.

(4) Almost without exception, these violators believe—perhaps rightly, perhaps not—that they have served rather than harmed the United States by revealing, through their law-breaking or self-exile, the depth of their own conviction that the war has been wrong, helping to speed the general realization (which all agree has now come) that the war must be ended. Millions of others share that belief, and will continue to proclaim the injustice of continued punishment, prosecution, or de facto probation. To that extent—and it is a large extent—the divisive effect of the war will be prolonged.

(5) The rankle will not die away as soon as prosecutions are ended and sentences served. The stigma of criminal status—the status of the ex-convict—will still rest on those who have suffered it. The status carries with it various political and civil disabilities heavier in some states than in others: disability to vote, to hold public office, to obtain public employment; ineligibility for admission to the professions such as law, medicine, and teaching, or for admission to other licensed callings such as taxi driving and liquor retailing; and so on.

(6) The law violators are numerous enough, and are sufficiently dispersed geographically, to spread these effects throughout the land. The problem is thus a national one, and—arising as it does from a national war, involving as it does our national political health—it can only be dealt with effectively and uniformly through Federal action.

These are the conditions that will face us when the war is over. But should we postpone until then our consideration of the problem? I do recognize the accuracy of President Nixon's prediction that amnesty—though it will surely come, as he says, just as it has come (in one form or another and not always under the name of amnesty) after every divisive rebellion or foreign war—will be delayed until our prisoners are back home and American servicemen (except perhaps for volunteers) no longer fight in Southeast Asia. It does not follow, however, that we ought to wait until then to lay the political groundwork. It is not too soon to initiate public debate on the scope and timing of the amnesty—the amnesty that history and the President say is inevitable, and which the President, on Jan. 2, declared he would be "very liberal" in granting when the time comes. There are enough months left before the November election for public opinion to crystallize, for candidates to be queried on their amnesty views, and thus for the people's will to be expressed at the polls.

Nor is it too soon to lay the legal groundwork. It is true as President Nixon has reminded us, that clemency for Federal offenses is an executive function. Article II, Section 2 of the Constitution gives pardoning power to the President. But Congress also has a part to play.

At a minimum, Congress can and should shoulder part of the political responsibility—for amnesty, particularly if relatively quick and broad, will require political courage of a high order; this long war has been divisive—by a concurrent resolution affirming congressional approval and support of whatever amnesty it thinks the public interest demands. That is the least that Congress can do, or at any rate it is the least that I think Congress *should* do.

There is explicit, though not indisputable, authority that says Congress itself has the power to grant amnesty. The Supreme Court has so declared on more than one occasion, though always in cases that involved other issues and did not squarely present the question of congressional amnesty power. An amnesty statute would constitute an assumption of full political responsibility by Congress. It would also constitute the most authoritative expression of the will of the American people, a consideration the importance of which will be explained in a moment.

To avoid any lingering Constitutional doubt (and to avoid the wrangling of Constitutional experts that delayed enactment of the 1964 Civil Rights Act), the effectiveness of the statute might be made conditional upon affirmative Presidential action. That is to say, the bill might stipulate that it would become law only if the President signed it, or approved it by later public proclamation—not if he simply failed to sign it (which ordinarily allows a bill to become law) or vetoed it (unless it were then enacted over his veto and he or his successor later approved it by proclamation). Politically, such a limitation is of small importance in view of the unlikelihood that the bill would pass at all without support from the White House.

It may be said that such a concurrent resolution or statute would be premature at the present time because the war is still being fought. Perhaps this is so, although the objection might be at least partially obviated by a provision delaying the effective date until the President proclaimed that hostilities had ended or been reduced to such a level as to justify the effectuation of amnesty.

But let us assume that specific amnesty action is deemed to be premature for the time being. There is still grist for the congressional mill. It is certainly not too soon to provide the President with all the authority he needs for full and effective amnesty, even though he may not exercise it for a while. Congress has followed this course before. For example, the President was vested with authority to fix prices, wages, and rents long before he saw fit to exercise it. When the time did come, he was in a position to act without delay for congressional action.

PRESIDENTIAL POWER LIMITED

True it is that the President already has plenary power to grant clemency to Federal offenders, both military and civilian. True it is that such clemency can take the form of full pardon (with erasure of guilt—as is done in cases of mistaken identity), or remission or reduction of punishment. True it is that reasonable conditions—perhaps an oath of allegiance, as after the Civil War; perhaps alternative public service, as proposed by Senator Taft and others—can be attached. There are, however, certain things that the President probably lacks power to do without congressional authorization. He probably lacks power to restore the citizenship of those who have relinquished it in protest against the war; it is Congress that possesses the naturalization power. And he surely lacks power to grant clemency to the many violators of state law, a category that includes most of the illegal demonstrators.

As a matter of fact, some Constitutional lawyers may well say that this latter group cannot be granted clemency even by Congress and the President acting in concert. They may say that the power resides only in the respective state governors. My own opinion is otherwise. I believe that Congress has an untried but available Constitutional resource in the "privileges or immunities clause" of the Fourteenth Amendment. As I have written before:

"Section 1, after providing that all persons born or naturalized in the United States and subject to its jurisdiction are its citizens, goes on to provide: 'No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.' The clause has been little used, largely because of a restrictive—and, I believe, erroneous—interpretation by the Supreme Court in 1873 in the Slaughterhouse Cases. But the original purpose of the clause is precisely applicable here. The purpose was to enable Congress, by defining the privileges and immunities of Federal citizenship, to afford protection against hostile state action. The newly freed slaves were, of course, the main subjects of concern, but the clause is not limited to them.

"If Congress believes that our national interest requires the early restoration of domestic harmony and that such harmony will be promoted by amnesty for antiwar demonstrators and others, then Congress has the power to grant them amnesty. What it takes is a declaration by statute that it is a "privilege and immunity' of United States citizens to gain annulment of convictions and other legal disadvantages suffered by reason of specified acts of opposition to the war. If Congress so provided, the amnesty could be conditioned upon Presidential activation, and it could be made subject to such conditions (for example, an oath of allegiance) as Congress might impose or empower the President to impose."

A JUDGMENT ON THE WAR

It remains to consider how broad the emnesty should be. That depends ultimately upon whether our concern extends to the condition of our whole society, or whether we interest ourselves only in fairness to the violators; and that question is intimately linked with the judgment that the American people make upon the rightness or wrongness of the war itself. If the war is found to have been the basic mistake from which all else flowed, those who opposed it sooner and more vigorously than the rest of us are to be regarded as having performed a service through their illegal acts. They may well have sped the general realization of the war's true character; at any rate, that was their purpose and their hope. This realization has gradually come into focus as we have read the Pentagon Papers, as we have learned the shabby factual basis of the recently repealed 1964 Gulf of Tonkin Resolution (which, in the absence of a formal congressional declaration, is generally taken to mark the beginning of the war). If the violators have served the United States by their submission to punishment or self-exile—acts which, it may be said, have connoted courage much more often than cowardice—amnesty should be broad, quick, and unconditional.

A strong case can be made for the proposition that Americans did pass adverse judgment on the war no less than four years ago. In my opinion the 1968 Presidential election, in which both major candidates won nomination on an end-the-war program—and in which President Lyndon B. Johnson (who indeed had won the 1964 election on a no-war platform) declined to run for the stated reason that he feared his candidacy would hamper his peace-making efforts—was a clear condemnation of the war. If it was, most Americans have said that the war has been a bad one at least since 1968, if not since its beginning.

This November the people will have another opportunity to express themselves, if the issue is adequately framed in the Presidential and congressional races. Should the people reaffirm what I think they said in 1968, it logically follows that every American should be relieved of every legal disadvantage he would not have suffered if the war had never begun (or, at the least, any such disadvantage that he incurred after the 1968 election). That implies not only remission of criminal penalties but erasure of criminal status for every offender whose crime would not have been committed but for the war.

It is desirable that amnesty be granted openly and officially if premised on the wrongness of the war—not bit by bit in the form of quiet military discharges given to deserters, or case-by-case leniency accorded by clemency commissions or parole boards. The candid admission of error is beneficial not only to the individual soul, as the churchmen tell us, but also to the body politic. The French profited from their painful recognition of the wrong done to Captain Dreyfus. The Germans profited from their even more painful recognition of the wickedness of Hitler and his Nazis. We Americans, if we truly believe that the war in Southeast Asia has been a bad mistake, would benefit—both in self-esteem and in our relations with the rest of the world—by making express and official acknowledgement of the error, and doing it sooner rather than later.

Full amnesty might not, however, be thought appropriate in all cases. It would not be illogical, though administratively difficult, to limit clemency to those whose offenses were motivated wholly or partly by conscientious opposition to the war. (To be sure, such a limitation would discriminate in favor of the articulate young men who are capable of explaining their feelings in religio-philosophical lingo; and relatively few of them come from Appalachia or Harlem.) Neither would it be illogical (though, again, administratively difficult) to deny full clemency to those whose offenses have been "violent"—not an easy term to define; does it include sit-ins? the scrambling of draft board records?—and who, by such acts as arson and assault, have revealed themselves as limitations, however, most acts of criminal opposition to the war would be pardoned.

If, on the other hand, it turns out that most Americans can agree only that the war should be put behind us, amnesty will be narrower. There may be liberation of prisoners, but no erasure of the stigma of conviction or restoration of political and civil rights. There may be amnesty for Federal offenders (most of whom are draft refusers) but not for state law violators (most of whom have been prosecuted for some form of violence or near-violence, though the great majority have done no more than block the transport of draftees or engage in other illegal demonstrations).

DANGERS IN UNJUST ACTION

In appraising the desirability of limitations upon amnesty, however, one somber fact must not be ignored. Attica stands as a reminder of the difficulty and human waste involved in punishment of people who believe themselves to have been unjustly convicted, and the primitive crudity of the methods our penologists have thus far devised for dealing with them.

And in deciding whether clemency is due to such offenders as the Berrigans, we should ask ourselves this question: Had John Brown's body *not* lain a-mouldering in the grave when the Civil War ended—if, instead, he had been serving a prison term—would he have been accorded less generosity than Jefferson Davis and Robert E. Lee?

Only a crystal ball could tell us how the amnesty problem will eventually be resolved. Much may depend on *how* the war ends. Should it cease at a defined moment—perhaps with the aid of the United Nations, whose competence in this regard has suddenly increased with the admission of mainland China; perhaps as a result of President Nixon's trip to Peking; perhaps as a result of a congressional act of punctuation—amnesty is likely to be quicker. Should the war trail off as gradually as it began, amnesty may be slow in coming.

But come it will. And it is now time for every American to examine his own thoughts and opinions; to make them known to all who will listen; to call upon candidates for statements of position; and to carry his convictions with him into the voting booth on Nov. 7.

Louis Lusky, who argues here his case for amnesty, is professor of Constitutional law at Columbia University Law School. He has drafted a proposed bill for Congress, drawing on the work of his Legislative Drafting Seminar, that would put his beliefs into the congressional forum. A graduate of Columbia Law School, Prof. Lusky was once law clerk to Supreme Court Justice Harlan F. Stone. He practiced law in Louisville, Ky., for years before joining the Columbia faculty in 1963, and is a former board member of the American Civil Liberties Union.

RECONCILIATION, NOT RETRIBUTION UNIVERSAL AMNESTY

(By James Reston, Jr.)

Amnesty for Vietnam resisters has suddenly become a live issue. The reasons for that are evident: Nixon says we're in a defensive posture in Vietnam, where our effort can be supported by volunteers; voters are looking to a postwar presidency; the draft calls in the fall and winter have been minimal; and amnesty supporters have been hammering on the point that this is the only logical course to take after an immoral war. There has been national publicity: Mike Wallace badgering families and friends and fellow townspeople of refugees in Canada; *Time* calling for conditional amnesty; *Newsweek* doing a cover story and taking a poll indicating that 63 percent of the American people favor a conditional or general amnesty.

President Nixon, who in November clipped a startling flat "No" to a question of whether he would consider amnesty, vacillated in his recent TV interview with Dan Rather, saying he intended to be liberal with amnesty once the war is over. Senator Muskie is talking vaguely about a "national objective of repatriating these young people under some conditions which we will have to work out," but bases his timing not even on the end of the war, but on the end of the draft. Even Senator McGovern, who was first of the presidential contenders to advocate amnesty, has failed to say specifically whether he favors a universal or a general amnesty law, and if his idea is for general amnesty what conditions he favors. And the astonished refugee community in Canada is complaining that it has been made into a political football.

However, no one has done more to advance amnesty than the most unlikely advocate of all, Senator Robert Taft of Ohio. His Amnesty Act of 1972 will be the focus of the upcoming debate in Congress. At first glance, it would seem splendid that a conservative should be taking the lead, and no doubt Taft's move has created an instant constituency for general amnesty. Unfortunately, his bill avoids the central moral question, what is right and appropriate for the sponsor of an immoral war to do with those in flight from it?

What does Taft's bill say?

The price of repatriation for the evader is to be a three-year service (a) in the Armed Forces—that is to say, a denial of the purpose of exile—or (b) in Vista, VA or Public Health Service hospitals, or other unspecified federal service—a slur against Vista, as if the volunteers were the keepers of the poor, like the hospitals are the keepers of the sick. The alternative federal service is to be performed at the minimum pay grade and without eligibility for normal federal employee benefits. For the resister in jail, a plum is offered: he would be credited with up to two years of prison time to apply to his three-year service obligation. And for the deserter, as if conscientious flight once a person sees the horrors of our military and Vietnam policies from the inside is a higher crime, no provision is made. Taft feels normal military justice should take care of the deserters. Congressman Edward Koch of New York who is the longest-standing advocate of "options" for the exiles has offered a bill similar to Sen. Taft's, with the essential difference of a two-year instead of three-year alternative service. Congressman Koch dispenses with Taft's patronizing rhetoric about the "misguided victims of bad advice and poor judgment" but insists on the term "penalties."

The philosophy of retribution that underlies the Taft and Koch bills is based on two assumptions. First, universal amnesty (no penalty or condition for repatriation) would be unfair or disrespectful to the 55,000 American dead in Vietnam and three million who served there. Second, universal amnesty would wreck the draft and the government would not be able to raise an army through conscription in future wars.

The first of these is the most galling, for it pits victims against victims. It is the Vietnam policy that has made casualties and mercernaries and POWs and jailbirds and legal evaders and exiles of an entire generation of young Americans. They are *all* casualties. But now, one victim, the Vietnam dead or the Vietnam returnee, is used against another, the refugee. Not that we should be surprised. Young soldiers were used against young protesters around public buildings in the mass protests of the late sixties and at Kent State. The POWs are used to justify a residual force of soldiers, which in turn insures the continuing captivity of the POWs. Is it any wonder that the whole idea of national service out of patriotism has been destroyed for a generation?

No one is asking the mass of Vietnam veterans if they want their sacrifices used in this manner. The point is somehow missed that young veterans groups are the most active antiwar element on campuses today, now that the threat of the draft has diminished. More relevant, it has been barely reported that veterans groups have been in the front of the budding amnesty movement. On Christmas eve, the 103rd anniversary of Andrew Johnson's Universal Amnesty Proclamation of 1868, young veterans from New York, Pennsylvania and North Carolina presented petitions for universal amnesty to the White House with nearly 35,000 signatures. Another veteran-sponsored petition for repatriation is circulating in Florida. These are the only popularly based amnesty petitions in circulation.

What motivates the antiwar zeal of these veterans? Their inside knowledge of what our policies have meant to the people of Asia has led to rage over the efforts of the government and the press to sanitize the war news for the American people. They know that while they made a sacrifice of time and even lives, others of their generation made the moral point.

The second argument for repatriation penalties for exiles—that without penalties armies would be difficult to raise in the future—is debateable. It depends on how fresh the memory of Vietnam is. I, for one, hope that the memory of it never fades. For if Lyndon Johnson had thought it doubtful that he could have raised an army for the purpose he used it, his ambitions might have been checked. That he resorted to duplicity as evidenced by the Pentagon Papers, and thereby duped thousands of young Americans to join his army under false pretenses, goes to the special bitterness of the veteran today. The memory of Vietnam might say to another generation that it is a duty of citizenship to decide conscientiously *beforehand* if the way it is asked to fight is just and consistent with basic American principles, and if it is not, to refuse to participate. The organization of the late thirties called "Veterans of Future Wars" might well be reactivated.

The Taft and Koch proposals are for domestic consumption, addressed to the Americans who feel some responsibility for the refugees, but who cannot face up to the bigger responsibility, in the Nuremberg sense, of what we have wrought abroad and at home by this war. The congressional proposals offer amnesty without accepting guilt. If none of the refugees returns to face Taft's harsh music, they can say, "We offered it to the bums, but they wouldn't take it. Tough luck."

If the guilt in Vietnam were conditional, then conditional amnesty, like Truman's after World War II, might be appropriate. But the national guilt is total in Vietnam, and if this country wishes to balance that record with positive acts, it must wipe the slate clean.

Universal amnesty is the only alternative consistent with true reconciliation. But it is also the only option that is likely to get the refugees back in force. They have made it very clear that they will accept no imputation of criminal guilt, and they shouldn't.

Herein lies a curious, but persistent misconception both at home and in Canada: That amnesty implies "forgiveness." In fact, it means "forgetfulness" coming from the Greek "amnestia." The distinction is vital to the refugee, for forgetfulness means the possibility of prosecution is forgotten, an exercise in legal bookkeeping. This concept is affirmed in the case of *US vs. Burdick* (236 US 79) 1915. Burdick was the city editor for *The New York Tribune*. He was brought before a grand jury and asked to answer questions regarding investigations of his paper concerning city frauds. He refused to answer on the grounds of incrimination, whereupon President Wilson granted him a pardon from criminal prosecution. Burdick refused the pardon, stating still that answers might incriminate him. He was thereupon charged with contempt. The issue was whether the acceptance of the presidential pardon implied criminal guilt. In overruling the lower court and setting Burdick free, the Supreme Court stated: "If it be objected that the sensitiveness of Burdick was extreme because his refusal to answer was itself an implication of crime, we answer, not necessarily in fact, not at all in the theory of law. It supposed only a possibility of a charge of crime, and interposed protection against the charge, and reaching beyond it, against furnishing what might be urged or used as evidence to support it."

Thus, amnesty means clearing the books of charges made or anticipated for war resistance, placing the burden on the bookkeeper, not on the accused. As I wrote in these pages last October, the books on war resistance, incarnating the elaborate system of spying on antiwar individuals, should be thrown away altogether anyway, because their existence is a violation of freedom of speech and their effect on intellectual inquiry has been devastating. It is no good to wipe the books clean for dissent in one era, only to begin to fill them again with dissenters from the next.

Taft's proposal or any general amnesty variation, of which there are bound to be many in the upcoming debate, does not meet the moral requirement of this country, nor will it induce the refugees to return. The American public has shown its capacity to evade responsibility in the Mylai case. If it insists on the Taft proposal, and if that becomes law, we will follow the course of the Reconstruction amnesties after the Civil War, finding out as Andrew Johnson did that his three general amnesty proclamations were unworkable and inappropriate to the overriding need: to bind the wounds of the country. He found that only universal amnesty would meet that need, but it took him three years.

[From the Washington Post, Feb. 21, 1972]

MANY U.S. EXILES PREFER CANADA

(By Anthony Astrachan)

TORONTO.—Most of the Americans who fled to Canada to avoid serving in the Vietnam war reject the idea of conditional amnesty, according to recognized spokesmen and individual exiles interviewed here.

The exiles also challenge the view of them that they believe the American establishment holds—of lonely, tearful waifs dreaming of the day they can once again set foot on American soil.

They are in no hurry to return home, the exiles insist—not only because the current amnesty proposals are unacceptable, but also because many of them reject the whole U.S. system, not just the Vietnam war.

Many of this group prefer Canada as a society with fewer urban and racial tensions than the United States.

"We have discovered a country where there is more sanity than in the United States," said Richard Burroughs, originally of El Paso, Texas, and now a counselor at the Toronto Anti-Draft Program.

RETURN TO VISIT

Burroughs said he assumed that 90 per cent of the exiles would like to go back to the United States to visit, but only to visit.

Mickey Bickell, 26, of Clearwater, Fla., cautioned that despite the talk of staying here at least half of the exiles would go back if they had the chance.

But the only chance they would recognize, most exiles interviewed agreed, would be an unconditional amnesty covering draft dodgers and deserters alike.

The amnesty proposals made by Sen. Robert A. Taft Jr. (R-Ohio) and Rep. Edward I. Koch (D-N.Y.) cover only draft dodgers. They would impose the condition of some "alternative service" to make up for the military commitments that the exiles skipped. In the exiles' eyes, this is punishment instead of recognition of their early awareness of the wrongness of the war an awareness they believe much of America has come to share.

OPEN LETTERS

"We have done nothing wrong," Bickell and other exiles insisted. They echoed open letters written by exile Jack Colhoun to Koch and Sen. George McGovern (D-S.D.), published here in an exile magazine and reprinted by The Toronto Star.

"To us, the 'crime' of not participating in such a war pales beside that which our government asked us to commit in the name of democratic citizenship," Colhoun wrote. "After the Calley trial and the Pentagon Papers, it should be clear to all that we have been honorably vindicated."

Many exiles see the distinction between draft dodgers and deserters as an attempt at class warfare or a middle-class cop-out, rather than a legalism.

Most draft dodgers are middle-class, well educated, articulate about their opposition to the war, and often backed emotionally and financially by their parents. Deserters tend to be younger, poorer, less well educated, more often rootless—and to have reasoned less about their feeling up to the moment when they finally acted.

Burroughs' wife, Naomi Wall, who grew up in the Riggs Park area of Washington in the 1950s and has been working in the antiwar movement here since 1966, saw important differences in deserter motivations that might affect their responses to amnesty.

MIDDLE AMERICANS

Some, she said, are typical Middle Americans who went into service willingly and then rejected the war and the American system. Others went into service knowing that they opposed the war but trying to fulfill their obligations without being touched. When the war finally got to them, they deserted. Still others were virtually forced to enlist by being given a choice between military service and a jail sentence when convicted of minor felonies.

Men in all categories may desert because they suddenly see a wrong in the army, or because they can't handle the discipline, rather than because of specific opposition to the Vietnam war.

Dodgers and deserters sometimes feud. Burroughs said the exile experience does not bridge the class gap for most.

The amnesty movement in the United States puts the total of draft dodgers and deserters at 70,000 to 100,000, with the number in exile in Canada ranging from 40,000 to 70,000. In December, the Pentagon listed 35,259 deserters still at large. Exiles here say the two categories number 70,000 to 100,000 in Canada alone, with as many more underground in the States and 2,000 or 3,000 scattered in other countries. There are about 30,000 such exiles in Toronto.

The number entering Canada was about 80 a week in January, according to exile sources—80 per cent of them deserters. In the early years of war resistance, draft dodgers predominated.

Counseling groups like the Toronto Anti-Draft Program in many Canadian cities have been trying to discourage dodgers and deserters from coming here because Canada's high unemployment (7.7 per cent in January) makes jobs hard to find.

JOBS NEEDED

Even Canadians who welcome antiwar exiles as a matter of principle naturally prefer to give jobs to Canadians, Burroughs said. Businessmen who went out of their way to help exiles before unemployment started climbing two years ago now can't hire any. A Harris Poll recently showed that only 15 per cent of Canadians favored the continuing arrival of draft dodgers and deserters, compared to 60 per cent four years ago.

Dale Ackerman, 25, of Pontiac, Mich., insisted nonetheless that every exile he knew either had a job or preferred not to work. Ackerman was one of several who said exiles do not live or function as a group, even though most read Amex-Canada, a magazine that claims to speak to and for them as a group.

Ackerman, who came to Canada in 1968, and took a master's degree in social work at Ontario's Waterloo Lutheran University, is now a social worker at St. Michael's Hospital here. He estimated that 70 per cent of his friends in Canada were not American.

Ackerman was one of several exiles who emphasized the warmth of the Canadian welcome. He said a small percentage of the Canadians he met either could not understand why he would have left the United States because they think it's "such a great place," didn't like exiles because growing Canadian nationalism resents American cultural influence and economic dominance. Most Canadians just said "Welcome aboard."

Many exiles appreciate Canada for more than its comparative peacefulness.

"The possibilities for alternatives are much greater here," Naomi Wall stressed. Day-care centers are flourishing with government help, and Toronto last year gave $54,000 for a free school experiment.

MEDICAL CARE

Bickell mentioned Canadian Medicare, which provided his 16-month-old son with four weeks of hospital care, including treatment by three specialists, for a total cost of $30.

These attractions are among the things that make many exiles want to stay in Canada regardless of the final amnesty terms. Montreal exiles are more ambivalent, because they find it hard to function in French, and Quebec nationalism gives the city more tensions than English-speaking Canada. But many blacks prefer Quebec. One called it the place with the least racial prejudice of all he had ever seen.

Negative Canadian reactions range from intellectual nationalists who regard the exiles as patronizing or as antinationalist to the Canadian Legion, the country's equivalent in origin and in outlook of the American Legion.

Sometimes even sympathizers like The Toronto Star get fed up. Two years ago, it attributed five priorities to Amex-Canada: "1. Aid the revolution in the United States. 2. Aid the draft dodgers and deserters coming to Canada. 3. Screw capitalism. 4. Screw democracy. 5. Try and fit into Canadian life.

"Unless the exiles put 5 first, they risk arousing growing hostility and suspicion among ordinary Canadians," The Star editorialized. "That could end in disaster not only to themselves but to a much larger number of American immigrants who only want to make their homes in Canada and fit into Canadian life."

LAW-ABIDING

Just as common, however, is a comment like that of a Toronto newspaper reporter specializing in the drug scene and the youth subculture. He said the exiles are the most law-abiding people in Canada because of their fear of being deported to the United States.

"They don't even hitch-hike on forbidden freeways the way Canadian kids do," he noted. He added that some of the exiles do use drugs (though there is comparatively little heroin traffic here), but the percentage of users who sell drugs is much smaller than among Canadian users.

The Royal Canadian Mounted Police sometimes seems to "hassle" exiles, either on its own or in cooperation with the FBI. A deserter who asked not to be identified said that he was kidnapped on a Toronto street in December, 1969, by plainclothesmen who refused to identify themselves, and driven back across the border into upper New York State. He asked to use the toilet in a drive-in, and escaped by hitting the man who accompanied him with his heavy winter boot—"the army taught me where to hit him," the deserter said with a grin.

He persuaded two Americans about to leave the drive-in to take him back to the border, where a Canadian family drove him across as one of its members. The deserter assumed his abductors were FBI, possibly motivated by the fact that he had a top-secret clearance when he deserted. If such a case were documented in the Canadian press, as two similar ones have been, it would probably provoke an outburst of pro-exile nationalist feeling.

SYMPATHETIC AUTHORITIES

Sometimes the authorities are more sympathetic. Robert Alar, 20, a Marine Corps deserter, was ordered deported for entering Canada illegally. He was allowed to leave "voluntarily" Feb. 16 instead of being turned over to U.S. authorities. He flew to Syracuse and later told Canadian newsmen by phone that he had passed U.S. Immigration undetected and gone underground.

[From the N.Y. Times, Jan. 23, 1972]

AMNESTY OR PUNISHMENT?

TO THE EDITOR:

Senator Taft's bill of amnesty for young Americans imprisoned by the Nixon and Johnson Administrations is useful in directing attention to a vital problem, but it is based on a false assumption. It fails to lighten the burdens imposed by their elders; it adds new punishment and servitude.

The Senator mistakenly assigns guilt and debt because thousands refused to participate in the tragic, murderous and insane policies initiated by Washington, the power structure, the millions of citizens unwittingly taken in by the Government's deceptions.

The Puritan strain in America lingers on—punishment for failure to conform.

All alternative might free us all: Allow those out of the country who wish to return to do so. (Many of the best will not.) Assist, with public funds, all of them to find useful and agreeable work serving their own and the community's interests as full citizens.

We have all suffered uselessly long enough as a result of our actions in Asia. The suffering heaped upon Asians is incalculable. With time, the massive tragedy will become clearer for those who sense reality. The courage and heroism of those who refused to participate in the national blindness will surface. They have already paid the terrible price of prison, family dismemberment, humiliation and exile.

All Americans owe them a debt. That debt is owed, as well, to the men forced to go to Asia to do the killing as a result of the hardhearted policies of President, politicians and citizens.

When Senator Taft and other leaders understand the true nature of their creation, the lost limbs, burned flesh, missing kin, desolate earth, there will be no room for self-righteousness. A normal man would feel shame, remorse, wish for forgiveness.

Americans will become free when we free ourselves from our own self-deceptions and those imposed by Washington. If we become so blessed we won't need to impose the worst of ourselves on others according to our limited vision of what life should be. Such freedom brings with it the freedom from imposition by others with their guns and bombs. When we are going to practice democracy more and talk about it less?

ALLAN GELBIN.

[From the Los Angeles Times, Jan. 3, 1972]

AMNESTY FOR THOSE WHO SAID, "NO"—AS A SIGN OF NATIONAL REPENTANCE

(By D. J. R. Bruckner)

NEW YORK.—The political leaders of the nation should give more consideration to the question of a total amnesty for draft resisters and military deserters than Mr. Nixon's one-word given at a press conference last Nov. 12: "No."

No one knows exactly how many people are eligible now for prosecution for evading or resisting the draft, or for deserting the armed forces, or exactly how many have fled the country; no one knows exactly how many have simply failed to register for the draft. Perhaps, if the war in Southeast Asia is ever over, those immense computers which are game-planning our bombing of the subcontinent can be used to give us an accurate notion of how many would benefit from an amnesty.

The usual estimate is that up to 70,000 men have fled the country to avoid the draft. The desertion rate during this war is double that of World War II. The Pentagon estimates there are more than 35,000 deserters at large. In 1971 the government obtained more than 4,500 indictments against men refusing to be drafted; this is the most intensive campaign of prosecution for this offense since 1944. There are federal fugitive warrants outstanding on 4,000 draft evaders. This situation has developed in spite of the fact that rules defining legitimate conscientious objection have been liberalized considerably; in the last four years 183,000 men have been excused from service as conscientious objectors.

You can understand why the government might hesitate about granting an amnesty. The total of American dead keeps inching up; millions of men have served in the war, and hundreds of thousands were wounded.

POLL SHOWED MOST AMERICANS OPPOSE USE OF U.S. BOMBERS

But there are other figures to consider. A Harris poll last fall showed that most Americans oppose the use of U.S. bombers and helicopters to support the South Vietnamese army after our withdrawal, under any conditions. For several years, polls have indicated that most Americans want us to get out of this war now. One poll found that 65% of the American people think the war is immoral.

At least 450,000 Asian civilians have died in this conflict; more than 1 million have been wounded, and 10 million turned into refugees. The United States has dropped 6 million tons of bombs on the four tiny countries caught up in this war, three times the total tonnage used in World War II. We have developed dozens of new, torturous antipersonnel bombs which are dropped daily on civilians.

There must be millions of Americans who would sympathize with, or even confirm, the judgment Sen. George S. McGovern (D-S.D.) expressed recently in Los Angeles, that "except for Adolf Hitler's extermination of the Jewish people, the American bombardment of defenseless peasants in Indochina is the most barbaric act of modern times."

Anyway, we can see that many men might have the deepest painful and noble reasons for refusing to fight in this war. The foundation of this society is the willingness of the individual to take a personal moral stand when he is asked to become an instrument of policy; inevitably, many individuals must make judgments against one policy or another. And in the case of this war, people who have cried out in anguish against its immorality have included members of Congress, local officials, bishops, businessmen, former high-ranking military officers, teachers, ministers—all of them people who might reasonably be expected to have a strong influence on the decisions of young men facing the draft.

The President's simple "No" to the question of amnesty may only reflect a political estimate; the war itself reflects political judgments. But it might involve a terrible implication, that, in the eyes of the government, there is no moral basis for avoiding or resisting the draft.

QUESTION MUST BE VIEWED WITH MY LAI MASSACRE IN MIND

You have to look at this question in light of the fact that only one man was convicted of a crime in connection with the My Lai massacre, that that man's original sentence has been reduced, and that the President has proclaimed he will review even that reduced sentence. And you have to look at it in the light of a careful nationwide survey done by three Harvard University researchers in which half the people questioned said they themselves would follow orders and shoot civilians and children in a My Lai situation. In the same survey (this is a terrifying discovery) two-thirds of the respondents said they thought most Americans would follow orders and shoot.

We ought to remember that a majority in Germany supported Hitler, too, and his methods, and that Germany, too, produced flights of exiles, many of them acknowledged throughout the world to be Germany's best people.

The disposition of the status of the draft evaders and resisters is not a matter of simple balances; it is not a question of being unfair to the men who have served. The equity question involved in these cases is a moral question, involving the decency and indeed the future of the people of this nation. Even at the basest level of consideration, we must recognize that the men who have resisted have mostly lived in hiding, in fear, or in exile for a number of years. That is a terrible price to pay for saying "No" to this government, this pitiful helpless giant that is using the human population of Southeast Asia as an enormous laboratory of technological warfare.

McGovern's amnesty proposal would get a better reception if the American people, not their President, were responding to it. We all know, if the President does not, that we need healing. we need to rediscover our independence and our personal moral purposes. We need to flush out and honestly investigate the atrocities committed in this war; we need to bring the men who have fought it, at a terrible moral cost to themselves, back into this country with every help we can give for as long as it is needed. We need to bring back home, without fear or vengeance, the men who refused to do what never should have been done by anyone; their return would be a pledge of our resolve that it will never be done again.

STATEMENT ON AMNESTY—ADOPTED BY THE ECUMENICAL WITNESS, KANSAS CITY, JAN. 13–16

The religious community of the United States, as represented by the Ecumenical Witness, aware that the War in Indochina must be brought to an immediate end, urges the implementation thereupon of a broad, general and plenary amnesty, without any qualifications or conditions, to all those men and women who have been prosecuted or will face possible prosecution by civilian or military courts for any alleged offenses arising out of the War, as well as the meeting of our social responsibility to those who might refuse amnesty, to the civilian members of the resistance, and to those who have served in the military. We urge this amnesty in order to overcome the paralyzing divisiveness of the War on our society and in order to mitigate as far as possible the tragic consequences to the War upon that generation that has been called upon to bear the heaviest existential burden of this war.

We believe that amnesty will be one step toward the reconciliation of the society, but we do not believe that amnesty itself will constitute atonement of the society's responsibility for the War nor will it be in the nature of forgiveness for any offenses, but rather an effort to give ourselves the benefit of moral courage and idealism of the men and women of the young generation. We call upon the religious community further to cooperate with other groups in the society pursuing this objective and to implement this commitment by appropriate educational and other supportive action within their own constituencies.

NATIONAL POW/MIA WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 10 minutes.

Mr. ZABLOCKI. Mr. Speaker, the week of March 26 to April 1 has been appropriately and properly designated National POW/MIA Week. However, like all such observances it carries with it the inherent shortcoming that by concentrating our interest and concern during these 7 days we run the danger of tending to forget for the rest of the year.

In reality, of course, this week and its various special observance programs is the least we can do on behalf of our men held prisoner or missing in Southeast Asia. But for the prisoners and missing and their families there is no such thing as a mere week. For them it has been an eternity of days endlessly extending into years—in some cases, more than 7 years.

This is a tragic situation—a horrendous testament of man's inhumanity to man. It was, of course, this very tragedy which the Geneva Conventions for the Protection of War Victims was intended to minimize.

The history of modern warfare reveals two seemingly paradoxical trends. On the one hand, weapons have become vastly more sophisticated, fearsome, and destructive. On the other, there have been concerted efforts to make warfare as humane as possible for those taking no part in the conflict, including members of the Armed Forces who are sick, wounded, captured, or who surrender.

A series of agreements, stretching back for more than 100 years, sought to protect prisoners of war. From an initial prohibition against the slaughter of captives, mankind has moved to describe the rights and privileges of those held captive and to set down the obligations of their captors.

The culmination of this trend was the Geneva Conventions of 1949. Of the four treaties signed by 61 nations on August 12, 1949, perhaps the most important and certainly the most relevant at this time is the Geneva Convention relative to the treatment of prisoners of war. Today 123 nations accept the Geneva Convention, including all nations participating in the hostilities in Southeast Asia on both sides.

Since North Vietnam is a signatory to the Geneva Convention on Prisoners of War, the treatment of prisoners ostensibly should be no issue. Unfortunately, it is an issue because the North Vietnamese have refused to abide by the provisions of the convention and have been guilty of inhumane treatment of the American servicemen they hold captive.

The full nature of Hanoi's unjustifiable and illegal acts against American prisoners should be understood by all

Americans. In an effort to focus attention on the problem this special week of observance is therefore fitting and appropriate.

It is my sincere hope that every American—indeed, the entire world—will take this opportunity to become familiar with the provisions of the Geneva Convention on Prisoners of War, and will match the wretched performance of North Vietnam against the obligations which it accepted in acceding to the treaty. The result must certainly be to banish any apathy about the plight of U.S. prisoners and those listed as missing and to generate a thunderous protest against Hanoi's inhumane conduct.

If the National POW/MIA Week observance can achieve this productive end it will go far toward accomplishing what all decent people seek—the humane treatment and prompt release of our prisoners and a full and accurate accounting of those listed as missing.

On this occasion, Mr. Speaker, we again call upon Hanoi and the Vietcong to abide by the Geneva Convention by releasing the sick and wounded prisoners, account for all the missing in action incarcerated in the prisons in North Vietnam, South Vietnam, Laos and Cambodia. Further, not only agree to inspection of their POW camps by an international body but to also sincerely negotiate for the exchange and release of the prisoners of war.

THE TIMES DEMAND ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BYRNE) is recognized for 10 minutes.

Mr. BYRNE of Pennsylvania. Mr. Speaker, I take the floor today because I cannot remain silent in the face of what I consider major crimes being perpetrated against the American people by the Nixon administration.

"Crimes?" one might query. And I must reply, "Crimes, indeed." Crimes when honest, hard-working citizens can no longer fulfill the basic family needs because their hard earned wages are snatched from them by oppressive tax laws designed to help the rich and large corporations. Crimes when elderly people on fixed pensions and income literally are hungry because the true value of their meager funds is decimated by an administration oriented to big business.

Crimes when our cities are dying; housing, their arteries, crumbling before our very eyes. Crimes, indeed, when our schools decay and our children are pushed through them without concern for the quality of education they receive.

Mr. Speaker, I consider the administration's so-called fight against inflation a farce, and I heartily commend those labor leaders who withdrew their presence from the charade of a wage board. Just how stupid does the Nixon administration think the people of the United States are?

What has phase II accomplished? We need only visit the supermarket, or look at the withholding slip, or require any facet of the myriad of services that normal people need.

Business, Blue Cross, the telephone companies—they keep getting increases from the Nixon administration, but the workingman's wages are contained.

I certainly am not antibusiness; I recognize fully that our economy demands healthy business; but neither can we survive long as a nation of equals when one segment of the population carries the burden and another reaps the profits.

Taxation is another example. Take income tax. I fear we have created here a Frankenstein monster which could engulf the entire Nation, using its powers never sympathetically and often autocratically. We have created a supergovernment which is costing us billions; we have made the income tax laws so complicated and contradictory that the citizen can no longer deal with his Government directly; we have allowed so many technicalities that there is not a single American citizen who is not subject to harassment by the IRS.

And what is happening to big business while the workingman is paying an inordinate portion of his earnings to the Federal coffers?

Here is what is happening: The 10 largest oil companies in the United States with a net income of $8.85 billion—yes, that is net and that is billion—paid an average corporate income tax of 8.7 percent. That was the average—Gulf Oil—for example, with net earnings of $990,197,000, paid only 1.2 percent in Federal taxes.

And while this is going on, persons with annual incomes of under $3,000 paid taxes of 14.1 percent.

The Tax Reform Act of 1969 was designed to insure that the big boys paid some share of the taxes, or at least some taxes. In that year, 301 persons with annual incomes of more than $200,000 paid absolutely nothing. Two years after this "reform," 112 persons with incomes of more than $200,000 a year still paid nothing.

Obviously action is needed.

But what is not needed is to tax the low- and moderate-income people again—whether you call it more income tax or whether you call it "value-added tax," which the President has termed his proposal for a national sales tax.

What we do need is to close the loopholes. If these loopholes were indeed closed at the same 1972 tax rate, we would be getting another $77 billion into the Treasury.

The administration has certainly shown no leadership toward tax reform. Therefore, it is incumbent upon the Congress to lead the way, and disregard the vetoes.

I think the people of the United States must take a sober, clear look at the state of this Nation before casting their votes this fall. Remember, we are not voting for the remainder of the year—we are voting on the course this Nation should take for the next 4 years.

We must keep this Government from becoming "of the corporations, by the corporations, and for the corporations."

"U.S.A. AND THE SOVIET MYTH" ON CULTURAL AND POLITICO-ECONOMIC FREEDOM IN THE U.S.S.R.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 30 minutes.

Mr. DERWINSKI. Mr. Speaker, a member of our Members and colleagues in the other Chamber have spoken out against the wave of repressions taking place in Ukraine. As I have so often in the past, I raise my voice in unison with my colleagues and urge that appropriate steps be taken to seek the cessation of Moscow's repressive measures in Ukraine. One concrete step would be a favorable consideration of House Concurrent Resolution 555, which seeks the resurrection of the Ukranian Orthodox and Catholic Churches in Ukraine.

To gain perspective and an insight into these current repressions, I also urge our colleagues to read the institutional account for such developments in the work by Dr. Lev E. Dobriansky, professor of economics at Georgetown University, titled "U.S.A. and The Soviet Myth." The work has received numerous favorable reviews both here and abroad. As further examples, I turn your attention to the review in the current ABN correspondence, a worldwide periodical published in Munich and one in the Book Exchange of London. A careful reading of this work provides a solid framework for understanding the following editorial in America of February 24, the communications by the Ukrainian Congress Committee of America to President Nixon and Ambassador Bush, and the appeals of that committee to fellow Americans:

BOOK REVIEWS

Lev E. Dobriansky: "U.S.A. and the Soviet Myth." Introduction by William G. Bray, M. C. Published by The Devin-Adair Company, 1 Park Ave., Old Greenwich, Conn., 06870. 274 pp. Price $6.50

The author of this book, Dr. Lev E. Dobriansky, Professor of Economics at Georgetown University, with a Ph. D. from New York University, is one of the leading experts on Eastern Europe in the U.S.A. He is President of the Ukrainian Congress Committee of America and strategy staff member of the American Security Council. His book, "U.S.A. and the Soviet Myth" is dedicated to the memory of Dr. Roman Smal-Stocki (1893–1969), Patriot, Scholar, Christian and Friend of all the Captive Nations.

In this book, Prof. Dobriansky disproves errors and illusions about the USSR, so widespread in the U.S.A. and in other countries of the free world, points out the facts and problems, drawing attention to their interrelation and significance, clears up misunderstandings and suggests possible solutions. The author informs his readers about the Russian and the non-Russian revolutions on the territory of the former tsarist empire and suggests that the Russian Bolshevik Revolution, or more precisely, the Russian Bolshevik coup d'etat served the purpose of restoration and modernization of the already disintegrated Russian empire. He brings out in this study convincing evidence for the fact that the USSR is the forcibly restored Russian empire in modern form.

Prof. Dobriansky also acquaints the readers of his book with the strivings for independence of people subjugated by Russia and Communism. He draws attention to the resistance of these peoples and throws light upon the world political significance of their revolutionary liberation struggle.

Special attention is accorded by Prof. Dobriansky in his book to the Ukrainian question, for Ukraine is not only the largest subjugated nation in the USSR, but in the Russian Bolshevik sphere of power generally.

Prof. Dobriansky's work, "U.S.A. and the Soviet Myth" is an interesting and topical book with very convincing and impressive argumentation. It is written in a light, generally accessible style. The book also contains an ample bibliography on the problems connected with this broad subject.

Dr. C. E. POKORNY.

[From the Book Exchange, November 1971]

U.S.A. AND THE SOVIET MYTH

"U.S.A. and the Soviet Myth." By Lev E. Dobriansky. Introduction by William G. Bray. M.C. (The Devin-Adair Company, One Park Avenue, Old Greenwich, Conn., 06870, U.S.A. 8 by 5¼ ins. 288 pp. Cl. Col'd illus'd d.w. $6.50)

This book offers a thoughtful analysis of the dangers inherent in the current American thinking about the Soviet Union. One important point the author stresses is that there are not 200 million Russians in the world, let alone in Russia—for of the total population claimed, 125 million Non-Russian people live in the USSR. Dr. Dobriansky suggests that the Soviet Union is, in fact, a much weaker nation than Americans believe it to be, and that the American government should call the Russians bluff after a thorough reappraisal of Russia's potential as an enemy. The book touches on many controversial matters concerned with American policies towards Russia, and its author's clear thinking and plain speaking will be valued by the American citizen wishing to understand the real facts.

[From America, Philadelphia, Pa., Feb. 24, 1972]

PROTEST THE SOVIET PERSECUTIONS IN UKRAINE

PROTEST THE VIOLATION OF HUMAN RIGHTS IN THE SOVIET UNION—AMNESTY FOR UNJUST INCARCERATION OF UKRAINIAN INTELLECTUALS

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." (Universal Declaration of Human Rights, Article 19.)

Through the judicial process known as the "kangaroo court" hundreds of writers, students and professionals have been sentenced by the Soviet regime and deported to Russia, where they serve long terms in concentration camps in Mordovia and Vladimir prisons. The accusation against Ukrainian intellectuals was the reading of books published in the West, or "Samizdat" publications, writing pamphlets on Russification, national discrimination and injustice in Ukraine, or signing petitions to the Soviet authorities demanding the rights of independence for the Ukrainian people guaranteed by the Soviet constitution and the Universal Declaration of Human Rights. Some were arrested only for the desire to emigrate to Israel.

DEMAND AMNESTY FOR UKRAINIAN WRITERS

Svyatoslav Karavansky—poet, translator, literary critic; born 1920, sentenced to 25 years in 1944, freed in 1960, rearrested in 1965, resentenced to 4 years hard labor in 1936, and to 5 years in 1970.

Valentyn Moroz—history lecturer at the Ivano-Frankivsk Pedagogical Institute, author of several essays; born 1936, sentenced to 4 years in 1966, 9 years of imprisonment and 5 years of exile in 1970.

Zenon Krasivsky—poet, writer and author of the novel "Baida"; born 1939, sentenced to 12 years in 1967.

Ivan Sokulsky—poet and student of Dnipropetrovsk University; born 1940 and sentenced to 4½ years hard labor in 1969.

Mykola Kulchynsky—poet and student of Dnipropetrovsk University; born 1947, sentenced to 4½ years hard labor in 1969.

DEMAND AMNESTY FOR UKRAINIAN LAWYERS

Dr. Volodymyr Horbovy—graduate of Prague University; born 1899, sentenced to 25 years hard labor in 1948.

Lev Lukyanenko—lawyer, graduate of the Lomonosov University Law School (Moscow) in 1957; born 1927, sentenced to death, commuted to 15 years in 1961.

Ivan Kandyba—gradaute of the University of Lviv Law School in 1953; born 1930, sentenced to 15 years hard labor in 1961.

DEMAND AMNESTY FOR UKRAINIAN PROFESSIONALS—SENTENCED IN 1967

Dmytro Kvetsko—university graduate; born 1937, sentenced to 15 years hard labor and 5 years exile.

Vasyl Dyak—university graduate; sentenced to 12 years and years exile.

Ivan Hubka—economist; sentenced to 6 years and 5 years exile.

Yaroslav Lesiv—teacher; born 1945, sentenced to 6 years and 5 years exile.

Myron Melen—musician; sentenced to 6 years and 5 years exile.

Mykola Kots—lecturer; born 1931 sentenced to 7 years and 5 years exile.

SENTENCED IN 1969

Arkady Levin—engineer; born 1933, sentenced to 3 years hard labor.

Raisa Bekdualiyeva—teacher; born 1925, sentenced to 3 years in 1969.

Volodymyr Ponomaryov—engineer; born 1933, sentenced to 3 years.

Vladyslav Nedobora—engineer; born 1933, sentenced to 3 years.

Hendrich Altunyan—engineer; sentenced to 3 years.

DEMAND AMNESTY FOR UKRAINIAN STUDENTS

Yosyp Teren—student of Uzhorod High School; born 1944, sentenced to 8 years in 1968.

A. Nazarenko—student of the Kiev University; sentenced to 5 years hard labor.

Oleh Bakhtiyarov—student of the Kiev Medical Institute; born 1947, sentenced to 5 years in 1969.

Demand the return of Ukrainian political prisoners from Russia to Ukraine!

Demand amnesty for Ukrainian political prisoners and justice for every citizen in the Soviet Union!

(SMOLOSKYP, Organization for the Struggle and Defense of Human Rights in Ukraine).

UKRAINIAN CONGRESS COMMITTEE
OF AMERICA, INC.,
New York, N.Y., January 26, 1972.

Hon. RICHARD M. NIXON,
President, the White House, Washington, D.C.

DEAR MR. PRESIDENT: We are submitting this urgent appeal to you on behalf of the entire membership of the Ukrainian Congress Committee of America, representing over two million Americans of Ukrainian descent, in a matter which is of great concern to them, and which is also the concern of our government and all civilized mankind.

The reason for this appeal is the wave of new arrests of Ukrainian intellectuals and other Ukrainian patriots by the Soviet government in Ukraine in the last few weeks.

We appeal to you, Mr. President, to use the power and influence of your high office to intercede with the government of the Ukrainian SSR and that of the USSR to cease the persecution of the intellectual elite of the Ukraine. We appeal to you to uphold the principle of human rights which is being violated flagrantly by the Soviet government in Ukraine.

Persecution and oppression of the Ukrainian people have always been part and parcel of the Russian Communist rule in Ukraine. But since 1965, the Kremlin and its satraps in Ukraine have stepped up arrests of Ukrainian intellectuals—professors, writers, poets, artists, literary critics, musicians, dramatists, researchers, scholars and students—all of whom were tried under Art. 62 of the Criminal Code of the Ukrainian SSR ("anti-Soviet propaganda and agitation") and sentenced to several years at hard labor.

In this wave of terror and intimidation over 200 Ukrainian intellectuals have been incarcerated and sent to jails, labor camps or psychiatric asylums.

The overwhelming majority of these victims are young men and women, most of them products of the Soviet regime. They committed no crimes against the Soviet state, nor did they advocate any terroristic acts against the Soviet leadership. But they had discussed among themselves ways and means of legally resisting the forcible Russification and the destruction of Ukrainian culture; they were concerned deeply because the Soviet Russian government has been trying to eradicate Ukrainian national consciousness which even Stalin with his massive deportations and brutal executions failed to do. They denounced the persecution of national minorities in Ukraine, such as Jews, Tartars, Kalmyks and others, and they protested against the deportation of natives not only from Ukraine, but from Byelorussia, Estonia, Latvia and Lithuania, and other non-Russian republics of the USSR.

Among "proscribed" literature found on some of the Ukrainian intellectuals were such "dangerous" documents as the address of the late President Dwight D. Eisenhower, delivered at the unveiling of the Shevchenko monument in Washington, D.C., on June 27, 1964, and the encyclical, *Pacem in Terris*, issued by the late Pope John XXIII in 1963, and books which the Kremlin considers dangerous to its domination in Ukraine.

Some cases of those arrested are worthy of world notice:

Mykhailo Soroka, a teacher, was arrested in 1940 under suspicion of belonging to a "subversive" organization and was sentenced to eight and then to 25 years at hard labor; he died in the summer of 1971.

Svyatoslav Y. Karavansky, poet and journalist, was sentenced in 1944 to 25 years, but was released in 1960, and then again arrested and sentenced, without benefit of a jury, by Prosecutor General of the USSR Roman Rudenko, to eight years at hard labor; his wife, Nina Strokata-Karavanska, was also arrested recently for refusing to divorce and denounce her husband. She is a microbiologist at the Medical Institute in Odessa.

Another case of "Soviet justice" is that of Valentyn Moroz, a young Ukrainian historian. Arrested in 1965, he spent four years in prison and was released in 1969. But in the summer of 1970 he was arrested again and on September 20, 1970, he was sentenced at a trial *in camera* to nine years at hard labor.

Also, on November 28, 1970 Allan Horska, outstanding Ukrainian artist, was murdered mysteriously near Kiev.

In January, 1969 the Soviet secret police arrested the Most Reverend Vasyl Welychkovsky, Archbishop of the Ukrainian Catholic Church, on his way to confess a sick person. He was sentenced to three years at hard labor, and is reported to be in a jail for common criminals in a prison in the Donbas area of Ukraine.

In the last two weeks, Soviet authorities have resumed their arrests of noted Ukrainian intellectuals, some of whom had been arrested previously and tried. Among them were Vyacheslav Chornovil, Ukrainian journalist. In 1967 he was sentenced to eighteen months at hard labor for compiling an underground account of secret police methods used in arresting and trying some 200 Ukrainian intellectuals. (His account was published by McGraw-Hill Co. as *The Chornovil Papers.*) Others who were reported arrested in Kiev were Ivan Svitlychny and Ivan Dzyuba, both outstanding Ukrainian literary critics; Mr. Dzyuba's book, *Internationalism or Russification?*, was published in England two years ago. Seven other Ukrainian intellectuals were arrested in Lviv, Western Ukraine (cf. *The New York Times*, January 15 and 19, 1972).

These are but a few most notable cases of Ukrainian victims of the Soviet regime who gained some international prominence. Unlike the trials of Russian dissidents in Moscow and Leningrad to which Western reporters are admitted, the trials of Ukrainians are held behind closed doors, from which even the closest relatives of the arrested are excluded.

Mr. President! We are appealing earnestly to you to take into consideration our plea to help those who are unjustly persecuted and harassed. We know that you have a grave and responsible task of steering the ship of state. We also are fully aware of your forthcoming trips to foreign capitals, and we do not want, by any means, to prejudice the success of your undertakings.

But as a champion of universal human rights, you will serve your country and humanity universally when you make the Soviet government realize that its continuous persecution of the 46-million Ukrainians is not in consonance with the Soviet constitution and professed adherence to the principles of human rights, but that it reveals an inherent weakness of the Soviet regime and, as a consequence, it mars the Soviet image abroad as a progressive, enlightened and civilized power.

Also, Mr. President, we know that under pressure of international opinion, the Soviet government has been allowing many Jews to emigrate to Israel, and we trust that your intervention may help in the discontinuance by the Soviets of their discriminatory and oppressive policies towards the Ukrainians.

Therefore, we ask you, Mr. President, to do two things:

1) Communicate your grave concern about the persecution of Ukrainians and other peoples in the USSR to the Soviet government at your earliest convenience, indicating that these oppressive policies which the Kremlin has been using in Ukraine are hardly conducive to peaceful coexistence and a good relationship between the United States and the USSR;

2 Instruct our Ambassador to the United Nations, the Hon. George Bush, to look into the problem of this violation of human rights by the Soviet government in Ukraine, and to bring this urgent matter for prompt discussion before the court of world opinion at the U.N. Commission on Human Rights.

Sincerely yours,

Executive Board: Ukrainian Congress Committee of America,
Lev E. Dobriansky,
President.
Joseph Lesawyer,
Executive Vice President.
Ivan Bazarko,
Administrative Director.

Ukrainian Congress
Committee of America, Inc.,
New York, N.Y., February 8, 1972.

Hon. George Bush,
U.S. Representative to the United Nations, U.S. Mission to U.N., United Nations Plaza, United Nations, N.Y.

Dear Mr.. Ambassador: We have the honor to address this Memorandum to you on behalf of the Ukrainian Congress Committee of America, representing over two million American citizens of Ukrainian ancestry, on a matter which is of grave concern to us. This relates to renewed arrests and persecution by the Soviet government of Ukrainian intellectuals and other patriotic Ukrainians. We appeal to you to bring this matter to the attention of the U.N. Commission on Human Rights for proper action in the United Nations.

The news from Ukraine, which has been systematic and reliable, carries reports of continued arrests of Ukrainians by the Soviet secret police. Only a few days ago, concurrent with the expulsion from the Soviet Union of Congressman James H. Scheuer, Democrat from the Bronx, the international media, such as Reuters and The New York Times (January 15 and 19, 1972), reported the arrest of 19 Ukrainian intellectuals (12 in Kiev and 7 in Lviv) on suspicion of engaging in "anti-Soviet propaganda and activity," a criminal undertaking under Art. 62 of the Criminal Code of the Ukrainian SSR. Arrests and trials of Russians and Jews have been going on, as you know, in Moscow and Leningrad, as well as trials of nationals of the Baltic States.

In contrast to trials in Russia, which are accessible to Western journalists, political trials in Ukraine are held *in camera*, very often excluding family members of the defendants.

Political oppression in Ukraine by the Soviet government is not a novel development, except that the purpose of Soviet persecution in Ukraine is not only to suppress any opposition and dissidence to the current regime, but to suppress and eradicate, if possible, the very essence of Ukrainian consciousness, Ukrainian culture and the traditional Ukrainian heritage.

The Soviet government and the government of the Ukrainian SSR are signatories to the *Universal Declaration of Human Rights*, adopted on December 10, 1948, and they make much of this fact in their massive propaganda drives outside the Soviet Union.

The essence of human rights lies in the fact that man is entitled to enjoy material and cultural values and that each person should be guaranteed rights and liberties proper to all spheres of social life.

It is to be recalled that the Soviet government has circumvented these lofty principles of the U.N. Declaration of Human Rights and has been bent on destroying all vestiges of human rights in Ukraine. Beginning in 1965, the Kremlin has proceeded to repress a great number of Ukrainian intellectuals, which constitutes a veritable *pogrom* of Ukrainian culture. Over 200 Ukrainian professors, literary critics, journalists, educators, dramatists, artists, researchers and students were arrested and tried in secret trials; many of them have been sentenced to several years at hard labor, and some of them have been placed in psychiatric institutions under guard of the KGB secret police.

None of these arrested had been engaged in what we could call "sedition activities" and none of them had any contacts with people of anti-Soviet orientation abroad. On the contrary, most of them were young men and women, products of the Soviet system.

CASES TO BE INVESTIGATED INTERNATIONALLY

Most of these Ukrainian intellectuals have been accused of glorifying the Ukrainian past, reading pre-revolutionary books on Ukrainian history, and copying and disseminating secretly speeches of Western leaders, for example, the encyclical of the late Pope John XXIII, *Pacem in Terris* (Peace on Earth), and the address of the late President Dwight D. Eisenhower, which he delivered at the unveiling of the Taras Shevchenko monument on June 27, 1964, in Washington, D.C. They discussed among themselves and their friends ways and means of *legally* resisting the forcible Russification of Ukraine and the continued destruction of its culture. Some of them protested against the unbridled persecution of national minorities, notably, the Jews; they accused the Soviet government of inhuman deportation of the Baltic people and the "liquidation" of such ethnic groups as the Crimean Tartars, Volga Germans, Chechen-Ingush and Karachais.

A few cases in point will suffice to illustrate the depth of Soviet oppression in Ukraine:

1) Mykhailo Soroka, a teacher, was arrested in 1940 and sentenced to eight years; released in 1948, he was re-arrested, and in 1952 was sentenced to 25 years at hard labor for unspecified "subversive" activities; he died in the summer of 1971 in a Soviet prison;

2) Svyatoslav Y. Karavansky, poet and journalist, and translator of English classics into Ukrainian; arrested in 1944, he was sentenced to 25 years at hard labor; released in 1960, he was arrested again in 1965 and sentenced without benefit of jury by Roman Rudenko, Prosecutor General of the USSR, to eight years and seven months at hard labor (cf. Karavansky's petition in defense of Jews and other minorities, The New Leader, January 15, 1968). His wife, Nina Strokata-Karavansky, a microbiologist at the Medical Institute in Odessa, was arrested in the fall of 1971 for refusing to denounce and divorce her husband.

3) Valentyn Moroz, a young Ukrainian historian, was arrested in 1965 and sentenced to four years at hard labor. Released in 1969, he was arrested again in 1970 and sentenced on September 20, 1970 to nine years at hard labor, for writing critical articles and brochures on the Russification of Ukraine by the Soviet government.

4) Archbishop Vasyl Welychkovsky, highest prelate of the Ukrainian Catholic Church in Ukraine, was arrested in January, 1969 when he was going to confess a sick person; in the fall of the same year he was sentenced to three years at hard labor. He was reported in December, 1971 to be in a jail with common criminals in a prison in the Donbas area of Ukraine, suffering from ill health, abuse and chincanery.

5) Alla Horska, a young Ukrainian woman artist and a member of the Kiev Art Institute, was murdered on November 28, 1970 near Kiev under mysterious circumstances. In her home she often hosted many known Ukrainian intellectual dissidents, and according to No. 4 of the underground Ukrainian Herald, she was murdered on orders of the KGB, the Soviet secret police.

6) Eugene Sverstiuk, literary critic and author of Sobor u ry shtovanni (The Cathedral in Scaffolding), was also arrested.

As reported by The New York Times (January 15 and 19, 1972), 19 outstanding Ukrainian intellectuals were arrested in Kiev and Lviv last month. Among them was Vyacheslav Chornovil, Ukrainian TV journalist; he was arrested and sentenced to 18 months at hard labor in 1967 for compiling an underground account of secret police methods used in rounding up about 200 Ukrainian intellectuals in 1965–66. (His account, entitled The Chornovil Papers, was published four years ago by the McGraw-Hill Company.)

Ivan Dzyuba, an outstanding Ukrainian literary critic, also is reported arrested; his book, Internationalism or Russification?, was published in English three years ago by a publisher in London.

Reported arrested also was another outstanding Ukrainian literary figure, Ivan Svitlychny, who has advocated the application of human rights to Ukrainians and other peoples in the Soviet Union.

As you well know, all these practices by the Soviet government constitute flagrant violations of Arts. 18 and 19 of the U.N. Declaration of Human Rights and of the Soviet constitution.

Therefore, we appeal to you, Mr. Ambassador, for your help and intervention in this matter. The Soviet Union is by no means immune to the voice of international opinion. Under pressure of international criticism, the Kremlin has allowed many Jews to emigrate from the USSR. We are strongly convinced that if the U.S. Delegation to the U.N. Human Rights Commission would raise the matter of persecution and oppression in Ukraine, many delegates on the Human Rights Commission would support the position of the United States.

Recently, during the visit of Soviet Prime Minister Alexei Kosygin to Canada, Prime Minister Pierre E. Trudeau pleaded with his guest, strictly on a humanitarian basis, to release Ukrainian intellectuals from prison and to allow the reunion of some Ukrainian families with those who are in Canada.

We aurge you, Mr. Ambassador, to please communicate this Memorandum to other high officials in our government and to raise your voice in defense of the persecuted and oppressed Ukrainians. By doing so, the United States Government will demonstrate its sincere and principled concern for human rights and justice for all peoples throughout the world.

Respectfully yours,
EXECUTIVE BOARD, UKRAINIAN
CONGRESS COMMITTEE OF AMERICA.
LEV E. DOBRIANSKY,
President.
JOSEPH LESAWYER,
Executive Vice President.
IVAN BAZARKO,
Administrative Director.

FREEDOM FOR UKRAINIAN INTELLECTUALS!

Fellow Americans! Friends of Freedom! We, members of the Ukrainian Congress Committee of America, an American organization speaking for over 2 million Americans of Ukrainian descent, appeal to you to join us in protest against the brutal violation of human rights by the Soviet government human rights by the Soviet government in Ukraine!

There are over 47 million Ukrainians in Ukraine who are living under a puppet regime known as the "Ukrainian Soviet Socialist Republic," in which only the stooges of Moscow exercise power in the name of the Communist Party.

Ukrainians are overwhelmingly anti-Communist in their spirit of independence and love of genuine freedom; they have never reconciled themselves to the oppressive and tyrannical government imposed upon them by the alien power of Moscow!

VIOLATION OF HUMAN RIGHTS!

Persecution and oppression of the Ukrainian people were always part of the Soviet rule in Ukraine, but since 1965 the Soviet government has made vast and extensive arrests of Ukrainian intellectuals for their defense of human rights and for love of their own language, history and literature.

In January, 1972, over 100 Ukrainian intellectuals were arrested in such Ukrainian cities, as Kiev, Lviv, Odessa, Kharkiv, Dniepropetrovsk, Ternopil, Ivano-Frankivsk, and others.

Among them are such known Ukrainian-intellectuals as Ivan Svitlychny, Vyacheslav Chornovil, Ivan Dzyuba, Eugene Sverstiuk, scholar Prof. L. Plushch, poetess Irena Stasiv, artist Stephania Shabatura, and others whose names were not revealed.

VICTIMS OF SOVIET TERROR!

Among those arrested are Ukrainian writers, literary critics, journalists, professors, artists, painters, students and scientific workers, as well as laborers and representatives of all other strata of society in Ukraine!

Arrests are made on suspicion of "disseminating anti-Soviet propaganda and agitation," but, in fact, those arrested are mainly leading members of the Ukrainian cultural elite, who staunchly oppose the Russification of Ukraine!

TRAMPLE U.N. UNIVERSAL DECLARATION OF HUMAN RIGHTS

Both the government of the USSR and that of the Ukrainian SSR are signatories to the Universal Declaration of Human Rights, adopted in December 10, 1948 by the U.N. General Assembly, and both of them make a big noise about this in massive propaganda drives abroad.

Art. 18 of the Declaration reads:

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship of observance.

Art. 19 reads:

"Everyone has the right to freedom of opinion and expression: this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

All these and other provisions are crassly violated by the Soviet government and its subservient lackeys in Kiev.

For instance, Valentyn Moroz, 36-year-old Ukrainian historian, was sentenced to 9 years at hard labor for writing A Chronicle of Resistance in Ukraine, describing the destruction of Ukrainian churches by the Soviet government. Svyatoslav Karavansky, sentenced to 25 years at hard labor for sending petitions in defense of the non-Russian nations, and the Jewish minority in the USSR. Alla Horska, a painter, was murdered by the KGB near Kiev.

Unlike in Russia proper where anti-Soviet dissidents are tried publicly, political trials in Ukraine are held in camera, that is, behind closed doors! Some Ukrainian writers have been arrested for circulating copies of the address by the late President Dwight D. Eisenhower, delivered at the unveiling of the Shevchenko monument on June 27, 1964 in Washington, D.C., and for distributing copies of the encyclical, Pacem in Terris, issued by the late Pope John XXIII in 1963.

FELLOW AMERICANS!

The United States is under an agreement with the USSR regarding "cultural exchanges," and we allow here various teams of Soviet scientists, dance and choral ensembles, students, and some Soviet writers and poets, such as the hypocritical Yevgeniy Yevtushenko who, as instruments of the Soviet totalitarian government, eulogize the Soviet system and its alleged cultural and technological "progress" and "freedom."

But, at the same time, the same Soviet government is engaged in the wholesale cultural genocide and ruthless persecution of Catholicism, Orthodoxy and Judaism in Ukraine.

POSITION OF U.S. GOVERNMENT

In his letter, dated February 22, 1972, the Hon. George Bush, U.S. Representative to the U.N., wrote to the Ukrainian Congress Committee of America:

". . . I think that the U.S. Government has clearly shown its disapproval of the persecution going on in the Ukraine. We have considered the activities of the Soviet Government, including the current wave of arrests, contrary to the Universal Declaration of Human Rights and to the Soviet constitution. . . . For our part, members of the U.S. Delegation have frequently raised this issue (in the United Nations) and we shall continue to make our position clear as appropriate occasions arise. . . . We do indeed support the just attempts of the Ukrainian people to secure their legitimate rights. . . ."

FELLOW AMERICANS!

As we know, the spotlight of world media has kept Alexander Solzhenitsyn, great Russian writer, free thus far. Also, under the impact of international public opinion, the Kremlin has allowed many Jews to emigrate from the USSR!

Therefore, we ask you to voice your protest against the barbarous persecution of Ukrainian intellectuals and other patriots in Ukraine!

Join us by protesting through your Senators and Congressmen, and let President Nixon know how you feel about the oppression and persecution in Ukraine!

Support us through the American press and the mass communication media, and stand up in defense of the captive but brave Ukrainian people, because their cause of freedom is also the concern of Free America.

UKRAINIAN CONGRESS COMMITTEE OF AMERICA.

Mr. Speaker, Harry Homewood, a well-known news analyst for WAIT Radio, editorialized on Radio Free Europe and Radio Liberty, a subject over which I have been very concerned, in the Suburbanite Economist of Wednesday, March 22. Since these two stations have received a temporary reprieve, but do require further funding, I trust that this objective commentary will receive the attention of the Members.

HARRY HOMEWOOD COMMENTS

The money to finance Radio Free Europe and Radio Liberty is being cut off. The two radio stations beam their broadcasts at the Communist nations of Eastern Europe and at the Soviet Union. They ran into trouble last year when Sen. Clifford P. Case (R.-N.J.) revealed that both radio stations had been secretly financed for more than 20 years by the Central Intelligence Agency, at a total cost of something more than $456,000,000. The Congress then voted to stop the CIA funding of the two stations.

President Nixon would like to see the two radio stations keep broadcasting and has said so. The President has sent a bill to the Congress calling for direct Congressional financing with a non-profit organization to be created—free of government influence—to oversee and evaluate the operations of the two stations. Sen. J. William Fulbright (D.-Ark.), who is the chairman of the Senate foreign relations committee, wants the radio stations to stop operating. Sen. Fulbright says they are relics of the Cold war.

There is not much doubt that it was a grave error to allow the CIA to finance both radio stations and to do it secretly. And it was wrong to maintain the fiction that Radio Free Europe drew its operating funds from the public by means of yearly appeals. The plain fact of the matter was that in nearly 20 years of public appeals Radio Free Europe managed to raise only $46,000,000. The CIA, meanwhile, gave Radio Free Europe more than $300,000,000 to keep it operating.

Nevertheless, both stations have done excellent work. Radio Free Europe broadcasts to Poland, Czechoslovakia, Hungary, Rumania and Bulgaria in the languages of each nation. Radio Liberty beams its programs directly at the Soviet Union in Russian and other Soviet languages. Both stations have tried to provide a "free press," a medium of communication to provide news that could not be obtained within the Communist nations. The fact that the Soviet Union has for years tried to get both stations shut down and has threatened West Germany (where one of the transmitters for Radio Free Europe is located) with diplomatic reprisals if it allowed the transmitter to operate, seems to be proof of the effectiveness of both stations. Further, experts on the Soviet nations have given both stations high marks for their professionalism and their effectiveness.

Despite the taint of CIA funding (which might be thought to destroy the stations'

> credibility) both are believed. One reason for this is that both have broadcast the facts on racial and campus disturbances in the United States. That brought fire from a number of Congressmen who did not believe that the United States should wash the dirty linen over the airwaves to Communist nations—but it also established the credibility of the news about Communist nations that was broadcast by the stations.
>
> Radio Free Europe and Radio Liberty will both die unless the Congress acts favorably on President Nixon's legislation to keep them alive. In view of the good work both stations have done—and are doing—their death would be premature.

Mr. Speaker, radio station WIND, Chicago, has a very spirited pattern of editorial comments. In a brief, but penetrating, commentary broadcast on Wednesday, March 22, they editorialize on the plight of senior citizens in, I believe, a very effective fashion:

> SENIOR CITIZEN
>
> One of the tragedies of modern society is the plight of many senior citizens. Today's tax climate hits everybody, but it strikes a serious blow at those on fixed incomes.
>
> It is one thing to afford the rising costs of living, including taxes, when a family is supported by a regular income. But it is still another to try to meet those demands off an income based on social security, even if it is buttressed by a pre-inflation pension plan.
>
> Senior citizens are penalized in many ways. Often their needs, particularly for medical care, rise sharply at the very time when they can least afford them. Many industrial fringe benefits end with retirement, but the needs continue.
>
> Possibly, the ultimate blow comes when persons have spent their lifetime around a community only to find, in retirement, they can no longer afford to live there. That's got to come pretty close to turning the American dream into a bitter satire.
>
> Some relief may be in the offing. There is a proposal to increase social security benefits. There is legislation in Springfield to provide tax relief for homeowners and renters alike who are over 65 and on relatively limited income.
>
> These are all steps in the right direction, and they deserve the support of everybody, regardless of age.

SOVIET GENOCIDE IN KATYN FOREST

Mr Speaker, lest we forget the history of the Soviet Union and its conduct of international affairs, I direct the attention of the Members to a tragic page of World War I history.

We all remember the genocide as practiced by the Nazis, who were in power in Germany from 1933 to 1945. Half of this 12-year period was taken up by World War II, during which they overran a large part of Europe, but we should continue to be aware of genocide as practiced by the Communists, who assumed power in Russia in 1917 and are still in the saddle. They, too, took over a large part of Europe, which they still control.

The Nazis committed many terrible crimes during the years they ruled Germany and dominated other nations. Had they continued in power they would have committed many more crimes. Fortunately, they were eventually defeated and the hellishness of Nazism is a thing of the past. Ironically, in defeating one form of totalitarianism we strengthened another. Communism is more firmly in power in Eastern Europe than it was before World War II.

One of the reasons it has become intrenched in Russia and its satellite nations is its ruthlessness. Large-scale purges, mass starvation, and wholesale deportations are some of the means it has used to strengthen and extend its power. It has even used population control to prevent a new generation of leaders from being born.

World War II began when the Nazis and their Communist bedfellows invaded Poland during September 1939. Poland fell after putting up a heroic resistance and its territory was divided between Nazi Germany and the Soviet Union. Thousands of Polish army officers, professional men, and intellectual leaders were killed by the Nazis. But, for reasons of their own, mass murders of Poles were perpetrated by the Soviets.

After the conquest of Poland, a quarter of a million Polish officers and soldiers were incarcerated in 100 Soviet prison camps. Approximately 15,000 officers, including 12 generals, 250 colonels, 500 majors, 2,000 captains, more than 5,000 young lieutenants, and 7,000 selected noncommissioned technicians, were sent to three prison camps. Camp Ostashkov contained 6,900 Polish officers, Camp Kozielsk 4,500, and Camp Starobielsk 3,920.

These three special camps were transferred from the jurisdiction of the Red army and placed under the control of the vicious Lavrenty P. Beria and his Soviet secret police. It is a remarkable tribute to the loyalty of these more than 15,000 Polish officers that only 20 of them yielded after 5 months of intensive brainwashing by the Communists and became candidates for the roles of betrayers of their homeland. Those who withstood the pressures of Communist indoctrination were to pay for their devotion to a free Poland with their lives.

In March 1940, Beria received an order from Josef Stalin to secretly exterminate the Polish officers who had stubbornly refused to sell out their country. Beria had the officers transferred during the period from April 3 to May 12 to Katyn Forest, a point about 550 miles southwest of Moscow.

Each of the 15,000 men was shot through the back of his head with a pistol, many having their hands tied behind their backs. They were buried in seven mass graves, each being 50 yards long and 30 yards wide. One excavation was filled with the corpses of two generals, 12 colonels, 50 lieutenant colonels, 165 majors, 440 captains, 542 first lieutenants, 930 second lieutenants, and 146 military physicians. This constituted the greatest single mass execution of prisoners during all of World War II.

Following the wholesale murders and interments, the area was replanted with pine and spruce trees. With the passage of time all traces of this heinous crime would be obliterated, or so the practitioners of genocide assumed. Things were to work out differently, however.

The allies of 1939 had become the enemies of 1941. Hitler's armies invaded Russia during the latter year and occupied the area where the mass murders had been committeed. On April 13, 1943, the German radio announced that several mass graves had been discovered under some small trees in the Katyn Forest. Following the identification of 155 corpses through personal effects found with the clothing, the German Army commander asked neutrals to witness the exhumation. The Moscow radio charged that the Nazis had murdered the Poles.

On April 30 a group of scientists of forensic and criminal medicine assembled at Katyn. These men came from Belgium, Italy, the Netherlands, Switzerland, and the Balkan and Scandinavian countries. While members of the Polish Red Cross were present, the International Red Cross could not, under its charter, send investigators unless both Germany and the Soviet Union requested it to. The Kremlin refused to consent.

Two American officers, Lt. Col. Donald Stewart and Maj. John H. Van Vliet, who were prisoners of war held by the Nazis, joined the observers. The witnesses were flown to the scene by the Germans.

After examining 982 bodies, of whom 70 percent were identifiable, the witnesses agreed that the dead men had been Polish officers who had been murdered and buried 3 years before, prior to the occupation of the area by the Nazi army. The Germans located seven mass graves in all and had opened three of them by September 1943, when Soviet forces retook the Katyn Forest area.

On May 11, 1950, Van Vliet, who had risen to the rank of lieutenant colonel, wrote his impressions of the investigation:

> We followed our guide right down into each grave, stepping on bodies that were piled like cord wood, face down usually, to a depth of about five to seven bodies, covered with about five feet of earth. . . . All bodies have a bullet hole in the back of the head with the exit wound of the bullet being in the forehead or upper front part of the skull . . . German photographers . . . took both still and motion pictures of our party while we inspected the graves. Copies of the still pictures were later given us.

Van Vliet continued:

> I hated the Germans. I did not want to believe them . . . I tried every way to convince myself that the Germans had done it . . . We pursued every line of attack to weaken the German story . . . It was only with great reluctance that I decided finally that . . . for once the Germans were not lying; that the facts were as claimed by the Germans. I believe that the Russians did it. The rest of the group that visited the site stated to me that they believed that the Russians did it.

On October 11, 1951, Colonel Stewart appeared before the select committee of the House of Representatives that was investigating the Katyn Forest massacre. He estimated that 10,000 corpses, all Poles, had been found in the three mass graves that the Germans had opened.

Stewart testified:

> I left Katyn convinced that the Russians had executed these men. That massacre just could not have been falsified or planted . . . We did not like the Germans. But these men had been executed by the Russians!

He continued:

> I can never forget those men were killed by the Russians while they were prisoners of the Russians.

Mr. Speaker, eventually, most of the individuals who perpetrated crimes of genocide during the Nazi period were brought to justice. This was not the case with the Communists who murdered Polish officers in Katyn Forest. I have no doubt that justice will one day be served in the ultimate restoration of freedom to Poland since it was in the cause of our country's struggle for survival that these men died.

Mr. Speaker, yesterday, the Chicago Tribune carried a front page story by James Yuenger, chief of the Moscow Bureau, reporting on the petition by Lithuanian Catholics protesting the religious persecution to which they are subject.

This is another dramatic report on conditions in the Soviet Union, and it certainly demonstrates that communism does not mellow. The dictatorship there is determined to wipe out religion, religious beliefs, and the national spirit of the non-Russian captives within the U.S.S.R.:

About 17,000 Lithuanian Catholics Hit Russ

(By James Yuenger)

Moscow, March 27.—More than 17,000 Lithuanian Catholics have signed a bitterly worded petition to Communist Party Chief Leonid Brezhnev demanding an end to religious suppression.

The petition was signed by 17,054 individuals during last December and January. It is the most massive protest of its kind ever known to have emerged from Lithuania, where most of the U.S.S.R.'s estimated 3 million Catholics live.

SENT TO U.N.

The inch-thick document is a packet of 123 identically worded petitions. It was sent to United Nations Secretary General Kurt Waldheim, who was asked to forward it to Brezhnev.

The signers asserted that earlier petitions protesting official inhibition of their religious practices had gone unanswered, except in the form of "intensified repression."

Threats and arrests by Soviet Militia and Secret Police prevented the Lithuanians from gathering even more signatures and prompted them to seek U.N. help in getting their message to the Kremlin, they said.

"Freedom of conscience is still absent for the believers among our people, and the Church is still subjected to persecution," they told Brezhnev.

TELLS OF EXILES

The petition said that two Lithuanian bishops had been sent into unlimited exile without trials "altho they committed no crime." The two were identified as Julionas Steponavicius and Vincentas Sladkevicius.

Also noted were the one-year prison terms handed out last November to two priests, Juozas Zdebskis and P. Bubnis, for preparing children for their first communion at the request of their parents.

Father Zdebskis' mother charged that he was beaten so badly in prison before his trial that he was unrecognizable.

The petition complained of a shortage of priests, saying that even invalid and elderly priests were forced to work. This was attributed to Communist control of the sole remaining seminary in Lithuania, at Kaunas, which no more than 10 students are allowed to enter each year.

TEACHER DENIED WORK

It said a teacher in the Vilkavisskis district, one O. Briliene, was fired for being a practicing Catholic and since has been refused any kind of work, even menial.

"The authorities do not allow believers, even at their own expense, to restore burnt-out churches, for example, in Batakiai Gaure and Sangruda parishes," the petition said.

"Believers must obtain from the authorities, with great difficulty, permission to conduct services anywhere in a home, but in no case is it permitted to set up even a clock-tower in a former churchyard. At the same time, a dance hall was allowed to be built in the parish of Andreivas where the church had stood."

The petitioners charged that religious persecution goes unpunished, in direct violation of Lithuania's Constitution. It also notes that the Soviet Constitution guarantees freedom of religion. [Russian authorities insist that such freedom exists.]

"By contrast, atheism is forcibly inculcated in Lithuania's Soviet schools, the petition said. "The faithful children of Catholics are made to speak, write, and act against their conscience."

[Sources reported about 10 children were called as witnesses at Father Zdebskis' trial. Several of them wept openly on the stand or remained silent under question.]

LIFE CALLED WORSE

The plea to Brezhnev also charged that the quality of life in Lithuania has worsened noticeably since the country was annexed by U.S.S.R. in 1940.

"This present memorandum is the outgrowth of a national calamity: in the years of Soviet power in Lithuania, such vices as juvenile crime, alcoholism, and suicide have grown tenfold, and divorces and abortions have taken on threatening proportions as well," it said.

"The further we are removed from the Christian past, the clearer become the terrible consequences of forcible atheistic upbringing and the more widespread becomes an inhuman way of life deprived of God and Religion."

The signers said the petition was gathered despite a concerted campaign by the authorities to stop it. Several collectors were detained and lists of names were confiscated.

The petitioners said they will address themselves to the Pope in Rome or the U.N. rather than the Soviet government if the official attitude persists.

It is little short of amazing that the effort was as sucessful as it was and that the petition was forwarded to Moscow for inspection by Western newsmen before being sent out of the country. [It is expected to arrive in New York soon.]

Mr. Speaker, in the midst of the rhetoric from news writers and "informed" political commentators who have for months been instructing all who would listen that the Vice President of the United States no longer commands enough respect or friends to warrant his renomination, two very interesting events have come to pass.

First while there has been little attention paid to the Republican vice presidential vote in the New Hampshire primary, it does not mean what happened is not important. To the contrary, the write-in vote that Vice President Spiro Agnew received ought to go a long way in informing this Nation just how much respect and how many friends the Vice President has. Never before in New Hampshire history has a write-in received so many votes. The Agnew name was written in by more than 40,000 people—a larger vote than any Democratic presidential candidate listed on the ballot. Seventy-five percent of all those who voted for a Vice President wrote in Spiro Agnew, even though another candidate for Vice President was listed on the ballot.

Second, some have contended that the Vice President's popularity is not what it once was, and that he is a victim of falling popularity. Unfortunately, for those who would like to believe that, the recent Harris survey statistically demonstrates that it is simply not the case. The survey proves that the Vice President is the overwhelming choice of Republicans and independents, and that sentiment is growing.

The political facts of life are, of course, that President Nixon will decide who his running mate will be, and this will be duly approved by the Republican National Convention. Within the administration, Mr. Agnew's ability, loyalty to the President, and his numerous accomplishments are greatly admired and respected.

Ultimately then, it is the voting citizens of the United States who will determine who will serve them in the offices of President and Vice President for the next 4 years. It is my opinion that the "silent majority" will prove to be strong supporters of Vice President Agnew.

Mr. Speaker, I insert the Willard Edwards, Chicago Tribune report on the New Hampshire primary and the most recent Harris survey in the Record:

Agnew's Write-In

(By Willard Edwards)

Washington.—The extraordinary write-in vote given Vice President Agnew in New Hampshire—the largest in history—has temporarily brought to a halt a quiet undercover campaign to keep him off the ticket as President Nixon's running mate.

Although Agnew disavowed the write-in effort organized in his behalf, 70 percent of Republicans indicating a preference for Vice President named him as their choice.

His vote total exceeded the previous write-in record compiled in the state by Lyndon B. Johnson in 1964 and was double the Vice Presidential vote for Richard Nixon in 1956, which made his place on the ticket secure.

Moreover, 5 percent of Democrats voting for Vice President picked Agnew for the No. 2 spot. His vote total exceeded the total given Sen. Muskie, winner of the Democratic Presidential primary.

These results were studied in dismay by a group of "progressive" Republican senators and a number of wealthy Republicans who help fill GOP coffers in campaign years. They have been meeting quietly in New York and Washington and discussing methods to keep the Republican Party from swinging to the right in the 1972 campaign.

In pursuit of this goal, they hoped to convince Nixon that he should replace Agnew.

Their first session, organized by Sen. Jacob Javits (R., N.Y.), attracted a number of GOP senators who classify themselves as "moderates" and such business and financial world figures as Walter Thayer, former president of the now-defunct New York Herald Tribune.

All are politically shrewd, and they decided that an open "Dump Agnew" drive would be suicidal and only solidify the Vice President's position on the ticket.

They are happy with Nixon, whom they regard as a former conservative now recruited to their "progressive" stand, but they are concerned with Agnew's conservative positions and regard him as a drag on the ticket.

The strategy adopted at these meetings was to delegate the job of denigrating Agnew to the businessmen who would talk to the President, delicately hinting that their party donations might be diminished if Agnew remained on the ticket.

Agnew would be acceptable, they agreed, only if he could be restrained in the future from the militantly conservative positions he has taken in the past.

The write-in vote for Agnew in the New Hampshire primary—an unusual demonstration of strength for an unsanctioned candidacy—has admittedly stalled the Javits group in its move to undermine Agnew.

The "drag on the ticket" argument they agreed, would no longer be convincing, especially with a President whose most recently announced position has been that he would be highly unlikely to break up a winning team. New Hampshire made Agnew look like a winner—a partner who could more than pull his weight in the campaign.

Agnew declined comment except to express his gratification at the vote given him and his appreciation of the campaign waged in his behalf by Peter Booras, a greeting card manfacturer from Keene, N.H., whom he has never met.

Perhaps the most important aspect of the New Hampshire vote for Agnew is its impact on the Vice President himself.

According to those who have talked with him privately, he has not been eager to serve four more years in a post which he often found frustrating. Only a hint from Nixon would be needed to secure his voluntary withdrawal.

Now, he can't ignore and cannot help find heartening a 70 percent vote of approval in a primary where his candidacy was advanced without his consent.

THE HARRIS SURVEY—AGNEW GAINS AS TOP CHOICE FOR VICE PRESIDENT

(By Louis Harris)

Vice President Spiro Agnew has gained substantially as the top choice of Republican voters to be renominated with President Nixon at the GOP National Convention in San Diego in August. Agnew receives 49 per cent of the preference votes of rank-and-file Republicans, more than the combined total for the other men tested against him: Treasury Secretary John Connally (17 per cent), Gov. Ronald Reagan (14 per cent), Gov. Nelson Rockefeller (6 per cent), and Sen. Edward Brooke (5 per cent).

In a similar test last August, Agnew led the field with 37 per cent as the first choice of Republican voters to be Mr. Nixon's running mate. Since then, of course, the President said in a January interview that he had no plans to replace Agnew on the ticket. And the survey also indicates that the Vice President is not presently viewed by voters as being as much of an extremist as he was a year or two ago.

In mid-February, a cross section of 633 enrolled Republicans and 344 independents across the country were asked:

"Which one person on this list would be your first choice for the Republican nomination for Vice President in 1972?"

[In percent]

	Republican and Independent	Republican	Independent
Vice President Agnew:			
February 1972	42	49	27
August 1971	32	37	22
Treasury Secretary Connally:			
February	16	17	13
August	20	19	22
Governor Reagan:			
February	13	14	12
August	17	20	15
Governor Rockefeller:			
February	8	6	14
August	13	12	19
Senator Brooke: [1]			
February	8	5	13
None or not sure:			
February	13	9	21
August	18	18	22

[1] Not asked about in August.

Among independents, the Vice President is not as strong as among fellow Republicans. But he still easily leads any of the more prominently mentioned alternatives to him for the No. 2 spot on the ticket.

In the way he is perceived by voters. Agnew now appears to be coming back to the ideological profile he possessed in 1968. Periodically, the Harris Survey has asked voters:

"How would you describe the political philosphy of Vice President Spiro Agnew—conservative, middle-of-the-road, liberal, or radical?"

[In percent]

	1972	1970	1968
Conservative	36	23	21
Middle-of-the-road	20	19	18
Liberal	9	8	6
Radical	12	21	4
Not sure	23	29	51

Two years ago, 21 per cent of the voters judged the Vice President had become "radical" in his political positions. He did not do notably well for candidates he campaigned for in the 1970 off-year elections. Now the number who feel he is a "radical" has shrunk almost in half. The majority rate him conservative to moderate.

IN REGARD TO BEEF PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. SHOUP) is recognized for 5 minutes.

Mr. SHOUP. Mr. Speaker, one of the paramount issues during these past few weeks is that of the price of food. Everybody is complaining about the increase in grocery store prices, especially that of beef. The American consumer is rising up, it would appear, in frustration, in anger, over what he has to pay for his food. There is currently a move afoot to repeal the beef import quota laws, by some urban Congressmen, a move that would be totally ineffective in dropping the price of meat to the consumer. Many Americans are complaining about beef prices, and I would like to very clearly show to the Members of this body where all of this increase is being generated. I have heard many people condemn beef growers, a condemnation totally erroneous. The following information should clarify where those Congressmen who would lower beef prices should concentrate all of their energy.

The latest available figures from the Department of Agriculture reflect a wide gap in what everyone else in America is making and the amount of return farmers receive for their labor. Farmers are in fact working for 25 percent less than the rest of us. The average disposable income is only three-quarters that of the average nonfarmworker group. Between 1951 and 1971 the prices for food products in America went up 6 percent, substantially below the average cost-of-living increase. In fact while farmers were holding the line on their price demands, the average wage rate in nonfarm fields went up more than 6 percent every single year. While farm prices increased 6 percent over 20 years, everything else in America increased 130 percent over the same period. Yet the biggest argument for increased wages, and one which organized labor continually uses to demand higher and higher wages in industry, and justifiably so, is increased productivity. Well, since 1965 American farmers and ranchers have increased farm output per man-hour 26 percent, while off-farm output in this country only went up 8 percent. If collective bargaining was the vehicle for determining the amount of money paid to the farmer, as it is in many other sectors of the economy, Americans would be paying at least 300 percent more for food than we are.

One of the most interesting things is that the amount of money being paid to the farmers and ranchers for their beef in Iowa was 75 cents cheaper per hundredweight last week, March 24, 1972, than carcass beef was selling for in Iowa on August 13, 1971, just before the wage-price freeze began. In the case of carcass beef, the wage-price freeze did not just hold the line, the line actually sank. Currently cattle prices for the man who raises beef have only regained their price levels of 1952. That has happened over a 20-year period when the average wage in America increased 230 percent—when money for wage supplements and fringe benefits demanded by organized labor increased 700 percent and dividends to stock market investors jumped up 300 percent. All of that while farm prices barely budged, moving up only 6 percent total for the 20 years. Frankly it is about time cattle prices moved up. Obviously those Members of this body who are talking so long and hard about keeping a lid on farm prices simply do not know what they are talking about. The farmer's share of the food dollar has decreased from 49 to 38 percent since 1951. If that kind of loss were incurred in industry, plants would shut down. If that kind of loss were incurred in labor agreements, we would be ravaged by strikes in every sector of the country's economy. In just the baking of bread, the middle man causes the markup. The farmer is getting about 4 cents per pound of bread, the baker nearly 15 cents and the retailer just over a nickel. The big increase in cost is not with the farmer, it is with the people between the farmer's gate and the consumer's table.

The American farmer is not making the huge sums of money some would have us think he is making. Over the last 20 years the average farmer has seen the cost of machinery nearly double and the general cost of prices he must pay for general equipment, seed and other incidental costs jump 50 percent. Meantime his price to the wholesaler who buys his products has only gone up 6 percent, leaving the American farmer nearly 50 percent behind. Most farmers are mortgaged to the hilt, continually having to borrow money just to stay even. At the current rate of economic skidding that they are feeling, it would not be 20 years before there just is not anybody left to grow the vast quantities of foodstuffs this Nation needs to exist. The American farmer is very near to going the way of the American buffalo.

Food prices have gone up, and gone up dramatically in this country at the grocery store, not because of the insatiable greed of the farmer, as some would have us believe, but because of increases in other areas, specifically the middle men handling the raw products from the farm. The average wage rates per hour of production workers in manufacturing are 2.3 times higher now than 20 years ago. They were $1.56 per hour in 1951, but now the hourly wage has increased to $3.57. Food marketing employees wages are up 2.5 times, from a 1951 hourly wage of $1.31 to a current average of $3.24.

When we look at the entire picture, rather than from some narrow viewpoint through rose-tinted glasses, we find that the increase in food prices has nothing to do with the farmer, but with the middlemen.

Farm prices for food products are up just 6 percent in 20 years. Over that same period of time wholesale prices have jumped 20 percent and retail prices 43 percent. While the cost of food to the consumer has gone up 69 percent in the last 20 years, only 6 percent of that is attributable to the farmer.

One of the contributing factors to the misinformation which is going around blaming the farmer for something that is not his fault, is blatantly false or misleading advertising by certain food stores. Secretary of Agriculture Butz pointed that out in a dramatic example. One food chain in Washington, D.C. took out full page advertisements in newspapers last week—March 20–26—urging people to eat less meat. They suggested instead, that people eat fish, all on the inference that fish is a less inflated buy than meat. The contrary is true. The fact of the matter is that since 1967 fish prices have increased more than beef. At any rate the consumer is being misled by those full page ads. According to the advertisements meat prices from suppliers to the food chain had skyrocketed. Yet wholesale prices for Iowa beef carcasses are actually lower now than they were 7 months ago. Currently carcass beef is selling wholesale for 1 percent less than it was when the wage-price freeze went into effect.

A compounding factor to public, and congressional misunderstanding over the food price controversy, is simply bad, or negligent reporting by some, though certainly a minority of news people. The public ought to take a fair and honest look at what has been going on, but frankly, they are not getting accurate, unbiased, factual information.

After the Secretary of Agriculture told Texas cattlemen recently that strong, stable cattle prices are needed to insure expanded production of beef, which incidentally would help to lower the price to the consumer, a Washington newspaper story completely mislead the public. Its headline read, "Butz praises soaring meat prices." Obviously some headline writer who simply does not know anything about farm gate prices and their relationship to consumer prices wrote a headline that was not factual. Secretary Butz praised stable, strong prices to the farmer, not soaring, inflated markups by wholesalers and retailers who take out full page advertisements trying to foist off the blame for high food prices on everybody else.

Recently the dockworkers on the west coast settled their strike with a contract calling for some 26-percent increase in wages and fringe benefits. The pay board rolled that increase back to within their guidelines of 5.5 percent per year. Yet, while it is considered acceptable for the industrial workers of this country to get 5.5 percent more a year in wages, it is considered inflationary for American farmers to get 6 percent in 20 years. Productivity of industrial workers has gone up 8 percent since 1965; farm productivity has jumped 26 percent. But are farmers being justly compensated for their increased productivity, often a valid point in labor negotiations? No; and they have not been justly compensated for that in 20 years.

The curious thing about inflation is where it is generated most profoundly. Getting back to that Washington, D.C., newspaper that said Secretary Butz was all for "soaring meat prices" when in fact he was not. That paper has seen some interesting price hikes of its own. Secretary Butz, in a wry observation, pointed out that that newspaper Sunday edition now costs 40 cents, where it only cost 10 cents 20 years ago. While you could buy a page of their advertising space for about $1,300 20 years ago, now you have to pay $3,000 a page. Obviously people in glass houses should not throw stones. What is undue inflation and what is a justifiable price increase just depends on who is looking at it, or who is writing about it in the newspaper.

There is no question that if you demand services of some nature, whether it be the services of a carpenter or the services of a farmer, you are going to have to pay for those services. Farm production, as I pointed out earlier, is way up; so is the cost of operating a farm; so are farm real estate taxes. Yet farmers are spending 10 hours a day, 7 days a week just to earn 25 percent less than if they were average nonfarmworkers. In every other sector of the economy the 10-hour, 7-day workweek has been gone for years, but not on the farm. Down on the farm they have to work that long and that hard just to keep the kids in shoes, much less afford a house in the suburbs with two cars, like many other nonfarmworkers.

When we go into the supermarket for meat, we look for texture, low fat content, the lowest price possible. We do not give one thought to whether the meat is even safe enough to eat. We have the best meat production and packing facilities in the world and we take all that for granted. Well, somebody has to pay for those butchers who get over $4 an hour, those store employees who stock the shelves and check you through the cash register. Nothing is free. In many countries the biggest concern when buying meat is whether it is even safe enough to eat, and you cannot really be sure it is until you either die of food poisoning or live through it for another day of buying meat at an open-air market complete with an overwhelming fly population.

There are some Members of Congress who would like to remove the import quotas on foreign beef. But importing that beef would not decrease the price, because American packers and shippers, and shelve stockers, and checkout personnel, and butchers, and everybody else will still have to process that meat from the dead carcass to the package of hamburger. And the meat processors will not begin to import enough foreign meat to affect the meat market, because if the price drops, so does their markup margin, something no smart businessman would begin to advocate.

It would be wrong to say any one group is at fault for higher food prices. Higher outlays for supermarket facilities, higher labor costs at packinghouses and food processing plants, higher costs of transportation and handling, higher taxes, higher pay for store employees, all contribute substantially to the higher cost of meat along with everything else. The reason there is so much uproar about the cost of meat is that it is just catching up with everything else. Rather than take advantage of the need for food and raising his prices in the past, the American farmer has kept his prices down, down too far.

The place to look for the reason of higher food prices, and I cannot underscore this more, is that great void between the farmer's gate and the consumer's table; a great void where many people handle the food, and each must be paid. A great void where the price is raised every step of the way to pay those wages of handling and to build those shiny new supermarkets we all like so well. That is where it is costing more.

The simple facts show that in the last 20 years the farmer has not even stayed even with the cost of living in this country; rather he has slipped precariously near to extinction as we know him. There will be special hearings on the cost of food April 12 before the Price Commission. I am confident they will put the blame squarely where it belongs in this emotional controversy. The solution to holding the line on food prices is not going to be found by importing poorer grade, poorly inspected, foreign carcass meat that the food processors and retail outlets are going to have to handle just as many times, and thus charge just as much for anyway. The solution is not to be found in damning the American farmer who has done more to combat inflation in this country than anyone else in the last 20 years. The solution, my friends, is to be found where the solution to all of our inflation problems are to be found—with the continual demand from every sector, from every member of society, to continually have more and more money to spend more and more places on more and more junk we do not need. The solution is for all of us to stop saying that inflationary controls are fine for the other guy but not for me, and realize that we all are in this ball game together. Regardless of what some recent grandstand plays have indicated, we cannot pick up our ball and go home if we do not like having to sacrifice as much as the next guy.

If you want to stop the increasing cost of meat, find a way to control the cost of processing it, not growing it. It is the best buy there is at the farm gate.

The American farmer should be patted on the back for his production and low rate of return, rather than being condemned by those who are incredibly naive though tremendously outspoken. He should be championed rather than being chastized by an uninformed public being kept that way by irresponsible analysis of the situation and blatantly false advertising.

ON THE REGULATION OF MEDICAL DEVICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, I introduced today legislation which would prevent the marketing of potentially dangerous medical devices by giving the Food and Drug Administration mandatory power—which it does not now have—to recall defective instruments and require that the devices be precleared by the Federal Government before they may be marketed. This measure is known as the Medical Device Safety Act of 1972.

Unsafe and defective electrical equipment is causing an estimated 1,200 hospital electrocutions yearly and countless cases of accidental injuries. It is shocking and hard to believe that the law does not require the FDA to approve medical devices that are used to diagnose, cure, treat, and prevent diseases.

I do not want to alarm anyone, but some manufacturers are callously disregarding the public interest. For instance, a New York hospital has reported that 40 percent of incoming instruments are defective and a survey suggests that of 1,500 devices tested, 1,200 had unfavorable or untoward reactions.

My bill, known as the Medical Device Safety Act of 1972, would amend the Federal Food, Drug, and Cosmetic Act to regulate carefully defined categories of medical instruments so they would not be confused with some loose definitions of drugs. Since there are presently no standards for devices, the FDA would also be empowered to create and enforce standards after consulting with other Federal agencies and experienced technicians and doctors.

The bill also contains a "state of the art" clause, allowing the FDA to withdraw approval of a device if new research proves it to be harmful or ineffective. But the bill's critical provision is the creation of a premarket clearance procedure.

Only after a device is marketed and proven dangerous to people's health can the FDA now attempt to have it removed. This procedure is a joke. First, the FDA usually spends several months finding out about a problem—if they ever do. Then the manufacturers can only be asked to recall a device voluntarily. The FDA can at that point ask the court for an injunction, which manufacturers usually appeal. This process can take up to 5 years, during which time the producers continue to sell the device. For instance, a Philadelphia researcher has concluded that a resuscitator used for emergency first-aid to counter heart failure, smoke inhalation and drowning failed to provide respiratory support for victims. Yet the manufacturer refused to recall the product from the market, even though using the device involved a possibly serious hazard.

Ingenious new breakthroughs in medical technology are helping to save and cure many medical patients, but unfortunately, too many manufacturers are producing unsafe and unreliable instruments. Improper design, high electrical leakage from equipment, shoddy cables, and poor assembly of parts are a few of the frequent complaints.

Unfortunately, Mr. Speaker, I am not talking about isolated instances of a lapse in a piece of equipment's performance. Hospitals and doctors are reluctant to discuss it publicly, but the complaints are mounting of faulty anesthesia devices, heart valves, catheters, contact lenses, X-rays, radiation, plastics, prosthese, IUD's, and cardiovascular apparatuses, to cite a few. These reports have been gathered from independent surveys made by hospitals, doctors, and reports reaching the Food and Drug Administration. For instance, there are reports of artificial heart valves with surface defects that can cause fatal blood clots; artificial kidney machines discharging water intravenously which could endanger patient's lives, and hip prostheses mechanically disrupted, thereby causing severe tissue injury.

It is certain new electronic devices, however, that are causing the real danger—electrocution. For instance, there are defibrillators which have tendencies to discharge high voltage into a patient's heart before a surgeon calls for an electrical charge. In such circumstances, it is difficult to determine whether the patient's heart failed or whether he was killed by the electrical jolt. Some doctors suggest that cheap molded plastic plugs on machinery or poor maintenance could cause such a malfunction.

Mr. Speaker, there can be no further delay on this issue. Medical devices must be regulated and controlled, and to this end, I recommend swift passage of the Medical Device Safety Act of 1972, which reads as follows:

H.R. 13793

A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety, reliability, and effectiveness of medical devices

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medical Device Safety Act of 1972."

TITLE I—AUTHORITY TO ESTABLISH STANDARDS

Sec. 101. Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C., ch. 9, subch. V) is amended by adding at the end thereof the following new section:

"STANDARDS FOR MEDICAL DEVICES

"Authority To Set Standards

"Sec. 513. (a) Whenever in the judgment of the Secretary such action will protect the public health and safety, he may by regulation establish for any device (including any type or class of device), a reasonable standard relating to the composition, the properties, or the performance of the device or devices involved (or relating to two or more of such factors) and that such standard be based on the present state of the art and that approval by the Secretary does not necessarily constitute an infinite time approval should the present state of the art change sufficiently to require a review of the safety and efficacy aspects of the device in order to protect the public.

"Weight Given Other Standards—Consultation With Interested Groups

"(b) In the development and consideration of proposals for the issuance of standards under this section, and in particular prior to the commencement of formal proceedings on his own initiative pursuant to subsection (c), the Secretary shall to the optimum extent consult with, and give appropriate weight to relevant standards published by, other Federal agencies concerned with standard setting or other nationally or internationally recognized standard-setting agencies or organizations, and invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, and consumer organizations that in his judgment can make a significant contribution to such development.

"Procedure for Issuance, Amendment, or Repeal of Standards

"(c) The provisions of section 701 (e), (f), and (g) of this Act shall, subject to the provisions of subsection (d) of this section, apply to and in all respects govern proceedings for the issuance, amendment, or repeal of regulations under subsection (a) of this section (including judicial review of the Secretary's action in such proceedings). The Secretary may suspend the running of any applicable time limit under section 701(e) pending receipt of the report of an advisory committee under subsection (d) of this section and consideration of the committee's report by the Secretary.

"Referral to Independent Joint Advisory Committee

"(d) (1) In any proceeding for the issuance, amendment, or repeal of a regulation establishing a standard under this section, whether commenced by a proposal of the Secretary on his own initiative or by a proposal contained in a petition, the petitioner, or any other person who will be adversely affected by such proposal or by the Secretary's order issued in accordance with paragraph (1) of section 701(e) if placed in effect, may request, within the time specified in this subsection, that the petition or order thereon, or the Secretary's proposal, be referred to a joint advisory committee of experts for a report and recommendations with respect to any matter involved in such proposal or order that requires the exercise of scientific judgment. Upon such request, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint such a joint advisory committee and shall refer to it, together with all the data before him, the matter so involved for study thereof, and for a report and recommendations thereon, in accordance with the applicable provisions of paragraph (5) (C) (ii) of subsection (b), and subject to paragraph (2) of subsection (d), of section 706. A person who has filed a petition or who has requested the referral of a matter to a joint advisory committee pursuant to this subsection, as well as representatives of the Department, shall have the right to consult with such joint advisory committee in connection with the matter referred to it. The request for referral under this subsection, or the Secretary's referral on his own initiative, may be made at any time before, or within thirty days after, publication of an order of the Secretary acting upon the petition or proposal.

"(2) The appointment, compensation, staffing, and procedure of such committees shall be in accordance with subsection (b) (5) (D) of section 706 as amended.

"(3) Where such a matter is referred of an expert joint advisory committee upon request of an interested person, the Secretary may, pursuant to regulations, require such person to pay fees to pay the costs, to the Department, arising by reason of such referral. Such fees, including advance deposits to cover such fees, shall be available, until expended, for paying (directly or by way of reimbursement of the applicable appropriations) the expenses of joint advisory committees under this subsection and other expenses arising by reason of referrals to such committees and for refunds in accordance with such regulations."

CONFORMING AMENDMENTS

SEC. 102. Section 501 of such Act (21 U.S.C. 351) is amended by adding at the end thereof the following new paragraph:

"(e) If it is, or purports to be or is represented as, a device of a type or class with respect to which, or with respect to any component, part, or accessory of which, a standard established under section 513 is in effect, unless such device, or such component, part, or accessory, is in all respects in conformity with such standards."

TITLE II—PREMARKET CLEARANCE OF CERTAIN MEDICAL DEVICES

SEC. 201. (a) Section 501 of such Act, as amended by section 102 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(f) If (1) it is a device, and (2) such device, or any component, part, or accessory thereof, is deemed unsafe, unreliable, or ineffective within the meaning of section 514 with respect to its use or intended use."

(b) Chapter V of such Act, as amended by section 101 of this Act, is further amended by adding at the end thereof a new section as follows:

"PREMARKET CLEARANCE FOR CERTAIN MEDICAL DEVICES

"When Premarket Clearance Is Required

"SEC. 514. (a) A device shall, with respect to any particular use or intended use thereof, be deemed unsafe, unreliable, or ineffective for the purpose of the application of section 501(f) if—

"(1) its composition, construction, or properties are such that such device is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety, reliability, and effectiveness of such device, to be safe, reliable, and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; and

"(2) such device (A) is intended to be secured or otherwise placed, in whole or in part, within the human body or into a body cavity, or directly in contact with mucous membrane, and is intended to be left in the body or such cavity, or in such direct contact, permanently, indefinitely, or for a substantial period or periods (as determined in accordance with regulations issued after notice and opportunity to present views), or (B) is intended to be used for subjecting the human body to ionizing radiation, electromagnetic, electric, or magnetic energy (including, but not limited to, diathermy, laser, defibrillator, and electroshock instrumentation), or heat, cold, or physical or ultrasonic energy, or is intended for physical or radio or electronic or electric communication in either direction with any part of the human body or with a device placed within or connected with the human body, or (C) is a device which the Secretary, by special order made on the basis of a finding (for reasons stated in the order) that there is probable cause to believe that the device is not effective for its use or intended use, or that it is not safe for use or not reliable, under the conditions prescribed, recommended, or suggested in its labeling, has declared to be subject to the requirements of this subsection with respect to such use or intended use,

unless either—

"(3) an application with respect to such device has been filed pursuant to subsection (b) and there is in effect an approval of such application by the Secretary under this section.

"(4) such device is exempted by or pursuant to subsection (j), (k), or (l) of this section, or

"(5) such device is intended solely (A) for use in the cure, mitigation, treatment, or prevention of disease in animals other than man or (B) to affect the structure of any function of the body of such animals.

The Secretary shall, by regulation issued or amended from time to time under the authority of this sentence, insofar as practicable promulgate and keep current a list or lists of devices, and of the particular uses (or conditions of use) thereof, which he finds are generally recognized, among experts qualified by scientific training and experience to evaluate the safety, reliability, and effectiveness of such devices, to be safe, reliable, and effective for use (under the conditions, if any, referred to in such list or lists), and the inclusion, while in effect, of a device in such a list shall, in any proceeding under this Act, be conclusive evidence against the United States of the facts stated in that list with respect to such device.

"Application for Clearance

"(b) Any person may file with the Secretary an application for determination by the Secretary of the safety, reliability, and effectiveness of any device to which paragraphs (1) and (2) of subsection (a) apply. Such persons shall submit to the Secretary as a part of the application (1) full reports of all information published, or otherwise available to the applicant, concerning investigations which have been made to show whether or not such device is safe, reliable, and effective for use; (2) a full statement of the composition, properties, and construction, and of the principle or principles of operation, of such device; (3) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of such device; (4) an identifying reference to any standard, applicable to such device, which is in effect pursuant to section 513, and adequate information to show that such device fully meets such standards; (5) such samples of such device and of the articles used as components thereof as the Secretary may require; (6) specimens of the labeling proposed to be used for such device and (7) such other information, relevant to the subject matter of the application, as the Secretary may require.

"Time for Initial Consideration of Application

"(c) Within one hundred and eighty days after the filing of an application under subsection (b), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

"(1) approve the application if he then finds that none of the grounds for denying approval specified in subsection (d) applies, or

"(2) give the applicant notice of an opportunity for a hearing before the Secretary to be held under subsection (d) on the question whether such application is approvable.

The Secretary may suspend the running of the applicable time limit under this subsection pending receipt of the report of an advisory committee under subsection (h) and the period allowed to the Secretary for consideration of the report thereafter.

"Bases for Approval or Disapproval; Opportunity for Hearing

"(d) (1) If, upon the basis of the information submitted to the Secretary as part of the application and any other information before him with respect to such device, the Secretary finds, after due notice to the applicant and opportunity for a hearing to the applicant, that—

"(A) such device is not shown to be safe and reliable for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof;

"(B) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g);

"(C) there is a lack of substantial evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or

"(D) based on a fair evaluation on all material facts, such labeling is false or misleading in any particular;

he shall issue an order denying approval of the application. If, after such notice and opportunity for hearing, the Secretary finds that clauses (A) through (D) of this subsection do not apply, he shall issue an order approving the application.

"(2) As used in this subsection and subsection (e), the term 'substantial evidence' means evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the device involved, on the basis of which it could fairly and responsibly be concluded by such experts that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

"(3) For the purposes of this section, when a device is intended for use by a physician, surgeon, or other person licensed or otherwise specially qualified therefor, its safety, reliability, and effectiveness shall be determined in the light of such intended use.

"Withdrawal of Approval

"(e) (1) The Secretary may, after due notice and opportunity for hearing to the applicant, issue an order withdrawing approval of an application with respect to a device under this section if the Secretary finds—

"(A) (i) that clinical or other experience, tests, or other scientific data show that such device is unsafe or unreliable for use under the conditions of use upon the basis of which the application was approved; or (ii) on the basis of evidence of clinical experience, not contained in such application or not available to the Secretary until after the application was approved, or of tests by new methods or by methods not reasonably applicable when the application was approved, evaluated together with the evidence available to the Secretary when the application was approved, that such device is not then shown to be safe or reliable for use under the conditions of use on the basis of which the application was approved;

"(B) on the basis of new information before him with respect to such device, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof;

"(C) that the application filed pursuant to subsection (b) contains an untrue statement of a material fact;

"(D) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records, or to make required reports, in accordance with an applicable regulation or order under subsection (a) of section 515, or that the applicant has refused to permit access to, or copying or verification of, such records as required by paragraph (2) of such subsection;

"(E) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

"(F) that on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the labeling of such device, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

"(2) If the Secretary (or in his absence the officer acting as Secretary) finds that an imminent health or safety hazard is involved, he may suspend the approval of such application immediately, and give the applicant prompt notice of his action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this paragraph to suspend the approval of an application shall not be delegated.

"(3) Any order under this subsection shall state the findings upon which it is based.

"Authority To Revoke Adverse Orders

"(f) Whenever the Secretary finds that the facts so require, he shall revoke any previous order under subsection (d) or (e) denying, withdrawing, or suspending approval of an application and shall approve such application or reinstate such approval, as may be appropriate.

"Service of Secretary's Orders

"(g) Orders of the Secretary under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by mailing the order by registered mail or certified mail addressed to the applicant at his last known address in the records of the Secretary.

"Referral to Independent Advisory Committee

"(h)(1) In the application filed by the applicant under subsection (b), or at any time prior to the expiration of the time for action by the Secretary under clause (1) or (2) of subsection (c), or within such reasonable period after notice of opportunity for a hearing to be held under subsection (d) or (e) as may be specified by the Secretary in such notice, the applicant may request that such application or the Secretary's action thereon, or the matter or matters with respect to which notice of opportunity for hearing is given, be referred to an advisory committee of experts for a report and recommendations with respect to any question therein involved that requires the exercise of scientific judgment. Upon such request, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint an advisory committee and shall refer to it, together with all the data before him, the question so involved for study thereof, and for a report and recommendations thereon, in accordance with the applicable provisions of paragraph (5)(C)(ii) of subsection (b), and subject to paragraph (2) of subsection (d) of section 706. The applicant, as well as representatives of the Department, shall have the right to consult with such advisory committee in connection with the question referred to it.

"(2) The appointment, compensation, staffing, and procedure of such advisory committee shall be in accordance with subsection (b)(5)(D) of section 706.

"(3) Paragraph (3) of section 513(d) shall also apply in the case of a referral to an advisory committee under this subsection.

"Judicial Review

"(i) The applicant may, by appeal, obtain judicial review of a final order of the Secretary denying, or withdrawing approval of, an application filed under subsection (b) of this section. The provisions of subsection (h) of section 505 of this Act shall govern any such appeal.

"Exemption for Investigational Use

"(j)(1) It is the purpose of this subsection to encourage, to the maximum extent consistent with the protection of the public health and safety and with professional ethics, the discovery and development of useful devices and to that end to maintain optimum freedom for individual scientific investigators in their pursuit of that objective.

"(2) Subject to the provisions of paragraph (3), there shall be exempt from the requirement of approval of an application under the foregoing provisions of this section any device which is intended solely for investigational use (in a hospital, laboratory, clinic, or other appropriate scientific environment) by an expert or experts qualified by scientific training and experience to investigate the safety, reliability, and effectiveness of such device.

"(3)(A) The Secretary shall promulgate regulations relating to the application of the exemption referred to in paragraph (2) to any device that is intended for use in the clinical testing thereof upon humans by separate groups of investigators under essentially the same protocol, in developing data required to support an application under subsection (b).

"(B) Such regulations may provide for conditioning the exemption in the case of investigations intended for such use, upon—

"(i) the submission to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of an adequate plan for the investigation, together with a report of prior investigations of the device (including, where appropriate, tests on animals) adequate to justify the proposed investigation.

"(ii) the manufacturer, or the sponsor of the investigation, of a device to be distributed to investigators for such testing obtaining a signed agreement from each of such investigators that humans upon whom the device is to be used will be under his personal supervision or under the supervision of investigators responsible to him;

"(iii) the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of the device, as the Secretary finds will enable him to evaluate the safety, reliability, and effectiveness of the device in the event of the filing of an application pursuant to subsection (b), but nothing in this clause or in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of devices; and

"(iv) such other conditions relating to the protection of the public health and safety as the Secretary may determine to be necessary.

"(C) Such regulations shall also condition such exemption upon the manufacturer, or the sponsor of the investigation, of the device requiring that investigators using the device for the purpose described in subparagraph (A) certify to such manufacturer or sponsor that they—

"(i) will inform individuals upon whom such device or any controls in connection therewith are used, or the representatives of such individuals, that the device is being used for investigational purposes, and

"(ii) will obtain the consent of such individuals or representatives,

except where they deem it not feasible or, in their professional judgment, contrary to the best interest of such individuals.

"(D) Such regulations shall provide—

"(i) that whenever the Secretary determines that a device is being or has been shipped or delivered for shipment in interstate commerce for investigational testing upon humans as described in subparagraph (A) of this paragraph, and that such device is subject to the foregoing subsections of this section and fails to meet the conditions for exemption for investigational use of the device, he shall notify the sponsor of the Secretary's determination and the reasons therefor and that the exemption will not apply with respect to such investigational use until such failure is corrected, and

"(ii) that in determining whether subparagraph (A) of this paragraph (3) is applicable and, if so, in determining compliance with the conditions of exemption, including the adequacy of the plan of investigation submitted to the Secretary, or upon application for reconsideration of his determination with respect to any such matter, the Secretary shall, if so requested by the sponsor of the investigation, or may on his own initiative, obtain the advice of an appropriate expert or experts who are not otherwise, except as consultants, engaged in the carrying out of this Act.

"Exemptions for Devices Complying With or in Anticipation of Standards, Custom-Made Prescription Devices, and Devices Made to Specifications of Licensed Practitioners for Use in Their Practice

"(k) In addition to the devices exempted by subsection (j) the Secretary shall, by or pursuant to regulation, exempt the following devices, with respect to any particular use or intended use thereof, from the requirement of approval under this section:

"(1) Any device which, with respect to such use fully conforms to an applicable standard in effect pursuant to section 513, or pursuant to section 358 of the Public Health Service Act, to the extent that the Secretary finds that the standard provides assurance that the device will be safe, reliable, and effective for such use.

"(2) Any device of a type or class with respect to which there is in effect a notice by the Secretary, published in the Federal Register, that in his judgment the establishment, within a reasonable time, of a standard that would adequately meet the requirements of public health and safety with respect to such use of the device (without subjecting such device to the requirement of approval under the foregoing subsections of this section) appears to be feasible; that he intends to propose the establishment of such a standard; and that the nonapplication of the foregoing subsections of this section to such type or class of device with respect to such use pending the establishment of such standard would involve no undue risk from the standpoint of the protection of the public health and safety.

"(3) Any device made to the lawful order, and in accordance with specifications, of a practitioner licensed by law to use or prescribe the use of the device if—

"(A) a device meeting such specifications is not generally available in finished form for purchase or for dispensing upon prescription and is not stocked, or offered through a catalog or advertising or other commercial channels, by the maker or processor thereof, and either

"(B) (i) such device is intended for the use of a patient, named in such order, of such practitioner, or (ii) such device is intended solely for use by such practitioner, or by persons under his professional supervision, in the course of his professional practice.

"Other Exemptions

"(l) (1) The Secretary shall also by regulation exempt from the requirements imposed by or pursuant to the provisions of this section preceding subsection (j), or from one or more of such requirements, devices licensed by the Atomic Energy Commission under the Atomic Energy Act of 1954 to the extent he finds it to be appropriate to avoid duplication of regulatory controls or procedures and to be consistent with the purposes of this Act.

"(2) The Secretary shall further, by or pursuant to regulation, exempt from such requirements, or from one or more of such requirements, devices with respect to which in his judgment the application of such requirements is not necessary for the protection of the public health, either because of the small number of devices involved, the negligible significance of the device from the standpoint of the protection of the public health and safety, or for other reasons."

PROHIBITED ACTS

Sec. 202. (a) Paragraph (e) of section 301 of such Act is amended (1) by striking out "or" before "507 (d) or (g)", and (2) by inserting "514(j), or 515," after "512(j), (l), or (m).".

(b) Paragraph (j) of section 301 of such Act is amended by inserting "514," immediately after "512,".

(c) Paragraph (l) of such section 301 is amended (1) by inserting "or device" after the word "drug" each time it appears therein, and (2) by striking out "505," and inserting in lieu thereof "505 or 514, as the case may be,".

TITLE III—REQUIREMENT OF GOOD MANUFACTURING PRACTICE

Sec. 301. Section 501 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351), as amended by sections 102 and 201 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(g) If it is a device and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, holding, or installation do not conform to, or are not operated or administered in conformity with, current good manufacturing practice to assure that such device is safe and reliable and has the properties and performance characteristics which it purports or is represented to possess and othewise meets the requirements of this Act."

TITLE IV—RECORDS AND REPORTS: INSPECTION AND REGISTRATION OF ESTABLISHMENTS

Sec. 401. (a) Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C., ch. 9, subch. V) is further amended by adding at the end thereof the following new section:

"RECORDS AND REPORTS ON DEVICE EFFECTS AND EXPERIENCE

"Sec. 515. (a) (1) Every person engaged in manufacturing or processing, or in distributing, a device that is subject to a standard in effect under section 513, or with respect to which there is in effect an approval of an application filed under section 514(b), shall establish and maintain such records, and relating to clinical experience and other data or information, received or otherwise obtained by such person with respect to such device, and bearing on the safety, reliability, or effectiveness of such device, or on whether such device may be adulterated or misbranded, as the Secretary may by general regulation, or by special regulation or order applicable to such device, require. Regulations and orders prescribed under the authority of this subsection shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, wherever the Secretary deems it appropriate, for the examination, upon request by the persons to whom such regulations or orders are applicable, or similar information received or otherwise obtained by the Secretary.

"(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(b) Subsection (a) shall not apply to—

"(1) pharmacies which maintain establishments in conformance with any applicable local laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs or devices, upon prescriptions of practitioners licensed to prescribe such drugs or devices, to patients under the care of such practitioners in the course of their professional practice, and which do not, either through a subsidiary or otherwise, manufacture or process drugs or devices for sale other than in the regular course of their business of dispensing or selling drugs or devices at retail;

"(2) practitioners licensed by law to prescribe or administer drugs and devices and who manufacture or process devices solely for use in the course of their professional practice;

"(3) persons who manufacture or process devices solely for use in research or teaching and not for sale;

"(4) any person, with respect to any device—

"(A) which (and the components of which) have not been in interstate commerce, and

"(B) which are not introduced or intended for introduction into interstate commerce; or

"(5) such other classes of persons as the Secretary may by or pursuant to regulation exempt from the application of this subsection upon a finding that such application is not necessary to accomplish the purposes of this subsection."

INSPECTION RELATING TO DEVICES

Sec. 402. (a) The second sentence of subsection (a) of section 704 of such Act (21 U.S.C. 374) is amended by inserting "or prescription devices" after "prescription drugs" both times it appears.

(b) The third sentence of such subsection is amended (1) by striking out "for prescription drugs", (2) by striking out "and antibiotic drugs" and inserting in lieu thereof ", antibiotic drug, and devices," (3) by striking out "or section 507 (d) or (g)" and inserting in lieu thereof ", section 507 (d) or (g), section 514(j), or section 515", and (4) by inserting "or devices" after other drugs", inserting "or of a device subject to section 514" after "new drug", and inserting "or section 515" after "section 505(j)".

(c) (1) Paragraph (1) of the sixth sentence of such subsection is amended by inserting "or devices" after "drugs" each time such term occurs.

(2) Paragraph (2) of that sentence is amended by inserting ", or prescribe or use devices, as the case may be," after "administer drugs"; and by inserting ", or manufacture or process devices," after "process drugs".

(3) Paragraph (3) of that sentence is amended by inserting ", or manufacture or process devices," after "process drugs".

REGISTRATION OF DEVICE MANUFACTURERS

Sec. 403. (a) Section 510 of such Act (21 U.S.C. 360) is amended as follows:

(1) The section heading is amended by inserting "OF DRUGS AND DEVICES" after "PRODUCERS".

(2) Subsection (a) (1) is amended by inserting "or device package" after "drug package"; by inserting "or device" after "the drug"; and by inserting "or user" after "consumer".

(3) The first sentence of subsection (b) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or of any device" after "drug".

(4) The first sentence of subsection (c) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or of any device" after "drug".

(5) (A) The first sentence of paragraph (1) of subsection (d) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such paragraph is amended by inserting "or any device" after "drug".

(B) Paragraph (2) of such subsection (d) is amended by inserting "or any device" after "drug".

(6) Subsection (g) is amended by inserting "or devices" after "drugs" each time such term occurs in paragraphs (1), (2), and (3) of such subsection.

(7) The first sentence of subsection (i) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or devices" after "drugs".

(b) The second sentence of section 801(a) of such Act (21 U.S.C. 381(a)) is amended by inserting "or devices" after "drugs" both times such words appear.

(c) Section 301 of the Drug Amendments of 1962 (76 Stat. 793) is amended by inserting "and devices" after "drugs" each time such word appears, except that "or devices" is inserted after "which drugs" and after "intrastate commerce in such drugs".

TITLE V—DEFINITIONS

Sec. 501. Section 201(g) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(g) The term 'drug' means (1) those articles which have been investigated for their pharmacological activity and which are recognized, accepted, and used by virtue of this pharmacological activity in the (A) diagnosis, treatment, mitigation, prevention, or cure of disease in man or other animals, and (B) articles intended because of their pharmacological activity to affect the structure or function of the body of man or other animals, and (C) articles intended for use as a component of any article specified in clause (A), (B), or (C); but does not include devices or their components, parts, or accessories; and (2) those articles recognized by virtue of their pharmacological activity in the official United States Pharmacopeia, official Homopathic Pharmacopeia of the United States, official National Formulary, official National Compendium, or any supplement to any of them."

Sec. 502. (a) Section 201 of the Federal Food, Drug, and Cosmetic Act is amended by inserting the following subsection (h) after subsection (g):

"(h) The term 'pharmacological activity' is defined as the action and fate of drugs in man or other animals, including their use in medicine (therapeutics) and their poisonous effects (toxicity)."

(b) Subsections (h) through (x) are redesignated as (i) through (y), respectively.

Sec. 503. Section 201(h) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(h) The term 'device' means those articles which are instruments, apparatus, and contrivances including their components parts, and accessories lacking pharmacological activity, which because of their physical or mechanical characteristics are (1) (A) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or (B) to effect the structure or any function of the body of man or other animals, and (2) are recognized in the official United States Pharmacopeia, official National Formulary, official Government Compendium, or any supplement to any of them, but does not include those items that are drugs."

TITLE VI—GENERAL PROVISIONS

ADVISORY COUNCIL ON DEVICES, ETC.

SEC. 601. Chapter VII of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new section:

"ADVISORY COUNCIL ON DEVICES, AND OTHER ADVISORY COMMITTEES AND EXPERTS

"SEC. 708. (a) For the purpose of advising the Secretary with respect to matters of policy in carrying out the provisions of this Act relating to devices, there is established in the Department (in addition to the ad hoc advisory committees that may from time to time be appointed under sections 513 and 514) an Advisory Council on Devices consisting of members appointed by the Secretary without regard to the civil service and classification laws. Such members shall consist of persons chosen with a view to their special knowledge of the problems involved in the regulation of various kinds of devices under this Act, members of the professions using such devices, scientists expert in the investigational use of devices, and members of the general public.

"(b) The Secretary may also from time to time appoint, without regard to the civil service and classification laws, in addition to the advisory councils and committees otherwise authorized under this Act, such other advisory committees or councils as he deems desirable.

"(c) In order to facilitate the carrying out of this Act, the Secretary may employ experts and consultants, as authorized by title 5, United States Code, section 3109.

"(d) Members of an advisory council or committee appointed pursuant to subsection (a) or (b) who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the council or committee or otherwise engaged on its business, and experts or consultants employed pursuant to subsection (c) shall, while so employed, be compensated at rates fixed by the Secretary but not in excess of $100 per day (or, if higher at the time of such service, the rate established for grade GS–18 of the General Schedule), including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by title 5, United States Code, section 5703, for persons in the Government service employed intermittently."

SEC. 602. Section 706(b)(5)(D) of such Act is amended by inserting "and National Academy of Engineering" after "National Academy of Sciences" each place it appears.

EFFECTIVE DATES AND TRANSITIONAL PROVISIONS

SEC. 603. (a) Except as provided in subsections (b), (c), and (d) of this section, the foregoing provisions of this Act shall take effect on the date of the enactment of this Act.

(b) Except as provided in subsection (c) of this section, paragraph (f) of section 501 of the Federal Food, Drug, and Cosmetic Act, as added to such section by section 201(a) of this Act, shall, with respect to any particular use of a device, take effect (1) on the first day of the thirteenth calendar month following the month in which this Act is enacted, or (2) if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under section 514 of such Act as added by section 201(b) of this Act.

(c)(1) Where, on the day immediately prior to the date of enactment of this Act, a device was in use in the cure, mitigation, treatment, or prevention of disease in man, or for the purpose of affecting the structure or any function of the body of man, such paragraph (f) of section 501 of the Federal Food, Drug, and Cosmetic Act shall become effective with respect to such preexisting use or uses of such device on the closing date (as defined in this subsection) or, if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under such section 514 of such Act.

(2) For the purposes of this subsection, the term "closing date" means the first day of the thirty-first calendar month which begins after the month in which this Act is enacted, except that, if in the opinion of the Secretary it would not involve any undue risk to the public health, he may on application or on his own initiative postpone such closing date with respect to any particular use or uses of a device until such later date (but not beyond the close of the sixtieth month after the month in which this Act is enacted) as he determines is necessary to permit completion, in good faith and as soon as reasonably practicable, of the scientific investigations necessary to establish the safety and effectiveness of such use or uses. The Secretary may terminate any such postponement at any time if he finds that such postponement should not have been granted or that by reason of a change in circumstances, the basis for such postponement no longer exists or that there has been a failure to comply with a requirement of the Secretary for submission of progress reports or with other conditions attached by him to such postponement.

(d) Any person who, on the day immediately preceding the date of enactment of this Act, owned or operated any establishment in any State (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act) engaged in the manufacture or processing of a device or devices, shall, if he first registers with respect to devices, or supplements his registration with respect thereto, in accordance with subsection (b) of section 510 of that Act (as amended by section 403 of this Act) prior to the first day of the seventh calendar month following the month in which this Act is enacted, be deemed to have complied with that subsection for the calendar year 1972. Such registration, if made within such period and effected in 1973, shall also be deemed to be in compliance with such subsection for that calendar year.

URGENTLY NEEDED FOR WAR ON DRUGS: COMPLETE EXPLANATION OF PAST AND PRESENT ROLE OF RED CHINA IN ILLICIT DRUG TRAFFIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 60 minutes.

Mr. ASHBROOK. Mr. Speaker, most Americans agree that the drug problem is one of the most urgent and difficult challenges to face us in this era. Domestically, the administration has announced that it will make it a number one priority item on its agenda. We have a right to ask if everything is being done that is within the power of the administration to fight this problem, particularly the hard drug, heroin, aspects of the dilemma. I think not. In fact, I believe there is a conscious effort to cover up Red China's nefarious part in the international illicit drug traffic. The Nixon administration is engaging in managed news to cover up the Communists' complicity in hard drug traffic.

One of the unfortunate aspects of governmental policy is that sometimes the policy is so politically important that the facts are altered to fit the program. This is often done in announcing economic policies, poverty programs or defense commitments. It is clear that the Nixon administration wants to work for peace. It makes peace more palatable if you downplay the actual intentions of an enemy or diminish it actual military threat to us. This fits peace policies better. If you want to cozy up to Red China. There is more public receptivity if you say that Red China has stopped its old ways. It no longer exterminates 20 or 30 million people and it no longer traffics in hard drugs. The facts show otherwise, particularly in the latter category.

When the President journeyed to Red China many of us who had observed the Red Chinese participation in the opium traffic hoped that at least Mr. Nixon would pressure the Red bandits to stop this illicit contribution to world misery. Communism and misery go hand in hand and it was probably a bit optimistic to expect that they would take this decent step. It now appears that Mr. Nixon never even broached the subject, the illicit drug trade, to Mao or Chou. Henry Kissinger vetoed bringing up the issue because it would have been too explosive at the initial meeting. So committed was our President to the public relations aspects of his China trip that this fundamental issue was left off the agenda. The Communists won once more and American interests were subordinated to the personal whims of the Presidential advisers who are more interested in elections than the welfare of our country.

Syndicated Columnist Paul Scott accurately hits the target in a recent column. He wrote, in part:

> Discussion of the heroin issue with the Chinese Communists also would contradict the official Nixon Administration position that "there is no hard evidence that the Chinese Communist government is involved in the covert drug traffic from the Asian mainland."
>
> This "fig leaf" policy, as it is refererd to within the American intelligence community, was adopted by the White House as part of the new Nixon policy toward accommodating Red China as a part of a new global balance of power strategy.
>
> ### TO STAY IN EFFECT
>
> Under this preconceived policy, government officials must not reveal any information of heroin traffic from China or the direct involvement of the Peking government.
>
> This "fig leaf" policy is to remain in effect until a high-level policy decision is made by President Nixon and his advisers on what the U.S. should or can do, if anything, about this illegal heroin traffic.
>
> Since the President's major foreign policy objective is to improve relations with Communist China, it is very doubtful that he will make any decision that might cause public embarrassment to the Peking government at this time.
>
> It is this box that the President has worked himself into that is causing deep concern among government intelligence-security officials who see the heroin threat from China

> growing as contacts between the U.S. and the mainland expand.

Mr. Speaker, this analysis of the unfortunate situation is totally accurate and is one more indication how foreign policy considerations outweigh all other aspects of policy. American interests are subordinated time and time again—in trade, in the monetary field, in the military, in security—to the judgments of those who view themselves as experts in the diplomatic field and in foreign policy. This is one more area where we need a reversal of policy. American interests must come first, foreign considerations second. We are now fighting a paper tiger war against hard drugs because we have granted a special dispensation to the world's worst offender in the hard drug market, Communist China. Before considering other aspects of the war on drugs, I refer to an extensive article on the past and present involvement of the Red Chinese in the drug traffic which I inserted in the Congressional Record of October 13, 1971. Written by Mr. DeWitt S. Copp, a Washington-based free-lance writer and an expert on national affairs and the China area, the article begins with this statement:

> A shocking British government document has come into this reporter's hands; it is Great Britain's 1969 estimates of the contribution Communist China makes to the world's illicit production of opium. According to the British, as of two years ago the total illegal world production of the drug from which heroin is derived was "5,000 tons, 1,000 tons coming from the Middle East and minor producers," the remaining "4,000 tons" emanating from "Southeast Asia (including Burma, Thailand, and Laos)" and the "Chinese People's Republic." Of this amount, the official British estimates is *"3,500 tons" coming from Red China!*
>
> The confidential document goes on to point out that all opium grown in Red China is illicit, that the average yield of opium per hectare of poppy field is seven kilos and that the total area under cultivation is estimated at a half-million hectares or 200,000 acres. The poppy-growing provinces are listed as Yunnan—where production is figured at 1,000 tons, Szechwan, Kwangsi, Kwangtung, Hopei and Honan. The annual revenue to Peking is placed at a half-billion U.S. dollars.

THE DOMESTIC WAR

On March 20 of this year President Nixon made a quick trip to New York City to inspect the first of nine planned regional offices of the Justice Department's new offices of Drug Abuse Law Enforcement. A UPI dispatch of that date, reporting on the President's visit, stated in part:

> New York.—Vowing "no sympathy whatever" for the drug pusher, President Nixon called today for tougher law enforcement and harsher court penalties to help sweep narcotics from the Nation's streets.
>
> "There isn't a penalty that is too great for drug traffickers who prey upon youth, the President declared. That is "the most reprehensible of all crimes. It is worse than a crime like murder, a crime like robbery, a crime like burglary."
>
> "For those who traffic in drugs, those who make hundreds of thousands of dollars . . . and thereby destroy the lives of young people throughout this country, there should be no sympathy whatsoever and no limit insofar as the criminal penalties are concerned."

I would be congratulating President Nixon for his announced strong stand if the facts did not undercut all he is saying. If he really did what he said in New York, he would apply the "no sympathy whatever" policy to the Red China drug lords. It is easy to make the street pusher a target but the Government gives the green light to Red China and, in fact, protects them by managed news to deny their part in the international hard drug traffic.

Concerning the domestic drug abuse problem in Turkey and Red China, President Nixon, as reported in another UPI dispatch on his New York visit, stressed the need for tough enforcement:

> Nixon spoke approvingly of the Government action which he said has eliminated the use of opium and other narcotics in Turkey and China. He credited tough law enforcement programs in both nations.
>
> "Are the penalties adequate?" Nixon asked the gathered narcotics law enforcement officials. "Should there be more?"
>
> Robert Morse, U.S. Attorney for the eastern district of New York assured Nixon that under present laws the penalties are enough.
>
> But the President insisted that he wanted to know the attitude of the enforcement officers "in the trenches."
>
> "No heroin is produced in the United States but more heroin is used in the United States than anywhere in the world," Nixon said.
>
> "The Turks produced a lot of it but they don't use it," he said. "They don't use it because the government is very, very tough."
>
> Nixon noted that during his trip to China last month Chinese officials told him they have eradicated the opium addiction problem forced on China in the last century by European nations.
>
> "In a totalitarian country where they can have complete control and the penalties can be the highest, there can be an all-out effort . . . and absolute prohibition," Nixon said.

Although the President addressed himself to the subject of drug abuse domestically in Red China, no mention was made, as far as I can ascertain, of the very controversial issue of the exportation of drugs by the Red Chinese to other countries for illicit use. That the subject of the exportation of drugs for illicit use is a matter of confusion can be ascertained by reviewing conflicting statements of U.S. departments and agencies alone. A clear pattern of news management and coverup emerges when the matter is studied in detail.

Consider the responses of Nelson Gross, senior adviser to the Secretary of State and Coordinator for International Narcotics Matters, at a news conference on December 28, 1971, which text appeared in the Department of State Bulletin of February 7, 1972:

> *Q. I see. Do you have any evidence pro or con that any of the opium comes from China?*
>
> A. We have no evidence that any opium is coming from China at all. In fact, we have even had reports that some has moved up from Burma across the border into China. I might say here that the Chinese and our own government have had virtually an identity of interest and an identity of policy for a century. We have consistently been with the Chinese Government over the years in trying to eradicate not only production but obviously trafficking and use of opium and derivatives.
>
> *Q. How would you know if it were coming from China or not?*
>
> A. Well our intelligence sources indicate that it is coming from those areas (indicating "golden triangle" area on map). There is more than enough supply in those areas to account for all of the material which comes either into Southeast Asia, into victim areas—South Viet-Nam or the United States. We have no reports—and we would tell from those who might be arrested as to where they were acquiring the material—we have no report of any coming from China.

Now compare Mr. Gross' statement that "we have no evidence that any opium is coming from China at all" with this excerpt from the justification statement of the Bureau of Narcotics and Dangerous Drugs—BNDD) on March 10, 1970, before Congressman Rooney's Appropriations Subcommittee on Departments of State, Justice, and Commerce, the Judiciary and Related Agencies: when referring to BNDD's overseas operations which are divided into three regions:

> The third Region is in Asia with a Regional Office in Bangkok and District Offices in Seoul, Hong Kong and Singapore. The countries of Burma, Thailand, Laos, and China (Yunan Province) are sources of opium which moves to Bangkok, Macao, and Hong Kong to be made into heroin which enters the West Coast of the United States."

BNDD refutes Mr. Gross' "no evidence" statement even more emphatically in its Fact Sheet 2—"Illegal Traffic in Narcotics and Dangerous Drugs":

> There are two main currents of illicit traffic in opium and the opiates. One begins in the Middle East and ends in North America. The other pattern is from Southeast Asia directed to Hong Kong, Japan, China (Taiwan), and the west coast of America. . . . In the Far East, opium is cultivated in *vast quantities in the Yunnan Province of China* and the Shan and Kachin States in Burma. Although much is consumed by opium smokers in the region, considerable amounts of the drug find their way to the United States. . . . (Emphasis added.)

The involvement of Yunnan Province in Red China's illicit drug traffic comes as no surprise to anyone familiar with the work of former Commissioner Harry Jacob Anslinger, the U.S. Commissioner of Narcotics for many years until his retirement in 1953, and 1954 Anslinger remarks inserted by Congressman John Schmitz on August 4, 1962. (*See* Congressional Record.)

As the U.S. representative to the United Nation's Commission on Narcotic Drugs, Mr. Anslinger had many occasions to warn the free nations of Red China's illicit narcotics trade. Here are several excerpts from his remarks before the U.N. Commission, in April 1955, concerning the now familiar Yunnan Province:

> "At the end of 1953 a group of smugglers, including an official of the Bank of Canton, smuggling 23 pounds of heroin and morphine from Yunnan to Chiengrai to Bangkok and thence to another transhipment point. . . .
>
> "Despite the efforts of the Burmese Government to control the illicit traffic in narcotics, hundreds of tons of cleaned and packaged opium in 1-kilogram units are brought into Burma each year from Yunnan Province. . . .
>
> "The hub of the traffic on the Yunnan side of the border is Tengyueh. Along the border are found trucks, military vehicles, carts, mules and pack trains used for the transporting of opium. . . ."

Several months before his retirement in 1962, Commissioner Anslinger further illustrated the extent to which Yunnan contributed to the Red Chinese dope traffic. The following is from the Report of the Seventeenth Session (1962) of the U.N.'s Commission on Narcotic Drugs:

> 92. With reference to the question of the origin of opium in the Burma-mainland China-Laos-Thailand border areas, information was reported by the representative of the United States concerning investigations carried out in recent months in co-operation with control authorities in the Far East. Three witnesses, former inhabitants of Yunnan province in mainland China, had made detailed statements to United States Treasury Department officials on the cultivation of opium in Yunnan and its export from there to the Shan States in Burma. One witness had himself been a cultivator, and in 1953 and 1956 he had also, with his mules, joined caravans transporting opium to the Shan frontier, where he assisted in its transhipment into trucks for transport to a trading company at Kentung, Burma. Two caravans, of 108 and 82 mules, had transported over 4 and 3 tons respectively, two sealed tins of 20 kg being carried by each mule. The cultivator estimated that some 6 tons of opium had been produced annually in the area where he lived, and that the total production of the region in 1961 had been of the order of 1,000 tons.

A POLICY SWITCH?

In view of the evidence as presented by sources mentioned above regarding opium coming out of Red China, it might have been prudent for Mr. Gross to have checked with his own State Department colleagues before exposing himself to the press on the thorny Red Chinese drug issue. For instance, on October 27, 1971, Mr. Louis J. Link, Chief of the Public Inquiries Division of the State Department, in a written reply to an inquiry on the Red Chinese international drug traffic, gave a more sophisticated reply. His reply in part stated:

> Over the last several years news stories have from time to time purported to give details of alleged dealings by Communist China in the international drug traffic. Some of these stories have achieved widespread credence and have been cited in support of the view that Peking is so implacable in its hostility toward the United States as to rule out all possibility of a improvement in our relations.
>
> The US Government has been concerned by these stories and has made every effort to investigate their authenticity. These investigations have determined that there is no reliable evidence that the Communist Chinese have ever engaged in or sanctioned the illicit export of opium or its derivatives. Nor is there any evidence of that country exercising any control over or participating in the Southeast Asian opium trade. From our investigations it appears that the drug traffic in Southeast Asia is carried on by individuals, some of them ethnically Chinese, who are inspired by motives of financial gain rather than political considerations.

In comparing the Gross statement with that of Mr. Link, it can be seen that Mr. Link was not boobytrapped into stating that there is no evidence that opium is now coming out of Red China. Mr. Link is vulnerable, though, in the light of past official U.S. statements, in stating that:

> There is no reliable evidence that the Communist Chinese *have ever* engaged in or sanctioned the illicit export of opium or its derivatives" (emphasis added).

Here again we are indebted to Mr. Anslinger for his remarks of April 15, 1953 before the U.N. Commission on Narcotic Drugs to prove that the Red Chinese Government did in fact, engage in and sanction the illicit export of opium and its derivatives:

> When the Communists occupied the whole of China, opium-smoking was prohibted in the land by order of the Communist Administrative Department, but it soon became known that traffic in narcotics would be permitted if it was contrived behind the scenes so those who wished to export opium applied to the government organization controlling special items and received licenses to export opium which amounted to a license to buy and sell opium and heroin.
>
> Tientsin and Canton are the chief opium and heroin export centers in China.
>
> Within the Communist government there is the Opium Prohibition Bureau of the People's Government. Within this Bureau the responsible persons are: Po I Po, Chief of the Finance Division; Yie Chih Chuang, Chief of the Trade Division; and Wang Feng Chi, who as Chief of the Hwapei Opium Prohibition Bureau is the actual person in charge.
>
> The Opium Prohibition Bureau amounts to a government monopoly which, in the Tientsin district, is known as the Yuta Concern which is located at 5, Aomen-lu, 10 Ward, Tientsin. Wang Tsu Chen is the head of this concern, Li Tsu Feng is the managing director, and Sung Han Chen is an active partner. Wang is a native of Nanking and was formerly a bandit; Li is a leader of bandits of the Tseng Jen Wang clique; and Sung is a famous opium dealer in Tientsin.
>
> The opium business in the Canton district is monopolized by the South China Trade Bureau under the name of "Lin Chi Hang." Wang Jui Feng, a senior Communist leader, is in charge.
>
> In Hankow stockpiling and transportation are carried out by the Hankow Agency of the Central and Southern District Tobacco Bureau. The person in charge is Lo Wen, Chief of the Accounting Department of the Central and Southern Army District.

Mr. Anslinger then proceeded to cover other areas of China, giving the names of the individuals and offices involved—all approved by the Red Chinese Government for the export of opium and its derivatives to the outside world:

> The opium stored in the Shihkiachwang Warehouse, with Kuo Hua Yuen in charge, includes the stockpile of opium which was accumulated before the Communists took charge of the government.
>
> The person in charge of the Northern Shensi Warehouse is Kung Liang who is responsible for the planting, harvesting, and processing of opium in the northern Shensi district.
>
> The Jehol Agency, the original name was the Jehol Agency of the Central Tobacco Bureau Superintendent's Office, is headed by Wu Chih Ho who is in charge of the seeding, harvesting, and processing of opium in the Jehol district.
>
> In Shanghai opium transactions are prohibited, but Chu Yu Lung, who is a public security officer, of the Shanghai district is in charge of the liaison office. His principal job is to negotiate with buyers of opium.

Further looking in the Red Chinese Government to opium exportation, the former narcotics commissioner outlined the coordination of the narcotics people with other agencies:

> The traffic in narcotics is closely related to other organs of the Communist government. For example, there is a close relation with the People's Bank of China and the Bank of China both of which have local branches throughout the country with special counters to handle loans, extend credit, and handle mortgages for opium. The transportation of opium is guarded by the armed forces. These agencies along with the Tobacco Monopoly are also the organs for handling the transactions in opium. The responsible persons of the Tobacco Monopoly in the various districts have close connections with the big opium dealers. They employ the names of recognized firms for their export business and conduct narcotic transactions under the protection and cover of various subterfuges.

For further proof on this theme, these remarks of Mr. Anslinger appear in full in the valuable insertion in the Congressional Record, volume 117, part 22, page 29695, mentioned above.

A WHITE HOUSE MEMO

A memo dated February 15, 1972, was sent by one of my Republican colleagues to members of the Task Force on Drug Abuse of the House Republican Research Committee. It was entitled "Alleged Involvement of the People's Republic of China in Illicit Drug Traffic." The memo, which was confirmed as a White House memo by my colleague, was, interestingly enough, on plain white paper with no heading, no agency identification, no attribution—a real "backgrounder." It was real propaganda, too. If you think the statements of Messrs. Gross and Link are misleading the American public, read the White House memo which is inserted at this point. It is an example of managed news at its worst:

Alleged Involvement of the People's Republic of China in Illicit Drug Traffic

> Since the early 1950's there has been a persistent propaganda campaign designed to convince the American public that the People's Republic of China is producing thousands of tons of opium annually and is actively engaged in the illicit export of opium and its derivatives to the United States and other Free World countries. This campaign is being promoted in this country by a number of groups who have consistently supported the Republic of China and have opposed *de facto* or *de jure* recognition of the People's Republic of China; and at least to some extent by the Government of the Republic of China. In the latter connection, an anti-Communist exhibit in Taipei in September, 1971, in which eight Republic of China agencies participated, featured charges that the People's Republic of China was smuggling at least ten thousand tons of narcotics into Free World countries annually, and branded the Peking government as the "world's number one drug pusher."
>
> Most of the propaganda leaflets which are being circulated "document" their charges against the People's Republic of China by quoting remarks allegedly made by Chou En-lai on June 23, 1965, in a conversation with Nasser. Speaking of the demoralization of American troops in Viet-Nam Chou is alleged to have said ". . . some of them are trying opium and we are helping them. We are planting the best kinds of opium especially for the American soldiers in Viet-Nam. . . . Do you remember when the West pushed opium on us? They fought us with opium. And we are going to fight them with their own weapon. We are going to use their own method against them. We want them to have a big army in Viet-Nam which will be hostage to us and we want to demoralize them. The effect which this demoralization is going to have on the United States will be far greater than anyone realizes."
>
> It should be noted that while the Chou-Nasser conversation reportedly took place in June, 1965, it was not until mid-1970 that

> drug abuse among U.S. servicemen in Viet-Nam reached serious proportions. Moreover, no evidence has yet been produced to indicate any attempt on the part of Peking to introduce opium or heroin into Viet-Nam.
>
> The following appraisal of the allegations of Chinese Communist opium production and trafficking is based upon current information. This appraisal is as follows:
>
> 1. The government of the People's Republic of China (PRC) has for years officially forbidden the private production, consumption, and distribution of opium or its derivatives. There is no reliable evidence that the PRC has either engaged in or sanctioned the illicit export of opium or it derivatives to the Free World nor are there any indications of PRC control over the opium trade of Southeast Asia and adjacent markets.
>
> 2. In the latter connection, Parish authorities in Hong Kong have consistently denied the existence of illicit drug traffic from Mainland China. They have, however, identified other sources in Southeast Asia for opium and its derivatives which have entered Hong Kong by sea.
>
> 3. Stringent controls over opium poppy production and use were adopted at the 21st session of the State Administrative Council of the PRC on February 24, 1950. Basically the statute prohibited the private importation, processing, and sale of opium and other narcotics. However, government-controlled production continues and is reflected in the small quantities of raw opium and poppy husks which are legally exported from time to time. The tight political control exercised by the government over its citizens has probably made the enforcement of these laws quite effective in most areas of the country.
>
> 4. Though control over production and trade in the southern border areas of the PRC, particularly Yunnan Province, has been more difficult, there is no confirmed evidence that the PRC is illicitly exporting opium or its derivatives across its borders. Despite occasional reports indicating cross-border movement of opiates between China and Southeast Asia the relatively rigid governmental controls in effect in Mainland China would seem to preclude any significant illicit cross-border movements.

WHY THE RED CHINA COVERUP?

The very first sentence of the memo logically raises the question: Does the "persistent propaganda campaign" of the early 1950's include the overwhelming factual statements of the U.S. Commissioner of the Bureau of Narcotics and our narcotics representative to the United Nations, Mr. Anslinger? Does this campaign also include reports by the governments of Burma, Thailand, Japan and South Korea? In June, 1955, Mr. Anslinger appeared before a subcommittee of the Senate Judiciary Committee and testified on the illicit narcotics traffic. Here is an excerpt from that testimony:

> Senator DANIEL. Mr. Commissioner, we are, of course, going into the sources of supply of heroin and other drugs that are coming into the country later in your testimony or whenever you desire to do so. But while you are on the subject here about Red China, you testified before our Internal Security Committee already this year that actually the manufacture of the drug is being encouraged in Communist China in violation of their own laws. Is that the true picture, even up to date?
>
> Mr. ANSLINGER. Up to date and continuing. Now, on behalf of the United States I have made four statements at the United Nations, well documented, in relation to the traffic out of Communist China. At the last session, which just wound up here the 12th of May, 2 weeks ago, I made this statement which I will submit for the record as to the illicit traffic in the Far East.
>
> Now, this was not only supported by the delegate of Nationalist China, but he had at his command probably much better information than we have because of his contacts on the Chinese mainland.
>
> Now, the Polish delegate and the Russian delegate said that these charges were fantastic, as they have before. Of course, coming out of Peiping you get these news releases that this is pure slander, and so on. However, in rebuttal I was able to produce the reports of the Government of Burma, which showed that they had made 500 seizures of opium across the Burma border, which is right on the border of Yunnan, and had also made many seizures of crude morphine. Crude morphine is the drug from which heroin is obtained.
>
> The Government of Thailand also made a report showing that the source was Red China. Then we go on to Hong Kong, and, of course, the traffic flows through Hong Kong, although the British authorities have done a great deal in suppressing the traffic.
>
> Then the Japanese report and the reports from South Korea—and in rebuttal I confronted them with all this information. Of course, I did get a reply to that because that was also documentation in addition to this report I would like to submit for the record.

It is indeed ironic that, if the White House memo had been written at the time of the above-mentioned debate in the U.N., the United States would have been supporting the Russian and Polish delegates and the charges of slander by the Red Chinese.

Priorities at this time do not permit an exhaustive review of the memo, but information presented above is, I belive, sufficient to label the memo as grossly misleading. Item No. 1 of the appraisal makes the same claim that Mr. Link advanced, namely, that Red China has neither engaged in nor sanctioned the illicit export of opium or its derivatives to the Free World, which assertion was dealt with above. The claim that the Chinese people are forbidden to produce opium for their own consumption is of course true as indicated above, but the production of opium by the Red Chinese for illicit export is a long established policy which, of course, they deny.

Item No. 3 of the appraisal states that government-controlled production of opium continues and is reflected in the small quantities of raw opium and poppy husks which are legally exported from time to time. Read again the above statement by the Bureau of Narcotics and Dangerous Drugs concerning the illicit traffic in opium and the reference to the "vast quantities in the Yunnan Province of China," which along with the output from the Shan and Kachin States in Burma "find their way to the United States," as the BNDD put it, in "considerable amounts."

Item No. 4 of the White House memo raises some very interesting points. For ease in reference, Item No. 4 reads as follows:

> 4. Though control over production and trade in the southern border areas of the PRC, particularly Yunnan Province, has been more difficult, there is no confirmed evidence that the PRC is illicitly exporting opium or its derivatives across its borders. Despite occasional reports indicating cross-border movement of opiates between China and Southeast Asia the relatively rigid governmental controls in effect in Mainland China would seem to preclude any significant illicit cross-border movements.

Here at last we have some degree of consistency between two Administration sources. The memo does indicate that there is evidence that there has been "cross-border movement of opiates between China and Southeast Asia. This, of course, confirms, to some extent, the BNDD claims that illicit opiate shipments have come from Yunnan Province. However, the White House memo puts the responsibility for such shipments on individual Chinese efforts which, they infer, violate Red Chinese Government regulations. Information presented above shows that such individual efforts would violate Government regulations only if such traffic were for domestic consumption in China, whereas illicit export is approved and encouraged by the Government of Red China.

THE QUESTION OF EVIDENCE

The Baltimore Sun of March 7, 1972, carried a story from Vientiane, Laos, by Michael Parks with the caption "CIA Reporting Shifting Attention in Laos From Communists to Opium." The first two paragraphs read:

> American intelligence agents here are turning their attention from Communists to drug runners, according to informed sources.
>
> The United States Central Intelligence Agency has been given a top-priority assignment, American officials say, of discovering the routes used to smuggle opium from northern Burma through Laos to Thailand and pinpointing opium refineries in the area.

Later in the article this statement appears:

> Other intelligence sources report, however, that some of the small guerrilla teams that used to probe China's Yunnan province for the Central Intelligence Agency have been shifted to tracking and occasionally attacking the opium caravans.

If the above account is true, it would indicate that, in this instance at least, Red Chinese operations are being de-emphasized.

Another item, this from the New York Times and datelined July 28, 1971, from Washington, reads: "U.S. Spy Flights Over China Ended To Avoid Incident." The first two paragraphs read:

> Administration officials said today that the United States had suspended flights over Communist China by manned SR–71 spy planes and unmanned reconnaissance drones to avoid any incident that might interfere with President Nixon's forthcoming visit to Peking.
>
> But, it was reported, American reconnaissance satellites will continue missions over China. Such missions are considered relatively unprovocative since they are well above the airspace of China.

The article goes on to say that the bulk of photographic reconnaissance is done by spy satellites operating at an altitude of about 100 miles. The spy satellites, however, can spot aircraft on the ground but are not adequate to discern smaller details of the object. This assignment is left to the SR–71 plane flying at approximately 80,000 feet and equipped to photograph small details.

With reference to the above, some interesting testimony on the surveillance of poppyfields as one device for policing a worldwide opium cultivation ban was given in August, 1971, before the House select committee on crime by Dr. Walter F. Yondorf of the Mitre Corp., a research and development think-tank with heavy experience in space and defense. In answer to a question Dr. Yondorf stated:

> I would suggest that sensing from satellites would require much more development. It is easier with our present technology to identify poppyfields with airborne sensing equipment; that is, with minor adaptations of sensor equipment now existing on aircraft.

It would appear from the foregoing that we have relinquished our capability of photographing poppyfields in Yunnan Province, for instance, by means of aircraft overflights while retaining the spy satellite program which, according to Dr. Yondorf, is inadequate to identify poppyfields.

The foregoing two examples of the administration's dropping two possible means of securing information on opium production in Southwest China poses the question as to just how serious are we about gathering evidence on the Red Chinese drug traffic. Have we, for instance, checked with the Nationalist Chinese for possible defectors from Mainland China who had knowledge of the opium traffic, as Mr. Anslinger obviously did in the 1950's? Here again is one reference from an excerpt mentioned above:

> Three witnesses, former inhabitants of Yunnan Province in mainland China, had made detailed statements to United States Treasury Department officials on the cultivation of opium in Yunnan and its export from there to the Shan States in Burma."

Another question is whether the administration people have checked the claims of the Nationalist Chinese that numerous opium plantations exist on the mainland, the locations and acreages of which the Nationalist Government list in their publications.

Have we, for instance, put to use the airborne sensing equipment mentioned above by Dr. Yondorf to photograph the plantations, thereby possibly confirming or refuting the Nationalist claims?

In the foregoing remarks I have tried to bring to light some aspects, past and present, of the Red Chinese drug traffic and how the administration has handled this very vital issue. Whether one agrees with me that this is a case of managed news and administrative coverup, it must be admitted that the American public is not receiving a straightforward, consistent explanation of the past and present history of Red China in the illicit drug traffic.

It is impossible to wage an all-out war on hard drugs if the administration continues in its policy of covering up the "Red Connection" in the world illicit drug market. Again we see foreign policy interests, in this case good relations with Red China, overruling a vital issue of national interest, namely, the protection of the American people from the scourge of drug addiction. American self-interest demands that the administration be open and candid in this vital area. The record should be set clear and the true position of the Red Chinese should be explained to the American people.

At this point I am inserting in the RECORD two recent accounts dealing with the Red China's illicit drug trade. The first item is by George Putnam, veteran West Coast newsman, whose investigative reporting has been widely appreciated in his area. The second item is from the pen of Allan C. Brownfeld, lawyer, lecturer and writer, who recently returned from the Far East.

NEW EVIDENCE OF NARCOTICS FROM RED CHINA

(By George Putnam)

Recently, a shocking British government document came into the hands of Washington based author and correspondent Dewitt S. Copp. It is Great Britain's 1969 estimates of the contribution Communist China makes to the world's illicit production of opium.

According to the British in this report, as of two years ago, the total illegal world production of the drug from which heroin is derived was five thousand tons. One thousand tons coming from the Middle East and minor producers—the remaining four thousand tons emanating from Southeast Asia. And of the four thousand tons, the British estimate thirty-five hundred tons come from Red China. Now this makes Red China the world's number one dope peddler.

The confidential document points out that all opium grown in Red China is illicit, and the total area under cultivation is estimated at 200,000 acres. The poppy growing provinces are listed as Yunan, where production is figured at one thousand tons, Szechwan, Kwangsi, Kwangtung, Hopei, and Honan. The annual revenue to the Red Chinese—a half billion dollars. I said, a half billion dollars!

Yet, reporter Dewitt Copp's effort to gain information on Peking's role in this most vicious of all traffic has been met at the U.S. Bureau of Narcotics by inconclusive, evasive replies. And when the U.N. Narcotics Commission was approached, the answer was equally evasive.

But these facts are known—in 1949–1950, the U.N. Narcotics Commission noted that Chinese authorities were marketing large quantities of opium abroad, much of it smuggled into Burma. Earlier, Great Britain informed the Commission that Peking representatives offered to sell 500 tons of opium to a British firm in Hong Kong.

When that offer was declined, an attempt was then made to sell three hundred tons of opium to the United States in exchange for cotton.

During the Korean war, much evidence showed that Peking was intent upon injecting the drug habit upon our GI's.

In 1950, U.N. forces in North Korea discovered three hundred boxes of opium which originated in Red China.

In 1952, another seizure was made, amounting to six thousand pounds.

In 1954, Dr. Harry Anslinger, the former Director of the U.S. Narcotics Bureau, and a member of the U.N. Commission, charged that Red China was spreading narcotics addiction to obtain funds for political purposes. And said Anslinger, "This is the practice of the entire Red Chinese regime, and the United States is the key target of illicit traffic from Red China."

Said Harry Anslinger, "Trafficking in narcotics for monetary gain and to undermine and to demoralize free people has been a policy of the Communists in China from the beginning.

In 1963, U.S. Narcotics Commissioner Henry Giordano charged, "The Red Chinese are extensively engaged in Drug traffic."

Th following year, the Chairman of the Japanese National Committee for Struggle Against Drug Addiction stated, "Peking has become the world's principal producer of opium poppies which yield opium, morphine, and heroin." He estimated that Red China was realizing 170 million dollars annually by smuggling narcotics to Japan, Southeast Asia, and to the United States."

September thirteenth, 1964, Moscow—this is Moscow speaking now, via PRAVDA, accused Communist China of being a major supplier of illegal drugs. And PRAVDA said, "The drugs yielded five hundred million dollars annually to the Red Chinese leaders and has become one of the main sources of convertible currency for the leadership of the Chinese Communist Party."

And the Prime Minister of Thailand accused Peking of flooding that nation with narcotics.

In Hong Kong, a doctor at the anti-narcotics center stated, "There are upwards of a half million addicts in the British Colony supplied with narcotics flowing out of Communist China."

Well, my friend, it is interesting to note that until five years ago, there was a clear official record from a variety of sources and nations pointing to Red China as the world's leading dope peddler. And then, as the drug problem exploded with more and more addicts, less and less was heard about the Red Chinese part in this vicious traffic. Officially, the major sources of opium growing were reported to be Turkey and that area of Southeast Asia referred to as the "Golden Triangle." In other words, Burma, Laos, and Thailand.

It is interesting to note that this vast area bordering on China is bandit controlled, and thus serves as a cover for Red China's opium and heroin exports. The heroin is produced in government owned, government controlled factories in Communist China, and then transported to agents in the Golden Triangle for delivery to seaports, airports, and couriers who are on diplomatic missions.

How curious it is that this confidential British document claims that thirty-five hundred tons come from Red China, while American officials make no reference to illicit supplies from Red China—not at all!

Peking is now seated in the United Nations. The President is planning to journey to Communist China. The drug traffic remains one of our most serious American problems. In the past, heroin has been discovered aboard ships and planes in cargo sealed in automobiles, in luggage, strapped to the bodies of travelers.

But now that Red China has moved into a new area of acceptability, of respectability, will it be carried into this country by Red Chinese diplomats—Communists with immunity—in their diplomatic pouches?

Ten p.m. news report, KTTV, Channel 11, October 28, 1971.

[From Roll Call, Feb. 24, 1972]

COMMUNIST CHINA AND NARCOTICS

(By Allan C. Brownfeld)

As President Nixon meets in Peking with Communist Chinese leaders there is one subject which does not appear to be on the agenda, but which many concerned observers, both in this country and abroad, would like to see discussed. That subject is the question of Communist China's involvement in the world-wide traffic in narcotics and dangerous drugs.

Speaking to a small group of legislative aides on Capitol Hill, A. H. Stanton Candlin, a British narcotics expert who has spent many years in the Far East, declared this month that "When President Nixon goes to see Chou En-Lai he is seeing the biggest drug pusher in the world, with 80,000 acres under cultivation."

This idea is neither new nor novel. According to Mohammed Hassanein Heikal, editor of Cairo's semi-official *Al Ahram* newspaper and a confidant of the late Egyptian President Nasser, Premier Chou En-Lai told

Nasser in 1965 that Communist China planted opium in Vietnam, hoping to demoralize U.S. troops there with drugs.

Even a brief review of the facts with regard to narcotics addiction now afflicting American servicemen in Vietnam leaves open the question of where the massive amounts of heroin, not to mention marijuana and other drugs, are coming from.

This writer recently discussed that question while in the Far East. American officials in Hong Kong and elsewhere in that area declared without a doubt that "Communist China is not responsible for narcotics." They were, however, the only ones to say this. Americans outside of the government, and officials of other governments expressed the view that Communist China was deeply involved. They pointed out that the answers received from American officials were "political" answers, meant not to damage the President's efforts at "reconciliation" with the Communist Chinese.

U.S. spokesmen, up to the highest level, have consistently asserted that 80% of the heroin brought into the United States is manufactured from Turkish opium. Originally, the Bureau of Narcotics and Dangerous Drugs calculated this figure not just for Turkish opium, but for Middle Eastern and especially Iranium opium. Iran remained a major opium producer and purveyor long after 1955, when it prohibited the planting of poppy. Cultivation was again authorized in 1969.

Turkish authorities have been restricting poppy cultivation from 21 to 9 provinces, with most of the planting restricted to four. As of June, 1971, all cultivation was prohibited. Production itself was curtailed long before 1971. During this same period, heroin consumption in the U.S. and elsewhere went up dramatically. With a dynamic growth of consumption in the U.S. and elsewhere, and a concurrent reduction in the output of Turkish opium, the contribution of Turkey to the American heroin market cannot possibly have remained static at the 80% level.

There is some undisputed history with regard to the past involvement of the Communist Chinese in opium and heroin production. In the course of the long march from southern China to the Yenan caves in Shensi, some 400,000 Communists were forced into a mountainous region which lacked agricultural and other income-producing resources. The Communists turned to the cultivation of opium as the most expeditious means of survival and of financing the "protracted struggle."

They began to market their product by 1938–39, and they were helped in their efforts by the Japanese who rescinded the prohibition on opium smoking that had been imposed by the Chinese Nationalist Government. The Japanese were anxious to stimulate opium consumption among the Chinese and the Communists were eager to trade opium for metals, including gold, and they reportedly also used opium as a bank reserve.

According to Mr. Stanton Candlin, the Chinese Communists are now using a policy of "psychochemical warfare," first used by the Japanese on the Chinese themselves in the 1920s and 1930s. The Japanese established brothels and spread morphine. It was done by intelligence services of the army and the Chinese method being used today "can be traced to the Japanese. They saw it done to themselves and they are improving on it." Much of this material is set forth in the volume, Traffic In Narcotics by Henry Anslinger, former U.S. Narcotics Chief.

In 1950, after the Chinese Communists established control of the Mainland, Mao forbade opium smoking in China and a few opium growers were executed with great publicity. Yet shortly thereafter, Commissioner Anslinger placed an American complaint before the United Nations to the effect that the Communist Chinese were smuggling narcotics into Japan. His evidence was overwhelming and proved that during the early 1950s China was heavily engaged in the illicit drug trade. Mr. Anslinger testified in 1955 before the Senate Judiciary Committee. He declared that Red China "had singled out the United States as a primary target for its illicit traffic in opium and heroin."

In a speech of September 21, 1961, Rep. Francis E. Walter (D-Pa.) referred to Communist Chinese "dope warfare" against American and United Nations troops during the Korean War. He added that many of the narcotics were peddled "at bargain prices by young women pushers near all military installations in Korea." He stressed that the products were of high quality and reported that during 1952 the Japanese police arrested over 2,000 pushers near American installations. He stated that opiates were coming into Hong Kong, Burma, and Thailand from the North, and he quoted the U.N. Commission on Narcotics Drugs as the source of this information. During the Korean War, U.S. troops found an opium processing plant in Pyongyang which was producing prepared opium and morphine.

Heroine addiction among American troops in Vietnam steadily rose toward epidemic proportion beginning in December, 1969. It has also been stated that a heavy heroin influx followed shortly after the Cambodian invasion in the spring of 1970. This influx was estimated from service deaths resulting from drug overdoses by Assistant District Attorney John Steinberg of Philadelphia who investigated the Vietnam drug scene in the fall of 1970 as a special consultant to the Senate Subcommittee to Investigate Juvenile Delinquency. Shortly after the Cambodian operation "large quantities of heroin began arriving in Vietnam . . . uniform packaging and refining indicated a single highly organized source."

Reviewing the available information, Professor Stefan T. Possony, Senior Fellow at the Hoover Institution of Stanford University, stated that "I am satisfied that while much detail remains hidden and statistical accuracy is not attainable, the overall story has emerged rather clearly. The various sources have—on the whole—been mutually confirmatory. The sources do reveal a cleavage of opinion on the role of Maoist China, but I believe this difference can be resolved. I also want to record that denials of Chinese Communist involvement which I have seen were in the nature of flat assertions and were never accompanied by analysis.

Professor Possony notes that "In terms of production, the Chinese Communists have the capacity of replacing suppliers like Turkey who may go out of business. They are also able to satisfy a larger market and/or growing market demands." It is high time that this question was discussed openly.

TO AMEND THE INTERNAL REVENUE CODE OF 1954

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAMS) is recognized for 15 minutes.

Mr. WILLIAMS. Mr. Speaker, today, in a strong showing of bipartisan support, I am joined by 16 members of the Pennsylvania delegation from both sides of the aisle in introducing a bill which will amend the Internal Revenue Code of 1954. The purpose of this bill is to give a tax incentive to companies to promote the construction of any power-producing facility that uses waste products to generate power. This will contribute to conserving our dwindling supply of fuel and also to cut down on the pollution of our environment. For many years we have all been guilty of the systematic poisoning of the environment of our planet, and I am deeply concerned with all phases of this problem. I am also concerned about our critically declining reserves of premium types of fuels, particularly natural gas and oil.

As an example of the type of facility which my bill would encourage, we should consider the incinerator plant at Hogdalen, just outside of Stockholm, Sweden. This plant consumes the domestic and commercial refuse from the Stockholm area and uses the heat energy to produce electrical power. The ultimate electrical output of the plant is approximately 25,000 kilowatts, which is enough power to satisfy the needs of nearly 25,000 people.

The continuance of our society and our economy is heavily based on our ability to produce power and our ability to use available energy resources effectively and efficiently. The technological achievements of our power industry are the most advanced in the world and, yet, I believe we have overly concentrated our efforts on producing power abundantly and inexpensively. We now must concentrate our efforts on technological solutions to producing power from otherwise little-tapped energy sources at the same time we seek to conserve fuel. We must find all available means of reducing the pollution of our environment.

Today, we are facing problems of disposing of millions of tons of waste materials and, yet, these materials have energy content. Incineration is an acceptable solution, provided equipment used has all the benefits of the latest improvements. I ask simply, why not combine the incineration plants with the production of power—it would seem to make a great deal of sense.

Major metropolitan centers in this country are, today, facing a critical shortage of natural gas. Even in the Washington area, new housing developments which are nearing completion are being told that it will be impossible to supply them with natural gas. Just a few short years ago, while these developments were in the planning stage, commitments were made to provide gas, but now demand has far outstripped supply. We are faced with a situation where there is insufficient gas for cooking and heating needs for our rapidly expanding population. New housing is being planned with more and more substitution of electrical appliances to make up for this deficiency, but we already know that our electrical energy generating capacity cannot always meet our power demands. In summer time, we will be faced with the possibility of brownouts, or blackouts, and the possible need to face restrictions on the hours in which air-conditioning units may be operated. We must find new sources of electrical energy.

I believe a large portion of our electrical power requirements can be generated with clean combustion of otherwise disposed materials. Why cannot we provide the industry with some incentive to develop and install the most advanced systems available? They can do it. They merely need the proper direction and encouragement that we in the Federal Government can provide through an effective tax incentive program.

Today, we are consuming a staggering amount of energy. Without going into technical definitions, we may state that the consumption is fairly evenly divided amongst four uses: First, electrical power production; second, is energy for household and commercial use; third, is for transportation; and fourth, is for industry. What boggles the imagination is that only about half the potential energy that can be produced is used. The other half goes into our environment as some form of waste product. It is obvious that much of the energy we throw away could be put to use. If we were to combine various systems and get greater benefit from our fuels, the result would be less pollution. My bill would encourage and stimulate the industry to combine more effectively the various energy systems in order to accomplish the combined goal of conservation of fuels and the reduction of pollution.

There are those who say stop building power plants and preserve our ecology. Unfortunately, I do not believe it is possible to support a 20th century population with 19th century technology. Rather, I believe that it is going to take the advancement of the 20th century technology to carry us into the 21st century.

I feel that properly directed, we can continue to have an abundant power supply and a cleaner environment while preserving our precious fuel reserves until technology finds some workable means to tap some of the more technologically advanced energy stores.

HON. F. BRADFORD MORSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, all of us in the Congress and across the Nation share in the enthusiastic reception given the appointment of our distinguished colleague, F. BRADFORD MORSE, as Under Secretary General of the United Nations.

Mr. MORSE's exceptional service in the field of international relations is well known here and abroad, not only through his work on the House Committee on Foreign Affairs, but also as the principal architect of the Grid plan for deescalating U.S. involvement in Vietnam, which led to negotiations in the spring of 1968. He has brought distinction to this body as chairman of the Members of Congress for Peace Through Law, as delegate to the Interparliamentary Union, as official U.S. observer at the Council of Europe and the Latin American Parliament, and as congressional adviser to countless international conferences.

He is highly respected for these activities. But I wish to emphasize also that the imagination and maturity our colleague has displayed in the field of foreign affairs is matched by his grasp of national issues during one of the most challenging decades in our history. His understanding of the impact of drastic technological and social change is reflected in his unflagging support of sound domestic legislation.

We will greatly miss our esteemed colleague. But we know that he will bring fresh vigor to the important work of the United Nations, and we wish him well.

PROUD BIRMINGHAM STEERING INTO MAINSTREAM, U.S.A.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. BUCHANAN) is recognized for 5 minutes.

Mr. BUCHANAN. Mr. Speaker, I have addressed this body on many occasions to outline the progress made in the city of Birmingham, which it is my privilege to represent in the Congress.

In my judgment, Birmingham is giving every evidence that its second century, which it is beginning this year, will even overshadow the city's first 100 years.

Our city is changing daily in every respect, from the shape of its skyline to the attitudes of its people. In this connection, I would commend to the attention of my colleagues an article which appeared in Tuesday's New York Times by Roy Reed entitled "Proud Birmingham Steers Into Mainstream, U.S.A."

I include herewith a copy of this article so that my colleagues can see that I am not the only one impressed with the magic city of Birmingham, Ala.:

PROUD BIRMINGHAM STEERS INTO MAINSTREAM, U.S.A.

(By Roy Reed)

BIRMINGHAM, ALA.—As it begins its second century, Birmingham has finally become sufficiently Americanized that Northerners who move here feel right at home. Some like it so well they refuse to leave.

"I've been here two and a half years and I wouldn't trade it for New York," John Woods, president of the First National Bank, said recently. He was an executive on the Chemical Bank of New York before moving here.

"We love it here," said Jane Lysinger, who moved here six years ago from Boston. Her husband, William R., recently turned down a transfer to his insurance company's home office at Hartford.

"About 50 per cent of the people we know here are from other places and they all feel the same way," she said.

SOME REMAIN UNSATISFIED

Some might find it hard to believe Mr. Woods and Mrs. Lysinger were speaking of "Bombingham," the police dog capital of the nation, the place that the Rev. Dr. Martin Luther King Jr. once called "the most segregated city in America," the city that 10 years ago was so ill-regarded that its businessmen and civic leaders were frequently snubbed when they went to other cities.

But it is true—Birmingham has changed. Just how much is not easy to measure; and some say that whatever the change, it is not enough, that some of the old rigidities of race, power and thought are still intact.

There are those here, too, who believe that this maligned city was never as different from the rest of the country as the country once thought. A nation that has accommodated the assassinations in Dallas, Memphis and Los Angeles and the mass killings in Detroit, Watts, Mylai and Attica, they say, has lost its right to feel superior to Birmingham.

"Except for the four girls being killed, Birmingham's trouble in 1962 was minor." Mayor George G. Seibels Jr. said the other day. "But that's history. What we're worried about now is where we're going."

Where Birmingham and its suburbs (population 731,668) seem to be going is straight into mainstream America.

Blacks are participating in city politics and most of the city's white political leaders are now considered racially progressive.

The downtown skyline is rising and sparkling. Beauty and equality are becoming more important.

A new spirit can be felt, partly because of newcomers who are slowly beginning to dilute the steel industry's power here. Other industries are moving in.

A MAJOR MEDICAL CENTER

The city is rapidly becoming a major medical center and, if the present trend continues, it could also become one of the South's leading centers of higher education.

Birmingham even has an expressway, at last. The first leg of $422 million worth of interstate highways for the metropolitan area was opened in 1970, years after other cities of similar size were crisscrossed with expressways.

As if to certify that Birmingham was finally catching up with the country, the national Municipal League and Look Magazine, just before the magazine went out of business, presented the city with an "All America City" award last year.

The most obvious change here during the last 10 years has been in racial matters.

The second black man was elected to the City Council last fall. Dr. Richard Arrington, a biochemist, won in a city-wide race although nearly 60 per cent of the city is white. He estimates that 8,000 of his 29,000 votes came from whites.

Elected with him were two white liberals, David Vann, a lawyer who was once a law clerk for the late Justice Hugo Black of the Supreme Court, and Angie Grooms Proctor, the daughter of a Federal judge who has written a number of anti-segregation school decisions. With a white moderate and a Negro already on the council, the city's governing body now has a 5-to-4 moderate-liberal majority.

One of the new council's first acts was to appoint the city's first black judge. Peter A. Hall, a long time civil rights lawyer. There was virtually no adverse public reaction.

Mayor Seibels, a Republican, was re-elected last fall with black support. He has tried, with more enthusiasm than success, to hire additional black policemen. Police Chief Jamie Moore, said to be an obstacle to the hiring of more blacks, resigned a few days ago.

After a series of black complaints against the police two years ago, the city's white leaders agreed to serious talks on a broad range of black grievances. Twenty-seven black and white leaders joined in a no-holds-barred discussion group called the community affairs committee. It still meets for breakfast every Monday.

One of the main changes the committee gets credit for is quietly doing away with the old separate lines of progression for black and white workers in the steel mills.

As in other southern cities, the young seem less concerned than their elders with racial differences. The students of the University of Alabama in Birmingham, which is 10 per cent black, recently elected a black student president.

Physically, Birmingham has never been beautiful except in pockets of rich, exclusive residential areas. It was gourged out of the mountains as a mining, smelter and railroad town and the scars have never quite healed.

The most distinguishing thing about the city in the past was the smoke from steel mills. It hung over the valley and darkened the uninspired squares of houses and low brick commercial buildings. The downtown area was laid out on a perfect grid, emphasizing its plainness.

No one seemed interested in building new buildings. During the late nineteen-fifties and early nineteen-sixties, the city went through an economic depression as the steel mills began to automate and lay off workers.

Now the look and smell of the place are changing. Twenty-three industrial plants were closed during a period of especially bad air pollution last fall. The big steel companies have since announced ambitious and expensive pollution abatement programs.

A building boom is under way. A convention hall that is the first part of a $35-million civic center has been finished, and two 30-story office buildings are being opened this winter. They are the tallest buildings in town, rising, almost as high as the big statue of Vulcan, the god of fire and metal-working, which looks down on the city from the top of Red Mountain.

It is reported that 180 companies looked at Birmingham last year and 25 decided to move or build branches here. Building permits show that the value of construction in the city increased from $52-million in 1968 to $110-million in 1971.

Plans for several million dollars worth of new hotels have been announced in recent months. The city's most famous old hotel, the Tutwiler, which once refused a room to the late Ralph Bunche, is bankrupt.

Perhaps the depth of the new pride here can be gauged more accurately in smaller projects designed mainly to make the city more livable.

For example, the city will spend $40,000 this spring to spruce up Kelly Ingram Park. the scene of most of the racial violence in the city in 1963.

The arts are increasingly well supported, too. The well-to-do now compete for $135 tickets to the annual Galaxy Ball to help maintain the Birmingham Symphony. And one day recently, the city art museum was showing paintings by Thomas Eakins, Andrew Wyeth and Winslow Homer.

One of the most far reaching changes of the last decade, one already affecting almost every facet of the community from economics to taste, has been a phenomenal enlargement of the University of Alabama in Birmingham.

Dr. Joseph F. Volker, the school's president, remarked recently that Birmingham was once the only major Southern city without a university.

The university in Birmingham, once a few branches of the main campus at Tuscaloosa, was made autonomous in the mid-nineteen-sixties. It now has 8,000 students, 5,000 employes (second only to U.S. Steel's 12,000) and a budget of $68-million.

The University Medical Center, surrounded by private and semi-private clinics and hospitals, has become one of the nation's best known. It is especially well regarded for studies and treatment of the heart.

And on some 54 blocks obtained through urban renewal, the university is building $41-million worth of new facilities.

Some believe that Birmingham will eventually be known as an educational and medical center rather than as a steel town. In all, there are seven institutions of higher learning here, and they are growing and attracting out-of-state professionals who would not have given a thought to Birmingham 10 years ago.

A few years ago, Birmingham hired an out-of-state public relations firm to change its image. There now appears to be some danger that the city's leaders have swallowed their own propaganda.

During conversations recently with a large number of prominent citizens, only one white man, the Mayor, seemed really worried about the city's remaining problems.

The growing self-satisfaction here is illustrated by an apparent belief among most whites that Birmingham has practically solved its race problem.

Emory Jackson, managing editor of The Birmingham World, a black newspaper, said: "Going from zero to where we are, it looks good. But when you measure in terms of where we ought to be, it doesn't look so good."

For example, few whites seem to be aware that many blacks are still dissatisfied with the progress of school desegregation. After years of pressure from the Federal courts, the students of Birmingham—like those, of many other larger cities—still live and attend classes largely in racial isolation.

The American Friends Service Committee says that 56 per cent of the city's 89 schools are more than 90 per cent black or white. It says the school board, which has one black member, continues to build schools in racially isolated places that will almost guarantee their being segregated.

The suburbs here become whiter each year. Birmingham lost 40,000 persons during the nineteen-sixties (down to 300,000) and most of them were whites moving to the suburbs.

The leadership euphoria extends beyond race. The same white leaders who believe that the race problem is substantially solved seem to be unquestioningly committed to more skyscrapers and freeways, even though urban thinkers in cities that have plenty of both have begun to question the value of massive office buildings that attract more people to congested areas and of automobile facilities that subtract money from mass transit.

And only a few here are yet willing to assert themselves publicly against the absentee-owned steel companies, most of which have headquarters in the North.

Charles Morgan Jr., southern director of the American Civil Liberties Union, who was hounded out of Birmingham, where he grew up, several years ago because of his liberal racial utterances, told an audience of fellow Birminghamians recently, "We were a province of steel and to a large degree still are. Steel still has tremendous power in this city."

One way the industry has exercised its power over the years has been to keep the city's boundaries from expanding. The steel companies own large tracts of land that would be taxed more heavily if they were annexed to the city.

The most recent annexation attempt was defeated last year. Some leading citizens say that once again the steel interests were instrumental in the defeat. However, it may be noteworthy that steel's influence was wielded quietly. In the past, the industry campaigned openly; once a major company threatened to close if the city annexed its property.

Optimism flourishes now in spite of the problems here. Mrs. David Roberts 3d, a liberal leader who has been appointed by Gov. George C. Wallace to head the Alabama State Council on the Arts, talked recently of the changes she has seen.

She has not received a threatening telephone call for several years, she said, and Mr. Wallace, who once had little use for Birmingham and its cultural leaders, has now publicly proclaimed it "the queen city of Alabama."

NEED TO END THE DRAFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Esch) is recognized for 10 minutes.

Mr. ESCH. Mr. Speaker, the draft has been one of the most controversial and far-reaching issues to come before the Congress over the past few years. Although there is no specific legislation pending before us on the Selective Service at the present time, I strongly believe that we should analyze just where we stand now and where we are going so that when it comes before the Congress next year we will be fully prepared to take intelligent and forceful action.

The Congress made a commitment last year to move toward a volunteer army. I feel very strongly that we must keep that commitment and end the draft before June of 1973. With that thought in mind, I want to review the past decade, our present situation, and urge action for the future.

The debate on the future of the armed services has been far-reaching. Those of us who have argued for the volunteer concept contend that the draft is unfair; that it is disruptive of the lives of young men whose plans are held in abeyance while the system decides whether or not they will serve in their country's military forces; that it is, in fact, contrary to the concepts of a democracy and individualism on which this Nation was founded. Those who favor maintaining the present selective service system question the workability of the volunteer system. Some claim that men would not enlist; others argue that a volunteer military would lead to a separate military caste in our society; still others raise the fear that a volunteer army would lead to easier involvement in wars.

When I came to Congress in 1967, one of the first major issues to reach the House of Representatives was the extension of the draft for 4 years. At that time, there were only a few of us who were fighting for the volunteer military. The Johnson administration was strongly opposed to the concept of a volunteer army and they vehemently opposed us in the debate. The leaders in the House were so adamantly against it that they refused to hold a record vote on the question. We were soundly defeated at every turn.

This being the case, we increased our efforts to inform the public about the issues and to enlist their support for our cause. In 1968, for instance, I was a contributor to the book, "How To End the Draft: The Case for an All-Volunteer Army." I wrote an extensive defense of the volunteer military which was widely used as an information guide for high school debate teams. Many others, in Congress and out, joined me in writing articles, speaking before civic groups, and arguing against the draft.

By the end of 1968, the draft had become a major national issue. Shortly after President Nixon was inaugurated, he named a high-level commission to study the draft and the alternative of establishing an all-volunteer military. The Commission was headed by the distinguished former Secretary of Defense, Thomas Gates, and included as its youngest member a former member of my congressional staff. The Gates Commission undertook an exhaustive study of the Selective Service System and military manpower policy.

The report provided us with the ammunition we needed to prove our case. It unanimously recommended that we move to an all-volunteer Army through a system of improved personnel policies and greatly increased pay, especially in the lower ranks.

Many of those personnel changes have already taken place. Efforts are being made to make the barracks more homelike. Harassment during boot camp has been reduced or eliminated in many situations. At Fort Ord is has been entirely replaced by an experimental program of merit points. KP and other nonmilitary jobs which used to plague the new recruit are being shifted to civilian employees. New regulations allow haircuts which more closely approximate those in vogue in civilian society. Recruits can now frequently choose their initial posts. Finally, efforts are being made to match civilian skills with military jobs.

With the Selective Service Amendments of 1971, the financial incentives recommended by the Gates Commission were also instituted through major pay increases for members of the armed services. These raises concentrated on increasing the basic pay of recruits and other short-term servicemen. While they added more than $3 billion to our defense budget, I am convinced the increases were warranted and necessary. Before the increase, recruits and draftees were making only $2,888 a year—far below the federally established poverty level. We were asking the young men who serve in the military not only to give the Nation their time and their lives, but to make tremendous financial sacrifices as well. In essence, we were extracting an extra tax-in-kind from these young men instead of spreading the financial burdens of our defense over the population as a whole. The pay increase went a long way toward making service in the military more than mere servitude.

Since making the personnel and pay changes recommended by the Gates Commission, events have proven how right we were in arguing that a volunteer military could work. In the months since the passage of the Selective Service Act of 1971, there have been only 2 months of draft calls—for a total of less than 17,000 versus 133,444 in the same period just 1 year ago. Enlistments were up despite the low draft calls and the fact that the draft was actually suspended during much of that period. Skeptics who used to argue that enlistments were only inspired by the fear of being drafted have been shown to be wrong.

Having been confounded on their "practicability" argument, our opponents now base their opposition on the argument that a volunteer army might lead to domination of our foreign policy by the military. They contend that without the draft and the consequent concern of people for the lives of their sons, the military could more easily involve this Nation in war. Yet it is difficult to imagine us drifting into a war more easily than we did under President Johnson with the draft in full force. Indeed, I believe it can be demonstrated that the readily available manpower allowed the President to expand the war without recourse to Congress. Had it been necessary for him to come to Congress to ask for greatly increased appropriations for recruitment or new authorization to draft men into the military, the question of our involvement in a massive ground war would have been publicly debated. Rather than serving as a deterrent to war, the draft actually made it possible. The volunteer military with a standby draft which could be activated only by a vote of Congress would prevent such undebated involvement in massive troop buildups.

There has already been a major benefit from the reduction of draft calls and from the institution of national uniform random call which puts the draft on as equitable a basis as possible. Young men now have a reasonable chance to plan their lives and their futures without the question of the draft hanging over their heads for 7 years. It is no longer necessary to find majors which are popular with draft boards. If students are not doing well in their major or in a given school, they do not need to feel the draft breathing down their necks because they are not "maintaining normal progress." In short, they can plan their schooling and make such important decisions as marriage, buying a home, or starting a family with little consideration of the draft entering their thoughts. Hopefully, that consideration will soon be eliminated altogether.

Mr. Speaker, we are quickly approaching the time when the abolition of the draft will result in the elimination of one of the greatest detriments to freedom in this Nation. Although the draft has been held constitutional on a number of occasions, it is clearly in opposition to the ideals of a free society in which individuals are allowed to determine the course of their lives with minimal governmental interference.

I believe the events of the past few months have provided proof that the volunteer military can work. However, it is now up to us to see that it will work—that we will in fact end the draft and not let it continue past its present expiration date.

I urge all Members of Congress and all candidates for congressional seats to join me in making a public commitment, now, that they will not vote to extend the draft past the expiration date of June 1973 for any reason. That firm public commitment on the part of the Congress will go a long way toward encouraging those in the military who are pushing for progessive personnel policies.

Second, we as a Congress and the people as a whole, must be willing to accept the $4 billion in additional costs which are necessary to maintain a volunteer military. It is, of course, important to keep our military expenditures to a minimum—but I do not believe that cuts should be made at the expense of draft age young men in our Nation. We have a commitment to volunteerism. We have recognized that it is an important and worthwhile goal for the Nation. We must now be willing to pay for it. I believe those costs can and should be met.

Third, we must begin to consider now the complications which are foreseeable with relation to our reserve forces and the National Guard. Those questions received little debate during past congressional consideration of draft reform. It is now obvious that they will be seriously affected by the end of the draft. I urge the Congress to begin hearings now on the need for these reserve forces, their training and employment and their recruitment policies. It seems clear that major changes are going to be necessary to make them more relevant to their new military missions as well as more attractive to volunteers. If we delay action on this important question until next year, it will serve as a significant deterrent to strong action to end the draft.

We must continually review military personnel and recruitment policies to insure that the goals of volunteerism are being carried out. The top leadership in the Department of Defense, the administration, and the Congress, are committed to volunteerism. There is some doubt as to whether that commitment extends down into the ranks of the military where the policy can be made or broken. We must maintain vigilance to assure that our will is carried out.

Mr. Speaker, the end of the draft will be a symbol to all America, both the young and the old, that change can come through the system. It will show that the system can be responsive. It will enhance our national ideals of democracy and individual freedom.

EIGHTIETH BIRTHDAY OF JOSEPH CARDINAL MINDSZENTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, today is the 80th birthday of Joseph Cardinal Mindszenty and I know I speak for all our colleagues when I extend congratulations and best wishes to this great religious leader and champion of freedom for the Hungarian people.

President Nixon has also sent birthday wishes to the cardinal in a telegram which reads:

> It is a pleasure for me to extend to you congratulations and best wishes on the occasion of your 80th birthday.
>
> May your celebration on this significant anniversary find you in good health.

Although this is a day of celebration for the cardinal I am sure that it is tempered by his sorrow at not being able to join his people. He has spent his last 16 birthdays separated from the Hungarian people—15 of those years in the U.S. Embassy in Budapest where he sought sanctuary on November 4, 1956, and this one in Austria where he is now living in exile.

I pray that the day will soon come when he will be able to return to his native land. Until that day, let us remind the world that we have not forgotten him or the people of Hungary.

INVESTIGATION INTO THE OPERATION OF THE POSTAL SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, in early 1971 I became interested in acquiring information concerning the U.S. Postal Service's announced plans for a bulk mail facility to be situated in the Midsouth. I learned that this facility was planned for location in the general area which includes east-central Arkansas, northwest Mississippi, and southwest Tennessee.

Thus began my investigation into the operation of the Postal Service.

My principal interests were two. First, I wanted to help insure that the taxpayers who financed such facilities got the full value for their dollars, both in the short- and long-term analysis. Second, and equally important, I wanted to help insure compliance with the intent of Congress to establish for the Nation a balanced growth policy which enhances the national environment by encouraging development in areas which are not already overburdened by population.

The search for information which I have conducted has convinced me that neither interest has been protected.

In line with my concern in this matter, I urged the Postal Service to consider sites in Crittenden County, Ark., which provide excellent access to transportation networks, which had unemployment rates higher than the national annual average in both 1969 and 1970, and where the added vehicular traffic would not create serious problems.

In addition, I requested specific data about the number of persons to be employed in the facility, the cost of the facility's construction, expected site costs, and building specifications. The inquiries were made through telephone calls and written correspondence.

It was not until March 21, 9 days ago, that the unequivocal answers from the Postal Service began being received by my office. While I had been told earlier that a preferred site in Memphis, Tenn., had been pinpointed, I did not learn of negotiations to buy it until a Postal Service news release surfaced in a Memphis newspaper.

The news story said the site had been purchased. But, the officials of the Postal Service tell me that that is not quite true. An option on the land has been taken. My request for a copy of the option has been rejected by the Postal Service.

I have been told, though, by officials of the Postal Service, that the site cost —which is described as a "rolling cost" that could increase or decrease during completion of procedures for acquiring the site—is $3.55 million. That price, I am told includes site preparation costs. And by simple division, it means that the taxpayers are being committed to pour more than $62,000 per acre into the purchase of the bulk mail center site in Memphis.

In addition, the Postal Service officials tell me that the facility will cost $20 million to build. That is a cost which I understand would be the same regardless of where the facility is built.

It is my understanding that the Postal Service expects to employ 620 persons in the facility. This does not include the personnel handling vehicles used for moving the bulk mail. These persons, I am told, are contract employees and therefore are not included in the facility's labor force. But, the vehicles which they will be using will certainly add significantly to the congestion already existing in the streets and expressway serving the general area of the site.

Postal Service officials tell me that they expect a minimum of 110 trucks and a maximum of 230 to be used at the facility daily.

As I indicated early in this speech, my interests in the bulk mail facility matter have been twofold. To see that the taxpayer's money is used with the goal of achieving the fullest value and, to see that the congressional intent of developing a truly balanced national growth policy is complied with.

Information currently available to me persuades me that the fiscal and environmental interests of the people of Memphis, the Midsouth and the Nation are being violated by the plan to establish the bulk mail center at the designated Memphis location.

I have also developed a third concern. I find it absolutely incredible that an agency of the executive branch, an agency established expressly for the purpose of carrying out congressional intent, should be found so reluctant to provide Members of the Congress with information concerning the Agency's activities. For months on end my inquiries for specific information were answered with general responses.

I was originally told that the U.S. Corps of Engineers, which handles site studies for the Postal Service, would make a detailed report on the bulk mail center site search. Then my office was told, on March 21, that no such data was available outside the general, brief responses I had already been given. Then, after insisting that there must be documentation of the search available, I received slightly more detail on a site which was considered in Crittenden County rather than the copy of the Corps of Engineers' report which I had requested.

I might point out here, that all too often the information which I have received from the Postal Service on this matter has come through the confrontation route. My office would request data. We would either be told it was not available or be given the barest details and only receive fuller information when we made it known that we were already in possession of more information than the Postal Service was doling out.

In my search for information on this matter, I have been told repeatedly that transportation costs in operation of the bulk mail facility are a major consideration in the site selection. It would seem that despite all the rhetoric of the administration, the decision boils down to initial dollars and cents—and, the environment and long-range public interest be damned.

The site costs, the construction bill, the transportation expenses—taken together, these are hardly going to add up to the total bill for locating a bulk mail facility in Metropolitan Memphis—or any other metropolitan city. The total bill must surely include those public service costs which inevitably evolve from creating a situation which encourages more human and vehicular congestion in a municipality which already finds its agencies struggling with transportation problems, housing problems, social welfare problems.

The reluctance and incompletion with which the postal officials have met my inquiries can lead only to one conclusion. For some reason, this Federal agency in the executive branch is jittery about the public and congressional reaction to the kind of short-sighted logic which has been employed in locating this bulk mail facility.

If the taxpayer does not have the right to full and complete information on the manner in which a public agency will spend tax money, who does? If the Congress does not have the right to full and complete information on this matter, then who does?

This is a new agency. It is in its trial period. There appears to be an obvious need for close oversight from the Congress to insure that there is strict adherence to the intent with which the Postal Service was established. I would urge my colleagues to give careful attention to the activities of the U.S. Postal Service to see that the objectives established by the Congress are accomplished.

IRISH-ITALIAN IMMIGRATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, since the House approved H.R. 9615, the so-called Irish-Italian immigration bill on Thursday, March 16, I have heard from countless persons commending the committee for bringing this measure to the House. All of the persons who spoke to me expressed their concern for the families that have been separated and for the young new seed immigrant who is unable to compete for an immigrant visa as a result of the 1965 amendments to the Immigration and Nationality Act.

Although no one expressed any fear that the aliens who might benefit from this act would have an effect on our high rate of unemployment, I would like the legislative history to show that this temporary legislation, H.R. 9615, was not intended to be a predicate for future legislation which would eliminate the labor certification as a condition for admission to the United States.

U.S. labor must be protected from an onslaught of foreign workers who would displace American workers, depress wages, or in other ways adversely affect labor conditions. Likewise, the labor certification procedures must be administered in a uniform, fair, and reasonable manner.

TAX REFORM NEEDED NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 10 minutes.

Mr. FULTON. Mr. Speaker, some sage analyist recently was quoted as saying, in effect, that tax reform is an idea whose time may be nearer than many think.

I agree. The time for tax reform is now. And I have written the chairman of our House Ways and Means Committee urging that, despite the press of business, the committee begin hearings on this matter within the next 60 days.

We recognized with passage of the Tax Reform Act of 1969 that our business was not completed. The administration seemingly concurred and, in cooperative spirit, promised to forward to the Congress and our Ways and Means Committee its recommendations on reform of estate and gift taxes.

Mr. Speaker, that was more than 2 years ago and those recommendations are still awaited.

When this body recently considered an increase of the debt limit Mr. MILLS announced that he was writing the President asking for the administration's recommendations for tax reform.

Those recommendations are still awaited.

While I have no first hand information on the subject it is obvious from what is speculated in the press, from recent remarks on the subject by the Secretary of the Treasury and by inaction on promises made by and request made to the administration regarding the matter, that the administration simply has no stomach for tax reform.

I fail to understand this because millions of overtaxed Americans are crying for consideration and we definitely need the support and influence of the administration to pass new tax reform legislation.

I will not attempt to spell out here the impressive list of inequities in our present tax laws which cost the Treasury billions of dollars each year.

This has been done by my colleague from Ohio (Mr. VANIK) in remarks made on this floor on March 15 and March 21 of this year.

However, there are some pertinent facts which should be pointed up.

The established rate of corporate taxation is 48 percent, yet a recent study of 60 of the top 500 corporations in America revealed that 17 were paying less, some far less than the 48-percent rate.

The Treasury might pick up an additional $3 billion by fully taxing capital gains on property bequeathed at the owners' death.

The Treasury could gain an estimated $2 billion by ending the accelerated depreciation rules put into effect by the administration last year.

These are just a few of the areas that demand examination.

But what is most disturbing to the average taxpayer is the seeming inequity in our tax laws. There are all varieties of legal escapes available to the wealthy individual and corporation to evade taxation to maintain current and produce future income. But these are not available to the workingman. He cannot income average, depreciate assets, employ the investment credit, write off income on tax-free bonds, or employ any of a number of tax advantages available.

He becomes particularly restive when he reads of recent studies such as that compiled by the Brookings Institute concerning the effective as opposed to the scheduled individual income tax rates. The legal rate in our tax laws runs from 14 to 70 percent. But the actual rate, according to the study, was only about 32 percent for those families with a million dollars or more annual income while families with incomes running from $50,000 to $100,000 paid at a real rate of 25 percent when the scheduled rate is much higher.

The average American taxpayer carries about 80 percent of the tax load. Generally he does so without complaint under the belief that it is his right and duty to support his country in this manner.

But today he is growing more and more aware that he is paying more and more in total taxes, while his dollar is buying less and less and the more economically fortunate are not paying their fair share as he sees it.

He resents this and is not to be blamed. But more than resentment is being expressed today by these Americans. They are also voicing the demand that something be done about the problem and they are looking with concern and expectation to the Congress to get on with the job.

There is a growing movement in the country for tax reform and, I am pleased to note, there is rising support within this body for action. At the same time the view is held by some today that 1973 will be the year when Congress will act. I see no reason for such delay. If tax reform is needed next year then it is needed now and we should be about it.

REMARKS ON FINAL ENVIRONMENTAL IMPACT STATEMENT ON PROPOSED TRANS-ALASKA PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, earlier this month the Interior Department issued its final environmental impact statement on the proposed trans-Alaska pipeline. The impact statement consisted of a six-volume environmental study and a three-volume economic study.

I have read much of the study since its issuance. My reactions are mixed. The six-volume environmental study is clearly superior in many respects to a draft environmental study published early last year. However, the final impact statement still appears uneven, and some parts are still imbued with advocacy. Far more will be said on the environmental aspects of this study in the coming weeks by myself and many others.

I would like to address my remarks today primarily to the three-volume economic study of the trans-Alaska pipeline and the alternatives to it. This study can be categorized only as pseudo-economics, a sham and a hoax. Unfortunately, much of the press has been misinterpreting even the distorted and inaccurate conclusions reached by this so-called economic study by saying that it concludes that the trans-Alaska pipeline would be economically superior to a trans-Canadian pipeline, which would terminate in the Midwest. That is simply wrong. The study clearly states that an oil pipeline through the Mackenzie Valley of Canada would be an "equally efficient alternative" (p. 1, vol. 1 of the Economic Study).

In fact, a Canadian pipeline terminating in the Midwest would be far superior economically to a trans-Alaska route for various reasons, including the fact that the present price of oil in the Midwest is considerably higher than on the west coast, where oil from the trans-Alaska pipeline would wind up.

Incredibly, the Interior study's conclusion that both lines would be "equally efficient" ignores the fact that tremendous savings will result from building an oil line parallel to the trans-Canadian gas line. "A trans-Alaska-Canada gas pipeline transportation system is almost certain to be established if the Prudhoe oil is extracted and transported," the study states on page 317 of volume 1 of Environmental Study. This is hardly a revelation since even the oil companies with large interests in Alaskan oil have admitted in the past that the only practical means for getting the Prudhoe Bay natural gas to market was via a trans-Canadian pipeline terminating in the Midwest. But, in the economic study, the Interior Department admits that it did not consider the economies that would result from building an oil pipeline through this same corridor. On page C-23 of volume 1 of the economic study, it states:

> It is probable that economies of transportation cost and environmental impact will result from moving oil and gas through a common corridor (possibly, but not necessarily through the same pipe or concentric pipes). The extent of such economies is not estimated in the present analysis.

This gross omission makes the study's conclusion that the Mackenzie Valley oil route through Canada would be only economically equal to the trans-Alaska pipeline totally ridiculous.

Moreover, it is clear that the economic data used in the Interior study was directly supplied by Alyeska—the pipeline company that wants to build the trans-Alaska pipeline.

As you know, Mr. Speaker, a consortium of seven oil companies has applied to the Interior Department for a permit to build a 780-mile hot oil pipeline from Alaska's North Slope to the southern ice-free port of Valdez, where the oil will then be shipped by tanker primarily to west coast ports.

Because it is considered economically infeasible to liquify natural gas so that it can be shipped by tanker, it is generally admitted that a natural gas pipeline across Canada will have to be built to transport the huge amounts of gas reserves in the North Slope. I, along with many environmental groups, have argued that a Canadian pipeline route to the Midwest would involve far less environmental risk than the trans-Alaskan pipeline route, primarily because such a route would avoid the use of tankers and would not run through the worst earthquake zones in North America as would the trans-Alaska route. The Interior Department Environmental impact study gives strong support to our assertions.

Unfortunately, Secretary of Interior Rogers C. B. Morton is still maintaining that the Interior Department cannot seriously consider a Canadian route until it receives an application to build one. This is pure baloney. The reason the Interior Department has not received an application to build the Mackenzie Valley route pipeline—the most prominently mentioned Canadian route—is for the very simple and obvious reason that the same oil companies which dominate the Alyeska—trans-Alaska pipeline—consortium also dominate the Mackenzie Valley pipeline company. They are hardly likely to submit an application in competition with themselves. Mr. Morton knows this as well as I do. But, if the application for the trans-Alaska pipeline is rejected, we will see an application for a trans-Canadian pipeline so quickly it will make the Secretary's head spin.

I am sad to say that I strongly suspect that a decision to give the trans-Alaska pipeline a go-ahead was made long ago. The major oil companies which dominate both the Alaska and Canadian pipeline companies want to go through Alaska. Their concern is, quite naturally, for their own profits. The Interior Department's concern should be to find the route that makes the most economic and environmental sense for the United States. Unfortunately, this does not appear to be the case. The only circumstance under which I can see the administration deciding against the Alaska pipeline is if the White House feels that approving it would hurt Mr. Nixon, politically.

THE INDEFENSIBLE AIR WAR IN INDOCHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 15 minutes.

Mr. DRINAN. Mr. Speaker, I find myself more appalled every day at the escalation of the air war conducted by the Nixon administration. The Defense Department admits the current average number of sorties—one flight by one plane—by American war planes in Indochina is 10,500 a month.

Until the recent past President Nixon frequently referred to the bloodbath which he alleged the North Vietnamese would conduct if they could achieve a military victory in South Vietnam. The hideous and indefensible air war which now goes on every single day suggests that it is the American military in Indochina which is carrying on the bloodbath.

In early 1971 President Nixon said:

> I will not place any limits on the use of air power.

The air war was the primary cause of the deaths of 114,734 Vietnamese soldiers in the first 11 months of 1971. These figures, from the very reliable Washington Newsletter of the Friends Committee on National Legislation, bring the total number of deaths conceded by the Department of Defense to 715,000 Vietnamese soldiers. Any estimate of civilian deaths is only speculation but a total of 3 million might not be too high.

Before I go into some of the hideous things that have been done in the escalated air war in the past few months it is necessary to review the painful facts about the disasters caused in the earlier phases of the war by U.S. military power in Indochina.

THE MASSACRES OF 1965–71

The cost to the United States for the war in Vietnam in the years 1965 through 1971 was at least $120 billion. This comes out to about $600 for every single person in the United States. The tax structure continues to force every American to commit crimes condemned and punished at Nuremberg.

The cost to the American public may well be $50 billion more than the $120 billion already expended when the educational and medical benefits to the 2.4 million soldiers who went from the United States to Vietnam have finally been calculated and paid for.

At least 200,000 orphans have been created in South Vietnam along with at least 400,000 widows. These are but a few of those who have been victimized in a war in which one in 15 Vietnamese citizens has been killed, one in every seven wounded and one in every four turned into a refugee. When one considers that the two Vietnams have a total population of about 35 million people the total cost in human life and human suffering is beyond calculation and comprehension.

One-seventh of the total land of Vietnam has been destroyed by chemical herbicides. During the years 1965–70 some 23 billion pounds of explosives have been dropped onto the soil of Indochina—an area about the size of Texas.

As a result of the saturation bombing at least 10 million craters with a diameter of 40 feet and a depth 20 feet have been created. These craters, now filled with poison-laden water, are the results of an average frequency of B–52 bombers dropping their payload every 90 minutes of every day since 1965.

The Department of Defense—DOD—admits that 1 or 2 percent of the 108 500-pound bombs dropped by each B–52 do not detonate. As a result some 300,000 unexploded bombs remain on the ground in Vietnam where they constitute a major problem for the farmers who desire to resettle their devastated farmlands.

A bulldozing operation designed as an antiambush device has scraped bare sections of South Vietnam the size of Rhode Island. Forests have been turned into useless bamboo jungles as a result of land-clearing operations calculated to deprive the Vietcong of any place for regrouping.

Since Mr. Nixon took office the average number of civilians killed, wounded and left homeless in Indochina has gone up to 130,000 per month. During the Johnson years of 1964 to 1968 the number of these civilians ran at an average of 95,000 per month.

George Orwell grimly predicted all of this in his book "1984" when he wrote that some political actions are too brutal to face without flinching. Orwell wrote that:

> Defenseless villages are bombarded from the air, the inhabitants driven out into the countryside, the huts set on fire with incendiary bullets and this is called pacification.

Orwell goes on to describe the events in "1984" which, however, have happened in Indochina in 1972. He notes that—

> Millions of peasants are robbed of their farms and sent trudging along the roads with no more than they can carry and this is called "transfer of population."

THE AUTOMATED BATTLEFIELDS AND THE AIR WAR

As hideous as past American military conduct in Vietnam has been the present automated battlefield and the brutal air war exceed in savagery anything done by the United States in Vietnam or in all probability anything done by any nation in any war in all of history.

At this time some 73,000 air personnel—45,000 of whom live outside of Indochina—operate off of aircraft carriers in the South China Sea. These individuals operate an electronic battlefield which is automated, computerized, and designed to give allweather and day-night capability.

Before May 1, 1972, the number of U.S. airmen outside of Indochina will be greater in number than the American forces on the ground in Vietnam. If the defense of the Pentagon is that the massive bombing continues to protect the remaining American troops in South Vietnam the obvious untruth of this assertion should be clear.

The South Vietnamese air force has now become the sixth largest in the world. It is becoming ever more clear that the President and the Pentagon expect to continue the bombing on an indefinite basis. It does not bother our military authorities apparently that 22 tons of bombs have now been dropped for every square mile in Vietnam or that 250 pounds of explosives have been rained on every man, woman, and child in Vietnam.

The majority of all of this bombing has been done during the 39 months of the Nixon administration. A total of 61,000 tons was dropped in December 1971.

The full impact of this continued bombing may be made dramatic by the simple assertion that every month the United States drops two and one-half times the amount of explosives which this nation used at Hiroshima.

Aircraft in eight different categories continue to execute the first automated, anonymous, and secret war in American history. In all four countries of Indochina air-dropped devices detect vibrations of people. The signals from these devices are relayed to a central computer in Thailand where the responses of the various sensors are correlated and the decision to strike a particular region is made. No one sees the victims. No one knows the extent of their injuries or whether any medical care is available. But the central point of the air war is to injure while not necessarily killing individual persons.

Some 50 percent of all of the bombs now dropped in Indochina are antipersonnel weapons. These bombs are not designed to strike any military objective nor are they sent out against any military target. These bombs are designed exclusively to injure human beings.

American airmen drop pineapple bomblets which contain 2,500 steel pellets. These sharp instruments go out in a horizontal pattern and wound the bodies of any person they strike.

Military personnel also drop flechettes. These devices contain several hundred 1-inch barbed nails. These nails enter the body of human beings shredding the muscles and organs and are difficult to remove by surgery.

Military personnel also utilize incendiary bombs, napalm, magnesium, and white phosphorus.

All of these antipersonnel weapons are made by some of the most famous corporations in America. The officials of these corporations have undeniable knowledge that the only possible objective of the weapons which they manufacture is to injure unseen and unwarned civilians whose presence in a particular place, whether related to warlike activities or not, is reported by the sensor to the computer in Thailand and is thus made vulnerable to a bombardment by B–52's 7 miles above the ground.

The cruel details of the air war are revealed in a handbook prepared by Project Air War and the Indochina Resource Center. This document entitled "Air War: The Third Indochina War," can be purchased for $1.50 from the Indochina Resource Center, 1322 18th Street NW., Washington, D.C. This document has been placed in the Congressional Record by Senator Mike Gravel on Thursday, March 23, 1972, at page 9813.

The air war is a form of the "enclave" theory. The United States is now raining terror from aircraft carriers at sea upon four nations from which the United States is gradually withdrawing its ground troops.

It seems clear that the automated, computerized, and clandestine air war carried on by the United States against the 50 million people of the four nations of Indochina is unprecedented in its hideousness in all of human history. It is clearly in violation of international law since The Hague Convention in article 25 condemns "the attack or bombardment by whatever means, of towns, villages, dwellings or buildings which are undefended."

Since the average monthly number of sorties comes to 10,500 the average daily number of aircraft that drop bombs is about 30. It is estimated that at least 300 Asians are killed each day by explosives unloaded by American war planes.

How long will the Pentagon and the President continue this assault? They have given absolutely no indication that they will diminish this savagery in order to negotiate. Indeed, President Nixon on March 23, 1972, personally broke off all talks with the North Vietnamese in Paris.

How much longer will the American people tolerate a policy of this administration which, according to its own testimony, requires the invasion of two neutral countries, and the bombing of four nations in order to withdraw from one country?

The overwhelming majority of the American people agree with Senator George McGovern who said that—

> The war in Indochina is the greatest military, political, economic and moral blunder in our national history.

There is reason to think that at least another 114,000 Vietnamese people will be killed by American bombs during 1972.

Unless the Congress and the people of America find a way to expose the electronic battlefield, the air war in Indochina will continue to escalate. That war is not winding down but is in many ways worse than ever before.

Hundreds of thousands of Indochinese peasants are at this very moment huddling together in caves, holes, trenches, and tunnels as each day 30 or more B–52's each drop 108 500-pound bombs on undefended villages.

What can half of humanity that lives in Asia think of this kind of conduct carried out by the most affluent nation of the earth using the world's most advanced technology to rain further terror on the most devastated and bombed people in the entire history of mankind?

On December 16, 1971 Air Force Secretary Robert C. Seamans, speaking in reference to the air war in Indochina, claimed that:

> No matter how you look at the air activity of the U.S. over there, the trend is definitely downward.

Since that appraisal of the Secretary of the Air Force President Nixon and the Department of Defense have sharply increased the tonnage of bombs. During February of 1972 67,536 tons of bombs were dropped on all of Indochina—a 35-percent increase over the figures for the latter part of 1971 and higher than the monthly average for all of 1971.

On March 23, 1972, I filed legislation to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia and Laos. That bill (H.R. 14056) provides that no funds may be utilized to conduct offshore naval bombardment or to bomb by the use of napalm, incendiary devices or chemical agents or to attack in any way by air anywhere within the four nations of Indochina.

The bill provides for the withdrawal of American troops subject to arrangements being made for the release and repatriation of American prisoners of war.

It is to be hoped that this bill can be enacted within the immediate future so that the United States of America can stop carrying on the first automated and computerized air war ever conducted by any nation at any time in all of human history.

JOBS FOR THE INNER CITY YOUTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. Boggs) is recognized for 15 minutes.

Mr. BOGGS. Mr. Speaker, for the past four summers America's inner city youth have been provided with recreation and job opportunities through the Recreation Support program and the Neighborhood Youth Corps. These programs enable youngsters from underprivileged families to productively spend their summer months learning valuable skills and enjoying meaningful recreation experiences, often for the first time in their lives. Each year these programs have been crash funded through a supplemental budget request of the Department of Labor. These requests have been, without exception, grossly inadequate to service the demand in our metropolitan areas. To compound this problem, the moneys appropriated for the Neighborhood Youth Corps-Recreation Support Programs have usually been provided for local use no more than 3 weeks prior to the programs' starting dates. This has made it virtually impossible for local administrators to properly implement the programs.

In the summer of 1971, my city of New Orleans requested 5,000 summer Neighborhood Youth Corps job slots. We received only 1,914 slots. This insufficient service allotment becomes even more inadequate when you consider that an estimated 10,000 of New Orleans youth qualified for this program last summer.

In recent months there has been a strong effort in the House, initiated by my friend and colleague the Honorable Dan Rostenkowski, to secure additional and early funding for these important summer recreation programs. Mr. Rostenkowski deserves high praise for his diligent work with these programs. I understand that as a result of his efforts more than 50 House Members have petitioned the House Appropriations Committee urging them to raise the funding level for NYC–RSP.

In connection with these programs, Mr. Speaker, I would like, at this time, to submit a statement which was presented to the Legal Action Committee of the U.S. Conference of Mayors by the Honorable Moon Landrieu of New Orleans, on March 23, 1972, in Newark, N.J. Mayor Landrieu's testimony before the committee points out the desperate need for increased funding for NYC–RSP, not only in New Orleans, but throughout the Nation as well.

The testimony follows:

STATEMENT OF MAYOR MOON LANDRIEU

Summer Youth Programs to provide opportunities for our cities' young people are vital; at a time when general unemployment is high, jobs for youth are even more scarce. For many urban youth, summer jobs are absolutely vital to provide them the basic necessities. We, as Mayors of our cities, find the alarmingly high rate of youth unemployment appalling. We refuse to accept an unemployment rate of 18.8% of all youth now residing in our urban poverty areas. Neither can we accept a 30% unemployment rate for our cities' black and Spanish youth. Jobs must be made available and the Federal Government is simply not meeting this critical need.

A U.S. Conference of Mayors needs survey indicates the cities can effectively utilize nearly a million youth jobs in the summer now fast approaching. This survey was not conducted to determine the *overall* need. That figure would be even higher than the figure represented in the Conference of Mayors' survey. The needs survey is not "pie in the sky" figures. It is one which reflects the number of jobs cities can *effectively utilize*. In addition to jobs, supplemental recreation and transportation funds are essential to provide a successful summer youth program.

For summer 1972, our survey indicates the total number of summer jobs needed is 947,928, costing $444 million. Unfortunately, the current Administration budget request only calls for $164 million. While the Administration is requesting $95 million in supplemental funds, there is still a major gap in the amount requested and the amount our Nation's cities must have for the summer of '72.

For the Summer Lunch Program—food for the children—we will need $52.5 million and our estimates show that only $13 million will be available. Last year we fought to expand the summer portion of the Special Food Service Program. The Congress gave the Administration the authority to spend funds from the Special Section 32 Fund up to $135 million, and information indicates that, because of the surtax, there is within Section 32 funds over $600 million. Our cities' children are without adequate diets; our cities' children are hungry. We joined with members of Congress last year to obtain autnority to release funds to feed hungry children. The President's Office of Management and Budget refuses to release these funds. We deplore this action and urge the Administration to recognize that there is no higher priority than assuring that thousands of children within our Nation's cities are not without such a basic necessity as food.

As we indicated last month, we are opposed to the arbitrary guidelines that hamper the effective implementation of the Summer Food Program. We urge the Department of Agriculture to rectify these guidelines immediately so that we can, without additional burden, go forward with a Summer Food Program.

Gentlemen, this morning we are talking about basic necessities. We are discussing today for the urban youth of this Nation essentials that many citizens of this country take for granted. We are talking about food and jobs. On behalf of the thousands of urban children of all ages who face the summer of '72 without adequate diets, without sufficient food and without jobs, we urge the Congress and the Administration once again not to turn their backs on this critical problem.

It must be said that today we have leaders within the Congress who are now involved in this effort. Senator Jacob Javits of New York and Senator Clifford Case of this State have been in the forefront for summer jobs; we heartily commend them for their efforts. In addition, Congressman Dan Rostenkowski has lent his efforts on the House side, and we commend his initiative in this critical area.

As Mayor Gibson of Newark has said so many times, "The greatest natural resource of our Nation is our people". Today we are talking about the future and hope of America: its young people. We, the Nation's Mayors, ask the Federal Government to join with us, throughout America, to make the summer of '72 one with much less hunger than in previous years, with far less idleness and frustration than many youth have experienced recently. With hunger, idleness, and frustration, only the worst will result. We urge action now. In April Congress will have a second opportunity to provide supplemental funds for these programs. We pledge our determined efforts to fund fully these vital programs. We must have the support of the Administration and the Congress in this effort.

WILL UNDERWORLD PROFIT FROM ALASKA PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 10 minutes.

Mr. DANIELSON. Mr. Speaker, the recent dialog surrounding the planned trans-Alaska pipeline has centered around the environmental effects that the project will or may have.

Little has been said about another type of pollution that may surround the multi-million-dollar pipeline preparations—the prospect of extensive land speculation with polluted money.

An excellent article, appearing in the Los Angeles Times on December 6, 1971, documents the possibility that underworld financing and prior knowledge of the pipeline route will almost assuredly turn a large profit for someone.

Mr. Speaker, I insert the article, written by Times staff writer Al Delugach, at this point in the RECORD:

ALASKA MYSTERY—WHO FINANCED BIG LAND DEALS?

(By Al Delugach)

VALDEZ, ALASKA.—Philip J. Matthew of Los Angeles went on an Alaskan land buying spree three years ago. A short time later the route of the trans-Alaska oil pipeline was announced.

The bulk of some 200 parcels of land Matthew had bought in central and southern Alaska turned out to be along the pipeline route.

And here in Valdez, selected over three other cities as terminus of the pipeline, Matthews had acquired much of the town's undeveloped land, including a waterfront site for possible docking facilities.

The pipeline, yet to be constructed, is to bring oil out of Prudhoe Bay on the North Slope. In 1968 drillers struck what is believed to be the biggest oil find in North America.

VALUE OF $1 MILLION CLAIMED

The land—totaling about 500 acres—was purchased for an estimated $300,000. Conservative estimates place its value today at more than $600,000. Matthew, himself, has said that it is worth $1 million.

Who is Philip J. Matthew?

The same question has been asked by the federal government and by people in Alaska. Still a question is who may be associated with him in his Alaskan land deals.

While he has remained out of the news, Matthew, who is 49, had a meteoric rise in the world of finance about 10 years ago. His ventures included savings and loan associations in Los Angeles, Baltimore and Honolulu.

Key financing was provided through a little known but rich Caribbean entity called the Bank of World Commerce, Ltd., Nassau, Bahamas.

The list of his associates at that time included:

Clifford A. Jones, former Nevada lieutenant governor, friend of Bobby Baker and onetime casino owner in Las Vegas and the Caribbean.

Edward A. Levinson, a big-time Las Vegas gambler who was fined in a gambling profits "skimming" case involving the Fremont Hotel.

Meyer (Mike) Singer, now dead, an ex-Teamsters official widely considered as the West Coast representative of James R. Hoffa.

NO INDICTMENTS RETURNED

Alvin Malnik, Miami lawyer, a key figure in the 1966 federal grand jury investigation of suspected underworld involvement in the multi-million-dollar stock promotion of Scopitone, a movie-jukebox invention. People from coast-to-coast were subpoenaed as witnesses. No indictments were returned.

Other assorted Las Vegas gamblers, including Irving (Niggy) Devine, G. C. Blaine, Charles Turner, Ben Sieglebaum and Charles (Kewpie) Rich, as well as James (Jake) Gottlieb, casino owner and friend of Hoffa.

None of these names appears in the public record as being associated with the Alaskan ventures.

Nor is there any public record on who owns the more than 600,000 shares of stock issued in Matthew's firm—Financial Land Investment Corp.—in whose name the Valdez properties are held.

Records he has filed in Juneau show the corporation was incorporated in Delaware in February, 1969, the month he bought the Valdez properties. He is listed as president and treasurer. The vice president is a retired Los Angeles intelligence agent for the Internal Revenue Service, Walter E. Schlick.

The corporation secretary is Eugene Hettleman, a lawyer of Baltimore, which is listed as the corporation's principal place of business. Directors are Matthew, his wife Elayne and Hettleman.

One year after Matthew bought the Valdez land, Mel Personett, then Alaska commissioner of public safety, appeared before the state Senate Judiciary Committee.

While answering questions about Alaskan law enforcement problems, he voiced concern about the entry of associates of organized crime figures into legitimate business.

Personett then told of a man operating in the Valdez area who he said had associates who are underworld figures or who associate with them. Under further questioning. Personett named Matthew as the man he was talking about.

WITNESS CRITICIZED

Several senators at the hearing criticized Personett for naming in public hearing a man who had not been charged with any crime in Alaska.

Sen. Terry Miller (R-Fairbanks), who was committee chairman and now is Senate majority leader, says he later wrote a letter to Matthew inviting him to appear before the committee "in case he wanted to rebut anything anybody said about him at the hearing." Matthew didn't answer the letter, Miller says.

The subject was not pursued. "We felt the least said the better for everybody," says Miller. Personett was replaced as department head when a Democratic administration was elected last year.

INTERVIEW DENIED

Matthew, a wiry man with a moustache who wears lumberjack shirts at his handsome home in Tarzana, doesn't care to answer questions about his Alaska activities or associates.

Several weeks ago, in declining an interview, he said deprecatingly: "We don't have very much up there now."

After a review of his holdings in public records in Alaska, a reporter again sought to talk to Matthew.

"Write what you want," he snapped. "I have nothing to say."

Matthew is known by acquaintances in Alaska to have a more expansive side. They have heard him talk of his bank in the Bahamas, the savings and loan associations, the right hand man who is an ex-IRS agent. Matthew showed up at the state land office in Anchorage in January, 1969, and proceeded to snap up most of the nonhomestead land available for sale by the state.

Contrary to an impression widely held by outsiders, Alaska is not a place where unlimited land is available for purchase. The federal government still owns most of it, and the state presently has a "minuscule" amount for sale to the public.

Matthew appeared to have considerable financial resources, and thus attracted unusual interest in the land office.

Although nearly three years have gone by, a veteran state employee clearly recalled Matthew's wholesale land purchases. In two visits about a week apart, she said, he bought in his and his wife's name almost all the residential and commercial lots available in a number of scattered cities and towns in central and southern Alaska.

CHECKS FOR 10 PERCENT

He put up cashier's checks for the 10% down payment (balance payable at 10% a year) on each parcel. The sales prices totaled $175,000.

This was before even the tentative pipeline route was generally known. The state land on sale over the counter on a first-come-first-serve basis was considered cheap by experts.

Then Matthew turned up in the southern port of Valdez (pop. 1,008) on Prince William Sound. Making friends with the city administration at the time, he bought up much of the remaining property in the new townsite (adjacent to the one destroyed by the 1964 earthquake).

When the oil industry filed its proposed pipeline route several months later, the terminus selected was Valdez.

A land developer recently recalled meeting Matthew in Valdez in February, 1969.

"I had figured out the pipeline had to end there," Jerry McCutcheon said.

How had Matthew figured it out? He was accompanied by a financial writer, the developer recalls. Matthew may have found out some information about the pipeline route from this man, who presumably learned it from his sources, McCutcheon theorizes.

Even now Matthew's name is little known in Alaska except in Valdez, where he visits a couple of times a year.

HELPED TEAM

He has the image here of an outsider with money to invest, a high pressure style and a lot of business savvy.

His admirers, generally the town's old establishment, recall that Matthew once laid out $500 to help send a boy's basketball team to a distant playoff game.

"I don't know who his backers are—that's his business," says Ed Walker, a motel man who was on the Valdez city council that cooperated with Matthew after his arrival.

It is the attitude Alaskans have traditionally taken. There is a widely observed convention that one does not nose into a newcomer's life prior to his arrival in what is aptly called the nation's Last Frontier.

Matthew's name is no better known in Los Angeles than in Alaska, though it is there he lives.

He resigned from the California Department of Savings and Loan in the late 1950s to go to work for Empire Savings and Loan in the San Fernando Valley, where he became executive vice president.

In 1961 Matthew emerged as a business investor on his own—to the tune of hundreds of thousands of dollars. One of his first associates was an old acquaintance, Teamster business agent Singer.

This was followed by a surge of well-financed business ventures that kept them busy on a circuit that included Honolulu, Los Angeles, Las Vegas and Miami.

Key to the ventures was the formation in June, 1961, of the Bank of World Commerce at Nassau with Miami lawyer Alvin Malnik.

Matthew, who had also formed a Bahamian bank for his former S&L employer, was the biggest shareholder in Bank of World Commerce with a listed investment of $230,000. Jones, Levinson and Devine, were among the early investors.

LANSKY ASSOCIATE

Another, who became president, was John Pullman. He is known to federal investigators as a long-time associate of gambling kingpin Meyer Lansky. Pullman is said by government sources to have been a courier between Las Vegas and Switzerland and in recent years has handled investments for American organized crime figures in Swiss banks.

The Bank of World Commerce, whose address was reportedly only an office with one employe, has been described by government sources as organized to finance a financial empire.

One of the bank's first acts, under directors that included Matthew and Malnik, was to make an unsecured loan of $250,000 to Allied Empire, Inc., Beverly Hills. Matthew and Singer, having bought about 19% of Allied's stock in the several months preceding, were turning the former television cartoon producing firm into an S&L holding company.

Matthew, who had become Allied's president, used the $250,000 toward purchase of San Gorgonio S&L, in Banning, for $1.5 million.

The $250,000 loan was just for openers for the Bank of World Commerce, which lent a lot more to Allied. Between July, 1961, and September, 1962, the average unpaid balance on the loans reportedly ranged from $250,000 to $750,000.

A sidelight on the Allied venture was that Hoffa and his daughter reportedly got in on the ground floor of a tremendous market rise in Allied's stock.

About June 1, 1961, the Hoffas bought 1,100 shares at prices ranging from $4.75 to $6.75 per share and sold 600 shares six months later at $50.50 to $53.50 per share. At its peak, Nov. 24, 1961, Allied's stock hit $76 per share.

HONOLULU VENTURE

Busy as they were, Matthew and Singer found time in September, 1961, to launch the Waikiki Savings and Loan Assn. in Honolulu.

Matthew was the biggest original shareholder of record, as well as president. Other original subscribers included Levinson, Devine and other Las Vegas gamblers, as well as Jones and Pullman.

A later investor was Robert (Bobby) Baker, once secretary to the Senate Democratic majority. Baker, who was sold 2,500 shares by Matthew, later went to prison for his role in financial scandals unrelated to the Hawaiian venture.

(It was disclosed in 1963 that Baker endorsed Jones and Levinson for gambling casino concessions in hotels of a Pan American World Airways, subsidiary in the Caribbean. Baker was quoted as saying he was doing a political favor.)

ISLAND PLANTATION

By December, 1961, Matthew was spearheading a takeover attempt on the big Ewa Plantation in Honolulu through his bases in Waikiki S&L, Allied Empire and the Bank of World Commerce.

The attempt was beaten down by major Hawaiian interests. But the price of Ewa stock was driven up in the process—greatly enhancing the value of the minority holdings.

Matthew's base at Allied Empire crumbled in January, 1963, when he resigned as president. Minority stockholders reportedly forced a change in management.

A long legal battle began between Matthew and his successor at the helm of Allied, Philip Nasser. While maintaining his family residence in Tarzana, Matthew spent the next couple of years in Israel.

Matthew and Nasser accused one another of fraud in civil suits which dragged out for years.

Nasser tried to attach Matthew's 43,476 shares in Allied Empire, which had changed its name to Riverside Financial Corp. But, in a key ruling, the Los Angeles Superior Court held that Matthew had previously transferred his interest in the stock to Clifford Jones on behalf of some 40 persons.

GAP IN RECORD

These included gamblers Levinson, Devine, Blaine, Turner, Siegelbaum and Rich, as well as Gottlieb.

There is a gap in the public record as to Matthew's business activities in the two or three years preceding his arrival in Alaska in January, 1969.

In Valdez he found a city administration receptive to selling him commercial and residential tracts remaining for development.

The present city manager, however, views as a mistake the leniency toward Matthew and a few others who signed up as "developers" under an urban redevelopment program for the land in the new townsite.

By promising to develop the property in specified ways, Matthew and the others got lots for as low as $400. Such lots would cost perhaps 10 times the amount they paid if bought in another Alaskan city.

The new city council in Valdez has recently begun legal action to declare some of the development contracts in default.

Matthew avoided the situation by selling back to the city about 50% of his holdings after a dispute over which side was responsible for failure to develop the land.

Matthew has not built anything whatever on any of his Valdez properties, says city manager Herbert Lehfeldt, former Southern Californian who was city manager of Bell Gardens and Palmdale in the 1960s.

For many months, he said, the previous council granted one time extension after another to the developers.

"The council never forced the issue until now," added Lehfeldt. "We've got to break it open. People who move to and want to build a house in Valdez can't even buy a piece of land here.

"The city is strangling as a result of these redevelopment contracts."

In addition to the purchases from the city, Matthew bought a seafood processing plant in Valdez in 1969 from the Small Business Administration.

An SBA official in Anchorage refused to give the figures, commenting that "the media has not always been kind to the SBA."

However, it is reported by others familiar with the deal that Matthew bought the plant from the SBA for about half the original cost—and on easy terms—after the SBA's original deal went sour.

The federal agency had foreclosed in 1967 a loan reported at around $100,000 to a local group in Valdez. Last spring, Matthew finally was able to lease the plant to a major seafood processor.

Matthew writes long and frequent letters to city and state officials and to the local newspaper to air his grievances.

One is the city's refusal to sell him some land near the seafood plant which he said he was promised and which the processor needs.

Another is rejection of his $100,000 bid for a tract that was sold for half that amount to a Montana developer.

In contracts to the earlier honeymoon mood, Matthew and the attorney for his corporation have threatened to sue the city.

The new city council and Lehfeldt have established the policy of dealing firmly with Matthew.

Lehfeldt described the attitude previously as one in which councilmen were "overpowered and perhaps a little frightened" at Matthew's high-powered style.

A long Matthew letter of complaint directed to Lehfeldt and the council last Aug. 30 concluded with this typical flourish:

"I refuse to believe that the answer lies in going back in history and not having law and order in the City of Valdez. Maybe 100 years ago there was not law and order in Alaska or the Far West. But we are civilized today and we should be thankful for that.

"We cannot advise our children to live the golden rule and then act in hyprocritical fashion by breaking the law just because we are mature in age . . . Will the City of Valdez act in a just and honorable way in its dealings with redevelopers, regardless of whether they are so-called outsiders or not?"

LEGISLATION TO REPEAL THE MEAT QUOTA LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 5 minutes.

Mr. ROSENTHAL. Mr. Speaker, today, I am joining with my distinguished colleague from Ohio (Mr. VANIK) and other Members, in introducing legislation which would repeal the Meat Import Quota Law of 1964. This repeal is urgent if we are to restore sanity and reasonableness to the cost of meat and meat products.

In 1964, Congress responded properly to a serious, but temporary decline in cattle prices by enacting the quota restriction. Now, the emergency situation has shifted to America's consumers who are forced to pay outrageously high prices for beef; and Congress must respond as quickly to the plight of consumers as it did to the plight of farmers 8 years ago.

I think we can all agree that retail meat prices are simply far too high. Why they are to high is something we must find out so that we can adopt an overall governmental policy which will result in fair prices to cattlemen and reasonable prices to consumers. In the interim, there is something Congress can do quickly to help lower the cost of meat—particularly hamburgers, hot dogs, and cold cuts. Congress can and must repeal the quota law on the importation of lean beef from foreign nations.

Not only will this repeal result in lower meat prices, it will also strike a blow against the entire inflation problem.

I must express shock and dismay over the fact that the Secretary of Agriculture is now waging war against the American consumer's food pocketbook in the face of a seriously inflationary economy, high taxes, and wide-spread unemployment. His unbridled enthusiasm for soaring meat prices demonstrates his lack of sensitivity to the plight of the buying public and calls into question the legitimacy of the hidden procedures based on which quotas are established.

Nor am I impressed by the activities and attitude of the Secretary of the Treasury with respect to high food costs. By merely blaming the chainstores, he demonstrates an unwillingness to examine the across-the-board reasons for high prices. We will never have a responsible food price policy in the country so long as the President permits his Cabinet officers to choose up sides in this unfortunate struggle between producers and consumers.

Again, Mr. Speaker, Congress must take this vital first step of repealing the meat quota law. I urge my colleagues to join in this effort.

REPORT TO THE RESIDENTS OF THE NEW FOURTH CONGRESSIONAL DISTRICT OF WEST VIRGINIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. KEE) is recognized for 15 minutes.

Mr. KEE. Mr. Speaker, I have asked for this time to include in the CONGRESSIONAL RECORD a brief preliminary official report on my services to date in the 92d Congress to the residents of the new Fourth Congressional District of West Virginia.

While the 92d Congress is extraordinarily diligent and hard working, we do have a great amount of important business yet to be considered.

Today, I was especially pleased that the House of Representatives passed the Federal Water Pollution Control Act Amendments of 1972, which I deem to be one of the most vital national issues to be considered during the current Congress.

As a member of the Committee on Public Works, and the Committee on Interior and Insular Affairs of the House of Representatives, I have been extremely fortunate to be assigned to seven subcommittees, which are vital to the future of southern West Virginia, our State, and our Nation.

With reference to the Committee on Public Works, I am a member of the Flood Control and Internal Development Subcommittee; Subcommittee on Public Buildings and Grounds; Special Subcommittee on Economic Development Programs, and I have the responsibility of serving as the chairman of the Conservation and Watershed Development Subcommittee.

On the Interior and Insular Affairs Committee, I continue to serve on the Subcommittee on Mines and Mining; Public Lands; and the Environment.

With reference to the Flood Control and Internal Development Subcommittee, it was my privilege in 1965 to change the name of the Justice Reservoir in Wyoming County to the R. D. Bailey Reservoir, in memory of the beloved late Judge R. D. Bailey. While I have continued to work with the Corps of Engineers and the Appropriations Committee of the House of Representatives, to obtain the maximum appropriations possible each year for the completion of the R. D. Bailey Lake, this $108 million project will provide adequate flood protection from Baileysville downstream to the Ohio River in the city of Huntington.

As the chairman of the Subcommittee on Conservation and Watershed Development, we have made preliminary investigations of the Buffalo Creek disaster and we are in the process of determining the actual cause of this tragedy. The Public Works Committee will take a close view of all such water retaining structures in an effort to prevent reoccurrence of such a needless loss of lives and property throughout southern West Virginia and the entire Appalachian region. As a matter of fact, I have called a preliminary bill which will be referred to the Subcommittee on Conservation and Watershed Development to greatly expand the role played by the Soil Conservation Service in constructing adequate watersheds wherever justified and requested by local residents in various areas.

It was my privilege to originally cosponsor the Appalachian Regional Development Act, which provides financial assistance for the construction of the Appalachian Development Highway System, vocational education facilities, airport facilities, access roads, housing, land treatment, erosion control measures, and additional medical services and facilities, such as the Southern West Virginia Regional Health Council and financing for the continued operation of the Appalachian Regional Hospitals, reclamation of land damaged by past mining practices, comprehensive water resources survey, sewage treatment facilities, plus supplemental grant in aid to acquire land for construction of public facilities.

It was also my privilege to be the original cosponsor of the Public Works and Economic Development Act, under which the new community hospital at Princeton—Mercer County—and the Hinton Hospitals—Summers County—obtained necessary financing for these medical facilities which are now in existence.

In addition, the Economic Development Administration has assisted local communities in financing adequate water and sewage disposal plants.

Congress does not actually build roads. The Subcommittee on Roads of the House Public Works Committee authorizes the Federal funds for the construction of highways and the responsibility for determining the actual location of these improved highways lies with the State department of highways which initiates the request for Federal funds.

As a matter of fact, the House Public Works Committee approved and the Congress passed my recommendation to include the West Virginia Turnpike as a part of the Interstate Highway System.

I recommended that U.S. Highway 52, between Bluefield and Huntington, be designated as part of the Interstate Highway System and to be upgraded to a four-lane highway, hopefully that the West Virginia Department of Highways would request such improvements.

I also recommended that West Virginia Route 10 from Princeton to Huntington be upgraded to a modern multi- or four-lane highway since both of these highways are essential to the opening up of our beautiful scenery in West Virginia.

In 1965, my amendment authorizing the construction of the Panther Creek Lake was adopted and, in addition, the Congress has authorized additional flood proofing and flood protection downstream for the communities of Matewan and Williamson. The flood wall to protect the Williamson Appalachian Regional Hospital from floods in South Williamson has been constructed.

The various projects which I have worked on in conjunction with responsible local citizens are too numerous to mention in this report. Many of these have been completed and others are on the way for final approval and financing.

With reference to pneumoconiosis, more popularly referred to as black lung, the facts are that as of December 31, 1971, 28,700 of 49,000 West Virginians currently receiving benefits are located in the new Fourth Congressional District of West Virginia. These figures have been officially presented to me by the Social Security Administration and this confirms the fact that approximately 60 percent of the total current beneficiaries for the State of West Virginia are from within the new Fourth Congressional District.

As a matter of fact, I introduced the very first bill in the U.S. Congress, H.R. 9850, on April 2, 1969, designed to provide Federal payments to those coal miners suffering from this dreadful disease, as well as their widows and children.

Under House Joint Resolution 748, which passed the House on July 19, 1971, authorizing the establishment of new medical schools, I immediately recommended that Marshall University be designated as the new medical school in conjunction with the Veterans' Administration in Huntington. This legislation is currently under consideration in the U.S. Senate and it is my hope that it will be signed by the President this year in order that facilities will be available to train additional physicians and nurses.

With reference to airports, improvements are underway for Kee Field, Wyoming County; Mercer County Airport; Raleigh County Airport; as well as substantial improvements at the Tri-State Airport which is located in Wayne County near the city of Huntington; Mingo County Airport, plus a planning program for a Logan County Airport.

During the latter part of May or early June, I will submit a more detailed account of my stewardship as your Representative in the U.S. House of Representatives.

In conclusion, my invitation continues to be extended to all constituents to advise me concerning any matter on which you feel I may be helpful. Your comments and suggestions are always welcome and I value your views on proposed legislation or any other matter involving the Federal Government where I may have the opportunity to be helpful.

My Washington address is 215 Cannon House Office Building, U.S. House of Representatives, Washington, D.C. 20515, Telephone: Area Code 202—225-2176.

STATEMENT OF THE U.S. COMMISSION ON CIVIL RIGHTS CONCERNING THE PRESIDENT'S MESSAGE TO CONGRESS AND PROPOSED LEGISLATION ON BUSING AND EQUAL EDUCATIONAL OPPORTUNITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS), is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, the U.S. Civil Rights Commission has today released a statement concerning the President's recent message on busing and equal educational opportunity.

Members of the Commission, which is chaired by the Rev. Theodore M. Hesburgh, C.S.C., president of the University of Notre Dame, are: Stephen Horn, president, California State College, Long Beach; Mrs. Frankie Muse Freeman, an attorney from St. Louis, Mo.; Manuel Ruiz, an attorney from Los Angeles; Maurice B. Mitchell, chancellor of the University of Denver; and Robert S. Rankin, professor emeritus, Duke University.

Because of the importance of the issues discussed by the Commission, I ask permission to insert this statement in the RECORD at this point.

STATEMENT OF THE U.S. COMMISSION ON CIVIL RIGHTS

On March 17, 1972, the President sent to Congress a message and proposed legislation dealing with the most deeply felt and most divisive domestic issue troubling the American people today. The issue is commonly characterizes as "busing" but it involves far more fundamental questions. It involves questions concerning the kind of education we want our children to have, the firmness of our resolve to redeem the Nation's pledge of equal rights for all, and, in the final analysis, the kind of society we want our children to inherit.

The Commission has serious disagreement with the proposed legislation. We believe that it can have no other effect than to roll back the desegregation advances made so slowly and so painfully over the 18 years since the Supreme Court of the United States declared that "separate educational facilities are inherently unequal." This proposed legislation is retrogressive on several counts:

It seeks to alter the substantive standards by which the illegality of school segregation could or should be judged and found wanting.

It seeks to hinder the capacity of the courts to provide relief to those whose constitutional right to a desegregated education has been violated.

It seeks to curb the Executive Branch as an active participant in the effort to desegregate the schools.

It seeks to enshrine the neighborhood school as a fundamental cornerstone of educational policy when, in light of pervasive patterns of neighborhood segregation, this can only have the effect of perpetuating segregated schools.

It would accept the inevitability of the continuation of school segregation and seek to create equal educational opportunity by equalizing racially separate schools, in other words, a reversion to the doctrine and practice of "separate but equal."

These and other provisions in the legislation would render lifeless many of the legal principles established in the Supreme Court's classic Brown decision.

Although the Commission has serious disagreement with the President's premises and recommendations for legislation, we believe that it is not only right and proper, but essential, for the President to address this issue. The Commission is mandated by law to advise both the President and the Congress on these matters, and we speak out with the hope that we may contribute to constructive debate and to successful resolution of the difficult problems involved.

What has divided the Nation on school busing is not so much sharp disagreement on the merits, but confusion as to what the issues really are. Public discussion has not served to illuminate these issues. The complex matter of overcoming in a few years the inequities of the long past through the medium of desegregated schools has been reduced to the question of whether one is for or against busing.

In his message, the President has recognized the need to address these important issues rationally and analytically. In addition, the President has sought to quiet the fear that his legislation placing curbs on busing will mark an end to the effort to achieve equal rights and even undo the advances made in the 18 years since the Supreme Court of the United States declared that "separate educational facilities are inherently unequal."

Despite the President's assurances, we fear that this legislation will nonetheless have that result. It focuses on the wrong issue—busing—and in so doing will make rational debate over the true issues of school desegregation and quality education much more difficult. Further, if enacted, it would mark a major governmental retreat in the area that has been at the heart of the struggle for equal rights. Retreats in other areas might well follow.

In its fifteen-year history, the Commission has been continuously studying the problems of achieving quality, desegregated education. We have issued numerous reports dealing with various aspects of the problem North and South, and exploring ways in which it can be successfully resolved. We issue this statement out of our present concern that progress in school desegregation not be halted and not be diluted.

LEGAL BACKGROUND

In 1954, the Supreme Court in Brown v. Board of Education of Topeka established that officially sanctioned segregation in public schools violates the 14th Amendment. Most clearly this holding applied to those States in which segregation was expressly required or authorized by law. In recent years, this principle of law has been applied as well to Northern school districts where the courts have concluded that official policies and actions have just as effectively resulted in racial isolation in the schools.

In the 18 years since Brown, not only have the courts continued to interpret what constitutes illegal segregation, but the courts and other agencies of government have been seeking to devise effective remedies for achieving full school integration.

Throughout the late 1950's and 1960's, many school districts adopted a variety of plans which produced little integration—in fact, less than 3 percent in 10 years. In 1968, the Supreme Court made clear that Brown requires the actual abolition of dual school systems—so that there no longer are "white schools" or "black schools," but simply schools.

The loss of time, the loss of opportunity for a generation of our children has been discouraging. But remedies have been developed. A variety of techniques for achieving desegregation have been applied successfully, including the use of attendance zones, pairing of schools, construction of new facilities, such as education parks, and, as a last resort, busing.

The appropriateness of these remedies was fully dealt with last April by the Supreme Court in Swann v. Charlotte-Mecklenburg. In that case, the Court recognized the validity and necessity of each of these remedies—including busing—which courts, with the guidance of Federal, State and local officials, had concluded were the proper means for achieving desegregation and fulfilling the promise of the Brown decision.

It is against the background of this history that the legislation proposed by the President must be viewed.

CURB ON THE COURTS

As the President points out, all three branches of the Federal Government have participated in the effort to end the system of State-imposed segregation in the public schools. As he also points out, however, they have been unequal partners. The courts have carried the heaviest share of the burden. During the ten years following the 1954 Brown decision, the courts labored virtually alone with little if any backing from the executive and legislative branches. The pace of desegregation was painfully slow, in contrast to the court's injunction of "all deliberate speed."

It was not until a decade later that Congress, through enactment of the Civil Rights Act of 1964, and the Executive Branch, through enforcement of Title VI of that law, joined the battle. In recent years the courts again have had to carry the main burden, but the dramatic increase in the pace of desegregation since 1964 demonstrates the impact that all three branches, working together, can have.

The appropriateness of these remedies was the courts has been unfair. Further, the case-by-case approach, which is inherent in the judicial process, is not the most effective way to deal with a problem of national scope and concern. The limited range of remedies available to courts further limits their capacity to meet the problem. Congress, with its power to enact new programs and to appropriate funds, and the Executive Branch, with its power of flexible administration, are necessary partners. Thus we agree with the President when he urges that Congress accept additional responsibility and use its authority under the 14th Amendment for purposes of joining the effort to desegregate the schools.

The courts need support and assistance. However, the legislation proposed by the President would curb, not help, them. It would seek to limit the remedies available to the courts by restricting and, in some cases, removing, their power to order transportation of students. It would also blunt the force of the Executive Branch through similar restrictions. The proposed "Student Transportation Moratorium Act of 1972" would bar, until July 1, 1973 or until appropriate legislation is enacted by Congress, all new busing order, despite the unmistakably clear and strong mandate of the Supreme Court that further delay in carrying out the requirements of Brown is not acceptable. As the Court has said:

"The burden on a school board today is to come forth with a plan that promises realistically to work, and promises realistically to work now."

The proposed "Equal Educational Opportunities Act of 1972" also would place severe curbs on the power of the courts and the Executive Branch to remedy constitutional violations. It would generally prohibit the ordering of desegregation plans that involve an increase in the amount of transportation. For elementary school students, this prohibition would be absolute. It should be stressed that this anti-busing proposal, unlike the one in the "Moratorium" bill, would be permanent. Thus the power of Federal Courts to provide relief to those whose constitutional rights have been violated would be impaired—indefinitely. Further, existing court orders or desegregation plans under Title VI of the Civil Rights Act of 1964 could be reopened and changed.

The legislation also would seek to alter the standard by which courts judge constitutional rights and remedies. Provisions of the bill, such as those emphasizing the appropriateness of neighborhood school assignment and the inviolability of school district lines, would not only impair the courts' power to provide remedies, but also, by seeking to lower the standard of constitutionality, would intrude on the traditional prerogative of the courts. Thus this proposed legislation raises serious constitutional questions concerning separation of powers.

The Commission urges that Congress fully examine these questions, especially those concerning constitutionality, before acting. The courts are the final judges on issues of constitutionality, but Congress has its own heavy responsibility to assure that legislation it enacts is authorized under the Constitution. The Commission believes that the anti-busing provisions in this legislation not only would impede desegregation efforts, but would also undermine the integrity of our Federal judiciary.

Ours is the longest enduring Constitution in the world today precisely because the founding fathers wisely balanced the powers to preserve constitutional and equal rights for all citizens. To tamper with this balance is a threat to the Nation and its future life and health which far transcends the issue of busing.

NEIGHBORHOOD SCHOOLS

What Americans must keep in mind, in the furor over the busing debate, is that to restrict busing in most communities is simply to restrict desegregation. This is so because of the segregated neighborhoods that exist from coast to coast, North and South. It is so because even with a concerted effort to eliminate well-entrenched patterns of housing segregation, it would take generations to undo or even significantly alter them and thus to alter the educational opportunity of the children who live in segregated neighborhoods near inferior, segregated neighborhood schools. What you really say to these children when you say "no busing" is "stay in your place and attend your inferior schools." This will, in reality, cost us another whole generation of badly educated minority children, denied their constitutional rights to equal educational opportunity. No amount of talk about new expenditures to create what, in fact, is a reversion to the unconstitutional and bankrupt policy of "separate but equal" will long delude minority parents or even minority students.

This is not to say, however, that busing is the only means of achieving desegregation. In many towns and cities, busing is not necessary and desegregation can be achieved within the confines of neighborhood school attendance. Great progress can be made through the use of such techniques as redrawing school attendance lines, pairing schools, and creating central schools.

But in many cases these techniques, no matter how skillfully and conscientiously applied, cannot bring about desegregation without busing. That is because very often school attendance areas must be enlarged in order to accomplish desegregation, and some pupils would be too far away from school to walk. In these instances, some pupils have to be transported to school. Sincere and dedicated school officials, school boards and courts across the Nation have sought ways to desegregate schools in a number of cities without busing and have had to conclude, finally, that in some cases there is no other way.

To be sure, busing for desegregation purposes can be inconvenient—but no more so than busing for a number of other educational purposes. The key question is the value we place—for the sake of our children and our society—upon having quality, integrated education. The Commission is convinced that the relatively small amount of busing that is conducted for desegregation purposes is not only justified, but is necessary. The Supreme Court recognized this fact in the Swann case.

The Supreme Court, in Swann, did not ignore the worries of parents about "excessive" busing. The Court said that children should not be bused if the time or distance would endanger either the child's health or education, and that seems a reasonable standard to this Commission. None is endorsing the busing of any child to an inferior school, although just this happened to many past generations of minority children. The fears and concerns about busing, and the extent and inconvenience of it, have been greatly overstated in the course of the debate now sweeping the Nation. Regretfully, too many leaders have been speaking to the base prejudices of the American people rather than to their inherent sense of justice and idealism.

What are the plain facts about busing? Every day nearly 20 million school children go to and from school by bus and their parents seldom complain about inconvenience. Some parents prefer to have their children go to school by bus rather than brave dangerous traffic on foot. Some school boards provide buses for handicapped and gifted children, so that they can attend special schools away from their neighborhoods. Rural areas have virtually abandoned the once-familiar one-room school in favor of modern consolidated schools reached by bus. School districts often take pride in providing transportation for these purposes, sometimes at great cost, knowing that the improved education that awaits the children at the end of the bus ride is what really matters and this is well worth the inconvenience. Only when busing occurs for the purpose of desegregation are objections raised. Some would have us believe that for this purpose, busing is not an inconvenience, but an absolute evil.

The neighborhood school represents, in a sense, the opposite side of the coin of busing. That is, just as the fifty-year old practice of busing represents an inconvenience, not an absolute evil, neighborhood schools represent a convenience, not an absolute good.

As noted, neighborhood schools have been abandoned by the thousands in rural areas in favor of larger consolidated schools commonly reached by bus. The trend of modern educational thought generally is away from the neighborhood school and toward the larger central units that can provide facilities, teachers, services and curriculum not financially feasible in smaller neighborhood schools.

Neighborhood schools realistically should be viewed as only one of several forms of school units, and not as the foundation upon which our entire system of public education should rest. In plain fact, it does not. Therefore it would be a serious mistake for the proposed "Equal Education Opportunities Act" to elevate the neighborhood school concept to the position of a new national policy and purpose. To do so would not only undermine desegregation; it would discourage the efforts of educators seeking to improve the organization of their school system toward providing quality education for every pupil.

EQUAL EDUCATION

The cornerstone of the proposed "Equal Educational Opportunities Act" is the declaration of national policy that:

"All children enrolled in public schools are entitled to equal education opportunity, without regard to race, color, and national origin."

The substantive provisions of the bill, however, seek to carry out this policy at the same time curtailing efforts to desegregate the schools. Indeed the President's message, as well as the legislation, accept the inevitability of continued school segregation and seek other means—the channeling of money into ghetto schools—to achieve equality of educational opportunity.

The essence of the President's proposal is that infusion of money can make racially isolated schools equal and he would allocate up to $2.5 billion in previously requested funds to this purpose. The Commission doubts the value of this approach. In fact, it has not worked even with a larger per student allotment in the schools of Washington, D.C.

In seeking to achieve equal educational opportunity by equalizing segregated facilities, the legislation returns to the tradition of the discarded "separate but equal" rule of Plessy v. Ferguson, which the Brown decision expressly overturned as unconstitutional.

But even if true equality could be achieved under segregated conditions, there is little reason to believe that the expenditures contemplated would accomplish this result. A recent report prepared by Mosteller and Moynihan of Harvard University has reaffirmed that the least promising way to improve education in ghetto schools is through the expenditure of additional funds. Many studies, including the Commission's own, have concluded that amounts far in excess of those presently contemplated would be necessary before compensatory programs in ghetto schools would in fact "compensate" in any significant degree.

Is pupil integration any more likely than increased expenditures to achieve our goals? A basic finding of the 1966 Office of Education study, "Equality of Educational Opportunity," (the Coleman Report) was that a child's own family background was by far the most important influence on his school achievement and later life experience. Some have concluded from this finding that the schools are virtually powerless as a positive influence on our children, and that the effort, instead, must be in the area of jobs and income.

We believe there are severe fallacies in this reasoning. First, the reasoning assumes incorrectly that there is only one road to the achievement of equality for minorities. In fact, efforts must be made across the board—in jobs, in housing, and in education—if that goal is to be realized. Experience has taught us that none can be ignored, that there is no quick or simple cure to the social and economic injustices which have been allowed to grow and fester for decades.

Second, this reasoning would lead us to write off at least one more generation of children, knowingly abandoning efforts to help them develop into productive participants in American society and condeming them to lives of inequality.

Third, the conclusion that the schools are powerless to increase and improve their impact on the young is wrong. As the Office of Education study found, as the Commission on Civil Rights' own study, "Racial Isolation in the Public Schools," later confirmed, and as the Harvard University report recently has reaffirmed, the social and economic backgrounds of a child's classmates bear very significantly on his or her achievement in school. It therefore does matter greatly that disadvantaged children not be educated in isolation.

But schools play a much more important function than merely providing children with the technical tools necessary to perform well on achievement tests. It is a function which one commentator has described as "to prepare people not just to earn a living but also to live a life—a creative, humane, and sensitive life." In short, the true measure of how well schools are performing cannot be gained solely by reference to test results. Two years ago, the President underscored the uniqueness of the school as an institution of society:

"It is a place not only of learning but also of living—where a child's friendships center, where he learns to measure himself against others, to share, to compete, to cooperate."

It should also be a place where a child is not isolated in inferior surroundings as part of an unwanted class or race and thus told from the beginning of the process that he is inferior.

The school is the most important public institution bearing on a child's development as an informed, educated person and as a human being with hope for the future. It represents the single most important opportunity afforded to society to interrupt the endless cycle of poverty and, above all, to heal the great social divisions that trouble the Nation. For children of white, affluent society, as well as for minorities, integrated education is essential if they are to thrive in the multi-racial world they will enter and help redeem America's promise, which school children each day are asked to recite and believe in—"One Nation, under God, indivisible, with liberty and justice for all." The Commission believes it would be a serious mistake for Congress to enact legislation—especially legislation entitled "Equal Educational Opportunities Act"—that accepts the inevitability of school segregation, with its demonstrated denial of equal educational opportunity.

Two years ago, the President emphasized the close tie between quality education and desegregation: "Quality is what education is all about; desegregation is vital to that quality."

In that statement the President took a position with which we concurred then and concur now. It is a stand that is just as correct and essential today as it was two years ago. It is a stand from which the President, Congress, American education and the Nation should not retreat.

CONCLUSION

The Commission has discussed its reservations about the proposed legislation mainly in terms of its effect in slowing down progress in school desegregation. Our concerns, however, are much deeper.

Since the Supreme Court decision in the Gaines case in 1937, requiring the admission of a black man to the law school of the University of Missouri, there has been a slow but steady and progressive attack on segregation and discrimination in this Nation. Executive Orders of Presidents beginning in 1941, acts of Congress beginning in 1957, along with other decisions of the courts, have all been directed toward the creation of legally supported standards of behavior that would lead the Nation toward human cohesiveness and racial equality.

Now for the first time in 35 years we are faced with a series of legislative proposals including an amendment to the Constitution that lead us back along a road that this Nation should never see again. These proposals require the Nation to turn its face away from finding solutions to the difficult task of seeking effective ways of implementing the decisions of the courts and the civil rights laws enacted by the Congress. We must now defend the results of 30 years of effort that we thought were fast becoming an accepted part of American manners and morals.

Our fear is that what appears to be an assault on school desegregation, will in fact have the effect of providing solace, comfort, and support to those who opposed all civil rights advances in the past and who may now attempt to roll back the progress made in other areas.

We are also greatly troubled that millions of American citizens of minority group background may well conclude that the laws and court decisions that had begun to generate hope and faith in America's commitment to a desegregated society, with equality and justice for all, was never a true commitment, but only a device designed to muffle the voices of discontent and frustration.

Any legislation that deprives or makes more difficult the process by which American children of all races learn to understand each other—through the kind of creative contacts that can take place in the schools of the Nation—is, in our view, antithetical to the creation of a society with the capacity to provide equal justice to all, and lessens the hope, not only for American education but for American children and our Nation.

THE FARMER IS NOT TO BLAME FOR RISING FOOD PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 10 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, in recent weeks, we have seen mounting criticism of farmers, and more specifically cattlemen, because of increases in food and meat prices.

It is true that prices have risen. But, does it necessarily follow that the farmer and cattlemen are to blame? I think not, as an examination of all of the facts tends to demonstrate that current food and meat prices are not out of line and in fact are real bargains. Furthermore, in the last 20 years, farmers' prices for food products have gone up only 6 percent, and the current beef prices received by the American cattlemen are just now back up to a level of 20 years ago. It is interesting to note that in the same 20-year period, money paid the wage earners increased 340 percent, business and professional incomes advanced 200 percent, and dividends rose 300 percent.

Notwithstanding the fact that the increased food prices being paid by the American consumer are obviously going into the pockets of the middlemen and the retailers, criticism of the farmers continues to mount and is approaching the point of the absurd. The latest example of this came from the Chairman of the Price Commission, C. Jackson Grayson, who recently criticized the Secretary of Agriculture's explanation of higher farm prices as being "damaging to the stabilization program," and who announced that hearings will be conducted by the Price Commission concerning farm prices.

I welcome these hearings, Mr. Speaker, for I am confident that enough facts will be brought out to prove to Mr. Grayson that Secretary Butz' points were well made, and that farm prices have fallen far behind the national average.

In the same 20-year period which I have mentioned, farmers today are paying 2.3 times higher wages for help than they did in 1952; farm machinery prices are nearly twice as high; production expenditures have doubled; and farmers' debts have increased five times. During this period the farmers' prices at the farm gate have risen all of 6 percent.

Why then do we hear so much criticism against the farmer? The only reason I can determine is because retail food prices in stores have gone up 43 percent.

The public is angry, but its anger is misdirected against the farmer and cattleman. The 43 percent increase in retail food prices has gone into increased freight rates; container costs; added services and conveniences built into frozen, precooked, premixed, prepeeled, and prepared foods; and higher wages up and down the line.

I am sure that Mr. Grayson was not aware of these facts when he criticized the Secretary of Agriculture, but I know that he will diligently research the record, and will uncover these additional facts.

Though people are complaining about the price of beef, they do not realize that the price per hundredweight is actually lower today than it was 20 years ago. The reason why this is all possible is the fact that farmers' productivity per man-hour is 3.3 times more than it was 20 years ago. Our Nation's farmers are producing two and one-half times as much beef as 20 years ago, and four times as much choice beef. The American consumer is eating twice as much beef per person as 20 years ago, and this is notwithstanding the fact that the farmers' prices increased only 6 percent in the last 20 years.

I was somewhat astonished to read public statements by so-called consumer experts and by some of my Eastern colleagues in the Congress who are urging people to eat less meat. The consumer expert for a food chain in the Washington, D.C., area stated recently that people should eat less meat because the store's meat prices from their suppliers had "skyrocketed." Mr. Speaker, I am genuinely intrigued by this allegation, as the truth of the matter is that wholesale prices for Iowa beef carcasses are today 1 percent less than last August 13 before the freeze went into effect. She would also be interested to know that farmers' cattle prices are 4½ percent less than a month ago, and hog prices are 8 percent less than a month ago.

It is apparent that many of these so-called consumer experts have not the slightest conception of the farmer's position in the marketplace, and that they have even less of an understanding of the fact that retail food costs are increasing because of the processing and distribution costs. Once these costs are up, they harden and stay up. Conversely, the prices of farm products are soft costs in that they fluctuate from month to month but do not harden.

In summary, I believe it is significant to note that today's producers of beef earn about 3 percent return on their investment, compared with the average return on investment for industry of 12 percent. I am quite confident that an examination of the financial records of the food chain which took out the advertisement urging people to eat less meat would reveal that their profit margin in the same period would be considerably greater than 3 percent.

With these facts in mind, we can appreciate that, compared to the rise in the costs of living generally, beef is a real bargain. I am confident that the facts which will be uncovered at Mr. Grayson's hearing will document this, as well as the fact that farm prices are currently exempt from controls for the sound reason that they are subject to severe price competition. As the foregoing facts indicate, this competition is far more effective and beneficial to consumers than that imposed on other businesses by the Government.

So, Mr. Speaker, I suggest that all of these points should be dispassionately considered by the Price Commission, and that the Commission should thereafter report to the American public—in nonemotional language—that the public can harbor no complaints against the farmer and cattlemen. Rather, they are really in their debt for a job well done for a long time.

CONCURRENT RESOLUTION OF THE NEW YORK STATE LEGISLATURE ON THE PLIGHT OF SOVIET JEWS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I should like to place in the Record a concurrent resolution of the Senate and the assembly of the State of New York memoralizing the President of the United States and the Congress to encourage the Government of the Soviet Union to end its persecution of the Soviet Jews and other minorities and to permit the free exercise of religion and emigration.

It would be redundant for me to repeat any of the statements made in the resolution which so accurately depict the persecution by the Soviet Union of its Jewish citizens.

The Members of this Congress have heretofore demonstrated their support for these Soviet Jews and the administration, to its credit, has done the same by granting what is tantamount to refugee status to every Soviet Jew permitted to leave the Soviet Union. The Attorney General's commitment on that subject, which permits every such Soviet Jew to enter the United States without regard to quota restrictions, has been hailed as one of the great humanitarian actions of this administration.

I believe it would strengthen the President's position if the Members of this House were to urge him by letter to exert his influence when he meets with Soviet officials on May 22 to persuade them to end the persecution of the Jews and other minorities in the U.S.S.R.; permit the free exercise of religion by all; and allow these Soviet citizens desiring to emigrate to a country of their choice willing to receive them, to do so.

The resolution follows:

Concurrent Resolution of the Senate and Assembly of the State of New York Memorializing the President of the United States and the Congress To Encourage the Government of the Soviet Union To End Its Persecution of Soviet Jews and Other Minority and To Permit Free Exercise of Religion and Emigation

Whereas, In the Soviet Union men and women are denied freedoms recognized as basic by all civilized countries of the world and indeed by the Soviet Constitution; and

Whereas, Jews and other religious minorities in the Soviet Union are being denied the means to exercise their religion and sustain their identity; and

Whereas, The government of the Soviet Union is persecuting Jewish citizens by denying them the same rights and privileges accorded other recognized religions in the Soviet Union and by discriminating against Jews in cultural activities and access to higher education; and

Whereas, The right freely to emigrate, which is denied Soviet Jews who seek to maintain their identity by moving elsewhere, is a right affirmed by the United Nations Declaration of Human Rights, adopted unanimously by the General Assembly of the United Nations; and

Whereas, These infringements of human rights are an obstacle to the development of better understanding and better relations between the people of the United States and the people of the Soviet Union; now, therefore, be it

Resolved (if the Assembly concur), That the Legislature of the State of New York memorialize the President of the United States to exert his influence during his upcoming trip to the Soviet Union to call upon the Soviet government to end its persecution of the Jews and other minorities and to permit the free exercise of religion by all its citizens in accordance with the Soviet Constitution; and be it further

Resolved (if the Assembly concur), That the Legislature of the State of New York, in the interest of justice and humanity, memorialize the President of the United States to call upon the Soviet government to permit its citizens to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights; and be it further

Resolved (if the Assembly concur), That the Legislature of the State of New York petition the United States government to use all appropriate diplomatic means to engender the fullest support possible among other nations for such a request to the Soviet Union; and be it further

Resolved (if the Assembly concur), That in order to effectuate the purposes of this resolution, copies of this resolution be transmitted to the President, Vice President and Secretary of State of the United States, to the Secretary of the Senate and the Clerk of the House of Representatives of the United States, *and to each member of the Congress of the United States from the State of New York.*

TAX EQUITY FOR SINGLE TAXPAYERS AND MARRIED PERSONS FILING SEPARATELY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on April 10 the Ways and Means Committee will consider legislation to correct the problems of inequitable tax treatment of single persons and married persons where both the husband and wife are working. On the first day of this Congress I introduced H.R. 850 to remove the tax inequities affecting unmarried taxpayers. Today, I have revised H.R. 850 through the introduction of H.R. 14193 to take care of the problem of higher taxes that married persons filing separately are now confronting in paying their 1971 tax bill.

Over 30 million unmarried taxpayers will be penalized this year because of their marital status. They will be taxed at a rate that is up to 20 percent more than that applied to married taxpayers filing joint returns. An additional and equally serious inequity exists for married people, both of whom work; if these people file separately for taxable year 1971 their taxes will be even higher than those of single taxpayers. I have received many letters from constituents suggesting that our tax structure now encourages divorce and relationships without marriage. My own view is that these higher rates for married persons filing separately are a result of the mistaken belief by many that salaried work by a wife is a luxury. While it may be true that some family incomes are substantially increased because of a wife's work, the greater majority of working women come from lower and middle income families and they are working to meet today's high cost of living. Women are already victimized by a labor market that underpays them; they should not be further penalized by a tax structure that extracts higher taxes from them.

H.R. 850, as amended, would eliminate these rate inequities by simply establishing a uniform rate structure for all taxpayers. This means that all earned income would be taxed at the same graduated rate, regardless of one's marital status.

I believe that taxes should reflect differences in a taxpayer's responsibilities for dependent support, but the way to do this is through exemptions for dependents, not through different tax schedules. Requiring as we do today that single persons pay at a higher rate is simply arbitrary. The joint tax return rate for married taxpayers does not reflect the different financial responsibilites in supporting six dependents as opposed to, say, one dependent. Furthermore, under the present rate structure a divorcee or widow with three dependents, using the head of household schedule, pays taxes at a higher rate than a married couple with no children. Family responsibilities can most effectively be reflected through an adequate dependent exemption. I have introduced legislation to increase the personal exemption and the exemptions for dependents to $1,200.

It is important that the Congress act this year to remove these inequities; the distinguished chairman, Mr. Mills of Arkansas and his colleagues on the Ways and Means Committee are to be commended for their initiative in taking up this matter.

COMMENTS ON SECTION 202(B)(2) OF H.R. 11896

(Mr. GROVER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GROVER. Mr. Speaker, some question has arisen as to the committee's intent in using the phrase "injected into" in section 202(b)(2) of H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972, and for purposes of legislative history, I would like to discuss its meaning in the context of the bill.

Paragraph (2) is concerned with situations where drinking water shortages may force added treatment of the effluent from a treatment plant so that it may be returned to the ground in order to recharge the fresh water supply. Such recharge would prevent the loss of valuable drinking water which would otherwise be disposed of into the navigable waters through the use of a sewer outfall.

"Injected into" is a term of art, and is not limited to use of so-called injection wells, or any other specific method of recharge. In this context the phrase means any method which will result in the treated effluent being returned to the ground water consistent with acceptable technological standards.

A reading of the committee report on the bill confirms this interpretation. House Report 92-911, pages 89-90, 99. The report speaks in terms of recharge, which, as suggested above, encompasses all methods of returning the effluent to the water supply.

Such interpretation makes good sense. It allows for maximum flexibility, and does not lock any project into a specific method which would preclude the development of a better, and less expensive approach in the future.

Such flexibility and upgrading of treatment methods, through technological advances, is precisely the kind of development we are trying to encourage in H.R. 11896.

COSTS OF ACHIEVING ZERO DISCHARGE BY 1981 AND 1985

(Mr. GROVER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GROVER. Mr. Speaker, a great deal has been said about the costs of achieving the "Zero Discharge" goal by 1981 by industries, and by 1985 by municipalities. We have heard one estimate after another, and each has been attacked or supported, depending upon where one stands.

One of the most recent cost estimates, although of a very limited nature, has been cited as proving pollution abatement would not cost so much after all, that it is within our means. This is the report entitled "The Economic Impact of Pollution Control," prepared by consulting firms for the executive branch of the Government. But a most significant part of that report, which failed to get into the headlines, was that this study related only to present water quality standards, and that it has no relationship whatsoever to any pending legislation. It certainly did not relate to zero discharge.

It is not my purpose to attack or support any estimate that has been made. Rather, I think we in Congress should agree that we really do not know the answer, and then do the best we can to see the most definitive, sophisticated, and scientific information as possible before we enact legislation that would set up on a course which could result in enormously wasteful expenditures without comparable benefits before the course could be redirected.

New York's present water quality standards and policies require that its waters be suitable for recreation, with the exception of four shipping harbors. Even now, boating is a perfectly safe recreational use in our harbors, providing a pleasure craft is not run down by a commercial vessel. It will cost an additional $5 billion to achieve New York's standards, largely by 1976, but it can be achieved only if adequate funds are available. This will be a heavy burden on New York State taxpayers. Should not they be told what it will cost them to go to a pre-Christopher Columbus water quality standard for its waters, particularly in its commercial shipping areas, since there may not be a comparable benefit to man and the ecology? I think they should.

We have one major example of higher costs to achieve a high degree of removal right here in our own backyard—the Blue Plains sewage treatment facility, which serves much of the Washington, D.C., area. The official estimate for increasing the capacity from its present 240 million gallons a day to 309 million gallons a day, and to provide a high degree of secondary treatment of 90 percent removal, was $80 million. However, the decision was made to increase the level of treatment to 97 to 98 percent removal; this decision increased the cost to $360 million, but no more than 309 million gallons a day is to be treated.

An even more dramatic example of higher costs was given by Governor Rockefeller last July 28 before the House Public Works Committee. The 1967 estimated cost for primary treatment at the North River plant serving 1 million people in New York City was $42.5 million; following an enforcement conference a minimum of secondary treatment was required, and the cost was escalated to $220 million. There was another enforcement conference calling for a higher degree of secondary treatment, and the cost was escalated to $395 million. Due to a number of factors, especially including inflation because of time delays, the cost of the project now is estimated at $765 million. Mr. Speaker, I insert in the Record an excerpt from Governor Rockefeller's testimony, which provides further details of the escalated costs at the North River plant:

> Perhaps the most dramatic example of what has happened to treatment plant costs and why states and localities must have more Federal aid is the mammoth North River project in New York City.
>
> This plant, which will serve over one million people living on Manhattan, was estimated in 1957 to cost $42.5-million. With the completion of detailed design in 1962, the cost was revised upward to $100-million which the City was unable to finance. However, planning for the project resumed with passage of the State's Pure Waters Bond Issue in 1965, which guaranteed the City 60 per cent of costs between State aid and State pre-financing of Federal aid.
>
> Following the agreements reached at the Federal-State Lower Hundon River Enforcement Conference for a minimum a secondary treatment, the cost of the North River project was estimated at $220-million. This price allowed for, but did not include, the cost of park on top of the plant which had been added as a community amenity.
>
> Following the upgrading of the requirements to an even higher degree of secondary treatment at a second Federal-State conference, the cost estimate was raised to $395-million, of which $133-million is firm and under construction.
>
> At the end of June 1971, bids were received for the substructure of the main plant, a $97-million project not yet under contract. The low bid, however, was $228-million. The total cost, therefore, may escalate from $305-million to $600-million or more, from an initial estimate 14 years ago of $42.5-million.

Mr. Speaker, if we are to start on the road to zero discharge now, why not use these known yardsticks of the costs involved and the benefits to be gained, and simultaneously authorize the money to pay for it? If we do not we are fooling the American people, and no wonder they are losing faith in their governments.

Last November the Council on Environmental Quality estimated that it would cost $316.5 billion to carry out the zero discharge policy in the Nation. This estimate included only municipal and industrial facilities. It did not include treatment of urban storm drain water, which is a requirement under the Senate bill. Neither did the estimate include land acquisition or the costs of relocating thousands of families, so that their land could be used to dispose of the treated sewage. Nor did the estimate include the cost of building holding basins for storm water.

A month later Governor Rockefeller testified again before the Public Works Committee. He said it would cost $239 billion to carry out zero discharge in New York State alone.

NEW YORK STATE

A. CONSTRUCTION COSTS

[Costs of achieving differing levels of abatements for its 1-year and 5-year programs, as required in S. 2770]

I. MUNICIPAL TREATMENT PLANTS

[Including interceptors, pump stations, and related facilities eligible for grants under present programs, the costs for which would increase through growth or inflationary factors]

[In billions of-dollars]

Level of removal	Present facilities (2.5 b.g.d.[1])		Future facilities[2] (1 b.g.d.)		Total (3.5 b.g.d.)	
	Additional	Cumulative	Additional	Cumulative	Additional	Cumulative
100 percent	$4.3	$5.2	$1.7	$6.0	$6.0	$11.2
Tertiary 90 to 99 percent	.9	.9	.4	4.7	1.3	5.8
Secondary 85 to 90 percent (present)	0	0	4.3	4.3	4.3	4.3

II. STORM WATER

[To provide treatment capacity to handle about 86.5 b.g.d.[1]. This does not mean it would rain this much each eay, but even though the equipment would be idle much of the time, we would have to be prepared for this capacity]

100 percent	0	0	$65.0	$150.0	$65.0	$150.0
Tertiary	0	0	32.0	95.0	32.0	95.0
Secondary	0	0	63.0	63.0	63.0	63.0

[1] Billion gallons per day.

[2] 1-year; 5-year lists (does not include replacement costs).

III. INDUSTRIAL

	Volume: 0.4 b.g.d.[1]	Volume: 0.6 b.g.d.[1]	Volume: 1.0 b.g.d.[1]
100 percent	.93	1.40	2.33
Tertiary	.45	.67	1.02
Secondary	0	.48	.48

[1] Billion gallons per day.

IV. POWERPLANTS—COOLING WATER

Level of removal	Present facilities (10 b.g.d.[1]) cumulative	Future facilities (30 b.g.d.[1]) cumulative	Total (40 b.g.d.[1]) cumulative
100 percent	$0.5	$1.5	$2.0
None	0	0	0

[1] Billion gallons per day.

V. SEPARATION OF COMBINED STORM AND SANITARY SEWERS

	1969 dollars[1]	1971 dollars
National	$48	$61
New York State	13	16

[1] American Public Works Committee report estimated total separation would cost about $48,000,000,000 ($30,000,000,000 public, $18,000,000,000 private).

VI. SUMMARY OF COSTS OF 100 PERCENT REMOVAL ("NO DISCHARGE")

	Amount
1. Municipal plants	$11.20
2. Industry	2.33
3. Powerplants: Cooling water	2.00
Subtotal	15.53
4. Storm water	150.00
5. Separation of combined storm/sanitary sewers	16.00
Total	181.53

Note: Estimates based on 1971 dollars. If consideration were given to "normal" economic growth of 5 to 6 percent a year (which is regarded as noninflationary), or to the current rate of inflation in construction costs (now at the rate of about 1½ percent per month), the figures would be a great deal higher.

B. ANNUAL OPERATION AND MAINTENANCE COSTS

I. MUNICIPAL TREATMENT PLANTS

[Millions of dollars (all 1971 dollars)]

Degree of removal	Existing facilities (2.5 b.g.d.[1])		Future facilities (1 b.g.d.[1])		Total (3 b.g.d.[1])	
	Additional	Cumulative	Additional	Cumulative	Additional	Cumulative
100 percent	$242	$472	$97	$189	$339	$661
Tertiary	195	230	49	92	234	322
Secondary (present)	[2] 45	[2] 45	43	43	88	88

[1] Billion gallons per day.

[2] Many existing facilities provide less than secondary treatment; thus, operation and maintenance costs are low.

II. INDUSTRIAL

	Volume: 0.4 b.g.d.[1]	Volume: 0.6 b.g.d.[1]	Volume: 1 b.g.d.[1]
100 percent	$76	$114	$190
Tertiary	37	55	92
Secondary	17	26	43

III. POWERPLANTS—COOLING WATER

	Volume: 10 b.g.d.[1]	Volume: 30 b.g.d.[1]	Volume: 40 b.g.d.[1]
100 percent	$30	$70	$100
None	0	0	0

[1] Billion gallons per day.

IV. STORM WATER RUNOFF IN URBAN AREAS

[10 percent of New York's land area; assuming all storm and sanitary sewers are separated]

100 percent	$0	$1,350	$1,350
Tertiary	0	658	658
Secondary	0	309	309

Note: Yearly volume: 2,610 billion gallons per year. Daily rate: 86.5 billion gallons per day. Assumption: 30 days of rain each year (i.e., 2,610 billion gallons per year divided by 86.5 billion gallons per day equal 30). 75 percent of rain now runs off to streams; 25 percent soaks into ground. Capital cost for construction of a 1,000,000-gallon-per-day treatment facility for storm water is the same as for treatment of municipal waste. However, O. & M. costs, based on 30 days a year that the plants would operate, would be much lower for storm water.

C. WORK SHEET

Construction Costs: 1-year; 5-year programs for municipal treatment plants. Replacement costs not estimated.

Operation and maintenance: Costs projected over 20 and 25 years.

O. & M. figures from administration showed costs over 20 to 25 years; the paper did not include storm water costs.

	In billions
20 years:	
Municipal—$0.661×20	$13.22
Industrial—$.190×20	3.80
Power plants, cooling water—$1×20	2.0
Storm water—$1,350×20	27.0
Total O. & M., 20 years	46.C2
Construction costs (see paper A)	181.53
Total	$227.55
25 years:	
Municipal—$0.661×25	15.525
Industrial—$0.190×25	4.750
Powerplants, cooling water $1×25	2.5
Storm Water—$1,350×25	33.750
Total O. & M., 25 years	57.525
Construction costs (see paper A)	181.53
Total	239.055

V. SUMMARY OF O. & M. COSTS OF 100-PERCENT REMOVAL

[In billions of dollars]

	Annual	X 20 years	X 25 years
Municipal	$0.661	$13.22	$15.525
Industrial	.190	3.80	4.750
Powerplants/cooling water	.100	2.0	2.50
Storm water	1.350	27.0	33.750
Total	2.301	46.02	57.525

He extrapolated this across the Nation, and estimated it would cost between $2 and $3 trillion to carry out zero discharge nationwide.

Governor Rockefeller's estimate was based on demonstrated experience in New York, and no State has more professional competency to deal with the problem of estimating costs for even a slightly higher degree of treatment. The State's estimates must be within the "ball park," since the State has had to commit its own funds to pay for the treatment—only $210 million of the costs are being paid by the Federal Government for all New York's projects approved through June 30, 1971, compared to the State commitment of about $1½ billion.

There were several key omissions in the Governor's estimate, however, just as there were in CEQ's. Although the Governor dealt with the treatment of storm water, he did not estimate how much it would cost to acquire the three northern counties in New Jersey on which to dispose of the wastes of New York City. He did not say how much it might cost to relocate the families that live in those three counties. He did not say how much it would cost to build a holding basin for storm water, which might be the size of Long Island Sound.

Those three northern counties in New Jersey would be inadequate for New York City's wastes unless the effluent were treated to a very high quality prior to spraying it on the land. Otherwise, those three counties would be incapable within a very short time of absorbing the city's wastes, and we would be left with a poisoning of the land and an odor pollution of the environment beyond anyone's imagination.

Over 5,000 square miles would be required for all the wastes in the State, even if all discharges were treated to zero. Since New York has approximately 10 percent of the pollution in the Nation, 50,000 square miles would be required. That is more land than is in New York, which has 47,000 square miles.

If land, holding basins, and relocation of families had been included in Governor Rockefeller's estimate, the costs surely would have to be doubled, and the national cost would zoom to $5 trillion.

It would cost an estimated $5 billion to finish the job of meeting present water quality standards in New York State; these standards call for recreational quality water in most cases. It may cost $500 billion to achieve zero discharge in New York State. This is a vast difference, and for what purpose?

We should find out with such as the detailed Academies of Science and Engineering costs and benefits study provided in the committee bill and specific determination of direction by the Congress based on facts rather than emotional rhetoric. Otherwise both the environment and the economy may suffer from our ecological impetuosity.

NO TOLERANCE FOR FILTH

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, today, the Food and Drug Administration released the text which appears below, of its "defect level in foods" or standards which sanction the presence of contaminants in our food. I was shocked and dismayed to learn that the FDA is in the business of allowing such foreign matter in our food—and has been since about 1910—and that it has taken this long for the facts to come out into the open. This information should have been made public long ago. Also, I share the concern of consumers who now know they can never be sure they are buying pure food. Maybe the FDA will tolerate these filth levels, but I doubt that the American consumer will or should.

Unfortunately, the issue of food contamination is not simply a matter of esthetics, as some portray it, but is a matter of health. In a study of contamination of black pepper, which appears below, originally published in 1967 in Applied Microbiology, Dr. C. M. Christensen, of the University of Minnesota, revealed that such extraneous matter present in pepper produces dangerous toxins which may be hazardous to humans.

Although the FDA claims to upgrade its allowances as technology progresses, I have ascertained that there has never been a wholesale review of the "defect level" policy and many allowances have apparently remained unaltered on the books for decades. Rather than meekly accepting the word of manufacturers who claim they cannot eliminate filth, the FDA should see to it that the processing and storage of foods result in as pure products as are technologically possible. And rather than setting permissible levels, the FDA should regard any "defect" as a signal that something more must be done to assure wholesome food.

As I see it, these defect levels run counter to the very heart of the Federal food laws which prohibit the sale of adulterated and misbranded foods. Several weeks ago, I called upon the House Public Health Subcommittee to conduct an investigation of the food industry based on evidence that unwholesome and contaminated food was being sold to American consumers. These "defect action levels" dramatically emphasize the need for Congress to investigate quality of food production in the United States.

The following is the text of the FDA's "Defect Action Levels":

FOOD AND DRUG ADMINISTRATION—DEFECT ACTION LEVELS

Current Levels for Natural Or Unavoidable Defects in Food For Human Use That Present No Health Hazard:

PRODUCT AND DEFECT ACTION LEVEL

Chocolate and Chocolate Products:

Chocolate and Chocolate Liquor: Average of 150 insect fragments per subdivisions of 225 grams or 250 insect fragments in any one subdivision of 225 grams. Average of 4 rodent hairs per subdivisions of 225 grams or 8 rodent hairs in any one subdivision of 225 grams. Shell, in excess of 2% alkali-free nibs.

Cocoa Powder, Press Cake: Average of 150 insect fragments per subdivisions of 100 grams or 250 insect fragments in any one subdivision of 100 grams. Average of 4 rodent hairs per subdivision of 100 grams or 8 rodent hairs in any one subdivision of 100 grams. Shell in excess of 2% alkali-free nibs.

Cocoa Beans: 4% show mold or 4% insect infested or damaged or total of 6% show mold and insect infested.

Coffee Beans: 10% or more by count are insect infested, insect damaged or show mold.

Eggs & Frozen Egg Products:

Dried Whole Eggs, Dried Egg Yolks: Decomposed as determined by direct microscopic count of 100,000,000 bacteria per gram.

Frozen Eggs and Other Frozen Egg Products: Two cans contain decomposed eggs; and subsamples examined from cans classed as decomposed have counts of 5,000,000 bacteria per gram.

Fish, Shellfish, and Seafood:

Blue Fin and Other Fresh Water Herring:

Fish averaging 1 lb. or less: 60 cysts per 100 fish provided that 20% of the fish examined are affected.

Fish averaging over 1 lb.: 60 cysts per 100 lbs. of fish, provided that 20% of the fish examined are affected.

Rose Fish (Red Fish and Ocean Perch): 3% by count of the fillets examined contains one or more copepods.

Fresh and frozen fish: 1. 5% by count of fish or fillets in sample (but no less than 5) show class 3 decomposition over at least 25% of their areas; or,

2. 20% of the fish or fillets in the sample (but not less than 5) show class 2 decomposition over at least 25% of their areas; or

Fresh and frozen fish, as listed, Tullibees,

3. The percentage of fish or fillets showing class 2 decomposition as above, plus 4 times the percentage of those showing class 3 decomposition as above, equals at least 20 and there are at least 5 decomposed fish or fillets in the sample.

Definition of classes of Decomposition: Class 1—no odor of decomposition; Class 2—slight odor of decomposition; and Class 3—definite odor of decomposition.

Ciscoes, Inconnus, Chubs and White Fish: 50 cysts per 100 pounds (whole fish or fillets), provided that 20% of fish examined are infested.

Flours and Cornmeals:

Corn Meal: 1. 20% of the subdivisions contain over 100 insect fragments per 50 grams or 2 insects of equivalent per 50 grams and an additional 20% of the subs show over 25 insect fragments per 50 grams or one insect or equivalent per 50 grams; or

2. 20% of the subs contains over 5 rodent pellet fragments per 50 grams and an additional 20% of these subs contain over 2 rodent pellet fragments or detached rodent hairs per 50 grams.

Fruit:

Apricots (canned): Average is 2% or more by count insect infested or insect damaged.

Caneberries (canned and frozen) (blackberries, raspberries, etc.): Frozen black raspberries: microscopic mold count average exceeding 60%. Insects: Canned or frozen caneberries (blackberries, raspberries, etc.) average of 4 larvae per 500 grams or average of 10 larvae and insects per 500 grams (excluding thrips, aphids, and mites).

Cherries brined, fresh canned and frozen:

1. Brined and Maraschino—average of 5% rejects due to larvae.

2. Fresh, canned or frozen—average of 10% rejects due to rot.

3. Fresh, canned or frozen—average of 4% insect infested cherries.

Citrus fruit juices, canned: Microscopic mold count average exceeding 15%. Drosophila and other fly eggs—10 per 250 ml. Drosophila larvae—2 per 250 ml.

Currants: Average of 5% by count have larvae.

Figs: More than 10% by count insect infested and/or show mold and/or dirty fruits or pieces of fruit.

Lingon Berries (canned): 3 or more larvae per lb.

Multer Berries (canned): Average of 40 thrips/No. 2 can.

Olives: Pitted: average of 1.3% by count of olives with pit fragments 2 mm. or longer measured in the longest dimension, exclusive of whole pits.

Salad olives: average of 1.3 pit fragments per 300 grams, including whole pits and fragments 2 mm. or longer measured in the longest dimension.

Salt cured olives: Insect: average of 15% by count of olives with 10 scale insects each; or, average of 25% by count of olives show mold.

Imported Black or Green: average of 10% by count wormy or worm-cut.

Salad Type: Average of 12% by weight insect infested and/or insect damaged due to the olive fruit fly.

Peaches: Average of 5% wormy or moldy fruit by count or 4% if larva or equivalent is found in 20% of the cans.

Pineapples (canned, crushed): Microscopic mold count average exceeding 30%.

Plums (canned): 5% by count of plums with rot spots larger than the area of a circle 12 mm. in diameter.

Prunes, dried: 10% by count insect infested and/or show mold and or dirty fruits or pieces of fruit.

Pitted Prunes: average of 3% (by count) prunes with whole pits and/or pit fragments 2 mm. or longer; and four or more of the 10 subs examined exceed 3% prunes (by count) with whole pits and/or pit fragments 2 mm. or longer.

Raisins: Mold: natural raisins average more than 5% by count that show mold.

Sand: average is more than 40 milligrams of sand and grit per 100 grams of natural or Golden Bleached raisins.

10 or more insects or equivalent and 35 or more drosophila eggs per 8 ounces of Golden Bleached raisins.

Strawberries: Microscopic mold count average exceeding 55% and the mold count of ½ or more of the subsamples is more than 65%.

Grains:

Popcorn: 1. One rodent pellet in one or more subs upon examination of 10/225 gram subs or 6/10 oz. consumer size packages and one rodent hair in other subs; or

2. Examination shows two rodent hairs per pound and rodent hairs in more than half the subs; or

3. Examination shows 20 gnawed grains per pound, provided that rodent hairs are found in more than half the subs;

4. Examination shows field corn in the popcorn exceeds 5% by weight.

Wheat: One rodent pellet per pint. 1% by weight of insect damaged kernels.

Jams, Jellies, Fruit Butters and Fig Paste:

Apple Butter: Microscopic mold count average exceeding 12% Rodent: average of more than 8 rodent hairs per 100 grams of apple butter.

Insects: average of more than 5 insects or insect parts (not counting mites, aphids, thrips, scales) per 100 grams of apple butter.

Black Cherry Jam: Microscopic mold count exceeding 50% in the average of the subs.

Black Currant Jam: Microscopic mold count exceeding 75% in the average of the subs.

Fig Paste: Over 13 insect parts per 100 grams of fig paste in each of 2 or more subsamples.

Miscellaneous:

Corn Husks (for tamales): Over 5% by weight of the corn husks examined are insect infested (including insect damaged) or moldy.

Nuts:

Tree Nuts: Nuts in Shell and Shelled Nuts.

Reject nuts (rancid, moldy, gummy & shriveled or empty shells) determined by microscopic examination in excess of the following limits:

Unshelled percent—Almonds 5%, Brazils 10%, Green Chestnuts 15%, Baked Chestnuts 10%, Filberts 10%, Pecans 10%, Pistachios 10%, Walnuts 10%, Lichee Nuts 15%, and Pili Nuts 15%.

Shelled percent—Almonds 5%, Brazils 5%, Cashews 5%, Dried Chestnuts 5%, Filberts 5%, Pecans 5%, Pistachios 5%, Walnuts 5%, and Pili Nuts 10%.

Mixed Nuts in Shell—The percent of reject nuts for any one variety exceeds the above percentage for the same variety. The above limits apply for orchard type insect infestation.

Peanuts and Peanut Products:

Peanuts, shelled and unshelled: *Unshelled:* average more than 10% deteriorated or unsound nuts.

Shelled: average more than 5% deteriorated or unsound nuts.

The shelled peanuts contain an average of 20 or more insects or equivalent per whole bag sifting (100-pound bag basis).

Peanut Butter: Average of 50 insect fragments per 100 grams; or, average of 2 rodent hairs per 100 grams. Grit: gritty to the taste and the water-insoluble inorganic residue is more than 35 milligrams per 100 grams.

Spices:

Allspice: Average of more than 5% moldy berries by weight.

Bay (laurel) Leaves: Average more than 5% moldy pieces by weight; or average more than 5% insect infested pieces by weight; or average of 1 milligrams excreta per pound after processing.

Capsicum: *Capsicum Pods:* average of more than 3% insect infested and/or moldy pods by weight; or average of more than 1 milligram of excreta per pound.

Capsicum Powder: Microscopic mold count average exceeding 20%; or average of more than 50 insect fragments per 25 grams; average of more than 6 rodent hairs per 25 grams.

Cassia or Cinnamon (Whole): Averages 5% or more moldy pieces by weight; or averages 5% or more insect infested pieces by weight; or average of more than 1 milligram of excreta per pound.

Cloves: Average of more than 5% stems by weight.

Condimental Seeds other than Fennel Seeds and Sesame Seeds: Average of more than 3 milligrams of excreta per pound.

Cumin Seed: Average of more than 9.5% ash and/or more than 1.5% acid insoluble ash.

Curry Powder: Average of more than 100 insect fragments per 25 grams or average of more than 8 rodent hairs per 25 grams.

Fennel Seed: 20% or more of subsamples contains excreta and/or insects or average of more than 3 milligrams of excreta per pound.

Ginger (Whole): Averages more than 3% moldy and/or insect infested pieces by weight; or average of more than 3 milligrams of excreta per pound.

Hops: Average of more than 2500 aphids per 10 grams.

Leafy Spices, other than Bay Leaves: Averages more than 5% insect infested and/or moldy pieces by weight; or average of 1 milligram of excreta per pound after processing.

Mace: Average more than 3% insect infested and/or moldy pieces by weight—or average of more than 3 milligrams of excreta per pound; or average of more than 1.5% foreign matter through a 20-mesh sieve.

Nutmegs: Average more than 10% insect infested and/or pieces showing mold by count.

Whole Pepper, Black: Averages more than 1% insect infested and/or moldy pieces by weight; or average of more than 1 milligram of excreta per pound. Average of more than 1% pickings and siftings by weight.

Sesame Seeds: Average of more than 5% insect infested or decomposed seeds by weight; or average of more than 5 milligrams of excreta per pound; or average of more than 0.5% foreign matter by weight.

Vegetables:

Asparagus, Canned or Frozen: 15% of spears by count are infested with 6 attached asparagus beetle eggs or egg sacs.

Beets, Canned: Pieces with dry rot exceed 5% by weight in the average of the subs.

Broccoli: Over 80 aphids or thrips/100 grams in the average of all subs examined.

Brussel Sprouts (frozen): Average is more than 40 aphids and/or thrips per 100 grams.

Corn (Sweet, canned): Examination of 24 pounds (24 No. 303 cans or the equivalent) shows the following: two 3 mm or longer larvae, cast skins, larval or cast skin fragments of corn ear worm or corn borer, *and* aggregate length of such larvae, cast skins, larval or cast skin fragments exceeds 12 mm.

Greens Canned: Average of more than 10% of leaves by count or weight show mildew over ½" in diameter.

Mushrooms, canned: 1. Average of over 20 larvae per 100 grams of drained mushrooms and proportionate liquid; or average of over five 2 mm. or longer larvae per 100 grams of drained mushrooms and proportionate liquid.

2. Mites—average of 75 mites per 100 grams drained mushrooms and proportionate liquid.

3. Decomposition—average of over 10% decomposed mushrooms.

Peas, Black-Eyed, Canned (cowpeas, field peas): Average of 5 cowpea curculio larvae or the equivalent per No. 2 can.

Peas, Black-Eyed, Dried (cowpeas, field peas): Average 10% or more by count insect damage.

Peas and Beans—Dried: Average more than 5% by count insect infested and/or insect damaged by storage insects.

Spinach, canned or frozen: Canned only: average of more than 60 aphids per 100 grams of drained spinach, and 25% of the subsamples contain more than 100 aphids per 100 grams of drained spinach; or 2 spinach worms (caterpillars) of 5 mm. in length are present in 12 No. 2 cans.

Canned or Frozen: if spinach leaf miners average over 9/100 grams with more than half the larvae over two mm. in length. Average of more than 10% leaves by count or weight show mildew over ½" in diameter.

Tomatoes and Tomato Products:

Canned Tomatoes: 10 fruit fly eggs per 500 grams or 5 fruit fly eggs and 1 larvae per 100 grams, or 2 larvae per 100 grams.

Tomato Juice: 10 fruit fly eggs per 100 grams or 5 fruit fly eggs and 1 larva per 100 grams, or 2 larvae per 100 grams.

Tomato Puree: 20 fruit fly eggs per 100 grams or 10 fruit fly eggs and 1 larvae per 100 grams, or 2 larvae per 100 grams.

Tomato Paste, Pizza and Other Sauces: 30 fruit fly eggs per 100 grams, or 15 fruit fly eggs and 1 larvae per 100 grams, or 2 larvae per 100 grams.

Tomato Catsup: Microscopic mold count average exceeding 30%.

Tomato Juice: Microscopic mold count average exceeding 20%.

Tomato Paste or Puree: Microscopic mold count average exceeding 40%.

Tomato Sauce (Undiluted): Microscopic mold count average exceeding 40%.

Canned Tomatoes, with or without added tomato juice: Microscopic mold count average of the drained juice exceeding 15%.

Canned Tomatoes Packed in Tomato Puree: Microscopic mold count average of the drained packing media exceeding 25%.

Pizza Sauce (Based on 6% Total Tomato Solids after Pulping): Microscopic mold count average exceeding 30%.

Tomato Soup and Other Tomato Products: Microscopic mold count average exceeding 40%.

The following is the text of Dr. Christensen's article:

MICROFLORA OF BLACK AND RED PEPPER

(By C. M. Christensen, H. A. Fanse, G. H. Nelson, Fern Bates, and C. J. Mirocha, Department of Plant Pathology, and College of Veterinary Medicine, University of Minnesota, St. Paul, Minn.)

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Dilution cultures of 30 samples of ground black pepper yielded an average of 39,000 colonies of fungi per g, with a range of 1,700 to 310,000 per g. Total numbers of colonies of bacteria from 11 samples averaged 194,000,000 per g, with a range from 8,300,000 to 704,000,000 per g. A variety of fungi grew from nearly all surface-disinfected whole peppercorns that were cultured. Thirteen samples of ground red pepper from the United States yielded an average of 1,600 colonies of storage fungi per g and an equal number of other fungi; five samples from India yielded an average of 78,900 colonies of storage fungi per g and 169,400 colonies of other fungi per g. Among the fungi from both black and red pepper were *Aspergillus flavus* and *A. ochreceus*, some isolates of which, when grown for 8 to 10 days on moist autoclaved corn and fed to white rats or 2-day-old Pekin ducklings, were rapidly lethal to them. Aflatoxin B_1 was isolated from one of the samples of corn which *A. flavus* from black pepper was grown. Among the bacteria isolated from ground black pepper were *Escherichia coli*, *E. freudii*, *Serratia* sp., *Klebsiella* sp., *Bacillus* sp., *Staphylococcus* sp., and *Streptococcus* sp. No cultures of *Shigella* or *Salmonella* were found.

Black pepper is the fruit of *Piper nigrum* L., and is produced chiefly in India and Indonesia; white pepper consists of seeds of the same plant, divested of the tissues that make up the fleshy outer portion of the fresh fruits. Red peppers are the fruit of several species of *Capsicum*, cultivated in many countries. These spices do not undergo any processing, other than drying and grinding, before being added to foods. Over the past 15 years, one of us (C. M. Christensen) has repeatedly cultured various food products to determine the numbers and kinds of fungi present in them. Samples of whole or ground black pepper from various sources usually were included among these, and every sample of black pepper so cultured yielded large numbers of colonies of several species of *Aspergillus*. The *A. glaucus* and *A. restrictus* groups predominated in most samples, but occasionally rather large numbers of colonies of *A. flavus* and *A. ochraceus* were found. In view of the present interest in some of these fungi as possible producers of toxins, a more thorough investigation of the microflora of black and red pepper was thought to be of interest, and the present paper summarizes the results to date.

MATERIALS AND METHODS

Number and source of samples. A total of 55 samples of black pepper were cultured, 50 of ground black pepper and 5 of whole peppercorns. A few samples of whole and ground white pepper were included. Of the 55 samples of black pepper, 30 were bought in stores in or near St. Paul, and comprised 8 brands; 4 came from homes; 3 from passenger planes of different airlines; 1 from a U.S. Navy supply ship; and the rest from restaurants and clubs in Minnesota, Massachusetts, New York, Maryland, and Washington, D.C., in the U.S.; and from London, England; Warsaw, Poland; and New Delhi, India. Nineteen samples of red pepper were cultured; 13 were bought in stores in St. Paul, and were presumably from fruits grown in this country; the other 6 were from India.

Microscopic examination. Whole peppercorns, usually 100 of each sample, were sectioned, and the cavities within the outer rind and within the seed were examined for mycelium, sporophores, or decayed tissues.

Culture media and methods. Several culture media were tested, as described below. Whole peppercorns, usually 100 to 200 of each sample, were cultured with and without previous surface disinfection (surface disinfection consisted of shaking the kernels for 1 min in 2% NaClO, followed by a sterile water rinse). The samples of ground pepper were cultured by various means. If only a small amount of pepper was available, as was true of many of the samples collected in restaurants and planes, or obtained from homes, portions of 10 mg each were weighed out on sterile metal foil and scattered on each of two or more culture dishes. Where larger amounts were available, as with the samples bought in stores, dilution cultures were made as follows: for fungi, 100 mg of ground pepper was suspended in 50 ml of 0.12% solution of sterile agar in water contained in milk dilution bottles: the dilute agar solution kept the particles suspended uniformly. Each bottle was shaken briskly 100 times; then two or more portions of 1 ml each were put in sterile petri dishes, melted agar cooled to 50 to 52 C was added, the contents were swirled to suspend the material uniformly, and the agar was allowed to harden. Alternatively, 1-ml portions were pipetted onto the surface of the agar in each of two or more replicate dishes. Some of the lots of pepper, in which the first tests had revealed large numbers of colonies of fungi per gram, were cultured repeatedly, at different dilutions up to 1:5,000, with 4 to 10 plates per dilution. To determine the total number of colonies of bacteria per gram, 1 g of ground pepper was comminuted in 500 ml of the suspension medium in a blender for 1.5 min, and 5 ml of the resulting suspension was placed in 500 ml of suspension medium and shaken 100 times; 5 ml of this was placed in 500 ml of the suspension medium and similarly shaken. Portions of 1 ml of each of the second and third suspensions were pipetted into each of four dishes, and tryptone-glucose-yeast-agar (1) cooled to 50 C was added. The dishes were swirled to distribute the suspension uniformly and were incubated at 30 C. Colonies were counted after 24 and 48 hr. Controls consisted of autoclaved ground pepper or autoclaved sand, cultured by all of the above methods. All dilutions and cultures were made in a sterile air hood. No colonies of fungi and very few colonies of bacteria developed in any of the control cultures.

RESULTS

Microscopic examination. Some kernels of almost every lot of black pepper had relatively conspicuous mycelium or sporophores in cavities of the outer rind, and masses of mycelium were present in at least a few kernels of all of the several samples of whole white pepper examined. One sample of whole white pepper yielded almost no fungi from surface-disinfected seeds, but a mass of mycelium occupied the center of approximately 5% of the split seeds. The central portion of the seeds of a small percentage of both black and white pepper kernels of every sample was discolored and soft, presumably as a result of decay. In one sample of whole black pepper from a local store, *an animal dropping, presumably that of a rodent*, was found, of about the same size as the peppercorns; in another sample, most of the central portion of one seed had been *consumed by an insect and the resulting cavity was partly filled with insect excretia.* Peppercorns presumably hollowed out by insects are shown in Fig. 1 (not reproduced).

Protozoa. About 50 kernels of each of the five samples of whole black pepper were put in sterile distilled water in petri dishes, incubated at 25 C. and examined daily. Within 3 days, large ciliated protozoa were numerous in three of the samples, especially in the one from New Delhi, India, that had been harvested only a few months before it was cultured. The protozoa were similar in appearance to those isolated from "weathered" (fungus stained) barley (6), but were not identified.

Culture media for fungi. Numbers of colonies of fungi per gram cultured from one sample of ground black pepper on four agar media are given in Table 1. The largest numbers of colonies were obtained on media containing 6% NaCl. Other media tested were acid potato-dextrose-agra (PDA) with 0, 6, and 10% NaCl, and 2% malt extract-agar with 6 and 10% NaCl. Media with high osmotic pressure have long been used to detect osmophilic fungi in stored grains and other materials (3, 4, 8). Some samples of ground pepper yielded larger numbers of colonies of the *A. glaucus* and *A. restrictus* groups when cultured on media with 10% NaCl than on those with 6% NaCl, but many fewer colonies of the *A. flavus* and *A. ochraceus* groups. The medium designated T6A (Difco powdered Tomato Juice Agar, 25 g; agar, 15 g; NaCl, technical grade, 60 g; distilled water, 900 g; plus 30 ppm of chlortetracycline added just before the agar was poured into plates usually yielded a larger number of colonies of more species of fungi than any of the others tested, and so was used as the standard throughout the subsequent work.

TABLE 1.—INFLUENCE OF THE MEDIUM ON THE NUMBER OF COLONIES OF ASPERGILLUS GLAUCUS AND A. FLAVUS CULTURED FROM 1 SAMPLE OF BLACK PEPPER

Medium [1]	Colonies per g.	
	A. glaucus	A. flavus
Cz3	100	500
Cz6A	1,000	250
Cz6	3,000	800
T6A	5,000	650

[1] Cz3=Czapek's agar with 3 percent sucrose; Cz6A=Czapek's agar with 3 percent sucrose. 6 percent NaCl, and 30 p.p.m. of chlortetracycline; Cz6-Czapek's agar with 3 percent sucrose and 6 percent NaCl; T6A=Difco powdered tomato juice agar, 25 g; Difco agar, 15 g; NaCl, technical grade, 60 g; and distilled water, 900 g; 30 p.p.m. of chlortetracycline was added just before the agar was poured into petri dishes.

TABLE 2.—FUNGI ISOLATED FROM SURFACE-DISINFECTED WHOLE PEPPERCORNS

Sample No.	Percentage of surface-disinfected peppercorns yielding—				
	A. glaucus	A. dacus	A. ochraceus	A. niger	Sporendonema
1	100	5	31	0	30
2	100	4	11	0	(1)
3	100	2	5	5	[2] 25
4	100	11	13	6	0
8	100	54	84	8	50

[1] Scopulariopsis from 10 percent of surface-disinfected peppercorns.
[2] Plus Scopulariopsis from 20 percent of surface-disinfected peppercorns.

Fungi isolated from whole peppercorns. All whole peppercorns cultured without surface disinfection yielded a heavy growth of fungi, principally *Aspergillus* and *Sporendonema*, from all over their surfaces. The fungi cultured from surface-disinfected peppercorns are listed in Table 2. Cereal grains are not invaded by storage fungi to any significant degree before harvest (10, 11), and the nature of the pepper fruit, with a pulpy flesh and heavy skin, makes it highly probable that it, also, is not invaded by storage fungi before harvest. It seems likely that the samples tested were, subsequent to harvest, exposed to conditions that permitted moderate to heavy invasion by storage and decay fungi. We have encountered *Sporendonema* (in several of our published reports misidentified as *Geotrichum*) in many lots of grains that had undergone deterioration in storage (2), and we consider that its presence in large numbers in such grains is circumstantial evidence that some spoilage has occurred. *Scopulariopsis* (Table 2) is described (9) as ". . . abundant in nature, especially upon vegetation in the later stages of decay . . .," further evidence that some lots of peppercorns may have undergone decay.

Fungi isolated from ground pepper. Numbers of colonies of fungi per gram of black pepper were determined in the 30 samples of which sufficient amounts were available for repeated tests. The average number of colonies per gram in these 30 samples was 39,000 (range, 1,700 to 310,000). Ten of the samples contained more than 10,000 colonies per g and five had more than 100,000 per g. The *A. glaucus* and *A. restrictus* groups predominated in nearly all samples, but relatively large numbers of colonies of *A. flavus* and *A. ochraceus* were obtained from some samples. The sample from which the largest number of colonies of *A. flavus* was cultured (20,000 per g) was a lot of 5 lb. bought through the University Food Stores; this same sample was one of the five that yielded more than 100,000 total colonies of fungi per g. Of the other four which yielded such high numbers of colonies per gram, two were 2-oz. tins bought in local stores and sealed until opened in the laboratory (both were of the same brand but were bought in different stores and at different times), one came from the dining room of an armed services officers' club in Washington, D.C., and the other was from a plane of an international airline. *A. niger* was moderately abundant in a few samples, whereas *A. candidus* and *Penicillium* were uncommon.

The numbers of colonies of fungi per gram were also determined in 19 samples of red pepper.

13 from the United States and 6 from India. The fungi isolated were classified into two groups: storage fungi (*A. glaucus, A. cundidus, A. flavus,* and *A. ochrceus*) and other fungi (mainly *A. niger, Penicillium* spp., and *Rhizopus* spp.). The samples from the United States averaged 1,600 colonies of each type per g. With the samples from India, the average number of colonies per gram was 78,900 for the storage fungi and 169,400 for the other fungi. Two of the samples of red pepper from India yielded slightly more than 200,000 colonies of *A. flavus* per g.

Portions of 10 mg each of a number of samples of ground black and red pepper were scattered directly on the surface of T6A agar in petri dishes, which were then incubated at 25 to 30 C for 20 hr and examined microscopically through the bottom of the unopened dishes. From many particles of some samples, masses of hyphae had grown out in that short time, as shown in Fig. 2. Many individual germinating spores were observed also, but these had given rise to only one or two relatively short germ tubes with a few hyphal branches; it seems probable that the masses of hyphae arose either from a relatively large number of spores or from clumps of mycelium. This is circumstantial evidence that the pepper had been invaded by the fungi, not merely contaminated by airborne spores from some other source.

Bacteria. Total numbers of bacteria were determined in 11 samples of black pepper; the average was 194,000,000 per g with a range from 8,300,000 to 704,000,000 per g. (the latter from the sample of 5 lb of black pepper mentioned above.) Portions of six samples of black pepper were combined and cultured to determine the presence of various kinds of bacteria; the following were identified: *Escherichia coli, E. freundii, Serrratia* sp., *Klebsiella* sp., *Bacillus* sp., *Staphylo coccus* sp., and *Streptococcus* sp. Although media and techniques designed for their detection were used, no *Shigella* or *Salmonella* were found.

Toxicity tests. Ten isolates of *A. flavus* were selected from dilution cultures of each of two samples of black pepper bought in local stores; both samples had yielded more than 100,000 colonies of fungi per g including up to 15,000 colonies of *A. flavus* per gram. Each isolate was inoculated into autoclaved moist corn and incubated for 8 days at 25 C; then the corn was dried and each sample was fed to four 2-day-old Pekin ducklings as the sole ration. Six of the 10 isolates from one sample of pepper, and 1 of 10 from the other resulted in death, in from 1 to 4 days, of all four ducklings to which each was fed. Five isolates of *A. flavus* from one sample of red pepper were similarly grown, and fed to two 21-day-old white rats as their sole ration; three of these resulted in death, in 6 to 7 days, of both of the rats to which each was fed. Ten isolates of *A. oehraceus* from the same sample of red pepper were similarly grown and each was fed to a pair of rats; eight of these resulted in death, in from 4 to 10 days, of both members of the pair to which they were fed, and the remaining two isolates resulted in death of one member of each pair, in 6 to 9 days. In all cases of death, symptoms included subdural hemorrhages, hemorrhage into the gastrointestinal lumen, and hemoglobinuria.

Aflatoxin determination. The corn samples inoculated with *A. flavus* as described above were pooled and analyzed according to the method developed by the Food and Drug Administration (7) for determining the presence of aflatoxin B_1 in an attempt to identify the lethal factor responsible for the death of the Pekin ducklings.

Thin layer chromatography of the extract revealed the presence of a chemical constituent which had the same R_F value as aflatoxin B_1. The identity was based on comparing the migration distance of the unknown compound with and without an internal standard. The chemical constituents suspected of being aflatoxin B_1 on the chromatograph were eluted off with ethyl alcohol, and the ultraviolet absorption maxima were compared with that of the aflatoxin standard. The absorption characteristics were found to be identical. The extract was also incorporated into clean corn and fed to four Pekin ducklings; death resulted after 3 days. *All three tests substantiated the presence of aflatoxin in the corn on which the A. flavus isolates had grown.*

One isolate of *A. flavus* found to be toxic in the feeding tests above was tested for its ability to produce aflatoxin in the liquid YES medium (5) containing 10% sucrose. Cultures of this isolate were grown for 5 and 7 days at room temperature and then were extracted with chloroform. The chloroform was concentrated on a flash evaporator, and the constituents of the concentrate were separated by thin-layer chromatography. The extracts of both the 5- and 7-day cultures contained compounds with R_F values identical with that of aflatoxin B_1. These compounds were eluted off the chromatography plates with ethyl alcohol; their ultraviolet absorption spectrum was compared with that of aflatoxin B_1 and was found to be different. The absorption maximum at 360 mμ was lacking, and the 265-mμ band shifted to 270 mμ. Other tests in our laboratory have shown that aflatoxin B_1 can break down when subjected to ultraviolet irradiation or column chromatography on silica gel with absorption changes similar to those found in the culture filtrate above. The data obtained showing the liability of aflatoxin B_1 on chromatography columns suggest that the metabolite obtained from the culture filtrate was a breakdown intermediate of aflatoxin B_1.

The extract of the filtrate from the 5-day-old cultures was incorporated into corn and fed to four Pekin ducklings, all of which died within 2 days. These results support the conclusion that the chemical constituents of the culture filtrate of *A. flavus* having the R_F value identical to that of aflatoxin B_1 was a closely related derivative of the latter.

DISCUSSION

The results here reported constitute a preliminary survey of the microflora of black and red peppers. All of the samples of black pepper, and all of the samples of red pepper that came from India, were heavily invaded or contaminated with both fungi and bacteria. The fungi comprised mainly species of *Aspergillus*, including *A. flavus* and *A. ochraceus*. Several isolates of both of these group species, from samples in which one or both were abundant, when grown in moist autoclaved corn for 7 to 10 days and fed to ducklings or rats, resulted in rapid death of the test animals. Whether these spices, which may contain up to several hundred thousand fungus spores per gram, including some potentially toxic species, and up to several hundred million bacteria per gram, including *E. coli*, ever constitute a hazard to the health of those who consume them, is a question that eventually must be answered, and it is expected that our work with these products will continue. In any case, the results indicate that many samples of black and red peppers that originate in the tropics, although "pure" in the sense that they are not grossly adulterated with foreign matter, are far from pure microbiologically.

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STATEMENT OF JONATHAN BINGHAM FOR THE BODY OF THE RECORD UPGRADING NURSING AND LONG-TERM CARE FOR THE ELDERLY

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I am introducing today a package of bills which are aimed at providing a comprehensive solution to the problems of nursing and long-term care for America's elderly citizens. The measures are similar to ones introduced in the Senate by Mr. Moss of Utah. Among other things, they would expand medicare coverage to include nursing home services, encourage strict compliance with Federal standards for nursing homes, and develop new programs to insure better health and long-term care.

The present nursing home system has perpetuated substandard care for many of the 1-million residents of such homes, and has failed to minimize suffering and to enhance the lives of the elderly. I believe the Congress must fashion a creative attack on the root causes of poor care and neglect of the elderly, which include indecisive Federal leadership, lax compliance with proper health and safety standards, and inadequate delivery of proper medical care.

The five proposals I am introducing today would deal directly with these basic problems in several ways. They would:

First, commit the Federal Government to supporting proper long-term care for the elderly.

Presently, only a small minority of elderly qualify for long-term, post-hospital care. But under my legislation, the cost of 365 days a year in a skilled nursing home would be covered by medicare, and home health care and private duty nursing services would be covered by medicaid. Furthermore, the legislation would encourage development of alternative long-term care programs. For example, certain families would be subsidized to care for their elderly at home. Other senior citizens would be encouraged to attend "senior citizen day care centers" which would assist the elderly during the day, thus freeing relatives to work and eliminating much of the premature institutionalization we have today. In addition, new "campuses for the elderly" with many facilities, from nursing homes to community centers and residential dwellings, would be built to provide a new way of life for the elderly.

Second, require greater compliance with Federal safety standards and expand public awareness of health and safety standards at nursing homes.

Last year, the General Accounting Office revealed that 50 percent of the nursing homes in New York, Michigan, and Oklahoma, did not meet minimum Federal fire safety standards. My legislation would make it mandatory for all homes receiving Federal assistance to comply with the life safety code of the National Fire Protection Association. Further, the bills would require full disclosure of nursing home licensing, certification, and inspection records to provide reliable information to consumers about homes and stimulate administrative action to upgrade substandard homes.

Third, stimulate scientific research into the medical problems of aging and expand the number of trained personnel caring for the elderly.

Few of our Nation's medical schools emphasize the specialty of geriatrics—the branch of medicine dealing with the health problems of aging. Further, as Senator Moss' Subcommittee on Long-Term Care discovered, the practice of medicine at nursing homes is substandard, with doctors conducting it almost entirely by telephone. My bills would encourage new interest in the medical problems of the elderly by creating a National Institute of Geriatrics in the Public Health Service and establishing departments of geriatrics in our Nation's medical schools. Additionally, approximately five times as many trained nurses work in hospitals as in nursing homes. The bulk of the staff is overworked and the turnover rate runs as high as 75 percent per year. To help increase skilled staff, I propose training veterans and others to serve as medical assistants and paraprofessional aides.

Mr. Speaker, only a massive Federal effort directed at the causes of neglect and poor care of the elderly can permit all Americans to age with reasonable dignity, comfort, and security. We must insure that life in nursing homes is not marred by loneliness, despair, and inadequate or irresponsible care. Our Nation has shamefully cast elder Americans aside as if aging were a crime. To permit aging with grace and proper care must be our goal for the coming years.

CONFLICTS ON CONTRACT AWARDS

(Mr. GREEN of Pennsylvania asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GREEN of Pennsylvania. Mr. Speaker, let me get right to the point. I would like to see this House or the Senate committee which is looking into the affairs of IT&T take a hard look at the Treasury Department to determine whether any conflicts exist there on contract awards. I will say at the outset that I have no proof, but some companies are given such preferential treatment that one must wonder whether Treasury Department officers have been in the employ of these companies in the past or whether contributions have been made by the company officials to the campaign. A look at the record is in order. I suppose every administration helps its friends but it become unconscionable when that help actually hurts this country, its economy, its industry, and its labor force.

Over the past few months, there has been some very strange shenanigans taking place at the Treasury Department and the Bureau of Engraving with respect to an invitation to bid on certain presses to be utilized in printing U.S. stamps.

The invitation to bid was issued to the Crown, Cork & Seal Co., of Philadelphia, on May 3, 1971, by the Bureau of Engraving.

However, the specifications for the presses were loosely drawn, and it was necessary for Crown personnel to meet with Mr. John Seymour, the Bureau's chief engineer, on three different occasions in order to get the specifications narrowed. During these meetings, it was obvious that the specifications were drawn on the basis of presses manufactured by a foreign company—the DeGiori organization of Germany. Nevertheless, Crown personnel worked diligently with the Bureau to clarify the specifications, and assured Mr. Seymour that Crown could, and would, fully comply with them.

The bids were first opened on June 22, 1971, and Crown's was higher than the foreign manufacturer's bid by $1.4 million. Bureau personnel admitted that this high bid resulted from excessively broad specifications, and that it was rejected because it envisioned a "Cadillac" rather than a "Ford." Crown personnel were not informed that the company's bid did not conform to specifications. The foreign competitor's bid was also rejected, however, because it contained an open escalation clause which violated Federal Procurement Regulations.

On June 31, 1971, Crown was invited to negotiate the bid. On August 4, 1971, a meeting was held with Mr. Conlon of the Bureau at which broad public policy questions regarding domestic employment needs, the balance of payments situation, and the Bureau's need for domestic supplies were discussed.

The negotiation meetings took place on August 17, and Crown was informed for the first time of its need for an "automatic transfer press" and of the Bureau's beliefs that such a press was not available from U.S. sources and that Crown could not obtain one from the foreign market. Crown indicated that, although it had no design for, and did not manufacture, such a press, it would develop or procure one from American sources. Also at this meeting, Bureau personnel mentioned "standard related attachments" for the first time, but refused to indicate what such "attachments" included, despite inquiries by Crown.

On September 2, 1971, Crown's engineer informed Dr. Seymour that it had made arrangements to subcontract the required Automatic Transfer Press to the General Electric Co.

On September 7, 1971, Crown submitted its new bid which, due to price differentials allowed under the Buy America Act and regulations regarding manufacturers in areas of substantial unemployment, was below the foreign competitor's bid by approximately $250,000. Later, the foreign company, through some unexplained maneuver, unilaterally reduced its price so that it was $9,000 below Crown's.

Subsequently, Crown personnel called the Bureau daily for 2 months to inquire about the bid's status. The Bureau refused to respond until November 3 when it informed Crown that, because of price and because of "noncompliance with certain technical aspects," its bid was rejected, and that the contract was awarded to the foreign company.

Crown filed a protest with the Comptroller General on November 11, 1971. It also urged the Treasury Department to exercise its discretion and set aside the award for reasons of announced U.S. policy to buy American, to reduce unemployment, and to surtax imports.

On November 17, 1971, Mr. John F. Connelly, Crown's esteemed chairman of the board, was advised in a telephone conversation with William L. Dickey, Deputy Assistant Secretary of the Treasury for Enforcement, Tariff, and Trade Affairs, and Operations, that the award had been postponed pending investigation. However, on December 16, Crown's attorney was informed by Roy T. Englert, deputy general counsel, Treasury Department, that the award had, in fact, never been set aside, but that, rather, it had been in full force since originally made on November 3, 1971.

In the meantime, Crown had been trying, in vain, to learn what "technical objections" existed to its bid. However, a meeting with Bureau personnel did not take place until December 23, 1971, at which time Crown was first presented a letter setting forth the objections. Crown personnel were accorded no time to study the objections, and were forced to respond to them hastily.

Mr. Connelly protested vigorously to Secretary of the Treasury John B. Connally on January 10, 1972, to no avail.

How the Treasury Department can, in good conscience, seek to have this award upheld is beyond me. The foregoing chain of events reveals a number of improprieties. First, the Bureau of Engraving's specifications were, by its own admission, unclear and overbroad, and this caused an erroneous initial bid. Also, they were drawn with foreign manufacturers in mind. Second, the Bureau misled Crown into believing that its initial bid was rejected only because of price differential. Third, the Bureau delayed telling Crown of the "automatic transfer press" requirement, and it refused to make itself clear as to what was meant by "standard related attachments." Fourth, when it realized that Crown had underbid the foreign company, the Bureau permitted the foreign company to alter its bid without explanation. Fifth, the Bureau unduly delayed making a decision, and it refused to advise Crown of the bid's status. Sixth, the Bureau refused to explain its "technical objections." Seventh, when the Bureau finally did decide to explain these objections, it did not premit ample time for response thereto. Eighth, the Department of Treasury lied about the award's postponement.

And these improprieties are compounded by the fact that the Bureau and Department ignored the policy considerations involved. Indeed, it would seem that there was a bias in favor of the foreign company and that such bias was, and continues to be, paramount to the public interest. Had Crown been awarded this contract, 300 jobs would have been created in the Baltimore area, and many more would have resulted from the subcontract with General Electric. Also, the Bureau would have attained a domestic supplier for its needs, and more money would have been added to the American, Philadelphia, and Baltimore economies. All of this notwithstanding, the contract was awarded to a foreign competitor.

At this point, Mr. Speaker, I am inserting Mr. John F. Connally's letter to the Secretary of the Treasury. This letter clearly amplifies the outrage that has taken place in this case.

CROWN CORK & SEAL CO., INC.,
Philadelphia, Pa., January 10, 1972.

Re: The Bureau of Engraving and Printing Solicitation No. 93.

Hon. JOHN B. CONNALLY,
The Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. CONNALLY: On September 7, 1971, we submitted our proposal of $3,257,000 to build printing presses to print American stamps in accordance with the specifications furnished by the Bureau of Engraving and Printing (BEP).

We were informed by BEP that this would be a competitive bid and that our manufacturing facility in Baltimore, Maryland, would have to be inspected and approved by the BEP before the final award.

Thereafter, nearly every day some member of our organization contacted various personnel of the Bureau of Engraving to inquire if any additional help or information might be needed, or if any deficiency existed in our proposal. We also inquired when the Bureau would make the inspection of our Baltimore Plant which they had emphasized was very necessary before reaching a final decision.

We were shocked to receive a letter on November 3, stating that the order was awarded to a German company because their bid was $9,000 lower than ours, and further, for alleged non-compliance with certain undefined technical aspects.

Never once during the time between September 7 and November 3, nearly two months, in spite of our numerous inquiries, was any mention ever made of any deficiency nor was any attempt made by the Bureau's personnel to clarify our proposal, if any clarification was necessary.

Immediately after receiving the Bureau's letter of November 3, which is enclosed, a formal protest was made to The Honorable Elmer B. Staats, the Comptroller General of the United States, and the Bureau of Engraving and Printing was advised at the same time.

To avoid loss of time, we protested in your absence directly to the Under Secretary of the Treasury, Dr. Charls Walker, stating that the award to the German company was contrary to the expressed policy of President Nixon to buy American, to reduce unemployment, that it was obviously contrary to the purpose of surtax against imports. It was also in opposition to your own efforts to reverse the balance of payments situation and stop the flow of money out of the country.

We repeatedly asked that until a proper investigation could be made that the Bureau of Engraving be asked not to place the formal order with the German company and, if commitments had been made, to put a hold on the order and prevent any work being started.

Shortly after filing the protest, I was personally informed by telephone by Mr. William L. Dickey, Deputy Assistant Secretary of the Treasury, that a hold on the order was in effect. There is no reason for any misunderstanding over this for we had asked that the order be held up. The call was made by him and when he made the statement I expressed surprise and delight, and asked if he was sure there was a hold on the order. He assured me that there was.

At the time of the telephone call, two men were in my office, Mr. Matthew McCloskey and Mr. Richard Krzyzanowski. Both heard my part of the conversation. I made a memo of the conversation and advised our supporters accordingly. I am stressing this matter since later we were advised that the award to the German company was never held up.

We were encouraged in our efforts by the support of the Office of the Vice President of the U.S.A., Senator Hugh Scott, Senator Beall, Senator Mathias, Governor Mandel of Maryland and various congressmen.

We made many attempts to arrange a conference with members of your staff. Our efforts were completely futile. Finally a meeting was arranged on December 15, 1971 by Mr. James W. Riddell, our attorney. This meeting was attended by: Dr. Charles Walker, Under Secretary of the Treasury; Eugene Rossides, Assistant Secretary of the Treasury; Kenneth Davis of Senator Scott's office; David Markey of Senator Beall's office; and representatives of Crown Cork & Seal Company, Inc.

At the meeting, we presented to Dr. Walker the evidence of our technological competence to meet the requirements of the Bureau and he appeared favorably impressed. He suggested that we immediately send a letter to Mr. Conlon, Director of the BEP requesting a meeting to discuss the alleged technical aspects not complied with. A letter requesting such a meeting was sent that same day, Wednesday, December 15. Because of the critical aspect of time, we telephoned the BEP several times each day on Thursday, the 16th, Friday, the 17th, Saturday, the 18th, Monday, the 20th and Tuesday, the 21st, but each time we were advised that Mr. Conlon was not available.

Late Tuesday afternoon, December 21, Senator Hugh Scott called and said he had also tried to get Mr. Conlon and was advised he was not available and stated he would insist that the meeting suggested by Dr. Charles Walker be arranged.

At 9:20 that night (Tuesday, December 21), Senator Scott called me at home and advised that he had scheduled a meeting for 10:00 A.M. on Thursday, December 23, and that a letter outlining alleged deficiencies would be delivered to us the following morning.

I learned that Mr. Laverne Butcher, Vice President of Crown, at about 6:45 P.M. on the 21st had received a call from Mr. Conlon advising of the meeting, which was apparently forced on the Bureau through Senator Scott's intervention.

We attended the meeting on Thursday, December 23, unprepared because we had not received the letter from BEP. We were then handed a letter dated December 22, a copy of which is attached, with a casual explanation that there had been some problems in getting it typed. We asked for a caucus to read the letter. Normally we would have asked for a postponement in order to study the letter and to present our reply, but because of the many previous delays and the Christmas season being on hand, we feared further delay, so we returned to the meeting.

Mr. Conlon, Director of the BEP, very eloquently defended the actions of the Bureau but the more he explained, the more obvious it became that it is not a technical deficiency at the base of this problem, but uncalled for, unfair favoritism towards the German company with a total lack of consideration on their part for Crown or for any other American company.

His letter is filled with comments and questions that should have been asked of any prospective bidder prior to a decision. Each and every item could have been adequately answered. His letter even claims that we submitted a new offer on August 17, and then withdrew it. Mr. Conlon admitted that he was in error and that this did not occur, yet he made it seem important by including it in his letter. Why?

Mr. Conlon made numerous references about wanting twentieth century equipment. We made what we considered a very good suggestion that they combine the ink drier for both the letter and offset printing, which would save considerable money to the Government. Mr. Conlon and his associates rejected this suggestion. This is their right and we accepted their decision and included their system in our proposal, but Mr. Conlon and his associates will *live* to see the day that this fine feature will exist in future equipment. How in the world can this good practical suggestion be called a major deficiency?

Let me give another example dealing with the automatic transfer press:

Mr. Conlon stated that BEP specifications in this matter are such that no U.S. company could manufacture this component. To obtain the Bureau's contract, we told the BEP that we would develop this component or could procure it from a U.S. source. BEP was informed that we contacted the General Electric Company, and we assured the BEP that it would be ready prior to the delivery of the presses. Instead of giving an opportunity to a U.S. company, Mr. Conlon chose to procure it from abroad, and fitted his specifications to that very purpose.

Mr. Conlon on Page 3, Paragraph 2 of his letter writes: "Since that time (November 3, 1971) until receipt of your letter of December 15 we have received no request from Crown Cork & Seal for discussion of the deficiencies identified in your proposal." How can this statement be made in the light of our official protest to the Controller General of the United States, to the BEP and to the Treasury Department? It was not until the meeting was forced on the BFP that we succeeded in learning anything about so-called deficiencies.

We charge that the attitude of the BEP is full of bias and prejudice in favor of this particular German company and feel that if Crown had been given a fair opportunity, this problem would not exist.

We think it is now time to make the following statements:

1. Crown is confident of its ability and does have the technical know-how to build this equipment in accordance with the specifications of the BEP, and has included into its bid all the items contained in the specifications.

2. It is our opinion that if Crown had not bid then the BEP, through lack of competition, would have had to pay a higher price to the German company.

3. That in the future if Crown, as the only American manufacturer, is excluded or withdraws, the BEP will be wholly dependent on a single foreign source of supply and will find themselves in a noncompetitive position.

4. That $9,000 is a ridiculously low sum to save in comparison to the corporate taxes that Crown will pay to the U.S. Treasury in building this and future equipment.

5. That $9,000 is a ridiculously low sum to save in comparison to the income taxes that the United States will receive from the wages of the men and women employed in manufacturing this equipment.

6. That this machinery will be built in Baltimore, an area of persistent and substantial unemployment, and more than 300 members of the International Association of Machinists will be employed.

7. That Crown has been since 1892 a builder of very precise equipment and has a splendid engineering department to design and build special equipment.

8. We invite you to visit and inspect our machine plant and engineering department in Baltimore.

9. It was specifically to expand our efforts on a worldwide basis that we purchased the most highly respected printing press manufacturer in the world—R. Hoe Company. This company has for many years built printing presses for printing and decoration on metal, an art that is far more difficult than printing on paper.

10. Later we augmented our organization by buying the Huck Company, a splendid organization with many fine engineers of great experience. This organization was headed by W. F. Huck, a brilliant, imaginative genius.

11. Our sales analysis indicates that there is a need for more than $100,000,000 worth of printing equipment throughout the world, not including the U.S.A., and we hope to get a good share of it. We have the ability to properly solicit this business because we successfully operate wholly-owned subsidiaries in the following countries: Angola, Argentina, Belgium, Brazil, Canada, Chile, Colombia, Congo, Costa Rica, Ecuador, Ethiopia, France, Great Britain, Indonesia, Ireland, Italy, Kenya, Malaysia, Mexico, Mozambique, Morocco, Netherlands, Nigeria, Peru, Portugal, Puerto Rico, Rhodesia, Singapore, South Africa, Spain, Thailand, Trinidad and Tobago, West Germany and Zambia. All of these subsidiaries are well established, profitable, and are headed by prominent nationals of the respective countries.

12. It is our desire to build the best equipment for the U.S. Government for that honor would allow us to better solicit and deserve similar business from other governments and industry in these countries.

Mr. Connally, in support of your own policies to aid American industry, to give employment to many people, to gain on your own balance of payments program, the Bureau of Engraving and Printing must be made to conform to the policies of the United States Government as decreed by President Nixon.

Therefore, we ask that you cancel the order placed unfairly with the German company even if it is necessary to pay a cancellation charge and award the order to Crown Cork & Seal Company, Inc.

Sincerely yours,

John F. Connelly.

Mr. Speaker, we in the Congress cannot let questionable and harmful practices such as this continue. Such injustices—such disregard for the public interest—must not go unchecked. Many Members of Congress and many Senators have urged correction, but their efforts have been ignored. There is something wrong here. Anyone can see that American employees have lost jobs and that American industry has lost a contract. I hope this House or some public-spirited reporter will dig out the truth.

CORPORATE FREELOADERS

(Mr. VANIK asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. VANIK. Mr. Speaker, in recent days I have endeavored to direct attention to the sharply reduced contribution of American corporations to the support of our Government. The "revenue giveaway act of 1971," the administration's accelerated asset depreciation range, and the flood of tax-break decisions being machined out by the Treasury Department are depleting the Treasury at a shocking rate. Under these circumstances, the American corporation is no longer a partner—it is becoming a freeloader—shifting the obligation of supporting the Government onto the shoulders of the individual taxpayer.

In fiscal 1970 corporate refunds totaled $2,208 million. In fiscal 1971 corporate refunds rose to $3,535 million.

With the new giveaway programs of last year, I estimate that the corporate income taxes refunded by June 30, 1972, will approach the $5 billion mark.

It is utterly impossible to restore solvency in our Government accounts—it is utterly unlikely that we will be able to reduce the Federal deficit—with these tremendous escalating revenue losses which will compel higher individual taxes next year.

USE OF USIA MATERIALS

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, from this morning's press reports it appears that use of a USIA film on Czechoslovakia in a television program prepared for use in New York was a deliberate violation of congressional intent that USIA materials prepared for use overseas not be distributed within the United States.

From the context in which the film was reportedly used it is hard to escape the conclusion that the film's use in this instance was exactly the kind of partisan political abuse the Congress and previous administrations wanted to avoid.

In showing its contempt for congressional intent, the USIA has strengthened rather than weakened the position of those who believe that the time of the agency's usefulness has passed. As a long time backer of the USIA, I am greatly disturbed at the effect the agency's own action is likely to have on its ability to carry on its worthwhile functions in the future.

Another disturbing aspect of this morning's press accounts is a quote attributed to a high USIA official appearing on the same program which purportedly describes the chairman of the Senate Foreign Relations views of the USIA as "very naive and stupid."

Mr. Speaker, This gratuitous insult of one of America's foremost foreign policy thinkers serves no useful purpose. If any agency should support the concept of the need for a wide range of views, it is the USIA. On many issues Senator Fulbright and I have widely divergent views but clearly our Nation profits from the clash of differing ideas and concepts.

I hope that the USIA will offer its apologies to the Senator and that they will in the future fully comply with current congressional policy that USIA materials not be distributed within the United States.

ROMNEY'S CANDID STATEMENT ON HOUSING MESS

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, the Government Operations Subcommittee on Legal and Monetary Affairs, which I have the privilege to chair, has in recent months conducted hearings on the increasing rate of foreclosures on FHA-insured properties in Detroit, Mich., and the subsequent acquisition of these properties by the Department of Housing and Urban Development.

The statistics reported to the subcommittee are staggering. We received testimony which revealed that thousands of homes are being abandoned by their owners and acquired by HUD and that the FHA insurance fund stands to lose up to $200 million in Detroit alone.

The subcommittee also received testimony which indicated that speculators in Detroit were, as late as last month, making profits of 70 percent or more on properties held as little as 50 days. In many cases these speculators made cosmetic repairs and sold the houses to poor people, who too late discovered that their new homes had major structural defects.

Recently HUD Secretary George Romney has taken several actions which point to his awareness of the magnitude of the problem which exists in Detroit and elsewhere:

First, a special task force has been formed in an attempt to put a stop to the exploitation of FHA programs by unscrupulous speculators. Among the members of that task force are the director of the HUD area office in Detroit, the U.S. attorney for southeastern Michigan, agents of the Federal Bureau of Investigation and the Internal Revenue Service, and the Michigan State Attorney General.

Second, over a dozen brokers have been removed from the HUD list of approved real estate brokers and two mortgage bankers have been suspended from doing business with the Department for 30 days.

Third, HUD has issued new regulations designed to curb excessive speculator profits on the sale of inner city properties.

Fourth, the Secretary has assigned a task force of HUD auditors to the Detroit HUD office to analyze transactions involving 5,000 Detroit homes sold with FHA-insured mortgages.

Fifth, the Secretary has rehired Lawrence Katz, the former FHA Director in Milwaukee, who testified before the Legal and Monetary Affairs Subcommittee in February regarding the successful low-income housing programs in that city.

Yesterday the New York Times carried a report of Secretary Romney's address to the Detroit Economic Club on Monday, March 27. The Secretary's remarks are exceptionally candid: he deals directly with the problems of incompetence, favoritism, bribes, fraud and "legal" profiteering which have plagued HUD's low-income housing programs. I am submitting the New York Times account of his speech for the RECORD and recommend it for consideration by my colleagues.

I observe that the Secretary states that:

> The nation "needs one example" of a city concerned about saving its residential areas as well as its downtown business areas . . . "We don't have one," he said.

If this is true, the House should take it into consideration before passing the President's urban special revenue sharing proposals, which will turn over to these "unconcerned" cities several billion dollars in Federal money which should be used to save residential areas. The Congress must determine that these cities have the will and the capacity to spend shared revenue on their own in a way which will lead to true urban development.

Mr. Romney also mentions the referral by his Department of over 400 cases to the FBI and the Department of Justice. In Detroit, subsequent to our subcommittee's hearings, the Justice Department has assigned several additional assistant U.S. attorneys to deal with FHA frauds. I hope this same action will be taken where needed in other cities.

The Legal and Monetary Affairs Subcommittee is at the present time preparing a report on its findings in Detroit. At the same time we shall be continuing our investigation in other cities. We shall be endeavoring to determine whether profiteering, large-scale foreclosures, and abandonment of housing are confined to the central cities or whether these problems can affect noncentral city areas where there has been extensive, HUD-supported, new construction.

The extent of the problems in HUD's mortgage insurance programs is not yet known, but the implications of what is known are grave. I urge my colleagues to read the attached article.

Romney Says His Agency Can't Solve Housing Problem; Concedes Errors

(By Jerry M. Flint)

DETROIT, March 27.—The Federal Government cannot and will not solve the massive housing deterioration going on in the central cities, George Romney, Secretary of Housing and Urban Development, said today.

Mr. Romney acknowledged that his agency's policies increased the blight and said that the department would cooperate with state, local and private groups working on the problem.

However, he emphasized that Washington did not have the answers and charged that the cities themselves did not care. The nation "needs one example" of a city concerned about saving its residential areas as well as its downtown business areas, he shouted in a speech at the Economic Club of Detroit.

"We don't have one," he said.

A MAJOR SCANDAL

The policies in Detroit of the Federal Housing Authority, which is part of HUD, have turned into a major scandal that could cost the Government $100-million and possibly much more.

Under the guise of programs to help the poor buy their own homes, thousands of welfare residents were pushed into old or dilapidated dwellings. Real estate speculators roamed old neighborhoods buying up houses for a few thousand dollars each, getting them appraised by F.H.A. appraisers at double, triple or quadruple the purchase prices, then selling them to the poor, including thousands of welfare recipients who could not keep them up.

To date about 6,500 homes under these programs have been foreclosed in Detroit, and 750 to 1,000 more are foreclosed every month. The total could surpass 20,000, about 7 or 8 per cent of the homes in the city. The abandoned houses, in turn, help to blight entire blocks and neighborhoods.

"It was a mistake, in part, not to realize the F.H.A. lack of preparation for its role in central cities and their exposure to speculators and fastbuck artists," Mr. Romney said. "And there is no city where there are more of them than in Detroit. I think they got their training in the used car business."

Mr. Romney once headed the American Motors Corporation here.

CHARGED WITH ARSON

In Detroit in recent weeks in the continuing investigation of the housing scandal, a former F.H.A. appraiser has been charged with arson, burning inner city homes he had bought as a real estate speculator, and another F.H.A. appraiser admitted in court he did not know that homes had to conform with the local building codes before they could qualify for a Government-insured mortgage.

In other cases, real estate men have been indicted or blacklisted by the F.H.A. for making false statements about potential buyers and the properties in F.H.A. mortgage applications.

"We have made mistakes in the design and administration of the programs that were proposed to alleviate this human suffering," Mr. Romney said. "I acknowledge with deep regret the things that have gone wrong with our housing subsidy program.

"I am angered and determined to eliminate incompetence, conflict of interest, favoritism, graft, bribes, fraud, shoddy workmanship and forms of 'legal' profiteering that take advantage of technicalities to defraud the home buyer and the tax paying public.

"Across the country we have referred over 400 cases to the F.B.I. and Department of Justice in the last year and a half."

He said that the Government had moved to curb the speculation, but he made clear that he had no answers on how to repair the damage already done. One key, he said, is getting private developers involved.

"The widespread abandonment of the central city, except for the downtown business districts, by private investors and private leadership is continuing, Mr. Romney said.

"Indeed, there are several major cities in this country, including Detroit, where there is hardly any purely private money for mortgages in most of the central city."

DOMINANT USE AND ITS RELATION TO PUBLIC LAND USE PLANNING

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, perhaps no recommendation of the Public Land Law Review Commission has generated more comment than:

> Management of public lands should recognize the highest and best use of particular areas of land as dominant over other authorized uses.

This recommendation, contained in the chapter on Planning Future Public Land Use and appearing on page 48 of the Commission report, "One Third of the Nation's Land," is, in turn, a part of the overall admonition to manage public lands generally according to principles of multiple use and sustained yield.

Addressing a society of American Foresters meeting in Milwaukee, Wis., recently, Perry R. Hagenstein analysed, in as clear a manner as I have seen, the concept of dominant use and the manner in which the Commission approached its treatment of land use conflicts. Dr. Hagenstein, now executive director of the New England Natural Resources Center, was assistant chief of the Resources and Evaluation Group of the Commission staff, and as such had an opportunity to observe development of the Public Land Law Review Commission recommendation.

Because of the widespread comment on dominant use—and, in my opinion, the widespread failure to understand the concept as the Commission understood it—I commend Dr. Hagenstein's remarks to you and offer them for the RECORD:

THE PUBLIC LAND LAW REVIEW COMMISSION AND ITS APPROACH TO LAND USE CONFLICTS

(By Perry R. Hagenstein*)

It is not surprising that the Public Land Law Review Commission spent much of its effort on the problem of resolving use conflicts on public lands. This, after all, was the issue that precipitated the establishment of this temporary study commission.

Congress had shown interest for some years in a review of the status of the remaining unreserved public domain lands. But it was not until the Wilderness Areas Preservation bill generated wide support in 1962 that one Congressman was able to transform his interest in the problem of resolving conflicts in uses of public lands to the establishment of a commission to review this problem.

Congressman Wayne Aspinall of Colorado, then, as now, Chairman of the House Interior and Insular Affairs Committee, wrote to President Kennedy. He offered his efforts on behalf of the wilderness bill in return for Presidential support for a review of public land policies. The problem with the wilderness bill, as he viewed it, was that yet another portion of the public lands was to be set aside for a particular use without simultaneous consideration of all of the other many needs that the public lands help meet. Some new policy guidelines were needed if the public lands were to provide an appropriate share of the various demands being placed on them by the citizens of the country.

You all know at least something of the results of this effort. The Public Land Law Review Commission made its report to the President and the Congress in June, 1970. Among its 137 major recommendations was one that said, "Management of public lands should recognize the highest and best use of particular areas of land as dominant over other authorized uses." The Commission saw the concept of zoning public lands for dominant uses as the best administrative means of resolving land use conflicts.

The storm of protest on release of the Commission's report was immediate. Within hours after the release of the report, it had been announced that the report and its dominant use recommendation were all part of a plot by the timber industry to resurrect the worst features of the proposed National Timber Supply Act, which had only recently been defeated in the House of Representatives.

The "quick-to-draw" conservationists saw the notion of zoning lands for dominant use as a means of giving permanent status to the "defacto" priorities that have been given through administrative action, and with some statutory support, to timber production and other economic uses of public lands. They saw the Bitterroot National Forest as the prime example of what would happen to all public forest lands if this purported scheme of the western user interests were to be implemented.

The professional land managers in the public land agencies were less quick in their denunciations of "dominant use". They realized that the Commission recommendation came very close indeed to what they were already doing. We had all learned in forestry school that land management involved drawing lines on maps and identifying this area for this use and that area for that use. And this is just what most land managers were doing, at least informally. But the land management agencies in the end added their voices to the criticism of dominant use. They argued that their managerial responsibilities would somehow be jeopardized if Congress would direct them to use any particular means of classifying public lands.

Perhaps lying behind this concern was the usual fear of the land management agency that the extent of its domain will somehow be reduced. To some, the classification of some national forest lands for recreation purposes suggests that the lands should be transferred to the Park Service, which is sometimes thought of as "the" Federal recreation agency. The notion that this could be done for every tract of land used for recreation would, of course, create an administrative monstrosity, and the Public Land Law Review Commission refused to be drawn into support of it. Nevertheless, a good part of the opposition of the land management agencies to dominant use zoning is probably based on fears of losing control over some lands.

But very little of the criticism of the Commission's dominant use recommendation has focused on the important question: Is this indeed the best means of resolving conflicts among various possible uses of the public lands? And if not, what alternative means are there? The Public Land Law Review Commission reached its dominant use recommendation only after considerable study and after rejecting the alternatives that it considered.

The Wilderness Act itself offers one way of resolving conflicts among possible uses of a parcel of land. This Act turns the job of defining uses of particular areas of land over to the Congress. Indeed, the Public Land Law Review Commission was inclined to go this route for many major land use decisions. The Wilderness Act, which was the last major piece of public land legislation prior to the Commission's report, says that Congress will be responsible for establishing wilderness areas, and for the determination of their boundaries. And, of course, once a wilderness area has been established, the Act resolves conflicts among possible uses by defining those that are incompatible.

Not only did the Public Land Law Review Commission agree with the Wilderness Act concept of having the Congress be clearly responsible for setting aside public lands for wilderness areas, parks, and wildlife refuges, but it also sought to broaden further the Congressional role in deciding uses of parcels of public lands. Some of the Congressional members of the Commission were unhappy with the way the Bureau of Land Management and, to a lesser extent, the Forest Service had used classification authority to limit economic and private uses of public lands. Some thought was actually given to reserving all withdrawal and classification authority to the Congress. But it soon became evident that Congress could not resolve all conflicts among uses of public lands, if for no other reason that the job is too big. There are too many decisions that have to be made.

Having rejected the notion of Congress being the immediate problem solver for all public land use conflicts, the Commission looked for a means to provide some form of Congressional guidance for the decisions that would have to be left to land management agencies. Now, what were the kinds of problems it saw in the existing process whereby the Federal agencies decide on the uses to which a parcel of public lands will be put?

First of all, the Commission saw what it believed to be a lack of consistency among public land decisions. While recognizing that the public lands present a vast range of conditions and possible choices to the land manager, the Commission could find no clear rationale guiding these choices. Especially the Congressional members of the Commission saw the lack of direction in the Multiple Use and Sustained Yield Act of 1960 as the problem. Inconsistent decisions had their root in a lack of clear Congressional direction. The heat generated by conflicting interests over decisions made by the land management agencies under their broad management authorities was making life uncomfortable for Congressmen from public land districts. Perhaps clearer Congressional direction was the answer.

Second, the Commission saw that some of the problems were created by a lack of assurance that the land management agencies would stand with the decisions they made. A timber firm complained that it had put in a new plant in response to a significant increase in allowable cut on the adjacent national forest. Right in the middle of a 10 year plan, its investment was jeopardized when the allowable cut was reduced to previous levels.

The cutback was attributed to pressures from wilderness and other recreation users. On the other side, the Commission saw the need for protecting endangered species of wildlife, such as has been done by the Forest Service for the Kirtland Warbler in upper Michigan and the California Condor, both on national forest lands. The Commission saw that Congressional recognition of the need for protection of this kind would help to assure that it be used elsewhere in the country and that it be used to protect recreation, watershed, and environmental values as well. But it also saw that effective protection of these values required a commitment that would not be reversed whenever there were pressures for competing uses.

Third, the Commission saw a need to clarify land use for the public. What constitutes multiple use management for the professional and expert viewer can simply be multiple confusion for the citizen trying to get away from urban pressures for a week in the wilds. Many from urban areas have grown to expect at least a degree of pattern and repetition in land uses. A clearcut area astride a hiking trail can well lead the casual visitor to charges of bad faith on the part of a public agency managing multiple use lands. Even the regular user of public lands, whether his use is for enjoyment or profit, can become confused when restrictions on his use, in the name of multiple use, are not set out until his use has been initiated.

What the Commission was after here was some means of assuring that the land management agencies would be "fair" in their dealing with the individual citizen. Fairness to the citizen—whether he be a casual visitor from the city, to whom fairness may simply mean understandability, or a rancher grazing cattle on the public lands every day of the year, to whom fairness may mean a degree of certainty in his use—was more important to the Commission than the more convenience of the public land manager.

These were some major concerns over the manner in which conflicts among land uses are now resolved. Given such concerns, what sort of methods might be used to make better land use decisions—methods that would meet the Commission's objective of providing greater Congressional direction and backup to decisions that must necessarily be made by the land management agencies? Several possibilities were considered by the Commission.

One method that had a ring of plausibility to it was to establish statutory priorities among various land uses. State laws in the West, with which most Commission members were familiar, establish priorities among kinds of water use. Irrigation of agricultural crops, for example, has priority over industrial use, and conflicts among competing users are resolved on this basis. Couldn't some such system be devised for uses of public lands wherein Congress would identify certain uses that would take priority over other uses whenever conflicts arise?

The fact is, of course, that the Mining Law of 1872 already provides such a priority for hardrock minerals on public domain lands. This law takes the decisions to develop minerals away from the land management agencies and gives it to the prospector, who decides where he will go and what he will develop. But it is for this very reason that the Mining Law has come under fire not only from the conservationists, but from many who are concerned with the problem of allocating limited public lands to a number of legitimate and important uses. The priority afforded development of hardrock minerals over all other uses of public lands creates unnecessary conflicts and defeats land management and rational decision-making. Minerals, whatever the degree of their importance to the industry, simply don't deserve priority over all other uses of public lands in all circumstances. And this, of course, is the criticism of any general priorities among uses, especially if established in statutes for the Nation at large. This was recognized by the Public Land Law Review Commission and it rejected generally applicable priorities among uses as a means of resolving land use conflicts.

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The Commission turned to a second possible approach. Some had argued before the Commission that it should establish a particular objective as having priority over all other objectives that might be served by the public lands. Some saw enhancement of environmental quality as the major objective to be served. They suggested that management choices should always be resolved in favor of the alternative that was best from an environmental viewpoint. This idea had an appealing political ring to it because of the current concern with environmental quality.

Still others, however, had recommended that the Commission place greater emphasis on economic stability, especially in public land areas, as the major objective of public land management. The public lands, in fact, are the source of the resources that support numerous towns in the West. Thousands of people are directly dependent on the public lands for employment and income. This idea, too, had an appealing political ring to those representing public land districts. Here, it was argued, was an objective that could be favored over all others when choices had to be made among alternative uses of public lands. The use that would contribute most to employment and income in a localized area would be given preference over alternative uses whenever a choice had to be made.

This was a somewhat different means of resolving conflicts by setting priorities. Congress would declare which objective it believed could best be served by the public lands. But the Public Land Law Review Commission eased away from supporting this concept. Conditions surrounding public land decisions vary widely. In one place, continuing support of employment in an impacted town may be an overriding objective at times. Or in another, protecting a feature of the natural environment may be of overriding importance. A recommendation that an environmental objective, or any other objective, should automatically be considered most important in all cases simply was inconsistent with the variety in public lands and their uses.

Having rejected two plausible ideas—the first to establish priorities among possible uses of public lands and the second to establish priorities among the objectives to be served by the public lands—the Commission turned to the planning process as the key to resolving land use conflicts. It saw the planning process as the only solution that would recognize the great variation in public lands and conditions.

And this is where "dominant use" came in. The result of the planning process would be a zoning of public lands to recognize that in one area timber may be the dominant use, while in another area recreation, or protection of a wildife species, or protection of a frail watershed may be the dominant use. And once an area had been planned and zoned for dominant use, the management agency would recognize this use as having priority over other uses until such time as the whole planning process would be repeated. Priorities would be established, but on a case by case basis that would involve consideration of the demands being placed on the specific parcel of land and on the ability of the land to meet various demands.

Perhaps the Commission was guilty of naivete in reaching this recommendation. However, it had some acceptable models to follow. The land management agencies already use a form of land use zoning, albeit on a relatively informal basis. And local governments have long used zoning to maintain a degree of compatibility between industrial, commercial, and residential uses of land. The argument that the typical frequent changes in local zoning indicate that the concept is inferior can be countered with the argument that the process used by local governments may be more at fault than the concept of zoning itself. If the process of planning and gaining public acceptance of the zoning decisions were improved, changes in zoning may be less frequent.

Perhaps the Commission was guilty of viewing public lands too simply. But here, too, it had models to follow. In the spring, the farmer decides to grow corn in one field and hay in another. This is not only useful in deciding on the kinds of fertilizer and equipment and the amount of effort that will be needed during the summer, but it also clarifies decisions on where the cows will go. Similarly, classification of public lands may improve the present methods of spending public funds and, at the same time, help the public to understand that multiple use does not mean all uses everywhere at all times, or that a particular kind of use should have a claim to all public lands.

In sum, the Public Land Law Review Commission's recommendation that the public lands be classified on an area by area basis for dominant uses was responsive to what it saw as three critical problems in present methods of resolving land use conflicts. It believed that an improved planning process leading to dominant use classifications would bring order out of chaos, would provide assurance that commitments of the Federal government would be met, and would enable the public to comprehend the management of its lands. The alternative means of conflict resolution that were considered failed to gain solid support within the Commission because they were too simple to cope with the vast differences in land and conditions from one area to another.

Sharp criticism of the "dominant use" recommendation in the past 21 months may already have doomed it to oblivion, at least as far as gaining statutory recognition is concerned. But the problems that the Commission sought to correct with its recommendation have not gone away. And the public dialogue over dominant use has not yet produced a viable alternative to cope with the problems that concerned the Commission. Controversy is fun and often constructive. Let us hope that the present controversy over dominant use not continue to be bogged down in theological references to multiple use, but rather lead to better means of resolving land use conflicts.

THE BILL TO ELIMINATE THE HOUSE LIBRARY

(Mr. ROUSH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROUSH. Mr. Speaker, today I am introducing a bill to abolish the "House Library," the library located on the lower level of the Cannon House Office Building. It has nine employees, yet withdrawals from the library last year—as of February 18, 1972—were only 1,170, which certainly is not a significant number. The services of the library are completely duplicated by services of the Library of Congress. Last year we were asked to appropriate $25,000 to climatize the area where books were stored because present conditions literally were causing books to self-destruct through spontaneous combustion. We spend $103,388 currently per year for salaries. I strongly believe these are expenditures we can do without.

This year the Legislative Subcommittee of the Appropriations Committee, of which I am a member, expressed the will to phase out this library by the end of fiscal year 1973. This would be done by imposing a limitation on appropriated funds. My bill will repeal those sections of the law authorizing the operation of the library, thus giving certainty to the phasing out. The saving will amount to thousands of dollars beyond the $103,388 saved in salaries in that no longer would documents, volumes, reports, books, and the like have to be furnished to, or cared for in, this seldom-used library.

ECONOMIC SQUEEZE ON THE FARMER

(Mr. GOODLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GOODLING. Mr. Speaker, it is easy to understand why many consumers in our society think that the American farmer is doing alright for himself, because food items at the store carry price tags that are anything but low.

The truth of the matter, however, is that where returns on food to the farmer are concerned, he is low man on the economic totem pole. Over the last 20 years, for instance, while consumer's food prices, over the counter, have jumped up 43 percent, prices down on the farm have inched up only 6 percent. At the same time, the farmers' share of the consumer's food dollar has dwindled from 49 cents to 38 cents.

It is what happens to food items after they leave the farmer's gate that causes them to carry a price tag which offers little comfort to the consumer. As these food items head for market, they take on a magnetic quality as far as costs are concerned, drawing them from every angle. There are costs for freight, for containers, for added services and conveniences, for labor, and for wide variety of other concepts related to the food items as they travel from the farmer's field to the consumer's table.

Unfortunate for the farmer, a good part of these costs are the "sticky variety," particularly those for processing and distribution. These costs stay put. On the other hand, costs of food are slippery, providing the consumer with up and down price benefits and the farmer with considerable uncertainty. Right now, for instance, cattle prices for the farmer are 4½ percent less than they were a month ago, and prices for hogs are 8 percent less than 4 weeks ago.

The farmer is caught in a severe economic squeeze, because as he gets a relatively low price for the commodities he sells, he pays a high price for the goods he buys.

The inflation impact hits him harder than it does almost anyone else in the society, and the too bad part about it all is that he does proportionately more than anyone else to counter inflation. This is so because the farmer constantly is increasing his production, and increased productivity is the best offset to inflation.

Proof of this increased productivity can be found in the fact that the productivity of farmers today is 3.3 times as great as it was 20 years ago, something like twice the rate of productivity growth in the manufacturing industries. Still, farmers are working for one-fourth less than the rest of the workers in the economy, making their disposable income only three-fourths of the average for nonfarm people. This is contrary to the doctrine of the free enterprise system, which is supposed to reward productivity. It works in reverse for the farmer, punishing him for his productive proficiency.

Nonfarmers have another advantage, for even though food prices are rising in the stores, they are paying less than they did 20 years ago for food. They will spend $15.60 per $100 for food this year, after taxes, while 20 years ago they spent $23 per $100. Today food takes about 15.5 percent of the budget as compared with 23 percent in 1952.

The consumer should gain a consciousness of his good fortune, remembering, at the same time, that even though food prices at the store might go up, this does not connote a gain for the farmers. Under the strange economics that attend the farmer's circumstances, it could very well be true that the farmer's share of the consumer's dollar is going down.

SCHOOL BUSING

(Mr. THOMPSON of New Jersey asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMPSON of New Jersey. Mr. Speaker, members of the Education and Labor Committee have had the benefit of hearing Secretary Richardson of the Department of Health, Education, and Welfare try to explain, as best he could, the legislative proposals on school busing which the President delivered to the Nation in his television address on March 16. I must confess that I was quite disappointed by the presentation made by the Secretary, and, particularly, with his response to my questions on the legal issues which the President's proposals raise. I think the source of my disappointment will be made abundantly clear when one examines the transcript of the White House administrative aides, including Secretary Richardson. The purpose of that press conference was to respond to questions raised by the press concerning the President's proposed Bus Moratorium Act and the companion equal educational opportunities amendment. Quite frankly, that press conference raised more questions than it answered. If there is any doubt whatsoever on this score, I am pleased to set forth herewith for the benefit of my colleagues and the public, the complete transcript of the White House press conference and my own commentary on that conference.

REMARKS BY CONGRESSMAN FRANK THOMPSON, JR., OF NEW JERSEY

BUSING: PRESIDENT NIXON'S PROPOSED STUDENT TRANSPORTATION MORATORIUM ACT

On March 16, 1972 President Nixon told the nation in a prime time television address that he was opposed to busing, and would send to Congress two bills: *The Student Transportation Moratorium Act,* which would prohibit the courts from ordering the busing of any children up to the sixth grade, and make busing the lowest priority of remedies for children in junior high-school and above; and the *Equal Educational Opportunities Act,* which the President said would guarantee all students the right to a decent education.

On March 17, a number of high ranking Administration officials held a White House press conference to answer questions on the two proposed bills.

Administrative officials at the Press Conference included *John D. Ehrlichman,* Assistant to the President; *George P. Shultz,* the Director of the Office of Management and Budget; *Elliot L. Richardson,* the Secretary of HEW; *Richard Kleindienst,* the Acting Attorney General; *Wilmot Hastings,* General Counsel of the HEW; and others. It was truly a high-ranking and policy making group of administrative spokesmen.

On March 18, Presidential Counsel Clark MacGregor sent me a copy of the transcript of the press conference with the assurance that "the answers provided by Messrs. Richardson, Kleindienst, Ehrlichman, and Shultz" would be of assistance to me as I prepare to consider these two new legislative proposals.

The transcript of the press conference is of assistance to me, but not in the way intended by Mr. MacGregor. It makes it clear that I must oppose the bills, and for several reasons.

1. The bus moratorium bill has no factual foundation, and is designed solely to appeal to popular prejudices.

If there is a case to be made against busing, it was not made by the President. To the contrary, the press conference discloses quite clearly that the President had no interest in the facts, but intended solely to cater to what he believed to be the popular passions of the moment.

Mr. Ehrlichman announced that "This legislation is a culmination of many months of study"; and a reporter asked, quite naturally, "how much busing is going on now for the purpose of desegregation?" The answer from the Administration was:

"We don't have any breakdown. . . . We have no data on miles, distance, or times, the breakdown, or what the relative amount of desegregation busing and non-desegregation busing amounts to."

There was some follow up on this question, and Secretary Richardson answered that "the great majority of all desegregation plans, whether court ordered or negotiated under HEW under Title VI, has not required increased busing."

The question came up again, and a reporter asked how many school districts would be affected by the proposed legislation. The answer of Mr. Ehrlichman was that:

"I do not think any of us are equipped to answer, because *there has been no analysis done that I know of* on the number of districts that would achieve the norms proposed here in terms of transportation." (emphasis added)

A reporter then asked why, "since we do not even know the extent of busing involved in the desegregation process," did the President ask for a moratorium. The answer of Mr. Ehrlichman is at best both cynical and opportunistic:

"I think you have to come from some other planet not to be able to answer that question . . . This is the front burner issue in most local communities . . . That is the evidence. It carries by such a preponderance that it cannot just be swept under the rug by some sort of statistical evasion."

In short, the President did not have any facts on which to buttress the need or desirability of his proposed legislation. He was not interested in the facts. Facts, in the words of his top aides are nothing but "statistical evasions." The issue is a "front burner", so the President wants a bill.

Mr. Ehrlichman terminated the press conference with these remarkable comments:

"You hear talk about moral leadership; I suggest to you this is moral leadership personified."

II. THE EQUAL EDUCATIONAL OPPORTUNITIES BILL IS A PROMISE BROKEN

The President proposed two bills. The first, the Student Transportation Moratorium Act, is designed to prevent the busing of students from the inner city schools to the better schools in the suburbs, and from the suburbs to the inferior inner city schools. The second bill, the Equal Educational Opportunities Act, is designed to improve the educational opportunities for those who henceforth must attend the inner city inferior schools. We were told by the President on television that this would be achieved by a large outlay of capital and operating funds.

Mr. Shultz said in opening the press conference, that the "effort here is to provide additional funds in schools where you find a high proportion of low-income students." That which followed grew "curioser and curioser."

First, Secretary Richardson said that the recent studies showed that "spending a small amount of money has comparatively little, if any, noticeable effect;" and Mr. Ehrlichman said that "a larger amount of money is going to make a difference."

Second, the Administration spokesmen said they were not going to ask for any new monies from Congress, that they intended to utilize the 2.5 billion that "has been planned, if not enacted" under two other bills; Title 1 of the Primary and Secondary School Act, and the Emergency School Assistance Program. Mr. Shultz was asked if the Administration had any plans for asking Congress for new and additional money, and answered no. He said "I think one has to take these things a step at a time."

Third, when asked how the Administration expected to do a better job with the same amount of money, Mr. Richardson said they would "target the money more sharply on the need of poor children, and particularly concentrations of poor children."

Fourth, since the same amount of money would be targeted differently, a reporter asked "Who loses? Where is it coming away from?" Mr. Hastings, General Counsel of HEW, gave a most peculiar answer which in effect adds up to "nobody." Here is what he said:

"Substantially the same districts, with some additions, will be eligible under the new program, as in the old. . . . In terms of the children, the change really is the way the money is used in the District itself . . . the concentration of resources under this combined program must go to the basic learning programs in the schoolhouse; you know, the reading, writing and arithmetic programs, plus supplementary special services such as nutrition and health care for the kids. It cannot be spent on overhead, general administrative costs and the like. . . . I do not think there is a substantial change in the districts affected or eligible. . . .

To summarize the press conference as I read it, the Administration admits that existing monies are spread too thin to make any difference; they are not asking for any additional money; they intend to put the same amount of money in the same school districts for use for the same children; and this program they glory with the title of an Equal Educational Opportunities Act.

III. THE PRESIDENT'S PROPOSALS DO NOTHING LESS THAN TURN THE CLOCK BACK TO THE SEPARATE BUT EQUAL DOCTRINE OF PLESSY V. FERGUSON

If, as all must admit, there now exists schools which are exclusively or predominately white, and schools which are exclusively or predominately black; and if the only way to achieve desegregation is to bus the children back and forth; and if the President prohibits busing; what is this but a proposal to turn the clock back to the separate but equal (unequal is a more appropriate description) doctrine repudiated in the 1954 Brown and subsequent Supreme Court decisions; including the most recent 1971 decision of *Swann* v. *Charlotte-Mechlinburg School District?*

This thought occurred to several reporters. One asked this question: "The Court has set a standard under Swann which it deems to be constitutional. Now, are you saying that what Congress should ordain is something less than what Swann declared? Would it be constitutional then?"

Mr. Morgan gave a peculiar answer. He replied that **"We are not in any way attacking the constitutional right"**, but, merely seeking "to define the limitations on the remedy."

This answer is not adequate. Every first year law student knows that a right without a remedy is no right at all.

A second reporter asked the question more directly. He referred to "the net effect of these two bills" and asked: "Why is this not a return to separate but equal, if the moratorium on busing stops future busing plans and the financing of inner city schools encourages and develops those schools." Mr. Kleindienst took this one on. He pointed out that a "whereas" type clause in one of the proposed bills "prohibits the maintenance or establishment or re-establishment of a dual school system."

This answer is not adequate either. Every **first year legislator knows that a whereas clause is a pretty empty thing when the substantive clauses go in an opposite direction.**

A third reporter asked a follow-up question:

"You have said that the thrust of this legislation is to **shift the focus away from transportation as a remedy to alternative remedies. How would you implement these alternative remedies without some form of transportation, since the facts of life are that blacks and whites don't live together."**

Dr. Shultz handled this one: *"There is no necessary reason why one must desegregate everything."*

The Administration not only wants to take away the only practical remedy in many situations to end the unconstitutional segregation practices in education, it also wants to roll back the clock and undo the integration of schools where it has been achieved: often at a bitter price.

Mr. Ehrlichman in his opening remarks pointed out that "once this legislation passes," the integration gains of the past can be nullified. He said: "on the motion of local education agencies existing court orders could be reopened if they go further than what is provided for in this legislation."

Mr. Kleindienst then added that if such motions are made, the Department of Justice would intervene in the court proceedings on the side of segregated education.

Mr. Hastings of the HEW pointed out that school districts which had desegregated voluntarily, without court order, could now come in and ask the HEW for a modification of plans. "The procedure", he said, "would simply be an application by the school district to HEW to reopen this Plan."

In short, the President proposes not simply a "moratorium" on future busing, he proposes the nullification of the gains made since 1954—with the Department of Justice lawyers leading the way backward to *Plessy.*

IV. THE PROPOSED BILLS THREATEN THE "SEPARATION POWERS" DOCTRINE AND THE INDEPENDENCE OF A FREE JUDICIAL SYSTEM

What we have here is the President asking **Congress to deprive the Judiciary of a remedial tool which the courts have found to be essential for the vindication of rights guaranteed by the Fourteenth Amendment.**

This raises legitimate questions, and, one **reporter asked this way:**

"I wonder if somebody would address himself to the overall question of constitutionality and particularly the constitutionality of the moratorium legislation."

Mr. Kleindienst answered. He said first,

"I think there can be no legitimate doubt whatsoever that, as a result of the power conferred upon the Congress in Section 5 of the 14th Amendment and also in Article III of the Constitution."

I would like to interject here that Section 5 of the 14th Amendment authorizes Congress *"to enforce"* the earlier substantive provisions of the 14th Amendment, and does not authorize the Congress "to deny" the equal protection rights guaranteed by the Amendment.

In regard to Article III, I assume Mr. Kleindienst has reference to section I thereof, which provides that "The Judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." Perhaps Mr. Kleindienst is suggesting that the power in Congress "to ordain and establish" courts inferior to the Supreme Court carries with it the implication that Congress can deprive courts, already established, of the power to remedy the denial of rights guaranteed elsewhere in the Constitution. He did not explicate, so I do not understand the implications of his oblique reference to Article III.

In any event, Mr. Kleindienst said at the press conference that "many constitutional lawyers have been consulted with respect to this." This comment drew the following question:

"Is there a precedent in case law for this kind of action?" Here is the full and complete answer:

"Mr. Kleindienst: The Congress has dealt with the question of remedy in the courts going clear back to 1793 in one way or another. So, to that extent, there is a precedent, and that I think, is what permits constitutional lawyers to say that Congress has that power.

"There is no precedent in exactly this kind of situation, but the Congress, for instance, in the National Labor Relations Act determined a national policy that was to apply between employees and employers in representation. That, again, is a question of remedy. The Supreme Court has said what the remedy would be under certain circumstances. So, constitutionally, I think there is ample precedent." (emphasis added)

Frankly, I do not understand what Mr. Kleindienst is saying. But I do know that the Administration is the proponent of these bills; and I need more convincing before I will gang up with the President against the courts—and thereby erode the separation of powers doctrine, the checks and balances which have preserved the inter-dependence of the Executive, the Legislative, the Judiciary branches of our government since the Philadelphia constitutional convention whose 200th anniversary we are about to celebrate and enjoy.

THE WHITE HOUSE PRESS CONFERENCE OF MARCH 17, 1972

John D. Ehrlichman, Assistant to the President for Domestic Affairs, George P. Schultz, Director, Office of Management and Budget, Elliot L. Richardson, Secretary of Health, Education, and Welfare, Richard G. Kleindienst, Acting Attorney General.

The panel: Wilmot Hastings, General Counsel, HEW, Daniel J. McAuliffe, Deputy Assistant Attorney General, Justice, Paul O'Neill, Assistant Director, Office of Management and Budget, Kenneth W. Dam, Assistant Director, Office of Management and Budget, Edward L. Morgan, Assistant Director, Domestic Council.

Mr. ZIEGLER. The Leadership meeting this morning lasted close to two hours. I will allow John Ehrlichman to give you a rundown on that.

The way we will proceed here today is that what Mr. Ehrlichman and the members of the Cabinet say, and the panel, is for direct quotation. You can either quote the individual directly or, if you prefer, in the technical responses you can simply say "Administration officials said," and quote directly. You are free to use the name, or "Administration officials."

In order to proceed with what, as I think you have noted, is a highly technical matter, if you would address your questions to John Ehrlichman, then John will call on the expert on the panel to respond to your question.

With that, I will let you hear from John Ehrlichman.

Mr. EHRLICHMAN. Good morning. I am sorry Ron set those ground rules. We have been noticing all the fun that the fellows at the NSC have been having with these kinds of briefings, and had figured out a way of assuring anonymity of the briefers.

We thought that we would take your question and I would designate somebody on the panel to answer, and then we would take a written ballot up here and the ground rule would be that you could report that "Five out of eight Administration Officials believe,"—(Laughter)—but he has blown that now.

I might just tell you that we have come from a very productive meeting which the President had with the bipartisan leadership which ran a little overtime. I apologize for keeping you waiting.

The discussion got into the parliamentary situation which involves a conference on the higher education bill. As you know, there are some busing amendments pending in that conference under instruction to conferees on the House side. There were several of the conferees there, so there was quite a bit of colloquy in the meeting about how the President's proposal, and particularly the moratorium proposal, but also the basic statute, would affect that conference, and what relation the conference might have to the possible early action on the moratorium proposal.

Certainly there were no commitments asked or given, but it was an interesting and I think worthwhile session on that aspect of the problem.

I believe the best way for us to proceed would be for you to hear briefly from George Shultz, the Chairman of the Cabinet Committee which you see here, to give you a brief overview. I know you have had access now to the Message and the Fact Sheet. I think it would be useful for you to hear briefly from George, and then we will move right to your questions.

Dr. SHULTZ: Let me make two background-type comments before discussing the content of the proposal.

The first is that in undertaking to help the President develop these proposals, the Cabinet Committee has talked with a very wide variety of people, with many differing points of view, on this subject. Of course, we have been working on the subject for years in one sense, and in another sense we have been charged in the last couple of months with an intensive effort, particularly on this.

We have talked to Senators and Congressmen with varying persuasions as to their views about this range of subjects. We have talked with a large number of civil rights leaders, constitutional lawyers, with people who are knowledgeable in the education field about some of the programmatic aspects of this. We have talked with the co-chairman of the Southern committees we have put together and have had in operation for approximately two years.

So there has been an effiort for wide consultation so that we would hear a variety of views and have as many ideas in the pot, so to speak, as we possibly could.

The second thing that I would call your attention to before discussing the substance of the legislation is the findings that you see in the Equal Educational Opportunities Act. Here, I think, you see the effort to shift the discussion and shift the emphasis away from transportation and onto education.

But first, this Act sets forth directly the opposition to the dual school system. That is a finding that the dual school system is wrong and should end.

Second, as we think of the dual school system in its sort of formal historical sense, I think it is a fair statement that it has been virtually abolished. A tremendous amount has happened, and particularly in the last two years or so. So there has been a tremendous amount done and accomplished and behind us, so to speak.

Third, this has been attended by a great deal of reorganization and considerable additional busing, and there is in prospect a considerable amount more, although who would know how much more, depending upon what happens to some of the lower court orders that have been emerging.

Then I think it is important to see the costs involved here. There are large dollar costs involved in busing. The dollars could otherwise be used for educational purposes, and there are problems in health and safety, and these are especially important for those in the sixth grade or less.

I know you are familiar with it, but it is perhaps instructive to read from the Supreme Court's Swann decision:

"An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process. It hardly needs stating that the limits on time and travel will vary with many factors, but probably with none more than the age of the students."

Now, finally, in the set of findings that are proposed, again a quotation from the court decision as picked up, the finding is that through the process of case law that has treated this subject, what we have is a situation where we are both incomplete and imperfect. So in this legislation there is an effort to set forward national standards to codify, to add, to strengthen and to set forward a situation that can apply across the country as a statutory matter the same way in every part of the country. So I think that bit of background on the findings is extremely important.

There are two measures proposed, as you know. The first is the moratorium on the implementation of new busing orders. This is a flat moratorium. In a sense, it is analogous to the idea of the wage-price freeze; that you have just stopped the situation as it now is. You do that while the Congress considers a substantive move to replace the present incomplete and imperfect situation with one that codifies and puts forward in statute a new set of policies. So the moratorium is a flat moratorium designed to give the Congress time to act on this subject more generally.

Turning to the substantive legislation, the Equal Educational Opportunities Act, we have in a sense three main parts. The first part is programmatic and is directed to the problem of equal educational opportunity. It is not a racial matter, but a matter that cuts across race, and the effort here is to provide additional funds in schools where you find a high proportion of low-income students.

There has been a good deal of research on this subject, the Coleman report and some subsequent reports, and the suggestion is that if you add a little bit of money, you don't necessarily achieve very much. On the other hand, there is a body of research that shows that if you can add a critical mass, if you can add a large sum of money, you can accomplish quite a lot.

So the effort here is, through a combination of more directed funds from Title I of the Elementary and Secondary Education Act, and the use of the Emergency School Aid Act funds that are now in conference, to provide that critical mass in a compensatory package.

So in a programmatic sense, there is an effort here to improve the quality of education, particularly in schools where you find a preponderance of low-income students. At the same time, there is an incentive for voluntary desegregation in that a student who is in the majority in his or her school can transfer to a school where he or she is in the minority, and the compensatory money, if this is a low-income student, goes with the student, making, in a sense, this choice an effective choice. So there is a programmatic part here that is an effort to move strongly toward more equal educational opportunity.

Second, there is an affirmative statement of rights. This, again, let me remind you, is a national proposition. It goes across the board in all schools, an affirmative statement of rights and specified terms that the statute prohibits a denial of specific things insofar as equal educational opportunity is concerned: deliberate segregation; discrimination as to faculty and staff; failure to eliminate the vestiges of the dual school system; transfers that increase segregation; failure to take action that overcomes language barriers, and here we had in mind particularly the Spanish-speaking. So there is an affirmative statement of rights. It is national compliance, across the board.

Then the third main section has to do with remedies. Where the court finds there is a violation of the 14th Amendment and looks at remedies, the court is faced in this statute with a codification of things that have been used, some additions, some additional money put behind these remedies, and the remedies are rank order, all remedies which have precedence over busing.

The court is instructed to take the first, or the first combination of these remedies, that will handle the problem. The court is then in a position, if it finds that there is no complete and suitable remedy in this list, then the question of additional transportation comes up.

Here, following the Swann language, a distinction is made as to age. Insofar as children in the sixth grade or below are concerned, no additional busing beyond what that district is presently, currently, doing is available to the court as a remedy.

For students above the sixth grade, busing is a last resort type of remedy, to be used as a temporary measure; that is, it is desirable and required to have some kind of a plan that will reconstruct the situation over a period of time, some way the construction of a new school, or something of that kind, that will permit the amount of busing to be reduced, and perhaps reduced to a level that was in effect prior to the court order. So there is a temporary quality to the busing in that case.

Now, insofar as the desegregation orders are concerned, the statute also envisages that if a district is found in violation of the 14th Amendment and an order is put into effect, and the order presumably is going to cure the problem, it is possible for the district to pass through the period of court-ordered operation and, so to speak, cleanse itself. So if you have an extensive busing order, a time limit of five years' duration is placed on that business order itself, and ten years on the desegregation order more generally.

At the end of that period, if there is no subsequent violation, the district is cleansed and it operates on its own motion. The court order ceases to have effect.

Further, finally, in the interest again of treating this problem on a national basis, of treating school systems all over the country the same way, once this legislation passes, then we would foresee the possibility provided for in the legislation that on the motion of local education agencies, existing court orders could be reopened if they go further than what is provided for in this legislation, and a court order consistent with this legislation could be entered.

That, I think, is an overall summary. There are many other aspects that will be foreseen.

Let me ask first if Secretary Richardson or Mr. Kleindienst have anything they want to add.

Secretary Richardson. No, thank you, George. I think we can proceed directly to the questions.

Mr. Ehrlichman. Let me just introduce the group at the other table. That is a majority of the working group which has been working with the Cabinet Committee on this problem.

From your right to your left, Will Hastings of the Department of Health, Education, and Welfare; Ed Morgan of the White House staff, Assistant Director of the Domestic Council staff; Dan McAuliffe from the Department of Justice; Ken Dam, an Assistant Director of the Office of Management and Budget; and Paul O'Neill, an Assistant Director of the Office of Management and Budget.

I will start with Mr. Cormier for the first question. If you do not have anything, we will go to someone else.

Mr. Cormier. Feel free.

Q. How about the parliamentary situation in the House?

Mr. Erlichman. Nothing was determined this morning with regard to that parliamentary situation. The members, particularly those who attended who were conferees, agreed that they would immediately get together and begin to talk about the conference situation in light of the President's proposals.

The feeling was that that would not necessarily forestall consideration of the legislation by the principal bodies during the time that the conferees were seeing whether or not the moratorium on busing and the more basic legislation could be introduced in some germane fashion to the deliberation of the conference, so it is still an open proposition.

Q. Where and when does the Justice Department plan to intervene, particularly inviting your attention to Detroit, San Francisco, San Antonio and Richmond?

Mr. Kleindienst. Every open case that exists with respect to this subject matter will be reviewed immediately by the Department of Justice on a case-by-case basis, to make a determination in two parts: (1) whether to intervene now before the passage of the moratorium legislation in an effort to induce the court to stay any other action until the Congress passes the moratorium legislation; and then after the Congress has passed the moratorium legislation, to again intervene if any Federal District Judge should make a determination that the moratorium legislation is inapplicable or unconstitutional, and to appear before that court and take it on appeal, if necessary, to stay any order of a Federal District Judge after the passage of moratorium legislation.

With respect to just exactly what case or cases we will intervene in, that has not been finally determined, because the basic decision really will be whether or not a particular Federal District Judge is having an order implemented regarding transportation right now, or is about to.

I would feel, however, that as of right now, it is almost certain that we would intervene in the Richmond case and the Denver case.

Q. What about the cases on appeal?

Mr. KLEINDIENST. The intervention would be at all levels of the court.

Mr. EHRLICHMAN. Could I make a general comment that might forestall some questions? Every bureau will get an inquiry, "How does the President's legislation affect such-and-such a place," and every Congressman will get those kinds of inquiries.

The legislation was not drafted with any particular locality or pending case in mind. The effort here was to get a legislative approach that would be non-regional and non-local in effect, but would apply nationally. As a result, there has not been any staff analysis of the effect of the legislation on any particular case or region of the country, or pending piece of litigation, so we are just not in a position to answer those kinds of questions at this time.

I have no doubt that as we proceed, there will be announcements from time to time from the various departments about specific, pending cases. But questions of that type today would be premature.

Q. Mr. Richardson, isn't this going to dilute the funds available for Title I? Has there been a change of focus? Title I has been criticized for spreading money too thin. You are going to give a little more money for a lot more district. Isn't that going to dilute it further?

Secretary RICHARDSON. No. The thrust is in an opposite direction. We have already, through our comparability regulations, sought to target the money more sharply on the need of poor children, and particularly concentrations of poor children.

These regulations, as most of you know, say, in effect, that the money spent under Title I must be over and above the money otherwise spent for all children in the district. The McElroy Commission further recommended that there be a concentration within schools in a district, and we would seek to encourage this.

Without going into an elaborate detail on this, we figure that we can, through the combination of Title I funds, without diverting them from anyplace where they are being used now, and the combination of Emergency School Assistance funds, achieve the critical mass that Mr. Shultz referred to of approximately $300 per child, plus an additional amount of up to $100 in the schools which have the highest concentrations of disadvantaged children.

Q. It seems that you have not just a moratorium, but a rollback. This section which says that court cases and Title VI plans may be reopened seems to be inviting a host of new litigation. I would like to get Secretary Richardson's comment.

Mr. EHRLICHMAN. Let me touch on that first, if I may, and then I will pass it to him.

It is a question of rollback from what? This is the first time that there will have been legislation establishing a national public policy or a national standard. You had different levels and highly fragmented patterns up until now. That section has been designed to attempt to effect a national norm or a national standard.

Obviously, if there are some court decrees that have been more extreme than that, then equity would require that those districts be entitled to make a showing and to be brought to whatever the norm is which the Congress determines to be public policy in the country.

Now I will pass it to Secretary Richardson.

Secretary RICHARDSON. I will make two supplementary points: One, the provision for reopening proceedings is not in the moratorium statute which, as you have heard, establishes a freeze applicable to new busing orders, but does not provide for the reopening of any order that is already in effect.

The section you are referring to is in the substantive legislation which has been designed to establish uniform standards. There would be no reopening proceedings in any case except to the extent that a busing order exceeded the limits established here, so that the great bulk of all desegregation plans that are now in effect would not be touched.

It would be only those where the standards applied exceeded the uniform standards established in the legislation, and then, of course, only on motion of the district itself.

Q. The President said last night that the proposals he was making in the big piece of legislation would encourage desegregation, and yet, other than transfers, voluntary transfers from one school to the other, I don't see anything that encourages that.

Secretary RICHARDSON. There would be a priority in the allocation of funds, and the combination, particularly under the Emergency School Assistance Act, for school systems that are desegregated.

To that extent, we would be carrying out the basic legislation that was proposed by the President in 1970.

Mr. EHRLICHMAN. More than that, there is a grant of rights which, for the first time, would apply not just to de jure situations, but also to de facto situations. This would be the first piece of legislation moving into that area.

Q. How much busing is going on now for the purposes of desegregation, and how do you define massive busing?

Mr. HASTINGS. As to the first question, we don't have any breakdown. Even in court ordered districts, the court has to deal with the transportation pattern of the district as a whole. Some of the busing in court-ordered districts just gets kids to the same school that they would have gone to otherwise. Some of it is for the purpose of desegregation. We have no data on miles, distance, or times, the breakdown, or what the relative amount of desegregation busing and non-desegregation busing amounts to.

On the second question, "massive" is not defined term. We have not used it. It is a descriptive term to describe that range of cases which seems to us to have exceeded the requirements that the Supreme Court laid down in *Swann*. But it is not intended to be a term of art.

Q. I wonder if somebody would address himself to the overall question of constitutionality and particularly the constitutionality of the moratorium legislation.

Mr. KLEINDIENST. What you have here with respect to the moratorium legislation would be the act of the Congress and with respect to the courts dealing with the question of remedies.

I think that there can be no legitimate doubt whatsoever that, as a result of the power conferred upon the Congress in Section 5 of the 14th amendment and also in Article III of the Constitution, in a comprehensive package like this, where the aim of the Congress would be to come up with comprehensive national policy legislation, it has the power to, in effect, declare a moratorium on Federal courts with respect to the use of remedies for a period of time to permit to engage in the enactment of such legislation.

Many constitutional lawyers have been consulted with respect to this. The opinion of all that I know, when they combine the Student Transportation Moratorium Act and the substantive legislation, is certainly that it has the power.

Some even would suggest that the Congress would have the power to bring about the moratorium in terms of a denial of the remedy, even if it wasn't apparent or a matter of stated policy that they were engaged in the study of substantive legislation.

One thing that you want to notice is that the two acts tie themselves together by mutual reference.

Q. Is there a precedent in case law for this kind of action?

Mr. KLEINDIENST. The Congress has dealt with the question of remedy in the courts going clear back to 1793 in one way or another. So, to that extent, there is a pecedent, and that, I think, is what permits constitutional lawyers to say that Congress has that power.

There is no precedent in exactly this kind of situation, but the Congress, for instance, in the National Labor Relations Act, determined a national policy that was to apply between employees and employers in representation. That, again, is a question of remedy. The Supreme Court has said what the remedy would be under certain circumstances. So, constitutionally, I think there is ample precedent.

Mr. EHRLICHMAN. It might be of interest to you to know the process that was followed in determining questions of this kind. This legislation is a culmination of many months of study, a part of which was, of course, an analysis by the Department of Justice and its people of the legal questions involved.

The Cabinet Committee also had the services and the talents of eminent constitutional authorities and practicing counsel from the outside and delved deeply into the questions of the legality and the constitutionality of various alternatives, not just those that are being presented in the legislation, but quite a wide range of possible approaches to the various problems that are addressed by the President's message.

So Mr. Kleindienst and others are drawing upon a body of legal opinion that is broader than might have been referred to in the ordinary situation.

Q. The President believes that a constitutional amendment would take too long. At the same time, he says it deserves careful consideration by Congress. Can you tell us anything more about whether the President considers in the long run a constitutional amendment to be a proper remedy here?

Mr. EHRLICHMAN. I might just tell you what he told the leaders this morning, in substance. In this instance it is not even a paraphrase, but I will try to give you the substance of it. He readdressed the subject very much as he did in his brief remarks on television last night and said he should not be understood to be discouraging the congressional inquiry that is presently underway on the subject of a constitutional amendment.

He was asked a question which got to the matter of what would be his position in the event that the legislation were held unconstitutional. The President said, under those circumstances, it appeared to him that a constitutional amendment would be the only alternative.

I believe that probably answers the thrust of your question. There was some other colloquy about congressional feasibility. But the passage of the constitutional amendment, and so on, would not be outside of the parameters of the questions laid down here.

Q. Isn't this a change in the Administration's position? It seemed like the President, for the last several years, has been saying we don't know what works; we will hold up and do research to find out what really is equal edudcational opportunity.

Number one, that seems to be changed; is it? Number two, what is the critical mass they are talking about? It seems like the new Coleman and the President's Commission on School Finance said that money doesn't really make a difference. What research do you have that contradicts that?

Mr. Ehrlichman. The critical mass always used to be the White House press corps. (Laughter.)

I will call now on Secretary Richardson.

Secretary Richardson. I would say that what you see reflected here is a shift of emphasis, but not a radical shift. We have given a good deal of thought to the effectiveness of Title I. We have conducted a number of audits. There have been studies of impact of Title I. The weight of the evidence is in favor, we think, of the proposition that spending a small amount of money has comparatively little, if any, noticeable effect. But, if you spend, as has been referred to here, a critical mass to reach a given threshhold, it can and does.

This is on of the reasons why, as a result of these evaluations, we propose and are now enforcing the comparability requirements. Probably the most significant test on this score and one on which we are relying considerably, is one of the sample of 10,000 disadvantaged pupils in California which is referred to on Page 13 of the President's message along with references also to similar studies in Connecticut and Florida. We can give you more detail on that. I have a summary of these and other studies.

The legislation we already had, though, that speaks for Title I. The Emergency School Aid legislation was proposed by the President in 1970 and the very large proportion of the funds that were requested under that legislation were always conceived to be funds needed to assist children in catching up when they were transferred from a school subject to economic or other isolation or another school as part of the desegragation process. So, what we are doing here is to say we will use the funds for that purpose where a system is desegregated, but we will also seek to provide that kind of concentrated impact, even where children are remaining in a school where there is a large number of disadvantaged children.

Mr. Ehrlichman. Do you want to follow up on that?

Q. But this critical mass is saying a larger amount of money is going to make a difference. But this is the same amount of money we have had for the past few years. It is not new money, so how will it make the difference?

Secretary Richardson. The answer to that it is the exceptional school system that has concentrated its Title I money enough to achieve this impact. We have been trying to bring about greater concentrations through the comparability legislation, but our audits show that the money has been dispersed too widely. So, in effect what we are trying to do is to accomplish more of what has been done in a comparatively few systems.

Dr. Shultz. I would like to comment on that question. In addition to what Secretary Richardson has just said, the Emergency School Aid money has been proposed for two years, but it has not been available. It has not been there to be used. So, assuming that we get this, that will be new money that we have not really had before. We had a small amount, I think $75 million per year, that was available under special arrangement. But this would be new money, if we get it.

Secondly, it is proposed here that the concept be shifted from the emergency concept where we were talking about $1.5 billion; $500 million the first year and $1 billion the second year, and then it would end, to one in which this is funded at the level of $1 billion per year out into the future. So that is also new money involved.

Mr. Ehrlichman. I think that is a very important point. The $1.5 billion was a one-shot deal. This is a proposal for the $1 billion level to be carried on annually in support of this program as long as the problem persists.

Q. Can we assume that your Justice Department interventions will be limited to cases that involve metro area cross-jurisdiction type of busing or desegregation and/or cases that involve de facto segregation?

Mr. Kleindienst. Well, I don't think you could make any assumption with respect to our intervention except for the fact that the decision will be made to go into any particular kind of situation that was open before the moratorium bill is passed to request the judge to hold everything until the Congress at least does that and then after the moratorium bill is passed, regardless of the kind of situation, if it is opened, to ask the court not to invoke any remedy until the Congress has had a chance to pass on this legislation.

Q How are you going to prevent school districts from strengthening their opposition or resistance to existing court orders on the hopes that the Justice Department would come in on their side?

Mr. Kleindienst. The moratorium bill applies only to new or additional court orders. It has nothing to do with court orders that are now in operation and in existence. The Department of Justice, I believe, would have a concern about an attempt by any school district to openly violate a valid, existing, current court order. That would be just an enforcement function of the Department of Justice.

But our aim with respect to intervention would be to use intervention by the Department of Justice as a means by which this step forward would be accomplished so that the Congress of the United States can declare a national policy with respect to education and get away from a situation where some 400 Federal district judges in effect have been legislating without any uniformity and without having a set of groundrules that are applicable around the country.

Mr. Ehrlichman. Secretary Richardson has an unavoidable commitment on the Hill. We will take one more question addressed to him, and then we will have Mr. Hastings move over here and be his alter ego.

Q. I would like to refer to the remark that the great bulk of the district court ordered busing would not be touched on in this situation. It seems to me it is a ban on all busing below the 6th grade. If that became the law, why would it not affect other districts?

Mr. Ehrlichman. Let me see if I can repeat the question. It is: How can you say that all busing would not be affected?

Q. He said the great bulk of the districts would not be touched.

Mr. Ehrlichman. The great bulk of the districts would not be touched when the permissible busing level in the legislation begins in the 7th grade and goes up.

Secretary Richardson. The answer to that is that the great majority of all desegregation plans, whether court ordered or negotiated under HEW under Title VI, has not required increased busing. The limitation in this legislation for grades one through six says, in effect, that you cannot increase the average amount of busing overall within the system. Many school systems have more busing because they bus white children past the black school or black children past the white school before their desegregation plans than they did now.

Further, it was not the policy of HEW or the Justice Department in the enforcement of desegregation before Swann and Mobile to require noncontiguous zoning and pairing, which in turn leads to transportation, because the courts had not gone that far.

We enforced the law as it stood; that is, what the courts said the Constitution required.

So the substantial extent of the problem we deal with here is a problem that is post-Swann in the district courts, particularly, may have gone beyond Swann in the requirement of busing.

So this is basically why there are a relative few—I don't know how many, but not many—pre-Swann cases that would be affected.

Mr. Ehrlichman. I think there may be some confusion about this reopening provision. I wonder if I could address that, perhaps, ancillary to this question.

You get cases in which the court order involves a remedy in excess of what the Congress ultimately adopts as the permissible remedies in the statute. Those districts are entitled, where they are under a court order or under a Title VI HEW plan, to come in and petition to reopen those cases to have their remedies reduced to the level of whatever the Congress decides is the public policy in the area.

Q. I am sorry I did not get this question in before Secretary Richardson left. I would like to know why, since we speak of the quality of education, the Commissioner of Education is not here today.

I have another question, That is just one.

The other one is this: At page 6, Section 402, if I read it correctly—and I am probably reading it wrong—it looks as if you are going to go back and have just what you are starting out not to have: You are going to have every court, department or agency in the United States telling you specifically how to run your neighborhood schools.

Mr. Ehrlichman. Mr. Hastings.

Mr. Hastings. As to the absence of the Commissioner of Education, I can only say the Secretary is under the impression that he is the Chief Executive Officer of the Department. That is an impression that may not be shared universally in town, but he has made efforts to believe he can represent the Department adequately, not meaning to denigrate the Commissioner.

Q. It is not that. The point is that he has to represent Social Security and NIH and a few other things. We are talking about quality of education here, and some of these questions you did not answer.

Mr. Hastings. The question is on page 6 of which piece of paper?

Mr. Ehrlichman. It is the basic bill, Section 402. This is the hierarchy of remedies.

Mr. Hastings. The sole purpose of Section 402 is a direction to the courts and the Federal agencies, both Justice and HEW, in formulating a remedy for whatever wrong may be covered by the bill, they are to do only that amount of remedial requirement which is necessary to remedy the specific wrong.

For example, if there is a deficiency in the language programs so the Mexican-American children are not able to adequately participate, it is obvious that a busing remedy for that is a remedy which is excessive to the need. That is its only purpose. It is simply a mandate to limit the remedy to the wrong.

Mr. Ehrlichman. The way Section 402 works, the district judge starts with number one. If that applies, then that is the one he applies. If that will not work to solve the situation, then he goes to number two, or a combination of one and two. Only if those two will not solve the problem, then he will go to number three, and so on down the list of priorities.

As you see, busing is in the next section and says only after he has exhausted the alternatives may he move to transportation, and then only on a temporary basis.

Q. What, under your bill, will constitute desegregation? When will it be accomplished? When will you have eliminated the vestiges of a dual system. I notice you do not say "last vestiges."

Mr. EHRLICHMAN. Would anyone like to take that?

Mr. MORGAN. I don't think we interpret "last vestiges" to mean anything but a semantic difference. The remedy for a violation of a desegregation order lasts for a particular period of time, five or ten years. If subsequent to that there is another violation, obviously another action can be brought.

Q. What am I getting around to is racial balance. "Last vestiges," as some lawyers contend means you must have acquired racial balance. At what point have you eliminated the vestiges of a dual system?

Mr. MORGAN. This bill specifically provides you do not have to achieve racial balance.

Q. I know that, but where above that have you achieved it over the nation?

Mr. MORGAN. Once the court found under the Act the remedy fashioned particularly meets the violation, you have accomplished it.

Q. On the reopening question, just for illustrative purposes, could we discuss Charlotte-Mecklenburg? That order went into effect at the beginning of the '70–'71 school year, if there is a reopening there, what would be the level of busing that would be the standard upon which the court would have to fashion a new decree?

Mr. EHRLICHMAN. We don't know that yet, because the Congress has not yet acted. If the Congress adopts the remedies set forth in the President's proposal, then this standard would apply and the judge would be bound by the provisions of this statute.

Q. Do I understand that the standard in the statute would, in the Charlotte-Mecklenburg case, by the amount of busing done in '69–'70; in other words, the preceding year?

Mr. EHRLICHMAN. The statute will speak for itself. I should not be expected to comment on Charlotte-Mecklenburg or Overshoe, Ohio. The provisions with regard to transportation would say to the judge, "If this were adopted, kindergarten through sixth grade, you don't go beyond the quantum in the previous year," and so on, on through. That is the general intent of the statute.

Q. In the event that a district seeks to reopen the Title VI desegregation plan, can you tell me what the procedure would be for it to reopen this plan and whether the plan would remain in effect while the department was considering whether or not they were entitled to have it reopened?

Mr. HASTINGS. The procedure would simply be an application by the school district to HEW to reopen this plan. During the negotiating process, the plan would stay in effect until modified.

Mr. EHRLICHMAN. I have another problem. I have another escapist here. Let me direct your attention to Mr. Kleindienst and take two more questions for him.

Q. Mr. Kleindienst said earlier that it was almost certain that the Justice Department would intervene in the Richmond and Denver cases. Would that happen before Congress acted, probably?

Mr. KLEINDIENST. Yes. Those would be two cases, in all probability, that we would intervene immediately, prior to the adoption of the moratorium bill, and there might be others.

Q. Mr. Kleindienst, the net effect of these two bills—this is a broad-type question. Why is this not a return to separate but equal, if the moratorium on busing stops future plans and the financing of inner city schools encourages and develops those schools?

Mr. KLEINDIENST. There are two answers to that question. One, as Mr. Shultz pointed out, in the substantive legislaion it prohibits the maintenance or establishment or re-establishment of a dual school system as a matter of national policy.

Q. Not re-establishment, but perpetuating the ones that exist.

Mr. KLEINDIENST. There is a prohibition, as a matter of natural policy, of a dual school system based upon race, color or national origin.

Secondly, the answer to the question is that what you are going to do here is to have a national policy which, as it affects the schools, you are going to eliminate transportation to achieve a racial balance or a particular ratio, and you are going to put the emphasis, as a matter of national policy, South, North, East and West, on quality of education.

So instead of going back to anything it really provides a means by which this country can go forward with respect to a very essential aspect of our national society.

Mr. EHRLICHMAN. Could I add something? I think the question is a very good one, because it points up the whole thrust of this legislation.

The question argues that the only way that you will avoid segregation is by transportation. The whole thrust of this legislation is toward other devices to do the same thing, other and better devices. It allows for transportation under certain circumstances, but only if it is temporary and only if the district undertakes, during that time, to move to other devices.

So it is a little bit like having a good eye, and you favor the bad eye by using the good eye a lot, so you have a crutch. We have gotten into that kind of a crutch syndrome on busing here, so we have not listed those other tools in that section.

Q. What are these other court decisions that have exceeded the mandates of the Supreme Court, the lower court decisions?

Mr. EHRLICHMAN. One that would certainly come to mind would be Richmond. I will pass that to the right-hand table here.

Mr. MORGAN. I assume you mean cases that have resulted in racial balance.

Q. Yes.

Mr. MORGAN. Cases which come to mind immediately would be Muscogee County, Columbus, Georgia; Winston-Salem, North Carolina, in which, immediately after that case, the Chief Justice released the memorandum applying to the Swann case. Others I can think of would be Augusta, Savannah, San Francisco, Tampa, Florida, and there are a couple more.

Q. I would like to ask if at any point there was any consideration of a more radical approach, of a rollback on busing completely, and how will this appease the anti-busing advocates who made this a big problem?

Mr. EHRLICHMAN. I would not open up the various options that were considered and set aside. I think that is destructive of the decisional system that we follow. I cannot answer the question as to what the attitude would be on the part of people who might take a more extreme view one way or the other.

I take it that at both ends of the spectrum, they are not going to agree with us. The basis on which this pattern was selected was that it did offer an opportunity for immediate action, it offered a very high possibility of success in the two goals of eliminating this heavy reliance on transportation, and effecting an improvement in the education system and the results for the children.

So that is how it was arrived at, rather than along the lines of any particular alignment.

Q. This is a constitutional question. Do I understand correctly—maybe Mr. Morgan can answer this—do I understand correctly that this bill is a codification of Swann? You are not rolling back anything that the court declared in Swann?

Mr. MORGAN. The substantive legislation sets forth many of those remedies using various cases, but puts them in a ranking and then deals with busing by setting certain limitations which the Congress can do under section 5 of the 14th Amendment as far as remedies are concerned. It is not denying any constitutional rights.

Q. The court has set a standard under Swann which it deems to be constitutional. Now, are you saying that what Congress should ordain is something less than what Swann declared? Would it be constitutional then?

Mr. MORGAN. We are saying that Congress has the power, under the substantive legislation, to define the limitations on the remedy. We are not in any way attacking the constitutional right.

Q. I wonder if you would go over a little more thoroughly the earlier comment you made that a district is cleansed after a certain period of operating a desegregated school system. What does that mean?

Mr. EHRLICHMAN. What do we mean when we say a district is cleansed after the running of a five- or ten-year period? Ed, do you want to take that?

Mr. MORGAN. The intent of that is to say that the courts are not required to run the school system in perpetuity. After they have had that five- or ten-year period, factors may have changed and they could use some of these other remedies, where there could be construction, and they could be deemed to comply, and they should go on out of that court order. There should be a time that it ends, as the Swann case clearly points out.

Q. Does that mean that a district which a few years ago desegregated under court order that comes out of that a year hence, that they could then go back to a neighborhood school system?

Mr. EHRLICHMAN: It is hard to argue a hypothetical case with one dimension. Let me try to put the answer differently. When you get into one of these cases, very often the court retains jurisdiction, but he has entered an order and there is an ongoing plan in execution.

We have seen locally here how simply on application of one of the parties the case is reopened and there is additional judicial intervention in the operation of the school district.

Now, under our judicial system, technically that could go on indefinitely. The purpose here is to bring about a cessation of that judge's jurisdiction in that case at some terminal date. That is not to say that—and the statute clearly provides—if there are, in fact, substantial violations of the Constitution or statutes, then an action can be again sustained for the correction of those violations.

But it is simply to avoid the more or less inadvertent perpetuity that takes places in these cases, because the existing law is all case law; it is not statutory. So any time you draw a statute on the subject, you try to define the terminal limit. That is what that does.

Q. If this legislation is approved, does it eradicate the distinction between de facto and de jure segregation so that segregation in the North is now as liable to solution as segregation in the South was?

Mr. EHRLICHMAN. The question is, does this statute, if adopted, forever more eliminate the distinction between de facto and de jure, North and South?

Mr. DAM. The statute does not attempt to deal with that distinction. The statute does contain certain prohibitions which are defined, and in particular with respect to language barriers, it might be said to deal with something that has been formerly referred to as being in the de facto area. However, whatever the theory of the court might be with respect to a violation, the remedy section applies. You go through the heirarchy of remedies, and so forth.

Q. What do you mean by that answer?

Here it says under equal educational opportunities that students should not be deliberately desegregated either among or in public schools. "Deliberately" in the South means by State law, and that is not true in the North. If this legislation is passed, does "deliberately" mean "deliberately" by housing patterns or by law? Is the North now liable to solutions the same way the South has been?

Mr. Morgan. The answer to that is yes.

Q. Mr. Hastings, a follow-on to this question. In point of fact, this legislation, aside from upgrading the intent of it being to upgrade schools and pour more money into poverty area schools when it is needed, in point of fact this legislation does not touch de facto segregation in big Northern cities, where there isn't any busing anyway, so you don't have any desegregation in big Northern cities where the poverty area is so great there isn't any busing.

This does not touch those areas as far as desegregation in concerned; isn't that right?

Mr. Hastings. This programmatic part of the statute preserves the fundamental purposes of the President's 1970 desegregation emergency school bill. One of its purposes was to encourage voluntary desegregation by the North by providing financial incentives.

In terms of the program, Secretary Richardson said there will remain one of the priority categories: The districts eligible for the compensatory education portion will be those districts which are voluntarily desegregating.

Q. Could we have a translation of that?

Dr. Shultz. The Emergency School Aid legislation, as it would be used in this context, would permit money to flow to schools with a heavy proportion of low-income students, whether those schools were desegregated or not. There is, in a sense, a priority of purposes established so that you use the money first for the desegregation purposes.

But the notion is that where you find schools, regardless of what racial composition there is in the schools, where you find schools with a heavy concentration, 30 percent or more with a formula for how it would work beyond that, then you supplement the education budget of that school through the Emergency School Aid fund. So there would be money flowing to these areas that are low income and exist in an area where desegregation is not going to help them much.

Q. Is there a target date set for upgrading the quality of the inner city schools to the point where they are at the level of the suburban schools, and if so, is there any possible projection that goes beyond the $2.5 billion?

Dr. Shultz. Let me comment this way: I think one has to take these things a step at a time. Let us see what we can achieve, building on this experimental and demonstration work through this kind of concentration and critical mass approach.

Now, the subject of equality of educational opportunity, in terms of its concept and in terms of the money involved, goes even beyond and broader than this, and as the President said in his State of the Union message, and as there has been considerable discussion following the Serrano case and others, there is a big area of work to be done and addressed that is over and above this, and certainly we need to be bearing down on that subject.

Q. Could we follow up on this de facto? I believe, Mr. Ehrlichman—I have my notes something to the effect—you said there is in this a grant of rights which would apply not just to de jure but also to de facto segregation. Where in Title II, section 201, is there a grant of rights that would apply to the de facto situation?

Mr. Ehrlichman. Well, the thing I said I took off of your Fact Sheet, page 2, at the bottom, (B), and you will find there a summary of what I said: that the denials of equal educational opportunity are applicable to all schools, nationwide. It does not just apply to those schools that are found to be in a de jure situation. That is the thrust of what I was trying to say.

I don't know if that answers your question or not.

Q. Is there in 201 something that speaks to that?

Mr. Ehrlichman. It says all schools. It doesn't make a distinction that it has to be through the de jure pattern. I think that is the sense that I wanted to get across to you. You don't have to have a de jure finding for that to apply.

Q. But you do have to have a deliberate activity, a racially motivated act by a public entity?

Mr. Ehrlichman. That depends on how you read it.

Dr. Shultz. If a non-lawyer could get into that, I had the impression that if you had deliberate segregation by an educational agency, that that is de jure segregation. That is a way of defining that word. So you are talking about that, but this is something that is put forward as a national, codified standard.

Mr. Ehrlichman. There is no animus required. Some of these are put in the area of simply failure to act, as in the racial barrier situation. So I think it pushes out and gives leadership in some new direction on educational rights.

Q. John, what proportion of educationally deprived students in Title I districts will be able to be covered under the $300 critical mass approach with whatever extra money you have? Obviously you are not talking about an overall program, but an experimental program.

Mr. O'Neill. Our estimates are that there are about 7 million children attending schools that have concentrations of lower income children exceeding 30 percent, and something over half of those 7 million, in fact, meet the low-income family definition.

Q. Would you be able to cover all those with the extra money at $300 a pupil?

Mr. O'Neill. Yes, our estimates show that we would be able to supplement the money now present with those schools in Title I with the new dimension added to the ESA program to achieve $300 per child, and in those schools where there is a very significant concentration, we would be able to reach it by $400 per student.

Mr. Ehrlichman. It is not a demonstration concept, either.

Q. Is there anything in this that gives relief to a local school district that is under State mandate, that is under orders to bus children for purely racial purposes?

Mr. Ehrlichman. No.

Q. What is the net effect of all that? Are we going to see, after it goes into effect, more desegregation or less than we have now?

Dr. Shultz. I would expect and hope that one effect would be less prospective busing, so that would be one effect.

Second, in the process of desegregation, the courts would be looking at these other remedies, and we would have in many ways a more imaginative approach to how to do this. John, I think, was saying earlier that the busing should be a last resort, not a first resort, in the sense that it is too easy a thing to turn to.

Third, I would hope that we would get out of this an improved quality of education over a broad base, as well as a greater measure of equality of educational opportunity. So I think these are, if you want a sort of net assessment, the way I would sum up.

Mr. Ehrlichman. I realize some of you have deadlines and we will only take three more questions.

Q. I have two questions.

Mr. Ehrlichman. Well, there goes two of them.

Q. The $2.5 billion is really deploying money that has been planned, if not enacted, and we know, from your description, who is going to benefit from the redeployment. The question is: Who loses? Where is it coming away from? This money was going to be spent.

The second question is: Earlier Mr. Richardson said that the great bulk of places where there has been desegregation will not be affected, and then it subsequently developed that he was not talking about or limiting his statement to busing.

Would it be a fair statement that three-fourths of the places where there has been enforced busing, and all places where there has been busing with noncontiguous zones, would be rolled back?

Mr. Ehrlichman. I do not think any of us are equipped to answer the second part of that, because there has been no analysis done that I know of on the number of districts that would achieve the norms proposed here in terms of transportation.

I think it is fair to say that most of them would be affected in terms of elementary school; that is, kindergarten through sixth grade; but that is obvious on the face of it.

Now, on the first part of your question as to where did the money come from, or who lost it. Will, can you answer that?

Mr. Hastings. I can take a start at it.

Substantially the same districts, with some additions, will be eligible under the new program, as in the old. The additional districts will be those with high concentrations of poor children who cannot be reached by traditional desegregation processes.

In terms of the children, the change really is the way the money is used in the district itself. One of the points that has not come out so far is that the concentration of resources under this combined program must go to the basic learning programs in the schoolhouse; you know, the reading, writing and arithmetic programs, plus supplementary special services such as nutrition and health care for the kids.

It cannot be spent on overhead, general administrative costs and the like. So it is a redeployment in terms of the kinds of programs for the children. I do not think there is a substantial change in the districts affected or eligible other than the classic cases I cited in the first part of my answer.

Dr. Shultz. I just want to add one point: Remember that this legislation was proposed first two years ago, and a tremendous amount of desegregation has been accomplished during that period. If we had had the money two years ago, I think the people who have been going through this process could have been much better off. We would have been able to help them more effectively.

At the same time, there is a lot of water that has passed under the bridge, so I think the need there is a little bit less.

Q. If, as the experts have testified here, we do not even know the extent of busing involved in the desegregation process, then what is the hard evidence that supports a Presidential call for a moratorium on busing?

Mr. Ehrlichman. I think you have to come from some other planet not to be able to answer that question. Every place that you go around this country, as a number of us have and as the Cabinet Committee, particularly, has in its inquiries on this thing, this is the front burner issue in most local communities. The people there, who are the ultimate consumers, so to speak, the parents and those associated with the parents, the community leaders, the church leaders, all kinds of people in those communities, the newspaper people, push that issue right up front and say, "This is the most pressing problem, the most divisive problem and the most troublesome social situation we have in this community at this time."

Now, that is the evidence. It carries by such a preponderance that it cannot just be swept under the rug by some sort of statistical evasion.

Q. You have said that the thrust of this legislation is to shift the focus away from transportation as a remedy to alternative remedies. How do you implement these alternative remedies without some form of transportation, since the facts of life are that blacks and whites don't live together. They live in different parts of the cities.

Mr. EHRLICHMAN. Who wants to handle that?

Dr. SHULTZ. The living arrangements vary a great deal around the country by city size and parts of the country. There is no necessary reason why one must desegregate everything. What we are talking about is a situation where you have deliberate segregation and court orders are being sought and given to overcome that, and then what are the remedies that are used.

That is the problem that is addressed here, as well as, of course, on a broader basis, following an earlier question, the improvement of educational opportunity more generally.

Q. Isn't the effect of your answer to exclude de facto legislation and to say there is nothing we can do about it? Aren't you limiting this solution you propose in your answer to de jure segregation?

Dr. SHULTZ. Depending on how one may define this, certainly in this legislation the educational problems of students who are economically deprived and racially isolated are treated. An effort is made to do that.

But beyond that, in terms of the definitions of the de jure and de facto segregation, there has not been anything additional laid down here to treat on that problem.

Mr. EHRLICHMAN. I think your question implies an either/or choice. I think if you listened to the President last night—and he repeated it this morning with the leadership—he is most concerned about the capacity of our educational system to transport anywhere like a majority of students in highly impacted, disadvantaged areas.

It is the conclusion of this working group, after a tremendous amount of study, that if you set about to do it you would be years and years and years perfecting some kind of a transportation system that would make up for the inadequacy of educational opportunity in these core cities.

We are just skimming the top, really, of the kids in South Chicago or some of these other heavily impacted, disadvantaged areas. As long as we rely on transportation and say that is the only answer, and if you downplay transportation and you are not going for a solution to the problem, we are never going to solve the problem.

This is an effort to strengthen an attack on the problem through other resources, the handling of other resources and the use of other devices. I think it is a statement of conviction on the President's part that transportation simply is never going to solve the problem. It hasn't demonstrated it has come close to solving the problem. It has simply proved to be a very difficult and divisive additional social problem that has presented itself.

You hear talk about moral leadership. I suggest to you this is moral leadership personified. The President has suggested that we vigorously attack the problem and that we do it in some way that has some chance of success instead of a way that has proved itself to be totally unsuccessful.

With that I will conclude.

PERSONAL ANNOUNCEMENT

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, the March 21 primary elections in Illinois caused me to be necessarily absent for a number of rollcall votes. Had I been present, I would have voted as follows:

Aye on roll 80, final passage of H.R. 8395 extending the Vocational Rehabilitation Act;

Aye on roll 81, final passage of H.R. 11948, authorizing appropriations for U.S. participation in the Hague Conference on Private International Law;

Aye on roll 82, final passage of H.R. 4174, amending the Uniform Time Act;

Aye on roll 84, final passage of H.R. 13120, increasing the par value of gold to $38 per ounce;

Aye on roll 87, final passage of H.R. 13592, the National Sickle Cell Anemia Prevention Act;

Aye on roll 89, final passage of H.R. 13955, legislative branch appropriations for fiscal year 1973.

DISTRIBUTIVE WORKERS OF AMERICA REACHES WAGE SETTLEMENT; IGNORES COUNCIL'S ERRONEOUS INTERPRETATION

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, in enacting the Economic Stabilization Act Amendments of 1971, Congress included a specific exemption for "substandard earnings." This exemption, section 203(d) of the act provides:

> Notwithstanding any other provisions of this title, this title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is a member of the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

The legislative history of this provision makes it quite clear that the intent of Congress was to define "substandard earnings," and "working poor," to mean a level of income of $6,960 annually, or approximately $3.35 an hour.

My bill H.R. 11406, was the origin of the language of this amendment. With respect to this language, the House Banking and Currency Committee report stated:

> It is the intention of the Committee that this exemption from control apply to all persons whose earnings are at or below levels established by the Bureau of Labor Statistics in determining an income necessary to afford adequate food, clothing, and shelter and similar necessities. (Report No. 92-14, p. 5)

Based on 1969 data—which are, of course, now subject to upward correction due to inflation—the Bureau of Labor Statistics 1970 cost estimate for an urban family of four at a lower level is $6,960 annually.

However, in flagrant disregard of this clear legislative history, the Cost of Living Council on January 29, 1972, decreed that only workers earning up to $1.90 an hour—$3,968 annually—will be exempted from wage controls.

The outrageous nature of this decision is highlighted by the fact that it was reached in the face of a unanimous opinion by the Pay Board on January 19, 1972, that the figure of $1.90 an hour was so low as to violate congressional intent. Early in January of this year the Cost of Living Council had submitted the $1.90 figure to the Pay Board and asked for the Board's views on this figure. In rejecting this figure unanimously the Pay Board adopted the following resolution:

> It is the sense of the Pay Board that the $1.90 figure recommended by the Cost of Living Council is inconsistent with the purposes of the Amendments of the Economic Stabilization Act and supporting analysis.

This unconscionable decision by the Cost of Living Council will work an egregious and unacceptable hardship upon the millions of hard-working men and women in this country who try to support themselves and their families on wages of less than $7,000 a year. This ruling will deny them raises they have earned, deserve, and expect.

This decision is being challenged in the courts, and I have filed an amicus curiae brief in that action. It is also being challenged in the bargaining sessions and on the picket lines by at least one union: District 65, Distributive Workers of America.

Called the conscience of the union movement by the late Reverend Martin Luther King, Jr., District 65 has chosen to follow the clearly expressed intent of Congress and ignore the inconsistent ruling of the Cost of Living Council. On Friday, February 4, District 65 called strikes in the following establishments: Modern Miltex, 280 East 134th Street, Bronx; DeLuxe Label, 23 East 21st Street, Manhattan; Rebuilt Auto, 147 Classon Avenue, Brooklyn; Ribbon Narrow, 65 Bleecker Street, Manhattan; Page Studio, 72 Madison Avenue, Manhattan; Atlantic Foam, 330 Morgan Avenue, Brooklyn. The workers in these places of business earn below $7,000 annually.

Settlements have been reached with the following five firms: Modern Miltex, DeLuxe Label, Rebuilt Auto, Ribbon Narrow, Atlantic Foam. The settlements are approximately double the 5.5-percent guideline set by the Pay Board.

More recently, District 65 has called strikes and reached settlements with H. Levey, 418 Broome Street, Manhattan, and Alfred Dunhill, 11 East 26th Street, Manhattan. Again the average increases were 10 percent.

District 65 has not submitted, and does not intend to submit, these agreements to the Pay Board for approval. It is the position of District 65, and I agree with it, that settlements such as these are sanctioned by the working-poor exemption passed by the Congress, the arbitrary ruling of the Cost of Living Council notwithstanding. Therefore, no approval from the Pay Board is required. District 65 has sent a letter communicating its actions and the reasons to each of the members of the Cost of Living Council and the Pay Board as well as to the Director of the Internal Revenue Service, and to the members of the Banking and Currency Committee of the House and the Finance Committee of the Senate.

I commend the members of District 65 and its president, David Livingston, for their forthright and courageous response to this situation.

UNITED FARM WORKERS—A PLACE UNDER THE SUN?

(Mr. RYAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, I was pleased to join today with the Black Caucus in full support of the United Farm Workers' stand against the court injunctions sought by the National Labor Relations Board.

In the past there has been widespread support for the boycotts of grapes and lettuce. However, now the issue takes on a new and more saddening dimension.

Although for 37 years farm labor has been outside the jurisdiction of the National Labor Relations Act, the United Farm Workers have suddenly been placed on the altar by a consortium, including the National Labor Relations Board, the Free Marketing Council, and the American Farm Bureau Federation.

The United Farm Workers have been attempting for years to raise themselves from the hardships and discrimination that still pervade their daily lives. Never given any of the benefits or protection of the National Labor Relations Act, they are now facing injunctions sought by the National Labor Relations Board and their newly appointed General Council, Peter Nash. The Black Caucus called the move "morally reprehensible and legally tenuous."

The justification for all this is an awkward juxtaposition of facts and figures. The National Labor Relations Board contends that the United Farm Workers Union contains a handful of statutory workers employed in commercial packing sheds, thereby making the whole union subject to the punitive aspects, dealing with secondary boycotting, of the National Labor Relations Act. It is unfortunate that the United Farm Workers are being placed on the altar, so that the administration's ties with the Free Marketing Council may be maintained.

In seeking this injunction against a union of farm workers, the National Labor Relations Board is violating Public Law 92–80, which prohibits expenditure of National Labor Relations Board funds for this purpose.

Court injunctions have been filed in 10 States and the District of Columbia, and the issue will not subside until the duality in it subsides.

And this is exactly what must be clarified. The National Labor Relations Board was originally created to provide for the fair and equal treatment of management and labor. When the wineries and agribusiness interests recently sought help in ending the boycott, management became the key object of its protectionary powers. The disparity is painful to everyone but a few.

In order to try and remedy the situation, I have written the Chairman of the National Labor Relations Board and urged him to reexamine his agency's position in this matter.

HURRY UP WITH THE TAX PROPOSALS, MR. PRESIDENT

(Mr. ABOUREZK asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ABOUREZK. Mr. Speaker, the voters have focused their attention on the economy this year.

They are not just worried about the immediate problems at hand—how we get out of this post-depression recession, or whatever you call it.

They are looking deeper than that this year. They are looking at the basic questions.

They are looking at who owns America's wealth. They are asking if the extreme concentration of economic power in the hands of a few is a good thing.

And they are looking at the consequences of that concentration. Under special scrutiny is who pays how much taxes and why.

And they are finding out that our tax laws are severely distorted in favor of the rich and powerful. They figure quite correctly that favoritism accelerates the concentration of wealth and power into the hands of a few.

They know the simple facts of power. They know that power follows money. They know that the very workability of democracy is threatened.

Moreover, they know that they are paying far more than their fair share. They know that, in effect, they are being soaked. And they understand the vicious irony of that soaking. They know it erodes their own grasp on the process that makes the decisions in this country. They pay most of the bills but make fewer and fewer of the decisions.

They are getting wise to what has been going on. And they are angry about it.

They are angry, because they are learning—

That one in 20 millionaires paid zero taxes in 1970.

That 112 people with incomes over $200,000 paid zero income taxes that same year.

That J. Paul Getty, the oil billionaire with a daily income of $300,000 saves $70 million a year thanks to tax loopholes.

That the average working family and the big oil companies pay almost identical tax rates on their net incomes, thanks to oil loopholes.

The average American gets stuck with unfairly high taxes, while clamps are put on their wages, while prices climb up the ladder, dragging regressive sales taxes up with them.

So far the guts of our national economic policy has amounted to huge and expensive "incentives" to big business—through excise taxes, import quotas, accelerated depreciation, and dubiously effective price "controls."

It seems obvious that if we want to put more money into the average guy's pocket, at a time when that is what the economy so desperately needs, the thing to do is decrease his taxes.

I can point to $77 billion worth of loopholes that will do just that.

It will be interesting to see how close the administration's promised tax reform package comes to those goals.

But we would not be able to see anything, and we would not be able to legislate anything, until the White House gets its recommendations up here.

Mr. Speaker, if there is to be tax reform this year we have to get moving on hearings and a bill. We cannot wait much longer.

POLITICS AND ECONOMICS OF THE ENVIRONMENT

(Mr. BROYHILL of North Carolina asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BROYHILL of North Carolina. Mr. Speaker, as we continue to consider the problems of our environment and seek solutions to these questions, I would like to call to the attention of my colleagues the following two talks delivered by Prof. Peter F. Drucker during the Claremont College's annual lecture series April 13-14, 1971.

Professor Drucker is a world-reowned economist and among the first teachers to offer courses in the protection of our environment—long before it was fashionable to do so.

It is because of this long-standing interest and study of the problems of our environment that Professor Drucker is so uniquely qualified to offer his observations on the subject of politics and economics of the environment.

I hope that the Members of the House will find his remarks as interesting as I did and perhaps agree with me that Professor Drucker offers a new perspective from which to view the important issue of protecting our environment:

POLITICS AND ECONOMICS OF THE ENVIRONMENT

(By Peter F. Drucker)

WHY WE ARE NOT MAKING MUCH PROGRESS

I am a very old environmentalist. Way back, around 1947 or 1948, when I taught at a small women's college in Vermont I offered what was perhaps the first course in the environment. I did not get a single student then for such a course; nor could I find any reading matter. It seemed a very strange and wildly reactionary notion at that time that we have to make sure of not destroying too much of the natural inheritance of man.

Having been concerned with ecology for a long time, I should be exceedingly pleased by the sudden rush of interest in the environment—to the point where one cannot open any magazine without finding an article on ecology in it. And in a way I am, of course, grateful. It is very nice to see that one was not entirely wrong a long time back. But I am also rather perturbed. I see an enormous amount of busyness and an enormous amount of headlines and an enormous amount of rhetoric, but the only thing I don't see are results. Maybe I demand too much. But I do not see much progress. I see a lot of money being spent. But I have long ago learned that one does not equate the size of a budget with accomplishment. Money is no substitute for thinking; indeed to substitute money for thinking always does damage. I see a lot of bills being passed, a lot of conditions being deplored; yet I don't see us making much progress in learning how to manage the environment to make this country and this planet liveable for human beings.

And so I have been asking myself just these last few years not only what should be done but also what should *not* be done. Why are we making so little progress despite all the tremendous emotion and stir? For at best things are no longer rapidly getting worse. What is it then that deprives us of results in something that is overdue, in something that needs to be done, and in something that has so much public support?

The first thing to say is that most of the present advocates of the environment suffer from three major misunderstandings which inhibit results. The first misunderstanding, and the one that bothers me the most is that we think that one can live in a riskless universe, that one can somehow deprive human action of risk. To believe that one can be safe is a sheer delusion. The real challenge in the environmental situation is to think through what risks to afford and what risks are not permissible and where to draw the line, and what price to pay for what degree of insurance. That is taboo and anathema to the mood of today. Yet the whole history of the human race proves that one always pays a price and that the decision is how much to pay. One takes risks, and the crucial decision is what risks are intelligent and prudent risks. The moment you want to be riskless, you are endangered and you are vulnerable to the wrong catastrophies.

We are, for instance, not thinking through the risk we are taking in not building enough electric power. Yet the entire environmental technology is a power technology. Everything we need to do to clean up the environment raises the energy needs by several orders of magnitude. To be sure, building electric power stations has its problems. But by not building them we are just laying ourselves open to catastrophic dangers not very far out.

The second misunderstanding is that somehow profits can pay the costs of managing the environment. Yet we have known for a long time that there is no such thing as profit anyhow; that's an accounting delusion. There are only the costs of the past and the costs of the future. What we call profit is the capital needed to create additional or better jobs—and never was that need greater than it is today. All of us here today are conscious of the financial needs of higher education. But the greatest need of higher education is for capital to create the jobs for all those young hopefuls that graduate. In the next ten years we will need each year 400,000 more jobs for college graduates than we needed in the sixties. Yet in the next ten years the largest single job opportunity of the last decade will not be around: jobs for women as teachers. There are not going to be many—not because of Governor Reagan, (unless you hold him responsible for the entire birth rate of California and not even his closest friends have claimed that much for him), but because of the very sharp drop in the birth rate from '60 to '67, the sharpest drop in the history of population. At the same time teachers in 1955 or 1960 were one of the oldest age groups in the American working population with an average age of 57—older than corporation vice presidents. Today they are one of the youngest. For the last time we hired teachers before was in the 1920s when the high schools exploded. As a result, of the teachers who taught in our elementary and secondary schools fifteen years ago, only a handful are still teaching today. The great majority have retired or died. Anyone who had children in the schools in the '50s can check this. All he has to do is to find out how many of the teachers who taught his children in the fourth grade are still teaching. They are practically all gone. But in 1955, parents who still lived in the neighborhood in which they themselves had grown up, often still had their own old teachers teaching their children. As a result of this generation shift, the teacher population today is very young and is not going to retire or die fast. There are not going to be many teaching jobs the next ten years. The women college graduates will therefore compete in the same labor market as the men, which was not true during the last fifteen years.

There is, therefore, going to be a tremendous need to create jobs for at least twice as many highly schooled (I won't say educated—that remains to be seen) youngsters. Each job will require about twenty to thirty to fifty thousand dollars of capital: that is the ante today. Existing profits are already inadequate for that need so that we start out with a deficit if we want to find jobs, particularly for the highly educated. The profits are not there to begin with. Although profits are at best four and a half to five percent of total gross national product; and the minimal environmental bill is likely to be twenty-five percent or more. So it is a gross misunderstanding that profits can take care of the environmental bill. The consumer will have to pay it, as in the end he pays for everything, whether through taxes or in the supermarket. As long as we believe that profits can take care of the environment bill, we will not be going any place.

Finally there is the misunderstanding that it is "greed" that explains the environmental crisis. No, it is largely the desire not to see two out of three children die before they reach age five; to have enough to eat for the poor and to have access to job and opportunity. *The environment is a problem of success.*

These are the hardest problems. They do not yield to attack by morality; they have nothing to do with it.

We have succeeded in doing things that I don't think anybody would consider the wrong things. And that now presents a massive problem of a different kind. Incidentally, nobody foresaw it: perhaps we ought to be able to foresee technology—but so far no one has been able to do it. When DDT was developed there was not a single one amongst the scientists and the physicians who even faintly foresaw that it could be used for anything but to keep troops free from malaria and typhus. Some laymen wondered whether it could not also be used for civilians but were told that it would be much too expensive. No one, whether scientist or layman, foresaw that it would be used for crops—and no scientist had anything to do with it. Farmers discovered that you can spray DDT and keep the boll weevil under control.

No scientist or technologist at the time foresaw that the American and Japanese armies would export the screen window to the four corners of the earth, which is the real secret of the "population explosion." Between sixty and eighty percent of the increased birth rate in the tropical countries is the result of the screen window; and that's hardly sensational technology, by the way. The screen window explains in large part why babies no longer die of fly-borne diarrhea before they reach the age of two.

One cannot prophesy. One can only say that success always creates problems; one just doesn't run out of problems. But they are still problems of success—of very great and hard-won success.

Another major reason why we are not making much progress in our fight to save the environment is that we go about the job by trying to punish instead of by trying to create incentives. If there is one thing we know it is that punishments do not work but incentives do.

We are trying to pretend that the environment can be handled by becoming again children of nature. (You know children of nature today play electronic guitars. Everytime I hear an anti-technology ballad sung on an electronic guitar with the latest amplifiers. I kind of wonder.) My generation (including myself) did that too, in the '20s. Yet we did not end up anti-technologically, we ended up with the atom bomb. Perhaps if we had learned more about technology instead of singing romantic "blood and soil" ballads we would have done better.

The environment is probably the toughest technological challenge we have faced. Nobody need apply who is not absolutely first rate in science and technology and systems work analysis. Folk singers are not going to solve the environmental crisis. They could not even build a sewage treatment plant. (This is the time, by the way, when one tells a youngster not to fall for the nonsense that we do not need engineers. This is the time to go in for engineering. Eight years from now we will need them badly and are going to be very short of trained technologists.)

But perhaps the greatest single problem we face is that nobody is willing to set priorities in the attack on the crisis of the environment. Nobody is willing to say: there are fifty million jobs to be done yet nobody can do more than one at a time and that is usually hard enough. What are the things we do first, the things to commit ourselves to, the things to work on until they are licked? Instead, we run off in all directions.

In preparation for this lecture I took the telephone and called up a friend at the Library of Congress and asked: how many environmental bills have Congress and the states passed by now. I expected him to say sixty. But his answer was: 344. I said, "Are they all funded?" "Yes," he said, "they are all in some budget." I asked, "Are they all staffed?" and he said, "Don't ask silly questions."

We are running off in all directions. Everybody with a little hatchet and a spray gun is attacking huge problems. As a result we get lots of headlines. And that's all we get. And lots of ulcers, and that's all we get. But we get no results.

I am not saying that I know what the priorities are, though of course I know what *my* priorities would be. *My* list is not terribly important; but *a* list is important. My list, by the way, would be clean air first and clean water next and then the problem of thermal pollution in generating electric power for which we have no technology so far. Finally, I would put the food problem; for we are caught in a dilemma between having millions of children die as a result of a sharp drop in crops yields if we stop using herbicides and pesticides, and doing inevitable ecological and biological damage because the pesticides and herbicides are too potent. In the long run this may be the most tragic problem we face. But so far few people are even working on the problem.

This would be *my* list. But what matters is that we settle on a list and then organize very scarce resources for work. It is not money that is scarce—it never is. But good people who can really come to grips with enormous tasks like the environment one are very scarce. Instead of concentrating on a few big tasks, everybody rushes off every morning in a new direction. The right thing to do is to say instead: Here are our priorities. They are either—like air and water—the problems we understand, at least to the point where we know where to start, or, like electric energy and food production, they are problems where we do not know the answers but know that we need answers urgently so that we can do the environmental jobs. Let's forget in the meantime about all the other things or let's relegate them to the Sunday supplement where they are forgotten by Tuesday afternoon.

The lack of priorities is perhaps the most serious matter today. As a result everybody is excited about the environment. But nobody is willing to develop any commitment, any policy or any real attempt to do something effective except to be self-righteous. We have to think through what the priorities are for this country.

Then we have to think through how to carry them out in such a way that the necessary and badly needed and highly conservative concern for the environment does not degenerate into the real sin of conservatism, namely into a war of the rich against the poor, either at home or abroad. The poor always suffer the most when things become more expensive. Then the one who has the least gets less. There is no way out of this if costs go up. That the black community considers the environmental excitement an attack on it is no accident; the black poor are right. When they think that the white kids on campus who are now all in favor of "earth" are in effect deserting civil rights, they are right. When air is no longer free so that you have to pay for it, it makes everything more expensive. When water is no longer free because you have to pay for keeping it clean, it makes everything more expensive.

There is, therefore, a real problem: how to do the environmental job without depriving the poor. Within our country the poor, despite the headlines and despite the terrific social problems, are not the major economic problem—frankly there are not enough of them. But two-thirds of the outside world is poor. Suddenly to demand of developing countries that they preserve the environment means in effect that the South American countries and the Southeast Asian countries cannot develop and will not be allowed to develop by the already rich nations. We have to find a resolution of this conflict, and it is a genuine conflict.

We also have to reconcile the needs of the environment and the need for jobs. Twenty years ago, up in northern New England, where the old paper mill is the main stay of the small town, everybody in the town was willing—indeed eager—to suffer the smell for the sake of the jobs. Today perhaps the decision is not so clear-cut. Tomorrow it is going to be clear-cut again—and again the vote will be for the jobs. There is going to be no labor shortage the next ten years because the babies born during the baby boom are now reaching the labor market. From now on for the next ten years there will be fifty percent more job-seekers on the labor market each year than we have had the last fifteen years. So there is going to be no shortage of people. Then people will again think of jobs. We are on a collision course between environment and jobs, and I do not think we can afford it. We will have to think through what risks we are willing to take to maintain jobs for people who otherwise would not have any. For those people in Ticonderoga, north of Albany, New York, there are no other jobs, nor are there in Maine or in West Virginia.

We will also have to think through how we can have an environmental policy that does not become international economic warfare. There are already plenty of signs that pollution is becoming a trade weapon. The people in Milan, Italy, have about the worst pollution of any place in the world, rivaled only by Moscow and Tokyo. Yet the people there are not yet willing to do anything about pollution simply because they are still job-focused and production- and export-focused. The French on the Upper Rhine—which is a depressed area—are not willing to do anything to prevent the potash from the tailings of the almost worked out mines to be dumped into the river. It flows anyhow within a few miles out of France into Germany—so let the Germans worry. In many parts of the world the environmental job cannot be done nationally altogether. The Scandinavians cannot control their air; it blows in from England. And the English see little reason why they should do anything about air pollution. Maybe we will have to start with a unilateral American law that forbids importation into this country goods produced below American pollution standards. This would be in violation of every single trade treaty we have, but we may have to risk it. (Such an approach would be equivalent to the old Child Labor amendment to the Constitution almost forty years ago.) The worst thing that would happen to us would be for pollution to become a weapon in what is a very competitive world trade.

No one knows how much money we are spending today on the environment. But the amount is high—up in the billions and going up rapidly. If there are no results in a few years, we are going to get a terrific backlash and a terrific disillusionment. Many people who are now wildly excited about ecology will then say, "It's only a political racket after all." Then I think the ecology would be in for a very rocky time, and we have enough difficulties without inventing unnecessary ones.

So I think we need to ask questions. We need to accept the fact that managing the environment is not an easy job and that it is a new one; we never had to think through such risks and trade-offs before. We never had to balance condemning millions of babies to die against the environmental hazard of pesticides; we have to think it through now whether we like it or not. We have to accept the fact that these are now our decisions. We have to accept the fact that the bill for the environment cannot be defrayed out of the surplus of the economy but has to come out of the economic substance. We have to think through how can we do the job in such a way that there is minimum danger, minimum damage to the poor, minimum damage to jobs—particularly for unskilled and semiskilled people, and minimum damage for the developing economies, which are now hit with a demand which today's developed countries did not have to meet. And we have to think through our priorities.

In the last few years we have had a very good time in the environment. Everybody has been making speeches. Everybody has been feeling wonderful about bemoaning the sad state of the world. It is not only in the Victorian novel that a good cry is the most satisfying human experience; it is even truer in politics. Everybody has been telling the other fellow: unless you reform there will be doomsday. And nobody has asked: and what do I have to do? Nobody has asked: what is the job? Nobody has said, there are tasks to be done. What are they? How can we really define them and come to grips with them? We have been having a wonderful bull session. Now the party is over. The work day is ahead of us. All right, we'll have a hangover, but after that let's go to work.

DO'S AND DON'TS FOR ACTIVISTS

Ever since I agreed to speak here today some eight months ago, I have been a little worried about one word in my title: the word "activist." An activist, the dictionary tells me, is somebody who is in favor of action. And so we all are, and it is badly needed. But I do not think that acting is what we are primarily interested in: we are primarily interested in results. You cannot have results without action and, in fact, without a tremendous amount of hard and sustained work. But it does not follow that you get results because you are active. All you might get is busyness, and I am not in the least interested in busyness. I see too much of it in all institutions and everyplace. So I have been trying to find a better word than "activist," and I haven't found one, because there is none in the dictionary for someone who wants results as I do.

But what I would like to talk about today is not how one gets busy but what one has to do to get results and what one better not do if one wants results. If you want headlines and a good feeling and love-ins, you don't need me. Results are something different, and I want to talk today about how one organizes and what one does and what one does not do if one wants results in the environment.

You will look at me and will say: What warrant do you have to set yourself up as an "expert"? What results have you got? Well my results are not very impressive. What I can claim is a long record of busyness, because I began to be concerned with the environment a long time ago, when very few other people were, twenty-five years ago or so. I have the dubious distinction of having offered the first course in the environment ever offered in an American college, way back in '47. And I said "offered" because I did not teach it; not one student had the slightest interest in it. Now I am no longer all by myself in a corner trying to get other people interested in the environment—as a matter of fact, I find myself rather crowded in that corner. Now I am beginning to hope for results. But what is needed to get results?

So far the record is not very impressive. We have passed an enormous number of laws. We are spending very large sums of money. We are getting very excited. But the results are not there. Nor are we moving towards them at anything resembling even a deliberate crawl.

And so what are the *do's* and *don't* for people who are concerned enough with the environment to want some results? What do we need to know and what do we need to do so that all this energy has a chance to produce results? Nobody, let me say, can ever guarantee results. Results are not that easy and not that predictable. But if you do the wrong things, nonresults can be guaranteed.

II

One of the first things to say is that the belief abroad today that action on the environment requires a turning away from technology is not very intelligent. A good many young men have come to me and said: I am very much concerned with the environment, what shall I do? My answer is: Get yourself first a good engineering degree or a chemistry degree or a systems-analysis degree or learn how one puts technical and scientific skills together for performance, which is a management function. For every single environmental task ahead of us requires technology and above all systematic and purposeful direction of technology almost beyond anything we have ever seen. Not one of these tasks will yield to purity of heart. They will only yield to high technology. Every one of them requires both new technology and the organization of a lot of existing technology for new uses which is often harder than to develop new technology. The first *do* for activists is to learn how to use technology as their tool. (This, by the way, was the reason why I became interested in technology twenty-five years ago. Even then it was clear that environmental tasks, though not themselves primarily the result of technology but more often caused by crowding large numbers of people in small space, require more, better and more intelligent technology.) A turning away from technology can only worsen the environmental crisis. It is a poor carpenter who blames his tools; it is a poor environmentalist who blames technology.

But we have to learn how to use it. This will not be easy. You have in this college community some of the most distinguished students of the history of technology in the whole world. Indeed, The Claremont Colleges have become one of the largest centers in this field. If you go to these very knowledgeable people and ask them how one uses technology, they will tell you that we have never done the job. But we do know enough about the dynamics of technology to know that it can be done.

It cannot be done, however, by predicting the impacts of technology. This is an idle hope. Nobody has been able to do it, partly because prediction is altogether not given to human beings and partly because technology doesn't work that way.

Thirty years ago American troops fighting in tropical areas took a frightful malaria and typhus toll. So the scientists were called in to find something to keep the mosquitos away or to kill them. There was not a single one among those top-flight scientific, medical and technological brains who then could have foreseen that DDT would ever be used for anything but to keep soldiers free from flies and lice. That it could be used to protect babies against malaria nobody saw. And certainly no one could have foreseen that it would be used for farm crops. Farmers developed that use by themselves without benefit of scientists.

Nobody in 1943 or even 1950 could have foreseen that something so harmless and so innocuous and so old-fashioned as the American window screen (invented by some obscure and unknown inventor someplace on the old Yellow Fever coast, maybe in South Carolina, around 1870) would result in a "population explosion" around the world. The window screen is responsible for the largest part of the population growth in the poor countries by cutting sharply the mortality of babies in the first two years of their life. Who could have possibly predicted this or foreseen it? And if you had foreseen it, would you have done anything about it? Or would you have said this is the greatest boon, this is what we have been working and praying for, to keep a few more children alive, where only one out of every six survived the first years in most parts of the tropical world?

You cannot anticipate the impact of technology. You have to be ready to deal with it when you begin to understand its impact and not till then. And that requires far more intelligence about technology than we have ever had. And so the first do for anybody concerned with the environment is to learn enough technology to be able to say: This is our tool. How do we use it? What do we demand of it? What do we have to know before we can purposefully and intelligently apply it?

III

The second thing is to know what enemies not to make. Activists should be concerned more with the enemies they make than with the friends they make. The enemies are their real problem. It is the death of any cause to make the wrong enemies, that is to alienate the people whose support the cause needs. If one makes the wrong friends—all right, they pay their dues, they vote and that's all right. But no cause can afford to lose the people whose support is crucial. Yet this is precisely what the environmental cause is in the process of doing.

The environmental crusade today is in danger of becoming a crusade of the rich against the poor and of the people who have good jobs against the ones who have marginal jobs. That is going to destroy it. In very lush, inflationary, boom times, such as we have had in this country, one may be able to forget this—except that in three-fourths of the world a great majority of the people are terribly poor even in boom times. Even in our country, one-third of the minority groups are terribly poor even in boom times. But the way we now go about the fight for the environment will make things expensive and will at the same time make it increasingly difficult for people with marginal skills to have jobs.

The standard answer today is that we will pay the environmental bill out of profits. Yet in this very rich country profits are less than five percent of the total national product, and the lowest estimate of the cost even of minor environmental abatement is something like fifteen or twenty percent.

But also if I were 21 today and looked ahead a couple of years, I would worry about the adequacy of profits in this economy. I may not be terribly smart but I can look at population statistics. They would tell me that in the next few years the number of well-educated people entering the labor market will roughly double. It is only now that the two combined effects of the very sharp baby boom of the late '40s and early '50s and of the very sharp increase of going to college are beginning to have an impact on the work force. The next few years we are going to have twice, roughly, the number of highly schooled people than we had in the '60s leaving college. The number of people who can retire on their parents' income is, thank God, very small. Most of the graduates will have to earn a living. Most of them will want a living with very high luxuries, such as health care, education for their children, decent housing and a decent environment—all of these unheard of luxuries in the history of the world. Tomorrow's graduates will expect a fabulous standard of living even if they think that they are "beyond materialism." And that means that they will have to have good jobs. And the minimum you need today to create a job, and not a good one, for an educated person is a capital investment of about thirty thousand dollars per job. In the school system it is higher. In the hospital it is much higher.

Any freshman-course economics student has learned that there are only two sources for this capital investment: savings and profits. And so the demand on profit is going to be very high. In fact, profits may be inadequate to the economic burden of creating the jobs for these very large numbers of very highly educated and potentially very productive people.

The answer "profit" to the environmental crisis is a silly answer. The costs will have to be passed on in the form of higher prices or higher taxes or both.

This means that the poor stand to suffer. There is no way in which the burden of increasing costs can be spread equally. And even if you spread it equally, the poor have much less capacity to bear it. Inflation—the politically easiest way—hurts the poor far more than the rich. That is why, if I may say so, I have never shared the belief of my colleagues in economics, that a little inflation is good for the society. The poor and the old immediately suffer. Rising costs are not good for the poor; and two-thirds of the world is poor, and not rich.

The same holds true for jobs. We will have to face the difficult decision whether we insist on stopping the pollution of a stream if it means closing down a marginal mill in Northern Michigan that only keeps open because it is the only source of employment in a town of 28,000 people. The nearest other city is forty or fifty miles away. And the 1,800 or 2,000 jobs in the paper mill are the only local jobs. Are we going to keep the mill open? Or are we going to close it down and throw people out of work? That decision is already upon us.

On an international scale this decision will be even more serious. Insistence on high environmental standards may make it impossible for the underdeveloped countries to develop. It not only raises their costs too high, it raises the skill demands too.

And so the second *do* is to learn to make management of the environment at least neutral to the poor and to the marginally employed rather than a threat to them. There are not many black students in this hall today, for good reasons. They, to a man, consider the environmental campaign directed against them. They are right today. It not only concerns itself with things that in their priorities come far down the line. They see in it primarily a campaign of the whites, who have made it, against the blacks. Outside of this country—in South America or Africa or Southeast Asia—this is so obvious to everybody that it is not even being discussed. For the poor people of the world "ecology" is a white man's slogan for keeping down the colored races. And they are right today. The way we are going, this is exactly what it is.

If we are not going to learn that it is our job as activists to make these people and these groups our friends, our supporters, our co-workers—if we cannot make ecology at least neutral to them, let alone attractive to them—we are not going to get anywhere.

We speak about "the year 2000" and we are worried about it. But to talk to someone who doesn't know where the next meal is going to come from about "the year 2000" means to be perfectly willing to let him starve today and tomorrow. He is not going to be enchanted. You may be quite right in saying, "But you are short-sighted." He will come back and say, "On my standard of living that is all I can afford to be. To be long-sighted requires a full stomach and I don't have it."

So the thing that worries me, and very much, is the total disregard in our present campaign of the fundamental economics of the whole enterprise and of the need to make it attractive, to make it conducive to the improvement of the poor, the developing nations, the minority groups, and the marginally employed. If we don't think this through—and it is not going to be easy—we are going to run into a rejection of our very badly needed concern with the environment beyond anything we can yet imagine. The signs are already there and they are very powerful and I am scared stiff, frankly.

IV

The third thing that one can say is that managing the environment is work and tough work and difficult work. Nobody has ever obtained results in work by trying to do fifty-nine things at the same time. One gets results by concentration, not by splinteration. One get results by doing one thing and doing it till it is finished. And whether it is a term paper you have to write or whether it is cleaning up the environment makes no difference except that it takes longer to clean up the environment and it's harder work. Yet today we are splintering ourselves very badly.

The first rule if you want to get results is to sit down and say, "what do I do first?" And then, if anybody comes to you and says, "Here is something else that needs being done," you say, "Go away, I am busy, don't bother me. Tomorrow morning when I have this finished, yes. But in the meantime I am going to do what I have started to do." Sure, if there is a fire next door, one puts down what one does and goes to stand in the bucket brigade. But short of imminent disaster, one sticks with the one priority job. It even pays to be inflexible; it is incredible how much monomaniacs who are inflexible achieve compared to the rest of us who are reasonable and rational.

No one achieves anything by doing a little bit of everything. Yet this has been the aim of our public policies these last twenty years. It has been the real problem of the poverty program. We have scores of programs and as a result not one of them is getting anywhere. The reason is not that we do not spend enough money. The reason is that there are only so many good people who can do the job. And if you splinter them among fifty-nine projects, there is not one project that is staffed with people who know how one gets results. And so nobody gets any and everybody is frustrated. The more money we spend, the less we get because the more splintering we get. But we have been guilty of this in our public policy, and not in the poverty program only.

To fritter away one's energies is the classic mistake of the rich. It is the reason why the rich have never been able to hold power very long. They always think that anyone can buy results and that they have so much money that they can buy a great many accomplishments. As a result they never achieve very much.

The first thing to do in a serious matter is to say, "What are the proper priorities?" One sets priorities by a very simple scheme. One says, "Where are big problems that we know how to solve? And where are really big ones that we can't solve yet but know we will have to tackle? Nothing else will we even look at."

The most important thing in any major effort is to be able to show results that matter. Otherwise the whole effort loses belief and support and credibility. People have to see results after a time. They are right, incidentally. If you tell them to wait twenty years, they are going to say, "Well I won't be here in twenty years. We have to see results. We have to see that effort and hard work and money and people accomplish things." Otherwise this becomes simply another game. And people are very tired of games. There are far too many around. And this isn't the best game in town anyhow. There are many others where there is far less effort and one gets action.

So, what the priorities? We can clean up the air—not today, but within ten years. We can clean up water—not today, but in ten years. Internationally it may take longer; and the worst air and water pollution is not this country. This country is after all amazingly clean. You wouldn't think so looking at the Los Angeles smog. But look at Milano in Italy or Tokyo or Moscow or Dusseldorf, and air pollution is much worse. And our water supply, bad though it is, compared to that of Western Europe, is in pristine state practically—or compared to Japan or compared to the Soviet Union, incidentally. In the Baltic, for instance, you can't swim within 50 miles of Stockholm, not because of the Stockholm sewage but because of the Leningrad sewage that comes across the Baltic. You can still swim within 20 or 30 miles of Los Angeles. So internationally it may take longer.

But we know in respect to water and air how to do eighty percent of what needs to be done. It will take an enormous amount of work, but it can be done.

Then one asks, What do we need to learn? We need to know, and soon, how to produce electric energy without thermal pollution. Every single ecological task requires an enormous increase in electric power. To clean up air and water we will have to increase the energy production in this country probably five fold by 1985, which is about twice as fast as ever in the past. In the world we may need an eight- to ten-fold increase. We do not know how to do this without creating a lot of heat. And we do not really know how to convert that heat into productive energy.

Clearly the only way we can solve the problem is to make the heat cool itself off by doing work such as, e.g. punch "heat holes" through the inversion layer of cold air above Los Angeles for the smog to escape. Electric energy, in other words, would be a research priority. But in the meantime we will have to build power stations, taking the risk of thermal pollution, because otherwise we can't do anything.

The greatest obstacle to any effective attack on the environment today may therefore well be the opposition to electric power stations, which will simply make environmental work totally impossible. I am all in favor of putting them pretty far out. But I am all in favor of having them fast because we need them. Cleaning up a smoke stack means primarily putting an enormous amount of electric energy into it. Cleaning sewage is primarily a job of putting fabulous amounts of electric energy into the waste products, and so on. Without new supplies of electric energy people will soon say: First we need heat and we need light before we clean up other people's garbage. Without new sources of energy we will, within ten years, close down practically all our anti-pollution plants for lack of power, both on the East Coast and the West Coast. Yet by 1980, we ought to be able to build a power station with either none or with a minimum of thermal pollution.

I have another research priority. It requires entirely different people. So I can afford to add it to my list. We need to learn to make it possible to raise the crops for a rapidly growing world population, mostly of young people under 15, without, at the same time, doing ecological damage with the pesticides and herbicides we have now. This is also probably a ten-year research priority. In the meantime, I think we better grow the food; I do not think we can risk having million of babies die. Oh, maybe we can risk it, but frankly, I would rather kill off condors than babies. I may be old fashioned in my preferences, but still I think that is what most people would stick up for. And it is the choice before us just now.

V

So these are my *do's* and my *don'ts*. Perhaps what I am trying to say is that we have so far looked upon the environment as something to get excited about. I got excited about 25 years ago and ran around and shouted. I have, therefore, had time to realize that this doesn't produce results. We are starting very late. But if you start very late and you know that the job is very tough, there is only one conclusion: stop being excited and instead go to work twice as hard and twice as purposefully. So far we are passing laws, appropriating money and generating headlines. But we are not doing much work.

My conclusion would be that the time has come for those who are really concerned with the environment—and not just concerned with the excitement about the environment—to say, "What do we do?" rather than, "What do we say?"

If you ask me, are we facing the imminent doom about which you can read in every Sunday supplement these days, the answer is probably "not yet." But it is pretty late. There are real dangers. The environmental crisis is a result of success in grappling with the old enemies of mankind, above all in grappling with the oldest enemy, the angel of death for small children. But problems of success are always big jobs.

We better go to work, rather than being satisfied with proclamations.

We better demand results rather than good intentions.

We better demand a plan and a thought-through program, rather than good vibrations which are not particularly useful in this enterprise.

We better insist on concentration and work rather than permit rushing around.

For an old ecologist, it is wonderful not to feel totally alone any more as I have felt for a long time, and to see all those friends and all the people who share my concern. It is wonderful to see all the people who are in effect truly conservative—for there is no more conservative cause in the most profound sense of the word than the maintenance of the balance between man and his environment and between man and man and between man and his values.

But as an old ecologist I am also getting impatient. It's been a long time. If we don't convert all this heat into light and all this excitement into work, we will, I am afraid, be badly frustrated and soon give up on the environment. Excitement cannot be sustained unless there are results.

And so what I am concerned with is not activity but results. What I am concerned with is not what is wrong with the world but what do we have to do to put it right.

PANAMA CANAL: TIME TO END DIPLOMATIC FUTILITY AND TO FOCUS ON MAJOR MODERNIZATION

(Mr. FLOOD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FLOOD. Mr. Speaker, as all Members of the Congress who have followed my addresses on interoceanic canal problems know, I have devoted much effort and time to the study of the subject. The more that I have reflected upon it the more I have been impressed by the profound significance of General MacArthur's statement in his immortal address to the Congress on April 19, 1951, when he warned that the Communist threat is a global one, that its successful advance in one sector threatens the destruction of every other, and that to consider the problems of one oblivious to those of another is but to count disaster for the whole.

Since that time Communist power has been greatly extended. The Caribbean has become a vast area for penetration and conquest with wresting control of the Panama Canal from the United States as a prime Soviet objective. Unfortunately, in consequence of State Department pressures, the leadership in our Government has played into the hands of the common enemy under circumstances that arouse grave concern.

The duly elected constitutitonal government of Panama, inaugurated on October 1, 1968, won its election on a platform that did not call for surrender of U.S. sovereignty over the Canal Zone or was otherwise hostile to the United States. Its leaders well understood that the security of the Western Hemisphere depends upon the continued and unweakened U.S. presence on the isthmus.

After only 10 days in office that government was overthrown by a military coup d'etat, the National Assembly of Panama liquidated, a leftist oriented military revolutionary regime installed, and it has been continued in power by force of arms and a national censorship of the press.

Recognizing by the U.S. Government soon after the coup d'etat, the revolutionary government of Panama secured a resumption in June 1971 of negotiations for new canal treaties and has subsequently conducted a campaign of hostile propaganda against the United States that has never been equaled.

In the midst of this vituperative deluge, the House Subcommittee on the

Panama Canal under the able leadership of its chairman, my distinguished colleague from New York (Mr. MURPHY), on November 29 started the most comprehensive inquiry into Isthmian Canal policy questions since 1906. This inquiry included an official visit by the subcommittee in the Canal Zone from February 18 to 24, 1972, and this in spite of determined opposition from the State Department and threats of violence on the part of Panamanian strongman and dictator, Gen. Omar Torrijos.

Refusing to be intimidated by either State Department functionaries or Panamanian pro-Red leaders, the subcommittee arrived on the isthmus following a tidal wave of anti-American propaganda and performed its duties without incident. In fact, it found the Panamanian people at large pleasant and cordial.

Although Chairman MURPHY held well-attended press conferences, there was a complete blackout of publicity in the controlled press of Panama with the result that the ordinary man in the street did not even know that the subcommittee was on the isthmus. So far as has been ascertained there was a similar blackout in the press of the United States. Such ignoring by the mass news media of these important hearings cannot be explained solely because of the Nixon-Mao conversations in China at the same time, which did receive massive coverage in both mainland China and the United States.

Another, and more disturbing, aspect of the congressional visitation was the reluctance of our citizens in the Canal Zone, apparently intimidated, to testify concerning matters of which they had special knowledge gained from experience and observations over long periods of time. Whether this reluctance was induced by fear of official reprisals from our own Government or by threats of physical injury from Panamanian extremists I do not know. In either case, the situation is probably rooted in the same cause—the international forces bent upon driving the United States from the isthmus and our timid State Department.

Another angle in the canal situation recently encountered on the isthmus was the deep contempt openly expressed by revolutionary Panamanians for the United States. A typical current comment to North Americans relative to present treaty negotiations was:

> If the United States does not meet our aspirations for complete sovereignty over the Canal Zone, our Revolutionary Government will stage demonstrations and then your government will accommodate so as not to hurt its world image.

There you have the key demonstration to bring about accommodation.

In a press conference on March 9, 1972, after return from the Isthmus, Chairman MURPHY reported some of the results of his recent visit to the Canal Zone, certain highlights of which I now summarize:

First, that the situation on the Isthmus is a "time-bomb" that unless defused will explode and overshadow in Latin America the President's recent conversations in China.

Second, that the treaty talks seem to have reached an impasse with Foreign Minister Juan Antonio Tack, Jorge Illueca, and Gallileo Solis urging General Torrijos to hold out for more concessions even at the risk of violence.

Third, that U.S. negotiators seem to be wavering from their December 1971 position that control and defense of the canal are nonnegotiable.

Fourth, that most difficulties on the Isthmus could be handled without any new treaty.

Fifth, that our Government has failed to reply to false charges against the United States.

Sixth, that U.S. citizens in the Canal Zone oppose surrender of the Canal Zone and its civil government to Panama as reportedly provided in the proposed treaties.

Mr. Speaker, here I would say again what I have often stated on previous occasions. The Panama Canal enterprise is not a mere shopping center that can be placed on the auction block of pusillanimous appeasement diplomacy but a geographical crossroads for interoceanic commerce and hemispheric security. It is not a spot on the periphery of our defense system like Okinawa but a military center of supreme value—indeed an indispensable one for Western defense. In a legal sense, the Canal Zone and Panama Canal are territory and property of the United States that form a part of our coast line. As such it should remain until the time comes for the return of the vast Southwest, and California to Mexico, the Pacific Northwest to Great Britain, and Alaska to the U.S.S.R. The defense of the canal is just as much the responsibility of the Armed Forces of the United States as is the protection of San Francisco or Chesapeake Bays, and responsible officials in the executive department should be made to understand these elemental facts.

At this point, Mr. Speaker, it is pertinent to explain that State Department involvement in Panama Canal policy determination did not become institutionalized until 1952 when an Assistant Secretary of State was made a member of the Board of Directors of the Panama Canal Co. Since that time submission to political blackmail at Panama has become a habit. It is indeed fortunate that the State Department had only a slight part in Isthmian canal policy determination during the construction era—1904–14—for if it had had then the authority that it has assumed today I do not see how the canal could have been built.

Another point that I wish to stress is that despite the specific provisions of article IV, section 3, clause 2 of the U.S. Constitution vesting the power to dispose of territory and other property of the United States in the Congress—House and Senate—our negotiators have been attempting to usurp authority by negotiating the nonnegotiable constitutionally acquired domain and property of the United States. The Congress has blocked such efforts before and it can do so again.

My correspondence on canal matters has been extensive and includes reports from persons who are well informed. The following facts gleaned from various sources are most significant:

First, about November 1, 1971, there was a meeting at Antilla, Cuba, attended by Soviet Premier Kosygin, Fidel Castro, and General Torrijos, in which the last sought financial and military aid to enable him to start action in the Canal Zone against the United States.

Second, Foreign Minister Gonzalo Facio, of Costa Rica, and General Torrijos, of Panama, are now collaborating in order to strengthen the ties of these two countries with the U.S.S.R.

Third, one of the top KGB agents of the U.S.S.R., Vicktor Nilolayevich Menikof, is now in Panama in close contact with its revolutionary government.

Fourth, the first major move planned in this collaboration will be a U.S.S.R. embassy in Costa Rica, which would facilitate the sending into Panama of KGB agents and other Soviet technicians.

Fifth, such agents will penetrate Colombia from Panama with the idea of producing the spark for creating a Chile-Panama-Cuba axis, highly dangerous to hemispheric security.

Sixth, U.S.S.R. operatives are now in the University of Panama and other government agencies.

Seventh, Panamanian Communist Party leaders have visited Moscow and Castro has visited Chile.

Eighth, dispatches from Taiwan on February 28, 1972, indicate that the Nixon-Mao talks in Peking have stimulated increased U.S.S.R. activities in Central and other parts of Latin America and that new efforts are being made to woo Japan into an economic alliance with Moscow for Isthmian Canal purposes.

Ninth, in the March 1972 issue of an important professional magazine of the Armed Forces is an article calling for an accommodation with Red Cuba.

Tenth, the latest reports now surfacing are that the executive branch of our Government, after the elections, is planning for a meeting with Fidel Castro, with the early surrender of our Guantanamo Naval Base clearly implied.

Two of our Presidents have supported policies for the cession of U.S. sovereignty over the Canal Zone to Panama. Now it seems that preparations are underway to give up our naval base in Cuba.

These moves are not isolated events but related parts in a worldwide program of surrender, which cannot fail to undermine our efforts for the defense of Europe against inundation by the hordes of Asia with ultimate danger to our own security.

As regards the Panama Canal it cannot be too often emphasized that it is the keystone of hemispheric security and no amount of diplomatic sophistry or legislative evasion can alter this fact. This condition of affairs has been largely induced by the weak and vascillating policies of our own Government. Of one matter, I am certain and that is they do not have the approval of the people of our country, who are far ahead of their Government in appraising the realities involved.

While the canal subject is an immensely complicated one it has been clarified and is now far better understood. There are only two issues: first, the transcendent question of continuing the indispensable U.S. sovereignty over the Canal Zone and the canal in perpetuity; and second, the major modernization of the existing Panama Canal. All other issues, however important, are irrelevant and only serve to confuse the true ones, which have been before the Congress for many years.

On September 22 and 23, 1971, the House Subcommittee on Inter-American Affairs conducted public hearings for Members of the Congress. All of the witnesses, except one Member of the Senate, strongly opposed any surrender at Panama and urged adoption of the pending Panama Canal sovereignty resolutions.

Mr. Speaker, though these hearings were published and given wide circulation, this subcommittee has not yet made any report. Until that is done the House will not have an opportunity to vote on this vital measure.

The Soviet presence and activities on the isthmus and in the Caribbean area are the strongest reasons for prompt action on the pending measures and for the continued undiluted possession of the Canal Zone territory by the United States.

We cannot operate and defend the canal in effective manner with any less territory than that now in the Canal Zone. In fact, the zone territory should be extended to include the entire watershed of the Chagres River.

Meanwhile, under presidential orders, U.S. canal treaty negotiators continue their futile efforts to cede U.S. sovereign control over the indispensable protective strip of the Canal Zone to Panama. Certainly, Mr. Speaker, the time has come to stop the current exercise in diplomatic sterility. As previously stated, the Congress, which includes the House, has the power to do so; and it bears the ultimate responsibility in the premises. When the current diplomatic confusions are cleared away, the responsible engineering planners for the Panama Canal will be free from uncertainty and thus able to focus on the major engineering project of modernizing the existing Panama Canal to provide the best conditions for the transit of vessels at the least cost and without treaty involvement. Moreover, such project would preserve and aid the economy of Panama.

As I have stated on other occasions the Caribbean is our fourth front in the defense of the United States and the Panama Canal is the prime Soviet objective for the conquest of that strategic area. The issue is not U.S. sovereignty over the Canal Zone versus Panamanian but continued undiluted U.S. sovereignty over it versus U.S.S.R. domination; and this is the challenge that the Congress must meet.

Because of their special interest I quote some of the documentation upon which my remarks are based:

KOSYGIN—CASTRO—TORRIJOS

(By Julio Argain, Reporter for "El Colombiano")

The information we received plainly states: "During Soviet Communist leader Kosygin's stay in Cuba, Omar Torrijos, the Panamanian dictator, traveled to Cuba for a meeting in Antilla, Province of Oriente, with Kosygin and Fidel Castro, in which he asked for Soviet financial and military help so that he could start action against the United States in the Canal Zone."

We could still add a few interesting details to this news but we prefer to wait for a more appropriate opportunity. For example, an article published by the "Washington Post" one of the most famous U.S. papers, by no means sensationalist and following a line of absolute objectivity, which refers to the situation in the Canal Zone. In this article the problem is discussed in all its complexities.

There is one obvious fact in this matter: there are no negotiations pertaining to the Canal but attempts to establish bases for negotiating a new treaty and all the issues presented by the Panamanian representatives in the first phase of proceedings for a future understanding will not lead to any results as long as the U.S. does not deal with a constitutional and "freely elected" government. On this matter complete agreements exist between the White House, the State Department, the Pentagon and Congress because they know that a treaty signed in any other form would not be of any value once an authentically Republican and representative government is reestablished in the Isthmus. As a result, the petitions of the present de facto government have been rejected without any major consideration.

This, without any doubt, led to the meeting in Antilla which could not have had a better god-father than Fidel Castro who has always repeated his willingness to help all Latin American agitations including an armed showdown in an effort to eliminate U.S. influence in the Hemisphere an action that would receive a less alarming denomination, namely, "nationalism."

As of now, we do not know what answer Soviet leader Kosygin may have given in connection with the pleas made to him although it may well have been in line with the Kremlin's well-known policy in similar cases: enthusiastic promises that the matter would be studied by agents sent by Moscow who, first of all, would stir up popular agitation something for which they had been trained.

[Source: La Patria, Feb. 1, 1971]

TOP SECRET

We have received numerous letters from our readers and even calls from cable agency correspondents looking into the confidential reports we are publishing in Top Secret. Some insist on knowing the veracity of the same. Others doubt that we of a small newspaper possess such reports. To one and the other we say that so far they all have been confirmed and that our sources come from unquestionable credit [sic]. Here are some others;

The secret meetings that Castro held in Chile with Cubans and Chileans who were indoctrinated in "special camps" for several years in Cuba are now paying off. Many of "those Chileans" today belong to Allende's Armed Forces. And 30 days after Castro's return, a Chilean military delegation visited Cuba, was exhibited to the public one or two days, and then right away proceeded to "strategy meetings in the naval as well as the aviation sector of the Island. Topic: Preparation of the "maritime offensive" plan agreed upon by Castro and Allende. This report would be lacking in importance—for several years everything has been directed toward subversive activities—if other details were not known.

While the Soviet Union is holding talks—negotiations—with the U.S.A., its subversion technicians are taking advance steps. In an official bulletin of the Secretary of Commerce in Mexico, Latin American Section, this notice appeared: the "USSR has signed an agreement with Chile for the *construction and readaptation of one or more fishing ports in Chile.*" Also "the training of technicians for the maintenance of these ports." This assistance, in men and money, will provide the Russians with other bases in America for provisioning its war units and for the entry and departure of ships with men and weapons in order to deploy them over the Continent as well as Cuba's ports, among these that of Havana, Cienfuegos, and others. The personnel in Cuba is directed by Commander Emilio Aragonés although their main leader is Captain Angel Alvárez Lombardia, expert in the preparation and sending of subversive units to Africa and various zones of Latin America.

The soldiers who came to Cuba from Chile were received by Commandante Raul Castro, but the main character was the Russian Ambassador to Cuba. In the Castroite circles three principal objectives were learned of to carry out the plan by means of the fishing ports in Cuba and Chile. Iquique, a port to the north of Chile, will be the base of embarkation and disembarkation. And the main "touch" points will be Peru (?) [sic—question mark in original], Panama, and the borders between Uruguay and Brazil. Peru's is mentioned only because until now it was considered a "friendly" country, but Castro pointed out in meetings with the Cuban communist Politburo that he distrusted Peru and that without the Peruvian mountains his program couldn't be completed. The negotiations with Panama have progressed a great deal. Guido Garcia Inclán, Castro's official spokesman, indicated during a radio commentary a few hours ago that "in less than three months Torrijo would renew diplomatic relations with Cuba." In the beginning Castro accused Torrijo of being a "puppet" of the State Department, [the following five lines are crosed out—Trans.]. The front sight with Panama is the Canal and because of this they will penetrate through Colombia and Costa Rica in order to produce the spark that will give the Canal to the communists, thereby creating the Chile-Panama-Cuba axis, highly dangerous to the United States' defenses.

And the plans for the borders between Uruguay and Brazil constitute one of Castro's old dreams, [which was] lost when Gaulart was overthrown, of taking over the small country and the Brazilian jungles. These reports, gathered from sound sources within official Castro circles are already working and in a short time the United States and the peace and tranquility of the rest of the continent will be suffering from their results.

[From the Washington News-Intelligence Syndicate]

THE SCOTT REPORT

(By Paul Scott)

TAIPEI, TAIWAN, February 28.—Sometimes one must travel half way around the world to uncover the big news in his own backyard.

American military officers here are studying a sensational intelligence report from Washington revealing that Soviet leaders were busy trying to increase their influence and power in the Caribbean and Central America while President Nixon was in Peking wooing Red Chinese leaders.

The bold Kremlin maneuver, which hit the American military community in the Far East like a bombshell, involves a secret Soviet-Japanese joint proposal to build a new sea-level canal across Panama.

The Soviet-Japanese proposal is now under study by the left-leaning government of Omar Torrijos, who once was a member of the People's party a front for the Communist party in Panama. The move also has thrown another road-block into the long stalled U.S.-Panama negotiations for a new canal treaty.

Although Panama is nearly 7,000 miles from this strategic island-nation located 100 miles off the Coast of China, the Soviet-Japanese ploy has tremendous military significance for this area of the world as it has for the U.S.

The proposal demonstrates the determination of the Russians to control or influence the control of all the connecting waterways, canals, and straits in the world as part of the Kremlin's grand design to rule the seven seas.

The Soviet maneuver also pinpoints the new effort of Russian leaders to woo Japan into an economic alliance designed to help Moscow gain a foothold in Central and Latin America—now being eyed as new markets by Japanese businessmen.

In strategic importance, the Soviet-Japanese proposal was described by one high-ranking American military officer in the Far East as "more significant than the Russian's Aswan dam project in Egypt."

That $800,000,000 project, which the U.S. refused to finance, was followed by massive Soviet arms shipments to Egypt and the granting of air and naval facilities along the Mediterranean and Red Sea to Russia.

STRATEGIC ISLAND CONCEPT

The Soviet role in the Panama Canal proposal is viewed here as another striking example of the Kremlin's "strategic island" policy at work.

It also indicates how the Soviets hope to take advantage of President Nixon's trip to Peking to attract Japan into a new relationship. By going all out in his wooing of Peking, the President has touched off a chain reaction that is pushing Japan closer to Russia as the leadership in Tokyo tries to find ways to counter the new U.S.-Peking ties.

In joining with Russia to propose the building of a new Panama Canal, the Japanese see a way to put to work some of the $18 billion in American dollars now held by that government. The canal would be financed by low-interest rate loans from the Japanese and the World Bank.

The proposed new super-size Canal also would permit the giant oil tankers, which the Japanese are now building, to cut off thousands of miles in carrying oil to Japan from Latin America and the North Coast of Africa.

Since Japan imports more than 85 percent of its oil from the Middle East, the shorter haul could mean savings of billions of dollars in transportation costs over a decade.

In addition, to increasing Soviet influence in Central and Latin America, military officers here warn that the new canal could lead to the establishment of Soviet bases near the soft underbelly of the U.S..

Presently, in the Pacific, Russia has over 50 major combatant ships and more than 100 submarines, many of them missile-equipped. The new king-size Panama Canal would permit the Soviets to move this fleet or parts of it from the Pacific to the Atlantic ocean at any time.

LAYING THE GROUND WORK

The ground work for the Soviet-Japanese proposal was laid when Soviet Foreign Minister Gromyko visited Japan earlier in the month.

The Gromyko trip was sparked by President Nixon's visit to Peking . . . First contact with Panama was made by Soviet Premier Kosygin when he met secretly with Panama officials in Havana during his visit with Fidel Castro.

Japanese officials, who are involved in negotiations for the building of a huge new international port here, say privately they expect Russia to join with Japanese businessmen in numerous joint ventures throughout the world.

Since the Nixon Administration is encouraging American businessmen to become involved in joint ventures with Soviet bloc nations, these Japanese see nothing wrong in their working with the Soviets—even if the projects have military and strategic implications. There are no Soviet help involved in the Taiwan project.

Soviet officials are known to be interested in obtaining naval fueling and repair facilities in this area of the world. Through third parties they have expressed an interest in using facilities in the new international port scheduled to be ready within five years.

What flows during the next few months from the new balance of power game being played by the U.S. and Russia in Peking and Panama will have a lot to do with the response that Taiwan will give to the Russians.

That is the changing world that President Nixon has created by going to Peking and toasting those that would destroy the American way of life which has helped bring and keep freedom and prosperity here.

LOS ANGELES, CALIF., *March 8, 1972.*

Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

MY DEAR CONGRESSMAN FLOOD: I am enclosing a copy of a letter that I sent to Mr. Paul Scott concerning his expose on Torrijos and his conspiracy with the USSR and Japan to construct a new sea-level canal in Panama that would endanger all of this Western hemisphere.

The irony of all of this is that the USSR not only do they plan to construct the new canal with American dollars that the Japanese hold but they plan to use Route 10 that was determined by the 21 million dollar report that was submitted to President Nixon on December 1st, 1970.

As the USSR have kept Torrijos in power ever since his treasonous overthrow of President Arnulfo Arias on October 11th, 1968, what will happen to the $5 billion dollar investment that the U.S. have in the present canal in the event the USSR and Japan go ahead with their proposed sea-level canal?

There have been several attempts by the people of Panama to overthrow Torrijos. The whole country is praying that the next attempt will be successful as they know that with the return of President Arias, that the would not ask for the surrender of the U.S. sovereignty of the Zone as he has always been aware that the U.S. maintains the sovereignty to insure the security of the canal and this Western hemisphere.

With my warmest regards and admiration.

Cordially,

PHILLIP HARMAN.

LOS ANGELES, CALIFORNIA,
March 8, 1972.

Mr. PAUL SCOTT,
Washington, D.C.

DEAR MR. SCOTT: Just a short note to say how so very much I appreciated your column of the 5th concerning the Soviet-Japanese project to build a new sea-level canal in Panama. It was very well written and is the first time that a syndicated columnist has publicized this alliance between the USSR, Japan, and Torrijos.

For the past two years I have been informing Congress, the Executive Branch, the State Department, and others about the leftist military regime in Panama. You will be interested in reading the enclosed January 18th speech of Congressman Flood in which he inserted 8 of my letters into the Record about the leftist military (only 8 officers including Torrijos and Dario Souza, the secretary-general of the People's Party are running the country) and their close ties with the USSR and Cuba.

Concerning the trip to Cuba where Torrijos met with Kosygin and Castro, this was on November 1st of last year in the city of Antilla, Province of Oriente. With Torrijos were Tack and Romulo Betancourt. Juan Antonio Tack, the Foreign Minister, is a member of the People's Party, very anti-American, and along with Betancourt, the former Secretary General of the People's Party and now the head of the University, they are in a conspiracy with the USSR to gain control over the U.S. sovereignty of the Canal Zone. Concerning the role that Costa Rica is now playing in this conspiracy with the help of Gonzalo Facio, the Foreign Minister of Costa Rica, I am enclosing a copy of a letter that I sent to Congressman Flood.

I am also enclosing a copy of a letter that I sent to Ambassador Robert B. Anderson, Chief negotiator. In it I described the expose by the La Hora newspaper in Panama of Torrijos.

As I explained to Ambassador Anderson, this exposé is actually preparing the Panameños for the return of President Arnulfo Arias and his constitutional government. In a recent secret poll taken in Colon, David, and Panama City, close to 100% of the people were in favor of restoring their constitutional government of President Arias so that all civil liberties and normal functions of government would be restored. Since Torrijos took over the government by gunpoint on October 11th, 1968 there have been several attempts to overthrow this leftist regime but as Torrijos and his top officers control all the arms of the country, this has been difficult to do. However, at this very minute in Panama there is a very strong movement underfoot to restore President Arias and his cabinet before Torrijos makes some sort of a formal pact with Japan and the USSR over a new sea-level canal.

Concerning President Arias, the most popular Panameño in Panama's history, you will be interested in reading the letter that I sent to Mr. Harold Lord Varney. President of the Pan American Policy of New York, that Congressman Flood inserted into the Record. In my letter to Mr. Varney I explained how President Arias has fought and exposed the Reds in the Isthmus and because of that he has been the target of the Reds since the early forties. No other Latin American President has ever fought or exposed the Communists as much as President Arias. Back in the early forties his was the only "lone voice" that told the world that the USSR were first after his country and then would start their "cold war" battle for control over the U.S. sovereignty of the Canal Zone. That was 30 years ago and today we have the leftist Torrijos working in conjunction with the People's Party of Panama, ruling Panama by gunpoint and demanding and threatening the U.S. for control over the Zone. In 1963, President Arias told Dr. Octavio Fabrega, the 1955 Panamanian treaty negotiator and former Foreign Minister, that the canal issue is "fallacious" and that "anti-Yankee campaigns opens the door to subversive agents of Castro Communism and Soviet imperialism." That statement was 8 years ago and today agents of Castro and Soviet technicians are in Panama working closely with Torrijos in their conspiracy to gain control over the sovereignty of the Zone.

I am also enclosing a copy of a letter that I sent to Ambassador David Ward of the negotiations. This letter explained President Arias' viewpoints concerning the sovereignty of the Zone and the military bases. President Arias has always been aware that the U.S. maintains the sovereignty of the Zone to insure the security of the Canal and this Western hemisphere.

With my warmest regards and thanks.

Cordially,

PHILLIP HARMAN.

Los Angeles, Calif., *March 9, 1972.*
Hon. Daniel J. Flood,
House of Representatives,
Washington, D.C.

My Dear Congressman Flood: From time to time you have mentioned in your speeches before the House that only a handful of daily newspapers have given coverage to what is actually happening in Panama and the Miami Herald is one of them.

I thought you would be interested in a letter than I sent to Mr. Don Bohning, the Latin America Editor of the Miami Herald. Mr. Bohning, as you know, for a number of years has covered the happenings in Panama and has endeavored to report the situation as he sees it. I for one have appreciated reading his articles about the leftist military dictatorship in Panama and the many hundreds of Panamenos who are in exile in Miami share my view.

Concerning the news media, it seems that Torrijos is now being "shielded" from the foreign press by a well known Communist whose name is Jorge Carrasco who was placed in that position by Tack. Speaking about Torrijos, he has not been seen for the past 2 weeks. In fact, when Somoza visited Panama recently, he wasn't around.

With my warmest regards and admiration.

Cordially,

Phillip Harman.

Los Angeles, Calif., *March 9, 1972.*
Mr. Don Bohning,
Miami Herald Latin America Editor,
The Miami Herald,
Miami, Fla.

Dear Mr. Bohning: President Arnulfo Arias so very kindly sent me from Miami your 2 columns of February 27th and 28th that were filed from Panama. They were extremely interesting and very well written.

For the past two years I have been devoting my time and efforts by informing Congress, both the Senate and the House, the Executive Branch, the State Department and others about the leftist military regime in Panama. You will be interested in reading the enclosed January 18th speech of Congressman Flood in which he inserted into the Record 8 of my letters about the leftist military and their close ties with the USSR and Cuba.

May we discuss your column of February 27th concerning the treaty situation. In my letter that I sent to Mr. Harold Lord Varney, President of the Pan American Policy of New York, that Congressman Flood inserted into the Record, I told Mr. Varney that President Nixon would not submit a treaty or treaties to the Senate for Advice and Consent for 3 reasons; namely, the House of Representatives are again against any new treaty, the present government in Panama is leftist, and the present government in Panama is nonconstitutional. Furthermore, there are no procedures for ratification as the constitution of Panama clearly states that a treaty has to be signed by a constitutional president and ratified by the National Assembly.

Last October I notified Congress that on September 21st at the Presidential Palace in Panama, a secret meeting was held by Torrijos, Lakas, Sucre, Manfredo, Guevara, and others. It was revealed at that time that an agreement was made between the U.S. and Panama that Panama would ratify the treaty first and this had to be done before December 31st, 1971. As you know no ratification took place in Panama for two reasons:

1. There are no constitutional procedures for ratification being a non-constitutional government.

2. Torrijos had already made a verbal agreement with the USSR and Japan to construct a new sea-level canal in Panama.

Concerning the verbal agreement, last August Torrijos had met with representatives from the Mitsui interests of Tokyo concerning the financing of a new sea-level canal and also to obtain a concession for the development of copper deposits in Panama. If you recall, Torrijos did release a statement that the Japanese and "others" were interested in financing a new sea-level canal.

On November 1st of last year, only 5 weeks after the secret meeting at the Presidential Palace in Panama, Torrijos met with Kosygin and Castro at Antilla in Cuba which is in the Province of Oriente. With Torrijos were Tack and Betancourt. Do not forget that Betancourt was formerly the Secretary-General of the People's Party. At this secret meeting at Antilla, an agreement was formulated with Torrijos pertaining to a new canal whereby the USSR would furnish the technical knowledge for the construction and the Japanese would do the financing with American dollars they hold. Also, at this meeting it was agreed upon that Torrijos and Tack would keep on their hard line strategy against the U.S. by demanding and threatening for the surrender of the U.S. sovereignty of the Canal Zone and the closing of the 11 military bases and all training establishments.

Pertaining to this secret agreement that Torrijos has with the USSR and Japan, the Department of State has been aware of it and that explains the request by David M. Abshire of the State Department when he asked Congressman John Murphy not to go to Panama to further hold his hearings. That also explains the reason why the press in Panama did not inform the public about Murphy's presence in Panama. Can you imagine the Panameños' anger if they knew that Torrijos had made an agreement with the USSR and Japan for a new canal? They have tolerated the presence in Panama of the many Soviet advisers and technicians that are now seen in Panama because they are helpless to protest, but the Panameño in the street know if the USSR builds a canal in their country what would happen to their income and livelihood that comes from the $160 million yearly that they receive in fringe benefits from the Canal Zone.

As to the reason why the Department of State hasn't released this conspiracy between Torrijos and the USSR for a new canal in Panama, is because the adverse publicity it would create in the U.S. as to what would happen to the $5 billion investment that the U.S. have in the present canal. On November 8th, I informed all the members of the Senate Foreign Relations Committee as well as the House Subcomittee on Inter-American Affairs and the Subcommittee on Panama Canal as well as others in the Executive Branch and in the State Department about Torrijos flight to Cuba where he met with Castro and Kosygin.

The irony of this conspiracy between the USSR, Japan, and Torrijos is that the canal would be financed by American dollars that the Japanese hold and they plan to use Route 10 that was determined by the $21 million dollar interoceanic report that was submitted to President Nixon on December 1st, 1970.

If you did not see Paul Scott's exposé of this new sea-level canal on March 5th, I am enclosing a copy of it along with my comment. Copies of his column were sent to the Senate and the House, the Executive Branch, The White House, and others. This is the first time that this has been exposed in a nationwide syndicated column.

Your column of February 27th also mentioned about Ambassador Ward's statement that the bases were nonnegotiable. I am enclosing a copy of a letter that I sent to Mr. Ward on February 28th concerning President Arias and his viewpoints pertaining to the bases. As I told Mr. Ward, President Arias has always been aware that the U.S. maintains the U.S. sovereignty of the Zone to insure the security of the canal and this Western hemisphere.

To further look into the conspiracy between the USSR and Torrijos to gain control over the U.S. sovereignty of the Zone which would mean the closing of military bases and training establishments as part of the agreement that was made between Kosygin and Torrijos, we have to look also to Costa Rica and the part they are playing in this conspiracy. I am enclosing a copy of a letter that I sent to Congressman Flood about it. On October 20th, 1968, just 9 days after the overthrow of President Arias, the USSR approached Costa Rica concerning reactivating the Embassy they had back in the late forties and early fifties. It seemed strange that immediately after the overthrow of President Arias, the most popular Panameño in Panama's history, that the USSR wanted to open an Embassy in San Jose. However, they had to wait until Gonzalo Facio came to power (not Figueres) and Figueres made him the Foreign Minister. Facio and Tack are the closest of friends and as soon as Facio came to power as the Foreign Minister, he joined Tack in their anti-American attack and campaign for the surrender of the sovereignty of the Canal Zone.

If you recall last year Figueres accused the U.S. and the CIA of interfering in his government because of his intention to open diplomatic relations with the Soviets. His excuse for opening relations was the weakest in the world when he said that the USSR was willing to buy their excess coffee but Facio's trip to Moscow last August was of a different story. The primary reason and only reason for the USSR Embassy in Costa Rica was the easy access to Panama for the KGB agents to come and go as they please. The same procedure happened with Nasser and the Suez . . . the easy access of KGB agents to move freely and easily. As I told Congressman Flood, Panama City has in its midst at this moment, one of the top KGB agents by the name of Vic Menikof. Few people know who he is or what he does. Mexico had expelled him in 1969.

I am only bringing up the case of Costa Rica to show you to what extent the USSR is going to in their endeavor to gain control over the Zone through the help of Torrijos, Tack, Betancourt, and others in their objective of controlling all the waterways of the world.

May I also discuss your column of February 28th that pertains to the new constitution? First we have to look to the 1,400,000 Panameños who deplore this dictatorship and what they did to their country. The only people that would recognize a de facto constitution that is now being drawn up are the 9 individuals that are running and controlling the country that I described in my letter to Secretary Abshire on December 11th, 1971.

Your mention of the puppet President Lakas and how and why he was appointed is not widely known in the United States. Lakas is the owner of 2 houses of prostitution called Hotel Ideal and Hotel Llave de Oro. The military participates with Lakas in the operation of this business. Beside being in business with the military, the military thought it would be to their advantage to appoint Lakas because of his Greek background and this would give them closer ties with the military of Greece. Only last summer Torrijos sent Lakas to Greece to meet with the Junta to discuss and be advised of how to further strengthen their power and consolidate their position over the Panameños.

Concerning the disappearance of Father Gallego which was widely publicized in the United States, the murder of Sammy Boyd has never been mentioned in the U.S. news media. His death on May 9th, 1970, which was called "accidental" will not be forgotten when the constitutional government is restored. As you know Sammy Boyd was Panama's most prominent industrialist and was the son of former President Augusto Boyd.

Your mention about the military courting the students is an interesting one. I am enclosing a statement they made on October 14th, 1968 condemning the military. This statement was inserted into President Arias' report to the OEA on October 29th, 1968. The Communist that was hired by Torrijos to court the students is a most dangerous person. His name is Carlos Calzadilla and has been with the Communist Party since the early forties. In 1947 he led a movement against the Filos-Hines agreement on military bases. But actually the Panamanian student is too intelligent to fall for the tricks of the military. They will go along pretending and tolerating the dictatorship government as to oppose it would mean being jailed and other reprisals. But the release they made on October 14th, 1968 still stands today in their thinking. They will never forgive the military for committing treason against their country and depriving the people of all civil liberties. They know who Romulo Betancourt (now the head of the University) and Carlos Calzadilla are and who they represent. They also know if the U.S. ceded the sovereignty of the Zone then the U.S. would not have the legality to repel a threat to the Canal unless the sovereignty is maintained by the United States. They know if the sovereignty is ceded what would happen to the $160 million dollars yearly in fringe benefits they receive from the United States.

An interesting comment in your column of February 28th was the fiscal picture in Panama. Marco Robles had left the treasury depleted and with the public debt of the government close to $325 million, President Arias will be assuming his presidency again with a bankrupt country. Fortunately, for President Arias, he has all of Congress behind him and they will come to his aid economically and otherwise. You will be interested to know that the present financial crisis in Panama is caused by 4 factors:

1. Uncollateral loans of government funds to officers, relatives, and close business friends of the military.
2. Privately borrowed short term loans from international banks at high interest rates.
3. Lack of qualified personnel.
4. Responsible and knowledgeable Panamanians' refusal to accept fiscal positions with the military.

Concerning this financial crisis, I recently told Mr. Henry Kearns, Chairman and President of the Export-Import Bank of the United States, "However, we must remember that Fidel Castro defaulted on all of his international fiscal obligations. Only last September Chile had suggested to suspend their payments of foreign debts for a period of ten years. It is with this thought in mind that Panama, who is being steered by Communist Agents, may very well default on their fiscal obligations when the time becomes appropriate."

There is a paradox in the 1972 budget of $240.9 million of which $174 million represents direct government investment in public projects, an increase of 44% over the previous year. The paradox concerns the military decree starting in January that all employers pay an extra month's salary of which ½ goes to each worker. Because of this new decree, the construction industry is reeling and construction costs have jumped about 25% since last year.

Concerning the *lack of safeguards* such as any constitutional government has, I have for the past two years been informing the U.S. lending agencies; such as, the World Bank, the Inter-American Development Bank, and the U.S. Export-Import Bank about the lack of safeguards and public accounting with the military of Panama. An interesting legal question will no doubt come up when President Arias returns as to the legality of making financial loans to a non-constitutional government *whose funds cannot be accounted for* when the constitutional government is restored.

As President Arias is the only Panameño that has ever won 4 elections (the Reds in conjunction with the military did not let him assume the presidency in 1964 although the foreign newsmen that covered the elections all agreed that President Arias had received the majority of the votes) you will be interested in the role that President Arias played in exposing the USSR and their objectives in gaining control from within of his country. In my letter to Mr. Varney, I explained how President Arias fought and exposed the USSR ever since the early forties and because of that the USSR has defamed and slandered his name both in the U.S. and abroad. Today we have the leftist Torrijos working in conjunction with the People's Party, ruling Panama by gunpoint and demanding and threatening for the surrender of the U.S. sovereignty of the Zone and at the same time making a secret pact to build a new sea-level canal with the USSR and Japan.

In 1963 President Arias told Dr. Octavio Fabrega, the 1955 Panamanian treaty negotiator and former Foreign Minister, that the canal issue is "fallacious" and that "anti-Yankee campaigns opens the door to subversive agents of Castro Communism and Soviet imperialism."

That statement was made over 8 years ago and today agents of Castro and Soviet advisers are now in Panama working closely with Torrijos, Tack, Betancourt, and others in their conspiracy to gain control over the U.S. sovereignty of the Zone.

No doubt you read about the La Hora attack on Torrijos on January 29th. I am enclosing a copy of a letter that I sent to Ambassador Robert B. Anderson of the treaty negotiations about this exposé which is actually preparing the Panameños for the return of President Arias and his cabinet. Since this exposé on Torrijos, I have heard that de la Ossa and Manfredo were leaving Washington and that Lakas wants out of the presidency. Also, it has been rumored that Aquilino Boyd, now the Ambassador to the United Nations, will replace de la Ossa as Ambassador to the United States. Boyd, if you recall, was formerly the Foreign Minister under President de la Guardia and in 1960 demanded 50% of the tolls of the Canal.

Concerning this exposé on Torrijos on January 29th, I am enclosing a copy of Congressman Flood's speech on February 23rd about the La Hora article. In this speech, he says "In such event imagine the ridiculous position in which our Government would find itself, for the last constitutional president of Panama never used the canal issue for election purposes and never demanded surrender of U.S. sovereignty over the Canal Zone." As I have told Congress many times, President Arias has never used the canal issue for election purposes nor has he ever asked for the return of the sovereignty of the Zone or the closing of any of the 11 military bases and training establishments such as Torrijos is now demanding.

Since this drastic attack on Torrijos, there is a very strong movement underfoot to restore President Arias and his cabinet before Torrijos makes a formal pact with the USSR and Japan to construct a new sea-level canal. As you were recently in Panama, you know very well that on the surface, business is conducted as usual and everything seems to be normal but underneath the surface are 1,400,000 Panameños who deplore the treasonous act the military committed against their country and they are doing everything in their power at this very minute, to restore President Arias and his constitutional government.

With my warmest regards.

Cordially,

Phillip Harman.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Mathias of California (at the request of Mr. Gerald R. Ford), from April 10 through 15, on account of official business.

Mr. Mailliard (at the request of Mr. Gerald R. Ford), for the week of April 10, on account of official business.

Mr. Chappell (at the request of Mr. O'Neill) for today, on account of official business.

Mr. Pryor of Arkansas (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Patman (at the request of Mr. O'Neill) for today, on account of official business.

Mr. Rangel (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Michel (at the request of Mr. Gerald R. Ford), for the week of April 10, on account of official business.

Mr. Saylor (at the request of Mr. Gerald R. Ford), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Zablocki, for 10 minutes, today, and to revise and extend his remarks and include extraneous matter.

Mr. Byrne of Pennsylvania, for 10 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Hillis) and to revise and extend their remarks and include extraneous matter:)

Mr. Derwinski, for 30 minutes, today.
Mr. Shoup, for 15 minutes, today.
Mr. Halpern, for 5 minutes, today.
Mr. Kemp, for 15 minutes, today.
Mr. Ashbrook, for 60 minutes, today.
Mr. Williams, for 15 minutes, today.
Mr. Conte, for 60 minutes, on April 18.
Mr. McDade, for 5 minutes, today.
Mr. Buchanan, for 5 minutes, today.
Mr. Esch, for 10 minutes, today.
Mr. Hogan, for 5 minutes, today.
Mr. Hansen of Idaho, for 10 minutes, today.

(The following Members (at the request of Mr. McKay), to revise and extend their remarks and include extraneous matter:)

Mr. Alexander, for 30 minutes, today.
Mr. Gonzalez, for 10 minutes, today.
Mr. Rodino, for 5 minutes, today.
Mr. Fulton, for 10 minutes, today.
Mr. Aspin, for 10 minutes, today.
Mr. Murphy of New York, for 5 minutes, today.
Mr. Drinan, for 15 minutes, today.
Mr. Mazzoli, for 5 minutes, today.
Mr. Boggs, for 15 minutes, today.

Mr. DANIELSON, for 10 minutes, today.
Mr. ROSENTHAL, for 5 minutes, today.
Mr. PATTEN, for 60 minutes, today.
Mr. KEE, for 15 minutes, today.
Mr. HELSTOSKI, for 10 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DINGELL and to include extraneous matter in Committee of the Whole on H.R. 11896.

Mr. ZABLOCKI in two instances and to include extraneous matter.

Mr. EVINS of Tennessee, to revise and extend his remarks before the vote on the Mahon amendment.

Mr. GUBSER, to revise and extend his remarks after disposition of the William D. Ford amendment.

Mr. CRANE to extend his remarks during consideration of H.R. 11896, today.

Mr. MIKVA to extend his remarks in the permanent RECORD during debate on H.R. 12410, on March 13, 1972.

(The following Members (at the request of Mr. HILLIS) and to include extraneous matter:)

Mr. LANDGREBE in five instances.
Mr. MCKINNEY.
Mr. LUJAN.
Mr. WYMAN in two instances.
Mr. HUNT in two instances.
Mr. PELLY.
Mr. COUGHLIN.
Mr. DERWINSKI in 10 instances.
Mr. FORSYTHE.
Mr. SHRIVER.
Mr. BRAY in two instances.
Mr. SHOUP.
Mr. TEAGUE of California in two instances.
Mr. WHALEN in two instance.
Mr. HALPERN in three instances.
Mr. SCHMITZ in two instances.
Mr. GUDE in seven instances.
Mr. KEMP in three instances.
Mr. QUIE in two instances.
Mr. WINN.
Mr. HOSMER in four instances.
Mr. ASHBROOK in two instances.
Mr. KYL.
Mr. MYERS in two instances.
Mr. KING in three instances.
Mr. CLANCY.
Mr. BELL in two instances.
Mr. ROUSSELOT.
Mr. MCCOLLISTER in three instances.
Mr. DUNCAN in two instances.
Mr. SCHWENGEL in four instances.
Mr. FRELINGHUYSEN.
Mr. MCCLOSKEY.
Mr. MCDONALD of Michigan.
Mr. PRICE of Texas.

(The following Members (at the request of Mr. MCKAY) and to include extraneous matter:)

Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. ROGERS in five instances.
Mr. KLUCZYNSKI in two instances.
Mr. STEED in two instances.
Mr. PRYOR of Arkansas in two instances.
Mr. RODINO in three instances.
Mr. TEAGUE of Texas in six instances.
Mr. HUNGATE in two instances.
Mr. DRINAN in two instances.
Mr. NICHOLS.
Mr. RYAN in three instances.
Mr. BOLLING.
Mr. SYMINGTON.
Mr. BINGHAM in six instances.
Mr. DINGELL in two instances.
Mr. JAMES V. STANTON.
Mr. HARRINGTON in four instances.
Mr. WILLIAM D. FORD in two instances.
Mr. HANNA in two instances.
Mr. WALDIE in six instances.
Mr. ANDERSON of California in five instances.
Mr. ROYBAL in three instances.
Mr. O'NEILL.
Mr. ECKHARDT.
Mr. FUQUA.
Mrs. GRIFFITHS in two instances.
Mr. FLOOD.
Mr. RANGEL.
Mr. EVINS of Tennessee in two instances.
Mr. GALLAGHER in three instances.
Mr. BRASCO in two instances.
Mr. MCMILLAN.
Mr. DULSKI.
Mr. WRIGHT.
Mr. GALIFIANAKIS.
Mr. HELSTOSKI.
Mr. BENNETT in two instances.
Mr. FULTON.
Mr. CULVER in three instances.
Mr. MONAGAN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 8787. An act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

ADJOURNMENT

Mr. MCKAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. STRATTON). In accordance with House Concurrent Resolution 573 of the 92d Congress, the Chair declares the House adjourned until 12 o'clock noon, on Monday, April 10, 1972.

Thereupon (at 4 o'clock and 48 minutes p.m.), pursuant to House Concurrent Resolution 573, the House adjourned until Monday, April 10, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1798. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1972 (H. Doc. No. 92–271); to the Committee on Appropriations and ordered to be printed.

1799. A communication from the President of the United States, transmitting amendments to the requests for appropriations for fiscal years 1972 and 1973 (H. Doc. No. 92–272); to the Committee on Appropriations and ordered to be printed.

1801. A letter from the General Counsel of the Department of Defense, transmitting proposed amendments to H.R. 12604, increasing the authorization for certain appropriations to the Department of Defense, pursuant to section 412(b) of Public Law 86–149, as amended; to the Committee on Armed Services.

1802. A letter from the Assistant Secretary of Defense (Manpower and Reserve Affairs), transmitting a report on the adequacy of pay and allowances of the uniformed services, pursuant to 37 U.S.C. 1008(a); to the Committee on Armed Services.

1803. A letter from the Assistant Secretary of the Air Force (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend the act of September 26, 1966, Public Law 89–606, to extend for 4 years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes; to the Committee on Armed Services.

1804. A letter from the Chief, Plans Group, Office of Legislative Liaison, Department of the Air Force, transmitting a report on recent decisions made to upgrade the capability of Air National Guard and Air Force Reserve units; to the Commitee on Armed Services.

1805. A letter from the Acting Attorney General, transmitting a draft of proposed legislation to remove the limitation on payments for consultant services in the Community Relations Service; to the Committee on the Judiciary.

1806. A letter from the Secretary of the Treasury, transmitting a report of Treasury Department activities under the act to facilitate the transportation of cargo by barges specifically designed for carriage aboard a vessel, pursuant to section 27 of the act (46 U.S.C. 883); to the Committee on Merchant Marine and Fisheries.

RECEIVED FROM THE COMPTROLLER GENERAL

1800. A letter from the Deputy Comptroller General of the United States, transmitting a report of a followup review of civilian health and war-related casualty program of the Agency for International Development in Laos; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 5199. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Miami Tribe of Oklahoma and the Miami Indians of Indiana in Indian Claims Commission dockets Nos.

255, 256, 124–C, D, E, and F, and of funds appropriated to pay a judgment in favor of the Miami Tribe of Indians in the Commissioner's docket No. 251–A, and for other purposes; with amendments (Rept. No. 92–962). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7093. A bill to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma; with amendments (Rept. No. 92–963). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 12404. A bill to amend section 5 of the act of September 21, 1968 (82 Stat. 860), relating to preparation of a roll of persons of California Indian descent and the distribution of certain funds (Rept. No. 92–964). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 9520. A bill to amend section 101(1)(2) of the Tax Reform Act of 1969; with amendments (Rept. 92–965). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of Conference. Conference report on S. 3054. (Rept. No. 92–966). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABOUREZK:

H.R. 14174. A bill to amend the Internal Revenue Code of 1954 so as to limit the amount of deductions attributable to the business of farming which may be used to offset nonfarm income; to the Committee on Ways and Means.

By Mrs. ABZUG (for herself, Mr. Conyers, Mr. Dellums, and Mr. Ryan):

H.R. 14175. A bill to exonerate and to provide for a general and unconditional amnesty for certain persons who have violated or are alleged to have violated laws in the course of protest against the involvement of the United States in Indochina, and for other purposes; to the Committee on the Judiciary.

By Mr. BADILLO (for himself and Mr. Burton):

H.R. 14176. A bill to establish comprehensive and developmental child care services in the Department of Health, Education, and Welfare; to the Committee on Education and Labor.

By Mr. BINGHAM:

H.R. 14177. A bill to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes; to the Committee on Banking and Currency.

H.R. 14178. A bill to amend the Social Security Act to provide nursing care and day care services under part B of title XVIII, to provide home health care and private-duty nursing services under title XIX, to extend fire and safety standards to intermediate-care facilities, to establish an experimental program to provide in-home care for the elderly, to expand public disclosure requirements, and for other purposes; to the Committee on Ways and Means.

By Mr. BOLAND:

H.R. 14179. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to cities for improved street lighting; to the Committee on the Judiciary.

By Mr. BROWN of Ohio:

H.R. 14180. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials and elected town and township officials; to the Committee on Government Operations.

By Mr. CONTE:

H.R. 14181. A bill to establish a National Corrections Academy for the purpose of providing Federal, State, and local corrections personnel with vocational training and continuing education and guidance on methods of treatment and rehabilitation of criminal offenders; to the Committee on the Judiciary.

By Mr. DRINAN (for himself, Mr. Carey of New York, Mrs. Chisholm, Mr. Eckhardt, Mr. Fraser, Mr. Green of Pennsylvania, Mr. Link, Mr. Metcalfe, and Mrs. Mink):

H.R. 14182. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. EDMONDSON:

H.R. 14183. A bill to provide for conditional confirmation and authorization for withdrawal of confirmation of judges; to the Committee on the Judiciary.

By Mr. FREY (for himself, Mr. Keith, Mr. Blackburn, Mr. Devine, Mr. Hosmer, Mr. Duncan, Mr. Charles H. Wilson, Mr. Podell, Mr. King, Mr. Eilberg, Mr. Archer, Mr. Griffin, Mr. Yatron, Mr. Ware, Mr. Keating, Mr. Lloyd, Mr. Young of Florida, Mr. Derwinski, Mr. Winn, Mr. Schmitz, Mr. Forsythe, Mr. Horton, Mr. Rhodes, Mr. Collins of Texas, and Mr. McClory):

H.R. 14184. A bill to provide increased penalties for distribution of heroin by certain persons, and to provide for pretrial detention of such persons; to the Committee on Interstate and Foreign Commerce.

By Mr. FREY (for himself, Mr. Bell, Mr. Veysey, Mr. Shoup, and Mr. Cleveland):

H.R. 14185. A bill to provide increased penalties for distribution of heroin by certain persons, and to provide for pretrial detention of such persons; to the Committee on Interstate and Foreign Commerce.

By Mr. FULTON:

H.R. 14186. A bill to create a special tariff provision for imported glycine and related products; to the Committee on Ways and Means.

By Mr. GIBBONS:

H.R. 14187. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. HALPERN:

H.R. 14188. A bill to make a supplemental appropriation for the fiscal year ending June 30, 1973, for the Bureau of Customs, to enable it to acquire narcotic drug detecting equipment and to employ personnel to operate such equipment; to the Committee on Appropriations.

H.R. 14189. A bill to permit the use of members of the Ready Reserve of the Army by the Bureau of Customs of the Department of the Treasury in programs to prevent the illegal entry of narcotic drugs into the United States; to the Committee on Armed Services.

H.R. 14190. A bill to ban further sale of the drug imipramine, also known as Tofranil, pending the completion of studies on its use in pregnant women; to the Committee on Interstate and Foreign Commerce.

H.R. 14191. A bill to amend the Narcotic Addict Rehabilitation Act of 1966 to broaden the scope of its programs for prisoners in such a way as to include various categories of prisoners not now eligible for such treatment; to the Committee on the Judiciary.

By Mr. KOCH:

H.R. 14192. A bill to amend the Internal Revenue Code of 1954 to provide that married individuals who file separate returns shall be taxed at the same income tax rates as unmarried individuals; to the Committee on Ways and Means.

H.R. 14193. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. McCORMACK:

H.R. 14194. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 14195. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the labels on all foods to disclose each of their ingredients; to the Committee on Interstate and Foreign Commerce.

By Mr. MILLER of California:

H.R. 14196. A bill to amend the National Science Foundation Act of 1950 so as to provide for a program relating to earthquakes; to the Committee on Science and Astronautics.

By Mr. MIZELL (for himself, Mr. Andrews, Mr. Bevill, Mr. Broyhill of North Carolina, Mr. Carter, Mr. Cleveland, Mr. Flowers, Mr. Gray, Mr. Kemp, Mr. King, Mr. Kyros, Mr. Montgomery, and Mr. Thone):

H.R. 14197. A bill to amend the Public Works and Economic Development Act of 1965 to extend its coverage with respect to the economic development of rural America; to the Committee on Public Works.

By Mr. PEYSER:

H.R. 14198. A bill to amend the Elementary and Secondary Education Act to insure greater safety for students in getting to and from school; to the Committee on Education and Labor.

By Mr. ROGERS (for himself, Mr. Staggers, Mr. Satterfield, Mr. Kyros, Mr. Preyer of North Carolina, Mr. Symington, Mr. Roy, Mr. Carter, Mr. Hastings, Mr. Jarman, Mr. Moss, Mr. Van Deerlin, Mr. Pickle, Mr. Rooney of Pennsylvania, Mr. Murphy of New York, Mr. Adams, Mr. Blanton, Mr. Tiernan, Mr. Podell, Mr. Carney, Mr. Byron, Mr. Kuykendall, Mr. Skubitz, Mr. Thompson of Georgia, and Mr. Frey):

H.R. 14199. A bill to establish a Department of Health; to the Committee on Government Operations.

By Mr. ROGERS (for himself, Mr. Brooks, Mr. Fountain, Mr. Fascell, Mr. Reuss, Mr. Monagan, Mr. Moorhead, Mr. Gallagher, Mr. Randall, Mr. Wright, Mr. Fuqua, Mr. Alexander, and Mrs. Abzug):

H.R. 14200. A bill to establish a Department of Health; to the Committee on Government Operations.

By Mr. ROGERS (for himself, Mr. Bennett, Mr. Blatnik, Mr. Boland, Mr. Downing, Mr. Edmondson, Mr. Fulton, Mr. Galifianakis, Mr. Giaimo, Mrs. Griffiths, Mr. Hays, Mr. Madden, Mr. Nichols, Mr. O'Neill, Mr. Perkins, Mr. Price of Illinois, Mr. Pryor of Arkansas, Mr. Shipley, Mr. Sikes, Mr. Smith of Iowa, Mr. James V. Stanton, Mr. Vanik, and Mr. Charles H. Wilson):

H.R. 14201. A bill to establish a Department of Health; to the Committee on Government Operations.

By Mr. ROSENTHAL (for himself, Mr. Carey of New York, Mr. Corman, Mr. Green of Pennsylvania, Mr. Anderson of California, Mr. Bingham, Mr. Boland, Mrs. Chisholm, Mr. Clay, Mr. Cotter, Mr. Diggs, Mr. Dow, Mr.

Eckhardt, Mr. Gallagher, Mr. Harrington, Mr. Helstoski, Mr. Mikva, Mr. Minish, Mr. Minshall, Mr. Mitchell, Mr. Moorhead, Mr. Morse, Mr. Moss, Mr. O'Hara, and Mr. Rees):

H.R. 14202. A bill to repeal the meat quota provisions of Public Law 88–482; to the Committee on Ways and Means.

By Mr. ROUSH (for himself and Mr. Rhodes):

H.R. 14203. A bill to abolish the library of the House of Representatives, and for other purposes; to the Committee on House Administration.

By Mr. ROY:

H.R. 14204. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary and secondary education of dependents; to the Committee on Ways and Means.

Mr. SCOTT (for himself, Mr. Whitehurst, Mr. Wampler, and Mr. Abbitt):

H.R. 14205. A bill to provide for the establishment of the Great Dismal Swamp National Monument in the States of Virginia and North Carolina; to the Committee on Interior and Insular Affairs.

By Mr. SHIPLEY:

H.R. 14206. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. SHOUP:

H.R. 14207. A bill to provide for a study of the most desirable and feasible means of transporting visitors within certain portions of Glacier National Park, Mont., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SHOUP (for himself, Mr. Alexander, Mr. Andrews, Mr. Bevill, Mr. Blackburn, Mr. Cleveland, Mr. Collins of Texas, Mr. Daniel of Virginia, Mr. Devine, Mr. Duncan, Mr. Fisher, Mr. Flynt, Mr. Griffin, Mr. Hansen of Idaho, Mr. Hillis, Mr. Harsha, Mr. Hosmer, Mr. Kemp, Mr. Kuykendall, Mr. Lloyd, Mr. McClure, Mr. McDonald of Michigan, Mr. McEwen, Mr. O'Konski, and Mr. Scott):

H.R. 14208. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain recordkeeping provisions with respect to ammunition; to the Committee on the Judiciary.

By Mr. SHOUP (for himself, Mr. Sebelius, Mr. Taylor, and Mr. Young of Florida):

H.R. 14209. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalities in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain recordkeeping provisions with respect to ammunition; to the Committee on the Judiciary.

By Mr. SHOUP:

H.R. 14210. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. SISK:

H.R. 14211. A bill to provide compensation for the injury, illness, disability, or death of employees in agriculture, and for other purposes; to the Committee on Education and Labor.

H.R. 14212. A bill to amend the Internal Revenue Code of 1954 to provide an additional personal exemption of $750 for the disability of the taxpayer or his spouse; to the Committee on Ways and Means.

By Mr. TALCOTT:

H.R. 14213. A bill to repeal the lowest unit rate provision of section 315(b) of the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMPSON of Georgia:

H.R. 14214. A bill to amend the Tennessee Valley Authority Act of 1933, to require payment of certain county taxes, and for other purposes; to the Committee on Public Works.

By Mr. THOMSON of Wisconsin:

H.R. 14215. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. VEYSEY (for himself, Mr. Alexander, Mr. Baker, Mr. Broyhill of North Carolina, Mr. Gerald R. Ford, Mr. King, Mr. Koch, Mr. Seiberling, and Mr. Charles H. Wilson):

H.R. 14216. A bill to establish a Federal program to encourage the voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors; to the Committee on Interstate and Foreign Commerce.

By Mr. VEYSEY:

H.R. 14217. A bill to amend the Internal Revenue Code of 1954 and title II of the Social Security Act to provide a full exemption (through credit or refund) from the employees' tax under the Federal Insurance Contributions Act, and an equivalent reduction in the self-employment tax, in the case of individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. WILLIAMS (for himself, Mr. Coughlin, Mr. Eshleman, Mr. Johnson of Pennsylvania, Mr. Saylor, Mr. Schneebeli, Mr. Ware, Mr. Whalley, Mr. Barrett, Mr. Byrne of Pennsylvania, Mr. Clark, Mr. Dent, Mr. Eilberg, Mr. Moorhead, Mr. Nix, Mr. Vigorito, and Mr. Yatron):

H.R. 14218. A bill to amend section 167 of the Internal Revenue Code of 1954 to provide a special allowance for depreciation with respect to certain byproduct and waste energy conversion facilities; to the Committee on Ways and Means.

By Mr. BOB WILSON:

H.R. 14219. A bill to amend title II of the Social Security Act to increase to $3,000 the annual amount individuals are permitted to earn without suffering deduction from the monthly insurance benefits payable to them under such title; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 14220. A bill to amend the Interstate Commerce Act, as amended, with respect to school bus safety; to the Committee on Interstate and Foreign Commerce.

H.R. 14221. A bill to transfer to the Secretary of State all functions, powers, and duties of the Attorney General under chapter 7 of title II of the Immigration and Nationality Act, relating to the registration of aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. ZWACH (for himself and Mr. Link):

H.R. 14222. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to establish an upland game conservation program; to the Committee on Agriculture.

By Mr. ASPINALL (for himself, Mr. McKay, Mr. Runnels, Mr. Steiger of Arizona, Mr. Rhodes, Mr. Lloyd, and Mr. Udall):

H.R. 14223. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to provide for a Four Corners Area program; to the Committee on Agriculture.

By Mr. BINGHAM:

H.R. 14224. A bill to authorize the Secretary of Health, Education, and Welfare to encourage and assist in the development on a demonstration basis of several carefully planned projects to meet the special health care and related needs of elderly persons in a campus-type setting; to the Committee on Banking and Currency.

H.R. 14225. A bill to provide homemaker services to elderly individuals in need thereof; to the Committee on Education and Labor.

H.R. 14226. A bill to amend the Public Health Service Act to provide for grants for establishment and operation of departments of geriatrics, programs for training physicians' assistants and medical assistants, and to establish a National Institute of Gerontology; to the Committee on Interstate and Foreign Commerce.

By Mr. CELLER:

H.R. 14227. A bill to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes; to the Committee on the Judiciary.

By Mr. DENT:

H.R. 14228. A bill to provide that foreign made products be labeled to show the country of origin, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GREEN of Pennsylvania:

H.R. 14229. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. HALPERN:

H.R. 14230. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety, reliability, and effectiveness of medical devices; to the Committee on Interstate and Foreign Commerce.

By Mr. HANLEY:

H.R. 14231. A bill to provide price support for milk not less than 85 percent of the parity price therefor; to the Committee on Agriculture.

By Mr. HASTINGS:

H.R. 14232. A bill to amend section 103 of title 23 of the United States Code relating to additional mileage for the Interstate System; to the Committee on Public Works.

By Mrs. HICKS of Massachusetts:

H.R. 14233. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

H.R. 14234. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to cities for improved street lighting; to the Committee on the Judiciary.

By Mr. MAYNE:

H.R. 14235. A bill to amend the Consolidated Farmers Home Administration Act of 1961; to the Committee on Agriculture.

By Mr. MOORHEAD:

H.R. 14236. A bill to authorize the establishment of an older worker community service program; to the Committee on Education and Labor.

By Mr. MURPHY of New York (for himself, Mr. Byrne of Pennsylvania, Mr. Bray, Mr. James V. Stanton, Mr. Metcalfe, Mr. Grover, Mr. Rogers, Mr. Garmatz, Mr. Jones of North

Carolina, Mrs. Sullivan, and Mr. Stubblefield):

H.R. 14237. A bill to amend 5 U.S.C. 8335 to reduce the mandatory retirement age for non-U.S. citizen employees of the Panama Canal Company or the Canal Zone Government employed on the Isthmus of Panama to 62 years of age; to the Committee on Post Office and Civil Service.

By Mr. PRICE of Texas:

H.R. 14238. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. RANGEL:

H.R. 14239. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968, relating to law enforcement assistance, to provide certain requirements and procedures to assure nondiscrimination in State law enforcement assistance planning agencies and other agencies receiving enforcement assistance funds, and for other purposes; to the Committee on the Judiciary.

By Mr. REUSS:

H.R. 14240. A bill to amend the Small Business Investment Act of 1958, and for other purposes; to the Committee on Banking and Currency.

By Mr. ROE:

H.R. 14241. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. STRATTON:

H.R. 14242. A bill to provide for compliance with constitutional requirements in the trials of persons who are charged with having committed certain offenses while subject to trial by court-martial, who have not been tried for such offenses, and who are no longer subject to trial by court-martial; to the Committee on the Judiciary.

By Mr. SYMINGTON (for himself, Mr. Anderson of Illinois, Mr. Anderson of Tennessee, Mr. Ashley, Mr. Badillo, Mr. Begich, Mr. Bingham, Mr. Bolling, Mrs. Chisholm, Mr. Clay, Mr. Coughlin, Mr. Dingell, Mr. Dulski, Mr. Edmondson, Mr. Edwards of California, Mr. Edwards of Louisiana, Mr. Eilberg, Mr. William D. Ford, Mr. Halpern, Mr. Hansen of Idaho, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Hillis, Mr. McCloskey, and Mr. McCormack):

H.R. 14243. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. SYMINGTON (for himself, Mr. Madden, Mr. Mann, Mr. Matsunaga, Mr. Mikva, Mr. Moorhead, Mr. Morse, Mr. Obey, Mr. Pike, Mr. Price of Illinois, Mr. Rees, Mr. Reuss, Mr. Rodino, Mr. Roy, Mr. Ryan, Mr. St Germain, Mr. Sarbanes, Mr. Scheuer, Mr. Schwengel, Mr. Seiberling, Mr. Shriver, Mr. Stokes, Mr. Thone, Mr. Tiernan, and Mr. Charles H. Wilson):

H.R. 14244. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. TEAGUE of Texas (by request) (for himself and Mr. Kyros):

H.R. 14245. A bill to amend title 38 of the United States Code to provide an annual clothing allowance to certain veterans who, because of a service-connected disability, wear a prosthetic appliance or appliances which tends to wear out or tear their clothing; to the Committee on Veterans' Affairs.

H.R. 14246. A bill to amend chapter 15, title 38, United States Code, to provide for the continuation of aid and attendance allowance to certain veterans and to increase the pension payable to a veteran at age 72; to the Committee on Veterans' Affairs.

By Mr. VANIK (for himself, Mr. Reid, Mr. Ryan, Mr. St Germain, Mr. Scheuer, Mr. Seiberling, Mr. James V. Stanton, Mr. Tiernan, Mr. Thompson of New Jersey, and Mr. Wolff):

H.R. 14247. A bill to repeal the meat quota provisions of Public Law 88–482; to the Committee on Ways and Means.

By Mr. ANDERSON of California:

H.J. Res. 1136. Joint resolution to improve the foreign relations of the United States and enhance the prospects of peace; to the Committee on Foreign Affairs.

By Mr. BOLAND:

H.J. Res. 1137. Joint resolution to authorize the President to proclaim the 22d day of April of each year as "Queen Isabella Day"; to the Committee on the Judiciary.

By Mr. CORMAN (for himself, Mr. Moss, Mr. Burton, Mr. Danielson, Mr. Dellums, Mr. Edwards of California, Mr. Hawkins, Mr. Leggett, Mr. Rees, Mr. Roybal, and Mr. Waldie):

H.J. Res. 1138. Joint resolution to improve the foreign relations of the United States and enhance the prospects of peace; to the Committee on Foreign Affairs.

By Mr. DIGGS (for himself, Mr. Badillo, Mr. Bingham, Mr. Burton, Mrs. Chisholm, Mr. Clay, Mr. Collins of Illinois, Mr. Conyers, Mr. Dellums, Mr. Edwards of California, Mr. Fauntroy, Mr. Fraser, Mr. Hawkins, Mr. Halpern, Mr. Koch, Mr. Metcalfe, Mr. Mikva, Mr. Mitchell, Mr. Nix, Mr. Rangel, Mr. Rosenthal, Mr. Ryan, Mr. Scheuer, and Mr. Stokes):

H.J. Res. 1139. Joint resolution to protect U.S. domestic and foreign policy interests by making fair employment practices in the South African enterprises of U.S. firms a criteria for eligibility for Government contracts; to the Committee on the Judiciary.

By Mr. EDMONDSON:

H.J. Res. 1140. Joint resolution proposing an amendment to the Constitution of the United States providing authorization for the reconfirmation of Federal judges during every 10th year of service; to the Committee on the Judiciary.

By Mr. HANLEY:

H.J. Res. 1141. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month"; to the Committee on the Judiciary.

By Mr. HANNA:

H.J. Res. 1142. Joint resolution to improve the foreign relations of the United States and enhance the prospects of peace; to the Committee on Foreign Affairs.

By Mr. MAILLIARD (for himself, Mr. Morse, Mr. Bingham, Mr. Pepper, Mr. Badillo, Mr. Carey of New York, Mr. Dellums, Mr. Derwinski, Mr. Diggs, Mr. Drinan, Mr. Eilberg, Mr. Forsythe, Mr. Frenzel, Mr. Garmatz, Mr. Gibbons, Mr. Gude, Mr. Halpern, Mr. Hansen of Idaho, Mr. Harrington, Mr. Helstoski, Mr. Hicks of Washington, Mr. Horton, Mr. Keith, Mr. Leggett, and Mr. Lloyd):

H.J. Res. 1143. Joint resolution establishing a commission on U.S. participation in the United Nations; to the Committee on Foreign Affairs.

By Mr. MAILLIARD (for himself, Mr. Morse, Mr. Bingham, Mr. Pepper, Mr. Mazzoli, Mr. Meeds, Mr. Miller of California, Mrs. Mink, Mr. Moorhead, Mr. Mosher, Mr. Moss, Mr. Podell, Mr. Rangel, Mr. Rodino, Mr. Roy, Mr. Ryan, Mr. Scheuer, Mr. Seiberling, Mr. Symington, Mr. Vander Jagt, and Mr. Ware):

H.J. Res. 1144. Joint resolution establishing a commission on U.S. participation in the United Nations; to the Committee on Foreign Affairs.

By Mr. PRYOR of Arkansas (for himself, Mrs. Abzug, Mr. Aspin, Mr. Begich, Mr. Bell, Mr. Blackburn, Mr. Brasco, Mr. Buchanan, Mr. Burton, Mrs. Chisholm, Mr. Collins of Illinois, Mr. Cotter, Mr. Danielson, Mr. Duncan, Mr. Eilberg, Mr. Findley, Mr. Gerald R. Ford, Mr. William D. Ford, Mr. Forsythe, Mr. Garmatz, Mrs. Grasso, Mr. Gude, Mr. Hamilton, Mr. Hammerschmidt, and Mr. Harrington):

H.J. Res. 1145. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month"; to the Committee on the Judiciary.

By Mr. PRYOR of Arkansas (for himself, Mr. Hathaway, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Kemp, Mr. Kuykendall, Mr. Kyros, Mr. Lent, Mr. Link, Mr. Long of Maryland, Mr. McClure, Mr. Matsunaga, Mr. Melcher, Mr. Morse, Mr. Podell, Mr. Rosenthal, Mr. Ruppe, Mr. Ryan, Mr. Sarbanes, Mr. Stokes, Mr. Symington, Mr. Veysey, Mr. Whalen, Mr. Winn, and Mr. Young of Florida):

H.J. Res. 1146. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month"; to the Committee on the Judiciary.

By Mr. SIKES (for himself, Mr. Fascell, Mr. Bennett, and Mrs. Grasso):

H.J. Res. 1147. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

By Mr. HALPERN:

H. Con. Res. 574. Concurrent resolution expressing the sense of Congress that the President should instruct certain information agencies to provide information about the problems of heroin addiction in the United States to countries producing, processing, or trafficking in, opium; to the Committee on Foreign Affairs.

By Mr. KING:

H. Con. Res. 575. Concurrent resolution expressing the sense of Congress with respect to those individuals who refused to register for the draft, refused induction, or, being a member of the Armed Forces, fled to a foreign country to avoid further military service; to the Committee on Armed Services

By Mr. SIKES (for himself and Mr. Bennett):

H. Con. Res. 576. Concurrent resolution relating to the 25th Congress of the Interallied Confederation of Reserve Officers to be held in Washington, D.C., the week of August 7, 1972; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CASEY of Texas:

H.R. 14248. A bill for the relief of Rajinder N. Dewan; to the Committee on Post Office and Civil Service.

By Mr. GREEN of Pennsylvania:

H.R. 14249. A bill for the relief of Pfc. James Watson, Jr., U.S. Marine Corps Reserve; to the Committee on the Judiciary.

By Mr. NIX:

H.R. 14250. A bill for the relief of Donald Hercules Hurdle; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H.R. 14251. A bill for the relief of Dr. Kai Ming Chen and his wife, Dr. Lilliam Chen; to the Committee on the Judiciary.

H.R. 14252. A bill for the relief of Dr. Dolores A. Y. Loew; to the Committee on the Judiciary.

By Mr. O'NEILL:

H.R. 14253. A bill for the relief of Alvaro and Berta Rios and their minor children; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

205. The SPEAKER presented a petition of employees in the offices of Representative JOHN E. MOSS and other Members of the House of Representatives, relative to a boycott of eating facilities in the House Office Buildings, which was referred to the Committee on House Administration.

SENATE—*Wednesday, March 29, 1972*

The Senate met at 11 a.m. and was called to order by Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord, make us instruments of Thy peace; where there is hatred, let us sow love; where there is injury, pardon; where there is discord, union; where there is doubt, faith; where there is despair, hope; where there is darkness, light; where there is sadness, joy. For Thy mercy and for Thy truth's sake, Amen.—ST. FRANCIS OF ASSISI, 12th century.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 29, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. STEVENSON thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to a concurrent resolution (H. Con. Res. 571), providing for an adjournment of the House from March 29, 1972, until April 10, 1972, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 9526) to authorize certain naval vessel loans, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. STEVENSON).

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 28, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The Senator from Connecticut is recognized.

(The remarks of Mr. RIBICOFF on the introduction of S. 3432 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADJOURNMENT OF THE TWO HOUSES FOR EASTER

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 571.

The Presiding Officer laid before the Senate House Concurrent Resolution 571, which was read as follows:

H. CON. RES. 571

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Wednesday, March 29, 1972, it stand adjourned until 12 o'clock meridian, Monday, April 10, 1972.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider it.

Mr. MANSFIELD. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read the amendment as follows:

On page 1, line 4, strike out "1972." and insert "1972, and that when the Senate adjourns on Thursday, March 30, 1972, it stand adjourned until 12 o'clock meridian, Tuesday, April 4, 1972."

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The concurrent resolution (H. Con. Res. 571), as amended, was agreed to, as follows:

H. CON. RES. 571

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Wednesday, March 29, 1972, it stand adjourned until 12 o'clock meridian, Monday, April 10, 1972, and that when the Senate adjourns on Thursday, March 30, 1972, it stand adjourned until 12 o'clock meridian, Tuesday, April 4, 1972.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TAKE THE DEPARTMENT OF JUSTICE OUT OF PARTISAN POLITICS

Mr. ROTH. Mr. President, the very cornerstone of the American form of government is respect for the law by the citizens of this country. Anything that erodes public confidence in the law or the administration of justice under the law weakens the basis of our democracy.

Just as we must always be on guard against possible corruption of the judicial system, so, too, must we be constantly alert to the danger that political pressures may influence either judicial decisions or the administration of justice in the executive branch of the Government.

The continuing investigation by the Senate Committee on the Judiciary into the International Telephone and Telegraph case has brought to our attention once again the serious problems that are presented when it is alleged that the administration of our laws may be influenced by political considerations.

While it is certainly important that we discover whether such allegations are based on fact, a matter of even greater importance, it seems to me, is the question of whether a situation should be permitted to exist which could give rise to such allegations.

Last week I expressed my thoughts on this matter in a letter to Acting Attorney General Richard G. Kleindienst. In my letter I stated:

> It is my deeply held conviction that a new policy is called for, one in which the Attorney General makes abundantly clear that neither he nor officials of his department will in any way be involved in partisan politics.

My letter continues:

> I strongly urge you to make your position clear on this point, not only because it would greatly assist the Senate in the confirmation process, but because it would go a long way toward removing the Department of Justice completely from the arena of politics.

Mr. President, I ask unanimous consent that my letter to Mr. Kleindienst, dated March 24, 1972, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 24, 1972.

Hon. RICHARD G. KLEINDIENST,
Acting Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR MR. KLEINDIENST: Among the matters of gravest concern to the American people today continues to be the question of law and order; the safety of our citizens in their homes and on the streets, the protection of their families and property from harm or destruction, and the swift and fair administration of justice once an offender is apprehended.

This concern, I think, is deeply rooted in respect for the rule of law, a respect that is shared by the vast majority of American citizens. It is this respect for the rule of law and the fervent desire on the part of Americans to see the law upheld that forms one of the basic cornerstones of our democratic system. That foundation of democracy cannot remain strong if respect for the administration of justice under the law is eroded.

Inherent in any administration of justice that seeks to command the respect of our citizens is the absolute imperative that justice be meted out without favor. Short of outright corruption of the judicial system or malfeasance in office on the part of members of either the Judicial Branch of the government or the administrators of our laws, political favoritism would rank at about the top of the list of those things which would bring the integrity of the system into serious doubt.

I am greatly concerned at this point that the just administration of our laws be carried out without the taint of political favor or even the appearance of such favoritism. It is not difficult to see how an appearance of favoritism may be created even though none actually exists if Justice Department officials are known to be involved in partisan political activity.

On March 15, 1972, the New York Times carried a lead editorial, two paragraphs of which I would like to quote at this point:

"The politicizing of the Justice Department has been a dismal trend, engaged in by both parties for more than a generation. It is precisely because this course has been unchallenged by the Democrats and Republicans alike that sometimes even the most important officials become morally blind to its consequences.

"The result is a contagion of cynicism about the system and its institutions. When Government creates conditions which make it easy to abuse power, its citizens begin to condone corruption as a way of life. Such attitudes, particularly when they involve the Justice Department, subvert faith in Government by law."

It is not my purpose here to suggest any wrong-doing in the past on the part of officials of the Department of Justice, except to say that it is common knowledge that past Attorneys General have frequently served as top political advisers to the administrations of which they have been a part. The fact that this has occured under both Democratic and Republican administrations does not alter the fact that it is an unhealthy practice.

It is my deeply held conviction that a new policy is called for, one in which the Attorney General makes abundantly clear that neither he nor officials of his department will in any way be involved in partisan politics.

I strongly urge you to make your position clear on this point, not only because it would greatly assist the Senate in the confirmation process, but because it would go a long way toward removing the Department of Justice completely from the arena of politics. To the extent that that has been achieved, I believe that greater public respect for the integrity, not only of the present Administration, but for the American democratic system of government itself, will swiftly follow.

I would appreciate your prompt response to this request for clarification of your position on the question of political involvement by Justice Department officials.

Sincerely,

WILLIAM V. ROTH, Jr.,
U.S. Senate.

Mr. STEVENS. Mr. President, the hearings before the Judiciary Committee on the qualifications of Mr. Richard Kleindienst to hold the office of Attorney General have gone far afield.

What we are now witnessing is a fishing expedition seemingly motivated by an attempt to make a political advantage of these hearings.

The integrity of Mr. Kleindienst is not really the subject of the testimony being given.

As a matter of fact, I have known Dick Kleindienst since 1947 when we began law school together and our paths have crossed often during the intervening years. As a result of this association over a period of 25 years, I believe him to be a person of ability and integrity. It is my intention to vote for his confirmation as Attorney General and I ask the Judiciary Committee to end these hearings and permit this body to get on with the more serious business which we must complete before we recess for this year's conventions.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

(The remarks that Mr. JAVITS made at this point on the introduction of S. 3433 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

THE CRISIS OF PROTECTIONISM

Mr. JAVITS. Mr. President, there is great interest in the country respecting the crisis of protectionism in the United States as epitomized by the so-called Burke-Hartke bill which proposes to set quotas on practically all imports, as well as legislate sweeping and harsh tax changes on foreign subsidiaries of American corporations.

In that connection there is much to do to help workers and businesses who may be adversely affected by the heavy impact of imports concentrated in certain product lines. I have sought to find out from the Secretaries of Labor and Commerce what we are doing and could better do in our adjustment assistance program. I found out that these programs are totally inadequate. The help, if and when it does arrive, arrives years after the funeral. The fault in these programs lies more in the inadequacies of present laws, than in the adequacy in the administration of present laws—although this administration leaves much to be desired.

Mr. President, I am deeply interested in liberal trade as being essential to the continued prosperity of the free world and to the peace and future of our Nation. Similarly it is inexcusable for a mature and rich nation such as the United States not to have an adequate, and effective assistance program to workers and businesses who are very materially affected by a sudden descent upon them of imports. Other nations are far in advance to the United States in this area.

I have now received from the Secretaries of Labor and Commerce their analysis of what is wrong and how limited this assistance is. I ask unanimous consent that their letters be printed in the RECORD, and I shall do my utmost as we consider trade matters to change radically the approach to adjustment assistance so that instead of putting a very small amount of money in long after the fact, which is really quite ineffective, we try to find a truly effective way in which to help American workers and businesses which suffer serious injury respecting imports without thwarting or destroying the international economic policy of the United States that is so indispensable to the peace and prosperity of our country.

Our Nation's adjustment assistance programs must be reformed and strengthened. To be successful in the future, they must be based on practical criteria and they must successfully blend federally assisted R. & D. programs, selected provision of loan guarantee programs, selected use of tax incentives, selected provision of direct loans and better informational and evaluation systems.

I am pleased that the Secretaries of Commerce and Labor have assured me that a major interagency review of the whole program of adjustment assistance is underway with an eye toward submitting new legislative proposals and reforming and expediting the system.

While the Congress and the Federal Government must concern themselves, more adequately, with the human problems caused by jobs that have been lost because of imports, we must also better protect those jobs that are threatened by a sudden increase in imports over a short period of time or that result from unfair foreign competitive conditions. However, we must do this without overturning and totally disrupting the international economic system as some legislative proposals would do. Toward this former end, we must enforce more conscientiously the laws, regulations, and international codes already on the books—the antidumping and countervailing duty laws and the articles of the GATT. We must rethink the function and trigger mechanism of the escape clause—at present there is little escape from serious injury from imports in the escape clause. One necessary change clearly is making injury a separate matter from past tariff concessions. We must also put into effect a functionary early warning system to insure that our Nation, or a State, or a community does not wake up one day to find that an essential industry is no more because of the sudden impact of imports.

There must be a beginning point and pending the passage of new legislation this beginning point could be in the area of adjustment assistance, although new legislative authority is also needed here if an effective program is to be mounted.

It is in this spirit that I wrote to the Secretaries of Commerce and Labor and in which I ask that my letter to them and their replies be printed in the CONGRESSIONAL RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 20, 1972.
Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: I am happy to respond to the questions in your letter of February 22. My answers are enclosed. I agree that this material should be incorporated into my JEC testimony.

Sincerely,

J. D. HODGSON,
Secretary of Labor.

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1) Are there any inadequacies in existing law which deter an effective program of adjustment assistance? For example, is the law that requires the Secretary of Commerce and the Secretary of Labor to certify eligibility to apply for adjustment assistance after there already has been a Tariff Commission and/or Presidential determination of injury an anachronism which serves no useful purpose? Are there other examples of inadequacies of law which should be corrected?

In answering this and the subsequent questions, I shall confine my remarks to the worker side of the Trade Adjustment Assistance Program. I understand an identical set of questions has been presented to the Department of Commerce and I am sure that they can provide more accurate information on firm assistance.

There is little substantive overlap in the roles of the Tariff Commission and the Department of Labor. I believe the appropriateness of the Department of Labor's role in the Trade Adjustment Assistance Program will be clear from the following. There are two ways in which a group of workers can become eligible for trade adjustment assistance. The first is by petitioning the Tariff Commission directly. If the Tariff Commission makes an affirmative finding, the Department has relatively simple but necessary functions to perform. It must establish an impact date (the date beyond which imports can be considered the major factor causing unemployment or underemployment), it must define the adversely affected group; and finally, the Department must supervise the delivery of assistance.

Workers can also become eligible as a result of an industry petition. After an affirmative finding by the Tariff Commission, the President can (1) approve escape clause relief, (2) grant permission to workers within the industry to apply for adjustment assistance, (3) grant permission for firms in the industry to apply for adjustment assistance, or (4) provide for any combination of the first three forms of relief. If permission is given to groups of workers to apply for adjustment assistance, it is the responsibility of the Department of Labor, in addition to the roles noted above, to determine whether injury to a specific group from the industry is caused by increased imports.

Under the present statute these functions are necessary and are performed appropriately and efficiently by the Department of Labor. There are, however, certain inadequacies in the present law. The President's Trade Bill of 1969 tried to address some of these inadequacies, specifically the overly stringent eligibility requirements and the role of the Tariff Commission. Suggested changes have also been recommended in the July 1971 report of the President's Commission in International Investment and Trade Policy (the William's Commission). At the present time there is a Council on International Economic Policy Task Force, chaired by Under Secretary of Labor Silberman, studying the entire issue of adjustment assistance. About one-half of the Task Force's work has been completed. When their recommendations are presented, we will be in a much better position to propose remedies to the inadequacies of the present law. More importantly, we will understand more fully how trade adjustment assistance relates to U.S. trade policy and to domestic economic policy.

2) What is the time lapse between the application of firms or workers for eligibility to apply for adjustment assistance and the granting of such eligibility? For example, a constituent firm has indicated to me that after a 3–1 Tariff Commission vote in their favor, it took two months merely to receive certification that they were eligible to apply. How many cases are like this where bureaucratic delays prevent a meaningful and prompt program of adjustment assistance?

The Department of Labor can set an impact date and determine the affected group generally within 30 days in cases approved by the Tariff Commission. Somewhat more time is required to process a worker request for assistance following a successful industry petition. At present, the Department of Labor requires 60 days to gather the necessary information. Certifications are generally issued within 10–14 days following the completion of an investigation. In several instances investigation and certification have been completed within a 60 day period.

These are fairly simple procedures and we have learned to handle them expeditiously. However, there are other steps in the process of obtaining adjustment assistance where regrettable delays do occur. I will discuss these in greater detail under question 4.

3) Of the firms and workers which have applied for certification of eligibility, how many have received such certification?

As of March 1, 1972, there had been 136 cases in which worker groups filed for assistance under the Trade Expansion Act of 1962. Assistance was granted in 56 of these cases. It is useful to break down these totals in accordance with the distinction I made earlier. Direct petitioning of the Tariff Commission accounted for 123 of the cases and 44 of the approvals. Application by workers to the Department of Labor on the basis of a successful industry petition accounted for 13 cases and 12 approvals.

4) Of those receiving certification of eligibility to apply, how many received adjustment assistance? And of those receiving adjustment assistance, what was the time period between their application for eligibility and the granting of adjustment assistance?

In the 56 groups approved for assistance, there were 24,000 who could potentially receive assistance. Approximately 15,000 of these have received assistance. The remaining 9,000 either had no need for assistance or failed to apply for it.

The available information does not permit us to calculate an average time lapse between application to either the Tariff Commission or the Department of Labor for assistance and the initiation of assistance. We know that the time period is too long and and we are making diligent efforts to correct this problem. The two major delays occur (1) from the injury to the filing of an acceptable petition and (2) from the setting of an impact date by the Department of Labor to the actual delivery of assistance.

The Tariff Commission and the Department of Labor have been discussing ways of reducing the first delay. The Department of Labor has already begun to encourage likely applicants to file and has provided technical assistance to insure that a suitable petition is submitted. The Tariff Commission is considering reducing the information required in petitions and issuing a standard form.

Lack of familiarity with the program on the part of the State agencies which must administer it has been the most important cause of the delay in initiating payment. The Department of Labor has just completed an internal review designed to find ways to overcome this problem. The results of that study combined with more experience by the State agencies should lessen this delay.

5) Could you also inform the Committee of the nature, scale and level of adjustment assistance over the past five fiscal years on an FY year by FY year basis?

Since the first affirmative Tariff Commission finding was issued in November 1969, we need only consider the fiscal years, 1970, 1971, and 1972. The following table provides the data you requested.

[All figures in thousands of dollars]

Fiscal year	Total	Cash readjustment allowances	Training	Relocation	Administration costs
1970	2,886	2,830			56
1971	19,393	18,026	941	1	425
1972	15,537	13,803	710	4	1,020
Total	37,816	34,659	1,651	5	1,501

[1] Estimated through December 1971.

U.S. DEPARTMENT OF COMMERCE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 27, 1972.
Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR JACK: This is in response to your letter of February 24, 1972, concerning the trade adjustment assistance program. I understand a similar letter has been sent to the Secretary of Labor and that he is communicating with you directly regarding the adjustment assistance program as it relates to workers. In it you asked several specific questions, and I have tried to answer each of them in this letter.

Your first question pertains to possible *inadequacies in the current provisions of the Trade Expansion Act (TEA) that apply to trade adjustment assistance.* In my view this question gets at the heart of problems that have been encountered with this program. As you point out, the entire program is under review both on an interagency and intradepartmental basis. Before this review is complete I hesitate to make piecemeal recommendations on possible changes in the statute. However, it is my personal feeling that there are some major deficiencies in the law. For example:

(a) Injury criteria are too stringent, especially the criterion limiting the availability of assistance to those cases in which injury has already occurred and in which the injury is a result "in major part" of prior trade concessions.

(b) The TEA does not provide for methods of response to import problems that would constitute a genuine adjustment assistance program for *an industry as a whole apart* from escape-clause relief.

In addition, as I pointed out in my report "The United States in a Changing World Economy," the adjustment process takes time even when accelerated by a good program of assistance. Recently some economic changes associated with increased imports have occurred very fast. When increasing imports have the potential to bring change faster than the adjustment system can cope with it—and thus to bring hardship—some have suggested that temporary orderly marketing mechanisms should be available. I believe we should explore the possibility of developing criteria for invoking such mechanisms, and see how these criteria can be internationalized so that such *temporary* protection could be available in all countries on an equitable basis.

You also asked whether the TEA provision requiring a Commerce certification of eligibility after the Tariff Commission or the President has already made such a determination is "an anachronism that serves no useful purpose." There are two situations in the certification process that relate to your question.

First, there is no finding of injury or threat of injury to any particular *firm* in cases where the Tariff Commission finds injury with respect to an *industry* and the President authorizes firms within the industry to request certification of eligibility to apply for adjustment assistance. Accordingly, the Department of Commerce must make a thorough investigation of the facts pertinent to each applicant firm, before determining whether the firm is eligible to apply for adjustment assistance.

A second situation is one in which the certification of eligibility to apply follows a Tariff Commission determination of injury upon petition of a particular firm. It can be argued with some justification in this situation that the Department's certification of eligibility to apply is largely *pro forma.* We have recognized this. On February 18, we published in the Federal Register proposed new regulations for the adjustment assistance program, a copy of which is enclosed. Section 500.23 of these proposed regulations is specifically designed to facilitate prompt certification of eligibility for individual firms that have already been the subject of an affirmative injury finding by the Tariff Commission. You will note that the extent of our review in such cases is limited to obtaining adequate assurance that no material facts were omitted from the firm's presentation before the Tariff Commission and that there has been no significant change in economic circumstances affecting the firm since that time. Of course, the statutory requirement of the TEA must be satisfied before we are justified in spending government monies on adjustment assistance.

Again, my personal view is that a strong case can be made for changing the concept and approach to adjustment assistance from one of adjudication to one of program management by an Executive Department. Under the program management approach, the particular agency involved would administer adjustment assistance from beginning to end. This would permit us to get a much faster jump on the problems.

Your second question relates to the time taken to process cases. As I pointed out, the time lapse between application by a firm for eligibility to apply for adjustment assistance and the certification of such eligibility depends on whether the case stems from an injury determination with respect to the particular firms or with respect to the whole industry. In an individual firm case, an application to this Department for certification of eligibility to apply will be processed promptly, generally within 20 days. We have had one case, however, where certification was delayed until allegations of impropriety with respect to the Tariff Commission proceedings could be reviewed by the Department of Justice.

In cases where the Tariff Commission has made an injury finding as to the whole industry, the time involved is much longer. In these cases, apart from the fact that recourse to adjustment assistance is contingent upon an intervening decision by the President that such form of relief shall be available, the findings of the Commission with respect to the industry are not necessarily illustrative of the situation with respect to a particular firm. We must, therefore, determine whether the firm has been injured by the imports which the Tariff Commission found were injuring the industry. The length of time required for such an investigation depends on many factors, including the size of the firm, the diversity of its product line, the adequacy of its record keeping and the adequacy of the data submitted by the firm to the Department. One such investigation took as long as ten months, while another was completed within two months. Most cases more closely approximate the latter than the former in the amount of time spent on the investigation. As you know, although the trade adjustment assistance program was established in 1962, our experience with processing adjustment assistance cases only began in 1970, following the first affirmative finding by the Tariff Commission. We are now at the point where each case no longer involves entirely new policy considerations and I expect the time lapse between receipt of an application for certification of eligibility to apply and the granting of assistance to be even further reduced as we gain more experience.

With respect to your request for information on the total number of firms certified as eligible to apply for adjustment assistance, 20 firms have applied to date for certification of eligibility. Of these 20 firms, 18 have been certified eligible; one has been denied certification and one application is currently pending.

As to the data requested concerning recipients of adjustment assistance to date, please see the attached table. The time period between certification of eligibility to apply and certification of the firm's adjustment assistance proposal is set forth on this table as well.

You have requested information on the nature, scale and level of adjustment assistance over the past five fiscal years. For the reason explained above, no adjustment assistance was provided until Fiscal Year 1971, when two proposals were certified and financial assistance provided through the Small Business Administration. In Fiscal Year 1972, to date, we have committed $4,672,000 in financial assistance from our own appropriation. With respect to technical assistance, we committed $195,611 in Fiscal Year 1971 and $138,000 so far in Fiscal Year 1972. Total tax assistance certified to date (all in Fiscal Year 1972) amounted to $390,000.

Finally, you asked about the study undertaken by an interagency task force on adjustment assistance. As you know, this task force was established by the Council on International Economic Policy to develop recommendations for a more comprehensive and effective adjustment assistance program. It is still in draft form and has not yet been submitted to the Council. Accordingly, I cannot specifically respond to your inquiry as to the content and timing of possible legislative recommendations until the Council has had an opportunity to consider the findings and conclusions of the task force. The decision whether to make this report available to the Congress will presumably be made by the Council after it has completed its review.

I hope I have answered your questions. In closing, let me say that I believe there is much we can do to broaden both the concept and delivery of trade adjustment assistance. For example, we are now moving ahead in the Commerce Department to give close and expedited attention to the following possibilities:

(a) An early action mechanism designed to spot potential import-impact problems and to help industries and firms take prompt and responsive steps before a critical point of economic detriment is reached.

(b) Techniques and forms of assistance that could be made available on an industry-wide basis (e.g., funding for R&D projects of general application to the industry). This approach, in my view, would provide a broader-gauged response to adjustment assistance problems than that of dealing primarily with individual firm cases, as has been the approach to date under the TEA.

(c) Some form of adjustment assistance to communities economically dependent upon firms that are heavily impacted by import competition.

I appreciate your interest in the trade adjustment assistance program and intend to give it considerable attention in the coming months. Should you or your staff have further questions or useful information about adjustment assistance, please get in touch with me. I hope to continue to strengthen the program, and look forward to working with you toward that end.

Sincerely,

MAURICE H. STANS,
Secretary of Commerce.

Enclosures.

Company and industry	Amount of assistance	Certification of eligibility	Proposal submitted	Proposal certified	Assistance provided
Emil J. Paidar Co., Chicago, Ill.: Barber chairs	$2,500,000	July 20, 1971	July 29, 1970	Aug. 20, 1970	Sept. 20, 1970
Benson Shoe Co., Lynn, Mass.: Nonrubber footwear	1,700,000	July 21, 1970	Oct. 7, 1970	Nov. 19, 1970	Jan. 7, 1971
Louis Shoe Co., Amesbury, Mass.: Nonrubber footwear	747,000	May 4, 1971	Sept. 8, 1971	Oct. 19, 1971	[1] Jan. 20, 1972
ASG Industries, Kingsport, Tenn.: Sheet glass	4,000,000	Sept. 22, 1970	June 4, 1971	Dec. 7, 1971	
The Arista Co., Winston-Salem, N.C.: Textiles/data processing	160,000	Dec. 28, 1971	Feb. 2, 1971	Jan. 11, 1972	
H. H. Scott, Inc., Maynard, Mass.: Consumer electronics	230,000	Mar. 18, 1971	Sept. 21, 1971	Dec. 23, 1971	
Estey Piano Corp., Union, N.J.: Piano	[2] 100,000	June 5, 1970	February 1971	Mar. 4, 1971	
Bel-Tronics Corp., Addison, Ill.: Electronic components	712,000	June 17, 1971	Oct. 25, 1971	Mar. 3, 1972	

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[1] 2d disbursement.

[2] Approximate amount of technical assistance provided to date. Final amount of other assistance not yet determined.

UNITED STATES SENATE,
Washington, D.C. February 22, 1972.
Hon. JAMES HODGSON,
The Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: I am sorry that the press of floor business did not allow me to hear all of your testimony before the Joint Economic Committee on February 17. As you know, I asked for and received unanimous consent of the Committee to insert questions and answers into the record. I would appreciate your response to the following questions.

As you know, the Congress and the country have been very much disappointed by the programs of adjustment assistance carried out by this Administration and previous administrations. I have the following questions in this regard:

1) Are there any inadequacies in existing law which deter an effective program of adjustment assistance? For example, is the law that requires the Secretary of Commerce and the Secretary of Labor to certify eligibility to apply for adjustment assistance after there already has been a Tariff Commission and/or Presidential determination of injury an anachronism which serves no useful purpose? Are there other examples of inadequacies of law which should be corrected?

2) What is the time lapse between the application of firms or workers for eligibility to apply for adjustment assistance and the granting of such eligibility? For example, a constituent firm has indicated to me that after a 3–1 Tariff Commission vote in their favor, it took two months merely to receive certification that they were eligible to apply. How many cases are like this where bureaucratic delays prevent a meaningful and prompt program of adjustment assistance?

3) Of the firms and workers which have applied for certification of eligibility, how many have received such certification?

4) Of those receiving certification of eligibility to apply, how many received adjustment assistance? And of those receiving adjustment assistance, what was the time period between their application for eligibility and the granting of adjustment assistance?

5) Could you also inform the Committee of the nature, scale and level of adjustment assistance over the past five fiscal years on an FY year by FY year basis?

Finally, it is my understanding that an Inter-Departmental Task Force under the leadership of Undersecretary Silverman has just completed a major study of adjustment assistance. My question is whether this study with the option it puts forward will be made available to the Congress? Also whether and when the Administration will come forward with legislative recommendations based on this study?

With best wishes,
Sincerely,
JACOB K. JAVITS.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. STEVENSON) laid before the Senate the following letters, which were referred as indicated:

REPORT ON PLANNED ACTIONS IN THE NASA FISCAL YEAR 1972 PROGRAM

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on planned actions in the NASA fiscal year 1972 program (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

REPORT ON REVIEW OF ADEQUACY OF PAY AND ALLOWANCES FOR MEMBERS OF THE UNIFORMED SERVICES

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report on review of adequacy of pay and allowances for members of the uniformed services (with an accompanying report); to the Committee on Armed Services.

PROPOSED TRANSFER OF SUBMARINE

A letter from the Assistant Secretary of the Navy (Installations and Logistics), reporting, pursuant to law, on the proposed transfer of the submarine USS *Torsk* (AGSS–423 to the Maryland Naval Militia; to the Committee on Armed Services.

REPORT ON RESERVE FORCES

A letter from the Secretary of Defense, transmitting, pursuant to law, a report on Reserve Forces, for the fiscal year 1971 (with an accompanying report); to the Committee on Armed Services.

PROPOSED ASSIGNMENT OF CERTAIN MEMBERS OF THE ARMED FORCES

A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 10, United States Code, and the Military Selective Service Act, to permit the oversea assignment of members of the Armed Forces who have completed basic training and who have been awarded a military specialty (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION RELATING TO NUMBER OF LIMITED DUTY OFFICERS

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to permit the Secretary of the Navy to establish annually the total number of limited duty officers permitted on the active list of the Navy and Marine Corps, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

REPORT ON DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installation and Logistics), transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms, for July–December 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED AMENDMENT OF NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, and for other purposes (with accompanying papers); to the Committee on Commerce.

REPORT OF SOCIAL SECURITY ADMINISTRATION

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Social Security Administration, for the fiscal year 1971 (with an accompanying report); to the Committee on Finance.

REPORT OF U.S. TARIFF COMMISSION

A letter from the Chairman, U.S. Tariff Commission, transmitting, pursuant to law, a report of that Commission, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Finance.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Collection of Child Support Under the Program of Aid to Families With Dependent Children," Social and Rehabilitation Service, Department of Health, Education, and Welfare, dated March 13, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report entitled "Follow-Up Review of Civilian Health and War-Related Casualty Program in Laos (B–133001, dated March 13, 1972) (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Most Veterans Not Completing Correspondence Courses—More Guidance Needed From the Veterans' Administration," Veterans' Administration, dated March 22, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Water Pollution Abatement Program: Assessment of Federal and State Enforcement Efforts," Environmental Protection Agency, dated March 23, 1972 (with an accompanying report); to the Committee on Government Operations.

PROPOSED AMENDMENT TO CONCESSION CONTRACT IN CERTAIN AREAS

A letter from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to the concession contract in Zion, Bryce Canyon, and Grand Canyon (North Rim) National Parks, and Cedar Breaks National Monument (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT OF NATIONAL COMMISSION ON MARIHUANA AND DRUG ABUSE

A letter from the Chairman, National Commission on Marihuana and Drug Abuse, transmitting, pursuant to law, a report entitled "Marihuana: A Signal of Misunderstanding" (with an accompanying report); to the Committee on the Judiciary.

REPORT ON FEDERAL SUPPORT TO UNIVERSITIES, COLLEGES, AND SELECTED NONPROFIT INSTITUTIONS

A letter from the Director, National Science Foundation, transmitting, pursuant to law, a report on Federal support to universities, colleges, and selected nonprofit institutions, for the fiscal year 1970 (with accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED DISASTER RELIEF ACT AMENDMENTS OF 1972

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting a draft of proposed legislation to amend the Disaster Relief Act of 1970 (with accompanying papers); to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MANSFIELD (for Mr. BURDICK), from the Committee on Interior and Insular Affairs, without amendment:

S. 3284. A bill to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior (Rept. No. 92–726).

By Mr. MANSFIELD (for Mr. ANDERSON), from the Committee on Interior and Insular Affairs, without amendment:

H.R. 12749. An act to authorize appropriations for the saline water conversion program for fiscal year 1973 (Rept. No. 92–727).

EXECUTIVE REPORTS OF COMMITTEES

Mr. SYMINGTON. Mr. President, as in executive session, from the Committee on Armed Services I favorably report the nominations of five flag and general officers in the Navy, Air Force, and Marine Corps, and one lieutenant colonel in the Marine Corps and ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered placed on the Executive Calendar, are as follows:

Gen. Bruce K. Holloway (major general, Regular Air Force), U.S. Air Force, to be placed on the retired list, in the grade of general;

Rear Adm. Merlin H. Staring, Judge Advocate General's Corps, U.S. Navy, to be Judge Advocate General of the Navy, with the rank of rear admiral;

Maj. Gen. George C. Axtell, U.S. Marine Corps, for commands and other duties determined by the President, for appointment to the grade of lieutenant general while so serving;

Maj. Dale L. Harpham, U.S. Marine Corps, for appointment to the grade of lieutenant colonel;

Vice Adm. Noel A. M. Gayler, U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of admiral while so serving; and

Lt. Gen. John W. Vogt, Jr. (major general, Regular Air Force) U.S. Air Force, to be assigned to a position of importance and responsibility requiring the rank of general.

Mr. SYMINGTON. Mr. President, in addition I favorably report 3,249 nominations in the Army, Navy, and Air Force. Since these names have already appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Joseph F. Short, and sundry other persons, for appointment in the Regular Army of the United States;

Chester A. Hanson, and sundry other officers, for promotion in the regular Army of the United States;

James M. Jackson, and sundry other officers, for promotion in the Reserve of the Army of the United States;

Robert R. Groom (civilian college graduate), for assignment in the U.S. Navy;

William T. Bell, and sundry other Naval Reserve officers, for assignment in the U.S. Navy; and

Ronald B. Appel, Jr., and sundry other Air National Guard officers, for promotion in the Reserve of the Air Force.

EXTENSION OF TIME FOR FILING A REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Georgia (Mr. TALMADGE), I ask unanimous consent that the Committee on Agriculture and Forestry be granted an extension of time until April 15 to file a report required by section 3 of Senate Resolution 76.

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIBICOFF (for himself, Mr. KENNEDY, Mr. MAGNUSON, Mr. NELSON, Mr. HUMPHREY, Mr. MONDALE, Mr. CHILES, Mr. STEVENSON, Mr. CRANSTON, Mr. HARTKE, Mr. PELL, Mr. McGOVERN, Mr. PASTORE, Mr. BAYH, Mr. WILLIAMS, Mr. MUSKIE, Mr. McGEE, Mr. TUNNEY, Mr. HART, Mr. TALMADGE, Mr. JACKSON, Mr. McINTYRE, Mr. EAGLETON, and Mr. HARRIS):

S. 3432. A bill to establish a Department of Health. Referred, by unanimous consent, simultaneously to the Committee on Government Operations and the Committee on Labor and Public Welfare; and, when reported by one committee, to be referred to the other.

By Mr. JAVITS:

S. 3433. A bill to amend the Interstate Commerce Act, as amended, with respect to school bus safety. Referred to the Committee on Commerce.

By Mr. BEALL (for himself and Mr. MATHIAS):

S. 3434. A bill to provide for the temporary duty-free importation of logwood extract. Referred to the Committee on Finance.

By Mr. GAMBRELL:

S. 3435. A bill to impose a moratorium on involuntary student transportation until a uniform plan of racial desegregation shall have been implemented throughout the country. Referred to the Committee on the Judiciary.

By Mr. MOSS (for himself, Mr. ALLOTT, Mr. DOMINICK, and Mr. FANNIN):

S. 3436. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to provide for a four corners area program. Referred to the Committee on Agriculture and Forestry.

By Mr. PEARSON:

S. 3437. A bill to authorize the Secretary of Housing and Urban Development to provide assistance to State and local governments to encourage the repair and improvement of substandard housing. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. STEVENS:

S. 3438. A bill to amend section 607(k) (8) of the Merchant Marine Act, 1936, as amended. Referred to the Committee on Commerce.

By Mr. STEVENSON:

S. 3439. A bill to authorize expenditures to correct or compensate for substantial defects in section 203(b) FHA mortgaged homes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BUCKLEY (for himself, Mr. BOGGS, and Mr. JAVITS):

S. 3440. A bill to terminate the obligation of States to return funds deposited with them pursuant to the U.S. Deposit Fund Act of 1836. Referred to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, Mr. WILLIAMS, Mr. EAGLETON, and Mr. PELL):

S. 3441. A bill to extend the traineeship program for professional public health personnel, and project grants for graduate training in public health under the Public Health Service Act. Referred to the Committee on Labor and Public Welfare.

By Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, Mr. WILLIAMS, Mr. EAGLETON, and Mr. PELL):

S. 3442. A bill to amend the Public Health Service Act to extend the authorization for grants for communicable disease control and vaccination assistance and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF (for himself, Mr. KENNEDY, Mr. MAGNUSON, Mr. NELSON, Mr. HUMPHREY, Mr. MONDALE, Mr. CHILES, Mr. STEVENSON, Mr. CRANSTON, Mr. HARTKE, Mr. PELL, Mr. McGOVERN, Mr. PASTORE, Mr. BAYH, Mr. WILLIAMS, Mr. MUSKIE, Mr. McGEE, Mr. TUNNEY, Mr. HART, Mr. TALMADGE, Mr. JACKSON, Mr. McINTYRE, Mr. EAGLETON, and Mr. HARRIS):

S. 3432. A bill to establish a Department of Health. Referred, by unanimous consent, simultaneously to the Committee on Government Operations and the Committee on Labor and Public Welfare; and, when reported by one committee, to be referred to the other.

ESTABLISHMENT OF A DEPARTMENT OF HEALTH

Mr. RIBICOFF. Mr. President, today I am introducing, with Senator KENNEDY and 22 other Senators, legislation to create a separate cabinet-level Department of Health and establish coordinated long-term planning of Federal health policy. The new department would assume all the health responsibilities of the present Department of Health, Education, and Welfare as well as other health programs now scattered among 23 Federal departments and agencies.

Since its establishment by President Eisenhower in 1953, the Department of Health, Education, and Welfare has grown into a bureaucracy of 108,000 employees with an overall budget of nearly $79 billion, one-third of the entire Federal budget. Over 250 categorical grant programs are operated by the Department including 40 separate Federal health-grant programs. HEW will spend over $18 billion in fiscal 1973 on medical and health-related activities.

There is no indication that HEW's growth is slowing. The Department's budget is rising at an annual rate of 14 percent—nearly twice the average rate of increase in the total Federal budget.

HEW, as presently structured, is unwieldy, unmanageable and therefore unresponsive to both the executive and the legislative branches. No Secretary can know what is going on in such a huge department, much less maintain control of the operation and policymaking apparatus of such a bureaucracy.

As a former Secretary of Health, Education, and Welfare, I am convinced that health policy can be more rationally developed and the health programs of our Nation better handled if they are placed under the jurisdiction of one agency of manageable size, a Department of Health. At present a sizable portion of the $25 billion we are spending througout the Federal Government for medical and health-related activities is being lost through inefficiency, lack of coordination and overlapping of programs.

As a result of the scattering of programs and the lack of a centralized health-policy mechanism, the only plan in the Federal Government where health priorities can be set is in the Office of Management and Budget when the budget is being developed. Major policy decisions affecting the Federal Government's health policy should be made by experts in the health field, not by OMB employees who cannot be expected to formulate national health priorities, much less understand the intricacies and interrelationships of the myriad health programs now in existence.

The problem is going to get worse before it gets better. It is only a matter of time before we enact a program of national health insurance which will expand the Federal role in health substantially, no matter what bill is passed. We must reshape our existing institutions if this new program is to be administered properly.

The lack of coordination of medical programs at the Federal level has concerned me for some time. In 1968 my Government Operations Subcommittee on Executive Reorganization held hearings on the Federal role in health.

The subcommittee found that Federal health programs are run by a cumbersome, disjointed bureaucracy with agencies, whose priorities are not related to health, making decisions that affect the health of the population. Interagency coordination was found to be a hit-and-miss proposition. Most agencies have little understanding of similar programs in other agencies or act as if they are unaware that such programs exist.

One of the most basic findings of the subcommittee was that there is no national health policy to guide Federal health programs and expenditures. No central body or group exists within the executive branch that is responsible for developing Federal health policy and evaluating Federal performance in light of that policy.

HEW's response to my 1968 letter of inquiry regarding implementation and formulation of national health policy supported the subcommittee's findings by noting:

> Up to and including the present (1968) there has never been a formulation of national health policy, as such. In addition, no specific mechanism has been set up to carry out this function. As a consequence, the national health policy is a more or less amorphous set of health goals, which are derived by various means and groups within the Federal structure.

The situation has changed little since that time.

President Nixon has recognized the need to reorganize the Department of Health, Education, and Welfare as part of a major restructuring of the executive branch. His proposals deserve our careful examination since such far-reaching and long-term recommendations do not come before us very often.

Under the President's proposals, however, HEW would expand into an even larger agency, the Department of Human Resources. This Department would add many programs from the Departments of Labor, Agriculture, Housing, and Urban Development, and OEO to the already over extended Department of Health, Education, and Welfare.

I believe we should examine alternatives to the President's reorganization proposal. In that spirit, I introduced legislation in April 1971, to create a separate Department of Education. Today, in the same spirit, I am introducing a bill to create a Department of Health.

This bill is not complicated. First, it establishes a separate Department of Health to serve as a focal point within the Federal Government for defining health policy and administering Federal health programs.

The new Cabinet-level department would be administered by a Secretary of Health appointed by the President, with the advice and consent of the Senate.

The Secretary would be responsible for all health programs now administered by the Secretary of Health, Education, and Welfare, including medicare and medicaid, and any new program of national health insurance.

In addition the President would be empowered to transfer additional functions to the new Department within 180 days if the Director of the Office of Management and Budget determines that the function relates to health matters.

This legislation would also establish a 19-member National Advisory Commission on Health Planning, composed of persons qualified to assess the health programs of the United States including practicing physicians, scientists, medical experts and consumers. Nine members would be appointed by the President, five members by the President pro tempore of the Senate and five members by the Speaker of the House.

The Commission would be directed to conduct a study of the various programs and activities of the Department of Health and submit a study to the President and Congress within a year with recommendations for an effective structure for the Department.

More significantly the Commission would conduct a yearlong study of the various health-related programs of each agency of the Federal Government outside HEW and would submit an evaluation of these programs and recommendations regarding which programs should be transferred to the new Department.

In addition to these studies, the Commission would conduct a 2-year study and submit to Congress and the President a detailed national health plan for meeting current and future health needs for the United States for the next 10 years.

This national health goals plan would be the first attempt made by the Federal Government to coordinate and plan in order to meet the health care needs of the Nation. It is an indispensable first step toward enactment of a major national health insurance plan.

The national health goals plan would set forth national goals and priorities for making comprehensive health care and treatment available at reasonable cost to every person in the United States. The plan would provide for the effective coordination and application of all health-related activities at the regional, State, and local levels and provide for encouraging cooperative efforts among governmental and nongovernmental agencies concerned with health services, facilities, and manpower.

An appropriation of $5 million would be authorized for the Commission to carry out its functions.

The uncertain status of health in the Federal Government must be ended. Responsibilities should be focused in one department and health policy must be developed and coordinated by those who are knowledgeable in the health field. This legislation will move us toward that goal.

I ask unanimous consent that the bill be simultaneously referred to the Committee on Government Operations and the Committee on Labor and Public Welfare and that when it is reported by one committee it be referred to the other.

The ACTING PRESIDENT pro tempore (Mr. STEVENSON). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am delighted today to be joining with my colleague from Connecticut, Senator ABE RIBICOFF, the chairman of the Executive Reorganization Subcommittee of the Committee on Government Operations, in introducing what we believe to be extremely significant legislation. This bill which creates a Department of Health as a Cabinet level Department of the Government is long overdue. The simple fact of the matter is that the Department of Health, Education, and Welfare, which has grown so big and has had so many burdens placed upon it that it cannot operate effectively. HEW now has more than 100,000 employees, and of those, almost 60,000 are in one way or another involved in health programs. And of the enormous budget for the Department, which this year for the first time will exceed the budget of the Department of Defense, almost $20 billion is devoted to health programs.

Regrettably, these people and those programs are scattered widely throughout the Department making it impossible for there to be any coherent health planning and programing in respect to the Federal Government's efforts to improve the health of the American people. For example, the Social Security Administration located in Baltimore, Md., is principally responsible for the medicare program. Its companion, though, the medicaid program, is administered by the social and rehabilitation service in Washington, D.C., an aspect of the welfare program. In addition, the programs which are principally intended to improve the organization and delivery of health care are administered by the Health Services and Mental Health Administration, located in Rockville, Md. It is clear to me that this sort of functional and geographic diffusion is a major obstacle to effective planning and programing for health. All of us would agree, I think, that it is essential that the programs of the Federal Government which finance health care, such as medicare and medicaid, be closely related to the programs which are intended to improve the health care infrastructure. Unfortunately, the organizational stress within the existing Department of Health, Education, and Welfare makes this sort of effective coordination extremely difficult if not impossible. And in the face of this difficult situation it is important to note that tinkering will not work.

There have been many recent reorganizations and reshufflings of the health functions of HEW with little or no discernible improvement in planning and coordination. The health functions of the Department were reorganized in 1967, reshuffled again in 1968, and have been again rearranged in 1971.

Perhaps the principal effect of these reorganizations has been to lower both morale and efficiency of those who are attempting to do their best under very difficult circumstances.

The fact of the matter is, Mr. President, that this country is on the threshold of striking down the barriers which prevent millions of Americans from receiving the kind of health care they deserve. And when those barriers are struck down, inevitably the Federal Government will have a substantially larger role to play in assuring high quality health care to all Americans.

It is prudent, therefore, that there be created in the Federal Government an effective management structure which will be able to carry out this very important enhanced role. I believe the Department of Health will measure up to that task.

Mr. President, health will soon become the second largest industry in the Nation. As we know too well, health-care costs are soaring at a rate which is twice that of the Consumer Index. And the American people now expend almost $75 billion a year for health, of which 40 percent is expended on their behalf by the Federal Government. Health-care costs in this country have increased sixfold in the last two decades.

In addition to the skyrocketing costs of health care there are serious problems in the quality of care which is rendered. There is not enough health manpower for the Nation.

And the manpower that we do have is unevenly and inequitably distributed. And there is no overall coherent health plan for the Nation. Instead, HEW has been forced to respond to crises rather than to take the initiative in meeting the health-care needs of the American people. What was a rational grouping of domestic functions for the Nation in 1953 is not a rational grouping of functions as this Nation approaches its 200th anniversary.

It is not in the interest of this Nation to have one single member of the President's Cabinet charged with the responsibilities of playing off enormous welfare needs against mounting concern in respect to the need for high-quality education, against the storm or protest which is building in respect to the unmet health needs of the American people. Under those circumstances, Mr. President, no single individual, regardless of his competence, can afford to play the kind of leadership role which is necessary in each of these vital domestic areas.

America needs a member of the President's Cabinet who can and will speak for health and for health alone.

By Mr. JAVITS:

S. 3433. A bill to amend the Interstate Commerce Act, as amended, with respect to schoolbus safety. Referred to the Committee on Commerce.

SCHOOL BUS SAFETY ACT OF 1972

Mr. JAVITS. Mr. President, I introduce for appropriate reference the School Bus Safety Act of 1972. The bill is being cosponsored in the House by Representative John W. Wydler of New York.

This measure amends the Interstate Commerce Act to strengthen the enforcement powers of the Bureau of Motor Carrier Safety by enabling the Bureau to exercise regulatory jurisdiction over certain schoolbus operations which are now exempt because they are conducted by private carriers or conducted by agencies and instrumentalities of government, such as local educational agencies. While the bill is directed at so-called "interstate operations," the Department of Transportation indicated that in cases where some buses in a school system are utilized for interstate transportation—such as study trips or trips to athletic events or historical sites—then all the schoolbuses of the school district would come under the the reach of the law.

The bill is the product of study I first undertook some time ago with local and State school officials, professionals in the field of safety and pupil transportation, and officials and professional staff of the Department of Transportation. It follows recommendations made by the National Transportation Safety Board in its report on the 1970 fatal bus crash involving a tour group from the Hillel Country Day School at Lawrence, Long Island, N.Y.

The tragic schoolbus accident last week in Congers, N.Y., in which four students were killed and more than 40 injured, dramatizes the increasing public concern for the safety of the almost 20 million young people who each day travel in some 285,000 buses to and from school. The National Transportation Safety Board has informed me that it will be undertaking a major investigation of the Congers accident, probing all aspects of this incident, in order to determine probable cause, and will then make recommendations based on its findings to appropriate local, State, and Federal authorities and to the industry. But the Board's jurisdiction goes no further than making recommendations—and its probe may take as long as a year. This bill is meant to correct some of these deficiencies in the law.

Specifically, the bill would:

Authorize the Secretary of Transportation to establish reasonable requirements to promote safety of operation of schoolbuses including qualifications of drivers, maximum hours of service, and standards of equipment. In administering and enforcing regulations to promote schoolbus safety, the Secretary would be authorized to use the administrative powers that he now exercises in the administration of the Department of Transportation's motor safety program, such as record inspection, issuance of administrative subpenas, and inspection of motor vehicles.

Give the Secretary enforcement powers.

Give the Secretary power to issue a cease-and-desist order directing the carrier to immediately stop his schoolbus operations for up to 60 days in a case where a motor carrier's school bus operations create an unreasonable risk of accident, injury, death, or property damage, and when he finds that application of other available sanctions would be impracticable, unduly time consuming or inadequate to protect the public health and safety.

For 1970, the most recent data available indicate that there were 42,000 schoolbus accidents, killing 140 persons and injuring 5,400. This involves 2.2 billion miles of travel during that year. While this record for safety is considered superior to the safety record in other areas, the fact remains that it is still much too high. The safety and well-being of children merit every action that can be undertaken. The bitter lessons learned from the tragic deaths and injuries in the accidents involving the children from Congers, in Rockland County, last week and the children from the Lawrence, Long Island, Hillel Country Day School 2 years ago must be used to avert such tragedies in the future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "School Bus Safety Act of 1972".

Sec. 2. Part II of the Interstate Commerce Act, as amended (49 U.S.C. 301 *et seq.*), is amended by adding a new section 204b, reading as follows:

"Sec. 204b. It shall be the duty of the Secretary of Transportation, in carrying out the functions, powers, and duties transferred by section 6(e) of the Department of Transportation Act (80 Stat. 931, 939–940), to establish reasonable requirements to promote safety of operation of motor vehicles used to transport children to or from school or school-related activities and to that end to prescribe qualifications of drivers and maximum hours of service and standards of equipment for motor carriers (including private carriers and agencies or instrumentalities of Federal, State, and local governments) engaged in transporting children to or from school or school-related activities. In the event such requirements are established, the term "motor carrier" includes all persons (including private carriers and agencies or instrumentalities of Federal, State, or local governments) engaged in transporting children to or from school or school-related activities. In the administration and enforcement of this section, the Secretary is authorized to employ all administrative powers transferred to him by section 6(f) of the Department of Transportation Act (80 Stat. 931, 940)."

Sec. 3. Section 222 of Part II of the Interstate Commerce Act, as amended (49 U.S.C. 322), is amended as follows:

(1) by redesignating subsection (a) as paragraph (1) of such subsection and adding a new paragraph (2), reading as follows:

"(2) Any person who knowingly commits an act in violation of any requirement, rule, regulation, or order promulgated by the Secretary of Transportation under section 204b of this part shall be fined not less than $250 nor more than $1,000 for the first offense and not less than $500 nor more than $2,000 for any subsequent offense. Each day of violation shall constitute a separate offense.";

(2) by redesignating subsection (h) as paragraph (1) of such subsection and adding a new paragraph (2), reading as follows:

"(2) Any motor carrier, or other person who violates any requirement, rule, regulation, or order of the Secretary of Transportation described in subsection 222(h)(1) or promulgated under section 204b of this part shall be subject to the penalties specified in subsection 222(h)(1)."; and

(3) by adding a new subsection (i), reading as follows:

"(i) In the administration of section 204b of this part, the Secretary of Transportation may order any motor carrier to cease and desist from engaging in all or a specified portion of its operation of motor vehicles used to transport children to or from school or school-related activities for not more than sixty days when the Secretary, for good cause, finds that the carrier's operations will create an unreasonable risk of accident, injury, or death to persons or damage to property. Before issuing a cease and desist order authorized by this subsection, the Secretary shall (1) determine that the application of other available sanctions would be impracticable, unduly time-consuming, or inadequate to protect the public health and safety; and (2) give the carrier written notice of his intention to issue a cease-and-desist order, identifying the portion of the carrier's operations that would be affected by the order and setting forth reasons why he intends to issue it. If the carrier is operating under a certificate or permit issued by the Commission with respect to operations covered by a cease-and-desist order, the Commission may, upon petition of the Secretary and after notice and hearing, revoke or further suspend the carrier's operating authority in whole or in part upon determining that revocation or further suspension will protect the public safety. An order of the Secretary issued under this subsection is reviewable in accordance with chapter 7 of title 5, United States Code. The provisions of title 28, United States Code, respecting three-judge district courts, do not apply to a proceeding to review an order of the Secretary issued under this subsection."

By Mr. GAMBRELL:

S. 3435. A bill to impose a moratorium on involuntary student transportation until a uniform plan of racial desegregation shall have been implemented throughout the country. Referred to the Committee on the Judiciary.

Mr. GAMBRELL. Mr. President, I am introducing a bill today which I hope will serve as a substitute for the busing moratorium which President Nixon proposed last week. I described this bill earlier today in testimony before the Education Subcommittee of the Committee on Labor and Public Welfare, and I ask unanimous consent that my opening statement with its exhibits to the Education Subcommittee, as well as the text of my bill itself, be printed in the Record at this point.

There being no objection, the bill and statement were ordered to be printed in the Record, as follows:

S. 3435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniform Desegregation and Student Transportation Moratorium Act of 1972".

FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that:

(1) The provision of equal educational opportunity to all students of a local educational agency requires racial desegregation.

(2) School desegregation should be required equally and uniformly in every section of the United States.

(3) For the purpose of desegregation, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students.

(4) In many cases these reorganizations, with attendant increases in student transportation, have caused substantial hardship to the children thereby affected, have impinged on the educational process in which they are involved, and have required increases in student transportation often in excess of that necessary to accomplish desegregation.

(5) At the same time that extensive transportation of school children and other extreme and disruptive remedies are being required in some local educational agencies for the purpose of desegregation, many local educational agencies throughout the country have not undertaken any effective efforts to desegregate.

(6) This inequity in the application and enforcement of desegregation remedies obstructs the nationally accepted goal of equal educational opportunities without regard to race, color, or national origin.

(7) The Congress is presently considering legislation to achieve the goal of equal educational opportunity for all citizens.

(8) A moratorium on the involuntary transportation of school children will permit an orderly legislative settlement of the question of providing equal educational opportunity on a uniform basis throughout the country.

(b) It is, therefore, the purpose of this Act to impose a moratorium on the effectiveness of Federal court orders that require local educational agencies to transport students, and on the involuntary implementation of certain desegregation plans under Title VI of the Civil Rights Act of 1964 until racial desegregation is uniformly applied and enforced or until such earlier date as there shall be adopted a uniform plan to provide equal educational opportunities throughout the country.

Sec. 3. (a) Notwithstanding any other law or provision of law, the effectiveness of any order of a court of the United States and the implementation of any desegregation plan submitted by a local educational agency to a department or agency of the United States pursuant to Title VI of the Civil Rights Act of 1964, to the extent such order or such plan requires for any period subsequent to December 31, 1970, directly or indirectly, a local educational agency to transport students in order to overcome racial imbalance or to carry out a plan of racial desegregation, shall be postponed until plans providing for the racial desegregation of schools as provided in subsection (b) of this section, or reports of the absence of racial discrimination as described in subsection (b) of this section, shall have been adopted uniformly throughout the United States by the appropriate local educational agencies thereof.

(b) Plans providing for the racial desegregation of schools shall provide for the elimination of:

(1) any deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools.

(2) the assignment by an educational agency of a student to a school, other than the one closest to his place of residence within the school district in which he resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his place of residence within the school district of such agency providing the appropriate grade level and type of education for such student.

(3) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff.

(4) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency.

(5) language barriers that impede equal participation by the students of a local educational agency in its instructional programs.

(6) the provision of inferior schools among communities in accordance with racial predominance.

(7) any unequal allocation of school facilities and resources among communities within a local educational agency in accordance with racial predominance, except for the purpose of equalizing educational facilities.

(8) prohibitions against volitional student transfers from schools in which a majority of the students are of their race, color, or national origin to schools in which a minority of the students are of their race, color or national origin.

(c) (7) A plan or report shall not be deemed to have been adopted for the purpose of subsection (a) of this section until such plan or report, approved by the appropriate local educational agency after public hearing, has been submitted by an appropriate official of such agency to the Secretary of Health, Education, and Welfare, and the Secretary has not interposed an objection within sixty days after such submission. The Secretary shall interpose an objection to any report which he finds to be inaccurate in any substantial respect and shall object to any plan which he finds to be substantially deficient in the elimination of racial discrimination as described in subsection (b) of this section. *Provided*, that any such plan or report, whether or not submitted to the Secretary, shall be deemed to have been adopted for the purpose of this section if the Federal district court having jurisdiction of such agency shall have approved the substance of such plan or the truth of such report, and has found such plan or report to be in accordance with the Constitution of the United States.

(2) Plans shall not be deemed to have been uniformly adopted throughout the United States for the purpose of subsection (a) of this section until—

(A) such plans have been adopted in school systems containing not less than 75 per centum of the school population in public school systems which have total minority student population greater than 10 per centum, or

(B) such plans are in effect in not less than seventy-five of the one hundred most populous school systems in the United States (1) which have total minority student population greater than 10 per centum or (2) which had a greater percentage of minority students in 1971 attending schools in which minority students were in the majority than in 1968, and such plans are in effect in 75 per centum of the States of the United States having a minority public school student population greater than 10 per centum.

(d) Nothing in this Act shall prohibit an educational agency from proposing, adopting, requiring, or implementing any desegregation plan, otherwise lawful, that exceeds the limitations specified in subsection (a) of this section, nor shall any court of the United States or department or agency of the Federal Government be prohibited from approving implementation of a plan that exceeds the limitations specified in subsection (a) of this section if the plan is voluntarily proposed by the appropriate educational agency.

(e) A local educational agency shall be deemed to transport a student if it pays any part of the cost of such student's transportation, or otherwise provides such transportation.

STATEMENT BY HON. DAVID H. GAMBRELL BEFORE THE EDUCATION SUBCOMMITTEE OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. Chairman and members of the Committee, I wish to express my appreciation for the opportunity of presenting to you today my views on the subjects of school busing and equal educational opportunities, with particular reference to the proposals recently presented to the Congress by President Nixon.

As each of you know, I have a vital interest in the subject as a Senator from Georgia, where virtually every school system is operating under some form of court ordered or approved desegregation plan, where virtually every school system has for several years been under careful scrutiny by the Department of HEW for compliance with departmental desegregation policies, where in many cases federal funding has been delayed or denied for actual and alleged violations of federal guide lines, and where the application of spectacular desegregation remedies has resulted in educational chaos and in a massive readjustment of our educational systems.

Every one of our major cities is under some form of actual or threatened massive forced busing plan but other unique remedies have been experimented with and applied, including adjusted grading, pairing, zoning, consolidation of schools, teacher transfers, promotion and demotion of officials, school name change (along with changes of athletic team names, slogans and pep songs), and the actual closing and abandonment of school buildings. This has led to teacher resignations, withdrawal of students, a rise in private school attendance, loss of support for public education, school boycotts and other problems.

But aside from my capacity as a representative of a state which has had this chaotic adjustment thrust upon its educational system, I can address these matters as a citizen and parent who has personally lived through the trials and traumas of the school desegregation and civil rights struggles, on the ground, in the South, since 1954, face to face. Few members of the Senate can approach the matter from this point of view. And to the best of my knowledge, while the busing issue has been mounting to white heat during the past year, no parent who has had any firsthand experience with forced busing or the impact of school desegregation has been heard from by a Senate Committee.

It is not my purpose today, however, to recount my own experience with this subject during the past eighteen years. I will say that, although faced with enormous problems of readjustment, many developments have taken place in my state which give me pride and renewed faith and confidence in the capacity of Georgia people to accept social change, and to live with the attendant adversity.

For present purposes, it will be sufficient to say that the experiences which I have had and those experienced by thousands of families like mine, are what have precipitated the legislative proposals which bring up together today.

May I begin my comments by saying that I favor equal educational opportunities in community schools free of racial discrimination.

The implementation of this goal should be the subject of our discussion here today. However, against the background of the forced busing crisis, and in the midst of an election year, the atmosphere for the consideration of improved educational opportunities is hardly the best.

Unfortunately, for many months during the rising intensity of this crisis, the leadership in both Houses of Congress made every effort to avoid a free and open discussion of these questions. The issue had to be brought out in the open through floor amendments to the Higher Education Bill.

Without hearings in either the House or Senate, without leadership from the White House, and pursuant to an effort to waffle on the entire subject, amendments to the Higher Education Bill were debated and adopted, and now reside in the Conference Committee on that bill.

Now, the introduction by President Nixon of new anti-busing proposals, accompanied by a plan for equal educational opportunities, reopens the entire question for further consideration.

But regardless of how the question got here, it is important that we try to focus on equal educational opportunities, and the proposal which I am offering today is an effort to create a public and legislative atmosphere in which the question of equal educational opportunities can be considered free of the discord, partisanship and antagonisms surrounding the busing question.

It will come as no surprise to members of this Committee for me to state that I am opposed to forced school busing to achieve integration, as ordered by federal courts and the Department of Health, Education, and Welfare. In this, I am certainly not unique, as in every poll, referendum and election in which the busing issue has been raised, the American people, North and South, black and white, have expressed overwhelming opposition to it. Even those who have not experienced it are opposed to it.

This practice cannot be terminated any too soon to suit me. But in addition to its inherent unwisdom, forced busing as an issue is obstructing and obscuring efforts to achieve the ends of equal educational opportunities for all. Thus the proposal which I am offering today, a nationally uniform moratorium on forced busing, while it goes primarily to the busing question, is intended to make reasonable and deliberate consideration of the equal educational opportunities proposals possible.

In my opinion, it would be unwise to be in a rush toward a permanent solution of the question of equal educational opportunities. Frankly, aside from the busing question, I feel that well meaning but misguided persons will seek to relieve their guilt feelings about school segregation and racial isolation by recommending massive spending programs which will result in massive waste of hard-earned taxpayer dollars on ill-conceived educational schemes.

I certainly do not claim to be an expert on the subject of education myself. In fact, I will not here today offer suggestions to this Committee on methods, techniques, and funding requirements for compensatory and remedial education such as those proposed in President Nixon's Equal Educational Opportunities Bill. These are some of the subjects which I would like to see the Committee approach with extreme care and deliberation.

In particular, I would hope that the Committee in considering the possible use of forced busing as an equal education technique will give weight to overwhelming public opinion against it.

Contrary to what has seemed to be accepted dogma for educational authorities, and for judicial decisions, there is a growing body of opinion which questions whether busing for integration purposes is good for public education.

Among the authorities which have developed recently which question the value of artificially integrated educational systems are the following, which I offer for inclusion in the record:

1. Two Columns by William Raspberry, noted Black columnist, published in the Washington Post on January 26 and February 16, 1972. (Exhibit 1.)

2. An article by Nathan Glazer, "Is Busing Necessary?", along with the accompanying essay by Norman Podhoretz, "School Integration and Liberal Opinion", which appeared in the March, 1972 issue of Commentary magazine. (Exhibit 2.)

3. The decision of the United States District Court for the Northern District of Georgia, Atlanta Division, in the case of Vivian Calhoun vs Ed. S. Cook et al, in which the District Court in Atlanta accepted the recommendation of the Atlanta School Board that forced busing would not aid desegregation of the Atlanta schools, and in fact, would have a negative effect on the whole Atlanta community. (Exhibit 3.)

In addition, I recommend that consideration be given to the recently published report "On Equality of Educational Opportunity", a compilation of papers from the Harvard University Faculty Seminar on "The Coleman Report" edited by Frederick Mosteller and Daniel P. Moynihan.

A deliberate approach to the solution of the equal education problem would also afford the Committee an opportunity to hear from witnesses who have been in the field during the past eighteen years. One of these might be Dr. Benjamin Mays, President of Morehouse College in Atlanta, preacher of the funeral of Dr. Martin Luther King, Jr., who has been President of the Atlanta Board of Education during the past two years. It was this Board, with Dr. Mays as President and two other Blacks as members, which recommended against forced busing for integration purposes in the Atlanta School System. As indicated, the federal court in Atlanta adopted this recommendation.

Further, the Committee might wish to visit in person in places where various desegregation techniques, including forced busing, have been implemented, to hear from parents and teachers, and to witness various programs of emergency and other forms of desegregation relief.

Such an investigation of this entire subject should lead the Committee to a much sounder permanent program of improved and equal educational opportunities. And I think that the Committee will also conclude that forced busing for integration purposes has not, and will not serve the goals which its sponsors apparently think it will serve. In my opinion, forced busing does not serve the goal of racial justice, it does not serve the goal of quality education, it does not serve the goal of strengthening the concepts of family and community that are already buckling and decaying under the pressure of social change. And it does not serve the goal of social mobility for economic and racial minorities.

It serves only the goal of those well intentioned, but unresponsive social planners who confuse motion with progress, and speed with direction.

Busing has been no more than a temporary "cause" for those who want to do something, even if it is wrong. In the process, the country has again made the South, the Blacks, the poor and the children, the guinea pigs for social experimentation, while the established and the rich keep the social barriers in tact. In other words, it is another instance where hardworking, taxpaying Americans, black and white, in the South and elsewhere, are made to bear the brunt of another innovation of the grand planners in Washington. And when they have protested this abuse, they are labeled racists. Is it any wonder that so many Americans are angry today?

This brings me to the crux of my comments on the subject before us today. I think the basic fault in the school busing and quality education legislation proposed by President Nixon is its failure to guarantee that school desegregation will hereafter be uniformly applied and enforced in all sections and to all persons within the United States.

In my judgment, the lack of uniformity in the present system of court ordered school desegregation is largely responsible for the delays which have been experienced, and for the intense controversy which has resulted from court orders in this field.

The substitute legislation which I proposed in place of President Nixon's plan would require uniform application and enforcement of school desegregation and educational opportunity laws.

The concept of equal protection of the laws has within it not only the consideration of equal justice among all citizens, but also indulges the practical consideration of encouraging public support for laws which are fairly applied and enforced. Laws which have unequal application, or are unequally enforced, become the subject of controversy. Even where there might be acceptance of the principle of such laws, there will be complaints because of the discrimination in application or enforcement.

In the case of forced busing, through court and departmental orders, it is virtually impossible to develop anything but a patchwork system of desegregation enforcement. In the first place, there is no enforcement in areas where the opportunity has not been taken or afforded to institute litigation or administrative proceedings. Even among communities under court enforcement, there can be a wide range of remedies applied with resultant dissatisfaction. I find it difficult to explain to Georgia citizens in Augusta, Savannah, Macon and Columbus why there is no busing in Atlanta.

Even more so, is the difficulty of justifying to thousands of citizens under busing requirements why other segregated communities throughout the country not only have no busing, but in fact have no desegregation procedures whatsoever in effect. And I might add that an explanation of this in Latin—such as "de-facto de-jure"—does not make the justification any more palatible.

This situation is not only unfair and provocative, it has a tendency to undermine public confidence in our federal court system. To me it is intolerable that our courts should any longer be placed in the position of administering school systems in this controversial arena, when the problem is clearly one in which the legislative branch can and should act to relieve the courts.

Evidence of the decline of public confidence in the courts is found in rising sentiment for proposals to amend the Constitution, not only to eliminate forced busing, but to change the process by which Federal Judges are selected.

In my opinion, the sooner Congress steps in and relieves the courts of further policy making authority in the area of school desegregation, the better it will be.

Based on all these considerations, I am introducing a bill today, which I hope will serve as a substitute for President Nixon's busing moratorium. I now offer a copy of my bill for inclusion in the record of these proceedings.

In substance, the bill will implement a program which I recommended to the President's Cabinet Committee consisting of former Attorney General Mitchell, Budget Director Schultz, and HEW Secretary Richardson, shortly after that Committee was constituted at a meeting at the White House held in late February.

A statement which I made on the Senate Floor on February 29, 1972, outlining this program, is offered for inclusion in the record. (Exhibit 4.)

My plan provides for basic uniformity in application and enforcement of desegregation, without forced busing. This will permit uniformity to be achieved in an atmosphere free of emotionalism and rhetoric. The uniformity may be achieved through court decisions, but more hopefully through legislation seeking more equal education than mere desegregation can provide.

The principal difference between the plan which I proposed to the President's Cabinet Committee, and the one which the President has now offered, is that the President's plan fails to assure uniform enforcement of the equal education plan throughout the country, and, under its proposed moratorium, positively discriminates against communities and school systems in which massive forced busing programs are now underway. My proposal would have a moratorium equally applicable to all, and would assure uniform desegregation enforcement in the future.

As many of you know, I previously made an effort to have a plan of this type adopted. Following the voting on the so-called Griffin Amendment, I offered and called up an amendment seeking a complete moratorium on forced busing until a uniform policy of desegregation could be adopted and implemented. Debate on this amendment was limited to forty minutes, and I do not think that members of the Senate ever fully understood what was proposed. In fact, seventeen Republicans who voted for the Griffin Amendment, which was a complete bar to forced busing, voted against my amendment which was only a moratorium. Those votes, along with two Democratic votes in support of my amendment by Senators who had opposed the Griffin Amendment, would have assured passage of my proposal.

The failure of this amendment under those circumstances raised a serious question in my mind as to the desire of the Administration to solve the busing crisis, free of political considerations, and also causes me to doubt the sincerity of many Democratic members who advocate equal protection of the law, but do not support equal enforcement policies when they have an opportunity to do so.

The bill which I now offer follows substantially the same plan as the amendment which I offered during the debate on the Higher Education Bill. It prohibits the use of forced school busing in some parts of the country when no steps toward desegregation have been taken in most of the country's school systems.

In view of what I have said, it should go without further elaboration that I would bitterly oppose President Nixon's moratorium plan in its present form. If the moratorium can be extended, as I suggested to the Cabinet Committee, to cover all school systems now under massive busing orders, and to last until a nationally uniform school desegregation policy can be adopted and implemented, then I would support it.

But if equal protection of the law cannot be made a part of the plan, then I would just as soon have no moratorium at all. If school busing is wrong, or being questionably applied, then those who have already suffered under it should be the first to be excused. The President's moratorium to me is like coming out against capital punishment for those hereafter convicted, but letting the death sentence be executed on those waiting on death row. No fairminded person would support such a plan.

Finally, I would like to emphasize that it is my desire, and that of the people I represent, to approach this matter with positive solutions, rather than with negative objections. Commonsense will tell you that workable solutions to these very difficult problems can only be arrived at if all Americans believe that they are being treated fairly. The objectives of school desegregation and equal educational opportunity will be much better served, and more rapidly achieved, if equal protection of the law is built into the application, as well as into the concept of the program.

Exhibit 1

[From the Washington Post, Jan. 26, 1972]

School Changes Are Late

(By William Raspberry)

America can never seem to figure out what to do about its poor and its black citizens.

It forces them into concentrations, whether through economics, commercial manipulation or outright segregation. And then it announces that it would be possible to deal with their problems if only the people were not so concentrated.

Even when some reasonably logical solution does suggest itself, it is almost an article of American faith that no attempt will be made to implement it until it is too late for it to be effective.

We try scattered-site public housing (or cash housing subsidies) as an alternative to public housing concentration camps, but only after the problem has grown so large that there aren't enough sites left in which to scatter the poor.

We decide to move against crime and narcotics in the ghettos only after they have become virtually intractable (and after they have become a problem for the nonblack and nonpoor).

And particularly have we moved too late in public education.

When some basic education would have been a desirable thing for blacks, white Americans made it illegal to teach blacks to read and write.

When blacks would have been ecstatic over really good segregated schools, they got schools that were separate but awful.

Local authorities are now willing to desegregate their schools, but only after the courts have said desegregation isn't enough: You have to integrate.

Always one step behind. It would be almost laughable except for the fact that the problems keep growing worse. Remedies that would have worked a few years ago become inadequate when they are applied too late. And we've finally reached the point where no one, white or black, has any clear idea of what will work now.

Virtually no one wants busing on the level it would take to integrate the schools in most metropolitan areas.

I, for one, would be willing to take one step backward, to honest desegregation. That is, let us move forthrightly against any attempt at official discrimination. But at the same time, let us end the humiliation of chasing after rich white children.

And it is humiliating. For one thing it says to black children that there is something inherently wrong with them, something that can be cured only by the presence of white children. Some of us don't believe that.

Some of us believe that given adequate resources, financial and otherwise, black children can learn, no matter what color their seatmates happen to be.

We started off chasing after white people because that was (we thought) the sure way to get the resources we needed. Now some of us are continuing the chase although we've forgotten why it started.

As provocative as Judge Merhidge's Richmond decree was, I would have preferred a ruling that said not that pupils must be bused without regard to city boundary lines but that school money and resources must no longer stop at those boundaries.

It may still come to that. If the current trend continues, there will likely be an end to property taxes as the chief means of financing schools. And one result will be that all schools within a state will be on equal footing, no matter whether they are in rich neighborhoods or poor.

When the white and the rich discover that they cannot finance good public schools for their own children and lousy ones for the rest, we will see the beginning of equality in public education or we will see the end of public education.

EXHIBIT 2

[From the Washington Post, Feb. 16, 1972]

MASSIVE BUSING: A WASTE

(By William Raspberry)

If this weren't an election year, it just might be possible to do something rational about school integration and busing.

But not only it is an election year; it is also a year in which all sorts of people, in all parts of the country and of all political persuasions are expressing their strong misgivings about the prospects of massive busing for the purpose of racial integration of public schools.

And with that kind of mandate, you can count on the politicians to see their duty—and overdo it. Already presidential candidate Jackson is pushing "freedom of choice." Haven't we heard that one before?

Others are talking up constitutional amendment.

It's a bit of an embarrassment, all things considered, but I happen to agree with Vice President Agnew on this one. I agree with him that massive busing solely for purposes of racial integration is a waste. And I agree with his opposition to a constitutional amendment as the way to end the waste.

The artificial separation of people, in schools or out, based on their race is wrong. It is, for one thing, psychologically destructive of the minority members who are separated out.

But to send black children chasing to hell and gone behind white children is also wrong and psychologically destructive. It reinforces in white children whatever racial superiority feelings they may harbor, and it says to black children that they are somehow improved by the presence of white schoolmates.

My favorite nightmare is all of the white people in the country moving to Alaska, and all the black children in the country following them in an endless line of buses.

Integration is a noble goal. But there comes a time when thoughtful men wonder with Joseph Alsop: "Is it really worth it?"

If white people, either because they wish to avoid contact with black people or for any other reason, choose to move far from where most black people live, how can it make sense—in terms of education or common sense—to send black kids chasing after them?

At some point, it becomes obvious that there must be a cheaper way to achieve the goal which is the education of our children.

But even the goal gets confused. Some of the advocates of massive busing, it seems to me, are being guided by the wrong ideal.

They start off with the assumption that in melting-pot America, racial integration is a good thing. But they take the melting pot metaphor altogether too literally, and it becomes their goal to make every classroom of every school (and every block of every neighborhood) an accurate cross-section of the makeup of the total population.

They would like to put us all into that metaphorical melting pot and ladle out enough portions of homogenized American to fill every schoolroom, workroom and living room in the country.

Well, what's so ideal about mathematically precise distribution of human beings? What's so inherently evil about a block in which all the homeowners (or a classroom in which all the pupils) happen to be black? Or white?

This is no brief for a return to the lie of separate but equal. It is an appeal for national priorities, a plea that we make the test of a school whether it does what schools are supposed to do—educate our children.

It is both evil and illegal to say to a child: You cannot attend this school because it is a white school. But how much better is it to say: You must attend this school because it is integrated and we need you for racial balance?

The ideal is a situation in which race is irrelevant to assignment. Preoccupation with mathematical precision, unfortunately, is not the way to achieve that idea.

But no constitutional amendments, please. The effort that route would require would be bound to make too many of us feel that we were solving the problem of education in a pluralistic society. It would in fact solve nothing at all, except to return us to where we were the day before yesterday.

The Vice President was right again when he said:

"I think that there is almost a Pavlovian reaction. Whenever a subject become highly controversial, you must turn to a constitutional amendment. I think these things are capable of being handled within the normal statutory framework and constitutional framework of our existing Constitution."

But only if we deal with the situation and stop looking for new ways to run.

IS BUSING NECESSARY?

(By Nathan Glazer)

It is the fate of any social reform in the United States—perhaps anywhere—that, instituted by enthusiasts, men of vision, politicians, statesmen, it is soon put into the keeping of full-time professionals. This has two consequences. On the one hand, the job is done well. The enthusiasts move on to new causes while the professionals continue working in the area of reform left behind by public attention. But there is a second consequence. The professionals, concentrating exclusively on their area of reform, may become more and more remote from public opinion, and indeed from common sense. They end up at a point that seems perfectly logical and necessary to them—but which seems perfectly outrageous to almost everyone else. This is the story of school desegregation in the United States.

For ten years after the 1954 Supreme Court decision in *Brown*, little was done to desegregate the schools of the South. But professionals were at work on the problem. The NAACP Legal Defense Fund continued to bring case after case into court to circumvent the endless forms of resistance to a full and complete desegregation of the dual school systems of the South. The federal courts, having started on this journey in 1954, became educated in all the techniques of subterfuge and evasion, and in their methodical way struck them down one by one. The federal executive establishment, reluctant to enter the battle of school desegregation, became more and more involved.

The critical moment came with the passage of the Civil Rights Act in 1964, in the wake of the assassination of a President and the exposure on television of the violent lengths to which Southern government would go in denying constitutional rights to Negroes. Under Title IV of the Civil Rights Act, the Department of Justice could bring suits against school districts maintaining segregation. Under Title VI, no federal funds under any program were to go to districts that practiced segregation. With the passage of the Elementary and Secondary Education Act in 1965, which made large federal funds available to schools, the club of federal withdrawal of funds became effective. In the Department of Justice and in the Department of Health, Education and Welfare, bureaucracies rapidly grew up to enforce the law. Desegregation no longer progressed painfully from test case to test case, endlessly appealed. It moved rapidly as every school district in the South was required to comply with federal requirements. HEW's guidelines for compliance steadily tightened, as the South roared and the North remained relatively indifferent. The Department of Justice, HEW, and the federal courts moved in tandem. What the courts declared was segregation became what HEW declared was segregation. After 1969, when the Supreme Court ordered, against the new administration's opposition, the immediate implementation of desegregation plans in Mississippi, no further delay was to be allowed.

The federal government and its agencies were under continual attack by the civil-rights organizations for an attitude of moderation in the enforcement of both court orders and legal requirements. Nevertheless, as compared with the rate of change in the years 1954 to 1964, the years since 1964 have seen an astonishing speeding-up in the process of desegregating the schools of the South.

Writing during the Presidential campaign of 1968, Gary Orfield, in his massive study, *The Reconstruction of Southern Education*, stated:

"To understand the magnitude of the social transformation in the South since 1964, that portrait of hate [of black students walking into Little Rock High School under the protection of paratroopers' bayonets] must be compared to a new image of tense but peaceful change. Even in the stagnant red clay counties in rural backwaters, where racial attitudes have not changed much for a century, dozens or even hundreds of black children have recently crossed rigid caste lines to enter white schools. Counties with well-attended Ku Klux Klan cross-burning have seen the novel and amazing spectacle of Negro teachers instructing white classes. It has been a social transmutation more profound and rapid than any other in peacetime American history.

"This is a revolution whose manifesto is a court decision and whose heroes are bureaucrats, judges, and civil-rights lawyers. . . ."

Mr. Orfield thought it was all coming to an end. With Nixon attacking the guidelines that had brought such progress, and with the civil-rights coalition coming apart in the fires of the cities of the North, Mr. Orfield wrote, "A clear electoral verdict against racial reconciliation [that is, the election of Mr. Nixon] could mean that the episode of the school guidelines may recede into history of an interesting but futile experiment." Mr. Orfield underestimated the bureaucrats, the courts, and the overall American commitment to the desegregation of Southern schools. While Mr. Nixon's appointees were suffering the same abuse as Mr. Johnson's before them for insufficient zeal, the desegregation of the racially divided school systems of the South proceeded. Thus the Director of the HEW Office of Civil Rights, J. Stanley Pottinger, could summarize some of the key statistics as of 1970 in the following terms:

"When school opened in the fall of 1968, only 18 per cent of the 2.9 million Negro children in the Southern states attended schools which were predominantly white in their student enrollments. In the fall of 1970, that figure had more than doubled to 39 per cent . . . [and] the percentage of Negroes attending 100 per-cent black schools dropped . . . from 68 per cent to 14 per cent. In 1968, almost no districts composed of majority Negro (and other minority) children were the subject of federal enforcement action. It was thought . . . that the limited resources of government ought to be focused primarily on the districts which had a majority of white pupils, where the greatest educational gains might be made, and where actual desegregation was not as likely to induce white pupils to flee the system. . . . 40 per cent of all the Negro children in the South live in [such] systems. . . . Obviously, the greater the amount of desegregation in majority black districts, the fewer will be the number of black children . . . who will be counted as "desegregated" under a standard which measures only those minority children who attend majority white schools.

"In order to account for this recent anomaly, HEW has begun to extract from its figures the number of minority children who live in mostly white districts and who attend mostly white schools. Last year, approximately 54 per cent of the Negro children in the South who live in such districts attended majority white schools. Conversely, nearly 40 per cent of the 2.3 million white children who live in mostly black (or minority) districts now attend mostly black (or minority) schools." [1]

There has been further progress since, and if one uses as the measure the number of blacks going to schools with a majority of white children, the South is now considerably more integrated than the North.

Yet the desegregation of schools is once again the most divisive of American domestic issues. Two large points of view can be discerned as to how this has happened. To the reformers and professionals who have fought this hard fight—the civil-rights lawyers, the civil-rights organizations, the government officials, the judges—the fight is far from over, and even to review the statistics of change may seem an act of treason in the war against evil. Indeed, if one is to take committed supporters of civil rights at their word, there is nothing to celebrate. A year ago the Civil Rights Commission, the independent agency created by the Civil Rights Act of 1957 to review the state of civil rights, attacked the government in a massive report on the civil rights enforcement efforts. "Measured by a realistic standard of results, progress in ending inequity has been disappointing. . . . In many areas in which civil rights laws afford pervasive legal protection—education, employment, housing—discrimination persists, and the goal of equal opportunity is far from achievement." And the report sums up the gloomy picture of Southern school segregation, 16 years after *Brown:* "Despite some progress in Southern school desegregation . . . a substantial majority of black school children in the South still attend segregated schools." [2] Presumably, then, when a majority of Negro children attended schools in which whites were the majority, success by one measure should have been reported. But in its follow-up report one year later, this measure of success in Southern school desegregation was not even mentioned. The civil-rights enforcement effort in elementary and secondary schools, given a low "marginal" score for November 1970 (out of four possibilities," "poor," "marginal," "adequate," and "good"), is shown as having regressed to an even *lower* "marginal" score by May 1971, after HEW's most successful year in advancing school integration!

But from the point of view of civil-rights advocates, desegregation as such in the South is receding as a focus of attention. A second generation of problems has come increasingly to the fore: dismissal or demotion of black school principals and teachers as integration progresses and their jobs are to be given to whites; expulsions of black students for disciplinary reasons; the use of provactive symbols (the Confederate flag, the singing of "Dixie"); segregation within individual schools based on tests and ability grouping; and the rise of private schools in which whites can escape desegregation.

But alongside these new issues, there is the reality that the blacks of the North and West are also segregated, not to mention the Puerto Ricans, Mexican Americans, and others. The civil-rights movement sees that minorities are concentrated in schools that may be all or largely minority, sees an enormous agenda of desegregation before it, and cannot pause to consider a success which is already in its mind paltry and inconclusive. The struggle must still be fought, as bitterly as ever.

There is a second point of view as to why desegregation, despite its apparent success, is no success. This is the Southern point of view, and now increasingly the Northern point of view. It argues that a legitimate, moral, and Constitutional effort to eliminate the unconstitutional separation of the races (most Southerners now agree with this judgment of *Brown*), has been turned into something else—an intrusive, costly, painful, and futile effort to regroup the races in education by elaborate transportation schemes. The Southern Congressmen who for so long tried to get others to listen to their complaints now watch with grim satisfaction the agonies of Northern Congressmen faced with the crisis of mandatory, court-imposed transportation for desegregation. On the night of November 4, 1971, as a desperate House passed amendment after amendment in a futile effort to stop busing. Congressman Edwards of Alabama said:

"Mr. Chairman, this will come as a shock to some of my colleagues. I am opposing this amendment. I will tell you why. I look at it from a rather cold standpoint. We are busing all over the First District of Alabama, as far as you can imagine. Buses are everywhere . . . people say to me, 'How in the world are we ever going to stop this madness?' I say, 'It will stop the day it starts taking place across the country, in the North, in the East, in the West, and yes, even in Michigan.' "

And indeed, one of the amendments had been offered by Michigan Congressmen, long-time supporters of desegregation, because what had been decreed for Charlotte, North Carolina, Mobile, Alabama, and endless other Southern cities was now on the way to becoming law in Detroit and its suburbs.

As a massive wave of antagonism to transportation for desegregation sweeps the country, the liberal Congressmen and Democratic Presidential aspirants who have for so long fought for desegregation ask themselves whether there is any third point of view: whether they must join with the activists who say that the struggle is endless and they must not flag, even now; or whether they must join with the Southerners. To stand with the courts in their latest decisions is, for liberal Congressmen, political suicide. A Gallup survey last October revealed that 76 per cent of respondents opposed busing, almost as many in the East (71 per cent), Midwest (77 per cent), and West (72 per cent), as in the South (82 per cent); a majority of Muskie supporters (65 per cent) as well as a majority of Nixon supporters (85 per cent). Even more blacks opposed busing than support it (47 to 45 per cent). But if to stand with the further extension to all the Northern cities and suburbs of transportation for desegregation is suicide, how can the liberal Congressmen join with the South and with what they view as Northern bigotry in opposing busing? Is there a third position, something which responds to the wave of frustration at court orders, and which does not mean the abandonment of hope for an integrated society?

How have we come from a great national effort to repair a monstrous wrong to a situation in which the sense of right of great majorities is offended by policies which seem continuous with that once noble effort? In order to answer this question, it is necessary to be clear on how the Southern issue became a national issue.

After the passage of the Civil Rights Act of 1964, the first attempt of the South to respond to the massive federal effort to impose desegregation upon it was "freedom of choice." There still existed the black schools and the white schools of a dual school system. But now whites could go to black schools (none did) and the blacks could go to white schools (few dared). It was perfectly clear that throughout the South "freedom of choice" was a means of maintaining the dual school system. In 1966 HEW began the process of demanding statistical proof that substantially more blacks were going to school with whites each year. The screw was tightened regularly, by the courts and HEW, and finally, in 1968, the Supreme Court gave the *coup de grâce*, insisting that dual school systems be eliminated completely. There must henceforth be no identifiable black schools and white schools, only schools.

But one major issue remained as far as statistical desegregation was concerned: the large cities of the South. For the fact was that the degree of segregation in the big-city Southern schools was by now no longer simply attributable to the dual school systems they, too, had once maintained; in some instances, indeed, these schools had even been "satisfactorily" (by some federal or court standard) desegregated years before. What did it mean to say that their dual school systems must also be dismantled "forthwith"?

Contrast, as a concrete instance, the case of rural New Kent County in Virginia, where the Supreme Court declared in 1968 that "freedom of choice" would not be accepted as a means of desegregating a dual school system. Blacks and whites lived throughout the country. There were two schools, the historic black school and the historic white school. Under "freedom of choice," some blacks attended the white school, and no whites attended the black school. There was a simple solution to desegregation, here and throughout the rural and small-town South, and the Supreme Court insisted in 1968, fourteen years after *Brown*, that the school systems adopt it: to draw a line which simply made two school districts, one for the former black school, and one for the former white school, and to require all children in one district, white and black, to attend the former black school, and all children in the other, white and black, to attend the former white school.

But what now of Charlotte, Mobile, Nashville, and Norfolk? To draw geographical lines around the schools of these cities, which had been done, meant that many white schools remained all white, and many black schools remained all black. Some schools that had been "desegregated" in the past—that is, had experienced some mix of black and white—had already become "resegregated"—that is, largely black or all black as a result of population movements rather than any official action.

If there were to be no black schools and no white schools in the city, one thing at least was necessary; massive transportation of the children to achieve a proper mix. There was no solution in the form of geographical zoning.

But if this was the case, in what way was their situation different from that of Northern cities? In only one respect: the Southern cities had once had dual school systems, and the Northern cities had not. (Even this was not necessarily a decisive difference, for cities

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Footnotes at end of article.

outside the Old South had also maintained dual systems until 1954. Indiana had a law permitting them until the late 1940's, and other cities had maintained dual systems somewhat earlier.) Almost everything else was the same. The dynamics of population change were the same. Blacks moved into the central city, whites moved out to the suburbs. Blacks were concentrated in certain areas, owing to a mixture of formal or informal residential discrimination, past or present, economic incapacity, and taste, and these areas of black population became larger and larger, making full desegregation by contiguous geographical zoning impossible. Even the political structures of Southern and Northern cities were becoming more alike. Southern blacks were voting, liberal candidates appealed to them, Southern blacks sat on city councils and school boards. If one required the full desegregation of Southern cities by busing, then why should not one require the full desegregation of Northern cities by busing?

Busing has often been denounced as a false issue. Until busing was decreed for the desegregation of Southern cities, it was. As has been pointed out again and again, buses in the South regularly carried black children past white school to black schools, and white children past black schools to white schools. When "freedom of choice" failed to achieve desegregation and geographical zoning was imposed, busing sometimes actually declined. In any case, when the school systems were no longer allowed to have buses for blacks and buses for whites, certainly the busing system became more efficient. After 1970, busing for desegregation replaced the busing for segregation.

But this was not true when busing came to Charlotte, North Carolina, and many other cities of the South, in 1971, after the key Supreme Court decision in *Swann* v. *Charlotte-Mecklenburg County Board of Education*. The City of Charlotte is 64 square miles, larger than Washington, D.C., but it is a part of Mecklenburg County, with which it forms a single school district of 550 square miles, which is almost twice the size of New York City. Many other Southern cities (Mobile, Nashville, Tampa) also form part of exceptionally large school districts. While 29 per cent of the schoolchildren of Mecklenburg County are black, almost all live in Charlotte. Owing to the size of the county, 24,000 of 84,500 children were bused, for the purpose of getting children to schools beyond walking distance. School zones were formed geographically, and the issue was, could all-black and all-white schools exist in Mecklenburg County, if a principle of neighborhood school districting meant they would be so constituted?

The Supreme Court ruled they could not, and transportation could be used to eliminate black and white schools. The Court did not argue that there was a segregative intent in the creation of geographical zones—or that there was not—and referred to only one piece of evidence suggesting an effort to maintain segregation, free transfer. There are situations in which free transfer is used by white children to get out of mostly black schools, but if this had been the problem, the Court could have required a majority-to-minority transfer only (in which one can only transfer from a school in which one's race is a majority, and to a school in which one's race is a minority), as is often stipulated in desegregated plans. Instead the Court approved a plan which involved the busing of some 20,000 additional children, some for distances of up to 15 miles, from the center of the city to the outer limits of the county, and vice versa.

Two implications of the decision remain uncertain but they may lead to a reorganization of all American education. If Charlotte, because it is part of the school district of Mecklenburg County, can be totally desegregated with each school having a roughly 71–29 white-black proportion, should not city boundaries be disregarded in other places and larger school districts of the Mecklenburg County scale be created wherever such action would make integration possible? A district judge has already answered this question in the affirmative for Richmond, Virginia.

But the second implication is: If Charlotte is—except for the background of a dual school system—socially similar to many Northern cities, and if radical measures can be prescribed to change the pattern that exists in Charlotte, should they not also be prescribed in the North? And to that question also a federal judge, ruling in a San Francisco case, has returned an affirmative answer.

San Francisco has a larger measure of integration probably than most Northern cities. Nevertheless *de facto* segregation—the segregation arising not from formal decisions to divide the races as in the South, but from other causes, presumed to be social and demographic—has long been an issue in San Francisco. In 1962, the NAACP filed suit against the school board, charging it with, "affording, operating, and maintaining a racially segregated school system within the San Francisco Unified School District, contrary to and in violation of the equal protection and due process clause of the Fourteenth Amendment of the Constitution of the United States." As John Kaplan has written:

"The history of this suit is a short and strange one. The Board of Education retained for its defense a distinguished local attorney, Joseph Alioto [now the mayor], who was primarily an anti-trust specialist. Alioto started discovery proceedings and the heart seemed to go out of the plaintiffs.

"In any case, after admitting in depositions that the Board had no intention to produce a condition of racial imbalance; that it took no steps to bring about such a condition; that its lines were not drawn for the purpose of creating or maintaining racial imbalance; that there was no gerrymandering; and finally that the Board was under no obligation to relieve the situation by transporting students from their neighborhoods to other districts, the plaintiffs' attorney allowed the suit to be dismissed for want of prosecution on December 2, 1964."

It was assumed that this disposed of the legal issue. Meanwhile the San Francisco school system continued to struggle with the problem. After a long series of censuses, disputes, and studies, the school board proposed to set up two new integrated complexes, using transportation to integrate, one North and one South of Golden Gate Park. They were to open in 1970. When, however, one was postponed because of money problems, suit was brought once again by integration-minded parents, this time charging *de jure* segregation on the ground that the school board's failure to implement the two integrated school complexes amounted to an official act maintaining the schools in their presently segregated state.

Judge Stanley Weigel, before whom the matter was argued, very sensibly decided to wait for the Supreme Court's ruling in the Charlotte-Mecklenburg County case which, he and many others thought, might once and for all settle the question of whether *de facto* segregation was no less unconstitutional than *de jure* segregation. Although one may doubt from certain passages in the Charlotte-Mecklenburg decision that the Supreme Court did indeed mean to outlaw *de facto* segregation, Judge Weigel seems to have decided that it did. "The law is settled," he declared, "that school authorities violate the constitutional rights of children by establishing school attendance boundary lines knowing that the result is to continue or increase substantial racial imbalance."

But in ordering the desegregation of the San Francisco schools by transportation, Judge Weigel did not simply rest the matter on *de facto* segregation; he also listed acts of commission and omission which he belived amounted to *de jure* school segregation.

Now one can well imagine that a school board which does not or did not recently operate under state laws that required or permitted segregation could nevertheless through covert acts—which are equally acts under state authority—foster segregation. It could, for example, change school-zone lines, so as to confine black children in one school and permit white children to go to another school. It could build schools and expand them so that they served an all-black or all-white population. It could permit a transfer policy whereby white children could escape from black schools while blacks could not. It could assign black teachers to black schools and white teachers to white schools.

Judge Weigel charged all these things. The record—a record made by a liberal school board, appointed by a liberal mayor, in a liberal city, with a black president of the school board—does not, in this layman's opinion, bear him out, unless one is to argue that any action of a school board in construction policy or zone-setting or teacher assignment that precedes a situation in which there are some almost all-black schools (there were no all-black schools in San Francisco) and some almost all-white schools (there were no all-white schools in San Francisco) can be considered *de jure* segregation.

Under Judge Weigel's interpretation, there is no such thing as *de facto* segregation. All racial imbalance is the result of state actions, either taken or not taken. If not taken, they should have been taken. *De facto* disappears as a category requiring any less action than *de jure*.

This is the position of many lawyers who are arguing these varied cases. I have described the San Francisco case because it led to a legal order requiring desegregation by transportation of the largest Northern or Western system so far affected by such an order. But massive desegregation had also been required by a district judge in Denver, who had then had his judgment limited by the Circuit Court of Appeals. Is it this Denver case that will become the first case on Northern or Western *de facto* school segregation—if we still allow the term some meaning—to be heard by the Supreme Court. What the Supreme Court will have to decide is whether the historical difference between Charlotte and Denver permits Denver or any other city to do any less than Charlotte has been required to do in order to integrate its schools.

Simultaneously, Detroit and the surrounding counties and the state of Michigan are under court order to come up with a plan that permits the desegregation of the school children of Detroit by busing to the neighboring suburbs, and a federal judge is moving toward the same result in Indianapolis. If the Supreme Court should uphold the district judge's ruling in the Richmond case, it will then similarly have to decide whether anything in the history or practices of Detroit and Indianapolis justifies ordering less in those cities than has been ordered in the city of Richmond.

The hardy band of civil-rights lawyers now glimpses—or glimpsed, before the two latest appointments to the Supreme Court—a complete victory, based on the idea that there is no difference between *de facto* and *de jure* segregation, an idea which is itself based on the larger idea that there is no difference between North and South. What is imposed on the South must be imposed on the North. As Ramsey Clark, a former Attorney-General of the United States, puts it, echoing a widely shared view:

"In fact, there is no *de facto* segregation. All segregation reflects some past actions of our governments. The FHA itself required racially restrictive covenants until 1948. But, that aside, the consequences of segregated schooling are the same whatever the cause. Segregated schools are inherently unequal however they come to be and the law must prohibit them whatever the reason for their existence."

In other words, whatever exists is the result of state action. If what exists is wrong, state action must undo it. If segregated schools were not made so by official decisions directly affecting the schools, then they were made so by other official decisions—Clark, for example, points to an FHA policy in effect until 1948—that encouraged residential segregation. Behind this argument rests the assumption, now part of the liberal creed, that racism in the North is different, if at all, from racism in the South only in being more hypocritical. All segregation arises from the same evil causes, and all segregation must be struck down. This is the position that many federal judges are now taking in the North—even if, as Judge Weigel did, they try to protect themselves by pointing to *some* action by the school board that they think might make the situation *de jure* in the earlier sense as well.

II

I believe that three questions are critical here. First, do basic human rights, as guaranteed by the Constitution, require that the student population of every school be racially balanced according to some specified proportion, and that no school be permitted a black majority? Second, whether or not this is required by the Constitution, is it the only way to improve the education of black children? Third, whether or not this is required by the Constitution, and whether or not it improves the education of black children, is it the only way to improve relations between the races?

These questions are in practice closely linked. What the Court decides is constitutional is very much affected by what it thinks is good for the nation. If it thinks that the education of black children can only be improved in schools with black minorities, it will be very much inclined to see situations in which there are schools with black majorities as unconstitutional. If it thinks race relations can only be improved if all children attend schools which are racially balanced, it will be inclined to find constitutional a requirement to have racial balance.

This is not to say that the courts do not need authority in the Constitution for what they decide. But this authority is broad indeed and it depends on a doctrine of judicial restraint—which has not been characteristic of the Supreme Court and subordinate federal courts in recent years—to limit judges in demanding what they think is right as well as what they believe to be within the Constitution. Indeed, is was in part because the Supreme Court believed that Negro children *were* being deprived educationally that it ruled as it did in *Brown*. They were being deprived because the schools were very far from "separate and equal." But even if they were "equal," their being "separate" would have been sufficient to make them unconstitutional: "To separate them from others of similar age and qualifications simply because of their race generates a feeling of inferiority as to their race and status in the community that may affect their hearts and minds in a way unlikely ever to be undone."

While much has been made of the point that the Court ruled as it did because of the evidence and views of social scientists as to the effects of segregation on the capacity of black children to learn, the fact is that the basis of the decision was that distinctions by race had no place in American law and public practice, neither in the schools, nor, as subsequent rulings asserted, in any other area, whether in waiting rooms or golf courses. This was clearly a matter of the "equal protection of the laws." It was more problematic as to what should be done to insure the "equal protection of the laws" when such protection had been denied for so long by dual school systems. But remedies were eventually agreed upon, and the Court has continued to rule unanimously—as it did in *Brown*—on these remedies down through *Swann* v. *Charlotte-Mecklenburg Board of Education*.

Inevitably, however, the resulting increase in the freedom of black children—the freedom to attend the schools they wished—entailed a restriction on the freedom of others. In "freedom of choice," the freedom of white children was in no way limited. In geographical zoning to achieve integration, it was limited, but no more than that of black children. But in busing to distant schools, white children were in effect being conscripted to create an environment which, it had been decided, was required to provide equality of educational opportunity for black children. It was perhaps one thing to do this when the whites in question were the children or grandchildren of those who had deprived black children of their freedom in the past. But when a district judge in San Francisco ruled that not only white children but Chinese children and Spanish-speaking children must be conscripted to create an environment which, be believed, would provide equality of educational opportunity for black children, there was good reason for wondering whether "equal protection of the laws" was once again being violated, this time from the other side.

We are engaged here in a great enterprise to determine what the "equal protection of laws" should concretely mean in a multiracial and multi-ethnic society, and one in which various groups have suffered differing measures of deprivation. The blacks have certainly suffered the most, but the Chinese have suffered too, as have the Spanish-speaking groups, and some of the white ethnic groups. Is it "equal protection of the laws" to prevent Chinese-American children from attending nearby schools in their own community, conveniently adjacent to the afternoon schools they also attend? Is it "equal protection of the laws" to keep Spanish-speaking children from attending school in which their numerical dominance has led to bilingual classes and specially trained teachers? Can the Constitution possibly mean that?

One understands that the people do not vote on what the Constitution means. The judges decide. But it is one thing for the Constitution to say that, despite how the majority feels, it must allow black children into the public schools of their choice; and it is quite another for the Constitution to say, in the words of its interpreters, that some children, owing to their race or ethnic group alone, may not be allowed to attend the schools of their choice, even if their choice has nothing to do with the desire to discriminate racially. When, starting with the first proposition, one ends up with the second, as one has in San Francisco, one wonders if the Constitution can possibly have been interpreted correctly.

Again and again, reading the briefs and the transcripts and the analyses, one finds the words "escape" and "flee." The whites must not escape. They must not flee. Constitutional law often moves through strange and circuitous paths but perhaps the strangest yet has been the one whereby beginning with an effort to expand freedom—no Negro child shall be excluded from any public school because of his race—the law has ended up with as drastic a restriction of freedom as we have seen in this country in recent years. No child, of any race or group, may "escape" or "flee" the experience of integration. No school district may facilitate such an escape. Nor may it even (in the District decision) fail to take action to close the loopholes permitting anyone to escape.

Let me suggest that, even though the civil-rights lawyers may feel that in advocating measures like these they are in the direct line of *Brown*, something very peculiar has happened when the main import of an argument changes from an effort to expand freedom to an effort to restrict freedom. Admittedly the first effort concerned the freedom of blacks, the second in large measure concerns the freedom of whites (but not entirely, as we have seen from the many instances in the South where the blacks have resisted the elimination of black schools, and in the North where they have fought for community-controlled schools). Nevertheless, the tone of civil-rights cases has turned from one in which the main note is the expansion of freedom, into one in which the main note is the imposition of restrictions. It is ironic to read in Judge Stanley Weigel's decision, following which every child in the San Francisco elementary schools was placed in one of four ethnic or racial categories and made subject to transportation to provide an average mix of each in every school, an approving quotation from Judge Skelly Wright:

"The problem of changing a people's mores, particularly those with an emotional overlay, is not to be taken lightly. It is a problem which will require the utmost patience, understanding, generosity, and forbearance from all of us, of whatever race. But the principle is that we are, all of us, freeborn Americans, with a right to make our way, unfettered by sanctions imposed by man because of the work of God."

That was the language of 1956. One finds very little "patience, understanding," etc., in Judge Weigel's own decision, which required the San Francisco School District to prepare a plan to meet the following objectives:

Full integration of all public elementary schools so that the ratio of black children to white children will then be and thereafter continue to be substantially the same in each school. To accomplish these objectives the plans may include:

(a) Use of non-discriminatory busing if, as appears now to be clear, at least some busing will be necessary for compliance with the law.

(b) Changing attendance zones wherever necessary to head off racial segregation.

According to Judge Weigel, the law even requires:

"Avoidance of the use of tracking systems or other educational techniques or innovations without provision for safeguard against racial segregation as a consequence."

Can all this be in the Constitution too?

A second issue that would seem to have some constitutional bearing is whether those who are to provide the children for a minority black environment are being conscripted only on the basis of income. The prosperous and the rich can avail themselves of private schooling, or they can "flee" to the suburbs. And if the Richmond and Detroit rulings should be sustained, making it impossible to "escape" by going to the suburbs, the class character of the decisions would become even more pronounced. For while many working class and lower-middle class people can afford to live in suburbs, very few can afford the costs of private education.

Some observers have pointed out that leading advocates of transportation for integration—journalists, political figures, and judges—themselves send their children to private schools which escape the consequences of these legal decisions. But even without being *ad hominem*, one may raise a moral question: If the judges who are imposing such decisions, the lawyers who argue for them (including brilliant young lawyers from the best law schools employed by federal poverty funds to do the arguing), would not themselves send their children to the schools their decisions bring into being, how can they insist that others poorer and less mobile than they are do so? Clearly those not subject to a certain condition are insisting that others submit themselves to it, which offends the basic rule of morality in both the Jewish and Christian traditions. I assume there must be a place for this rule in the Constitution.

A key constitutional question with which the Supreme Court will now finally have to deal is whether *de facto* segregation is really different from *de jure* segregation, and if so, whether lesser remedies can be required to eradicate it.

Is there really a meaningful difference between a 100 per-cent black school under a law that prohibits blacks from going to school with whites, and a 100 per-cent black school that is created by residential segregation? The question has become even subtler: Is there a difference between a majority black school in a city which once had *de jure* segregation, and such a school in a city which did not? I believe that the answer to the second question is no. But in the first case the distinction was meaningful when the Supreme Court handed down *Brown* and is meaningful today. In the *de facto* situation, to begin with, not all schools are 100 per cent segregated. Indeed, none may be. A child's observation alone may demonstrate that there are many opportunities to attend integrated schools. The family may have an opportunity to move, the city may have open enrollment, it may have a voluntary city-to-suburb busing program. The child may conclude that if one's parents wished, one could attend another school, or that one could if one lived in another neighborhood—not all are inaccessible economically or because of discrimination—or could conclude that the presence of a few whites indicated that the school was not segregated.

Admittedly social perception is a complicated thing. The child in a 100 per-cent black school as a result of residential concentration and strict zoning may see his situation as identical to that of a child in a 100 per-cent black school because of state law requiring separation of the races. But the fact is that a black child in a school more than 47 per-cent black (the San Francisco definition of "segregation") may also see himself as unfairly deprived. Or any black child at all, in view of his history, and the currently prevailing interpretation of his position, even if he is the only black child in a white school, may so conclude. Perception is not only based on reality, a reality which to me makes the *de facto* segregated school a very different thing from the *de jure* segregated school. Perception can turn the lovely campuses of the West Coast into "jails" which confine young people, and can turn those incarcerated by courts for any crime into political prisoners. If we feel a perception is wrong, one of our duties is to try to correct it, rather than to assume that the perception of being a victim must alone dictate the action to be taken. False perceptions are to be responded to sympathetically, but not as if they were true.

If one finds segregation of apparently *de facto* origin, what is the proper remedy?

In some cases, one can show that it is not really *de facto* by pointing to actions that the school board took with a segregatory intent—for example, changing a school-zone line when blacks moved into an area to keep a school all or mostly black or another one all or mostly white. I do not think this was demonstrated in the case of San Francisco, but it was the crucial issue in the first Northern school desegregation case, that of New Rochelle, which was never reviewed by the Supreme Court, and in Pontiac, Michigan, and for some schools in Denver. In districts with a hundred or more schools and a long history, with perhaps scores of school-zone lines changed every year, it would be unlikely if one could not come up with some cases that seemed to show this. Sometimes it was done under pressure of local white parents. Finding this, a court might require something as simple as that the zone line be changed back (this, of course, by the time it came to court would hardly matter since the black residential area would almost certainly have expanded and both zone lines would probably be irrelevant). Or it might require that no zone line be set in the future which had the effect of maintaining segregation. Or that no parental wishes of this sort be taken into account. In cases where segregatory zone lines were commonly or regularly set (Pontiac) more radical relief would be more appropriate.

But there is a basic and troubling question here. School boards are either elected, or appointed by elected officials. They are thus directly or indirectly responsible to ctiizens. One can well understand the constitutional doctrine which asserts that no elected or appointed board, no governmental official, may deny constitutional rights—e.g., allowing a Communist to speak in a school building—regardless of the wishes of its constituency. But in the case of schooling and school-zone boundary-setting, a host of issues is involved: convenience of access, quality of building, assumed quality of teaching staff, racial composition of students, etc. A board is subject to a hundred influences in making such a decision. It is not as simple a matter as proving this Communist was not allowed to speak because of mass pressure. Nor is the motivation of parents and boards ever unmixed.

In Boston the school board opened a new school in a black section. It tried to save the state aid that would be lost if it did not take some action to desegregate, and it zoned children living at some distance away into the new school. The white parents protested and eventually the board succumbed to their pressure and allowed them to send their children to their old nearby schools. To the minds of most enforcers of school desegregation, state and national, the board condemned itself for a segregatory act. One of the things the boycotting parents said was that they were afraid their children would get beaten up going through the area they had to traverse in order to get to school. Who is to say that this was pure fantasy, in the conditions of the modern city, and that what the white parents really meant was that they did not want their children to go to a mostly black school? It is this kind of determination on the intent and effect of hundreds of school-board decisions that judges are now required to make. When one read cases such as those in Indianapolis, Detroit, and elsewhere, the mind reels with the complexity of numerous school-zoning and construction decisions. Briefs, hearing transcripts, exhibits run to thousands of pages. And at least one conclusion that this reader comes to is that no judge can or ought to have to make decisions on such issues, and the chances are that whatever decision he makes will be based on inadequately analyzed information.

Is it the law—and, not being a lawyer, I do not know—that if a segregatory intent plays *any* part in school decisions, then *every* measure of relief, no matter how extensive is justified? If so, from a non-legal point of view it seems odd that one uncertain act with an uncertain effect on the social and racial patterns of an entire city should justify massive measures to reconstruct a school system.

Perhaps the most serious constitutional issue in a line of cases erasing the distinction between *de jure* and *de facto* segregation and also erasing the political boundaries between school districts in order to achieve a racial balance in which every black student is in a minority in every school (and presumably, as the cases develop, every Spanish-speaking student, and so on), is that all this makes impossible one kind of organization that a democratic society may wish to choose for its schools: the kind of organization in which the schools are the expression of a geographically defined community of small scale and regulated in accordance with the democratically expressed views of that community. This is the point Alexander Bickel has argued so forcefully. We have had a good deal of discussion in recent years of "decentralization," "community control," and "parental control" of schools. There were reasons for "community control" long before the issue exploded in New York in the late 1960's, and there were reasons for "parental control" long before the educational voucher scheme was proposed. Now the new line of cases makes the school ever more distant from the parents who send their children to it.

While busing schemes vary, in some, children from a number of different areas are sent to a single school and children from one area are sent to a number of schools. It becomes hard for parental or community concerns to be exercised on the particular school to which one's children go. Thus, in San Francisco, in the Mission district, owing to the effective work of the Mission Coalition (an Alinsky-style community organization), the local community has considerable influence on public programs in the area. With a wide base of membership, this organization can help determine what is most effective in the local schools. But if it wants to create an atmosphere in the school best suited to the education of Spanish-speaking children, what sense does this make when the schools are filled with children from distant areas? And how can it influence the education the Mission children receive in the distant schools to which many of them are now sent?

In effect, the new line of cases gives enormous control to central school bureaucracies, who will make decisions subject only to the courts and the federal government on the one hand, and the mass opinion of a large area dominated by the inevitable slogans which can create majorities on the other. Clearly this is one way of reducing the influence of people over their own environment and their own fate. I believe indeed that the worst effect of the current crisis is that people already reduced to frustration by their inability to affect a complex society and a government moving in ways many of them find incomprehensible and undesirable, must now see one of the last areas of local influence taken from them in order to achieve a single goal, that of racial balance.

The one reason for community control that has recently been considered most persuasive is that the inadequate education of black children may be improved under a greater measure of black community control. This may or may not be the case, but I believe that all people, black and white, have the right to control as much of their lives as is possible in a complex society, and the schools are very likely the only major function of government which would not suffer—and might even benefit—from a greater measure of local control. In education, there are few "economies of scale." It has always seemed fantastic that educators, in proposing "complexes" for 20,000 elementary-school children for purposes of desegregation, could also argue that schools of that size would also be more "efficient." Interestingly, lawyers and judges, in their effort to find *de jure* segregatory intent in the acts of Northern school boards, will sometimes claim that schools were deliberately made small to lessen the chances of integration. Thus in Detroit, one charge against the school board, accepted by Judge Roth, was that the board built small schools of 300 in order to contain the population and make desegregation more difficult. Paul Goodman and many others would argue that even schools of 300 are probably too large. In San Francisco, on the other hand, the argument was that schools were expanded to "contain" the black and white population. The Detroit judge, it seems, would have preferred the large San Francisco schools, and the San Francisco judge would have preferred the small Detroit schools, if one takes their arguments at face value. But one may be allowed to suspect that if the situations had been reversed, they would still both have found "*de jure*" segregation in their respective cities.

One consequence of this transfer of ports for racial balance is that there is no local pressure to build a school to serve a local population, since one cannot know what the effect of any local school will be. Thus all decisions on school building revert to the hands of the central school authorities, only affected, as I have already pointed out, by judges and the federal government on the one hand, and a mass opinion unrelated to local district needs on the other. I am skeptical as to whether this will improve school-construction policies. Federal civil-rights agencies and judges have not as yet shown themselves very perceptive in their criticism of local school-construction policies. One piece of evidence of *de jure* segregation, cited by the San Francisco judge, was the building of a new school in Hunter's Point, a black area. The school authorities had resisted building there. The local people insisted on a new school. Just about everyone who supports desegregation in San Francisco supported the local people, even though they knew that the school would be segregated. The local NAACP also supported the building of the new school. The judge, in his decision, cited the building of this school as a sign of the "segregatory" policies of the San Francisco school authorities. To the judge, the black people of Hunter's Point were being "contained," when they should have been sent off elsewhere, leaving their own area devoid of schools (or perhaps any other facilities). But for the people of the area who demanded the school, they were being served. That their school would be, to a federal judge's mind, "segregated" did not seem to them a good reason for all city facilities to be built only in white or Spanish-speaking or Chinese areas.

The attempts of judges and civil-rights lawyers to argue that this or that school was built to be "segregated" for whites or blacks is in any case often naive. The dynamics of population movements in the cities have been too rapid (the black population of San Francisco increased from 5,000 in 1940 to 96,000 in 1970) and the process of school-building too slow, for any such intention to be easily demonstrated or realized in Northern cities. One of the schools cited in the San Francisco case as "segregated" blacks (64 per-cent black in 1964), had been cited as recently as 1967 in the Civil Rights Commission's report on *Racial Isolation in the Public Schools* as having been built in order to foster the "segregation" of white, since it had opened in 1954 with a student body that was almost all white. Presumably, at least for the intervening period, it must have been integrated.

The crucial point is: Do federal courts have the right to impose a school policy that would deprive local communities and groups, white and black, of power over their schools? Some of them seem quite sure that they do. Judge Roth in Detroit is critical of the blacks of that city for contributing to what he considers "segregation" by demanding black principals and teachers:

"In the most realistic sense, if fault or blame is to be found it is that of the community as a whole, including of course the black components. We need not minimize the effect of the actions of federal, state, and local governmental officers and agencies . . . to observe that blacks, like ethnic groups in the past, have tended to separate from the larger group and associate together. The ghetto is a place of confinement and a place of refuge. There is enough blame for everyone to share."

We would all agree with Judge Roth that the ghetto must not be a place of confinement and that everything possible must be done to make it as easy for blacks to live where they wish as it is for anyone else. But why should it be the duty or the right of the federal government and the federal judiciary to destroy the ghetto as a place of refuge if that is what some blacks want? Judge Roth is trying to read into the Constitution the crude Americanizing and homogenizing which is certainly one part of the American experience, but which is just as certainly not the main way we in this country have responded to the facts of a multi-ethnic society. The doctrines to which Judge Roth lends his authority would deny not only to blacks, but to any other group, a right of refuge which is quite properly theirs in a multi-ethnic society built on democratic and pluralist principles.

I do not speak here of limiting what communities may freely choose to do in order to integrate their schools. I speak only of the judicial insistence that they must do certain things. Much busing for desegregation is engaged in by school boards independently of court decisions, because the board feels this is good for education; or because it is under pressure from blacks and white liberal citizens who demand such measures; or because it is required or is under pressure to do so from state education authorities—who, in the major Northern and Western states, and in particular in Massachusetts, New York, Pennsylvania, and California, require local school districts to eliminate racial imbalance defined in various ways. More than 50 percent black is racial imbalance in Massachusetts, and 15 percent more or less of each group in each school than the proportion of that group in the entire district is racial imbalance in California. (It was on the basis of the 15 percent rule that more than 47 percent black was considered segregated in San Francisco, for the proportion of black students in the schools was 32 per cent.) Thus, the City of Berkeley has been transporting its children to achieve integration for three years now, without any court or federal action. Riverside has done the same. Many cities have implemented, independently of court action, some degree of transportation for integration. Many of these actions have been attacked in the courts from the other side—that is, by white parents charging that for racial reasons alone they were being assigned to schools far from their homes. All these challenges have been struck down in the courts, in spite of state laws (such as New York's) which declare transportation for desegregation illegal. Interestingly enough, while the San Francisco school board was under attack from one side for having failed to implement one of its integration-through-busing school complexes, it was under attack from the other side for having implemented the one it had. It was of course the first of the two attacks that was supported by the district judge.

It is not this kind of action-to-integrate—undertaken by elected school boards, or by school boards appointed by elected officials, for educational or political reasons—that is under discussion here. Unless a political decision is clearly unconstitutional it should stand. Indeed, it is very likely that decisions to achieve racial balance taken by school boards not under judicial or federal order but because the political forces in that district demand it, have better effects than those undertaken under court order by resentful school administrations. In the first case, the methods of reducing racial imbalance have been worked out through the processes of political give-and-take, the community and teachers and administrators have been prepared for the change by the political process, the parents who oppose it have lost in what they themselves consider a fair fight. The characteristics of judge-imposed decisions are quite different.

III

There is, then, considerable room for doubt as to whether the Constitution actually mandates a system whereby every school shall have a black minority and no school shall have a black majority. Nevertheless present-day judges, with whom the doctrine of judicial restraint is not especially popular, seem able to find constitutional warrant for whatever policies they feel are best for the society. And so we come to the other crucial questions raised by the new line of cases: Is school desegregation the only way to improve the education of black children and/or the relations between the races?

Without rehearsing the terrible facts in detail, we know that blacks finish high school in the North three or more years behind whites in achievement. We also know with fair confidence that this huge gap is not caused by differential expenditures of money. Just about as much is spent on predominantly black schools outside the South as on predominantly white ones. Classes in black schools will often be smaller than classes in white ones—because the black schools tend to be located in old areas with many school buildings, while white schools tend to be in newer areas with fewer and more crowded school buildings. Blacks will often have more professional personnel assigned, owing to various federal and other programs. There are, to be sure, lower teacher salaries in the predominantly black schools, because they usually have younger teachers with less seniority and fewer degrees. Anyone who believes this is a serious disadvantage for a teacher has a faith in experience and degrees which is justified by no known evidence. (It is quite true that the big cities spend much less on their schools, white and black, than the surrounding suburban areas, which are almost entirely white. Regardless of the fact that spending more is unlikely to do much to improve education—it tends mostly to improve teachers' salaries and fringe benefits—it is quite unconscionable that more public money should be spent on the education of those from prosperous backgrounds than on those from poorer families. But this is quite separate from the issue of whether within present school districts less is spent on the education of black children, and whether spending more would reduce the gap in achievement.)

If money is not the decisive element in the gap between white and black, what is? In 1966 the Coleman report on *Equality of Educational Opportunity* reviewed the achieveemnt of hundreds of thousands of American school children, black and white, and related it to social and economic background, to various factors within the schools, and to integration. In 1967, another study *Racial Isolation in the Public Schools*, analyzed the effects of compensatory-education programs and reviewed the data on integration. Both studies—as well as subsequent experience and research—suggested that if anything could be counted on to affect the education of black children, it was integration. However, the operative element was not race but social class. The conclusion of the Coleman report still seems the best statement of the case.

"The apparent beneficial effect of a student body with a high proportion of white students comes not from racial composition per se, but from the better educational background and higher educational aspirations that are, on the average, found among white students."

On the other hand, if such integration did have an effect, it was not very great. The most intense reanalysis of Coleman's data[3] concludes:

"Our findings on the school racial composition issue, then, are mixed. . . . the initial *Equality of Educational Opportunity* survey overstressed the impact of school social class. . . . When the issue is probed at grade 6, a small independent effect of schools' racial composition appeared, but its significance for educational policy seems slight."

The study of these issues has reached a Talmudic complexity. The finding that integration of different socioeconomic groups favors the achievement of lower socioeconomic groups apparently stands up, but the effect is not large. One thing, however, does seem clear: integrating the hapless and generally lower-income whites of the central city with lower-income blacks, particularly under conditions of resentment and conflict, as in San Francisco, is likely to achieve nothing, in educational terms.

In San Francisco, the number of children enrolled in elementary schools dropped 6,519 against a projected drop of 1,508 (a 13 percent decline against a projected 3 percent decline) in response to Judge Weigel's decision. The junior-high-school enrollment, not yet subjected to full-scale busing, declined only 1 percent, and high-school enrollment remained the same. In Pasadena, California, there was a 22 percent drop in the number of white students in the school system between 1969—before court-imposed busing—and 1971. In Norfolk, Virginia, court-imposed busing brought a drop of 20 percent. If, as seems probable, it is the somewhat better-off and more mobile who leave the public-school system when busing is imposed, the effect on the achievement of black children is further reduced.

It is in response to such facts as these and in the light of such findings as Coleman's that judges in Detroit and Indianapolis and elsewhere now call for combining the central city and the suburb into unified school districts. But if this elaborate reorganization of the schools is being undertaken so that the presumed achievement-raising effect of socioeconomic integration may occur, we are likely to be cruelly disappointed. There is little if any encouragement to be derived from studies, published and unpublished, of voluntary busing programs even though such busing takes place under the most favorable circumstances (with motivated volunteers, from motivated families, and with schools acting freely and enthusiastically). Indeed, much integration through transportation has been so disappointing in terms of raising achievement that it may well lead to a revaluation of the earlier research whose somewhat tenuous results raised what begin to look like false hopes as to the educational effects of socioeconomic integration.

IV

There is yet a final argument. One will hear it in Berkeley, which underwent full desegregation by busing three years ago, and which has seen no particular reduction of the white-black achievement gap. The argument is that school integration will improve relations between the races and that in view of the extremity of interracial tensions in this country, anything that improves these relations must be done. In Berkeley, a liberal community with an elected school board which voluntarily introduced transportation for racial balance and was not turned out for doing so, one can perhaps make this argument. But race relations are not ideal even in Berkeley, as Senator Mondale's committee discovered last year when it conducted hearings there on the most successful American case of racial balance through transportation.

The Mondale committee discovered, for example, that after the schools were fully integrated, a special program for blacks—Black House—was established at the high-school level from which non-black students and teachers were excluded. (Berkeley High School, the only one in the city, has always been integrated.) The committee discovered, when it spoke to students—selected, one assumes, by the school authorities because they would give the best picture of integration—that students of different groups had little to do with one another. The black president of the senior class said: ". . . the only true existence of integration of Berkeley High is in the hallways when the bell rang everybody, you know, pass [sic] through the hallways, that is the only time I see true integration in Berkeley High." Senator Brooke probed deeper. Since the young man was black and a majority of his classmates were white, had they not voted for him? "The whites didn't even participate in voting . . . They felt the student government was a farce." (The opposing candidate was also black.) What about social activities? "Like we have dances, if there is a good turnout you see two or three whites at the dances . . ." Intramural sports? "The basketball team is pretty integrated, the crew team is mainly white, soccer team mainly white, tennis team mainly white." Did this mean, Senator Brooke asked, "that blacks don't go out for these teams that are whites and whites don't go out for those teams that are all black?" The class president guessed that "whites like to play tennis and blacks like to play basketball better." Still, he did think integration was a good idea, as did a Japanese girl who told the Senators: "I think like the Asian kids at Berkeley High go around with Asian kids."

A Chicano student testified:

"I thing the integration plan is working, started to work in junior high, it is different levels, the sixth graders go up to seventh grade now. I think now the Chicanos and blacks, they do hang around in groups. Usually some don't. I admit, like I myself hang around with all Chicanos but I am not prejudiced. I do it because I grew up with them, because they were my school buddies when there were segregated schools."

A black girl in elementary school said: "About integration, I don't think it is too integrated, but it is pretty well integrated. I have a lot of white friends. . . ." She lives in an integrated neighborhood. A white girl from the high school testified:

"Integration, ideally, as far as I can see it isn't working. I mean like as far as everybody doing things together . . . I have one class where there are only two whites in it, I being one of them, you know, like I don't have any problems there, but outside . . . [with other blacks] we just do different things. I am not interested in games. I couldn't care less. I don't know anything about Berkeley as far as the athletics go. . . . I wear very short skirts and walking down the halls I get hassled enough by all the black Dukes, you know. . . ."

Senator Brooke was surprised she wasn't hassled by the white boys too and suggested that they might use a different technique.

This is about the most positive report one can make on school integration. Why should anyone be surprised? There is a good deal of hanging around in groups, and there is some contact across racial lines, but the groups seem to have different interests and different social styles. The younger children have more in common than the older ones. It would be hard to say whether this commonality of interest will continue through high school—a popular Berkeley theory—or whether differences will assert themselves as the children grow older even though they were exposed to integration earlier than those now in high school. In other communities which have been studied, black children who are bused tend to become more anti-white than those who are not bused. One can think of a number of reasons for this.

If, then, the judges are moving toward a forcible reorganization of American education because they believe this will improve relations between the races, they are acting neither on evidence nor on experience but on faith. And in so acting on faith they are pushing against many legitimate interests: the interest in using tax money for education rather than transportation; the interest of the working and lower-middle classes in attending schools near their homes; the interest of all groups, including black groups, in developing some measure of control over the institutions which affect their lives; the interest of all people in retaining freedom of choice wherever this is possible.

There is unfortunately a widespread feeling, strong among liberals who have fought so long against the evil of racial segregation, that to stop now—before busing and expanded school districts are imposed on every city in the country—would be to betray the struggle for an integrated society. They are quite wrong. They have been misled by the professionals and specialists—in this instance, the government officials, the civil-rights lawyers, and the judges—as to what integration truly demands, and how it is coming about. Professionals and specialists inevitably overreach themselves, and there is no exception here.

It would be a terrible error to consider opposition to the recent judicial decisions on school integration as a betrayal of the promise of *Brown*. The promise of *Brown* is being realized. Black children may not be denied admittance to any school on account of their race (except for the cases in which courts and federal officials insist that they are to be denied admittance to schools with a black majority simply because they are black). The school systems of the South are desegregated. But more than that, integration in general has made enormous advances since 1954. It has been advanced by the hundreds of thousands of blacks in Northern and Western colleges. It has been advanced by the hundreds of thousands of blacks who have moved into professional and white-collar jobs in government, in the universities, in the school systems, in business. It has been advanced by the steady rise in black income which offers many blacks the opportunity to live in integrated areas. Most significantly, it has been advanced because millions of blacks now vote—in the South as well as the North—and because hundreds of blacks have been elected to school committees, city councils, state legislature, the Congress. This is what is creating an integrated society in the United States.

We are far from this necessary and desirable goal. It would be a tragedy if the progress we made in achieving integration in the 1960's were not continued through the 70's. We can now foresee within a reasonable time the closing of many gaps between white and black. But I doubt that mandatory transportation of schoolchildren for integration will advance this process.

For, so far as the schools in particular are concerned, the increase in black political power means that blacks—like all other groups—can now negotiate, on the basis of their own power, and to the extent of their own power, over what kind of school systems should exist, and involving what measure of transportation and racial balance. In the varied settings of American life there will be many different answers to these questions. What Berkeley has done is not what New York City has done, and there is no reason

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Footnotes at end of article.

why it should be. But everywhere black political power is present and contributing to the development of solutions.

There is a third path for liberals now agonized between the steady imposition of racial and ethnic group quotas on every school in the country—a path of pointlessly expensive and destructive homogenization—and surrender to the South. It is a perfectly sound American path, one which assumes that groups are different and will have their own interests and orientations, but which insists that no one be penalized because of group membership, and that a common base of experience be demanded of all Americans. It is the path that made possible the growth of the parochial schools, not as a challenge to a common American society, but as one variant within it. It is a path that, to my mind, legitimizes such developments as community control of schools and educational vouchers permitting the free choice of schools. There are as many problems in working out the details of this path as of the other two, but it has one thing to commend it as against the other two: it expands individual freedom, rather than restricts it.

One understands that the Constitution sets limits to the process of negotiation and bargaining even in a multi-racial and multi-ethnic setting. But the judges have gone far beyond what the Constitution can reasonably be thought to allow or require in the operation of this complex process. The judges should now stand back, and allow the forces of political democracy in a pluralist society to do their proper work.

FOOTNOTES

[1] In *Inequality in Education*, Center for Law and Education, Harvard University, Aug. 3, 1971.

[2] *Federal Civil Rights Enforcement Effort*, 1970, p. 14.

[3] David K. Cohen, Thomas F. Pettigrew, and Robert S. Riley "Race and the Outcomes of Schooling," in Frederick Mosteller and Daniel P. Moynihan, eds., *On Equality of Educational Opportunity*, Random House, 546 pp., $15.00.

SCHOOL INTEGRATION AND LIBERAL OPINION

(By Norman Podhoretz)

If Nathan Glazer is right—and I find his arguments entirely convincing—no benefit will accrue to anyone, whether white or black, from the requirement now apparently being established by the courts that no American public school shall have a black majority and that the student population of every school shall be racially balanced as far as possible in accordance with a specific mix. It used to be thought that the academic performance of black children would improve in integrated schools, but there is, as Mr. Glazer demonstrates, no evidence to confirm this idea. What the evidence actually suggests is that integration has little or no effect on academic performance, neither helping the blacks, as so many had hoped, nor hurting the whites, as so many had feared.

It also used to be thought that relations between the races would improve as a result of school integration, but here the evidence is if anything less encouraging than in the case of academic performance. I myself attended integrated schools as a child, and nearly ten years ago, I attempted in an essay called "My Negro Problem—and Ours" to show that such schools bore not the slightest resemblance to the rosy fantasies being scattered about in those days by the prevailing winds of liberal opinion. Liberal opinion said that sending white children and black children to school together would lead to greater mutual understanding and respect; I said that in my own experience it had led to violence and greater animosity. The studies Mr. Glazer cites of integrated schools of more recent vintage tend to prove that the experience of the integrated schools of the 30's and 40's was a more reliable guide to the future than the generous expectations of liberal opinion. At best relations between the races continue to remain cool in integrated schools, and often enough they are exacerbated to an intolerable, and to me altoghter familiar, degree.

If, then, no good is likely to come of it, why should we persist in forcibly integrating the schools? The question becomes even more difficult to answer when we consider how vast, even among liberals and even among blacks, the opposition has grown to the measures which must now be adopted if school integration is to proceed—measures which have found their definitive political summation in the great symbol of busing. In effect the country is being ordered against its own wishes to undergo a major reorganization without being given a reasonable assurance that some good will thereby be served, either immediate or ultimate, short-run or long. But if it is all to be for nothing, and if no one wants to do it, why should it be done at all?

Because, answer the activists and the bureaucrats and the lawyers and the judges, it is the law and the law must be obeyed. And indeed they are right, the law must be obeyed—if indeed it *is* the law that racial concentrations in the schools may not exist even if they arise from causes other than legal measures designed to bring them about. We already know for certain that legally sanctioned (or "*de jure*") segregation of any kind, overt or covert, in the schools and out, is against the law of the land. No one any longer questions this, not even in the South. But until the Supreme Court settles the issues involved in busing and redistricting, we will not know for certain whether "*de facto*" separation in the schools is also against the law of the land. And even then, if the Supreme Court should declare that it is, given the huge numbers of people who do not agree, redress from what they may decide is judicial tyranny parading as constitutional warrant is likely to be sought in legislative action and perhaps in constitutional amendment.

Hopefully it will never come to that. Hopefully in the end the country will avert the major constitutional crisis which seems to threaten it now. Hopefully good sense will prevail—the good sense which leads so many people, often uneasily because they are liberals and well-intentioned and influenced by an irrational dogma, to wonder nevertheless why a specified racial balance must be imposed on the schools at such great cost in money and bitterness and anxiety when the strongest of probabilities is that doing so will neither overcome educational deficiency nor enhance the relations of the races.

EXHIBIT 3

[United States District Court, Northern District of Georgia, Atlanta Division]

Vivian Calhoun, et al., Plaintiffs v. *Ed. S. Cook, et al.*, Defendants.

This case is on remand from the Fifth Circuit with directions to require implementation of a pupil assignment plan in compliance with the principles of *Swann* v. *Charlotte-Mecklenburg Board of Education*. Specifically, it directs only two changes: (1) The provision for majority-to-minority transfer with transportation and space being guaranteed under the option and (2) The filing of semi-annual reports. After hearing on remand the court finds the following:

This case is now in its thirteenth year before this court, having been filed in 1958, Atlanta in 1961–62 was one of the first major southern cities officially abandoning the dual school system. In its court experience, the original desegregation order was one of the few unappealed and assented to. Periodically as each new specific to *Brown* v. *Topeka* was belatedly developed by the higher courts, the School Board has been returned to court and given new directions under such landmark cases as Jefferson, Green, Singleton, Montgomery County, and Orange County. Each has been accepted and promptly implemented. In the interim, the system voluntarily accelerated from the early concept of grade-by-grade annual integration to system-wide integration; it voluntarily and studiously located new schools and rezoned so as to maximize integration; it voluntarily liberalized its pupil-transfer plan; and in various ways increased responsibility for its black teaching personnel, principals, and area superintendents. Through court order, it has advanced from the initial requirement of two teachers of opposite race to each school to a computerized mathematical distribution of its faculty by race throughout the city; and from historical and traditional attendance zones to a court-supervised optimum Orange County plan. No one has successfully challenged the good faith of its elected Board of Education, the appointed Superintendent, Dr. John W. Letson, or of its administrative personnel throughout this uncertain decade. Its efforts were early described as "commendable" by the Supreme Court. Each change has produced convulsive implosions within the system and what has now become the annual agony of Atlanta has caused significant change in the character of the system, both physically and psychologically.

When this suit began, Atlanta had a pupil ratio of 70 per cent white and 30 per cent black and a predominantly white faculty; today, its racial complexion has reversed to 70 per cent black and 30 per cent white and its 4,800 teachers are 60 per cent black and 40 per cent white. From an enrollment of 115,000 students it has dropped to 100,000 in the school year 1970–71, during which it lost 7,000 whites and gained 1,000 blacks. The system itself covers an area approximately 16 miles long and 14 miles wide lying in Fulton and a portion of DeKalb counties. The Atlanta City School System is a so-called "independent system" in that it is separately organized and operated from the county systems, each receiving direct grants from the state, supplemented by local tax funds. It is one of the 31 remaining independent city systems within the state. As such, it receives no state funds for transportation. It has never transported students, owns no buses, and there is no school "busing" available. Based on information furnished by each principal as to location and times, the private Atlanta Transit System arranges routes to accommodate students at reduced fare provided by each student individually. The system presently maintains 123 elementary-primary schools and 29 secondary schools, with two units to be opened this coming year.

The white students remaining are concentrated at the extreme northern and southern ends of the district, while the vast middle is a broad belt of industry and high-density solid black housing. The line between these areas is steadily creeping towards the ends with increased black housing and diminished white housing. Since 1961, it has annually achieved substantial temporary integration by the establishment or construction of "line schools." However, 34 of those schools have gone from all-white to 90 per cent or more black during the period. This "tipping process" is so rapid that it sometimes occurs by the time a facility deliberately located to increase integration can be completed and occupied. Seldom does it last longer than two years. Since official desegregation in 1961, 24 new schools have been constructed, several of which have been especially built to serve federal housing developments in the inner city. Others were appropriated for such purposes. In spite of official laws and directives to the contrary, the bulk of such developments have been operated as all-black since inception. As a natural consequence, 29 schools provided for such "controlled situations" are substantially black. Enforcement of fair housing legislation under Jones v. Alfred H. Mayer Co., and Title VIII of the Civil Rights Act of 1968 will automatically integrate these zones.

The cause of such frustrating results lies in factors completely beyond the control of school authorities. Segregated housing, whether impelled by school changes or not, remains the unconquerable foe of the racial ideal of integrated public schools in the cities. The white flight to the suburbs and private schools continues. As far back as 1957, in an offshoot of this case involving the proposed construction of an all-black school in the heart of the black belt, the problem was accurately characterized by plaintiffs witnesses and the court as de facto rather than de jure. Griggs v. Cook. The problem is no longer how to achieve integration, but how to prevent resegregation. Only last year, the parties and Judge Hooper for this court exhaustingly investigated possible remedies for over seven weeks of tidal, culminating in the orders involved in this appeal and remand. Some of the fruits of those "best efforts" have already slightly soured in the face of evolutional de facto changes. Through it all, the Atlanta system has maintained a traditional position of leadership in the public schools. It remains at the top of the state in pay scale, curriculum development, and innovative efforts in quality education.

HISTORY

In this litigation, the longtime standard of measurement has been the classification of schools in excess of 9 pct-10 pct enrollment by race as "integrated". Presently, 33 elementary schools and 13 secondary schools meet this test in that they have integration in excess of 10 pct. (many at 50–60) of the minority race at such schools. Of the remainder of 101, all but 45 have either completely resegregated, serve special controlled housing situations, or have been built since official desegregation as previously discussed. Of some 46 schools in neither category, the information furnished the court reveals substantially the following.

24 have integration of less than 10 pct. (ranging from 1 pct-7 pct black and 1 pct-5 pct white);

7 have only token integration (less than 10 students of the opposite race, ranging from 1–4 blacks and 3–9 whites;

15 are either all-black or all-white.

The closest schools with a majority of the opposite race are located as follows:

THE PRESENT SITUATION

Less than ¾ mile—1
¾ mile to 1½ miles—5
1½ miles to 2 miles—11
2 miles to 8½ miles—29

These distances are calculated in straight lines without regard to traffic patterns, transportation barriers, etc. In many instances, there is an intervening interstate highway, railroad, or similar artificial barrier.

Last year, 1140 students took advantage of the unlimited transfer option in effect. (Under the old freedom-of-choice provisions, an unusually large number of blacks by-passed closer white and black schools to attend a "prestige" black school; and white students by-passed closer white and Negro schools to attend a "prestige" white school.) There is, in fact, no serious problem of overcrowding at any facility. Annual zone changes and excellent modern portable classrooms are used to take care of increasing enrollments in either white or black schools. There are, proportionately, as many vacant classrooms at black schools as at white. The court is convinced that no device of packing is being used to preserve segregation. To the contrary, crowding at one school has been used to increase integration at another school. The Board assures the court there will be no problem of overcrowding at any school during 1971–72.

When the remand issued, the Board promptly agreed to the specifics required therein by formulating plans with the Atlanta Transit System to afford transportation by direct grants to the students taking advantage of the majority-to-minority transfer option. Prior thereto and following the issuance of Swann, it formed administrative task forces to study the possibilities of increasing integration by pairing, rezoning again, etc. All of those efforts have been reviewed by the court and representatives of the plaintiffs. Pairing or additional zone changes along the line either produce substantial hardship and * * * increases in travel time for the children involved or seriously imperils existing integration at one of the schools involved. In either event, the end result at best would accomplish only a temporary change soon to be wiped out in the historical pattern already established.

With the exception of an innovation in the transfer system, no single measure appears hopeful under the circumstances. There is evidence in the prior record that Atlanta has encouraged maximum majority-to-minority transfers on an individual basis. The court reasons that if such transfers could be effected on a bus-load basis, the prospects can be enhanced. The Atlanta Transit System is in dire straits itself. However, it has agreed to allow the Board to utilize the same total number of busses previously employed on an individual pick-up route basis for "group transfers." Thus, if a bus-load group of students in one area opt for a transfer to a particular school of the opposite race in another area, they can be transported at the same time in the same bus rather than individually along with the general public. The attached order so provides.

Additionally, the Board has agreed to make special efforts in the black area to encourage such group transfers through its area superintendents and other personnel stationed there. Already, it has given wide-publicity to the new transfer option through local newspapers, television, and radio. Over 100,000 bulletins have been placed in the neighborhood schools and a teacher is on duty to explain the plan to all interested parties. A central information center with a publicized telephone number has been established to impart the details to anyone inquiring. Each pupil may readily apply for the new transfer at the school he last attended on a quarterly basis on or before two days before the quarter opening.

CONCLUSIONS

Other than the above, it is apparent that the only device which could effect any significant change is mass-busing in an endeavor to achieve a 30 pct-70 pct ratio throughout the system. As seen, distances alone would require 40 minutes or more for each child transported and all of this would have to be achieved by a system which has no buses, no drivers, and no funds with which to acquire and operate them. The pairing of noncontiguous attendance zones is, under urban circumstances where a half-mile for a school child is a long distance to walk, but another term for bussing. The court has considered the possibility of requiring the transportation of black students from the center to the white ends. This move is opposed by a large group of blacks except on a voluntary basis as described. On the facts alone, the court concludes that wholesale bussing is neither "reasonable, feasible, or workable."

Of paramount significance, however, is the obvious result. Atlanta now stands on the brink of becoming an all-black city. A fruitbasket turnover through bussing to create a 30 percent white-70 percent black uniformity throughout the system would unquestionably cause such a result in a few months time. Intelligent black and white leadership in the community realizes and fears it. Responsible citizens both in and out of the school system are deeply concerned with preservation of the biracial identity of the city. Without it, the ultimate goal of equality in all its aspects is doomed and Atlanta's position of leadership is severely threatened.

The Atlanta School Board is made up of ten members, three of whom are black. Its chairman is Dr. Benjamin Mays, a respected black educator and civil rights leader. The Board deems it unrealistic to go further than stated and unwise to do so. The Biracial Committee appointed by this court is composed of ten outstanding civil and business leaders, five of each race. Its chairman is Mr. Lyndon Wade, the black Executive Secretary of the Urban League. A majority of 9 of its members have furnished the court with a resolution praising the Board's efforts and recommending no further action. (The tenth member was out of the city for an extended absence.) Short of mass busing, the plaintiffs whose counsel and advisors have vast experience in such matters can offer no other alternatives. The Department of Health, Education and Welfare has long ago approved the present plans.

The remedy of mass busing under these circumstances is rejected. Nor is it deemed required under Swann. "An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process."

The time and distance which would be involved is impractical, particularly for children in the primary and elementary grades. If the premise of Brown is correct and education in an all-black system is injurious, then certainly the results here would impinge the educational process for the children remaining. At least now there is complete integration administratively and substantial integration in pupil assignment. In a similar situation (Memphis), the Sixth Circuit in its post-Swann remand, indicated that the "extensive transportation of pupils to schools all over the city, regardless of distances involved in order to establish a fixed ratio in each school" is not required; and seemingly recommends that the trial court review all of those other devices already considered in Atlanta.

Swann holds that once de jure status is removed that a school district is not required to reintegrate continually due to de facto changes. "Neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through official action is eliminated from the system." On this basis, there is considerable merit to the position that this case ought to be dismissed forthwith. Atlanta's de jure status has long since been removed by Board action and by successive court decrees. Its present problems are entirely de facto. There is absolutely no evidence of any affirmative action by the board to increase segregation. To the contrary, all official action for many years has been to promote integregation. It appears to be a unitary system "within which no person is to be effectively excluded from any school because of race or color." On such basis, Atlanta is entitled to a dismissal

However, should Swann be considered as a starting point for such a goal, the present facts qualify. In essence, Swann holds that the essentials of any unitary system are the elimination of invidious racial distinctions in regard to (1) transportation, (2) faculty and supporting personnel, (3) extracurricular activities, (4) construction and site selection, and the presence of an (5) optional majority-to-minority transfer provision. To the extent that they apply, Atlanta has had such essentials for some time. With this order, the payment of public transportation and space guarantee has been added to the transfer provision. On pupil assignment, the Court, sitting in equity, may utilize any number of devices to achieve a "realistic and workable" plan for the district. All of the devices named, with the exception of mass busing, have been considered by the Board and the Court and optimum results obtained. Insofar as one-race schools are concerned, the Board has satisfied its burden of showing that "their racial composition is not the result of present or past discriminatory action on their part."

As seen, on a school-by-school basis there is existing integration of some kind or there is a purely de facto situation occurring since official desegregation in all but 15 all-black or all-white schools, or less than 10 pct. of the total facilities in operation. Accordingly, upon implementation of the attached order, the system will be judicially declared unitary and a dismissal will be directed on January 1, 1972, the court retaining the inherent jurisdiction to deal with future problems. (In this respect, it should be made clear that for the present, the Singleton-type faculty assignment ordered by the court on March 20, 1970, calls for an annual adjustment. See Carter v. West Feliciana Parish School Board, 432 F. 2d 875 (5th Cir. 1970). Implicit in the attached order is the admonition that it be so administered until further direction is received.) But, in the absence of a showing that either the school authorities or some other agency of the State has deliberately attempted to fix or alter demographic patterns to affect the racial composition of the schools, further intervention by a district court should not be necessary.

COMMENT

Looking ahead, the court is compelled to note that the critical point for public education in the City of Atlanta and its environs has been reached. The situation calls for a sweeping examination of its relationship to housing, planning, finances, rapid transit and all the other external factors which vitally affect its role in the community. Apparently, no serious effort has been expended on the question of consolidation of the Atlanta system with the Fulton County system. In terms of efficiency, taxes and quality education, such consolidation normally produce long-range improvements. In terms of the current problem, such consolidation might well produce partial, even though not perfect solutions. Certainly for many reasons connected and unconnected with this case, this one aspect ought to be studied without delay. In any such investigation, the proper vehicle should be community-wide, crossing lines of industry, government, and transportation as well as education. While the School Board should certainly participate, it cannot function successfully alone. A special Mayor's Committee of both races might be appropriate. The existing Biracial Committee might well be expanded to 20–30 members to undertake such a task. If so, the court would gladly entertain a motion by any party or the committee itself to add sufficient members to represent the other community aspects involved. Short of such critical re-evaluation, the Atlanta system faces a difficult task in merely "hanging on" to its present position, awaiting the uncertain reversal of white flight from its limits.

It is so ordered.

This the 28 day of July, 1971.

SIDNEY O. SMITH, Jr.,
U.S. District Judge.
ALBERT J. HENDERSON, Jr.,
U.S. District Judge

TEXT OF THE COURT ORDER

[United States District Court, Northern District of Georgia, Atlanta Division]

Vivian Calhoun, et al., Plaintiffs vs. Ed S. Cook, et al., Defendants.

Upon consideration of this case under the remand of the Fifth Circuit, the defendant is ordered and directed as follows:

1. To abide by the previous decrees of this court regarding faculty and pupil assignment in the Atlanta public schools and specifically the orders of February 9, 1970; March 20, 1970; and August 31, 1970.

2. To provide for majority-to-minority transfers by application at the school last attended or at the central office each quarter of the school year at any time on or before the second day prior to the beginning of each quarter with space to be guaranteed each applicant at the school of his choice.

3. To provide for transportation for majority-to-minority transfers on the following basis:

(a) Where a sufficient number of students from a given community, zone, or point of origin will be traveling to a single destination, transportation will be provided by direct-billing contract with the Atlanta Transit System or some other carrier.

(b) Where the number of children moving to a given destination school is smaller than a bus load, transportation will be provided in the form of special bus tokens, distributed directly to the pupil involved on a weekly basis, to be used on regular Atlanta Transit System routes.

4. To furnish to the court and to the Biracial Committee through its chairman, reports on at least a semi-annual basis by October 1st and February 1st of each year containing the date set out in Appendix "B" of the district court order approved in United States v. Hindus County School Board, 433 F. 2d 611 (5th Cir. 1970). If such data is presently available in the existing monthly-quarterly reports published, such reports may be furnished in lieu of a special report.

5. To consult with the Biracial Committee, in its advisory capacity, in the areas of the promulgation and maintenance of school zone lines, in the selection of sites for new schools, in student transfer and school transportation policies, together with such additional matters as may be assigned to the Biracial Committee by the School Board for consultation and advice.

To the extent stated herein, relief is granted; otherwise, it is denied. The motion by plaintiffs to hire a professional consultant at the expense of defendant is rejected. Considering the experience of the parties and the court in these matters, and the obvious factual situation, such expense is deemed unnecessary. Moreover, such action would delay these proceedings several more weeks up to the projected opening of school.

It is so ordered.

This the 28th day of July, 1971.

SIDNEY O. SMITH, Jr.,
U.S. District Judge.
ALBERT J. HENDERSON, Jr.,
U.S. District Judge.

Mr. GAMBRELL. Mr. President, President Nixon recently held a meeting at the White House with several Members of Congress concerning the question of forced busing. After the meeting, President Nixon announced his opposition to forced busing, but offered no plan to put a stop to this outrageous practice. Instead, the President appointed a Cabinet committee to inquire into the matter.

Several days after this meeting, I was consulted by representatives of the Cabinet committee, and after a lengthy discussion, I proposed to them a four-point plan for dealing rapidly with the busing crisis.

As yet, President Nixon has not announced any plan on this subject. The issue is to be voted on today and the time for action has arrived.

For the third time, since September of last year, I call upon the President to act decisively. I repeat the four-point plan which I suggested to his representatives last week.

They are as follows:

First. That there be an immediate legislative roll-back moratorium on forced school busing for integration purposes. This means that until a permanent solution to the matter can be arrived at there would be no more busing required by Federal courts or the Department of HEW, that busing heretofore required would be terminated, and that this would be accomplished through legislation rather than by waiting for this to be done through executive or judicial action.

Second. That the President, through the Justice Department, seek a prompt and comprehensive judicial determination of the constitutional issues involved in the busing controversy.

Third. That immediate congressional consideration be given to a permanent constitutional and legislative solution which will preserve community public schools, free of racial discrimination.

Fourth. That any Federal desegregation remedies hereafter adopted shall be uniformly applied in all regions of the country.

Mr. President, the so-called Griffin amendment furnishes an opportunity to proceed in accordance with this four-point plan. I, therefore, urge the President to give an endorsement to the Griffin amendment and that the Senate act favorably on that amendment when the opportunity for voting arises at 12 o'clock today.

By Mr. MOSS (for himself, Mr. ALLOTT, Mr. DOMINICK, and Mr. FANNIN):

S. 3436. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to provide for a Four Corners area program. Referred to the Committee on Agriculture and Forestry.

LAND POLLUTION IN FOUR CORNERS STATES

Mr. MOSS. Mr. President, I am today introducing, for myself and Senator FANNIN, a bill designed to curb land pollution in the Four Corners States—that is the States of Utah, Colorado, New Mexico, and Arizona.

The bill is patterned after the program which has been in successful operation in the Great Plains States for a number of years. It would authorize the Secretary of Agriculture to enter into cost-sharing contracts with individual land owners and operators to adopt cropping and range management systems, and to install soil and water conservation measures which would help prevent erosion, reduce sediment and salinity in streams and ponds, and control other pollutants, including animal wastes.

All lands under cultivation would be eligible for contract, including Indian lands. The Federal share could be up to 90 percent of the total cost. The technical services of the Soil Conservation Service would be utilized in effectuating the program.

A companion bill is being introduced in the House of Representatives today by Congressman WAYNE ASPINALL of Colorado, with a number of cosponsors from the Four Corners States.

By Mr. PEARSON:

S. 3437. A bill to authorize the Secretary of Housing and Urban Development to provide assistance to State and local governments to encourage the repair and improvement of substandard housing. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. PEARSON. Mr. President, millions of Americans live in substandard housing. Almost 5 million American homes lack plumbing facilities, others have deficient roofs, unsafe wiring, or other unsatisfactory conditions. While many believe these homes are only in urban slums, they are not. Over 3 million of a total of 4.7 million substandard housing units are in rural America.

While Federal, State, and local governments have programs designed to encourage home improvements, the property tax structure in our States discourages many homeowners from repairing and renovating their homes. If an individual improves his home, he is faced with the fact that property taxes will increase. For many poor families, this increase in the already burdensome property tax added to the cost of home repairs puts badly needed home improvements out of reach.

The bill I introduce today would alleviate this added property tax burden and enable many Americans to improve their homes.

The legislation would provide the Secretary of HUD the authority to give assistance to State and local governments which agreed to forgo, for a time, increased property taxes on homes which are improved to meet criteria established for standard housing. This does not require the State and local governments to pay any money, it merely asks that they forgo tax increases based on the home improvements for a period not to exceed 10 years.

The Federal Government would agree to pay 75 percent of the increased assessed value of the home resulting from improvements which raise the structure from below standard to standard as defined by the Secretary of the Department of Housing and Urban Development. The Secretary would be empowered to establish such regulations as necessary to insure that the Federal Government pays for only those improvements which raise housing from below standard to the standard level.

This bill will provide no bonanza for unscrupulous slumlords, it simply removes a barrier to the improvement of homes, many of which are owned by poor families in rural areas of our Nation. It does so without undue burden on the local, State, or Federal Government. The Library of Congress has estimated the initial Federal subsidies would be approximately $8 million. While this is not a large sum for a government, on an individual homeowner basis, it has been a formidable obstacle to home improvements.

Mr. President, we are working on a number of ways to lower property taxes. Through this bill, we can alleviate one of the most undesirable effects of the property tax, and do so for a relatively small sum.

Every family in America should have a decent home. This bill will remove a barrier to improved housing throughout the United States.

By Mr. STEVENS:

S. 3438. A bill to amend section 607(k) (8) of the Merchant Marine Act, 1936, as amended. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, today I introduce a bill amending portions of the Merchant Marine Act, 1970.

The purpose of the bill is to clarify an ambiguity which could have the unfortunate effect of denying the citizens of Alaska the full benefit of certain provisions of the Merchant Marine Act, 1970. As Senators will recall, in the 91st Congress we enacted a historic new maritime program to revitalize our merchant marine. The Merchant Marine Act, 1970, amended the Merchant Marine Act, 1936, to, among other things, extend the coverage of certain tax deferral privileges previously available only to one small segment of our fleet.

The act also recognized the unique dependence of the citizens of Alaska Hawaii, Puerto Rico, and the noncontiguous territories and possessions on marine transport, and provided tax incentives in order to effectively decrease the cost of building vessels for these trades, and thus the cost of marine transportation. This provision was intended to provide long overdue relief to the people of our noncontiguous States and territories. Unfortunately, the definition of "noncontiguous" trade in section 607(k) (8) is ambiguous with respect to whether incidental intrastate carriage between ports in Alaska would qualify for this benefit, even though it clearly provides that similar carriage between the islands of Hawaii does. Also, the privileges apply to similar carriage on the Great Lakes. Given the clear public policy of these provisions of the act, it seems to me that incidental intrastate carriage between ports in Alaska could be permitted by administrative interpretation. However, there has been an understandable reluctance to so interpret the literal words of section 607(k) (8), even though such an interpretation would be clearly consistent with the objectives of the act. Consequently, I am introducing this legislation to clarify the situation.

The bill would amend the Merchant Marine Act, 1936, in order to clarify the meaning of the term "noncontiguous trade", as it is used in section 607(k) (8), so that trade between points which are wholly within an offshore state or possession can qualify as a permissible trade in which to operate vessels which are built with capital construction funds. Enactment of this bill will enable offshore operators of vessels built with such funds to fully deploy these vessels in the most efficient manner without contravening the act.

Section 607(a) of the Merchant Marine Act, 1936, as amended by the Merchant Marine Act of 1970, allows a shipping company to establish a capital construction fund consisting primarily of tax-deferred earnings for the purpose of constructing or reconstructing "qualified vessels". In order to be considered "qualified", a vessel must be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States—Section 607(k)(2). If a vessel built or purchased with capital construction funds is operated outside one of the enumerated trades, substantial penalties would ensue.

"Noncontiguous trade" is presently defined in Section 607(k) (8) to mean:

> "(i) trade between the contiguous forty-eight States on the one hand and Alaska, Hawaii, Puerto Rico and the insular territories and possessions of the United States on the other hand, and (ii) trade between Alaska, Hawaii, and Puerto Rico and such territories and possessions and (iii) trade between the islands of Hawaii.

As now structured, this definition of "noncontiguous trade" is susceptible to uncertainty regarding the status of ocean shipping wholly within Alaska, Puerto Rico, or the insular territories and possessions of the United States.

Although trade between the islands of Hawaii is clearly noncontiguous—clause (iii) of section 607(k) (8)—it is not altogether clear that trade between coastal points in Alaska, for instance, can similarly be regarded as "noncontiguous trade" as that term is presently defined. Alaska's singular reliance on water transportation and its need to obtain such transportation as economically as possible dictate that section 607(k) (8) be amended to explicitly include intra-Alaska coastal trade within the meaning of "noncontiguous trade."

For example, a few carriers—mostly tug and barge operators—serve the offshore domestic trade between the contiguous 48 States and Alaska. In the course of a voyage between, say, Seattle and Alaska, cargo may be carried to a number of Alaskan ports. In serving these ports, incidental cargoes may also be carried from one Alaskan port to another Alaskan port. From the carrier's point of view, the carriage of these incidental intrastate cargoes represents the most efficient use of its equipment. Although these cargoes are minor in volume compared to the major interstate trade, they are also very important to Alaska shippers since there is no regular privately owned service operating only between ports in Alaska. The interstate movement is clearly within the scope of section 607(k) (8), but the incidental intrastate movement is arguably outside the definition of "noncontiguous trade."

If this intrastate movement is not considered to be "noncontiguous trade," a carrier could not in good faith contract with the Secretary of Commerce for the construction of vessels which would be regularly used in such a trade, albeit incidentally. If Alaskan operators, for example, were forced to abandon incidental intrastate carriage in order to benefit from the capital construction fund program, the intrastate shippers dependent on water transportation would obviously be injured; and since there would be an irreplaceable loss of freight from this movement, the interstate shipper might have to pay increased rates in order to offset the loss of intrastate revenue. The proposed amendment would relieve the carrier from having to choose between the benefits of the act and the efficient use of its equipment.

Another compelling reason for specifically including intra-Alaska—also intra-Puerto Rico, intra-Guam, and so forth—trade within the scope of the act arises from Congress inclusion of interisland Hawaiian trade—wholly intrastate—in the definition of "noncontiguous trade." It was apparently recognized that Hawaii's dependence on ocean shipping, even for intrastate movement, dictated that Hawaiian carriers, shippers, and consumers should benefit from the construction of water transport equipment with capital construction funds. The conditions which impelled Congress to extend the benefits of the act to the interisland Hawaiian trade are equally present in the case of Alaska and the insular territories. For instance, there are 6,640 miles of general coastline in Alaska and 33,904 miles of coastline if all of its islands are included.

There are more islands in Alaska than in any other State. Alaska and the insular territories are just as heavily dependent on water transportation as is Hawaii. The legislative history of the Merchant Marine Act of 1970 sheds no light on the omission of the intra-Alaska trade as opposed to the inclusion of the interisland Hawaiian trade. The failure to include Alaska and the other offshore territories and possessions may well have been a legislative oversight which should be corrected by the adoption of the proposed amendment. This amendment would assure Alaskan citizens the same treatment that the act confers upon Hawaiian citizens. The benefits of the act, in terms of better, more efficient, and more modern water transportation service in intrastate trade should accrue not only to Hawaii but to Alaska as well. At the same time, Puerto Rico and other insular territories and possessions of the United States should be accorded the same treatment.

A third and equally important reason is to encourage the growth of the boatbuilding trade in Alaska. With its wealth of natural materials, particularly timber, so close to so many potential customers, Alaska is a State particularly advantageously situated for the development of a boatbuilding industry. The largest accessible stands of good lumber are in southeastern Alaska, close to many potential customers. This bill will incidentally encourage the growth of the shipbulding industry in Alaska. Of course, it will also encourage the domestic Alaska shipping industry which is, as I have indicated, still, like Alaska shipyards, relatively small and in need of assistance.

The proposed amendment accomplishes the objectives set forth above. In addition, the wording of the amendment also encompasses the meaning of original clause (ii) to section 607(k)(8): "trade between Alaska, Hawaii, and Puerto Rico and such territories and possessions."

I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 607(k)(8) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(k)(8)), is amended by striking that entire portion of Section 607(k)(8) which follows the lower case Roman numeral "(ii)", and inserting in lieu thereof, "trade from any point in Alaska, Hawaii, Puerto Rico and such territories and possessions to any other point in Alaska, Hawaii, Puerto Rico and such territories and possessions."

By Mr. STEVENSON:

S. 3439. A bill to authorize expenditures to correct or compensate for substantial defects in section 203(b) FHA mortgaged homes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. STEVENSON. Mr. President, today I am introducing legislation to broaden the protection available to federally insured homebuyers who are the innocent victims of local HUD mismanagement and unscrupulous real estate brokers.

On Saturday, March 18, I had the opportunity to examine several homes in Chicago recently purchased with FHA mortgages. They were in a deteriorating condition, some with serious structural defects even though they were purchased following inspection by HUD within the past year.

According to HUD regulations, FHA appraisers may not approve a house for an FHA mortgage unless it meets HUD's minimum property standards.

From what I saw in Chicago, and the case histories I have received in my mail, it is apparent that these directives are being ignored in the administration of the FHA programs.

Some of the homeowners with whom I met are now entitled under the law to reimbursement for repairs of structural defects not ordered repaired by FHA inspectors. Yet, in cities like Chicago and New York, owners of homes like these have not received 1 cent under laws passed by Congress in 1970 to provide them with reimbursement for repairs. We must find out why HUD cannot properly administer its own programs, and I have today sent a letter to Secretary Romney raising this question.

But a great many homeowners who are the victims of inadequate HUD inspections and unscrupulous real estate brokers are not entitled to even this kind of reimbursement for repairs. Section 203(b) is HUD's basic unsubsidized insurance program for single family homes. Ninety percent of all HUD insurance has been written under the 203 program, yet purchases of existing 203 homes, 70 percent of all HUD transactions in Chicago last year, are not entitled to reimbursement for repairs of structural defects overlooked by FHA appraisers.

Such reimbursement rights now belong to owners of new federally insured housing as well as existing section 235 homes, HUD's interest subsidy program for low- and moderate-income families. Last month the Senate passed and sent to the House legislation extending this coverage to owners of 221(d)(2) housing, HUD's unsubsidized insurance program for low- and moderate-income families. The legislation I introduce today will amend section 518(b) of the National Housing Act to extend such benefits to the great number of purchasers of existing housing under HUD's section 203 mortgage program.

Prior to my Chicago visit, I did not realize how badly section 203(b) housing needed this coverage. Several of the recently purchased homes I saw were purchased with FHA section 203(b) mortgages. Those homeowners, victimized by FHA's faulty appraisal and inspection practices, have no legal recourse and must personally pay for FHA's mistakes. This legislation would provide section 203 purchasers who bought their homes within 2 years of the bill's final passage with reimbursement rights for repairs of structural defects in existence at the time the owner received his mortgage.

There is no simple answer to the housing crisis. But we must begin by giving all federally insured homebuyers the same opportunity for reimbursement for defects ignored by HUD's appraisers and in violation of its own minimum property standards.

Such relief for those who have already been wronged is a stopgap measure at best. The legislation which the Senate passed last month with regard to 221(d)(2) protection and the legislation I introduce today are needed because HUD is not administering its programs at the local level according to the law, but rather, to be charitable, in ignorance of it. That is a real problem, and the one to which this Congress should address itself.

By Mr. BUCKLEY (for himself, Mr. BOGGS, and Mr. JAVITS):

S. 3440. A bill to terminate the obligation of States to return funds deposited with them pursuant to the U.S. Deposit Fund Act of 1836. Referred to the Committee on Finance.

Mr. BUCKLEY. Mr. President, during the administration of President Jackson, an embarrassment of riches in the Federal Treasury resulted in the passage of the U.S. Deposit Fund Act of 1836, under which surplus funds existent at that time—$28.1 million—were distributed proportionately among the States then in the Union. There were no conditions pertaining to the use of these funds. The only proviso was that the moneys had to be returned to the Treasury on demand.

After 136 years, during which no money has been returned and none has been recalled, it would seem inappropriate to expect the States to repay. Although New York and Delaware held these funds in trust until very recently, other States have long since spent or lost track of them.

I am, therefore, sending to the desk, for proper referral, a bill which would cancel the obligation of the States to return these funds to the Federal Treasury. This will formalize the status quo, and cleanup the books of the affected States.

By Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, Mr. WILLIAMS, Mr. EAGLETON, and Mr. PELL):

S. 3441. A bill to extend the traineeship program for professional public health personnel, and project grants for graduate training in public health under the Public Health Service Act. Referred to the Committee on Labor and Public Welfare.

PUBLIC HEALTH SERVICE TRAINING ACT OF 1972

Mr. KENNEDY. Mr. President, I am introducing legislation today to extend sections 306 and 309 of the Public Health Service Act, which provide stipends for graduate training in public health and grants to schools of public health.

One of the most important elements in providing for health resources in this country is the comprehensive graduate public health education conducted by the 17 schools of public health in 14 States and Puerto Rico. The graduate schools of public health constitutes the key source of comprehensively trained professional personnel for leadership in voluntary health agencies and in public health systems at the local, State, and Federal levels.

Public health evolved from the early combination of medical science and engineering for the control of environmental hazards to man's health. It has grown to embrace various facets of the biological, physical, and social sciences as community aspects of health problems have become more complex and demanding.

Public health now depends upon the skills and knowledge of members of several professions. The role of the graduate schools of public health today is to prepare individuals who will be concerned with health problems which lie outside the scope of any single discipline.

In the graduate schools of public health, one finds faculties, students, and special curriculums representative of the several disciplines and sciences relevant to the solution of State health problems. Not only are physicians, dentists, nurses, and other basically trained health professionals involved, but also engineers, economists, statisticians, administrators, lawyers, urban planners, and other experts representing the natural and social sciences.

As sources of comprehensively trained public health manpower, the graduate schools of public health are indispensable to the Nation. They provide an excellent mechanism for development of the brain power now urgently needed in devising and applying effective techniques for the prevention of disease and the provision of medical care for the population as a whole. The planning of satisfactory health services is difficult and changing circumstances call for a new kind of expert—an expert who can adapt well-established principles to local situations and an expert who has a spark of innovation—the capacity to find solutions to problems never before encountered. Such individuals are most likely to emerge from the motivated, young physicians—and advanced degree holders from other professions—who elect careers in public health and who obtain the comprehensive preparation provided by the graduate schools of public health.

Federal sharing in the cost of comprehensive public health training in university graduate schools of public health is essential because of their national character and function. Students in the 17 schools in 14 States are predominantly from out-of-State, the majority of them sponsored in part by the Federal Government. Only 25 percent of the graduates work in the States where they attended the school of public health. To the extent that the schools bear the cost of training federally sponsored students, such institutions are subsidizing training for Federal service. Nearly all of the graduates enter public service.

The impressive increases in enrollment in schools of public health in recent years are due not only to Federal funds for physical facilities and projects and formula grants for teaching, but also to the availability of public health traineeships providing tuition and living stipends to graduate students in public health. Despite growing interest in community aspects of medicine, there is evidence that relatively few would take graduate training for public health careers if traineeships were not available.

Only 25 percent of the 1,800 students currently holding traineeships would have enrolled without such financial assistance, according to a recent survey. An overwhelming proportion—97 percent—are preparing for public service, rather than the more remunerative private practice of medicine.

The typical student, requiring a traineeship for graduate public health education, is already heavily in debt for college and medical education, has a dependent family and foresees the relatively modest salaries in public and private health agencies.

Reduction in traineeship funds, or shift to loan arrangements, would halt the upward trend in enrollments made possible in recent years by expansion of classroom space in schools of public health.

Traineeships are indispensable to provide for well-trained public health professionals who shall increasingly play a critical role in the complex and evolving transformations of our health care system. I am recommending increased levels of authorizations to insure that qualified individuals may be provided public health traineeships to meet our increasing health care needs.

During the Eisenhower administration, Congress recognized the national contributions of the graduate schools of public health and the Federal responsibility to them. The Hill-Rhodes Act of 1958 was sponsored in the House by Congressman George M. Rhodes and cosponsored in the Senate by Senators Lister Hill, John F. Kennedy, Pat McNamara, Irving Ives, and JOHN SHERMAN COOPER. It passed both legislative branches unanimously and was signed into law by President Eisenhower. The Hill-Rhodes program, which has been continued with bipartisan congressional support, provides formula grants "for comprehensive professional training in accredited schools of public health"—giving "primary consideration to the number of federally sponsored students attending each school in the allocation of the funds." Under the formula, one-third of each annual appropriation is allocated equally among the schools; two-thirds is allocated in proportion to the number of federally sponsored students in the respective schools.

Hill-Rhodes funds have met less than one-sixth of the schools' total costs for teaching and basic operations. Hill-Rhodes grants have not kept pace with the increases in teaching costs and student enrollments, including the enrollment of federally sponsored students.

Nevertheless, this unrestricted Federal money for teaching purposes has been of tremendous assistance in: supplementing other funds for faculty salaries; providing seed money for new developments in the teaching program; filling gaps appearing unexpectedly in the teaching budget; and fully supporting some teaching activities otherwise impossible to conduct.

In return for the Federal investment, the results have indeed been remarkable in terms of gains made in public health in comparison to the decade prior to Hill-Rhodes funding. Some of the striking results include: An 82-percent increase in the number of students enrolled; a 59-percent increase in the number of graduate degrees awarded; 525 new faculty positions; a 300-percent increase in federally sponsored students; and an increase from 11 to 17 in the number of schools of public health.

Mr. President, it is imperative we maintain a strong Federal commitment to our schools of public health. They have been of key importance in providing our Nation with public health professionals. This bill authorizes continued support for training health professionals and in fostering creative techniques and approaches to public health programs.

I recognize the many valuable contributions of our schools of public health. I look forward to their dynamic leadership in providing personnel and programs to meet the many problems of our present health care system.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD at this point.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. That section 306(a) of the Public Health Service Act is amended to read as follows:

"SEC. 306. (a) There are authorized to be appropriated to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel, $16,000,000 for the fiscal year ending June 30, 1972; $18,000,000 for the fiscal year ending June 30, 1973; $22,000,000 for fiscal year ending June 30, 1974; $26,000,000 for the fiscal year ending June 30, 1975; $30,000,000 for the fiscal year ending June 30, 1976; $34,000,000 for the fiscal year ending June 30, 1977; and $38,000,000 for the fiscal year ending June 30, 1978."

SEC. 2. Section 309(a) of such Act is amended to read as follows:

"SEC. 309. (a) In order to enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1972; $16,000,000 for the fiscal year ending June 30, 1973; $17,000,000 for the fiscal year ending June 30, 1974; $18,000,000 for the fiscal year ending June 30, 1975; $19,000,000 for the fiscal year ending June 30, 1976; $20,000,000 for the fiscal year ending June 30, 1977; and $22,000,000 for the fiscal year ending June 30, 1978."

SEC. 3. (a) Section 309(c) of such Act is amended to read as follows:

"(c) The Secretary shall make grants, to public and nonprofit schools of public health accredited by a body or bodies recognized by the Secretary, to provide assistance for—

"(1) comprehensive and multidisciplinary training in the field of public health; and

"(2) specialized consultive services and technical assistance in the field of public health."

(b) Section 309 of such Act is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall prescribe by regulation such terms and conditions as he deems necessary for the making of grants under subsection (c).

"(e) In awarding grants made under subsection (c), the Secretary shall give consideration to the relative number of students enrolled in such schools for an academic year. In computing the number of students so enrolled, the Secretary shall include part-time students on the basis of the number of credit hours being taken by part-time students in such program divided by the minimum number of credit hours any student would be required to take in an academic year to be classified as a full-time student.

"(f)(1) There are authorized to be appropriated for carrying out the purposes of subsection (c)(1), $15,000,000 for the fiscal year ending June 30, 1973; $17,500,000 for the fiscal year ending June 30, 1974; $20,000,000 for the fiscal year ending June 30, 1975; $22,500,000 for the fiscal year ending June 30, 1976; $25,000,000 for the fiscal year ending June 30, 1977; and $27,500,000 for the fiscal year ending June 30, 1978.

"(2) There are authorized to be appropriated for carrying out the purposes of subsection (c)(2) $6,000,000 for the fiscal year ending June 30, 1973; $7,000,000 for the fiscal year ending June 30, 1974; $8,000,000 for the fiscal year ending June 30, 1975; $9,000,000 for the fiscal year ending June 30, 1976; $10,000,000 for the fiscal year ending June 30, 1977; and $11,000,000 for the fiscal year ending June 30, 1978."

A SECTION-BY-SECTION ANALYSIS OF A BILL EXTENDING THE TRAINEESHIP PROGRAM FOR PROFESSIONAL PUBLIC HEALTH PERSONNEL, AND PROJECT GRANTS FOR GRADUATE TRAINING IN PUBLIC HEALTH UNDER THE PUBLIC HEALTH SERVICE ACT

Section 1 amends section 306 of the Public Health Service Act to re-authorize and extend traineeships for graduate and specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel. For such grants, there are authorized to be appropriated $16 million for the fiscal year ending June 30, 1972; $18 million for the fiscal year ending June 30, 1973; $22 million for the fiscal year ending June 30, 1974; $26 million for the fiscal year ending June 30, 1975; $30 million for the fiscal year ending June 30, 1976; $34 million for the fiscal year ending June 30, 1977; and $38 million for the fiscal year ending June 30, 1978.

Section 2 amends section 309(a) of the Public Health Service Act to re-authorize and extend project grants to schools of public health and to other public and nonprofit private institutions providing graduate or specialized training in public health. For such grants, there are authorized to be appropriated $15 million for the fiscal year ending June 30, 1972; $16 million for the fiscal year ending June 30, 1973; $17 million for the fiscal year ending June 30, 1974; $18 million for the fiscal year ending June 30, 1975; $19 million for the fiscal year ending June 30, 1976; $20 million for the fiscal year ending June 30, 1977; and $21 million for the fiscal year ending June 30, 1978.

Section 3(a) replaces section 309(c) of the Public Health Service Act with a new section 309(c). It re-authorizes and extends through fiscal year 1978 grants to public and nonprofit schools of public health to provide assistance for (1) comprehensive multidisciplinary training in the field of public health; and (2) specialized consultant services and technical assistance in the field of public health.

Section 3(b) adds new subsections (d), (e) and (f) to section 309 of the Public Health Service Act. Subsection (d) authorizes the Secretary to prescribe by regulation terms and conditions as he deems necessary for making grants under subsection (c). Subsection (e) provides that the Secretary, in awarding grants under subsection (c), shall give consideration to the number of full and part-time students in such programs. When computing the number of such student enrollees for grant purposes, part-time students shall be included on the basis of credit hours needed to be classified as full time students. Subsection (f) authorizes to be appropriated: (1) for comprehensive and multidisciplinary training in the field of health: $15 million for the fiscal year ending June 30, 1973; $17.5 million for the fiscal year ending June 30, 1974; $20 million for the fiscal year ending June 30, 1975; $22.5 million for the fiscal year ending June 30, 1976; $25 million for the fiscal year ending June 30, 1977; and $27.5 million for the fiscal year ending June 30, 1978. (2) for specialized consultative services and technical assistance in the field of public health: $6 million for the fiscal year ending June 30, 1973; $7 million for the fiscal year ending June 30, 1974; $8 million for the fiscal year ending June 30, 1975; $9 million for the fiscal year ending June 30, 1976; $10 million for the fiscal year ending June 30, 1977; and $11 million for the fiscal year ending June 30, 1978.

By Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, Mr. WILLIAMS, Mr. EAGLETON, and Mr. PELL):

S. 3442. A bill to amend the Public Health Service Act to extend the authorization for grants for communicable disease control and vaccination assistance and for other purposes. Referred to the Committee on Labor and Public Welfare.

COMMUNICABLE DISEASE CONTROL AND VACCINATION ASSISTANCE ACT OF 1972

Mr. KENNEDY. Mr. President, I am introducing today an extension of the legislative authority for section 317 of the Public Health Service Act, the Communicable Disease Control and Vaccination Assistance Act. The 91st Congress passed the Communicable Disease Control Amendments of 1970 by an overwhelming vote. Public Law 91–464 amended section 317 of the Public Health Service Act authorizing grants for communicable disease control and vaccination assistance. The act provided appropriation authorizations ceilings at $75 million for fiscal year 1971 and $90 million for fiscal year 1972. The passage of this legislation was an expression of congressional concern over the toll being taken in this country by diseases which can be prevented or controlled. The legislation was supported by the National Tuberculosis and Respiratory Diseases Association, the National Foundation—March of Dimes, the American Social Health Association, and the Association of State and Territorial Health Officers. However, the administration and the Department of Health, Education, and Welfare specifically opposed the communicable disease control amendments.

Regrettably, the legislation has never been fully implemented, and the administration in the past has not requested appropriations under this authority. In fiscal year 1971, the Congress took the initiative and appropriated $2 million under the authority of section 317, to provide transitional funding for the phaseout of the tuberculosis control project grant program. In fiscal year 1972, again under section 317, Congress added $20 million to the administration's appropriation request. This action was taken in an effort to stem the current dramatic increase in the incidence of both venereal diseases and measles in this country. For fiscal 1973 the administration has requested a total of $14½ million for vaccination assistance programs. The request for the rubella vaccination program is $10 million, which represents a reduction of $3 million from fiscal 1972. The remaining $4½ million requested is to provide assistance for all the other immunization programs. The administration's appropriation request clearly fails to meet the critical program needs to provide effective immunization programs for the children of our Nation.

Since the expiration of the Vaccination Assistance Act in 1968, immunization levels in this country against measles, poliomyelitis, diphtheria, pertussis, and tetanus have declined. Much of the progress made in the nationwide program against measles has been lost, and reported cases of measles are now at the highest level since 1966. Approximately 75,000 cases were reported in 1971, up from approximately 47,000 in 1970. There is strong evidence to indicate the number of reported cases represents 10 percent of the actual total of measles infections. The increase in the number of cases is most disturbing when there is available an effective vaccine to prevent measles and the often serious medical complications which result therefrom. Measles is not always a benign infectious process, but may cause middle ear infections and encephalitis, one of the most serious complications, resulting in mental retardation. Immunizations are estimated to have prevented 9.7 million measles infections, including 3,250 cases of mental retardation. Furthermore, the cost benefits to society are incalculable, reducing absences from school because of illness, and hospitalizations for treatment of serious medical complications. Immunization of all schoolchildren would eliminate epidemics of measles and immunization at 1 year of age would eradicate the disease completely. Yet, the U.S. survey demonstrates that less than two-thirds of our children are immunized against measles. Overall, the percentage is 57.2 percent for children 1 to 4 years old and 62.8 percent of children 5 to 9 years old. A consistent Federal effort to support and maintain immunization programs for measles is essential to prevent outbreaks of infection. The national program unfortunately at present operates in response to epidemics.

The cost of rubella and the toll to human life is even greater than measles. Its disastrous effect on the unborn child has been well demonstrated. In the most recent epidemic in 1964 and 1965, there were approximately 10 million cases, resulting in 15,000 to 20,000 miscarriages or stillbirths, and 20,000 children born with defects. Birth defects include deafness, blindness, mental retardation, and heart malformation. The Federal effort focusing on rubella immunizations has been well organized and successful. However, if support now falters or is significantly diminished, it is inevitable that a resurgence of infections will develop as in the case of measles.

This past summer the U.S. Public Health Service expressed its concern over the possibility of poliomyelitis outbreaks. The HEW response was to transfer funds from the rubella immunization program to deal with this potential disaster. The U.S. Immunization Survey has shown a declining proportion of children protected against polio. Only two-thirds of our children between 1 and 4 years of age are immunized. In 1965, 73.9 percent were immunized in contrast to 1971, where 67.3 percent are immunized. There is a real immunization gap and a serious possibility of localized epidemics of polio. It is folly to continue to respond to crises by diverting funds from one program to another in response to infection outbreaks.

The venereal disease problem in the United States is shocking. Gonorrhea, which has been on the increase for many years, is now virtually out of control with more than 600,000 cases reported during 1971. Optimism engendered by a 4-year decline in the incidence of syphilis during the 1960's has dissipated as syphilis has once again established an upward trend in this country. We simply must provide resources for programs to reduce these insidious infections which can be easily and effectively diagnosed and treated.

Tuberculosis, the No. 1 killer among the communicable diseases, is showing renewed strength. In 1969, at the height of a special tuberculosis control program, new cases of tuberculosis were reduced by 8.2 percent. In 1970, the rate of reduction had slowed to 5.1 percent, with an increase of 2.1 percent among our black population.

RH disease continues unhampered, bringing suffering to an estimated 27,000 families each year. Hemolytic disease due to RH incompatibility can mean, for an unborn baby, death before birth, or side effects such as jaundice or severe anemia. Because we are not making effective use of preventive measures, there continues to be human disability and suffering. For fiscal 1973 the administration has requested a mere $500,000 for control in this area.

Reported outbreaks of diphtheria highlight the sporatic Federal effort. Diptheria has averaged approximately 200 reported cases a year. Yet in 1970 there were 435 cases, with approximately 12 local outbreaks. Ten percent of diptheria cases are fatal. Despite the scientific knowledge and the effectiveness of immunization there has been a failure to apply consistent programs for eradication of the disease.

Immunizations are the most effective preventive medicine tool currently available. This can be demonstrated by several parameters including cost benefit financial ratios, reducing human suffering and medical disability, protection of the most vulnerable population—our children, and effectiveness in preventing disease. We should be able to design relatively simple, but effective systems to reach 100 percent of the population. Yet we are not now effectively or comprehensively protecting American children with our available vaccines. We have the vaccines available to protect every child in our Nation against well-known, crippling and disabling diseases. Unfortunately, the administration fails to recognize the need for a long-term Federal commitment to coordinate and plan control of these diseases.

It is clear that Congress must continue to take the lead in providing impetus for such a commitment. Special emphasis, special mechanisms, and special authorities must focus on the control and eradication of communicable diseases. We must strive for such a goal in this decade.

Mr. President, there is a vast unmet need in respect to dealing effectively with these communicable diseases, and the bill that I introduce today is one which is intended to meet that need. I am dismayed that the administration has yet to send to the Congress its recommendation for the extension of this expiring legislative authority.

There is no statement by the administration for the need to extend this authority in the State of the Union message. And there is no evidence of the administration's concern for these programs in the recently delivered Presidential health message.

Given the fact that this important legislation will expire within 3 months, I intend to do all that I can to insure swift and effective action in the Congress regarding communicable disease programs. The Senate Health Subcommittee to which this bill will be referred will hold hearings with a view toward reporting the bill back to the Senate. I might also note, Mr. President, that the ranking minority member of the Senate Labor Committee, the distinguished senior Senator from New York (Mr. Javits) has also introduced a bill of which I am cosponsor to specifically deal with the growing problem of venereal disease. I am sure that the hearings my subcommittee will hold will include a consideration of Senator Javits' bill with a view toward the amalgamation of its principal features into this whole legislative extension that I am introducing today.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the Record at this point.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 3442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Sec. 1, That this Act may be cited as the "Communicable Disease Control Amendments Act of 1972".

Sec. 2. (a) Section 317(a) of the Public Health Service Act is amended to read as follows: "There are authorized to be appropriated $90,000,000 for the fiscal year ending June 30, 1972; $90,000,000 for the fiscal year ending June 30, 1973, and each of the next four succeeding fiscal years to enable the Secretary to make grants to States, and in consultation with the State health authority to agencies and political subdivision of the States, under this subsection. In the awarding of such grants, the Secretary shall give consideration to the relative extent of the problems relating to one or more of the diseases referred to in subsection (b)(1) and to the design of the public health program to assure effective performance in preventing and controlling such disease. Such grants may be used for meeting the cost of communicable disease control programs and their attendant laboratory services, including the cost of studies to determine the communicable disease control needs of the communities and the best means of meeting such needs.

(b)(1) Subsection (b) of such section is amended by striking out the word "subsection" and inserting in lieu thereof "section".

(2) Subsection (b)(1) of such section is amended by striking out the phrase "on the recommendation of the National Advisory Health Council".

(c) Such section, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(h)(1) The Secretary is authorized to make grants to, and enter into contracts with, public and private nonprofit agencies, organizations and institutions for the purpose of making the citizens of the United States aware of the consequences of the diseases described in subsection (b)(1) and the programs available which will avert such consequences.

(2) For the purpose of carrying out this subsection, there are authorized to be appropriated $5,000,000 for the fiscal year end-

ing June 30, 1973, and each of the next four succeeding fiscal years."

SECTION-BY-SECTION ANALYSIS OF THE COMMUNICABLE DISEASE CONTROL AMENDMENTS ACT

Section 1 states that the short title of this Act is "The Communicable Disease Control Amendments Act of 1972."

Section 2(a) replaces section 317(a) of the Public Health Service Act with a new section 317(a). It re-authorizes and extends through fiscal year 1977 grants for communicable disease control. It authorizes the Secretary to make grants for such purposes to states and the agencies and political subdivisions of the states. It directs the Secretary to consult with state health authorities in awarding such grants to agencies and political subdivisions of the states. When awarding such grants, the Secretary shall give consideration to the relative extent of the problems relating to the diseases outlined in subsection (b) (1) of this act and to the design of public health programs. Grants will be used to meet costs of control programs and attendant laboratory services. For such grants, there are authorized to be appropriated $90 million for the fiscal year ending June 30, 1973; $90 million for the fiscal year ending June 30, 1974; $90 million for the fiscal year ending June 30, 1975; $90 million for the fiscal year ending June 30, 1976; and $90 million for the fiscal year ending June 30, 1977.

Section 2(b) (1) is a technical amendment to section 317(a) of the Public Health Service Act.

Section 2(b) (2) removes the restriction that requires the Secretary to determine which communicable disease control programs are necessary on the recommendation of the National Advisory Health Council.

Section 2(c) creates a new subsection (h) to section 317 of the Public Health Service Act authorizing the Secretary to enter into contracts with private and nonprofit agencies and organizations for public education on the consequences of communicable disease infections and availability of programs for immunization against such infections. For such grants there are authorized to be appropriated: $5 million for the fiscal year ending June 30, 1973; $5 million for the fiscal year ending June 30, 1974; $5 million for the fiscal year ending June 30, 1975; $5 million for the fiscal year ending June 30, 1976; and $5 million for the fiscal year ending June 30, 1977.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2956

At the request of Mr. JAVITS, the Senator from Ohio (Mr. SAXBE), and the Senator from Oregon (Mr. HATFIELD), were added as cosponsors of S. 2956, the War Powers Act.

S. 3327

At the request of Mr. KENNEDY, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Michigan (Mr. HART) were added as cosponsors of S. 3327, the "Health Maintenance Organization and Resources Development Act of 1972."

S. 3380

At the request of Mr. MOSS, the Senator from Montana (Mr. METCALF) was added as a cosponsor of S. 3380, a bill to permit immediate retirement of certain Federal employees.

SENATE CONCURRENT RESOLUTION 73—SUBMISSION OF A CONCURRENT RESOLUTION OF WELCOME TO INTERALLIED CONFEDERATION OF RESERVE OFFICERS MEETING IN WASHINGTON, AUGUST 7–13, 1972

(Referred to the Committee on Foreign Relations.)

Mr. THURMOND. Mr. President, among many of the outstanding services rendered by the Reserve Officers Association of the United States in support of the national security of this country is the participation of its membership in the Interallied Confederation of Reserve Officers.

This organization, which is headquartered in Europe, is made up of officers from the various military services of those nations which are members of the North Atlantic Treaty Organization. Some 19 nations have officers which participate in this confederation and meet annually, usually in the capital city of one of the NATO European partners.

On August 7–13, 1972, the Interallied Confederation of Reserve Officers will observe its 25th anniversary and in so doing will stage its first meeting in this country. Washington, D.C., will be the site of this session at which the officers of these various nations will visit us in the uniform of their respective countries.

The Reserve Officers Association of the United States and the Department of Defense will serve as joint hosts with the Department of State and other governmental agencies participating.

Mr. President, this organization was founded in November of 1948 at Brussels by the Reserve Officers Associations of Belgium, France, and the Netherlands. It had an original membership of approximately 120,000 reserve officers of all the military branches. The abbreviation of the group, CIOR, derives from the original French, "Confederation Interalliee des Officiers de Reserve."

This organization has made an outstanding contribution toward the defense of free world nations and has carried out well its objectives. Its principal objectives include:

First. To contribute to the strengthening of the defense of the signatory countries of the North Atlantic Treaty;

Second. To establish closer relations among reserve officers of the countries of the Atlantic Alliance, in order that these officers may better know and understand each other; and

Third. To support the policies of the Atlantic Alliance and to fully cooperate with this organization in carrying out its objectives.

Mr. President, I send to the desk a concurrent resolution which acknowledges the meeting of this group in August and which commends the joint effort of the Reserve Officers Association and the Department of Defense in hosting this meeting.

The resolution reads as follows:

Whereas the Interallied Confederation of Reserve Officers (ICRO), an association of reserve officers from twelve of the nations comprising the North Atlantic Treaty Organization, will hold its XXVth Congress at Washington, D.C. August 7 through August 13, 1972; and

Whereas the Reserve Officers Association of the United States and the Department of Defense will serve as joint hosts to such XXVth Congress; and

Whereas the United States, through the Department of Defense, will conduct military competitions in conjunction with and as a constituent part of such XXVth Congress: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States extends to the Interallied Confederation of Reserve Officers a cordial welcome to the United States on the occasion of the XXVth Congress of that organization to be held in Washington, D.C. August 7 through August 13, 1972, and commends the joint effort of the Reserve Officers Association of the United States and the Department of Defense in hosting the XXVth Congress of that organization, and urges all departments and agencies of the Government to cooperate with and assist the Interallied Confederation of Reserve Officers in carrying out its activities and programs during the period referred to above.

ADDITIONAL COSPONSOR OF A RESOLUTION

At the request of Mr. STEVENS, the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Resolution 275, authorizing Senators to hire interns.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1090

(Ordered to be printed and referred to the Committee on Finance.)

Mr. EAGLETON. Mr. President, I am submitting today an amendment to H.R. 1, the Social Security Amendments of 1972, to provide for the disregarding of property tax rebates in computing income for purposes of the proposed adult assistance program embodied in title III of H.R. 1 and of the existing programs of old age assistance, aid to the blind, and aid to the permanently and totally disabled.

At least eight States—Wisconsin, Minnesota, California, Vermont, Kansas, Colorado, Maine, and Pennsylvania—now have in effect a form of property tax relief for the elderly known as the "circuit-breaker." Under the circuit-breaker system, low-income elderly households receive State income tax credits or, where there is little or no income tax liability, cash rebates for that portion of their residential property taxes defined as excessive. In three States—California, Maine, and Pennsylvania—all relief is provided in the form of cash rebates.

The Advisory Commission on Intergovernmental Relations has recommended the circuit-breaker plan as "providing significant relief at modest cost to those who need it most." A number of other States, including Missouri, are considering this form of property tax relief for their senior citizens.

Under present Federal law and under the proposed adult assistance program, a cash rebate of this type would apparently have to be taken into account in determining the need for assistance of an aged, blind, or disabled individual.

With regard to the proposed new program, section 2012(b)(2)(A) of H.R. 1 provides for the exclusion of unearned income which is received infrequently or irregularly if such income does not exceed $60 in a quarter. However, under existing State circuit breaker laws, households with the lowest incomes may receive cash rebates of as much as $200.

Current Federal law governing assistance to the aged, blind, and disabled does not provide for any disregarding of infrequently or irregularly received income. For instance, when Congress provides a social security benefit increase which involves a lump-sum retroactive payment, the law must also include a provision giving the States permission to disregard that retroactive payment in determining need for public assistance.

The result is that many of those elderly homeowners who receive old age assistance would be unable to benefit from a property tax rebate because their grants would be reduced by the amount of the rebate.

The chairman of the California Senate Committee on Health and Welfare has stated, in a letter to the chairman of the Senate Finance Committee, that the absence of a disregard provision in Federal law has rendered California's senior citizens property tax assistance law ineffective in helping those elderly homeowners who need it most.

Mr. President, my amendment would include specific language in titles I, X, XIV, and XVI and the proposed title XX of the Social Security Act providing for the disregarding of any amounts received from a State or political subdivision as a rebate of real property taxes in determining the need for assistance of any aged, blind, or disabled individual.

The senior citizens of this Nation desperately need relief from the burden of property taxes. The effect of my amendment will be to make certain that those elderly persons who are in the greatest need can receive the benefit of State property tax relief laws.

ANNOUNCEMENT BY THE COMMITTEE ON COMMERCE

Mr. MANSFIELD. Mr. President, on behalf of the chairman of the Committee on Commerce, the distinguished Senator from Washington (Mr. MAGNUSON), I ask unanimous consent that an announcement by the committee be printed at this point in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

AMENDMENT FROM THE SENATE COMMITTEE ON COMMERCE

Chairman Warren G. Magnuson (D-Wash.) today requested all persons interested in S. 2020 and H.R. 1074, bills to amend section 220(b) of the Interstate Commerce Act to permit motor carriers to make annual reports on the basis of a thirteen-period accounting year, to file their comments with the Committee by April 15, 1972. H.R. 1074 passed the House of Representatives on August 2, 1971. After reviewing the comments of interested persons, the Committee may proceed to take up the bills in executive session if it appears that hearings on the measures are not warranted.

For further information on this matter, please contact John M. Cary, Staff Counsel, Senate Commerce Committee, 5202 New Senate Office Building, Washington, D.C. 20510, telephone (202) 225-9351.

NOTICE OF HEARING ON JUDICIAL DISQUALIFICATION

Mr. ROBERT C. BYRD. Mr. President, on behalf of the chairman of the Judiciary Committee's Subcommittee on Improvement in Judicial Machinery (Mr. BURDICK), I wish to announce the continuation of hearings on S. 1553 and S. 1886 which seek to amend existing law—28 U.S.C. 455—relating to the circumstances under which a Federal judge should disqualify himself from participation in a case because of his interest in or connection with the matter in controversy.

The hearing will be held on Thursday, April 13, 1972, beginning at 10 a.m., in room 2228, New Senate Office Building.

The scheduled witnesses are Judge Roger Traynor and Prof. E. Wayne Thode, chairman and reporter, respectively, of the ABA Special Committee on Standards of Judicial Conduct.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvement in Judicial Machinery, 6306 New Senate Office Building.

ANNOUNCEMENT OF HEARINGS RELATING TO VIETNAM ORPHANS

Mr. SPONG. Mr. President, on behalf of the Senator from Arkansas (Mr. FULBRIGHT), I wish to announce that the Committee on Foreign Relations has scheduled a public hearing on S. 2497, relating to Vietnam orphans, on Wednesday, April 5, begininng at 10 a.m. in room 4221 of the New Senate Office Building.

Persons interested in testifying on this bill should communicate with the chief clerk of the committee.

NOTICE OF HEARINGS ON REVISION OF FEDERAL COURT APPELLATE SYSTEM

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished junior Senator from North Dakota (Mr. BURDICK), I wish to announce that open public hearings have been scheduled before the Subcommittee on Improvements in Judicial Machinery on Senate Joint Resolution 122, a joint resolution to create a commission to study and recommend a revision of the appellate system of the Federal courts. Hearings will be held on April 11, 1972, in room 6202, New Senate Office Building and on April 12, 1972, in room 457, Old Senate Office Building. The hour is 10 a.m. on both days.

The Judicial Conference of the United States has recommended that the several circuits be geographically realined. Legal scholars have questioned whether this is anything but a short-term remedy and have pointed out that the problems of our circuit courts, brought on by increased caseloads, are in need of long-term solutions. At these hearings, we will be privileged to hear from the chief judges of the busiest circuit courts, from the Director of the Federal Judicial Center and from legal scholars.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, 6306 New Senate Office Building.

ADDITIONAL STATEMENTS

THE FEDERAL TRIAL EXAMINERS CONFERENCE, WAKE FOREST UNIVERSITY, GEORGE WASHINGTON UNIVERSITY, AND THE NATIONAL NEWSPAPER ASSOCIATION HONOR SENATOR ERVIN

Mr. MANSFIELD. Mr. President, during the recent past the Federal Trial Examiners Conference, Wake Forest University, George Washington University, and the National Newspaper Association have honored our colleague, Senator SAM J. ERVIN, Jr., of North Carolina.

On May 15, 1971, the Federal Trial Examiners Conference presented its Award of Merit to the Honorable SAM J. ERVIN, Jr., U.S. Senator, in recognition of his outstanding contributions to constitutional liberties and due process of laws.

As its commencement in June 1971, Wake Forest University conferred upon Senator ERVIN the honorable degree of doctor of laws under a citation reading as follows:

SAMUEL JAMES ERVIN, JR.

The senior senator from North Carolina resists the conventional labels of politics. For most of his 17 years in Washington he has been carelessly typed by national observers as the conservative Southern Democrat *par excellence*—eloquent and wise and shrewdly effective but steadfastly oriented toward a glorious past. Less often noticed have been his persistent efforts in behalf of individual liberty, whether in support of the Supreme Court's decision against required prayer in the public schools or in opposition to the so-called "no knock" provisions of the 1970 District of Columbia crime bill. In recent months he has been a conspicuous critic of government surveillance of the lives of individual citizens.

To understand these seeming contradictions in Sam Ervin, we need recognize only his abiding commitment to the Constitution of the United States as the supreme law of this Nation. Both his respect for continuity and tradition and his defense of the freedom of the individual derive from this commitment. As the poet Wordsworth said of another eminent constitutionalist, Edmund Burke, he "explodes upstart theory" and "the majesty proclaims of Institutes and Laws, hallowed by time."

This judicious North Carolinan—a native of Morganton, a graduate of the University at Chapel Hill, a former state representative and Superior Court and Supreme Court judge—United States Senator Sam J. Ervin, Jr., is presented for the degree of Doctor of Laws.

At its winter convocation held in Constitution Hall, Washington, D.C., on February 21, 1972, George Washington University conferred upon Senator ERVIN, who made the convocation address on "Freedom," the honorary degree of doctor of laws under the following citation:

SAMUEL JAMES ERVIN, JR.

Senator Ervin, you have been a bulwark for the protection of our constitutional liberties all through your long and distinguished career. You are the conscience of the Congress in the protection of individual liberties against all transgressions. The American people have been educated in the intricacies of our constitutional order through your Committees on Constitutional Rights and Separation of Powers. As a dedicated public servant and a distinguished scholar, you are in the forefront of modern American statesmen. As a symbol of your unremitting efforts to further the cause of individual human dignity, it is indeed appropriate that The George Washington University confer upon you the degree of Doctor of Laws.

LLOYD H. ELLIOTT,
President.

The program of the winter convocation of George Washington University contained the following summary of Senator ERVIN's career:

Samuel James Ervin, Jr., senior United States Senator from North Carolina, received the degrees of Bachelor of Arts from the University of North Carolina in 1917 and Bachelor of Laws from Harvard University in 1922. He has received honorary degrees from the University of North Carolina, Western Carolina University, Suffolk University, and Wake Forest University.

Senator Ervin served as a Private in the First Division, American Expeditionary Forces, during the First World War. He was twice wounded in battle and twice cited for gallantry in action. He was awarded the French Fourragere, the Purple Heart with Oak Leaf Cluster, the Silver Star, and the Distinguished Service Cross.

Senator Ervin has practiced law since 1919 except during his periods of service on the bench and in Congress. He was a judge on the Burke County Criminal Court from 1935 to 1937, a judge on the North Carolina Superior Court from 1937 to 1943, and Associate Justice of the North Carolina Supreme Court from 1948 to 1954. Since 1954, he has been United States Senator from North Carolina, and he is now the second ranking Democrat on the Senate Judiciary Committee. He served in the North Carolina Legislature during 1923, 1925, and 1931, and as Representative from the Tenth District of North Carolina in the 79th Congress, 1946–1947.

Senator Ervin has been an assiduous protector of individual rights and liberties. As Chairman of the Senate Subcommittees on Separation of Powers and on Constitutional Rights, he has been instrumental in educating the American people to some of the dangers of an increasingly mechanized society and to the steady increase of power in the Executive Branch. In addition, he is a frequent lecturer on constitutional matters—many consider him to be the leading constitutional lawyer in the Congress—and has argued (and won) important cases before the United States Supreme Court. Human freedom has no stronger advocate than Senator Ervin."

On March 16, 1972, in a ceremony in Washington, D.C., the National Newspaper Association conferred upon Senator ERVIN its Award of Merit on an engraved plaque reading as follows:

National Newspaper Association. 1972. Award of Merit to a great American. Presented to The Honorable Sam J. Ervin, Jr., in recognition of his efforts to articulate the true meaning and significance of the United States Constitution, especially in First Amendment rights, for the American people. By the President of the National Newspaper Association.

CLARENCE MITCHELL'S COMMENTS ON EQUAL EDUCATIONAL OPPORTUNITIES LEGISLATION

Mr. DOMINICK. Mr. President, yesterday before the Education Subcommittee, my old and respected friend, Clarence Mitchell, director of the Washington Bureau of the NAACP, made some intemperate and, I believe, irresponsible comments concerning President Nixon's equal educational opportunities legislation, which incorporates rules on forced busing.

In choosing the road of inflammatory rhetoric rather than the road of reasoned criticism, Mr. Mitchell served to confirm President Nixon's concern that a fair, objective resolution of the busing dilemma will be difficult to achieve during the present period of imminent pressure and rampant emotionalism. In utilizing the hearing as a rhetorical soapbox, Mr. Mitchell either overlooked or chose to ignore the substance of the Equal Educational Opportunities Act. In so doing, the basic guarantees of the bill were not discussed—basic guarantees, such as those contained in section 2(a)(1) and section 201. Section 2(a)(1):

Declares it to be the policy of the United States that all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, or national origin.

Section 201 gives legal life to that declaration by defining national standards to guide our courts so that—

No state shall deny equal educational opportunity to an individual on account of his race, color or national origin. . . .

Unfortunately, Mr. Mitchell thought such guarantees unworthy of mention.

Mr. President, the essence of what President Nixon is seeking to accomplish with his busing package is perhaps best exemplified by a recent—February 25, 1972—Gallup poll conducted for Newsweek magazine. It concludes that while 66 percent of those polled believe that schools, north and south, should be desegregated, 69 percent oppose compulsory busing in order to achieve that desegregation. In explaining this result, the poll states:

In summary, most whites draw a distinction between the issues of school desegregation and compulsory busing. The principle of desegregation has been accepted in all walks of life, and is not a regional issue any more. Busing as a technique to achieve desegregation is another matter. Primarily because of commitment to the concept of the neighborhood school, most whites oppose busing. Again, this is not a regional issue, with strong opposition in all regions and in all walks of life. Finally, opinion is so strong on this issue that the weight of opinion favors constitutional action to prevent busing.

Mr. President, I ask unanimous consent that the 3-page summary of the February 25 Gallup Organization, Inc.'s public opinion survey be included in the RECORD at this point.

Mr. President, despite such emotional barrages as the Education Subcommittee suffered from yesterday, I believe, perhaps naively, a rational, objective discussion of the merits of the President's busing plan is possible. At least, I refuse to give up on such possibilities at this early date.

Toward this end, Mr. President, I present two objective facts which I believe will restore our perspective of the position of the blacks on the busing issue. Two respected and representative black organizations—the Congress of Racial Equality and the Black Congress—have already rejected the concept of forced busing. Recently in Gary, Ind., 3,009 delegates from all parts of the Nation voted on and passed a Black Congress resolution which, as reported in the March 27 issue of Time magazine, stated:

We condemn racial integration of schools as a bankrupt and suicidal method of desegregating the schools based on the false notion that black children are unable to learn unless they are in the same setting as white children. As an alternative to busing black children to achieve racial balance, we demand quality education in the black community through the control of our school districts and an equal share of the money.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF GALLUP POLL

A clear majority of 66 per cent take the position that schools, north and south, should be desegregated so that black and white pupils can attend the same school. Among southern white, 58 per cent hold this view, while 68 per cent of whites outside the south do so. The principle of school desegregation therefore, has been accepted in all regions of the country. Also, in white households with any children under 18, that is, those most directly concerned, 70 per cent favor desegregation.

Nevertheless, a comparable majority of 69 per cent oppose compulsory busing in order to achieve school desegregation. While the number of blacks interviewed is too small to be projected with statistical reliability, the indications are that a sizable proportion of blacks oppose busing. Northern and southern whites are equally opposed to busing—68 per cent and 74 per cent respectively. There is little difference among whites by age, sex, education, or presence of children under 18 in the proportion who oppose busing.

When asked why they oppose busing, three-fifths of those in opposition (or 42 per cent of all those interviewed) said that children shouldn't have to leave the neighborhood. A handful (3 per cent of all those interviewed) gave opposition to integration as their reason.

Those who favor busing most often gave as their reasons "better/equal education" and "only way to solve race problem".

Opinion regarding busing is, on the testimony of those interviewed, stable. Among both those who oppose and favor busing, the predominant response is that their current view does not represent a change in mind from what they believed in the past.

ATTITUDE TOWARD BUSING

[In percent]

	Favor	Oppose	No opinion	Total
Change in opinion	4	8	2	14
No change	14	59	5	78
Don't remember	2	2	4	8
Total	20	69	11	100

Among those who have changed their mind, a majority now oppose busing:

Those who have changed their mind

	Percent
Now favors busing	29
Now opposes busing	59
Now has no opinion	12
Total	100

Among those who have not changed their mind, the predominant position is opposition to busing.

Those who have not changed their mind

	Percent
Now favors busing	18
Now opposes busing	75
Now has no opinion	7
Total	100

Public opinion is divided concerning a constitutional amendment against busing, though the weight of opinion supports such a prohibition. Forty-six per cent are against busing and are in favor of constitutional ban. Thirty-five per cent either favor busing or else oppose the passage of a constitutional ban even though they also oppose busing:

ATTITUDE TOWARD CONSTITUTIONAL PROHIBITION

[In percent]

	All adults	All whites
Opposes busing and favors amendment	46	49
Opposes busing and opposes amendment	15	15
Favors busing	20	17
Total opposes amendment or favors busing	35	32
No opinion on busing and/or amendment	19	19
Total	100	100

Support for a constitutional prohibition against busing is about the same among southern whites (48%) as among whites living outside the south (45%). Among whites, support for constitutional prohibition tends to be greater among men (54%), those 18–39 years (51%), and those who live in households with children under 18 (48%).

At present, 3 per cent of all those interviewed have children who are being bused away from their local school in order to achieve racial balance in schools. Two per cent of whites outside the south, and 4 per cent of southern whites report that they have children who are being bused for this purpose. Thus, for most whites, busing is an issue that raises concern over the future rather than about present conditions.

In summary, most whites draw a distinction between the issues of school desegregation and compulsory busing. The principle of desegregation has been accepted in all walks of life, and is not a regional issue any more. Busing as a technique to achieve desegregation is another matter. Primarily because of commitment to the concept of the neighborhood school, most whites oppose busing. Again, this is not a regional issue, with strong opposition in all regions and in all walks of life. Finally, opinion is so strong on this issue that the weight of opinion favors constitutional action to prevent busing.

THE VALUE OF GRADES

Mr. ROBERT C. BYRD. Mr. President, over the past several years, there has been a growing trend in educational circles to do away with—or to diminish the importance of—grades for elementary and secondary school students. Instead of an A-through-F-system, or a numerical system, we now find many schools judging a student's work on a system of "pass" or "fail," or "satisfactory" or "unsatisfactory."

The abolishment of grades has resulted in controversy wherever it has occurred, and I find myself in agreement with those educators who oppose gradeless systems as being unrealistic in our society.

To be sure, all students are, or should be, disappointed by poor grades, and some could even suffer psychological damage as a result of repeated failures in school work. But doing away with grades does not change the competitive nature of the society for which these students are supposedly being prepared. Doing away with grades does not avert disappointment, or even traumas; it only postpones them.

There must be some tangible system for judging the work of a student—teachers and parents need this. And there must be some system whereby students can compare their work with that of their peers. I do not believe that a "pass-fail" or a "satisfactory-unsatisfactory" system offers the necessary measuring stick. Until some new system is proved better, I will support alphabetical and numerical systems of grading students.

So will many of the educators in our country. Ray H. Watson, a school principal in Wirt County, W. Va., is an example of such an educator.

Writing in the Wirt County Journal of February 3, Mr. Watson stated that school grades are "emblematic of life—our rewards are hard to come by, and the common denominator for success is hard work and ambition. The sooner we learn this, the more lasting it becomes."

Mr. Watson posed the rhetorical question:

> Why do some students make good grades and others make poor grades?

He said the answer is simple:

> One person merely works harder at what he tries.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GRADES

(By Ray H. Watson)

As long as there are schools, some one will insist that a continuous evaluation of students exist. We know this more readily by grades that are reported on the ever present proverbial report card. This has long been the instrument used for the school to keep parents informed of the progress of their children.

There is a lot of criticism of grades from educators all over the country—but they still persist, and as long as parents want to know how their child is doing, and students want to know how they compare to the other students, and employers insist on knowing about their academic background, there will always be some form of evaluation. True, the symbols may change, but the grades will still be represented.

We must face a fact—that grades are an indication of something. We can ascertain the academic proficiency of students in specific fields or compare them with their peers throughout the nation and predict their probability of success in certain areas.

Why do some students make good grades, and others make poor grades?

I also might ask why is one person a better worker than another?—more honest?—or more healthy?—or even more prosperous?

Actually, in most cases, the answer is very simple—one person merely works harder at what he tries.

What are the causes of poor grades?

If I had to select one paramount reason that would cover most of our situations, I would say "Poor Attitude." Some children simply do not like school, are not interested in studies, and are convinced that they do not need school. This student also constitutes our biggest disciplinary problem. Ninety per cent of these students, with the proper approach, could achieve a higher academic grade. Usually they not only have problems at school but also at home, and they are not able to solve these problems.

There are a few students who are not mentally able to achieve normal academic progress. But as a rule, most students with the right attitude, consistent school attendance, and hard work, can make passing grades.

Too many students miss school with the approval of their parents. They certainly cannot achieve if they are home. Once they start missing, it becomes easier to miss as the year goes along.

I think we all must work harder to help these kids along. The student has a responsibility to himself to prepare for his future. The parent must see that he is in school, does his home work, and maintains good conduct. The teacher must also know his student—what his potential is, and part of his problems—and should make every effort to present his material in an effective and interesting manner.

As long as grades are with us, they will continue to be elusive to certain students, and an item of comfort for others. We find this rather emblematic of life—our rewards are hard to come by, and the common denominator for success is hard work and ambition. The sooner we learn this, the more lasting it becomes.

INTERNATIONAL MONETARY SYSTEM

Mr. JAVITS. Mr. President, in an important policy statement which was released today, the prestigious Atlantic Council said that it was urgent that "visible multilateral negotiations" be initiated at the earliest possible time to restructure and modernize the international monetary system.

I note that this recommendation is totally in keeping with the spirit of the communique which was issued on behalf of the group of 10 nations when the interim Smithsonian agreement was successfully concluded on December 18. This communique stated, in part:

> The Ministers and Governors agreed that discussions should be promptly undertaken, particularly in the framework of the IMF, to consider reform of the international monetary system over the longer term.

I note the Council's comment that:

> As a practical matter it is wholly appropriate for the United States to take the lead in initiating the negotiations leading to an improved system. The U.S. has a particular responsibility in the system and a strong incentive to move further.

I think that the history of negotiations in the international economic area—and this includes both trade and monetary negotiations—does make it clear that without a strong U.S. leadership position commensurate with the U.S. position in the world, negotiations are not likely to progress satisfactorily.

I invite the attention of Senators and the administration to this statement, which is worthy of close attention. I ask unanimous consent that it be printed in the Record at this point along with the impressive list of the committee members who concur in the statement. The list includes a former Treasury Secretary, the former Chairman of the Federal Reserve System, and other distinguished authorities in the field of international finance.

There being no objection, the items were ordered to be printed in the Record, as follows:

LIST OF COMMITTEE MEMBERS

Chairman: Hon. Henry H. Fowler, Partner, Goldman, Sachs & Co.; Former Secretary of Treasury; Vice-Chairman, Atlantic Council.

Rapporteur: Dr. Sidney E. Rolfe, International Economist; Director, Atlantic Council.

Mr. Edward Bernstein: President, EMB, Ltd.; Formerly Executive Secretary and Chief Technical Advisor to Bretton Woods.

Hon. Percival F. Brundage: Former Director of the Budget; Director, Atlantic Council.

Hon. W. Randolph Burgess: Former Under Secretary of the Treasury; Ambassador to NATO and OEEC; Chairman. Atlantic Council.

Mr. Emilio Collado: Executive Vice President, Standard Oil (N.J.); Director, Atlantic.

Hon. Frederick L. Deming: President, Independent Bancorporation; Former Under Secretary of Treasury; Director, Atlantic Council.

Hon. Wm. McChesney Martin: Former Chairman, Board of Governors of the Federal Reserve; Director, Atlantic Council.

Mr. Judd Polk: Economist, Director, Program & Studies, U.S. Council of the International Chamber of Commerce.

Hon. Eugene V. Rostow: Professor, Yale Law School; Former Under Secretary, State; Vice Chairman, Atlantic Council.

Mr. L.R.W. Soutendijk: Manager, Brown Brothers, Harriman and Company.

STATEMENT ATLANTIC COUNCIL MONETARY COMMITTEE

In the view of this Committee it is urgent that multilateral negotiations be started at the earliest possible time to restructure and modernize the international monetary system, and to revitalize the system of international economic cooperation among the nations.

The Committee welcomed the statement of Secretary Connally of March 15th, announcing the beginning of conferences looking toward selection of the forum for the negotiations as a further step in the right direction.

A suitable basis for the negotiations was set forth in the communique of December 18, 1971 accompanying the agreement of the Group of Ten nations for a new pattern of exchange rates. This agreement was an important first step toward the restoration of the world's monetary system, but only a first step. It halted what could have begun a march toward exchange controls and sharply reduced levels of international trade and investment. But much remains to be done.

The Group of Ten explicitly recognized that new exchange rates and temporary wider bands would not be sufficient to solve the problem. The final paragraph of the communique of the December 18 meeting sets forth an admirably succinct but ordered agenda for the subsequent steps. It directs attention to the question of insuring the proper degree of convertibility of currencies in the system and thus defending stable exchange rates.

It calls for examination of the proper role of gold, of reserve currencies, Special Drawing Rights, the appropriate volume of liquidity, and for methods to establish a suitable degree of flexibility of exchange rates. Finally, attention is to be paid to the movement of liquid capital.

In the months since December 18 the continued dollar deficit has given rise to disappointment, and even some new movement towards exchange controls. There is criticism abroad of American fiscal and monetary policy. The dollar continues weak on international markets. The hoped for substantial reflow of short-term funds into the U.S. has not taken place. Some of the long term flows into the U.S. which might have helped the U.S. balance of payments and had been expected, have not materialized. There are fears expressed abroad that the dollar devaluation might not have been sufficient. The rising price of gold may reflect this fear. Dissatisfaction has been expressed because of the continuing inconvertibility of the dollar into any reserve asset.

To a considerable extent, the new developing fears about the dollar are as exaggerated as were the hopes for a quick reversal of the situation after the Smithsonian statement. Devaluations which have achieved good results, for example in England and France, did so only after a considerable time lag. The same course of events might be expected for the recent realignment of the dollar with certain other currencies, which primarily affects the trade balance. The fact that the U.S. economy is now expanding, to a greater extent than those of some of its trading partners, may further delay the salutary trade effects of the devaluation. As part of this conjecture the relatively lower level of U.S. interest rates, as compared to those of some of the other major countries, has also tended to delay the reflow of capital into the U.S.

As a practical matter it is wholly appropriate for the U.S. to take the lead in initiating the negotiations leading to an improved system. The U.S. has a particular responsibility in the system and a strong incentive to move further. The American dollar is still at the core of the world monetary system. A major part of the world's business is done in dollars and this will continue to be so even if new monetary devices take the place of the dollar as a reserve currency.

FUTURE NEGOTIATIONS

The negotiations leading to a revised international monetary system (advocated in this statement) should be visibly undertaken. They should meet the public eye sufficiently to reassure those engaged in international trade and capital movements that fundamental solutions are indeed on the way. All concerned with international trade and investment should be given cause to feel that the current opportunity to modernize the system is being grasped firmly. The elements of a negotiatory apparatus already exist in the IMF, the Group of Ten or other relevant multilateral bodies. The will to seek solutions by prompt utilization of this machinery must be backed by the positive political leadership of the leading countries, including the U.S.

As the ultimate solutions are complex and technical and must be the result of negotiatory processes, it would be presumptuous to attempt to define here the precise nature of those solutions. Yet there has been sufficient exchange of ideas and agreement among experts and practitioners in all of the developed countries so that at least a broad outline of the future monetary system can be discerned.

Clearly a new internationally created and accepted reserve unit to supplement and perhaps eventually replace the reserve currencies and gold will need to be established. Whether that new reserve will be Special Drawing Rights (SDRs), which are already in place and functioning, or an alternative reserve or composite reserve unit upon which reasonable men can agree, is an important detail but one which need not delay negotiations. The principle is clear. The way to start the clarification of detail is to start negotiating.

The establishment of such an international reserve unit would provide the world's monetary system with the needed common denominator (numeraire) for currencies. It would also give all currencies, including the dollar, the flexibility in future to revalue or devalue in terms of this reserve as may be required. Further, it would provide a sound basis for refunding the overhanging balances of dollars in excess of those needed by central banks for stabilizing established currency relationships in foreign exchange markets.

There is also a broad consensus not only among scholars, but among central bankers and finance ministers, as evidenced by agreements to date, with respect to the need for some increased flexibility in the fixing of relative currency values. The temporary institution of wider bands in the December 18 agreement is itself evidence of this consensus. Moreover, there is consensus that there should be smaller and more frequent changes in parities when the need for these is clearly evident. It is a matter for negotiations as to how the needed changes should be activated; whether on the initiative of the IMF, or triggered by changes in reserve position, or by alternative techniques. The fact is that both deficit and surplus countries must be more willing, and must be persuaded or required, to make timely changes to prevent impending crises, large capital flows in anticipation of parity changes, and finally the traumatic decision to change a parity long after the change is due.

Consensus has already developed that improved economic cooperation among central banks and treasuries is essential to minimize the damaging consequences of short term capital ("hot money") flows. The question of dealing with such capital flows therefore should also be part of the negotiations, as the Smithsonian communique indicated.

ON INFLATION AND TRADE

The principal purpose of the currency realignments of December 18 was to restore a surplus in the U.S. trade balance, and thereby confidence in the dollar abroad. But clearly the realignments alone cannot accomplish this purpose. The control of domestic inflation is the key to a sustained improvement in the trade balance, and to confidence. As The Williams Commission Report states the case:

"Thus in large part, confidence in the dollar must be viewed as a reflection of U.S. domestic economic developments and the ability of our country to manage its own economy."

The strength of the dollar is based on the strength of the American economy. Confidence in the dollar requires not only a properly functioning international monetary system, but also domestic policies which should assure a reasonable measure of price stability, of increasing productivity and a high level of employment in the U.S. Only by these means can American costs and prices be kept internationally competitive, the new parity maintained, and the U.S. restore its balance of payments on trade to a healthy level.

Some progress toward the reduction of American inflation has already taken place. With the 'bulge' of Vietnam spending reduced this is to be expected. In addition, the price and wage control actions taken by the government to break inflationary psychology and the cost-push cycle have been significantly effective.

Since the introduction of controls the American inflation appears to have proceeded at a lower rate than that of our principal foreign competitors. Consequently American costs and prices are rising less and this pattern, if sufficiently maintained, should eventually sustain improvements in the American trade balance.

An effective and sustained attack on domestic inflation in the U.S. is essential. This attack will require firm unwavering direction in the Executive branch, and a solid bipartisan support in Congress. It will require determination not just for a season or two but so long as the danger of inflation lasts.

Inflationary psychology is not the sole province of speculators or those who seek anticipatory wage relief. It has become deeply embedded in our society and must be offset by some vigorous reassertions of basic truths. The battle against inflation requires the understanding and support of the people generally. The message must be driven home that when wage increases averaged throughout the economic exceed national increases in productivity, inflation is the inevitable result. An increase in productivity requires, in turn, cooperation to provide and utilize the most efficient machinery, methods of operation and quality of performance in industry.

Continued trade liberalization is an essential concomitant to international monetary reform and the fight against inflation if the world economy is to grow and not falter in the years ahead. Negotiations to resolve certain immediate obstructions have taken place in 1971 and will continue this year. While the results are described as mixed, some trade liberalization steps of immediate and tangible value to the U.S. have resulted. Comprehensive trade negotiations with Japan and Western Europe to remove some of the heretofore major barriers are to commence in 1973. The efforts at trade liberalization must be supported, and encouraged.

In the midst of the battle against inflation and some visible progress toward victory, the announcement of budget deficits of almost $39 billion this fiscal year and some $25½ billion next year has been a setback to expectations, both here and abroad, giving rise to fears of increased inflation in future.

These fears we believe may well be exaggerated. In fact it is impossible to predict the inflationary impact of a large budget deficit when the autonomous factors in the economy are weak, as they have been. The large increase in domestic savings, and the continued demand for imports, have both lessened domestic spending. Nevertheless, there is a fundamental and continuing need for fiscal responsibility. The inevitable election year pressure for spending a little more for this or that must be successfully resisted. It is essential to hold down, to reduce rather than increase specific appropriations, to choose between relative priorities, and to reject or postpone the less essential ones. An effective legislated ceiling on expenditures would give confidence through this period that these objectives will be achieved.

Budget deficits need not automatically make for a weaker position for the dollar abroad. That they do so reflects the generally uncertain condition of the international monetary order. But with proper exchange rates and an improved pattern in the balance of international payments, there is adequate room for monetary and fiscal policy to be adjusted to domestic needs, avoiding the extremes of policy that cause massive short term capital flows.

There is a natural tendency for significant international accomplishments to be followed by a period of complacency with a turning to other matters which assume a higher priority in the national agenda. There is also a tendency, particularly in an election year, to subordinate cooperation to potential competition. In our opinion the United States must avoid these two tendencies in 1972 if the international monetary system is to be preserved and improved in a timely fashion and perform its function adequately.

This paper urges a renewed sense of cooperation between the Congress and the Administration to restore domestic economic and financial stability, and, with respect to the problems of the international monetary order, to ensure the resumption of international initiatives. Unless we turn our attention to these matters again promptly and constructively, we may well find ourselves moving toward the type of crisis which was so narrowly avoided in the Fall of 1971.

SENATOR ERVIN FIXES HIS EYE ON BIG BROTHER

Mr. ALLEN. Mr. President, the February 1972 issue of the magazine "We The People of North Carolina" carried an article on Senator SAM J. ERVIN, JR., entitled "Morganton's First Citizen Fixes His Eye on Big Brother."

I ask unanimous consent that a copy of this article be printed at this point in the body of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MORGANTON'S FIRST CITIZEN FIXES HIS EYE ON BIG BROTHER

Not many New York and Washington journalists could tell you anything about the town of Morganton, North Carolina. But all of them know Morganton's most famous citizen, the Senior Senator from North Carolina.

Senator Sam J. Ervin, Jr., relaxed one mid-January afternoon during the Congressional recess in his home town law office. He was being interviewed by a reporter. His secretary, Miss Mary McBride, was out to lunch. The Senator himself had answered the reporter's knock on the door. The phone rang; the Senator answered. It was a New York journalist calling about Ervin's hearings last year into the U.S. Army's alleged spying activities upon civilians.

"The Army has no business acting as a national detective agency," said the Senator conversationally into the telephone. "Actually there was a law passed back in the last century forbidding United States Marshals from using the Army as a *posse comitatus*. I think that could be applied to what the Army's trying to do now."

Having satisfied the caller's queries, the Senator turned back to his interviewer: "*Posse comitatus?* Well, back during the frontier days the U.S. Marshals would often use the Army as a posse to run down fugitives. It was a clear violation of the Army's constitutional duties and Congress finally passed legislation to prohibit it. Except in times of martial law the military has no legal jurisdiction over civilians. But it seems to me the Army may have forgotten that."

The mountain of testimony gathered by Senator Ervin's Constitutional Rights Subcommittee last year on military surveillance of civilians is the latest activity by Morganton's number one resident aimed at the protection of the individual against government snooping into and regulation of his private life. Within the past year or so Senator Ervin has become a figure of national—if sometimes grudging—admiration within the pages of liberal journals which once regarded him merely as a portly Southern segregationist who draped a racist social philosophy in 19th Century constitutional constructions and a steady flow of country anecdotes.

Without having changed his basic constitutional views one jot or title, and still always at the ready with a funny story from his days as a Burke County lawyer, Senator Sam today enjoys a new respect from a sociopolitical faction which only recently viewed him as little more than a scholarly Southern bigot.

As Author Alexander Bickel put it in an admiring article for *The New Republic*, Senator Ervin has gained "an entirely new constituency." Contrary to the usual rule of politics, the gain appears to have been registered with little attrition among the old constituency which has kept Sam Ervin in the U. S. Senate since 1954.

During the week preceding this interview the Senator was seen and heard throughout a national television network documentary dealing with the national government's encroachment upon individual liberties. A feature-length and largely complimentary article on Ervin by Robert Sherrill was carried in the February *Playboy* Magazine which appeared on the newsstands a couple of days before the Morganton interview took place. Senator Sam hadn't seen the issue until the reporter brought him a copy; the carryover section of the article was incongruously sandwiched between color cartoons of copulating couples. Not the most dignified sort of environment for a serious article about Senator Ervin and his work, but *Playboy* has a wide readership for its serious words as well as its sexy graphics. Remarked the Senator as he leafed through the publication: "I can see why this magazine makes money while a lot of others have gone bankrupt."

The emergence of Senator Ervin as a champion of the individual's constitutionally-guaranteed liberties against governmental encroachment is explained in terms of his discoveries that 1984 may be nearer than we think. In George Orwell's stark novel of governmental tyranny to the fullest power, the rulers were collectively known as Big Brother and each and every subject of the mythical nation was constantly reminded that "Big Brother is watching you." Ervin believes that a Big Brother complex began to develop within the executive branch of the Federal Government during the 1960's. And he, as Chairman of the Senate Constitutional Rights Subcommittee, is keeping his own eye firmly fixed upon Big Brother.

Although Sam Ervin's role as a dogged protector of the individual's right to freedom from unwarranted government snooping into his private affairs and control of his actions began drawing national attention within the past year or 18 months, it is a role he has been playing in the Senate for a number of years. He strenuously opposed much of the civil rights legislation which paraded through Congress during the early years of the Johnson Administration on grounds that, however desirable it might be in terms of minority group opportunities, it was not sanctioned by the Constitution.

Then he started applying the same constitutional yardstick to other groups and individuals who had not benefitted from any Great Society legislation: military personnel, Indians living on reservations, persons confined to mental hospitals in the District of Columbia. In each of those cases he authored and sponsored legislation designed to enforce their constitutional guarantees under the Bill of Rights. The Military Justice Act which he sponsored in 1968, and the Bail Reform Act which he had authored in 1966, were hailed as the most significant legal reforms in these fields since the nation's founding.

"It just occurred to me that certain other people besides blacks needed their rights protected," the Senator remembers. His yardstick of constitutional consistency caused him to join the opposition to the Nixon Administration's preventive detention and "no-knock" crime control legislation which he saw as dangerous assaults upon the guarantees of the Constitution's Fourth and Fifth Amendments. "Back where I was practicing law for a living I objected to the sheriff's breaking down a man's door looking for moonshine whiskey," Ervin observed. "And I don't like it now when Federal agents can forcibly enter a person's dwelling without warning. It violates the man's rights and it's dangerous to the agents making entry."

That same Ervin consistency saw him standing up last fall as a champion of the constitutional free press guarantees. An oft-battered target of press criticism himself, Ervin opposed efforts by the Nixon Administration to prohibit publication of the Pentagon Papers. Much as he disliked and disagreed with some material published and broadcast in the news media, the Senator told his subcommittee last October that misinformation or biased reporting "is nowhere near as dangerous as leaving to a few government officials the power to decide what can be discussed and what cannot; and when ultimate truth has been discovered and what it is."

The emergence of Sam Ervin as a national figure really began after he concentrated the attention of his subcommittee upon complaints by Federal employees about what their superiors were requiring them to say and do; and upon testimony showing that the Army was assigning intelligence agents to investigation and surveillance of civilians, many of them nationally prominent people.

"All the government should expect of its employees is honest and efficient service," the Senator commented. "Government has no right to do such things as tell employees to make talks in favor of certain policies, to promote the United Nations, to give a certain amount to the United Fund, to pressure local government into passing open occupancy laws." Bills by Ervin to prohibit these practices have passed the Senate on three occasions, but have been persistently blocked in the House.

The Army has said it no longer watches civilians but the Senator is dubious. "Neither Congress nor the public knows the full story of military surveillance and the compiling of dossiers on civilians," he said recently. "We badly need legislation to prevent future abuse of the Army's power to investigate law-abiding citizens and to control the rapid development of large computer data systems in the Federal Government which may affect the rights of citizens who deal with the government."

The essence of Big Brother could one day reside in governmental computer banks unless effective checks are imposed, the Senator believes. "Computers are essential to our society, of course. But the computer can be the most dangerous threat to freedom in our history if improperly used. The trouble with storing raw information in computers on thousands of people is that a computer can't make moral judgments. If you put garbage into a computer you get garbage out of it." So stated Senator Sam Ervin who has spent many a thoughtful hour studying the implications of electronic data processing.

Still a strong law and order man, this former Associate Justice of the North Carolina Supreme Court has sponsored legislation which would require prompt trials of defendants in Federal courts—a measure which he feels would be far more effective in combating crime than preventive detention or no-knock authority. "If every defendant in a Federal court knew he would have a speedy trial and would be punished if found guilty, I think we might see a reduction in the crime rate," Ervin observed. "The only effective way to enforce laws that I know of is to punish the people found guilty of violating them."

Even the government's long-standing anti-tobacco campaign falls by Ervin's standards into the category of unwarranted interference with individual and corporate rights. He regards the government's public attacks against tobacco as propaganda unsupported by scientific fact and the prohibitions against cigarette broadcast advertising as an erosion of press freedoms. Needless to say, this stand fails to earn him many good marks in the national press.

Nor do the Senator's continuing and vehement campaigns against habitual Federal fiscal deficits earn him many compliments in the public prints, although he regards government's casual attitude toward balanced budgets and public debt as large a threat to the nation's future as the threat of Big Brother.

"It seems to me that the leaders in Congress and the Executive Branch are taking the attitude that King Louis IV took in France in the 18th Century, knowing the country was in trouble and a revolution might result. He used to say, 'after me, the deluge.' And it seems to me that too many people in our government these days are taking the same cynical attitude toward our own future as a nation."

At age 75 the Senior Senator finds himself in wide demand as a speaker, with many of the invitations coming from college campuses. He fills as many as he can, wishes he could do more of it. But keeping an eye on Big Brother becomes ever more demanding as new evidences are uncovered by his subcommittee. The Senator's stand for the Constitution transcends partisan politics and ideology; both the Johnson and Nixon Administrations have felt his mild blue eyes boring in.

"I'm a great believer in the Hyde Park tradition in London," said Sam Ervin at his Morganton office. "Everyone should be allowed to mount his own soap box and say whatever he wants to about any subject, so long as it doesn't do harm to someone else. If we allow the government to take the Bill of Rights away from us, then we've moved into 1984."

Is there really so much danger to American freedom from its government? There are those who regard the governmental policies and actions criticized by Senator Ervin as necessary and desirable in a time of unrest and crime and cries of revolution. The Senator disagrees.

"I think it's true that a lot of people in government and outside have become afraid of freedom, believing it can be the cause of our own destruction," he asserted. "I think they're wrong. You can't turn liberty on and off like an electric lamp. Once you turn it off you may find that it can never be turned on again."

POULTRY: A GOOD BUY

Mr. ROTH. Mr. President, in the continuing battle against inflation, a great deal of attention has been directed in recent weeks to increases in the cost of food; and rightly so, for unlike other commodities, grocery items must be purchased on a regular basis. The consumer can put off buying a new car if prices are too high, or make do with the dining room furniture a little longer if prices are not right, or even do without a new suit right now if necessary; but grocery buying is generally a weekly business and the housewife knows when she reaches the end of the checkout line at the supermarket how far her grocery dollar has gone this week as compared to last week.

It is hard to believe that in this day of rising prices there is something which is actually cheaper today than it was 20 years ago—but that is true of chicken. Thanks to improved breeding and production, chicken has become the best meat buy on the market. Whole broiler-fryers which were selling for 60 cents a pound in 1953 are available today at about half the price. No other meat-type food can point to such a good record of price reduction.

Today in the Washington metropolitan area, a meal for a family of four using regular hamburger at 75 cents per pound and one-half pound per person would cost $1.50. But the same family of four could enjoy whole roasting chicken at a cost of only 78 cents. That's based on a half-pound serving per person with chicken selling for 39 cents per pound.

Choice prime rib of beef, at $1.29 per pound, would cost $5.16 for a one-pound serving for a family of four. But half-pound servings of turkey, selling for 59 cents per pound, would cost only $1.18 for a family of four.

I mentioned earlier that chicken is now selling at about half what it was selling for in 1953. But a comparison of the average U.S. retail prices of beef and frying chickens between August, 1971, and February, 1972, gives further evidence of the current economical benefits to be derived from the increased consumption of chicken. Using 1967 as a base year of 100, frying chickens decreased in price from a level of 111.7 in August 1971 to a level of 110.1 last February. The price of beef, on the other hand, was at an August 1971 level of 126.8. This figure increased to a level of 136.1 7 months later.

The value of poultry, however, is not only found in its low cost. More importantly, chicken, for instance, has proven to be the cheapest source of protein currently on the market, with the amino acids essential to growth and health. Weight watchers can be particularly fond of chicken because an average serving contains fewer calories than most other meats. Poultry provides many essential vitamins and nutrients including iron, thiamine, riboflavin, and niacin.

With today's modern production, processing, and marketing methods, chicken is available the year around—for roasting, broiling, frying, stewing, or making soups, salads, or a myriad of delightful dishes. Packaged, cut-up chicken, heat-and-serve chicken, and chicken rolls, or bars, make poultry among the most versatile and easy-to-prepare meals one can serve.

Because of seasonal production and limited supplies, "chicken on Sundays" was a common phrase which I readily recall from my boyhood days. But those days are past—today's consumers have a delectable variety of poultry products to serve any day of the week throughout the year.

Of course, I take considerable pride in the broiler-fryer chickens produced throughout the Del-Mar-Va peninsula. Well over 500 million pounds of broilers were produced in Delaware alone in 1971. This number of broilers produced placed my home State eighth in the country in total production. Considering Delaware's size, I believe it fair to say that the State of Delaware contains the greatest concentration of broiler-growing in the country.

Those responsible for broiler-production in Delaware can justifiably boast of a well-integrated system. Our farmers raise their own stock, do their own hatching, and provide their own feed mills. Processing plants are located throughout the heart of the "Blue Hen State" in Blades, Felton, Georgetown, Laurel, Milford, Milton, and Selbyville.

At these processing plants, the poultry undergoes a rigid inspection whereby the birds must meet both State and Federal requirements of fitness. The processing plants themselves must meet strict requirements of cleanliness; they must have adequate equipment and personnel to perform at a high standard. Inspectors—either doctors of veterinary medicine or trained specialists under a veterinarian's supervision—keep constant watch over the plant, the processing operation and every chicken produced at that location. Birds found unfit for eating are removed immediately from the processing line and condemned for use as human food. Inspectors also make sure that the products are not adulterated and are truthfully labeled.

All of these precautions are taken to insure that only the highest quality poultry is placed on the market by the Delaware farmer. In a State where broiler sales account for over 50 percent of a farmer's cash sales, the men and women of the broiler industry are especially concerned with the maintenance of high-quality standards.

Mrs. Virginia Knauer, Special Assistant to the President for Consumer Affairs, recently reiterated the firm intention of the President to halt spiraling food costs. I am pleased to join President Nixon and the Cost of Living Council in urging all businessmen concerned with the production and retailing of food to narrow their wide margins of profit which are severely causing strain on the family budget.

I also encourage all Americans to take advantage of the economical and nutritional benefits of poultry products. We in Delware are aware of the significant contributions being made to both the American economy and the American diet by the poultry farmer and producer. I salute their efforts and commend their products to all consumers.

FAST DISAPPEARING OCEAN MAMMALS

Mr. BENTSEN. Mr. President, more than two dozen bills and resolutions have been introduced in the 92d Congress aimed at the protection of our fast disappearing ocean mammals. I am pleased to be a cosponsor of S. 2579, which bans nearly all killing of ocean mammals and the importation of their products. Indiscriminate killing of these mammals over the years has resulted in several species being placed on the endangered species list by the U.S. Department of the Interior. The need for adequate protection of these creatures is obvious, and I hope the U.S. Congress will see fit to take prompt action to provide it for them.

Other countries as well are becoming increasingly concerned with the need to protect our disappearing wildlife. I particularly wish to commend President Luis Echeverría Alvarez of Mexico for his recent initiative in creating a sanctuary for whales, virtually the first of its kind in the world. This sanctuary is in Scammons Lagoon, an intricate waterway in the territory of Baja, Calif.; covering 250 square miles it is the prime breeding and calving ground for the gray whale. This rare mammal makes an annual round trip of 8,000 miles from its feeding grounds near the Bering Straits to the coasts of southern California and Baja, Calif., in the lagoons and estuaries of which it multiplies.

I hope that this imaginative approach to protecting our wildlife will serve as an example to the rest of the world of what a government can do to preserve these mammals which can never be replaced.

DEVELOPMENTS IN RECYCLING

Mr. MOSS. Mr. President, there is a growing awareness in the public and industry that we must come up with new, imaginative ways to solve the solid waste problem now pressing in upon us. This is a time for action, and a time for the experimentation in new processes, new materials, and new governmental policies.

The Washington Post of Sunday, March 26, 1972, contained an article by Joseph D. Whitaker that tells the story of "super-sludge" as a new material to be used for the surfacing of roadways and runways at airports. This sludge material is composed of recycled waste products, such as fly ash, crushed bottles, old rubber tires, and similar refuse.

Dulles International Airport will have a chance to display runways composed of this "super-sludge" at Transpo 1972—the U.S. International Transportation Exhibition. The Federal Highway Administration has given a grant making this possible, and should be commended for its help. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE $700,000 PAVING PROJECT—DULLES' "SUPER-SLUDGE" LOTS

(By Joseph D. Whitaker)

They're paving some roads and parking lots at Dulles International Airport with waste materials such as fly ash, old rubber tires, burned garbage and old crushed bottles. About 120 acres will be covered with various mixtures for the U.S. International Transportation Exhibition—Transpo '72—that will open May 27.

The $700,000 experimental project sponsored by the Federal Highway Administration is designed to show that low-cost industrial and domestic wastes can successfully be substituted for more costly conventional road-building materials.

The idea comes at a time when increasing amounts of waste matter must be disposed of and some traditional sources of road building material—rock quarries and river dredgings—are under attack by environmentalists.

Fly-ash, calcium sulphate, carbonates and lime are being mixed in a huge silo to create a grayish, pasty sludge to be used to pave most of the parking areas. Eventually more than 100,000 tons of the material is to be used.

Over the last three months, huge stockpiles of the material used in the "super-sludge" mix have been stored at the Transpo '72 site.

Fly-ash, produced by coalfired power stations, is being supplied by the Potomac Electric and Power Company from plants in Dickerson, Md. Truckloads of sulphates—a byproduct of steel production—are being brought in from steel mills in Paulsboro, N.J. Iron mines in Millsville, W. Va., are providing another waste material, carbonates.

"People have been talking about ecology, pollution control and waste disposal," said Chester C. Spurgeon, managing director of Transpo '72. "But this could be the answer to some of their questions."

The use of "super-sludge" as a regular replacement for conventional soil cement could revolutionize the building of roads by making the process more economical, according to W. S. Mendenhall, FHA chief of research and development demonstration projects division.

"Most of the waste materials we are using present costly disposal problems for the factory that produces them," Mendenhall said. "If such materials could be used on a large scale to build roads, the materials could be obtained at no cost. This would solve problems for both the highway builder and the owner of the factory."

In the Transpo '72 project, Mendenhall said both the sludge and conventional materials would cost about the same to use—about 98 cents a square yard—because the wastes have to be shipped in. The use of waste materials would be more feasible in areas where the materials are easier to be obtained, he said.

Once "super-sludge" is poured in a thickness of about 5 inches it quickly stabilizes. From then on it becomes stronger and stronger, similar to concrete used to build roads in ancient Rome, Mendenhall said.

Roadways leading to and around the general parking areas will be coated with a 2-inch layer of asphalt on top of the sludge base.

On one stretch of road, workmen will mix such items as crushed disposable glass bottles, shredded car tires, and ground burned garbage in with the other sludge ingredients. Each item will go into a separate mixture and will be poured on a different length of the road to test its durability.

The firm which developed the "super-sludge" concept, G. and W. H. Corson, of Plymouth Meeting, Pa., also is experimenting with the use of the material in concrete-type blocks that could some day be used to build houses, Mendenhall said.

MARINE MAMMALS

Mr. STEVENS. Mr. President, many of the bills under consideration by this body for the protection of ocean mammals seek a 5-year moratorium on most killing of ocean mammals and on the importation of their products. While it is the contention of most Alaskans that this ban would lead to the extermination of the culture of the Alaskan Eskimo and total loss of his economic base in the villages, it is still incumbent upon this body to make a decision after a careful study of all arguments. I therefore ask unanimous consent that an article published in the Congressional Quarterly of March 18 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MARINE MAMMALS: HOUSE APPROVES 5-YEAR BAN ON KILLING

The House March 9, by a 362–10 roll-call vote, passed a bill (HR 10420), the Marine Mammal Protection Act, providing for a five-year moratorium on most killing of ocean mammals and on the importation of their products.

HR 10420 would apply to seals, sea lions, whales, porpoises, dolphins, sea otters, manatees, walruses and polar bears.

The bill also would establish a three-member Marine Mammal Commission to review, study and make recommendations for the conservation and management of ocean mammals. A permit system would be set up under the secretaries of commerce and interior.

An exception to the moratorium was granted to the tuna fishing industry, which could be given a general permit authorizing the killing of porpoises and dolphins incident to fishing operations.

Another exception would allow the capture of ocean mammals for public display in zoos or commercial marine exhibits and for scientific research purposes.

The five-year moratorium and the exceptions to it were included in one of the two amendments approved during floor debate. The other amendment would remove from the Marine Mammal Commission authority to issue permits allowing capture of mammals for display and scientific research.

Six amendments were rejected on the floor, including a proposal to transfer all authority for marine mammal protection to the Department of the Interior. Also rejected were two amendments to prohibit the killing of porpoises and dolphins incidental to tuna fishing operations after specified dates.

REFERENCES

Sea mammals fact sheet, Weekly Report p. 237, previous action, 1971 Weekly Report p. 2604.

BACKGROUND

The House Dec. 6, 1971, had refused to pass HR 10420 under suspension of the rules. Although the bill received a 199–150 majority, it was 34 votes short of the two-thirds majority required to pass a bill under suspension.

The bill was reported (H. Rept. 92–707) by the House Merchant Marine and Fisheries Committee Dec. 4. The committee held four days of hearings on ocean mammals in September 1971.

As reported by committee and turned down by the House, HR 10420 would have prohibited the granting of permits for only 60 days after enactment of the measure, rather than for the five-year period agreed to March 9.

FLOOR DEBATE

During general debate, support for the bill in the form originally reported Dec. 4 was expressed by Edward A. Garmatz (D Md.), chairman of the Merchant Marine and Fisheries Committee.

Garmatz said the bill should have been passed when it came to the floor in November 1971. "Unfortunately," he said, "the opposition to our committee's ocean mammal bill was neither normal nor rational, and it certainly was not healthy. . . . The primary opponents to this bill are not really conservationists—they are more properly referred to as 'protectionists'—and their basic position seems to be that man should leave all animals alone."

John D. Dingell (D Mich.), chairman of the Fisheries and Wildlife Conservation Subcommittee, said the central issue in the controversy was what was "best for the animals themselves"—which was "enlightened, effective management."

"Before issuing any permit for the taking of a marine mammal, the secretary must first have it proven to his satisfaction that any taking is consistent with the purposes and policies of this act," he said. "I simply do not believe that any administrator, forced to operate in that kind of goldfish bowl, can abuse the discretion that the committee has given him."

But several other members spoke in opposition to various aspects of the bill. Nick Begich (D Alaska) criticized a provision which would allow Indians, Aleuts and Eskimos to kill marine mammals for subsistence purposes, and in accordance with traditional customs, if not done primarily for commercial sale.

J. Herbert Burke (R Fla.) said the bill did not go far enough: "I feel that this measure, in its present form, will do about as much good as a band-aid on a cancer. Man's impact upon marine mammals has ranged from what might be termed malign neglect to virtual genocide. . . . All in all, the committee-approved bill is about what the commercial fishing industry and the hunters wanted."

Moratorium. An amendment was offered by Morris K. Udall (D Ariz.) to impose a five-year moratorium on the killing of ocean mammals, with some exceptions.

"We know next to nothing about the marine mammals of the world," Udall said. "The moratorium would allow us a minimal period during which we could get to really know these strange and fascinating aquatic neighbors and head off the irreparable tragedy of extinction—a tragedy some believe would be the inevitable result of present policies."

In addition to granting exceptions for tuna fishing, public display and scientific research, the Udall amendment authorized issuance of permits for the killing of Alaskan fur seals in the Pribiloff Islands, a harvest which is administered by the U.S. Commerce Department.

Also, the Udall amendment authorized importation of the skins of weaned seals for processing by firms in the United States if the skins were exported within two years. Udall pointed out that the Fouke Company of Greenville, S.C., which processes the skins of South African seals, "would be driven out of business absent limited relief from the provisions of this amendment." The Fouke Co. also had an exclusive contract with the federal government to process and sell Alaskan fur seal skins. The Udall amendment was adopted by voice vote.

PERMIT AUTHORITY

Before adopting the Udall amendment, modifications were introduced by Thomas M. Pelly (R Wash.) and by Begich. The first was adopted, the second rejected.

Pelly's amendment would take away from the Marine Mammal Commission authority to approve issuance of permits for capture of mammals for display or research. Pelly said this part of the Udall amendment "would completely vest issuance authority in an organization which is independent and completely nonaccountable to any administrative department of the federal government."

Udall accepted the amendment, which was adopted by voice vote.

ALASKAN NATIVES

Begich's amendment to the Udall amendment would have allowed Indians, Aleuts and Eskimos to kill marine mammals for production of traditional native arts and crafts for commercial sale.

Udall agreed to accept the amendment, but Dingell opposed it on the basis that the committee had not seen it in advance. Dingell also said that the Alaska Native Claims Act (HR 10367–PL 92–203) provided sufficient benefits for the state's native citizens.

Begich: "The arts and crafts industry of Alaska's natives, modest in size and in environmental impact, is the best and most appropriate cultural response to the cash economy brought to them courtesy of the white man . . . It is that part of subsistence hunting that must now be done in order to pay taxes to buy fuel oil and to pay rents. To call it 'commercial' in the harsh sense fails to understand."

Dingell: "We have tried to consider their cash needs by giving them $1-billion. . . . With the oil royalties and everything else we gave them, we have many instant millionaires in Alaska now, and I think perhaps they can give up the wholesale carving of walrus tusks. I think we have given them enough."

The Begich amendment was rejected by voice vote.

INTERIOR DEPARTMENT

Mario Biaggi (D N.Y.) offered an amendment to transfer all authority for marine mammal protection from the Department of Commerce to the Department of the Interior. Biaggi said "the Department of Commerce is charged with promoting fisheries interests. It will be most difficult for the department . . . to encourage the tuna fish industry, for example, while it must pressure the tuna fish industry to stop taking porpoises and dolphins."

Dingell said he personally was in agreement with the amendment but had to oppose it because it had been considered by the subcommittee and rejected.

The Biaggi amendment was opposed by Alton Lennon (D N.C.) who said that the National Oceanic and Atmospheric Administration, part of the Commerce Department, should continue to have the authority to look after the interests of whales, porpoises, dolphins, seals and sea lions. "Does it not make more sense . . . that the agency which is funded and created by Congress to regulate the affairs relating to the oceans should have jurisdiction over matters which are in the oceans?" Lennon asked.

Pelly also opposed the amendment on the grounds that the jurisdictional split should be maintained pending the creation of a Department of Natural Resources which had been proposed by President Nixon.

The Biaggi amendment was rejected by a 20–35 standing vote.

TUNA FISHING

Ogden R. Reid (R N.Y.) offered an amendment to prohibit after one year the use of any commercial fishing methods which killed or injured ocean mammals. Reid described how porpoises and dolphins often became entangled in the mesh of tuna nets and drowned. "I feel that the choice we have before us today is whether we are going to insist that the incidental killing of 200,000 to 400,000 porpoises per year is halted by a flat ban, or whether we are to condone the decimation of porpoises. . . . By choosing the former, we would be insisting that fishing technology come up with appropriate devices, acoustics and nets to ensure that this incidental slaughter is halted."

But Pelly opposed the amendment on the grounds that it "would have the net effect of completely destroying this country's commercial fishing industry." Pelly said: "The biological fact that the proposed amendment cannot escape is that it is not possible for a law to separate tuna from porpoise. The adoption of this amendment would result in the demise of a domestic tuna fleet which provides over 40 percent of the tuna annually processed for the U.S. market."

The Reid amendment was rejected by a 17–47 standing vote.

Biaggi offered a similar amendment which would prohibit the injury or killing of porpoises and dolphins two years after the bill went into effect, but would allow the fishing industry to seek annual delays of the ban for up to three years. The amendment also provided that regulations would be issued and federal inspectors appointed to enforce them.

But Dingell and Pelly opposed the amendment and it was rejected by voice vote.

PENALTIES

Bob Eckhardt (D Texas) offered an amendment to remove the penalties of seizure and forfeiture of vessels and equipment belonging to violators of the act. "We have a $10,000 fine for even an unintentional violation," Eckhardt said. "We have a provision for a $20,000 fine for a knowing violation. It seems to me that the additional penalty of forfeiture is unnecessary and extreme."

But Dingell argued that the forfeiture, under standard admiralty law, would not occur until after conviction.

The Eckhardt amendment was rejected by a 15–37 standing vote.

PROVISIONS

As passed by the House, HR 10420:

Title I

Declared the finding of Congress that certain marine mammals were in danger because of man's activities and that they should be protected and managed with the primary objective of maintaining the stability of the marine ecosystem and the secondary objective of maintaining an optimum sustained yield.

Phohibited killing of marine mammals on the high seas by U.S. citizens and any killing on U.S. lands or waters except as provided by international treaty.

Prohibited most possession, transportation or sale of marine mammals or their products.

Prohibited most importation of marine mammals and their products or fish caught in a manner injurious to marine mammals.

Directed the secretaries of commerce and interior to set limits on the number, kind, location, age and sex of marine mammals that could be taken, after considering population levels, international treaties, the marine ecosystem, fisheries resources and economic and technological feasibility.

Required that limitations established by the secretaries be published after opportunity for public hearings, and that they include public statements on existing population levels, expected impact of limitations and all research studies.

Authorized the issuance of permits which specified the number and kind of animals to be taken, the location and manner of taking and the permit's valid time period.

Required the secretaries to specify methods of capture, care and transportation of marine mammals taken for display or scientific research.

Directed the publication of permit applications in the *Federal Register* for comment within 30 days.

Required permit applications to prove that their taking of marine mammals would be consistent with the purposes of the legislation.

Authorized the secretary to grant public hearings on permit applications.

Authorized those opposed to permits that were issued to file petitions for review in U.S. district courts.

Established a five-year moratorium on permit issuance, with exceptions for public display, scientific research, commercial fishing, Alaskan fur sealing and weaned seal skin processing.

Set civil penalties of up to $10,000 per violation and criminal penalties of up to $20,000 or one year in prison or both, and offered rewards of up to $2,500.

Authorized seizure and forfeiture of vessels and equipment used in violation of the legislation.

Directed the secretaries of commerce and interior to enforce the measure with the help of other federal or state agencies or employees.

Granted exceptions for the taking of marine mammals by Indians, Aleuts or Eskimos if primarily for subsistence purposes and not for commercial sale.

Encouraged the secretary of state to seek international agreements for marine mammal protection and an international meeting before July 1, 1973, and to report to Congress within a year of the bill's enactment.

Forbade states to adopt their own marine mammal laws or regulations, except through cooperative agreements with the federal government.

Authorized the issuance of research grants to federal or state agencies, public or private institutions or others, and authorized the appropriation of up to $1-million per year for five years.

Authorized the appropriation of $1.5-million for each of five years for the Commerce Department, $700,000 for the first year for the Interior Department and $525,000 for each of four years thereafter.

Title II

Established a three-member Marine Mammal Commission to be appointed by the President.

Prescribed the duties of the commission to review and study all U.S. activities, existing laws, international treaties, population levels and management methods relating to marine mammals and to make recommendations for their protection and conservation.

Authorized the commission to establish a nine-member Committee of Scientific Advisers or Marine Mammals.

Required the commission to make annual reports to Congress.

Authorized the appropriation of up to $1-million per year for five years for the commission, with not less than three-fourths to be expended on research studies.

AMENDMENTS ACCEPTED

Thomas M. Pelly (R. Wash.)—Amendment to Udall amendment (*below*)—Remove from the Marine Mammal Commission authority to approve permit issuance for capture for display or scientific research, and give authority to the secretaries of commerce and interior to issue permits. Voice vote.

Morris K. Udall (D. Ariz.)—As modified by Pelly amendment (*above*)—Establish a five year moratorium on the killing or capture of ocean mammals and on the importation of their products, with certain exceptions. Voice.

AMENDMENTS REJECTED

Nick Begich (D. Alaska)—Amendments to adopted Udall amendment (*above*)—Allow the taking of marine mammals by Indians, Aleuts or Eskimos for use in production of native arts and crafts for commercial sale. Voice.

Mario Biaggi (D. N.Y.)—Transfer all authority for marine mammal protection from the Department of Commerce to the Department of the Interior. Standing vote, 20–35.

Ogden R. Reid (R N.Y.)—Prohibit the killing of porpoises and dolphins incidental to tuna fishing operations one year after the bill went into effect. Standing 17–47.

Biaggi—Prohibit the killing of porpoises and dolphins incidental to tuna fishing operations after two years, but allow industry to seek annual delays of the prohibition for up to three years. Voice.

Bob Eckhardt (D Texas)—Delete language authorizing the seizure or forfeiture of vessels and equipment engaged in unlawful taking of marine mammals. Standing, 15–37.

H. R. Gross (R, Iowa)—Delete Title II establishing a Marine Mammal Commission and a Committee of Scientific Advisers on Marine Mammals. Standing, 13–39.

FEDERAL JURORS

The House March 6, by a 316–27 roll-call vote, passed under suspension of the rules a bill (HR 2589) requiring that questions of race and occupation be answered by persons filling out federal juror's qualification forms.

(*Roll call: Vote 36, Weekly Report p. 570*)

A two-thirds majority vote (230 in this case) is required to pass a bill under suspension of the rules.

The purpose of the bill was to assure nondiscrimination in jury selection.

REFERENCE

House hearings, 1971 Weekly Report p. 2394

HOUSE ACTION

The Judiciary Committee unanimously reported the bill Feb. 29 (H Rept 92–870).

There was no floor debate on the bill. Richard H. Poff (R Va.), a Judiciary Committee member, said the fact that persons filling out the form had the option, under the Jury Selection and Service Act of 1968, of not stating their race and occupation meant it was difficult to guarantee that juries would represent a fair cross section of the population—as required by the 1968 act.

The bill had the backing of the Justice Department, Civil Rights Commission and Administrative Office of the U.S. Courts.

Robert McClory (R Ill.) assured members that the new information required by HR 2589 was needed solely to enforce nondiscrimination in jury selection.

THE BRITISH PROPOSALS FOR NORTHERN IRELAND

Mr. RIBICOFF. Mr. President, last Friday Prime Minister Heath of Great Britain announced in the House of Commons that the British Government would be assuming all legislative and executive powers for Northern Ireland for a 1-year period. As one deeply concerned over the continuing tragedy in Ulster, I welcome this long-awaited British initiative. I hope it will put an end to the mounting violence and killing there. But in the long run these proposals are inadequate. I agree with Mr. Heath's statement that these proposals "do not in themselves constitute a lasting solution to the problems of Northern Ireland."

As soon as word of the new British proposals was reported in the media, I joined with the Senator from Massachusetts (Mr. KENNEDY), an original cosponsor of Senate Resolution 180, and Representative CAREY, who submitted a similar resolution in the other body, in issuing a statement.

I ask unanimous consent to have printed in the RECORD the text of our statement; the British Information Service's text of Mr. Heath's announcement, and my own testimony and that of Senator EDWARD KENNEDY on Northern Ireland before the House Foreign Affairs Committee on February 28, 1972.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

JOINT STATEMENT BY SENATOR ABE RIBICOFF, SENATOR EDWARD M. KENNEDY, AND CONGRESSMAN HUGH CAREY REGARDING THE NEW BRITISH PROPOSALS FOR NORTHERN IRELAND

We are gratified over reports that the British Government has finally indicated it would take some positive action with regard to Northern Ireland. This follows a long period of delay during which there was a tragic escalation of the death and destruction.

In suspending the Stormont Parliament and taking over direct rule, including the function of security, and in proposing to phase out the interment policy, Prime Minister Heath is following two of the recommendations set forth in our Senate Resolution 180 introduced last October.

We welcome these proposed actions by the government of the United Kingdom. But more remains to be done if the violence and injustice in Ulster are to end.

The announced "phasing out" of internment should be accomplished without delay and the 800 men held without trial and without charges against them should be released as soon as possible.

We hope that the measures announced will be a prelude to carrying out the other four points in our Resolution.

"Full respect for the civil rights of all the people of Northern Ireland, and the termination of all political, social, economic and religious discrimination;

"Implementation of the reforms promised by the Government of the United Kingdom since 1968, including reforms in the fields of law enforcement, housing, employment and voting rights;

"Withdrawal of all British forces from Northern Ireland and the institution of law enforcement and criminal justice under local control acceptable to all parties; and

"Convening of all interested parties for the purpose of accomplishing the unification of Ireland."

We are especially heartened by the apparent determination of Prime Minister Heath to press ahead with this important new initiative, in the face of what seems to be the utterly intransigent position of Prime Minister Faulkner and his government. Now, at last, Britain has resolved to move forward, and Prime Minister Heath has our hopes and prayers that the new policy will bring an end to the killing and violence.

TESTIMONY OF MR. HEATH

With permission, Mr. Speaker, I will now make a statement about Northern Ireland.

This House has debated the affairs of Northern Ireland on many occasions in recent months. All of us in this House deplore the grievous suffering inflicted upon its innocent people by the continuing campaign of lawless terrorism and we admire the steadfastness with which they have attempted to sustain the life of the province.

Throughout this period Her Majesty's Government have maintained close consultation with the Northern Ireland Government. We have made repeated attempts with all concerned to find an agreed solution to the problems of Northern Ireland.

At a meeting which my Rt. Hon. Friends, the Home Secretary, the Lord President, the Defense Secretary and I had with the Prime Minister and the Deputy Prime Minister of Northern Ireland on March 22, we made it plain that in the British Government's view new and more radical measures were necessary if there was to be any prospect of breaking out of this deadlock.

We made three main proposals.

First, in the hope of taking the border out of the day-to-day political scene, and as a reassurance that there would be no change in the border without the consent of a majority of the people of Northern Ireland, we proposed periodic plebiscites on this issue.

Second, we proposed that a start should be made on phasing out internment.

Third, we were concerned about the present division of responsibility for law and order between Belfast and Westminster, whereby control remains largely with the Northern Ireland Government while operational responsibility rests mainly with the British Army and therefore with the United Kingdom Government. This responsibility is not merely domestic, it is a matter of international concern as well.

We were also well aware that the control of law and order was a decisive issue in Northern Ireland, and we thought that there would be advantage in seeking to take it out of domestic politics in Northern Ireland, at any rate for a time. We therefore told the Prime Minister and Deputy Prime Minister of Northern Ireland that we had reached the conclusion that responsibility for law and order in Northern Ireland should be transferred to Westminster.

The first two of our proposals were in principle acceptable to the Northern Ireland Government. But Mr. Faulkner told us that his Government could not accept proposals for the transfer of responsibility for law and order from Stormont to Westminster. At a further meeting yesterday evening he confirmed, after having consulted his Cabinet, that this was their unanimous view, and that if any such proposal were implemented, it would entail the resignation of the Northern Ireland Government.

The United Kingdom Government remain of the view that the transfer of this responsibility to Westminster is an indispensable condition for progress in finding a political solution in Northern Ireland. The Northern Ireland Government's decision therefore leaves them with no alternative to assuming full and direct responsibility for the administration of Northern Ireland, until a political solution to the problems of the province can be worked out in consultation with all those concerned.

Parliament will therefore be invited to pass before Easter a measure transferring all legislative and executive powers now vested in the Northern Ireland Parliament and Government to the United Kingdom Parliament and a United Kingdom Minister. This provision will expire after one year unless this Parliament resolves otherwise. The Parliament of Northern Ireland would stand prorogued but would not be dissolved.

The present Prime Minister of Northern Ireland has agreed to continue in office until this legislation is passed.

The increased burden which this transfer of responsibilities will entail means that it will no longer be possible for my Rt. Hon. Friend the Home Secretary to discharge these duties in addition to his many other responsibilities. A new office of Secretary of State for Northern Ireland is therefore being created. My Rt. Hon. Friend the Lord President is to be appointed to this office, together with the necessary junior Ministers. He will be empowered by the new legislation to appoint a Commission of persons resident in Northern Ireland to advise and assist him in the discharge of his duties. It will be our objective to invite to serve on this Commission a body of persons fully representative of opinion in Northern Ireland.

Her Majesty's Government, having assumed direct responsibility for law and order in Northern Ireland, will be no less concerned than the Government at Stormont has been to overcome terrorism and bring violence to an end. We shall do all we can to protect life and property in a part of the United Kingdom which is no less our responsibility than any other area of Great Britain.

As long as active terrorism persists and bombings and shootings continue, and until respect for law and a normal situation of order have been restored throughout the province, we must retain the power to arrest and intern those who there is good reason to believe are actively involved in terrorism and violence.

But a reduction of tension is the essential first step in the process of reconciliation. We believe that that requires that we should make a start in the process of bringing internment to an end.

We intend within the next few weeks to set free, subject to safeguards where appropriate, those internees whose release is no longer thought likely to involve an unacceptable risk to security. The Secretary of State for Northern Ireland will establish a procedure to review each case personally.

If the measures which we have taken lead to a reduction in terrorist activity, it will be possible to consider further releases, but this must depend on a clearly established improvement in the security situation.

Thus in the matter of internment, as in the next matter to which I shall refer, we are giving effect to a proposal which we put to the Northern Ireland Government and which in principle they accepted.

This Government, and its predecessors, have given solemn and repeated assurances that the position of Northern Ireland as part of the United Kingdom will not be changed without the consent of the people of Northern Ireland. We have decided that it would be appropriate to arrange for the views of the people of Northern Ireland to be made known on this question from time to time. We therefore propose in due course to invite Parliament to provide for a system of regular plebiscites in Northern Ireland about the border, the first to be held as soon as practicable in the near future and others at intervals of a substantial period of years thereafter.

These plebiscites will be in addition to, and not in substitution for, the provisions in the Ireland Act, 1949, which require the consent of the Northern Ireland Parliament to any change in the border. This position is not prejudiced by the temporary prorogation of that Parliament.

We hope that this arrangement, while leaving open the possibility of a change in the status of the province if the majority so wish, will both confirm that no such change will be made without their consent, and provide, in the intervals between plebiscites, a greater measure of stability in the political life of Northern Ireland.

These are our immediate proposals. But they do not in themselves constitute a lasting solution for the problems of Northern Ireland. We remain determined to find means of ensuring for the minority as well as the majority community an active, permanent and guaranteed role in the life and public affairs of the province.

Our immediate proposals are put forward in an endeavor so to change the climate of political opinion in Northern Ireland that discussions can be resumed in an effort to reach agreement on a new way forward to this end. It is our intention, as soon as circumstances permit, to promote the necessary consultations about the future structure of government in Northern Ireland.

Meanwhile Her Majesty's Government will continue to give high priority to the rehabilitation of the economic life of the province.

"I would like to pay tribute to the determination with which the Prime Minister of Northern Ireland and his Government have sought to overcome the difficulties which have beset the province, and the House will wish to acknowledge the spirit in which he has agreed to remain in office until our legislation has been enacted. We greatly regret that we were unable in the end to reach agreement with him. In the last resort, however, responsibility rests with the United Kingdom Government and Parliament, and Her Majesty's Government would be abdicating that responsibility if in this critical situation we did not take the action which we beleved to be right."

STATEMENT BY SENATOR ABE RIBICOFF

I am pleased to appear before this Committee today, on which I served during my years in the House of Representatives. I would like to commend you, Mr. Chairman, for having the wisdom and compassion to conduct hearings on the tragic situation in Northern Ireland—an issue which has been very much neglected by this country's leaders.

Last October 20, I introduced Senate Resolution 180, with the cosponsorship of Senator Edward Kennedy, who is with me here today. On the same day this resolution was introduced in the House by Congressman Hugh Carey of New York as H. Res. 653. More than 50 House members have cosponsored this Resolution.

Introduction of our resolution created quite a stir. Much of the editorial criticism did not deal with the substance of this legislation, but with the propriety and motives of the United States Senators speaking out forcefully on this issue. This genuinely puzzles and disturbs me.

If it is proper for American public officials to denounce discrimination against blacks in South Africa or the massacre of Bengalis in East Pakistan, or the mistreatment of Jews in the Soviet Union, what is so surprising if a United States Senator speaks out against the repression and discrimination which has taken place and is still taking place each day in Northern Ireland and which has resulted in the deaths of hundreds of people?

Decent men everywhere must protest bigotry and discrimination wherever it exists. The evils of racial and religious intolerance are just as abhorrent whether practiced in Pretoria, Leningrad, or in Belfast.

No nation should be immune from criticism by the world community for acts committed on its behalf. While I can appreciate Great Britain's dilemma in dealing with the problems of Northern Ireland, the pacification tactics now being used in Northern Ireland, the loss of civil liberties, and detention without trial only aggravate an already difficult situation.

The Vietnamization of Ulster by British troops is not the solution to the festering problems of Northern Ireland. Last November I warned that Ulster could become Britain's Vietnam. The bloody events in Londonderry have unfortunately borne out this dire prediction.

The time is now long past when promises of reforms, and half-way measures, are sufficient. More of the same can only guarantee future conflict and tragedy. Britain must face up to the sad realities it has helped create by its decades of neglect.

In introducing Senate Resolution 180, I tried to address myself to the basic unresolved issues as I saw them, and urged our government to press their implementation.

These are the actions called for in the Resolution:

1. Termination of the current interment policy and the simultaneous release of all persons detained thereunder.
2. Full respect for the civil rights of all the people of Northern Ireland, and the termination of all political, social, economic and religious discrimination.
3. Implementation of the reforms promised by the Government of the United Kingdom since 1968, including reforms in the fields of law enforcement, housing, employment, and voting rights.
4. Dissolution of the Parliament of Northern Ireland.
5. Withdrawal of all British forces from Northern Ireland, and the institution of law enforcement and criminal justice under local control acceptable to all parties.
6. Convening of all interested parties for the purposes of accomplishing the unification of Ireland.

Since introduction of this resolution, the leader of the British Labor Party, Harold Wilson, has called for talks on unification. Dissolution of the Stormont Parliament is now being considered a distinct possibility. What seemed to some critics as extreme last October, does not seem so unreasonable today. But perhaps the most revealing evidence as to the distance covered since October in validating the actions called for in S. Res. 180, was the secret peace efforts by Dr. John O'Connell, a member of the Irish Parliament. I am sure you will hear more about this attempt in the course of these hearings, but from the information available to me, it appears that tacit agreement was reached late last month between Catholic and Protestant leadership groups to arrange a ceasefire based on the following points:

1. Amnesty for all political prisoners.
2. The end of internment.
3. The immediate withdrawal of the British Army to barracks.
4. The complete restructuring of the Stormont government along democratic lines.
5. A declaration of intent by the British on the future of Ireland.

The British Home Office rejected this peace package—and two days later thirteen men lay dead in the streets of Londonderry.

I called attention to this matter in the Senate on February 22 when I inserted a column that appeared in the New York Post on this abortive peace effort.

What is needed is more courage by all parties concerned to face up to the underlying causes of the violence. Writing in the *New Statesman* a few months ago, Paul Johnson summed up Britain's choice this way: "In Ireland over the centuries we have tried every possible formula: direct rule, indirect rule, genocide, apartheid, puppet parliaments, real parliaments, martial law, civil law, colonization, land reform, partition. Nothing has worked. The only solution we have not tried is absolute and unconditional withdrawal."

Now is the time for boldness, rather than timidity on the part of the British government—and bold, rather than timid solutions.

It seems clear that as long as Britain refuses to face the facts when it comes to Northern Ireland, there will never be peace. The British genius for politics seems to disappear when it comes to Ireland.

In their hearts most Britons know that the Six Counties of Northern Ireland are not part of Britain. Although their present leadership is not yet ready to accept this fact, they too must eventually yield to the compelling conclusion that peace cannot be enforced by British bayonets. Nor can Britain continue to claim any moral justification for its actions as long as men are imprisoned without trial, and people shot down in the streets.

Senate Resolution 180 points the way toward policies the United States should support at the highest levels to bring justice and peace to Northern Ireland. This resolution does not presume to dictate a solution. But it does express the dimensions of the problem and sets the conditions for a long-term settlement consistent with the realities of the situation.

The hearings beginning today can make a great contribution toward illuminating this entire subject. This is a subject of great interest and concern to many Americans, and I hope it will prick the consciences of many more. No simple solutions exist for a problem as difficult as this one. But, by asking hard questions and seeking greater knowledge, this Committee can make a valuable contribution to the quest for a new future for all the people of Northern Ireland.

Testimony of Senator Edward M. Kennedy

Mr. Chairman, I am honored to have the opportunity to appear before you and the other members of the Subcommittee this morning as you begin these important hearings on the crisis in Northern Ireland.

The long and tragic Irish history is familiar to almost all Americans. For centuries, going back even beyond the settlement of the American colonies, Ireland has endured killing and violence, religious conflict and civil war. For hundreds of years, Ireland has seemed an incurable and interminable plague on Britain, destined to bring constant turmoil to unending generations of British and Irish people and their leaders.

We know that our own century has seen its full share of the terrible death and destruction brought by Britain's inability to deal fairly and justly with the people of Ireland. Half a century ago, the world witnessed the traumatic upheaval and bloodshed that gave birth to the cruel experiment of partition. Now, a new chapter of violence and terror is being written in the history of Ireland, written on the front pages of every newspaper in the world, written in the blood of a new generation of Irish men and women and children. And once again, the people of Ireland are back at the forefront of history's greatest movement. They have joined the search in earnest for the only goal that really matters to people on earth, the search for which countless millions have died since history began, the search for human freedom and for liberty under God.

There are those who say that America should stand silent now in the face of the daily killing and brutality that is taking place in Northern Ireland, just as America stood silent over Bangladesh in the face of weeks and months of some of the worst cruelty and repression in the history of the world.

I do not agree, and I do not think that most Americans agree. Our duty, our heritage, as citizens in a nation that has been the star of liberty in the world for two centuries, require us to speak out. Were I neither Catholic nor of Irish heritage, I would feel compelled to protest against the killing and violence in Northern Ireland, just as I have protested at other times in my years in the Senate against the killing and violence in other parts of the world, in areas like Vietnam, Biafra, the Middle East, and Bangladesh.

The rising concern in Congress and the nation today over the violence in Ulster is a bright new chapter in the long and distinguished record of America's concern for human rights and equal justice in Ireland. Two hundred years ago, the Irish played a major role in securing the independence of the American colonies, a role acknowledged often by George Washington and our other great early patriots. And so, it was natural, during the following century, that the Irish struggle for their own self-government attracted wide sympathy and support in the new American nation.

Throughout our history, and especially in periods of intensifying violence in Ireland, Resolutions have been introduced in both Houses of Congress supporting the cause of Irish freedom. The platforms of both the Democratic and Republican parties in 1888 gave strong encouragement to the historic Home Rule campaign for Ireland led by Gladstone and Parnell at the time. Later, in the violence surrounding the Easter Rebellion in 1916 and the subsequent guerrilla war, Congress led the way in urging Woodrow Wilson to use the good offices of the United States to ease the crisis. Responding to the view of Congress and an American public outraged by the violence and brutality of that day, President Wilson took frequent and substantial steps to urge the Government of Britain to end the violence and achieve a peaceful settlement.

Perhaps the high water mark of American concern in the Twenties was the formation of the prestigious Committee of One Hundred Fifty on Conditions in Ireland, a private group of distinguished Americans established by the New York *Nation* to investigate the situation in Ireland at the height of the violence fifty years ago. From its members, the Committee elected a smaller Commission to conduct a public inquiry, led by Jane Addams, the famous sociologist of Hull House in Chicago, Senator George Norris of Nebraska, and Senator David Walsh of Massachusetts, a man whose Senate seat I hold today.

The Commission held 14 days of public hearings in Washington in the winter of 1920–21. It heard 41 witnesses, almost half of whom had come from Ireland to tell first hand about the violence and repression. The hearings and the Commission's subsequent report had enormous impact in mobilizing American public opinion. The vivid descriptions of cruelty and violence brought home to people throughout the country the awful horror of events in Ireland, and were an important influence leading toward the subsequent settlement of the conflict. As the Manchester Guardian commented in England at the time:

"One can only read the report with a kind of helpless rage. A few leaders in Britain have landed us in the dock, without a defense, before the conscience of mankind."

And so, these committee hearings today follow in a long line of important precedents demonstrating the concern of Congress and the nation for the cause of Irish freedom. The United States has a role to play, and I commend the members of this Subcommittee for acting now to bring the situation in Northern Ireland to the attention of the American people.

In light of these important precedents, it is fair to ask, why is the Administration still so silent over Ulster? Why does it abdicate its responsibility to let the official voice of America speak out to end the killing? A few weeks ago, in the controversy over Britain's base on Malta, America was not so silent. We did not hesitate to intervene. The Administration was quick to prod the British then, when a few square miles of an obsolete island base of no military significance were at stake. Why is it so slow to act on Ulster now, where basic human rights and the lives of innocent people are in the balance?

Indeed, if one is needed, the Administration could easily find a military rationale for action on the Ulster issue. We have a Naval Communications Station in Northern Ireland today that employs 300 U.S. Navy personnel and 150 Ulster citizens. It is located on the outskirts of Londonderry, near the Bogside, so that the potential for its disruption by the violence is all too clear. In addition, the 14,000 British troops now tied down in Ulster could be of obvious value in our effort to reduce American troops in NATO through replacement by European forces.

Moreover, as Dr. Patrick Hillery succinctly put it on his recent visit to Washington, there could be no more gross intervention in the affairs of Ireland than the presence of British troops in Ulster. And, as we know, Britain has never been reticent to intervene on American issues. Indeed, the United States today would be partitioned into separate nations, North and South, if Britain had had her way in our Civil War a century ago.

More important on the issue of intervention, Ulster cannot fairly be called the internal affair of Britain. Not a day goes by without new evidence of the deep involvement of the Republic of Ireland in the crisis—a separate and independent nation whose affairs and future are intimately bound up with the solution of the Ulster issue. We sent the aircraft carrier *Enterprise* to the Indian Ocean last December, and we intervened in other ways to try to tilt the balance between India and Pakistan, two nations with whom we have had long and friendly ties. But by some cruel irony today, we are unwilling even to make our good offices available to mediate a crisis over Ulster that involves two of our closest friends, Britain and Ireland.

In sum, America can play a useful and entirely proper role on Ulster, if only we have leaders with the compassion to act and the wisdom to see the way. There is ample precedent in history, law and logic for us to make our good offices available, and I hope that we shall be equal to the task.

That is why I welcome these hearings today. It is long past time for the Congress of the United States to go on record again, to take our stand on Ulster, to lend our voice to the effort to rally the conscience of the world to the cause of peace and liberty. And so I hope that this committee will consider the proposals before it fully, and report a measure that can bring a new call for reason and compassion on the Irish issue, and thereby move us farther along the road to peace.

The measure that I favor is Senate Resolution 180, which I cosponsored with Senator Abe Ribicoff of Connecticut in the Senate last October, and which Congressman Hugh Carey of New York introduced on the same day in the House. Briefly, our Resolution contains a number of principal provisions that I believe deserve immediate implementation.

AN END TO INTERNMENT

First, there must be an end to the cruel and repressive policy of internment. More than six months have passed since internment was adopted, and the soaring daily toll of bloodshed, bullets, and bombing in Ulster is a continuing awful reminder of how wrong that policy was at its inception, how wrong it is today, and how wrong it would be to allow it to continue.

The daily headlines tell us that Britain has done to Ulster, but we are only just beginning to realize what Ulster has done to Britain. It is fair to say, I think, that the launching of internment has brought British justice to her knees. Only last Wednesday, we witnessed the sordid spectacle of the British Parliament in London, sitting in the darkest hours of the night, steamrollered into rushing midnight legislation into law to reverse a decision by the High Court of Northern Ireland earlier that day, holding that British troops in Ulster had exceeded their authority under the constitution in carrying out their arrest, internment, and other orders.

Day after day, week after week, month after month, the nation that gave Magna Carta and Habeas Corpus and Due Process to the world imprisons hundreds of innocent citizens of Northern Ireland, without warrant, charge or trial, often on evidence of the rankest hearsay and deception, on grounds so spurious, so obsolete, and so discriminatory against the religious minority that they would be laughable, if the results were not so calamitous for the peace and people of Northern Ireland.

The notion of detention without trial is an abomination to democratic nations throughout the world, and it ought to be anathema to the British Government. Of all the great traditions of American liberty, we are proudest, perhaps, of the tradition of Anglo-Saxon law and justice, handed down to us from the pillars of British jurisprudence. And yet, by an historic irony, a far less drastic policy of preventive detention in the United States was instituted in the District of Columbia in recent years, but only after months of bitter debate in Congress, and then only with safeguards to prevent the worst abuses. By contrast, Britain's far more outrageous internment policy in Ulster was launched in the dead of night last August, without advance debate in Parliament, a quid pro quo, they say, for Brian Faulkner's agreement to ban the Orange marches. The decision was made without any notice at all, except the knock on the door in the dead of night in hundreds of Ulster homes, with the victims chosen as though by some cruel and irrational lottery and hauled away to places of detention that bore the hallmarks of concentration camps.

The Protestants in Northern Ireland are fond of saying that Belfast is as British as Birmingham or Bristol, but does anyone doubt that if they tried to launch internment in Britain today, the Government itself would fall?

And then, compounding the crime of internment, we saw the early reports of how the prisoners were treated in the camps. We read the reports of torture in the camps with horror, as they described the efforts of British intelligence to learn the secrets of the IPA by methods no civilized people can countenance.

On the heels of the first reports of torture we heard the outraged British denials. But many of the worst fears were confirmed in all but name by the report of the Compton Inquiry. Yes, said the Compton report, the prisoners were deprived of food and sleep. Yes, said the Report, the prisoners were spread-eagled against a wall for up to 48 hours at a time. Yes, the prisoners were shrouded in heavy black hoods, to induce a sense of desperate isolation. Yes, they were forced to suffer through the intense loud hissing noise of machines designed to surpass human endurance.

Again and again, the Compton Report found the immoral and inhuman facts of torture. Yet, it whitewashed their meaning by Alice-in-Wonderland logic, by obscure and hypocritical phrases that denied brutality and spoke only of "ill treatment" and "deep interrogation," and by rhetoric that sought to justify obviously barbarous means by resort to a higher end.

Over forty years ago, the distinguished American jurist, Louis Brandeis, dealt with the heart of the Compton argument in these words:

"Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution."

A generation later, in one of the great passages of British law, Lord Atkin stated the relevant principle clearly in his famous opinion in *Liversidge* v. *Anderson*, in words directly applicable to the logic of the Compton Report and its attempt to blur the difference between torture and "ill treatment":

"I know of only one authority," said Lord Atkin, "which might justify the suggested method of construction: 'When I use a word,' Humpty Dumpty said in a rather scornful tone, 'It means just what I choose it to mean, neither more nor less.' 'The question is,' said Alice, 'whether you can make words mean so many different things.' 'The question is,' said Humpty Dumpty, 'which is to be master—that's all.' "

No nation that calls itself a democracy can justify a policy of internment for its citizens. And so the first step I urge Britain to take at once on Ulster is to end the police state policy of internment, and thereby bring back to Ulster the evenhanded justice for which Britain has always been renowned.

WITHDRAWAL OF BRITISH TROOPS

The second major element of our Congressional Resolution is the call for the withdrawal of British forces from Northern Ireland, and the institution of appropriate procedures for law enforcement and criminal justice under local control acceptable to all the parties.

This provision of our Resolution produced substantial controversy when we introduced it last October. But today, as the unending killing and violence continue, it is also a provision that, I feel, has been vindicated by subsequent events. At Londonderry on Bloody Sunday last month, thirteen Ulster Catholics, participants in a civil rights demonstration, were killed by gunfire from a battalion of British paratroops. In light of that appalling massacre, can anyone now deny that the presence of British troops in Ulster is compounding the violence instead of contributing to peace?

To be sure, when the troops arrived in 1969, they were welcomed as protectors by the Catholic minority in many parts of Northern Ireland. But in 1972 the affection has turned to hate, the protection has turned to violence. The British army has now become the ominous representative of Unionist tyranny, the symbol of Protestant supremacy and oppression in Ulster.

As we know from first hand experience in the United States, military forces are not trained police. They do not know how to keep the peace on a continuing daily basis. Inevitably, their presence becomes a constant irritant to the local population. On several tragic occasions in the Sixties, President Johnson was obliged to order Federal troops into American cities to maintain law and order. But always, whether in Detroit or Baltimore, in Chicago or Washington, D.C., the troops were deployed to deal with a sudden crisis, and they were removed as soon as the emergency was over and the local peace had been restored.

Today, the British troops in Ulster have become an army of occupation instead of a peace-keeping force, and the explanation is not far to seek. For months, the Army weapons searches were aimed at the Catholic homes, but they never searched the Protestants. The Army helps to maintain the internment policy, but of the hundreds who have been detained, there has never been a Protestant.

In short, thanks in large part to the British military presence, life for the minority in Ulster today is one long nightmare of sudden arrest, of house-to-house searches, doors broken down, and furniture smashed. It is a life of the smell of riot gas in the air, bruises from military batons, and wounds from rubber bullets or more deadly bullets. It is a life of barbed wire roadblocks in the alleys and armored Saracens racing through the streets. In the midst of all the terror, it is small wonder that the question they ask in Ulster today is one that cries, "Is there a life before death?"

If any hope at all remained that the Catholic population in Northern Ireland had not yet turned irrevocably against the British troops, if any hope remained that the Army might again become a helpful presence in Ulster, that hope was destroyed by the escalating military violence that culminated in the wanton killings of Bloody Sunday at Londonderry—killings that recalled other cruel and bloody days in British history, like the massacres in the Gordon Riots, and at Amritstar and Peterloo and Dublin.

And now, just as the injustice of internment was compounded by the torture of the men imprisoned, so the slaughter at Londonderry is being compounded by the arbitrary limits on the scope of the inquiry being carried out by Lord Widgery. Just as Ulster is Britain's Vietnam, so Londonderry is Britain's My Lai, and the killings on Bloody Sunday deserve the widest and fullest investigation, in an inquiry capable of insuring that such a tragedy will not recur.

Cardinal Conway's medical observer at the post-mortems on the victims has already reported that many of those who died were shot in the back while running away. We also know, for example, that long before the events of Bloody Sunday, the paratroops had earned a reputation for unnecessary brutality in troubled Catholic areas. Calls were raised, even by other Army units in Ulster, to withdraw the Parachute Regiment before a tragedy occurred.

Now, the tragedy has happened, and the people deserve to know the facts through a full and fair investigation. Yet, the inquiry by Lord Widgery has the hallmarks of our own narrow and ineffective investigation of My Lai. It is limited in time to the few moments between the beginning of the violence at the demonstration and the end of the shooting by the troops. It is limited in space to the streets of the Bogside, where the killings took place. Just as at My Lai, there will perhaps be microscopic scrutiny of the soldiers at the scene, but the generals will go free.

Such limits can insure only one result—that Lord Widgery's report will not and cannot be the full account. And so, I hope that, while time remains, Britain may yet act to expand the scope of the inquiry, so that at last, in this tragic new chapter in the history of Irish bloodshed, the people will know that justice has been done.

The events of Bloody Sunday were a watershed for many who have now begun to advocate the withdrawal of British troops as an essential step toward restoring peace in Ulster. Dr. Conor Cruise O'Brien, for example, whose views against troop withdrawal were widely quoted when we introduced our Congressional Resolution last fall, is now a convert to the cause of such withdrawal.

Yet, just as the British Government blindly argues that it cannot end internment because it would mean the return of the gunmen to the streets, so the Government also argues that it cannot withdraw the troops because of the bloodbath that would follow. And so, for months, we have had a policy that condemns hundreds of innocent men and women and children to die in the streets of Londonderry and Belfast and the other cities, towns and villages of Northern Ireland, because the Governments in London and Belfast fear that even more may die in the future if the policy is changed. In other words, to prevent some very hypothetical bloodbaths of tomorrow, the leaders of Britain and Northern Ireland seek to justify the very real bloodbaths of today.

I believe that policy is wrong, and that the withdrawal of troops from Ulster is the most important single step that can now be taken by Britain to reverse the failure of its Ulster policy. It is the most realistic step that can be taken to put Ulster on the road to peace and a solution to the crisis. Only by removing the cruel and constant and continuing irritation of British troops can we buy the time we need to do all the other things that must be done to extinguish the flames of hate and terror in Northern Ireland.

As our Congressional Resolution makes clear, the withdrawal of British troops does not mean that the people of Ulster will be without adequate procedures for the enforcement of law and order and the administration of criminal justice. I believe that entirely appropriate manpower and machinery to keep the peace can be established by the local population, with representation and procedures that are fair to the Protestant majority and the Catholic minority alike.

Our resolution would also be entirely consistent with the use of other peacekeeping methods, such as an international peace force under the auspices of the United Nations. The essential point is that some alternative must be found, and found now, to the presence of British troops if there is to be any hope of an early end to the killing and violence. As British history in general, and the history of Britain in Ireland in particular, make clear, no amount of outside force can keep the peace for long in Ulster, if the forces of law and order are too closely identified with brutality and oppression in the eyes of a significant part of the population. The bloody impasse in Northern Ireland today can be broken only by a clear commitment to British troop withdrawal, and that, I hope, will be the essence of whatever new initiative that Britain is rumored to be planning.

One more point should be made on the question of troop withdrawal. For nearly a hundred years, ever since Lord Randolph Churchill played the abominable Orange Card against Gladstone in the nineteenth century, British policy toward Ireland has been paralyzed by fear that the Protestants of Ulster will fight to the death to preserve their British tie. Whatever the reality of such fears a hundred years ago—or even at the time of the Home Rule debate before World War I or the partition in the Twenties—I believe those fears are a myth today, and the lesson of recent Ulster history tells us why.

We know that the extremists of the IRA failed to capture the hearts and minds of the Catholic minority in their brutal campaign of 1955–62. They have succeeded now, but only because the peculiar blindness of the Ulster Protestant leadership makes it totally resistant to the movement for civil rights and the demands of the Catholic minority for legitimate reforms. If the Catholics of the Republic of Ireland demonstrate their willingness and ability to protect the political, economic, and social rights of the Ulster Protestants in a united Ireland, the extremists on the Protestant side in the North will never succeed in any campaign of violence designed to play the Orange Card today.

Thanks to the impetus of their new membership in the Common Market, basic change is already well under way for both Britain and Ireland in modern Europe. That is why I strongly hope that the Republic of Ireland will now begin the process, as Prime Minister Lynch has so eloquently suggested, for genuine constitutional reform on all the great issues that divide the North and South, so that Protestants and Catholics alike may see the most rapid and dramatic progress possible toward the reconciliation we know must come.

In sum, I do not believe that the majority of Ulster Protestants are prepared to plunge their homeland into civil war to preserve the British tie. Ulster is not about to commit suicide when the British troops withdraw, and the sooner Britain learns that lesson, the sooner there will be peace in Ireland.

DISSOLUTION OF STORMONT

The third major aspect of our Congressional Resolution is the call for the dissolution of Stormont, the Parliament of Northern Island, and the institution of direct rule of Ulster from Westminster, the Parliament of Great Britain. So long as Ulster is ruled by Britain, it makes no sense to interpose the additional layer of Stormont between the people and their government. No other part of Great Britain lives today under this sort of arbitrary constitutional device, and there is no reason why the people of Ulster must endure it.

Moreover, apart from the presence of British troops, there is no more obvious symbol of the half century of massive tyranny and injustice in Ulster than the Parliament at Stormont. Throughout its history, the paramount function of Stormont has been as a tool for the oppression of the minority. In recent months, since the beginning of internment, Stormont has failed to function as an effective legislature, because the representatives of the minority have refused to participate any longer in the parliamentary charade the Unionists wish to play. Stormont is now defunct in all but name, and it is time for Britain to deliver the coup de grace. And when that happens, all the people of Ulster, Protestant and Catholic alike, will be closer to the peace they want.

UNIFICATION OF IRELAND

The fourth major aspect of our Congressional Resolution is the call for a conference of all the parties to prepare the way for the unification of Ireland. For countless generations, Irish martyrs have spilled their blood for the cause of freedom for all of Ireland, and the momentum for unification now is much too great to be denied. The other reforms I have urged are important short-run steps, but unification is the only step that can secure the permanent peace that Ireland has sought throughout her history.

The Prime Minister complains about American misunderstanding of Britain over Ireland. In a weekend interview, he says that unity for Ireland has no more historical or logical justification than the absorption of Portugal by Spain. Surely, that comment shows where the misunderstanding really lies. It is a gratuitous insult to millions of Irish, Spanish, and Portuguese people alike, a remark that shows a surprising lack of history and logic in a leader of Great Britain.

There are those who say that some middle ground for Ulster is still a possibility, that unification is not the only road to peace. The rumored new British initiative, they say, may propose a reconstituted Stormont, with fresh and more effective assurances of adequate representation for the minority.

To me, such proposals would be just another example of years of British blindness and delay toward Ulster. With Ireland exhausted by civil war in the 1920's, partition worked for forty years, but it cannot work today. Perhaps, even a few years ago, in the early period of the civil rights movement of the Sixties, political and social and economic reforms in Ulster and a new approach to Stormont might have kept the peace, and enabled the majority and minority to live together as part of the United Kingdom.

But such steps today would just be more of the "too little and too late" approach that Britain has taken toward Northern Ireland throughout the present crisis. It is not enough to end internment, to withdraw the troops, to reconstitute Stormont and the Cabinet, to offer massive economic aid, or to adopt all the other reforms proposed in years gone by. It is not enough even to redraw the Ulster boundary, as some have proposed in recent weeks in a desperate and doomed attempt to find a formula that will keep some corner of Ulster forever British.

No, the goal of unification is now too close for Ireland to turn back. There must be a commitment to unification, to an end to British rule in Ireland, to an end to the unnatural partition that Britain forced on Ireland in the 1920's. If the Ian Paisley is willing to contemplate a united Ireland, can the rest of Ulster be far behind?

Given the history of partition, the resort today to the Atlee Declaration and the talk of a plebiscite on self-determination for Ulster, is a travesty of a noble principle. If there is to be self-determination for Ulster, then why not self-determination for Londonderry and County Tyrone?

We know the calculated and cynical gerrymander that produced Ulster fifty years ago. The only self-determination applicable today is self-determination for all of Ireland, not just for the uncouth entity that Britain spawned in the 1920's. Half a century is not enough to stamp the Ulster State with any acceptable seal of legitimacy in the eyes of those who truly believe in self-determination, unless there is full agreement by both the minority that is Catholic and the majority that is Protestant.

In closing, let me affirm again my view that I condemn the terrible violence and brutality in Northern Ireland. I condemn the violence of the IRA. I condemn the violence of the British troops. I condemn the ominous new violence at Aldershot last week and the murderous assault on John Taylor, just as I condemn the wanton killings on Bloody Sunday. I share the words of Cardinal Conway, who spoke so eloquently on this central issue in his Christmas message last year:

"To kill a man deliberately—to snuff out an innocent life—is a terrible deed. The person who can do it is already less than a man; some part of his human nature has been frozen to death. And this is true, no matter who does it, no matter what side he is on."

But I also recognize that neither urgent protests against the violence nor the use of overwhelming military force to contain it is enough alone to end the crisis. So long as Britain pursues the phantom of military victory over the IRA in Ulster, the violence will continue, and the search for peace will be in vain. Fifty thousand Americans died before we learned that tragic lesson in Vietnam, and there can be no excuse for Britain to have to learn that lesson now in Ulster.

In my testimony today, I have attempted to state the principles I believe we must pursue to end the violence in Northern Ireland. I urge the Committee, the Congress and the nation to join the cause of peace in Ulster, the cause of Irish unity, the cause of justice and freedom. It is time for the Administration to end its policy of silence. It is time to speak out against the rising toll of death and violence in Northern Ireland. It is time to do all we can to help the victims of the tragedy, and to make our good offices available to mediate the crisis.

We know the unconscionable price America paid for its months of silence over the brutality in Bangladesh. Now, we have an opportunity to resume our moral leadership in the world, and to encourage men of good will everywhere in their efforts to bring a new and more lasting peace to all the people of Ireland.

The eloquent words of Padraig Pearse are as relevant today as when he spoke them at an Irish hero's grave over half a century ago:

"Life springs from death," he said, "and from the graves of patriot men and women spring living nations. . . . They think that they have pacified Ireland. . . . They think that they have provided against everything; but the fools, the fools, the fools! . . . While Ireland holds these graves, Ireland unfree shall never be at peace."

ZONE OF PEACE IN SOUTHEAST ASIA

Mr. ROTH. Mr. President, in a recent speech I called the attention of the Senate to the proposal of the members of the Association of Southeast Asian Nations—ASEAN—Indonesia, Malaysia, the Philippines, Singapore, and Thailand—to create a zone of peace, freedom, and neutrality in Southeast Asia. I emphasized that the effective establishment of a neutralized Southeast Asia would require the adherence of all the larger countries, and especially that of China and Japan. It was, therefore, with considerable interest that I learned of a recent editorial in Sankei, a Japanese newspaper, which commented upon some of Japan's moves on this same subject and referred to the ASEAN proposal. Sankei pointed out that at a recent session of the Geneva Disarmament Conference, Japan, for the first time, has expressed its willingness to cooperate in a regional disarmament program in Asia. The newspaper urged that Japan "establish its own long-range vision on Asian peace, as a promoter of the concept of regional disarmament." At the same time, Sankei referred to some of the many difficulties associated with the concept of regional disarmament and concluded by urging that Japan's policies be guided by clear notions of how its own security is to be best insured.

Mr. President, I ask unanimous consent that a translation of the Sankei article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REGIONAL DISARMAMENT OF ASIA AND JAPAN

At the Geneva Disarmament Conference, Ambassador NISHIBORI clarified that Japan is ready to co-operate positively in the realization of regional disarmament of Asia. Of course, the Foreign Ministry is taking the attitude of studying a concrete concept for regional disarmament of Asia after watching various countries' reactions. It is not that his speech will cause Asia to move toward regional disarmament even immediately.

However, the said speech is very significant in that Japan has shown positive interest in the promotion of regional disarmament of Asia for the first time, amid the fluid Asian situation following the Sino-US summit talks. At the same time, it can be evaluated as having further expanded the scope of Japan's multilateral, autonomous peace diplomacy toward Asia.

As to regional disarmament, the Central and South America Non-Nuclear Zone Treaty was already concluded, and the Resolution for the Non-Nuclearization of Africa was also approved in the UN. In Asia, there were such conspicuous moves as the adoption of the "Southeast Asia Neutralization Declaration" by the five ASEAN countries in the fall of last year.

Moves toward regional disarmament have risen in this way because "various valley countries" resisting the big-power diplomacy by the United States and the Soviet Union are trying to explore their own security through regional co-operation. What deserves special attention in the moves toward regional disarmament of Asia is that with the opening of the tri-polar age, symbolized by the Sino-US summit talks, there is the growing recognition among the medium and small countries in Asia that the establishment of a neutral zone not belonging to any camp is the only way to survive the tri-polar age.

The Sino-US Joint Communique stated that "neither the United States nor China will seek hegemony over Asia and the Pacific," and thus clarified their attitude of respecting the autonomy of the countries in these areas. In this sense, it can be said that regional disarmament of Asia is aimed in the correct direction, from a long-range point of view. Therefore, the fact that Japan has clarified its co-operation in the realization of the said concept at this time will cause arguments on regional disarmament of Asia to become vigorous.

However, the problem is that the Asian situation is extremely fluid, involving many obstacles to regional disarmament's beginning to move in a concrete form. Europe is steadily beginning to move toward realizing the concept for the security of all Europe, and this is backed by the stabilization of Soviet-German relations. In the case of Asia, however, such after-effects of the cold war as the confrontation between North and South Korea and the Indo-China situation are continuing. There is also the problem of Soviet-Chinese confrontation, and there is not a little room for doubt as to how effective regional disarmament can be at the present stage. The reason is that for the realization of this disarmament, it is necessary for relations among the US, the Soviet Union, and China to become finally stabilized, and for the Asian nations to obtain support and guarantee from these three countries.

Therefore, the future is full of difficulties. There is extremely difficult work on how effectively the Asian countries' desire for autonomous regional disarmament should be fitted to and co-ordinated with the Soviet Asian collective security concept, China's East Asia non-nuclear zone concept, and the Nixon Doctrine, which all involve their respective expectations. Careful watch according to a change in the situation and efforts for many hours of accumulation are probably necessary.

For this purpose, however, it is pre-requisite for Japan to establish its own long-range vision on Asian peace, as a promoter of the concept for regional disarmament of Asia. At the same time, a definite direction must be determined also as to what Japan's security should be.

SMALLPOX

Mr. HUGHES. Mr. President, with all the health problems in the world today, it is a pleasure to note that progress is being made in some areas.

As chairman of the Special Subcommittee on International Health, Education and Labor Programs of the Committee on Labor and Public Welfare, I was pleased to read a recent article in the Medical Tribune on the subject of smallpox eradication. According to the article, smallpox has been completely eliminated from the Western Hemisphere and prospects look good for worldwide elimination of this dread disease within the next few years.

This progress is the result of an intensive, multilateral program of the World Health Organization, financed in part by U.S. funds. I believe there is a need to learn more about the international health programs supported by the United States, so that we can concentrate our resources on projects with the best chances for success.

I ask unanimous consent that the Medical Tribune article referred to above be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHO Officials See Americas Completely Clear of Smallpox

GENEVA.—World Health Organization experts are confident that smallpox has been cleared once and for all from the Americas, following the elimination of remaining pockets of the disease in Brazil.

In spite of an intensive search for isolated pockets of smallpox in Brazil, none have been found or reported for the past eight months.

In fact, WHO's world-wide eradication program is showing such remarkable success—after five years prevalence is down from an estimated 2,500,000 to 50,000 reported cases—that the program's director, Dr. Donald A. Henderson, predicts that smallpox will cease to exist within the next five years.

The WHO staff man is firmly of the opinion that eradication is both technically and operationally feasible.

"Within two years we should have smallpox down to a few limited areas, and if at that time we are able to mobilize our existing resources, then we should very soon thereafter be able to clear the remaining foci," Dr. Henderson said.

No therapy exists for smallpox, Dr. Henderson pointed out. "Between 15 and 30 per cent of those acquiring variola major die; of those acquiring intermediate forms as found in Africa, about 10 per cent die; and of those with variola minor, about 1 per cent," Dr. Henderson commented.

The intensified WHO effort against smallpox was begun in 1967. In that year 42 countries reported 131,000 cases of the disease, although later WHO surveys indicated that, because of poor reporting, the actual figure was probably in the region of at least 2,500,000.

ENDEMIC IN 30 COUNTRIES

At that time, the disease was endemic in 30 countries in Africa (most countries south of the Sahara) Asia (Afghanistan, India, Indonesia, Nepal, and Pakistan), and South America (Brazil).

Approximately $15,000,000 to $20,000,000 is now spent every year on the program, of which $3,000,000 is provided directly from the WHO regular budget and a further $4,000,000 to $6,000,000 is contributed by governments (mainly the United States and the Soviet Union) and other sources.

"The amount contributed by governments of countries where smallpox is still endemic varies considerably," Dr. Henderson commented. "India, for example, pays the majority of the cost of this program, whereas the Ethiopian program is almost entirely financed by outside sources."

Around 200,000 vaccinations are carried out each year at an estimated over-all cost of 5 to 10 cents per vaccination performed.

A feature of the WHO strategy has been the increasing tendency to de-emphasize mass vaccination, because it has been demonstrably ineffective.

"In Central Java . . . a survey slowed more than 92 per cent (of the population) with vaccination scars. At the same time over 1,600 cases were occurring. More than 90 percent of these cases had never been vaccinated.

"At the same time, Ceylon was free of smallpox with less than half of the population vaccinated. The difference quite simply was that smallpox in Ceylon prompted immediate field investigation and intensive containment activities. In Indonesia the program had been one of indiscriminate vaccination and yet more indiscriminate vaccination," Dr. Henderson commented.

Thus, a key element in the WHO program has been the establishment of national surveillance teams to investigate and contain outbreaks and to search for cases.

"It is worth remarking that, to date, when a surveillance program has been established in a state or country, transmission has usually been interrupted within 12 months—at most within 24 months," Dr. Henderson said.

Vaccination techniques have also developed. "Late in 1967 we began to experiment with the forked or bifurcated needle, and this proved to be as revolutionary a device as the safety pin in its day," Dr. Henderson said.

The bifurcated needles are now in use throughout the endemic countries and are replacing the jet injector, which although highly effective was a constant headache in terms of maintenance, repair, and spare parts, said Dr. Henderson.

DEVELOPMENT BROUGHT RESULTS

These developments, together with the establishment of production facilities for an assured supply of potent, freeze-dried vaccine, soon brought results and by 1970 the number of reported cases was down to a record low.

Reported cases last year were higher than in 1970 and reached a total of about 50,000 by the end of December. "However, more than 50 per cent of this total was accounted for by Ethiopia, where in the past reporting has been poor and the WHO-assisted program is at an early stage," Dr. Henderson said.

Elsewhere, there has been a 25 per cent decline in the incidence of the disease since 1970.

"Only 17 countries have reported smallpox cases last year, and endemic transmission was confined to six," Dr. Henderson noted. Of these, West Pakistan, India, Ethiopia, and Sudan are the main problem areas, he added.

These trends are reflected in the decisions of the British and U.S. governments to cease recommending routine smallpox vaccination for children. "However, the world situation is such that WHO does not yet recommend that similar action be taken by all non-endemic countries," Dr. Henderson told MEDICAL TRIBUNE.

TRIAL OF SIMAS KUDIRKA, LITHUANIAN SEAMAN

Mr. PERCY. Mr. President, on March 22, 1972, the Chicago Tribune published an important editorial commenting on the trial of Lithuanian seaman Simas Kudirka who sought asylum on a U.S. Coast Guard cutter in November 1970. In the editorial, the details of Kudirka's trial are explored, including Kudirka's reported comments about excesses committed against the Lithuanian people since their country was seized by the Soviet Union in 1940.

I commend the editors of the Chicago Tribune for helping to keep alive public concern for Simas Kudirka. Only if the press and public officials continue to focus national and international attention on Kudirka's plight will he have any hope for ultimate freedom.

Mr. President, I ask unanimous consent that the Chicago Tribune editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

Kudirka's "Trial"

Some time ago it was tersely reported that Simas Kudirka, the Lithuanian seaman who on Nov. 23, 1970, vainly sought asylum on the U.S. Coast Guard cutter "Vigilant", had been sentenced to 10 years' imprisonment. Further details concerning Kudirka's "trial" are offered in the newsletter issued from Searcy, Ark., by Dr. George S. Benson, who gives as his source the Assembly of Captive European Nations.

According to this account, Kudirka's trial before "the Supreme Court of the Lithuanian Republic" was conducted in almost total secrecy, before only a few functionaries, policemen, and Kudirka's wife. The defendant rejected the services of a court-appointed defense lawyer, saying that if the lawyer attempted an honest defense he could only get himself in trouble, and that if he proposed just to second the prosecutor, one prosecutor was enough. Kudirka conducted his own defense, speaking for four hours.

The charge was "high treason." A draconian Soviet statute includes attempting to leave the country without permission in its definition of that capital offense. But Kudirka said, "I consider myself completely innocent." He pointed out that the Soviet constitution [which reads quite well in many respects] does not make desire to leave the country a criminal offense.

Kudirka is reported to have recited to the court many injustices and atrocities Lithuanians have witnessed since the Red Army occupied their country in 1940. "I wanted to flee from the scene," he said, where not a week passed without bodies of nationalist partisans being stacked in town marketplaces, where always there was a "total lack of rights."

Kudirka evidently turned his defense into an eloquent and courageous attack on his judges and the system they represent.

It is a question if 10 years in a slave labor camp is a more lenient sentence than summary execution. Yet, thanks to the resourcefulness of the anti-Soviet underground, we may hope to hear of Simas Kudirka again.

GUNS AND BUTTER?

Mr. EAGLETON. Mr. President, I invite the attention of Senators to an excellent article written by Mr. Steve Weber, of the Kansas City Star. The article, taken from a lecture by Mr.

Weber, entitled "Guns and/or Butter: What Price National Security?" discusses the effect that massive spending on defense has had on our economy.

In a particularly insightful section on our balance of trade problem, Mr. Weber states:

> The booming economy (booming, bear in mind, because of all the new defense spending) was attracting more and more imports. Why? Because making bullets is not making stereo sets or tape recorders. A booming economy means more demand for consumer products because the people have more money to spend on them. Enter the Japanese and Germans and others, who were pleased to oblige us. Exit the dollar.

The end of Mr. Weber's article contains a fictional colloquy between General X and Senator Y which is meant to portray the ease with which defense budgets are pushed through Congress without careful scrutiny. I am pleased to inform Mr. Weber that this is no longer the case.

The distinguished chairman of the Armed Services Committee (Mr. STENNIS) has characterized his term as chairman by a tough, second-look approach to defense projects. Senator STENNIS has shown a keen understanding of the economic problems which face this Nation and has insisted that the American people get a full dollar's worth of security for every dollar spent on defense.

Mr. President, I ask unanimous consent that the article published in the Kansas City Star of March 19, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. SECURITY COSTS OVERWHELM ECONOMY

Steve Weber, assistant financial editor of The Star, spoke before the International Relations Council last week as part of their Great Decision lecture series. His topic was "Guns and/or Butter: What Price National Security?" The following is excerpted from that talk.

It now appears 1972 will mark an end to direct U.S. troops involvement in Vietnam. There has been enough hand-wringing done over Vietnam to do any more, except for the fact that Vietnam happened—in fact it's still happening—so it should not be put out of our minds until it teaches us some lessons.

To a large degree Vietnam is at fault for the economic problems of the last few years. The guns and butter policy of Lyndon Johnson fueled inflation at the worst possible time: When the war-geared economy should have been cooled off gradually it was heated up.

The effects of this and of the resulting inflation are history: Nearly everything the Nixon administration has tried, done, or undone regarding the economy has been geared to slow inflation. The recession and stock market nosedive of 1969–70 and part of '71 were the results of an attempt to slow inflation.

While dollars were flowing out of the U.S. into Vietnam, it became evident our balance of payments shortcomings were approaching a crisis stage.

To understand the Johnson administration's guns-and-butter policy—and what hangover effects it has had—and still has—on the economy, one should look at what transpired during the Vietnam build-up period from 1965 to 1968. The policies led to a situation which caused Philip Sporn, a member of the Committee for Economic Development (CED), to remark: "Even at the present level of expenditure for guns, the country is over-buttered."

In 1965 the defense build-up immediately accentuated inflationary tendencies: Total purchases that year rose $47 billion, while defense purchases declined $1.5 billion. The next year total purchases rose $61 billion, defense purchases $9 billion. When this inflationary evidence was felt, late in 1966 the Federal Reserve moved to halt the rise in the money supply. The tax credit for new investment was suspended, but at the first signs that inflation was abating, the government relaxed its anti-inflationary measures.

In the 1966–67 period, the prime factor in the rise of inflation was the jump in the unit labor cost—with a slowdown in the growth of output per man hour. As defense dollar needs grew nondefense dollar demands became strained. It should have been a problem of priorities—which program should have its funds cut. But such action is not politically popular and the government made no effort to restrain nondefense spending.

ENTER THE IMPORTS

Meanwhile, the booming economy (booming, bear in mind, because of all the new defense spending) was attracting more and more imports. Why? Because making bullets is not making stereo sets or tape recorders. A booming economy means more demand for consumer products because the people have more money to spend on them. Enter the Japanese and Germans and others, who were pleased to oblige us. Exit the dollar.

By 1966 the pressure of investment demand had grown—but not the supply of available savings . . . this, of course, forced interest rates up. As usual in a time of raising interest rates, mortgage lending was hit first, which in turn damaged the residential construction industry.

Of this period the CED, in a policy statement, commented: "The consequences of policy actions and inactions of the Vietnam build-up period through 1967 were serious. There was an upsurge of inflation and a concentration of the real impact of the military buildup on fixed investment, especially housing, and on net exports."

Despite a brief inflow of foreign funds in reaction to the higher interest rates which were being paid in the U.S., the balance of payments situation grew worse. Direct foreign exchange costs of Vietnam rose by more than $500 million in 1967 as the total went above $2 billion. Even the tourist-travel deficit rose by $200 million.

What lessons should have been learned from this?

1. The government was unable to see how significant the Vietnam build-up would be. A problem here was that the possibilities concerning the war's scope that existed in the minds of the war's managers were not always made clear to managers of official economic policy.

2. In the period from 1965 to 1967 the government tended to be excessively tolerant of the risks of inflation as compared with the risks of unemployment. This was a passive policy, a shrinking of decisionmaking. An old rule-of-thumb was used here: Inflated dollars don't vote; people do.

3. A tax hike, which might have eased the inflationary results of rising government spending, is politically deadly, and was not acted upon.

What policy changes should be made to avoid the difficulties engendered by Vietnam: For one, the government should have a longer-run view of inflation, that is, act according to a more deliberate policy rather than continually adjusting to the crisis-of-the-moment.

More and better information is needed about what the most probable size of the defense program should be. Also a more sophisticated approach in analyzing the budget, which would separate changes in the level of economic activity from those which result from policy decisions, would be useful.

Tax and spending decisions in Congress are fragmented into different committees. The machinery of Congress should be more co-ordinated in this regard.

FUTURE BUDGETS

Looking ahead to a period of peace, where do we see the military budget going? After all, roughly half the federal budget and 10 per cent of the total economic product has gone for defense—but never has more than half of the military budget gone into the cost of the Vietnam War.

In reality more military spending is in the offing . . . which resurrects the political question of how much defense we need.

But there is more to the cost problem than new missiles and new submarines. The cost of present programs—and the way the contracts have been awarded—should be looked at closely.

In 1968, according to Congressional statistics, 60 per cent of all defense contracts were with firms that were the sole source of supply for their particular goods or service. Only 11.5 per cent of defense contracts with private firms came through competitive bidding.

In Congressional hearings two years ago, John Kenneth Galbraith said, regarding defense contracts; "Opposition of interest between buyer and seller disappears. The buyer is as interested in the survival and well-being of the selller as is the seller himself. The situation, if I may be permitted to coin a word, is cozy."

The reliance on government spending, as a whole, can be noted for its effects on the economy. Figures in an analysis written by Paul N. Gershon, a regional analyst for E. F. Hutton & Co. here, show that in a 1970 breakdown of all industry groups, the government rate of inflation was 10.3 per cent. The government impact on the total was 23 per cent. The government's figures were the highest in both categories of all industrial groups.

A Kansas City businessman, Jack H. Whitaker, vice-president of administration for Whitaker Cable Co., last week attended a two-day seminar in Washington entitled "National Priorities and the Federal Economic program."

QUESTION OF CHOICE

Whitaker said in an interview that an overriding theme of the conference was that "we are not a nation of unlimited wealth . . . that certain choices must be made. We must indulge in more comprehensive, less secretive long-range planning." He also noted that there was a feeling among those attending that "the public is disappointed there hasn't been the so-called promised 'peace dividend.'" There was talk that this peace dividend, the funds freed from the war's use, would amount to $30 billion.

Two publications Whitaker brought back with him struck responsive chords. The first was an article by Thomas J. Watson, former chairman of IBM, which appeared in I. F. Stone's Bi-Weekly. In it he stated:

"Ten years back, in the twilight years of the Eisenhower era, I served with some very distinguished Americans on a committee called the Commission on National Goals . . . Our job, back in the late 1950s was to suggest goals for our country in the 1960s, and two things surprised me at the time. First, was the realization that this country had no very specific goals set down on paper; and second was the realization that no matter what goals we chose, there was practically no mechanism in government to methodically implement them—and there isn't now . . . As an institution begins to grow it must change the way it manages its affairs. This is true in business and it is no less true in government . . ."

The other publication was a copy of a letter which was sent to one of the coordinators of the conference. It read, in part:

"We are spending more than need be for national security and we know not what it is. In spite of the billions we have spent for this big insurance policy, there is a less secure feeling in the country today than at any time since World War II. There are many more strategic weapon systems for each job than are needed. I share your concern in these matters. . . ."

The letter was signed: "Gene LaRocque, Rear Admiral, U.S. Navy."

When criticism is made that millions of dollars are tied up in missile silos, unavailable for public use, military spokesmen say "good, aren't we all glad they're not being used." In this sense a weapon's idleness is a testimony of its effectiveness.

But that's not the whole picture. Defense expenditures by their very nature are inflationary. They do not add anything to our consumable output. Consumable goods or services create income. Missiles, after they are built, create little.

NONCONSUMABLES

Why is defense spending so inflationary? Because defense contractors produce stuff nobody can buy—like missiles. People make money building missiles, but these people who make missiles have no more goods or services available to them on which they can spend their earnings.

With more money to be spent—and no more goods and services available—people are, in fact, bidding up the prices of the existing goods and services. This is a key part of inflation.

Resources are scarce—and will continue to be so. Every dollar used for defense is a dollar not used for something else.

One other point: Defense money doesn't have to be justified like, say, welfare money. Gen. X says the country needs a billion dollars for development of a new submarine.

A critic asks: Why? Why do we need it and why will it cost so much? Gen. X answers: "According to the most reliable sources and figures, we need it and it will cost a billion dollars."

The critic replies: "Based on what information? Tell me."

"Sorry," Gen. X responds. "I can't. The information is top secret."

Industry has backed Gen. X . . . and so has Sen. Y whose state houses the factory that builds the new submarine . . . and Mr. Z, who owns the factory. Even if taxpayers agree with Gen. X that we need the submarine, they might put pressure on all vested interests to watch their costs and indulge in a little free enterprise competition to maybe lower some costs. That's just good business.

Four recommendations suggested by Charles L. Shultze, senior fellow of the Brookings Institution, bear looking at. He recommended that the State Department submit to Congress a posture statement which would outline overseas commitments, their status changes, and their contributions (or lack of them) to the nation's vital interests.

This paper should relate to the Defense Department posture statement which is delivered to Congress annually. Secondly, the Defense Department should present and keep current a 5-year projection of budgetary requirements. Defense should also provide more cost data on its projects. Lastly, the two posture statements of the State and Defense departments should be weighed against broad national priorities.

DEMILITARIZE THE FEDERAL BUDGET

Dr. Seymour Melman, professor of industrial engineering at Columbia University, director of the Center for Manpower Studies, George Washington University, and the author of many publications on the subject of defense spending, noted in a speech before a House of Representatives committee:

"There would be no problem of paying for reordered national priorities if there were not a military budget and other war costs, past and present, that account for 64 per cent of the 1972 tax dollar.

"Since the Second World War the military burden has totaled over $1.1 trillion, more than the value of all residential and business structures in the U.S. Having forgone the productive use of such immense resources, it is no mystery that such deterioration is visible around us and that inflation, underemployment and fiscal weakness have become the ills of the American economy. This decay in American life cannot be remedied except by demilitarization—first of the federal budget. The Nixon administration proposes a 1972 budget of $79.2 billion for the Department of Defense. I suggest that the military security of the United States can be competently served with armed forces costing two-thirds less, between $25–29 billion.

"The difference, approximately $50 billion per year, is what is needed to start restoring the United States economically and morally.

"A defense budget should be adequate to pay for the men and equipment needed to implement a particular military security policy is the heart of the matter. How much is enough is defined by enough for what? If what is wanted is the capability to try to overwhelm opponents in deliberately run nuclear wars, then recent U.S. military budgets and forces are barely adequate, or too low. On the other hand if the preferred security policy is aimed basically at defense—defined as nuclear deterrence, competence to guard the United States and the capacity to contribute to international peacekeeping—then the present U.S. military establishment and its costs are extravagant. At present, the Nixon administration's policies call for capability to fight a nuclear war and two other wars at the same time . . ."

In his book entitled "Pentagon Capitalism: The Political Economy of War," Melman observed:

"In an industrial economy, two classes of technical activity limit the current and future quality of the industrial system. The first is the scale and quality of research and development; the second is the quality of the physical plant used for production. The physical plant fairly well determines the productivity of both capital and labor, and research and development affect the development of productivity and product innovation.

"In November, 1968, the McGraw-Hill Company completed its regular five-year inventory of metalworking machinery in U.S. industry; it disclosed that 64 per cent of the metalworking machine tools used in U.S. industry were ten years old or older. The age of this industrial equipment (drills, lathes, etc.) marks the United States' machine tool stock as the oldest among all major industrial nations, and it marks the continuation of a deterioration process that began with the end of the Second World War. This deterioration at the base of the industrial system certifies to the continuous debilitating and depleting effect that the military use of capital and research and development talent has had on American industry. The machine tool industry is merely one of the American civilian industries with modest research and development programs (excepting a literal handful of the very largest firms) and with unstable, hence inefficient, production systems.

"The aging stock of machine tools constrains productive growth within the entire industrial system, because all metalworking industries utilize machine tools to a greater or lesser degree. While the United States carries out research and development (R&D) programs on a scale unmatched by any other country, it is important to evaluate this activity in terms of the concentration points of the R&D effort, as well as the size of the U.S. population and the scale of its economy. Thus, in November, 1967, the International Organization for Economic Co-operation and Development (based in Paris) found that the United States had 700,000 scientists, engineers, and technicians working in research and development. However, 63 per cent of this activity was on behalf of the military. Thus, approximately 259,000 R&D personnel were estimated to be engaged in civilian work. This compares most unfavorably with the western European research and development staff which totals 466,000, an overwhelming part of which is engaged in civilian research and development."

GUIDELINES FOR ALASKA REGIONAL CORPORATIONS

Mr. STEVENS. Mr. President, I recently have been advised by the Assistant Secretary of the Interior, Mr. Harrison Loesch, that the Interior Department, has formulated its guidelines for the Regional Corporations authorized by the Alaska Native Lands Claims Settlement Act.

In 1971, Congress took a historic step by its passage of this act to settle the outstanding claims of the Alaska Natives. The act authorized the creation of 12 Alaska Native Regional Corporations which will implement the settlement provisions set forth.

Mr. President, the promulgation of these guidelines will permit Native associations to take immediate steps toward incorporation. This process is an urgent necessity in order for these associations to qualify for interim financing from private sources.

Mr. President, I ask unanimous consent that the "Guidelines for Articles of Incorporation and Bylaws of Regional Corporations" be printed in the RECORD.

There being no objection, the guidelines were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., Feb. 22, 1972.

ORGANIZATION OF REGIONAL CORPORATIONS UNDER ALASKA NATIVE CLAIMS SETTLEMENT ACT

Attached for your information is a copy of the Department's "Guidelines for Articles of Incorporation and Bylaws of Regional Corporations."

Triplicate originals of the Articles of Incorporation and Bylaws, together with the statements required by the guidelines, should be submitted to this office for approval under Section 7(e) of the act. Secretarial approval will be endorsed on each set of Articles and Bylaws and two will be returned to you for filing with state authorities.

Of course, both this office and the Solicitor's Office are available to discuss incorporation problems at any time.

HARRISON LOESCH,
Assistant Secretary, Public Land Management.

GUIDELINES FOR ARTICLES OF INCORPORATION AND BYLAWS OF REGIONAL CORPORATIONS

Section 7(e) of the Alaska Native Claims Settlement Act provides for Secretarial approval of the original articles of incorporation and bylaws for each regional corporation. In order to facilitate the work of the incorporators and their attorneys, the Department has prepared these guidelines or criteria for use in reviewing the proposed articles and bylaws.

These guidelines reflect the Department's announced policies:

(a) That the organization and operation of the regional corporations should be left, to the greatest extent possible, to its owners—the stockholders;

(b) That the regional corporations should be organized as soon as possible, to enable them to timely meet their obligations under the act; and

(c) That until the enrollment process is completed and the stockholders are fully identified, the regional corporations should have limited authority.

Because each region may experience unique organizational problems, these guidelines are not inflexible. Variances will be considered where any guideline is considered inappropriate.

Except where the act specifically requires that a particular provision be inserted in the articles, it may be inserted in the bylaws, when appropriate and if accompanied by a provision that the particular bylaw may not be amended during the regional corporation's first five years without the approval of the Secretary.

I. GENERAL

As provided in Section 7(d) of the act, the articles must contain those provisions necessary to carry out the terms of the act. Unless otherwise limited by the act or by the articles and bylaws approved by the Department, each regional corporation should have all the powers of an Alaska business corporation.

Approval of articles and bylaws will be withheld if inequities among Native individuals or groups of Native individuals would be created.

II. INCORPORATORS

The incorporators should be named by the Native associations listed in Section 7(a) of the act. A statement should be submitted to the Secretary identifying the residence of each incorporator, his position, if any, with the association, and the manner by which the incorporators were selected.

III. DIRECTORS

A. A statement should be submitted to the Secretary identifying the residence of each member of the initial board of directors, his position, if any, with the association, and the manner by which the initial directors were selected.

B. The terms of the members of the initial board of directors should be one year. In any election conducted prior to completion of the roll, the terms of the directors should also be one year. In board elections conducted after completion of the roll, the terms shall be as fixed in the articles.

IV. VOTING

A. In board elections conducted prior to completion of the roll, Natives enrolled of record on the first day of the month preceding the election should have the right to vote.

B. Voting proxies should be in writing and limited to a period of not more than 11 months. Until after the first board election following completion of the roll, proxies may be given only to Natives enrolled in the same region.

C. Cumulative voting should be allowed in all board elections.

V. POWERS

A. Unless otherwise limited by the act or by the articles and bylaws approved by the Secretary, each regional corporation should have all the powers of an Alaska business corporation.

B. Prior to completion of the roll and election of the first board of directors thereafter, the powers of the regional corporation will be limited as follows:

(1) *Borrowing Funds:* Limited to a ceiling authorization set forth in the articles, except that additional funds could be borrowed with the approval of the Secretary. A statement justifying the proposed ceiling authorization shall be submitted to the Secretary together with the proposed articles and bylaws.

(2) *Spending or Committing Funds:* Limited to: (a) a ceiling authorization set forth in the articles; (b) a period of time not to exceed one year, and (c) organizational purposes and to assemble and analyze data pertinent to land selections and related responsibilities. Funds may be spent or committed in excess of the ceiling authorization, beyond a one year period, or for other purposes only with the approval of the Secretary.

(3) *Investment of Funds Distributed Under Act:* Limited to periods not to exceed one year, except that longer term investments may be made with the approval of the Secretary.

(4) *Land Selections:* May not be made.

VI. APPROVAL OF ARTICLES OF INCORPORATION OF VILLAGE CORPORATIONS

A. Regional corporation should withhold approval of articles of incorporation of village corporations if inequities among Native individuals would be created.

B. Approval of articles of village corporations should be withheld unless they contain a provision prohibiting the selection of lands by the village corporations prior to completion of the roll and election of the first village board of directors thereafter.

THE PRESIDENT'S MESSAGE ON AGING

Mr. MOSS. Mr. President, I waited with great anticipation on Thursday last when I heard that President Nixon's long-heralded Message on Aging was being released.

With all the momentum following a truly historic White House Conference on Aging and given the peculiar pressures of a presidential election year I fully expected, and even hoped, for another of the now-famous Nixon reversals. Having read the full text of the Nixon message I am greatly discouraged and disappointed. Much to my chagrin I must today report that the Nixon Message on Aging ignores the substantive resolutions of the White House Conference on Aging and continues the administration's policy of neglect and indifference to the needs of older Americans.

The President, it seems, is willing to make a political issue out of the devastating problems that confront the elderly. The speech gives the impression that the administration is doing much while in reality it is doing little. The Presidential message is high in platitudes and low on substance; it promises much of what Congress already is providing. All in all, it is a most unpalatable pablum.

These are harsh words, but I have measured them carefully, and I invite anyone to journey with me through the never-never land of this message on aging to measure the validity of my conclusions.

The Presidential message notes that the Federal Government will spend $50 billion in fiscal year 1973 for the elderly. The use of this figure is most unfortunate. It gives the impression to seniors that there is a sizable amount of money budgeted for their needs. It simply is not true. We are provided with no exact breakdown of this $50 billion figure but most experts agree that it include payments due from the social security trust fund.

In related point the administration cites funding for the Older Americans Act, with announced dramatic increase in these funds during the Nixon administration. The facts are that the Older Americans Act had been funded at the $32 million level and the Nixon administration last year requested only $29.5 million and then, only after the chairman of the Senate Committee on Aging, Senator CHURCH, called special hearings on this subject was the amount finally raised by the Congress to $100 million and reluctantly accepted by the administration.

Following is a point by point recitation of the major problems confronting the elderly from the President's message, followed by the solutions proposed by the White House, and my comments thereon.

INADEQUATE RETIREMENT INCOME (THE CENTRAL PROBLEM)

The President said:

> Perhaps the most striking change in the lives of most Americans is the sudden loss of earned income which comes with retirement.

The President apparently was unwilling to take any new initiatives despite the recommendations of the White House Conference. He was content with a recitation of the proposals in H.R. 1. They are:

A 5-percent social security increase;

Tying future increases to the cost of living; and

Raising the amount that a senior can earn, without loss of part of his social security check, from $1,680 a year to $2,000.

Significantly, there was no mention of the proposed 20 percent increase in social security benefits which the chairman of the House Ways and Means Committee has promised and says can be provided primarily out of excess social security trust funds. Unless our Government agrees to this significant increase before tying future increases to the cost of living we will perpetuate forever the current fact which is that the elderly constitute the floor of our economy. It is startling to remember that one out of four seniors has income placing him below the poverty line.

But in addition we must raise it to at least $210 to $300 per month, the amount that a senior can earn without forfeiting part of his social security check. To do less will also perpetuate the present reality that social security constitutes a disincentive to work. Curiously, Mr. Nixon has taken a strong stand on this disincentive to work in other contexts, why not in this one?

ESCALATING REAL ESTATE TAXES (PROBLEM NO. 2)

The President said:

> The heavy and growing burden of property taxes constitutes one of the most serious of all income-related problems.

The President promises:

To continue his investigation of alternative methods of financing public education and to work for his revenue-sharing bills.

Not long ago, I introduced and had printed in the RECORD my bill S. 3088, which is far from perfect but attempts to deal with the problem of escalating real estate taxes. In introducing that bill I pointed out that in some instances we have learned that property taxes consume as much as 50 percent of the total incomes of some seniors. That situation is intolerable. It will not wait several years for study and more delay and recitation of good will from the White House. It is noteworthy that the Senator from Maine (Mr. MUSKIE), the Senator from Maryland (Mr. MATHIAS), and several other Members of Congress have introduced bills designed to provide our older citizens with some relief. It is regrettable that the President did not endorse any of these proposals or offer his own proposal.

CONSUMER PROBLEMS AND THE ELDERLY

The President said:

> It is estimated that the elderly spend over $60 billion yearly for goods and services—our economy should be responsive to the needs of older consumers.

The President proposes:

Simply enactment of the "several pieces of administrative sponsored consumer legislation" designed to reduce dangers which are especially acute for older consumers.

The reality is that the administration has consistently opposed progressive consumer legislation and offers its own legislation only after it receives the impression that congressional passage appears likely. Administration proposals, without exception, seek to weaken congressional proposals designed to protect the consumers.

HUNGER AND MALNUTRITION

The President said:

> The thought that any older American—may suffer from hunger and malnutrition is intolerable.

The President's Program:

He notes the great progress inherent in the passage of S. 1163, Senator KENNEDY's nutrition bill to provide meals in group settings and delivered meals for those confined to their homes. His speech gives the impression that the administration supported this proposal from the beginning.

The reality:

The administration had consistently opposed the Kennedy bill and had a change in heart only after the bill had cleared the Senate 87 to 0.

HOUSING

The President said:

> The Administration has also worked hard to respond to the very special housing needs of older Americans.

The President's program:

A promise of 66,000 units for the elderly during this fiscal year and 82,000 units next year.

The Congress last year earmarked $35 million for housing for the elderly; HUD's impoundment of funds resulted in only half that amount being used.

By whatever measure, the President's program will not provide, nor does it claim to provide, a minimum of 120,000 housing units for the elderly which is the need fixed by the White House Conference on Aging.

Nor has the administration seen fit to endorse an Assistant Secretary of Housing for the Elderly. This is another resolution of the White House Conference and the office is established in the Housing bill passed by the Senate.

Nor has the administration elected to accept the resolution of the White House Conference on Aging to resurrect the section 202 program which provided direct loans to nonprofit sponsors who desired to build housing for the elderly. The Senate-passed bill includes a $100 million increase in the authorization for 202 housing, the most successful of our housing for the elderly programs. Section 202 ran 10 years without a failure and provided 45,000 units specifically designed for the elderly. It provided much more than housing—it provided services and a way of life.

It is worth stating again that this program was phased out in favor of a more expensive and less efficient program, section 236, which uses the interest subsidy mechanism. These subsidy programs are under attack at present because of their extreme cost to the Government. A $3 million project costs the Government $8 million in interest alone over the 40-year life of the mortgage. A recent HUD audit is sharply critical of interest subsidy in sections 235 and 236; other independent studies by Harvard and MIT for the Housing Banking Committee are also critical but the administration proudly enumerates that about 600,000 subsidized units will have been built in this fiscal year.

HEALTH PROBLEMS AND THE ELDERLY

The President said:

> Growing old means poor health and declining income. Older Americans find that they must pay their highest medical bills at the time when they are least able to afford them. Seniors pay $861 per capita for health care while those of us younger than 65 pay about $250. Medicare—

Noted the President—

> only covers 42 percent of their health needs but 40 percent of Medicaid—

I add a hyphen and the word "welfare"—

> expenditures go to the support of health costs of the elderly.

The President's program:

Lifting the $5.60 a month premium that seniors must pay to receive coverage under part B of medicare. The reality:

At the same time that the administration proposed the lifting of the part B premium it has proposed higher coinsurance and deductibles under medicare which ultimately restricts medicare coverage. The administration, it seems, gives with one hand and takes away with the other. If that is not enough there was no mention of the need to expand the scope of medicare to cover prescription drugs, eyeglasses, hearing aids, or dental care.

INFLATION

The President said:

> Because older Americans are dependent on relatively fixed incomes, they are uniquely victimized by the ravages of inflation.

The administration program:

The so-called new economic policy with its selected wage and price controls.

The reality:

A quick glance at the consumer price index will indicate how well phase II is working. The price of food and particularly meat is now sky-high. Consumer dissatisfaction is high and small wonder. Another pillar in the administration's game plan is to reduce Government spending—so it says on page 12 of the President's speech. There is a curious inconsistency here with page 2 of the text which refers to the $50 billion that presumably will be spent for the elderly this year and the suggestion that this is a 150-percent increase in spending for the elderly.

So it should be clear why I say that the President's message is disappointing. The White House it seems has chosen to follow rather than to lead. But even more disappointing the White House apparently is content with tokenism. It courts the elderly voter with an impression that it is taking action to meet his needs. But it does so as cautiously and inexpensively as possible.

To this point I have scrupulously avoided any comments about the President's eight-point plan to eradicate substandard nursing homes. Earlier, I promised that I will give HEW a chance before becoming unduly critical. Even so a few things must be said.

First, I do not see the substantial progress in improving nursing homes that the President sees. Progress in implementing the President's eight point plan has been anything but spectacular and much less than comprehensive.

Second, Secretary Richardson's December announcement that HEW would withhold funds from 38 States unless they had complied with Federal standards to bring their inspection procedures up to date by February 1 has all the earmarks of a publicity gimmick.

All States but one are said to have complied. What was required for compliance, I asked?

The States simply had to address a letter to the Secretary noting their intention to comply and to bring their procedures up to date.

The word "procedures" relates essentially to the flow of paper through the States' health and welfare departments. The new deadline of July 1 simply means that by then the States must have their paperwork in order. They must ascertain that all the nursing homes have transfer agreements, that Federal standards are used in certification, and that there is communication between HEW and the State health and welfare departments.

The essential question seem to be: When will the Federal and State Governments get down to the specifics of looking at patient care or only compliance of a nursing home with an amorphous set of paper requirements?

I suggest that it is important to measure capability. It is important to ask a nursing home if it has job descriptions and transfer agreements with a local hospital. But it is infinitely more important to go beyond capability to measure the type of care actually given. That entails looking at patients rather than paper; looking for bedsores and errors in medication rather than errors in accounting.

Another item which has become a pet peeve of mine is that, while the administration speaks in terms of helping nursing homes to upgrade rather than closing them outright, I see no major effort from HEW to help nursing homes improve.

Other than the bill I introduced this session which would provide loans for the purchase of fire safety equipment, I see few efforts to help the nursing homes meet higher standards. The administration for example might propose a broad program for the repair and rehabilitation of nursing homes. In-service training programs could be offered for aides and orderlies on the local level.

There is much that can and must be done in this field. One thing appears to be essential to any improvement and that is greater involvement of physicians in long-term care. Few if any medical schools currently offer geriatrics as a specialty nor offer programs whereby interns can work in nursing homes. Here too, leadership is necessary from the administration.

That leadership as of now is not forthcoming.

The President's message is far from "good news for older Americans." I hope that the major senior citizen organizations will analyze the reality of this message for their membership. The 20 million older Americans deserve a better break from their Government. They could use another of the famous Nixon reversals.

REVENUE SHARING

Mr. FANNIN. Mr. President, the House Committee on Ways and Means has been considering legislation on revenue sharing. If such legislation is ultimately adopted it will mark an important milestone in the effort to rejuvenate the Federal-State partnership.

Enactment will mean the realization of one of President Nixon's major objectives. States will regain their position of leadership and the people will be given the opportunity to determine their priorities.

Mr. President, a good article on the subject of revenue sharing appears in the National Review of March 31. It was written by James A. Maxwell, a former teacher of finance at Clark University. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

YES, TO REVENUE SHARING

(By James A. Maxwell)

In the July 13, 1971 issue of the National Review, William G. Fredericks opposes revenue sharing on several grounds, two of which are that its adoption would 1) erode federalism by accelerating federal dominance over state and local governments, and 2) violate the principle of financial responsibility which holds that governmental decisions to spend should be matched with decisions to raise the necessary revenue.

Surely it is paradoxical to find that proponents of revenue sharing, from Walter Heller to President Nixon, declare their main aim is to strengthen federalism by reinvigorating state and local governments. President Nixon in his 1971 State of the Union Message said:

"The time has come for a new partnership in which we entrust the states and localities with a larger share of the nation's responsibilities, and in which we share our federal revenues with them so that they can meet those responsibilities. To achieve this goal, I propose to the Congress tonight that we enact a plan of revenue sharing. . . ."

Since the United States has no experience with general revenue sharing, appeal to historical evidence is not possible. Two other federal nations, however, have had experience. Canada started with general revenue sharing in 1867, and Australia, in 1900. In both nations fears were expressed at the outset (and for years after) which are now echoed in the United States. The Prime Minister of Canada, Sir Wilfred Laurier, said in 1905: "It is a sound principle of finance and a still sounder principle of government, that those who have the duty of expending the revenue of a country should also be saddled with the responsibility of levying and raising it." The Commonwealth Treasurer of Australia, Earle Page, said in 1927: "The government considers that the vicious principle of one authority raising taxation for another authority to spend should be terminated at the earliest possible date." Nowadays not even an echo of such verbiage can be heard. The system of revenue sharing (unconditional grants) is acknowledged by all political parties to be a force that strengthens federalism. The old adage that he who pays the piper calls the tune is recognized to be irrelevant; the old dispute looks like a fossil of history. And yet in the United States the old dispute has shown an unexpected capacity to promote controversy.

The experience of Canada and Australia has significance for the United States because these two countries are "natural" federalisms. They are large and diverse nations in which some *variation* in the type and level of many civilian governmental services, especially those provided directly to individual citizens, is in the national interest. Federal administration would be both inflexible and wasteful in the face of diverse needs. Reservations concerning details aside, the main thrust of general revenue sharing is in the direction of decentralization.

In 1971 President Nixon proposed not only *general* revenue sharing, but also *special* revenue sharing by which he meant consolidation of some 130 categorical grants into six groups: law enforcement, manpower training, urban community development, rural community development, education and transportation. Very many congressional leaders (including Representatives Wilbur Mills and John Byrnes of the Ways and Means Committee) have in *principle* endorsed special revenue sharing and then qualified their endorsements by criticizing the make-up or composition of the six groups. This attitude will, almost surely, be fatal to congressional action because it will be utilized by pressure groups to support and protect narrow categorical grants.

In Canada and Australia categorical grants have been viewed with suspicion as biased toward centralization.

In a federalism, functions of government and sources of revenue are divided between the Federal Government on the one hand, and state and local governments on the other. This division allows the Federal Government to handle its functions *uniformly* over the nation; it leaves the states free to handle their functions with considerable *variation* from state to state according to differences in citizen needs and preferences. Similarly, each level of government is free to construct and adapt its own revenue system. If the division of functions and revenues, federal and state-local, is satisfactory, the federalism will be fortunate. "Dual" federalism will work, and each level will find that its ability to handle its set of functions coincides with its ability to collect the needed revenues. Inevitably, however, the division will get out of date. An imbalance will develop between the situation of the Federal Government and that of all the states. This will be tolerable when the recognized governmental functions are neither numerous nor expensive, and when, as a result, every level of government has some acceptable sources of revenue open to it. But when, as now, extensive and expensive programs are in operation, and when, especially at the state-local level, elastic and equitable revenues are hard to find, the federalism is in trouble.

The trouble is compounded by the unequal fiscal strength of the states because then the imbalance has a differential impact. Governments in poor states cannot, with equal effort, provide levels of service equal to those of the rich states. For some services, as will be discussed, an appropriate remedy is to be found in the conditional grant; for others, however, the appropriate remedy is revenue sharing.

Three remedies for imbalance are available: 1) Federal responsibilities can be increased by direct takeover of services previously in state-local hands. This is centralization, an unacceptable remedy to me and to Mr. Fredericks which will not be considered here. 2) Tax sources can be moved from the federal to the state-local level. 3) Federal grants-in-aid, conditional and unconditional, can be utilized.

TAXES AND CREDITS

Little doubt can exist that the Federal Government is a better tax-collector of most taxes than are state and local governments. Most certainly it is a better collector of income tax. And yet the opinion persists (Mr. Fredericks is a believer) that a tax credit against the federal individual income tax would be a more satisfactory form of financial relief to state and local governments than revenue sharing. The most serious in a long series of proposals is that of Rep. John W. Byrnes, ranking Republican on the House Ways and Means Committee. By his bill (HR 8193) individuals would be allowed to credit against their federal liability up to 20 per cent of their payments of state-local income tax. For states *with* income taxes the first effect of such a credit would be to reduce the federal liability for individuals. If, for example, the federal tax of John Doe in New York was $1,000 and the state tax $100—a total of $1,100—the 20 per cent credit would reduce his federal tax to $980 and his total income tax to $1,080. In order to gain revenue the state would have to increase its tax. An increase of the state tax on John Doe from $100 to $120 would leave his total tax unchanged at $1,100.

The nine or ten states *without* income taxes would have to enact them in order to gain a credit. Some of them could not act without a constitutional amendment (which would be slow); some might inveigh against federal coercion; some might hail the credit as a bonanza, costless in the aggregate to their taxpayers, since the amount of the new state tax would be matched by the reduced amount of federal tax liabilities. *Pace* all these incertitudes, as well as other more technical flaws which cannot be exposed here. The issue on which to focus is: What would the Byrnes (or any similar) credit do, financially, for state and local governments which now have income taxes?

If all of them picked up fully the 20 per cent credit, their revenue gain in 1970 would have been $2.5 billion. The gains, however, are very unequal. States which are strong users of individual income taxation, e.g., New York and Hawaii, would have gained $38.60 and $33.20 per capita; states which are weak users, e.g., Mississippi and Maine, would have gained $4.66 and $4.84 per capita. But what if

Mississippi made an income-tax effort equal to that of New York (effort being measured as state-local collections as a per cent of state personal income)? New York in 1970 raised $137 per capita; Mississippi, with similar effort, would have raised $77 per capita for which its tax credit would have been $15.60 per capita (compared to a credit of $38.60 per capita for New York). If Mississippi tried to raise as much per capita as New York through state-local individual income taxation, it would have to make an income-tax effort greater by 80 per cent.

The conclusion to be drawn is simple and obvious. An income-tax credit, whatever its merits, would do little for governments in "poor" states. The gap in financial strength between them and the richer states would be widened. The credit is *not*, therefore, an alternative or substitute for revenue sharing.

PERMANENT GRANTS?

The Federal Government has been a prolific donor of categorical grants. In a dynamic federalism which, over time, becomes economically integrated, services once wholly of state concern take on some national characteristics and justify federal intervention. Conditional grants offered a method by which provision of such services is left in the hands of state-local governments, and yet these governments are induced to lift the quantity and improve the quality of the provision.

At present the opinion is widespread that categorical grants have been overutilized; the amount spent on them rose from $7.9 billion in 1950 to $24.4 billion in 1970, and the number grew from 160 to more than five hundred. Growth in their complexity, while not quantifiable, has surely outpaced the growth in numbers. A formidable information gap has been created because state and local officials cannot know what is available; "gamesmanship" has been stimulated, and this enables the alert rather than the deserving government to secure federal money. The Federal Government, misled by its superior fiscal power and by a centralist bias, has substituted its preferences for those of the states. It has distorted the pattern of state-local spending by imposing controls that were too detailed and also inappropriate to the diversity of state-local needs. Expanded use of categorical grants is not, therefore, an acceptable remedy for the fiscal imbalance of the American federalism, and yet pressure for expansion will be unremitting until it is relieved by revenue sharing.

Numerous state and local services in which there is no significant national interest do not receive federal grants and this is as it should be, since federal conditions and rules with respect to them would be worse than useless. Federal rules must be *uniform* across the nation in an effort to establish minimum standards of performance. The Federal Government cannot devise and apply *different* standards from state to state, and yet, for many services, different standards are appropriate. Diversity in performance is necessary because needs are diverse.

Those services which do not, and should not, receive conditional grants are, let it be emphasized, important to state and local governments. When the level and the quality of performance are low—as is surely the case in some states simply because of fiscal poverty—the remedy is to be found in revenue sharing by which grants without strings are distributed to state and local governments on a basis which is somewhat revenue equalizing. That is, the amounts allotted to a poor state ought to be in excess of federal revenue collection from it to finance the grant, and, conversely, the amount allotted to a rich state ought to be less. How much revenue equalization should be provided is an intricate and controversial question concerning which reasonable men will differ. The scheme recommended by the Administration—allocation by states mainly on the basis of population so that the per capita grant of each state is equal—is somewhat equalizing because the revenue for the grant, raised by a progressive federal tax system, comes disproportionately from rich states. When the Federal Government collects $1 in taxes from the average resident of the nation, it collects more than this—approximately $1.48—from the average resident of Connecticut, and less than this—approximately 46 cents—from the average resident of Mississippi. Allocation of the grant on the basis of population has also the merit of objectivity; the share of the aggregate grant for each state is determinate.

A feature of the Administration scheme which draws the fire of Mr. Fredericks is that the money for revenue sharing is to be provided through a "permanent appropriation." This will, he declares, limit congressional discretion with respect to annual budgeting and "result in permanent diminution of the Congress' role as a counterbalance to the Executive." The clause quoted has a touch of hysteria. The intent of a "permanent appropriation" is to give some automaticity to annual provision of the grants: The Treasury Department would not have to go annually to the Office of Management and Budget asking for an appropriation for revenue sharing, and OMB, in turn, would not have to go to the Appropriations committees. Surely it is reasonable that the fifty states and thousands of local governments be given assurance of provision of their annual grants. But any Administration can recommend, and any Congress can enact, legislation modifying or repealing revenue sharing; no Congress can bind a later Congress.

The most plausible criticism of revenue sharing is that it infringes the principle of financial responsibility. The principle, strictly applied, would not tolerate any intergovernmental transfers, federal to state and state to localities. But if, as is inevitable, an imbalance exists, must not the principle of financial responsibility be compromised?

In the area of public finance this is standard practice because its principles are relative and overlapping. Each principle must be applied with due consideration of how to accommodate it with other principles. The principle of equity in taxation will, for instance, sometimes yield to administrative feasibility and to revenue productivity; revenue productivity will, at some point, yield to equity and convenience. Conflicts arise, similarly, with respect to the principle of financial responsibility. If, as it dictates, each level of government should finance itself, either the amount or the quality of services provided by poor governments will suffer. The principle of horizontal equity, which declares that equals should be treated equally by government, is violated. Revenue sharing offers a way to reconcile and compromise this conflict between horizontal equity and financial responsibility.

"COOPERATIVE FEDERALISM"

What is the *extent* of the breach of financial responsibility which is contemplated? The Administration bill proposed for 1971–72 general revenue sharing amounted to $5 billion. In that year state and local governments would be spending approximately $160 billion, of which 85 percent would come from their own sources of revenue and 15 per cent as intergovernmental revenue. Revenue from own sources has, recently, increased by $8 billion yearly.

Is it plausible to argue that the addition of $5 billion through revenue sharing would change either the method or the quality of budgeting appraisals by state and local officials? Conscious as they are of numerous unmet demands for expenditure, they would allocate the $5 billion provided as an unconditional grant by the techniques used to make other budgetary decisions. To assert this is not to deny that if all or much of the revenue of state and local governments came as unconditional grants, so that little or no tax discipline accompanied their spending decisions, state and local financial responsibility would be impaired. But no such situation is created by unconditional grants which, at the outset, would add 3.1 per cent to total state-local revenue.

The objection may be raised that a grant of $5 billion would be a foot in the door. Is there reason to expect that this type of grant would get out of control? Unconditional grants, in the mind of Congress, will be alternatives to larger direct federal expenditure or to reduction of federal taxes, and the kudos to be gained from these alternatives will usually be more apparent than from expansion of unconditional grants.

State-local governments will, to be sure, *request* larger grants. But their political power in Washington has been principally negative. They muster a sturdy opposition to measures they dislike; they have not been effective proponents, and it is hard to see how establishment of an unconditional grant would alter their political leverage. Care should, of course, be taken in the design of the grant. If state-local governments could add to their spending in full confidence that this would augment their grants, fiscal irresponsibility would be manifest. But a grant design, such as that proposed by the Administration, is insulated from any such temptation, since both its annual aggregate amount and its distribution among the states are determined by a formula.

A federalist in the 1970s is plagued with anxiety concerning the problems of American federalism. History will inform him that the course of federalism has seldom run smooth, and that, periodically, for more than 180 years, similar worries have been endemic. While this information will be a consolation, it should not be a sedative. It would be rash to allow beliefs—not to say dogmas—rooted in past experience to retard search for ways by which American federalism can be strengthened. The search should be for improved techniques of federal-state-local fiscal cooperation.

The old concept of separation of governmental functions, federal and state-local, should be replaced by the concept of cooperative federalism. Sometimes the Federal Government, through the conditional grant, will stimulate and coordinate performance of services at the state-local level. This valuable device should not, however, be overapplied, as it has been in the United States in recent years. A corrective move would be provision of unconditional grants, allocated by a formula favorable to the poorer states. For a very considerable range of state-local services, differences in preferences should be respected, and, within limits, expression of these diverse preferences should not be impeded by differences in fiscal strength. Such differences should be reduced through grants which are distributed without reference to the purposes for which they may be spent.

THE EFFECTIVENESS OF PHASE II?

Mr. EAGLETON. Mr. President, I receive correspondence from my constituents every day commenting on their personal experience with the ineffectiveness of the Phase II controls. Some citizens, however, do more than write letters. There are groups in Missouri, as I know there are in all other States, which have formed to help monitor violations of Phase II guidelines. Such a group is the St. Louis Price and Rent Compliance Committee.

Only 3,000 Internal Revenue Service personnel have been allocated to play the watchdog role over this vast and complex economy of ours. I applaud the citizen groups which have aided this effort. Moreover, I think it may be helpful to note the observations of these groups now that we have passed the 4-month mark of Phase II.

Mr. President, I ask unanimous consent that a letter sent to me from the St. Louis Price and Rent Compliance Committee be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ST. LOUIS, MO.,
March 14, 1972.

Hon. THOMAS F. EAGLETON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR EAGLETON: After four months of intensive and often exasperating effort to assist the Federal Government in enforcing price and rent controls of Phase II, the St. Louis Price and Rent Compliance Committee has concluded unanimously. . . .

1. The control mechanics for Phase II are so thoroughly loopholed that there are, in effect, no controls at all—

2. The Internal Revenue Service is and has been totally ineffective in performing its designated enforcement functions, and

3. If, and we consider it unlikely, Phase II has brought any relief to consumer food budgets, that relief has been obliterated in whole or in part by the runaway price of meats.

Aware that the regulations originally drafted by the Cost-of-Living Council were so complicated and abtruse that the consumer was excluded as an effective monitor of pricing, our committee encouraged the public through news media and extensive pamphleting to direct suspected violations of Phase II price and rent controls through two offices it established in St. Louis.

By January 11, 1972, the date the Cost-of-Living Council declared the results of such investigations were to be made public, our committee had processed and filed a large number of complaints with the Internal Revenue Service. These complaints concerned suspected violations in food, drugs, clothing, rents and hardware.

Enclosed you will find copies of our complaints and the answers of I.R.S. The results of the I.R.S. investigations are written on the lower left hand side of each page. We feel the large number of increases that were allowed based on "increased cost" at the point where products are unregulated needs further investigation.

The three labor bodies, The Greater St. Louis Labor Council, AFL–CIO, the Teamsters Union and the United Auto Workers, which have staffed and funded this committee take affront when their efforts to assist in making President Nixon's economic program effective, are treated with disdainful disregard by the federal agency designated to enforce an area of that program.

Our committee has been dismayed at the impudence food retailers have demonstrated in increasing their prices since the beginning of Phase II.

We have worked closely with Housewives Elect Lower Prices (HELP), which as you were earlier informed, conducted surveys to assess the impact of Phase II on food prices. Our own research in this area supports that group's graphic indictment that Phase II has been totally unsuccessful in inhibiting food prices increases.

HELP's survey of 40 items, including meats, produce, dairy and staple products reveals food prices rose 3.59 percent between Nov. 12-13, 1971 and Jan. 28-29, 1972.

While these surveys indicate Phase II has brought no relief to the consumer in food purchases, the unregulated price of meat alone, certainly would have obliterated "any possible" gains to the consumer in controlled items.

Meat prices rose during this period by 9.05 percent, and since estimates of the share of meat purchases in the average consumer food budget amount to 25%, this proves any relief consumers could have received from controlled items, have been smothered by meat.

The price of meat, as you are probably aware, has risen so drastically during Phase II, that many consumers, particularly those doomed to a life on low income, have had to switch to some substitute in order to provide their families with minimum protein requirements.

In light of the above, we encourage you to consider a Congressional Investigation of . . .

1. The effectiveness of Phase II in curbing inflationary price increases . . . .

2. The effectiveness of the Internal Revenue Service as the enforcement agency for Phase II price and rent controls, and

3. The cause and effect of runaway inflation in meat prices.

We encourage investigation of these matters, of course, with the hope they will lead to corrective legislation.

We also ask that you give this committee an opportunity to further expand on these matters, and suggest a meeting with you and other Senate and Congressional representatives of Metropolitan St. Louis during the Easter recess of Congress. With personal regards, we are

Sincerely,

HAROLD J. GIBBONS,
President, Teamsters Joint Council No. 13.

KENNETH WORLEY,
Director, United Auto Workers, Region V.

OSCAR A. EHRHARDT,
President, St. Louis Labor Council, AFL–CIO.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that according to current Census Bureau approximations, the total population of the United States as of April 1 will be 208,968,538. This represents an increase of 115,694 since the first of March, roughly the size of Albany, N.Y. It also represents an addition of 1,916,524 since April 1 of last year, an increase which is equivalent to three new Bostons.

RECYCLING—ADDRESS BY SENATOR MOSS BEFORE NATIONAL ASSOCIATION OF SECONDARY MATERIALS INDUSTRIES

Mr. EAGLETON. Mr. President, the National Association of Secondary Materials Industries held their annual convention in Los Angeles March 17. The keynote address was given by Senator FRANK E. MOSS, who chose the subject "Recycle or Perish: The Challenge to Business and Mankind."

The speech zeroes in on the central problem now facing the country regarding solid waste: In spite of the public attention and the extensive rhetoric given the subject, we have not adopted policies that encourage business to attack this problem. Our governmental policies actually hamstring the recycling of products by, for example, imposing higher rate charges on the shipping of such material and by providing tax preferences for the use of virgin resources.

I commend the reading of this speech to Senators and to the public at large.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

RECYCLE OR PERISH: THE CHALLENGE TO BUSINESS AND MANKIND

It is a great pleasure and a great honor to be with you this morning. I have chosen as the subject of my talk: "Recycle or Perish: The Challenge to Business and Mankind."

I am very much encouraged by all of the attention which is being paid to recycling these days. In fact, there are times when I would like to have a bit of recycling myself—particularly after weeks like this last one in the United States Senate. On Tuesday, we took eight roll call votes just trying to adjourn for the day.

The late Adlai Stevenson, who always managed to say something better than anybody else, once warned us:

"We travel together, passengers on a little space ship dependent upon its vulnerable supplies of air and soil . . . preserved from annihilation only by the care, the work, and the love we give our fragile craft."

This warning is enormously relevant for our present generation. For we have wrought more change in our environment than all other generations in the history of the world.

Someone must pull us out of the mire which we have created. All of us look to you for substantial help. In many ways the work your companies are doing epitomize the philosophy which will preserve the earth. You have discovered that the residue from our affluent society is not a solid waste, but a wasted solid. You may call yourself a "secondary" industry, but in my mind you are "primary"—up front and center—in this fight.

America has been described as a nation, knee-deep in garbage, firing rockets to the moon. Unless we turn to you and your services, we will choke on our own debris. You were recycling our wastes decades before the term "recycle" earned a spot in the dictionary—now you belong to an "in" profession.

So, this ought to be a smiling crowd with pockets bulging from profits created by the sweeping ecology movement of today. After all, the first Earth Day was almost two years ago. Since that time, thousands of words have been written and spoken, hundreds of protest miles have been marched, Congress has passed sweeping new legislation, and almost everyone has accepted the need for ecological balance in our life-style.

Many of you *are* succeeding as recyclers. But you succeed by meeting the laws of supply and demand; by dealing with the economic realities of day to day business existence. Unfortunately the ecology movement has not produced a huge bounty for the recycling industry. The figures, in fact, produce shock and disillusionment.

Paper is one half of the municipal solid waste problem. We should expect, then, that the amount of recovered and recycled paper would have increased significantly in the last few years. The facts, however, do not bear out this expectation. The paperboard industry, the largest user of recycled paper, has in recent years reduced its use of recycled paper in percentage terms. In ten years, the amount of recycled paper used by the paperboard industry has slumped from 42% to 28%.

Cheap, easy, quick transportation is vital for the recycling businesses. But has environmental awareness led to favorable freight rates? Definitely not. In the past twelve years, the railroads have *increased* preferential treatment of virgin materials, but ignored recycled materials. In 1960, recycled materials had to pay 13.9¢ per hundred weight *more* than virgin products. By 1971, through a series of definite and regular steps, the difference paid for recycled materials over virgin materials had actually increased to 18.6¢ per hundred weight.

Nor has the environmental movement had any substantial impact on some of the other crucial economic factors that are the lifeblood of your efforts. Many of the crucial indicators measuring the health and well-being of the recycling industry are moving in the wrong direction. This is a bitter pill to swallow during a period when we hear constantly that we are beginning to make progress.

Can the secondary materials industries survive? If you cannot, then our spaceship earth cannot. You are a barometer of the sanity of mankind.

This morning I would like to discuss some of the prospects for your success and for the survival of man. I would like to talk specifically, and I would like to talk generally.

No other forum provides the opportunity for this as well as your convention. There are tremendous philosophical questions to be discussed, and there are detailed steps that must be taken to carry out any philosophical changes. The two must be discussed together.

Barry Commoner, one of this country's leading ecologists, has pointed out that "nothing can survive on this planet unless it is a cooperative part of a larger, global whole." He points out that life as it first came to being on this earth, was initially following a self-destructive course. The first organisms known in history consumed their own nutritive base. They were headed for destruction as soon as their supply ran out. The waste products were useless to these first organisms.

Perhaps the first great step in evolution occurred when new life forms sprang into being that converted these wastes into useful new organic materials. The first recycling had begun.

Mankind must now socially engineer another crucial step in the work of evolution. We know the dimensions of the problems now facing man. The explosion of the environmental movement into the public consciousness is the result of a creditable forecast of catastrophe if we continue on our present course.

Yet we do not seem to be making adjustments fast enough. To be sure, there are hopeful signs. There are imaginative pieces of environmental legislation tucked away in virtually every committee of Congress these days. But that is just the problem: they remain tucked away. We have not moved very far to halt our burial in waste.

You can be the ones to help turn us from the path of resource exhaustion toward a continuous cycle of use and re-use.

Some may consider this suggestion as unrealistic. They will point out that until our population growth is controlled we are going to "self destruct" our own space capsule—the earth on which we live.

Now, it is true that population growth must eventually be stabilized. But population stabilization alone will not stop the kind of massive technological pollution that has grown so rapidly in this country since World War II.

Why have I selected World War II as a beginning? Because that point serves as a watershed in history. Most of the non-degradable products now threatening to suffocate our landscape were developed and put into production after World War II.

The amount of pollution produced per person since World War II has grown seven fold! Over that same time period, population has grown less than 50 percent, and income has grown about 50 percent. So you see that the technological problem is the most paramount aspect of the post-world War II environmental crisis.

It is the kind of products we buy, rather than the amount we buy or the number of people buying, that has caused most of our recent pollution. Do you remember when Premier Khrushchev toured the United States with President Eisenhower? He was fascinated with the wide variety of individual packets, fancy packaging, plastic containers, and innumerable non-degradable gadgets. At that time we were proud. But we now recognize that such packaging is a mixed blessing. It brings grave consequences for the ecological and resource balance of this planet.

Let's look at the increased consumption of beer bottles from 1950 to 1967. The total consumption of non-returnable beer bottles grew rapidly in this period. In fact, it jumped 595 percent. Now you might think by this figure that we had become a nation of alcoholics in a short period of seventeen years! But the actual *consumption* of beer, increased by only 37 percent. Population increased almost 30 percent during the same period.

So it is obvious that the actual consumption of beer grew only slightly. But the environmental impact of the container for that beer increased by 408 percent! It was not increased affluence or population growth that caused this jump. It was the development of a new product by our scientific technological society.

Current estimates of scientists are that population growth accounts for approximately 18% of the pollution increase since 1946. Increased wealth accounts for another 5 percent, except in the area of passenger travel where it rises to 40 percent.

The rest of the pollution increase, the overwhelming part, comes from the introduction of nonrecycled products that are built on a new technological base.

Why have we reached this position?

For decades we have used an incomplete accounting system in our economy. We have said that there is a category of "free goods" available for the taking. But now we must move from a "frontier economy" to the thriftiness of a spaceship system. In the frontier, resources were there for the taking, and we took and we dumped our wastes. But in a moon capsule, there is no room for a city dump.

The plastics industry did not have to include in its cost sheet the tremendous expenditures of solid waste disposal. Business that relied on the depletion of scarce resources, whether biological or mineral, did not see that they were borrowing from nature. Society will have to repay the interest and the principal at a later date.

This "cowboy economy" attitude blocks the development of secondary materials industries. How can anyone expect you to compete when tax policies encourage paper companies to manufacture with virgin timber instead of recycled paper products?

Hearings during the tax reform efforts of 1969 revealed that paper companies, on the average, paid 5 percent less in taxes than other manufacturing industries.

The rhetoric of the ecology movement has yet to reach the realities of the marketplace. When tax policies encourage this kind of activity, it is little wonder that the share of the market received by recycled paper has declined.

The profit and investment cycle presents another thorny problem. To make a living, a farmer is forced to invest in so much nitrogen that it ensures pollution. Investment in fertilizers and pesticides yields a much better return than investment in farm labor and machinery. Under our present system, it actually pays to kill the goose as long as the golden eggs brings enough money to buy another goose.

There is a direct conflict of interest here, and let no one deceive you about that. Your own executive vice president, Mr. M. J. Mighdoll, eloquently has testified before Congress about the direct confrontation of interests that occurs when we discuss recycling. He told one Senate subcommittee that (and I quote) "advocates of status quo policies are really suggesting that we do not disturb their present business and marketing orientations. Can our Nation afford such vested-interest thinking?" (close quote)

When we attempt to change basic attitudes—when we attempt to redirect a portion of our economic theory—when we say that every new product coming down the pike is not necessarily beneficial—then we run head on into interests that will be angry. They will fight us every inch of the way.

New York City recently attempted to use a new law passed by the State legislature allowing taxes on different packaging products. The city council was crushed by heavy pressures from members of the container industry opposing these new changes. These opponents killed most of what had been proposed.

Now, I understand why people don't want to pay additional fees. But I also understand that as a nation and as a species desiring to remain on this globe, we must unite and persist until such costs are accounted for.

I think it helps to discuss these problems. But I also believe we must face up to the need for creating solutions.

The first solution issue is basic to a democratic form of government. We have not yet broken the "attitude barrier". In spite of all the debate, discussion and speeches, we are still not getting through.

The General Services Administration of the Federal Government has only slowly and reluctantly published new guidelines for the use and recycled materials in paperboard products. I applaud this action, but I believe that the percentage amount of post-consumer waste materials could be doubled in the re-constituted materials with little or no effect on the quality of the product.

Even in my own domain, the United States Senate, we have a great distance to go. I have a bill that would require the use of recycled paper in the printing of the CONGRESSIONAL RECORD. I have another bill that would make it possible for senate offices to requisition recycled paper. Amazingly, senate offices do not now use recycled paper. These bills still await action by the rules committee.

As an attempt to help this effort get moving, I asked the senate stationery store to stock some recycled paper. I use that paper for constituent mail and also use recycled paper in my newsletters.

What about other senate offices? The experiment was a flop! Why? Because attitudes have to be changed, and because the price of the recycled paper is higher than that of the virgin stock. At least this is what the supply operators have told me. Orders have to specify recycled paper, and few offices have bothered.

This is only one small example, but it shows the shape of our battleground. Segregation of recycled materials must end. Second-class treatment must end. And we must make recycled materials the easiest and cheapest to obtain, not the hardest.

Your own association has recently called for a revision of tax laws so that recycled materials might get at least the same treatment as virgin resource materials.

I believe that you have been modest in your request. I can see no reason why recycled materials should not be given an actual advantage. Even with a definite advantage, the inertia of the present system is likely to continue. You have found that political speeches do not translate into profits. Until we actually gain the tax incentives necessary, the virgin resources industries may always have a preference advantage. Society cannot tolerate this for long without reaching the point of no return.

Another word about the population explosion. Population growth must be stabilized. The recent report of the president's commission will do much to stimulate discussion on this topic. But an approach based solely on population control when resources are still sufficient to support the population is, in the words of one observer, "equivalent to attempting to save a leaking ship by lightening the load and forcing passengers overboard. One is constrained to ask: Isn't there something radically wrong with the ship?"

We can repair the ship significantly by encouraging the kind of work that you and your industries do. We do not yet have to require that the passengers go overboard.

All too often we face old attitudes when we introduce new solutions. When a new product is introduced, we ask few questions. But what happens when we introduce an idea for controlling the side effects of that product? Opponents delay and delay. I say it is time to thrust forward with some changes in federal government purchasing policies, tax policies, and with I.C.C. freight charge policies. The first efforts may need refinement. But we must get on with the job.

There is hope. There is room for optimism. More voices are heard, more proposals are brought forward, and more attention is focused on the "new evolution" that your activities provide. Remember, we are calling for a change in the course of history, and such things do not occur overnight.

I am confident that if we maintain a united effort, your hopes and my hopes will not simply become more effluent under the bridge. I am optimistic. I suffer no illusion that changing the direction of product uses will be easy. It is a difficult endeavor. But we must remember that our country has focused on this issue with an explosion of interest that has surprised virtually everyone. If we can maintain this momentum we will surely learn to recycle our resources, control our technology, and preserve this small but fragile space ship—this wonderful earth.

We have talked long enough. It is time for action, and I would like to close with a story that makes this point very well. It is about a family that spent a summer visiting their grandmother in the South. As part of the summer's activities, the girls went with their grandmother to a summer bible school.

Now, one part of the summer program was the completion of a weaving project, and this was the girls' favorite activity. But as the summer wore on, the girls began to fret and worry. Finally one of them couldn't hold it in any more, and turned to her grandmother and said: "If we don't cut out some of this singing and preaching and praying, we ain't never gonna finish this basket!"

We have preached and prayed long enough on the recycling issue. Now we need "to finish the basket." Thank you.

PAUL DOUGLAS AT 80

Mr. PERCY. Mr. President, I invite the attention of Senators to the 80th birthday on Sunday of a good friend of the Senate, Paul Douglas, who served in this body for 18 years.

At age 80, Senator Douglas remains as alert and interested in the world around him as he always was. He is looking forward to the publication of his autobiography in April; he retains his interest in the causes which he championed here in the Senate—national defense, civil rights, consumer protection, and care for the elderly. He was a dedicated servant of the people of Illinois, but his concern for people's well-being went far beyond the borders of our State.

Mr. President, I have never known a more honorable man than Paul Douglas. I was once involved in a political campaign with him, and I can assure you that no one could have had either a more formidable or a more decent opponent. This year, as I face a campaign for reelection, I have expressed publicly the hope that this year's senatorial race in Illinois can be conducted with the same dignity and desire for public edification that I believe marked the 1966 campaign.

Many years ago, Paul Douglas was my professor at the University of Chicago. I enjoyed his thoughtful presentations in the classroom, but I must confess I had no idea then that Paul Douglas would be teaching me all the rest of my life. Through the years he has been a teacher to me in many ways—first on the campus, but, even more important, he has been an example of a man called to public service by the highest goals, a man who has lived his life with integrity, a man whose genuine interest in the well-being of others is his guiding principle.

I congratulate Paul Douglas on the occasion of his 80th birthday and I join all my colleagues in wishing him and his distinguished wife many more years of good health and happiness.

Mr. President, I ask unanimous consent that two articles about Senator Douglas, published in the Washington Post and the Chicago Sun-Times, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 26, 1972]

PAUL DOUGLAS: REFORMER AT 80

(By Jean M. White)

A touch of mellowness, perhaps, that comes with the years, but the eyes are the same—the blue, piercing eyes that fixed evasive Senate witnesses; the same great shock of white hair; the same resonant voice that reached into the Senate galleries; the same mind—quick, lively, searching.

And still that same passionate concern for social justice and the righteous indignation at wrongs and chicanery.

"I say it because it is true," former Sen. Paul H. Douglas snapped tartly after he was gently reminded that perhaps an interview on the eve of his 80th birthday was not the time to recall bitter fights with two former colleagues over civil rights and reapportionment.

Sen. Douglas will be 80 today. It is a landmark in any man's life, but his birthday also is a landmark for the American liberal conscience.

Unlike Miniver Cheever, Paul Douglas was born too early, not too late. There were long, lonely years when he was a crusader for causes then unpopular to advocate, causes that come to be accepted in legislation touching the lives of every American—social security, tax reform, truth-in-lending, aid to education, area redevelopment, housing, minimum wage, and, above all and always, civil rights and liberties.

Fortunately, for us and the Senator, he has lived long enough to become a prophet with honor.

Today a small circle of old friends will gather at the cheerful home at 2909 Davenport St. NW to share the 80th birthday with Sen. Douglas and his wife. Later will come a "queen's birthday" celebration in June when the sun warms the patio in the back.

A stroke 2½ years ago has left Sen. Douglas confined in a wheelchair, but only physically. The confinement does not extend to his mind or conscience.

The former Democratic senator from Illinois still percolates with stimulating ideas and questions, gets outraged at injustice ("I never knew a man who could get so outraged," a retired Senate reporter recalls), and talks vigorously about present problems and future needs—urban ills, federal-state-city relations, congressional reform. His wife, Emily Taft Douglas, a handsome, gracious woman, herself a former congresswoman, arranges the late-afternoon discussions that keep her husband in touch from his wheelchair.

Once the 80th birthday is out of the way, there are busy months ahead for Paul and Emily Douglas: Publication in mid-April of his 670-page autobiography, dedication of the Paul H. and Emily Taft Douglas Library building at Chicago State University, and then perhaps a sentimental journey back to the Indiana Dunes country, that wild area along Lake Michigan where the Douglas family spent its summers, later to be saved by the senator as a national lakeshore park.

The autobiography—revised in longhand on yellow legal pads after the senator suffered his stroke in August, 1969—bears an apt title: "In the Fullness of Time: The Memoirs of Paul H. Douglas."

The memoirs of Paul Douglas should make quite a story as a reflection of American politics and life in the first seven decades of the 20th century.

It is the story of a professor in politics, a distinguished economist-scholar (the Cobb-Douglas Function, see economics textbooks) who ventured into the harsh reality of everyday politics as a city alderman from Chicago's South Side and specialized in problems of garbage collection.

It is the story of the 50-year-old patriot who, defeated in his first run for the Senate, enlisted the next day as a Marine private, won the bronze star and two purple hearts in landings in Okinawa and Peleliu and was left with a withered left arm from his war wounds. It is the story of the Democratic senator from Illinois, elected on his second try in 1948, who became the liberal goad of the Senate, always in the forefront of the fight for social advances in the crucial years of the 1950s and 1960s.

And it also will be the story of Paul and Emily Douglas, two people who share deep affection for each other and politics.

"I was the only man who ever succeeded my wife in Congress," Sen. Douglas likes to point out.

"Paul, why don't you say I was the only woman who ever preceded her husband in Congress. It's women's lib these days," Mrs. Douglas corrected her husband the other day.

Emily Taft Douglas, a former actress, served as congresswoman-at-large from Illinois with the same constituency her husband was to represent when he was elected senator in 1948.

Rugged, slouch-shouldered and bespectacled, the economics professor came to Washington and soon plunged into the midst of the early battles for social and reform legislation that came out of Congress in the following two decades. But he was too much of a maverick ever to become part of the Senate's inner circle. Douglas has a dramatic flair, which he employed effectively to focus attention on the causes he was championing.

There was a time that he wanted to take a hatchet and scalpel on the Senate floor to demonstrate the difference between hacking and surgically pruning a budget.

"His staff talked him out of that one," recalls Howard Shuman, who was the senator's administrative aide for 14 years and now holds the same post with Sen. William Proxmire (D-Wis.).

"But he did go on the floor with a huge magnifying glass once. The public works bill was up for vote, and projects are sacrosanct to senators. Anyway, the senator came into the chamber carrying a magnifying glass and a large map. It seems there was a river—in New England, I think—mentioned for an appropriation and the senator couldn't find it on the map."

Shuman remembers Douglas as "an absolutely honest man," even to avoiding the phone calls that can swamp a senator's time.

"When he couldn't take a phone call, before he would have his secretary say he was out of the office, he would open the door and step out into the hall. I've seen him do it numerous times."

Once William McChesney Martin, disturbed over remarks attributed to Douglas in criticism of Martin's fiscal policies, came up to the Hill to check with the senator personally.

The senator told him: "I honestly don't remember saying that. But I've thought it a number of times so I suppose I could have said it."

But the senatorial career of Paul Douglas has more substance than a collection of lively anecdotes. It is a career threaded with landmark legislation on the big issues that the nation faced in the 1950s and 1960s. Perhaps the most dramatic was the long fight for civil rights, crowned by the sweeping Civil Rights Act of 1964.

"As for 1964, that was done years earlier—that was done in the hard years when we could get only 20 votes or so," Douglas points out "What was heresy then, the nation has accepted, intellectually at least. Now remains the pain of working it out."

Despite the acrimonious legislative fights and his lonely crusades, Paul Douglas does not look back in anger or bitterness today.

"If he was righteous in causes, he was never selfrighteous about people," Shuman says.

And the senator still has the buoying hope that sustains reformers.

"Well, I'm not a pessimist," he said the other day. "It's a great source of relief in bowing out of politics to see new men and good people coming up."

In the Senate, he points to such men as Proxmire, Alan Cranston of California, Adlai Stevenson III (whose father ran for governor of Illinois on the same ticket with Douglas), Walter Mondale of Minnesota. And Douglas always remembers Sen. Hubert H. Humphrey, who fought by his side in many of the old battles.

Among the governors, Douglas singles out Florida's Reubin Askew and Ohio's John J. Gilligan as "absolutely fine men."

Douglas also sees promise in the young people. "We had a bad convention in 1968. But I see healthy signs with the younger people working in politics, social causes, environment."

If some of the Douglas causes have come in the fullness of time, there are those still being fought: cloture in the Senate, the family allowance (Douglas proposed this idea as a young economist in 1925), pollution, consumer protection, the vanishing wilderness of areas like the Indiana Dunes, disclosure of campaign financing, tax reforms.

When he talks of tax loopholes today, there are flashes of the old Douglas indignation.

"I think they say we—Lister Hill of Alabama was with me—have saved the nation $4 billion up to now in blocking a clause that would have allowed offshore drilling in the open ocean to take oil," the senator points out.

In 1967, at 75, when he was no longer a senator but a private citizen, Douglas journeyed to Colorado to inspect the oil shale deposits there.

The year before, defeated in his try for a fourth term in the Senate, Douglas had made a graceful exit, giving a final accounting of his assets and income and thanking the voters who had kept him in office 18 years. It took two farewell parties for all his friends and admirers to pay tribute.

In that race, Douglas campaigned with his usual vigor. But there was his age—he was 74 and his challenger, Charles H. Percy, was 47, with the attractive face of new Republican liberalism. There was the race backlash. And there was the deteriorating war in Vietnam, in which Douglas had been a firm supporter of the Johnson administration.

A pacifist in World War I from his Quaker upbringing, Douglas had gone to Europe in the 1930s and was in Italy when Mussolini sent his legions into Ethiopia. He warned of appeasement of Hitler. During World War II, he was an enlistee in the Marine Corps, accepting a commission only to get into battle when he saw they were not going to send 50-year-old riflemen overseas for combat.

He still believes in collective security, of "keeping our guard up while exploring the possibilities for peace."

After his 1964 defeat, Douglas went back to work in a double harness. He returned to teaching and served as head of the National Commission on Urban Problems, making a study at the time the incendiary cities were flaring up in riots and racial turmoil.

Soon after the Commission on Urban Problems made its report, the stroke hit the senator's right side. His recovery was complicated by his war disabled left arm and a fall abetted by a football knee (Douglas played center on the Bowdoin College team while winning a Phi Beta Kappa key.).

In 1969, he returned a $5,000 check that went with an AFL–CIO award. While in the Senate, Douglas had set a $2.50 limit on the value of any gifts he would accept, and he is a man who holds firm to a principle.

If the "18 most stimulating years of my life" were spent in the Senate, Douglas also had several decades of achievement before he entered the Senate at 56.

As a distinguished economist, his applied work on the theory of wages and production is one of the bedrocks of contemporary economic analysis. The Cobb-Douglas Function—a mathematical formula set forth in the 1920s—is discussed at length in the recent Nobel Prize-winning work of Prof. Paul A. Samuelson.

"I once was an economist," the senator says now with a rueful smile. "They are now feeding information into the computers at Brookings Institution and coming out with figures to support the formula."

Born in Salem, Maine, March 26, 1892—the New England twang has been leveled a bit by the Midwest plains—Douglas remembers when mill workers in Newport, Maine, were told not to vote for Bryant and the factory whistles sounded for 24 hours when McKinley was elected.

"And I grew up feeling it was . . . well, improper," he once told an interviewer.

He was a friend of Jane Addams and Clarence Darrow. He helped organize the steel workers. Even before entering politics as a Chicago city alderman in 1939, he was one of the earliest advocates of old-age pensions and unemployment insurance in the 1920s and 1930s, working with then New York Gov. Franklin D. Roosevelt and Pennsylvania Gov. Gifford Pinchot.

Now, the autobiography finished, there will be two labors of love for the 80-year-old economist and former senator.

First, another look at the theory of wages and productivity as a statistical study. Then a study of the last days, the winter years of genius, in the lives of Beethoven, Shakespeare, Michelangelo, and Titian.

"A fine subject for a crippled politician," Douglas observes.

It will be a fine subject for the senator who brought a graceful touch of erudition and scholarship to the Senate. In Douglas' former office, Suite 109 in the Old Senate Office Building, photographs of live politicians never were hung. Instead, there were studies of Michelangelo's majestic brooding figures for the tombs of the Medici and Titian reproductions.

As a campaigner, Douglas was known to quote John Stuart Mill or "Spoon River Anthology" poetry to voters at the factory gate.

The other day, on the eve of her husband's 80th birthday, Emily Taft Douglas looked fondly, but objectively, at her husband and said:

"He's a much handsomer man than the man I married. He doesn't wear glasses any more. They say we make our own faces. It is a good man that makes a good face."

[From the Chicago Sun-Times]

Illinois Warrior Reflects at Age 80

(By Tom Littlewood)

The white-haired man with cool lucid blue eyes that have seen much of this century's pain and conflict leaned forward in his wheelchair, resting his war-crippled left arm and his disabled right leg.

"I've become interested in something that the economists and the politicians would both think very foolish: The last phase of genius.

"I've taken the bits of sculpture of Michaelangelo, his Pietas . . . he did three of them, progressively more appealing; the last paintings of Titian; the last plays of Shakespeare, notably The Tempest; and the last quartets of Beethoven and I've studied them and enjoyed them and they have meant a great deal to me. And I think they emphasize reconciliation and love. These men in the final years of their life wished to get away from pain and contest and conflict, and to accept life, and in accepting life, conquer life."

MILESTONE PASSED

In the last phase of his own individual genius, Paul Howard Douglas, noble, proud, and wise warrior of Illinois, is 80 years old today.

About a dozen close friends have been invited to a birthday dinner at the Douglas home, where the retired Democratic senator is confined most of the time in a wheelchair. In October, while convalescing from a stroke, he fell and injured his right thigh, rendering him immobile. He walks only with the aid of a walker.

Before his defeat by Republican Sen. Charles H. Percy, six years ago after 18 years in the Senate, this professor-turned politician, fought valiant and often lonely battles in behalf of issues that were on or just over the horizon: For civil rights, consumer protection, equal representation in legislative bodies, removing income tax escape holes, social integration of the suburbs, environmental protection, medical care for the aged, human renewal of the cities, and against military waste and the evils of campaign fund-raising.

His memoirs, entitled "In the Fullness of Time," are to be published by Harcourt, Brace, and Jovanovich on April 15—another highlight in the career of this economist, alderman, senator, and combat Marine veteran of World War II who was twice wounded—at Pelelieu and on Okinawa.

A MORAL ENIGMA

Throughout his long public career, doctrinaire liberals were troubled by a moral enigma that they attributed to Douglas, because of his avid anti-communism, support of the Vietnam war, and advocacy of military strength.

Obviously, such a man must have many emotional feelings about President Nixon's epochal journey to Peking. He does:

"A Democratic president could never have done it. He would be attacked by the Republicans as a traitor. Apparently only the people who don't believe in what they are doing can afford to do it. That's quite a comment on the American public.

"While I cannot forget Nixon's behavior at the time of Jerry Voorhis and Helen Gahagan Douglas, which was really bad, I think there's a lot of good in Nixon that's struggling to come out, as well as crafty politics.

NIXON GIVEN CREDIT

"Now I'm going to take Nixon on his own terms and give him credit for it. I hope it turns out well, but there's danger in it because neither the Chinese nor the Russians have given up their belief in armed revolution."

As to his own support of the Vietnam war policies of prior administrations, Douglas said he had no regrets but did not condemn Nixon for attempting to disengage American forces.

"I suppose you can't support a colonial war for more than seven years. That was the period of the American Revolution. I have always believed in collective security. I'm not a pacifist. You've got to have force as police. I think we were moving for good motives (in Indochina), but war is a terrible thing and it may be that it swallows up everyone who goes into it."

He is encouraged by the social consciousness of the young, and believes that the rejection of integration as a goal by many young black leaders is only a temporary phenomenon.

His son John is working for Sen. George McGovern's presidential campaign, and his longtime political associate in Illinois Angelo Geoceris, is Sen. Edmund Muskie's State campaign manager. But Douglas is still eagerly for Sen. Hubert H. Humphrey, D-Minn., for president.

Since his fall in October, Douglas is not often able to leave the house. But his doctor has given the go-ahead for the Douglases to fly to Chicago June 11 for the dedication of the Paul and Emily Douglas Library at Chicago State University.

PLAZA DE LA RAZA

Mr. TUNNEY. Mr. President, a group of dedicated and determined people from the Chicano community in Los Angeles is responding to the cultural and educational needs of the Spanish speaking. By fostering the appreciation and continuing the development of their culture, they are providing an invaluable asset not only to southern California, but also to the entire country. I wish to share briefly with my colleagues the background and a progress report of this community commitment which surely merits our support and approval.

Plaza de la Raza, located in the heart of the Los Angeles Chicano barrio, is a "park for the people" where the culture of the Spanish-speaking world, with special emphasis on the Mexican heritage, can be viewed, performed, studied, developed, and appreciated. When fully realized, Plaza de la Raza, Inc., would manage and operate the development as a nonprofit educational institution for all the people.

Although Spanish is second only to English among the languages spoken in the United States, and the Spanish-speaking minority is the second largest in our country, with some concentration in the Southwest, nowhere in this country does there exist anything comparable to the Plaza de la Raza concept. Not only the majority of the American people, but also this great minority group, is deprived of the cultural enrichment to be gained from such an achievement. In a multicultural society, such as ours, we must make efforts to know the people who live in this country if we are to understand, trust, and appreciate each other. In this park, amidst the trees and shrubs, Chicanos would have the opportunity to continue developing a sense of dignity and pride in their heritage; here the formerly unaware majority could receive an undistorted image of the people it has been led to see only in the stereotypes of the movies or the commercial tourist traps. The Chicano community will no longer accept the inferior status to which it has been assigned. Plaza de la Raza provides a tremendous and constructive opportunity for all people of goodwill to build bridges of understanding and mutual appreciation.

There has been a need and a yearning for many years in the Mexican-American community of southern California for a focal point where its culture and art—and its voice—could be expressed.

Plaza de la Raza, located in Lincoln Park, is designed to be that focal point for all those with a Spanish language heritage in the southern California area.

Lincoln Park has for many years fulfilled to some degree the need for a central point of reference for the Los Angeles Chicano community.

Lincoln Park, a 50-acre plot of green lawns and trees, lies about 3 miles east of the Los Angeles Civic Center and has a rich background of public use dating back almost to World War I. In the 1920's, 1930's, and 1940's, it was visited by millions, and additional millions viewed it frequently as they rode by it on their way between Pasadena and Mount Lowe in the big red cars of the Pacific Electric Railway.

In those decades not only the Mexican-American families found delight in visiting the park, but everyone considered it a favorite recreational spot. It was the site of an alligator farm, ostrich farm, and the Selig Zoo, forerunner of the Los Angeles Zoo, now located in Griffith Park. The father of actor Anthony Quinn worked there. As a young boy, Anthony Quinn often played in the park. Today he is one of many noted personalities who are padrinos of the plaza.

The main patriotic Mexican celebrations—the 16th of September, marking Mexican independence won in 1810, and Cinco de Mayo, observing the defeat of the French under Maximilian in 1862—have been celebrated in Lincoln Park for decades. It still is the favorite locale for these celebrations today. At the western end of the park stands a towering statue of Hidalgo, the leader of Mexico's fight for independence from Spain.

Lincoln Park, under administration of the parks and recreation department of the city of Los Angeles, remained a very popular place after World War II and became more and more the favorite park of Mexican-American families. However, the boathouse was used less and less and fell into disrepair. In the 1960's the boathouse was boarded up and the lake became fouled by debris. In effect, it became a big duck pond.

In October of 1969, the parks department decided to tear down the boathouse although there were other buildings in the park which could be restored to house the staffs and facilities for a sound program of recreational activities, including a gymnasium, offices, all-purpose rooms, and a picnic pavillion.

The Chicano community raised objections at once. The parks department delayed its published intentions to demolish the boathouse, and granted time for proposals to be submitted for alternative plans.

From the very beginning the idea of a community cultural center for La Raza has brought a very favorable response from the local press, radio, and television.

Ruben Salazar, award-winning journalist who was killed in the Chicano moratorium disturbance of August 29, 1970, wrote in the Los Angeles Times early in 1970 of the need for just such a center as Plaza de la Raza. He subsequently became one of the first members of Plaza's board of directors and was very active in the cultural center's behalf until his untimely death.

As Plaza de la Raza and its aims became known, the art community began to take an active interest which has culminated in several significant events.

Individuals, groups, and various leaders in the Chicano community began meeting to discuss the problem. Perhaps the most instrumental organization in bringing various interests together and helping them to finally arrive at a concrete plan of action was the East Los Angeles Community Union—TELACU.

Early in 1970 the community's plan for a cultural center in Lincoln Park won approval of the parks department. The department suggested that land around the boathouse be leased for the new project. In May of 1970 Plaza de la Raza was incorporated as a nonprofit California corporation and work on the lease began. Offices were established at the Lincoln Heights Neighborhood Center with a staff headed by Coordinator Frank S. Lopez.

The Los Angeles City Council voted 15 to 0 to authorize the parks department to negotiate a lease with Plaza de la Raza, Inc., and allocated $110,000 for the new plaza, to be given after the backers had raised the first $110,000 by their own efforts.

In February of 1970 the backers of the project stepped up their organizational efforts, electing President Ed Bonilla and a 15-man board of directors.

The fledgling organization enlisted the support of a distinguished list of "padrinos"—sponsors—and began making plans for a fundraising drive, starting with a program in the East Los Angeles area for donations of green and blue trading stamp books.

At this time the model cities program was established in the northeast area of Los Angeles, into which Lincoln Park falls. Plaza de la Raza began negotiating a proposal for model cities funds. Proceedings led to the signing of a contract amounting to $147,000, providing moneys for first phase building, matching those of the city, as well as operating funds for 1 year. The project was approved by the city council in June 1971 and both model cities money and the allocated $110,000 from the city were released.

Once the first phase funding was approved by the city council the final negotiations went ahead on the lease. In August 1971 the 25-year, $1-a-year lease agreement was approved by the city council and became effective 1 month later.

In October 1971 the architect's contract was approved and signed by the mayor and the way was cleared for actual construction on the boathouse to begin.

In July of 1970 the Los Angeles County Art Museum cohosted with Plaza de la Raza a highly successful showing of the Proctor Stafford collection of pre-Columbian art and an indigenous dance recital. Cooperating with the art museum and plaza in the showing which drew over a thousand people were the Mechicano Art Center—a group of Chicano artists—and the Congress of Mexican-American Unity, the largest umbrella organization in the Chicano community, representing some 300 community groups.

Shortly after the pre-Columbian art showing, Plaza de la Raza and the Mechicano Art Center began preliminary discussions with the Southern California Art Dealers Association for planning and holding a fundraising event in March 1971. The coordinator of Plaza de la Raza and representatives of the art dealers association visited Mexico in January 1971, to solicit an art work as a "centerpiece" for the March event.

The result was an original work by the world famous Mexican muralist, David Alfaro Siqueiros. Titled "Heroic Voice of our Democracy", the work is a portrait of Ruben Salazar superimposed on a portion of an existing Siqueiros mural, "Nueva Democracia."

Plaza de la Raza, the art dealers association, and Mechicano Art Center jointly produced a very successful "Paseo del Arte"—art walk—on March 28, 1971. Held at member galleries along La Cienega Boulevard and Melrose Place in West Los Angeles, the "Paseo del Arte" featured a juried show of works by Mexican-American artists, a children's art exhibit, an art presentation presented by the Los Angeles Junior Arts Center at Barnsdall Park, and dance performances by the Lincoln High School Ballet Folklorico.

Where 2,000 people were expected, 5,000 attended. Winners in the art competition were awarded prizes by such notable show business personalities as Margo and Eddie Albert, Sam Jaffee, Vincent Price, Edward G. Robinson, Karl Malden, and others, all padrinos of Plaza de la Raza. Plaza realized nearly $15,000 and an inestimable amount of shared understanding between cultures.

When Plaza de la Raza was founded it was felt then that construction would take some years to complete. Yet it was also felt that Plaza activities need not and must not be delayed until that time.

So, with this in mind in the summer of 1971 Plaza da la Raza launched a project which it saw as both a community service and an opportunity to acquaint the people more deeply with the work of plaza. This was called Plaza de los Ninos. Throughout the summer it provided on Saturday mornings bilingual, bicultural art-play experience for children of the community between the ages of 3 and 9.

Teachers, parents, musicians, artists, dancers, and noted show business personalities, gave of their talents to the children every Saturday. And the children responded with an outpouring of their own talent and enthusiasm. Contributions of refreshments and supplies were readily given for 9 weeks. Each Saturday saw at least 200 children and 50 adults participating.

In August the summer program ended. However, Plaza de los Ninos did not end in the hearts and minds of those parents whose children had participated. Sharing Margo Albert's enthusiasm, the parents put together a program of continuing Plaza de los Ninos on a year-round basis and began seeking funds.

The directors, officers, sponsors, and friends of the plaza hope that some day, in the very near future, their project will include a university of the arts, which would be a major educational institution specializing in Chicano culture. Meanwhile, its facilities will be made available to boards of education and educators everywhere on a cooperative basis.

Mr. President, we are all aware of the fact that our society includes a very substantial number of people who share the Spanish-language heritage. Indeed, many were in the Southwest to welcome our forefathers when they came to the Southwest.

Is it not logical and does it not make good sense that we should know a great deal more about such a large percentage of our citizens, our fellow workers, and our friends?

The fact of life is that a great many other cultures are part and parcel of our daily living. Our society in the United States is a multicultural one. One which can only be appreciated when we are given the opportunity of seeing each on its own merit and by its own worth.

Plaza de la Raza can help us to focus on a view which widens our appreciation and of the rich traditions and many contributions of this country's Spanish speaking citizens.

Plaza de la Raza is offering the opportunity to all of us to learn more about the second largest ethnic minority in the United States. It will encourage further achievement and contributions by Chicanos.

It will provide for the development of talent, talent that is badly needed to address itself to the many problems with which we are faced today.

It will provide for education, education which could help begin to reverse the tragedies mentioned by a Chicano in his poem, part of which tells us:

"... remember that chicanito
flunking math and english
he is the picasso
of your western states
but he will die
with one thousand masterpieces
hanging only from his mind.

Mr. President, allow me to conclude by congratulating the efforts of the people who have helped to begin making the dream of Plaza de la Raza a reality, a reality I hope will soon materialize fully. Support for Plaza de la Raza is still needed and, of course, would be greatly appreciated. The development and the success of this worthwhile task is terribly needed not only in the barrios but also in our country.

DEATH OF GEN. FRANK FRASER

Mr. FANNIN. Mr. President, last week Arizona and the Nation suffered the loss of a fine gentleman and a great soldier. Gen. Frank Fraser died in Sun City at the age of 76.

It was my privilege to know General Fraser; he served as adjutant general of the Arizona National Guard during the time that I was Governor of the State. His illustrious military career stretched from action against Pancho Villa to World War I and World War II and included leadership in the National Guard before retirement.

Mr. President, the Arizona Republic yesterday published an editorial listing some of the many achievements of General Fraser. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A VANISHING BREED

Frank Fraser belonged to that vanishing generation of Americans who fought two world wars and survived the worst economic depression in world history. His death in Sun City last Friday, at the age of 76, wrote finis to an illustrious military career.

Fraser was only 16 years old when he joined the National Guard in the state of Washington. He fought in the Mexican campaign against Pancho Villa, then went to France and saw action in such storied battles of World War I as Chateau Thierry and St. Mihiel.

Returning to civilian life, he tried his hand at cotton farming in Arizona, went into contracting for state highways, and became a cost accountant for the Kennecott Copper Corp. mine at Ray. But his heart was in the military and he remained with the Arizona National Guard during the years between wars.

Shipped overseas again in 1942, he served under Generals Patton, Bradley, and Eisenhower. After the war he was appointed military governor of Luxembourg.

Back in Phoenix again Fraser succeeded Lt. Gen. Alexander M. Tuthill as adjutant general of the Arizona National Guard. He presided over the guard's growth, and dedicated many of the new armories that sprang up around the state. In 1964 he retired, a three-star general with 49 years of service under his belt and probably more medals than any other Arizonan has ever won.

Americans have a way of ignoring their soldiers between wars. But there always has been a hard, lean corps of professional warriors who were willing to keep a military force in being despite peace-time cuts in appropriations and in the face of public hostility.

Frank Fraser belonged to that select group of Americans. He and his kind seldom receive the praise due them—but, then, they never expect it. Honor, duty, country—these are more than words in dictionaries to men like General Fraser.

OPERATION OF MOTOR VESSEL "WICKERSHAM"

Mr. STEVENS. Mr. President, the Senate and House have recently passed H.R. 10834, an act which authorizes the State of Alaska to operate the MV *Wickersham* between ports in Alaska and ports in the State of Washington until a replacement vessel can be built. The bill is of great concern to the people of Alaska and also to the people of Seattle.

Because the bill will have such a beneficial effect upon the Port of Seattle, the Port of Seattle Commission has in resolution form expressed its appreciation to the Governor and the people of the State of Alaska, the Alaska and Washington delegations in Congress, and to the chairman of the House Merchant Marine and Fishery Committee and the chairman of the Senate Commerce Committee.

Because the bill is so important to this area of our Pacific Northwest, I ask unanimous consent that the resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Port of Seattle Commission Resolution re "Wickersham" Waiver Bill

Whereas the Congress of the United States of America has affirmatively passed the Wickersham Waiver bill allowing for the transportation of passengers and their vehicles between Alaska ports and, also, between the Port of Seattle and Alaska aboard the Norwegian built M/V *Wickersham;* and

Whereas until such time as the replacement vessel is completed and delivered, the *Wickersham* will be able to work to the full capacity for which she is capable; and

Whereas the contemplated increased utilization of this vessel will also result in vitally needed additional commerce in the movement of people and vehicles between the Alaskan ports and

Now, therefore, be it resolved that the Port of Seattle Commission meeting in regular session on March 14, 1972 hereby expresses its appreciation to the Governor and people of Alaska, the Alaska and Washington delegations in Congress and to the Chairman of the Merchant Marine and Fisheries Committees of the Senate and House for the successful passage of the Wickersham Waiver which will mean so much to the continuing exchange of people between our two states, and furthermore

Be it resolved that copies of this resolution shall be furnished to the Governors of Alaska and Washington, the President and Speaker of the Alaska legislature, the Alaska and Washington delegations to Congress and the Chairmen of the Merchant Marine and Fisheries Committees of the House and Senate of the United States Congress.

REMARKS BY DR. BRYAN KEISLER TO THE SALUDA BARRACKS 1773 AND THE AUXILIARY

Mr. THURMOND. Mr. President, On February 20, 1972, Dr. Bryan Keisler, a veteran of both World Wars, addressed members of the Saluda Barracks 1773 and the auxiliary in Saluda, S.C. This organization is composed of veterans of World War I, Inc., and the meeting was held in memory of those members who have since passed on.

Dr. Keisler was pastor of the Lutheran Church of the Redeemer in Newberry, S.C., serving in that capacity longer than any other man.

His remarks are a reminder to us that true strength and true greatness can be rooted only in the Creator. He warns that many nations have fallen when they sought to replace Him with gods of their own.

These words of wisdom are applicable to our time and our country today. I ask unanimous consent that they be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks Made at a Meeting of the Saluda Barracks 1773 and the Auxiliary

On such occasion one is naturally reminded of the words of Abraham Lincoln when, at the dedication of the Gettysburg National Cemetery, he said, as you will readily recall. "The world will little note nor long remember what we say here; but it can never forget what they did here." But Lincoln's innate modesty and humility made him, in that remark, not only a minor but a false prophet. For while the world has indeed long remembered, and will long remember, what "they" (the "honored dead") did there, it has also assigned immortality to those noble words from the heart and the lips of one of America's greatest souls of all time.

And the world dare never forget what the American soldiers have done there—not only there at Gettysburg, but also there on the bloody battlefields of Europe, of Africa, of Asia, of the Pacific and elsewhere. There they offered their all, and thousands give their all, in the fight for freedom, for protection against the tyrants and war lords, against autocracy and aggressiveness.

We would not in any sense nor to any degree minimize the importance of any of the wars in which the United States has been engaged, but the organizations under whose auspices we are here at this time are particularly dedicated to the perpetuation of the memory of veterans of World War I, and to the high principles for which that great war was fought. Two things especially are significant about that war. In the first place, it was the first major war in which American soldiers fought on foreign soil, and, in the second place, largely under the influence of the idealist President Woodrow Wilson, it was a mighty struggle in behalf of idealism. "To make the world safe for democracy" was not only its slogan, but its worthy and sole objective.

In that struggle, as well as in all others, thousands upon thousands were crippled and maimed and killed. Heroes they were, whether still living or long dead. And we are reminded of the words of the 3rd stanza of *America the Beautiful:*

"O beautiful for heroes proved
In liberating strife;
Who more than self their country loved,
And mercy more than life!
America! America!
May God thy gold refine
Till all success be nobleness
And every gain divine."

Being a minister as I am, you will not be surprised if I interject a spiritual note. The holy Scriptures declare, "Blessed is the nation whose God is the Lord." Like Israel of old, in her weaker moments, so nations of any and all time and of all sizes, may be tempted to make other gods for themselves, and try earnestly, but vainly, to substitute them for the true and eternal God. And those other gods may take almost any imaginable form. Particularly are nations tempted to worship at the shrine of pleasure, or riches or power. And perhaps the god of power is the greatest tempter of all. Hence let Rudyard Kipling speak to us in his *Recessional* when he says,

"If, drunk with sight of power, we loose
Wild tongues that have not Thee in awe,
Such boasting as the Gentiles use,

Or lesser breeds without the Law—
Lord God of Hosts, be with us yet,

Lest we forget—lest we forget."

Yea, verily, "Blessed is the nation whose God is the Lord". In one of his poems, Alexander Blackburn asks, *"What Makes a Nation Great?"*, and then answers his own query as follows:

"Not serried ranks with flags unfurled,
Nor armoured ships that gird the world,
Not hoarded wealth not busy mills,
Not cattle on a thousand hills,
Not sages wise, nor schools nor laws,
Nor boasted deeds in freedom's cause—
All these may be, and yet the state
In the eye of God be far from great.

The land is great which knows the Lord,
Whose songs are guided by His Word;
Where justice rules 'twixt man and man,
Where love controls in art and plan;
Where, breathing in his native air,
Each soul finds joy in praise and prayer—
Thus may our country, good and great,
Be God's delight—man's best estate."

Perhaps as a nation we would not be bold enough to claim to have arrived, nor perhaps as a state, nor a county, nor a community. The battle still rages. The forces on the side of righteousness may be many and great. But they are still inadequate, and will be so until all have cast their lots on that side.

Those whose memories we cherish in tender affection—those whose memories we would honor, have fought a good fight. The time of their departure came when He Who does all things well said, "It is enough." For them the bugle has sounded. It blew Taps. That same bugle is still sounding forth. But for you and me it is blowing Reveille—Awake, arise. It is time to go to work.

While such is never inappropriate, it would appear especially appropriate to pray the prayer of Josiah Gilbert Holland when he said,

"God give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demogogue
And damn his treacherous flatteries without winking!
Tall men, sun-crowned, who live above the fog
In public duty, and in private thinking."

Thank God for all those of such calibre with whom the world is blessed. Noble souls they are, true servants of mankind and of the God of the universe. And in their ranks there is a place for you and me.

Referring to one of the earliest men of the Old Testament the Epistle to the Hebrews says, "Who being dead, yet speaketh". Listen attentively, not only with your ears, but also with your hearts and souls. Do you not hear that great chorus of voices from the beyond earnestly enjoining upon us courage, devotion to God and country, honor integrity?

WEEK OF CONCERN FOR PRISONERS OF WAR AND MISSING IN ACTION

Mr. PERCY. Mr. President, this is the week of concern for American prisoners of war and those missing in action. While I cannot overemphasize the importance of this week, I must also say that the plight of the prisoners must be of concern to us every single day until all of them are returned home safely.

There is no issue that is of greater concern to me than the release of our prisoners; we must be unyielding in our efforts toward this end.

Often I receive letters from constituents whose loved ones are being held captive. I know the anguish they suffer and I know that they expect the Government to continue to press for the release of these men.

Our hearts go out to these families as we rededicate ourselves to achieving what they have a right to expect—the safe return of the POW's.

Mr. President, I know that all Americans are united today in prayer for the release of these men. We as elected representatives of the people should be united in our own determination to exhaust every effort to secure their release.

STATE OF REFORM IN HIGHER EDUCATION

Mr. FANNIN. Mr. President, Alan Pifer, the president of the Carnegie Corp., has eloquently discussed the state of reform in higher education in his annual report to the Carnegie board of trustees. In his address Mr. Pifer clearly recognizes the task ahead of colleges and universities to meet the demands for reform and change. It will be a difficult time, not necessarily because of the nature of the demands, but because the response will determine the role and educational objectives of these vital institutions. There is no doubt that our institutions of higher learning perform an important function; a function which has significant implications for our economic and social values.

Reform, then, must not be capricious or arbitrary for what ultimately comes to pass will have important and far reaching consequences for years to come.

Mr. President, I ask unanimous consent that Mr. Pifer's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE RESPONSIBILITY FOR REFORM IN HIGHER EDUCATION

It will be many years before we begin to understand fully the turbulence of our times. Whether this turbulence, and our uncertainty about its meaning, reflect primarily the trauma of withdrawal from an unpopular and mistaken war coinciding with the strains of a national effort to right three centuries of wrong against American minorities, or whether it signifies the onset perhaps of a fundamental cultural and social transformation, we simply cannot now know. And whether this great change, if it is to come, will ultimately prove beneficial or harmful to the nation, we also have little way of predicting.

Whatever the turbulence may indicate, the disequilibrium it is causing in our national life has brought on a healthy mood of skepticism about the operation of some of our major governmental, social, and economic institutions—institutions as varied as the federal regulatory agencies, the health system, and giant industrial corporations. Searching questions are being raised: Are these institutions serving the best interests of the people? Are they adequately accountable? Have they kept in step with the needs of the times?

Many people would agree that, among the major institutions of the society, none is riper for objective reappraisal than higher education. Indeed, it is now the subject of intensive study and debate—on individual campuses, in legislative and executive bodies, and by national commissions, including the Carnegie Commission on Higher Education. At no time in its 335-year history has American higher education come under such critical scrutiny.

Ironically, the new skepticism about higher education comes close on the heels of two decades of astonishing development which had brought it to a point where it was enrolling eight and a half million students while serving the needs of the nation in a wide variety of other ways. Only a short time ago this extraordinary enterprise seemed to many to be rapidly approaching an apogee of success unparalleled in this or any other country.

Certain simplistic charges against higher education have become familiar to the point of staleness. It is accused by radicals of complicity with the political, military, and industrial forces that have "conspired" to create an "oppressive society" and to involve the nation in an "unjust and immoral war." These critics also believe higher education serves primarily to further entrench the dominant classes in American life and to frustrate the kinds of revolutionary social change they regard as desirable.

Conservatives, on the other hand, argue that higher education, through an abdication of responsibility, has played a major part in helping to subvert the very values on which this country was built. It has, they believe, provided a home for the growth of a new youth culture founded on the use of drugs, permissive sexual relationships, and radical political notions and has turned out a product largely unfitted to contribute constructively to our national life.

Finally, there are large numbers of people, of all political persuasions, who believe that higher education has seriously neglected its teaching mission, the very purpose for which it principally exists.

These and other charges, leveled sometimes at something referred to loosely as "the system" or "the university," sometimes at the faculty, and usually at harassed administrators, have filled the air. Much of this criticism is superficial and based on limited evidence. The prescriptions for reform it generates are usually naive or simply punitive and generally have little practical value.

The desire for reform today, however, is by no means a monopoly of extremists, know-nothings, and political opportunists. There is a growing body of responsible, well-informed people, both on and off the campus, who believe the time has come for substantial changes in higher education. Among these people there is now a questioning of once sacrosanct practices, a new willingness to experiment, a new interest in the needs of students, and a new concern for those who have been denied access to higher education or have not been reached by the conventional system. Whether this new mood has been brought on solely by the successive shocks caused by student unrest, declining public confidence, and financial crisis, or whether it reflects some deeper dissatisfaction with what we have wrought in American higher education is not altogether clear. But whatever the cause, it is apparent that the disposition for reform is quite powerful.

People of this outlook are deeply troubled by the breakdown of the traditional consensus which for so long made the campus a readily manageable community. They are disturbed by such developments as the growing unionization of faculty and the tendency for the concept of "rights" to take precedence over other considerations in governance. They are concerned that the explosive growth of higher education in recent years and the proliferation of functions it performs seem to have destroyed any common sense of purpose within the enterprise. Finally, they are increasingly uneasy about the curriculum, wondering whether either the liberal arts as taught or the vocational training given is appropriate to the needs of today's students.

As those responsible for the destinies of particular institutions or groups of institutions face the question of reform, they quite naturally look first to what can be done on their own campuses. They take steps to enlarge student participation in decision making, to increase student contact with faculty through smaller instructional units, to allow periods of off-campus work and study, to improve management practices, to eliminate less important activities, and so on. In short, they do the kinds of things that lie within the power of governing boards, administrators, faculty, and students, working cooperatively, to do.

To call this kind of reform simply tinkering or minor repair work would be unfair, for it can affect an institution in quite fundamental ways. Nevertheless, it falls far short of what is required, because the root of the malaise presently afflicting higher education is to be found not so much in the practices and programs of individual institutions, important as it is that these be improved, as in the nature of the relationship which has developed between higher eduction and society. As this relationship has deepened and broadened over recent decades in response to vast changes in American life, the pressures on higher education have been raised to an intolerable level, and expectations of it have been created that cannot possibly be fully satisfied. It is, therefore, to the basic nature of the relationship between higher education and society that reform of a fundamental character must be directed. Such reform will require the participation not only of those groups or "estates" which make up the campus community, but of external agencies as well—government, industry, parents, and, indeed, the public at large.

THE FUNCTIONS OF HIGHER EDUCATION

The most illuminating approach to an understanding of the present nexus between higher education and American life is simply a description of the functions which our universities, four-year colleges, and community colleges, taken together, actually perform. Generally, these are expressed as "teaching, research, and service," but this traditional triad seems to obscure more than it reveals. A listing of the true range of functions yields a startling picture of an enterprise with a very broad range of purposes, all of which are somehow interrelated and yet many of which also seem to be mutually contradictory. Some of these purposes are well known to the public; others are only vaguely comprehended.

The many functions performed by higher education collectively are, of course, found in individual institutions in widely varying degree. No one would claim that the University of Minnesota, the Massachusetts Institute of Technology, Fresno State College, Amherst College, Tuskegee Institute, and Miami Dade Junior College are alike. Differentiation of function among institutions is an important aspect of our higher educational system. Nevertheless, a categorization of functions—of which it is possible to name at least thirteen—yields a composite picture of the total role of higher education in our society that cannot be grasped through analysis of the purposes served by any single institution.

Virtually every American college or junior college devotes some portion of its energy and resources to the *liberal education* of its students. There has always been argument about the precise definition of this concept. Most people would agree, however, that it involves gaining a basic knowledge of man and his societies and the physical world, mastering the language and mathematical skills to reason and express thoughts clearly and logically, and acquiring such habits of mind as intellectual curiosity, the capacity to think critically, and the ability to weigh evidence objectively. There would be less agreement today that the inculcation of any articular set of values constitutes an integral part of liberal education. Few, however, would dispute that the concept does at least include some acquaintance with the principal value systems by which man throughout the ages has attempted to steer his path to some higher destiny.

Collectively, American universities, colleges, and two-year institutions prepare young people for an extraordinary range of professions, subprofessions, and occupations. Some of this training takes place in graduate professional schools, but much of it is at the undergraduate level or in two-year institutions. Although in most instances the credential awarded does not actually constitute a license to practice, the granting of such a license is dependent upon completion of the appropriate training. *De facto*, therefore, higher education not only conducts a vast system of *professional and occupational training* but also serves as a *sorting and selecting mechanism* to route the nation's youth into employment.

Although there are many inefficiencies in the way these two functions are carried out, the contribution higher education makes to our national life in performing them is indisputable. So varied and extensive are these training and sorting activities, the public tends to take them for granted and hence does not fully appreciate their enormous value.

In the United States we place primary reliance on higher educational institutions for the *discovery of new knowledge*. Research is also performed in industry, in independent institutes, and in government installations. Much, however, of the research that ultimately proves to be of greatest value, being unrelated at the time it is done to a recognizably useful product, would never be undertaken except in an academic environment. The significance of university-based research to the nation's economy, to its security, and to the quality of life of its people is incalculable. Not always appreciated, it is one of the great bargains Americans get when their tax dollars are used for the support of higher education.

Beyond the functions they perform in imparting the principal elements of liberal and vocational and professional education to large numbers of young people entering adulthood, and in the discovery of new knowledge, our colleges and universities have a special responsibility for the conservation, and transmission from generation to generation, of existing knowledge in its more complex or abstruse forms. In meeting this responsibility, they serve an indispensable purpose as *custodians of our cultural heritage*. It is to maintain the enormous accumulated store of humanistic and scientific knowledge which mankind now possesses that large sums of money are spent on faculty with highly specialized training and on great libraries, laboratories, and teaching museums. Without this investment we would constantly be engaged in a fruitless rediscovery of old knowledge. Cut off from our history, we would lack that sense of perspective about ourselves and our current social institutions so fundamental to enlightened judgment.

Many colleges and universities also sponsor a variety of cultural events which are available to the public as well as to the campus community. This activity is a logical extension of their role as custodians of our cultural heritage.

One of the less understood and appreciated but more important functions of higher education is its responsibility to provide a protected environment for detached, impartial *criticism of the larger society* based on knowledge derived from disinterested study and research. This is a role which other institutions, such as the press, also play, but the resources possessed by higher education to seek truth and express it extend far beyond the capabilities of other institutions. The need to safeguard this function is the basic reason why higher educational institutions, as institutions, must not take partisan positions or engage in partisan activities. So complex are the pressures on urban-centered universities today and so intensely felt the great moral issues of our times, it would be naive to suppose that this proscription can be absolute. But if institutions systematically or aggressively violate the position of neutrality that society accords them, they will not only forfeit one of their principal claims to support but will also jeopardize one of their chief values to society.

A peculiarly American function of our system of higher education is the role it plays in providing the *administrative base for public service programs* of an operational or research nature. These programs are found in fields such as health care, defense, foreign assistance, agriculture, and community service and are generally externally financed. Although they frequently make some contribution to the educational program on campus, their existence is also defended in many instances on the grounds that higher educational institutions have a responsibility for public service irrespective of any direct educational benefits involved. Despite the intrinsic value of many of these programs to external communities and to relationships with those communities, many institutions are coming to see that public service activities of this kind may be in partial conflict with the central functions of teaching and research.

Closely associated with the previous function is the service higher education performs in providing the logistical base for a *pool of specialized talent* which it makes quite freely available to external agencies such as government and industry. Outside consulting by faculty members, especially those serving in graduate professional schools, is an activity that has grown substantially and for some individuals provides a significant part of their income. From the point of view of the user agencies, having such a talent pool available is a distinct bargain, because the consulting fee paid to a faculty member is insignificant compared with the cost to his institution of maintaining his logistical base. It is certainly one of the hidden benefits to the nation for its support of higher education.

Nevertheless, faculty consulting has its severe critics. A great many students and some administrators feel that it causes a high rate of absenteeism among leading faculty members and conflicts with their primary responsibility for teaching and research.

Traditionally, higher education in the United States, as in many other countries, provided a means for the particularly ambitious and able person of middle or working class background to gain entry into a small elite at the top of the society, an elite which enjoyed considerable social prestige. As the proportion, however, of the eighteen to twenty-one year old age group enrolled in higher education steadily expanded—from 5 percent in 1910 to nearly 50 percent today—"going to college" gradually began to serve a different purpose. Today, for most Americans, it is virtually a prerequisite for entry into the middle class, or for remaining in it, if one is already there. Unquestionably this *class certification* function benefits minorities, the poor, and the lowly born in aiding them to enter the mainstream of American life. Nonetheless, it is intrinsically undemocratic and is probably what lies at the bottom of some of the current hostility to higher education.

Increasingly, a major function of higher education in this country is simply to serve as a form of occupation for an ever-growing proportion of youth during the transitional years from adolescence into adulthood—a kind of *way station* on the trail of life. Many young people seem to be at college for no better reason than want of an acceptable alternative. If there were anything but dead-end jobs available for them, or even jobs at all, or if there were interesting, productive forms of national service widely available, they might well prefer these alternatives. Lacking them, they drift into higher education.

This custodial function is clearly at odds with many of higher education's other functions. It consumes scarce resources, creates institutions of a size so massive they are virtually unmanageable, and creates conditions on campus which impede the progress of serious students. Nevertheless, the reluctant student with low motivation may gain considerable benefit from the experience, and perhaps society does too. A recent Carnegie Commission study, based on an analysis of data collected by social scientists over several decades, shows that people who have attended college are more tolerant in their attitudes toward other individuals and groups, more satisfied with their jobs, better paid and less subject to unemployment, more thoughtful and deliberate in their consumer expenditures, more likely to vote and to participate generally in community activities, and more informed about community, national, and world affairs. These are real benefits.

Although higher education has for many years, through its general extension programs and through part-time and evening study, offered *educational opportunities to adults*, this has certainly not been one of its most central functions. Nor have these activities enjoyed the prestige of undergraduate and graduate study by "regular" students. Attitudes are changing, however, both on and off the campus, and it now seems likely that the function of serving adults will assume much greater importance at a variety of institutions. It also seems likely that there will be a steadily growing demand by adults for the programs offered.

The provision of external degrees on a wide scale and lifelong entitlement to periods of study in a college or university are two new developments that may become quite general. Meeting the educational needs of adults is by no means inappropriate as a function of higher education, provided the activity is taken seriously and done well. Indeed, it may in the future be one of higher education's most important functions and one of the ways it brings greatest benefit to the nation.

In recent years most higher educational institutions have been obliged to offer work in two areas of liberal education, English and mathematics, that is frankly *remedial* and sometimes hardly even of secondary school level. A large part of this new function is associated with the extension of higher educational opportunity to able students with severely disadvantaged educational backgrounds. While this is a wholly laudable and defensible objective in today's circumstances, there can be little doubt the activity involved tends to be a drag on institutions and diminish their capacity to do genuine, college-level work.

A function of higher education which few of those who administer it care to recognize publicly is the role it has come to have as a major *purveyor of commercialized entertainment*, principally through its football and basketball teams. Not only are intercollegiate contests in these sports themselves of wide public interest, being watched by millions on television, but college teams to a large degree serve as the training ground for professional teams. Not unsurprisingly, the enormous commercial importance of college sports leads to intense pressures toward their professionalization pressures that are almost irresistible. Sometimes the resulting situation is rationalized on the grounds that having good teams helps maintain campus morale, gain legislative appropriations, win the support of almuni, or even earn income for the support of other sports which do not have wide public appeal.

Substantial numbers of students are, however, beginning to question not only the ethics but also the appropriateness to higher education of "big time" college athletics. There seems to be a growing sensitivity about the exploitation of student athletes which may be involved and a new awareness that the values underlying this activity are probably inconsistent with the values of an academic institution. Organized athletics, of course, does have a legitimate place on the campus. It is the perversion of it that has become increasingly troublesome.

Among these thirteen functions, several go back to the beginnings of higher education in this country (and well before that elsewhere), several date from the latter half of the last century, and several are quite new, or are older functions that have acquired such changed meaning in recent years as to have become virtually new. These new and refurbished functions both reflect and have contributed to significant new developments in American life—development such as urbanization, population growth, affluence, scientific and technological advance, the communications revolution, ever-increasing specialization of knowledge, and the commitment to equal opportunity. Our colleges and universities have not stood apart from the transformation of the society brought on by these phenomena. They have helped cause it, and they have, in turn, been profoundly affected by it.

In the American context this interpenetration of campus and society seemed perfectly natural. Our instinct, time and again, was to turn to higher education whenever there was a new job to be done, and as a consequence both the functions of higher education and the varied activities these functions tended to spawn steadily multiplied, with little thought on anyone's part of the consequences, or of the alternatives.

In view of the formidable burden the nation has placed on its higher educational system, the astounding fact is how well it has succeeded, not how badly it has failed. It has performed its traditional functions well, on balance, and in some cases with high distinction. It has adjusted to the pressures of mass participation in a remarkable manner. It has provided a great range of services to the larger society, on the whole competently and at reasonable cost. The anomaly—the paradox—of the present situation is that a national institution which has risen magnificently to the challenges with which it has been confronted is now, by common agreement, in dire need of reform!

APPROACHES TO REFORM

There would seem to be three possible approaches to reform. The first is to retain the system of higher education essentially as it is but make such changes as are necessary on particular campuses to alleviate the worst strains resulting from the attempt to discharge partially incompatible functions. This involves transferring some activities to institutions where they can be more appropriately performed and curtailing or eliminating others. It is a process of moving toward greater differentiation of functions among different types of institutions and rationalization of activities within institutions. This approach has much to be said for it, and it is already well under way. But necessary as it is, it is likely to fall considerably short of what is required for the fundamental reform of higher education.

A second approach, which has its advocates in the academy, entails unilateral action by higher education to reduce its range of functions and activities sharply, thereby "purging" itself and reverting to the only "proper" pursuits—teaching and scholarly research. This approach makes for some good rhetoric, but it runs so contrary to the American concept of the role of higher education in society, especially public higher education, as to be quite unrealistic and impractical as a way of reforming the *system,* however attractive it may be to an occasional individual institution.

A third approach, and the one that seems now to be needed, assumes that all or nearly all of the present functions of higher education are likely to be continued but that substantial modifications should be made in the nature of the burden that performing these functions throws on higher education. This approach recognizes that the decisions made by governmental and other external agencies acting for the larger society, as to what to ask of the campus are as important to reform as anything done on campus. It suggests a need to find alternative ways of accomplishing some of the tasks higher education now performs. It implies major changes in the structure of the higher educational system and very possibly the invention of some alternative kinds of social institutions.

This approach will not entirely eliminate the present confusion of purposes in higher education, because the roles we assign to it in this country will continue to be numerous and varied. If energetically pursued, however, such an approach should at least reduce the pressures on higher education to a manageable level and allow it to concentrate more, and with easier conscience, on its most central functions.

REDUCING THE BURDEN

Many of the kinds of specific measures that might be taken to lighten the burden on higher education have already been widely discussed. A substantial structural change proposed by the Carnegie Commission on Higher Education would be the reduction by a year of the normal undergraduate course. Such a step would recognize the better preparation and greater maturity of many college entrants today. It could also provide, without further capital investment, some of the additional capacity that must be found in the coming decade for expanding enrollments. Finally, it would reduce the cost of a college education to society and to the individual and enable higher education to use its limited resources to benefit more people.

A second measure, which has not been widely discussed, would be to cull out of higher education an extensive array of vocational courses it now offers to prepare students for medium-level occupations and subprofessions. While such a step might have great merit, it would necessitate the development of a network of new institutions for "further education" with their programs closely tied in, perhaps on a "sandwich" basis, to a variety of manufacturing and service industries. It might also imply the further development of educational activities within industry.

This course would immediately raise a major question about the role of junior and community colleges. At the moment they are considered part of higher education. Should they be, or should we move in the direction of splitting postsecondary education into "further" and "higher" education and make the two-year college part of the former and almost entirely vocational in character? There would be many advantages to so doing but also some distinct disadvantages. One would be the danger, so well illustrated in Britain, of creating a set of institutions which enjoyed a level of prestige so much lower than that accorded academic institutions as to be socially deeply divisive. Another would be destruction of the very important concept of wide availability of a full range of postsecondary education, including the liberal arts, close to home and at minimal cost.

A third way of reducing the responsibilities now placed on higher education would be to transfer some of the research now done in universities to independent research institutes, or government installations, especially where the research of a type deemed less appropriate for an academic institution. In some cases new nonprofit institutes might have to be created for the purpose. This is the course currently being followed by one leading university, which is transferring to a new organization being set up for the purpose defense-related research and development programs running to many millions of dollars annually. While a step such as this can relieve an institution of a responsibility that has become awkward or burdensome to it, the costs in terms of overhead payments forfeited, in jeopardy to the quality of the research program, or in opportunities for graduate students foregone may be considerable.

In another area of functions, there is little question that some universities have made unwise decisions in agreeing to provide the administrative base for public service programs of a largely operational nature. Sometimes the administration of such a program is defensible as a research enterprise in itself, because it offers a practical milieu for student training, or simply because it is unavoidable as part of an institution's responsibility to the neighborhood in which it is situated. Nevertheless, academic institutions are not, on balance, well equipped to run large programs for the provision of services to the public, and unless there are powerful reasons for doing so, they could well leave the responsibility to others.

There is also reason to believe that the function performed by higher education of providing a talent pool for other institutions, principally government and industry, puts more of a burden on it than is generally recognized. Without by any means abolishing the function, universities could particularly at this time of faculty surplus, tighten up the administration of it so that it might better serve their interests.

Unquestionably the most important way that society could lighten the burden on higher education would be to find ways to relieve it of responsibility for the substantial numbers of young people who become students only because they feel they must avoid the stigma of *not* having attended college, or see no other way to spend the threshold years of adulthood that holds out any kind of promise to them.

This opens up the hard question of alternatives to higher education. What, indeed, can hundreds of thousands of eighteen to twenty-one year olds living in a highly urbanized, highly industrialized society do with their time? What kinds of maturing experiences can they have that will be constructive for the nation and for them, that will be sufficiently interesting to hold their attention, and will enable them to support themselves modestly, or at least contribute to their own support?

It is frequently suggested that the reluctant student would be better off out in the real world earning his living. But is this really possible? There are currently nearly fifteen million men and women in the eighteen to twenty-one age group, a number destined to rise to about seventeen million over the coming decade before beginning to decline gradually. Among the approximately nine million of this group in the labor force, which includes about two million also enrolled full- or part-time in higher education, the number unemployed is substantial. It is already well over a million and may well go higher. Furthermore, among those who are employed full-time, a great many hold jobs which offer little opportunity for the development of skills of more than a rudimentary kind.

The prospect, then, if hundreds of thousands of young men and women who are now, rather unwillingly, enrolled in higher education were to seek full-time employment instead, is that they would simply swell the ranks of the unemployed, or of those employed in dead-end jobs, with all the negative social consequences that would entail.

There has also been a good deal of talk about national service programs for young people. Of these, the program most capable of absorbing additional young people in large numbers is military service. Such a course, however, whatever its merits or faults, would be widely unpopular, especially with the young people themselves. Nonmilitary service programs such as the Peace Corps and VISTA have been successful, but have obvious limitations in their capacity to absorb large numbers. Participation in them also requires a level of maturity which is by no means characteristic of all young people under twenty-one.

Moreover, there is the question of cost, a question which those who express concern over the tax burden of higher education would do well to remember. While the average annual real cost of having a student in college at the undergraduate level, including educational and general costs and board and lodging, is now more than $4000 (perhaps $6000 if foregone earnings are included), the cost of having the same person serve as a recruit in military service is $7500, as a Peace Corps volunteer nearly $10,000, and as a VISTA volunteer $7800. It should also be remembered that of the total annual expenditure on higher education only half comes from public tax sources, whereas in military and other national service programs the *entire* burden falls on the taxpayer.

A central task, then, if higher education is to be reformed through reduction of the pressures on it, is the invention of viable alternatives for some young people, alternatives that are at least as productive to society, as useful to the individual, and no more costly than going to college. This is no small assignment. It means the investment of huge sums of money to create new jobs with the potential for useful learning and personal satisfaction to those who hold them. It means the invention and financing of new low cost forms of national service. And perhaps it means some new ideas that no one has as yet even thought of.

If really viable alternatives can be invented and they prove attractive to some of our youth, not only will the burden on higher education be lightened but the role it plays in providing virtually the only means of social certification for middle class status in American life may also be diminished. Helpful in this regard also will be the many new nontraditional degree programs that are springing up today. To the person who decides to forego college immediately after high school they offer a second chance for higher education and the earning of a degree at a later date.

THE NEED FOR LEADERSHIP

In summary, it is apparent that the higher educational system in this country performs a very wide range of functions which collectively, have enormous economic and social value. It is also obvious, both in relation to this value and to economic and social costs of alternative ways for young people to occupy their time, that public expenditure on higher education is a national bargain and not the extravagance many people believe it to be. Finally, it is clear that reform, given the nature of the present national dependence on higher education, will have to involve the entire society and will entail the invention of ways to relieve higher education of some of its burdens and to lighten others. An understanding and acceptance of these three propositions would seem to be necessary to any concerted movement toward fundamental reform.

Although the national debate over the financing of higher education which has been taking place in the Congress, in state legislatures, and in the mind of the public is, understandably, focused on the question of institutional survival, one would like to see it enlarged to include the subject of reform—reform as delineated by the three propositions noted above. Reform and finance are inextricably linked. There can be no real reform which does not involve the major sources of finance, and, at bottom, it is unrealistic to debate the level of support for higher education without coming to grips with the question of what we expect of it.

Ultimately, there must and will be many parties to the debate on reform—the federal and state governments, private industry, private givers, the public and, not the least, the higher educational community itself. The debate, if it is to be constructive and result in measures that will be beneficial both to the campus and to the nation, will require informed, farsighted, and objective leadership. It is much in the interests of higher education not to let leadership of the reform movement pass by default to others but to assume this role itself. Higher education can do this, however, only by convincing the public that it can put the general interests of the nation ahead of its own special interests, and in the present climate this will not be easy. Developing a national capacity to lead reform is unquestionably one of the greatest challenges facing the higher educational community today.

MEDICAL CARE AS A RIGHT

Mr. SAXBE. Mr. President, my good friend, the distinguished Senator from Alabama (Mr. ALLEN) placed in the RECORD an article entitled "Medical Care as a Right: A Refutation," written by Robert M. Sade, M.D., and published in the New England Journal of Medicine of Dec. 2, 1971. The article provides a rather penetrating insight into the callous opposition by some members of the medical profession to the discussion and planning of national health care legislation.

Dr. Sade states, in part:

> From man's primary right—the right to his own life—derive all others, including the rights to select and pursue his own values, and to dispose of these values, once gained, without coercion. The choice of the conditions under which a physician's services are rendered belongs to the physician as a consequence of his right to support his own life.
>
> If medical care, which includes physician's services, is considered the right of the patient, that right should properly be protected by government law. Since the ultimate authority of all law is force of arms, the physician's professional judgment—that is, his mind—is controlled through threat of violence by the state. Force is the antithesis of mind, and man cannot survive qua man without the free use of his mind. Thus, since the concept of medical care as the right of the patient entails the use or threat of violence against physicians, that concept is anti-mind-therefore, anti-life, and, therefore, immoral.

In the New England Journal of Medicine for March 2, 1972, F. J. Ingelfinger, M.D., states:

> The protests [to this article] were anticipated. But not forseen were the volume and the intensity of the positive response to the Sade doctrine.
>
> If the number of those who agree with Sade is as large as the positive response to his article suggests, then he has identified a major but rarely emphasized ingredient in our much lamented health care crisis—namely, the huge ideologic gap that separates society and its leaders on one hand from large segments of the medical profession on the other. . . . Without some ideologic as well as practical rapproachement, progress toward a generally satisfactory health system will be infinitely slow and painful.

Mr. President, I have been an outspoken critic of our medical health care delivery system and have introduced S. 2827, the Medical Resources Development Act of 1971, and cosponsored S. 3, the Health Security Act, in an effort to remedy this crisis.

I agree with Doctor Ingelfinger that we in government must reach an accommodation with the medical profession in order to make any health care legislation work. However, I can see no accommodation with those who believe that there is no right to medical care.

My son, Dr. William Bart Saxbe, Jr., a 4th-year resident in surgery at Peter Bent Brigham, where Doctor Sade is also a resident, discussed this issue in a speech delivered to the Boston Surgical Society on March 13 of this year:

> The second old point of contention is whether or not the patient has a "right" to medical care. Many of you may have read the recent *New England Journal* article by a fellow resident at my hospital which held that the patient couldn't have a right to medical care because the doctor had a higher right, which was not to have to treat anybody he didn't want to. He explained it in technical philosophical terms and referred to Locke and Hobbs, but it still seemed to me he had his priorities reversed. More importantly, I don't think the general public is going to go for his thesis.
>
> I don't know much about philosophy, and I may not be able to tell a right when I see one, but I think I can tell a wrong. I think it is wrong when a person's medical care and, by extension, his health and his life, should depend on whether he is white, red, blue or green—where he lives—how much he can pay—or who he knows.
>
> John Kennedy's little statement that "life is unfair" is really true. But Kennedy didn't say that in a fatalistic sense—he took it as a challenge, and he himself tried to make things more fair. In the areas of medicine and surgery, I think we can afford to make life fairer for our fellow-countrymen. I think the public is going to demand it, and I think they are entitled to it.

Mr. President, I find it amusing to hear laissez faire arguments on behalf of any profession or business that is the recipient of so much Federal aid. Having served for 2 years on the Health Subcommittee in this body, I am aware of the large amounts of money spent by our Government for the construction of medical facilities, for scholarships given to those deserving assistance in their medical education, and for medical research. The right to medical care is as essential to the right to live as a doctor's right to practice medicine is to the right to live. This has been recognized by the Government and the taxpayer in the public financing of our medical facilities.

Man's right to live is no more a defense to his callous refusal to provide medical care to others who also deserve that same right than it is a defense to his enslavement of others which we long ago forbade by the 13th amendment to the U.S. Constitution.

The State derives its authority not only from the actual or implied use of force but also the consensus of the governed based upon the morality of their government. Therefore, when Doctor Sade states:

> In a just society with a moral government, it is clear that the only "right" to the bread belongs to the baker.

He is wrong if the baker is the single source of food for that society. The baker deserves just compensation for his bread but clearly does not have the right to starve society. I believe that this is what Victor Hugo was trying to tell us in Les Miserables when Jean Valjean was hounded his entire life for stealing a loaf because he was hungry.

I ask unanimous consent that the speech of William B. Saxbe, Jr., M.D., delivered to the Boston Surgical Society on March 13, 1972, and the letter to the editor in the March 2, 1972, issue of the New England Journal of Medicine be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

AMERICAN SURGERY AND THE PUBLIC INTEREST

(*Speech of William Bart Saxbe Jr., M.D.*)

Good evening! It's a pleasure to be here. I believe that the reason I have been asked to share the podium with such distinguished speakers is not because I am an expert or an authority on the topics they have discussed, but in the hope that I can represent some of the views of the next generation of surgeons. Clearly, I can't give a collective opinion or reflect all the views of my contemporaries, but I will try to be fair and frank. As you know, it's not just what you say, but how you say it (SLIDE—"John Knowles raps health care" headline)—and who you say it to.

Now, one of the nicest things about medicine in general and surgery in particular is that the practitioner is his own boss: I'm sure that this is one of the major attractions which brought many of us into the field. Beyond being pleasant, the advantages of this independence are the doctor can create most of the conditions of his own life, and that his lot rises or falls depending on his own performance. There are advantages for his patients as well, in that the doctor is free to innovate, to treat special problems in special ways; and that there are no specified or implied limits to his interest or initiative.

Unfortunately, the doctor's independence brings some disadvantages as well, and it is about the problems springing from those disadvantages that I plan to speak tonight. The most important disadvantages are a lack of accountability and a lack of effective coordination. There are two basic sets of problems involved in the present-day medical "crisis": those related to the performance of the individual practitioner, and those related to the performance of the profession as a whole. I'm not going to talk about the former: while there are real problems of individual performance, it is our problems of collective performance which are more serious. Most attacks on our system of medical care are not on care given by individual physicians but on the overall organization of the profession.

Let me tell you what I mean. There are areas which reasonably should be the responsibility of the profession which end up being the responsibility of no one in particular. Such areas are, for example, the availability of care—the fact that certain people in certain places at certain times can't get a doctor who treats what they have. "Distribution of medical manpower" is part of this. A second problem is the general cost of care—the fact that some people can't afford to pay—with or without insurance—for the kind of care they need. A third is the responsibility for assuring high standards of training and practice—with the obligation to act when those standards are not met. And so on. Clearly, there are problems which most of us will agree fall into the province of the profession—yet there is no one or no group in particular we can blame for not dealing with them. John Knowles and Ted Kennedy can find fault with a surgeon who takes out every tonsil he sees, but they can't really accuse him of personal malfeasance if a group of people on the other side of town can't get a doctor at night.

These larger problems—the logistics, cost, and overall quality of care—are not the problems the practitioner is used to dealing with. He is not used to thinking in these terms, and he frequently misinterprets outside criticism of the profession as criticism of his practice. That's not to say that he should be satisfied that he has done all he can just by taking care of those who come through his office door. It is no longer true that, if every member of the profession is doing a good job, that the profession is doing a good job. Let me say that again, because it's my principal theme: It's no longer true that, if every member of the profession is doing a good job, that the profession as a whole is doing a good job. In a way, it's analogous to the dilemma of the liberal in the racial crisis: it's not enough for us to treat every black we meet with scrupulous fairness, because the system is already stacked against him.

The reason the government is going to get involved in medicine is not the way doctors treat the patients they see, but the way they don't treat the patients they don't see.

Well, if you will grant me that we do have problems with the availability, quality and cost of medical care—and I don't plan to go any further into the details—you will, I hope, agree that somebody must confront them. The public is going to insist that they—the problems—be dealt with.

Who is going to do it? Well, really there are only two alternatives: the profession or the government. I have grave reservations about the ability of the profession to do this, because it is outside its past experience to handle problems of this sort, and the work will demand a coordination and organization the profession has never had. I'm not sure the American Medical Association will be able to do anything but mount a rear-guard action; I'm afraid that most Americans believe that the AMA is more interested in staving off unwelcome solutions to the health crisis than in dealing with the crisis itself.

Maybe the Congress and the President—this one or the next—will agree on some sort of national health plan. My predecessors on the program are far more able to tell you about that than I am. Or, conceivably, the profession itself will come to grips with its deficiencies in such a way that outside help would be unnecessary. I would like to think that this is possible, but I'm not optimistic.

In either case, we have a lot of homework to do. The day of judgment is at hand, and we must be ready for it. Here, I'm happy to say that there is a dedicated group hard at work—the SOSSUS group: the Study on Surgical Services for the United States, formed by the American College of Surgeons and the American Surgical Association. This is an intensive and extensive self-examination, the goals of which are to assess the true state of American surgery and American surgeons, to illuminate areas where improvement is needed, to gauge the needs of the future, to make these findings known to health planners, and to take the part of the profession in the discussion and planning of national health programs. This is a tremendous responsibility, and the entire undertaking will stand or fall depending on the cooperation of thousands of individual surgeons across the country. Let me give you a few examples of some of the information already in hand. I am indebted to Dr. Francis D. Moore, who is the chairman of the SOSSUS Subcommittee on Manpower, for these slides.

Slide: Rates of selected operations in different areas of Kansas

Slide: Best estimates of present surgical manpower

Slide: The 50 commonest operations in the United States

Dr. Moore has written a brief summary of his subcommittee's work to date which appears in the latest issue of the Bulletin of the American College of Surgeons. One of his points in the article is that we need the help of epidemiologists and social scientists to complete and interpret these studies. We've been pretty wary of these people in the past, particularly when we hear the jargon about the "delivery of medical care"—as if we could have 2 quarts left at the doorstep every morning—or when the concerned physician and the sick patient are transmuted into the "provider" and the "consumer". Nevertheless, there is an established and growing body of wisdom which deals with the broader aspects of health care which surgeons will have to tap.

Now, I started off by telling you about the advantages of being your own boss, and I've probably convinced some of you that you're going to be assigned to a work brigade! I don't really think that's the case. I predict an evolution rather than a revolution in the orientation of the profession, the structuring of the individual surgeon's practice, and their relationship to the government. It will be an uniquely American system, with a different set of pluses and minuses than England, Sweden, Canada, Russia, or Madagascar. I think that what changes we will get will come gently and by stages. I think we can get into bad trouble only by denying that there *are* any problems or by failing to help in solving them.

Finally, I'd like to look at two old cliches which provoke an emotional reaction whenever they're brought up. The first is "fee for service".

"Fee for service" is always good for an argument because it means different things to different people. To the surgeon it means that he gets paid for what he does. To the patient and the general public, however, it may mean that you don't get the service unless you come up with the fee—no tickee, no washee. There are really two meanings, expressed here as—"The doctor earns according to his work", "The patient pays according to his illness."

Most of us would agree that the first part is just—that the surgeon's reward should be commensurate with his time and skill. However, I feel uncomfortable with the logical conclusion of the second—that a catastrophic illness for a patient should be a financial catastrophe as well. So the next time you hear "fee for service" bandied about, be sure to find out what the speaker has in mind.

The second old point of contention is whether or not the patient has a "right" to medical care. Many of you may have read the recent New England Journal article by a fellow resident at my hospital which held that the patient couldn't have a right to medical care because the doctor had a higher right, which was not to have to treat anybody he didn't want to. He explained it in technical philosophical terms and referred to Locke and Hobbs, but it still seemed to me he had his priorities reversed. More importantly, I don't think the general public is going to go for his thesis.

I don't know much about philosophy, and I may not be able to tell a right when I see one, but I think I can tell a wrong. I think it is wrong when a person's medical care and, by extension, his health and his life, should depend on whether he is white, red, blue or green—where he lives—how much he can pay—or who he knows.

John Kennedy's little statement that "life is unfair" is really true. But Kennedy didn't say that in a fatalistic sense—he took it as a challenge, and he himself tried to make things more fair. In the areas of medicine and surgery, I think *we* can afford to make life fairer for our fellow-countrymen. I think the public is going to demand it, and I think they are entitled to it.

Thank you.

Rights of Authors and of Patients

WHAT'S a journal—almost any kind of journal—for? To offer its readers new information, new ideas, a different way of looking at things. Even a review article, if well done, permits new understanding of not so new facts. But to what avail is the article that merely restates that which the reader already knows or believes? The reader may feel gratified to see his own convictions endorsed, but the fare he has consumed is noncaloric; he has gorged himself on a psychologic pacifier. By the same token, the editor whose publication merely reflects the dominant ethos of the day, or the bias of a particular group, is providing intellectual sustenance of a low order. His journal becomes a me-tooer or a propaganda sheet.

What are the benefits, then, of publishing one more article pointing to areas of scandalous starvation, demanding more and ever more doctors, or asserting that everyone should have equal access to health care? Far better, and desperately needed now, are workable solutions to such well publicized needs. Alternatively, their premises may be challenged. Perhaps more doctors are not the best answer to the dissatisfactions with our present system of tending health. And if a bold soul wishes to question the concept that everyone has a right to health care, let us hear him. Even those of us who think him misguided may be prodded into sharpening the logic of our own convictions. Or he may be "hoist with his own petard." Above all, however, let us, editors and readers, not indulge in that insidious form of brain-washing which consists of denying space to him whose ideas conflict with ours.

Such are some of the reasons why the *Journal* published the article by Robert M. Sade, even though I personally believe the Ayn Rand brand of objectivism and libertarianism morally unacceptable, pragmatically unworkable and, with respect to medicine, totally contrary to what we doctors profess. Other protests are recorded in this week's correspondence section.

The protests were anticipated. But not foreseen were the volume and the intensity of the positive response to the Sade doctrine. Within three weeks he had received 200 commendatory letters and over 1000 reprint requests. At least seven groups (including a state medical journal, two county medical societies and the officers of a state medical society) have requested permission to reprint the article. What does this mean? Dr. Sade has obviously tapped a strong undercurrent of medical opinion that not only opposes but resents the doctrine of health care as a right.

A few years ago, when he was president of the AMA, Dr. Milford Rouse was roundly clobbered for suggesting that health care was a privilege rather than a right. Rouse had few defenders, either then or since. It seemed as if those who espoused similar views had become extinct, that the principle of inherent right to health care had become as accepted in the United States as that of free speech. But, as Sade has shown, the opposition is not dead. Its members have merely been inarticulate, waiting for someone to speak their mind.

If the number of those who agree with Sade is as large as the positive response to his article suggests, then he has identified a major but rarely emphasized ingredient in our much lamented health-care crisis—namely, the huge ideologic gap that separates society and its leaders on one hand from large segments of the medical profession on the other. Must not this gap be bridged before effective planning for, and implementation of health maintenance and illness care can be realized? Why argue about such technical matters as methods of payment, details of quality review, and duties of paramedical personnel before more agreement is achieved on basic issues? A progressive and aggressive medical leadership is needed to persuade the vast majority of the medical profession that any person within the United States has as much right to health care as he does to adequate transportation, postal service and fire protection. But the bridge must also extend from the other side of the gap. Society and its political leaders must recognize that medical care is much more complex than building roads, delivering mail or putting out fires. Thus, should the necessary medical leadership develop, government must accept its credentials and respond to its recommendations. Without some ideologic as well as practical rapproachement, progress toward a generally satisfactory health-care system will be infinitely slow and painful.

MEDICAL CARE AS A RIGHT

To the Editor: Please accept my thanks and congratulations for presenting the first instance (which I have seen) of "the other side" of the question of socialized medicine: "Medical Care as a Right" by Robert M. Sade. It is appropriate that the fight to free the practice of medicine should begin in the cradle of liberty in Massachusetts.

TOM ROE, M.D.

SAVANNAH, TENN.

To the Editor: The concept of medical care expressed by Robert M. Sade in his article, "Medical Care as a Right: A Refutation," is certainly correct, and frequent public expressions along this line at this time in history are badly needed. Also needed is the courage of the AMA to adopt this concept as official policy.

Last year, I wrote a resolution defining medical care as a human need rather than a right. This was eventually introduced to the House of Delegates of the AMA by the Kansas Delegation, but it was defeated in committee. This was accomplished largely through the efforts of the Speaker of the House, who seemed to be inspired by fear of an adverse reaction by the press if the measure passed.

To understand his actions, it is helpful to distinguish between a politician and a statesman. A politician is one who would be willing to do anything, including selling the medical profession into bondage, to be reelected. A statesman is one who will preserve moral government, and in so doing acts in the best interests of the citizens. It may be noted that there are politicians in medical societies, as well as politicians in government. We deserve more statesmen in both.

We surely need not fear the attitude of the press for taking a stand on what we believe to be true. But we do need to fear acquiescence to misguided leaders in our profession and in government whose dominant interests seem to be preservation of an image or remaining in office.

This well written authentically documented article contains a message that should be widely disseminated. I see a ray of hope when this type of opinion can be found in the pages of such a distinguished publication as the New England Journal of Medicine.

RALPH HALE, M.D.,
American College of Allergists.

WICHITA, KANS.

To the Editor: It is ironic indeed that the article by Dr. Sade carried in the *Journal* of December 2, 1971, attempts to refute the notion that medical care is a right from an atheistic point of view. Far more telling arguments can be marshaled against medical care as a right from a Christian Theistic position. The irony is heightened when the author seeks justification for his philosophic position as being valid on the basis of the philosophy underlying the American Revolution and our resulting form of government. Nothing can be found in the ideas of the Founders that would support Dr. Sade's philosophy. Dr. Sade uses words and concepts such as "morality," "rights" and "government" in a way that is totally foreign to the thinking of the American colonists. They would not have agreed with his contention that "The moral foundation of the rights of man begins with the fact that he is a living creature: he has the right to his own life."

I am in complete agreement with the conclusion that government interference in the free-market delivery of medical care will destroy quality medical care for all, just as such interference has destroyed quality medical care in every country where it has been tried. Dr. Sade's philosophy will not turn us back from our present coercive society.

I believe that there is a great danger in coming to the right conclusions for the wrong reasons. Dr. Sade's reasoning, which brings him to detest compulsion from government, is built on shifting sand. Historically, this point has been proved since an insistence on man as supremely sovereign has led to totalitarianism, either directly or by way of anarchy. This historical lesson was clearly recognized by the 18th-century Americans but has been all but obliterated in the 20th century owing to the humanism of the age.

America is now operating a fascist economy and our head-long rush toward total fascism (government control of the market without owning the means of production, and in view of the situation at Penn Central and Lockheed, even that condition may not be true for very much longer) will not even be slowed by Dr. Sade's philosophy.

Only a return to the reasoned Christian Theism that founded this country will reestablish the conditions of personal and social life that will allow individual free enterprise to flourish in a truly pluralistic society as well as protecting the principles of Liberty and Property. Medicine's plight is part of the whole philosophical sickness from which America is dying. She will not recover under Dr. Sade's "nonsystem."

COLLIN E. COOPER, M.D.

LA CANADA, CALIF.

To the Editor: To anyone concerned with this society's headlong rush into the New Dark Age, the essay by Dr. Sade (December 2, 1971) is a thoughtful, concise statement of the most important issue of our time: the abrogation of individual rights. The society that fosters the notion that its members have a right to health care, or to the minds and services of any person or group, will have no compunctions about forcing individuals or groups to provide those services. The final inversion will be for government to assume control over professional education. Those with certain aptitudes, as established and judged by the state, will be given the "free choice" of entering designated "needy professions of low personnel density" or receiving no higher education at all. Specialist training and physician placement will be determined by a population-profession ratio determined by some bureaucratic "boffin" (scientific or technical expert) whose main concern is control of his peers rather than care of people. The wishes and aspirations of the individual will be dismissed as irrelevant—as indeed they are in a controlled society. As the quality of medical care declines, those in authority will place the blame upon their victims, the practicing doctors. The laymen will be told that avarice and greed and lack of altruistic motivation on the part of doctors are responsible for the slow disintegration of medicine. Governments are not interested in quality, for excellence cannot be controlled. The goal is a standard level of mediocrity. Only doctors who regard themselves as chattels of society can find any comfort in these certainties. There will be little or no protest from the other professions, or from anyone else. People whose minds have been numbered by those modern comprachicos, the educators, who believe moral values are relative and negotiable, that the state has a valid claim to the lives of its citizens, that government by extortion is justified, that the "rights of society" are in some indefinable manner greater than the rights of an individual, will not balk at the total subjugation of the medical profession. A society that has meekly acquiesced in the military draft, compulsory arbitration, compulsory unionism and wage and price controls, and has accepted the notion that any demand, no matter how whimsical or irrational, that is put forward under the aegis of "social action" constitutes a right, is philosophically bankrupt. The psychologic cripples in medicine and government who seek control of our or any other profession can succeed only by achieving control over individuals. Once the right of a single man to his own life and the product of his own mind is abrogated, all men shortly find themselves pawns of the state to be manipulated or sacrificed as the exigencies of the moment demand. Every Utopia is built of the bricks of "controlled freedom" held together by the blood of free men, and is dedicated to the obscenity: "from each according to his ability, to each according to his need."

If anyone thinks the foregoing is simplistic alarmism, let him contemplate the recent activities of the governments of British Columbia and Quebec. In the former province, an attempt is being made to seize control of hospital accreditation committees with the express purpose of deciding who can go where and do what. Dr. Sade has described what happened in Quebec. He did not mention the "regionalization boards," committees of anyone at all preferably containing no practicing doctors, that purport to define the medical needs of a given area, and to direct the placement of suitable "personnel."

It is time for responsible and honest men in and out of medicine to wake up and appreciate the extent of the assault being directed at our professional and personal freedom.

A. L. Amacher, M.D., F.R.C.S. (C),
Victoria Hospital.
London, Ontario, Canada

To the Editor: If Dr. Sade had not mentioned the repressive way in which Medical Care was introduced in Quebec in his paper entitled "Medical Care as a Right: A refutation," I probably would not have answered him.

The great majority of doctors in Quebec were in favor of Medical Care. However, the Quebec Federation of Medical Specialists fought the government on two issues. The first, and most important, issue was the right of the medical profession to retain full control of the Medical Art. The syndicate won. On the second issue, the specialists wanted full reimbursement of their fees, whether they opted in or opted out of the plan. The syndicate lost, and the medical specialists went on strike.

As for the bill 41, which was introduced to force the doctors back to work, one must put it back into its proper perspective. It was supported by all members of parliament at a time of turmoil during the October, 1970, crisis, five days after Labor Minister Laporte had been murdered by F.I.Q. agents and while Canada was under the war act. It is certain that bill 41 was tough, but many doctors left the province at a critical time. In any event, no doctors went to prison, even if some of them remained outside the province.

Today, Medical Care provides health services to all residents of the province. The patients are free to choose their own doctor, and all expenses are paid by the government. The scheme is working well, and I personally see no difference in practicing medicine in the Province today as compared to what it was before the introduction of Medical Care.

Sixty doctors have opted out of a total number of 8500. We are ahead of you in this field, and I am proud of it.

Bernard Longpré, M.D.,
Centre Hospitalier universitaire.
Sherbrooke, Quebec, Canada.

To the Editor: I read with interest Dr. Sade's recent article entitled "Medical Care as a Right: A refutation." At a time when many aspects of our lives seem to be controlled by large, impersonal forces beyond our influence. I am certainly sympathetic and agree with Dr. Sade's deep concern for the freedom of the individual to direct his life as he chooses. However, we live in complex times. It is no longer possible—if it in fact ever was—to pursue one set of rights or interest to their logical conclusions while disregarding the consequences that this may have for those who are affected by our actions.

Today's physician, regardless of his form of practice, is not a rugged individualist who has "made it" on his own. On the contrary, society has provided a helping hand every step of the way. No medical student or physician during his period of postgraduate training completely supports his own educational process. Public funds are utilized in the support of his education either as direct subsidies or as part of grants from government, foundations and voluntary health agencies. Public monies also fund the research that improves the state of the physician's art, helps to build the hospital where he works and as often as not pays the fees of his patients.

Our society has come to consider health care more a matter of public interest and safety than a straightforward marketing of services. Clearly, the consumers of health care are no longer prepared to step aside and allow the physician to continue to act as an individual entrepreneur with no regard for the effects of his actions on the society around him. The consumers' perceived right to health and to life itself are no less strongly held than the perceived right of the physician to regulate his delivery of services.

This is not a win-or-lose situation. The consumer will not accept a "public-be damned attitude," and the physician will not and should not work on demand. As an intelligent community of professionals we must work with those who represent the public interest to develop new methods of attaining a relation between the physician and the consumer that maximizes the rights and interests of all concerned.

Stanley S. Bergen, Jr., M.D.,
College of Medicine and
Dentistry of New Jersey.
Newark, N.J.

To the Editor: It is very difficult for me to believe that Dr. Sade is serious in presenting the arguments outlined in his recent article in the New England Journal of Medicine (December 2, 1971). The sophistry and the calloused disregard for human interaction based upon trust and compassion are almost unbelievably crass. And yet courtesy dictates that I must assume that both he and the Journal were serious in publishing the article.

I cannot imagine readily any more effective way of demeaning the skills of a physician than by equating them with a commodity that can be bartered; bought, sold, promoted or withheld from the "market" at the sole discretion of the "owner." What bargaining power does the Roxbury mother have when she brings her acutely ill child to the Children's Medical Center for care? I suggest that she has none except that dependent upon the compassion of the institution and the weight of public opinion. What bargaining power do the victims of a highway accident have, incapacitated far from home, in obtaining and evaluating the medical care that will restore them to health? I suggest that they are in no position whatsoever to bargain for anything—and certainly not to make well informed choices between alternative "products."

Perhaps Dr. Sade is satisfied to be a shopkeeper, trapped into bartering his services according to the laws of supply and demand. Although I realize the economic pressures under which physicians provide their services, personally, I refuse to submit to this indignity.

Although I respect Dr. Sade's sincerity, I regret his insensitivity to the real problems of the 1970's. I hope the vigor of response to his article demonstrates that I am not alone in this reaction.

Robert W. Gage, M.D.,
University of Massachusetts.
Amherst, Mass.

To the Editor: The article by Dr. Robert Sade, "Medical Care as a Right: A refutation" (N Engl J Med December 2, 1971), itself deserves to be refuted. Dr. Sade considers the concept of medical care as a right to be immoral because it requires governmental involvement in medical-care provision. In his view, medical care is properly a matter of self-determined action by free individuals: the seeking of services by patients; the providing of services by physicians. Governmental involvement is coercive and violates the free society of physicians and patients.

The trouble with this libertarian concept of medical-care provision is that it is almost totally unreal. Medical care may have been purely a matter of freely contracting individuals in the days of Locke and Burke, to whom Dr. Sade refers. It is certainly no longer that today. A variety of corporate bodies play major parts on the medical-care scene—hospital boards, hospital staffs, medical societies, specialty boards, accrediting bodies, insurance companies, labor unions, businesses, health and welfare funds, citizens' organizations. Can anyone pretend that medical care in the United States is not powerfully influenced by organizations like these? Do physicians and patients really function solely as autonomous individuals?

At the clinical level, transactions between physician and patient are still, and should remain, a matter of individual determination. However, the organizational and financial framework in which they take place are determined by a host of groups—groups that are mostly nongovernmental but impose major constraints on individuals nevertheless. This private structure of medical care has failed to serve satisfactorily an increasing number of citizens. That is why government involvement has grown. Dr. Sade may believe that government's only proper function is to provide people with physical security. For many of us, however, government is much more: it is the mechanism through which people may deal collectively with their problems in the most just and equitable manner.

David Savitz, M.D.,
Reynolds Memorial Hospital.
Winston-Salem, N.C.

To the Editor: In his recent article (N Engl J Med 285: 1288–1292, 1971) Dr. Sade has provided a thought-provoking analogy to illuminate the complex social issues confronting American medicine: medical care is to the physician as bread is to the baker. Unfortunately, he has failed to make the comparison truly relevant by completing it as follows:

There is no food in the community other than bread.

Anyone not a state-licensed baker who dares bake or sell bread is liable to fine or imprisonment.

The bakers have conspired with the government to ensure that there is not enough bread for the populace.

The training of the great majority of bakers, as well as their bakeries, is heavily subsidized by the people through taxation (i.e., the forcible appropriation of the goods of the people by the State).

With the analogy more complete, consider the baker who refuses to give bread to a hungry citizen. Is it not the baker who is guilty of violence? Cannot the society that educates him, protects him from competition, and guarantees his prestige and affluence, require at least that he make his wares available to all comers?

Francis P. LeBuffe, M.D.,
New York Hospital.
New York, N.Y.

To the Editor: I was surprised and dismayed to read the special article "Medical Care as a Right: A Refutation" by Dr. Robert M. Sade in the *Journal.*

The article reveals clearly that Dr. Sade is fighting valiantly in a war that his side lost a long time ago. He says, "The only proper function of government: to provide for the defense of individuals against those who would take their lives or property by force." Should public schools, including most of our medical schools be closed? Should health departments, government-owned utilities and highways be abandoned? Or does he think all government functions except the police and armed forces should be turned over to private enterprise?

Whether an individual is a baker or a physician, the product or service provided by his labor is *not* his to do with as he pleases. Whether we like it or not there must be restrictions if we are to have a stable just society.

Dr. Sade states that medicine as a profession is moribund in Sweden and uses a quotation from Dr. Werkö's article to support this allegation. Dr. Werkö's article gave a very good description of the Swedish medical system and its problems particularly from the point of view of the hospital-based specialist, but it did not even suggest that the Swedish medical profession was moribund.

My own observation of the Swedish medical system showed that all Swedish citizens have access to good medical care without severe financial strain. I dislike much in their system, but they have accomplished this and we have not. The medical facilities and the medicine practiced in Sweden are excellent.

Dr. Sade says that we should not help design a national health system. If we want to practice good medicine in the future, we had better help design it. Swedish physicians have said that if they had participated fully in the development of their national medical-care system from the first, instead of resisting it, the physicians there would now have things more to their liking.

The South continued to fight the Civil War long after it lost, with resulting bitterness and slowed progress that has not yet been completely overcome. Will the medical profession continue to battle against a coordinated comprehensive health-care system now that the question is decided? The "reconstruction period" will be rough if we are victims instead of participants.

James H. Sanders, Jr., M.D.
Brevard, N.C.

To the Editor: Dr. Sade's article in the December 2, 1971, issue, entitled "Medical Care as a Right: A refutation," is an embodiment of 16th-century thinking that truly antedates John Locke's and Edmund Burke's concept of natural rights, which he alludes to. The pursuit of his reasoning leads to several additional "corollary fallacies" that he seems to have overlooked. I would suggest the following:

The requirement of state or federal licensure for physicians guarantees that only properly trained and competent physicians will dispense medical care to the populace. The continually changing thoughts, opinions and clinical approaches of the medical profession indicates the elusive nature of "truth" in the field of medicine. Who is to say what is proper training and what is competence? Why shouldn't anyone who wishes to practice medicine be permitted to do so? Such laws only restrict the rights and throttle the minds of these people, and they do so by "violence or the threat of violence" by the State.

The practice of quackery, witchdoctory, acupuncture and chiropractic must be regulated and appropriately restricted by government agencies. Clearly this restricts the rights of these individuals to support themselves, and because such regulations can only be supported by "violence, or the threat of violence," "it is anti-life, and therefore immoral" (to quote from Dr. Sade).

From here to its reductio ad absurdum is all too obvious.

Of course medical care is a right! Its delivery is not a right, but a privilege. These are pragmatic truths in our "advanced" civilization that no amount of intellectual calisthenics can alter.

David Shander, M.D.
Denver, Col.

To the Editor: There are few heroes and supermen in the medical world: one only has to read Dr. Sade's special article entitled: "Medical Care as a Right" and on the same day, Jack Anderson's syndicated column on the "Neglect of the Aged" to fathom the chasm between theories and reality.

Dr. Sade's tight reasoning along the thoughts of Ayn Rand is appealing and, God permit, the business of medicine could be conducted along such moral paths. But, most of us being human and not elite superheroes, somehow, the day-to-day grind of living gives birth to fantastic inequities, simply by means of most of us not being faced with the problems every day.

"Problems such as high cost, few doctors, low quality of available care in economically depressed areas" are real, will continue to rise in spite of easy philosophical denials and eventually will engulf those who persist in seeing themselves as victims, though nobly refusing their sanction.

You must give your baker, Dr. Sade, the attributes of sanctity along with the overpowering rights to the products of his work, because if he ever uses his bread to tyrannize the very life of others, all your beautiful Ayn Randish argument becomes vicious.

The right to medical care follows directly from the right to live: when a society is embryonic, so are the organs to dispense services. But in America today, I see it as a direct responsibility of our society to organize systems to provide for it, and not by victims, but by willing providers. This is what medicine is all about.

Jean-Guy Fecteau, M.D.
Sacramento, Calif.

To the Editor: If I understand Dr. Sade (N Engl J. Med 285:1288, 1971), his logic goes something like this: a doctor's ability to earn a living is defined solely by his own "thought and effort": furthermore, doctors must be allowed to earn this living at all cost; therefore, doctors must be allowed to earn this living in any way they choose, without "outside" interference from well meaning but morally myopic patients and politicians.

Terrific! Now I can forget about all the dumb people who paid millions in taxes to help build my medical school and finance my education: now I can forget about poor city and farm folk whom I need not worry about serving any more, and now I can forget about peers and professors "immorally" persecuting me with obnoxious reviews and re-examinations. Best of all, I can forget about the nondollar "relationship" part of the doctor-patient relationship. After all, anyone bothering me on the telephone about warts or worries when I could be seeing another paying patient is wasting my time and his.

Yet, I sometimes do feel the prick of an obligation toward those who put me in the position of maximizing the gains of my "thought and effort." Sometimes, I do believe that not everyone is in the position of being able to put dollars down for my professional services, let alone being in a posh enough suburban location to get them. Sometimes, I do think that we doctors and future doctors are going to use our "thought and effort" to earn a living by manipulating our patients' market demand for medical services far more than we like to admit.[1] Sometimes, I do regard our medical profession's history of building a "rigid, self-perpetuating mystique about its knowledge, its jurisdiction, its practices, its prerogatives, and its mission"[2] as introducing an inequality into Dr. Sade's moral equations. Worst of all, sometimes I get the uncomfortable feeling that those I will serve should have some say so about how I serve them.

Silly thoughts, I know. Immoral, even. So let us put them aside and instead take up the heroic struggle of Quebec's courageous defenders of professional integrity. Let us unite and fight the repressive, evil patient-bureaucrat-politician complex until we have shed our last green drop.

Jeff Brown, M.P.H.,
Stanford Medical School.
Stanford, Calif.

To the Editor: Dr. Sade's defense of a racist and discriminatory American health system is but a natural consequence of his support for the American economic system. He asserts that "The right to private property . . . is essential and indispensable to maintaining free men in a free society." The "freedoms" and "rights" to which he refers are bourgeois freedoms and rights—they are reserved principally for America's ruling class. That such a ruling class exists is easily demonstrable. From the Wall Street Journal we learn that the 200 largest corporations in America own 40 per cent of this country. From the FCC we learn that 90 per cent of all campaign funds come from approximately 1 per cent of the people. American imperialism abroad is but a logical extension of domestic imperialism; the ruling class in America owns 40 per cent of the world's natural resources.

Dr. Sade is under the illusion that the American worker has control over his or her life. In reality, the American worker (assuming that he or she is fortunate enough to be able to find a job) has little control over where, when or how he or she works and has no influence at all over what is produced, why it is produced, for whom it is produced, or what is done with the products of labor. Rather, it is the capitalist class and its various appendages that makes these crucial decisions owing to the fact that this class owns and controls the means of production and, consequently, the working class.

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[1] Brown J: Diagnosing and Rehabilitating the Medical Marketplace: Bennett essay on the business and politics of medical care in America. Berkeley, University of California Archives, May, 1971.

[2] Freidson E: Profession of Medicine: A study of the sociology of applied knowledge. New York, Dodd, Mead, and Company, 1970, p. 374.

"Free enterprise," then, means the freedom for the ruling class freely to oppress and exploit the working class with relative impunity. Profit motive, and the demands of the market place predominate; human needs are important only so far as they may contribute to the maintenance of the status quo. It is upon the economic base of corporate capitalism that the various supra-structures are built, the medical-care system included. It should therefore come as no surprise that medical care in America is reserved primarily for those who have enough money to pay its exorbitant costs.

Thus, it is no coincidence that in the richest country in the world, over 60 million people live in poverty or deprivation (as defined by the United States Government). It is no coincidence that America ranks 15th in the world infant mortality rates, and that four times as many black women die at childbirth as white women.

Dr. Sade's defense of the present American medical system is a defense of racism, inequality and oppression. The end of such a system will come with the end of corporate capitalism, and only then will the full potential of man and womankind, as well as the full potential of medicine as a liberating and creative force, be realized.

MARK NELSON,
Case Western Reserve University Medical School.
CLEVELAND, OHIO.

To the Editor: I should like to take exception to one comment of Dr. R. M. Sade in his article. "Medical Care as a Right: A refutation," in the December 2, 1971, issue. Although he states many valid points, his comment concerning "apathetic internists," "apathetic surgeons" and "apathetic gynecologists" implies that all physicians currently employed by or in government institutions fall into that category.

This is untrue and one of his fallacies. These physicians are as dedicated as any of their colleagues. These doctors, or at least the majority of those that I have worked with or known, have no less self-esteem, integrity and competence than those in private practice or other endeavor not under government supervision. The one difference perhaps that he may accede to is the fact that these physicians chose to do the work they are doing rather than having been forced to do so.

F. W. HENDERSON, M.D.,
Veterans Administration Hospital.
LAKE CITY, FLA.

SADE ON THE RIGHT: A REFUTATION

To the Editor:

Bread is life. And the price is right—
for the Baker King. What's more, he bakes
the kind he likes—and bids the rest eat cake.

The hungry line outside his door
can wait. "No help needed, Mr. Kennedy,"
Too many bakers spoil . . .
the spoils.

It's late. And while the leavened coffers rise,
with a golden glow that fills his eyes,
he does not see those hungry guys
turn toward a different bakery.

J. DENNIS MULL, M.D.
COHASSET, MASS.

To the Editor: I must protest the inclusion in the New England Journal of Medicine of such a Special Article as "Medical Care as a Right: A refutation" by Dr. R. M. Sade. This type of article, shot through with conscienceless sophistry and self-righteous moralism, will ill serve medicine's cause in the current social debate over how the sick poor are to be served in the wealthiest nation on earth. The superficiality of offering a solution in semantics to one of the most pressing social problems of the day not only is irritating in its irrelevance but reflects all too clearly a deep-seated and mistaken attitude on the part of too many members of the profession that the problem can be made to "go away" if denied.

The article is undeserving of publication but if it were found where expected, in a Birchest tract, one could almost dismiss it with a shrug of disdain. To find it, however, as a Special Article in one of the world's most respected journals does nothing less than impugn the social conscience of the editor who chose to print it.

The *Journal's* sponsorship of such precious ratiocination is to be deplored.

JOHN T. ALEXANDER, M.D.
HUNTINGTON, N.Y.

JOHNS HOPKINS UNIVERSITY
SCHOOL OF HYGIENE AND PUBLIC HEALTH

To the Editor: On first reading Dr. Sade's lonely diatribe favoring resolution of man's congenital schizophrenia in favor of the individual's freedom from group restraint (N Engl J Med December 2, 1971), I was a bit aghast that so erudite a journal would give all that space to so naive an economic analysis, with its bare-bones example of the baker and *his* loaf of bread. And then a colleague suggested that perhaps the editor was handing the author the free end of a rope, the bitter end of which was a noose-knot.

If a man is a social animal, isn't the product of man a social product? But then Aristotle isn't always right. Sometimes he is even amoral.

ROBERT D. WRIGHT, M.D.
BALTIMORE, MD.

The above letters were referred to the author of the article in question, who offers the following reply:

To the Editor: Because of limited rebuttal space, I include a few general references that provide detailed refutation of those objections to my argument that are not discussed here.[1-3] I urge the objectors who have obviously not done so to read the references appended to my original article.

Wishful thinking and a conciliatory attitude cannot change the fact that all legislation is ultimately dependent upon the threat of physical violence. Initiation of the use of force in the name of the public good, social welfare, the state, the king and so forth is the great destroyer of civilized society. The consequence of the destruction of the free interaction of physicians with their patients and society as a whole will be the disintegration of quality in American medical care. Nonparticipation remains the most effective and moral method to avoid professional self-immolation.

An open marketplace is not "demeaning," and can be threatening only to one who has something to hide in the quality of his product or service. There is no higher mark of respect for one's fellow than to trade with him openly and freely, value for value. For physicians, the value received need not always be money: American physicians traditionally have often accepted as fair exchange for their services the intangible value of their patient's appreciative "Thank you." But when the relation between men is altered by the intrusion of a legislative gun, benevolence disappears, and fear becomes the currency of exchange. One wonders who really projects a "calloused disregard for human interaction based upon trust and compassion," the man who wishes to trade voluntarily with others to their mutual benefit with mutual respect, or the man who thinks it necessary and proper to deal with other men in terms of whose legislative power is greater.

It is certainly true that there are many "groups that are nongovernmental but impose major constraints on individuals nonetheless." However, one cannot fail to recognize the elementary difference between those groups and the government: the first cannot use force to settle a disagreement; the second can and does. Hospital boards, medical societies, insurance companies and the rest have a very important role in the care of patients and in the professional lives of physicians, but they cannot *force* either patients or physicians to do anything, except by voluntary contract.

By the same token, the patient does indeed have just as much a right to his own life as the physician has to his, but both rights end where the other's physical integrity begins. The "right" of a patient or his agent to force a physician to take care of his medical needs has the same moral basis as the "right" of Nazi physicians to force concentration-camp "patients" to lie down on their operating tables. Those "rights" are exactly reciprocal and equally nonexistent.

The argument that society has paid part of the educational costs of the physician and therefore has the right to force him to practice on the terms that it dictates reveals a totalitarian mentality. Nearly everyone in the country has had at least some of his education subsidized by the state; therefore, the argument logically concludes, the state has the right to direct the lives of all its citizens. A very neat package, indeed.

Finally, it cannot be emphasized enough that in the attempt to solve medical-care problems by legislative fiat, American political freedom is being sacrificed to a system that has failed to achieve its own goals wherever it has been tried.[4]

I thank Drs. Amacher, Roe and Hale for their comments.

BOSTON, MASS. ROBERT M. SADE, M.D.

RETIREMENT OF TWO LOYAL AND EFFICIENT OFFICIALS OF THE PANAMA CANAL

Mr. THURMOND. Mr. President, it has long been recognized that an official position with the Panama Canal enterprise is a sacred trust. Citizens of the United States serving in important capacities in relation to the maintenance and operation of the canal have had grave responsibilities requiring the performance of indispensable and efficient services. They have earned the everlasting gratitude of the people of our country as well of the users of the great isthmian waterway.

Recently, after long periods of service with the Panama Canal, two of its most efficient and capable officials retired: William Merrill Whitman, Secretary of the Panama Canal Company, after 32 years of service, the first 12 in the Canal Zone and the last 20 in Washington, D.C.; and Paul M. Runnestrand, Executive Secretary of the Canal Zone Government Panama Canal Company, since 1956, after a total service of 31 years, all of them on the isthmus.

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[1] Rand A: Capitalism: The unknown ideal. New York, New American Library, Inc, 1967

[2] Von Mises L: Socialism: An economic and sociological analysis. New Haven, Yale University Press, 1951

[3] Rand A: Atlas Shrugged. New York, Random House, 1957

[4] Lynch MJ, Raphael SS: Medicine and the State. Springfield, Illinois, Charles C. Thomas, 1963

Both of these positions required the incumbents to be outstanding persons of high order of ability with complete loyalty to the United States.

The stories of the retirements of Messrs. Whitman and Runnestrand were published in the March 10 and 17, 1972, issues of the Spillway, respectively. I would like to state, for the benefit of those who have not seen the original publications, that the second article concerning Mr. Runnestrand also carries a picture showing Under Secretary of the Army Kenneth E. BeLieu presenting Mr. Whitman with a resolution of the Board of Directors of the Panama Canal Company, expressing its appreciation for his long and outstanding services as Secretary of the Company.

Mr. President, because the high standards of performance by both Mr. Whitman and Mr. Runnestrand should serve as models for emulation by those who follow, I ask unanimous consent that the two articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[Panama Canal Spillway, Mar. 10, 1972]

W. Merrill Whitman Closes PC Career

W. Merrill Whitman who as Secretary of the Panama Canal Company and Assistant to the Governor has for the past 20 years been in charge of Canal affairs in the United States, retired recently after serving the Canal organization for 32 years.

A native of Nebraska, Whitman began his Canal career in 1940 as an associate attorney in the Office of the General Counsel. He received his law degree "cum laude" in 1935 from Nebraska's University College of Law and also attended Northwestern University Law School in Chicago and did graduate work in law at Georgetown University in Washington.

Prior to joining the Canal organization, Whitman was a legal editor for the West Publishing Co. in St. Paul, Minn.

After serving for 2 years as an attorney for the Canal, Whitman was made Assistant General Counsel, remaining in that position until 1948 when he became the Canal's attorney in Washington. In 1952, he became assistant Chief of the Washington Office and in July of that year was named the first Secretary of the Panama Canal organization.

Whitman was secretary of the Goethals Memorial Commission from 1948–54. He has written two books on legal subjects, one on Federal criminal procedure and the other on admiralty law.

As Secretary of the Panama Canal Company, Whitman has been responsible for recording proceedings of the Board of Directors meetings and has served as advisor to the board and the Governor-President on Panama Canal Company and Canal Zone Government matters.

He has acted as a clearing house for matters pending before the Board of Directors, appeared before Congressional committees, discussed Canal Zone affairs with the State Department, military officers and other U.S. Government officials. It has been his duty to analyze effects of proposed legislation on the Canal organization and to answer requests from Congressmen for data on the Canal and Canal Zone.

The Whitmans make their home in Kensington, Md.

Paul M. Runnestrand To Retire to Florida

Paul M. Runnestrand, who has been connected with the Panama Canal since 1941 and has held one of its top positions as Executive Secretary since 1956, is retiring this month and will make his home in Florida.

As fourth in the line of men to hold the title of Executive Secretary which has been in existence since the Panama Canal opened to traffic, he has seen more changes in the Canal organization than any of this predecessors.

C. A. McIlvaine, the first Executive Secretary started work with the Canal during construction days and was followed by Frank Wang and Eugene Lombard, both well known on the Isthmus.

ASSISTANT TO PRESIDENT

In addition to his title of Executive Secretary, Runnestrand also performed the duties of Executive Assistant to the President of the Panama Canal Company. With the dual title and duties, Runnestrand has been one of the Governor's top advisers in both Company and Government affairs.

As Executive Secretary he has been liaison officer and responsible staff representative of the Office of the Governor-President on policy matters concerning the Government of Panama, diplomatic and consular missions and private commercial and non-commercial interests in the Republic of Panama and the Canal Zone.

Some of his duties include policies and regulations concerning contracts and control, Canal Zone purchase privileges, eligibility to engage in business in the Zone and the eligibility of persons to enter, reside or remain in the Zone. He also represents the Office of the Governor in policy matters and as Executive Secretary, is custodian of the Canal Zone Seal.

BORN IN MINNESOTA

A native of Minnesota, Runnestrand was graduated from the University of Minnesota with a bachelor of law degree in 1938. He was employed as law editor of the West Publishing Co. in St. Paul before coming to the Canal Zone in 1941 as an Associate Attorney in the General Counsel's Office.

He was promoted to Assistant General Counsel in 1948 and in 1953 was transferred to Washington, D.C., as Attorney and Assistant Secretary of the Panama Canal Company. He returned to the Canal Zone as Executive Secretary in 1956.

In addition to his two jobs with the Canal organization. Runnestrand has taken an active part in civic and social affairs in the Canal Zone. He has been executive director of the Canal Zone United Fund; member of the Canal Zone Executive Boards of Red Cross, Boy Scouts, Cancer Committee, Balboa YMCA; a member and past president of the Canal Zone Amateur Radio Association, and currently president of both the Canal Zone Bar Association, and the Federal Bar Association.

EXTENSIVE STUDIES

He attended the Foreign Service Institute Spanish Language Course in Mexico City; the Brookings Institution Second General Management Conference for Federal Executives in Williamsburg, Va.; and the Federal Executive Institute in Charlottesville, Va. He has been admitted to the Bar of the U.S. Supreme Court, the Minnesota Supreme Court, the U.S. District Court in the Canal Zone and the U.S. Court of Appeals, Fifth Circuit.

In 1967 he received the Outstanding Civilian Service Medal, one of the highest awards given by the U.S. Department of the Army to civilians for his outstanding service with the Canal organization and for dedicated support of the U.S. Government programs which the Secretary of the Army said had contributed significantly to United States-Panama relations and was in keeping with the highest traditions of the public service.

For his work in Scouting, Runnestrand received from the Canal Zone Council, Boy Scouts of America, La Orden del Espiritu de las Buenas Obras.

CITED BY JWB

On the eve of his departure from the Canal Zone, Runnestrand received a special testimonial plaque from the Board of Directors of the National Jewish Welfare Board for "his many years of leadership in the Isthmian Community and for his devoted service to the military and civilian residents of the Canal Zone."

The plaque was presented in a special ceremony by Rabbi Nathan Witkin, former Jewish Auxiliary Chaplain of the Southern Command and head of the Jewish Welfare Board.

In the second annual Public Service Award ceremony last month, Gov. David S. Parker presented a gold medallion and an Honorary Public Service Award to Runnestrand for his outstanding contribution to the Isthmian community as the first and only executive director of the Canal Zone United Fund and for his invaluable contributions to the many charitable and community projects in which he has been active. The award was accepted by Mrs. Runnestrand for her husband who was away on business.

Accompanied by his wife, Betty Runnestrand will leave the Isthmus at the end of March and plans to live in Winter Park, Fla., where they are building a new home. They will be joined at the end of this school year by their son, Eric, who is a student at the Canal Zone Junior College. Their daughter, Sarah lives with her husband in Princeton, N.J.

THE CHILDREN OF VIETNAM

Mr. KENNEDY. Mr. President, it is difficult at any time to stop and contemplate the suffering of children. But the time is long overdue for all of us to pause and open our eyes to the plight of the children of Vietnam and all of Indochina. Children are suffering and we are contributing to their condition.

Negotiations have broken down in Paris and a senseless war continues. And more children become orphans. More children are put in institutions. And more young people are forced into the streets. As we continue to fuel this war, we must finally reckon with this toll of the war—this human toll as seen in the faces of the children of Vietnam.

For years, this problem of children, the most pitiful of war victims, has gone unattended. As early as 1965, witnesses came before the Judiciary Subcommittee on Refugees—which I serve as chairman—and told us of the need for child welfare programs, for trained personnel, for a long range plan to meet the escalating needs of the children. In 1966 these needs were again cited. Token efforts were underway to meet these needs—but these efforts were not enough. In 1967, at the urging of the subcommittee, an aid-funded task force traveled to Vietnam to make program recommendations in the field of social welfare. The task force report outlined some immediate steps that could be taken, and some longer range plans as well. But this report, like so many others, was quickly filed and ignored. Since then the cries of the children and the appeals of humanitarians have all but fallen on deaf ears. In fact, in 1970, the social welfare component of our Embassy in Saigon was eliminated.

Mr. President, in early 1970 there were some 258,000 officially registered war orphans. Today that number stands at more than 410,000. Several thousand are fathered by Americans. What is the fate of these children—and the tens of thousands unaccounted for—and the tens of thousands more who make up nearly 50 percent of Vietnam's refugees?

The availability of even a simple child welfare system could have made a difference for many of them. A trained social worker available at the maternity hospital might have dissuaded a mother from abandoning her child. Perhaps the existence of more day care centers would have enabled parents to keep their children. Perhaps a better medical system with more trained personnel could have prevented the spread of infectious diseases. Perhaps if there were a vocational training center, a teenage child would not end up in gangs, or a young girl in prostitution.

Fortunately, there have been those more mindful of these children's cries than our Government. Various voluntary agencies—including indigenous Vietnamese—have done commendable work. But they are forced to operate with dwindling resources and limited personnel. The response of the Government of South Vietnam has been slow, but as the years passed they too have recognized the needs and tried to answer the cries of the children.

In October of last year—nearly 6 months ago—the South Vietnamese Government drew up a new and expanded child welfare program and submitted a request for assistance to our Government. The program provides for the support of private sector welfare services, the strengthening of existing Government operated programs, and the creation of a high-level commission to design a long range program for child welfare.

In assisting the private sector through voluntary agencies, the plan covers day-care centers, foster care, nutrition and school feeding programs, assistance to low-income urban families, and the training of child welfare personnel. In strengthening existing Government programs, the plan would increase support to Government operated day-care centers and orphanges, would provide more adequate assistance to the growing number of war widows, and would establish a program to prevent the abandonment of newborn babies. The plan also proposes that the President of Vietnam appoint a high-level commission of public and private child welfare specialists to assist the Ministry of Social Welfare in designing a long-range child welfare program for Vietnam.

This plan is in keeping with the Government of South Vietnam's conviction that the best solution is to leave the children within a Vietnamese home whenever possible. The plan follows many of the suggestions outlined in AID's social welfare task force report of 1967.

Mr. President, the initial cost of the expanded child welfare program is modest—by the official exchange rate, little more than $4 million in counterpart funds for 1972. This is a sum spent four times over in a week for our military effort in Vietnam.

But what has been the response of our Government to this reasonable proposal by the South Vietnam Government? It can be summarized in one word—silence.

I am appalled by our Government's insensitivity. I am shocked by what appears to be a callous disregard for the children of Vietnam. It seems painfully ironic that for years our Nation has fed a military machine in that country—sending thousands of our finest young men and countless millions in bombs and arms. Yet when we have the opportunity now to help this country find a way to relieve the plight of the most pitiful war victims, we stand idle. In terms of our own objectives in Vietnam, the low priority we still give to social welfare is folly. In terms of America's complicity in the havoc of the war it is unconscionable.

Mr. President, we have a continuing responsibility to the people of Vietnam. We cannot wash our hands of their tragic plight simply because the last American soldiers are leaving their shores.

But the record is becoming clearer every day that the administration is establishing a national policy of walking away from our humanitarian responsibilities to the people of Vietnam. A short time ago a General Accounting Office report to the Subcommittee on Refugees outlined how the administration's policy was sabotaging programs dealing with civilian war casualties and health care. Today we learn the administration's policy is sabotaging needed programs for the children of Vietnam.

For the immediate future we should at least maintain if not increase, our contributions to those humanitarian programs we have helped to build and support for the benefit of the Vietnamese people. Our Government apparently has no qualms about pouring large sums of money into building up police forces in Vietnam. But what about an effective program of prosthetic devices for the lame? What about medical supplies for the sick and wounded? What about the care of orphans and the American fathered children and the millions of others in distress?

For the longer run, we should be thinking ahead to the time when the guns and bombs are finally stilled, and a full-fledged international humanitarian effort can begin throughout all of Indochina—an effort we should help get underway and generously support.

A good place to begin a policy of humanitarian concern is with the children. And so I strongly urge—what I know is shared by many Americans—that our Government favorably respond to Saigon's expanded program proposed for child welfare. The time for this decision is long overdue.

Mr. President, in 1965, at the beginning of our massive involvement in Vietnam, a child was born. Today that child is at least 7 years old. This child may be one of the more than 700,000 orphans in Vietnam. Must this child reach adulthood before our country sees the suffering, and answers the cries for help?

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of Saigon's proposal for an expanded child welfare program. The summary was provided by the Agency for International Development.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

Summary of new and expanded child welfare programs, Oct. 26, 1971

[Cost estimates in millions of Vietnamese dollars]

MSW support of private sector child welfare services	150
Day Care	50
Improve existing day care centers, establish additional centers, new program of home day care services (MSW grants to foreign and Vietnamese VolAgs).	
Foster care for homeless children	12
Subsidies to foster families to care for homeless children, particularly in highland areas (initially through private agencies).	
Nutrition	50
MSW subsidies for school feeding programs and village level nutrition projects of VolAgs aimed primarily at children. Increase number of public elementary school children receiving nutrition supplements from 10,000 in 1971 to 300,000 in 1972. Train and assign additional 50 nutrition education workers to work with mothers and children primarily in Montagnard hamlets.	
Assistance to low-income urban families to enable their children to enter and remain in elementary school	25
MSW assistance to needy families in the amount of VN$200 per month to enable them to send their children to school (pilot experimental program).	
Training of child welfare personnel	15
Train 2 additional child welfare mobile teams of 3 workers each to train day care and orphanage personnel at Provincial level. Expand training of institutional child care workers.	
Strengthening existing MSW programs	380
Increase MSW support for child welfare institutions	65
Day care centers	22
MSW presently subsidizes day care centers at the rate of VN $200 per child/month. In order to enable low income mothers to utilize this service without having to pay additional fees, this subsidy is to be increased to VN $400 per child/month with half of the increase financed from additional AAC funds.	
Orphanages	43
MSW presently subsidizes orphanages at the rate of VN $600 per child/month. To replace the support orphanages have received in the past from US soldiers, this subsidy is to be increased to VN $1000 per child/month, with half of the increase to be financed from additional AAC funds.	
Assistance to War Widows and Children with Special Needs	315
Special assistance to civilian war widows	285
MSW proposes to register and issue to civilian war widows "widows cards" which would entitle them to benefits similar to those available to military war widows (i.e. reduced fees for medical care, free transportation, reduced rates at low cost restaurants, incentives to start home businesses etc.) To administer this program, MSW would need to employ 65 additional social workers and social welfare cadre.	
Prevention of abandonment of newborn babies	30

MSW proposes to place specially trained social workers in maternity hospitals to administer a program of short-term emergency assistance to mothers who, because of economic need, might abandon their new-born babies or place them in orphanages.	
Child Welfare Commission	15
MSW intends to ask the President of Vietnam to appoint a high-level Commission composed of leaders of public and private child welfare agencies in Vietnam and the U.S. to assist the Ministry in designing a long-range child welfare program for Vietnam. The amount of VN $15 million would be required for staff salaries, consultants, travel expenses etc.	
Grand total	547

Source: Saigon 16847.

THOUGHTS OF A BROTHER OF A PRISONER OF NORTH VIETNAM

Mr. MILLER. Mr. President, a member of the staff of Westmar College, LeMars, Iowa, has a brother who became a prisoner of war during the Tet offensive of 1968 while serving in the Hue area of South Vietnam.

He has written some thoughts which incorporate extracts of letters from his brother, written prior to the Tet offensive, and the philosophy of one who wonders whether his only brother is still alive.

I ask unanimous consent that this impressive essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

ESSAY

My name is George Gostas. I am Cataloging Librarian at Westmar College Library in Le Mars, Iowa, 51031. My job is to prepare cards for the card catalog. Attached to the cabinets are small brass plates which read, "In loving memory of 1st Lt. Corbin C. Tindall '64, 1942–1969." The card cases were a gift from the family of a young man killed in Vietnam. The plates remind me that a terrible war is going on; part of the world is on fire. And brave, good, young American men are dying in that war. The plates remind me also that my brother is a Prisoner of War.

My brother was born in 1938. He has a wife and 3 children, the youngest of whom he has never seen as he was born while Ted was in Vietnam. He had been 11 months at the old cultural city of Hue when the famous Tet Offensive of February 1968 broke out. Hue was hardest hit of any of the cities of Vietnam. It took 22 days and many lives to recapture it from the Viet Cong. There were hundreds of thousands of refugees, and even 200 civilians marked for death by the Viet Cong were buried alive. My brother was first listed missing in action Feb. 3. 3 weeks later 2 prisoners escaped from one of the camps, memorizing the names of others with them. They reported Ted alive but wounded. He was doing well but they did not know how long his health would hold up under the camp conditions. All this was over 3 years ago. My brother has never written. Letters sent to him in care of the Viet Cong in France or Algeria simply vanish from sight. We do not know if any have been delivered. A Christmas package came back from Cambodia marked "refused."

My brother lives in my heart. I have letters and memories of him. At the time of his capture, the people in this area and I were helping him collect soap for orphans at Hue. The soap was delivered in Hue by his friends. He was cultured, articulate, with an I.Q. rated as genius. Faculty at the University of Wyoming, which he attended, spoke of hanging one of his efforts in the offices of the English Department. In October of 1967 he wrote to me: "There is a novel here in Hue and I will be its author. It will be my first work. . . . If God allows, I will return home and do what must be done by saying what must be said. This war is confusing not only to people where you are but to many people here as well. But the greatest theme here is tolerance and patience and love. To feel prejudice and watch it melt from solid steel in compassion, that is the theme of life and the substance of the dreams of God. To hate and feel deeply and learn understanding and trust. . . ." He wrote his book but, presumably, the Viet Cong have it.

Some of the things written by Ted were very terrible and detailed war in all its hellish brutality. In his words, "Death has stepped closer to Hue. The VC killed marines (near) here and one of the boys had six days before rotation. Oh, well, it is all in a day's dollar . . . Write about man's inhumanity to man. I can't write it because I am too bitter . . . Bleed not for me. Bleed for life and all its meaningless meanings . . . Let there be light, intense and burning . . . The mortars come and blast away flesh . . . eat life or it will eat you . . . dead bodies." And again he wrote: ". . . six months already. I think I went completely insane the first 3 months and now my sanity is gradually returning . . . I feel so sorry for the poor guys who are just getting off the plane in Saigon. If I had a year to do I would blow my brains out. One boss of another agency here did just that in Saigon circa 2 months ago. Just stuck a .38 in his mouth, pulled the trigger, and blew his brains all over the bedroom. What a silly thing is suicide. There is so much in this world that is beautiful and good and so little that is really bad. . . ."

But my brother also showed humanity and goodness at its best. He wrote: "Do the best you can on the soap . . . George, even if the entire U.S. sent soap and toys and hope over here, there would be room for more. So, don't worry about the project being small. Who cares how small it is? Can it be smaller than the face of an orphan with blood on his cheek, rubbing the scratch with dirty fingers? Can it be smaller than the outstretched hands of a little girl saying, "Give me." Can it be smaller than a little plastic car from a box of tea and rice candy that received a smile and a cry of joy larger than the whole world? If it can be smaller than that, it is still worthwhile. The job to be done in Vietnam is bigger than the biggest project and, therefore, must be accomplished through many smaller ones."

Ted wrote: "The war is not far away from you in Vietnam. You either hear about it, see what it has done, read up on it, or, if you are not lucky—live it! . . . Your questions, your petitions, your doubt, and your problems somehow lose all meaning over here. All one remembers when one is in Vietnam is how the grass looks back home, his wife, how the children sound when they laugh, and how strange it is that one never really, really, appreciates anything until it is denied. And that is the secret of freedom. Have it and you are unaware that it is there; lose it and you are lost—confused—and finished . . ."

Every American has his own view on the war. My brother had his; you have yours; I have mine. In my opinion, the best way to stop war is to stop the causes of war. I feel my brother was trying to help buy us time to work on the problems that cause war, such as poverty, ignorance, hunger, economic and political instability. We need global thinking on an international basis. We should work to make the United Nations more effective. In the meantime, the Four Horsemen graze their horses at our own back yard and wait. My brother's viewpoint was more of a national one. He loved America and was willing to die on her behalf. He wrote: "Don't be afraid to wave our flag either. It is a beautiful one to wave. And all those stars are bright ones, full of hope and love of man." Ted was my only brother and my closest and dearest friend. I read much on Vietnam. It makes me feel closer to him in his hour of need.

I recommend to you the Reader's Digest for April 1971 for its article "Inside the Prisons of Hanoi" and that of May, 1971 for its article "Our Missing Men . . ." which contains a picture of my brother, Major Theodore William Gostas. Read also *Village in Vietnam* by Gerald Cannon Hickey (Yale University Press, 1964) and *Vietnam; the Unheard Voices* by Don Luce (Cornell University Press, 1969). But read first on your list the fine book by Philippa Schuyler called *Good Men Die* (Twin Circle Publishing Co., 86 Riverside Drive in New York City, 1969). A genius, she went to Vietnam to play piano for troops (she played in 78 countries) and to write this book. She spoke English, Italian, French, Portuguese, Arabic, Spanish and several African dialects. She was the only child of a gifted Negro and a brilliant white woman. She died in Vietnam at the age of 35, while trying to help the orphans at Hue after finishing her book. Her book is of the greatest interest to me because it deals at length with Hue at the time my brother was working there and with the Army service with which he was involved.

We must see my brother's problem in good perspective. Over the Labor Day weekend in 1966, 29 servicemen were killed in Vietnam while 614 Americans were killed on our highways. We have lost on our own streets and highways nearly three times as many Americans as we have lost on all our wars put together. Some scientists think the best population for the planet earth may be as low as 1 billion people. We now have over 3 billion and are rushing forward at the rate of 180,000 new people a day, a new Chicago every month, a new U.S. every 3 years. The problems that demand our attention are many and critical. The time, energy and attention that can be given to the less than 2,000 men who are Prisoners of War is strictly limited. What can be done for them? There is a picture by Peter Breughel showing the fall of Icarus into the sea before an indifferent audience. The picture bears the motto, "Not a plow is stilled because a man dies." Won't you still your plow to do this: Once each 6 months write a letter to the Viet Cong asking for humane treatment for our men.

At best, I hope for a full prisoner exchange. At least, I hope to learn if my brother is dead or alive. For now, I go about my business, see the brass plates on our catalog cases, think of my brother. Callimachus the Greek wrote of old: "They told me, Heraclitus, they told me you were dead. They brought me bitter news to hear and bitter tears to shed. I wept as I remembered how often you and I had tired the sun with talking and sent him down the sky. And now that thou art lying, my dear old Carian guest. A handful of gray ashes, long, long ago at rest, Still are thy pleasant voices, thy nightingales, awake; For Death, he taketh all away, but them he cannot take." What more is there to be said? Asia keeps her exotic mysteries locked up within her. What has concluded that we may conclude anything about it? But in helping others we are really helping ourselves and all men. As Donne said: "No man is an island, intire of itself; never send to know for whom the bell tolls; it tolls for thee."

SOVIET MISSILE PERIL

Mr. BUCKLEY. Mr. President, a dispatch in the New York Times of March 22, 1972, concerning the testimony of Dr. John S. Foster, Jr., Director of Defense Research and Engineering before the Senate Armed Services Committee, deserves comment because of the misleading headline on the dispatch.

The story headline read "Soviet Missile Peril Now Found Unlikely by the U.S. Until the 1980's." This headline grossly distorts the burden of Dr. Foster's remarks, and I, therefore, believe that the record must be set straight.

I quote, in full, the portion of Dr. Foster's testmony related to the headline in point:

> Analysis of the latest projections concerning Soviet missile growth rates and accuracy improvements indicate considerable variation in the time period in which our Minuteman forces would be seriously threatened. In cases where small growth is assumed, Minuteman forces do not appear to be threatened until the early 1980s or beyond. For middle range assumptions, Minuteman could have less survivors in 1980 or before. If the most severe of the postulated SS–9 and SS–11 type missile forces were directed at Minuteman, the Minuteman force (assuming that the silos are undefended, but are upgraded in hardness) could be drawn down as early as the mid–1970's. Prudence requires that we take the more pessimistic projections seriously.

There are considerable grounds for believing that it would not be prudent to assume, contrary to what is suggested by the New York Times headline, that the Soviets will hereafter follow a policy of slow growth for their strategic forces, and that they will not achieve a counterforce capability well in advance of the 1980's.

First, the Soviets have not in fact been following a policy of slow growth for their strategic forces. The authoritative British defense review, the International Institute for Strategic Studies' "Military Balance, 1971–72," shows that, since the Soviets agreed to meet with the United States to discuss limitations on strategic arms in early 1968, the Soviet Union has doubled their ICBM force and more than tripled their submarine-launched ballistic missile force.

Second, it would be imprudent to assume that the Soviet Union is necessarily more retarded in scientific matters than we are in view of the fact that all available evidence suggests a more vigorous military research and development program than our own. We are already building guidance and control systems for our Minuteman and Poseidon that could, if applied to the much larger Soviet SS–9 and SS–11 warheads, pose the kind of threat to our Minuteman forces by the mid-1970s which is suggested in Dr. Foster's remarks.

More recent evidence brought to light since Dr. Foster testified tends to underscore Dr. Foster's warning about taking Soviet efforts to improve their forces seriously. According to a New York Times dispatch of March 28, 1972, the Soviet Union will "imminently" begin a test program for a new series of ICBM for deployment in some 90 to 100 silos already available for the purpose.

Inasmuch as the Soviet strategic weapons buildup has already gone far beyond the requirements for simple deterrence, we must assume that the Soviets would attempt to use these forces to support their diplomacy, which means that we must assume that they are moving to achieve a position of superiority which could dramatically curtail an American President's options in future diplomatic confrontations with the Soviet Union, whether they take place in the Middle East, or in Europe, or even in the Caribbean.

I ask unanimous consent that Dr. Foster's complete testimony and related articles from the New York Times be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

Statement by the Director of Defense Research and Engineering, Dr. John S. Foster, Jr., on the Safeguard Site Defense of Minuteman

BACKGROUND

The Safeguard system deployment is a phased program which emphasizes the defense of our land-based deterrent, and maintains the option to deploy a light area defense. It has no sites planned for deployment in or near large cities except for Washington, D.C. On March 14, 1969, President Nixon established the objectives for Safeguard:

Protection of our land-based retaliatory forces against direct attack by the Soviet Union.

Defense of the American people against the kind of nuclear attack which the Peoples Republic of China is likely to be able to mount within the decade.

Protection against the possibility of accidental attacks from any source.

He further elaborated:

"We will provide for local defense of selected Minuteman missile sites and an area defense designed to protect our bomber bases and our command and control authorities."

"By approving this system, it is possible to reduce U.S. fatalities to a minimum level in the event of a Chinese nuclear attack in the 1970's or in an accidental attack from any source."

The President also stated on March 14, 1969, "This program will be reviewed annually from the point of view of (a) technical developments, (b) the threat, and (c) the diplomatic context including any talks on arms limitations." He further stated that "each phase will be reviewed to insure that we are doing as much as necessary, but no more than required by the threat existing at that time."

In the FY 70 budget, following the Safeguard decision, the President proposed to move forward with the deployment of an initial phase consisting of sites at two Minuteman Wings, one near Grand Forks Air Force Base, North Dakota, and one near Malmstrom Air Force Base, Montana. Congress approved this proposal.

The Administration's FY 71 proposal, following the second annual review, was to go forward with both the Grand Forks and Malmstrom sites; commence deployment at one additional site in the Minuteman field near Whiteman Air Force Base, Missouri; provide for additional Sprints at the Grand Forks and Malmstrom complexes; and undertake advanced preparation for deployment at five other sites. Congress approved this proposal, except that authorization for advanced preparation was limited to a single site near Warren Air Force Base, Wyoming.

In the FY 72 budget request, following the third annual Safeguard review, the President's proposal recommended continued deployment at Grand Forks and Malmstrom, initiation of construction at Whiteman and authorization for deployment of a fourth site at either Warren or in the Washington, D.C. area. Congressional action on the FY 72 request approved the continued deployment at Grand Forks and Malmstrom, but withdrew authorization for construction at the Whiteman site, thereby limiting deployment strom sites; activity at the Whiteman and Warren sites was limited to advanced preparation only; and consideration of pre-deployment activities in the Washington, D.C. area in FY 72 was eliminated. This action was based in part on the fact that delay in the start of the Malmstrom site construction influenced the decision to delay construction at the Whiteman site.

This year we are presenting the fourth annual review of the Safeguard program in keeping with the President's March 14, 1969, statement. A complete and comprehensive review has been conducted in accordance with his commitment. Because of its close relationship, the Site Defense of Minuteman program (formerly called Hardsite Defense) will also be treated as an integral part of the Safeguard discussion.

Summary of review

Principal findings of the review relative to the FY 73 budget submission are summarized below:

The technical progress on Safeguard over the past year has been outstanding and there are no technical problems which would affect a decision to proceed with the Safeguard deployment in FY 73.

Construction at the Grand Forks Safeguard site is on schedule and about 80% complete. Construction at Malmstrom was delayed by 11 months by labor problems with an attendant delay in site readiness (early 1976): Construction at Malmstrom has been restarted.

All of Safeguard ground equipment for Grand Forks and Malmstrom is under contract and procurement of equipment has been initiated for the Whiteman site.

The Soviet threat has continued to evolve both numerically and technologically over the past year. The Soviets have initiated construction of new silo designs which imply that new or modified missiles may be deployed. The production of the Y-class ballistic missile launching submarine continues at a high rate and a new, longer range SLBM is rapidly approaching an end to its development cycle. Its platform, however, has not yet been identified.

The People's Republic of China (PRC) has continued to develop its nuclear capabilities. There is evidence that the PRC initiated flight testing of a possible ICBM in 1971.

SALT negotiations continue. We cannot at this time be certain, however, that a SALT agreement will be reached or, if so, what the exact provisions of the agreement will be. The measured, phased Safeguard program continues to support both the flexibility and the strength of the President's SALT negotiating position.

Thus, since (a) successful technical progress has been made on Safeguard, (b) the Soviet threat has continued to grow, and (c) we have not yet reached a SALT agreement, we are requesting authority in FY 73 to proceed with Safeguard deployment at four Minuteman sites. We are also requesting authority to initiate advanced preparation for Safeguard deployment at the NCA (Washington, D.C.). Our long term plan, in the absence of a SALT agreement, continues the option for full Safeguard deployment at 12 sites.

Finally, we believe that it is essential to maintain a vigorous ABM R&D program. We are, therefore: (a) continuing the Site Defense of Minuteman (formerly Hardsite Defense) prototype demonstration program to develop additional defense capabilities of Minuteman should they be required later, and (b) continuing the area defense R&D program leading to the capability should it later be required to expand defense of our strategic retaliatory forces, to include both our ground-based alert bombers and command and control centers, improved NCA defense and light, nationwide area defense. We feel that continuing pursuit of all of the above programs is important to our national security.

Threat

The Secretary of Defense in his Annual Defense Department Report has, in some detail, spelled out the general nature of the present strategic threat. However, in terms of ABM development and deployment decisions, it is necessary to estimate the threat development in the future. For this reason, the threat analysis of interest to ABM issues is necessarily somewhat speculative. Furthermore, judgmental differences can significantly alter the conclusions as to the rate at which our ABM developments or deployments must be pursued.

Long term threat projections must consider threat quality as well as quantity. Indeed, over the long spans of time for development and deployment of a system, enemy programs to develop a responsive threat to our ABM capabilities such as penetration aids may be started and deployed in parallel with our ABM development and deployment cycle. What is done in this situation is to assume, for instance, that the Soviets with their major resources might be able to develop the type of response to our ABM capabilities that we, ourselves, have been able to develop or demonstrate within the U.S. advanced reentry technology programs.

Proceeding in this way has, historically, allowed the U.S. ABM programs to be conducted in a manner so that they are in large measure insensitive to potential major changes in the Soviet threat quality. This is also a clear example of a major benefit derived from having a vigorous R&D program. This technique of using the advanced U.S. technology as the basis for projections of the best the Soviets could do is vital given the long lead times involved. Without this lead in penetration technology, the entire problem of ABM might well be unmanageable. At any point in time, however, we estimate the threat based on our best intelligence information and time phase our programs accordingly.

Given the above approaches to cope with potential improvements in Soviet penetration technology, the prime problem is how to be responsive be increased in the Soviet threat quantity. As mentioned earlier, this is primarily an issue of estimating the rate of Soviet force changes versus the required offsetting U.S. deployment rates. As discussed elsewhere, this is a very significant part of the annual review process. The DoD approach is and must be based on how early or how rapid the Soviet threat could change. Many if not a majority of the dissenting opinions on the need to defend our retaliatory forces are based on judgments that the Soviets will make changes more slowly, if at all.

This critical viewpoint difference surrounds the decisions that must be made on how rapid Safeguard should be expanded to provide Minuteman protection. The following threat sections treat in increased detail the threat changes that have occurred over the last year that form a major part of the annual review process:

U.S.S.R. ICBM'S

Deployment of the SS–11 in standard silos has probably ceased. Although SS–9 deployment has been irregular, there are indications that further SS–9 silo construction has stopped. However, during the course of the last year, we detected almost 100 new silos that differ from previously deployed Soviet ICBM silos. It may be that a higher level of hardness is intended and/or that a new or modified missile may be deployed.

Tests of modifications to the SS–11 and SS–13 have continued during the last year. Data acquired earlier from SS–9 tests suggests to some analysts an independent targeting capability. We have not as yet identified achievement of accuracies consistent with high probability of kill against hard targets for these reentry vehicles. There have been no tests of this system since late 1970, suggesting that the Soviets may have canceled or curtailed the SS–9 triplet program, possibly in favor of the new missile noted above.

Analysis of the latest projections concerning Soviet missile growth rates and accuracy improvements indicate considerable variation in the time period in which our Minuteman forces would be seriously threatened. In cases where small Soviet growth is assumed, Minuteman forces do not appear threatened until the early 1980's or beyond. For middle range assumptions, Minuteman could have less survivors in 1980 or before. If the most severe of the postulated SS–9 and SS–11 type missile forces were directed at Minuteman, the Minuteman force (assuming that the silos are undefended, but are upgraded in hardness) could be drawn down as early as the mid-70's. Prudence requires that we take the more pessimistic projections seriously.

Tests of modified versions of the SS–11 have been under way for some time. The new payloads may represent an attempt to improve penetration capability against active defenses, but the payload-accuracy combination of currently deployed systems is estimated to be inadequate at this time for an effective hard target attack.

U.S.S.R. SLBM'S

The operational Y-class force could reach over 40 units by the end of 1973. If production continues at the present rate—and there is no indication of slackening—the operational force could reach over 50 units by 1975. The present Soviet operational Y-class force is sufficient to threaten that portion of the SAC bomber force which is on normal alert at coastal bases.

Testing of a new long range SLBM continued in 1971. The intended platform for its deployment is unknown.

Peoples Republic of China (*PRC*)

The PRC continues to press toward an ICBM capability. There is some evidence that the Chinese may have initiated flight testing of an ICBM in 1971 and they may be in the first stages of developing an SLBM capability. A Chinese ICBM force of 10–20 silo launchers may be possible by 1976.

The Chinese conducted a nuclear test in 1971 which would allow them to refine and expand their thermonuclear weapons capability.

Diplomatic context

As the President stated in his foreign policy report to Congress on February 9, 1972, we may soon complete a SALT agreement with the USSR. The President also said:

"From the beginning SALT negotiations, it has been implicit that we would be willing to forego extensive ABM protection in return for the greater stability offered by an equitable limit on both offensive and defensive strategic forces. In deploying Safeguard, we have taken only those steps that are essential while preserving the option for an agreement on ABM limitations. These actions have given the Soviet Union an incentive for concluding an agreement controlling defensive deployments. Our future actions will continue to reflect progress made in SALT."

"In our decisions on deployments of strategic systems, on qualitative improvements and on SALT, our objective has been to act with restraint while preserving the security of the United States and its allies. Our present strategic forces are sufficient and we are moving toward an agreement which should stabilize the strategic balance and foreclose future rounds of arms competition. If, however, important systems are not constrained by agreements and the Soviet Union continues to build up its strategic forces, I will continue to take actions necessary to protect the national security."

Presently the focus of the SALT negotiation is being directed towards obtaining an initial agreement covering ABM systems, together with some limitation on offensive missile systems. We are hopeful that a SAL agreement can be reached soon. However, we cannot be certain of this, nor can we be sure of the exact provisions of such an agreement. Meanwhile, the Safeguard program now proposed enhances the probability of success in SALT.

The need to continue ABM R&D stems from at least three reasons:

We must hedge a requirement to protect our land-based retaliatory forces with ABM defenses in the event that such a defense becomes necessary.

We must be able to insure adequate penetration of our own offensive missile systems. U.S. ABM development efforts can provide background and knowledge which will help us understand the full implication of Soviet ABM activities.

We must be able to meet a possible requirement to deploy a nationwide area defense at some time in the future if there should be no SAL agreement prohibiting it. Such a defense is necessary if we are to satisfy the President's objectives to defend against a possible Chinese attack or accidental attacks from any source. The President has indicated that we would be willing to forego extensive ABM protection in return for the greater stability offered by an equitable limit on both offensive and defensive strategic forces. Meanwhile, we plan to continue development effort on improved light area defense components.

Safeguard progress

The research and development portion of the Safeguard program is progressing satisfactorily. The prototype Missile Site Radar (MSR) located at the Kwajalein Missile Range began radiating power in September 1968 and has been operating since that time. It has met or bettered all of its design objectives and no serious deficiencies have been found. Beginning in March 1969, check-out of the MSR data processing system was initiated and successful operation of four data processing units working in parallel has since been achieved. MSR software for the first part of the system test program has been completed and installed. Beginning in July 1969, tracking of local targets was accomplished with the initial software and, in December, 1969, two ICBMs launched from Vandenberg AFB, California, were successfully tracked.

The Perimeter Acquisition Radars (PAR) are under fabrication and the first installation will be at Grand Forks (the first Safeguard operational site). The Air Force FPS–85, a radar based on similar technology, has been operating since January 1969 at Eglin AFB in Florida. A limited engineering development model of the PAR was constructed at the Syracuse, New York, General Electric Plant during 1969 and has been undergoing test. No serious technical problems in this development have been encountered, and there is high confidence of meeting the presently scheduled date for the first PAR site.

The Safeguard system test program began at Meck Island in the spring of 1970 and 23 tests have been conducted to date. Of these, 19 have been completely successful, two partially successful, and two unsuccessful.

The first phase of the system test program contained 16 tests and was completed in the fall of 1971. This phase verified basic system design concepts and demonstrated system level integration of hardware subsystems while evaluating software programs to be used in later testing. The series included three successful Spartan intercepts of target reentry vehicles launched by ICBMs from California. In one of these three tests, two

Spartan missiles were launched a few seconds apart and simultaneously guided by the MSR, one to intercept the incoming reentry vehicle and one to intercept a space point. Sprint interceptors successfully intercepted target reentry vehicles launched by ICBMs from California in three tests in this series, one of which involved two Sprint missiles launched a few seconds apart and guided to successful intercepts of a single target reentry vehicle. Also, during this series of tests, Sprint successfully intercepted a target reentry vehicle launched by a Polaris missile ship located north of Meck Island.

The second phase of the Safeguard system test program began in the fall of 1971. This series of tests is being conducted with an advanced data processing program which contains more technical elements than the previous one. Tests in this series are designed to evaluate the integrated system using more complex intercept geometries which stress specific system functions. Seven tests, all of which were successful, have been conducted thus far in this series. These tests have included one Spartan and one Sprint intercept of target reentry vehicles launched by ICBMs from California, and one Spartan and two Sprint intercepts of target reentry vehicles launched by Polaris missiles. In all of these intercepts, the Spartan and Sprint interceptors do not carry any type of explosive warhead. The success or failure of the intercepts is verified by electronic means.

Command and control requirements for the interface with the Air Force Minuteman equipment have been defined, and a study of the integration of Safeguard with Continental Air Defense Command has been completed. No significant problems have been encountered.

There are no technical problems that would affect a decision to continue with the Safeguard deployment.

Construction on the first two Safeguard sites at Grand Forks and Malmstrom Air Force Base is now proceeding. Construction for Grand Forks currently is about 80% complete and about 5–10% complete for Malmstrom. A labor contract problem caused a delay in the Malmstrom site schedule of about 11 months. At Malmstrom, a contract has been signed and the local labor authorities are providing manpower to support construction.

All ground equipment for Grand Forks and Malmstrom is under procurement contract. Production of the operational Spartan and Sprint missiles to be deployed at the first two sites is under way. Procurement has been initiated for the Whiteman AFB site.

Proposed fiscal year 1973 program

Safeguard Deployment

In the absence of a SAL agreement, we propose to proceed with our previously planned defense of strategic retaliatory forces at four Minuteman sites by continuing our ongoing construction and installation programs at Grand Forks and Malmstrom, and proceeding with construction and procurement for the Whiteman and Warren sites. This program would be completed in late 1977.

We also propose to initiate advanced preparations for defense of the NCA at Washington, D.C. By starting this now, we can have a defense by early 1979. This will provide substantial protection of our NCA and its attendant command/control against a small or accidental attack, or afford additional valuable time for decision-making in the event of an attack on Washington. In particular, this deployment will counter SLBMs launched from submarines off our coast with very short times of flight. More specifically, such defense will discourage what otherwise could result in a situation whereby the NCA could be destroyed in a surprise attack, perhaps with a small expenditure of enemy resources; e.g., the missile from one Y-class submarine.

The Safeguard program plan for the longer term is to continue the measures deployment with additional sites as may be appropriate leading to the full 12-site deployment in support of the President's objectives for ABM defense. It has the necessary flexibility to be compatible with our nation's SALT efforts.

ABM R&D

With continued qualitative improvements in Soviet ICBMs even if there were no increases in the number of deployed Soviet ICBMs, the threat to Minuteman in the last half of the 1970s might grow to a level beyond the capabilities of the four site Safeguard defense of Minuteman. For this reason, the Site Defense of Minuteman (SDM) prototype demonstration program was started. The site Defense of Minuteman will be designed to protect Minuteman against a USSR attack which is more severe in numbers and sophistication than Safeguard is designed to handle. If deployed, it would augment Safeguard should a future threat make that advisable. The Deputy Secretary of Defense, on 14 January 1971, directed the Army to plan and carry out a prototype demonstration program. We consider that this program, designed to provide continuing effective defense of Minuteman, is a stabilizing influence in our relations with the Soviet Union.

The Secretary of the Army assigned the SDM mission to the Safeguard System Manager. An Army organization has been established and a System Engineering and Technical Assistance Contractor has been competitively selected. The program is on schedule. Three competitive contracts were awarded in June 1971 for prototype demonstration program proposals which were submitted on 30 November 1971. These proposals were evaluated by formal source selection procedures and a prime contract for the execution of the SDM prototype demonstration program was awarded on February 28, 1972. McDonnell Douglas Astronautics Company was awarded an initial funding of $10,000,000 for the first five months of a 60-month cost-plus-incentive-fee conrtact in the amount of $382,000,000. The entire demonstration program may cost some $700–$800 million, including funds for modified Sprint missiles which will be furnished by the government and including the System Engineering and Technical Assistance Contractor effort which are not included under the prime contract.

We propose a FY 73 SDM program funded at $80M in RDT&E funds plus $20M in construction for RDT&E facilities that would provide a prototype demonstration program which could be modified later if necessary to permit an initial deployment of the system in late seventies time frame. The SDM program will be continually evaluated as it progresses, taking into account threat developments, SALT, and other variables and uncertainties.

Our over-all FY 73 ABM program also includes continuation of area defense research and development leading to the capability to provide bomber defense as part of the Safeguard deployment, an improved NCA defense and an advanced nationwide area defense against light attacks. New funds for area defense are not requested as part of the Safeguard FY 73 program since adequate prior year funds are available. In addition, advanced area defense technology will be pursued in the Advanced Ballistic Missile Defense program.

Program cost and schedule

The deployment schedule for the proposed Safeguard program is shown below:

October 1974, Grand Forks.
Early 1976, Malmstrom.
Early 1977, Whiteman.
Late 1977, Warren.
Early 1979, Initial [1] NCA Defense.

Under the proposed program, the earliest Site Defense of Minuteman deployment, if found necessary, would be in the late seventies time frame. Substantial deployments could be available soon thereafter. The Safeguard and Site Defense of Minuteman funding requirements are as follows:

SAFEGUARD PROGRAM

[Total obligational authority in millions]

	Fiscal year—		
	1971	1972	1973
Weapon system acquisition cost:			
R D T & E	364.0	358.0	340.5
Army:			
Missile procurement	648.2	639.0	753.0
Other procurement	2.8	1.0	1.4
Military construction	357.0	119.0	390.0
Total	1,372.0	1,117.0	1,484.9
Site defense of Minuteman:			
R D T & E	25.0	60.0	80.1
Military construction, Army			20.4
Total	25.0	60.0	100.5

SUMMARY

Summarizing, we propose to:

1. Keep our program compatible with SALT.

2. Proceed with the planned Safeguard deployment at the four Minuteman sites.

3. Initiate advanced preparation for Safeguard defense of the NCA at Washington, D.C.

4. Plan for the longer term to continue Safeguard deployment leading to 12 sites.

5. Continue with the Site Defense of Minuteman prototype development program.

6. Continue with area defense research and development. This over-all AM program would:

Enhance probability for success of SALT.

Provide a start toward a level of protection, dependent upon the nature and severity of the attack, for Minuteman, and command and control centers in the central United States (Omaha and Colorado Springs) at the earliest possible time, and a base for defense of inland bomber bases with improved area defense components.

Provide a defense of the NCA against small attacks or accidental launches, and the means of affording added valuable time for decision-making in the event of a mass attack on Washington, D.C.

Provide the base for augmenting Safeguard defense of Minuteman sites in the future with SDM if threat developments warrant it.

Provide the base for introducing advanced nationwide area defense which could be available at a later time.

[From the New York Times, Mar. 22, 1972]

SOVIET MISSILE PERIL NOW FOUND UNLIKELY BY UNITED STATES TILL 1980's

(By William Beecher)

WASHINGTON, March 21—The Defense Department, which in the past has justified requests for a missile defense system by Russia's projected ability to destroy a large part of America's Minuteman missile force by the mid-nineteen-seventies, now estimates that this threat may not materialize until the nineteen-eighties.

The new analysis was revealed in testimony today by Dr. John S. Foster Jr., before the Senate Armed Services Committee. It stems from the conclusion of the American intelligence community that Soviet tests of a three-part warhead for its giant SS–9 intercontinental ballistic missile have failed to demonstrate enough accuracy to seek out and destroy three separate Minutemen in their steel and concrete silos.

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[1] The initial defense of the NCA, Washington, D.C., is the same as would be provided in the 12-site Safeguard deployment and consists of a single MSR and Sprint interceptors.

Dr. Foster, who is the Pentagon's director of defense research and engineering, said that Russia "may have canceled or curtailed the SS–9 triplet program."

Since there have been no tests of the multiple warhead since late in 1970, he said, some analysts have concluded that the Russians may intend to seek such a missile-kill capability in improved new missiles for which nearly 100 silos have been under construction since then.

Despite what appeared to be evidence of a less immediate threat, Dr. Foster said that the Nixon Administration still wanted to continue with the Safeguard missile defense system.

The Administration requested in the new defense budget about $1.5-billion to continue construction of defenses around two Minuteman complexes, to start construction at two more and to do preliminary work on a missile defense around Washington.

Dr. Foster's rationale for expanding the Safeguard program was based on two primary elements—a desire to continue pressure on the Soviet Union to conclude a strategic arms limitation agreement, and a hedge against achievement by the Russians of the ability to destroy a substantial part of the Minuteman force in the mid-to-late-nineteen-seventies, when the missile defense would be operational.

While noting the Administration's hope that an initial agreement limiting defensive and some offensive missiles can be achieved soon, Dr. Foster said: "We cannot be certain of this, nor can we be sure of the exact provisions of such an agreement. Meanwhile, the Safeguard program now proposed enhances the probability of success" in arms control talks. The arms talks between the United States and the Soviet Union are to resume Tuesday in Helsinki, Finland.

Other officials privately estimate that an initial agreement will probably be announced at the time of President Nixon's visit to the Soviet Union in May. Since the final shape of an agreement has not been worked out, they say, the Administration wants Congressional approval for an expanded defensive system to apply pressure on Soviet negotiators to accede to some American demands. They declined to go into specifics.

In his testimony today, Dr. Foster said: "Analysis of the latest projections concerning Soviet missiles growth rates and the accuracy improvements indicate considerable variation in the time period in which our Minuteman forces would be seriously threatened."

One analysis, he said, assuming a slow Soviet multiple-warhead development effort, suggested that the Minutemen would not be seriously jeopardized "until the early nineteen-eighties or beyond."

A second set of assumptions moves the point of jeopardy to about 1980, or slightly before, he said.

A third approach, assuming a high priority effort, would threaten survival of the Minutemen in a first strike "as early as the mid-seventies," he declared, adding: "Prudence requires that we take the more pessimistic projections seriously."

In the past, when the Russians were rapidly building up their force of SS–9's and testing three-part warheads of about five megatons each, Administration officials warned that, if the Russians perfected accurate multiple warheads, a force of 420 SS–9's could destroy about 90 per cent of America's 1,000 Minuteman missiles.

But the Soviet Union halted the SS–9 building program at about 300. And although some defense analysts insist that each part of the SS–9 multiple warhead can be controlled to a limited extent, most of them now concede that the control and dispersion of the existing system does not appear sufficient to go after three separate Minutemen effectively.

Within the Administration, the current argument is whether the Russians intend to try to develop a better multiple warhead for its existing missiles, or wait to deploy an improved system in the nearly 100 large silos constructed at several sites in the Soviet Union.

Tests of the missile for the new silos is expected soon, defense analysts say.

Well-placed Administration sources suggest that the United States and the Soviet Union may agree to limit anti-ballistic missiles to 200 in each country. They would also opt to halt temporary new construction of land-based missiles and conceivably sea-based missiles, pending negotiation of a comprehensive agreement at Helsinki.

The missile defense agreement would lapse after a specified time, they add, unless a more comprehensive agreement was achieved. Continued development of missile defenses, which the Russians do not want to see expanded in the United States, might keep pressure on the Soviet Union to conclude the more comprehensive agreement, these officials argue.

[From the New York Times, Mar. 28, 1972]

Laird Predicts Soviet Will Start Tests on New ICBM's Soon

(By William Beecher)

Fort Hood, Tex., March 27.—Secretary of Defense Melvin R. Laird predicted today that the Soviet Union would soon start test firings of new intercontinental ballistic missiles.

Such tests would dispell the mystery surrounding some 90 to 100 large missile silos, the first of which the Russians began building in late 1970.

Defense officials and other Administration aides have speculated that the silos are designed for either advanced versions of the existing SS–9 and SS–11 I.C.B.M.'s or for entirely new missiles.

Mr. Laird was asked at a news conference here what significance he attached to the fact that the Russians apparently had stopped construction of older types of missiles and had not dug any additional large new silos for several months. He replied that from time to time the Russians had halted "new starts" on missile silos for periods of 9 to 14 months while completing work on construction already under way.

PEAKS AND VALLEYS

He said there had been numerous "peaks and valleys" in the Russian missile build-up and suggested that there was no special significance in the present valley.

Asked whether the Soviets would test "fairly soon" the missiles expected to be installed in the large new silos, he declared: "The answer to that is yes."

Asked to elucidate, he said: "No."

It is known that intelligence analysts in Washington estimate that the Russians are prepared for test launchings "imminently" from the missile test center at Tyuratam.

PATTERN IS FAMILIAR

At the time the new-design silos first were spotted at several operational missile complexes in the Soviet Union, similar new silos were reported being built at Tyuratam.

Analysts pointed out that such a pattern was familiar. They said in the case of two previous missile programs, those of the SS–11 and SS–9, the Russians built new operational silos and new test silos at the same time. Then, after a number of test launches from Tyuratam, they quickly deployed the new missiles, thus saving time.

Mr. Laird flew to Fort Hood today to witness the largest military training exercises to be held in the United States since 1965. More than 23,000 troops are taking part in the exercise, called Gallant Hand 72. It includes Army Air Force and reserve units.

ADMINISTRATION ATTACK ON FARMWORKERS

Mr. KENNEDY. Mr. President, I am disturbed by the recent actions of the National Labor Relations Board which represent a direct attack on the existence of the United Farm Workers Union, AFL–CIO.

What is most distressing, apart from the questions of violations of existing congressional law, is that the action represents the Federal Government's intercession on the part of corporate agriculture to deal a heavy blow at the one organization which has dedicated itself to improving the wages and living conditions of the Nation's farmworkers.

When we consider that agricultural workers are partially excluded from the minimum wage law, from the social security system, and from child labor laws as well as from the protections of the National Labor Relations Act, then it becomes flagrantly unjust to use the punitive provisions of that act against the union representing farmworkers.

When one views the recent spate of restrictive legislation filed by grower representatives in various States across the country and the combined activity of growers, shippers, and chain stores to kill the union, then it becomes particularly disturbing that the NLRB has reversed its long-held position in a way that lends support to those forces.

When one views the condition of the migrant workers and the seasonal farmworkers in this Nation over the past several decades, it is clear that the advent of the United Farm Workers Union has meant a new opportunity for workers who traditionally have been excluded from the protections of the law.

Now that the union has made major strides forward in California, in Florida, and in other States, we find the Federal Government's first act of intervention to be an effort to hamstring the union.

There also is a separate issue which is involved. Traditionally, there has been a vigorous opposition to the consideration of farmworkers under the NRLB on the part of the Congress. This has been manifest in the law itself as well as the rider which has been attached to appropriation bills every year since 1946.

Therefore, it is questionable whether the investigations conducted by the NLRB properly can be carried out since in large part they concern a union whose overwhelming membership is comprised of agricultural workers.

For that reason, several colleagues and I have sent a letter to the Comptroller General asking for his opinion of the propriety of expenditures of funds by the NLRB.

But beyond the issue of the legality of the NLRB's current activities in this area, there is a much more important policy question. That relates to whether the Nixon administration, despite its repeated assertions of concern for the interests of the Mexican-American community, in fact, has decided to use Federal agencies to harass the efforts of the farmworker to organize and acquire for himself decent wages and decent working conditions.

Mr. President, I ask unanimous consent to have printed in the RECORD several articles on this subject.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

Washington Connections

(By James A. Wechsler)

While the headlines focus on evidence of the Nixon Administration's sympathetic intimacy with the rules of ITT, powerful agricultural interests have quietly won a key round in Washington in their long fight to cripple and ultimately destroy Cesar Chavez' United Farm Workers Union.

Over the telephone from California yesterday, the perennially embattled Chavez described recent moves by Peter Nash, Mr. Nixon's appointee as general counsel of the National Labor Relations Board, as "a clear Republican maneuver to put the union out of business."

Anyone who has watched Chavez during his long, valorous effort to organize people long consigned to the nation's lower depths knows he is not a doomsayer who lightly cries havoc. And the circumstances that produced this plea for public concern amply warrant his tone of urgency.

Stated simply, NLRB counsel Nash has authorized the West Coast regional office to seek an injunction against the use of the national boycott weapon in its organizing drives. If the injunction is granted, it would set the stage for administrative proceeding that could last one or two years. It could eventually open the way for damage suits that could bankrupt a union that has never wallowed in opulence.

The issue is not a new one; what is new is the NLRB counsel's open alliance with the growers, the repudiation of earlier positions and the adoption of a stand that is clearly inequitable.

Agricultural workers have never enjoyed the protection of the Labor Relations Act. Neither, however, have they been subject to the restrictions on secondary boycotts that were inserted in the statute when the Taft-Hartley amendments were enacted in 1947. In the past, attempts to invoke these punitive provisions have been turned aside on the simple and obviously just ground that employes denied the benefits of a law should not be vulnerable to its penalties.

But under the ingenious—and insidious—doctrine now being evolved by the Nixon-era NLRB, what can only be described as unequal justice would prevail. The move against the union is based on the claim that a few of its 50,000 members—admittedly a handful at most—are actually "non-agricultural" employes because they work in packing sheds. Therefore it is being argued that the organization itself loses its immunity from the restrictive clauses of the law.

At the same time it is now the government's contention that the union still has no claim to the protections of the act because their rights "flow to the employes" rather than their union, and agricultural workers are specifically excluded from the collective bargaining safeguards embodied in the NLRB.

It is hard to imagine any construction of the statute more flagrantly loaded on the side of special interests and more crudely designed to break a union that has faced—and survived—so much primitive harassment.

Chavez has often pointed out that nationwide boycott campaigns against anti-union growers and those who use their products—such as wine companies—have been a crucial source of strength. The nature of agricultural employment and the lack of protection against anti-union conspiracies involving growers and local officials create overwhelming obstacles to usual techniques of union organization. But Chavez, waging a passionate moral crusade, has succeeded in using such boycotts as an effective countermeasure. The grape boycott was the most celebrated; a similar program is aimed at lettuce growers.

"Now they propose to use the same law that has never given us any protection to take away our great source of strength," Chevez said yesterday.

"The boycott has been so important to us in maintaining our nonviolence pledge. Where do we go if they prevent us from appealing for peaceful public support in the form of boycotts?"

Chavez' hope now is that the manifest inequity of the NLRB move will produce a wide public outcry aimed at the campaign-conscious Republican National Committee and that prominent Senators will take up the union's cause.

Beyond all the technical legal formulas being devised by NLRB attorneys, elementary justice is Chavez' most compelling plea. Rarely has a selfless union leadership done so much with such limited resources for people who had been victimized so long; to invoke one-sided law against it now is a throwback to the spirit of pre-Wagner Act times.

In the present setting, this conflict can have large political overtones. For, regardless of where the ITT inquiry finally leads, enough is already on the record to dramatize the easy access of corporate power to the Administration's high echelons. The Chavez story has even sharper symbolism; the growers have finally secured the breakthrough that an earlier NLRB resisted: the most defenseless of the underprivileged are the prospective victims. This battle has just begun and it will surely underline the issue of whose doors are open to whom in Washington.

Nixon and the Taco-Takeover

(By Nicholas von Hoffman)

The press is out of control again, trying to sell papers and make Nixon look bad like he's not against conglomerates. It's Jack Anderson, a known and self-confessed liberal, who's behind it, but, as usual, that's being kept from the people, who are being told many disrespectful stories about angina pectoris and the shredding machine. To listen to them, you'd think the government was nothing but grossed out liars and tacky bag men.

What you're not being told is how Nixon is fighting to keep the Mexicans from taking over and running a conspiracy on us to raise the price of food. That would be Cesar Chavez and his conglomerate, which also goes by the name of the United Farm Workers and has already driven the price of lettuce so high that many restaurants have put Ceasar salad on the menu to explain why.

But President Nixon has put Peter Nash in as general counsel of the National Labor Relations Board to stop the taco-takeover from paralyzing our economy. He's going into court in a few days to get an injunction that will forbid the Farm Workers from picketing or boycotting any more supermarkets. That should smash the union and bring down the price of table wine.

Always before it has been that agricultural workers were not covered by the National Labor Relations Board. That has helped prevent Chavez from getting a worker monopoly because it meant no Board-supervised elections for union representation, no protection from being fired for union activity, no nothing. Even so that Chavez, who's one smart frijole, was spreading out his monopoly power from the grapes to the cucumbers to the lettuce and the artichokes.

Now comes Peter Nash. He claims that somewhere between 30 and 300 (the number is in dispute) of Chavez' 78,000 dues-paying members aren't agricultural workers, but are industrial workers who fall under the jurisdiction of the National Labor Relations Board. Unions under the board's purview may not legally engage in secondary boycotts. Hence, the application for the injunction.

Ah, but get the neatness of this. This doesn't mean Chavez and the union will get any of the benefits that flow from coming under the board. They still won't have supervised elections or any of the other protections against employer unfair labor practices. No, they get only the disabilities and none of the advantages.

In the face of this, how can Anderson and those others say Nixon is soft on conglomerates? If there were any doubt, Chavez and the Farm Workers wouldn't be so worried about this. They know the government isn't kidding in its promise to smash excessive concentrations of economic power; they know that Washington isn't going to sit idly by while Chavez dominates the whole world enchilada and mole market.

Nor is there any backroom dealing on this one. No settling out of court. They're going to get that injunction and that will wipe Chavez out. It's his only weapon against agribusinessmen who only ask to be allowed to operate in a subsidy-free, open and competitive market.

If these Anderson charges were true, don't you think he'd have gotten the government to lay off? As a big-time conglomerator he'd have had the President get on the television and make an appeal to the courts not to grant the injunction, but to hold up until Congress could pass a constitutional amendment. Well, that kind of thing won't work in this White House where every hound's tooth sparkles cleanly in the sun.

Or, he could have gone the consent decree route. Like he could have gotten some asthmatic man to go to the Kentucky Derby with the Attorney General and seal the deal at the finish line. The government lays off the wetback Fruit and Vegetable trust and they get all the beans they can eat in San Diego this summer. If anybody asks any questions the asthmatic man will grab his chest and yell heart attack.

If not that, then Chavez could have sent somebody in to see Peter Flanigan. He's the guy from Dillon, Read, the fancy New York bankers. They're always in Washington. C. Douglas Dillon, Michael Forrestal, William H. Draper and Paul Nitze, all from Flanigan's company, have served in the topmost jobs through the Eisenhower, Kennedy and Johnson administrations. That Flanigan ought to be a guy who has the influence to swing a deal and write up a memo on it with disappearing ink.

Chavez wouldn't have dared try it. He knows that stuff Anderson writes is only good for smoking. If he'd tried to pull that on Flanigan, that Mexican monopolist would have got it from the Justice Department like the rest of those money bagging, golf playing, yacht sailing, campaign contributing breakfast worshippers when they get out of line. The law's the law with Nixon and that Mex had better know it.

Conservative Groups Mount Campaign Against Chavez Union

(By Steven V. Roberts)

KEENE, CALIF., March 25.—Less than two years after it won landmark contracts in the California grape industry, the United Farm Workers is under fierce attack, and its leaders are fighting for survival.

A well-organized, well-financed campaign has been mounted against the union by a loose coalition that includes the American Farm Bureau Federation, large corporate growers and shippers, right-to-work committees—and a variety of other conservative organizations.

The main target is the boycott, the weapon the farm workers union used successfully against the grape growers for three years ending in 1970 and is now employing against iceberg lettuce harvested by Mexican workers and against nine California wineries.

"They are using everything to hit us over the head," said Cesar Chavez, the union's director, whose headquarters are now in this mountain hamlet about 30 miles east of Bakersfield. "The right wing is spending a tremendous amount of money against us. They want to stop the boycott. They know it's the only way we can organize and they will do anything to take it away from us."

BOYCOTT A KEY WEAPON

The United Farm Workers is the first union to organize America's migrant agricultural laborers, and Mr. Chavez has gained an almost saintly reputation among workers for his leadership of La Causa, Spanish for "the movement." The boycott has been indispensable in that organizing campaign, because the migrants are too poor and too transient to conduct an effective strike.

To the union's opponents, however, the boycott is a "vicious weapon" and Mr. Chavez is a dangerous and power-hungry man. As the Free Marketing Council, an organization of growers, shippers, and chain stores, put it recently:

"Forces of coercion threatening a massive take-over of the nation's food supply in the field must be brought under control through state and Federal legislation."

These attacks are growing at a time when the union has scored several notable success. In recent weeks the farm workers have won two major contracts in the Florida citrus industry, their first victories outside California and Arizona. In addition, the American Federation of Labor and Congress of Industrial Organizations upgraded the farm workers from "organizing committees" to a full-scale union.

NLRB SEEKS CURB

The most immediate threat to the union is a petition filed in Federal Court by the general counsel of the National Labor Relation Board. That petition asked the court to enjoin the farm workers from conducting boycotts, which are prohibited by the National Labor Relations Act. Arguments will be heard in Fresno on April 6.

The case presents a complex legal problem, since farm workers have always been explicitly excluded by the act.

However, the Free Marketing Council and other groups have charged that the union represents some workers who help pack produce for shipment. These workers are covered by the act, and thus the union should be subject to its restrictions, the complaints contend.

Korbel, one of the nine wineries now being boycotted, has also asserted that the union wanted to represent workers who were not agricultural laborers.

The requested injunction would stop boycotts until the labor board judges the case on its merits, a process that could take a year.

The farm workers reply that the workers in question account for one-tenth of 1 per cent of their total membership working under contract, which is about 60,000 workers. Moreover, they contend, the N.L.R.B. has consistently ruled in the past that farm workers were not covered by the board.

The difference, they say, is that until last August, the general counsel of the N.L.R.B. was Arnold Ordman, a Democrat first appointed by President Kennedy. When his term expired, the Nixon Administration replaced him with Peter G. Nash, a 35-year-old Republican from Rochester.

The N.L.R.B. decision to pursue the case, the union stated last week, was a "purely political" one "made at the highest level" of the Republican party. "It is nothing less than an effort to destroy our union," the statement said.

Union officials point out that large corporate farmers are generally strong backers of both President Nixon and Gov. Ronald Reagan. For example, C. Arnholt Smith of San Diego, an old friend of the President, controls a number of large ranches, and finances other growers, the union said.

CITED BY LIFE MAGAZINE

Life magazine charged last week that the Nixon Administration had "tampered with justice" by quashing an investigation of Mr. Smith's campaign-financing activities.

A spokesman for the N.L.R.B. called the union charges "bull" and added: "The only question is whether the evidence indicated there was a violation, and the general counsel concluded there was."

According to well-informed sources, however, there was some disagreement among the board's staff over whether to authorize the complaints against the farm workers.

One staff member expressed sympathy for the union and said it would be "very unfair" to subject the farm workers to the limits of the law, without the advantages. But that is what would happen if the complaints are upheld, he said.

The union has also been besieged on the legislative front. Lobbyists in about 15 states, often led by the Farm Bureau, have pushed for laws that would prohibit boycotts by farm workers. Usually the bills also contain clauses that would require elections before union recognition and hinder strikes at harvest time.

ADOPTED IN TWO STATES

Such laws have already been adopted in Idaho and Kansas. One passed the Oregon legislature last year but was vetoed by Gov. Tom McCall. A similar bill was killed in the California Legislature, but a campaign is starting here to place an initiative on the November ballot.

Just last week, a bill was introduced in Congress that would create an Agriculture Labor Relations Board. Its provisions are similar to the National Labor Act, but it would allow growers to demand arbitration if farm workers struck, and impose a 40-day waiting period.

Historically, farmers have opposed placing workers under Federal legislation, but when the grape boycott proved so successful, they changed their position. In its early years, the union wanted legal protection. Now it feels that any legislation would be so restrictive that it could not organize effectively, and it would do better outside the law.

The third arena of conflict is the lettuce fields of the Salinas Valley, the "salad bowl" of America. In 1970, after the grape victory, Mr. Chavez announced that Salinas would be his next target. Almost immediately, most of the growers signed contracts with the International Brotherhood of Teamsters as a way of warding off Mr. Chavez.

CONTRACT DENOUNCED

The farm workers denounced the contracts as "sweetheart" deals and struck the lettuce fields in August. A month later a boycott started and four large growers signed with the Chavez union, but the rest held fast.

Last March, the teamsters agreed to give up their contracts with the farm laborers. Mr. Chavez opened negotiations with the Salinas growers and imposed a moratorium on the strike and boycott. But after six months of no progress, the talks collapsed in November.

Last week, Mr. Chavez declared that the boycott would resume, and a new strike against the Salinas growers was imminent. The mood here in Keene is that the campaign will be a long and costly one. The lettuce growers are larger, wealthier and "more savvy" than the grape growers, according to Marshall Ganz, the Harvard graduate who directs boycott activities.

The union has already dispatched 200 organizers around the country to resurrect the boycott machinery.

The whole idea of a consumer boycott has lost some "freshness since the grape campaign," Mr. Ganz conceded. "But the American public is better educated about farm workers, and that's all helpful," he said.

"Lettuce is a tricky problem," Mr. Ganz added. "You can eat it in a sandwich or a salad and you don't think about it. It will take a lot of public education. Grapes became very stigmatized during the boycott—lettuce has to become a similar kind of symbol."

The tactics will again be grass-roots organizing among anyone who will listen: housewives, students, labor unions, civic groups. There will also be the publicity from a dramatic strike. As Mr. Ganz put it:

"The grape boycott never depended on the romance of it, but on grinding work. There is no substitute for that kind of commitment, and it's something the growers can't buy with money. It's a classic confrontation between money power and people power"

SENATOR PEARSON'S LEADERSHIP IN AVIATION

Mr. GRIFFIN. Mr. President, the distinguished senior Senator from Kansas (Mr. Pearson), in a decade of service on the Commerce Committee, has become an acknowledged leader in the field of aviation. As ranking minority member on the Aviation Subcommittee, Senator Pearson has worked to promote a viable system of airports and airway facilities that will serve the needs of aviation in the coming decades.

Senator Pearson was an original sponsor of the Airport and Airway Development Act of 1970, and this landmark legislation already has been the statutory basis for assistance to hundreds of communities throughout the Nation. The act is structured to achieve a balance: Sufficient resources are committed to airport development as airway facilities are extended and modernized to promote safety in flying.

But Senator Pearson's efforts have not been limited to Federal assistance in airport and airway development.

The air transportation system serving rural America has long been recognized as inadequate to meet the legitimate needs of citizens living there. To promote better local air service, Senator Pearson has drafted and introduced the Limited Air Carrier Act, a bill which would provide for certification of commuter air carriers. This legislation could be the answer to the problems which small communities now confront. Many of these communities have seen their air service deteriorate in past years as Federal subsidies to the local service carriers have increased. Other small communities have lost service altogether, or never have been eligible for scheduled services from a certificated air carrier.

Hearings on Senator Pearson's proposal will begin April 10, and I feel these hearings will launch a new effort to guarantee a viable system of air transportation throughout rural America.

Mr. President, the Wichita Eagle recently published an editorial commenting on our colleague's leadership in matters affecting aviation.

The Eagle has properly recognized the devotion to improvements in the field of aviation which Senator Pearson has demonstrated over the years of his service in the Senate. I ask unanimous consent the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Pearson Works for Airport Development

James B. Pearson, senior senator from Kansas and long a friend of aviation, takes his job as self-appointed watchdog of the Airport-Airway Act of 1970 seriously.

Sen. Pearson was one of the three original sponsors of the legislation to establish a trust fund through aviation fuel taxes, an extra tax on airline tickets, annual registration fees for aircraft and an air cargo tax.

Just one year ago this month Sen. Pearson charged that the executive branch of the federal government was raiding the fund by attempting to pay salaries and operating expenses of the Federal Aviation Administration from the money collected.

He succeeded in amending the Airport-Airways Bill to protect the trust fund assets. The amendment, signed by President Nixon Nov. 29, 1971, provides that not less than $280 million be spent each year for airport development projects, not less than $250 million for air navigation system expansion and improvements with additional monies for general aviation facilities, research and development.

Last week Sen. Pearson, the ranking Republican on the Senate Aviation subcommittee, again introduced bills to improve the effectiveness of the Airport-Airways Act.

One bill would make about 90 airfields designated as military-civil joint use facilities eligible for airport development assistance grants under local sponsorship. These airports were eligible for federal grants under the old Federal Airport Act and through an oversight were neglected in the 1970 act.

Of the two airports coded for military-civil use in Kansas only Sherman Army Air Field at Fort Leavenworth is open to civilian pilots. Local sponsors could apply for matching funds to improve the airport.

McConnell Air Force Base has a 'letter of agreement' with the Boeing Company which allows aircraft, on company business, to land at the military field for a fee. It is not open to general aviation.

The bill, if passed, will insure that benefits from the Airport-Airways trust fund are available to all users of the civil aviation system.

Another bill would exempt owners of aircraft used exclusively for agricultural operations from paying the aircraft use tax and would provide for a refund of the seven cents per gallon fuel tax to the agricultural aircraft operator with the consent of the farmer buying the service.

Kansas has 112 registered aerial applicators in the state who would be affected by the bill. The operators should not be required to pay a user tax that provides little direct benefit to them.

THE ICC AND ECOLOGY

Mr. TAFT. Mr. President, in the March 1972 issue of Traffic Management, the associate editor, Lawrence M. Lesser, has written an article entitled, "Freight Rates and the Environment: A New Dilemma." This article points out how ICC rate policies discourage recycling and run counter to the objectives which we are attempting to seek on the environmental front. Because this is a subject of critical importance and because it reminds us once again of the great need for rail rate reform, I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Freight Rates and the Environment: A New Dilemma

(By Lawrence M. Lesser)

"We now have the technology to recycle much of the material that is treated as waste and thereby return it to useful purposes; however, market and other incentives in recent years have tended to work against recycling."—1971 Report of the President's Council on the Environment.

A major battle is shaping up among shippers, the railroads and the federal government over constantly rising freight rates for the movement of the nation's solid waste material, such as junked automobiles, refrigerators, washing machines, and soft drink and beer cans.

The fight pits shippers, environmentalists and two government agencies on one side versus the railroads and a third federal agency on the other.

One of the most important determinants of how much solid waste littering the nation can be economically reclaimed is the transportation rate level. Rail freight rates have risen 31% in five years and pose a sizable obstacle to the elimination of land pollution.

The President's Council on Environmental Quality and the Environmental Protection Agency both have recognized this problem and have asked the Interstate Commerce Commission to eliminate what they claim is discrimination against the movement of solid waste. So far, their pleas have fallen on deaf ears.

Last November, M. J. Mighdoll, executive vice president of the National Association of Secondary Material Industries (NASMI), whose over 700 members have an $8 billion combined annual sales volume, told the Congressional Joint Economic Committee's fiscal policy subcommittee that many freight rates for recycled materials are as much as 50% higher than for their virgin counterparts. Said Mr. Mighdoll:

"In addition to establishing inequitable rates which directly produce a market imbalance to the disadvantage of recycled materials, many rates on low-value commodities are not established with any relevancy to the nature or value of the material. This is significant since a large proportion of solid waste is comprised of low-value materials.

"We have numerous examples of recoverable and reusable materials which defy economic recycling inasmuch as the cost of collecting and transporting the material alone exceed the potential market value of the material at the consumer delivery point."

Figures assembled by NASMI show that it costs $2.59 per ton to ship pulpwood—the virgin counterpart of waste paper—from Roanoke, Va. to Roanoke Rapids, N.C. by rail—a distance of 205 miles—but $5.40 per ton to ship waste paper over the same route. The rate on copper ore from Los Angeles to Tacoma, Wash. is $17.05 per ton, but it costs $26.80 per ton to ship copper scrap between the same points.

Likewise, a recent study by Battelle Columbus Laboratories found that rail freight rates on iron and steel scrap average $1.49 per ton higher than rates on iron ore. Similar rate disparities exist for numerous other types of waste traffic as well.

Each percentage rail rate increase approved by the ICC just widens the gap further and throws a monkey wrench into private industry's efforts to clean up the environment.

The railroads, however, do not see it that way. They cite pressing revenue needs and claim that any possible adverse environmental impact will come only if they are unable to provide adequate service and rail traffic is forced to move by truck.

"From a pollution standpoint," argues Charles L. Smith, chairman, Traffic Executives Association-Eastern Railroads, "the motor carriers contribute a great deal more per ton of freight to the pollution problem than a 100-car freight train pulled by a diesel engine. That 100-car freight train would represent 150 or 200 motor trucks."

Waste material traffic, particularly iron and steel scrap, represents an important source of revenue to the railroads. Each year, steel mills purchase some 30 million tons of iron and steel scrap, all of which moves by rail. In 1970, this traffic brought the railroads $136 million in revenue—$6.8 million more than in 1969—even though they carried 1.6 million tons less.

The scrap-iron shippers, although sympathetic to the carriers' revenue needs, charge that the rail rates discriminate against steel scrap in favor of iron ore. They further argue that since scrap iron is the only direct competitor of iron ore as an input to steel production, equitable rate relationships should be maintained to encourage scrap recycling rather than exploitation of a limited domestic natural resource. If the rail rates are too high, they point out, scrap metal won't move due to high prices.

The railroads, however, do not admit to any discrimination against scrap iron. "I don't know what they mean by that," says Mr. Smith. "We just set rates on scrap iron, period."

Whatever rate disparities exist, Mr. Smith explains, are justified by different facts and circumstances surrounding the movement of each commodity—namely, different weight loadings (iron ore loads heavier per car) and different distances transported (iron and steel scrap generally travels further). He argues that there is no connection between scrap prices, freight rate levels and environmental impact.

Thomas Willson, vice president of the American Iron and Steel Institute, the basic steel producer trade association, disagrees sharply with the railroads' assessment of the situation. "The scrap metal guys have to pay a tremendous premium," he says. "Recycling won't ever be strongly accelerated until these tariffs are changed."

So far, the ICC has sided with the railroads. In authorizing a 20% general rate increase in the combined Ex Parte 265 and 267 proceeding last March 23, the Commission did order a token hold-down on 3% on materials used in recycling, but it also adopted the rail position, with Commissioners Dale Hardin and W. Donald Brewer dissenting, that there is "little if any correlation" between rates and the market for iron and steel scrap. Said the majority:

"We are not persuaded that rail freight rates on scrap have any material impact on the decisions which result in removal of wrecked automobiles and other scrap metals pursuant to antipollution measures."

The Commission also refused to accept the position of the Institute of Scrap Iron and Steel (ISIS), a trade association of 1,300 scrap processors, that scrap iron and iron ore compete to the extent they require similar rate treatment. Instead, it found that the proposed rate increase on iron and steel scrap would not be "detrimental" to the nation's antipollution program because of any resulting advantage to the movement of iron ore.

Eight months later, however, in apparent contradiction to its earlier decision, the ICC acted to *actively encourage motor carriage* of waste products. In Ex Parte MC-85, "Transportation of 'Waste' Products for Reuse and

Recycling," the Commission ruled that for-hire motor carriers wishing to transport recycled material to be used in a "recognized pollution control program" will no longer have to pay expensive filing fees and go through lengthy hearings to get ICC certification.

This action represents a landmark Commission decision in the area of environmental protection. Taken as a whole, however, the ICC's environmental actions to date puzzle some observers, such as Commissioner Hardin. He says:

"It appears to me inconsistent, on the one hand, to seek to encourage motor transportation of waste products and, on the other, to approve rail rate increases which may have the effect of embargoing rail transportation of these low-value commodities."

The Commission also was taken to task recently by a group of George Washington University law students who urged the ICC not to approve further rail rate increases—and to roll back two previous ones—until the railroads bring their freight tariffs into conformance with environmental regulations.

In its Ex Parte 265 and 267 decision, the Commission brushed aside the scrap metal shippers and environmentalists by suggesting that if they wished to further pursue the inequity in freight rates, they could do so at a later date in Ex Parte 270, the ICC's broad investigation of the railroad rate structure. However, in an Oct. 6, 1971 reply to a query from Congressman John Dingle (D.-Mich.), ICC Chairman George Stafford stated:

"This Commission has no authority to exercise specific planning functions with regard to the environment . . . We are anxious to participate in implementing the spirit of the declaration of national environmental policy. However, in view of past litigation regarding the matter of scrap materials in Ex Parte 265 and 267, in the pending proceeding Ex Parte No. 270, it would be unwise in my opinion to invest any more of our limited resources at this time on this particular issue."

The above letter notwithstanding, high-level Commission sources admit the agency may have to construe its environmental responsibilities under existing law more broadly in the future or risk being taken to court by shippers and/or environmentalists.

These sources also concede the agency may even have to hire its own environmental experts and set up an office of environmental impact. "After all," one commissioner admitted to Traffic Management, "we're not environmental experts."

A federal district court has already bounced one ICC decision back to the agency because it failed to prepare an acceptable environmental impact statement as is now required by law.

The environmental issue clearly has the ICC in a bind. On the one hand, it must look after the railroads' very real revenue needs; on the other, it must comply with the intent of Congress, as stated in the National Environmental Policy Act of 1969. That statute requires all federal agencies to examine the environmental impact of all major proceedings.

Commissioner Brewer spoke of the dilemma facing the ICC in a recent speech before the annual convention of the Institute of Scrap Iron and Steel in Washington, D.C. Mr. Brewer said:

"While we on the ICC must be aware of the need to transport your products at a profit, we must also recognize our responsibility in maintaining a viable, economical and healthy transportation system.

"Even though the scrap industry is surely on the side of the angels when we talk of conservation and recycling, your industry still must be realistic in dealing with the carriers on whom you must rely. The carriers are in business to make money just as you are. In order to remain viable, they must return a profit."

The scrap shippers, for their part, recognize the railroads' revenue needs. Says Dr. Herschel Cutler, executive director of the Institute of Scrap Iron and Steel:

"We have repeatedly said the railroads are entitled to rate increases. Our only objection is to the disproportionate impact of their proposals."

Shippers of metallic scrap must rely totally on the railroads to move their traffic, since most steel mills will not accept inbound motor shipments to their plants.

Looking down the road a bit, it becomes readily apparent that increased collection, redistribution and recycling of the solid waste that covers America today will depend greatly upon the availability of adequate and efficient transportation. Vast amounts of additional transport capacity will be required in the years ahead to ensure that industrial waste materials suitable for reuse find their way back to the steel mill, the paper mill and the glass factory.

Reclamation of the nation's solid wastes for recycling introduces a completely new distribution channel to the industrial production system. It also has brought a brand new transportation problem—one that must be solved if the national goal of cleaning up the environment is ever to be achieved.

JERSEY CITY COUNCIL RESOLUTION ON NORTHERN IRELAND

Mr. KENNEDY. Mr. President, last month the Jersey City Council unanimously approved a resolution in support of Senate Resolution 180, the resolution on Northern Ireland that the Senator from Connecticut (Mr. RIBICOFF) and I have submitted. In its action, the council urged the legislature of New Jersey to go on record in favor of our resolution.

The terms of the resolution approved by the council are identical to those in our Senate Resolution. I am gratified with this fresh evidence of support for our position, I ask unanimous consent that the text of the Jersey City Council Resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION ADOPTED BY THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY, FEBRUARY 15, 1972

The members of the Jersey City Council urge that the Legislature of New Jersey go on record in support of the Senators E. Kennedy and A. Ribicoff's Resolution 180 (Northern Ireland Bill).

The Council as a Whole offered, and moved adoption of the following resolution:

Resolved, That the Senate of the United States expresses its deepest concern over the present situation in Northern Ireland, and in accord with fundamental concepts of non-discrimination, fairness, democracy, self-determination and justice, requests the Government of the United States at the highest level to urge the immediate implementation of the following actions:

1. Termination of the current internment policy and the simultaneous release of all persons detained thereunder.

2. Full respect for the civil rights of all the people of Northern Ireland, and the termination of all political, social, economic and religious discrimination.

3. Implementation of the reforms promised by the Government of the United Kingdom since 1968, including reforms in the fields of law enforcement, housing, employment, and voting rights.

4. Dissolution of the Parliament of Northern Ireland.

5. Withdrawal of all British forces from Northern Ireland and the institution of law enforcement and criminal justice under local control acceptable to all parties.

6. Convening of all interested parties for the purposes of accomplishing the unification of Ireland.

POPULATION LIMITATION

Mr. PACKWOOD. Mr. President, one thread underlining the entire report of the Commission on Population Growth and the American Future, on which I served, was the emphasis on voluntarism and the rejection of compulsion in all matters concerning population and childbearing. The voluntary approach is one which I have consistently endorsed and stressed in all discussions on the population issue.

Two recent statements on this same question have recently been published by the highly respected Population Reference Bureau. The first statement was written by Mrs. Harriet Pilpel and is entitled "Limiting Population: The Voluntary Approach." The second article in response to the first is by Michael Brewer, and is entitled "Voluntarism and Coercion: The Ground Between."

These two statements bring out some of the explicit and implicit aspects of voluntarism against compulsion. I commend them to Senators and ask unanimous consent that they be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

[From Population Profile, November 1971]

LIMITING POPULATION: THE VOLUNTARY APPROACH

(By Harriet F. Pilpel)

The history of man has been marked by an overriding dream and ambition to become master of both his natural and social environment. On the natural environment side there has been the desire to fly, to reach the moon, to live forever, to be able to create new human beings at will. On the social side, there has been the desire to be both free and safe, to live in a peaceful world in which needs, spiritual and physical, will be met rather than the subject of an unending struggle.

To a startling extent some of these age-old yearnings have been fulfilled in the last decade or so. Flying we have been doing for some time and we have now set foot on the moon. We have not mastered the secret of how to live forever, but there is a lot of talk about "freezing" people for revival in future years. And while we have not yet achieved test tube babies, we are technically able to control human reproduction by means of contraception, sterilization and safe abortions.

The problems in this area today inhere not in our ability to control, but in our failure thus far to develop social mechanisms and patterns of behavior which will utilize our technical ability to improve the quality of human life rather than destroy it.

By and large we have not developed such mechanisms and patterns. We can fly to the moon but we have not yet figured out a way of handling air pollution, noise problems and in-the-air and on-the-ground congestion caused by those wonderful flying machines which, with television, have put us all together in a "global village."

Nowhere is the contrast more evident between what we can do to control the forces of nature, and what we do to make such control work for us positively as human beings, than in the field of human reproduction.

Granted, you may say, but how is this a civil liberties question? The answer is that the right to decide whether and when to have a child is a basic civil liberty, and by the free exercise of that right we determine the constituency and quality of the world of the future.

However, and as is the case with all constitutional rights, this right is not absolute. Unless we meet problems of overpopulation with its resultant pollution, etc., head on, this right of each person may conflict with the right of society as a whole to restrict its free exercise for the benefit of the many.

I submit this time of crisis has not yet come and that it may never come. I am convinced that if we really make freedom of choice possible with respect to human reproduction, there will be no need to resort to compulsion.

LEGAL DECISIONS

It was a scant six years ago that the U.S. Supreme Court first acknowledged the existence of a constitutional right to decide whether and when to have a child, in the case of *Griswold* v. *Connecticut,* invalidating the Connecticut law which forbade the use of contraceptives in that state.

Prior to that time, the Court had enunciated the general principles of "the right to be let alone" in a number of cases involving other aspects of human freedom which seemed to many of us to compel the declaration of such a right in connection with the all-important matter of our reproducing ourselves. However, such a right in this context had never been spelled out in so many words.

Since *Griswold* the right of freedom of choice in matters of human reproduction has been given greater definition by the U.S. Supreme Court, by other courts and by the United Nations.

The Supreme Court of California, in the now-famous *Belous* case, based its decision that the "old" California antiabortion statute was unconstitutional on several grounds—one of them being that it was an unconstitutional abridgement of the women's right "to choose to bear children" which "fundamental" right that court said "follows from the Supreme Court's and this court's repeated acknowledgement of a 'right of privacy' or 'liberty' in matters related to marriage, family and sex."

Similarly, the Federal District Court for the District of Columbia in the equally famous *Vuitch* case stated:

"There has been, moreover, an increasing indication in decisions of the Supreme Court of the United States that as a secular matter a woman's liberty and right of privacy extends to family, marriage and sex matters and may well include the right to remove an unwanted child at least in early stages of pregnancy."

When the *Vuitch* case reached the U.S. Supreme Court, the Court did not pass upon the basic question whether there is a constitutional right to decide whether or not to have a child. That question may be decided in two other cases, one from Texas and one from Georgia, currently before the U.S. Supreme Court.

Court challenges to abortion laws are pending or contemplated in many other states. In New York, while a case was pending on the question of the validity of a law prohibiting abortion except where a physician had a good faith belief that it is necessary to save the life of his patient, the New York State legislature repealed the old law and made abortion a matter for decision by a woman and her physician. Seventeen states have modified their abortion laws. Three—Hawaii, Washington and Alaska—like New York, have virtually repealed their old laws; 12 have modeled their laws on the American Law Institute formula of permitting abortion not only to save life but also to protect physical and mental health, to avert the birth of defective offspring, and in cases of rape and incest. (Mississippi's only additional ground is rape.) Many other states are considering legislation to repeal or substantially reform their abortion laws.

Notwithstanding, however, this accelerating trend in the direction of making freedom of choice available, the laws and official and professional attitudes today applicable to human reproduction in the United States, viewed against the realities of today's world, add up to a crazy-quilt pattern with overtones seriously threatening to civil liberties. For example, even the repeal states, except New York, impose residence requirements for abortion.

On the one hand, we have the population explosion or, if we want to broaden our view, the threat of ecological crisis. The fact that such a threat must be dealt with hardly needs substantiation at this point. On the other side of the coin, we see that countless millions of people are still not given the opportunity to decide whether they want to limit their reproduction.

While the recent statutes and the cases holding various antiabortion laws unconstitutional seem to indicate a trend, abortion—which unfortunately remains the number one method of birth control in the world today—is still illegal in a majority of states, except to save life (whatever that means). It is also illegal in many other nations whose population problems seem already to be critical.

MORE RESEARCH NEEDED

Relatively piddling amounts of money are spent for research in the field of human reproduction, including the search for new and more effective contraceptives. Little is done to assure the delivery of the contraceptives we now could have available to all; it is estimated that even in the United States, something like four and one-half million low-income women are without effective access to contraceptives. And the general apprehensiveness of the medical profession about malpractice suits, although without realistic basis in this area, inhibits the making available of voluntary sterilization.

Moreover, we have laws based on outworn notions of morality (outworn in the sense that they bear no relation to the conduct of today's youth and many, if not most, of today's adults, at least in the Western world). We have laws which intimidate those who would make contraception and abortion services accessible to our youth. Our youth account for 40 percent of all illegitimate (and, therefore, mostly unwanted) births in the United States. And who knows how many young people are among the estimated one million women who each year get abortions, most of them illegal?

While the logical answer to all these problems would be to provide safe methods of contraception and voluntary sterilizations and abortions to women who want them, i.e. to guarantee to all women the freedom to decide whether or not to bear children, greater freedom is—unfortunately—not the only solution that has been suggested. Although neither voluntary birth control nor voluntary abortion nor voluntary sterilization has ever been made available to large segments of our people, we begin to hear voices demanding compulsory birth control and compulsory sterilization in the face of the population crisis on one side and burgeoning birth rates on the other. Little has been said so far about compulsory abortion because even the most myopic among us readily perceive that there is no point in making abortion compulsory when it is not yet even optional in most states.

Yet many people are advocating tax "discentives," reduction in welfare payments, penalty taxes, making excess childbearing a crime and, most frighteningly, compulsory sterilization.

CIVIL OBLIGATION

In the face of such threats, civil libertarians have an obligation to make their own appraisal of the situation.

No constitutionally guaranteed personal liberty is absolute—or as Mr. Justice Holmes put it, freedom of speech does not embrace the right to call "fire" in a crowded theatre unless there is a fire. The question in the "population" area today is whether there is a fire—and if so what constitutional means there may be for putting it out.

It is well settled that "where there is a significant encroachment upon personal liberty, the state may prevail only upon showing a subordinating interest which is compelling," according to a 1960 Supreme Court ruling, *Bates* v. *Little Rock.* Moreover, even if there is a "subordinating" and "compelling" interest, a valid "governmental purpose" may not be achieved by means which "sweep unnecessarily broadly and thereby invade the area of protected freedom," says a 1964 decision of the same court, *NAACP* v. *Alabama.*

In the light of the known facts, population limitation may be—or may become shortly—a "compelling" necessity in the United States, as it may already be in other nations. The question then arises: What rational means which do not "sweep unnecessarily broadly" may government adopt to meet the actual or threatened crisis?

Many of those who address this basic question today come up right away with the answer that some degree of governmental coercion is immediately called for. All "population control" measures rest on the premise that freedom of choice in matters of human reproduction is a luxury we can no longer afford.

It seems to me that it is up to civil libertarians to point out, to the contrary, that freedom of choice in his area is a "luxury" we have never had—that indeed it is not a luxury but a right, first declared unequivocally only six years ago in the *Griswold* case and by no means yet implemented.

GIVE VOLUNTARISM A CHANCE

In other words, from the civil liberties standpoint we should continue to work to make freedom of choice possible and not countenance its abandonment in favor of coercion and compulsion until and unless we have first really tried it and found out it doesn't work—something we have never done.

This conclusion is inevitable if we consider the question against its own background in the United States. Many of the anti abortion laws have been on our statute books for over a century. Even if they are repealed en masse or declared unconstitutional, we will have only taken the first step along the road to implementing freedom of choice as to abortion—for our doctors are already overburdened and our hospitals crowded and neither doctors nor hospitals are experienced in setting up abortion delivery systems.

However, new techniques of abortion (such as the vacuum aspiration method and the new abortifacient pills and injections still in the experimental stage) do not require overnight hospitalization and even with the conventional older methods, one million—more or less—"illegal" abortions in the United States annually have been done on an outpatient basis, of course. Moreover, some of the new procedures may not have to be done by physicians but may eventually be applied by paramedical personnel under medical supervision.

While the day seems to be coming when abortion on request will not only be legal in all 50 states but will also be practically and economically available, that day has by no means arrived. It would be well if those who are calling out for coercive control measures concentrated their energies on establishing a right to abortion including the means of exercising that right.

Nor have we freedom of choice in the contraceptive area. This is partly for technological reasons: We have not yet developed a thoroughly acceptable contraceptive. What has appeared to be the most nearly acceptable, the pill, was so strenuously attacked by some spokesmen at the Senate hearings presided over by Senator Gaylord Nelson that despite the fact that no new or more alarming data emerged from the hearings, many women have abandoned its use and many others have decided not to use it. The IUD and the vaginal diaphragm appear to be the best two remaining methods, but both have a larger failure rate and in any event are not psychologically or physiologically useable by a not inconsiderable number of women. So again, if the "controllers" would concentrate more of their fire on getting more funds for more research, they might accomplish more in the way of reducing the birth rate than they do by threatening or contemplating coercive measures.

Freedom of choice is hampered, also, by legal obstacles. At least two large states—Massachusetts and Wisconsin—continue to limit the distribution of contraceptive supplies to married persons, and in Massachusetts even the married may buy contraceptives only on a doctor's prescription. (The validity of the Massachusetts law is now before the U.S. Supreme Court for decision.)

The law as to minors' getting contraceptives are unclear and restrictive. Yet despite official restraints on voluntary contraception, a recent article in the American Bar Association Journal urged compulsory contraception in the form of IUD's for sexually active teenagers. Aside from the fact that the law needs considerable clarification in order for teenagers in most states to obtain contraceptives on a voluntary basis, and aside from the frightening curtailment of personal liberty which would be involved, a further objection to this rather "unusual" recommendation is that the authors do not go into the question as to how this requirement is to be enforced. Assuming you can threaten a teenage girl with sufficiently unpleasant alternatives (presumably detention) so that she does go to a doctor to have an IUD inserted, how do you compel her to keep it there?

BIRTH CONTROL PROGRAMS

Many states have not adopted realistic birth control programs; and while the federal government has to some extent made up the slack, the amounts appropriated for services are small compared to what could be utilized.

To say to the four to five million women in the United States who have never had the chance to practice voluntary family planning that the time has now come when they must by government fiat use birth control would be absurd—and in my opinion unconstitutional.

The studies of Jaffe and Polgar show that desired family size among the poor and indigent is smaller than the size preferred by the upper and middle income groups.

The recent investigation by Professor Westoff et al. indicates that some 20 percent of all the children born in the United States annually are unwanted. And, as is to be expected in the light of the lack of access by many of the poor to birth control information and services, the poor have more unwanted children than the rich.

The story is similar with regard to sterilization. It is true that except in Utah (Connecticut has recently changed its law), voluntary sterilization for any and all reasons is entirely legal in the United States. But the fact that it is legal has not meant that it has been available. Far from it. The hospital and medical professions have imposed strict limitations on its availability. The Catholic hospitals, which serve substantial parts of our population, won't perform sterilizations at all (or prescribe contraceptives or perform abortions) despite their quasi-public status as tax exempt institutions. Most other hospitals, if they perform voluntary sterilizations at all, have set up sterilization committees which significantly limit the availability of voluntary sterilization to both men and women.

We see here the same paradox: calls for the imposition of compulsory sterilization without first making sterilization available on a voluntary basis—especially for those who cannot afford substantial physician's hospital fees. Although it is estimated that there are about 750,000 or more voluntary sterilization operations performed in the United States every year, this is probably a small proportion of those that would be done if this alternative really existed for millions of our citizens.

"YOU MUST—YOU CAN'T"

It is always easier to insist that "there ought to be a law" and to think you've solved the problem with a "you must" or "you can't" than to eschew coercion and go through the tedium of adopting practical programs to change what is (which means you first have to find out what is) to what should be.

It is for civil libertarians to recognize what needs to be done to avert a totalitarian pattern of laws as to human reproduction. Unless and until it is clear that voluntary measures, legally and factually available (which they never have been), won't and can't eliminate the threat of overpopulation, government coercion and compulsion are contraindicated.

It is for civil libertarians to acknowledge that while the state must more and more assume the responsibility for the physical and material well-being of its citizens because our interdependent mass production economy demands this as the price of its functioning and our survival, the state must stay out of the moral and spiritual aspects of their lives. What a man thinks, feels and believes should be of no concern to the state. nor should what he does in his private life, except when he harms others. (This view is the converse of the traditional—and outmoded—view of the role of the state as keeper of men's morals with no responsibility for the collective conditions of physical life, including the basic necessities of physical survival.)

If this distinction is carried over into the field of human reproduction, the way of the civil libertarian is clear. Yes, indeed, the state should act to make real freedom of choice possible. It should do everything from repealing repressive laws, to encouraging research in contraceptive and abortifacient technology, to ensuring effective delivery of services on a voluntary basis to all segments of our population, to waging educational campaigns.

If we pursue these objectives, we should be able to take a long step in the direction of solving the population problem without resorting to compulsory measures which would strike at the roots of one of our basic freedoms: the right of free choice in matters of human reproduction—no less basic because it has so recently been recognized and acknowledged.

VOLUNTARISM AND COERCION: THE GROUND BETWEEN

(By Michael G. Brewer)

Two basic questions underlie discussions of population growth in the United States: how serious and urgent the problem is and what should be done about it. The answers tend to be connected. The more urgent the problem appears, the more radical the solutions proposed are likely to be.

Nevertheless, it is possible, and even rational, to assign great importance to the reduction of fertility and still oppose drastic measures to achieve that goal. The author of the preceding article clearly believes that reducing fertility is an important social goal. At the same time, she builds a strong case that would permit individuals to reduce fertility voluntarily, without coercion.

The line between voluntarism and coercion, however, is not always clear.

The essence of voluntarism is a decentralized decision system—one in which choices among available options are made by individuals. Such a system can prove unsatisfactory. Decentralized decisions can yield results which are far from socially ideal, in a "tyranny of small decisions." One example of such a failure would be private discretion in the use of common property resources, which often leads to overuse, despoliation, and possibly destruction. Such institutional deficiencies have been noted in discussions about air and water pollution and other environmental problems, and sometimes have been referred to as "the Tragedy of the Commons."

When the pursuit by individuals of their separate interests leads to substantial social losses, one possible solution is to modify the ground rules under which individual decisions are made, to increase the compatibility between enhancement of individual welfare and the welfare of the society at large. Modifications of this sort can consist of removing subsidies that stimulate socially detrimental behavior, or placing legal constraints on individual choice.

Regarding the dynamics of U.S. population, there are opportunities for both kinds of modification of the ground rules. Major public subsidies are provided for the bearing and rearing of children in the United States, of which free public education probably is the most significant. Not only does society pick up the bill for certain costs; it also positively rewards parents through devices such as income tax deductions for dependent children.

Of course there also are institutions that obstruct population growth. These tend to be more recent phenomena, associated with a growing recognition of the social costs which result from rapid growth. The understanding that congestion, environmental pressure and increasing costs of extending public services are all concomitants of a rapidly growing population has not yet led to clear prohibitions concerning parents' decisions to have children. On the other hand, certain communities have begun to impose constraints on land use, through zoning and other regulations, which, it could be argued, have a limiting effect on population growth in particular communities.

THREE KINDS OF CONSTRAINTS

The immediate discussion, however, is concerned with other types of infringements on freedom of individual choice. Pilpel is concerned with the limited range of possibilities available to parents or potential parents interested in family planning. Basically there are options involving contraception, sterilization and/or abortion. At least three categories of limitation of options can be identified:

Constraints imposed on choices which have low probability of harming the individual or his society.

Limitations imposed because of uncertainty about possible harmful consequences.

Constraints imposed because the options themselves are not yet fully devised or developed, and consequently are not available for individual use.

Any society imposing the first type of limitation is open to the indictment of depriving the individual of his freedom. Efforts to facilitate family planning in the United States are severely limited by existing state and federal laws. The Comstock laws prohibiting the mailing of contraceptive information and devices, which were not repealed until January 1971, are a prime illustration of morally sanctimonious behavior by government that resulted in depriving individuals of reasonably effective and safe options for family planning.

Constraints of the second type have posed continuing problems to our society. What is the right of the individual to jeopardize his own safety? Sharp debate on issues of this sort is frequent. The automobile industry, for example, is sometimes accused of arguing that inexpensive transportation is more than adequate compensation for the lack of safety features, which suggests that limitations should not be placed on a product on the grounds of possible danger to individual users. The consumer movement, on the other hand, which urges that various foods be taken off the store shelves because of questionable nutritional values or because of possibly harmful additives, implies that variety and taste should be subordinate to safety.

In the population area the argument has surfaced with respect to birth control pills. The powerful drugs used to control ovulation were found to have a number of undesirable, and for some women dangerous, side effects. These were well publicized in a series of U.S. Senate hearings, stimulating controversy between groups that usually are on the same side. Family planning advocates objected to the hearings, which apparently had a negative effect on acceptance of the drug, arguing that pregnancy was a great deal more dangerous than the relatively rare side effects of the pill. Drug safety proponents countered, pointing out that pregnancy was not the only alternative to using the pill, and urged accelerated research to develop safer contraceptive devices that would be equally convenient. The upshot of the controversy was the inclusion of a warning of possible side effects of oral contraceptives to be included in each prescription, leaving the question of safety up to the individual.

Constraints on individual freedom that result because society has not yet developed options, procedures or devices which permit the individual to achieve the results he desires, pose an interesting issue. Clearly, individual voluntarism is precluded if there is no way in which the choices can be made on a decentralized, individual basis. The case is well put by Pilpel: The absence of a readily available, effective contraceptive technology, and adequate information about it, prevents society and its individual members from approaching population control on a voluntaristic basis.

On the other hand, it could be argued that voluntarism can never be given a chance in the sense that all restraints, both explicit and implicit, on the free exercise of individual choice in childbearing would be removed. There will always be forces, economic, social and legal, which influence prospective parents in one direction or the other.

A QUESTION OF EMPHASIS

The question then comes down to a choice of emphasis in removing restraints from parental choice: Should first priority be given to extending contraceptive technology and removing legal restraints on its use, as Pilpel argues, or should extending information about the pros and cons of contraception receive equal attention? It is obvious that when a new contraceptive is developed, information about it and its performance must be made public if that device is to constitute a real alternative to the potential user. However, should not the information also be available on the consequences of failing to use that device or some other contraceptive technique? Full population "literacy", it can be argued, must exist in any society which pursues voluntary family planning. In that case, there is evidence that the United States is a long way from being able to support a voluntaristic approach. This evidence, which has been developed through recently conducted surveys, admittedly of limited scope, documents widespread misunderstanding of population dynamics in the United States. If this is so, and individuals cannot accurately associate the future social consequences of procreative choices they may make on an individual basis, then they can hardly be said to understand all of the alternatives available to them—including the alternative of using no protection against pregnancy.

All of this suggests that the demarcation between voluntary and non-voluntary means of birth control is blurred. Nevertheless, it is possible to make a case for non-coercive means of effectively limiting population growth in the United States. The basic argument is simple—coercion inevitably engenders hostility and resistance, which tend to grow in a cumulative fashion over time. Eventually, some threshold is passed and resistance is sufficient to interrupt, and possibly frustrate, the measures being pursued. In short, coercion is not a dependable method, and non-coercive approaches can be preferred in terms of their relative efficacy.

Accepting a somewhat blurred line between coercion and voluntarism, and acknowledging that the technological and informational conditions required for full voluntarism are unlikely to be met, how do we proceed from where we are? What are the criteria that can help us convert a growing public concern with population growth into programs and processes which respect individual freedom and acknowledge the advantage of decentralized decisions?

Perhaps the most important factor which would make possible voluntary reduction of population growth would be a habit of thought which recognizes the future social consequences of individual procreative behavior. This is not an area of thought and speculation to which we are accustomed. Individuals may have planned their families intelligently and accurately, but there is not yet clear recognition of the relation between individual behavior and demographic change. Until such a habit of thinking about population is acquired, there will be a tendency to consider demographic phenomena as situations unto themselves, separate and apart from the social conditions within which they occur and to which they contribute.

POPULATION EDUCATION

This is an objective that can be achieved only by the profoundest type of education in population affairs: an education whose domain is not only the provision of accurate, scientific information regarding birth control possibilities, but which also instills in each individual an acknowledged responsibility to think about the population component of social situations. At the present time, population education in the United States is in its infancy, although those involved in it are extremely active.

Population education efforts should be aimed primarily at the schools. But public discussion of the facts of population growth, of the various proposals and programs that might be employed to reduce fertility, and of the economic effects implied by lower growth rates, is no less important. Public enthusiasm with population education is increasing, but public opinion also is notoriously erratic, often losing interest only a short time after enthusiastically embracing an idea. If population is to be a permanent subject of education, it is necessary during the period of acceptance to establish arrangements which will continue to have influence over a longer period of time.

Another front on which action can be taken refers to the number of institutions and public policies which implicitly favor families of particular size. A good deal of discussion has focused upon the extent to which the social and economic fabric of American society contains pronatalist sanctions. In addition to income tax deductions and free public education, there are implicit sanctions, such as a common terminology which refers to childlessness with disparaging implications, and social norms which deprive women of social roles other than that of wife and mother. To what extent do these constitute coercive measures? They clearly have received social approval and broad compliance in the past, and perhaps we view freedom as opportunity by the individual to select from among alternatives against this kind of social norm or base-line. This is more than a matter of semantics; it comes to the very heart of the issue of individual coercion.

One can distinguish between invoking new measures that modify the socially approved incentive system from those that invoke prohibitions on one's range of choice. While the line between them may at times be blurred—for example, the costs of certain options may be beyond the capacity of the particular individual to bear, and thus his range of choice is narrowed—they are discernibly different types of measures.

What is the critical element that makes a change in society's rules compulsory? It could be the abruptness with which the decision is made, or the legal and political jurisdictions under which it claims authenticity and authority, or perhaps both. The point remains that usually it is possible to differentiate between overt coercion, which substantially reduces the options which an individual can choose, and pressures which modify the terms of choice. Overt coercion is not only questionable from a practical standpoint—because of resistance which can be counted on to develop—but also on ethical grounds.

Historical failure has largely discredited two traditional ends which have been used to validate coercion—the aim of preparing for a coming social revolution, or the aim of preserving the state. The result has been an abhorrence of any measures that seriously impinge upon an individual's freedom. On the other hand, the technological, organizational and demographic conditions of human existence change, sometimes jeopardizing society unless its social ground rules are modified. This is, indeed, the basic premise of democracy, and it was the anticipation of precisely this process of adjustment over time which occasioned the meticulous debate and craftsmanship reflected in and required by American constitutional governance.

READINGS IN POPULATION

Davis, Wayne H. *Readings in Human Population Ecology*, Englewood Cliffs, New Jersey Prentice-Hall, Inc., 1971. 259 pp. $7.95. Thirty-one papers by noted demographers and social scientists selected to present a wide and balanced discussion of controversial population questions.

Detwyler, Thomas R. *Man's Impact on Environment*. New York: McGraw-Hill Book Co., 1971. 731 pp. $5.95. In textbook format, 52 environmental scholars examine man's biological impact on the world's ecological balance in such problem areas as air and water pollution, soil erosion, destruction of plant and wildlife. Includes a glossary of environmental terms.

Field, Frederick V., General Editor. *An Economic Survey of the Pacific Area: Population and Land Utilization, Part I.* Karl J. Pelzer, New York: Russell and Russell, 1971. 215 pp. Price Not Stated. One of a group of monographs which seeks to update and collate data from the 1934 study of the Institute of Pacific Relations entitled *Economic Handbook of the Pacific Area.* The reissue treats population dynamics in addition to environmental problems, internal and international trade, transportation, commodity production and the effects of industrialization on the area.

Harrison, Gordon. *Earthkeeping.* Boston: Houghton Mifflin Co., 1971. 276 pp. $5.95. This book blames environmental decay on economic political and value systems rather than on such factors as population and technology and concludes with a cautiously optimistic note for the future.

Harte, John and Robert H. Socolow, Eds. *Patient Earth.* New York: Holt, Rinehart and Winston, Inc., 1971. 364 pp. $7.95. Thirteen essays by concerned demographers, environmentalists and economic and resource specialists present an action-oriented, case-history approach to the solution of U.S. problems in urban blight, population control, resource management, ecological effects of military programs and alternative land uses.

Hindell, Keith and Madeleine Simms. *Abortion Law Reformed.* New York: Humanities Press, 1971. 269 pp. $10.00. A documented history of the thirty-year movement to repeal Britain's 100-year-old abortion law, and an evaluation of the problems and abuses of the liberalized law.

Keyfitz, Nathan and Wilhelm Flieger. *Population: Facts and Methods of Demography.* San Francisco: W. H. Freeman and Co., 1971. 613 pp. $13.50. A volume of recent statistical tables and computer printouts, with mathematical models used to examine observed and projected populations, age structure, vital rates, age-specific death rates, life tables, and fertility measures as gathered by statistical agencies in 70 countries throughout the world.

Meijer, M. J. *Marriage Law and Policy in the Chinese People's Republic.* New York: Oxford University Press on behalf of Hong Kong University Press, 1971. 269 pp. $16.75. A historical review of traditional family values tracing changes in official attitudes in the twentieth century, and contrasting National Government marriage legislation with the application of the 1950 Communist Marriage Law as an instrument for social change.

Nagi, Mostafa H. *Labor Force and Employment in Egypt: A Demographic and Socioeconomic Analysis.* New York: Praeger Publishers, 1971. 285 pp. $16.50. A study of the impact of population trends since World War II on the size and composition of the labor force in Egypt, with suggestions for techniques to measure unemployment and underemployment in developing countries.

National Academy of Sciences, Study Committee of the Office of the Foreign Secretary. *Rapid Population Growth: Consequences and Policy Implications.* Baltimore: The Johns Hopkins Press, 1971. 696 pp. $20.00. A two-part study offering an analysis of population growth and related problems with recommendations for effective population control through voluntary means, followed by seventeen technical papers on the social, educational, political and environmental aspects of population dynamics.

Pohlman, Edward. *How to Kill Population.* Philadelphia: The Westminster Press, 1971. 169 pp. $2.65. An overview of some of the major ways being considered today to end the population problem, including economic incentives and psychological motivation, taking social and cultural values into account.

Ryder, Norman B. and Charles F. Westoff. *Reproduction in the United States, 1965.* Princeton University Press, 1971. 419 pp. $13.50. Report of findings from the third National Fertility Study of 5,600 married women under age 55. Subjects surveyed include wanted and unwanted births, contraceptive use and effectiveness, abortion and subfecundity in relation to socioeconomic, religious and racial fertility differences.

Schwartz, Eugene S. *Overskill.* Chicago: Quadrangle Books, 1971. 338 pp. $8.95. The book argues against the thesis that science and technology are the panaceas for man's human and environmental dilemmas, and suggests that many problems arise and intensify with technological advance.

SOUTH CAROLINA FARM FAMILY OF THE YEAR 1971

Mr. THURMOND. Mr. President, the Charles A. Copeland family of Gaffney, S.C., has recently been honored as South Carolina's Farm Family of the Year 1971. This award is given annually by the Farmers Home Administration. It is truly a "family affair" as judges consider the interests and activities of all members of the family.

The Copelands bought their farm in 1955 when it consisted of 200 acres and a farmhouse. Today the farm has been enlarged to 505 acres and the house reflects the great improvements and personal care invested in it by this outstanding family.

On March 15 of this year, my wife, accompanied by Mrs. Julie Eisenhower, visited the Copelands, and they were highly impressed with the farm and with the obvious motivation of this family.

Mr. President, a feature story about the Copelands was published in The State newspaper, of Columbia, S.C., on March 12, 1972. The story, written by Miss Linda Caughman, a State staff writer, gives a detailed account of the family's accomplishments. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Entire Family Honored by Farm Award

(By Linda Caughman)

Gaffney.—A brand new sign hangs from the lamp post in front of the Charles A. Copelands' spacious two-story white farm house.

"South Carolina Farm Family of Year 1971"—the sign proclaims to passersby.

Mr. and Mrs. Copeland and their three children were recently named the state's Farm Family of the Year by the Farmers Home Administration. After they found out Dec. 2 that their family had been chosen for the award, the Copelands had the sign made and erected but kept it covered until the recognition was made public Jan. 13.

The Copelands have a 19-year-old daughter, Carroll, a Winthrop College freshman; a 17-year-old son, Mitch, a senior this year at Gaffney High School; and a 15-year-old son, Alex, who is in the ninth grade at East Junior High School.

The family's dog, Bandit, has been dubbed "Farm Dog of the Year" by Alex.

According to Mrs. Copeland, the judges "looked at the whole family." The children's accomplishments in the 4-H Club and other organizations connected with farm life probably helped convince the judges that the Copeland's farm is a "family affair," as Mr. Copeland described it.

A closed-in back porch has its walls covered with family pictures, certificates, awards and memorabilia of the family's life on the farm. The center hall is a gallery with pictures ranging from ancestors' portraits to recent photographs of the "Farm Family of the Year."

Carroll, who was active in 4-H Club for seven years, had a Grand Champion at the Blue Ridge Stock Show in Spartanburg in 1966 and a reserve champion in 1967 and 1968. According to her father, she was the youngest person at 12 years old and the first from Cherokee County to ever have a Grand Champion. Carroll was also a member of the Junior Angus Association.

Cows are not the only animals Carroll enjoys. Mr. Copeland said that his daughter "used to ride before she could walk." The 19-year-old has a Tennessee Walking Horse named Judy. Her interest in animals continues as she is majoring in biology at college.

The Copelands' older son Mitch hasn't made up his mind yet about what he plans to major in next year at Clemson University, but he is thinking about agricultural or textile engineering.

Active in 4-H Club for six years, Mitch started growing his own crop three years ago. "The judges couldn't believe that Mitch had been renting land and getting price support checks directly from the government," his proud father said.

Recently Mitch and his father finished a second story room so that Mitch could have his own bedroom. Mitch bought bedroom furniture with money he earned from his crops.

Alex, a 4-H Club member for four years, is now learning to drive a tractor and will have his own crop for the first time this year. According to the younger brother, one of the best things about living in the country is that "you don't have to go riding around trying to find a place to hunt."

Mr. and Mrs. Copeland, who grew up as neighbors in town, agreed that they "wouldn't move back into town for anything."

The couple related how a city-reared pair took the unlikely course of moving to a farm. Mr. Copeland attended Clemson University for three years, majoring in industrial education, until "the Army caught the whole class." After receiving a purple heart during World War II, he returned to Gaffney and went in business with his father in a farm supply store.

"I kept a few cows. Then a friend asked me if I would be interested in going into partnership with him in registered Hereford cattle. So we stayed there over four years until we found this farm for sale," Mr. Copeland said.

The farm which the Copelands bought in 1955 consisted of 200 acres with a two-story house built in 1923. The house, although well built, was just a shell. "It took all winter to fix it. The house didn't have any plumbing except a cold water faucet in the kitchen. The bathroom had no fixtures. We had to put in ceilings. The kitchen was the pantry, and the den was the kitchen. In the 12 rooms there were only one or two electrical receptacles. The walls had never been painted," Mr. Copeland said.

Since 1955, the Copelands have enlarged their farm to 505 acres with 300 acres in cultivation, 70 in pasture and 100 in improved woods for timber. They now own 3 ponds and 70 head of livestock. Their crops last year were 97 acres of cotton, 40 acres of soybeans, 72 acres of wheat, oats, and barley and 10 acres of corn.

The farmer was the first and only person in Cherokee County in 1957 to officially raise over 100 bushels of corn per acre with 133 bushels of corn.

"I've had the first cotton bloom and the first open boll in the county every year since 1966," Mr. Copeland said.

The Copelands also have a vegetable garden, which provides more than the family needs. "We freeze a good bit of meat, vegetables and fruits," Mrs. Copeland said.

This farmer's wife is far from being the typical farmer's wife of the olden days. Mrs. Copeland, who was graduated from Limestone College and received a masters degree from Converse College, is head of the science department at East Junior High in Gaffney.

Smiling at the common misconception that farmers' wives help with the plowing and other heavy farm chores, Mrs. Copeland said, "I usually do all the washing and cleaning up on Saturday. I do a lot of sewing, but I usually do that at night."

The Copelands could think of only one drawback to living on a farm. "You have to use a lot more gas," Mrs. Copeland said.

"We just take advantage of it and don't let farming take advantage of us. First we try to keep up. Another way is we use big machinery," said Mr. Copeland, recalling that the first year they plowed cotton with a mule.

"We're hoping to win the national award, but it will take some doing," Mrs. Copeland added.

OUR CITIES

Mr. TAFT. Mr. President, many of our cities have become so large that people feel remote and cut off from their Government. People in various neighborhoods feel that they do not have the power to control the quality of life in those neighborhoods.

On January 19, 1972, I addressed the Senate on some of the problems affecting our cities. In that speech I suggested that we should question whether or not some of our cities are too large to be properly administered. I noted the decentralization of Greater London, and suggested that through this device the Government can be more responsive to neighborhood needs than large municipal governments, such as New York and Los Angeles.

If our neighborhoods are to develop the capacity for self-renewal in our larger cities, we should have neighborhood control over parks, zoning, recreation programs and other municipal functions which can be administered on a neighborhood basis.

The New York Times of March 23, 1972, contains an article entitled, "London Finds That Decentralization Works," by Bernard Weintraub. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LONDON FINDS THAT DECENTRALIZATION WORKS

(By Bernard Weintraub)

LONDON.—Seven years ago, the 2,000-year-old City of London decentralized its government and divided itself—in a spurt of quiet but radical change—into 33 separate "Londons."

The far-reaching program reorganized a sprawling city of 90 local authorities and overlapping county councils, county borough councils and urban and rural district councils.

Now, a New York State commission's report recommends a government overhaul of New York City and cites the system in London as an example of how decentralization can work. London was decentralized into 33 borough councils, whose powers range from control of child welfare and health services to pollution control, street cleaning and garbage collection. Working beside the London boroughs is the Greater London Council, over-all planning authority for the city.

"Most of London's government is in the hands of the boroughs," said A. G. Dawtry, the town clerk and chief executive of Westminster, the wealthiest borough in the city. "We've made London as local as we can."

A STRATEGIC AUTHORITY

A. W. Petersen, director general of the Greater London Council, said:

"The value of this system is that there does exist a strategic authority to look at the planning of the entire city. At the same time there are the boroughs who are able to deal with personal services because they are, quite simply, closer to the people. Oh, there are some areas of conflict between the boroughs and the Greater London Council, but it all seems to work remarkably well."

Although overlapping and confusion remain, the decentralization of London has worked relatively smoothly. The 610-square mile city, with a population of 7.5 million, is cleaner, calmer and safer than most large cities in the world.

"The system we have has a certain duality of control," said John P. Miliffe, a senior planner at the Greater London Council. "There are some fuzzy, uncertain areas where powers are divided between the boroughs and the central council. But it all seems to work because there's an element of compromise, settling things out, that's peculiarly English. I'm not sure it wouldn't work as well anywhere else."

NO "MAYOR" OF LONDON

Under the current setup, which was drawn up in the London Government Act in 1963, the Greater London Council manages and runs the city like a regional government. Administering the city is not left in the hands of a single man, like Mayor Lindsay, but to 116 unpaid councillors, of whom 100 are elected every three years. The remaining 16 are appointed by the Conservative and Labor parties. The Council now has 76 Tory and 40 Labor members.

As the over-all planning body for the city, many duties of the Council are sharply defined. It is responsible for the highways and main roads in London, the court and judicial services, transportation, and fire and ambulance services.

The local boroughs, who also hold elections every three years to elect borough councillors, are responsible for health centers and clinics, consumer protection including food and drugs, working conditions in shops and offices, street cleaning, libraries and swimming pools.

There are, however, several key areas of "shared responsibility" that have resulted in confusion and disagreement.

The Council is responsible for the 570 miles of metropolitan roads, while the boroughs oversee the 7,100 miles of local roads. Disagreements constantly arise over where local roads end and main roads begin.

SPLIT SCHOOL AUTHORITY

The boroughs are responsible for refuse collection, while the Council is responsible for its disposal.

Education in the Central London area is under the aegis of the Inner London Education Authority, a special committee of the Council. On the other hand, the 20 outer London Borough councils are responsible for education in their area.

The boroughs are the prime housing authorities. They built a total of 23,142 dwellings last year, compared with the Council's 4,984 apartments. Within the delicate housing area, there may, however, be uncertainty and disagreement.

"London boroughs are autonomous in their own right, but the G.L.C. has strategic powers and can declare a site a comprehensive development area," said Henri James, the London-born spokesman for the Greater London Council. "There may be fundamental differences because the local borough may not want the construction there."

Mr. Jaume and several other officials said that an incident could develop in London similar to the recent dispute in Forest Hills, Queens, where middle-income residents angrily opposed a low-income project. It could especially arise in suburban boroughs such as Bromley or Croydon where the council is considering new housing, and residents have made clear that they are against it.

THE LONDON METHOD

Unlike the case in New York City, such a dispute is ironed out in a single way. An independent inquiry is set up, with all sides stating their case. Then a final decision is made by a Government Cabinet minister, the Secretary of State for the Environment, now Peter Walker, who oversees transport and local development.

"If the boroughs and the G.L.C. cannot resolve their conflict on the political level, then it's resolved by the central government," said Mr. Dawrty, the Westminster chief executive who extensively briefed Governor Rockefeller and Mayor Lindsay when the two made separate visits to London last year.

"The relationship between the central and local government is far closer here than in New York and there doesn't seem to be that city, state and Federal Government overlap," he went on. "In the matter of welfare, for example, and the payment of money to poor families, this is strictly a national responsibility, not a local one. We don't have that kind of financial problem in London."

The powers of London's boroughs is underlined by the number of employes working for them (230,000 compared with the council's 36,000) as well as their broad ability to levy taxes. London's taxes are based on rates or property assessment.

SUPPORTING THE COUNCIL

"The money needed by local authorities is raised by this tax," said Mr. Jaume. "In areas such as Westminster your rates would probably be double what they would be for an equivalent flat or house in outer London."

Together with local expenses, the boroughs also support the council, which makes an annual "precept," or demand, for funds. The council now spends annually the equivalent of about $1.04-billion. The boroughs spend the equivalent of $2.288-billion a year.

In addition, the five wealthiest London boroughs—Westminster, Kensington and Chelsea, Camden, the City of London (the business quarter) and Ealing—grant the equivalent of $44.2-million to the poorer boroughs.

"It's a rob-the-rich, pay-the-poor scheme," said Lou Sherman, a London taxi driver who is chairman of the London Boroughs Association.

He added: "The kind of formula and the system we've worked out is fraught with problems. The boroughs in Inner London, for example, are opposed to the new motorways that the K.L.C. wants to build. The outer boroughs, the conservative ones, are not quite so interested in new housing. There are frictions, but they're settled."

Each borough, which generally has a population between 220,000 and 250,000, elects 70 unpaid councilmen. Usually they meet as a unit one evening every six weeks. On other evenings they serve on committees dealing with health, social services, refuse collections and other borough responsibility.

"The citizen in each borough feels a very close link to what's going on and feels that he's in some control," said Mr. Dawtry. "This large number of councilmen, 70, represents wards and does casework. If a citizen has a grievance, he can talk to the councilman or go to City Hall, where the decisions are made. It's not quite like that in New York."

Another key difference was outlined by Ronald Stillwell the deputy executive of Kensington and Chelsea. "New York's elected representatives tend to get more involved in administration, the day-to-day job," he observed. "We take the view that elected representatives are there to determine policy. Having decided the policy, they turn it over to the administration to implement it. In other words, you don't keep a dog and bark.

"Here the administration doesn't come and go with the party in power. Things remain the same here."

PRINCE BERNHARD ON MAN AND THE NATURAL WORLD

Mr. MATHIAS. Mr. President, the Prince of the Netherlands, whose white boutonniere, became a symbol of resistance to Nazi oppression, has always been a man able to recognize a danger and willing to sound the call to arms against it. Prince Bernhard has now called our attention to a danger far from both his shores and ours, but a danger in which we share a common interest; the danger to the natural world. The rapid reduction of wild Africa to civilization is creating changes in nature that cannot be accepted complacently by concerned men anywhere. But he has stated the case eloquently himself. I ask unanimous consent to have printed in the RECORD Prince Bernhard's remarks in Morges, Switzerland, as reported in last Sunday's New York Times.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAN AND THE NATURAL WORLD

(By Prince Bernhard)

MORGES, SWITZERLAND.—Our world today stands in grave danger of losing many animals and plants which have given joy to countless generations. They need not be lost if we manage our affairs properly, for it is man's own interest to see that the natural world, which is the root of his own existence, survives for his children and their successors.

My eyes were opened over three visits to the Lake Manyara area of Tanzania. On our first visit to this beautiful area we were surrounded by thousands of antelope, zebra, wildebeest, and many other species. The next year there were noticeably fewer, and on our third visit they had become so few that we could easily count them. Seeing this decline, and the development of agriculture around Lake Manyara, made me realize how rapidly man was destroying something that I felt must be preserved. Meeting this challenge has become one of my principal preoccupations, and it is why I am proud to be president of the World Wildlife Fund.

The fund is only 10 years old, but we feel that we have already made our mark helping to save both living species and the wilderness areas which are their home, and which are so threatened by man's population explosion and the technological revolution. To the end of 1971 the World Wildlife Fund had contributed $7.3 million to 550 projects in 60 countries. This effort stimulated governments and authorities to contribute an equal amount to this great task.

The prestige achieved by the World Wildlife Fund has enabled it to use its influence to promote the launching of national conservation programs in several countries, and to inspire second thoughts about development proposals which could have endangered wild nature and would often have been of less economic benefit in the long run.

We believe we have improved the prospects for survival of critically endangered species such as the orangutan, the Arabian oryx, the Javan rhinoceros, the Hawaiian goose, the aye-aye, the white-winged wood duck, Morelet's crocodile, and the marine turtles, to mention a few.

Natural areas have been purchased and rented, or the authorities persuaded to protect them all over the world. In the United States the rich New Jersey wetlands have been purchased so that they will remain a haven for bird and water life, and provide a satisfying and restoring glimpse of wild nature for our urban humans. Just recently the World Wildlife Fund contributed $190,000 toward the purchase by the French Government of land in the Camargue, the Mediterranean delta of the Rhone, which will be preserved as one of Europe's richest nature reserves.

The famous national parks of Kenya, Tanzania, Uganda, Congo, Zambia and Ethiopia have received grants, and we have supported eight projects in Madagascar, which is a unique biological area with distinctive plant and animal life. Cousin Island in the Seychelles has been purchased to save its rich bird life.

This is just the briefest of glances at some of the things we have done.

"So what?" you might say. "Does this mean anything in terms of human existence?"

We believe it has a great deal to do with human beings.

The life we know today evolved over millennia through the complex interplay of natural forces. They form a web, some obviously supporting others—others not so obviously doing so. Man has been able to control much of nature and other life, but he has not risen above dependence on them. Crops and domestic animals, and many of our medicines, are direct products of the natural world.

I personally believe we have only scratched the surface in finding natural medicines. Even products like petroleum, which we now see as much as a threat as a blessing, come from natural processes. Oxygen comes from photosynthesis in the seas and plants. Soil is enriched by natural waste as it recycles it. Plants feed the animals we eat.

The species and land the World Wildlife Fund has saved are perhaps insignificant strands. But there is nothing insignificant about the fact that over 900 species of animals and 20,000 plants are in danger of extinction. This is the time to be concerned—man is in danger of losing vital supports for his own life.

We have chosen the natural world as our special sphere of activity, but we give our support to those tackling other environmental problems, of which the human population explosion is the real root. The World Wildlife Fund has directly called on all heads of government to stabilize their populations as soon as possible. Within this century—only 30 years to go—today's four billion people will become six billion, with all the consequences of pressure on land for food and other resources. Either we bring this under control or there will be disaster—almost certainly within the lifetime of our children and grandchildren.

ADJUSTMENT ASSISTANCE

Mr. JAVITS. Mr. President, I have been increasingly concerned about the gross inadequacy of the adjustment assistance programs of the U.S. Government. The high promise of the Trade Expansion Act as regards adjustment assistance programs has never been fulfilled; in fact, the record to date could lead to the judgment that this promise has been betrayed.

A very small amount of money has been authorized for adjustment assistance programs over the past 10 years; and in reviewing this sorrowful record, I accept as just the contention of the labor movement that today's concept and approach to adjustment assistance results in this being "burial assistance"—which in most cases arrives years after the funeral. A priority item on the agenda of the administration and of Congress must be the strengthening and reform of these adjustment assistance programs.

Toward promoting this end, I wrote to the Secretary of Commerce and the Secretary of Labor on February 22 and February 24 asking specific questions concerning the adequacy of the laws that at present govern the granting of adjustment assistance and the record of administration of these programs. I have now received replies from both Secretary Hodgson and Secretary Peterson. I ask unanimous consent that my letter to these members of the Cabinet and their replies be printed in the RECORD at this point along with their replies.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., February 22, 1972.

Hon. JAMES HODGSON,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: I am sorry that the press of floor business did not allow me to hear all of your testimony before the Joint Economic Committee on February 17. As you know, I asked for and received unanimous consent of the Committee to insert questions and answers into the record. I would appreciate your response to the following questions.

As you know, the Congress and the country have been very much disappointed by the programs of adjustment assistance carried out by this Administration and previous administrations. I have the following questions in this regard:

(1) Are there any inadequacies in existing law which deter an effective program of adjustment assistance? For example, is the law that requires the Secretary of Commerce and the Secretary of Labor to certify eligibility to apply for adjustment assistance after there already has been a Tariff Commission and/or Presidential determination of injury an anachronism which serves no useful purpose? Are there other examples of inadequacies of law which should be corrected?

(2) What is the time lapse between the application of firms or workers for eligibility to apply for adjustment assistance and the granting of such eligibility? For example, a constituent firm has indicated to me that after a 3–1 Tariff Commission vote in their favor, it took two months merely to receive certification that they were eligible to apply. How many cases are like this where bureaucratic delays prevent a meaningful and prompt program of adjustment assistance?

(3) Of the firms and workers which have applied for certification of eligibility, how many have received such certification?

(4) Of those receiving certification of eligibility to apply, how many received adjustment assistance? And of those receiving adjustment assistance, what was the time period between their application for eligibility and the granting of adjustment assistance?

(5) Could you also inform the Committee of the nature, scale and level of adjustment assistance over the past five fiscal years on an FY year by FY year basis?

Finally, it is my understanding that an Inter-Departmental Task Force under the leadership of Undersecretary Silverman has just completed a major study on adjustment assistance. My question is whether this study with the option it puts forward will be made available to the Congress? Also whether and when the Administration will come forward with legislative recommendations based on this study?

With best wishes,

Sincerely,

JACOB K. JAVITS.

U.S. DEPARTMENT OF COMMERCE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 27, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR JACK: This is in response to your letter of February 24, 1972, concerning the trade adjustment assistance program. I understand a similar letter has been sent to the Secretary of Labor and that he is communicating with you directly regarding the adjustment assistance program as it relates to workers. In it you asked several specific questions, and I have tried to answer each of them in this letter.

Your first question pertains to possible inadequacies in the current provisions of the Trade Expansion Act (TEA) that apply to trade adjustment assistance. In my view this question gets at the heart of problems that have been encountered with this program. As you point out, the entire program is under review both on an interagency and intradepartmental basis. Before this review is complete I hesitate to make piecemeal recommendations on possible changes in the statute. However, it is my personal feeling that there are some major deficiencies in the law. For example:

(a) Injury criteria are too stringent, especially the criterion limiting the availability of assistance to those cases in which injury has already occurred and in which the injury is a result "in major part" of prior trade concessions.

(b) The TEA does not provide for methods of response to import problems that would constitute a genuine adjustment assistance program for *an industry as a whole apart* from escape-clause relief.

In addition, as I pointed out in my report "The United States in a Changing World Economy," the adjustment process takes time even when accelerated by a good program of assistance. Recently some economic changes associated with increased imports have occurred very fast. When increasing imports have the potential to bring change faster than the adjustment system can cope with it—and thus to bring hardship—some have suggested that temporary orderly marketing mechanisms should be available. I believe we should explore the possibility of developing criteria for invoking such mechanisms, and see how these criteria can be internationalized so that such *temporary* protection could be available in all countries on an equitable basis.

You also asked whether the TEA provision requiring a Commerce certification of eligibility after the Tariff Commission or the President has already made such a determination is "an anachronism that serves no useful purpose." There are two situations in the certification process that relate to your question.

First, there is no finding of injury or threat of injury to any particular *firm* in cases where the Tariff Commission finds injury with respect to an *industry* and the President authorizes firms within the industry to request certification of eligibility to apply for adjustment assistance. Accordingly, the Department of Commerce must make a thorough investigation of the facts pertinent to each applicant firm, before determining whether the firm is eligible to apply for adjustment assistance.

A second situation is one in which the certification of eligibility to apply follows a Tariff Commission determination of injury upon petition of a particular firm. It can be argued with some justification in this situation that the Department's certification of eligibility to apply is largely pro forma. We have recognized this. On February 18, we published in the Federal Register proposed new regulations for the adjustment assistance program, a copy of which is enclosed. Section 500.23 of these proposed regulations is specifically designed to facilitate prompt certification of eligibility for individual firms that have already been the subject of an affirmative injury finding by the Tariff Commission. You will note that the extent of our review in such cases is limited to obtaining adequate assurances that no material facts were omitted from the firm's presentation before the Tariff Commission and that there has been no significant change in economic circumstances affecting the firm since that time. Of course, the statutory requirement of the TEA must be satisfied before we are justified in spending government monies on adjustment assistance. Again, my personal view is that a strong case can be made for changing the concept and approach to adjustment assistance from one of adjudication to one of program management by an Executive Department. Under the program management approach, the particular agency involved would administer adjustment assistance from beginning to end. This would permit us to get a much faster jump on the problems.

Your second question relates to the time taken to process cases. As I pointed out, the time lapse between application by a firm for eligibility to apply for adjustment assistance and the certification of such eligibility depends on whether the case stems from an injury determination with respect to the particular firm or with respect to the whole industry. In an individual firm case, an application to this Department for certification of eligibility to apply will be processed promptly, generally within 20 days. We have had one case, however, where certification was delayed until allegations of impropriety with respect to the Tariff Commission proceedings could be reviewed by the Department of Justice.

In cases where the Tariff Commission has made an injury finding as to the whole industry, the time involved is much longer. In these cases, apart from the fact that recourse to adjustment assistance is contingent upon an intervening decision by the President that such form of relief shall be available, the findings of the Commission with respect to the industry are not necessarily illustrative of the situation with respect to a particular firm. We must, therefore, determine whether the firm has been injured by the imports which the Tariff Commission found were injuring the industry. The length of time required for such an investigation depends on many factors, including the size of the firm, the diversity of its product line, the adequacy of its record keeping and the adequacy of the data submitted by the firm to the Department. One such investigation took as long as ten months, while another was completed within two months. Most cases more closely approximate the latter than the former in the amount of time spent on the investigation. As you know, although the trade adjustment assistance program was established in 1962, our experience with processing adjustment assistance cases only began in 1970, following the first affirmative finding by the Tariff Commission. We are now at the point where each case no longer involves entirely new policy considerations and I expect the time lapse between receipt of an application for certification of eligibility to apply and the granting of assistance to be even further reduced as we gain more experience.

With respect to your request for information on the total number of firms certified as eligible to apply for adjustment assistance, 20 firms have applied to date for certification of eligibility. Of these 20 firms, 18 have been certified eligible; one has been denied certification and one application is currently pending.

As to the data requested concerning recipients of adjustment assistance to date, please see the attached table. The time period between certification of eligibility to apply and certification of the firm's adjustment assistance proposal is set forth on this table as well.

You have requested information on the nature, scale and level of adjustment assistance over the past five fiscal years. For the reason explained above, no adjustment assistance was provided until Fiscal Year 1971, when two proposals were certified and financial assistance provided through the Small Business Administration. In Fiscal Year 1972, to date, we have committed $4,672,000 in financial assistance from our own appropriation. With respect to technical assistance, we committed $195,611 in Fiscal Year 1971 and $138,000 so far in Fiscal Year 1972. Total tax assistance certified to date (all in Fiscal Year 1972) amounted to $390,000.

Finally, you asked about the study undertaken by an interagency task force on adjustment assistance. As you know, this task force was established by the Council on International Economic Policy to develop recommendations for a more comprehensive and effective adjustment assistance program. It is still in draft form and has not yet been submitted to the Council. Accordingly, I cannot specifically respond to your inquiry as to the content and timing of possible legislative recommendations until the Council has had an opportunity to consider the findings and conclusions of the task force. The decision whether to make this report available to the Congress will presumably be made by the Council after it has completed its review.

I hope I have answered your questions. In closing, let me say that I believe there is much we can do to broaden both the concept and delivery of trade adjustment assistance. For example, we are now moving ahead in the Commerce Department to give close and expedited attention to the following possibilities:

(a) An early action mechanism designed to spot potential import-impact problems and to help industries and firms take prompt and responsive steps before a critical point of economic detriment is reached.

(b) Techniques and forms of assistance that could be made available on an industry-wide basis (e.g., funding for R&D projects of general application to the industry). This approach, in my view, would provide a broader-gauged response to adjustment assistance problems than that of dealing primarily with individual firm cases, as has been the approach to date under the TEA.

(c) Some form of adjustment assistance to communities economically dependent upon firms that are heavily impacted by import competition.

I appreciate your interest in the trade adjustment assistance program and intend to give it considerable attention in the coming months. Should you or your staff have further questions or useful information about adjustment assistance, please get in touch with me. I hope to continue to strengthen the program, and look forward to working with you toward that end.

Sincerely,

————,
Secretary of Commerce.

Company	Industry	Amount of assistance	Certification of eligibility	Proposal submitted	Proposal certified	Assistance provided
Emil J. Paidar Co., Chicago, Ill	Barber chairs	$2,500,000	July 20, 1971	July 29, 1970	Aug. 20, 1970	Sept. 20, 1970
Benson Shoe Co., Lynn, Mass	Nonrubber footwear	1,700,000	July 21, 1970	Oct. 7, 1970	Nov. 19, 1970	Jan. 7, 1971
Louis Shoe Co., Amesbury, Mass	do	747,000	May 4, 1971	Sept. 8, 1971	Oct. 19, 1971	[1] Jan. 20, 1972
ASG Industries, Kingsport, Tenn	Sheet glass	4,000,000	Sept. 22, 1970	June 4, 1971	Dec. 7, 1971	-----------
The Arista Co., Winston-Salem, N.C	Textiles/data processing	160,000	Dec. 28, 1971	Feb. 2, 1971	Jan. 11, 1972	-----------
H. H. Scott, Inc., Maynard, Mass	Consumer electronics	230,000	Mar. 18, 1971	Sept. 21, 1971	Dec. 23, 1971	-----------
Estey Piano Corp., Union, N.J	Piano	[2] 100,000	June 5, 1970	February 1971	Mar. 4, 1971	-----------
Bel-Tronics Corp., Addison, Ill	Electronic components	712,000	June 17, 1971	Oct. 25, 1971	Mar. 3, 1972	-----------

[1] 2d disbursement.

[2] Approximate amount of technical assistance provided to date. Final amount of other assistance not yet determined.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 20, 1972.
Hon. JACOB K. JAVITS,
U.S. Senate
Washington, D.C.

DEAR SENATOR JAVITS: I am happy to respond to the questions in your letter of February 22. My answers are enclosed. I agree that this material should be incorporated into my JEC testimony.

Sincerely,

J. D. HODGSON,
Secretary of Labor.

ANSWERS

(1) Are there any inadequacies in existing law which deter an effective program of adjustment assistance? For example, is the law that requires the Secretary of Commerce and the Secretary of Labor to certify eligibility to apply for adjustment assistance after there already has been a tariff Commission and/or Presidential determination of injury an anachronism which serves no useful purpose? Are there other examples of inadequacies of law which should be corrected?

In answering this and the subsequent questions, I shall confine my remarks to the worker side of the Trade Adjustment Assistance Program. I understand an identical set of questions has been presented to the Department of Commerce and I am sure that they can provide more accurate information on firm assistance.

There is little substantive overlap in the roles of the Tariff Commission and the Department of Labor. I believe the appropriateness of the Department of Labor's role in the Trade Adjustment Assistance Program will be clear from the following. There are two ways in which a group of workers can become eligible for trade adjustment assistance. The first is by petitioning the Tariff Commission directly. If the Tariff Commission makes an affirmative finding, the Department has relatively simple but necessary functions to perform. It must establish an impact date (the date beyond which imports can be considered the major factor causing unemployment or underemployment), it must define the adversely affected group; and finally, the Department must supervise the delivery of assistance.

Workers can also become eligible as a result of an industry petition. After an affirmative finding by the Tariff Commission, the President can (1) approve escape clause relief, (2) grant permission to workers within the industry to apply for adjustment assistance, (3) grant permission for firms in the industry to apply for adjustment assistance, or (4) provide for any combination of the first three forms of relief. If permission is given to groups of workers to apply for adjustment assistance, it is the responsibility of the Department of Labor, in addition to the roles noted above, to determine whether injury to a specific group from the industry is caused by increased imports.

Under the present statute these functions are necessary and are performed appropriately and efficiently by the Department of Labor. There are, however, certain inadequacies in the present law. The President's Trade Bill of 1969 tries to address some of these inadequacies, specifically the overly stringent eligibility requirements and the role of the Tariff Commission. Suggested changes have also been recommended in the July 1971 report of the President's Commission on International Investment and Trade Policy (the Williams' Commission). At the present time there is a Council on International Economic Policy Task Force, chaired by Under Secretary of Labor Silberman, studying the entire issue of adjustment assistance. About one-half of the Task Force's work has been completed. When their recommendations are presented, we will be in a much better position to propose remedies to the inadequacies of the present law. More importantly, we will understand more fully how trade adjustment assistance relates to U.S. trade policy and to domestic economic policy.

(2) What is the time lapse between the application of firms or workers for eligibility to apply for adjustment assistance and the granting of such eligibility? For example, a constituent firm has indicated to me that after a 3-1 Tariff Commission vote in their favor, it took two months merely to receive certification that they were eligible to apply. How many cases are like this where bureaucratic delays prevent a meaningful and prompt program of adjustment assistance?

The Department of Labor can set an impact date and determine the affected group generally within 30 days in cases approved by the Tariff Commission. Somewhat more time is required to process a worker request for assistance following a successful industry petition. At present, the Department of Labor requires 60 days to gather the necessary information. Certifications are generally issued within 10–14 days following the completion of an investigation. In several instances investigation and certification have been completed within a 60 day period.

These are fairly simple procedures and we have learned to handle them expeditiously. However, there are other steps in the process of obtaining adjustment assistance where regrettable delays do occur. I will discuss these in greater detail under question 4.

(3) Of the firms and workers which have applied for certification of eligibility, how many have received such certification?

As of March 1, 1972, there had been 136 cases in which worker groups filed for assistance under the Trade Expansion Act of 1962. Assistance was granted in 56 of these cases. It is useful to break down these totals in accordance with the distinction I made earlier. Direct petitioning of the Tariff Commission accounted for 123 of the cases and 44 of the approvals. Application by workers to the Department of Labor on the basis of a successful industry petition accounted for 13 cases and 12 approvals.

(4) Of those receiving certification of eligibility to apply, how many received adjustment assistance? And of those receiving adjustment assistance, what was the time period between their application for eligibility and the granting of adjustment assistance?

In the 56 groups approved for assistance, there were 24,000 who could potentially receive assistance. Approximately 15,000 of these have received assistance. The remaining 9,000 either had no need for assistance or failed to apply for it.

The available information does not permit us to calculate an average time lapse between application to either the Tariff Commission or the Department of Labor for assistance and the initiation of assistance. We know that the time period is too long and we are making diligent efforts to correct this problem. The two major delays occur (1) from the injury to the filing of an acceptable petition and (2) from the setting of an impact date by the Department of Labor to the actual delivery of assistance.

The Tariff Commission and the Department of Labor have been discussing ways of reducing the first delay. The Department of Labor has already begun to encourage likely applicants to file and has provided technical assistance to insure that a suitable petition is submitted. The Tariff Commission is considering reducing the information required in petitions and issuing a standard form.

Lack of familiarity with the program on the part of the State agencies which must administer it has been the most important cause of the delay in initiating payment. The Department of Labor has just completed an internal review designed to find ways to overcome this problem. The results of that study combined with more experience by the State agencies should lessen this delay.

(5) Could you also inform the Committee of the nature, scale and level of adjustment assistance over the past five fiscal years on an FY year by FY year basis?

Since the first affirmative Tariff Commission finding was issued in November 1969, we need only consider the fiscal years, 1970, 1971, and 1972. The following table provides the data you requested.

[All figures in thousands of dollars]

Fiscal year	Total	Cash readjustment allowances	Training	Relocation	Administration costs
1970	2,886	2,830	--------	--------	56
1971	19,393	18,026	941	1	425
1972 [1]	15,537	13,803	710	4	1,020
Total	37,816	34,659	1,651	5	1,501

[1] Estimated through December 1971.

THE JUDICIARY COMMITTEE HEARINGS

Mr. TAFT. Mr. President, fascinating though the inner workings of Washington scoop specialists and international conglomerates and their twilight operators may be, the Senate Judiciary Committee, and thereby the Senate, is being misused in the hearings before the Judiciary Committee. The fact that the misuse is at the hands of some Members of the Senate who have yielded to the temptation to try to build press and political capital should not be allowed further to obscure the important question for the committee and the issue before the Senate.

That question, and it is the sole question, relates to the confirmation of the nomination of Richard Kleindienst as Attorney General. In turn, the only issue raised by the Judiciary Committee hearings connected to that question relates to the soundness of the Government's antitrust settlement with I.T. & T. As to that settlement, Solicitor General Erwin Griswold, former dean of the Harvard Law School, a man of unquestioned integrity and legal judgment has called the antitrust case settlement "an extremely favorable one" to the Government. It stopped in its tracks the rapid and rapacious growth of a company that had mushroomed enormously, unchecked by two prior administrations. It is interesting that at the time of the announcement of the settlement, the stock market and the ITT stockholders did not view this situation any differently. The stock dropped 12 points in the 2 days following the announcement.

Other expert witnesses have concurred with Dean Griswold's and Judge McLaren's assessment that the Government made a tough, hard agreement better than any it could have obtained had it taken the case to the Supreme Court. In any event, the intangible assessment of the settlement is a question which seems most unlikely to be changed in the minds of many by further witnesses and hearings before the Judiciary Committee. Being a question of economic and political nature, if there is to be further question or debate upon it for public consideration, this should occur upon the floor of the Senate—where all sides may be fully and fairly presented. To continue unchecked the pillorying of witnesses before the committee with inept questionings, deep in a morass of hearsay, cannot contribute one whit to a sound judgment on the settlement.

The sideshow that has been continuing in the committee, without the proper restraints or protections which would be afforded by a court of law, is reflecting unfairly, and without chance for defense, upon the integrity of a number of people. We have now even seen a possible endangering of the health and life of one witness.

Mrs. Beard has now testified under oath that the memorandum ascribed to her is a forgery. She has indicated that she has no knowledge as to "who did prepare it, who forged my initial to it, and how it got into Jack Anderson's hands or why. But, I repeat, I do know it is not my memo and is a hoax." Expert opinion using advance techniques which uncovered the Clifford Irving-Howard Hughes hoax, clearly substantiate that the memorandum is a fraud. Susan Lichtman, Mrs. Beard's secretary, has sworn that she does not "recognize it as a memorandum which I typed." ITT Vice President Merriam testified under oath that he never received the memorandum. Mr. Merriam, former Attorney General Mitchell, Judge McLaren, Attorney General-designate Kleindienst and others have all testified that Jack Anderson's inferred connection between the settlement and the proposed contribution to the San Diego Convention Bureau is a total fabrication. No contrary evidence whatsoever has been forthcoming.

Why, in the face of this state of the evidence, is this hearing continuing? Sadly, the only conclusion must be that political motivations are concerned. If there is a genuine feeling and desire to investigate the operations of the international conglomerate or the activities of large hotel corporations in connection with conventions, then this should be the subject of some other committee hearings, operating, hopefully, in a less sensation-oriented and more productive and careful way. It is time to bring a close to a course that has raised by innuendo and without forum for rebuttal questions of integrity relating to the entire structure of Government. Continuing on this course can only damage all concerned, including the Senate and the governmental institutions of the entire Nation—without justification for doing so.

It is time to say "Begone with your scandal-mongering." The Senate and its committees is no place for it. There is too much important business.

BREACHES OF THE LAWS OF WAR

Mr. JAVITS. Mr. President, in letters to the President and Vice President of the United States, the Association of the Bar of the city of New York, speaking through its president, Bernard Botein, proposed the appointment of a National Commission to conduct an inquiry and make a public report concerning American observance of the laws of war in Indochina and the adequacy of existing rules as applied to contemporary conflict and weaponry.

Because of the importance of this issue and its wide ranging effects I believe that the Senate and the public should be aware of the activities of the Association of the Bar in this area. I ask unanimous consent that letters to the President and Vice President and an answer from a counsel to the President on this subject be placed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE ASSOCIATION OF THE BAR,
OF THE CITY OF NEW YORK,
New York, January 12, 1972.

Hon. RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As members of the Legal profession, dedicated to the rule of law, we are concerned with observance of law in international matters, as well as in domestic affairs. We therefore are deeply troubled by compelling evidence that serious breaches of the laws of war have been committed by all parties in the conduct of military operations in Indochina. We deplore all such violations, by whomever committed, and consider that measures must be taken and institutions established to assure the fullest possible compliance with the laws of war on the part of all belligerents in present and future conflicts. We believe that, for its part, the United States should demonstrate its determination to that end.

Under international law governing the conduct of warfare, including treaties and conventions to which the United States is a party, the United States Government is obliged to prevent the commission of war crimes, to investigate suspected violations, and, upon determination that any such crimes have been committed, to assure appropriate punishment. As citizens and lawyers, we are deeply concerned that there may have been failures in fulfilling those obligations by United States authorities and courts.

Doubts exist concerning the compatibility of certain policies of the United States with the laws of war and the adequacy of governmental processes for assuring compliance with such laws. Moreover, there is a serious question whether all levels of civilian and military participants have received adequate education, indoctrination and guidance in regard to our responsibilities under the rules of warfare.

The American system of justice holds that no one is above the law. Public faith in that system requires just and rigorous implementation of the law, under even the most difficult circumstances. Our abiding belief in that system impels The Association of the Bar of the City of New York now respectfully to propose the appointment of a National Commission to help assure for the future the more effective enforcement and observance of the laws of war.

Such a Commission would conduct an inquiry and make a public report of its findings and conclusions concerning both the observance of the laws of war in the conduct of the war in Indochina and the adequacy of existing standards in the laws of war to contemporary conditions of weaponry and type of conflict as illuminated by the war in Indochina. Such an undertaking would be in keeping with our nation's and our military leaders' historic contribution to the evolution of the laws of war. The United States during the Civil War took the lead in reducing the laws of war to systematic written form, and United States civilian and military authorities have played a central role in the subsequent development of the laws of war.

The purpose of the Commission should not be to accumulate evidence for war crimes trials. However, an important objective would be to study and appraise the system of military justice and to suggest reforms in education concerning, and enforcement of, the laws of war.

The Commission should be empowered to conduct an inquiry and to issue a public report on the following matters:

I Governing United States policy guidelines and directives, and, in their light, the compatibility with the laws of warfare of such measures as:

(a) free-fire and free-strike zones, aerial bombardment and the use of massive fire power generally;

(b) enforced movement of civilian populations and the quality of protection and care of refugees;

(c) use of biological, herbicidal and other weaponry to inflict environmental and ecological damage;

(d) treatment and interrogation of prisoners of war and civilians suspected of collaboration.

II Methods of supervising the implementation of such guidelines and directives and the effectiveness of such supervision.

III Nature and quality of education and indoctrination, at all levels of civilian and military participation, with regard to the laws of war and their observance.

IV The processes of military justice in dealing with the investigation, prosecution and punishment of suspected war crimes.

V The adequacy of existing standards under the laws of war to contemporary conditions of weaponry and type of conflict.

VI The adequacy of existing methods for assuring universal observance of the laws of war and the potential role of international commissions or tribunals in considering adequacy of existing standards under the laws of war, as well as in assuring observances by all parties to present or future international conflicts.

The Commission should be appropriately composed of jurists, Congressmen, public figures, members of the armed services and others, so that it would have a balance of members with both expert and general knowledge, and so that its work, reports and recommendations would elicit widespread public confidence and support.

The Association of the Bar of the City of New York has a deep and continuing interest in these problems.

Respectfully yours,

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THE WHITE HOUSE,
Washington, February 15, 1972.

DEAR MR. BOTEIN: I have been asked to respond to your letters of January 12, 1972, to the President and the Vice President forwarding a proposal approved by the Executive Committee of the Association of the Bar of the City of New York for the establishment of a National Commission of inquiry on the observance of the laws of war in Indochina.

As outlined in your letter, the scope of the inquiry conducted by the proposed National Commission would also include such problems as the adequacy of existing standards in the laws of war, the validity of United States policy guidelines and directives governing our operations in Indochina, the nature and quality of education and indoctrination with regard to the laws of war and their observance, and an appraisal of the system of military justice. The Association's proposal also contemplates that the Commission would issue a public report on those matters.

The issues raised by your letter are unquestionably important ones, and the concern expressed by your Association is fully shared by this Administration. Indeed, extensive consideration was given by the Administration last year to the question of whether this Administration should itself propose the establishment of such a National Commission, comprising members of the public, Congress, and the Executive Branch, or, alternatively, whether such a Commission within the Executive Branch should be appointed. It was finally concluded by the Administration that neither alternative should be adopted for the time being.

In essence, there were two basic considerations which compelled that conclusion. First, it was believed that the divisiveness of the American public already engendered by conflicting views with respect to the Indochina war in general, and to the processes of military justice in dealing with such unfortunate incidents as the one at My Lai, would be further intensified were a public inquiry to be conducted while hostilities were still in progress in Indochina. Second, the Rules of Engagement governing our military operations in Indochina are, for obvious reasons, classified. Since knowledge of the limitations imposed by the rules on United States and United States supported operations could be of substantial value to hostile forces in Indochina, those rules could not for the time being be made available for the purposes of a public inquiry. Similarly, if such an inquiry were to be conducted solely by the Executive Branch on a classified basis, the Executive Branch Commission could not issue a public report disclosing that security information while military operations continued.

It should not be inferred from the foregoing, however, that we have taken no affirmative action as to these matters. The applicable policy guidelines and directives dealing with the specifics referred to in your letter are the subject of continuing review and of modification when required. Similarly, while we believe that our education and indoctrination programs are far superior to those of most other nations, they can be, and are being, improved. Further, the Department of Defense is committed to thoroughly investigating all allegations of possible war crimes in Indochina which are brought to its attention.

Finally, as you undoubtedly know, the Executive Branch has taken an active role in the current international negotiations sponsored by the International Committee of the Red Cross which look toward the conclusion of new agreements reaffirming and developing international humanitarian law applicable in armed conflicts. We anticipate that the outcome of these international conferences will to a large extent contribute to the further evolution of the laws of war sought by the action recommended by the Association of the Bar of the City of New York.

The interest expressed by your Bar Association in these problems is greatly appreciated.

Sincerely yours,

JOHN W. DEAN III,
Counsel to the President.

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK,
New York, N.Y., March 17, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate, New Senate Office Building, Washington, D.C.

DEAR MR. PRESIDENT: You will recall that in identical letters dated January 12, 1972, addressed to the President of the United States, to you in your capacity of Vice President and to the Speaker of the House, The Association of the Bar of the City of New York has proposed the appointment of a National Commission to help assure for the future the more effective enforcement and observance of the laws of war.

Such Commission, in our view, should be empowered to conduct an inquiry and to issue a public report in regard to such matters as United States guidelines and directives covering obligations under the laws of war, methods of supervising their implementation, education and indoctrination of all military and civilian levels regarding such laws, adequacy of the processes of military justice in dealing with suspected war crimes and the adequacy of existing standards under the laws of war to contemporary conditions of weaponry and type of conflict.

A copy of our letters of January 12, 1972 is enclosed for your convenience.

The Association has received a reply dated February 15, 1972 from Mr. John W. Dean, III, Counsel to the President, a copy of which is transmitted herewith. It will be noted that, for reasons set out in that letter, the Administration has declined to act upon the proposal of the Association.

The Association, nevertheless, adheres to the view that the issues involved are of sufficiently grave public concern to call for action along the lines of our proposal. We are convinced that such action would help unite and inform public opinion and that it would not require access to properly classifiable information.

The Association, in collaboration with other legal and civic organizations, accordingly, is considering the feasibility of itself proceeding with such an inquiry. We believe, however, that it could be most effectively conducted by an official body, empowered to hold hearings and to make studies and reports appropriate to the nature of the problem.

Despite the negative conclusion of the Administration, the Association renews its recommendation that the Congress make provision for the conduct of such an inquiry. Such action, in our view, involves matters clearly within the proper scope and interest of the Congress, both in aid of legislation which might be suggested by such an inquiry, and the improvement of Congressional-Executive relationships designed to assure respect for and compliance with these momentous legal and moral obligations.

We renew our assurance of the deep and continuing interest of The Association of the Bar of the City of New York in these problems and urge your prompt and favorable consideration of our proposals.

Sincerely yours,

BERNARD BOTEIN.

CONCLUSION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

EXTENSION OF AUTHORITY CONFERRED BY THE EXPORT ADMINISTRATION ACT OF 1965

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 671, Senate Joint Resolution 218.

The PRESIDING OFFICER (Mr. MANSFIELD). The clerk will report the measure.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 218) to extend the authority conferred by the Export Administration Act of 1969.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the joint resolution.

Mr. STEVENSON. Mr. President, the authority conferred by the Export Administration Act expires May 1, 1972. This resolution simply extends that authority for a period of 3 months, to August 1, 1972. Before that latter date, the Senate Committee on Banking, Housing and Urban Affairs will give serious consideration to the whole subject of export controls and will by that date report out a bill.

This bill, as I say, would simply extend the Export Administration Act of 1969 to August 1, 1972.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. JAVITS. Mr. President, I hope very much that the Senate will pass this measure. It is a brief extension, but it is very important as it encompasses the period during which the President will go to the Soviet Union.

In reviewing our relations with mainland China and the Soviet Union we find that they are heavily based upon the issue of trade. Trade liberalization has taken place and can take place to a greater extent, if desirable and necessary. Expanded trade and commercial relations can be a major privilege.

I hope very much that the passage of this extension measure will signal our accord with the President that this is one of the highest priority subjects to be discussed on his visit to the Soviet Union. It is an area where future significant progress can and should be made as negotiations continue.

No one wants our guard relaxed in terms of strategic items. However, there are three lists: One, strategic items; another, nonstrategic items; and another that is in between. A review of lists is probably long overdue.

The Congress and the administration have already shown by the recent waiver of the President, whereby the private investment guarantees and programs of the OPIC are now operating in Yugoslavia and Rumania, that we clearly welcome some fruitful way, without being euphoric about it, of expanding the trade and investment possibilities between our country and the countries of Eastern Europe. There is also the positive movement in respect to MFN for Rumania. Similar opportunity could exist over time with the Soviet Union and the People's Republic of China.

Let us remember that the greatest opportunity for the expansion of trade in a way which is constructive in itself but also to other issues exists in areas of the world where there is very little trade. That includes the Communist countries and vast areas of the lesser developed countries.

For all of these reasons, and especially because it will show a sense of unity with the President in this particular matter of expanding trade, securely and wisely I add immediately, I very much hope the bill passes.

AMENDMENT NO. 1076

Mr. TAFT. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The amendment will be stated.

The legislative clerk read as follows:

On page 1, after line 5, insert the following:

SEC. 2. Section 2 of the Export Administration Act of 1969 (50 U.S.C. App. 2401) is amended by adding the following finding of Congress as subsection (5):

"(5) The application of United States export controls to commodities which are available without restriction from industries in countries with which the United States has defense treaty commitments or are utilized almost exclusively in nonstrategic production unnecessarily handicaps United States industry in competing for export sales."

SEC. 3. Section 3 of such Act is amended by adding the following declaration of policy by Congress as subsection (6) thereof:

"(6) It is the policy of Congress that the appropriateness of subjecting, or continuing to subject, particular commodities to United States export controls should be determined after review and consultation by and between representatives of interested United States governmental agencies and qualified experts from private industry."

SEC. 4. Section 4(a) of such Act is amended by adding the following as subsection (3) thereof:

"(3) Upon the enactment of this subsection, the Secretary of Commerce shall undertake, with the cooperation of other interested United States agencies, an immediate investigation to determine which commodities should no longer be subject to United States export controls. In making this determination, the Secretary of Commerce shall no longer apply United States export controls to commodities which are available without restriction from sources outside the United States in significant quantities of quality comparable to that of such commodities produced in the United States: *Provided*, That such export controls may continue to be applied upon presentation to the Secretary of clear and convincing evidence demonstrating that the absence of such controls would constitute a threat to United States national security. The Secretary of Commerce shall give priority in such investigation to determining whether United States export controls should continue to apply to commodities for which there is a significant potential export market. The Secretary of Commerce shall complete such investigation by December 31, 1972, and shall submit by that date a special report to the Congress specifying those commodities for which United States export controls have been removed pursuant to such investigation. Such report shall also specify those commodities which remain subject to export controls greater than those applied by nations with which the United States has defense treaty commitments and the reasons for retaining any such controls."

SEC. 5. Section 5 of such Act is amended by adding the following as subsection (c) thereof:

"(c) To effectuate the policy of section 3(6) of this Act, the Secretary of Commerce shall appoint Joint Technical Advisory Committees composed of representatives from interested United States governmental agencies and experts from private industry. Such Committees shall be appointed for each of the groups of products subject to United States export controls and shall be convened for their first meetings not later than sixty days after this Act takes effect. The Joint Technical Committees shall meet regularly to advise and assist the Secretary of Commerce on action for the purpose of carrying out the policies set forth in section 3 of this Act and shall be consulted with respect to the level of United States export controls applicable to all commodities, including those whose export is subject to multilateral controls undertaken in cooperation with nations with which the United States has defense treaty commitments. Such Committees shall be consulted and kept fully informed of progress with respect to the export control investigation required by section 4(a) (3) of this Act."

Mr. TAFT. Mr. President, this amendment would amend the Export Administration Act to require prompt decontrol of the unilateral U.S. export controls which are not necessary to protect our national security.

Mr. President, I feel strongly, with the concurrence of the Senator from Illinois and the Senator from New York, that it is necessary to extend this authority. I feel, however, that we ought to recognize that it is extremely important at an early date to take a new look at this entire area.

The testimony in the hearings before the Committee on Banking, Housing and Urban Affairs on this subject was full of evidence concerning the fact that the United States, in effect, is handicapping itself by continuing the present system of export controls which control many items which are not of strategic value and not covered by the COCOM list.

Even within the COCOM list there is a lot of question whether other major industrial competitors of ours, with relation to items that are not of high priority from the standpoint of national defense, are not circumventing the import of items on the COCOM list.

Upon the enactment of the amendment, the Commerce Department would head up a study to determine which commodities should be at least partially decontrolled. Commodities for which there is a significant potential export market would be given priority in the review process. Unless clear and convincing evidence is presented that the absence of export controls on a commodity in question would constitute a threat to the national security, commodities which are available without restriction from sources outside the United States would be decontrolled. Such decontrol would take place by the end of this year. At that time the Secretary of Commerce would be required to give reasons for retaining unilateral controls on any specific item.

My amendment also provides for the establishment of Government-industry joint technical advisory committees. These committees would be consulted and informed with respect to the level of U.S. export controls, including those controls which are imposed internationally under the coordinating committee, or COCOM, agreement.

In the 1969 committee report on the Export Administration Act, the Senate Banking and Currency Committee stated its belief that—

> It is desirable that this Nation do everything it can to increase its exports. The Committee believes that any restriction of exports is unwarranted if it does not serve some positive function.

It could not have been made clearer that the committee desired the decontrol of U.S. exports to the maximum extent possible. Yet the information which was brought forward in the recent Banking Committee hearings has convinced me that our Government is, in some ways, dragging its feet in the area of export decontrol.

There can be no doubt that some progress has been made since the enactment of the 1969 act. But our list of unilaterally controlled commodities remains far longer than the list of any other COCOM country. In addition, American businesses must face a more expensive and drawn out export licensing process than their foreign competitors.

The excessively long list of unilaterally controlled commodities results both from insufficient decontrol of items which are available from foreign sources, and from an overly restrictive interpretation of what must be controlled in the interest of national security.

The 1969 committee report on the Export Administration Act stated that—

> For the U.S. to attempt to unilaterally control the export of goods which are freely available from other sources is both futile and useless.

In accord with this policy, more than a year ago the Office of Export Control initiated a review of licensing requirements for machine tools. Because the machine tool industry was encouraged to believe that nonstrategic machine tools which are readily available from foreign sources would be decontrolled, they cooperated by providing extensive data. The industry studies showed that many nonstrategic items were readily available from European and Japanese sources. These were not high technology items, but common machine tools such as lathes. Yet, in the period of almost 1 year since the last of these reports was submitted, not a single machine tool has been decontrolled.

The machine tools subject to U.S. unilateral controls include virtually all machines not on the COCOM list. They are, however, available without licenses from our Western European and Japanese competitors. Indeed, other governments positively encourage such shipments in many cases. Some of them provide generous financing to foster sales in the U.S.S.R. and Eastern Europe. This situation makes our Government's refusal to decontrol machine tools all the more damaging to domestic producers.

We have seen some indications in the news this week of an upturn in machine tools, but that is only from the very bottom level and it is no indication of the severe stress to which this vital industry is being subjected.

The provision of the current law for denying export of commodities deemed to have "significant military applicability" or strategic value is absolutely essential to our national security. At present, however, many commercial-grade computers and types of electronic equipment are denied export licenses because one or more agencies of the Government consider them to have a potential for military use even though these items are intended for commercial or nonmilitary scientific application. In my opinion, it is questionable that any nation would import such equipment for the sole purpose of achieving military or strategic advantage and at the same time be forced to rely on U.S. manufacturers for the spare parts, maintenance, and services which would be necessary to maintain such an advantage. The Government should consider decontrolling such items.

The time delays which would be serious in any commercial transaction are especially serious in dealing with the Russian and Eastern European markets, because U.S. suppliers already face several built-in disadvantages. These disadvantages include a lack of familiarity with the market; remoteness, and thus the fact that long shipping intervals are required; the relative lack of hard currency; and the unwillingness or inability of the United States to accept merchandise from the U.S.S.R. and Eastern Europe in payment for U.S. goods. Coupled with these disadvantages, delays in the processing of export licensing can mean the loss of millions of dollars' worth of business to foreign competitors.

Nevertheless, some export license applications have languished for months, for more than a year. The Government debated whether to allow U.S. participation in Russian truck plants. Even where there is no major political issue raised by an application, it can take months to secure a license for equipment subject to unilateral controls. The licensing process is expensive and frustrating, particularly for the small company not familiar with current practices and procedures.

I realize that part of the reason for this problem is that the Office of Export Control is understaffed and underfunded. I hope that the Commerce Department will shift its priorities to remedy the situation, and that Secretary Peterson will take whatever other steps he thinks will expedite the processing of licensing applications. I believe that the most effective answer to the problem, however, is to remove the controls completely for all commodities except those where control is clearly necessary and wise or pursuant to controls.

I am proposing the establishment of Government-industry joint technical advisory committees for several reasons. Most importantly, to administer export controls properly, our Government needs to use the technical expertise which only representatives of the industries affected can provide. The Office of Export Control and the Interagency Coordinating Committee are responsible for applying export controls to all kinds of commodities. These Government officials are necessarily generalists, and it is impossible for them to become familiar with the intricacies of each product which must be regulated. Yet that is exactly what is necessary to give the definitions of items on the export control list the needed precision and uniformity. The formulation of such a definition cannot merely be considered as bureaucratic categorizing. It is an important business decision, and the Government officials who must make it should have the full benefit of industry experts' advice.

The joint technical advisory committees would also serve to increase industry's awareness of developments in export control, and the Government's awarness of business developments. Several industry representatives expressed the belief in testimony that the Government needs to improve its efforts to keep them informed. For example, one witness said that his industry could not come across such vital information as who the U.S. negotiators at the COCOM are or what their instructions are. There is also room for improving the flow of information to industries with regard to the status of their applications for export licenses while they are being processed. On the other hand, through the committees, the business community would be able to contribute more up-to-date information as to the status of U.S. technology and actual commercial conditions in the countries subject to controls.

In addition to the measures to facilitate East-West trade which are required by my amendment, there are several other steps which I believe our Government should take. If there was one salient fact which was revealed in our subcommittee's recent hearings, it was the outdatedness and restrictiveness of the COCOM controls. I would like to see the United States take the initiative in rationalizing the COCOM list and the administration of the COCOM controls. The United States should suggest to the COCOM which items on the list are not of strategic significance to the member countries. We should also initiate an effort to develop criteria for the granting of exceptions to the COCOM controls. These criteria should be uniformly followed by all COCOM members, including the United States. This would remedy the present situation, where it is much more difficult for an American industry to persuade its Government to fight for an exception than it is for foreign competitors to do so. We should also take advantage of the new joint technical advisory committees to help COCOM bring its commodity definitions up to date and make them more exact.

Our Government should make an effort to reduce the risk which industries must incur when they do business in Eastern Europe and the U.S.S.R. The President should authorize the Export-Import Bank to provide insurance against the nonrenewal or cancellation of an export license before the export transaction is completed. Since nonrenewal or revocation may be due to circumstances beyond the manufacturers' control, such as a change in foreign relations, it is appropriate that the Government extend this insurance. Such insurance is already provided for exports to Rumania and Yugoslavia. There would seem to be no reason why it should not be extended to other Communist countries.

The business risk involved in licensing can be lessened still further if the initial validity of a license is lengthened from the present period of 1 year. A license should ordinarily be good from the time of approval until the completion of the export transaction. In addition, the Government should enlarge the scope of export licenses to include authority to export replacement parts that may be required in the normal course of a machine's life. This would reduce the risk to the importer of buying American goods. It would also prevent situations where the importer must conclude that American sellers have cajoled him into buying a machine which he cannot service, and which is therefore useless to him.

From both an economic and a political standpoint, it is imperative that Congress and the administration act immediately to enlarge their opportunities for doing business with the eastern European countries. In purely economic terms, the opportunities are great and the domestic needs are great.

I received a report only today containing statistics, which I am glad to call to the attention of the Senate, showing lagging U.S. trade in Eastern Europe.

In 1970 U.S. exports to Eastern Europe were $350 million. Exports from other Western countries were more than $8 billion.

The U.S. share of the world market was about 16 percent. The U.S. share of the Eastern European market was about 3 percent.

The trend in Eastern European trade since the 1969 act was as follows: U.S. exports to Eastern Europe as a percentage of COCOM exports to Eastern Europe: 1967, 4.35 percent; 1969, 3.92 percent; 1970, 4.89 percent.

In 1971, approximately 4 percent.

For example, the machine tool industry conducted its first industry organized Government-approved trade mission to the U.S.S.R. and Hungary last spring. During these sessions, Soviet officials gave the companies requests for quotations for U.S.-built machine tools that totaled more than $50 million. As a result of the industry's mission to Poland, which has just returned, industry officials expect that more than $50 million in requests will be received by the U.S. machine tool companies who participated in the mission.

These markets are just opening up. If U.S. companies are to participate in them, they must be able to move in now unless U.S. strategic interests are involved.

It is important to the machine tool industry to take advantage of these opportunities to the extent proper by these standards the domestic industry is severely depressed.

Production and new orders for machine tools have declined sharply over the past 5 years. By the end of 1971, backlogs had dropped 66 percent below the 1966 level. Profit margins averaged less than 2 percent of sales in 1971 and they are likely to be even lower this year. Many machine tool companies suffered severe losses in 1971. In addition, I have already pointed out that foreign competitors are more than capable of supplying these new markets. These competitors increasingly have been outselling the U.S. machine tool industry all over the world, where there have been no U.S. unilateral export controls to help them. They will outsell our industry to an even greater extent in Eastern Europe unless we move immediately to facilitate trade by loosening our export controls.

There are also indications that several other industries, such as office equipment and computers, may be in the same position as the machine tool industry.

In addition to these economic advantages, the political advantages of immediate trade liberalization with Eastern Europe and the U.S.S.R. might be considerable. They would to some extent counterbalance and parallel the improved relationship with China which the President has worked so hard to bring about. A clear indication from Congress that trade liberalization is desirable would also give President Nixon more flexibility to deal with the Russians when he goes to Moscow in May. These advantages would be augmented by the good feelings which are bound to result from any improvement in trade relations.

In short, the time is opportune and the need is great. For the sake of both our own industries and of improving international relations, the Government should promptly adopt these suggestions for liberalizing our export control system.

I am aware, of course, that the bill before us does call for an extension of only a 3-month period. I am also aware, as has been pointed out by the Senator from New York, that in going to Moscow this year the President should be given a free hand; but in giving him a free hand to discuss this subject—and I hope it is discussed; I think it is extremely important that it be given high priority in the discussions—I think it is important that there be a recognition of the very strong feeling of the Senate with regard to this matter. I think the position of the committee in this regard was almost a unanimous one.

I, in recognition of the President's position and the delicate nature of the negotiations, am, in a minute, going to ask consent to withdraw the amendment at this time, but only after serving notice that this is the direction we must take. Once the Moscow talks are over with, I hope the Senate will consider this matter with a great deal of dispatch.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. STEVENSON. I want to commend the Senator from Ohio for very convincingly pointing to some of the needed corrections in our export control legislation and the competitive disadvantages which run to the country at times in the administration of the law. The Senator has made a very convincing case, and it is a case with which I am sympathetic.

I have discussed this matter with the chairman of the Senate Subcommittee on International Finance (Mr. MONDALE). I know that he is sympathetic.

It is my understanding that the Senator's amendment, if it is withdrawn, would—and should, in my own judgment—receive very serious consideration by the Senate Committee on Banking, Housing and Urban Affairs, along with the whole subject of export controls in the immediate future, and before the legislation, as amended by this resolution, expires on August 1.

Mr. TAFT. I thank the Senator for his comments.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr JAVITS Mr. President, I would like to join the Senator from Illinois in commending the Senator from Ohio. I think it is a splendid initiative. I recall the days in the House Foreign Affairs Committee—this goes back 15 years or more—when we considered the Battle Act, introduced by Laurie Battle, which put the United States in a position to engage in these controls.

It was then contemplated that we would always give the sharpest review to the whole program. It is only if Congress joints in the initiative that the Executive can take up that initiative, because the Executive alone is reluctant to be identified with anything that conceivably would let the bars down and equip the "enemy" or the potential "enemy" with strategic materials. We all know how such things can be distorted. So the doubt has to be resolved by Congress. By taking the initiative can we say to the Executive that we want to be secure, but we do not want to be fool-safe in terms of this Nation.

So I thoroughly commend the Senator, and hope that his effort will get somewhere, and I shall certainly help him in every way. I am glad, too, that he has seen fit to let this bill go through as it stands.

One final comment, and that is that the Senator's work must be considered, too, with the totality of the work which, if protectionism is to be avoided in this country, will be necessary. First, much more remains to be done to stimulate and encourage exports, building on the impressive efforts to date of the Export-Import Bank and the U.S. Department of Commerce. Still today many American firms are not interested in export trade, because it has not been facilitated. The facilitation of trade of American businesses lags far behind the stimulation of trade by European and Japanese trade ministries often through their diplomatic missions.

Second to be considered is the matter of countervailing duties and antidumping matters, and the prompt and adequate enforcement of these and other laws and regulations already on the books.

Third, the negotiation of nontariff barriers to trade, in the context of major trade negotiations in 1973 encompassing both agricultural and industrial products.

Fourth, the very urgent need for international monetary reform, and we are hopefully on the threshold of that.

So I am glad to see the Senator identifying himself with those forward looking forces. I welcome the Senator's intiatives and will certainly do everything I can to make his efforts good.

Mr. TAFT. I appreciate very much the remarks of the distinguished Senator from New York in a field in which he has long been one of the leading spokesmen, and I certainly want to express my concurrence with his concern and his expressions with regard to the necessity of building U.S. trade abroad, not merely with regard to this act and the approach to this act which my amendment would indicate, but also, where we feel that we can do so, in the area of financing, extending the authority of the Export-Import Bank, and in the area of trying to encourage doing something to build up exports while imports continue to come into this country.

The newspapers this morning again pointed out the unfavorable trade balance we have had. The reason is not that we have had an increase in imports which is unjustified. In some instances, there has been unfairness with respect to the positions of the nations involved, but principally it has come about, I think, because we have not used fully the potentials of this country for building markets abroad; and I think some legislation in this area is vital to achieve that purpose.

Mr. President, in the Washington Post of Thursday, March 23, 1972, there appeared an excellent article, written by Dan Morgan, entitled "Western Firms Evade Ban on Strategic Goods for Soviet Bloc," which discusses many of the matters that have been brought to the attention of the Senate in connection with my remarks this morning. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Western Firms Evade Ban on Strategic Goods for Soviet Bloc

(By Dan Morgan)

WARSAW.—One of the most mysterious East-West stories today is that of the curious ways in which supposedly secret capitalist technology finds its way into communist factories.

All through the Cold War, NATO and Japan attempted to slow down Soviet military development by drawing up elaborate embargo lists of advanced technological processes and equipment that were considered strategic.

Now the entire system of embargoes seems to be coming apart, under the pressures of Western business competition and some of its own built-in absurdities.

Taking at face value pentagon assertions that Moscow has achieved military parity with the West and is nearing technological parity, some businessmen are suggesting that the whole system be scrapped or at least drastically revised.

That would certainly be a good thing for the 100 million East Europeans outside the Soviet Union, who would benefit materially. President Nixon's decision last year to authorize the sale of advanced oil refining equipment for the Polish chemical works at Plock, for example, will be a boon to the country's motorists.

It may be questionable how much the erosion of the embargo system really threatens the security of the United States.

It has long been rumored that the Soviet space program employs IBM and Universal computers—without, of course, the approval of Washington.

What is known for sure is that West European and Japanese companies have been using all sorts of means to circumvent the embargo and sell their most advanced know-how and machines to Eastern Europe.

This is becoming more visible as American businessmen, encouraged by the Administration's more lenient trade policies, begin to test the water in Eastern Europe.

One American businessman who was visiting Warsaw last week told of seeing embargoed British equipment in one East European plant he visited .

In other cases, he said, British companies have fooled the international board that administers the embargo by listing the proposed equipment under a harmless-sounding name different from the one on the prohibited register. Thus, a reactor part could become a "heating element."

The international board is known as COCOM, for Coordinating Committee, which has members from the NATO countries—including France, but not Iceland—and Japan. U.S. participation was authorized by the Mutual Defense Assistance Control Act of 1951.

COCOM, which is now meeting in Paris, must pass on exports before the home government issues export licenses. But some businessmen feel COCOM lacks the expertise to decide whether a given item falls under the embargoed category.

Japan, which supports its domestic industry to the hilt, pays almost no attention to the embargo.

However, the United States maintains a prohibited list longer than CO-COM'S and more secret. U.S. businessmen asking to see what actually is embargoed have been turned down and referred to the British list, which is accessible.

A number of companies have managed to get around the embargo by selling to countries such as Yugoslavia, that are not covered. The equipment is then reexported into the Soviet Union. Through this method, some highly advanced computer technology has reached the embargoes area.

U.S. businessmen also say that France has been a major violator of the technology freeze-out. At least one French company was punished with a one-year ban on U.S. imports for violation of NATO rules.

American firms with subsidiaries in Western Europe use their subsidiaries to overcome the longer, American embargo list. Through the subsidiary means, large quantities of high-grade American electronics equipment were rushed into Czechoslovakia during the economic relaxation of 1968. The various ruses have masked the full extent of East-West trade.

Nevertheless, there is little doubt that the American restrictions have a drawback to development in Eastern Europe. Yet they have had no effect on Communist policy toward the west.

Poland is an excellent example of how the American technological lock has been applied

In three key areas—catalytic cracking for oil refining, semi-conductors for computers and tape copying devices for television—the Poles have been trying to acquire technology that only the United States has.

Development of advanced computers in the Communist bloc has been limited by deficiencies in producing integrated circuits.

In the other two areas, the U.S. has finally relaxed restrictions to enable an American firm to sell the Plock refinery a catalytic cracker for making high-octane gasoline. And it has authorized the California-based Ampex corporation to sell the Polish television enterprise $1 million in tape copying equipment. Apparently, a good system for using tapes, rather than films, to copy television programs is unavailable in the Soviet bloc. The Ampex technique eliminates laborious cutting and splicing of film and will streamline the entire Polish television network.

Symbolically, the American cracker in Plock will be adjacent to an inferior Soviet model. Twelve American technicians will be at the refinery for two years and housing for the families is already being sought.

There are arguments on both sides of the strategic lists debate. Pentagon supporters say all high-grade technology has military application, and that the embargoes have cost the Russians precious years of painstaking research.

The counter argument is that technology—particularly in such fields as electronics and computers—is quickly perishable and outdated by the staggering pace of advance in the U.S. The rigid Soviet-bloc economic systems are often too muscle-bound to adapt even what they buy.

Also, by withholding the technology, the U.S. forces the Soviet bloc to develop research and support systems of its own. The Poles claim to have been on the brink of a breakthrough in television copying technology when the U.S. finally authorized the Ampex sale. Moreover, the Poles told the U.S. that they could buy the equipment anyway through other channels—though at three times the price.

Mr. TAFT. Mr. President, I ask unanimous consent that amendment No. 1076, which I have offered, be withdrawn.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Unanimous consent is not required. The amendment is withdrawn.

The joint resolution is open to amendment.

Mr. STEVENSON. Mr. President, I have no knowledge of further amendments to be offered.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 218) was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

The joint resolution (S.J. Res. 218) was passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14 of the Export Administration Act of 1969, as amended (Public Law 92-37; 85 Stat. 89), is amended by striking out "May 1, 1972" and inserting "August 1, 1972".

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962—CONFERENCE REPORT

Mr. STEVENSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3054) to amend the Manpower Development and Training Act of 1962. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT (S. REPT. NO. 92-725)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3054) to amend the Manpower Development and Training Act of 1962, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following: That (a) section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is amended by striking out "1972" the first time it appears in such section and inserting in lieu thereof "1973".

(b) Section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is further amended by striking out the colon and the following: "*Provided,* That no disbursement of funds shall be made pursuant to the authority conferred under title II of this Act after December 30, 1972".

SEC. 2. All real property of the United States which was transferred to the United States Postal Service and was, prior to such transfer, treated as Federal property for purposes of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), shall continue to be treated as Federal property for such purpose for two years beyond the end of the fiscal year in which such transfer occurred.

And the House agree to the same.

GAYLORD NELSON,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
ALAN CRANSTON,
HAROLD E. HUGHES,
ADLAI STEVENSON,
JENNINGS RANDOLPH,
BOB TAFT, JR.,
J. JAVITS,
RICHARD SCHWEIKER,
PETER H. DOMINICK,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

CARL D. PERKINS,
DOMINICK V. DANIELS,
LLOYD MEEDS,
ALBERT H. QUIE,
MARVIN L. ESCH,
Managers on the Part of the House.

Mr. STEVENSON. Mr. President, the conference agreement on S. 3054 simply extends the Manpower Development and Training Act for 1 year—until June 30, 1973. In addition, the prohibition in existing law which provides that funds to carry out contracts entered into prior to such expiration date may not be disbursed later than 6 months after such termination date is deleted by the conference agreement.

The conference agreement also provides that for purposes of Public Law 874, 81st Congress, relating to assistance for schools in federally impacted areas, Federal property transferred to the U.S. Postal Service shall continue to be treated as Federal property for 2 years.

Mr. President, this bill has the unanimous and bipartisan support of all conferees from both the Senate and the House.

It is urgently needed so that on-going programs will not be interrupted. I urge its adoption at this time.

Mr. JAVITS. Mr. President, if the Senator will yield, I think the agreement of the conferees was unanimous, and the extension is certainly needed. I hope the Senate will agree to it.

I was the principal sponsor with Senator NELSON, of S. 3054, the Senate provision. In light of the unlikelihood of getting a new reformed manpower system in place this year, this extension is very desirable. I urge, however, that we press for reform at the earliest opportunity and I introduced yesterday S. 3421, the Community Manpower Training and Employment Act to that end.

The Manpower Development and Training Act of 1962 is one of our principal authorities for job training, upgrading and work experience programs for economically disadvantaged, unemployed and underemployed persons at the present time, benefits to hundreds of thousands of enrollees.

Under its authority such crucial programs as the JOBS program—jobs in the private sector; the Neighborhood Youth Corps summer in-school and out-of-school programs, and other activities, including programs conducted by the States, have been conducted over the years.

It is important that these programs be continued while reform is considered.

The conference report also includes the Senate provision granting a 2-year grace period to school districts which have been receiving Public Law 874 impact aid payments on the basis of workers employed on property which has been transferred to the Postal Service. This is necessary because the change of the Post Office Department to a public corporation affects the eligibility of postal properties under the impact aid programs. Thus some 700 affected school districts are provided a needed phase-out period after Federal activity has ceased.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the joint explanatory statement of the committee of conference be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendment of the House to the Senate bill (S. 3054) to amend the Manpower Development and Training Act of 1962 submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The points in disagreement and the conference resolution of them are as follows:

1. The House-passed amendment would extend the authority conferred under title II of the Manpower Development and Training Act for one year beyond the existing law's expiration date of June 30, 1972, by inserting in lieu thereof the termination date of June 30, 1973.

The Senate-passed bill does not contain the above provision.

The Senate recedes.

2. The House-passed amendment would extend for one year the existing law's provision that no funds to carry out obligations entered into prior to the termination date may be disbursed later than December 30, 1972—six months after the termination date.

The Senate-passed bill would delete this six months limitation altogether.

The House recedes.

3. The Senate-passed bill also contains the following provision, providing that for purposes of Public Law 874, relating to assistance for schools in federally impacted areas, Federal property transferred to the United States Postal Service shall continue to be treated as Federal property for two years.

The House passed H.R. 11809 on December 6, 1971, containing the same language as section 2 of the Senate-passed S. 3054.

The House recedes.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the requirement that the conference report be printed as a Senate report be waived, inasmuch as under the rules of the House of Representatives it has been printed as a report of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS ACT

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Under the previous order, the Senate will resume the consideration of the unfinished business (S. 2956), which the clerk will state.

The legislative clerk read as follows:

A bill (S 2956) to make rules governing the use of armed forces of the United States in the absence of a declaration of war by the Congress.

PRIVILEGE OF THE FLOOR

Mr. JAVITS. Mr. President, I ask unanimous consent that during the consideration of this measure I may have present on the floor to assist me two members of my staff, Mr. Charles Warren and Mr. Peter Lakeland.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPONG. Mr. President, I ask unanimous consent that during the consideration of this legislation, I may have present on the floor, from my staff, Mrs. Carolyn Fuller.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. The war powers bill (S. 2956) is one of the most important pieces of legislation in the national security field that has come before the Senate in this century. The bill's various sections are carefully interrelated and interdependent. As the Senator who probably has had the longest experience with the evolution of the bill, I will concentrate my remarks on an explanation of the bill and how it is intended to work, and I shall try to dispel the allegations which have been made against it by the State Department and other critics.

I shall begin by dealing with the constitutionality of S. 2956, as well as its historical background and then proceed to a detailed explanation of the bill.

In this connection we should begin with the words of the Constitution itself because from what many critics of S. 2956 have said, it almost seems as if they have neglected to read what the Constitution in fact does say about the war powers.

WAR POWERS OF CONGRESS

Article I, section 8 of the Constitution enumerates the war powers of Congress. The list of these powers is both detailed and comprehensive:

> Provide for the common defense.
>
> To define and punish . . . offences against the law of nations.
>
> To declare war.
>
> To raise and support armies.
>
> To make rules for the government and regulation of the land and naval forces.
>
> To provide for calling forth the militia to execute the laws . . . and repeal invasions.
>
> To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States.

The powers of Congress which I have just listed are extensive and specific, but the Founding Fathers went even further to buttress the power of Congress in this field. They did this by concluding article I, section 8 with an all-inclusive power—the "necessary and proper" clause, which empowers Congress:

> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and *all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.*" (italics added)

THE PRESIDENT AS COMMANDER IN CHIEF

And, compared with the war powers of Congress so specifically enumerated in the Constitution, let us examine the war powers actually granted to the President in the Constitution. These powers at best can be described as sparse and cryptic. Article II, section 1 states:

> The executive power shall be vested in a president of the United States of America.

Article II, section 2, states, without further elaboration:

> The President shall be Commander in Chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States.

It would be useful at this point to take a look at the "legislative history" of the Commander in Chief concept as it is used in the Constitution. There was no doubt in the minds of the drafters of the Constitution about who would be the first President of the United States. George Washington was elected unanimously to the office less than 2 years after completion of the Constitutional Convention. Twelve years earlier, in June 1775, the Continental Congress had appointed George Washington to be "Commander in Chief" of the colonial forces. Washington held this post as Commander in Chief until his formal resignation and return of his commission in December 1783. He was the only Commander in Chief the United States had ever had when in 1787 the Constitution was drafted and the phrase "Commander in Chief" written into it.

Clearly, the drafters of the Constitution had the experience of the Continental Congress with George Washington in mind when they designated the President as "Commander in Chief" in article II, section 2. Thus, the "legislative history" of the constitutional concept of a Commander in Chief was the relationship of George Washington as colonial Commander in Chief to the Continental Congress.

That relationship is clearly defined in the Commission as Commander in Chief which was given to Washington on June 19, 1775, and which was formally returned by him to the Continental Congress on December 23, 1783.

I would like to quote the final clause of this Commander in Chief's Commission, because it establishes the relationship of the Congress to the Commander in Chief in unmistakable terms:

> And you are to regulate your conduct in every respect by the rules and discipline of war (as herewith given you) and punctually to observe and follow such orders and directions from time to time as you shall receive from this or a future Congress of the said United Colonies or a committee of Congress for that purpose appointed."

THE PRESIDENT'S EXPANDING POWERS

I have dwelt at some length on this question of the Congress war powers, and the relationship of those powers to the President's function as Commander in Chief, because critics of the war powers bill so often choose to ignore what the Constitution says. Moreover, out of the sparse and cryptic language of article II, section 2 of the Constitution there has grown up an extraordinarily overblown doctrine of so-called Commander in Chief powers. The outer limits of this doctrine are cited as a barrier against even the exercise by Congress of its own clearly enumerated war powers. For instance, in his testimony before the Senate Foreign Relations Committee, Secretary of State Rogers approvingly quotes the following assertion of the Truman administration:

> The President, as Commander-in-Chief of the Armed Forces of the United States, has full control over the use thereof.

To this ever expanding doctrine of exclusive Commander in Chief power, Secretary Rogers added a new dimension of his own, in telling the Foreign Relations Committee:

> I would think that his powers as Commander-in-Chief would authorize him to take whatever action he felt necessary to try to protect the safety and the lives of our prisoners of war.

Presumably, this could include authority on his own to invade North Vietnam, Laos, Cambodia, and perhaps even the People's Republic of China. I doubt that there are many Americans who would go this far even to agree with Secretary Rogers.

HISTORICAL AND CONSTITUTIONAL PERSPECTIVES OF THE WAR POWERS BILL

The constitutional aspects of the war powers bill were investigated in a most authoritative way in the hearings conducted by the Foreign Relations Committee. The record of those hearings is already coming to be recognized as the most comprehensive and authoritative examination in existence of the constitutional war powers issues. Law schools from all around the Nation are writing in for copies. I commend the hearings to all Senators interested in this subject.

The question has been asked, quite rightly, why—after all these years—do we need a war powers bill now? It is clear that the administration opposes any legislation in the war powers field and is apparently quite happy with the present situation. Secretary Rogers said that the war powers bill: "reflects an approach not consistent with our constitutional tradition." The Secretary further felt that the "respective roles and capabilities" of the Executive and the Congress should be "left to the political process."

It is the failure of this approach which necessitates a war powers bill. The golden days of Senator Vandenberg have been obliterated by the Vietnam war.

The constitutional imbalance, which has reached such dangerous proportions and which is the prime factor behind this bill, is a recent development growing out of the last few decades. The United States emerged from World War II as the dominant world power—a role alien to all our previous national experience. The unique challenges arising from this new role were such that we slipped into a practice which ran counter to the genius of our Constitution and the underlying structure of our political system. This practice has concentrated the essential war power in the institution of the Presidency and left Congress little more than an appropriations and conformatory role. It has proved to be a most costly failure which has dangerously strained the fabric of our whole society.

Throughout our history it has been recognized that the essential conduct of foreign policy was a prerogative of the President. But until the United States emerged from World War II as the dominant power of the world, the President's foreign policy portfolio fas a relatively modest one, evolving only slowly in our history from the traditions established by President George Washington's admonition to beware of "foreign entanglements."

The Founding Fathers were deeply distrustful of "standing armies." At the time of the ratification of the Constitution, the U.S. Army consisted of a total of 719 officers and men. On the eve of the Civil War it was only 28,000 and in 1890 it was only 38,000. Even in 1915, the Army numbered less than 175,000. However, since 1951 the size of our "standing" armed forces rarely has dipped below 3,000,000 men. These forces under the President's command are equipped with nuclear weapons and submarines, intercontinental missiles, supersonic jets and they are deployed all over the world. A budget of more than $83 billion has been requested to support these forces in fiscal year 1973.

It is the covergence of the President's role of conducting the foreign policy with his role as Commander in Chief of the most potent "standing army" the world has ever seen that has tilted the relationship between the President and Congress so far out of balance in the war powers field. It is this convergence which has created the new situation requiring countervailing action by Congress to restore the constitutional balance.

EXPLANATION OF THE BILL

It is important to note that the provisions of this bill govern the use of the Armed Forces: "In the absence of a declaration of war by the Congress." In this bill we are dealing with undeclared wars—wars which have come to be called presidential wars because the constitutional process of obtaining congressional authorization has been short-circuited.

Undeclared wars are not a new phenomenon in our history. Our Armed Forces have been introduced in hostilities many more times in the absence of a declaration of war than have been pursuant to a declaration of war. The key problem for the Congress and our Nation, particularly in contemporary circumstances, is undeclared war, or presidential war, as epitomized by Vietnam. It is to this urgent, contemporary problem that S. 2956 addresses itself.

Section 1 of the bill contains its short title—the "War Powers Act."

Section 2 is a self-explanatory short statement of "purpose and policy," stressing its intention to "insure that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances."

Section 3—along with section 5—is the core of the bill. Section 3 consists of four clauses which define the conditions or circumstances under which, in the absence of a congressional declaration of war, the Armed Forces of the United States "may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances."

The first three categories are codifications of the emergency powers of the President, as intended by the Founding Fathers and as confirmed by subsequent historical practice and judicial precedent. Thus, subsections (1), (2), and (3) of section 3 delineate by statute the implied power of the President in his concurrent role as Commander in Chief.

The authority of Congress to make this statutory delineation is contained in the enumerated war powers of Congress in article I, section 8 of the Constitution, which I cited at the outset. Most importantly, the authority of Congress to make this statutory delineation is contained in the final clause of article I, section 8, granting to Congress the authority:

> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

REPELLING ARMED ATTACK ON THE UNITED STATES

Subsection (1) of section 3 confirms the emergency authority of the Commander in Chief to:

> Repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack.

It should be noted that this subsection authorizes the President not only to repel an attack upon the United States and to retaliate but also "to forestall the direct and imminent threat of such an attack." The inclusion of these words grants a crucial element of judgment and discretion to the President. While it was thought by some that the power to "forestall" was inherent in the power to "repel," it was decided to expressly include the forestalling power to avoid any ambiguity domestically or in the eyes of any potential aggressor. Its inclusion belies the allegation of critics that the bill is "inflexible."

Nonetheless, while the President clearly must apply his discretion and judgment to the implementation of this authority, it is by no means a "blank check." For the President to take forestalling action, the threat of attack must be "direct and imminent." Moreover, he must justify his judgment on this point under the mandatory reporting provisions contained in section 4. But, and this is the point to be emphasized, the judgment is his.

REPELLING ATTACK ON U.S. ARMED FORCES

Subsection (2) further defines the emergency power of the President:

> To repel an armed attack against the Armed Forces of the United States located outside of the United States, its territories and possessions, and to forestall the direct and imminent threat of such an attack.

The authority contained in this subsection recognizes the right, and duty, of the Commander in Chief to protect his troops. Like subsection (1) it includes the authority to forestall a direct and imminent threat of attack, as well as to repel an attack. Clearly, just as the President would not have to wait until the bombs actually started landing on our soil to act against an attack upon the United States, similarly our forces would not have to wait until enemy bullets and mortars hit before they could react.

Nonetheless, it will be noted that the power to repel attacks upon the Armed Forces located outside the United States is less comprehensive in one respect than the power to repel attacks upon the United States itself. While the subsection contains the authority to repel and forestall, it does not include the separate and broader power to retaliate.

There are good reasons for this. First, it should be emphasized that the President could of course take retaliatory action if an attack upon our Armed Forces abroad was integral to an attack upon the United States. And he could do this respecting our NATO forces as part of his forestalling powers relating to an attack upon the United States. Nonetheless, the wording of this provision is meant to retain safeguards against wider embroilment resulting from incidental attacks upon U.S. forces, or attacks resulting from provocative actions by local U.S. commanders. Thus, for instance, an attack upon a Marine Guard at our Embassy in Nepal would not trigger an authority to retaliate by seizing the country. Likewise, for instance, a sneak attack on security guards at one of our airbases in Thailand would not trigger an authority to retaliate by launching search and destroy missions into Northern Laos.

PROTECTING U.S. CITIZENS ABROAD

Subsection (3) codfies that the authority of the President to rescue U.S. citizens and nationals abroad—and this would include foreign soil as ships or planes on or over the high seas. By defining the circumstance and procedures to be followed, this subsection is a conscious movement away from some of the excesses of 19th century gunboat diplomacy. The language of this subsection is as follows:

> To protect while evacuating citizens and nationals of the United States, as rapidly as possible, from any country in which such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control; but the President shall make every effort to terminate such a threat without using the Armed Forces of the United States, and shall, where possible, obtain the consent of the government of such country before using the Armed Forces of the United States to protect citizens and nationals of the United States being evacuated from such country.

NATIONAL COMMITMENTS

Subsection (4) is perhaps the most significant part of the bill. For, while subsection (1), (2), and (3) codify emergency powers which are inherent in the independent constitutional authority of the President as Commander in Chief. Section 3(4) deals with the delegation by the Congress of additional authorities which would accrue to the President as a result of statutory action by the Congress and which he does not, or would not, possess in the absence of such statutory action.

The language of section 3(4) reads as follows:

> Pursuant to specific statutory authorization, but authority to introduce the Armed Forces of the United States in hostilities or in any such situation shall not be inferred (A) from any provision of law hereafter enacted, including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in such situation and specifically exempts the introduction of such Armed Forces from compliance with the provisions of this Act, or (B) from any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of this Act. Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such Armed Forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities. No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation, within the meaning of this clause (4); and no provision of law in force at the time of the enactment of this Act shall be so construed unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in any such situation.

The key phrase in this subsection is contained in its initial five words: "Pursuant to specific statutory authorization." The rest of the subsection is an explanation, elaboration and definition of the meaning—for the purposes of the bill—of the words "pursuant to specific statutory authorization." in an important sense, this subsection gives lesiglative effect to Senate Resolution 85, the national commitments resolution adopted by the Senate on June 25, 1969, a vote of 70 to 16 which states:

> That a national commitment by the United States to a foreign power necessarily and exclusively results from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment.

The significance of subsection (4) is multiple. First, it establishes a mechanism by which the President and the Congress together can act to meet any contingency which the Nation might face.

There is no way to legislate national wisdom, but subsection (4) does provide important protection to the American people by requiring that the Congress, as well as the President, must participate in the critical decision to authorize the use of the Armed Forces of the United States in hostilities, other than hostilities arising from such "defensive" emergencies as an attack upon the United States, our Armed Forces abroad, or upon U.S. citizens abroad in defined circumstances. It provides as much flexibility in the national security field as the wit and ingenuity of the President and Congress may be jointly capable of constructing.

Subsection (4) places a big responsibility upon the President, as well as the Congress. The initiative in generating "specific statutory authorization" to meet contingencies and developing crises may, in most instances, come from the President. As the conductor of foreign policy, with all the information and intelligence resources at his command, it will be incumbent upon him to present the case to the Congress and the Nation.

There is a clear precedent for the action anticipated in subsection (4)—the "area resolution." Over the past 2 decades, the Congress and the President have had considerable experience with area resolutions—some of it good and some quite unsatisfactory. In its markup of the war powers bill, the Foreign Relations Committee considered this experience carefully in approving the language of subsection 3(4). The intent of the final clause of subsection (4) is to uphold the validity of three area resolutions currently on the statute books. These are: the Formosa resolution—House Joint Resolution 159 of January 29, 1955; the Middle East resolution—House Joint Resolution 117 of March 9, 1957, as amended; and the Cuban resolution—Senate Joint Resolution 230 of October 3, 1962.

The best known—and most controversial—of the area resolutions, the Tonkin Gulf resolution—House Joint Resolution 1145 of August 10, 1964—was repealed as of January 12, 1971.

The question may be asked: what is to guard against the passage of another resolution of the Tonkin Gulf type?

The answer is that any future area resolutions, to qualify under this bill as a grant of authority to introduce the Armed Forces in hostilities or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, must meet certain carefully drawn criteria—as spelled out in the language of subsection (4). The pertinent language is:

> Unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in such situation and specifically exempts the introduction of such Armed Forces from compliance with the provisions of this Act . . .

In other words, any future area resolution must be a specific grant of authority which would contain a direct reference to the bill now under discussion. The phrase "exempts . . . from compliance with the provisions of this act" is included to insure that the precise intention of the grant of authority is clearly established with reference to the war powers bill. The exemption could of course establish other procedures—or it could reaffirm all, or part, of the provisions of S. 2956. The bill thus allows for as much flexibility with respect to handling of any developing crisis or sudden emergency as the Congress and the President may jointly deem prudent.

Clearly, both the President and the Congress will have much to do, following the passage of this bill. First, Congress will have to review closely the three area resolutions which are left standing by the provision of subsection (4). Legislation to terminate those resolutions has already been introduced.

As a first step in the mental attitude of partnership which will be brought about by this bill, the administration should review the world situation carefully and take the initiative in coming to the Congress with recommendations respecting the existing area resolutions—as well as recommendations for any new ones which the President may feel are needed for our national security.

As regards the three existing area resolutions which continue to qualify under subsection (4), the Nixon administration, in another context, has said it did not rely on the resolutions and has taken the following position:

> As a functional matter, [the area] Resolutions have no continuing significance in the foreign policy formulation process, and it is for Congress to determine whether they should be terminated or simply allowed to fade away.

With the new situation that would follow the adoption of the war powers bill, a new approach would be required of the Executive.

At this point, I should draw attention to the fact that requests for new authority, pursuant to subsection (4), do not qualify for the "congressional priority provisions" contained in section 7. However, it is contemplated that congressional consideration of new subsection (4) grants of authority can generally be undertaken in the absence of an imminent threat or emergency in a deliberative way, including committee hearings. The point here is to obviate a repetition of the unfortunate experience of the Congress with the Tonkin Gulf resolution, which it was later realized went through the Congress without enough inquiry in the respective committees and in the related floor debate, for it was confirmatory not plenary; and more a gesture of solidarity with the President than a decision on war by the Congress.

RENEWING CLOSE CONSULTATION

Not only must the Congress be prepared to play its role in the war powers area with wisdom and foresight—but with great responsibility.

And, an important new responsibility is also placed on the executive branch. Last minute "crunches" can be avoided by a renewal of the earlier practice of continuing close consultation between the executive branch and the relevant committees of Congress. The Executive will be obliged to make the Congress, again, its partner in shaping the broad, basic national security and foreign policy of the Nation well in advance of the exercise of the war power.

CONGRESSIONAL AUTHORITY AND PRESIDENTIAL FLEXIBILITY

Some have argued that seeking congressional authority to use the Armed Forces with respect to developing crisis situations would deprive the President of flexibility—or introduce ambiguity—in the conduct of foreign policy during crisis situations. It is said that the President would have to "telegraph his punches" and thus remove surprise from his diplomatic arsenal.

This charge does not stand up under scrutiny. First, the President would not be compelled or obliged to use the Armed Forces just because the Congress granted him the authority to do so. This could be made clear to the entire world through the public media facilities at the President's command, as well as through the diplomatic channels at his command.

Moreover, it is just not true, as some critics of the bill have alleged, that the passage of this legislation would inhibit the President's capacity to move elements of the fleet anywhere on the high seas. To give a specific example, there is nothing in the bill which would have affected the President's decision to move elements of the 6th Fleet into the eastern Mediterranean during the recent Jordanian crisis. The right of U.S. naval forces to operate freely anywhere in international waters would not be abridged by this bill. Moreover, the capacity of our Armed Forces to rescue U.S. citizens stranded or threatened on the high seas would not be restricted by the bill.

An important provision of subsection (4) is contained in its first qualifying clause (A). As stated in the committee report, the purpose of this clause is to overrule the Orlando against Laird decision of the second circuit court, which held that passage of defense appropriations bills, and extension of the Selective Service Act, constituted implied congressional authorization for the Vietnam war.

TREATIES

One of the most far-reaching aspects of subsection (4) is its provisions respecting treaties. Throughout the past two decades there has been continuing confusion, debate and controversy respecting a crucial phrase that is standard in our Nation's collective and bilateral security treaties; that phrase is that implementation of such treaties, as to involvement of U.S. Forces in hostilities, will be in accordance with the "constitutional processes" of the signatories.

In an important sense, subsection (4) defines "constitutional processes" for the first time, as it relates to treaty implementation by the United States. The definition of "constitutional processes" respecting treaty implementation is both negative and positive.

Subsection (4) makes a finding in law that no U.S. security treaties can be considered self-executing in their own terms. With respect to existing treaties the bill states:

> No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation. . . .

Additionally, the subsection states that authorization for introducing the Armed Forces in hostilities shall not be inferred:

> From any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of this Act.

It is important to bear in mind that these negative findings with respect to treaties must be considered in conjunction with the authority of the President in subsections (1), (2) and (3). The authority contained in those subsections is in no way abridged or diminished by the negative finding on treaties per se.

Moreover, as the language of the subsection makes clear, the bill envisages the adoption of treaty implementation legislation, as deemed appropriate and desirable by the Congress and the President. Such implementing legislation would constitute the authority "pursuant to specific statutory authorization" called for by subsection (4).

There are two principal reasons for including these provisions with respect to our collective and bilateral security treaties. First, is to insure that both Houses of Congress must be affirmatively involved in any decision of the United States to engage in hostilities pursuant to a treaty. Treaties are ratified by and with the consent of the Senate. But the war powers of Congress in article I, section 8 of the Constitution are vested in both Houses of Congress and not in the Senate—and President—alone. A decision to make war must be a national decision. Consequently, to be truly a national decision, and, most importantly, to be consonant with the Constitution it must be a decision involving the President and both Houses of Congress.

Second, the negative findings with respect to treaties is important so as to remove the possibility of a future issue of bitter contention such as arose with respect to the SEATO Treaty and the Vietnam war.

Treaties are not self-executing. They do not contain authority within the meaning of section 3(4) to go to war. Thus, by requiring statutory action, in the form of implementing legislation or an area resolution of the familiar type, the war powers bill performs the important function of defining that elusive and controversial phrase—"constitutional processes"—which is contained in our security treaties.

Subsection (4) contains one additional important provision. It states:

> Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

As explained in the committee report, the purpose of this provision is "to prevent secret, unauthorized military support activities." Senators conversant with the major debates of the past 5 years will recognize that this provision is designed to prevent a repetition of many of the most controversial and regrettable actions of the past two administrations in Indochina. For, we know that the ever deepening ground combat involvement of the United States in South Vietnam began with the assignment of U.S. "advisers" to accompany South Vietnamese units on combat patrols. Soon, such U.S. advisers were authorized to shoot, first in self-defense, and later, without restriction. And, in Laos, secretly and without congressional authorization, U.S. "advisers"—frequently members of the Armed Forces on "loan" to the CIA—have been deeply engaged in the war in northern Laos.

We now have the anomalous situation in Cambodia where, despite legislative prohibitions against the introduction of U.S. advisers, we find that Cambodian forces are being trained in South Vietnam and then are accompanied back to Cambodia by members of the U.S. Armed Forces who have been training them but who are now designated as members of the military equipment delivery team. So far, I am not aware of any actions by U.S. Forces in Cambodia which would violate the provision of the war powers bill which I am now discussing. However, the press is full of reports that Communist forces are active around Phnom Penh and may soon launch an attack on the capital city itself. In such circumstances, one is concerned whether the so-called military equipment delivery teams, whose members have been training the Cambodians a few miles across the border, are likely to become involved in combat actions of the sort this provision of the war powers bill is designed to prevent unless there is specific statutory authorization to do so.

The situation in Cambodia is, of course, a hypothetical one in the context of this bill which does not apply to the ongoing hostilities in Indochina. Nonetheless, it points up the weakness of some of the previous congressional efforts to achieve similar ad hoc restrictions through what I would call the appropriations route. Here, we find that semantic dexterity on the part of the Pentagon has created a loophole which gets around the best intent of Congress. One can well question the Pentagon's insistence that it is not defying the statutory ban contained in H.R. 19911—the Cooper-Church amendment which states:

> None of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, *or to provide United States advisers to or for Cambodian military forces in Cambodia.*

CONGRESSIONAL AUTHORITY FOR PRESIDENTIAL WARS

The approach taken in the war powers bill reverses the situation by placing the burden on the Executive to come to Congress for specific authority. The sponsors of the bill believe that this provision will provide an important national safeguard against creeping involvement in future Vietnam-style wars. The danger of United States involvement in wars over the next decade at least would appear to be greater as regards small, "limited" brushfire, undeclared wars of obscure beginnings—such as the ones which have wracked Southeast Asia for the past several decades—than the danger of a big conventional war.

The State Department has raised the charge that this provision of S. 2956 would require the disbandment of NATO's unified command. I believe this to be a faulty and distorted reading of the legislation. It is certainly a reading which is in direct contradiction of the legislative purpose of the authors and sponsors of the bill, and in normal operation it contradicts the plain text of the bill. However, should any legitimate doubts persist on this point, following the Senate debate, the Senate could pass a specific statutory authorization for members of the Armed Forces of the United States to continue to participate fully in the NATO unified command. I would be glad to sponsor and introduce myself a joint resolution to this effect, if it should be considered desirable. Hence, it is important that we guard against any weakening of this important provision by irrelevancies which would reopen the flood gate to future Vietnams.

Section 4 of S. 2956 requires the President to report "promptly" in writing to both Houses of Congress any use of the Armed Forces covered by section 3 of the bill. The provisions of this section are clear and simple. In his report to Congress, the President is required to include—

> A full account of the circumstances under which . . . [he has acted], . . . the estimated scope of such hostilities or situation, and the consistency of the introduction of such forces in such hostilities or situation with the provisions of section 3 of this Act.

In addition, the President is required to make periodic, additional reports so long as the Armed Forces are engaged in circumstances governed by section 3. Such additional reports shall be submitted at least every 6 months.

It will be noted that the President is required to report "promptly." This word has been used in preference to "immediately" or a possible specific time limit such as 24 hours. The important thing is that the report must be prompt but it must also be comprehensive. It might take a few days for the executive branch to assemble all the facts and reports from the field, as well as to assemble the various intelligence reports and, most importantly, to prepare an informed judgment on the "estimated scope of such hostilities."

What we are looking for here is a full and accurate report of events, combined with an authoritative statement by the President of his judgment about the direction in which the situation is likely to develop. The Congress can act intelligently and responsibly only when it has the necessary information at hand. We cannot allow a repetition of the experience we had with respect to the Tonkin Gulf resolution, where we later learned that we were provided with incomplete, even misleading and inaccurate reports of what had actually occurred.

It is important to bear in mind that the reporting requirements of the bill apply independently of the provisions of sections 5, 6 and 7. There are several reasons for this, despite the fact that there inevitably will be a close de facto operational connection between the President's report under section 4 and the subsequent actions of Congress under sections 5, 6, and 7.

First, it should be clear that the President's mandatory report is not to be considered a request for an extension of authority as might be granted subsequently under section 5. Such a request can only be introduced by a Member of Congress.

Second, it is entirely possible that even a majority of the actions taken under the President's direction pursuant to section 3 will be short-lived, one-shot actions completed well within the 30-day time period, and thus requiring no extension in time of the authority spelled out in section 3.

THE 30-DAY AUTHORIZATION PERIOD

The committee report characterizes section 5 as "the heart and core of the bill." Taken in conjunction with section 3, it is just that. It is the crucial embodiment of congressional authority in the war powers field, based on the mandate of Congress enumerated so comprehensively in article I, section 8 of the Constitution. Section 5 rests squarely and securely on the words, meaning and intent of section 8, article I and thus represents, in an historic sense, a restoration of the constitutional balance which has been distorted by the practice of recent decades.

Section 5 provides that actions taken under the provisions of section 3—

> Shall not be sustained beyond thirty days from the date of the introduction of such Armed Forces in hostilities or in any such situation unless the continued use thereof in such hostilities or in such situation has been authorized in specific legislation enacted for that purpose by the Congress and pursuant to the provisions thereof.

Section 5 resolves the modern dilemma of reconciling the need of speedy and emergency action by the President in this age of instantaneous communications and of intercontinental ballistic missiles with the urgent necessity for Congress to exercise its constitutional mandate and duty with respect to the great questions of war and peace.

The choice of 30 days, in a sense, is arbitrary. However, it clearly appears to be an optimal length of time with respect to balancing two vital considerations. First, it is an important objective of this bill to bring the Congress, in the exercise of its constitutional war powers, into any situation involving U.S. forces in hostilities at an early enough moment so that its—Congress—actions can be meaningful and decisive in terms of a national decision respecting the carrying on of war. Second, recognizing the need for emergency action, and the crucial need of Congress to act with sufficient deliberation and to act on the basis of full information, 30 days is a time period which strikes a balance enabling Congress to act meaningfully as well as independently.

It should be noted further, that the 30-day provision can be extended as Congress sees fit—or it can be foreshortened under section 6. The way the bill is constructed, however, the burden for obtaining an extension under section 5 vests on the President. He must obtain specific, affirmative, statutory action by the Congress in this respect. On the other hand, the burden for any effort to foreshorten the 30-day period rests with the Congress, which would have to pass an act or joint resolution to do so. Any such measures to foreshorten the 30-day period would have to reckon with the possibility of a Presidential veto, as his signature is required, unless there is sufficient congressional support to override a veto with a two-thirds majority.

The issue has been raised, quite properly, as to what would happen if our forces were still engaged in hot combat at the end of the 30th day—and there had been no congressional extension of the 30-day time limit.

The answer is that the President, in his capacity as Commander in Chief and in accordance with his duty as Commander in Chief to protect his troops, would not be required or expected to order the troops to lay down their arms.

The President would, however, be under statutory compulsion to begin to disengage in full good faith to meet the 30-day time limit. He would be under the injunction placed upon him by the Constitution, which requires of the President that—

> He shall take care that the laws be faithfully executed.

The 30-day provision contained in section 5 thus assumes that the President will act according to law. No other assumption is possible unless we are to discard our whole constitutional system. So long as the President is acting in good faith in acting to disengage, there would be no constitutional confrontation over fighting by our forces after the 30-day period—or any other period established by statute.

Section 6 of the bill establishes that Congress may, through statutory action, foreshorten the 30-day provisions of section 5. Clearly, such action could only happen in most extraordinary circumstances wherein a President might act in blatant opposition to the national will or the national interest.

ANTIFILIBUSTER SAFEGUARD

Section 7 is an important provision of the bill which establishes strict procedures to assure priority congressional action to extend, or foreshorten, the 30-day time period as provided in sections 5 and 6. The provisions of section 7 are included to remove the possibility that action in this regard could be prevented or delayed through filibuster or committee pigeonholing.

It is important to note again that requests for authority under subsection (4) of section 3 would not qualify for the priority consideration procedures established in section 7. In other words, a Presidential request for an area resolution of the type contemplated in section 3, subsection (4) would not trigger the provisions of section 7. Such requests would be considered by Congress under normal procedures. Section 7 would apply only with respect to measures which would extend—or foreshorten—measures already previously made statutory under section 3.

To give an example, the Tonkin Gulf resolution could not have been shoved through the Congress under the priority consideration procedures of section 7. On the other hand, hypothetically, if U.S. Armed Forces were fighting in Mexico, pursuant to specific statutory authorization under section 3, to resist an invasion by the Soviet Union or Cuba, a resolution to extend the 30-day authorization period would qualify for the priority consideration procedures, if sponsored or cosponsored by one-third of the membership of the House in which it was introduced.

Finally, it should be noted that an important measure of flexibility has nonetheless been retained in section 7. Its strict, almost instant, provisions can be modified in any particular instance by a majority vote of the members of the House in which it is being considered. This is the meaning of the phrase—

> Unless such House shall otherwise determine by yeas and nays.

The significance of this "escape clause" is that in situations which clearly do not constitute a national emergency, the Congress can proceed as it may decide to, upon majority vote.

Section 8 contains a standard separability clause which simply provides that if any provision of the bill should be held invalid, this would not effect the validity of the rest of the bill.

Section 9 provides that—

> This Act shall take effect on the date of its enactment but shall not apply to hostilities in which the Armed Forces of the United States are involved on the effective date of this Act.

The purpose of this section is very clear and straightforward. The bill is not intended to apply retroactively to the Vietnam war should that war still be in progress when this act becomes effective. I am confident that the wisdom of this decision will be evident to most Senators.

CONCLUSION

The real question—and the State Department admits it—is, independently of Congress, "to what extent the President has the power to use the Armed Forces by virtue of his role as Chief Executive, as Commander in Chief, and in the conduct of foreign relations." In practice, the question has been answered over the past several decades, in effect, by no limits being placed on this alleged power of the Commander in Chief, so that the President has been able to commit the people to extended war. All he has asked from Congress is that it provide the money and the men he wants to pursue his policies. But this was almost the doctrine of Charles II or Louis XVI—not that any American President so intends it, but he is driven to it by some awful logic if this claim of power by the Executive is acquiesced in by Congress and the Nation as valid under the Constitution. It is not valid if Congress chooses to exercise its power under the "necessary and proper" clause to define by law the President's and its own role in going to war. When the President's authority is so defined, as it will be if this War Powers bill becomes law, then the issue of authority is determined in an authoritative way, and, I have little doubt, will be carried out to the best of his ability in good faith by any American President.

There is no intention or design to deprive the President of authority essential to the security of our country. But the real point we make is, having made that decision, then what? Is that forever? When does it become a matter in which we can join either in dissent or assent?

And when action is taken to repel a sudden attack, to use the words of the Founding Fathers, what is the bracket for that action, and when does it become a war to which the United States is committed, and in which the Congress ought to have a share before we go that route?

That is a very different thing from reacting to a distinct situation as required in the best judgment of the President. But we do not deprive him of the power to implement his best judgment. We do set a bracket. That is 30 days. There is no magic in that figure. The important thing is that at some stage it ceases to be repelling or retaliating against an attack and becomes a basic commitment to war by the United States. That requires the concurrence of Congress. The War Powers Act seeks to insure that there can be no basic commitment to war without the concurrence of Congress, as the Constitution clearly mandates.

May I say that this bill is a composite of wisdom. It has had affirmative and activist contributions in a prime sense by the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished Senator from Missouri (Mr. EAGLETON), the distinguished Senator from Virginia (Mr. SPONG)—who is now in the Chamber and is floor managing on the part of the majority and has given the bill a remarkable degree of study and attention—by the distinguished Senator from Texas (Mr. BENTSEN), the distinguished Senator from Ohio (Mr. TAFT), and other Senators.

They have really devoted themselves to enabling us, as a Senate, to put our best foot forward. Having gone through the preliminary draft and processing, the bill was then subjected to the very fine minds of members of the Committee on Foreign Relations. The ultimate product is the product, of course, of the members of that committee who have worked with us and passed on the draft with the Senators I have already mentioned, and have now brought it to the floor of the Senate.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SPONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPONG. Mr. President, before I begin, I should like to commend the Senator from New York for his intiative in this legislation. The Committee on Foreign Relations has had occasion during the past year to consider at least five or six resolutions dealing with the question of the war powers, but it was the Senator from New York who in 1970 introduced the first bill of this nature. In doing so, I think he directed the attention of the Senate and the Nation to the necessity for giving consideration to this very important area of constitutional authority.

The Senator from New York has very ably opened this debate today. Regardless of what type of legislation we end up with in this body, it was he who initiated the collective effort that has resulted in this bill being before the Senate today.

Mr. JAVITS. If the Senator will yield, I thank him for his generosity. Without the gifted intervention of the Senator from Virginia, the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. BENTSEN), and others, I could have gotten absolutely nowhere. Also, there was the creative genuis of the Committee on Foreign Relations, of which the Senator from Virginia is a member, in actually putting together the final package. The Senator will recall that the committee made very extensive changes in what I proposed.

Mr. SPONG. I thank the Senator from New York.

Mr. President, I am pleased to be a cosponsor of the war powers legislation currently under consideration in the Senate. I believe it is among the most important legislation to come before the 92d Congress.

Constitutionally, this legislation is necessary in order that we might restore the war power to the shared power status which it was meant to have by the framers of the Constitution. It is necessary to sustain the balance of powers between the legislative and executive branches, which is a foremost principle of our governmental tradition.

Pragmatically, it seems only reasonable that the legislative body should have a major role in determining when to commit troops to conflict on foreign soil. This is especially true in view of the divisiveness which the current conflict in Southeast Asia has engendered. The representative body of this government has a responsibility to participate in future troop deployment decisions in order to seek to avoid in upcoming years unfortunate involvements and the accident of involvement, either of which could divide our people and threaten the stability of our Nation.

Constitutionally, the war power is a shared power.

Article I, section 8 of the Constitution gives to Congress power to provide for the common defense; to declare war; to raise and support—for no more than 2 years at a time—an Army and Navy; to make rules which will regulate and govern the military forces; to provide for calling out the militia to enforce laws, suppress insurrection and repel invasion.

Furthermore, the same article and section grant to Congress the authority to:

> Make all laws which shall be necessary and proper for carrying into execution the foregoing powers, "and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

As Prof. Alexander Bickel of the Yale University Law School noted in hearings on war powers legislation, the part of the necessary and proper clause underlined [quoted] above:

> Is of the greatest consequence when it comes to issues of foreign policy and of war and peace.

Article II, section 2 describes the President as:

> Commander in Chief of the Armed Forces as well as the State Militia, when it is called into service for use by the Federal Government.

Admittedly, the provisions relating to war powers are rather brief in themselves. Thus, it is necessary to review the debates of the Constitutional Convention and subsequent legal interpretations in order to understand more fully the war powers.

As is well known, the original draft submitted to the Constitutional Convention of 1787, consistent with the Articles of Confederation, gave to Congress the power to "make war." James Madison's notes on the debate over this particular clause provide insight into the intent and near unanimity of the framers. In the course of those debates, Charles Pinckney of South Carolina expressed his belief that the Senate would be the ideal depositary of the war power inasmuch as each State had an equal interest in the security of the Nation, and because the Senate was better "acquainted with foreign affairs, and most capable of proper resolutions."

On the other hand, Pierce Butler, also of South Carolina, believed Senate deliberations to be too slow and cumbersome. He preferred vesting the war power in the President, who "will not make war but when the Nation will support it."

As to the extent of authority the President should possess, Mr. Madison and Mr. Elbridge Gerry of Massachusetts moved to insert "declare" in the place of "make" war, leaving to the Executive the power to repel sudden attacks. Although this change was objected to as providing the President with the authority to commence war, it was agreed to by a vote of 8 to 1.

Later, in 1789, Thomas Jefferson, evidently assured that the warmaking powers of the President had been limited, wrote to Madison:

> We have already given in example one effectual check to the Dog of War by transferring the power of letting him loose from the executive to the legislative body, from those who are to spend to those who are to pay.

The foregoing discussion suggests two things. One, there can be no question that Congress was to have the right to initiate hostilities. Two, there is a distinction between making war and repelling sudden attacks, between offensive and defensive actions.

A careful reading of the Federalist confirms the latter point. Involvement of the Nation in any type of war, other than one of self-defense, was to be solely the responsibility of Congress. If the Nation were suddenly attacked or invaded, the President would respond to repel the attack, but Congress would decide the nature of the action to follow—action which should come only after a collective judgment had been made by those directly elected as representatives of the people.

The constitutional power of the executive to repel sudden attacks without congressionial authorization has always been acknowledged by the Court. This power to wage defensive war was expanded in Martin against Mott when Justice Story said:

> The power thus confided by Congress to the President, is, doubtless, of a very high and delicate nature. . . . But it is not a power which can be executed without a correspondent responsibility. It is, in its terms, a limited power, confined to cases of actual invasion, *or of imminent danger of invasion*. If it be a limited power, the question arises, by whom is the exigency to be judged of and decided? . . . We are all of opinion, that the authority to decide whether the exigency has arisen, belongs exclusively to the President, and that his decision is conclusive upon all other persons. We think that this construction necessarily results from the nature of the power itself, and from the manifest object contemplated by the act of Congress. The power itself is to be exercised

> upon sudden emergencies, upon great occasions of state, and under circumstances which may be vital to the existence of the Union. (Emphasis added.)

The view that once the country is attacked, the President may take action without further authorization from Congress, received approval during the War Between the States when, in the Prize cases, the Supreme Court held valid President Lincoln's proclamation of a blockade of the South. Of the President's powers, the majority opinion said:

> He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority.

In United States against Sweeny the Supreme Court said that the purpose of the Commander in Chief clause:

> Is evidently to vest in the President the supreme command over all the military forces—such supreme and undivided command as would be necessary to the prosecution of a successful war.

The case most often cited as a restriction upon the President's war powers is Youngstown Sheet & Tube Co. against Sawyer. Justice Jackson said that the President "has no monopoly of 'war powers,' whatever they are." This decision was prompted by President Truman's seizure of the steel plants during the Korean war—an action which the Supreme Court held invalid. It should be noted, however, that this case questioned the President's power over a domestic issue—labor management relations—rather than the conduct of hostilities or the commitment of troops.

A natural corollary of the power to repel invasions is the power to protect against imminent attack. Again, as Professor Bickel noted during committee hearings:

> The "sudden attack" concept of the framers of the Constitution denoted a power to act in emergencies in order to *guard against the threat of attack, as well as agains the attack itself,* when the threat arises, for example, in such circumstances as those of the Cuban missile crisis of 1962. (Emphasis added.)

A similar corollary is that the President can protect U.S. forces lawfully stationed abroad. In discussing U.S. troops attached to NATO, for example, Professor Bickel said:

> I would think that any attack that came which he (the President) considered was in fact or carried the threat of an attack on our forces in Europe—which, I take it, was one of the reasons we have kept forces in Europe, this screen idea that they represent—or any attack that, even without there being forces there, in which he found implicit the threat of an attack on us, he could react to.

Turning to other judicial interpretations of the war powers, one finds that the Supreme Court has not often taken the opportunity to define or limit the warmaking power. There is little disposition by the Court to consider "political questions," and one may safely predict that if balance is to be re-created in in the war-making process, it will be without benefit of judicial guidance.

The Supreme Court, as we know, has denied certiorari in many cases challenging the validity of the war in Vietnam. It left standing a ruling by Chief Justice Burger, then Judge of the Circuit Court of Appeals for the District of Columbia, in which the Court stated:

> The fundamental division of authority and power established by the Constitution precludes judges from overseeing the conduct of foreign policy or the use and disposition of military power; these matters are plainly the exclusive province of Congress and the Executive.

There are, however, decisions that should be noted—most of them in the early years of the Nation. In Penhallow against Doane the Supreme Court suggested that the war power was not dependent upon the specific provisions in the Constitution.

In Bas against Tingy, the Court held that Congress could declare war as a public or perfect war or as a limited or imperfect war, a thought expounded a year later in Talbot against Seeman when Chief Justice John Marshall wrote:

> The *whole powers* of war being, by the Constitution of the United States, vested in Congress, the *acts of that body alone* can be resorted to as our guides in this inquiry. It is not denied, nor in the course of the argument has it been denied, that *Congress may authorize general hostilities,* in which case the general laws of war apply to our situation; or *partial hostilities,* in which case the laws of war, so far as they actually apply to our situation, must be noticed. (Emphasis added.)

In Little against Barreme, the Court held that President John Adams was limited as Commander in Chief by the restrictions enforced by Congress. The three cases mentioned above all arose as a result of the undeclared naval war with France. In these opinions, the Court observed that Congress was expected to play the predominant role in the initiation and prosecution of war. The opinions complement views of the warmaking powers as expressed by the writings of the Framers of the Constitution.

The few cases concerning the war powers heard in later years have, for the most part, tended to strengthen the hand of the Executive and broaden his powers. A large number of the military actions not involving a formal declaration of war have concerned the protection of the lives and property of citizens of the United States.

In Durand against Hollins, the Court sustained President Pierce's order in 1854 to bombard Greytown, Nicaragua, because of the refusal of local officials to pay reparations for an attack upon the American consul.

In the Slaughter House cases, the Court said in 1873:

> Another privilege of a citizen of the United States is to demand the care and protection of the Federal government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government. Of this there can be no doubt, nor that the right depends upon his character as a citizen of the United States.

Other cases have sustained the right of the President to use the Armed Forces abroad for the protection of American lives and property. These precedents probably aided President McKinley in his decision to send troops to China without congressional authorization in the Boxer Rebellion of 1900–01.

It is of interest that President Eisenhower's justification for sending troops to Lebanon in 1958 was his inherent constitutional power to protect American lives and property, rather than the Middle East resolution of 1957. Protection of lives and property was likewise the supposed basis for President Johnson's dispatching of Marines to the Dominican Republic in 1965.

From the foregoing discussion, it is possible to conclude that there are certain prerogatives which constitutionally belong to the Congress and to the President. The Congress has the authority to declare war, to initiate hostilities. The President may act to repel an invasion, to protect against an imminent threat of invasion, to protect U.S. forces stationed abroad, to protect against an imminent attack on those forces and, in certain cases, to protect U.S. citizens abroad and their property. A reaffirmation of these prerogatives is included in the bill, as the Senator from New York (Mr. JAVITS) has explained.

For those who would argue that the President has war powers in addition to those enumerated in the bill, there are generally two bases for such a contention.

One basis is the executive power of the President. Article II, section 1 of the Constitution reads as follows:

> The executive power shall be vested in a President of the United States of America.

As astute a scholar as the late Edward S. Corwin has asked whether this represents a grant of power or simply a designation of office, and the question has never been resolved. I would, however, argue that the specific grant of authority to Congress to initiate hostilities abroad would preclude the use of the executive power" argument as a basis for the President's engaging in hostilities, other than those specified in the bill in the absence of congressional authorization.

A second basis which is sometimes utilized by those arguing that the President possesses war powers in excess of those mentioned in the bill is the Supreme Court decisions in United States against Curtiss-Wright Corp., supra. In the Curtiss-Wright case, Professor Bickel correctly summarized the findings for the committee as follows:

> The eloquent assertions of independent Presidential power in the "vast external realm," which was Justice Sutherland's phrase, which were largely dicta, were largely restricted to statements that the President alone can "speak or listen as a representative of the Nation;" that he alone negotiates treaties, and that the Senate cannot intrude, although it must give advice and consent ultimately; that the President has "plenary and exclusive power . . . as the sole organ of the federal government in the field of international relations," which in context must be taken as a restatement of his role as chief spokesman and chief listener, especially since the court added that the President's powers "must be exercised in subordination to the applicable provisions of the Constitution;" and that the President, and not Congress, has the better opportunity of knowing the conditions in foreign countries, because the President has his agents, and is better able to maintain secrecy. That was all. *Nothing about powers to go to war, or to use the armed forces without restriction.*

Thus far, I have dealt with very specific situations: Congress declaring war, the President's responding to an attack or to an imminent attack. In reality, however, these situations have occurred infrequently in our history. Congress has declared war only five times. Depending on how they are counted, however, the President has committed U.S. troops to hostilities outside the United States without congressional authorization 100 to 110 times.

As Prof. Henry Steele Commager of Amherst College noted in committee hearings, most of these interventions were of limited character, and almost in every instance Congress was in session and available for consultation. In general, however, Congress has not been consulted, and often not even advised, of actions taken. And, while most of the military interventions undertaken by Presidents have been of limited duration, certain actions of the Vietnam war have not fallen into that category.

Thus, it is important to ask whether the Constitution mandates a role for Congress in the making of decisions to commit military forces absent a declaration of war. I believe that it does.

First, a number of early Supreme Court decisions suggest that there are situations of war in which war has not actually been declared that there can be varying types or degrees of war. Both aspects of this question are discussed in the Eliza case—1800—as indicated by the following quotes, which were included in a legal brief prepared by the staff of the Senator from New York and printed in the hearing record:

> Justice WASHINGTON. It may, I believe, be safely laid down, that every contention by force, between two nations, in external matters, under the authority of their respective governments, is not only war, but public war. If it be declared in form, it is called solemn . . . and all the members of the nation declaring war are authorized to commit hostilities against all the members of the other, in every place and under every circumstance . . . But hostilities may subsist between two nations, more confined in its nature and extent; being limited as to places, persons and things; and this is more properly termed imperfect war; because not solemn, and be*cause those who are authorized to commit hostilities act under special authority, and can go no further than to the extent of their commission.*
>
> Justice CHASE. *Congress is empowered to declare a general war, or Congress may wage a limited war; limited in place, in objects, and in time.* If a general war is declared, its extent and operations are only restricted and regulated by the *jus belli*, forming a part of the law of nations; but *if a partial war is waged, its extent and operation depend on our municipal laws.*
>
> Justice PATERSON. The United States and the French republic are in a qualified state of hostility . . . *As far as Congress tolerated and authorized the war on our part so far may we proceed in hostile operations.*

Distinctions between different types of war were also mentioned in early cases, Bas against Tingy and Talbot against Seeman, which I discussed earlier.

A particularly significant aspect of these cases is that although they recognized that there were situations of war in which war had not been declared and although they recognized the existence of different types or degrees of war, they did not view as modifying or changing the constitutional power of Congress to declare war.

Second, from a somewhat more practical level, it is difficult, if not impossible, for the Congress to carry out its constitutional mandate to declare war, to determine when U.S. troops shall initiate hostilities abroad, if it does not have some means of influencing the deployment of troops, when hostilities are likely. Actions to deploy troops and position the Army and Navy can—and indeed have—rendered somewhat ineffective the power to declare war. Thus, if Congress is to reactivate its constitutional responsibility in this area, it must adopt the procedures which will give it a role in those circumstances which would necessarily or likely lead to war.

The "necessary and proper" clause as mentioned by both the Senator from New York (Mr. JAVITS) and the Senator from Missouri (Mr. EAGLETON) in their remarks, permits the Congress to enact such legislation. As Prof. Richard B. Morris of Columbia University noted in hearings before the committee:

> Since Congress was given, under the Constitution, the right to declare war, it has the right to pass enabling legislation to indicate just what war is.

In other words, Congress has the right to pass legislation which will enable it to carry out its constitutional responsibility.

But the necessary and proper clause goes even further than this. In addition to permitting Congress to make the laws necessary and proper for implementing its own powers, it is authorized to make laws necessary and proper for carrying into execution "all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Thus, as William D. Rogers, of the Arnold and Porter law firm, noted in committee hearings, Congress "has had the authority under the necessary and proper clause to lay down legislation with respect to the exercise of the President's Commander in Chief power."

There are Court opinions which would appear to sustain this conclusion. The quotes from the Eliza case mentioned earlier include references to "authorizations" and "extent of commission." The Flying Fish decision, 1804—suggested that the President is limited in the exercise of war powers by the restrictions imposed by Congress. The Prize Cases, 1863—insisted upon congressional authorization as the basis for Presidential war powers. Ex Parte Milligan, 1863—may be interpreted as suggesting that some war powers cannot be granted to the President without congressional authorization.

Furthermore, in the Youngstown Sheet & Tube Co. against Sawyer, 1952—Justice Clark cited the Flying Fish opinion as the basic, general judicial pronouncement on the allocation of powers between Congress and the President. In the Youngstown decision, Justice Clark noted:

> (I)n the absence of . . . action by Congress, the President's independent power to act depends upon the gravity of the situation confronting the nation . . . (but) where Congress has laid down specific procedures to deal with the type of crisis confronting the President, he must follow those procedures in meeting the crisis.

Thus, the pending legislation is consistent both with Congress' authority to enact enabling legislation to permit it to carry out its constitutional function to declare war and to prescribe legislative procedures for the Executive department to carry out its constitutional functions. As Professor Morris also noted, "there is a long history of Congress exacting a certain measure of Executive accountability in legislation."

Mr. President, in previous statements on this legislation, I have noted that Congress cannot modify the Constitution by the passage of legislation to redefine the war powers; it cannot by passing a law either add to or diminish the powers which were ascribed either to the President or to Congress by the Constitution.

But Congress can, by the adoption of appropriate legislation, serve notice on the President—any President—that it intends to use the war-making powers which were granted to it by the Constitution. And, Congress can establish the structures which will facilitate legislative-executive exercise of the war powers which each has been granted and legislative-executive cooperation in a field which so deeply affects the future of all the American people.

The U.S. involvement in Korea and in Vietnam has meant the commitment of a quarter to a half million young men to military actions on foreign soil thousands of miles from home. There may, unfortunately, be cases in the future when our servicemen will again have to be committed in that number. But, should those circumstances arise, I believe our Nation would be far better off to have guidelines and a process for deciding whether or not to make such a commitment. I believe our Nation would be far better off to have a decision resulting from deliberations in both the legislative and executive branches of the Government, as envisioned by the authors of the U.S. Constitution.

For these reasons, it would be helpful to have legislation which spells out the constitutional authority of the President alone to act militarily. Certainly, this authority includes the power to repel a sudden or imminent attack on the U.S. and its forces, to carry out certain operations once hostilities are underway and, in most circumstances, to act to protect the lives of American nationals living abroad.

But, I believe that it would also be helpful to specify the role expected—and indeed, constitutionally required—of our representatives in Congress, especially insofar as an initial commitment to hostilities is concerned. And I believe it would be helpful to have a set of procedures for facilitating the exercise by both the executive and legislative branches of the war powers which the Founding Fathers granted to each.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SPONG. I yield.

Mr. JAVITS. Mr. President, I wish to thank the Senator very much for this statement. I wish to call to the attention of the Senate the erudition in the cases, and the applicability of the cases to the constitutional interpretations which we seek in this legislation, the most extraordinary gifted effort which the Senator from Virginia (Mr. SPONG) has made, and which is the subject of the law journal article he wrote. I think it is a major contribution to the debate. It is very much in character with the elevated level which I hope this particular legislation will enjoy throughout its consideration in the Senate.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. JAVITS. I suggest to the Senator from Kentucky that the Senator from Wyoming has been waiting to address the Senate. I gather he is under some time pressure, but if he does not intend to speak too long I would suggest that he yield to the Senator from Kentucky for 3 minutes.

Mr. McGEE. Yes, indeed. I am happy to yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I thank the Senator from New York and the Senator from Wyoming for their courtesy. I have filed individual views which were printed in the report of the Committee on Foreign Relations. I ask unanimous consent that my individual views may be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COOPER. Mr. President, I rise to congratulate my colleague, the distinguished Senator from New York (Mr. JAVITS) first, for his scholarly and informative speech, sustained by eminent authorities, its good judgment, study, and precision with which all of us have become so familiar, as characteristic of the Senator's work. He engaged in a Herculean task in the development of the bill and it grew from his initiative. It was supported by the distinguished junior Senator from Virginia (Mr. SPONG), whom I also congratulate for his speech and for his contributions, and also the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), and others.

However, I think we would all agree that it was the initiative, the continued force and drive, and the direction of the Senator from New York (Mr. JAVITS) which has brought this historic bill before the Senate. I believe the measure will have, and that it should have, full discussion and debate. It is most important that the Congress delineate and codify the separate warmaking power of the President and the Congress, a power which can claim the resources of our country, the material, and more important, the human resources, those who must fight.

Those who testified in the hearings, cited by the Senator from New York, and the references of the Senator from Virginia, to comments made by those who wrote our Constitution, provide an historic and solid base for our work. The experience of past years the ways we have become engaged in wars, also support and sustain the need for the bill which has been laid before the Senate.

I am sure that all of us who have studied the measure and thought about it have some questions, and I know that the distinguished Senator from New York would expect questions and he would want them to be fully considered and debated. I have several questions I wish to note today, and which I will elaborate on later during the debate.

I have raised a question, in my individual views, relating to the 30-day period. It seems to me that if the President acts constitutionally, under the terms of the War Powers Act, and the precedents we have studied and known, in taking action to repel attacks upon our forces or our country, on the first day, and those same circumstances were still in force on the 30th day or thereafter, he could not be deprived or relinquish his constitutional right. He could not do so, because of his constitutional right as defined in this bill and precedents, and also because it would be his duty under the Constitution to protect our country and our forces.

But I do not intend at this time to offer an amendment to strike the 30-day provision, because I think, as the Senator from New York (Mr. JAVITS) has so properly and fairly said, the bill provides ample discretion to the President. While he must address himself to the bill enacted by the Congress and must take it into consideration, I believe that if he finally determines that such action as he may take does not extend beyond what the bill describes as his constitutional power to protect the country, or our forces, he would not be constitutionally precluded.

There are two other portions of the bill about which I have reservations.

One is the section dealing with the assignment of our Armed Forces abroad, particularly with respect to NATO, which I will discuss next week.

Another relates to the treaties to which we have become a signatory since World War II—a large number of them, affecting about 42 countries. I find myself thoroughly in accord with the Senator from New York, on his central proposition that they are not self-executing.

I have argued for years that the "constitutional process" specified in the treaties means the joint action of the President and the Congress and I believe this is required in all cases except those of imminent danger. But if a situation of imminent danger to our forces or our country should occur by an attack on a treaty partner, then I think the President would have the authority through "constitutional processes"—his constitutional power—to take necessary steps to defend our men or our country.

I do not want to delay other speakers. I will speak in more detail on these issues next week. I have wanted to emphasize that the bill is necessary legislation, first, because we should not become engaged in wars unless it is clear that we must go to war to protect our national security, our forces, and our country, particularly when the engagement in any war might lead to the use of nuclear weapons, which would destroy our civilization as we know it.

This is a bill of the greatest importance, and I again want to give my thanks, as one individual Senator, to the great initiative and undertaking of the Senator from New York (Mr. JAVITS) and his colleagues who have worked so wonderfully on this bill.

EXHIBIT 1

INDIVIDUAL VIEWS OF SENATOR JOHN SHERMAN COOPER

I submit by individual views in order to join with others in a deserved tribute to Senator Javits for his leadership and magnificent work in developing and presenting to the Senate the historic legislation embodied in S. 2956. As the Report so properly states, much credit should go to other members of the Senate, whom the Report names, who have submitted bills and their views upon the purpose of S. 2956 "to make rules governing the use of the armed forces of the United States in the absence of a declaration of war by the Congress". And, as the Report states, great credit is due Senators Stennis, Spong, and Eagleton for their active participation with Senator Javits in the final development of the bill.

I desire also to raise some questions about the provisions of the bill and about one theme of the Report, excellent and comprehensive as it is.

Senator Javits and his co-workers have done a remarkable and invaluable work in codifying the constitutional powers of the President and the Congress respecting the engagement of the armed forces of the United States in war. Assisted by the testimony and views of eminent constitutional authorities, S. 2956 may be the most authoritative and incisive delineation of these powers.

Despite my support of the bill, I have difficulty with Sections 5 and 6 which read as follows:

THIRTY-DAY AUTHORIZATION PERIOD

SEC. 5. The use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act shall not be sustained beyond thirty days from the date of the introduction of such Armed Forces in hostilities or in any such situation unless the continued use thereof in such hostilities or in such situation has been authorized in specific legislation enacted for that purpose by the Congress and pursuant to the provisions thereof.

TERMINATION WITHIN 30-DAY PERIOD

SEC. 6. The use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act may be terminated prior to the thirty-day period specified in section 5 of this Act by an Act or joint resolution of Congress.

The Committee Report, quoting the late Justice Robert H. Jackson's concurring opinion in *Youngstown Sheet and Tube Company* v. *Sawyer*, 343, U.S. 579, states there is a "zone of twilight" between the distinct areas of the Presidential and Congressional war powers. I believe this statement, reinforced by many authorities, to be correct and that it is impossible to determine in every case the exact limits of the President's power to engage the armed forces of the United States in hostilities.

For this reason I doubt that the Congress has the authority to limit the exercise of Presidential authority to an exact term, such as the "30 days" prescribed by Sections 5 and 6 of the bill. If the President's exercise of authority is constitutional under Article II, Section 2 of the Constitution, that is—

"The President shall be Commander in Chief of the Army and Navy of the United States and of the Militia of the several States, when called into the actual service of the United States—"

I do not believe S. 2956—a statute—could prevail over his constitutional authority if he should determine that a period of time longer than 30 days would be necessary to carry out his responsibility as Commander-in-Chief of the armed forces of the United States to protect the armed forces, and the security of our country. My study of the powers of the Congress to limit the action of the President of the United States indicates that the denial of funds by the Congress is its only certain power.

On this issue, Professor Alexander Bickel of the Yale University Law School, in his excellent testimony stated:

"I am open to questions, Mr. Chairman, concerning specific provisions in the bills the committee has under consideration. I will say in general only—on the one hand—I don't think the President can be deprived of his power to respond to an imminent threat of attack—as well as to the attack itself—on the United States or on troops of the United States lawfully stationed wherever they may be, nor I believe can he be deprived of the power to continue to see to the safety of our troops once they are engaged, even if a statutory 30-day period has expired. In these respects, the Javits and Eagleton bills raise constitutional problems, if one can call them that, which are, however, soluble I believe by simple redrafting. I do think that Congress can govern absolutely, absolutely, the deployment of our forces outside our borders and that Congress should undertake to review and revise present dispositions. In this fashion, the eventuality of an attack or threat of attack against our forces can be indirectly provided for.

"On the other hand, I think that a generalized, prospective delegation by Congress to the President of the power to go to war in aid of our allies pursuant to treaty commitments gives away more of its own power than Congress may constitutionally give away by so broad a delegation—or at any rate, a delegation which it is possible to construe all too broadly. In this respect, I would favor amendment of the Javits bill."

When S. 2956 was under final consideration in the Senate Foreign Relations Committee, it was agreed that members who desired to offer amendments would do so in the Senate when the bill became the pending business. I propose three amendments which I believe would strengthen the purposes its sponsor intended.

The first amendment I suggest is that the language "by statute, or concurrent resolution of both Houses of Congress, specifically authorizing the use of the armed forces of the United States", should be incorporated in Section 3(4). This language supports the National Commitments Resolution, S. Res. 85, which was passed by the Senate on June 25, 1969, by a vote of 78–16, and the purpose of the bill.

The second amendment I propose is based upon the position that the War Powers Act should take force immediately upon enactment. I therefore suggest that Section 9 should be amended to provide only that "This Act shall take effect on the date of its enactment". If the bill states correctly the separate constitutional powers of the Executive and the Congress, it should apply to the hostilities in which the United States is now engaged in Southeast Asia.

The third amendment would propose a procedure by which the Congress would be called into session to consider the use of the armed forces of the United States in hostilities. This procedure would require that the Congress meet promptly to consider situations which involve the use of United States forces in hostilities, or could involve the use of United States forces in hostilities. I have stated above that there is a constitutional question as to whether the Congress can limit action by the Executive to 30 days, or any period of time, except by the denial of funds, but the requirement by law for a prompt meeting and consideration by the Congress of any involvement in hostilities is the power and the duty of the Congress. (A proposed procedure for calling Congress into session in the form of a joint resolution will be found at the conclusion of my individual views.)

Although I question the constitutionality of Sections 5 and 6, S. 2956 would express by legislative enactment the position of the Congress that action beyond 30 days should not be undertaken without resort to the Congress for further authority. It would have the value of inhibiting military action which did not clearly represent the exercise of the constitutional authority of the President.

There is another issue to which I would like to direct attention. Section 3 of the bill states that the bill applies to all treaties "in force at the time of the enactment of this Act". This is of great importance because it is in the provisions of these treaties that the United States is most likely to become involved militarily, not only for the defense and for the security of the United States but for the defense of other countries.

I support this provision, but I consider it important that the words "constitutional processes" used in existing and in any future bilateral or multilateral defense treaties to which the United States may become a party, be interpreted in S. 2956 to affirmatively require that the engagement of United States in hostilities beyond the emergency authority of the Executive shall not be undertaken without the approval of the Congress. This is the purpose of the first amendment which I have discussed above in this statement.

Existing post-World War II defense treaties are under attack today, and I think it proper to recall the background and events under which they were entered into following World War II, and to state that at the time they had practically unanimous support of the Congress, the news media, and the people.

The collapse of the Nazi Germany brought the Soviet armies into Eastern Europe at the close of World War II. The Communist coup in Czechoslovakia in 1948, the fall of Nationalist China, the attack upon South Korea and the possibility of a thrust from Communist China toward Southeast Asia, caused great concern in the United States, Europe and Southeast Asian countries as to their security and led to the negotiation of the treaties. There were 8 of these treaties and they included 43 nations. Among them are NATO, SEATO, ANZUS, Inter-American, and bilateral treaties with Japan, Korea, the Philippines and Nationalist China.

While these treaties differ in certain respects—particularly NATO, which recites that an attack upon a vast area defined by the treaty shall be considered an attack upon all the parties—they are similar in substance. Typical is the language of the SEATO Treaty, which provides in Article I, Section 1, that:

"Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties * * * would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional process."

The term "constitutional processes" is not defined in the treaties. And the reports of the committees and the debates in the Congress on its meaning show disagreement, without definition. It was not settled whether the requirement of "constitutional processes" meant that the President, acting as Commander-in-Chief, could commit the forces of the United States to the military assistance of another treaty party, or meant that the President should consult with the Congress to determine jointly whether the commitment of military forces was essential to the security of the United States as well as that of other parties to the treaty and that the Executive would not commit our forces until the Congress had given its approval, either by a declaration of war or by a joint resolution.

During the Senate's consideration of the Korean Defense treaty in 1954, several Senators, including myself, but particularly Senator John Stennis and former Senator Watkins of Utah, insisted that the proper interpretation of the term "constitutional processes" as used in that treaty required the authorization of the Congress. There was no authoritative answer. I support such an interpretation.

The record of the hearing before the Senate Foreign Relations Committee and the debates in the Senate disclose that all of these treaties were approved by the Senate Foreign Relations Committee and the Senate with little opposition and without precisely determining the interpretation of "constitutional processes" and the commitment of the United States. Resolutions approved by Congress—some implementing certain of these treaties—uniformly provided to the Executive broad powers to involve the armed forces of the United States in hostilities, whether in the administrations of Presidents Truman, Eisenhower, Kennedy or Johnson. President Eisenhower was particularly insistent upon Congressional approval for military movements that might have involved the United States in a war. He was supported by Secretary of State John Foster Dulles who stated, in response to Committee inquiries, that the Executive would seek approval by the Congress for any such involvement. No involvement in war occurred during the Administration of President Eisenhower.

In fact, reservations offered in Committee and on the Senate floor during the consideration of several of these treaties, and amendments offered to Executive resolutions—Formosa, Middle East, Berlin, Cuba and Tonkin Gulf—to prohibit the use of the armed forces of the United States without Congressional approval were consistently opposed and rejected in the Foreign Relations Committee and in the Senate.

I present these facts because I do not concur in one underlying theme of the Committee's report—which was never discussed in Committee and never voted on—that the Executive has taken from the Congress its powers. The record, if studied, discloses that the Congress, particularly since World War II, has not only acceded to but has supported Executive resolutions requesting Congressional authority to use the armed forces of the United States, if necessary, in hostilities.

These are settled facts of history. We can change our course but we cannot revise and rewrite history.

Now the wheel has turned and, for several years, the Senate Foreign Relations Committee, the Senate, and many in the House of Representatives have been seeking to define the Constitutional basis for the appropriate powers of the Executive and the Congress. In this respect, tragic as it has been, the war in Vietnam has had a profound influence.

The "War Powers Act" of Senator Javits and his colleagues is landmark legislation. It will do much to define the situations that could result in the engagement of United States forces in hostilities, and to limit involvement. No one can foresee all the ways in which this country might become involved in war. But this bill is a significant advance, and it serves to emphasize once again that one of the purposes that the framers of the Consttiution had in mind when they constructed the system of checks and balances for the Legislative and Executive branches was to make it difficult for the United States to enter into war. With the advent of the use of nuclear weapons, hostilities could quickly lead to a nuclear exchange—a consequence that can bring an end to civilization as we know it. The War Powers Act, for these reasons, is all the more important as it addresses the necessity to implement the provisions of the Constitution which were written to forestall entry of the United States into war except after full and considered judgment by the Executive and the Congress and only when vital United States interests are at stake.

JOHN SHERMAN COOPER.

JOINT RESOLUTION

(Regarding the use of the Armed Forces of the United States in hostilities in the absence of a declaration of war by the Congress)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, in the absence of a declaration of war by the Congress, the President uses the Armed Forces of the United States in armed hostilities in any foreign country or whenever he believes that circumstances exist that make the use of such Armed Forces in a foreign country imminent, he shall immediately notify the Congress, if the Congress is in session, or small immediately notify the President pro tempore and the majority and minority leaders of the Senate and the Speaker and the majority and minority leaders of the House of Representatives, if the Congress is not in session, of the use or imminent use of such Armed Forces, as the case may be.

SEC. 2. Whenever the Congress has been notified by the President, or whenever the Congress has been convened under section 3 of this joint resolution after notification to those officers of the Congress referred to in the first section of this joint resolution, both Houses of the Congress shall proceed immediately to the consideration of the question of whether the Congress shall authorize the use of the Armed Forces of the United States and the expenditure of funds for purposes relating to those hostilities or imminent hostilities regarding which the Congress (or its officers) has been notified.

SEC. 3. Whenever the President pro tempore of the Senate and the Speaker of the House of Representatives receive notification from the President under the first section of this joint resolution and the Congress is not in session at the time of such notification, they shall (1) have authority to reconvene the Senate and the House of Representatives, respectively, for consideration of the question referred to in section 2 of this joint resolution, and (2) reconvene such Houses, after notice to all Members of Congress, not later than twenty-four hours after the President has notified the President pro tempore and the Speaker of the House of Representatives under the first section of this joint resolution.

SEC. 4. Sections 2 and 3 of this joint resolution are enacted by Congress—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (sofar as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Mr. JAVITS. Mr. President, I wish to thank my colleague from Kentucky very much. I know of no man whose approval I would more diligently seek than the Senator from Kentucky.

The Senator from Wyoming is not quite ready. In the meantime, if the Senator from Alabama had some questions to put, he might wish to use this time momentarily.

Mr. ALLEN. Mr. President, I have a series of questions I would like to propound, but the Senator from Wyoming is just outside.

Mr. JAVITS. If the Senator wanted to start asking those questions, we could break off when the Senator from Wyoming entered the Chamber.

Mr. ALLEN. I would rather not.

WAIVING RULE OF GERMANENESS FOR REMAINDER OF DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Pastore rule concerning germaneness be waived for the remainder of the day.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Geisler, one of his secretaries.

REORGANIZATION OF THE EXECUTIVE BRANCH OF THE FEDERAL GOVERNMENT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. BUCKLEY) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Government Operations:

To the Congress of the United States:

The sand is running in the glass, and the hour is growing late, for enactment of a critically needed reform, one that merits the very best support which you as legislators for 208 million Americans, and I as their Chief Executive, are able to give it

That reform is reorganization of the executive branch of the Federal Government—the most comprehensive and carefully planned such reorganization since the executive was first constituted in George Washington's administration 183 years ago. Its purpose is to make American government a more effective servant to, and a more responsive instrument of, the American people. Its method is to organize departments around the ends which public policy seeks, rather than (as too often in the past) around the means employed in seeking them.

The broad outlines of the reorganization proposals which I presented to the Congress just over a year ago are now well known. The seven domestic departments which sprang into being under pressure of necessity one at a time since 1849 would be viewed as a single system for the first time, and their functions regrouped accordingly. *The product would be four entirely new, goal-oriented departments concerned with our communities, our earth, our economy, and our potential as individuals—plus a revitalized fifth department concerned with keeping America in food and fiber.*

A Department of Community Development, a Department of Natural Resources, a Department of Economic Affairs, and a Department of Human Resources would be created to replace the present Department of Interior, Commerce, Labor, Health, Education, and Welfare and Housing and Urban Development, and Transportation. And the Department of Agriculture—under our plans as I ordered them revised last fall—would be streamlined to increase its ability to serve the farmer and so to serve us all. Several independent Federal agencies would be drawn into the consolidation process as appropriate. Further management reforms would be instituted *within* the new departments, to provide authority commensurate with responsibility at every level and to make form follow function intelligently.

ELECTING BETTER GOVERNMENT MACHINERY

I do not speak lightly or loosely in characterizing this measure as *critically needed.* To say that we must prepare government to perform satisfactorily in the years ahead is only another way of saying that we must provide for its very survival. *This Republic, soon to begin its third century, will surely grow old unless we take wise and decisive action to keep it young.* "Adapt or die"—the Darwinian choice is ours to make.

Hard evidence of this danger abounds—dismal statistics about the low effectiveness of Federal spending, case upon case of national problems stubbornly resisting national programs. "Most Americans today," as I put it in announcing these executive reorganization proposals in my 1971 State of the Union Message, and again in transmitting the detailed legislation for them, "are simply fed up with government at all levels."

For us here and now to make a strong beginning at making government work better for the ordinary citizen would hearten the Nation immensely; and it would do so honestly, by getting at the real roots of the fed-up feeling. Yet some may question whether this political year is a time when public men can afford to meet public frustrations head on. "Mollifying gestures, yes," they may say in effect, "but fundamental reform, no—at least not in 1972." Our reply should be that this is a most appropriate year to move ahead with reorganization.

For what is it, after all, that the people want and deserve from the public processes of any year, an election year especially? More effective government. One way they seek to get it is by calling the officials who run the government to account at the polls, as is being done in 1972. Another way is by regulating the Federal purse strings through their elected representatives in the Congress, as is also being done in 1972. Yet this necessary periodic scrutiny of men and money alone will not reach the heart of the problem. For it is axiomatic among those who know Washington best that, as I pointed out in my earlier message on this subject, "the major cause of the ineffectiveness of government is not a matter of men or of money (but) principally a matter of machinery." We cannot, therefore, in good conscience hold out to the people the hope that this will be a year of change for the better, if we fail to come to grips with reform of government's jerry-built mechanisms.

Institutional structure here in Washington tends to coast along all too comfortably under the protection of an inertia which does not shield elected officials and public expenditures. These last come up for renewal every one, two, four, or six years; not so the structure, which endures with little or no burden of proof for its own worthiness to continue. Now, though, the structure has been weighed in the balances and found wanting.

In less sweeping reorganizations than the one I am urging, of course, a President can institute changes through plans submitted under the Reorganization Act, whereby the burden of proof rests with defenders of the status quo. However such authority no longer extends to the creation, consolidation, or abolition of executive departments. In any event we would have felt it wise to submit so massive a reform as this one for regular statutory enactment, so as to permit consideration of amendments and to provide time for full hearings and review. *My hope now is that the Congress will honor the best spirit of democratic change by electing now, in this election year, to modernize the executive structure and redeem the flagging public faith in our ability to order our national affairs effectively.*

AN OPPORTUNITY WE MUST NOT LOSE

Considerations of practicality, equally with those of principle, make the present time the best time to move ahead on this reform. The efforts of the past several years have amassed significant momentum toward overcoming the inertia which protects obsolete institutions. My proposals of last March 25 have behind them the weight of two years' exhaustive study and analysis by my Advisory Council on Executive Organization, and behind that the substantially similar recommendations of President Johnson's Task Forces of 1964 and 1967 on Government Organization. Since I laid those proposals before the Congress, the Administration and the Government Operations Committees in both Houses have made further headway on perfecting the reform legislation. A spirit of cooperation has been established; good faith and constructive attitudes have been demonstrated on all sides. We must not let these gains go to waste.

The pace of progress so far has not been disappointing, for no measure this broad and this complex can or should be pushed through the Congress overnight. *What would be deeply disappointing, though—to me, and far more importantly to millions of Americans who deserve better than their government is now organized to give them—is to lose, in this rapidly passing Second Session of the 92nd Congress, our opportunity to record some solid achievement by creating at the very least one, and hopefully two or more, of the four proposed new departments.*

The men and women who begin a new Presidential term and a new Congress next January should not have to start over again on reorganization. They will not have to, if we push ahead now with the realism to see what is wrong with the old structures, the vision to see what benefits new forms can bring, and the courage to take the long step from old to new.

OBSOLETE STRUCTURE: HOW IT HURTS

What is wrong, and what reorganization could do to set it right, is best illustrated with two actual examples. We cannot remind ourselves often enough that this matter of government organization is no mere shuffling of abstract blocks and lines on a wall chart—that it has to do with helping real people, building real communities, husbanding real resources.

The plethora of diverse and fragmented Federal activities aimed at assisting our communities is a glaring case in point. If there is any one social concept which has clearly come of age in recent years, that concept would certainly be the idea of balanced, comprehensively planned community development. Yet where do we find this reflected in government organization? We grope toward it, as with the well-intentioned and (at the time) fairly progressive formation of a Department of Housing and Urban Development; but even that step was premised on an unrealistic, artificial, and harmful distinction between urban and rural communities. In altogether too many instances the dollars and efforts earmarked for communities end up producing more derangement than development.

This is hardly surprising when we consider that:

—A city or town may now seek Federal grants or loans for sewer or sewage treatment facilities from three departments and one independent agency, each with different criteria, different procedures, and a separate bureaucracy.

—Responsibilities for housing assistance are also entrusted to different offices in some of the same departments, and to several other entities as well.

—Highway and mass transit programs have been isolated in a separate department with only partial consideration for what such programs do to our communities, large and small, forcing us to learn the hard way that highways and mass transit must be developed integrally with land use decisions, housing plans, and provisions for other essential community facilities.

Efforts have been made to clarify agency roles on the basis of urban/rural, type of facility, type of applicant, et cetera—but the real need is for unified authority, not artificial jurisdictional clarifications. *In sum, it has become painfully clear that effective integration of all Federal activities relating to community development can be achieved only under a vigorous new Department of Community Development created expressly for that purpose.*

The conservation and development of our rivers offers another pointed example. This important trust, where stakes are high and mistakes irretrievable, has at present so many guardians in Washington that in the crunch it sometimes seems to have none at all. The Department of the Interior, the Department of Agriculture, and the U.S. Army Corps of Engineers, together with several independent agencies, are all empowered to plan river basin development, to build dams and impound water, and to control water use. Elaborate interagency coordination efforts and all good intentions have not prevented waste and error from thriving under this crippling fragmentation of responsibility. Such costly fiascos as the reservoir built by the Bureau of Reclamation for drinking water supply but severely polluted and depleted by conflicting Soil Conservation Service projects upstream have been repeated too frequently. *The answer? A unified Department of Natural Resources, where comprehensive authority to develop and manage water resources would be concentrated under a single departmental secretary.*

Additional examples of dispersed responsibility could be cited in such areas as consumer protection, manpower and job training programs, and economic development activities. In each case, obsolete departmental structures have made it difficult to move forward effectively.

Even the newest of our domestic departments, like Housing and Urban Development and Transportation, now see the challenges of the seventies and beyond outrunning their own relatively narrow mandates. Departmental missions long circumscribed by law or historical development are suddenly outgrown; departmental preoccupations with limited constituencies no longer serve the public interest as reliably as before. Too often the ability of one department to achieve an important goal proves dependent upon the authority and resources of other departments, departments which inevitably attach only secondary importance to that goal. The new Federal commitments undertaken year by year are increasingly difficult to locate in any one department—usually several can claim partial jurisdiction, but none can show full ability to follow through and get the job done.

DECENTRALIZATION AND ACCOUNTABILITY

The solution to this rapidly worsening snarl of problems is regrouping of related programs by major purpose in a smaller number of executive departments. Besides opening the way for sharp improvements in government performance, such a consolidation would make the executive branch more sensitive to national needs and more responsive to the will of the people, in two ways.

First, it would decentralize decision-making. Far too many matters must now be handled above the department level by the Executive Office of the President or within the White House itself—not because of the inherent importance of those matters, but because no single department or agency head has broad enough authority to make and enforce decisions on them. But the four new Secretaries created by my reorganization proposal would have such breadth of authority. Their resultant ability to conduct domestic policy on the President's behalf should speed, streamline, and strengthen the whole process significantly.

Comparable decentralization could also be achieved within each department. At present, too many questions can be decided only in Washington, because of the multiplicity of field organizations and the limited authority of their regional directors. By enlarging the scope of responsibility of the departmental Secretaries and by giving them the tools they need, we could facilitate broad delegation of authority to appropriate field officials. And this in turn means that citizens across the country would receive faster and better service from their Federal Government.

Secondly, the new alignment of domestic departments would enhance the accountability of Federal officials to the people. It is easy to see how the new Secretaries, each with his or her own broad area of responsibility to discharge, would be useful to the President and the Congress in monitoring compliance with direction and accomplishment of objectives. Once scattered responsibility was concentrated, today's frequently used and often quite accurate excuse, "It was the other fellow's fault," would no longer apply.

More importantly, though, whatever slack and tangle can be taken out of the lines of control *within* the Federal establishment will then result in a tightening of those same lines *between* elected Federal officials and a democratic electorate. Notwithstanding the famous sign on President Truman's desk—"The buck stops here"—there will be no stopping of the buck, no ultimate clarification of blame and credit, and no assurance that voters will get what they contracted for in electing Presidents, Senators, and Congressmen, until the present convoluted and compartmentalized Washington bureaucracy can be found anew and harnessed more directly to the people's purposes.

COOPERATING FOR REFORM

Where, then, does the reform effort stand today? I am pleased to note that the Congress, acting through its Committees on Government Operations, has held extensive hearings on my proposals; that testimony, most of it favorable, has been taken from a broad, bipartisan array of expert witnesses; and that committee work on the House side is nearly complete on the bill to establish a Department of Community Development.

For our part, we in the Administration have continued working to perfect the legislation and the management concepts set forth in my message of March 25, 1971. The Office of Management and Budget has taken the lead in working with Members of the Congress, adopting a flexible and forthcoming approach which has led to refinements in our legislation: one to clarify responsibility for highway safety, another to remove doubts concerning the reform's impact on the Appalachian Regional Commission and the Title V regional planning and development commissions, another to guarantee Community Development participation in airport access and siting decisions, and several more. They have also clarified that the reorganization need not entail any shift in congressional committee jurisdiction.

I am confident that this refinement and clarification process has improved our bills. *I pledge the fullest continuing cooperation of my Administration in seeing that the Congress has what it needs to move forward.*

COMMUNITY DEVELOPMENT AND NATURAL RESOURCES: ACHIEVABLE GOALS FOR 1972

There is still much work to do. For all the excellent hearings conducted to date, action has yet to be completed on any of the departmental bills which were sent to the Congress 370 days ago. Yet their passage by this Congress is still possible—especially for the Departments of Community Development and Natural Resources.

I would call special attention to H.R. 6962, the legislation for a Department of Community Development, which has now undergone 15 days of hearings in the House Government Operations Committee. Prompt, favorable action on this bill would represent a much-needed victory for common sense and the public good. Its defeat or emasculation would serve no interest except entrenched privilege and private advantage, and would cruelly disserve the interest of literally thousands of urban and rural communities with millions of people who are tired of waiting for Washington to get itself together and help them.

I urge all those concerned with the cause of executive reorganization to redouble their efforts to bring H.R. 6962 to my desk for signature during 1972—and, further, to press ahead on enactment of H.R. 6959, the Department of Natural Resources bill, and of legislation for the other two new departments which we need to govern effectively in the seventies.

ORGANIZING TO MEET THE CHALLENGES OF PEACE

Twenty-five years ago, when the United States was realizing that World War II had marked not the end, but only the beginning, of its leadership responsibilities in the world, a reorganization of the executive machinery in the defense area was undertaken. That reform, which created the Department of Defense, marks the only major streamlining of the Cabinet and the only departmental consolidation in our history. The new structure thus established has served America and the free world well in the challenging period since.

Now the time has come to take a similar bold and visionary step on the domestic side of national affairs. The 1960s, troubled, eventful, and full of progress as they were, were only the prelude to a period of still faster change in American life. The peace which we find increasing reason to hope will prevail during the coming generation is already permitting us to turn somewhat from the formerly absorbing necessity to "provide for the common defence," the necessity which motivated the last major executive branch reorganization.

Other great purposes now move to the foreground: "to form a more perfect Union, establish Justice, insure domestic Tranquility. . . . promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity." To serve these purposes, let us act decisively once again, and forge new institutions to serve a new America.

RICHARD NIXON.

THE WHITE HOUSE, *March 29, 1972.*

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. McGEE. Mr. President, I rise at this point on this opening day of the dialogue on the war powers bill to express some misgivings. They are basically misgivings and uncertainties, that in my judgment should give us pause about the speed with which we proceed into some ultimate decision or action in this question. But I could not proceed without saying personally to the Senator from New York and to the Senator from Virginia and other Senators who have joined in the sponsorship of this measure that the Javits bill is clearly on the highest level of any of the proposals we have been kicking around for some time, and that the tone of the conversation on it is at the level that the seriousness of the problem requires. I would simply reserve the right for ultimate judgment, because of my misgivings, and I want to explain those misgivings.

The matter we are concerned with, it seems to me, has a great deal to do with the Founding Fathers and the Constitution, but I think if we stop with the Founding Fathers and the Constitution, we then neglect a stringent measure of what the times now require.

Mr. President, I do not wish that to be misinterpreted as meaning that I am suggesting, therefore, that in the sense of urgency, we suddenly become unconstitutional. What I am saying is that I believe the proper procedure on this matter ought to be to ask ourselves, in 1972 or 1976, What ought a great power like the United States have in its structure, in its mechanism of responsibility in Government, to cope with the responsibilities of a great power in the real world?

I think that ought to be our starting point and we should, for the sake of meaningful dialogue, exclude for the moment what the times so demand and what the procedures of time itself in a nuclear age would permit us in a limited way. Having made those determinations, then we should turn to the processes of the precedents, of the Constitution itself: In what ways, if necessary, do we have to change and restructure that, and so on?

So, what I am saying, in effect, Mr. President, is that we may be holding ourselves unintentionally by starting in 1787 and proceeding down the pathways of history. I made no apology for those pathways—it is a way of life for many of us—but, rather, to ask, given the pace of events and the pressures and the timing of decisionmaking in this world, that many of us still cannot behold with total understanding, whether we are really addressing ourselves to the right question in time.

I repeat, the war powers bill of the Senator from New York, reflecting the deliberations and thoughtfulness of the Senator from Virginia, comes the closest to anything we have had so far come to grips with, but I think it may still fall short.

The bind in which we find ourselves is because of the Constitution. Because that Constitution was written not quite 200 years ago now, by a group of men who would have been the very last ones to assert that they knew for all time to come what the requirements of the future would bring. In fact, one of the early leaders of our Republic, Thomas Jefferson, even argued, in those days, that probably we ought to scrap the Constitution every 20 years and rewrite it in order to keep up with changing events in order to update it with the changing times.

Fortunately, because of the great wisdom of the Fathers, it was possible, through interpretation, court decisions, and limited amendments, to perpetuate a living Constitution instead of a static document of principles. But, having said all that, I think we are up against the real world and its realities that are imposed upon the President, upon a Senator, and upon the articles of the Constitution that prescribe the warmaking powers. We are in this particular difficulty, because the war powers under the Constitution started with the only experience and the only insight that the men of that day could command, and that was in the old-fashioned terms of what war was all about. That was in a time when you dared argue that war was an instrument of national policy; and when you decided on a war, you declared it. And so, for declaring a war, the process in a representative democracy concept, was carefully spelled out.

I would submit that what has wrought the most havoc with our feelings, with our precedents, and with our experience and history, is the emergence of quite another set of circumstances with which we are faced, whether we like it or not—and that is with the advent of nuclear capabilities around the world, we live in a time when man probably never again dare declare war, even though he may be forced, in the real world, to wage one sort of conflict or another.

This is where the Constitution has left us wanting. This is where the lines that had been carefully drawn in advance suddenly disappeared on the horizons of changing times, and where no one can be sure of the intent of the Fathers. And, moreover, it is less important what the Fathers intended at that point, and more important what the times require—now, not yesterday.

So I suggest to the Senator from New York, the Senator from Virginia, and all of those who have given a great deal of thought to this matter, that we might do well to move more slowly than we have been on this question, and dare to examine it carefully, in an imposed vacuum, for the moment, that would divorce our judgment in theory from the past, from the precedent of great court cases, from evolution of the past into the present, for the sake of testing need and for the sake of freeing us from our biases, our prejudices, our habits, and our reflexes, in order to try to make a harsh theoretical decision about what really is required in this latter third of the 20th century; and then, once having reached a delineation of those requirements, that we proceed to examine what is called for in structuring a responsible mechanism and a division of authority to cope with the threats of this day and age.

That is all my plea really is, Mr. President, and it is couched in those terms. The Founding Fathers knew nothing, but declared wars in the strife of Europe. They knew nothing about nuclear capabilities and the wiping out of the time factor in decisionmaking as a consequence; and they knew precious little, I submit further, about the responsibilities of world leadership. They were the architects of a tender new government that turned out to be one of the great experiments in the political science of man. But they could not project that into the realistic world of giants, into a world of 135 sovereign nation states, which, by their own lives and with their own capabilities, were the masters of their own policies and their own decisions, or the lack of such decisions. They could not have envisaged the operations of this simple mechanism in a world that finds most of the nations, with which we must cope in terms of tension and crisis, monolithic powers with an infinite advantage in the decisionmaking process, in some respects, that does not have to meet the conventional tests, at all times, of public opinion, committee sessions, or the extended deliberations of legislative bodies, or of the searching of public souls on a TV screen every night in the living room. These are elements that are with us which complicate the task that rests on the shoulders of every Member of this body now, as we consider how we should proceed from here.

Yesterday I placed in the Record a superb think-piece written by Prof. Eugene Rostow of Yale. Professor Rostow and Professor Bickel are great colleagues at that institution. They have some differences over this question, and their differences are on a very high level, and reflect the honest differences of men who have probed the depths of this difficult question. That in itself ought to give us pause about the speed at which we proceed in our quest for solutions on this matter.

Gene Rostow capsulized his thoughts on that particular segment that I included in yesterday's Record with the simple phrase that "great court cases do not necessarily make good law." He was trying to suggest that we ought to free ourselves from our inclinations to resort to the guideposts or the measuring sticks of the past in an attempt to arrive at a judgment that is required to be made in the present, but very much for the future.

I would urge that we not dismiss that word of caution too quickly, that we not take it too lightly. As I see the factors which have come to a head at a single moment, that tend to move us in this body to take some kind of action, and we hope wise action, they are several. One of them is the historic and traditional rivalry or jealousy, or whatever you want to call it, between the legislative branch and the executive branch of the Government. This is not new. Congress did not invent it. This generation did not invent it. It is as old as the very first President, the Father of Our Country, and yet it remains as new as today, in the contest currently going on between the Senate of the United States and the executive branch of the Government.

Nor is that partisan, as the contesting over the past decade should well illustrate. But to keep our sense of perspective about the dimensions of the question, it is important that we remind each other that the roots go back to the very founding of the Republic and, in fact, are reflected in some of the limitations written into the document we call the Constitution.

But so has this come to a head because of the events that have flowed very rapidly in the wake of World War II, because it was that war which put us, for the first time in our history, strangely, on the front line of the world in a new role—a role we had accepted as belonging to the British for long periods of recent history, or the French, or the Germans—or the Dutch or the Spanish or the Portuguese before them.

Beginning in 1945, there we were on the front line. No longer did we enjoy the luxury we had enjoyed throughout our history of the shield of the British fleet separating us from the strife of the wars of Europe. No longer did we enjoy the luxury of looking at the strife of Europe and determining which of the two sides, that generally emerged there, we might join, or which side seemed to contain the most of our national self-interest, if any. Once again, at the end of World War II, we emerged as one of two sides, whether we liked it or not.

It is this pressure, the pressure of constant crisis, as one of the giants in the world, as we have emerged in this postwar era, that occasionally panics some in our midst and worries most of us in the current day about how we most wisely must respond, how we dare assume the burdens of our time, how we arraign those along the horizon of priorities in the world around us.

So this, too, is a circumstance that brings it to a head.

Finally, that which I alluded to a moment ago, nuclear power and nuclear capabilities, has torn the calendar to shreds and has nearly invalidated the 24-hour clock. The whole world has been shrunken to the size of an orange, almost literally, because of the impact of man's technological genius or madness, however one wishes to construe it.

These are real-considerations that have brought into focus the attention of this body on this question at this time. But none of those factors has aggravated or compounded it or emotionalized it more than the experiences of the last 6 or 8 years in Southeast Asia. Let us face it: On our committee, in which ultimately has surfaced this very thoughtful piece of legislation, and in this body, in which there has been a great deal of rhetoric about Vietnam, we have climbed through the fog of bitterness and disagreement and antipersonalities and all the other human passions that have surfaced amid the frustrations of Southeast Asia to demand that we do something.

Frankly, much of what we are suggesting that we do seems still to have a tinge of trying to prevent Vietnam. For the moment, I care not about the case for or against or about Vietnam; but I am concerned with motivations. I suppose that most of us would wish there never had been one; that somehow it would go away; that perhaps it was a bad dream. But it is there, and it is real. Insofar as some of the motivations that have pressed us toward this as a possible solution have been aimed at preventing Vietnam, I think our own history again would give us cause to reexamine carefully.

We have an understandable penchant, one might say, to spend a great deal of time and energy preventing the latest war. We spend much more time trying to prevent the last war than we spend trying to avoid the next one, and the tragedy of that kind of effort has caught us up more than once.

In my own days on the campuses in the 1930's, how well I recall our great crusading efforts to bring peace to mankind! The idealists were at work. We applauded our Congressmen who were passing the neutrality laws because that meant no war. We applauded legislation in this body in the 1930's that finally pinned the rap of World War I on the bad guys—the international bankers, the munitions makers. We finally found the scapegoat, the enemy, and we passed laws in the 1930's to make sure that we would never go to war again—against Kaiser Wilhelm, in Germany, that is. Every one of these laws was tailored to prevent World War I.

Our efforts to prevent World War I in the neutrality legislation of the 1930's cost us dearly. It meant that we were looking backward, preventing something that could not be redone anyway, while the real forces of war were coming up from the opposite direction, and no one seemed to care—at the very moment in 1939 when a very distinguished member of the committee on which we all serve, the Committee on Foreign Relations, William E. Borah, of Idaho, rose in this Chamber, in the summer of that fateful year, to say:

> I don't trust the administration downtown. Their sources of intelligence are undependable. The administration tells us Europe is going to war, but I have better sources of information. My intelligence assures me there will be no war in Europe. Gentlemen, it is hot here, in Washington. Let us adjourn and go home.

The Senate went home, at the behest of William E. Borah, and Europe went to war. It went to war because, in part the United States had spent a great deal of its energy, of whatever enervation it could manufacture, to prevent a war that had been waged 25 years earlier, and seemed to care next to nothing about the war that at that very moment was already upon mankind, even though some Senators and most people had no inkling of its coming.

A great deal of our effort in the early 1940's and the early 1950's sought to correct some of the mistakes of the past. We tried to rise as a Nation to this frightening new responsibility as the leader of the world. There was great collaboration between the executive and the legislative branches. I think it fair to say that the collaborating process, with constant consultations in most instances, went right down to the troublesome events of probably the summer of 1964 and including the summer of 1964; namely, Tonkin Gulf. But because the events in that part of the world did not go as it appeared they should, the consequences of the decisions made were far less productive, the tragedies were greater, and the bloodshed ran far more deeply than anyone anticipated. An increasing number of Members of this body, for one reason or another, became embittered about the process. It was peculiarly at that moment, if I may say so, Mr. President, that we suddenly discovered the President of the United States had stolen all authority, that the Senate had been robbed of its role.

I would say, in all fairness, as a Member of this body and as a member of the Committee on Foreign Relations, that to the extent the Executive usurped a great deal of the power the bulk of it was usurped only as the Senate went along in consultations or agreed in principle, and that it is only in the hindsight of bitterness that we begin to restructure all of this as a contest for power.

I would hope, for the sake of history, that we in the Senate would be a bit more charitable toward the events of our time in attributing motivation and even in explaining the quest for power.

What this says to me, Mr. President, is that I see in a lot of the motivation—not in this bill as a bill—a culmination of the highest legislative effort to emerge so far from what started at a much lower level in a much more bitter way, to try to come to grips with this problem, and that now there is a disposition to make sure we have no more Vietnams. There is a grim determination to prevent any more Vietnams.

Mr. President, we do the country a disservice and we do ourselves a disservice in those instances where that may remain the motivation because, indeed, there will be no more Vietnams. The next crisis will be different. It will be something else, just as one of the errors made in Southeast Asia was in not putting into practice the mistakes made in Korea which became irrelevant, so efforts to address our legislative endeavors to making impossible another Vietnam not only will miss the point but we may end up missing the impact of the next crisis because we were looking at the wrong place in the wrong way and will emerge unprepared to command a decision, a position on policy, for the new crisis whenever it may come.

I do not pretend to be a prophet. None of us here would be under any illusions about his prophesying capabilities. But I would feel safe in predicting that whatever else, there are going to be more crises of frightening dimensions that will require the test of resolute decisionmaking. Therefore we should be very careful in what we put together to meet that crisis, and that we do it with all of the insight we can command.

My only reservation on the war powers bill of the Senator from New York (Mr. JAVITS) is that we still may not have come far enough with it, that we may not have captured the totality of the real crisis we will have to face in what I have several times referred to as the real world.

We have got to begin, unencumbered, in a theoretical sense, by the dialog of the Founding Fathers, unencumbered by court cases for the moment—I do not throw them out, I merely set them to the side for just a moment—unencumbered by the deep feeling of Vietnam, and unencumbered by the impassioned pressures to do something.

I think it is desperately important that we make haste slowly on this matter, and we take this first step that the Senator from New York has held before us today, and for the next several days, to continue to close in on the requisites of the world around us with the kind of procedures as close as we can to maintain our representative Republic, our representative democracy, for coping with the problems of the world, in a world of monolithic governments for the most part.

It is not only not an easy task, but it has caused men who also have worked deeply on this question and who have reflected for most of a lifetime on it, who have pursued all of the alternatives that have been surfaced in public ways, to start to entertain a genuine doubt as to whether we really have moved far enough in coming to grips with it.

My challenge would be that we dare to start with the assumption that there was no Constitutional Convention of 1787 at the moment; that we are now being called upon to convene one right now, and we will be required to come up with the best that we can in order to provide a mechanism for making policy in the foreign policy area, in a world that is very harsh in the toll it takes of our ideals, of the people that seek a genuinely better world and a more peaceful society.

So, with that, Mr. President, I will conclude these remarks today. I will have more to say at another time on this matter, as we develop the opportunity for a dialog a little further along which, I assume, would come more appropriately next week, after the Easter recess.

It is ironic that this moment we observe every year, in honor of the resurrection of the Prince of Peace, we are trying to come to grips with the realities of war, and with the fear of another war, in the hope that if we are forthright we may be able to forestall it, or ultimately to eliminate it as an instrument of policy.

The distinguished Senator from Kentucky (Mr. COOPER) a moment ago alluded to one of his misgivings, which I also hold serious misgivings, and about which there is a clear difference of interpretation, and that is the consequences of the war powers bill on our commitments—the NATO pact in particular; because I do not suppose any single agreement we have made as a world power is fraught with such implications and holds so many hopes and yet poses such serious problems in regard to intent as does NATO and the NATO doctrine.

In the course of the hearings before the committee, we spent a great deal of time trying to worry out each of the facets of the NATO Pact, trying to square it as best we could with the language of the pending legislation. One thing we could not write, and one thing very difficult to say in unvarnished rhetoric has to do with intent. So that whenever government understands and believes—and the importance is "believes"—whatever the rhetoric says, there are those who have genuine fears that the mere exercise of going through the present War Powers bill casts a shadow of doubt over the integrity of the commitments of the NATO Pact. Rather than burden myself with the details of NATO, about which I want to talk at another time, I will make it part of my remarks at this time without interruption of a more formal explanation of those matters.

This legislation is potentially devastating for the NATO Alliance because of the many questions it raises and the many questions it fails to answer adequately.

In the first place, there is the situation that could arise if the Soviet Union reimposed a blockade on Berlin and S. 2956 were the law of the land. The augmentation of U.S. forces, such as has taken place during various Berlin crises in the past, would no longer be possible. In addition, the proposed legislation would limit the President's ability to deploy U.S. forces as a show of force or a deterrent action in the event of a threat or use of force by the Warsaw Pact. Thus, for example, during a Soviet buildup declared not to be directed against the United States or U.S. forces if we did not interfere, it would not be possible to augment U.S. forces in Europe under S. 2956 because that could involve an imminent threat of being involved in hostilities. The entire Reforger concept, based on redeployment in time of crises, would become illegal. The Allied Command Europe Mobile Force and the Standing Force Atlantic—both designed to provide for a multinational NATO show of force, if one member of the alliance were threatened—could not count on U.S. participation.

Second, section 3(4) of S. 2956 would prohibit U.S. personnel in the NATO integrated commands from exercising their functions once there was an imminent threat of hostilities or actual hostilities. That section provides that—

> Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such Armed Forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

What that means, in practical terms, is that SACEUR and SACLANT could not assume command of NATO forces in time of crisis or attack before congressional action. Thus the integrated structure of the various NATO headquarters would become inoperative since they are heavily dependent on American participation at all levels. Imagine that in the midst of a buildup against the NATO countries. General Goodpaster were compelled to announce that he and his American officers were unable to carry out their responsibilities to assume a posture of readiness because the Congress had not yet acted.

Moreover, it would seem that if S. 2956 were enacted, the United States could not deploy its forces to assume a posture of readiness against the threat of armed attack upon NATO allies on whose territories U.S. forces are not deployed if the deployment could find our forces imminently involved in hostilities. This would preclude such deployments to Norway, Denmark, France, and most of Turkey and Greece.

It is not difficult to think of other shattering effects this bill would have on the NATO alliance. For example, in the event of an all-out attack by the Soviet Union against NATO, even if our own forces were directly attacked, the bill would not permit the President to take retaliatory action against the Soviet Union. This is so because under subsection (2) of section 3 of the bill, which covers attacks against U.S. Armed Forces, no retaliatory action by the President is permitted. His action would be limited to merely defending against the attack.

These kinds of limitations on the ability of the United States to participate fully and effectively in the NATO Alliance are bound to raise grave questions in the minds of our NATO allies about the steadfastness of the United States as a partner in the Atlantic Alliance. At the same time, and by the same token, there is bound to be raised in the minds of potential enemies doubts as to the ability of the United States to react swiftly in an emergency situation. Either or both of these reactions on the part of friends and enemies is likely to weaken rather than strengthen the fabric of peace in Europe.

In the eastern Mediterranean, the 6th Fleet has from time to time been deployed as a sign of U.S. interest in stabilizing a situation so that a threat of force by other powers not be allowed to decide international disputes.

This ability to use a show of force to keep the peace has been a part of our tradition since the earliest days of the Nation.

But, with Soviet bombers in Egypt and with Soviet combatant ships in the eastern Mediterranean, it takes little imagination to envisage a situation creating an imminent danger of our forces being involved in hostilities if deployed to stabilize the situation in time of crisis. This law would prohibit such a deployment without congressional approval—a requirement involving at least some delay and grave risk of increased rigidity of position on both sides.

Mr. ALLEN. Mr. President, I had hoped to be able to engage in a short colloquy with the distinguished Senator from New York at the conclusion of his remarks. If the Senator from New York would be kind enough to indulge me at this time, I would like to ask him some questions with regard to the bill.

I am sure that all Americans would like to see our country extricated from the war in Southeast Asia. I am sure that all Americans hope that there will not be a repetition of that war anywhere else on the globe.

I commend the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Virginia (Mr. SPONG), the distinguished Senator from Wyoming (Mr. McGEE), and the distinguished Senator from Kentucky (Mr. COOPER) who have already spoken with regard to the pending bill and have made their contributions to this discussion.

I feel sure that all of us, if we felt that the pending bill would accomplish what it is intended to accomplish, would be for the bill.

The questions I will ask are general in nature. I do not have the privilege of serving on the Foreign Relations Committee. I would like to elicit some information with regard to some of the provisions of the bill. It would seem that section 3 contains the main thrust of the bill, and it would seem to me that the provisions of section 3 are based on the assumption that the President has unlimited powers under the Constitution to use and to deploy the Armed Forces of the United States. It would seem that section 3 does not confer power on the Chief Executive to act in the three areas set out in the bill. But, on the contrary, it merely allows the basic and fundamental power of the Chief Executive to continue to operate in those three fields. And the limitations provided by the bill and by this section come not from the provisions of the first three paragraphs in section 3, but from what the section does not cover. Is that the understanding of the distinguished Senator from New York?

Mr. JAVITS. Mr. President, it is always dangerous to say a blanket "Yes." However, let me say "Yes" at the end of the statement rather than at the beginning, because when one adopts another Senator's views, especially in a matter of this delicacy, it can get distorted.

Mr. President, let me point out first that in the preamble contained on page 7, lines 10 through 19, we acknowledge the power as commander in chief of the Chief Executive to conduct hostilities authorized by the Congress, to respond to attacks or the imminent threat of attacks upon the United States, including its territories and possessions.

Therefore, the answer is that in subsections 1 to 3 inclusive we are confirming the implied power which it has come to be recognized that the President has, we believe—and we so state—under the Constitution.

So, four things are established by what I say. First, the power of the President to deploy troops, in the absence of their introduction, in hostilities or in situations where the imminent involvement in hostilities is clearly indicated by the circumstances.

Remember, I said before, and I say again, that is his judgment that we are going on. Even where there are hostilities or situations where he himself judges that hostilities are imminent, he still has the authority to repel armed attacks on the United States, take retaliatory action to repel attacks against the Armed Forces, and protect the lives of citizens of the United States wherever they may be.

The change which we make in what is the current claim of the President's powers is to say that we name a time and then say that the continuance of the use of our forces for those purposes ceases to be an action fully within his own exclusive constitutional power and becomes one which is maturing and of a more definitive character.

That is where we have to come in and say it is okay, because we have very important war powers under the constitution, also.

On the first of those four cases I have mentioned, there is no question in this bill about the deployment of troops in the absence of hostilities or the imminent danger of hostilities. Then there are the three cases where we ourselves confirm the implied constitutional power of the Commander in Chief. Then, of course, we interpose ourselves as a Congress and say that when in our judgment a period of time has elapsed that is so long that it has ceased to be an emergency act which we have confirmed and then we hold that it becomes a war question which brings into play our own constitutional war powers. Those powers are not "implied" powers, as the Commander in Chief's powers are. They are specifically enumerated powers listed in article I, section 8.

Mr. ALLEN. Mr. President, is it the understanding of the distinguished Senator from New York that the Congress would have the power, by confirming the President's constitutional authority, to add or detract from those powers?

Mr. JAVITS. In no way, but to delineate, yes.

Mr. ALLEN. Well, what useful purpose does it serve?

Mr. JAVITS Under the necessary and proper clause we define the length of time which we say is a reasonable time to consider his action an emergency action, which we agree he is empowered to take under the Constitution.

At the end of that time, we say it ceases to be within his constitutional power alone. We make that definition based upon a time span, we make it based on our authority under the "necessary and proper" clause, and in the exercise of our own war powers which I called attention to at the outset of my prepared remarks.

Mr. ALLEN. Mr. President, in other words, it is the theory of the bill, according to the distinguished Senator from New York, that the President under the Constitution has only the powers enumerated in the first three subsections of section 3, that many and no more.

Mr. JAVITS. He has that many in our judgment and no more when he is exercising the implied emergency powers of the Commander in Chief. But if he has more, we do not take them away. One of them that he has—which I myself confirmed, and which is not mentioned here because it need not be because no effort is made to interfere with it—is the deployment of United States forces within the United States and around the world in peace situations.

He has that authority and exercises it, and we do not challenge it. Introducing the troops into war gets into another area where Congress has its own powers, which are certainly equal in a constitutional sense.

Mr. ALLEN. Confirmation of that power is not contained in the bill.

Mr. JAVITS. It does not have to be. That is why I was able to answer the question by saying we do not attempt to confirm him in every power he has under the Constitution, only in the ones which this bill deals with.

Mr. ALLEN. In other words, the President has the powers, according to the Senator from New York, enumerated and reserved to him in the first three subsections of section 3, and he may have others.

Mr. JAVITS. That is correct.

Mr. ALLEN. But the bill does not state what he has.

Mr. JAVITS. That is correct. I will give the reason. What we are seeking to meet in this bill is imminent hostilities. We are seeking to deal only with war-making power and nothing else.

Mr. ALLEN. I would like to inquire if it is not dangerous, in the judgment of the distinguished Senator from New York, to seek to enumerate certain powers that the legislation would concede to the President, and withdraw from him or withhold from him other powers where it is difficult to anticipate every situation that might arise in the future.

Mr. JAVITS. We do not precisely for the reason that we only particularize where we feel we have a right to join and where under existing practices there is no regularization as to when and whether we do join. We find it necessary to define certain powers. As we have no need to confirm everything, we have this cover to limit other powers. We do not deal with them all. We make that clear when you combine the preamble with section 3—that is, the preamble in section 2.

Mr. ALLEN. I would like to pose a hypothetical case or two and see how the measure would apply under these powers that are confirmed in the President and the powers that by silence as to them are denied to the President.

I would like to inquire as to a hypothetical case of whether the President would be able to act in the case of the capture of a private American owned oceanliner with 2,000 American civilians as passengers, such vessel being captured by a ship or ships of the Russian fleet. Would the President have the authority to act in such cases and, if so, under what subsection?

Mr. JAVITS. The President would have the right to construe his power to act under paragraph 1 of section 3 "to repel an armed attack upon the United States, its territories and possessions," to include an attack on a U.S. ship the ground that the attack of the ship is an attack on U.S. soil, although it may be on the high seas.

Mr. ALLEN. What about a ship of a foreign registry?

Mr. JAVITS. If it were a ship of a foreign registry, then the President could act under paragraph 3 "to protect while evacuating citizens and nationals of the United States," and so on on the ground that whatever country the ship is registered in was also its soil, and that this paragraph applies because "such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control."

That language is on page 8 of the bill.

Mr. ALLEN. I see that. Would the Senator feel an American citizen on a French liner, to use the language cited, would be evacuated as rapidly as possible from any country?

Mr. JAVITS. I think that if the American citizen were in imminent danger of his life, the concept of getting him out of that danger would constitute a situation, no matter whether he was on land or on a foreign ship at sea. The meaning of the phrase is not the citizen is in a position where he should be and can be evacuated, including from a foreign country, and including a ship of that country which is, for all practical purposes, the soil of that country.

Mr. ALLEN. In other words, a passenger on a French liner would be in the process of being evacuated "as rapidly as possible" from that country?

Mr. JAVITS. My concept is when the U.S. President steps in to protect that citizen, at that point the citizen would be in the process of being evacuated.

Mr. ALLEN. What right does the United States have to step in under the Senator's legislation?

Mr. JAVITS. There are many steps a President could take, especially diplomatic. If the citizen is in danger for his life, the troops might be used under the terms of subsection (3). We stated "to protect while evacuating." In other words, if the citizen is in imminent, mortal danger, what do we do? We try to get him off the ship or in a secure position so that he may come off ultimately, secure in body, and so on. Generally, of course, this would be done by diplomatic means, not by sending in the Marines.

In my judgment that is fully covered here, if drastic, last resort action has to be taken involving use of our Armed Forces. But this is really a rather far-out hypothetical case. There are international conventions about piracies and hijacking at sea, and in the air.

Mr. ALLEN. What about use of the phrase "while evacuating citizens and nationals of the United States, as rapidly as possible"? How would that come in to play? How would that operate?

Mr. JAVITS. I think the concept there is to use the minimum amount of force required for the purpose of evacuation or "rescue". For example, let us say a U.S. crewman is on a foreign ship and there is imminent danger of his being killed, and he was sought to be evacuated. The idea is, first, to give the mandate that he is to be gotten off the ship. It might be necessary to take some far more comprehensive action. But the point is the thrust of the section would be where a citizen of the United States gets in trouble, the first preference would be to evacuate him, whether it is on a ship or in a country, rather than to go in and subjugate that country, using the excuse that the citizen is in danger. The President is certainly not obliged, under subsection (3), to send in the troops. Rather he is authorized to do so in defined situations.

President Johnson sent 20,000 troops into Santo Domingo not many years ago and the cover used there was that he was protecting our nationals. Now, what we would be saying, assuming Congress agreed to this subsection, is that we approve the President going in when his judgment meets the criteria but that the thrust and organization of the enterprise should be to evacuate as rapidly as possible and not to protect them on the spot, so that for practical purposes we are taking possession of the country. We are making a decision where the best interests of the United States are served by evacuating a citizen from a country rather than staying there on the ground and using that as the reason to stay in that country. Perhaps if this had been the law the history in the Santo Domingo situation might have been different.

Maybe you could not take the action and as rapidly as possible. It would include the fact that 20,000 troops would have to stay there because conditions did not permit us to take the action. That is not ruled out by this definition, but the definition puts an obligation on the President that the purpose of his expedition, the one-line directive he gives, is to evacuate U.S. nationals as rapidly as possible, but circumstances may prevent that from being "immediately" and that does not prevent our troops from going there and staying there if there is no other way, but it is not to confirm their presence in that country indefinitely.

Mr. ALLEN. Does not the section, on the contrary, indicate that they have to be in the process of being evacuated to come under the original protection?

Mr. JAVITS. That process can take time, and "as rapidly as possible" could be a relatively long time. What I was pointing out was that we are declaring a policy in respect to rescuing nationals. We cannot deal with the nuts and bolts and tactics of implementation. That is up to the President.

Mr. ALLEN. The Cooper-Church amendments which have been debated here many times in the Senate, were predicated, I believe, on the admitted power of the Congress over the purse. In other words, if the money for maintaining a force on foreign soil were withdrawn from the President, of necessity he would have to withdraw the troops. That is correct, is it not?

Mr. JAVITS. That is correct.

Mr. ALLEN. This legislation would approach the problem from a different angle and would seek to confirm in the President certain enumerated powers and deprive him of certain other powers that he is now exercising, or contending that he can exercise. By "he" of course, I do not mean the present incumbent in the office, but the office of the President. That is correct, is it not?

Mr. JAVITS. That is correct.

Mr. ALLEN. Was not that approach considered and abandoned at the time an effort was made—a successful effort—to adopt the Cooper-Church amendment?

Mr. JAVITS. No. The constitutional theory of all the amendments which have been offered with respect to the Vietnam war that I am aware of was, encompassed in the McGovern-Hatfield and Cooper-Church type, they have related to the appropriations process.

We have found a serious imperfection in that process, and that imperfection is the natural reluctance of the Congress—in which I have joined—to cut all supplies of materials, transportation, and so forth, to troops in the field. In addition, rarely would there be the approach of a vehicle which could be so expertly designed for only that unique purpose. For example, we have over-all appropriations for all troop activities of the United States, and it is extremely difficult to relate what pertains to Vietnam and what does not. So those of us who have asserted this side of the issue have found that it is a blunderbuss approach by Congress, and Congress is reluctant to do so.

Our contention is that it is not necessary to have such a blunderbuss type of approach; that we can design a special means, a special methodology, for the Congress to use in accordance with its constitutional war powers. As a matter of fact, the Senator used very good words in his question when he said it is a power which the President claims to have—he may not have—and that is to stay in Vietnam, or that he does not even need the Gulf of Tonkin Resolution for what this administration has done, and even more strongly for what the Johnson administration did.

If the Senator will indulge me, since I think it is important that an elucidation be given, I should like to read President Lyndon Johnson's words on this very subject——

Mr. ALLEN. Yes.

Mr. JAVITS. Which I think deserve repetition. I say that not invidiously, for I have respect and regard for the President. He held this view as sincerely as I hold mine, but President Johnson said in his news conference of August 18, 1967:

> We stated then, and we repeat now, we did not think the resolution was necessary to do what we did and what we're doing. But we thought it was desirable and we thought if we were going to ask them (Congress) to stay the whole route and if we expected them to be there on the landing we ought to ask them to be there on the takeoff.

This is a very clear statement of Presidential position.

The President claims these powers. We say it is time, therefore, for us to say what we claim, and we do think that does make a very basic legal difference, for this reason, if the Senator from Alabama will indulge me: It is Hornbook law that an unasserted power leaves open to another authority to utilize that power, whereas an asserted power closes that door.

The historic importance of this legislation is that it represents the first time that the Congress will have asserted that power under the Constitution, and not under its right to appropriate or not appropriate and conditions of appropriations.

So I say to the Senator this is a direct exercise of authority by the Congress under its constitutional authority. It is not in any way tied to the appropriation process.

Mr. ALLEN. Speaking of asserting authority, what about the President's assertion and maintenance of his authority to act under his asserted war powers? Would that add any efficacy to his assertion of power?

Mr. JAVITS. Well, it only adds the efficacy that he has more likelihood of asserting it successfully if we have not acted in the field. When we have acted in the field, I do not think the President will make that assertion. I believe the President, like the Congress, will carry out this legislation.

The Senator understands that he can completely frustrate and contravene this legislation if he does not act as we always envisage a president as acting. He could find everything to be a direct and imminent threat to the United States. He could make any kind of finding. To deny that is to have us go on a treadmill. I do not believe any President of the United States would do it. I believe this legislation is entertained seriously in the Congress because we all accept that. We all believe that if we codify the law, as we plan here, and if this becomes the law, the President will obey it. At least, he will make every good faith effort to obey it.

Mr. ALLEN. Even if the President asserted the power to act in the field the Senator would concede to him, that power would last for only 30 days in the absence of a declaration of war. Is that correct?

Mr. JAVITS. In the absence of a congressional resolution, or, of course a declaration of war. In other words, Congress could, by resolution, give him whatever authority Congress wished to give him to carry on. That is expressly provided for in subsection (4) of this document, at page 8, line 24, of the bill:

> Pursuant to specific statutory auhorization . . .

Then we go on to make the various exceptions.

So we accept the fact—and I think the Senator from Wyoming (Mr. McGee) said that very well—that it is highly unlikely in this modern day that we are going to have a declaration of war. Indeed, it is not just recent. We have had very few declarations of war in our national history.

So we envisage a legislative approach which is not a declaration of war but which will vest power in the President, because we contend in this bill that we share that power, once the President is free to take emergency action; but at a given point, emergency action changes into a state of war, and at that point we assert our authority.

Mr. ALLEN. Section 3, the first line there, makes reference to the President having this authority in the absence of a declaration of war. That would be his initial action following the 30-day period, is that correct?

Mr. JAVITS. Yes; but of course if there is a declaration of war, then you have a totally different situation. The President then is the man who conducts the war, and he has the full authority of a commander in chief in a declared war. This measure is not intended in any way to abort the consequences of a declaration of war. That is why its starts with that exception.

Mr. ALLEN. Does the Senator feel that this legislation would deprive our country of flexibility in time of danger and in time of the necessity to act to protect the national security?

Mr. JAVITS. I do not. I feel, on the contrary—and this perhaps goes somewhat to the argument of the Senator from Wyoming—that we will be on a firmer basis than ever, because one of the things that troubled many in the administration, and has troubled many other Senators, many other legislators, and millions of Americans, was the fact that the divisiveness in our country over the Vietnam war became so evident as to trouble those with whom we were allied. It was that which created the uncertainty in the minds and hearts of many people with whom we were closely allied. And that divisiveness derived from the fact that Vietnam is a Presidential war, not a war of national commitment.

I am making, and those who are joining with me are making, an effort to give a sense of reassurance that, having now codified the alinement of relationships between Congress and the Chief Executive, when the U.S. commits itself it will stand as a unit, and not be subjected to the doubts and challenges to authority which characterize Vietnam.

I would like to point out to the Senator the importance of our continuing the three area resolutions, that is, the Formosa resolution, the Middle East resolution, and the Cuban resolution. The reason that we continued them, notwithstanding the statement of the administration that they do not need them, is, we said, "Sure, you do not need them, perhaps, in your construction of the powers that you think you have, but you certainly do need them if we pass this bill, and we at least want to give you the option of continuing them or telling us that you do not want them for policy reasons."

The minute we say that, we also include the likelihood of additional resolutions.

For example, the administration may decide that it wants to do something in the way of advance authority about the Arab-Israeli impasse, and the merits.

I beg Senators who were here, for example, at the time of the Gulf of Tonkin Resolution—I was, and I participated in it and take full responsibility—to think of the difference in our own thinking, in our own conscience and responsibility, between the President coming in here and saying, "I have acted, and I just want you to back me up," and in two days the thing would whip through here—and the fact that I would know for all practical purposes that I am voting for what is tantamount to a declaration of war, because I would know that it is not just a matter of backing the President when he has already done it, but that I can stop him by refraining from action. It would have taken a lot more soul searching than many of us took at that particular time, and though it is not an excuse, we should have undertaken more soul searching in respect to the Gulf of Tonkin Resolution, though we did not, because that was not the frame of reference in which we were acting.

I submit to the Senator from Alabama that we will have the weight on our shoulders, just as the President has it on his shoulders, and in response to those who say, "Maybe you will not act as quickly, as wisely, or as well," I can only say that in the bloody history of mankind, a lot less of it has been shed when the responsibility is shared than when one man has the complete authority in his own hands.

Mr. ALLEN. The Senator said, in his judgment, in effect, that he felt the President would accept the spirit of the legislation, and would comply with it.

Mr. JAVITS. I do.

Mr. ALLEN. Does the Senator feel, then, that the President would accept the Senate's and the entire Congress interpretation of his powers under the Constitution, if he were advised that the Senate was in error in that construction?

Mr. JAVITS. This is a law, after all. It would have to be passed as a law. It would have to be passed by both Houses and signed by the President. His veto could be overridden. He would have an absolute right to veto. The overriding would take huge majorities in both Chambers.

I believe the process which we have initiated is consistent with a deliberative judgment by all concerned that the time has come to define our respective powers.

As I do not know the final outcome of this bill, nor does the President, that is about the best I can say in answer to that question.

Mr. ALLEN. If the President is going to follow the legislation in letter and in spirit, is there not danger that our potential enemies around the world would make a careful study of the legislation, and they would say, "The President can act in this area, he can act in this area, and he can act in this area, but he cannot act in these other areas as to which the bill is silent?"

We know the propensities of some of our potential enemies to push us just as far as they possibly can, just as far as they feel that they can get by with it. Is there not a danger that this legislation would enable our potential enemies to be able to know just how far they could push us without expecting retaliatory action on the part of the President?

Mr. JAVITS. I do not think so, any more than our potential enemies could anticipate the will and resolution of the American people, which they always have to decide.

After all, suppose our potential enemies decided that because we had the power to cut off money, we suddenly would not appropriate money for a given thing, and they pressed us on that ground. Suppose they thought we were not going to put up any further money for troops in Europe; why should they engage in mutual balanced force reduction? Suppose they did not think we were going to put up any further money for an ABM, why should they worry about whether we have an ABM or not?

The only thing this law does, in my judgment, I do not see that it gives us any disadvantage with them, but I think it gives us a vast advantage with our friends, and that our friends would know absolutely and confidently what they could count on as far as we are concerned.

Second, I think it gives us a big advantage with our own people, and that our own people would feel that our judgment as to war and peace is more likely to be more provident, under this kind of methodology, than, based on the Vietnam experience, it is likely to be without the methodology.

Those are the real issues, and I cannot tell the Senator that some fool in some chancellery will not draw a deduction from this which he should not draw. Neither can I tell the Senator that if we cut $5 billion off the defense appropriation—indeed, the Armed Services Committee itself did that; it made a material cut—some fool in some chancellery will not come to a similar conclusion. I just do not know. It makes him no less a fool if he does.

Another thing I would like to point out to the Senator is that our bill accommodates any resolution that the President would wish to bring us. For example, if the President feels there is any doubt about any particular activity he wishes to engage in of a generic kind, there is no reason why we cannot give him that authority in advance. That is one of the things that is good about this bill, and it does not wait until there is a crisis to act.

That is the significance of the fact that we ourselves have escalated in importance the three area resolutions. The President says he does not need them. We say, "You may need them, and we are giving you a chance to treat them as law," and we give ourselves the same opportunity, because in that area, at least, these are resolutions which we have already undertaken, and which are binding on us with respect to this legislation.

Similarly with respect to some other area resolution of some other type of resolution which the President might wish to have in order to give himself the necessary freedom to act. But the difference between that type of situation and the present situation is that he would know he has to get it from us. So we would join in the decision, and it simply would not be unilateral on his part.

Mr. ALLEN. Since the legislation is predicated, I assume, on the assumption that the President's power as Commander in Chief of the Armed Forces under the Constitution is a limited power and since the legislation confirms certain power in the President under the first three subsections of section 3, would the Senator be kind enough to enumerate some of the powers that are denied to the President under the proposed legislation by its silence?

Mr. JAVITS. The alleged powers which it denies to the President under the proposed legislation is to utilize his power under the Constitution, for example, to repel an attack upon the United States, to extend to the point where he is engaged in a condition of war—to wit, beyond 30 days—and I gave the classic example of Santo Domingo; or to limit his power to rescue nationals of the United States who are endangered in some foreign country, beyond the point where it is a rescue of nationals in order to get them out but becomes an occupation of that country.

We have utilized the 30-day timespan as the best measure of judgment we can make upon those very difficult issues. We thought that quantitative standard was likely to be more effective and wiser than a qualitative standard. So we chose the quantitative—to wit, the 30-day standard—rather than some qualitative definition.

Mr. ALLEN. Actually, then, it is a time limitation of 30 days plus a limitation on the extent of the action that could be taken under the confirmed powers. Is that correct?

Mr. JAVITS. No, I will not accept the latter. It is a time limitation. We believe that the time itself is bound to limit the extent. The bill does not limit the extent.

Mr. ALLEN. Would the Senator say that all there is here, then, is a 30-day limitation?

Mr. JAVITS. Let me finish.

The time limitation we have taken is in lieu of a qualitative limitation—that is, the extent.

So we have accepted a quantitative rather than a qualitative limitation as the best and wisest limitation.

Mr. ALLEN. That just leaves, then, a 30-day limitation on his power to act, does it not?

Mr. JAVITS. It leads to a 30-day limitation on his power to act in given situations, and those given situations are hostilities, imminent danger of hostilities, where they relate to the attack on armed forces, attack on the country, or protection of our nationals.

Mr. ALLEN. I asked the Senator to enumerate powers asserted by the President that would be cut off.

Mr. JAVITS. I have enumerated them. As a matter of fact, no powers asserted by the President are cut off. The powers, I said, are quantitatively limited—if that is a cutoff, which it may very well prove to be.

But no one contends, I hope, that the President has unlimited power. The words "Commander in Chief" mean something. They do not say he is the absolute ruler and dispenser of everything for the American people—their life, their liberty, their property. That is why we have a written Constitution, because the President, as we, has only such power as the Constitution gives him.

Mr. ALLEN. I ask again: Does that not then boil the issue down to a 30-day limitation on his power to act?

Mr. JAVITS. It does not, because it is not a 30-day limitation on all powers that he has. We developed that originally. We have chosen certain areas in which we are legislating, and in those areas the limitation is, in our judgment, designed to effectuate our purpose, which is that where an act which he begins with power to take becomes an act which we believe he does not have the power to take—to wit, to get into a state of war—without our concurrence, then we call for our concurrence. That is the basic concept.

Mr. ALLEN. If the President will have the power to act in these three areas set forth in section 3, in the absence of section 3, how then would the Senate have the power to impose a 30-day limitation on the exercise of that power?

Mr. JAVITS. But he does not have the right, the power—in my judgment and in the judgment of those who are backing this bill—to continue to exercise that authority to the point where it changes into a different kind of authority. In other words, whereas he can repel an attack, he cannot carry on until he is in a state of war. We fix that at 30 days.

The Senator may differ with us, but we say that the quantitative time span of 30 days, for practical purposes, is enough to determine that question and that that is better than a qualitative standard.

Mr. ALLEN. But if his power is unlimited in that area, in the absence of the legislation, and the legislation confirms that power in him, how can it then go a step further and say, "We are confirming this power in you for exercise for a period of 30 days"?

Mr. JAVITS. He does not have an unlimited power, because that power is limited according to the Constitution, too. He is Commander in Chief. He can only repel an attack. An attack can be repelled in 5 minutes or it can be repelled in 20 years, and there have been hundred-year wars in this world.

If we adopted the Senator's theory—at least, the theory implied by this question—the President could carry on a hundred-year war, and we would not have a word to say about it. He has no such power under the Constitution. That is what we say.

So we have tried to get the best standard we could, which is the quantitative standard of a period of time.

Mr. ALLEN. But how could the Senator contend that there is any constitutional basis or reasoning for setting a 30-day period after it has already confirmed this general power in the President?

Mr. JAVITS. The constitutional basis is the power of Congress to make laws necessary and proper about everything in the Constitution, including the President's power as Commander in Chief and including our own war powers. Therefore, his power, once it changes its nature by the fact that you cease to repel an attack and you are in a state of war, is no more unlimited than ours, and we have the authority under the Constitution to define it. That is what we are doing.

In other words, the implication of the question—I do not understand why the Senator feels that should confound me—is that the minute you say he has some power, that this power is unlimited and permanent. I say he does not have any power of such a nature at all. He has the power to repel an attack. That is a limited power, and we can define its limitation to repel an attack, and we say it is 30 days. After that, he is at war, and we want to join in that decision. We say that, and we have that authority to make that finding under the "necessary and proper" clause.

Mr. ALLEN. That is the Senator's understanding and contention, I would say. Is that correct?

Mr. JAVITS. That is correct. That is my understanding and contention.

Mr. ALLEN. I thank the distinguished Senator from New York for clarifying these points for me.

Mr. JAVITS. I thank my colleague.

Mr. BENNETT. Mr. President, today the Senate begins its discussion of the war powers bill. As I understand this legislation, it is to limit the role of the Executive in foreign affairs by subjecting Executive decisions to specific congressional control.

The sponsors of this legislation base their case for a limitation of the Executive "war powers" on their definition of the original intent of the framers of the Constitution for the conduct of foreign affairs. I believe with the certainty that history will support me—that it is extremely difficult to determine just exactly what was in the minds of the framers when the Constitution was written. We know that there was ample discussion of the opposing merits of legislative versus executive control of foreign affairs. We know also that the Constitution in its final version gives both branches a role in the vital decisions of foreign affairs, and that is probably what the framers intended. However, I believe it is abundantly clear that the framers did not intend that Congress be responsible for the daily conduct of foreign affairs. This prerogative was left in the hands of the Executive. Thomas Jefferson expressed this view best. "The transaction of business with foreign nations is executive altogether."

Congress was given the power to declare war, to provide for raising and equipping the Armed Forces, and Congress was given the power of the purse. There is nothing in this delegation of power which would imply that Congress was to be the deciding force in the conduct of all matters of foreign policy.

Since the time these initial decisions were made, our world has been the development of means of warfare and techniques of foreign policy never envisioned by the framers—all dealing with the daily conduct of foreign affairs and all requiring the resources of a strong and flexible Executive. The role of Congress in the conduct of foreign affairs was designed to be minimal and the nature of modern warfare and diplomacy has reinforced the Executive role. For Congress to attempt to limit the role of the Executive in responding to the contingencies of our modern world is dangerous and unrealistic.

The sponsors of this legislation advocate the proposition that the Executive has assumed powers and responsibilities not delegated to him by the Constitution and that he has usurped, so to speak, congressional authority, notably the authority to declare war, in the conduct of foreign policy.

Mr. President, I find it difficult to follow this assumption. The Executive has exercised powers given to him as Commander in Chief of the Armed Forces and chief diplomat under the Constitution.

He has used his offices for the conduct of foreign affairs as made necessary by existing conditions in this day and age, conditions which were not foreseen by the founders and which could not be defined by them. I remind my colleagues that no one has taken from Congress its power of the purse—to control the spending of the exective branch and thus express congressional intent. No one has usurped the congressional power to declare war if that is what must be done.

There have been innumerable references in the discussion of this bill to the war in Vietnam and to the Gulf of Tonkin Resolution and the grant of power made therein. The fact remains, however, that Congress had the option to express its dissatisfaction with the executive conduct of the Vietnam conflict at the time the resolution was passed. It chose not to. At this time when the war in Vietnam is fast becoming a thing of the past I think we should be extremely cautious not to let the events and the accusations of the past color our actions to the point where we take excessive action and create a situation which will only cause greater problems in the future. Our concern should be for the future and I do not believe this legislation is necessary and I believe its passage would be a regrettable action.

Congress had its opportunity to provide limitations of this nature when it evaluated the NATO and SEATO treaties, when it passed the Formosa and Middle East Resolutions and it wisely refrained from interfering with the executive's conduct of foreign affairs.

Mr. President, not only is this legislation unnecessary of dubious wisdom, it also could have unforeseen effects upon our international commitments.

This legislation would severely limit the ability of the United States to respond appropriately to attack or threat of attack involving our security interests.

It would set forth its obvious limitations for our potential opponents to see, and finally, it would cause a serious erosion of the credibility of the President of the United States as a leader in the free world in the eyes of our allies.

In the case of NATO the effects of this legislation would be the most critical. It would virtually tie the President's hands from an advance deployment of force or show of force in the face of a belligerent buildup or threat of use of force. Even in the event of actual attack in an area covered by the NATO treaty the President could repel the attack for only 30 days without later congressional authorization.

A particular example of the possible effects of this legislation is Berlin. Berlin has long been and will continue to be a favorite pressure point of our opponents. This legislation would prohibit a U.S. show of force or additional deployment of troops in case of closure or threatened closure of access to Berlin. It would prohibit the use of all tactics we have used in the past in this area.

This is a single example but there are many more which the provisions of this legislation simply do not take into account. The same problems would result from the deployment of naval forces to the Middle East. Our hands would be tied there as well as in Latin America.

If Congress is concerned about its relationship to the Executive in foreign affairs it need only exercise its traditional authority. Permanent legislation which would bind the Executive in his conduct of foreign policy on a day-to-day basis is unwise and unnecessary. I shall cast my vote against this bill unless it is modified by amendment to preserve for the President all flexibility of action necessary to protect the interests of our country in the face of fast-moving events.

Mr. EAGLETON. Mr. President, the most important decision we, as a Nation, can make is the decision to go to war. I ask today that this Congress reassert its constitutional mandate to make this important decision.

It has become easier in this country to go to war than to make peace. This stark reality has not come about because men have erred. It has come about because the institutions established by our Founding Fathers to cope with man's fallibility have been eroded by expediency.

Our Constitution was written by men who had experienced the tyranny of a monarch and who clearly understood the danger of placing ultimate power at the disposal of a single man. The framers sought to create a process by which important decisions would undergo the careful scrutiny of thorough deliberation and collective judgment. They fully expected that the responsibility for committing the nation to war would be shared—and that Congress, the most representative branch of Government, would authorize this important commitment.

We must begin today to restore balance between the executive and legislative branches so that decisions of such consequence as those involving war and peace do not depend upon the wisdom of one man. That is the purpose of the War Powers Act and that is the intent of the Constitution.

Congress was seen by the framers as a deliberate, diverse and accessible body—the very characteristics for which it is most frequently criticized today. These qualities were not considered liabilities, but rather assets in the decisonmaking process. Collective judgment, not efficiency, was seen as the most important ingredient in the solution of the greatest problems that faced our Nation.

It was with these qualities of Congress in mind that Alexander Hamilton, an advocate of centralization and increased Executive power in his time, conceded:

> The superior weight and influence of the legislative body in a free government.

The framers understood that the institutions they had established would be challenged by future events—as they are today. They undoubtedly had this in mind when they gave Congress the residual authority to:

> . . . make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Mr. President, the intricate balance created by our Constitution has been severely upset by the overwhelming predominance of the executive branch. Deliberation and collective judgment have been preempted in favor of efficiency. Congress not only has the authority, it has the obligation to act to protect its role in our system.

Some are concerned that this act will undermine the President in his role as Commander in Chief.

We must remember that our country is a democracy. The President cannot be more committed to a task, nor any wiser, than the people.

The late Adlai Stevenson said:

> The essence of republican government is not command. It is consent.

This act restores consent to the decision to go to war. Its effect will strengthen the President's command, not weaken it.

This bill is the result of months of hearings by the Foreign Relations Committee, extensive public debate, and the scholarly work of this Nation's best qualified constitutional lawyers. It incorporates the work of five separate resolutions, including my own, Senate Joint Resolution 59.

The sponsors of the War Powers Act are joined together in a purpose which transcends partisan and ideological lines.

We have taken great pains to protect the proper constitutional role of the Commander in Chief to defend our Nation and to conduct authorized hostilities to assure our security.

We do not cast blame in the direction of energetic and well-meaning Presidents who have perceived the monumental task before them and have taken prerogatives established by predecessors as their own. It is our purpose to assure that Congress will fulfill its constitutional obligation and regain the mandate to decide why, when, and where this Nation goes to war.

The sponsors of this act do not presume that good faith can be ordered or that correct decisions can be legislated. Our purpose is to impose clear criteria within which men of good faith can and will operate.

A multitude of scenarios have been hypothesized by opponents of this legislation in an attempt to show that it would tie a President's hands. A careful examination shows that this would not happen.

A most common scenario has a friendly nation under attack while the United

States stands idly by, helpless to come to its defense.

If no imminent threat to the United States is apparent but there is adequate consensus that we should come to the aid of our friend, Congress will act—and fast enough. If a nation can be overrun in a matter of hours, there is little the United States can do in such a tenuous situation. If, as is normally the case, a hostile action is a gradually accelerating situation, the Congress and the American people will have the time to assess the feasibility and desirability of involving American forces. More important, when the United States does act, it will be with a hand strengthened by consent and unity of purpose.

In addition, although unlikely, it is conceivable that an attack on an ally could constitute an implicit threat to the United States. If this is true, and the President can latter satisfy Congress and the country that it is true, he may commit U.S. forces under the emergency provisions of section 3.

Critics have also charged that the United States will not be able to honor its commitments if S. 2956 is enacted. They base these charges on the fact that section 3(4) specifies that authority to introduce U.S. forces in hostilities cannot be inferred from existent or future treaties.

In my statement before the Foreign Relations Committee, I pointed out that no treaty, including the NATO Treaty, was self-starting—that U.S. forces cannot be committed to hostilities on the authority of a treaty alone. The President and the Senate could never legally authorize such a self-starting mechanism because the Constitution clearly assigns the war powers to the Congress and the President, not to the Senate and the President. The House, which is not constitutionally engaged in the treaty making process, must be a part of the decision to declare war.

Article 11 of the NATO Treaty, perhaps the most tightly worded of U.S. treaty commitments, provides that decisions which would put other provisions into effect are to be made in accordance with the constitutional processes of the signing parties. This type of clause is present in all U.S. treaties. The War Powers Act, therefore, has no effect on any U.S. treaty commitment except to more adequately describe the "constitutional processes" referred to.

Criticism has also been directed at section 5, which states that authorization granted under the emergency provisions of section 3 shall not be sustained beyond 30 days without further approval by Congress. It is said that this section could interfere with the President's Commander in Chief powers if he should decide that more than 30 days are necessary to perform his defensive mission.

If the emergency situation is clearly authorized by the act—and the Constitution—the President should have no problem making his case to Congress within 30 days. Congress is not as susceptible to whim as a single man might be. It therefore would be highly unlikely, if not impossible, that Congress could turn a President down in the face of a real emergency.

If, however, the situation cannot be authorized by section 3 and it becomes obvious by the 29th day that the President has overstepped his authority, Congress could not, under this act, take away the President's right—and responsibility—to defend our forces as they withdraw. Congress would, however, insist that those forces be in the withdrawal stage.

Some of the advocates of war powers legislation have expressed concern that section 3, by allowing an introduction of forces "in situations where imminent involvement in hostilities is clearly indicated," could be construed as allowing a preemptive or first-strike nuclear attack solely on the President's judgment.

U.S. strategic doctrine depends upon second strike deterrence or retaliation in the case of nuclear attack. Even the development of an American first-strike potential is constitutionally questionable and has been considered morally reprehensive. A President could not, therefore—short of a complete breakdown of our system—launch a preemptive nuclear attack, and this bill cannot in any way be interpreted as affecting this policy.

It should also be recognized that, in the final analysis, all any legislation can expect to achieve is to hold a President legally and politically accountable for his actions. The consequences of a nuclear holocaust would make the question of political and legal responsibility moot.

Some have expressed concern with the provision in section 7 which would require that:

> Any bill or resolution authorizing a continuation of the use of U.S. forces in hostilities would, if sponsored or co-sponsored by one third of the Members of the House of Congress in which it is introduced, be considered reported to the floor no later than one day following its introduction . . .

It should be emphasized that this sentence continues with this phraseology:

> unless the Members of such House otherwise determine by yeas and nays.

If more than 1 day of deliberation is required, Congress clearly has the mechanism to provide for it.

Finally, section 9 states that the act will:

> Take effect on the date of enactment but shall not apply to hostilities in which the Armed Forces of the United States are involved on the effective date . . .

This act, therefore, excludes the hostilities in which we are currently engaged in Vietnam.

We do not attempt by this exclusion to ignore the most important issue of our time, and we cannot. This legislation would not be before this body today if Vietnam had not exposed the breakdown of the process by which we go to war.

This act cannot deny the reality of 55,000 Americans dead and billions of dollars expended in futility. The legacy of Vietnam has been anxiety, doubt, and uncertainty about ourselves and our Nation. These are the consequences of an unpopular war and they provide the backdrop for this legislation.

Our involvement in Vietnam is still the subject of heated debate in this country. It is the emotion of this debate that we wish to avoid, for we seek not personal recriminations but real constitutional reform. This reform can only be achieved in an atmosphere free of partisanship and the emotions of the moment.

We look to the future—a future that will see this country enter a war only with the consent of the people.

In the words of Tolstoi:

> War . . . is such a terrible, such an atrocious thing, that no man . . . has the right to assume the responsibility of beginning it.

I urge this body today to return the power to declare war to its constitutionally ordained place within our system—the Congress of the United States.

Mr. President, joining me as one of the sponsors of the War Powers Act is the distinguished Senator from Virginia and my good friend and colleague, BILL SPONG.

A former professor of international law at William and Mary College, Senator SPONG is uniquely qualified for his important role in the war powers debate. As a member of the Foreign Relations Committee, Senator SPONG has been instrumental in bringing this important legislation to the attention of the Congress and the public.

At the outset of this important debate, I wish to commend to the attention of my colleagues an excellent and scholarly article written by Senator SPONG for the fall 1971 edition of the University of Richmond Law Review.

Mr. President, I ask unanimous consent that Senator SPONG's article entitled, "Can Balance Be Restored in the Constitutional War Powers of the President and Congress?" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the University of Richmond Law Review, fall 1971]

CAN BALANCE BE RESTORED IN THE CONSTITUTIONAL WAR POWERS OF THE PRESIDENT AND CONGRESS?

(By William B. Spong, Jr.*)

The Cambodian incursion of April, 1970, brought forth renewed observations from constitutional scholars, eminent and amateur, that the war-making power of Congress had been eroded and the checks and balances system for the initiation and conduct of hostilities by American troops, as contemplated by the Founding Fathers, rendered almost inoperative. Debates on the National Commitments Resolution[1] and the Cooper-Church Amendments, as well as events following adoption of these measures, appear to sustain such conclusions. How has this happened? What, if anything, can be done to restore some balance in this crucial area of public policy? Should there be an effort by Congress to re-create such balance, particularly in view of the emergency nature of nuclear and conventional conflict and the changing world in which we live?

What follows is an attempt to provide some answer to these questions. There are excellent recent articles available on the constitutional authority of Congress and the President to commit American forces to foreign combat.[2] The scholarship and objectivity in these works is more appreciated when one considers the present high level of emotion attendant to the United States' prolonged participation in the war in Indochina. The reader will not find herein an

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Footnotes at end of article.

in depth treatment of the subject of congressional and presidential war powers. Rather, the purpose of this article is to provide a general background against which to weigh the merits of certain suggestions presently before Congress. Readers should be mindful, as is this writer, that the present struggle between the executive and legislative branches of our government over many facets of foreign policy—commitments, treaties, executive agreements and legislative limitations on the Executive—may not be the ideal backdrop for objectivity from one in the eye of the storm. Nevertheless, the mission here is to review and comment with a view toward determining the advisability of action or legislation in prospective rather than to evoke quarrels over past events and present policy.

I. THE CONSTITUTION AND WAR POWERS

What did the Founding Fathers intend to be the respective roles of Congress and the President in regard to war-making?

Article I, section 8 of the Constitution gives to Congress power to provide for the common defense; to declare war; to raise and support (for periods of no more than two years at a time) an Army and Navy; to make rules which will regulate and govern the military forces; to provide for calling out the militia to enforce laws, suppress insurrection, and repel invasion.

Article II, section 2 describes the President as "Commander-in-Chief of the Armed Forces as well as the State Militia, when it is called into service for use by the federal government."

As is well known, the original draft submitted to the Constitutional Convention of 1787, consistent with the Articles of Confederation, gave to Congress the power to "make war." James Madison's notes on the debate over this particular clause provide insight into the intent and near unanimity of the framers. In the course of those debates, Charles Pinckney of South Carolina expressed his belief that the Senate would be the ideal depositary of the war power inasmuch as each state had an equal interest in the security of the nation, and because the Senate was better ". . . acquainted with foreign affairs, and most capable of proper resolutions." [3]

On the other hand, Pierce Butler, also of South Carolina, believed Senate deliberations to be too slow and cumbersome. He preferred vesting the war power in the President, who "will not make war but when the Nation will support it." [4]

As to the extent of authority the President should possess, Mr. Madison and Mr. Elbridge Gerry of Massachusetts moved to insert "declare" in the place of "make" war, ". . . leaving to the Executive the power to repeal sudden attacks." [5] Although this change was objected to as providing the President with the authority to commence war, it was agreed to by a vote of eight to one.[6]

Alexander Hamilton, recognized as perhaps the leading advocate of a strong Presidency, later undertook to explain the role of the President as Commander-in-Chief in *The Federalist*, when he wrote:

"In this respect his (the President's) authority would be nominally the same with that of the King of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and Admiral of the Confederacy; while that of the British King extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies,—all which, by the Constitution under consideration would appertain to the legislature.[7]

Later, in 1801, while attacking Jefferson for his timidity against the Barbary pirates, Hamilton wrote:

"That instrument has only provided affirmatively, that, "The Congress shall have power to declare war"; the plain meaning of which is, that it is the peculiar and exclusive province of Congress, *when the nation is at peace*, to change that state into a state of war; whether from calculations of policy, or from provocations or injuries received; in other words, it belongs to Congress only, *to go to war*. But when a foreign nation declares or openly and avowedly makes war upon the United States, they are then by the very fact *already at war*, and any declaration on the part of Congress is nugatory; it is at least unnecessary." [8]

James Madison, regarded as the father of the Constitution and its most authoritative interpreter, wrote in 1793 of the executive power to make war:

"Every just view that can be taken of this subject, admonishes the public of the necessity of a rigid adherence to the simple, the received, and the fundamental doctrine of the constitution, that the power to declare war, including the power of judging of the causes of war, is *fully* and *exclusively* vested in the legislature; that the executive has no right, in any case, to decide the question, whether there is or is not cause for declaring war; that the right of convening and informing congress, whenever such a question seems to call for a decision, is all the right which the constitution has deemed requisite and proper. . . ." [9]

Patrick Henry, perhaps the most eloquent of those opposing ratification of the Constitution, was a voice for many who feared assumption by the President of any part of the war-making powers. In the Virginia Convention, Henry presaged with alarm the concept of the President in the field, leading an army into battle.[10]

Thomas Jefferson, evidently assured that the war-making powers of the President had been limited, wrote to Madison in 1789: "We have already given in example one effectual check to the Dog of War by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay." [11]

A careful reading of the ratification debates and the analysis offered by *The Federalist* leads to certain conclusions. First, the framers drew a distinction between offensive and defensive hostilities. Involvement of the nation in any type of war, other than one of self-defense, was to be solely the responsibility of Congress. If the nation were suddenly attacked or invaded, the President would respond to repel the attack, but Congress would decide the nature of the action to follow—action which should come only after a collective judgment had been made by those directly elected as representatives of the people. Second, the President's only role in the war-making process was, as Commander-in-Chief, to direct operations as the executive arm of the Congress. Mindful that a great majority of the colonists had an aversion to standing armies and the power politics of Europe that had allowed sovereigns to go suddenly to war, the framers sought to distinguish between war-conducting and war-making.

Hamilton's criticism of Jefferson's policy toward the Barbary pirates, included in the former's views regarding defensive wars, has been used to justify presidential war-making in later years. But this came ten years after the constitutional debates. There is scant evidence that the Founding Fathers intended to grant any war-making power to the President other than to defend against invasion when Congress was not in session. Nevertheless, in later years the enlarged role of the President as the initiator of foreign policy, an expansion of the concept of the President's defensive powers, the creation of standing armies and a broader interpretation of the Commander-in-Chief clause of the Constitution, have resulted in an inferior role in the war-making process for Congress. This result is contrary to the concept of checks and balances through which the Founding Fathers sought to insure against the growth of disproportionate power in any one of the three branches of government. It is also contrary to public view and expectation that the Constitution assures and requires its elected representatives to have a voice in the initiation of military hostilities abroad.

II. HISTORICAL BACKGROUND OF AN UNBALANCED WAR POWER

To explore the methods by which balance in the war powers between the legislative and executive branches might be restored, one should review the historical background of how it was lost. To facilitate this review, three stages in the country's history might be identified.[12] The first stage is a period from 1776 until the end of the nineteenth century. Despite many minor involvements in which the President employed force abroad, this period should be regarded as one of collaboration between Congress and the President.

After the years during which the earliest Presidents deferred to Congress in the making of war, acceptance of an "act of war" theory, which allowed the President to deploy military forces so long as they were not used to commit "acts of war," represented a slight move toward presidential power. A review of the many occasions during the nineteenth century when Presidents used force abroad supports a general conclusion that the dividing line between legislative and executive authority was flexible enough for the President to use military force in insignificant circumstances, while preserving the role of Congress in decisions of greater gravity.[13]

The second period, which began with this century, is one during which collaboration between the President and Congress became the exception. Presidents seldom consulted Congress before using military forces abroad. On the other hand, Congress rarely gave evidence of willingness to be other than a negative force in the shaping of foreign policy. During the earliest years of this century Presidents Theodore Roosevelt, Taft, and Wilson used armed forces in many parts of Latin America. These actions were in contravention of the "act of war" theory because they were against sovereign states.

The negative influence of Congress was quite evident during the Wilson and Roosevelt Administrations in the years preceding the two World Wars. This period cannot be called one of either presidential or congressional domination. It is marked for its lack of cooperation between the legislative and executive branches.

The third period, which may or may not be drawing to a close, must be associated with the Cold War and the attendant atmosphere of constant crisis. Until recently, Congress—concerned for national security, unsure of its own role and that of the nation in an era of unsurpassed power and commitment abroad, and undoubtedly sensitive to charges of obstruction [14]—has deferred to the presidential use of military forces abroad with or without legislative authority.

The sending of armed forces to Korea in 1950 by President Truman without congressional authorization or consultation is the first instance of a President claiming an inherent power to act "in the broad interest of American foreign policy." [15] This action was not without its congressional defenders.[16]

Soon after the Korean intervention came President Truman's decision in 1951 to send four additional divisions to Europe as a potential deterrent against Russian aggression. Never had a President committed comparable

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military forces to an area not in a state of war. Despite lengthy debate in both Houses, President Truman ultimately deployed the troops as he deemed necessary.[17]

Secretary of State Dean Acheson, expressing the view of the Truman Administration, stated in response to congressional inquiry into the President's proposed deployment of troops: "We are in a position in the world today where the argument as to who has the power to do this, that, or the other thing is not exactly what is called for from America in this very critical hour." [18]

After Korea, there began a decade during which congressional resolutions involving the potential use of military forces abroad were adopted. President Eisenhower, while stating that he had certain inherent powers as Commander-in-Chief to take whatever emergency action was necessary to protect the rights and security of the United States, asked for presidential authority in 1955 to use American armed forces for the protection of Formosa and the Pescadores. The President stated that a suitable congressional resolution would clearly and publicly establish that authority.[19]

Subsequent to the adoption of the Formosa Resolution, the Middle East Resolution of 1957 was adopted during the Eisenhower Administration, the Cuba Resolution of 1962 was adopted during the Kennedy Administration, and the Gulf of Tonkin Resolution of 1964 was adopted during the Johnson Administration. Each of these resolutions, with the exception of the one concerning Cuba,[20] is subject to an interpretation that it concedes inherent war initiating powers to the President as Commander-in-Chief. All were adopted in moments of national urgency when the constitutional questions posed were apparently obscured.[21]

Not only did these resolutions, except for the Cuba Resolution, concede inherent war power to the President, but they granted in advance broad and undefined war-making powers. When President Eisenhower, a year after adoption of the Middle East Resolution, ordered 14,000 American troops to Lebanon, no reference was made to the resolution of the previous year. Similarly, in October of 1962 when the Cuban missile crisis occurred, President Kennedy did not refer to the Cuban Resolution for his authority in establishing a naval quarantine. Unlike the other resolutions, the Tonkin enactment has often been cited as authority for extensive and far-reaching military activity. It has also been represented by former Under Secretary of State Nicholas Katzenbach to be "the functional equivalent" to a declaration of war when combined with the SEATO Treaty.[22]

Both Presidents Johnson and Nixon have, however, asserted inherent powers to act in Vietnam without reliance upon the Tonkin Gulf Resolution. The Nixon Administration so advised the Senate Foreign Relations Committee by letter from the State Department.[23] In reviewing the circumstances of the adoption and language of the resolutions, one has these impressions: (1) none of the Presidents of the post World War II years believed the resolutions were essential for them to have power to commit troops abroad without the consent of Congress; (2) the crisis atmosphere that attended consideration of the resolutions probably inhibited any detailed discussion of the constitutional questions presented; and (3) the spirit of national unity in time of crisis resulted in the adoption by Congress of general words of support that also gave undefined war initiating powers to the President for unlimited periods of time.

President Johnson's view of his war-making power as a constitutional prerogative might best be demonstrated by his sending of American forces into the Dominican Republic on April 28, 1965. Although there was brief consultation with Congress, this was accomplished after the decision had been made,[24] and the troops were dispatched without referrence to any congressional act or resolution—as had been done by President Truman in Korea and by President Eisenhower in Lebanon.

Therefore, the evolution of an unbalanced war power unfolds—first, a period of collaboration between Congress and the Executive; then, a period of unilateral presidential action and congressional obstruction from the beginning of this century to World War II and the emergence of the United States as a dominant world power; and, lastly, a period of presidential dominance of the war-making power, exemplified by the "faits accomplis" of Korea, Lebanon, Cuba, Vietnam, Dominican Republic, Cambodia, and Laos.

This last period had its beginning with President Truman's unilateral deployment of troops in Korea without formal congressional consent. Although Presidents Truman, Eisenhower, Kennedy, Johnson, and Nixon have sought to give an appearance of consultation or collaboration with hurried crisis meetings and general congressional resolutions, all believed they possessed an inherent power as Commander-in-Chief to deploy armed forces abroad without congressional consent if they deemed it in the national interest. Undoubtedly, all recognized they might receive greater public support with an appearance of collaboration, but were not prepared to show the deference or risk the obstruction that hindered the Wilson and Roosevelt Administrations in the years preceding the two World Wars.

III. ANALYSIS OF PRESIDENTIAL HEGEMONY IN DECISIONS TO EMPLOY THE ARMED FORCES

A. Few formal declarations of war

At the risk of over-simplification there are several observations that might readily be made at this juncture. First, that a formal declaration of war has rarely preceded the initiation of hostilities by American forces. The United States has only declared war five times in its history.[25] So what is presently in need of definition is whether the Constitution mandates a role for Congress in the making of decisions to commit military forces without a declaration of war.

B. Failure of Congress to adapt

A second observation is that Congress has played a major role in the demise of its war powers. The Senate Committee on Foreign Relations painfully stated this:

"The committee is well aware—and has expressed its awareness several times in these pages—that one of the reasons for the flow of the war power out of the hands of Congress and into the hands of the President has been the failure of Congress to adapt its power over the armed forces to the circumstances of the nuclear age. Tacitly acknowledging a lack of confidence in its ability to make that adaptation, Congress has permitted its war power to be transferred to the hands of an executive which, though less susceptible to self-doubt than the Congress, is no less susceptible to error." [26]

In addition to the uncertainty of the nuclear age and the reaction to congressional negativism of the periods prior to the First and Second World Wars, there is legitimacy to the claim that Congress has often preferred to second guess the President. Former Undersecretary of State Nicholas Katzenbach recently referred to this as Monday morning quarterbacking.[27]

However, there have been occasions during debates on foreign policy resolutions when Senators have voiced constitutional objections to language delegating responsibility for the declaration of war to the President. A consistent prophet of what the resultant effect to the war powers might be should this ominous trend continue, was the late Senator Robert A. Taft. It is somewhat ironic that often Senator Taft was in sympathy with the Executive's policy aims, but objected to methods that ignored congressional concurrence. Senator Taft on the subject of the sending of American troops to Iceland by President Franklin Roosevelt in 1941 wrote:

Mr. President, on Monday the President of the United States notified the Senate that forces of the United States Navy had already arrived in Iceland in order to supplement, and eventually to replace, the British forces now stationed there. This action was taken in accordance with an understanding reached by the President with the Prime Minister of Iceland, frankly inspired, however, according to the Prime Minister, by the British Minister to Iceland, who explained to him that British forces in Iceland were required elsewhere, and suggested that he apply to the United States for forces. The Prime Minister stressed the fact that the United States forces must be strong enough to meet every eventuality and the President promised that the Government of the United States would immediately send troops, apparently including the United States Army as well as the Navy, to supplement, and eventually to replace, the British forces now there. Judging from the various press reports, it is likely that 80,000 American boys are in course of being sent to Iceland 2,400 miles from any American territory, and substantially a part of the continent of Europe.

In my opinion, the President has no legal or constitutional right to send American troops to Iceland. It is not an agreeable task for me to question the authority of the President to take any action which he has taken in the name of the Government of the United States but I believe it would be most unfortunate if the Senate of the United States should acquiesce without protest in acts of the President which might nullify for all time the constitutional authority distinctly reserved to Congress to declare war.

It would be a tremendous stretching of the Constitution to say that without authority from Congress the President of the United States can send hundreds of thousands of American soldiers to Europe when a war is raging over that entire Continent, and the presence of American troops would inevitably lead to war. The President cannot make aggressive war. Neither can he intervene in a war between two other nations, because such intervention, even though it does not immediately involve a physical attack on one of the combatants, is clearly the making of war.

"There has been no attack on the United States and no threat of attack. The action of the President is not only beyond the powers which the Constitution has granted to him, but it is a deliberate violation of his pledge to the American people." [28]

It was Senator Taft who questioned the intervention in Korea by President Truman. Senator Taft wrote:

"My conclusion, therefore, is that in the case of Korea, where a war was already under way, we had no right to send troops to a nation, with whom we had no treaty, to defend it against attack by another nation, no matter how unprincipled that aggression might be, unless the whole matter was submitted to Congress and a declaration of war or some other direct authority obtained." [29]

The high-water mark of congressional resistance during the years since World War II was the "Great Debate" of 1951, following an announcement by President Truman in September of 1950 that he intended to send additional ground troops to Europe as part of a NATO buildup. The debate began with a speech by Senator Taft in the Senate on January 5, 1951, and ended in April with the adoption of a resolution approving what had taken place, but calling for "future congressional approval" if more than four di-

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visions should be sent to Europe.[30] Senator Taft viewed adoption of the resolution as a victory.[31] Others saw it as a draw between the President and Congress.[32] The resolution was never tested and the "Great Debate" in retrospect seems hardly more than a pause in the sequence of events from Korea to Cambodia and Laos during which the power of the President to determine, without congressional authority, the necessity for committing military forces abroad has come to be regarded as almost absolute.

C. Limited judicial guidance

One might ask what judicial interpretations have been placed upon the war powers of Congress and the President under the Constitution. The Supreme Court has not often taken the opportunity to define or limit the war-making power. There is little disposition by the Court to consider "political questions," [33] and one may safely predict that if balance is to be re-created in the war-making process, it will be without benefit of judicial guidance.

The Supreme Court has denied certiorari in many cases, challenging the validity of the war in Vietnam.[34] It left standing a ruling by Chief Justice Burger, then Judge of the Circuit Court of Appeals for the District of Columbia, in which the Court stated:

"The fundamental division of authority and power established by the Constitution precludes judges from overseeing the conduct of foreign policy or the use and disposition of military power; these matters are plainly the exclusive province of Congress and the Executive.[35]

There are, however, decisions that should be noted—most of them in the early years of the nation. In *Penhallow v. Doane* [36] the Supreme Court suggested that the war power was not dependent upon the specific provisions in the Constitution.

In *Bas v. Tingy*,[37] the Court held that Congress could declare war as a public or perfect war or as a limited or imperfect war, a thought expounded a year later in *Talbot v. Seeman* [38] when Chief Justice John Mitchell wrote:

"The *whole powers* of war being, by the Constitution of the United States, vested in Congress, the *acts of that body alone* can be resorted to as our guides in this inquiry. It is not denied, nor in the course of the argument has it been denied, that *Congress may authorize general hostilities*, in which case the general laws of war apply to our situation; or *partial hostilities*, in which case the laws of war, so far as they actually apply to our situation, must be noticed.[39] (Emphasis added.)

In *Little v. Barreme*,[40] the Court held that President John Adams was limited as Commander-in-Chief by the restrictions enforced by Congress. The three cases mentioned above all arose as a result of the undeclared naval war with France. In these opinions, the Court observed that Congress was expected to play the predominant role in the initiation and prosecution of war. The opinions compliment views of the war-making powers as expressed by the writings of the framers of the Constitution.

The few cases concerning the war powers heard in later years have, for the most part, tended to strengthen the hand of the Executive and broaden his powers. A large number of the military actions not involving a formal declaration of war have concerned the protection of the lives and property of citizens of the United States.

In *Durand v. Hollins*,[41] the Court sustained President Pierce's order in 1854 to bombard Greytown, Nicaragua, because of the refusal of local officials to pay reparations for an attack upon the American consul.[42]

In the *Slaughter House Cases*,[43] the Court said in 1873:

"Another privilege of a citizen of the United States is to demand the care and protection of the Federal government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government. Of this there can be no doubt, nor that the right depends upon his character as a citizen of the United States." [44]

Other cases have sustained the right of the President to use the armed forces abroad for the protection of American lives and property.[45] These precedents probably aided President McKinley in his decision to send troops to China without congressional authorization in the Boxer Rebellion of 1900–1901.

It is of interest that President Eisenhower's justification for sending troops to Lebanon in 1958 was his inherent constitutional power to protect American lives and property,[46] rather than the Middle East resolution of 1957. Protection of lives and property.[47] Protection of lives and property was likewise the supposed basis for President Johnson's dispatching of Marines to the Dominican Republic in 1965.[48]

The constitutional power of the Executive to repel sudden attacks without congressional authorization has always been acknowledged. This power to wage defensive war was expanded in *Martin* v. *Mott* [49] when Justice Story said:

"The power thus confided by Congress to the President, is doubtless, of a very high and delicate nature. . . . But it is not a power which can be executed without a correspondent responsibility. It is, in its terms, a limited power, confined to cases of actual invasion, *or of imminent danger of invasion*. If it be a limited power, the question arises, by whom is the exigency to be judged of and decided? . . . We are all of opinion, that the authority to decide whether the exigency has arisen, belongs exclusively to the President, and that his decision is conclusive upon all other persons. We think that this construction necessarily results from the nature of the power itself, and from the manifest object contemplated by the act of Congress. The power itself is to be exercised upon sudden emergencies, upon great occasions of state, and under circumstances which may be vital to the existence of the Union.[50] (Emphasis added.)

Earlier reference was made to Alexander Hamilton's view of presidential war powers as expressed in 1801.[51] This expanded view of defensive war was reflected in President Polk's initial instructions to General Taylor, authorizing him to attack first in defense as soon as the Mexicans crossed the Rio Grande and to enter Mexican territory in the pursuit of the invaders.

The Hamilton view that once the country is attacked, the President may take action without further authorization from Congress, received approval during the War Between the States when, in *The Prize Cases*,[52] the Supreme Court held valid President Lincoln's proclamation of a blockade of the South. Of the President's powers, the majority opinion said: "He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority." [53]

In *United States v. Sweeny* [54] the Supreme Court said that the purpose of the Commander-in-Chief clause ". . . is evidently to vest in the President the supreme command over all the military forces—such supreme and undivided command as would be necessary to the prosecution of a successful war." [55]

The case most often cited as a restriction upon the President's war powers is *Youngstown Sheet & Tube Co. v. Sawyer*.[56] Justice Jackson said that the President "has no monopoly of 'war powers,' whatever they are." [57] This decision was prompted by President Truman's seizure of the steel plants during the Korean War—an action which the Supreme Court held invalid. It should be noted, however, that this case questioned the President's power over a domestic issue—labor-management relations—rather than the conduct of hostilities or the commitment of troops.[58]

In addition to the Court decisions that recognized an expanded executive power in the protection of American lives and property, and an expanded definition of defensive war, there also emerged a theory of inherent presidential right under the Constitution to protect national interests.[59] This received judicial recognition in the case of *In re Neagle* [60] inasmuch as the Supreme Court ruled that the power of the President to enforce the laws extends to obligations growing out of America's international relations. But there have been few recent decisions on the constitutional war powers * and almost none involving a confrontation between legislation and presidential action. One concludes that what has come to be regarded as an inherent power is more the result of presidential action and congressional acquiescence than judicial blessing.

D. Nuclear age and the cold war

Unquestionably, the nuclear age and the cold war created a climate of emergency that prompted Presidents to take action without congressional concurrence where earlier Executives may have hesitated. Since the time of entry into Korea, Presidents have moved without congressional authorization, and legal precedents have been cited to support their actions.[61] Those who have evoked the Founding Fathers as the constitutional authority for congressional participation in the war-making process have often been brushed aside.[62]

What relevance has an eighteenth century document drafted in the days of sailing vessels and limited cannon range to an age of instant communication, of nuclear warheads and intercontinental missiles? This question is implicit in the minority views on the National Commitments Resolution filed by Senator Gale McGee, who wrote: "The machinery of policy decisions assembled nearly two centuries ago simply has not been able to keep pace with the changing requirements of present-day realities." [63]

Two foreign policy developments of recent years should be noted. One is the increased use of the executive agreement as a method of making foreign commitments without having a treaty ratified by the Senate. This had its genesis with President Franklin Roosevelt's transfer of fifty destroyers to the British, and began the increased use of commitment by executive agreement. Today there are almost four times as many executive agreements as treaties.[64] Another development was the extensive execution of multilateral treaties and the emergence of the thesis of collective self-defense. During the Truman and Eisenhower Administrations, the United States entered into a series of multilateral and bilateral treaties which sought to encircle and contain the Communist nations.[65] These treaties represented commitments for military assistance all over the world. Although not self-executing, they broadened our commitments to a degree that Presidents had a ready basis for military assistance and, in some instances, for the making of war.[66]

And so, in varying degrees, obsolescence of the formal declaration of war, congressional acquiescence, lack of judicial interpretation of the war powers, and the cold war have all contributed to the atmosphere of a period during which presidential hegemony over the war powers has emerged. Without arguing the merits of troop commitments made by Presidents Truman, Eisenhower, Kennedy, Johnson and Nixon, it can be argued that the public believes there has been far greater congressional participation in the decisions that led to Korea, Lebanon, Vietnam, the Cuban blockade, the Dominican Republic, Cambodia, and Laos, than has actually oc-

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curred.[67] If the intent of the Founding Fathers is to be fulfilled and the public's expectations of what the Constitution requires are to be realized, there should be congressional participation in decisions committing the nation to hostilities other than of an emergency nature. How can this be accomplished?

IV. CORRECTIVE PROPOSALS ADVANCED BY CONGRESS

A. In general

Suggestions for re-establishment by Congress of a more influential role in the exercise of war powers may be divided into three categories: (a) that future resolutions be deliberated carefully and defined clearly as to the scope of congressional authorization, (b) that there be standard procedures enacted for reporting and consultation between the President and Congress, and (c) that by legislation the circumstances under which the President might initiate hostilities in the absence of a declaration of war be defined by rule.

The broad and undefined nature of the powers granted in past resolutions has been noted herein. Recommendations for consideration of future resolutions have been made by the Senate Committee on Foreign Relations. They are as follows:

"(1) Debate the proposed resolution at sufficient length to establish a legislative record showing the intent of Congress;

"(2) Use the words "authorize" or "empower" or such other language as will leave no doubt that Congress alone has the right to authorize the initiation of war and that, in granting the President authority to use the Armed Forces, Congress is granting him power that he would not otherwise have;

"(3) State in the resolution as explicitly as possible under the circumstances the kind of military action that is being authorized and the place and purpose of its use; and

"(4) Put a time limit on the resolution, thereby assuring Congress the opportunity to review its decision and extend or terminate the President's authority to use military force." [68]

There have been numerous proposals for establishing consultation with Congress before forces are deployed. Professor Alfred DeGrazia of New York University proposed that at each session Congress establish a force committee [69] to share with the President the responsibility of determining when armed forces will be used without a declaration of war. Professor Henry Commager recently testified on the war powers before the Senate Committee on Foreign Relations and, among other things, suggested:

". . . that the Senate meet the argument of emergency, hypothetical as it is, by creating a permanent committee, a quorum of whose members would remain permanently in Washington, with authority to require that the President consult with the Senate or the Congress before taking any action that might involve the Nation in armed conflict. Such a committee could be counted on to respond to a genuine emergency just as promptly as would the President, and counted on, too, to present the case for caution. . . .

"that the Senate create a standing committee to consult with the President on all executive agreements, and with authority to designate those of sufficient importance to require submission to the Senate as treaties." [70]

Congressman Frank Horton of New York has introduced legislation that would create a joint committee on national security. This new committee would be designated by Congress as the panel authorized to consult with the President and his national security advisors in situations where congressional powers are involved and where congressional ratification of military actions is required.[71]

Congressman Clement Zablocki of Wisconsin has introduced a resolution which would require the President upon (a) committing military forces to armed conflict, (b) committing military forces equipped for combat, or (c) substantially enlarging military forces already located abroad, to submit a written report to the Speaker of the House and the President of the Senate. The report is to set forth the circumstances necessitating the action; the constitutional, legislative and treaty provisions giving authority for the action; the reasons for not seeking specific prior congressional authorization; the estimated scope of activities and such other information as the President may deem useful to Congress in the fulfillment of its constitutional responsibility.[72]

B. Senate proposals for restoration of a balanced war power

There are three resolutions and a bill presently before the Senate designed to limit or define the President's constitutional war powers. The bill S. 731 was introduced by Senator Jacob Javits.[73] The three resolutions are S.J. Res. 18, introduced by Senator Robert Taft, Jr.; [74] S.J. Res. 59, introduced by Senator Thomas Eagleton,[75] and S.J. Res. 95, introduced by Senator John Stennis.[76]

Should a war powers measure be enacted at this session of Congress, it is likely to be a hybrid of these proposals. If it is the sense of the Senate Foreign Relations Committee that such a measure should be reported, it must be decided whether it is to be in the form of a bill or a resolution. The author is a co-sponsor of the Javits bill, but is unaware of any operative difference between a bill and a joint resolution. Nor is there any difference between their legal force and effect. Each requires the signature of the President, and both are subject to veto by the President.

Each of the four measures defines the circumstances under which the President may or may not commit the armed forces to hostilities. While legislative enactments that seek to interpret the Constitution have traditionally been in the form of a joint resolution rather than a bill, the two forms are now being used interchangeably to the extent that there has ceased to be any operative, or even theoretical, difference between them. Either type of enactment would place the President on notice of the circumstances under which he may expect to be supported by Congress if he initiates hostilities.

The legislation offered by Senators Eagleton, Javits, and Stennis have a common characteristic—a requirement that there be advance congressional authorization for the commitment of the armed forces to hostilities by the President, except in certain designated emergency situations. In any of the defined situations, the President may commit the armed forces to combat for a period not to exceed thirty days unless explicitly authorized by Congress. Senator Taft's resolution, while defining the emergency circumstances under which the President may initiate hostilities without authorization, allows the President to continue using the armed forces until or unless the authorization is terminated by Congress. All four proposals require that the President report to Congress after he has initiated hostilities. All but the Taft resolution require continuing periodic reports. The Taft resolution requires only notification to Congress within twenty-four hours after deployment or commitment to combat.

The Javits bill [77] authorizes the President, in the absence of a declaration of war, to commit the armed forces to hostilities to repel a sudden attack on the United States or its armed forces, to protect the lives and property of United States' nationals abroad, and to comply with a national commitment resulting exclusively from affirmative action taken by Congress as well as the President. Military hostilities initiated for these purposes would be reported promptly to Congress and could not be sustained beyond thirty days unless authorized by Congress. Congress by joint resolution could terminate hostilities in less than thirty days. The bill also contains provisions for the expedition of committee and floor action on any authorization for the continuation or determination of military hostilities. Finally, the Javits bill would exclude from its operation any hostilities already undertaken prior to enactment.

The Eagleton resolution [78] states that the President may commit the armed forces to hostilities to the extent authorized by Congress through a declaration of war, statute, or joint resolution, but states that authorization may not be inferred from legislative enactments, including appropriations bills, which do not specifically include such authorization. It is also specified that no treaty may be construed as authorizing armed action without future congressional authorization. The resolution further authorizes the President, during any authorized hostilities, to enter, invade or intrude upon neutral countries when in hot pursuit of an enemy or when a clear and present danger exists of an imminent attack on United States armed forces by enemy troops located in the neutral country.

Similar to the Javits bill, the Eagleton resolution authorizes the President, in the absence of advance congressional authorization, to commit the armed forces to hostilities in order to repel an attack on the United States or its armed forces. Also, the President is authorized to remove American citizens from any country in which such citizens are being subjected to an imminent threat to their lives. There is no provision in the Eagleton resolution for the protection of the property of American nationals nor is there authorization for military action to comply with a national commitment.

As in the Javits bill, the Eagleton resolution requires that any hostilities undertaken by the President be promptly reported to Congress and that the question of terminating or continuing the hostilities be decided by Congress within thirty days.

Analogously to the Javits bill, the Eagleton resolution excludes from its authority hostilities commenced prior to its enactment and, also, contains provisions for the expedition of legislative action in committee and on the floor. The Eagleton resolution also requires the President to report periodically to Congress on the status of any authorized hostilities as well as the extended scope and length of such hostilities. The Eagleton resolution offers a definition of the term "hostilities."

The Stennis resolution [79] is similar to the Eagleton resolution in many respects. For instance, it also states that authorization may not be inferred from any provision of law, including appropriations bills, but must be specified. As in the Javits and Eagleton proposals, the Stennis resolution would authorize the President to use the armed forces to repel an attack on the United States or its armed forces. The Stennis resolution would also authorize action to protect the United States or its armed forces against the danger of future attacks, and to prevent or defend the United States against an imminent nuclear attack. As found in the Eagleton resolution, there is also a provision to allow the President to take action to evacuate United States citizens from any country in which their lives were in danger.

The Stennis resolution also requires prompt notification to Congress of any military action undertaken and requires further, with provisions for the expedition of committee and floor action, a decision within thirty days by Congress whether the authorization to use the armed forces would be extended or terminated. During hostilities, the President would be expected to report to Congress at least every six months.

While the Javits and Eagleton proposals

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simply exclude any hostilities begun prior to enactment, the Stennis resolution specifically excludes the armed conflict in the Republic of South Vietnam and all military activities carried out against North Vietnam or its allies in North Vietnam, Laos, Cambodia or the waters surrounding the Indochina Peninsula. Finally, the Stennis resolution contains a definition of "armed conflict" closely resembling the Eagleton definition of "hostilities."

The Taft resolution [80] states that armed forces will be committed to combat abroad only with the prior authorization of Congress except in the following circumstances: (1) when the President finds that the territory or armed forces of the United States are under attack or under imminent threat of attack; (2) when he finds that deployment of the armed forces is necessary to fulfill a treaty obligation; or (3) when he finds that deployment is necessary to exercise the inherent right of self defense. In any of the foregoing circumstances, the Taft resolution authorizes the President to commit the armed forces to combat at his sole discretion, but he must notify Congress within twenty-four hours of any military action.

Congress may terminate the authorization to use the armed forces by concurrent resolution. The Taft resolution contains no provision compelling termination of military action after thirty days unless Congress authorizes its continuation.

Unlike the other proposals which exclude the current war in Indochina, the Taft resolution specifically authorizes the continued deployment of armed forces of the United States for such time, and in such a manner, as the President, as Commander-in-Chief, shall deem necessary and appropriate to accomplish a withdrawal of such armed forces and the assumption by the South Vietnamese Army at the earliest feasible date of responsibility for the defense of the territory of South Vietnam.

Since the Taft resolution includes a statement of policy concerning Indochina, the Foreign Relations Committee will have an opportunity to decide whether war powers legislation is a desirable vehicle for congressional expression of what policy in Indochina is, or should be. Many, including the writer, believe that repeal of the Gulf of Tonkin resolution left a vacuum in which there should be a congressional expression. However, prospects for unemotional consideration of war powers legislation would be enhanced if the legislation is limited to future hostilities. Senators Eagleton, Javits, and Stennis all stated this when introducing their respective proposals.

The delineation of circumstances under which, in the absence of a declaration of war, the President may initiate hostilities must not give or take away powers presently acknowledged under judicial interpretation of the Constitution. The Founding Fathers certainly intended for the President to have authority to repel sudden attacks.[81] Early decisions have sustained the President's right to use the armed forces to protect the lives and property of United States nationals abroad.[82] The power to act in anticipation of imminent attack would appear established under interpretation of the war powers.[83]

It has been argued that adoption of Item A(4) of the Javits bill [84] or paragraph 2 of Part I, of the Taft resolution,[85] stating that the President has power to deploy and commit to hostilities the armed forces to fulfill a treaty obligation, would give the President more constitutional authority than he presently possesses.[86] President Truman relied upon America's obligations under the United Nations Charter to send troops to Korea without congressional authorization. The rather oblique reliance upon the SEATO Treaty as a partial basis for our involvement in Indochina has heretofore been noted.[87]

It is agreed that none of the present multilateral treaties are self-executing.[88] An example of questions presented in consideration of these sections is illustrated by commitments in Europe under the NATO Treaty. Should American forces in Europe be attacked, there is no question that the President is empowered to act. However, should one of the NATO allies be attacked, would the President have power to act without congressional approval under the pending legislation? Does he have that power now? While the answers might vary with particular circumstances, the questions go to the merits of these proposals, as well as the credibility of the United States' present policy of "flexible response" in Western Europe.[89]

The questions also relate to Section 1 of the Eagleton resolution, which reads as follows:

"Except as authorized in section 2 or section 3 of this resolution, the President shall not commit the Armed Forces of the United States to hostilities. No treaty previously or hereafter entered into by the United States shall be construed as authorizing or requiring the Armed Forces of the United States to engage in hostilities without further Congressional authorization. It is specifically recognized that such treaties as the Charter of the United Nations, the North Atlantic Treaty, and the Southeast Asia Collective Defense Treaty do not authorize or require the President to commit the Armed Forces of the United States to engage in hostilities without a further authorization from both the Senate and the House of Representatives.[90]"

While this language would appear constitutionally pure and in accordance with the present view of the State Department that the treaties are not self-executing, NATO obligations raise delicate political and legal questions in considering the war powers proposals. Does the Javits bill give more power to the President than he already has under the Constitution and the *Neagle* decision? [91] Conversely, does the Eagleton resolution take anything away from the President?

Section 2 of the Eagleton resolution and Section 3 of the Stennis resolution each specify that authorization to commit the Armed Forces of the United States to hostilities may not be inferred from legislative enactments, including appropriations bills, which do not specifically authorize the use of such forces in armed conflict. A section of this type should be included if legislation is enacted. Congress is reluctant to raise the issue of authorization in connection with military appropriations. Once the men are in the field, there is the understandable concern that denial of appropriations would deprive the troops of weapons and supplies needed, but approval of appropriations should not imply authorization to deploy or commit military forests unless specially stated.

The Stennis resolution—Section 2, item (3)—gives the President authority to "prevent or defend against an imminent nuclear attack on the United States by the forces of any foreign government or power, but only if the President has clear and convincing evidence that such an attack is imminent; . . . ." Thus, the question of a preemptive nuclear first strike will be considered as part of these proposals. Does the President already have the power to act without authorization by Congress? Does not the type of weaponry involved and the nature of the decision to be made limit the opportunity for seeking authorization? Does the expanded view of the President's defensive war powers give the President the power to act in anticipatory self-defense? [92] Is this power implicit in Part 1, item (1) of the Taft resolution or Section 2, item (b) of the Eagleton resolution?

Each of the proposals contains a provision requiring prompt notification to Congress of any action taken under the authority spelled out in the bill or resolution. Some require periodic reports to Congress as long as hostilities are in progress. These measures, hopefully, would promote cooperation between the executive and legislative branches. The requirement in the Stennis, Eagleton and Javits proposals that Congress take action within thirty days to authorize or terminate hostilities would assure congressional participation, and place upon Congress the burden of sharing some measure of responsibility for warmaking decisions with a lessened opportunity to second guess.

If a hybrid of the Javits, Eagleton, Taft and Stennis proposals is enacted, there should be included a definition of "hostilities" as in the Eagleton resolution or "armed conflict" as in the Stennis resolution, depending upon the term used in the earlier sections.

Perhaps the most compelling arguments heard against legislation which seeks to codify the war powers, are that the problems of warmaking do not easily lend themselves to an attempt at generalized prospective codification.[93]

For this reason, legislation enacted should not be drafted to anticipate every conceivable type of military situation in which force could be employed, but define only those war powers which the Constitution grants the President. While many believe the sole objective of war power legislation is to limit the President's powers, it has been suggested that any codification of the President's war powers could result in expanding those powers.[94]

Though constitutional objections have been raised, the weight of opinion is that the proposals are constitutional.[95] Also, it is conceded that should war powers legislation be enacted and result in a confrontation between the President and the Congress, there is little chance of judicial interpretation.[96]

In preceding paragraphs, the four legislative proposals presently before the Senate Foreign Relations Committee are reviewed. If a resolution, rather than a bill, is to be enacted, the recitals as set forth in the preamble to the Eagleton resolution reflect an accurate summary of the conclusions reached in preparation of this paper. The Javits bill sets forth with clarity, supported by weight of law, the rules by which the President, as Commander-in-Chief, may use the armed forces in military hostilities without a declaration of war with two possible exceptions. First, it is questionable that the protection of American property is of sufficient cause for emergency action. Second, as heretofore noted, there are questions concerning the power of the President to act alone to comply with existing treaty commitments.[97] Any enactment should include provisions of notification and reporting to Congress and for expedition of congressional authorization or disapproval. Also, any enactment should include sections similar to those in the Stennis and Eagleton resolutions, which: (1) state that authority to use the armed forces is not to be inferred from any provision of law, including appropriations acts, unless specifically authorized; and (2) define the terms "hostilities" or "armed conflict."

The four legislative proposals before the Senate reflect thoughtful consideration of the problems inherent in codification of the war powers. Their introduction has provoked perhaps the most enlightened discussion of constitutional war powers in American history.

Of overriding importance in determining which, if any, of these proposals to enact is whether the enactment would serve long-term national interests. The ultimate objective of any legislative implementation of the Constitution must be protection of the country's well-being, especially when the legislation deals with matters directly affecting national security.

Footnotes at end of article.

V. CONCLUSION

It has been suggested that the way for Congress to resume control over the foreign and war policy of the United States is merely to resume it—that the balance may be restored by affirmative action.[98] What type of action?

It is probable that there will be legislation enacted by Congress concerning the exercise of war powers. Should war powers legislation not be enacted, however, a desirable alternative would be more consultation with Congress by Presidents before troops are committed or hostilities initiated. Secretary of State Rogers' recent testimony before the Senate Committee on Foreign Relations indicated that this cooperation will be forthcoming. The Secretary expressed a willingness to explore ways of helping Congress reenforce its own information capability on issues involving war and peace. He also acknowledged the need for effective consultation between Congress and the President. It is of interest to note that the Secretary could recall only one instance since the end of the Second World War when Congress has participated in the making of a use of force decision.[99]

One may predict that future resolutions authorizing hostilities will not contain open-ended features but will follow the suggestions of the National Commitments Report.[100]

There have been several suggestions for special or standing committees for the purpose of immediate and constant consultation with the President on the hostile use of military forces.[101] While these suggestions have appeal, it should be possible for consultation to take place with the leadership and committees of Congress as presently constituted. It will, of course, be necessary for the President to be willing to involve Congress in the decision making process.

During the lengthy war powers hearings held last year in the House, and this year in the Senate, there has been almost unanimous support for a reporting requirement. Should proposals which codify the war powers not receive sufficient support, it is probable that a separate resolution or bill will be enacted requiring presidential reports to Congress spelling out details of any troop commitments.[102] As aforestated, the overriding consideration in determining the advisability of enacting more complex war powers legislation is long-term national interests. It has been suggested that, in attempting to codify the war powers, Congress may fall into the old trap of trying to deal with the future by legislating the past. Also, one must ask if Congress is capable of acting with the speed, expertise, wisdom, and secrecy required today of decisions involving the war powers.

Much more is involved than a determination of war power prerogatives under the Constitution. It would hardly serve the long-term interests of the nation if any enactment resulted in a return to the congressional negativism and obstruction of the early years of this century. Nor would long-term interests be served if legislation were enacted that lacked credibility. It is doubtful if the public or the President would accept a measure subject to an interpretation that the President could not act to prevent or defend aganist nuclear attack if there were clear evidence that such an attack was imminent.

Has the world so changed that the intent of the Founding Fathers is no longer viable? If so, what is our course if we are persuaded that presidential hegemony over the war powers is in the national interest and no legisation is desirable? The Constitution can be amended or the present constitutional quandary can continue, in which neither the intent of the Founding Fathers nor public expectation that elected representatives participate in the war-making process are being realized. Another quarter century of presidential hegemony, assuming the unlikely probability of continued congressional acquiescence would, through usage, make clear and constitutional something diametrically opposed to the intent of the Founding Fathers.

Either a Constitutional amendment spelling out Presidential hegemony or continued Congressional acquiescence is ill-advised. If there was cause in the 18th century to fear concentration of the power to make war in the hands of one man, surely more is at stake today.

The effort must be to reinvest Congress with a role in use of force policy without compromising the ability of the President to act absent Congressional concurrence in emergency situations, including imminent nuclear attack. This would require that Congress have a voice in the deployment of troops.

The probability of war is closely related to the deployment of troops. The decisions of the past thirty years that have resulted in the commitment of United States forces—sometimes hostilities—have seldom been made with congressional participation. The deployment of troops often increases the chances for conventional war and conventional war increases the prospect for nuclear reliance.

Would the enactment of war powers legislation, similar to the proposals before the Senate, serve the long-term interests of the nation? There are many factors that lead one to conclude that it would, particularly if the possibilities of obstruction and negativism are reduced by a requirement of immediate consideration and action by Congress, and if the legislation is limited to future hostilities. The nation's interests would be served if congressional action initiated a fourth period of war powers history, an era of greater consultation and collaboration between the President and Congress. National unity is desperately needed in the wake of the long and divisive war that has focused so much attention upon this constitutional dilemma. Moreover, the chances of preventing an unnecessary war seem better if the decision to make was is, as the constitutional framers intended, a responsibility to be shared by Congress and the President.

If Congress will enact a war powers measure that takes into account the national security realities of the age in which we live, while at the same time giving effect to the Founding Fathers' intent, and to the public expectation rooted in their intent, that elected representatives participate in war-making decisions, this will restore balance to the war-making process and very probably serve the long-term best interests of the nation.

FOOTNOTES

* United States Senator from Virginia; Member of the Senate Foreign Relations Committee; Lecturer in International Law, College of William and Mary; LL.B., University of Virginia, 1947.

[1] S. Res. 85, 91st Cong., 1st Sess., 115 Cong. Rec. 17245 (1969). This enactment provides that a national commitment exists only when evidenced by prior congressional action.

[2] Moore, *The National Executive and the Use of the Armed Forces Abroad,* 21 Naval War College Rev. 28 (1969); Reveley, *Presidential War-making: Constitutional Prerogative or Usurpation?,* 55 Va. L. Rev. 1243 (1969); Note. *Congress, the President, and the Power to Commit Forces to Combat,* 81 Harv. L. Rev. 1771 (1968).

[3] Madison, Notes of the Debates in the Federal Convention of 1787, at 475–76 (1966).

[4] *Id.* at 476.

[5] *Id.*

[6] *Id.*

[7] The Federalist No. 69, at 417–18 (C. Rossiter ed. 1961) (A. Hamilton).

[8] The Works of Alexander Hamilton 249–50 (H. Lodge ed. 1904).

[9] The Writings of James Madison 174 (G. Hunt ed. 1910).

[10] *See* Debates and Other Proceedings of the Convention of Virginia, Convened at Richmond, on Monday the 2nd Day of June 1788 (W. Prentis ed. 1789).

[11] 15 The Papers of Thomas Jefferson 397 (J. Boyd ed. 1955).

[12] Senate Comm. on Foreign Relations, 91st Cong., 1st Sess., Report on National Commitments (Rept. No. 91–129) 11–26 (Comm. Print 1969) [hereinafter cited as 1969 Senate National Commitments Report]; Reveley, *Presidential War-making: Constitutional Prerogative or Usurpation?* 55 Va. L. Rev. 1243 (1969).

[13] Russell, The United States and the Power to Use Military Forces Abroad 242–43 (1967) (unpublished thesis in Fletcher School of Law and Diplomacy).

[14] Undoubtedly, Congress became sensitive to charges of lack of vision in foreign policy during the Wilson and Franklin Roosevelt Administrations. President Wilson armed merchant vessels in 1917 for defensive purposes after being denied congressional authority by a filibuster. After the war, the Senate rejected membership in the League of Nations.

Also, there is obliged to have been a later realization of the legal and factual gymnastics President Roosevelt was forced to undertake in the years prior to our entry into World War II. The Neutrality Acts of 1935, 1936, and 1937, forced Roosevelt to act unilaterally in 1940 in the exchange of destroyers for bases with Great Britain, to occupy Greenland and Iceland in 1941, and to provide convoys for supplies to Britain. The convoys led to an undeclared naval war in the Atlantic months before Pearl Harbor.

[15] 23 U.S. Dep't of State, Bull. No. 578, at 173–77 (1950).

[16] 96 Cong. Rec. 9647–49 (1950) (remarks of Senator Douglas).

[17] H.R.J. Res. 9, 82d Cong., 1st Sess. (1951) stipulated that no funds should be appropriated for sending or maintaining troops abroad without the prior consent of Congress.

S. Res. 99, 82d Cong., 1st Sess. (1951) concerned the number of troops which the President might send to Europe. *See* 97 Cong. Rec. 3062–104, 3145–94, 3254–83, 3293 (1951).

[18] *Hearings on S. Con. Res. 8 Before the Senate Comms. on Foreign Relations and Armed Services,* 82d Cong., 1st Sess., at 92–93 (1951).

[19] 101 Cong. Rec. 601 (1955) (remarks of President Eisenhower).

[20] The original resolution expressed the sense of Congress that the President possessed the authority to deal with Cuba "by whatever means may be necessary, including the use of arms." Senator Richard Russell of Georgia opposed this, stating that the resolution as originally worded made a constitutional assertion that the President had the right to declare war. The resolution as adopted was quite different.

[21] The Gulf of Tonkin Resolution was enacted even though Senator Morse argued eloquently that its passage gave to the President an unconstitutional power—the power to make war without a declaration of war. 110 Cong. Rec. 18442–49 (1964) (remarks of Senator Morse).

[22] *Hearings on S. Res. 151 Before the Senate Comm. on Foreign Relations,* 90th Cong., 1st Sess., at 82 (1967).

[23] *Hearings on Vietnam Policy Proposals Before the Senate Comm. on Foreign Relations,* 91st Cong., 2d Sess., at 175 (1969).

[24] N.Y. Times, Apr. 29, 1965, § 1, at 1.

[25] The five declarations of war involved the War of 1812, the Mexican War, the Spanish-American War, World War I and World War

II. There have been approximately 150 other military operations involving our armed forces.

[26] 1969 Senate National Commitments Report, *supra* note 12.

[27] Before the Society of Newspaper Editors in Washington, D.C., on April 16, 1971, Mr. Katzenbach said: "I have a feeling that in the area of foreign affairs the majority of Congress would rather call the signals on Monday morning than on Sunday afternoon."

[28] R. Taft, A Foreign Policy for Americans 30–31 (1951).

[29] *Id.* at 33.

[30] S. Res. 99, 82d Cong., 1st Sess., 97 Cong. Rec. 3282 (1951).

[31] R. Taft, *supra* note 28, at 36.

[32] House Comm. on Foreign Affairs, 91st Cong., 2d Sess., Background Information on the Use of United States Armed Forces in Foreign Countries 22 (1970).

[33] For recent treatments of this subject see Tigar, *Judicial Power, the "Political Question Doctrine," and Foreign Relations*, 17 U.C.L.A.L. Rev. 1135 (1970); Note, *The Supreme Court as Arbitrator in the Conflict Between Presidential and Congressional War-making Powers*, 50 Bost. U.L. Rev. 78 (1970).

[34] Mora v. McNamara, 387 F.2d 862 (D.C. Cir.), *cert. denied*, 389 U.S. 934 (1967); Luftig v. McNamara, 373 F.2d 664 (D.C. Cir.), *cert. denied*, 387 U.S. 945 (1967); Mitchell v. United States, 369 F.2d 323 (2d Cir. 1966), *cert. denied*, 386 U.S. 972 (1967).

[35] Luftig v. McNamara, 373 F.2d 664, 665–66 (D.C. Cir.), *cert. denied*, 387 U.S. 945 (1967).

[36] 3 U.S. (3 Dall.) 54 (1795).

[37] 4 U.S. (4 Dall.) 37 (1800).

[38] 5 U.S. (1 Cranch) 1 (1801).

[39] *Id.* at 28.

[40] 6 U.S. (2 Cranch) 170 (1804).

[41] 8 F. Cas. 111 (No. 4186) (C.C.S.D.N.Y. 1860).

[42] *See* 7 J. Moore, A Digest of International Law § 1093, at 112–16, § 1168 (1906).

[43] 83 U.S. (16 Wall.) 36 (1873).

[44] *Id.* at 79.

[45] *In re* Neagle, 135 U.S. 1 (1890); Perrin v. United States, 4 Ct. Cl. 543 (1868), *aff'd*, 79 U.S. (12 Wall.) 315 (1870).

[46] 104 Cong. Rec. 13903–04 (1958) (statement of President Eisenhower).

[47] *See* p. 8 *supra*.

[48] *See* p. 9 *supra*.

[49] 25 U.S. (12 Wheat.) 19 (1827).

[50] *Id.* at 29–30.

[51] *See* p. 3 *supra*.

[52] 67 U.S. (2 Black) 635 (1863).

[53] *Id.* at 668.

[54] 157 U.S. 281 (1895).

[55] *Id.* at 284.

[56] 343 U.S. 579 (1952).

[57] *Id.* at 644 (Jackson, J., concurring).

[58] Concurring opinions relied upon the fact that several laws concerning labor disputes had been enacted by Congress which had the effect of withholding the power of seizure. 343 U.S. 579, 604–09 (Frankfurter, J., concurring), 655–60 (Burton, J., concurring), 662–65 (Clark J., concurring).

[59] U.S. Const. art. II, §§ 1, 3. *See also* Note, *Congress, the President, and the Power to Commit Forces to Combat*, 81 Harv. L. Rev. 1771, 1775–77 (1968).

[60] 135 U.S. 1 (1890).

[*] *Editor's Note*—This article was completed prior to the publication of the Pentagon Papers by the New York Times and the Washington Post, and the subsequent court test of the injunction obtained by the Government to restrain publication. In the resulting Supreme Court decision of *New York Times Co. v. United States*, 39 U.S.L.W. 4879 (U.S. June 29, 1971), which vacated the injunction, Mr. Justice Douglas, joined by Mr. Justice Black, briefly addressed himself by way of dicta to the balance in war powers dictated by the Constitution:

"The power to wage war is "the power to wage war successfully." See *Hirabayashi v. United States*, 320 U.S. 81, 93. But the war power stems from a declaration of war. The Constitution by Article I, § 8, gives Congress, not the President, power "to declare war." Nowhere are presidential wars authorized. We need not decide therefore what leveling effect the war power of Congress might have. New York Times Co. v. United States, U.S. , (1971)."

[61] U.S. Dep't of State, *The Loyalty of United States Participation in the Defense of Vietnam*, 54 Dep't of State Bull. 474 (1966); Address by Wiliam H. Rehnquist, "The President's Constitutional Authority to Order the Attack on the Cambodian Sanctuaries," Society of International Law, June 16, 1970; Statement of Secretary of State William P. Rogers, Senate Comm. on Foreign Relations, May 14, 1971.

[62] *See* note 18 *supra*.

[63] 1969 Senate National Commitments Report, *supra* note 12, at 38.

[64] In 1930, the United States concluded 25 treaties and 9 executive agreements. As of January 1, 1969, the United States had a total of 909 treaties and 3,973 executive agreements.

[65] Those treaties were the Rio Treaty, the North Atlantic Treaty, the ANZUS Treaty the SEATO Treaty, and bilateral treaties with the Philippines and the Republic of China on Formosa, Korea and Japan.

[66] *See* note 22 *supra*.

[67] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59 Before the Senate Comm. on Foreign Relations*, 92d Cong., 1st Sess. (1971). Note therein the following testimony and the questions asked the witnesses by the author: Senator Barry Goldwater (April 23, 1971); Mr. George Reedy (April 26, 1971); Secretary of State William Rogers (May 14, 1971).

[68] 1969 Senate National Commitments Report, *supra* note 12, at 33.

[69] *Hearings on Separation of Powers Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 90th Cong., 1st Sess. 163–79 (1967).

[70] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59*, *supra* note 67, at 17 (March 8, 1971).

[71] *Id.* (April 23, 1971).

[72] H.J. Res. 1, 92d Cong., 1st Sess. (1917). *See* appendix 1.

[73] S. 731, 92d Cong., 1st Sess. (1971). *See* appendix 2.

[74] S.J. Res. 18, 92d Cong., 1st Sess. (1971). *See* appendix 3.

[75] S.J. Res. 59, 92d Cong., 1st Sess. (1971). *See* appendix 4.

[76] S.J. Res. 95, 92d Cong., 1st Sess. (1971). *See* appendix 5. Senator Lloyd Bentsen of Texas later introduced a bill similar to the Stennis resolution, and testified on it before the Senate Foreign Relations Committee on July 27, 1971. He delivered his first speech on the Senate floor on his bill on July 28, 1971.

[77] *See* appendix 2.

[78] *See* appendix 4.

[79] *See* appendix 5.

[80] *See* appendix 3.

[81] *See* note 3 *supra*, at 476.

[82] *See* notes 41–45 *supra*.

[83] *See* notes 49, 50 *supra*.

[84] *See* appendix 2.

[85] *See* appendix 3.

[86] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59*, *supra* note 67. See therein Memorandum of Lawyers Comm. on American Policy toward Vietnam.

[87] *See* note 22 *supra*.

[88] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59*, *supra* note 67. See therein testimony of Senator Taft, Senator Goldwater and Secretary of State Rogers.

[89] Briefly, the doctrine of "flexible response" anticipates a conventional response by the NATO alliance to a conventional attack upon a NATO nation that would provide at least a period of two to three days for negotiation and determination of the necessity or advisability of using nuclear weapons.

[90] *See* appendix 4.

[91] *See* notes 59, 60 *supra*.

[92] *See* notes 49–53 *supra*.

[93] *Hearings on Congress, the President, and War Powers Before the House Comm. on Foreign Affairs*, 91st Cong., 2d Sess. (1970). Note therein statements of Dr. Alexander M. Bickel (June 23, 1970) and Dr. W. T. Mallison, Jr. (June 23, 1970). Dr. Bickel later spoke more favorably concerning efforts to codify the war powers, endorsing with reservations the Javits bill. *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59*, *supra* note 67 (March 8, 1971).

[94] *Id.* at 303.

[95] *Id.* at 49–50. See therein statements of Henry S. Commager (March 8, 1971); Richard B. Morris (March 9, 1971); Alfred H. Kelly (March 9, 1971); Alpheus T. Mason (March 25, 1971); Alexander M. Bickel (July 26, 1971); William D. Rogers (July 27, 1971).

[96] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59*, *supra* note 67. Note therein testimony of Senator Goldwater and John N. Moore.

[97] *See* notes 86, 88, 89 *supra*. Also, the argument has been advanced that if a President, as Commander-in-Chief, acts to deploy for combat pursuant to a treaty, this action should be reviewed by Congress and either approved or condemned. The theory is that the Senate, by consenting to a treaty, cannot constitutionally bind the House to render an automatic war decision. *Hearings on Congress, the President, and War Powers*, *supra* note 93, at 391.

[98] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59*, *supra* note 67, at 48 (testimony of Dr. Alexander M. Bickel).

[99] *Id.* (testimony of Secretary of State William Rogers).

[100] *See* p. 19 *supra*.

[101] *See* notes 68–70 *supra*.

[102] *See* appendix 1.

[Appendix 1, 92d Congress, 1st Session, H.J. Res. 1, in the House of Representatives, January 22, 1971]

Mr. Zablocki introduced the following joint resolution; which was referred to the Committee on Foreign Affairs

JOINT RESOLUTION CONCERNING THE WAR POWERS OF THE CONGRESS AND THE PRESIDENT

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress reaffirms its powers under the Constitution to declare war. The Congress recognizes that the President in certain extraordinary and emergency circumstances has the authority to defend the United States and its citizens without specific prior authorization by the Congress.

Sec. 2. It is the sense of Congress that the President should seek appropriate consultation with the Congress before involving the Armed Forces of the United States in armed conflict, and should continue such consultation periodically during such armed conflict.

Sec. 3. In any case in which the President without specific prior authorization by the Congress—

(1) commits United States military forces to armed conflict;

(2) commits military forces equipped for combat to the territory, airspace, or waters of a foreign nation, except for deployments which relate solely to supply, repair, or training of United States forces, or for humanitarian or other peaceful purposes; or

(3) substantially enlarges military forces already located in a foreign nation;

the President shall submit promptly to the Speaker of the House of Representatives and to the President of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating his action;

(B) the constitutional, legislative, and treaty provisions under the authority of which he took such action, together with his reasons for not seeking specific prior congressional authorization;

(C) the estimated scope of activities; and

(D) such other information as the President may deem useful to the Congress in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

SEC. 4. Nothing in this joint resolution is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties.

[Appendix 2, 92d Congress, 1st Session]

S. 731

Mr. JAVITS introduced the following bill; which was referred to the Committee on Foreign Relations

A bill to make rules respecting military hostilities in the absence of a declaration of war

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That use of the Armed Forces of the United States in military hostilities in the absence of a declaration of war be governed by the following rules, to be executed by the President as Commander in Chief:

A. The Armed Forces of the United States, under the President as Commander in Chief, may act—

1. to repel a sudden attack against the United States, its territories, and possessions;

2. to repel an attack against the Armed Forces of the United States on the high seas or lawfully stationed on foreign territory;

3. To protect the lives and property, as may be required, of United States nationals abroad; and

4. to comply with a national commitment resulting exclusively from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment, where immediate military hostilities by the Armed Forces of the United States are required.

B. The initiation of military hostilities under circumstances described in paragraph A, in the absence of a declaration of war, shall be reported promptly to the Congress by the President as Commander in Chief, together with a full account of the circumstances under which such military hostilities were initiated.

C. Such military hostilities, in the absence of a declaration of war, shall not be sustained beyond thirty days from the date of their initiation except as provided in legislation enacted by the Congress to sustain such hostilities beyond thirty days.

D. Authorization to sustain military hostilities in the absence of a declaration of war, as specified in paragraph (A) of this section may be terminated prior to the thirty day period specified in paragraph (C) of this section by joint resolution of Congress.

SEC. 2. (A) Any bill or resolution, authorizing continuance of military hostilities under paragraph C (section 1) of this Act, or of termination under paragraph D (section 1) shall, if sponsored or cosponsored by one-third of the Members of the House of Congress in which it originates, be considered reported to the floor of such House no later than one day following its introduction, unless the Members of such House otherwise determine by yeas and nays; and any such bill or resolution referred to a committee after having passed one House of Congress shall be considered reported from such committee within one day after it is referred to such committee, unless the Members of the House referring it to committee shall otherwise determine by yeas and nays.

(B) Any bill or resolution reported pursuant to subsection (A) of section 2 shall immediately become the pending business of the House to which it is reported, and shall be voted upon within three days after such report, unless such House shall otherwise determine by yeas and nays.

SEC. 3. This Act shall not apply to military hostilities already undertaken before the effective date of this Act.

[Appendix 3, 92d Congress, 1st Session, S.J. Res. 18, in the Senate of the United States, January 27 (legislative day, January 26), 1971]

Mr. Taft introduced the following joint resolution; which was referred to the Committee on Foreign Relations

JOINT RESOLUTION TO DEFINE THE PRINCIPLES WHICH SHALL GOVERN THE DEPLOYMENT OF THE ARMED FORCES OF THE UNITED STATES BY THE PRESIDENT TO EXPRESS U.S. FOREIGN POLICY OBJECTIVES IN SOUTHEAST ASIA

Whereas wide discussion and differences of opinion have arisen among the members of the body politic with respect to the power of the President as Commander in Chief to deploy the Armed Forces of the United States beyond its territorial limits and to commit such Armed Forces to combat, and

Whereas the Congress has, through acquiescence and overt action, sanctioned on numerous occasions the deployment of the Armed Forces of the United States beyond its territorial limits and commitment of such Armed Forces to combat without prior express authorization of a declaration of war by the Congress, and

Whereas in order to eliminate the confusion caused by the previous acquiescence and overt actions by Congress, there is a need for a clear statement of policy by the Congress as to the foreign policy of the United States in Southeast Asia, the deployment of Armed Forces by the President generally, and specifically their deployment in fulfillment of such foreign policy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I

The deployment and commitment to combat of the Armed Forces of the United States in, within the territorial waters of, or over the territory or territorial waters of any other nation is authorized and shall be undertaken only with specific prior authorization of Congress by law; except that the President, as Commander in Chief, is authorized to deploy and commit to combat such Armed Forces at his sole discretion:

(1) When he finds that the territory or the Armed Forces of the United States are under attack or imminent threat of attack; or

(2) When he finds that such deployment is necessary to fulfill a treaty obligation of the United States not qualified by constitutional or treaty contained limitations of conditions; or

(3) When he finds that such deployment is necessary to effectuate a declaration of war acted on by the Congress; cr

(4) When he finds that such deployment is necessary to exercise the inherent right of self-defense of the Nation or its nationals pursuant to established principles of international law or article 51 of the Charter of the United Nations.

The President shall notify the Congress within twenty-four hours after any such finding of all action he has taken at his sole discretion pursuant to any such finding. In the event the Congress is not in session, then the President shall convene the Congress in an extraordinary session and so notify the Congress within forty-eight hours after such finding. This authorization shall terminate upon the passage of a concurrent resolution to that effect by both Houses of Congress.

PART II

The Congress hereby declares that it is the policy of the United States that each of the several free Southeast and South Asian nations should have the primary responsibility for the defense of its own territorial integrity: *Provided, however,* That it is the policy of the United States where requested and where needed to furnish economic and military material assistance to such nations whose territorial integrity is threatened by armed aggression. The Congress specifically authorizes the continued deployment of the Armed Forces of the United States in the territorial limits of the Republic of South Vietnam for such time and in such manner as the President, as Commander in Chief, shall deem necessary and appropriate to accomplish a responsible and irreversible withdrawal of such Armed Forces of the United States and the assumption by the Armed Forces of the Republic of South Vietnam at the earliest feasible date of the responsibility for the defense of the territorial integrity of the Republic of South Vietnam: *Provided further,* That the Armed Forces of the United States should not be deployed or committed to combat in Indochina in territory other than that of the Republic of South Vietnam, except as provided in part I hereof. This declaration of policy and authorization shall terminate upon the passage of a concurrent resolution to that effect by both Houses of Congress.

[Appendix 4, 92d Congress, 1st Session, S.J. Res. 59, in the Senate of the United States, March 1 (legislative day, February 17), 1971]

Mr. Eagleton introduced the following joint resolution; which was referred to the Committee on Foreign Relations

JOINT RESOLUTION REGARDING THE POWERS OF THE CONGRESS AND THE PRESIDENT TO COMMIT THE ARMED FORCES OF THE UNITED STATES TO HOSTILITIES

Whereas the framers of the Constitution of the United States intended the separation of powers doctrine to apply to the initiation of hostilities as a means for insuring collective judgment, whenever possible, before the Armed Forces of the United States were committed to such hostilities; and

Whereas the power to declare war was assigned to the Congress and this power authorizes the Congress to initiate, define, and limit the scope of hostilities involving the Armed Forces of the United States; and

Whereas the power to make rules regulating and governing the Armed Forces of the United States was assigned to the Congress, and this power authorizes the Congress to enact laws respecting the raising and use of such Armed Forces including their deployment in any foreign country; and

Whereas the power to appropriate moneys to support the Armed Forces of the United States was also assigned to the Congress, and this power authorizes the Congress to allocate funds so as to circumscribe the overall scope of hostilities and the uses of the Armed Forces of the United States; and

Whereas the Commander in Chief and Chief Executive powers were assigned to the President and those powers authorize the President to conduct hostilities initiated by the Congress and to respond to, and repel, attacks on the United States (including its territories and possessions), its Armed Forces, and, under certain circumstances to rescue endangered citizens of the United States located in foreign countries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That:

SECTION 1. Except as authorized in section 2 or section 3 of this resolution, the President shall not commit the Armed Forces of the United States to hostilities. No treaty previously or hereafter entered into by the United States shall be construed as authorizing or requiring the Armed Forces of the United States to engage in hostilities without further Congressional authorization. It is specifically recognized that such treaties as the Charter of the United Nations, the North Atlantic Treaty, and the Southeast Asia Collective Defense Treaty do not authorize or require the President to commit the Armed Forces of the United States to engage in hostilities without a further authorization from both the Senate and the House of Representatives.

SEC. 2. The President may commit the Armed Forces of the United States to hostilities to the extent authorized by Congress through a declaration of war, statute, or joint resolution, but authorization to commit the Armed Forces of the United States to hostilities may not be inferred from legislative enactments, including appropriation bills, which do not specifically include such authorization. The Congress recognizes that during such authorized hostilities against an enemy country or enemy forces, the President's powers as Commander in Chief and Chief Executive provide him with the further authority, regardless of the limitations contained in the specific declaration of war or other authorizing statute or resolution, to order the Armed Forces of the United States to deliberately enter, invade, or intrude upon the territory or airspace of a country with which the United States is not then engaged in hostilities:

(a) when in hot pursuit of fleeing enemy forces who have attacked, or engaged in battle with, the Armed Forces of the United States, and then retreated to the territory or airspace of such country, to the extent necessary to repel such attack or complete such battle, or

(b) when a clear and present danger exists of an imminent attack on the United States or the Armed Forces of the United States by enemy troops located in such country, to the extent necessary to eliminate such danger.

SEC. 3. In the absence of a governing congressional authorization described in section 2, the President may commit the Armed Forces of the United States to hostilities, to the extent reasonably necessary to:

(a) repel an attack on the United States by military forces with whom the United States is not engaged in hostilities at the time of such attack and to eliminate or reduce the effectiveness of any future attacks by such military forces which are committing the attack being repelled; and

(b) repel an attack on the Armed Forces of the United States by military forces with whom the United States is not engaged in hostilities at the time of such attack and concurrently to eliminate or reduce any clear and present danger of future attacks by the military forces which are committing the attack being repelled; and

(c) withdraw citizens of the United States, as rapidly as possible, from any country in which such citizen, there due to their own volition and with the express or tacit consent of the government of such country, are being subjected to an imminent threat to their lives, either sponsored by such government or beyond the power of such government to control: *Provided*, That the President shall make every effort to terminate such a threat without using the Armed Forces of the United States: *And provided further*, That the President shall, where possible, obtain the consent of the government of such country before using the Armed Forces of the United States.

SEC. 4. The commitment of the Armed Forces of the United States to hostilities pursuant to section 3 of this resolution shall be reported promptly by the President to the Congress, together with a full account of the circumstances under which such hostilities were initiated, the estimated scope of such hostilities, and the consistency of such hostilities, with the provisions of section 3. The question of continuing or terminating any such hostilities shall be decided upon by the Congress as soon as possible and not more than thirty days from the day on which hostilities were initiated, under the following procedures:

(a) any bill or resolution, authorizing the continuance or termination of military hostilities if sponsored or cosponsored by one-third of the Members of the House of Congress in which it originates, shall be considered reported to the floor of such House no later than one day following its introduction, unless the Members of such House otherwise determine by yeas and nays; and any such bill or resolution referred to a committee after having passed one House of Congress shall be considered reported from such committee within three days after it is referred to such committee, unless the Members of the House referring it to committee shall otherwise determine by yeas and nays; and

(b) any bill or resolution reported pursuant to subsection (a) of this section shall immediately become the pending business of the House to which it is reported, and shall be voted upon within three days after such report, unless such House shall otherwise determine by yeas and nays.

SEC. 5. In any case where the Armed Forces of the United States have been committed to authorized hostilities, the President shall, while such hostilities are in progress, report to the Congress periodically on the status of such hostilities, as well as on the estimated scope and length of such hostilities.

SEC. 6. For purposes of this resolution, the term "hostilities" includes land, air, or naval actions taken by the Armed Forces of the United States against other armed forces or the civilian population of any other nation, the deployment of the Armed Forces of the United States outside of the United States under circumstances where an imminent involvement in combat activities with other armed forces is a reasonable possibility, or the assignment of members of the Armed Forces of the United States to accompany, command, coordinate, or participate, in the movement of regular or irregular armed forces of any foreign country when such foreign armed forces are engaged in any form of combat activities.

SEC. 7. This resolution shall not apply to hostilities commenced before the enactment of the resolution.

[Appendix 5, 92d Congress, 1st Session, S.J. Res. 95, in the Senate of the United States, May 11, 1971]

Mr. Stennis introduced the following joint resolution; which was referred to the Committee on Foreign Relations

JOINT RESOLUTION RELATING TO THE AUTHORITY OF THE PRESIDENT TO USE THE ARMED FORCES OF THE UNITED STATES IN ARMED CONFLICT

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That except as provided in sections 2 and 3 of this joint resolution, the President may not use the Armed Forces of the United States in any armed conflict.

SEC. 2. The President may, in the absence of a specific authorization by law as provided in section 3 of this joint resolution, use the Armed Forces of the United States in conflict to the extent reasonably necessary—

"(1) to repel any armed attack on the United States by the forces of any foreign government or power and to take action that will protect the United States against future armed attacks by such foreign government or power;

(2) to repel an armed attack on the Armed Forces of the United States by forces of any foreign government or power and, concurrently, to protect the Armed Forces of the United States against any imminent danger of future attacks by the forces of such foreign government or power;

(3) to prevent or defend against an imminent nuclear attack on the United States by the forces of any foreign government or power, but only if the President has clear and convincing evidence that such attack is imminent; and

(4) to evacuate citizens of the United States from any foreign country in which they are located when such citizens are in such country with the express or tacit consent of the government of such country and their lives are being subjected to an imminent threat by such government or by persons or forces beyond the control of such government.

SEC. 3. The President is authorized to use the Armed Forces of the United States in armed conflict pursuant to a declaration of war or other specific statutory authority, but authority to use the Armed Forces of the United States in armed conflict shall not be inferred from any provision of law, including any provision contained in any appropriation Act, unless such provision specifically authorizes the use of such forces in armed conflict.

SEC. 4. (a) Whenever the Armed Forces of the United States are used in armed conflict under any of the circumstances described in section 2 of this joint resolution, the President shall promptly report that fact to the Congress and shall include in such report a detailed account of the reasons for so using the Armed Forces of the United States, his estimate of the scope of the armed conflict, and the justification for the use of such forces under section 2 of this joint resolution. Upon receiving any such report, the Congress shall decide, within thirty days after the first day on which Armed Forces of the United States were committed to armed conflict, whether the authority to so use the Armed Forces shall be extended or terminated. The following procedures shall be applicable to any such question:

(1) Any bill or resolution, authorizing the continued use of the Armed Forces in armed conflict under authority of section 2 of this joint resolution shall, if cosponsored by one-third or more of the total number of Members of the House of Congress in which such bill or resolution originates, be considered reported to the floor of such House no later than one day following its introduction; unless the Members of such House determine otherwise by yeas and nays; and any such bill or resolution referred to a committee after having passed one House of Congress shall be considered reported from such committee within one day after it is referred to such committee, unless the Members of the House referring it to committee determine otherwise by yeas and nays.

(2) Any bill or resolution reported pursuant to paragraph (1) of this subsection shall immediately become the pending business of the House to which it is reported, and shall be voted upon within three days after such report, unless such House shall determine otherwise by yeas and nays.

(b) In no case shall the Armed Forces of the United States be used in any armed conflict under any of the circumstances described in section 2 of this joint resolution for any period exceeding thirty days after the first day on which such forces were first engaged in such conflict unless the Congress has specifically authorized the use of such Armed Forces in such conflict for a longer period.

SEC. 5. Whenever Armed Forces of the United States are engaged in armed conflict in any foreign country, the President shall, so long as such forces continue to be so engaged, report to the Congress periodically on the status of the armed conflict as well as on the scope and expected duration of such conflict, but in no event shall he report to the Congress less often than every six months.

SEC. 6. The provisions of this joint resolution shall not apply to—

(1) the armed conflict in the Republic of South Vietnam in which the Armed Forces of the United States were engaged on the date of enactment of this joint resolution, or

(2) military activities carried out against the military forces of North Vietnam, or against forces allied with North Vietnam, in North Vietnam, Laos, Cambodia, or the waters surrounding the Indochina Peninsula, so long as such military activities are directly related to the conflict referred to in paragraph (1) of above.

SEC. 7. As used in this joint resolution, the term "armed conflict" includes (1) land, air, and naval actions taken by the Armed Forces of the United States against the military forces or civilians of any foreign country or government, (2) the deployment of the Armed Forces of the United States outside of the United States under circumstances that present a reasonable possibility of the use of arms against the military or civilian forces of a foreign country or government, and (3) the assignment of members of the Armed Forces of the United States to accompany, command, coordinate, or participate in the movement of regular or irregular military forces of any foreign country or government when such military forces are engaged in any form of combat activity.

Mr. ROTH. Mr. President, the war powers bill (S. 2956) which we have before us today, reflects a deep and growing concern here in Congress that our constitutional authority over the initiation and conduct of war has been seriously eroded. Since World War II, Presidential predominance in warmaking has become the rule, and congressional participation in decisions to use our Armed Forces has been secondary and, too often, after the fact. Because I share the general concern about this trend and because I would like to see the Congress regain a meaningful role in deciding whether this country is to be at war, I joined last year as a cosponsor of Senate Joint Resolution 95, a measure dealing with the war powers introduced by the distinguished chairman of the Armed Service Committee.

I am, therefore, sympathetic to the objectives of S. 2956. While President Nixon is to be congratulated for the progress he has made in reducing American military involvement overseas, particularly in Southeast Asia, and while he is also to be commended for the steps he has taken to insure that our defense commitments to foreign nations are commensurate with our national interests and our capabilities, it may nevertheless be desirable for Congress, through legislation such as S. 2956, to define more clearly the limits of Presidential and congressional authority to involve our Nation in war.

Thomas Jefferson once wrote that—

> War is the moment when the energy of a single hand shows itself in its most seducing form.

Jefferson was referring to the tendency of war to exalt strong, centralized leadership, to place a premium on speed, decisiveness and secrecy, and thereby to foster the expansion of executive power at the expense of that of the legislature. Jefferson's warning about the strains war can put on our democratic institutions is on which we would be unwise to ignore.

At the same time, we must recognize that in an age of nuclear weapons and long-range missiles, swift action may be necessary to protect our Nation from attack. We must also recognize that our ability to avoid wars depends in a very important way on the defense commitments we have extend to other nations. It is these realities of our international position that have contributed to the growth of the President's power. We cannot ignore them in framing legislation on the war powers; otherwise, the legislation we adopt will be irresponsible and ineffectual.

We should be especially careful to examine the practical effects of the war powers bill on our international defense arrangements, particularly those relating to NATO. It has been alleged that if we in Congress adopt the war powers bill, with its requirement for congressional approval each time our Armed Forces are used overseas, we will cast doubt on this country's willingness to back up its treaty commitments with armed force. The implication is that when a decision is needed on whether to use our Armed Forces to assist our allies, Congress will be unable or unwilling to act, or that it will not act swiftly enough to meet the threat. What this argument really suggests is that Congress cannot be trusted to act with wisdom and judgment in these vital matters, and this is a contention I am extremely reluctant to accept.

I hope that during the course of the debate on this measure, the Senate will be able to establish clearly what, if any, limitations S. 2956 would place on our ability to take any action we might reasonably expect to find necessary to uphold our commitments. We should insist that those who claim this bill will undermine our treaty commitments demonstrate—in concrete and realistic terms—exactly how they believe it would do so. Lacking clear and concrete evidence, I see no reason why we should be deterred from acting to insure that Congress is in a better position to exercise its undoubted constitutional responsibilities with regard to the conduct of war.

Mr. President, on the whole, I see much potential benefit in S. 2956. By clearly asserting Congress right to have a say in the use of our troops overseas, it assures that the collective judgment of the President and the Congress will be brought to bear on such vital questions and reduces the likelihood that we will find ourselves entangled in extended military operations we may later regret.

A LETTER FROM SECRETARY ROGERS CONCERNING WAR POWERS BILL

Mr. ALLOTT. Mr. President, prompted by the Secretary of State's cogent and forceful testimony before the Foreign Relations Committee with regard to the war powers bill—its constitutionality, and its prudence—last Thursday I wrote to Mr. Rogers seeking clarification and amplification with regard to various matters.

I am pleased to report that I have a letter from Mr. Rogers in response. I ask unanimous consent that my letter and his be printed in full in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLOTT. Mr. President, all Senators, regardless of their current disposition with regard to the war powers bill, should be pleased to have at hand the thoughtful comments of this responsible man.

Some Senators have announced support for this bill. Other Senators have announced equally firm opposition to the bill. It should be noted that many of those who have announced support for this bill are not wedded to every clause and comma of this bill. On the contrary, they are only committed to achieving some clarification of the distribution of responsibilities between the legislative and executive branches with regard to the conduct of armed conflict.

And it also should be noted that many of those who are firmly opposed to this bill are not opposed to legislation in this area. On the contrary, those who are opposed believe that some legislation in this field is possible or even desirable. What they object to about this bill, and what accounts for the vigor of their objection, is the belief that the very most grave issues are at stake, and that this particular bill is unwise in terms of these grave issues.

I think it is fair to say that in our free Republic, in this dangerous world, the gravest issues are either those of constitutionality, or those directly affecting national security. Remarkably enough, this bill raises profound issues of both kinds.

It is for this reason that I believe the one thing the Senate must not do is act hastily. We can ill afford to make a mistake which would radiate imperfections into our constitutional law, or into our national security posture.

Indeed, if the bill is as important as its most enthusiastic proponents say it is, then its importance must derive from the very fact that it does touch upon matters fundamental to the orderly process of the Government, and the safety and survival of the Nation. And, on the other hand, if the bill is as ill conceived as its opponents say it is, then that also must be because it touches these vital matters.

Regardless which side is correct, and regardless of which side prevails, one thing is clear. On a matter which arouses such intense feelings, and which, by common consent, is of considerable importance to the Nation, the Senate would ill-serve the people, and would be untrue to its nature, if it did not fully explore all the dimensions of the controversy.

I can see one and only one way to assure that no significant number of Senators will feel that the Senate has acted without proper regard for the gravity of the matter. The solution is to refer this bill to the Judiciary Committee for hearings. The hearings can involve the finest constitutional scholars, whose testimony should resolve the many questions being voiced about the constitutionality of the bill. In addition, these hearings, by their very nature, would shed light on the strategic and military implications of the bill. After all, one cannot thoroughly examine the constitutional question of war powers without extending the investigation beyond questions of legal theory and into the complicated considerations of strategic realities, and the problems of military command in this dangerous world.

It is my hope that the Senate, responding to the concerns expressed by the Secretary of State, and mindful of its nature as a deliberative body, will refer this bill to the Judiciary Committee.

EXHIBIT 1

MARCH 23, 1972.

Hon. WILLIAM P. ROGERS,
Secretary, Department of State, Washington, D.C.

DEAR MR. SECRETARY: The United States Senate is about to consider S. 2956, the "War Powers Act of 1971".

Not being a member of the Senate's Committee on Foreign Relations, I have not had the experience of participating in the Committee's hearings and deliberations on this proposed legislation. In preparation for the Senate's consideration of this bill, however, I have been reviewing the record of those hearings, and I have been most interested by the thoughtful testimony you gave before the Committee on May 14, 1971, in which you discussed in detail the historical and judicial precedents in this area and the weighty constitutional and foreign policy issues raised by this legislation.,

After carefully reviewing your testimony and the remainder of the Committee record, I am concerned to know the full implications of such legislation, which to my mind could raise constitutional questions. I am particularly concerned that this legislation, if it were to become law, could unduly circumscribe the ability of the United States to react in crisis situations as required by our national interest.

I know that you, Mr. Secretary, have personally devoted a great deal of thought to this legislation, and to the important questions it raises. I therefore would very much appreciate hearing your current views on this legislation, and particularly your assessment of the effect its enactment might have with respect to the North Atlantic alliance and the situation in the Eastern Mediterranean. I should appreciate also having the views of Secretary Laird, whose responsibilities would likewise be affected by this proposed legislation.

As always, I appreciate your kind consideration.

Sincerely yours,
GORDON ALLOTT,
U.S. Senator.

THE SECRETARY OF STATE,
Washington, March 24, 1972.

Hon. GORDON ALLOTT,
U.S. Senate.

DEAR SENATOR ALLOTT: I deeply appreciate your interest in the difficult questions raised by the war powers legislation currently pending in the Senate (S. 2956), as expressed in your letter to me of March 23, 1972. Secretary Laird will be writing to you separately.

My own views on this legislation, reflected in my testimony before the Senate's Committee on Foreign Relations on May 14, 1971, are that it is unconstitutional and unwise.

A single example clearly demonstrates the unconstitutionality of this legislation. The bill clearly provides that the President may not sustain any military action, including defense of the territory of the United States itself, beyond a period of thirty days, unless Congress expressly acts to authorize a constitution beyond that period. There is no doubt under the Constitution, however, that the President has the authority to defend the territory of the United States with all the resources at his command for whatever period is required. Indeed Senator Cooper, in his individual views set forth in the report of the Committee on Foreign Relations on S. 2956, pointed out that Congress has no authority to limit the exercise of Presidential authority to a specified period. In so doing Senator Cooper noted that doubts were raised on this same point even by the one professor of constitutional law who testified in favor of the bill.

Clearly any legislative attempt to alter our historic constitutional system, particularly in such a critical area, should be cast as an amendment to the Constitution, rather than as a simple statute. Our tripartite form of government, with its system of checks and balances, already allocates "war powers" between the Executive Branch (with the President having the powers of Commander-in-Chief and Chief Executive) and the Congress (which has the power to appropriate funds, the power to raise and support armies and navies, and the power to declare war, as well as others). This allocation of powers is inherent in our constitutional system, which has survived the test of time for nearly two centuries. It is basic to our system, and should be changed, if at all, only by constitutional amendment. An attempt to spell out in detail all of those circumstances in which the President, in the absence of express congressional authorization, would be permitted to use our armed forces, as the War Powers Bill attempts to do, is such a momentous task as to require the most meticulous and thoughtful consideration, as provided in cases of amendment of the Constitution.

I believe the proposed war powers legislation is unwise for many reasons, but particularly because it would, in my opinion, increase the risks of the United States becoming involved in unwanted hostilities rather than decrease such risks. Under our present constitutional system a President necessarily will move with extreme caution before committing our armed forces to a significant military involvement anywhere in the world, carefully assuring himself that there is current congressional support for his action. Historically this has always been so, and it was true when this nation embarked upon large scale involvement in Vietnam, as passage of the Tonkin Gulf Resolution attested. The War Powers Bill, however, grants the President *carte blanche* to commit our armed forces to hostilities in enumerated situations for a period of thirty days. The tendency of this legislation could well be to make future Presidents less cautions, since they would have clear statutory authority to act for at least thirty days and might assume, perhaps correctly, that Congress would be unlikely at the end of this period to order cessation of what may in the meantime have become a major operation.

I note that another unfortunate effect of the bill would be to deprive the President of the ability to make military deployments in furtherance of our foreign policy interests without specific congressional authorization. As I said in my testimony before the Committee on Foreign Relations:

"Moreover, requiring prior congressional authorization for deployment of forces can deprive the President of a valuable instrument of diplomacy which is used most often to calm a crisis rather than inflame it. For example, such a restriction could seriously limit the ability of the President to make a demonstration of force to back up the exercise of our rights and responsibilities in Berlin or to deploy elements of the 6th Fleet in the Mediterranean in connection with the Middle East situation."

Thus if the War Powers Bill were to become law our North Atlantic Treaty allies might well come to question the will and ability of the United States to react in its national interest in a crisis, and doubt might well be cast on our role in the Eastern Mediterranean, where we have striven so hard to help keep the peace.

I wish to make it clear that the Administration is not opposed in principle to congressional action seeking to clarify the exercise of shared war powers by the Legislative and Executive Branches. For example, the Administration has not opposed House Joint Resolution 1, the Joint Resolution concerning the war powers of the Congress and the President, which has passed the House of Representatives and does not present the serious constitutional and other problems posed by S. 2956.

S. 2956, however, in my opinion, would violate the Constitution and, far from preventing future military involvement, would increase the likelihood of such involvement for the reasons stated above. Therefore I strongly oppose the enactment of S. 2956.

With best personal regards,
Sincerely,
WILLIAM P. ROGERS.

TIME TO FERRET OUT THE REAL CULPRITS IN THE FOOD COSTS

Mr. CURTIS. Mr. President, Secretary Butz made a statement entitled "Time To Ferret Out the Real Culprits in the Food Costs." It is an excellent statement. It points out that 62 cents out of every food dollar goes to persons other than the farmers who produce the food.

It also points out that in the last 20 years prices for food products at the farm gate have gone up 6 percent while consumers' food prices at the store have gone up 45 percent.

Mr. President, it is very important that we give consideration to these matters. Some individuals who are engaged in the grocery business are misleading the public; they are stating untruths; they are attempting to turn the consuming public against agriculture, and the facts are not well founded. These same people are silent about the other causes of rising food prices.

Mr. President, I ask unanimous consent to have printed in the RECORD the entire statement by Secretary Butz.

There being no objections, the statement was ordered to be printed in the RECORD, as follows:

TIME TO FERRET OUT THE REAL CULPRITS IN FOOD COSTS

WASHINGTON, March 25.—Secretary of Agriculture Earl L. Butz said today the time has come to ferret out the real culprits in the cost of food and hold them up by the back of the neck for everyone to look at.

"The place to look is in the processing and distribution system between the farmer's gate and the consumer's table. That's where 62 cents out of every food dollar goes—and that's where the bulge in costs has been ballooning," Secretary Butz said.

"President Nixon pointed out on Friday that the spread between farmers and consumers is too wide. And he was correct in pointing out that it is a mistake and totally unfair to make the farmer the scapegoat.

"The simple facts show that in the last 20 years farmers' prices for food products at the farm gate have gone up 6 percent; while consumers' food prices at the store have gone up 43 percent. Meantime, the farmers' share of the consumers' food dollar has shrunk from 49 cents to 38 cents," Secretary Butz pointed out.

Mr. Butz said the increase in food costs is in such things as freight rates; container costs; added services and conveniences built into frozen, pre-cooked, pre-mixed, prepeeled and prepared foods; more meals eaten out where service and "atmosphere" cost more than the food, and higher wages up and down the line.

"Those costs in processing and distribution are hard costs," Secretary Butz said. "Once these costs go up, they harden and stay up. By contrast, prices of farm products are soft costs—they move up and down from month-to-month, season-to-season and from year-to-year—but they don't harden. For instance, farmers hog prices fell 35 percent in four months time two years ago. And right now, farmers' cattle prices are 4½ percent less than a month ago and hog prices are 8 percent less than a month ago.

"I welcome the public hearings on food costs that the Price Commission will hold on April 12. If farmers were causing the inflationary bulge, I'd run for cover," Mr. Butz said. "Instead, I'm going to stand up and tell the truth about farmers. Any high school student in his first economics course knows that the best counter-move to inflation is to increase productivity. Well, farmers' productivity per man hour is 3.3 times more than it was 20 years ago—and that happens to be twice as fast a rate of productivity increase as in manufacturing industries.

"Farmers are producing 2½ times as much beef as 20 years ago, and four times as much Choice beef. They must be doing a good job—because people are voluntarily eating twice as much beef per person as 20 years ago. Farmers are giving them what they want; farmers are responding magnificently. Yet cattle prices just recently got up to levels of 20 years ago. And those are much cheaper dollars now.

"The public is being fed a lot of malarky about meat prices," Secretary Butz said. "One food chain in the Washington, D.C. area took full-page advertisements in newspapers this week urging people to eat less meat. They advised consumers to eat fish instead. Well, since the government's base period of 1967, fish prices have increased more than beef.

"This food chain said in their full-page ads that meat prices from their suppliers had skyrocketed. Well, we have people at the Department of Agriculture who watch wholesale prices all the time. The truth is that wholesale prices for Iowa beef carcasses are 1 percent less than last August 13 before the wage-price freeze went into effect. Those full page advertisements were signed by the consumer adviser to the president of the food chain. I recommend that she get out of her office and go out into the cooler and talk to the meat buyer," Secretary Butz said.

"In the last day or two, one Eastern Congressman has urged a nation-wide boycott of meat. He said this would force supermarkets to buy less meat from wholesalers, they'd buy less from packers, and packers would buy fewer cattle from farmers. 'Sooner or later, those cows will have to come to market at a lesser price,' the Congressman is quoted as saying.

"I'd like to invite the Congressman to come out into the country with me, and I'll show him that those are fed steers and fed heifers in the feedlots—not cows," Secretary Butz said.

"This is an example of the kind of muddled thinking you get when someone who doesn't know a cow from a fed steer is advising people on their eating habits and is placing the blame for food prices on farmers. Farmers are working for one-fourth less than the rest of the economy—farmers' average disposable income is only three-fourths of the average for non-farm people," Secretary Butz said.

"What the Congressman should be telling people is that between 1951 and 1971, farmer's prices for food products went up a magnificent total of 6 percent—meantime, the nation's wage rates increased an average of more than 6 percent a year for all 20 years, for a total increase of 130 percent.

"That's one reason why, despite rising food costs in stores, food is such a good buy for wage earners. They will spend $15.60 per $100 of after-tax income for food this year—that's for food eaten at home and away from home. Twenty years ago, wage earners spent $23 per $100 of after-tax income for food. If food still cost wage earners the same proportion of their incomes as 20 years ago, they'd spend $286 more per person for food this year," Secretary Butz said.

THE FLANIGAN FACTOR CONTINUED

Mr. EAGLETON. Mr. President, Peter M. Flanigan is President Nixon's "Mr. Fixit" for big business, as Time magazine has dubbed him.

Because his hand can be seen in a number of most interesting Government cave-ins to the wishes of corporate business—such as the Anaconda Copper-EPA case, the Armco Steel-Houston ship channel case, the ITT case and others—I have suggested that Mr. Flanigan be called to testify on his role in these cases before the appropriate committees of Congress.

It has been strongly indicated that if Mr. Flanigan were asked to testify before Congress, the White House would invoke executive privilege to prevent his appearance.

Mr. Flanigan apparently will not talk to the U.S Senate. But there are some persons he can talk to, apparently. According to the New York Times yesterday morning, he talked to about 30 wealthy men at a private dinner in New York sponsored by Dreyfus-Marine Midland, Inc.—which, the Times reported, manages about $10 million in ITT pension funds.

"Mr. Flanigan freely answered questions," the Times story said. Mr. Flanigan discussed a merger of two steel companies, the Times reported a participant at the dinner said.

If Mr. Flanigan can speak at a gathering of fat cats about steel mergers, why cannot he tell Congress—the elected representatives of the people of this Nation—about steel mergers, and about ITT mergers, and about a lot of other things that should be taken out of the back room—or the board room—and put on the public record.

I think he can—and should be required to.

Mr. President, I ask unanimous consent that the article from the New York Times' financial section of March 28, 1972, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FLANIGAN OFFERS ANTITRUST VIEWS

(By Michael C. Jensen)

Peter M. Flanigan, the Presidential assistant who played a controversial role in the settlement of an antitrust case involving the International Telephone and Telegraph Corporation, discussed the Administration's antitrust posture last week at a private, off-the-record dinner meeting in New York of money managers and corporate and foundation executives.

The dinner was sponsored by Dreyfus-Marine Midland Inc. (which manages about $10-million in I.T.T. pension funds) and was held in the concern's private dining room.

Mr. Flanigan freely answered questions at the dinner last Tuesday, although his appearance before a Senate committee is in doubt because of Administration resistance. The Judiciary Committee is investigating a possible link between I.T.T.'s contribution to the Republican National Convention and the antitrust settlement.

COMPETITIVE ABILITY

Although the Presidential assistant declined to discuss the I.T.T. case, he reportedly observed that, in setting United States antitrust policy, the ability of domestic concerns to compete abroad must be kept in mind.

One person who attended the dinner said Mr. Flanigan indicated that the Nixon Administration approved a merger of the National Steel Corporation and the Granite City Steel Corporation partly to make the steel companies more competitive with foreign concerns.

Mr. Flanigan denied yesterday in a telephone interview that he had specifically discussed Administration approval of the National-Granite City merger. Rather, he said, he talked more generally about its meeting the criteria for improving international competition.

UNCLEAR ON SPONSOR

Mr. Flanigan said he was unaware that the dinner was sponsored by Dreyfus-Marine Midland and thought when he was invited that it was being held by the Dreyfus Fund, an affiliated entity.

"The reason why I accepted was that it was an opportunity to talk to financial leaders on international trade," he said.

Persons who attended the dinner meeting—the guests totaled about 30—said Mr. Flanigan spoke for 45 minutes and answered questions covering a wide range of subjects.

He reportedly denied any knowledge of the financial arrangements for the Republican convention in San Diego.

The major thrust of Mr. Flanigan's talk, one source said, was international trade.

He explained to the group at the outset why he would not discuss the I.T.T. case. Although he had not yet been invited to appear before the Senate Judiciary Committee, he said, the President might invoke executive privilege to prevent his appearance if he were invited. For that reason, Mr. Flanigan continued, he did not want to discuss before a private group what he might decline to discuss before a Senate committee.

Mr. Flanigan's involvement with the I.T.T. case came when he arranged for a New York financial analyst, Richard J. Ramsden, to make an "independent" analysis of the corporation's "hardship" plea regarding its antitrust suit.

U.S. PRISONERS OF WAR AND MISSING IN ACTION

Mr. CURTIS. Mr. President, this week is set aside for us to turn our attention to the prisoners of war and the men missing in action. It is very appropriate that we do this. The war in Vietnam has gone on for so many years that it is hard for us to comprehend the suffering and the anguish of the men who are held prisoner and those who are missing in action who are still alive. It is difficult for us to understand and appreciate the suffering, the heartache, and the sorrow of the families of these men.

Some of these prisoners of war and men missing in action are the fathers of children who are old enough to be in school and yet these men have never seen those children.

I wish that we could perform some

magic and all the prisoners of war would be back home instantly and all the men who are missing in action could be accounted for, and that they would be alive and well. That is not within our power but I do believe there are some things we must do.

In the first place we must never forget those men. We must never get so involved in our own pleasures, worries, and problems that we fail to remember that those men are enduring what they are called upon to endure because they took up arms for the rest of us. We must not forget about those men just because a number of years go by.

Another thing we must do is to let the world know and particularly our enemies know that we are going to insist that these men be returned, and safely returned, that we are going to insist, regardless of how much time it takes, that those who have violated international treaties in regard to prisoners of war will be punished.

Mr. President, we need to reassure those men and their loved ones that the United States has not abandoned its time-honored principle that whenever it sends its sons into war we have an obligation to afford them all the protection that can possibly be given to them, to see that their lives are saved, and that they are brought back home.

This country can ill afford to abandon its prisoners of war. Aside from the personal injustice that comes to those men and their families, it would be a total mistake for our country. It would represent a loss of character; it would represent a loss in the value that we place upon human life and the value we place upon our fellow man.

Mr. President, I wish I could make some concrete suggestions. I do think it is necessary that we go on exploring every possible avenue to get these prisoners of war back and to force the enemy to account for those missing in action.

I believe that under the leadership of our President everything has been done that could be done. I want to express my gratitude to him for the staunch position he has taken throughout. We must carry on and I hope that the American people will unite in their plans for the return of these men, our prisoners of war, and men missing in action.

TRIBUTE TO SENATORS ON LEGISLATIVE ACHIEVEMENTS

Mr. MANSFIELD. Mr. President, the legislative achievements of the past few days have enabled the Senate to approach an abbreviated Easter recess with a calendar as clear and clean as possible considering this particular stage of the Congress.

A good many Senators are responsible for making possible the efficient manner in which the Senate has been able to address itself to the workload. Indeed, it has been the cooperation of every Member that has enabled such a result. It is, nevertheless, in order to commend the efforts of a few Senators for their strong and able leadership on particular legislative issues during the past few days.

On the question of equal rights for men and women, for example, it was the distinguished Senator from Indiana (Mr. BAYH) who devoted his strong and able advocacy to the task of steering this vital proposal through to successful Senate action. In the process of constitutional reform, it was a vital task—one that deserves the highest commendation of the Senate. Senator BAYH has perisisted in behalf of this important reform for many years. It was that persistence joined by the highest degree of skill and ability that made possible the great success of the equal rights resolution. It adds another outstanding achievement to the record of a Senator who is unsurpassed in his devotion and dedication to necessary constitutional reform.

The same tribute must be accorded the distinguished Senator from Kentucky (Mr. COOK) for his part in assisting the matter of achieving equal rights. His support and assistance were indispensable to this success.

Many other Senators played a part in assuring adoption of the equal rights resolution. But once again must be singled out for praise the contribution of the distinguished Senator from North Carolina (Mr. ERVIN). His opposition was forthright, sincere, and urged with enormous skill. Having participated so directly in so many issues this session, Senator ERVIN has truly made his mark; not only as a skillful and talented advocate, but as a man of enormous energy and endurance. He is to be commended.

Following closely behind the successful consideration of the equal rights amendment last week was the equally successful disposition accorded the equal time waiver. The suspension of section 315 of the Communications Act is an essential ingredient to an equitable presidential election. The distinguished senior Senator from Rhode Island (Mr. PASTORE) deserves the highest commendation for steering this proposal through with dispatch and with full consideration for the views of every Senator. It was only in keeping with the manner he handles all legislative matters to which he devotes his great talents. On the so-called equal time measure, the distinguished senior Senator from Tennessee (Mr. BAKER) is to be commended as well. He sought to amend the proposal, and his views, as always, were urged with strong and sincere advocacy.

There were other measures disposed of prior to today. All were handled efficiently and with splendid cooperation on the part of all members. Not all have been successful. The measure designed to assist the production cost of eggs falls into this category along with the Senate's action yesterday in not agreeing to the cargo preference recommended for the commercial air carriers. It should be said that regardless of the final outcome on these proposals, they were still managed with the greatest efficiency. In this regard, the distinguished senior Senator from Georgia (Mr. TALMADGE) has consistently discharged his responsibilities as chairman of the Committee on Agriculture with the utmost ability. No greater degree of competence or dedication has been brought to the Nation's agricultural community than that brought by HERMAN TALMADGE. His expertise in this area is unsurpassed in this body.

By the same token, the distinguished Senator from Nevada (Mr. CANNON) is unexceeded in his knowledge of the needs of the air transportation industry. His views are always thoughtful and most welcome.

That brings us to today, Mr. President. The items mentioned tell only a part of the story. During the past few weeks, there have been a number of major items disposed of by the Senate—all of which indicates that the Senate is doing its job and that all Members may join in a share of the credit. When we adjourn tomorrow for the brief Easter recess, we do so knowing that so for this session the calendar of business has been addressed with the greatest degree of expedition and efficiency. The leadership is extremely grateful.

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate the unfinished business, S. 2956.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR STENNIS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at the time S. 2956, the unfinished business, is laid before the Senate, the Chair recognize the distinguished junior Senator from Mississippi (Mr. STENNIS).

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 a.m. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business—which is S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Upon the laying before the Senate of the unfinished business, the Chair will recognize the distinguished junior Senator from Mississippi (Mr. STENNIS).

In all likelihood, there will be no rollcall votes tomorrow. I can foresee none at this time. Debate will continue on the war powers bill throughout the day.

When the Senate adjourns tomorrow for the Easter holiday, the unfinished business will still be before the Senate. That business will be before the Senate when it reconvenes on Tuesday, April 4, 1972, following the Easter adjournment.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 4:05 p.m. the Senate adjourned until tomorrow, March 30, 1972, at 10 a.m.

SENATE—*Thursday, March 30, 1972*

The Senate met at 10 a.m. and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God, as in sacred memory once more we make the pilgrimage to the cross, teach us anew that without the shedding of blood there is no remission of sin and except life be outpoured there is no upward lift for the human race.

May we behold Thy life given for us and by penitence and faith appropriate the forgiveness Thou dost offer and the grace Thou dost impart.

Bring us to the Resurrection morning with new life for new days, with power for daily striving and faith in life eternal.

Through Him who brought salvation and new life. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., March 30, 1972.*
>
> *To the Senate:*
>
> Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.
>
> ALLEN J. ELLENDER,
> *President pro tempore.*

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, March 29, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, under New Reports, will be stated.

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, in the Army, and in the Navy, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 691, 693, and 694.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT OF THE MERCHANT MARINE ACT

The Senate proceeded to consider the bill (S. 2684) to amend section 509 of the Merchant Marine Act, 1936, as amended which had been reported from the Committee on Commerce with an amendment, in line 4, after the word "the", strike out "third" and insert "fourth"; so as to make the bill read:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 509 of the Merchant Marine Act, 1936, is amended by inserting in the fourth sentence thereof after the words, "oceangoing barge of more than two thousand five hundred gross tons" a comma and the words, "or in the case of a vessel of more than two thousand five hundred horsepower designed to be capable of sustained speed of not less than forty knots".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BRANTLEY PROJECT, PECOS RIVER BASIN, N. MEX.

The Senate proceeded to consider the bill (S. 50) to authorize the Secretary of the Interior to construct, operate, and maintain the Brantley project, Pecos River Basin, N. Mex., and for other purposes, which had been reported from the Committee on Interior and Insular

Affairs with an amendment, on page 2, line 4, strike out "Dams." and insert "Dams: *Provided*, That the Secretary of the Interior shall operate the existing Alamogordo Dam and Reservoir unit."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. The Secretary of the Interior is authorized to construct, operate, and maintain the Brantley project, Pecos River Basin, New Mexico, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and the provisions of this Act and the plan set out in the report of the Secretary on this project, with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purposes of irrigation, flood control, fish and wildlife and recreation, and for the elimination of the hazards of failure of McMillan and Avalon Dams: *Provided*, That the Secretary of the Interior shall operate the existing Alamogordo Dam and Reservoir unit.

Sec. 2. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Brantley project shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213).

Sec. 3. Nothing in this Act shall be construed to alter, amend, repeal, modify, or be in conflict with the provisions of the Pecos River Compact, 1948, consented to by the Congress in the Act of June 9, 1949 (63 Stat. 159).

Sec. 4. The costs allocated to flood control and the safety of dams purposes of the project shall be nonreimbursable and nonreturnable. The repayment of costs allocated to recreation and fish and wildlife enhancement shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213).

Sec. 5. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Brantley project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction on the project is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

Sec. 6. There is hereby authorized to be appropriated for construction of the Brantley project the sum of $34,785,000 (based upon January 1969 prices), plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indices applicable to the types of construction involved and, in addition thereto, sums as may be required for operation and maintenance of the project.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NAVIGABLE WATERS SAFETY AND ENVIRONMENTAL QUALITY ACT OF 1972

The Senate proceeded to consider the bill (H.R. 8140) to promate the safety of ports, harbors, waterfront areas, and navigable waters of the United States, which had been reported from the Committee on Commerce with amendments, on page 1, line 3, after the word "the", strike out "Ports and Waterways Safety Act of 1971" and insert "Navigable Waters Safety and Environmental Quality Act of 1972"; after line 5, insert a new title, as follows:

TITLE I—VESSELS CARRYING CERTAIN CARGOES IN BULK

Sec. 101. Section 391a of title 46, United States Code, is hereby amended to read as follows:

"(1) Statement of Policy.—The Congress hereby finds and declares—

"That the carriage by vessels of certain cargoes in bulk creates substantial hazards to life, property, the navigable waters of the United States (including the quality thereof) and the resources contained therein and of the adjoining land, including but not limited to fish, shellfish, and wildlife, marine and coastal ecosystems and recreational and scenic values, which waters and resources are hereafter in this section referred to as the 'marine environment'.

"That existing standards for the design, construction, alteration, repair, maintenance, and operation of such vessels must be improved for the adequate protection of the marine environment.

"That it is necesary that there be established for all such vessels documental under the laws of the United States or entering the navigable waters of the United States comprehensive minimum standards of design, construction, alteration, repair, maintenance, and operation to prevent or mitgiate the hazards to life, property, and the marine environment.

"(2) Vessels Included.—All vessels, regardless of tonnage, size, or manner of propulson, and whether self-propelled or not, and whether carrying freight or passengers for hire or not, which are documented under the laws of the United States or enter the navigable waters of the United States, except public vessels other than those engaged in commercial service, that shall have on board cargo in bulk which is—

"(A) liquid and inflammable or combustible, or

"(B) oil, of any kind or in any form, including but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, or

"(C) designated as a hazardous substance under section 12(a) of the Federal Water Pollution Control Act (33 U.S.C. 1162);

shall be considered steam vessels for the purposes of title 52 of the Revised Statutes and shall be subject to the provisions thereof: *Provided*, That this section shall not apply to vessels having on board the substances set forth in (A), (B), or (C) above only for use as fuel or stores or to vessels carrying such cargo only in drums, barrels, or other packages: And provided further, That nothing contained herein shall be deemed to amend or modify the provisions of section 4 of Public Law 30–397 with respect to certain vessels of not more than five hundred gross tons: And provided further, That this section shall not apply to vessels of not more than five hundred gross tons documented in the service of oil exploitation which shall have on board such substances primarily for use as fuel but a portion of which may from time to time be discharged from their fuel tanks at offshore drilling or production facilities.

"(3) Rules and Regulations.—In order to secure effective provision (A) for vessel safety, and (B) for protection of the marine environment, the Secretary of the department in which the Coast Guard is operating (hereafter 'the Secretary') shall establish for the vessels to which this section applies such additional rules and regulations as may be necessary with respect to the design and construction, alteration, repair, and maintenance of such vessels, including, but not limited to, the superstructures, hulls, places for stowing and carrying such cargo, fittings, equipment, appliances, propulsive machinery, auxiliary machinery, and boilers thereof; and with respect to all materials used in such construction, alteration, or repair; and with respect to the handling and stowage of such cargo, the manner of such handling or stowage, and the machinery and appliances used in such handling and stowage; and with respect to equipment and appliances for life saving, fire protection, and the prevention and mitigation of damage to the marine environment; and with respect to the operation of such vessels; and with respect to the requirements of the manning of such vessels and the duties and qualifications of the officers and crews thereof; and with respect to the inspection of all the foregoing. In establishing such rules and regulations the Secretary may, after hearing as provided in subsection (4), adopt rules of the American Bureau of Shipping or similar American classification society for classed vessels insofar as such rules pertain to the efficiency of hulls and the reliability of machinery of vessels to which this section applies. In establishing such rules and regulations, the Secretary shall give due consideration to the kinds and grades of such cargo permitted to be on board such vessel. In establishing such rules and regulations the Secretary shall, after consultation with the Secretary of Commerce and the Administrator of the Environmental Protection Agency, identify those established for protection of the marine environment and those established for vessel safety.

"(4) Adoption of Rules and Regulations.—Before any rules or regulations, or any alteration, amendment, or repeal thereof, are approved by the Secretary under the provision of this section, except in an emergency, the Secretary shall (A) consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and other appropriate departments and agencies of the Government, (B) publish proposed rules and regulations, and (C) permit interested persons an opportunity for hearing. In prescribing rules or regulations, the Secretary shall consider, among other things, (i) the need for such rules or regulations, (ii) the extent to which such rules or regulations will contribute to safety or protection of the marine environment, and (iii) the practicability of compliance therewith, including cost and technical feasibility.

"(5) Rules and Regulations for Safety; Inspection; Permits; Foreign Vessels.—No vessel subject to the provisions of this section shall, after the effective date of the rules and regulations for vessel safety established hereunder, have on board such cargo, until a certificate of inspection has been issued to such vessel in accordance with the provisions of title 52 of the Revised Statutes and until a permit has been endorsed on such certificate of inspection by the Secretary, indicating that such vessel is in compliance with the provisions of this section and the rules and regulations for vessel safety established hereunder, and showing the kinds and grades of such cargo that such vessel may have on board or transport. Such permit shall not be endorsed by the Secretary on such certificate of inspection until such vessel has been inspected by the Secretary and found to be in compliance with the provisions of this section and the rules and regulations for vessel safety established hereunder. For the purpose of such inspection approved plans and certificates of class of the American Bureau of Shipping or other recognized classification society for classed vessels may be accepted as evidence of the structural efficiency of the hull and the reliability of the machinery of such classed vessels except as far as existing law places definite responsibility on the Coast Guard. A certificate issued under the provisions of this section shall be valid for a period of time not to exceed the duration of the certifiate of inspection on which such permit is endorsed, and shall be subject to revocation by the Secretary whenever he shall find that the vessel concerned does not comply with the conditions upon which such permit was issued: *Provided*, That rules and regulations for vessel safety established hereunder and the provisions of this subsection shall not apply to vessels of a foreign nation having on board a valid certificate of inspection recognized under law or treaty by the United States: *And provided further*, That no permit shall be issued under the provisions of this section authorizing the presence on board any vessel of any of the materials expressly prohibited from being thereon by subsection (3) of section 170 of this title.

"(6) Rules and Regulations for Protection of the Marine Environment; Inspection; Certification.—No vessel subject to the provisions of this section shall, after the effective date of rules and regulations for protection of the marine environment, have on board such cargo, until a certificate of compliance, or an endorsement on the certificate of inspection for domestic vessels, has been issued by the Secretary indicating that such vessel is in compliance with such rules and regulations. Such certificate of compliance or endorsement shall not be issued by the Secretary until such vessel has been inspected by the Secretary and found to be in compliance with the rules and regulations for protection of the marine environment established hereunder. A certificate of compliance or an endorsement issued under this subsection shall be valid for a period specified therein by the Secretary and shall be subject to revocation whenever the Secretary finds that the vessel concerned does not comply with the conditions upon which such certificate or endorsement was issued.

"(7) Rules and Regulations for Protection of the Marine Environment Relating to Vessel Design and Construction, Alteration, and Repair; International Agreement.—(A) The Secretary shall begin publication as soon as practicable of proposed rules and regulations setting forth minimum standards of design, construction, alteration, and repair of the vessels to which this section applies for the purpose of protecting the marine environment. Such rules and regulations shall, to the extent possible, include but not be limited to standards to improve vessel maneuvering and stopping ability and otherwise reduce the possibility of collision, grounding, or other accident, to reduce cargo loss following collision, grounding, or other accident, and to reduce damage to the marine environment by normal vessel operations such as ballasting and deballasting, cargo handling, and other activities.

"(B) The Secretary shall cause proposed rules and regulations published by him pursuant to subsection (7) (A) to be transmitted to appropriate international forums for consideration as international standards.

"(C) Rules and regulations published pursuant to subsection (7) (A) shall be effective not earlier than January 1, 1974, unless the Secretary shall earlier establish rules and regulations consonant with international treaty, convention, or agreement, which generally address the regulation of similar topics for the protection of the marine environment. In the absence of the promulgation of such rules and regulations consonant with international treaty, convention, or agreement, the Secretary shall establish an effective date not later than January 1, 1975, for rules and regulations previously published pursuant to this subsection (7).

"(D) Any rule or regulation for protection of the marine environment promulgated pursuant to this subsection (7) shall be equally applicable to foreign vessels and United States flag vessels operating in the foreign trade. If a treaty, convention, or agreement provides for reciprocity of recognition of certificates or other documents to be issued to vessels by countries party thereto, which evidence compliance with rules and regulations issued pursuant to such treaty, convention, or agreement, the Secretary, in his discretion, may accept such certificates or documents as evidence of compliance with such rules and regulations in lieu of the certificate of compliance otherwise required by subsection (6) of this section.

"(8) Shipping Documents.—Vessels subject to the provisions of this section shall have on board such shipping documents as may be prescribed by the Secretary indicating the kinds, grades, and approximate quantities of such cargo on board such vessel, the shippers and consignees thereof, and the location of the shipping and destination points.

"(9) Officers; Tankermen; Certification.—(A) In all cases where the certificate of inspection does not require at least two licensed officers, the Secretary shall enter in the permit issued to any vessel under the provisions of this section the number of the crew required to be certified as tankermen.

"(B) The Secretary shall issue to applicants certificates as tankermen, stating the kinds of cargo the holder of such certificate is, in the judgment of the Secretary, qualified to handle aboard vessels with safety, upon satisfactory proof and examination, in form and manner prescribed by the Secretary, that the applicant is in good physical condition, that such applicant is trained in and capable efficiently to perform the necessary operations aboard vessels having such cargo on board, and that the applicant fulfills the qualifications of tankerman as prescribed by the Secretary under the provisions of this section. Such certificates shall be subject to suspension or revocation on the same grounds and in the same manner and with like procedure as is provided in the case of suspension or revocation of licenses of officers under the provisions of section 239 of this title.

"(10) Effective Date of Rules and Regulations.—Except as otherwise provided herein, the rules and regulations to be established pursuant to this section shall become effective ninety days after their promulgation unless the Secretary shall for good cause fix a different time. If the Secretary shall fix an effective date later than ninety days after such promulgation, his determination to fix such a later date shall be accompanied by an explanation of such determination which he shall publish and transmit to the Congress.

"(11) Penalties.—(A) The owner, master, or person in charge of any vessel subject to the provisions of this section, or any or all of them, who shall violate the provisions of this section, or the rules and regulations established hereunder, shall be liable to a civil penalty of not more than $20,000.

"(B) The owner, master, or person in charge of any vessel subject to the provisions of this section, or any or all of them, who shall knowingly and willfully violate the provisions of this section or the rules and regulations established hereunder, shall be subject to a fine of not less than $1,000 or more than $100,000 or imprisonment for not more than one year, or both.

"(C) Any vessel subject to the provisions of this section, which shall be in violation of this section or the rules and regulations established hereunder, shall be liable and may be proceeded against in the United States district court for any district in which the vessel may be found.

"(12) Injunctive Proceedings.—The United States district courts shall have jurisdiction for cause shown to restrain violations of this section or the rules and regulations promulgated hereunder.

"(13) Denial of Entry.—The Secretary may, subject to recognized principles of international law, deny entry into the navigable water of the United States to any vessel not in compliance with the provisions of this section or the regulations promulgated thereunder."

"Sec. 102. Regulations previously issued under statutory provisions repealed, modified, or amended by this title shall continue in effect as though promulgated under the authority of this title until expressly abrogated, modified, or amended by the Secretary under the regulatory authority of this title. Any proceeding under section 391a of title 46, United States Code, for a violation which occurred before the effective date of this title may be initiated or continued to conclusion as though section 391a of title 46, United States Code, had not been amended hereby."

Sec. 103. The Secretary shall, for a period of ten years following the enactment of this title, make a report to the Congress at the beginning of each regular session, regarding his activities under this title. Such report shall include but not be limited to (A) a description of the rules and regulations prescribed by the Secretary (i) to improve vessel maneuvering and stopping ability and otherwise reduce the risks of collisions, groundings, and other accidents, (ii) to reduce cargo loss in the event of collisions, groundings, and other accidents, and (iii) to reduce damage to the marine environment from the normal operation of the vessels to which this title applies, (B) the progress made with respect to the adoption of international standards for the design, construction, alteration, and repair of vessels to which this title applies for protection of the marine environment, and (C) to the extent that the Secretary finds standards with respect to the design, construction, alteration, and repair of vessels for the purposes set forth in (A) (i), (ii), and (iii) above not possible, an explanation of the reasons therefor.

At the top of page 14, insert:

TITLE II—PORTS AND WATERWAYS SAFETY AND ENVIRONMENTAL QUALITY

At the beginning of line 3, change the section number from "2" to "201"; on page 15, line 24, after the word "substances", insert "(including the substances described in subsections 2 (A), (B), and (C) of section 101 of this Act)"; on page 16, line 2, after the word "to", insert "title II of"; in line 4, after the word "to", where it appears the first time, insert "title II"; at the beginning of line 14, change the section number from "3" to "202"; in line 19, after the word "in", insert "title II of"; in line 24, after the word "to", insert "title II of"; in line 25, after the word "under", insert "title II of"; on page 17, line 5, after the word "by", insert "title II of"; after line 7, insert:

(d) The authority granted to the Secretary under this title shall not be applicable to the Panama Canal and shall not be delegated by the Secretary with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation.

At the beginning of line 13, strike out "(d)" and insert "(e)"; in line 14, after the word "under", insert "title II of";

on page 18, at the beginning of line 11, change the section number from "4" to "203"; in line 13, after the word "to", where it appears the second time, insert "title II of"; in line 14, after the word "safety", insert "or environmental quality"; at the beginning of line 25, change the section number from "5" to "204"; on page 19, line 1, after the word "implement", insert "title II of"; in line 8, after the word "authorities", insert a comma and "environmental groups,"; at the beginning of line 10, change the section number from "6" to "205"; at the beginning of line 16, change the section number from "7" to "206"; at the beginning of line 17, insert "title II of"; in line 18, after the word "than", strike out "$1,000" and insert "$20,000"; in line 24, after the word "under", insert "title II of"; on page 20, at the beginning of line 3, change the section number from "8" to "207"; in line 4, after the word "under", insert "title II of"; in line 5, after the word "than", strike out "$10,000" and insert "$100,000"; and, in line 6, after the word "than", strike out "ten years and insert "one year.".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An Act to promote the safety and protect the environmental quality of ports, waterfront areas, and the navigable waters of the United States."

DEFENSE RESEARCH: THE NAMES ARE CHANGED TO PROTECT THE INNOCENT

Mr. MANSFIELD. Mr. President, a very interesting article, entitled "Defense Research: The Names Are Changed To Protect the Innocent," by Deborah Shapley, appears in the February 25, 1972, edition of Science. This article reports on a study at Stanford University with respect to the funding of research at that university by the Department of Defense and the methods used and efforts taken to obscure the nature of the research being conducted.

I think we are past the stage of subterfuge and deception in the area of research sponsored at the university by the Department of Defense. At least I hope so. There is no need for opening a new facet of credibility difficulties with the Government by the type of activity mentioned in this article.

I have written the Secretary of Defense today, asking him to put an end to this practice by requiring at a minimum that the principal investigator conducting the research at the various institutions be required at the least to acquiesce in the relevance of this research as determined by the Department of Defense as required by the so-called Mansfield amendment which is now a part of the permanent law.

Mr. President, I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DEFENSE RESEARCH: THE NAMES ARE CHANGED TO PROTECT THE INNOCENT

"The influence of the military has skewed the direction of research at Stanford and it is the faculty's responsibility to restore the integrity of the process of discovering truth." So concludes a study by Stanford students of the role of the Department of Defense (DOD) in the university.

Prepared under the auspices of the Stanford Workshop on Political and Social Issues (SWOPSI), the report stirred up some predictable storms when it was released last December.* Although No official action has been taken, the report has provoked a hail of memos among faculty, SWOPSI policymakers, and the student researchers.

What the SWOPSI students had uncovered was a Janus-faced stratagem devised by DOD to protect its university research program. DOD-sponsored research has been a target of criticism at Sanford and other well-known schools for the last several years. But since the 1969 congressional attempt to reduce the dependence of university scientists on DOD, known as the Mansfield amendment, critics have assumed that the issue was dead. SWOPSI, however, found it quite alive.

Under the present system, DOD continues to fund a great deal of basic research, even projects for which military applications are at best remote; DOD can also justify all contracts through an elaborate system of accounting, which ties even the most fundamental work to a specific, military objective; and, finally DOD, as a matter of policy, discourages scientists from stating military uses for their research.

The SWOPSI report listed the 100-odd DOD research contracts at Stanford, which, it said, stood at $14 million in February 1971, or 25 percent of all contracts and grants. The students listed the scientific descriptions of the work, names of the investigators, and the financial histories for almost all the contracts. But most important, they gained access to the statements of military relevance, which DOD draws up in-house, for each research contract at Stanford. These are about a paragraph long, are stored in the Defense Documentation Center (DDC), and are rarely seen even by the scientists whose work is described. Keyed to a series of coded numbers, the statements link the research to specific technical and strategic military needs. The SWOPSI team showed the DDC statements to the Stanford principal investigators, invited their comments, and printed the whole package.

The result is interesting reading. The DDC statements justify the research in one way, and the principal investigators often tell a totally different tale. The military departments stake out whole fields of scientific endeavor as necessary to avert war or minimize its consequences. On the other hand, the professors point out to the SWOPSI students that their work will control pollution, improve traffic on local freeways, and increase love for others. Other frequent justifications are the intellectual challenge of the work and the training of graduate students. One professor even says, "I do not flatter myself that any of my work has ever specifically been applied to anything. . . ."

A contract with R. Pantell in electrical engineering with Office of Naval Research "High-power broadly tunable laser action in the ultraviolet spectrum." (The DDC title is different: "Weaponry—lasers for increased damage effectiveness.") It is described in the DDC statement thus:

"Damage mechanisms allowed by laser weapons is under intense investigation. However, it is known that within a range of frequencies the amount of damage for a given power increases with frequency. The highest frequency, shortest wavelength, is thus desirable. . . ."

However, Pantell stated that the ultraviolet lasers are "sorely needed in the areas of medicine, long distance communication, and high energy physics research. . . . Ultraviolet lasers offer the surgeon the capability to destroy, with great efficiency and pinpoint accuracy, selected areas of diseased tissue in a patient's body. . . . Another anticipated use of these lasers is in long distance (e.g., interplanetary) communication. . . ."

Many of the professors express complete agreement with the DDC statements of their project's applications, and some decline comment. Some praise their sponsors, and one, A. London, in mechanical engineering, comments simply, "What is good for technology is good for the Navy."

However, William E. Spicer, in electrical engineering, reacted violently to the DDC description of his work on amorphous semiconductors, which related them to "improved photocathodes" in "night viewing devices," with the following comment:

"The DDC statement . . . is a misstatement of the facts As can clearly be seen from the proposal . . . absolutely no connection can be made between the studies being done here and 'The ability of their materials to effect the emission of electrons through radiation which is a crucial function of the materials used as photocathodes in night viewing devices.' Whoever wrote this statement was as ignorant of the work involved as he is of the use of the English language."

(Since the report's appearance, Spicer has reconsidered his position. He now maintains, in an addendum to the report, that the DDC statement was "garbled by the computer" and that it is only "very doubtful that our work will contribute to night vision.")

Another approach was taken by some professors who declined to make any connection between their work and the DDC statements of military relevance. George Herrmann has an Air Force grant titled "Dynamic behavior and stability of solids and structures." The DDC statement links the work, among other things, to "weapon delivery and reconnaissance. . . . Also knowledge of landing fields and silo interaction with missiles are of vital importance. . . ." However, Herrmann also remarks, among other comments, that

"As far as I know the justification of the funding agency shift from year to year and are related to various missions. . . . My work is so fundamental and general that it is quite far removed from any type of immediate application, whether military or non-military. . . ."

Another professor, R. N. Bracewell, who performs radio astronomy work funded by the Air Force, says, among his general comments on the merits of advancing astronomy, the following:

"In my opinion, the Air Force does not know what applications my work may have. This opinion is based on conversations with contract monitors, on contracts written before the Mansfield Amendment, and on the performance of civilian panels advisory to military agencies supporting research in astronomy. . . .

"The funding agencies justify particular research projects in different ways according to the background of the inquirer, who may be a layman, a taxpayer, a scientific advisor, an Air Force general, a budget officer, and so on. . . .

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*The report is titled "DOD Sponsored Research at Stanford" and comes in two volumes. Available from SWOPSI, Room 590A, Old Union, Stanford, Calif. 94305 ($8). SWOPSI is an umbrella program which permits students to study a wide variety of topics.

The students also found discrepancies in the titles. One contract, carried out by P. G. Zimbardo in psychology, is "Individual and group variables influencing emotional arousal, violence, and behavior." But the DDC title suggested its military relevance: "Personnel technology factors influencing disruptive behavior among military trainees."

The report explains that the discrepancies are due to the Mansfield amendment, passed in 1969. Today, the amendment is worded differently and no longer in force as such. However, for a year, it did bar DOD from funding research that did not have a "direct and apparent relationship to a specific military function or operation." It forced DOD, early in 1970, to make a review of its sponsored research and terminate about $8 million in projects judged to be irrelevant. (This cut was small compared to the $64 million slash that Congress made in the DOD research budget that year.)

But the SWOPSI report found that "the Mansfield amendment . . . did not significantly affect the nature of the work being done at Stanford under DOD sponsorship." The report listed some projects that even the principal investigators said were more useful in the civilian than in the military sphere. For xample, S. J. Kline, describing to SWOPSI uses for the Air Force of his work "Basic structure and stability of turbulent shear flows," estimates the ratio of nonmilitary to military applications to be ten to one or greater."

The report also listed one study of Chinese politics and regionalization in a future, post-Mao period whose primary relevance to DOD's mission might be questioned. An Air Force study, which will not be funded after this year, was a computer analysis of language uses in British Parliamentary speeches and in German Reichstag speeches in the priod before World War I, to test "a lateral pressure model for the path to war." The study has been ongoing since the early 1960's. However, the principal investigator, R. North, commented to SWOPSI of his work, "Most government people either could not or would not understand it."

Finally, the students uncovered an administrative decision, made in the wake of the Mansfield amendment, by which the scientists were relieved of giving their projects military-sounding titles, or writing about potential military applications. The report quotes Secretary of Defense Melvin R. Laird in congressional testimony as having said in March of 1970:

"I am going to recommend that we don't make the university scientists certify that any DOD-supported university research has a defense related outcome. . . . In their project report, in their request for a grant, I considered seriously requiring them to do that . . . [but] I hope we can avoid making it necessary for project applicants . . . to include a statement."

Why is DOD reluctant to require scientists to come forward and state military uses of their work? Laird explained that it might cause DOD to lose top scientific talent and research. In an interview, Edward Reilley, assistant director of Defense Research and Engineering, said it would "advertise" DOD's weaknesses, "we don't believe it's possible for any faculty member to be versed in DOD's needs." As for faculty who seek support from DOD telling their campus constituency that their work has no military uses, Reilley saw no need to "punish" those "few" by requiring a statement. Whether a "few" of the faculty at Stanford need their knuckles rapped, however, is a relatively minor matter. The main point is that DOD now exempts all scientists from grappling with the key moral issue of the uses to which their research results will be put.—DEBORAH SHAPLEY.

DAVID CULTIVATES THE GRASSROOTS

President Nixon's science adviser, Edward E. David, Jr., has been barnstorming the country off and on in recent weeks, conducting a round of briefings for scientists and engineers on federal science policy. The unpublicized colloquies, which have ranged from Washington to Boston to the West Coast, have given David a chance to deliver pep talks on the Administration's R & D budget to a wider cross section of the scientific community than ever before. And a free exchange of views during the briefings is said to have helped him "crystallize his understanding of the community's concerns."

John Lannan, a special assistant to David, said the main objective of the briefings is to sound out the views of scientists and engineers in preparation for the President's upcoming message to Congress on R & D. Lannan said the meetings about a dozen of which have taken place so far, have been "extraordinarily helpful" in illuminating gaps in Administration policies.

Guest lists for the briefings have included leading lights from the major scientific societies, industrial laboratories, and colleges and universities. One group also included about 30 of the 51 state and territorial science advisers. The free-wheeling discussions have ranged from the problems of jobless scientists and retrenchment in industrial research to the difficulties of expanding the role of universities in civilian technology.

"There's nothing very complicated about these meetings," one White House aide said. "David is reaching out to his 'constituency.' They're getting essentially the same briefing with the same charts, that the press got before the '73 budget was released."

Despite an obvious theatrical format, White House sources say that the meetings have enabled the Office of Science and Technology, which David heads, to reach beyond the established science advisory groups and to "make contact with a younger set of guys who haven't had much exposure to the Washington scene. They seem impressed that David is coming to them."

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the amendment of the House to the bill (S. 2601) to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

The message also announced that the House had agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 571) providing for an adjournment of the House from March 29, 1972, until April 10, 1972.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 8787) to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished assistant Republican leader wish to be recognized?

Mr. GRIFFIN. No, Mr. President.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

(The remarks that Mr. COOK made at this point on the introduction of S. 3443 and S. 3444 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, are we still in morning business?

The ACTING PRESIDENT pro tempore. The Senate is still engaged in the transaction of routine morning business.

TOWARD UNIFICATION OF IRELAND

Mr. JAVITS. Mr. President the tragedy in Northern Ireland and its latest development, the decision of Prime Minister Heath to suspend the ruling authority of the Ulster Parliament and to take over direct control of Northern Ireland—deeply concerns all of us in the United States because of the widespread human suffering which has taken place, the ties of millions of Americans to Ireland and our own love for freedom which owes so much to the Irish heritage.

Let us now hope that Prime Minister Heath's action will be a major step toward ending the chaos and violence which has shattered the lives of so many innocent men and women in Northern Ireland.

Let us hope that the Prime Minister has initiated an effort which will lead to a rapid decrease in the level of violence, and—in the long run—to a permanent resolution of the half-century old division between the Irish Republic and the six counties of Northern Ireland.

I recall that I introduced as a Member of the House of Representatives in the early 1950's, I believe, the first resolution urging a plebiscite throughout Northern Ireland and the Irish Republic, on the question of unification.

It is now the responsibility of both the Catholics and Protestants—and the IRA—to refrain from violence and to cooperate to restore civil order and the rule of law. That is the fastest way to bring about withdrawal of the British Army presence.

So long as violent extremists—Catholic or Protestant—remain active behind the walls of the ancient city of Derry, on the Falls Road in Belfast, in Armagh, Lurgan, and Dunganon, there is no hope for the land and its people.

It is also the direct responsibility of the British Government to phase out rapidly the policy of arrest without warrant and internment without trial so abhorrent to the civil liberties of the Catholic minority and so totally inconsistent with the principles of Anglo-Saxon common law and international justice.

In the end, the Irish people themselves must settle their own national questions—without outside interference.

But as unification as a solution to the Irish question is considered, it must not be forgotten that there are obligations which rest with equal weight upon the Government of the Irish Republic, as well as upon the temporary government of Ulster.

The Dublin government needs to demonstrate its own willingness to answer many questions as to its own constitution and as to providing a greater degree of religious freedom and civil liberty for all of its people—Protestant as well as Catholic—as well as to eliminate censorship and institute major social reforms.

Ireland—an old but still growing nation—must ease out of a half-century of civil strife and build a stronger and more prosperous society for its own people.

Its task is to draw closer to the European continent politically and economically, to create more employment and a steady rate of national growth.

But, its task is also to be Ireland—to grow and prosper—but to preserve its deep-rooted conviction of the basic goodness of every man, in a country of pastoral serenity and magnificent beauty.

The task facing the British Government is to pave the road to reunification—and its own eventual withdrawal—as it has admirably done in the past in other areas of British influence.

Ireland has paid dearly in the last 50 years of its division, in bitter experiences, in prison sentences, in executions and bombings, in separation and, above all, in the humiliation and loss of dignity of its people.

Mr. President, it is my hope that the action taken by the British Government in seeking an end to the hostilities in Northern Ireland is the first step toward lasting peace and the eventual reunification of the Irish people.

WAR POWERS ACT

Mr. GRIFFIN. Mr. President, there has been some discussion about the possibility of a request whereby the committee amendment to the so-called War Powers Act bill would be adopted by unanimous consent and the bill, as so amended, would then be treated as original text for purposes of further amendment. On behalf of the Senator from Nebraska (Mr. Hruska) I wish to indicate that there would be objection to such a request. Since no votes are anticipated today, it does not seem that the point is of any particular significance, at least until next week. As I understand it, when the bill is laid down as the business before the Senate, adoption of the committee amendment would be the pending question.

The ACTING PRESIDENT pro tempore. The Senator is correct.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum is suggested. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SPONG. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Robert C. Byrd) laid before the Senate the following letters, which were referred as indicated:

Request for Increase in Amounts of Certain Appropriation Accounts of the Department of Defense

A letter from the General Counsel of the Department of Defense, reporting, pursuant to law, on a request for increase in amounts of certain appropriation accounts of the Department of Defense (with accompanying papers); to the Committee on Armed Services.

Report on Activities Relating to Transportation of Cargo by Certain Barges

A letter from the Secretary of the Treasury, reporting, pursuant to law, on activities of Public Law 92-163, relating to the transportation of cargo by barges specifically designed for carriage aboard a vessel (with accompanying papers); to the Committee on Commerce.

Proposed Removal of Limitation on Payments for Consultant Services in the Community Relations Service

A letter from the Acting Attorney General, transmitting a draft of proposed legislation to remove the limitation on payments for consultant services in the Community Relations Service (with an accompanying paper); to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. COOK:

S. 3443. A bill to amend and extend the Juvenile Delinquency Prevention and Control Act of 1968. Referred to the Committee on the Judiciary;

S. 3444. A bill to assist the States in raising revenues by making more uniform the incidence and rate of tax imposed by States on the severance of coal. Referred to the Committee on Finance; and

S. 3445. A bill to protect the public interest in the field of professional team spectator sports; to provide for financial stability among professional sports franchises; to protect the interests of professional athletes; to improve the relationship between professional and amateur sports; and for other purposes. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COOK:

S. 3443. A bill to amend and extend the Juvenile Delinquency Prevention and Control Act of 1968. Referred to the Committee on the Judiciary.

Mr. COOK. Mr. President, in the past decade juvenile crime has risen to an unprecedented height in this country. The most recent statistics indicate that in the last 10 years juvenile crime in the 10- to 17-year-old age group has increased by approximately 148 percent. It is obvious therefore that the problem of juvenile delinquency is reaching crisis proportions. As I have stated on several previous occasions, the most logical way to solve a problem of this scope is to attack it at its roots. This means that we as a nation must be willing to commit more of our time, energy, and funds to the prevention of delinquency.

The Youth Development and Delinquency Prevention Administration in the Department of Health, Education, and Welfare, the only Federal agency exclusively concerned with delinquency prevention, has adopted this philosophy as a realistic approach to the dilemma of increasing juvenile delinquency in America. As a result of careful study, meetings in various parts of the country with experts in the field, and consultation with representatives of many academic disciplines relative to this problem, YDDPA has developed a national strategy for delinquency prevention.

During the past year, YDDPA has utilized this new national strategy to redirect its program toward the development of coordinated youth service systems outside of the traditional juvenile justice system. As a concept, it is quite simple: To go into an area, determine what public and private services are then available to the youth of that area, and to set up a system whereby these various groups and agencies work closely together in their efforts, cross-referencing young people in need to each other. Twenty-three such systems were funded in fiscal 1972 and are now in various stages of development. These social service systems are located in four different social settings: First, inner city-model city areas; second, greater urban areas; third, suburban areas; and fourth, rural areas. In addition to receiving funds from YDDPA, a number of the systems have received financial support from other Federal, State, and local sources, as well. In short, the development of these coordinated youth service systems is a major milestone in the field of delinquency prevention.

The Youth Development and Delinquency Prevention Administration came into existence by virtue of the Juvenile Delinquency and Control Act of 1968 which expires on June 30 of this year. Therefore, today I am introducing the Juvenile Delinquency Prevention and Control Act Amendments of 1972. This legislation amends the 1968 act by substituting the coordinated youth service system concept for the State agency concept in title I of the original act. It would also extend the 1968 act for another 3 years. There is a vital need to continue the program of delinquency prevention which the Department of Health, Education, and Welfare, through YDDPA, has developed over the last 4 years and especially in the last year. I sincerely hope that Congress will not allow the only Federal program in this most important area of delinquency prevention to lapse.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Juvenile Delinquency Prevention and Control Act Amendments of 1972".

SEC. 2. Section 2 of the Juvenile Delinquency Prevention and Control Act of 1968 is amended to read as follows:

"FINDINGS AND PURPOSE

"SEC. 2. The Congress finds that delinquency among youths has reached a crisis situation which can be met by assisting and coordinating the efforts of public and private agencies engaged in combating the problem, and by increasing the number and improving the quality of the services available for preventing and combating juvenile delinquency. It is, therefore, the purpose of this Act to assist States and local communities in providing diagnosis, treatment, rehabilitative and preventive services to youths who are delinquent or in danger of becoming delinquent, to provide assistance in the training of personnel employed or preparing for employment in occupations involving the provision of such services, to provide support for development of improved techniques and information services in the field of juvenile delinquency, and to provide support for development of improved techniques and information services in the field of juvenile deliquency, and to provide technical assistance in such field."

SEC. 3. (a) The heading of title I of the Juvenile Delinquency Prevention and Control Act of 1968 is amended to read as follows:

"TITLE I—COORDINATED PREVENTIVE AND REHABILITATIVE SERVICES"

(b) The heading for Part A of such title is amended to read as follows:

"PART A—PLANNING AND DEVELOPING COORDINATED SERVICES"

(c) Section 101 of such title is amended to read as follows:

"DEVELOPING PREVENTIVE AND REHABILITATIVE COORDINATED SERVICES

SEC. 101. The Secretary may make grants to, or contracts with, any public or nonprofit agency, organization or institution for establishing or operating programs for the prevention and treatment of juvenile delinquency, which ensure coordinated services. Such grants or contracts may be provided for paying all or part of the cost of establishing or operating coordinated youth services, including the cost of planning such programs, of providing youth services either by contract or through other arrangements, or directly, only for those services which are not being provided in the community and for which payment is not available from other sources."

(d) The heading for section 102 of such title is amended to read as follows:

"PLANNING COORDINATED SERVICES"

(e) Section 113 of such title is amended to read as follows:

"APPLICATIONS

"SEC. 113. (a) Grants under this part may be made only upon application to the Secretary which contains or is accompanied by satisfactory assurances that—

"(1) such applicant agency will provide to the extent feasible for coordinating, on a continuing basis, its operations with the operations of public agencies and private nonprofit organizations furnishing welfare, education, health, mental health, recreation, job training, job placement, correction, and other basic services in the community for youths;

"(2) such applicant agency will make reasonable efforts to secure or provide any of such services which are necessary for diagnosing, treating, and rehabilitating youths referred to in section 111 and which are not otherwise being provided in the community, or if being provided are not adequate to meet its needs;

"(3) maximum use will be made under the program or project of other Federal, State, or local resources available for provision of such services;

"(4) public and private agencies and organizations providing the services referred to in paragraph (1) will be consulted in the formulation by the applicant of the project or program, taking into account the services and expertise of such agencies and organizations, and with a view to adapting such services to the better fulfillment of the purposes of this part;

"(5) in developing coordinated youth services, youth and public or private agencies, organizations, or institutions providing youth services within the geographic area to be served by the applicant are given the opportunity to present their views to the applicant with respect to such develoment; and

"(6) the applicant or lead agency is responsible for both accountability for and continuity of services for youth."

(f) Subsection (b) of section 113 of such title is amended (1) by deleting the word "and" after the semicolon in clause (2) thereof, (2) by deleting clause (3) thereof, and (3) by adding at the end thereof the following:

"(3) the functions and services included;

"(4) the procedures which will be established for protecting the rights, under Federal, State and local law, of the recipients of youth services, and for ensuring appropriate privacy with respect to records relating to such services, provided to any individual under coordinated youth services developed by the applicant;

"(5) the procedures which will be established for evaluation; and

"(6) the strategy for phasing out support under this Act and the continuance of a proven program through other means."

(g) Section 113 of such title is amended by adding at the end thereof the following new subsection:

"(c) No grant or contract may be made under part B unless the application therefor has first been submitted to the Chief Executive Officer of the State in which the coordinated youth services are to be established in order to provide him with an opportunity (in accordance with regulations of the Secretary) to review and comment upon such application."

SEC. 4. (a) Section 123 of title I of the Juvenile Delinquency Prevention and Control Act of 1968 is amended as follows:

(1) Subsection (a) of such section is amended by deleting "a State agency or, in the case of direct grants under section 132, to the Secretary, by a public agency or nonprofit private agency or organization," and inserting in lieu thereof "the Secretary".

(2) Subsection (b) of such section is amended by deleting the semicolon and the word "and" following such semicolon and inserting in lieu thereof a period.

(3) Such section is amended by adding at the end thereof the following new subsection:

"(c) No grant or contract may be made under part C unless the application therefor has first been submitted to the Chief Executive Officer of the State in which the coordinated youth services are to be established in order to provide him with an opportunity (in accordance with regulations of the Secretary) to review and comment upon such application."

(b) Sections 131, 132, 133 and 134 of title I of such Act are hereby repealed.

(c) The first sentence of section 135 of title I of such Act is amended by deleting "the State agency, or, in the case of grants under section 132,".

(d) Section 402 of title IV of such Act is amended to read as follows:

"SEC. 402. There are authorized to be appropriated for grants and contracts under this Act, to the Department of Health, Education, and Welfare, $75,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years such sums as may be necessary for carrying out this Act."

(e) The first sentence of section 408 of title IV of such Act is amended by deleting "the Secretary" and inserting in lieu thereof "the interdepartmental council".

(f) Section 410 of title IV of such Act is amended (1) by deleting paragraph (2) thereof; (2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and (3) by adding at the end thereof of the following new paragraphs:

"(5) 'Delinquent youth' refers to any youth who has been found by a court to be delinquent, or to be in need of care or supervision.

"(6) 'Youth in danger of becoming delinquent' refers to any youth whose conduct is such as to bring him within the jurisdiction of the juvenile court.

"(7) The term 'Youth Services' means a variety of services or types of care which are necessary components of a comprehensive program for the prevention of juvenile delinquency or for the rehabilitation of delinquent youth including counseling of various types, employment, vocational training, medical and mental health, education, recreational and various types of foster care, which are now being developed or provided by a variety of State and local public and voluntary agencies.

"(8) The term 'coordinated youth services' means a comprehensive service delivery system, separate from the system of juvenile justice (which encompasses authoritative action by agencies such as the juvenile courts, law enforcement agencies, and detention facilities) for providing youth services through a coalition of public and voluntary agencies, to an individual who is delinquent or in danger of becoming delinquent and to his family in a manner designed to promote accessibility to and effective use of such services with a minimum of duplication."

By Mr. COOK:

S. 3444. A bill to assist the States in raising revenues by making more uniform the incidence and rate of tax imposed by States on the severance of coal. Referred to the Committee on Finance.

Mr. COOK. Mr. President, I am introducing today the Federal Coal Severance Tax and Revenue Sharing Act of 1972. As the title implies, the bill would impose a Federal severance tax on the extraction of coal and would also allow the States to share in this severance tax.

More specifically, the bill imposes a severance tax on coal on property located within the United States of an amount equal to 4 percent of the gross income from the property derived by the holder of working interest during the taxable period. Because of certain exclusions in the bill it would, in effect, tax the gross value of the coal extracted from the mineral property. Furthermore, it places a minimum tax or floor on an amount equal to a rate of 30 cents per ton to the total number of tons produced and sold.

Mr. President, many coal mining companies have generally opposed State severance taxes on the grounds that if nonuniform taxes were enacted in the various States, those companies in the States which impose a severance tax higher than its neighbor would be at a competitive disadvantage. This bill, by imposing a Federal tax of 4 percent on coal, is a uniform tax which will place all companies and all coal-producing States on an equal footing.

In 1970 the total production of coal amounted to approximately 603 million tons. The gross value for the 1970 production was placed somewhere in the neighborhood of $3.8 billion. In 1971 preliminary figures indicate a production of 560 million tons of coal valued at approximately $3.5 billion. A Federal severance tax imposed upon the 1971 figure would have yielded over $140 million in new revenue. While this figure might seem relatively small in relation to the proposed Federal budget for fiscal 1973 of $246.3 billion, it should be remembered that this is a new tax and would be a substantial amount to those States which receive a Federal tax credit for the imposition of a similar State-imposed severance tax.

This brings up to the second most important feature of this bill, the Federal tax credit. Since the President proposed a revenue sharing plan over a year ago, that concept is now a term of everyday use. The bill provides that any State severance taxes on coal collected by the States will be deducted from the amount levied by the Federal Government. Thus, the bill creates an incentive for State governments to enact their own severance taxes which in turn will create new sources of income for many of our tax-starved States.

Mr. President, I think we are all only too familiar with the need of the States and localities for additional revenues to finance education and other very necessary expenditures. I believe that this legislation is urgently needed, and I strongly encourage the Senate Finance Committee to very carefully study my proposal.

By Mr. COOK:

S. 3445. A bill to protect the public interest in the field of professional team spectator sports; to provide for financial stability among professional sports franchises; to protect the interests of professional athletes; to improve the relationship between professional and amateur sports; and for other purposes. Referred to the Committee on Commerce.

FEDERAL SPORTS ACT OF 1972

Mr. COOK. Mr. President, the professional sports world is in a period of turbulence. Almost daily, sports pages throughout the country report a new controversy involving professional athletes, teams, and leagues. Within the last few months, many events have occurred which have shaken the foundation of professional sports, and have left the American sports fan clinging to fond memories of sports as it was.

Few Americans have escaped the attraction of the sports world. Its drama, heroics, and excitement involve over one-half of the American people every year. Indeed, it has been said that a sports event is a microcosm of life. Each participant begins his quest on an equal basis, each meets many obstacles along the way, and each finally experiences success or failure. The only difference is that the world of sports always provides another chance for success, another hope of victory.

I fondly remember my younger years. I gave my unswerving support and emotion to my favorite players and teams. And I succeeded or failed, lived or died, along with them. Obviously it is true that a sports event is only a transitory moment, and we are always faced with the reality of tomorrow. But sports can give us hope, something to believe in. We can see someone succeed on the athletic field and rededicate ourselves to success in our own fields.

Recent events, however, have made it nearly impossible for the American sports fan to view sports in this manner. The players and teams have become more similiar to road shows than resident companies. The emotional allegiances which have characterized the Amerian sports fan for so many years are dying. We have become a nation of technical sports observers, rather than enthusiastic, vicarious participants. Maybe this is only one symptom of a growing national psychology, But I for one am not prepared to surrender a lifetime love so easily.

The sports world has been beset by a series of easily identifiable problems, all of which have resulted from the mass commercialization of sports. Until recently we have been reluctant to admit that sports is a business, as well as a national recreation form.

Until recently, the world of sports was always different, always sacred. However, with the recent snowball of controversy in the sports world, the time has obviously arrived for a new perspective in the field of sports.

Consider for a moment the recent events that have filled our sports pages: Vida Blue, last year's most valuable player in baseball, may not play a second year due to contract disputes; the Curt Flood challenge of the so-called reserve clause has just been argued before the Supreme Court; the Baseball Players Association has threatened a player strike over benefit disputes; the NBA and ABA are involved in a destructive war over players, and may be destroying professional basketball in the process. The list is endless, and would fill this record. My point, however, is short and direct; namely, that the real victims of these disputes and controversies are the American sports fans. The very people who elevated the world of sports to its lucrative position are now being forgotten in the wake of the exploitive tactics of the sports world figures.

The Congress has considered parts of these problems in the past, and is dealing with other parts at this time. Yet the problems have only multiplied, and the situation has become more desperate. The basketball situation is the most deplorable example of the critical condition of professional sports. Professional basketball teams in both leagues are pirating players, college athletes have been lured by six and seven figure offers into deserting their educational pursuits and their college athletic programs. The Judiciary Committee is currently considering a bill which is designed to alleviate part of this problem. I am a cosponsor of that bill, as are 25 other Senators. However, problems will remain whatever the disposition of that proposal may be. Rights of players and teams must still be preserved in all professional sports. However, the first right to be protected is the right of the sports fan to a stable professional sports system; one upon which he can rely, and one which he can enjoy. We cannot lose sight of the irrefutable fact that unless we insure the continued support of the American people for athletic activities, all the disputes which we are currently experiencing will become moot and irrelevant.

For all of these reasons I am today introducing the Federal Sports Act of 1972. I sincerely believe that this proposal can guarantee a vital and stable professional spectator sports system, while protecting the rights and interests of all of the principal parties.

Briefly, this proposal would establish within the Department of Commerce a commission to be known as the Federal Sports Commission. It would be composed of three commissioners, appointed by the President, and a sports advisory council, composed of eight members selected by the Commission from among the various interests of the sports world. The Commission's authority would be limited to the promulgation of rules and regulations to resolve certain of the problems now hindering professional sports. In particular, these areas are: television blackouts, drafting procedures, the sale and movement of franchises, and problems involving player contracts.

Support for this concept is definitely widespread. Several weeks ago, Mr. Ralph Nader expressed his opinion that Federal action is needed in the area of player contracts. Howard Cosell, whom I consider to be a far-sighted individual and an intelligent sports commentator and fan, has expressed on several occasions his opinion that a Federal overseeing body was a necessity. My good friend, Senator ERVIN, who has been so deeply involved in the consideration of the basketball merger legislation, has said that if this merger is permitted, Federal oversight would be necessary.

This proposal would provide that oversight, but it would primarily provide a voice for the American sports fan, who by now must feel that he is shooting at moving targets.

I sincerely believe this proposal to be an answer to a most critical problem, and I believe it is necessary to preserve the system of sports which has provided many years of enjoyment and excitement for millions of American people. I therefor submit herewith the Federal Sports Act of 1972.

Mr. President, I ask unanimous consent that the proposed Federal Sports Act of 1972 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act be cited as the "Federal Sports Act of 1972."

DECLARATION OF PURPOSE

SEC. 2. The Congress hereby declares that the public has a right to a stable, financially sound professional sports system, that unstable conditions now exist within professional sports, including the arbitrary sale and transfer of team franchises, the pirating of professional athletes by the various teams and leagues, inequitable arrangements relating to the broadcast of professional sports events on commercial television, inefficient and disruptive mechanisms for bringing amateur athletes into professional sports, and uncertain conditions concerning the forms and provisions of player contracts. It is therefore the purpose of this Act to provide for the establishment of a Federal Sports Commission within the United States Department of Commerce, which shall have the authority to promulgate and enforce rules or other regulations to carry out the purpose of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "professional sports team" means an organization of more than two professional athletes, which is a member organization of a professional sports league,

(2) the term "professional athlete" means an athlete who is remunerated under contract or otherwise by a professional sports team for his athletic performances;

(3) the term "professional sports league" means an association of professional sports teams which provides a competitive schedule for its member teams, and which provides other administrative services for the association, including but not limited to the following associations: The National Football League, the National Basketball Association, the American Basketball Association, the National Hockey League, the National Baseball League, the American Soccer League, and the American Baseball League.

FEDERAL SPORTS COMMISSION

SEC. 4. (a) A Commission is hereby created and established within the Department of Commerce to be known as the Federal Sports Commission (hereinafter referred to as the "Commission") consisting of three Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as Chairman. The Chairman shall be the principal executive officer of the Commission and, when so designated, shall act as Chairman until the expiration of his term of office. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

(b) The Commissioners first appointed under this section shall continue in office for terms of three, four and five years, respectively, from the date of enactment of this Act, the term of each to be designated by the President at the time of nomination. Their successors shall be appointed each for a term of five years from the date of expiration of the term for which his predecessor was appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office and except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his prececessor was appointed shall be appointed only for the unexpired term.

(c) Not more than two of the Commissioners shall be appointed from the same political party. No person in the employ of, or holding any official relation to, any professional sports team, professional sports league, player association, or owning stocks or bonds of substantial value in any team, or who is in any other manner pecuniarily interested in any team, shall enter upon the duties of or hold the office of Commissioner. Commissioners shall not engage in any other business, vocation, or employment.

(d) No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission. Two members of the Commission shall constitute a quorum for the transaction of business. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually select a Vice Chairman to act in the absence or in the case of the disability of the Chairman or in the case of a vacancy in the office of the Chairman.

(e) The Commission shall maintain a principal office and may meet and exercise any or all of its powers at any other place. The Commission may, by one or more of its members or by such agents or agency as it may designate, prosecute any inquiry necessary to its function anywhere in the United States. A Commissioner who participates in such an inquiry shall not be disqualified from subsequently participating in a decision of the Commission in the same matter.

(f) The Commission shall prepare and submit to the President for transmittal to the Congress on or before October 1 of each year a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include:

(1) a thorough appraisal, including statistical analyses, estimates, and long term projections, of the status of professional sports including, but not limited to, the financial status of teams, the condition of player-team relations, the condition of relations between professional and amateur sports organizations, and status reports on any problems which may be found to exist in the Commission's jurisdiction;

(2) an evaluation of the degree of observance of Federal sports rules and regulations, including a list of enforcement actions, court decisions, and compromises of alleged violations;

(3) a summary of outstanding problems confronting the administration of this Act, in order of priority;

(4) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act;

(5) the extent of cooperation between Commission officials and representatives of the various teams, players, leagues, and other interested parties in the implementation of this Act, including a log or summary of meetings held between Commission officials and representatives of the various teams, players, leagues, and other interested parties; and

(6) an appraisal of the significance and potential effects of any legislation at the state, local or Federal level which relates to the responsibilities of the Commission

(g) That report required by subsection (f) shall contain such recommendations for additional legislation as the Commission deems necessary to remedy problems which relate to professional sports, and the relation between professional and amateur sports.

(h) The Commission shall appoint an Executive Director, a General Counsel, a Director of Information, and such other officers and employees as are necessary in the execution of its functions. Commission employees, other than those specifically enumerated in the preceding sentence, shall be subject to the provisions of Title 5, United States Code, governing appointments in the competitive service.

FEDERAL SPORTS RULES

SEC. 5. The Commission shall have authority to promulgate rules or other regulations which relate to:

(a) the procedures for imposing territorial restrictions on the broadcast of professional sports events on commercial television. (Said rules shall be promulgated only after consultation with the Federal Communications Commission.)

(b) the sale and/or transfer of professional team franchises;

(c) the mechanisms or procedures for transferring amateur athletes into professional sports;

(d) the form of player contracts (but not the terms of those contracts), in order to best assure adequate disclosure of the terms of such contracts to the contracting parties.

FEDERAL SPORTS RULES—PROCEEDINGS BY THE COMMISSION

SEC. 6. (a) Whenever the Commission finds that a rule or other regulation authorized by section 5 is necessary to protect the interests of the public, to prevent the financial failure of professional sports teams, or to protect the rights of professional athletes, the Commission shall commence a proceeding for the development of such a rule or regulation.

(b) A proceeding for the development of such a rule or regulation shall be commenced by the publication of a notice in the Federal Register. The notice shall state

(1) the rule or regulation;

(2) the reason for such rule or regulation; and

(3) the manner and the period within which all interested persons may present their comments on such rule or regulation or the need therefor.

(c) As soon as practicable after the publication of a proposal to promulgate a rule or regulation, the Commission shall, by order published in the Federal Register, act upon such proposed rule or regulation, or withdraw the applicable notice of proceeding. The order shall set forth the rule or regulation, the reasons for the Commission's action (including reasons for the promulgation of a rule or regulation materially different than those set forth in the proposal), and the date or dates upon which such rule or regulation, or portions thereof, shall become effective. Such date or dates shall be established so as to most effectively achieve the purposes of this Act.

(d) The Commission shall not promulgate a sports rule or regulation, unless it determines and includes such determination in the order promulgating such rule or regulation, that its findings show that such rule or regulation (including the effective date thereof) is reasonably necessary to carry out the purposes for which such rule or regulation is authorized by section 5, and that the promulgation of such rule or regulation is in the public interest.

DISPUTES OF FACT

(e) The Commission may conduct a hearing in accordance with such conditions or limitations as it may make applicable thereto, for the purpose of resolving any issue of fact material to any finding required to be made by the Commission under this section.

REVOCATION OR AMENDMENTS OF RULES OR REGULATIONS

SEC. 7. (a) The Commission may revoke, in whole or in part, any rule or regulation, upon the ground that there no longer exists a need therefor or that such rule or regulation is no longer in the public interest. Such revocation shall be published as a proposal in the Federal Register and shall set forth such rule or regulation or portion thereof to be revoked, a summary of the reasons for its determination that there may no longer be a need therefor or that such rule or regulation or any part thereof may no longer be in the public interest, the manner in which interested persons may examine the information relevant to the Commission's determination, and the period within which all interested persons may present their views in writing, with respect to such revocation. As soon as practical thereafter, the Commission shall by order act upon such proposal and shall publish such order in the Federal Register. The order shall include the reasons for the Commission's action, and the date or dates upon which such revocation shall become effective.

(b) The requirements of sections 5, 6, and 7 of this Act for the promulgation of a sports rule or regulation shall apply to the promulgation of a material amendment of such a rule or regulation. The Commission may promulgate an amendment of a sports rule or regulation other than a material amendment without regard to sections 5, 6, or 7, but shall comply with the procedures set forth in subsections (a) and (b) of section 6, and shall set forth, in its order promulgating such amendment, such findings as it may deem appropriate in explanation thereof. As used in this subsection, the term "material amendment" means an amendment that would substantially increase the degree of compliance required by a rule or regulation.

JUDICIAL REVIEW

SEC. 8. (a) Any person adversely affected by an order of the Commission pursuant to section 6, or pursuant to section 7, may, at any time after such order is published by the Commission, file a petition with the United States Court of Appeals for the circuit in which such person resides or has his principal place of business for a judicial review of such order. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by it for that purpose and to the Attorney General. The Commission shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Commission based its order, as provided in section 2112 of title 28 of the United States Code. Such record shall include such order to the Commission and, if issued, held, or obtained in connection therewith, the notice of proceeding published pursuant to subsection (b) of section 6, or section 7; the transcript or summary of any proceedings and the findings arising therefrom; and any other information, including comments of interested persons, required to be considered by the Commission in the promulgation of such order.

(b) Upon the filing of the petition under subsection (a) of this section, the court shall have jurisdiction to review the order of the Commission in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. The order of the Commission shall be affirmed if supported by substantial evidence on the record taken as a whole.

(c) The judgment of the Court affirming or setting aside, in whole or in part, any order of the Commission shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in Section 1254 of Title 28 of the United States Code.

SPORTS ADVISORY COUNCIL

SEC. 9 (a) The Commission shall establish a Sports Advisory Council which it may consult before prescribing a sports rule or regulation. The Council shall be appointed by the Commission and shall be composed of eight members, each of whom shall be qualified by training and experience in one or more of the fields within the jurisdiction of the Commission. The Council shall be constituted as follows:

(1) two members shall be officials of professional sports leagues;

(2) two members shall be representatives of professional sports team franchises;

(3) two members shall be representatives of professional athlete organizations;

(4) two members shall be selected from among amateur sports organizations, sports writers and broadcasters, and recognized leaders in the fiield of sports.

(b) The Council may propose sports rules and regulations to the Commission for its consideration and may function through subcommittees of its members. All proceedings of the Council shall be public, and a record of each proceeding shall be available for public inspection.

(c) Members of the Council who are not officers or employees of the United States shall, while attending meetings or conferences of the Council or while otherwise engaged in the business of the Council, be entitled to receive compensation at a rate fixed by the Commission, not exceeding $100 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by Section 5703 of Title 5, United States Code. Payments under this subsection shall not render members of the Council officers or employees of the United States for any purpose.

ADDITIONAL POWERS OF THE COMMISSION

SEC. 10 (a) The Commission, or any two members thereof, as authorized by the Commission, may conduct hearings at its office or otherwise secure data and expressions of opinion pertinent to the jurisdiction of the Commission. The Commission shall publish notice of any proposed hearings in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) The Commission shall also have the power—

(1) to require, by special or general orders, professional sports teams, leagues, individuals, and other organizations to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpena or order issued under this subsection, to invoke the aid of any district court of the United States in compliance with such subpena order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraphs (3) and (4) of this subsection; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(c) Any district court within the United States within the jurisdiction of which any inquiry is carried on may, upon petition by counsel for the Commission, in case of refusal to obey a subpena or order of the Commission under subsection (b) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) The Commission is authorized to enter into contracts with governmental entities, private organizations or individuals for the conduct of activities authorized by this Act.

(e) The Commission is authorized to establish such policies, criteria, and procedures and to prescribe such rules and regulations as it deems necessary to administration of this Act and its functions hereunder. Unless otherwise specified, the provisions of Title 5, United States Code, Section 553 shall apply to such proceeding.

COOPERATION WITH FEDERAL AGENCIES

SEC. 11. The Commission is authorized to obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to professional sports shall, to the maximum extent practicable, cooperate and consult in order to insure fully coordinated efforts.

ENFORCEMENT

Civil Penalties

SEC. 12 (a) Whoever fails to comply with a rule or regulation issued pursuant to Sections 5, 6 and 7, or, in case of commission of any such act by a team, league, or individual, the team, league, or individual, and any individual director, officer, or agent of such team, league, or individual who knowingly committed such act, shall be subject to a civil penalty of not more than $50,000 for each such act.

(b) The Commission may assess and collect any civil penalty incurred under this Act and, in its discretion, remit, mitigate, or compromise any penalty prior to referral to the Attorney General. Subject to the approval by the Attorney General, the Commission may engage in any proceeding in court for that purpose. In determining the amount of any penalty to be assessed hereunder, or the amount agreed upon in any compromise, consideration shall be given to the appropriateness of such penalty in light of the gravity of the violation and the extent to which the person charged has complied with the provisions of rules or regulations issued pursuant to Sections 5, 6, and 7, or has otherwise attempted to remedy the consequences of the said violation.

Injunctions

(c) Upon application by the Attorney General, the district courts of the United States shall have jurisdiction to enjoin the commission of acts in violation of any rule or regulation issued pursuant to Sections 5, 6, and 7, and to compel the taking of any action required by this Act.

INTERPRETATIONS AND SEPARABILITY

SEC. 13. The provisions of this Act shall be held to be in addition to and not in substitution for or limitation of the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to any other person or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary for the purpose of carrying out the provisions of this Act.

ADDITIONAL COSPONSORS OF A BILL

S. 3393

At the request of Mr. COOK, the Senator from South Carolina (Mr. HOLLINGS) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 3393, a bill to amend title XVII of the Social Security Act to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENTS

AMENDMENTS NOS. 1091 THROUGH 1097

(Order to be printed and referred to the Committee on Finance.)

H.R. 1 AND ITS IMPACT ON RHODE ISLAND SENIOR CITIZENS

Mr. PELL. Mr. President, the Senate will soon be considering a bill which is important to the Nation and which is of great concern in Rhode Island.

The bill to which I refer is H.R. 1. The changes proposed in this bill for the medicare and medicaid programs will have a direct impact on more than 104,000 senior citizens in my own State of Rhode Island.

To ascertain the feelings of my fellow Rhode Islanders on this measure, I held 2 days of hearings for the Health Subcommittee of the Senate Special Committee on Aging in Rhode Island. Statements were received from 89 persons in Providence and Woonsocket, and the general consensus of my constituents' opinions were cutbacks proposed in the medicare and medicaid programs would not result in any real savings to the Nation's taxpayers, but would result only in increased economic hardship and misery for our already hard-pressed senior citizens.

Arthur F. Hanley, president of Rhode Island Blue Cross and the executive director of Rhode Island Blue Shield, in noting the impact of the H.R. 1 cutbacks on his organization's supplementary coverage for medicare beneficiaries, stated:

> Congress would be taking $1.3 million in buying power from the people of Rhode Island over age 65, many of them living on limited and fixed incomes.

Dr. Mary Mulvey, vice president of the National Council of Senior Citizens, told the Special Committee on Aging:

> The cost of medical care is one of the principal problems that our elderly people face today . . . Medicare was a great advance, but it does not cover 45 percent of our senior citizens' health costs. The financial outlay by senior citizens has been increasing year by year. The Plan A deductible rose from $40 to $60—a fifty percent increase in four years. Out-of-pocket premiums, Part B, increased from $3 a month to $5.60 a month in four years—an 87 percent increase. Older persons who can afford to buy Blue Cross Plan 65 have had their premiums increased by 65 percent.

The cutbacks proposed in H.R. 1 will not only hurt the senior citizens themselves but they will have an impact on the taxpayers of Rhode Island. According to Dr. P. Joseph Pesare, who directs the Rhode Island medicaid program:

> The time is rapidly approaching when Medicare beneficiaries will be priced out of the market in terms of ability to pay deductibles, coinsurance and the premiums.
>
> The increase in the deductible and coinsurance factors as outlined in H.R. 1 will increase Medicaid costs . . .
>
> In the case of Rhode Island, 49.74 percent of the additional expenditures must be met with State funds.

Our present system of medicare for senior citizens has unfortunately become another one of those false hopes of the 1960's that has not materialized.

Senior citizens are now paying, out of their pockets, nearly as much as they paid before medicare was enacted, and nearly one-fourth of the senior citizens in my State are too poor to pay even their own medicare costs.

Senior citizens have found that, instead of the blanket coverage that they had expected from medicare in 1965, medicare is no more than cheesecloth which has been eaten away by false Government economy efforts.

The economic and health protection promised by medicare has been restricted in nearly every conceivable way. There are large deductibles, there is coinsurance, there is the 80-percent coverage of part B benefits, and there are the strict regulations which have nearly nullified extended care benefits for senior citizens. At the time of my Providence hearing there were only 300 Rhode Islanders receiving extended care benefits from medicare.

H.R. 1 now promises to eat away even more holes in health coverage for elderly citizens.

Mr. President, following a period in which more senior citizens were becoming impoverished than were moving out of poverty, it is most distressing to me to see the Senate moving to consider a bill which may place an even greater economic burden on the shoulders of our elderly by further restricting medicare coverage.

It seems to me that now is the time for us to be moving to expand medicare coverage and to make medicare more similar to the national health insurance bills which many of us espouse.

It is for this reason that I am now introducing a number of amendments to H.R. 1 that have been suggested to me by fellow Rhode Islanders.

Mr. President, I have reviewed the 222 pages of the hearings I held in Rhode Island very carefully, and I believe the legislative changes recommended by my fellow Rhode Islanders are meritorious and deserve to be recognized by the Congress.

The thrust of the changes suggested is aimed in the same direction as the suggestions which many of us in the Senate have supported for our overall system of health care. These recommendations emphasize the need for comprehensive health benefits, low-cost health care, and greater accessibility of health care benefits in a nonhospital setting.

The amendments are designed to turn the focus of medicare away from its emphasis on health services in the sterile and costly setting of the hospital to an emphasis on health care services in the warm and friendly atmosphere of the senior citizen's own home. These amendments would achieve that goal, not by costly deductibles which only develop needless redtape and do not discourage hospital care but by making less-expensive alternatives available to the sick elderly citizen.

ELIMINATION OF DEDUCTIBLES AND PREMIUM

Included in H.R. 1 is a provision to increase the deductible for part B, physician services, from $50 to $60. The first amendment I am offering provides for the gradual elimination of that deductible before 1975, instead of an increase.

The second amendment that I am offering requires the elimination of the $60 part A—hospital care, deductible by July of 1973. However, for the sole purpose of computing the part A coinsurance rate, a formula deductible would remain.

Mr. Hanley, who administers the medicare program in Rhode Island, called for these amendments at the Providence hearing:

> We would recommend the elimination of all deductibles with the application of an "across the board" uniform coinsurance. The effect of deductibles and coinsurances, originally intended as incentives for appropriate use of facilities and services, is still unclear and controversial. There is a real danger that they may promote underutilization among the aged. If there is a need for program cost containment, it might be better in the form of coinsurance, but most certainly not a

combination of both deductibles and coinsurance.

It is my own view that deductibles serve only to confuse the elderly, to create needless redtape, and to place greater economic burdens on the shoulders of the poor elderly. Most senior citizens really do not understand the purpose of deductibles, and those that do understand usually are not deterred from seeking hospital care since they usually have no choice in the matter. It is the recommendation of their doctor which is determinative, not whether they have to pay a $60 deductible.

The third amendment I am offering to relieve the economic burden of health costs on our senior citizens is an amendment to eliminate the part B premium for voluntary coverage of physician services. This premium which has increased in 4 years by 87 percent to $5.60 a month is for voluntary coverage selected by about 96 percent of our senior citizens. I see no reason why this optional part of the medicare program should not be made an integral part of the whole program and that the financing of parts A and B be combined. This is a proposal that has been supported by the administration, and I have included it as part of my amendment to eliminate the part B premium.

Presently we have four trust funds operating under the social security program and two of them are for part A and part B of medicare. My amendment would combine those funds and provide for some limited additional funding from general revenues. These general revenue funds are necessary, I believe, from the viewpoint of equity and a fair sharing of the tax burden. Medicare benefits are funded now through a flat-rate tax appended to the social security tax paid by the working public. Since the costs of health benefits being received by our senior citizens far exceed any contributions that they might have made when they were working, the medicare trust funds cannot be seen as a part of a normally understood insurance program right now. Therefore, I believe it would be more equitable if some of the costs of the program were drawn from the graduated income tax structure, which provides us general revenues, rather than solely from the trust funds which are based on a flat-rate tax.

If we move the financing of the medicare program to the more stable foundation that I have suggested, I believe it will then be possible for us to cover more than 45 percent of the average senior citizen's health bill as the program now provides.

In my Rhode Island hearings and in my mail from Rhodes Islanders, I have been struck by the near unanimous feeling that medicare should be amended to include coverage of out-of-hospital drugs, dentures, dental care, eye care, eyeglasses, hearing aids, and chiropractic services. Today I am offering amendments to include these items in a newly structured medicare program.

COVERAGE OF DRUGS, EYEGLASSES, DENTURES, AND HEARING AIDS

The amendment I offer on drug coverage is designed to insure that only safe and effective drugs are made available to those who need them, and to check unnecessary utilization of prescriptions an initial $2 copayment and a subsequent $1 copayment are required.

While I know that there is some concern about the cost impact of prescription drug coverage, I believe my amendment provides the least costly way of providing coverage. The prescription drug coverage I recommend would cost us no more than we now spend for an aircraft carrier.

I think the need for drug coverage was well put by Mr. William Davis who attended the Providence hearing:

> Prescription drugs cost, my own and wife, an average of $200 a year. They could cost more in the future.
>
> The majority of the elderly keep alive on pills. It is not asking for too much to convince the Congress that benefits under Medicare should be broadened to include this proposal.

Arthur Hanley of Rhode Island Blue Cross and Blue Shield reaffirmed Mr. Davis's concerns:

> We would advocate the inclusion of prescription drugs in the Medicare program. There has been a tendency to dismiss the importance of this area of coverage by citing the fact that acute episodic illness beyond the economic reach of Medicare recipients. Our concern is directed toward the large number of chronically ill persons over age 65 whose prescription drug costs may go as high as $500 to $1000 per year.

The need for coverage of eyeglasses, dentures, and hearing aids was supported by many people, including Mildred A. Dean, president of the Rhode Island Association of Senior Citizens and Senior Citizens Clubs and Ruth M. Person who is an aide in a senior citizens program sponsored by the Providence model cities program.

MORE AVAILABLE NONHOSPITAL CARE

With all the attention that has been given to reducing costs and coverage in the medicare program in recent years, I find it somewhat ironic that no change has been made in the one rquirement which I believe is most responsible for needless costs—that is the requirement that a patient must be in a hospital for at least 3 days before he is eligible for home health benefits or extended care benefits.

The 3-day hospital stay provisions mean a patient must receive the most expensive form of care before he is eligible for less expensive alternatives.

I am offering an amendment to change this requirement to allow home health services and extended care services to be made available to the medicare beneficiary with the 3-day hospital stay if he receives a diagnosis in an outpatient facility indicating that his condition can be best treated in his home or in an extended care facility.

This amendment also increases the number of home health visits which would be permitted under part A to 200 rather than 100. This is to provide a greater incentive to senior citizens to utilize less expensive home health care services.

The merits of this amendment were outlined in the testimony I received from the Visiting Nurse Association, in particular Shirley Whitcomb of the Rhode Island Association of Home Health Agencies.

Speaking of the past experience with the 3-day rule, Miss Whitcomb made this statement:

> The 3-day hospitalization as a requirement for Plan A out-of-hospital or 100 percent coverage became a hardship. Many people were not sick enough to require hospitalization. To put them in the hospital in order to fullfill this requirement for Plan A; it was an expensive unnecessary hardship on the hospitals as well as the patients. Many people were so very sick that moving them in the first place and out of their homes in the second place for the short period of time before death was of no benefit and actually cruel. However, without the 3 days in the hospital, the full coverage of Plan A was denied them.

One of the key focal points of the hearing I held in Woonsocket, R.I., was the nutrition needs of our senior citizens. There was much support for S. 1163, the Elderly Nutrition Act, which the Congress has recently passed, and for the inclusion of nutrition aides in the medicare home health services.

The amendment I am now offering to include nutritionists under the Home Health Services was supported in the statements of Rosalind Loxom, R.D., Nutrition consultant for the Providence Nursing Association, and Natile I. Giglio, chief diet counselor, for the Nutrition Council of Rhode Island.

RETROACTIVE DENIAL OF BENEFITS

In his statement at the Providence hearing Dr. Richard J. Kraemer, chairman of the Committee on Aging of the Rhode Island Medical Society, outlined a problem that represented a real hardship for many senior citizens:

> Extended care benefits under Medicare were offered as part of a hospital insurance program as a method of preventing overutilization of high-cost hospital beds. Accordingly, the Social Security Administration has denied eligibility criteria for ECF benefits based on the need for general medical management and skilled nursing care on a continuing basis. Unfortunately, there has been a great deal of confusion in the implementation of the program resulting in some instances in retroactive denial of benefits.

To keep hospital costs down in the medicare program, the Social Security Administration has issued strict regulations to encourage the movement of patients to extended care facilities. This, however, according to Mrs. Anna Gray of the Woonsocket Hospital has represented a "real gamble." Often times no nursing home can be located for the patient and if a nursing home is located the patient sometimes finds that the 100-days coverage he thought he had was a myth since he may find that there has been a retroactive denial of his benefits.

Mr. Alfred Farley of Woonsocket, in speaking about his wife's transfer to a nursing home, made this statement:

> I thought that Medicare would cover 100 days stay but this was not true. Five days after my wife was in the nursing home the Social Security Administration informed me through the nursing home administrator that Medicare would no longer cover my wife's stay. My wife stayed another 7 days, and it cost me $140. This is a cost that I thought

Medicare would cover and I was disappointed with this action. I think it is unfair.

To correct the possible recurrence of this inequity in the future I am introducing an amendment requiring a certification to be made before the patient is transferred to his home or an extended care facility stating his eligibility for medicare coverage. This presumption of eligibility cannot be changed at all after 5 days of the certification. In no case can benefits be denied before any notice of denial is received.

The last amendment I am offering is an amendment to delete section 232 of H.R. 1 which allows states to set a lower level of reimbursement for services provided poor citizens than the level of reimbursement provided, perhaps, on medicare. This provision would encourage a double standard of medical care which is undesirable and would tend to set back the very progressive effort being made in Rhode Island by the health providers and the State to control costs through prospective contracts rather than through reimbursement formulas.

This amendment deleting section 232 was suggested by the Rhode Island Hospital Association which suggested that not only would section 232 curtail cost incentives and provide a dual class of medicine, but it would be likely that "any underpayment of medicaid beneficiaries would have to be passed on to other patients" including medicare patients.

Mr. President, the amendments I am offering today represent what I believe to be views of my Rhode Island constituents on the health programs covered by the Social Security Act. I look forward to receiving the comments of my colleagues on their willingness to support the amendments I have proposed. I believe the amendments can stand on their merits, and I hope that they would have the support of the Committee on Finance and the Senate as a whole.

ESTABLISHMENT OF A NATIONAL INSTITUTE OF GERONTOLOGY—AMENDMENT

AMENDMENT NO. 1098

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. CRANSTON. Mr. President, I submit for printing today and for referral to the Committee on Labor and Public Welfare, an amendment (No. 1098) I intended to offer to S. 887, a bill to amend the Public Health Service Act to provide for the establishment of a National Institute of Gerontology. My amendment, which I have already discussed with the chairman of the Aging Subcommittee (Mr. EAGLETON), proposes four changes in the bill:

First, charge the Secretary with the responsibility of insuring the education and training of an adequate number of allied health, nursing, and paramedical personnel in the field of health care for the aged;

Second, charge the Institute with the added function of conducting scientific studies to determine and measure the impact on the psychological, psysiological, and sociological aspects of the process of aging of all programs and activities assisted or conducted by departments and agencies of the Federal Government designed to meet the needs of the aging;

Third, charge the Secretary, through the Institute and in conjunction with the Bureau of the Census, with the responsibility of conducting periodic surveys and coordinating data gathering relating to the process of the aging, and of gathering and publishing statistical data relating to significant characteristics and status factors of the aging population, including those with respect to population distribution; income distribution levels, and sources; health and health care; nutrition; housing, leisure-time activities; and employment; and

Fourth, charge the Secretary, through the Institute, with the responsibility of carrying out public information and education programs and disseminating the findings of relevant aging research and studies and other information about the process of aging which may assist all Americans in dealing with and understanding the problems and processes associated with growing older.

These amendments would broaden the scope and focus of activites to be carried out by the new Institute and would be consistent with Senator EAGLETON's intention to change its name to the "Institute on Aging."

Mr. President, during the first week in March, as ranking majority member of the Subcommittee on Aging of the Labor and Public Welfare Committee, I had the privilege of chairing, on behalf of Senator EAGLETON, field hearings on S. 887 and related legislation to promote research into the aging process. The hearings were held in San Francisco, Calif., on March 3 and in Los Angeles on March 4.

I was most impressed with the testimony we received, and on the basis of much of that testimony, I have asked Senator EAGLETON to include me as a cosponsor of S. 887, a bill which he introduced in February of last year and which the subcommittee intends to consider in executive session within the next week.

In discussing the bill with Senator EAGLETON, I suggested, and he agreed, that it would be highly desirable to change the name of the Institute to be created by S. 887 to the Institute on Aging rather than the Institute of Gerontology. Such a change would more appropriately describe the broader mission of the Institute to carry out research on the aging process and the studies, data gathering, and public information programs also called for in my amendment.

The first part of the amendment would charge the Secretary with the responsibility in carrying out his health manpower responsibilities, of ensuring the education and training of an adequate supply of nurses, allied health and paramedical health personnel in the field of geriatrics. We need more stress on developing health care personnel specially trained to deal sensitively with the physical and psychological stresses and problems of the elderly. This training function would not necessarily be carried out by the Institute but could be continued with greater stress and visibility within the Bureau of Health Manpower Education.

The second part of my amendment charges the Institute with the function of conducting thorough scientific studies to determine and measure the impact on the psychological, physiological, and sociological aspects of the process of aging made by all programs and activities assisted or conducted by departments and agencies of the Federal Government designed to meet the needs of the aging. During our hearings in California, I requested witnesses to address themselves to such a proposal, and each of those who did cited the need for this function. Witnesses felt, for instance, that giving the Institute such a responsibility would "create a mechanism for coordinating the efforts of these programs and for fostering a prompt exchange of experience and information that would serve to expedite and facilitate the development of needed knowledge about aging and it would also create a healthier interdisciplinary approach to research in all aspects of aging."

The third part of my amendment would charge the Institute, in conjunction with the Bureau of the Census, with the responsibility of coordinating HEW data gathering regarding aging and instituting appropriate programs to gather and disseminate widely statistics on all significant characteristics and status factors of the elderly population: including population distribution; income distribution levels and sources; health and health care; nutrition; continuing education; housing; leisure-time activities; mobility; and employment. We need a central and computerized data bank to establish all of the factors affecting the characteristics of our older citizens. This information is vital to effective decisionmaking in the Congress and the excutive branch regarding governmental programs to assist older Americans and regarding carrying out effective evaluations of those programs.

The fourth part of my amendment would direct the Institute to carry out public information programs to disseminate the findings of Institute and other relevant research and studies and other information about the process of aging which may assist the elderly and near-elderly in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

We need a national education program directed to the people in the fourth and fifth decades of life—who will be elderly in 10 years—to help them prepare for the later years by proper attention to their overall health—dealing with attitudes and behavior in respect to smoking, obesity, accident avoidance, predictive health examinations, and suicide, for example. We also need to develop in the population as a whole a more sympathetic and informed attitude toward our older citizens—their problems and potentialities. Many myths about old age need to be dispelled.

Mr. President, I am most pleased that the Subcommittee on Aging will move ahead shortly with S. 887 and my proposed amendments to that bill. The testimony presented to us in California pointed to the marvelous potential for enriching and lengthening the human life span, for enabling each of us to live more creative, productive, and healthful lives. I believe it is time for us to begin to realize this potential now, and I am pleased, as a member of the Subcommittee on Aging, to be able to play a vital part in this exciting endeavor.

Mr. President, I ask unanimous consent that the text of the amendment I am submitting today be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1098

On page 2, line 25, insert "(a)" before "The".

On page 3, line 20, strike out all that appears and insert in lieu thereof the following "institutions. In carrying out his health manpower training responsibilities under the Public Health Service Act or any other Act, the Secretary shall take appropriate steps to ensure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

"'(b) The Secretary shall, through the Institute, conduct scientific studies to measure the impact on the physiological, psychological, and sociological aspects of aging of all programs and activities assisted or conducted by departments and agencies of the Federal Government designed to meet the needs of the aging.'"

"'(c) The Secretary shall, through the Institute and in conjunction with the Director of the Bureau of the Census in the Department of Commerce, conduct periodic surveys, and coordinate such data gathering as is carried out within the Department of Health, Education and Welfare, relating to the process of aging, to gather and publish statistical data relating, to the maximum possible extent, to all significant characteristics and status factors of the aging population, including those with respect to population distribution; income distribution, levels and sources; health and health care; nutrition; continuing education; mobility; housing; leisure-time activities and employment.

"'(d) The Secretary, through the Institute, shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute sponsored and other relevant aging research and studies, and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.'"

ANNOUNCEMENT OF HEARINGS ON PEACE CORPS AUTHORIZATIONS

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Arkansas (Mr. FULBRIGHT), I wish to announce that the Committee on Foreign Relations has scheduled a hearing on fiscal year 1973 authorizations for the Peace Corps on Friday, April 7, 1972, beginning at 10 a.m. in room 4221, New Senate Office Building. Persons interested in testifying should communicate with the chief clerk of the committee without delay.

ADDITIONAL STATEMENTS

HEARINGS OF THE APPROPRIATIONS COMMITTEE ON THE OVERALL FEDERAL BUDGET

Mr. ELLENDER. Mr. President, in early February, it was my privilege to preside as chairman of the Senate Committee on Appropriations over hearings which covered an overall review of the Federal budget. During 4 days of hearings, a day and a half was given to Government witnesses. Only eight requested to be heard, and they were heard. Two and one-half days of the four were allotted to public witnesses, and during this time we heard from 42 different individuals and organizations.

Last year, the Committee on Appropriations held similar hearings, but at that time it took testimony only from governmental witnesses. This year, I felt that the review should be broadened in scope, so I requested that public witnesses be given the opportunity to testify on the Federal budget. I was greatly pleased by the response, not only in the number of witnesses but in the diverse elements of our society that they represented.

I suggested to the committee that hearings on the overall budget be opened to the public for several reasons. First, for some time now I have been concerned that many of our citizens apparently feel that they have no effective access to the Congress concerning the Government's overall spending programs. I have heard many articulate, responsible, and concerned citizens stress over and over their feeling of helplessness. Whether rightly or wrongly, many of these individuals, either speaking as private citizens or as representatives of groups, were convinced that the Government of their country was embarked on misguided courses. These courses were reflected in the national budget which is today more of an economic blueprint for our national activities than it is a simple "budget" or operating plan for our Government in a strict and narrow sense.

I think it can be truly said that much of the current outcry against our national priorities in favor of a change in our "national goals" comes from those opposed to our continued presense in Vietnam and to the current levels of Pentagon spending. Yet there is more to it than this. The budget process in this country is essentially an exercise in secrecies. This does not come about by design or by conspiracy. On the contrary, it is simply a reflection of the way the budget is developed each year before it is presented to the Congress.

Accordingly, I felt it would be appropriate if the Senate Appropriations Committee could take one small step to open up the process. I thought the public should be allowed the opportunity to be heard and should be heard on those directions and courses reflected in the Nation's economic blueprint. I am pleased the committee as a whole accepted my recommendation that the hearings be thrown open to the public. These hearings were very well received and the committee has been complimented time and time again on this initiative.

My second reason in suggesting open hearings on the entire budget was to give the committee members themselves, and indeed the entire Senate and House of Representatives, the opportunity to place things in a better perspective. It is my feeling that too often the Congress operates on the "cubby hole" approach. Of necessity, we must be concerned with our limited areas of expertise and experience. Too often we are forced to rely on governmental witnesses for our opinions and evaluations. Too often we are told things are just as they should be and we have no real recourse but to believe those who are doing the telling.

I believe the committee members should have the opportunity of listening to informed, articulate citizens who believe things are not as they should be and are able to present reasons to back up their thinking. We need not pass on the validity of that thinking or accept either the pros and cons presented to us. I do not propose to do so at this time. But I do think it important that we be reminded that there is a different approach, that there are different values, and that there are other viewpoints that might justifiably be taken into account in the budget process. Perhaps these viewpoints and judgments are given the necessary attention elsewhere in the budget process, perhaps they are not. Frankly, I cannot say at this time, but that is one reason why I desired the Senate Appropriations Committee to take notice of them. I hope that we can gain better attendance from Senators at next year's hearings.

A third reason for the committee's holding open hearings deals with my firmly held belief that the public at large could be better apprised of the implications the budget carries for them. Our national financial figures have reached such a point that they are virtually impossible to understand by the man in the street. A debt of $450 billion becomes an abstract figure. Ancient man looked at the moon, but did not know what it was and did not know that it affected the tides. Modern man looks at the moon, and can appreciate the fact that it is a satellite approximately 239,000 miles away. Yet few of us can appreciate or even understand the distance in light years from the Earth to the nearest star beyond our sun. A light year is an abstract figure. We know only that it is a long way, just as we know that $450-odd billion is a lot of money. We can now appreciate the fact that the sun and moon affect the ocean tides here on Earth. Yet the man in the street does not fully understand the implications of the Federal budget, the Federal debt, and I sometimes doubt that our economic expert advisers do either.

It is my hope that the hearings now on every Senator's desk will let us move at least one step along the way of filling this gap in the public's understanding.

During the course of the hearings, the committee has heard testimony from both governmental and public witnesses, and their testimony covered 850 pages. I urge Senators to peruse these hearings when they have time, and I also suggest that their staffs could analyze the data contained in the hearings for the purpose of summarizing the information that might prove valuable to all Senators as we take up the various appropriation bills during the remainder of this session.

Mr. President, when I came to the Senate 35 years ago, the outlays of the Federal fund budget for the first fiscal year I served totaled $7,733,000,000, and the Nation's public debt amounted to $36,425,000,000. Based on the 1973 budget, the public debt would aggregate $481,878,000,000, and outlays of the Federal fund budget for fiscal year 1973 are estimated at $186,784,000,000. Just to service our present debt will require the payment of interest amounting to almost $22 billion per year, which is almost three times the total outlays of our Government when I first came to the Senate.

Mr. President, our huge debt and the alarming rise in Government spending deeply concern me. I am concerned because I am not confident that we are efficiently and effectively allocating our limited resources to the various functions of our Government. I am concerned that we will saddle our children and our children's children with a debt that our Nation's production base will not permit us to service in future years. I am concerned that our present method of budgetary review is not effective in enabling us to perform the responsible action we are charged with under our Constitution. These and other concerns prompted me to hold the aforementioned hearings on the overall budget review.

Mr. President, while I feel that these hearings were a step in the right direction, I am aware that much more must be done and should be done to assist all of us—the Congress as well as the executive branch—in arriving at a much more effective use of our Nation's resources. Many witnesses who testified before the committee felt that we are allocating too much of these resources to defense. Many of these same witnesses felt that a greater portion of our resources should be allocated to health, education and a myriad of welfare programs.

Some witnesses felt that we are spending too much on space research and they were not pleased with the benefits derived from the costs these programs entailed. Others felt that we are spending more than is necessary in the atomic energy area and they believe that more funds should be spent in the field of coal research.

Six mayors from some of our Nation's largest cities, representing the Conference of Mayors and the National League of Cities, and led by the mayor of my own State of Louisiana's largest city, the mayor of New Orleans, Moon Landrieu, gave eloquent testimony concerning the plight of our cities and what was necessary to restore them to life. I urge Senators to read their statements.

The Director of the Office of Management and Budget, Mr. Shultz, gave the committee a spate of facts and figures on budget outlays. In this connection, for example, he pointed out that civilian and military personnel costs in the fiscal 1973 budget amounted to 57 percent of the total defense budget, leaving only 43 percent of that budget for procurement, construction, and research development, test and evaluation. An interesting statistic related to this same item indicates that $1 billion would have funded the pay and allowances for 219,000 members of our Armed Forces in fiscal year 1964, but this same sum will only fund the pay and allowances for 105,000 personnel in fiscal year 1973, an increase in cost of 109 percent.

Mr. President, I might add that these hearings were directed not only toward the outlays side of the budget, but also to receipts side. Under Secretary Walker was interrogated on the various estimates for receipts contemplated in fiscal year 1973, including the methods employed by the Treasury Department in making determinations concerning receipts.

Mr. President, I could go on for hours about the facts and figures and other budgetary data contained in these hearings, but it would serve no useful purpose. The facts and figures and other valuable information we, in Congress, need are contained in the 850 pages of testimony on each Senator's desk.

I am hopeful that his information, along with the other data that we will receive during the course of our review of the individual agency budgets, will enable us to reach the laudable goal of making a more effective and efficient allocation of our resources. I am hopeful that the hearings will enable all of us to get the "big picture," so to speak, of our Government's operations, as I said earlier. I believe we should begin to think in terms of our overall Federal budget, rather than in terms of the segments for which the various committees of the Congress and the subcommittees of the two Appropriations Committees of both bodies have prime responsibility.

In this connection, Mr. President, I should like to recommend that the time has once again arrived for an extensive review of all ongoing Federal projects for the purpose of eliminating many programs which serve no useful purpose and may have outlived their usefulness. I am cognizant of the huge task such an undertaking would be, but I feel we have the talent available to do the job.

To accomplish this worthy goal, the President—with the assistance of the Congress—should establish a Hoover-type Commission. Further, the congressional committees involved in the Federal budgetary process, namely the House Ways and Means Committee, the Senate Finance Committee, and the Appropriations Committees of the House and Senate, working as a unit, and in conjunction with this Commission, should assist in the undertaking of this mammoth assignment.

Our Nation's survival depends on the recommended aproach being implemented now. Fiscal responsibility cannot wait for the year following an election year.

The time has come when both the President and Congress should put on the mantle of the statesman, and politics must be made subservient to economics. For unless this is done, I fear that our spending for defense and other functions of our Government will be in vain, if in the end our economy collapses.

WHO DISCOVERED AMERICA?

Mr. BUCKLEY. Mr. President, I invite the attention of Senators to some interesting historical data uncovered by Judge William Hughes Mulligan, of the U.S. Court of Appeals for the Second Circuit. As a former dean of the Fordham Law School, now sitting on one of our prestigious appellate courts, Judge Mulligan is widely known for his scholarship and sobriety. Thus his observations delivered in an address before a distinguished audience in New York City on March 17 last should command the special interest of all who seek to know the true facts surrounding the discovery of America.

I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY HON. WILLIAM HUGHES MULLIGAN, JUDGE, U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT

A few years ago when I was in Ireland, I visited the ancient port city of Galway, where I was assured by a local that Christopher Columbus had stopped there to bring on board an Irish navigator who actually guided him to the New World. A few months ago I was in the company of the Chief Judge of the Supreme Court of Ireland, a typically urbane, scholarly, and intellectual Irishman not given to the easy acceptance of leprechauns or unfounded legends. I asked him about the story of the Irish navigator, and I was frankly surprised when instead of debunking it, he responded "Oh yes, the story is well authenticated. The man's name was Lynch." With all due respect, I could not accept the story; there was no record that Columbus ever made any such diversion to Galway, pleasant though it might be. It seemed more logical to me that Lynch, great sailor that he must have been, had sailed from Ireland to Portugal and was the navigator from the start.

Becoming more interested, I studied the celebrated work on the subject, Samuel Eliot Morison's "Admiral of the Ocean Sea," and I discovered to my dismay that Lynch's name does not appear on the list of the crew of any of the three vessels. This in turn led me to a somewhat spectacular discovery which I must share with you tonight in the privacy of this room. Morison's book gives a physical description of Columbus which was provided by his own contemporaries—I quote pp 40–41. "He was more than middling tall, aquiline nose, blue eyes, complexion light, and tending to bright red, beard and hair red. When he was angry he would exclaim "May God take you." In matter of religion he was so strict that for fasting and saying all the canonical offices he might have been taken for a member of a religious order." Gentlemen, in all honesty and frankness, how many religious, blue eyed, red faced, red haired Italians have you met in your life?

Friendly Sons and friends, I am not only suggesting but I think the facts clearly establish that in reality Columbus was Lynch—or Lynch was Columbus whichever way you want it. There is even further evidence: Morison, who claims that Columbus was born in Genoa, admits that Columbus could not read or write Italian—neither could Lynch. Morison—and we of course could expect no help from Samuel Eliot Morison—further states that Columbus spoke Spanish with a Portuguese accent. Actually, of course, it was Irish he spoke and isn't it a mark of Lynch's great leadership and seamanship that he could make that Mediterranean crew understand his orders even though they were given in Gaelic? Gentlemen, we have convicted men of serious crimes in the federal court on less evidence than we have here, and my court has affirmed them.

Lest our Italian friends take offense, I assure them that I intend no disrespect at all, and on October 12th I will attend the annual Lynch Day Parade, at Lynch Circle and watch with pride as the Knights of Lynch pass by.

THE GENOCIDE CONVENTION: UNJUSTIFIED DELAY

Mr. PROXMIRE. Mr. President, much has already been said in support of the Genocide Convention. In the long years since the treaty's conception distinguished citizens and respected organizations have spoken eloquently on behalf of this humanitarian document. But I would like to call to the attention of my colleagues an article written by former Justice Arthur Goldberg and Prof. Richard Gardner of Columbia which clearly states the case for ratification. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GENOCIDE CONVENTION

(By Arthur J. Goldberg and Richard N. Gardner)

WASHINGTON.—It is now more than twenty-five years since the United Nations approved a convention on the prevention and punishment of the crime of genocide.

Seventy-five countries now have ratified the convention. The United States is the most prominent U.N. member that has not. One reason for our country's failure to ratify—very possibly the principal reason—has been the opposition of the American Bar Association, recorded in a decision of its house of delegates in 1949.

Since then, however, sentiment within the association has changed. At the midyear meeting of the house of delegates in February 1970, a proposal to reverse the 1949 position and to place the American Bar Association on record in favor of the Genocide Convention failed by a vote of 126 to 130.

Still more significant, every section and committee of the association having specialized competence in the subject matter has come out in support of ratification of the convention during the last few years.

Ratification of the Genocide Convention also has been endorsed by a number of past presidents of the association.

However, two members of the association, Eberhard P. Deutsch and Alfred J. Schweppe, appeared on March 10 last year on behalf of the association to testify in opposition to the Genocide Convention in hearings held before a Senate Foreign Relations subcommittee. They presented legal objections that have been raised against the convention.

After considering these arguments, the full Senate Foreign Relations Committee reported favorably on the convention by a vote of 10 to 4 and recommended that the Senate advise and consent to ratification. After carefully reviewing the arguments, the committee concluded:

"We find no substantial merit in the arguments against the convention. Indeed, there is a note of fear behind most arguments—as if genocide were rampant in the United States and this nation could not afford to have its actions examined by international organs—as if our Supreme Court would lose its collective mind and make of the treaty something it is not—as if we as a people don't trust ourselves and our society."

We believe the report of the Senate Foreign Relations Committee provides an authoritative refutation of the legal arguments opponents of the Genocide Convention have employed to justify their opposition for nearly a quarter of a century.

We also find the objections against ratification of the Genocide Convention to be without substance. The arguments in favor of ratification, on the other hand, seem to us compelling.

Our adherence to the Genocide Convention can make a practical contribution to the long and difficult process of building a structure of international law based on principles of human dignity. It will put us in a better position to protest acts of genocide in other parts of the world and will enhance our influence in United Nations efforts to draft satisfactory human rights principles.

We do not say that our adherence to this convention will work miracles. It may not bring very dramatic benefits in the short run. Let us remember, however, that none of the great documents of human civilization produced instant morality—not even Magna Carta or our own Bill of Rights. The point is that they did shape history in the long run. We believe the same may be true of the Genocide Convention, if we only give it a chance.

The Genocide Convention outlaws action that is repugnant to the American people and to our constitutional philosophy. We should not decline to affirm our support for principles of international law and morality in which we believe. Our country was founded on a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. We believe that concern is very much alive today.

It is inconceivable that we should hesitate any longer in making an international commitment against mass murder.

LINCOLN DAY ADDRESS BY ROBERT H. FINCH, COUNSELOR TO THE PRESIDENT

Mr. CASE. Mr. President, I had the privilege of being present at the Hunterdon County, N.J., Lincoln Day dinner on February 11, 1972.

Robert H. Finch, Counselor to the President, made the principal address at that dinner. He discussed at length the life and times of Lincoln and then extrapolated lessons learned from Lincoln to modern times.

Mr. President, I ask unanimous consent that Mr. Finch's remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

LINCOLN'S LIVING LEGACY

(By Robert H. Finch)

Lincoln was never a very popular President. He emerged a minority victor from the close and bitter election of 1860, and in the off-year elections in 1862 the Republican Party lost the critical states of New York, Pennsylvania, Indiana, Illinois, and Ohio. In 1864, even as an incumbent and with the seceded Southern States not voting, he only received 55% of the vote, the rest going to his Democratic opponent whose platform was specifically anti-Lincoln and anti-War; a shift of only 2% of the total, just 83,000 votes, could have defeated him.

Newspaper editorials described him as a "half-witted usurper" and a "mole-eyed monster." Democrats compared him to "the original gorilla," and Republicans reviled him as a man "without any spinal column" and "an awful, woeful ass."

Much satirized and criticized in his own time, I suspect that Mr. Lincoln would be amazed and amused by the way he has almost been deified since.

Things changed so fast in America early in the 19th century that it is easy to lose a sense of historical time and perspective. Because Lincoln wore trousers instead of breeches and rode in railroads instead of open carriages, and because we have photographs instead of paintings to see what he looked like—and partly, I suppose, because of Raymond Massey—we sometimes tend to think of Lincoln as being quite contemporary to us. And indeed he is in spirit.

But in fact, when Lincoln was born, in 1809, Thomas Jefferson was still the President of the United States. The country was hardly twenty-five years old, and the daring experiment of seeing just how self-evident it was that the people were capable of governing themselves had hardly even begun. Besides, it was still being overseen by the people who had devised it, and supported by the people who had fought for it.

Jefferson and Adams died hours apart on the 4th of July 1826. Twelve years later, in Springfield in 1838, in his first major speech of which we have any record, the twenty-nine year old Lincoln warned about the danger of "national suicide" unless we honored and maintained the delicate balance which the Founders had devised for ensuring popular, responsible, and responsive government. Twenty-five years later, and just a generation after Jefferson's death, President Lincoln at the outset could only watch while half the nation made just such a determined suicide attempt.

A man of peace to the depths of his being, he believed strongly enough in the principle of popular government to lead his countrymen into the bloodiest civil war in the history of the world to vindicate it. At the beginning of the war, he told his secretary John Hay that, "For my part, I consider the central idea pervading this struggle is for the necessity that is upon us of providing that popular government is not an absurdity. We must settle this question now, whether in a free government the minority have the right to break up the government when they choose. If we fail it will go far to prove the incapability of the people to govern themselves."

For a hundred years after the Civil War, the filling out of our continent and the fulfilling of our role in the world occupied our time and talents. Then a decade ago, things seemed to start going wrong and breaking down. Gaps began to open up through our affluent society: Generation gaps, communication gaps, credibility gaps.

In 1968 when Richard Nixon was elected President, he found himself at the head of a country which almost seemed on the brink of a psychological and social civil war. "Never," he said, "has a nation seemed to have had more . . . and enjoyed it less." In his inaugural address, he took his cue from the sign a young girl held up at one of his railside stops during the campaign: It said: "Bring Us Together."

But looking deeper at America, I think that President Nixon realized that what had really happened was that once again, as in 1861, America had somehow lost the sight . . . or lost the grasp . . . of that essential thing, that essential *idea* which *makes* America what it is.

In growing so big and so great and so rich and so strong . . . America had grown out of touch and out of reach.

It appeared that the people no longer governed here.

Now, gathered as we are to honor Abraham Lincoln, I want to say that in my judgment, the principle for which he stood . . . the principle that the people are capable of governing themselves . . . has *never* been more at risk or more at stake at any time since 1861 than it is now . . . in this year of 1972.

In his first State of the Union message, President Nixon laid this on the line to the Congress. He said, ". . . The further away government is from the people, the stronger government becomes and the weaker people become. And a nation with a strong government and a weak people is an empty shell."

He followed this up with six great goals, each one aimed at redressing the balance of power which had grown away from the people where it belonged. Since Lincoln's time, the President said, we have too often "become a nation of the Government, by the Government, for the Government."

Time after time, in many different forums and places, President Nixon has urged the necessity for bipartisan consideration of these goals because they are necessary *for America*. And America is above any Party.

And time after time he was ignored or rebuffed. Even so strong a critic as James Reston, writing in *The New York Times*, said that:

"For more than a year now, [President Nixon] has sent to Capitol Hill one innovative policy after another: on welfare reform, revenue-sharing reform, government reform, postal reform, manpower reform, Social Security reform, reform of the grants-in-aid system, and many others.

It is not necessary to agree with his proposals in order to concede that, taken together, they add up to a serious and impressive effort to transform the domestic laws of the nation, all the more remarkable coming from a conservative Administration, and that they deserve a more serious and coherent response than they have got so far from the Democratic Party and the Democratic majority in the Federal Congress.

What the Democrats are doing now [Mr. Reston concluded] is merely sniping at the President's programs and often saying some damn silly things in the process."

Once again this year, in his State of the Union message, President Nixon exhorted the Congress to rise above partisan interest . . . to serve the national interest. So far the result has been desultory and disappointing.

But, as you know, this is an election year, and we will be able to take our case to the people of the country. Once again we shall be putting to the proper and ultimate test *Lincoln's* faith and conviction.

Because, as Lincoln asked, "Why should we not have a *patient faith* in the *ultimate wisdom of the people?*"

So tonight we honor Lincoln. Soon we shall have an opportunity which, *fortunately*, is given to few generations: We shall have the opportunity to fight an election campaign for . . . it seems to me . . . little less than the continued survival of the America Lincoln fought and died to leave us. Because the stakes today are little less than whether we will continue to have government *of* the people, *by* the people, and *for* the people in this country in the future.

That is the choice we bring to the American people in 1972, and that is the choice which we must make them understand in the coming campaign.

It is not a "sexy" choice dripping with lots of charisma, and with slogans sprinkled and sparkling all over it. It's not the kind of choice that makes you want to squeal and pull the cuff links out of its sleeves. Because it is a choice with its sleeves rolled up. It's a choice you have to be willing to work hard for, just as Lincoln and hundreds of thousands of Americans were willing to fight and even to die for.

In the one hundred and seven years since Lincoln's death, the face of the American nation has changed beyond all recognition. Except for his own face on the $5 bill, there would be little that he would recognize or remember if he were to return to the America of 1972 for a few hours this evening.

But he *would* be able to take a test of the spirit of the nation, to see if that faith in government of the people, by the people, and for the people was still burning bright in the hearts and minds of America tonight.

And I'm afraid that before very long he would see that many of us have come to a full spiritual circle, and that in many ways we are poised once again as we were in 1861.

But the principle, the idea, is still there. And it is stronger today than it was in Lincoln's day . . . because thanks to him, it has had another one hundred and seven years to prove that it can work.

Lincoln knew that government of the people, by the people, and for the people in America might turn out to be impossible. He saw it for the magnificent gamble it is. But his confidence in its right and wisdom was unshakable.

We of this latest generation of 1972 must draw upon the legacy of Lincoln to disenthrall ourselves from the passions and pressures and preoccupations of the times and of the individual issues of the times, and work for this most basic and vital principle of our nation which now once again, as it did in Lincoln's time, needs to be preserved and protected by thoughtful men and women of every party.

EFFECTIVENESS OF VACCINES

Mr. RIBICOFF. Mr. President, I am today releasing a report prepared at my request by the General Accounting Office concerning the regulation of vaccines by the Division of Biologics Standards in the Department of Health, Education, and Welfare. This report focuses on two major problems: The Division's apparent policy, pursued until 1969, to allow the release of subpotent influenza vaccine and its failure to require that vaccines sold to the public be effective.

Specifically, the report indicates that there are 32 biologic drugs or vaccines on the market today that are ineffective. All of those drugs have been on the market for at least 10 years; some have been sold for decades. DBS has allowed all of them to remain on the market, even though many of them can cause serious side effects.

With respect to influenza vaccine, the report reveals that for a period of at least 3 years, from 1966 through 1968, DBS allowed manufacturers to sell influenza vaccine that did not come close to meeting the announced standard for vaccine potency according to the manufacturers' own tests. A majority of the lots of influenza vaccine submitted for release during this period failed to meet the standard. Nevertheless, the DBS did not reject a single influenza vaccine lot submitted to it during that period. According to statistics of the Center for Disease Control, over 20 million doses of influenza vaccine are sold each year in the United States.

BACKGROUND OF THE REPORT

The report I am releasing today has been in preparation for over 8 months. Last summer, after discussions with Dr. J. Anthony Morris, a microbiologist with the DBS, and James Turner, a consumer advocate with expertise in food and drugs, I asked the GAO to look into the performance of the DBS in a number of important areas. This is the first of GAO's reports in response to that request; a later report will deal with the Division's regulation of adenovirus and pertussis. On October 15, 1971, and again on December 8, I called upon HEW to conduct a full review of the performance of DBS. On those occasions, I released papers prepared by Dr. Morris and Mr. Turner which raised a number of disturbing questions about the quality of our vaccines and the policies of DBS.

Since last summer, impartial GAO investigators have been at work examining the records and documents of the DBS, and talking to the people who have been responsible for vaccine regulation. The entire GAO report is based upon the DBS's own official documents and records, not upon charges made by anyone inside or outside the agency. It was compiled from the recorded, day-to-day observations of those who actually conducted the control operations for the DBS.

The report is an appalling chronicle of omission and bureaucratic failure. It is deeply unsettling that the Government's efforts to protect the health and safety of the public could remain ineffective for so long.

EFFECTIVENESS OF VACCINES

Let me now turn to the substance of the GAO report. With respect to the effectiveness of vaccines, the GAO report reveals that 75 out of 263 biologic products licensed by DBS were not recognized as being effective by most of the medical profession, according to a memorandum by the Director of DBS. The GAO concluded that—

> DBS has not required biological products to be effective as a condition of licensing and has not removed ineffective vaccines from interstate commerce.

There are at least 32 vaccines currently on the market that are "generally regarded as ineffective by the medical profession," according to the DBS Director. I am releasing a list of these ineffective products. All of these drugs have been on the market for more than 10 years, some of them for decades. Some of them can cause serious side effects. For example, one such drug, licensed in 1956 for the treatment of "upper respiratory infections, bronchitis, infectious asthma, sinusitis, and throat infections," contains six ineffective organisms. According to the circular on the package there have been, associated with the use of the drug, "reports of children getting systemic reactions: Fever, rash, abdominal cramps, and diarrhea 4 to 8 hours after injection." All this from an ineffective drug.

Or consider the possible side effects noted on the package circular for another ineffective vaccine used for treatment of infections and inflammation of the eye:

> Febrile reactions, preceded by chill . . . temperature of 101–104. Fever subsides in a few hours and the patient may be left with

> muscular pains; chilly sensations and malaise may be expected . . . The patient should be kept under close observation through the period of increased temperature, and if excessive fever occurs, it should be combated vigorously.

There are many other examples.

And yet, in all these years, DBS never moved to take a single one of these ineffective drugs off the market, or even to inform the public or the medical profession of their ineffectiveness. In light of this kind of adverse reaction data, it is incredible that DBS could license such biologics as "safe." Since the agency believed that there was no corresponding benefit for the harm suffered by patients, it could have moved to take these drugs off the market under its undoubted authority and responsibility to withhold licenses for drugs which are unsafe. Instead, the DBS maintained that it had no authority to regulate biologics for effectiveness and simply washed its hands of the problem.

LEGAL AUTHORITY TO REGULATE EFFECTIVENESS

According to the DBS, its failure to move against ineffective vaccines was caused by a belief that HEW did not have statutory authority to require that vaccines be effective in use. HEW's General Counsel believed that authority had existed since the Kefauver drug amendments of 1962. Thus, while HEW argued that it had the authority and wanted to delegate it to the DBS for enforcement, DBS argued there was no such authority to delegate and recommended that additional legislation be sought before moving against ineffective biologic drugs.

An exchange of memos within HEW in 1969 illustrates the nature of the regulatory impasse. On February 28, 1969, the HEW General Counsel sent a memorandum to the DBS taking the position that HEW had responsibility to assure that all drugs—including biologics licensed by DBS—were effective and that HEW was prepared to delegate this authority to DBS. On July 30, 1969, the Director of DBS replied, stating that he opposed such a delegation and again urging the Department to seek additional legislation. The Director's opposition to a simple administrative solution was especially perplexing since he knew that there were 75 licensed biologics that were ineffective. In addition, his stated reasons for opposing a simple delegation of existing regulatory authority are disturbing. He wrote:

> In view of the continuing undercurrent recommending the combining of the DBS with Food and Drug, we are quite reluctant to request such a delegation (of authority to require biologics to be effective) since it would offer an excellent opportunity of such proponents to renew their efforts in creating one central agency.

In fairness to the DBS, it should be pointed out that it did seek to persuade HEW to seek new legislative authority to regulate biologics for effectiveness. However, the Division refused to initiate or even cooperate in developing any alternative course of action to deal with a serious public health problem. Even worse is the implication of the Director's memorandum of July 30, 1969, that he felt it more important to foreclose any real or imagined infringement on the separateness of his domain than to take the most direct means at hand to protect the public from ineffective, sometimes harmful vaccines.

For 10 years, beginning in 1962, while memos were quietly exchanged within the bureaucracy, nothing was done to protect the public against drugs that were ineffective. The drugs stayed on the market; people continued to get adverse reactions from them. Those drugs are on the market today, 10 years after HEW was given authority to do something about them.

Thirty-nine days after I raised the issue on the floor of the Senate, HEW took its first steps toward a responsible position. A memorandum from HEW General Counsel Wilmot Hastings concluded that the Department did have authority to regulate all vaccines for effectiveness. Furthermore, he stated that the Department's authority would soon be delegated to DBS.

Several months passed. On February 7 high officials of HEW and the National Institutes of Health were shown a draft of the GAO report and were made aware that the information concerning ineffective vaccines would be made public. In announcements in the Federal Register on February 25 and March 15, HEW declared that vaccine manufacturers would finally have to present evidence of the effectiveness of their vaccines or lose their licenses. To date, however, only manufacturers of bacteriological vaccines have been required to come forward with proof of efficacy. No such requirement has apparently been laid down for manufacturers of virus vaccines. I shall continue to monitor the new program closely to assure that hopeful public announcements are followed by decisive regulatory action. The public will benefit from the new policy only if it is rigorously enforced with respect to all vaccines.

INFLUENZA VACCINE POTENCY

One vaccine that should be subjected to close scrutiny in this program is influenza vaccine, the other major subject of the GAO report. The report deals with both efficacy and potency of influenza vaccine. Efficacy refers to a vaccine's ability to cure, combat, or prevent a disorder. Potency refers to a vaccine's ability to produce a certain result in laboratory tests, to show that it contains the proper amounts of antigens. A vaccine may be potent—that is, contain the prescribed amount of antigens—and still not be effective if, for example, the antigens it contains do not protect against disease.

Both the efficacy and the potency of influenza vaccine have been, and continue to be, subject to substantial question. For an extended period prior to 1969, the potency of influenza vaccine went virtually unregulated. The GAO report tells a shocking story about the DBS's abdication of a clear responsibility. The DBS control official for influenza vaccine has stated that, in his opinion, if manufacturers could get away with it, they would sell water as vaccine. The GAO report indicates that, between 1966 and 1968, with respect to influenza vaccines, manufacturers were being allowed to do very nearly that.

The first influenza vaccine was licensed in 1945. As of December 1971 there were outstanding eight licenses to manufacture influenza vaccine, and six companies were actually manufacturing it. In 1970, over 20 million doses of influenza vaccine were sold, making it one of the largest selling vaccines produced in this country.

As interpreted by the Department of Health, Education, and Welfare, the law requires every licensed vaccine to be safe, pure, potent, and effective. In order to determine potency, DBS prepares a reference vaccine containing—according to a prescribed test—a given amount of antigens. Manufacturers must then apply the same test to vaccine lots they submit for release, and their results must show the vaccine to meet a level of antigens content equal to, or at a certain percentage of, the DBS reference vaccine. By regulation (42 CFR 73), a licensed vaccine cannot be released unless the manufacturer's tests show the vaccine to be safe, pure, and potent. The GAO report shows that, with respect to influenza vaccine—at least between 1966 and 1968—this rule was utterly ignored.

In addition to the manufacturer's tests, which are required, DBS may itself require a manufacturer to submit—prior to the release of vaccine to the public—samples of the product lots and the protocols containing the results of the manufacturer's tests. DBS reviews these protocols and may conduct its own tests. DBS may then either release the lots or reject them.

On September 18, 1962, however, in an extraordinary memorandum, DBS severely circumscribed the scope of its own independent testing of influenza vaccine. According to the memorandum, the decision to release a vaccine lot was to be based only on the manufacturer's test results, not upon the DBS test results, even if the two were inconsistent. As explained by DBS officials in 1971:

> Lots were released on the basis of satisfactory information furnished by the manufacturers and tests by DBS were a mechanism to be sure that manufacturers could perform the tests and that results were reliable.

As if this abstention from responsibility were not enough, DBS then began to release many lots of influenza vaccine that were subpotent even according to the manufacturer's own test results.

In the years 1966, 1967, and 1968, manufacturers submitted 221 lots of influenza vaccine to DBS for release. According to the manufacturers' own test results, 115 of these 221 lots were subpotent and should have been rejected, even under the standard of the 1962 memorandum. And yet DBS allowed the release of every single one of the 221 lots, including all 115 which even the manufacturers' tests clearly showed to be subpotent.

Not only was subpotent influenza vaccine being released indiscriminately, but in many cases the subpotent vaccine lots which were supposed to be as potent as the DBS reference vaccine fell short by enormous margins. In some cases, influenza vaccine was released that had less than 1 percent of the potency required. In addition, a number of the 106 lots which were potent according to the manufacturer's test were shown to be subpotent by subsequent DBS testing. For example, one manufacturer submitted a lot containing three separate strains of influenza vaccine. According to the manufacturer's test results, the strains were, respectively, 100 percent, 171 percent, and 149 percent as potent as the DBS reference vaccine. DBS tests, conducted on September 13, 1967, showed their respective values to be 0.8 percent, 15 percent, and 12 percent. Incredibly, even this lot was released for sale to the public.

In another instance, the DBS control officer asked one manufacturer to perform tests first on a vaccine known to be that of the manufacturer, and later on a series of unlabeled vaccines, one of which was the same as vaccine that had been tested previously. When the manufacturer knew he was testing his own vaccine, the test results were markedly higher than when the same vaccine was tested as an unknown. Thus there is substantial doubt about how many of the 106 vaccine lots shown to be potent according to the manufacturer's tests did, in fact, meet the unenforced standards.

The GAO report shows that for at least 3 years absolutely anything a manufacturer submitted would be released. Responsibility for this frivolous policy extends to the highest levels of the DBS hierarchy. The ultimate decision to release a vaccine lot is made at a policymaking level, and there is no indication that policymakers were unaware of what they were doing. The fact that vaccine lots had failed manufacturers' tests appeared clearly on the documents on which their decision was supposed to have been based.

DBS has indicated that the reason for its lax attitude toward the results of potency tests was its lack of faith in the potency test used at the time. Some changes have been made since 1968 and manufacturers have stopped submitting vaccine for release that is subpotent according to manufacturers' tests. However, as Morris and Turner have demonstrated, criticism of the inadequate test and efforts by DBS scientists to find improved ways of testing were strongly discouraged by the DBS leadership throughout the 1960's. Even today, doubts remain about the validity of the DBS potency test.

EFFICACY OF INFLUENZA VACCINE

In addition to problems of subpotent influenza vaccine, there remain substantial questions about the vaccine's efficacy. As early as 1962, the Public Health Service's Center for Disease Control estimated that the vaccine was only 20 to 25 percent effective, a level far below that of any other major vaccine. A 1969 study published in the bulletin of the World Health Organization—volume 41, pages 531–535—concluded that—

> Optimally constituted influenza vaccines at standard dosage level have little if any effectiveness and that even larger doses of vaccine do not approach the high degrees of effectiveness that have been achieved with other virus vaccines.

The current recommendation by the Public Health Service Advisory Committee on Immunization Practices is that only people who are chronically afflicted with certain diseases should receive the vaccine. Indiscriminate distribution of the vaccine is not only unnecessary, but may make matters worse for the small category of persons whom the vaccine could conceivably help. According to the DBS Director, during the influenza epidemic of 1967–68:

> Persons who really didn't need the vaccines were getting them, while persons who did were ignored.

DBS should finally address the problems raised by the influenza vaccine. I am writing to Secretary Richardson to ask specifically that the efficacy of influenza vaccine should be closely examined under the newly announced efficacy program and that alternative methods of preventing influenza be seriously considered. I also look forward to receiving from the Department of Health, Education, and Welfare a copy of the report on DBS Management prepared for the National Institutes of Health by a committee headed by Dr. James Schriver.

VACCINE REGULATION AND CONSUMER PROTECTION

The problems raised by this report, however, have broad implications. The release of this report represents a continuation of efforts of my subcommittee to assure better Federal regulation of foods and drugs. In addition to the investigation of vaccine regulation, my Subcommittee on Executive Reorganization and Government Research, in conjunction with the GAO, is investigating Federal regulation of blood banks and blood products. My subcommittee has worked with the GAO in the preparation of four reports on the Department of Agriculture's inspection of meat and poultry. These reports were critical of the Department's performance in assuring wholesome meat to American consumers. Through the subcommittee, I released a GAO study of the Federal Government's regulation of the tuberculosis control drug, isoniazid. That report found that FDA had ignored its own regulations concerning the experimental use of investigational new drugs on human subjects. In 1971, the subcommittee held hearings on chemical additives in our food supply. Witnesses warned about the danger of chemical food additives and residues of drugs such as DES in the food supply. A committee print concerning Federal regulation of chemical food additives will soon be published.

All these investigations and reports have established the need for comprehensive legislation to protect American consumers. Two bills now pending in my subcommittee would have a major effect on the problems we are continuing to discover in our regulatory agencies. One bill is S. 1177, which I am sponsoring, to establish an independent Consumer Protection Agency. This bill would create an advocate for the interests of consumers who would argue on behalf of consumers at all levels of Federal agency activities. If there had been an independent consumer advocate, I doubt that an agency such as DBS could have continued to allow millions of doses of watered influenza vaccine to be released for public use year after year. I do not believe that worthless vaccines would have remained licensed for decades. I doubt that the kind of timid regulation we have discovered at DBS would have for so long gone unnoticed or that filthy conditions would be allowed to prevail year after year in our meat and poultry plants, or that chemicals which add little or nothing to the nutritional quality or safety of food would be allowed to remain in the food supply. An independent consumer advocate would have an enormous impact on the way Federal agencies deal with the interests of consumers. My subcommittee will soon report out S. 1177 and I intend to see that bill become law.

The other piece of legislation is S. 3419, a bill to establish a single independent agency responsible for regulation of product safety, food, and drugs. The proposed Consumer Safety Agency would perform the functions of HEW's present Food and Drug Administration, but would have a wider range of responsibilities and authorities. One such additional responsibility would be the regulation of vaccines currently performed by the DBS. In holding hearings on S. 3419 my subcommittee will review the performance of the DBS and seek to determine whether the Division's regulatory responsibilities would better be handled in conjunction with the Federal Government's regulation of other drugs. In addition, we shall consider whether additional transfers of authority would improve the quality of consumer protection.

The failures cited in the report I am releasing today are major failures in consumer protection. It would be misleading, however, to focus only on these incidents and ignore the larger problems of bureaucratic regulation. These problems are symptoms of a general disorder.

The real problems lie in a regulatory bureaucracy in which authority is apportioned according to irrational distinctions in which different Federal agencies frustrate each other's policies by pursuing conflicting goals; in which questions are decided not on their merits, but in order to preserve or extend an agency's jurisdiction; in which important regulatory authority is buried between layers of bureaucracy, and decisionmakers lose their visibility and public accountability; in which the only day-to-day influence on regulators from outside the Government comes from representatives of the regulated industry; in which agencies with regulatory responsibilities also view themselves as advocates for a particular interest group; in which regulators move back and forth between jobs in Government and executive positions in regulated industries; in which important decisions are made without input from a variety of affected interests.

All these problems plague our regulatory programs. We have to do better. We cannot solve all the problems of ineffective Federal regulations in one piece of legislation. But we do have a responsibility to begin. S. 1177 and S. 3419 are important first steps in the right direction.

I ask unanimous consent that the list of the 32 vaccines referred to as not effective by the DBS director and their manufacturers be printed in the RECORD together with the GAO's summary of its review and recommendations.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

VACCINES REFERRED TO AS NOT GENERALLY RECOGNIZED AS EFFECTIVE BY THE DBS DIRECTOR

Product listed in report	Brand name of product listed in report	Manufacturer
1. Product A	Bacterial Vaccine Mixed Respiratory	Hollister-Stier Laboratories.
2. Product B	Respiratory UBA	Eli Lilly & Co.
3. Product C	Staphylococcus-Streptococcus UBA	Do.
4. Product D	Combined Vaccine No. 4 with Catarrhalis.	Do.
5. Product E	Mixed Vaccine No. 4 with H. Influenzae.	Do.
6. Product F	Staphylococcus Vaccine	Do.
7. Product G	Entoral	Do.
8. Product H	Typhoid H. Antigen	Do.
9. Product I	Vacagen Tablets	Merck, Sharp, & Dohme.
10. Product J	Brucellin Antigen	Do.
11. Product K	Staphylo-Strepto Serobacterin Vaccine	Do.
12. Product L	Catarrhalis Serobacterin Vaccine Mixed.	Do.
13. Product M	Sensitized Bacterial Vaccine H. Influenzae Serobacterin Vaccine Mixed.	Do.
14. Product N	Staphage Lysate Type I	Delmont Laboratories, Inc.
15. Product O	Staphage Lysate, Type III	Do.
16. Product P	Staphage Lysate, Types I and III	Do.
17. Product Q	Catarrhalis Combined Vaccine	Merrell-National Laboratories (Division, Richardson Merrell).
18. Product R	Strepto-Staphylo Vatox	Merrell-National Laboratories.
19. Product S	Staphylococcus Toxoid-Vaccine Vatox	Do.
20. Product T	Respiratory Vatox	Do.
21. Product U	Respiratory B.A.C	Hoffman Laboratories, Inc.
22. Product V	Gram-Negative B.A.C	Do.
23. Product W	Pooled Stock B.A.C. No. 1	Do.
24. Product X	Pooled Stock B.A.C. No. 2	Do.
25. Product Y	Staphylococcal B.A.C	Do.
26. Product Z	Pooled Skin B.A.C	Do.
27. Product AA	Mixed Infection Phylacogen	Parke, Davis & Co.
28. Product BB	Immunovac Oral Vaccine	Do.
29. Product CC	Immunovac Respiratory Vaccine (Parenteral).	Do.
30. Product DD	Streptococcus Immunogen Arthritis	Do.
31. Product EE	N. Catarrhalis Vaccine (Combined)	Do.
32. Product FF	N. Catarrhalis Vaccine Immunogen (Combined).	Do.

PROBLEMS INVOLVING THE EFFECTIVENESS OF VACCINES

(Comptroller General's report to the Subcommittee on Executive Reorganization and Government Research)

WHY THE REVIEW WAS MADE

The Chairman of the Subcommittee on Executive Reorganization and Government Research, Senate Committee on Government Operations, asked the General Accounting Office (GAO) to review selected aspects of Federal control over drugs and biological products (vaccines, serums, etc.). This report, the second report to be issued to the Chairman, is concerned with (1) whether legislative authority exists to require biological products to be effective in use and (2) the effectiveness, potency, and use of influenza vaccines.

Background

Pursuant to the Public Health Service Act, biological products must be licensed by the Secretary of the Department of Health, Education, and Welfare (HEW) before they may be transported interstate. To obtain licenses manufacturers must produce products which meet standards of safety, purity, and potency (the ability of products to produce given results). The Division of Biologics Standards (DBS), a division of the National Institutes of Health (NIH), licenses biological products.

FINDINGS AND CONCLUSIONS

Need to remove ineffective products from interstate commerce

Although the Office of the General Counsel of HEW concluded on several occasions that legislative authority existed under the Federal Food, Drug, and Cosmetic Act that could prevent ineffective biological products from being introduced into interstate commerce, DBS disagreed with the Office of the General Counsel. (See p. 11.)

The disagreement apparently was resolved by the Secretary in November 1971. The Secretary stated at that time that DBS, in practice, had been exercising the efficacy authority under the Federal Food, Drug, and Cosmetic Act. Although GAO found no evidence of any ineffective products licensed after 1962, GAO did find the ineffective products licensed prior to 1962 were being marketed. (See p. 13.)

On February 25, 1972, the Secretary took action to require NIH, through an appropriate delegation of authority, to apply the provisions of the Federal Food, Drug, and Cosmetic Act to biological products.

Release of subpotent influenza vaccines

DBS was releasing lots of influenza vaccines even when its tests showed the potency of the vaccines to be as low as 1 percent of the established standards. Of 221 lots released during 1966, 1967, and 1968, 130 failed to meet the standards. (See p. 17.)

Subpotent vaccines were released because agency employees responsible for performing potency tests and for reviewing the results of tests performed by either the manufacturers or DBS did not adhere to the standards. DBS says that its tests are not to be used as a basis for release or rejection of lots but are to be used to determine whether the manufacturers can perform tests and whether the results of their tests can be relied upon. (See p. 17.)

Effectiveness and use of influenza vaccine

Scientific studies disagree significantly as to the specific degree of effectiveness of the vaccines. In addition, in periods of epidemic, there may be a problem with the vaccines' unavailability to persons in high-risk groups for whom the vaccines are needed, because persons receive the vaccines who do not need them. (See p. 22.)

Several Federal agencies notified their employees of the availability of the vaccines but did not make known the recommendations of the Public Health Service Advisory Committee on Immunization Practices regarding the types of persons that should be inoculated. This committee was established by the Surgeon General to develop recommendations for the use of the principal biological products. (See p. 24.)

RECOMMENDATIONS OR SUGGESTIONS

HEW should:

Require NIH to establish milestones to implement the efficacy provisions of the Federal Food, Drug, and Cosmetic Act.

Monitor NIH's progress in stopping the marketing of biological products determined to be ineffective.

Require DBS to revise its instructions to provide sufficient controls to preclude vaccines from being released if tests by either the manufacturers of DBS show the vaccines to be subpotent.

Fully inform Federal employees of the limitations and merits of receiving influenza virus vaccines and of the annual recommendations of the Public Health Service Advisory Committee on Immunization Practices.

MATTERS FOR CONSIDERATION BY THE SUBCOMMITTEE

The Subcommittee should consider bringing GAO's recommendations to the attention of the Secretary of HEW so that the recommendations may be implemented.

LAXITY IN REGULATION OF VACCINES POINTS UP NEED FOR CONSUMER ADVOCATE

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Illinois (Mr. PERCY), I ask unanimous consent to have printed in the RECORD a statement by him and an insertion concerning laxity in the regulation of vaccines.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR PERCY

I share with the Senator from Connecticut (Mr. Ribicoff) a sense of shock and outrage at the callous disregard for the public health and safety shown by the Division of Biologics Standards (DBS) in the National Institutes of Health in permitting diluted flu vaccines, some ineffective and apparently hazardous according to a General Accounting Office audit, to continue to be sold to an unsuspecting public.

Are human lives so cheaply valued by the very agencies of government we have set up to protect us that this kind of laxity in government will be allowed to persist? We now know, based on the GAO report that indiscriminate approval of influenza vaccine by DBS from 1966–68 subjected Americans to over 60 million doses of what may have been worthless prevention—or worse. Since the side effects of the inoculations—including extreme fever, rash, incapacitating diarrhea and cramps—can be severe, I suspect that for thousands, if not millions, of Americans their attempts to protect themselves from illness were actually more harmful than no protection at all.

There is a real question, based on a substantial body of scientific research, whether influenza vaccine offers any real protection even at full strength. Yet in that three-year interval, DBS failed to turn down a single lot of flu vaccine, even though some contained as little as one percent of the required strength. Of 221 lots released during the period, 130 did not meet standards established by the agency itself.

Subpotent vaccines were released for public consumption apparently because DBS officials performing tests and reviewing manufacturers' test results did not adhere to agency potency standards. Officials explain away their conduct by pointing to agency instructions to the effect that the tests are not to be used as a basis for release or rejection of lots, but instead for determining whether manufacturers can perform tests and whether the results of such tests can be relied upon.

This explanation fails to satisfy me. Why have the standard if the agency is not going to follow it? As a matter of fact, the GAO audit indicates that in many instances the manufacturers' own tests could not be relied upon, yet no subsequent action was taken by DBS. I share the view of the Comptroller General that DBS instructions should be revised to provide that vaccines *not* be released if tests by *either* the manufacturers or DBS show the vaccines to be below the required potency.

But even more important is the bureaucratic haggling that underlies this foulup. Over the years, the General Counsel of HEW has concluded that completely clear legislative authority exists under the Food, Drug and Cosmetic Act to prevent *ineffective* biological products (including vaccines, serum, antitoxins, etc.) from being introduced into interstate commerce. But DBS steadfastly repudiated that view in refusing to prevent the marketing of vaccines proven to be ineffective. The dispute apparently was resolved in November 1971 when Secretary Richardson of HEW said that DBS, in practice, was testing vaccines for efficacy. In fact, while GAO in its report found no evidence of ineffective vaccines licensed after 1962, it did find ineffective products licensed prior to that year which were still being marketed. As of February 25, 1972, Secretary Richardson has moved to correct this situation by applying the provisions of the Food, Drug, and Cosmetic Act to all biological products.

The DBS blunder reminds us anew that the American public has been deceived into believing that because an agency of the Federal Government has been set up to afford protection, the public is indeed being protected. But the tragic truth is that just is not so. We have here, instead, a false panacea, and so, a false hope.

But there is a lesson to be drawn. And that is that no more infusion of greater funds or resources or staff will correct the errors of an agency as misdirected as DBS. More than ever, the need is clear for an independent consumer advocacy agency—such as that contemplated in S. 1177 of which I am a principal cosponsor—to look out particularly for public health and safety in the face of bureaucratic lassitude, unconcern, neglect, or perversion of purpose. An advocate for the consumer interest would promptly have become apprised of the existence of millions of subpotent dosages of vaccine and sought a turnaround of policy. Failing in that, an advocate would have assumed responsibility, as DBS did not, for properly informing the public of the lack of protection afforded to it.

As ranking minority member of the Government Operations Committee, which is currently considering the independent Consumer Protection Agency bill, I am convinced that such an agency will reflect a greater sensitivity to the imperative need of the American consumer to have his interests fairly, effectively and responsibly represented, I will make every effort to see that this legislation is promptly reported to the floor of the Senate and quickly enacted so that we can prevent recurrences of the kind I have described today.

Comptroller General's Report to the Subcommittee on Executive Reorganization and Government Research Committee on Government Operations U.S. Senate

(Problems Involving the Effectiveness of Vaccines—National Institutes of Health Department of Health, Education, and Welfare B–164031(2))

WHY THE REVIEW WAS MADE

The Chairman of the Subcommittee on Executive Reorganization and Government Research, Senate Committee on Government Operations, asked the General Accounting Office (GAO) to review selected aspects of Federal control over drugs and biological products (vaccines, serums, etc.). This report, the second report to be issued to the Chairman, is concerned with (1) whether legislative authority exists to require biological products to be effective in use and (2) the effectiveness, potency, and use of influenza vaccines.

Background

Pursuant to the Public Health Service Act, biological products must be licensed by the Secretary of the Department of Health, Education, and Welfare (HEW) before they may be transported interstate. To obtain licenses manufacturers must produce products which meet standards of safety, purity, and potency (the ability of products to produce given results). The Division of Biologics Standards (DBS), a division of the National Institutes of Health (NIH), licenses biological products.

FINDINGS AND CONCLUSIONS

Need to remove ineffective products from interstate commerce

Although the Office of the General Counsel of HEW concluded on several occasions that legislative authority existed under the Federal Food, Drug, and Cosmetic Act that could prevent ineffective biological products from being introduced into interstate commerce, DBS disagreed with the Office of the General Counsel. (See p. 11.)

The disagreement apparently was resolved by the Secretary in November 1971. The Secretary stated at that time that DBS, in practice, had been exercising the efficacy authority under the Federal Food, Drug, and Cosmetic Act. Although GAO found no evidence of any ineffective products licensed after 1962, GAO did find that ineffective products licensed prior to 1962 were being marketed. (See p. 13.)

On February 25, 1972, the Secretary took action to require NIH, through an appropriate delegation of authority, to apply the provisions of the Federal Food, Drug, and Cosmetic Act to biological products.

Release of subpotent influenza vaccines

DBS was releasing lots of influenza vaccines even when its tests showed the potency of the vaccines to be as low as 1 percent of the established standards. Of 221 lots released during 1966, 1967, and 1968, 130 failed to meet the standards. (See p. 17.)

Subpotent vaccines were released because agency employees responsible for performing potency tests and for reviewing the results of tests performed by either the manufacturers or DBS did not adhere to the standards. DBS says that its tests are not to be used as a basis for release or rejection of lots but are to be used to determine whether the manufacturers can perform tests and whether the results of their tests can be relied upon. (See p. 17.)

Effectiveness and use of influenza vaccine

Scientific studies disagree significantly as to the specific degree of effectiveness of the vaccines. In addition, in periods of epidemic, there may be a problem with the vaccines' unavailability to persons in high-risk groups for whom the vaccines are needed, because persons receive the vaccines who do not need them. (See p. 22.)

Several Federal agencies notified their employees of the availability of the vaccines but did not make known the recommendations of the Public Health Service Advisory Committee on Immunization Practices regarding the types of persons that should be inoculated. This committee was established by the Surgeon General to develop recommendations for the use of the principal biological products. (See p. 24.)

RECOMMENDATIONS OR SUGGESTIONS

HEW should:

Require NIH to establish milestones to implement the efficacy provisions of the Federal Food, Drug, and Cosmetic Act.

Monitor NIH's progress in stopping the marketing of biological products determined to be ineffective.

Require DBS to revise its instructions to provide sufficient controls to preclude vaccines from being released if tests by either the manufacturers or DBS show the vaccines to be subpotent.

Fully inform Federal employees of the limitations and merits of receiving influenza virus vaccines and of the annual recommendations of the Public Health Service Advisory Committee on Immunization Practices.

MATTERS FOR CONSIDERATION BY THE SUBCOMMITTEE

The Subcommittee should consider bringing GAO's recommendations to the attention of the Secretary of HEW so that the recommendations may be implemented.

CHAPTER 1—INTRODUCTION

On June 28, 1971, the Chairman of the Subcommittee on Executive Reorganization and Government Research, Committee on Government Operations, United States Senate, requested that we review selected activities of the Food and Drug Administration (FDA) and of the Division of Biologics Standards of the National Institutes of Health, Department of Health, Education, and Welfare. (See app. I.) To comply with the Chairman's request, we agreed to issue three separate reports. The first was issued on October 7, 1971, entitled "Answers to Questions on the Investigational Use of Isoniazid—a Tuberculosis Control Drug."

This report is concerned with (1) whether legislative authority exists to require biological products to be effective in use and (2) the effectiveness, potency, and general use of influenza virus vaccines. We plan to issue a third report on DBS's regulation of adenovirus, influenza, and pertussis vaccines.

HEW'S RESPONSIBILITIES FOR THE REGULATION OF BIOLOGICAL PRODUCTS AND DRUGS

The Secreatry of HEW is responsible for the regulation of biological products and drugs through two statutes—section 351 of the Public Health Service Act, as amended (42 U.S.C. 262), and the Federal Food, Drug, and Cosmetic Act of 1938, as amended (21 U.S.C. 301).

Biologics

Section 351 of the Public Health Service Act provides that all biological products[1] and their manufacturers be licensed by the Secretary of HEW before the products can be sold in the District of Columbia or transported interstate. Before the products can be licensed, they must meet standards designed to ensure their continued safety, purity, and potency. The Secretary is authorized to inspect the licensed establishments, as well as any establishments being considered for licensing, to ensure that they conform to the legislation and regulations applicable to the manufacture of biological products. As of May 1971, 263 biological products were licensed and 235 establishments were licensed to manufacture such products.

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[1] A "biological product" is defined under the Public Health Service Act as "any virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analagous product, or arsphenamine or its derivatives (or any other trivalent organic aresnic compound), applicable to the prevention, treatment, or cure of diseases or injuries of man."

The responsibility for administering section 351 as been delegated by the Secretary to the Director of NIH. DBS, a division of NIH, is the organizational entity which carries out this responsibility. DBS was appropriated $8.8 million for fiscal year 1971.

The Code of Federal Regulations (42 CFR 73) states that a licensed product may not be released by a manufacturer for sale until the manufacturer has completed tests to determine that the product conforms to the standards applicable to its safety, purity, and potency.

"Safety" is defined in the regulations as the relative freedom from harmful effects to recipients. Closely allied to safety is the requirement for "purity"—the relative freedom from extraneous matter in the finished product. "Potency" is defined as the ability of the product to effect a given result, as indicated by laboratory tests or by adequately controlled clinical data obtained through the administration of the product in the manner intended.

DBS may require a manufacturer to submit, prior to the release of a product to the public, samples of production lots and the related protocols which present the results of the manufacturer's tests. When protocols are required, DBS reviews them and may conduct a series of tests within its own laboratories to verify the results shown. DBS then may either release a lot or reject it when necessary to ensure the safety, purity, or potency of the product.

In 1964 the Surgeon General established the Public Health Service Advisory Committee on Immunization Practices—composed of persons from the fields of public health, medicine, and research—to develop recommendations for the use of the principal biological products in the United States.

Drugs

The Secretary of HEW has delegated his responsibility for administering the Federal Food, Drug, and Cosmetic Act of 1938 to FDA.

Under the provisions of this act, a "drug" is defined as:

"(A) articles recognized in the official United States Pharmacopeia, official Hemeopathic Pharmacopeia of the United States, or official National Formulary, or any supplement to any of them; and (B) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (C) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (D) articles intended for use as a component of any articles specified in clause (A), (B), or (C); but does not include devices or their components, parts, or accessories."

Section 505(a) of the act requires, among other things, that a manufacturer of new drugs or any other person seeking to distribute drugs file an application—showing that the drug is safe and effective—with FDA and obtain its approval before the products may be introduced into interstate commerce. Section 505(b) requires that FDA approve the drug for both safety and efficacy.

Influenza

Influenza is an infectious disease, lasting from a few days to 2 weeks, which affects the respiratory systems of persons. There are two primary types of influenza—types A and B—each of which has a number of strains. Strains are the different influenza organisms which have been isolated and identified as causing influenza infection. Influenza virus vaccines are biological products designed to combat the particular strain or strains causing the disease.

The first license for the manufacture and use of influenza virus vaccine was issued in 1945. As of December 1971, eight establishments were licensed to manufacture the vaccine and six actually were engaged in producing and marketing the vaccines. From 1966 through 1970 about 112 million doses of the vaccines were distributed in the United States.

Potency standards for influenza virus vaccines

DBS issues annual potency standards to the manufacturers of influenza virus vaccines. For 1966 the standards required that a manufacturer's product be at least equal to the strength of a DBS reference vaccine, except for one strain which had to be five times the strength of the reference vaccine. The reference vaccine is a standardized vaccine sent to the manufacturers by DBS to be used as a basis for comparison with manufacturers' products.

In 1967 a manufacture's vaccine was required to be at least equal to the potency of the reference vaccine. Standards for 1968 required that the potency of all strain components of the vaccine, except one, be equal to or greater than the potency of the reference vaccine. The one exception was for a strain to combat a 1968 epidemic; DBS required that the potency of this strain be at least 75 percent of the reference vaccine.

The standards established by DBS for 1969, 1970, and 1971 required that a manufacturer's product be at least 75, 80, and 85 percent as potent, respectively, as the reference vaccine to be satisfactory for release.

DBS requires that protocols and a sample of a manufacturer's vaccine be submitted to it for review and approval before the vaccine is released to the public.

Tests to determine potency

To determine whether the individual lots of manufacturers' vaccines meet the established potency standards, DBS requires the manufacturers to perform certain laboratory tests on the lots. DBS performs similar tests in its laboratories for selected lots.

During 1966, 1967, and 1968, DBS required the manufacturers to determine the potency of their vaccines by means of mouse potency tests, which involved inoculating one group of mice with the manufacturers' vaccines and another group with the DBS reference vaccine. After inoculation, each group of mice was injected with the influenza virus and the protective ability afforded by each vaccine was compared.

Late in 1968 DBS changed the required test to the chicken cell agglutination (CCA) test, which determined virus concentration by measuring the ability of the virus to clump red blood cells. This ability is proportional to the number of virus particles. The test is performed on both the manufacturers' vaccines and the DBS reference vaccine, and the results are compared to determine whether the manufacturers' vaccines achieve the potency standard established by DBS.

Instructions relating to release of influenza virus vaccines

DBS instructions relating to the release of vaccines are contained in a Viral and Rickettsial Control Test Check List, dated November 1965, which stipulates that final release action is to be based on the recommendations of the responsible DBS test operators in each laboratory performing vaccine testing. The information required for release is (1) the approval of the manufacturer's test results for compliance with the regulations and requirements and (2) the results of DBS confirming tests, if performed.

Other vaccine release instructions are contained in a 1962 DBS memorandum on influenza potency testing. This memorandum states that the release of influenza virus vaccines is to be based on the data submitted by the manufacturers and is not to be based on any tests performed by DBS. The memorandum states also that DBS potency tests are not intended to provide data for either release or rejection of a lot but are to have as their objective "the establishment of demonstrated reproducibility of technical procedures employed by the manufacturer and DBS."

In 1971 DBS clarified the contents of the 1962 memorandum by stating that it released lots on the basis of satisfactory information furnished by the manufacturers and that tests performed by DBS were a mechanism for being sure that the manufacturers could perform tests and that the results of the tests could be relied upon.

CHAPTER 2—NEED FOR ACTION TO REMOVE INEFFECTIVE BIOLOGICAL PRODUCTS FROM INTERSTATE COMMERCE

We believe that there is a need for DBS to (1) require that biological products be effective prior to licensing and (2) take action to remove from interstate commerce those licensed products that are not effective.

We found that 75, or about 28 percent, of the 263 biological products licensed by DBS generally were not recognized—according to the Director of DBS—as being effective by most of the medical profession. All 75 of the products were licensed by DBS prior to the 1962 amendment to the Federal Food, Drug, and Cosmetic Act discussed on page 12.

DBS has not required biological products to be effective as a condition of licensing and has not removed ineffective products from interstate commerce, because it did not believe that legislative authority existed for such actions.

HEW's Office of the General Counsel has expressed its opinion to DBS on several occasions that the Federal Food, Drug, and Cosmetic Act provides authority to require that licensed biologics be effective. DBS, however, has disagreed with the opinion of the Office of the General Counsel and believes that legislation is needed to require biological products to be effective.

As a result of the interest in the efficacy of biological products expressed by the Chairman of the Subcommittee on Executive Reorganization and Government Research of the Senate Committee on Government Operations, the Secretary of HEW advised the Chairman, on November 29, 1971, that legislation requiring biologics to be effective was not needed because sufficient authority existed under the Federal Food, Drug, and Cosmetic Act and that, in practice, DBS had been exercising such authority.

Although the Secretary apparently has resolved the disagreement between the Office of the General Counsel and DBS regarding the authority to require biologics to be effective, it is our opinion that DBS has not been fully exercising this authority.

APPLICABILITY OF EFFICACY PROVISIONS OF FEDERAL FOOD, DRUG, AND COSMETICS ACT TO BIOLOGICAL PRODUCTS

The Federal Food, Drug, and Cosmetic Act requires that the Secretary approve a drug for safety and efficacy before it may be introduced into interstate commerce. The requirement for efficacy was added to the act by an amendment dated October 10, 1962 (76 Stat. 781), and was to be applied to (1) all drugs approved subsequent to October 10, 1962, and (2) any drugs approved during the period June 25, 1938, to October 10, 1962, which generally were not recognized by scientific experts to be effective in use.

According to the Office of the General Counsel, drugs as defined in the act, include biological products and the authority to require biological products to be effective as a condition of licensing can be delegated to NIH by the Secretary.

DBS did not agree with the opinion of the Office of the General Counsel that a delegation of authority from the Secretary would be satisfactory and, from 1964, recommended to the Department that legislation be proposed to the Congress that would require biologics to be effective in use.

On February 28, 1969, for example, the Office of the General Counsel advised the Director of DBS that the Secretary could delegate to NIH the authority to administer, apply, and enforce the efficacy provision of the Federal Food, Drug, and Cosmetic Act with respect to all drugs which are biological products. This authority included (1) refusing to approve an application for the introduction of a drug into interstate commerce if the drug was not effective for use and (2) withdrawing a previous drug approval if the drug was discovered to be not effective in use.

On July 30, 1969, the Director of DBS advised the Director of the Office of Legislation Analysis, NIH, that he disagreed with the opinion of the Office of the General Counsel. He said that, although it might be possible to require that future biological products be effective, he did not believe that it was possible to require products already licensed to meet current concepts of efficacy. Regarding the delegation of the authority of the Federal Food, Drug, and Cosmetic Act, the Director of DBS stated that:

"In view of the continuing undercurrent recommending the combining of the DBS with Food and Drug, we are quite reluctant to request such a delegation since it would offer an excellent opportunity of such proponents to renew their effort in creating one control agency."

Because the Chairman of the Subcommittee on Executive Reorganization and Government Research, Senate Committee on Government Operations, expressed interest in HEW's authority to require biological products to be effective in use, the Secretary requested the views of the Office of the General Counsel.

In a memorandum dated November 23, 1971, the General Counsel concluded that from 1962 HEW had the authority to require that biological products be effective in use but that the authority had not been delegated to DBS. The General Counsel stated that from 1962 DBS did not license any products which were not effective and that DBS therefore acted substantially as though it did have the authority to require that biological products be effective. The General Counsel recommended that the Department delegate to DBS the authority to continue this informal practice.

The General Counsel also advised the Secretary that he was working out the details for the delegation of authority to the Director of NIH. On February 25, 1972, the delegation of authority was effected.

On November 29, 1971, the Secretary forwarded the General Counsel's opinion to the Chairman and stated that sufficient regulatory authority existed under the Federal Food, Drug, and Cosmetic Act to require biologics to be effective and that, in practice, DBS had been exercising such authority.

PRODUCTS NOT GENERALLY RECOGNIZED AS BEING EFFECTIVE

In a memorandum dated November 19, 1969, to the Office of Legislative Analysis, NIH, the Director of DBS stated that there were several biological products which had been licensed for many years but which had been considered as not effective in use by most of the medical profession.

DBS officials provided us with a list of the products referred to by the Director of DBS. The list showed that there were 75 licensed biological products—about 28 percent of the 263 licensed biological products—which generally were recognized as not being effective in use. Because some of the licensed products are produced by more than one manufacturer, a total of 132 licenses—42 of which were issued between June 1938 and October 1962—have been issued for production of the 75 products. According to DBS these licenses are for biological organisms which may be sold to the public individually or combined with other organisms.

DBS provided us also with a list of vaccines being sold to the public that contain one or more of the 75 licensed organisms generally recognized to be not effective in use. The list (see app. II) showed that, as of December 31, 1971, there were 32 such vaccines. Of these 32 vaccines, 16 contained organisms which were licensed after 1938. We noted, however, that one of the 32 vaccines contained a biological organism which was not on the list of 75 organisms supplied to us by DBS.

We noted also that the package circulars for the ineffective vaccines indicated that persons might suffer adverse reactions from the use of the vaccines. For example, one of the vaccines—sold for the treatment of recurrent and chronic bacterial upper respiratory infections, infectious asthma, bronchitis, sinusitis, and throat infections—is made up of six ineffective organisms which were licensed by DBS in 1956. The package circular, which accompanies the sale of this vaccine, states that, although significant side effects from the vaccine are uncommon, there have been reports of children who have developed systemic reactions—consisting of fever, rash, abdominal cramps, and diarrhea—4 to 8 hours after injection.

The package circular for another of the ineffective vaccines—intended for the treatment of infections and inflammations of the eye by creating a fever in the patient—states that:

"The febrile reaction following intravenously administered * * * [vaccine] usually occurs in four to eight hours and in most cases is not preceded by a chill. The temperature may rise to 101° F. or even 104° F. Fever subsidies in a few hours, and the patient is left with muscular pains. Chilly sensations and malaise may be expected. * * * The patient should be kept under close observation through the period of increased temperature, and if excessive fever occurs, it should be combated vigorously."

CONCLUSIONS

Although the Office of the General Counsel concluded on several occasions that legislative authority existed that could prevent ineffective biological products from being introduced into interstate commerce, DBS disagreed with the conclusion of the Office of the General Counsel.

The disagreement apparently was resolved by the Secretary in November 1971. The Secretary stated at that time that DBS, in practice, had been exercising the efficacy authority contained in the Federal Food, Drug, and Cosmetic Act. Although we found no evidence of any ineffective products licensed after 1962, ineffective biological products licensed prior to 1962 are being marketed.

We noted that the Secretary took action to require NIH, through an appropriate delegation of authority, to aply the provisions of the Federal Food, Drug, and Cosmetic Act to biological products. We believe, however, that, having made this determination, the Secretary also should (1) require NIH to establish milestones to implement this authority and (2) monitor NIH's progress in stopping the marketing of ineffective biological products.

RECOMMENDATIONS TO THE SECRETARY OF HEW

We recommend that, to stop the marketing of ineffective biological products, HEW (1) require NIH to establish milestones to implement the efficacy provisions of the Federal Food, Drug, and Cosmetic Act and (2) monitor NIH's progress in stopping the marketing of biological products determined to be ineffective.

CHAPTER 3—RELEASE OF SUBPOTENT INFLUENZA VIRUS VACCINES

Manufacturers' test results showed that 115 of 221 lots of influenza virus vaccines released by DBS during 1966, 1967, and 1968 failed to meet potency standards established by DBS. In addition, 15 other lots which were released and shown to be potent by the manufacturers' tests were found to be subpotent on the basis of DBS tests. We found no indications that subpotent vaccines were released in 1969 or 1970. Only one subpotent lot, however, was submitted by manufacturers during this period.

It appears that subpotent vaccines were released because DBS employees responsible for performing potency tests and for reviewing the results of tests performed by either the manufacturers or DBS did not adhere to potency standards established by DBS.

DBS instructions state that its tests are not to be used as a basis for release or rejection of lots but are to be used to determine whether the manufacturers can perform tests and whether the results of their tests can be relied upon. We believe that the instructions should be revised to provide that vaccines *not* be released if tests by either the manufacturers or DBS show the vaccines to be subpotent.

NEED TO REVISE INSTRUCTIONS

DBS instructions state that final release actions for lots of influenza virus vaccines are to be based on the recommendations of responsible operators in the DBS laboratories which review the manufacturers' test results. The instructions state also, among other things, that the laboratory operators must record any lot which fails to meet the potency standards.

We found, however, that, for lots released on the basis of manufacturers' tests, DBS laboratory operators indicated the failure to meet DBS potency standards for only 25 of the 115 subpotent lots during 1966, 1967, and 1968. In addition, DBS records contained information explaining the release of 35 subpotent lots, which, in our opinion, was questionable; we found no documentation explaining the release of the other lots.

For example, 11 lots were released on the basis of the manufacturers' certifications to the Director of DBS that the vaccines had been manufactured in compliance with the formula issued by DBS. Also another lot was released by the Assistant Director of DBS even though the DBS laboratory operator had noted that the potency of a particular strain was unsatisfactory. The DBS laboratory operator had recommended that this lot be rejected because, according to the manufacturer's tests, one of the component strains was only 45 percent as potent as the reference vaccine.

The Assistant Director released this lot because, in his opinion, it met the minimum potency requirements set forth in section 4.25 of the instructions sent to the manufacturers by DBS. Section 4.25 states that the tests performed by manufacturers must be based on comparisons of their vaccines with the reference vaccine of DBS and that the results of the potency tests must show that the manufacturers' vaccines are at least equal to the reference vaccine.

We found that the DBS laboratory operators recorded as satisfactory 82 of the 115 lots that had potency values which were less than the DBS standards.

For example, one lot released by DBS on January 18, 1966, was designed to combat six strains of influenza. The manufacturer's test showed that one of the six strains was only 19 percent as potent as the reference vaccine and that the other five strains were at least equal to the reference vaccine.

DBS tested the potency of five of the six strains and found the potency of the strain noted as 19 percent on the manufacturer's tests to be greater than 300 percent of the reference. These same DBS tests indicated, however, that three of the four remaining strains had potency values below 20 percent of the reference vaccine and that the fourth strain had a potency value of approximately 50 percent of the reference vaccine. The laboratory operator recorded that the potency of this lot was satisfactory on the basis of the DBS test, and the lot was released.

In connection with the release of subpotent lots, we have noted that DBS instructions state that DBS tests are not to be used as a basis for release or rejection of lots but are to be used to determine whether the manufacturers can perform tests and whether the results of their tests can be relied upon.

Variability of test results

DBS tested 78 of 221 lots of vaccines released during 1966, 1967, and 1968. We found that 41 of these lots met the DBS potency standards and that 34 of the 41 were shown to be potent by the manufacturers' tests. The remaining 37 lots tested by DBS did not meet its potency standards. According to the manufacturers' test results, 22 of these lots were subpotent and 15 were potent. We found also that DBS test results varied significantly from the test results of the manufacturers.

For example, a manufacturer's tests for a lot released by DBS on September 13, 1967, showed potent strain values of 100 percent, 171 percent, and 149 percent whereas the DBS tests on the same lot showed subpotent values of 0.8 percent, 15 percent, and 12 percent, respectively.

This lot was released with a notation that potency was satisfactory on the basis of the manufacturer's tests even though (1) the potency standard at that time required these strains to be at least equal to the reference vaccine and (2) the DBS test results differed significantly from those of the manufacturer.

Reliability of mouse potency test

The laboratory chief responsible for potency testing since 1967 advised us that, due to problems with the variability of the results of the mouse potency tests, DBS did not strictly apply its potency standards during 1967 and 1968.

The laboratory chief advised us also that the mouse potency test was considered unreliable, and he furnished us with a 1969 report prepared by officials of DBS that questioned the reliability of the mouse potency test. The report concluded that the CCA test, which was adopted by DBS late in 1968, was a more reliable means for measuring potency. The laboratory chief advised us, however, that he also used the CCA test—at times subsequent to release—to determine the potency of selected influenza vaccine lots, including 55 subpotent lots submitted by the manufacturers during 1966, 1967, and 1968. The results of the CCA tests showed that 48 of the 55 lots still failed to meet the potency standards established by DBS.

The laboratory chief furnished us also with a memorandum dated July 12, 1968, in which he advised the Director of DBS that, with the exception of one manufacturer, the first lots submitted during 1968 showed that nothing was being done to increase the potency of the vaccines. The laboratory chief said in the memorandum that "it would be sad if we allow the manufacturers to make and sell poor influenza vaccines for another season."

CONCLUSIONS

We believe that, because of the significance of the ability of biological products—including vaccines—to effect a given result, it is important that DBS develop standards for the products that are designed to protect the consumer and strictly enforce such standards. We found, however, that DBS was releasing lots of influenza virus vaccines during 1966, 1967 and 1968, even when its tests showed the potency of the vaccines to be as low as 1 percent of the established standards. There were no indications that subpotent vaccines were released in 1969 or 1970. Only one subpotent lot, however, was submitted during this period.

It appears that subpotent vaccines were released because DBS employees responsible for performing potency tests and for reviewing the results of tests performed by either the manufacturers or DBS did not adhere to potency standards established by DBS.

A DBS instruction states that DBS potency tests are not to be used as a basis for release or rejection of lots but are to be used to determine whether the manufacturers can perform tests and whether the results of their tests can be relied upon. We believe that this instruction should be revised to provide that a vaccine *not* be released if tests by either the manufacturer or DBS show the vaccine to be subpotent.

RECOMMENDATION TO THE SECRETARY OF HEW

We recommend that HEW require DBS to revise its instructions to provide sufficient controls to preclude vaccines from being released if tests by either the manufacturers or DBS show the vaccines to be subpotent.

CHAPTER 4—PROBLEMS IDENTIFIED WITH EFFICACY AND GENERAL USE OF INFLUENZA VIRSUS VACCINES

We found that the conclusions of scientific studies disagreed significantly as to the specific degree of effectiveness of the influenza virus vaccines. We found also that a number of Federal agencies—in connection with inhouse influenza inoculation programs—had notified their employees of the availability of the vaccines but had not made known the recommendations of the Public Health Service Advisory Committee on Immunization Practices regarding the types of persons that should be inoculated.

EFFICACY OF INFLUENZA VIRUS VACCINES

Information on the effectiveness of influenza virus vaccines is conflicting. DBS officials estimated that influenza virus vaccines were 50 to 60 percent effective, and they provided us with several studies concerning the efficacy of the vaccines. One of the studies, performed by researchers at Mount Sinai School of Medicine, City University of New York, and at the California State Department of Public Health showed that, at one military base, influenza vaccines were 73 percent effective in reducing the number of trainees hospitalized in 1970.

Other reports, however, indicated a lesser degree of effectiveness. For example, a report published in 1964 by officials of the HEW National Communicable Disease Center[1]— which is responsible for coordinating and evaluating a national program for the prevention and control of communicable diseases, such as influenza—stated that 42 million doses of vaccines were distributed in 1962 and that, on the basis of a limited number of studies and preliminary reports, it was believed that the efficacy of the vaccines was 20 to 25 percent at best.

The report concluded that widespread use of influenza vaccines for general population groups could not be justified but that high-risk groups should continue to use the vaccines annually. High-risk groups, at that time were defined as pregnant women, the chronically ill, and older persons.

Another report published in 1969 by officials of the National Communicable Disease Center stated that the results of studies indicated that influenza vaccines at standard dosage levels had little, if any, effectiveness and that even very large doses of the vaccnies did not approach the high degrees of effectiveness which had been achieved with other virus vaccines. The report concluded that attention should be directed toward finding a more effective means of protection against influenza.

A study, published in 1969, of the effectiveness of influenza virus vaccinces by officials of the University of Wisconsin Medical School and of the National Communicable Disease Center concluded that inoculation clearly appeared to have no protective or modifying effect on the incidence of illness.

The Director of DBS, in a report published in 1969, also questioned whether the use of influenza virus vaccines had any detectable effect on the influenza epidemics which occurred in 1957 and 1968. The Director pointed out that in August 1968 virologists generally agreed that a significant change had occurred in one particular virus strain and that an epidemic was clearly predictable because available vaccines would provide only limited, if any, protection.

Although all the vaccines which were manufactured to combat the 1968 epidemic were not used, the Director stated that one of the problems in the face of any epidemic was the availability of the vaccines. He stated also that persons who really did not need vaccines received them while others in high-risk groups did not receive them.

Recommendations of the Public Health Service Advisory Committee

The Public Health Service Advisory Committee on Immunization Practices made the following recommendation with regard to the use of influenza virus vaccines during the 1971–72 influenza season.

"Annual vaccination is recommended for persons who have chronic debilitating conditions: 1) congenital and rheumatic heart disease, especially mitral stenosis; 2) cardiovascular disorders, such as arteriosclerotic and hypertensive heart disease, particularly with evidence of cardiac insufficiency; 3) chronic pulmonary diseases, such as asthma, chronic bronchitis, cystic fibrosis, bronchiectasis, emphysema, and advanced tuberculosis; 4) diabetes mellitus and other chronic metabolic disorders."

The committee also stated that:

"Although the value of routinely immunizing all older age persons is less clear, those patients who have incipient or potentially chronic disease, particularly affecting cardiovascular and bronchopulmonary systems, should also be considered for annual immunization."

The committee did not recommend the vaccines for healthy adults and children.

The committee stated that control of epidemic influenza in the general population was not possible through routine vaccinations because influenza vaccines had been variably effective and had offered rather brief periods of protection.

Use of vaccines in Federal agencies

We examined into programs of influenza inoculation at selected Federal agencies to determine their compliance with the recommendations of the Public Health Service Advisory Committee on Immunization Practices. We undertook this examination of the conflicting information on the relative effectiveness of the vaccines and because of the problems with their availability, cited by the Director of DBS, which could be caused by not following the recommendations of the advisory committee.

Under the United States Code (5 U.S.C. 7901), health units of Federal agencies are operated either by the agencies or by a division of the Health Service and Mental Health Administration, HEW.

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[1] Effective June 24, 1970, the National Communicable Disease Center became known as the Center for Disease Control.

We selected eight Federal agencies in the Washington area that operated their own health units, to determine whether they had followed the advisory committee recommendations for the 1970–71 influenza season. The recommendations for the 1970–71 season were the same as those for the 1971–72 season.

The Health Service and Mental Health Administration had furnished the medical officers in charge of its health units with a copy of the advisory committee's recommendations and had advised them not to conduct mass influenza immunizations but to make the vaccines available on a request basis only. We noted that about 14 percent of the 140,000 employees served by the health units of the Health Service and Mental Health Administration received the influenza virus vaccines during the 1970–71 influenza season.

Our examination into the eight agencies which operated their own health units showed that (1) the specific recommendations of the advisory committee had not been made known to the employees in most cases and (2) a larger percentage of employees usually received the vaccines than did employees at agencies having health units operated by the Health Service and Mental Health Administration.

The information summarized below is from notices given to the employees of the eight agencies. Also shown for the eight agencies are the number and percentage of employees who received the influenza virus vaccines during the 1970–71 influenza season.

Department or agency	Recommendation to enployees	Employees receiving vaccines	
		Number	Percent
National Aeronautics and Space Administration	Informed employees of vaccines' availability, and through other literature promoted inoculation	1,000	46
Federal Aviation Administration	Urged for all employees interested in this program of preventive medicine	1,407	40
Social Security Administration	Stated that the need for inoculation was a must for everyone having chronic diseases, those over 45 years of age, and pregnant women.	5,000	33
Civil Service Commission	Urged all employees to take advantage of the immunization program, particularly persons having chronic diseases, persons over 65 years of age, pregnant women, and persons responsible for care of the sick.	778	32
U.S. Army, Civilian Employees' Health Service	Stated that the vaccines were not recommended for healthy adults and children but were recommended for persons having chronic debilitating diseases and persons over 45 years of age having incipient or potential chronic diseases.	15,142	26
Department of Agriculture	Advised employees that vaccines would be available to all and stated that persons over 45 years of age and persons having chronic illnesses had the greatest need.	3,395	24
Postal Service	Informed employees only of vaccines' availability	500	24
Congress of the United States	Notice to employees was identical to the advisory committee recommendations	3,814	13

CONCLUSIONS

Our review of scientific studies indicated that the specific degree of effectiveness of influenza virus vaccines was questionable. In addition, in periods of epidemic, there may be a problem with the vaccines' unavailability to persons in high-risk groups for whom the vaccines are needed because, according to the Director of DBS, persons receive the vaccines who do not need them.

We found that several Federal agencies had notified their employees of the availability of the vaccines but had not made known the recommendations of the advisory committee regarding the types of persons that should be inoculated.

Considering the advisory committee's statement that control of epidemic influenza in the general population is not possible through routine vaccinations, we believe that action should be taken by the Secretary to fully inform Federal employees of the limitations and merits of receiving the vaccines and of the annual recommendations of the advisory committee.

RECOMMENDATION TO THE SECRETARY OF HEW

We recommend that HEW fully inform Federal employees of the limitations and merits of receiving influenza virus vaccines and of the annual recommendations of the Public Health Service Advisory Committee on Immunization Practices.

CHAPTER 5—SCOPE OF REVIEW

Our review included interviews with DBS officials and an examination into (1) legislation and congressional hearings applicable to the regulation of biological products, (2) the manufacturers' protocols, DBS test results, DBS instructions, and DBS correspondence with manufacturers that related to the potency of influenza virus vaccines released for sale from 1966 to 1970, and (3) the recommendations of the Public Health Service regarding the use of the influenza virus vaccines. We also interviewed officials of selected agencies concerning their programs for the inoculation of Government employees against influenza.

Our review was made primarily at the offices of DBS in Bethesda, Maryland.

APPENDIX I

U.S. SENATE,
COMMITTEE ON GOVERNMENT RELATIONS,
Washington, D.C., June 28, 1971.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
General Accounting Office Building,
Washington, D.C.

DEAR ELMER: The Public Health Service Act authorizes the Division of Biologics Standards of the National Institute of Health to administer the regulation of biologic products. In the performance of this important function the Division must establish and maintain a high level of testing and inspection of production facilities for biologics produced for sale and shipment in interstate commerce. In addition, the Division has the power to take appropriate action to enforce restrictions on interstate shipments on unlicensed or mislabeled products.

During the past month, members of the staff of the Subcommittee on Executive Reorganization and Government Research and representatives of your office have discussed the regulatory activities of the Division. On the basis of these discussions and other Subcommittee information, it is clear that a review by your office of the regulatory responsibilities of the Division, particularly its activities involving influenza, adenovirus, combined influenza-adenovirus and pertussis vaccines is badly needed.

I therefore request that the General Accounting Office undertake such a study immediately and submit a full report to this Subcommittee at the earliest date possible.

In addition, I have attached a list of questions concerning the Isoniazid TB control drug and the Federal Government's procedures for assuring its safe use, I would like a separate report responding to these questions a well.

In view of the present working relationship between our staffs, further details involving this request can be arranged at the staff level.

Sincerely,

ABE RIBICOFF, *Chairman.*

APPENDIX II

INDICATED USES OF BIOLOGIC PRODUCTS THAT ARE NOT GENERALLY RECOGNIZED AS BEING EFFECTIVE IN USE

1. *Product A*—Aids in the desensitization to common bacterial organisms present in the respiratory system.

2. *Product B*—Intended as a means of developing an immunity to pneumococci, streptococci, hemophilus influenza, neisseria catarrhalis, and staphylococci.

3. *Product C*—Intended for treatment of mixed staphylococcus and streptococcus infections.

4 *Product D*—Intended as a means of developing an immunity to neisseria catarrhalis, klebsiella pneumoniae, diplococcus pneumoniae, streptococci, and staphylococci.

5. *Product E*—Intended as a means of developing an immunity to hemophilus influenzae, neisseria catarrhalis, streptococci, klebsiella pneumoniae, staphylococci, and pneumococci.

6. *Product F*—Intended as a means of developing an immunity to staphylococcus infections.

7. *Product G*—May be useful for increasing resistance to bacterial respiratory infections.

8. *Product H*—May be useful for certain infections and inflammations of the eye.

9. *Product I*—used for active immunization against some of the bacteria that cause secondary infections associated with the common cold.

10. *Product J*—Used in the treatment of brucellosis.

11. *Product K*—Intended as a means of developing an immunity to upper respiratory tract infections due to strains of staphylococci and streptococci.

12. *Product L*—Intended as a means of developing an immunity to species of disease-producing bacteria that commonly cause respiratory tract infections.

13. *Product M*—Intended as a means of developing an immunity to disease-producing bacteria commonly associated with respiratory tract infections.

14. *Product N*—Used in the treatment of infections caused by staphylococcus aureus.

15. *Product O*—Used in the treatment of infections caused by staphylococcus aureus.

16. *Product P*—Used in the treatment of infections caused by staphylococcus aureus.

17. *Product Q*—For prevention of bacterial complication of the common cold and for treatment of chronic rhinitis and sinusitis.

18. *Product R*—Aids in the treatment of various forms of rheumatism, arthritis, myositis, fibrositis, chronic neuritis, and neuralgia.

19. *Product S*—Used in the treatment of subacute or chronic staphylococcal infections, such as acne, pustular dermatoses, furuncles, and blepharitis.

20. *Product T*—For prevention of secondary infections associated with respiratory infections.

21. *Product U*—Used in the treatment of recurrent and chronic bacterial upper respiratory infections, infectious asthma, bronchitis, sinusitis, and throat infections.

22. *Product V*—Used in the treatment of recurrent and chronic bacterial upper respiratory infections, infectious asthma, bronchitis, sinusitis, and throat infections.

23. *Product W*—Used in the treatment of recurrent and chronic bacterial upper respiratory infections, infectious asthma, bronchitis, sinusitis, and throat infections.

24. *Product X*—Used in the treatment of recurrent and chronic bacterial upper respiratory infections, infectious asthma, bronchitis, sinusitus, and throat infections.

25. *Product Y*—Used in the treatment of

recurrent and chronic staphylococcal infections of the eyes, ears, and nose.

26. *Product Z*—Used in the treatment of recurrent and chronic staphylococcal infections of the skin.

27. *Product AA*—Aids in the treatment of inflammations produced by streptococci, staphylococci, colibacilli, and pneumococci.

28. *Product BB*—Intended for use when it is desired to attempt prophylaxis against staphylococci, neisseria catarrhalis, hemophilus influenzae, klebsiella pneumoniae, corynebacterium diphtheroides, diplococcus pneumoniae, and streptococci.

29. *Product CC*—Used for immunity and treatment of bacterial infections of the respiratory tract and accessory sinuses that are usually associated with acute colds.

30. *Product DD*—Used in the treatment of acute and chronic rheumatic conditions.

31. *Product EE*—Used for immunity and treatment of catarrhal infections of bacterial origin that involve respiratory passages and accessory sinuses.

32. *Product FF*—Used for immunity and treatment of respiratory infections of bacterial origin.

APPENDIX III

PRINCIPAL OFFICIALS OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE RESPONSIBLE FOR THE ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From—	To—
Secretary of Health, Education and Welfare:		
Elliot L. Richardson	June 1970	Present.
Robert H. Finch	January 1969	June 1970.
Wilbur J. Cohen	March 1968	January 1969.
John W. Gardner	August 1965	March 1968.
Assistant Secretary (Health and Scientific Affairs):		
Merlin K. DuVal	July 1971	Present.
Roger O. Egeberg	July 1969	July 1971.
Philip R. Lee	November 1965	February 1969.
Director, National Institutes of Health:		
Robert Q. Marston	September 1968	Present.
James A. Shannon	August 1955	August 1968.
Director, Division of Biologics Standards:		
Roderick Murray	January 1956	Present.

CONSUMER POLICY RESOLUTIONS

Mr. MOSS. Mr. President, almost daily we are confronted with various articles and legislative proposals which try to speak for "the consumer." What is the consumer? Who represents him?

Today the American consumer is an unorganized mass of people, 200 million of them. While no organization can be said to speak for all consumers, there are a number which substantially represent consumer interests in both administrative tribunals and the Halls of Congress.

The Consumer Federation of America is among the foremost consumer organizations operating in the United States today. Made up of a variety of other organizations, the CFA annually sets out policy resolutions which serve as indicators of the consumer's interest and role in American society. I think it would be worthwhile for all of us to review the policy resolutions of the CFA so that we are cognizant of this important voice.

Mr. President, I ask unanimous consent that the policy resolution of the Consumer Federation of America be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

POLICY RESOLUTIONS OF CONSUMER FEDERATION OF AMERICA, ADOPTED JANUARY 29, 1972

PREAMBLE

We believe the consumer has a responsible role in the American economy. To discharge that responsibility he requires more meaningful information and more effective legislation to promote his interests.

Every American is a consumer. His welfare is closely identified with the public interests. His welfare requires a careful balancing of the right in a free economy to earn profits with other rights that affect decisively the quality of life for everyone.

To achieve this balance requires laws that will establish such conditions as will enable all people—especially those whose needs are least adequately met—to function as efficient, responsible citizens.

Moreover, it requires the adequate funding of programs designed to promote consumer protection and understanding and a new sense of commitment by agencies in fairly and openly promulgating regulations which are sensitive to the realization of the full objectives of consumer legislation. It further requires continued legislative oversight not only by the existing congressional committees but by select committees specially responsible for the promotion of the overall protection of consumers.

If, in the final analysis, effective promotion of the public well-being is to be realized, it is essential that national priorities be reestablished in the direction of returning to a peace-time economy which makes full and productive use of all human resources.

I. WAGE-PRICE CONTROLS

The Administration's wage-price program to stabilize the economy is a failure, resulting in stringent wage increase restrictions while prices and profits increase virtually without restraint.

Under voluntary compliance, corporate employers—backed by the Pay Board—have resisted reasonable increases in employee income. At the same time, corporations—backed by the Price Commission—have pressured for and received innumerable price and profit increases inflating the cost of living. By imposing wage controls on low income families and allowing price increases, the Pay Board has imprisoned consumers in growing economic impoverishment.

Inflation of consumer prices resumed in December, 1971, approaching 5% per year, with few indications for real relief. Unemployment remains above 6% while wages of unorganized workers and many of the organized are effectively held at or below the Pay Board's 5% guideline despite significantly increased productivity. Responsibility for failure of the economic stabilization program is directly attributable to Administration policies and the execution of Phase II.

1. The program fails to recognize that the central problem is self-determined pricing by that 50 or more highly concentrated industries which dominate the economy. Pricing by those industries has largely been unresponsive to the commands of overcapacity and weak consumer demand.

2. The program ignores government-supported devices for maintaining artificially high and noncompetitive prices such as: retail price fixing of whole milk at the state level and politically-fostered increases in price supports of manufacturing milk and other agricultural commodities; state "fair trade" laws and anti-loss leader laws; suppression of price competition legend drugs; production allowances and import quotas for oil.

3. The program wrongfully exempts from control prices charged by large corporate farms owned by agribusiness conglomerates financially able to withstand the vagaries of crop yields and powerful enough to negotiate high prices on crops produced with underpaid migrant labor.

4. Consumers are systematically excluded from the Price Commission's decision-making processes.

5. Base-price postings, reflecting uncertain relationship to actual ceiling prices, prevent consumer influence on retailers to hold down prices.

6. No effort has been made to organize and instruct consumers for a role in the enforcement mechanism.

7. In the one product line—prescription drugs—for which the posting of base prices would have promoted meaningful price competition, the Price Commission reversed its policy, permitting druggists to escape the obligation to post retail prices. Even those druggists with $200,000 or higher volume are allowed to present consumers with an incomprehensible wholesale catalog.

8. The Price Commission has ignored, and gives no indication of any interest in, price increases achieved covertly through reductions in quality or withdrawal from the market of low-priced lines. Resultant degrading of product quality contributes to further inflation, weakens the marketability of US-made products in world trade, and further jeopardizes international trade.

9. By permitting firms to take a normal mark-up on manufacturers' approved price increases, the Price Commission facilitates pyramiding of original increases as wholesalers and retailers add mark-ups. The result is price inflation by the Commission's own hand.

10. By conducting closed-door decisions, the Price Commission hurts its own credibility.

11. The appearance of personnel shifts and public information policies in the Bureau of Labor Statistics, and unresponsiveness to consumer complaints of price rises by the Internal Revenue Service have: undermined public confidence in the Price Commission, the Consumer Price Index, the Wholesale Price Index, employment rates, and in enforcement of price controls.

CFA vigorously renews recommendations made at the President's request, September 21, 1971:

1. On an equal basis with business, labor and government, consumers be guaranteed the right to participate in machinery established for development and implementation of government policy.

2. Inequitable control of wages must be halted.

3. To restore consumer confidence and stimulate spending, ceilings be established on corporate profits and dividends, with surpluses passed on to low and middle income consumers, that segment of society which will and must spend.

4. Effective curbs be placed on corporate profits to eliminate need for wage restraints in those industries that enjoy increased productivity.

5. A meaningful economic program be established which encompasses: (a) federal action to roll back high interest rates; (b) reduction of the cost of basic energy sources; (c) vigorous enforcement of antitrust laws; and (d) use of federal and state regulatory machinery to stem the increase of prices in "regulated" industries. It must be recognized that governmental action or inaction has provided much, if not most, of the stimulus for higher prices in the market place. Federal fiscal policy has resulted in the highest interest rates in this century. Federal energy policy has given the consumer the highest electric, naural gas, oil and coal prices in history.

Ineffective enforcement of antitrust laws has allowed monopoly and oligopoly industry to administer prices, largely unaffected by normal market factors. Weak, ineffective federal and state regulation has allowed inflationary increases in retail utility and transportation rates. In all these areas, the consumer pays higher direct retail costs for housing, goods and services and higher indirect costs which are passed along to cover higher manufacturing and distribution expenses caused by the same inflationary forces.

6. To be effective and equitable, meaningful and fair enforcement of price ceilings is essential, and machinery must be established to guard against outright violations, substitution of lesser quality materials without corresponding price reduction, withdrawal of lower priced commodities, and other methods of circumvention of the intent of economic restraints. Any program predicated on voluntary adherence is totally unsatisfactory, since the consumer is unable to insure honesty and compliance in the marketplace without affirmative and open disclosure requirements. To this end, the government must also establish and expeditiously publish, meaningful statistical data assigned to assure compliance and highlight violations. Any statistical base must recognize and compensate for the unfortunate fact that the cost of living index has been at an all-time high.

7. Tax policies associated with an economic program must provide for equitable treatment of consumers. Significant tax reductions spread to all consumers, especially those in lower income brackets, would increase consumer spending and create jobs. Unfair, billion-dollar tax advantages to business, whether through investment tax credits or accelerated depreciation schemes such as the Asset Depreciation Range regulations, merely increase corporate profits, deny increased purchasing power to the consumers most likely to spend increased income, and will not succeed in decreasing unemployment in light of present underutilization of plant capacity. Any benefit bestowed on business must be accompanied by an affirmative action program guaranteeing the creation of new job opportunities, particularly for the hard-core unemployed.

II. COMMUNICATIONS

The consumer has the right to choose from a variety of high quality communication services at a reasonable cost. The consumer is likewise dependent upon adequate, fair reporting and broadcasting of news and programming of specific consumer interest.

1. Public broadcasting. A strong, viable public broadcasting system is essential to serve the educational and informational needs of all Americans. This cannot be accomplished effectively without assured long-range financing. Public broadcasting must be able to tackle controversial issues, both by local stations and on a national basis. Accordingly, CFA supports enactment of appropriations for public broadcasting and urges future development of a fair, independent method of financing.

2. Cable television. Recognizing cable television's immense potential to the US television audience:

CATV services should be designed to serve diverse needs, including education, of the communities in which the systems are located.

Non-profit, public ownership of CATV systems should be encouraged. Other forms of ownership should be subject to profit restrictions, to the end that dividends of ownership be returned to the community.

Programming of CATV systems should be done by entities separate from those which own CATV systems.

The Federal Communications Commission should require that CATV service be made available to every geographical area of a community if it is made available to one area.

Service by a cable system should not be denied to any person because of inability to pay.

Public access channels and free studio and production facilities should be available to citizens on a first-come, first-served, nondiscriminatory basis, and certain channels should be allocated for educational use.

CATV systems should be required to install two-way capability for future expansion, with effective safeguards against invasion of privacy.

3. Consumer reporting and programming. CFA commends the growing number of broadcasters and publishers who have significantly increased consumer reporting and broadcasting, including accurate reporting of the activities of consumer organizations. We call on additional news media to establish stronger, more effective consumer programs.

CFA supports those who have withstood economic intimidation, condemns those who have submitted to it, and strongly supports those responsible journalists who are fighting to upgrade fair consumer reporting and programming within their media.

4. Domestic satellites. CFA urges establishment of a common-carrier domestic satellite system to provide for relay of communications signals directly into individual community reception centers. A domestic satellite system must provide free access for public television.

5. The postal service. Rates for all classes of postal service must be fully equitable, to the end that first class postage does not subsidize the sending of third class "junk" mail. CFA urges establishment of US Postal Service Procedures whereby citizens may remove their names from junk mailing lists offering merchandise or services from profit-making organizations as defined by the Postal Service.

6. Broadcast License Renewal. CFA opposes legislation amending the Federal Communications Act to give preference in license renewal proceedings to incumbent holders of broadcast licenses, and supports maximum community involvement in review of a licensee's performance every three years.

7. Broadcast self-regulation. Broadcasting self-regulation through radio and television codes has failed to protect the public from a wide array of misleading and deceptive advertising. Codes should be disassociated from the National Association of Broadcasters and governed by an independent body responsive to the public interests. Confidentiality code proceedings involving deceptive advertising should be abolished.

8. Telephone company regulation. Because of the proliferation of telephone rate increases and concurrent reductions in service, more effective regulation of telephone companies is required. CFA commends state and local governments which have defended ratepayers' interest in regulatory proceedings. CFA urges Congress to make available all necessary funds for a Federal Communications Commission probe of the American Telephone and Telegraph Co. commensurate with the scope of the task and the enormity of the consumer's interest.

9. Media advertising. The public must have access to the broadcast media to present counter arguments when commercial advertising raises controversial issues such as matters of environmental protection or nutritional habits, makes claims based on scientific premises currently subject to debate within the scientific community, or is silent on negative aspects of the advertised project. CFA endorses the comments of the FTC and the National Citizens Committee for Broadcasting filed in the FCC's fairness doctrine inquiry as these comments relate to the public's right of access for the presentation of counter-commercials.

III. CONSUMER EDUCATION

1. CFA supports the principle that each State enact a statute requiring consumer education to be offered in grades Kindergarten through 12. Through its consumer education committee, CFA will provide leadership in fostering consumer education by developing a model statute and offering information and consultation to states seeking to establish consumer education programs.

2. We accept the responsibility for stimulating independent and cooperative efforts at local, state, and national levels by all consumer groups, whether voluntary or governmental, and all educational agencies to establish effective plans and programs for consumer education in schools at all levels, including college and continuing education. CFA urges all national, state, and local consumer groups to cooperate with appropriate educational institutions and establishments in development of consumer-oriented seminars, institutes and other education programs.

3. CFA recommends and pledges assistance to local affiliates in establishing periodic surveillance of the price and quality of goods and services offered for sale locally. We encourage and will assist in dissemination of pertinent findings to the consuming public.

4. CFA's consumer education committee urges national, state, and local consumer organizations to designate a consumer education representative for the purpose of supporting and coordinating CFA's program to foster and encourage education programs. We will develop and distribute guidelines for the role of national, state and local consumer organizations in consumer education programs.

5. CFA supports adequate funding by national and state legislative bodies to implement basic continuing and in-service professional teacher consumer education programs.

6. CFA urges retailers to provide point of purchase consumer information.

IV. CREDIT

CFA is most concerned about the escalated interest rates, for these rates have a profound impact on consumer expenditures for goods and services.

It is increasingly clear that the nation's social needs have low priority with commercial banks and the Federal Reserve System. The backlog of desperately needed housing, schools, hospitals, natural resource development, transportation, pollution abatement and public facilities weighs heavily on society. Our failures in these fundamental areas will be gravely aggravated if the interest rate crisis persists. The tools to reverse the upward trend of interest rates exist. CFA calls for their prompt use.

1. The Federal Reserve System and commercial banks exercise the privilage of creating the money of the United States. This power should not be delegated to private interests. We call upon the Federal Reserve System to make certain that the money creating power is at all times employed in the public interest. In this respect we urge revision of the Federal Reserve Act to require the President to appoint at least one consumer representative to the Federal Reserve Board.

2. The ordinary citizens is priced out of the home buying market. Even middle-income families cannot afford 7½% interest that inflates the price of new housing. Lower income wage earners and those living on pensions suffer most. To overcome the high interest rate barrier erected against construction of desperately needed homes, CFA proposes a program similar to Rural Electrification Administration or Federal Housing Administration's 221(h) permitting direct federal lending or federal interest subsidies at interest rates of 1, 2, or 3% per year. Depending on need or circumstances, these loans should be to individuals and public and non-profit private agencies—including public bodies and cooperatives—for construction on a massive scale of homes for middle- and low-income families. Funds loaned under such a program should be considered investments by the federal government and not charges against the current budget.

3. CFA renews and reaffirms unalterable opposition to the Uniform Consumer Credit Code as proposed by the National Conference of Commissioners on Uniform State laws and urges its defeat. We recognize the urgent need to prepare equitable consumer credit legislation that will adequately protect the consumer, and we pledge to support such efforts.

4. CFA supports legislation to encourage the flow of credit to urban and rural poverty areas to stimulate the rate of economic growth and employment in those areas and to provide residents there with greater access to consumer, business and mortgage credit at reasonable rates.

5. The credit market must operate to meet the full range of consumer credit needs—home mortgage financing, automobile loans, home improvement loans, education loans. Any decline in the prime interest rate should immediately be reflected in interest charges. CFA urges a national commitment to reasonable allocation of credit. Lenders enjoy the privilege of participation in a lucrative field of commerce. That privilage carries with it a responsibility to operate in a quasi-public capacity.

CFA calls on lenders to assume the obligation of assuring an appropriate allocation of credit to serve the full range of needs. If the financial industry fails to meet this responsibility, federal programs—whether direct low interest loans, government insurance of private loans, or industry rationing—must be initiated to meet the dilemma caused by the inelastic availability of credit.

CFA supports in principle Urban Coalition proposals that call for making credit available to the poor on decent terms, including support of credit unions in low-income areas by encouraging government deposits in such credit unions and by providing them security, management, and technical assistance.

6. In view of the critical status of the student loan program, CFA supports without qualification federal legislation to immediately meet the shortcomings of that program.

7. CFA urges vigorous and vigilant enforcement of the federal Consumer Credit Protection Act and urges both government agencies and private bodies to distribute consumer-oriented educational materials that will help consumers use credit wisely.

8. CFA urges that finance charges, wherever required to be expressed in rate form, be expressed only as a single percentage rate, whether periodic or annual percentage rate. We oppose any legislation or trade practice that would permit expression of rates in a step or graduated form or in any other manner other than as a single annual or periodic percentage rate.

9. CFA reaffirms our adherence to the principles set forth in the March 20, 1971 policy statement of CFA's Committee on Consumer Credit Practices and Policies.

V. ENERGY AND NATURAL RESOURCES

For each $1 of per capita income, consumers today spend an estimated 10c on energy—energy which provides the comfort and productivity essential to improving our standard of living and providing job opportunities. But consumers also pay the upkeep on a system which may be incapable of responding to future economic and environmental needs.

A new national policy on fuels and energy is required to insure an adequate energy supply at reasonable prices, which also insures effective protection of the environment.

Energy is vital to the general welfare and thus affects the public interest. Conservation of land, air, water, and minerals as well as ecological balance involves questions of public stewardship of natural resources. To give consumers the energy and the environment they seek at a fair price, greater public control of fuel and energy policy decisions is essential.

1. The federal government should immediately launch a major energy research and development program comparable in magnitude to the space effort which sent a man to the moon. Such a program must be broadly based and provide for consumer representation. It must include accelerated efforts to solve problems of air pollution, radioactive and solid waste disposal, nuclear power plant safety, water quality, land use, and esthetics, It must develop new and improved methods of recycling, reclamation and energy production techniques. Significant resources should be invested in research and development efforts to seek (A) a "clean up" of existing techniques, and (B) an advanced technology which can increase economic and environmental efficiency. Research activities in the private sector should be supplemented through a program funded and controlled by the federal government. This overall program should be directed to the simultaneous development of a variety of commercially useful systems that will provide consumers with a better choice of energy options for the future.

2. New government policies must be established to avoid waste of natural resources and energy. Congress and the Executive Branch should:

Develop policies providing a more rational location of electric generating stations and routing of transmission lines;

Provide for development of a national power grid and formation of regional bulk power supply facilities;

Promote use of waste heat from industrial plants;

Provide use of present and potential hydroelectric resources in the public interest, including recapture of federally licensed hydroelectric sites when needed in order to obtain full public benefits;

Require correction of strip mining abuses;

Provide improvements in the efficiency of energy-using equipment;

Promote mass transit and internal combustion engine alternatives;

Promote adoption of manufacturing processes and building designs that require a lower expenditure of energy.

3. Immediate action is required to insure that the public interest is protected in the formulation of future fuels and energy policies. Such action should include:

Creation of a single federal agency for coordinating and implementing the fuels and energy policy;

Establishment of public counsels to represent citizens in energy proceedings;

Increased public disclosure of information about activities of corporations in the energy field;

Antitrust and administrative action to preserve interfuel competition and protect consumers by preventing the creation or perpetuation of fuels monopolies;

An independent government investigation and inventory to determine fuel reserves;

Repeal of federal statutes and regulations including oil import quotas which support fuels quota marketing systems;

Preservation of the present system of producing and supplying energy needs through private, public, and cooperative enterprises.

4. Federal lands owned by the citizens of this country account for approximately 50% of our remaining oil and gas, 50% of our coal and uranium, 80% of our oil shale, and 60% of our geothermal resources. Congress should establish a federal energy corporation to help meet the energy needs of the nation through development of resources owned by the people and held in trust by the government, by aiding in advancing technology, by assisting in determining costs of production, by supplying an economic and environmental competitive influence, and by developing a reserve to meet national fuels crises when they arise.

VI. FOOD AND MARKETING

We believe consumers have a right to all information which enables them to choose the best value among food products. Consumers need more specific information about food products to protect their economic interest and safeguard their health.

1. Open dating. The public has a right to know the age and quality conditions of purchased food products. All food products in time lose both quality and nutritional value. Consumers have a right to know the date food products are prepared, the date they are first offered for sale, and/or the last date on which the purchaser can reasonably expect that the quality of the products has not deteriorated. All dates used on food packages should be actual calendar dates (for example, 12–10–71 or December 10, 1971). It should be clearly indicated on the package what the date represents. (For example: packed on 12–10–71; not to be sold after 12–10–71; for best quality use before 12–10–71.) All dates used on food packages should be clear, conspicuous and uniform in style of presentation. Federal and state standards should be set definining the length of time packaged food products can be legally offered for sale. Federal and state standards should be set for preparing, packing, storing, transporting, displaying, and advertising food products when such conditions significantly relate to maintaining quality. Legislation should provide for adequate enforcement of food standards with suitable penalties against manufacturers, processors, wholesalers, retailers and other handlers, for violations of any federal or state standard. Codes now used by the food industry to conceal the dating of food products should be disclosed to the consuming public.

2. Unit pricing. The public has a right to know the unit price of competing items offered for sale. Standard units of weights and measures are essential to a competitive market system and competitive pricing is threatened by multiple-size, non-standard packages; package sizes frequently disguise rather than disclose weights and volumes.

CFA believes federal legislation should require unit pricing of packaged food products at point of sale and in advertisements. This legislation should establish:

"Unit pricing" as the term used to identify the practice of pricing by units of weight and volume;

Clear, uniform and conspicuous display of unit price information;

CFA believes federal regulatory agencies should then establish:

Specifications for unit price tags or labels, standard units of measure for product categories, and for conveniently located unit price labels;

Mandatory standardized packaging within product lines since Congress has adopted the metric system necessitating package size changes.

Until federal legislation is passed, CFA encourages local and state regulation.

3. Nutrient labeling. The public has a right to know the nutrient values of food offered for sale. Statements of nutrients should appear on labels of packaged foods and in displays of non-packaged foods. This information should include nutrient composition, calories, and the serving basis for these claims. Nutrient information should be stated in easily understood units as a portion of the Recommended Daily Dietary Allowance. Serving size should be defined by both weight and measure. Manufacturers and processors should be responsible for product analyses and for the accuracy of the nutrient claims on the labels. Nutrient information used on the labels should be set by the National Academy of Science-National Research Council. This agency should establish which nutrients are to be listed. Protein claims should be adjusted to reflect relative protein

quality. Nutrient information about food products should be clearly, uniformly, and conspicuously displayed for consumers.

4. Ingredient labeling. The public has a right to know all ingredients in a packaged food whether or not a Standard of Identity has been set. If necessary, enabling legislation should be enacted to authorize FDA, FTC, USDA and other appropriate regulatory agencies to require:

Listing common or usual names of all ingredients, including food additives and their functions on labels of all food products, including those with a Standard of Identity;

Listing ingredients by percentages to enable consumers to assess economic value and food quality; and

Identifying food ingredients in terms of source such as "wheat protein-hydrolysate" rather than "protein hydrolysate," "potato starch" rather than "starch," and "peanut oil" rather than "vegetable oil."

5. Consumer participation in decision-making. The public has a right to participate in decisions relating to standards, procedures, and rules used to determine and deliver information to consumers. Prior to the adoption of any standard, procedure, or rule, consumers have a right to review the proposed determination in public hearing.

6. Fish inspection. CFA continues to seek legislation providing continuous, full-time fish and fish product inspection to adequately protect the health and safety of consumers.

7. Meat and poultry inspection. CFA opposes any weakening of the federal meat and poultry inspection laws and their enforcement. CFA supports strengthened inspection by further training and upgrading of federal inspectors and an increase in their numbers. Efforts of states to encroach on federal jurisdiction, thus weakening protection, must be fought vigorously.

8. Grading. CFA urges mandatory quality grading of foods on a uniform, nationwide basis with easily understood grades such as A, B, C, D as a means of aiding the consumer in making choices. A vigorous program of research should be undertaken to assure that grades are based on consumer preferences.

9. Food additives. Use of food additives is increasing. Questions about their safety continue. CFA urges FDA to use the best scientific and technical information in sharply intensifying its review of food additive safety.

10. Chemical and biological additives and residues. Serious health dangers exist in certain chemical and biological residues in food. CFA urges greatly increased emphasis by proper federal and state agencies in monitoring the total food supply for additives and residues such as pesticides and radioactive compounds. These agencies should review the guidelines and tolerances in light of new scientific evidence and take action accordingly.

11. Standards of identity. CFA urges development of more flexible Standards of Identity to encourage improved nutrition without having to demean the product by renaming it or branding it "imitation" or concealing its real identity.

12. Trading stamps. CFA urges prohibition of trading stamps, games and other gimmicks that have unnecessarily but significantly increased the cost of consumer goods.

13. Independent agency. CFA urges establishment of an independent agency to administer all inspection, grading, and consumer protection programs for food presently administered by the Commerce Department, USDA, FDA and FTC (other than FTC's antitrust activities).

VII. HEALTH, DRUGS AND MEDICAL

1. CFA is convinced that the medical care crisis can be traced directly to the lack of consumer involvement in decision making. We urge immediate reconstitution of governing boards of all non-profit insurance plans, hospitals, and other health care agencies to insure consumer involvement and guarantee majority control to the subscribers of those services and plans.

2. We are deeply concerned over the crisis in health care which worsens everyday and urge Congress to enact a comprehensive national health security plan providing:

An assessment of health care delivery systems;

Establishment of education programs designed to foster good health;

Establishment of necessary preventive and outreach services;

Availability of all physical, mental, social and supportive services necessary to maintain or restore health;

Availability of rehabilitation, health maintenance and long-term care when disability occurs.

We urge Congress to recognize that catastrophic coverage is no substitute for comprehensive health coverage, though the inclusion of a realistic proposal against catastrophic health costs deserves serious consideration as part of a national health security program. Such a health plan must include rigid cost controls on the price of the delivery of medical services and modify the unlimited "fee for service" system.

3. We urge, in response to the critical shortage of physicians, federal assistance to medical schools and economically disadvantaged students to enable them to attend medical schools and appropriate inducements to graduates to locate in areas currently denied adequate medical care.

4. We urge development of community health centers making available the full range of medical services—including prenatal, pediatric, and dental care, as well as nutrition and sanitation education—so that total, effective, health care is assured to the elderly, the poor, and the rural consumer.

5. We urge legislation to eliminate co-insurance and deductible provisions of Medicare and to extend Medicare coverage to outpatients' drugs, eye care and the cost of eye glasses, dental care and the cost of dentures, and hearing aids.

6. We insist that the same nursing home standards be provided under Medicare and Medicaid as were intended by the 1965 amendments to the Social Security Act, which established those programs.

7. We urge CFA members to affiliate with prepaid group practice group health plans.

8. We urge CFA members to insure that all comprehensive health planning commissions meet requirements of law regarding majority consumer representation we urge consumer groups to provide responsible consumers to serve on these commissions. We urge that the Administration provide funds for training consumer representatives serving on health planning commissions.

9. We urge the Secretary of HEW to press for immediate promulgation of regulations directing states to survey unmet medical needs of indigent children, as required in Section 1905(a)9(4)(B) of the Social Security Act, as amended in 1967. Action to protect the health of the nation's children is long overdue.

10. We urge that before any cosmetic is offered for sale or distribution, FDA must be satisfied as to its safety and utility and must approve its label disclosing fully the composition of the cosmetic.

11. We urge licensing of drugs and medicines by generic name on federal, state, and local levels and that such name be included on all prescriptions and prescription labels.

12. We urge immediate enactment of long-delayed legislation establishing a drug compendium.

13. We are distressed by studies documenting price variations up to 1200% for prescriptions of the same drug in the same area. We believe this is due to a host of restrictions and prohibitions placed upon free competition in advertising and sale of prescription drugs by registered pharmacies:

Including prohibitions against advertising of drug prices, against discounts for older people, and against posing of drug prices in stores;

Artificial barriers to entry of discount and chain drug stores into new markets;

Restrictions on ownership of pharmacies;

Prohibitions against pharmacies in supermarkets and general merchandise stores;

Many other devices having no relevance to the public health.

CFA urges affiliates to work for repeal of all such laws and regulations. Recognizing further that restrictions against price competition for prescription drugs originate with state boards of pharmacy and that most such boards are dominated by druggists, CFA recommends inclusion of strong consumer representation on state pharmacy boards.

CFA further urges affiliates to become "friends in court" in suits challenging the constitutionality or validity of laws and regulations which inhibit drug price competition.

14. We urge enactment of legislation forbidding tie-ins between hospitals, nursing homes, and other health care providers and pharmacies. We believe it is unethical for physicians to own stock in drug manufacturing companies, drug marketing and packaging companies and pharmacies.

15. We urge the government to purchase drugs only by generic name.

16. We urge requirements that written information in understandable language be given recipients of all prescriptions explaining uses, directions, precautions and side effects—including possible hazards of mixing prescribed medication with other drugs or foods.

17. We urge a requirement for clear, prominent, expiration date labeling for drug effectiveness of prescriptions and over-the-counters.

18. The name and place of business of the manufacturer should be required on labels of all drug products.

19. Quantities of all active ingredients should be required on labels of all drug products.

20. We urge vigorous regulatory action by the FTC on advertising of over-the-counter drugs containing misleading efficacy claims, promoting insignificant product differentials, and offering drugs for the treatment of every day interpersonal and human problems. We condemn all drug advertising which encourages, through themes or saturation advertising campaigns, pill-popping as a way of life.

21. The one-million Americans in nursing homes financed under Medicare, Medicaid, and other programs should receive the highest standard of health care. Yet deeply distressing evidence mounts that many nursing homes neglect their patients, treat them with indignity, and provide minimal health care. Many state and federal agencies, including HEW and state health and welfare departments, have failed to secure the appropriations required or to exercise the aggressive leadership needed to enforce standards of safety, health, and general welfare for nursing home patients. The result is that too many elderly persons have been neglected and payments for their care misused. This failure of governmental authorities to enforce standards has induced commercial operators, looking for quick returns on their investments, to invade the nursing home field by establishing what amount to chains of motels insufficiently concerned with the health and welfare of residents in their charge and to convert nursing home programs into housing programs, imposing on the elderly a "buyer beware" philosophy.

We urge a substantial increase in direct grants and loans to non-profit and government-operated nursing homes, with an immediate, short-term goal of providing half the nation's nursing home services. We also urge substantial funds for alternative methods of care—foster homes, sheltered low-cost supervised housing and day-care centers, homemaker and home health aid services. We encourage state and community organizations affiliated with CFA to develop citizen-review teams to visit and inspect nursing homes periodically.

VIII. HOUSING

The high interest policy of this Administration has escalated the cost of homes and apartments beyond the means of the great majority of Americans seeking housing.

The 1968 Housing Act raised the expectations of the American people that under its interest subsidy and rent supplement provisions, massive low- and moderate-income housing programs would be undertaken. This Administration drastically curtailed federal funds for housing and urban development. Miniscule appropriations have been made for interest subsidies and rent supplements to provide housing for families with limited financial means.

We recognize that by failing to meet minimum national housing goals we are requiring millions of Americans to continue living in deplorable housing in urban as well as in rural areas. For tens of millions of Americans to endure the misery of indecent, unsafe, and unsanitary housing is a national disgrace. Numerous Presidential commissions have warned of the dangers that exist in our cities because of decay and uncontrolled blight. In a nation where the gross national product is almost a trillion dollars, it is inexcusable that such inhuman conditions exist and that the Administration does so little to effect improvement.

1. We urge Congress to establish a National Bank for Housing that can, through flexible interest rates and subsidies, provide adequate financing for comprehensive, coordinated programs aimed at producing low- and moderate-cost housing on a massive scale.

2. We urge Congress to abolish unrealistic income restrictions on housing supported directly or indirectly by the federal government.

3. We urge elimination of zoning regulations and building codes that restrict the development of housing for all.

4. We recommend those CFA member organizations, such as the rural electric cooperatives in Wisconsin and Arkansas, which have spearheaded and supported low- and middle-income housing.

5. We urge Congress to require accountability and responsibility from builders and developers who are subsidized by government monies. A home buyer has a right to expect a certain quality of construction at the lowest possible cost to protect his immediate investment and unnecessary costs in the future.

6. We urge Congress to require that topsoils and trees be conserved so that landscaping costs to homeowners can be reduced and needless soil erosion avoided. Such a policy would also enhance the aesthetic value of the area.

7. We urge Congress to provide necessary funds for adequate slum clearance in urban and rural America. We also urge HUD to maintain housing projects standards including construction and maintenance, at a level which will eliminate slum conditions, provide housing based on low- and middle-income family needs and protect dwellers from unreasonable profiteering by project developers.

IX. THE LOW-INCOME CONSUMER

CFA, in its effort to promote the rights of all consumers in harmony with the general welfare, encourages member organizations to include active participation of low-income people. If we are to develop full potential, we must not overlook the masses of poor people discriminated against in the market place. The low-income consumer may be a retiree living on a fixed income, an aid-to-dependent-children mother trying to find shelter for her children, an unskilled worker with a credit problem, a Spanish-speaking migrant who is the victim of the language barrier, a student, or a young adult. These people need assistance, and we need their support. We must join forces.

1. Many low-income consumers are denied easy access to competitively priced goods and services because of the lack of outlets and available credit sources in low-income communities, forcing many poor consumers to trade at high-priced stores which subject them to the evils of "easy" credit and door-to-door sales abuses. We urge local businesses and business organizations to secure establishment of low-priced, competitive businesses in low-income areas. In addition to private efforts, federal and state housing, small business and model cities programs should be required to consider inclusion of such facilities in their plans affecting low-income areas.

2. Low-income consumers have special problems and directly suffer when their problems are not considered by consumer groups and consumer protection councils. They have special economic problems and special health and nutritional needs. We urge all consumer groups to solicit membership among the poor and to develop programs to alleviate their problems. We also urge all public agencies involved in consumer protection and services to insure meaningful participation of low-income consumers in policy and program development and to include representatives of the poor on all citizens advisory groups. We further urge that low-income consumers be included in CFA efforts to expand consumer organizations and that special funds be made available by CFA affiliates, particularly labor, credit unions and cooperatives, to organize low-income consumers.

3. We urge immediate elimination of discriminatory utility practices, including deposit requirements.

4. We urge the enactment of legislation guaranteeing to all consumers adequate insurance coverage at reasonable rates regardless of location. Government subsidies should be available if necessary. We urge that state insurance commissions be responsible for plans that asssure the low-income consumer equitable protection.

5. We urge initiation, both on the national and state level, of a review of banking practices specifically as they relate to low-income groups, and we seek a commitment from the credit industry to establish credit for the poor at reasonable interest rates an on appropriate terms and repayment plans.

6. We urge investigation and correction of discriminatory practices against the poor, including differential mail order catalogs, door-to-door sale frauds, inadequate services, and stores with shoddy merchandise.

7. CFA urges reform and extension of the food stamp, school lunch and breakfast programs. Among changes we seek are provision of free stamps, lunches and breakfasts to all persons with incomes below the poverty level, an increase in the cost per meal available under these programs, a choice by the low-income consumer of participation in the food stamp or commodity distribution programs, relaxation of the onerous and discriminatory food stamp work requirement, and mandatory operation of these programs in all US counties and cities.

8. We urge federal support for innovative community programs to provide low-cost food and homemaker/home-health-aide services for shut-ins, the elderly, and others who have special needs.

9. We urge establishment of preventive health methods to insure good nutrition in all foods including snack foods which should be nutritionally fortified.

10. We urge establishment of locally controlled and locally run consumer organizations in low-income areas. These organizations should handle consumer complaints of members, and when appropriate, engage in direct action, including picketing for redress of consumer grievances.

11. We urge enactment of federal legislation in support of a guaranteed annual income equal to the modest but adequate Family Income Budget, and adjusted to changes in the Consumer Price Index of the Bureau of Labor Statistics.

X. TRANSPORTATION

1. Balanced transportation. CFA supports a balanced transportation system based upon the community design concept embodying land-use studies, housing developments, community facilities, work opportunities, and all other relevant aspects of planning.

Although more than nine-tenths of the US interstate highway program is completed, the transportation crisis grows. A major reallocation of financial resources is indicated. A different set of values must be endorsed to achieve a balanced transportation concept. As an immediate goal, CFA urges application of federal-state resources to create the required balanced system. For support of mass transportation, we suggest utilization of Highway Trust Funds together with funds now allocated Department of Transportation and HUD programs.

2. Public transport. CFA supports the state transit authority concept with broad powers to move effectively in using available financial resources. Public transportation should become a national objective with the highest possible priority, producing a convenient, economical, and ecologically safe and sound system of moving people within cities and in rural areas as well as between cities. Public transportation is a public necessity. As a consequence, it can no longer be assumed that passengers alone should absorb the cost of the transportation system. A public corporation, subsidized by the state and/or political sub-division with access to state funds including highway user funds must be established. The public transit authority should be as flexible and imaginative as each separate set of transportation facts demand. While rapid rail service might be most appropriate in the crowded Northeast corridor, other sections of the nation may have different needs requiring different solutions.

3. Auto and highway safety. CFA again calls for undiminished efforts to improve safety in design of streets, highways and cars that use these facilities. More than 100-million cars now registered cause an annual death toll of 56,000. An additional 4½-million sustain injuries. The economic loss is estimated at more than $16 billion. Automobiles can be built to be safer. Better restraint systems, protective padding, and safe interior design can do much to reduce loss of life and suffering. Exteriors of automobiles can and should be designed to eliminate spear and cleaver protrusions that aggravate injuries in car-pedestrian accidents. Maximum level safety standards for new and used cars should be supported and developed under stringent federal leadership. Insurance carriers must be encouraged to provide lower premiums for vehicles which, because of their design, reduce the incidence of injury and lower repair costs.

4. Auto insurance. We urge again that Congress establish and enforce nationwide, minimum standards of operation for auto insurance companies. Licensed drivers need universal acceptance and protection against arbitrary and capricious policy cancellation victimizing old, young, poor and minority consumers.

Consumers face continued increases in

premiums for mandatory auto insurance usually required by state law. The present automobile liability insurance system is slow, expensive, unfair to consumers and accident victims. CFA urges prompt enactment of comprehensive no-fault auto insurance. Group auto insurance should be considered as a means of curbing escalating premiums; CFA urges elimination of state laws prohibiting such cooperative efforts.

5. Charter flights. Consumers need access to all forms of transportation and the right to spend travel dollars as they choose. Several CFA members participate in low-cost educational, cultural, and recreational travel by chartered aircraft. These groups resent roadblocks placed on such travel by restrictive and complex rules of the Civil Aeronautics Board, some foreign governments, and the International Air Transport Association.

CFA asks the CAB to loosen restrictions on travel group charters before taking final action on its proposed new travel group charter concept. We urge adoption of the European plan of inclusive tour charters; we further request the State Department to negotiate agreements with foreign governments that assure charter travelers the same landing and up-lift rights guaranteed to those using scheduled services.

XII. OTHER AREAS OF CONCERN

1. Class action. Since individual redress of a consumer grievance is often unavailable or too expensive to pursue in the courts, it is imperative that consumers and consumer groups have the right, free of triggering devices, to maintain class actions.

2. Independent consumer protection agency. We endorse creation of an independent consumer protection agency with full powers of advocacy and capable of representing consumers before all government agencies and the courts. The new agency must have full powers of investigation, subpoena and intervention in formal and informal proceedings. It must have full access to judicial review and maximum independence from the Executive Branch.

3. Consumer groups. We urge federal legislation to finance creation and continued operation of strong, independent, state and local consumer groups.

4. Corporate responsibility. CFA pledges to work with like-minded groups in a continuing campaign to hold corporations accountable for practices and policies inimical to consumers and the public good and to encourage greater measure of social responsibility in the use of their tremendous power in controlling the social and economic life of the nation.

5. State-local consumer offices. States have jurisdiction in vital areas affecting consumers where consumer exist, CFA vigorously endorses strong state and local consumer offices to represent consumers, backed with effective laws, staff, and budget. We recognize the need for federal-state coordination, commend federal-state cooperation, emphasize effective state and local consumer representation and protection, and commend the President's Special Assistant for Consumer Affairs for establishing an office of federal-state relations to work with state offices and encourage state consumer protection.

6. Funeral industry. CFA recognizes that continuing problems in the funeral industry require united consumer action. The consumer's right to know is denied by the difficulty of comparing prices. The consumer's right to choose is rendered meaningless once he brings the deceased to a funeral home. The buyer is highly vulnerable to customary selling practices that encourage unnecessary expenditures. The consumer's legal and political rights are too often compromised. With few exceptions, state regulatory boards are composed of funeral directors and are without effective consumer representation. The funeral industry maintains a strong lobby, and legislation regulating funeral practice is often designed to promote the interests of the funeral industry at the expense of the public welfare. CFA pledges cooperation in developing group, pre-planned, pre-paid funerals as one means of correcting these abuses.

7. Regulatory appointments. Consumers have a vital stake in the policies and practices of local, state and federal regulatory agencies. Appointments to these agencies fundamentally concern organized consumers. CFA urges the President to consult with national, state and local consumer organizations in regulatory appointments having an impact on the consumer. CFA also urges its affiliate organizations and their members to express this view to the appropriate state and local authorities.

8. Administrative procedures Act. Consumer protection agencies each year change thousands of regulations having impact of law. Most changes are minor. Many have more important consequences than congressional amendments to authorizing legislation. The consumer often does not know that an agency is considering a change in a regulation, and he cannot compete with well-financed, expert trade associations in evaluating this change. CFA urges Congress to reconsider the Administrative Procedures Act, and asks each agency dealing with consumer protection to review its procedures. We urge regular congressional inquiry into consumer involvement in such procedures.

9. Repair services. Every consumer organization involved in considering consumer complaints reports unsatisfactory repair service as a major area of consumer frustration and concern.

Recognizing the prevalence and severity of repairs of automobiles, radio and television, appliance and home repairs as sources of consumer complaints, we urge local, state, and national action:

Registering establishments engaging in repair work and making such establishments responsible for quality of repair and for truth-in-advertising services.

Policing repair establishments to assure that consumers seeking repairs obtain satisfactory service at reasonable costs.

SPECIAL RESOLUTIONS

1. No-fault auto insurance. We endorse and urge prompt enactment of Federal legislation to provide no-fault automobile insurance, as proposed by Senators Hart and Magnuson.

2. Earth week. We endorse the Joint Resolution of Congress designating the third week of April of each year as Earth Week.

3. Truth-in-advertising. We support enactment of the Truth-in-Advertising Bill introduced by Senators Moss and McGovern to require advertisers to make public documentation of claims as to product performance, safety and price comparisons.

4. Children's advertising. We abhor the exploitation of children ad merchandising vehicles through the proliferation of commercial advertising in broadcasting periods during which children constitute the major audience. We support proposals before the Federal Trade Commission and Federal Communications Commission for stringent rules to sharply limit advertisers' access to children's minds.

5. Consumer representation. We urge the enactment of S. 607 to make available funds and expertise to represent the consumer interest in regulatory agency proceedings.

6. Consumer credit. We urge support of the following actions to improve the state of consumer credit:

Sen. William Proxmire's Fair Credit Billing Act.

FTC's proposed trade regulation rule calling for cooling-off period on door-to-door sales.

FTC's proposed trade regulation rule abolishing holder-in-due course.

credit collection practices.

Any investigation, legislative or administrative, directed toward limiting abuses of

The truth-in-saving bill introduced by Rep. William Roy, Senator Vance Hartke et al.

7. FTC effectiveness. At least thirty bills are pending in Congress to prevent the FTC from completing litigation which may save the consumer five percent or more in the cost of national brand name soft drinks. These bills are the result of strong industry lobbying efforts, and at least one of the bills, H.R. 12261, is word-for-word a copy of a bill drafted by an association of bottlers. CFA deplores political interference in the legal regulatory process and strongly urges that Congress reject any action frustrating FTC's ability to perform its essential function of watchdog in the market place.

8. Price competition. CFA applauds FTC's January 24, 1972 complaint against the four largest cereal manufacturers. For many years there has been no price competition in the ready-to-eat breakfast cereal industry due to mergers, false advertising, meaningless proliferation of brand names, substitution of product imitation for product innovation, and control of shelf space by Kellogg, the industry's largest producer. These practices result in no benefits to the consumer, permitting industry giants to charge monopoly prices. It is urgent that FTC expeditiously pursue this matter to a satisfactory end and take decisive action to restore price competition at the retail level. It is equally important that FTC pursue the policy set out in the "cereal" complaint in other concentrated industries, starting with those which impose oligopoly-based overcharges on the consumer. Only in this way will individual consumers enjoy benefits intended under government enforcement of antitrust laws.

9. Legal assistance. We urge Congress and the President to assure continuation of Rural Legal Assistance and Urban Legal Assistance Programs.

10. Poverty programs. We urge Congress and the President to assure continuation of the Office of Economic Opportunity which involves participating of the poor in planning and implementing programs to combat poverty.

11. Insurance abuses. We urge prompt enactment of legislation to curb abuses by insurance companies and lending institutions in the sale, pricing and administration of credit life, accident and sickness insurance.

12. Fish inspection. CFA deplores the fish inspection bill passed by the Senate in December 1971. The measure would lull the consumer into a sense of security without providing protection. We urge the House to pass only legislation providing full time, continuous fish inspection, as provided by Senator Philip Hart's 1970 bill.

13. Mortgage counseling. We urge that Congress appropriate funds for Sec. 237 of the National Housing Act to provide adequate mortgage counselling for low income homeowners, and that in the meantime, state and local consumer organizations provide to the extent possible such counseling on a voluntary basis.

14. AFL–CIO price monitoring watch-dog program. Though a Price Commission has been created by the Administration presumably to control prices and keep inflation within reasonable boundaries, the plain fact is that retail price controls are virtually non-existent. The Price Commission itself contains no consumer voices in its membership.

There have been few meaningful, specific adjudications to control retail prices and those few are not being enforced because the Administration has made it clear that its essential enforcement will be "voluntary."

It is a matter of record that much of the merchandise exempt from controls has experienced drastic price increases while those items covered by action of the Price Commission are also on the increase. For example: 98 percent of the companies which have asked the Price Commission for increases have been granted their requests.

In light of the absence of serious and meaningful Price Commission controls, it is imperative that consumers undertake price policing activity in their own defense. In recognition of this very distressing situation, the AFL–CIO has organized a Price Monitoring Watch Dog Program which is attempting on the local level to act as a surveillance operation which hopefully may help stem the tide of rising prices. This trade union activity is a most worthy action on behalf of consumers.

Therefore, CFA approves and applauds this action of the AFL–CIO and urges its state and local affiliates to support these efforts of the AFL–CIO Price Monitoring Watch Dog Program which are so clearly in the interest of the American consumer.

15. Medicare. The President promised at the White House Conference on Aging and in his State of the Union Message that he would recommend elimination of the premium payments by beneficiaries to supplementary medical insurance (Part B of Medicare). In order to protect the Social Security Trust Funds and place no additional burden on payroll taxes, CFA urges that all costs of the Part B funds of Medicare be provided in the future from general revenues.

16. Pending legislation. CFA endorses and supports:

The independent consumer protection agency bill pending in the Senate Government Operation's Committee

The truth in food labeling act introduced by Sen. Frank E. Moss (D-Utah) and Sen. Vance Hartke (D-Ind)

The product warranty bill introduced by Sen. Warren Magnuson (D-Wash) and passed by the U.S. Senate

The product safety act now pending in the Senate Commerce Committee

17. Flouridation. We favor the addition of fluoride to community water supplies in localities that do not now have safe and effective levels of fluoridation.

18. Distributorships. We urge that FTC and SEC immediately use their existing authority to protect the public against the multi-level or pyramid form of distributorship plan being sold in most states. We pledge support for comprehensive federal and model state legislation to eliminate these forms of predatory enterprises.

19. Memorial. We pause in the memory of those who served the consumer cause for many years and died this past year. Their leadership meant much not only to CFA but to all consumers. We honor the memory of Robert L. Smith, Morris Kaplan, James Mendenhall, and John Edelman.

20. Appreciation.

CFA authorizes and directs the executive director to extend our thanks and appreciation for the time, effort and resources expended by the Committee on Consumer Credit Practices and Policies in drafting the CFA Policy Statement on Consumer Credit Practices and Policies of March 6, 1971. (Final copy to include list of names of committee.)

We express our appreciation to all program participants, the press, radio, television, the Statler Hilton staff, and all others who contributed to the success of CFA meetings.

We express our appreciation to the member organizations that shared staff with CFA to make Consumer Assembly possible—Cooperative League of USA, National Farmers Union, and National Rural Electric Cooperative Association.

We express our appreciation for the work of the executive director and the staff for their untiring efforts on behalf of CFA.

NECESSARY PERMANENT MILITARY FACILITIES

Mr. COOK. Mr. President, last week, along with the Senator from Tennessee (Mr. BAKER), I visited Fort Campbell, Ky., which is to be the permanent home of the 101st Airborne Division—Airmobile. We were impressed with the leadership that is being exercised but are convinced that there is much that Congress can and must do to provide necessary permanent facilities.

Senators are aware that the demands of the Vietnamese conflict seriously have curtailed the authorization and appropriation of funds for construction throughout the Military Establishment. However, now that the troops are being withdrawn and the selection of permanent homes has been made for those units which are to remain in the inventory, we urge that funds be authorized and appropriated for adequate facilities.

We are proud that Fort Campbell has been selected as the permanent home of the 101st Division. It is even more important that the individual soldier in the division is proud for Fort Campbell. A man who can be proud of his leaders, of the way he lives, of the way he does his job, and of the way his dependents are supported is an individual who can well take pride in being a soldier. From this pride in self it is only a short step to high morale. We have an opportunity here to help the military recapture that part of the pride in being a soldier that may have been lost during the last few troublesome war years. In our visit we reviewed each MCA project requested for Fort Campbell for fiscal year 1973, which includes the expansion of the airfield complex, modernization of the living quarters for enlisted men and officers, and the construction of recreational facilities and a commissary. We found each project to be essential and we urge that each be approved.

In a sense, Congress is on trial here. Congress has limited the extension of the draft and directed the military to develop an all-volunteer force. In return the military has launched a vigorous campaign to achieve this objective. In order to attain any degree of success in recruiting an all-volunteer force, the military must be able to offer the individual modern housing, more privacy, as well as adequate recreational, medical, and commissary facilities for himself and, where authorized, for his dependents. Fort Campbell offers many of these facilities. However, neither the soldier nor his dependents are being supported to the standards guaranteed to him by the recruiter.

The authorization and appropriation of funds for the fiscal year 1973 MCA projects requested for Fort Campbell, as well as for those required for the design of a modern hospital and adequate family housing, would de much to improve the facilities, and we support and urge their approval.

THE FEDERAL GOVERNMENT HAS A RESPONSIBILITY TO PROTECT STATE AND LOCAL GOVERNMENTS AGAINST THE BUSINESS CYCLE

Mr. PROXMIRE. Mr. President, in our recent annual report, the Joint Economic Committee has again recommended that Congress enact legislation which would help State and local governments survive periods of high unemployment. When unemployment is high and personal income growth is reduced, revenues fall off correspondingly at all levels of government. As we all know, Federal revenues in fiscal 1972 will be about $27 billion below what they would have been at full employment. The same thing happens at the State and local level. Precise estimates are lacking, but in calendar 1971, State and local tax revenues may have been about $7 billion below what they would have been at the same tax rates if the unemployment rate had been 4 percent.

The Federal Government can protect itself against this revenue loss. Indeed, the Federal Government's ability to engage in deficit financing helps to stabilize the economy and prevent recessions from becoming worse. State and local governments do not have this ability to finance deficits through borrowing. They must either raise tax rates, cut back on services, or both. Raising taxes and reducing services is precisely the wrong thing to do in a recession. The Federal Government, if it cannot always succeed in maintaining full employment, at least has a responsibility to protect State and local governments from the consequences of our failure to better manage the economy.

This protection can be provided through a system of Federal grants related to the unemployment rate. No grant would be made when the economy was at full employment, but if unemployment rose, the grants would begin and would be adjusted in amount according to the severity of unemployment. This would enable State and local governments to estimate their total revenues on the basis of a full employment economy and to plan their expenditures accordingly. This in turn would protect our citizens against cutbacks in public services and tax increases in time of recession. It would protect our economy against the intensification of a recession caused by the present necessity for State and local governments to make destabilizing tax and expenditure changes.

Of course, there would be many administrative problems to be worked out in order to develop an effective and smoothly functioning program of countercyclical grants. But these problems are not insurmountable. I ask unanimous consent to have printed in the RECORD an article written by Profs. A. Dale Tussing and David Greytak, of Syracuse University, which spells out in some detail one possible scheme for countercyclical grants. I hope the article will provide further discussion of this approach to reducing unemployment and strengthening our economy.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

REVENUE-STABILIZING GRANTS: A PROPOSAL

(By A. Dale Tussing and David Greytak)

FOREWORD

This paper was first presented at the annual Conference on Taxation of the National Tax Association at Kansas City, Missouri, on September 27, 1971. The paper has been accepted for publication in an early issue of *Papers and Proceedings of the National Tax Association*. The ideas it contains are important and timely enough, however, that they deserve to be disseminated now.

A. Dale Tussing is Associate Professor of Economics and David Greytak is Assistant Professor of Economics in the Maxwell School. The research reflected in this paper was supported in part by this Program and also by a grant from the Paul H. Appleby Fund of the Maxwell School. The authors wish to acknowledge the valuable assistance in the research and writing of the paper by Mr. Thomas Carroll, a graduate student in the Economics Department.

GUTHRIE S. BIRKHEAD,
Director.

The purpose of this paper is to propose a scheme for intergovernmental grants or revenue-sharing, to be called Revenue-Stabilizing Grants (RSG's), whose purpose, in brief, is to provide federal transfers to state and local governments during periods of downturn in general economic activity, such as to offset any decline in state and local tax and nontax revenue attributable to the economic decline.

This paper also provides estimates of the dollar amounts involved, and suggests allocational formulae, but these are necessarily preliminary rather than definitive.

As this is written, the Congress has before it the revenue-sharing proposals of President Nixon and others. The present proposal is in no way a substitute for these. The case would be equally strong for the present proposal, we believe, whether the Congress enacts the President's scheme, some other substitute, or none at all.

THE CASE FOR REVENUE-STABILIZING GRANTS

The basic proposal is very simple. Should national unemployment rates exceed a predetermined threshold, such as five percent, for a given period of time, such as three months, the federal government would transfer to states and localities the estimated difference between their actual revenues and the revenues they would have raised at a designated "full-employment" level such as four percent unemployed.

Ways of achieving such a transfer program will be discussed later. In this section, we shall discuss the consequences of successful introduction of an RSG scheme.

It is fairly generally agreed that states and localities should leave countercyclical fiscal policy to the federal government, for a variety of well-known reasons.* It is not the purpose of this proposal that states and localities be made agents of federal anti-recession fiscal policy. On the contrary, it is our purpose to *neutralize* the net influence of states and localities. Presently, their influence is procyclical; because of revenue losses in periods of economic slack, and because of a common requirement for budget balance, these governments are forced to restrict their spending during these periods (or to raise tax rates), thus aggravating any decline. Their spending consequently speeds up in prosperous times, perhaps aggravating inflation. Adoption of some form of RSG would mean that states and localities could budget every year (in terms of estimating revenue) *as if* there were full employment, and could ignore the actual business cycle.

The purpose is not merely to avoid a procyclical influence from state and local governments, the macro effect. It is also to relieve the cyclically-induced pressures on these governments, and to increase the efficiency of their budget processes. If state and local government revenue systems are even moderately sensitive to cyclical influences, induced reductions in their expenditures mean, *ceteris paribus*, a real shift away from state and local expenditures in cyclical downswings. These allocational consequences are presumptively inefficient. They are even more so, if it is true, as is widely believed, that institutional factors (multiplicity of jurisdictions, inelastic revenue systems, interjurisdictional tax competition) hold state and local expenditures below optimal levels anyway.

A device such as the RSG also adds, in effect, another automatic or built-in stabilizer to the Federal fiscal system. Our proposal has some resemblance to proposals made in the past for so-called "formula flexibility," though these have without exception involved tax-rate changes. Tax-rate formula flexibility (or its alternative, limited executive discretion over tax rates) seems more politically and constitutionally sensitive than the technique proposed in this paper. It is regarded as highly unlikely that the Congress will, in the sense implied by tax-rate formula flexibility, cede any of its taxing powers. The chances for the present proposal seem more promising, since it involves grants-in-aid similar to those already used in a variety of programs.

Finally, the scheme proposed here would have an added, though minor, salutary effects. To the extent that states (and even localities shy away from reliance on income-based taxes for raising revenue because they fear the cyclical consequences of using a tax with a high short-run (cyclical) income elasticity, the present scheme overcomes an argument against the use of such taxes. (This is probably not a major reason for reluctance to use such taxes, however.)

DETERMINATION OF AMOUNT AND ALLOCATION AMONG UNITS

Ideally, an RSG system would operate through a series of equations, one for each chosen state or local government unit, each one estimating the full-employment-equivalent revenue yield for that unit, so that comparisons could be made between that estimate and actual revenues. Where national unemployment rates exceeded the chosen threshhold level, *e.g.*, five percent, there would be an automatic federal transfer to that unit. Total RSG payments would merely be the sum of individual payments, estimated from the thousands of individual, empirically-based, local equations.

A national unemployment-rate threshhold is suggested for two reasons. First, the system would be needlessly complex if *any* variation in unemployment rates, no matter what the level, resulted in increases or reductions in compensatory payments to state and local governments. What is desired is not a continuously-operating fine-tuning system, but rather one which is available in cyclical emergencies. The reason a national rather than a state or local unemployment rate is chosen is so that RSG's not compensate for governmental revenue losses which are the result of regional, structural unemployment. (This does not necessarily imply an objection to such aid for depressed regions, but only that such aid should not be combined with cyclical relief.)

The technique described as "ideal," consisting essentially of thousands of individual estimating equations, is impractical. One doubts that sufficiently accurate and comparable data exist upon which to base such estimates, and even if it did, the task would be enormous (and never completed—all such equations would have to be continuously updated). Putting aside these difficulties, it is not clear how legislation would be written to incorporate or authorize use of the equations. Finally, one suspects that this technique would provide results only after long lags.

At the other extreme in simplicity or promptness would be the method of estimating, with one equation, the total state and local revenue loss resulting from high national unemployment rates, and then apportioning a total grant equal to that loss according to some rule of thumb. One such rule would be per capita allocation, as in the Heller-Pechman-Nixon scheme. Another would be a distribution according to the unit's share of total state-local own-raised revenues, in a previous full-employment period.

These rules, while they have the advantage of promptness, simplicity, and certainty, have a serious failing. They do not distinguish between units which have highly cyclically sensitive revenue systems from those that do not. This means that in periods of recession, those with cyclically insensitive systems would receive windfall gains, while those with sensitive systems would not be fully compensated for their loses. Besides not fully achieving the objectives of the system, such a rule would also raise serious equity problems.

A simple compromise between the extremes is proposed. An aggregate amount of loss is determined by a single estimating equation. It is allocated among units according to each unit's share of total state-local own-raised revenues weighted by the cyclical income elasticities of the revenue sources used. That is,

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* There are three main reasons. (1) Open economies. States and localities have, in effect, "open economies," which engage in very considerable amounts of "foreign trade" with other regions. There is consequent inability to contain the effects of counter-cyclical fiscal policy within the boundaries of the jurisdiction. The problem is a familiar one of "spillovers" in fiscal federalism. Other things being equal, the larger the unit the less "open" it is, and the more self-sufficient it is. But other things do not tend to be equal; the largest units (*e.g.*, California, New York) also tend to be more economically advanced and hence highly integrated with other areas; and they also tend to include within them large metropolitan areas which in turn tend often to be multistate. (2) Properties of debt. Countercyclical fiscal policy requires the use of debt finance, and federal debt differs in three important respects from municipal debt. First, federal debt tends to be *internal* (Federal obligations are owned within the jurisdiction of the United States), where municipal debt tends to be external (obligations owned outside of the issuing jurisdiction.) The significance of this difference, in turn, is that when a debt is external, interest payments and principal repayments are a real burden to the debtor jurisdiction, requiring a transfer of resources to others outside the jurisdiction, whereas with internal debt, interest and principal payments are merely redistributive and not resource-using. Moreover, interest costs are affected (via credit ratings) by the extent of indebtedness, for states and localities, but not for the federal government. And finally, only the federal government can be completely assured of its ability to service and repay its debt, since it has the power to monetize the debt, either indirectly through the Federal Reserve System or directly through "printing money." (3) Security. Only the federal government can be reasonably sure that, by undertaking anti-cyclical deficit-financed expenditures, it will be able to raise employment and income, and thereby assure the existence of a strong base for income and other taxation to service and repay the debt. States and localities run the risk, by contrast, that in spite of their efforts the downturn may continue or even worsen, meaning a greater real debt burden imposed upon a shrinking revenue base.

$$G_i = \frac{\sum_j e_j R_{ji}}{\sum_j \sum_i e_j R_{ji}} T \text{ where}$$

G_i=grant to ith state or local government unit, in dollars;

e_j=short-run (cyclical) income elasticity of the jth tax type (income, property, sales, etc.), computed nationally;

R_{ji}=the ith state or local government unit's total revenue yield in the last previous three successive years of sub-5% unemployment from revenue source j; and

T=the aggregate amount to be distributed, determined separately (exogenously).

For instance, assume a locality has raised a sum of $1,500 million in revenues in the previous three years, consisting of $750 million in property taxes with a short-run elasticity (let us assume) of 0.2, $250 million in sales taxes with an assumed elasticity of 1.0, $250 million in payroll taxes with an assumed elasticity of 1.5, and $250 million in nontax revenues, with an assumed elasticity of 0. Its weighted total revenue would be

0.5 times $750 million equals $375 million.
1.0 times $250 million equals $250 million.
1.5 times $250 million equals $375 million.
0 times $250 million equals $0 million.
Total $1,000 million.

Other units' revenues would be similarly weighted, and all of the weighted revenues summed. Each proportion of the total RSG (T) would be its proportion of the sum of weighted revenues.

The result is that units with little reliance on cyclically sensitive taxes would receive little in grants; those with greater reliance on them would be compensated.

A possibly simpler alternative method would be to make separate estimates of the total revenue lost by all units from each major revenue source. That is, estimate state and local total revenue loss from, separately, income taxes, sales taxes, property taxes, etc. Then allocate each total according to each unit's relative use of that revenue source in the previous three-year period. That is,

$$G_i = \sum_j G_{ij}$$

$$G_{ij} = \frac{R_{ij}}{\sum_i R_{ij}} T_j \text{ and}$$

T=the total amount to be distributed for the jth source, determined in aggregate separately (exogenously) for each revenue source.

FINANCING RSG'S

A question remains concerning the appropriate method of financing RSG's. The main questions are whether they should be funded through ordinary Congressional appropriations (implying reliance on general revenues), or whether a trust fund should be established, and if so, through use of what revenues.

There are a number of advantages to the use of trust funds. They could provide for prompt, virtually automatic payment—certainly a desideratum where anticyclical action is concerned. Moreover, since one objective is that government units behave *as if* full-employment revenues were assured, certainty is an important characteristic of the system. State and local executives and legislators will be more reassured by an amply endowed trust fund than by statutory authorization unfunded by appropriations.

One other potential benefit could accrue from the use of a trust fund. The trust fund's surpluses in years of unemployment under five percent could have a desirable restraining effect upon the economy, depending upon Congressional and executive behavior.

An effort should be made to assure that trust fund balances are sufficient not to be depleted in the midst of a sharp recession. As additional protection, the trust fund should be empowered to borrow from the Treasury.

If a trust fund is used, how should it be financed? There is no reason, as there is in the Heller-Pechman-Nixon proposals, to make the financing technique insensitive to the business cycle. Indeed, a technique which provides for trust fund receipts to vary positively with the general level of economic activity would seem desirable. Two possible techniques would be to set aside a fixed percentage of federal revenues, or to set aside a fixed percentage of combined state and local revenue. By the latter we do not mean that state and local revenues would be used to fund the trust fund, but rather that the federal treasury would set aside an amount computed by reference to state and local revenues. (There might be a temptation to draw an analogy to unemployment insurance and "tax" states and localities to finance the trust fund, but such an approach ignores the federal responsibility for guaranteeing full employment, and consequently full employment revenues.)

The amounts involved are not large. If Congress would provide an initial appropriation of $6 billion, annual increases of $1.5 billion (or about one percent of state and local revenues) would be sufficient to keep a one-recession minimum balance, assuming four years between recessions to restore balances. The amounts could, of course, be modified as experience dictates.

One final comment concerning trust funds is appropriate. For a number of years, reformers have urged a more prompt and flexible set of discretionary fiscal policy tools. For reasons of timeliness and neutrality, they have concentrated their proposals on the tax side, advocating variations of "formule-flexibility" or formula-triggered executive discretion over tax rates. Congress, jealous of its constitutional taxing powers, has not been interested in ceding any of them, either to the president or to a computer.

Advocates of such reform would be well-advised to look as we have into the trust fund device. Unemployment rates and/or other series could be used to unlock the fund for use for transfer or resource using expenditure, or even to trigger tax rebates, or for a variety of other possible uses. Surely a better technique could be found in the trust fund device than the recent depreciation-rule changes made by the executive branch for similar purposes.

ESTIMATED REVENUE LOSSES

Simple, preliminary estimates of cyclical state and local revenue losses are provided in Table I. We have used others' estimates of the income-elasticity of state and local revenue systems and of potential GNP (at four percent unemployed).

TABLE I.—ESTIMATES OF CYCLICAL STATE AND LOCAL GOVERNMENT REVENUE LOSSES (QUARTERS IN WHICH THE NATIONAL UNEMPLOYMENT RATE EXCEEDED 5 PERCENT)

[Billions of Dollars]

Quarter	Medium elasticity estimate	Low elasticity estimate
49–II	0.2526	0.2242
49–III	.2611	.2321
49–IV	.3515	.3121
50–I	.1809	.1604
50–II	.1174	.1041
54–I	.2293	.2023
54–II	.2998	.2646
54–III	.2784	.2458
54–IV	.2077	.1834
58–I	.8461	.7497
58–II	.9158	.8117
58–III	.7659	.6791
58–IV	.6547	.5805
59–I	.5961	.5286
59–II	.4508	.3995
59–III	.6748	.5989
59–IV	.6425	.5703
60–I	.5289	.4696
60–II	.6662	.5915
60–III	.8408	.7469
60–IV	1.0362	.9207
61–I	1.2044	1.0705
61–II	1.0735	.9544
61–III	.9721	.8644
61–IV	.8484	.7545
62–I	.7895	.7024
62–II	.7010	.6237
62–III	.6826	.6060
62–IV	.6963	.6199
63–I	.7667	.6828
63–II	.7865	.7006
63–III	.6979	.6219
63–IV	.6595	.5878
64–I	.5714	.5093
64–II	.5132	.4576
64–III	.5102	.4551
64–IV	.5630	.5024

Note: Federal State Coordination of Personal Income Taxes. Report A–27, Advisory Commission on Intergovernmental Relations, October 1964 p. 43. Actual and potential GNP estimates were obtained from "Technical Notes for Estimates of the High Employment Budget" unpublished memo prepared by The Federal Reserve Bank of St. Louis, September, 1970. Table 1, quarterly estimates of State and local government revenues were made available by the U.S. Office of Management and Budget through the courtesy of Charles M. Mohan.

The method used was to multiply the difference between potential and actual GNP by the product of the income elasticity estimate and the current actual ratio of state and local taxes to GNP.

The cumulative revenue losses over a full cycle appear to lie in a range below $6–7 billion. Data are not available on the current recession, but casual evidence suggests that revenue losses may exceed this range.

Indeed, it was the severity of the present state and local fiscal crisis that prompted the present proposal. Recession-induced revenue shortfalls are not, of course, the only factor responsible for the crisis, but they are a major factor, and in our opinion an avoidable one. That being the case, it is all the more regrettable that these government units have engaged in such inefficient and inequitable behavior. Our hope is that they need not do so again.

SCHOOL BUSING

Mr. CASE. Mr. President, like many other Senators, I have received a great deal of correspondence recently on the subject of school busing. I ask unanimous consent that a statement of my position of this issue be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR CLIFFORD P. CASE ON SCHOOL BUSING

From the beginning, I have been a strong supporter of the 1954 decision of the U.S. Supreme Court in the Brown case and of the school desegregation progress that has been made as a result of that decision. I continue to hold that position.

I also have made it emphatically clear that I believe that all desegregation plans and programs, whether or not busing is involved, must not place any children, white or black, in situations in which they would be in danger of personal harm or harrassment, or in which they would get an inferior education.

Each of these objectives must be—and can be—met.

In line with the foregoing, I strongly favor the system of neighborhood schools. But I agree with Chief Justice Burger of the Supreme Court that busing may be necessary in some cases.

I believe local school boards must be given a full range of options from which they can pick the method of desegregation best suited to their individual circumstances. The best method for one district may not be the best at all for another.

School superintendents, however, face a difficult task and we in the Congress should give them all of the guidance and assistance we can.

In this connection, I have supported legislation, such as the Mansfield-Scott amendment recently approved by the Senate, that would write into statutory law the limitations of busing laid down by the Supreme Court in its decision in Swann v. Charlotte-Mecklenburg Board of Education. These limitations would prohibit busing that would endanger the health or safety of a child or that would impinge on the educational process.

I oppose busing in situations where it hurts children, or where it hurts their education. It is high quality education for all children that we are all seeking.

In situations where busing and other means cannot effectively desegregate the schools while still protecting the quality of education and the safety of the pupils, I believe that additional resources must be devoted to improving the quality of the schools to provide all children with an equal educational opportunity.

I long have been a supporter of Title I of the Elementary and Secondary Education Act, which is specifically designed to provide special federal assistance to educationally disadvantaged children, and year after year I have worked as a member of the Senate Appropriations Committee for additional funds for this program.

In addition, I am a co-sponsor of a Senate-approved School Desegregation Assistance Bill that would provide special Federal aid to help improve racially and ethnically isolated schools.

In my view, the education of our children is the best investment we can make in the future of our country.

THE NEW AMERICAN POPULISM: A BACKLASH AT ECONOMIC ELITISM

Mr. MOSS. Mr. President, George Wallace's overwhelming victory in the Florida presidential primary has forced many political analysts to rethink their ideas about voter sentiment in 1972. It now appears that many Americans are ready and willing to register a resounding protest at the direction our country has been taking over the past few years.

To dismiss the large Wallace vote as mere racial "backlash" would be a serious miscalculation. In a wide variety of areas, people are, in the words of the Alabama governor, "fed up" with a Government which appears to identify so entirely with the interests of an economic elite.

It is not hard to understand the average voter's sense of frustration. A few days ago on the Senate floor it was reported that in 1968 the middle income worker making $8,000 to $10,000 paid Federal, State, and local taxes at the same rate as the worker earning $25,000 to $50,000. Only last week it was made public that 112 wealthy citizens, whose annual incomes exceeded $200,000 in 1970, paid no Federal income tax whatsoever.

This news of flagrant tax inequities followed upon the heels of a Joint Economic Committee released study showing that the economic gap between the lower one-fifth of our society and the upper one-fifth has almost doubled during the past 20 years. Together with recent disclosures concerning the "ITT case," it now appears that Government policy actually supports the growing chasm between rich America and poor America.

Mr. President, I contend that if there is indeed a backlash vote in 1972, there are many sound reasons for it. It is a backlash by moderate and low income taxpayers at a system which represents the interests of an economic elite;

A backlash by the workingman and woman at national policies, based upon a governing philosophy that what is good for big corporations is good for America;

A backlash by the consumer and small businessman at the alarming growth of giant conglomerates, whose power to set prices and control markets makes a mockery of competitive, free enterprise;

Moreover, it is a backlash by the average citizen at the enormous political clout of a privileged group of corporate executives.

Mr. President, today I would like to cite just one example of the elitist mentality that has been shaping national policy over the past few years. I believe it offers a cogent demonstration of how the Government has been encouraging the economic polarization of our society.

Two years ago it was generally agreed that the Government should take action to alleviate the Nation's worsening unemployment situation.

What did the President choose to do? He appointed a special Task Force on Business Taxation and instructed the group to find ways of helping the business firms to expand.

In September of 1970, the task force reported a number of suggestions all aimed at offering massive tax breaks to corporations.

The President began quickly to implement the task force program. Early in 1971, the Treasury Department announced new regulations permitting business firms to write off capital costs over periods 20 percent shorter than their guideline useful lives. This proposal would cut real corporate taxes by $35 billion over the next decade.

Last August, the President took up the next task force proposal: a system of specially created tax shelters, called DISC's, for firms involved in the export business. More millions were lost to the Treasury.

Only recently the President announced his consideration of a new regressive value-added or national sales tax, a $16 billion program which the task force recommended in the event of the need for new taxes.

Every one of these proposals shifts the tax burden from the corporation onto the individual consumer. They all operate on the implicit assumption, one shared by the President, that what is good for big business is good for America.

This "trickle down" philosophy has governed national policymaking ever since the present administration came to office. It has been the guiding rationale behind the President's vetoes of the Manpower Act of 1970, the Accelerated Public Works Act of 1971 and his decision to cut Federal employment levels by 150,000. According to current elitist economic philosophy, public employment programs, which assist those at the bottom of the economic pile, are dismissed out of hand. It is no wonder that many people feel that Government in 1972 owes its first loyalty to the economically powerful.

LADY VOLUNTEERS MAKE RED CROSS POWERFUL AND CONSTRUCTIVE—FROM NATIONAL BOARD TO LOCAL CHAPTERS

Mr. COOK. Mr. President, distinguished and bright American women are making the American Red Cross one of the most constructive organizations for the 1970's. The National Board of Governors of the American Red Cross now has on it some very forward looking, articulate ladies, such as Sylvia Porter, whose column about the work of the Red Cross as it appeared in hundreds of newspapers across this country appears below. Miss Porter's economic advice and comments are followed closely by men and women alike, and she is widely regarded as one of the most powerful writers active today.

I am glad that the Red Cross has now recognized that the future of America as well as the continued growth and modernization of Red Cross itself, demand on the national policymaking board full voting representatives of young men and women who already have made major contributions in their hometown Red Cross chapter. Miss Elaine "Cissy" Musselman, of Louisville, Ky., is one of the youngest and most active members on the Red Cross board, and I am delighted they have selected one of Kentucky's finest.

As the American Red Cross faces new opportunities and some very serious challenges at its April-May San Francisco convention, I am glad that Miss Porter has outlined for her readers what volunteers can do. I am especially proud that a Kentucky leader like Miss Cissy Musselman will be right in the forefront of the new approaches that the American Red Cross needs and will be adopting.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Evening Star, Mar. 8, 1972]

UNSUNG VOLUNTEERS PRODUCE

(By Sylvia Porter)

Across the land are 1,827,600 who are working as American Red Cross trained volunteers in community activities—in the blood and youth programs, in safety, nursing and health programs, in hospitals, clinics, disaster relief, in helping members of the armed forces and their families, and in raising funds to support all these services.

On average, you are putting in 150 hours a year at those jobs. But that's just average: many are putting in 150 hours a month. Many certainly are contributing twice, three, four times 150 hours a year.

All of you give time, training, devotion and dedication for zero pay in dollars. All of you fall into one of the enormous categories of nonpaid producers in the U.S. economy. On top of this, hundreds of thousands also contribute cash and property.

If you were paid merely $2 an hour—and the minimum wage is to go to this level in 1972—your contribution of only 150 hours a year would amount to an annual output of $548,280,000, an impressive sum by any yardstick.

If you were paid what your skills—as a nurse, a first aid or swimming instructor, a teacher—could easily bring in the job market your contribution of only 150 hours a year would easily mount to $1 billion or more. And if there were a more accurate estimate of the number of hours you actually work, the total would go zooming again—would add billions of dollars to our annual output of goods and services, give a far more realistic picture of our true Gross National Product.

"The volunteers who impress me most are the seemingly invisible ones who show up whenever a disaster strikes at the closest local level—such as a fire in a tenement house or multifamily dwelling," said James H. Evans, president of Union Pacific and a member of the board of governors of the American Red Cross, during a luncheon break at a recent board meeting in Washington. "The firemen, the policemen, all the rest of these essential workers are there. This is their job and they are paid for it. But the volunteers who offer food, clothing and shelter to thousands who have literally no place else to turn—no one pays them, no one ever mentions them. Yet they are always there."

"The usual point economists make is how much greater our GNP would be if we did put a dollar tag on the contribution of the unpaid worker," added William McChesney Martin, former chairman of the Federal Reserve Board and also a governor of the Red Cross. "But has anyone ever figured out how much smaller this figure would be if we didn't have such producers as the Red Cross volunteers? How many vastly productive lives have been protected by the blood program, for instance—saved to produce, earn, add to the GNP? How many billions of dollars have been added to our total output by the countless numbers of people protected by Red Cross safety programs, first aid, disaster relief, health education? If we can't put an exact figure on it, we certainly can agree GNP would be many billions of dollars smaller!"

"Now comes the entrance of the Red Cross volunteer first-aid instructor into the business world to help employers meet the standards of the new Occupational Safety and Health Act," George Elsey, president of the Red Cross, followed up. "By using the new Red Cross multimedia system of teaching first aid, companies from coast to coast will be able to slash the time they must allot to first-aid training in complying with the law. This contribution too will run into hundreds of millions of dollars—all uncounted."

Of course the contribution of the volunteers goes far beyond this. As of the start of 1972, there were more than 43,000,000 volunteers working for 22 national agencies in the United States. Put a dollar total on the production, I defy you!

But because I have been so close to the Red Cross in the last few years, I have had a unique chance to see how its volunteers work. And I haven't included in the volunteer total the 2,319,800 who donated blood last year or the 6,576,200 students participating in the Red Cross programs in schools.

The economic story of the volunteer in America never has been told—and perhaps it never can be. But just because we cannot put a precise dollar tag on the volunteer's contribution we must not downgrade the magnificent size of that contribution.

BUSING

Mr. CRANSTON. Mr. President, there is substantial concern in California about the problems involved in using busing to end segregated public schools. The President's recent nationally televised speech on busing has not really clarified the issue. Hundreds of Californians have written to me about their concerns with the uncertainties in our national policy on school desegregation and their desire for the best education for their children.

I, too, am concerned about this difficult issue. I am deeply involved in the effort to find a wise solution.

Here is what I am for and working for, and what I am against and working against.

I helped lead the recent fight in the Senate for the successful Scott-Mansfield amendment that would prevent busing children for so long a distance and so great a time that it would risk their health and endanger the quality of their education. This amendment would also delay the effective date of the most disruptive court orders until they can be fully reviewed as to their constitutionality.

I have joined, too, in sponsoring a measure that would actually add $2.5 billion to improve education in those schools where improvement is most needed.

The President has called for spending $2.5 billion to improve our schools. It turned out, however, that he did not mean we should spend that much more money on education. He just meant we should transfer $2.5 billion from programs already underway or planned.

I will also do all I can to develop better ways than busing to improve education for all children and to end segregation. I believe busing should be viewed as a last resort, because it is the least desirable method of ending segregation and improving education. There are many better possibilities. As a start we must devote more money to bolster schools that need help. Other actions we should try include locating new schools where they will be integrated without busing, redrawing of district lines, greater use of the cluster school concept, educational parks, and community directed private schools. Still other ways are being explored and considered.

I believe, as President Nixon says he believes, that you cannot have both segregation and good education. In his March 24 press conference, President Nixon said "I agree" with the Supreme Court argument in Brown against Board of Education in 1954 that legally segregated education is inherently inferior education. Since that is the President's stated view, I cannot understand why he chose to attack the courts and to add to the atmosphere of antagonism toward our judiciary which has been a most unfortunate consequence of the busing debate.

The Supreme Court has never ruled that schools must be "racially balanced." It has ruled only that schools must be free of segregation imposed by local school boards or by other instruments of government.

Just last year a unanimous Court, led by President Nixon's choice as Chief Justice, Warren E. Burger, and joined by Justice Harry A. Blackmun, President Nixon's only other nominee sitting on the Court at the time, held that a reasonable program of busing can be a necessary and feasible tool for ending discrimination. They made this decision as the "strict constructionists" President Nixon knew them to be when he nominated them to the Court. Now, when the President finds that even Justices he appoints will not make decisions the way he would like them to, he proposes to take the right to make decisions out of the hands of the Court. This approach threatens the fundamental constitutional principle of separation of powers in our society, and threatens the very processes we have established to govern ourselves. If we start obeying court orders only when we like the orders, and try to take away from the courts their right to make decisions we do not like, we will be heading toward a breakdown of law, order, and justice in America.

The legislation proposed by the President creates substantial national uncertainty because there is widespread doubt whether the President's proposal is constitutional. If we pass the President's proposal and then it is found to be in violation of the Constitution—as many people believe it will be—we will be right back where we started with nothing solved and nothing accomplished.

The President's proposal might stop some busing, but it would by no means stop all busing ordered by the courts. The effect on California communities would be contradictory and irrational. Under the President's proposal, the San Francisco Board of Education, for example, would be prevented from transferring students now being bused long distances to schools closer to their homes. The President's proposal would also prevent the San Francisco Board from reducing the total number of students now being bused if their new plan means busing even one child not now being bused. At the same time, the President's proposal would have no effect whatsoever on busing in Los Angeles, if the pending appeal against the present court order there is turned down.

In short, the President has not come up with an easy, simple, immediate, or good answer. In fact he has not come up with any answer at all, and his proposal is opposed by Senators and Representatives from the North and South alike, regardless of their individual views on busing. The inconsistencies, uncertainties, and contradictions of the President's proposal have only added to the confusion and misunderstanding which are keeping us from a solution to the busing problem.

I am in the thick of the effort to resolve this matter, since I have been appointed to the Senate-House Conference Committee that will try to reach common ground for a reasonable approach to busing, and I am a member of the Education Subcommittee, which is considering the President's legislation and alternatives to it.

I will do all I can to help to reconcile the differences and to come to grips with this important issue fairly and effectively.

I cannot believe that fair-minded men

and women of good will can not come up with an equitable solution to a problem we all want to solve: how to give all our children—no matter what their color or the income of their parents—a good, quality education.

I believe that most Americans believe in equal opportunity, and that they know that means not separation and segregation, but living together in one Nation in brotherhood and understanding.

TWO DISTINGUISHED NEW YORK CITIZENS: EARLE WILLIAMS AND JACK ROSEN

Mr. BUCKLEY. Mr. President, I invite attention to the accomplishments of two distinguished citizens from New York, Mr. Earle Williams, of New Rochelle, and Mr. Jack Rosen, of Brooklyn. Both men have unselfishly devoted their talents to aiding the handicapped and underprivileged, and also our men in the service.

Mr. Williams has embarked on a career of writing letters to servicemen that has now spanned 5 years and included over 5,000 letters. He got his start in 1967, when he wrote to his nephew in Danang, South Vietnam. Since then he has written to servicemen in Thailand, Vietnam, Japan, and even the United States. He averages almost 45 letters a week and they vary in length from two to four pages, or more.

Mr. Williams' exploits are made even more extraordinary when one considers that he has been totally confined to his home due to disability since 1967. Instead of withdrawing himself from activity, Mr. Williams has remained cheerful and industrious, performing a needed service for men away from home.

Mr. Rosen also uses his talents with a pen to ease the serviceman's burden. In 40 years, the world's fastest artist has completed over 100,000 caricatures, many of them being of wounded war veterans. Mr. Rosen has traveled to Vietnam at the request of our Government and has cheered countless servicemen with his drawings. In addition to his foreign travels, Mr. Rosen has visited many New York veterans hospitals, where he has lent his talents by helping to ease the hardships of wounded men.

In the future, Mr. Rosen hopes to continue his travels to veterans hospitals and visits to disabled children.

Mr. President, I again wish to commend these two gentlemen for their tireless efforts to remember those who have given so much of themselves in service to others.

THE NEED FOR A COMPREHENSIVE NUCLEAR TEST BAN TREATY

Mr. MOSS. Mr. President, the United States bears the major responsibility for controlling the effects of nuclear weapons. We introduced this new technology to the world: we should be the first to adopt proper controls on its use.

For this reason, I have decided to join Senator Kennedy in cosponsoring Senate Resolution 230, a resolution to encourage a moratorium on underground nuclear weapons testing and to promote negotiations for a comprehensive test ban treaty. I do this after careful consideration—and I emphasize the need for care and caution in pressing for such historical changes. It appears to me that the technological advances in seismology have made on-site inspection unnecessary. The issue of inspection has been the chief stumbling block for the Soviet Union in all of our negotiations on such a test band.

The belief that a feasible underground test ban, coupled with the present atmospheric test ban, is now practical was recently announced by a panel of scientists at a conference of the Advanced Researched Project Agency of the Department of Defense.

Americans should understand that we have a great deal to lose if a comprehensive test ban is not soon adopted. The most threatening development in the field of nuclear weapons would be the development of a small, cheap nuclear bomb—one that many nations could afford. If this kind of proliferation occurs, then the management of nuclear weapons will become extremely difficult. It is to the advantage of all nations that the nuclear weapon's club remain small.

A complete test ban would slow the arms race, save scarce resources that are necessary for other defense programs and for domestic purposes, and would reduce the pollution that accompanies even carefully controlled underground tests.

Senate Resolution 230 simply calls for a moratorium on underground testing while negotiations go forward on a comprehensive treaty.

Clearly the benefits of such action outweigh any possible disadvantages. Mr. President, I urge that the Senate move quickly to adopt this resolution and that the Government move equally responsively to implement its intent.

THE NEED FOR EXECUTIVE REORGANIZATION

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Illinois, I ask unanimous consent to have printed in the Record a statement by him and insertions on the subject of the need for executive reorganization.

There being no objection, the statement and articles were ordered to be printed in the Record, as follows:

Statement by Senator Percy

The President very appropriately asked the Houses of Congress yesterday, in a special message, to get on with the job of restructuring and modernizing the major Executive Departments by reorganizing them along the lines presented in his March, 1971, Executive Reorganization proposals.

In the Senate this program of restructuring was introduced as four bills: S. 1430, to create a Department of Community Development; S. 1431, to create a Department of Natural Resources; S. 1432, to create a Department of Human Resources; and S. 1433, to create a Department of Economic Affairs.

The President's message was timely. It was made almost exactly on the anniversary of the submission of his major reorganization message on March 25 last year. In the interim there has been action in both Houses. In the Senate, the Chairman of the Government Operations Committee, Senator McClellan, and the Chairman of the Subcommittee on Executive Reorganization, Senator Ribicoff, have, between them, presided at 7 days of hearings on the Department of Community Development. I have joined the President in urging that the hearings be completed. The House is to be commended for its vigorous activity. I think we can anticipate House passage of a well-prepared measure creating a Department of Community Development. I will do all that I can, as chief sponsor of the legislation in the Senate and ranking minority member of the Government Operations Committee, to promote these hearings.

The need for this reorganization is underscored by David Broder in his column in the Washington Post of March 14. Mr. Broder comments on the recent annual report of the Advisory Commission on Intergovernmental Relations titled "The Crisis Continues." This report presents a grim picture of a Federal structure that is failing because of the failure of the Nation's leaders to undertake needed programs of reform, including executive reorganization, solutions of the problem of local government financing, among others.

Mr. Broder writes that we "ignore these problems at our peril." The reason, he says, is that it is "just this kind of charade—much talk, little action—that has diminished the credibility of government in America and made so many citizens cynical of finding political solutions for the problems in their lives." Mr. Broder adds that President Nixon has proposed initiatives in almost all these areas, but that they have been blocked or ignored, for the most part, by a Democratic Congress.

It is in this perspective that I think we can read an editorial in the New York Times on March 29, regarding Administration's program for the cities. The editorial compliments the Secretary of Housing and Urban Development, George Romney, for his ability and integrity, but scores the Administration for a failure to back up this very distinguished and able leader with a comprehensive policy for urban America. I submit that enactment of the Department of Community Development proposal would go very far to put in the hands of one chief executive all of the policy and program tools he would need to fashion such a comprehensive policy, and to back it with well-conceived programs and with money. The Times, which I am very pleased to say has editorially supported the President's executive reorganization program, should consider that enactment of S. 1430, an Administration initiative, would do much to fill the need it so vigorously describes.

[From the Washington Post, Mar. 14, 1972]

The Crisis Continues

(By David S. Broder)

For a government document, it is rather gaudy. The cover is printed on flaming red stock, and the title, in bright yellow print, splitting a black map of the United States into two jagged pieces, reads: "The Crisis Continues."

But for all these theatrical devices, it's doubtful that the 13th annual report of the Advisory Commission on Intergovernmental Relations will attract much attention from the presidential candidates, or that its message will become part of the political dialogue of 1972.

The reason is simple: The problems it outlines are almost too tough and too consequential for any politician to find comfortable. Yet they are problems we ignore at our peril.

The ACIR was set up in the Eisenhower administration, as a permanent, bipartisan body designed to monitor the health of the federal system and make recommendations for its improvement. Its current chairman is a liberal Chicago Republican, Robert E. Merriam, and its members include two other private citizens and representatives of both branches of Congress, the Executive Branch, governors, mayors, state legislators and county officials.

Over the years, the commission's small but exceptionally able staff has turned out a series of reports providing most of our information about what is happening in the financing and structure of government at all three levels of the federal system. And each year, in its annual report, it gives a remarkably candid appraisal of the progress—or lack thereof in dealing with the problems of the American system of government.

This past year, the report says, "was a lean year for American federalism." There was lots of talk—about revenue-sharing, welfare reform, reorganization of government, finding new sources of school finance—but very little action.

"Few years in this century have witnessed as much political, popular and academic discussion of American federalism as 1971," the report notes. "But despite the heavy volume of speeches, debates, messages, bills, resolutions and research relating to intergovernmental questions, the crisis in federalism continues unabated."

What difference does it make? Well, it is just this kind of charade—much talk, little action—that has diminished the credibility of government in America and made so many citizens cynical of finding political solutions for the problems in their lives.

It so happens that the problems which ACIR has been grappling are the central problems of American life, as this excerpt from the report makes clear:

"The basic causes of cleavage in our social and governmental system can be found in metropolitan areas that are fragmented . . . in growing fiscal, social and racial disparities among local jurisdictions in those areas; in widening, population, economic and opportunity gaps between urban and rural America; in a growing but uneven state involvement in local affairs . . ."

Add to these the "multiplication of federal assistance programs, with a parallel proliferation of management difficulties; the counting ambivalance of the federal government on the question of its real role in our nation's metropolitan areas; and the prospect of a future population growth mostly slated for those metropolitan areas," and you have what the ACIR rightly calls "the real challenges to statesmanship at all levels."

Why has there been no significant action on these problems? President Nixon has proposed initiatives in almost all these areas, but they have been blocked or ignored, for the most part, by a Democratic Congress. But if the partisan split between the branches of the federal government explains the inactions, it does not excuse it. As the ACIR points out, a Democratic governor and Conservative (Republican) legislature in Minnesota last year made landmark progress in dealing with similar problems on the state level.

What we confront in the nation is a failure of political leadership in both parties to focus attention on these critical problems. The failure is continuing in the present presidential campaign. It is a failure we tolerate only at our peril.

[From the New York Times, Mar. 29, 1972]

MISSING: ONE POLICY

During his three years as Secretary of Housing and Urban Development, George W. Romney has tried without success to evolve an Administration policy for the cities and their suburbs. The other day in Detroit he rhetorically threw up his hands and said the job was too big for the Federal Government. Nothing that Washington could do, he suggested, would halt the terrible slide of inner-city housing into slums.

The problem is certainly too big for this Administration; and the responsibility for its non-performance lies not with Mr. Romney but with President Nixon. Secretary Romney has put forward several initiatives with engaging acronyms, elaborate supporting documentation and ambitious timetables for specific action. Each has been shredded and lost in the White House policy-coordinating machine. The input has been sizable; the output zero.

Mr. Romney even has a mausoleum of words to commemorate his own frustration. In the Housing Act of 1970, Congress required that in every even-numbered year the President should submit to Congress a "Report on Urban Growth." Last month President Nixon submitted the first of these reports. If the Congressional authors of this idea thought they would get an authoritative summing-up of information and legislative recommendations on behalf of the cities—comparable to the annual reports from the Council of Economic Advisers and the Council on Environmental Quality—they must be as sorely disappointed as Mr. Romney.

This vapid document spends 74 pages explaining that the Federal Goverment really cannot do much of anything about urban problems or suburban growth. The fragmented and inadequate authority of other levels of Government has been amply demonstrated, but the report passes the responsibility back to them: "any consideration of growth issues must recognize that many of these issues fall within the boundaries of state and local governments."

With an air of bustling discovery, the report states: "Ours is a Federal system with powers shared between the states and national Government. This system preserves the ability of citizens to have a major voice in determining policies that most directly affect them."

The "major voice," one is tempted to ask, that citizens have in the interstate highway program? Or in the lending policies of the Federal Housing Administration? Or in the Administration's impounding of water and sewer grants? Or in Federal Government failure to finance urban mass transit? These are only four of the many Washington decisions to act or not act which have had enormous influence on urban decay and development. No town or city or county can singly cope with the consequences of these Federal decisions.

President Nixon solemnly proclaims in this report that he has no "master plan for directing the multitude of public and private decisions that determine the patterns of progress in modern America."

No one expected him to have a "master plan." But citizens and local officials could reasonably look for some leadership, some guidance on alternatives, and some greater coherence in the Federal Government's own policies. Metropolitan and regional planning are essential, and the financial power of the Federal Government is the best available lever to compel local, county and state officials to take a broader view of their problems and to cooperate more effectively with one another. Mr. Romney's pessimism notwithstanding, only such Federal leadership can make federalism a viable form of government under complex modern conditions.

There is no mystery about the Administration's evasion of this crucial responsibility. President Nixon has political strength in very few of the inner cities. Action on any metropolitan-wide problem—housing, transportation, economic development—is sure to upset some voters and some interest groups in the suburbs. Silence is the politically safest course. If something absolutely has to be said—as in this report on urban growth—then question-begging platitudes are the next safest. The only mystery is why George Romney, a man of integrity and social concern, continues to cooperate in this great vanishing act.

ECONOMIC CONTROLS ON BEEF

Mr. ALLEN. Mr. President, it seems incredible to me that some people in a country that has attained affluence for so many should produce an anguished outcry when one small but vital segment of the economy gains back its income situation of 20 years ago—even though for only a short few months period.

I refer, of course, to the demands for economic controls over farm commodities—specifically beef.

Much of the agitation seems to come from so-called professional consumer groups who loudly and piously profess to speak for all families of our Nation. These groups and other special interest organizations would also have us lift all quotas on imports of meat and force a rollback of cattle prices below 20 years ago. These shrill cries from the great urban centers, where costs of living are predicated on factors beyond basic production costs, have already caused the administration to bow, in part, to their complaints by letting down the bars on foreign meat imports.

The unhappy and sad fact is that the consumer is being led down the primrose path by persons who either do not know or do not care about protecting consumer positions and consumer purchasing power. Of course, the consumer is paying a higher price for retail beef, but, as all cattlemen know, live cattle prices are not the cause of high retail beef prices as many farm critics assert.

It was only a few weeks ago that live cattle prices finally reached a price equivalent to what they were 20 years ago. I constantly point this out when the issue of high retail beef prices is put to me, together with the observation that not many—if any—segments of our economy would be satisfied with a price level of two decades ago. I do not think that the great industrial plants and business houses of America could conduct their operations if they paid their officers and employees the same rate they paid them 20 years ago.

When we closely investigate the statements of those who seek to place total blame for increased food costs on the shoulders of American farmers and ranchers, we find that they have distorted the picture by the omission of some relevant facts. For example, farm food prices have only increased 7 percent in the past 20 years. Yet, during this time, money paid to wage earners increased 340 percent; business and professional income increased 200 percent; and dividends increased 300 percent.

In addition, wholesale food prices are up 22 percent from 20 years ago and retail food prices are up 44 percent from 20 years ago. These figures are more than three times and six times as high, respectively, as the rate of increase in farm food prices.

Simply stated, Mr. President, these statistics show that the American farm producer is still not yet receiving a fair share for his vital contribution to our economy. Anyone would be hard pressed to show from these figures that our farmers and ranchers are the cause of the inflationary spiral, particularly in the area of high food prices.

This truth was aptly pointed out in an editorial published in the Birmingham News of March 25. I ask unanimous consent that the editorial be printed in the RECORD at this point in my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHAT THE FARMER RECEIVES

Some people get the notion that when the price of a can of beans or a roast moves higher, the farmer and the livestock raiser are the ones who benefit.

This is far from being so.

Farm prices, the U.S. Department of Agriculture reported recently, are up only six per cent from 20 years ago. But wholesale food prices are up 20 per cent during that span and retail prices show a 43 per cent gain.

Today's farmer receives 38 cents of the dollar consumers spend on farm-raised food. This is down from 49 cents 20 years ago.

And during that same comparative span the food bill was 23 per cent of take home pay. Today, 20 years later, it is expected to fall below 16 per cent.

While the American farmer's efficiency in producing food for the nation's dinner table has advanced at a rapid rate, so has the cost of operating farms. Everything, farm labor, equipment, supplies, land, taxes—and debt—have soared.

The next time you discover you're paying a penny or two more for a food item, make an effort to learn who is getting the increase.

Chances are heavily against the increase going to the farmer.

Mr. ALLEN. Mr. President, now joining the attack on American agriculture are certain chain food outlets which have urged housewives to buy other protein items rather than beef because they say "beef prices are too high." One such enterprise suggested that fish be substituted, yet the retail price index tells us that the cost of seafoods in recent months has increased at a faster rate than beef.

I shall have more to say about the role of the retail food stores later on in my remarks. At this time, however, I should like to bring out some further facts regarding increased meat prices.

Mr. President, it is highly informative, I think, to check on prices of two beef items enjoyed by the greatest number of our people—hamburger and chuck roasts. Since 1964 to the present, hamburger prices have moved upward to the retail market level—never downward.

Starting at around 50 cents per pound in January of 1964, the price rose to about 52 cents through 1965; in 1966 to around 55 cents; in 1967 the price remained stable inasmuch as cattle prices had dropped to much lower levels, although retail hamburger prices did not reflects that drop. In 1968 hamburger prices rose to about 57 cents; in 1969 to around 65 cents; in 1970 to around 67 cents; in 1971 up to about 70 cents; and in February of this year to 73 cents per pound.

Chuck roast was at the 57 cent level in early 1964, moving up to 59 cents at the end of that year. Since that time, the retail cost of chuck roast has risen almost monthly, reaching 84 cents at the present time.

We thus see that while live cattle prices were remaining at lower levels year after year, hamburger prices were steadily increased to about 50 percent above the 1964 period, and chuck roast prices increased almost the same per centum.

Mr. President, I think that it would be well for American meat consumers to know that at no time in the period since the August 13, 1971, Presidential freeze order to the present time were choice beef carcasses more than 5 cents per pound higher, and today the price is below the August 13 date. It is significant to point out here that the price of average cattle marketed by farmers and ranchers remained at around $29 per hundredweight from August 13, 1971, until the past 2 months when the prices rose to $31 and $32. Yet, it was during these 2 months that the great protest about retail meat prices arose, because of a 2- to 3-cents a pound increase at the farm level.

It should be pointed out that the average price for cattle sold by farmers is not the choice grade often quoted in the newspapers. Rather, the average runs consistently 5 to 6 cents a pound under choice. This is the price the farmer gets for his cattle. He cannot produce all choice meat by any means.

Another factor but generally unknown to consumers: There are five different grades within the choice category. Some stores buy the lowest quality, but still can legally call it choice. Others buy the second best, or No. 2 carcasses. Very few buy the top quality choice. Within these grades, the retail outlets have a considerable varied margin with which to work in pricing their various cuts and hamburger. Thus, in comparing the choice carcass price listed in New York, Chicago, or Omaha, the advantage is on the side of the retail store selling third, fourth, or fifth quality within the choice grade.

I think that with all the tumult and confusion which has developed in recent days over food costs, especially beef prices, one element stands out clearly. Much of the national news media and many retailers and so-called consumer spokesmen do not unduly object over price increases for TV sets, for housing, for insurance, for automobiles, for clothing. They either ignore or take for granted that inflation is a fact of life and that annual wage boosts will cover all additional costs—except at the retail food level. And when retail food prices rise, the farmers and ranchers of America are the easy scapegoats. After all, they have only a minor voice that cannot rise to be heard above the clamor of certain urban segments of our economy.

Mr. President, it is this very emotional factor which has been taken advantage of by some retail outlets, particularly certain chain food stores. They had ridden the wave of media hysteria to a nice profitable position while sympathizing with the consumer over the high cost of beef. Yet, they piously deny any part of the blame for the increase in meat prices. They seek to point the finger at the farmer as the culprit. It is the same old story—the low man on the totem pole gets the ax.

What is even more appalling is that some of these retail chain stores also seek to take advantage of their profitable positions by means of advertising schemes. One such organization is Giant Food, which has retail outlets in the District of Columbia and its environs.

The first account of Giant's advertising gimmick that I know of appeared in the trade journal Supermarket News for March 13, in an article written by Suzanne Kilgore. In an interview with the consumer adviser to the president of Giant Food, Mrs. Esther Peterson, Miss Kilgore writes that Giant was going to run a beef boycott ad just as soon as beef prices rose again.

Yet, when a squabble developed between Agriculture Secretary Earl Butz and Price Commission Chairman C. Jackson Grayson about meat prices, Giant apparently decided that this was a perfect time to cash in on its scheme and, as all of us know, last week Giant ads appeared in Washington metropolitan newspapers, suggesting that housewives buy other meats and nonmeat products instead of beef.

I ask unanimous consent that Miss Kilgore's article regarding the Giant Food antibeef advertising scheme be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GIANT FOOD: "DON'T BUY BEEF"

(By Suzanne Kilgore)

WASHINGTON.—In what shapes up as another "first," 94-unit Giant Food, here, is poised to advise customers not to buy the beef it sells, because the meat is overpriced.

In full-page newspaper ads, Esther Peterson, consumer advisor to Joseph Danzansky, president, will tell Giant Food customers flatly to "buy something else."

The ad originally was scheduled to run last week "but the meat market went down slightly," Peterson explained, gesturing toward a proof of the ad hung prominently on her bulletin board. "As soon as it goes up again—and it will—we'll run this ad."

Nutritional "alternatives" to be suggested by Giant include chicken, turkey, fish, eggs, cheese, beans, lentils, cereal, macaroni, spaghetti and even peanut butter.

"We did something similar to this a year ago and our meat sales were unchanged," Peterson told SN in an interview. "However, we didn't get the complaints about the prices. This ad is the kind of thing that helps people understand prices.

"The dividing line today is more between the retailer and supplier than the consumer and retailer."

This bold "don't buy" action is just one aspect of the many-faceted consumer program developing under Peterson's guidance.

FREEZE LEVELS

Just last week Giant Food found it necessary to raise prices on some private label items that were being held at freeze levels.

Any turn of the radio dial here will eventually tune in Peterson, explaining to consumers that increased costs to Giant have forced the firm to raise prices.

"There's a great deal of misunderstanding about price increases among consumers," she declared. "I think that if you tell consumers about price increases from suppliers, and about profit margins—things that I have learned on the inside—it helps them to understand."

Giant Food, which took a real beating in the profit column after starting discount prices in August, 1970, has recovered its earnings stride.

When a District of Columbia Health Department report cited Giant's ground beef for excessive fat content recently, Peterson and Giant promptly took full-page newspaper ads advising area consumers that Giant's regulatory test for fat content was a "flop."

PERFECTLY STRAIGHT

"I am going to treat the consumers as intelligent persons and be perfectly straight with them," she explains. "I am convinced that, if you give consumers the tools and information, they'll use them. I have had a lot of good comments on that ad."

In October, 1970, after serving former President Johnson as in-house consumer adviser, Peterson accepted the consumer adviser spot at Giant. The move triggered criticism among her supporters, including organized labor, that she was "changing sides."

Since she edged into the "enemy camp" a little more than a year ago, she has been instrumental in initiating such Giant programs as unit pricing, open dating, nutritional labeling and, most recently, ingredient-percentage labeling. All have been promoted heavily by the chain, and area competitors have been prompted to follow Giant's lead.

"I can honestly say that I made consumerism popular," Peterson said with an emphatic nod. "I was able to make consumers aware that they are consumers.

"Consumerism is a good marketing tool. I love competition and I would much rather compete with quality things, instead of games, gimmicks and stamps."

HAND ON ADDITIVES

Peterson's hand has also leaned on food additives. A few months ago Giant came out with "uncolored cherries"—cherries without Red No. 2 coloring.

"I don't know whether they are out-selling the red cherries but they are doing very well," she notes.

Giant now is ready to market nitrate-nitrite-free hot dogs.

"They won't look very pretty but consumers will have the choice," Peterson says. "Where science has indicated that there may be a problem with additives, we don't know who is right—so we'll offer both.

"We want reality. I want us at Giant to outdo the Betty Furnesses and Virginia Knauers and Esther Petersons when it comes to consumer interest."

While responses to all of Giant's consumer programs has been "encouraging," Peterson is first to concede full acceptance and utilization is a long range project.

"The ones who are really excited about things like nutritional labeling and unit pricing are the younger housewives with college educations, as well as athletes from high-school-age on up," she declares.

When Esther Peterson joined Giant, she was granted a one-year leave-of-absence from the Amalgamated Clothing Workers of America, which she had served as lobbyist; "I have agreed to stay here another year and after that, I don't know. I've never had a job that was so much fun.

"I want to do more in the general merchandising area and in pharmacies. I'd like to do something about ingredient labeling of cosmetics and beauty aids."

Esther Peterson, in her role as Joseph Danzansky's energetic full-time consumer lady, is determined to make Giant Food the answer to a consumer's prayer.

Mr. ALLEN. Mr. President, this deliberate attack on the American cattle industry is selfish, reckless, and irresponsible.

For example, the article tells that when Giant Food was caught selling ground beef with excessive fat content by District of Columbia health authorities, the company used a full-page ad to declare that Giant's regulatory test for fat content was a "flop."

What is relevant, Mr. President, is that Giant did not tell the whole story. Their test was a "flop" only because they were caught in an outright violation of the law.

The simple fact is that a relatively simple electronic device tests hamburger and sausage fat content rapidly and accurately. Most States require this testing for manufactured meat products, and this testing equipment is quite standard.

We are indeed living in a time of slanted news and planted propaganda. What a shame that a huge retail food outlet with an otherwise good reputation should stoop to gross misrepresentations and half-truths to steer people's minds away from the fact that they were caught violating the law.

Mr. President, it is one thing to have the financial power and public relations departments to influence the habits of the buying public, but quite another to seek to charge farmers and ranchers with the responsibility for food cost problems when they have little or no means of countering such charges.

I deplore this practice of pitting one sector of our citizens against another for selfish economic motives without determining the real facts involved. I sincerely hope that this current flurry of unjust pointing of fingers and capitalizing on emotionalism will cease.

The morning's newspapers carry accounts of a meeting between Treasury Secretary John Connally and leading supermarket executives on yesterday. It was gratifying to note that these retail food representatives promised lower beef prices in the near future. It was disappointing to note that officials of Giant Food did not attend the meeting.

Next month, however, Chairman Grayson's Price Commission will hold hearings on high retail food prices. I would hope that officials of Giant Foods will either be asked or request to appear before the council to present their story including full documentation, on how they have been caught in a vicious cost-price squeeze insofar as beef products are concerned. I am sure it will be interesting.

EX PARTE NO. 281, ICC DENIAL

Mr. PACKWOOD. Mr. President, the Senate and the Nation should be aware of an action taken yesterday by the Interstate Commerce Commission when it denied the joint appeal of the Pacific Northwest Traffic League and the Puget Sound Traffic Association and others requesting a 30-day extension of procedural dates in a very significant railroad tariff proceeding. Ex Parte No. 281.

The railroads filed their application for an across-the-board rate increase on or about March 6 at which time the Commission set a date of May 1, 1972, for the filing of statements from shippers and consumer groups. The ICC allowed the railroads to amend their application on as late as March 17, but refused to grant the shippers and the consuming public an extra 30 days in which to prepare their statements.

On March 21, the Pacific Northwest Traffic League and the Puget Sound Traffic Association petitioned the ICC for reconsideration of the Commission's order of March 14, setting the May 1 date. The distinguished majority leader (Mr. MANSFIELD) and the senior Senator from Washington (Mr. MAGNUSON) joined me in urging the ICC to allow this 30-day extension. Our plea fell on deaf ears.

Mr. President, I want to make it perfectly clear that our request to the ICC was for an extension of time so that all parties involved might have an adequate opportunity to present the facts so that the ICC could then make a determination. I do not attempt to prejudge what that determination should be. I do feel strongly that the shippers and the consuming public is being unduly penalized. The Pacific Northwest shippers have authorized an extensive cost study dealing with transcontinental rail freight movements to and from the Pacific Northwest. It is humanly impossible to complete this detailed study prior to April 7. However, by their action yesterday, the ICC has, in effect, refused to consider the results of this important study in reaching a $500 million decision.

Mr. President, our regulatory agencies are frequently criticized as being dominated by the industries they are supposed to regulate. I would suggest that by refusing to give all parties adequate time to prepare their testimony the ICC has given credence to this charge.

This action is most distressing at a time when one of our most acute problems is the spiraling inflation. Among the items which will be most heavily penalized by the increase in freight rates are food and lumber. Both of these items are vital to our economy, and the rapid increase in food prices has been highlighted in the national press recently. The administration has pledged to hold food prices down, and on the very day that pledge was made, the ICC refused to allow shippers and the consuming public adequate time to present their case.

It is not as though the railroads have not had a rate increase recently. During the past few years, the ICC has approved six freight rate increases for the railroads. With ICC approval of the present proposal, the shipping public will be saddled with an increase of over 33 percent in just 30 months. It would seem to me that the Price Commission would have a great interest in these proposed increases.

Mr. President, I ask unanimous consent to have printed in the RECORD the following documents: Senator MAGNUSON's letter to ICC dated March 22, 1972; a copy of my telegram to ICC dated March 24, 1972; and a copy of the ICC order denying this request dated March 29, 1972.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., March 22, 1972.
Hon. GEORGE M. STAFFORD,
Chairman, Interstate Commerce Commission, Washington, D.C.

DEAR MR. CHAIRMAN: This refers to Ex Parte 281, Increased Freight Rates and Charges, and the procedural dates established by the ICC for consideration of that case.

The past few years have seen approval by the Interstate Commerce Commission of six freight rate increases for the railroads (X-256, X-259, X-262, X-265, X-267, and an emergency increase under X-281). The ICC has presided over increases in these cases which have gone well over 40 per cent for most commodities. With ICC approval of the present proposal the shipping public will be saddled with an increase of over 33 per cent in just 30 months. The magnitude of these increases should in itself be of great concern to the Commission and even to the railroad industry which is finding itself ever less competitive with other transport modes. It certainly is of concern to the nation's shippers and many of us in the Senate.

But beyond this I am greatly worried about the impact of the across the board increases which despite ICC orders to the contrary continue to upset regional relationships in this nation. Protestations from the Pacific Northwest about the effect of these increases have as a practical matter been totally ignored by the Commission. The current rate increase proposal is even worse than the others because it would apply a higher percentage to Western shipments than to those in other parts of the country.

This is not the first time I have raised this point. Let me refer you to an October 12, 1970 letter in which I was joined by five other Senators. In that letter we pointed out, inter alia:

"Second, the Commission, despite repeated requests, has failed to require the railroads to demonstrate their cost of handling any commodity from any origin to any destination.

The Commission has rather been content to permit these increases in most instances to be applied across-the-board. (Applying to nearly all commodities and nearly all railroads.) This is particularly unfair to commodities such as lumber and grain which reportedly are already returning to the railroad in some instances as much as 236% over fully distributed costs. The whole concept of across-the-board increases penalize the long haul shippers who are paying the high rate. For instance, if a shipper is paying $3.00 per hundred weight for a typical movement and across-the-board 15% increase gives him a new rate of $3.45. A competitor who has a $1.00 rate from his origin to a typical destination would only suffer an increase of 15 cents making his rate $1.15. This means, of course, that when both shippers are going to the same market, the shipper who had the higher rate initially is now further penalized with an additional 30¢ per hundred weight per cost over his competitor."

Unfortunately what we said in the last two paragraphs of that letter is still, some 17 months later, relevant:

All of these considerations require close scrutiny. And they strongly suggest the need for an independent review. For these reasons we urge that the ICC thoroughly investigate the railroads' proposed increases and accordingly that the staff of the ICC as described above be directed to evaluate the data presented by the railroads. The Commission's obligation to the public, which includes ensuring the long range viability of the railroads, requires that at this critical hour for the railroads and the shippers that the Commission make an extraordinary effort to have before it all of the facts before making a final decision.

We wish to stress that we do not oppose railroad freight rate increases per se. But we do oppose very vigorously actions which in order to assist financially distressed railroads simultaneously provide a windfall to wealthy roads. Similarly we can see no justification for exacerbating the affects of already discriminatory rates on various commodities. We recognize that a thorough evaluation of the proposals now before you along the lines we have suggested will not be a simple matter, but we believe that the interest of the public requires that the effort be made."

The "thorough evaluation" that we felt was needed in October 1970 has not been completed and the railroads have continued to get almost everything they have asked for. The rate studies subsequently begun by the Commission (X-270 and X-271) evidence every indication of getting bogged down while rate increase cases are heard on a business as usual basis. This is true even though you stated in your form letter response to our October 1970 letter that "across-the-board increases may have the effect of increasing any disparities already inherent in the basic rate structure." And you stated that a rate structure investigation "appears essential."

While the studies have been underway, the Commission has consistently refused to allow its staff to make independent investigations of individual rate increase proposals. (Something which the staff of the CAB does routinely) If the Commission is to continuously refuse to have independent information developed by its staff than it should at least give shippers an adequate opportunity to develop sufficient information, I am in receipt of a communication signed by several shipper and governmental representatives (including a representative of the Department of Transportation, the State of Washington, the Washington State Utilities and Transportation Commission, the Oregon State Utilities and Transportation Commission, the Port of Seattle, and the Port of Tacoma) requesting that I support their petition for a 30 day extension of procedural dates in the Ex Parte 281 proceedings. Previously on March 14, 1972 the Commission turned down a petition by the Pacific Northwest Traffic League and the Puget Sound Traffic Association requesting 30 more days to prepare for this most important proceeding. One of the reasons for requesting a delay was to allow some additional time to prepare extensive cost studies dealing with transcontinental rail freight movements to/from the Pacific Northwest. This study was undertaken some time ago partially in response to the Commission's refusal to do anything about the Port relationship problems being created by its orders. I can see no reason whatsoever for denying that petition. If the railroads, after all the increases they have been allowed, can not wait another thirty days without a rate increase, then I would suspect that such an increase is not an answer to the railroads' alleged problems in any event. Further, with the anticipated improvement in the economy, the railroads may indeed not even need the increase. Now the Pacific Northwest Traffic League and the Puget Sound Traffic Association have sent a communication to the Secretary of the Commission urging reconsideration of the petition for modification of procedural dates outlined above. Mr. Chairman, I firmly believe that the Commission should grant this modest procedural request and I respectfully urge that you do so.

For your ready reference you will find enclosed a copy of the most recent communication which I have received plus a copy of the request for reconsideration.

Sincerely yours,
WARREN G. MAGNUSON,
Chairman.

MARCH 24, 1972.
Hon. GEORGE M. STAFFORD,
Chairman, Interstate Commerce Commission, Washington, D.C.:

Respectfully request your immediate reconsideration of Puget Sound Freight Traffic Association petition for thirty day extension of time for filing statement in ex parte 281 hearings. Pacific Northwest freight rate group urgently needs additional time to properly prepare its position in this important matter. Without this extension, severe hardships will be experienced by Northwest shippers. Please advise earliest.

Senator BOB PACKWOOD, *Oregon.*

ORDER

At a General Session of the Interstate Commere Commission, held at its office in Washington, D.C., on the 28th day of March, 1972.

EX PARTE NO. 281

Increased freight rates and charges, 1972

Upon consideration of (a) a telegraphic petition, filed March 21, 1972, jointly by Pacific Northwest Traffic League and Puget Sound Traffic Association, for reconsideration of an order of the Commission, served March 14, 1972 (which order denied a requested extension of the schedule of dates established in this proceeding by our order of March 6, 1972, including sought change in the effective date of the involved tariff schedules from May 1, 1972, to June 5, 1972), (b) telegrams in support of the above petitioners filed separately by Snokist Growers Association, of Yakima Valley, Wash., Northwest Horticultural Council, Yakima, Wash., Simpson Timber Co., and jointly by Northwest Food Processors Association and Lamb-Weston, Inc., of Portland, Ore., and (c) initial telegraphic petitions for similar relief filed March 22, 1972, by Weyerhaeuser Company of Takoma, Wash., March 24, 1972, by Georgia Pacific Corp., of Portland, Ore., and March 24, 1972, by Montana State AFL-CIO, and Longview Fibre Company, of Longview, Wash.; and a joint reply thereto, filed March 27, 1972, by railroad respondents.

It appearing, That the schedule of dates set forth in said order of March 6, 1972, was established after careful weighing of interests of the carriers, shippers and general public and no sufficient reason has been shown for departing therefrom;

It is ordered, That the petitions be, and they are hereby denied.

Dated at Washington, D.C., this 28th day of March, 1972.

By the Commission.

ROBERT L. OSWALD,
Secretary.

SOIL CONSERVATION SERVICE FUNDS

Mr. CHURCH. Mr. President, recently I submitted testimony to the Agriculture Appropriations Subcommittee, calling for adequate funding for the Soil Conservation Service.

I ask unanimous consent that the testimony be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

FUNDS NEEDED FOR THE SOIL CONSERVATION SERVICE

Mr. Chairman, we all know of the nation's awareness that it must preserve and improve its environment. The Soil Conservation Service, our nation's principal conservation agency for private lands, recognizes the need for sound conservation practices. It has been earnestly working to improve our environment for over 30 years. President Nixon, in his May 2 radio address, "A Salute to Agriculture," recognized the important role of the SCS when he stated:

"Another area where government should do more to provide technical assistance to farmers is that of soil and water conservation. Long before most Americans were thinking very much about the environment our farmers, our ranchers, our woodland owners were working together with government to conserve our natural resources. I believe we should now be providing more help for our dedicated corps of soil conservationists whose number has dropped sharply in the past four years.

"I am, therefore, increasing my new budget request for the Soil Conservation Service by $12 million to provide more manpower for this valuable work. I am also proposing that Federal grants for small watershed projects be increased by $28 million to a level of $105 million, and that 75 new projects be authorized."

Subsequently, Congress acted on the President's recommended increase and made some increases of its own. But, as is becoming all too often the case, some of those funds duly appropriated by Congress never reached their intended destination. The President has impounded $18 million in Soil Conservation Service funds. Thus we face a dual burden if the mandates of Congress are to be followed. First, we must determine the need and then make certain that once Congress has provided the funds to meet the need, the Executive Branch respects our will and spends the appropriated money. The power and responsibility of the nation's purse strings lies in the Congress, not in the Executive Office of the President.

Idaho is, for the most part, an agricultural state. Agriculture is, in fact, still developing in many areas of my State. The need and demand for the help offered by soil conservation districts is growing.

Though basically rural, urban centers such as Boise, Twin Falls, Pocatello, Idaho Falls, Lewiston, and Moscow are growing along with a mushrooming of recreation and vacation type developments. Basic natural resource data and careful planning are required to guide this growth and development in an orderly fashion.

Soil conservation districts have done a great deal to obtain State and local funds to help solve natural resource and community problems. However, because of manpower ceilings placed upon the SCS, personnel are not available to utilize these funds. You can readily understand why counties and states cannot hire employees to make soil surveys due to the short time nature of this employment on a local basis. In Idaho, a procedure has been developed in cooperation with the State Tax Commission for using soil survey data in making tax appraisals. The State Tax Commission is encouraging county assessors to use soil surveys. Soil surveys have been accelerated by money from counties in the amount of $75,000 to extend over a five-year period. Other counties are giving serious consideration to their needs for accelerating soil surveys for both planning and as a basis for tax assessment.

The Idaho Legislature is considering a bill this year to provide more moneys for soil surveys to the Soil Conservation Commission. Idaho soil conservation districts strongly support this legislation, but increased appropriation or other local funding for soil surveys is not the only answer to this problem. It takes people to do the job. Personnel ceilings imposed on the Service limit the number of soil scientists that can be hired, even when more money becomes available.

For example, several local governments and planning bodies, such as the Ada Development Council and the Boundary and Jefferson County Boards of Commissioners, are contributing funds for acceleration of surveys in their countries. The Soil Conservation Service has shifted soil scientists from other parts of the State to work in these counties. It's a matter of robbing Peter to pay Paul because the Service cannot hire new people to service these counties. Bonneville, Butte and Twin Falls Counties have expressed an interest to put money into soil surveys, but the SCS cannot hire additional soil scientists due to employment limitations.

The completion of soil surveys is lagging far behind the needs for soil information. Unless these surveys are accelerated, development without this vital information will continue in many parts of Idaho, resulting in costly mistakes and irreparable damage to our soil, water and human resources.

Our State has a new RC&D project encompassing the Wood River watershed and the famous Sun Valley area. Funds are needed to assure the success of this project. I need not remind you of the big job resource conservation and development projects are doing in getting local people, working together, to solve their development needs.

The small watershed program administered by SCS under the Watershed Protection and Flood Prevention Act, P.L. 566, has and will continue to have a very significant economic and environmental impact on our State. To date, five thousand watershed projects have been approved, including the Fourth of July Creek project in the vicinity of Coeur d'Alene (completed), Cedar Creek southwest of Twin Falls (completed), Montpelier Creek at Montpelier (under construction), Trail Creek at Victor (under construction), and Georgetown Creek at Georgetown (waiting funds for construction).

The Sand Creek Watershed project near Idaho Falls, on which planning is near completion, includes more than $4.7 million of Federal funds for construction. An additional $2.5 million of Federal funds will be spent for design of the structural measures, supervising the construction, and land treatment aspects of the project. Over the 10 year construction period of the project, local sponsoring organizations will expend $4.8 million for land rights and carrying out the local responsibilities in the project including $.6 million of land treatment practices.

The economic impact of the P.L. 566 watershed program is reflected by the $12 million of Federal funds that will come into the State through the six projects.

In addition to the dollar impact of these watershed projects, the land treatment and structural measures have an immediate beneficial effect on the environment and the economy in the project areas. The land treatment measures provided for will accelerate the proper use, management and conservation of the land and water resources. The land is protected from erosion, land scour, and sedimentation by these projects. Floodwaters are controlled. In addition, homes, farm buildings, state and county roads and bridges are protected, and money that would be needed for flood damage repair is available for other community improvements. The associated problems of pollution and the hazard to the health and well being of those in the flooded areas are eliminated.

Another program which is of tremendous assistance to soil conservation districts in Idaho is the snow survey program. SCS snow survey data is not only used by irrigators but is useful for almost every forecasting purpose including power, flood control, pollution control, recreation, industry and avalanche hazard forecasting.

Snow survey data in 1971 provided the basis for dramatic multiple-purpose flood control operations beginning January 1. By then it was obvious that 1971 was going to be one of the biggest snowpack years in history. Special meetings were held and news releases made to encourage lowering of reservoirs to control the floodwaters forecast to come. These actions helped avert millions of dollars of flood damage in 1971. All reservoirs started the irrigation season full or were filled after irrigation started. The isotopic snow gauge installed near Sun Valley is serving a multitude of users including recreationists who can get daily readings.

The National Association of Conservation District is requesting funding at slightly above the 1972 fiscal year appropriation level. But here again we face the problem of Executive impoundment of funds. Idaho fell far short of the manpower it planned to utilize based on the 1972 fiscal year appropriations. We lost four men to retirement, transfers, etc., and were not allowed to replace them even though the money was in our budget. Loss of these valuable employees plus the loss of anticipated additional help had a dampening effect on the soil conservation movement in Idaho.

All of this in face of the fact that Idaho soil conservation districts predict they will need 100 additional man years in our State over the amount provided them by SCS in 1972. Only two other states in the Union have predicted higher additional man hour needs than Idaho.

I agree with the National Association of Conservation Districts and urge your cooperation in passage of funding legislation at the following levels:

Soil Conservation Service—USDA

Conservation operations	$155,000,000
River basin surveys	10,743,000
Watershed planning	10,000,000
Flood prevention operations	132,066,000
Great Plains	20,000,000
Resource conservation and development projects	20,863,000
Total	348,672,000

Mr. Chairman, I hope that you will see fit to grant the Soil Conservation Service the funds so vitally needed by soil conservation districts in Idaho and throughout the United States to carry out their excellent work.

NATIONAL WEEK OF CONCERN FOR PRISONERS OF WAR AND MISSING IN ACTION

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Florida (Mr. GURNEY), I ask unanimous consent to have printed in the RECORD a statement by him on the National Week of Concern for Prisoners of War and Missing in Action.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GURNEY

On Monday, it was announced that the American troop level in Vietnam had sunk below 100,000 for the first time in six and one-half years. But as servicemen in Vietnam are getting sent home sooner and as hopes rise that the troop withdrawals may exceed the goal of 69,000 in Vietnam by May 1st, there is one group of men involved in this war for whom nothing changes. These are our prisoners of war.

As of March 11, 1972 there were 489 American servicemen listed as prisoners of war; 388 are being held in North Vietnam, 96 in South Vietnam and five in Laos. For the families of these men, there is little hope or encouragement as the Communists not only refuse to negotiate in good faith, but also refuse to release much information on our POW's or let them communicate much with the outside world. But, in a way these families are lucky—at least they know something. For the loved ones of 1,129 men who are listed as missing in action—411 in North Vietnam, 456 in South Vietnam and 262 in Laos—there is no telling whether their soldier is dead or is, in fact, an unlisted prisoner of war. For the families of these men the wait is even more uncertain. The future more unsure.

Last year and again this year I have been a cosponsor of a resolution passed by Congress calling for a national week of concern for our POW's and MIA's in Vietnam. Therefore, I feel that it is only fitting and appropriate that, with the approach of the Easter and Passover celebrations, the President has proclaimed this week as national week of concern for the POW's. These men and their families deserve our concern, our support. We owe it to them to make every effort to secure their release as soon as possible. At the same time, we owe it to them to recognize their sacrifice and to reaffirm our commitment not to allow all their efforts and their suffering—not to mention that of 55,000 Americans who have died in Vietnam—to have been in vain.

We should also take this opportunity—this week—to express our admiration for and appreciation of the courage and strength of those men, the POW's who have suffered so much at the hands of the enemy. They deserve the respect and support of all Americans and let us hope that by demonstrating how much we care during this national week of concern, we can speed the day when they will be returned home to us with honor.

UNEMPLOYMENT

Mr. PELL. Mr. President, there are a number of ways to deal with our Nation's unemployment problem.

One method is to say the problem really is not a problem. Another method is to say that there is nothing that anyone can do about that problem anyway.

Mr. President, despite the fact that more than 5,000,000 persons are unemployed in this country and nearly 30,000 in my own State of Rhode Island, the administration seems to be using those techniques to explain its failure to deal with the unemployment problem.

Mr. President, Mrs. Alice M. Rivlin, former Assistant Secretary for Planning and Evaluation at the Department of Health, Education, and Welfare, recently examined the administration's excuses for this country's high level of unemployment.

I ask unanimous consent that Mrs. Rivlin's excellent article, published in the March 16 issue of the Washington Post be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Some Questions About the Administration's Line: Unemployment as an Issue in the Election

(By Alice M. Rivlin)

One might have expected unemployment to be among the simplest and most comprehensible issues of the election campaign. A high unemployment rate means that the economic machinery is not funtioning properly, right? That's bad for the incumbents, because they are in charge of keeping the machine running. What could be simpler than that?

But to no one's surprise the administration does not see it this way and has launched a multi-pronged verbal onslaught designed to diffuse the unemployment issue and make it a lot more complicated. The administration's argument reminds one of the old story about the man who returns a borrowed pot to the owner with the statement: I deny that it is broken; anyway, it is not my fault, because it was already broken when you gave it to me; and furthermore I've done everything I could to fix it. The administration's line on unemployment goes something like this: (1) unemployment is not as serious a problem as it might seem because many of the unemployed are women and young people; (2) anyway, unemployment is not our fault, because it was a necessary consequence of winding down the war; and (3) we are doing everything either we or the Democrats can think of to fix it up.

Administration spokesmen, of course, do not actually say that unemployment is not serious—on the contrary. "We recognize that unemployment is a serious problem," Council of Economic Advisers Chairman Herbert Stein told the Press Club last month. "At the same time," he continued, "it would be a travesty to call it a disaster or to compare the situation with the Great Depression. This is especially true when it is recognized that in 1971, 48 per cent of all unemployment was accounted for by people aged 16 to 24 and another 23 per cent by females 25 years of age and older." Without saying why, Dr. Stein left the clear implication that unemployment of women and young people is less serious than the unemployment of mature men. He also pointed out that a lot of young people are not in the labor force—as though that eased the plight of those that were—and that some of those counted as looking for work were also in school.

Dr. Stein is right, of course, that a higher proportion of the unemployed are women and young people than, say, a decade or two ago. This is partly because there are proportionately more women and young people in the labor force than there used to be, but it is mostly because unemployment rates for these groups have gone up relative to those of experienced men. Both phenomena—the increase in women and young people in the labor force and the relative rise in their unemployment rates—have been taking place gradually over the years. They are not features of the current recession.

The administration's apparent contention is that unemployment of women and young people does not cause as much pain and suffering as unemployment of mature males because other people do not depend on their incomes. But this is only partly true. Many women, especially black women, head families, and so do many men under 25. The 23-year-old married man with a new baby and no assets to fall back on may feel his unemployment more keenly than his father. There is also psychological damage. The young person who can't find work may end up pretty discouraged with himself and society. Even loss of a part-time job may be serious, if it means dropping out of school.

Wives tend to earn less than their husbands, but that does not mean that no one depends on their incomes. The black family which is finally making it because both husband and wife work may feel just as desperate about the payments on the house or the car when the wife is out of work as when the husband is.

In any case, the unemployment rate is not so much a measure of economic pain and suffering—the poverty rate is a more sensitive indicator of that—as a measure of the health of the economy. It is also probably a pretty accurate proxy for the way people *feel* about the economy, which is why it matters in elections. If jobs are hard to get, people know about it. They worry about their own jobs; they postpone the vacation or the addition on the house or the store. It may not matter much to their state of mind whether the particular person they heard was out of work was Sam's father, or Harry's wife or Aunt Sue's oldest boy.

The second argument—that unemployment is attributable to de-escalation of the war—is a recurrent theme in the President's speeches. "We all know why we have an unemployment problem," he told the Nation on August 15. "Two million workers have been released from the armed forces and defense plants because of our success in winding down the war in Vietnam. Putting those people back to work is one of the challenges of peace . . ." "It is obvious," he repeated in his last economic message, "that the unemployment problem has been intensified by the reduction of over two million defense-related jobs . . ." And in the State of the Union address, he pointed out again "that if the more than two million men released from the armed forces and defense-related industries were still in their wartime jobs then unemployment would be far lower."

These presidential assertions that peace causes unemployment—vaguely reminiscent of Marxist theories that a capitalist system needs imperialism to maintain prosperity—are not stressed in the Report of the President's Council of Economic Advisers for the simple reason that they are not very accurate economics.

The attribution of the unemployment to military cutbacks implies that defense expenditures create employment and that other government expenditures do not. But there is no basis for this. If the administration had fully offset drops in military spending with increases in civilian programs, the de-escalation need not have created any aggregate unemployment at all, although there would have been local difficulties arising from the fact that the defense and civilian employment might have been concentrated in different places.

In fact, however, prior to August 1971, the administration deliberately pursued a policy of *not* offsetting the military cutbacks fully with increases in civilian spending. They were consciously holding down total government spending in order to create slack in the economy and reduce the inflation. It was not an implausible policy, although the human costs were bound to be high. Many economists thought at the time that it would be worth creating some unemployment in order to lower the rate at which prices were rising.

However, the policy did not work. Unemployment rose all right, but the inflation stubbornly refused to subside. Finally, in August 1971, the administration abruptly changed its strategy, began fighting inflation directly with wage and price controls, and started to use the budget to stimulate rather than cool off the economy. In view of this history it would be far more accurate to attribute current unemployment to a well-intentioned but unsuccessful attempt to fight inflation without price controls, than to attribute it to de-escalation of the war.

The third argument—we are doing everything anyone could do about unemployment—was strongly stated by Dr. Stein in his remarkable speech to the Press Club, "This administration has, I believe, the most powerful, comprehensive, coherent program for dealing with unemployment that any administration ever had . . . We are running the biggest budget deficit ever, except for World War II . . . We have the most comprehensive price-wage control system ever except during the Korean War and World War II . . . We have suspended the convertibility of the dollar . . . We are spending this year about $10 billion for manpower programs and unemployment compensation . . ." The message is: you Democrats have a lot of gaul criticizing us; after all, we're playing your song and playing it louder than you ever played it yourselves.

This recital of Republican accomplishments boggles the mind—at least for a moment. If you had offered 100 to 1 odds a year ago that Stein would be standing before the Press Club crowing about deficit spending, devaluation, and comprehensive price controls you would have had no takers. If you had predicted that the Republicans would actually be exaggerating the size of their deficit you would have evoked the sympathetic halfsmile that people reserve for harmless nuts.

But look carefully at that whopping $39 billion deficit now predicted for the fiscal year ending June 30, 1972. In the first place, most of that deficit is a result of the sluggish economy, not a response to it. Tax collections are below what they would have been at full employment and some kinds of expenditures (such as unemployment compensation) are higher. The full employment deficit, a much better measure of the stimulative effect of the federal budget on the economy, is much smaller ($8 billion, not $39 billion) and very recent. In the first half of this fiscal year the government actually ran a small full employment surplus. Moreover, the full employment deficit in the second half of the fiscal year (January-June 1972) is at least partly accomplished by pushing expenditures that would normally have occurred later into the current six month period. For example, the administration has indulged in a bit of calendar reform—the most original budget idea since Julius Caesar?—and has at least temporarily abandoned the twelve month year. Thirteen months worth of public assistance payments will be made to the states in the current fiscal year, leaving only eleven payments for next year. This maneuver has the effect of making this year's deficit look bigger (and next year's look smaller), but it has no real economic effect. States are not going to get their money out to poor people any faster than they would have anyway. Some of the other devices used to enlarge the current deficit seem equally unlikely to have any real economic effect. As George Perry put it in testimony before the Joint Economic Committee recently, the current "deficit looks to be about 10 parts slack-induced . . . 1 part full-employment deficit, representing a noticeable but not excessive fiscal push on the economy and 1 part hope, representing estimates of expenditures that may never materialize."

That the administration is finally using the budget to stimulate the economy is good news whether they are pushing hard enough remains to be seen. One could certainly make a case for creating deficits in a more stimulating way—giving consumers a tax break rather than investors and spending more on programs that create jobs directly, such as public service employment.

In the end, of course, it may turn out that the unemployment issue is really very simple after all. The average voter is probably neither interested in nor influenced by the who-struck-John arguments of the economists. If he has the gut feeling—based on personal observation, unemployment rates, or whatever evidence comes to his notice—that the economy is moving forward he will vote for Mr. Nixon and if he doesn't, he won't.

THE RETAIL PRICE OF BEEF

Mr. CURTIS. Mr. President, yesterday a meeting was held by the Secretary of the Treasury, Hon. John Connally, with leaders of the various chain food stores to discuss the price of food and, especially, retail prices of beef. The purpose of the discussion, as I understand it, was to try to pinpoint the causes of the price increases that are causing concern both to leaders in Government and to consumers at large in these times in which we are all dedicated to waging as effective a fight against inflation as possible.

I earnestly hope, Mr. President, that Secretary Connally and the heads of the large food chains looked at the problem with historical perspective. I hope they allowed economic facts rather than emotionalism to guide them. I have some facts to pass along to them. I will get right to the point.

Food prices today are not out of line with the prices of other commodities, such as manufactured goods. They have not risen nearly as fast as prices of manufactured goods. They fluctuate a great deal more than other prices. They are only very indirectly related to the prices received by producers of the raw agricultural products—in the case of beef, the livestock that are sold in the marketplace.

It is noteworthy that the Giant Food Stores here in Washington have launched a consumer-oriented campaign through their advertising columns to discourage the buying of beef. As part of the campaign, they have a consumer specialist or "promoter," as I prefer to call the person, who happens to be a former high Labor Department official in the Johnson administration, who is publicly suggesting that consumers buy meat substitutes.

I think this whole campaign by Giant Food Stores is an advertising gimmick and, worse yet, a hoax and a sham. The Giant Food people are trying to win customers away from other food stores by making the public at large think they really are giving them good advice, when in fact it is inaccurate advice. If the Giant Food people wanted to do their customers a favor, they would advise them to shop at other markets for the beef they buy.

Several weeks ago a cattle feeder from Hastings, Nebr., went to his local newspaper office and looked up cattle prices compared with retail meat prices on the local market 20 years ago compared with today.

He found that cattle prices were down slightly from the levels of 20 years ago, despite rather marked increases in retail prices of some beef products.

I have carried his research project a step farther, making a similar comparison for Giant Food Stores as well as several other retail commercial outlets in the Washington, D.C., area. The dates I used for comparison are approximately the same as those used by the astute Nebraska cattle feeder, whose name happens to be Ray Kissinger, who pointed the way for this type of historical research effort. They slightly predate the current controversy but are comparable.

I find it most interesting, Mr. President, that in the Washington Post for Thursday, January 13, 1972, the Giant Stores advertised only one beef product that was on a list it advertised approximately the same time 20 years ago, on Thursday, January 11, 1952, and this one product was hamburger.

What were the comparable prices, 20 years apart, for this product?

On January 11, 1952, Giant Food Stores advertised "lean" hamburger for 65 cents a pound. On January 13, 1972, "regular" hamburger containing 25 percent fat was advertised for 69 cents while "lean" hamburger containing 20 percent fat was offered for 89 cents a pound.

Is that such a big jump in retail prices for a 20-year period when the cost of everything else has been spiraling?

I decided to do some grocery-ad shopping to try to find a better buy, and I found that a competitor of Giant, the Safeway Stores, offered ground beef in the same Washington Post of Thursday, January 13, 1972, at a lower price than Giant was selling hamburger not only in 1972 but 20 years ago as well. The Safeway price for hamburger in January this year was 59 cents a pound. Would it not be fitting and proper for the Giant consumer expert, Mrs. Esther Peterson, to recommend in Giant's advertisement that Giant's potential customers in the Washington area buy their hamburger at Safeway? Needless to say, she did not do this.

I decided to make some further comparisons. On January 11, 1952, Giant Stores advertised sirloin steak for 98 cents a pound. Twenty years later, on January 13, 1972, Acme Stores in the Washington area offered sirloin steaks—"full cut including the tenderloin"—for $1.29.

Twenty years ago the Giant Stores advertised round steak for $1.10 a pound. At Safeway Stores in the Washington area, consumers could buy round steak for $1.19 on the same day this year when they could buy hamburger at Safeway cheaper than they could buy hamburger at Giant either then or 20 years earlier.

Giant Stores advertised chuck roast for 69 cents a pound on January 11, 1952. Twenty years later on the comparable date, Giant did not advertise the same product but Consumers Supermarkets offered it to customers in the Washington area for 89 cents a pound boneless.

I do not doubt that there have been increases in some food prices but there have been decreases in others from 20 years ago, Mr. President. I think the consumers can find the bargains by reading the pricelists in all the grocery ads in the Washington papers. They do not need the kind of misleading advice Mrs. Peterson has given them.

There is one thing I want to point out that I am sure Mrs. Peterson will not tell Giant's customers. This point is that livestock prices—the amounts which farmers and ranchers receive for the raw products—actually are lower today than they were 20 years ago.

On January 11, 1952, the Washington Post reported that prime beef on the Chicago livestock market, then the leading market in the world, sold as high as $37 a hundredweight while choice steers sold from $32.75 to about $36. Twenty years later the leading livestock market had shifted to Omaha, in my own State of Nebraska, where the Washington Post reported that on January 13, 1972, prime steers sold at a peak of $36 while choice steers went for $34.50 to $35.50.

I think the Giant Stores and any others that have maligned the meat industry, including the beef industry, should make a public apology. They should take a truth-in-advertising oath.

In Nebraska, a group of cattle feeders has purchased advertising space in next

Sunday's Omaha World-Herald to tell their side of the story. An article in the March 28th World-Herald described the effort, and I respectfully request permission at this time to put it in the RECORD, Mr. President, along with a letter to the editor from Mr. M. S. Schindler of Elgin, Nebr., which appeared in the same issue, setting forth some further interesting facts about earnings and profits on beef.

There being no objection, the article and letter were ordered to be printed in the RECORD, as follows:

FEEDERS COUNTER "UNFAIR" MEAT ADS

(By Don Ringler)

Some livestock feeders in Stanton County are fed up with recent advertising campaigns of certain chain stores urging consumers to boycott red meat because of high prices.

After doing a slow burn over these "buy something else campaigns" members of the Stanton County Livestock Feeders Association prepared a "report to the consumer direct from the cattle industry."

It will appear in a paid advertisement in Sunday's World-Herald and places the blame for meat price hikes on the retailer rather than the farmer.

USDA FIGURES

The advertisement signed by Steve Stevenson of Stanton, association president, says: "We think that it is very unfair for certain chain stores in the large consuming centers to attempt to have consumers boycott meat counters by ads, posters and other methods. Their motive is to make even more money by selling less desirable substitutes."

Quoting U.S. Department of Agriculture figures, the ad shows how the consumer's beef dollar is divided by the beef industry.

It gives the following breakdown on the $547.80 the consumer pays for the 481.3 pounds of retail cuts from a 1,100-pound live steer at the average price of $1.11½ cents a pound:

Retailer, $142.48; packer, $41.27; feeder, $103.51, and rancher, $260.54.

LONG, HARD LOOKS

"The retail price spread of $142.48 is definitely not justified by services rendered, the ad says. Consumers should take a long, hard look at this figure and not unfairly blame the cattle industry for the bulge in beef prices. Sirloin steak sold in Omaha 20 years ago for 79 to 89 cents a pound and ground beef 57 to 65 cents when cattle prices were higher than they are now. The cattleman's portion of the consumer's beef dollar is much smaller now than at that time," the ad continues.

Accompanying Stevenson to Omaha to place the ad were M. J. Hankins of Stanton, past president of the Nebraska Livestock Feeders Association, and Leonard Martin of Stanton, past president of the Stanton unit.

"We're not asking special favors," said Hankins. "We just want to get the truth across."

HE LIKED COMMENT

Hankins termed President Nixon's statement Friday blaming processors and grocers for rising food costs rather than the farmer as the "best statement that has come out of Washington in the last quarter century."

Martin pointed out that the rancher's share of the beef dollar is not excessive considering he must keep a calf for 18 months to grow a 700-pound feeder steer.

"The feeder has the animal for another five months," be added. "However, both the packer and retailer have that same animal only a few days."

[From the Omaha World Herald, March 28, 1972]

ELGIN, NEBR.

Regarding a recent Pulse letter, "Trail of the Steer," by the time a farmer gets his $328 for the 1,000 pound steer he has an investment of over $200 in feed and veterinarian expense over two years, or an annual percentage of 32 percent of his $200 and his labor. The $361 the packer receives amounts to 7 percent on his $238 investment and labor, but he has the beef in his possession only about ten days. This on an annual rate is a whopping 250 percent.

The $468 the retailer receives amounts to 29 percent on his $361. His investment and labor is also over about ten days. This on an annual rate as compared to the farmer is a horrendous 1,040 percent. How's that for a choice cut?

M. S. SCHINDLER.

GOVERNMENT WAGE BOARD INCREASES IN RHODE ISLAND

Mr. PELL. Mr. President, I am both heartened and encouraged by the announcement of the 5½-percent increase in wages for the Federal tradesmen, craftsmen, and industrial workers in the Narragansett Bay Area effective April 2, 1972.

As one who has been working for improvements in the system that is used to set Government blue collar wages, I am very familiar with the need for the hard-working employees in the Narragansett Bay Area to receive increases commensurate with the wages they have lost through inflation, and I am delighted that they are receiving an increase.

I am, also, happy to note that the survey of comparable private wages that was taken in January was the result of a congressional act last fall overriding the freeze President Nixon had imposed on wage surveys.

However, I believe Federal workers deserve equity. In this regard, I am disappointed that an Executive order of the President has prevented the Federal blue collar workers of Rhode Island from receiving the level of increase which the survey of comparable private wages had entitled them.

I recognize the importance of seeking to keep within the Federal guidelines. However, since Federal wage increases are usually at least a year behind private industry increases, there are very real grounds for allowing the 6.8-percent increase required by the Narragansett Bay Wage Survey. This figure should be kept in perspective with the 8.3-percent increase private industrial workers in Rhode Island received last year.

Since the wages of Government blue collar workers are set by surveys of past increases in comparable jobs in the private sector and since Government blue collar increases always trail increases in the private sector, I think it is unfair that the Government blue collar worker be made the leading edge of the administration's late anti-inflation effort.

I would urge the administration to rescind its wage ceiling and to allow Government workers the same increases permitted in the private sector.

REPRESSION OF JEWS IN SOVIET UNION

Mr. TAFT. Mr. President, much has been written concerning improvement of United States-Soviet relations and I certainly support such a policy, and hope it will continue. However, I believe it can only be based on a frank discussion of differences. One very important issue to be agreed upon, before a significant improvement can be made in our relations with the Soviet Union, is the issue of religious freedom.

Reliable reports indicate that the Jewish minority in the Soviet Union continues to be subjected daily to religious and cultural repression. The Soviet authorities habitually harass the Jewish minority. Complex and restrictive requirements are imposed on the right of Russian Jews to emigrate. Mail from outside the Soviet Union to Russian Jews is delayed for long periods of time and quite often discontinued completely. Jewish synagogues have been closed and currently only 60 still remain open with approximately half of these located in non-European sections of the Soviet Union where less than 10 percent of the total Jewish populace resides.

Soviet Jews have no Jewish libraries or social centers to enjoy. No Jewish newspaper, either in Yiddish or Russian, exists.

To summarize briefly, the 3 million Jewish men and women in the Soviet Union are being subjected to a systematic policy of "spiritual extermination."

I would urge that our Department of State change its reluctance to discuss this question and make every effort to impress this issue upon the Soviet Government, especially as to the right of Soviet Jews to emigrate to countries of their choice as affirmed by the United Nations Declaration of Human Rights. In addition, I believe it is quite urgent that President Nixon discuss this crucial issue with high Soviet officials in Moscow this May, since an omission to stress the plight of Soviet Jews would be an indirect indication that the U.S. Government does not consider this matter as being highly critical.

A letter from a prisoner serving in a Russian labor camp, similar to the situation in which many Russian Jews currently find themselves, has recently come to my attention. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LETTER FROM MORDOVIA—TRANSLATED FROM THE RUSSIAN

I arrived at Mordovia a couple of years ago and here I am in one of the dozens of Mordovia Labor Camps. I remember well the road from Potma to the place of incarceration. In every direction there were deep woods but on both sides of the road, all around appeared fences of the camps. It appears that life in these regions occurs only in the immediate neighborhood of the camp. It is possible to see groups of people in prisoner's garb accompanied by guards with automatic weapons and dogs. Next to them club buildings, their existence incomprehensible for us, with slogans atop the buildings, but basically what stands out are fences, fences, and more fences. There are many camps in Mordovia. The prisoners refer to them simply as zones. What are they? Usually, it is an area surrounded by a fence—2 or 3 meters in height—a completely blind fence without a single opening. Above it is stretched barbed wire and observation towers are above from which constant surveillance takes place.

We are isolated from the outside world, awesome, by means of a forbidden zone into which the prisoners are not allowed to enter. It is a plowed area of earth fenced by another row of barbed wire. One finds there an armed detachment which comprises the heavily armed guard. Soldiers observe their shifts in the elevated towers from which automatic orders can be broadcast when any prisoner approaches the forbidden zone.

The zone consists of living quarters and working quarters. We live in barracks which are one to two stories in height. Inside they are divided into areas of 4–12 persons. Different camps have different arrangements. We sleep on bunks arranged in two levels and at nighttime the light is not turned off, so that we can be watched 24 hours, even while sleeping. This was difficult to get used to.

All prisoners wear the same clothes, summertime, cotton pants and shirts, and for winter we have a thin padded jacket and a hat—all of dark colors, and frequently they have been previously worn by other prisoners. Most of our possessions are taken away from us upon arrival, and are not returned until our term of sentence is completed. We are not permitted to wear woolen clothes in spite of temperature as low as 40 degrees below zero, centigrade, a frequently occurring temperature.

Here, one finds prisoners who are being punished for different offenses. One finds murderers, former Nazi criminals and so-called political prisoners. Generally speaking, it is considered that there are no political criminals in the Soviet Union. Therefore, there are no specific laws governing their detentions. Because of that persons convicted because of their ideas are qualified under Soviet jurisprudence as criminals. For example, in the year 1971, large groups of Jews were sent to Mordovia convicted in several different towns of the Soviet Union for anti-Soviet activity. I have met many of these persons and understand that their sole crime was the desire to emigrate to Israel. And, here, all of us are forced to live behind barbed wire.

The entire life in the camp is designated to hard labor. In shops where the majority of prisoners work, there are two shifts. People work one week in the first shift, in the second week, the second shift. For the first shift, we must get up at 6:00 A.M., then breakfast and at 7:30 A.M. is the summons for work. The first shift lasts from 8–4:30 P.M., with a 30 minute lunch period from noon–12:30. At 5:00 P.M. we leave work, then supper and free time until 10:00 P.M. For the second shift, which has in my opinion, more strenuous work. However, the necessity for rearranging oneself each week is the most unpleasant part. Here is a schedule for the second shift: 8:00 A.M. one gets up, breakfast, and at noon—dinner. At 4:00 P.M. we arrive for work from 4:30 P.M.–12:30 A.M. We work until 30 minutes after midnight, supper from 7:00–7:30 P.M. We leave work at 1:15 A.M. We are permitted to sleep at 1:30 A.M. We only have six hours to sleep—from 1:30 A.M.–8:00 A.M. It is taken for granted that almost everyone working the second shift sleeps from dinner until awakening (thus, the supposed four hours of free time cannot be used.) Thus, at 7:30 A.M. we go to work!

In general it is considered that work is the basis for re-education of criminals and therefore it is assigned the most important and special role in the life of the camp: both the encouragement and punishment of the prisoner is determined by his attitude toward work. Moreover, work is the only source of existence because from the money earned, with permission of the overseers, the prisoner may utilize up to five rubles per month for purchase of products from the commissary.

The prisoners are utilized in the Mordovian Complex for many types of common labor, completely unrelated to their educational and professional backgrounds. The "political" prisoners are used as a rule for the most strenuous and dangerous (healthwise) areas. I have seen that very clearly in the example of convicted Jews, many of whom have received higher education, and prior to arrest held government positions.

Zenkovka factory work, to which many are assigned, is the most difficult. One finds there a science associate, Vladimer Mogilever, a military engineer, Wulf Zalmanson, his brother Israel—student of the Polytechnical Institute of Riga, Asher Frolov—student of the Polytechnical Institute of Ryazan, and Shimon Levitt.

What is Zenkovka? One places into a drill press a zenker (reaming tool). It looks like a drill but it has a blunt end. It is not used for drilling, but for widening an opening. One takes an axle, places it into a vise and then turns a valve. Compressed air moves the vice so that the axle is positioned exactly under the reamer. Then it is necessary to move the wheel of the press so that the reamer is lowered into the opening, and widens it. After the opening is traversed, the wheel is rotated in an opposite direction, and the reamer is raised. Then the vice is opened by turning a valve. Without stopping the rotation of the reamer, it is necessary to remove the work piece and install a new one. Then the entire process is repeated. During a shift 1200 of these pieces must be processed. The most dangerous part is to remove the finished piece and install a new one. Switching off the press in this technology was not anticipated, which is a serious infraction of technical safety, completely inadmissible in freedom. The rotating reamer may easily injure the prisoner's hand. Such injuries are fairly common. In addition to the fact that the reamer may injure the hand; sharp, hot chips fly from under the reamer. To work in gloves is forbidden (it is even forbidden by the rules of technical safety) because if a hand in a glove would be caught under the reamer, then the glove would begin to wind on the reamer with meritable consequences—(one getting pulled into the reamer).

In addition to the above description, one should add the splashes of emulsion which attack the skin, fumes and horrible noise. The noise is not only from one's particular press, but there is a horrible noise emanating from the workshop itself. Shimon Levitt has small cuts all over his hands—a sight hideous to the eyes, but recently he seriously wounded his hand. But, this will heal. Wulf Zalmanson, without explanation was transferred here from the technical division where he was involved in engineering work—the only one of the Jewish prisoners; Israel Zalmanson was transferred from the Division of the Chief Mechanic, ostensibly for his poor work, although he completed all of his assignments. No one is able to fulfill the work norms, although Levitt is almost able to reach the quotas. The quota load is tremendous and if one does not fulfill it, one is punished.

The work is even worse. In so-called "emergency brigades" where David Chernoglas, a former engineer, is working. All of us fear assignment to this particular area. The reason being that basically it consists of loading and unloading railroad cars. The work is very difficult and dangerous. Moreover, one may be awakened at any time during the day or night, one does not know ahead of time. Even on a Sunday, one works.

At first glance, sewing of mittens in the camp shop appears to be fairly light work. Canvas mittens sewn in Mordovia are worn by workers far from Mordovia. Such shops exist in almost all of the zones. Women confined for political reasons—14 of them, among which is the sister of Israel and Wulf Zalmanson-Sylva. These women are occupied almost exclusively with this work, but even for them, the work is tiring. What can one say about the men: Aryeh Knock, Yosef Mendelevitch, Yuri Fedorov, Alexis Murjenko . . . excessive demands must be fulfilled in dimly lit buildings using machines which continuously break down. Besides which the completion of the quota is required under all circumstances, if one is to escape punishment. Sylva Zalmanson during work suffers from constant backache and dizzy spells related to constant eye strain. Because of acute eye strain, Yuri Fedorov was transferred from sewing mittens to turning them inside out—work which is less conducive to strain and acute conjunctivitis in the eyes. In general, he is fortunate because the quota for sewing can be met by few, even healthy persons are unable to meet the quota and all suffer consequences.

I myself work in construction. As do Tolya Altman, Michael Shepsholovitch, Boris Penson, Ahron Shpilberg. To begin, they were merely assisting pushing wheelbarrows with sand and moving different heavy objects. It was especially difficult for Candidate of Physical Mathematical Sciences: Lev Korenblitt, a man of weak health, who has spent all of his life in scientific laboratories and who simply did not have the strength for this type of hard work. Moreover, during transportation to the camp, Lev was so weakened that during the first week, he was unable to get up, not mentioning the fact that he was still driven to work in such condition and expected to meet his quotas.

The situation is also aggravated by the fact that it is almost impossible to endure the Mordovsky frost in the "so-called" special camp clothing. In our lives, various changes occur frequently, at any time one may expect a transfer to even more difficult and strenuous work. This took place with Tolya Altman and Misha Shepsholovitch who work together on a concrete mixer in penetrating winds. And then, one may be sent to work on the press, as happened to the husband of Sylva—Edward Kuznetsov. This work is known as being quite hazardous to prisoners because of virtual absence of fundamental norms of technological safety. In the camp, the press does not have any safety—grill and work pieces have to be replaced without stopping the machine. In freedom, one wouldn't encounter this situation anywhere, but in the camp it is permitted. The workers here are state criminals. The variety of labor in the camps is united by one single general quality, namely, unreasonably high work quotas, requiring not only experience but also unusual physical strength and this is possible only with adequate diet. It is difficult for a newcomer to adjust to camp food.

For breakfast: "soup." For those fulfilling the work quota, additional nutrition is available—cereal with vegetable fats and sugar. Since I do not receive this cereal I do not go to the eating hall in the morning at all. For dinner one is given cabbage soup and gruel (either peas or ragu—hardly edible). For supper a small piece of fried fish and again gruel. Presently because of the incidents of an epidemic of influenza, they started to occasionally give one onion to each prisoner. Some onions are also sold in the labor camp commissary, but there were not enough to go around. In general, no fruit or fresh vegetables are even given or sold. It is interesting to note that in our letters mentioning that we are fed "not badly"—this phrase is usually stricken out and the letters are returned by the censor. In addition to the established camp ration, under the conditions of meeting the work quota and "good behavior", prisoners have the right to buy products in the commissary to the extent of a miserly sum of up to five rubles per month. The assortment of products offered in the commissary is quite meager: margarine, cheese that looks like salami, canned fish of poor quality, candy—hard candy and caramels, gray bread (poor quality white bread), tobacco, fruit jam and also such necessary items as toothpowder, envelopes and stamps. The above assortment has been established officially and has not changed in the course of several decades.

Food in the hospital is substantially better in the camp according to so-called form 6B. Basic difference: white or rather gray bread, compote or pudding (thickened with potato starch, not gelatin), milk (250 grams per week), one piece of meat (50 grams per day) for dinner as the main course, truth (?) to fill in the fourth category. To enter the hospital for treatment and food is the ambition for every prisoner. This is, of course, difficult.

The camp hospital has approximately 120 beds, while the total number of prisoners in the strict and special regime camps serves a population of 1500. The hospital has almost no specialist if one does not count the three therapists, one surgeon and one dental technician, and all of them have just finished medical training and lack experience. The doctors work from 10 A.M.–5:00 P.M. In evening and night hours, during holidays and relief days, service is not rendered at all since there is no doctor on duty. Instead of a doctor and in place of a nurse and sanitary worker, there is a person—so-called paramedic, who has no medical training. For example, in the hospital of the Seventh barrack, the paramedic is a former tractor driver. It is interesting that even in the hospital, inspite of the fact that work is not forced, differences in regime are preserved: for those in the strict regime are in wards, and the specials are usually kept in solitary rooms. In cases of surgical intervention, the sick person is brought on a stretcher directly from the zone by prisoners and afterwards, following the operation, the patient is carried back to the zone.

The supply of drugs in the medical division is very meager and most of the medicines are kept for a long time beyond the limit of their utility. It is forbidden to receive drugs from relatives. Altman's wife was refused permission to pass on Vakalin to her husband which he needed for stopping cruel pains in his stomach. Federov's wife was forced to leave Sinalar which she brought for her husband Yuri in the guard room. Eventually, the drug was transmitted to the hospital and Yuri has made occasional use of it for curing eczema, which has developed in the camp.

Vladik Mogilever, who is not able to cope with heavy physical labor (I have already spoken of work in the reaming shop) because of acute nearsightedness, has been transferred to work that has no quotas—into a brigade for producing wooden logs. So he is sawing wood quietly in fresh air. It was possible for him to gain admission into the hospital and obtain from them an appropriate note—which explains the beautiful changes that have taken place for him. For many others, to be admitted to the hospital is like reaching the cup of the holy grail. Edik Kuznetsov has been suffering with hellish pains in his stomach, suggesting stomach ulcers. He was completely downed by sharp pain following heavy labor and with endless nausea. However, no one believed him and he was driven to work, he was stuffed with some kind of tablet used for dysentery without establishing the diagnosis! There was no mention even of special nutrition, although Edik doesn't even consume one tenth the camp ration.

To attain a diagnosis is a very complex business, which frequently requires several months. Appeals to the camp administration usually bring no results, and despairing prisoners undertake hunger strikes as a protest, which lasts many days and further undermines their health. One pays a high price for any medical service in camp! Only after a week long hunger strike, Edik Kuznetsov was finally placed into the hospital. As a result of a primitive investigation, the doctor diagnosed gastritis, in spite of obvious symptoms of stomach ulcer. Surprised, Edik requested an x-ray examination, but was "promised" it in a month. No measures were taken except that he was given some tablet to counteract nausea, and now Kuznetsov finds himself back in the zone in the same condition he was before.

His wife, Sylva Zalmanson, is developing a stomach ailment with similar symptoms—sharp pain and nausea. Moreover, her hearing has deteriorated. Sylva needs very badly a thorough medical examination which under the conditions existing in Mordovia is practically impossible to obtain.

Anatoly Altman came into the zone with an ulcer of the duodenum which was diagnosed while he was still free. He began to experience pains almost from the start and was one of the first Jews to gain admission to the hospital. He left the hospital, however, with a diagnosis of gastritis which does not anticipate special nutrition.

Shimon Levitt is suffering with inflammation of frontal sinuses. In the course of a long period of time, in view of absence of a specialist, the only medication he received was headache pills. After a sharp deterioration of his condition, he was relieved of work. He had a high temperature, but due to the fact that the prisoners are convoyed only to the hospital on Fridays, even though he was in the same zone as the hospital, all treatment was postponed by almost a week. From the hospital, he was released with the temperature, which even now occurs every evening.

Solomon Dreizner experienced for two months severe tooth discomfort and was unable to get an appointment with the doctor. After he was notified that his mother died, he developed an inflammation of the tertiary nerve, this causing him unbearable pain. The head of the medical division, a woman, declined to render him emergency medical treatment, threatening him with punitive isolation. He was forced to go to work in his sick condition. Since he was unable to work he was deprived of a scheduled visit. Solomon wrote several complaints to different departments complaining about lack of medical treatment and his unreasonable punishment. Being led to extreme mental anguish, he has declared a hunger strike for six days. Prison officials have told him to visit a special department in prison and told him he is a troublemaker and is having a bad effect on other prisoners. They have threatened punitive measures.

Jacob Michaelovitch Suslensky suffered from heart trouble on Sunday December 5, 1971. I, myself, was not a witness to his severe pain. Naturally, in the morning he went to the medical division of the prison. He was required to work on the second shift. He requested medication and relief from work at least for one day. Monday the chief of the medical department, a paramedic Egenova, told him "You should spend less time studying the Jewish language". However, she did not release him of his work. When I saw him I was surprised and even more surprised while hearing his account. Mogilever went after work with the sole purpose of checking out what had happened. The reality has exceeded all expectations. The chief paramedic very quietly repeated all she had told Yacov while Vladik showed a certain amount of confusion. He has reminded the paramedic Egenova about Statute 123, Constitution of the Soviet Socialist Republic, which declares the racial and national equality under law and also statute 74 of the Ukranian Union of the Federal Republic of the U.S.S.R., which punishes those who violate equality under the law. On the question "And where did you learn that—Suslensky is studying the Hebrew language?" The chief innocently replied "Don't you think that the Section G Internal Order has informed us of this?" What is truth is truth. The Section of Internal Order not only informed us, it makes the final decision whether a man for example, would be directed to medical treatment. Let us say that Yasha already twice has been stricken from the list. He has complained about the poor medical attention to the prosecuting attorney overseeing the Soviet Socialist Republic.

One can easily imagine how such medical service is reflected upon the health of the people, if in order to be medically treated, it is necessary to secure from the devil a statement about good behavior—without any verbal dependence of all rules and regulations of the labor camp. A slight deviation is followed by punishment. The variety of the different punishments in the labor camp is without end. For example, the removal of the right to receive mail and an increase in the duration of confinement (sentence). Prevention of receiving of the packages are some examples of punishments. By the way, this is the single source of additional food for the inmate, because to receive packages, those in the labor camp are not permitted, only after they have served half of their sentence, irrespective of their length of confinement. Only one package up to five kilograms in one year and even then provided that your rights have not been rescinded. In a package up to one kilogram in weight, which an---- received twice a year from the beginning of confinement, one may receive only dry goods and according to the instructions of the camp, these products must involve cracknel (a ring-shaped piece of dried mutton) and biscuits. Every other kind of food is forbidden. Imprisoned Jews that have been sent packages of bouillon cubes. However, even this was eventually forbidden. The excuse having been made that while they are dry goods, they are of meat extract, however, and meat is forbidden. Chocolate is also forbidden because "it is a substance that leads to 'excitement'". However, even the lack of this very insignificant addition to the products, makes it more difficult to endure the life in the camp.

Even more severe punishment is the removal of visitation rights. For those who are in the camp, the receipt of letters and visits is important as a symbol of human ties. It is understoood that the day of the meeting is yearned for with a great deal of excitement which is anxiously anticipated with preparation for several days as if it were possible to live again with one's visiting family, even though the actual duration of the visit is four hours under the watchful eyes of the supervisors. During the personal visit, one is not required to work according to the desire of the person in charge of the labor camp. However, I have not witnessed even once that a Jewish inmate would have been given visitation without requiring an entire working day. In 1971, this was done in the cases of Ahron Shpilberg, David Chernoglos, Victor Bogislovski, Lasal Kaminsky, Yuri Fedorov, Anatoly Altman, and in general all of the imprisoned Jews. The reduction even with the very brief time for visitation cannot be understood. It is a senseless cruelty if one would consider that the relative may have to travel 1000 miles in order to meet this forthcoming difficult blow and others for which they are really not prepared. The supervisors of the visits treat the relatives very harshly and with a deep hatred and this all is allowed to continue without reprisals for these prison officials. In spite of this, none of the relatives enter a complaint, fearing that the duration of visitation will be shortened. Any complaints to the overseer of the labor camp leads to no result. The women's supervisor Mache and Nadi feel they are in complete authority, even more so. Contrary to law is the personal search which relatives are subjected to prior to visitation, which of course are not sanctioned by any prison regulations.

However, it is impossible to say anything, otherwise visitation may be completely forbidden. This is what happened to the wives of Chernoglos, Kaminsky, and the relative Kuznetsov. It involved actual body contact and turning the pockets inside out, emptying of the pocketbooks. These searches are carried out for the purpose of finding forbidden objects: guns, alcoholic beverages, narcotics, poisons, cigarettes, items of consumption, letters and postcards from Israel, criminal objects from the standpoint of the supervisor. These items are removed from the search. That is about all that one could find on the relatives of confined Jews. However, the degrading process of search is repeated time and again. Frequently the visitation is forbidden, the reason given—the work quota had not been fulfilled. Israel Zalmanson has been forbidden his forthcoming visitation. At first officials gave a warning. However, he had fulfilled his normal 80% and they punished him. The same thing happened to Aleca Murjinko. He had not fulfilled his quota for two days and has been denied visitors for all 1972. Aleca declared a 27 day hunger strike. Fedorov and Kuznetsov acted in solidarity with him in a 14 day hunger strike. Aleca is now near death and has ceased his hunger strike only when the prosecuting attorney promised to change the punishment to something else. Edward Kuznetsov is denied all visitors because he does not have any close relatives. His mother is bedridden and his wife Sylva Zalmanson is not permitted to visit her husband in the camp compound. Why wouldn't they change a personal visitation when he has no relatives, so that he could be visited by friends at least twice per year. However, this has been forbidden. It seems that Edward could have had personal visitation with Sylva who is located a few kilometers from him. However, this has been completely forbidden. At this time the prison officials require the examination of the original marriage certificate, while in spite of the fact, in all official documents Sylva and Edward are entered as husband and wife. This difficulity has existed for at least one year, husband and wife denied visitation.

All of the correspondence of the Jewish prisoners is subject to very strict censorship, with the exception of the doctor. The rest of the prison officials are censors. The inmates are forbidden to describe the life in the camp—the daily schedule and the quality of food. The correspondence should be strictly personal, otherwise the letters simply are not transmitted to the people they are addressed to or they receive them with many parts of the letter stricken out. This is especially sad because political inmates are not able to receive correspondence from their close relatives whose content could not be contested. This is done for the purpose of suppressing the spirit of the inmates and is done to make them feel that since no one writes to them, they are completely forgotten. Now it is known that the letters of the wife of David Chernoglos are destroyed before they are delivered. Fedoroy and Kuznetsov have not received letters from their relatives during the past two months, while they are being continuously written. On the other side, the letters from the camp do not reach destination to their relatives while the administration usually indicates they are not responsible for the loss. The wife of Murjenko has not received any news from her husband in three months and this is especially strange because the post, under normal conditions works quite efficiently. It was maliciously declared to Boris Penson's mother that the supervisor suggested to her son that he write regularly so that his mother would not worry. When he did write regularly, however, the letters were lost as in many cases.

The educational work within the labor camp compound was well funded which is incomprehensible. Why should education in the spirit of Soviet morality be given to Jews who forever wish to leave the Soviet Socialist Republic and live under different conditions. Once a week political classes take place to which attendance is mandatory while one's absence is punishable. The leader "educator" also works for the "section of internal order." He carefully scrutinizes the attendance and activity at the time of these classes. In the process of education the work does not stop even in view of the opposing national and self determination and religiousness of the confined Jews. Another sentence, I recall now—Josef Mendelevitch and how they persecuted him to wear a skullcap which for a religious is a very necessary part of his religion. Lazal Fachterberg was forbidden the reading of an annual prayer to his deceased mother, the Kaddish, because they have forbidden his receiving from home a Siddur or Bible in order to intercept the possibility of religious agitation in the confines of the Labor Camp which is a heinous crime under the condition of everyday atheist propaganda.

In the educational objectives for the inmates, it is forbidden to receive books from friends and relatives even through the special "book by mail" organization. The orders on literature frequently are left on the table of the censor, while this is difficult to explain why the books published in the Soviet Union are forbidden to the inmate? In addition, one can neither receive nor order newspapers of the friendly socialistic countries.

How strange that there is a pretension to the Jews to study Hebrew. Captain Patchugan had a discussion with Mogilever on this subject. On the question of why Americans, Ukranians, Latvians, and other nationalities are permitted to study their native tongue, the chief of operations replied: "They belong to their own nationality where as you do not," and "furthermore you Russian Jews must speak only in Russian." During the conversation, Captain Pitchugan has expressed in angry and offensive terms about the Hebrew language and writing and offended the human and national aspirations of Vladimir Mogilever.

The offensive incident with the illness of Jacob Suslensky, due to his study of the Hebrew language, was refused entrance to the hospital. I have already described. For what and due to whom is all this necessary? The prisoners of other nationalities do not have to endure these painful aforementioned experiences. The desire to learn one's language and literature, Major Sorokin from Camp 19 has claimed is Zionism, which, under the conditions of the anti-Zionistic campaigns, one can evaluate as a direct threat while it seemed that the Jews are ready to carry through and not be denied their goals.

FINANCIAL STATEMENT OF SENATOR AND MRS. CASE FOR 1971

Mr. CASE. Mr. President, I ask unanimous consent to have printed in the RECORD the combined statement of Mrs. Case and myself of our assets and liabilities at the end of 1971 and our income for that year.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Financial statement of Senator and Mrs. Case, Mar. 30, 1972

ASSETS

Cash in checking and savings accounts (after provision for Federal income tax for '71), approximately	$60,000
Life insurance policies with the following insurers (currently providing for death benefits totaling $138,500):	
U.S. Group Life Insurance.	
Aetna Life Insurance Co.	
Connecticut General Life Insurance Co.	
Connecticut Mutual Life Insurance Co.	
Travelers Insurance Co.	
Continental Assurance Co.	
Equitable Life Assurance Soc.	
Provident Mutual Life Insurance Co. of Philadelphia.	
Cash surrender value	$49,556
Retirement contract with Federal employees retirement system (providing for single life annuity effective Jan. 3, 1973, of $28,236 per annum.) Senator Case's own contribution to the Fund total, without interest	41,072
Annuity contracts with Teachers Insurance and Annuity Association and College Retirement Equities Fund. As at Dec. 31, 1971 these contracts (estimated to provide a life annuity effective January, 1973 of $1,541.) had an accumulation value of	14,364
Securities as listed in schedule A	436,961
Real estate: consisting of residence building lot on Elm Avenue, Rahway, N.J., and house in Washington, D.C. (original cost plus capital expenditures)	72,200
Tangible personal property in Rahway and Washington, estimated	15,000

LIABILITIES

None.

INCOME IN 1971

Senate salary and allowances, $42,732, less estimated expenses allowable as income tax deductions of $5,634 (actual expenses considerably exceed this figure)	37,098
Dividends and interest on above securities and accounts	18,789
Lectures and speaking engagements:	
CPC International Plaza Club	1,000

SCHEDULE A.—SECURITIES

Bond and debentures of the following, at cost (aggregate market value somewhat lower):

	Principal amount
American Telephone & Telegraph Co.	$12,000
Cincinnati Gas & Electric Co.	4,000
Consolidated Edison Co. of N.Y.	5,000
Consumers Power Co	5,000
General Motors Acceptance Corp	5,000
Iowa Electric & Power Co	5,000
Mountain States Tel. & Tel. Co	5,000
South Western Bell Telephone Co	5,000
Toledo Electric Co	5,000
Total	51,205

Stocks (Common, unless otherwise noted) at market	385,756

	No. of shares
American Electric Power Co	919
American Natural Gas Co	548
American Tel. & Tel. Co	200
A.T. & T. Warrants	20
Cities Service Co	144
Combined Insurance	42
Consolidated Edison Co. of N.Y., $5 pfd	50
Continental Can	38
Detroit Edison Co	100
DuPont	40
General Electric Co	240
General Motors Corp	270
Gulf Oil	140
Household Finance Corp. $4.40 Cum. Conv. pfd	100
International Business Machine Corp	128
Investors Mutual, Inc	2,686
Kenilworth State Bank	25

Litton Industries	91
Madison Gas & Electric Co	275
Marine Midland Corp	563
Merck & Company, Inc	200
Mid-Continent Telephone	80
Morgan, J	22
National Community Bank, Rutherford	600
Owens-Illinois	80
Reynolds Industries	100
Tri-Continental Corp	1,522
Union Carbide	48
Union County (N.J.) Trust Co	1,157
Warner-Lambert Pharmaceutical Co	260

WYOMING STUDENTS ACUPUNCTURED

Mr. HANSEN. Mr. President, much has been printed in the United States concerning the Chinese practice of acupuncture, especially since President Nixon took certain initiatives and was able recently to breach the Bamboo Curtain of the People's Republic of China.

I was interested to learn from an article written by Alice Moeller, a staff writer for the Branding Iron, at Laramie, that this method of pain relief is in use by Dr. Victor Henry in the treatment of some students at the University of Wyoming.

Mr. President, in view of the recent progress made in U.S. relations with China, I believe that the article and Dr. Henry's comments are of interest. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OLD CHINESE ART: MEDIC PRACTICING ACUPUNCTURE

(By Alice Moeller)

The Chinese have been practicing the medical art of acupuncture for thousands of years. Although it is a known method in Europe, it is fairly unfamiliar in the U.S. Dr. Victor Henry, health service, is beginning to use this method to treat students.

"The method is based on placing small needles under the skin to stimulate nerve endings," he said. "It is not a method of curing all ills but it can relieve pain."

The method is safe only for those who know anatomy and where these nerve endings can be located around the body.

"Acupuncture is safe because you're not injecting anything into the body or damaging tissue," Dr. Henry said. "The nerve endings lie about one-eighth of an inch below the skin which means we don't bother muscles in the process."

He has treated four patients so far. One was a failure "which I expected even before I began the treatment but the patient wanted to try," he said.

This is a good record considering he has been using the treatment for one week.

He would not use the treatment where tissue changes have taken place such as with cancer or epilepsy. But it has been used to relieve the pain in arthritic joints. It has been thought that by stimulating points of the liver, infectious mononucleosis can be short lived.

"To me the uses of acupuncture are an advantage when used together with other forms of medicine," he said. "Antibiotics and surgery are also necessary to modern medicine, although in China acupuncture is a complete medical system."

In China the treatment is used as a substitute for anesthetics but this has not completely been understood by Western doctors. With the increased exchange with China, Dr. Henry said, this too should become more well-known and accepted.

"The reasons for acupuncture not being more widespread in the U.S.," he said, "is that we have been shut out of China since World War II and the whole method runs counter to the anatomy and physiology of the West. This is rather hypocritical because doctors prescribe aspirin and not that much is known about how it works."

One of Dr. Henry's patients had a sprained ankle. The needles were placed on nerve endings both above and below the sprain to relieve pain. This could also be used for a broken leg to relieve pain after the leg is set.

A more miraculous example was in a New York clinic where a doctor was unable to lift his arm above shoulder level. He had been receiving treatment for one year with no results until he had one treatment of acupuncture. Afterwards he was able to touch his head.

Dr. Henry is the only doctor in Laramie to use acupuncture treatments. He just recently returned from a week of work in New York on perfecting his treatment. He says that the needles are so fine that they cannot show up in a photograph.

NONRETURNABLE STEEL DRUM USE SHOULD BE DISCOURAGED

Mr. RANDOLPH. Mr. President, litter on our streets and highways, and in our parks and recreation areas, in our countryside, is of national concern. In response, several States have passed legislation concerning this public-arousing problem, legislation directed at beverage containers—beer and soft drink containers, bottles, and cans.

The concept of "throwaway"—"use and discard"—has now been extended to 55-gallon steel drums. In effect, the steel drum manufacturing industry has created a 55-gallon beer can and the cost of disposal has been transferred from the private or industrial waste disposal cycle to potentially public, solid waste disposal systems.

Since its formation in 1963, the Subcommittee on Air and Water Pollution has received extensive testimony and considerable information concerning the potential environmental problems associated with solid waste disposal. The culmination of this effort was the enactment of the Resource Recovery Act of 1970. I had the responsibility to chair the Senate-House conference on this needed legislation.

During these hearings, a great deal of emphasis was placed on the recycling of containers and, especially, the land pollution and esthetic problems caused by the increased use of throwaway beer cans and soft drink bottles. Another major area of discussion was the problem of abandoned automobile hulks, which are not only a menace to the beauty of our countrysides, but also are a waste of natural resources.

The concept of reuse received little emphasis during those hearings; most of the expert witnesses presented testimony on how recycling could be employed to accomplish major gains in the fight against pollution. Yet the concept of reuse, whether encouraged by public policy through the establishment of disincentives, as proposed by Senators NELSON and JAVITS, or by production controls, was not fully explored. The idea of disincentives, as was pointed out at that time, would naturally require action by the Senate Finance Committee. That does not, however, preclude a proper discussion of disincentives before the proper environmental committees of the Congress so that they can acquire the background they need to carry out their responsibilities.

During the next 2 years, the Public Works Committee will initiate hearings that will shape future public policy regarding the reuse and recovery of resources. It is my purpose at this time to call attention to the fact that a complete review and analysis will be made in these hearings of the potential for reuse of products and containers as a means for conserving our disappearing natural resources, as well as a means for effective environmental quality management.

One facet of the reuse concept was alluded to in my prefacing remarks. In 1970 the committee received a letter from the National Barrel and Drum Association—NBADA—a trade association with over 150 members who operate plants that clean 55-gallon steel drums so that they may be reused over and over again—volume IV, beginning at page 2125. In its letter, the association commented that it is, after all, "a service industry; it does not manufacture new drums, it has no voice in the policymaking of those who do. It exists only to receive the used drum and to prepare it for reuse."

The drum reconditioning industry had its real growth during a period of national awareness of the dangers of destroying our natural resources. During World War II, and the Korean war, the War Production Board and the National Production Authority issued rules that made it impossible to buy new drums unless the user had made every effort to use already manufactured drums until their useful life had been exhausted. Only then could he buy new drums.

Now, we have come full cycle. The new steel drum manufacturing industry has moved into the production of nonreturnable steel drums that have limited reuse capability. I must question the implication of this practice for resource conservation and, even more specifically, its consistency with the aims and objectives of the public policy enunciated in the Resource Recovery Act of 1970.

In the New York Times, on January 2, 1971, there was a story from Anchorage, Alaska, that started out as follows:

> In Alaska the main litter problem is not empty beer cans but discarded oil drums. At Barrow on the Arctic coast, about 48,000 of the metal barrels are scattered about the tundra. In the winter, these barrels are frozen into the soil or ponds and covered with snow. In the summer, the tundra thaws to a soggy consistency that makes it impractical to use vehicles to remove the barrels.

In the Time magazine for October 25, 1971, there was a picture of littered oil drums on the Aleutian Island of Amchitka. The article talks of an "oil drum culture" and notes that over a million such drums are scattered along Alaska's north coast.

This is the "environmental decade" and the drum reconditioner satisfies an important environmental function. When drums are left to rot, they contain residue of acid, paint, or chemical, which ultimately are released into the environment. The drum reconditioner performs the first step in abating this potential environmental problem when he cleans the residue out of used drums. At that time, he collects the residue and sludge deposits in the drum and disposes of it in accordance with developing environmental practices.

The traditional standard 18-gage steel drum can be reused over and over again for as many as 10 or 15 times. A lighter weight, 20/18-gage drum can usually be reconditioned two or three times. However, a lighter-weight, new-type drum, known as 24-gage or Monostress, has now been put on the market as an intended "throwaway" or a "single use" drum. After one use, it has no further functional value. If society is lucky, these drums will end up in a scrap yard where they can be recycled, but even then the disposal cost must be borne by the taxpayer.

At other times, however, it may very well end up as an unsightly 55-gallon blot on our Nation's countryside.

I have used the analysis of the steel drum to illustrate the need for the Subcommittee on Air and Water Pollution to take a close look at the concept of reuse, both as it relates to the conservation of our national resources and as a valuable tool for enlarging the effort to protect the world in which we live.

Prior to hearings next year, the Public Works Committee intends to review business practices which encourage single-use consumer products such as the steel drum. The committee also will provide for Federal guidelines which will serve as disincentives to such practices in order that the public interest can best be served.

Just imagine, if you can, a six-pack of 55-gallon "throwaway" cans.

HEALTH OF CHILDREN AND YOUTH

Mr. MONDALE. Mr. President, I have asked for time to speak this morning in order to bring to the attention of the Senate the little-publicized recent decision of the Committee on Finance to postpone and dilute a program that is of vital importance to the health of millions of poor children.

I refer to the requirement for "early and periodic screening, diagnosis and treatment" of health problems of children covered by medicaid. The committee action took the form of amendments to H.R. 1, the administration's proposed welfare and social security legislation.

On March 7, the committee announced that it had voted to postpone the effective date for the screening of all eligible children and youths by 2 years—from July 1, 1973 as now required by the Department of Health, Education, and Welfare, to July 1, 1975. HEW regulations specified that services for children from 0 to 6 years old be available on February 7, but gave the States until July 1, 1973, to phase in programs for dependents up to age 21.

In addition, the committee announced that under an amendment it adopted States would not be required to offer additional medical treatment for diseases discovered by the screening process. The HEW regulations specifically require the States to provide eyeglasses, hearing aids and certain kinds of dental care for children and youth regardless of whether such services were provided to other medicaid recipients.

As a result of the Finance Committee's action, children in as many as 18 States could be deprived of eyeglasses they need; in 25 States, they could go without needed hearing aids; and in 17 States, without certain dental services they require.

The decision by the Finance Committee only compounds a grievous injustice which has already been done to the estimated 11 million children from infancy to age 21 who are potentially eligible for these health services.

For the program that the committee has chosen to postpone and dilute was approved by Congress in 1967 and has only begun to go into effect in the last month or two. It took the Department of Health, Education, and Welfare nearly 4 years to develop and publish regulations to guide the States in setting up their programs.

In the meantime untold numbers of children from families who cannot afford private health care have gone without a physical exam; without dental care; without a test to determine whether they require eyeglasses or a hearing aid, without a test for anemia or diabetes or malnutrition. We can never know how many children have suffered and may suffer for the rest of their lives because these opportunities were not available to them.

We can guess the effects from the report of screening done in Mississippi, one State which went ahead and implemented its own program despite the delay of HEW in promulgating regulations. In Mississippi, examination of 1,178 youngsters revealed 1,301 "medical abnormalities." These included 305 cases of multiple cavities, 241 cases of anemia, 97 cases of faulty vision, 217 cases of enlarged tonsils, and significant numbers of cases of hernia, intestinal parasites, and poor hearing.

For years the Department of Health, Education, and Welfare dragged its feet in implementing this program. Finally, in November of last year, the Department issued regulations directing States to initiate their programs by February 7, 1972. I ask unanimous consent to have printed at this point in the Record the correspondence which I have had with Secretary Elliot Richardson concerning the implementation of the program.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

February 18, 1972.

Hon. Elliot L. Richardson,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

Dear Mr. Secretary: I have a strong interest in the progress of the early screening and diagnosis program for children under Medicaid.

I would appreciate it if your office would provide me with answers to the following questions about the program by the close of office hours on March 1.

1. How many states actually had programs operating on February 7, the deadline for implementation? Which ones did not?

2. How many states have made submissions (preprints, manual information, etc.) describing their programs and indicating their compliance with the HEW regulations? Which ones have not? What is being done by HEW to assure that this information is submitted?

3. How many states and which states have chosen the option of providing services for children only to age 6 immediately and working toward providing them for persons to age 21 by July 1, 1973? Please indicate the stages in which each State that has postponed service for 21 year olds will work toward the deadline.

4. How many States have been ruled in compliance with the regulations? Which ones have not? Why? Please list by State.

5. According to the information you have received, which States are not providing any of the services listed under Point 4 of the "Requirements" in the Medical Assistance Manual guidelines ("medical history . . . assessments of immunization status and updating immunization")? What is being done to institute these screening services in States that do not have them?

6. Under Point 4 as described above, are States required to test for sickle cell anemia? Lead paint poisoning? Diabetes?

7. How often must a child be examined under HEW's definition of "periodic"?

8. Would you please submit drafts or final versions of the "comprehensive guidelines" that are scheduled to replace the "interim guidelines"?

9. What efforts are being made by the States to assure that all eligible children are receiving the benefit of this program? Please list by State?

10. What arrangements have the States made to assure that when a health problem is identified the child receives the proper treatment? Please list by State.

11. What requirements has HEW adopted to discover how many poor children are now receiving early screening and diagnosis services in each State, and how many will receive them in the future years? Please submit available statistics.

Thank you for your cooperation.

Sincerely,

Walter F. Mondale.

Secretary of Health, Education,
and Welfare,
Washington, D.C., March 23, 1972.

Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: Thank you for your letter of February 18 inquiring about progress in the early screening and diagnosis program for children and under Medicaid.

Enclosed (Attachment A) is a copy of a summary of data from a survey which was conducted through Regional Offices of the Medical Services Administration shortly after the effective date of the early screening regulation. Based on this source and other information obtained by MSA, I will respond to your questions in the order they are presented.

1. We know that Kansas, Maryland, Mississippi, Tennessee and Virginia had operating programs on February 7. Alabama, Connecticut, Nebraska and Oklahoma had claimed earlier that they had programs. We are actively engaged in following up with each State to ascertain the status of their program and assist them in getting underway.

2. As of February 7, 1972, 15 States had submitted plan amendments indicating their compliance with the regulations, 34 had not, and on three we had no information. Our Regional Offices are following up with the States to see that the necessary plan amendments are submitted.

3. Regarding coverage by age group, our in-

formation relates to States' intentions, not their actual plans (except for the 15 States that had submitted plan amendments and Mississippi, Tennessee, and Virginia). As of February 7, 20 States intended to include all ages up to 21, 6 States would cover ages up to six, one State would cover up to 12, and information was uncertain on 15 States.

4. No States have been ruled out of compliance with the regulations. Under the procedure established by the Social and Rehabilitation Service (which administers the Medicaid program through the Medical Services Administration), the SRS Regional Commissioners submit a quarterly report on States' compliance with SRS regulations. The next such report will reflect status of State programs as of March 31, 1972.

5. We do not have information regarding which States are not providing any of the services listed under Point 4 of 'Requirements" in MSA's interim guidelines. We will be obtaining this information through our Regional Offices in the process of preparing the March 31 compliance report. We will also get information on what steps States are taking to initiate various screening services.

6. Point 4 does not require States to test for sickle cell anemia, lead-based point poisoning, and diabetes. The proposed content of the screening program is under close study in connection with the development of the final guidelines which will be issued to the States.

7. We will interpret the meaning of "periodic" in the comprehensive guidelines. Our present view is that periodicity will vary with respect to the condition being screened. For example, screening for sickle cell anemia needs to be done only once, and screening for lead-based paint poisoning should be done between one and six years of age, but does not need to be done thereafter.

8. We will be pleased to submit drafts of the "comprehensive guidelines" as soon as they are ready. We hope this will be within the next month.

9. Again, we do not have an inventory of States' efforts to assure that all eligible children are receiving the benefit of the program. This is another item which our Regional Offices will canvass for the March 31 compliance report. We can report, however, that in one or more States eligibility workers inform families of the screening program when their eligibility is established; letters are sent to current AFDC families informing them of the programs; and State and local agencies are developing outreach programs with staff of Head Start, Maternal and Child Health Services, and other community agencies.

10. We do not know what arrangements States have made to assure that children will receive proper treatment for identified health problems. Our final guidelines will suggest various measures. It must be borne in mind that under the final regulations the States are required to provide only such treatment as falls within the amount, duration, and scope of services set forth in the State's Medicaid plan, plus treatment for visual, hearing, and dental care if those items are not included within the regular items of service covered by the plan.

11. SRS's Division of Program Statistics and Data Systems is modifying its quarterly data collection and reporting system to include specific information on numbers of children receiving early screening starting with the current quarter. Projections of future coverage will be made by MSA's Office of Program Planning and Evaluation. SRS also has authorized conduct of a research and demonstration project this year on the evaluation of early screening programs, one product of which will be the development of means of identifying and recording data on diagnosis and treatment of children screened.

I appreciate your interest in the progress of the early screening program, and I wish to assure you that we will do our best to see that it is effectively implemented by the States. In the coming weeks we will be devoting increasing attention to the preparation of the final guidelines, the provision of technical assistance to the States, and monitoring their activities in carrying out the program in full accord with the statute and regulations.

With kindest regards,

Sincerely,

ELLIOT RICHARDSON,
Secretary.

ATTACHMENT A

ANALYSIS OF STATUS OF STATES IMPLEMENTATION OF PR 40-11(C-4) AS OF FEB. 7, 1972—EARLY SCREENING, DIAGNOSIS, AND TREATMENT

	Plan amendment submitted to regional office		Form in which the amendment was submitted		Age group elected, Jan. 1, 1972	Problem areas identified as precluding proper implementation and coverage
	Yes	No	SRS preprint	Other		
Total	15	34	9	6	15—NA; 16—0 to 6; 20—0 to 21; 1—0 to 12	
Region I:						
Connecticut		×			NA	
Maine		×			NA	
Massachusetts		×			NA	
New Hampshire		×			NA	
Rhode Island		×			NA	
Vermont		×			NA	
Region II:						
New Jersey	NA	NA			NA	
New York		×			0 to 6	
Puerto Rico	NA	NA			NA	
Virgin Islands	NA	NA			NA	
Region III:						
Delaware		×			NA	State plan omits dental care.
District of Columbia		×			NA	Unknown.
Maryland		×			0 to 6	State plan omits hearing aids.
Pennsylvania		×			0 to 6	No drugs for medically indigent only.
Virginia		×			0 to 21	State plan omits dental care.
West Virginia		×			NA	State plan omits dental care.
Region IV:						
Alabama	×		×		0 to 6	
Florida		×			0 to 6	
Georgia		×			0 to 6	
Kentucky		×			0 to 6	
Mississippi		×			0 to 6	
North Carolina		×			0 to 6	
South Carolina	×			×	0 to 6	
Tennessee		×			0 to 6	
Region V:						
Illinois		×			0 to 21	
Indiana		×			0 to 21	
Michigan		×			0 to 21	
Minnesota		×			0 to 21	
Ohio	×		×		0 to 6	
Wisconsin		×			0 to 21	
Region VI:						
Arkansas	×		×		0 to 21	
Louisiana	×		×		0 to 6	
New Mexico		×			0 t† 6	
Oklahoma		×			0 to 21	
Texas		×			0 to 6	
Region VII:						
Iowa	×		×		0 to 12	
Kansas	×			×	0 to 21	
Missouri	×		×		0 to 6	
Nebraska	×			×	0 to 21	
Region VIII:						
Colorado		×			NA	State plan excludes eyeglasses, dental care.
Montana		×			0 to 21	
North Dakota	×		×		0 to 21	
South Dakota		×			NA	State plan excludes dental care.
Utah	×		×		0 to 21	
Wyoming		×			NA	State plan excludes dental care, hearing aids, eyeglasse

ATTACHMENT A—Continued

ANALYSIS OF STATUS OF STATES IMPLEMENTATION OF PR 40-11(C-4) AS OF FEB. 7, 1972—EARLY SCREENING, DIAGNOSIS, AND TREATMENT—Continued

	Plan amendment submitted to regional office		Form in which the amendment was submitted		Age group elected, Jan. 1, 1972	Problem areas identified as precluding proper implementation and coverage
	Yes	No	SRS preprint	Other		
Region IX:						
American Samoa						
Arizona						
California	×			×	0 to 21	
Guam	×			×	0 to 21	
Hawaii	×			×	0 to 21	
Nevada		×			0 to 21	
Trust Territory						
Region X:[t]						
Alaska						
Idaho		×			0 to 21	
Oregon		×			0 to 21	
Washington	×		×		0 to 21	

Mr. MONDALE. Mr. President, I think that this correspondence makes it clear that even with 4 years in which to gear up, HEW has very little idea of whether programs are actually operating in most States or of the nature of the services offered. On March 23, more than 6 weeks after the effective date, the Secretary wrote to me that only five States definitely had programs operating on February 7. Four States "had claimed earlier that they had programs," the Secretary wrote. What about the other 41 States?

Other crucial information that is lacking includes whether the States are taking steps to see that all eligible children are receiving the benefits of the program, and to insure that youngsters with health problems actually receive treatment for them.

I cite these deficiencies in the HEW effort to establish and monitor the programs as evidence that acceptance by the full Senate of the Finance Committee's amendments might kill this worthwhile and sorely needed program permanently.

It is obviously from the lack of information in the Secretary's response to my letter that the Finance Committee has made its decision without even knowing the scope of the financial burden implementation of the program has placed on the States. The American Academy of Pediatrics tells me that preventive health care for young people is the best insurance against development of chronic, expensive health problems in later years.

Further postponement and dilution of the requirements for State efforts—in the face of the incredible delays already tolerated by the Congress—can only be expected to signify an abandonment of congressional commitment to the program it authorized.

We have a hard enough time as it is passing the kind of legislation needed to assure a good life to the American children who are born in poverty. The very least we can do for them is offer the prospects of a healthy childhood and youth so that they will have a fair chance at an education and at the other opportunities that can ultimately help them break free of the poverty cycle.

When the committee version of H.R. 1 reaches the Senate floor, I intend to offer amendments to assure that the "early and periodic screening diagnosis, and treatment" program is both preserved and implemented.

I call Senators to support me in this effort.

VANDERBILT TELEVISION NEWS ARCHIVES AVAILABLE TO THE PUBLIC

Mr. HANSEN. Mr. President, Vanderbilt University has undertaken what I believe is a significantly important role as the caretaker and recorder of the television news programs of America. These programs, in my opinion, may be an important part of the visual record of the history of our times.

The Vanderbilt archives made it possible in the spring of 1971 for Members of Congress, newsmen, and commentators, and the general public to view in the Senate Office Building the news coverage by the major networks of the Laos incursion by troops of South Vietnam.

The administrative consultant to the Vanderbilt Television News Archives, Mr. Paul C. Simpson, has notified me that the programing available at Vanderbilt has been cataloged and published in a periodical called Television News Index and Abstracts.

To describe briefly the purpose of the index, I quote the following from Mr. Simpson's letter:

> We hope to publish this monthly. At this time we are distributing approximately 275 copies throughout the United States to individuals, institutions, and organizations. We believe that these index and abstracts will serve two extremely useful purposes. We believe that they will give a quick review as to what has been shown on the television network news programs. We also know that they will serve as an extremely useful guide to the Vanderbilt Television News Archives collection of videotapes which extends back to August 5 1968.

Mr. President, the Vanderbilt Television News Archives is a nonprofit enterprise of the university. It comprises a videotape collection of the evening news broadcasts of the three major television networks—ABC, CBS, and NBC. The programs are videotaped each day off the air as they are broadcast in Nashville, Tenn.

The collection is available for use at the archive, for a nominal viewing fee, and on a rental basis for use elsewhere.

Mr. President, I believe this availability is of considerable interest nationwide, and those who are interested in access to the collection should write to Mr. James P. Pilkington, Administrator, Vanderbilt Television News Archives, Joint University Libraries, Nashville, Tenn. 37203.

HOW DEFENSE DEPARTMENT BEATS THE TAXPAYER

Mr. PROXMIRE. Mr. President, on Tuesday the Chief of Naval Material Command came before the Joint Economic Committee to testify on ship claims as well as other procurement.

In the course of Admiral Kidd's testimony I asked him about the orders he had received from Admiral Zumwalt to speed up spending and get rid of appropriated money.

Mr. President, the story of this hearing is about as devastating an indictment of service waste as I have ever heard—and I have heard plenty in the 5 years I have been in the Senate.

For this reason I ask unanimous consent that the transcript of the hearings be printed in full in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

ACQUISITION OF WEAPON SYSTEMS, PART 6

(Tuesday, March 28, 1972)

The Subcommittee met, pursuant to recess, at 10:00 o'clock, a.m., in Room 1202, New Senate Office Building, Senator William Proxmire (Chairman of the Subcommittee), presiding.

Present: Senators Proxmire (presiding), and Percy.

Also present: John R. Stark, Executive Director; Richard F. Kaufman, Economist; Loughlin F. McHugh, Senior Economist; Walter B. Laessig, Minority Counsel; Leslie J. Barr, Minority Economist; and E. A. Fitzgerald, Consultant.

Chairman PROXMIRE. The Subcommittee will come to order.

The Subcommittee on Priorities and Economy in Government began studying shipbuilders; claims against the Navy and shipbuilding practices in 1969. The claims problem has grown worse since that time and some of the disturbing aspects of the shipbuilding industry have also been aggravated.

The claims problem became critical when for the first time the dollar volume of claims pending and about to be filed neared the one billion dollar mark. Never in our history had the volume of shipbuilder claims been so high.

In 1969 the Navy "settled" a claim with the Todd Shipyards Corporation for $96.5 million, representing about 90 percent of the face value of the original claim.

This Subcommittee asked the General Accounting Office to investigate the Todd settlement and GAO's findings confirmed our worst fears.

GAO reported that the claim had not been adequately substantiated and that the contractor had not been able to establish a relationship between the costs claimed and the specific actions by the Navy which the contractor alleged caused the costs to be incurred.

On the heels of the Todd fiasco, the Navy in 1969 established a civilian claims review group under the chairmanship of Gordon W. Rule. The purpose of the Rule group was to review proposed settlements of claims in cases where the settlements entered into were $5 million or higher.

The Rule group had a limited function. It could not expedite claims or settle them itself. Its primary responsibility was to see to it that the claims were well supported by the facts so that proposed settlements were reasonable and fair to the Navy.

If the group concluded that a proposed settlement could not be substantiated, it could reject it. The effect of a rejection would be to cause the claim to be sent back to the system command from whence it came for further review and negotiations.

In 1970, the Navy settled a consolidated group of five claims with the Lockheed Shipbuilding and Construction Company for $17.9 million. Because each of the individual settlements was for less than $5 million, it was not forwarded to the Rule group for review.

We asked the GAO to investigate the Lockheed settlement, and the results of that investigation were reported to us and released to the public a few days ago.

Again we find the Navy entering into a very questionable settlement. GAO found in its report that the contractor's alleged delays were either exaggerated or nonexistent in at least two important instances. Lockheed could not relate its additional costs to specific government actions and GAO concluded that "we are not in a position to express an opinion on the reasonableness of the settlement."

In 1971 the Navy entered into a tentative settlement agreement with another shipbuilder, Avondale Shipyards, Incorporated, on one of the largest claims then pending. The proposed settlement was for $73.5 million, and it was forwarded to the Rule group for review.

The Rule group unanimously rejected the claim for a number of reasons, among them the fact that the claim lacked substantiation.

Following that action, some funny things happened to Mr. Rule and the claims review group. First, Mr. Rule, who just a year ago received the highest civilian award given by the Navy, "resigned" from his post as Chairman of the Contract Claims Control and Surveillance Group. Then the group itself was abolished, and a general board composed of flag officers was established in its place. Finally, Avondale was given a "provisional" settlement of its claim in the amount of $25 million. The circumstances surrounding these actions constitute a major reason for this hearing.

Another and perhaps overriding reason for our inquiry goes back to the Subcommittee's longstanding concern for economy in Government. Earlier this month, former Deputy Secretary of Defense David Packard delivered a speech on receiving the Forrestal Award and in that speech, he made some points that go to the heart of the defense procurement problem. Mr. Packard, it will be recalled, said on another occasion not too long ago that defense procurement was a "mess".

In his more recent speech, Mr. Packard talked about the tendency of contractors to buy into contracts and the way they are bailed out after getting into difficulties. He went on to say: "We are going to have to stop this problem of people playing games with each other. Games that will destroy us, if we do not bring them to a halt."

The games that disturb me most are the games that bureaucrats play with the taxpayers' money, particularly the games of spending dollars that do not need to be spent. It is perfectly clear to me that the Department of Defense spends too much, too fast, and there is evidence that getting rid of funds appropriated to it is a Pentagon policy.

Our witnesses this morning are Admiral I. C. Kidd, Chief, Naval Material Command, and Gordon W. Rule, Director, Procurement Control and Clearance Division, Naval Material Command.

Admiral Kidd commissioned and commanded the Navy's first all missile squadron, Destroyer Squadron 18. He subsequently served for over four years as Executive Assistance and Senior Aide to the Chief of Naval Operations; as Chief of Logistics at NATO Headquarters in Naples, Italy; commanded Cruiser Destroyer Flotilla Twelve and the First Fleet; and commanded the Sixth Fleet from 28 August 1970 to 1 October 1971.

Admiral Kidd's decorations include the Distinguished Service Medal with Gold Stars in lieu of Second Award, Legion of Merit with two gold stars in lieu of Second and Third Awards, and Bronze Star.

Gordon Rule has testified before this Subcommittee on several occasions, and we are glad to have him appear before us once again.

Admiral Kidd, you may proceed with your statement.

STATEMENT OF ADM. I. C. KIDD, CHIEF, NAVAL MATERIAL COMMAND; ACCOMPANIED BY GORDON W. RULE, DIRECTOR, PROCUREMENT CONTROL AND CLEARANCE DIVISION, NAVAL MATERIAL COMMAND; REAR ADM. R. G. FREEMAN III, DEPUTY FOR PROCUREMENT AND PRODUCTION, AND HART T. MANKIN, GENERAL COUNSEL

Admiral KIDD. Thank you very much, Mr. Chairman. I appreciate very much indeed your invitation to appear before your Committee today, sir, and respond to questions on shipbuilding claims and related shipbuilding matters.

Accompanying me this morning in addition to Mr. Rule is Rear Admiral Freeman, the Navy's Deputy for Procurement and Production.

Because your topic is broad, I will keep my formal remarks brief.

I do not plan to cover the specific actions that have been taken in the claims prevention area—I believe Rear Admiral Sonenshine covered these for you in his testimony before your Committee last September. The GAO has recently examined this area and concluded that those aspects of the Ship Construction Improvement Program (SCIP) that relate to claims hold considerable promise for managing our overall claims problem. If you or members of your Committee have questions on these actions I will be pleased to try to respond to them.

Let me assure you that since assuming command of the Naval Material Command four months ago, I have devoted a great deal of time to our problems in shipbuilding and more specifically, sir, claims.

When I took over, there were several things in this general area that appeared obvious.

First, roughly a billion dollars in outstanding claims, some outstanding for several years is, in and of itself, a problem of tremendous magnitude. There were more claims in the offing, in my judgment.

It was equally apparent that these claims were probably contributing to a feeling of some tension between the Navy and some of our contractors. Moreover, this situation was contributing nothing to our credibility with the Congress and with the American public. This matter requires prompt action—at a time when we need—need desperately—to modernize our fleet. To do this we need a strong and cooperative industry, and, of course, a great deal of Congressional and public support. Having been privileged to command our 6th Fleet in the Mediterranean just prior to coming to Washington this time, where we witnessed daily and at first hand the growing Russian naval capability, let me assure you that our naval capabilities are very much at stake here. The Russians are building fine ships and manning them with competent personnel—men that evidence a very complete knowledge of the ways of the sea.

Of concurrent concern to me—and I am being very candid now—was the fact that reflections of this relationship between industry and Government were becoming evident within the Navy. I found a wide divergence of views on how some of our claims problems should be handled—experienced and dedicated men, civilians and military, exceptional knowledgeable individuals—brilliant men—professionals, in every sense of the word—each with strong feeling. One of my first tasks was to address this matter. As the Chief of Naval Material that was my job. It was not a question of deciding which one of these gentlemen was correct—they were all right because they wanted this enormous claims problem resolved. It was simply a matter of how best to proceed, considering the many ramifications of the overall problem, and keeping the best interests of the Government uppermost in mind at all times.

There seems to be a certain amount of misunderstanding about the actions taken, however. If I may, I would like to describe them to you.

One of the first actions was to establish the Naval Material Command General Board. Its purpose is to provide me with the assistance and advice I need in managing all areas of my responsibility. It helps me in turn to keep the Chief of Naval Operations, Admiral Zumwalt, advised on matters involving weapon systems development, acquisition and, of course, fleet support. You might compare the General Board to the Board of Directors of a very large corporation. The Naval Material Command General Board has 14 permanent members. They include myself, the Vice Chief of Naval Material, two of my principal deputies, my six system commanders, and to insure that we keep abreast of the operational side of the Navy, the Deputy Chiefs of Naval Operations for Logistics, Submarines, Surface and Air also attend. Others, civilian and military, attend General Board meetings and participate when their particular area of expertise of knowledge is required.

I did not establish the General Board to deal with claims, in fact, it was not established to deal with any specific problem. It was established to deal with all matters of policy and common interest. It is the way I have chosen to manage a very complex command—a command that is responsible for spending approximately 60 percent of the Navy's total budget and employs roughly two-thirds of its total civilian work force.

In short, the General Board was established as a forum to provide discussion and advice. Again, let me say it was not established to solve any particular problem but rather to address any and all subjects. Parenthetically, the Navy had a General Board long before World War II for just this purpose to serve the CNO. I have used a General Board to run both the First and Sixth Fleets.

Now to speak a moment about the new Claims Board established this past January. It was in fact in the planning stage prior to my becoming the Chief of Naval Material. The Claims Board is composed of five of the most experienced civilian procurement officials we have in the Navy. It is assisted by an exceptionally well qualified representative from our Office of General Counsel. The Chairman of the Claims Board is my Assistant Deputy for Procurement. The other procurement members are the most senior civilian procurement officials at our four hardware systems commands.

Their principal function is to review major proposed claim settlements. When their review is completed, the Chairman, or his representative, makes a presentation to the General Board. Then, based on this combined expert advice, the final decision will be made on the merits of the claim. The decision will then be briefed to the Assistant Secretary of the Navy (Installations and Logistics).

An additional responsibility of the Claims Board lies in the area of claims prevention. This Board has overall responsibility for procurement policy and procedural recommendations designed to prevent or minimize claim generating situations. It seemed only logical to me, Mr. Chairman, that when we got this aggregation of talent together that it address itself to preventing claims. Settling claims is only a part of my objective. Preventing new ones is equally important, if not more so.

That, in summary, highlights procedural changes made in the claim settlement area. I consider that our procedures are sound and hopefully should provide the assurance needed to be certain that these claims are being settled properly and promptly.

You might be interested in an example of increases in staffing now being applied to claims in the Naval Ship Systems Command. Subsequent to July 1971, we initiated action to increase the number of Headquarters civilian and military personnel working on claims settlement some fourfold. These people are also receiving increased support on a part-time basis by a large number of legal, technical and contracting personnel from within the Naval Ship Systems Command as well as additional part-time and full-time support by field personnel.

Senator, that concludes my statement. I will try to answer any questions you may have at this time.

Chairman PROXMIRE. Thank you.

Mr. Rule, do you have any observation you would like to make? I know you do not have a statement.

Admiral KIDD. On that statement?

Chairman PROXMIRE. On anything at all you would like to speak on, that statement or anything in connection with it.

Mr. RULE. First, I want to get into a you know what contest with you because of a statement you read in your opening statement. I take strong issue with you, Senator, on how you characterized the Todd settlement. You said it was a fiasco.

I personally approved the Todd settlement and after I approved it, I was given the job by the then CNM, Admiral Gallatin, of making a study regarding the causes of the Todd and I think your Committee has shown that study, and the study indicated only too clearly where the Navy was at fault and why this claim of $96 million had been approved.

You in your characterization, Senator, went far beyond what the GAO said in their comment when they looked at the Todd claim and I just want to say you and I usually get off on a friendly basis but we sure are not getting off today on that basis because you ought not characterize that settlement as a fiasco.

I say that very respectfully.

Chairman PROXMIRE. Well, I know you do, Mr. Rule. You know I have great respect for you. We just disagree on that.

Mr. RULE. And sincerely.

Chairman PROXMIRE. I thought it was a fiasco. People have different views of what constitutes a fiasco. I cannot characterize it as a heinous scandal in which corruption was obvious. I just said it was a fiasco.

Mr. RULE. Senator, I would just like to make this suggestion. The engineer in that case that negotiated and the contracting officer are still around. The people in my office recommended they scrub—recommended approval to me. I scrubbed it. I would like to get those people together in front of you and GAO and go through the motions and show exactly how we evaluated that claim from the bottom up and let you draw your own conclusions.

If we made as lousy a deal as you say we did, I ought to be fired because I believe in accountability.

Chairman PROXMIRE. Mr. Rule, you know I do not want to fire you. Other people seem to have different views on that but I certainly do not.

Mr. RULE. But I would like to go over exactly the mechanizations if at some time you would like that.

Chairman PROXMIRE. Fine. I would like to do it, first at least on a staff level. You obviously are thoroughly familiar with this but I would like to see if we could proceed on that basis first and then maybe we can——

Mr. RULE. OK. Having gotten that off my chest, good morning, Senator. (Laughter).

Chairman PROXMIRE. Thank you, sir. Any further observations?

Mr. RULE. Only that——

Chairman PROXMIRE. It is a good morning, I agree.

Mr. RULE. Yes, sir. It is nice, and I appreciate your asking me back. It is a privilege and I want to say that the gentleman on my left, Admiral Kidd, is the fourth Chief of Naval Material with whom I have had the pleasure of serving and I am very confident that he is going to be an outstanding Chief of Naval Material when he gets through his shakedown cruise which he is on right now.

Chairman PROXMIRE. Admiral Kidd, on page 4 of your statement you describe what you did to handle the job Mr. Rule's group had handled before. You said that the Board that you had is not a claims board primarily. It can take action in this respect but it has many other things it has to do. You said you have a new claims board.

That new claims board, as I understand it, has no decision capacity. It is simply an advisory group, unlike the Rule group which was—it is unable to send back a claim. All it can do is advise you on it, is that correct?

Admiral KIDD. That is my understanding of the way it will operate, Mr. Chairman, yes, sir. The Flag Officer Board and the additional civilians on the regular General Board. That is, the Flag Officers, not the General Board, and the Chief Counsel.

Chairman PROXMIRE. You can understand, I think, Admiral Kidd, why the views up here in Congress may be a little bit different than the views that you and the Administration may hold. We are concerned that a process which seemed to be very loose and which seemed to represent a potential serious threat to the taxpayers' money and to involve large expenditures might be getting more out of control. I had great respect for Mr. Rule and the job they did, even though we differ on that Todd Claim, and with that, with the abolition of the power which that group had and with the abolition—with the shifting of authority from that group to another, and with the principal authority now given to Flag Officers rather than a civilian lawyer with Mr. Rule's background, we are very fearful that the whole process is weakening.

Admiral KIDD. And were I you, not understanding and knowing the details, I think I would probably share your concern, but I would most earnestly disabuse you of any need for concern because in the first place, the responsibility and authority for the earlier claims review group which Mr. Rule chaired drew its authority from the Chief of Naval Material. When Mr. Rule resigned, and I was told that he has resigned when I arrived in Washington, and that the responsibility was mine, would be mine soon, I asked many questions from many gentlemen in and around Washington who had experience in this area, including Mr. Rule himself, for their advice as to how best to proceed.

One of the first gentlemen that I went to and asked was Admiral Rickover, a gentleman whom I have known ever since I was a youngster, and taking all of this advice and putting it together I found that since the final responsibility was mine, I would be well advised to learn and know as much about it before I had to make the decisions on these claims as possible, and it would be prudent to bring together the very best brains in the business, gentlemen experienced in handling claims, gentlemen of the law, experienced in the legal side.

I went to see the General Counsel of the Department of the Navy, sought his advice, invited him to sit with the General Board as I learned of the contributing facets in the matter of claims.

It then became evident that it would be very wise to insure that all claims were shared with the various Systems Commands before a final decision was made so that each of the various Systems Commands, each having a responsibility for reviewing claims of its own, would have an opportunity to see what the other Systems Commands were doing by way of new legal approaches, new technical approaches.

It seemed only wise to be sure that if System Command A had had difficulty in a particular type of claim, that Command B, C, D and E could be forewarned, and I decided to use this forum of the General Board which we already had established as a forum to bring all of this expertise and competence together.

Chairman PROXMIRE. Let me zero in on just why I am disturbed about this. I mentioned the game that bureaucrats play with the taxpayers' money. Let me give you an illustration.

On February 7 of this year, Admiral Zumwalt, Chief of Naval Operations, sent you a memorandum on the subject of fiscal year 1972 outlay targets. Are you familiar with this memorandum?

Admiral KIDD. I believe, yes, sir.

Chairman PROXMIRE. Let me read the first paragraph of this memorandum. It seems to me that Admiral Zumwalt is telling you and the others who were sent copies of the outlay target—let me first read it.

"Fiscal year 1972 outlay targets promulgated by reference A as part of the President's budget for fiscal year 1973 are over $400 million above target in the earlier fiscal year 1972 budget for the OPN, SCN, PAMN, and MILCON appropriations. Difficulty of achieving these targets during the remaining months of fiscal year 1972 fully appreciated but importance of avoiding shortfall in meeting newly established fiscal year 1972 targets to avoid resultant adverse effects on anticipated fiscal year 1973 outlay ceilings dictated need for top management attention. Anticipate any shortfall in fiscal year 1972 outlay target could be translated into program loss under fiscal year 1973 outlay ceiling.

"2. In order to prepare recommendations indicated in paragraph 4–D, Reference A, request your position on the following areas which appear to offer the best potential for meeting fiscal year 1972 and fiscal year 1973 outlay targets."

Now, let me once again say that this is Admiral Zumwalt telling you how he wants you to move ahead and spend the money that is available.

That is, the amounts that are supposed to be spent during fiscal year 1972 have been increased by more than $400 million for various appropriations including appropriations for other procurements, Navy OPN, ship construction, Navy SCN, procurement of aircraft and missiles, Navy PAMN, and Military Construction. Although it may be difficult to spend enough to reach the new targets in the remaining months of the year, it is important to avoid a shortfall so there will be no adverse effects on the anticipated FY 1973 outlay ceilings. This dictates a need, as the memo says, for top management attention because it is anticipated if the current outlay target is not reached, next year's outlay ceiling may be lowered.

In other words, we have to spend up to the hilt this year so we can have more funds to spend next year.

How do you interpret this paragraph?

Admiral Kidd. I had to study that memo long and hard before I thoroughly understood it, Mr. Chairman, and in a nutshell it underlined once more it is the same type of memorandum, going back through the history books, I found have been written in years gone by.

When we get final approval of our budget and the money actually in hand so late in the fiscal year, it very, very seriously complicates the ability of the Systems Commands to get proper contracts drawn and to get that money actually spent. In other words, we end up so frequently having six months to do what normally a year would be provided to do, fiscal year to fiscal year.

There is nothing in that memorandum that has affected the thoroughness with which we have gone after contract preparation and the attention to detail necessary to insure that as the money is spent, that it is spent properly and technically correctly.

Chairman Proxmire. All right, sir. Let me proceed now. The second paragraph says that your position is requested on a number of areas which appear to offer the best potential for meeting the fiscal year 1972 and fiscal year 1973 outlay targets and lists the following, and that is why—so pertinent to claims. (a) Settlement of the claims FY 1972 Vice FY 1973.

(b) Expedites provisional payments on claims and unadjudicated change orders.

(c) Accelerate contract close-outs and subsequent payment of withheld funds.

(d) Accelerate shipping and transportation billing process where services have been rendered but remain unbilled.

(e) Increase use of unpriced purchase orders and fast pay procedures.

(f) Increase source inspection and acceptance of material at receiving activities. Apply prompt processing procedures for materials received for inventory.

(g) Increase in amount, timeliness and coverage of progress payments to contractors from direct appropriations and working capital funds.

(h) Increasing NIF and stock funds expenditures. Investigate advance procurement of shortlead time material where firm NIF and stock fund orders are anticipated, and so forth.

You see, the pressure on you, I do not mean to criticize you but Admiral Zumwalt is indicating they want the highest priorities in settling these claims in a hurry. That is what seems so shocking and so difficult for us to accept in view of the fact that these claims in the past have been so controversial some times not legally supported. The only way you can settle them in a hurry is with a shortcut procedure that is very likely to result in a very substantial loss of taxpayers' money and an unjustified payment.

Admiral Kidd. This might be a conclusion drawn, but I would certainly reassure you incorrectly drawn. The haste which you speak to—I just do not move in a hurry when I am spending the taxpayers' money.

Chairman Proxmire. Yes, but you follow the orders of your superior, I am sure.

Admiral Kidd. Within the law, Mr. Chairman.

Chairman Proxmire. Well, let me just proceed to say that the Chief of Naval Operations is identifying areas he says you ought to look into in order to achieve new outlay targets. You ought to see if you can settle claims this year instead of next year—accelerate contract closeouts, increase use of unpriced purchase orders and fast pay procedures, increase amount, timeliness and coverage of progress payments, increase military construction payments, and so on.

You are also asked to evaluate the use of unlimited overtime, during the remainder of the fiscal year. In other words, spend, spend, spend, or do you have another interpretation?

Admiral Kidd. Oh, no. You read the words. And now I just mention in passing rather than increasing the overtime, I have cut it by two-thirds.

Chairman Proxmire. How about the other areas?

Admiral Kidd. Where I had to cut them, I have.

Chairman Proxmire. Can you give us any examples of what you have done in cutting provisional payments or—

Admiral Kidd. Well, in the case of—

Chairman Proxmire. —settling claims?

Admiral Kidd. Let us take one of the claims. One of the claimants having one of the large claims has been in to see me, oh, several times urging accelerated settlement. I have told him absolutely not. I would not touch him with a ten foot pole.

Chairman Proxmire. Admiral Kidd, I want to follow up on that. You have been a line officer and you are a man with a marvelous military record we are all proud of and all grateful for. In the final paragraph you are asked to comment on the recommendations that I have just read and to make other recommendations.

Did you comment? Did you make other recommendations?

Admiral Kidd. They have been verbal so far, Mr. Chairman, and I have told the Chief where it would be possible to practically conform and comply and in areas where it would not be because you just cannot get stampeded into this type of thing without reaping grievous difficulties.

Chairman Proxmire. Can you be more specific? Can you tell us what recommendations you made?

Admiral Kidd. I would be more comfortable if I could provide those specific for the record, Mr. Chairman, rather than trading on a hazy memory.

Chairman Proxmire. Can I ask you the Systems Commanders, NAVAIR, NAVELECSYS, NAVPAC, NAVORD, et cetera, NAVSHIP, NAVSUPSYS, if they made recommendations?

Admiral Kidd. Oh, yes, indeed. To me?

Chairman Proxmire. Yes, to you or Admiral Zumwalt.

Admiral Kidd. Yes, to me, and we take them under consideration each week when the Board meets.

Chairman Proxmire. Can you make those available—can you tell us in general, summarize them and let the Committee know for the record at least, what they were?

Admiral Kidd. I will, indeed.

Chairman Proxmire. We would like copies of the original recommendations if we could have them.

By the way, Admiral, I did not notice any mention of the Russian naval fleet or any military requirements whatsoever in Admiral Zumwalt's memo. It was not a matter of our having to do this for the national defense. There was no justification for accelerating the outlays except to reach some preconceived spending goal.

How do you explain that?

Admiral Kidd. Very easily, Mr. Chairman. Everything that the Chief writes, the responsibility to you and to me as taxpayers' to protect us with a property Navy, this is implicit in anything he puts on paper.

In this regard, if we are not able to expend the funds which you gentlemen appropriate for the things that we have asked for, that we need, with which to defend this country, in time, that is, by the end of the fiscal year, it is my understanding that we could stand to lose that money if we do not spend it within the prescribed amount of time. So, we must—and if I were he I would write the same memorandum—we must do our best to insure that we commit those funds within the prescribed period in order not to be put in a position of disadvantage later on by someone being able to say, well, you asked for the money but you did not spend it, so we are going to take it away or cut your budget next year.

Chairman Proxmire. From the standpoint of the national interest, I would be inclined to disagree. I think the general taxpayer would certainly go along in the overwhelming majority of cases that should any money be spent that is necessary or essential to defend our country or strengthen our Navy so it can perform its function, but to spend the money just because you may lose it next year seems to me is something you cannot justify, whether it is the Department of Agriculture, Department of Commerce, or the Department of Defense.

Admiral Kidd. In principle I have no quarrel with what you observe, none whatsoever. And I do not think that anyone would have. The simple facts of the matter here in Washington are that you ask for so much. That amount is usually cut several times along the line before final approval and appropriation. So you get xX when you ask for perhaps three or four X. And here we come to the point earlier made, that you only have half the time needed in which to go through the ponderous mechanisms of effectuating contract arrangements.

Chairman Proxmire. Well, why would it be such a disaster if you spent only as much as you can fully justify and not a nickel more? Then if you lose that, then you can come back, and it seems to me you can make a much more effective appeal to people like me.

I am on the Appropriations Committee and others who are on the Appropriations Committee—that this is the policy you are now following. This notion of getting rid of money at the end of the year in order that you will not lapse the amount and then be cut in a subsequent year, it seems to me, is playing, as I say, a game with the taxpayer and a game with the Congress that is most unfortunate.

Admiral Kidd. Well, sir, I just cannot agree with you on that in the way in which you put it, getting rid of the money. Heaven knows, we are not getting rid of it. We are doing our level best to get contracts written and it does not come easily nor in short periods of time. We are trying to get contracts written and get that money properly committed, not wasted, not gotten rid of, properly committed.

Chairman Proxmire. I would like to ask you about another memo to see if you can throw light on it.

On February 18, 1972, a memo was sent from the Commander, Naval Ships Systems Command, to all offices reporting directly to COMNAVSHIPS on the subject of "accelerated expenditure goals." The purpose of the memo which was signed by K. P. Chesky, Acting Deputy Commander for Plans, Programs and Financial Management Comptroller, was "to accelerate expenditures in the RDT&E and Procurement appropriations." The third paragraph is entitled "action" and it states the following: "Addressees are requested to initiate a review of procedures closely related to the actual expenditure of funds including (a), contract close-out and subsequent payment of withheld funds.

"(b) Processing of payment vouchers including progress payments.

"(c) Prompt processing and certification of DD–250's to paying activities.

"(d) Utilization of 'Fast Pay' procedures.

"This review should encompass the above areas and others that can lead to expenditure acceleration."

Now, this appears to be a memo implementing the note sent by Admiral Zumwalt to you and the Systems Command, is that correct?

Admiral Kidd. I am not familiar with that memorandum that you hold, Mr. Chairman. I am not familiar with that memorandum at this moment, sir. I could provide a response for the record on that, or perhaps—you spoke there as I recall, of contract close-outs. Admiral Freeman here can speak to that. This is within his area of responsibility, if you wish.

Chairman Proxmire. Would you like to speak on that, Admiral?

Admiral Freeman. Yes, sir. One of the areas in which we have quite a difficult problem is contract close-outs, particularly on research and development contracts, the reason being this is the final voucher. It requires an audit by the DCAA, and some rather complex procedures including such things as termination of patent rights, final equipment deliveries, all items under the contract satisfaction and a portion of the contract withheld until these procedures are in fact successfully accomplished.

Since it is the wind up of a contract it tends to take a low priority of the other things which are among the jobs of the DCAA, Defense Contract Audit Agency, and Defense Contract Administration organizations.

Hence, there are residual dollars in these areas that are properly expended but because we have not gone through the legal and procedural requirements to close it out, the money sits there unexpended.

Chairman Proxmire. Well, now, the Chesky memo refers to two documents, Second NAVSMG R 202120Z/02 January 72 and NAVMAT, and the other numbers. I can identify them if you wish.

Can you briefly tell us what these memos say?

Admiral Kidd. No, sir, I cannot at this time, Mr. Chairman.

Chairman Proxmire. We just gave you a copy.

Admiral Kidd. Yes, sir, I have the notice. The references I do not have with me.

Chairman Proxmire. Can you provide us with copies of the two memos?

Admiral Kidd. I will look into that as soon as I get back, Mr. Chairman.

Chairman Proxmire. When you look into it, will you give us the copies of that, provide those copies?

Admiral Kidd. When I get back to the office, yes, sir, I will look at it.

Chairman Proxmire. Thank you.

What are the current outlay targets for fiscal year 1972?

Admiral Kidd. Will you repeat that, sir?

Chairman Proxmire. What are the current outlay targets for fiscal year 1972?

Admiral Kidd. I do not have those at my fingertips, Mr. Chairman. I will have to provide that for the record.

Chairman Proxmire. Can you tell us how those targets were arrived at? You do not have the figures but can you tell us how you went about determining what those targets should be?

I know that you moved into this position since that was done but I am sure you are familiar with how it was done.

Admiral Kidd. As I recall and understand, those targets were arrived at taking the amounts of money that were appropriated for a particular period of time, fiscal year, and then going back to see when—on what calendar date those monies had to be spent by, and adding up those sums of monies that had to be spent, let us say, by 1 July 1972.

Chairman Proxmire. When you review your remarks, could you expand on that for the record?

Admiral Kidd. Yes, sir.

Chairman Proxmire. What have you done to implement Admiral Zumwalt's instructions as reflected in the memorandum which I read earlier?

Admiral Kidd. We have been meeting—the board meets weekly and this matter is taken up routinely at each weekly session and the Systems Commanders make a report periodically of how well they are doing, and we are not doing too well.

Chairman Proxmire. What action has been taken to—what actions have been taken to implement the Admiral's orders?

Admiral Kidd. Each of the Systems Commanders has received a copy. Each of the Systems Commanders has gone into means available to them to address each of the areas identified by the CNO.

Chairman Proxmire. Can you cite specific actions which the Systems Commanders and you have decided on taking?

Admiral Kidd. Yes. For example, we have gone with teams of competent contract people from Washington to outlying field activities to look over their books with them, their contracts with them, to see in what areas there is susceptibility to improved capability to commit funds. There has been absolutely not one bit of pressure, not one bit, to, as you earlier said, just get rid of money. I do not do business that way.

Chairman Proxmire. Well, if you were in their position and you were visited by your Admiral under these circumstances would you not consider that to be pretty powerful pressure to get rid of that money, spend it?

Admiral Kidd. No, I would not, Mr. Chairman. There is a vast difference between pressure and groups coming out to help and to advise.

Chairman Proxmire. Can you give me the additional cost to the taxpayer for the acceleration of spending that has been ordered by Admiral Zumwalt?

Admiral Kidd. Additional cost? No.

Chairman Proxmire. Yes. Supposing that order had never been issued. Would there be any difference at all in the amount expended?

Admiral Kidd. None, no, sir. Well, now, wait, you asked two questions. I will go back to the first one. Additional cost to the taxpayer by accelerating the commitment of funds? None.

Chairman Proxmire. Well, then, you are telling me that this money would have been spent anyway, so Admiral Zumwalt's order is just useless. It means nothing.

Admiral Kidd. No. No. His memorandum was an urging to insure that we took all available and proper means to commit appropriated funds in appropriate fashion and within the rules.

Chairman Proxmire. And absent that memo presumably some of those monies would have lapsed and the taxpayer would save something.

Admiral Kidd. No. The taxpayer would have lost. The taxpayer would have lost, Mr. Chairman, because we would have had to come back again for money for the same things and the way the cost indices are going up now, we would have had to pay more for it.

Chairman Proxmire. Then, what you are telling me is that it is perfectly consistent for the Navy to spend money much faster than it instinctively would in order to use up the funds that are available because that serves the taxpayer as well as the national interest. This is a very hard response for me to accept, very hard. If it is true in the case of the Navy, it must be true in the case of all other Departments.

Admiral Kidd. If we have the money in hand at the beginning of the fiscal year, we have the people on board in our contracting offices to do a proper job of writing the contracts and committing the monies within the fiscal year involved.

Now, getting the money as late as normally is the case, we are regularly faced with the proposition of going at forced draft and at a high rate of speed to get these funds committed. So that that memorandum from the Chief is nothing more than a recurring emphasis on the need to use the limited time available to commit the funds appropriated.

Chairman Proxmire. Admiral, that is a peculiar kind of economic effect. I have never seen it operate elsewhere.

Senator Percy has another engagement. He is in between engagements and I am delighted he is able to come even for a short time. I will yield to him for so long as he would like to question.

Senator Percy. Thank you, Mr. Chairman, very much.

I have been very interested, Admiral, in the tail end of the conversation I got in on. I was a naval procurement officer 29 years ago in Washington. I do not think I will ever get over the effect it had on me, that big chart we had up in the Aviation Fire Control Department, where we had a goal to spend money by June 30 of that year, and we got a letter from the Chief of Naval Operations, Bureau of Ordnance, I guess it was, commending us for spending more money faster than any other department.

Chairman Proxmire. That was in the war.

Senator Percy. That was in the war, and coming out of business, I just could not help but feel there was something wrong with a system that speeded up that process that way and caused us to spend money, buying spare parts for the next three or four years when there may be changes that would make those parts obsolete. I never wasted more money faster in my life than I did then and I have been working hard ever since to make it up to the U.S. Government. But I did it under orders.

Now, the Congress must share some responsibility in this respect and it is the system and the procedure. You would think in 29 years we would be able to improve it, and I am somewhat shocked to find that the same incentive system that has gone on, probably the same commendation letters will go out when the money is expended.

Can the Navy, can you as the top officer in these areas of procurement, help us devise a way that we in the Congress can remove this necessity for what must be wasteful expenditure under pressure of time that really would not be done by men of good judgment if they were not under such deadlines and if they would not "lose" the money at the June 30 fiscal year ending unless they did obligate it and spend it, and if you would like to comment on it now, I would appreciate it very much. If you would rather take some time and consider it so that we can take a look at possibilities for legislation that would enable us to rectify what seems to be a built-in disincentive for efficiency.

Admiral Kidd. I can give a very short answer, Senator Percy. I agree with you. Yes, sir, it can be improved upon with your help, you gentlemen up here on the Hill, by not enacting that legislation which was further, as I understand the problem, aggravated by obliging us to lose money at the end of a given period of time, because going around with the contracting officers and looking at the young ladies and gentlemen who are trying to put the words on paper that will permit the expenditure of funds, they are going four bells in a tube and when we get the money late, it is seven days a week. So this costs you and me as taxpayers more money for overtime for these youngsters.

When you are faced with a proposition of losing funds which you have fought hard to get and to justify, by George, the incentive is high to get them committed. There is no question about it. And when you do things in a hurry, you make an abundance of mistakes. There is no question about that, either. If you want it bad, you get it bad.

Senator Percy. Well, I am the ranking member on the Government Operations Committee of the Senate and I will discuss with Senator McClellan and cooperatively with the Armed Services Committee whether this is not an area that one Committee or the other ought not to take a good look at because it is wasteful and I appreciate your candor on it, and I can understand the human factors involved.

Yesterday, and I am sure you were advised of my inquiries about subcontracting, and the sources of supply available to the Navy—obviously, you are limited if you do not have adequate sources of supply for major components as well as subcontracts and the economic system does not work as well when you are somewhat limited.

I wonder if you could comment on what role the Navy has played and can play if you feel that your sources of supply are too limited in expanding those sources of supply in the economy that has 25 percent idle capacity and five to six million unemployed people.

Admiral Kidd. I agree with your point, Senator. I think that we must get as much business as possible into the small subcontractors. I would parenthetically observe here that with some of the contracts that we have of comparatively recent vintage where we deal only with the prime, that our license to get into the subcontractor area is rather constrained. But as a matter of principle, there is no question but what we should stimulate interest on the part of subcontractors.

I feel a personal obligation to them. I have been told by some primes that this is none of my business but I still feel a personal obligation to them.

I have been disappointed in some of the contracts that we have, finding that in my judgment perhaps too few subcontractors have been looked at for possible help. We can do more and I have a task force within the Material Command going after this particular problem at this time.

I am not going to promise you any remarkable results because I just do not know how much success we are going to have.

Senator Percy. In one other area that relates to my first question, and I do hope that you can give us some suggestions for what might get us out of this dilemma, is there a possibility that in the area of disposing of surplus material, equipment, lands, and it ranges from acreage to ships, that there again is no incentive on the part of the military services to dispose of these things?

Now, if a system could be devised where if you got rid of a ship, you were able to get rid of a shipyard and sell it to private industry or see that it goes into the public domain for open space lands, that you would get credit for that and you would be taking unused assets and moving them over into an area where you can liquify those assets and use them for something else.

Do you think this would cause the military services to do a lot of housecleaning, look around for things that are not needed or necessary that cost money to maintain right now, but there is no incentive to dispose of them? Can we be helpful in devising such laws as to provide the incentives for you?

Admiral Kidd. I applaud your thought. Of course, the law does not work that way now. We dispose of things and there is no concurring credit back. Would that it were so.

You ran through quite a shoppinglist there of things that—retired ships, and, of course, you know, we are string savers like the next fellow, looking against that rainy day when you might need them and need them quickly.

This in essence is the principle behind our reserve fleet and it has served us well when we needed it, both the reserve fleet and active reserve fleet.

Real estate the same way. The same way. It goes but when it goes, the Navy or whatever the Government service involved is, enjoys no return for that which they have given up.

This would certainly be a very attractive proposition, sir.

Senator Percy. Particularly when you see very crucial items that you are not doing now and we know because of the Vietnam expenditures in recent years, critical expenditures have not been made, even maintaining the Navy in first class condition, and if you had the ability to move accounts around and if you could not get appropriated funds, you could get funds by disposing of certain things, I think you would have a terrific incentive and an ability to fulfill needs that right now you know should be met that simply are not because of lack of funds.

If I could turn to yesterday's testimony, Comptroller Staats testified yesterday about a Lockheed claim with regard to certain contractors for destroyers, destroyers escorts, hydrofoil, oilers, ammunition ships. In this case Lockheed claimed in excess of 243,000 additional production manhours attributable to late delivery of Government-furnished boilers for the construction of the two destroyer escorts Lockheed contended that delivery of the boilers for one of the ships had been delayed 14 months and for the other ship 7½ months.

Navy found installation of the boilers in one escort had been delayed 48 working days and the installation of the boilers in the other ship had not been delayed at all. The Navy also estimated the delay in delivery resulted from approximately 25,000 manhours of delay compared to Lockheed's estimate of more than 243,000.

Could you tell us how estimates could differ by as much as a factor of ten as was the case here?

Admiral Kidd. No, sir, I cannot. I do not know where those Lockheed numbers came from. I know our auditors disclosed during the claim review that this disparity existed and it was on the basis of identifying this disparity and others that the claim settlement was markedly reduced from the claimed figure in its initial form.

I just would have no comment on why the appropriation would come in of numbers of that size.

Senator Percy. I wonder if Mr. Rule could tell us whether differences of this kind exist in the area of claims frequently or is this a very isolated case of a difference of fact of this consequence.

Mr. Rule. Senator Percy, it is very typical. It is not unusual at all. The Lockheed case is a very unusual case in that the claim as filed involved nine new construction contracts that Lockheed had procurement from the Navy. On all nine, the only nine contracts they ever had, they lost money. The total claim—

Senator Percy. Well, at least they were consistent.

Mr. Rule. Yes, sir, and I asked the President once if that did not tell him something, that maybe they ought not be building ships, and he agreed.

The claim of approximately $180 million was exactly the difference between the total of all the contract prices that they had bid—and all these contracts were advertised procurement—it was exactly the difference between that total and what they said it was going to cost them to build the ships. That was the total claim. It was just that simple.

Senator Percy. Is it possible that the frequency of these differentials simply comes about as a result of rather lax follow-up on this and that they really felt they could get by? There is slippage some place obviously. There is an error some place, estimating, bidding, whatever it may be, they incurred extra costs for some reasons but here they suddenly—it is easy to blame the Government. Is it possible when they do blame the Government that these claims have been allowed in the past with such a frequency that they felt they could get by with it again in this kind of a case where the facts are so contradictory and so easily ascertainable? That is the ludicrous part of it. It is just blatant fraud of some sort here.

Admiral Kidd. Mr. Staats testified yesterday that their records showed that the average of the claims that have been settled were settled at, I believe he said 37 percent of the amount claimed, and this ought to tell you something. This ought to tell you that the claims were almost fraudulent in the first place. Even if they were settled at 37 percent, which seems to me a little high, but even if that is the right figure, to be able to knock off of a claim 63 percent—if we had that sort of over-statement in proposals for new procurement, if people were coming in on new contracts proposals and giving us amounts of money that we would reduce that much, we would yell fraud, believe me.

When we reduce a contractor's proposal by ten or 15 percent, that is high. But when these people come in with these claims and we can settle them at 37 percent, you have got to ask yourself where was the rest, and so far as I am concerned it is just padding and this is why I take a hard-nosed view of claims. Some people do not. This is why I have gotten the American Bar Association, the claims lawyers and everybody else, p.o.'ed at me but I do not care.

I know these things are not correct. I know that they are taking us to the cleaners. And this is why I agree with Admiral Rickover, the claims should not be a negotiation. These people file these big claims and the thing they want to do quickly is sit down and negotiate. I say that they ought not be negotiated. I agree with Admiral Rickover. We ought to look at them carefully, discuss them carefully with the claimant, go over and find the facts, discuss endlessly almost, to be fair, but then we ought to make up our minds what that claim is worth and say this is it. No negotiation.

Senator Percy. One final question. This may go beyond your province but I do not know where else to ask it.

What has to happen to get a change of management when you have such flagrant violations of managerial procedures, practices, as in this case by the Government constantly bailing out the company in one way or another, and we are finding all sorts of ways the Government is doing this, and using taxpayers money to do it, you see no change in management. This does not occur any place else. We have had major changes in management in the last few days in a situation that was intolerable from the standpoint of losses the company was incurring and this occurs every single day in the normal course of procedure except in the largest Government contractor we have got, with public money being used all over the lost for almost everything being done there, every salary being met, and yet no change in management.

Errors, mistakes, gross mistakes in judgment, misleading statements put in, no change in management. It just keeps going on.

What has to happen? How do we bring about change, then? And that is, of course, what those of us who were so strongly opposed to the Government coming in and guaranteeing loans that banks would have required a change in management if that had not been brought about. But there is no change. The same old team running things in the same old way, it seems.

Mr. Rule. I could not agree more and I testified against the Lockheed loan because I thought it was a dangerous precedent, but I would just like to quote to you as one suggestion what Mr. Packard said just a couple of weeks ago when he got the Forrestal Award. He said: "What is the solution"—after describing the game playing that goes on between industry and the services—"what is the solution? We are going to have to stop this problem of people playing games with each other, games that will destroy us if we do not bring them to a halt". And here is the point I want to make.

"Let us take the case of the F–14. The only sensible course is to hold the contractor to his contract." And he never was more right in his life. And it is going to be interesting to see if we do.

Senator Percy. Well, we are certainly going to be interested in a bipartisan sense.

I want to thank you very much indeed, and I apologize for the executive committee that I must go to now but I very much appreciate your being with us this morning.

Chairman Proxmire. I agree with so much that has been brought out by Senator Percy in his questioning, not only on what goes on this morning but that we are never going to break our inflationary cycle unless we let the unions strike. Let them strike. This is a free country and it is the only way we can possibly resolve this situation. But we permit wages to go up as we have done with the Wage Board, the same way Lockheed said they are going to go under if we do not bail them out. Let them go. We have got to let free enterprise work, either that or we are going to have to expect to settle for a grossly inefficient operation.

I want to get into some questions with you, Mr. Rule, because I want to pursue what Senator Percy was talking about, but I would like to get back just for one more question with Admiral Kidd before I proceed to some other things.

Admiral, you talk about you being string savers. There is ample evidence to me that there are few if any string savers left in the Navy. If so, they get a short trip out or are taken off their assignments or resign or something of the kind. At least in the Air Force as well as the Navy. We have been working for five years on this Committee to save money, hold back, constrain spending in one way or another, and hammering away with amendments on the floor and with everything we can do in hearings, and so forth, to call it to the attention of the military. Now we find with Admiral Zumwalt's memo that they are on the other side, they are doing their best to spend, spend, spend. You are sending teams out as you testified here this morning, to implement that memo and to make sure the funds are spent. You can see the terrific frustration we have here. We seem to be working completely at cross purposes and there is no question as to who is the most effective. Just take a look at our deficit of $38 billion. You are obviously winning this battle.

Do you have any reaction to that?

Admiral Kidd. Yes, sir. I would go back one step and underline the fact that the Congress appropriated the money in the first place which is being spent, appropriated it for purposes that we justify the need for in the case of the military, and here the Navy, for pieces of hardware that we must have, so I can see no cause for concern when we take steps to insure that we are able to buy that which we need and for which you gentlemen have appropriated the funds.

Chairman Proxmire. Well, I have no objection to that and I do not know how anybody else could possibly object that you be sure that you can buy what you need. The question is do you have to have at the very highest level this kind of express order to go even beyond the spending tendencies which have been demonstrated in such a superior way in the past? I am informed this decision on military spending has been made at the very highest level of our Government, for the Army and Air Force as well as for the Navy. Can you tell us whether similar efforts have been launched in the other services? Have you ever spoken to the Secretary of Navy on this matter?

Admiral Kidd. I could not speak for the other services.

Chairman Proxmire. Did you ever discuss it with Secretary Laird?

Admiral Kidd. No, sir, I have not.

Chairman Proxmire. Or with the White House, or anyone from the White House?

Admiral Kidd. No, sir.

Chairman Proxmire. Do you know whether the White House initiated the order to accelerate payment to defense contractors?

Admiral Kidd. No, sir.

Chairman Proxmire. All right.

Mr. Rule, have you seen any instructions to accelerate payments to defense contractors or to take steps to achieve fiscal year 1972 outlay targets?

Mr. Rule. I have seen that letter or wire or whatever it is you read. I have seen that.

Chairman Proxmire. Do you think that instructions of that kind have had anything to do with the recent actions on the Avondale claim?

Mr. Rule. No, sir, I do not think there is any connection at all.

Chairman Proxmire. Well, comment on that Avondale settlement. What was your reaction?

Mr. Rule. Maybe we ought to stick to that letter.

Chairman Proxmire. All right. Comment on the Zumwalt letter. It would be very helpful to have that.

Mr. Rule. Well, the Zumwalt letter, so-called, if that is what it is—as I recall it, it is a wire.

Chairman Proxmire. All right.

Mr. Rule. TWX.

I understand what they are trying to do and I certainly understand Admiral Kidd's explanation. We used to in the Navy have a policy when the Congress would give us our appropriations timely, we used to have a policy that we had to make sure that we spent one-fourth of that money in each quarter, that we could not slack off in our procurement, you see, down through the year. You remember this, Admiral Freeman.

We had to spend it prudently by quarter and not let it pile up at the end of the year.

This is not a new phenomenon, despite the fact that we now get our appropriations later. They always used to let it pile up and the directive to spend it by quarter was an effort to stop this. We used to always end up—Admiral Freeman knows this—with money at the end of the year and we would issue letter contracts pell-mell just to obligate this. This is nothing new.

Chairman Proxmire. Though it is not new, what do you think of it? You have been in the Navy now and had tremendous experience in handling these matters.

Mr. Rule. Well, the only thing really new is the itemization there, I think, of areas to look at.

Chairman Proxmire. In other words, they are doing it more efficiently now than before. They have got it organized.

Mr. Rule. I am not sure that is more efficient

Chairman Proxmire. They are wasting money more efficiently.

Mr. Rule. I am not sure it is wasting money but if Admiral Zumwalt had just sent a wire, now, look, do all you can to obligate money prudently by the end of the fiscal year, that would have been enough, but when you go into detail and say let us issue more unpriced purchase orders, the very thing we fight all year before this comes down not to do, when he says let us think about——

Chairman Proxmire. That is what concerns us.

Mr. Rule. Let us think about unlimited overtime when we just put out a directive to knock off overtime unless it is really authorized, some of these things are a little antithetic to our normal procurement practices.

Chairman Proxmire. Let me ask you now about the claims problem. First, I would like you to tell us why you tendered your resignation from the Contract Claims Control and Surveillance Group, whether you believe the group's action in rejecting the Avondale claim had anything to do with its abolition. Were you "pressured" to resign?

Mr. Rule. Oh, no, not at all.

Chairman Proxmire. Why did you resign?

Mr. Rule. The Avondale claim was rejected and I would like the record to show it was not rejected by Gordon Rule alone. It was rejected unanimously by the entire group, including the representative from the Office of General Counsel. It was rejected with the recommendation that the Contracting Officer's decision be made, not with the recommendation that we spend eight or ten months or another year trying to make the contractor's claim for him.

It was rejected on the 23rd of July. On the 4th of August I was called into a meeting with the then CNM, and Admiral Freeman, this was just a couple of weeks later, and told they were going to reorganize the claims group. The pitch was that they thought it would be best to have it headed by a lawyer. They were thinking in terms of a lawyer from the Office of General Counsel.

Well, I happen to be a lawyer but I was on notice at that time that they were going to reorganize and as Admiral Kidd said, this all took place before he came aboard.

I did not do anything at that time. I rocked along and on November 8, the Assistant Secretary sent a memorandum to the Chief of Naval Material saying he wanted a plan for a new organization to speed up the review.

It was at that time that I was sure that the change was going to be made and I am just not built in such a way that I am going to hang around until I get kicked out, so I resigned.

Chairman Proxmire. So it was obvious that you—as we used to say in the old days, when I was ten years old, first, I got hired, then I got fired, and then, by God, I quit. Does that describe it?

Mr. Rule. No. I do not get that analogy at all.

Chairman Proxmire. Well, do you feel—if you had——

Mr. Rule. That is another one of our patented analogies.

(Laughter).

Chairman Proxmire. Well, you have just told us that—you could see the handwriting on the wall. Maybe I misinterpreted what you said. Do you feel if you had not taken that action you would still be holding that position and you still would have the same authority over claims that you had before?

Mr. Rule. Oh, that is by no means sure because——

Chairman Proxmire. You can say that again.

Mr. Rule. There is the authority naturally to reorganize in any way that Chief of Naval Material wants. The only thing I am satisfied, and I have told Admiral Kidd this, the only point on which I am satisfied is if the Avondale claim had been approved instead of disapproved, nobody would ever have thought of reorganizing a damn thing.

Chairman Proxmire. Good. Well, that is the——

Mr. Rule. That is the way I feel.

Chairman Proxmire. That is fine. If you had approved Avondale wou would be in the same position you had been in. You would not have resigned.

Mr. Rule. I do not know. I am not saying how long I would have lasted but they would not have thought of reorganization at that point.

Chairman Proxmire. You heard Admiral

Kidd describe a new system for reviewing claims. Could you explain how the present procedure differs from the one it replaced?

Mr. Rule. There is not any reason why this new organization that has been set up will not be very effective. It will not be as effective as the group I headed because I headed the first team. They got the second team in now. But if they want to run it with the second team, that is all right. But they will do a good job.

Chairman Proxmire. You say the procedures are not changed then, that it is just a matter of the quality and experience of the personnel.

Mr. Rule. I do not think the procedures really make that much difference. It has been said that these people have very great procurement experience. They do have. But again, I go back to Admiral Rickover's memorandum and that is not the kind of experience that is necessarily good in settling claims.

Chairman Proxmire. By and large—I am sure there are many exceptions but by and large, is it not a fair observation that service people, that is, those who are in uniform, those who are in the service, are much more subject to discipline than those who are not?

Mr. Rule. Well——

Chairman Proxmire. Would that not make a difference in the makeup of these groups?

Mr. Rule. On that point I would like to say that this is one of the very refreshing things that Admiral Kidd as the new CNM has brought to this office. It is something that has been needed for a long time. I have talked to him and I know that he believes in accountability and discipline on the material side of this Navy. We have needed that for a long time and I am just delighted as hell that this refreshing individual comes along with these views because they happen to coincide with mine.

I feel a lot of kindred things about us. I think we both have the basic philosophy that I may be in error but I am never in doubt.

Chairman Proxmire. I can tell you that is an awfully good philosophy.

In 1969 the Navy seemed determined to do something about the claims problem, something other than simply paying the contractors for unsubstantiated claims. The Office of the General Counsel of the Navy was directly involved in claims reviews at that time. We have a memo from the then Acting General Counsel, Albert Stein, to the Vice Chief of Naval Operations, Admiral Clarey, stating:

"We intend to put the claims through a legal wringer to assist in squeezing the water out of any that are not solid."

Of course, your group was set up to help with the reviews.

Now, under the new system, the legal counsel is pretty far out of the picture and your group has been abolished, so the 2 major steps taken trying to bring the claims problem under control have been done away with.

Mr. Rule. No, sir, that is not correct.

Chairman Proxmire. Not a fair statement? Why not?

Mr. Rule. Because Mr. Stein was legal adviser to the CCCSG that I headed and occupies exactly the same position to the new group. No change. He was not a member of the group that I headed.

Chairman Proxmire. Was not there a man from legal counsel's office on your group?

Mr. Rule. Only Mr. Stein. He was not on the group, Senator. And the reason he was not on the group, the reason that the Office of General Counsel insists upon being advisors, is because they do not want the head of any group, my group or the new group, to be telling counsel as members what to do, you see. They have got to maintain this legal nicety. Advisors, not participants.

Chairman Proxmire. The trouble I have is that it seems to me that a contract is a contract. We should live up to the contract. You go over the contract only when there is overwhelming clear evidence that one party owes more. In other words, if a contractor's claim that the contract should be—more should be paid than was, then the burden ought to be clearly on him. He ought to be able to make a completely convincing case. The facts ought to be just irresistible, it would seem to me, or no payment should be made. That does not seem to have been what has happened in the past. It happened much more with you in charge. We fear that it is not going to happen in the future.

Shipbuilding claims seem to follow a definite pattern. The contractor incurs large cost overruns and submits voluminous claims to recoup his potential losses. The Navy gets bogged down for months or years trying to figure how much, if anything, it owe. It cannot figure this out to any reasonable degree because the contractor fails to keep records which would substantiate the claim. The shipbuilder makes an issue with Defense and Congressional officials about the delay and threatens to hold the ship hostage until the Navy pays the claim. The Navy eventually caves in, releases money through a provisional settlement or makes an overall settlement without ever getting to the bottom of the claim to see how much the Navy actually impacted the contractor. The first time a major claim is rejected by the Navy civilian review group, the group is abolished.

Admiral Kidd, how will your new Claims Board organization be able to handle these problems any better than they have been handled in the past?

Admiral Kidd. I make no promise they will, Mr. Chairman. All I can do is try.

Chairman Proxmire. How would you reply to my question?

Admiral Kidd. You have made a couple of points there that I think are deserving of a bit of clarification. Admiral Rickover's position has been cited. Mr. Rule has well articulated his views in relation to the importance of lawyers. I fully share both, fully share both.

As I understand and see the claims situation, there are two parts to it. Those parts which can be easily identified as responsible, where the Government is responsible, and for those portions I believe that we must pay our bills and should pay them promptly.

For those parts of the claims which are legal matters, then those are properly the responsibility of the law.

As far as where the lawyers are, sir, we have now lawyers, and have had for some time, at the contracting officers level in the Systems Command, at the claims team level. The team chief is a gentleman of the law. He has two hats. He works for the General Counsel of the Navy and he works for the Systems Command. So the law is well represented right from the outset.

Now, how are we going to insure that we do better? I make no promises in this regard. More people are obviously needed. These people are being hired, acquired, put on to the claims review problems as they come up.

Here we are at great disadvantage because, if I may continue for a moment, because we are seeing industry equip themselves with large numbers of gentlemen dedicated to the proposition of just addressing claims, trying to find ways in which claims can be developed.

Let me have that thing from Disneyland. I could not believe this yesterday. You might just be interested.

Here is a very nice brochure from Disneyland East, "Government Contract Claims April 17 to 21, 1972, Walt Disney World, Florida, a practical course in the techniques of presenting claims to the Government."

Chairman Proxmire. Disneyland.

Admiral Kidd. Now, you pay——

Chairman Proxmire. Will you submit that for the record?

(Laughter)

Admiral Kidd. In the back here, you pay $350 to take this course.

Chairman Proxmire. Does the Navy pay directly or indirectly for a seminar like that?

Admiral Kidd. Good heavens, no.

Chairman Proxmire. Will you check that out?

Admiral Kidd. I have. We asked if we could go, perhaps send a man free. We were told no.

Chairman Proxmire. Who conducts the seminar?

Admiral Kidd. This is George Washington University and Federal Publications, Incorporated, sponsoring. He volunteered——

Chairman Proxmire. I am sure we would find that the taxpayer is paying for it one way or another.

Admiral Kidd. Well, I do not know. We volunteered to send one of our gentlemen down to talk with them, give our side. No.

May I read for a moment—this is how the industry sees it, apparently, or at least the legal branch supporting the industry's views. "Claims volume has risen dramatically, for a number of reasons: contractors' desire (because of reduced work) to maximize returns from existing contracts; the coming-home-to-roost the problem generated by sophisticated procurements; the balanced realism that Government contracting is not a honeymoon."

This is on page 1 of why the attendees are there.

That gives you an insight into what we are up against on the Government side with a very modest group of lawyers having to face up to this type of quite formidable array apparently dedicated to the proposition of seeing how well they can do this job.

Chairman Proxmire. Well, will not the Navy require its contractors to keep proper books and records, to maintain adequate budget and cost control systems, and to segregate the cost of changes so that claims can be fully investigated and substantiated? It seems to me the claims are now being settled on the basis of subjective judgments, not objective facts.

Admiral Kidd. Too often.

Chairman Proxmire. The GAO has repeatedly advised us that contractors are not able to relate alleged cost increases to specific Government actions. Why will not the Navy act?

Admiral Kidd. We have been and are in the following ways. Increasing greatly the numbers of the gentlemen that we have in residence at the shipyards, at the factories of all types, not just shipyards, legal gentlemen in some isolated cases because we do not have too many lawyers, inspectors and examiners. In one large private contractor, some 400.

Now, you get to a point of diminishing returns here, I am sure. Where that point is I would not presume to say.

Chairman Proxmire. Let me interrupt. I think hiring more people, I am not sure that will do it. That is spending more money. What we are getting at is what you can do. Maybe it is difficult for you to do things. I am sure it is. But what you can do is to require the contractor to keep these records.

Admiral Kidd. And this we are doing now. There are several new directives. Mr. Packard, God bless him, he has several there in mind. This 7001 or 7002 is one instrument which is going to be a fine ballbat when everybody gets in line. It is not something that can be done overnight.

Chairman Proxmire. Well, I can think of one very effective way to act and that is just not to pay unsubstantiated claims. Do not pay them.

Admiral Kidd. I agree with you fully.

Chairman Proxmire. That is the incentive.

Admiral Kidd. Fully.

Chairman Proxmire. I am delighted to get that response. That is very helpful.

The Navy seems to be avoiding the Armed Services Board of Contracts Appeals and the litigation routes. How many claims has the Navy actually litigated and would you identify the cases and the amounts involved where the Navy has litigated claims?

Admiral Kidd. It will take about 30 seconds, if you want to go on to another question.

Chairmas Proxmire. The reason I stress this, maybe I am attributing to Mr. Rule improperly, but I thought he said something about how we should have less negotiation and more litigation, more going to court, more settling it on the basis of legal determination and not on the basis of negotiation where the other side has really nothing to negotiate.

Admiral Kidd. That is Mr. Rule's views Admiral Rickover's view and it is a view I, too, share. I think that we must go after these claims, identify the things that are proper charges on which there is no question, a change that the Government has initiated and for which we owe.

Where you get into some of these nebulous areas, the ripple effect, such things as that, I have told several contractors absolutely not. I am not going to get into that and if they choose to go that route, they must go to the courts.

Chairman Proxmire. Can you give us the data?

Admiral Kidd. Yes, sir. Would you like us to submit it for the record?

Chairman Proxmire. Unless you have it available right there.

Admiral Kidd. I have it right here.

Chairman Proxmire. Why do you not give it to us right now that is, the number that have been litigated?

Admiral Freeman. These are pending cases we have before the Armed Services Board of Contract Appeals at the present time.

Chairman Proxmire. Very good. Give us that for the record that is fine. You have several pages.

Admiral Freeman. Yes, sir.

Chairman Proxmire. All right.

Last year Admiral Sonenshein testified that the practice of making "provisional" payments on claims pending a final legal determination of entitlement and amount had been suspended and the inference I made was that it would not be resumed. A few weeks ago we learned that the Navy made yet another provisional payment to Avondale of $25 million. This is the claim that was unanimously rejected by the Rule group just a few months ago because it could not be substantiated.

I am informed that the provisional payments were made despite objections from the Navy's General Counsel and NAVSHIPS Deputy for Contracts. Is that right?

Admiral Freeman. Despite objection?

Chairman Proxmire. Yes, sir.

Admiral Freeman. No, sir. It was the other way around, Mr. Chairman. This——

Chairman Proxmire. Well, am I correct in saying that this was—this claim would have been unanimously rejected by the Rule group?

Admiral Freeman. Absolutely.

Chairman Proxmire. You reversed it.

Admiral Freeman. No. I did not reverse it. No. It was reversed by Mr. Rule and I have gone over the documentation wherein he reversed it and I think he was right.

Mr. Rule. Rejected.

Chairman Proxmire. I am also informed that payments were made without a report and evaluation by the claims team as to how much the Navy might owe on the claim. Is that correct?

Admiral Kidd. Run that by again, please, sir? No. no.

Chairman Proxmire. The rejection was made without a report and evaluation by the claims team as to how much the Navy might owe.

Admiral Kidd. We have had a claim team down there, Mr. Chairman, since last year.

Chairman Proxmire. Did they make a report on that?

Admiral Kidd. Last summer. They have been reporting continuously as they have identified parts thereof for which there was no question.

Chairman Proxmire. I am informed that Admiral Woodfin, the Deputy for Contracts, refused to sign the modification agreement for the provisional payment. Is that true?

Admiral Kidd. Well, I do not recall that. He was home with the flu.

Chairman Proxmire. If he did not sign it, who did sign it?

Admiral Kidd. What is it we are talking about now, sir?

Chairman Proxmire. The modification agreement for the provisional payment.

Admiral Kidd. That was signed by the Deputy Chief, Bureau of Ships.

Chairman Proxmire. Why did not Admiral Woodfin sign?

Admiral Kidd. As I say, I believe he was ill at the time.

Chairman Proxmire. He did not refuse to sign. Are you telling us that testimony to that effect——

Admiral Kidd. No. We sat right in my office and discussed this.

Chairman Proxmire. Did he recommend making the payment—Admiral Woodfin? You say he discussed it. Did he recommend making the payment?

Admiral Kidd. There was not disagreement among those at the time the matter was decided. I made the decision.

Chairman Proxmire. You say there was no disagreement. Did he recommend it? Did he take positive action and say you should pay this?

Admiral Kidd. No, I do not recall that he did.

Chairman Proxmire. Did you object?

Admiral Kidd. No.

Chairman Proxmire. Is the Legal Counsel here in the room?

Admiral Kidd. Sir?

Chairman Proxmire. The Navy Legal Counsel; is he here?

Mr. Mankin. Yes, sir, I am the General Counsel.

Chairman Proxmire. Can you testify on this? Will you—did you know about this matter we have been discussing?

Mr. Mankin. On the Avondale?

Chairman Proxmire. Admiral Woodfin.

Mr. Mankin. And Admiral Woodfin. No, sir, I do not.

Chairman Proxmire. What about your own recommendations, sir? Will you identify yourself, come forward and identify yourself.

Mr. Mankin. Senator, I am Hart Mankin, I am the General Counsel for the Department of Navy.

Chairman Proxmire. Yes, sir. Did you recommend this payment, sir?

Mr. Mankin. Did I recommend the payment? I concurred in this payment, sir.

Chairman Proxmire. You did not recommend but you did not object to it. Is that a fair description, or you know about it but took no action?

Mr. Mankin. I knew about it and I took the—the action I took is that I concurred in it.

Chairman Proxmire. Do you think it was a good decision?

Mr. Mankin. Do I think it was a good decision?

Chairman Proxmire. Yes, sir.

Mr. Mankin. I think it was a valid exercise of the judgment of Admiral Kidd and I think by and large, it was a good decision, yes, sir.

Chairman Proxmire. Let me ask you, Admiral Kidd, why did you decide to give Avondale the $25 million?

Admiral Kidd. Two reasons. First, I was satisfied that we owed them the money, but now let me stop right there. You know, this was not a lump sum payment. This money did not change hands all in a bunch. Not by a long shot. This was a provisional payment paid in increments, to be paid in increments.

Chairman Proxmire. Let me just interrupt to say did Mr. Rule make any recommendation on this matter?

Admiral Kidd. I do not recall.

Chairman Proxmire. Did you ask Mr. Rule?

Admiral Kidd. I did not, no.

Chairman Proxmire. Mr. Rule, did you have any position on this?

Mr. Rule. No, sir. I would like to say I was not consulted. Admiral Kidd——

Chairman Proxmire. Your original position was, of course, to reject it, right?

Mr. Rule. Admiral Kidd called me down one evening and was kind enough to fill me in on this payment. The decision had been made. I begged him not to make it. I thought it was a mistake and I begged him not to make it. I would beg him all over again because as I told him, I think really, and this will be my ongoing opinion, we are here to help this man and keep him from making mistakes. He can exercise the final judgment but I thought he was making a mistake and I so advised him.

Admiral Kidd. That is correct.

Chairman Proxmire. Fine. Thank you. Why did you think this was wrong, Mr. Rule?

Mr. Rule. Well, I understood and I still understand Admiral Kidd's desire to get the ships. He was trying to do everything he could to get the ships. But basically, as Mr. Packard stated in his speech with respect to holding the contractor in the case of the F–14 to the contract, I was in favor of holding the contractor in this case to the contract. Aside from holding the contractor to the contract, in that connection let me read one more line from Mr. Packard when he says: "Although some companies may be forced to suffer financially because of this concept", holding the contractor to the contract—"it will not be a major disaster to the country. It will be a very major disaster to the country if we cannot get the military-industrial complex to play the game straight. Until and unless we can stop this attitude, we are going to continue to waste the taxpayers' dollars, get less defense for the dollars we spend."

Chairman Proxmire. I thought very, very highly of Mr. Packard. He and I disagreed on some things but I thought he was a very great servant of our Government.

That entire speech will be printed at this point in the record. I think it is a very fine statement of principle that we ought to abide by.

Chairman Proxmire. Let me ask you a little further——

Mr. Rule. I would like to make one more point in answer to your question why I advised Admiral Kidd not to sign this provisional payment. Avondale is a division of the Ogden Corporation, a conglomerate with a lot of money. If they had simply said we are turning off the spigot, we are not going to finance Avondale any more, I think we should have gone after Ogden and made them put up the money rather than let them off the hook.

Chairman Proxmire. Thank you very much. That is most helpful.

Admiral Kidd. Would you like me to continue on that subject, Mr. Chairman?

Chairman Proxmire. All right. Maybe if I ask a couple of further questions you can include those in your response. I wonder if your decision was influenced by the instruction you received to accelerate payments to contractors from your superior.

Admiral Kidd. Absolutely not.

Chairman Proxmire. And also whether your decision was influenced by Avondale's threat to stop work?

Admiral Kidd. Oh, they had already stopped.

Chairman Proxmire. Threat not to continue, then, not to proceed.

Admiral Kidd. In answer to the first question——

Chairman Proxmire. Holding the ship hostage, not letting you have the ship.

Admiral Kidd. In answer to the first question, absolutely not.

Chariman Proxmire. That did not influence your decision.

Admiral Kidd. Admiral Zumwalt's memo?

Chairman Proxmire. No. You have answered that. I am talking about holding the ship hostage, whether or not that was an important element in your decision.

Admiral Kidd. It was, indeed.

Chairman Proxmire. It was. That was the crucial factor?

Admiral Kidd. Well, no. No. I will not say the—the crucial factor was the pressing need for those platforms. The fleet needed those.

Chairman Proxmire. That is what I mean.

Admiral Kidd. The fleet needs them badly. The team had been down there since last summer, going through, revalidating the figures which Mr. Rule had approved, and that team was reporting regularly their findings and I in checking with the team found what they had validated as proper charges to the United States for changes and for things that were our responsibility, and I decided that I would pay that bill. And the proper name for that bill I see here is a provisional price increase paid incrementally as they performed.

Avondale was very strong in their objection. They preferred to have what they called a maximum modification to the contract which I rejected out of hand. I said no, I would not stand still for that because implicit in that if I agreed to that would be that we owed them the money that Mr. Rule said we did not owe them and I said I do not think we owed you that much money.

Chairman Proxmire. Is it not true that the Navy had already provided 23½ million dollars to Avondale?

Admiral Kidd. That is exactly correct.

Chairman Proxmire. So this $25 million meant that you were paying about two-thirds of what the original claim was?

Admiral Kidd. Quite right. That is correct. And the first $23 million was made up of increments at that time of validated charges as the 25 provisional price increase was made up of elements of validated proper charges, too.

Chairman Proxmire. Does not the Navy when it makes this much of a payment give up its bargaining position? You will never get that back, will you?

Admiral Kidd. Well, I was advised on that score——

Chairman Proxmire. I am sure.

Admiral Kidd. I was advised on that score and I made a judgment. I could have been wrong. It would not be the first time I have made a wrong judgment, but I wanted those ships, having just come from a fleet where we needed them badly, and this was a validated bill that I was led to understand by the experts in whom I have proper confidence, that it was money owed by the United States and I decided to pay the bill.

Chairman Proxmire. Well, another way of looking at it is that this is extortion, that they were extorting funds from you on the grounds that otherwise you would not get your ship, you would not get what the Navy needed and you collapse and give in under this claim and it establishes a precedent which Mr. Packard and Mr. Rule are warning against here.

Admiral Kidd. I thought about that, too, very carefully, and extorting—perhaps. But their price asked, demanded, was ever so much higher, somewhere around 74, 76, somewhere around in there, $73 million, and I—

Admiral Freeman. $75 million.

Chairman Proxmire. This is 48½. This would be 48½ of that $75 million.

Admiral Kidd. Yes. And that difference has been the part in question right along.

The ripple effect, and so on, things that are rather nebulous, I do to get a handle on, and I said absolutely not, I will not touch it.

Chairman Proxmire. Now, on February 11th, Admiral Rickover sent a memo to Admiral Kidd strongly objecting to the new procedure for handling claims. Admiral Rickover said in his memo that claims settlement is principally a legal matter and should not be handled like contract negotiations. He suggests that the Office of Senior Counsel establish a Review Board composed of legal, accounting and technical experts to review settlements and eliminate items not clearly substantiated and, among other things, a list be promulgated of contractors who frequently make claims against the government or who submit excessive or unwarranted claims and that procurement agencies give consideration to contractors' claims records in awarding new contracts.

I would like to get your reaction and Mr. Rule's, reaction to Admiral Rickover's recommendations. Do you feel they are sound?

Admiral Kidd. Oh, I can answer that very simply. I agree with him. I seek his advice regularly. He calls me up many times a day with advice and I think he is sound.

Chairman Proxmire. What have you done to implement that recommendation? What have you done to have legal counsel set up?

Admiral Kidd. I think that the Board we have constituted now is going to operate, if I have my way, just about the way he proposes.

Chairman Proxmire. That is not under the General Counsel?

Admiral Kidd. No, it is not. However, the legal gentlemen whom we have as I mentioned earlier in the Systems Command and at the claims team level are gentlemen who have double allegiance, allegiance to the General Counsel and to the System Command for whom they work.

Now, when we go after a claim and agree to and pay our proper bills for things that are uncontestable, anything else that I am going to say take it to the Court, which is what Admiral Rickover has proposed.

Chairman Proxmire. At the present time the claims come up through the Systems Command?

Admiral Kidd. They do, sir.

Chairman Proxmire. They get to review them?

Admiral Kidd. Yes, sir, they do.

Chairman Proxmire. Isn't there a conflict of interest involved here?

Admiral Kidd. How so?

Chairman Proxmire. What I had in mind was at that point an independent group, either Counsel's office or Mr. Rule's office, wouldn't have advice, would they? They would step in maybe later but at that point the decisions would be made by the——

Admiral Kidd. No, no.

Chairman Proxmire. Procurement officials.

Admiral Kidd. I disagree with that, Mr. Chairman because the team, for instance, that I sent down to Avondale were gentlemen picked from rather far and wide. I would say no to the possibility of a conflict of interest there, sir.

Chairman Proxmire. Mr. Rule, yesterday we heard testimony from the Comptroller General about the settlement of Lockheed's claim two years ago. I suggested it appeared the claim was divided up into four portions in order to keep it from going to your Review Board. Seventeen million dollars should have gone to your Review Board since the total exceeded five million dollars, they divided it into five portions—all of which were under five million dollars, so you had no opportunity to see it and no right to under the law.

I also suggested the enormous discrepancies between the alleged delays and the actual delays indicated to me that the contractor may have intentionally misrepresented the facts in his claim.

I wonder if you could comment on the Lockheed claim and the GAO report.

Mr. Rule. Well, sir, as I mentioned earlier, the total claim involved nine contracts—

Chairman Proxmire. What is that? I am sorry. I missed it.

Mr. Rule. The total claim from Lockheed involved nine contracts. These five contracts were—they had a total claim value of about forty million dollars and Admiral Soneshein did feel that they were worth seventeen or eighteen million dollars. However, each one of those five contracts or rather none of those five contracts was he going to settle for at over five million dollars and we discussed this—Admiral Soneshein, Admiral Freeman, myself. We made it perfectly clear that if they were going to be negotiated as a lump sum all five together, they woud have to come to my Review group.

We were assured that they would not be negotiated that way, that they would be negotiated separately. I have no reason to believe that they weren't, although it is a little difficult negotiating techniques for me to comprehend, but I have no reason to believe that they were not negotiated separately, and in fact the GAO has checked that point. And they have no reason to believe that they were not negotiated separately, and hence, Admiral Soneshein lived up to his agreement and they did not and should not have had to come to my group.

Chairman Proxmire. Mr. Rule, I wonder if you would like to add anything as to how you think claims problems ought to be handled. What should the Navy, what should Congress do? Do you have any recommendations that you would like to make at this point?

Mr. Rule. You realize that you are asking an ex-claim person, but I have thought a lot about it.

Chairman Proxmire. One for whom I have the highest respect and faith.

Mr. Rule. I have thought a lot about claims for various reasons and I do have some recommendations. Bear in mind that my philosophy on claims against the government, unilateral claims, submitted by—we are talking ship builders now who come in years after—in some instances the ships have delivered—and say, you owe us fifty million dollars, one hundred million dollars, I just want to say that I characterize that as an adversary proceeding. I don't think that that is just another negotiation. I think that when a contractor comes in like that, unilaterally with five stacks of volumes prepared by so-called experts, I think that is an adversary procedure and I would treat it as such. And it is that feeling that makes me get to the point in my thinking where I say, these things should not be negotiated.

You negotiate new procurement. You do that because in every new procurement, when a contractor gives you his proposal, there is a big grey area of costs that he wants, and you only sort out those grey areas by sitting at the table and negotiating them and then you determine how much you should pay for what it is you want.

But when a claimant comes in unilaterally with millions of dollars that we are now told are settled for an average of 37 percent of the claim, my philosophy is that the grey area which cannot be substantiated, those grey areas should be left for a board or a court to decide.

Now, there are people who don't feel that way obviously. The lawyers are not very pro-litigation. Lawyers like to settle things. This is the one objection to—possible objection to Admiral Rickover's memorandum. I would be all in favor of turning them over to the lawyers if you had a hard-nosed staff of lawyers. If you had a bunch of pantywaists who wanted to settle everything and not go and slug it out at the ASBC and do the hard work, I wouldn't be in favor of that.

I would suggest that we get these claims, we scruf them, we sit down with the contractor and go over all the areas so that he cannot say we have been arbitrary or capricious. We would discuss every possible point in the claim with them and then make our judgment as to what the claim is worth and we have no negotiations. We tell the contractor, here is our evaluation. You can take this and settle right now. If you don't, we will make a CO decision, a Contracting Officer's decision right now for that amount and you can appeal.

Now, that is—if I had carte blanche I think that is the way I would do it.

There is an alternative that I would recommend, and that is that after the Navy has received the claim and after they have done all their fact-finding work, that both those packages be turned over to the GAO for decisions as to how much we owe this contractor. This would obviously negate any pro or con feeling on the part of the Systems of Navy Shippers personnel. Sometimes they feel anti a contractor and sometimes pro. This would get it into a purely objective forum and I am reminded that the GAO is going down and investigating these claims anyway after they have been settled, and I just would like to get them in with us to help settle them.

Now, I know they said yesterday that they don't want to do this because the contracting officer has to make the decision and they are not contracting officers. Well, that is at the tail and I think it could be taken care of in the case of claims, but I really think GAO could help us a great deal more.

Chairman Proxmire. We have asked the GAO to do this and they have indicated they couldn't.

Mr. Rule. Well, they did that on the ground that they stated yesterday that they are—that a contracting officer has to make a decision. Normally this is true, but I suggest, sir, that when an unusual situation, why can't we cut the cloth just a little differently to suit the situation?

Chairman Proxmire. Mr. Rule, those are excellent recommendations.

Mr. Rule. I haven't finished. I haven't gotten to the best part.

Chairman Proxmire. I beg your pardon.

Mr. Rule. I think, Senator, that Claims, I am not talking new procurement, I am talking claims—when this man comes in and files a claim against the government, I think that those claims should have the same stature, and dignity as a case in court. It is an adversary proceeding just like a case in court.

When a case in court is filed or when a case is before a board, members of Congress, lawyers, Secretaries, they don't call up the Judge and they don't lean on anybody and they don't call the Clerk of the Court, and I think that claims should have that—should have attached that same dignity and people should not be able to call up about claims. And this applies to lawyers, members of Congress, and everybody else.

I think there should be a canon of ethics in the Bar Association that should preclude lawyers from running to Congress, calling up the Secretaries, doing a lot of things that they wouldn't do for a case in court, you see. I think that they should do exactly the same things and only those things that they do with a case in court.

I think that there should be a rule in the House and in the Senate of the Congress along the same lines, that it is improper for members of Congress as they are doing today to call constantly, have meetings, call people up to the Hill, go down and sit with the Secretary, to talk about claims while claims are being adjudicated. I think they ought to—that ought to be an improper practice, and certainly to the extent that they call to expedite a claim which is perfectly natural, you like to point out how it is all right to expedite, and I agree.

Chairman Proxmire. We have been through that once.

Mr. Rule. Yes, we have been through that. But records ought to be made of any call placed by the lawyers, the members of Congress, on claims and they just don't have that stature today and I think they ought to have it.

I think that further, my last point is that when claim accounts, their lawyers, have meetings in the Bureau on the claims, I think those meetings ought to be recorded and a record kept of them for further use.

Those are my recommendations.

Chairman Proxmire. Those are very very valuable. I am glad you went ahead instead of stopping when I interrupted.

And I am glad that you sent up to me the Disney Land faculty showing contractors how they can get money out of the government. It includes on the faculty, as I suspected, officials of the Federal Government who are being paid by the taxpayers.

For example, Preparing and Defending the Claim, George T. Malley, Chief Counsel, NASA Langley Research Center.

Obtaining Information Discovery and Supoena, Irving Jaffe, Deputy Assistant Attorney General, Civil Division, Deputy Justice.

Clinic, Gerson B. Kramer, Claim, Department of Transportation contract appeals board.

Presenting Claim, to the Comptroller General, Paul A. Schnitzer, Assistant General Counsel, General Accounting Office.

Clinic, S. Neil Hosenball, Deputy General Counsel, NASA.

So that I don't see any—wait a minute, oh, yes. Government Claims Against Contractors, Harold Gold, Counsel, Navy Facilities Engineering Command. That is the first Navy personnel I have seen.

Department Suspension and Blacklisting, Paul G. Dambling, General Counsel, General Accounting Office.

And "Live" Hearing Demonstrations, Board Chairman, Richard C. Solibakke, Chairman, Armed Services Board of Contract Appeals.

So, this court is given to tell contractors how to get money out of the taxpayer, I think it is shocking. I am delighted that you called that to my attention. I missed that Disney Land faculty.

Mr. Rule. Senator. There isn't anything new about that except where it is going to be held. Those sections are being put on throughout the country regularly.

Chairman Proxmire. Yes, but my question earlier was whether this was being done by the Federal government or not? It is not being done directly. It is under the sponsorship I understand of George Washington University, I was told.

The important point I am trying to make is that members of the faculty here moonlighting are the people who are on the other side and employed by the federal government. I think it is a observation that is worth noting.

Admiral Kidd, I would like to get into ship building practice now. The GAO reviews of cost control and procurement practices at two of your major ship yards, Newport News and Litton, indicate that the Navy still doesn't have effective control over the cost of work for which the government shares a large part of all cost overruns and underruns. How much business do you estimate you have under contract that is not under effective cost control?

Admiral Kidd. Oh, I wouldn't hazard a guess, Mr. Chairman. I am not comfortable with the total adequacy of our cost controls. I am satisfied that the contractors are gradually becoming increasingly aware of the need for much improved cost controls. I am also satisfied that in the majority of cases they are banding quite satisfactorily and promising efforts in this regard.

But it is not going to be an easy thing to solve and it is going to take a long time.

Chairman Proxmire. Well, for the record, to the extent that you could do so, with your staff, will you review what has been done and indicate what actions you are taking to correct deficiencies?

Admiral Kidd. Yes, sir.

Chairman Proxmire. Both the Defense Contract Audit Agency and GAO have reported that during the periods 1969 to 1971 Navy contracts were charged about seven million dollars for overhead expenses applicable to Litton's commercial work carried on at the West Yard. We were shocked by this yesterday. Why hasn't the Navy acted and caused them to refund this money?

Admiral Kidd. Oh, we have, Mr. Chairman.

Chairman Proxmire. What else have you done?

Admiral Kidd. Yes, sir. This irregularity, if you will, causes as yet we can't prove one way or the other how or why it happened, was first identified by our own government contract auditors. It was brought to our attention. We went back to the contractor, drawing his attention to this, and asking him why and directing that he change his procedures to insure that this sort of thing would be prevented in the future.

He came back to us with a letter acknowledging this error and then enclosed a piece of paper, a legal brief, saying that he would change his bookkeeping procedures henceforth, but that the change in procedures would not be properly, legally made retroactive. We sent this compendium, this file, to the Defense Contract Audit Agency for comment and review. They are to come back to us on April 14th, of this year—and their staff. But I haven't given up on that one.

Chairman Proxmire. Well, I am glad to get this report. We missed it yesterday.

What is the present estimates for the program cost and the program unit cost of the LHA being built by Litton and how do these costs compare with the original estimates?

Let me ask some other questions in this connection as long as you are getting the data together. I want to know how much is Litton's claim on the LHA and I want it broken down, if possible, the figure by escalation, cancellation, and Navy impact costs.

Admiral Kidd. Those figures are not in our hands, Mr. Chairman, and aren't due until the end of this month. The re-set time.

Chairman Proxmire. How about the LHA delivery schedule? I understand there has been a slippage of two years, 24 months.

Admiral Kidd. The LHA delivery schedule has slipped, Mr. Chairman. Let me see where that stands right now.

Chairman Proxmire. Will you give us those other figures when they come in?

Admiral Kidd. Yes, sir.

Chairman Proxmire. I know you don't have them now. But send them to us.

What is the reason for the slippage which has occurred on the LHA program?

Admiral Kidd. Well, sir, a combination of many things. From the contractor's point of view they had a hurricane down there which slowed them down. They had a strike of about a month's duration. But when the storm struck, they left town. They didn't come back. So it wasn't a question——

Chairman Proxmire. Now, did you agree it was a 24 month slippage? Is that accurate or not?

Admiral Kidd. On the LHA?

Chairman Proxmire. Yes.

Admiral Kidd. No. I think that is kind of a soft figure yet.

Chairman Proxmire. It is more than 24 months?

Admiral Kidd. No. I would say somewhere between 12 and 24 but it is a little bit early to tell just how much.

Chairman Proxmire. I see.

Admiral Kidd. Those are the two things.

Chairman Proxmire. It could go higher, I presume?

Admiral Kidd. Yes, it could, I suppose.

Chairman Proxmire. How much will the delivery delays impact on other Navy programs such as the DD 963?

Admiral Kidd. I hope none but I am from Missouri in this regard and here again the contractor is not far enough along in what he is doing on the 963 to be able to tell you with any degree of assurance just what his delay is if any are going to be.

Chairman Proxmire. I am told that the overrun on the LHA is four hundred million dollars on the five-ship original target costs. Can you confirm or deny that?

Admiral Kidd. No. I think that that—I think that sounds like a figure picked out of the air.

Chairman Proxmire. Well, so far we have been—you know, when we make these estimates of overruns, they tell us that we are too high and we are always either on the nose—we were on the C-5-A—or too low.

Admiral Kidd. I didn't say it is too high or too low or anything else.

Chairman Proxmire. I know. You didn't deny it.

Admiral Kidd. We don't have the figures in hand, sir, from the contractor yet.

Chairman Proxmire. Well, when will you have these?

Admiral Kidd. They are due at the end of this month, Mr. Chairman.

Chairman Proxmire. Only a few days from now.

Admiral Kidd. Correct. What his cost dollars are going to be, and in that would be included the dollars for the cancellation which is in the contract, when we went from nine down to five, and additional changes of costs.

Chairman Proxmire. Can we count on having that by the end of next week?

Admiral Kidd. If he is on time, sir.

Chairman Proxmire. All right. It is my understanding that Litton is proposing that the Navy pay at the same ceiling price for five LHA's as was originally granted for nine LHA's and then in return Litton would accept "low profit of about 8 percent on costs", which would be an enormous profit, of course, on invested capital, and would drop its present claim. Can you confirm or deny this?

Admiral Kidd. I have heard that which you just enunciated but very informally and something on which I have taken no action because it is just about fourth-hand conversation.

Chairman Proxmire. I am also informed that partly because of the difficulties Litton has experienced at its new yard on the East Bank it is proposing to build the first 7 DD 963's at the East Bank, it increased costs to be borne by the Government.

Do you have estimates as to how much it would cost to build the DD 963's at the East Bank.

Chairman Proxmire. The Navy has had no estimate as to how much that would cost?

Admiral Kidd. No. We have no such communication from the contractor yet, sir.

Chairman Proxmire. If some of the DD 963's are built at the West Bank and some at the East Bank, wouldn't this cause the government to pay twice forward start-up costs and wasn't this what was supposed to be avoided by giving the entire program to Litton and not giving part of it to the Bath Shipyards in Maine? Wasn't this part of the justification for concentrating the whole program at the new Litton yard? How do you avoid the concentration, if you can?

Admiral Kidd. Good heavens, if that proposal that you have just indicated is apparently about to hit us comes to pass, that would obviate the—that West Bank yard.

Chairman Proxmire. That is our point, gentleman.

Admiral Kidd. It seems to me.

Chairman Proxmire. Will you let us know if they make that proposal and what the terms are?

Admiral Kidd. Indeed.

Chairman Proxmire. Has Litton asked the Navy formally or informally to restructure either or both the LHA and the DD 963 contracts.

Admiral Kidd. Restructure? No, sir, not to my knowledge.

Chairman Proxmire. Does the Navy plan to restructure either contract?

Admiral Kidd. No, sir, not to my knowledge. May I make addition here, Mr. Chairman.

Chairman Proxmire. Yes.

Admiral Kidd. Mr. Rule mentioned earlier, and you fudged a little bit on that F-14 contract, this is the same type contract, you know, and in counterpoint to Mr. Rule's observations on holding the contractors feet to the fire, that type of contract is no longer allowed, which I am sure is well known to you, but I think it would be important to introduce it into the record at this time.

Chairman Proxmire. Good. I have so many difficulties with the F-14. I know it is dear to the hearts of some of the people in the Navy but, boy, it is a tough one for me to justify in terms of admissions in view of the fantastic per copy cost of, what is it, sixteen million dollars now compared to the planes it would replace of about three million dollars and the notion that it would enable the aircraft carrier to be able to stand up to—help it stand up to Russian land planes, and so on. It just seems to me to be something impossibly costly and we have to cut our number of planes that we possibly afford to have.

Has Litton—let me ask this. Isn't it true that the Navy work at Litton's new ship yard so far is suffering from the same problems the Maritime Administration reported for its program, that is, defective structures, cost overruns, schedule delays, and a lack of trained manpower?

Admiral Kidd. Was that first defective structures, sir?

Chairman Proxmire. Yes.

Admiral Kidd. No, sir. Not yet as far as——

Chairman Proxmire. Let's take these one by one. Cost overruns?

Admiral Kidd. That again is going to be piece of this re-set submissions from the contractor due at the end of this month.

Chairman Proxmire. Schedule delays?

Admiral Kidd. The same, yes, sir.

Chairman Proxmire. Lack of trained manpower?

Admiral Kidd. This I can confirm, yes, sir.

Chairman Proxmire. Let me go back to the cost overruns. What was your response on that?

Admiral Kidd. This would be again a part of this dollar package that is due at the end of this month. As far as what I can prove to you at this point in time, I am——

Chairman Proxmire. We were asking for the——

Admiral Kidd. I am uneasy.

Chairman Proxmire. ——Asking for the figures, on the original cost and present projected cost. You don't have those?

Admiral Kidd. No. Not in writing.

Chairman Proxmire. What can—can you give us what you have, if not in writing, verbally?

Admiral Kidd. No, because you ask five different people, Mr. Chairman, you get five different answers.

Chairman Proxmire. They are all estimated overruns but in different amounts.

Admiral Kidd. But they are high, sir, on the high side.

Chairman Proxmire. How about the Navy's estimates? Does the Navy have one of its own or have more than one?

Admiral Kidd. We are tracking what they are telling us and we are tracking what our estimates are.

Chairman Proxmire. What does your track show?

Admiral Kidd. As you can well imagine, and I summarized that just a moment ago when I said I am uneasy.

Chairman Proxmire. What are the figures?

Admiral Kidd. I don't have those right at my finger tips, Mr. Chairman.

Chairman Proxmire. You can get that for the record, I understand.

Admiral Kidd. All right.

Chairman Proxmire. Isn't it also true that the anticipated benefits from the new yard have so far not been realized by the Navy?

Admiral Kidd. Here again it is still too early to tell because they are not at an identified milestone yet which they haven't met.

Chairman Proxmire. You gave them an LHA contract in '69. When will you be able to get them? That is three years ago.

Admiral Kidd. Yes. The first one, Memo of Agreement, original 1973, Memo of Agreement, 4/1/74. Nineteen months in one case.

Chairman Proxmire. Nineteen months in connection with what, sir.

Admiral Kidd. Delay in delivery on the first one.

Chairman Proxmire. Will you submit that document for the record? Can that be available to us?

Admiral Kidd. I would be happy to give you a summary of what the schedule shows, Mr. Chairman.

Chairman Proxmire. All right.

I just have one other area, Admiral. You have been most patient and responsive and I am very grateful to you, it wouldn't take us long, I think.

I want to get into the profits on Polaris Poseidon overhead and conversion. I am sure you are familiar with the correspondence between Admiral Rickover, Admiral Sonenshein and myself concerning the issue of excess profits made by the Electric Boat Division of General Dynamics?

Admiral Kidd. Yes, sir.

Chairman Proxmire. On Polaris Poseidon overhaul and conversion program, some time ago Admiral Rickover testified that a shipyard for the same work. Admiral Sonenshein later identified the yards as Electric Boat and Newport News Shipbuilding and Drydock Company, a subsidiary of the Tenneco conglomerate firm. I asked Admiral Sonenshein about Admiral Rickover's charges and Admiral Sonenshein replied in a letter that the last time they had this problem was in 1970 and since then profits and costs were coming down.

I asked Admiral Rickover to give me his reply to this letter and he told me in a lengthy and detailed response that there was no significant change in costs or profits on the submarine contracts involved with the exception of one where Admiral Rickover personally negotiated a lower profit with Electric Boat. Now, in the first place, credibility gap between the two of us. Why shouldn't members of congress be able to obtain the unvarnished truth about defense contracts without digging for it like a coal miner?

Second, do you intend to continue paying Electric Boat were profit than Newport News for comparable work? As you know Electric Boat company's costs are higher than Newport News' on essentially the same work. This fact is beyond dispute, and so far I have seen nothing to indicate that the Navy is doing anything about it. In fact, I believe the situation is getting worse. Why won't the Navy act?

Admiral Kidd. Well, I would hope your last observation is inaccurate, there we are not doing anything about it. I think we are. I cited earlier the additional number of inspectors, examiners, that we have gotten on scene at both sites. We have made changes there.

Chairman Proxmire. Once again, when you cited that I pointed out this is more people, more expenses to the government, more expenditures but doesn't necessarily mean that you are going to reduce anything——

Admiral Kidd. No, sir.

Chairman Proxmire. In their explicite instructions of a particular kind that are going to be put into effect.

Admiral Kidd. Quite right.

Chairman Proxmire. What are they?

Admiral Kidd. Those instructions are to insure an improved and more accurate audit track of material, manpower, labors, costs, direct, indirect, and overhead.

Now, we are going to continue to also have cost disparities based upon geographic locations which is a case in point here where the wage rate at one site are higher than the wage rates at the others. There are going to continue to be instances of greater inefficiencies which we are seeing here. No question about it. I called Admiral Rickover and thanked him for his intercessions in the instance which he cited in his letter to you. The statement I have been personally in discussions, visited, and talked to the top management of these activities.

Now, one point that has been made to me, and I will be a parrot and report it back to you. We haven't had up until about the last two years a direct comparison of work at the two sites where the work packages have been actually identical and thereby lending themselves to precise comparison. This is, nevertheless, sort of a one-time yard stick but it is a yard stick but it is a yard stick that makes your point.

Chairman Proxmire. Well, I appreciate this very much. It is good to get this confirmation. Admiral Sonenshein denied the problem, and, of course, contradicted Admiral Rickover. It is good to get your confirmation.

I understand the contracts for this work are cost plus incentive fee.

Admiral Kidd. Correct.

Chairman Proxmire. Under such contractor's reimbursement all of his costs plus a profit—my information shows that in nearly every case, where more than ten contracts are involved, the contractor got higher profits then were initially negotiated for the job. Is that correct?

Admiral Kidd. I don't know, Mr. Chairman.

Chairman Proxmire. In nearly every case where more than ten contracts were involved?

Admiral Kidd. If I may, I would be greatful to be able to provide that for the record.

Chairman Proxmire. Fine. I am also informed that the initial targets were overstated for both ship builders to make excessive profits. In one case the profit amounts to 18 percent on costs which of course could be over one hundred percent on invested capital. Can you verify that? Can you verify whether it was 18 percent on costs in one case.

Admiral Kidd. We are studying that now. We have two study efforts underway to address that matter, Mr. Chairman. It is not completely done yet, sir.

Chairman Proxmire. Why does the Navy pay such high prices and high profits on cost plus contracts?

Admiral Kidd. May Admiral Freeman address that, Mr. Chairman?

Chairman Proxmire. Yes, sir, Admiral. Go right ahead.

Admiral Freeman. I don't think the statement is basically a true one, that we pay high costs and high profit. It certainly is not the intent.

Chairman Proxmire. In this record we are making here, that seems to be true.

Admiral Freeman. In an incentive fee contract, the original negotiated profit will increase if he does in fact reduce his costs. That is one of the provisions of that type of a document in this particular case, as you have been a strong supporter of uninformal accounting standards, so this deals with that kind of a problem in trying to be able to relate exact work packages, exact costs comparison.

Chairman Proxmire. But in this case they seem to be increasing their costs. Doesn't that mean that the profit will be reduced?

Admiral Kidd. Well, the most recent one was a substantial reduction in profit negotiated by the Naval Ships Systems Command for the most recent overhaul.

Chairman Proxmire. That is the one Rickover negotiated.

Admiral Freeman. I understand he was a participant, yes, sir.

Chairman Proxmire. Admiral Kidd, you said something about a study that you are making. Will you make that available to us when you have completed it?

Admiral Kidd. When it is completed.

Chairman Proxmire. Can you tell us what the profits on these conversions and overhaul contracts represent as return on investment? Is there any evidence on that?

Admiral Kidd. No. And I have talked to the president of one of the two ship builders involved and here it is kind of fuzzy, Mr. Chairman, as to what the investment is.

Chairman Proxmire. I know it is a difficult concept. We have had difficulty with the GAO on it. I have argued and my staff has argued that the return on the investment is really much more significant. My own business experience and business training tells me that this is what a businessman looks for, whether the costs are high. Whether the profit on costs are high or low is fairly relevant. They will take a very low profit on costs if his return on his capital is high. Return on capital is the vital determining factor and determines the justification, too, of the price being paid.

Admiral Kidd. The thing that I find troublesome is the great difficulty in identifying from the contractor's point of view what is his capital investment. It could be dollars, it could be money spent in new equipment, new machinery, new training techniques.

Chairman Proxmire. I realize that. But I think almost any estimate, we get the contractor in a discussion and the dialogue, having him give his estimates, the Navy gives its, and then well, at least, have some basis for determining what kind of return they are getting—

Admiral Kidd. Those two contractors strongly objected, of course, to using the return on capital.

Chairman Proxmire. They also do because it shows, of course, that they are doing very well.

The study by the GAO overall showed the average return was 50 percent, 50 percent on invested capital. I am informed that last year's Electric Boat Division made twenty-eight million dollars on a little over fifty-two million dollars in investment and here is another example. You confirm that? If it is true, that is more than 50 percent profit. Can you determine that?

Admiral Kidd. Following your lead of some moments back, Mr. Rule just reminded me here, we have five actions for the selected application of this approach. Magnavox Texas Instrument, Itek and Hughes and Librascope, and we are attempting to have Navships and Navelectric to participate but that thus far has been unsuccessful.

Chairman Proxmire. How about the Electric Boat Profit of 50 percent, twenty-eight million dollars return on fifty-two million dollars in investment?

Admiral Kidd. I can't confirm or refute the fifty-two million dollar investment figure, Mr. Chairman.

Chairman Proxmire. Could Admiral Freeman?

Admiral Freeman. No, sir. I am not familiar with that specific contract, sir. I will be glad to provide a comment for the record.

Chairman Proxmire. If you will provide that for the record, fine.

I am also informed that General Dynamics Company-wide profits for the year were about twenty-four million dollars, less than the profits made by its Electric Boat Division. That means except for the Electric Boat the Company actually lost money. Wouldn't that seem to follow?

Admiral Kidd. It would.

Chairman Proxmire. Why is the Navy allowing such high profits? Again, do you intend to do anything to remove excessive profits?

Admiral Kidd. We are trying. I think the matter of allowing profits—in the short time I have been here, I have asked just about every contractor I have seen, how much is enough? What is a proper profit? And fascinatingly I get answers ranging anywhere from two and a half percent to fifteen and twenty. There seems to be no uniformity, and this I don't understand.

Chairman Proxmire. Well, if they are talking about return on invested capital, I think fifteen or twenty would be quite modest. I would be delighted if they would settle on the average of fifteen or twenty percent. But they don't in so many cases.

Admiral Kidd. On the other hand, I had a very prominent contractor in the office yesterday who told me that in his operation, if he could make a profit but a fraction above that which he would get if deposited in the bank, he figured he was doing pretty well.

Chairman Proxmire. Well, they are getting 50 percent at Electric Boat. That is a lot better than you can do in any bank savings account.

In the Polaris Poseidon overhaul and conversion situation I described earlier it appears that the Navy has spent sixty-five million dollars more at Electric Boat than at Newport News for the same amount of work. Why don't you find out the individuals responsible and hold them accountable?

Admiral Kidd. We are trying and I think those figures are a bit off because the work packages are not identical and this leads to a great difficulty in precisely scoping the problem.

Chairman Proxmire. Will you give us a final report on that?

Admiral Kidd. Yes, sir.

Chairman Proxmire. At this point I want to insert it in the record.

Admiral Kidd. In that regard EB just reorganized and replaced certain key people who had been apparently involved in weak material controls, but have no great answer yet.

Chairman Proxmire. All right, Admiral, once again, and Mr. Rule, it has been a most informative and useful hearing. You have made a fine record. I know there has been some controversy but that is one of the things you have to expect in a record that is worth anything. Thank you very, very much.

Tomorrow morning the committee will reconvene in the same room at the same time. We will hear the Honorable Charles L. Ill II, Assistant Secretary Navy Installations, and from Mr. Hervert J. Frank, President of Aerosonic Corporation will be introduced by Senator Chiles.

The subcommittee stands in recess. It will reconvene at 10 o'clock tomorrow morning.

(Whereupon at 12:25 the subcommittee recessed to reconvene tomorrow morning at 10 o'clock, March 29, 1972.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

WAR POWERS ACT

The ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD). Under the previous order the Chair lays before the Senate the unfinished business (S. 2956), the title of which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (S. 2956) to make rules governing the use of Armed Forces of the United States in the absence of a declaration of war by the Congress.

The ACTING PRESIDENT pro tempore. Under the order previously entered, the Senator from Mississippi (Mr. STENNIS) will be recognized for as much time as he desires.

Mr. STENNIS. Mr. President, I certainly thank the Presiding Officer, and I thank the Presiding Officer for the arrangement whereby I could use more than 15 minutes, although I do not expect to speak at great length on this subject; not today, anyway.

Mr. President, as would any Member of the Senate, I welcome the chance to take some part at least in the debate on this very grave question. I have welcomed the chance to take some part in the form and wording of this measure, although I do not claim more than a small part of the credit.

I want to say a few words by way of introduction that are not personal and are not intended as such, but it does have something to do with my personal experience.

I speak as one who does not want to restrict the President of the United States. There is very broad language in this measure that recognizes his powers as granted and conferred in the Constitution, as well as his responsibilities; and I speak as one who has a voting record and an advocacy record here over the years as leaning toward the Executive power in connection with the conduct of wars and the handling of emergencies.

I know the Nation has to have a head and when the people choose that executive head he represents in that office all the people. As a Member of this body I try when I can to back that leadership. I lean that way. That is my theory of government.

I do not want anyone in the President's office to sit idly by with indecision, or timidity, or anything else and fail to act in an emergency, fail to move in on a problem and let our country be a victim of aggression in war or in any other matters. So I lean against all those things and I think this measure surely takes care of the situation in that field.

As one who has been here when we went into two wars after World War II, neither of which was declared by Congress, and in neither of which Congress took a direct and positive yes or no responsibility I merely want to put Congress back in the role of having to share in that decision. That is all; that is all. I want to put Congress back into the role of having to share in decisions as to whether or not our Nation will be committed to war. I believe it should be fairly easy for the executive branch and Congress to find a way where both could fulfill their responsibilities—it is not a question of power—where both could fulfill their respective responsibilities as laid down in the Constitution of the United States.

During our history, until the years since World War II, we have been able, without any further legislation, to play those roles. I was standing right here behind where I am standing now, Mr. President, when the news came, in 1950, that we had committed troops to Korea, and the news about our landing troops there. I remember it as if it happened a few minutes ago.

I realized that that was the first time we had ever willfully gone into full-scale war, so to speak, without a declaration of war by the Congress. I was a new Member, but I listened closely.

At that time, on this floor, the thought of having to wait for Congress to declare war was almost scoffed at. It was said there was not time in a nuclear age, and so forth, and so forth. But I never did change my mind about it. I did not agree that we could not fulfill that obligation under the Constitution. As a practical matter, I knew, whether Congress had considered it or not, we would be calling on the young men of this country to fight that war, and I felt that the people as a whole were entitled to the viewpoint and judgment and decision, not only of the President, no matter who he was or how wise he was or how patriotic he was, but were entitled to the judgment and responsibility of the elected Members of Congress. That is where the direct contact with the people is. That is where the direct responsibility is. That is where the broad, common sense judgment of the American people as a whole is reflected—in the Halls of Congress—not always wisely, but it is the best they have in our system in those fields.

I think now, regardless of world conditions, that we ought not to abandon this safeguard and ought to put something on the law books—I am not so much interested in just what the language is—to reincarnate, reenact, and rerecognize the responsibility of the Congress in this field.

As I have said, I do not detract one bit from the President's power or his responsibility. This is a mutual affair. I said in a former speech that I did not believe any one man was wise enough to make these decisions and that the responsibility of it is too awesome for any one mind.

In addition to these leanings, I lean toward military preparedness—everybody knows that—in both quality manpower and in military weapons; but this leaning toward Executive power in crisis, and all, and leaning on military preparedness with a margin to spare, does not mean I have to abandon commonsense and throw away this safeguard—and I think it is a safeguard—against getting into wars. And that is exactly what we have done in the last 22 years.

Whoever has had the responsibility as the President has not had the backing of the Congress, which felt it had a direct responsibility, because it had not voted on a resolution. I think the military is better off, the people back home that have to carry the burden of the war are better off, and the Executive is far better off to have a required vote by the Congress. Then, if it is in the affirmative, the President has the backing of that Congress, and Congress feels a responsibility because it has put itself on the line and has committed the people. And the people feel they have been committed through their representatives—or at least a majority of the Senators and the Members of the House of Representatives—by having voted for that declaration of war, to throw the resources of this country, materiel and men, into the balance and commit themselves against the adversary.

On the other hand, if the people do not have that expression from the Congress, we know now that they do not feel the same way as they would with it. We know now by experience that they do not feel as much that it is their war and that they have this responsibility.

I hope we have learned a lot. I am not trying to refight this war, and I would not put my name on this resolution or any resolution until it expressly provided that the war in Vietnam is excepted from the operation of it. Because if we are going to set a policy for the future, let it be for the future and let us not try to lay blame for what happened in this war. I do not blame anybody except myself. I blame myself for my part, and let it rest there, and I have no comment on anyone else. But let us not get off now and try to let this debate decide whom to blame for it. I refer to the war only as an illustration of what can happen with reference to the people not having the benefit of the safeguard and then not feeling bound as they otherwise would.

I know what it is to be here—and I make no reference to anyone—as a Member of the Congress, not having had the responsibility of voting yes or no about whether we take this step.

The country is better off—I repeat that—the military is better off, the Congress, and every other branch of Government is better off if we do it this way. That is aside from the fact that it is a plain mandate of the Constitution of the United States. I think that is enough argument right there, but some persons do not think so.

I want to mention another thing, with great deference to anyone who may disagree. I do not think, Mr. President, that this is primarily a legal question. I think it is a policy question or a political question, and I use the term "political" in the very highest sense. If this were merely a legal question, we might as well just stop now, because the library is full of books, articles, periodicals, law books, Supreme Court decisions that try to pass on this matter with all the variations that are inherent in a fine technical instrument. We have all these fine variations on the legal aspects of this matter.

I think we can find constitutional authorities that would differ greatly, authorities that might be entitled to our respect on purely constitutional questions; but that is not what we are confronted with.

The cases in the Supreme Court of the United States were decided at an altogether different time, under altogether different conditions, and they really hang on a very slender thread so far as the present is concerned. This is a down-to-earth, practical question of whether or not we are going to be committed to war, which means all of our material resources and manpower, drafted or volunteer, are thrown into the breach, with the question of human survival for them and for the Nation in the balance. It is not a legal question. We are not going to find answers in the books, so to speak, on this matter.

It is a practical question we have got to decide for ourselves. There was a good deal of debate in the Constitutional Convention about this matter, a great deal of discussion, which was not recorded in full. But finally, in the last analysis, the Convention decided how to settle it, and expressed their agreement in a very few words, when they said, "Congress shall have the power to declare war"; and that part of the Constitution was adopted almost without debate.

As I say, I do not wish to seem personal, but I want to try to answer the question: "What are your credentials to speak on this subject, especially the practical side of it? What are your credentials in connection with all these treaties, these mutual defense pacts and agreements?" A very valuable Member of this body met me in the hall yesterday and warned me against this resolution. He said it abrogated all the mutual defense treaties we had agreed to.

I think not. I would not agree to a resolution that abrogated everything we had agreed to. But I refer now, for background, to the CONGRESSIONAL RECORD of January 26, 1954, page 785. There was then pending before us the Mutual Defense Treaty or agreement between the United States and Korea. The language of that treaty referred to the fact that the signatories, the parties signing it, would respond in case of danger. The late Senator Wiley of Wisconsin was chairman of the Committee on Foreign Relations, which was reporting this treaty.

A colloquy about the subject begins on page 785, as I have already stated, and continues for 3 or 4 pages, a part of which was between the Senator from Wisconsin and the Senator from Mississippi. If Senators will indulge me, I shall quote some of the questions that I raised then, and some of the answers.

On page 785, we find this:

> Mr. STENNIS. Specifically the clause we are discussing means that before the United States can resort to force or use troops, before it can go to war, it will be necessary that the matter be brought before the Congress. Is that correct?

We are talking about the phrase "constitutional processes."

The colloquy continues:

> Mr. WILEY. I think the constitutional process in the case referred to by the Senator from Mississippi would call for a declaration of war by the Congress. I am not so naive as to say, however, that something might not happen which would be in the nature of an attack upon our forces or upon a part of our territory. In such a case we would not wait for a declaration of war; we would go into battle. Constitutional process might also include, withdrawing our ambassador, by the President, issuing an Executive warning, cutting off aid, and so forth.
>
> Mr. STENNIS. If the Senator will yield further, regardless of what particular circumstances might exist at the time the question may arise, are we committing ourselves now, in agreeing to this treaty, to go to war if Korea is attacked, without any declaration by the Congress?
>
> Mr. WILEY. In my opinion, very definitely the answer is no, but we enter into an undertaking that if there is an overt act by an aggressor upon our ally, then we will do that which we think is advisable and in accordance with our constitutional processes.
>
> Mr. STENNIS. Who is "we"? Is that the Congress, or is it the President?
>
> Mr. WILEY. It is the Congress and the President, who have to determine that question.

Here is what I think is the pertinent point in all of that discussion: How far are we committing ourselves with this agreement with Korea to go to war without a congressional declaration? I asked who did "we" mean, and Senator Wiley said:

> It is the Congress and the President who have to determine that question.

The colloquy continues:

> Mr. STENNIS. Under that interpretation, then, an act of Congress would be required before American forces could be used, or the United States could go to war under the treaty, as the Senator has explained it. Is that correct?
>
> Mr. WILEY. As I understand the question, I agree that if an overt act is committed by an aggressor upon an ally, it then rests with the constituted authority, to wit, the Congress, to decide whether or not we shall regard such aggression as a basis for going to war.

Now skipping a few questions, I asked this question:

> Mr. STENNIS. Will the Senator say that, in his opinion, that was the opinion of the committee which has reported the treaty, and which he represents on the floor today, the Committee on Foreign Relations?
>
> Mr. WILEY. Supplementing what I have said, I would state that of course the President, as Commander-in-Chief, would undoubtedly come to the Congress, he would undoubtedly submit to the Congress a statement of the facts, and Congress would make the decision as to whether it would make a declaration of war.

Nothing could be any plainer than that. And that was the issue, the main issue before the Senate: the matter of confirming and ratifying a treaty.

On page 787 of the RECORD of the same date, we have the following. This is a little repetitious, but it came up in different ways, and other Senators asked questions along the same line.

As shown on page 787, I asked this question:

> Mr. STENNIS. The Senator says "the President and the Congress." He means, does he not, that the language would require affirmative action by Congress before the United States could enter into armed conflict or into a war?
>
> Mr. WILEY. I think it means before we could get into a full-scale war; I am sure of that.
>
> But I agree fully with the statement of the distinguished Senator from Mississippi, namely, that, regardless of wherever our troops may be, if they are attacked, they will not await action by the President in calling Congress into session; or if an attack were made on any of our territory, the President would be obligated, as Commander in Chief, immediately to take the steps which would be advisable under the circumstances.

Mr. President, this resolution follows that language right on the nose. The one is drawn to fit the other. The resolution is drawn to fit this language.

As shown on the same page, we had this further exchange:

> Mr. WILEY. The Senator from Mississippi now speaks, does he, about the use of force?
>
> Mr. STENNIS. Yes; the use of force.
>
> Mr. WILEY. Very well. I think that if the circumstances were such as I have suggested, namely, if there had been an overt act of aggression, but our troops were not involved, or if there had not been an attack upon our own troops, but simply an attack upon the troops of our allies, it would necessarily follow, under article III, that we would act to meet the common danger; and our action at that time would be in accordance with constitutional processes. If it did not mean consultation, or something similar, with respect to which the Executive has the power, and if it meant utilization of the Armed Forces, I believe that Congress should and would have to decide.

Mr. President, that is just an illustration of the extended debate here that afternoon, in which this point was raised time and time again; and every one of these mutual defense agreements that we have made contains that same clause—that this Nation will act under constitutional processes—except one, and that is the one with the Rio Pact, as we call it, with the Latin-American countries. That is an altogether different situation, and it can be explained fully, but I shall not go into that now because I want to move on to the other aspects of this important matter.

I do not know who raised the points in the other treaties. Perhaps they were not raised that vigorously in the very first ones. At that time, with all deference, we were just going around the world and we were putting together these mutual defense treaties. I voted for most of them, but I never thought there was much mutuality about them. World affairs were not settled, and we thought we were preserving all the prerogatives of the Constitution and the responsibility of Congress, and according to the wording of everything, we were. Of course, we have come along since then and got into war when we did not even have a mutual defense treaty or anything of the kind.

Mr. President, with that background, and coming to the resolution itself—it will be debated more fully, and I expect to make other comments on it at another time—I am going to proceed in a moment to a more formal part of my remarks.

I want to add this, with emphasis: It is clear that the President has responsibility and that Congress has responsibility. I know that President Nixon, as any other President, would be careful to guard his powers and follow his responsibilities, and I know that the State Department is concerned about this matter. It would be a great tragedy if we did not get together some way—there is plenty of responsibility to be shared by all—and put some language on the law books that will be an assurance to the American people. That language should be an assurance, not that we are backing up or backing off from anything or running out on a commitment, but that hereafter we are going to follow the Constitution, the rule of commonsense, the provisions of these mutual defense agreements, and that Congress is going to be certain to put itself into this field of responsibility.

We talk a great deal about powers. I think we emphasize the wrong thing. We have to emphasize responsibilities. That is what the people expect of us. I think it will be tragic if we do not make every effort possible, all of us—Congress, the executive branch, everyone—to find some way to adjust any difference of opinion we have and get down to the big question and find a way to restore clarity and certainty to this situation, and put a law on the books, to be signed by the sitting President, that recognizes the responsibilities of both branches of the Government. Until we do that, we are not going to have the faith and confidence of the American people on this matter as the Nation requires. I can sense that with what commonsense I have. It makes me sense that.

I have never tried to stir up the people one bit about this war. To the contrary, I have said that we are already in, and we will have to tough it out. I told them that here and elsewhere many times, including in my own State—that we are already in it, that we must not run, that we must not appear to run, that we will have to tough it out. But I resolved to do what little I could to clear up the situation as to what might be the course in the future.

As I see it, that is what this resolution tries to do, and I believe that, as a whole, it is a good measure in its field. If we will just try to get together—the executive branch and the legislative branch—we can find suitable language. We might improve it a little, we might weaken it a little, but we can find something to carry out these principles.

As I have said, I have never tried to stir up the people, but I think they are looking to us. Someone said, "You ought to put it off until after the election." I think we ought not to put it off until after the election. This matter is in the back of their minds. They are not very articulate about it, but they know. The commonsense of the so-called common people is the most powerful thing in our Government, say what you will. They are not going to stumble over a few words here, either, about what the Court held at some time or about what was said about some trouble 100 years ago or 50 years ago. They are not worried about that, and they are not worried about that. They want to know what is going to be the rule; and when they are called, they will be ready, if they think these processes have been followed. There is no doubt about that in my mind. But if they think these processes have not been followed, it will create doubt, and I do not know what might happen.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. MANSFIELD. Mr. President, I want to express my full accord with the support which the distinguished Senator from Mississippi, the chairman of the Committee on Armed Services, is giving the proposal before the Senate, relative to the making of rules governing the use of Armed Forces of the United States in the absence of a declaration of war by Congress.

I agree with the distinguished Senator when he says that the people of this country are looking for some guidance and, in that respect, what this proposal does is to emphasize the constitutionality of the situation in this vital area as it exists between the executive and the legislative branches.

This measure was reported unanimously by the Committee on Foreign Relations. The distinguished Senator will recall that when he offered his resolution some months ago, I asked to be considered as a cosponsor; and I have never deviated in that support, because I thought that the Senator was right then and is right now.

There is talk about referring this proposal, after full, complete, and deliberate hearings before the Committee on Foreign Relations, to the Committee on the Judiciary—to the graveyard. That is what it would amount to. I do not think that the proposal now before the Senate, on which I expect plenty of debate, should be referred to the Committee on the Judiciary under any circumstances.

I do not know how many Senators are against this proposal. I would say that as of now they are in the minority. I would hope that when the final vote comes, those who continue to oppose this proposal still will be in the minority.

What we are doing here is taking no rights away from the President of the United States. As a matter of fact, I think we are leaning over backward a little too much to see that he retains the authority given to him under the proposed legislation. But I do not want to see another Dominican intervention—25,000 U.S. soldiers and marines to put down a revolution in the Dominican Republic several years ago. That was done, not with the approval of Congress, but entirely on the responsibility of the President. What has happened since that time is that we have put hundreds of millions if not more than $1 billion into the Dominican Republic, and there is no end in sight.

I do not want to see another Vietnam. I recognize that what the distinguished Senator from Mississippi (Mr. STENNIS) has said—and he has been consistent in this respect—actively reflects what he has said day in and day out, not only on this floor, but also down in his own State and throughout the country.

Thus, if consistency is a jewel, the Senator is a jewel in that respect.

But it appears to me that the administration, in adopting a late offensive, so to speak, against this proposal, has been joined by people who have been in previous administrations and close to Presidents which might influence their judgments in favor of the executive branch.

For example, I understand that Mr. Eugene Rostow is against this proposal. He, I believe, was in the Johnson administration along with his brother, Walt Rosow, who was a Presidential adviser. Arthur Schlesinger is also against what the Senate is attempting to do. George Ball is against what the Senate is attempting to do.

On the other hand, others who were close to the President such as George Reedy have, I understand come out in favor of it.

All these names ring familiarly to me, but I think that this is a matter which should be considered and will be considered on this floor. We are delighted to get advice and counsel on both sides or on all sides of a question, but when we approach a proposition of this high constitutional priority, I think that we should keep it here until we are finished with it. We should not refer it to the Judiciary Committee under any circumstances. If there are any amendments to be offered, let them be called up and let them be voted on and, finally, one way or the other, let the Senate decide.

I want to commend the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Virginia (Mr. SPONG), and all other Senators who have joined in trying to bring a little degree of order out of a constitutional situation which has been getting out of hand and which Congress, especially the Senate, has allowed to get out of hand.

This is an attempt to protect the President's constitutional powers, to reassert Congress constitutional powers, and to do so, not in a spirit of animosity, but in a spirit of partnership and accommodation.

I believe that the distinguished Senator from Mississippi is doing an outstanding service on the basis of his remarks in the Senate today, and the fine support he has given to this proposition.

Mr. STENNIS. Mr. President, I greatly thank the distinguished Senator from Montana (Mr. MANSFIELD) for his very fine remarks and for his support and his outstanding position of leadership in this and other fields.

I really believe that the Senate can better handle this problem by coming to grips with it and, as the Senator from Montana says, debate the matter fully, call up any amendments that may be offered and let the Senate pass on them, and then have a final vote.

Mr. President, I have a very high regard for the Committee on the Judiciary. As everyone knows, my colleague from Mississippi (Mr. EASTLAND) is a very fine chairman of that committee. Everyone knows that we have worked together in harmony, so I make no reference to him when I say that I hope this problem is not referred to the Judiciary Committee or to any other committee. He and I have not talked in depth about this matter so that I do not know how he would vote on it at this time.

I want to say this, that I put together a resolution on this subject the best I could. No one requested me to do so. I had already made up my mind, as we got deeper into the Vietnam war, that I was going to try to do it at some appropriate time but, as long as I was engaged in the military procurement bills, I had some doubt as to whether I should undertake it then.

The distinguished Senator from New York (Mr. JAVITS), in his able way, filed a resolution that attracted my favorable attention. I commend him for his industry in that respect. Being frank about it, he had raised the issue and I decided that if I was going to act, I had better act then. I did, as soon as I could. But, in the meantime, I think I had already made one public speech about it. The Senator from New York and I have cooperated on it. I have certainly cooperated with him, as well as with the distinguished Senator from Virginia (Mr. SPONG) who, in my thinking, has been quite helpful in this field. It has been helpful to have the encouragement of the distinguished majority leader as well as the junior Senator from Missouri (Mr. EAGLETON). I am grateful to all of them. I speak solely on my own responsibility as a Member of this body, as I say, having been here when two wars were started without a declaration of war.

I see the Senator from New York is on his feet and if he wishes I will be glad to yield to him.

Mr. JAVITS. I thank the Senator from Mississippi for yielding to me. The usual clichés often heard in Senate rhetoric about the brilliance of the Senator from Mississippi, the high conscience expressed by the Senator from Montana, and the learning of the Senator from Virginia, do not seem apposite to the dignity and the importance of the matter we are discussing. But I think it is no secret at all for me to say—and I am the one to say it—that without the support of these Senators and without the close collaboration in the drafting of the bill by the Senator from Mississippi, the Senator from Virginia, and the Senator from Missouri (Mr. EAGLETON), we should not be here at all and we would not have such high expectations of favorable action by the Senate.

The words expressed by the Senator from Montana are built upon the base of confidence which has been inspired in this legislation precisely, because it has had such a diversity of points of view critically directed upon it. Without any prompting, I said yesterday exactly what the Senator from Mississippi said today. We have no false pride in the words we have settled upon in this bill. They are most carefully chosen. But, the idea, the principle, the fact that Congress is asserting its duty to participate—and I love that word "responsibility" which the Senator used—that is the most important thing.

People are getting cynical about politicians and those of us in Congress. They give us much too little credit. The pendulum always seems to swing much too far when the consciences and the deep feelings of the people contemplate the long-term future of this country.

Therefore, this kind of debate, in the tone employed by the Senator from Mississippi and the Senator from Montana, can help immeasurably to bolster the dignity of the country and the response of its citizens to it.

The Senator never uttered truer words when he said that the young people in this country have a fear of the irresponsibility through which they may be deprived of life or limb by some decision with which they feel no connection whatever. The best we can do there is to rely on the collective wisdom of Congress.

It is a fact, and this is a point that the Senator makes so tellingly—and he uniquely is in a position to make it—that there is a world of difference between the Gulf of Tonkin Resolution when we are "backing up" the President, and a Gulf of Tonkin Resolution when we know that we have the responsibility for the life of every young American just as much as the President does.

The argument that the President cannot respond quickly is entirely negated by the terms of the legislation and by one phrase—of which I was deeply reminded as the Senator spoke—in the testimony of Professor Bickel of Yale in which he said:

> The decisions of 1965 may have differed only in degree from earlier stages in this process of growth. *But there comes a point when a difference of degree achieves the magnitude of a difference in kind.* The decisions of 1965 amounted to all but explicit transfer of the power to declare war from Congress, where the Constitution lodged it, to the President, on whom the framers explicitly refused to confer it. (Italic added.)

In short, it is one thing to respond to an attack as President Johnson did, or the alleged attack on the destroyers. We must abide by that principle. That was that. However, now the sequel, this long war. What then? What did we have to say about it? To move from repelling an attack on destroyers to deploying 550,000 ground troops is a difference in kind. It is a war decision.

Mr. President, I take great encouragement from what has been said about this reference to the Judiciary Committee. I yield to no one in my respect for that committee. I served on it. That committee consists of a group of most eminent Senators. But, as the majority leader has said, such a move now would clearly be a move to pigeonhole the bill. When we look at the expert testimony we have had upon this matter, during the exhaustive hearings of the Foreign Relations Committee, one questions the need for future hearings.

There was Henry Steele Commager, probably a most distinguished name in U.S. history and matters pertaining to the founding of our Nation and our Constitution.

There was Richard B. Morris, professor of history at Columbia University, an equally distinguished expert of the Federal period and a great authority on Alexander Hamilton.

There was Alphens Mason, the most eminent authority on the Supreme Court and a great constitutional authority.

There was Alfred H. Kelly, professor of history at Wayne State University whose reputation on these matters is very high.

There was John Norton Moore, professor of the School of Law at the University of Virginia, who testified critically.

We had most enlightening testimony from Prof. Alexander Bickel of Yale Law School, who is not only a great constitutional authority, but who recently successfully argued the landmark, Pentagon papers case before the Supreme Court.

There was former Justice of the Supreme Court, Arthur J. Goldberg.

I would like to call to the majority leader's attention, because he is rough on his own party, that McGeorge Bundy and George Reedy are very much for this legislation. They were close advisers of President Kennedy and President Johnson.

There is before me a paragraph which appears in the RECORD on this measure which so sums up the feelings of the Senator from Mississippi. I would like to read it. Former President Abraham Lincoln said in his protest over the Mexican war while he was a Member of Congress:

> The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons: Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention understood to be the most oppressive of all Kingly oppressions; and they resolved to go frame the Constitution that no one man should hold the power of bringing oppression upon us.

Mr. STENNIS. Mr. President, I thank the Senator very much for his very fine remarks. I want to say that I have paid my respects and my genuine feelings to the Senator from Virginia (Mr. SPONG), who is also a coauthor of the Javits resolution. I did not state that before. The article written by the Senator from Virginia (Mr. SPONG) and published in the Law Review shows the depth of his study and learning.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. STENNIS. Mr. President, I am happy to yield to the distinguished Senator from Virginia.

Mr. SPONG. Mr. President, I am aware that the Senator from Mississippi has not completed his remarks. I want to comment further on them at a later time. However, it is only fitting that I now say that, in my judgment, the Senator from Mississippi has consistently occupied the position he espoused here this morning from the very first debate on this matter in the Senate.

The Senator from Mississippi has read this morning from the January 26, 1954, CONGRESSIONAL RECORD. The Senator also testified during the hearings before the Foreign Relations Committee, and printed on pages 717–52 of the committee hearing record, along with a memorandum of his own, is the exchange between the Senator from Mississippi and the later Senator from Wisconsin, Mr. Wiley.

Mr. President, the first Presidential war was the Korean war. A first departure from what had always been the constitutional understanding of the role of Congress was in 1954. And when that debate took place, it was the Senator from Mississippi who put his finger upon the role of Congress with regard to the Korean situation. Also, when the Senator from Mississippi made a speech last year, at his alma mater, Mississippi State, he was only reaffirming a view that he has held for a quarter of a century.

I think this debate and the formulation of this legislation have been helped immeasurably by his participation. But his interest is something that goes back much further than I suspect many of the Members of the Senate realize.

I shall have some other comments for later, but I will reserve those until the Senator has completed his remarks.

Mr. STENNIS. Mr. President, I am grateful to the Senator from Virginia. I appreciate very much what he has had to say.

Mr. President, people say to me, "I am surprised. You are the chairman of the Armed Services Committee. You ought to be helping to defeat this resolution." Perish the thought, Mr. President, I have not had a single military man so far mention this to me. I think they are better off, and they realize that they are better off. They have some congressional responsibility tied to the very critical decisions that are made that put them up front within a matter of hours.

I emphasize again that I want all of the rights and the prerogatives that the Constitution puts on the President placed on him very positively. I do not want any responsibilities taken away from him here. He has those responsibilities. Let him carry them out.

The Senator from Montana may remember that in trying to oppose an amendment or two that he has offered here I have said, "Let us keep the responsibility on the President of the United States in this very area." That is the way I feel. President Nixon is not a timid man. He can take care of himself.

I believe this bill is a good bill. It represents hard work by the cosponsors and the members of the Foreign Relations Committee, and, on the whole, I believe it is a better bill than any of the individual measures introduced by the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Missouri (Mr. EAGLETON), myself, and others.

There has been some discussion of whether or not Congress has the authority to act in this area. It has been argued that Congress power extends only to the formal requirement of approving a declaration of war. The implication of such an argument is that by calling a war something else—"a police action," "hostility," or some other phrase—the requirement for congressional authorization can be avoided. It must be admitted that this requirement has been avoided too often in the past, Mr. President. We have already covered that matter. But to enumerate those occasions on which the United States has become involved in major hostilities such as the Korean war and the war in Vietnam, without clearcut congressional authority is merely to state the problem. They actually cite these precedents in favor of their position and in opposition to the resolution. These occasions are evidence of the constitutional imbalance that needs to be redressed. They are far from ideal models, in my opinion, for the future.

It is also important to understand that Congress has the authority not only to make those laws necessary and proper to the execution of its own powers, but also those necessary and proper for carrying into execution "all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." That is from the Constitution. This gives to Congress the clearcut authority to define and give content to the powers of the President and the executive branch as well as its own.

But I do not think this measure as now written takes one whit of constitutional power or responsibility away from the President of the United States.

Finally, as was pointed out by Mr. Justice Jackson in his famous concurring opinion in Youngstown Sheet & Tube Co. against Sawyer, there is "a zone of twilight in which the President and Congress may have concurrent authority"—"When the President takes measures incompatible with the express or implied will of Congress, his power is at its lowest ebb," the opinion states, 343 U.S. 579 (1952). Thus, when Congress sees the need to legislate and define authority in an area, such as this, in which it and the executive branch have concurrent responsibilities, Congress is clearly within its rights as long as it does not attempt to take away from the President any authority which is clearly his and his alone under the Constitution.

During the course of our deliberations on this bill, Mr. President, I have consistently counseled that we not attempt to make this bill do too much. There are those who disagree and take the position that this bill should apply to the current hostilities in Southeast Asia. I respectfully disagree. Section 9 of the bill exempts hostilities in which we "are involved on the effective date of this act." To some there may appear to be a sacrifice of principle here, but I am afraid that this important legislation could never be considered objectively if we attempt to make it yet another vehicle for assessing our involvement in the war in Vietnam. We must look upon this bill as a new start.

I emphasize that any reference I make to the present war is merely illustrating the problem and not trying to go back and assess blame or putting blame on anyone except myself.

There are other actions of the past which are undisturbed by the bill. I call the attention of the Senate to the last clause of section 3(4) in which those specific provisions of law not yet repealed which authorize the use of U.S. forces are exempted from the provisions of the act. If we later decide to reassess these statutory authorizations regarding Cuba, Taiwan, and the Middle East, we are free to do so. They are not at issue here in this measure.

It has been argued that this bill is an attempt to hamstring the President in his conduct of our foreign affairs. Mr. President, this is far from true. As I stated at the beginning, this bill is an attempt to reassert the constitutional requirement of cooperation and mutual responsibility between the President and the Congress before our country's forces are introduced in hostilities. In most cases in which such use is contemplated, the President would be required to come to Congress for prior authority under section 3(4) of the bill. The statutory authority may be flexible in nature. It could conceivably authorize long hostilities or short ones. It could be called a formal "declaration of war" or not, depending on the circumstances. But if such cooperation is required, it is my belief, and in fact I feel as if I know, that the President will be in a stronger position than he is now because he will not be tempted to risk a war which the Nation will not support.

I will not go into the matter of wars that are gone into with the purpose of not winning. I may say something on that theory, but that is another question that involves the support and dedication of the people of the United States. I think they are shaking their heads on that point.

Moreover, there is some flexibility in the language of the bill itself. The authority of the President to use the Armed Forces without prior congressional approval is recognized in the event of armed attacks upon the United States or its forces and in the event such use is required to evacuate American citizens in foreign countries. It is important to note that the President is also authorized not only to repel such armed attacks, but also to "forestall the imminent threat" of attack upon the United States or its Armed Forces. This language gives the President some flexibility and I would be the first to agree that in some cases judgment would be required. But absolute precision in such matters, Mr. President, is a figment of the imagination. What is clear is that a definition of conditions such as that contained in this bill is considerably more precise than the current state of affairs. Let me cite a bit of history: There has been much confusion over the legal justification for the war in Vietnam. For example, President Kennedy, in writing to President Diem of South Vietnam on December 14, 1961, based U.S. assistance on the Geneva Accords of 1954, although he sometimes offered other rationales as well.

Secretary of State Dean Rusk was particularly given to emphasizing the importance of the SEATO treaty as the primary legal justification for U.S. involvement in Vietnam.

President Johnson would often refer to the Gulf of Tonkin resolution as showing congressional support for the war; but he said on August 18, 1967, "we repeat now, we did not think the resolution was necessary to do what we did and what we are doing."

Under Secretary of State Nicholas Katzenbach, on the other hand, often pointed to the Gulf of Tonkin resolution as the decisive legal justification. He testified before a subcommittee of the House Foreign Affairs Committee, on July 28, 1970, that—

> In my opinion, the Constitutional authority to use our Armed Forces in Vietnam rests squarely on Tonkin and cannot otherwise be constitutionally justified.

President Nixon stated on July 1, 1970, that—

> The legal justification is the one I have given, and that is the right of the President of the United States under the Constitution to protect the lives of American men.

I believe that it is constitutionally and politically unsound to allow confusion of this magnitude to persist.

That is exactly what has existed. I am not trying to blame anyone. They found themselves in that predicament. I give them credit for doing the best they could.

Finally, Mr. President, there are provisions within the bill requiring Congress to act quickly in cases in which the President has used his emergency authority. In this respect, I wish to point out the provisions of section 7 to those Senators who may be interested. I believe that these requirements should assure any Senator that delay will not occur if a real emergency exists.

I will add only one last personal note, Mr. President. I respect the views of those who oppose this bill. The arguments which they make essentially center on the premise that there may be circumstances in which the President would be somewhat constrained in his actions under the bill's provisions. As I have pointed out, we have worked hard to make these contraints flexible in emergencies, but, it is true, constraints are there. This means that a President would have to take into consideration the Congress and the people it represents before involving the Nation in war and, consequently, a certain element of caution would be introduced into his thinking.

That does not restrict or restrain him; it is just an element of caution and accountability, and not accountability some years later, but direct accountability. This will make it more difficult for the President to take some types of military actions than would be the case if the bill were not law. That is the purpose of the bill.

We are not meant to be the sort of government that can fine-tune the world. Our Constitution is constructed in such a way as to make us slow to anger but awesome in our unity once a decision is made. These requirements of our Constitution may sometimes seem inconvenient in the short run, but it is my firm belief that they are the only solid basis for the long-range security and survival of our Nation.

That is what it is our duty to do here now on this subject. We must think of the long-term security and survival of our great Nation. I am glad we are going to have a good debate. I believe much good will come out of it and that a measure with content will be placed upon the statute books.

I thank the Senate for giving me the time that was allotted.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. STENNIS. I am glad to yield to the Senator from Virginia.

Mr. SPONG. Again I want to commend the Senator from Mississippi for the contribution he has made to the debate this morning. I was pleased to hear the distinguished majority leader express the hope that this matter would not be referred to the Committee on the Judiciary. I have the greatest respect for that committee and for its membership. I think there are many distinguished lawyers on that committee who are capable of reading the very fine record that has been assembled and of discerning the legal points involved, but I am inclined to agree with the Senator from Mississippi that this is not primarily a legal question. And, those who would listen to the red herrings that are going to be presented here to membership of this body to the effect that this legislation endeavors to take any powers away from the President of the United States or to confer upon the Congress any new powers will be carried astray.

What we are seeking to do through this legislation is to set up a procedure that will bring about consultation, that will carry out the intent of the Founding Fathers that the war power be a shared power between Congress and the Executive.

The Senator from Mississippi is quite right in pointing out to this body, going back to the Korean situation, that not one of the mutual defense treaties is self-executing. They are not.

There may be those who will come in and say that the NATO alliance will be somehow impaired by the passage of this legislation. I find that somewhat ironic considering that two of the principal sponsors of this legislation are the distinguished Senator from Mississippi, the chairman of the Armed Services Committee, who has a long record of support for the North Atlantic Treaty Alliance and the Senator from New York, who has devoted years of his time to the work of the North Atlantic Assembly, which has sought always through its inquiries to bolster that alliance.

The fact of the matter is, as the Senator has pointed out, that, with the exception of the Rio Pact which he mentioned, none of these treaties is self-executing. All have language in them requiring that the constitutional processes be observed. All look to a consultation and a concurrence by this body in the event of any long-term military operation in which this country would become involved.

I wish to comment on one other point that the Senator has touched upon and—perhaps I presume in saying it—that I believe does trouble him. I agree with him that Vietnam should be excluded from this legislation. I agree that we should deal only in the future. But I think that the public, until very recently, was overwhelmingly of the opinion that, through their elected representatives, they participated in decisions involving the use of force abroad.

The Senator from Montana this morning brought up the matter of the Dominican Republic. That news reached the American public via page 1 of the New York Times, which I believe—showed a picture of congressional leaders coming out of the White House—after the President had advised them of what had already taken place. The public, however, reading the paper, was under the impression that there had been consultation and deliberations involving their representatives before the action had taken place. This was not the case.

The record of the hearings on this legislation will show that I asked the chairman of the Foreign Relations Committee, the Senator from Arkansas (Mr. FULBRIGHT), in my absence, to ask the Secretary of State if he could name one instance in the past 25 years where Congress had participated in the making of a use of force decision. The Secretary of State replied that he was reluctant to answer because he did not want to offend the chairman of the Foreign Relations Committee, but the only instance he could think of was the Gulf of Tonkin resolution. And, I question the degree of consultation there. But allowing that, in a quarter of a century, going back to the Senator from Mississippi's questioning of Senator Wiley, Congress has not been consulted in use of force decisions prior to the action taking place. The Members of Congress have been called upon only after the fact. Along the way, there have been efforts to point out the role of Congress, but somehow they have been swept aside.

Our late colleague, the Senator from Georgia, Mr. Russell, on the occasion of the adoption of the Cuban resolution, pointed out, when it first came to this body that it gave to the executive branch, some time in the future, the power to declare war, and he opposed it to the degree that that language was changed.

The former Senator from Oregon, Mr. Morse, argued, in the consideration of the Gulf of Tonkin resolution, that the Congress was giving away certain power to the executive.

What I believe has troubled the Senator from Mississippi—and perhaps I am presumptuous in saying this—is that we have been engaged in a war, on the part of this country, that the people for the most part have never fully understood. I believe—and I am perhaps not quoting completely accurately—that in the Senator from Mississippi's speech at Mississippi State the import of what he said was that we should never go into another war without the people of the United States in some way being involved and understanding what the war was about.

Mr. STENNIS. The Senator is correct.

Mr. SPONG. What we are trying to do in this legislation is not change the Constitution, not give to the Congress any powers that it does not have, not take from the President of the United States any powers which the Constitution gives to him. Instead, we are trying to establish a set of rules whereby the people, through their elected representatives, will have some say in the making of use of force decisions. And in trying to do so, we have set in safeguards which, of all the people in this body, I know the Senator from Mississippi appreciates the most, to guarantee that the security of this Nation is not impaired where emergency situations are concerned.

But the Senator has rendered a particularly great service in this debate by pointing out the fact that we are not taking way from the President any powers, that we are not doing anything with regard to NATO or to the strategic balance in the world today, that we are not doing anything that would impair the security of this Nation. As the Senator has said, it is not primarily a legal question. It is a question of assuring that, somehow, in the future, people will participate in the making of decisions that affect the question of war and peace and affect their lives.

Mr. STENNIS. I thank the Senator for a very fine statement on the issues and comments and the real points involved, which he has stated splendidly and clearly and with greater force than I myself could. He has already contributed greatly to the bill and the debate, and will continue to, I know.

Yes, on the NATO matter that the Senator from Virginia mentioned, if there is anything wrong with the language or any impairment on that command score, the Senator from Mississippi would be one of the very first to agree that that language be corrected and that matter be made clear.

But I do not think that that will be a real issue here on the floor of the Senate.

I thank the Senator again. Mr. President, I yield the floor.

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Arizona (Mr. GOLDWATER) I ask unanimous consent to have printed in the RECORD a statement by him entitled "Contradictions Between Text of War Powers Bill and Explanations Given by Its Sponsors."

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTRADICTION BETWEEN TEXT OF WAR POWERS BILL AND EXPLANATIONS GIVEN BY ITS SPONSORS

(By Senator GOLDWATER)

The specific areas where I believe there is a contradiction between the plain text of the war powers bill and the explanation given yesterday by Senator JAVITS are these:

1. "Explanation: Senator Javits claims the President can use his own judgment and discretion as to when an emergency fits one of the four situations when he can use armed forces under the bill.

"Text: Nowhere in the bill is there any language providing that the President may make an independent judgment of any kind under the bill. In fact, a legal brief introduced in the hearings record by Senator Javits argues that the President is the mere executive arm of the Congress who must follow the dictates of the legislative branch.

2. "Explanation: Senator Javits claims the President can take whatever forestalling action is needed without waiting 'until the bombs actually started landing on our soil.' He claims the bill is not 'inflexible.'

"Text: The actual text of the bill requires that before the President takes any defensive measure there must be an armed attack on the United States or 'the direct and imminent' threat of attack. In the case of an attack on a foreign nation, for example, Turkey, the 'direct' threat would be to that nation, not, to the U.S. The threat would be imminent to that nation, but distant to us. If a move against Turkey carried with it an implicit threat against the United States, it would be because the attack set in motion a chain of events which ultimately might represent a serious threat to the U.S. If it is the sponsors' purpose to allow the President flexibility in these circumstances, then they intend 'direct' to mean 'indirect,' and 'imminent' to mean 'some indefinite date in the future.' They might as well ask us to read the word 'black' as meaning 'white.'

3. "Explanation: Senator Javits claims it is the purpose of section 3, clause (4), to ratify the Formosan, Cuban, and Middle East Resolutions as authority for the President to respond to crises in these areas.

"Text: The bill plainly states that no provision of law now in force shall be construed as authority for Presidential action unless such provision 'specifically authorizes' the introduction of troops in hostilities. But all three area resolutions mentioned do not specifically grant authority for the commitment of U.S. forces in armed actions. One, the Formosa Resolution, squarely provides that 'the President of the United States be and he hereby is authorized to employ the Armed Forces . . .' In contrast, the Cuban Resolution states only that 'the United States *is determined*' to take certain steps. The Middle East Resolution declares only that 'the United States is *prepared* to use armed forces' and qualifies even this declaration by expressly providing that such employment shall be consonant 'with the Constitution of the United States.' It must be noted that a similar phrase 'in accordance with Constitutional processes,' as used in our mutual defense treaties, is taken by the authors of the war powers bill to mean that *no* specific authority is given pursuant to such treaties. The sponsors do not explain what the difference is between the term 'Constitutional processes' as used in treaties and 'consonant with the Constitution' as used in the Middle East Resolution. In short, the authors are reading section 3(4) as containing a proviso that all three area resolutions shall constitute specific authority for emergency use of American forces, when the section itself does not contain any reference at all to such resolutions.

4. "Explanation: Senator Javits claims there is full authority for the U.S. 6th fleet to be deployed in the Mediterranean at will by the President during times of crises.

"Text: The bill itself specifically directs that U.S. forces shall not be introduced in situations where imminent involvement in hostilities is a risk except in the narrow situations where the U.S. or U.S. forces are attacked or directly and imminently threatened with attack. In the six day war of 1967, for example, the U.S. itself was not directly threatened with attack; nor was there any immediate threat to American forces. There was an open and imminent threat made by Russia against Israel. President Johnson's prompt response by moving the 6th Fleet into the danger area in order to forestall Russian pressure on Israel would be prohibited under S. 2956 because no threat had been made against our own forces. For the sponsors of the bill to say that an American response is authorized in these facts reveals that the authors do not understand the implications of their own bill.

5. "Explanation: Senator Javits claims that section 3 allows the rescue of citizens captured in ships on the high seas or in aircraft flying through international air space.

"Text: The section itself limits action to protection while evacuating citizens 'from any country' in which such citizens are present. It appears strained to refer to a naval vessel or an aircraft as a 'country' and if the sponsors truly intend for citizens to enjoy protection in these situations they should redraft the bill accordingly.

6. "Explanation: Senator Javits claims it 'to be a faulty and distorted reading of the legislation,' to infer that the bill would prohibit U.S. personnel in the NATO integrated commands from exercising any functions without additional Congressional authorization.

"Text: The language of the bill flatly states that specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to 'command' or 'coordinate' in the movement of the military forces of any foreign country or government at any time when there is an imminent threat that the forces will become engaged in hostilities. At the very moment when our participation in the NATO unified command is needed the most, the bill thereby prohibits them from exercising any functions."

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS DURING THE ADJOURNMENT OF THE SENATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to file reports during the adjournment of the Senate between the hours of 10 a.m. and 3 p.m. on Monday, April 3, 1972.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. CHILES). The Chair, on behalf of the Vice President appoints the following Senators to be members of the Joint Committee on Inaugural Ceremonies of 1973, pursuant to Senate Concurrent Resolution 63, 92d Congress; the Senator from North Carolina (Mr. JORDAN), the Senator from Montana (Mr. MANSFIELD), and the Senator from Kentucky (Mr. COOK).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS AND RESUMPTION OF THE UNFINISHED BUSINESS ON TUESDAY, APRIL 4

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, immediately following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. ROBERT C. BYRD. Mr. President, the distinguished junior Senator from Indiana (Mr. BAYH) will be absent from the Senate from March 29 through April 10, inclusive, while attending an interparliamentary conference in Africa. On his behalf, I therefore ask unanimous consent that, under rule V he be granted a leave of absence from the Senate during those dates.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, AND THE ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING THE ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until 12 o'clock meridian on Tuesday next, the Vice President, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES DURING THE ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. I ask unanimous consent that during the same period the Secretary of the Senate be authorized to receive messages from the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. McGEE. Mr. President, I proceed today not with formal remarks but with a commentary of a sort that I am about to explain.

I hold in my hand the latest issue of the Yale Law Report for the fall and winter of 1971 and 1972. It is an exceedingly interesting issue because of its lead article, a record of a debate between two distinguished Yale professors on the war-making powers. The two professors have been referred to here many times. They are Prof. Alexander M. Bickel, who is the DeVane Professor in Yale University, and Prof. Eugene V. Rostow, who is a distinguished professor of law at Yale University. The two men are of unquestioned integrity in their academic pursuits. They both enjoy national repute in regard to the probity of their minds.

I ask unanimous consent that the debate and the exchange between these two very distinguished professors be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE POWER TO MAKE WAR: A DEBATE BETWEEN ALEXANDER M. BICKEL AND EUGENE V. ROSTOW

(EDITOR'S NOTE.—A highlight of the alumni weekend in October was the Saturday morning exchange between Alexander Bickel and Eugene Rostow on the subject "The President, Congress, and the Power to Make War." Mr. Bickel, De Vane professor in Yale University, was the successful defense attorney for the *New York Times* last summer in the Pentagon Papers case. Mr. Rostow, Sterling professor of law and public affairs, served as undersecretary of state for political affairs, 1966–69.

(What follows is an edited and abridged version of Mr. Bickel's remarks, Mr. Rostow's response, the debate between them, and some questions and answers.)

Mr. BICKEL. President Johnson's decision of 1965 to intervene massively in Vietnam amounted to an all but explicit transfer of the powers to declare war from Congress, where the Constitution lodged it, to the President, on whom the framers explicitly refused to confer it. The constitutional division of powers was repudiated in the sincere but I think grievously misguided conviction that it no longer suited modern conditions.

I will touch only briefly on such justifications for the decision to wage war in Vietnam as the supposed SEATO obligation and the Tonkin Gulf Resolution. As I read it, the South East Asia Treaty simply refers us back to where we started, for it obliges us to act only in accordance with our own constitutional processes. The Tonkin Gulf Resolution, which incidentally declared itself to be consonant with the Constitution, also in my judgment leads nowhere. There was, in my view, consonantly with the Constitution, no need to come to Congress for authority which the President has, as, for example, to fire back when attacked, and it was no use coming to Congress for authority the Congress cannot constitutionally delegate at large, for prospective use in undefined circumstances. It is claimed, finally, that Congress ratified the executive action by appropriating moneys to support it and to steadily enlarge it. This Congress assuredly did, and assuredly it did so partly under a misapprehension that is was in principle obliged to extend support, even if free to make some independent judgments of its own on questions of detail, and that in any event it was assuming no general responsibility by extending support. This is precisely the misapprehension which I think it necessary to dispel.

Now—I say this somewhat cautiously—few observers will deny the import of the original constitutional arrangements. The largest claims that are entered for independent presidential power rely rather on recent practice and on assessments of modern conditions which, it is said, require a revised conception of the original separation of powers. Our Constitution is, after all, a living organism, capable of growth and of adaptation. But surely it grows and adapts itself without losing its essential shape. It does not undergo radical mutations except by the process of amendment. There is a considerable difference, in my judgment, therefore, between extending the President's war-making power by another degree, and leaping over the brink to a change in kind, to an explicit, notorious, inexpiable alteration in the shape of the original structure.

However, be that as it may, the argument about constitutional adaptation bids us ask whether the change in the division of war-making power between President and Congress has been an element of beneficial growth in the Constitution. And if this is the question, it makes a difference how one judges the Indochina war. For myself, I formed the opinion some years ago that the war has been a moral and practical disaster, and I believe further—which is the important point—that we might have avoided it, or might at least avoid its repetition, if our instutional arrangements were such as to foreclose presidential wars in circumstances of this sort.

What propelled us into this war was the corruption of the generous, idealistic impulse that informed and sustained this country's foreign policy through the Second World War and in the years after. I use the word corruption not to connote evil, but merely decay. The impulse decayed into self-assurance and into self-righteousness. It became, as generosity and idealism assuredly can, oppressive and in the end cruel.

But the war has been wrong too for another and for present purposes more interesting reason, an institutional reason. A democracy cannot well and should not wage a war which a substantial and intense body of opinion resolutely opposes on both political and moral grounds. Even autocracies cannot effectively wage wars in such circumstances. The Constitution, of course, provides for no special majority. Congress may declare war by the narrowest of majorities. But this is not a question of law; it is a question of forbearance, of continence.

The double error of this war is a product in good part of the imbalance we have permitted in the division of war-making power between the President and Congress. The President is a single official. The discipline of the democratic process plays on him only grossly, at wholesale. Congress, on the other hand, whatever its faults, is institutionalized communications, access, participation. The presidency can speak for a broad, existing consensus, and its genius is action. But its antennae are blunt, and it can mistake silence for censensus. Its errors are active ones, like the Indochina war—sins of commission. The genius of Congress lies precisely in its antennae, in its differentiated sensitivity. Its errors are generally those of irresolution, sins of omission, and I think we should have learned that by and large these are the less grave sins, in government at any rate. I do not believe that Congress, if it had been conscious of its own responsibility, would have plunged us into the Indochina war or let it run as it has.

Now if, as I believe, we have permitted a serious imbalance to arise between President and Congress, what is to be done? Does it not follow that the Supreme Court, which has more than once been asked to declare the Indochina war unconstitutional, should do so?

For my part I think the Court has been wise to exercise its discretion so as to avoid passing on the constitutionality of the war. If it did pas on the war, we would match the wrong way of getting into a war to the wrong way of getting out of it.

I think the answer lies with Congress. The practice of recent decades or of a century cannot have worked a reduction in the residual legislative power of Congress, if Congress should but exercise it. The power may have lain in disuse, but it's there, as effectively there, as legitimately, as the day it was conferred. And from it I think flows the duty to act.

Mr. Rostow. I think Mr. Bickel and I agree that the presidency is one of the two great constitutional innovations of 1787, the other, of course, being the institution of judicial review. There are all kinds of theories about the nature and scope of the presidential power, ranging from the colorful ideas of the *Curtiss-Wright* case to those which would confine the executive within the narrower possible limits.

Let me start with another proposition on which I think Mr. Bickel and I would agree: that the written Constitution of 1787—and what is said in that Constitution about the war power, both of Congress and of the President—has to be read, like any other legal document, in its matrix of history, purpose, and function. One of the main purposes of the constitutional scheme, viewed against the background of history and of experience, was to establish a national government capable of taking its place as a sovereign nation in the family of nations, and capable too of protecting the strength and security and welfare of the nation against the hazards of world politics; and to establish an independent presidency as part of that national government, a presidency which would be one of the three branches of government. These are the purposes in terms of which we must try to define the respective roles of President and Congress in the process of conducting the foreign relations of the nation.

I should indicate here an important disagreement between Mr. Bickel and myself. He seems to feel that foreign policy is a matter of generous impulse and of idealism. I do not. I regard foreign policy exclusively as a matter of national interest. I believe that no President and no Congress, acting separately or together, has the moral or the constitutional right to send a single soldier into battle unless, in their judgment, serious interests of the nation—and not generous impulses—are at stake.

The constitutional arguments about the presidency follow a familar pattern. One starts by assuming that the tripartite division of functions in the Constitution is going to be airtight, and discovers that it is never airtight. The President receives ambassadors; he conducts foreign relations; he carries out foreign policy; he initiates some foreign policy. The Senate advises and consents on two subjects—and two subjects only—the making of treaties and the appointment of public officials. The President commands troops. Congress appropriates for them. And so on. It is a pattern of divided power which is also shared, so typical of our Constitution. As Justice Jackson once pointed out, the President has some clear powers of his own, and Congress has some which it alone can exercise. In between is a gray zone. On problems within that zone, the nation speaks with a stronger voice when Congress and the President act together.

The founding fathers knew a great deal about public international law and the distinction between the law of war and the law of peace, which allows many uses of force in situations which did not invoke *jus belli*. It was established in the turbulent decades immediately after the adoption of the Constitution of 1787 that the sole and unique authority of Congress to "declare" war was not the exclusive mode through which the government of the United States could use force. Mr. Bickel has assured me that he recognizes that the United States did from the beginning use force in times of "peace," that is in times of peace so far as the categories of international law are concerned. The issue on which Mr. Bickel and I disagree is whether there has in fact been a change in the pattern of constitutional usage in the division of the war powers between Congress and the presidency in the twentieth century, and most especially in the year 1965: a change in the pattern of constitutional usage, that is, and not in the gravity of the problems presented.

In the eighteenth and nineteenth centuries, force was used in times of peace for a variety of reasons, ranging from self-help in the collection of debts and intervention in situations of chaos and disorder to the suppresion of piracy and the slave trade. Sometimes force was needed for great purposes of foreign policy. Force was used many times by the President alone in the name of the Monroe Doctrine, for example, which was a presidential declaration, not a congressional one. In the history of the use of force by the United States, there is nothing so dramatic as Commodore Perry's purely presidential mission to Japan. Some of those occasions when force was used were activities of the President alone in carrying out foreign policy, and in some the President had the formal support of Congress. Many of these affairs involved extended campaigns. There have been many more than a hundred and fifty episodes in our history in which force was used. There have been five formal declarations of war, and only a half dozen more Congressional authorizations. The notion that there has been a great change in the division of power between Congress and the presidency in this complex field in the twentieth century is, in my view, a myth.

The central thesis of Mr. Bickel's paper is that in 1965 an important change occurred in the distribution of authority over the use of force between Congress and the President. We should look at this claim in the light of Korea. The United States position about Korea, as articulated by Secretary Acheson, distinguished between those areas where we had troops stationed, where he said that any attack would be regarded as an attack on the United States, and those areas, like Korea, where we had no troops stationed. If there were an armed attack on countries in the latter class, he said, reliance would be placed first on the reaction of the nation attacked and, second, upon the world community which had expressed itself in the charter of the United Nations, which, he said, until that point, had not proved itself a weak reed. Of course, at that moment the communist nations were boycotting any organs of the United Nations in which the Republic of China was represented, a fact which permitted the United Nations to vote as it did in the Korean case.

President Truman then faced the question of how the United States should act under the Constitution to carry out the vote of the Security Council. As you know, a series of accidents led to his proceeding formally without a special Congressional Resolution, like the Tonkin Gulf Resolution, the Formosa Strait Resolution, or the Mediterranean Resolution of 1957. In Mr. Acheson's magnificent book, *Present at the Creation*, some aspects of that decision are discussed. There was never any serious doubt, Mr. Acheson says—in the sense of nonpolitically inspired doubt—of the President's constitutional authority to do what he did, acting to see to it that the treaties of the United States be faithfully executed. It is the wisdom of Truman's decision not to ask for congressional approval that has been doubted. Congressional approval, it has been argued, would have obviated later criticism of "Truman's war" in Korea. In my opinion, a congressional resolution to back the treaty would have changed pejorative phrases, but little else. The later criticism of the Korean War was inspired by the long, hard struggle, the casualties, the cost, and the frustration of war and not by serious doubts as to the constitutionality of the procedures by which it was authorized.

When the Korean War was over, the debate over the constitutional propriety of President Truman's action continued, and grew more intense. Senator Bricker and others proposed a constitutional amendment that would have curbed the presidency and limited the President's power to act in the field of foreign affairs. Many of those who are now supporting Senator Javits in comparable moves to curb the powers of the presidency fought the Bricker amendment.

The experience of Korea, and the history of the fight over the Bricker amendment, led President Eisenhower to develop the practice of getting congressional resolutions in advance, approving the presidential use of force in certain areas of tension, when in his judgment the use of force became desirable or necessary. Eisenhower used another form of Congressional participation on a large scale, namely the practice of making treaties like SEATO, that would publicly commit the power and influence of the United States in advance of trouble to assure security, and to deter aggression.

Both these practices were relied upon in Vietnam. The SEATO treaty, which was expressly drafted as a solemn warning against the use of force to take over the small, weak states of South East Asia, required each signatory to act in accordance with its constitutional processes to repel armed attack on any one of those states. The language was mandatory. And Congress decided, in passing the Tonkin Gulf Resolution in 1964, that that resolution, and not a declaration of war, was the wise and prudent constitutional method for approving and supporting what the President was doing, or might do, in carrying out our obligations under the treaty, and protecting the national interests which, it reiterated then, were in its judgment at stake in the conflict. In this decision, Congress was supported by a pattern of constitutional usage going back to John Adams' undeclared and limited war with France, which had been expressly approved as constitutional by the Supreme Court in 1800.

When President Johnson decided in 1965 to send troops to Vietnam on a large scale, therefore, he was acting on a much firmer constitutional base than Truman had in Korea, a regional defense treaty expressly addressed to the situation which had developed, and a congressional resolution backing the use of force under that treaty to protect South Vietnam against the armed attack which it found to be going on. I fail therefore to discover any basis for claiming that Johnson's decisions in 1965, however debatable from the point of view of wisdom or prudence, had constitutional dimensions, compared to those of Truman in Korea, or those of many presidents over the past century or more.

Mr. Bickel recognizes the constitutional force of these facts. He attempts to escape them by an argument I find surprising, and which I regard as erroneous: the argument, namely, that Congress cannot delegate its responsibility for authorizing the use of force in advance. That argument is met, I think, by two aspects of the situation in Vietnam. First, there was no delegation in advance, since force was being used in Vietnam by the United States at the time the Tonkin Gulf

Resolution was passed. And second, a large number of cases in the Supreme Court have approved delegations of discretion in advance to the President in situations defined far more generally than the specific and precise authority contained in the Tonkin Gulf Resolution to carry out the provisions of the SEATO treaty in protecting the state of South Vietnam against an armed attack then going on.

As Justice Goldberg has remarked, the Constitution of the United States is not "a suicide pact." It established a government capable of defending the national interest in the changing, and sometimes dangerous realm of world politics. The basic security of the nation is no longer protected by the British fleet, as was the case between 1815 and 1914. Constitutional rules, the principles of democratic responsibility, and the sharing of divided powers between President and Congress, can require no more than what was done by both the political and democratically elected branches of our government in Vietnam. In that case, unlike Korea, the President and the Congress met Justice Jackson's test: they acted together, and therefore the nation spoke with a single voice.

Many believe, of course, that what we have done in Vietnam, was a mistake—that the commitment—should never have been made, or once made, should never have been honored. We have a natural tendency to think that whatever we dislike very much must also be illegal, or indeed, unconstitutional. This hardly follows. Error in the use of constitutional authority, if error was made, does not justify constitutional change. The nation did not abolish or weaken the Supreme Court even after *Dred Scott*. So now, those who believe that the tragedy of Vietnam was an error should not cripple the strong and independent presidency it was one of the great concerns of the founding fathers to establish in the dangerous world of today, we have never needed the presidency they created more acutely and more continuously.

THE EXCHANGE

Mr. Bickel. I have listened with great interest to Gene, as I have done for fifteen years, and as I hope I do it for many more. But as has also happened at times in the past fifteen years, I am unpersuaded. I don't propose to take much of the short time that is left to us in distinguishing the Vietnam war from the Louisiana Purchase and from Commodore Perry's expedition. But perhaps before I get to more central matters, a word on the Bricker amendment would be in order.

I was, as it happens, in the State Department at the time, and ambivalent about the Bricker amendment. Although I'm generally averse to amending the Constitution—we can do plenty by interpreting it, can we not?—I was, subject to that general predisposition, of two minds. It seemed to me that a substantial part of the Bricker amendment stated what I understood to be the existing constitutional position, and would have been unobjectionable in substance. All it attempted to do was to dissolve a doubt left in the wake of *Missouri* v. *Holland* on the question of whether a treaty can override the Constitution. It had no bearing that I could see on the exercise of the President's war power. I think even the positions of those who opposed the Bricker amendment quite strongly, more strongly than I did, are reconcilable with positions like my own, taken today.

Passing, under pressure of time, the problem of our purpose in entering the war, whether we entered out of self-interest or from a decayed, if previously laudable, impulse—passing that, let me come to what is really at issue between us, and it hangs on Korea and the Tonkin Gulf Resolution. I am not about to adjudicate the constitutionality of the Korean War. I stress a single point about it, which distinguishes it for me, without my necessarily accepting its constitutionality; it fits into prior theory, as I continue to understand it, of reactive presidential power, which is justified on the basis of the genius of that institution. The President can respond expeditiously in an emergency, in reaction to someone else's action. That certainly typified Korea, and that did not typify the Vietnam experience.

I would add about Korea that it was a massive attack by organized armies across a previously established border. We had troops with a full-scale establishment in Japan, right across the ditch. Thus, the surmise that this was a venture which threatened the safety of an established American military presence seemed plausible.

On Tonkin Gulf, the difficulty, I think, is this. The resolution and SEATO are not to put too fine a point on it and meaning what I am about to say to carry no pejorative, moral, or ethical implications—this is the way that kind of business was done, with calculated ambiguities which were thought to best fit the situation and achieve proper purposes—not to put too fine a point on it, the resolution and the treaty are vague, ambiguous, disingenuous documents depending upon each other, interlocking with each other. The SEATO treaty tells you we will act. My brother Rostow emphasizes—and he's entirely free to, the pot of italics is available to anyone, and we all spray them about—emphasizes the word "will." We *will*. Each nation *will*. And afterward *sutto voce*, "in conformance with our constitutional processes." Then comes the Tonkin Gulf Resolution, and it says, by God, our chests are still hairy and we are still powerful and we have muscles, and our President is our leader, and he *will*—again more softly now—consonantly with the Constitution, carry out the SEATO treaty, which is in accordance with our constitutional processes. Well, I am left, I must say, in a circle, into which I believe I was meant to be inserted, and that is not, I think, an acceptable procedure. The well-meant, but to me unacceptable premise was that this is all window dressing anyway, that this is all something you do for external political purposes, for purposes of showing yourself more united than in fact perhaps you are, because everybody in the game—the Congress that votes, the President who proposes—acts on the belief that if the President wants to, he can act on his own anyway. This is Mr. Rostow's premise. These are no concessions of power to Congress. They are concessions to external appearances. So it doesn't matter whether the constitutional position is understood. It doesn't matter whether it is understood what the treaty obligation really signifies, and what the action that Congress takes really means, because Congress is only adding its own assent, its own, if I may say so, irresponsible assent to an action for which the responsibility rests elsewhere. That is not democratic government, nor is it government that can work, the Civil War to the contrary notwithstanding, and I won't discuss the Civil War with my brother Rostow. It is quite a different matter.

Now, that leaves me with a delegation point, a serious point, for lawyers' discussion. My proposition is drawn from *Schechter*, drawn more recently from a case in the very area that we are talking about, *Kent v. Dulles*, the passport case. It is a proposition that recoils from the burning eloquence of that great construer, that great expander of federal powers, George Sutherland, in the *Curtiss-Wright* case. My premise is that presidential power here as in domestic affairs is limited. This is the premise of Justice Jackson's concurrence in the *Steel Seizure* case. Residual power is in Congress. The President's power does not take in all of the zone of twilight when Congress fails to act.

On that premise, I suggest that Congress cannot say, prospectively, without limiting the area, limiting the means, defining the circumstances in any fashion, that if there is trouble in this half of the globe, or even that if there is trouble involving people with whom we have treaties and understandings as between them and others—that if there is trouble, you go and do whatever is necessary. Congress cannot so conduct itself in any other field where it and the President share power. To allow it is to rob the exclusive congressional power to declare war of any meaning at all. Only the *Curtiss-Wright* case stands for the proposition that somehow this sort of a delegation—and it was an infinitely narrower one in *Curtiss-Wright* itself, and probably perfectly valid under current law—only that case stands for the proposition that somehow in foreign affairs delegations are permitted which would be intolerable otherwise. That is my proposition and I have no great hesitation in resting on it.

Mr. Rostow: This is a treaty, with a clearly defined standard to control the "delegation" in it, a specific geographical area, and specific conditions spelled out for action.

Mr. Bickel. A specific area, yes. That part of the world covered by that treaty, which in turn——

Mr. Rostow. This is afterwards.

Mr. Bickel. But you can't rely on the treaty for any more than describing that part of the world. And then it tells you, in conformance with the Constitution. I'm not parsing the text of Tonkin Gulf because I have my difficulties with the text, and I also have some difficulties with the legislative history about which I am bound to say that whatever was said on the floor, a set of facts had been put before the Congress which cannot have given rise to the vision of five hundred thousand troops fighting in Vietnam. A destroyer had been fired on by two gunboats.

Mr. Rostow. They had the experience of Korea just behind them, Alex.

Mr. Bickel. Well, "just" is a little——

Mr. Rostow. What do you mean, "just"?

Mr. Bickel. Eleven years.

Mr. Rostow. Well, eleven years isn't much in the seniority of the Senate.

Mr. Bickel. Well, all right, leaving the legislative history out of it, here is a document that—reading it for the most that is in it—hands over in an area defined by that treaty, hands over to the President in his discretion, no standard, no telling him what kind of an attack, where, how, land, sea, air, whatever—in his discretion, the power to take all measures necessary. In other words, the power to go to war. The assumption which, I repeat, was widely shared, was that after all, Congress didn't have to look at this thing too closely. They weren't doing anything that was really going to be their responsibility. They were just adding themselves on, helping the President do something that he could do on his own anyway.

Mr. Rostow. I'll take thirty seconds to comment on the notion that any vote of the Congress, any public act of the United States is, or can be considered, a disingenuous fraud. With this I disagree most profoundly. I think the vote was in the vote on the Tonkin Gulf Resolution, which I think is the central point of disagreement between us. I put to one side the question whether these worldly and well-informad men, who live in a maze of gossip and information, really were brainwashed. They weren't. But their vote was a vote in the spirit of Justice Jackson's celebrated opinion in the *Youngstown Sheet and Tube* case, namely, in an area of constitutional power where there is doubt, a gray area where it was desirable from the point of view of the foreign policy and security of the United States, that the United States be seen to be united that the President and the Congress be seen acting together. Whatever men say now about their votes, I do not believe that we can accept for one second the view that an official act of the United States is window dressing, a fraud, or shadow boxing. It is an official act, intended to have all its legal consequences. What Mr. Bickel is saying now recalls the debate in which he has made a very distinguished contribution, namely, the Southern argument that the Fourteenth Amendment is a nullity because it was ratified by legislatures of states that were under military occupation, and under circumstances which very often amounted to fraud. All that was true, but nonetheless the Fourteenth Amendment stands. I don't think we can accept that argument for one second about the status of public acts of the nation.

Moderator. We have a few minutes for questions, and would you indicate to whom you wish the question addressed.

Question. I have the feeling, Professor Bickel, that you are really attacking the whole concept of collective security arrangements that started with the League of Nations and which was inherited down through the SEATO treaty, so far as they give a prior commitment to go to war. Would you comment?

Mr. Bickel. I think those security arrangements were entered into in something of the ambiguous frame of mind that I referred to a moment ago, when I found myself in that circle described by SEATO and the Tonkin Gulf Resolution. When NATO, the first of them, came to the Senate, the issue was confronted, and the secretary of state solemly told the Senate Foreign Relations Committee that we were not obliged to do anything except in accordance with our constitutional practices. My brief experience of a year at the outskirt of NATO diplomacy indicated to me that everybody there knew—I think the late Charles de Gaulle knew it very well—knew what the meaning of these arrangements could possibly be, knew that a country of this size, of this diversity, could not, projecting itself, projecting its politics—and its interests, if you will—twenty and thirty years into the future, be relied upon to act in terms of some unbreakable, stated commitment. Therefore, that knowledge, I think was put into those treaties. And in any event, if there's one thing the Vietnam experience should have taught everyone, it is that we cannot fight in sustained fashion and effectively except by somehow managing to gather a present consensus, a present, not prospective, and not twenty years ago consensus that we must fight. Any foreign head of state who doesn't know that ought to have his head examined. That is the essential fact. That is the essential condition that has made notions about America the Absolute Protector, which may have held in the early fifties, dated. And I think they are dated. I think, however, that what I am suggesting is simply that we recognize in reexamining our own constitutional arrangements that the impulse to distort them in order to serve the supposed imperatives of a world role was a wrong impulse, and that even the distortion didn't help, as Vietnam proved. I do not urge abandoning international agreements. I urge a sensible and realistic understanding of them.

Professor Myres McDougal. Mr. Chairman, I'd like to wonder whether or not the President's or the Congress' power to delegate to the President is quite as limited as Mr. Bickel suggested. In addition to Justice Sutherland's fantasy in the *Curtiss-Wright* case, what would you do with the thousands of executive agreements going back to Washington's first term?

Mr. Bickel. Professor McDougal and I haven't had this debate, haven't really joined on this issue between ourselves since 1957, I believe, when I first taught the subject and Mac found the only course conformable to his general delicacy of feeling in questioning me to be to hand a question to a student next to whom he was sitting, who would then flower forth with a glorious question right to the solar plexus—and I was not supposed to know where it came from. Seriously, I would say this. I'm guessing, but I would say an enormous proportion of executive agreements fall either within that area which is the President's own, that is, which is the area of his own independent responsibility, and incidentally if he didn't want to transfer——

Mr. McDougal. That includes tariffs.

Mr. Bickel. No, no, no—certainly not. The largest number of them fall either into the area which is his own independent responsibility, perhaps the Roosevelt-Litvinov agreement falls in there—that sort of thing. Many of the military ones undoubtedly do. Or—and this is a greater group—in that zone of twilight where he has authority when Congress doesn't act. After all, the entire deployment of American troops across the world right now is, in my judgment, constitutional, although it is, in my judgment subject to change by Congress any minute that Congress wants to change it. That is all done largely by executive agreement. It is in the area where he has authority to act, the zone of twilight, if Congress doesn't.

Thirdly, they fall in an area of being authorized by Congress. Now, whether each one of the statutes authorizing executive agreements passes all the rules of the proper delegation of authority that I would impose or not, I cannot say. And finally, I am sure there are many executive agreements which pass no test at all, which are not within his own authority, which are not within the zone of twilight, and which quite conceivably commit the United States in terms and in ways that the President has absolutely no authority to commit them. And it may very well be that some of the Middle Eastern commitments by President Eisenhower were of that sort. And I can only say about that that it is ultimately a matter of prophecy and of wisdom and of assessment of the experience of the country, but my own judgment out of the experience of these past few years, is that only grief can come from the attempt to make and to fulfill and act upon substantial international commitments on the President's own authority. It won't work.

Mr. Rostow. I think the point which this discussion brings up is a point of the utmost importance for education and public opinion, a point to be approached with the utmost gravity, as we both have I hope today, and not in the spirit of polemics or debate. On the delegation point, the most important area of delegation really, I suppose, and the most dramatic or most important instances, are two areas where the Constitution and political history have made Congress extremely jealous of any presidential activity and where I think the President has absolutely no inherent power at all, that is to say, to set tariffs on the one hand and to make banking laws on the other. Now, the statutes which authorize the President to act in relation to tariff reduction, starting back a long way and dramatized of course in the statutes of 1934 as renewed as of 1962, do delegate and I think do wisely delegate, and do constitutionally delegate powers to the President which he can act under the surveillance of Congress and so on, but exercise and exercise properly. And so too the powers with regard to the IMF. But I think the problem is much deeper because what Alex says in the end is obviously true for the moment. It's just as true today as it was after Korea when the election was fought in 1952 on the slogan "No More Koreas," and within a few years commitments were being made and passed by the Senate reiterating and redoubling the Korea—giving out IOU's that meant more Koreas all over the world. Now why did that happen? And this is the problem to which I wish to return. It happened because the President and the relevant members of Congress confronting the world as it is every day through the cables, faced threats to interests which they could not in their judgment escape, despite their full knowledge as to the political consequences then of Korea and now of Vietnam. The answer, to my way of thinking, is not constitutional gadgets but a true and very serious national debate on what our foreign policy is for and how—if the answer comes out, as I believe it should—to protect our national interests. I think we are in the state of very deep confusion on the subject, and indeed in order to illuminate or deepen the confusion as the case may be, I have spent more of the last years writing a book on it.

Mr. McGEE. Mr. President, I want to highlight what each of these men said in the debate in order to make the one point that I should like to make in these brief remarks today.

Professor Bickel spelled out very expertly in his discourse how the L. B. J. decision of 1965 to intervene massively in Vietnam amounted to an all but explicit transfer of power to declare war from Congress, where the Constitution had lodged it, to the President, upon whom the framers explicitly refused to confer it.

He goes on to remind us that SEATO and Tonkin Gulf obliged us to act only in accordance with our constitutional processes. He argues about the constitutional adaptation that bids us to ask whether the change in the division of war making power between the President and Congress has been an element of beneficial growth.

He contends that we double the error of this war, which is a product in good part of the imbalance that by indifference or inadvertence we permitted to arise between the President and this body in part and Congress in general. He works over the differences, technically speaking, between Korea and Vietnam. Returning to SEATO, Professor Bickel contends that this must be interpreted totally within our prescribed constitutional processes as envisaged by the Founding Fathers.

Therefore, he concludes by acknowledging that we examine our own constitutional arrangements and that we do not abandon our responsibilities in the international horizons of the world and hopes to contribute to closing the gap that currently has brought us to this floor, debating this issue at this time.

In contrast to Professor Bickel's excellent presentation, Dr. Rostow reminds us all of the great originality and innovative qualities of the Constitution. He would stress in particular, as the most innovative, the great powers given to the President of the United States, because these Colonies, back in 1787, had freed themselves of the British because they distrusted and disliked and in fact detested administrative authority—the authority of the King, and later the authority of the Governor; yet because of the hard lessons the colonists learned during their so-called trial period of independence under the Articles of Confederation, they discovered to their chagrin, and learned to their sorrow, the price they paid for no administrative responsibility or authority. Thus the Founding Fathers wrote strong conditions into the Constitution describing the new role of the President of the United States. A congressional resolution to back the treaty, changes pejorative phrases, but little else. It is little more than a resolution, Mr. Rostow contends.

He goes on to remind us that we should not let the tragedy of Vietnam and the emotions of 1972 get us off the track of the real question of responsibility in making and carrying out foreign policy.

Mr. President, I ask unanimous consent to have printed in the RECORD a point-by-point summation of each of the positions of the two professors I have been referring to.

There being no objection, the summation was ordered to be printed in the RECORD, as follows:

BICKEL-ROSTOW DEBATE ON PRESIDENTIAL WAR-MAKING POWERS

ROSTOW'S VIEWS

1. The written Constitution of 1787—and what is said in that Constitution about the war power, both of Congress and of the President—has to be read like any other legal document, in its matrix of history, purpose and function.

2. As Justice Jackson once pointed out, the President has some clear powers of his own and Congress has some which it alone can exercise. In between is a gray zone. On problems within that gray zone, the Nation speaks with a stronger voice when Congress and the President act together.

3. Mr. Bickel assures me that he recognizes that the U.S. did from the beginning use force in times of peace; that is, in times of peace so far as the categories of international law are concerned. The issue I disagree on is whether there has in fact been a change in the pattern of Constitutional usage in the division of war powers between Congress and the Presidency in the Twentieth Century and most especially in the year 1965.

4. A Congressional resolution to back the treaty changes pejorative phrases, but little else.

5. The experience of Korea, and the history of the fight over the Bricker Amendment, led President Eisenhower to develop the practice of getting Congressional resolutions in advance, approving the Presidential use of force in certain areas of tension, when in his judgment the use of force became desirable or necessary. Eisenhower used another form of participation on a large scale; namely, the practice of making treaties like SEATO, that would publicly commit the power and influence of the U.S. in advance of trouble to assure security and to deter aggression.

6. Many believe that what we have done in Vietnam was a mistake—that the commitment should never have been made, or once made, should never have been honored. We have a natural tendency to think that whatever we dislike very much must also be illegal, or, indeed, unconstitutional. Error in the use of Constitutional authority, if error was made, does not justify Constitutional change.

7. So now, those who believe that the tragedy of Vietnam was an error should not cripple the strong and independent Presidency which it was one of the great concerns of the Founding Fathers to establish.

8. It is just as true today as it was after Korea when the election was fought in 1952 on the slogan "No More Koreas," and within a few years commitments were being made and passed by the Senate reiterating and redoubling Korea—giving our IOU's that meant more Koreas all over the world. Now why did this happen? And this is the problem to which I wish to return. It happened because the President and relevant members of Congress confronting the world as it is every day through cables, faced threats to interests which they could not in their judgment escape despite their full knowledge as to the political consequences then of Korea and now of Vietnam.

9. The answer is not Constitutional gadgets but a true and very serious national debate on what our foreign policy is for and how—if the answer comes out—to protect our national interests. I think we are in a state of very deep confusion on the subject.

POINTS BY BICKEL

1. Johnson's decision of 1965 to intervene massively in Vietnam amounted to an all but explicit transfer of the power to declare war from Congress, where the Constitution lodged it, to the President on whom the framers explicitly refused to confer it.

2. SEATO and Tonkin Gulf resolution obliged us to act only in accordance with our own constitutional processes. President went beyond it.

3. Argument about constitutional adaptation bids us to ask whether the change in the division of war-making power between President and Congress has been an element of beneficial growth in the Constitution. Indochina not a beneficial outgrowth of constitutional adaptation.

4. Double error of this war is a product in good part of the imbalance we have permitted in the division of war-making power between the President and Congress. The Congress, whatever its faults, is institutionalized communication, access, participation. The President is a single official.

5. Difference between Korea and Vietnam. Korea fits into prior theory of reactive presidential power, which is justified on the basis of the genius of that institution. The President can respond expeditiously in an emergency in reaction to someone else's action. This did not typify Vietnam as it typified Korea.

6. SEATO told us we would act in conformance with our constitutional processes. It doesn't matter whether it is understood what the treaty obligation really signifies and what the action that Congress takes really means, because Congress is only adding its own assent to an action for which the responsibility rests elsewhere.

7. When NATO came to the Senate the issue was confronted and the Secretary of State solemnly told the Senate Foreign Relations Committee that we were not obliged to do anything except in accordance with constitutional practices.

8. Suggesting we recognize in re-examining our own constitutional arrangements that the impulse to distort them in order to serve the supposed imperatives of a world role was a wrong impulse and that even the distortion didn't help, as Vietnam proved. I do not urge abandoning international agreements, I urge a sensible and realistic understanding of them.

Mr. McGEE. Mr. President, this brings me to the one point I want to address myself to quickly here today, and that is that the Bickel-Rostow debate in the Yale Law Journal should be saying to us that what we really should be addressing ourselves to right now is the updating of our mechanisms for responsible policymaking in our system of representative government, that we should do so armed by all of the wisest judgments we can command, and start, in effect, from scratch in many ways, and begin all over again.

The world that our Founding Fathers drafted the Constitution to meet is not the world the Members of this body are compelled to face. What we should put together, by way of suggesting how the United States can meet its responsibilities in the world, may have little to do with what the men in Philadelphia in 1787 not only thought but even understood. I do not know. I think we have reason at least to call it into question and to raise our own doubts, because we serve ourselves ill if we proceed along the road of examining this question encumbered unnecessarily by the limited experiences of the past, or even by the irrelevancies of the past. I would think we would make a much more substantive contribution if we were not trying to patch up an old formula, not trying to paper over an old process that obviously does not meet the realities of 1972.

The illustration is conspicuous. The Founding Fathers provided a specific mechanism for declaring war, leaving the initiatives of the events which preceded a war clearly to the President. It provided that only the Congress finally could declare war.

But, Mr. President, that was in the days—the good old days, I suppose we might say—when wars were declared, when nations dared to consider war as an instrument of national policy. But many things have changed since the Founding Fathers met in Philadelphia in 1787. Many things have changed since GALE MCGEE started college some 40 years ago. World War II and its aftermath have completely changed many of the relevant forces, and conditions in the world, to which we should be addressing ourselves as we seek the wisest possible answer to this question.

I had occasion to say here yesterday that I think the Javits proposal, blended and combined with the constructive suggestions of the Senator from Virginia, comes closer than anything else we did in the committee to taking this out of the context of emotion, at least, and trying to make it realistic. But what it still falls short of is addressing itself to the really big questions.

What should a nation like the United States, with all its dedications, have in its mechanisms for policymaking that would be realistic in the world around us?

We are not asking that question here.

What we seem to be asking is, how can we patch up what the Founding Fathers did? How can we paper over what the Constitution says?

We should be inquiring into what the Constitution should say in 1972. I firmly believe in the Constitution as an instrument of continuing policy in this country. But we are not proposing that here. For that reason, I think that we are almost just spinning our wheels. We are addressing ourselves to "making do" if we can get by with it.

With all due respect, I think that is not enough. We have put off too long updating the Constitution. We have put off too long updating the mechanisms of a representative republic in the field of foreign policy.

We have joined ranks among those Members of the Senate who are here in this body right now, particularly the Senators from New York and Virginia, in quest of that updating.

My only real difference with my colleagues on the pending proposal is that it does not and cannot reflect a complete reexamination and restructuring of how we should do it. Without any disrespect to anyone, least of all to our esteemed predecessors in government and those at the Constitutional Convention in Philadelphia in 1787, I say that what we owe the country now is an honest attempt at least to start with the assumption that we are starting from scratch, trying to measure what the times require, and how we can sort that out in a responsible procedure in foreign policymaking.

I wish I had the answer to that. I do not have it. But I do think that we had better well put ourselves to the task of coming up with the answers. I believe that the Senator from New York would be the first to agree that his proposal is not the ultimate answer yet.

I am saying while this is upon us, while our concern is focused, while the urgency reminds us that we have delayed it already too long, we should create a body of the finest minds available, a panel of those that would represent every conceivable interest and expertise in the policymaking process, that they would be commissioned to start as though nothing had happened in terms of the convention in Philadelphia in 1787, that nothing had happened in terms of any admonishment of the Founding Fathers, and that we should start such a panel thinking on their own, in the vacuum of the moment.

That would not give us our solution, but it would give us the ultimate, where if these great minds of today were writing a new Constitution for a brand new Republic of the United States of America in the real world of 135 sovereign national States and all that surrounds us, what would they come up with, what should we, in other words, aspire to by way of expectations.

What are the dimensions of that then? What would be our starting point here? It ought to be our beginning, where we then, as responsible representatives of the people, seek to take that dimension of policymaking, of the division of responsibility in a representative government, and take the next step, implement it in terms of the Constitution or traditions of the Nation and of the great wisdom of those who have preceded us both in administrative government and in this Chamber.

So, in summary, Mr. President, I am simply saying that we do believe that we are going at this in an inadequate way and that we are not going far enough. In some respects we are going at it a little backwards. We are going at it encumbered by the unrealities of the past rather than facing up to the harsh requisites of the present.

And we find ourselves, as the debate between these two esteemed professors suggests, not only embittered by Vietnam, but trying to prevent Vietnam. Vietnam has been the catalyst. Vietnam can teach us some things. However, like history itself, it ought not to be our hitching post.

What ought to be relevant here is what was long overdue, if there had never been a Vietnam, if there had never been a Korea, and that was modernizing and updating the process of decisionmaking.

Mr. President, I am preparing a proposal to submit to the Senate at an appropriate time in the course of the dialog and debate, to the effect that the President of the United States be commissioned to appoint at the highest level a group or panel to make this kind of a searching inquiry as to what a new nation conceived in 1972, should do with the awesome power of responsibility in the world that we have, and what kind of mechanism ought to be written into the theoretical constitution for that kind of a new republic.

Then, let us measure it, after that development, alongside those things that we have coming up through history. I think that only in that way can we separate the proper priorities, allow the proper weights, and sort through the beliefs that we ought to command in trying to resolve this heavy and difficult question of the war-making powers in a world that, in our time, never again can afford to declare a war for the convenience of the Founding Fathers who provided how it might be done if we would confine ourselves to their processes.

The times have changed the relevance of what they have said. No one is really measuring the role of the various branches of this Government and sorting it out in the light of the new events and the new and frightening responsibilities, that we did not seek but have, and trying to make it possible for our system to survive the impact of change, the erosions of irrelevancy, and the limitations of imprisonment for the very rich, but not quite relevant, past.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, yesterday and today I have heard with the deepest interest the proposals of the Senator from Wyoming. I do not construe his interest to be in opposition to the bill. What he is really saying, as I understand it, is that he is questioning whether this is the optimum solution, and indeed he said that he believes that even I think it is not necessarily the optimum solution.

Mr. President, I wish to set the record straight on that. I believe it is the best solution to our present problem. And if I did not believe that, I would not be here urging this case as strongly as I am. Nor would, I suspect, the 25 Senators who have joined with me in this matter, including the distinguished Senator from Virginia (Mr. SPONG), who has been so helpful and instrumental in the matter, the majority leader, the chairman of the Armed Services Committee, the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. TAFT), who will soon be speaking, and many other Senators.

Why do we feel as we do? I think that Senators who have expressed such interest in the matter ought to know. I think we feel as we do because we believe it is needed. We are planning on placing before the Senate this matter as a law and not as a constitutional amendment.

We have viewed what has been going on for the last few years and have asked what we have been doing for all of this time. People make various judgments.

We sought the judgment of the best minds and we elicited their opinions. I assure the Senate that the expression of views, he referred to, from Professors Bickel and Rostow did not come from the moon. They came because we urged them to get into this matter. I had a debate with the distinguished Professor Rostow on a national television show. Professor Bickel testified before us. I had occasion this morning to refer to part of his testimony. We heard from the outstanding experts on this measure. Now we are subjecting this matter to the greatest scrutiny on the floor of the Senate.

The confidence of the country is a very important thing, as we have seen with respect to the Vietnam war. We cannot discard the opinion of the public. The fact is that this war has torn our country apart. Many of us feel, and I feel deeply, that it has caused an erosion of the motivation of the American people that is heavily attributable to their feeling that we do not know how to run our affairs well enough to avoid Vietnams.

We cannot lay aside the Constitution. We can amend it, but that process, as we know, is not something that can be done soon in a matter of this kind and is hardly likely to occur. There is no need to amend the Constitution.

It permits exactly what we are trying to do, establishing the relationship and the procedure by law and implementing it through exercise of the "necessary and proper" clause with respect to the war-making powers.

The old declaration of war is gone. We have only had five declarations of war in our history. We have probably had 100 occasions in which the American forces have engaged in hostilities.

The question is: What do we substitute for this rather out-of-date mechanism. We have come up with what we consider to be a very satisfactory contemporary answer. A law can be changed. It is not fixed or permanent. It has exactly the qualities which I believe the Senator from Wyoming (Mr. MCGEE) wants. We come up with the best that we can at this time. It is subject to change if experience indicates it should be changed.

Why do we do this now? The reason we do it now is that we are engaged in many activities around the world which could lead to imminent hostilities. We are in a position of being on literally hundreds of bases and stations, every one of which poses a threat. We are engaged in very tense situations. We are still in a war in Vietnam. We are engaged in the air over Laos and Cambodia. We have forces in Thailand which are actively engaged in a hot war. There is no secret about that.

We have a tense situation in the Mediterranean; we have tense situations in eastern Europe. We are trying very hard to defuse those situations and work out detentes. We are involved in massive alliances: NATO, the Southeast Asia Treaty, the Rio Pact, the many bilateral treaties, and the United Nations Charter, for that is, after all, an alliance.

Those of us who sponsor this bill feel that the people should have some assurance that we will not repeat the mistakes of the past. That assurance should be given at the earliest moment. We believe that the assurance is contained in the measure before us. This is the best practical measure we have. It is a law; it is not a constitutional amendment.

We believe the confidence that can be inspired in the country by the stability provided by the war-making authority, through this legislation, is indispensable to the tranquility of America, having gone through the experience we have.

Mr. President, it is for those reasons we believe it is proper to have this bill before the Senate and it is necessary the Senate should act. Until we come along with a better solution at a later date there is nothing to prevent us from adopting this measure in lieu of what we have. Right now this seems the best solution.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Wyoming.

Mr. McGEE. I appreciate what the Senator from New York has had to say on this matter. I once more say to my colleagues that I think a most innovative approach to the immediacy of the problem has been undertaken by the Senator from New York, and this is by far the best of the recommendations that came up through the committee. No one knows better than I, unless it is my two colleagues, of all the hours and hours we have gone through, picking brains and in consulting the best people possible so that we might get the best thinking on this kind of proposal.

What I am saying to the Senate on this question is that the best minds are divided at the moment, partly because we have been seeking to get them to focus on how we can adjust the present system so that we can survive, so that we can apply a band aid to heal the wound.

My contention is that that is not enough and that we owe more to the country than to try to tape it up again; that it is clearly out of date; that the times may even now be numbering its relativity in terms of its operability, in terms of future crises.

I am mindful of the immediacy of the Senator's suggestion and what it is aimed at doing in establishing public confidence. But what we are doing is playing from Tuesday to next Tuesday and the following Tuesday, and a year from Tuesday, when we do that. It is important, I guess, to win those few months when the events of the world permit, but we are still ducking the question, and the basic question is modernizing our mechanism in this desperately important area.

We are trying to put it off again, hoping to come to grips with it once more when we have another crisis, when we will not have liked the way things turned out on the procedures indulged in at one level of government or another. That is what I am suggesting.

We are not doing what we should be doing in the ultimate on this question. The support that is clearly present for this approach is mixed in its motivations at the very least. Some of it is bitterness over Vietnam, and we do not want another Vietnam. It is put together to see that there will not be another Vietnam, but some historians will be the first to remind us there will not be another Vietnam; there will be another something else, circumstances change so substantially concerning a given crisis.

What we should be aiming at here is a procedure, a definition, a responsibility on how to go about that responsibility when we have a President, a legislative branch, and a judicial branch. Maybe we should have something that is entirely different, something that is not in the Constitution.

I do not know what that answer is and perhaps I would end up back in 1787. I am only saying this method of approach is ducking the question once more and it is to leave unanswered the questions we have a right to ask ourselves and to which we must insist on answers from the composite of the finest minds that can be asked to focus on it, and that is the difference in focus on the war powers resolution.

That is a difference in the Senator's approach and what he has had to say, and my approach and what I have to say. We hope to come out at the same place when we are through and to stand shoulder to shoulder in support of that, but I do not think we are permitting a chance to restructure, really to restructure how it might have been done by the Founding Fathers of 1972, faced by the world as they know it.

Until we try that and see then what we are compelled to do to make it realistically rational and responsible, we still fail our mission. It remains, as I have described it, another passage on an outdated vessel, instead of passage of a bill to meet the times. We should seriously be measuring how it basically might be restructured. If we come out with the conclusion that basically it should not be restructured, great, but I think we are shoving that in the closet by seeking to expedite the matter and trying to get at it with this measure.

I am not sure we are in as much jeopardy about a repeat performance as some of my colleagues feel, and understandably they feel that way.

I think the proceedings before the Committee on Foreign Relations, the measure, and the debate have served as an important warning for the moment, so we will keep our shirts on for another time around. I would be less anxious about a crisis next week or next month, and that entitles us, in the interest of the changing times to move a little more slowly on this and, I think, have a much larger measure applied to it.

I thank the Senator for yielding.

Mr. JAVITS. Mr. President, I conclude as follows: The words "ducking the issue" and "Tuesday to Tuesday or a year from now" are not my words, I believe it is we who are facing the issue. Ducking the issue is to appoint a commission to think about it.

We are offering a methodology. That is what the Senator asks for. We offer one, and a positive one, one that can work, one that has the additional advantage of being built into the present framework, so there is no question in the world that the next 5 years or 10 years could be taken up by consideration of a committee or any other group, to which the Senator could send the measure.

I might join him in proposing a commission, as a supplement, not as a substitute, to this measure. It is what should be the framework of government for the United States, including the power to make and declare war. That is fine with me, but I do not see where this changes one iota the situation of the country now in which Congress has for decades forgone its authority and in which that authority needs to be recaptured under a methodology which is consistent with the exigencies of modern times. We offer that as a composite of what the Senator asks for. We have here a methodology. We lay one on the table, one that has been thoroughly considered and debated. It has the advantage of being a law so that if there is any problem about it it can be changed easily and readily.

I believe that we are the ones who are facing the issue. We are not avoiding it. We are not withdrawing from it. There are many ways of killing a proposition. One way is to refer it to another committee. Another way is to appoint a commission to think about it.

The question is, Do we need action now, or is there a very long-range proposition that can await higher level deliberations that may well take years?

I deeply believe that we have now matured, after 2 years of deliberation, a concrete and definite methodology. It is a methodology which can work to give great reassurance to our people, and I think it is time to legislate it into effect.

I thank the Senator.

Mr. SPONG. Mr. President, the Senator from Wyoming has been very gracious, both on yesterday and today, in saying that what has been done by the Senator from New York and the Senator from Mississippi and the Senator from Missouri and other Senators, including myself, has been good, but not quite good enough. If I understand what the Senator from Wyoming has been saying, it is that perhaps we need a new Constitution.

I think it important to reaffirm throughout this debate that the proponents of this measure are in no way attempting to amend the U.S. Constitution indirectly. They are not seeking to take away from the President any powers with regard to the warmaking process that he presently possesses. They are not seeking to endow upon the Congress any powers that the Constitution from its beginning has not given to Congress.

What we are seeking, as the Senator from New York has pointed out, is a method. We are seeking to establish by law ground rules that will assure that in decisions involving the use of force and the making of war, the Congress will participate those decisions.

The Senator from Wyoming, both yesterday and today, placed, in my judgment, an undue emphasis upon the war in Southeast Asia as a cause for this legislation. That war is only one step in a series of historic events that have taken place over a quarter of a century and which suggest the need for this bill. Earlier this morning the Senator from Mississippi covered very well his own involvement in the debate at the time the Korean treaty was before this body. The Senator from Montana mentioned that we seek to avoid a recurrence of the Dominican Republic episode without congressional concurrence.

Thus, we do not seek to second-guess

decisions that have taken place in the past, but it is a historic fact that since the Korean war and since the sending of divisions to Europe as a part of the the NATO agreement, Congress has been bypassed in consultation on decisions that the Founding Fathers and the Constitution called upon them to decide.

Assuming that we await some commission or some constitutional convention in the future, the question is: Is the situation as it presently exists—where there is constitutional dilemma, in my opinion, over the war powers between Congress and the Executive—preferable to doing nothing? The answer is "No." The procedures suggested in this bill endeavor to set up the apparatus through which the intent of the Constitution can be complied with. If we need a new Constitution, or if a new approach leading to greater powers for the President or greater powers for the Congress is indicated, that will have to be taken care of in another way.

But after one-quarter of a century of continued involvement abroad without adequate congressional consultation, the time has come, I think, to set up rules which, hopefully, will lead to a sharing of responsibility for the very grave business of warmaking.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who seeks time?

Mr. TAFT. Mr. President, I want, at the outset, to commend the Senator from Virginia, the Senator from New York, and members of the Foreign Relations Committee for their long and arduous effort in connection with the legislation that appears before us; and I want to express my agreement with the sentiments just expressed by the Senator from Virginia and the Senator from New York to the effect that this basically is not a change in our Constitution, nor does it impinge, I believe, upon the constitutional powers of the President. Rather, it defines and it attempts, within the terms of the Constitution, to bring to the attention of the Executive and of the Nation the desirability—almost the inevitability—of bringing along, in the event of a commitment of our Armed Forces, the people of the United States.

It is not a matter of a difference of opinion or an argument or a struggle for power between the members of the legislative branch of government, under the Constitution, with the executive branch as to who does what or why or when. Rather, it is going back to the very safeguards that existed in the Constitution itself to bring into play, when an important decision of this kind is made, the people themselves, acting through the Congress of the United States.

With the changes in the technology of communication, and the immediate communication we have today with the broadcasting media, and with the daily newspapers covering these areas very, very fully, it is more important, I think, than it has ever been in the history of the United States to reassert the proposition that the people themselves shall take a part in the decision-making process.

The great tragedy of Vietnam, in many ways—whether the decisions were right or wrong—was that we became involved in a commitment when the people failed to recognize the nature of that commitment or some of the aspects of it. For that reason, I think it is most timely that now, as we phase out the Vietnam war, we take a look at the situation and that we in the Congress itself attempt to define more accurately what the participation of the people, through Congress, should be in this important aspect of national policy.

Mr. President, this debate is of a truly historic nature, owing its genesis to the very roots of our existence as a Nation. The ability of the British Crown to commit the American Colonies to war produced an inherent distrust of the executive branch as an institution. The framers of our Constitution granted Congress the power to declare war and charged the President with the responsibility for conducting hostilities once they had been lawfully commenced.

Despite that constitutional mandate there have been at least 165 instances during the history of this Nation when American Armed Forces have been committed abroad. On only five occasions, however, has war been declared by the United States, and as to one of those, the Mexican war, the declaration occurred after two battles had been fought and the Congress in 1848 adopted a resolution stating that the war was commenced "unnecessarily and unconstitutionally" by the President.

Apart from declared wars, the Congress has on several occasions, when American troops have been committed in other nations, adopted measures relating to the propriety of the President's action.

I ask unanimous consent that there be inserted in the RECORD at the conclusion of my remarks an exhibit listing the declared wars, other action taken by Congress relative to the commitment of troops, and the instances when American Armed Forces have been used in other nations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TAFT. Mr. President, this exhibit is a part of an excellent document entitled "Background Information on the Use of United States Armed Forces in Foreign Countries," prepared for the Subcommittee on National Security Policy and Scientific Developments of the Committee on Foreign Affairs, of which I was a member during the last session of the Congress.

In a letter to Herndon, Abraham Lincoln addressed himself to this critically important issue:

> Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so whenever he may choose to say he deems it necessary for such purpose, and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect. If today he should choose to say he thinks it necessary to invade Canada to prevent the British from invading us, how could you stop him? You may say to him, "I see no probability of the British invading us"; but he will say to you, "Be silent; I see it, if you don't."

In a 1916 Yale Law Review article, my grandfather, William Howard Taft, propounded the cast for strong executive power. In part he stated:

> When we come to the power of the President as Commander-in-Chief, it seems perfectly clear that Congress could not order battles to be fought on a certain plan, and could not direct parts of the army to be moved from one part of the country to another.

The issues had become more complex by 1951 when my father wrote a book entitled "A Foreign Policy for Americans." In chapter 2 of that volume, he urged more congressional involvement in military deployment, stating that:

> In the case of Korea, where a war was already under way, we had no right to send troops to a nation, with whom we had no treaty, to defend it against attack by another nation, no matter how unprincipled that aggression might be, unless the whole matter was submitted to Congress and a declaration of war or some other direct authority was obtained.

In that same chapter he also stated:

> If in the great field of foreign policy the President has the arbitrary and unlimited powers he now claims, then there is an end to freedom in the United States not only in the foreign field but in the great realm of domestic activity which necessarily follows any foreign commitments. The area of freedom at home becomes very circumscribed indeed.

The concerns voiced then seem quite prophetic today. The last 20 years have witnessed a continued atrophy of the congressional war powers. At the same time, the Executive has taken an increasingly broad view of its prerogatives in this area. Under modern conditions, the irreversibility and the danger of Executive action without congressional authorization has accelerated to an unprecedented extent and therefore the concern for the problem is enormously enlarged.

This growing centralization of power in the Executive, accompanied as it has been by a similar centralization of domestic power in the Federal Government, has created a deep sense of frustration among the people who increasingly despair that they lack control over their own destinies. There is a demand for participatory democracy in foreign affairs as well as on the domestic scene. Just as means must be found to strengthen local governments in dealing with matters of domestic importance, so must we increase the participation of the elected representatives of the people in the foreign policy decisionmaking process, particularly as it applies to matters of war and peace. War is not only too important to be left to the generals, Americans abhor war to such an extent that it is too important to leave to the Executive alone.

It has long been recognized that there must be a close parallel of military and diplomatic frontiers. To these I would add the importance of the public opinion frontier. In my judgment it is important for foreign policy questions to be decided whenever possible in the limelight of public opinion. In a democratic nation the broadest public discussion of such issues, followed by definitive action by the legislative and executive branches, produces the soundest basis for the determination of national policy. This is not to say that tactical decisions should be governed by public opinion. I am reminded in this context of the cartoon in the Saturday Review on March 13 of last year when an aide was shown saying to Napoleon:

> Sir, a public opinion poll shows 17 percent of the public believe you should fight the Duke of Wellington at Nivelles; 29 percent believe you should fight him at Wavre; and 54 percent believe you should fight him at Waterloo.

Much of the pressure for increased congressional activity comes with reference to our involvement in Southeast Asia. This is understandable—the process by which we became involved in Southeast Asia is a classic illustration of Executive usurpation of power from a Congress not willing to exercise its war powers, or an Executive willing to call for it. And what has been the result? While committing hundreds of thousands of troops abroad without congressional authority, the previous administration stepped up spending on the domestic front. The guns-and-butter strategy produced a ruinous inflation which has caused substantial economic disruption at home and abroad and has resulted in the obsolescence and decay of many military programs and facilities vital to our national security. It would also seem to have generated a considerable degree of psychological and economic vulnerability. One can only hope that if the Congress could have participated in these great decisions—if it had only been fully aware and made the country fully aware of the open-ended nature of our commitment—the necessary restraint would have been exercised. Of course, Congress did appropriate funds for the war but there is a great difference between appropriating funds for troops already committed to battle, and deciding initially that such a commitment is proper.

As Congress moves to reassert its constitutional prerogatives, we must profit by—rather than be blinded by—our experience in Southeast Asia. We must divorce, if possible, our great constitutional debate from the frustrations which many feel concerning our involvement there. Rather, the debate should be in terms of restoring a needed balance to the constitutional relationships between two great branches of government. We must recognize that Congress has too often given an Executive a blank check because of personal confidence in the individual occupying the Presidency at that particular time—or because of a sympathy with the particular national interest which the Executive's action is designed to protect.

If Congress moves to assert its prerogatives, as I think it must, it should do so in an "institutional" manner—one that divorces itself from the particular administration in office or the particular national interest which may be at stake—and it is particularly important to remember that in legislating, as we are, of course, today, in the shadow of a national presidential election. If the Congress reasserts its prerogatives, it must be vigilant to exercise these prerogatives whether it is a Democratic or Republican who is President and whether it is the survival of Berlin, Israel, or Cambodia which is at stake.

And any such reassertion must be accompanied by a searching review of our national commitments and the particular national interests served thereby. We are experiencing a reaction in this country which has been termed a "neo-isolationism." I am hopeful that this might only turn into what I would term a "new skepticism"—where we would no longer feel a compulsion to intervene in every brush fire around the world.

President Nixon in his report to the Congress on February 25, 1971 stated at page 154 that:

> It is essential that the United States maintain a military force sufficient to protect our interests and meet our commitments.

The unanswered question, however, is precisely what these interests are that would properly call for American military action in other nations.

With reference to the utilizataion of American military power we must decide precisely what American interests are involved in Southeast Asia, in the Middle East, in Europe, and in South America. That decision is intensely political in nature and as such requires the full and complete participation by the Congress. If the Congress is to have any role in the formulation of American foreign policy, it must have authority to participate in the determination of which interests are so vital to the American people that we must resort to the use of military force.

Mr. President, that is what the purpose of this legislation is, a purpose I believe it is well designed to accomplish.

Exhibit 1

Major U.S. Armed Actions[1] Overseas, With Relevant Congressional Action, 1789–1970

A. DECLARED WARS

1. *War of 1812.*—Congress declared war on Great Britain, June 17, 1812. Madison's review of grievances did not actually call for war, but Congress resolved the matter with a joint resolution declaring war.

2. *Mexican War, 1846.*—U.S. troops under General Zachary Taylor were ordered by President Polk to occupy the land between the Nueces and Rio Grande Rivers, territory also claimed by Mexico. This was done without any authorization from Congress. Mexican troops surprised and mauled an American unit, and Polk sent a message to Congress asking that it recognize the existence of hostilities. Congress responded by a resolution declaring that a state of war existed between the U.S. and Mexico.

There was opposition to the war from the beginning, which grew stronger with time. The House added a rider to a resolution honoring General Taylor on January 3, 1848, stating that the war was begun "unnecessarily and unconstitutionally" by the President.

3. *Spanish-American War, 1898.*—President McKinley at first merely requested Congress' permission to use military and naval forces to effect a cessation of hostilities between Spain and its rebellious possession, Cuba, and to establish a stable government in the latter. The Senate added a provision to this request recognizing the independence of Cuba. This provision was opposed by the President and deleted in the conference with the House. A resolution was passed giving the President discretionary authority to use military force to satisfy U.S. aims with respect to Spain and Cuba. Spain responded by declaring war on the U.S. In response, McKinley ordered Dewey to attack the Philippines. He then asked for a declaration of war, which Congress gave, stating that war had existed from the day Spain declared it against the U.S.

4. *World War I, 1917–1918.*—President Wilson asked Congress to recognize that the course of the German government amounted to war against the United States. Congress responded by a joint resolution declaring that a state of war existed between the Imperial German Government and the U.S. War was not declared against Austria-Hungary until December, 1917, eight months after the declaration against Germany.

5. *World War II.*—After the Japanese attack on Pearl Harbor on December 7, 1941, President Roosevelt went before Congress the next day, and asked for a declaration of war, dating from the time of the Pearl Harbor attack. Germany and Italy, who were allies of Japan, then declared war on the United States. On December 11, 1941, President Roosevelt asked that Congress recognize a state of war between the U.S. and Germany and the U.S. and Italy, a request to which Congress acceded the same day.[2]

B. OTHER ACTIONS

Armed action

Undeclared naval war with France, 1798–1800.—This was a limited war, fought essentially for the protection of American merchant ships which were being harassed by French naval vessels. This contest included some land actions, i.e., the capture by U.S. marines of a French privateer under the guns of the forts in the Dominican city of Puerto Plata.

Congressional action

Congress:

1. Created a Navy Department.
2. Voted appropriations for new warships.
3. Abrogated treaties and consular conventions with France.
4. Authorized the enlistment of a "provisional army" for the duration of the emergency.
5. Authorized seizure and bringing into port of armed French vessels which had been preying on American shipping. Did not authorize seizure of unarmed French vessels.[3]

Armed action

War with Tripoli, 1801–1805.—The so-called Barbary pirates exacted tribute from countries whose ships plied the Mediterranean. The European nations paid, finding this the easiest way. When Jefferson became President the Pasha of Tripoli, feeling tribute paid by U.S. was insufficient, declared war. Jefferson sent warships to the Mediterranean which, after several naval actions, succeeded in winning a treaty from Tripoli more favorable than any other nation had yet secured from her.[4] During this conflict a few U.S. marines were landed with U.S. Agent William Eaton, with a view to raising a force to free the crew of the *Philadelphia.* This expedition penetrated as far as Derna, on Tripoli's eastern frontier, and probably influenced the Pasha to make peace.

Congressional action

In 1802 Congress passed a law entitled "An Act for the Protection of the Commerce and Seamen of the United States, against the Tripolitan Cruisers." It authorized the President to protect commerce and seamen, to seize and make prizes of vessels belonging to Tripoli, and all other acts of precaution and hostility as in a state of war. This amounted to subsequent approval of Jefferson's actions, plus the authority which only Congress could grant: to take prizes and to give commissions to privateers. An act levying revenue duties to pay the cost of the naval operations was likewise approved.

Footnotes at end of article.

Armed action

Second Barbary War, 1815.—The Dey of the Algiers declared war against the U.S. Two U.S. naval squadrons were sent to the Mediterranean. Stephen Decatur, commander of one of the squadrons, dictated peace to Algiers, and then to Tunis and Tripoli, ending the Barbary blackmail as far as the U.S. was concerned. Within a year, European warships took action against the Barbary corsairs, and the payment of tribute ended entirely.

Congressional action

Congress authorized the expedition against Algiers. Specifically, it authorized the use of armed vessels, "as may be judged requisite by the President." The same legislation made it lawful to take prizes.

Armed action

Boxer Rebellion, 1900.—In 1900 a series of anti-foreign disorders erupted in China, fomented by a secret society known to Westerners as Boxers. This uprising was encouraged by elements within the Imperial Government, but it was not, strictly speaking, a war waged by that government. The high point of the rebellion came when the Boxers rampaged through Peking, and laid siege to the foreign legations there. An international force was organized to lift the siege, and a U.S. contingent of 2,500 men was sent by President McKinley to join this international force. These U.S. troops came from forces already mobilized for the Spanish-American War and the Philippine Insurrection. For many years thereafter the U.S. maintained a guard at Peking and other military forces at certain places on Chinese territory, pursuant to authority acquired from the Chinese.

Congressional action

None—Congress was not in session at the time. There was little protest when Congress did reconvene, however.

Armed action

Panama, 1903.[5]—U.S. warships in Central American waters were ordered to seize the Panama railroad, keep the Isthmus of Panama clear, and prevent Colombia from landing troops within 50 miles of the Isthmus if a revolution broke out. These orders were issued on November 2, 1903, and a revolution broke out in Panama on November 3, 1903. Troops from the *U.S.S. Nashville* prevented loyal Colombian troops from suppressing the revolt. On November 4 Panama declared its independence. The U.S. recognized the independence of Panama *de facto* on November 6, and *de jure* a week later.

Congressional action

No chance for Congress to act. Senate ratified the Hay-Bunau-Varilla Treaty on February 23, 1904.

Armed action

Armed hostilities with Mexico, 1914–1917.—1. During a time of revolutionary upheaval in Mexico there were at least two major armed actions by U.S. forces in Mexico. The first was the occupation of Vera Cruz in 1914, ostensibly for failure of the Mexicans to fire a 21 gun salute to the American flag. The salute had been demanded by Admiral Mayo, U.S. Navy, following the release by Mexico of an officer and nine sailors who had been arrested and paraded through the streets of Tampico after going ashore without the permission of Mexican authorities. President Wilson backed Admiral Mayo's demands, and ordered the North Atlantic battleship fleet to Tampico. Wilson's motive, essentially, was to force Huerta out as Mexican president, so that a constitutional government would come to power. Tampico was to be attacked, but Vera Cruz was made the objective when it was learned that a German ship was heading there with munitions for Huerta. There was a clash with Mexican naval cadets and soldiers resulting in some 400 casualties, mostly Mexican. Following the mediation of Argentina, Brazil, and Chile, U.S. troops were withdrawn from Mexico.

Congressional action

President Wilson requested authority to use the armed forces, two days before they were actually landed. Congress passed a joint resolution giving him such authority the day after.

Armed action

2. In October 1915, the U.S. recognized the Carranza government in Mexico. General "Pancho" Villa, whom the U.S. had briefly supported, revolted, hoping to capitalize on anti-American sentiment and embroil the U.S. in a war with Mexico. To this end his guerrilla forces held up a train carrying 17 American mining engineers in January, 1916, and shot all but one on the spot. The following March his forces raided the town of Columbus, New Mexico, killing 19 Americans, and burning the town. Public opinion in the United States demanded the punishment of Villa, and Wilson ordered a punitive expedition into Mexico, having first obtained the consent, however grudging, of the Carranza government. The U.S. forces never found Villa, but they did clash with Mexican government troops at two points, Carrizal and Parral. In the meantime, Villa raided Glen Springs, Texas. Mexico and the U.S. moved toward war, as Carranza demanded the withdrawal of American forces and Wilson called out the National Guard and incorporated it into the Army. But neither side really wanted war, and although no satisfactory settlement was reached, Wilson withdrew U.S. troops. The increasing possibility of American involvement in Europe probably contributed to his decision.

Congressional action

The use of armed forces was approved by the Senate, which passed a joint resolution offered by Sen. LaFollette. The use of armed force was declared to be for the sole purpose of punishing the outlaws who had raided Columbus. This resolution did not come up for a vote in the House, however.

Armed action

Expeditions to European Russia and Siberia, 1918–1920.—Following the Bolshevik Revolution, Allied expeditions were sent to Murmansk and Archangel, where they joined British and French troops in operations against Bolshevik troops. Wilson resisted allied pressure for large-scale anti-Communist intervention.

After the end of the war U.S. troops entered Siberia through Vladivostok as part of an allied force, chiefly Japanese, sent to safeguard military supplies and assist the Czechoslovak legion to escape from Soviet territory. U.S. forces reportedly participated in this expedition as much to keep an eye on Japanese plans as anything else. U.S. troops were withdrawn in 1920.

Congressional action

President Wilson was criticized in Congress for waging war in both North Russia and Siberia. Two resolutions were introduced in Congress to compel the withdrawal of U.S. troops from the Siberian venture, but both died in committee.

Armed action

Nicaragua. 1926–1933. The U.S. employed military occupation to end civil war and establish elections and regular government. President Coolidge undertook the occupation on his own responsibility. Henry L. Stimson was sent as the President's personal representative, and managed to work out an agreement accepted by contending Nicaraguan factions, except for General Sandino, one of the Liberal generals, and his followers. Sandino carried on guerrilla warfare against the Nicaraguan government and U.S. forces for the remainder of the occupation. At its height, over 5,000 sailors and marines were either in Nicaragua or in transit there.

Congressional action

Resolutions were introduced in Congress requesting immediate withdrawal of armed forces from Nicaragua. Hearing were held by the Foreign Relations Committee and the ensuing report, Senate Report 498, 70th Congress, defended retention of troops in Nicaragua until settlement worked out by Stimson could be carried out. This report expressed no opinion on the constitutionality of dispatching troops to Nicaragua in the first place. Mexico and the U.S. backed rival factions in the Nicaraguan dispute. This added to existing tensions between the U.S. and Mexico. This tension evoked a "sense of the Senate" resolution, introduced by Sen. Frazier of North Dakota, that the President not exercise his powers as Commander in Chief to send any of our armed forces into Mexico, or to mobilize troops on the Mexican border, or assemble fighting units of the navy in waters adjacent to Mexico, while Congress was not in session. If the President contemplated such action, the resolution directed him to call Congress into special session and explain his reasons for proposed military moves.

This resolution did not contest the President's powers as Commander in Chief, but it did represent an attempt to curb his initiative in bringing about situations that might become dangerous, or lead to armed clashes. It was not adopted, but public opinion grew increasingly opposed to intervention by U.S. troops in any foreign country. The policy of intervention in Latin America was ended during the 1930's, and the country attempted to insulate itself against involvement in foreign wars through the Neutrality Acts.

Armed action

China, 1927. In 1927, anti-foreign disorders, which had taken place repeatedly since 1911, reached a climax. There was fighting at Shanghai between Nationalist and anti-Nationalist forces, which led to the landing of 1,250 Marines, who joined an international force that reached 13,000 men. A naval guard had to be stationed at the American consulate in Nanking. A small contingent of sailors was landed at Hankow at the beginning of the year, and a tiny contingent of Marines in April. A U.S. and a British warship fired on Chinese soldiers to protect the escape of Americans and other foreigners from Nanking. By the end of 1927, the U.S. had 44 naval vessels in Chinese waters, and 5,670 men ashore. Other countries also sent considerable forces to the area. After U.S. signed an agreement with Nationalist China in 1928 which constituted recognition, U.S. troops were gradually withdrawn.

Congressional action

No specific action was taken by Congress with respect to the landing of troops. However a resolution calling for the end of America's special privileges in China won overwhelming approval in the House.

Armed action

Pre-War moves, 1939–41.—After the outbreak of World War II in Europe, the U.S. took a number of actions designed to safeguard its security and that of the Western Hemisphere and to aid the allied powers against Nazi Germany. Among these actions were the following: 1. Troops were sent to garrison air and naval bases obtained from Great Britain in exchange for overage destroyers. These bases were located in Newfoundland, Bermuda, St. Lucia, Jamaica, Antigua, Trinidad, British Guiana, and the Bahamas. 2. Greenland was placed under American control, and the U.S. was given permission to build bases there by agreement with the Danish Minister in Washington, an agreement disavowed by the captive Danish

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Footnotes at end of article.

government. 3. The President ordered troops to occupy Dutch Guiana, under agreement with the Dutch government in exile. 4. Iceland was taken under U.S. protection for strategic reasons, after the British had indicated they could not longer garrison their base there, and after agreement had been secured from the Icelandic government. 5. The President ordered the navy to patrol the ship lanes to Europe. These patrols began to convoy lend-lease shipments as far as Iceland, where the British navy picked them up. Clashes with German U-boats resulted from this activity.

Congressional action

President Roosevelt did not seek specific congressional authorization for many of the actions he took to aid Britain and other nations fighting the Axis. However, despite fierce opposition, Congress passed the Lend-Lease Act. It also passed the first peacetime conscription law in U.S. history (which it renewed by a margin of one vote) and passed the bill permitting the arming of merchant ships. In addition, Congress repealed those sections of the Neutrality Act of 1939 which forbade trade with belligerants, established combat zones into which U.S. ships were not to sail, and prevented the arming of merchantmen. In short, President Roosevelt did not seek the authorization of Congress for certain moves he made as Commander in Chief, but he did obtain what was in effect the endorsement of Congress for his policy of assisting one side in an international conflict.

Armed action

Korean Police Action, 1950–1953.—North Korean troops crossed the borders of South Korea on June 25, 1950. The UN Security Council, called into special session, denounced the invasion as an act of aggression, called for an immediate cease-fire, and requested member nations to render every assistance to see that its resolution was enforced. On June 27, President Truman announced that he had ordered U.S. air and sea forces to give the Korean government troops cover and support; that he had ordered the 7th Fleet to prevent any attack on Formosa as well as to prevent any Chinese Nationalist sea or air operations against the Chinese mainland. Later that day the Security Council adopted a resolution calling upon the members of the UN to furnish such assistance to the Republic of Korea as might be necessary to restore international peace and security in the area. In response to this resolution, President Truman ordered ground forces to Korea to repel the North Korean attack. Since the Korean action was undertaken under UN sponsorship, other countries also sent contingents, but that of the U.S. was by far the largest.

Congressional action

A few members of both houses voiced criticism that the President had usurped Congress' power to declare war. Resolutions were introduced in 1951 to declare war against North Korea and Communist China, and also for an orderly withdrawal of U.S. forces. None of these resolutions came to a vote.

If Congress did not formally accept, neither did it as a whole contest the contention of the Executive that it acted in response to the call of the UN Security Council. The State Department, in its memorandum defending the authority of the President to repel the attack in Korea, pointed to the debates on the UN Charter in which it was asserted that by becoming a party thereto, the U.S. would be obligated by commitments the organization would undertake, including commitments to international policing, and that it would be within the power of the Executive to see that these agreements were carried out. The Senate had approved the UN Charter, and there was some feeling, particularly at the outbreak of the Korean conflict, that it had therefore authorized, at least implicitly and in a general way, actions that might be taken under it. Furthermore the entire Congress had passed the UN Participation Act.

Armed action

Landing of troops in Lebanon, 1958.—Lebanon has always preserved a delicate internal balance between Christians and Moslems. This was threatened by certain Moslems, reportedly encouraged by President Nasser of the UAR. When a pro-Nasser coup took place in Iraq in July of 1958, the President of Lebanon sent an urgent plea for assistance to President Eisenhower, saying that his country was threatened both by internal rebellion and "indirect aggression." President Eisenhower responded by sending 5,000 marines to Beirut to protect American lives and help the Lebanese maintain their independence. This force was gradually increased to 14,000 soldiers and marines, who occupied strategic positions throughout the country.

After the matter had been taken to the UN, and the General Assembly had passed a resolution calling on member states to respect one another's integrity and refrain from interfering in one another's internal affairs, and also requesting that arrangements be made for the withdrawal of troops, the situation stabilized somewhat. U.S. troops were then gradually withdrawn on a schedule worked out with Lebanese authorities.

Congressional action

The "Eisenhower Doctrine," a joint resolution, had been passed by Congress in 1957 authorizing the President to use U.S. armed forces to assist any nation in the Middle East requesting help against Communist aggression. President Eisenhower stressed the provocative nature of Soviet and Cairo broadcasts in justifying the landing of troops.

Armed action

Deployment of troops, Thailand, 1961–1970.—In 1961 a detachment of 259 Marines was sent to Thailand to set up a helicopter maintenance facility for ferrying supplies to anti-Communist forces in Laos, when the military situation in that country began to deteriorate. In 1962, when anti-Communists fled across the Mekong into Thai territory, and it appeared that Pathet Lao might move into Thailand, U.S. forces numbering 5,000 men were sent into Northeast Thailand to guard against that possibility. The UK, Australia, and New Zealand also sent in small units, in a show of SEATO solidarity. As the threat receded, the U.S. and other troops were gradually withdrawn. The building of U.S. air bases in Thailand began around 1964, and by 1965 U.S. air strikes against the Vietcong and North Vietnam were being flown from Thailand. These air bases in Thailand are still maintained.

Congressional action

In 1969 Congress voted to prohibit a commitment of U.S. ground troops to Laos or Thailand, as an amendment to the defense appropriations bill.

Armed action

Intervention in the Dominican Republic, 1965.—On April 24, 1965, a revolt broke out in Santo Domingo, capital of the Dominican Republic. On April 28 President Johnson ordered a contingent of several hundred marines to land there, stating that Dominican "military authorities" had requested assistance, as they could no longer guarantee the safety of American citizens living in the Dominican Republic. The President stated that assistance would also be available to protect nationals of other countries as well.

The first U.S. contingent numbered only 400 men, but on May 2 the President announced he was sending in 200 more, with an additional 4,500 to follow at the earliest possible moment. Eventually U.S. forces in the Dominican Republic were to number 21,500. Total personnel involved numbered over 30,000.

In announcing the dispatch of additional troops to the Dominican Republic, President Johnson cited increasing Communist control of the revolution, plus increasing needs for food and medical supplies, etc.

A peace commission from the Organization of American States succeeded in achieving a cease-fire among the contending Dominican groups, and on May 6, 1965, the OAS voted to create an Inter-American Peace force, to assist in restoring peace and order. As various elements of this Inter-American Peace Force began to arrive in the Dominican Republic, the U.S. withdrew a proportionate number of its forces. By the end of 1965 this Inter-American force numbered 9,400, with U.S. troops serving as part of that force. An Ad Hoc Commission of the OAS worked out a formula to restore constitutional government, and finally on September 3, 1965 a civilian, Hector Garcia Godoy, was inaugurated as provisional president. All U.S. troops were gradually withdrawn.

Congressional action

Congressional leadership was informed before the move was made into the Dominican Republic. Several resolutions were offered supporting the President's action in the Dominican Republic. The most prominent was H. Res. 560, endorsing the use of force individually or collectively by any country in the Western hemisphere to prevent a Communist takeover. It passed the House by a vote of 312–52.

Many members of Congress felt that the President had overestimated the extent of Communist penetration of the revolutionary movement. Others have charged that the intervention was motivated not so much by a desire to save lives and property as by a desire to prevent a Communist takeover in the country, a desire which, in their view, arose from an inaccurate assessment of the danger of such a takeover. Some argued that the U.S. should have consulted the OAS before it intervened in the Dominican Republic, something which it did not do.

Armed action

Vietnam, 1964-present. A U.S. Military Assistance Advisory Group had been in South Vietnam ever since the French relinquished authority there in 1954. In the late 1950's and early 1960's there was a marked step-up in guerrilla activities against the South Vietnamese government. This guerrilla activity was supported and directed from North Vietnam. U.S. military advisers were gradually increased, so that by 1962 there were 12,000 in the country, and this number was doubled by 1964.

U.S. policy was to work with the government of South Vietnam until the Vietcong insurgency would be suppressed, or until the forces of South Vietnam were capable of suppressing it. As time went on that date seemed farther and farther in the future.

It was against this background that the Gulf of Tonkin episode took place. On August 2, 1964, North Vietnamese torpedo boats were reported to have attacked the *U.S.S. Maddox* in international waters in the Gulf of Tonkin. The *Maddox* returned the fire, and aircraft from the *U.S. Ticonderoga* also fired on the torpedo boats. The *Maddox* was attacked again, along with the *C. Turner Joy* on August 4. On August 5, bases and an oil depot used as supporting facilities for the torpedo boats were bombed in retaliation, at President Johnson's orders.

On February 7, 1965, Communist forces attacked a U.S. ground installation. Seven U.S. soldiers were killed, and 109 wounded. President Johnson met with the National Security Council and congressional leaders, following which he announced that U.S. and South Vietnamese Air Forces had been directed to launch retaliatory attacks. These attacks were to develop into a program of bombing missions, while at the same time the U.S. began a buildup of its ground forces in Vietnam. Except for occasional pauses, the bombing campaign continued until the partial halt announced on March 31, 1968, and the complete halt seven months later. Ground forces reached a peak of 535,000 before the program of gradual withdrawal was begun.

Since the Spring of 1965 the U.S. has indicated an interest in settling the war by negotiation. All attempts at bringing both sides together failed until President Johnson's speech of March 31, 1968, announcing the partial bombing halt, and requesting North Vietnam to begin talks at once. The only result of these talks to date has been the total cessation of the bombing, in return for permitting the Saigon government to participate in the talks. As a further concession, the National Liberation Front (Viet-Cong) was also permitted to participate.

Entrance into Cambodia, 1970.—On April 30, 1970, President Nixon announced that U.S. and South Vietnamese troops had crossed the border into Cambodia in order to wipe out Communist sanctuaries there. He said that all American forces would be withdrawn by the end of June.

Congressional action

Tonkin Gulf Resolution—On August 5, 1964, President Johnson asked Congress for a resolution "expressing the unity and determination of the United States in supporting freedom and protecting peace in Southeast Asia." He recommended a resolution which would express the support of Congress for all necessary action to protect U.S. armed forces and to assist nations covered by the SEATO Treaty. Two days later Congress voted the Tonkin Gulf Resolution, which the President signed into law on August 10. Its operative clauses read as follows: "That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attacks against the forces of the United States and to prevent further aggression. Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in Southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." The resolution is to expire when the President determines that the peace and security of the area are reasonably assured, or earlier by concurrent resolution of Congress.

The Tonkin Gulf Resolution (PL 88-408), passed the Senate by a vote of 88-2 and the House by a vote of 416 to 0. Growing anti-war sentiment in the Congress was reflected in a number of resolutions, while members favoring the Executive's Vietnamese policy introduced resolutions of support. By the time of this writing the Senate had repealed the Tonkin Gulf Resolution. Some other measures presently in effect are as follows:

1. The so-called "national commitments" resolution (Sen. Res. 85, 91st Congress), a resolution expressing the sense of the Senate that a U.S. commitment to a foreign power "necessarily and exclusively results" from affirmative action taken by both legislative and executive branches, through a treaty, convention, or other legislative instrumentality.

2. Title IV of PL 90-5, a statement of congressional policy expressing its firm intention to provide all necessary support for the armed forces fighting in Vietnam; is support of the efforts by the President and others to prevent expansion of the war, and bring the conflict to an end through a negotiated settlement which will preserve the honor and protect the vital interest of the U.S. and allow the people of South Vietnam to determine their own affairs; and finally, declaring its support for the convening of a new conference to pursue the general principles of the Geneva Accords of 1954 and 1962, and to formulate plans to bring the conflict to an honorable end.

3. House Resolution 61, 91st Congress. Affirms support of the House for the efforts of the President to negotiate a just peace in Vietnam, expresses hope of U.S. people for peace, calls attention to numerous peaceful overtures made by the U.S., requests President to continue to press North Vietnam to abide by the Geneva Convention of 1949 in the treatment of war prisoners, calls for free elections in Vietnam and announces willingness to abide by results of such elections.

4. The Senate passed an amendment to the Foreign Military Sales Bill (H.R. 15628) cutting off all funds for U.S. forces in Cambodia after June 30, 1970, unless Congress authorizes their operations in that country. The amendment also denied U.S. funds for the support of the troops of other countries which might come to the assistance of Cambodia.

5. A number of measures are pending to cut off all funds for military operations in Vietnam by a specified date.

FOOTNOTES

[1] Armed action means the confrontation of U.S. forces with those of a foreign government or revolutionary faction, usually, but not always resulting in an actual clash.

[2] For an account of the move short of war by which the U.S. sought to aid Britain in its fight agains Germany, see part B of this Appendix.

[3] Two days before Congress authorized the seizure of French ships, a lone U.S. naval vessel had been sent out on patrol to protect U.S. coastal waters between Long Island and the Virginia Capes.

[4] Although favorable in comparative terms, the treaty still recognized the right of the pirates to obtain ransom for imprisoned Americans.

[5] In terms of the military forces involved, the Panama episode of 1903 cannot be classified as a major action. In terms of the stakes involved, and the long range impact, it seems appropriate to so classify it.

INSTANCES OF USE OF U.S. ARMED FORCES ABROAD, 1798–1970

1798–1800—Undeclared naval war with France.—This contest included land actions, such as that in the Dominican Republic, city of Puerto Plata, where marines captured a French privateer under the guns of the forts.

1801–05—Tripoli.—The First Barbary War, including the *George Washington* and *Philadelphia* affairs and the Eaton expedition, during which a few marines landed with United States Agent William Eaton to raise a force against Tripoli in an effort to free the crew of the *Philadelphia*. Tripoli declared war but not the United States.

1806—Mexico (Spanish territory).—Capt. Z. M. Pike, with a platoon of troops, invaded Spanish territory at the headwaters of the Rio Grande deliberately and on orders from Gen. James Wilkinson. He was made prisoner without resistance at a fort he constructed in present day Colorado, taken to Mexico, later released after seizure of his papers. There was a political purpose, still a mystery.

1806–10—Gulf of Mexico.—American gunboats operated from New Orleans against Spanish and French privateers, such as La Fitte, off the Mississippi Delta, chiefly under Capt. John Shaw and Master Commandant David Porter.

1810—West Florida (Spanish territory).—Gov. Claiborne of Louisiana, on orders of the President, occupied with troops territory in dispute east of Mississippi as far as the Pearl River, later the eastern boundary of Louisiana. He was authorized to seize as far east as the Perdido River. No armed clash.

1812—Amelia Island and other parts of east Florida, then under Spain.—Temporary possession was authorized by President Madison and by Congress, to prevent occupation by any other power; but possession was obtained by Gen. George Matthews in so irregular a manner that his measures were disavowed by the President.

1812–15—Great Britain.—War of 1812. Formally declared.

On authority given by Congress, General Wilkinson seized Mobile Bay in April with 600 soldiers. A small Spanish garrison gave way. Thus we advanced into disputed territory to the Perdido River, as projected in 1810. No fighting.

1813–14—Marquesas Islands.—Built a fort on island of Nukahiva to protect three prize ships which had been captured from the British.

1814—Spanish Florida.—Gen. Andrew Jackson took Pensacola and drove out the British with whom the United States was at war.

1814–25—Caribbean.—Engagements between pirates and American ships or squadrons took place repeatedly especially ashore and offshore about Cuba, Puerto Rico, Santo Domingo, and Yucatan. Three thousand pirate attacks on merchantmen were reported between 1815 and 1823. In 1822 Commodore James Biddle employed a squadron of two frigates, four sloops of war, two brigs, four schooners, and two gunboats in the West Indies.

1815—Algiers.—The Second Barbary War, declared by our enemies but not by the United States. Congress authorized an expedition. A large fleet under Decatur attacked Algiers and obtained indemnities.

1815—Tripoli.—After securing an agreement from Algiers, Decatur demonstrated with his squadron at Tunis and Tripoli, where he secured indemnities for offenses against us during the War of 1812.

1816—Spanish Florida.—United States forces destroyed Nicholls Fort, called also Negro Fort, which harbored raiders into United States Territory.

1816–18—Spanish Florida—First Seminole War.—The Seminole Indians, whose area was a resort for escaped slaves and border ruffians, were attacked by troops under Generals Jackson and Gaines and pursued into northern Florida. Spanish posts were attacked and occupied, British citizens executed. There was no declaration or congressional authorization but the Executive was sustained.

1817—Amelia Island (Spanish territory off Florida).—Under orders of President Monroe, United States forces landed and expelled a group of smugglers, adventurers, and freebooters.

1818—Oregon.—The U.S.S. *Ontario*, dispatched from Washington, landed at the Columbia River and in August took possession. Britain had conceded sovereignty but Russia and Spain asserted claims to the area.

1820–23—Africa.—Naval units raided the slave traffic pursuant to the 1819 act of Congress.

1822—Cuba.—United States naval forces suppressing piracy landed on the northwest coast of Cuba and burned a pirate station.

1823—Cuba.—Brief landings in pursuit of pirates occurred April 8 near Escondido; April 16 near Cayo Blanco; July 11 at Siquapa Bay; July 21 at Cape Cruz; and October 23 at Camrioca.

1824—Cuba.—In October the U.S.S. *Porpoise* landed bluejackets near Matanzas in pursuit of pirates. This was during the cruise authorized in 1822.

1824—Puerto Rico (Spanish territory).—Commodore David Porter with a landing party attacked the town of Fajardo which had sheltered pirates and insulted American naval officers. He landed with 200 men in November and forced an apology.

1825—Cuba.—In March cooperating American and British forces landed at Sagua La Grande to capture pirates.

1817—Greece.—In October and November landing parties hunted pirates on the islands of Argenteire, Miconi, and Andross.

1831–32—Falkland Islands.—To investigate the capture of three American sealing vessels and to protect American interests.

1832—Sumatra.—February 6 to 9.—To punish natives of the town of Quallah Battoo for depredations on American shipping.

1833—Argentina.—October 31 to November 15.—A force was sent ashore at Buenos Aires to protect the interests of the United States and other countries during an insurrection.

1835–36—Peru—December 10, 1835 to January 24, 1836, and August 31 to December 2, 1836.—Marines protected American interests in Callao and Lima during an attempted revolution.

1836—Mexico.—General Gaines occupied Nacogdoches (Tex.), disputed territory from July to December during the Texan war for independence, under orders to cross the "imaginary boundary line" if an Indian outbreak threatened.

1838–39—Sumatra—December 24, 1838 to January 4, 1838.—To punish natives of the towns of Quallah Battoo and Muckie (Mukki) for depredations on American shipping.

1840—Fiji Islands—July.—To punish natives for attacking American exploring and surveying parties.

1841—Drummond Island, Kingsmill Group.—To avenge the murder of a seaman by the natives.

1841—Samoa—February 24.—To avenge the murder of an American seaman on Upolu Island.

1842—Mexico.—Commodore T. A. C. Jones, in command of a squadron long cruising off California, occupied Monterey, Calif., on October 19, believing war had come. He discovered peace, withdrew, and saluted. A similar incident occurred a week later at San Diego.

1843—Africa, November 29 to December 16.—Four United States vessels demonstrated and landed various parties (one of 200 marines and sailors) to discourage piracy and the slave trade along the Ivory coast, etc., and to punish attacks by the natives on American seamen and shipping.

1844—Mexico.—President Tyler deployed our forces to protect Texas against Mexico, pending Senate approval of a treaty of annexation. (Later rejected.) He defended his action against a Senate resolution of inquiry.

1846–48—Mexico, the Mexican War.—President Polk's occupation of disputed territory precipitated it. War formally declared.

1849—Smyrna.—In July a naval force gained release of an American seized by Austrian officials.

1851—Turkey.—After a massacre of foreigners (including Americans) at Jaffa in January, a demonstration by our Mediterranean Squadron was ordered along the Turkish (Levant) coast. Apparently no shots fired.

1851—Johanna Island (east of Africa), August.—To exact redress for the unlawful imprisonment of the captain of an American whaling brig.

1852–53—Argentina—February 3 to 12, 1852; September 17, 1852 to April (?) 1853.—Marines were landed and maintained in Buenos Aires to protect American interests during a revolution.

1853—Nicaragua—March 11 to 13.—To protect American lives and interests during political disturbances.

1853–54—Japan.—The "opening of Japan" and the Perry Expedition.

1853–54—Ryukyu and Bonin Islands.—Commodore Perry on three visits before going to Japan and while waiting for a reply from Japan made a naval demonstration, landing marines twice, and secured a coaling concession from the ruler of Naha on Okinawa. He also demonstrated in the Bonin Islands. All to secure facilities for commerce.

1854—China—April 4 to June 15 to 17.—To protect American interests in and near Shanghai during Chinese civil strife.

1854—Nicaragua—July 9 to 15.—San Juan del Norte (Greytown) was destroyed to avenge an insult to the American Minister to Nicaragua.

1855—China—May 19 to 21 (?).—To protect American interests in Shanghai. August 3 to 5 to fight pirates near Hong Kong.

1855—Fiji Islands—September 12 to November 4.—To seek reparations for depredations on Americans.

1855—Uruguay—November 25 to 29 or 30.—United States and European naval forces landed to protect American interests during an attempted revolution in Montevideo.

1856—Panama, Republic of New Grenada—September 19 to 22.—To protect American interests during an insurrection.

1856—China—October 22 to December 6.—To protect American interests at Canton during hostilities between the British and the Chinese; and to avenge an unprovoked assault upon an unarmed boat displaying the United States flag.

1857—Nicaragua—April to May, November to December.—To oppose William Walker's attempt to get control of the country. In May Commander C. H. Davis of the United States Navy, with some marines, received Walker's surrender and protected his men from the retaliation of native allies who had been fighting Walker. In November and December of the same year United States vessels *Saratoga, Wabash,* and *Fulton* opposed another attempt of William Walker on Nicaragua. Commodore Hiram Paulding's act of landing marines and compelling the removal of Walker to the United States was tacitly disavowed by Secretary of State Lewis Cass, and Paulding was forced into retirement.

1858—Uruguay—January 2 to 27.—Forces from 2 United States warships landed to protect American property during a revolution in Montevideo.

1858—Fiji Islands—October 6 to 16.—To chastise the natives for the murder of two American citizens.

1858–59—Turkey.—Display of naval force along the Levant at the request of the Secretary of State after massacre of Americans at Jaffa and mistreatment elsewhere "to remind the authorities (of Turkey) * * * of the power of the United States."

1859—Paraguay.—Congress authorized a naval squadron to seek redress for an attack on a naval vessel in the Parana River during 1855. Apologies were made after a large display of force.

1859—Mexico.—Two hundred United States soldiers crossed the Rio Grande in pursuit of the Mexican bandit Cortina.

1859—China—July 31 to August 2.—For the protection of American interests in Shanghai.

1860—Angola, Portuguese West Africa—March 1.—To protect American lives and property at Kissembo when the natives became troublesome.

1860—Colombia, Bay of Panama—September 27 to October 8.—To protect American interests during a revolution.

1863—Japan—July 16.—To redress an insult to the American flag—firing on an American vessel—at Shimonoseki.

1864—Japan—July 14 to August 3, approximately.—To protect the United States Minister to Japan when he visited Yedo to negotiate concerning some American claims against Japan, and to make his negotiations easier by impressing the Japanese with American power.

1864—Japan—September 4 to 14—Straits of Shimonoseki.—To compel Japan and the Prince of Nagato in particular to permit the Straits to be used by foreign shipping in accordance with treaties already signed.

1865—Panama—March 9 and 10.—To protect the lives and property of American residents during a resolution.

1866—Mexico.—To protect American residents, General Sedgwick and 100 men in November obtained surrender of Matamoras. After 3 days he was ordered by our Government to withdraw. His act was repudiated by the President.

1866—China—June 20 to July 7.—To punish an assault on the American consul at Newchwang; July 14, for consultation with authorities on shore; August 9, at Shanghai, to help extinguish a serious fire in the city.

1867—Island of Formosa—June 13.—To punish a horde of savages who were supposed to have murdered the crew of a wrecked American vessel.

1868—Japan (Osaka, Hiogo, Nagasaki, Yokohama, and Negata)—Mainly, February 4 to 8, April 4 to May 12, June 12 and 13,—To protect American interests during the civil war in Japan over the abolition of the Shogunate and the restoration of the Mikado.

1868—Uruguay—February 7 and 8, 19 to 26.—To protect foreign residents and the customhouse during an insurrection at Montevideo.

1868—Colombia—April 7—at Aspinwall.—To protect passengers and treasure in transit during the absence of local police or troops on the occasion of the death of the President of Colombia.

1870—Mexico, June 17 and 18.—To destroy the pirate ship *Forward,* which had been run aground about 40 miles up the Rio Tecapan.

1870—Hawaiian Islands—September 21.—To place the American flag at half mast upon the death of Queen Kalama, when the American consul at Honolulu would not assume responsibility for so doing.

1871—Korea—June 10 to 12.—To punish natives for depredations on Americans, particularly for murdering the crew of the *General Sherman* and burning the schooner, and for later firing on other American small boats taking soundings up the Salee River.

1873—Colombia (Bay of Panama)—May 7 to 22, September 23 to October 9.—To protect American interests during hostilities over possession of the government of the State of Panama.

1873—Mexico.—United States troops crossed the Mexican border repeatedly in pursuit of cattle and other thieves. There were some reciprocal pursuits by Mexican troops into our border territory. The cases were only technically invasions, if that, although Mexico protested constantly. Notable cases were at Remolina in May 1873 and at Las Cuevas in 1875. Washington orders often supported these excursions. Agreements between Mexico and the United States, the first in 1882, finally legitimized such raids. They continued intermittently, with minor disputes, until 1896.

1874—Hawaiian Islands—February 12 to 20.—To preserve order and protect American lives and interests during the coronation of a new king.

1876—Mexico—May 18.—To police the town of Matamoras temporarily while it was without other government.

1882—Egypt—July 14 to 18.—To protect American interests during warfare between British and Egyptians and looting of the city of Alexandria by Arabs.

1885—Panama (Colon)—January 18 and 19.—To guard the valuables in transit over the Panama Railroad, and the safes and vaults of the company during revolutionary activity. In March, April, and May in the cities of Colon and Panama, to reestablish freedom of transit during revolutionary activity.

1888—Korea—June.—To protect American residents in Seoul during unsettled political conditions, when an outbreak of the populace was expected.

1888–89—Samoa—November 14, 1888 to March 20, 1889.—To protect American citizens and the consulate during a native civil war.

1888—Haiti—December 20.—To persuade the Haitian Government to give up an American steamer which had been seized on the charge of breach of blockade.

1889—Hawaiian Islands—July 30 and 31.—To protect American interests at Honolulu during a revolution.

1890—Argentina.—A naval party landed to protect our consulate and legation in Buenos Aires.

1891—Haiti.—To protect American lives and property on Navassa Island.

1891—Bering Sea—July 2 to October 5.—To stop seal poaching.

1891—Chile—August 28 to 30.—To protect the American consulate and the women and children who had taken refuge in it during a revolution in Valparaiso.

1893—Hawaii—January 16 to April 1.—Ostensibly to protect American lives and property; actually to promote a provisional government under Sanford B. Dole. This action was disavowed by the United States.

1894—Brazil—January.—To protect American commerce and shipping at Rio de Janeiro during a Brazilian civil war. No landing was attempted but there was a display of naval force.

1894—Nicaragua—July 6 to August 7.—To protect American interests at Bluefields following a revolution.

1894–96—Korea—July 24, 1894 to April 3, 1896.—To protect American lives and interests at Seoul during and following the Sino-Japanese War. A guard of marines was kept at the American legation most of the time until April 1896.

1894–95—China—Marines were stationed at Tientsin and penetrated to Peking for protection purposes during the Sino-Japanese War.

1894–95—China—Naval vessel beached and used as a fort at Newchwang for protection of American nationals.

1885—Colombia—March 8 to 9.—To protect American interests during an attack on the town of Bocas del Toro by a bandit chieftain.

1896—Nicaragua—May 2 to 4. To protect American interests in Corinto during political unrest.

1898—Nicaragua—February 7 and 8.—To protect American lives and property at San Juan del Sur.

1898—Spain.—The Spanish-American War. Fully declared.

1898–99—China—November 5, 1898, to March 15, 1899.—To provide a guard for the legation at Peking and the consulate at Tientsin during contest between the Dowager Empress and her son.

1899—Nicaragua.—To protect American interests at San Juan del Norte, February 22 to March 5, and at Bluefields a few weeks later in connection with the insurrection of Gen. Juan P. Reyes.

1899—Samoa—March 13 to May 15.—To protect American interests and to take part in a bloody contention over the succession to the throne.

1899–1901—Philippine Islands.—To protect American interests following the war with Spain, and to conquer the islands by defeating the Filipinos in their war for independence.

1900—China—May 24 to September 28.—To protect foreign lives during the Boxer rising, particularly at Peking. For many years after this experience a permanent legation guard was maintained in Peking, and was strengthened at times as trouble threatened. It was still there in 1934.

1901—Colombia (State of Panama)—November 20 to December 4.—To protect American property on the Isthmus and to keep transit lines open during serious revolutionary disturbances.

1902—Colombia—April 16 to 23.—To protect American lives and property at Bocas del Toro during a civil war.

1902—Colombia (State of Panama)—September 17 to November 18.—To place armed guards on all trains crossing the Isthmus and to keep the railroad line open.

1903—Honduras—March 23 to 30 or 31.—To protect the American consulate and the steamship wharf at Puerto Cortez during a period of revolutionary activity.

1903—Dominican Republic—March 30 to April 21.—To protect American interests in the city of Santo Domingo during a revolutionary outbreak.

1903—Syria—September 7 to 12.—To protect the American consulate in Beirut when a local Moslem uprising was feared.

1903–14—Panama.—To protect American interests and lives during and following the revolution for independence from Colombia over construction of the Isthmian Canal. With brief intermissions, United States Marines were stationed on the Isthmus from November 4, 1903, to January 21, 1914, to guard American interests.

1904—Dominican Republic—January 2 to February 11.—To protect American interests in Puerto Plata and Sosua and Santo Domingo City during revolutionary fighting.

1904–5—Korea—January 5, 1904, to November 11, 1905.—To guard the American Legation in Seoul.

1904—Tangier, Morocco.—"We want either Perdicaris alive or Raisuli dead." Demonstration by a squadron to force release of a kidnaped American. Marine guard landed to protect consul general.

1904—Panama—November 17 to 24.—To protect American lives and property at Ancon at the time of a threatened insurrection.

1904–5—Korea.—Marine guard sent to Seoul for protection during Russo-Japanese War.

1906–9—Cuba—September 1906 to January 23, 1909.—Intervention to restore order, protect foreigners, and establish a stable government after serious revolutionary activity.

1907—Honduras—March 18 to June 8.—To protect American interests during a war between Honduras and Nicaragua; troops were stationed for a few days or weeks in Trujillo, Ceiba, Puerto Cortez, San Pedro, Laguna, and Choloma.

1910—Nicaragua—February 22.—During a civil war, to get information of conditions at Corinto; May 19 to September 4, to protect American interests at Bluefields.

1911—Honduras—January 26 and some weeks thereafter.—To protect American lives and interests during a civil war in Honduras.

1911—China.—Approaching stages of the nationalist revolution. An ensign and 10 men in October tried to enter Wuchang to rescue missionaries but retired on being warned away.

A small landing force guarded American private property and consulate at Hankow in October.

A marine guard was established in November over the cable stations at Shanghai.

Landing forces were sent for protection to Nanking, Chinkiang, Taku and elsewhere.

1912—Honduras.—Small force landed to seizure by the Government of an American-owned railroad at Puerto Cortez. Forces withdrawn after the United States disapproved the action.

1912—Panama.—Troops, on request of both political parties, supervised elections outside the Canal Zone.

1912—Cuba.—June 5 to August 5.—To protect American interests on the Province of Oriente, and in Habana.

1912—China—August 24 to 26, on Kentucky Island, and August 26 to 30 at Camp Nicholson.—To protect Americans and American interests during revolutionary activity.

1912—Turkey—November 18 to December 3.—To guard the American legation at Constantinople during a Balkan War.

1912–25—Nicaragua—August to November 1912.—To protect American interests during an attempted revolution. A small force serving as a legation guard and as a promoter of peace and governmental stability, remained until August 5, 1925.

1912–41—China.—The disorders which began with the Kuomintang rebellion in 1912, which were redirected by the invasion of China by Japan and finally ended by war between Japan and the United States in 1941, led to demonstrations and landing parties for the protection of U.S. interests in China continuously and at many points from 1912 on to 1941. The guard at Peking and along the route to the sea was maintained until 1941. In 1927, the United States had 5,670 troops ashore in China and 44 naval vessels in its waters. In 1933 we had 3,027 armed men ashore. All this protective action was in general terms on treaties with China ranging from 1858 to 1901.

1913—Mexico—September 5 to 7.—A few marines landed at Claris Estero to aid in evacuating American citizens and others from the Yaqui Valley, made dangerous for foreigners by civil strife.

1914—Haiti—January 29 to February 9, February 20 to 21, October 19.—To protect American nationals in a time of dangerous unrest.

1914—Dominican Republic—June and July.—During a revolutionary movement, United States naval forces by gunfire stopped the bombardment of Puerto Plata, and by threat of force maintained Santo Domingo City as a neutral zone.

1914–17—Mexico.—The undeclared Mexican hostilities following the *Dolphin* affair and Villa's raids included capture of Vera Cruz and later Pershing's expedition into northern Mexico.

1915–34—Haiti—July 28, 1915, to August 15, 1934.—To maintain order during a period of chronic and threatened insurrection.

1916–24—Dominican Republic—May 1916 to September 1924.—To maintain order during a period of chronic and threatened insurrection.

1917–18.—World War I. Fully declared.

1917–22—Cuba.—To protect American interests during an insurrection and subsequent unsettled conditions. Most of the United States armed forces left Cuba by August 1919, but two companies remained at Camaguey until February 1922.

1918–19—Mexico.—After withdrawal of the Pershing expedition, our troops entered Mexico in pursuit of bandits at least three times in 1918 and six in 1919. In August 1918 American and Mexican troops fought at Nogales.

1918–20—Panama.—For police duty according to treaty stipulations, at Chiriqui, during election disturbances and subsequent unrest.

1918–20—Soviet Russia.—Marines were landed at and near Vladivostok in June and July to protect the American consulate and other points in the fighting between the Bolsheviki troops and the Czech Army which had traversed Siberia from the western front. A joint proclamation of emergency government and neutrality was issued by the American, Japanese, British, French, and Czech commanders in July and our party remained until late August.

In August the project expanded. Then 7,000 men were landed in Vladivostok and remained until January 1920, as part of an allied occupational force.

In September 1918, 5,000 American troops joined the allied intervention force at Archangel, suffered 500 casualties and remained until June 1919.

A handful of marines took part earlier in a British landing on the Murman coast (near Norway) but only incidentally.

All these operations were to offset effects of the Bolsheviki revolution in Russia and were partly supported by Czarist or Kerensky elements. No war was declared. Bolsheviki elements participated at times with us but Soviet Russia still claims damages.

1919—Honduras—September 8 to 12.—A landing force was sent ashore to maintain order in a neutral zone during an attempted revolution.

1920–22—Russia (Siberia)—February 16, 1920, to November 19, 1922.—A marine guard to protect the United States radio station and property on Russian Island, Bay of Vladivostok.

1920—China—March 14.—A landing force was sent ashore for a few hours to protect lives during a disturbance at Kiukiang.

1920—Guatemala—April 9 to 27.—To protect the American Legation and other American interests, such as the cable station, during a period of fighting between Unionists and the Government of Guatemala.

1921—Panama-Costa Rica.—American naval squadrons demonstrated in April on both sides of the Isthmus to prevent war between the two countries over a boundary dispute.

1922—Turkey—September and October.—A landing force was sent ashore with consent of both Greek and Turkish authorities, to protect American lives and property when the Turkish Nationalists entered Smyrna.

1924—Honduras—February 28 to March 31, September 10 to 15.—To protect American lives and interests during election hostilities.

1924—China—September.—Marines were landed to protect American and other foreigners in Shanghai during Chinese factional hostilities.

1925—China—January 15 to August 29.—Fighting of Chinese factions accompanied by riots and demonstrations in Shanghai necessitated landing American forces to protect lives and property in the International Settlement.

1925—Honduras—April 19 to 21.—To protect foreigners at La Ceiba during a political upheaval.

1925—Panama—October 12 to 23.—Strikes and rent riots led to the landing of about 600 American troops to keep order and protect American interests.

1926–33—Nicaragua—May 7 to June 5, 1926; August 27, 1926, to January 3, 1933.—The coup d'etat of General Chamorro aroused revolutionary activities leading to the landing of American marines to protect the interests of the United States. United States forces came and went, but seem not to have left the country entirely until January 3, 1933. Their work included activity against the outlaw leader Sandino in 1928.

1926—China—August and September.—The Nationalist attack on Hankow necessitated the landing of American naval forces to protect American citizens. A small guard was maintained at the consulate general even after September 16, when the rest of the forces were withdrawn. Likewise, when Nationalist forces captured Kiukiang, naval forces were landed for the protection of foreigners November 4 to 6.

1927—China — February. — Fighting at Shanghai caused American naval forces and marines to be increased there. In March a naval guard was stationed at the American consulate at Nanking after Nationalist forces captured the city. American and British destroyers later used shell fire to protect Americans and other foreigners. "Following this incident additional forces of marines and naval vessels were ordered to China and stationed in the vicinity of Shanghai and Tientsin."

1933—Cuba.—During a revolution against President Gerardo Mechado naval forces demonstrated but no landing was made.

1940—Newfoundland, Bermuda, St. Lucia, Bahamas, Jamaica, Antiguo, Trinidad, and British Guiana.—Troops were sent to guard air and naval bases obtained by negotiation with Great Britain. These were sometimes called lend-lease bases.

1941—Greenland.—Taken under protection of the United States in April.

1941—Netherlands (Dutch Guiana).—In November the President ordered American troops to occupy Dutch Guiana but by agreement with the Netherlands government in exile, Brazil cooperated to protect aluminum ore supply from the bauxite mines in Surinam.

1941—Iceland.—Taken under the protection of the United States, with consent of its Government, for strategic reasons.

1941—Germany.—Sometime in the spring the President ordered the Navy to patrol ship lanes to Europe. By July our warships were convoying and by September were attacking German submarines. There was no authorization of Congress or declaration of war. In November, the Neutrality Act was partly repealed to protect military aid to Britain, Russia, etc.

1941–45—Germany, Italy, Japan, etc.—World War II. Fully declared.

1950–1953.—U.S. responded to North Korean invasion of South Korea by going to its assistance, pursuant to United Nations Security Council resolutions. Congressional authorization was not sought.

1958. Marines were landed in Lebanon at the invitation of its government to help protect against threatened insurrection supported from the outside.

1962.—*Cuba.*—President Kennedy instituted a "quarantine" on the shipment of offensive missiles to Cuba from the Soviet Union. He also warned the Soviet Union that the launching of any missile from Cuba against any nation in the Western Hemisphere would bring about U.S. nuclear retaliation on the Soviet Union. A negotiated settlement was achieved in a few days.

1962–70.—*Laos.*—From October 1962 until the present, the United States has played a role of military support in Laos.

1964–1970.—*War in Vietnam.*—U.S. military advisers had been in South Vietnam for a decade, and their numbers had been increased as military position of Saigon government became weaker. After the attacks on U.S. destroyers in the Tonkin Gulf, President Johnson asked for a resolution expressing U.S. determination to support freedom and protect peace in Southeast Asia. Congress responded with the Tonkin Gulf Resolutions, expressing support for "all necessary measures" the President might take to repel armed attack against U.S. forces and prevent further aggression. Following this resolution, and following a Communist attack on a U.S. installation in central Vietnam, the U.S. escalated its participation in the war.

1965.—*Dominican Republic.*—Intervention to protect lives and property during a Dominican revolt. More troops were sent as the U.S. feared the revolutionary forces were coming increasingly under Communist control.

1970.—*Cambodia.*—U.S. troops were ordered into Cambodia to clean out Communist sanctuaries from which Viet Cong and North Vietnamese can attack U.S. and South Vietnamese forces in Vietnam as stated by the President. The object of this attack, which lasted from April 30 to June 30, was to ensure the continuing safe withdrawal of American forecs from South Vietnam and to assist the program of Vietnamization.

Mr. SPONG. Mr. President, I commend the Senator from Ohio, as I know the Senator from New York will also. He introduced a resolution on war powers, he testified before the Committee on Foreign Relations, and he is a cosponsor of S. 2956.

His statement here this morning reflects very well statements made by his father in this body over 20 years ago on the occasion of the entry into the war in Korea and on the occasion of the decision to send troops to Europe. What he has said here today is consistent with his father's views. Those of us who are working on this legislation have been pleased to have his help and to have his statement today as a part of the RECORD of this debate.

Mr. JAVITS. Mr. President, I am especially grateful to the Senator from Ohio for joining with us in this matter, and for his point of view as just expressed, his typical insight, and his particularization and specificity in thought.

The Senator from Ohio started off with a somewhat different approach and introduced his own resolution, which is a very interesting and important one. With the decisiveness quite typical of him, he then entered into this one and will give it the same conviction and the same support which caused him to come forward with his own important first suggestion

I think it is fair to say that the basic thrust of the Taft resolution on the same subject is contained in the legislation now before the Senate. I am pleased that he feels that this is in part his own handiwork, because that is true. I hope very much that he will continue, as the issue develops, to give us the benefit of his thinking.

As Senator SPONG has justly said, this is a great family tradition which Senator TAFT brings to the floor of the Senate, one of the most important and one of the most respected in our Nation. I am thoroughly mindful of the added weight which his support gives to this legislation.

I thank the Senator from Ohio very much for his extremely helpful contribution and especially for the intellectual integrity which he has brought to our joint enterprise.

Mr. TAFT. I thank the Senator from New York and the Senator from Virginia.

I should like to comment briefly on one other area, one specific area covered in my original resolution, and I believe also covered in the proposed legislation.

As a member of the House Foreign Affairs Committee for a period of years, I became particularly concerned at times with the seeming lack of participation of the House in some of the policymaking decisions in the foreign affairs area, except insofar as they related merely to the appropriation and authorization of money.

In that regard, my proposed legislation specifically eliminated the requirement of advance approval of treaty obligations. We have had some discussions on the question of whether treaty obligations of the United States are self-executing, and the preferred opinion seems to be that they are not self-executing; so that we do have a prior authorization required under the terms of the proposed legislation, on pages 8 and 9 of the resolution, that I think does not differ materially from the prior requirement I have indicated.

I also note that in the requirements and the specific comment with reference to a treaty, the authorization that would be required for the use of the Armed Forces would indeed have to pass the House as well as the Senate.

I bring that up with particular reference to a point I made originally in my opening statement, that I think the public opinion of the country is really what we are talking about. It is not just a matter of what the Senate, as one of the legislative arms of the Government, might think or what the House might think. It is really a voice for the people themselves that we are talking about and the importance of these decisions that are referred back and reasserted on the part of the legislative prerogative.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. JAVITS. It always has been, so far as I am concerned and so far as Senator Stennis, Senator Eagleton, and Senator Spong, who have collaborated closely, are concerned. We have had that very clearly in mind. We have made that one of the big points as to why we wrote the legislation as we did, because we want to join both Houses of Congress. That is essential to us. The Senator has put his finger on the precise point. Senator Stennis emphasized that this morning.

The fact is that if we are going to get into war, there is a point beyond which an incident becomes war. This was something we developed yesterday in the long colloquy with the Senator from Alabama (Mr. Allen), when he was making the strong point that the President has to be able to react. We said that we are not inhibiting him, that we want him to react. But at a given point, reaction becomes war; it changes its character; and it is at that point that Congress has to come in—and we mean Congress—and that is one of the reasons why we have fought so hard for this legislation, because we do not want to have this concept of exclusivity. When the Senate ratifies a treaty, that is it. So far as war is concerned, that is the business of the people, and we have to bring in the best we can, in the people's concurrence.

Mr. TAFT. I thank the Senator for his remarks. I certainly concur in the statement he has made.

Mr. SPONG. Mr. President, yesterday the very able Senator from Missouri, who is one of the principal sponsors of the proposed legislation, delivered his opening statement.

The Senator from Missouri has appeared before the Committee on Foreign Relations on two occasions to give that committee the benefit of his views on the various proposals before it dealing with the war powers. He has worked very closely with the Senator from New York in formulating the collective effort that the committee was able to report to the floor. But beyond that, the Senator from Missouri has authored a very timely law review article entitled "Congress and the War Powers," which has just been published by the Law Review of the University of Missouri. It is a very thorough and very timely treatise on the important subject presently before the Senate, and I ask unanimous consent that this fine article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

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Congress and the War Powers

(By Hon. Thomas F. Eagleton) *

On almost every issue, our current national soul-searching leads us back to one crucial question whose answer is increasingly in doubt: Can the institutions created almost 200 years ago to govern a rural and agricultural nation meet the need of an urban, twentieth-century, technological society?

Much of the turmoil and questioning has sprung from our Vietnam experience. Even today, as we poke through the historical debris of the Vietnam era, it is difficult to identify why, and by what authority, the decisions were made which so deeply committed us in Southeast Asia. And the most significant question for the future to emerge from our Vietnam era is this: Who decides when and where America goes to war?

The President claims inherent rights as Commander-in-Chief. Congress claims that the Executive has usurped its war-making authority. Although it has the means to reclaim its authority, Congress has failed to act. In the past, both Legislature and Executive have been unwilling to have a showdown on this delicate issue in times of peace, and unable to in times of war. Yet this debate goes to the very heart of our system of government. It raises basic questions that must be answered. Will checks and balances still work in a hair-trigger nuclear age? Have we given up the benefits of collective judgment out of necessity or out of neglect? What follows is an effort to set forth the present state of the question and to argue that an orderly balance of power in war-making matters can and must be restored.

I. THE CONSTITUTION AND ITS UNDERLYING PRINCIPLES

During the debate on Indochina, the 91st Congress saw an unprecedented outpouring of commentary on the meaning of the Constitution and the thinking of the men who wrote it. Learned articles have appeared in many of our law reviews.[1] Law books were searched for both ancient and modern judicial opinions.[2] Treatises of recognized constitutional scholars were read and reread, and members of Congress[3] renewed their own acquaintance with the writings of Hamilton, Madison, Jay and Jefferson[4]—all in an attempt to understand the directives of the Constitution on the way we go to war. But to comprehend these directives some 183 years after they were written, it is necessary first to distill the principles on which the Constitution rests.

It is clear that the men who wrote the Constitution were influenced not only by the writing of theoreticians like Locke and Montesquieu, but also by the governmental practices and procedures which were followed or, in some instances, merely preached, in England. They noted on numerous occasions that many of their ideas had been derived "from the nation from whom the inhabitants of these states have in general sprung."[5]

In formulating a Constitution to create a central government of enormous but not unlimited powers, our Founding Fathers therefore worked from certain basic premises. First, since all of them were familiar with the autocratic powers which had been exercised over the colonies by the King of England, the Founding Fathers were reluctant to grant too much authority to the Chief Executive. They did not want this country's President to possess a variety of powers in the absence of any collective judgment. But neither did they want him completely stripped of discretion, at the mercy of other branches of the central government. So they limited his discretionary powers within rather narrow guidelines subject to legislative check lest the wisdom of a single man—or lack thereof—carry this country too far down a selected path.

Second, as a corollary to this concern, the Founding Fathers believed that the legislature should possess the widest range of authority delegated to the central government. A bicameral Congress composed of diverse individuals would reach its decisions through a process of deliberation and thus provide a collective judgment. It was not without forethought that Hamilton conceded "the superior weight and influence of the legislative body in a free government . . . ."[6] The framers of the Constitution rested their primary hopes for thoughtful policymaking on Congress, with its most cumbersome and therefore deliberative decision-making process. Congress received not only the longest list of powers, but also the residuary authority:

"To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."[7]

Third, the framers of the Constitution were aware that, by giving specific and residual powers to the Congress while providing the President with a somewhat undefined charter, they had created a system of concurrent authority. They did not doubt that in so doing they had sowed the seeds for possible conflict. It was assumed that if this conflict occurred, compromise should be sought at all costs. However, if inter-institutional negotiations proved fruitless, it was likewise clear that overriding control would remain with the Congress. It was Hamilton—the chief architect of executive branch power—who wrote:

"The legislature is still free to perform its duties, according to its own sense of them; though the executive, in the exercise of its constitutional powers, may establish an antecedent state of things, which ought to weigh in the legislative decisions."[8]

A Congress moving to reverse the policies of a President should step carefully, but step it could. Collective decision-making—under the Constitution—was to be given more weight than one man's judgment. Antecedent presidential action could be overruled by the collective will of the legislature.

II. APPLICATION OF BASIC PRINCIPLES TO THE WAR-MAKING POWER

Obviously, the consequences of applying these underlying principles appear throughout the Constitution. But nowhere are they more evident than in the treatment given to the war-making powers. The framers of the Constitution directed a great deal of time and attention to the process by which this country should engage in hostilities. While most issues are dealt with by the Constitution in one reference, the question of waging war and raising military forces is treated throughout that document:

Article I, section 3 gives the Congress power to "declare war," grant "Letters of Marque," order "Reprisals," "raise and support Armies" (but for no longer than two years at a time), "provide and maintain a Navy," make rules which regulate and govern the military forces, and provide for organizing the militia and calling it up so that insurrections can be suppressed and invasions repelled.

Article I, section 10 forbids the States—absent congressional consent—from keeping military forces in time of peace or from en-

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gaging "in War, unless actually invaded, or in such imminent danger as will not admit delay."

Article II, section 2 makes the President "Commander-in-Chief of the Armed Forces as well as the State Militia, when it is called into service for use by the federal government."

Article IV, section 4 provides that the central government shall guarantee "a Republican Form of Government" to every state and "shall protect each of them against invasion."

These provisions were not designed to provide definitive answers to all questions regarding the use of American troops or the appropriate responses to acts of war or hostility by foreign nations. Rather, they were structured so that the Congress, the Chief Executive, and the States might understand how they were to mesh their roles in protecting this Nation from external harm.

In short, the Constitution attempted to assure that the awesome consequences of war did not flow through chance or mistake. The Founding Fathers set basic ground rules to control what they euphemistically referred to as "the Dog of War."[9] The ground rules themselves were relatively simple.

First, the framers drew a crucial distinction between offensive and defensive hostilities. If the United States were attacked, the President would act to repel the attack. Congress could provide the President with a small standing Army and Navy to fulfill his functions as defender of the nation's integrity—although in the early years of our nation such a course was admittedly frowned upon. The states could maintain militia and Congress could establish procedures under which the President might nationalize them rapidly to meet foreign attacks.

Second, Congress was to decide whether defensive action was to be supplemented or replaced by offensive action. The time lost in this process was considered less important than the necessity that the nation's elected representatives express their collective judgment. Thus, the Congress was to sanction in advance whatever actions were taken, whether simple reprisals, complex military operations or all-out war.

Third, the President's only role in the war-making process was to direct operations. That Congress was to play no part in day-to-day tactics was made clear by the draftsmen of the Constitution who changed the term "make war"—which might imply the idea of Congress conducting hostilities, to "declare war"—which carried the connotation of congressional initiation but presidential direction.[10]

The exact role of the President as Commander-in-Chief was clarified both by the delegates to the Constitutional Convention and by the authors of *The Federalist*. The records make clear the delegates' surprise when the possibility of giving the President power to make decisions which might result in offensive military action was raised at the Constitutional Convention. One delegate commented that he "never expected to hear in a republic a motion to empower the Executive alone to declare war."[11] This statement simply reflected the sentiment that centralized decision-making on matters of consequence was to be avoided. As Hamilton noted in a slightly different context:

"The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind, as those which concern its intercourse with the rest of the world, to the sole disposal of a magistrate created and circumstanced as would be a President of the United States."[12]

Clearly, the title "Commander-in-Chief" did not carry with it war-initiating powers and, in the words of *The Federalist, No. 69*, to be Commander-in-Chief "would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the Confederacy; while that of the British king extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies,—all which, by the Constitution under consideration, would appertain to the legislature."[13]

While the President's role as policy-maker on questions of war was minimized, he was in turn granted far greater authority in day-to-day military affairs once hostilities had been commenced. As Hamilton stated:

"The direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength, forms a usual and essential part in the definition of the executive authority."[14]

Fourth, commencement of hostilities was not intended to end congressional responsibility. For although Congress was not to be involved in making particular tactical decisions, it still was to play an important role in policymaking. A change from defensive to offensive action would need legislative approval. Decisions involving major changes in tactics—changes which might bring new opponents into a war, for example—also would constitute an appropriate subject for congressional concern.

That Congress could authorize less than total war was recognized by all three branches of the federal government early in our history. The early application of the Constitution's provisions dealing with war-making and the use of American military forces takes on special significance since most of the decisions and writings were the product of men who had either participated in drafting the Constitution or were intimately familiar with the context of its provisions.

In 1798, due to a number of French actions against American shipping, the United States became embroiled in its first trial by arms. Refusing to take independent action to initiate hostilities with the French, President John Adams waited until the Congress had passed a variety of statutes[15] suspending commercial relations with France and authorizing American vessels to seize certain French ships as well as other ships trading with the French. Thus, it was Congress which originated and limited our first combat response to hostile action by a foreign power.

This naval struggle with France produced, in turn, a series of judicial decisions by our Supreme Court which illuminated the principles underlying the Constitution's war-making provisions. In *Bas* v. *Tingy*,[16] the Court held that Congress could declare war in either of two ways—as a public or perfect war or as a limited or imperfect war. Justice Washington stated:

"If it be declared in form, it is called *solemn*, and is of the perfect kind; because one whole nation is at war with another whole nation, and *all* the members of the nation declaring war, are authorized to commit hostilities against all the members of the other, in every place, and under every circumstance. In such a war all the members act under a general authority, and all the rights and consequences of war attach to their condition.

"But hostilities may subsist between two nations, more confined in its nature and extent being limited as to places, persons, and things; and this is more properly termed *imperfect war*, because not solemn, and because those who are authorized to commit hostilities, act under special authority, and can go no farther than to the extent of their commission. Still, however, it is *public war*, because it is an external contention by force between some of the members of the two nations, authorized by the legitimate powers. It is a war between the two nations though all the members are not authorized to commit hostilities such as in a solemn war, where the government restrain the general power."[17]

The limited naval actions of 1798, according to Justice Washington, constituted "war of the imperfect kind, . . . more properly called acts of hostility or reprisal" and were well within the constitutional power of Congress to declare.[18] Justice Chase, concurring, stated that Congress had taken the permissible route of declaring "hostilities . . . by certain persons in certain cases." He noted further that such deliberate action "only proves the circumspection and prudence of the legislature."[19]

Justice Patterson, concurring in this unanimous sanctioning of Congress's power to declare a war limited in time or scope or area, stated:

"As far as congress tolerated and authorized the war on our part, so far may we proceed in hostile operations . . . [It] is, therefore, a public war between the two nations qualified, on our part, in the manner prescribed by the constitutional organ of our country."[20]

As the *Bas* case should be interpreted as delineating the range of congressional powers to declare and circumscribe hostilities, *Talbot v. Seeman*[21] should be read as putting the Court on record as to which branch of government must bear the *sole* responsibility for taking this country into hostilities—whether limited or full scale. It was newly appointed Chief Justice John Marshall who wrote:

"The *whole powers* of war being, by the constitution of the United States, vested in congress, the *acts of that body can alone* be resorted to as our guides in this inquiry. It is not denied, nor, in the course of the argument has it been denied, that *congress may authorize general hostilities*, in which case the general laws of war apply to our situation; or *partial hostilities*, in which case the laws of war, so far as they actually apply to our situation, must be noticed."[22]

Three years later, in *Little v. Barreme*,[23] Marshall expounded further on the constitutional structuring of the war-making powers. In 1799 Congress had authorized the seizure of American ships bound *for* French ports. The *Little* case involved the seizure of a vessel which had been taken en route *from* a French port to the Danish Island of St. Thomas. In a short opinion, Marshall ruled that the seizure was in conflict with the congressional will and therefore illegal. The Chief Justice stressed that had Congress simply declared a naval war against the French, the President as "Commander-in-Chief of the armies and navies . . . might, without any special authority for that purpose" have had power to seize an American ship bound *from* France.[24] By sanctioning only the seizure of American ships *to* France, Congress had effectively pre-empted presidential discretion and "prescribed that the manner in which this law shall be carried into execution . . . exclude[s] a seizure of any vessel not bound to a French port."[25]

Thus, through these three early decisions, the Supreme Court set forth a solid underpinning for later interpretations of the war-making powers. To the Court, "[t]he whole powers" of entering into an offensive war were vested in the Congress "alone."[26] Included in these powers was authority to declare either general or narrowly limited hostilities. Presidential authority to take offensive action under the guise of the Commander-in-Chief power arose only after Congress had acted. Moreover, while the tactics of warfare might require that the President have certain discretionary powers, even these

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powers could be narrowed by precedent legislative action.[27]

This interpretation of the constitutionally prescribed dichotomy regarding the war-making powers was not held by the High Court alone. Such diverse personalities as Jefferson, Hamilton, Adams, and Madison all agreed that presidential authority to take offensive action as Commander-in-Chief existed only after Congress had acted, and even then these powers could be narrowed by precedent legislative action. But they realized that strong-willed Presidents, exercising their commander-in-chief powers, might show great reluctance in returning to Congress for further approval of new decisions once hostilities had begun. Powerful presidents would naturally interpret policy decisions to be tactical. The Founding Fathers responded to this dilemma by giving the Congress full power over the expenditure of funds for the military and insisting that such funds be reviewed at least every two years. As *The Federalist No. 24* noted:

"The whole power of raising armies was lodged in the *Legislature* . . . [subject to] an important qualification . . . which forbids the appropriation of money for the support of an army for any longer period than two years—a precaution which, upon a nearer view of it, will appear to be a great and real security against the keeping up of troops without evident necessity."[28]

The Founding Fathers hoped that Congress would not turn on the Commander-in-Chief once hostilities had begun and force him to alter his course. But they recalled that such action had been taken by English Parliaments against wilful kings[29] and, as unpleasant as the prospect was, they recognized that similar action might be required by Congresses faced with strong and militant Presidents.

III. THE PRINCIPLES IN PRACTICE

The set language of the Constitution and its underlying principles have been subjected to 183 years of practice. Unfortunately precedents have occurred which prevent a conclusive argument that these principles are still in effect.

In recent congressional debate much was made of the fact that at least 125 instances can be cited where Presidents have sent military units into hostilities at their own discretion.[30] Most of these actions have been relatively trivial, some having the *post facto* sanction of Congress: rescuing American citizens abroad in times of disorder or revolution, protecting commerce against piracy, and other miscellaneous policing operations such as the Boxer Rebellion in China. But some of these cases must be viewed as clear abuses of executive power. One such abuse occurred when President Polk sent American troops to occupy the disputed border territory with Mexico, provoking a clash in which 11 Americans were killed. However, Polk's action was not unnoticed and by a vote of 85–81 the House of Representatives denounced it as a war unnecessarily and unconstitutionally begun by the President of the United States.[31]

With a few exceptions, however, the constitutional separation of powers remained pretty much intact until the turn of the century. In the 20th century the President's war-making powers rapidly expanded with Teddy Roosevelt's intervention in Panama and Wilson's excursions into Mexico.

President Franklin Roosevelt took extraordinary powers upon himself as he prepared for World War II. First, he conveyed 50 destroyers to England, under his powers as Commander-in-Chief. Then, through convoys to England and a shoot-on-sight doctrine, Roosevelt in effect committed the United States to war with Germany.

During the war the President expanded his powers even further when opposing certain measures of the Emergency Price Control Act as inflationary. He threatened the Congress bluntly when he declared:

"In the event that the Congress should fail to act, and act adequately, I shall accept the responsibility, and I will act. At the same time that fair prices are stabilized, wages can and will be stabilized also. This I will do."

"The President has the powers, under the Constitution and under Congressional acts, to take measures necessary to avert a disaster which would interfere with the winning of the war. . . .

"When the war is won, the powers under which I act automatically revert to the people—to whom they belong."[32]

If a President can put us into war and then successfully claim unlimited presidential power in wartime it could easily provide a precedent for the destruction of our constitutional government.

At the end of World War II public opinion strongly favored collective security—a concert of great powers enforcing peace by joint action against any future Hitler through the Charter of the United Nations. But Congress by no means relinquished its war power by consenting to ratify the United Nations Charter. Several weeks after the United Nations Charter became operative the United Nations Participations Act was passed by the Congress. Section 6 of that act empowered the President to negotiate a military agreement or agreements with the United Nations Security Council to make American forces available for United Nations' peace-keeping purposes. This was no blank check, however, for such agreements were "subject to the approval of Congress by appropriate Act or joint resolution."[33] The Participation Act also stated:

"Nothing herein contained shall be construed as an authorization to the President by the Congress to make available to the Security Council . . . armed forces, facilities, or assistance in addition to the forces, facilities and assistance provided for in such special agreement or agreements."[34]

Only once have American armed forces been committed to full-scale combat on the basis of a decision made unilaterally by the President. That instance was Korea.

Although emergency conditions clearly existed after the North Korean invasion of South Korea, and the United Nations Security Council passed an "authorizing resolution" after United States air and naval forces were committed,[35] President Truman's action must be viewed as a sharp incursion into congressional war-initiating power. Congress never delegated power to the Security Council to commit American soldiers to hostilities under the United Nations Charter. Congressional leaders were informed "on the events and decisions of the past few days" but not asked to assent to those decisions.[36] However noble the motivation, this stands as a solitary case in our history, and it represents a precedent which must never happen again.

President Truman declared, through the *Department of State Bulletin*, that "[t]he President as Commander-in-Chief of the armed forces of the United States, has full control over the use thereof."[37] The *Bulletin* went on to claim a "traditional power of the President to use the armed forces of the United States without consulting Congress."[38] Obviously, this was a bold claim to "inherent" or "traditional" presidential power—which undermines the whole concept of constitutional government through a written Constitution.

Whereas President Eisenhower tended to acquiesce to the constitutional powers of Congress, John Kennedy tended to take the broadest of all possible views regarding presidential powers. On the eve of the Cuban crisis, President Kennedy sent to Congress a draft resolution stating that "the President of the United States is supported in his determination and *possesses all necessary authority*" to act.[39] According to the Chief Executive and Commander-in-Chief, this authority encompassed the use of the armed forces of the United States to prevent the Castro regime from "exporting its aggressive purposes" to any part of the hemisphere . . . and to prevent the creation or use of any "externally supported offensive military base in Cuba."[40]

Congress balked. Senator Richard Russell and others would not stand for such a resolution. In Russell's words, it was "a clear delegation of the Congressional power to declare war."[41] Senator Russell concluded:

"I feel very strongly it is preferable to say he was authorized (by Congress) instead of that he possesses all the necessary authority."[42]

In its final form, the resolution did not confer authority on the President, but rather served simply as a statement of national policy.[43]

IV. THE WAR IN INDOCHINA AND THE CONSTITUTIONAL QUESTIONS WHICH SURROUND IT

An account of this country's war-making efforts obviously cannot be complete without including the present hostilities in Indochina. No war in our history has troubled the nation more, and no war has posed more difficult constitutional questions.

United States' military involvement in Indochina dates back to 1955, when President Eisenhower established a military advisory group of approximately 350 persons in South Vietnam, although almost one billion dollars in aid had been accorded the French since 1950. By the time Eisenhower left office, the United States' military group had more than doubled. Under President Kennedy, the number of American military advisers in South Vietnam continued to grow steadily. At the time of President Kennedy's death in 1963, the American commitment to that country had grown to 18,000 men, and their functions had broadened. They trained South Vietnamese troops and coordinated their military activities as well. They accompanied local forces on forays and advised them how to fight the Viet Cong. While these various American quasi-military activities were never kept secret, neither were they put before Congress for its specific approval.

Congress did not really seem to mind this arguable incursion into its powers and, in fact, continued to appropriate monies to support these actions in Vietnam. After all, the conflict was not going too badly. It was not inordinately expensive, and, in line with the new Kennedy doctrine of "flexible response," it constituted our first experiment in limited war-making and in the training of foreign forces to participate in the worldwide struggle against international communism.

Unfortunately for military strategists, amateur counter-revolutionaries, and quiescent politicians, increasing communist activity and the coming 1964 presidential elections made Vietnam a front-page story. Then came the Gulf of Tonkin. In August 1964, American warships were allegedly attacked on two separate occasions by North Vietnamese patrol boats. After the second alleged attack, President Johnson ordered air strikes against North Vietnam's mainland—aimed at knocking out not only patrol boats, but also naval bases and petroleum storage depots as well. These were reprisals neither proportionate to, nor fully justified by, the attacks which were alleged to have occurred.[44] Again, Congress was not consulted before the response, and again Congress took very little note of this incursion into its constitutional powers.

On the following day, however, the President did present Congress with certain facts regarding the Tonkin Gulf incident. He asked both Houses for their complete support through passage of the Tonkin Gulf Resolution. Both Houses responded rapidly and passed this vaguely worded and ill-defined

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Footnotes at end of article.

resolution in its original presidential form with only two dissenting votes—Senators Wayne Morse and Ernest Gruening.[45]

In perhaps his finest hour, Senator Morse attempted to persuade Congress that it must not grant the President this broad "predated declaraion of war." The resolution stated (in part):

"[T]he Congress approves and supports the determination of the President, as Commander in Chief, to *take all necessary* measures to repel any armed attack against the forces of the United States and to prevent further aggression.

"The United States regards as vital to its national interest and to world peace the maintenance of international *peace and security in southeast Asia*. Consonant with the Constitution and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, *as the President determines*, to take *all* necessary steps, including the use of armed force, to assist *any* member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

"This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured. . . ." [46]

Despite anguished protestations in retrospect, it seems clear that Congress knew what power it was delegating to the President at the time it passed the Tonkin Gulf Resolution. The record shows not only the warning of Senators Morse and Gruening, but also a debate containing the following colloquy between Senator Fulbright, Chairman of the Foreign Relations Committee and floor manager for the Resolution, and Senator Brewster:

"Mr. Brewster. I had the opportunity to see warfare not so very far from this area, and it was very mean. I would look with great dismay on a situation involving the landing of large land armies on the continent of Asia. So my question is whether there is anything in the resolution which would authorize or recommend or approve the landing of large American armies in Vietnam or in China.

"Mr. Fulbright. There is nothing in the resolution, as I read it, that contemplates it. I agree with the Senator that that is the last thing we would want to do. *However, the language of the resolution would not prevent it. It would authorize whatever the Commander in Chief feels is necessary. It does not restrain the Executive from doing it. Whether or not that should ever be done is a matter of wisdom under under the circumstances that exist at the particular time it is contemplated.* This kind of question should more properly be addressed to the Chairman of the Armed Services Committee. Speaking for my own committee, everyone I have heard has said that the last thing we want to do is to become involved in a land war in Asia; that our power is sea and air, and that this is what we hope will deter the Chinese Communists and the North Vietnamese from spreading the war. That is what is contemplated. The resolution does not prohibit that, or any other kind of activity." [47]

Later that day, Senator Fulbright and Senator John Sherman Cooper discussed the meaning of the Resolution:

"Mr. Cooper: *Then, looking ahead, if the President decided that it was necessary to use such force as could lead into war, we will give that authority by this resolution?*

"Mr. Fulbright: *That is the way I would interpret it.* If a situation later developed in which we thought the approval should be withdrawn, it could be withdrawn by concurrent resolution." [48]

Footnotes at end of article.

It seems certain that in 1964 no member of Congress thought that within a year American planes would be running daily bomb runs over North Vietnam, even though the "Pentagon Papers" indicate that plans had been drafted by the Executive,[49] or that thousands of American troops would be engaged in "search and destroy" missions in South Vietnam's Delta region or constructing American base camps throughout that country. Despite his contingency plans President Johnson probably had no idea that the limited military operation in South Vietnam would soon blossom into a 30 billion dollar-a-year war.

Faulty vision and political pressures cannot be permitted to minimize the legal significance of the Tonkin Gulf Resolution. In my judgment, the Tonkin Gulf Resolution—pared of its verbiage and placed in the context of its legislative history—was a broad congressional charter to the President to combat North Vietnamese forces anywhere in the SEATO area. It was an extremely broad delegation of authority in the area of foreign affairs but, as the Supreme Court noted in *Zemel v. Rusk*,[50] Congress has always been permitted to grant extensive powers in foreign affairs and to "paint with a brush broader than that it customarily wields in domestic areas." [51] Although the existence of the Tonkin Gulf Resolution did not make the war we have waged in South Vietnam any wiser or any more explicable, it did make it a *legitimate* war authorized by the Congress.

This authorization has been revoked by the 91st Congress [52]—in fact, the Senate repealed it twice.[53] The President agreed, signing the repeal into law. But the repeal of the Gulf of Tonkin Resolution has done nothing to change the course of the war or to reassert congressional authority over it. Indeed, by failing to substitute a new legislative authorization to either continue military action or force withdrawal, and by tacitly accepting the right of the Commander-in-Chief to act in any way he wishes, Congress has left the scope of its authority in even greater doubt than before.

In fact, however, neither President Johnson nor President Nixon has been willing to conduct war-making operations simply on the basis of the broad authority granted in the Tonkin Gulf Resolution. Lyndon Johnson thought the Tonkin Resolution was "desirable" but as he stated at a press conference on August 18, 1967:

"We stated then, and we repeat now, we did not think the resolution was necessary to do what we did and what we're doing." [54]

In the 1966 memorandum, the State Department contended that the SEATO Treaty was self-executing—that the President could independently commit troops to defend any SEATO signatory or protocol state under attack from communist forces if he deemed such action advisable.[55] But the SEATO Treaty—like the NATO Treaty, and all of our other collective security agreements—states that the United States shall meet aggression against one of its allies "in accordance with its *constitutional processes*." [56] Even if this caveat were not included in the Treaty, it would be incorporated implicitly. For the Senate—which is the only House of Congress that approves a treaty—can hardly by-pass the constitutional requirement that both Houses of Congress declare war.

Above and beyond the Tonkin Gulf Resolution or any treaty commitments, successive administrations have professed to find, as some of the predecessors have, inherent powers of the Commander-in-Chief which have been taken to authorize military action almost anywhere in the world. In the same 1966 memorandum quoted previously, the Department of State referred to the constitutional responsibility of the Commander-in-Chief to "repel sudden attacks." [57] The Department allowed that the "framers probably had in mind attacks upon the United States," but that now, in a world grown smaller, "[a]n attack on a country far from our shores can impinge directly on the nation's security." [58] Under these conditions, according to the Department's memorandum, "the Constitution leaves to the President the judgment to determine whether the circumstances of a particular armed attack are so urgent and the potential consequences so threatening to the security of the United States that he should act without formally consulting the Congress." [59]

V. THE STATE OF THE ISSUE TODAY

Recently, even more extended presidential powers have been discovered and proclaimed. On July 1, 1970, in an interview with Howard K. Smith, President Nixon seemed to extend the President's presumed authority to defend American security on a global basis even further—to winning a "just peace":

"Mr. Smith. What justification do you have for keeping troops there other than protecting the troops that are there fighting?

"The President. A very significant justification. It isn't just a case of seeing that the Americans are moved out in an orderly way. If that were the case we could move them out more quickly, but it is a case of moving American forces out in a way that we can at the same time win a just peace." [60]

When fighting broke out in Jordan on September 17, 1970, Congress was in session. Although United States' intervention was a very real possibility, the President did not seek congressional authorization to act. The State Department, in a letter to me, reaffirmed its broad view of the President's inherent constitutional powers which would cover United States' action in Jordan:

"As a general matter, the President must determine in a particular situation what action he believes necessary in behalf of the security interests of the United States and whether the pressure of events would permit him to take no action while the matter was submitted to Congress for its consideration." [61]

Somehow, in recent years, powers to ensure a "just peace" and unilaterally to define and protect "the security interests of the United States" wherever they may be threatened have been grafted to the constitutional authority of our Presidents as Commanders-in-Chief. If these claims are accepted, we also accept a major restructuring of the constitutional balance between Congress and the Executive, leaving Congress in the position of ratifying hostilities initiated unilaterally by the President or trying to stop them by cutting off funding, rather than making the precedent decision to authorize these hostilities.

In my view, both constitutional theory and the practical need for order at home and in the world require that these broad theories of unilateral presidential authority be rejected. At the very least, the revolutionary process by which the President has preempted Congress' constitutional duty to initiate war should be debated and either legitimated by constitutional change or rejected.

Some would argue that decades of congressional acquiescence plus Congress' poor performance during the Vietnam War constitute a persuasive case for *formally* restructuring the Constitution to give the President a broader, more unilateral war-making authority. I believe to the contrary that such a formal abdication of congressional authority should be opposed, as should further erosion of Congress' war-making role. The tragic presidential miscalculations on Vietnam—almost destroying that country while seriously dividing this one—are an even more compelling argument for returning to the principles of collective judgment and deliberation. We do live in a smaller, more dangerous and rapidly changing world. But these factors, rather than diminishing the value of collective judgment, make it all the more important. While "declarations of war" may be anachronisms, the death, destruction, tragedy, and suffering of war remain ever-present realities. Congress can and must exercise collective judgment as to when and how we engage in hostilities.

VI. CONGRESSIONAL ACTION

Congress possesses the power to restore its role in the process of collective decision making on matters of war and peace, if only it possesses the will. As constitutional scholar Alexander Bickel has noted:

"The 'necessary-and-proper' clause of Article I of all the Constitution authorizes Congress, of course, to make "all laws which shall be necessary and proper for carrying into Execution the foregoing Powers . . ." The reference is to the previously enumerated powers of Congress. But there is another portion of the necessary-and-proper clause, not so often cited, which is one of the greatest consequence when it comes to issues of foreign policy and of war and peace. *The clause also charges Congress to make all laws which shall be necessary and proper for carrying into execution all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.*" [62]

In 1970, during the second session of the 91st Congress, the House passed a feeble Joint Resolution which expressed the sense of Congress than "whenever feasible," the President should seek appropriate congressional consultations before involving the Armed Forces of the United States in armed conflict, and should "continue such consultation periodically during such armed conflict." [63] This vaguely worded effort fell far short of clarifying the war-making powers of the Congress and the President. On the Senate side, no hearings were held on the House Resolution or on a slightly better bill introduced by Senator Javits of New York.[64] In general, debate in the Senate has only touched the periphery of the constitutional questions involved, concentrating instead on the Cooper-Church and McGovern-Hatfield amendments dealing specifically with the Indochina War.

In 1971, in the first session of the 92nd Congress, eleven "war powers" bills or resolutions were introduced in the House [65] and five in the Senate.[66] Senator Robert Taft of Ohio introduced a resolution [67] which, while vague as to the future delineation of congressional-Executive powers, was meritorious in its attempt to force Congress to face up to its responsibilities in Southeast Asia.

Senator Jacob Javits of New York, the first Senator to introduce "war powers" legislation and a leader in bringing the issue to the attention of Congress and the public, introduced a slightly improved version [68] of his original 1970 effort.

The Eagleton Resolution [69] was introduced on March 1, 1971. Senator John Stennis, Chairman of the Armed Services Committee, also introduced a resolution [70] along the general lines of the Eagleton proposal on May 11th and Senator Bentsen of Texas introduced essentially the Stennis Resolution in bill form on May 17th.[71]

Underlying all these efforts was the premise that more precise guidelines were necessary to restore the process of joint congressional and presidential decision-making before this country engages in hostilities abroad.[72] These efforts recognized that the President must have sufficient discretion to take emergency action to meet attacks on the United States and its forces and to rescue American civilians under seige abroad.

These measures represented different approaches. After months of meetings among Senator Javits, Senator Stennis and me, a compromise bill was agreed upon, which can best be understood against the background of the five original proposals.

The following table illustrates the areas of agreement and disagreement among the original Senate proposals:

	Eagleton	Javits	Taft	Stennis, Bentsen
Instances where President can act without specific authorizing Congressional action by both Houses:				
Repel attack on the United States	Yes	Yes	Yes	Yes.
Prevent an imminent attack on the United States, etc.	No (admits further debate is necessary)	No	Yes	Yes.
Repel attack on U.S. troops	Yes, but limited to defensive action	Yes	Yes	Yes.
Protect U.S. citizens abroad	Yes, but with restrictions	Yes	Probably yes, but sec. 4 is unclear	Yes.
Protect U.S. property abroad	No	Yes	Probably no, but sec. 4 is unclear	No.
Under auspices of treaties	No	Yes, but requires affirmative Congressional action within 30 days.	Begs the question in pt. 1, sec. 2	Unclear.
Under national commitments	No	do	Probably yes, but sec. 4 is unclear	No.
Commit U.S. troops where imminent possibility of involvement in hostilities exists.	No	Yes, but not specific	Yes	No.
Commit U.S. advisors to accompany foreign troops in combat.	No	do	Yes	No.

The three most important areas of disagreement concerned the scope of the President's authority to commit troops to combat under "treaty commitments," to prevent an "imminent" nuclear attack and to deploy troops and advisors in situations where involvement in hostilities is a virtual certainty.

A. Treaties

All of our mutual defense treaties contain the caveat that each of the signators act "in accordance with their constitutional processes." [73] In this country, that means a collective decision must be reached by both Houses of Congress before United States' forces can be committed to trial by force, not by the President and the Senate through the use of the treaty power.

It seems clear that the President and the Senate, through the use of the treaty power, cannot legitimately "declare war." The concurrence of the House is required to authorize hostilities.[74] In fact, Madison noted that the possibility of giving the Senate alone the power to "declare war" was considered and rejected.[75]

Even if treaties could require the use of armed force, however, none of our treaties currently in force requires an automatic response. Our most strongly worded commitment, the North Atlantic Treaty, states:

"The parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them . . . will assist the Party or Parties so attacked by taking . . . such action as it deems necessary, including the use of armed force . . ." [76]

Under this language, the United States is not committed to an immediate or automatic response. As the Senate Foreign Relations Committee told the 81st Congress in its report on the NATO Treaty:

"Would the United States be obligated to react to an attack on Paris or Copenhagen in the same way it would react to an attack on New York City? In such an event does the treaty give the President the power to take any actions without specific Congressional authorization which he could not take in the absence of the treaty? The answer to both of these questions is "No." [77]

However, after re-reading murky presidential assertions on SEATO, it seems prudent rather than redundant to spell out that treaties do not authorize hostilities without further congressional action.

The Stennis and Bentsen proposals were unclear on this point. The Taft Resolution dealt with deployment. The Eagleton Resolution specifically stated:

"No treaty previously or hereafter entered into by the United States shall be construed as authorizing or requiring the Armed Forces of the United States to engage in hostilities without further Congressional authorization.[78]

However, the Javits bill not only failed to spell this out but, if enacted by both Houses, would have served as a functional equivalent of a predated—although limited—declaration of war. Under it, the Executive could have unilaterally engaged the United States in hostilities for up to 30 days in Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad-Tobago, Uruguay, Venezuela, Australia, France, New Zealand, Pakistan, the Philippines, Thailand, the United Kingdom, South Vietnam, Belgium, Canada, Denmark, Iceland, Italy, Luxembourg, the Netherlands, Portugal, Norway, Greece, Turkey, the Federal Republic of Germany, South Korea, Taiwan, and Japan—all treaty signatories with the United States.[79]

All of the Senate initiatives recognized the President's ability to fight a limited defensive war to protect American forces when they were legally stationed in a country with which the United States has a treaty commitment.

But what was at issue was whether the President should have unilateral authority to commit United States' troops to offensive hostilities under our far-reaching network of treaties. Three early Supreme Court decisions provide a solid underpinning for drawing the line between offensive and defensive war.[80]

B. *Preemptive strikes*

Should the President be empowered to strike first if he deems the very existence of this country to be threatened by "imminent" nuclear attack?

The concept of executive power to act preemptively is not new. In fact, the Articles of Confederation contained the first and only explicit grant of power for a pre-emptive strike:

"No state shall engage in any war without the consent of the United States in Congress assembled, unless such state be actually invaded by enemies, or shall have received cer-

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Footnotes at end of article.

tain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay, till the United States in Congress assembled can be consulted." [81]

However, a similar provision was omitted from the Constitution.

Justice Story again raised the possibility of executive pre-emptive powers when he stated: "the power to provide for repelling invasions includes the power to provide against the attempts and danger of invasion, as the necessary and proper means to effectuate the object. One of the best means to repel invasion is to provide the requisite force for action before the invader himself has reached the soil." [82]

In the nuclear world of 1972, the stakes are no longer isolated villages subject to attack by Indians. In a sane world dependent on the universal acceptance of mutual deterrence for its survival, a first strike should not be sanctioned. But no one can guarantee that sometime, someday, a demented world leader will not attempt an irrational nuclear attack on the United States. This remote possibility may be reason enough to justify an explicit grant of power to the President to act unilaterally and preemptively.

The Taft, Stennis and Bentsen efforts sanctioned unilateral presidential action to prevent an "imminent" nuclear attack.[83] The Eagleton and Javits proposals did not. Perhaps, as Congress attempts to clearly define the war powers of the executive and legislative branches, it should also recognize that, in the final analysis, all any resolution can expect to achieve is to hold a President legally and politically accountable for his actions. But the consequences of nuclear holocaust make the questions of political and legal responsibility moot.

C. When Congress must act

In what circumstances and at what point must the President come to Congress for authorization to conduct military hostilities? Should the continuance of a secret air war or the deployment of American troops to world hot spots, or the assignment of American "advisors" to foreign troops on combat missions require affirmative congressional authorization?

The Eagleton, Stennis and Bentsen proposals specified when affirmative congressional action was necessary.[84] The Javits and Taft Resolutions contained no such provisions. Obviously, hostilities include land, air, or naval action taken by the Armed Forces of the United States against other armed forces or the civilian population of any other nation. But the Eagleton, Stennis and Bentsen efforts were more specific. They included the deployment of American forces outside the United States under circumstances where an imminent involvement in combat activities was a reasonable possibility. They also included the assignment of United States' soldiers to "accompany, command, coordinate, or participate in the movement of regular or irregular armed forces of any foreign country when such foreign armed forces are engaged in any from of combat activity" [85]

There is well-founded precedent for such limitations. In the absence of limiting congressional legislation, presidential power to move Armed Forces of the United States in international waters and to station them on territory of our allies has generally been accepted, except where such action could reasonably be expected to lead to hostilities. Only once has this principle been flagrantly abused. In 1846, after the annexation of Texas, President James Polk ordered American troops to enter the disputed territory between the Nueces and Rio Grande Rivers. Hostilities immediately broke out and Congress thereafter declared war against Mexico. However, some 18 months later, the House of Representatives concluded that the President had unconstitutionally begun the war and, in effect, Polk was justly censured.[86]

The Eagleton, Stennis and Bentsen proposals were based on the view that presidential power to move the Armed Forces of the United States did not, and should not, extend to placing American men in situations where combat is almost inevitable. Further, as Vietnam has illustrated, these three proposals recognize that military advisors to countries where combat activities are in progress or could be expected to commence shortly are becoming increasingly more dangerous in an era of "brush-fire" wars and guerrilla warfare.

VII. CONCLUSION

During 1971, war powers legislation moved forward. Hearings began on March 8, 1971 and continued until October 6, 1971. Twenty-four witnesses were heard; constitutional historians and lawyers, spokesmen for the executive and legislative branches and former administration officials.[87]

After the initial round of hearings, Senator Javits and I, in an effort to put forth the best proposal and gain the most congressional support, began to work on a compromise proposal. After months of talking, an understanding on a compromise bill was reached. Senator Stennis, a leading Southern conservative, was kept abreast of developments, and on December 6th—one day before the Senate Foreign Relations Committee was to meet in executive session to report a war power bill to the Senate—he agreed to co-sponsor the Javits-Eagleton compromise, along with Senator Spong of Virginia.

With only minor changes, the Committee reported out the Javits-Eagleton-Stennis-Spong bill states:

> [A]uthority to introduce the Armed Forces of the United States in hostilities or in any such situation (where imminent involvement in hostilities is clearly indicated by the circumstances) shall not be inferred . . . from any treaty hereafter ratified unless such treaty is implemented by legislation specifically exempting the introduction of . . . such Armed Forces from compliance with the provisions of this Act. . . . No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation. . . ."
>
> *"Pre-emptive strike:*
>
> "In the absence of a declaration of war by the Congress, the Armed Forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, only—
>
> "(1) to repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; *and to forestall the direct and imminent threat of such an attack;* . . .
>
> *"Necessity of prior congressional approval:*
>
> "Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such Armed Forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities." [88]

This bill will be debated on the floor sometime during the life of the second session of the 92nd Congress. Passage of a strong war powers bill is important in practical terms because it will provide political guidelines by which future Congresses can decide how and when to go to war. Congress will be assured of being involved, as the Constitution mandates, in the life and death decisions which face a democracy on the brink of war. Just as importantly, such legislation would provide the "judicially discoverable and manageable standards," which many courts have been unable to discover or manage with regard to the legality and constitutionality of the Vietnam War.

A war powers bill will not serve as an absolute guarantee against the occurrence of non-authorized hostilities in the future. The Indochina War might have occurred even if the guidelines for war powers responsibility had been clearly defined. Any legislation can be violated by a Chief Executive who chooses to do so, regardless of how clear and precise its terms.

In addition, no resolution can force Congress to act responsibly. It is clear that presidential decisions shaped the course of the Indochina war and that an indifferent Congress provided little or no restraint on executive actions. Some politicians will continue to prefer unclear guidelines, especially in an area as crucial as deciding whether to send American sons to war; for scapegoats are often popular in politics and the assumption of responsibility often is not.

These are problems that exist with many of the institutional devices we have developed in an effort to make the government operate in an orderly fashion. Good faith cannot be legislated. But clear criteria can be set forth within which men of good faith can and will operate.[89]

FOOTNOTES

*United States Senator from Missouri; B.A., Amherst College 1950 (cum laude); LL.B., Harvard Law School 1953 (cum laude).

[1] *See, e.g.,* 116 Cong. Rec. 8737 (daily ed. June 10, 1970) where Senator Church made reference to the article *Congress, the President, and the Power to Commit Forces to Combat,* 81 Harv. L. Rev. 1771 (1968).

[2] *See, e.g.,* Bas v. Tingy, 4 U.S. (4 Dall.) 36 (1800); Berk v. Laird, 429 F.2d 302 (2d Cir. 1970).

[3] *See, e.g.,* the excellent analysis of Senator William Spong, *Can Balance Be Restored in the Constitutional War Powers of the President and Congress?,* 6 U. Rich. L. Rev. 1 (1971).

[4] *E.g.,* The Federalist (A. Hamilton, J. Madison, J. Jay).

[5] The Federalist No. 26 at 214 (B. Wright ed. 1961) (A. Hamilton).

[6] The Federalist No. 73, at 470 (B. Wright ed. 1961) (A. Hamilton).

[7] U.S. Const. art I, § 8.

[8] 7 Works of Alexander Hamilton 83 (J. Hamilton ed. 1851).

[9] 15 The Papers of Thomas Jefferson 397 (J. Boyd ed. 1955).

[10] J. Madison, Notes of the Debates in the Federal Convention of 1787, at 475 (1966).

[11] 2 M. Farrand, The Records of the Federal Convention of 1787, at 318 (rev. ed. 1937).

[12] The Federalist No. 75, at 477 (B. Wright ed. 1961) (A. Hamilton).

[13] The Federalist No. 69, at 446 (B. Wright ed. 1961) (A. Hamilton).

[14] The Federalist No. 74, at 473 (B. Wright ed. 1961) (A. Hamilton).

[15] Act of July 9, 1798, ch. 68, 1 Stat. 578; Act of May 28, 1798, ch. 48, 1 Stat. 561.

[16] 4 U.S. (4 Dall.) 37 (1800).

[17] *Id.* at 40 (emphasis added).

[18] *Id.*

[19] *Id.* at 43–45.

[20] *Id.* at 45–46.

[21] 5 U.S. (1 Cranch) 1 (1801).

[22] *Id.* at 28 (emphasis added).

[23] 6 U.S. (2 Cranch) 170 (1804).

[24] *Id.* at 177.

[25] *Id.* at 177–78.

[26] Talbot v. Seeman, 5 U.S. (1 Cranch) 1, 28 (1801).

[27] Little v. Barreme, 6 U.S. (2 Cranch) 170 (1804).

[28] The Federalist No. 24, at 204 (B. Wright ed. 1961) (A. Hamilton.)

[29] By 1789, in England, Parliament was the

dominant force in military affairs. In fact, it had been so since the early years of the seventeenth century; no kind had been able to wage a war without parliamentary consent since 1626. In that year, when Charles I tried to wage a war without parliamentary consent, Parliament voted him no money. The impossibility of continuing the war without parliamentary financing led Charles to sign the Petition of Right (1628) which declared it illegal to collect any taxes without parliamentary consent, thus ending forever the possibility of a king waging wars independent of parliamentary authorization.

[30] *See, e.g.*, 117 CONG. REC. 5640–46 (daily ed. April 26, 1971) (remarks of Senator Goldwater).

[31] CONG. GLOBE, 30th Cong., 1st Sess. 95 (1848).

[32] *See generally* E. CORWIN, THE PRESIDENT: OFFICE AND POWERS 304 (3d ed. 1948).

[33] United Nations Participation Act, 22 U.S.C. § 287(d) (1970).

[34] *Id.*

[35] *See* Hoyt, *The United States Reaction to the Korean Attack: A Study of the Principles of the United Nations Charter as a Factor in American Policy Making*, 55 AM. J. INT'L L. 45 (1961).

[36] President Truman ordered American air and sea forces to give Korean Government troops cover and support on June 26, 1950. The President sent a message to Congress on July 19, 1950: *The Korean Situation: Its Significance to the People of the United States*, 23 DEP'T STATE BULL. 163 (1950).

[37] U. S. Dept of State, *Authority of the President to Repel the Attack in Korea*, 23 DEP'T STATE BULL. 173 (1950).

[38] *Id.* at 174.

[39] S. Con. Res. 92, 87th Cong., 2d Sess., 108 CONG. REC. 19,528 (1962).

[40] *Id.*

[41] *Hearings on S. Con. Res. 92 Before the Senate Comm. on Foreign Relations and the Senate Comm. on Armed Services*, 87th Cong., 2d Sess. 35 (1962).

[42] *Id.* at 36.

[43] Cuban Resolution, Pub. L. No. 87–733, 76 Stat. 697 (1962).

[44] *See generally* the material referring to the Gulf of Tonkin incident in the chapter *Military Pressures Against North Vietnam*, in 4 U.S. DEP'T OF DEFENSE, UNITED STATES—VIETNAM RELATIONS 1945–1967 (Comm. Print 1971).

[45] Vietnam Resolution, Pub. L. No. 88–408, 78 Stat. 384 (1964), *repealed by* Pub. L. No. 91–672 § 12 (Jan. 12, 1971).

[46] Vietnam Resolution, Pub. L. No. 88–408, §§ 2–3. 78 Stat. 384 (1964) (emphasis added).

[47] 110 CONG. REC. 18,403–04 (1964) (emphasis added).

[48] *Id.* at 18,409 (emphasis added).

[49] The authorization for contingency preparations was publised in March 1964. *See generally* the chapter *Military Pressures Against North Vietnam*, in 4 U.S. DEPT. OF DEFENSE, UNITED STATES-VIETNAM RELATIONS 1945–1967 (Comm. Print 1971).

[50] 381 U.S. 1 (1965).

[51] *Id.* at 17.

[52] The Tonkin Gulf Resolution was repealed by Pub. L. No. 91–672, § 12 (Jan. 12, 1971).

[53] The Senate voted to repeal the Gulf of Tonkin Resolution on June 24, 1970, and reaffirmed that vote on July 10, 1970.

[54] New York Times, Aug. 19, 1967, at 10, col. 1.

[55] Meeker, *The Legality of United States Participation in the Defense of Vietnam*, 54 DEP'T STATE BULL. 474, 484–85 (1966).

Secretary Rusk brought out a "something for everyone" shopping list of Vietnam justifications on January 28, 1966, when conceding that the SEATO treaty was not necessarily self-triggering. He stated:

"I would not want to get into the question of whether, if we were not interested in the commitments, policy and principle under the Southeast Asia Treaty, we have some legal way in order to avoid those commitments. I suppose that one could frame some argument which would make that case.

"But it would seem to us that the policy, which was discussed and passed upon by the Executive and the Senate of that day, is that we are opposed to aggression against these countries in southeast Asia: both the members of the Organization and the protocol states.

"In addition to that, we have bilateral assistance agreements to South Vietnam. We have had several actions of the Congress. We have had the annual aid appropriations in which the purposes of the aid have been fully set out before the Congress. We have had special resolutions such as the one of August 1964, and we have had the most important policy declarations by successive Presidents with respect to the protection of South Vietnam against Communist aggression."

Hearings on S. 2793 Before the Senate Comm. on Foreign Relations, 89th Cong., 2d Sess., pt. 1, at 8 (1966).

Congress remains confused. At the end of a colloquy on repeal of the Tonkin Gulf Resolution between Senator Robert Dole and myself last June, the only thing that was clear was that the authority under which United States troops have been engaged and would remain engaged in Vietnam hostilities was unclear. *See generally* 116 CONG. REC. 18,970–82 (daily ed. June 23, 1970).

[56] Southeast Asia Collective Defense Treaty, Sept. 8, 1954, art. IV, para. 1, art. IX, para. 2, [1955] 6 U.S.T. 81, T.I.A.S. No. 3170.

[57] Meeker, *supra* note 55, at 484.

[58] *Id.*

[59] *Id.* at 485.

[60] *A Conversation With the President*, 63 DEP'T STATE BULL, 103–04 (1970).

[61] Letter from U.S. Dept. of State to Sen. Thomas Eagleton, Oct. 2, 1970.

[62] *Hearings on War Powers Legislation Before the Senate Comm. on Foreign Relations*, 92d Cong., 1st Sess.—(1971).

[63] H.R.J. Res. 1355, 91st Cong., 2d Sess. § 2 (1970).

[64] S. 3964, 91st Cong., 2d Sess. (1970).

[65] H.R. 8446, 92d Cong., 1st Sess. (1971); H.R. 4194, 92d Cong., 1st Sess. (1971); H.R.J. Res. 680, 92d Cong., 1st Sess. (1971); H.R.J. Res. 669, 92d Cong., 1st Sess. (1971); H.R.J. Res. 665, 92d Cong., 1st Sess. (1971); H.R.J. Res. 664, 92d Cong., 1st Sess. (1971); H.R.J. Res. 644, 92d Cong., 1st Sess. (1971); H.R.J. Res. 431, 92d Cong., 1st Sess. (1971); H.R.J. Res. 342, 92d Cong., 1st Sess. (1971); H.R.J. Res. 275, 91st Cong., 1st Sess. (1971); H.R.J. Res. 1, 92d Cong., 1st Sess. (1971).

[66] S. 1880, 92d Cong., 1st Sess. (1971); S. 731, 92d Cong., 1st Sess. (1971); S.J. Res. 95, 92d Cong., 1st Sess. (1971); S.J. Res. 59, 92d Cong., 1st Sess. (1971); S.J. Res. 18, 92d Cong., 1st Sess. (1971).

[67] S.J. Res. 18, 92d Cong., 1st Sess. (1971).

[68] S. 731, 92d Con., 1st Sess. (1971).

[69] S.J. Res. 59, 92d Cong., 1st Sess. (1971). For the text of this joint resolution in its entirety, see APPENDIX No. 1.

[70] S.J. Res. 95, 92d Cong., 1st Sess. (1971).

[71] S. 1880, 92d Cong., 1st Sess. (1971).

[72] Senator Javits stated the guiding principle behind these legislative efforts: The enumeration of Congressional war powers in the Constitution and the historical origins of the "declare" and "Commander in Chief" clauses testify that the constitutional framers intended to grant Congress the primary authority over the initiation of war and responsibility for the formulation of basic guidelines for the conduct of war.

117 CONG. REC. 2531 (daily ed. Mar. 5, 1971).

[73] *See, e.g.*, Southeast Asia Collective Defense Treaty, *supra* note 56, art. IV, para. 1, art. IX, para. 2.

[74] Bickel goes one step further in arguing that a delegation that is too broad may result:

On the other hand, I think that a generalized, prospective delegation by Congress to the President of the Power to go to war in aid of our allies pursuant to treaty commitment gives away more of its own power than Congress may constitutionally give away by so broad a delegation—or at any rate, a delegation which it is possible to construe all too broadly.

Hearings on War Powers Legislation, *supra* note 62, at —.

[75] J. MADISON, *supra* note 10, at 475.

[76] North Atlantic Treaty, Apr. 4, 1949, art. 5, 63 Stat. 2241, T.I.A.S. No. 1964.

[77] SENATE COMM. ON FOREIGN RELATIONS, REPORT ON EX. L., NORTH ATLANTIC TREATY, 81st Cong., 1st Sess. 8 (1949).

[78] S.J. Res. 59, 92d Cong., 1st Sess. 2 (1971).

[79] The following are the signatory countries to the Charter of the Organization of American States, Apr. 30, 1948, [1951] 2 U.S.T. 2394, T.I.A.S. No. 2361: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad-Tobago, Uraguay, and Venezuela. The following are the signatory countries to the Southeast Asia Collective Defense Treaty, *supra* note 56: Australia, France, New Zealand, Pakistan, the Philippines, Thailand, and the United Kingdom. South Vietnam was designated a protocol state to the SEATO agreement. The following are the signatory countries to the North Atlantic Treaty, Apr. 4, 1949, 63 Stat. 2241, T.I.A.S. No. 1964; Belgium, Canada, Denmark, France, the Federal Republic of Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Turkey, and the United Kingdom.

A complete explanation of the commitments of the United States to the defense of foreign countries may be found in U.S. Dept. of State, *United States Defense Commitment and Assurances, August, 1967*, in *Hearings on S. Res. 151 Before the Senate Comm. on Foreign Relations*, 90th Cong., 1st Sess. (1967).

[80] Little v. Barreme, 6 U.S. (2 Cranch) 170 (1804); Talbot v. Seeman, 5 U.S. (1 Cranch) 1 (1801); Bas v. Tingy, 4 U.S. (4 Dall.) 37 (1800). To the Court "the whole powers" of entering into an offensive war were vested in the Congress "alone". Included in these powers was authority to declare either general or narrowly limited hostilities. Presidential authority to take offensive action under the guise of the Commander-in-Chief power arose only after Congress had acted. Talbot v. Seeman, *supra* at 27. Moreover, while the tactics of warfare might require that the President have certain discretionary powers, even these could be narrowed by precedent legislative action. Little v. Barreme, *supra* at 177–78.

[81] ARTICLES OF CONFEDERATION art. VI.

[82] Martin v. Mott, 25 U.S. (12 Wheat.) 19 (1827).

[83] S.J. Res. 18, 92d Cong., 1st Sess. 2 (1971); S.J. Res. 95, 92d Cong., 1st Sess. 2, (1971); S. 1880, 92d Cong., 1st Sess. 2 (1971).

[84] S.J. Res. 59, 92d Cong., 1st Sess. 6 (1971); S.J. Res. 95, 92d Cong., 1st Sess. 3 (1971); S. 1880, 92d Cong., 1st Sess. 3–4 (1971).

[85] S.J. Res. 59, 92d Cong., 1st Sess. 7 (1971). *See* also S.J. Res. 95, 92d Cong., 1st Sess. 6 (1971); S. 1880, 92d Cong., 1st Sess. 5 (1971).

[86] CONG. GLOBE, 30th Cong., 1st Sess. 95 1848).

[87] The following is a list of witnesses that appeared before the Senate Foreign Relations Committee's hearings on war powers:

March 8, 1971: Henry Steele Commager.

March 9, 1971: Richard Morris, Alfred Kelley.

March 24, 1971: Thomas Eagleton, Claiborne Pell, Jacob Javits.

March 25, 1971: Thomas Mason, Robert Taft, Charles Mathias, Paul Findley.

April 23, 1971: Barry Goldwater, Frank Horton.

April 26, 1971: McGeorge Bundy, George Reedy, John N. Moore.

May 14, 1971: William P. Rogers.

July 26, 1971: Alexander Bickel.

July 27, 1971: Lloyd Bentsen, Thomas Eagleton, George Ball, William D. Rogers.

October 6, 1971: William Spong, John Stennis, Lawton Chiles, Arthur Goldberg.

[88] S. 2976, 92d Cong., 2d Sess. (1972) (emphasis added). For the text of this bill in its entirety, see APPENDIX No. 2.

[89] As one of the first members of the Supreme Court, Mr. Justice Iredell, noted:

"All systems of government suppose they are to be administered by men of common sense and common honesty. In our country, as all ultimately depends on the voice of the people, they have it in their power, and it is to be presumed they generally will choose men of this description: but if they will not, the case to be sure, is without remedy. If they choose fools, they will have foolish laws. If they choose knaves, they will have knavish ones."

Case of Fries, 9 F. Cas. 826, 836 (No. 5126) (C.C.D. Pa. 1799).

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 2601) an act to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. METCALF).

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will reconvene at 12 o'clock, meridian, on Tuesday, April 4. After the two leaders have been recognized, there will be a period for transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, after which the Chair will lay before the Senate the unfinished business, S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Undoubtedly, that measure will occupy most, if not all, of Tuesday, Wednesday, Thursday, and Friday of next week. Rollcall votes are expected to occur during the week, and the leadership hopes that final action can be concluded thereon next week.

ADJOURNMENT UNTIL APRIL 4, 1972

Mr. ROBERT C. BYRD. Mr. President, pursuant to the provisions of House Concurrent Resolution 571, as amended, I move that the Senate stand in adjournment until 12 o'clock meridian, Tuesday, April 4, 1972.

The motion was agreed to; and, at 12:57 p.m., the Senate adjourned until Tuesday, April 4, 1972, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 30, 1972:

IN THE AIR FORCE

The following officer to be placed on the retired list, in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be general

Gen. Bruce K. Holloway, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

The following officer to be assigned to a position of importance and responsibility requiring the rank of general, under the provisions of section 8066, title 10, United States Code:

Lt. Gen. John W. Vogt, Jr., [redacted] FR (major general, Regular Air Force) U.S. Air Force.

IN THE NAVY

Vice Adm. Noel A. M. Gayler, U.S. Navy, for appointment to the grade of admiral for the duration of his service in duties determined by the President to be of importance and responsibility within the contemplation of subsection (a), title 10, United States Code, section 5231.

Rear Adm. Merlin H. Staring, Judge Advocate General's Corps, U.S. Navy, to be Judge Advocate General of the Navy with the rank of rear admiral, for a term of 4 years.

IN THE MARINE CORPS

Maj. Gen. George C. Axtell, U.S. Marine Corps, having been designated, in accordance with the provisions of title 10, United States Code, section 5232, for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant general while so serving.

Maj. Dale L. Harpham, U.S. Marine Corps, for appointment to the grade of lieutenant colonel.

IN THE AIR FORCE

The nominations beginning Ronald B. Appel, Jr., to be lieutenant colonel, and ending Keith H. Wolfe, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 20, 1972.

IN THE ARMY

The nominations beginning Joseph F. Short, to be major, and ending Donald J. Wilson, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 13, 1972;

The nominations beginning Chester A. Hanson, to be colonel, and ending Tony W. Todd, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 13, 1972; and

The nominations beginning James M. Jackson, to be colonel, and ending Jack Whatley, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 13, 1972.

IN THE NAVY

The nominations beginning Robert R. Groom, to be permanent lieutenant and temporary lieutenant commander, and ending Bruce D. Noonan, to be permanent lieutenant (j.g.) and temporary lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 20, 1972.

EXTENSIONS OF REMARKS

IS WASHINGTON FOOLISHLY LETTING THE RETIREE "FADE AWAY"?

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SIKES. Mr. Speaker, the Retired Officer for March 1972 carries a well written article on the utilization of retirees. It is entitled "Is Washington Foolishly Letting the Retiree 'Fade Away'?" It is written by Lt. Col. Tom Hamrick and it is well worth reading. I invite the attention of my colleagues to Colonel Hamrick's statements:

IS WASHINGTON FOOLISHLY LETTING THE RETIREE "FADE AWAY"?

(By Lt. Col. Tom Hamrick)

Maybe it was once true that "old soldiers never died, they just faded away." But if so, that was yesterday. Today retiring members of the seven uniformed services become ranking civilian executives, men of action and substance in their newly-adopted civilian communities.

"Even so, the military just writes us off as valueless," complained an embittered young Navy captain. "Except for issuing retirement checks, the armed forces, neglects what are probably its most powerful nonmilitary advocates." "Except for what we read in the press, or hear on radio and TV—and these reports are often colored grossly and adversely by media—we simply don't know what's going on within the armed forces," one TROA member added. "And, the armed forces don't really seem to care."

True enough. Except for a monthly retirement check, the only link the average retiree has with his former service is an occasional government information sheet which generally limits itself to retirement matters.

Can it be true that the seven uniformed services are spending millions of dollars on image publicity, but are leaving untouched and unchallenged an effective volunteer public relations force, its retirees, while trying to win advocates from other less receptive quarters in the civilian world?

Unfortunately, the answer is yes.

Prior to preparing this article, the author wrote a number of individual letters to congressmen, senators and members of the military hierarchy begging the questions: "What service of benefit can the retired member of the armed forces contribute to the military, except as a speaker before a civic or community group?"

Only one response of any substance was received. Most of the letters weren't even answered.

The only meaningful reply came from a military chief of information.

What he said was the same thing the retiree hears just before he hangs up his uniform for a final time. "Be our spokesman. Go forth and occupy the rostrum of the local civic clubs and be our town crier."

And with that encouragement, the retiree often considers himself totally dismissed from active military thinking.

Is there no other public service the retiree can beneficially perform for the military other than serving as an occasional luncheon speaker for a local Optimist Club? And, even so, how well qualified is he to tell the military story if what he reads comes only from the daily press? No audience is interested in a briefing which is as far out of date as the last time the retiree served on active duty. For the most part, on newly-breaking service matters, he can be no better versed than Will Rogers was when he used to claim that "all I know is what I read in the newspapers."

Therefore, even though the retiree is encouraged to be a spokesman in mufti for the military, is he sufficiently knowledgeable to serve to its advantage? Is he being kept updated? Is his role as a speaker *really* encouraged?

Secondly, is he needed for nothing else?

As the Peggy Lee song goes, "Is that all there is?"

The Pentagon reports it is aware that retirees "give us considerable public support through veterans activities, community-relations work with Army installations, public speaking appearances and journalistic activities."

But a retired Army major complains, "I can't recall any real effort any of the services have made to keep us posted, so we can be effective as a spokesman. But, face it: some of my buddies in retirement are damned glad the military in Washington doesn't keep them on a what's-happening mailing list, to urge them to 'continue to serve.' But I know a lot of us would do a helluva lot more if the Pentagon seemed more than remotely interested."

One veteran of 25 years in uniform asked, "Is it unreasonable, in view of the millions we're spending on public information in the armed forces, not to at least set up a small corps of knowledgeable individuals in the Pentagon to fix and maintain liaison with retirees, to keep them filled in on the facts and directly and indirectly encourage them to serve as the ambassadors the military claims it wants?"

But another retiree argues with him "some of our congressmen would be up in arms over such a program. I can hear them now, criticizing the military for wasting its dough on yesterday's heroes. Still, there ought to be some office in Washington which is directly—I mean directly—interested in the retiree. He is just too much of an investment to let go to seed."

A group of TROA members were informally surveyed by the author in advance of a monthly meeting to obtain their ideas on the matter. Their answers were imaginative, and several appear workable.

The Navy captain retiree quoted earlier in this article as being critical felt that "every branch of the uniformed services needs a special office which involves itself only in matters pertaining to retirees, and I don't mean to hear complaints and bitches, but to keep them informed and to keep them motivated. Make them feel they're still important instead of a drag on the nation's economy."

The off-the-cuff survey proved an "open sesame" in soliciting provocative comment, and a number of retirees were anxious to insert their contributions. Among ideas projected:

a. Initiation of a study by a committee representing all of the uniformed services to determine what volunteer duties retirees might happily and effectively be able to tender their former branch of service.

b. Presidential appointment of an "assistant secretary for the retired uniformed services" who is charged with maintaining meaningful liaison with all retirees, officers and enlisted, and providing them with the latest "party line thinking" at least on a monthly basis.

c. Appointment of special civilian aides, drawn from retired ranks, by this under secretary.

d. In turn, the civilian aide would serve as the under-secretary's immediate local contact. It would be the aide's obligation to form and organize committees of retirees to assist in fulfilling requests from the under-secretary on all matters pertinent to the retirement community and their association with the active military. Designation of these civilian aides could be based on recommendations by local TROA chapters, a town's mayor or the commander of an adjacent military installation, or a combination of these three agencies, plus others.

e. Formation of a "job placement" committee, working under the retiree civilian aide. "The average 'new' retiree, unless he goes to work immediately, feels lost in the community," a retired coastguardsman reasoned. "He needs something like this to encourage him and, if feasible, guide him to some of the employment opportunities available in the area which match his skills and potential."

f. The retiree civilian aide was seen by one advocate as the retirees' contact with such organizations as local governments, Chambers of Commerce and volunteer organizations. "Think of what a tremendous pool of voluntary manpower such a coordinating committee as this could provide a community," offered a retiree who claimed to be "fully retired."

"A lot of us would like to lend a hand to community events, just to have something to do, and the retirement group could bridge the gap between us and the sponsors of the event."

g. Charge commanders at all military installations with the appointment of an officer who, among other hats, would be his "retiree liaison," the contact man between the retiree and the military in all matters of mutual interest.

These were among the suggestions tendered by one small group of men in one evening.

"Write about it," one urged. "Let's see what happens. And maybe, too, other retirees have even better ideas."

DEVELOPMENT IN ALASKA

HON. MIKE MANSFIELD

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 28, 1972

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Washington, I ask unanimous consent to have printed in the Extensions of Remarks two articles on developments in the State of Alaska, published in the Los Angeles Times.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Dec. 26, 1971]

Alaska Spends Itself Into Debt Preparing For "Delayed" Riches

(By Al Delugach)

Valdez, Alaska.—A thin, weathered, middle-aged truck driver glances out of the cafe window at his tractor-trailer rig parked amid the drifts of the four-foot, early winter snowfall.

He gets up to start on his routine: A 360-mile drive to Fairbanks on an ice-covered road that goes through treacherous mountain passes and across uninhabited stretches of the interior where it is 20 below zero in November and much colder in full winter.

"All I do all day is drive and talk to myself," he muses. "By night, I'm starting to answer."

The truck driver and his lonely ordeal are symbolic of the Last Frontier where prospects for great industrial growth appear like so much daydreaming in the face of a land and climate so hostile.

Alaska, which has many of the characteristics of an underdeveloped nation, is like an island in a sea of fabulously-valuable oil. And the thinly-populated state (300,000 persons, including 60,000 natives, most of whom live in deep poverty) is suffering the pangs of growth—even before the growth is a reality.

First, with riches from oil production in sight (but not in hand) the state government has embarked on large-scale spending programs that will keep it in the red even when and if the oil starts to flow.

Moreover, Alaska has many of the earmarks of a one-industry town. The oil industry is the undisputed giant of this state, which is twice as big as Texas, and the common attitude toward it is deference.

Many of the establishment people identify their economic interests with the desires of the oilmen—especially for the proposed pipeline to take out the oil. And average citizens, for the most part, go along.

There are signs in the early going that the public's elected representatives have tumbled over themselves in a desire to accommodate the oil industry. Some decisions have been a case of acting in haste, perhaps to repent at leisure.

Valdez is a case in point.

The oil industry has designated this ice-free, deep-water port as the terminus of the proposed pipeline to be built from Prudhoe Bay on the North Slope. For some, the pipeline signifies more business, higher land prices. For others it means jobs.

Like the rest of the state, Valdez is still waiting for it to happen.

Valdez is a little off the beaten path. Though it is accessible by highway from both Anchorage and Fairbanks, as well as by small aircraft and the state-operated ferry boats that ply Prince William Sound, winter travel by road and air is hazardous. On a day when it snowed 24 inches and planes were grounded, this visitor made it by a six-hour ferry trip from Cordova 85 miles across the sound.

It has 1,000 permanent residents and another 300 temporary ones, many of them working at the town's pride: the plant where the pipeline pipe is being coated.

Prospects at mid-1969 were for an early start on the pipeline. The oil industry was confident. Without waiting for federal right-of-way permits, it bought $100 million worth of 48-inch pipe from Japan for the 789-mile line.

By September, 1969, the first pipe was stacked in Valdez. By October, 1971, the last pipe was stacked in Valdez. Still no permit for a start on pipeline construction in the fragile environment of tundra and permafrost.

One obstacle has been cleared, a big one. It is the settlement of Alaskan native land claims by Congress on Dec. 14.

Another key to opening the way to the pipeline is an environmental impact statement by the Interior Department. It is expected to go to the White House and to the Council on Environmental Quality soon.

The local Establishment in Valdez went all-out in 1969 to get the nod over three other contestants as the oil industry's choice for the terminus.

City Manager Herbert Lehfeldt, as well as his predecessor, Dale Cutler, told The Times, however, that they feel the former mayor and city council gave unnecessary generous terms to the pipeline on pipe storage facilities and tariff for the use of the dock.

Cutler, the town's first professional city manager, said when he arrived in October, 1969, he found that the late Mayor George Gilson had leased for $1 a year a large city-owned tract to the pipeline company for storage of the pipe.

The city then spent $25,000 or more to clear the land, which is in the old townsite destroyed by the 1964 earthquake and accompanying tidal wave. Cutler said he found the lease had not been signed. He renegotiated the lease on terms that included prepayment by the pipeline company in the amount spent by the city, Cutler said.

However, he said, he couldn't talk the city council out of reducing to 10 cents a ton from $1.50 a ton the pipeline company's payment for unloading the pipe on the city dock.

Although the oil industry spent $250,000 to beef up the city dock to handle the heavy pipe, Cutler's successor as city manager, Lehfeldt, said the city would have gotten much more than that under the old tariff. He called it a "fantastic" deal for the pipeline company.

Cutler says he "fought that like hell," but didn't prevail. Mayor Gilson died last year, but Ed Walker, a businessman who was on the council until recently, stoutly defends the dealings with Alyeska Pipeline Service Co., owned by the consortium of oil companies that will own the pipeline.

Walker, a tall, roughhewn, middle-aged man, and his wife, Frances, operate a new motel financed by a $100,000 Small Business Administration loan. The motel is kept filled, largely with business from the pipeline company and the pipecoating plant. He also is one of the redevelopers with contracts for purchase of bargain-priced city land, as was the late Mayor Gilson.

Walker speaks proudly of the way the Gilson administration went after the oil companies to get the pipeline terminus. He frankly says they were prepared to give everything free to the industry and credits the selection of Valdez to such inducements.

Meanwhile, looking beyond Valdez, the old question is once more raised: Is Alaska viable as a state?

During Alaska's territorial status, preceding statehood in 1959, the economy was heavily underpinned by federal expenditures, including those for military and for assistance to the native Eskimo, Indian and Aleut population.

The first decade of statehood was one of austere budgets for the state government. Then, in 1968, came the discovery of what may be the biggest oil deposits in the United States.

People started talking about the state's getting a good share of the riches. The first installment was $900 million paid in September, 1969, by oil companies for additional North Slope leases.

Expecting royalties to begin flowing by 1973, the state began spending its patrimony hand over fist.

Now, with oil production set back at least two years, the state is faced with the specter of running into the red by 1977 with a deeper descent each succeeding year. Projections now are for a deficit of anywhere from $425 million to $670 million by 1981.

SPENDING BEGINS

The big spending began in the 1969–71 fiscal year, when Republican Keith Miller was governor. State legislators upped the budget by 32% to $169 million. The next year, with pipeline hopes still rampant, the ante was boosted by another 77% to $300 million. However, the budget enacted by the 1971 Legislature for the current fiscal year reduced the $300 million to $292.1 million.

Much of the increased spending appears to have been for genuine needs, such as more welfare for impoverished natives, and better school, roads and public utilities.

The premature honeymoon has been called off. Gov. William Egan, a Democrat elected last year, has his departments working overtime on ways to hold down the budget.

He also has them toiling over the feasibility of the state's buying and owning the pipeline itself—a recent suggestion of his that startled a lot of people and started a lot of arguments among Alaskans nervous about the delay.

Egan spoke of netting $100 million a year or more, in addition to oil royalties, from state ownership. Some opponents wonder where he got the pencil to figure that.

The oil industry played it close to the vest in reacting to Egan's proposal. Except for Humble Oil & Refining Co., which quickly cried that it would lead to more delay in the pipeline construction, major firms have tended to wait and see what the state would come up with in a full study of feasibility of state ownership.

Airline, trucking and construction firms that plunged for huge amounts of equipment in anticipation of a financial killing were severely hurt—some to the point of bankruptcy.

These operators were largely in Fairbanks, jumping off place for freight shipment and road construction to the North Slope. Some were in Anchorage, the state's largest city.

Despite the blows to some Alaska entrepreneurs by the failure of the boom, the state's general economy is on a fairly even keel—to the surprise of some observers.

This is relative however, since unemployment in the state has been constantly high for some time (10% or more) and the aboriginal native groups live in rural poverty that experts agree is worse than any other section of the United States.

One of the bright spots has been construction, with increases over last year in both residential and commercial building. This is especially true in Anchorage, the main population center (130,000 persons).

"There have been some problems, but it's no disaster—that's for sure," says James N. Tveit, FHA deputy director in Anchorage.

Eric Wohlforth, state revenue commissioner, points out that the state has embarked on a public works program to provide jobs. This effort to soften the impact of the pipeline delay has included issuance of $45 million in general obligation bonds.

According to Richard Eakins, the state's acting director of industrial development, Alyeska, the pipeline company, eased the burden on some contractors who were held up in building the big pipeline service road.

It bought out some of the contractors. Others had contractual provisions for payment on a retainer basis for equipment obtained for the project.

Eakins expresses hope the settlement of land claims of the state's 50,000 natives by Congress will provide a start on the great problem of developing a viable economy in the rural areas, where most of the Eskimos and Indians live. A bill passed by Congress provides about $1 billion in addition to land.

There is no question, however, that the state government depends for solvency on oil production. To get that, there must be a way to take it out of the frozen desert that is the north slope.

"Oil lease sales have bailed us out in the past," says Eakins. Once the $900 million plus from the 1969 sale is eaten up, and if the pipeline is not bringing in revenue, the state will be in real trouble by 1976."

When North Slope oil is produced, the state expects to get $128 million royalties the first year, $180 million the second, $198 million the third and $234 million a year thereafter.

At least $400 million would be spent in the state during pipeline construction, it is estimated in a book-sized examination of the impact, good and bad, of the pipeline. But the study by the state law department states:

"Alaska is not deluded into believing that the pipeline construction with its jobs and money will be a social and economic panacea."

[From the Los Angeles Times, Dec. 6, 1971]

ALASKA MYSTERY—WHO FINANCED BIG LAND DEAL?—L.A. MAN WHO ACQUIRED PROPERTY ALONG PIPELINE ROUTE WON'T TALK ABOUT IT

(By Al Delugach)

VALDEZ, ALASKA.—Philip J. Matthew of Los Angeles went on an Alaskan land buying spree three years ago. A short time later the route of the trans-Alaska oil pipeline was announced.

The bulk of some 200 parcels of land Matthew had bought in central and southern Alaska turned out to be along the pipeline route.

And here in Valdez, selected over three other cities as terminus of the pipeline, Matthews had acquired much of the town's undeveloped land, including a waterfront site for possible docking facilities.

The pipeline, yet to be constructed, is to bring oil out of Prudhoe Bay on the North Slope. In 1968 drillers struck what is believed to be the biggest oil find in North America.

A VALUE OF $1 MILLION CLAIMED

The land—totaling about 500 acres—was purchased for an estimated $300,000. Conservative estimates place its value today at more than $600,000. Matthew, himself, has said that it is worth $1 million.

Who is Philip J. Matthew?

The same question has been asked by the federal government and by people in Alaska. Still a question is who may be associated with him in his Alaskan land deals.

While he has remained out of the news, Matthew, who is 49, had a meteoric rise in the world of finance about 10 years ago. His ventures included savings and loan associations in Los Angeles, Baltimore and Honolulu.

Key financing was provided through a little known but rich Caribbean entity called the Bank of World Commerce, Ltd., Nassau, Bahamas.

The list of his associates at that time included:

Clifford A. Jones, former Nevada lieutenant governor, friend of Bobby Baker and onetime casino owner in Los Vegas and the Caribbean.

Edward A. Levinson, a big-time Las Vegas gambler who was fined in a gambling profits "skimming" case involving the Fremont Hotel.

Meyer (Mike) Singer, now dead, an ex-Teamsters official widely considered as the West Coast representative of James R. Hoffa.

NO INDICTMENTS RETURNED

Alvin Malnik, Miami lawyer, a key figure in the 1966 federal grand jury investigation of suspected underworld involvement in the multi-million-dollar stock promotion of Scopitone, a movie-jukebox invention. People from coast-to-coast were subpoenaed as witnesses. No indictments were returned.

Other assorted Las Vegas gamblers, including Irving (Niggy) Devine, G. C. Blaine, Charles Turner, Ben Siegelbaum and Charles (Kewpie) Rich, as well as James (Jake) Gottlieb, casino owner and friend of Hoffa.

None of these names appears in the public record as being associated with the Alaskan ventures.

Nor is there any public record on who owns the more than 600,000 shares of stock issued in Matthew's firm—Financial Land Investment Corp.—in whose name the Valdez properties are held.

Records he has filed in Juneau show the corporation was incorporated in Delaware in February, 1969, the month he bought the Valdez properties. He is listed as president and treasurer. The vice president is a retired Los Angeles intelligence agent for the Internal Revenue Service, Walter E. Schlick.

The corporation secretary is Eugene Mettleman, a lawyer of Baltimore, which is listed as the corporation's principal place of business. Directors are Matthew, his wife Elayne and Hettleman.

One year after Matthew bought the Valdez land, Mel Personett, then Alaska commissioner of public safety, appeared before the state Senate Judiciary Committee.

While answering questions about Alaskan law enforcement problems, he voiced concern about the entry of associates of organized crime figures into legitimate business.

Personett then told of a man operating in the Valdez area who he said had associates who are underworld figures or who associate with them. Under further questioning, Personett named Matthew as the man he was talking about.

WITNESS CRITICIZED

Several senators at the hearing criticized Personett for naming in public hearing a man who had not been charged with any crime in Alaska.

Sen. Terry Miller (R-Fairbanks), who was majority leader, says he later wrote a letter to Matthew inviting him to appear before the committee "in case he wanted to rebut anything anybody said about him at the hearing." Matthew didn't answer the letter, Miller says.

The subject was not pursued. "We felt the least said the better for everybody," says Miller. Personett was replaced as department head when a democratic administration was elected last year.

INTERVIEW DENIED

Matthew, a wiry man with a moustache who wears lumberjack shirts at his handsome home in Tarzana, doesn't care to answer questions about his Alaska activities or associates.

Several weeks ago, in declining an interview, he said deprecatingly: "We don't have very much up there now."

After a review of his holdings in public records in Alaska, a reporter again sought to talk to Matthew.

"Write what you want," he snapped. "I have nothing to say."

Matthew is known by acquaintances in Alaska to have a more expansive side. They have heard him talk of his bank in the Bahamas, the savings and loan associations, the right hand man who is an ex-IRS agent.

Matthew showed up at the state land office in Anchorage in January, 1969, and proceeded to snap up most of the nonhomestead land available for sale by the state.

Contrary to an impression widely held by outsiders, Alaska is not a place where unlimited land is available for purchase. The federal government still owns most of it, and the state presently has a "minuscule" amount for sale to the public.

Matthew appeared to have considerable financial resources, and thus attracted unusual interest in the land office.

Although nearly three years have gone by, a veteran state employe clearly recalled Matthew's wholesale land purchases. In two visits about a week apart, she said, he bought in his and his wife's name almost all the residential and commercial lots available in a number of scattered cities and towns in central and southern Alaska.

CHECKS FOR 10 PERCENT

He put up cashier's checks for the 10% down payment (balance payable at 10% a year) on each parcel. The sales prices totaled $175,000.

This was before even the tentative pipeline route was generally known. The state land on sale over the counter on a first-come-first served basis was considered cheap by experts.

Then Matthew turned up in the southern port of Valdez (pop. 1,008) on Prince William Sound. Making friends with the city administration at the time, he bought up much of the remaining property in the new townsite (adjacent to the one destroyed by the 1964 earthquake).

When the oil industry filed its proposed pipeline route several months later, the terminus selected was Valdez.

A land developer recently recalled meeting Matthew in Valdez in February, 1969.

"I had figured out the pipeline HAD to end there," Jerry McCutcheon said.

How had Matthew figured it out? He was accompanied by a financial writer, the developer recalls. Matthew may have found out some information about the pipeline route from this man, who presumably learned it from his sources, McCutcheon theorizes.

Even now Matthew's name is little known in Alaska except in Valdez, where he visits a couple of times a year.

HELPED TEAM

He has the image here of an outsider with money to invest, a high pressure style and a lot of business savvy.

His admirers, generally the town's old establishment, recall that Matthew once laid out $500 to help send a boy's basketball team to a distant playoff game.

"I don't know who his backers are—that's his business," says Ed Walker, a motel man who was on the Valdez city council that cooperated with Matthew after his arrival.

It is the attitude Alaskans have traditionally taken. There is a widely observed convention that one does not nose into a newcomer's life prior to his arrival in what is aptly called the nation's Last Frontier.

Matthew's name is no better known in Los Angeles than in Alaska, though it is there he lives.

He resigned from the California Department of Savings and Loan in the late 1950s to go to work for Empire Savings and Loan in the San Fernando Valley, where he became executive vice president.

In 1961 Matthew emerged as a business investor on his own—to the tune of hundreds of thousands of dollars. One of his first associates was an old acquaintance, Teamster business agent Singer.

This was followed by a surge of well-financed business ventures that kept them busy on a circuit that included Honolulu, Los Angeles, Las Vegas and Miami.

Key to the ventures was the formation in June, 1961, of the Bank of World Commerce at Nassau with Miami lawyer Alvin Malnik.

Matthew, who had also formed a Bahamian bank for his former S&L employer, was the biggest shareholder in Bank of World Commerce with a listed investment of $230,000. Jones, Levinson and Devine were among the early investors.

LANSKY ASSOCIATE

Another, who became president, was John Pullman. He is known to federal investigators as a long-time associate of gambling kingpin Meyer Lansky. Pullman is said by government sources to have been a courier between Las Vegas and Switzerland and in recent years has handled investments for American organized crime figures in Swiss banks.

The Bank of World Commerce, whose address was reportedly only an office with one employe, has been described by government sources as organized to finance a financial empire.

One of the bank's first acts, under directors that included Matthew and Malnik, was to make an unsecured loan of $250,000 to Allied Empire, Inc., Beverly Hills. Matthew and Singer, having bought about 19% of Allied's stock in the several months preceding, were turning the former television cartoon producing firm into an S&L holding company.

Matthew, who had become Allied's president, used the $250,000 toward purchase of San Gorgonio S&L, in Banning, for $1.5 million.

The $250,000 loan was just for openers for the Bank of World Commerce, which lent a lot more to Allied. Between July, 1961, and September, 1962, the average unpaid balance on the loans reportedly ranged from $250,000 to $750,000.

A sidelight on the Allied venture was that Hoffa and his daughter reportedly got in on the ground floor of a tremendous market rise in Allied's stock.

About June 1, 1961, the Hoffas bought 1,100 shares at prices ranging from $4.75 to $6.75 per share and sold 600 shares six months later at $50.50 to $53.50 per share. At its peak, Nov. 24, 1961, Allied's stock hit $76 per share.

HONOLULU VENTURE

Busy as they were, Matthew and Singer found time in September, 1961, to launch the Waikiki Savings and Loan Assn. in Honolulu.

Matthew was the biggest original shareholder of record, as well as president. Other original subscribers included Levinson, Devine and other Las Vegas gamblers, as well as Jones and Pullman.

A later investor was Robert (Bobby) Baker, once secretary to the Senate Democratic majority. Baker, who was sold 2,500 shares by Matthew, later went to prison for his role in financial scandals unrelated to the Hawaiian venture.

(It was disclosed in 1963 that Baker endorsed Jones and Levinson for gambling casino concessions in hotels of a Pan American World Airways subsidiary in the Caribbean. Baker was quoted as saying he was doing a political favor.)

ISLAND PLANTATION

By December, 1961, Matthew was spearheading a takeover attempt on the big Ewa Plantation in Honolulu through his bases in Waikiki S&L, Allied Empire and the Bank of World Commerce.

The attempt was beaten down by major Hawaiian interests. But the price of Ewa stock was driven up in the process—greatly enhancing the value of the minority holdings.

Matthew's base at Allied Empire crumbled in January, 1963; when he resigned as president. Minority stockholders reportedly forced a change in management.

A long legal battle began between Matthew and his successor at the helm of Allied, Philip Nasser. While maintaining his family residence in Tarzana, Matthew spent the next couple of years in Israel.

Matthew and Nasser accused one another of fraud in civil suits which dragged out for years.

Nasser tried to attach Matthew's 43,476 shares in Allied Empire, which had changed its name to Riverside Financial Corp. But, in a key ruling, the Los Angeles Superior Court held that Matthew had previously transferred his interest in the stock to Clifford Jones on behalf of some 40 persons.

GAP IN RECORD

These included gamblers Levinson, Devine, Blaine, Turner, Siegelbaum and Rich, as well as Gottlieb.

There is a gap in the public record as to Matthew's business activities in the two or three years preceding his arrival in Alaska in January, 1969.

In Valdez he found a city administration receptive to selling him commercial and residential tracts remaining for development.

The present city manager, however, views as a mistake the leniency toward Matthew and a few others who signed up as "developers" under an urban redevelopment program for the land in the new townsite.

By promising to develop the property in specified ways, Matthew and the others got lots for as low as $400. Such lots would cost perhaps 10 times the amount they paid if bought in another Alaskan city.

The new city council in Valdez has recently begun legal action to declare some of the development contracts in default.

Matthew avoided the situation by selling back to the city about 50% of his holdings after a dispute over which side was responsible for failure to develop the land.

Matthew has not built anything whatever on any of his Valdez properties, says city manager Herbert Lehfeldt, former Southern Californian who was city manager of Bell Gardens and Palmdale in the 1960s.

For many months, he said, the previous council granted one time extension after another to the developers.

"The council never forced the issue until now," added Lehfeldt. "We've got to break it open. People who move to and want to build a house in Valdez can't even buy a piece of land here.

"The city is strangling as a result of these redevelopment contracts."

In addition to the purchases from the city, Matthew bought a seafood processing plant in Valdez in 1969 from the Small Business Administration.

An SBA official in Anchorage refused to give the figures, concerning that "the media has not always been kind to the SBA."

However, it is reported by others familiar with the deal that Matthew bought the plant from the SBA for about half the original cost—and on easy terms—after the SBA's original deal went sour.

The federal agency had foreclosed in 1967 a loan reported at around $100,000 to a local group in Valdez. Last spring, Matthew finally was able to lease the plant to a major seafood processor.

Matthew writes long and frequent letters to city and state officials and to the local newspaper to air his grievances.

One is the city's refusal to sell him some land near the seafood plant which he said he was promised and which the processor needs.

Another is rejection of his $100,000 bid for a tract that was sold for half that amount to a Montana developer.

In contrast to the earlier honeymoon mood, Matthew and the attorney for his corporation have threatened to sue the city.

The new city council and Lehfeldt have established the policy of dealing firmly with Matthew.

Lehfeldt described the attitude previously as one in which councilmen were "overpowered and perhaps a little frightened" at Matthew's high-powered style.

A long Matthew letter of complaint directed to Lehfeldt and the council last Aug. 30 concluded with this typical flourish:

"I refuse to believe that the answer lies in going back in history and not having law and order in the City of Valdez. Maybe 100 years ago there was not law and order in Alaska or the Far West. But we are civilized today and we should be thankful for that.

"We cannot advise our children to live the golden rule and then act in hypocritical fashion by breaking the law just because we are mature in age . . . Will the City of Valdez act in a just and honorable way in its dealings with redevelopers, regardless of whether they are so-called outsiders or not?"

CONFERENCE ON MEANS OF EXPEDITING CRIMINAL JUSTICE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EILBERG. Mr. Speaker, the Law Observance Committee of the Federal Bar Association in cooperation with the Philadelphia Federal Executive Board, Philadelphia Bar Association, and the Police Chiefs Association of Southeast Pennsylvania held a conference on October 6, 1972, where the means of expediting criminal justice in the United States were discussed by several experts from the police, public defenders, district attorney's office and the courts.

The chairman of the committee and the one responsible for the marked success of the day is Harry Shargel, Esquire. I particularly commend his effort in bringing together those who will make changes in the criminal justice system.

For the benefit of my colleagues, I now submit Mr. Shargel's summary of the conference along with statements by Vincent J. Ziccardi, Esquire, chief defender, Defender Association of Philadelphia; Philadelphia Police Commissioner Joseph F. O'Neill; and Hon. D. Donald Jamieson, president judge, Philadelphia Court of Common Pleas:

Conference on Means of Expediting Criminal Justice Sponsored by Law Observance Committee

A conference on "Means of Expediting Criminal Justice" sponsored by the Law Observance Committee of the Federal Bar Association in cooperation with the Philadelphia Federal Executive Board, Philadelphia Bar Association and the Police Chiefs Association of Southeastern Pennsylvania was an outstanding success. Important concepts were discussed and the conference was well covered by the news media including the three major television stations serving the Southeastern Pennsylvania, Southern New Jersey and Delaware area. The Federal Bar Association received much favorable publicity. Consideration is being given to the organization of a similar conference in Washington, D.C. and regional conferences in other parts of the country.

The conference, at the Defense Personnel Support Center in Philadelphia, included four panels: a panel on "Elimination from Criminal Justice Process" included a discussion of possibility of eliminating certain crimes from the criminal justice process and providing alternate methods of dealing with such crimes; a panel on "Arrest, Trial and Appeal" engaged in a discussion of procedures from the time of arrest to ultimate determination of guilt or innocence; a panel on "Sentencing Process" involved a discussion of guidelines for determining extent and nature of sentence, treatment and rehabilitation; and a panel on "Jail or Bail" involved a discussion incident to disposition of persons under arrest pending trial and awaiting sentences.

The conferees were welcomed by Hon. Joshua Eilberg, member of the Judiciary Committee of the U.S. House of Representatives. The luncheon speaker was the Hon. D. Donald Jamieson, Presiding Judge of the Court of Common Pleas, Philadelphia County. The panel on "Elimination from Criminal Justice Process" included William G. Nagel, Commissioner, Governor's Justice Commission and Executive Director, The American Foundation; Joseph F. O'Neill, Police Commissioner, Philadelphia; Hon. Arlen Specter, District Attorney, Philadelphia County; Vincent J. Ziccardi, Esq., Chief Defender, Defender Association of Philadelphia; and was moderated by Harry D. Shargel, National Chairman, Law Observance Committee, Federal Bar Association and Assistant Counsel for Litigation at the Defense Personnel Support Center.

The panel on "Arrest, Trial and Appeal" included Edward J. Blake, Esq., Court Administrator, Philadelphia County; Hon. Donald E. Santarelli, Associate Deputy Attorney General of the United States; Hon. Louis C. Bechtle, U.S. Attorney, Eastern District of Pennsylvania; Stanford Shmukler, Esq., Private Practice; and was moderated by John J. Harding, Esq., Clerk, U.S. District Court, Eastern District of Pennsylvania.

The panel on "Sentencing Process" included Melvin S. Heller, M.D., Temple University Unit in Law and Psychiatry, Clinical Professor of Psychiatry; Hon. Alfred L. Luongo, Judge, U.S. District Court, Eastern District of Pennsylvania; Hon. Dante Mattione, Deputy Attorney General, Commonwealth of Pennsylvania; and was moderated by Eugene C. DiCerbo, Chief, U.S. Probation Officer, Eastern District of Pennsylvania.

The panel on "Jail or Bail" included Mrs. Margery L. Velimesis, Executive Director, Pennsylvania Program for Women and Girl Offenders, Inc.; Frederick H. Downs, Jr., Chief Probation Officer, Court of Common Pleas, Philadelphia; Hon. Joseph R. Glancey, President Judge, Municipal Court of Philadelphia; and was moderated by Harold G. Miller, District Supervisor, Pennsylvania Board of Probation and Parole.

The program was organized by a special committee which was headed by Law Observance Committee National Chairman Harry D. Shargel and included Hon. Louis C. Bechtle, United States Attorney, Eastern District of Pennsylvania; Edward J. Blake, Court Administrator, Philadelphia; Eugene C. DiCerbo, Chief U.S. Probation Officer, Eastern District of Pennsylvania; Frederick H. Downs, Jr., Chief, Probation Officer, Philadelphia and Harold G. Miller, District Supervisor, Pennsylvania Board of Probation and Parole, Philadelphia.

Remarks of Vincent J. Ziccardi, Esq., Chief Defender, Defender Association of Philadelphia at Conference on Means of Expediting Criminal Justice

As you are all undoubtedly aware, proposals have been made in various parts of the country to remove certain cases from the criminal justice system and treat them in either a medical setting or social service setting. Philadelphia has not been behind in this movement. As early as 1967 Judge Weinrott of our Court of Common Pleas decided that the statute making "habitual intoxication" a crime was unconstitutional and directed that people afflicted with this ailment be given treatment instead of punishment. In his opinion he stated:

"It follows that the common manifestations of the compulsive habit, the staggering on the street, the rolling in the gutter, cannot convert the status of addiction into a crime any more than the violent sneeze, obnoxious (or even infectious) as it may be to another person within range, render the common cold a crime."

In addition, there is currently talk about legalizing certain activities such as off-track betting and consentual sex which are now classified vice offenses.

I am not going to delve deeply into these proposals. Rather, I am going to discuss the elimination from the criminal justice system of cases which should be screened from the system and are not.

Every element of the system, the police, the District Attorney, the defender, the courts, the prisons and the probation department attempt to enhance their image and importance to the system. The police do this by making more arrests, the District Attorney by securing more convictions, and the defender by obtaining more acquittals. Unfortunately, when the enhancement of image becomes the major objective manipulation of the system follows and the process suffers. In addition, public confidence and support for the system wanes.

Police statistics show that Philadelphia police clear more cases by arrest than any other large city.

Court statistics show that 2 out of every 3 people arrested in Philadelphia are not convicted of any crime.

These two statistics placed side by side I believe indicate that the courts are doing a major part of the screening of cases which should probably be done prior to arrest.

Examples of some recent cases which were dismissed at preliminary arraignment and which should not have been arrested follows:

John Miller was arrested on September 23, 1971. The complaint in his case read as follows:

"[Mr. Miller] has been frequenting the area of Delaware and Bigler Sts. An area notorious for vice activity, gambling, etc. The defendant is unemployed, he had on his person at the time of the arrest $185 in small bills and $9.00 in small change. He has a history of 9 arrests for illegal lottery and 9 arrests for common gambler."

This complaint of course does not establish that Mr. Miller committed any crime. . . . Incidentally, Mr. Miller is 69 years of age and is on a social security pension.

Fortunately for Mr. Miller his case was dismissed by Judge Mongelluzzo at the preliminary arraignment held on September 23, 1971.

Another case involves a seventy-four year old man, Frank Farmery, who was on his way to the race track on September 22, 1971, when he was arrested. This was Mr. Farmery's first arrest after 73 years of staying out of trouble.

The complaint in Mr. Farmery's case which was dismissed at the preliminary arraignment read:

"Violation of 607 P.P.C.—above defendant was seen by the above officer talking to unknown white males at the corner of Frankford and Comly and would mark something on a Morning Telegraph. Upon further investigation this paper did contain 4 horse bets. Defendant placed under arrest."

The horse bets alleged in the complaint were in fact markings on the Telegraph which a person might make in handicapping the horses or reminding himself to bet on a horse.

You might wonder how many cases there are similar to these. Statistically, and this is my count now, one out of six cases are dismissed at preliminary arraignment. This means that for one sixth of the people arrested there is not even the color of a valid charge which can be placed against them.

A large number of other cases which should also be dismissed get through the preliminary hearing and unnecessarily clog the courts. Why then are these people arrested? Are complimentary statistics behind it? Does police overtime have anything to do with it? Policemen frequently are paid time and one half (7.50/hr.) for court appearances. Does this lead to arrests for the sake of court appearances? Whose responsibility should it be to determine the adequacy of the charges before an arrest is made? Historically, in Philadelphia the responsibility for determining if criminal charges should be lodged has been assumed by the police although the A.B.A. Standards for Criminal Justice suggest that it is the DA's function. The police are not properly carrying out this responsibility. In response to this failure the District Attorney has started a pilot project (in I believe one stationhouse) where assistant district attorneys review the case before the defendant is booked to determine whether he should be booked. The results obtained by the project thus far are good. However, to have an effect on the criminal justice system the project must be extended to cover every police station and review every arrest. Only then will many of the unnecessary or unfounded arrests be eliminated.

The District Attorney has also established a pre-indictment probation program which assists in culling from the backlog cases which got by a preliminary hearing and which would result at trial in an acquittal or in probation being granted. This program in which the defendant is placed on probation prior to trial if he agrees and is not prosecuted if he succeeds on probation is limited only to cases which have not gone to indictment. Cases in which an indictment is returned are not eligible for this program and must go to trial. I know of no reason to cause a distinction between cases indicted and not indicted. If indicted cases were included many more cases could be disposed of by this method.

* * * * *

The cases that follow indicate not only this sparing use of the *nolle prosse* and its detrimental affect in unnecessary use of court time but also may indicate why Philadelphia has the lowest guilty plea rate of all of the major cities in the country (our guilty plea rate is about 24%).

Mr. Elliott has been convicted in 1950 of two robberies and a homicide. Apparently he was tried and convicted on the robberies first and given a sentence and then tried and convicted on the homicide and was sentenced to life. Last year his conviction and sentence on the robberies was set aside on collateral attack and a new trial was ordered. The case recently came up for trial. Because the defendant was serving a life sentence we believed the District Attorney might consider a *nolle prosse,* as retrying the case and imposing a sentence would serve no one's interest. How much more than life can you sentence someone to? Much to our dismay the assistant trying the case advised us that although he had difficulty locating necessary witnesses he was not empowered by his office to *nolle prosse* the case but would for a guilty plea recommend probation. After discussing this negotiation with our client we were ready to proceed with the plea, to get the matter over with as quickly as possible. Unfortunately the assistant district attorney checked with his superior who instructed him to recommend a prison sentence on a guilty plea consecutive to the life sentence and not probation. With the case in this posture it became impossible for our client to plead.

The cases will now be listed for trial and a week or two of court time will be needlessly used to try these meaningless cases.

Mr. Scott was arrested in 1963 during the course of a robbery. In addition to this offense he was charged with two other robberies which had occurred around the same time. It was not until 1970 that his cases came to trial. The first case tried was the strongest case the Commonwealth had, the robbery in which he was apprehended. Needless to say the jury found him guilty. At this point we suggested to the Assistant District Attorney that he consider a *nolle prosse* in the two remaining cases as the only evidence in each of these cases was a weak seven year old identification, and that the defendant was not going to receive a sentence greater than the twenty year sentence permitted on the one conviction which they already had.

The District Attorney refused a *nolle prosse* and the cases went to trial. After a two week trial before a jury the defendant was acquitted.

In addition, he was sentenced to a term of not less than 5 nor more than 15 years on the robbery on which he was convicted. It is most unlikely that he would have received a greater sentence if he was convicted on all three cases.

All that the District Attorney's refusal to *nolle prosse* accomplished was that two weeks of valuable court time were needlessly used.

In summary, I believe our system of criminal justice would function as it should and could if (1) all arrests by the police were screened by the District Attorney prior to the defendant being booked, (2) if the District Attorney expanded his pre-trial probation program to include cases in which an indictment has been returned and (3) the District Attorney made greater use of the *nolle prosse* and/or plea negotiation in appropriate cases.

I have a reoccuring dream or nightmare in which I am defending a client charged with a serious crime and there are no "junk" cases on the trial list to hide behind when the judge starts to try cases. In this dream I am forced to trial and all the witnesses for the Commonwealth are present. The court also is not interested in production so it can give all the time to deliberation it requires. Of course, my client is convicted and is sentenced to a substantial term.

How different it is after this dream to go into a real courtroom to defend someone and find everyone interested in disposing of the large list of cases; to have seven or eight "junk" cases on the list which will take court time to try and which will cause victims in the "serious" cases to sit all day and have to return again for trial on another day; to know that the victim in the robbery case which was not reached the last four times listed because easier cases were in the room, has been "'rehabilitated" and will never return to prosecute.

To return to reality after my dream is to enter the world through the looking glass.

REMARKS OF PHILADELPHIA POLICE COMMISSIONER JOSEPH F. O'NEILL AT CONFERENCE ON MEANS OF EXPEDITING CRIMINAL JUSTICE

From time to time proposals have been made to treat certain kinds of offenders in a manner other than the normal criminal justice fashion which is the cycle of arrest—indictment—trial—etc. The President's Commission on Law Enforcement and Administration, of Justice suggested in its report of 1967 alternatives to arrest including, for example, wider use of police discretion.

As the input agency to the criminal justice process, police certainly recognize that an increasing amount of arrests places additional burdens upon the entire criminal justice system. We also realize that the agencies of criminal justice must function with limited, and all too often, insufficient resources.

From a police view, there are definite advantages that might be realized if certain types of crimes were eliminated from the criminal justice process. There are also other factors which, more from practical considerations rather than strong philosophical objections, must be viewed as cautions when considering alternatives to arrest in the disposition of offenders.

The kinds of crimes which have been frequently mentioned that should be treated in a non-arrest category are often labeled as "victimless" crimes. These would include those types of crimes in which there is no other person who suffers directly because of the misconduct of the offender. This would include the habitual drunk, the drug addict, the compulsive gambler, etc. granted there is often no other victim suffering from the direct behavior of this type of social misfit, but we cannot ignore the damage done to the offender himself or his family.

It is interesting to note that the combined total of arrests for drunkenness, narcotics, and gambling during 1970 in Philadelphia was almost 53,000 cases. This represented 52% of the total arrests made in our city last year.

From the police view, there are various ways in which certain offenses could be eliminated from the criminal justice process. One way of reducing the criminal justice work load would involve greater use of police discretion involving the decision-making of when to arrest or not arrest the criminal offender.

In the area of juvenile delinquency, we have exercised our discretion on arresting offenders for a number of years it is now an effective policy in handling juvenile offenders.

About 40% of the juveniles we apprehend for various offenses are released with referrals made to appropriate social welfare agencies. We have long-standing policies and guidelines on the kinds of things to consider when making our decisions about arrest or non-arrest dispositions of juvenile offenders. These would include seriousness of the crime, prior history of offender, the stability of the family, available referral programs, to mention the most important factors.

The feasibility of applying this procedure to adult arrests would by its nature require adequate referral services where the offender could be sent to a proper treatment program geared to helping the persons involved.

In another fashion, the volume of arrest cases can be directed toward those crimes which require the most attention. Given a limited amount of resources, we must select the most important programs to concentrate our efforts. In our assignment of resources to program areas, we select those categories which we think must be given priority.

For example, in the 10 year period between 1961 and 1970 arrests increased only 3% from 99,000 in 1961 to 102,000 last year.

However, there were dramatic shifts in the kinds of arrests made in Philadelphia during the past decade. For example, arrests for major crimes (index offenses) jumped 79% while minor crimes (part II offenses) declined 7%. However, within the category of minor crimes, there were substantial increases in selected areas such as narcotic violations (up almost tenfold), weapons offenses (up 2½ times), drunken driving (which tripled). Substantial decreases were reported in the categories of sex offenses, gambling violations (there was a shift from enforcing general gambling laws to concentrating on the persons involved in the profit-making operational end). Disorderly conduct was another area in which arrests have declined substantially (last year down to ⅓ the 1961 level).

From the police view, there are several advantages if certain crimes were eliminated from the criminal justice process. The basic gain would be the saving in manpower which could be reallocated directly to programs aimed at reducing the high level of serious crime.

I am also sure that alternative programs, if properly structured and funded, would provide more effective long-range solutions to the underlined problems of alcoholism, addiction, gambling, etc.

We all know, for example, that placing a *drunk* into a tank overnight and then releasing him the following morning does nothing to help his basic drinking problem.

We also know that processing an *addict* for use of narcotics within the criminal justice system does not effectively alleviate his physical addiction let alone treat the underlying motivations which led him to turn to narcotics.

From our view, it is in the best interests of everyone concerned to treat these difficult problems outside the criminal justice spectrum rather than having to deal over and over again with the same people who do not receive any real help in their basic needs.

Another direct gain would be in the savings of manpower and monies now required for court appearances which result from the arrests we make. Our general patrol efforts suffer because numbers of policemen are in courtrooms away from patrol.

On the average, 300 policemen are subpoenaed to court every day. Needless to say when these men are scheduled to patrol when they must attend court, we have a serious drain on our available manpower.

In addition, when the policemen are not scheduled to work during the times they appear in court, we must pay overtime at premium rates (time and one-half pay).

Our overtime costs at current levels for court attendance amount to almost 2 million dollars per year.

If alternative programs could be developed, I am sure the savings in manpower and overtime funds would be substantial.

From a practical point, there are some serious problems that must be overcome if we ever hope to implement alternatives to arrest on any large scale. First, the programs to treat alcoholics, addicts, and other such types are certainly costly and must compete with existing governmental services for available monies.

Problem areas—alcoholism, narcotics addiction, mental problems, etc.—have never been accorded a high priority in our social programs.

We must also guard against the fragmentation of the various social agencies which would provide the needed services and follow-ups for the persons who might be included in these programs. Effective approaches to alternatives to arrest can only be realized if the referral agencies are properly coordinated.

Any program to provide alternatives must also be flexible. We should be very cautious about making programs all-inclusive at the beginning. Each case must be investigated and evaluated before a decision should be made that the case will be better handled as a referral rather than an arrest.

In ths way, we would be able to balance the needs of the offender and protection of the community when the exceptional case arises where repeated attempts to help the offender in the past prove useless and he continues to endanger other people.

Unless our programs are well thought in advance, any efforts to provide alternatives will be a quick exercise in futility.

I am sure that Arlen Specter can describe his experiences in which the police department worked with his office and tried to implement a detoxification program for alcoholics in the center city area in Philadelphia. The basic purpose of the program was to attempt to provide hospital treatment for hardcore alcoholics rather than the typical arrest disposition.

After the first day, the program failed because the hospitals were unable to provide the necessary space for the alcoholics under arrest. The fact that the down-and-out alcoholics do not have money certainly did not make them welcome admissions in any hospital.

In summary, however, I do feel that the advantages of alternative programs are certainly worth exploring.

From a police view, we would also like to see the laws changed to reflect the desires of the people rather than having to implement discretionary programs on our own.

I do feel that if we were able to streamline our criminal justice operation and concentrate on the serious offenders we would be in a much better position to deal with the hardcore repeaters who I feel pose a great challenge to our present system of criminal justice.

ADDRESS BY HON. D. DONALD JAMIESON, PRESIDENT JUDGE, PHILADELPHIA COURT OF COMMON PLEAS TO THE CONFERENCE ON MEANS OF EXPEDITING CRIMINAL JUSTICE

Good afternoon. It is an honor and a pleasure for me to speak to this distinguished group, most of whom participate in the criminal justice system at one vital stage or another. I am pleased, also, to have the opportunity to speak with you about the means of expediting criminal justice, one of the weightiest problems facing this nation today.

I regret I was unable to attend the panel discussions this morning and consequently have lost the benefit of what I am sure was an incisive discussion of this problem. I trust that if my remarks either repeat or omit matters which you have already touched, you will bear with me.

It is my hope to discuss in concise fashion the problem and possible solutions from my particular vantage point, that is, as one who deals on a daily basis with the judicial administration of the nation's fourth largest state trial court.

My observations on expediting the criminal process are, of course, predicated on certain assumptions. The first is that society will continue to insist that those who do not conform to the established rules and norms of conduct must be censured that they must be controlled to avoid recurrence of non-conformance and while thus controlled must be subjected to reasonable efforts toward rehabilitation.

Second, I assume that the adversary system will continue to be accepted as the best method for the determination of guilt or innocence.

Finally, I assume that we will for sometime to come be unable to overcome the myriad underlying causes of criminal conduct. The causes are neither secret nor elusive—they include inadequate education, employment, housing and recreational opportunities, and above all, a general lack of morality which is both cause and effect of the breakdown in the religiously disciplined community of close family living.

It is in this context, structured as it is by these separate elements, that the criminal justice system must operate. An examination of the processes of the system, from arrest, through trial and sentence to incarceration or probation, seem to indicate clearly that we must initially re-examine the criteria which we impose for inclusion or exclusion of a "case" in the traditional process. Such an examination must begin at the arrest stage. It is clear to me that the police, and here I do not speak derogatorily, but merely in recognition of one of our problems, are responsible for many arrests which must be characterized as "bad." The arresting officers either make errors in judgment based on insufficient information or a lack of understanding of the applicable law. If these arrests become "cases" and are allowed to enter the criminal justice system, the result is wasted manpower and effort at every stage.

The police must understand that they are not the adjudicators. It is not for them to determine guilt or innocence and for the judicial system to simply rubber stamp their determination. Rather, it is their function to apprehend persons they feel they have prima facie cause to believe have committed a crime. It is further their function, however, to secure all pertinent evidence sufficient to allow a sensible, factual determination of whether a defendant is guilty beyond a reasonable doubt or is to be acquitted. In this regard, the Philadelphia District Attorney's pilot program, placing assistant district attorneys in police stations to aid in the preparation of search and arrest warrants and in the decisionmaking process surrounding arrests, should prove to be of untold benefit in bringing the needed expertise and education to the police on the beat—the point at which it is most needed. We have an excellent Police Commissioner in Joseph F. O'Neill, and he is to be congratulated for his continuing efforts to upgrade both arrests and investigations.

The second area which I believe we must turn our attention to in examining the possible elimination of case work from the traditional justice system involves the so-called "victimless" crimes. In such categories I would include narcotics use, gambling and prostitution. In my judgment, it is more appropriate for us to divert this type of case from the system and subject it to rational, appropriate treatment in an effort to both rehabilitate and control. Obviously, there is no easy answer as to how this should be done and the structure for each must be carefully thought out if we are to avoid making a bad situation worse. It does not answer the problem, in my opinion, to either ignore or legalize—but there must be a happy medium of control which we, as an innovative nation can surely plan and carry out. An example of enlightened thinking is found in the pre-indictment probation program initiated by Superior Court Judge J. Sydney Hoffman. As many of you undoubtedly know, under this program first offenders accused of non-violent crimes are deferred at pre-indictment conferences and can secure dismissal of the charges against them after a period of untarnished conduct on probation.

As helpful as this program and the District Attorney's screening procedure have proven and as helpful as further steps in these areas might prove, however, it is simply impossible to gainsay the very obvious and overriding fact that the adversary system, as such, is inherently inefficient and, at best, conducive to delay. Unfortunately, delay in this regard is a beneficial factor from the point of view of the defense which frequently works against the accomplishment of a just result. This sad fact of life is complicated by the judge-shopping which seems to be another inherent evil in the adversary system in metropolitan areas. Further complication arises from the fact that the criminal defense bar, even in major cities such as Philadelphia, is often quite limited so that a relatively small number of lawyers handle a very high percentage of the private criminal defense litigation.

Still further complication arises from the poor manpower position which many public defender offices find themselves in. In Philadelphia, for example, between seventy and eighty percent of the criminal defense work is handled by the Voluntary Defender and, yet, the Defender's staff probably numbers fewer attorneys than even the private defense bar. It is worthy of note also that the prosecutor's staff, even in a city as large as Philadelphia, numbers far fewer attorneys than is desirable.

The problems of manpower, however, are not limited to either the prosecutor or the defense bar, private or public. To function with even a modicum of success, the adversary system must enjoy sufficient judicial manpower and efficient facilities in which to function. If the manpower problems of the litigants are compounded by insufficient judicial staff, possibilities for delay become so numerous as to become overwhelming. If the facilities which house the criminal justice system are inefficient in design or too far separated, additional factors promoting delay further confuse an already befuddled process.

What then, are the solutions to the problems with which the present criminal justice system presents us?

In many instances the answers are pitifully obvious. Increased operating resources, including appropriate facilities and adequate manpower at every level are a first priority. Inefficiencies must be overcome where possible and short of constitutional amendment the entire process must be tightened and buttressed against delay.

In this process, however, we must maintain careful balance. Thus, we cannot allow ourselves the luxury of launching a frontal attack on delay at the expense of ignoring our paramount responsibility, to wit, the pursuit of justice.

Expedite we must. Reform we must. Become more efficient we must. But lose sight of our reason for being—the administration of justice—that we must not.

Speed is only one aspect—one facet of justice. To be sure, delay and congestion are sufficiently vexing that we must turn our attention to them and attempt to eliminate them.

We must never allow ourselves, however, to lose sight of the overview. We have accomplished nothing if our courtrooms become speedy assembly lines devoid of human values, lacking in the total attention that must be paid to every case, to every individual litigant.

I am certain, however, that we can successfully avoid such pitfalls while at the same time successfully reforming the total criminal justics system.

Plea bargaining, where appropriate, and in moderation, serves as an excellent catalyst for more prompt disposition of certain kinds of criminal litigation. Indeed, the Philadelphia District Attorney must be commended for his strict use of this tool.

Other approaches to the problem can be found in programs such as Release-On-Own-Recognizance bail which deals with the vagaries of extended pretrial incarceration, thus freeing funds to be used elsewhere in the system and preserving intact those elusive human values which deteriorate so rapidly during incarceration.

In addition, voir dire must be strictly controlled, the number of peremptory challenges must be reduced—even eliminated—and the immediate disposition of post-trial motions must be allowed in the discretion of the trial judge.

Beyond this, we cannot overlook the very obvious management tool available in the sophisticated automated data processing systems which are now available. The on-line retrieval of information through computer terminals, conflict-free scheduling of both criminal and civil cases, and the automation of problem areas such as Domestic Relations payments (even though the latter is far removed from the criminal justice system) all serve to illustrate the advances which can be made in this area. The need for such techniques is especially acute in our large metropolitan areas and I am proud to be able to say that Philadelphia is the acknowledged leader nationally in this area.

We must of course, too, maximize the actual working hours of our courtrooms. In this regard, we must insure the strict enforcement of the traditional requirement that all parties be present. We must move with dramatic force in dealing with the problem of repeated continuance. It is very probable that we must begin court earlier and close court later than ever before.

Our juries must be smaller. In many cases, we shall probably want to entertain less-than-unanimous verdicts. Constant re-evaluation of the ratio of courtroom assignment time to chambers time must be part of our regimen.

In Philadelphia, I am happy to say, we have considered each of these alternatives and have either sought legislative action or moved ourselves with respect to every alternative which we feel presents any hope for increased efficiency of operation.

Beyond these areas which I have specifically alluded to, we have moved on the civil side, particularly through increased compulsory arbitration, realizing that successful efforts there will free judicial manpower which may then be assigned to the criminal backlog which plagues us. With specific reference to our own experience at the trial court level perhaps the most encouraging reform has been the expansion of the criminal jurisdiction of our Municipal Court to include cases with up to five-year penalties. This change, which was accomplished through our efforts in the legislature and signed into law on July 9, will effectively subject seventy percent of the criminal cases in the Philadelphia criminal justice system to a non-jury trial in the Municipal Court within six weeks of arrest.

There is, of course, a right of trial de novo on appeal to Common Pleas Court. It is important to note that through the first two years of Municipal Court criminal jurisdiction with two-year maximums and in our early experience with increased jurisdiction, the appeal rate has remained both constant and quite manageable.

If the appeal rate can be maintained at its present level and if the sentencing by our judges is appropriate to the level of criminal activity involved, query whether it would not be in the interest of justice to recognize a non-jury trial for all except homicide cases.

While I am not *sure* that it is appropriate—although it may well be—to consider changes affecting the traditional right to a jury trial, I feel it is imperative that we closely scrutinize the excellent screening of cases which a device such as the Municipal Court affords us. It is important to keep in mind that the jury system is an integral part of this inherently inefficient adversary system of justice which we have chosen—the system which is admittedly inadequate but better than all others. Other reform measures in this area are also called for. For example, in the remaining thirty percent of our cases which go to Common Pleas trial, we would like to bypass—eliminate—the indicting grand jury process which we believe serves only as a rubber stamp for the decisions of the District Attorney's office.

These problems and possible solutions which I have attempted to enumerate are all directed at improving the adversary process.

Perhaps we must consider substitutes for that process itself, although, as I have already indicated, it is reasonable to assume that it will be with us for many years to come. Perhaps the independent arbiter need not be a judge. Perhaps he can be a commissioner, a magistrate—the title is not important.

If we are not willing to make major changes in the process itself, perhaps then we must be more honest with ourselves and more sophisticated in the judgments which we make concerning our own efforts.

Isn't it foolish that much of our record-keeping still refers to "dispositions" so that the three-week homicide cases and the numbers charges dismissed at the preliminary arraignment somehow achieve equal weight in our tables and charts and annual reports.

Many court management experts contend that what you count is what you are. How do we "count" justice? I suggest that justice is not just more dispositions. It is, I suggest, merely fair treatment in reaching a fair and proper conclusion. The procedures and suggestions I have mentioned only scratch the surface in working toward a better adversary system. I sincerely hope that each of us takes from this meeting some idea or ideas which can be utilized in the justice process. We must do better. I am sure we will.

Thank you.

REMARKS BY HON. ROBERT T. MURPHY, MEMBER OF CIVIL AERONAUTICS BOARD, BEFORE INTERNATIONAL AVIATION CLUB

HON. JOHN O. PASTORE

OF RHODE ISLAND

IN THE SENATE OF THE UNITED STATES

Tuesday, March 28, 1972

Mr. PASTORE. Mr. President, on March 21, the Honorable Robert T. Murphy, member of the Civil Aeronautics Board, delivered a most significant address to the International Aviation Club, in which he touched upon four timely and important issues confronting the field of international aviation. In his comments he commended the Department of State for its excellent cooperation with the CAB in bilateral route negotiations; he called for an expansion of international tourism to the United States to eliminate the current travel imbalance and most significantly, he announced a new determination on the part of the Board to deal with the serious problems confronting the public, the air transportation industry and travel agents as a result of violation of charter regulations.

As a member of the Committee on Commerce, I am deeply committed to the expansion of the travel market to assure that all of our citizens have an opportunity to enjoy low cost, safe and efficient transportation. However, I am equally concerned with the need for air carrier and charter promoters to comply with CAB regulations. It is only through such effective compliance that the public can be protected and that charter strandings, such as those experienced last summer, can be avoided.

I commend the CAB, in particular Richard J. O'Melia, its Director of the Bureau of Enforcement, for its determination to assure effective compliance with rules and regulations designed to protect the public.

I ask unanimous consent that Mr. Murphy's speech be printed in the Extensions of Remarks.

There being no objection, the remarks were ordered to be printed in the Extensions of Remarks, as follows:

REMARKS BY THE HONORABLE ROBERT T. MURPHY, MEMBER, CIVIL AERONAUTICS BOARD

I am deeply honored to have the opportunity to address this prestigious organization of international aviation experts. When the distinguished former Chairman of the Civil Aeronautics Board—my former colleague, Charles Murphy—extended your gracious invitation I promptly accepted but with the full appreciation that I follow in the wake of many gifted speakers who have graced your rostrum in the recent past.

I can recall the early days of this association when, in company with Joe Watson, (my tutor in matters of international aviation) I attended a number of meetings which were conducted in surroundings far less pretentious and classical than those in which we convene today. The steady advancement of the Club is undoubtedly due in large measure to the assiduous efforts of those early sponsors and founders as well as to the universal interest in the important subject matter to which it is oriented.

At the outset, let me say that I accepted your invitation, as I told Charlie Murphy, not without a great deal of trepidation. Frankly, I find it difficult to discuss in any detail some of the most significant international aviation matters which may be of the greatest current interest to you because, as a Member of the Civil Aeronautics Board, I must be constantly mindful of the restraint and impartiality which must be exercised with regard to matters which are pending before us for decision or advice. Somewhat like a pressure cooker I would like to let off some steam but can't. Some such pending matters include the proposed rulemaking on Travel Group Charters (or advance booking charters, as the British call it). Few issues demand the searching and intensive consideration of the Board to compare with this one. You can be assured that we are acutely aware of the magnitude of this proposal and its importance to the future course of the international air transport industry. Neither can I speak to you of the pending IATA fares which are so important and so imminent. Additionally, while I have been engaged in a series of interesting and diverse negotiations with some six European countries during the past six months here in Washington, discretion dictates that any reference to them be of a most general nature.

Putting aside these matters which I feel I am foreclosed from discussing, let me share with you several overall thoughts and personal reflections on a few aspects of international air transport developments as seen from one man's point of view.

First, I would like to comment on a remarkable example of effective and efficient teamwork which has redounded to the benefit of international aviation. It is a subject matter which is rarely mentioned. As I see it, it deserves special noting and underscoring. I refer to the valuable and harmonious relationship between the Department of State and the Civil Aeronautics Board in the field of international aviation which has persisted over the years. This is a partnership for cooperative Government administration which is not surpassed, to my knowledge, in the whole Federal Government complex.

The Board's role in negotiations with foreign governments in matters of aviation, as you probably know, is to serve as a consultant and adviser to the Department of State, principally on the economic aspects of the questions involved. We are responsible for the soundness of that advice and for the recommendations as to what we believe to be just or reasonable in matters of routes and charges. Our Bureau of International Affairs is constantly reviewing, analyzing and probing the whole spectrum of global aviation problems on a continuing basis. Frequently, their work is directed toward anticipating incipient problems and recommending courses of action designed to avoid them.

This modest-sized Bureau enjoys an enviable reputation in aviation circles everywhere. The Department of State, as a result of delegation from the President, is charged with the management of international aviation problems and, specifically, the negotiation of agreements on his behalf. For, as we all know, it is the President alone who is charged with responsibility for the conduct of our foreign affairs and, specifically, under section 801 of the Act, for ultimate decisions relating to international air rights. As the Supreme Court once cogently stated:

"In this vast external realm with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation . . . he alone negotiates." *U.S. v. Curtiss-Wright Corp.*, 299 U.S. 304, 319 (1936).

So, there is a sharing of responsibility and a sharing of the work burden which is contemplated by the Federal Aviation Act of 1958. Through the coordinated efforts of both our agencies it has been possible to field negotiating teams competently prepared and equipped to meet the constant challenges of literally a worldwide series of complicated economic and political problems—problems which not only vary from area to area, but country to country. The smooth functioning of this historic relationship is a tribute to the personnel of the Aviation Division of the Department of State and to the staff of our own Bureau of International Affairs.

Let me talk for a moment about something new. As you know, the Board has tried for many years to obtain improved authority over rates in foreign air transportation. Hopefully, our long wait is about to end. If the President signs the bill sent to him by Congress, the Board will be given the power to suspend and investigate rates, fares or charges in foreign air transportation and, after hearing, to cancel those we find to be unreasonable, unjustly discriminatory or preferential. Board orders under the new power would be subject to Presidential disapproval. The lack of such authority by the Board in the past unduly impeded the ability of the United States Government to regulate international air fares.

This new power will enable us, not only to protect the traveling public against unreasonably high rates, but also our United States flag carriers against destructive low rates. It is the same type of power which most, if not all, foreign governments have long possessed. I shall always remember the furious storm that ensued following our justifiable disapproval of the IATA North Atlantic Rate Agreement in 1963—the so-called Chandler Agreement. In my view, that unpleasantness might never have occurred if all other governments knew in advance that we had the power to suspend and investigate international rates.

I believe the Board will utilize this new authority with cautious restraint and discretion and only in instances where its application seems clearly justified in the public interest. I would like to believe that the mere possession of the power may be equally as important as its exercise. I am sure that all carriers and their respective governments will be more likely to take into account the position of the United States Government in matters of rates and charges so that the suspension power granted to us may need to be invoked only in rare instances.

Turning to bilateral route relations for a moment, I believe it is fair to say that, taken as a whole, our foreign flag competitors have been treated equitably and fairly in terms of reasonable access to the U.S. market in return for route grants accorded to us. In this connection one may note that it is U.S. citizen traffic which constitutes the largest portion of the grist on which the wheels of international air transportation grind in the major air markets of the world. For example, on the North Atlantic we generate about two-thirds of the total market. Some measure of fairness is self-evident if one examines North Atlantic traffic on a market-by-market basis. There you will find that the U.S. flag carriers, in terms of revenue results, lag far behind the foreign flag competitor in a number of them. It is clear, therefore, that we cannot approach an exchange of route rights with other countries on the assumption that our market is so vast that we can absorb any and all additional competition.

When one considers what has taken place over the years in foreign water-borne commerce to the United States maritime industry where our flag has been almost swept from the seas by a tide of foreign flag competition, one is better able to understand the concern which we must constantly exercise in the maintenance of an economically viable U.S. air transportation system. History has a way of repeating itself and what has happened on the seas can happen in the skies unless we are constantly vigilant and ever prepared to protect the legitimate interests of U.S. trade and commerce.

Here, as a footnote reference only, let me say that my recent experience in reviewing the functioning of scheduled air services to and from several representative socialist republics leads me to believe that we need to overhaul the mechanism of commercial communication with such countries. I am divulging no confidences, I am sure, when I tell you that these operations, while socially, culturally and politically advantageous, have not been economically profitable for the U.S. carrier. Much of this is due to the difficulties in trying to meld or to reconcile the commercial liberalism of our free enterprise system with the commercial restrictionism required by the laws of the socialist regimes. Just how we will be able to solve this riddle I am unable to say at this point. I do know that some very fine minds are pondering that subject right now.

In my judgment, also, there is a great need to make the tourism market more of a reciprocal exchange. As I noted earlier, more than two-thirds of the passengers on the giant North Atlantic market consists of American citizens. The situation is little different elsewhere. I have spoken on this subject before and feel rather strongly about it. We have made many attempts to induce foreign travelers to come to our shores. The efforts of the United States Travel Service to promote vacation travel to the United States have reached a new high under the very vigorous and imaginative leadership of Langhorne Washburn, Assistant Secretary of Commerce for Tourism.

Our local service carriers, also, have done their best with the extraordinary "Visit USA" fares which they are once again renewing. Under these fares a foreign visitor for $150 can travel all over the U.S. without limit for 21 full days. This is some answer to the problem of long distances within the United States often raised as an objection to foreign travel within our country. Yet the volume of foreign visitors remains relatively modest.

Just to cite an example: Recently, Lang Washburn, in speaking to the International Tourism Exchange at Berlin, labeled the relationship of travel between the United States and Germany "lopsided" noting that while 1.7 million Americans visited Germany last year only 175,000 Germans came to the United States; and that this year, because of the Summer Olympics, American tourism to Germany would probably reach an all-time high of two million visitors. It seems to me that the recent readjustment in the rate of exchange between our dollar and many foreign currencies provides a better opportunity to encourage a greater flow of foreign tourists, particularly European tourists, to the United States. In short, let's try to make the North Atlantic more than a two-way street this year.

A final point of reflection today relates to a phase of ethics in the sale of air transportation. It is well known that the major part of the time and efforts of the CAB Bureau of Enforcement is devoted to affinity charter enforcement problems. The transatlantic area involves the largest volume of such charter operations. It is interesting to note that virtually all foreign countries require prior approval of all charters by U.S. scheduled and supplemental carriers. Our regulations, in contrast, do not require the advance approval of individual flights, except for off-route charters of foreign scheduled carriers.

However, we have conditioned the permits issued to foreign charter carriers to provide that the Board, without hearing, may require advance approval of individual charter trips conducted by the holder of the permit if the Board finds such action to be required in the public interest. This is a special reserved power.

A few months ago I was invited to go to London for some informal discussion on this vexing subject of enforcement of charter regulations. Mr. Richard J. O'Melia, Director of our Bureau of Enforcement, and the Chief of our Investigation Division, Joseph W. Stout, accompanied me. We spent several days in a useful exchange of views and a comparison of regimes which, I believe, will prove to be mutually beneficial. Also, in the last few weeks we have had a visit from an enforcement official of the Dutch Government. We anticipate similar informal discussions with enforcement authorities of other European countries.

Unfortunately, it appears that despite unrelenting enforcement efforts there continues to be a great deal of illegal charter operations. We have issued many cease and desist orders and have imposed a large number of fines but, apparently, the open flouting of applicable regulations is being carried out in the back alleys of the travel world by unscrupulous and unprincipled promoters.

I want to make it clear that these remarks are not intended to criticize the present conduct of the U.S. supplemental carriers. As a result of compliance difficulties experienced in past years they have established a self-policing program in an effort to cope with the problem of uncharterworthy groups. It would appear that they are making a strenuous effort to comply with existing charter regulations. Certainly, far fewer of the recent complaints received by our Bureau of Enforcement have involved the U.S. supplemental airlines.

I regret to say that such is not the case with some of the foreign flag supplementals. The Board has substantial reason to believe that some of them may be regularly engaging in foreign air transportation in a manner not in conformity with applicable regulations. Perhaps this may be due to their own inability to screen out deliberate violators. In our judgment, the circumstances are such that the public interest in protecting the integrity of the Board's regulations and in assuring that the carriers' future operations comply with the permits which the Board has granted them, constrains us to invoke the condition of their permits which will require the filing for advance approval of all charter flights.

Perhaps in this manner we can assist these carriers in solving the problem of compliance with certificate requirements. This is not only in the public interest, but in the carriers' interest as well. Therefore, I am authorized to announce that the Board today will issue an order requiring Donaldson International Airways and Laker Airways, Ltd. to file a request for advance approval of each passenger charter flight (except inclusive tour charters) at least 25 days in advance of that flight. The order precludes the operation of their aircraft in such charter flights on and after May 1, 1972, unless advance approval is granted.

The full considerations upon which we have decided to take this action are set forth in the order. Whether the carriers have knowingly violated the terms of their permits and what penalties are appropriate, if they have, are questions which the Board reserves for other proceedings and are not passed upon at this time. We shall be prepared to take like action with respect to similarly situated air carriers if we receive information concerning their operations comparable to that which we now possess concerning Laker and Donaldson. As our Chairman, Secor D. Browne, in his recent address to the Royal Aeronautical Society in London, stated:

". . . the Board has given itself the potential to require individual flight approval by foreign charter carriers. The Board will not shrink from exercising that authority under appropriate circumstances, including abuse of the privileges granted by the Board."

Another matter in the charter field which has been of serious concern to the Board and to the Congress is the illegal practice whereby passenger consolidators collect round-trip charter fares from participants but pay the carriers only for one-way flights. This problem was headlined last summer when almost 2000 students were stranded in London because of the lack of return accommodations. I am authorized, also, to tell you that to prevent a repetition of such a fraud, the Board today is issuing a notice of proposed rulemaking which will require that when carriers enter into one-way contracts for charter flights originating in the United States they must have confirmation from another carrier for return flights. This regulation should go far toward eliminating this fraudulent practice.

In conclusion, I would like to predict that this summer should be an improved one—particularly on the North Atlantic—for all carriers, scheduled and charter alike. It is significant, I believe, that even at the bottom of the unfortunate slump in domestic air traffic, the traffic on the North Atlantic held up very well. While the growth was not as large as in prior years, nevertheless, there was still a growth. The pent-up desire of the average American to visit across the seas continues unabated. To me, however, the most impressive thing is that the system of international air transportation, with all the complex problems attendant upon air commerce among so many *different* nations and peoples, works so effectively to serve that demand and to serve it reasonably well. It is up to us, both in Government and industry, to labor for its continued improvement in the public interest. Let that be our pledge for 1972 and the years beyond.

LITHUANIAN CATHOLIC PETITION TO COMMUNISTS

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. MURPHY of Illinois. Mr. Speaker, I noted with interest an article in today's Chicago Tribune which stated that a petition signed by 17,054 Lithuanian Catholics is being forwarded to Communist Party Chief Leonid Brezhnev, Mr. James Kuenger, chief of the Tribune's Moscow Bureau, reported that the signers were protesting religious intolerance, exile, and persecution in Lithuania. Kuenger quoted from the petition which contained examples of repression, torture and generally worsened conditions in Lithuania.

I commend the article in its totality to my colleagues. As a Congressman with a considerable number of Lithuanian Americans in my district, I find the situations described in the petition horrifying. Additionally, I protest the detainment of name collectors by the Communist authorities and object to the confiscation of lists of petition signers. The article is as follows:

LITHUANIAN CATHOLIC PETITION

MOSCOW, March 27.—More than 17,000 Lithuanian Catholics have signed a bitterly worded petition to Communist Party Leonid Brezhnev demanding an end to religious suppression.

The petition was signed by 17,054 individuals during last December and January. It is the most massive protest of its kind ever known to have emerged from Lithuania, where most of the U.S.S.R.'s estimated 3 million Catholics live.

SENT TO U.N.

The inch-thick document is a packet of 123 identically worded petitions. It was sent to United National Secretary General Kurt Waldheim, who was asked to forward it to Brezhnev.

The signers asserted that earlier petitions protesting official inhibition of their religious practices had gone unanswered, except in the form of "intensified repression."

Threats and arrests by Soviet Militia and Secret Police prevented the Lithuanians from gathering even more signatures and prompted them to seek U.N. help in getting their message to the Kremlin, they said.

"Freedom of conscience is still absent for the believers among our people, and the Church is still subjected to persecution," they told Brezhnev.

TELLS OF EXILES

The petition said that two Lithuanian bishops had been sent into unlimited exile without trials "altho they committed no crime." The two were identified as Julionas Steponavicius and Vincentas Sladkevicius.

Also noted were the one-year prison terms handed out last November to two priests, Juozas Zdebskis and P. Budnis, for preparing children for their first communion at the request of their parents.

Father Zdebskis' mother charged that he was beaten so badly in prison before his trial that he was unrecognizable.

The petition complained of a shortage of priests, saying that even invalid and elderly priests were forced to work. This was attributed to Communist control of the sole remaining seminary in Lithuania, at Kaunas, which no more than 10 students are allowed to enter each year.

TEACHER DENIED WORK

It said a teacher in the Vilkavisskis district, one O. Briliene, was fired for being a practicing Catholic and since has been refused any kind of work, even menial.

"The authorities do not allow believers, even at their own expense, to restore burnt-out churches, for example, in Batakiai Gaure and Sangruda parishes," the petition said.

"Believers must obtain from the authorities, with great difficulty, permission to conduct services anywhere in a home, but in no case is it permitted to set up even a clock-tower in a former churchyard. At the same time, a dance hall was allowed to be built in the parish of Andreivas where the church had stood."

The petitioners charged that religious persecution goes unpunished, in direct violation of Lithuania's Constitution. It also notes that the Soviet Constitution guarantees freedom of religion. [Russian authorities insist that such freedom exists.]

"By contrast, atheism is forcibly inculcated in Lithuania's Soviet schools," the petition said. "The faithful children of Catholics are made to speak, write, and act against their conscience."

[Sources reported about 10 children were called as witnesses at Father Zdebskis' trial. Several of them wept openly on the stand or remained silent under questioning.]

LIFE CALLED WORSE

The plea to Brezhnev also charged that the quality of life in Lithuania has worsened noticeably since the country was annexed by the U.S.S.R. in 1940.

"This present memorandum is the outgrowth of a national calamity: in the years of Soviet power in Lithuania, such vices as juvenile crime, alcoholism, and suicide have grown tenfold, and divorces and abortions have taken on threatening proportions as well," it said.

"The further we are removed from the Christian past, the clearer become the terrible consequences of forcible atheistic upbringing and the more widespread becomes an inhuman way of life deprived of God and Religion."

The signers said the petition was gathered despite a concerted campaign by the authorities to stop it. Several collectors were detained and lists of names were confiscated.

The petitioners said they will address themselves to the Pope in Rome or the U.N. rather than the Soviet government if the official attitude persists.

It is little short of amazing that the effort was as successful as it was and that the petition was forwarded to Moscow for inspection by Western newsmen before being sent out of the country. [It is expected to arrive in New York soon.]

ORIGINS OF AMERICAN DEMOCRACY—ARTICLE BY JAMES H. YOUNG

HON. WILLIAM B. SPONG, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 28, 1972

Mr. SPONG. Mr. President, the official magazine of the National Sheriffs' Association contains in its February–March issue an article written by James H. Young, president of the National Sheriffs' Association. Mr. Young is sheriff of the city of Richmond, Va., and is a fine citizen and patriot.

Sheriff Young discusses some of the origins of American democracy. I found his observations concerning the ancient Greek philosophers and patriots of particular interest.

I ask unanimous consent that the article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESIDENT YOUNG SAYS . . .

As the bi-centennial celebration of the American Revolution approaches, our thoughts turn to the past as we prepare for the future. And fitting this is, because, as is carved on the Archives Building of the United States in Washington, D.C., "What Is Past Is Prologue."

When we consider our nation's heritage of individual liberties and freedom, we would do well to think of the patriots who left us this priceless heritage and to consider the origin of the ideas and ideals embodied in our governmental structure. The very words, *e.g.*, Republic, democracy, citizen, politics, philosophy, etc., have their own origin in antiquity.

As we trace these words, these concepts, back to their source, we inevitably must find our steps taking us to the birthplace of logical thought, the city-states of Hellene. It was there that philosophy was born. It was there that man became concerned with causes and effects, with the abstract ideals of justice, with the practical concept of equitable government, with human dignity, with the relationship of man and God, with man and the state, etc.

Our Founding Fathers were devoted students of Hellenic thought and were thoroughly familiar with such philosophers and political scientists as Plato, Aristotle, and Protagoras. They read avidly the works of such historians as Thucydides and Herodotus. They knew the writings of Homer and Plutarch. They sought to emulate the oratory of Demosthenes and the statesmanship of Pericles. In short, the ideas and ideals upon which America was founded came largely from Hellenistic culture as did the words which describe them.

Interestingly, too, documents recently unearthed disclose that a contingent of warriors from Zante, Greece, sailed to the New World during the American Revolution to help Americans in our War of Independence. Among the noblemen aboard was one Major Michael Vourtzis who served in the Continental Army as an aide of General Lafayette.

A direct lineal descendant of Major Vourtzis, His Most Eminent Highness, Brigadier General Pericles Count Voultsos Vourtzis, now makes his home in New York, and is continuing the fight for individual freedom, an ordered and lawful government, and the brotherhood of man under the fatherhood of God. Dr. Voultsos is Prince Grand Master of the Sovereign Greek Order of St. Dennis of Zante, one of the most ancient, if not the most ancient chivalric group in world history.

As loyal Americans and as defenders of our government of laws, we, as professional law enforcement administrators and practitioners, cannot help but be interested in this order of Knighthood. Although at first glance it may appear anachronistic in Twentieth Century America, it most definitely is not. United States Presidents Hoover, Roosevelt, Truman, Eisenhower, Kennedy, and Nixon, as well as Vice-President Agnew, have been decorated with the Order and are included in the roster of famous Americans wearing this historic decoration, along with many Senators, Congressmen, Governors, Generals, and Admirals.

The origin of the Order holds great interest to anyone concerned with the progress of civilized thought. The beginnings of the Order are ascribed to adventurous Zakynthian knights who joined Jason and his Argonauts in 1207 B.C., under the leadership of Laertes, the first grand master, in his quest for the golden fleece.

According to Homer, their descendants aided Ulysses in the Trojan War, with men and twelve ships, Strabo, Titus Libius, Apollodorus, and Polyvius write of the founding of Saguntum in Spain by their warriors, after the destruction of Troy by Hannibal in 218 B.C. Herodotus speaks of the high esteem that the Knights of Zante enjoyed at the Court of Darius. Thucydides extols them for War as allies of Athens. Xenophon records their feats under Phalinus, then grand master of the knightly order.

The Order continued to fight for freedom and human dignity through the centuries. The Knights of Zante fought in the First Crusade under Favius Segur. This was but one example of the continuing warfare waged by the Knights of Zante throughout the centuries. There is virtually no battle which took place during the centuries in which the Knights of Zante did not take an important and decisive role.

After the fall of Rhodes, the Vourtzis family, a Patrician Byzantine family, which had often contested the throne of the Empire itself, settled in Zante in the Sixteenth Century. The Knights proclaimed as their only purpose the benevolent teaching of St. Dionysios (Dennis): love of fellowman, battling want, alleviating misery, and mitigating need. The order's ancient motto, "Faith—Courage," epitomizes its dedication to these principles.

Dr. Voultsos, present Prince Grand Master of the Order, although a descendant of one of the oldest and noblest families of Zante, is an American citizen and has devoted his life to those principles which we all hold dear.

As Americans, as lawmen, as seekers after truth and lovers of liberty, as fighters for justice, we must pay homage to Dr. Voultsos, the Sovereign Greek Order of Saint Dennis of Zante, and their many contributions to the welfare of our nation, our nation's existence, and to our profession as participants in American criminal justice.

Let each of us remember that our nation could not have been founded, could not have succeeded, if it were not for help from such dedicated humanitarians as Lafayette, Kosciuszko, and von Steuben. To that list of names should be added that of Vourtzis.

Democracy derives from the Greek words *demos*, the people, and *kratos*, authority. May all authority in America continue to come from the people! May this condition exist so long as one person believes in human dignity and in the United States of America!

IS THERE REVOLUTION IN RUSSIA?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DERWINSKI. Mr. Speaker, as the President starts preparations for his trip to Russia, there will be a great deal of review in the press over conditions he will find there, and related commentaries on domestic as well as international policies of the U.S.S.R.

A very fascinating, and certainly timely, column by Dumitru Danielopol, the distinguished international correspondent for the Copley Press, emphasizes domestic complications within the Soviet Union:

[From the San Diego Union, Mar. 10, 1972]

IS THERE REVOLUTION IN RUSSIA?

(By Dumitru Danielopol)

Is that the rumble of revolution we hear from inside the Soviet Union?

The growing nationalism of the non-Russian minorities and the spread of the human rights movement are being felt at the Kremlin.

Party Chairman Leonid Brezhnev is arresting Ukrainian and Baltic dissidents, says the London Economist, "because he is afraid they will form an active alliance with the human rights movement that is already worrying him."

A secret Central Committee resolution last Dec. 30 started a wave of arrest, searches and interrogations. The Ukraine has been a special target.

Tempers in that always smoldering region have been kindled by Moscow's increased emphasis on Russification. Protestors are publishing "The Ukrainian Herald," an underground newspaper or "samizdat" which hammers at the violation of freedom of speech and other democratic freedom guaranteed by the Soviet constitution, judicial and extrajudicial repression in the Ukraine, violations of national sovereignty and conditions of Ukrainian political prisoners.

Another samizdat called "The Chronicle of Current Events" has appeared in Russia proper since 1968 despite Soviet efforts to suppress it.

The human rights movement inside the USSR is becoming even more visible.

The chairman of the Committee of Human Rights is Prof. Andrei Sakharof, a renowned nuclear physicist who made his liberal views known when he published in June 1968, a booklet on "Thoughts on Progress, Peaceful-Co-Existence and Intellectual Freedom."

Since then he has been in the forefront of the protest movement against persecution of the Jews and other non-Russian minorities.

What apparently worries the Kremlin most is a possible alliance between the two dissident forces and links between various national ethnic groups.

What is even more dangerous for the Kremlin, in this observer's opinion, are signs that the Soviet people are beginning to find their voice after the gagging Stalinist era.

The sit-ins, protests and demonstrations by Russian Jews who will no longer be cowed, the open opposition of intellectuals, artists and students—despite the risk of harsh punishment—tells us something.

Khrushchev opened a Pandora's Box when he permitted some authors to speak their mind.

The book "Revolutionary Voices" published in Munich by the anti-Bolshevik bloc of nations is filled with 250 pages of protests by Ukrainians. Its foreword asks:

"How does it come that the murmurs from men and women languishing in prisons, concentration camps and wards of psychiatric asylums can swell into a rumble heard all over the world?"

THE SOVIET NAVY AND THE INDIAN OCEAN

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HARRINGTON. Mr. Speaker, I have asked the Library of Congress to translate a Norwegian article by Anders C. Sjaastad, "The Indian Ocean and the Soviet Navy," that appeared in the October 1971 issue of Norsk Militaert Tidsskrift. Mr. Sjaastad's discussion is a serious and carefully researched analysis of a subject that in American hands, unfortunately seems to lend itself to hot and cold running hysteria.

Mr. Sjaastad's conclusions deserve our attention:

The Western powers overrating of the Soviet Union's naval strength and political intentions has yielded the Soviets unnecessary political gains, especially in the third world. It is sound and important to make continuous assessments of both the Soviet Union's capacity and intentions. But it serves no purpose to cry "wolf" every time one sees a Russian ship. If one cries "wolf" too often, one impairs not only one's alertness, but one also risks that the "wolf" will begin to act like a wolf confident that he deals only with a lamb.

The Norwegian study of "The Indian Ocean and the Soviet Navy" follows:

THE INDIAN OCEAN AND THE SOVIET NAVY

(By Anders C. Sjaastad)

1. INTRODUCTION

The Soviet maritime expansion is one of the most significant strategic policy changes that has taken place during the 1960's. While the Soviet Union previously had at her disposal only a coastal defense whose task it was to defend her own "shores", the Soviet fleet today has become a global factor, and the Hammer-and-Sickle files on all the oceans of the world. Much has been written about the Soviet maritime presence in the Mediterranean—a phenomenon that has become increasingly conspicuous in recent years. Five years ago hardly any Soviet ships were stationed permanently in these waters. The considerable expansion of the Soviet Arctic fleet, which is stationed at Kolohalvya, uncomfortably near Norwegian territory, also has been given great attention recently.[1] In recent years another maritime region has become the focus of interest, i.e., the Indian Ocean. In these latitudes, too, Soviet maritime activity is increasing. The question of political and military countermeasures against this naval expansion has, however, become all the more incendiary because Great Britain, which is in this area the major partner of the Western Big Powers, reportedly wants to counteract this potential threat through cooperation with South Africa in matters of security policy.

In the following, we shall present the strategic situation in the Indian Ocean and the areas adjacent to it as they appear today, evaluate the Soviet motives behind the naval deployment of the fleet and to what extent they would represent a threat seen from the West. We shall further discuss several possible countermeasures that the Western Powers might consider taking in order to counteract the troublesome consequences for them of the Soviet maritime presence in the Indian Ocean, and in this context, especially, the appropriateness of British arms sales to South Africa as a result of the Simonstown Base Agreements. Finally, we want to take a close look at any buildup that may affect the political and military strategy in the Indian Ocean and its immediate vicinity.

2. MARITIME STRENGTH IN THE INDIAN OCEAN AND ADJACENT AREAS

2.1. Soviet maritime strength in the Indian Ocean

As recently as 1965, no Soviet naval vessels put into the Indian Oceans.[2] In the years following a few Soviet ships occasionally appear in the area, but as a rule in connection with certain space or test programs. Not until 1968 can one say that Soviet naval vessels actually appeared in the Indian Ocean, and at one point during that year the fleet consisted of 3 surface vessels, 2 submarines and 9 mother ships, besides 5 ships connected with the space program.[3] Since that time the Soviet Union has maintained a more or less permanent maritime presence in the area.

How strong is the Soviet fleet in the Indian Ocean today? Should the Russian Navy navigate anywhere else, the number of vessels involved varies. The variation reflects both seasonal and political factors that would make this advisable. In relation to the reaction it has caused, the number of Soviet vessels in these waters is, however, amazingly small. When in 1970 the Soviet fleet in the Indian Ocean reached an all-time high, it consisted of 1 cruiser, 3 destroyers, 5 submarines (one of them a nuclear submarine), 1 tender for submarines, and a few mother ships.[4] The latest statement on a Soviet strength is the area reports 4 surface vessels (unspecified). 2 submarines (presumably diesel-driven), and 3 mother ships.[5] Though this is an area in which the Soviet Union has until recently not maintained a naval presence, the British Government's concern about the purely military side of this activity seems to be exaggerated. It is paradoxical that at that time the British apparently did not pay the attention they should have to 70 seagoing battleships, numerous coastal and escort vessels, 160 submarines including 60 nuclear-powered subs [6] that were stationed right outside their own backyard in the north (Kola Base). British Navy Minister Peter Kirk at the time also said that the Russian threat in the Indian Ocean was being exaggerated, and he has not even been officially corrected.[7]

In addition to her sheer maritime presence, the Soviet Union has tried—sometimes with considerable success—to establish a political foothold in the countries bordering the Indian Ocean. From the time that the Soviet Union established herself permanently in these waters in 1968, the Russian Navy has paid some 50 visits to 16 different countries around the Indian Ocean.[8] In particular, the Soviet Union seems to strengthen her influence on Somali, especially since 1969 when the "Supreme Revolutionary Council" came to power there. Among other things, the Soviet Union dispatched a large fleet to a visit to Somali in the summer of 1970.[9] The Soviet Union further entered into an agreement on July 14, 1970 with the island of Mauritius,[10] which is strategically situated in the middle of the Indian Ocean. The agreement guarantees the Soviets landing privileges for fishing boats and allows replacement of their crew. Simultaneously, the Russian national airline Aeroflot was given landing privileges on the island. It is obvious that such agreements can be exploited in irregular ways. In addition to the air privileges giving the Soviets a badly needed air reconnais-

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Footnotes at end of article.

sance capacity, the fishing boats can, for example, transport soldiers, and the factory-ships accompanying the fishing fleet can transport tanks. At any rate, it seems that the steadily growing Soviet fishing fleet is extensively operating in association with the Russian long-range submarines. Besides Mauritius, the Soviet Union has fishery agreements with a dozen other countries bordering or lying close to the Indian Ocean. It has also been reported that the Soviets have laid out buoys for anchoring purposes in the vicinity of Seychellene[11] which is right in the middle of the Indian Ocean, somewhat north of Mauritius. The Soviet Union further has established close cooperation with the new state of South Yemen, which was formerly known as the British Protectorate of Aden. South Yemen today is as good as dependent on Soviet assistance, and the Soviet influence is claimed to be very strong. Indeed, some sources even report that the harbormaster of Aden is Russian.[12] Moreover, reports have been received to the effect that the Soviet Union is pushing base construction work and commando training on the island of Sokotra,[13] which belongs to South Yemen and which is strategically located at the point where the Red Sea joins the Indian Ocean. At the initiative of the government in South Yemen, Western pressmen have been flown into Sokotra, and upon their return they claimed that no military activities were going on on the island either by the Russians or anyone else—[14] except that this cannot, of course, be regarded as definite proof. What cannot be denied, however is that the Soviets are using Berbera in Somalia as a port of call today, that they are busy expanding Port Sudan, and that they have established a submarine base in the seaport of Hodeida in Yemen.[15] Because of the strained diplomatic relations between the Soviet Union and Sudan following the unsuccessful coup d'état and the events subsequent to it, the military value of Port Sudan to the Soviet Union is still doubtful at this writing. Nor can one rule out that the continuing Communist persecution in Sudan and in other Arab countries may cool the relations between the Soviet Union and parts of the Arab world, which may result in sanctions weakening the Soviet Union's strategic position in the area through, for example, a suspension of landing privileges.

A couple of other circumstances are worth mentioning. A strategic road across Afghanistan, connecting the Soviet Union with the Indian Ocean via Pakistan, was completed in July 1970.[16] The road, which runs out near Karachi, is a shorter and faster route than the long ocean route from Vladivostok, which is blocked by seasonal ice.[17] The recent events in connection with the civil war in Pakistan make it even less likely than before that the government in Karachi will approve the building of any base complex at the end of the route—because, among other things, of Pakistan's relatively close relations with China, and because such a base might more or less rightfully be interpreted as aimed, precisely, at China. In addition, the more and more determined efforts at political rapprochement between the Soviet Union and India, which recently resulted in a 20-year "peace, friendship and cooperation agreement" between the two countries will hardly tempt Pakistan to consent voluntarily to any measure that may strengthen the Soviet Union militarily.[18] The Indian-Soviet agreements give India, in fact, a certain security guarantee against Pakistani retaliatory actions and military attack. But nevertheless, so long as the route is open, the Soviet Union will be able to transport supplies to the maritime units that are in the western part of the Indian Ocean and to take care of the replacement of their crews.

It should be mentioned, finally, that the Soviet Union has helped India construct a naval base in Vishakhapatnam on the east coast of India. The base seems to be intended for Soviet submarines, though technically it is open to vessels of other nations.[19]

This is, in the main, the size and the look of the Soviet fleet in the Indian Ocean, and the most important of the logistic possibilities that are at the disposal of the Soviet Navy in that area.

2.2. The West's maritime strength in the Indian Ocean

What is known about the West's military strength, besides bases and logistic points of support, in the area around the Indian Ocean? When the now so notorious Simonstown Agreements on the defense of the Cape route were entered into between South Africa and Great Britain in 1955, the British had access not only to the Simonstown Base, but also to harbors in Port Sudan, Mombase, Dar-es-Salaam, Mauritius, Seychellene, and Aden,[20] as well as bases in the Persian Gulf, with Bahrein and Sharjah among the most important. Today, Great Britain is left with Seychellene, and the British withdrawal from the Persian Gulf by the end of 1971 now is definitely settled.[21] With Mauritius, which has become independent, Great Britain still has an agreement on defense arrangements—which means, in practice, that Great Britain has permission to use the existing naval installations on the island and that Mauritius will not do anything that would jeopardize these British privileges.[22] Great Britain further acquired a new colony five years ago, i.e., a group of islands, the "British Indian Ocean Territory", which lies between Mauritius and Ceylon and which comprises Diego Garcia and other small islands. The purpose behind the acquisition of these colonies was, precisely, to give Great Britain and the U.S.A. base facilities in these waters.

On Diego Garcia, which is 1,200 nautical miles south of India, Great Britain and the USA are now in the process of building a radio communications unit. The unit, which will be ready in 1974, is to form a connecting link between the Philippines and Ethiopia in the communications chain of the U.S. Navy.[23] Furthermore, Great Britain is building, in cooperation with the USA, new small, but effective bases on Gan in the Maldive island group north of Diego Garcia and southwest of Ceylon, on Cocos Island west of Java, and on the northwest coast of Australia.[24] The rest of the formerly British ports now are in the hands of the states outside the alliance.

In the Persian Gulf there are at present 7,000 British soldiers, 2,400 of whom are stationed at the bases in Bahrein and Sharjah. In addition, 6 minesweepers, 1 frigate, and 1 monitor ship, in addition to some RAF fighter and reconnaissance squadrons, are in the area.[25]

In order to ensure presence in the Persian Gulf, the only obligation under which Foreign Minister Douglas-Home put the British Government is that "training exercises involving British Army and Air Force units could take place regularly" and that "there would be regular visits to the area by ships of the Royal Navy."[26] **The big British base in Singapore, which two years ago housed** 74,000 British soldiers and their families, will, as we know, be liquidated in substance by **the end of the year. Great Britain wants to** leave there only 3,000 land-based troops and a naval strength of 1,500 men to help **maintain stability in the area with a view to the new five-power defense agreement.**[27] The new agreement entered into among the five **Commonwealth countries Great Britain, Australia, New Zealand, Singapore, and Malaysia, comes into force on November 1, 1971, and replaces the 14-year old pact under which Great Britain alone binds herself to come to the aid of Singapore and Malaysia in case they are attacked. Great Britain further decided to increase the contemplated naval strength that is to be stationed in the** area from 5 to 6 destroyers or frigates in addition to one submarine.[28] **According to the agreement, both Australia and New Zealand will contribute air, sea, and land forces in addition to the forces the two local states,** Singapore and Malaysia, can raise. Moreover, **the Hong Kong garrisons will remain intact**[29] **though militarily it does not mean** very much.

As for the USA, she will most likely maintain a smaller maritime strength in the Per**sian Gulf after the British pull out in 1971. However, in the Indian Ocean, the USA seems to be even less inclined to have a permanently stationed fleet. In this connec**tion we disregard the fact that American **Polaris submarines may be found stationed in those waters.**

This is roughly the military situation in the Indian Ocean and adjacent areas: Great Britain's military strength is considerably reduced and the Indian Ocean no longer is politically a "British lake". The Soviet Union's fleet in the area has, in the course of a few years, grown out of nothing, but it continues modest, both quantitatively and qualitatively.

3. WHAT CAN THE SOVIET UNION DO?

What security risk does the presence of the Soviet fleet in the Indian Ocean represent for the Western powers? In this connection we want to raise two questions: (1) What is the Soviet fleet physically capable of doing? (2) Even if it can do certain things, is it likely that it will?

As has been pointed out, of course, since there is no Western strategic force of any size in the area, the Soviet vessels cannot be said to be necessary from a defense point of view. On the other hand, it is difficult to maintain that such a force as is referred to here has any significant offense capacity. Not only is the number of Soviet vessels in the area small, but also the composition of **the task force is unbalanced**[30] **and not very** well suited for offensive operations. Perhaps the force's biggest strategic problem is its lacking air support, and this weakness will, of course, become all the more pronounced the farther away it is from Soviet territory or, at least, from Soviet bases. As a matter of fact, the Cape of Good Hope is farther away from Soviet bases of any size than almost any other place in the world.

The British Government has said that the Western powers must protect themselves against Soviet attempts, as an object lesson or during a crisis, to impede or prevent sea transport around the Cape of Good Hope to Europe. In this connection it has certainly shown the significance of oil transports from the Persian Gulf. Half of Great Britain's and two-thirds of Europe oil imports are sent around the Cape.[31] All in all, three-fifths of Europe's oil imports are shipped today around Africa, and three-tenths of Great Britain's other overseas trade is shipped the same way.[32] The Soviets obviously can also create difficulties for Western overland oil transport—at any rate, for a shorter period until a counterstrike is affected by the West.

Moreover, it has become fashionable to maintain that the Soviets are busy learning the imperialists' old gun boat diplomacy. What must not be forgotten, however, is that this form of military pressure tactics occurred on the basis of complete maritime supremacy; a tiny force would be deployed, confident that the opponent would know what one had in reserve. In today's strategic situation no longer means that mere physical presence assures the same positive control over a harbor area. However, physical presence can still discourage the opponent from steps that he would take otherwise if he found no physical counter-balance in the area—this is what one may call negative control.

Footnotes at end of article.

Rumors have recently been heard that the Soviets are on the point of dominating the Indian Ocean militarily. The thought that a dozen Soviet ships might dominate harbor areas distributed over 25,000 sq. km. appears without a doubt somewhat absurd. This is reason enough for asking, as naval expert Michael McGwire did, whether the Western commentators who defend this thought have used too small an atlas.[33]

Few will doubt the significance of the Cape route for Western commercial interests, and that a deliberate and effective Soviet interference in this traffic will have grave consequences for the West European economy.

Between June 1967 and December 1969, 10,000 ships were forced to use the Cape route after the closing of the Suez Canal.[34] But the crucial question will nevertheless remain whether the Soviet interference in navigation along the Cape route is a likely scenario for a conflict. What would the Soviet Union want to gain by such action?

Any Soviet interference in Western ocean navigation will be interpreted by the Western powers as a very serious step which might easily lead to a crisis the outcome of which is difficult to foresee. In other words, such a demonstration on the part of the Soviet Union would be very risky and, if it came to the worst, the country could that way provoke a strategic nuclear war. It further seems not very likely that the Soviet Union could in a crisis concentrate on denying commercial navigation to her opponent. On the contrary, it may be assumed that the Soviet fleet will try to keep the Western naval forces in check, and it will be this that in a short and dramatic conflict will have military significance. It should be kept in mind that many of the old rules of warfare on land, as well as by sea, have changed in the age of nuclear weapons. In a strategic nuclear confrontation, oil will be irrelevant. In a prolonged conventional war—which in itself is unlikely, owing to modern technology—the Soviet Union would be in a position to impede the oil supply line to Western Europe whether the country has a dozen vessels in the Indian Ocean before the outbreak of hostilities or not. Carried to extremes, one can say, as one analyst did: ". . . in peace the oil will flow to Western Europe and in war it will not".[35]

If the Soviets should wish to obstruct Western commercial navigation, it is difficult to say why one would want to choose to do this precisely in the southern waters around the Cape of Good Hope. In case the Soviets want to achieve a relatively effective blockade, the European waters, for example, would be better suited because the shipping lanes are much more concentrated there and consequently the ships are easier to hit.[36] Moreover, logistic considerations of her own would prompt the Soviet Union to choose such a priority.

4. MOTIVE FOR DEPLOYMENT OF THE SOVIET FLEET

What is the Soviet Union's motive for its naval activity in the Indian Ocean? So far as one can gather, the Soviet Union must have a double purpose with her maritime strategy in these waters, i.e., what may be called, respectively, a political offense task and a strategic defense task.

The presence of the Soviet fleet is considered by many as being primarily directed against China. The fleet can be regarded both as aid to India against China and an attempt to limit the Chinese influence in Asia and Africa.[37] Such reasoning is supported by the argument that in a general way China seems to be the Soviet Union's most pressing long-range problem.

Another purpose of the Soviet Union is to show her presence in these waters in order to demonstrate military and, thereby, political strength regionally as well as globally. The visit of the fleet that the Soviet Union has paid in these waters, for example, to Somalia, must be seen exactly as a desire to "show the flag'". Well, there probably is no doubt that, if the Soviet Union can increase her political influence at the expense of the West without great cost, she will gladly take advantage of such a chance. The Soviet intention to send naval vessels through the Malacca Straits into the Indian Ocean while the Commonwealth countries were sitting in Singapore and discussing British arms sales to South Africa[38] can hardly be viewed as anything else but an attempt to sow further discord between Great Britain and the African member countries. Such a demonstration could only serve to make Prime Minister Heath more confident that he is right. The Soviet Union will be more than ready to fill the political vacuum that will come into being being, at any rate, in the area around the Indian Ocean, if the Commonwealth collapses. The Soviet unwillingness in this respect has not been particularly great in the past.

The presence of the Soviet fleet in the Indian Ocean can, therefore, be interpreted to some extent as a political challenge to the Western big powers, but it also has a military-strategic connotation. Geographically, the Indian Ocean is well suited for Polaris operations; from the Arabian Sea, Central Russia, including Moscow, and the western part of China are within rocket range.[39] It seems as though the Soviet Union is trying, through naval deployment in the Indian Ocean, to meet the potential threat that the American Polaris submarines represent, even if the considerable distance from Soviet territory makes this task difficult. The pattern of the Russian naval activity in the Indian Ocean, together with the general Soviet naval doctrine, would also suggest that what worries the Soviet Union first and foremost is the presence of the Polaris submarines in these waters.[40] From the Persian Gulf a large number of the most important centers in the Soviet Union are within Polaris [missile] range. However, the limited waters in the Gulf are not very well suited for submarine activity,[41] though the Soviet Union certainly will not dare rule out the possibility. In the event of war, the Soviet Navy seems to have five tasks. Besides protecting the firing capabilities of its ballistic rocket equipped submarines and gaining control over the area around the four home bases, it must neutralize the Western Polaris submarines, knock out the allied aircraft carrier before any planes can take off, and support land operations.[42] The Soviet efforts in the Indian Ocean will, therefore, be concentrated on Polaris submarines and aircraft carriers, if any, which must move into the area. According to Siegfried Breyer, the Soviet Navy at present still has another task which also involves the strength of the fleet in the Indian Ocean: "The aim of the present-day Red Fleet is to reduce the offensive power of the western allies by forcing them to commit far greater forces to the defence of the sea lanes than the Soviet Union commits to their attack."[43]

5. WESTERN REPLY TO THE SOVIET FLEET BUILDUP

What response can the West make in order to meet the Soviet military and political expansion? In the following we shall examine several possible answers in conection with the controversial British arms sales to South Africa.

5.1 The Simonstown base and the British arms sales to South Africa

The present British Government has tried to persuade the Commonwealth countries, as well as other allies, that British-South African naval cooperation is a suitable and effective device to hold their own against the Soviet Union militarily. In the following we will disregard the political and moral aspects that have been drawn into the debate—not because we necessarily consider these factors irrelevant to the matter, but because we wish in this connection to weigh the effectiveness of the effort against its stated purposes.

The Simonstown Agreements were entered into on June 30, 1955, when Great Britain turned over her rule in this base to the South African Government. The agreements involved a limited defense cooperation between Great Britain and South Africa with a view to naval security and contained provisions concerning British supply contracts. According to the legal experts of the British Government, the British obligations as per the Simonstown Agreements amount to supplying 11 Wasp anti-submarine helicopters as well as spare parts for equipment turned over earlier.[44] The question of additional military equipment to be supplied by Great Britain to South Africa is left open.

The first question raised is whether the Simonstown Base is a strategic site, making it suitable for controlling or balancing the Soviet naval activity in the Indian Ocean. The question must be answered in the negative. The Base is too far south in relation to the politically and strategically most important areas. If one is to try to impede a possible Soviet fleet buildup in the Indian Ocean, the maritime efforts must be made much farther north, along the African east coast—i.e., in the areas where the Commonwealth countries most critical of the British arms sales are.[45] This situation will make itself felt even more if the Suez Canal is reopened—a set of problems we shall touch upon more closely later on. In the event of a prolonged conventional naval war, limited to the Indian Ocean, the Simonstown Base will become of great military value. To start limited, offensive, maritime operations will, among other things, be a considerable departure from the established Soviet doctrine. And in an all-out war between East and West, there will be far more pressing problems for the West to worry about than the security of a Cape route. According to Denis Healey, the British defense staff does not consider the Simonstown Base vital for British strategic interests.[46]

Assuming for a moment that the Soviet maritime threat in the Indian Ocean is as strong as the Heath government seems to think, it is difficult to understand that a limited naval cooperation between Great Britain and South Africa at the southern tip of Africa would be adequate to meet this challenge.[47] In reality it seems obvious that the British Navy with or without South African help has little to line up against a grave Soviet maritime threat—unless Great Britain chooses to concentrate considerable components of her navy precisely in the Indian Ocean.

But there is little to indicate that such a change in priorities is imminent. It is further worth mentioning that the British have not managed to convince the USA of the need for selling weapons to South Africa as a result of the Russian challenge in the area, though it has been assumed that President Nixon is tacitly supporting the British policy.[48] It has also been suggested that in case of hostilities, it is not the Simonstown Base that actually is important, but the possibility of other ports, such as Durban with an industrial potential behind it, being used by the British. It would, however, be something that Great Britain could not admit for political reasons since it would be interpreted as a further acceptance of the South Africa régime.[49]

It matters little whether it would be possible to control the sea route around the Cape of Good Hope through cooperation between Great Britain and South Africa, as it is not at all certain that this will strengthen the overall Western strategic interests in the Indian Ocean. Such cooperation might lead to the East African members leaving the Commonwealth, with the result that for political and economic reasons, the two will be pushed into the arms of the Soviet Union

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Footnotes at end of article.

regardless of how much they themselves actually may dislike this. No less for national and inter-African reasons will it become difficult for them, in case of extensive weapons sales to South Africa, to maintain their relations with the West.[50] The result may then be that the Soviet Union will increase her influence and possibly establish herself militarily in these countries that border on the Indian Ocean at a time when Great Britain will no longer be in a position to act as a counterweight to the Soviet Union. Accounts of developments in the Middle-East are undoubtedly alarming. Nor should this situation offer ideological problems for the Soviet Union. Moreover, the USSR has shown that she cooperates in Africa with non-socialist countries and even with anti-Communist régimes, at the same time that she cultivates contacts with opposition groups.

5.2. The Persian Gulf

One area that the Western powers will have to continue keeping an eye on is the Persian Gulf. The British forces in the Persian Gulf that are pulling out now have not been particularly sizable—their most important task consisted of maintaining a political equilibrium among the countries in the area. Many may deplore that the Health Cabinet failed to reverse the former Labour government's efforts to liquidate commitments in the Persian Gulf. But in addition to the British financial difficulties necessitating a speedy liquidation of commitments, it seems no longer desirable, from the Gulf States' point of view, that the British remain. After these nations had been prepared for and become accustomed to British withdrawal, it would be unthinkable to go back on that today. Even loyal Western friends, such as Iran and Saudi-Arabia, now want the British to pull out because this will make it simpler for them to assure an independent posture toward the Soviet Union at the same time that it will ease their relations with more militant Arab states. In spite of mutual antagonism, the two feel that without an active military presence they will be better able to maintain stability in the area.[51] After the British pull-out Iran will become easily the strongest military power in the Persian Gulf.[52]

It may further be mentioned that in July 1970 Kuwait's Crown Prince said in his country's National Assembly, with direct reference to the British withdrawal from the area, that "Kuwait neither welcomes nor accepts any foreign presence in the area, be it British or otherwise".[53] The reaction, however, was not equally unanimous from all states in the area. Sheikh Rashid av Dubai, one of the most influential rulers in the small sheikhdoms, characterized the British Government's decision on withdrawal as a "disappointment", and he maintained that his view was shared by other Gulf rulers.[54] The Soviet Union, for her part, has shown a growing interest in the Gulf states, and recently a Russian fleet paid its third visit in 18 months to the Iraqui port of Um-Qasr close to the border between Irak and Kuwait. Though the two states agree in principle on the basis for fixing the borderline, there are problems attached to the demarcation of the border itself.[55] This is, therefore, a potential trouble area.

What can conceivably be done by the West with regard to the Persian Gulf in the time to come? The British efforts have been first and foremost identified with trying to create a union of the Arab emigrates. As originally conceived, this union was to consist of Bahrein, Qatar and the seven so-called "Treaty States". However, there is disagreement between Great Britain, Saudi-Arabia, and Kuwait, on one side, and the small sheikdoms themselves on the other side, as to how extensive the union should be, not to mention the fact that the nine Gulf states have conflicts of interest in many fields among themselves. On top of it, the Shah of Persia laid claim to the three small islands strategically situated in the Hormuz Strait in the approach to the Persian Gulf and today owned by two of the Treaty States. The Shah's own reason for the claim, which he threatens to back up with force, is that the islands may come into undesirable hands, something that may become a threat to the security in the area. The upshot of the whole business is that for the time being the chances of a nine-state union have evaporated. Bahrein and Qatar have declared their independence. Of the former seven treaty states, six formed a union, while the seventh, Ras al Kaimah, refused to go along. The conflict in connection with ownership rights to the three islands has, however, not yet been settled.

The West is hoping that the new union will, at any rate, contribute something to creating stable conditions in the Gulf after the British have pulled out, come what may. The USA wants, in addition to maintaining its modest maritime presence in the Persian Gulf, to strengthen her diplomatic ties with the Gulf states as was emphasized by American sources. The Western world is, as we know, dependent on the supply of oil from the Gulf, and there is nothing to suggest that the USA would endanger the Western oil interests in the area. On the other hand, even if U.S. policy has changed compared to what it was a year ago when the USA kept the question open as to by which means her maritime presence will be retained (if at all) when the British pull out, the USA does not seem sufficiently worried over the Soviet fleet buildup in the Indian Ocean to put into effect any strengthening of her all too small fleet in the Persian Gulf. The Soviet Union can surely be thought of playing on existing clashes of political interests in the area to win influence, but it is not very likely that she will try to do anything that may loom as a direct challenge to the USA and to the American maritime presence.

By studying the geographic situation of the Persian Gulf in relation to the Indian Ocean, the Western maritime presence in the Gulf appears as a more effective equivalent of the Russian fleet expansion in the Indian Ocean than the defense initiative identified with the Simonstown Base especially if the Suez Canal is reopened. But in the end, only the USA has the naval capabilities to meet a grave Soviet challenge in the Indian Ocean, unless the sphere of responsibility of the NATO Mediterranean Command is widened correspondingly, which does not seem very likely. Nor will any form of effective defense cooperation in the area between the Western powers and local forces would be likely to have any military significance. In the present-day situation, however, it is not necessary for the American fleet in these waters to have a strategic capability and mission. Its task should not be to deter the Soviet Union by its strategic nuclear capability, but to maintain, by its presence, regional stability through discouraging the Soviet Union and others from engaging in local political adventures.[56]

5.3 New Western bases

The other realistic response to a constantly expanding Russian naval presence is to develop the "British Indian Ocean Territories" into an Anglo-American naval base, according to the understanding at the time the colonies were acquired. Besides its strategically favorable location in the Indian Ocean far away from vulnerable straits and channels, such an alternative also has the advantage of not having to consider local politics. The disadvantage of such a solution is that the islands are small and that a base will have no industrial resources to fall back on. The implication of this alternative is, however, that the USA regards the Russian threat in the Indian Ocean as being considerable and that Great Britain believes in her own assessment of the Soviet challenge and is willing and able to contribute financially. At the Commonwealth Conference in Singapore in January 1971, Mauritius is supposed to have offered the British a naval base on the island as replacement for the Simonstown Base. Great Britain does not seem to be interested in such a solution because such a base will be expensive to build, will have *no native* fleet (i.e., non-British), and will be far from the South Atlantic. In addition, the British Government will have to be worried about the political situation on the island—it is evidently afraid a newly built base will be made inoperative through a left-oriented, pro-Russian coup as occurred in Libya and Sudan.[57] In addition, a hint will have to come from Mauritius and Seychellene that more British frigate visits will be welcome.

5.4. Political response

What the third and perhaps more important Western power can do is maintain good political relations with countries around the Indian Ocean. The British Government stated on February 22, 1971, that it was ready to issue export licenses for Wasp helicopters and certain spare parts if the South African Government wished to buy these. That same day the South African Government ordered 7 Wasp helicopters from Great Britain. This decision led to the eight-country group that had been formed for the Commonwealth Conference to study security in the Indian Ocean [58] being dissolved. It seems that the British Government meritoriously attached importance to what the Soviet *Red Star* wrote in April 1970: "Our people's ancient dream has become reality. Our navy is a real force. . .". But the British Government should perhaps also have listened to what Tanzania's President Julius Nyerere said: "I believe—and I certainly hope—that when Britain has finally considered all the issues involved, her Government will realize that her legitimate interests in the Indian Ocean are best safeguarded by friendship with the young and free nations bordering the Indian Ocean". [59]

6. THE FUTURE DEVELOPMENT OF THE INDIAN OCEAN

The military-strategic position of the Soviet Union in the Indian Ocean today is marked by a number of weaknesses for which the country must find remedies if she wants to be a naval power in the area. In the last part of this article we shall take a closer look at these problems and assess, furthermore, how they are going to appear in light of future development.

6.1. The Soviet Union's present military strategic problems

The Soviet navy in the Indian Ocean is plagued by serious shortcomings. We shall mention here especially "air cover", "reconnaissance capability", "logistics", and "personnel and mobility".

Aside from the two helicopter carriers of the Moskva-class, it does not seem the Soviet Union is planning to build aircraft carriers—least of all for offensive flying. [60] And even if the Soviet Union should at a given time wish to build aircraft carriers, it will take approximately 8 to 10 years before the first test ship will be operational, not counting that the effectiveness of the carriers will continue to be plagued by a shortage of fully experienced personnel. The Soviet Union's lack in aircraft carriers creates cover and reconnoitering problems for the Soviet fleet, a weakness that up to the present has not been remedied by the acquisition of any up-to-standard and safe air base in the southern waters.

Looking at the composition of the Soviet navy as a whole, it still gives the impression of having to "defend the motherland". The

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main task of surface vessels will be to control the areas right up against the four home bases of the Russian fleet in order to ensure that this fleet can carry out the tasks assigned to them. The composition of the fleet proves that this is its main mission, i.e., by the importance that is attached to the large number of medium-sized amphibian and escort vessels, lots of fast patrol and gun boats equipped with surface-to-surface rockets and torpedoes. That the fleet still is unsuited for offensive operations on the high seas a long way from the home territory is shown by the lack in long-range seagoing amphibious capability in addition to what is called sea-based flying capability.

It has been held that Soviet ships that find themselves in distant waters such as the Indian Ocean or the South Atlantic will, in the event of war, be denied a return to their own bases by U.S. and NATO fleets and will most likely be sunk in the course of the first few weeks.[61] In the Indian Ocean the Soviet Union will, without a doubt, have very long supply and communication lines. The Soviet Union can, however, step up her navy's striking power somewhat if the strategic doctrine is changed to one similar to the American. In that case, the Soviet Union will let her submarines move out on the high seas and not let them stay close to force them into action. Besides, it is to be kept in mind that the Russian Class Y submarines, those that are equal to the American Polaris submarines, are mainly stationed near the Arctic Ocean and Far East fleets.

6.2. Soviet Russian bases

If the Soviet Union, however, obtains a respectable foothold in East Africa, the situation in the Indian Ocean becomes altogether more serious from the Western powers' point of view. The Soviet Union can then establish well-developed naval base installations along the East African coast. In addition, the Soviet Union can in the course of a process like that win permanent landing rights for military planes in East Africa either by making use of existing airport capacity or even by being given permission to build air bases of her own. This may be precisely the way for the Soviet Union to guarantee her fleet a badly needed air support.

In fact, lines of communications can be run to bases in the Mediterranean and the landing privileges that the Soviet Union has there. In the event of a showdown the Soviet Union wants to be able to transport air forces via airports along the Mediterranean where the Soviet Union has landing privileges, such as in Egypt and Mers-el-Kebir in Algeria, to airfields in East Africa. Opinions are divided on whether, and possibly to what extent, the Soviet Union has bases of her own along the Mediterranean, and especially in North Africa. At least there is something to suggest that for the time being Algeria and Libya, at any rate, have no intentions to propose that the Soviet Union use former French and American installations,[62] but that is a situation that may change. Before the war in June 1967 there were altogether 21 operational airfields in Egypt west of the Suez Canal. Today, it is reported, the number of airfields has gone up to 30 and approximately 500 hangers are to be built.[63] There also are many indications that Russian pilots are flying the advanced Mig-21J and Mig-23 "Foxbat" from Egyptian airfields.[64] In any event, it seems obvious that strengthening the Soviet ready air capability will present only minor problems. Moreover, it has been held that a Russian naval air force unit has been based in Egypt since 1968 under cover of the UAR colors.[65] Regardless of whether this information is valid or not, it says at least something about what potential capabilities the Middle-East conflict has given the Soviet Union—also in connection with her policy in the Indian Ocean.

6.3. Opening of the Suez Canal

We have been able for quite some time to observe renewed interest on the part of Egypt in a reopening of the Suez Canal. The Israeli Government has also been willing to discuss possibilities for a withdrawal of its own forces and for a subsequent opening of the Suez Canal as a first step toward a Middle East settlement. As we know, no agreement has as yet been reached on this question among the parties, and it is unlikely that there will be any.

However, there is hardly any doubt that such a development will be to the liking of the Soviet Union, regardless of whether the country has pressed Egypt to bring this about or not. Now, it will take at least a year to get the Canal ready because of cleaning out, dredging, etc., but from the moment the Canal is navigable again the strategic situation in the Indian Ocean will be different.

Today the distance from Vladivostok to the Indian Ocean is far shorter than the distance from Odessa (the home port for the Black Sea fleet) around the southern tip of Africa and to the Indian Ocean. As soon as the Suez Canal is opened this situation will be reversed, implying that an entirely different, intimate cooperation between the Soviet fleets in the Mediterranean and in the Indian Ocean will become possible. By the lines of communications becoming shorter and simpler than those available today, it will become possible for the Soviet Union to maintain a more extensive naval presence in the Indian Ocean. In addition to reinforcements from the Mediterranean becoming more easily accessible, the Suez Canal will also facilitate a faster rotation of ships by the fleet availing itself of the repair facilities that are claimed to be available in Alexandria today.

Some people will point out that the Soviet Union has problems when it comes to repairs.[66] It is claimed that Russian ships in the Mediterranean must return to Odessa in case major repairs are to be made. If this holds true, it will undeniably create a problem for Soviet ships in advanced positions in the Mediterranean as well as in the Indian Ocean. In this connection, too, the recent events on Malta will become meaningful. From the Western point of view the loss of Malta as a base does not mean a great deal. What is important for NATO to prevent, however, is that the Soviet Union secure [crew] replacement and repair facilities. For instance, the big naval dock on Malta is capable of making all kinds of repairs, but it is not working to full capacity today. If Malta and the Soviet Union come to an understanding, this can also be important to the Soviet strategic position in the Indian Ocean.

An opening of the Suez Canal might ultimately strengthen the influence of the Soviet Union in the Red Sea and in the Gulf of Aden. Her influence there is considerable today. The Soviet Union extends substantial military assistance to Sudan, Somalia, Yemen, and South Yemen (People's Republic of Yemen). As mentioned before, the Soviet Union has predominance with ports in Hodeida in Yemen and Berbera in Somalia. This may result in two things: First, it is possible that the Soviet Union will be able to secure for herself naval repair capacity in this area—for example, in Hodeida or Berbera. If so, the Soviet Union can keep large forces in the Indian Ocean on a permanent basis and also make herself less dependent on the Suez Canal, which is vulnerable, in a critical situation.

Second, the sea route through the Suez Canal and the Red Sea will be a safer route to the Indian Ocean than the voyage around Africa—considering the influence and the position the country already has in the area. All this should make the Simonstown Base strategically even less important, if the Suez Canal is opened, than it is today. If the intended widening of the Canal should be realized, this situation will be further accentuated. Since the importance of the Suez Canal to the Soviet Union is far more of a military than of an economic nature,[67] an active campaign on the part of the Soviet Union for having the Canal reopened may be interpreted as an indication that she considers the Indian Ocean a strategically increasingly important area.

7. CONCLUSIONS

The Western powers overrating of the Soviet Union's naval strength and political intentions has yielded the Soviets unnecessary political gains, especially in the third world. It is sound and important to make continuous assessments of both the Soviet Union's capacity and intentions. But it serves no purpose to cry "wolf" every time one sees a Russian ship. If one cries "wolf" too often, one impairs not only one's alertness, but one also risks that the "wolf" will begin to act like a wolf confident that he deals only with a lamb.

FOOTNOTES

[1] See Johan Jorgen Holst, Anders C. Sjaastad, John Kristen Skogan, "Noen norske Sikkerhetsproblemer in syttiårene" [Some Norwegian Security Problems in the Seventies] in: *Minervas Kvartalsskdrift*, No. 3, 1970, pp. 235–253.

[2] *The Times*, March 13, 1971.

[3] *Ibid.*

[4] *The Times*, December 30, 1970.

[5] *The Times*, January 25, 1971.

[6] See Holst, Sjaastad, Skogan, *op. cit.*, pp. 243 and 245.

[7] *The Observer*, October 25, 1970.

[8] *Newsweek*, January 18, 1971.

[9] *The Times*, September 15, 1970.

[10] *Ibid.*

[11] *The Times*, October 19, 1970.

[12] *Ibid.*

[13] *The Times*, Sept. 15, 1970, Oct. 19, 1970, Dec. 30, 1970.

[14] *The Times*, January 1971.

[15] Robert R. Sullivan, "The Architecture of Western Security in the Persian Gulf" in: *Orbis*, Vol. XIV, Spring 1–70, No. 1, pp. 76–77. *The Times*, December 12, 1970; March 13, 1971. *Newsweek*, January 18, 1971.

[16] *The Times*, September 15, 1970.

[17] Sullivan, *op. cit.*, p. 80.

[18] At this writing—mid-September 1971—in Pakistan civil war is raging and the situation is uncertain. Little is known about Pakistan's further fate, far less about its future foreign policy. It is, therefore, difficult to discuss any further significance of this newly built road.

[19] *The Times*, March 13, 1971. *Newsweek*, January 18, 1971.

[20] *The Times*, March 13, 1971.

[21] Foreign Minister Sir Alec Douglas-Home's *Statement on Government Policy in the Gulf in Parliament* of March 1, 1971. Reported in *The Times* of March 2, 1971, and in *Aftenposten* of March 2, 1971.

[22] *The Times*, March 13, 1971.

[23] *International Herald Tribune*, January 18, 1971. *Newsweek*, January 18, 1971.

[24] Sullivan, *op. cit.*, p. 73.

[25] *International Herald Tribune*, March 2, 1971.

[26] Douglas-Home, *op. cit.*

[27] *The Times*, March 27, 1971.

[28] *The Statement on the Defense Estimates, 1971*. Defense Secretary Lord Balniel's presentation in Parliament of March 1, 1971.

[29] Sullivan, *op. cit.*, p. 73.

[30] Michael MccGwire, who is an expert on the Soviet Navy, in this connection, has come out with the following statement: "Her (the Soviet Union's) surface ships can sail around the world in time of peace, but because of the unbalanced structure of her fleet which has been built to meet a particular threat, and the West's naval predominance Soviet Navy does not have the capacity to sustain general naval operations in hostile mari-

time environment at a distance from Russia's shore. The Soviet Union currently lacks a world-wide capability". Michael MccGwire, "Soviet Naval Capabilities and Intentions". *Royal United Service Institution*, London 1970, p. 44.

[31] As concerns the future oil imports of the EEC, a large part will come from Libya. "In 1970 already more than a third of the crude oil for the Common Market came from Libya, and a new agreement that has just been entered into (for 5 years) would imply that shipments in the years to come will be at least as large". *Aftenposten* (evening edition), April 7, 1971.

[32] *The Times*, October 19, 1970.

[33] Letter to the Editor in: *The Times*, February 2, 1971.

[34] J. E. Spence, "South Africa and the Defence of the West" in: *The Round Table*, Issue No. 241, January 1971, p. 18.

[35] O. M. Smolansky, "Moscow and the Persian Gulf: An Analysis of Soviet Ambitions and Potential" in: *Orbis*, Vol. XIV, Spring 1970, No. 1, p. 97.

[36] Former Defense Minister Denis Healey has expressed the same view. See interview with him in *Arbeiderbladet*, November 10, 1970.

[37] With regard to Chinese influence in Africa, see, for example, *The Sunday Times*, November 18, 1970.

[38] Two Soviet ships, one cruiser and one destroyer, passed by Singapore through the Malakka Straits. They were visible from windows in the building in which the conference was held. No Soviet ship of cruiser class had passed Singapore since April 1968, but the passage of lesser Russian ships through the straits occurred more frequently.

[39] MccGwire, "Soviet Naval Capabilities and Intentions", p. 40.

[40] *Ibid.*, p. 40–41.

[41] *Ibid.*, p. 41.

[42] *Ibid.*, p. 42.

[43] Breyer, *op. cit.*

[44] *The Simonstown White Paper*, which was prepared for the British Government by Sir Peter Rawlinson, Attorney-General, and Sir Geoffrey Howe, Solicitor General, and which was submitted to Parliament on February 4, 1971, states in conclusion:

"We therefore advise that the extent of her Majesty's Government's existing legal obligations to permit the export of arms to South Africa, arising from Simonstown Agreements, is to permit, if requested by the South African Government, the supply of the following arms for the South African maritime forces:

(1) Such number of Westland Wasp helicopters as is necessary to equip the three anti-submarine frigates supplied under the Sea Routes Agreement with their initial complement (together with reserves) of Westland Wasp helicopters; and

(2) Such replacements of the initial equipment and stores and base reserves for all the vessels supplied under the Sea Routes Agreement, and such other equipment for these vessels, as is necessary to keep the vessels efficient for the purpose of carrying out the objects of the agreement."

Besides, the White Paper puts on record that no legal obligations for the British Government exist beyond those mentioned in the Conclusions.

[45] This is an evaluation of the situation shared by naval strategists such as, for example, Admiral Anthony Buzzard, See *The Observer*, November 25, 1970.

[46] *The Observer*, October 25, 1970.

[47] For a good discussion of this point, see *The Sunday Times* of October 25, 1970, and editorial "British Interests, South Africa, and the Commonwealth" in: *The Round Table*, Issue No. 241, January 1971, pp. 3–7.

[48] *International Herald Tribune*, January 18, 1971.

[49] *The Times*, March 13, 1971.

[50] Uganda's ex-President Milton Obote said, among others, the following on the effects of the British sales [supply] of arms:

"I believe some historians will write that the Russians would not have gone so rapidly into the Mediterranean if the British government had acted differently in 1956 at Suez. . . . It would be an open invitation to the Russians and may be later to the Chinese to go into the continent of Africa, to replace the British and other Western powers." *International Herald Tribune*, January 19, 1971.

[51] *The Observer*, February 28, 1971.

[52] According to *The Military Balance 1970–1971*, The Institute for Strategic Studies, 1970, Iran has an army consisting of a total of 135,000 men, a fleet which comprises, among others, 1 destroyer, 5 frigates, 5 corvettes, besides over 30 lesser ships, and an air force which has a total of 175 fighter planes.

[53] *The Times*, February 25, 1971.

[54] *The Times*, March 3, 1971.

[55] *The Times*, February 25, 1971.

[56] See Sullivan, *op. cit.*, p. 88.

[57] *International Herald Tribune*, January 18, 1971. *The Times*, March 13, 1971.

[58] The eight-country group consisted of Australia, Canada, India, Jamaica, Kenya, Malaysia, Nigeria, and Great Britain. The group was to evaluate, among others, "the factors affecting the security of maritime trade routes in the South Atlantic and Indian Oceans which are of vital importance for a large number of Commonwealth countries".

[59] *The Observer*, January 11, 1970.

[60] For a more detailed discussion of and information on the Soviet fleet's capacity and buildup, see: Michael MccGwire, *op. cit.*, pp. 33–51. Michael MccGwire, "Soviet Naval Procurement" in: *The Soviet Union in Europe and the Near East: Her Capabilities and Intentions*, Royal United Service Institution, London 1970, pp. 74–87. Siegfried Breyer, *Guide to the Soviet Navy*, United States Naval Institute, 1971. *Jane's Fighting Ships, 1969–70.*

[61] Breyer, *op. cit.*

[62] In an interview with C. L. Sulzberger, Algeria's President Boumedienne admitted that Algeria is strongly dependent on the supply of arms by Russia, but he said that Moscow never asked for base installations in Algeria "because they knew the answer would be negative". Algeria purchased arms from the Soviet Union "because the Russians offer very acceptable conditions. When other conditions are offered by other nations on a more favorable basis, we will buy from them". Sulzberger asked whether the President wished more for the Soviet fleet to leave the Mediterranean than the American fleet—or the other way around. Boumedienne answered: "We want them both out. I see no reason for having either here. But this is a long-range idea and the situation is obviously not yet ripe for change". *International Herald Tribune*, March 1, 1971.

[63] *The Times*, December 30, 1971.

[64] *Aviation Week & Space Technology*, April 26, 1971, p. 9.

[65] *The Times*, December 30, 1970.

[66] *Ibid.*

[67] *The Times*, December 30, 1971.

EDA WORKS IN TEXAS

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DORN. Mr. Speaker, Chairman BOB POAGE of Texas, one of the greatest committee chairmen of all times, presented to our Public Works Subcommittee on Economic Development Programs this morning an exceptionally able witness, Mr. James M. Leath of Marlin, Tex. Mr. Leath told us a success story under the Economic Development Act that we wish to share with the entire Congress. Mr. Leath's splendid statement to my subcommittee follows:

STATEMENT OF JAMES M. LEATH, VICE PRESIDENT, FIRST STATE BANK OF MARLIN, TEX.

Mr. Chairman and Members of this distinguished Public Works Committee: It is difficult for me to express adequately the appreciation and gratitude that Marlin, Texas, feels toward the opportunity and the privilege you have extended us to present our experiences and our conclusions concerning the Economic Development Act to your Committee. My greatest fear in this endeavor is that I will not be able to effectively express how we truly feel about this legislation and the Economic Development Administration that is charged with the responsibility of implementing this fine program.

Those of us who live in the rural areas of America, many times, look at the legislation that comes from Washington and feel that our lives and our concerns have been pushed aside from the mainstream of thinking in our Congress. Yet, we strongly feel that our small communities have a great deal to offer toward eliminating and discontinuing the growth of many of the serious problems that unquestionably face our urban areas in this period of pollution, unemployment, inadequate housing, and unequal opportunity, all of which concerns us. We have thousands of acres of unpolluted, uncongested land in rural America; we have scores of natural resources; we have an abundance of untapped and underemployed human resources; and in most cases, the will and desire to accomplish better things for all of our people.

We seriously lack, however, the professional planning and necessary funds to effectively utilize these resources. Marlin, Texas, is a community of approximately 6,500 people, about 45–50% of whom are black or Mexican Americans; yet, in every endeavor we have attempted for the betterment of all our people. You will find the leaders of every segment of our community working together, seeking a common goal. In the last five years, we have begun to see the results of this work and today there exists in our community a sense of optimism and excitement that has been absent for many decades. Today our young people don't have to migrate to the urban areas to find meaningful employment; many of our unskilled and unemployed workers have been trained and hired for responsible jobs with living wages; and for the first time in fifty years, people are moving back to Marlin from Houston, Dallas, Fort Worth, and other urban areas because they can now fulfill their needs in an area they never wanted to leave in the first place.

Today in Marlin, we have a new high school and a new elementary school. A new area vocational school is under construction. Such a complex will very adequately prepare and train our fully integrated school enrollment under the finest conditions possible. For over thirty years, all of our students have been subjected to inferior and inadequate facilities. Our people voted for a 50% tax increase to provide funds for these new facilities, and this past week a delegation of our school board initiated negotiations with Texas State Technical Institute to take over our old Negro school and convert it into a vocational training center that would serve the needs of our poor and underprivileged.

Today, in Marlin, Texas, we have new shopping centers, new stores, new housing developments, new hospitals, new motels, and scores of remodeling projects throughout our business and residential community. Since

1967, virtually every business in Marlin has undergone either a major remodeling program or has built complete new facilities. In the last two years, a master plan has been developed and is presently being implemented, and in every area of our community there is the noticeable activity that indicates a thriving, growing area with a strong economy. It is a thrilling sight, indeed, on Friday evenings to see our bank lobbies and our other businesses thriving with people cashing payroll checks from hundreds of new jobs that have been created by our two new industries which were made possible with EDA assistance and the general expansion in our business sector.

This is a far contrast from the days, just a few short years ago, when our biggest day was the third of each month when the welfare and relief checks came in. Yes, gentlemen, if you came to Marlin, Texas, today, you might be like many of the thousands of tourists we have each year who come to relax in our world-famous artesian mineral waters—or like the industrial prospects that we now quite efficiently interview every month—you just might want to make Marlin your home. If you did, however, you would be confronted with one of our most serious problems in 1972—a critical shortage of housing, created by an influx of new people and a need for better housing by many of our citizens. But after sixty years of semi-depression and a long ride on the downhill slope of economic collapse, we in Marlin now greet our new problems with enthusiasm and a new will to overcome them.

What brought about such a drastic change in this dead, little Central Texas town? What is responsible for the Marlin I have just described to you as opposed to the Marlin that I first saw in 1962? Obviously, many people worked long and hard to achieve this success, but if you asked 100 people in Marlin, "What turned your community around?," you would get a virtually unanimous reply, "EDA."

I shall never forget my first experience of seeing Marlin as long as I live, and as I ride through Marlin today, hardly a day goes by that I don't recall this first impression, and then smile with great satisfaction as I see what is here in 1972—just ten years later—it looks like a completely different town. My two partners and I were looking for a small town in Central or East Texas, where we could make an investment in a country bank and plant our roots. We had been contacted by a family in Marlin that had just such a situation and in August of 1962, we drove to Marlin for an investigation. The first thing I remember is that Central Texas was in the midst of a six-month drought, and on this particular day it was 108°. Every bit of vegetation in the area was burned and dead, and as we approached Marlin the first thing that impressed us were the weeds—head high—and the trash lined the streets. As we approached the business community, I recall thinking, "What in the world am I doing here?;" all we could see were dilapidated buildings which were 50 to 100 years old and reminded us of the old ghost towns we see in the movies. Then we rode through the residential areas and past the schools and things got worse—there were two new buildings, both homes, under construction in Marlin that day and in short, gentlemen, this was absolutely the worst town I had ever seen.

We spent several weeks deliberating and decided that this community had to go up, because it had apparently gone just about as far down as it could go. We moved to Marlin in October of 1962, and as we began to meet the community leaders, we sensed that there was a very serious concern about this condition. Everybody wanted to change it, but how could it be done? The obstacles seemed to be insurmountable. We began, however to seek assistance and help from anyone we could find. State agencies, Federal agencies, and even private surveys and analyses. Everyone told us that we had a great geographical location, an excellent labor market, and that all we needed to do was get new industry, or in our case, get industry, because we had none. Our next thoughts were, quite naturally, what kind of industry? Where would we put them? What would we have tc provide them, and what would it cost? Several people had told us, including the Texas Industrial Commission, that our best asset for immediate development was the artesian mineral water, which had been discovered in Marlin in 1890, and from that time up through the 1940's had attracted thousands of tourists and had sustained Marlin's business for decades. After World War II, however, all of these facilities had grown old, and without the spark and guidance of its original promoters, this vital industry had almost completely faded. Yet the talk of the town was how good it used to be when we had as many as 50,000 tourists annually, and the New York Baseball Giants used Marlin as a Spring training site. Grasping at a straw, we decided that once again this should be our starting point. We were willing to put our own money into this venture, but the problem of financing the additional funds needed proved to be a major problem. We contacted banks, savings and loan companies, insurance companies, and individuals, but it seemed that no one had too much faith in investing his money in a town like Marlin.

Finally, our Chamber of Commerce manager mentioned that he had recently been made a director of a new Economic Development District in Waco, Texas, and that maybe these people could help us. We called the Economic Development District office and the change in Marlin from this point is miraculous. The next day, three people from the Economic Development District office met with us; then in a few days, Marvin Hagemeier, the Economic Development Specialist from the Economic Development Administration came to Marlin. We discussed our dilemma, our hopes, and our needs. For the first time, we saw that somebody was indeed interested in helping us.

A week later, three men from the Austin office of EDA came to help, and in less than a month, a wonderfully innovative plan had taken shape. Fifteen local business and professional men had joined to form a development foundation, and EDA initiated steps to secure our needed assistance. Our local group put up $100,000 and EDA assisted with a grant of $150,000 toward our initial development of a public bath house that was to be the nucleus of developing a complete new industry. From this point, we hoped to stimulate private capital investments to provide a motel and allied service facilities needed to house these tourists. If our bath house made a profit, these funds would be used to advertise and build other needed community facilities. Our results were short of fantastic. We had an old 110-room hotel that Conrad Hilton had built in 1932. It was dilapidated and about to close, but on the strength of this announcement, a local businessman bought the building and completely renovated it, an eventual investment of over $650,000. Today, it is a thriving business. Another group, many of whom had been associated with the industry in earlier years, organized and built another new bath house facility, along with a new motel, representing another $700,000 in private capital investment. Some three months later, a $200,000 efficiency apartment motel was started, as many of our tourists visit for several weeks—sometimes months. Almost immediately, new projects popped up all over town—new businesses started moving to Marlin and renovation projects cluttered our business district. In the last four years, we have had over a dozen new businesses come to town, and our total business community has been expanded by at least 40% overall. This initial investment by EDA of $150,000 in less than a year had sparked at least $2,000,000 in private capital investment in our community. More important than this, it had given us a new spirit, a new confidence, and a new beginning. Our Chamber of Commerce formed an industrial foundation and more than sixty businessmen raised an additional $100,000 in less than three days time to purchase a 62-acre industrial site. And once again, we called on our new friends at Central Texas Economic Development District for assistance. We began to explore ways to develop this site, as well as a blighted area immediately adjacent to the park where some 3,500 Blacks and Mexican Americans lived in total deprivation with no water, no sewers, no paved streets.

After some two years of work and planning, screening of prospects, and labor surveys, we found a solution. A new company had been formed by a group of Abilene, Texas, businessmen to manufacture carpet. They, however, like our city, needed financial help—we called on EDA and initiated a project that some months later resulted in a dual program—a $912,000 EDA business loan to Marlin Mills, Inc., and a $648,000 EDA water and sewer grant to the City of Marlin to prepare for the carpet industry. Today, Marlin Mills is a little over one year old; it now employs 126 local employees and has an annual payroll approaching $1,000,000. By year's end, they expect to add 25 employees and have already started a new 12,000 foot expansion to this plant. Their new neighbor, to start construction in May, will be Wallace Business Forms, a Chicago-based, NYSE-listed company that already has opened temporary facilities in Marlin. In their new 50,000 square foot plant, they will employ over 150 people. Back in 1969, when money was tight and issues were failing all over the country, the City of Marlin passed, 968 to 36, a bond issue to provide their share of this water and sewer program—an overwhelming thanks from all our citizens to the Economic Development Administration.

In summary, gentlemen, EDA gave new birth to Marlin, Texas, and without this assistance, we would no doubt be near total economic oblivion. I would like to make one other point, if I may, because I know that our Congress recognizes that any program is only as good as its Administrator. It has been my privilege to work with EDA under two Administrations, and under both of them I have marveled at the attitude, the sincerity, and the dedication with which these people tackle a job. From the secretary in the Central Texas Economic Development District to the national director of the Economic Development Administration in Washington, we have an outstanding organization. The people of Marlin, gentlemen, gratefully request that you renew the life of this fine piece of legislation for a period of time that will enable communities to plan for the future and substantially assist communities such as Marlin. Yes, we would even suggest that you expand the program's scope and use this exceptional vehicle to accomplish the fulfillment of other pressing needs.

Thank you for affording me the opportunity to appear before you.

THE CAMPAIGN TO DESTROY THE UNITED FARM WORKERS UNION

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BADILLO. Mr. Speaker, we are witnessing a vicious and obviously politically motivated campaign to destroy the United Farm Workers Union and, thereby, to deny basic rights and human dignity to the thousands of organized farmworkers—most of whom are Mexican-American, Puerto Rican, and black.

The United Farm Workers and, particularly, its president, Mr. Cesar Chavez, are the victims of a two-pronged attack which is clearly aimed at stripping the union of those rights and agreements which took so much hard-fought effort and dedication to attain. The primary target of this attack is the boycott—the only effective weapon or tool which the UFW can employ. The simple fact is that the retail boycott, successfully implemented against the grape growers for 3 years and presently being used against iceberg lettuce growers and certain California wineries, is the only means which farm workers can use to organize themselves and to seek a redress of grievances.

On the one hand the UFW is being persecuted by an antiunion alliance known as the Free Marketing Council, an organization described as a coalition of growers, shippers, and chainstores, and strongly supported by the American Farm Bureau Federation, right-to-work committees, and agribusiness interests. This well-financed campaign is designed to end the UFW's activities, especially the use of the boycott, and to permit a renewal of the deplorable treatment of migrant farmworkers and their families. These narrow, special interests realize that the years of exploiting farmworkers is ending and they are now resorting to gutter tactics to strip the UFW of its one effective weapon, the boycott, and to end their accountability to the American public over the degradation and poor treatment of farmworkers.

On the other hand is the ill-conceived action of the National Labor Relations Board in attempting to secure an injunction against the UFW's secondary boycott activities. The NLRB has consistently maintained that the UFW is not classified as a labor organization and, therefore, farmworkers are neither covered by the protections of the National Labor Relations Act nor the secondary boycott provisions of that act. Yet, through some form of convoluted reasoning and a clear reversal of years of earlier policy, the NLRB now seeks to impose the NLRA's restrictions on the UFW. The NLRB complaint runs counter to 37 years of treating farmworker organizations as outside the coverage of the National Labor Relations Act and there are no facts which warrant the NLRB's new position.

In view of the NLRB's sudden reversal of almost four decades of policy and the fact that it should occur at precisely the time when the Free Marketing Council and others are attempting to destroy the United Farm Workers, one can only reasonably conclude that these actions are directly related and represent a conspiracy to deny even a modicum of protection to farmworkers.

The NLRB is clearly employing a double standard by continuing to deny farmworkers the rights and protections of the National Labor Relations Act while at the same time stipulating that farmworkers must abide by certain prohibitions of this act. This duplicity and discriminatory treatment will simply not hold water and the American public must be made aware of the fact that the farmworkers union will be seriously crippled, if not virtually destroyed, by these politically inspired actions. How can any American in good conscience sit before his dinner table, in usually comfortable surroundings, and not feel some sense of support for those men, women, and children—heavily overworked, poorly paid, generally exploited—who have toiled to produce their fruits and vegetables, meats, wines, and other foods? Men of good will can only be offended by the treatment of farmworkers and by this insidious campaign to destroy their few rights and bargaining power.

Yesterday I wrote to the NLRB's General Counsel, expressing my very deep concerns over this issue and urging that the NLRB desist from pursuing its injunction against the United Farm Workers. I present my letter herewith for inclusion in the RECORD and urge our colleagues to join with me and others in calling upon the National Labor Relations Board to terminate its alliance with the special interests and to end its poorly conceived actions against the United Farm Workers Union and its members:

MARCH 27, 1972.

Mr. PETER G. NASH,
General Counsel, National Labor Relations Board, Washington, D.C.

DEAR MR. NASH: I am writing to express my strong opposition to the complaint filed by the NLRB against the United Farm Workers Union, seeking to secure an injunction against the UFW's secondary boycott activities. Further, I also want to advise you of my very deep concern over the motives underlying your agency's actions against the United Farm Workers.

I have given this matter careful consideration over the past several days and simply cannot understand your rather convoluted reasoning in attempting to end the UFW's activities. Although it has been consistently maintained that the UFW is not classified as a labor organization and is, therefore, not covered either by the protections of the National Labor Relations Act or the secondary boycott provisions of that Act, you seek to impose the NLRA's restriction on the UFW. Certainly such ill-conceived action is clearly inconsistent with previous NLRB decisions and I would be rather interested in learning of the rationale behind your determination.

I am equally concerned that this action against the UFW by the NLRB should come precisely at the time when the union and, particularly its president, Mr. Cesar Chavez, are the targets of a reportedly well-financed campaign designed to end the UFW's activities, especially the boycott. The position assumed by the NLRB appears to be the same promoted by those seeking to end the UFW's activities and I cannot help but suspect that political motivations have entered into this issue.

I urge that you promptly reconsider the position the NLRB has assumed and desist from pursuing the injunction against the UFW. I will appreciate being kept fully informed of all pertinent developments in this matter and will look forward to hearing from you shortly.

Sincerely,

HERMAN BADILLO,
Member of Congress.

MARKET PRICE SYSTEM SERVES CONSUMERS WELL

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. FINDLEY. Mr. Speaker, earlier today I had the opportunity to present my views on farm prices and food costs before the U.S. Price Commission currently holding hearings on the economic stabilization program. My statement before the Price Commission follows:

STATEMENT BY REPRESENTATIVE PAUL FINDLEY

Chairman Grayson and Members of the Price Commission, I want to thank you for giving me this opportunity to testify before the Price Commission's Public Hearings on the Economic Stabilization Program. You are also to be congratulated on your decision to hold a national hearing on food prices April 12.

The competitive uncontrolled system under which American meat is produced is fair to the consumer, to the producer and to government.

Let me illustrate by citing the remarkable record of beef during the past twenty years:

Output has more than doubled: up 13.3 billion pounds or 150 percent.

Consumption per capita has doubled: now 113 pounds a year.

Value, in terms of an hour's wage, has nearly doubled: an hour of factory labor bought 2.6 pounds of round steak in 1971, contrasted with 1.4 pounds in 1951.

Pounds of round steak purchased with 1 hour of factory labor

1951	1.4
1956	2.2
1961	2.2
1966	2.4
1971	2.6

This has been accomplished without price supports or other forms of government subsidy.

The system which produced these remarkable results is itself remarkable. It is highly competitive at all times. Price trends influence greatly production decisions. Regardless of price, the levels of efficiency and quality stay high and, except for wartime, consumers have never known a period of shortage.

Beef producers are making money today. No doubt about it. Less than 10 years ago they were not. They were losing $65 or more on every animal shipped. Nevertheless, they stayed in the business because they remembered earlier periods of profit and counted on better times—like now—in the future.

This Commission is being urged to tamper with this system, to force—so to speak—a shotgun wedding of meat and price-control.

Such a union would, I predict, be bad for consumers, producers and the government.

For consumers, the marriage predictably would bring forth a quick issue of shortages black marketeering and favoritism in the butcher shop. Inevitably, supermarkets would be driven to practices like leaving excess fat on meat cuts.

In the end, it would mean less quality and less meat, perhaps rationing.

For the producer, it would bring less income, and for many, disaster. Currently, the producer is receiving 66 percent of the consumer dollar. If beef is brought under controls, the income of the producer would suffer slow but sure attrition. Government-sanctioned increases in wages, utilities and taxes—as they inevitably come along—would bring pressure on the supermarkets. With retail prices controlled, the pressures would be channelled to the maximum extent possible against the producer. An increase of 2½ percent in costs would require about a 4 percent decrease to producers if retail prices stayed constant.

Under these pressures livestock income—and production—would tumble.

For the government, controls would require a vast expansion of the bureaucratic network to check grades and cuts, chase black marketeers, file legal actions and fill the Federal Register with new regulations.

Ultimately, the pressures would get so strong, the legislative arm of the government would be forced to provide a grateful executive branch with a graceful exist by forbidding ceiling prices.

The wedding of meat and price-control would be a most unworthy, unholy union—one sure to end in divorce court—but only after a lot of needless anguish.

I understand the dilemma facing this Commission. Its Members are under heavy pressure from consumer interests which fail to understand—or refuse to recognize—how well they are served by the present competitive market price system.

Your dilemma reminds me of a story Abe Lincoln may possibly have originated. A young couple arrived late on Friday at the home of the Justice of Peace wanting to be married immediately. Unhappily, they had failed to secure the required license at the courthouse which was by then closed for the weekend. The Justice informed the couple that under the circumstances he could not perform the wedding ceremony. To this, the distraught young man said, "Your honor, couldn't you say a few words to tide us over the weekend?"

Besieged Members of the Price Commission, I hope you refuse to perform the wedding of meat and price-control. Instead, say some informative words to tide the American people over this period of concern. Support the Department of Agriculture in its educational program. Explain that this is a normal cyclical price trend.

Otherwise I fear you will later be conscience-stricken for having caused great harm to a food-production system that has served the American people well.

PEKING TERMED TOP "PUSHER" IN WORLD

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SCHMITZ. Mr. Speaker, one of the great "nonissues" of our day is the extent to which the narcotic drugs which are poisoning our young people today in record numbers originate in Red China with whose government we are now so busy making friends. Most people know that historically China has been probably the world's leading source of narcotic drugs; but every effort is being made to keep quiet about its role in today's drug crisis, presumably because it might upset some highly placed foreign policy applecarts.

This subject needs vigorous exploration and exposure. One party which at least has no interest in keeping it quiet is the government of free China on Taiwan. The following UPI report, printed some time ago—September 18, 1971—in Santa Ana, Calif., Register, but only recently brought to my attention, deserves to be much more widely known and investigated:

PEKING TERMED TOP "PUSHER" IN WORLD

TAIPEI.—An anti-Communist exhibition by eight Nationalist government agencies reported Friday that Red China is smuggling at least 10,000 tons of narcotics into the free world each year.

The agencies, four of them intelligence agencies which operate on the mainland, branded Peking the world's No. 1 drug pusher and said it netted at least $800 million a year.

The exhibition which also catalogues alleged Communist crimes on the mainland, opens Sunday for two months. Newsmen were given a preview today.

The exhibition, illustrated by graphs, charts and photographs, said Communist China is dumping heroin and morphine in South Vietnam to poison American troops.

It reported that heroin of more than 90 per cent purity worth $4,000 an ounce in the United States is sold in South Vietnam at half the price.

CONGRESSMAN JIM WRIGHT SPEAKS OUT IN BEHALF OF THE VIETNAM VETERAN

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. TEAGUE of Texas. Mr. Speaker, our good friend and colleague, the Honorable JIM WRIGHT of Fort Worth, Tex., spoke out this past week in behalf of the returning Vietnam veteran. His remarks are worthy of repeating in the RECORD in order that all may read them. I for one think that Mr. WRIGHT has set the record straight.

The remarks follow:

[From the Fort Worth Star-Telegram, Mar. 22, 1972]

VIET VETERANS HAVE EARNED HELP—DODGERS, DESERTERS HAVE NOT

(EDITOR'S NOTE.—This article was excerpted from a statement issued this week by Fort Worth Congressman Jim Wright on the question of amnesty for Vietnam war draft evaders.)

(By JIM WRIGHT)

While the House was passing a bill to increase educational benefits for Vietnam veterans, some public officials were trying to find a way to help youthful draft evaders who have fled this country in order to avoid serving it. Most of these, rather than enter the military, voluntarily exiled themselves to Canada or Sweden.

Now come Sen. Robert A. Taft Jr. and others with a bill to grant a blanket amnesty to all of these expatriates. Let them return and be forgiven if they will serve two years in some accepted public service, urges Senator Taft.

My basic feeling toward the self-styled "cop-out" is pity. Many, overtly encouraged by certain college professors and other anti-Vietnam protesters, no doubt rationalized that they were doing a proper thing—perhaps even a courageous thing. They were, in my opinion, pathetically and tragically misguided.

Some no doubt were motivated by nothing more noble than physical cowardice, some the products of parental pampering and over-protectiveness—anything to avoid responsibility. Yet others must be granted at least the charitable assumption of sincerity. With certain U.S. senators issuing public statements almost daily saying that our country's attempt to stop the aggression from North Vietnam was wrong and even "immoral," it was easy for a lot of these kids to talk themselves into thinking that they were doing the right thing by copping out.

Yet it just doesn't seem fair to me—and I personally cannot justify—giving them a blanket amnesty while other young Americans are being called to fight, and some even to die, for their country. What would this say to the parents and loved ones of those who are prisoners of war, and those who have given their lives? Or even to those who simply did their duty, took their chances, served their country and returned to try to pick up the threads of normal living?

At some later date, when this war is over, I think perhaps it may be right and proper to give these expatriates a chance to redeem themselves, if they desire it, through some form of compensatory service to their country—either in the armed forces or in some needed public work.

But not now. Surely not while others are dying for the country. Some of the self-exiles in Canada affect a posture of public bluff and bravado. Some declaim that they will not return until the country apologizes to them and brings them back as heroes. Well, so far as I am concerned, these particular ones can stay gone from now on.

For what they did was not right, whether sincere or not. If every citizen should be free to decide for himself just which laws he will obey and just which wars he'll fight for the country, there wouldn't be any such thing as law. There wouldn't be any organized society.

And I for one am fed up with the pompous self-righteousness of those who say they'd gladly fight for their country in some other war, but just not this one because it is immoral. Bunk. All wars are immoral. Killing is immoral. And some day, by God's grace, we may have a more moral world. But in this imperfect one that we have, the United States is still man's best hope for decency and humanity. And we do owe to it—with all its imperfections—a debt of personal gratitude and personal loyalty.

Of course, talking about what young people owe to their country is only one side of the coin. The other side is what the country owes to its young people—particularly its Vietnam veterans.

These are the guys who did not cop out, did not picket the White House, did not shout obscenities at the President, did not spit on the flag and did not go mincing off to Canada on the TV evening news. These are the guys who simply did their job.

And yet the country in many cases is treating them shamefully. Some 320,000 of these young men are presently unemployed. And it isn't only because of depressed national economic conditions.

The rueful fact, pointed out recently by House Veterans Affairs Committee Chairman Olin E. Teague, is that unemployment among Vietnam veterans is higher than among others.

Teague's committee has heard shocking cases of restaurants refusing to serve Vietnam returnees . . . employers denying them job opportunities because of My Lai . . . hospitals declining to hire medical corpsmen because of fears generated by publicity given to the small minority who have become drug abusers.

Behind and beneath it all is a general lack of evident public enthusiasm for helping cushion the re-entry shock for these young men as they filter back into the civilian world.

Why hasn't our society done more to express the gratitude it ought to feel for the Vietnam veteran? Surely it isn't that he has sacrificed any less, endured any less, suffered any less than the military of earlier generations. He has known all the anguish, frustration and heartache associated with war since Sherman gave it its synonym . . .

What a lousy, dirty bum rap our fat, supercilious society has fastened upon these young men!

Clearly, we need to do more than we've done. We need to reward these fellows with a darn sight more than just a pat on the back and a few kind words—although even that would be a starting place. Its omission ought to burn like a hot iron poker in the national conscience.

A WEEK OF CONCERN FOR AMERICANS WHO ARE PRISONERS OF WAR AND MISSING IN ACTION

HON. NICK GALIFIANAKIS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. GALIFIANAKIS. Mr. Speaker, this is the week that Presidential proclamation has designated as "A Week of Concern for Americans Who Are Prisoners of War and Missing in Action."

It was in March of 1964 that the first American was taken prisoner, and today, 8 years later, we as a people still share the anguish of not knowing the fate of many of our brave men; 8 years later we still share the frustration of being unable to directly affect the conditions in which our valiant servicemen must live as prisoners in an enemy land.

I cannot be coolly logical or political on this subject, for it wrenches at my heart, angers me, and tortures my conscience as it does all of us. But our sorrow, our anger, and our guilt are worthless emotions unless they are channeled into positive action. If we harness the power of our collective feelings about these men and pull together, I have faith, I must have faith, that that power will be felt around the world, all the way to Hanoi. We have seen that adverse world opinion does affect the actions and attitudes of governments, even North Vietnam. It is a power not to be underestimated.

And yet, a week of concern must appear an inadequate gesture to many in the face of so many years of mistreatment of our men and anxiety of their families. But it says clearly, officially, unequivocally, "We care." Not just political leaders or the families directly involved but all of us as Americans who believe that all men are God's creation, human beings with souls. What right, then, to turn these creations into objects of ridicule, to treat their lives as meaningless chips in the game of war? No right.

There must be adherence to basic human laws. These prisoners must be treated in accordance with the provisions of the Geneva Convention. We must know the names and physical condition of our men held prisoner. Our sick and wounded must be released. There must be inspections of those prisons. We demand this at the very least.

I can think of no other single issue of more overriding importance to the people in our Nation than the lives and well-being of their husbands, brothers, fathers, sons, and fellow Americans. These are our people and they must be returned to us.

I was a strong supporter of the POW/MIA resolution which was passed unanimously recently in the House of Representatives. It calls for placing prisoner exchange in top priority position.

That is Government language. Let me put it in the words of a child:

> Mr. Congressman, I miss my daddy. I love him more than they love him over there, so I hope you can tell them to send him home. My little brother doesn't know him yet, and I know he will like him a lot when he meets him. Can you help us?

We must never lose sight, regardless of what else we face today, of our obligation and our love for these men, and for their families.

NATIONAL WEEK OF CONCERN FOR PRISONERS OF WAR

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BAKER. Mr. Speaker, this week, March 26 to April 1, 1972, has been proclaimed "National Week of Concern for Prisoners of War/Missing in Action" by the President. At the end of this month, the first American to be taken prisoner will begin his ninth year in captivity. This imprisonment at the hands of the North Vietnamese represents the longest and one of the most brutal ever endured by American fighting men.

Last year at this time, we marked another week of concern. Progress since then has been slow and discouraging. Despite every effort on the part of the United States to obtain more humane treatment and eventual release of all American prisoners, the enemy still holds 1,623 American servicemen and some 50 U.S. civilians. Among these are 31 men from my home State of Tennessee.

After almost 8 years of frustrating, fruitless negotiations for release of our prisoners, the enemy remains adamant in its refusal to comply with the Geneva Convention agreements it signed. Despite repeated demands for compliance by the United States, United Nations, and International Red Cross, the Communists are still flagrantly violating four points contained in the Geneva agreements.

Hanoi has failed to identify all Americans it holds, although international pressures recently forced Hanoi to acknowledge an official list of 339 prisoners, plus 20 U.S. servicemen it says have died in captivity.

Hanoi continues to reject even minimum standards for humane treatment of prisoners outlined in convention agreements. It repeatedly rejects all requests for impartial inspections of its prison camps, although U.S. camps, where 35,600 Communists are held, are inspected regularly. Hanoi soundly rejected the latest offer from the International Red Cross to act as an impartial inspector.

Hanoi continues to deny repatriation for seriously sick and wounded prisoners.

Perhaps most cruelly of all, Hanoi continues to ignore prisoners' right to correspond regularly with their families. Not only must their loved ones in the United States suffer physical separation from sons, husbands, and fathers; they must bear the additional agony of not knowing whether these men are dead or alive.

There are some signs continuous international pressure has led to some Communist concessions.

In addition to releasing a partial list of U.S. prisoners, Hanoi has recently permitted a limited exchange of correspondence between captured men and their families.

But much remains to be done.

On this occasion, I urge all Americans to rededicate themselves to the task of returning all prisoners to their homes and families. I repeat my plea to our Departments of Defense and State to bring every possible pressure to bear upon Hanoi to this end. And I reiterate my request to those responsible for progress of the Paris peace talks that the prisoner issue be given top priority in our negotiations.

Our American Prisoners of War/Missing in Action deserve our concern and prayer not only this week, but every week of the year.

FOOD DISTRIBUTORS SHOULD NOT BE MADE SCAPEGOATS IN BATTLE AGAINST RISING COSTS

HON. SHERMAN P. LLOYD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. LLOYD. Mr. Speaker, a searchlight is scanning the landscape for scapegoats to blame for rising food prices.

First the light was wrongly pointed at farmers, especially cattlemen, because prices for beef have just reached the level of 20 years ago.

Now the light has been focused on the food distribution industry—the wholesalers and retailers—in the hunt for an easy victim. But the facts simply do not support such an attack. Consider this:

Although food prices have been rising in recent years, the rise has not been as great as for other goods and services purchased by consumers. The retail cost of market basket foods has risen 15 percent since 1967, compared with an increase of 22 percent for all other items in the Consumer Price Index.

The increase in food prices is primarily because of higher wages. Average wage rates per hour of production workers in manufacturing are 2.3 times higher than 20 years ago. Average hourly earnings of food marketing employees are 2.5 times higher than 20 years ago.

Other factors influencing rising food costs are such things as freight rates; container costs; added services and conveniences built into frozen and prepared foods, and more meals eaten out where service and labor cost more than the food.

According to the Department of Agriculture, the 1971 increase in marketing spreads, the difference between what a farmer receives and the retail cost to the consumer, corresponded with a general increase in operating costs of food marketing firms.

For example, earnings of employees in food marketing firms averaged $3.23 per hour in 1971, an increase of 7 percent over the previous year. Prices of containers, packaging materials, and other intermediate goods and services purchased by marketing firms also averaged substantially higher in 1971.

Aftertax profits of food manufacturing corporations averaged 2.5 percent of sales in the first three quarters of 1971, up slightly from the same period of 1970, according to the latest available statistics. By contrast, aftertax profits of 15 leading retail food chains averaged 0.9 percent of sales in the first 9 months of 1971, down slightly from a year earlier.

The facts show grocers and food retailers are not responsible for increased food prices. As a matter of fact, profits of foodstore operators are down to the lowest in 10 years. In a survey study for 1970–71 covering foodstore operators, net profits as a percent of sales went below 1 percent. Food retailers in many areas across the country make less than 1 cent per dollar of sales. Their return on investment is down to 8 percent of net worth, the lowest level in over a decade.

At the same time, price controls on grocers are rigorous. Their gross margins are frozen as of the level for the year prior to the August 1971 freeze. Price regulations now require retailers to absorb increases in labor costs which are going up and now equal around 50 percent of total operating expenses. Grocers cannot raise their margin and then must absorb all increases in operating expense under price regulations now in effect.

Store expenses account for around 22 percent of the retail price paid by the consumer. The remaining 78 percent is accounted for by the cost of merchandise which retailers have no control over.

In addition, grocers' net profit margins before taxes are also frozen. They are kept at the level which prevailed last year or the year before.

Anyone who knows the grocery business knows that profits are low because of intense competition among distributors. The grocery industry is one of the most highly competitive in the country.

It is neither accurate nor fair to try to pin the blame for higher food prices on those who are performing everyday at reduced margins and for less profits.

Mr. Speaker, despite the unfair claims against both agriculture and the food distribution industry, food is still one of the best bargains available for consumers. Consumers this year will pay less than 16 cents for food out of each take-home dollar, compared with 23 cents 20 years ago. If food costs had gone up in proportion to average take-home pay, consumers would be forced to pay an average of $286 more per person for food this year. Luckily, such is not the case.

Taking all the 70 major food items grown on the farm, the total increase during the past 20 years has been only 7 percent. In that same period, nonfarm wages increased 340 percent; government employee salaries increased 430 percent; business and professional income was up 200 percent, and dividends increased 300 percent.

Instead of blaming grocers for rising food prices, we should be asking how we can help retailers reduce expenses by cutting redtape and unnecessary cost imposed by Government regulations and restrictions.

There are over 200,000 retail food stores in this country. They operate under stiff price regulations backed by intense market competition. Their profits—the lowest in years—are rigidly controlled. The effort to make grocers the scapegoats in the present situation should stop.

Everyone, including the food distributor, is the victim of rising costs. In addition to rising costs, the other obvious reasons for price increases are monopoly and conspiracy among dominant food distributors. The food industry is not yet the victim of monopoly in most parts of the country although danger signals are evident in many markets. Conspiracy to fix prices among dominant distributors in a market is another constant danger. The public will be protected against rising prices when costs are stabilized, and so long as monopolistic and conspiratorial practices are not allowed to develop.

GREEK INDEPENDENCE ANNIVERSARY

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mrs. GRASSO. Mr. Speaker, March 25 marked the 151st anniversary of Greek independence from Ottoman rule. At this time we pay tribute to the principles of democracy and freedom so cherished by the Greek people—principles which have been suppressed by the current Greek regime.

March 25 is recognized as the day when Alexander Ypsilantis and the Archbishop of Patras raised the patriot flag which began a revolt culminating in the overthrow of Ottoman empire rule. The Treaty of Adrianople in 1829 and the London Protocol of 1830 signified a great triumph for the Greek people. During that struggle, Americans watched with great interest, and shared in the triumph and happiness following the Greeks' glorious victory. The warm friendship between the Greek people and the American people has been constant over the years. The United States is fully aware of its great debt to those early Greek scholars and philosophers whose ideals set the tone for our own birth as a Nation.

For the nearly three-quarters of a million Greeks who reside in this country, today is a day to be proud. All Americans relish the hope that the Greek nation will soon be able to enjoy the freedom and democracy first cultivated in the visionary minds of an ancient society.

HUMAN DISCARDS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HARRINGTON. Mr. Speaker, "Overcrowding, archaic, primitive, uncivilized"—these are just a few adjectives that characterize the indelible impression that one might be left with upon completing a visit to an institution for the mentally retarded. Whether it be the Willowbrook State School for the Mentally Retarded in New York State or the Rosewood State Hospital in Maryland, the story is the same. Dehumanizing, deplorable conditions exist in these institutions—conditions which are totally unacceptable for this country. These conditions are enough to manufacture madness, itself.

The mentally retarded have no freedom of choice. They have no control over their environment. They are but helpless victims of abhorrent conditions.

Mr. Speaker, I submit these alarming articles for those who cannot speak for themselves in the hope that others will speak on their behalf:

[From the Washington Post, Mar. 21, 1972]

HUMAN DISCARDS: THE PROBLEMS PERSIST

(By Douglas Watson)

OWINGS MILLS, MD., March 18—They cluster about a visitor, muttering incomprehensibly and holding out their hands in welcome to King Cottage, the shame of Rosewood State Hospital.

The rest of the 45 severely retarded young men move aimlessly about the locked, high-ceilinged room that is bare of all furnishings except rows of cots that are crowded only a foot apart.

"What's my name? What's my name?" one of the patients manages to ask. Others are oblivious to everything, rocking back and forth while crouched on the floor or chortling to themselves while they hop up and down.

The conditions at 60-year-old King Cottage and some other units of the sprawling, 2,600-patient Rosewood complex shocked Bert W. Schmickel last year when he became director of Maryland's mental retardation administration.

Calling Rosewood, "one of the worst I have seen," Schmickel announced in November that he was assuming personal direction of the state's largest health institution to make much needed changes.

"There are day-to-day dehumanizing things that ought not to be accepted," Schmickel said then.

"Jail cottages. Locked doors. This is archaic treatment of people. You see people inadequately dressed. You still see the isolation cells. They're just not modern in concept," he added.

With 60 buildings on 790 acres northwest of Baltimore, Rosewood is Maryland's largest health institution. But it is still not big enough to provide full care for all the mental and physical cripples sent there until a ban on admissions was imposed last year.

The task of caring for 2,600 patients is enormous. For example, a large number of the residents are not toilet-trained—10,500 diapers are used daily.

About 800 helpless, bedridden patients must be fed by hand or they will starve.

Rosewood's size and great variety of patients results in a wide variety in the quality of facilities, from a "snake pit" like King

Cottage to a school and vocational rehabilitation unit that are doing an impressive job of preparing some of the patients for self-supporting, close-to-normal lives.

The variations in care struck a mental retardation expert from a neighboring state who visited Rosewood last year. "They deserve a lot of credit for some excellent programs," he said last week.

But then he added, "I saw things there that horrified me personally." He recallled seeing children in the pediatrics section of Rosewood's hospital who were kept naked, he was told, because clothing wasn't available.

However Rosewood ranks among the nation's generally dreary large institutions for the mentally retarded, every staff member interviewed agreed that care for patients like the boys in King Cottage must be improved.

"Everything depends on getting the numbers down," said Schmickel in an interview. He has proposed sending 300 patients to two facilities in Baltimore, but said the shifts can't be made without an additional $1 million included in the supplemental state budget Maryland Gov. Marvin Mandel will propose to the legislature this week in Annapolis.

A spokesman for Mandel said Friday, "The revenue picture right now is very bad," noting that Mandel has received $90 million in supplemental requests from his department heads and the regular budget before the legislature only had a $350,000 surplus.

Whether Rosewood gets the $1 million it needs to ease its overcrowding may depend on whether the legislature votes to raise the state tax on beer.

Reduction of Rosewood's patient population to less than 2,000 is the immediate goal of Schmickel, formerly Connecticut's commissioner of mental retardation. He was brought to Maryland with the foremost assignment of ending overcrowding at the institution that accounts for $16 million of the state's $21 million annual mental retardation budget.

Dr. Neil Solomon, Maryland secretary of health, has said that Rosewood should be limited to 1,500 patients in the next eight years.

Dr. T. Glyne Williams, Rosewood's superintendent since 1964, said that if he could redesign the institution, he would limit it to no more than 1,200 patients.

Their objective of scaling down Rosewood to a more manageable size is in keeping with the present national trend away from big, isolated, often-hopeless mental institutions and to smaller, community-oriented facilities that enable individuals to live at home or, at least, in home-like surroundings.

Overcrowding at Rosewood means there is not room in King Cottage's two plain barnlike dormitories to provide a young man there with at least his own shelf or cubbyhole to keep personal things in.

Last week King Cottage had 99 residents, 12 more than its rated capacity, which Schmickel said is based more on how many cots can be squeezed in than on how many patients can be adequately cared for.

About 20 of King Cottage's residents go to Rosewood's school, but there is no attempt to provide any regular training for the others.

They must be satisfied largely with occasional group walks around the grounds, rotated periods in an arts and crafts room upstairs, or staring at the television sets kept in screened cages to keep disturbed patients from tearing them apart.

Some of the patients can look forward to weekend drives with the families or volunteer sponsors. But Dr. Williams notes that one-third of Rosewood's patients have never had a visitor.

He said the residents of King Cottage and other severely retarded patients often received less attention than Rosewood patients at either extreme of the handicap spectrum.

Rosewood has about 1,000 residents who, though their IQ is under 70, are considered only borderline, mild or moderately retarded. These are the ones whom Rosewood's school and vocational rehabilitation unit are primarily geared to help.

Rosewood also has about 1,000 profoundly retarded, largely bed-ridden patients whose IQ's are below 20 and who more frequently have multiple physical handicaps too. For these, the commitment is only to sustain life, a job that demands and gets round-the-clock nursing.

The remaining Rosewood patients fall into the severely retarded category of those with IQ's of between 20 and 35, who usually can walk, perhaps talk a little, can be toilet-trained but for whom there has been little hope of improving their condition.

Overcrowding at Rosewood heightens the health hazards. "Tomorrow we could have an epidemic in a crowded place like this. It would be very easy," said Dr. Williams.

Overcrowding also adds to the workload of Rosewood's staff of 1,700—a large number until spread around the clock, every day of the year and divided between 32 units of handicapped patients.

Overcrowding makes it harder to handle the occasionally unruly resident. Most so-called "hyperactive" young men were mixed indiscriminately together in the locked Bissell Cottage, which was surrounded by a 10-foot-high fence.

Schmickel had the fence torn down and separated the profoundly retarded youths from those who were less handicapped and who often would attack them. But Bissell Cottage, despite a staff that works diligently to dress the youths each morning, keep the floors clean, and provide some activities, still seems much more like part of a prison than of a hospital.

Schmickel's criticism of some of the things he has found at Rosewood and a series of reports on conditions there by WRC-TV has left many of the institution's employees resentful. Many feel attention has only been focused on the bad, and not as well on the improvements that have come to what began in 1889 as "the Asylum for the Feeble-Minded."

A visitor to Rosewood's campus-like grounds not only can be shocked at the Bissell and King cottages, but also can see nurses tenderly holding deformed children in Rosewood's 300-bed hospital.

The visitor can watch deaf children being taught sign language, and mildly retarded youngsters slowly learning how to spell or to count change at the Rosewood school. "I'm certain that there are another 150 to 200 children that we could reach if we had the staff and space," says Sylvia Staples, the principal.

One can tour the vocational rehabilitation unit where about 400 young people are being trained in shoe repairing, sewing, to assist mechanics and carpenters and to do other needed work that will enable them to become taxpaying rather than tax-costing citizens. Some commute from their homes in Baltimore to take the courses.

But the indelible impressions are of King Cottage and Rosewood's other overcrowded facilities where hope cannot now be found.

"The impersonality of it, the lack of dignity, the homosexuality that I think nobody would deny—we must do better," Schmickel said.

Dr. Williams is more likely to defend Rosewood, but he said, "There is no disagreement between us on the need to reduce the population of this institution."

[From Time magazine, Feb. 14, 1972]

HUMAN WAREHOUSE

By name and locale, Willowbrook State School seems a pleasant enough place: a teaching institution on a 400-acre bucolic tract on Staten Island in New York Harbor. Actually, Willowbrook, the world's largest institution for the mentally retarded, is a school in name only. It is instead a grim repository for those whom society has abandoned. What sets Willowbrook apart from similar facilities in other states is sudden exposure. Parents, legislators and newsmen have recently made headlines by attacking the system that allows such a place to exist. In the process, they have won some small sops for Willowbrook's pathetic prisoners. More important, they have shown how hopeless and archaic is the custodial approach to the problem of mental retardation.

The battle of Willowbrook began last December when two staff members, Dr. Michael Wilkins, 30, and Mrs. Elizabeth Lee, 29, a social worker, began urging parents of Willowbrook children to campaign for better conditions. The two, who were later fired, triggered an emotional avalanche. A local daily, the Staten Island *Advance*, took up the cause with a damaging series of articles on the institution. New York television stations dispatched camera crews and gave generous amounts of air time. Politicians also visited the institution. All reached the same conclusion: conditions at Willowbrook were intolerable.

ODOR OF DESPAIR

Built in 1941 to house 3,000, Willowbrook now has a population of 5,200. Half the "patients" are under 21, and at least three-quarters are classified as "profoundly" retarded (IQ under 20) or "severely" retarded (under 36). For a handful of its residents, the school lives up to its name: it has a clean, new and well-staffed education section where "moderately" (IQ from 36 to 52) and "mildly" (from 53 to 68) retarded children live in small brightly decorated dormitories. These youngsters, considered trainable, attend classes that teach reading and self-care.

But for most of Willowbrook's residents, the institution is a warehouse, a place capable of providing only shelter and the barest essentials, for those whose families are either unwilling or unable to care for them. One building designed to accommodate 188 currently houses 250 severely retarded and seriously disturbed adolescent girls in conditions so crowded that one bed must often be moved in order to reach another. Training of any kind is nonexistent, though recent experience elsewhere has shown that seemingly hopeless cases can benefit from professional attention. The girls spend their days sitting, standing or lying in a large marble-floored room that resembles Sartre's vision of hell. Bare and high-ceilinged, its walls covered with flaking green paint, the room is redolent of sweat, urine, excrement—and despair. Many of the patients are incontinent; the few attendants are kept busy changing them or putting clothes back on those who keep tearing them off. There is no time left to carry out rehabilitation programs. "It just kills me," says one attendant. "We're so busy that we can't do anything that really helps them."

Wards for profoundly retarded children are no better. By night, the children, many of whom have physical handicaps as well, sleep in closely spaced cribs. By day, they sit strapped into special chairs, recline in two-wheeled wagons that look like peddler's pushcarts or lie listlessly on mats on the floor. Some of the youngsters weep or grunt unintelligibly; most make no sounds at all. A few children with severe physical handicaps but normal intellects share the accommodations; families unable to care for them have made them wards of the state.

Conditions in some of the men's wards would have made Bedlam look inviting. One ward holds 40 seriously disturbed adults, some of them violent. The ward is staffed by two attendants, one a woman; they have all they can do to keep their patients from hurting themselves or each other. They cannot always keep their patients healthy. Hepatitis, which thrives on poor hygiene, is rampant at Willowbrook. Many of the patients have diseases and defects that will ultimately kill them. Some die of other causes: ten years ago, a measles epidemic swept through the institution and killed 250. Of the 125 patients who died of various causes during 1970, nine choked on their own vomit before attendants could reach them.

Conditions at Willowbrook were not always like this; seven years ago they were even worse. When Dr. Jack Hammond, the present director, took over the institution in 1964, the patient population was up to 6,500 "It was both inhuman and unhealthy," says Hammond. "They were literally packed in here like cattle." To relieve the overcrowding, Hammond persuaded the state's department of mental hygiene to halt admissions except for special cases. But Hammond, with a budget of $33 million a year, has not been able to relieve Willowbrook's gross understaffing. In December 1970, the state imposed a hiring freeze on all institutions. Willowbrook, which then had 274 staff vacancies, is now 900 short of its authorized roster of 3,628. For sections housing the most retarded, the recommended staff-patient ratio is 1 to 4; in some of Willowbrook's worst wards now, it is actually 1 to 20.

WAITING LIST

Some relief is in sight. The department of mental hygiene's 1971 budget of $580 million had been threatened with a $20 million cut in the coming fiscal year. Responding to public pressure, Governor Nelson Rockefeller has canceled the cut, announcing that the department's budget will instead be increased by $20 million. That will allow Willowbrook to fill at least 300 vacant positions. But it is unlikely to improve conditions at the institution. "Attendants aren't enough," explains Hammond. "We need to get 2,000 patients out of here."

Such an accomplishment seems impossible. Most of Willowbrook's patients are there because there is nowhere else for them to go. Nearly all experts in mental retardation argue for small centers where patients can receive intensive attention from doctors, therapists and teachers. They also recommend day schools that allow all but the most seriously afflicted to live with their families but still have care. In most states such facilities are simply nonexistent. Willowbrook, despite its well-advertised horrors, has a list of 1,000 awaiting admission.

ANNIVERSARY OF BYELORUSSIA INDEPENDENCE

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DELANEY. Mr. Speaker, I am pleased to join my colleagues in paying tribute to the freedom-loving people of Byelorussia on the occasion of the 54th anniversary of their independence.

The history of Byelorussian statehood extends back to the 9th century when several Slav tribes founded independent principalities on the territory of what is today Byelorussia.

Throughout the centuries these great people have endured severe trials to preserve their independence, and late in the 18th century suffered the ignominy of being annexed to the Russian state. Finally, on March 25, 1918, Byelorussia succeeded in declaring its independence from czarist rule.

The All-Byelorussian Congress met in the city of Miensk, and a provisional constitution providing for the freedoms we take so much for granted were guaranteed to all. Unfortunately, their experience of living in freedom was short lived, as the Russian Communists consolidated their forces and the Red Army brutally established Byelorussia as a captive nation on January 1, 1919.

We are heartened to know that the spirit of freedom continues to inspire the noble people of this great nation, and hope and pray that they will soon live again in political liberty.

VALUE-ADDED TAX

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. PATTEN. Mr. Speaker, I recently received a letter from Mr. Joseph T. Karcher of Sayreville, who is a prominent lawyer in my congressional district. Mr. Karcher has written several legal articles, and he took this most recent opportunity to express some interesting thoughts on the proposed value-added tax.

In light of the hearings before the Joint Economic Committee on the value-added tax, I thought my colleagues might find Mr. Karcher's remarks most timely. I take this opportunity to place them in the RECORD as follows:

FEBRUARY 3, 1972.

Re Nixon's proposed new tax to relieve homeowners.

DEAR CONGRESSMAN: I am addressing this to you as a Congressman because it is my understanding that all tax raising revenues must originate in the House of Representatives, in conformity with the Constitution.

President Nixon recently announced that he might soon come up with a new federal tax plan which would "relieve" the homeowner of a substantial part of the cost of supporting our local public school systems.

It sounds good, but it now appears that his idea is to create a federal so-called "Added Value Tax" which would siphon off an estimated $16 billion of more taxes from the long suffering taxpayer. These new taxes would be collected and be sent to Washington and then would theoretically be distributed and sent back to the local taxing districts.

There are only three or four things wrong with this idea, viz:

1. This new tax is in effect an additional tax which is added to an article at every stage from its production to its final sale. It is inevitably passed on to the "ultimate consumer". It is generally known as a federal sales tax.

2. The "ultimate consumer" is primarily the same little home owner who is supposed to be "relieved" of some of his tax burden. Actually it would just add another tax to what he already pays.

3. It is a well known fact that the individual States and local communities never get back the same amount of taxes taken away for a specific purpose. Some of it (lots of it) gets lost in transit between Washington and back to the States. The only ones who would benefit would be the large bureaucracy created to collect this new tax.

Hence this looks like another "gold brick" to be sold the gullible American Public in an election year. We should be wise enough not to buy it.

The real problem with the ever mounting tax burden is that ever since the Constitutional Amendment which permitted the federal government to impose the income tax, Washington has been extracting so much taxes in this form at the local level that it leaves the States and local communities little if any other source of revenue to support themselves and the schools than the real estate tax on the homes and the State sales tax. If the federal government is now going to crash into this new field of taxation and impose a federal sales tax, we are not going to be better off, we are going to be worse off.

These are just my personal views but I believe they are sound and that every Legislator should be contacted and urged to vote against any such new form of taxes.

Respectfully yours,

JOSEPH T. KARCHER.

DIRECT AIR SERVICE—PHILADELPHIA TO IRELAND

HON. JAMES A. BYRNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BYRNE of Pennsylvania. Mr. Speaker, the Honorable George X. Schwartz, president of the City Council of Philadelphia has informed me our city council at a meeting held March 9, 1972, adopted Resolution No. 22 which would memorialize Secretary of State William P. Rogers to aid in inaugurating direct Philadelphia to Ireland inflight service by Aer Lingus—Irish International Airlines. I am hopeful this service can be initiated in the very near future, and I am pleased to call to the attention of my colleagues the resolution adopted by the council of the city of Philadelphia as follows:

RESOLUTION NO. 22

Memorializing the Honorable William P. Rogers, Secretary of State of the United States, to aid in inaugurating direct Philadephia to Ireland in-flight service by Aer Lingus-Irish International Airlines.

Whereas, Many thousands of Philadelphians of Irish heritage have been too long without a direct air link to the land of their forbearers; and

Whereas, Up to the present time the East Coast Cities of New York and Boston were the only cities permitting landing privileges to Aer Lingus-Irish International Airlines; and

Whereas, The City of Philadelphia is preparing to play host to the World for the Bi-Centennial Exposition; and

Whereas, This added service would encourage not only the people of Ireland to come to Philadelphia for the Bi-Centennial Celebration, but will also encourage an exchange of tourists and visitors that would foster a more direct relationship between Ireland and the people of Philadelphia; and

Whereas, Landing privileges for Aer Lingus-Irish Airlines at the Philadelphia International Airport would cause Philadelphia to be regarded as a major metropolitan gateway for world air travel; therefore

Resolved, By the Council of the City of Philadelphia, That we hereby memorialize the Honorable William P. Rogers, the United States Secretary of State to aid in inaugurating direct Philadelphia to Ireland in-flight service by Aer Lingus-Irish International Airlines.

Resolved, That certified copies of this Resolution be forwarded to the Honorable William P. Rogers, United States Secretary of State; to the Congressional Delegation representing the Delaware Valley; and to the City Representative and Director of Commerce.

Resolved, That an engrossed copy of this Resolution be presented to David Kennedy, Senior Vice-President and General Manager for Aer Lingus-Irish Airlines for America.

Certification: This is a true and correct copy of the original Resolution adopted by the Council of the City of Philadelphia on the ninth day of March, 1972.

GEORGE X. SCHWARTZ,
President of City Council.

A STEAK, A STEAK: MY KINGDOM FOR A STEAK

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BRASCO. Mr. Speaker, Secretary of Agriculture Butz is dashing about unleashed these days, bellowing to anyone who will listen that the astronomical meat prices we have been paying recently are wonderful.

He takes a careful look at these prices, which are the highest since the Korean war, and states that:

> They provide the best way to insure a good supply of the better cuts of beef that I prefer.

Profound words from a profound man. They should be chiseled in stone somewhere for future generations to ponder and wonder over. Rarely has such a pronouncement been uttered by a person of such exalted rank.

Mr. Speaker, today, the average housewife is going through the meat departments of 50,000 establishments, anguishing over the unbelievable meat prices, and this Secretary of Agriculture, who is determined to outdo Ezra Taft Benson, praises this state of affairs.

Millions of families are doing without decent cuts of meat, and this man, fresh from the corporate grasp of agribusiness, salutes their plight as beneficial.

Millions of children have become resigned to doing without. For the elderly, much of these kinds of meat have been out of reach for a year or more. Growing numbers of middle class families are seeking some better protein buys. And this man, who is supposedly the highest ranking agricultural official in the Government, applauds their sorry plight.

As the boat sinks beneath the waves, the builder of the faulty vessel cheers the sinking passengers. Should they wave back heartily?

One wonders at the thinking behind such public announcements.

The administration has turned the American economy into a national disaster. Inflation rages. Profits and interest rates remain untouched. Wages are fixed and take-home pay as well. But prices for necessities continue to soar. Victimized Americans by the millions are struggling and Butz commends the highest meat prices in history.

According to the consumer price index for January, the retail price of meats, poultry, and fish was up 6.7 percent from January of 1971. According to the wholesale price index for February, livestock prices were 17.4 percent higher than a year ago. Let us pull the curtain aside for a moment and see why this situation is the way it is today. The farm belt is a political disaster for the administration. Farm prices have been disastrously low as a result of administration policies. If inflation is allowed to rage unchecked in terms of meat prices, a significant group of farm voters will be favorably inclined toward the President's reelection effort this fall. Particularly if Mr. Butz roams the land bellowing about how fine such a state of affairs really is for us all. He takes the heat and the administration reaps the benefit. In the process of course, the average consumer's budget is turned into a different kind of hamburger, but that is quite all right with them.

Actually, the main dish in this dinner is the consumer himself. His money goes into the pockets of profiteers. His votes are supposed to go to the administration. His better interests are sacrificed for short-term political gain. The consumer is consumed.

Mr. Butz is simply the high priest in the temple officiating at the ceremony.

REVENUE SHARING

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EVINS of Tennessee. Mr. Speaker, the Committee on Ways and Means has tentatively approved a proposal for distribution of funds to State, city, and county governments as revenue-sharing.

Under this plan Tennessee would receive $79.1 million initially—$14.1 million by the State Government and $65 million to cities and counties.

The proposal would authorize allocation of $1.8 billion to States over a 5-year period and $3.5 billion to local governments over the same period.

Funds to the States would be based principally on their own revenue-production record. Funds to the cities and counties would be based on population, per capita income, and urbanization.

Under the Ways and Means plan and proposal funds would be divided between counties and cities within a county on the basis of local revenues raised by the respective cities and counties—excluding taxes for educational purposes.

This revenue-sharing proposal would give states and local governments much greater flexibility and discretion in the expenditures of Federal funds which they receive through appropriations.

WE CAN STOP THE DRINKING DRIVER

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BAKER. Mr. Speaker, each year, 56,000 Americans die on our Nation's streets and highways. Even more tragic than this statistic, moreover, is the fact more than half of these—over 28,000—are killed by the drinking driver.

Most tragic of all—we have the means to end this yearly carnage, but we are failing to implement them. This point was forcefully demonstrated in an article by Judge Raymond K. Berg, supervising judge of the Chicago, Ill., Traffic Court. Judge Berg's comments were reprinted in Progress, the publication of the International Reform Federation.

While we talk about ways to prevent traffic deaths linked to the drinking driver, the toll continues to mount. But as Judge Berg's article demonstrates, the solution is both simple and effective.

The answer? Tougher enforcement, coupled with educational and rehabilitative programs for those who drink and drive.

The Scandinavian countries, as Judge Berg points out, have enacted stiff penalties for the drinking driver, and alcohol-connected traffic deaths in these countries testify to the effectiveness of their programs. Sweden, for instance, sentences drivers convicted of operating their vehicles while under the influence of alcohol to 1 month of hard labor for a first offense. As Judge Berg notes, Sweden's percentage of road accidents involving alcohol has never risen above 5.4 percent during the past 25 years. This rate stands in marked contrast to the over 50 percent average of alcohol-caused traffic fatalities in this country.

That stricter enforcement can work here is illustrated by the success of a recent pilot program implemented by the Chicago Traffic Court and Police Department over the Christmas-New Year's holidays, 1971. These agencies announced and instituted a policy of sentencing persons convicted of driving while intoxicated to a minimum of 7 days in jail, plus unconditional revocation of driving privileges for 1 year. While fatalities in the rest of Illinois rose during the pilot period, they decreased by 32 percent from the rate for the previous year, in the Chicago metropolitan area.

As a sponsor of legislation to enact stepped-up highway safety programs, I believe the successful Chicago experiment could and should be adopted in the rest of the Nation. Because of its implications for the future of U.S. highway safety, I insert Judge Berg's article in the RECORD for the consideration of my colleagues:

WE CAN STOP THE DRINKING DRIVER SLAUGHTER

(By Judge Raymond K. Berg)

Are alcohol-connected traffic fatalities becoming so commonplace that the American public is insensitive to these tragedies and the conditions which cause them? Is the drinking driver, careening along, an accepted part of our daily lives? Not in Chicago.

We in Chicago are sufficiently concerned to attack the problem in a meaningful and effective way. The annual traffic slaughter, averaging 56,000 deaths per year, is nothing less than shocking and appalling. But even more shocking is the fact that more than half of these deaths are caused by drinking drivers. And more appalling has been the wide spread public apathy toward the problem of the drinking driver. If 1,000 fully loaded superjets crashed each year, killing all passengers, one can imagine the public reaction. Yet in an age of demonstrations, no one marches, pickets or demonstrates for victims of the drinking driver.

THE SOCIAL OR OCCASIONAL DRINKER

We hear much about the "alcoholic" driver as the alleged culprit. Most of the accusing finger of shame has been pointed at the "alcoholic" or "problem drinker" in traffic fatalities, with scarcely a thought given to the "social drinker." This emphasis has a negative effect in traffic safety, since it tends to encourage "social" or "occasional" drinkers to overdrink and drive. This approach causes the social drinker to feel that he is not part of the problem.

Because of the widespread attention given the "problem drinker" or "alcoholic" driver on the part of the U.S. Department of Transportation, the National Safety Council and other safety groups, and the planned expenditures of countless millions in public and private funds toward rehabilitation of the "problem drinker-driver", or the "alcoholic" driver, concern arose in Chicago.

We are now quite certain in Chicago that the *social drinker* is an equal or even more of a threat than the "alcoholic" to highway safety. That drinking affects driving is unanimously accepted as a well known fact.

The following statement, set forth in the "Drinking and Accident Fact Sheet," was jointly approved in 1969 by the American Medical Association, the U. S. Department of Transportation, the National Institute of Mental Health, the U.S. Public Health Institute, and the National Safety Council:

"There is a definite correlation between the amount of liquor in the blood and traffic accidents. Studies at Indiana University showed that a driver with a blood-alcohol level of 0.15% had a twenty-five times greater chance of causing a traffic accident than if he were not drinking. Increased accident causation is noticeable at 0.04%; is twice as great at 0.06%; and at 0.10% the probability is at least six times as great."

The medical and toxicological experts tell us that alcohol dulls and deadens the finer senses of the brain, that is, the senses to obey and follow highway directions and regulations. It slows down driver reaction so that many accidents which would be avoidable by a sober driver become "unavoidable." It changes a driver's mental attitude so that he becomes indifferent or overconfident or reckless and impair his judgment so that he makes critical errors in driving decisions. It impairs his muscular coordination and his acuity of visual perception.

In short, alcohol "tends to make good drivers bad, and bad drivers worse." Note well that the driver who has just enough alcohol in his system to slow his reactions or remove caution from his judgment might not be legally presumed "under the influence," but he forms the significant link in the causal chain of many traffic accidents.

Because of the doubts about the national emphasis on the "alcoholic" driver, and because of the concern in Chicago for the growing rate of alcohol-involved automobile fatalities, it was felt that positive action should be taken.

CONCERN LEADS TO

Accordingly, the Chicago Traffic Court undertook a study of drinking drivers who are arrested and brought before the Court. Commencing in April, 1970, ten convicted drinking drivers were referred each day to the Circuit Court's Psychiatric Institue for thorough psychiatric examination and evaluation. I should point out that the cooperation of these defendants was secured by Court assurance that their penalties would in no way be affected by anything they said to the Institute staff, that the study was intended as a means of helping the driving public. The ten, each day, were selected at random; and this procedure continued until a total of 250 such defendants had been examined. Thereupon, 100 defendants who were found "not guilty" were similarly referred; although they had not been proven guilty in court, they had been driving after some drinking. In addition, 50 defendants were referred in from suburban courts. As a further part of the study, psychiatric case histories were worked up on 173 persons involved in fatal accidents with alcohol.

The results of the psychiatric study were startling. *Only 20%* of the drinking drivers could be called "alcoholic." The great majority, *about 80%* were "social drinkers." For this great majority, rehabilitation was not an issue; rather, it was concluded that a program of prevention was appropriate. It was further concluded that the existing publicity campaigns, and the existing orientation of such proposed federal programs and advertising campaigns aimed at the "alcoholic" or the "problem drinker" or the "drunk" were incapable of making an impression on the social drinker. The "social drinker" would feel that all of this discussion of "alcoholics" or "problem drinkers" did not apply to him. That the "social drinker" is a threat to highway safety was obvious from the fact that almost one half of the "social drinkers" were arrested because they were involved in accidents.

Because of an obvious problem in semantics involving the meaning of the word "alcoholic", we used for purposes of our study the definition employed by the Chicago's Alcoholic Treatment Center:

"Alcoholism, or problem drinking as it is sometimes called, may be defined as an illness which is characterized by the compulsive, uncontrolled drinking of alcohol in any form which interferes with some area of one's normal living pattern."

"Alcoholism is not merely heavy drinking nor is it drunkeness. The social drinker ordinarily uses alcohol as a means of relaxing but is not completely dependent upon alcohol."

"The alcoholic is a compulsive drinker who can neither control the consumption of alcohol nor his behavior when under the influence."

Based upon the findings of the Court's Psychiatric Institute, Chicago undertook a pilot prevention program directed primarily at the "social" drinking driver. This program was intended to explore and develop a workable solution to the drinking-driving program.

THE CHRISTMAS BLIGHT

During the Christmas-New Year Holidays (December 18, 1970 thru January 3, 1971), the Chicago Traffic Court, the Police Department, and the State's Attorney's Office, carried on a campaign of public information and strict enforcement. The Traffic Court announced and instituted a policy of sentencing persons convicted of DWI committed during the holiday period to a minimum of seven days in jail, coupled with an unconditional revocation of driving privileges for one year. This program was unprecedented in the United States. Announcements were made in advance of and during the holiday period. It was believed that this threat would deter the "social" drinking driver who we believe is a major factor in automobile fatalities and accidents.

Some precedent for this program existed, particularly in Scandinavia. In Sweden, for example, a person convicted of DWI receives one month at hard labor. Sweden's percentage of road accidents involving alcohol has never risen above 5.4% during the past 25 years. In Norway and Finland, where three week sentences are meted out, alcohol involvement in auto accidents and fatalities has varied between 10% and 15%.

As a result of this holiday program, Chicago achieved a remarkable automobile safety record for the Christmas-New Year holidays.

This Christmas-New Year holiday program was especially significant because it was premised on the proposition that the "social drinker" is a major cause of traffic fatalities. What we had concluded from the Psychiatric Institute Study was apparently verified by the holiday pilot program.

During the course of the holiday pilot program, public reaction was generally in support of the program. The public was not only reminded of the penalties that awaited the drinking driver, but of the inherent dangers of drinking and driving as well. When the results of the holiday program were announced, immediately after the New Year's weekend, response was overwhelmingly favorable. The Court was urged, by safety groups, citizen organizations, the media, and countless individual citizens, to continue these efforts.

The Traffic Court thereupon extended this enforcement program to continue through the end of March, 1971, publicly announcing this extension. Again, the press and radio and television media did an outstanding service in carrying the message to the public.

The fatalities for the first quarter of 1971 represent a 32% decrease from first quarter 1970, a 42% decrease from first quarter 1969, and 41% decrease from first quarter 1968.

The March 31, 1971, Report of the Illinois State Police, covering traffic fatalities throughout the entire State, indicate that, excluding Chicago (fatalities were up in Illinois). Outside Chicago, fatalities rose from 378 (first quarter 1970) to 406 (first quarter 1971).

Chicago also experienced a reduction in personal injury accidents and property damage accidents during the first quarter of 1971 (8,341 injured and 32,891 property damage accidents) as compared to first quarter 1970 (9,491 injured and 36,116 property damage accidents).

The foregoing enforcement program has had a continuing impact on the driving public in Chicago. During that part of 1971 between the first of the year and the date of this writing (October 27, 1971) Chicago's traffic fatalities are down 18% as compared to the same period in 1970; and traffic injuries down 13%. This is in marked contrast to the rest of the United States, where traffic fatalities are up, and the State of Illinois.

NO DRIVING AFTER DRINKING

We have concluded that a new community ethic must be developed, an ethic that precluded driving after drinking. A total, long-range program must be inaugurated and carried on to this end. *The drinking driver must be deterred before he kills someone.* While rehabilitation is necessary for the hard core problem drinker, or alcoholic, *prevention* is the top-priority need, and the principal thrust must be aimed at the social drinker. Such a program embodies three essential phases: 1. Education, 2. Enforcement, and 3. Rehabilitation.

1. *Education.* Public acceptance of policies aimed at eliminating the role of alcohol as a cause of traffic accidents, and public adoption of this new community ethic, rest ultimately on a continuing program of public education. The public must be educated to the dangers of drinking and driving. In view of instilled habits of many of our adult drivers, it is conceivable that such an education campaign might well require a generation-long saturation program. There are approximately 55,000,000 young people in schools; it would certainly not be inappropriate to direct such education to these

future drivers as well as to those already driving.

That, on a long-term basis, public education campaigns of high intensity and saturation can and do generate public awareness with positive results is evident from such public education as the "anti-pollution" campaign and the "smoking and cancer" campaign. It is surely worth at least the same type and degree of effort to educate the public as to the measurable hazards of drinking and driving.

2. *Enforcement*. The courts, police, and driver license authorities must develop enhanced methods of identification and evaluation of drinking drivers. Strict enforcement of our drinking and driving laws and the imposition of penalties would compel Americans to choose between drinking and driving, as the Scandinavians have been compelled to choose. The public must know that they will be arrested and punished if they drink socially and drive.

3. *Rehabilitation*. A comprehensive evaluation of each offender is a prerequisite to identification and disposition of that offender. He should be evaluated by experts, and if found to be an alcoholic, his appropriate treatment prescribed and carried out.

Chicago has already made a determined effort to undertake this very type of total program. In early 1971, following the successful holiday enforcement pilot program previously described, the city developed a comprehensive and total Alcohol Safety Action Project (ASAP) under Section 403 of the National Highway Safety Action of 1966, and submitted a description of this comprehensive program in its application of funds to the National Highway Traffic Safety Administration. Chicago's project contemplated an omnifaceted program of prevention, education, and rehabilitation, involving all of the concerned agencies and groups of both the public and private segments of the community. Regrettably, the grant was not given for reasons best known to the NHTSA.

Nonetheless, we in Chicago have not terminated our efforts. At present the Chicago Traffic Court is conducting a three-month pilot study program. This present program is aimed both at prevention and rehabilitation, and at studying the need for and the implications of initiating and conducting an evaluation, education, and referral service for people convicted of driving under the influence of alcohol. So that public education may be carried on, the Court is using a public information officer loaned to it by the Chicago Association of Commerce and Industry. For the purpose of adequately identifying the convicted DWI defendant and rehabilitating him if necessary, we are using a professional and expert evaluator temporarily assigned to us from the Circuit Court Psychiatric Institute. Those defendants found to be alcoholics are being referred to appropriate rehabilitation treatments. Those found not to be alcoholics are being referred back to Court for appropriate sentencing in accordance with available statutory penalties.

Is not the potential saving of more than 28,000 lives a year well worth a total program of prevention and public education?

We in Chicago think it is.

PHILADELPHIA VETERANS' HOSPITAL VOLUNTEERS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EILBERG. Mr. Speaker, in many ways the patients in our veterans' hospitals are forgotten men. They are a legacy of the horror of war that too many people prefer to shut out of their minds.

Fortunately for these men, and for the country, there is a group of people who have chosen not to forget. They are the volunteers, who have given up time which could easily be spent with family or friends, to work without pay in the veterans' hospitals.

On February 28, 1972, these extraordinary men and women were honored in special ceremonies at the Veterans' Administration hospital in my city, Philadelphia. Some 156 individuals and 52 organizations were honored. All of these men and women and organizations deserve our thanks and appreciation.

To all of my fellow Philadelphians who year in and year out give of themselves to this most worthy effort I would like to add my thanks and heartiest congratulations.

At this time I enter their names and honors and the names of the organizations honored into the RECORD:

AWARDS

HONORABLE MENTION

Regularly Scheduled (RS) Volunteer Workers still active, who served during 1971, but not entitled to 100 hour certificate or the next plateau (300, 500, 1,000, etc.) certificates.

Louise G. Alberts, DAR.
James D. Alston, DAV.
Neta R. Anderson, DAR.
Eugene A. Barrett.
Esther R. Biddle, ALA.
Mary E. Bradley, AWM.
Kathryn A. Brownsey.
Tracy Callahan.
James A. Carpino.
Remo J. Ciccone, ARC.
Helen W. Clarke.
Anne B. Clarkson, IAWVA.
Rose A. Cloud, SCC.
Beatrice M. Conner, DAR.
Jean C. Conti.
Joseph J. D'Agostino.
Elizabeth W. B. Davy, DAR.
Donald E. Digian, AL.
Stuart Discount, JWB.
Elizabeth Durant, CD.
Elizabeth Frick, AMVETS Aux.
John A. Frick, AMVETS.
Joyce S. Gomberg.
Rose Gorman, CWVA.
Katherine M. Gormley, AGSM, Inc.
Eleanor W. Greene, ALA.
Katherine A. Greim, CD of America.
Ruth D. Grim, ARC.
Lorraine Gronski.
Frederick Haas, VWW I.
Robert C. Hannon, AMVETS.
Agnes Hausler, VFWA.
Elizabeth M. Hicks, ARC.
James Holden.
Iqbal Hussain.
Vada Hyde.
Edward Johnson.
G. Elizabeth Jones, CWVA.
Helene Jones, ARC.
Jean McC. Joyce.
Ethel Kehm, AMVETS Aux.
James E. Kehm, AMVETS.
Marie Kenny, ALA.
Kathryn T. M. Kilpatrick, DAR.
Hannah Klenk, SA.
Florence C. Krug, ARC.
Harry L. Lincoln.
Inez C. Lincoln.
Joseph Macanga.
Helen Magee, CWVA.
Florence A. Martin, AMVETS Aux.
Marian R. Martin, AWM.
Alvin G. Massinger, Jr., ARC.
Andrew J. McCann, DAV.
Anna H. McKenna, VFWA.
Fred W. Meckling, MSA.
Ann Miller, JWFA.
Margaret Miller.
Raymond J. Montoni.
Mary L. Moore.
Margaret L. Mullen, St. Leonards Academy.
Sara Myers, AL.
Larry Naides, JWB.
Samuel E. Nedd, Jr., DPSC.
Botte Nelson, VFWA.
Dorcas S. Norris.
Katherine Padula, CD of America.
Louise Padula, SC of E. Lansdowne.
Emily Quinn.
Michael Radvansky, 315th Infantry.
Josephine M. Ratay, ALA.
Raymond J. Reck.
Monica Redican.
Marion E. Roberts, DAR.
Catherine Rotay, ALA.
Clarice M. Russell.
Wilson H. Shive, VWW I.
Alan B. Simons, JWB.
Eric P. Skversky, JWB.
Stewart D. Smiley.
Isaac Smith, JWV.
Meyer B. Squires, AL.
Mary C. Thompson.
Florence Toupe.
William J. Toy, VWW I.
Jane B. Truesdell.
Bernadette A. Ward, ALA.
Mae Weisgrow, DAVA.
Dennis C. White, IBPOEW.
Virginia Wood, AGSM, Inc.
Walter S. Zulewski.

CERTIFICATE OF APPRECIATION—100 HOURS

Julio R. Blanco, ARC.
Bernice Glashofer, JWVA.
Christine Kofoed.
Hilda K. Kreitzburg, SC of East Landsdowne.
Margaret Lippincott, AMVETS Aux.
Joseph Macanga.
R. Carleton Mansfield, MSA.
Clifton A. Martin.
Teri McCleverty.
Louise Padula, SC of East Lansdowne.
Wynona Perry, DAVA.
Theresa A. Peterson, ALA.
Josephine Ratay, ALA.
Meyer B. Squires, AL.
Beatrice A. Williams.
Lida M. Wright.

CERTIFICATE OF MERIT—300 HOURS

Amelia H. Di Prima, SC of East Landsdowne.
Anna Dugan, CD of America.
Sarah M. Goodell.
Helene Hoback.
Horace F. Hopkins, AL.
Anne C. Lauff, AWM.
Katherine Padula, CD of America.
Margaret E. Siegman, SC of East Landsdowne.
Jack Stein, DAV.
Ralph Twiford, NMC.
Antoinette A. Vermillion, ARC.
Regina M. Walsh, AGSM, Inc.
Jennie Weintraub, JWVA.
Virginia Woods, AGSM, Inc.

CERTIFICATE OF OUTSTANDING SERVICE—500 HOURS

Helen D. Braun.
Bettyann Helen Funk, AGSM, Inc.
Marjorie Green, ARC.
Charles W. Leons, AL.
May M. Richards.
Dorothy C. Rose, ARC.

CERTIFICATE OF DEVOTION TO VOLUNTEER DUTY—1,000 HOURS

Elizabeth B. Aro, ALA.
Vada Hyde.
Joseph R. Klotz, JWB.
Carol E. Oakes, AWM.
Jeon L. Tustin, DAVA.

VA BRONZE PIN—1,750 HOURS

Chester Hunter, 315th Infantry.
Florence B. Killion.

VA SILVER EMBLEM—2,500 HOURS

Eleanor Kilpatrick, MOPHA.
Tillie Rose.
Samuel Shiff, JWV.
William Tadley, VWW I.
Jacob L. Zaslow, DAV.

JAMES H. PARKE ACHIEVEMENT AWARD—20,000 HOURS

Catherine Carr, CWVA.

VAVS LEADERSHIP AWARD

Anne B. Clarkson, IAWVA.
Rose Cloud, SCC.
Ruth Goldenburg, JWB.
Katherine Gormley, AGSM, Inc.
Samuel J. C. Greene, AL.
Charles Hangsterfer, ROALC of the United States.
Cheston Hunter, CWV.
Eleanor Kilpatrick, MOPHA.
Kathryn T. M. Kilpatrick, DAR.
Ann Miller, JWVA.
Michael Radvansky, 315th Infantry.
Dorothy Rose, ARC.
Catherine Thompson, AWM.
Mae Weisgrow, DAVA.
Dennis G. White, IBPOEW.

100% ATTENDANCE AT VAVS MEETINGS—AUGUST, NOVEMBER, FEBRUARY, MAY 1971

American Gold Star Mothers, Inc.
The American Legion.
American Legion Auxiliary.
American Veterans Committee, Inc.
B'Nai B'Rith Women.
Catholic War Veterans Auxiliary.
Daughters of the American Revol.
Disabled American Veterans Auxiliary.
IBPOEW (Dept. of Veterans Affairs).
Jewish War Veterans Auxiliary.
Masonic Service Association.
Military Order of the Cootie Aux.
Military Order of the Purple Heart, Inc.
Military Order of the Purple Heart, Ladies Auxiliary.
National Catholic Community Svc.
Navy Mothers Club.
Order of the Eastern Star.
Reserve Officers' Assoc. Ladies' Clubs of the United States.
Supreme Cootiette Club.
The Salvation Army.
The Senior Citizens of East Lansdowne.
315th Infantry Association.
Veterans of Foreign Wars of the United States.
Veterans of Foreign Wars Aux.
Veterans of World War I.

ORGANIZATIONS TO RECEIVE CERTIFICATES IN RECOGNITION OF EXCEPTIONAL OR CONTINUED OUTSTANDING SERVICE TO PATIENTS THROUGH VAVS

American Gold Star Mothers, Inc. Rep: Mrs. Katherine Gormley. Dep: Mrs. Elizabeth Nittrouer.

The American Legion. Rep: Mr. Samuel J. C. Greene. Dep: Mr. William E. Wollingham.

American Legion Auxiliary. Rep: Mrs. Frank Kenney. Dep: Mrs. George Urwiler.

American National Red Cross. Rep: Mrs. Dorothy Rose.

American Overseas Association. Rep: Mrs. Helen Chiu. Dep: Miss Anne McCaughey.

American Veterans Committee, Inc. Rep: Mrs. Raymond V. S. Miller. Dep: Mr. Chester Sheets.

American War Mothers. Rep: Mrs. Catherine Thompson, Dep: Mrs. Carol Oakes.

AMVETS. Rep: Mr. Robert Hannon. Dep: Mrs. Ruby Earle.

AMVETS Auxiliary. Rep: Mrs. Ethel Schultz. Dep: Mrs. Dorothy Gorman.

B'nai B'rith. Rep: Mr. Herman Schwartz. Dep: Mr. Art Levy.

B'nai B'rith Women. Rep: Mrs. Eugene Glazer. Dep: Mrs. Beatrice Silver.

BPO Elks of the United States. Rep: Mr. Frank P. Nocitra.

Brith Sholom. Rep: Mr. Aaron Goldenberg. Dep: Mr. Samuel Winkler.

Catholic Daughters of America. Rep: Mrs. Katherine Padula.

Catholic War Veterans. Rep: Mr. Charles J. Parker. Assoc. Rep: Mr. Cheston Hunter.

Catholic War Veterans Auxiliary. Rep: Mrs. Helen Magee. Dep: Mrs. Elizabeth Jones.

Daughters of the American Revol. Rep: Mrs. Kathryn T. M. Kilpatrick. Dep: Mrs. William J. Alberts.

Defense Personnel Support Center. Rep: Mr. Samuel Nedd. Dep: Mrs. Angelina Restifo. Sec. Dep: Mrs. Nettus Mears.

Disabled American Veterans. Rep: Mr. Jacob Zaslow.

Disabled American Veterans Aux. Rep: Mrs. Mae Weisgrow. Dep: Mrs. Gertrude Bray.

The 40–8. Rep: Mr. Elmer R. Confair. Dep: Mr. Richard B. Ross.

IBPOEW-Dept. of Veteran Affairs. Rep: Mr. Dennis C. White. First Dep: Col. William A. L. Clay. Second Dep: Mrs. Emeline Wiggins. Third Dep: Miss Rhonda Toles.

Italian American War Veterans Aux. Rep: Mrs. Anne B. Clarkson.

Jewish Welfare Board. Rep: Mrs. Milton Gold. Dep: Mrs. Ruth Goldenberg.

Jewish War Veterans Auxiliary. Rep: Mrs. Ann Miller. Dep: Mrs. Mildred Lermack.

Jewish War Veterans of the U.S. Rep: Mr. Isaac Smith. Dep: Mr. Joseph Goldstein.

Marine Corps League Aux., Inc. Rep: Mrs. Ruth Jannotta. Dep: Mrs. Louise Uysase.

Masonic Service Association. Rep: Mr. Paul S. Stewart. Dep: Mr. Ernest P. Knorr.

Military Order of the Cootie Aux. Rep: Mrs Evelyn Hibberd. Dep: Mrs. Dolores Bridges.

Military Order of the Cootie of U.S. Rep: Mr. Andrew F. Nelson. Dep: Mr. Edward Johnson.

Military Order of Lady Bugs. Rep: Mrs. Florence E. Miles. Dep: Mrs. Marie V. Nixon.

Military Order of the Purple Heart. Rep: Mr. James Valentine.

Military Order of the Purple Heart, Ladies Auxiliary. Rep.: Mrs. Eleanor Kilpatrick. Dep.: Mrs. Elizabeth Watson.

Mothers of World War II. Rep: Mrs. Carrie Meck. Dep: Mrs. Stella Snyder.

Music Performance Trust Fund: Mr. Jack Kopf.

National Catholic Community Service. Rep: Mrs. William Dougherty. Dep. Mrs. Catherine Auerwick.

Navy Mothers Club. Rep: Mrs. Helen Hoeffer, Dep. Mrs. Marge D'Ulisse.

Old Guard, City of Phila., Inc. Rep.: Col. Harry S. Burr.

Order of the Eastern Star. Rep: Mrs. Frances A. Schott. Dep. Mrs. Helen G. Daniel.

Philadelphia, USAAC Post #1. Rep: Mr. Clifford L. Hoag. Dep: Mr. Charles Carpenter.

Polish Legion of American Veterans Ladies Auxiliary. Rep: Mrs. Frances Piwnicki. Dep: Mrs. Helen Zarek.

Reserve Officers' Assoc. Ladies' Clubs of the United States. Rep.: Mrs. Charles Hangsterfer. Dep: Mrs. William Barr.

The Salvation Army. Rep: Mrs. A/Captain K. Strehle. Dep: Mrs. Mabel Hagherty.

The Senior Citizens of E. Lansdowne. Rep: Mrs. Margaret E. Siegman. Dep: Mrs. Amelia H. Di Prima.

Supreme Cootiette Club. Rep: Mrs. Rose Cloud. Dep: Mrs. Mary McKinley.

315th Infantry Association. Rep: Mr. Michael S. Radvansky. Dep: Mr. Cheston Hunter.

United Spanish War Veterans. Rep: Mr. John R. Lynch. Dep: Mr. J. A. Coleman.

USO. Exec. Director: Mr. John Kapp.

Veterans of Foreign Wars Aux. Rep: Mrs. Mae McElvaney. Dep: Mrs. Bette Nelson.

Veterans of Foreign Wars of U.S. Rep: Mr. Cassel Wechter. Dep: Mr. Thomas C. Hart.

Veterans of World War I. Rep: Mr. W. H. Shive. Dep: Mr. William L. Toy.

W.A.C. Veterans Association. Rep: Mrs. Harry L. McCann. Dep: Mrs. Anna L. Godsho.

SPECIAL AWARD

Samuel J. Karsevar, Military Order of the Cootie.

HONORABLE MENTION

United Spanish War Veterans Aux. Rep: Mrs. Anna Parker.

Veterans of World War I Aux. Rep: Mrs. Mary Dougherty. Dep: Mrs. Alma Tracey.

HOMEPORTING NAVY PERSONNEL IN GREECE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HAMILTON. Mr. Speaker, the House Foreign Affairs Subcommitee on Europe, chaired by my colleague from New York, Ben Rosenthal, and the Subcommittee on the Near East have been conducting a series of joint hearings on the Department of the Navy's decision to seek homeport facilities for elements of the Sixth Fleet in Greece.

Pursuant to these hearings, Mr. Rosenthal and I corresponded with the Department of Defense and the Department of State concerning the reasons for this decision, the general concept of homeporting, the choice of Greece over other Mediterranean sites and the political, strategic, and economic ramifications of the decision.

I insert in the Record at this point our letters of February 2, 28, and 29 to the Defense Department and the State Department and their replies of February 19 and 24 and March 7 and 21. I also insert in the Record a letter from the State Department of March 24 concerning anti-Americanism in Greece.

While the record of these letters and our hearings to date are somewhat inconclusive regarding the efficacy of the decision to homeport in Greece, I would like to bring this correspondence to the attention of my colleagues:

Congress of the United States,
Washington, D.C., February 2, 1972.

Hon. William P. Rogers,
Secretary of State,
Washington, D.C.

Dear Mr. Secretary: We write concerning the plans of the Defense Department to use Greece as a home port for certain ships of the Sixth Fleet and the strategic and political implications of that decision. We have also written to Secretary Laird on this subject.

The Subcommittees on Europe and on the Near East will hold hearings on this home porting proposal in about one month. To prepare for those hearings we would like written responses to the following points by February 17:

1. What discussions have been held with the Greek Government on this home porting arrangement concerning benefits which Greece will obtain if this plan is approved? Specifically, have any discussions taken place which indicate that the United States will provide military or other assistance to Greece in return for, or otherwise related directly or indirectly to, home porting? Has the purchase (or other procurement) by Greece of Phantom Jets been discussed in relation to home porting?

2. Will home porting of part of the Sixth Fleet increase the American dependence on Greece in our strategic, military and polit-

ical relations in NATO and within our responsibilities in the Eastern Mediterranean.

Specifically, how does increasing the number of official Americans (including dependents) living in Greece affect our relations with the military junta?

What dangers from the increasing anti-Americanism within Greece will exist for those dependents, for their sponsors when ashore, and for those Americans already living in Greece as a result of home porting? (Please indicate the number of official and private Americans now living in Greece to facilitate comparisons).

How will home porting in Greece affect our relations with (a) Turkey, (b) Middle East countries, including Israel, and (c) other NATO members?

Was home porting in Greece discussed in advance with NATO members at the diplomatic (as contrasted with military) level and, if so, with what results?

Were alternate home ports discussed with (a) NATO members, and (b) other European countries at the diplomatic level?

3. Does the announcement of the home porting proposal in the same week that the Congress passes a foreign aid authorization bill with a prohibition on aid to Greece affect the understanding of the Greek government and the Greek people about the future course of Greek-U.S. relations? Does the effect, in other words, of the aid prohibition on the Greek Government and Greek public opinion diminish, in the view of our Embassy, with the almost simultaneous announcement of the home porting plan?

In what other European countries do we have home ports for U.S. naval ships? When and under what circumstances were those home porting agreements reached, and how do the number of naval personnel (including dependents) in the Greek proposal compare with those now ported in these other countries?

Also, how large a proportion of (a) official and (b) private American residents in these other countries which offer us home ports will the proposed home ported naval personnel in Greece (including dependents) form?

4. What effects will the additional American naval personnel and their families have on the Greek economy? What effect will they have on the American balance of payments? Will additional and essentially civilian facilities (PX, Commissaries, theaters, schools, etc.) be built or expanded for the dependents and are these costs (as well as operating costs of such facilities) included in the estimated balance of payments loss? (For purposes of comparison, what balance of payments loss can now be attributed to other official Americans now living in (a) Greece, (b) in other European countries with home porting of U.S. ships and (c) in other European countries where U.S. military personnel are stationed with their families?)

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on the Near East.
BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Europe.

DEPARTMENT OF STATE,
Washington, D.C., February 24, 1972.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: Following are the replies to questions contained in your letter of February 2, 1972, also signed by Chairman Rosenthal. Some of the information was provided by the Department of Defense.

1. *Question:* What discussions have been held with the Greek government on this homeporting arrangement concerning benefits which Greece will obtain if this plan is approved? Specifically, have any discussions taken place which indicate that the United States will provide military or other assistance to Greece in return for, or otherwise related directly or indirectly to, homeporting? Has the purchase (or other procurement) by Greece of Phantom Jets been discussed in relation to homeporting?

Answer: None of the discussions which have been held with the Greek government concerning the proposal to homeport elements of the Sixth Fleet in Greece has explicitly or implicitly suggested that the United States would provide benefits to Greece if the proposal were accepted. There has been no suggestion that military or other assistance to Greece or approval of the sale of military equipment to Greece would be contingent upon approval of the proposal.

2. *Question:* Will homeporting of part of the Sixth Fleet increase the American dependence on Greece in our strategic, military and political relations in NATO and within our responsibilities in the Eastern Mediterranean?

Specifically, how does increasing the number of official Americans (including dependents) living in Greece affect our relations with the military junta?

What dangers from the increasing anti-Americanism within Greece will exist for those dependents, for their sponsors when ashore, and for those Americans already living in Greece as a result of homeporting? (Please indicate the number of official and private Americans now living in Greece to facilitate comparisons.)

How will homeporting in Greece affect our relations with (a) Turkey, (b) Middle East countries, including Israel, and (c) other NATO members?

Was homeporting in Greece discussed in advance with NATO members at the diplomatic (as contrasted with military) level and, if so, with what results?

Were alternate homeports discussed with (a) NATO members, and (b) other European countries at the diplomatic level?

Answer: The homeporting concept is related most directly to problems of personnel retention, force levels, and budgetary constraints rather than to strategic considerations. There are of course strategic and military advantages which flow from the arrangement, but they were not the primary motivating consideration.

The Sixth Fleet is now logistically supported by mobile units and homeporting will not appreciably increase dependence upon Mediterranean shore facilities.

Increasing the number of official Americans living in Greece will affect our relations with the Government of Greece in quantitative rather than qualitative terms. There will undoubtedly be an increase in working level contacts between the American Mission in Greece and government authorities resulting from the expected greater number of minor administrative problems which will arise from a larger American community in Greece. Judging from the current level of such incidents with the American community at its present size, any friction resulting from the homeporting arrangement should not be a serious problem.

There is no evidence that anti-Americanism exists on a wide scale in Greece or is increasing. Although there are a few anti-regime groups active in Greece there have been no concerted violent expressions of antipathy toward the United States. Some clandestine opposition organizations are persuaded that the United States is responsible for the maintenance in power of the present regime and have directed largely symbolic acts of violence against American property. These have been infrequent and minor in character, and no American citizens have been injured. It is significant that the most potentially serious attack against the United States, the attempt to explode a time bomb at the American Embassy in 1970, was directed from abroad and executed by two persons who were not Greek.

There are about 35,000 official and private Americans now living in Greece. In addition, many Americans (estimated at close to 300,000 in 1971) visit Greece each year.

Although homeporting is fundamentally an administrative operation related most directly to personnel policies of the Department of Defense, to force levels, and to budgetary constraints under which the United States Navy must operate, there will inevitably be strategic advantages to the proposal. As such the countries of the Eastern Mediterranean should see it as part of the deterrent to conflict in that area. As the Sixth Fleet has an important contingent NATO role and as the Fleet's routine operations enhance the Alliance's position on the critical southern flank, we believe that the majority of the members of the Alliance will continue to see homeporting as one element in the improvement of the Fleet's ability to support its Alliance commitments.

Homeporting in Greece was not the subject of prior consultation with members of the Alliance. Since the practice is directly related to the United States Navy's internal personnel policies, force levels, and budgetary constraints, and does not alter our NATO commitments, we have treated homeporting as a matter for bi-lateral negotiation. Naturally, since there are NATO-related aspects to this homeporting, we briefed other members of NATO, within the context of the Alliance, after a decision had been reached to homeport in Greece. Briefings on the diplomatic level with NATO country Embassies in Washington and through our Embassies in the various NATO countries began at about the same time.

3. *Question:* Does the announcement of the homeporting proposal in the same week that the Congress passes a foreign aid authorization bill with a prohibition on aid to Greece affect the understanding of the Greek government and the Greek people about the future course of Greek-United States relations? Does the effect, in other words, of the aid prohibition on the Greek government and Greek public opinion diminish, in the view of our Embassy, with the almost simultaneous announcement of the homeporting plan?

In what other European countries do we have homeports for United States naval ships? When and under what circumstances were those homeporting agreements reached, and how do the number of naval personnel (including dependents) in the Greek proposal compare with those now ported in these other countries?

Also, how large a proportion of (a) official and (b) private American residents in these other countries which offer us homeports will the proposed homeported naval personnel in Greece (including dependents) form?

Answer: There is no relationship between the decision to seek a homeporting arrangement for elements of the Sixth Fleet in Greece and the question of security assistance provided by the United States to support the Greek role in NATO. There will of course be speculation by some persons in Greece and elsewhere that such a relationship exists. However we have made clear on numerous occasions that the extent of our security arrangements with Greece is not to be interpreted as an indicator of the United States attitude toward whatever regime is in power in Greece. We have made equally clear that we believe the restoration of democratic processes in Greece essential to the long term welfare and prosperity of the people of Greece as well as to the furtherance of Greek relations with its European allies and partners.

Although announcement of the homeporting proposal and final Congressional action on the foreign aid authorization bill did occur in the same week, the two activities were not related.

The Navy has been examining for some time the feasibility of homeporting a carrier task group in the Mediterranean. Congressional action on the foreign aid bill also continued over a protracted period. It was coincidental that both activities reached a conclusive stage at the same time.

The United States Navy has ships homeported in the United Kingdom, Spain and Italy. The Navy's homeporting arrangements with the United Kingdom commenced in 1961 under NATO SOFA (States of Forces Agreement) of June 19, 1951.

The arrangement was completed on February 20, 1964 in an exchange of notes between the Secretary of State and the Foreign Minister of the United Kingdom. In Spain, authorization was based on an exchange of notes dated July 17, 1964 between the United States Ambassador and the Spanish Foreign Minister. The Spanish authorization was extended to July 1974 on August 6, 1970, in an exchange of notes accompanying the signing of the 1970 Agreement of Friendship and Cooperation between the United States and Spain. Homeporting of United States Navy ships in Italy has been accomplished by amendments of the United States-Italian Bilateral Intrastructure Agreement of October 20, 1954. The first such amendatory protocol was concluded on March 13, 1967 by an exchange of notes. Similar amendments were made by exchange of notes in August 1970 and February 1971.

The Greek homeporting proposal would involve an estimated 9,700 naval personnel and dependents. The approximate total of naval personnel and dependents of the units homeported in the other three countries are: Italy, 4,600; Spain, 3,700; United Kingdom, 2,400. However, the total naval and dependent population of the homeported units and ashore naval facilities in these three countries are: Italy, 8,700; Spain, 9,500; United Kingdom, 7,000.

4. *Question:* What effects will the additional American naval personnel and their families have on the Greek economy? What effect will they have on the American balance of payments? Will additional and essentially civilian facilities (PX, commissaries, theaters, schools, etc.) be built or expanded for the dependents and are these costs (as well as operating costs of such facilities) included in the estimated balance of payments loss? (For purposes of comparison, what balance of payments loss can now be attributed to other official Americans now living in (a) Greece, (b) in other European countries with homeporting of United States ships and (c) in other European countries where United States military personnel are stationed with their families?

Answer: It is estimated that the Greek GNP will exceed $10 billion by the end of calendar year 1972. The United States Department of Defense and Department of the Navy expenditures in Greece (including the island of Crete) during the Fiscal Year 1970–71 period are shown below:

[In millions of dollars]

	Fiscal year 1970	Fiscal year 1971
DOD (including DON)	24.0	26.0
DON	(7.1)	(8.4)

The addition of 6,600 military personnel with an estimated 3,100 accompanying dependents into the Athens area will not in our opinion have a disturbing effect on the general economy of nine million Greek people. However, more United States dollars in the Greek economy could further encourage Greek imports of United States goods.

The total Department of Defense expenditures entering balance of payment loss considerations throughout the world amounted to $4.85 billion for Fiscal Year 1971. The Department of the Navy's balance of payment expenditures accounted for $776 million of this figure.

The Department of the Navy's expenditures in Greece affecting balance of payments amounted to $7.1 million in Fiscal Year 1970 and $8.4 million in Fiscal Year 1971. The homeporting of a Carrier Task Group in Greece will increase the balance of payment expenditures by an additional $13 million per year. Offsetting these increases will be the reduction of expenditures attendant with port visits by United States Atlantic Fleet units assigned to and deployed with the United States Sixth Fleet. These reductions will reduce the balance of payment expenditures throughout the Mediterranean Sea area by about $4.7 million. The net increase in United States balance of payment expenditure is estimated at $8.3 billion per year. This represents 1.1 percent of the United States Navy world-wide balance of payment expenditures and 0.2 percent of the worldwide Department of Defense balance of payment expenditure.

Some expansion of existing Air Force facilities for commissary, postal, household goods, housing referral, and legal services will be necessary. In addition, the Navy may use a mobile dependent support ship to provide medical services. The Navy does not intend to build facilities such as clubs or theaters which we consider beyond the austere concept. Additional school facilities will be necessary and are being arranged for through USDESEA (U.S. Dependent Schools European Area). While detailed planning is not complete, an initial outlay of $1.0 million in nonrecurring balance of payment expenditures is estimated for this purpose. Annual balance of payment expenditures are included in the $8.3 million figure set forth above.

Information on balance of payments loss attributed to other (non-military) Americans resident in Greece and specific other European countries is not available in the form you requested. In the *Survey of Current Business*, the Department of Commerce publishes figures on a regional basis. Page 44, Line 23 of the June 1971 issue provides the following figures:

GOVERNMENT PAYMENTS FOR MISCELLANEOUS SERVICES

[In millions of dollars]

	United Kingdom			European Economic Community			Other Western Europe		
	1968	1969	1970	1968	1969	1970	1968	1969	1970
United States	14	14	14	67	69	71	44	55	5

This account measures expenditures of the non-military agencies of the United States Government for foreign services and for foreign goods which are purchased abroad and used or stockpiled abroad. Also included are net payments by such non-military agencies to United States nationals employed abroad and their dependents, and payments to international organizations for membership assessments. Estimates are based primarily on reports submitted by non-military agencies of the United States Government. Though not precise in measuring balance of payments loss, these figures do indicate an order of magnitude.

If I can be of any further assistance, please do not hesitate to call on me.

Sincerely yours,

David M. Abshire,
Assistant Secretary for Congressional Relations.

Congress of the United States,
Washington, D.C., February 2, 1972.

Hon. Melvin R. Laird,
Secretary of Defense,
Washington, D.C.

Dear Mr. Secretary: The recent decision by the United States Navy to seek port facilities in Greece for a carrier task force is disquieting to several members of Congress particularly because it comes at a time when the will of Congress has been expressed in an amendment to the foreign aid authorization calling for the suspension of military aid to the present Greek regime. We are sure that there are many, and perhaps important, reasons for the recent decision, but we believe, because of the possible political implications of the move, that the topic needs further, detailed and public examination. To this end, we plan to hold joint hearings in March.

In addition to the ramifications of this move on American-Greek relations and on United States relations with other NATO and Mediterranean littoral states, home porting of the Sixth Fleet does raise justifiable questions with regard to naval operations and policy. We would like to raise some points here.

(1) The Sixth Fleet is currently self-supporting, self-sustaining and exists on supplies and support from United States ports. With the new arrangement, will there be any logistical or supply changes for the fleet? Will the fleet be able to maintain its flexibility and freedom from the political restraints of land bases if home porting in Greece is used?

(2) Once inside Greek territorial waters, the fleet needs Greek permission to leave. Would such permission be forthcoming in all potential Eastern Mediterranean crises? in an Arab-Israeli war? in a Cyprus crisis? in a Malta crisis?

(3) What other ports in the Mediterranean Sea were considered and on which of the following three criteria you have used were these other sites disqualified: a. operational location; b. availability of ship and related facilities; and c. the existence nearby of a reasonably large community?

(4) $13 million has been mentioned as an estimate of the initial costs of home porting (in addition to $13 million annually for continuing the home porting. Precisely how will the initial $13 million be spent? What naval facilities in Greece will be expanded or built? How do you arrive at the figure of $13 million for the annual maintenance of a carrier task force home porting in Greece?

(5) Would it be true that ships in Greek home porting will have to return to the United States every two or three years for six to nine months overhaul, leaving dependents in Greece for that period? Also, how much of an increase in time will naval personnel have with their families in Greece under this plan?

(6) Will ships in Greek home porting be available for duty outside the Mediterranean Sea or will they be functionally limited?

(7) From our understanding, you expect that approximately 16 percent of navy personnel home ported in Greece will bring families with them and you expect this to promote an overall increase in reenlistment of from one to three percent. Please explain the basis on which home porting will be justified on a budgetary (as opposed to a morale) basis.

These and many other political and military considerations do form an integral part of this whole issue and we believe they need answering so that the impression is not left that some military factors have completely outweighed other military questions and all political issues.

We would appreciate a reply to this letter by February 17 so that we can plan hearings.

With best regards.

Sincerely yours,

BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Europe.
LEE H. HAMILTON,
Chairman,
Subcommittee on the Near East.

DEPARTMENT OF THE NAVY,
Washington, D.C., February 19, 1972.
Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. HAMILTON: Your letter of 2 February 1972 to the Secretary of Defense raised certain questions regarding the plans for homeporting a carrier task group in Athens.

At the enclosure are replies to your questions which, at Mr. Laird's direction, I have had prepared for your use.

I have also forwarded this information to Mr. Rosenthal, Chairman of the Subcommittee on Europe.

Sincerely yours,

JOHN H. CHAFEE,
Secretary of the Navy.

QUESTIONS AND ANSWERS

Question: The Sixth Fleet is currently self-supporting, self-sustaining and exists on supplies and support from United States ports. With the new arrangement, will there be any logistical or supply changes for the fleet? Will the fleet be able to maintain its flexibility and freedom from the political restraints of land bases if homeporting in Greece is used?

Answer: No new logistical and supply arrangements will be necessary. The ships, which are now supported by mobile logistic support elements, will continue to be supported by the same method when homeported in Greece. They will maintain their present flexibility and freedom from the political restraints of land bases, in that no base in the usual sense will be provided or utilized. Rather, Athens will be primarily and almost exclusively a residential location for dependents.

Question: Once inside Greek territorial waters, the fleet needs Greek permission to leave. Would such permission be forthcoming in all potential Eastern Mediterranean crisis? In an Arab-Israeli war? In a Cyprus crisis? In a Malta crisis?

Answer: The agreement between the United States and Greece concerning use of certain military facilities, dated 12 October 1953, places no restrictions on the entry, exit or overflight of Greek territorial waters by U.S. forces. Subject to GOG agreement, we would expect that homeporting in Greece would be accomplished under this agreement.

Question: What other ports in the Mediterranean Sea were considered and on which of the following three criteria you have used were these other sites disqualified: a. operational location; b. availability of ship and related facilities; and c. the existence nearby of a reasonably large community?

Answer: The Navy has examined the feasibility of utilizing 15 specific ports in the Mediterranean area, including locations in Spain, France, Italy and Greece.

The following were the primary criteria used in evaluating the suitability of Mediterranean ports for homeporting a carrier task group: strategic location; sheltered deep harbor and adequate harbor facilities; jet capable airfield nearby and available for some Navy use; availability of adequate ship repair facilities; large urban area capable of absorbing dependent population without need to develop extensive dependent support complex; local acceptability.

Of all of the ports examined, only the Athens area met all of our requirements. The other ports were not suitable with regard to one or more of the above criteria.

Question: $13 million has been mentioned as an estimate of the initial costs of homeporting (in addition to $13 million annually for continuing the homeporting). Precisely how will the initial $13 million be spent? What naval facilities in Greece will be expanded or built? How do you arrive at the figure of $13 million for the annual maintenance of a carrier task group homeporting in Greece?

Answer: Our expenditures in Greece will fall into two categories: personnel support and operational support. It is currently not planned to expand or build naval facilities other than for the addition of minor facilities at the airfield as required for the safe operation of USN aircraft. Some expansion of existing Air Force dependent support facilities will be necessary. In addition, we may use a mobile dependent support ship to provide medical services. We desire to hire and/or lease existing port services, pier space and perhaps some warehouse space and are exploring their availability. Estimated initial and annual recurring costs are as follows (in millions of dollars): It must be emphasized that these are preliminary figures only, developed as Service estimates and without any contact or consultation with Greek sources. Extensive discussions and site examinations in Greece will be necessary to refine these to budget-quality estimates.

	Initial	Recurring
Total personnel support	$12.7	$7.7
Additional PCS costs	3.0	3.5
Dependent support ship	9.5	2.5
Expansion and operation of AF facilities	.2	2.8
Savings—Reduction ship transit costs		(−)1.1
Total operational support	.4	5.7
Port operations, charter and hire and pier costs		3.0
Logistics costs		1.7
Transportation/vehicle maintenance		([1])
Leased transient berthing		([1])
Airfield operations	.4	1.0
Total	13.1	13.4

[1] Costs are insignificant in this breakdown. Facilities will probably be leased.

Question: Would it be true that ships in Greek homeporting will have to return to the United States every two or three years for six to nine months overhaul, leaving dependents in Greece for that period? Also, how much of an increase in time will naval personnel have with their families in Greece under this plan?

Answer: Ships homeported overseas will return to the United States for normal overhaul. This would occur about every 2½ years for the destroyer types, extending to as much as four years for the CVA. Ships would be relieved on station, as we do now in other areas of the world, and dependents would return with their sponsors. Personnel management policies will be employed to minimize the number of personnel moved at the time of ship rotation.

Homeport time will increase from 25% to 30% under this plan, and equally important, the long family separation time associated with rotationally deployed ships will be eliminated.

Question: Will ships in Greek homeporting be available for duty outside the Mediterranean Sea or will they be functionally limited?

Answer: Sixth Fleet ships homeported in Greece will continue to operate in the same manner as the Sixth Fleet units do today. If necessary, they would be available to operate outside the Mediterranean; however, their prime mission would be to support our NATO and national commitments in the Mediterranean.

Question: From our understanding, you expect that approximately 16% of Navy personnel homeported in Greece will bring families with them and you expect this to promote an overall increase in reenlistment of from one to three percent. Please explain the basis on which homeporting will be justified on a budgetary (as opposed to a morale) basis.

Answer: Our studies estimate that 41% of the officers and 17% of the enlisted will take families overseas. We would hope to achieve an overall increase in retention rates in the Navy of from one to three percent as a result of homeporting three carrier task groups overseas. If retention is increased by 1% we would save approximately 14.7 million dollars annually, while an increase of 3% would save $44.1 million annually. The Athens homeporting proposal might well account for approximately one-third of the total. The estimated annual recurring cost of our proposal for Greece is $13 million; therefore, the program could pay for itself if the increased retention is realized.

CONGRESS OF THE UNITED STATES,
Washington, D.C., February 27, 1972.
Hon. WILLIAM P. ROGERS,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: Thank you for the information you supplied in response to our inquiry of February 2, 1972, regarding the political and military implications of the proposal for homeporting Navy personnel in Greece. Your letter partially answers some of our concerns on this issue, but many questions remain. Some are:

(1) In reference to your answer to Question One, what were the precise dates of (a) your initial talks with the Greek Government on the topic of homeporting, (b) the most recent discussion with the Greek Government concerning the purchase of U.S. aircraft, and (c) the visit of the French Defense Minister to Athens concerning the subject of arms supplies?

(2) What are the "strategic and military advantages" from homeporting which are referred to in answer to our Question Two but which are not enumerated?

(3) The comments, also in answer to Question Two, on anti-Americanism in Greece do not correspond to information we have received from Greece. For example, your answer seems to conclude that there is no anti-Americanism because there "have been no concerted violent expressions of antipathy toward the United States." While the violent expressions of anti-Americanism, whether concerted or not, are of interest to us (and we would like a detailed list of such incidents from April 21, 1967, to present, compared to a comparable period before the junta took power), we would appreciate summaries of reports from Embassy Athens on all manifestations of anti-American feeling in the last five years.

Specifically, we would like any reports prepared in the last year by any section of the Embassy on anti-Americanism or, if these do not exist, an indication of whether any Embassy survey on anti-Americanism is now underway.

(4) Also in further answer to our Question Two, where we asked for the number of "official and private Americans now living in Greece," please indicate a breakdown of the total figure you gave of 35,000 Americans, how many are official civilian employees, how many U.S. military personnel, how many official dependents, and how many private Americans.

(5) Finally under Question Two, you indicated a sequence of briefings of NATO countries on homeporting "after a decision had been reached to homeport in Greece." Please indicate when that decision was made and, in addition to the date of our first approach to the Greek Government on this issue (asked above in Question One), please indicate when Greek governmental approval was obtained and when the briefings of NATO members were conducted.

(6) Your answer to Question Four, on the balance of payments consequences of the proposed homeporting, indicated that "Offsetting these increases [in BP losses from Greek homeporting] will be the reduction of expenditures attendant [sic] with port visits by United States Atlantic Fleet units assigned to and deployed with the United States Sixth Fleet." It is not clear (a) what the relation is between "United States Atlantic Fleet units" and the Sixth Fleet under homeporting, and (b) how the reduction of port visits by those units is related to the strategic and military advantages" from homeporting to which your response to our Question Two referred.

(7) We were under the impression, from Operation BALPO, and other efforts by the Department of State to reduce the balance of payments loss from its activities overseas, that the Department had more detailed data on such losses than those supplied by the Commerce Department's *Survey of Current Business*. What we sought was information which would allow a comparison of the balance of payments loss in homeporting 9700 additional naval personnel in Greece and, for comparative purposes, the extent of such losses from the presence of State Department and other civilian personnel in Greece, from U.S. military personnel presently in Greece, and, again for comparative purposes, that same information for other European countries.

Using the information you supplied, is our understanding correct that the $8.4 million BP loss now attributed to U.S. Navy operations in Greece (for FY 1971) would nearly double from the additional BP loss (adjusted for the reductions you mentioned) of $8.3 due to homeporting?

(8) Finally, we have asked the Navy Department for detailed information on the alternatives to Greek homeporting. We are specifically interested in the consideration of Italian ports, as well as those in France and Spain which the Department of the Navy mentioned as having been considered and rejected. We would appreciate the Department's views of the political implications of homeporting in those countries as well as the Department's assessment of how well these alternative home ports would have met the broader criteria for a homeporting decision (as contrasted with the budgetary and personnel considerations which concerned the Navy) which we assume were paramount in the State Department's evaluation of that decision.

We would appreciate having answers to these questions before our hearings. If convenient, your answers may be included in the advance prepared statement of the Department's representative at those hearings.

Sincerely yours,

BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Europe.
LEE H. HAMILTON,
Chairman, Subcommittee on the Near East.

DEPARTMENT OF STATE,
Washington, D.C., March 7, 1972.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: In response to your letter of February 29, signed by Congressman Rosenthal, I would like to provide the following information in addition to the replies forwarded in my letter of February 24.

1. *Question:* In reference to your answer to Question One, what were the precise dates of (a) your initial talks with the Greek Government on the topic of homeporting, (b) the most recent discussion with the Greek Government concerning the purchase of U.S. aircraft, and (c) the visit of the French Defense Minister to Athens concerning the subject of arms supplies?

Answer: (a) On December 30, 1971, the Secretary of State approved the concept of homeporting units of the Sixth Fleet in the Mediterranean at whatever port was determined to be most suitable. In anticipation of press leaks, we informed the Government of Greece on January 19 that we would be briefing members of the Congress on the concept of homeporting and would be pointing out that Athens-Piraeus was a possible site. At that time, the Greek Government informed us that it would approve the project in principle, if Athens should be chosen as the homeport site. On January 25, Ambassador Tasca was authorized to inform the Greek Government that we would like to proceed with homeporting a carrier task force in the Athens-Piraeus area, provided suitable arrangements could be agreed upon between the two governments. On February 10–11, a United States Navy team conducted service-to-service discussions with Greek Navy representatives regarding the requirements for homeporting. NATO allies were briefed on January 31. We assume this reply will also cover the information requested in Question 5. (b) A team headed by Department of Defense and including representatives of Department of Commerce and Department of Treasury visited Athens February 9 to 11 to discuss the purchase of United States aircraft. The Team returned to Athens for further discussions on March 6. (c) We are unaware of any visit by the French Defense Minister to Athens in recent years. To the best of our knowledge the only high-level French official to have visited Athens within the recent past was Jean de Lipkowski, Under Secretary for Foreign Affairs, who met with Greek leaders January 27–29 for discussions mainly devoted to Franco-Greek economic relations.

2. *Question:* What are the "strategic and military advantages" from homeporting which are referred to in answer to our Question Two but which are not enumerated?

Answer: The strategic and military advantage to be derived from the homeporting arrangement is the continued effective operation of the Sixth Fleet in support of its NATO mission, in the face of strict budgetary constraints and reduced ship and personnel levels. This aspect of the homeporting proposal will be further touched on in Mr. Davies' statement and in Department of Defense statements before the two Subcommittees.

3. *Question:* The comments, also in answer to Question Two, on anti-Americanism in Greece do not correspond to information we have received from Greece. For example, your answer seems to conclude that there is no anti-Americanism because there "have been no concerted violent expressions of antipathy toward the United States." While the violent expressions of anti-Americanism, whether concerted or not, are of interest to us (and we would like a detailed list of such incidents from April 21, 1967, to present, compared to a comparable period before the junta took power), we would appreciate summaries of reports from Embassy Athens on all manifestations of anti-American feeling in the last five years.

Specifically, we would like any reports prepared in the last year by any section of the Embassy on anti-Americanism or, if these do not exist, an indication of whether any Embassy survey on anti-Americanism is now underway.

Answer: Our previous answer should not be taken as concluding that there is no anti-Americanism in Greece; it must be assumed that there are some expressions of anti-American sentiments in every country with which we deal. As previously stated, we conclude that there is no evidence that anti-Americanism in Greece either exists on a wide scale or is increasing. We would like to provide a more detailed response to this question when additional data from our Embassy in Athens has been received.

4. *Question:* Also in further answer to our Question Two, where we asked for the number of "official and private Americans now living in Greece," please indicate a breakdown of the total figure you gave of 35,000 Americans, how many are official civilian employees, how many U.S. military personnel, how many official dependents, and how many private Americans.

Answer: Of the estimated 35,000 Americans living in Greece, about 3,000 are U.S. military with around 3,500 dependents. There are approximately 200 other official personnel and 400 dependents. The remaining 27,500 include the American business community, personnel of non-profit organizations, and the large number of American citizens, most of them of Greek ancestry, residing permanently in Greece.

5. *Question:* Finally under Question Two, you indicated a sequence of briefings of NATO countries on homeporting "after a decision had been reached to homeport in Greece." Please indicate when that decision was made and, in addition to the date of our first approach to the Greek Government on this issue (asked above in Question One), please indicate when Greek governmental approval was obtained and when the briefings of NATO members were conducted.

Answer: Answered in No. 1 above.

6. *Question:* Your answer to Question Four, on the balance of payments consequences of the proposed homeporting, indicated that "Offsetting these increases (in BP losses from Greek homeporting) will be the reduction of expenditures attendant (sic) with port visits by United States Atlantic Fleet units assigned to and deployed with the United States Sixth Fleet." It is not clear (a) what the relation is between "United States Atlantic Fleet units" and the Sixth Fleet under homeporting, and (b) how the reduction of port visits by those units is related to the strategic and military advantages from homeporting to which your response to our Question Two referred.

Answer: We have asked the Department of Defense to answer in detail part (a) of this question, regarding the relationship between United States Atlantic Fleet units and the Sixth Fleet. In our earlier reply, we pointed out that the reduction in expenditures for port visits should be taken into account when computing the balance-of-payments costs of homeporting. The Department of Defense has pointed out that there may be little change in the overall number of ship visits as a result of homeporting; in our earlier reply the $4.7 million relating to port visits was deducted from the $13 million total cost estimate for homeporting to avoid double-counting in computing the added cost. Since the motive for, and the strategic and military advantage to be gained from, the homeporting proposal lies in maintaining the effectiveness of Fleet operations within tight budget limitations, all factors relating to cost are relevant.

7. *Question:* We were under the impression, from Operation BALPO, and other efforts by the Department of State to reduce the balance of payments loss from its activities overseas,

that the Department had more detailed data on such losses than those supplied by the Commerce Department's *Survey of Current Business.* What we sought was information which would allow a comparison of the balance of payments loss in homeporting 9,700 additional naval personnel in Greece and, for comparative purposes, the extent of such losses from the presence of State Department and other civilian personnel in Greece, from U.S. military personnel presently in Greece, and, again for comparative purposes, that same information for other European countries.

Using the information you supplied, is our understanding correct that the $8.4 million BP loss now attributed to U.S. Navy operations in Greece (for FY 1971) would nearly double from the additional BP loss (adjusted for the reductions you mentioned) of $8.3 due to homeporting?

Answer: We are computing estimates of balance-of-payments costs for Department of State operations in Greece and in other selected European countries, and we will provide these figures in a separate letter as soon as they are prepared. The Department of Defense is preparing estimates on expenditures associated with military personnel abroad. The Department of State is not in a position to provide similar estimates for other civilian agencies.

Your understanding is correct that the estimated $8.3 million in annual payments abroad attributable to homeporting would be additional to the $8.4 million in current U.S. Navy expenditures in Greece.

8. *Question:* Finally, we have asked the Navy Department for detailed information on the alternatives to Greek homeporting. We are specifically interested in the consideration of Italian ports, as well as those in France and Spain which the Department of the Navy mentioned as having been considered and rejected. We would appreciate the Department's assessment of how well these alternative home ports would have met the broader criteria for a homeporting decision (as contrasted with the budgetary and personnel considerations which concerned the Navy) which we assume were paramount in the State Department's evaluation of that decision.

Answer: We understand that Admiral Zumwalt will discuss the criteria applied in selecting a site for the Mediterranean homeporting operation. We assume that France (given its modified relationship to NATO) would not accept homeporting in a French port and that country was therefore excluded from consideration. Similarly, it would not have been appropriate to homeport NATO-committed ships in Spain. We already homeport various ships in Italy and would have considered acceptability high and political implications minimal for an expanded homeporting project there. However, none of the Italian ports met the technical criteria for homeporting a carrier task force.

If I can be of any further assistance, please do not hesitate to call on me.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

CONGRESS OF THE UNITED STATES,
Washington, D.C., February 28, 1972.

Hon. JOHN H. CHAFEE,
Secretary of the Navy,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for the information you supplied in response to our letter of February 2, 1972, addressed to Secretary Laird, concerning the proposal for homeporting in Greece. That information partially answered our inquiries but the following important data is still needed: (1) Your answer to our first question about the present self-supporting supply and logistical arrangements for the Sixth Fleet is not clear. You wrote "No new logistical and supply arrangements will be necessary (under homeporting)." This assertion seems inconsistent with the budgetary information you supplied in answer to Question 4 in which you listed $4.7 million for "Port operations, charter and hire and pier costs" and for "logistics costs," in addition to $1 million for "airfield operations."

You also wrote, in answer to Question 5, that homeport time would increase from 25% to 30% under this plan.

These responses raise these specific questions:

(a) Under present circumstances, what percentge of time does Navy personnel in the Sixth Fleet average with their families in a year? Do you expect this figure to increase 25 to 30 percent?

(b) How is it possible to homeport dependents without homeporting the ships on which the dependents' sponsors serve? In other words, how can the ships of the homeported task force "maintain their present flexibility and freedom from the political restraints of land bases" (as you wrote in answer to Question one) when nearly $5 million is required to maintain these ships in Greece in each year and when the ships will be in a Greek port for 30 percent of their time?

(c) To clarify your answer, what percentage of time do the ships in the task force presently spend in Greek and other Mediterranean ports? What are the other Mediterranean ports now used for visits?

(d) The Department of State, in its response to our questions about the balance of payments loss involved in homeporting, wrote that homeporting would involve "the reduction of expenditures attendant with port visits by United States Atlantic Fleet units assigned to and deployed with the United States Sixth Fleet. These reductions will reduce the balance of payments expenditures throughout the Mediterranean Sea area by about $4.7 million." That answer implies that Sixth Fleet ships will reduce their visits to other Mediterranean ports when they are homeported in Greece. If so, that reduction further implies operational changes because of homeporting. To clarify this point, please indicate present and proposed deployment of the task force vessels under homeporting.

(e) Does not homeporting necessarily increase naval dependence on a foreign country when 3,300 dependents live in that country? In the case of internal turmoil in Greece, does the Navy not have a responsibility for protecting and possibly evacuating its dependents and does that responsibility not constitute "a political restraint of land bases"?

(2) In your answer to our second question, you indicate that a present Greek-American agreement "places no restrictions on the entry, exit or overflight of Greek territorial waters for U.S. Forces." Even if this agreement applies to homeporting, will the U.S. Navy have to go through the formality of requesting permission each time it enters or leaves a Greek port? Under any agreement pertaining to homeporting could such permission be temporarily or permanently delayed by a Greek Government during some Eastern Mediterranean crisis?

(3) Our third question asked what other Mediterranean ports considered for homeporting and on which criteria they were rejected. Your answer neither listed the other ports considered nor did it give the reasons for rejection. We are especially interested in the Italian ports considered and would appreciate a detailed account of those ports and their suitability according to the criteria you listed.

(4) The budgetary information supplied in answer to Question four appears incomplete. For example, there is no cost listed for the schools for several thousand dependent children. Also, with homeported ships in Greece 30 percent of the time, instead of being in U.S. ports, do not trans-Atlantic supply costs increase? If so, where are those costs listed? Please indicate the construction of the costs for the Dependent Supply Ships and its justifications.

The budgetary figures indicated a savings of $1.1 million in "ship transit costs." Please explain this saving.

Since government housing is not indicated under the proposed homeporting, has the Navy established that nearly 1200 housing units are available in Greece for the dependents involved?

(5) Your answer to Question seven did not fully explain, as our question asked, "the basis on which homeporting will be justified on a budgetary (as opposed to a morale) basis." Please indicate in as detailed a manner as possible, the basis for the projection that homeporting will "achieve an overall increase in retention rates in the Navy of from one to three percent . . ."

(a) What are the present retention rates for officers, for junior officers in particular, and for enlisted men?

(b) On what basis is the increase in those rates as a result of homeporting estimated?

(c) What are the differences in retention rates between the Navy and the other services and how are those differences attributable to the lack of homeporting by naval units if that is the proper inference from your response?

(d) Describe the present use and cost of charter flights by naval dependents to visit their sponsors overseas. Has the development of this informal system of dependent visitation had any effects on retention rates?

(e) Is there a basis in researched data for relating the present retention rates to homeporting? For example, have naval personnel indicated, in any systematic study, that homeporting would affect their decision to leave the Navy?

We would like to have answers to these questions before hearings begin. If convenient, these answers may be included in the advance, prepared statement of the Defense Department's representative(s) at those hearings.

Sincerely yours,

BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Europe.
LEE H. HAMILTON,
Chairman, Subcommittee on the Near East.

DEPARTMENT OF THE NAVY,
Washington, D.C., March 21, 1972.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East, U.S. House of Representatives, Washington, D.C.

DEAR MR. HAMILTON: Thank you for your letter of February 28, 1972, dealing with our plans for homeporting a carrier task group in Athens.

You raised various questions in connection with this plan and requested answers be provided. Enclosed are specific answers to your questions.

Your interest in this matter is greatly appreciated. If we can be of further assistance, please let me know.

A similar response has been sent to Congressman Rosenthal.

Sincerely yours,

JOHN H. CHAFEE.

QUESTIONS AND ANSWERS

Question. Under present circumstances, what percentage of time do Navy personnel in the Sixth Fleet average with their families in a year? Do you expect this figure to increase 25 to 30%?

Answer. Projected homeport time for units homeported at Athens under this plan would be 45–50%. This would represent an increase of approximately 25–39% over the 36% homeported time currently being experienced by Atlantic Fleet units which now deploy from CONUS to the Mediterranean. In addition, the homeporting of Atlantic Fleet units which continue to deploy on a rotational basis would also increase from the present 36% up to an estimated 54% (an increase of 50%).

Question. How is it possible to homeport dependents without homeporting the ships on which the dependents' sponsors serve? In other words, how can the ships of the homeported task force "maintain their present flexibility and freedom from the political restraints of land bases" (as you wrote in answer to Question one) when nearly $5 million is required to maintain these ships in Greece in each year and when the ships will be in a Greek port for 30 percent of their time?

Answer. Normal at sea support of a carrier task group includes the full range of requirements necessary, including fuel oil, aviation gasoline, spare and repair parts, food, mail and personnel. The carrier task group is not dependent on land bases for this support. Therefore, the flexibility and freedom from dependence on land bases is derived by providing primary logistic support at sea. Support provided in port includes those items provided any ship during its normal visits to a port, whether or not families are there, i.e., such things as pier space, water, electrical power, telephones and tugs.

The homeporting concept would merely place certain Sixth-Fleet units in the Mediterranean for longer periods of time, rather than rotating at more frequent intervals from the U.S. The lengthened stay in the Mediterranean would not appreciably alter the present logistic support concept. The lengthened stay would permit moving of families to the area so that normal port visits would result in time with the families located in the area.

Question. To clarify your answer, what percentage of time do the ships in the task force presently spend in Greek and other Mediterranean ports? What are the other Mediterranean ports now used for visits?

Answer. A typical list of ports that a carrier task group would visit during a six-month deployment includes the following ports:

Rota, Spain; Athens, Greece; Barcelona, Spain; Palma, Majorca; Cannes, France; Naples, Italy; Corfu, Greece; and Souda Bay, Crete.

Other ports visited by Sixth Fleet units include:

Aranci Bay, Sardinia; Argostoli, Greece; Augusta Bay, Sicily; Bari, Italy; Bizerte, Tunisia; Brindisi, Italy; Cagliari, Italy; Cartegena, Spain; Catania, Sicily; Dubrovnik, Yugoslovia; Gaeta, Italy; Genoa, Italy; Gibraltar, B.C.C.; Golfo de Palmas, Italy; Istanbul, Turkey; Iumurtalik, Turkey; Ismir, Turkey; and Iraklion, Greece.

La Spezia, Italy; Livorno, Italy; Malaga, Spain; Marseilles, France; Monaco, Monaco; Navplion, Greece; Palermo, Italy; Palma, Spain; Pyreaus, Greece; Porto Scudo, Italy; Rhodes, Greece; Taranto, Italy; Thessalonike, Greece; Toulon, France; Trieste, Italy; Valencia, Spain; and Venice, Italy.

Normally, Sixth Fleet units spend about 50% of their time in port and 50% at sea. Approximately 20% of the Mediterranean inport time is spent in Greek ports, and the remaining 80% is spent in other ports. Under the homeporting concept, the ships whose families are located in Athens would spend a greater average time in Athens than in the past, but LANTFLT units rotating to the Sixth Fleet would spend a lesser average time in Athens and more in other ports.

Question. The Department of State, in its response to our questions about the balance of payments loss involved in homeporting, wrote that homeporting would involve "the reduction of expenditures attendant with port visits by United States Atlantic Fleet units assigned to and deployed with the United States Sixth Fleet. These reductions will reduce the balance of payments expenditures throughout the Mediterranean Sea area by about $4.7 million." The answer implies that Sixth Fleet ships will reduce their visits to other Mediterranen ports when they are homeported in Greece. If so, that reduction further implies operational changes because of homeporting. To clarify this point, please indicate present and proposed deployment of the task force vessels under homeporting.

Answer. The State Department reply addresses those BOP costs presently associated with maintaining a rotational carrier task group in the Mediterranean and indicates that the BOP associated with homeporting would be commensurately reduced by that amount in determining net BOP impact, since the average number of rotational units will be reduced under the homeporting concept. A reduction of visits to other Mediterranean ports by Sixth Fleet ships cannot be inferred. Sixth Fleet units are and will continue to be employed in consonance with the requirements of our national policy. While certain individual ships may experience some changes in port visit patterns, homeport assignments will not change the overall Sixth Fleet employment plans.

Question. Does not homeporting necessarily increase dependence on a foreign country when 3,300 dependents live in that country? In the case of internal turmoil in Greece, does the Navy not have a responsibility for protecting and possibly evacuating its dependents and does that responsibility not constitute "a political restraint of land bases?"

Answer. Homeporting overseas necessarily increases the reliance of military dependents on the facilities of the nation in which they reside. U.S. experience in Europe, particularly in Germany, has proven that this is not a major problem. In the case of internal turmoil in Greece the U.S. Navy would have a responsibility, under State Department guidelines, for assistance in the evacuation of naval dependents, as well as all other U.S. nationals. There are currently some 35,000 Americans, both official and civilian, who would require support in Greece at this time. This emergency support responsibility always exists world-wide for all industry services, since evacuation in any nation is affected normally at the direction of the resident U.S. Ambassador, and in the manner he determines most proper. Domestic turmoil, when occurring, is a severe political restraint, but has less effect on naval forces, which can sail away from the problem area, than it would have on land-based forces.

Question. In your answer to our second question, you indicated that a present Greek-American agreement "places no restrictions on the entry, exit or overflight of Greek territorial waters for U.S. forces". Even if this agreement applies to homeporting, will the U.S. Navy have to go through the formality of requesting permission each time it enters or leaves a Greek port? Under any agreement pertaining to homeporting, could such permission be temporarily or permanently delayed by a Greek Government during some Eastern Mediterranean crisis?

Answer. In negotiating for homeporting under the provisions of the 1953 Agreement, we anticipate a technical agreement will be incorporated whereby the arrival and departure of homeported USN ships will require only that the Government of Greece be notified in accordance with the Navy's world-wide movement reports system.

An attempt by the Government of Greece to deny entry or departure would be an extremely serious abrogation of the Agreement, so much so that we could expect it to arise only as one facet of a fundamental international crisis with even more serious potential impacts on all US forces in and relations with Greece.

The implication in this regard is essentially the same for U.S. Navy ships now entering and leaving Athens, or any other Mediterranean port, whether or not families are located there.

Question. Our third question asked what other Mediterranean ports were considered for homeporting and on which criteria they were rejected. Your answer neither listed the other ports considered nor did it give the reasons for rejection. We are especially interested in the Italian ports considered and would appreciate a detailed account of those ports and their suitability according to the criteria you listed.

Answer. Six Italian ports were considered for possible forward deployment of a carrier task group and were eliminated from consideration as a result of one or more deficiencies as indicated below:

[Legend: $—good; !—marginal; 0—poor or not at all]

	Strategic location	Adequate harbor	Jet airfield	Adequate ship repair	Adequate urban support	Local acceptability	Additional remarks
Augusta Bay	!	!	!	0	!	$	CVA anchors out, will not accommodate full group.
Gaeta	!	0	0	0	0	$	Too small for CVA.
La Spezia	!	0	0	0	!	$	Do.
Livorno	!	0	$	0	$	$	Not CVA capable.
Naples	!	!	$	!	0	$	Harbor/urban area too crowded.
Taranto	!	0	$	0	!	$	Too small for full group.

Question. The budgetary information supplied in answer to Question four appears incomplete. For example, there is no cost listed for the schools for several thousand dependent children.

Answer. Funding for dependent schools in the European area is provided by internal apportionment of DOD funds to the Army as the executive agent. We estimate there would be approximately 1300 Navy dependent school-age children in Athens. Additional costs projected in this case would be $1.3M.

Question. Also with homeported ship in Greece 30 percent of the time, intead of being in US ports, do not trans-Atlantic costs increase? If so where are these costs listed?

Answer: Existing mobile logistic support will continue to be the primary method of supplying and supporting the task group. However, the task group will require more extensive support than one which remains on station for only six months. The estimated increase in costs of $1.7M is identified as "logistics" in the cost summary; however, such cost will be offset in large degree by a $1.1M reduction in transit costs.

Question. Please indicate the construction of the costs for the Dependent Supply Ship and its justifications.

Answer: The concept of a Dependent Support Ship is being evaluated to provide first class medical facilities—which are considered an essential requirement—and an austere commissary and exchange. The present Air Force facility may not be able to care for the additional dependents and may not be capable of expansion; therefore, our plan to reconfigure a hospital ship has been developed as a contingency measure to provide the necessary support. The ship's cost of $9.5M includes $4.2M to segregate and care of women and children. Our etimate has recently been increased from $9.5M to $10.8M to incorporate additional habitability and sanitation features considered necessary for health and comfort. The ship's annual operating costs are estimated to be $2.5M.

Question. The budgetary figures indicated a savings of $1.1M in "ship transit costs". Please explain this saving.

Answer. Homeporting a Carrier Task Group in the Mediterranean will reduce the number of deployments to and from US ports by 12 round-trip destroyer transits per year and two round-trip carrier transits per year, at an estimated savings of $1.1M annually.

Question. Since government housing is not indicated under the proposed homeporting, has the Navy established that nearly 1,200 housing units are available in Greece for the dependents involved?

Answer. Navy on-site surveys indicate that ample rental housing is available in Athens to accommodate the number of dependents involved.

Question. Is there a basis in researched data for relating the present retention rates to homeporting? For example, have naval personnel indicated, in any systematic study, that homeporting would affect their decision to leave the Navy?

Answer. A Navy-wide survey was conducted in April 1971 to determine attitudes toward the subject of overseas homeporting. This study indicated that 11% of the officers and 13% of the enlisted men who had not made up their mind to stay in the Navy say they would remain on active duty for a longer period of time if their time at home was increased by one month/year. If the average time in homeport for all could be increased to a 50/50 ratio 20% of the officers and 19% of the enlisted men in the same category expressed the opinion that they would consider remaining on active duty for a longer period of time.

Of even greater relevance is the fact that the first term reenlistment rates on the 37 ships homported overseas for the first six months of FY 72 was 20%, whereas reenlistment rates for all ships for the same period as 16% and for carriers the reenlistment rate was 9.9%, the lowest of all due to their demanding operating tempo.

Question. What are the present retention rates for officers, for junior officers in particular, and for enlisted men?

Answer. Enlisted retention is measured by first term and career reenlistment rates. Officer retention for the three major warfare communities is measured each fiscal year by the retention of those officers who reached two years beyond completion of their minimum requirement (MSR) during the fiscal year. Retention indices for both are summarized below:

ENLISTED REENLISTMENT RATES

[In percent]

	Fiscal year 1972 through December	Fiscal year 1971	Fiscal year 1970	Fiscal year 1969	Needs
1st term	20	17	10	16	31
Career	90	90	84	17	80
Total	39	39	27	34	49

OFFICER RETENTION AT MSR PLUS 2 YEARS

[In percent]

Warfare specialty	Objective	[1] 1972	1971	1970	1969
Surface	45	14	17	16	18
Nuclear submarine	62	41	33	33	50
Pilot	47	34	27	25	31

[1] Projected.

Question. On what basis is the increase in those rates as a result of homeporting estimated:

Answer. All retention studies and surveys show family separation high on the list of factors causing officers and men to leave the Navy. It would, therefore, be reasonable to expect an improvement of 1–5% in Navy-wide reenlistment through an improvement of homeport time. To bear this out, our statistics for the first six months of FY 72 show the first term reenlistment rate on the 37 ships presently homeported overseas was 20% whereas the overall on-board reenlistment rate was only 16%.

Question. Describe the present use and cost of charter flights by naval dependents to visit their sponsors overseas. Has the development of this informal system of dependent visitation had any effects on retention rates?

Answer. The charter flight program commenced in December 1970. Since that time charter flights have been utilized by approximately 15,000 active duty Navy personnel, retirees, and their dependents. Costs for these flights are borne by the individual users. There are no charges to the Navy. Also, these provide only one short (10–14) day visit in the course of an entire 6–8 month deployment, and even the minimum charter and hotel expenses are prohibitive for the vast majority of our people, particularly our younger families.

The charter flight program is just one of several measures initiated recently by the Navy to make Navy life more attractive. It is not feasible to single out any one of these measures as having had any effect by itself, on retention rates.

However, the fact that so many personnel used their own funds to take advantage of a one time per deployment reunion with families shows the extent to which family separation is a concern to our people. It suggests that the greater family time resulting from homeporting is important to our personnel as overseas homeporting statistics presented earlier have shown.

Question. What are the differences in retention rates between the Navy and the other services and how are those differences attributable to the lack of homeporting by naval units if that is the proper inference from your response?

Answers. Members of the armed forces community experience a wide range of motivating and demotivating factors leading to subtle differences in service life. Even in normal times, however, the Navy generally makes more demands upon its families than the other services. The criteria upon which we base the manning of our ships call for 70 hours of work per week at sea and 42 hours in port. Actually, many men work in excess of these hours because of exigencies of the service. Many of our ships execute deployments on a one-in-three basis. In home waters they spend a third or more of their time training at sea. In port, they spend about a fourth of their time in a duty status on board their ship. The arithmetic of this is that out of 18 months, it is normal for a seagoing Navy man to be separated from his family for 13 months. If overhauls are scheduled out of homeport, the separation is even greater. Obviously, even normal sea duty imposes frequent and prolonged separations of Navy families. But the Navy has not operated in a normal fashion for five years. With few exceptions, our combatant and replenishment ships in both fleets have spent less than 50 percent of the time operating from home ports. Certain carriers have recently documented more than 100 hours of work per man per week during a month-long period of flight operations. Both the Navy and the Air Force are structured with a higher percentage of technical skills than the other services. This imposes an added urgency to retain our personnel who represent lengthy and expensive training and experience. The Navy's seagoing requirements, and consequent lengthy family separations, place a greater strain on Navy personnel than do the operating requirements of the Air Force. My previous answers reflect the difference within the Navy of the effect on retention rates due to overseas homeporting. Comparative enlisted reenlistment rates for the four service branches are summarized below:

ENLISTED REENLISTMENT RATES FOR FISCAL YEAR 1972 THROUGH DECEMBER

[In percent]

	Army	Navy	Marine Corps	Air Force
1st term	11.7	20.1	10.2	34.8
Career	43.0	89.9	84.4	93.6

DEPARTMENT OF STATE,
Washington, D.C., March 24, 1972.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: Following are some additional views on anti-Americanism in Greece, referring to Question No. 3 in your letter of February 29 and our partial reply in my letter to you of March 7. I trust this added material will adequately supplement the information provided in our earlier reply and by Mr. Rodger Davies during the recent hearings.

You inquired whether there were a recent survey on anti-Americanism in Greece. In his testimony, Mr. Davies mentioned the most recent survey, which was conducted in June–July 1970 by the Institute for Research in Communications in Athens. The survey indicated that in the summer of 1970 Greek opinion of the United States was high, with 71 percent of poll respondents expressing a good opinion and only two percent a bad opinion (the rest were "don't know" or "no opinion"). In a similar poll conducted in 1965, the "good opinion" percentage was 68 percent. About one-third of the persons polled in 1970 indicated an increase in their respect for the United States, with five percent saying it had decreased over the last year or so.

In comparison, similar polls taken in 1969 in five European countries (Great Britain, France, West Germany, Italy and Sweden) indicated an average favorable opinion of 51 percent.

A list of "anti-American" bomb incidents from April 21, 1967, to March 2, 1972, has been supplied for the record. Our files covering the pre-coup period reveal no bombing attempts. On the other hand, there were numerous demonstrations, with varying degrees of "anti-American" content, in the decade or so preceding the 1967 coup. Tensions over Cyprus were the primary stimulus for anti-American activities during this period. Occasionally these demonstrations erupted into bloodshed and property damage. Some notable violent incidents were:

(1) the 1955 "Oxi Day" student demonstration in Athens against the United Kingdom and the United States, which resulted in property damage and 80 reported injuries; (2) demonstrations in 1956 in front of the United States and United Kingdom Consulates General and USIS in Thessaloniki. Crowds were estimated to be as large as 10,000 persons. USIS was stoned without damage. A delegation presented a statement protesting the "anti-Hellenic attitude of the United States Government" and denouncing Americans as "former friends"; (3) crowds demonstrating in Thessaloniki in 1957, involving 2,500 to 4,000 persons were prevented by troops and police from reaching the Consulates General of the United Kingdom and the United States. Thirty police and eleven students were reported injured; and (4) in 1965, a march on the United States Embassy, Athens, by leftist students protesting our Vietnam policy was blocked by police. Eighteen persons were injured.

In the pre-coup period, Greek citizens had, and used, the option of expressing their attitude toward the United States through petitions, peaceful demonstrations and press articles. A few examples of these non-violent expressions of "anti-American" attitudes are cited below:

March 1964. Student groups numbering about 1,000 persons in early afternoon and several thousand in evening demonstrate at the United States Embassy protesting presence of Sixth Fleet, calling for self-determination for Cyprus and burning President in effigy.

May 1965 and May 1966. Communist-sponsored annual "Marathon Peace March" had a strong anti-American emphasis, with placards and slogans attacking United States policy in Vietnam and Cyprus and calling for removal of United States installations from Greece.

Greek newspapers of all political persuasions launched virulent attacks against the United States in the dozen years preceding the coup. The Cyprus situation was the usual context. In September 1955, for example, the entire Greek press kept up a steady stream of vehement tirades against United States policy on Cyprus. A similar atmosphere prevailed when tensions over Cyprus again reached fever pitch in 1964. During the entire period, few weeks passed without an attack on United States policies by one or more segments of the press.

Given the subjective nature of "anti-Americanism" and the social and political changes in Greece between 1955 and 1972, there can be no accurate comparison of anti-American sentiments in the pre-coup and post-coup periods. In the Department of State's view, anti-American expressions in Greece stem basically from two sources: (a) a small hard-core of persons whose ideology is strongly opposed to that of the United States, and (b) individuals who oppose specific policies of the United States Government. Anti-American expressions from the latter group will increase or decrease according to their view of our stance on issues of importance to Greece; however, these protests are not inconsistent with a basic feeling of respect and affection for the United States among this group. Thus, the numerous demonstrations against the United States Embassy, and heavy critical press play during the pre-coup period, and the list of bombing incidents since 1967, may not be at variance with the results of opinion polls showing a consistently high level of respect for the United States in both periods.

I hope this information will be useful to you. Please do not hesitate to let me know if we can be of further assistance.

Sincerely yours,

David M. Abshire,

Assistant Secretary for Congressional Relations.

ETHNIC JOKES LOSE FAVOR

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DERWINSKI. Mr. Speaker, as an American of Polish background, I am constantly approached by colleagues anxious to relate the latest "Polish" joke that they have heard. With minor adjustments, most of these jokes can be applied to almost any other nationality, a tactic which I used extensively during the last St. Patrick's Day weekend. Frankly, I am an ardent practitioner and supporter of ethnic and racial humor. I believe it can be practiced without any malicious motivation.

The Suburban Life, a publication serving communities throughout southwest suburban Chicago, in its Thrsday, March 23, edition, carried a very well done column on the subject of ethnic humor by Judy Topinka, one of its staff writers. I believe this column properly treats the question of ethnic humor, and I commend it to the Members attention.

The article follows:

Ethnic Jokes Lose Favor

(By Judy Topinka)

Humor has been bailing out humanity since humanity decided to make itself distinct from monkeys.

And one of the best forms of humor used to be the ethnic joke. However, it seems that various ethnic, racial and socio-economic groups now find that brand of humor offensive and can no longer laugh.

The Poles are ready to skewer Bob Hope for his recent television spoof on "The Polish Connection"; Spanish-Americans think the Frito Bandito is no chip off the old block; Italians screamed because a movie, "The Godfather," mentions terms like Cosa Nostra and Mafia, and Jewish mothers are complaining about being compared to Mrs. Portnoy.

The blacks think Flip Wilson runs down black women with his Geraldine spoof: Women's Lib intends to sic a spider on Miss Muffett; Orientals are tired of being called "inscrutable" and Czechoslovaks are beginning to object to being described as nothing but "houby hunters."

So far the Albanians, Bulgarians, and Mongolians are still laughing, but they have not been the butt of jokes lately.

Sometimes a good ethnic joke needs a particular nationality or socio-economic group in it to be funny. I mean, can you imagine the Frito Bandito being funny if he were a Russian cossack or a Chinese mandarin? And could a houby hunter ever sound halfway reasonable or funny if he were Welsh or Irish?

There is a good deal of good humor to be found in every group, and it strikes me as silly, immature and insecure for a group to take offense.

While offense is taken by many, a television show like "All in the Family" which delights in using words of bigotry is high on the popularity rating charts. Reportedly no groups to speak of are objecting to the humor within the show nor the loudmouth antics of Archie Bunker.

Any group can never take itself so seriously that it cannot laugh at itself. The best Polish jokes I have ever heard have come from Polish people, while my Italian friends are forever deeding me to a genuine Italian funeral—"in the trunk of a car," and we can laugh about it together.

There is not enough humor in life as it is, and if we deny the laughter that is within each of our respective groups, well, we'll be in sad shape.

Let's learn to laugh at ourselves and enjoy it.

CONSTITUTIONAL CRISIS OVER BUSING

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. STOKES. Mr. Speaker, one of the most distressing aspects of the furor over busing is its potential effect on the constitutional principle of separation of powers. The antibusing forces, because of disagreement with judicial decisions, are calling for legislation or even a constitutional amendment to curb the power of the courts.

In my view, this sort of emotional controversy is exactly the situation the framers of the Constitution had in mind when they created the independent judiciary. One branch of our tripartite Government must be free to act coolly and rationally despite the passions of the masses. The judiciary is far weaker than the other two branches of the Government. It cannot propose changes in the law on a grand scale but must react to individual cases. It cannot enforce its own decisions but must rely on the executive. In desegregation cases, the Nixon administration has demonstrated over and over that it will not support the courts and enforce the decisions.

Passage of the administration's antibusing legislation would undo many carefully considered judicial decisions of the past and would hamstring the courts in future cases. Even more serious, it would chip away at the very basic independence of the judiciary itself.

I want to call the attention of my colleagues to the following analysis of this problem in the March 27, 1972, issue of the New York Times:

Constitutional Crisis: II

(By Anthony Lewis)

Twenty years ago in Washington, D.C., Negroes could not sit down with white people at a drugstore lunch counter. In seventeen states and the District of Columbia black children were legally barred from going to the same public schools as white children. In a third of the country blacks had to ride in the back of streetcars and could not go into a good hotel or restaurant.

In just two decades that pattern of segregated life has been broken in law and in fact. It has been one of the great social and moral achievements in America's history, perhaps the greatest. And it has been made possible by two principal factors: the place of law in the American ideal and Presidential leadership.

The South met court orders with evasion and delay and violence; but the courts stood firm, and in time they awoke this country's faith in law. The crucial political act was President Eisenhower's intervention against the mob in Little Rock. After that every Southern politician knew in his heart that neither the legal nor the political system could be moved from the course of desegregation.

It is that history, that achievement of the last twenty years, that President Nixon's program against school busing now threatens. Of course the President has not said that he wants to return to a segregated society. But there are reasons, both practical and psychological, for believing that his program may stop the momentum of desegregation and even reverse it.

Mr. Nixon proposes a moratorium of up to fifteen months on all "new busing orders by the Federal courts." In a still-segregated Southern district where half the children now go to school by bus—a common situation—it may be quite impossible to devise any desegregation plan that does not involve substantial busing. In those cases the Nixon plan would effectively put a moratorium on the Constitution.

The permanent legislation he suggests would outlaw busing for desegregation purposes altogether in the first six grades of school, whatever the geographic situation and whatever the history of racial barriers in an area. And school officials already under court orders would be entitled to have them "reopened and modified"—an open invitation to reverse the movement of the last twenty years.

Psychologically, the effect could be even greater. The impression Mr. Nixon sought to create in his television speech was that he could stop the courts and the Constitution—that he would stand in the school bus door, so to speak. Those who want a segregated America are not going to miss the message that at last they have a President who will bargain.

It is not surprising that George Wallace and the militant black separatists are both on Richard Nixon's side on the busing issue. They want an America of two nations.

White liberals will be hypocritical if they pretend that busing can solve the really difficult problem of education and race in America: the problem of the inner city. In Chicago and Washington and New York there are simply going to be schools that are largely black; the answer to bad education there is not busing but a willingness on the part of the white middle class to spend real money and effort on those schools even though their own children are not involved.

But recognition of that hard reality does not mean capitulation to the symbolism of segregation. Studies show that Americans, even as they fear busing of their children to distant schools, accept the idea of a racially integrated society more than they ever have. They do not want to go back to the two nations.

The moratorium is the particularly disastrous symbol. The President might easily have suggested a pause in lower-court orders to let the Supreme Court consider the busing question. Conservative voices have urged that course; indeed a Nixon supporter, Senator Brock of Tennessee, assumed in a television appearance the morning after the President's speech that he was just allowing the Supreme Court time to act. But the moratorium would prevent decisions by the Supreme Court as by other judges.

For Congress to restrict the jurisdiction of the Federal courts in order to prevent a particular result obviously raises questions broader than schools or race. The leading precedent is a particularly unhappy one: action by the Radical Republicans after the Civil War to prevent the Supreme Court from deciding the constitutionality of military trials in the occupied South.

Whether it would be constitutional for Congress to impose a busing moratorium on the courts would depend on the facts of a particular case. But the Nixon proposal raises a profound question for our society, whether it is technically allowable or not: do we want to twist the legal process for short-run political ends?

That is the question that the lawyers of the United States especially should consider. The bar is often attacked as selfish, insufficiently public-minded. Now is the chance for it to show character—to lead the fight against hasty political intervention in the deliberate process of law and the courts.

It should be a fight that can be won. Other Presidents and other Congresses have attacked the Supreme Court; but the Court, even when its decisions have been most unpopular, has usually prevailed. The public has somehow understood that in our turbulent country it is wiser to trust our ultimate liberties to those judges, however wrong they may be in this case or that, than to politicians.

THE ENERGY CRISIS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. LENT. Mr. Speaker, last week one of the outstanding weekly newspapers in my district, the Bellmore Life, carried a very sensible editorial concerning the prospect of offshore oil drilling in the Atlantic. The insight of the Life's editors, Mr. and Mrs. Johanannes Larsen, is to be commended, and for the benefit of my colleagues, I would like to insert the editorial in the RECORD at this point:

THE ENERGY CRISIS

The valuable Government Affairs Conference, sponsored by the National Newspaper Association, was held last week in Washington. Included were topics such as Consumer Legislation, Health Care Legislation, the Freedom of Information Act, the Department of Justice and First Amendment Rights, the Economy, China in Perspective, a visit to the Embassy of Iran and to the John F. Kennedy Center for the Performing Arts. All of it was relevant, but possibly the most momentous talk was that given by Under Secretary of the Interior, Dr. William T. Pecora, an internationally recognized geologist.

In his lucid and blunt presentation Secretary Pecora noted that the United States is over-reaching its known domestic supplies of energy and that discovery and development of new domestic sources are vital to consumer security. Today each American uses 50 per cent more energy than he did 10 years ago, and his needs are progressively increasing. Dr. Pecora concluded that the critical period in energy supply is upon us. We do not have the technology to develop exotic fuel sources today, though the "exotics" are our salvation for the future. Among them is solar energy, a field where research is just beginning. We must first fulfill present needs, said Dr. Pecora.

Offshore oil drilling without a doubt holds a prominent place among energy sources to be considered in the fairly near future. It seems to us that the people have every right to demand for environmental reasons that this source not be tapped off our shores until absolutely needed. Meanwhile, other sources should be developed as soon as possible.

Dr. Pecora had this to say on the subject: "Environmental dangers from properly conducted offshore oil drilling are minimal. Of the more than 9,000 wells drilled on the Outer Continental Shelf, only four significant pollution accidents occurred in the past 18 years. There is always a possibility of human error or mechanical failure, but improved offshore drilling technology and closer Federal supervision can come close to providing a fail-safe system for recovering oil."

If the time comes when offshore drilling has to be permitted, then such close supervision and use of the best available technology to secure a fail-safe system must be insisted upon, as the minimum price.

GARBAGE RECYCLING HELPS OUT A VILLAGE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DINGELL. Mr. Speaker, the New York Times of March 15, 1972, carried a report on garbage recycling at Briarcliff Manor, N.Y., which states that the community "is breaking even on recycling." I insert the text of the news item at this point in the CONGRESSIONAL RECORD:

GARBAGE RECYCLING HELPS OUT A VILLAGE

(By Linda Greenhouse)

BRIARCLIFF MANOR, N.Y., March 14.—The skeptics said it could not be done, but this attractive little village, in the garbage business for less than a year, is breaking even on recycling. By the end of the year, it may even be turning a profit.

It sells its newspapers to a contractor in Queens, its cans to a chemical plant in Elizabeth, N.J., and its bottles in Orangeburg, N.Y. It has reduced by 15 percent the amount of solid waste it has to send to the Westchester County landfill at Croton Point—3,000 tons last year at a dumping fee of $3.50 a ton.

The receipts from the recycled material, plus the savings from less use of the county dump, are now running about equal to the added cost of the project to the village. With greater volume or with another rise in the Croton dumping fee—both of which are likely, the break even point will be passed.

IDEA CAME FROM STUDENTS

Michael Markl, the village administrator, credits Briaricliff's success to the fact that "recycling was not something generated by the village and sold to the people; it was generated by the people and sold to us." The idea came from a group of high school students who approached the village board in November, 1970.

Whatever the reason, the economic feasibility of recycling as proved by this community of 6,500 people has added fuel to the debate about how Westchester should handle its garbage problems in years to come.

The county is about to enter into a 20-year contract with the New York State Environmental Facilities Corporation for eventual rail haul of Westchester's solid waste to an upstate landfill site.

County officials have maintained that, although philosophically they favor recycling, neither the technology nor the market for recycled material is developed enough to make the process a feasible alternative to landfill.

Most community recycling efforts around the country have been small scale projects manned by volunteers. But it is difficult to generate enough volume to make the effort pay.

Stephen McQueeny, a village trustee here and one of Briarcliff's leading recycling advocates, says "It's a question of attitude."

From its modest volunteer beginnings, the Briarcliff recycling project soon became an official village effort. It coincided with the village board's decision to drop its private garbage contractor and begin municipal garbage collection for the first time.

Beginning last June, the new Briarcliff sanitationmen began a monthly, house-to-house pick-up of newspapers in addition to regular garbage collection. Saving newspapers is voluntary. The first month, residents saved 9,000 pounds. By December, the public works department was picking up 40,000 pounds a month.

BECOMES THE "IN THING"

Residents bring their own cans and bottles to four huge bins alongside the post office on Pleasantville Road. The bins are 7 feet high and 16 feet long, and weigh about 10 tons when they are full of broken glass. They fill up in three to five weeks. The village pays a contractor to load the bins onto special high lift trucks and drive them to Elizabeth and Orangeburg.

"Its become the in thing," said James DiMarzo, superintendent of public works. "People really take out their aggressions trying to break the bottles."

During the first eight months of the program, the methods used changed so often that no precise cost accounting is really possible. For several months, with a smaller volume and a less efficient collection system, the village was spending about $2 on recycling for every $1 it got back.

Since June, the village has taken in $4,462 and saved $620 in dumping fees. It receives $20 a ton for glass and tin, $10 for other metal, and from $8 to $15 for paper. The main expenses now are $235 a month for leasing the bins, and $12.50 an hour for the contractor to haul the bins away.

Mr. Markl and Mr. DiMarzo have had visits from local officials from all over Westchester seeking to follow Briarcliff's example. They welcome the interest, but doubt whether large towns could really duplicate Briarcliff's success as long as recycling generally remains voluntary.

Even here there are still numerous newspapers, bottles and cans thrown out in the household garbage and sent on to the Croton dump. But there is little sentiment here for following the example of North Hempstead, L.I., which last year passed a law requiring residents to separate newspapers from other trash.

"It would seem kind of self-defeating to force the community to do something that was their idea in the first place," Mr. Markl said.

THE COUNTRY MAY BE WAKING UP TO THE DANGERS POSED BY CORPORATE GIANTISM AND CORPORATE SECRECY

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 28, 1972

Mr. METCALF. Mr. President, political and economic freedom and gravely threatened by corporate giantism and corporate secrecy and conspiracy. That is not exactly news. Adam Smith and Thomas Jefferson, among others, were pointing out the dangers in the 18th century. Congress from time to time has reacted to the warnings. The Sherman Act, outlawing monopolization, attempts to monopolize, and intercorporate conspiracies, was passed in 1890. The Clayton Act, outlawing monopolistic mergers, interlocking directorates, and other recognized evils of industry, was passed in 1914 and strengthened several times since, notably by the Robinson-Patman Act of 1936 and the Celler-Kefauver Act of 1950.

Still, year by year, the danger grows greater rather than less, the basic numbers are often repeated but too little noted by the public and the chief powers of government. The alarming statistics were noted again in the current issue of the Progressive, as follows:

> The 100 largest corporations today have a greater share of manufacturing assets than did the 200 largest in 1950, the year Congress enacted the Celler-Kefauver Act to stop the trend toward industrial concentration. And our top 200 corporations now control the same share of assets held by the *thousand* largest in 1941, the year the landmark Temporary Economic Committee submitted its final report to Congress recommending an "Investigation of Concentration of Economic Power."

That quotation is from an article called "The High Cost of Monopoly," by Mark J. Green, an astute young lawyer associated with Ralph Nader's Corporate Accountability Research Group in Washington. Mr. Green, in turn, was drawing on testimony presented to Congress by Prof. Willard F. Mueller.

No amount of warning seems sufficient to arouse the American body politic and its elected leaders to take the strong measures necessary to reverse this frightening trend. Currently, the antitrust laws are more often "studied" than enforced. In fact, it is difficult even to get authorization for a new study if it seems likely to result in a call for stronger enforcement.

This Nation's reaction to economic concentration reminds me of the reaction of the citizens of ancient Pompei to the warning rumbles and belches of Vesuvius in the years before the great eruption of A.D. 79. There was concern, of course, but not enough concern to do what was needed.

The names of just the more recent rumblings from our own industrial Vesuvius, the volcano of concentrated economic power, include: Penn Central, Lockheed, and ITT.

Will we American Pompeians wake up in time to save democracy? There is room for doubt but there is also some room for cautious optimism.

The greatest hope lies with persons of talent and in leadership positions seizing upon economic concentration as an issue that requires their urgent attention. Why should not the enforcement of the antitrust laws become as important a presidential campaign issue as the enforcement of the laws against street crime? It can, if enough able and articulate people come to realize, as this Senator has long realized, that we have few problems more pressing.

To all of our energetic contenders for the Presidency, I commend this issue for their campaigns: law and order for big business. To assist the candidates and their advisers, I would insert four recent and most helpful writings in the Record.

The first is the article, previously mentioned, from the March issue of the Progressive, "The High Cost of Monopoly," by Mark J. Green.

The second is a column by Ralph Nader which appeared in the Capital Times of Madison, Wis., on February 14, 1972, under the headline, "Break-Up of Giant Firms To be A '72 Campaign Issue."

The third is a letter to the editor, which appeared in the Washington Post on February 26, 1972, under the headline, "Sen. Nelson on Government Support of Corporate Secrecy." Written by the Senator from Wisconsin (Mr. Nelson), it deals with a subject that he is currently investigating in hearings before the Senate Small Business Subcommittee on Monopoly, of which he is chairman.

The fourth is an article from the February 28, 1972, issue of the Nation, "Corporate Secrecy—Issue for the Seventies," by Thomas De Baggio. Aside from its omission of the aforementioned hearings of Senator Nelson, it is a hard-hitting outline of the nature of this long under-recognized and under-studied problem.

I ask unanimous consent that the articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Progressive, March 1972]

The High Cost of Monopoly

(By Mark J. Green)

(Note—Mark Green is the director of Ralph Nader's Corporate Accountability Research Group in Washington, D.C. He is the co-editor of "With Justice for Some" and the principal author of "The Closed Enterprise System," which will be published this spring. His article is adapted from that book, Mr. Green has contributed to numerous periodicals and was the editor of the Harvard Civil Rights-Civil Liberties Law Review.)

MONOPOLY

The word has typically projected antique images on our memory screens—a combative Teddy Roosevelt, industrial tycoons, corporate empires, victimized farmers. Recent and converging events, however, have resurrected monopoly as a current problem:

In the mid-Sixties Senator Philip Hart's hearings into economic concentration collected an avalanche of data, documenting the high degree of industrial giantism in America.

The late Sixties witnessed the largest merger wave in American history, averaging 3,605 mergers annually between 1967 and 1969, or six times as many per year as its famous turn-of-the-century predecessor.

In 1969 President Johnson's Antitrust Task Force urged the breakup of shared monopolies in proposed legislation. (A close Johnson adviser told me that Johnson would have proposed such legislation if reelected. Why? "It was good public policy, cheap to pass, and would help out the consumer.")

America, Inc., a critique of big business by Morton Mintz and Jerry Cohen, became a best seller in five short weeks during 1971. *The Closed Enterprise System,* the Nadar antitrust study describing the consumer costs of tolerating corporate giantism, was covered by the general (and not merely business) press.

Senator Fred Harris recently introduced a rider to Phase II legislation to decentralize many of our giant corporations, and Senator Hart, chairman of the Senate Antitrust Subcommittee, will shortly introduce his own deconcentration legislation.

The Federal Trade Commission in January issued its first monopolization charge against a major industry in its fifty-eight year history, charging that four cereal companies were an illegal "shared monopoly."

Finally, President Nixon's wage and price controls have revived questions extending from economist Gardiner Means and the populist Senator Joseph O'Mahoney, Wyoming Democrat, in the 1930s, to John Kenneth Galbraith and Senator William Proxmire today: Has monopoly's "administered" prices caused our nagging inflation/recession? What, if anything, can be done about a place called Corporate America? What is ahead for Phase III?

Much of the American economy can neither be characterized as monopolistic (like Xerox, Western Electric, or IBM) or as competitive (the wheat and fashion markets). Between the two are "shared monopolies"—a form of flawed competition where only a handful of large firms produce a particular product. Shared monopolists often act as would a monopolist, with the result that prices invariably increase. For example, our steel industry, dominated by four firms controlling fifty-four per cent of all shipments, periodically raises its prices despite idle capacity of about a third and despite the availability of cheaper imported steel.

Industrial economists agree that when four or fewer firms control fifty percent or more of a market, a shared monopoly results. Collective or conspiratorial behavior, not competitive, then pervades productive activity. Such industries are many and recognizable; automobiles (General Motors, Ford Chrysler); aluminum (Alcoa, Reynolds, Kaiser); soap detergents (Procter & Gamble, Colgate, and Lever Brothers); cereals (Kellogg, General Foods, General Mills, Quaker Oats); electric light bulbs (General Electric, Westinghouse, Sylvania); cigarettes (Reynolds, American, Philip Morris), and others.

The extent of shared monopolies can modestly be desired as staggering. In 1959 economists Carl Kaysen and Donald Turner concluded in their now classic *Antitrust Policy* that "there are more concentrated than unconcentrated industries in manufacturing and mining, they are larger in aggregate size, and they tend to occupy a more important position in the economy." More than a decade later, two other authors on Corporate America agreed. Economics professors William Shepherd and Richard Barber have both calculated that shared monopolies control about two-thirds of all industry. These are the industries of our giant firms: General Motors has 800,000 employees worldwide and collects more in total sales (some $20 billion annually) than the budgets of all but three countries; the advertising budget of Procter & Gamble alone is *twenty times* as large as the appropriation of the Justice Department's Antitrust Division, which must monitor a trillion dollar economy; the six largest firms in *Fortune's* 500 (there are 400,000 manufacturing firms in this country) earn fully twenty-five percent of all industrial profits.

Based on *market concentration*—the share of business held by the leading firms in a particular industry—there has been a slight increase in the already high level of concentration during the past two decades. But based on *aggregate concentration*—the ownership of all manufacturing assets by our biggest corporations—the increase has been dramatic. While the top 200 industrial firms controlled forty-seven per cent of total assets in 1950, by 1965 they controlled fifty-five per cent. Willard Mueller, former chief economist of the Federal Trade Commission, testified before the Senate Antitrust and Monopoly Subcommittee in November, 1969:

"You may recall that I testified before this Committee in 1966 that, should postwar trends in aggregate concentration continue, by 1975 the 200 largest manufacturing corporations would control two-thirds of all manufacturing assets. Unhappily, we have reached this level ahead of schedule. *Today the top 200 manufacturing corporations already control about two-thirds of all assets held by corporations engaged primarily in manufacturing.*" (Emphasis added.)

Also, the 100 largest corporations today have a greater share of manufacturing assets than did the 200 largest in 1950, the year Congress enacted the Celler-Kefauver Act to stop the trend toward industrial concentration. And our top 200 corporations now control the same share of assets held by the *thousand* largest in 1941, the year the landmark Temporary National Economic Committee submitted its final report to Congress recommending an "Investigation of Concentration of Economic Power." How can one comprehend power of this magnitude? Imagine a college classroom seating just 200, and there you could sit the rulers of two-thirds of American industry and more than one-third of all the world's industrial production. Pharaohs and emperors would be envious.

The disfiguring of free enterprise by monopoly imposes serious economic and social tolls. Foremost is the overpricing that occurs when one or a few firms control a market. A staff report now at the Federal Trade Commission estimates that "if highly concentrated industries were deconcentrated to the point where the four largest firms control forty per cent or less of an industry's sales, *prices would fall by twenty-five per cent or more.*" The examples are numerous:

There were a number of competing milk firms in Minneapolis-St. Paul in the mid-Sixties, but only three big milk firms in neighboring Duluth-Superior; although costs were similar in both markets, the half-gallon wholesale price in 1967 was 33.8 cents in Minneapolis-St. Paul, forty-five cents in Duluth.

While there were once as many as eighty-eight competing auto manufacturers in 1921, today the "Big Three" produce eighty-three percent of all cars sold in the United States and ninety-seven percent of all domestic models. Industrial economist Leonard Weiss, of the University of Wisconsin, has estimated that the noncompetitive state of the auto industry costs $1.6 billion per year.

Federal Trade Commission studies have found that cereal prices are fifteen to twenty-five percent higher than would exist under competition because of domination of the industry by just four firms.

The oil import quota, by keeping out much foreign competition, permits domestic oil firms to overcharge, according to a Presidential task force, by an estimated $5 billion to $7 billion per year; for a family of four in New York, this means an average of $102 added to gasoline and home heating bills every year.

Such overpricing leads to lost output. Monopoly misallocates resources, creating excess capacity and a smaller Gross National Product than is our national potential. Recent studies by economists William Shepherd and F. M. Scherer have tried to quantify this lost GNP, concluding that *the overall cost of monopoly and shared monopoly in terms of lost production is somewhere between $48 billion and $60 billion annually.* The tax revenues alone from this wealth could go a long way toward ending both poverty and pollution in this country.

Monopoly overcharging also results in an inequitable transfer cost. When consumers pay excessive prices for their purchasers, monopoly profits then redistribute income from the consuming public to the shareholders of particular corporations. Professor Shepherd of the University of Michigan has estimated this redistribution of wealth at $23 billion annually. And "people's capitalism"—that "the people" own our corporations—is no rebuttal. Although millions own some stock, only a relative handful reap the lion's share of corporate dividends. A 1963 study, containing the most recent figures available, pointed out that 1.6 percent of the adult population of the United States owned 82.4 percent of all publicly held stock. This redistribution of wealth—exacerbating the wealth extremes of a society where the richest one percent of U.S. families receive more income than the bottom twenty percent and the top five percent more than the bottom forty percent—can eventually have serious political consequences. "A man who thinks that economics is only a matter for professors," writes author-economist Robert L. Heilbroner, "forgets that this is the science that has sent men to the barricades."

Lost output and income transfers are not the only ill effects of monopolies. Other dynamic costs are less capable of measurement but still severely damage our industrial and social health:

INFLATION AND UNEMPLOYMENT

Concentrated industries can largely shrug off the classical monetary and fiscal restraints, not reducing their high prices as consumer demand declines. In 1970, both before and after the automobile strike, General Motors announced price increases attempting to maintain their targeted twenty per cent return (on net worth after taxes) rather than suffer a less than monopoly-like return. Due to such market power of big firms, we are in what economist Paul Samuelson calls a "sellers' inflation"—where higher costs are simply passed on to the consumer in the form of higher prices.

In 1969 the FTC's Bureau of Economics pointed out that "major concentrated industries, through the exercise of discretionary pricing power, contribute to both inflation and unemployment." Unemployment results since monopolies, as noted, significantly reduce our manufacturing output—which in turn reduces the number of workers who would otherwise be producing. If monopoly disruption were accountable for only twenty per cent of all the unemployed, this still translates into over a million unemployed workers. And to the extent that unemployment is an official policy to combat inflation—two million people have been thrown out of work between 1969 and 1971 with this purpose in mind—a "stagflation" created by our shared monopolies dims the employment picture.

POLITICAL AND SOCIAL EFFECTS

Assuming that Corporate America has political power, what then are the costs of increasing concentration of economic power? As economic diversity decreases, the number of units contributing to the political process decreases accordingly. And as political pluralism weakens, so does democracy. James Madison argued in the Federalist Papers that political freedom requires many "factions," setting faction against faction until a political equipoise results. But as large numbers of independent firms are swallowed up, we instead race toward *America, Inc.*, in Mintz's and Cohen's phrase, "one gigantic industrial and financial complex functioning much like a separate government."

Socially, people are governed by distant operatives; initiative and individuality succumb to the ethic of the Organization Man. Job mobility declines as the number of important independent firms dwindles, "Free enterprise" then witnesses the kind of dependence found both in the cartelized Japanese economy and the communized Soviet economy. General Robert E. Wood, the ultra-conservative former chairman of the board at Sears Roebuck, once observed, "We complain about government and business, we stress the advantages of the free enterprise system, we complain about the totalitarian state, but in our individual organizations . . . we have created more or less of a totalitarian system in industry, particularly in large industry."

Politically, the control over government by big business, already great, increases. "When a major corporation from a state wants to discuss something with its political representatives," Senator Hart has said, "you can be sure it will be heard. When that same company operates in thirty states, it will be heard by thirty times as many representatives." Supporting this view was International Telephone and Telegraph's effort to drum up Congressional opposition to the Justice Department's attempt to block its merger with the American Broadcasting Company; 300 Representatives and Senators complained to Justice.

Those large firms which dominate an industry, by their orchestrated power, can resist governmental and public pressure more easily than smaller firms of lesser political clout. And as big firms push out or buy out the small, the "mavericks" of industry disappear. Their disappearance reduces a source of political options since, as the number of private sources for social risk capital is reduced, the unpopular or new cause will find it that much more difficult to secure backing.

The social blights of racism and pollution have been associated with the discretionary power of monopolies freed from the spurs of competition. Economist William Shepherd studied racial patterns in white-collar jobs, concluding that firms with market power could afford the luxury of discriminating against blacks—and they did. But competitive firms, which had to hire the best employes at the going rate—whether they were black or white—were found to discriminate less. Also there is very little incentive for shared monopolists to be progressive on pollution, with their heavy investment in existing capital assets and with their ability already to exact monopoly-like returns. The *Auto-Smog Conspiracy* case provides one clear example. In this case the Justice Department charged the Big Four auto firms with illegally suppressing anti-exhaust technology and implementation.

Proponents of Big Business, on the other hand, argue that there are alternate benefits in our state of superconcentration. But on close examination, their verbal arrows become boomerangs:

INNOVATION

First popularized by the eminent Joseph Schumpeter, and recently adopted by John Kenneth Galbraith, the idea is that big firms can innovate better because they are able to risk the necessary large investments in research and development (R&D). "A benign providence," Galbraith has intoned, "has made the modern industry of a few large firms an almost perfect instrument for inducing technical change."

But nearly all objective evidence refutes this assertion. When you have a huge investment in present machinery, and when an unknown return is to be substituted for your sixteen to twenty per cent return, there is little need to embrace new technologies. Economist Leonard Weiss, after examining many analyses of R&D expenditures, concluded: "Most studies show that within their range of observation, size adds little to research intensity and may actually detract from it in some industries." Also, it should be stressed that about two-thirds of the research done in the United States is subsidized by the Federal Government anyway—not by big private industry.

A look at the concentrated steel industry revealed that of thirteen major inventions between 1940 and 1955, none was produced by the American steel companies. A small Austrian firm, one-third the size of one U.S. Steel plant, introduced the revolutionary oxygen steelmaking process. The first American company to adopt it was McLouth Steel, which had less than one per cent of industry capacity; it was ten years later when U.S. Steel and Bethlehem followed suit.

But steel has a long history of technological immobility. What of a large corporation commonly considered a major innovator, like General Electric, "where progress is our most important product"? In the household appliance field alone, the late T. K. Quinn, a former GE vice-president, credited small companies with the discovery and production of, among other items: the electric toaster, electric range, electric refrigerator, electric dryer, electric dishwasher, vacuum cleaner, clothes-washing machine, and deep freeze. Quinn concluded that "the record of the giants is one of moving in, buying out, and absorbing the smaller concerns." Nor was industrial bigness a *sine qua non* to the development of stainless steel razor blades, transistor radios, photo copying machines, and the "quick" photograph. Wilkinson, Sony, Xerox, and Polaroid were all small or unknown when they introduced these products.

EFFICIENCIES

The reputed efficiencies of large scale operation become inefficiencies when the scale grows too large. Competition is the whip of efficiency, driving firms to produce better goods at lower costs in order to increase sales and profits. Monopoly and oligopoly, however, lead to "the quiet life," in Judge Learned Hand's phrase, a state of mind and economy where there is little pressure to seek out efficiencies. In an age which has witnessed the collapse of the Penn Central (a firm which was the result of a merger with claimed efficiencies because of its large size), and the near collapses of Ling-Temco-Voigt (LTV) and Lockheed aircraft firms, it should be evident that being big does not mean being efficient. Robert Townsend has put it more impressionistically: "Excellence and bigness are incompatible."

Huey Long once prophesied that fascism would come to the United States first in the form of anti-fascism. So too with socialism—*corporate* socialism. Under the banner of free enterprise, up to two-thirds of American manufacturing has been metamorphosed into a "closed enterprise system." Although businessmen spoke the language of competitive capitalism, each sought refuge for themselves: price-fixing, parallel pricing, mergers, excessive advertising, quotas, subsidies, and tax favoritism. While defenders of the American dream guarded against socialism from the left, it arrived unannounced from the right.

What can be done? There is the antitrust alternative—breaking up shared monopolies into firms of more competitive size. Treasury Secretary John Connally has already dismissed the role of antitrust in the Nixon Administration's Phase II. The new controls "would make [antitrust] less necessary and, very frankly, *the matter has not been discussed at all,*" he said at a recent press conference. Others of this inclination charge "irrational populism" whenever corporate decentralization is urged, alleging it favors "Mom and Pop" stores over advancing technology. Clearly, only when the marketplace exploits actual efficiencies of size can the consumer get the most goods at the cheapest price. But the charge of irrational populism is misplaced when the point is that GM, averaging more than *$20 billion* in sales, could profitably be split up into three to nine companies, or that LTV, with *eighty-seven subsidiaries,* is neither efficient nor interested in the communities in which it invests. It is an argument for more $100 million firms and fewer $2 billion firms. It is an argument for the breakup and decentralization of many of our largest industrial corporations.

Beyond the "irrational populist" threshold, many others disagree with this suggested cure. One FTC commissioner, when asked what he thought of the Nader Antitrust Report, said, "Those guys are political dreamers. The Government will not break up the big firms." When asked why (since such lawsuits could be filed by his agency), he replied, "Because we wouldn't file such a suit." Catch 22.

John Kenneth Galbraith, in his *The New Industrial State,* ably points out the corporate control of the market mechanism, the seeking of growth not profits, the rise of oligopoly, and the blurring of private and public sectors. Despite this perception of symptoms, Galbraith goes on, *mirabile dictu,* to diagnose this industrial patient as healthy—exploiting efficiencies, encouraging long-range planning, and creating stability. To be sure, it creates stability (as does price-fixing, Galbraith should be reminded), but stability for *what,* and for *whom?* As it has been already argued, certainly not for consumers, that ninety-nine percent noncorporate management sector for whom the economy, presumably, was constructed in the first place.

Even some of those who agree that laws and lawsuits against shared monopoly suits are economically valuable still get apprehensive at the prospect. There is first the fear of widespread disruption in American industry, to which economist and former antitrust chief Donald Turner has replied, "The disruptive effects are usually exaggerated anyway." Shareholders and employes would not be injured, since the divested businesses are not liquidated or given away, but are sold for market value and continue to operate under new ownership.

Second, for those concerned that deconcentration suits may be a harsh penalty for monopolistic firms, leaving monopoly uncorrected is a "harsh" treatment for consumers. A corporation is an artificial body created by the law which, in the interests of all, must be controlled by the law.

Third, some fear that monopoly moves might inhibit business growth by penalizing firms for their successes. But the chance that continued success may in the future result in an antitrust case should not slow down profit-minded corporations, which will still be tempted by the interim monopoly profits earned prior to any dissolution suits. And finally, many understandably wonder if the public, comprised of large numbers dependent on giant business, would support such serious reform. This is the core issue. Without a following—demanding legislative action, supporting bigger budgets, and encouraging creative enforcement—antimonopoly activity will remain a romantic relic at best, a political pariah at worst.

Can a coalition coalesce around this issue? The ideological interests of small businessmen, small farmers, and urban liberals in a more competitive economic system are obvious. Racial minorities and blue-collar workers, seeing their small fixed incomes buy fewer goods because of monopoly prices, are also potential adherents. Even conservatives could jump on the antimonopoly bandwagon. They are the dedicated critics of public power, the believers in decentralization, and free enterprise, and something called "the competitive spirit." When confronted with the realities of unchecked, centralized private power, philosophic integrity could propel many into the antitrust camp. Conservative Senators James Buckley and Barry Goldwater, for example, opposed the Lockheed loan because it violated the principles of free enterprise. A top economic adviser to antitrust chief Richard McLaren, Leonard Weiss, aware of this conservative attraction and the potential popularity of an antimonopoly drive, argued for a breakup of General Motors with this flourish: "In terms of winning votes, a big automotive case might be worth a hundred merger cases. Conceivably, it would make Nixon into another Teddy Roosevelt."

Perhaps. More evident, however, is the evolution of the consumer movement into what some trend-watchers have called "The New Populism." Ranging from tax inequities to shoddy merchandise to unfair property taxes, from auto bumper frailty to Pentagon cost overruns, there is a common thread of growing citizen hostility to the invisible bilk, that involuntary taking of income by unaccounted institutions. The extent and cost of monopolies can become as central to the New Populism as it was to the old.

[From the Madison, Wis., Capital Times, Feb. 14, 1972]

BREAK-UP OF GIANT FIRMS TO BE A '72 CAMPAIGN ISSUE

(By Ralph Nader)

WASHINGTON.—Several Presidential candidates, including Muskie, Lindsay, McGovern and McCloskey, are about to take positions on the issues of concentrated power, secrecy and monopolistic practices of giant corporations. Injecting the matter of monopolies and giantism into an election campaign is something of a revival. Although virtually ignored for three decades, it draws on the historic aversion of many Americans to the "trusts" that erupted on the national political stage with the populist-progressive movement in the early years of this century.

Why, in an era of skyrocketing campaign costs, would any politician believe that the reform of corporate power is a subject sufficiently compelling to risk both the withdrawal of business campaign contributions and the active opposition of industry?

The example of Sen. Harris, (D–Okla.) who tried this theme last fall and went broke in his brief run for the Presidency, should tend to dissuade other hopefuls. Harris recalled the disgruntled words of a wealthy businessman supporter: "Fred," he said, "can't you stick to the dope traffic and safe subjects like that?" Harris and some other politicians are convinced that the issue is important and that there is an emerging populist revival of concern about the power of the corporate state in America.

In the first place, such events as the bankruptcy of the Penn Central, the nation's biggest railroad, and the near collapse of Lockheed, the aerospace giant, have had a profound impact on liberal and conservative politicians alike. Both companies had to be rescued by government loans or guarantees; both reflected mismanagement and a secrecy that precluded early detection or public accountability; and one, Penn Central, was replete with managerial looting and serious breaches of responsibility to shareholders and passengers alike. The myth that connected bigness with efficiency and stability was severely shattered.

Furthermore, there is a movement spreading out of the farm belt made up of family farmers fighting for survival against the conglomerates which are buying up huge hunks of land and swallowing the family farm in their integrated agri-business operations.

Approximately 2,000 farms are going out of business in this country every week. The National Farmers Organization, the fastest growing and most militant opponent of agribusiness, has as its battle cry: "Pull together, men of the soil, so the farm-holders, not share-holders, reap the benefits of your toil."

Moreover, there is now a remarkably broad agreement among economists and lawyers specializing in anti-trust studies that legal action must be taken to undo economic concentration. Without such action, it is feared that what is left of the benefits of competitive enterprise will go the way of the dodo.

The last two Presidential Task Forces, representing liberal and conservative schools of thought, analyzed the problem for Presidents Johnson and Nixon. Both Task Forces repeatedly urged tougher enforcement to stop the monopoly of many industries by a few firms. The Johnson Task Force went so far as to urge legislation that would divide into more competitive firms any industry in which four or fewer companies held 70 per cent or more of sales.

Since 1965, eleven successive reviewers in the Justice Department's anti-trust division have recommended legal action to break up or divest the General Motors complex into various competitive units. General Motors has been in violation of the anti-trust laws for many years. According to a former Presidential assistant, Lyndon Johnson, if he had run for a full second term, was prepared to propose a deconcentration bill to the Congress.

Increasing public interest in big business abuses can be seen in the growth of the consumer movement, in such best-selling popular books as "America, Inc." and "The Rich and The Super Rich," and in the burgeoning resentment of many Americans over the invasion of privacy by the computers of big business firms. A 1970 survey by the Opinion Research Corporation found that 65 per cent of the public (up from 60 per cent in 1967) thinks that "in many of our largest industries, one or two companies have too much control of the industry," while 45 per cent of the public (up from 36 per cent in 1967) thinks that "for the good of the country many of our largest companies ought to be broken up into small companies."

Last month the Federal Trade Commission, in its strongest anti-trust move in years, filed suit against the big four ready-to-eat cereal firms who control 90 per cent of the market. Sen. Philip Hart (D-Mich.), chairman of the Senate Anti-trust Subcommittee, is soon expected to submit a major deconcentration bill. For years, his subcommittee has been holding investigative hearings, documenting in detail the real costs to Americans of the widespread practices of price-fixing, tying arrangements, and the freezing out of superior innovations, as well as other collusive behavior on the part of conglomerates involving drugs, bread, steel, auto parts and repair, medical laboratories, and petroleum—to name only a few. Such anti-competitive enterprise by supposedly competing businesses devalues the consumer's income and the general standard of living.

A secret staff report of the Federal Trade Commission estimates that "if highly concentrated industries were deconcentrated to the point where the four largest firms control 40 percent or less of an industry's sales, prices would fall by 25 per cent or more.

It is on the basis of such an abundance of documentation that these Presidential candidates can afford to reopen the old political debate over monopoly and economic concentration. If they succeed, the virtues of competition—to consumers, to innovators, to small businesses encouraged to challenge the giants—will be given more realistic attention than they have for many years under our little-used anti-trust laws.

[From the Washington Post, Feb. 26, 1972]

Senator Nelson on Government Support of Corporate Secrecy

A column by D. J. R. Bruckner about big business secrecy, which you published on Jan. 14, was a welcome break in the astonishing inattention to this problem by the daily media and elected officials.

It is now platudinous to note that a few hundred huge corporations have become, in effect, "private governments" exercising immense powers over all our lives. Daily, these "governments" make decisions and take actions that directly affect our pocketbooks, health, safety, life styles, environment, even our life expectancy.

Yet, despite increasing awareness of the power of giant corporations, Bruckner correctly observes: "It would be a lot easier to get Howard Hughes on the telephone than to get behind normal everyday business decisions in America." The big decisions, too often, are even more secret.

Worse, government secrecy supports corporate secrecy. Here is an example. The giant corporations have succeeded in erecting and fortifying in this country a public policy that equates not only apples and oranges but planets and oranges. In this incredible but real and present policy, the separate investment and profits made in any one of a global conglomerate's multi-million-dollar product lines are likened in all respects to the separate investment and profits made in a corner drugstore's soda fountain: both are protected as "proprietary data."

Further, by building and perpetuating a myth that any politician calling for public disclosure of the conglomerate's product-line data would also want the drugstore's big business has enlisted many small businessmen as allies in defense of an undiscriminating, codified policy of "business privacy." The alliance keeps most politicians tactfully quiet and the policy intact. Knowledge essential to either effective competition or effective regulation is thereby roped off as the statutory monopoly of a few corporate and governmental "big brothers."

Roll call votes in the Senate and House during last fall's debates on bills to extend wage and price control legislation are but the most recent evidence of this national policy's continued—and deeply regrettable—strength.

The bills requested by the administration and reported by both the Senate and House banking committees all contained similar sections making it a criminal offense for federal personnel receiving business information in connection with the economic stabilization program to disclose it to the public. The effect is to prevent both the public and Congress from monitoring the reasoning of the Price Commission, for example, in its evaluation of data received from the huge companies (annual sales of $50 million or more) that must file reports either after or before they raise prices

I offered in the Senate and Rep. Herman Badillo (D.-N.Y.) offered in the House an amendment to that section, guaranteeing privacy for "trade secrets and processes" but providing that "all other information received in justification of wage or price increases shall be made available to the public." We argued that a corporation with an annual sales of $50 million or more, raising or asking to raise its price on some product, should disclose to the public at large—not just the Price Commission—its investment, costs and profits in that product line, before and after the hike. The amendment was defeated 35–53 in the Senate and 73–275 in the House. The legislation then passed, with government-guaranteed big business secrecy firmly included as a lawful part of Phase II, Phase III and Phase "N." There was, incidentally, almost no notice taken by the daily media of the illuminating debates on this amendment in both houses of Congress, Nov. 30 (Senate) and Dec. 10, 1971 (House).

There are currently under way before the Senate Small Business Subcommittee on Monopoly hearings on corporate giantism and corporate secrecy. It is my hope that these hearings may stimulate widespread new thinking about our national policy on business secrecy. That policy, while perhaps appropriate for a pioneer economy and still appropriate for small and medium-sized businesses, seems not only unsuitable but dangerous to our freedoms when applied to the corporate giants.

GAYLORD NELSON,
Chairman, Subcommittee on Monopoly, Senate Small Business Committee.

[From the Nation, Feb. 28, 1972]

Issue for the Seventies

(By Thomas De Baggio)

American corporations sit on more secrets than do all of Washington's bureaucrats and brass hats put together. And they do so with less justification. This state of affairs and what it means for the nation—even the world—burst suddenly out of the soundproofed board rooms as the Penn Central's financial wreck began to be untangled. The transportation giant, revealed to be on the verge of death, presented a sordid instance of what happens when a modern acquisitive firm wraps itself in secrecy. So strong was the ban on information at Penn Central that the efforts of even a board member could not crack it. The same types of restriction are placed on crucial data by other corporations, and the public—even company directors—has no way of knowing if the same kind of clandestine mismanagement flourishes.

As the House Banking Committee makes clear in a staff report released in January, Penn Central's secrecy covered not so much trade secrets as tricks of the trade. Committee Chairman Wright Patman (D., Tex.) noted that the financial labyrinth which honeycombed the Penn Central twisted and turned through Wall Street: "The attitude of everyone involved seemed to be, while the game was still going on, that all these dealings were of benefit to every member of the club, and the railroad and the public be damned."

Much of the railroad's financial and management affairs appear to have remained hidden from lack of concerted effort to pry them out. Thus banks loaned money without question, accounting atrocities glided through because they contained payoffs, secret self-dealing went uncovered because financial benefits accrued to those within the company. Indeed, a preoccupation with secrecy giving the appearance of conspiracy so enveloped the mentality of those involved that a dissident board member, Robert Odell, who had come from the New York Central when the two railroads merged, could not even meet informally with other board members to discuss what he had discovered.

Coupled with the revelations contained in an earlier report by the Antitrust Subcommittee of the House Judiciary Committee, which documented on a somewhat wider scale the corporate cloak-and-dagger operations that fostered the merger epidemic of the 1960s, the House Banking Committee's inquest into the wreck of the Penn Central may come to be viewed as corporate government's Waterloo. For it makes plain that corporate secrecy acts to preserve the destructive corporate domination of the ecnomy, enhances corporate political influence and hides the harm that consumer products do to their users. As government becomes more involved in business through price and wage controls and various financial corporate props, it adds to its regulatory authority and responsibility without making equivalent demands for a public accounting. What is kept secret becomes more crucial to public decision making and increases the need to declassify corporate and government secrets.

Yet the right of corporations to hug their secrets at the expense of the public's health, safety and pocketbook goes almost unchallenged by government officials. Bureaucrats conspire with business leaders to shroud still further an important body of information that should be made public, and politicians do their best to skirt the issue, fearing to ruffle corporate feathers when they need campaign cash.

"Our economic intelligence about many aspects of business organization is worse today than it was around 1900 when Roosevelt made his plea for opening to public view the 'mammoth' corporations of his day," contends economist Willard F. Mueller, former Federal Trade Commission Economics Bureau director. But contemporary corporations dwarf those of Theodore Roosevelt's era. The largest of them are bigger than many sovereign nations. General Motors, for instance, is larger than 123 of the world's 146 nations. American Telephone and Telegraph, Standard Oil of New Jersey and Ford Motor Co. is each larger than Denmark, Austria, Indonesia, Norway, Venezuela, Iran or 100 other nations. Less than 1 per cent of manufacturers control 86 per cent of America's assets and 88 per cent of its net profits. Seven international oil producers, acting for the most part as a single economic monolith, have combined assets of $75 billion. That sum is as large as Canada's gross national product, and the Canadian economy ranks ninth in the world.

This corporate domination of the economy and natural resources should surprise no one, says Jerry S. Cohen, former chief counsel of the Senate Antitrust Subcommittee and author with Morton Mintz of *American Inc.* "A corporation being an entity without a soul and without a conscience, its rewards must be earthly," he says, "because the gates of Heaven and Hell can be opened only to flesh and blood. The problem this creates, and which we have yet to face, is that economic power is political power."

Sen. Fred Harris of Oklahoma, the former Democratic Party National Chairman whose five-month fling as Populist Presidential candidate ended abruptly with a $40,000 debt, says he was beaten by the big corporations who refused key financial support. Although forbidden by law to make campaign contributions, corporations form secret political committees and funnel donations through their executives. But corporate political influence is much more pervasive and hidden than covert contributions would suggest. "The giant corporation," says Cohen, "is able to manipulate public government in a way human beings seldom can. The corporation, for example, determines employment patterns—literally whether cities or areas will live or die. It has a large tax base upon which governments depend."

Even before corporations reached gigantic size their power was awesome, especially the power to draft legislation favorable to their interests. The greatest corporate legislative coup was the Fourteenth Amendment, adopted in 1868 and designed to assure all citizens the right of due process and equal protection of the laws. Georgetown history professor Carroll Quigley recounted that tale of corporate influence before a Congressional committee recently: "More than 100 years ago, Roscoe Conklin, a Senator from New York, who at that time was retired, gave testimony that he was at the secret hearings where a decision was made about the wording of the Fourteenth Amendment of the Constitution, and although it was not published and we did not know it until he made this statement, the purpose of the writing of that was to protect corporations at least equally when it gave certain rights to persons. They used the word 'persons' because it would, they thought, include corporations as well as the Negroes in the South for whom publicly they were establishing these protections." Thus it was that in guaranteeing rights to former slaves, the Congress emancipated the American corporation from virtually all restraints.

What freedom they did not thus gain, corporations soon won with a broad trade-secrets law that prevented federal employees from divulging corporate information which "concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses or expenditures of any person, firm, partnership, corporation or association. . . ."

Since "trade secrets" is a term not precisely defined, corporations can label everything about their business confidential, releasing only what pleases them. Even an item as innocuous as a company telephone book is guarded dearly, and the number of employees in a plant, their race and sex, take on the quality of state secrets. "Some research data is protected as a 'trade secret' long after any trade advantaged has evaporated," asserts Robert Choate, the nutrition expert whose exposé of nutrient content of dry breakfast cereals shook that industry into reform. "Other research relates to the public's well-being and whether positive or negative, should become part of medical lore even while research is continuing. General Foods, Kellogg and others have extended files on the cariogenic (cavity-producing) effects of their products. . . These tests reveal the cavity-producing potential of such drinks as Tang and Kool-Aid and such cereals as Sugar Frosted Flakes. This information should come into the public domain, especially since these products are advertised nationally." [See "Refrigerator Roulette: The Sugar-Coated Children's Hour" by Robert B. Choate, *The Nation*, January 31.]

When it sought to investigate Du Pont, a Ralph Nader study group was told by the firm's president, Charles McCoy, that Du Pont kept secret all information "harmful to the corporation." Like other companies Du Pont enforces the rule by obliging employees to sign a rigid contract designed to repress the slightest urge to disclose anything, either while employed by Du Pont or afterwards. A pension clause permits the company to cancel retirement payments if the former employee "willfully engaged in any activity which is harmful to the interest of the company."

Even the ownership of corporations is secret. Stockholder identity has been camoflaged by "street names," sometimes called "nominees." The codes were partially broken when Sen. Lee Metcalf (D., Mont.) made public the "nominee list" issued by the American Society of Corporate Secretaries. [See "Unmasking Corporate Ownership" by Sen. Lee Metcalf and Vic Reinemer, *The Nation*, July 19, 1971.] It revealed that Aftco, Byeco, Cadco, Bebco, Ertco, Floco, Forco, Gepco, Ninco, Octo, Oneco, Quinco, Sevco, Tenco, Treco, Twoco and Vivco were names used by Prudential Insurance Co. for its extensive holdings. But many of the exotic names employed to hide stock ownership and control refer to banks and brokerage firms, which in turn hold stock for others. Such codes have also cloaked the large holdings of life and health insurance companies in the tobacco industry—holdings which have deterred these powerful investors from fighting health hazards that shorten the lives—and boost the premiums—of policyholders.

Corporations have also protected themselves from the encroachment of the federal bureaucracy and the public into their closed domains by fostering advisory committees. There are an estimated 2,000 such committees, but the essential one for the maintenance of corporate secrecy is the Business Advisory Council on Federal Reports, a group of big business executives who counsel the White House Office of Management and Budget (OMB) and through subgroups stall government requests for information.

The OMB is crucial to the government's collection of data. It has the authority to withhold clearance for questionnaires or to delete questions from them. This power, coupled with the influence of the business advisory groups, was enough to delay for eight years a survey of industrial pollution. A survey of gas pipeline hazards was similarly delayed, as was a survey designed to discover problems in the business of auto repairs. Most recently, the electric power industry has been fighting to keep secret data collected by the Federal Power Commission on the availability, cost and quality of fossil fuel. At the same time, pressure on the OMB has delayed the Federal Trade Commission's collection of data on corporations' line-of-business profits. The data is to be gathered to supplement the agency's *Quarterly Financial Reports*, the only information published on income by industrial categories.

The need for the new survey is undisputed. Mergers have caused a decline in the quality of the *Quarterly's* data, because it reports revenues by "primary" industry. That sometimes means that a firm's total revenues are counted in an industrial category in which it does only 15 per cent of its business. The new survey would split a firm's profits into very broad product categories such as "canned, cured and frozen food," and it would demand no certification or audit of the profit estimates. Yet, the big conglomerates which have been hiding such information screamed at the suggestion that data be made available on a confidential basis to the government. "The potential impact of any leakage of profit data . . . could have substantial adverse effect on the competitive position of individual companies," argued Charles C. Hornbostel, executive vice president of the Financial Executives Institute, at an advisory meeting which was itself secret. But his real concern appears to be to preserve the elitist privilege to dominate smaller, single-product firms whose profit data are public. Product-line secrecy gives the large corporation an edge in gobbling up smaller competitors and hides monopolies in certain industries. Government policy and continued secrecy have permitted the destructive take-over of a number of industries either by one corporation or by several who "share" the monopoly.

The FTC has attacked the breakfast cereal industry, where four firms control 91 percent of sales, FTC contends that the shared monopoly was built on anti-competitive practices and extensive advertising. The overcharge to consumers has been 10¢ on a 40¢ box of cereal. The FTC has also been poking around in the soft-drink industry, where, Senator Harris has charged, the shared monopoly has created "a 3¢ overcharge on a 10¢ bottle and a $1.5 billion redistribution of income from ordinary Americans to the big soft-drink companies." Ralph Nader estimates that shared monopolies—many of them hidden—cost consumers $23 billion a year in overcharges.

Tricky accounting, as well as an aversion to product line reporting, is another way corporations hide financial data. By financial finagling International Telephone and Telegraph overstated its 1968 net income by 70.4 percent, according to the staff of the House Antitrust Subcommittee. Such financial shenanigans are neither unusual nor frowned upon—the Financial Analysts Federation cited ITT for "excellence in corporate reporting" four years in a row. This "excellence" has created statements so inadequate, in the view of David Norr, an analyst for the First Manhattan Co., that they might well have caused the New York Stock Exchange to halt trading in the firm's stock. But nothing of the sort has been contemplated by exchange officials or the Securities and Exchange Commission. Because of accounting tricks and the fever for mergers, encouraged by the government, we know less today about ITT than we did ten years ago, according to Professor Mueller. And ITT is not alone. A flock of small companies disappeared into large corporations during the mergers of the 1960s and have now become hidden items in consolidated reports.

An attempt to break through some of this secrecy was made in Congress last fall with an amendment to the extension of the Economic Stabilization Act. But in its watered-down version, the disclosure provisions of the Act are almost meaningless. An irony of the whole affair is that one of the justifications the Price Commission has trotted out for keeping these matters secret is the Freedom of Information Act, once seen as the legal beachhead of the public's right to know. The same law has been cited by newspaper publishers as a reason why their profit statements should not be filed in return for the antitrust exemption granted them under the Newspaper Preservation Act.

Big corporations find the government accommodating in other ways. U.S. Steel took it upon itself to refuse the property tax collector in Gary, Ind., information about its taxable facilities. Every year the IRS makes 30,000 tax deals with corporations. These agreements sometimes create new laws, yet they are not subject to review and remain secret. Every year $63 billion in subsidies is wheeled out of Treasury. The majority of it fattens large corporations. The few scraps that trickle down to the poor occasion a grave loss of privacy; those who wish to receive it must first pass a "means" test. But no corporation—including Lockheed—is required to make a complete public accounting of its finances before getting on the dole. Food processors are still not required to print on the label everything that is inside the can, in what quantity it is to be found and the nutritional value. The Agriculture Department has not yet required fat content of meat to be labeled, although it has established certain levels beyond which fat content is not allowed to go. Tests of drug efficacy made by manufacturers and the government prior to marketing still remain secret.

When corporations fail to forestall or influence lawmaking, they have shown themselves not beyond lawbreaking to keep secret what should be disclosed. "A large number of defense contractors, including many of the nation's largest companies, regularly refuse to provide the cost and pricing data required by the Truth in Negotiations Act," according to Adm. Hyman Rickover. "In some cases, entire industries have decided not to comply with the law. . . . For example, large steel companies . . . have for years refused to obey the law requiring them to furnish cost and pricing data." The Defense Department has shown little desire to force the issue. The computer industry, from which the government purchases $3 billion worth of equipment annually, refuses to give similar information to both the Atomic Energy Commission and the General Services Administration.

At other times corporations are willing to pay up rather than divulge a small piece of corporate data. Thus Volkswagen refused to name safety personnel or to release test reports in a suit alleging that seat safety-latch failure had caused injury. The judge, peeved by the firm's insistence on keeping its secrets, held Volkswagen liable for the damages. General Motors has kept its own witnesses and attorneys ignorant of facts established by tests, so that information pertinent to a court case would remain secret.

Lawbreaking corporations charged with antitrust violations will sometimes sign a consent decree promising to stop the allegedly illegal activities, rather than risk having secrets spilled in court. And the government has been eager to go along with them. Such secrets, if revealed, might cost a corporation millions of dollars in treble damage suits.

"The law simply cannot bestow equal justice so long as there are two separate and unequal classes of citizens, one that cannot be imprisoned and another that can, one for whom the most severe penalty is the punishment of its capital and another that can receive capital punishment," says attorney Cohen. Big corporations get away with their outlawry "because they are accustomed to controlling the framework of the law which applies to them," contends Nader.

No one denies that corporations have a valid interest in keeping some information to themselves. What is at issue is an assumed blanket right to secrecy and the power it confers on the corporate giants. It is a power sometimes greater than government and often absolute over the lives of consumers, workers and small businessmen.

Corporate secrecy, says Nader, "is the first and usually decisive obstacle to knowledge of and response to the abuses, illegalities and injustices which corporations heap upon citizens, governments and environments. . . . For the control of the process of information is control of the process of policy."

With corporations enjoying such great power and suffering so few checks, it is not difficult to agree with John Kenneth Galbraith, who remarked recently in Congressional testimony: "The line between public and private enterprise is obviously so exotic as to be ludicrous. . . . Corporate secrecy is now a formula for keeping the public in ignorance of the public business."

Short of nationalizing large corporations, a series of remedies are being prominently discussed as ways to crack the code of corporate secrecy. Among them are federal corporate charters and a change in the basic structure of the corporate board of directors. Both would help to bring corporations out of the secrecy-shrouded feudalism that sustains them and would create a democratic form of enterprise more appropriate to the 20th century.

As proposed by Nader's Corporate Accountability Research Group, federal corporate charters would embrace not only strict antitrust provisions and a breakup of shared monopolies but also full corporate disclosure. This last would probably include publication of product-line financial reports—perhaps even income tax returns—and product testing done by industry. It would also remove barriers which prevent the public from knowing a product's ingredients. Pollution emissions and occupational health and safety conditions would also be made public. As Nader himself has noted, a definition of trade secrets would have to be written to indicate what could properly be kept confidential.

Sen. Philip Hart (D., Mich.), who has publicly supported federal corporate charters, is fond of pointing out that the idea has had important high-level support for years. Presidents Theodore Roosevelt, William Howard Taft and Woodrow Wilson all supported the concept. Hart calls it a "conservative approach."

The House Banking Committee staff, after investigating the collapse of the Penn Central and the secrecy and mismanagement that contributed to it, came to the conclusion that, "If this is indicative of the way other corporations operate, serious efforts should be made to require more complete and timely disclosure of corporate actions and decisions and to develop a new comprehensive system of uniform accounting standards for corporate reporting." In the staff's minds the Penn Central bankruptcy raised "the serious question as to whether giant corporations affecting the everyday lives of our entire population . . . should continue to be governed in the traditional fashion, or whether a new system of corporate directorships should be devised reflecting the broader public interest that is at stake in the operation of these giant corporations." In addition to proposing a limit on the number of bankers on a corporation's board of directors, the staff report suggests that they be opened to "employees, customers, consumers and the public in general."

Making little legislatures out of the boards of America's corporate giants has been vehemently rejected by the corporate elite whenever it has been mentioned. Yet, in West Germany, iron, steel and coal companies were required in 1951 to give employees 50 per cent board representation. And while top corporate executives are not ready to jump for even that kind of limited corporate democracy, a survey of business executives conducted by the *Harvard Business Review* shows some new and remarkable flexibility on the subject of management decisions. The survey found one-third of the 3,453 executives polled willing to let an employee vote decide some policy issues. Half the younger executives were prepared to abide by an employee vote.

Thus there is some reason to be optimistic about reversing the trend toward more corporate secrecy and increasing corporate power, but the fight for reform is sure to be long. As Nader has pointed out, "The interplay between governmental secrecy and corporate secrecy in the context of an accelerating erosion of personal privacy represents a single, widening thrust in recent history."

FEDERAL REGIONAL COUNCILS

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SCHMITZ. Mr. Speaker, during 2 year's service as chairman of the Local Government Committee in the California State Senate before joining this honorable body, I had occasion to explore the significance of various proposals for establishing a new level of regional government between Federal and local government. Such regional government would in effect bypass the States and create new administrative authorities under Federal direction and control, transcending State lines and unreachable by the local electorate.

A recent Executive order entitled "Federal Regional Councils" represent the latest and one of the most disturbing steps in this direction. It was issued shortly before the President's departure for Peking, and deserves much more attention than it has received so far in the press and communications media. Therefore I am taking this opportunity to present to you the following editorial from the largest newspaper in my district, the Santa Ana, Calif., Register, commenting on this Executive order which is No. 11647, together with the Executive order itself:

NIXON PARTITIONS UNITED STATES

One of the little chores that President Nixon tended to before he went abroad to break bread and drink wine with the world's most notorious mass killers was to divide the United States into ten standard federal regions and to establish a federal regional council for each.

The councils are to be comprised of the directors of regional offices of the Departments of Labor, Health-Education-Welfare, Housing and Urban Development, Department of Transportation reps, regional directors of the Office of Economic Opportunity, the Environmental Protection Agency, and the Law Enforcement Assistance Administration.

The President set forth his scheme in Executive Order 11647, recorded Saturday, Feb. 12, in the Federal Register, Vol. 37, No. 30. So it is plenty official. The council is supposed to develop "closer working relationships between major federal grantmaking agencies and state and local government." That means the councils will handle tax money as it flows from the Federal Treasury to local politicians.

The regional partitioning of the United States has been cooking for a period of 20 years or more. It appears to be a method for displacing the authority of the several states in that it gives the President diverse authority over separate geographical sections. That is, he now can have one set of laws for California and a different set of laws for New England. That means he can enslave inhabitants of one area without inflaming the whole country. To regionalize the United States is to cut it up into parts so that Mr. Nixon and his Keynesian associates can digest it piecemeal.

The Constitution forbids the establishment of any new state within the jurisdiction of any other state or states without the consent of the legislatures of the states concerned. Mr. Nixon appears to have circumvented that prohibition by calling the new institutions regional councils instead of calling them states, but they can be termed "super states" with substantial justification. Whatever they are called, they are decidedly dangerous.

EXECUTIVE ORDER 11647—FEDERAL REGIONAL COUNCILS

The proper functioning of Government requires the development of closer working relationships between major Federal grantmaking agencies and State and local government and improved coordination of the categorical grant system.

I have heretofore directed the Domestic Council to:

(1) receive and develop information necessary for assessing national domestic needs and defining national domestic goals, and to develop for the President alternative proposals for reaching those goals;

(2) collaborate with the Office of Management and Budget and others in the determination of national domestic priorities for the allocation of available resources;

(3) collaborate with the Office of Management and Budget and others to assure a continuing review of ongoing programs from the standpoint of their relative contributions to national goals as compared with their use of available resources; and

(4) provide policy advice to the President on domestic issues.

Furthermore, I have assigned to the Office of Management and Budget the responsibility for assisting the President in developing efficient coordinating mechanisms to implement Government activities and to expand interagency cooperation. Three years ago I directed that the senior regional officials of certain of the grantmaking agencies convene themselves in regional councils to better coordinate their services to Governors, Mayors, and the public.

I have now determined that the measures prescribed by this Order would assure improved service to the public.

Now, therefore, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. *Federal Regional Councils.* (a) There is hereby established a Federal Regional Council for each of the ten standard Federal regions. Each Council shall be composed of the directors of the regional offices of the Departments of Labor, Health, Education, and Welfare, and Housing and Urban Development, the Secretarial Representative of the Department of Transportation, and the directors of the regional offices of the Office of Economic Opportunity, the Environmental Protection Agency, and the Law Enforcement Assistance Administration. The President shall designate one member of each such Council as Chairman of that Council and such Chairman shall serve at the pleasure of the President. Representatives of the Office of Management and Budget may participate in any deliberations of each Council.

(b) Each member of each Council may designate an alternate who shall serve as a member of the Council involved whenever the regular member is unable to attend any meeting of the Council.

(c) When the Chairman determines that matters which significantly affect the interests of Federal agencies which are not represented on any such Council are to be considered by that Council, he shall invite the regional director or other appropriate representative of the agency involved to participate in the deliberations of the Council.

SEC. 2. *Functions of the Councils.* Each Federal Regional Council shall be constituted as a body within which the participating agencies will, under the general policy formulation of the Under Secretaries Group, and to the maximum extent feasible, conduct their grantmaking activities in concert through:

(1) the development of short-term regional interagency strategies and mechanisms for program delivery;

(2) the development of integrated program and funding plans with Governors and local chief executives;

(3) the encouragement of joint and complementary grant applications for related programs;

(4) the expeditious resolution of interagency conflicts and coordination problems;

(5) the evaluation of programs in which two or more member agencies participate;

(6) the development of long-term regional interagency and intergovernmental strategies for resource allocations to better respond to the needs of States and local communities;

(7) the supervision of regional interagency program coordination mechanisms; and

(8) the development of administrative procedures to facilitate day-to-day interagency and intergovernmental cooperation.

SEC. 3. *Under Secretaries Group for Regional Operations.* There is hereby established an "Under Secretaries Group for Regional Operations" which shall be composed of the Under Secretaries of Labor, Health, Education, and Welfare, Housing and Urban Development, and Transportation, the Administrator of the Law Enforcement Assistance Administration, the Deputy Director of the Office of Economic Opportunity, the Deputy Administrator of the Environmental Protection Agency, and the Associate Director of the Office of Management and Budget, who shall serve as the Chairman of the Group. When the Chairman determines that matters which significantly affect the interest of Federal agencies which are not represented on the Group are to be considered by the Group, he shall invite an appropriate representative of the agency involved to participate in the deliberations of the Group. The Under Secretaries Group for Regional Operations shall, consistent with the objectives and priorities established by the President and the Domestic Council, establish policy with respect to Federal Regional Council matters, provide guidance to the Councils, respond to their initiatives, and seek to resolve policy issues referred to it by the Councils. The Under Secretaries Group, under the Chairmanship of the Associate Director of the Office of Management and Budget, shall be responsible for the proper functioning of the system established by this Order.

SEC. 4. *Construction.* Nothing in this Order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

RICHARD NIXON.

THE WHITE HOUSE, *February 10, 1972.*

LET US HAVE FEWER SECRETS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DERWINSKI. Mr. Speaker, I commend the Executive order of the President through which the use of top secret classifications will be considerably reduced within the executive branch. As the administration struggles with this question, we in the legislative branch must forever fight bureaucracy, one of whose techniques is the use of classified material to avoid necessary legislative oversight.

The Chicago Daily News, in a succinct editorial commentary of March 13, gets to the heart of this question.

The editorial follows:

LET'S HAVE FEWER SECRETS

There won't be quite as many bales of paper stamped "Top Secret" or "Secret" if President Nixon's new executive order has the desired effect. In a double-barreled attack on the secrecy mania last week, Mr. Nixon directed that fewer agencies and individuals be allowed to classify documents, and also that documents already classified be opened sooner to public inspection.

The abuse of the security system has been an open scandal for a long time. It came to the fore when the Pentagon Papers appeared, for they revealed, among other things, that much information had been withheld from the public under a "Top Secret" stamp when it had little or nothing to do with national security. A primary purpose in classifying much of the material was simply to hide embarrassing mistakes and misjudgments.

The President is on the right track in trying, as he put it, to "lift the veil of secrecy which now enshrouds altogether too many papers" and to apply new rules that will "meet the standards of an open and democratic society." This is no easy task for obviously some secrets must be kept and finding the exact place to draw the line involves careful judgment. The tendency has been to err on the side of caution, and stamp anything remotely bearing on national security.

The new guidelines, which are to go into effect June 1, still call for individual judgment, and necessarily so, but the emphasis is changed. The order specifies that the top-secret stamp is to be used with "the utmost restraint," and secret stamps shall be used "sparingly." Mr. Nixon further directed that documents should never be classified "in order to conceal inefficiency or administrative error."

All this sounds good, and we applaud Mr. Nixon for spelling it out for the benefit of all his subordinates. But like any other reform, it will bear watching to see how the words are interpreted and how the practice squares with the theory. Even an unimaginative federal official can find ways of turning a blunder into a security crisis, and the urge to apply the stamp "sparingly" hardly ever appears. Perhaps we can take some comfort, though, in the fact that the President's directive got out before anyone stamped it a "Top Secret."

TOM McMILLAN—AN EXTRAORDINARY YOUNG MAN

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. McDADE. Mr. Speaker, on Saturday afternoon, sophomore Tom McMillan, of Mansfield, Pa., led his Maryland Terrapins to the championship of the National Invitation Tournament in New York City, and was himself named the most valuable player of the tournament. To be named the most valuable player in a contest with so many outstanding young men performing is indeed a signal honor, but to be so named as a sophomore is surely extraordinary.

Tom McMillan is an extraordinary young man.

There have been few high school students as eagerly sought after as was Tom McMillan. And the reason is one far more significant than the fact that he was the outstanding high school basketball player in the Nation. He was also a delightful and splendid young man and one of the outstanding scholars in the Nation. At his home school in Mansfield, he not only led his basketball team to the State championship, but led his own class academically.

To those who know Tom, who watched that victory over Niagara on Saturday afternoon, and who saw his selection as the outstanding player in the NIT, it came as no surprise to hear what was utmost in his mind at the moment of victory: he was looking forward to an opportunity to get back to the books, to put away the distraction of his outstanding work in sports and to pursue the academic distinction which has always marked his life.

I know that all of my colleagues here in the House will wish to join me in offering congratulations to this outstanding young man. We will certainly be hearing from Tom again in the sport in which he excels, and I have the same confidence that he will show the same distinction in any profession he might pursue when his playing days are finished.

I know that everyone in my congressional district joins me in congratulating our outstanding basketball player and student; the Commonwealth of Pennsylvania can be proud of this outstanding son.

MINNEAPOLIS' HRA DRAWS PRAISE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. FRENZEL. Mr. Speaker, the Minneapolis Housing and Redevelopment Authority under the leadership of Chairman Charles Horn, and Executive Director Robert Purcell has done a praiseworthy job of providing senior citizen housing for the Minneapolis area.

The Minneapolis HRA has not only provided over 6,000 units of public housing for the elderly, but it has provided facilities which are both esthetically pleasing and also provide pleasant living quarters for the residents.

I commend to my fellow members a recent Minneapolis Star editorial which highlights some of the accomplishments of the Minneapolis HRA:

PUBLIC HOUSING'S EYE APPEAL

When the American Institute of Planners held its convention in Minneapolis a couple of years ago, one of the visiting delegates expressed amazement at the architectural quality of the high-rise housing for the elderly that he had seen in the city.

He doubted if a better job was being done anywhere else in the country. Such praise is gratifying, of course, and we think justly deserved. And for the most part the structures seem to be not only handsome to look at but pleasant to live in as well.

What prompts these thoughts is the news that the Minneapolis Housing and Redevelopment Authority (HRA) has received the design model for its 43rd public housing high-rise for the elderly. Along with two other buildings now under construction, the new 15-story tower will give Minneapolis a total of 6,277 public housing units for the elderly. The new structures will accommodate most of the 1,108 persons now on the waiting list for such living quarters.

The HRA's record of providing public housing for the elderly, thus, is most impressive—whether in terms of architecture or numbers. Somewhat less so is its record with non-elderly public housing, where but 1,483 units are now under HRA management, with a waiting list for 500 more.

But even in family public housing, progress is being made, largely through scattered-site programs using refurbished or new houses. Of almost 2,400 public housing units now being planned or awaiting federal approval, 750 are for non-elderly families.

As the deliberately "invisible" portion of HRA's work, scattered-site family housing doesn't attract the attention that the strikingly visible towers for the elderly get. It is, however, of no less importance to meeting the public housing needs of Minneapolis' poor people.

REPORT TO CONSTITUENTS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. WOLFF. Mr. Speaker, in an effort to keep my constituents informed of my activities as their Representative in Washington, I regularly mail a newsletter to all of my constituents. The text of my most recent report follows:

A REPORT FROM YOUR CONGRESSMAN
LESTER L. WOLFF

Dear Friend and Constituent:

In this issue of my newsletter, I take the opportunity to discuss with you the very pertinent issue of Congressional ethics and the necessity for members of the House of Representatives and the Senate to strengthen standards and laws governing our own conduct in office.

Much concern is being expressed today about the government's "security blanket" use of executive privilege and its "rubber stamp" coverups of information that is vital to federal legislators, as well as the infrequent and less than open dialogues between the Administration, the Congress and our constituents—the people we are sworn to represent.

But our complaints would have a higher credibility rating if our personal finances and private affiliations were open to public scrutiny. Public office is a conferred privilege, not a privileged position. In 1964, as a freshman Congressman, I acted on this firm conviction by fully disclosing the sources of my income (even before this was required by the Congress) and by divesting myself of those private interests I felt might possibly conflict with my public trust. I sold my business even though no conflict of interest was inherent in its activities, but so that I could devote my full time to Congressional duties. Such full disclosure is essential to the best interests of our open American society, but I would go even further in my strong advocacy that we must establish higher standards to cover all aspects of Congressional ethics—not only as they pertain to finances, but also to other vital areas of public concern and possible conflict of interest.

During the past decade more than 400

proposals have come before Congress to set forth new and more clearly defined guidelines to assure the unquestionable conduct by the legislators in all branches of the government. Few have met with Congressional approval because they were too general, or too inconclusive in scope. However, among the specific proposals that have been adopted are statutes making it illegal for any Member of Congress to accept a "thing of value" with the knowledge that the gift is meant to influence his actions, decisions or votes, either in the Congress or before a committee; and for any Member to accept compensation, directly or indirectly, for services rendered.

In recent years, public inquiries have been made into the behavior of officials—and in some cases criminal proceedings have been instituted—based on charges of misdoings, fraud, tax evasion and special considerations for personal gain.

New, more stringent laws governing ethical standards will only become effective when all areas of conflict are clearly defined for workaday use. A fair and effective code of ethical standards for office holders would establish precise guidelines on just what is proper or improper conduct and thus preclude the chance of misinterpretation by the individual legislator.

Sincerely,

LESTER L. WOLFF,
Member of Congress.

THAI DRUG FLOW UNDER FIRE

During my recent narcotics fact-finding mission to the Far East for the Foreign Affairs Committee, I learned from our Bureau of Narcotics and Dangerous Drugs, as well as other sources, that Thailand serves as the major conduit for the illegal flow of raw opium and morphine derivative produced in the Golden Triangle area of Asia.

My investigation has disclosed that some 50 tons of raw opium and an unknown quantity of morphine derivative is transported through Thailand to the port of Bangkok where it is loaded aboard trawlers for shipment to Hong Kong, destined ultimately for our own streets here in New York.

Because of the deadly and dangerous results which this traffic brings in the form of heroin addiction and related street crime, I have introduced, with the support of more than 80 of my colleagues in the House, legislation to cut off military and economic aid to Thailand until that country takes adequate steps to control the drug traffic.

I am pleased to report that as a direct result of these efforts the Thai government has confiscated and burned more than 25 tons of raw opium. By comparison, in all of last year only 97 pounds of heroin and 645 pounds of opium were seized by U.S. and Thai narcotics agents.

THIRTY-THREE YOUNG MEN ARE NOMINATED TO THREE SERVICE ACADEMIES

This year, I was privileged to nominate 33 outstanding young men from my Third Congressional District for appointment in 1972 to three United States service academies—the Air Force at Colorado Springs, Naval at Annapolis and Merchant Marine at Kings Point.

The final selection of these young men as nominees followed several months of intensive screening of their qualifications by my District Veterans Committee comprised of former military men, civic and fraternal leaders.

I am indeed proud of their accomplishments.

The nominees, who come from all areas of my District—from Nassau and from Queens are: Timothy Coen, Thomas Klein, Manhasset; Craig Murphy, Port Washington; James Mathews, Glen Cove; Richard Smith, Glen Head; LeGrand Clark, Roger Marien, Sea Cliff; Michael Thomas, James Wilson, Edward Scheumann, Bradford Cornell, Richard Dwyer, Walter Neboshynsky, Syosset; John Vosburg, Oyster Bay; John Hoyt, Locust Valley; Andrew Fass, Jerry Schneider, William Kempner, Kevin Lonnie, Roslyn; Kevin Krasinsky, Williston Park; Michael O'Moore, William Holowechi, Mineola; Francis Dachille, Carle Place; Michael Morganroth, James Vincze, Benjamin Von Pentz, Mark Eisenberg, Albert Knipfing, Kenneth Kobell, Westbury; Colby Severence, New Hyde Park; Jonathan Hauser, Great Neck; William Meister, Douglaston; and James McGuinness, Little Neck.

SUBSIDIES SOUGHT FOR MASS TRANSIT

If our cities and suburban areas are to survive, the federal government must become more deeply committed to the concept of urban mass transit as a solution to the other urban ills, namely traffic congestion and air and noise pollution. I believe strongly that federal subsidies are essential to the successful operation of any commuter transit system and that we must undertake the effort to assure safe, clean and efficient transit facilities.

As a member of the Democratic Study Group Transportation Task Force, I testified last month before a House Banking and Currency Subcommittee in support of several measures, which I am co-sponsoring, to amend the Urban Transportation Act of 1964. I have asked for federal grants up to $1 billion over a five-year period to infuse new life into commuter transit systems serving urban and suburban areas.

Specifically, I cited the financial difficulties confronting New York City's subway and bus systems and the Long Island Railroad. The newly enacted fare increases, including the elimination of the LIRR ten-trip tickets, has placed an unprecedented hardship on the already overburdened commuter and are nothing more than a reward for inefficiency and mismanagement.

On behalf of the thousands of affected riders, I have urged the Price Commission to reverse its decision.

PROTEST IS LEVELED AT PRICE COMMISSION OVER RENT INCREASES

I have communicated to Price Commission Chairman C. Jackson Grayson a protest of a glaring loophole in the PC regulations that permits landlords to increase rents by 20, 30 and even 40 percent. Under the "average transaction" rule of Phase II, a landlord is allowed to use, as a basis for computing rent increase, the average rent increase imposed by him during the 30-day period in 1971, immediately preceeding the Phase I freeze on prices and wages. No matter how exorbitant this increase was, the landlord is now free to pass it on to his tenants under Phase II—and he is further permitted to tack on an additional 2½ percent increase.

I have called on the Commission to ban all these rent increases retroactive to November 15, 1971, with the exception of those necessitated by a rise in local real estate taxes. To allow landlords to charge the same increases under Phase II as they did when there were no controls at all is a gross injustice to the tenant laboring under income restraints.

MORE HIGH MARKS

Tabulation by the Congressional Quarterly of the major recorded teller and roll call votes cast during the first session of the 92nd Congress shows that Rep. Lester Wolff was on the job 93 percent of the time. His attendance record topped that of all other Congressmen in Nassau and Queens and rated him among the highest in the entire House of Representatives.

SOLUTIONS TO ECONOMIC NEEDS OF THE AGING ARE A MAJOR CONCERN

The economic position of the aging has long been of primary concern to me. I know full well the impact of the tax burden on these persons who are forced to live on fixed incomes and how their health and well-being are directly related to their shrinking Social Security payment dollars, their pensions and their modest savings.

Meeting the needs of our growing numbers of Senior Citizens is a responsibility that must be met by the Congress and by all levels of government. Inflation affects the economic condition of the aging more adversely than it does any other citizens. Older Americans derive most of their income from fixed sources. My concern is to have the purchasing power of these restricted incomes guarded against further erosion by inflation and the rising costs of essential items—medical care, rent and nutritional foods.

As a prime remedy to the economic inequities borne by the aging, I am urging the federal government to assume all welfare costs, thus freeing funds for the states to provide major support of education. This would remove the burden of the school tax from the local real property owner, many of whom are retirees, and others with fixed or restricted incomes.

I co-sponsored and voted for the recently enacted Nutrition Program for the Elderly, an amendment to the Older American Act, to provide $250 million over a two-year period to utilize our surplus agricultural supplies for our aging. This program, to begin July 1, will aid persons 60 and over by funding centers offering free well-balanced dinners in an atmosphere of companionship, as well as transportation for participants.

Under Phase II of the Economic Stabilization Act, the Price Commission permits landlords to increase rents by as much as 30 percent for apartments and residences not previously covered by rent controls. I have called upon the House Banking and Currency Committee to hold oversight hearings on this astonishing ruling and I have directly appealed to the Price Commission for a rollback of the increases. As a result, the Price Commission has indicated it may review its entire rent control policy.

There are other unfair regulations and practices which constrict the lives of our Senior Citizens. For example, Social Security beneficiaries are being penalized for taking employment by having their meager incomes reduced. Yet industry and government studies have shown that elderly workers are among the most reliable, productive members of the nation's labor force.

To summarize, the basic problem is to free funds needed to help our aging. It is my belief that we are not going to add to the income of these people or significantly reduce their taxes until we cut unnecessary spending.

This nation's economy cannot stand the repeated budget deficits of recent years—$23 billion in fiscal year '71, nearly $39 billion for the current fiscal year '72. The interest on these enormous debts added up to more than $19 billion in '71, will exceed $20 billion this year and is estimated to be $21.16 billion in fiscal '73—moneys we could, and should, be spending to solve the very serious problems we have in this nation.

REPRESENTATIVE EMANUEL CELLER—A MAN OF EMINENCE

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. CORMAN. Mr. Speaker, as the 92d Congress moves on and so many administration-fostered issues of dubious constitutionality come before us, my mind reviews the quality of men in the House of Representatives who can stop or have stopped the shredding of the Constitution. As I do this, I pause before the eminent figure of EMANUEL CELLER, dean of the House of Representatives and chairman of the Committee on the Judiciary.

I served on the Committee on the Judiciary for nearly 6 years. I watched closely this man who was my chairman, and I continually marveled at his knowledge of the Constitution, his sensitivity to the nuances of the law, and his determination that our Bill or Rights be inviolate.

Those of us who agree with MANNIE realize how much we have depended upon his leadership, his familiarity with the parliamentary maze to bring the American people closer to the American ideals or to deflect them from the consequences of hysteria whipped up by the unscrupulous.

He has fathered four amendments to the Constitution:

First. The 23d—Permitting residents of the District of Columbia to vote in presidential elections;

Second. The 24th—Abolition of the payment of poll tax as a prerequisite to voting;

Third. The 25th—Providing for succession in the event of Presidential inability;

Fourth. The 26th—Extending the right to vote to 18-year-olds in State and Federal elections.

Three of the amendments enlarged the right to vote. The other—Presidential disability—erased the ambiguity in our Constitution which could have thrown the country into chaos had we actually experienced a physically or mentally disabled President.

But MANNIE is not solely a constitutional authority. He fathered the Civil Right Acts, immigration reform as well as court reforms, and hundreds of enactments which brought tangible benefits to the country. Throughout is the running theme of equality of opportunity and equality of treatment for all the people in all areas.

Withal he is a gentle man, a man of humor, without the property of self-righteousness.

As we face a crisis in direction of the United States—whether it will move away from equality and compassion or regain its balance—we must be grateful that in our midst is a man like EMANUEL CELLER, who can lend not only his grace but his quiet wisdom, his respected experience, and undenied courage to give greater vitality to the preamble of the Constitution of the United States.

He is a great man.

CRIME FIGHTING IN BLADENSBURG, MD.

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HOGAN. Mr. Speaker, all of us are greatly concerned about halting crime and the poison it spreads through any community, so it is with special pride today that I call my colleagues' attention to the crime-fighting efforts of the town of Bladensburg, which I represent.

Mayor Francis C. White and the city council have instituted a program called "Operation Identification," under the direction of Councilwoman Susanna K. Christofane, through which the town offers the free use of engraving tools to any citizen to engrave his driver's permit number on TV sets, radios, tape recorders or other valued possessions. The project is being underwritten by the Metropolitan Washington Chapter of Associated Builders and Contractors.

Operation Identification is designed to discourage thieves by putting them on notice that items they steal are easily identifiable and therefore difficult to sell. Similar engraving programs have met with success in other communities and they hold great potential for fighting some crimes.

By taking this initiative in Operation Identification, Bladensburg has made a major contribution in our battle against crime.

ANTI-DEFAMATION LEAGUE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EILBERG. Mr. Speaker, the Anti-Defamation League of B'nai B'rith was established in 1913 as the educational arm of B'nai B'rith, America's largest and oldest Jewish service organization, founded in 1843. The ADL seeks to promote good will and understanding among American's of all religions, races, and national and ethnic backgrounds, and it seeks to prevent discrimination against any of them. It combats the activities of extremist organizations that preach racial and religious hatred and that attack the democratic processes of our republican form of government. It engages in research and in educational programs to carry out these broad objectives.

The ADL program has its roots in the religious teachings of Judaism—that man is a creature of God, that all men are equal before the Almighty, and that the dignity of the individual is God-given and must not be violated—teachings that are shared by all the great religions.

Four Presidents of the United States have publicly praised the work of the ADL and three of them have honored the league by their presence on its platform at anniversary celebrations and annual meetings.

President Harry S Truman declared that ADL's "definition of America's democratic legacy is admirable" and that it was a meaningful force "in the hearts and minds of the American people."

In 1953, when the ADL marked its 40th anniversary, President Dwight Eisenhower received the league's "America's Democratic Legacy" medallion and was the speaker at its celebration banquet. In a tribute to the league, he declared:

> Your good work . . . has brought strength to the national community. By educating our citizens to overcome the evils of prejudice . . . nurturing the roots of freedom, you have helped to make our land a better place to live in. America continues to need your efforts.

In 1963, when the league marked its 50th anniversary, President John F. Kennedy was the honored guest at the league's ceremonials and, like President Eisenhower, accepted the ADL's "America's Democratic Legacy Award." President Kennedy declared on that occasion:

> Your organization . . . should itself be receiving an honor for distinguished contributions to the enrichment of America's democratic legacy. Your tireless pursuit of equality of treatment for all Americans has made a lasting and substantial contribution to our democracy.

And in 1965, when President Lyndon B. Johnson was similarly honored, he said at the league's annual dinner:

> In your half century of fighting discrimination, you have never tired, you have never faltered, you have never lost faith in your cause, and your cause has given faith to your nation . . . Wherever your torches burn, tolerance, decency and charity have been illuminated. Bigots and bias hide wherever you come into view.

As part of its ongoing program of defending American institutions, ADL has sought to educate the American people against the dangers of political extremism on the far left and the far right. Its programs against the activities of these anti-American elements have extended over several decades. Years ago, in his book "Masters of Deceit" FBI Director J. Edgar Hoover declared that "some of the most effective opposition to communism in the United States" has come from the Anti-Defamation League.

Mr. Speaker, in view of the distinguished record of public service rendered by the Anti-Defamation League of B'nai B'rith in almost 60 years on the American scene, its reports and public statements are worthy of careful attention and serious study by all Americans, including Members of Congress.

In November 1971, the ADL issued a well-researched and heavily documented report calling attention to repeated insertions in the RECORD, by our colleague from Louisiana (Mr. RARICK), of material from "the busy extremist presses" that deal in political radicalism, racism, and religious bigotry. The ADL report said that the gentleman from Louisiana's insertions of materials emanating from such extremist sources totaled hundreds of pages in the years since he arrived in this Chamber and that they had cost American taxpayers tens of thousands of dollars. The ADL report appears in the RECORD for January 19, 1972, starting at page 404.

Since then, the gentleman from Louisiana—despite the distinguished record of the Anti-Defamation League—has made use of still other materials from extremist and hate peddling propagandists to attack the ADL. Several of the sources cited by our colleague represent the political underworld of the United States—those who deal in the politics of "unreason" and in the slimy depths of bigotry and who have been exposed over the years by the Anti-Defamation League. In utilizing such propaganda sources to attack the ADL, our colleague from Louisiana has in effect given further proof of the accuracy of the league's findings in its November report. He has, by his own actions, verified the ADL contention that he is causing to be published, at taxpayers' expense, page after page of extremist and anti-Jewish propaganda.

On December 6, 1971, for example, Mr. Rarick inserted into the Congressional Record eight-and-one-half pages of direct quotation from an anti-Jewish propaganda diatribe—"Zion's Fifth Column"—published some 20 years ago by the late Jack B. Tenney, a well-known California anti-Semite.

On December 15, 1971, Mr. Rarick consumed 7 more pages of the Record—at taxpayers' expense—for more material from an anti-Semitic propagandist, this time utilizing materials published by Richard Cotten, a former radio broadcaster and more recently an extremist pamphleteer.

Mr. Speaker, background information concerning the late Jack B. Tenney and Richard Cotten appears hereinafter, so that Members of Congress will be aware of the kind of sources being utilized by Mr. Rarick at taxpayers' expense in his vendetta against our Jewish citizens in general and against the Anti-Defamation League of B'nai B'rith in particular.

JACK B. TENNEY

The late Jack B. Tenney, who died November 4, 1970, was a former California State senator who, during the 1940's, served as chairman of the California Un-American Activities Committee. In 1952, he was a candidate for Vice President of the United States on the ticket of Gerald Smith's Christian Nationalist Party. Tenney was for a number of years a close ally and associate of Gerald Smith, for three decades one of America's most notorious professional Jew-baiters.

Tenney's 1953 pamphlet, "Zion's Fifth Column," was one of many anti-Jewish polemics he produced during the 1950's. In April 1953, Tenney's pamphlet was mailed to Members of the Congress bearing a notation that additional copies could be obtained from Gerald Smith's organization. A second Tenney pamphlet "Zionist Network," appeared in July 1953. The Arab League subsequently bought 10,000 copies. These were distributed in the Middle East and in the United States. In "Zionist Network," Tenney characterized the activities of Jewish organizations in the United States as un-American and as part of a worldwide network whose "hope for dominance is geared to the rapid decline and destruction of Western Christian civilization."

In the material from "Zion's Fifth Column" quoted by Representative Rarick, Tenney maintained that the term "anti-Semitism" does not mean "anti-Jewish" but has a more all inclusive meaning of dislike of all Semitic groups, including the Arabs—one of the oldest excuses used by anti-Jewish propagandists trying to refute to or to obfuscate charges that they are hostile to Jews. The Tenney piece went on to say that to most Americans the average Jew is just like any other American—"a fellow whom you liked or disliked in the same way you liked or disliked Pat or Tony." But "unlike Pat and Tony," Tenney declared, "he is indoctrinated with a racial superiority complex."

Tenney began his adult life as a professional musician. At the age of 37 he started in the practice of law and moved into politics. In 1936, the year of his admission to the bar, he was elected to the California Assembly. In 1938, considered something of a liberal, he spoke at rallies of such agencies as the Hollywood Anti-Nazi League. In 1939, Tenney's political orientation began to change following his defeat for reelection as President of a local of the American Federation of Musicians. He blamed his defeat on "communistic" elements in the union.

When the joint factfinding committee on un-American activities of the California Legislature was created in 1941, Tenney became its chairman. The following year he was elected to the State senate, an office he held until 1954. Tenney chaired the California Un-American Activities Committee for 8 years. In the course of his investigations, he created his own definition of subversion. One did not have to be a Communist, fellow traveler, or ideological Marxist, Tenney decided, to be un-American. A man was a "practical Communist" if he believed in civil rights, FEPC—fair employment practices commissions—and the equality of man, Tenney said, even though he was otherwise a dedicated member of the Republican or Democratic Party.

Tenney's reactionary concept of democracy and his harsh treatment and name-calling of witnesses, earned him a barrage of criticism from the press and others in his years with the California committee. Tenney claimed he thrived on such criticism; but there is no question that pressure of public opinion and newspaper criticism helped force his retirement from the committee in 1949. At one time the San Francisco Chronicle, which also editorially attacked the committee, observed:

> A Communist is any
> Who disagrees with Tenney

In February 1951 Tenney was prosecutor in a public spectacle called "The Trial of Dean Acheson," staged by a now-defunct far right group at the Wilshire-Ebell Theater in Los Angeles. Subsequently he introduced a resolution into the California State Legislature calling for the impeachment of the then Secretary of State.

Also in 1951, Tenney became national chairman of America Plus, Inc., which proposed a "freedom of choice" amendment to the California Constitution. The amendment, which never got on the ballot, was designed to "make illegal any further State or municipal FEPC ordinance" and to repeal existing antidiscrimination ordinances. America Plus materials were distributed by both Gerald Smith and Robert Williams, the latter, like Smith, a professional anti-Semitic propagandist. Late in 1951 Tenney severed his official connection with America Plus in order to campaign for the Republican nomination for Congress in California's 22d District; he made it clear, however, that he still wholeheartedly supported the organization and its objectives.

Shortly thereafter, Tenney launched a column in an obscure California extremist publication called the American Reporter in which he attacked Jewish defense agencies; some of this material was later used by Tenney in his pamphlet, "Zion's Fifth Column."

During 1952 Tenney also published a pamphlet, "The Tenney Committee," in which he defended his record as chairman of the California Un-American Activities Committee. In one section, Tenney denied that he was anti-Semitic. Anti-Semitism, he said, was "un-American and amoral." But he added:

> It is as much a part of American Freedom as anti-Gentilism or a dislike for spinach.

Following the publication of "The Tenney Committee," Tenney moved closer to the Gerald Smith orbit. Smith had hailed Tenney's pamphlet in his publication, the Cross and The Flag. And when a reporter charged that Smith was peddling the work, Tenney commented:

> It seems that a man named G.L.K. Smith likes what I wrote in a booklet. How can I repudiate a man for agreeing with me?

In June 1952, Tenney lost his bid for the congressional nomination in the Republican congressional primaries to a candidate who had the backing of Richard M. Nixon, then a U.S. Senator. Tenney, moving into Gerald Smith's political camp, accepted the Vice Presidential nomination on Smith's Christian Nationalist Party ticket. The "party" had "nominated" Gen. Douglas MacArthur without the general's permission—for President.

Tenney formally accepted the Vice Presidential nomination at a Christian Nationalist Party rally in Los Angeles on September 14, 1952. In his remarks which followed an anti-Semitic speech by Wesley Swift, a notorious west coast Jew-baiter now dead, Tenney told his listeners that he accepted "the platform of Smith's Christian Nationalist Party in a deep spirit of humility and with a real understanding of the possible consequences to my political future."

Subsequently Tenney made a number of campaign speeches and on several occasions shared the platform with Smith and Swift, who unleashed their customary anti-Semitic tirades. Tenney publicly endorsed Smith, attacked FEPC and "minority pressure groups" and bitterly attacked such respected Jewish organizations as the Anti-Defamation League and the American Jewish Committee who, he said, had launched the United Nations and brought about the 1952 presidential nominations of Dwight Eisenhower and Adlai Stevenson.

The Christian Nationalist Party received fewer than 14,000 of the 60 million votes cast in the November 1952, elections. Tenney continued his open alliance with Gerald Smith. As the featured speaker at the closing session of Smith's San Francisco conference to abolish the United Nations on February 6, 1953, Tenney attacked "international Jewry" and charged that the majority of what he termed the "internationalist, socialist and alien organizations" supporting the U.N. were "composed of Jews."

During 1953, Tenney published the previously mentioned pamphlets, "Zion's Fifth Column" and Zionist Network."

The former contained a thinly veiled apologia for the notorious anti-Jewish historical forgery, the "Protocols of the Learned Elders of Zion."

> [The] approach to the "Protocols". . . as a literary forgery does not, in any sense, dispose of the context of the document . . .
>
> Nor does the statement that the "Protocols" are a "fraudulent invention" together with the proffered proof, cancel out their contents . . .

In June 1954, Tenney failed in his effort to win renomination for the State Senate. He was defeated in the primary after George Murphy, then chairman of the Republican State Central Committee, denounced him for opposing President Eisenhower and Vice President Nixon in 1952 and for running as a candidate on the Christian Nationalist Party ticket. After leaving the State Senate, Tenney engaged in writing and in the private practice of law in California.

In succeeding years, Tenney's anti-Semitic writings turned up in a number of hate publications, such as Western Front of Los Angeles, an anti-Jewish publication, and the New Patriot of Jackson, Miss., a now-defunct racist and anti-Jewish quarterly. In addition, Tenney was listed in 1967 as legal counsel of the New Patriot and in the fall of 1970 as a "Legal Council" (sic) of the Washington, D.C.-based National Documentation Institute, an extreme right-wing "research" and propaganda operation conducted by anti-Semite Richard Cotten, who had broadcast two interviews with Tenney on radio during 1967.

RICHARD COTTEN

Richard Cotten is an extreme right-wing propagandist whose broadcasts and published materials have often included outright anti-Semitism. He has extolled the virtues of various extremist and anti-Jewish organizations, publications, and personalities, has cooperated with various racists and bigots, has distributed racist, extremist, and anti-Jewish propaganda, and has shared speakers' platforms with radical rightists, anti-black hatemongers, and anti-Semitic professional bigots.

Now in his early fifties, Cotten is a native of Phoenix, Ariz., is a former mutual funds salesman, and an ex-resident of Bakersfield, Calif. Since 1969, he has based his operations in the Washington, D.C., area.

Cotten first attracted attention as an extremist and an anti-Jewish propagandist in the 1963–65 period, via anti-Semitic broadcasts on a number of radio stations scattered across various States, but mainly located in the Far West. The broadcasts were supplemented by transcripts issued under imprimaturs such as Cotten's "Reprint Service" and "Richard Cotten's Conservative Viewpoint."

Among Cotten's themes were allegations that Jews were in league with Communists, that major U.S. radio-TV networks were controlled by Jews, and the expressed wish that Christians were running the U.S. State Department. Cotten also recommended to his listeners the publications of various anti-Jewish propagandists, such as Gerald Smith of California, Don Bell of Florida, and of the late Conde McGinley, Sr., founder and for many years the publisher of a scurrilous, racist, and anti-Jewish hate periodical called "Common Sense." Cotten also reprinted and distributed propaganda items published by a variety of other anti-Semitic peddlers of bigotry, made anti-Semitic speeches in several cities, and became a member of the board of policy of Liberty Lobby, a Washington-based far right organization headed by anti-Semites Willis Carto and Curtis Dall.

Cotten's broadcasting and other activities apparently attracted a certain following among members of the John Birch Society in the Far West and his farout and extremist views became a major cause of controversy and dissension even within the far rightist Birch organization whose founder—Robert Welch—once called Dwight D. Eisenhower "a dedicated, conscious agent of the Communist conspiracy."

The problem became so serious that Welch, in the spring of 1965, sent a special printed memorandum to every Birch Society chapter leader in the United States, warning them against Cotten and his teachings. It was Cotten's sympathy for armed "anticommunism," such as that manifested by the gun-toting Minutemen, and similar differences over far right doctrine and tactics, rather than Cotten's blatant antisemitism, that aroused the ire and the concern of the Birch Society leader. For his part, Cotten, in a February 8, 1965, broadcast, contended that he had resigned from the society, that he had not been kicked out of the organization, and that he believed in the Minutemen guerrilla warriors.

By Labor Day 1965 Cotten was well known as a far right extremist and anti-Jewish propagandist. It was on that day, in Bogalusa, La., that he arrived from California to share the speaker's platform with JOHN RARICK—then a Louisiana State district judge—at a rally sponsored by an organization known as the Anti-Communist Christian Association — a cover name for an active and violence-prone Ku Klux Klan unit in the Bogalusa area. Cotten appeared in place of Robert DePugh, leader of the Minutemen. The leader of the gun-toting far right extremist guerrilla organization was unable to be present because of troubles with the law elsewhere. Cotten, at the time, told the press that one reason he went to Louisiana was to urge RARICK to run for Congress. Cotten has, since RARICK's election to Congress in 1966, been one of the Congressman's favorite sources of extremist propaganda for insertion into the CONGRESSIONAL RECORD. The circumstances of their joint appearance before the Bogalusa Labor Day rally in 1965 were as follows:

When RARICK and Cotten appeared at the rally, the Bogalusa area had been a center of racial tension and of repeated acts of Klan violence and intimidation. The local KKK unit had been part of the so-called Original Knights of the Ku Klux Klan and their activities around Bogalusa had been so extreme that the U.S. Justice Department had filed a Federal court action under the Civil Rights Act of 1964, aimed at enjoining the Klan group from further assaults and intimidation against black people and white civil rights workers. The Klan unit, its leaders, various members and other individuals were, in fact, scheduled to appear in a New Orleans courtroom the day after Labor Day, when RARICK and Cotten addressed their rally, attended by some 3,000 persons.

When the Klan court case opened in New Orleans the next day, witnesses including Charles Christmas, who had served as grand dragon of the Klan unit, and his second-in-command, Saxon Farmer, who had served as grand titan. Both testified that the Klan no longer existed as a Klan in the Bogalusa area and that because of its bad reputation, it had been decided to try to improve the organizational image by dropping the Klan label and replacing it with the Anti-Communist Christian Association name tag.

Christmas testified that most of the officers of the Klan unit had kept the same positions in the association. Christmas also told the court that the Klan had had a wrecking crew—a group of so-called peacekeepers—but that the leaders had come to feel that its work was unnecessary and could be adequately handled by regular law enforcement authorities. As soon as Christmas and Farmer had testified, the Federal Government, with the permission of the three-judge court, added the Anti-Communist Christian Association as a defendant in the case. The Government charged that the association was a front and dummy for the Klan.

On the second day of the proceedings, the defendants admitted most of the Government's allegations of violence in a stipulation aimed, according of the New York Times, at avoiding some of the embarrassment of open testimony concerning assaults, harassment, and intimidation. In admitting certain of the charges, the defendants conceded that they had assaulted pickets and demonstrators, threatened Negroes with death, brandished guns and clubs, and that they had threatened civil disorder to discourage demonstrations and speeches by pro-civil rights groups. They did not, however, agree that each person accused in a specific instance had actually participated.

On December 1, 1965, the court, headed by Judge John Minor Wisdom, issued a strongly worded injunction, ordering the klansmen and other defendants to halt their "acts of terror and intimidation." The decision, written by Judge Wisdom, denounced the Klan as a "fearful conspiracy against society" and described the defendants as "ignorant bullies."

It was at a 1965 Labor Day rally sponsored by such types that Richard Cotten—and JOHN RARICK—had appeared.

Cotten has appeared at gatherings and conventions staged by other groups on the outer edges of American political life. In January 1966, for example, he shared the platform with another extremist RARICK friend—anti-Semite Ned Touchstone of Shreveport, La., editor of the "Councilor"—at a meeting of the Constitution Party of Texas, a far right political fringe group.

In September 1966, Cotten was active

in addressing gatherings of the so-called Patriotic Party, a front group and political arm for DePugh's Minutemen group. Also in 1966, Cotten addressed the annual meeting of the extreme rightist Congress of Freedom in Shreveport, La. The meeting also was addressed by Touchstone and by other notorious personalities of the anti-Jewish lunatic fringe—retired Adm. John G. Grommelin of Alabama who has been a frequent candidate for political office on anti-Jewish platforms, and Mrs. Opal Tanner White, a longtime associate of Jew-baiter Gerald Smith.

In January 1967, Carto's Far Rightist Liberty Lobby held what it called the First National Convention of its board of policy. Participating in the activities was Cotten—who more recently has broken with the group and with other groups under Carto's control following a falling out with Carto. Cotten introduced one of the meeting's speakers—JOHN RARICK—who had been elected to Congress only a few months earlier.

In October 1967, Cotten, on several of his "Conservative Viewpoint" broadcasts, attacked the Anti-Defamation League, as he had in his earlier years on the air. Two months later, in December 1967, "Conservative Viewpoint" broadcast two interviews by Cotten with anti-Semite Jack B. Tenney in which the former California State Senator also attacked the ADL.

In April 1968, Cotten, in his publication, reproduced a letter from Minuteman Robert DePugh—which was titled "Message from Bob DePugh"—which Cotten prefaced by stating:

> "No, I am not a Minuteman," but the concept of letting our government know that one alternative it does not possess is that of surrendering our sovereign Republic to the International Conspiracy, is very sound.

In 1969, Cotten relocated his "Conservative Viewpoint" operation from Bakersfield, Calif., to Sterling, Va., a suburb of Washington, D.C. He listed a post office box at Washington's Dulles International Airport as "Conservative Viewpoint's" address. During 1970, Cotten also organized Sterling Enterprises as an affiliate of "Conservative Viewpoint" to handle commercial aspects of his operation, such as the sale of books, the purchase of silver, and the sale of vitamins.

Also in 1970, Cotten, then close to the Carto complex of extremist organizations, was listed on the board of awards of the right-wing United Congressional Appeal and on the advisory board of the National Youth Alliance. In addition, Liberty Lobby's June 1970, Liberty Letter announced, according to the national coordinating committee of Friends of Rhodesian Independence, another lobby-alined group, that Cotten would lead a summer tour to Rhodesia.

The year 1970 also saw Cotten listed as a director of the National Economic Council, a New York-based far right group founded by the late anti-Semite Merwin K. Hart; he was also listed among members of the National Committee of American Friends of JOHN RARICK, which described itself as "Dedicated to the Re-election of this Great American and Courageous Congressman." Among other members of the pro-Rarick committee were such long-time anti-Semites as P. A. Del Valles, and Curtis B. Dall.

In the fall of 1970, Cotten announced the suspension of his broadcasts and the formation of the National Documentation Institute, with headquarters in Washington, D.C. NDI was set up to "assemble and file for quick reference" facts which, Cotten claimed, "have been distorted, concealed, or brazenly denied by the professional liars who manufacture the poisonous propaganda that is driving the United States to suicide." Cotten was identified as national director of the NDI, which also listed Jack B. Tenney as a "legal council" and anti-Semite P. A. Del Valle among its executive committee members.

During 1971, Cotten and Liberty Lobby's Willis Carto had a falling-out over the circumstances surrounding use of a Liberty Lobby pledge list by Cotten's National Documentation Institute. As a result, Cotten stated of Carto in the May 1, 1971, Conservative Viewpoint that "through the years I have, in the past, been willing to accept Willis Carto's enemies as my own," but he added:

> I simply reached the point where his broad accusations were too much to bear.

Late in 1971, Cotten said in a promotional mailing that he had taken "the inevitable step of filing a petition in bankruptcy" for, as he described it, "the protection of creditors and my present and future operations." Cotten also asserted that "Conservative Viewpoint" would continue "both in print and on the airwaves."

FEDERAL APPROPRIATIONS DESPERATELY NEEDED FOR TUBERCULOSIS CLINICS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. KOCH. Mr. Speaker, I am seriously concerned about the anticipated loss of Federal funds for tuberculosis programs across the country. Under current legislation, section 317 of the Public Health Service Act for Communicable Disease Control, the Federal funding for tuberculosis programs will cease at the end of this fiscal year. These programs are now still using $2 million in funds released late in fiscal year 1971. There was no money appropriated for tuberculosis programs under this section in fiscal year 1972. Although $20 million was appropriated for fiscal year 1972, $16 million was earmarked for venereal disease programs and $4 million for other immunization programs not including tuberculosis. The Congress had authorized $75 million for fiscal year 1971 and $90 million for fiscal year 1972.

Tuberculosis is the only disease among the 20 main causes of death in the United States in which all the research has been done; we know how to cure it. Those areas in which the incidence of tuberculosis is high reflect the economic and social problems of the community which cause disease to increase in poverty areas. The delivery of health care to these areas must be supported and improved, not curtailed.

The following is a list of those cities with populations of over 500,000 persons with newly reported cases of tuberculosis. The national rate of incidences of tuberculosis is 18 cases per 100,000 persons.

	Rate per 100,000
Baltimore	54.4
District of Columbia	48.9
Boston	48.0
Detroit	47.6
Cincinnati	47.3
San Francisco	45.7
Chicago	45.6
Cleveland	41.3
Pittsburgh	39.0
Philadelphia	38.9
Atlanta	38.3
Buffalo	35.7
San Antonio	35.6
Houston	35.5
New Orleans	33.0
New York	32.8
Dallas	29.4
Miami	28.2
Los Angeles	28.2
St. Louis	28.1
Kansas City	28.0
Seattle	27.5
Phoenix	19.4
Columbus, Ohio	18.2
San Diego	16.1
Denver	14.8
Minneapolis	13.8
Milwaukee	12.3

The following is a list of Federal funds designated for tuberculosis control under section 317 for communicable disease control which will cease after June 30, 1972, unless a new appropriation is made:

	Amount
Region II:	
Newark	$50,976
Erie County (Buffalo)	33,422
New York City	613,072
Puerto Rico	108,170
Region III:	
Washington, D.C	298,769
Baltimore	70,331
Pittsburgh	34,000
Alabama	204,510
Dade County (Miami)	53,240
Fulton County (Atlanta)	39,950
Region V:	
Detroit	112,200
Region VI:	
El Paso	28,560
Houston	83,810
San Antonio	45,560
Region VII:	
St. Louis	39,950
Region IX:	
San Francisco	58,140
Hawaii	51,340
Region X:	
Alaska	64,000
Total	1,990,000

In New York City, 2,500 individuals per year develop active tuberculosis and an additional 1.5 million persons are estimated to be infected with the tubercle bacillus and each is at a variable rate of developing active tuberculosis, some needing chemotherapy. If these outpatient clinics are not supported, and if tuberculosis surveillance is curtailed because of lack of funds, we all take the risk of having a rise in tuberculosis cases in our communities.

Funds for venereal disease were cut

in the midsixties when the incidence of VD was decreasing. From a public health point of view, this cut in funds was disastrous because the disease burst out again and is now almost of epidemic proportions. We cannot let the same thing happen with tuberculosis.

NEW YORK STATE JAYCEES ENDORSE CLEAN WATERS LEGISLATION

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SMITH of New York. Mr. Speaker, on Saturday, March 25, 1972, I was privileged to participate in the New York State Jaycees statewide meeting in Batavia, N.Y. At that time, the delegates representing the membership of more than 10,000 strong unanimously endorsed a resolution calling for congressional passage of clean waters legislation providing construction grants for sewage treatment facilities which had previously qualified or for which applications for such grants under the prior act were pending prior to its expiration.

Mr. Speaker, I am pleased to introduce into the RECORD, the resolution of the New York State Jaycees as witness to the dedication of these young Americans to cleaning up the waters of the State of New York and of the United States.

Whereas certain provisions of the Water Pollution Control Act (the Act) provide for a program of federal grants to municipalities for construction of sewage treatment facilities; and

Whereas the provision of the Act relating to said grants has expired; and

Whereas prior to the expiration of the Act 197 municipalities in New York State had either qualified for such grants or had applications for such grants pending; and

Whereas legislation is currently pending in the United States Congress which would authorize federal grants for the construction of sewage treatment facilities to communities which had qualified for such grants under the provisions of the Act prior to its grants pending pursuant thereto; and

Whereas the New York State Jaycees, Inc. are strongly committed to conserving the water resources of this State for the benefit of all the residents thereof;

Now therefore, be it

Resolved that we, the New York State Jaycees, Inc. hereby urge the Congress of the United States to enact legislation to provide for a program of federal grants for the construction of sewage treatment facilities to municipalities which had previously qualified for or had applications pending for such grants under the Act prior to its expiration; and it is further

Resolved that we, the New York State Jaycees, hereby dedicate ourselves to the task of working for the enactment of federal legislation providing for federal grants to municipalities for construction of sewage treatment facilities and for such grants to those municipalities which had applications for such grants approved or pending prior to the expiration of the Act; and it is further

Resolved that the officers and members of the New York State Jaycees, Inc. are hereby authorized in the name of the New York State Jaycees, Inc. to take such actions as are necessary or appropriate to implement and effectuate the purposes of these Resolutions.

TRADE WITH REDS CONTINUES

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. RARICK. Mr. Speaker, several illuminating articles on the escalation of trade between U.S. capitalists and the communists have appeared lately.

During the cold war, the United States and other NATO countries through embargo lists banned the sale to the Soviet Union of advanced technological processes and equipment considered strategic. The purpose of the embargo lists was to slow down Soviet military development.

It has now been revealed by one news article that some Western companies have managed to evade the embargo by selling to other Communist countries which reexported to the Soviet Union.

Voices are now being heard favoring the abandonment of embargo lists of strategic items even though Pentagon supporters assert that "all high grade technology has military application and that the embargoes have cost the Russians precious years of painstaking research."

According to another account, President Nixon said that the Overseas Private Investment Corporation would be authorized to insure American investments in Yugoslavia and Rumania.

The average American man on the street cannot understand why the U.S. capitalists would trade with the Soviet Union, Red China, and other Communist countries and take the chance of losing their investments. Especially is this so after the great losses inflicted on American capital in Chile and in Bolivia.

The average American is not advised that his tax dollar in foreign aid and Export-Import Bank deals is being used to entice American investments and development in foreign countries. Nor is the average American advised that his tax dollars are being used to pick up losses suffered by American industry if their foreign operation is seized or nationalized by a foreign state.

Congress in 1969 guaranteed foreign investments by establishing an overseas private investment corporation to "insure" U.S. capitalist operations in foreign countries.

Section 237(c) title IV of the Foreign Assistance Act of 1969 provides that the full faith and credit of the United States of America is pledged for the full payment and performance of obligations incurred by OPIC under its insurance and guarantee contracts. Thus, if claim settlements are in excess of available reserves, OPIC will be required to request supplementary funds from the Congress to pay the claims.

And as additional investor's guaranty, the Internal Revenue Service has ruled that U.S. companies whose overseas property is seized by a foreign government without promise of payment may write off their losses as an income tax deduction.

Who could devise a more ingenuous operation whereby capitalism of our country can use the full faith and credit of the U.S. taxpayers to develop Communist countries around the world without any worry of loss of their investment or income?

The American industrialist, as well as such foreign investment firms as American Security & Trust Co. and Riggs National Bank, cannot lose; the foreign governments stand to gain. So, everyone should be happy except the U.S. taxpayer who has not yet seen through the shell game.

Apparently, building bridges from the free world to the Communists is designed to tighten the Red's control over their subjugated and oppressed peoples—at the expense of the hard-working American taxpayer.

These pertinent newsclippings follow:

[From the Washington Post, Mar. 23, 1972]

WESTERN FIRMS EVADE BAN ON STRATEGIC GOODS FOR SOVIET BLOC

(By Dan Morgan)

WARSAW.—One of the most mysterious East-West stories today is that of the curious ways in which supposedly secret capitalist technology finds its way into communist factories.

All through the Cold War, NATO and Japan attempted to slow down Soviet military development by drawing up elaborate embargo lists of advanced technological processes and equipment that were considered strategic.

Now the entire system of embargoes seems to be coming apart, under the pressures of Western business competition and some of its own built-in absurdities.

Taking at face value Pentagon assertions that Moscow has achieved military parity with the West and is nearing technological parity, some businessmen are suggesting that the whole system be scrapped or at least drastically revised.

That would certainly be a good thing for the 100 million East Europeans outside the Soviet Union, who would benefit materially. President Nixon's decision last year to authorize the sale of advanced oil refining equipment for the Polish chemical works at Plock, for example, will be a boon to the country's motorists.

It may be questionable how much the erosion of the embargo system really threatens the security of the United States.

It has long been rumored that the Soviet space program employes IBM and Universal computers—without, of course, the approval of Washington.

What is known for sure is that West European and Japanese companies have been using all sorts of means to circumvent the embargo and sell their most advanced know-how and machines to Eastern Europe.

This is becoming more visible as American businessmen, encouraged by the Administration's more lenient trade policies, begin to test the water in Eastern Europe.

One American businessman who was visiting Warsaw last week told of seeing embargoed British equipment in one East European plant he visited.

In other cases, he said, British companies have fooled the international board that administers the embargo by listing the proposed equipment under a harmless-sounding name different from the one on the prohibited register. Thus, a reactor part could become a "heating element."

The international board is known as COCOM, for Coordinating Committee, which has members from the NATO countries—

including France, but not Iceland—and Japan. U.S. participation was authorized by the Mutual Defense Assistance Control Act of 1951.

COCOM, which is now meeting in Paris, must pass on exports before the home government issues export licenses. But some businessmen feel COCOM lacks the expertise to decide whether a given item falls under the embargoed category.

Japan, which supports its domestic industry to the hilt, pays almost no attention to the embargo.

However, the United States maintains a prohibited list longer than COCOM's and more secret. U.S. businessmen asking to see what actually is embargoed have been turned down and referred to the British list, which is accessible.

A number of companies have managed to get around the embargo by selling to countries such as Yugoslavia, that are not covered. The equipment is then reexported into the Soviet Union. Through this method, some highly advanced computer technology has reached the embargoes area.

U.S. businessmen also say that France has been a major violator of the technology freeze-out. At least one French company was punished with a one-year ban on U.S. imports for violation of NATO rules.

American firms with subsidiaries in Western Europe use their subsidiaries to overcome the longer, American embargo list. Through the subsidiary means, large quantities of high-grade American electronics equipment were rushed into Czechoslovakia during the economic relaxation of 1968. The various ruses have masked the full extent of East-West trade.

Nevertheless, there is little doubt that the American restrictions are a drawback to development in Eastern Europe. Yet they have had no effect on Communist policy toward the west.

Poland is an excellent example of how the American technological lock has been applied.

In three key areas—catalytic cracking for oil refining, semi-conductors for computers and tape copying devices for television—the Poles have been trying to acquire technology that only the United States has.

Development of advanced computers in the Communist bloc has been limited by deficiencies in producing integrated circuits.

In the other two areas, the U.S. has finally relaxed restrictions to enable an American firm to sell the Plock refinery a catalytic cracker for making high-octane gasoline. And it has authorized the California-based Ampex corporation to sell the Polish television enterprise $1 million in tape copying equipment. Apparently, a good system for using tapes, rather than films, to copy television programs is unavailable in the Soviet bloc. The Ampex technique eliminates laborious cutting and splicing of film and will streamline the entire Polish television network.

Symbolically, the American cracker in Plock will be adjacent to an inferior Soviet model. Twelve American technicians will be at the refinery for two years and housing for the families is already being sought.

There are arguments on both sides of the strategic lists debate. Pentagon supporters say all high-grade technology has military application, and that the embargoes have cost the Russians precious years of painstaking research.

The counter argument is that technology—particularly in such fields as electronics and computers—is quickly perishable and outdated by the staggering pace of advance in the U.S. The rigid Soviet-bloc economic systems are often too muscle-bound to adapt even what they buy.

Also, by withholding the technology, the U.S. forces the Soviet bloc to develop research and support sytsems of its own. The Poles claim to have been on the brink of a breakthrough in television copying technology when the U.S. finally authorized the Ampex sale. Moreover, the Poles told the U.S. that they could buy the equipment anyway through other channels—though at three times the price.

[From the Washington Star, Mar. 22, 1972]

AS&T Readying Loan Program for Yugoslavia

(By John Holusha)

American Security & Trust Co. reportedly preparing to take advantage of President Nixon's decision yesterday to encourage American investment in two Communist countries.

Nixon said yesterday that the government-owned Overseas Private Investment Corp. would be authorized to insure American investments in Yugoslavia and Romania, the first time Communist nations have been eligible. He said this would permit U.S. companies to engage in joint ventures with government-controlled companies in those countries.

AS&T, which has been challenging Riggs National Bank's dominance of the foreign investment field, is said to be preparing to announce that it has a $10 million line of credit set aside for investments in Yugoslavia. Bank officials were unavailable for comment.

OPIC would insure any loans under the program by AS&T for a charge of 1¾ percent per year. Thus, if AS&T made a loan at the prime, the cost to the customer would be at least 1¾ percent higher.

OPIC sources said the AS&T program, which would involve short as well as long-term credits, had been "hanging fire" for months, awaiting the president's decision. They said the bank apparently has no immediate customers lined up, but instead is going to compete for loans in virgin territory.

Under OPIC rules the loans cannot involve production of strategic materials, must encourage U.S. exports and aid the balance of payments as well as meeting sound business criteria. In case the investment is seized by the host country, OPIC would repay the lender.

Five U.S. firms, OPIC reports, have applied for insurance for investment in Yugoslavia. They include metal and petrochemical producers and applicance manufacturers. Additionally, other companies in a variety of fields have expressed interest in Yugoslavia. Negotiations with Romania are said be nowhere near as advanced.

Both countries have a 49 percent limit on the amount of capital a foreign company may invest in a joint venture. However, officials here say agreements can be written so that the outside investor has an equal voice in management.

Yugoslavia, actively seeking outside capital, has altered its rules making it easier to repatriate earnings and removing the requirement that 20 percent of earnings be reinvested in the venture. And two Yugoslav provinces have cut their profits tax from 35 to 14 percent.

Riggs Bank reportedly does as much as 90 percent of the overseas banking conducted in Washington. AS&T in its 1971 annual report did not mention the size of its foreign operation but said "Washington's importance as an international banking center is growing and we will compete for a greater share of this business in the future."

Affiliate Ends Tie to Moving Firm

[From the Washington Star, Mar. 22, 1972]

American Security Corp., the bank holding company affiliate of American Security and Trust Co., has quietly ended an 82-year business relationship by selling its 20 percent holding in Security Storage Co.

The relationship began in 1890 when Security Storage was formed as the Safe Deposit and Storage Department of AS&T by the bank's first president, Alexander Britton.

The local folklore has it that Britton found himself in the kind of predicament that can be solved by a rich, powerful man in the late 1880s. He had sold his house on I Street, but his new mansion on 16th Street had run into construction delays.

Needing a temporary place for his furniture and goods, he was irritated to learn he would have his china packed by a china merchant, his books by a bookstore, his furniture by a cabinetmaker, etc. Then he would have to find a warehouse and a drayman to move the whole collection.

Instead, he arranged to establish a safe deposit and storage department of the bank with $300,000 investment for land, building, horses and two-wheeled vans.

The department was incorporated in 1906 and American Security's holding gradually lessened as stock was sold to employes and others.

American Security Corp. registered as a bank holding company early in 1971 to protect its holding in Fairfax County National Bank. Under the law investments in businesses not closely related in banking are prohibited, so the stock had to be sold.

Security Storage also reported, in what must be one of the smallest annual reports issued in the area (3½ by 5½ inches, 12 pages), that its net profit for 1971, including an extraordinary gain from the selling of its Silver Spring warehouse and land, was $210,000 or $2.40 a share compared to $169,000 or $1.91 a share in 1970. The extraordinary gain accounted for $53,000 or 60 cents a share.

It also said AS&T chairman Robert Baker was leaving its board of directors.

Meanwhile, American Security & Trust Co and American Security Corp. announced 10 percent stock dividends on their respective stocks, which are traded as units. A total of 228,500 shares will be issued by each April 28 to stockholders of record April 3. After the distribution each organization will have 2,505,000 shares outstanding.

AS&T also declared a quarterly cash dividend of 45 cents a share, payable April 14 to shareholders of record March 13.

American Security last issued a stock dividend in 1969. AS&T and ASC units were quoted yesterday at $51.75 a share bid, up $3 a share over the past 10 days.

CLEANING THE WATER

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DON H. CLAUSEN. Mr. Speaker, I would like at this time to bring to the attention of the committee an editorial from a recent edition of the Washington Sunday Star.

This editorial very succinctly analyzes and compares H.R. 11896 with the companion bill from the other body. It expresses my own conviction that H.R. 11896, as submitted by the Committee on Public Works, is the better bill.

The editorial concludes that—

> The Senate, with its bill, has raised the nation's environmental aspirations. The House version, though, because it does not sacrifice wisdom for simplicity, represents better government.

Mr. Speaker, I include this editorial, in its entirety at this point in the Record:

[From the Washington Star, Mar. 26, 1972]

THE MURKY BUSINESS OF CLEANING THE WATERS

To get a good argument going among those who care about the world around us, try the following question: Which of the two major pollutions, air or water, is the more insidious and resistant to effective controls?

Our own choice is water pollution. Polluted air, it is true, is impossible to contain and thus, for most people, impossible to escape. But the reverse of that proposition is that water, because it is more contained, can get incredibly dirty. No given amount of air is contaminated to the same degree as many of our major rivers and lakes.

Beyond that, the sources of water pollution are so numerous and disparate as to defy coordinated attack. Sewage from thousands of communities—treated, partially treated, untreated—is just one source. Industry pollutes the water in endless ways. And even if an industrial plant protects its own adjacent waterways, it may turn out a product such as detergent soap that winds up in rivers and streams thousands of miles away. Then there is thermal pollution, and mine acid drainage, and agricultural run-off, and off-shore dumping, and oil spills in coastal waters. Considered all together, it stuns the mind.

So does the cost of coping with it. As two examples: To halt mine acid drainage, which is limited to a few Appalachian states, might cost $7 billion; to separate sewer lines from storm drains in the cities where they are combined might cost $25 billion, or $50 billion. No one knows for sure. And no one can tell the cost of total water pollution control, except to say that it would dwarf all other environmental programs combined.

We bring all this up as a way of pointing up the immense significance of the debate scheduled to begin tomorrow in the House. Coming up is H.R. 11896, the House Water Pollution Control Bill. It is bewilderingly complex. With its four-year price tag of $24.6 billion, it could become the most expensive piece of environmental legislation ever passed. But even though the President's budget-makers are dismayed at these dollar figures, much more is at stake.

As it now stands, the House bill must be seen as counterposed to an extremely ambitious and highly controversial water-pollution bill the Senate passed in November. The major differences between the two bills run far beyond questions of detail and degree to a conflict over whether this nation should change, and how far it should change, its basic approach to fighting water pollution through this decade and well into the next. This is not just any old water pollution fight. It is truly a fight over crossroads decisions. Enormous consequences will flow from what the House decides to do about the bill that has come from its Public Works Committee, and about a series of "clean water" amendments, backed by 25 environment, civic and labor groups, that would bring the bill in line with the Senate version.

Very briefly, the Senate bill would sweep away the current practice of setting, and trying to enforce, water quality standards for various waterways. With the Environmental Protection Agency, not the states, running the show, the new approach would be strictly regulatory. Through the creation of any number of national effluent limitations and a system of discharge permits, it would be directed at specific sources of pollution. The timetable is significant: For industry, by 1976, a requirement to use the "best practicable" technology; by 1981, the "best available" technology; by 1985, no discharges at all.

A breath-taking bill, indeed, and one that, especially in this politically charged election year, puts any critic of it in the position of seemingly advocating dirty water. This is precisely the tricky postion in which the House committee found itself in trying to put together a separate version.

And yet the committee turned out a remarkably balanced product. It has some faults—notably in giving the federal government too little clout in making sure the states enforce the law. But in the main, we believe, it represents the right approach at this time to an extraordinarily difficult problem.

The House bill, though a large improvement over current law, is known as the the "weaker" of the two bills. This kind of comparison, with all its implications of good versus bad, can be highly misleading. "Strong" laws have been passed before that produced results far from the original goals. In setting the nodischarge 1985 goal, and declaring that as national policy, the Senate took the position that the country will never solve its pollution problem until Congress legislates fixed goals and sets a timetable for realizing them. It is a commendable thought, but only to the degree that the mechanics and the cost of reaching the goal are spelled out, and understandable, and feasible. Supporters of the Senate bill hope it is workable. They cannot be sure. Some administration spokesmen have called it unworkable. Theirs, too, is educated and somewhat biased guesswork.

The House bill offers what appears a reasonable answer. It retains the 1976 requirement for "most practicable" technology. But the far more sweeping 1981 and 1985 goals are made subject to further congressional action after a two-year study by the National Academy of Sciences and the National Academy of Engineers. This is already being assailed as something of a cop-out. The arguments for it are more persuasive. Subjecting all the unknowns in the water-pollution issue to an exhaustive academic study only makes sense. In the short term, with the bill's fixed 1976 requirements, this would not represent a reprieve to polluters. By 1974 or 1975, with the study reports in hand, Congress will be in a far better position to legislate between basic regulatory approaches. That it would fail then to act on water pollution seems highly improbable. And the tentative timetable is such that before 1981 industry would have enough time to adjust to higher standards.

The essence of the two-year study should be to make vital distinctions between the merits of water quality standards and the case-by-case regulation of pollution treatment at the source. Probably there is a case for a mix of both, and the House legislation wisely provides for such a mix at least until 1976. The trouble with relying solely on the present standards is the difficulty of establishing who is responsible for polluting a particular river system. But to switch entirely to a system calling for countless different treatment standards could prove just as cumbersome. For the government to direct an industry to elimiinate all discharges, or even to install the "best available" technology, ought to be judged in light of identifiable benefit. There may be little point to ordering an industry on, say, the Mississippi River to go beyond 80 percent or 90 percent treatment control. For another industry, located on a fragile waterway, 95 percent control might not be good enough.

Beyond the technical lie the economic considerations. They are far from idle ones. To hold new industries to the highest possible standards is one thing. It is quite another to mandate that every industry, including older, economically vulnerable plants, install the most expensive equipment and move to a 1985 no-discharge status. Beyond that, although the total costs remain elusive, it is beyond question that the costs of improving our waters will move upwards not on a straight line but on a sharp curve, so that the price tag for removing the last 3 percent of pollution could well prove higher, by multi-billions of dollars, than the cost of eliminating the first 97 percent. All this needs thorough delineation, and then the question must be faced of whether, in light of so many competing priorities, the nation wants to commit such a large part of its resources to go beyond basically adequate improvement in water quality.

The Senate, with its bill, has raised the nation's environmental aspirations. The House version, though, because it does not sacrifice wisdom for simplicity, represents better government.

ERIC HATCH'S AMERICAN SCENE

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mrs. GRASSO. Mr. Speaker, we in the Sixth District of Connecticut are blessed with outstanding literary talent and dedication to our National heritage. Eric Stow Hatch of Litchfield is a towering figure of Americana and a splendid example of the wealth of creativity that is in this country.

An established writer for over 30 years and the author of some 30 books, Mr. Hatch lives life to the fullest with a wide range of interests from an outstanding Army record to his activities with Connecticut's Bicentennial Commission, the Connecticut Historical Commission, the American Horse Shows Association, and the 1st Litchfield Artillery Company. Add to this panoply of activities a daily commentary on the Bristol radio station, WBIS, which is an integral focus of community interest and activity. Eric Hatch is still writing books, still making people happy—furthering an outstanding career which still knows no horizon.

The people of Connecticut, particularly the Sixth District, are proud and honored that Eric Hatch makes his home among us. His impact on the American scene during this century has been immeasurable. For the interest of my colleagues, an excellent feature article by J. Herbert Smith which appeared in the Sunday magazine of the Hartford Courant on March 19, 1972, follows:

ERIC HATCH'S AMERICAN SCENE

(By V. Herbert Smith)

The Associated Press wrote in 1940 that Eric Stow Hatch "has gained a place as one of the leading ambassadors to and from the realm of the wacky," and Bill Foote of The Courant editorialized last summer that it was never quite clear to him "how Connecticut was lucky enough to have acquired Eric Hatch."

A well established writer more than 30 years ago with "My Man Godfrey" and several other memorable works to his credit, Eric Hatch can't remember whether it's 29 or 30 books he has authored. Well past most men's retirement age, he has already started work on still another book.

In his weekly column Bill Foote said one of Hatch's "missions in life is to make people cheerful whether firing cement-filled beer cans from a revolutionary war artillery piece . . . or by getting the nation to ring bells on the Fourth of July."

A spry five feet seven inches in his riding boots, this little man with big ideas is proud of his past achievements, but a newer, more mellowed, even serious Eric Hatch seems to have surfaced.

He is chairman of the state's 1976 Bicentennial Commission, chairman of the Connecticut Historical Commission, a recognized American Horse Shows Association Judge, the founder and commander of the First Litchfield Artillery Company and he does a daily commentary on his Bristol radio station WBIS.

He believes "the pen is mightier than the sword" but at 16 tried to get into World War I. He "wangled" his way into the second war and in 1964 formed the Litchfield Artillery Company which annually tours the country.

His cannons once played the "real thing" in the New Haven Symphony Orchestra's rendition of the 1812 Overture.

Today Boston University has a complete collection of Eric Stow Hatch memorabilia. The university contacted him "I was quite certain, not because of the literary quality of what I wrote, but because I commented on the American scene for almost half a century and still kept my sense of humor," said Hatch.

He sat in his radio station office on several occasions recently, recalling his 50 years of writing about America and saying what he thinks of the country's situation today.

What he wrote most was comment on the upper crust of American society and he agreed he would have fit in nicely during the Victorian Age. But even "Godfrey" was written out of a kind of impatience with high society, then busying himself with scavenger hunt parties.

"Once they all had to try to find a hair from Grover Whalen's mustache, so I thought of looking for a forgotten man. Wouldn't that be an awful and tragic thing," said Hatch, and soon millions saw an educated hobo finds his way back to normalcy.

In his writings "there was always an underlying, I don't know, satire on society," he said.

An AP reviewer called "My Man Godfrey" the "classic screwball movie," and other reviews called it "one of the greatest movies of all time." Hatch wrote the book, then the screen play.

Eric said of his writing "it's humor, definitely, but I think over the years it has changed a little bit."

He said at first it was "slap happy and very, very funny, but underneath there was a kind of gentle satire and mockery of certain shibboleths."

Since the twenties he has written fiction and the closest Eric Hatch has come to journalism was sports writing for the New Yorker in 1926. But now with his commentary on national and world issues, he draws the fine line between the "objectivity" of reporting the news and the "fairness" he insists must be maintained in commenting on the news.

"Television news is a menace. Cronkite? No matter what the president did, it was wrong," he said. Matter-of-factly dismissing the "new activist or subjective" journalism, Hatch maintains "you have to be as objective as you can."

But that doesn't mean reporters cannot get involved in the functioning of their communities. Many in the press frown upon newsmen joining city commissions such as the board of education, but Eric Hatch thinks reporters "ought to join city boards."

"I think they can be objective and stuff that is off the record, a good reporter would not write anyway," he said. One thing he doesn't want, however, is his WBIS newsmen writing for political candidates.

"I'd give him a leave of absence," said Hatch if a reporter wanted to work for a politician because a newsman's "credibility" would disappear if he wrote both the news and for the men making the news.

There shouldn't be controls on the news in peacetime, said Hatch, but he believes that during wartime some restrictions must be upheld.

A reporter, learning of D-Day, for example, before the troops hit the beaches "should have been shot" if he ever leaked the story, said Hatch.

To him, "whatever news helps the enemy should be controlled."

"Yes, My Lai should have been reported, things like that happen. In World War II, if the Germans did it, it was reported," he said and held that the scant reporting of Allied atrocities then was self-restraint of the press rather than government suppression.

"I have always been a patriot. I got in a war if that's patriotic," said Hatch and nine years ago he and the artist Eric Sloan got Sen. Abraham Ribicoff to sponsor a resolution in the Senate calling for every American city and town to ring bells on the Fourth of July.

It passed the Senate unanimously and in Hatch's proud words "it's the law of the land."

At the age of 16 during "the war to end all wars" young Eric, who was permanently dismissed from prep school for jumping freight trains in his sophomore year, tried to make it to France but got as far as a New York State home regiment with the rank of private.

In 1944 he hit Omaha Beach on D-Day plus 30 as a civilian specialist in psychological warfare with the rank of lieutenant colonel commanding the combat loudspeaker trucks of the 3rd Army. He spent eight months going up to German positions asking them to surrender until "we ran out of gasoline at Troyes, 100 miles into enemy territory farther than anyone else in the U.S. Army at that point in the war."

But Hatch said he would not volunteer for the Vietnam or Korean wars. If asked, however, he would go.

"I cannot see volunteering to fight in wars we aren't trying to win. Vietnam isn't important and I never felt we were fully at war there.

"In World War II we were fighting for ourselves, our homes, if Europe fell the Nazis would be over here."

But the Communist threat today is not like the Fascist threat then—"if it was Russia trying to sneak into Canada I sure would agree with containment (of communism) but 10,000 miles away (in Vietnam) I don't know," he said.

He still remembers that day in 1944 when he and his corporal went looking for lunch and wound up facing the muzzle of a machine gun.

The State Department had granted his request to join up and he got as far as London where "I wangled an attachment to the 3rd Army."

Eric commanded a fleet of Dodge ambulances toting quarter-ton trailers with a generator, radio and loudspeakers.

It was Lt. Col. Hatch's job to drive up to encircled enemy positions and tell them to surrender. He always had a German and a French speaking man with him and the enemy "tried to shoot the hell out of us."

With his German speaking corporal at the wheel of a jeep, Hatch found himself at an encampment one day "that wasn't a very gay place, it had an aura of depression."

But he was hungry and they drove up to the tent of a lieutenant colonel "who told us the company had finished a tank battle just 20 minutes ago and a German machine gun was picking off his men."

After learning over some C-rations what Hatch did in the war effort, the beleaguered officer asked Eric, even though he did not have his loudspeakers, to try his psychology on the German tankers. "After all, they aren't very far away," he told him.

"He asked me how many men I wanted and of course I wanted five thousand," said Hatch. "A Lieutenant Muller and I led a patrol of ten men over a hedge row and down a gentle slope with our pistols cocked."

"I was waiting for my corporal to start yelling at them but we just kept walking, in two groups with the Germans in front of us. Finally one of the men next to me said 'look sir, aren't you going to shout at them?' "

Hatch said he knew some German from childhood days and "I cupped my hands and yelled loudly 'achtung, achtung, deutcher soldaten commen sie raus mit handen uher koppchen!' "

"There was no response," he remembered, "so we guessed they weren't there anymore and we walked back up the hill very cocky.

"But then the guy opened up with his machine gun. I had never had a machine gun shoot at me personally and the bullets were going sssft, sssft around us. I was 43, these guys were in their twenties but I had no trouble keeping up with them," said Hatch.

They all made it back and the colonel thanked them for his efforts. That colonel, said Hatch, is now General Creighton Abrams, commander of U.S. forces in Vietnam.

Hatch said it was years later he retold the story to a German friend who explained to him that what he had said that day in 1944 was "come out, come out, with your little hands above your little heads."

"I never did find out why the corporal didn't yell at them," said Hatch.

Eric Hatch and another soldier-author, Ernest Hemingway, served together for awhile in the 4th Armored division, but they never met. Hatch said Hemingway's best book is "A Farewell To Arms," about an ambulance driver in the first world war who fled with the woman he loved from insane war.

And Hatch thinks Hemingway's first novel "The Sun Also Rises," is worth reading. When that came out in 1926, Erich Hatch was leaving a comfortable position on Wall Street to start his own writing career.

Of his own work, "my favorite book is 'Five Days'—about a guy who steals a yacht," said Hatch. "It ran as a magazine series then sold about 3,000 copies in hardcover. In the paperback edition the publisher changed the title to 'Five Nights' and it sold 600,000 copies."

His latest novel, "The Year of the Horse," was made into a TV movie by Disney Studios last year and the name was changed to "The Horse in the Gray Flannel Suit."

Hatch usually wrote magazine serials in Liberty, The Saturday Evening Post, Redbook and others. He then would have it published as a book and later write the screen play for the movie version.

He would sometimes write the screenplays for somebody else's work, such as Thorn Smith's "Topper." The movie was released in 1939 and was the basis of a popular television series in the fifties.

Of Smith, Hatch thinks "he had a very great talent he didn't use. He didn't slow the story down enough to develop his characters. I think I added a certain tenderness to the story," said Hatch.

His mainstay for years was the mass circulation magazine and with their passing Eric says "I'm sorry with a tear in the eye and a hole in the pocketbook."

When television entered America's living rooms, Eric Hatch's name could be seen among the credits on Kraft Theater, Lux Theater and Armstrong Circle Theater.

And what he would still most like to write is the live TV play. The early ones like Kraft "paid the top dollar" said Hatch, and adds, the way TV is done now "leaves me a little cold. It's the absolute crystallization of monotony."

He went into business with his radio station and it is making a small profit, but "my life is writing." He has written "somewhere around 30 books" and is now into his seventies.

So is this century and Eric Hatch hasn't stopped writing about it. He scoffs at the mention of retirement and has a partial outline on his new book.

"I haven't written my best line yet," he declared.

To write a book you have to have confidence in your ability: there is not much room for humility; you have to know you are good. And to write 30 books you've got to be overflowing with confidence and a lot of imagination to boot.

But a rare statement of humility squeaked out between sentences as he said "I do what many have done before me."

"A character comes into my head and for some reason I want to see what happens to a guy that thinks like he does," he said.

Hatch takes his central character, usually a "male protagonist," and "I take him out of context, into situations I don't think he is used to."

He particularly likes his Bishop in "Five Nights"—"who has a very rich sense of humor for a holy man."

"I get ideas and throw them away. When I get one I like, I roll with it, 24 hours a day—when I'm not consciously thinking of it, my subconscious is," said Hatch.

A good author, said Hatch, knows where his talents are. "Every once in awhile I want to write a serious thing."

Inevitably his agent and the publisher send it back. "I get over the shock then sit down and write what I know how to write."

The book he is working on now—he has a list of chapters with single line headings and thinks he has the ending, parts of the middle but not the beginning—is a "totally irreverant political satire" on the last state election.

It centers on a governor who was in office a long time and gets involved in a scandal. "It's about the (1970) election had there been other candidates and it is not aimed at any living person," said Hatch.

Asked how long will he continue writing, he said "how long will I continue living?"

Those within the range of WBIS who hear the baritone voice each day state "this is Eric Stow Hatch with a UPI report from . . ." would be surprised to meet the man who belongs to that voice.

You could mistake him for a retired jockey, but besides his full-time job at WBIS, he is still judging horse shows, active in the Historical Commission and with his artillery company.

"Retirement? It's a slow way to commit suicide. Don't believe in it unless you retire to do something else." he said.

During the most recent conversation with him he was making plans for his wife to handle some of the business of the station so he could stay home in the rural Litchfield County hills to write his next book.

BYELORUSSIAN INDEPENDENCE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. MURPHY of New York. Mr. Speaker, for many years I have stated my commitment to efforts to free the nation of Byelorussia and to again allow this nation to be independent as it was briefly in 1918.

March 25 was the celebration of the 54th anniversary of this well-remembered but shortlived state of independence.

The Byelorussian community and Americans of Byelorussian descent have put particular emphasis on this anniversary of dependence of their nation as the Soviet Union will soon be celebrating its own 50th Anniversary—that is, the anniversary of the involuntary servitude and subjugation of the peoples of many nations, including its own.

I again assert my commitment to the cause of freeing Byelorussia from Russian dominance and to the cause of raising this nation's status to that of a sovereign and independent and democratic state which can be governed by its own people. The Congress of the United States, the people of America, and all of the freedom-loving people of the world want independence for Byelorussia and all nations who suffer under the dominance and control and exploitation of the Soviet Socialist Republic.

I include a short history of the Byelorussian struggle for independence prepared by the Byelorussian-American Association, Inc., at this point:

BYELORUSSIA

The history of Byelorussian statehood goes back to the 9th century when several Slav tribes founded independent principalities on the territory of what is today Byelorussia. In the 11th century the princes of Polacak won superiority and the rest united around them, forming the first Byelorussian state. Further unification of Byelorussian lands took place in the 13th century around the cities of Navahradak and Vilnia, and resulted in the creation of a new state, the Grand Duchy of Litva (Lithuania). The Grand Duchy was a powerful Byelorussian state encompassing all Byelorussian territory and at times including territories of its neighbors. Byelorussian was the official language of the Grand Duchy, and was used in all state and legal functions.

THE GOLDEN AGE

Two achievements of the Grand Duchy deserve special recognition. Dr. Francisak Skaryna translated and published the Bible in 1517, making Byelorussians the third people, after Germans and Czechs, to have a printed Bible in their native tongue. Also, the highly developed code of laws known as the "Litouski Statut" was drawn up by the Grand Chancellor Leu Spaieha. In its prime, the Grand Duchy became a cultural and artistic center of Eastern Europe, introducing the ideas and works of Renaissance to the area.

To preserve its independence, Byelorussia endured severe trials for over five centuries, from the 13th to the 18th century. After two successful war against the Mongols, the Grand Duchy was almost continuously plagued with wars against the Teutonic Knights. Moscow gave no trouble until 1490, when it launched a series of attacks against Byelorussia. At first, these attacks were easily repulsed; however, they persisted, and for the next three centuries, intervals of peace were exceedingly short.

Exhausted by long wars, Byelorussians sought aid from Poland, their ally by royal marriage. A treaty of union between the two countries was signed at Lublin in 1569. However, the promised military aid did not come, and the unwarranted interference by Poland into the internal affairs of the Grand Duchy provoked a reaction from the Commander-in-Chief of the Byelorussian army, Hetman Janush Radzivil. In 1655, Radzivil signed a treaty of alliance with Charles Gustav, King of Sweden, and joined him in a losing cause against both Poland and Russia.

DOWNFALL AND OPPRESSION

In the 17-18th centuries, Poland exerted increasing influence in Byelorussia; however, the resulting internal strife in the Federal State only weakened both peoples, and Russia alone benefited from the situation. Nevertheless, it was not until 1795, that the growing Russian state mustered enough strength to annex all Byelorussian lands. The newly conquered land was immediately subjected to a forcible administrative and economic integration and cultural Russification. Attempts were made to restore independence. During Napoleon's Russian campaign, Byelorussia was temporarily proclaimed a sovereign state under its former name, Litva.

Later anti-Russian uprisings occurred in 1830 and from 1863 to 1870. The political liberation movement gradually grew stronger, and was given impetus in 1906 when the Byelorussia-language press was allowed. The city of Vilnia became a center of Byelorussian political and cultural life, and the newspaper "Nasha Niva" (Our Soil) the source of patriotic expression.

THE RESURGENCE

During the First World War, Byelorussians took advantage of the weakened Russian regime and took steps to liberate themselves from the Russian rule. The All-Byelorussian Congress met in December, 1917, in the city of Mlensk, and on March 25, 1918, proclaimed the Byelorussian Democratic Republic. A provisional constitution was then adopted which provided for: direct and secret ballot open to all; freedom of speech, press and assembly; national and cultural autonomy of all minorities; an eight hour work day, and the right to strike; all guarantees of human rights, advanced for their day.

The independence of the Byelorussian Democratic Republic was accorded de jure recognition by over a dozen states, and Byelorussian legations and consulates were set up in some foreign capitals. Unfortunately, the new state was unable to enjoy its sovereignty for long. The Russian Communists consolidated their forces, and the Red Army invaded Byelorussia. The Byelorussian territory was turned into a battlefield, and the nation soon found itself in Russian captivity again.

In an attempt to pacify the national aspirations of the Byelorussian people, the Soviet government in Moscow created the Byelorussian Soviet Socialist Republic (BSSR), which was to replace the Byelorussian Democratic Republic. However, this regime was nothing more than a new form of subjugation. By this time, the national consciousness of the Byelorussian people was strongly aroused and led to several armed insurgencies, the most notable being the Sluck uprising in 1920, and others from 1922 to 1926 in the districts of Vializ, Homiel, Cervien, and Barysau.

The German occupation during World War II provided a period of relative calm which resulted in a spontaneous revival of Byelorussian national institutions, counter to Nazi Eastern European policy. In 1944, in Mlensk, the Second All-Byelorussian Congress was convened and reaffirmed the desire of the Byelorussian people for complete political independence.

THE CONTINUING STRUGGLE

The Byelorussian Soviet Socialist Republic of today is not an independent state; it only posesses some external trappings of independence, such as its membership in the United Nations. Such normal functions of a sovereign state as relations with other states are not only strictly controlled by Moscow, but on the diplomatic level to not exist.

The present relations of Moscow to Byelorussia are strictly colonial in nature and have two distinct aims. One is to exploit the Byelorussian natural resources for the benefit of Russian imperial expansion; and the other is to eradicate Byelorussian nationalism in the hope of fostering a homogeneous Soviet empire. In pursuit of these policies, Moscow has implemented the following measures: only Russians are permitted to occupy the key positions in the

BSSR; the industrial development in the BSSR is primarily channeled for the express purpose of developing the Russian empire in Siberia and Central Asia; the Byelorussian language has been almost completely eliminated from administrative use, from institutions of higher learning, and from secondary schools. Still, the ceaseless attacks by the Communist press and radio on "Byelorussian Bourgeois Nationalism" prove that these policies are failing, and that Soviet Russia will never succeed in stifling the desire of the Byelorussian people for their national freedom, just as Czarist Russia failed in the same endeavor.

On March 25, in 1918, the highest aspirations of the Byelorussian people for a free and independent life were fulfilled. Today, March 25th is a symbol of a dynamic spiritual force for Byelorussian Independence which unites all Byelorussians wherever they may be. The fight for Byelorussian independence is also a fight for the emergence of all captive nations, which is a necessary prerequisite for the establishment of a lasting peace in the world.

POLISH LEGION OF AMERICAN VETERANS, KRAKUSY POST 87 OF YOUNGSTOWN, OHIO, CELEBRATES 25TH ANNIVERSARY

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. CARNEY. Mr. Speaker, on Saturday, March 18, 1972, I had the honor of attending the 25th anniversary of Polish Legion American Veterans, Krakusy Post 87 in Youngstown, Ohio. The Polish Legion of American Veterans was founded in 1921. It serves as a living monument to over 2 million Americans of Polish descent who have served our country in the World Wars, the Korean war, and the present war in Vietnam.

Krakusy Post 87 was created in 1947 by Mr. Joseph Habuda, attorney and former Mayor Frank X. Kryzan, and Mr. Ignacius Sandeski. Post 87 chose to identify itself as Krakusy Post in memory of the valiant minutemen of Krakow, Poland, who fought so bravely to maintain their freedom. Today, Krakusy Post 87 of the Polish Legion of American Veterans has blossomed into one of the most active and effective veterans organizations in the Mahoning Valley.

Mr. Speaker, I congratulate the officers and members of the Polish Legion of American Veterans Post 87 on the occasion of their 25th anniversary, and I salute all Americans of Polish extraction for the great contributions they have made to our Nation both in time of war and also in time of peace.

Mr. Speaker, I would like to insert the names of the officers, past and present, of Krakusy Post 87 as well as the names of those members who are now deceased in the RECORD at this time:

PAST COMMANDERS OF PLAV POST 87

Name	*Year*
Frank X. Kryzan	1947–48
Peter Yavorski	1949
Fred Goodwin	1950–51
Stanley Kosinski	1952–53, 1958–59
John Demetruk*	1954
James Johnston	1955–61, 1962–66
Walter Cygan	1956
Michael Mislevy	1957
Ray Fron	1963
Adam Kielb	1964–65
Henry Gorski	1967
Frank Baniuk	1968–70
Stephen Sepesy	1969
Charles Popa	1971–72

*Deceased.

OFFICERS OF POLISH LEGION OF AMERICAN VETERANS POST 87

Charles J. Popa, Commander.
John Kosinski, Senior Vice-Commander.
Walter Cygan, Junior Vice-Commander.
Stanley Kosinski, Treasurer.
Henry Gorski, Financial Secretary.
Frank Oleksiuk, Sergeant-at-Arms.
Andrew Kostecki, Sergeant-at-Arms.
Stanley Kuharski, Adjutant.
Frank Kryzan, Judge Advocate.

BOARD OF DIRECTORS

Edward Gorski, Adam Kielb, Michael Mislevy, Chester Franczkowski, Past Commander Frank Baniuk.

OFFICERS OF PLAV CHAPTER 87

Womens' Auxiliary

Carolyn R. Maresky, President.
Mary Oleksiuk, Vice-President.
Helen Woodford, Recording Secretary.
Alice D'Antonio, Financial Secretary.
Mildred Kielb, Treasurer.
Tillie Cizmar, Sergeant-at-Arms.
Steffie Regina, Color Bearer.
Jennie Herman, Color Bearer.
Stella Sova, Color Guard.
Ann Hill, Color Guard.
Victoria Hoffman, Board of Directress.
Margaret Vrabec, Board of Directress.
Pearl Mont, Board of Directress.

Present Chaplain of P.L.A.V. Post 87: Rev. William Slipski.

Past Chaplains: Rev. Msgr. Louis Kazmirski, Rev. Leopold Dobosiewicz, Rev. Edward Kowaleski, Rev. Aloysius R. Zendarski.

MEMORIAL

In memory to those comrades who have departed our ranks since we have joined in fellowship 25 years ago, who have honorably served our great country in time of need, as well as, our Post during our years of growth, we inscribe your name on the Honor Roll and your memory will be cherished forever. We salute our silent comrades as we say . . .

Rest in Peace: Steve Bengala, William Bonk, Frank Bort, Nick Castor, Walter Cuban, John DeLong, John Demetruk, Past Commander, Edward Linert, Alexander Palewski, Frank Pruszkowski, Donald Starr, Stanley Sudol, Michael Whalen.

Mr. Speaker, I also insert the names of the persons who participated in the 25th anniversary program and the program committee in the RECORD at this time:

PROGRAM

National Anthem, Mrs. Robert Kosinski.

Polish National Anthem, Audience.

Invocation, Rev. Edward Kowaleski, Pastor, All Saints Church, Canton, Ohio.

Introduction of toastmaster, Stanley Kosinski, 25th Anniversary Chairman.

Toastmaster, Frank X. Kryzan, Past Commander, Post 87.

Welcome, Charles J. Popa, Commander, Post 87.

Remarks, Miss Carolyn Maresky, President, Chapter 87 Auxiliary.

Remarks, Edward C. Szymanowski, National P.L.A.V. Commander.

Remarks, Rev. William P. Slipski, Chaplain, Post 87; Pastor, St. Casimir Church, Youngstown, Ohio.

Remarks, Mrs. Laverne Wozniak, National Auxiliary President.

Presentation of resolution, Emanuel N. Catsoules, Third Ward Councilman, City of Youngstown.

Remarks, John S. Pabijan, Zone 2 Commander.

INTRODUCTION OF VETERAN AND CIVIC ORGANIZATIONS

Remarks, Waler J. Stolarski, Commander, Department of Ohio.

Remarks, Miss Violet J. Paul, President, Department of Ohio Auxiliary.

Remarks, Rev. Leo Dobosiewicz, Past Post Chaplain, State Department Chaplain.

Remarks, Jack C. Hunter, Mayor, City of Youngstown.

INTRODUCTION OF PLAV POST AND CHAPTER REPRESENTATIVES

Remarks, Charles J. Carney, Congressman, 19th District of Ohio.

Recognition.

Benediction, Rev. Joseph A. Malik, Pastor, St. Mary's Church, Warren, Ohio.

God Bless America, Audience.

Dance music by John Lapinsky.

PROGRAM COMMITTEE

Chairman: S. Kosinski.

Co-chairmen: R. Fron, F. Kryzan.

Program Book: W. Cygan, Chairman; W. Muzevich, H. Gorski, F. Banuik.

Ticket Reservations: M. Mislevy, Chairman; F. Kumik, Co-Chairman.

Historian: F. Goodwin.

Refreshments: A. Kielb, Chairman; S. Sepesy, Co-chairman.

Decorations: S. Kuharski.

Mr. Speaker, I insert a brief history of Krakusy Post 87 in the RECORD at this time:

HISTORY OF KRAKUSY POST 87

As a living monument of over 2,000,000 Americans of Polish extraction who have served in the World Wars and to those who have made the supreme sacrifice, we, the Polish Legion of American Veterans, have organized.

On March 16, 1947, at the hall of Free Polish Krakusy, 2205 South Avenue, Youngstown, Ohio, Mr. Joseph Habuda, a gentleman with foresight, Attorney and former Mayor Frank X. Kryzan, Ignacius Sandeski, together with Mr. Al Madey, the Polish Legion American Veteran State Commander, assisted by Mr. Al Olsen and Mr. George Wrost, representing the State Department of Cleveland, Ohio, formed the nucleus of Post 87. The organization blossomed out into one of the most active and successful veteran groups in the Mahoning Valley.

Post 87 chose to identify itself as Krakusy Post in memory of the valiant minutemen of Krakow, Poland. Later to be known as Karkusy, who bravely staved off vicious attacks from the intruders from east and south to maintain their freedom.

Post 87 was guided through its infancy by the able leadership of our first Commander, Frank X. Kryzan, assisted by Joseph Nalepa, First Vice-Commander; Edward Gorski, Second Vice-Commander; Fred Goodwin, Adjutant; Henry Jablonski, Financial Secretary; Edward Dolovy, Treasurer; Sergeant-of-Arms Raymond Fron and Walter Laskowski. The following members completed the charter membership: Henry Bogan, Frank Bort, Francis Habuda, Jr., Anthony Jasinski, Edward and John Kaczowka, Frank Kumik, Stanley Kucharski, Casimir Masluk, Ignacius Sandecki, Daniel Skica, Walter Swita and Peter Yavorsky.

The first milestone of historical progress was the dedication of our colors at an impressive ceremony on April 25, 1947, at St. Stanislaus Church by Bishop James McFadden, First Bishop, Youngstown Diocese, who formally dedicated and blessed the Flag and Post Colors.

Krakusy Post 87 hosted the 16th Annual State Convention of Polish Legion American Veterans in July 1948. It was recorded into the annals as one of the more successful conventions.

An historical achievement, due to active members, was the purchase of our first home at 1721 Highland Avenue on December 20, 1949. Through many pledges from our limited membership and a lending hand from two wonderful people, Mr. and Mrs. Anthony Wasacz. The club rooms were a transformation from a Lutheran Church under guidance of Taddeus Badowski, architect and veteran member from Cleveland, Ohio, with the cooperation of many aching muscles and sweat of the brows of its members. Dedication of the new Post was February 1952.

Spiritual counsel and inspirational guidance was given by our Post Chaplain, Reverend Leo Dobosiewicz, who was acclaimed Honorary Member at National Convention of 1952 at Boston, Massachusetts.

Our first Commander, Frank X. Kryzan, distinguished himself most ably by being elected Mayor of Youngstown for two terms, 1954–1960.

Honors were bestowed our Post by United Veterans Council in the election of Walter Cygan as First Vice-Commander in 1954 and Michael Mislevy elected Commander in 1960.

The Auxiliary, Chapter 87, was organized March 2, 1952, which has contributed to the success of many Post functions.

Again Post 87 was host to a successful 19th Annual State Convention in 1953 where both Krakusy Post and Auxiliary were recipients of honors for membership drives.

Our Post, being staunch supporters of youth movements, presented colors to Boy Scout Troop 51 of St. Casimir Church and Troop 57 of St. Charles Church in April 1957.

The energetic officers, headed by Stanley Kosinski help organize Campbell, Ohio, Post 101 in March 1953.

Many citizens will remember the artistic dramatic talents that were exemplified at a very successful Minstrel Show in May 1955 by Post members. Again, in April 1961, with remarkable talent. Repeat performance was requested by many other Posts.

On June 1, 1955, Post 87 was presented the most prized possession, the flag that was flown over the nation's capital during the 89th session of Congress, by our beloved friend, Honorable Congressman Michael J. Kirwan.

At a State Convention, 1957, in Akron, William Wroblewski was elected Junior Vice-Commander of the State Department.

Another step of progress was the extensive remodeling of the auditorium with panel walls, lowering the ceiling, new windows and a new floor. Officially opened October 20, 1962, with festive dance country club style, to celebrate an achievement.

Post 87, proud of its heritage, continued to expand veteran interest by organizing Warren Ohio, Post 164, January 11, 1963, under the guidance of Commander Ray Fron, Frank X. Kryzan and Stanley Kosinski. Sadness befell all members for the loss of our beloved First Chaplain, Reverend Monsignor Louis A. Kazmierski, in March 1964.

Stanley Kosinski was elected to Senior Vice-Commander of the State Department in recognition of his ability in veteran work in 1963.

Tragedy struck, when on February 10, 1965, fire destroyed our first home. With it, many fond memories of joy and hard work. Many official records were lost. But Commander Adam Kielb, together with his staff of officers, with the well-known fighting, never die Krakusy spirit, proceeded with plans for a new building at the present location, 1087 Glenmont Avenue. Stanley Kosinski and Ray Fron headed the building committee. This appointed Building Committee worked unselfishly, unmindful of time, attending over 300 meetings to hasten building our new home which was dedicated April 23, 1966, at an impressive ribbon cutting ceremony by more than 500 guests.

October 25, 1965, James Johnston was awarded Legionaire Editor's Award for his excellent reporting of our tragic fire.

The 26th State Convention of 1967 was written into the annals. This year 1967, was the first year the Post sponsored an entry to the Soap Box Derby, youthful Henry Wroblewski being the driver. In 1971, the Post sponsored a Midget Football team that won the championship for its division under the name North Side Knights. Post 87 Color Guard participated in opening ceremonies of Young Men's and Women's Bowling Tournament for the past 12 consecutive years.

Activities is the heartbeat of our organization. Annual Valentine Sweetheart Dinner Dances, Summer. Picnics for friendly get-together and Harvest Moon Dinner Dances. For the athletic members, softball in the summer league and bowling in the winter months. Keeps members busy but physically fit.

The veterans at Butler Veterans Hospital are visited by Post members and Auxiliary three to four times a year since 1962. Steve Sepesy, in charge, has arranged for bands, clowns, assorted entertainers. Polish Legion American Veteran State Department did honor Steve Sepesy with a citation for his outstanding work in 1971 when over $2,000.00 value credit was presented to Butler Veterans Hospital which included five televisions, books, games, etc.

Without capable leadership, this Post would not have prospered. But behind the scene are the unsung heros, our members. To name each one individually would fill many pages. To them, the standing monument, our club, is their reward. Post 87 is proud to be part of this great community.

In my remarks to the Polish-American War Veterans, I discussed some of the Americans of Polish descent who have excelled in sports, business, politics, education and research, science, and the arts. I insert my remarks in the RECORD at this time:

OUTSTANDING POLISH AMERICANS

SPORTS

In the field of sports there are numerous Polish-Americans who have made significant contributions, however, until 1915, only a few names appeared consistently before the public eye. Among those who did were Frank Piekarski, a member of the all-American football team of 1904, and Stanley Ketchel, holder of the middleweight boxing title of 1907.

Among contemporary athletes, the list of outstanding Polish-Americans is impressive. Baseball is the most conspicuous of those sports relying heavily on Polish-American contributions. Names such as Stan Musial and Carl Yastremski come immediately to mind, but others who have excelled in their own right include Ted Kluszewski, Ed Lopat, Jim Konstanty, Ray Jablonski, Hank Majeski, George Shuba, Bill Skowron, Ted Kazanski, Mike Blyzka, Bob Kuzava, Steve Gromek, Frank Szymanski, Chet Laske, Cass Michaels, Gene Malinowski, Eddie Lubanski, Ed Kleiwicki, Stan Lopata, Bob Babich, Harry Szulborski, and Walt Patulski, all-American tackle at Notre Dame and first player picked in the pro draft this year.

POLITICS

In the arena of politics, Polish-Americans have held numerous political offices. The first Polish-American to hold office was John Kleczka, elected as a Republican Congressman from Milwaukee in 1918. Since that time, other prominent Poles who have distinguished themselves in the political sphere include: Joseph Mruk, mayor of Boston during the 1920's; John Gronouski, president John F. Kennedy's Postmaster General, and at one time, the U.S. Ambassador to Poland; and Senator Edmund Muskie (real name—Edmund Marciszenski).

The United States Congress has seated several Polish-Americans since 1918; included in the present Congress are: Representatives Roman C. Pucinski, Daniel Rostenkowski, John C. Kluczynski, and Edward J. Derwinski, all of Illinois, Henry Helstoski of New Jersey, Thaddeus J. Dulski of New York, and Clement J. Zablocki of Wisconsin.

BUSINESS

In the business community, Polish-Americans have been well represented also. The late Helena Rubinstein served as one of the more prominent examples of financial success, having amassed a $100,000,000 fortune as head of a cosmetics empire that spanned two continents. Oleg Cassini, son of a Polish count, came to the United States originally as a costume designer for Hollywood films. He later established his own reputation as one of America's more prominent designers, and gained ultimate stature under the Kennedy Administration as the exclusive designer for the then First Lady, Jacqueline Kennedy Onassis.

Other names in the business world are perhaps less familiar to the world at large. Henryk Orenstein, a Polish immigrant in 1947, now heads a multi-million dollar toy manufacturing company, Deluxe Reading Corporation, one of the Nation's largest toy firms, Edward J. Piszek, President of Mrs. Paul's Kitchens, Inc., a successful frozen food manufacturer, has been responsible for Project Pole, an effort to make Polish-Americans proud of their heritage.

EDUCATION AND RESEARCH

In the fields of education and research, one of the most outstanding Polish-Americans is Dr. Zbigniew Brzezinski, Director of Columbia University's prestigious research institute on Communist affairs. Dr. Brzezinski, a renowned scholar of Soviet studies, had taught at Harvard University for over a decade before accepting his position at the institute.

He has published at least nine books and dozens of articles on a variety of topics in prestigious journals. In 1960, Dr. Brzezinski was awarded the Guggenheim Fellowship, and in 1963 he was selected by the U.S. Chamber of Commerce as one of their "ten outstanding young men of the year." In 1962, Dr. Brzezinski served as Deputy Chairman of the U.S. delegation to the Polish-American caucus, and in both 1962 and 1964 he represented the United States at the German American meetings in Berlin.

Other prominent Polish-Americans in the intellectual community include Dr. Louis John and Dr. Richard Lewanski, Dr. Sohn, a professor of law and lecturer at Harvard University, was a member of the committee of scientists and political scientists who advised President Kennedy on disarmament. Dr. Lewanski is the librarian of the Johns Hopkins University Bologna Center, and was vice-president of the association of international libraries.

SCIENCE

In the scientific field, one of the most outstanding contributions came from theoretical physicist, Dr. Stanislaw Ulam. Dr. Ulam was born in Poland. He immigrated to the United States in 1935, where he has taught at Princeton, Harvard, and the University of Wisconsin. Dr. Ulam joined John Von Neumann and Edward Teller in the pioneering research on the hydrogen bomb. Many other Polish-American scientists have made their own contributions as evidenced by the following list of scientists released by the U.S. Atomic Energy Commission as having been associated with the atomic research done at the University of Chicago in 1967: Gerard S. Pawlicki, Leon Sefranski, Edwin Fudyja, Kazemierz Lesnieski, Leon Wojtonowski, Julian Ostopowicz, and Emil Konopinski.

ARTS

In the arts, Polish-Americans have been prominent in a number of categories. In music, violinist Bogdan Nasalski was selected as first violinist for the New Orleans Philharmonic. In 1960, Stanislav Skrowaczewski was named director of the Minneapolis Symphony Orchestra at the age of 38.

Pola Negri and Bella Darvi were two of cinema's more prominent leading ladies of Polish decent. Although newly in this country, American motion pictures can credit Polish director Roman Polanski as one of the industry's most creative, young directors.

In the domain of art, Jacques Lipchitz is renowned as one of this century's finest sculptors—his work appearing in the collections of most of the country's finer museums. At the same time, Polish-American painters Sigmund Menkes and Harry Mentz have also received critical acclaim from the art world.

MILITARY AID TO GREECE

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SCHMITZ. Mr. Speaker, recently a "Dear Colleague" letter was circulated which contained the extraordinary suggestion that the best way to protect long-term U.S. interests in the Mediterranean area was to sign a letter to the President requesting him to immediately proceed to isolate the strongly pro-Western, anti-Soviet Government of one of our NATO allies; namely, Greece. This is certainly a novel approach to the problems of national security. Traditionally our international interests were understood to be advanced through the process of strengthening participating members of our mutual security pacts rather than weakening them.

The arguments for reversing this standard procedure in regard to this particular NATO ally are that Greece is not a democracy and that its current government is oppressive. The Greek Government is held to be so oppressive that our support for the present leadership is undermining our public image in that nation. This information comes to us by virtue of two members of a former Greek Government who were issued passports by the current oppressors so that they could put in an appearance before our House Foreign Affairs Committee. After enlightening the Members of the Congress they returned to Greece seemingly unafraid of repercussions. Ignoring a possible lack of complete objectivity on the part of these two members of some former government, it must be admitted that allowing members of the opposition to travel freely to other countries to testify against the regime is not characteristic of a tyranny. It would seem unlikely that opponents of a heavy-handed and brutal dictatorship would even ask to be allowed to journey to a foreign nation with the express purpose of undermining the "tyranny's" international position, much less be allowed to do so. In fact, it is inconceivable.

So the only argument grounded in reality which is being used to justify a U.S. quarantine of Greece is that it is not currently holding elections. This is undeniable. The Greek Government acknowledges this and, for those interested in the why of this situation, has an explanation. Some accept this hiatus in democratic procedures as justified, others do not. Practically everyone would look favorably on elections. But the point is that this is not the point when it comes to assessing the question of military assistance in support of our national interest.

U.S. military assistance is not given as a reward for someone's idea of democratic excellence in government but for the attainment of our own strategic purposes. Our alliances are based on mutual identity of national objectives in the face of a common threat which poses a real and present danger to the survival of non-Communist nations, including ours. NATO was formed to forestall Soviet domination of all Europe. This danger has not passed. If anything the danger is greater at this time than at any time since the alliance was formed due to a combination of vastly increased Soviet military might and the general Western apathy in the face of a buildup unparalleled since the time of Hitler. As one European put it, "We face a crisis because there is no crisis."

Be that as it may, the critical position of the United States should Western Europe and the Mediterranean be incorporated into the Soviet empire is understood by practically everyone, and because it is in our interest to prevent this from happening we formed the NATO alliance. The reason for the alliance determines the germane criterion to be applied when determining whether or not an alliance member receives military assistance. These criterion are two-fold: First is such assistance necessary for the nation in question to fulfill its assigned role in the NATO defense plan? Second is the nation in question making major manpower and resource commitments of its own toward this objective? Greece qualifies on both counts, and therefore qualifies for military assistance.

The Congress recognized these criterion as valid when it gave the President the option of providing Greece with military assistance if he determined that it was in our national interest to do so. He rightly decided that it was. To assert as some have that in exercising the option we voted him the President has somehow abused the foreign policy responsibilities of the Congress, is contrary to the facts of the case.

The "Dear Colleague" letter also states that no other NATO member aids Greece. Yet the fact is well known, and attested to by our State Department, that France and West Germany — France being a NATO member—have made numerous credit sales to Greece, a form of aid in which we also often engage.

Finally, much is made of the fact that action has now been taken to allow the wives and children of our naval personnel serving in the Mediterranean to live in Athens so that their husbands and fathers can spend more time with them. The idea that this somehow represents an increase in our military presence in Greece is absurd. The men are already there; the wives and children add nothing to their military potential, though they add a great deal to their happiness. Many of the critics of the present Greek Government like to think of themselves as humanitarians, but it seems they are quite willing to sacrifice the happiness of our sailors and deny their wish to be with their families in order to advance their political objectives in a foreign country.

PEOPLE FOR PROGRESS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. CONTE. Mr. Speaker, too often these days we hear the complaint that young people are not doing anything constructive. Too much attention has been given to that very small minority of American youth who would rather toss a bomb than help another human being. Today I would like to draw my colleagues' attention to a group of teenage Americans in my First Massachusetts Congressional District who are helping others and who are making an effort to play a constructive role in their society.

The "People for Progress Club" at Hoosac Valley High School in Adams, Mass., deserves our encouragement and praise for their many worthwhile civic and social endeavors.

The club, which was organized last year, is dedicated to the constructive improvement of local, national and international life. Its primary goal is also to provide positive and active participation in projects that will foster the development of "concerned world citizens."

Here is a brief résumé of some of their social projects:

PEOPLE FOR PROGRESS

(Included in the resumé is a listing and partial explanation of the activities conducted by the club)

RELEASE THE PRISONERS

During the Christmas holidays, club members took time out from their vacation to obtain signatures of area residents for the release of American prisoners of war. The result of this project was the obtaining of some 1,000 letters which were sent to North Vietnam.

PAKISTAN RELIEF FUND

Due to the disaster in Pakistan, club members organized a dance and homeroom collection to raise funds for the Pakistanian people.

WALK FOR INTERNATIONAL DEVELOPMENT

In conjunction with this project which was conducted on a national scale, the People for Progress Club organized the Hoosac Valley High School student body and the result of their effort brought in over $1,100.

NURSING HOME WORK

Members of the club are working on a weekly basis at the Adams Nursing Home. During the holidays all the club members participated in a program of entertainment and distribution of holiday cards.

WORK AT THE HOSPITAL

Some members of the club are working in conjunction with the Candy Stripers Organization in providing service for the local hospital.

WORK WITH EXCEPTIONAL CHILDREN

Some of the club members are participating in a club known as the Exceptional

Children's Club. Through this, students are learning about the problems of the exceptional child as well as actively participating in work with these children.

ECOLOGY PROGRAM

Club members are presently working on a project involving recycling of glass. In the Spring of this year, the club is planning to plant flowers in key areas of town.

SANTA FUND

This fund is organized by local industry in order to raise money for the needy children of this area. Money raised goes towards the purchase of toys for these youngsters. Our club members held a homeroom collection to raise money for this fund.

FOOD DRIVE

This was conducted before the Christmas holiday. Food was given to the Salvation Army for local distribution.

TOY DRIVE

During the Christmas holidays, toys were collected at school to help the needy. These toys were donated to the Salvation Army for local distribution.

EYE GLASSES COLLECTION

In conjunction with the Lions Club sight saving program, club members organized an eye glasses drive which brought in some 500 pairs of eye glasses and cases.

GUEST SPEAKERS

The club has brought in guest speakers in order to provide the student body with more sources of information.

WENDY FOSTER DRIVE

The club conducted a homeroom collection for this eight year old youngster from the town of Florida. Wendy recently underwent open-heart surgery in Boston.

CLEAN-UP CAMPAIGN

During the Fall of the year, members conducted this campaign with the purpose of raising funds for charitable projects as they arose.

HELP FOR THE ELDERLY

In the town of Adams there is a new housing project for the elderly. In this light the club members have offered to help the elderly people in moving into their new apartments.

MARCH OF DIMES

Members of the club canvassed the town for this project.

SCHOLARSHIP

The club is presently organizing money-making activities for the purpose of presenting a scholarship to a senior who is planning to enter the area of social work, international relations, or special education.

CAR WASH—FOOD SALE

This project was conducted along with the food sale so that money could be raised by the club to be used for charitable purposes as they may arise.

CHRISTMAS PROGRAM

"The Five Senses of Christmas." The theme of this project was intended to reach the five human senses in such a way that each member of the school and local community could be involved in a meaningful and worthwhile Christmas project. (see included materials)

SUMMER FESTIVAL WORK

Club members are working in conjunction with local residents in planning and working on the Adams Summer Festival. This Festival includes one week of organized activities.

NASHVILLE BANNER SAYS SOUTH COLD TO NIXON'S BUSING MESSAGE

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EVINS of Tennessee. Mr. Speaker, United Press International in a recent article appearing in the Nashville Banner speculated whether President Nixon's proposals concerning busing will be of substantial benefit to the people in the South.

Because of the great interest in this matter by my colleagues and the American people I place the article in the Record herewith.

The article follows:

South Cold to Nixon Busing Message

Washington.—President Nixon premiered his new anti-busing tune last week but Southerners were at first uncertain whether he was singing "Dixie" or "Yankee Doodle."

The President called for a "moratorium" on new school busing decrees, as the UPI Dixie Report forecast two weeks ago, but the immediate reaction of many Southerners in Congress was one of disappointment.

Sen. Sam J. Ervin, D-N.C., in comment on the Senate floor, said this would head off new busing orders in the North but leave the South, already virtually blanketed with orders, to "continue the status quo."

Sen. Herman Talmadge, D-Ga., said the "moratorium" was "fine and good for the children in the regions outside the South who are threatened by the prospect of future busing."

"But once again," he said, "the national leadership has turned its back on Southern children who have been laboring under this affliction for years."

"If it is proper to stop more busing in the future," said Sen. Strom Thurmond, R-S.C., "it is proper to stop the unreasonable busing which is going on now."

Sen. Lawton Chiles, D-Fla., said the proposed moratorium on busing "appalls me, because what it's going to do is allow the stopping of busing in all parts of the country except in the South . . ."

"Shameful political hypocrisy . . ." said Rep. Charles H. Griffin, D-Mass. "Southern children would continue under the heel of HEW and the courts while the rest of the states get off scot free."

Rep. Richard Fulton urged Acting Attorney Gen. Richard Kleindienst to intervene in the Nashville appeal from the federal court order that has resulted in massive busing of Metro public shool children.

The Nashville Democrat sent Kleindienst a telegram asking that he follow up President Nixon's antibusing pledge to the nation by intervening on behalf of the Nashville case before the Sixth Circuit Court of Appeals in Cincinnati.

"I have urged this action before to no avail." Fulton said. "It is my hope now, however, with the President's promise of Justice Department intervention that Nashville will be afforded the full weight of federal assistance in its effort to halt unnecessary and disruptive busing."

Meanwhile, one Senate member out of the entire Southern delegations in Congress went about confidently predicting the Justice Department, under Nixon orders, would begin actions to roll back busing in the South.

He was Sen. William E. Brock, R-Tenn., who accounted for his different reaction by saying the other Southerners had simply failed to read the Nixon proposals carefully.

Brock said, "This means his (Nixon's) efforts will be of immediate and direct relief to our Soutnern States."

Other indications were not as decisive, however.

When Secretary Elliot L. Richardson of Health, Education and Welfare briefed a group of congressmen behind closed doors he was asked about the Southern school busing cases, some of them "closed" as long as five years ago.

"There's got to be some limit." Richardson is reported to have said.

At that point, according to one witness, three Southern senators left the meeting. They were Chiles and Sens. Harry F. Byrd, ID-Va., and William B. Spong, D-Va.

Richardson was reported to have said later that he did not understand the question.

At a later briefing for newsmen, acting Attorney General Richard Kleindienst said he would seek to intervene immediately in cases involving Denver, Colo., and Richmond, Va.

A reporter who sought to ask Kleindienst later what about the South, was unable to reach him immediately. A Justice Department spokesman issued this statement:

"Mr. Kleindienst has made no decision on whether to intervene in those kinds of cases."

LOWERING THE RACKET

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. GUDE. Mr. Speaker, several weeks ago, the House passed the Noise Control Act of 1972. This is landmark legislation in that it will compel American industry to find methods of quieting its products.

One of the major contributors to the noise problem in the Washington Metropolitan area is the jet traffic at National Airport. These jets have, for some time, caused problems in the area, particularly for those citizens unfortunate enough to find that their once quiet homes are now underneath the flight paths of these planes. Due to numerous complaints, the FAA established an evening curfew on jet traffic, but has consistently permitted violations of its own curfew. Many local citizens have joined in suing the FAA over this matter, and request in their suit that a firm 11 p.m. curfew be established and maintained.

Many of my colleagues and I strongly supported an amendment to the Noise Control Act which would have given the Environmental Protection Agency the authority to set strict noise limits for jet engines. EPA has a legitimate interest in this noise pollution problem and is the appropriate agency to handle it. The FAA has had the authority to set this type of noise limit for some 3½ years, but has done nothing substantive about it.

The Evening Star yesterday editorialized on this matter and called for this type of authority for EPA. I would like at this point in the Record to commend to my colleagues that editorial:

LOWERING THE RACKET

"This noise is driving me crazy" is a familiar complaint these days, and people who voice it may be closer to the truth than they know. If some researchers into the subject are correct, it's possible to be driven bats or made quite ill by the infernal racket, of which the United States has more than any other country. And what's worse, the noise levels keeps rising.

So the House, in approving the first step toward national noise control the other day, did the American public no small favor. We hope the Senate will lose no time in concurring.

The House-passed legislation would not tone the bedlam down immediately; indeed there might not be noticeable results for three or four years. The task of muffling the billions of noisy machines and gadgets in the country defies comprehension, but it can be done over an extended period. There should be no popular illusion, however, that it can be done for nothing. As in other depollution processes, considerable expense for industry and business is a certainty, and the public ultimately will have to pay most of it.

With the pressure of a deadline, the House would push American technology into finding solutions for noise. Its bill is similar to the Clean Air Act of 1970, which is forcing the automotive industry to eliminate most exhaust pollutants by the middle of this decade. The Environmental Protection Agency would be required to establish within 18 months, noise emission standards for new manufactured products it identifies as major noise sources. But the measure isn't as strict as the air-pollution law, because it says the EPA "shall give appropriate consideration to technological feasibility and economic cost." Exceptions, therefore, are possible, because of the suspicion that a few machines may *have* to be noisy.

In any case, the EPA would be charged with determining whether that's so, and how much damage is really done to the public's health and welfare by different amounts of racket. There's evidence that the mounting urban cacophony contributes directly to deafness, high blood pressure, emotional disorders and other ills, but much more study is needed.

The Senate should hasten its consideration of this legislation, which could be strengthened in one respect at least: The EPA should be given a larger role in the control of jet aircraft noise than the House was willing to approve.

OILING THE WHEELS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. WOLFF. Mr. Speaker, the issue of our oil import policy is one which has been debated at great length here in the Congress. We are constantly being reminded of an energy crunch on the one hand and an environmental crisis on the other. We are being urged to allow expanded offshore drilling and exploration and to allow the licensing of nuclear powerplants despite a lack of adequate safeguards.

For these reasons, I found the WMCA editorial which follows my remarks to be highly germane. We have an energy crunch in this country partly because we are prepared to deplete our resources at a greater consumer cost rather than foreign resources at a lesser cost to the American consumer.

The editorial follows:

OILING THE WHEELS

Oil is like any other natural resource: There's only so much of it, and once you use it up it's gone for good. So what do you think of a government policy that forces you to burn up your own country's oil reserves when you could be buying foreign oil cheaper?

Well, that's the policy we've had in Washington for years. Oil imports are restricted and domestic oil prices are pegged artificially high. One oil expert was very blunt about it not long ago. He called it a "drain America first" policy.

Yet the oil industry now insists it needs even higher domestic prices to provide more incentive for domestic oil exploration. All this in the name of national security.

But you know who's going to foot the bill: you, when you buy gas for your car or oil for your heater.

If you ask us, the best course for national security in this case also happens to be the best deal for all consumers: Lift the import restrictions and burn everybody else's cheap oil—while our own stays in the ground here and gets more valuable every day.

THE NIXON BUSING STATEMENT: A THREAT TO OUR LEGAL ORDER

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EDWARDS of California. Mr. Speaker, I would like to call my colleagues' attention to an article entitled "Constitutional Crisis: I" which appeared in the New York Times on Saturday, March 25, 1972. In this interesting article reflecting his usual articulate, carefully reasoned style, Anthony Lewis discusses both the facts and the law surrounding the current busing controversy. He concludes that Mr. Nixon's recent speech on busing had the effect of raising "fantasy devils in the minds of his listeners" and that the real issue at hand is no longer busing, but the entire legal order of our society. I commend this article to the attention of my colleagues.

The article follows:

CONSTITUTIONAL CRISIS: I

(By Anthony Lewis)

When President Nixon made his television speech on busing, most of his audience must have believed that the Supreme Court had ordered massive busing to balance the racial makeup of public schools, and that millions of children across the country were being bused for that purpose. Those were the assumptions that seemed to underlie the President's urgency, his call for an immediate legal moratorium on busing.

But the assumptions are false. The facts are otherwise.

First, the figures. The Department of Health, Education and Welfare says it has no tabulation of children who are taking school buses because of a desegregation plan—children, that is, who would not have been riding a bus to school anyway. But H.E.W. does have figures on the number of bus-riding pupils in major districts that have desegregation plans with busing this year, and comparable figures for last year. The difference roughly shows the increase attributable to court orders or plans.

In Charlotte, N.C., for example, which produced the leading Supreme Court decision on the issue, 46,076 children rode the buses to school a year ago; this year there are 46,849. In Dallas the figures are: 5,079 last year, 12,154 now.

In all the districts for which H.E.W. has those comparable figures, the total increase in the number of children traveling by bus this school year is 126,810. That is out of some 46,000,000 children in American public schools. In short, so far as these figures show, less than three-tenths of 1 per cent of public school pupils have been affected by busing orders related to desegregation.

Second, the law. The Supreme Court has never found in the Constitution a requirement that schools or any other public facility be racially balanced. What it declared eighteen years ago in *Brown v. Board of Education* was something very different: the right to be free of legally imposed segregation.

In the Charlotte case last April, Chief Justice Burger quoted from the *Brown* opinion the central passage disapproving the old doctrine of deliberate separation of the races. The Chief Justice said the lower court in the Charlotte situation had used population ratios only as a "starting point" to overcome the entrenched vestiges of a segregated system. He added:

"If we were to read the holding of the District Court to require, as a matter of substantive constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse."

What has happened, in the view of many qualified lawyers, is that some lower courts have gone wrong. They have not heeded Chief Justice Burger's admonition against raising racial balance to the status of a constitutional right. They have slurred the distinction between school segregation imposed by deliberate policy and one-race schools resulting from neighborhood patterns. They have called for busing to overcome both situations.

In these circumstances, public concern about busing is wholly understandable. The suburban family that thinks its children are going to be taken fifty miles by bus every day to an inner-city school may well be frightened. And it is clear enough that many Americans today do think just that, however baseless lawyers may believe their fears to be.

A President interested in leading his country past such a divisive problem might have made it the occasion for an imaginative program to deal with the difficulties of race and public education in our cities. That would mean money, lots of it, and a recognition that money is not enough—that we do not know how to reach many children in our urban environment. It would mean commitment and effort.

But instead of trying to deal with the social and educational failure of inner-city schools, the source of so much of the concern about busing, he chose over a two-year period to make busing itself the issue. He chose politics.

Even the other night, when he talked to the country on television, Mr. Nixon could have sought to defuse the issue. He could have done so by explaining and assuring. He might, for example, have said that our national effort to end segregation has been a noble and necessary one—as it has—but that we must not be insensitive to other values. He might have expressed confidence in the ultimate judgment of the Supreme Court.

What he did do was to raise fantasy devils in the minds of his listeners—intractable judges, "social planners who insist on more busing even at the cost of better education."

He projected himself as the white knight who would save the people from the courts and from the Constitution.

It would be hard to imagine a more cynical or a more dangerous use of Presidential power in our democracy, with its legal tradition, than to challenge the idea of law. It is up to the lawyers now, and the others who care, to understand that the issue is no longer busing: It is the legal order.

BADILLO OPPOSES CON EDISON ASTORIA PLANT

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BADILLO. Mr. Speaker, on March 25, I testified at a U.S. Army Corps of Engineer hearing on the environmental issues involved in Con Edison's proposal to build a new fossil-fuel plant in Astoria, Queens.

The text of my testimony follows:

The Proposed Consolidated Edison Astoria Power Plant

(Testimony of Congressman Herman Badillo, 21st District, New York at U.S. Army Corps of Engineers public hearings, March 25, 1972)

It has been said that Consolidated Edison's proposal to build a new fossil-fuel plant in Astoria represents a classic example of the issues involved in reconciling the need for reliable power with the equality urgent need for improving the quality of our environment.

But in this case we are not really concerned with the preservation of a scenic area or the protection of marine life; we are concerned with the very serious threats to life and health posed by a facility which would add measurably to the sulfur oxides, nitrogen oxides and particulate pollutants which have made this area of Queens among the lowest air quality areas in the nation.

In my judgment, there are two basic questions presented by Con Edison's proposal:

1. Whether construction of any additional power plants, particularly fossil-fuel plants, should be permitted in New York City at all; and

2. Whether construction of this particular plant is the best possible means of providing additional power reserves.

It is a matter of record that the power to be generated by the Astoria plant is not intended to meet day-to-day needs when it would be completed, but rather to add to the company's reserves. In this regard, it is important to keep in mind that even without the 800 megawatts Astoria would generate, Con Edison's reserve capacity would still exceed by a comfortable margin the reserve requirements considered adequate by the Federal Power Commission and the New York State Public Service Commission, and that margin is exclusive of outside power purchases—an area in which Con Edison, at long last, is moving aggressively.

As far as my first question is concerned, I am opposed to the construction of any new power plants in the City of New York. The only advantage they present is a cost saving by not having to construct transmission lines. However, the yet-unanswered questions regarding the safety of nuclear plants and the clear threat to air quality posed by fossil-fuel plants are more than sufficient grounds for prohibiting new plant construction in the city. Queens Councilman Tom Manton recognized this some time ago and his bill before the City Council should have been enacted long before this.

The Astoria expansion would be located in the geographic center of New York City, which makes it readily understandable how its emissions would have an effect in other communities. I am convinced that this site, of all conceivable sites within the city, is potentially the most dangerous to public health. As a matter of fact, the site was chosen only because Con Edison happens to own that particular piece of land. Years ago, when the company chose sites for its future power plants, Astoria was singled out because of its central location. As a result, that unfortunate community has the heaviest concentration of fossil-fuel plants in the country. We should be cognizant of that and not act to perpetuate the planning errors made by Con Edison years ago.

The second question goes right to the heart of the key issues which the Corps of Engineers must weigh under provisions of the National Environmental Quality Act.

Let us look first at the effect the Astoria plant would have on the quality of air in the area and in the city as a whole. As far back as the fall of 1969, the city's Air Resources Commissioner, Austin N. Heller, concluded that the Astoria expansion would produce "serious deterioration of air quality in New York City." A year later, the National Air Pollution Control Administration studied the Astoria proposal and found that the plant would make it impossible "to meet reasonable air quality standards."

Those conclusions were based on findings that the sulfur oxides, nitrogen oxides and particulate pollutants which would be emitted from the Astoria plant would aggravate an already-critical air quality situation, particularly in Queens and the Bronx, and would also make it impossible for these boroughs to meet federal and state air quality standards.

Con Edison maintains that the Astoria expansion would actually decrease sulfur oxide levels because the plant would burn low-sulfur fuel and as much sulfur-free gas as would be available. It should be pointed out, however, that even with low-sulfur fuel oil, the expanded Astoria plant would add 28,000 tons per year of sulfur oxides to the air in Queens and the Bronx—equal to 25 per cent of all such emissions in the entire city.

The amount of particulate matter in New York's air already exceeds acceptable federal levels and the Astoria expansion would emit 1,700 tons a year of such particulates as fly ash, soot and smoke. This is not a question of aesthetics at all; these particulates would greatly worsen the health effects of the sulfur oxides.

With regard to nitrogen oxides, the Astoria plant would have a worse effect than all the cars, trucks and buses which operate daily in the city. These pollutants are a serious health hazard in themselves—producing chronic respiratory diseases—but they also are a key element in the poisonous type of smog which afflicts Los Angeles.

In view of these threats, can the Corps of Engineers properly conclude that the Astoria plant is the best means available for increasing Con Edison's power reserves? The answer is clearly no.

Even without the four new power plants Con Edison plans to put into service (outside the city) in the next few years, the availability of purchase power—clean power that would add in no way to the city's air pollution—makes Astoria totally unnecessary.

After insisting for years that it could not obtain additional power from the Power Authority of the State of New York, Con Edison finally has contracted for 500,000 kilowatts during the summer and as much as 200,000 kilowatts during the winter starting in 1973. Negotiations are advancing with Hydro Quebec for an additional 500,000 kilowatts and perhaps even more, starting around 1977. Other planned purchases include 40,000 kilowatts from the Maine Yankee Atomic Plant for four years starting in 1973, from Rochester Gas and Electric and from Niagara-Mohawk.

As a matter of fact, Con Edison has been able to contract for 395,000 kilowatts more for the coming summer, a sharp increase over what it was able to purchase last year.

In conclusion, I am asking the Corps of Engineers to deny a permit for construction of the Astoria plant because it would be a serious and unwarranted threat to health in the worst air quality area of the city and because Con Edison's reserve needs would be better met through increased purchases of power from the Power Authority of the State of New York, Hydro Quebec and others.

Should construction of the Astoria plant be permitted, its emissions would make Queens and the Bronx virtual air quality wastelands. The health and lives of thousands of New Yorkers, some not even born, are very much at stake here.

IMPROVEMENTS AT FAIRBANKS INTERNATIONAL AIRPORT

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BEGICH. Mr. Speaker, recently, the Airline Pilot's Association completed a study of the conditions of our Nation's airports, which included a State by State and airport by airport inventory of the availability of key navigational facilities, including towers, radar service, runway and approach lights, instrument landing system—ILS—runway and identifier lights—REIL—and visual approach slope indicators—VASI.

In Alaska, of the 26 commercial airports, only 9 have control towers and only four are equipped with radar. Alaskan airports have a total of six instrument landing systems, but 66 are needed. There are 72 runways needing approach lights and only 20 are installed; six runway end identifier lights are in service, but 46 more are needed. Visual approach slope indicators are in service at 22 runways, but 50 more are needed.

Mr. Speaker, I bring these statistics to the attention of my colleagues, as well as the following resolution from the Fairbanks North Star Borough requesting the Federal Aviation Administration to proceed with the installation of an ILS system and glide slope on one of the runways at the Fairbanks International Airport, for consideration, especially before appropriation time comes again.

The resolution follows:

By: John A. Carlson
Introduced: 2/24/72
Adopted: 2/24/72

Resolution No. 72-13—A Resolution Requesting Federal Aviation Administration To Proceed With the Installation of an Instrument Landing System and Glide Slope on Runway 01, Fairbanks International Airport, Fairbanks, Alaska

Whereas, due to its geographical location, Fairbanks International Airport, Fairbanks, Alaska, is a natural center for trans-continental flights; and

Whereas, Fairbanks International Airport is utilized by several large commercial airlines as well as private individuals; and

Whereas, numerous pilot reports have been made concerning problems encountered during landings at Fairbanks International Airport; and

Whereas, these problems are a direct result of the deficient equipment presently being utilized on Runway 19, and are compounded by the ice fog conditions particularly prevalent on the approach to this runway; and

Whereas, installation of an instrument landing system on Runway 01 would provide a wider margin of safety and a better percentage of flight completion:

Now, therefore, be it resolved by the Fairbanks North Star Borough Assembly that the Federal Aviation Administration is requested to proceed with the installation of an instrument landing system and glide slope on Runway 01 at Fairbanks International Airport at the earliest possible date.

Passed and approved this 24th day of February, 1972.

JOE LAWLOR,
Presiding Officer.

COUNTER-ADVERTISING

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DORN. Mr. Speaker, broadcasters are justly concerned about the growing tendency toward excessive Federal regulation and censorship. Broadcasters are alarmed over proposals such as counter-advertising and Federal court orders which would deny them the fundamental right to operate as a business in the public interest. They fear abridgment of their basic right of freedom of speech. The American people are supporting the right of their broadcasters to exist in the traditional concept of free enterprise.

Mr. Speaker, I commend to the attention of the Congress and the American people the following timely and splendid resolution unanimously adopted by the South Carolina Broadcasters Association.

RESOLUTION

Whereas, The Federal Trade Commission has advocated that Broadcasting alone, among all advertising media, should be compelled to sell time for counter-advertising that attacks broadcast commercials, and that broadcasters should be compelled to provide additional free time for such attacks, and

Whereas, This proposal by the FTC would cripple or destroy the financial basis which supports Broadcasting's programming services and other important social contributions, because common sense and past experience shows that it would be folly to expect advertisers to remain interested in Broadcasting as a proper advertising media under the enforcement of the counter-advertising proposal, and

Whereas, This proposal by the FTC seeks to obtain, indirectly, through the rules or policies of the Federal Communications Commission, a degree of power over broadcast advertising which Congress has not seen fit to grant to the FTC with respect to any kind of advertising, and would further force on individual Broadcast licensees a role the FTC admits it cannot fulfill, and

Whereas, This proposal would broaden the chaos that has already resulted from the FCC's and the Courts' misguided and illegal expansion of the "Fairness Doctrine" into commercial advertising, and

Whereas, Broadcasters, in no way, seek to defend false and misleading advertising or any other form of advertising that is contrary to law,

Now therefore be it resolved, That the entire membership of this Association expresses its strongest feelings that counter-advertising would impose on Broadcasters an impossible administrative burden, hold them responsible for judgments in areas of controversy outside of their competence, set them up for criticism from the advertiser, the counter-advertiser, and the public, and subject them to fine or the loss of license if the Federal Communications Commission or the Federal Courts later disagree at their leisure with broadcaster judgments made under stress, all the while diverting broadcast time for counter-advertisements that ultimately will sap the economic life blood of broadcasts licensees and destroy the advertiser supported broadcasting system, and

Be it further resolved, That this Association strongly urges and implores the members of the South Carolina Congressional Delegation to expend every effort in the defeat of this proposal, and to encourage their colleagues in the Senate and House of Representatives of the United States also to work earnestly and energetically for the defeat of this proposal.

TV VIOLENCE AND CHILDREN

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. MURPHY of New York. Mr. Speaker, hearings were held last week by JOHN O. PASTORE, chairman of the Senate Communications Subcommittee into the Surgeon General's report on the impact of televised violence on human beings. The hearings made a great contribution toward rectifying the false impression created by the original news reportage on the report to the effect that TV violence was unharmful. The hearings also clarified the Summary Report of the Surgeon General's Advisory Committee itself which, in my judgment, did not accurately portray the serious implications of the research findings of the social scientists who made contribution to this project.

One of the first scientists who challenged the summaries advanced by the Surgeon General's Advisory Committee was Dr. Robert Liebert from the Department of Psychology at the State University of New York at Stony Brook, who had made a major contribution to the Surgeon General's TV violence project. Dr. Liebert and his associates, Dr. John M. Neale and Emily S. Davidson, spent a great deal of time with me and members of my staff reviewing the research which disputed the Advisory Committee's conclusion that TV violence caused aggression on the part of only a few predisposed youngsters.

These scientists proved to me as Dr. Liebert put it:

> Beyond the reasonable shadow of a doubt that exposure to television violence, sometimes for periods of only a few hours, and in some studies even for a few minutes, can and often does instigate aggressive behavior that would not otherwise occur among entirely normal children.

Not only did he point to the research which proved that TV violence influenced normal children, the research showed that it influenced substantial numbers of American children from every conceivable type of background. And in a sense, as Dr. Liebert testified, a child who might never watch aggressive TV shows could be the target of aggression because one of his playmates has become more aggressive because of viewing TV violence and selects him as a victim. Dr. Liebert concludes, and rightly so:

> That any and every American child can be affected by the present TV violence offerings.

Dr. Liebert, as a witness before the Pastore committee last Wednesday, March 22, presented an excellent summary of what the research findings were on children and TV violence. His testimony is as follows and I recommend this important statement as must reading for every Member of the House who is concerned with the mental health of our Nation's youth.

The testimony follows:

TELEVISION AND CHILDREN'S BEHAVIOR [1]

(Robert M. Liebert, Ph.D., Department of Psychology, State University of New York at Stony Brook, Stony Brook, N.Y.)

As a child psychologist, I have specialized in children's imitative learning. My work for the Surgeon General's inquiry included two research contributions and an overview of the literature on television and children's behavior. Because of the latter, I had an opportunity, over the past year, to read and study all of the technical documents, research reports, and summaries, as they were prepared, and to evaluate them in the light of past and other recent research.

I shall try here briefly to summarize, from this vantage point, the state of our present knowledge and reflect on some of its probable implications for the future.

Virtually every American home has at least one television set; many now have two. And they are used. It has been estimated that a child born today will, by the age of 18, have spent more time watching television than in any other single activity but sleep. Exposure to this medium thus constitutes a more pervasive, common experience during the youngster's formative years than has been known in any other large society through the whole history of civilized man. We now know a great deal about the effects of this exposure.

TELEVISION IS A TEACHER: WHAT IS BEING TAUGHT?

In design, of course, much of what children are exposed to on the air today is intended to be entertainment and, doubtless, much of it is entertaining. But children are also taught by what they see. Perhaps the best documented and least disputed affirmation that can be made is that virtually all children can and do learn from television. What they learn depends on what they are shown.

Based on the extensive surveys by Professor George Gerbner and his associates at the Annenburg School of Communications, we know that what children are shown on contemporary television entertainment is heavily saturated with violence. Gerbner (1972) reported that the frequency of overt physical violence during prime time and Saturday morning network programs during the Fall of 1969 was such that eight in ten plays contained violence, with the frequency of violent episodes running about eight per program hour. Children's cartoons, which have long been the most violent of programs, actually increased their lead in violence portrayals from 1967 to 1969.

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[1] Portions of this testimony are based on the paper "Television and children's aggression: how much do we know?" by Robert M. Liebert and John M. Neale, and on the paper, "Television violence and Children's aggressive behavior: the weight of the evidence" by Emily S. Davidson, Robert M. Liebert, and John M. Neale.

Our first question, then, might be whether children actually learn new violent and aggressive behaviors from watching television. An enormous body of scientific literature, spearheaded in large measure by the efforts of Professor Albert Bandura of Stanford University, has shown that such learning does occur. Bandura's findings, widely published and cited both in the professional literature and in earlier congressional hearings, do not need to be detailed here. Review after review has concurred with Professor W. Weiss' recent statement that "there is little doubt that, by displaying forms of aggression or modes of criminal and violent behavior, the media are 'teaching' and people are 'learning.'"

If children can learn aggressive behavior from watching television, does that mean that such learning will, in turn, lead to the instigation of a greater willingness to actually behave aggressively? Extensive scientific inquiries both prior to, and conducted for, the Surgeon General's exploration, show that the answer is "yes."

Television is a direct instigator of aggression

An example. To illustrate the logic that underlies some of this research, and also to show the manner in which evidence continues to accumulate, consider a recently reported study with which the Surgeon General's Advisory Committee did *not* deal. The investigation, conducted by Faye Steuer, James Applefield, and Rodney Smith, was recently published in the *Journal of Experimental Child Psychology*. Designed to show the aboslute degree of control which TV violence can have on naturally occurring aggressive behavior, this particular study involved ten normal youngsters, the entire population of those enrolled in the preschool of the University of North Carolina's Child Development Center. The children, boys and girls, comprised a racially and socioeconomically mixed group who knew each other before the study began. First, they were matched into pairs on the basis of the amount of time that they spent watching television at home. Next, to establish the degree to which aggressive behavior occurred among these youngsters before any modification of their television diets, each was carefully observed for ten sessions, in play with other children, and the frequency of aggressive responses recorded.

Steuer and her associates used a demanding measure of physical interpersonal aggression, including: (a) hitting or pushing another child, (b) kicking another child, (c) assaultive contact with another child which included squeezing, choking, or holding down, and (d) throwing an object at another child from a distance of at least one foot. Only these severe acts of physical aggression were recorded. The baseline established a remarkable degree of consistency within each pair, prior to the modification of television diet. No one could say, then, that the children differed from one another at the beginning.

Next, Steuer and her associates asked about the effects of television. One child in each pair observed, on eleven different days, a single aggressive television program taken directly from Saturday morning program offerings, while the other member of the pair observed a nonaggressive television program. Subsequent observations of the children at play provided continuous measures of interpersonal physical aggressive behavior by each child. Changes from the original measures, if any, would have to be caused by TV effects.

By the end of the eleven sessions, the two groups had departed significantly from one another in terms of the frequency of interpersonal aggression. In fact, for every pair, the child who observed aggressive television programming had become more aggressive than his mate who watched neutral fare. In most of the cases, these changes were truly striking. Steuer's data are shown, graphically, (not printed in the RECORD) in the written version of my statement. The results are not new or unique.

Based on more than thirty other studies, involving thousands of normal children, Dr. Steinfeld's Committee reported to him:

"As matters now stand, the weight of the experimental evidence from the present series of studies, as well as from prior research, suggest that viewing filmed violence had an observable effect on some children in the direction of increasing their aggressive behavior." (1972, p. 67).

It was further noted, in the Committee's summary statement, that "there is a convergence of the fairly substantial experimental evidence for short-run causation of aggression among some children by viewing violence on the screen and . . . from field studies that extensive violence viewing precedes some *long-run* manifestations of aggressive behavior." (1972, p. 10).

Social scientists are carefully trained to avoid statements of certainty. In fact, even in the physical and biological sciences, professional and scientific reports are always couched in terms of probabilities rather than absolutes. Notwithstanding this tradition, it seems, to me, that it has been shown beyond the reasonable shadow of a doubt that exposure to television violence, sometimes for periods of only a few hours, and in some studies even for a few minutes, can and often does instigate aggressive behavior that would not otherwise occur among entirely normal children.

HOW GENERAL IS THE EFFECT?

Just as not all people who go to college are successful, no one would expect that every child who watches ten minutes of violence, whether in an experiment or at home, will suddenly erupt into aggressive behavior. We must ask about the pervasiveness of the effect disclosed by these studies. The Committee's report states that the observed effect might hold for ". . . a small portion or a substantial proportion of the total population of young television viewers. We cannot estimate the size of the fraction, however, since the available evidence does not come from cross-section samples of the entire American population of children." (1972, p. 7).

The term "cross-section sample" has a rather subtle, technical meaning which may have led to some confusion. The available evidence is based on youngsters from every conceivable type of background—both rural and urban—and has included samples of both middle- and lower-class children from the North, the South, the Midwest, and the West Coast. No region has been unrepresented, no economic group omitted, and no ethnic minority systematically excluded. One team described its own results as showing ". . . for relatively average children from average home environments continual exposure to violence is positively related to acceptance of aggression as a mode of behavior." The majority of the pertinent investigators whose work came to the Committee's attention might have described their own findings in the same way—and most did.

ARE SOME CHILREN "PREDISPOSED" TO BE AFFECTED BY TV VIOLENCE?

The Committee's report correctly noted that "we did not need research to know that at least an occasional unstable individual might get sufficiently worked up by some show to act in an impetuous way." Thus, appropriately, none of the investigations focused on "unstable individuals." The subjects were almost all normal children from average American homes. It is within this group that we have seen a significant, causal relationship between viewing TV violence and various measures of aggression in many children. It has been suggested, however, that the effect is limited to children who are "predisposed" to it. How should one interpret this statement?

At times, for a variety of reasons, each of us is somewhat more or less predisposed to work hard, eat a steak, or go to a football game; likewise, since not every child will become more aggressive after watching a particular sequence of television violence, we might say that some children are more "predisposed" to show the effect at a particular time than are others. It is presumably in this vein that we should take the Committee's observation that the causal sequence is very likely applicable only to those who are predisposed to it. But, if we so view the remark, then we must be careful to understand what has been said. As Dr. Steven Chaffee, who made substantial contributions to the research and overviewed the correlational studies, has recently noted:

"The 'predisposition to aggression' limitation is to some extent a near universal or tautological proposition, in that most children almost surely have at least some latent aggressive tendencies and are thus 'predisposed' to aggression if so stimulated. At the other extreme, it could be taken as a statement that only 'a few bad kids' (presumably someone else's, not yours or mine) can be influenced by media violence. . . . [But] several of the sample were [statistically controlled] partialled on such factors as sex, socio-economic status, age, and similar variables that often 'wash out' spurious relationships in social research; the link between violence viewing and aggressiveness remained, in both experimental and field survey studies." (1972, p. 12).

Going on to discuss other evidence as well, Dr. Chaffee concludes: "perhaps a more defensible conclusion would be that there is a small subgroup of habitually passive and unaggressive children who will *not* be stimulated to perform aggressively regardless of what they see on television." The research, as I see it, generally favors Chaffee's analysis. The effects are not limited to a small number of peculiarly predisposed children.

Moreover, aggressive actions are by their character social phenomena, so direct instigation is not the only way an average child can be harmed by violence on television. Suppose, for example, that a particular youngster either never watches aggressive television shows, or is for some reason unaffected by them. He may still be profoundly influenced, as the *target* of aggression, simply because one or more of his playmates has become more aggressive as a result of viewing television violence and selects him as a victim. For this reason, there is an important sense in which we can say with confidence that any and every American child can be affected by the present TV violence offerings.

WHAT SHOULD BE DONE?

The Surgeon General's Committee asked: "How much contribution to the violence of our society is made by extensive violent television viewing by our youth?" (p. 7). The answer appears, to me, to be that such viewing makes a significant contribution. It is not, of course, the only contributing factor to aggression. Cigarette smoking is by no means the only (or even the most influential) factor contributing to heart disease; moderate exercise is not the only factor which contributes to good health. The question is, really: "How much influence does any one factor have to show in order to be of social concern and practical importance?"

On the basis of evaluation of many lines of converging evidence, the following judgment seems, to me, warranted: The demonstrated teaching and instigating effects of aggressive television fare upon children are of sufficient importance in the United States to warrant appropriate remedial action.

From the 1906 Food and Drug Act, governmental offices have taken action to eliminate potential health hazards. It might be argued that entertainment fare should be outside the domain of such restrictions. But it already is squarely in it. Certainly, governmental control over the level of violence on television would be an extreme step which may have some undesirable effects. But there are alternatives. Violence is not intrinsic to entertainment offerings, and voluntary control is possible.

My comments thus far have focused upon the instigating effects of television for aggressive behavior. But that is only one side of the issue, the negative one. In an extremely important experimental field study, conducted by Drs. Aletha Stein and Lynette Friedrich, it was shown that exposure to even a relatively brief diet of prosocial television programs (in this case, the series Mister Rogers' Neighborhood) can foster a variety of positive, cooperative behaviors in some children. Other research, from many laboratories including our own, have suggested that children may learn substantive academic lessons, to share with and help others, and to develop a variety of positive social skills through television programs. The evidence also suggests that programs which are specifically designed with psychological and educational principles in mind can prove to be highly enjoyable to youngsters while effectively transmitting positive lessons to them and thus producing significant benefits for society. Therefore, I would like to issue a specific call for 1) an immediate and sharp decrease in the amount of violence in programs directed primarily to children, and 2) an equally enthusiastic effort to increase the number of programs designed to teach positive lessons.

Those of us who have taken occasion, on the basis of the research, to criticize TV's present offerings, may be misunderstood. I think for most of us, and I can say surely for myself, that it is not the medium but only its present message that we are criticizing. Television, although it will undergo many metamorphoses as cassettes, cartridges, cable TV, and the like emerge, is here to stay. And that, I think, is a good thing. Television is a powerful teacher. In a complex society like our own, powerful and effective teachers are very much needed. At the same time, the greater the power of the teacher, the greater is its capacity to work for either good or harm. The choice is ours.

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IN SUPPORT OF THE UKRAINE

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SMITH of New York. Mr. Speaker, during the past many years, injustices in the form of occupation, imprisonment and repression have dominated the lives of the citizens of Ukraine, Russia. Soviet dominance over this area has created untold suffering for the people of the Ukraine.

Mr. Speaker, I wish to take this opportunity to place into the RECORD a statement of Mrs. Ulana Celewych, National President of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc. I urge my colleagues to take heed of her words and take a moment to reflect on the personal situations of the millions of captive Ukrainians presently under Soviet dominance.

I herewith enclose Mrs. Celewych's statement:

STATEMENT OF MRS. ULANA CELEWYCH, NATIONAL PRESIDENT

On behalf of the Women's Association for the Defense of Four Freedoms for Ukraine, Incorporated, of which I have the privilege of being the National President, I hereby state my shock and indignation and protest against the wave of arrests in Ukraine performed by the Russian Secret Police Force (KGB).

In these restless times many individuals, groups, and statesmen, including President Richard M. Nixon, in order to establish long-lasting peace and prosperity for generations to come, are exhibiting a new approach to satisfy human needs, individual and national rights, and identity.

At the same time, the Soviet Russian Colonial government, founder member of the United Nations Organization, signatory of the Universal Declaration of Human Rights, and-socalled "volunteer missionary of good will" for world community, is for Ukrainians, a brutal invader who occupied the Sovereign Ukrainian Republic and by force in holding it in the USSR system.

In conjunction with the existing reality of Russia's constant violation of human rights of the 48 million native Ukrainians on their own territory (majority of the population, 79%), our organization, in November 1969 presented a petition supported by 5,000 signatures to Ambassador Finger, who accepted on behalf of Ambassador Charles Yost, in which we expressed our concern of the increased terror, russification, restriction for continued education, deprivation of private property, as in the case of Mrs. Valentyn Moroz in Ivano-Frankivsk, a city in West Ukraine, mass arrrests of the people in 1961, 1965, 1967, 1969, and 1970, particularly among young scholars who grew up under Soviet occupation and who oppose the Soviet way of life imposed upon them; thus all these things creating an alarming situation in Ukraine for a long time.

In our opinion, Brezhnev is restoring the neostalinism and is again practicing genocide in the Ukrainian nation, particularly on the Ukrainian intellectuals.

Now again, on January 14, 1972, over two million Americans of Ukrainian descent in the U.S.A., as well as all Ukrainians throughout the free world were shocked by the news via the UPI and Reuter Press Agencies about the arrest of 11 leading Ukrainian dissident intellectuals on charges of "nationalistic agitation" and deliberate false fabrications defaming the Soviet State. The arrests were carried out on January 11, in the cities of Kiev, Lviv, and Odessa. Later, reports raised the number of arrested to 19, then to 36, and at the present time the figure has grown to 200, and there are possibilities that the number is much higher and it is questionable if the exact number will ever be known in the free world.

Sources said that the arrests were preceded by a series of raids by the Soviet Secret Police Forces (KGB) on the homes of the dissidents in Kiev, Lviv, and Odessa. Several European newspapers also stated that the KGB had begun a series of raids and interrogations in other large industrial and university cities in Ukraine, including Czernivtsi, Poltava, Kharkiv, Riwne, and Dnipropetrovsk. There the action was directed mainly against younger students, professors and writers, especially those who had been active in demanding Constitutional and national rights for Ukraine.

Because of the censure and russification policy forbidding free expression in existing government sponsored publications and newspapers, the Ukrainians were forced to establish their own news media for the purpose of objective information.

According to reliable sources, the KGB latest arrests were meant to destroy the writing and circulation of the underground newspaper "Ukrainian Herald" which carries information about secret trials and arrests of Ukrainians, russification, intentions of anti-Ukrainianism, national discrimination, and religious persecution. The latest issue of the Herald contained over 100 typewritten pages of detailed information about Soviet repressions in Ukraine.

Among the arrested on January 11, are Vyacheslav Chornovil, writer and author of the Chornovil Papers; Ivan Dziuba, author of Internationalism or Russification (a study in the Soviet nationalities problem); Ivan Switlychnyj, a literary critic; Wasyl Stus, poet; Ihor Kalynec, poet; and others. Among those arrested are also women. Larissa Karavansky, M.D., wife of Swyatoslav Karavansky who was recently sentenced to many years imprisonment; Irene Stasiv-Kalynec, poetess and wife of Ihor Kalynec; Stephany Shabatura, artist and designer; Stephanie Hulyk, a mother of an 8 month old infant and member of the association to preserve historical monuments; and Raisa Moroz, wife of Valentyn Moroz, whose fate is unknown.

We, the members of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc., on behalf of the millions of voiceless Ukrainians in the homeland of Ukraine, and on behalf of Ukrainian prisoners and their families appeal to President Richard M. Nixon, Secretary of State, William P. Rogers, U.S. Ambassador to United Nations, Honorable George Bush, Secretary General of United Nations Organization, Honorable Kurt Waldheim, to the majority and minority leaders of both Houses, and to the Honorable Senators and Congressmen, to raise their voices in support of rights for Ukrainians, and to take proper action towards the Soviet government to release all political prisoners, particularly the intellectuals, ailing, aged, and young mothers who have been torn away from their infants who need them so desperately. It is time to stop the Russian interference in the way of life and of the Constitutional rights of the people of Ukraine.

TAPPING THE TRUST FUND

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. KOCH. Mr. Speaker, Transportation Secretary John A. Volpe has proposed a vitally needed change in the funding of our transportation programs. His recommendation for the creation of a single urban fund to provide a unified administration and financing of urban ground transportation programs—both highway and mass transit—has received considerable support from the news media. At this time, I insert in the RECORD one such statement issued by WMCA radio:

TAPPING THE TRUST FUND

The federal highway trust fund is a machine for turning money into concrete. The fund now takes in $5-billion a year, mostly from federal gasoline taxes. The more people drive, the more money goes into the fund. And every penny of that money must be spent on highways—whether the country needs them or not.

This past week the Secretary of Transportation told Congress some of the trust fund dollars ought to be spent on mass transportation in the cities—which the country certainly needs. He suggested starting with $1-billion from the trust fund next year.

We think that's a tremendous first step toward solving our mass transit woes right here in the New York metropolitan area.

The problem now is to get Congress to pass the Transportation Department's plan to tap the highway fund. So when you're looking over the candidates this year, you might want to ask where they stand on mass transportation.

A DIFFERENT KIND OF JOBLESSNESS

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EDMONDSON. Mr. Speaker, today we hear a great deal about the plight of many of our minority groups and underprivileged citizens and are sincerely seeking answers for a better way of life for those who need help and hope. However, I believe we have overlooked a silent minority in our Nation who represent 20 percent of the total unemployment in the United States—a group of people 45 and older who are now unemployed or underemployed. Grim statistics show that once the older worker becomes unemployed, he runs a greater risk of being without a job for a longer period of time, and many become discouraged and withdraw unwillingly from the work force.

It is very gratifying to know that one of our most distinguished and able colleagues, in the other body, the Honorable JENNINGS RANDOLPH, is deeply concerned about this situation and has introduced the Middle-Aged and Older Workers Employment Act, which would provide an effective program of assistance to this age group. He has written an excellent letter to the editor of the Washington Post, March 7, 1972, responding to an article by J. W. Anderson entitled "Weighing the Impact of a Different Kind of Joblessness." I include that letter for your careful consideration, and it is my earnest hope that the Congress will act speedily and favorably on his legislative proposal. It follows:

WEIGHING THE IMPACT OF A DIFFERENT KIND OF JOBLESSNESS

It was with genuine interest that I read the February 5 article by J. W. Anderson entitled "Weighing the Impact of a Different Kind of Joblessness."

During the past 3 years, unemployment has jumped precipitously from 2.7 million to 5.1 million, nearly a 93 per cent increase. Yet, these statistics reflect only a small part of a very grim economic picture. These figures, for example, do not reflect the underemployed. Perhaps even more important, they do not include the labor force "drop outs," those who have given up the active search for work.

This is particularly significant for workers aged 45 and older. Nearly one million individuals in this age category are now classified as unemployed, approximately 67 per cent higher than in January 1969. However, this really only represents the tip of the iceberg because there is a substantial amount of "hidden unemployment" among older workers.

Today there are thousands of individuals 45 and older—and perhaps even millions—who are not counted among the unemployed because they have stopped looking for work. In many cases, this is the result of a prolonged period of fruitless searching for employment. Others have withdrawn from the work force involuntarily after exhausting their employment compensation. Large numbers have also been forced to take actuarily reduced social security benefits only as an alternative to sporadic work patterns.

There are now approximately 2.5 million men in the 45 to 54 age category who have withdrawn from the work force, too often unwillingly. Assuming that just 20 percent of this total wanted and needed employment—which is probably a conservative estimate—this would add another 500,000 to their jobless total. In addition, there are 11.9 million women in this age category who are not in the labor force. Assuming that only 5 percent of this total also wanted and needed work, there would be another 600,000 added to the jobless figures for persons 45 and older. Consequently, if the hidden unemployed were also counted, it is entirely possible that the jobless level for middle-aged and older workers would be approaching 2.1 million.

Once unemployed, the older worker also runs a much greater risk of being without a job for a comparatively long period of time. For unemployed persons 45 and older, the average period of being without work is about 16 weeks, approximately 35 percent longer than the national average. Moreover, about one out of every three jobless individuals 45 or older—in contrast to one in five for younger persons—has been looking for work for 15 weeks or longer.

Another important point which should not be overlooked is the large numbers of older workers have lost their pension coverage as well as their jobs. This of course, will mean a markedly reduced income in retirement.

Yet, our nation still lacks an effective policy to maximize job opportunities for persons 45 and older. By whatever measuring device one chooses to use, they have been grossly underrepresented in work and training programs. They now account for less than four percent of the total first time enrollments in existing manpower programs. However, they represent 20 percent of the total unemployment in the United States; 26 percent of all joblessness for 15 weeks or longer; 34 percent of unemployment for 27 weeks or longer; and 37 percent of the civilian labor force.

It was for these reasons that I have introduced the Middle-Aged and Older Workers Employment Act. This measure would establish a midcareer development services program in the Department of Labor to provide training, counseling and special supportive service for underemployed or unemployed persons 45 and older. Additionally, it would authorize placement and recruitment services in communities where there is large scale joblessness because of a plant shutdown or other permanent reduction in the work force.

Support for this concept was strongly indicated at the recent White House Conference on Aging. And I am hopeful that in 1972—the year for implementing the recommendations of this historic Conference—this measure will be enacted into law.

JENNINGS RANDOLPH,
Chairman, Subcommittee on Employment and Retirement Incomes of the Senate Committee on Aging.
Washington.

THE ELECTRICITY CRUNCH

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HOSMER. Mr. Speaker, conspicuous in Washington for its enlightened and balanced view of nuclear power development, the Washington Evening Star has again demonstrated a responsible approach to this vital subject.

An editorial in today's edition analyzes the coming crisis in electrical power and the potential for several already completed nuclear plants to help avert it.

The Star recommends that the Congress pass legislation to permit the interim operation of these nuclear reactors. This should be done in view of the potential public hazards of blackouts and brownouts despite the fact that the environmental impact reports required under the National Environmental Policy Act have not been completed.

I would point out, further, that there is no question that the plants will have complied with all applicable Atomic Energy Commission safety requirements. The only reason for the interim licensing is that the environmental impact statement on several of these plants has not yet been completed.

And considering that the environmental impact of nuclear power has already been studied at far greater length than any other industrial process, I consider this a proper approach for Congress to take in meeting the public's needs.

The Star's fine editorial follows:

[From the Evening Star, Mar. 28, 1972]

THE ELECTRICITY CRUNCH

The specter of a national electric power crisis at last is beating on Congress' door and cannot be ignored. But the current alarms are mild compared to the public clamor that will arise if the lights go off in large areas this summer. The lawmakers had better get earplugs if they don't take action soon to prevent that from happening.

Even doing their best they won't be able to assure enough kilowatts everywhere if the summer is long and hot. It's the old story of waiting too long to head off an impending emergency. Government and private industry share the blame, but the fragmentation of authority and the environmental movement are large factors in the dilemma. Congress, however, now has the ball, which is radioactive. It was tossed over from the White

House and deciding on the next play is no easy matter.

What the White House wants Congress to do is cut a temporary detour around the Environmental Policy Act, so that several disputed nuclear power plants can be placed in operation. An administration bill would allow the Atomic Energy Commission to grant "interim" operating licenses before full environmental impact studies (required by the act) have been completed. Those emergency permits would expire in July, 1973, and by that time the environmental findings presumably would be available.

This has, predictably, stirred up a hornet's nest. A procession of environmental spokesmen recently told a joint congressional committee that the proposal assigns higher importance to electric power than to public safety. All the long-debated questions about the ecological effects of "thermal pollution" and the safety of reactors were raised anew.

All are being restudied in depth by the AEC, but this research is far from completion. In fact, the country's whole nuclear power movement is in a limbo caused by last summer's federal court decree that all plants must be subjected to additional studies, to comply with the environmental act. Hence the AEC is bogged down, and cannot grant permits for five large nuclear installations that are ready to begin producing power. Five others that are almost ready also may have to stand idle. It's estimated that these 10 facilities could turn out enough power for the cities of Los Angeles, Philadelphia and Chicago combined.

And if they don't start producing, power reserves in 40 percent of the nation (accounting for 55 percent of the kilowatt usage) are expected to drop below 10 percent. Some areas will have only 5 percent. Since 15 to 20 percent is considered an acceptable minimum, all this points to a dark and sticky summer if the mercury climbs very high.

Considering these omens, Congress should waste no time in authorizing the emergency permits, with one clear understanding: The remaining questions must be cleared up by the expiration date or the plants shut down. That should get some research results.

In any case, the risks seem miniscule. Nuclear generators have been in successful operation for years. They have a splendid safety record, and the AEC has studied them exhaustively all along. Congress should consider, too, the risks to the public in the blackout of large cities, some of which aren't safe even with all the lights turned on.

NEBRASKA RANCHER TO RECEIVE WILDLIFE CONSERVATION AWARD

HON. DAVE MARTIN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. MARTIN. Mr. Speaker, American farmers and ranchers are leaders in the national effort to improve and increase our wildlife resources. The conservation ranchers of the Nebraska Sandhills area are among our most active citizens in this respect. One of these ranchers, Mr. Vic Thompson of Newport, Nebr., was recently named "Nebraska's Outstanding Conservationist of the Year." The Sunday Journal and Star of Lincoln, Nebr., recently carried a news article on this subject and I insert the article "Newport Rancher to Receive Wildlife Conservationist Award."

NEWPORT RANCHER TO RECEIVE WILDLIFE CONSERVATIONIST AWARD

(By Bob Munger)

NEWPORT.—Vic Thompson's Spring Valley Park, just west of this Sandhills community on Highway 20, is the culmination of a dream.

The dream began back in 1938 when Vic and his wife Maude established the first roadside rest area in Nebraska, free to all who cared to stop.

It is for this and other conservation activities that Vic Thompson is named the recipient of the 1972 Lincoln Sunday Journal and Star's "Nebraska Outstanding Wildlife Conservationist Award."

"Maude and I worried about the number of accidents along this stretch of Highway 20," Vic says. "We finally decided we could help by giving some of them an opportunity to stop and rest, then go on refreshed."

The Thompsons would accept no contributions from travelers, nor from anyone else. They provided a cottonwood-shaded glen, cold well water and tourist information. They only asked that visitors sign their guest book.

"The last time we counted the signatures was when Maude was still alive (she died Feb. 9, 1970)," Vic says, "and that year (1968) we had over 4,500 visitors. They came from 47 states, 16 foreign countries and represented 123 different occupations."

In March 1971 Vic was presented a certificate of commendation from President Nixon "in recognition of exceptional service to others, in the finest American tradition."

Thompson has also turned his 1,100-acre ranch into a wildlife refuge, started shelterbelts, planted uncounted thousands of trees and constructed 14 fish ponds. All the ponds are stocked and open to the public for fishing.

"We've got more than 120 acres in shelterbelts alone," Vic says as he tours his ranch. "All of them fenced and unmolested for the growth of wildlife habitat."

Thompson, a member of the Nebraska Stock Growers Assn. and the state division of the Izaak Walton League of America, is active on a number of committees in both organizations. He is also the recipient of an honorary life membership in the Highway 20 Assn. and is a member of the board of the Nebraska Land Foundation.

Vic and Maude began planning in 1966 what he terms the "Centennial Memorial Forest." Several hundred trees are already growing on the hill site "where you can see for 20 miles," he says.

Thompson plans for the ranch to remain as a wildlife refuge and park. He has established a corporation to assure the facilities will always be open and maintained.

WEEK OF CONCERN FOR PRISONERS OF WAR

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, this week, March 26–April 1, the Nation observes a National Week of Concern for Prisoners of War/Missing in Action. Last Sunday, March 26, was also designated as a National Day of Prayer for the lives and safety of the over 1,600 Americans listed as prisoners or missing in action in Indochina. It was 8 years ago last Sunday, on March 26, 1964, that U.S. Army Adviser Capt. Floyd J. Thompson was captured in South Vietnam, thus becoming the first American POW in that conflict. The tragedy of the prisoner situation has been compounded by the fact that the North Vietnamese have refused to release a full and official list of American prisoners being held as required by the 1948 Geneva Convention on the humane treatment of prisoners of war. This has caused untold suffering and hardship for their loved ones, many not knowing whether their husbands, sons, and fathers are alive or dead.

Mr. Speaker, recently stories have been appearing in the press, often based on isolated interviews with recently captured U.S. servicemen, to the effect that the treatment of American prisoners by North Vietnam has been improving and is now quite good. I would like to think that these reports are true and that decent and humane treatment is being applied to all American POW's, as required by the Geneva Convention. But the sad fact is that we have no way of knowing how much of this may have been deliberately staged by Hanoi or to what extent American prisoners are now being afforded decent treatment by their captors. I would suggest that there is one simple way of verifying these reports, and that is for Hanoi to permit the impartial inspection of POW facilities as required by the Geneva Convention which it signed in 1957.

It is our hope that this week of concern will not only demonstrate to the families of these prisoners that we have not forgotten and that we do care, but that it will help to focus world attention on the plight of these men and their families and bring the pressures of world opinion to bear on North Vietnam to comply with the provisions of the Geneva Convention.

Finally, Mr. Speaker, it is my fervent hope, as the author of this legislation, that we will never again have to designate another such week of concern—that as our involvement in Vietnam draws to a close we can secure the release of all American POW's and reunite them with their loved ones before another year passes.

At this point in the RECORD, Mr. Speaker, I include the text of the President's proclamation and the testimony of Deputy Assistant Secretary of State William H. Sullivan before the House Foreign Affairs Committee on February 3 on the POW/MIA situation:

[Weekly Compilation of Presidential Documents, March 13, 1972]

NATIONAL WEEK OF CONCERN FOR AMERICANS WHO ARE PRISONERS OF WAR OR MISSING IN ACTION

(Proclamation 4115. March 10, 1972. By the President of the United States of America a Proclamation)

1,623 American servicemen and some 50 U.S. civilians are now either missing in action or being held captive by North Vietnam and its allies. At the end of this month, the first men to be taken prisoner will begin their ninth year in captivity. This is the longest internment ever endured by American fighting men; it is also one of the most brutal.

The POW/MIA story of this long and difficult war is a tragic one:

The enemy continues adamant in his refusal even to identify all the Americans being held. He continues to flout the Geneva Prisoner of War Convention which establishes minimum humane standards for treatment of prisoners—a treaty to which North Vietnam is a signatory, just as are South Vietnam and the United States and 128 other nations. He continues to block impartial inspection of the prison camps. He continues to deny repatriation for seriously sick and wounded prisoners. He continues to ignore the prisoners' right to regular correspondence with their families.

And so those families suffer in spirit hardly less than their men suffer in the flesh. They live in a nightmare of unremitting anguish and gnawing concern. Many cannot even know whether their loved ones are still alive; those who do know this much, must live with their additional knowledge of the cruel conditions in which the prisoners exist.

Each new chapter in this outrage has stiffened the American people's determination to see justice done. We have stood and will continue to stand united as a nation in our concern and compassion for the prisoners and missing men. We mean to see this matter through.

Concern for the prisoners' plight, moreover, has spread to the people of goodwill around the world—and we may be confident that their humanitarian efforts, though so far rebuffed as callously as our own, will still continue as steadfastly as our own.

The United States has spared no effort—by diplomacy, by negotiation, by every other means—to secure fair treatment of our captive sons and brothers and to obtain their ultimate freedom.

As we set aside a special week of national concern for this continuing tragedy, and a special day of prayer for its resolution, we do so with a determination to persist in this effort—for principle, for peace, for the sake of these brave men and their parents and brothers and sisters and wives and the children some have never seen.

Now, Therefore, I, Richard Nixon, President of the United States of America, as requested by the Congress in Senate Joint Resolution 189, do hereby designate the period of March 26 through April 1, 1972, as National Week of Concern for Prisoners of War/Missing in Action, and Sunday, March 26, 1972, as a National Day of Prayer for the lives and safety of these men.

I call upon all the people of the United States to observe this week with such appropriate ceremonies and activities as will stir and sustain widespread concern for the missing men and prisoners, nourish the patient courage of their loved ones, and—above all—hasten the day of their safe return to home and freedom.

In Witness Whereof, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-sixth.

RICHARD NIXON.

[Filed with the Office of the Federal Register 11:52 a.m., March 13, 1972]

(NOTE. The proclamation was signed in a ceremony at the White House.)

DEPARTMENT DISCUSSES PROBLEM OF U.S. PRISONERS OF WAR AND MISSING IN ACTION IN INDOCHINA

(Statement by William H. Sullivan, Deputy Assistant Secretary for East Asian and Pacific Affairs [1])

I am pleased to appear again before this subcommittee to discuss developments bearing on our prisoners of war and our men missing in action in Indochina which have occurred since I last testified on April 1, 1971. Let me say at the outset that the problem of our captured and missing personnel continues to be a matter of the deepest concern to this administration at the highest levels. This was made clear by President Nixon in his remarks to the families of these men in Washington September 28, 1971, when he said that this problem has "Presidential priority." [2] We are continuing to do all in our power to assist our men held by the enemy, to obtain information about them and word from them, and to secure their earliest possible release.

The basic facts have changed little in the past year. Over 1,600 United States military personnel are listed as missing or captured in Southeast Asia, and over 40 United States civilians are in the same status. According to Defense Department figures, 383 of our men are listed as captured in North Viet-Nam, 92 in South Viet-Nam, and five in Laos. Two United States pilots are known to be captured in China. The missing civilians include three United States newsmen lost in Cambodia. The actual total held as prisoners remains uncertain, due to the other side's continued refusal to identify all prisoners. North Viet-Nam has identified 346 "United States pilots captured in North Viet-Nam," but this list by its own terms provides no information on United States personnel missing or captured in South Viet-Nam, Laos, or Cambodia.

Despite continuing efforts to secure North Vietnamese compliance with the Geneva Convention on Prisoners of War, by which they are bound, the Communist authorities have refused to abide by such convention requirements as impartial inspection, repatriations of seriously sick and wounded, and regular exchange of communications with families. North Viet-Nam's continued refusal to allow impartial inspection of prisoner of war facilities by the International Committee of the Red Cross or another impartial authority only serves to deepen our concern about the actual treatment of our men.

I am glad to note that the Congress has continued its efforts in this area, as witnessed by the unanimous approval by the House of Representatives on October 4, 1971, of House Concurrent Resolution 374, which had its origin in the good work of this subcommittee. As has been done in the past, this resolution was called to the attention of the Communist negotiators in Paris by Ambassador Porter on October 7, 1971. I offer for the record a copy of Ambassador Porter's statement on that occasion.

Before discussing prisoner release in the context of the Government of Viet-Nam/United States proposal for a negotiated settlement of the Indochina conflict made public by the President January 25,[3] let me review briefly some of our other recent efforts to make progress on the prisoner of war issue. As you know, President Nixon in his Indochina peace initiative October 7, 1970, proposed the immediate and unconditional release of all prisoners of war on both sides, without awaiting resolution of other aspects of the conflict.[4] Within the framework of that proposal, the United States and the Republic of Viet-Nam offered the release of all North Vietnamese prisoners of war held in South Viet-Nam in return for the release of all United States and free-world prisoners in Indochina and any South Vietnamese prisoners held outside South Viet-Nam. The South Vietnamese, with our support, have sought the mutual repatriation of all sick and wounded prisoners of war and have unilaterally initiated many such repatriations to North Viet-Nam.

On April 8, 1971, shortly after my last appearance before this subcommittee, the Republic of Viet-Nam with our support proposed that sick and wounded prisoners, and those held for long periods, be interned in a third country. Such neutral internment is envisaged by the Geneva Convention and was specifically endorsed by a resolution of the United Nations General Assembly. Five governments subsequently offered the facilities of their country for such internment. We regret the failure of the Communist side to respond constructively to this proposal.

In May of 1971 the Republic of Viet-Nam announced its intention to repatriate all North Vietnamese sick and wounded prisoners who wished to go to North Viet-Nam. North Viet-Nam broadcast an acceptance of this proposal, and some 600 North Vietnamese were found to be qualified for this purpose. Despite efforts to make known to these prisoners their government's apparent acceptance of the repatriation, when they were interviewed by delegates of the International Committee of the Red Cross all but 13 indicated unwillingness to return to North Viet-Nam. The consent of the returnee is required by article 109 of the Geneva Convention in the case of repatriation of sick and wounded prisoners of war prior to conclusion of hostilities. The Republic of Viet-Nam continued the repatriation effort, and the 13 prisoners of war were aboard a ship off the coast of North Viet-Nam when Hanoi broadcast a further statement rejecting their repatriation.

In a more recent action, the Republic of Viet-Nam announced the release of some 3,000 Viet Cong prisoners of war on the occasion of the Vietnamese national day, November 1, 1971. Nearly 700 prisoners of war were released outright in South Viet-Nam, and the remainder have been released through the Chieu Hoi, or "Open Arms," program. In addition, it should be noted that the Republic of Viet-Nam has regularly released large numbers of civilian prisoners in South Viet-Nam. I regret to report that the other side has failed to respond to these release efforts. There has been only one release of a United States prisoner captured in South Viet-Nam in the past year and no releases of prisoners captured in North Viet-Nam since August of 1969.

THE QUESTION OF MAIL AND PACKAGES

Let me speak about a matter of continuing concern to the families of our captured and missing personnel, and to the United States Government: the question of mail and packages. When I appeared before this subcommittee 10 months ago it appeared that this situation had improved over earlier periods, and testimony was given which suggested that this state of affairs would continue. During 1970 and in the early months of 1971 some 3,000 letters were received from nearly all United States prisoners captured in North Viet-Nam, a far higher rate than earlier periods. Many families were receiving letters at the one-per-month rate announced by North Viet-Nam. Hanoi had announced permission for prisoners captured in North Viet-Nam to receive one package every other month from their families, and there was some confirmation that the men were in fact receiving the packages.

I regret to report that during the following months there was serious deterioration in this record. During the last 9 months of 1971, up to just before Christmas, less than 200 letters were received from fewer than 50 of the prisoners. To the dismay of the families, virtually all packages mailed in August and October 1971 were refused by North Viet-Nam and returned to the senders. Although we hoped that the question of prisoner mail and packages could be handled on a humane basis, it became clear that it would be necessary once again to make known our concern about it. Accordingly, Ambassador Porter spoke on these questions in the Paris meetings on November 4, December 2, and December 9, calling attention to North Viet-Nam's violation of its own announced standards for correspondence. I will provide texts of Ambassador Porter's statements on those dates for the record of this hearing.

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[1] Made before the Subcommittee on National Security Policy and Scientific Developments of the House Committee on Foreign Affairs on Feb. 3.

[2] For test, see BULLETIN of Oct. 25, 1971, p. 447.

[3] For President Nixon's address to the Nation on Jan. 25, see BULLETIN of Feb. 14, 1972, p. 181.

[4] For President Nixon's address to the Nation on Oct. 7, 1970, see BULLETIN of Oct. 26, 1970, p. 465.

Just before Christmas the "Committee of Liaison" in New York announced receipt of 1,001 letters, including for the first time 18 from United States prisoners captured in South Viet-Nam. These letters were of course welcomed by the families who received them. For several it was the first word ever for men lost as long as 5 years earlier. I would call attention to the comments of Secretary Rogers on this subject at a news conference December 23, in which the Secretary said:[5]

"I think it is very difficult for us to understand why the North Vietnamese act as they do in such inhumane ways. Why do they hold up these letters for so long, in clear violation of the Geneva Convention? Why did they fail to tell us that some of those on the list were still alive? As you know, some of the letters were from men that had been listed as killed or missing."

As the Secretary indicates, several of the men captured in South Viet-Nam from whom letters were received had been listed as missing or dead. There remain nearly 600 United States personnel listed as missing or possibly captured in South Viet-Nam and some 265 in that status in Laos, from whom no word has ever been received. The fact that 18 letters have now come from men captured in South Viet-Nam indicates that the capability is there for such men to correspond with their families. The families have tried year after year to write to those men, but none of the 18 who wrote indicated that he had ever received a letter.

Earlier this week we were informed that another 451 letters had been received by the "Committee of Liaison" and had been forwarded to the families. The letters are all from men captured in North Viet-Nam who have written previously. Again, we welcome these letters but must question the motives that lead the other side to handle mail on this on-again, off-again basis.

On the question of packages, we have noted a broadcast in the name of the North Vietnamese post office on January 22 indicating that over 300 packages had been delivered to United States prisoners in North Viet-Nam at "Christmas 1971 or New York 1972." This was reassuring word to the families after the return of all packages mailed during the previous half year. The families now are preparing to send packages during the present month, and we trust that North Viet-Nam will comply with the bimonthly package permission announced previously.

In this regard, I would note that over 400 Christmas packages addressed to men not on North Viet-Nam's list were returned in recent days. The subcommittee can understand the feelings of a wife or mother who continues to mail a package every other month to a man listed as missing and possibly captured when it is returned without definitive word as to the status of that man.

FAILURE TO IDENTIFY PRISONERS

In a further effort to resolve this situation our spokesman in Paris on January 20 offered specific information on 14 of our men lost over North Viet-Nam under circumstances which leave no doubt of the other side's ability to provide information about them. Some of these men were seen to be alive on the ground, surrounded by enemy personnel. In some cases one man from a two-person aircraft is identified as a prisoner by North Viet-Nam, with no word on the other man. I regret to report that North Viet-Nam has not responded to this renewed specific request for information. I offer for the record the text of this statement by the United States spokesman January 20.

We recognize, of course, that many of the men listed as missing in Indochina are almost certainly dead. But without a full accounting, and without the right of all prisoners to correspond regularly with their families, the anguish of uncertainty continues. Surely the identification of all prisoners should transcend the issues of this or any other conflict. There can be no justification for the other side's policy in Indochina on this humanitarian question.

NEW PEACE PROPOSALS

I am sure one of the major interests of this subcommittee today is how our recent peace proposals affect the prospects for early release of our prisoners of war. This is of course a question of utmost importance, and for this reason I think it is worthwhile to review it in some detail.

You will recall that in his comprehensive peace initiative of October 7, 1970, President Nixon proposed the immediate and unconditional release of all prisoners of war, including journalists and other innocent civilian victims of the conflict. He asserted that such release would constitute a simple act of humanity, reflecting the position we have long held that the prisoner issue should be treated on a humanitarian basis and that its resolution need not—indeed should not—depend on or await resolution of the other issues of the conflict.

This position was, of course, far apart from the view of the Vietnamese Communists—as formulated in the NLF's 10 points in May 1969—that the two sides should negotiate the release of prisoners as part of the "aftermath" of the war. It was clear that Hanoi intended to detain our men as bargaining levers to extract from our side maximum concessions.

This tactic came into even clearer public focus when Hanoi reformulated its position on prisoners in the so-called seven-point peace program of July 1, 1971. In effect, Hanoi attempted to increase pressure on the prisoner of war issue by appearing to advance the timing of releases from the "aftermath" of the war to the first step of an overall settlement and by proposing the simultaneous release of prisoners and withdrawal of our forces, provided that we first make a unilateral, unconditional commitment to withdraw totally by a fixed date in 1971. Aside from this condition, our probing of the Communists' program readily revealed that it did not in fact contain the simple assurance that our prisoners would be released in return for the withdrawal of our forces.

Despite hints that Hanoi might in fact negotiate and even implement prisoner releases and troop withdrawals before and apart from resolution of political questions, within a few weeks after presenting the seven-point program they had dispelled any illusions on this point by repeatedly asserting that the military and political elements of their program were "inseparable" and that there could be no release of prisoners until both elements had been resolved.

Pham Van Dong, North Viet-Nam's Premier, made this clear in a speech on November 21, and I quote:

"Only if the U.S. will withdraw the totality of U.S. troops and at the same time cease maintaining the Nguyen Van Thieu puppet administration as a tool of the U.S. policy of aggression can the war be settled and peace be restored in Viet-Nam."

By year's end Hanoi had reverted to its original formulation regarding prisoner release, and I quote:

"The solution of these fundamental (military and political) points will allow the U.S. to get out of the Viet-Nam war in safety and honor: it will also enable the settlement of the questions of the aftermaths of the war, including the question of American captives."

It was clear that Hanoi had in no way altered its fundamental demand that we withdraw totally and throw out the South Vietnamese leadership as the price for the return of our men.

While these developments were occurring in the public forum, we were making every effort to break the negotiating impasse through secret talks with North Viet-Nam's leaders. The record of these talks, revealed last week by the President, is of particular interest and importance insofar as it reflects the lengths to which we have gone in trying to accommodate Hanoi's position on a settlement including early release of prisoners of war.

On May 31, 1971, we made an offer designed to separate the military from the political aspects of the war. I am not sure, Mr. Chairman, this is clearly understood on the record. We proposed the withdrawal of all our forces by a fixed date, the release of prisoners, and a cease-fire. We would leave the political and all other issues aside for resolution among the parties directly concerned.

This offer was rejected on the grounds that we must address the political elements as well. Hanoi then put forth its own nine-point program on June 26, 1971. Similar to the seven-point program presented publicly only a few days later, the nine points called for the total withdrawal of United States and allied forces in 1971 and the parallel release of military and civilian prisoners. But there was no provision for separating these points from the program's other points including the replacement of the South Vietnamese Government by a regimen which the Communists could control. Again, release of our prisoners was dependent on achievement of Hanoi's military and political objectives.

In an effort to accommodate North Viet-Nam's demands without forsaking our own goals, we formulated a new plan which encompassed both the major military and political issues. This culminated in our proposal of October 11, 1971, which, with minor refinements, was made public by the President on January 25 and tabled at the Paris meetings 2 days later. This plan provides for an overall settlement to be implemented in two phases: there would first be an agreement in principle covering the major military and political issues; once the details of these issues had been worked out, a final agreement would be signed.

Recognizing that more time would probably be needed to reach agreement on such difficult political problems as elections, our plan envisages implementing prisoner releases in parallel with troop withdrawals during the first phase; that is, as soon as the agreement in principle is reached but without waiting for the final agreement to be signed. The completion of this process would depend on final agreement being reached on the other issues of a settlement. It is our hope that such a phased approach to a comprehensive settlement would facilitate the earliest possible return of our prisoners without sacrificing our goal of assuring the South Vietnamese people of a chance to decide freely their own political future.

This represents the continuing objective of our negotiations, and Ambassador Porter has tabled our plan formally in Paris. In doing so, however, he has stressed the flexibility of our approach to the entire negotiating process. While we believe our most recent peace plan offers a fair, reasonable basis for resolving the Viet-Nam conflict, we remain willing to consider any serious proposal concerning prisoners of war. If the other side should prefer to separate the military from the political issues, we would be happy to discuss our May 31 proposal. Similarly, in the more unlikely event that Hanoi should wish to deal with the prisoner issue on humanitarian grounds, apart from all other issues, our proposal of October 1970 remain on the table.

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[5] BULLETIN of Jan. 17, 1972, p. 49.

To date there is little evidence that the other side is willing to negotiate in terms which seriously and realistically reflect the actual situation in Indochina. They are still attempting to achieve their maximum objectives. We nevertheless hope that we may induce Hanoi to forsake the battlefield in favor of the conference table and thereby achieve the release of our prisoners.

A GREAT AND GOOD CITIZEN

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, no community has a surplus of conscientious dedicated citizens. Consequently, the loss of one who lives up to this description in every respect is always a serious loss. In February, the city of Quincy and the whole south shore area of Massachusetts experienced just such a loss with the passing of Carl M. Oberg, one who literally devoted his last ounce of strength and breath to his community. I personally came to know Carl Oberg quite well over the years in our mutual efforts to keep alive the area's major single source of economic health and vitality, the Fore River Shipyard in Quincy, Mass.

Again, farsightedness is not in such bountiful supply these days that any community can afford to lose citizens of foresight, yet Quincy and the whole south shore area did, in fact, lose a man of great foresight with the passing of Mr. Oberg. He foresaw that if the Fore River Shipyard was to be truly competitive in the era of supertankers and aircraft carriers that the bridge over the Fore River would have to be widened. Now that the Fore River Shipyard is in serious competition for one of the largest commercial orders in history, I know there are many local officials and citizens who wish they had listened to Mr. Oberg a long time ago. Literally a one-man lobbying effort in Washington and in his local community for educating opinion about the need to help preserve one of the area's chief economic assets, Carl Oberg was about his business until shortly before his death.

As one of those who has been concerned with the yard and its future since coming to Congress, I consider it to have been one of my great good fortunes to have been able to count on the unswerving perseverance and completely selfless dedication of Mr. Oberg in all my efforts.

I would like at this time to share with my colleagues the tributes which appeared in the local papers, as a whole community begins to grasp the true worth of one of its most distinguished citizens. Two articles follow:

[From the Quincy Patriot Ledger, Feb. 19, 1972]

CARL M. OBERG

QUINCY.—Carl M. Oberg, 72, of 46 Presidents Lane, died yesterday at University Hospital, Boston, after a long illness.

Born in Lowell, he had lived in Dorchester most of his life before moving to Quincy 19 years ago.

Before his retirement, he had been a mechanical engineer at General Dynamics Quincy shipyard. He was a member of the Lafayette Masonic Lodge of Norwood, and Taleb Grotto.

He is survived by his wife, Mrs. Grace T. (Thoresen) Oberg; a son, Carl Thor Oberg of Pittsburgh, Pa.; a brother, Henry Oberg of Quincy, and three grandchildren.

Funeral services will be held at 12:30 p.m. Tuesday in All Saints Episcopal Church, Dorchester. Burial will be in Cedar Grove Cemetery, Dorchester.

Visiting hours at the Wickens and Troupe Funeral Home, 26 Adams St., are from 2 to 4 and 7 to 9 p.m. tomorrow and Monday.

OBERG

In Boston of Quincy, February 18, Carl M., husband of Grace T. (Thoresen) residence 46 President's Lane. Father of Carl T. of Pittsburgh, Pa. Brother of Henry of Quincy. Also survived by 3 grandchildren. Funeral Services Tuesday at 12:30 p.m. from the All Saints Episcopal Church, Ashmont Street, Dorchester. Relatives and friends invited. Visiting hours at the Wickens and Troupe Funeral Home, 26 Adams Street, Quincy, Sunday and Monday 2 to 4, 7 to 9. Interment will be in Cedar Grove Cemetery. Late member of the Lafayette Lodge of Masons, AF & AM.

[From the Quincy Sun, Mar. 16, 1972]

A TRIBUTE—CARL M. OBERG, 72, QUIET BENEFACTOR

If General Dynamics shipyard receives contracts for the experimental "supertankers", they may be indebted to the late Carl M. Oberg of 46 Presidents Lane.

Mr. Oberg, 72, who died Feb. 18 at University Hospital, Boston, was a retired mechanical engineer at Fore River who took it upon himself to travel to Washington to lobby for widening of Fore River Bridge.

"Armed with briefs and the best wishes of Mayor McIntyre and William O'Connell of the Chamber of Commerce," his widow said, Mr. Oberg "went to Washington and informed many of the Senators and Representatives of the importance of widening the bridge."

Mrs. Grace T. Oberg said the Massachusetts Congressional delegation "all pledged their support" to her husband and "he was most happy to learn on Jan. 13, 1972, that the widening is a possibility."

Widening the bridge is essential to allow passage of the gigantic ships which would have to pass under it for sea trials after construction at the shipyard.

Mrs. Oberg said her husband moved to Quincy from Dorchester in 1949, "enjoyed living here, became involved in working in Quincy, saw things that needed improvement and went after the situation."

Among his behind-the-scenes work was effort to bring about the traffic signals which have been installed at the intersection of Furnace Brook Parkway and Adams St.

"His abilities lay in the engineering field, procurement, expediting, construction, design and the art of detecting potential problems," she said.

"Younger men anxious to learn and understand their jobs came to him with their problems and appreciated his help. There are many men younger than he who owe their success to his aid and encouragement," she said.

The Obergs celebrated their 50th wedding anniversary in October 1971 with a surprise buffet dinner at George R. Bean Post in South Weymouth, Mr. Oberg was born in Lowell and was a member of Lafayette Lodge of Masons and Taleb Grotto.

Besides his wife, he leaves a son, Carl Thor Oberg of Pittsburgh; a brother, Henry Oberg of Quincy, and three grandchildren.

TIME TO FERRET OUT THE REAL CULPRITS IN FOOD COSTS

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ZWACH. Mr. Speaker, I was most gratified to read a recent release from the Department of Agriculture regarding Secretary Butz' rebuttal of charges that meat producers are causing present prices.

On the chance that some of my colleagues and others may have missed reading this excellent explanatory release, with your permission, I insert it in the RECORD:

TIME TO FERRET OUT THE REAL CULPRITS IN FOOD COSTS

WASHINGTON, March 25.—Secretary of Agriculture Earl L. Butz said today the time has come to ferret out the real culprits in the cost of food and hold them up by the back of the neck for everyone to look at.

"The place to look is in the processing and distribution system between the farmer's gate and the consumer's table. That's where 62 cents out of every food dollar goes—and that's where the bulge in costs has been ballooning," Secretary Butz said.

"President Nixon pointed out on Friday that the spread between farmers and consumers is too wide. And he was correct in pointing out that it is a mistake and totally unfair to make the farmer the scapegoat.

"The simple facts show that in the last 20 years farmers' prices for food products at the farm gate have gone up 6 percent; while consumers' food prices at the store have gone up 43 percent. Meantime, the farmers' share of the consumers' food dollar has shrunk from 49 cents to 38 cents," Secretary Butz pointed out.

Mr. Butz said the increase in food costs is in such things as freight rates; container costs; added services and conveniences built into frozen, pre-cooked, pre-mixed, pre-peeled and prepared foods; more meals eaten out where service and "atmosphere" cost more than the food, and higher wages up and down the line.

"Those costs in processing and distribution are hard costs," Secretary Butz said. "Once these costs go up, they harden and stay up. By contrast, prices of farm products are soft costs—they move up and down from month-to-month, season-to-season and from year-to-year—but they don't harden. For instance, farmers' hog prices fell 35 percent in four months time two years ago. And right now, farmers' cattle prices are 4½ percent less than a month ago and hog prices are 8 percent less than a month ago.

"I welcome the public hearings on food costs that the Price Commission will hold on April 12. If farmers were causing the inflationary bulge, I'd run for cover," Mr. Butz said. "Instead, I'm going to stand up and tell the truth about farmers. Any high school student in his first economics course knows that the best counter-move to inflation is to increase productivity. Well, farmers' productivity per man hour is 3.3 times more than it was 20 years ago—and that happens to be twice as fast a rate of productivity increase as in manufacturing industries.

"Farmers are producing 2½ times as much beef as 20 years ago, and four times as much Choice beef. They must be doing a good job—because people are voluntarily eating twice as much beef per person as 20 years ago. Farmers are giving them what they want; farmers are responding magnificently. Yet cattle prices just recently got up to levels of 20 years ago. And those are much cheaper dollars now.

"The public is being fed a lot of malarky about meat prices," Secretary Butz said. "One food chain in the Washington, D.C. area took full-page advertisements in newspapers this week urging people to eat less meat. They advised consumers to eat fish instead. Well, since the government's base period of 1967, fish prices have increased more than beef.

"This food chain said in their full-page ads that meat prices from their suppliers had skyrocketed. Well, we have people at the Department of Agriculture who watch wholesale prices all the time. The truth is that wholesale prices for Iowa beef carcasses are 1 percent less than last August 13 before the wage-price freeze went into effect. Those full page advertisements were signed by the consumer adviser to the president of the food chain. I recommend that she get out of her office and go out into the cooler and talk to the meat buyer," Secretary Butz said.

"In the last day or two, one Eastern Congressman has urged a nation-wide boycott of meat. He said this would force supermarkets to buy less meat from wholesalers, they'd buy less from packers, and packers would buy fewer cattle from farmers. 'Sooner or later, those cows will have to come to market at a lesser price,' the Congressman is quoted as saying.

"I'd like to invite the Congressman to come out into the country with me, and I'll show him that those are fed steers and fed heifers in the feedlots—not cows," Secretary Butz said.

"This is an example of the kind of muddled thinking you get when someone who doesn't know a cow from a fed steer is advising people on their eating habits and is placing the blame for food prices on farmers. Farmers are working for one-fourth less than the rest of the economy—farmers' average disposable income is only three-fourths of the average for non-farm people," Secretary Butz said.

"What the Congressman should be telling people is that between 1951 and 1971, farmers' prices for food products went up a magnificent total of 6 percent—meantime, the nation's wage rates increased an average of more than 6 percent a year for all 20 years, for a total increase of 130 percent.

"That's one reason why, despite rising food costs in stores, food is such a good buy for wage earners. They will spend $15.60 per $100 of after-tax income for food this year—that's for food eaten at home and away from home. Twenty years ago, wage earners spent $23 per $100 of after-tax income for food. If food still cost wage earners the same proportion of their incomes as 20 years ago, they'd spend $286 more per person for food this year," Secretary Butz said.

FIRST BAPTIST CHURCH OF DECATUR COMMUNITY CLOTHING ROOM

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BLACKBURN. Mr. Speaker, recently, among the stacks of mail on my desk awaiting attention, I came across a communication from the First Baptist Church of Decatur, Ga., reporting on the operation of its Community Clothing Room during 1971. This church is one of the oldest and largest in the Fourth Congressional District, and I was already aware of its reputation for worship and service, as well as its fine team of Christian "doers" under the leadership of Pastor William W. Lancaster, and Associate Pastor W. Ray Avant.

Amid the rush and bustle of the activities of Congress, this report caused me to pause with no small feeling of pride for the heartwarming story it tells. I want to share with my colleagues this particular example of what can be done to help the poor effectively through the cooperation of the Christian community and the willing hands of those who care deeply.

This special facet of the ministry of the First Baptist Church, the Clothing Room, has completed its second year of service. Almost 20 organizations, primarily churches in the area, with the added help of several schools and clubs, donated clothing, furniture, and household items which were sorted, sewed, and distributed by the Clothing Room directly to individuals, or through almost 25 of the agencies administering to the poor and indigent.

These agencies include a mental retardation center, the County Health Department, family and children services, boy scout and girl scout troops, several Baptist centers, day-care centers, city and county school systems, Economic Opportunity Atlanta centers, missions, and numerous other organizations concerned with the welfare of the disadvantaged.

It is gratifying to know that during 1971, 350 volunteers served at the Clothing Room with a total of 2,456 working hours.

The growth of the Clothing Room has been phenomenal. The number of individual requests since its beginning has increased daily, and during 1971, a total of 3,232 individuals were supplied clothing. Also, bulk clothing was distributed by the tens of thousands of garments to various organizations with their own facilities for distribution.

Shopping the sales and discount stores, the Clothing Room purchased hundreds of pairs of boys' pants and shirts to enable more children in dire need of clothing to attend school. Also, materials were purchased to make larger size dresses, gowns, and housecoats, and volunteers participating in this particular project sewed nearly 200 garments in 1971.

Three satellite clothing rooms were opened during 1971. One served by the Clothing Room is located in a portable classroom on the grounds of a school. This school has 1,140 children, all on the free lunch programs, and all in special need. The Clothing Room began to supply the school with clothing late in November, and has already distributed 7,000 garments as well as a large number of toys and games at Christmas time.

Cooperating with case workers, the Clothing Room supplied both clothing and housekeeping needs to 12 families who were burned out.

The Clothing Room also purchased well over 100 bed sheets for the use of elderly people who are being kept at home rather than sent to nursing homes. Because of limited funds, they were unable to meet the urgent companion need of supplying gowns, pajamas, robes, and housecoats to these senior citizens. However, some individual requests were met, such as the purchase of an electric can opener for an elderly lady crippled with arthritis.

I understand that President Nixon recently sent a citation to Mrs. Ralph Boren, Clothing Room director at the First Baptist Church. To the President's words of commendation for devotion to those less fortunate, I wish to add my own heartfelt thanks to Mrs. Boren and to her devoted band of volunteers for the generous giving of their time and hearts to this truly Christian effort.

THE PERSON I CONSIDER OUR GREATEST AMERICAN

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DULSKI. Mr. Speaker, the 43d annual Americanism Essay Contest for students in public, private, and parochial schools of Buffalo and Erie County, N.Y., had an interesting subject which brought forth some intriguing reaction from the young people.

The topic for 1972: "The Person I Consider Our Greatest American."

Some 75,000 students wrote essays on the subject and entries were submitted by 309 schools. Each school was permitted to submit only two essays for semifinal judging—the best written by a boy and the best written by a girl in coeducational schools. In other schools, the two best essays.

A preliminary judging reduced the more than 600 essays to 60 finalists from which the 12 winners were chosen.

As in the past, the prize for the winners is an all-expense paid sightseeing trip to Washington, with the young people and their four escorts due to arrive by air Friday morning, to remain until Wednesday, April 5.

The contest has been sponsored over the years by the Buffalo Evening News and the Erie County American Legion and Legion Auxiliary.

In announcing this year's topic, the sponsors explained that the title of "greatest American" is not easy to bestow. History books and today's newspapers list many contenders for this honor. Any man or woman, living or dead, may be considered.

> In picking your nominee, you might consider a number of things: What the person accomplished, or is trying to accomplish, or how his life and thinking have influenced the lives of others. We set no boundaries for the subject of your essay . . .

Among the finalists, School 81 in Buffalo took top honors with two students among the 12 who won trips to Washington. Carlos Isada and Hannah Blau, both seventh graders in the "special progress" project for academically gifted children won with their essays on Thomas Edison and Mrs. Eleanor Roosevelt, respectively.

Six other winning essays involved individuals: Thomas Jefferson, Abraham Lincoln, Henry David Thoreau, Theodore Roosevelt, Will Rogers, and Martin Luther King, Jr. The other four chose types of people.

An unusual feature of this year's contest was a "repeater." Sarah Epps, who won a trip to Washington as an eighth grader last year, won again as a ninth grader.

Mr. Speaker, the winning essays are well worth reading and do their authors proud. As part of my remarks, I include the texts of the winning manuscripts:

The Person I Consider Our Greatest American

(By Sarah Epps)

(Miss Epps, 15, 186 Box Ave., Buffalo, a ninth-grader at Genesee-Humboldt Junior High School, was winner of the girls division in the Buffalo public high schools. Her teacher is Mary Carson).

"I have a dream that one day every valley shall be exalted, every hill and mountain shall be made low, the crooked places shall be made straight and the glory of the Lord shall be revealed and all flesh shall see it together. . . . This is our hope. . . . With this faith we will be able to transform the jangling discords of our nation into a beautiful symphony of brotherhood." Dr. Martin Luther King, Jr., in his famed speech uttered those words.

God has truly blessed America with this man whom I consider our greatest American. He has left his shining name on the pages of American history and his imprint in the hearts of men.

Slavery left racism as one of its grim scars on the face of this country, along with racial unrest, violence and hate. Black Americans were the victims of discrimination and segregation. They suffered injustice, inequality and the deprivation of their "certain unalienable rights," a fact which denied the truth of the line . . . "with liberty and justice for all" in our country's Pledge of Allegiance.

Dr. King, a Nobel Peace prize winner, saw these, along with America's other imperfections. He struggled relentlessly to remove these blemishes, employing non-violence as his major weapon to secure equal rights and liberties, not only for Blacks, but for the deprived minorities of other races too.

Black is beautiful but so is white. But Dr. King saw an even more beautiful color which was black and white together.

His life was that of one genuinely attuned with God and although he is physically dead, the light he shone in his lifetime is still shining today. His inspiring words are still stirring impulses of growing harmony among races. His name has become a symbol of courage and hope for suppressed people everywhere. And, one day, regardless of the frustrations of today, Dr. King's glorious dream will become a reality which we shall forever cherish in our hearts.

Though they killed "The King" long live his dream of the unity of all Americans.

The Person I Consider Our Greatest American

(By Sylvia Ohlschlager)

(Miss Ohlschlager, 18, 15 Lydia Lane, Cheektowaga, a junior at Maryvale Senior High School, was winner in the girls division for Erie County Public High Schools. Her teacher is Mrs. Margaret Laughlin.)

In this age of acid rock and Frank Zappa it seems ludicrous that I should consider Will Rogers to be interesting, much less admirable. To admit that I find Will Rogers to be our greatest American may condemn me to instant exile by my peers. However, I freely laud Rogers and profess my love for this gentle man who brought so much happiness into the bleak lives of a people who needed such an escape so badly.

Will Rogers was born in 1879 of mixed blood lines in which Cherokee predominated. Brought up on a frontier farm, he learned, along with the usual calf-roping and horseriding, that there was a difference between prejudice and impartiality, and that a man was a man not Democrat or a Republican, a white or a black, a Catholic or a Protestant. Such was the philosophy that lay beneath that dry Western humor and his tall tales.

He infected the people with his own brightness, wit, and wisdom. Throughout his career, Will attended political conventions, banquets, Presidential parties and starred in many movies, theaters, concert halls and finally on radio.

Always he was the modest, wry cowboy who did tricks with his lasso while he talked, saying whatever came to mind. After the 1929 crash he kept the people in a cheery mood and from becoming as depressed as the economy.

Public apathy towards politics was often the target of his wisecracks, yet that same wit could well promote a charitable cause. Impartiality and understanding of other creeds, races, and political theories were preached by Rogers. He did the most of any American to promote patriotic spirit and faith in our country.

Therefore I feel that Will Rogers, the forgotten, mild-mannered humanitarian, should be remembered and recognized as our greatest American.

As Damon Runyon said: "Will Rogers was America's most complete human document. He reflected in many ways the heartbeat of America. In thought and manner of appearance and in his daily life he was probably our most typical native born, the closest living approach to what we like to call the true American."

The Person I Consider Our Greatest American

(By Lu Ann Picardi)

(Miss Picardi, 16, 685 Lafayette Ave., Buffalo, a junior at Annunciation High School, was winner of girls division for private and parochial high schools. Her teacher is Sister Anna M. Gaffney.)

The traditional image of a great American is a highly idealistic one. Its high standards unjustly disqualify many who will never have the opportunity to distinguish themselves in its light. Unless a person is the first, the best, or the only one to accomplish a certain feat, he is not eligible to receive the title of Great American.

This traditional pattern of thinking has led us to overlook those who have not had the advantage of the headline makers. I have chosen, not a politician, inventor, or adventurer, but one of the common people who has played a major role in the survivial of American ideals throughout history.

A man to be held in high esteem is the American Prisoner of War. He receives little or no public recognition. He is remembered only by family and friends. The role of a P.O.W. is not publicized, since he is not on the battlefield. We underestimate his significance in war effort.

A Prisoner of War is, first, an American soldier who has risked his life to protect his country's policies and ideals. He does not choose the position he holds, but is a victim of circumstance. Under heavy pressure, he stubbornly defends his country. He endures acute physical and mental suffering without regret. His great self-control is a quality to be admired.

Regardless of the length of time he has been imprisoned, he never loses faith. Indeed, his undying loyalty is a hindrance to his survival. The Prisoner of War's bitter struggle to keep sacred the ideals of the United States often remains secret from the public. If he is fortunate enough to survive, he may be unable to recount his experiences; but death may leave him no choice.

This unobtrusive man should be brought into the limelight. His valor, faith, and loyalty should be revealed to the people. Although he has not led numerous victorious attacks, he should be recognized as a true hero of the American cause. Surely, the American Prisoner of War is our Greatest American.

The Person I Consider Our Greatest American

(By Hannah I. Blau)

(Miss Blau, 12, 163 Bidwell Parkway, Buffalo, a seventh grader at School 81, was winner in girls division for Buffalo public elementary schools. Her teacher is Christine Nagel.)

Is there really a "greatest American"? So many men and women have contributed to the growth of America. Franklin, Jefferson, Edison, Ford—all have been instrumental in America's development. The name of Anna Eleanor Roosevelt can and should be included in this list.

Eleanor Roosevelt devoted her life to humanitarian endeavors. Raising funds for needy causes, creating job opportunities, and improving working conditions were just a few of Eleanor's beneficent efforts. She acted as "eyes" for her disabled husband, inspecting and reforming hospitals across the nation. On her many hospital visits wounded soldiers were cheered by her warmth and compassion.

Often Eleanor asked the question, why war? Why was it impossible for countries to resolve their differences by discussion, instead of by conflict? In 1946 Mrs. Roosevelt joined the international group seeking an answer to the same enigma. She became a member of the United States delegation to the United Nations.

Eleanor Roosevelt again threw herself wholeheartedly into her work. She fought for the rights of women in countries where they had been degraded for centuries. She found food and shelter for the refugees of war.

Eleanor was known as the "human dynamo". And a dynamo she was. Mrs. Roosevelt's perseverance and determination were truly remarkable. She would accept any job, however demanding. Eleanor would not stand for inefficiency; she herself was clearheaded and sensible.

Mrs. Roosevelt was a revolutionary woman. She was harshly criticized for her direct manner of stating her opinion. Eleanor investigated and brought to light conditions which others carefully ignored. She did what no other woman has done for mankind. As Eleanor herself wrote:

"If we want a free and peaceful world, if we want to make . . . man grow to greater dignity as a human being—*we can do it!*"

The Person I Consider Our Greatest American

(By Patricia Nowicki)

(Miss Nowicki, 14, 31 Marie Ave., Cheektowaga, a ninth grader at Cheektowaga Central High School, was winner in the girls division for Erie County public junior high schools. Her teacher is George K. Szabo.)

"Greater love hath no man than this; that a man lay down his life for his friends; that a quotation taken from the Bible leads me to believe that a soldier fighting for America's freedom is the greatest American who could have ever lived.

A man brave enough to leave his home, family and security to fight that they may live on for generations to come, deserves the place of honor in the hearts of all true Americans.

Men have gone and go, to this very day, into battle knowing they may return minus a limb or not return at all, but nevertheless, they are willingly doing their part to preserve the rights provided for all Americans in the Constitution of the United States Men like George Washington, Ulysses Grant and General Patton were among the greatest leaders. Many men, not so famous, earned medals and honors for commendable action.

Still many more little known or unknown men have done some things in their own individual ways to contribute to our preservation, even though they may not have lived to tell the great stories of their contributions.

Each of these men have earned the title of "soldier", "sailor", "airman", or "marine".

These people, some of them well-known and most of them forgotten, have preserved our freedom, our Constitution, our right to live and our general peace of mind. For years they have been debated about, shuffled around, sneered at and mimicked, but in recent years, very rarely appreciated.

To these devoted people we owe our lives and the freedom they have given us to enjoy both the provisions of the Constitution and our rights as human beings.

The Person I Consider Our Greatest American

(By Ann M. Bryan)

(Miss Bryan, 13, 123 Victoria Blvd., Cheektowaga, an eighth grader at Queen of Martyrs, was winner in girls division in private and parochial elementary schools. Her teacher is Sister Mary Adalbert.)

The words men speak and the sacred doctrines they endorse shine brilliantly through the ages to brighten the shadow of time. Among these great Americans is Thomas Jefferson, whom I admire because his patriotism and determination will be instilled forever in the hearts of our people.

I consider Thomas Jefferson as our greatest American for his strong belief in reason, progress and freedom of one's own conscience. As mankind's best hope for a better America, Jefferson showed his belief of reason in handling relations with England during his Presidency. His great accomplishments are reserved not only in our country alone, but are extended to all parts of the world.

Jefferson believed in progress. He saw the approaching ending of slavery, so he freed his slaves. During his administration the Louisiana Territory was purchased, the Embargo Act originated and the explorations of Lewis and Clark were endorsed. He broadened the horizons of our growing union further westward so that eventually America would span the continent. But above all, Jefferson sought practical religious liberty throughout America. He was a just man, believing in freedom of press, although some made evident attacks on him.

Thomas Jefferson believed in freedom of conscience. He led the hard way for the Bill of Rights, and by writing the famous "Declaration of Independence," his belief of equality of all men, won the respect of American people. He captured the hearts of the majority with his vision of "life, liberty and the pursuit of happiness" for all.

For his noble, dignified character and his unsurpassed faith in the ideals and everlasting strength and perseverance, we pay homage to Thomas Jefferson, our greatest American.

The Person I Consider Our Greatest American

(By Walter W. Smith, Jr.)

(Mr. Smith, 15, 399 Roesch Ave., Buffalo, a sophomore at Riverside High School, was winner in boys division for Buffalo public high schools. His teacher is Christine Singleton.)

In less than two centuries of existence the United States of America has perhaps more than any other country in history, contributed to changing the world and lifestyles of man. Many great Americans have emerged from simple beginnings to become names that the world will never forget.

Yet of all these men and their accomplishments, I cannot help but believe that the greatest American is the one who fought to preserve this democracy. His accomplishment is far superior to that of other men for without him there would not be a country like ours where other men could have worked such great feats.

From those first battlefields in Lexington and Concord to the rice paddies and jungles of Viet Nam, the United States soldier has fought and died to insure democracy for his family and friends. At times the United States has been wrong in its policies, but the soldier did not give up and say the government was totally wrong. If he did then we would be in great danger of losing the opportunity to live without fear of our basic human rights taken away. This tranquility, which is sometimes taken for granted, has produced an environment which has allowed men to do great things for the world and mankind.

The soldier has strived for the betterment of our country and worked upon his return to make a more democratic society where men and women can live in peace. If it took a war to make peace then the soldier has always sacrified to get it over quickly.

Let us not have another great American killed or wounded. If we help on the homefront to make our country a peaceful one then we will prove that our greatest American did not die for a futile cause. He died to preserve an atmosphere for potential greatness.

The Person I Consider Our Greatest American

(By Michael T. Ray)

(Mr. Ray, 17, 8233 Jennings Rd., Eden, a junior at Eden Central School, was winner in the boys division for Erie County public high schools. His teacher is James G. Duffy.)

After having been approached with the topic for this essay, I sat pondering about one individual after another. But on considering many different people, I decided there was no single great American.

To me, the greatest American was the man who toiled long and hard on the arid soil, trying to make the most of his land. The greatest American was his wife, companion through all the heartbreaks and setbacks of life in these virgin lands.

The greatest American need not be seen on television, heard on radio, read about in books and newspapers, or in any other form of mass media. He is the unsung hero, the man of goodwill who made the once rude countryside flourish. Written in all the history books are the battles won by the colonists against the British, and the men who commanded the victorious forces. But what of the people they commanded, the people who made liberty a reality?

What of those who fell before the guns of their oppressors? Their names fade into oblivion with each new generation. Even less spectacular are the impoverished masses who labored to lay the tracks for the thundering "iron horse." Most of all, what of the devoted citizens who simply vote, pay their taxes, and help to maintain law and order?

I could have written of the legendary figures of the powdered wig, the inventor of the light bulb, a martyr for civil rights, a great president, or my grandfather. To me, these are all great and good men who should be admired.

But this country was founded, made and raised to greatness by the individual man or woman who labored to do his simple duty though he lacked the pomp and glory of the select few. Truly he is the great American.

The Person I Consider Our Greatest American

(By Lawrence J. Owczarczak)

(Mr. Owczarczak, 16, 200 Aris Ave., Cheektowaga, a junior at Bishop Turner High School, was winner in boys division for private and parochial high schools. His teacher is Rev. Francis Braun.)

Of all great men past and present, there is one that stands out in my mind as a great American. This is Henry David Thoreau. As a sharp critic of society and a poetic writer of nature he wrote essays and journals showing his sympathetic understanding of the world of nature and his strong attack on injustice in society.

He published *Walden,* his Robinson Crusoe-like narrative, that is a masterpiece of essays. It probes deeply into the beauty of nature, the human spirit, and the meaning of life. For two years he isolated himself from society and the cruelties of the world and lived a simple life at Walden Pond near Concord, Massachusetts.

There he worked hard with what interested him. He observed the natural surroundings and the wildlife. He wrote articles and read books. He meditated a great deal and succeeded in enjoying a close relationship with what he saw and felt.

During his brief stay, this "one man revolutionist" overcame the difficulty of an increasingly complex society by simplicity and self reliant independence. *Walden* reflects the spirit of Thoreau as he takes delight in life and living.

Today many of his fellow Americans follow the philosophy of this great author. Many of the younger generation are doing today what Thoreau did yesterday. They are searching for the meaning of life and rebelling against what they feel is wrong in society. Like Thoreau these young people want more freedom and more solitude to meditate on life.

His love for nature is present on our American scene. People now realize the danger in the pollution of their water and air and are starting to care about them and to improve them.

Thoreau may not be a president, a wartime hero or an explorer, but he has accomplished a great deal as a "one man revolutionist" by trying to improve the lives of men in America.

The Person I Consider Our Greatest American

(By Carlos M. Isada)

(Mr. Isada, 12, 276 Minnesota Ave., Buffalo, a seventh grader at School 81, was a winner in the boys division for Buffalo public elementary schools. His teacher is Christine Nagel.)

Any medal will outlast the man it honors. But his deeds alone will be ingrained in memories, and will overshadow superficial reminders—status and medals. Wizard and miracle creator, Thomas Edison is one man who will be remembered forever. His natural genius coupled with a fantastic character made him one of the greatest Americans that ever lived.

A truly great American must fit into our society's foundation. Thomas Edison surpassed the high ideals that govern our country. Perseverance, a pioneering spirit, and plain hard work comprised his character. Tom once said genius is ninety-nine percent perspiration and only one percent inspiration.

Edison was such a vigorous worker that since life was so short, he was going to hustle. When he was sixty-seven years old, a fire razed his laboratories. But, ignoring his old age, he made a fresh start. He was still hustling!

Even the greatest men have their moments of self-doubt. His most trying moments occurred when heavy scorn and distrust fell upon him concerning the electric light. For the only time in his career, Edison sadly wondered why he labored for people who cheated and distrusted him. His true greatness emerged when he rose from dismalness and regained his lost confidence.

A great American must be practical. He was called the wizard of Menlo Park because "impossible" dreams became realities. Although deaf, he created a phonograph so others might hear sound. His clean, cheap, and reliable electric bulb and the phonograph added much to the American way of life.

His many inventions are taken for granted. But when the power lines fail and the lights go off, only then can we appreciate the work of this man.

The Person I Consider Our Greatest American

(By David Regelski)

(Mr. Regelski, 16, 63 Center Ave., Lackawanna, a ninth grader at Herbert Hoover Junior High School, was winner in boys division for Erie County public junior high schools. His teacher is Mrs. Jeanette Porter.)

Through the determination and zeal of many outstanding Americans, a great land was built and it has flourished. One American stands above all others in illustrating the truest caliber of Americanism for me.

As hunter, explorer, author, soldier, or President of the United States, he displayed his sense of individuality and strength of character in each field of endeavor. This unique individual spirited and lived the essence of life he loved. His love for the country which he defended in the Spanish-American War was without measure in its pure quality of devotion.

He breathed a fiery spirit of brotherhood, of conservation of nature's wonders, and of the cooperation of all for the good of all. As President he personified a nature of inexhaustible energy, self-reliance, and individual initiative.

His courage, foresight, and wisdom led him to be widely known as a naturalist through his programs of conservation; a humanitarian, believing in the "square deal" and destroying corrupt government and business, as he becomes known as the "trust buster".

His dynamic personality united the ripe judgment of the scholar with the sharp wit of a realist as displayed in his striving for self-achievement and the goals of his country in peace as well as in war.

Sustained by faith and an inner drive to carve out his destiny, he would not give up hope of the promise tomorrow might bring in ways of peace, a trait which attained for him the Nobel Peace Prize in his negotiations in the Russo-Japanese War.

This man who left an everlasting imprint on the hearts and minds of the American people both morally and spiritually is my choice of a great American—Theodore Roosevelt.

The Person I Consider Our Greatest American

(By Larry Deire)

(Mr. Deire, 13, 8082 Marble Rd., Akron, an eighth grader at St. Teresa of Avila School, was winner in boys division for private and parochial elementary schools. His teacher is Sister M. Ambrosiane C.S.S.F.)

Abraham Lincoln was one of the great men of all time. He preserved the American Union during the Civil War and proved to the world that democracy can be a lasting form of government. Lincoln's Gettysburg Address, and many of his other speeches and writings are classic statements of democratic beliefs and goals. In conducting a bitter war, Lincoln never became bitter himself. He showed a nobility of character which continues to grow in world-wide appeal.

As President, Lincoln was often a careless, inefficient administrator. But these failings mattered little when compared with Lincoln's great merits. Lincoln realized at the beginning of the Civil War that the Union must be saved. The United States was the only important democracy in the world. Lincoln knew that self-government would be proved a failure if the nation could be destroyed by a minority of its own people. He determined that the nation and democracy would not be destroyed.

Lincoln's second great asset was his ability to express his convictions clearly, and with such force that millions of his countrymen made them their own. He sought to be understood and to convince.

Lincoln's third great source of strength was his iron will. The Civil War had to be carried on until the Union was restored. His unyielding faith in victory helped to win victory. If the Union had not been preserved, the United States would have become two nations. Neither of these nations could have attained the prosperity and importance that the United States has today. Lincoln influenced the course of world history by his leadership of the North during the Civil War. He rose from humble origin to the nation's highest office. Americans regard his career as proof that democracy offers all men the best hope of full and free life.

U.S. MERCHANT MARINE AND ITS IMPORTANCE TO PUERTO RICO

HON. JORGE L. CÓRDOVA

RESIDENT COMMISSIONER FROM PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. CÓRDOVA. Mr. Speaker, it is a pleasure to bring to the attention of the House the fact that the Senate of Puerto Rico has resoundingly expressed its support of the U.S. Merchant Marine, and its importance to Puerto Rico. The Senate of Puerto Rico is controlled by our political opposition, which has sometimes advocated opening the Puerto Rico trade with the mainland to foreign flag ships, a matter on which our two principal parties have heretofore been at odds. I am happy to see that our opposition has come around to our way of thinking on this issue. There follows the text of the resolution adopted by the Senate of Puerto Rico on February 1, 1972:

Senate of Puerto Rico, the Capitol

I. Miguel A. Díaz Santiago, Secretary of the Senate of the Commonwealth of Puerto Rico, hereby certify that in session held by the Senate of the Commonwealth of Puerto Rico the first day of February of 1972, Resolution Number 382 was passed, with the following text:

RESOLUTION

To request from the Congress and the Administration of the United States to take action in order to assure the expansion and revitalization of the Merchant Marine of the United States.

EXPOSITION OF MOTIVES

Whereas:

1. The economic progress and the safety of Puerto Rico require that fast and adequate means of maritime transportation be available at all times.

2. In case of emergency the Island would have to rely mainly on ships flying the United States flag, manned by loyal United States citizens.

3. The United States Merchant Marine presently handles only a small fraction of the nation's external trade, and it might be insufficient to fulfill the tremendous responsibilities which would be thrust upon it in an emergency.

4. The Merchant Marine of the United States is an important factor of the economy in Puerto Rico, as a source of employment and as a provider of services which are essential for our industries. The United States passenger ship fleet, which has practically disappeared, provided a large number of jobs for the Puerto Ricans.

Therefore, be it resolved by the Senate of Puerto Rico:

Section 1. To request from the Congress and the Administration of the United States that they take all necessary action to assure the expansion and revitalization of the United States Merchant Marine, so that it may always be ready to provide the maritime transportation which is so vital for the safety and the progress of Puerto Rico.

Section 2. That as part of those efforts be included the task to reactivate the passenger and tourism ships fleet, so important as a source of employment and economic activity in the Island.

Section 3. In accordance with the above and in solidarity with the Puerto Rican labor movement, we request from the Congress of the United States to forego all legislation that might authorize the sale of passenger ships flying the flag of the United States, that may be presently inactive, so that these may be put in operation again, to become additional employment sources.

Section 4. This resolution will be effective immediately after approval.

And to deliver to Mr. Guillermo Ryan, for official business and at his request, I hereby issue this certificate signed by me and sealed with the Seal of the Senate, in my office at the Capitol, San Juan, Puerto Rico, the first day of February of the year 1972.

ORGANIZED LABOR'S ROLE IN MANPOWER POLICY

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. O'HARA. Mr. Speaker, on March 16, the Department of Labor conducted an observance of the 10th anniversary of the original enactment of the Manpower Development and Training Act. Those of my acquaintances who were able to attend, advise me that among all the outstanding speeches and superb presentations, there were one or two that stood out in the minds of most of those present—among them being the breakfast address by Mr. Howard D. Samuel, vice president of the Amalgamated Clothing Workers of America, AFL–CIO. I am pleased, Mr. Speaker, to have this opportunity to insert this excellent speech at this point in the Record:

Manpower Policy: The Second Decade—The First 10 Years of Manpower Policy in Retrospect: The Role of Organized Labor

One of the reasons I looked forward to this occasion was that it gave me an opportunity to pay a word of tribute to Eli Ginzberg, the greatest manpower expert of us all, who is now rounding out ten years as chairman of the National Manpower Advisory Committee. Although some of the members of the Committee may feel that they have some special insights and experience, he handles us all like his students—which we really are. I am grateful for the knowledge I've gained serving with him.

I don't imagine there is any element in society more concerned with the subject of this conference than the labor movement. We were here more than ten years ago to urge and lobby for a manpower training program in the first place. Let me take a moment at this point to pay tribute to Elmer Holland, the Congressman from Pennsylvania, whose leadership and understanding helped make the original manpower act possible. I think he would be pleased to see how his baby has grown over the years, to become a major element in our government's economic program. And during much of the last decade, we have been among the most zealous in carrying out the goals and programs of the manpower training program as well as in criticizing it.

This is not the time or place to read to you a catalogue of labor manpower training activities, but I want to mention at least some of the highlights. Labor's program began about five years ago, when the Labor Department opened the way for co-sponsors of training programs. I have not seen any listing of all the labor-sponsored programs which have been undertaken in this period, but it must add up to hundreds, embracing Job Corps camps, the Apprenticeship Outreach program, OJT, JOBS programs, Public Service Careers, and many more. Telephone workers have been trained in Kentucky; hospital workers upgraded in Maryland, a city-wide placement program initiated in New York City; operating engineers trained in Tennessee; laborer trainees placed in jobs in Massachusetts; ironworkers trained in Birmingham; plumbers in Oklahoma City; retail employees in Pittsburgh. And so it goes, in virtually every trade and skill, in almost every area of the country.

Much of this activity is coordinated by a division set up by the AFL–CIO itself, headquartered in Washington, with offices and full-time staff in more than 50 major industrial centers. This is the Human Resources Development Institute, funded largely by the Department of Labor to promote and oversee labor's massive participation in manpower training.

A common thread running through labor's activities has been the effort to open up jobs and skills to the disadvantaged, members of minority groups, who in the past would not have had the training and knowledge. Perhaps the best known program is Outreach, a cooperative effort, more than five years old, among the AFL–CIO Civil Rights Department, the Building Trades and the Workers Defense League. Thousands of minority group members have been recruited, trained, and provided job opportunities through this extensive program, which now operates in over 75 cities and is steadily growing.

I suppose the record of our participation in the manpower training program might give the observer the impression that we are entirely happy about the government's program. Well, I am sorry to say that we are not. A very small part of our unhappiness results from an occasional lack of coordination between the Department and the AFL–CIO. It seems to me that the labor movement deserves to be treated as a full partner in this area, and I hope the climate of association and cooperation will not erode. But our real problem goes far beyond one of attitudes.

Before I discuss details, let me make it clear that I am not approaching the manpower issue from a partisan or political viewpoint. The goals of the labor movement in this area have not changed the past ten years, and I doubt that they will change in the near future. The keystone of our philosophy is that manpower training represents not only a goal in itself, but is rather one element in a broadscale attack through both government and private resources, on our twin problems of unemployment and poverty. Like all the elements of this battle, training programs must be integrated with economic planning and policies on the broadest basis.

If during the past ten years this philosophy had been carried out in a rational and thoughtful way, we would not today have 50 different state employment services; we would not be training members of minority groups for jobs that don't exist; we would not be providing only 150,000 public service jobs at a time where there are 5½ million unemployed; we would not be forcing welfare mothers to train for jobs when there are not enough day care centers for their children; we would not be content with a federal minimum wage so low that any worker who is even close to it would be living below the poverty level.

And on it goes, one inconsistency after another, one incongruity after another. Instead of building an economy based on planning for national goals, we are wandering around like Alice in Wonderland.

An AFL–CIO viewpoint of manpower training would include the following features.

Number one, a manpower training program must be a national program, because unemployment and poverty are clearly national problems, not state or regional problems. In this respect we need comprehensive programs, and we must retain national categories, such as those for minority groups, which might otherwise get lost in many states or communities. We should also federalize the Employment Service and give it a clear mandate, and the tools, to do the job which our national goals require.

Finally, we should not be deluded into accepting the false promise of "revenue-sharing." I could use all my time to tell you why I oppose block grants in manpower—or in most other fields—but let me merely say that revenue-sharing simply represents an abdication of responsibility. So long as unemployment and poverty and discrimination are national problems, then they have got to be fought on a national basis, not state-by-state.

In addition, let me point out that block grants would make it difficult to maintain the essential integrity of the manpower program, to make sure that manpower training is not distorted into subsidizing low-wage employers, undermining existing wages and working conditions; aiding runaways; helping high labor turnover in jobs which do not really need training before hiring.

Number two, a manpower training program must recognize that training without jobs is a snare and delution, which is apt to cause more problems than it solves. I can think of nothing less productive than to offer training to a disadvantaged teenager and then to tell him to walk the streets when there are no jobs. It is not news to you that for the past couple of years we have had excessive joblessness—some 5½ million officially unemployed, countless more who in their discouragement have simply left the labor market and are no longer counted. Contrary to public opinion, the heaviest weight of joblessness does not fall on trained aerospace engineers or chemists and other scientists who have lost out because of cutbacks in space programs or on the campus. Unemployment in this group runs at less than 3 percent.

Today, as in the past, the weight of joblessness falls heaviest on the blue collar workers, the disadvantaged, members of minority groups, women, young people. These people often need training—but they need first an assurance of jobs. Our current Emergency Employment Act program is a step in the right direction, but it is hardly a giant step. It provides less than 150,000 jobs, at a time when we need upwards of five million which are not being provided by the private sector.

Can we afford to spend the money to put our population to work? Let me reverse the question—can we not afford to put our population to work? For a dozen reasons, the answer is no. It is less expensive to our economy, to our national spirit, to our capacity to meet our responsibilities, to spend what we have to provide stable full employment than to do anything less than that.

Let me add a special note at this point regarding women in our labor force. The statistics are clear proof that women have a harder time finding jobs, have a harder time winning promotions, and have a harder time getting equal pay for equal work. I am not convinced that just because many women have benefited from manpower training the program has done all it could to open full opportunity to women workers.

Finally, Number three, our manpower training program must be integrated with other measures which are aimed at accomplishing the same goals. I have already mentioned some of them. Our federal minimum wage should be raised—at least to $2 an hour, and even that is only a halfway step which will not fulfill the goal of the original Fair Labor Standards Act. I know that the federal minimum is not supposed to represent the average wage—but any federally mandated minimum wage which leaves a family in poverty is a grim irony. Our welfare program must be federalized, with national minimum standards and work incentives. It must include guarantees that those who work are paid a decent wage and do not end up as an exploited under-class, undermining the conditions of workers around them. And we must make sure that if we ask welfare recipients to train, that there are jobs for them after they have learned new skills, and day care centers to take care of their children.

This is quite a catalogue—and there is much more I have not been able to mention in the time allowed. Am I suggesting anything revolutionary or beyond our reach? As for the first, let me remind you of those revolutionary words which are found in the Employment Act of 1946: "All Americans able to work and seeking to work have the right to useful, remunerative, regular and full-time employment, and it is the policy of the United States to assure the existence at all times of sufficient employment opportunities to enable all Americans to freely exercise this right." Let me remind you that the name of this legislation was changed during the course of its passage, and the word "Full"—from Full Employment—was removed as offering a promise that could not be met. I suggest that it is time we put the word back into the Employment Act; because it will be more expensive *not* to meet that promise than to meet it.

Manpower training is important. It is important in itself. But its greater significance lies in our ability to make manpower training part of a national manpower policy, designed to abolish unemployment and poverty from the face of our nation. We have made great progress in building our manpower training programs these past ten years, but the real promise lies ahead of us.

"RIGHT TO POLLUTE" OPPOSED

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. WYMAN. Mr. Speaker, the "right to pollute" is being dealt a long overdue death blow in America by an aroused citizenry. At the forefront of the struggle against pollution is the Environmental Protection Agency under the capable leadership of William F. Ruckelshaus.

In a recent address before the Lakes Region Clean Waters Association in Laconia, N.H., Administrator Ruckelshaus summarized the progress man is making in his relationship with his world. His observations merit careful reflection.

[From the Manchester, N.H., Union Leader, Feb. 9, 1972]

EPA Chief Speaks at Laconia—"Right To Pollute" Opposed

(By Earl O. Anderson)

Laconia.—"All Americans might take a second, long look at the New Hampshire state motto—'Live Free or Die,'" the head of the U.S. Environmental Protection Agency asserted here last night.

"Today we can't enjoy true liberty or even life unless we give up our vaunted freedom to pollute," said William F. Ruckelshaus of Washington.

"But if we do surrender that obsolete privilege," he declared, "we can experience life as it was meant to be lived: free from waste, ugliness, despair and unwanted decay," Ruckelshaus told about 400 persons at the Margate Resort.

He addressed a meeting sponsored by the Lakes Region Clean Waters Association, headed by Peter S. Karagianis of Laconia. The speaker was presented by U.S. Rep. Louis C. Wyman.

This morning, the EPA administrator will meet Gov. Walter Peterson at 10, and then at 11 he will speak before a joint session of the Legislature.

At noon today he will lunch with business and industrial leaders at the 88 Restaurant in Manchester, and at 3 p.m., will speak to students at New Hampshire College at the new campus on Old River Road.

Just before his address, the EPA head was presented a citation, "Man of Destiny," by Karagianis, in recognition of Ruckelshaus' "many contributions to humanity, and his dedicated service to the cause of a clean environment, to assure an America for tomorrow."

Ruckelshaus said that he is "enormously gratified" that the common sense philosophy of concern for one's environment is becoming a part of the "national consciousness," and is "turning us from exploitation of the earth toward a mature stewardship of our priceless natural heritage."

In recent years, he asserted, the interlocking effects of pollution, overpopulation, and vanishing resources have compelled most Americans to reasses their "relationship to the world around them."

Habits of exploitation that once were sanctioned by law and general consensus, he observed, are being questioned as never before.

"We are beginning, as a people, to see the full impact of human activity in the once boundless realm of earth, and sky and sea," the speaker stated.

He indicated that a "philosophical revolution" has occurred and that "mankind will never be the same again."

"We have reached the end of an era that began with the industrial revolution."

The EPA has established three national environmental research centers to conduct studies on the health and ecologic effects of environmental contaminants, and to develop technological controls for all forms of pollution, he said.

During the past year the EPA has inaugurated a permit program to regulate the discharge of wastes into navigable waters and their tributaries within the Continental U.S., he added.

"For the first time we will have a nationwide inventory of industrial waste being discharged directly into our waterways, he disclosed.

The question that should be asked of any regulation, standard or permit is whether it serves the public interest.

"Any reasonable man knows that we cannot undo the damage and neglect of centuries overnight. We can only undermine the public's 'staying power' if we tout easy or immediate solutions."

The crucial decisions, he noted, are political, in that they must be made by society as a whole.

The American people must choose their priorities, decide what use they will make of their resources, and what risks they are willing to accept for what benefits," he said.

IT IS TIME FOR A SECOND LOOK

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HANNA. Mr. Speaker, last December the Congress was swayed by public pressures of the moment into passing the extension of the Economic Stabilization Act. I pleaded with the House at the time to put off the extension until March of 1973. I said that we needed to see how the President's Phase II would work out before we extended its life for an additional year. Given the events of last week, I must ask my colleagues to ponder on whether they would today vote for that same extension bill.

Over the past 9 months the American people have been the victim of the cruelest of hoaxes. The administration, with the cooperation of the television media, has concocted a rosy fiction, entitled "The War Against Inflation." The fact is that prices continue to rise. In February, food prices increased at a rate that was the highest in 14 years. I ask my colleagues to consider for a moment whom this increase has hit the hardest. It is a fact that, while the wealthy pay a small percentage of their income on food, the working classes and the poor spend nearly half of their income at the grocery store. We all know that many food items have been exempted from price regulation by this administration—no doubt, this is why food prices have risen so disproportionately.

The callous disregard of the administration for the working classes and the poor is all too clear. The administration is not waging a war against inflation—it is waging a reelection campaign at the cost of the workingman.

Along with several of my colleagues, I have made reference in the past to examples of the clumsy mismanagement of the administration's wage-price program. We all recall that, when the President announced his plans for Phase II, he assured us that the program would not require a large Federal bureaucracy. Here again, we find a clear case of deception. The CLC, Pay Board, and Price Commission personnel number over 600 and the national investigative and "enforcement" staff across the country numbers about 4,000.

In his announcement of Phase II, the President acknowledged the inequities of the freeze and assured all of us that Phase II would be different. We were told that the burden of the effort to control inflation would fall equitably on wages and prices. This has not been the case. It is time, I think, to review the record of Phase II:

First. Wholesale prices are up 8.4 percent on an annual rate.

Second. Twenty-one percent of the items listed in the Consumer Price Index are exempt from controls.

Third. Retail food prices rose in February at the highest rate in 14 years.

Fourth. There are no controls on used car prices or other used goods on which the lower income families must depend.

Fifth. Most retail stores and rental units are exempt from controls.

Sixth. The Pay Board has been slow to rule on wage agreements, while the Price Commission has been quick to grant exemptions.

Seventh. While wages and salaries have risen only slightly, profits for larger corporations continue to make great gains.

With the resignation of three labor representatives from the Pay Board, we have seen another cycle of bureaucratic gymnastics designed to offer the illusion of constructive action. The "reconstituting" of the Pay Board into an all "Public" body begins Phase II-B. The President still refuses to recognize that the structure upon which he relies defies economic logic and predestines Phase II to failure. The war against inflation can only be won if it is fought by one board, making integrated wage-price-and-rent decisions.

I had hoped that the President would have acknowledged the force of economic necessity and used the recent resignations as the opportunity to totally reconstruct the anti-inflation mechanism. Since he has not done so, and in light of the dismal record of the administration's game plan over the past 4 months, I believe it is time for the Banking and Currency Committee to hold oversight hearings on the operation of Phase II. I respectfully request that the distinguished chairman of the committee, the gentleman from Texas, schedule such hearings in the very near future.

WASHINGTON DAILY NEWS' SPECIAL REPORT ON THE SPACE SHUTTLE

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. PRICE of Texas. Mr. Speaker, I wish to call my colleague's attention to a collection of articles on the space shuttle which appeared in a special report of the Washington Daily News today. Mr. V. S. Choslowsky, director of the special projects department of that newspaper, asked a number of spokesmen for the administration, Members of Congress, and others to contribute their thoughts to this feature publication. I insert certain of these articles in the RECORD in order that the Congress will have the opportunity to become familiar with the statements by Dr. James C. Fletcher, Administrator, National Aeronautics and Space Administration; Congressman JAMES SYMINGTON; Congressman LARRY WINN, Jr.; Mr. James J. Harford, Executive Secretary, American Institute of Aeronautics and Astronautics; and Mr. Don Kirkman, Scripps-Howard science writer:

SHUTTLE IS KEY TO SPACE FUTURE

(By Dr. James C. Fletcher)

It takes off like a rocket, flies like a spacecraft, and lands like an airplane.

This shorthand description has been applied to the space shuttle which is being developed as the workhorse of the U.S. space program in the 1980's. Altho accurate as far as it goes, it provides only an inkling of the pervasive and profound influence that the shuttle will exert on our future in space.

MANY ECONOMIES

Few, if any, aspects of space flight will fail to profit. The shuttle will produce substantial flight economies, ease strictures on spacecraft design, lower manufacturing cost, remedy malfunctions in orbit, and afford a built-in versatile that will alter the nature of space planning and operations in major ways.

Cost reduction naturally broadens the planning base, and this in turn makes room for a greater variety of missions that can be scheduled under present procedures. For example, we can now consider an initial investigation of the possibilities the space environment offers for manufacture of such items as ultra-pure vaccines or super-alloys of high unit value that can be made only in the weightless environment.

The less stringent design requirements for reliability that stem from the shuttle's less severe launch environment alleviate many technical problems in designing automated spacecraft and greatly shorten the specialist man-hours required in planning and building them. The reduced commitment frees talent and funds for a more comprehensive attack on multi-faceted programs such as the earth resources effort.

INTEGRATION

The large cargo bay of the shuttle will end the need to design a spacecraft to meet the stringent requirements of a particular launch vehicle. One, two, or more satellites can be secured in the shuttle cargo bay, and when the hatches are closed, the payload is ready for launch.

The shuttle's inherent versatility—the cargo bay can be fitted with what is called a sortie module for manned experiment work as well as functioning as a freighter for instrument packages between the surface and space—will result in a merger of the unmanned and the manned programs. Thus, instead of a manned and unmanned program, we will have an integrated U.S. space program that employs men and instruments to maximum advantage.

From the evidence at hand, the shuttle will supply a lever for substantially increased international cooperation in space work. The shuttle concept has aroused keen interest in the European community organizations concerned wtih space flight and technology. A number of different proposals have been advanced as to the manner in which this interest could be expressed, including the use of European manufacturers as sub-contractors for components of the shuttle's systems.

An editorial writer has described the impact of the shuttle on the space program as a transition from the dramatics of a countdown to an airport routine. The dramatics will be fondly remembered by many of us, but nostalgia will not obscure the hard fact that the routine and economic access to space, of which the shuttle is the hinge pin, is the practical and common-sense means by which we shall reap the great harvest of benefits that space holds for mankind.

TECHNOLOGY ADVANCES ON ALL FRONTS

(By Representative **JAMES SYMINGTON**)

The construction of the space shuttle will advance technology across a broad front, for it will combine aeronautical know-how with space technology and provide man with new capabilities in space. As now proposed, the reusable shuttle launch system offers a multipurpose tool to provide direct access to space-derived benefits.

The shuttle offers an opportunity not only to the United States to advance its own aerospace science and technology, but also to countries which could not finance a complete shuttle system. The advantages will be mutual and conducive to needed international scientific cooperation.

The shuttle can offer the opportunity to conduct direct experiments with relevant equipment, allowing for adjustments and improvements in space-borne equipment no longer dependent on earth and a limited set of earth signals.

Astronomers will welcome the clarity with which the stars may be viewed from points beyond the earth's atmosphere. Geologists and agronomists will find their studies of pollution, terrain, soil and weather greatly assisted by shuttle-borne sensors further enhanced by human error-corrections.

The shuttle technique should lead to orbiting laboratory facilities capable of sustaining a number of varied experiments with a flexibility of timing and emphasis denied to their earth-bound counterparts.

The point should not be lost that the experimentation capabilities of shuttle-borne technology apply to the most urgent needs of resource conservation, not only in the advanced industrial states, but in the developing world as well.

In this connection the recent proposals adopted for consideration at the Stockholm Conference on the Human Environment sponsored by the United Nations in June are timely indeed. Great emphasis is laid in these proposals on man's stewardship of the limited resources of his home planet. Proper use of the space shuttle can help us in our efforts toward the resources management necessary to make this planet fit to house future generations of man.

SHUTTLE WILL PAY ITS OWN WAY

(By Representative **LARRY WINN, Jr.**)

America's first full decade in space is now recorded history. The American people have now invested over $40 billion in NASA since the space program began 15 years ago. The focus is changing for our second decade in space to the Space Shuttle.

The space shuttle can help solve the more pressing of our domestic needs—combating the drug problem, providing better transportation systems, insuring adequate energy resources, preventing natural disasters, increasing biomedical research, and providing new job opportunities, to name a few of the higher priority areas.

AVERT DISASTERS

In our research in natural disasters, such as earthquake and severe weather problems, space now appears as a primary hope in both predicting and averting these disasters. It has been documented that if weather could be accurately predicted even three days in advance, man could save $60 billion a year.

In curbing drug abuse, satellites are being designed which can accurately pinpoint and map drug-producing crops which now go undetected. I also see solar energy as a possible solution to this country's demand for abundant and clean energy sources. But the only realistic way in which solar energy can be produced is by the orbiting of large-scale solar energy collectors. The concept is proven, efficient and clean.

The space program can also help our unemployment problems. The space shuttle program alone will directly employ 75,000 people at its peak with major contracts going to more than 12,000 subcontractors in over 30 states. Indirect job opportunities will bring the total to more than 200,000 new jobs and increase the combined state gross products by over $10 billion.

PAY ITS OWN WAY

There is no question that space potentially provides many answers. Pursuing these solutions requires that the price be right. Space must pay its way.

That is precisely where thee space shuttle fits into the space program. The shuttle is a totally unglamorous concept, it's nothing more than a vehicle for launching and positioning satellites.

Presently, we discard multi-million dollar launch vehicles after a single use. But with the revolutionary advance the space shuttle will provide, we will have a reusable, cargo-carrying space airplane which will permit visits to space on as routine and efficient a basis as commercial jetliners now operate.

The first satellite which this country orbited cost $1 million a pound to place in space. Current launch operations have reduced that cost to less than $1,000 a pound. By use of the space shuttle, tomorrow's satellites will cost only about $100 per pound—a 90 per cent reduction.

The average number of U.S. space launches has been 51 per year from 1964 thru 1969. In the late 1970s, when the space shuttle will be available, the launch rate for NASA and DOD programs is projected at 55 to 60 per year. This projection does not include launches for other civilian and governmental organizations which are expected to raise the final launch rate to 75 per year by the end of this decade.

The space shuttle demonstrates a cost advantage over conventional launch vehicles at a mere 30 flights per year—with that advantage increasing as the flight level climbs. Clearly, the manner in which space will provide the maximum return on investment is thru the space shuttle.

IMPORTANCE TOO COLOSSAL TO PREDICT

(By James J. Harford)

It's now 1972. The first "Model-T" Shuttle flies in 1975 if everything goes well. It goes into routine operation in 1978—again, if everything goes well.

Guessing its significance is like trying to predict what the DC-3 would lead to in air transportation six years before its first flight. The space shuttle could be that powerful and more.

NEW JOBS

It has been said it will create 50,000 new jobs at the peak of the program. But if the shuttle does its assignment the way NASA expects it to—and NASA's Apollo track record has to impress even the cynical—it will help to create entire new industries and, in the long run, hundreds of thousands of new jobs.

It will have 1980's impact on global resources and pollution monitoring, communications, arms control and weather forecasting. And subsequently it could help us funnel enormous amounts of energy from the sun down to earth to augment conventional energy sources. It is even being considered as a possible means for future nuclear water disposal into the sun.

NEW TECHNOLOGY

Don't forget, either, that building the shuttle means developing new technology, particularly in materials, structures and computerized design, that may produce as many down-on-earth benefits as any engineering venture this planet has yet engaged in. The example of the miniaturized transistor-based circuit cannot be forgotten. Originally developed for space needs, it has spawned a whole new technology and revolutionized half the industries on earth today.

And an operational space shuttle will make it practical for us to finally achieve that elusive statesman's goal—collaboration with Europe, the USSR, and possibly China—in mankind's future efforts in space exploration. The concept of "one world" among our engineers, scientists, and men and women everywhere may eventually be attained by our all getting off it together.

One last point, if you will. I'm not so old as to fail to be thrilled by the fact that you and I won't need to be astronauts to qualify as shuttle passengers.

Von Braun Wants To Fly in Space

(By Don Kirkman)

His hair is silvering and his 60th birthday was last week (March 23), Dr. Wernher von Braun—the man who more than any other helped put Americans on the moon—is eagerly looking forward to a space trip of his own.

"Why not?" von Braun smiled. "By the time the first passenger shuttle flies I'll be 68. I think flying into space in a shuttle will be just like being a passenger in an airliner, only smoother.

"I think NASA will let me do it and Maria (his wife) has no objections. There are a lot of grandfathers flying airliners. I don't see why they won't let one fly in a space shuttle."

BOYHOOD DREAM

The world's most famous space pioneer, von Braun has dreamed of flying in space since he was a boy in Germany. He developed the first operational large rocket—the World War II V-2. In post-war America he developed the rockets that launched this nation's first satellite and its first manned spaceship and the Saturn V rocket that boosted our astronauts on their journey to the moon.

But von Braun is convinced these triumphs were just a prelude to great days of space adventuring that lie ahead, including man's eventual conquest of the planets.

And the key to those great days, he said, are the space shuttles the National Aeronautics and Space Administration is asking Congress to authorize. Said von Braun, NASA's deputy associate administrator:

"Eventually, I think the shuttles will prove that man can fly in and out of space routinely, just like any other form of transportation."

TRAVEL TO MARS

He foresaw use of the shuttles for travel to Mars "probably around 1990, or at least before the end of the 20th Century."

The flight probably would begin in the cargo bays of a number of space shuttles in which a Mars spaceship, its nuclear engines, its crew and supplies would be hauled into orbit.

There, the spaceship would be assembled piece by piece, the nuclear rockets ignited, and the journey begun.

"I think the only way to fly to Mars is with nuclear power," he explained, "and because we would never want to ignite a nuclear rocket on earth, we'll have to begin the journey from orbit."

Von Braun said he expects the shuttle ships to help prepare the way for manned exploration by ferrying small, unmanned spaceships into orbit and launching them towards Mars in the late 1970s and 1980s.

These small scouts would continue to orbit, photograph and land on Mars, returning reams of information about the planet's environment and likely landing sites, he said.

"Before we go to Mars, we've got to do our homework just as we did before we went to the moon with the ranger, Lunar Orbiter and Surveyor space ships," he noted: "The more we learn about Mars, the more we'll find out what a fascinating place it is."

A Combination Rocket, Spaceship, Airliner

(By Don Kirkman)

Within the next few months, Congress willing, the advance guard of 50,000 American workmen and technicians will begin building two new spaceships that will dominate space in the last quarter of the 20th Century.

The National Aeronautics and Space Administration calls them space "shuttles," a name that describes how the spaceships will operate. They will "shuttle" in and out of orbit almost at will, much like airliners that shuttle back and forth daily between major East and West Coast cities.

MULTIPURPOSE

Each "shuttle" ship will be a combination rocket-spaceship-airliner that will be able to blast off a launch pad like a rocket, orbit like a spaceship and land at an airport like an airliner.

It will be capable of carrying out almost every type of space mission the nation desires—short-duration flights to place satellites and sky spies in orbit, prolonged journeys for scientific exploration, even rescue missions to retrieve satellites that have malfunctioned.

Compared to first-generation space capsules, the shuttle will be about as different as a Phantom jet is to Orville and Wilbur Wright's first bi-plane.

Basically, what NASA will place on order is a two-stage vehicle that will use a stack of rockets for its first stage and a swept-wing airliner for its second stage. The airliner will be mounted piggyback atop the rocket stack and trundled to a launch pad for blastoff. From that point on, however, all similarity to today's space operations ceases.

The rocket stack will hurl the orbiter to about 25 miles up, drop away, and parachute into the ocean where the huge vehicle will be retrieved by waiting recovery vessels and towed back to the United States. As quickly as possible, the rocket stack will be cleansed of salt water, checked for damage, repaired if necessary, and transported back to its space port. There it will be refueled, mounted on the launch pad again and used to boost another space airliner into orbit.

The airliner it boosted toward orbit, meanwhile, will be carrying out its space missions around the earth. At its completion, it will fly back thru the earth's atmosphere, land at an airport, return to its space port and prepare for another flight.

MAJOR ADVANTAGE

The only portion of the two stage vehicle that will be lost during each shuttle flight will be the fuel tank attached to the airliner to boost it from 25 miles up to orbit.

This "reuseability" of the shuttle's rocket stack and space airplane is the essence of the idea NASA believes is the way of the future in space. Each shuttle, the space agency says, should be able to carry out 100 to 500 flights during its lifespan.

Throughout the first decade of the space age, the "throw-away" rocket and spaceship technique for boosting men and equipment into orbit has been horribly expensive. Every flight required the sacrifice of an exquisitely designed and fabricated rocket stack that became either junk at the bottom of the oceans or flaming chunks of debris as it reentered the earth's atmosphere.

Literally tens of billions of dollars worth of marvelously precise equipment was lost. The only justification for the waste was that at the time it was the only way to get into orbit, to the moon, or to the planets.

FINAL HURDLE

But each new rocket and spaceship paid a dividend in knowledge and finally in the past few years improvements in rocket engines, rocket fuels and new materials for spaceships have come along and made the shuttle possible.

The last barrier to be hurdled now is whether Congress is willing to allocate the money needed to build it.

There is no doubt some members of Congress are going to oppose the shuttle fiercely when NASA's 1973 fiscal year budget comes up for debate. NASA is seeking $227 million for the shuttle.

Sen. Edmund S. Muskie, D-Maine, for one, has publicly declared his opposition on the grounds that earth-bound needs should take priority. Senate Majority Leader Mike Mansfield, Mont., agrees. So do Sens. Edward M. Kennedy, D-Mass., William Proxmire, D-Wis., and Walter F. Mondale, D-Minn.

Mondale, the most vocal shuttle opponent, has given warning that he will fight it to the bitter end. He already has labelled it the "SSP" (for Space Shuttle Program) and predicts it will go down to defeat as the Supersonic Transport (SST) did.

LAST PROGRAM

And yet, there's a solid body of sentiment in Congress in favor of the shuttle. They probably will carry the day.

They base their support on these arguments:

The shuttle is the United States' only manned space program planned for the last quarter of the century.

The United States should not abandon space to the Russians.

Compared to previous manned space programs, the shuttle is cheap.

As things now stand, only five more crews of American astronauts will journey into space in the next 21 months—the Apollo 16 and 17 spacemen who will land on the moon this year and astronauts who will make three flights next year in an earth-orbiting space base called Skylab.

When the last Skylab astronauts splash down in December 1973, no American will venture into space again until the first shuttle flight in 1978. The nation has no other manned space program planned or on the drawing boards.

COMPETITION

The Russians, meanwhile, have made it clear they intend to continue to send men into space. Recently, a patiently pieced together Congressional report indicated the Russians are accelerating their space expenditures beyond anything the United States spent in the heyday of the Apollo man-on-the-moon program.

The Russians have said they will send cosmonauts to elaborate space stations orbiting earth and some day will send men to visit the planets.

They have not said the men they orbit also will carry out military roles, but every Soviet cosmonaut has been either a military man or trained by the military. And the entire Russian space program from its inception has been directed by special "rocket troops" that operate all Russian spaceports.

PEACEFUL PURPOSES

Perhaps the most compelling reason for pro-shuttle sentiment in Congress, however, is the dividends the shuttle will pay to the United States in the form of peaceful utilization of space and defense preparedness.

As now planned, NASA will build five shuttle ships and a launch pad for about $6.45 billion, a far cry from the $25 billion spent on the Apollo moon program. Peak expenditures will be about $1.3 billion per year, NASA administrator Dr. James C. Fletcher estimates, or less than one-third of NASA's annual outlays.

For this comparatively modest amount, NASA and other Government agencies and civilian space corporations expect to be able to increase the number of their space missions while sharply reducing each flight's costs.

One giant saving would be a drastic reduction in the types of rockets NASA and the Defense Department now build to send men and satellites into orbit—Titans, Centaurs, Saturns, Agenas, Deltas. All, except those that would carry very small or very large payloads into orbit, would be relegated to the scrap heap. Shuttles could haul either men, satellites or both into space.

FLEXIBILITY

This, in turn, would mean that satellites could be designed more flexibly and built more quickly and cheaply. Today the weight and design of a satellite is in large measure dictated by the amount of space available in the nose cone of the rocket that takes it into orbit. As a result, most satellites today take five or six years to design and build.

These restrictions will be relieved when satellites are carried into orbit in the shuttle's roomy (60 feet long by 15 feet wide) cargo bay, which will be able to carry a 65,000-pound load.

Among the satellites the shuttle will freight into orbit are the military's super-secret sky spies, communications and weather satellites, earth resources and technology satellites and a galaxy of other sophisticated equipment.

Each shuttle may haul as many as 16 people into orbit during one flight—a pilot, co-pilot, two cargo masters, and 12 passengers in the pressurized equipment bay.

The biggest single user of the shuttles probably will be the Defense Department which, NASA officials say, will take up about 30 percent of the shuttle's flights. Most of these will be secret as the flight from Vandenburg Air Force Base, Calif. now are.

OTHER SAVINGS

Another real money-saver to NASA, Government agencies and civilian space companies like Communications Satellite Corp. (Comsat) will be the shuttle's ability to fly into orbit to retrieve damaged and malfunctioning satellites that now must be regarded as space junk.

Since the space age began, the United States has had 131 launch failures, some as recently as only a few months ago, that have destroyed or damaged billions of dollars worth of satellites. Seventy-eight of those failures could have been eliminated by carrying the satellites into orbit. The majority of the other 53 could have been saved if a shuttle had been around to retrieve them from orbit for repairs.

Shuttles also might be used to inspect and co-ordinate aid during massive natural disasters that affect wide areas of the earth—tidal waves, earthquakes, floods, and so on.

Then, of course, there are those 50,000 jobs the shuttle will create for a sorely injured aerospace industry that has seen employment on space projects slip from a peak of 420,000 in 1966 to about 110,000 today.

Put back to work, these aerospace workers and technicians could put the shuttle into the air for its first test flights in 1976, into orbit by 1978, and fully operational by 1979.

McGOVERN—ATTENTION MUST BE PAID

HON. JAMES ABOUREZK

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. ABOUREZK. Mr. Speaker, Senator George McGovern, candidate for the Democratic nomination, recently made a major speech on the legitimate grievances of ordinary Americans against a government which does not seem to care about their problems anymore. The speech was hailed by the press as the only real attempt by any candidate to talk to working people about their problems in a honest way. I ask that the speech "Attention Must Be Paid" be inserted in the Record along with two newspaper columns—one by liberal columnist Tom Wicker and the other by conservative columnist William White—discussing the speech.

Attention Must Be Paid

(An Address by Senator George McGovern)

Ladies and Gentlemen:

The night of the vote in the Florida primary, there was a strong, and mixed reaction to the large vote compiled by Mr. Wallace, the Governor of Alabama.

Some of the candidates simply ignored the Governor's large vote—I believe that was a mistake.

Other candidates attacked the Governor and all those who voted for him as simply being for racism.

That was a mistake.

I believe the Governor is an extremist. But I believe many of the people who supported the Governor did so because they are deeply frustrated and disgusted with the way their government is ignoring their concerns and interests.

The Governor convinced those people that he cared more about their problems than any other candidate—and those concerns ranged beyond busing to issues such as taxes, personal safety on the streets and schools that get steadily worse.

I'm not here to lecture Wallace supporters for prejudices that some have attributed to them—it is not prejudice to fear for your family's safety or to resent tax inequities. These concerns are as deeply felt in the black community as in the white.

Every poll taken in black communities has showed that more police protection is at the top of the list of concerns.

It is time to recognize this and to stop labeling people "racist" or "militant", to stop putting people in different camps, to stop inciting one American against another.

It is time to stop talking of divisiveness and to start dealing with the very real consensus that exists around these very human concerns that are felt in all our communities.

After the Governor's victory, I said I thought it would be a mistake to simply dismiss it as a racist result—I said that the Democratic candidates had better carefully consider the meaning of the Governor's victory—and respond to it in a meaningful way.

As yet, other candidates are either continuing to ignore the meaning of the Governor's vote in Florida—continuing to dismiss it as a regional racist result with, hopefully, less meaning for the rest of the country—or actually jumping on what they think is the Wallace bandwagon.

The President jumped on with his speech the other night—and Senator Hubert Humphrey jumped on with his response to the President. Senator Humphrey said: "that at long last the President has been able to get his finger up in the air and sense what's going on and has decided that he would say amen to some of the things that some of the rest of us have been trying to do. He's in agreement with me. Let's get the cart where it belongs."

And that was a mistake.

Since Florida, I have given more and more thought to what the results there meant. Tonight, I am going to try and respond in a meaningful way to what the voters of Florida were telling the Democratic Party—and the country.

First, a lot of the people voted for the Governor not because they want him to be President—but because he was a tool they could use to express their anger.

If that vote had actually been for President, I think the result would have been very different.

Voters in this country are smart enough to know that the Governor isn't a big enough man to govern this entire nation and its affairs with other nations.

But they are also smart enough to recognize a way of delivering a message—to use the Governor's own words—to the other candidates, and to the man who will be the nominee of the Democratic Party.

And the message they delivered was pretty clear.

They're fed up with the same old Washington politicians giving them a lot of talk about what needs to be changed in the country, and then once they get elected, changing nothing at all.

They're fed up with being told that the war's going to end and never seeing an end to the war.

They're fed up with being told that the economy's going to pick up and unemployment's going to go down—and never seeing either of those things happen.

They're fed up with being told that inflation's going to stop and prices are going down—and every time they shop for groceries, prices are higher this week than last.

They're fed up with being told that their taxes aren't going to go up anymore—and seeing their taxes raised while their take-home pay drops.

They're fed up with being told that their neighborhoods are going to be safe and clean—and seeing the city become more unsafe than ever before.

In short, they're fed up with being ignored by politicians who keep asking for money to solve problems that never get solved.

They're fed up—and they're mad.

And, that's what the Wallace vote meant.

It wasn't just a vote to stop the buses.

It wasn't simply a vote for racism in America.

It was an angry cry from the guts of ordinary Americans against a system which doesn't seem to give a damn about what's really bothering people in this country today.

It was a vote to stop the whole damn Democratic Party and make it listen to the people for a change—instead of just to political strategists.

During the past year, my travels have forced me to spend less time at my desk and more time with people in all parts of the country. It has been a tough bone-tiring experience. But I have come to the conviction that this crazy-quilt pattern we use to select presidential nominees is a good one, because it has both tested me and opened my eyes to a world I saw only dimly in recent years.

I've walked through the stench of the paper factories and the steady noise of the shoe factories of New Hampshire—not just smiling and handing out buttons—but stopping to listen.

I've gone down into the coal mines of West Virginia, felt the cold winter air blowing through the shaft and smelled the coal dust that can explode on a moment's notice if safe working conditions aren't properly maintained.

I've been in a thousand crowded big city neighborhoods, fast-changing suburbs, farms, towns and homes. I've come to a new appreciation of the pressures, the concerns and the hopes of ordinary American workers.

I know that this country is kept going day in and day out by hard-working men and women—not all of whom love their jobs by a long shot—but who do them because doing a job well is something to take pride in—in and of itself.

I know that the working people of this country are being asked to give everything for their country—including their son's lives in a confusing war that no one wants—and feel their government isn't giving them much in return.

I know that the majority of the people in this country—whether they're white or black or red or brown—aren't bigots or racists.

I know—and you know it too—that if a man has a job that he thinks has a future and respect, that if his kids are going to school where they can learn, that if his taxes are fair, that if he can take his family out to a park that isn't hopelessly polluted, and that if his car doesn't break down two weeks after the dealer delivers it and then tells him the warranty doesn't cover his particular problem—

If a man has these things, then that man doesn't really care who works at the next bench or who lives next door.

What the voters of Florida were trying to tell us with that vote for Wallace was that they don't have these things but they want them and intend to get them—if they have to tell off every politician in the country in the process.

Well, that's all right—that's what the political process in this country is all about—in fact, part of our problem is that the only time people think they can express themselves today is in talk shows and elections because in between the politicians don't want to listen.

I believe that people do have a right to expect government to listen—I believe they have a right to have their most basic hopes—a job and a family and a wholesome life—fulfilled to the greatest extent possible by their government.

As Willie Loman's wife said in Arthur Miller's *Death of a Salesman*, 'Attention must be paid.'

That's what the people in Florida were saying by their vote for Wallace and against busing—*attention must be paid.*

But here is where I think people have to stop and really think—think whether voting for George Wallace and stopping the buses is really going to give them all the other things they really want—jobs, homes, healthy families, better schools, safe communities—futures they look forward to with pride.

If I thought that voting for George Wallace and stopping the buses—and supporting the President—would deliver these things, then I'd vote for them myself and retire to a quiet life in South Dakota.

But I don't believe that is the case.

I do believe that Wallace and the President—and even some of the other Democratic candidates in this race—Humphrey and Jackson— think they are playing a game with the people—with busing being the thing to take people's minds off the problems which really concern them—

I believe that Wallace and Nixon want people to think so much about busing that they forget whether they've got a job or not—whether the job they've got is safe, secure or bearable—whether their pay raise is higher than their tax increase—whether they can afford the property taxes on their homes and the sales taxes on everything else—whether the streets are dirtier than they used to be—whether their kids are learning to read and write and add—busing or no busing—

Busing isn't a race issue.

It isn't even a real issue.

I listened very carefully to the President's speech on busing the other night.

I assume that was the President's response to Mr. Wallace and the vote of the people in Florida.

If it was, the President proved once again that he misses the message people are trying to get through to all of us—

People are afraid of losing their jobs—if they already haven't—they're afraid of having their neighborhoods go to pieces, they're afraid of the unfair burden of taxes that are higher than they can afford, they're afraid of getting sick because they can't lose a week's wages or be wiped out by hospital bills only the very rich can afford.

The President's solution for all this was one thing—

To stop the school bus.

Now you and I know that stopping the bus with political rhetoric is not a solution.

Wallace knows it—

Nixon knows it—

My friend, Hubert Humphrey, who's climbed on the anti-busing bandwagon, knows it—

First of all, despite what the President said— the school bus isn't going to stop anywhere it's running now—and, most likely, in some places it will begin to run in the future.

I'm not saying that because I think the busing of children is a great idea—though it is true that 42% of all school children in the country get to school by bus, the vast majority of them voluntarily and with nothing to do with integrating the schools racially—just because the bus is pretty much the only way to get there.

Despite that the President said—the only way he can stop the school buses from running is to upset the whole system of government on which all of us have depended for almost two hundred years.

The only way the President can stop the buses from running is by getting the Congress to take away from the courts—from the lowest court to the Supreme Court—the right to interpret and enforce the Constitution of the country.

And, despite what the President said, that is just not going to happen.

Even if the Congress passes the legislation the President asked for, the Supreme Court—with the President's own Chief Justice Burger presiding—will find that legislation unconstitutional—as the country's leading constitutional experts have already.

After all, this Supreme Court that Nixon is attacking has four of his appointees—and it was his Chief Justice that wrote the busing decision he now finds unacceptable.

The only way the President can stop the buses from running is to ask the Congress to pass a constitutional amendment—and he didn't ask for that—and not just because it would take years to finally pass a constitutional amendment—but because the President knows full well that when you start fooling around with the country's Constitution—you're getting into a very serious and dangerous business.

President Nixon is attempting to use the Presidential right to television time to incite public opinion against our judicial system. He is attempting to bring such public pressure on the Congress that it will act unwisely to enact legislation which he knows will be struck down as violating a strict construction of the Constitution. This is but part of a continuing Nixon attack on the courts and on the very basis of our democratic system—the principle of three equal branches sharing the responsibility of government and existing in a delicate balance of power that insures a fair and final settlement of our disputes.

The threat that this represents goes beyond busing and the problems of the moment and this presidential election. This has been tried before and defeated because the American people would not tolerate it.

Franklin D. Roosevelt tried to pack the U.S. Supreme Court at the height of his political power. He was rebuffed by the American people.

Richard Nixon has tried to pack the U.S. Supreme Court. Twice his appointees have been rejected by the U.S. Senate.

Now he is making another—a backdoor—attack on the Court which is now dominated by his own appointees. It will be defeated because the American people will not tolerate it.

If the President's political ploy to jam the judiciary to block the school bus were accepted, it would be used tomorrow by this President or some future president to deal with some other issue—perhaps to deprive you or me or our children or grandchildren of their God-given rights.

That's why we must unite, shoulder to shoulder, to protect our courts by halting the anti-busing hysteria. It is a threat to our most cherished possession—our heritage of personal conscience and freedom as Americans.

Let me say this clearly for all who will listen—the courts are the fortress walls between the people and those who would work tyranny upon them—don't undermine them—for the consequences will erode the liberty of all Americans.

Let me tell you what I believe is the real reason the President proposed a law that he knows won't really work. He did it to make sure that the Congress and the country do nothing else for the rest of the year but endlessly debate busing. He did it to make sure—like Governor Wallace is trying to make sure—that the working man and woman in America forget about the real problems before the country.

He wants us to forget about the fact that the inflation he proposed to end almost four years ago is still robbing the paycheck of every worker in this country. Just go to the supermarket if you don't believe that. He wants us to forget that there are seven or eight million men and women in this country walking the streets for jobs that they cannot find because the President's idea of providing jobs to people is giving big business a $6 billion tax break—while big business gives him $400,000 to run the Republican Convention in San Diego this summer.

He wants us to forget that under his administration, which came into office pledged to a secret plan to end the war, that 20,000 young Americans have died in the past three years—most of them the sons of working families—many of them with black skins.

These are the things that are the real concerns of the people of the country today—not how long a child has to ride a bus—though the issue of the bus ride has become a temporary symbol of all these grievances rolled into one.

And, what about the President's pledge to provide quality education to the ghetto schools by providing $2.5 billion for those schools.

After the President's brave speech, it turned out that was money already in the budget.

Second of all, we've been spending that kind of money on the schools for years now—without the faintest idea whether it has done any good.

Third, last year when Congress passed a multi-billion dollar education bill to bring money—money for the three R's—into your schools—all schools—President Nixon vetoed that bill as wasteful and inflationary—now, when he wants to direct attention from this record, he talks of money for quality education.

Mr. Nixon is trying to get the working man to forget the mess he has put the country in.

But the working man isn't forgetting anything.

The working citizen is shouting out the laundry list of his problems and he's tired of being taken to the cleaners.

Mr. Nixon tried to tell us the worker was the silent American.

Well, he's not silent—he knows his problems and he is saying they better be dealt with—or by God, we'll turn you all out.

That was what the Wallace vote meant—and that's the message Nixon missed.

Help up solve our problems—don't try to tell us to be quiet—or to settle for parked buses while our children go to the same old lousy schools.

Neither Wallace nor Nixon has a program for dealing with the country's problems.

As Governor of Alabama, Wallace's record for the working man is sad proof of that.

Wallace's idea of tax reform to help the working man in Alabama is to raise the sales tax, the beer tax and the cigarette tax, while letting the big corporations in Alabama get away with paying practically nothing. Wallace signed into law a bill raising the interest on consumer financing in Alabama from eight to 18 percent. What a sad contrast to the record of another Southern Governor, Reubin Askew, who has required the corporations of Florida to assume more of the tax burden now carried by the little guy. What a sad contrast to Governor Askew's common-sense effort to accept the school bus as one of many devices we can use to help solve the difficult questions of desegregation and quality education.

Wallace's idea of caring for the health and well-being of the people in his state is to propose a private health insurance plan so bad that not even 10,000 people in the entire state signed up for it—not enough for the company to run the plan.

Under Wallace, Alabama remains an anti-union, anti-minimum wage, anti-working man citadel. If Wallace really cared, things would have changed in Alabama and he wouldn't have run second to Governor Brewer in the 1970 Alabama gubernatorial primary, before he turned on the race issue and won the run-off.

In fact, Wallace has been such an enemy of the labor movement in Alabama that during his time in office union membership has fallen by more than 40,000—and strikes for higher wages in Alabama are as rare as good roads, good public hospitals and decent care for the mentally retarded.

And the evidence shows that when it comes to giving special favors, George Wallace can compete with President Nixon's Justice Department any time.

Wallace and Nixon don't have a program for dealing with the country's problems.

What they do have is a plan to try and turn the legitimate attention of the people—the working people especially—away from those problems by taking all of us for a ride on a yellow school bus.

Well, the working men and women in this country are not going along for the ride—and neither am I.

The people—white, black, red and brown—are tired of the same old ride. This time—in this election—they want to make sure they are really going someplace that makes sense—they want a real program to turn this country around—to provide jobs and humane working conditions, fair wages and fair taxes, a sound, basic education and a wholesome environment for their children.

And none of that has anything to do with stopping the school bus.

The only way that is going to come about is from a real program directed at real change.

And, if the Democratic party wants the vote of working people, it has to offer that kind of program.

I am here tonight to offer that kind of program—the same program I took into the working wards of Manchester, New Hampshire—the same program that won me the support of the voters in those working wards.

I am here to offer a program that will really turn this country back to the people where it has always belonged.

One 60-year-old widow who voted for Governor Wallace in Florida said she did so partly because of disgust with the war continuing to go on.

"Anybody who'd end that war, I'm with him: but they're all liars."

I wish I'd had a chance to talk to that lady personally—because I think I could have convinced her that I would end that war. . . .

I promise you tonight that if I were President I would end that sad war the day I took the oath of office—and I would make sure that every American prisoner and soldier came home.

I promise you tonight that if I were President not a single American boy would be left to be the last to die in a war everyone else wants to get out of—and not a single father would be put in the position of having to explain to his son why he should be the last to go.

That same widow in Florida, talking about economics, said:

"It's getting so you can't live. You take someone on Social Security like me. They come in here and put in new sewers and raise taxes, but where do we get the money? The older people are fed up with this Government."

And not just the older people. Every young man just out of school who can't get his first job is fed up. Every working man who has been laid off from his old job is fed up. Every wife who has worked part-time to help make ends meet and now can't find part-time work, is fed up.

Fed up and tired of waiting for the promises of economic improvement of the Nixon Republican Administration to come true.

Working people in this country don't want any more promises about the economy and jobs. They want performance.

What this country needs is a new Economic Bill of Rights that guarantees every man and woman who is physically able and wants to work, a job at a living wage—and for those who are too old or too sick or for whatever reasons can't take care of themselves—an income adequate to meet basic human needs.

Not welfare—but an income.

Old people on Social Security shouldn't have to depend on politicians in Washington to raise their payments when the election years roll around. Social Security payments should be tied by law to the cost of living and whenever those costs go up, payments should go up.

A key part of a new Economic Bill of Rights would be comprehensive tax reform that would put more pay in the pocket of the working man and less profit in the ledgers of the big corporations and the vaults of the big banks.

The reason the Nixon Administration has failed so badly to get our economy moving again is that it has failed to understand that it is the income of the average person in this country that is the motor force of economic growth, not the profits of business and the banks.

We could raise $28 billion in new revenues by making sure that every person with income over $50,000 pays a substantial minimum tax, by reducing the special loopholes like the oil depletion allowance and the other gimmicks that let the rich get off without paying any taxes and imposing a high tax on inherited fortunes over half a million dollars.

We could raise another $32 billion by cutting out unnecessary wasteful military spending—and still have the strongest defense on the face of the earth. This $32 billion would go into the economy—to increase the number of jobs with a more intelligent use of resources.

The two major economic reforms, tax reform and the cutting of military waste, would raise $60 billion for the national treasury:

Dollars that can be used to reduce high property taxes and make sure every school—in the city as well as in the suburbs—gets the same amount of funding.

Dollars that can be used to end welfare and to provide jobs and dignified income for the needy.

Dollars that can be used to provide a hot school lunch for every school child and one hot meal a day for the old and disabled.

Dollars that can be used to provide the best medical care the country can offer at a reasonable cost and in a reasonable amount of time.

Dollars that help clean up pollution without forcing factories that keep people working to close down.

This is the kind of change the country needs and people want.

America needs new leadership—the kind of leadership that stands up for people.

America doesn't need the kind of leadership that is willing to make deals with the likes of George Wallace.

Ten years ago, George Wallace was trying to sell the same bill of goods to the American people by standing in the schoolhouse door instead of in front of the schoolbus.

Ten years ago, we had a different kind of national leadership—we had a President who cared about the well-being of all our people.

John Kennedy didn't make a deal with Wallace—he stood up to him.

"The heart of the question," President Kennedy said, "is whether all Americans are to be afforded equal rights and equal opportunities, whether we are going to treat our fellow Americans as we want to be treated. If an American, because his skin is dark . . . cannot enjoy the full free life which all of us want, then who among us would be content to have the color of his skin changed and stand in his place?"

President Kennedy stood for you—he stood for all of us—from the smallest of us, to the biggest—from the policeman to the schoolchild—from the steelworker to the teacher—from the machinist to the draftsman.

He offered all of us pride—pride in ourselves—pride in our neighbor—pride in America.

It is time for a return to that kind of leadership. It's time for a return to fair-play, self-respect and pride.

That's the kind of leadership I offer. That's the kind of hope I have for our country.

I ask your help to make the best of America happen again.

THE USES OF DEFIANCE

(By Tom Wicker)

George Wallace has been elected to no major office but that of Governor of Alabama, and in all of his celebrated battles with the Federal Government he has been defeated. But those who dwelt upon that fact, Mr. Wallace once said, simply did not understand "the uses of defiance."

George Wallace understands those uses very well. He has built a political career not upon solid achievement or even so much upon attractive proposals as upon sheer defiance, however hopeless, of what many in his constituency saw as unfair and overbearing policies imposed upon them without their consent.

Thus, in 1963, it did not matter so much that ultimately he was forced to stand aside from the schoolhouse door; what gave him his importance was that he stood there at all. When finally overwhelmed, he appeared to many who had stood with him in spirit to be the living symbol of what was happeneing to them; and to many he still does.

Defiance can take many forms. Mrs. Lurleen Wallace, the Governor's first wife, said of him that "when he's on 'Meet the Press' they can listen to George and think, 'That's what I would say if I were up there.'" And in a sense, hearing it said matters more than the fact that saying is accomplishes very little.

Sometimes the uses of defiance can even invert truth. It is true, for instance, that during Mr. Wallace's first term as Governor (1962–66) there were more pupil-miles of busing in Alabama, often to maintain segregated schools, than in 1970–71. Yet, Mr. Wallace has been able to thrust himself once more into national politics not by doing or proposing anything concrete but by strident defiance of what he pictures as a massive new wave of busing—exactly the defiance his constituency wishes it could voice.

Similarly, Mr. Wallace does not need to detail his tax reform program—if any—when he knows so well how to proclaim as his own the anger and defiance of all those who feel themselves overburdened by state, local and Federal taxes; who believe they get too little in return for their tax money; who know that the rich are not only getting richer but escaping taxes through loopholes; who are incensed to see their hard-earned tax dollars going to people they regard as welfare chiselers and loafers, and who view the tax collector as the most immediate instrument of distant and uncaring government.

That is why many believe Senator Edmund Muskie made a serious error in what sounded like a petulant response to the Wallace victory in Florida. Among other things, Mr. Muskie said the Wallace vote had disclosed "the worst instincts of which human beings are capable."

In the event that he should be the Democratic nominee, how does Mr. Muskie plan to appeal next fall to those Florida Wallace voters—and the millions like them in other states—that he so vigorously denounced? His attack may have given him a tougher image for the primary campaign; but it did not enhance his ultimate chance to be President and it did not provide the Democrats with the kind of leadership they will need to handle their Wallace problem.

Senator George McGovern much more nearly struck the right note in a later Wisconsin speech. He denounced Mr. Wallace as an extremist but said of his followers that they were primarily "frustrated and disgusted with the way their Government is ignoring their concerns and interests." It was a governmental system that "doesn't give a damn about what's really bothering people" that had given Mr. Wallace his opportunity, Mr. McGovern said.

The Democratic problem is not easy, but Florida suggests the necessity. It is to appeal to the legitimate concerns and self-interests of the Wallace voter (Mr. McGovern, for instance, does have a sweeping tax reform plan) without pandering to his or her prejudices (Mr. Wallace can never be outdone at that). That is the key to electing a Democratic President; it is the way to give the have-nots and the have-littles something more than a defiant shout; and it might even be the means to a more vital and responsive American politics in which a Wallace could find no real audience.

Under the direction of someone like former Democratic National Chairman Fred Harris, with his "new populist" program, the Democratic platform might be shaped to such an end. In the long run, however, only another candidate who can talk to them is likely to wean the Wallace voters from the dubious charms of defiance.

THE "BUNKER VOTE"

(By William S. White)

The TV tube, whose capacity to promote empty but "charismatic" politicians has so long been analyzed and accepted, is thrusting a phenomenon of quite another kind into this presidential year.

The new American Angelus, the program called "All in the family," which now switches off the brighter lights in sitting rooms all over America on Saturday evenings, is no longer merely full of social significance. It is also awash with political implications. So much is this so that the most thoroughly practical of politicians are now in private discussing "The Archie Bunker Vote"—and they are not laughing at all as they do it.

They do not know or pretend to know what direction "The Archie Bunker Vote" will take. They only know that a running satire no doubt intended to be only entertainment has somehow taken wide hold in the country and is becoming far more than merely amusing.

For Bunker, the unrelieved bigot, and his adoring and muddle-headed wife, who is at once free of all prejudice and a standing affront to women's liberation, are being watched by two very different groups in their vast audience with two totally different perceptions.

To the one group, which is unschooled and looks only at the surface, Archie's gross bias and extreme anti-intellectualism reflect and strengthen this group"s own. He is "telling it like it is"—or he is "telling them off."

The other group understands what the show is really about. They know that Bunker's racism is by definition self-destructive through its powerful built-in self-ridicule. They know also, however, that Bunkerism is not all that simple. Just as George Wallaceism is not all that simple. For Bunker, racism quite apart, is also a living embodinent of a mood of vague, angry protest against ultra-permissiveness in general and specifically against the great burden borne by the poor to help support welfareism that really succors only the very poor.

Bunker is also total candor, if nothing else, and candor itself (if not of the racist variety) is a quality that is widely longed for. What Bunker is on the television screen, in short, is in some ways pretty much what George Wallace is in real life. And Wallace himself is being re-examined now by the politicians just as "All in the Family" is being intently watched for nuances.

For proof of this latter point, however far-out it may seem, there is this direct evidence; some of the most influential and sophisticated couples in Washington, people in or closely connected with national politics, are declining attractive Saturday night dinner bids to stay home in the family with "All in the Family."

The reassessment of Wallace phenomenon got under tentative way after his smashing victory in the fairly typical state of Florida. But it is now at urgent pace. For one example, there is Sen. George McGovern, who until lately had been the farthest left of the Democratic presidential candidates except perhaps for John Lindsay.

Taking note of the violently emotional attack made after the Florida primary by Sen. Edmund Muskie upon Wallace supporters as well as Wallace himself McGovern has, however incredibly come to their defense. It is wrong, says McGovern, simply to say that the governor's big vote was "racism."

"It is not prejudice," McGovern goes on, "to fear for one's family's safety or to resent tax inequities." In brief, the senator now correctly sees Wallace as a symbol of frustrations going far beyond any race. Such a symbol, too, is Archie Bunker. He is Arthur Miller's Willy Loman in "Death of a Salesman;" he is every little man hounded on every side and struggling to find meaning in a disadvantaged life.

Archie Bunker is the type-figure of the lower middle class, black and white, and his harsh humor is his sole outlet from the grinding pressures that bite more deeply into that class than any other. It seems likely that when "The Archie Bunker vote" is at length counted, it will be found to be mostly from that class.

ARMY SHOULD REPAIR, NOT SCRAP, 12,000 TRUCKS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ASPIN. Mr. Speaker, the Army is planning to buy $107 million worth of trucks it already has. According to the Army's Audit Agency, the Army already owns 12,000 practically identical trucks that could be repaired at a cost of $39 million. But instead of repairing the vehicles, the Army is buying 12,000 brand new trucks at a total cost of $107 million.

Quite simply, Mr. Speaker, the Army is missing the opportunity to save $68 million by repairing trucks it already owns rather than buying new vehicles. The Army has missed this chance and instead has taken an action that will have the effect of lining the pockets of a few giant contractors with extra loot.

I have called upon Secretary of the Army, Robert Froehlke, to offer the slightest possible justification to the American people for what is obviously a blatant misuse of public funds.

Not only is the Army buying 12,000 unneeded trucks but, in addition, 12,000 broken trucks the Army could repair will eventually wind up on the scrap heap, wasting millions of dollars more.

In these days of rapidly escalating defense costs, one would think the Army would show a certain amount of prudence and repair trucks it already owns rather than buy brand new ones. Instead the Army is wasting $68 million. It is a shame that with the Defense budget rising a whopping $6.3 billion this year alone, the Army has not had the commonsense to repair trucks rather than squander $68 million.

I have written to Secretary of the Army Froehlke protesting this move in hope that he will come up with an explanation. The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 27, 1972.

ROBERT F. FROEHLKE,
Secretary of the Army, Department of the Army, the Pentagon, Washington, D.C.

DEAR MR. SECRETARY: The General Accounting Office has provided me with information obtained by the Army Audit Agency regarding the decision to buy new trucks as opposed to overhauling trucks in existing inventories.

The Army, according to this information, is planning to buy 12,000 new trucks at a cost of $107 million. The Army already owns an equal number of practically identical trucks that could be repaired for $39 million. But instead of repairing the vehicles, the Army is buying 12,000 brand new trucks at a total cost of $107 million. The Army is missing a chance to save $68 million by repairing trucks it already owns rather than buying new vehicles.

The Army's plan will have the effect of lining the pockets of a few giant contractors with extra loot. I wish you would offer the Congress and the American people any possible justification for this blatant waste of public funds.

Undoubtedly the 12,000 trucks that the Army could overhaul will eventually wind up on the scrapheap wasting millions of dollars more.

With the defense budget rising a whopping $6.3 billion this year alone, at least the Army could have the common sense to repair its trucks rather than squander $68 million on brand new ones.

I hope you will give this matter serious consideration.

Sincerely,

LES ASPIN,
Member of Congress.

FAYETTEVILLE STATE UNIVERSITY

HON. ALTON LENNON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. LENNON. Mr. Speaker, it has come to my attention that Fayetteville State University, North Carolina's second oldest publicly supported institution of higher learning, has recorded some noteworthy achievements during the 1971–72 academic year.

In November 1971, Fayetteville State University was reaffirmed for accreditation for a period of 10 years by the Southern Association of Colleges and Schools.

Fayetteville State's reaffirmation for accreditation is the culmination of the year's study and self-evaluation by the institution itself and the report of a Commission on Colleges Visitation Committee of the Southern Association of Colleges and Schools.

President Charles "A" Lyons, Jr. and Dr. Richard Fields, dean of the university, represented the institution at the meeting of the association in Miami, Fla., and received the notification.

Earlier, Fayetteville State University was one of only two American universities and colleges winning the coveted John Dana Publicity Award of the American Library Association.

Fayetteville State University was cited for this special award because of a year around project coordinated by Mrs. Nettie Thigpen, reference librarian.

Mrs. Thigpen developed a program to create faculty, student, and administration awareness about the university's library. The citation said:

> Fayetteville State University receives this special award for a constructive program to convince the administration of special programs of the library and to implement an orientation program for students on utilization and care of library materials.

Mrs. N. R. Smith, FSU librarian, journeyed to Dallas, Tex., to receive the award for the institution.

Fayetteville State University was one of 10 institutions for which new Air Force Reserve Officers Training Corps units were approved for the 1972–73 academic year, and the only one on the list in North Carolina. More than 183 AFROTC units are in operation in the United States.

In a continuing effort to improve facilities and equipment, the university has started on a $5.1 million capital improvement program. Included in the projects are an Academic Building, which will be the main classroom of the campus and will cost $2,405,000, and a 450-student dormitory which will cost $1,955,000.

Others in the package are renovation of Mitchell Mechanical Arts Building for an Early Childhood Center, clearing, grading, filling land on campus, conversion of a portion of old library for a communications center and roads.

In an effort to enhance the university's on-going programs and to gain additional funds for new ones, Fayetteville State is in the midst of a $1,000,000 enrichment campaign. These funds will be raised among the private sector, foundations, businesses, alumni, and friends.

These funds will be used for endowment, scholarships—faculty and students, student and faculty recruitment, curriculum development, innovative programs, and distinguished university professorships.

Fayetteville State University has a current enrollment of more than 1,470 students and serves military persons and their dependents stationed at Fort Bragg and Pope Air Force Base.

Fayetteville State and North Carolina State University coordinate the higher education program for the military and their dependents with a Fayetteville State University-North Carolina State Branch at the Fort Bragg post. Fayetteville State University has assumed greater administrative responsibility for this program and will assume full administrative responsibility July 1, 1973.

Fayetteville State offers majors in 15 disciplines and a minor in recreation. It became a regional university in 1969.

President Charles "A" Lyons, Jr. has pledged that the institution will continue working to improve all areas of the university with evaluations and implementation of the findings of the institutional self-study and recommendations by various visiting committees.

It appears that Fayetteville State University is making a significant effort to enhance their program to be of greater service to the community, State, and Nation and the world.

MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962, AS AMENDED—DOCUMENTARY HISTORY—PART III, 89TH CONGRESS

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. PERKINS. Mr. Speaker, as part III of the documentary history of MDTA, I include the following materials in the RECORD. They include excerpts from the House and Senate committee reports and floor debates and conference report on the 1965 and 1966 MDTA amendments.

The material follows:

[89th Cong., 1st sess., Senate Report No. 123]

MANPOWER ACT OF 1965

March 12, 1965.—Ordered to be printed. Filed under authority of the order of the Senate of March 11, 1965.

Mr. Clark, from the Committee on Labor and Public Welfare, submitted the following report together with supplemental, individual, and additional views (to accompany S. 974).

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 974) to amend the Manpower Development and Training Act of 1962, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

PURPOSE AND EXPLANATION OF THE BILL

S. 974 was introduced at the request of the administration on February 2, 1965. Its purpose is to extend, expand, and improve the Manpower Development and Training Act of 1962 (hereinafter referred to as MDTA).

S. 974 amends the MDTA to broaden the research and experimental authority of the Secretary of Labor. It also directs the Secretary of Labor to promote, stimulate, and assist nationwide job development activities in the service occupations and related fields.

The training allowance provisions of title II of MDTA are improved and the role of private educational facilities in the manpower training program is clarified. The bill permits payment of daily commuting costs where such costs would be burdensome to the trainee and allows administrative increases in transportation and subsistence payments in States outside the continental limits of the United States. It permits a larger role for the States in setting up smaller training projects. In addition, manpower training activities in redevelopment areas heretofore carried out under the Area Redevelopment Act are transferred to the MDTA with a separate authorization.

The bill extends the program for 4 additional years, and retains full Federal financing for the program through June 30, 1966. Thereafter, the States will be required to contribute 10 percent of institutional training costs, with certain exceptions permitted at the discretion of the Secretary of Health, Education, and Welfare. The 10 percent may be in cash or in kind. The bill authorizes appropriations of $454 million for fiscal 1966 and such sums as may be necessary each fiscal year thereafter. Finally, it provides that reapportionment of funds among the States will not be effected prior to January 1 of each year and then only upon 30 days advance notice—except during the final quarter of the fiscal year.

NEED FOR THE BILL

The goal set by the Congress when it enacted MDTA in 1962 was to provide training for 400,000 jobless workers during the 3 years for which the program was originally authorized. This goal is now within reach.

This is the MDTA record so far:

Training has been approved for almost 320,000 trainees of whom 135,000 are currently enrolled in training programs.

Another 60,000 individuals have been made more employable through special demonstration projects tailored to the needs of the disadvantaged.

Seventy-two percent of those completing institutional training have been placed in jobs.

Ninety-four percent of those completing on-the-job training have been placed.

Training, entry, or refresher courses, covering all skill fields, including technical and semiprofessional, skilled and semiskilled white collar, service, and agricultural occupations, have been offered under the program.

Training opportunities for the long-term unemployed are receiving heavy emphasis. About half the in-school trainees were unemployed for 15 weeks or more prior to enrollment and one-third were jobless for more than half a year. One quarter of all trainees have been nonwhite workers.

The program has concentrated much of its attention on youth, the group presently most afflicted by unemployment. During 1964, enrollment of youth rose to 38 percent of all enrollees in in-school training.

Those with little education have also received special attention. Training of unemployed persons with less than grade-school education more than doubled during 1964.

While these accomplishments are gratifying to the committee, experience has also demonstrated the need for improvement. A number of changes in the MDTA statute have been found necessary.

As the President stated in his Economic Report:

"The promise in the Employment Act of job opportunities for all those able and wanting to work has not yet been fulfilled."

Four unprecedented years of economic expansion, coupled with a new and growing manpower retraining effort have not brought full employment. Yet there are shortages of qualified workers in many industries and occupations. At the same time, there are some 3.7 million (5 percent of the labor force) unemployed citizens who want work but are unable to find it. There are 20 million Americans who lack the minimum training required for most jobs in today's complex economy. Another 1.3 million jobseekers will be added to the labor force this year, including a net rise of 500,000 in the number of teenage youngsters who must have a socially useful outlet for their youthful energies to say nothing of a hope of fulfilling their human aspirations. Many of these youth, some 7.5 million during the decade, will lack a high school diploma. To complicate matters further, the accelerating rate of technological innovation and its concomitant, sweeping changes in skill requirements of thousands of jobs, is putting a premium on advanced education and the increased adaptability it brings.

These are the manpower challenges; and one urgent need is to provide some measure of occupational adaptability to the legions of workers for whom it is already too late to provide "normal" educational opportunities. In response, several modifications in the MDTA have been recommended by the President and Secretary of Labor. The committee agreed substantially with those recommendations, with some modifications. The committee feels that the substantial successes of the MDTA clearly justify its extension. The causes of unemployment are acknowledged to be national in scope and its burdens should be borne by all. Many States and local governments are unable to provide matching funds. They simply do not have the resources to assume what is substantially a national obligation. Virtually all of the State Governors expressed their strong desire to the Secretary of Labor for the continuation of the MDTA. Many have specifically requested that the matching requirements now in the statute be eased.

We have much to learn in improving our manpower programs. The achievements already realized with the limited manpower research program already undertaken have been exceedingly useful. They have indicated the huge potential contribution which manpower development programs can make to the restoration of full employment. The committee recommends that the research and demonstration provisions of the act be expanded so that further experimentation can be carried out.

The several modifications in the training allowance provisions will assure that the central purposes of the act are served, particularly training of the disadvantaged and other unemployed who genuinely require it. Experience has fully demonstrated that training allowances are critical to the success of MDTA programs.

Eligibility for training allowances largely determines the capacity of most workers to accept training and the length of time they can continue in training status. The changes in training allowances—lengthening the period of eligibility, making more disadvantaged and needy people eligible, and increasing the amount for trainees with large families, are all designed to facilitate the retraining of the people who need it most.

Bringing the ARA training under the MDTA, will equalize the benefits of the two programs. It is a major step toward rationalizing and consolidating the Nation's manpower programs. Adequate safeguards are included in the bill to assure that the original purpose of ARA training is preserved.

Finally, one of the new features of the act is the proposed nationwide job development program. Secretary of Labor Wirtz, in testifying before the committee, requested the new provision to provide clear direction for the active development of jobs in the service area as an integral part of a comprehensive manpower program.

The committee was assured that findings of the Department confirm the fact that there is a great potential for job development and for trained people in service and related work. Without a specific, coordinated program those unfulfilled service demands, ranging from household help to appliance servicing and beyond, would, very probably, never be articulated, never enhance our gross national product, never provide the work so desperately needed by millions of idle hands.

The committee shares the conviction of the President of the United States, expressed publicly on February 1, 1965, "that a substantial number of jobs can be developed from presently existing and unmet service needs—in business, at home, on the farm, and in the community.

MAJOR PROVISIONS OF THE BILL, AS AMENDED

S. 974, as amended by the committee would amend the Manpower Development and Training Act:

With respect to title I by—

(1) authorizing experimental and demonstration projects through grants or contracts;

(2) authorizing Federal assistance for job development in service industries;

(3) extending and clarifying labor mobility demonstration projects; and

(4) authorizing bonding and other job placement assistance for trainees who cannot secure employment for reasons other than their ability to perform.

With respect to title II by—

(1) permitting training allowance payments for up to 2 years, with increases for trainees with dependents;

(2) easing restrictions on the eligibility of single persons, family members, and youths for training allowances;

(3) authorizing transportation payments for commuting and permitting increases in transportation and subsistence allowance rates in certain areas;

(4) extending full Federal financing of training programs through June 30, 1966, and providing for 10 percent, in cash or in kind, non-Federal matching for institutional training costs thereafter where higher Federal funding is necessary for private training;

(5) establishing criteria for the use of private training facilities; and

(6) transferring the training provisions of the Area Redevelopment Act to the Manpower Development and Training Act.

With respect to title III by—

(1) restricting to the second half of any fiscal year the reapportionment of appropriated funds among the States and requiring prior notice to the States;

(2) increasing authorized appropriations for titles I and II;

(3) permitting State approval of small training programs; and

(4) extending the act to June 30, 1970.

COMMITTEE AMENDMENTS AND RECOMMENDATIONS

In addition to technical amendments, the committee amended certain sections of the bill as introduced, and adopted additional amendments to the act.

Termination of title II

The bill, as introduced, would make the Manpower Development and Training Act permanent legislation. The committee amended the bill to extend the present June 30, 1966 termination date of title II for an additional 4 years, to June 30, 1970. The committee is mindful of the problems encountered at the State and local levels in planning and staffing for future training programs under temporary legislation. However, the committee feels that a 4-year extension should enable the States to fully plan and meet staff requirements for future programs and permit full-scale development of essential manpower policies.

State matching

The bill as introduced would require 10-percent matching, in cash or in kind, of all training costs from all non-Federal sources.

While the States, almost unanimously, enthusiastically favor continuation of MDTA training, only a handful are both able and willing to provide cash matching funds. Many States have virtually exhausted their revenue sources both with respect to borrowing and taxing. State indebtedness exceeds $92 billion—three times the indebtedness of just 12 years ago. Thus, recognition must be given to the fact that MDTA programs will not continue in many States if they are required to appropriate funds for matching.

The authorization for in-kind matching is designed to afford such States the opportunity to contribute toward training programs without the necessity of cash appropriations. It will, in addition, preserve local responsibility by encouraging the use of existing facilities for training.

The bill, as introduced, would require matching of training allowances as well as institutional training costs. Training allowances, by definition, cannot be matched except in cash, and the fair value of State-provided equipment, services, and facilities under most training programs is not sufficient to permit in-kind matching of total training costs.

The testimony of witnesses before the subcommittee disclosed that many States are without constitutional authority to provide matching funds for private education. At least one State, Oklahoma, is constitutionally prohibited from contributing State funds toward public or private adult, noncollegiate education. Furthermore, private educational institutions cannot themselves be expected to match training costs, in cash or in kind.

The committee amendment would eliminate matching for training allowances and postpone the effective date of State matching for institutional training costs for an additional year, until June 30, 1966. The extension of full Federal financing for 1 more year will enable the States and Federal Government to work out the administrative details of the limited matching requirements adopted by the committee.

Beginning June 30, 1966, Federal payments for institutional training costs would be limited to 90 percent of the cost to the States of carrying out agreements with the States for institutional training. In addition, the committee amendment would permit the Secretary of Health, Education, and Welfare, when necessary, to make payments to a State in excess of 90 percent where the Secretary determines either (1) that a State is without present constitutional authority to contribute to the cost of adult, noncollegiate, public, institutional training, or (2) that higher Federal payments are required for training in private institutions.

The exception for private training is intended to provide full Federal financing if necessary both where a State either cannot legally, or does not in a given training program, contribute to private education or training, or where a private institution itself does not provide in-kind or in-cash matching contributions.

While the committee realizes that under these matching provisions most training conducted in private institutions will be under full Federal financing, the committee feels that the door should not be closed to matching contributions from any source.

The committee considers that the State matching requirements of the bill, as reported, will enable all States to assume their full responsibility under the MDTA. The committee does not expect any further review of the matching provisions of the act will be necessary and considers the matching provisions as reported to be final.

Need for professional reorientation and refresher courses

The committee has amended the statement of findings and purpose of the act to add a further congressional finding that because of defense and other industrial reductions or closings, professional employees who become unemployed are in need of refresher or reorientation courses to become qualified for other employment within their professions.

The finding is intended to express concern for the professionally trained individual whose particular skill becomes obsolete or who may have suffered from overspecialization. Such persons may be in need of reorientation or refresher courses within their area of general expertise. The committee does not feel it necessary to authorize any new training programs in this area since there is presently sufficient authority for such training in the act. The finding adopted by the committee is not intended to authorize the payment of training allowances to professional persons who would not otherwise be paid such allowances.

Experimental and demonstration projects

The committee is satisfied that there is need for expanded experimental and demonstration projects in order to develop new techniques for finding answers to complicated manpower problems.

The bill as introduced authorized contracts only with nonprofit private agencies. The committee amended the bill to permit the Secretary of Labor to contract for experimental and demonstration projects with any private or public agency. Grants may be made only to public or nonprofit private agencies.

Although, it is expected that generally grants will be used for smaller research projects, this limitation would not apply to the establishment of manpower research centers which would require larger sums of money. Because the scope of the centers would encompass the encouragement of research, the training of researchers, and the establishment of long-term agreements with universities, larger sums should be available for these activities.

Authorization for experimental and demonstration projects under title I and the transfer of authorization for labor mobility projects from title II to title I will free such programs from the State matching and apportionment requirements of title II and permit the flexibility necessary for the conduct of operational research.

The committee recognizes the need for placement and bonding assistance to rehabilated trainees with criminal records. However, the authorization for trainee bonding and other placement assistance is understood by the committee to be strictly experimental since such projects have not been tried heretofore. The funds for such projects are limited to $500,000 over the next 2 fiscal years.

Job development programs

The committee amended the bill as introduced to place the new provision of job development programs in service occupations in a separate section under title I.

Training allowance duration

The extension of the maximum duration of training allowance payments to 2 years is necessary to reduce the pressures on trainees in programs which have had to be accelerated to meet the present 52-week limit. Accelerated training has caused trainees who might otherwise complete training to drop out of programs because they are unable to absorb their training in such concentrated doses. The extension of the duration of training allowances will also permit programs in many of the more highly skilled and technical occupations.

Computation of the basic amount of training allowances

Under MDTA, the basic training allowance is the average weekly unemployment compensation payment for total unemployment. Some State unemployment insurance laws require the reduction of benefits paid to a recipient by the amount of pension payments, social security benefits, and other such payments which he receives. The effect has been to reduce the average weekly unemployment compensation payment by about $2 in such States. Trainees in such States are believed to be unfairly penalized.

The committee therefore amended the act to provide that the total amount paid to any individual who receives a reduced benefit check for the above reasons be disregarded when computing the weekly average unemployment compensation for the purposes of determining the basic amount of training allowances.

Training allowance increases

The bill provides for additional allowances of $5 a week for each dependent over two up to a maximum of six.

The committee understands that the $10 increased training allowance provided by the 1963 amendments to the act is now paid on the basis of the number of persons in a trainee's household and the length of time a trainee has been in training. Thus, a trainee member of a household with three or more members is now eligible to receive an extra $5 a week for the first 4 weeks of training and an additional $5 a week thereafter. No extra allowance is paid to a trainee who lives in a household with fewer than three members during his first 10 weeks of training, but he may receive an extra $10 a week after the 10th week. The committee has been informed by the Department of Labor that the Department contemplates paying the extra $5 per dependent authorized by the bill in addition to the $10 presently permitted under the act. Thus, for example, a trainee with three dependents may have his basic allowance increased by $15 per week, $10 under the 1963 amendment and $5 for his third dependent. A trainee with six or more dependents may have his basic allowance increased by $30 a week.

Transportation and subsistence payments

The bill authorizes transportation allowances for commuting from a trainee's regular residence to his place of training. The committee recognizes the hardships which result when a trainee must use his training allowance payments for commuting expenses. The committee recommends that the Department of Labor adopt regulations specifying that commutation allowances be paid only for the least expensive form of transportation reasonably available to a trainee.

The committee added an additional amendment to the act to permit reasonable increases in the present rates of 10 cents per mile for transportation payments and $5 a day for subsistence payments in those areas, specifically, Hawaii and Alaska, where higher rate transportation is necessary and the minimum costs of room and board are in excess of $5 a day. In Alaska, for example, most trainees must use commercial air transportation at rates considerably in excess of the 10 cents per mile limit. The Federal per diem rates for Alaska and Hawaii are $21 as compared with $16 in the other 48 States. Such increases in transportation rates will not be authorized for commuting expenses.

Eligibility for training allowances

The bill, as introduced, would permit the payment of training allowances to single persons without dependents and to more than one family member if the head of the family is unemployed. A committee amendment would permit payment of training allowances to family members, even though the head of the family is or becomes employed, where the Secretary of Labor determines such payments are necessary to enable a trainee to undertake or continue with training.

Training allowances for youths

The committee adopted an amendment authorizing the Secretary to continue training allowance payments to a youth who becomes 22 years of age while in training, provided he has substantially completed his training.

The committee amendment will permit the selection of youths for a training program who might otherwise be denied training because the duration of the program extends beyond his 22d birthday.

On-the-job training

The committee has learned that in the development and execution of on-the-job training programs, the division of responsibilities between the Department of Labor and the Department of Health, Education, and Welfare contemplated under section 204(c) of the act has not been observed. This provision contemplates that some degree of flexibility should be maintained. Nevertheless, under the clear language of the statute classroom instruction for on-the-job training programs, whether supplementary or related, is the responsibility of the Department of Health, Education, and Welfare and arrangements for such instruction must be agreed to by the Secretary of Health, Education, and Welfare or his designee.

The responsibility of the Secretary of Labor in connection with on-the-job training programs under section 204 relates to training provided at the jobsite, involving employer-employee relationships in which the trainee is acquiring production skills. Closer cooperation between the two Departments and strict compliance with the requirements of section 204(c) must be maintained.

The committee adopted an amendment to make it clear that classroom instruction conducted in conjunction with on-the-job training programs is to be conducted in conformity with the responsibilities of the Secretary of Health, Education, and Welfare.

The committee notes that the Department of Labor's budget for the fiscal year 1966 contemplates a goal of 60,000 trainees for on-the-job training—double the number projected for 1965. In addition, 40,000 trainees are projected in fiscal 1966 for on-the-job training programs in service occupations pursuant to the new job development programs. The committee welcomes this expansion of on-the-job training and recommends that increased emphasis be given to on-the-job training programs in the coming years.

Private institutional training

The committee adopted an amendment setting forth specific guidelines for the States to follow in determining whether to use public or private facilities for institutional training. The committee feels that the present requirement that private facilities can only be used if they make possible reduced Federal expenditures is too restrictive and tends to discourage the States' use of private institutions where existing private facilities might have advantages over public facilities. Specifically, private institutions may have equipment or services not available in public facilities. Furthermore, training of individuals may be facilitated where a particular training course is available at a private school. In this connection, the committee feels that referrals of individuals for training should receive increased emphasis.

Redevelopment area training

The bill, in a new section, incorporates the training provisions of the Area Redevelopment Act under MDTA. The committee adopted several clarifying amendments to make it clear that, with four specified exceptions, ARA training programs will be operated in accordance with the provisions of the MDTA.

The four exceptions provide that (1) occupational training and retraining needs will be determined by the Secretaries of Labor and Commerce; (2) all unemployed and underemployed persons residing in redevelopment areas will be eligible for training and training allowances; (3) no State matching will be required; and (4) appropriated funds will not be apportioned among the States.

The committee wishes to make it clear that the authorization for ARA training under MDTA and repeal of sections 16 and 17 of the Area Redevelopment Act is intended primarily as a legal consolidation rather than change in operating procedures. The scope, purposes and emphasis of ARA training are not in any way altered or diminished. Thus, for example, consideration is expected to be given, as is required by subsection 16(f) of the Area Redevelopment Act, "to the special needs of individuals who are agricultural workers or are engaged in other seasonal occupations and who require occupational training in order to qualify them to engage in supplementary employment during the off season and during other periods of reduced activity in the field of their regular or primary occupations." Training for redevelopment areas will continue as in the past except for the expansion of training programs which result from the increased authorized duration and amounts of training allowance payments and additional funds available for ARA training.

Reapportionment of funds

The committee adopted an amendment which will limit the reapportionment of funds among the States to the second half of any fiscal year. The committee amendment will also require 30 days' prior notice to a State before any Federal funds originally apportioned to the State are reapportioned. Prior notice will not be required, however, during the last quarter of a fiscal year.

The committee feels that this amendment is necessary to alleviate hardships which, in the past, have been caused in some States where funds apportioned to the State are, suddenly, and without adequate notice, withdrawn and placed in the "national pool" prior to being reapportioned among the States. The committee believes that 30 days' notice will enable the States to complete the planning and secure necessary approval of inprocess training programs before funds are withdrawn to the national pool.

Authorized appropriations

The committee has amended the bill, as introduced, to retain specific authorization figures under each title of the act for the fiscal year 1966.

Authorization of appropriations are increased to $46 million under title I, $385 million under parts A and B of title II, and $22 million under part C (the area redevelopment training provisions) of title II. The present authorization of $1 million for title III is retained. Such sums as may be necessary are authorized for succeeding fiscal years.

Use of appropriated funds

Under existing law when a training program is approved the costs of training are obligated in their entirety against the appropriation current at the time of approval of the program. This is not the situation with respect to training allowances.

Training allowances become a legal commitment on the part of the United States only after the trainees are selected and referred and the commitment is made to the individual trainees so that they will receive the training allowances. Thus, if a training program is approved on the first of June, for example, the training cost in its entirety becomes an obligation against the then current appropriation. The selection and referral of the trainees and the commitment to them may, however, not be made until the next fiscal year. The training program may be a multiple occupation program under which trainees are selected and referred at varying periods.

Consequently, there have been serious complications in the fiscal management of the programs. The result has been that a program approved in 1 fiscal year in a State creates a contingent commitment for training allowances against the next fiscal year's appropriation.

The bill would authorize the obligation of all costs of training and training allowances against the appropriation current at the time the total program is approved without regard to when the trainees are selected and referred.

Limited State Approval of Small Training Programs

The committee adopted an amendment which will permit the Secretaries of Labor and Health, Education, and Welfare to establish procedures whereby the approval of any training program, the cost of which does not exceed $75,000, may be delegated to a State.

The recommendation for local approval of smaller training programs should not be construed as in any way indicating that the committee expects all or, necessarily, even a substantial proportion of such program approvals to be delegated by the Secretaries. On the contrary, it is expected that the Secretaries will use their discretionary authority only in cases where local approval will clearly facilitate operation of the MDTA program.

Secretaries' Reports

Section 309(a) of the act requires the Secretary of Labor to report to Congress each year, evaluating the programs under title I and part A of title II, their effectiveness in securing full-time employment for persons trained under the act, the need for continuing programs and making recommendations for their improvement. Thus far, the Department of Labor has conducted only minimal evaluation and followup studies on trainees and persons considered for training. The committee feels that section 309(a) of the act contemplates that the Secretary submit, along with his report on the operation of the programs, an outline of his plans and procedures for the evaluation of MDTA operations in the year ahead. Such plans might include, among other things, thorough studies of the effects and results of training a year after its completion, indicating, for example, whether trainees have upgraded the skills learned in the program. Comparison studies of the current status of those who were refused admittance to the program and those who failed to complete their training might also be included. This will insure that the executive departments gather the information Congress needs if its voice in policymaking is to be effective.

SUPPLEMENTAL VIEWS OF SENATORS JACOB K. JAVITS AND GEORGE MURPHY

The bill has provided a significant opportunity for review of the Manpower Development and Training Act of 1962 since there has now been sufficient time to begin to evaluate the experience under it. Some 135,000 trainees have been enrolled in the program and a total of 320,000 have been programed for enrollment by the end of the current fiscal year, the third year of operation. Viewed from this vantage point the program is in our judgment a hopeful one, although its scope is far from meeting the enormous challenge of either chronic unemployment for a long time, now, at an unacceptable national 5-percent level or of millions of educationally ill-equipped youth in a rapidly automating economy.

As still an experimental approach to training and retraining the unemployed, the program has shown a number of defects which we as a minority have sought to correct in the pending legislation. We are gratified to note that, as reported to the Senate, the bill and committee report, in which we have joined, contain a number of our proposals.

In view of the experience under the existing matching requirements in the act, which would have become effective on July 1, 1965, and with which only three State legislatures (in New York, Pennsylvania, and Michigan) have indicated a willingness to comply, we have agreed to modify the matching grant requirement to a 90-percent Federal, 10-percent State basis. An amendment offered by Senator Prouty (and Senators Javits and Murphy) makes this matching formula workable in several important respects. First, private training institutions, which cannot be expected to match Federal funds either in cash or in kind, would be exempted from the matching requirement. Second, matching may be in cash or in kind, so that public training institutions may contribute additional facilities or personnel or increased use of existing facilities or personnel. Third, the matching requirement is deferred for 1 final year of 100 percent Federal finnacing so that the States can plan to meet the requirement over the next fiscal year.

Testimony revealed that the time required for identification, development, and Federal approval of projects under the act is at a minimum 3 months, and that many applications require 6 months to a year. During that time the conditions on which the project was based may change substantially, and delay imposes hardship on the unemployed who are waiting for the training to begin. Accordingly, an amendment offered by Senator Javits was adopted to authorize the Secretary of Labor to delegate to State authorities approval of projects not exceeding $75,000. It is intended that this authority will be used to permit more rapid implementation of smaller projects and to reduce the burden of Federal reviewers so that they will concentrate on the quality of the larger projects.

Section 301 of the act presently authorizes reapportionment of funds allocated to the States where the allocated funds have not been used. Some States have found that, very shortly after an initial allocation, some part or all of the allocation has, without notice to or consultation with the State, been reallocated from the State and placed into the national pool for the use of other States. An amendment offered by Senator Javits would limit reapportionment of funds until after 6 months of the fiscal year have elapsed and only upon 30 days' prior notice to the State, except during the final quarter of the fiscal year, when prior notice is not required.

As originally enacted, the act included the finding of the Congress that there is a critical need for more and better trained personnel in the professional, scientific, and technical categories as well as in the apprenticeable category. However, this aspect of the need has been almost entirely neglected. The Labor Department has by regulation eliminated professionals from the program. Although the primary purpose of the act is to reach the unskilled and semiskilled, there is a national responsibility to all the unemployed, particularly in those areas most hard hit by defense cutbacks affecting Government contractors and military installations. As the just-released manpower report of the President emphasizes, these cutbacks often involve large numbers of highly skilled technical personnel who find it difficult to adapt their skills to other industrial uses. Accordingly, an amendment offered by Senator Javits (and Senator Prouty) would add to the findings and purposes of the act the specific authorization to include professional employees who have become unemployed because of reductions or changes in national defense and other industrial activities. This type of coverage would be limited to refresher or reorientation educational courses designed to make existing professional skills marketable, and not to supplant higher education assistance for those who have not yet obtained professional degrees.

As proposed by the administration, this bill would reassign responsibility for training under the Area Redevelopment Act from the Area Redevelopment Administration in the Commerce Department to the Labor Department and would apply Manpower Development and Training Act standards to that training. An amendment offered by Senator Javits avoids the possible overlap of authority by specifically repealing the comparable provision in the ARA Act simultaneously with the enactment of this act.

The Congress recognized in the 1963 MDTA amendments the fallacy of automatically linking to unemployment compensation levels the training allowances under this program, which is designed to induce training for employment. An additional $10 per week was then authorized, and the Labor Department has administered this additional payment on the basis of dependency and duration of training. The pending bill also provides for an additional $5 per dependent (above two and up to six) without referring to the existing $10. In response to a question from Senator Javits the Department has represented, and it is our intention, that the extra $5 per dependent will be added to the extra $10 presently permitted under the act, raising the maximum increase in basic allowance above unemployment compensation to $30 per week for a trainee with six or more dependents.

One of the most disappointing features of the program has been the very small use—approximately 10 percent of the trainees—of the on-the-job training program, which, as Secretary Wirtz himself testified, was expected to be a prime focus of the act when it was first enacted. We welcome the additional effort to make this program work which is represented by the experimental and developmental programs authorized by these amendments. We urge especially a determined effort to make the business community aware of the on-the-job training program, through publications and other methods, and to bring into close cooperation the 1,900 State employment service offices throughout the country. The employment service should be given maximum information about on-going, on-the-job, and institutional programs within commuting distance and should also be given firm instructions to maximize the number of individual referrals to those training programs, rather than keeping unemployed individuals waiting for a group arrangement to begin operation.

JACOB K. JAVITS.
GEORGE MURPHY.

INDIVIDUAL VIEWS OF SENATOR WINSTON L. PROUTY (REPUBLICAN, VERMONT)

There is no economic failure so terrible in its import as that of a country possessing a surplus of every necessity of life in which members willing and anxious to work are deprived of these necessities.

The Manpower Development and Training Act is a relatively new and imperfect instrument for dealing with the Nation's complex manpower problems. Some difficulties that have become evident since the inception of the act in 1962 have been overcome by the amendatory process in 1963 and now in 1965.

I offered the following amendments to the subcommittee which the committee has incorporated in the Senate bill. I believe them to be equitable and in the interest of maximum efficiency.

(1) *Youth training allowances.*—Previously, under the act, it was possible for a youth under 22 to start a training program and have his $20 weekly training allowance cut off when he reached the age of 22. This amendment allows the youth to continue receiving the training allowance until the end of his training. I believe that this action will tend to cut down the rate of dropouts and generally complement the manpower situation.

(2) *Elimination of unnecessary duplication.*—The original intent of paragraph (C) of section 204 in the act was that the Departments of Health, Education, and Welfare, and Labor should confer and agree on the best ways and means to provide on-the-job trainees with any classroom instruction incident to their training. In some of the classroom training conducted, this has not been the case. My amendment offered clarifying language to reaffirm the original intent.

(3) *Equitable standards for participation by private institutions.*—Existing law provides for participation of private training schools in the program only when they can provide training cheaper than such training would be if conducted by a public institution. This amendment changes the language so that the costs could be comparable rather than reduced.

I believe that the private institutions can play a greater role in making the Manpower Development and Training Act programs increasingly effective, especially where they can—

(*a*) provide equipment or services not available in public institutions, particularly for training in technical and subprofessional occupations; or

(*b*) make possible an expanded use of the individual referral method; or

(*c*) aid in reducing more quickly unemployment or current and prospective manpower shortages.

The committee has incorporated this language into the act at my suggestion so as to insure that the private institutions are not excluded from participation as a matter of policy. Nearly half of the States have failed to use private training schools even though in many cases their personnel and facilities are superior.

I am keenly interested in the expansion of the individual referral method, and it is apparent that the private institutions are tailormade for accepting this type of trainee.

Expanded use of individual referrals would cut down the waiting period which accompanies the initiation of a group training class. I feel that the individual referral method offers the trainee a greater latitude of choice, and thus would reduce both the possibilities for misplacement and the dropout rate.

(4) *Financing.*—According to a survey made available to me by the Department of Health, Education, and Welfare only two of the States have appropriated funds to date which would meet the matching requirements that would come into effect after June 30, 1965. Therefore, in order to achieve the fullest participation by the States that is possible, I introduced and the committee approved the following financing arrangement:

The Manpower Development and Training Act program would be 100 percent federally financed during the next fiscal year ending June 30, 1966. Training allowances would continue to be 100 percent federally financed thereafter. Training costs, however, would be financed on a 90 percent Federal 10 percent non-Federal matching (in cash or in kind) basis, for fiscal years beginning after June 30, 1966.

If the bill had been adopted in its original form, the matching provisions would effectively exclude private schools from participation in the program. Therefore, upon my recommendation the committee approved an amendment to be written into the bill which would allow the Secretary of Health, Education, and Welfare to determine that in the case of private institutions, such Federal payments may be made as will give full effect to the purposes of the act.

(5) *Refresher training.*—The senior Senator from New York, Mr. Javits, and I recognize a great need to retrain professional and technical personnel who are displaced by defense order, or other industrial cutbacks. In many cases these people need only short refresher courses to put them abreast of the technological requirements of their field and thus make them employable.

Therefore, we recommended, and the committee approved, language to be inserted in the bill which would provide that such reorientation of persons with professional or technical skills, as would make them employable, be included within the scope of the act.

We feel that this amendment will ease the impact on communities heavily dependent on defense or other industries where these activities have been canceled or cut back. The personnel affected could then continue to be assets to the community rather than join the ranks of the unemployed.

Concluding remarks

I am convinced that these amendments, which met the approval of the committee, will help to increase the effectiveness of the act. Continued surveillance of the practical application of the act, however, is necessary, and I am sure that we will have to perfect it further from time to time.

The program is largely experimental. I share the hope of all others that it will be successful. At least two shortcomings which are difficult of solution, however, continue to cause me deep concern.

First, the act was expected to give the older unemployed man a new grip on life. For the most part, in this mission it has failed. There still remains the knotty problem of how to prevent discrimination because of age.

Second, I remain concerned about the small number of persons dealt with by the individual referral method. Part of the older worker's dilemma, I believe, can be resolved by the use of this method.

It was expected, at least by some of us in the Congress, that individual problems would be given individual attention. But all too often the jobless fellow who wants to pursue a certain type of training must wait and wait until that one bright day when several others want the same type of training.

If only one unemployed man in a given State wants to be a chef, for example, and there is a skill shortage in this occupation, then I say he should get the training. Slightly over 3,000 persons, nationally, have been trained on an individual referral basis during this fiscal year to date. I say this is an alarmingly small number, and inconsistent with the intent of the act.

I shall not rest with the improvements we have written into this bill, for we have only begun to approach the problems of unemployment in a dynamic economy. Implementation of positive and constructive ideas must meet the awesome challenge presented by advanced technology and automation.

WINSTON L. PROUTY.

ADDITIONAL VIEWS OF SENATOR GEORGE MURPHY

Although generally agreeing with the more experienced minority members, I wish to make the following observations:

First, I urge my colleagues to limit the extension of this program to 2 years. While hopeful that the program will achieve its stated goals and even encouraged by some of the reported results, I believe this legislative committee, as the expert in this field, owes a responsibility to the American taxpayer for the continued supervision and evaluation of this program.

Since we are recommending various changes, 2 years will provide an adequate trial period after which we can evaluate the results. How effective were the bonding demonstration projects? What type of courses require the extended training periods? Is it desirable to continue the 90–10 matching program? These are all questions that will be pertinent at the end of the 2-year period.

I deeply fear that the Congress may be needlessly duplicating their efforts. For example, for the young people we now have the Job Corps, the vocational education program, and an expanded Manpower Development and Training Act. Would it be more economical and efficient to consolidate these various programs?

As initially conceived, the main thrust of the Manpower Development and Training Act was aimed at assisting men who became unemployed because of automation and technological changes. The act presently provides that not more than 25 percent of those receiving training allowances shall be under age 22. As amended, the legislation would allow the Secretary of Labor to administratively adjust the percentage. While greatly concerned and interested in helping our young people, I wish to make certain that the expansion of this program for our youth is not to the detriment of the heads of households.

It is my hope that the States would expand the utilization of the private institutions in this program. Naturally, I am proud that the experience of California proves the wisdom of such utilization. Private institutions in my State account for 15 percent of the training under this program and I am most encouraged by the results. I was pleased to join the minority members of this committee in amending the legislation to permit the continued use of private schools.

GEORGE MURPHY.

[Senate, March 16, 1965]

MANPOWER ACT OF 1965

The **PRESIDING OFFICER.** The chair lays before the Senate the unfinished business, which will be stated.

The **CHIEF CLERK.** A bill (S. 974) to amend the Manpower Development and Training Act of 1962, as amended, and for other purposes.

Mr. **CLARK.** Mr. President, S. 974 was introduced at the request of the administration on February 2, 1965. Its purpose is to extend, expand, and improve the Manpower Development and Training Act of 1962—hereinafter referred to as Manpower Development and Training Act.

S. 974 amends the Manpower Development and Training Act to broaden the research and experimental authority of the Secretary of Labor. It also directs the Secretary of Labor to promote, stimulate, and assist nationwide job development activities in the service occupations and related fields.

The training allowance provisions of title II of the Manpower Development and Training Act are improved and the role of private educational facilities in the manpower training program is clarified. The bill permits payment of daily commuting costs where such costs would be burdensome to the trainee and allows administrative increases in transportation and subsistence payments in States outside the continental limits of the United States. It permits a larger role for the States in setting up smaller training projects. In addition, manpower training activities in redevelopment areas heretofore carried out under the Area Redevelopment Act are transferred to the Manpower Development and Training Act with a separate authorization.

The bill extends the program for 4 additional years, and retains full Federal financing for the program through June 30, 1966. Thereafter, the States will be required to contribute 10 percent of institutional training costs, with certain exceptions permitted at the discretion of the Secretary of Health, Education, and Welfare. The 10 percent may be in cash or in kind. The bill authorizes appropriations of $454 million for fiscal 1966 and such sums as may be necessary each fiscal year thereafter. Finally, it provides that reapportionment of funds among the States will not be effected prior to January 1 of each year and then only upon 30 days' advance notice—except during the final quarter of the fiscal year.

NEED FOR THE BILL

The goal set by the Congress when it enacted the Manpower Development and Training Act in 1962 was to provide training for 400,000 jobless workers during the 3 years for which the program was originally authorized. This goal is now within reach.

This is the Manpower Development and Training Act record so far:

Training has been approved for almost 320,000 trainees of whom 135,000 are currently enrolled in training programs.

Another 60,000 individuals have been made more employable through special demonstration projects tailored to the needs of the disadvantaged.

Seventy-two percent of those completing institutional training have been placed in jobs.

Ninety-four percent of those completing on-the-job training have been placed.

Training, entry, or refresher courses, covering all skill fields, including technical and semiprofessional, skilled and semiskilled white collar, service, and agricultural occupations, have been offered under the program.

Training opportunities for the long-term unemployed are receiving heavy emphasis. About half the inschool trainees were unemployed for 15 weeks or more prior to enrollment and one-third were jobless for more than half a year. One quarter of all trainees have been nonwhite workers.

The program has concentrated much of its attention on youth, the group presently most afflicted by unemployment. During 1964, enrollment of youth rose to 38 percent of all enrollees in inschool training.

Those with little education have also received special attention. Training of unemployed persons with less than grade school education more than doubled during 1964.

While these accomplishments are gratifying to the committee, experience has also demonstrated the need for improvement. A number of changes in the Manpower Development and Training Act statute have been found necessary.

As the President stated in his Economic Report:

"The promise in the Employment Act of job opportunities for all those able and wanting to work has not yet been fulfilled."

Four unprecedented years of economic expansion, coupled with a new and growing manpower retraining effort have not brought full employment. Yet there are shortages of qualified workers in many industries and occupations. At the same time, there are some 3.7 million—5 percent of the labor force—unemployed citizens who want work but are unable to find it. There are 20 million Americans who lack the minimum training required for most jobs in today's complex economy. Another 1.3 million jobseekers will be added to the labor force this year, including a net rise of 500,000 in the number of teenage youngsters who must have a socially useful outlet for their youthful energies to say nothing of a hope of fulfilling their human aspirations. Many of these youth, some 7.5 million during the decade, will lack a high school diploma. To complicate matters further, the accelerating rate of technological innovation and its concomitant, sweeping changes in skill requirements of thousands of jobs, is putting a premium on advanced education and the increased adaptability it brings.

These are the manpower challenges; and one urgent need is to provide some measure of occupational adaptability to the legions of workers for whom it is already too late to provide "normal" educational opportunities. In response, several modifications in the Manpower Development and Training Act have been recommended by the President and Secretary of Labor. The committee agreed substantially with those recommendations, with some modifications. The committee feels that the substantial successes of the Manpower Development and Training Act clearly justify its extension. The causes of unemployment are acknowledged to be national in scope and its burdens should be borne by all. Many States and local governments are unable to provide matching funds. They simply do not have the resources to assume what is substantially a national obligation. Virtually all of the State Governors expressed their strong desire to the Secretary of Labor for the continuation of the Manpower Development and Training Act. Many have specifically requested that the matching requirements now in the statute be eased.

We have much to learn in improving our manpower programs. The achievements already realized with the limited manpower research program already undertaken have been exceedingly useful. They have indicated the huge potential contribution which manpower development programs can make to the restoration of full employment. The committee recommends that the research and demonstration provisions of the act be expanded so that further experimentation can be carried out.

The several modifications in the training allowance provisions will assure that the central purposes of the act are served, particularly training of the disadvantaged and other unemployed who genuinely require it. Experience has fully demonstrated that training allowances are critical to the success of Manpower Development and Training Act programs.

Eligibility for training allowances largely determines the capacity of most workers to accept training and the length of time they can continue in training status. The changes in training allowances—lengthening the period of eligibility, making more disadvantaged and needy people eligible, and increasing the amount for trainees with large families, are all designed to facilitate the retraining of the people who need it most.

Bringing the ARA training under the Manpower Development and Training Act will equalize the benefits of the two programs. It is a major step toward rationalizing and consolidating the Nation's manpower programs. Adequate safeguards are included in the bill to assure that the original purpose of ARA training is preserved.

Finally, one of the new features of the act is the proposed nationwide job development program. Secretary of Labor Wirtz, in testifying before the committee, requested the new provision to provide clear direction for the active development of jobs in the service area as an integral part of a comprehensive manpower program.

The committee was assured that findings of the Department confirm the fact that there is a great potential for job development and for trained people in service and related work. Without a specific, coordinated program those unfulfilled service demands, ranging from household help to appliance servicing and beyond, would, very probably, never be articulated, never enhance our gross national product, never provide the work so desperately needed by millions of idle hands.

The committee shares the conviction of the President of the United States, expressed publicly on February 1, 1965, "that a substantial number of jobs can be developed from presently existing and unmet service needs—in business, at home, on the farm, and in the community."

The bill, as introduced, would make the Manpower Development and Training Act permanent legislation. The committee amended the bill to extend the present June 30, 1966, termination date of title II for an additional 4 years, to June 30, 1970. The committee is mindful of the problems encountered at the State and local levels in planning and staffing for future training programs under temporary legislation. However, the committee feels that a 4-year extension should enable the States to fully plan and meet staff requirements for future programs and permit full-scale development of essential manpower policies.

STATE MATCHING

The bill as introduced would require 10-percent matching, in cash or in kind, of all training costs from all non-Federal sources.

While the States, almost unanimously, enthusiastically favor continuation of Manpower Developing and Training Act training, only a handful are both able and willing to provide cash matching funds. Many States have virtually exhausted their revenue sources both with respect to borrowing and taxing. State indebtedness exceeds $2 billion—three times the indebtedness of just 12 years ago. Thus, recognition must be given to the fact that Manpower Development and Training Act programs will not continue in many States if they are required to appropriate funds for matching.

The authorization for in-kind matching is designed to afford such States the opportunity to contribute toward training programs without the necessity of cash appropriations. It will, in addition, preserve local responsibility by encouraging the use of existing facilities for training.

The bill, as introduced, would require matching or training allowances as well as institutional training costs. Training allowances, by definition, cannot be matched except in cash, and the fair value of State-provided equipment, services and facilities under most training programs is not sufficient to permit in-kind matching of total training costs.

The testimony of witnesses before the subcommittee disclosed that many States are without constitutional authority to provide maching funds for private education. At least one State, Oklahoma, is constitutionally prohibited from contributing State funds toward public or private adult, noncollegiate education. Furthermore, private educational institutions cannot themselves be expected to match training costs, in cash or in kind.

The committee amendment would eliminate matching for training allowances and postpone the effective date of State matching for institutional training costs for an additional year, until June 30, 1966. The extension of full Federal financing for 1 more year will enable the States and Federal Government to work out the administrative details of the limited matching requirements adopted by the committee.

Beginning June 30, 1966, Federal payments for institutional training costs would be limited to 90 percent of the cost to the States of carrying out agreements with the States for institutional training. In addition, the committee amendment would permit the Secretary of Health, Education, and Welfare, when necessary, to make payments to a State in excess of 90 percent where the Secretary determines; either, first, that a State is without present constitutional authority to contribute to the cost of adult, noncollegiate, public, institutional training; or second, that higher Federal payments are required for training in private institutions.

The exception for private training is intended to provide full Federal financing if necessary both where a State either cannot legally, or does not in a given training program, contribute to private education or training, or where a private institution itself does not provide in-kind or in-cash matching contributions.

While the committee realizes that under these matching provisions most training conducted in private institutions will be under full Federal financing, and committee feels that the door should not be closed to matching contributions from any source.

The committee considers that the State matching requirements of the bill, as reported, will enable all States to assume their full responsibility under the Manpower Development and Training Act. The committee does not expect any further review of the matching provisions of the act will be necessary and considers the matching provisions as reported to be final.

NEED FOR PROFESSIONAL REORIENTATION AND REFRESHER COURSES

The committee has amended the statement of findings and purpose of the act to add a further congressional finding that because of defense and other industrial reductions or closing, professional employees who become unemployed are in need of refresher or reorientation courses to become qualified for other employment within their professions.

The finding is intended to express concern for the professionally trained individual whose particularly skill becomes obsolete or who may have suffered from overspecialization. Such persons may be in need of reorientation or refresher courses within their area of general expertise. The committee does not feel it necessary to authorize any new training programs in this area since there is presently sufficient authority for such training in the act. The finding adopted by the committee is not intended to authorize the payment of training allowances to professional persons who would not otherwise be paid such allowances.

EXPERIMENTAL AND DEMONSTRATION PROJECTS

The committee is satisfied that there is need for expanded experimental and demonstration projects in order to develop new techniques for finding answers to complicated manpower problems.

The bill as introduced authorized contracts only with nonprofit private agencies. The committee amended the bill to permit the Secretary of Labor to contract for experimental and demonstration projects with any private or public agency. Grants may be made only to public or nonprofit private agencies.

Although it is expected that generally grants will be used for smaller research projects, this limitation would not apply to the establishment of manpower research centers which would require larger sums of money. Because the scope of the centers would encompass the encouragement of research, the training of researchers, and the establishment of long-term agreements with universities, larger sums should be available for these activities.

Authorization for experimental and demonstration projects under title I and the transfer of authorization for labor mobility projects from title II to title I will free such programs from the State matching and apportionment requirements of title II and permit the flexibility necessary for the conduct of operational research.

The committee recognizes the need for replacement and bonding assistance to rehabilitated trainees with criminal records. However, the authorization for trainee bonding and other placement assistance is understood by the committee to be strictly experimental since such projects have not been tried heretofore. The funds for such projects are limited to $500,000 over the next 2 fiscal years.

TRAINING ALLOWANCE DURATION

The extension of the maximum duration of training allowance payments to 2 years is necessary to reduce the pressures on trainees in programs which have had to be accelerated to meet the present 52-week limit. Accelerated training has caused trainees who might otherwise complete training to drop out of programs because they are unable to absorb their training in such concentrated doses. The extension of the duration of training allowances will also permit programs in many of the more highly skilled and technical occupations.

COMPUTATION OF THE BASIC AMOUNT OF TRAINING ALLOWANCES

Under the Manpower Development and Training Act, the basic training allowance is the average weekly unemployment compensation payment for total unemployment. Some State unemployment insurance laws require the reduction of benefits paid to a recipient by the amount of pension payments, social security benefits, and other such payments which he receives. The effect has been to reduce the average weekly unemployment compensation payment by about $2 in such States. Trainees in such States are believed to be unfairly penalized.

The committee therefore amended the act to provide that the total amount paid to any individual who receives a reduced benefit check for the above reasons be disregarded when computing the weekly average unemployment compensation for the purposes of determining the basic amount of training allowances.

TRAINING ALLOWANCE INCREASES

The bill provides for additional allowances of $5 a week for each dependent over two up to a maximum of six.

The committee understands that the $10 increased training allowance provided by the 1963 amendments to the act is now paid on the basis of the number of persons in a trainee's household and the length of time a trainee has been in training. Thus, a trainee member of a household with three or more members is now eligible to receive an extra $5 a week for the first 4 weeks of training and an additional $5 a week thereafter. No extra allowance is paid to a trainee who lives in a household with fewer than three members during his first 10 weeks of training, but he may receive an extra $10 a week after the 10th week. The committee has been informed by the Department of Labor that the Department contemplates paying the extra $5 per dependent authorized by the bill in addition to the $10 presently permitted under the act. Thus, for example, a trainee with three dependents may have his basic allowance increased by $15 per week, $10 under the 1963 amendment and $5 for his third dependent. A trainee with six or more dependents may have his basic allowance increased by $30 a week.

TRANSPORTATION AND SUBSISTENCE PAYMENTS

The bill authorizes transportation allowances for commuting from a trainee's regular residence to his place of training. The committee recognizes the hardships which result when a trainee must use his training allowance payments for commuting expenses. The committee recommends that the Department of Labor adopt regulations specifying that commutation allowances be paid only for the least expensive form of transportation reasonably available to a trainee.

The committee added an additional amendment to the act to permit reasonable increases in the present rates of 10 cents per mile for transportation payments and $5 a day for subsistence payments in those areas, specifically, Hawaii and Alaska, where higher rate transportation is necessary and the minimum costs of room and board are in excess of $5 a day. In Alaska, for example, most trainees must use commercial air transportation at rates considerably in excess of the 10 cents per mile limit. The Federal per diem rates for Alaska and Hawaii are $21 as compared with $16 in the other 48 States. Such increases in transportation rates will not be authorized for commuting expenses.

ELIGIBILITY FOR TRAINING ALLOWANCES

The bill, as introduced, would permit the payment of training allowances to single persons without dependents and to more than one family member if the head of the family is unemployed. A committee amendment would permit payment of training allowances to family members, even though the head of the family is or becomes employed, where the Secretary of Labor determines such payments are necessary to enable a trainee to undertake or continue with training.

TRAINING ALLOWANCES FOR YOUTHS

The committee adopted an amendment authorizing the Secretary to continue training allowance payments to a youth who becomes 22 years of age while in training, provided he has substantially completed his training.

The committee amendment will permit the selection of youths for a training program who might otherwise be denied training because the duration of the program extends beyond his 22d birthday.

ON-THE-JOB TRAINING

The committee has learned that in the development and execution of on-the-job training programs, the division of responsibilities between the Department of Labor and the Department of Health, Education, and Welfare contemplated under section 204(c) of the act has not been observed. This provision contemplates that some degree of flexibility should be maintained. Nevertheless, under the clear language of the statute, classroom instruction for on-the-job training programs, whether supplementary or related, is the responsibility of the Department of Health, Education, and Welfare and arrangements for such instruction must be agreed to by the Secretary of Health, Education, and Welfare or his designee.

The responsibility of the Secretary of Labor in connection with on-the-job training programs under section 204 relates to training provided at the jobsite, involving employer-employee relationships in which the trainee is acquiring production skills. Closer cooperation between the two Departments and strict compliance with the requirements of section 204(c) must be maintained.

The committee adopted an amendment to make it clear that classroom instruction conducted in conjunction with on-the-job training programs is to be conducted in conformity with the responsibilities of the Secretary of Health, Education, and Welfare.

The committee notes that the Department of Labor's budget for the fiscal year 1966 contemplates a goal of 60,000 trainees for on-the-job training—double the number projected for 1965. In addition, 40,000 trainees are projected in fiscal 1966 for on-the-job training programs in service occupations pursuant to the new job development programs. The committee welcomes this expansion of on-the-job training and recommends that increased emphasis be given to on-the-job training programs in the coming years.

PRIVATE INSTITUTIONAL TRAINING

The committee adopted an amendment setting forth specific guidelines for the States to follow in determining whether to use public or private facilities for institutional training. The committee feels that the present requirement that private facilities can only be used if they make possible reduced Federal expenditures is too restrictive and tends to discourage the States' use of private institutions where existing private facilities might have advantages over public facilities. Specifically, private institutions may have equipment or services not available in public facilities. Furthermore, training of individuals may be facilitated where a particular training course is available at a private school. In this connection, the committee feels that referrals of individuals for training should receive increased emphasis.

REDEVELOPMENT AREA TRAINING

The bill, in a new section, incorporates the training provisions of the Area Redevelopment Act under Manpower Development and Training Act. The committee adopted several clarifying amendments to make it clear that, with four specified exceptions, Area Redevelopment Act training programs will be operated in accordance with the provisions of the Manpower Development and Training Act.

The four exceptions provide that, first, occupational training and retraining needs will be determined by the Secretaries of Labor and Commerce; second, all unemployed and underemployed persons residing in redevelopment areas will be eligible for training and training allowances; third, no State matching will be required; and fourth, appropriated funds will not be apportioned among the States.

The committee wishes to make it clear that the auhorization for ARA training under Manpower Development and Training Act and repeal of sections 16 and 17 of the Area Redevelopment Act is intended primarily as a legal consolidation rather than change in operating procedures. The scope, purposes and emphasis of ARA training are not in any way altered or diminished. Thus, for example, consideration is expected to be given, as is required by subsection 16(f) of the Area Redevelopment Act, "to the special needs of individuals who are agricultural workers or are engaged in other seasonal occupations and who require occupational training in order to qualify them to engage in supplementary employment during the off season and during other periods of reduced activity in the field of their regular or primary occupations." Training for redevelopment areas will continue as in the past except for the expansion of training programs which result from the increased authorized duration and amounts of training allowance payments and additional funds available for ARA training.

REAPPORTIONMENT OF FUNDS

The committee adopted an amendment which will limit the reapportionment of funds among the States to the second half of any fiscal year. The committee amendment will also require 30 days' prior notice to a State before any Federal funds originally apportioned to the State are reapportioned. Prior notice will not be required, however, during the last quarter of a fiscal year.

The committee feels that this amendment is necessary to alleviate hardships which, in the past, have been caused in some States where funds apportioned to the State are, suddenly, and without adequate notice, withdrawn and placed in the "national pool" prior to being reapportioned among the States. The committee believes that 30 days' notice will enable the States to complete the planning and secure necessary approval of inprocess training programs before funds are withdrawn to the national pool.

AUTHORIZED APPROPRIATIONS

The committee has amended the bill, as introduced to retain specific authorization figures under each title of the act for the fiscal year 1966.

Authorization of appropriations are increased to $46 million under title I, $385 million under parts A and B of title II, and $22 million under part C—the area redevelopment training provisions—of title II. The present authorization of $1 million for title III is retained. Such sums as may be necessary are authorized for succeeding fiscal years.

Mr. PROUTY. Mr. President, I wish to express my appreciation to the distinguished chairman of the subcommittee [Mr. CLARK] for the courtesy and the cooperation which he extended to the members of the minority. This has been a bipartisan effort, and I believe that a large share of the credit for our accomplishment should go to the senior Senator from Pennsylvania. I am most grateful to him.

Mr. President, I look upon the Manpower Development and Training Act as an experimental program; a program conceived of the notion that all men that want to work should be given their chance.

In reviewing the practical application of the act over its short tenure, I have found it to be more effective in some respects than in others. The Subcommittee on Employment and Manpower and the full Labor and Public Welfare Committee this year have adopted several refining amendments which I feel will make the act operate more efficiently.

One of the unfortunate situations that occurred under the previous operation of the act was the termination of a trainee's weekly allowance when he reached the age of 22. The amended bill will now allow the youth to continue receiving the training allowances until the end of his training. I believe that this action will tend to cut down the rate of dropouts and generally complement the manpower situation.

Another inequity that prevailed in the manpower development and training program was that private training schools could participate in the program only when they could provide training cheaper than such training would be if conducted by a public institution. My amendment, which is written into the bill before you now, makes it possible for private training schools to participate in the prorgam when the costs are comparable to those of public institutions.

I believe that the private institutions can play a greater role in making the manpower development and training programs increasingly effective especially where they can—

First. Provide equipment or services not available in public institutions, particularly for training in technical and subprofessional occupations; or

Second. Make possible an expanded use of the individual referral method; or

Third. Aid in reducing more quickly unemployment or current and prospective manpower shortages.

According to a survey made available to me by the Department of Health, Education, and Welfare, only two of the States have appropriated funds to date which would meet the matching requirements that would come into effect after June 30, 1965.

Many States either will not or cannot meet this deadline for the matching requirement. Therefore, in order to realize the maximum participation by the States that is possible, I recommended that the matching requirements take effect after fiscal 1966. At that time 90–10 matching requirements—in cash or in kind—would become effective with respect to the training costs of the program. Training allowances would continue to be 100 percent federally financed.

An area of continuing concern to me is the small number of people being trained on an individual referral basis. Slightly more than 3,000 persons, nationally, have been trained via this method during this fiscal year to date.

Expanded use of the individual referral method can only lead to a reduction in the dropout rate, and an increase in the number of persons placed in the fields best suited to their aptitudes.

Mr. President, I do not feel that we have before us a finished product, even though we have amended the act on several occasions. In some areas the program has been effective and in some it has not. No, I cannot testify as to the efficacy of the program as a whole today. Continued surveillance of the practical application of the act is necessary, and I am sure that we shall have to perfect it further from time to time.

I do urge, however, that the bill, S. 974, be favorably considered by the Senate, and I share the hope of all others that it will be successful.

I shall propose one or two amendments later, but basically, I am most interested in having the program continue.

Mr. PROUTY. Mr. President, on behalf of the junior Senator from California and myself, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment

will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 17, line 4, strike out "each fiscal year thereafter", and insert in lieu thereof "the following fiscal year".

On page 17, line 9, strike out "each fiscal year thereafter", and insert in lieu thereof "the following fiscal year".

On page 17, line 14, strike out "each year thereafter", and insert in lieu thereof "the following fiscal year".

On page 17, line 19, strike out "each year thereafter", and insert in lieu thereof "the following fiscal year".

On page 18, line 21, strike out all after the colon and before the period, and insert in lieu thereof " '1967' ".

Mr. PROUTY. Mr. President, first let me say that I am grateful to the majority leader for making it possible for me to offer this amendment. I was attending a policy luncheon, when I received a telephone call asking if I had objection to the committee amendments being considered en bloc. It did not occur to me at that time that I would be precluded from offering my amendment. Thanks to the distinguished majority leader, I am now permitted to do so.

Mr. President, this amendment provides for a 2-year program instead of one of 5 years duration. Originally, S. 974 contained provisions which would have made the program a permanent one. The bill as approved and reported by the committee provides for a 5-year program through fiscal year 1970. It is quite likely that the program will be continued for that period and beyond, if it can be demonstrated that it is achieving its basic objective. However, if our work on S. 974 at this session has shown anything, it has shown that much still remains to be done to make it an effective and efficient program.

It is the duty of Congress to see that the funds of the Manpower Development and Training Act of 1962 are spent wisely. Congress can perform this function only if there is a continuing review of the provisions of the act, and of the operations of the departments and agencies charged with the responsibility for its administration.

It is for this reason that I propose an amendment which would provide for a 2-year program. During this period, we would have an opportunity to reexamine the provisions of the act and its effectiveness. I have always considered it unwise for any committee to surrender to the Appropriations Committee its responsibility for determining the effectiveness with which a program, conceived by the committee, is being executed. This is particularly true with respect to the manpower development and training program, which is still in the experimental stage. The great Appropriations Committee does not have adequate time to develop the requisite expertise for the proper evaluation of such a program. Moreover, its responsibility is to recommend appropriations rather than to propose changes in existing statutes.

Therefore, Mr. President, it seems to me that the manpower development and training program should be subject to a continuous review and analysis by the Committee on Labor and Public Welfare; and that is the purpose of the amendment.

Let me point out that the sums involved or authorizations in the bill total $464 million for the next fiscal year. There would be an open-end authorization after fiscal year 1966. It seems to be in the interest of good legislation and sound legislative procedure that the committee should review this program and authorize funds at the end of the 2-year period.

Contention will be made, I am sure, that this would make it difficult, insofar as planning programs for the future is concerned. There is some validity to that contention, but certainly, inasmuch as the program is experimental, we do not know its effect yet, and we do not know how successful it will be.

It seems to me to be far better, instead of tying up a huge sum of money for a 5-year period, to review the program and see how it is getting along and how effective it is during the next 2 years. As I have suggested earlier, that is the entire purpose of my amendment.

I am supporting the program. I hope it will succeed. However, I believe we can make it a better program if we review it to see how it is functioning throughout the 50 States.

Mr. LAUSCHE. May I ask the Senator from Vermont a question? What does his bill provide with respect to the length of coverage?

Mr. PROUTY. Two years.

Mr. LAUSCHE. Is the second year open end?

Mr. PROUTY. The second year is open end.

Mr. CLARK. Mr. President, so far as I am concerned, I am ready to vote.

Mr. JAVITS. Mr. President, I should like to be heard.

Mr. CLARK. I yield to the Senator from New York.

Mr. JAVITS. I should like to have the floor in my own right.

Mr. CLARK. I yield the floor.

Mr. JAVITS. In committee, we discussed what had been done by the House committee on this subject when we discussed what was to be done by the Senate. I would not take the time of the Senate except that I have not heard discussed the reasons why we acted as we did.

On the previous occasions we have considered this program, we have always planned for a 3-year period for the program. When we enacted it in 1962, we gave it until 1965 to run. When we considered it again in 1963, we added on a year in order, again, to give the program 3 years.

We are in much the same situation now. We are looking forward to a period of extension for the program. My colleague's amendment, of which he gave full notice to the committee, would reduce it below the period of extension the committee had contemplated.

This is the first time we are heading into a matching period. We have heretofore not had matching. We have talked about it, and the law, if it remains as it is, will call for it. If we pass the bill we shall not have matching until June 30, 1966; so if we get only a 2-year period, we shall have only 1 year for matching.

I believe the testimony is conclusive that the States will not consider it worthwhile to line up teachers and make provision in their budgets for a matching program with the possibility that the program will run for only a year. I should like to refer to the testimony of the head of the vocational education program in Ohio, because the Senator from Ohio [Mr. LAUSCHE] raised such a question. I refer to page 112 of the hearings, at which Dr. Shoemaker, really calling for a permanent program, said:

"If this becomes a permanent act I will provide a continuing teacher-education program for these teachers we are having to pull in from industry. At the present time, I cannot afford to."

In short, if we really expect to have the States plan their programs intelligently and effectively for matching, it is necessary to provide a reasonable term of years for the program.

The House committee has provided for a 3-year extension. We could have provided 3, 4, or 5 years. We must still go to conference.

I believe that to cut it down to 2 years would be to cut it too close, considering what we need to do and what we wish to encourage industry to do. This is a critically important program. It is easy in this body to get into a discussion in detail and forget the forest for looking at the trees.

Two million people are changing jobs every year because automation, if our country is really to do the productive job that it must do. And we have almost 5 million endemically unemployed. This is about the only solid job training program at the Federal level that seeks to deal with both issues, and even here we are, at the most, training somewhere in the neighborhood of 400,000 to 500,000 people. If that is what we are to do—and that is little enough—American industry ought to be enlisted to do four times that much—at least we ought to give the plan a decent opportunity. If we really want matching—and we do, and I say this very deeply as a member of the minority—let us give the States a chance to plan ahead so that they will really match instead of thinking that the bill is only for a year, and that perhaps it will not call for matching. Otherwise the States would say, "Let us forget about it and see what Congress does."

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PASTORE. Mr. President, when would the matching requirement become effective under the existing law?

Mr. JAVITS. June 30, 1965, if the bill is not passed. June 30, 1966, if the bill is passed.

Mr. CLARK. Mr. President, we shall be ready to vote within the next 5 minutes.

I oppose the pending amendment, which is proposed by a large majority of the committee.

SENATE 974, MANPOWER DEVELOPMENT AND TRAINING ACT AMENDMENTS

The Manpower Development and Training Act was originally established for a 3-year period. It was considered that this would allow sufficient time to gain experience with this new undertaking and to assess the value of Federal manpower training programs.

The program has since reaffirmed the belief of Congress that it would become a vital link in the measures then being considered, and many since enacted, for alleviating the problems of unemployment and poverty. The Manpower Development and Training Act is unique—and unlike subsequent legislative action such as the Vocational Education Act of 1963 and the Economic Opportunity Act of 1964—in that it is geared to the needs of the individual by providing allowances for the support and maintenance of himself and dependents during the training period. This act meets needs not possible under other legislation—either Federal or State.

Temporary legislation creates havoc with the States in planning operations for a program of this type. Uncertainty of continuing legislation results in a stopping and starting of program emphasis with decreased enthusiasm for the program. For example, some States began to phase out their Manpower Development and Training Act operations during the latter months of 1963 when matching under the original act would have commenced July 1, 1964. The States have contended that they cannot spend their resources in long-range planning because of the uncertainty of continued Federal assistance. They claim and reasonably so, that the terminal aspect of the Manpower Development and Training Act is a major psychological deterrent to planning long-range goals.

Many examples have been brought to the attention of the Departments of Labor and HEW of the frustration and disheartening effect of indecision on the part of the Federal Government as to whether Manpower Development and Training Act will continue at all, and if so whether the States will have to match funds to assure continued participation.

The States have frequently expressed the hope that the Manpower Development and Training Act would be continued for a period sufficient to make a major impact on unemployment problems.

The administration sent down an open-ended bill to make the program permanent. It is felt, and I personally agree with them, that the experience we have had since the act was initially passed has taken the program out of the demonstration category and placed it into a situation, as indicated by the report, in which the program has been proven a success, and further experimentation is not necessary. It was felt the part of wisdom by the chairman of the Committee on Labor and Public Welfare (Mr. Hill) that we should put a termination date in the bill in order to come somewhere within reasonable limits of what the House had done for purposes of conference.

Therefore, we wrote in the provision that the program would terminate June 30, 1966. The House approved a bill which would terminate the program on June 30, 1968. It is highly conceivable that as we go through the program, we shall reach an agreement with the House chariman of the full committee. The thing that I do not understand is the necessity for leaving the appropriation authorization an open ended one for every year after the first year of the extended period of 4 years.

Mr. Clark. Mr. President, the explanation is largely historical. The bill came from the administration open ended all the way. At the suggestion of the minority members of the committee, and particularly the ranking minority member, the Senator from Vermont (Mr. Prouty), we placed definite limitations in for the earlier period. No member of the committee suggested that we should go further than that.

The result was announced—yeas 35, nays 49, as follows:

[No. 37 Leg.]

YEAS—35

Aiken, Allott, Bennett, Boggs, Byrd, Va., Carlson, Cooper, Cotton, Curtis, Dirksen, Dominick, Eastland.

Ellender, Ervin, Fannin, Fong, Hickenlooper, Holland, Hruska, Jordan, Idaho, Kuchel, Lausche, McClellan, Miller.

Morton, Mundt, Murphy, Pearson, Prouty, Robertson, Scott, Simpson, Smith, Thurmond, Young, N. Dak.

NAYS—49

Anderson, Bartlett, Bass, Bayh, Bible, Burdick, Byrd, W. Va., Cannon, Case, Clark, Douglas, Fulbright, Gore, Harris, Hart, Hill, Inouye.

Jackson, Javits, Jordan, N.C., Kennedy, Mass., Kennedy, N.Y., Magnuson, Mansfield, McCarthy, McGee, McGovern, McIntyre, McNamara, Metcalf, Mondale, Monroney, Montoya, Moss.

Muskie, Nelson, Neuberger, Pastore, Pell, Proxmire, Ribicoff, Smathers, Sparkman, Stennis, Symington, Talmadge, Tydings, Williams, N.J., Yarborough.

NOT VOTING—16

Brewster, Church, Dodd, Gruening, Hartke, Hayden, Johnston, Long, Mo., Long, La., Morse, Randolph, Russell, Saltonstall, Tower, Williams, Del., Young, Ohio.

So the amendments offered by Mr. Prouty and Mr. Murphy were rejected en bloc.

The Presiding Officer (Mr. Kennedy of New York in the chair). The bill is open to further amendment.

Mr. Prouty. Mr. President, I offer an amendment which I send to the desk and ask to have stated.

The Presiding Officer. The amendment of the Senator from Vermont will be stated.

The Legislative Clerk. On page 18, line 14, it is proposed to insert "(a)" after "Sec. 16.".

On page 18, between lines 18 and 19, it is proposed to insert the following:

"(b) Section 309(a) of such Act is further amended by adding at the end thereof the following new sentence: "On and after the date any such report is submitted, the Secretary of Labor shall, at the request of any interested committee of the Senate of any House of Representatives (or any duly authorized subcommittee of any such committee), appear before such committee or subcommittee (personally or through his representative) to discuss or explain any matter which is, or is authorized to be, contained in such report."

"(c) Section 309(b) of such Act is further amended by adding at the end thereof the following new sentence: "On and after the date any such report is submitted, the Secretary of Health, Education, and Welfare shall, at the request of any interested committee of the Senate or the House of Representatives (or any duly authorized subcommittee of any such committee), appear before such committee or subcommittee (personally or through his representative) to discuss any matter which is, or is authorized to be, contained in such report."

Mr. Prouty. Mr. President, my amendment provides for annual reports by the Secretary of Health, Education, and Welfare and the Secretary of Labor. It provides further for the appearance before the Committee on Labor and Public Welfare, at the committee's request, of the Secretaries or their representatives to discuss the matters contained in the annual report submitted by them.

My main concern about the Manpower Development and Training Act is that much remains to be done to make the program operate at peak efficiency. Our committee has the duty to see that this goal is met. In order to do that, however, we must be informed and up-to-date on the operations of the act. We can do this only through frequent reports, and, indeed, through discussions with the administrators of the program.

I think it is well to place the language of my proposed amendment in the bill which we are considering. Certainly we can request the Secretaries to appear before the committee at any time. But, having this proposal in the bill will make certain that all parties expect an annual hearing on the operations of the Manpower Development and Training Act. In that way, it seems to me, we will assure the best possible review of an effective efficient manpower development and training program.

Mr. Clark. Mr. President, I would hope that the amendment would be withdrawn or even defeated on a voice vote. The purpose of the amendment is to tell the Committee on Labor and Public Welfare of the Senate to do what it would do anyway, which is to call the Secretary of Labor and the Secretary of HEW and ask them about the annual report which they are required to file. That course would be the standard operating procedure of any standing committee of the Senate. I believe my friend the distinguished Senator from Alabama [Mr. Hill], who is the chairman of the Committee on Labor and Public Welfare, will confirm my statement that that has been the practice of the committee of which he is chairman, as well as of all subcommittees thereof for some time.

Mr. Hill. Mr. President, will the Senator yield?

Mr. Clark. I am happy to yield.

Mr. Hill. The Senator is exactly correct. In my years of service in the Senate I have never known the Secretary of Labor, the Secretary of the Department of Health, Education, and Welfare, or the Secretary of any other Department of the Government to decline to come before the Committee on Labor and Public Welfare when any of those Secretaries has been asked to come before the committee to report on legislation or any particular program.

Mr. Clark. Is the Senator from Alabama aware of any legislation in the fields in which he is such an outstanding expert that has required the Secretaries of any of the Departments of the Government to come before a committee of Congress at the request of that committee?

Mr. Hill. By including in his question the limitation of those fields in which I am an expert, I am afraid the Senator rather narrows the fields in which I can answer. But I know of no legislation that includes a provision requiring a Secretary of a Department of the Government to come before a committee of Congress. From the very beginning the Secretaries have always come whenever a committee wished them to appear. If the amendment were adopted, there might be an implication that a Secretary has not come or will not come. There is really no need for the proposed amendment.

Mr. Clark. I give the distinguished Senator from Vermont [Mr. Prouty] my personal assurance that, so long as I am chairman of the subcommittee—and I believe I may speak for all other Democratic members of that committee—if the Senator from Vermont desires the committee to call the Secretary of Labor or the Secretary of the Department of Health, Education, and Welfare before the committee, we shall call him. I hope with that assurance my friend will be willing to withdraw the amendment.

Mr. Prouty. I have never doubted that my distinguished friend the Senator from Pennsylvania would do that. I merely wished to bring the question out into the open in order that the Secretaries or their representatives might be prepared to give us information which is so important if we are to understand what is going on, in order that we might improve the program. With the Senator's assurance, I withdraw the amendment.

The Presiding Officer. The amendment is withdrawn.

The Presiding Officer (Mr. Kennedy of New York in the chair). The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 76, nays 8, as follows:

[No. 38 Leg.]

YEAS—76

Aiken, Allott, Anderson, Bartlett, Bass, Bayh, Bible, Boggs, Brewster, Burdick, Byrd, W. Va., Cannon, Carlson.

Case, Clark, Cooper, Cotton, Dirksen, Dominick, Douglas, Ellender, Ervin, Fannin, Fong, Fulbright, Gore.

Harris, Hart, Hickenlooper, Hill, Inouye, Jackson, Javits, Jordan, N.C., Jordan, Idaho, Kennedy, Mass., Kennedy, N.Y., Kuchel, Lausche.

Magnuson, Mansfield, McCarthy, McClellan, McGee, McGovern, McIntyre, McNamara, Metcalf, Miller, Mondale, Monroney, Montoya.

Morton, Moss, Mundt, Murphy, Muskie, Nelson, Neuberger, Pastore, Pearson, Pell, Prouty, Proxmire, Ribicoff.

Scott, Smathers, Smith, Sparkman, Stennis, Symington, Talmadge, Tydings, Williams, N.J., Yarborough, Young, N. Dak.

NAYS—8

Byrd, Va., Curtis, Eastland, Holland, Hruska, Robertson, Simpson, Thurmond.

NOT VOTING—16

Bennett, Church, Dodd, Gruening, Hartke, Hayden, Johnston, Long, Mo., Long, La., Morse, Randolph, Russell, Saltonstall, Tower, Williams, Del., Young, Ohio.

So the bill (S. 974) was passed.

S. 974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Manpower Act of 1965".

Sec. 2. Section 101 of the Manpower Development and Training Act as amended (hereinafter referred to as the "Act") is amended by inserting before the last sentence thereof the following new sentence: "The Congress further finds that, because of reductions in, or changes in the nature, kind, or extent of, national defense and other industrial activities, many professional employees have become unemployed, and because of the specialized nature of their previous employment, are in need of refresher or reorientation educational courses in order to become qualified for other employment in their professions."

Sec. 3. (a) Section 102(5) of the Manpower Development and Training Act, as amended (hereinafter referred to as the "Act"), is amended by adding a comma after the word "arrange" and inserting "through grants or contracts," immediately following the comma.

(b) Section 102 of the Act is further amended by adding new paragraph (6) at the end thereof to read as follows:

"(6) establish a program of experimental developmental, demonstration, and pilot projects, through grants with public or private nonprofit agencies or contracts with public or any appropriate private agency, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and training problems of worker groups such as the long-term unemployed, disadvantaged youth, displaced older workers, the handicapped, members of minority groups, and other similar groups. In carrying out this subsection the Secretary of Labor shall, where appropriate, consult with the Secretaries of Health, Education, and Welfare, and Commerce, and the Director of the Office of Economic Opportunity. Where programs under this section require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare. He shall also seek the advice of consultants with respect to the standards governing the adequacy and design of proposals, the ability of applicants, and the priority of projects in meeting the objectives of the Act;

Sec. 4. Sections 103 and 104 are renumbered 106 and 107, and new sections 103, 104, and 105 are added, to read as follows:

"JOB DEVELOPMENT PROGRAMS

"Sec. 103. The Secretary of Labor shall stimulate and assist, in cooperation with interested agencies both public and private, job development programs, through on-the-job training and other suitable methods, that will serve to expand employment by the filling of those service and related needs which are not now being met because of lack of trained workers or other reasons affecting employment or opportunities for employment.

"LABOR MOBILITY DEMONSTRATION PROJECTS

"Sec. 104. (a) During the period ending June 30, 1967, the Secretary of Labor shall develop and carry out, in a limited number of geographical areas, pilot projects designed to assess or demonstrate the effectiveness in reducing unemployment of progams to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses. In carrying out such projects the Secretary may provide such assistance, in the form of grants or loans, or both, only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, have bona fide offers of employment (other than temporary or seasonal employment), and are deemed qualified to perform the work for which they are being employed.

"(b) Loans or grants provided under this section shall be subject to such terms and conditions as the Secretary shall prescribe, with loans subject to the following limitations:

"(1) there is reasonable assurance of repayment of the loan;

"(2) the credit is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

"(3) the amount of the loan, together with other funds available, is adequate to assure achievement of the purposes for which the loan is made;

"(4) the loan bears interest at a rate not less than (A) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (B) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purposes; and

"(5) the loan is repayable within not more than ten years.

"(c) Of the funds appropriated for a fiscal year to carry out this Act, not more than $5,000,000 may be used for the purposes of this section.

"TRAINEE PLACEMENT ASSISTANCE DEMONSTRATION PROJECTS

"Sec. 105. During the period ending June 30, 1967, the Secretary shall develop and carry out experimental and demonstration projects to assist in the placement of persons seeking employment through a public employment office who have successfully completed or participated in a federally assisted or financed training, counseling, work training, or work experience program and who, after appropriate counseling, have been found by the Secretary to be qualified and suitable for the employment in question, but to whom employment is or may be denied for reasons other than ability to perform, including difficulty in security bonds for indemnifying their employers against loss from the infidelity, dishonesty, or default of such persons. In carrying out these projects the Secretary may make payments to or contracts with employers or institutions authorized to indemnify employers against such losses. Of the funds appropriated for fiscal years ending June 30, 1966, and June 30, 1967, not more than $200,000 and $300,000, respectively, may be used for the purpose of carrying out this section."

Sec. 5. Section 202(i) of the Act is amended by striking the words "and such persons shall be eligible for training allowances for not to exceed an additional twenty weeks", and by changing the comma after the word "Act" to a period.

Sec. 6. (a) Section 203(a) of the Act is amended as follows:

(1) Amend the second sentence thereof to read as follows: "Such payments shall be made for a period not exceeding one hundred and four weeks, and the basic amount of any such payment in any week for persons undergoing training, including uncompensated employer-provided training, shall not exceed $10 more than the amount of the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available: *Provided*, That the basic amount of such payments may be increased by $5 a week for each dependent over two up to a maximum of four additional dependents: *Provided further*, That in any week an individual who, but for his training would be entitled to unemployment compensation in excess of his total allowance, including payments for dependents, shall receive an allowance increased by the amount of such excess.";

(2) Amend the second paragraph thereof to read as follows:

"With respect to any week for which a person receives unemployment compensation under title XV of the Social Security Act or any other Federal or State unemployment compensation law which is less than the total training allowance, including payments for dependents, provided for by the preceding paragraph, a supplemental training allowance may be paid to a person eligible for a training allowance under this Act. The supplemental training allowance shall not exceed the difference between his unemployment compensation and the training allowance provided by the preceding paragraph.";

(3) Insert the words "under the training program" after "compensated hours per week" in the third paragraph of such subsection;

(4) In lieu of the fourth paragraph of such subsection insert the following:

"The training allowance of a person engaged in training under section 204 or 231 shall not be reduced on account of employment (other than employment under an on-the-job training program under section 204) which does not exceed twenty hours per week, but shall be reduced in an amount equal to his full earnings for hours worked in excess of twenty hours per week.

(b) Section 203(b) of the Act is amended as follows:

(1) Insert a comma after the word "transportation" where it first occurs, strike out the language after that word and before the word "*Provided*" and insert the following in lieu thereof: "and when such training is provided in facilities which are not within commuting distance of the trainee's regular place of residence, subsistence expenses for separate maintenance of the trainee:";

(2) Change the period at the end of section 203(b) to a comma and insert the following immediately thereafter: "except that in noncontiguous States and in areas outside the continental United States where the per diem allowance prescribed under section 836 of title 5, United States Code, exceeds the maximum per diem allowance prescribed under that section for contiguous States, the Secretary may provide for a reasonable increase in the transportation and subsistence expenses in such amounts as he may deem necesasry to carry out the purposes of this Act, and subject to such limitations as he may prescribe."

(c) Section 203(c) of the Act is amended as follows:

(1) Strike the words "not less than" and insert "at least" in lieu thereof;

(2) Insert a colon after the words "gainful employment", strike everything in the first sentence after the words "gainful employment", and insert the following in lieu thereof: "*Provided*, That he shall not pay training allowances to members of a family or a household in which the head of the family or the head of the household as defined in the Internal Revenue Code of 1954 is employed, unless the Secretary determines that such payments are necessary in order for the trainees to undertake or to continue training: *Provided further*, That no allowances shall be paid to any member of a family or household if the Secretary of Labor determines that the head of such family or household has terminated his employment for the purpose of qualifying such member for training allowances under this section.";

(3) Amend the last sentence to read as follows: "The number of youths under the age of twenty-two who are receiving training allowances (or who would be entitled thereto but for the receipt of unemployment compensation) shall, except for such adjustments as may be necessary for effective management of programs under this section, not exceed 25 per centum of all persons receiving such allowance (or who would be entitled thereto but for the receipt of unemployment compensation). The Secretary of Labor may authorize continued payments of allowances to any youth who becomes twenty-two years

of age during the course of his training, if he has completed a substantial part of such training."

(d) Section 203(d) of the Act is repealed, and sections 203(e), 203(f), 203(g), 203(h), 203(i), and 203(j) are relettered 203(d), 203(e), 203(f), 203(g), 203(h), and 203(i).

(e) The present section 203(h)(2) of the Act is amended by striking everything in the first sentence after the words "all of such benefits paid" and adding a period immediately thereafter.

SEC. 7. Section 208 is repealed.

SEC. 8. (a) Section 231 of the Act is amended by striking the second sentence thereof and inserting in lieu thereof the following:

"Such State agencies shall provide for such training through public educational agencies or institutions or through arrangements with private educational or training institutions where such private institutions can (1) provide substantially equivalent training with comparable Federal expenditures, or (2) provide equipment or services not available in public institutions, particularly for training in technical and subprofessional occupations, or (3) make possible an expanded use of the individual referral method, or (4) aid in reducing more quickly unemployment or current and prospective manpower shortages."

(b) Section 231 of the Act is amended by striking the third sentence and inserting the following in lieu thereof: "The State agency shall be paid 90 per centum of the cost to the State of carrying out the agreement, unless the Secretary of Health, Education, and Welfare determines that payments in excess of 90 per centum are necessary because (1) a State is without authority on the date of the enactment of the "Manpower Act of 1965" to enact legislation providing contributions to noncollegiate, adult education or training conducted in public institutions, or (2) such payments with respect to private educational or training institutions are required to give full effect to the purposes of the Act: *Provided*, That for the period ending June 30, 1966, the State agency shall be paid 100 per centum of the cost to the State of carrying out the agreement. Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to plant, equipment, and services."

SEC. 9. Title II of the Act is amended by adding part C to the end thereof to read as follows:

"PART C—REDEVELOPMENT AREAS

"SEC. 251. (a) The Secretaries of Labor and of Health, Education, and Welfare, in accordance with their respective responsibilities and under parts A and B of this title, are authorized to provide a supplementary program of training and training allowances, in consultation with the Secretary of Commerce, for unemployed and underemployed persons residing in areas designated as redevelopment areas by the Secretary of Commerce under the Area Redevelopment Act or any subsequent Act authorizing such designation. Such program shall be carried out by the Secretaries of Labor and of Health, Education, and Welfare in accordance with the provisions otherwise applicable to programs under this Act and with their respective functions under those provisions, except that—

"(1) the Secretary of Labor, in consultation with the Secretary of Commerce, shall determine the occupational training or retraining needs of unemployed or underemployed individuals residing in redevelopment areas;

"(2) all unemployed or underemployed individuals residing in redevelopment areas who can reasonably be expected to obtain employment as a result of such training may be referred and selected for training and shall be eligible for training allowances under this section: *Provided*, That the amount and duration of training allowances under this section shall in no event exceed the amount and duration of training allowances provided under section 203(a) of this Act;

"(3) the Secretaries of Labor and of Health, Education, and Welfare shall, each with respect to his functions under this section, prescribe jointly with the Secretary of Commerce such rules and regulations as may be necessary to carry out the purposes of this section; and

"(4) no funds available under this section shall be generally apportioned to any State pursuant to section 301 of this Act, nor shall any matching funds be required.

"(b) Sections 16 and 17 of the Area Redevelopment Act are hereby repealed. The repeal of these sections shall not affect the disbursement of funds under, or the carrying out of, any contract, commitment, or other obligation entered into pursuant to the Area Redevelopment Act prior to the date of repeal of such sections."

SEC. 10. Section 301 of the Act is amended by striking the period at the end thereof, inserting a colon in lieu of the period, and adding the following after the colon: "*Provided*, That no funds apportioned with respect to a State in any fiscal year shall be reapportioned before the expiration of the sixth month of such fiscal year and only upon thirty days prior notice to such State of the proposed reapportionment, except that the requirement for prior notice shall not apply with respect to any reapportionment made during the last quarter of the fiscal year."

SEC. 11. Section 302 of the Act is amended by striking the word "and" following "the Smith-Hughes Vocational Education Act" inserting a comma in lieu thereof, and inserting "and the Vocational Education Act of 1963" following "the Vocational Education Act of 1946,".

SEC. 12. Section 304 is amended to read as follows:

"SEC. 304. (a) For the purposes of carrying out title I, there are hereby authorized to be appropriated not in excess of $46,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter such amounts as may be necessary.

"(b) For the purpose of carrying out parts A and B of title II, there are hereby authorized to be appropriated not in excess of $385,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter such amounts as may be necessary.

"(c) For the purpose of carrying out part C of title II, there are hereby authorized to be appropriated not in excess of $22,000,000 for the fiscal year ending June 30, 1966, and for each year thereafter such amounts as may be necessary.

"(d) For the purpose of carrying out title II, there are hereby authorized to be appropriated not in excess of $1,000,000 for the fiscal year ending June 30, and for each year thereafter such amounts as may be necessary."

SEC. 13. The following subsection is added to section 305 of the Act to read as follows:

"(e) The costs of all training programs approved in any fiscal year, including the total cost of training allowances for such programs, may be paid from funds appropriated for such purposes for that fiscal year; and the amount of the Federal payment shall be computed on the basis of the per centum requirement in effect at the time such programs are approved: *Provided*, That funds appropriated for the fiscal year ending June 30, 1966, may be expended for training programs approved under this Act prior to July 1, 1965."

SEC. 14. Section 306(a) of the Act is amended by inserting after the word "procedures" the following: "including, subject to such polices, rules, and regulations as they may prescribe, the approval of any program under section 202, the cost of which does not exceed $75,000".

SEC. 15. Sections 309(a) and 309(b) are both amended by striking "Prior to March 1, 1963, and again prior to April 1, 1964, April 1, 1965, and April 1, 1966" and inserting in lieu thereof: "Prior to April 1 in each year."

89th Congress 1st Session

House of Representatives, Report No. 170

MANPOWER ACT OF 1965

March 15, 1965.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. Powell, from the Committee on Education and Labor, submitted the following report (to accompany H.R. 4257).

The Committee on Education and Labor, to whom was referred the bill (H.R. 4257) to amend the Manpower Development and Training Act of 1962, as amended, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all of the bill after the enacting clause and inserts in lieu thereof a substitute which appears in the reported bill in italic type.

PURPOSE AND SUMMARY OF BILL

In his Economic Report to the Congress on January 19, 1965, President Johnson stated:

"The Manpower Development and Training Act was passed in 1962 and broadened in 1963. Its purpose is to supply skills to those who, whether for lack of wisdom or lack of opportunity, failed to acquire them earlier. It aims to make possible retraining of those who would otherwise bear the burdens of society's technological progress.

"We intend to improve and expand our training programs in 1965."

On February 1, 1965, President Johnson announced a new, nationwide job development program.

"I am convinced that a substantial number of jobs can be developed from * * * presently existing and unmet service needs—in business, at home, on the farm, and in the community.

"Therefore, I am launching a nationwide job development program in service and related fields—to assure that trained workers are available to provide needed services at satisfactory wages and working conditions—"

H.R. 4257 was introduced by Congressman Elmer J. Holland, at the request of the administration on February 2, 1965. It directs the Secretary of Labor to proceed toward the objectives announced by the President and further amends the Manpower Development and Training Act of 1962 (hereinafter referred to as MDTA) in order to improve and strengthen the Nation's active manpower policy. The bill as amended by the committee extends the terminal date until June 30, 1968, continues 100 percent Federal financing until June 30, 1966, and changes State matching requirements thereafter to 10 percent of the costs of institutional training, in cash or kind. It also (1) directs the Secretary of Labor to stimulate and assist job development programs to fill unmet service needs; (2) expands the Secretary's research authority under title I, authorizing the use of grants as well as contracts, and providing explicit direction to undertake experimental and demonstration manpower projects; (3) extends and increases the authorization for labor mobility demonstration projects and establishes trainee bonding demonstration project authority; (4) liberalizes training allowances under title II with respect to amount, duration, and eligibility; (5) permits payment of daily commuting costs of trainees; (6) rationalizes the national manpower training program by bringing the training program for redevelopment areas, now provided in the Area Redevelopment Act, under the MDTA; and (7) replaces the existing title-by-title limitation on annual appropriations with an open end authorization for the entire act.

NEED FOR THE BILL

Despite over 2½ years of successful operation of the MDTA, the manpower challenges which gave rise to the initial legislation still face the Nation—shortages of workers in key areas, 20 million Americans without the minimum training needed for most jobs, burgeoning technological innovation, radically changing skill requirements, and unprecedented numbers of youth seeking jobs for the first time. Without the substantial accomplishments of the MDTA, the present manpower imbalances would doubtless have been worse. As the Economic Report of the President noted:

"Four years of steadily expanding job opportunities have not brought us to full employment. Some 3.7 million of our citizens want work but are unable to find it. Up to 1 million more—"the hidden unemployed"—would enter the labor force if the unemployment rate could be brought down just 1 percentage point.

"In the next year, 1.3 million more potential workers will be added to our labor force, including a net increase of one-half million below the age of 20 * * *."

By the end of 1964, the MDTA program had come to within practical reach of the goal of training 400,000 persons initially set by the Congress for a 3-year program. During 1964, the second full year of operations, the previous year's program was more than doubled. Training opportunities were brought not only to displaced experienced workers, but also to increasing numbers of youth and disadvantaged persons at the bottom of the economic and social ladder whose absorption into the labor force presents the greatest obstacles.

The record to date is extremely gratifying:

"Occupational training in vocational education institutions and on the job has been approved for almost 320,000 trainees, since the act's inception. Another 60,000 have been reached through special projects tailored to the needs of the disadvantaged.

"High placement rates have been achieved for graduates of MDTA programs—for 72 percent of those completing institutional training; for 95 percent of those completing on-the-job training.

"Training projects have been approved over a wide spectrum of occupations at all major skill levels: technical and semiprofessional, skilled and semiskilled, white-collar, service, and agricutural occupations.

"Extensive training opportunities have been provided to the longterm unemployed. About half of the institutional trainees had been unemployed for 15 weeks or more prior to enrollment; one-third had been jobless for more than half a year.

"An increasing proportion of nonwhite persons had been enrolled in training—over 28 percent of all enrollees in institutional projects and 20 percent of on-the-job trainees in 1964. Over the entire life of the program, one-quarter of all trainees have been from nonwhite groups.

"Unemployed persons with less than grade-school education constituted 7 percent of all trainees enrolled in the large institutional training program during 1964, more than doubling their 3-percent representation in 1963. Their counterparts enrolled in on-the-job training constituted 6.7 percent of that program."

However, changes are now required to strengthen MDTA and make it more flexible, so that it can more adequately meet the Nation's manpower problems.

First, the success of the program clearly warrants its extension and a modification in the matching requirements to permit full Federal funding through June 30, 1966. Thereafter, 100 percent of the training allowances and 90 percent of other training costs will be financed by Federal funds. The causes of unemployment are national in scope and its costs should be borne more evenly across the Nation. Moreover, it is now clear that a majority of States, because of expanding education, welfare, highway construction, and other costs will not be in a position to meet the present matching requirements by July 1 of this year. This does not reflect inadequate interest of concern. Virtually all of the State governors have expressed their strong desire to see the program continue.

Second, the Nation's manpower research capability and efforts must be materially expanded to develop the additional information and insight needed to guide effective improvement in manpower policies and programs. The efforts already initiated under the modest research program provided under the original MDTA have been exceedingly useful and promising. They have identified the huge potential contribution of enlarged research investment—and have established a good base for the needed expansion. As part of this expansion, a clear directive to move aggressively and imaginatively with a wide variety of experimental and demonstration projects is fully warranted by the results of the limited program to date.

One of the most important operational findings made to date under the act is that there is a vast untapped potential for job development and for trained people in a myriad of service activities. As a corollary finding, these unfilled needs are likely to continue unfilled unless additional steps are taken to develop the jobs, in coordination with the required training of workers and stimulation of small private enterprise firms in the service fields. The Secretary of Labor testified that past failure to take these steps has "impeded the development of many thousands of jobs."

Fourth, training programs under the Area Redevelopment Act and the MDTA are quite similar in administrative arrangements and program content. Placing ARA training formally under the MDTA, as a specifically funded activity, will put the benefits of the two on the same basis and reduce the apparent overlap between the two acts.

Finally, the modifications in the allowances provisions will help to assure that the disadvantaged and other unemployed who require training allowance assistance will get it. Experience has shown that the allowances under the MDTA are a key to the success of the program. Availability of some income—i.e., training allowances—strengthens the incentive for most workers to accept training and significantly affects the length of time they can continue in training status. The changes in training allowance—lengthening the period of eligibility, making more disadvantaged and needy people eligible, and increasing the amount for trainees with large families—are all designed to facilitate the retraining of people for whom training is most needed, both for their own advantage and for society's.

BACKGROUND

H.R. 4257 is responsive to the manpower challenge as presently seen and described in testimony before the Select Committee on Labor, Congressman Elmer J. Holland, chairman. In brief but comprehensive hearings starting on February 2, 1965, the subcommittee took remarkably unanimous testimony from a variety of witnesses on the success and need for continuation of the MDTA. In short, it is a socially and monetarily sound investment in human beings. As the distinguished economist, John Kenneth Gailbraith, recently stated in his testimony before the Joint Economic Committee:

"Increasingly the problem of employment is not a deficiency of demand but unemployability that results from deficient education * * * or unrelieved social squalor * * *. The primary remedy for this unemployment * * * is better education, more job training, more deliberate job creation for youngsters, and an equal break in education and employment for Negroes."

Without action this session to extend and amend the act, this vital manpower development program will begin to die almost at once. The committee having heard well-qualified witnesses has approved the administration's proposals with certain amendments to achieve the essential changes needed to continue and enhance a program of proven worth.

MAJOR PROVISIONS OF THE BILL

Explanation and need

Extension of the act

The act is presently scheduled to expire after June 30, 1966. The bill extends the expiration date to June 30, 1968.

As originally introduced by Congressman Elmer J. Holland on behalf of the administration, H.R. 4257 removed the expiration date and thereby made the manpower development and training program a continuing, permanent program. This provision of the original bill reflected the generally accepted view that this program can no longer be considered experimental, that it has been demonstrated to be an indispensable part of our current efforts to eliminate unemployment and reclaim manpower resources, and that present economic, technological, and demographic trends—particularly the extremely rapid pace of technological change—indicate a large scale manpower training and retraining program will be needed for the indefinite future.

In amending the bill to restore an expiration date, the Committee on Education and Labor is in no way disagreeing with the judgment that the MDTA program must have a continuing, permanent role in America's attack upon its manpower problems. The committee's action simply stems from a belief that the proper exercise of its legislative oversight function calls for this committee to review, from time to time, a program of such scope and importance as this. In the absence of an expiration date, there is a possibility that the program might receive congressional review in the future almost exclusively through the process of annual hearings on appropriations requests from the Department of Labor. The MDTA program, however, should periodically be opened to the thorough congressional examination and evaluation, looking toward any needed legislation to improve the program, which the Committee on Education and Labor is appropriately qualified to undertake.

Non-Federal Matching Provision

The act presently schedules each individual State to begin, after June 30, 1965, to bear one-third of the costs of training allowances paid under title II training programs, and also to bear one-third of the instructional and other costs of such programs [1] established within the State.

The bill designates June 30, 1966, as the date State contributions will be required. After June 30, 1966, payments of training allowances will continue to be made entirely from Federal funds, but the Federal contribution will drop to 90 percent of the instructional and other costs of title II training programs. The 10-percent non-Federal contribution may be made in cash or in kind.[2]

The matching provision of H.R. 4257, as reported, differs from both the original bill and the bill reported by the Select Subcommittee on Labor. The original bill required a non-Federal contribution, after June 30, 1965, of 10 percent of the total costs of title II training programs. It was amended to eliminate any matching requirement and the subcommittee recommended 100 percent

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Footnotes at end of article.

Federal financing of the entire MDTA program.

The committee's decision to amend the bill and require an eventual small non-Federal contribution is consistent with a desire to adhere to the principle of State matching which was embodied in the original act of 1962. The act was amended in 1963 to reduce, from 50 to 33⅓ percent, the initial State contribution and postponed the date for matching to begin. This bill further reduces the State matching share and postpones its effective date. The committee has not seen fit, however, to give up entirely its original goal of joint Federal-State financing of the MDTA program.

The matching provision of this bill has been established because the Manpower Development and Training Act has become an important and valuable program. Congress cannot permit a sharp cutback from its present level of activity to occur in July 1965. It is now clear that few States are prepared to meet the 33⅓-percent matching requirement on July 1, 1965. Even in those few States which have appropriated funds are expected to furnish their share by July 1, the amounts appropriated may still not be sufficient, under a 33⅓-percent matching formula, to prevent a reduction in training courses being carried on. As for the remaining States, their failure to appropriate funds will practically eliminate MDTA training within their borders.

The choice is unavoidable: either reduce the present State matching requirements or abandon a great deal—probably most—of the MDTA program. The second alternative is wholly unacceptable. The unemployment rate still stands at 5 percent for the labor force as a whole, and at approximately 15 percent for youth 16 to 19 years of age. The number of new jobseekers is growing at a much faster rate than in the 1950's, and thousands of jobs each week are being eliminated by new technological advances. We are witnessing shifts in defense spending, and other disruptive characteristics of our changing economy. To relinquish now the progress we have made toward establishing an adequate manpower training program in the United States would be an extraordinarily shortsighted and defeatist act.

Testifying on this critical issue, Secretary of Labor Wirtz stated:

"We must face squarely the need for a more permanent involvement of the Federal Government in financing the act's vital programs * * * Secretary Celebrezze and I have written to all the Governors and done everything we could to encourage the States to provide the one-third matching requirement this year. However, it is apparent that a majority of the States will not be in a position to meet the present matching requirements by July 1.

"This is in no way a reflection of inadequate interest or concern. Quite the contrary, virtually all of the State Governors have expressed their strong desire to see the program continue."

The testimony before the Select Subcommittee on Labor, during its 8 days of hearings on this bill in February, and the letters and statements submitted to the subcommittee, confirmed Secretary Wirtz' description of widespread support for the MDTA program. There were no requests from witnesses desiring to appear in opposition either to the bill or to its liberalizing of the State matching requirements, nor did any of the numerous communications directed to the subcommittee call for preserving the act's present matching provision. Vigorous statements, on behalf of continuing a large-scale MDTA program, from the Governors of many States, including South Carolina, Michigan, Kentucky, Wisconsin, California, New York, and West Virginia are in the subcommittee's records. Although some criticisms were made of specific operational details of the program, no arguments were presented to the subcommittee for reducing Federal expenditure for manpower training and development or for lowering the current level of our training effort.

Indeed, the majority of those who expressed strong views to the subcommittee on the matching issue, through personal testimony or otherwise, urged the continuation of 100 percent Federal financing. Forceful arguments in favor of eliminating State matching requirements were made by witnesses representing the American Vocational Association and the AFL–CIO, while letters and telegrams to this effect were received from State Governors, State vocational education directors, and others deeply concerned with maintaining an effective manpower training program.

The economic and other factors, which explain the need for Federal financing of the Nation's manpower development and training program, are well known and widely acknowledged. They can be summarized briefly here.

At the outset, it should be emphasized that the Federal Government, since the early 1930's has become generally recognized as bearing the primary public responsibility for combating unemployment. Congress, in passing the Employment Act of 1946, explicitly confirmed this responsibility. The United States has an integrated national economy and a national labor market. The amount of unemployment in a local community or in a State is commonly influenced by forces originating elsewhere. A corporation headquarters in New York decides to close a branch plant in a Midwestern State. A nationwide shift in consumer demand cuts employment in a community traditionally specialized in the manufacture of a product which has now lost favor with the public. The development of new laborsaving processes and new products eventually displaces workers in establishments hundreds of miles from the firms and research laboratories responsible for these innovations. A Department of Defense decision to phase out an obsolescent weapons system causes mass layoffs in plants far removed from Washington, D.C. The high birth rate and declining need for labor in the farm sector of our economy brings a continuing flow of ill-educated, untrained migrants into New York, Chicago, Detroit, Los Angeles, and other large metropolitan areas, where they swell the welfare rolls and the ranks of the unemployed. Many other illustrations could be presented to point up the inappropriateness of placing a major financial burden of manpower training upon the individual State or community, when its level of unemployment may be primarily the result of national economic forces beyond its control, and when its number of unemployed who need and can benefit from training may have little relation to its capacity for financing a training program.

Some localities are logical centers for training projects which, for maximum effectiveness and economy, should draw trainees from more than one State—for example, training projects located in such major metropolitan areas as New York-northeastern New Jersey, Chicago, St. Louis, Washington, Cincinnati, or Philadelphia-Camden. A large State-matching requirement may seriously restrict these projects. Reluctance to incur substantial costs for training nonresidents, the complicated accounting systems, and fair allocation of costs of a project serve as roadblocks to full cooperation.

A State will be hesitant to finance the training of residents for jobs outside the State's borders. To act does give priority to training projects for skills needed within the local labor market area—which in some cases embraces parts of two States—and within the State. Nevertheless, the act definitely contemplates that some training will be carried on for positions outside the State. Congress has demonstrated a continuing interest in facilitating the mobility of American labor, and in the act, specifically directs the Secretary of Labor to "establish a program of factual studies of practices of employers and unions which tend to impede the mobility of workers," and to include a report on these studies in the annual Manpower Report of the President. In 1963, the act was amended, directing the Secretary to carry out labor mobility demonstration projects, exploring the desirability of giving limited financial assistance to unemployed workers, whose relocation costs may make it difficult or impossible for them to move to jobs outside their own communities. Therefore, the intent of Congress would be ignored if all training, under the MDTA program were aimed at filling jobs only in the State contributing to the cost of the project.

Finally, the present inability of States and communities to meet, without Federal aid, the fast-growing costs of providing an adequate educational system offers an extremely compelling reason for eliminating the large State-matching requirement from the MDTA program. This bill, as reported from the committee, thus avoids placing a heavy additional strain upon the already overburdened revenue sources of State and local governments.

Whatever the proportion of Federal financing, the MDTA program originates and is operated at the local level. The program requires the State-administered public employment services to determine the occupations for which MDTA training can be given and to select the trainees. It relies upon the State vocational education authorities to provide training through public educational facilities, or by arrangements with private training institutions. The act provides for local and State manpower advisory committees to help plan and evaluate MDTA activities within their respective areas. Manpower development and training, as it is administered, is thus highly decentralized. The number of Federal employees engaged in the MDTA program is, in fact, a very small fraction of the total number of people responsible for its operation.

The committee also wishes to emphasize that the shift to a higher proportion of Federal financing does not in any way preclude an individual State from providing additional funds to enable a larger volume of manpower training to be carried on in the State than can be supported from the State's allotted share of Federal MDTA funds. There will be many MDTA training projects in which the number of trainees that can be financed will fall short of the number that could reasonably be expected to find employment upon completion of training. These present a State with excellent opportunities to place additional unemployed workers in on-going MDTA training projects if State funds are made available beyond the amount required by the matching contribution to the Federal funds committed. It is the committee's hope that at least those States in a financial position to do so will take advantage of such opportunities to reclaim their unemployed manpower resources at a faster rate than is possible within the limits of the Federal appropriations for the MDTA program.

Job Development Program

The bill, in title I, directs the Secretary of Labor, to develop and maintain a program of "job development," primarily in the service trades. This provision does not give the Secretary any significant amount of new authority, but it does serve to emphasize the need for imaginative efforts to create new jobs—by contrast with filling existing job vacancies—through developing more effective techniques for bringing workers together with those who have need of their services. There is wide recognition of the fact that, despite the Nation's unacceptably high unemployment level, much unsatisfied demand now exists for such services as home maintenance, child care, appliance repair, hospital service, home nursing, and many others. Many of our presently unemployed workers can, with training, be employed in meeting this demand, if improved means are devised for dealing with the difficult transportation, work-scheduling, and other problems that now interfere with the provision of these services.

Secretary Wirtz gave special emphasis to this provision of the bill in his testimony before the Holland subcommittee:

"One of the important findings we have made under the operation of the existing Manpower Act is that there is a great potential for job development and for trained people in a myriad of service activities, and that these unfilled needs are likely to go begging unless additional steps are taken to develop them. The proposed amendment will give clear direction to what must be an integral part of a comprehensive manpower policy—the active development of jobs in the service area.

"The implementation of this proposal,". Secretary Wirtz pointed out, "will be carried out in closest cooperation, not only with all appropriate Federal agencies * * * but with management and labor and local community representatives. * * * Labor standards will be carefully preserved. In fact, this program should contribute to raising standards. Service industries would become more productive and more responsive to the availability of the growing value of consumer income that is ready to pay for services."

The language of this provision, which directs the Secretary of Labor to stimulate and assist job development programs, "through on-the-job training and other suitable methods," is not meant to imply that on-the-job training projects which result from the job development program may be released from any of the requirements of section 204 of the act, which specifies the standards with respect to rates of trainee compensation, content of the training program, and other conditions which must be observed for all such projects. Furthermore, the committee notes that this provision of the bill is not intended to authorize the Secretary to use title I appropriations to finance the direct costs of training and training allowances for projects that are directly or indirectly established through the Secretary's efforts in the area of job development. It is the committee's understanding that financing for the job development program under title I is essentially to be limited to promotional and administrative costs of the program.

Training program for "redevelopment areas"

This bill repeals, effective July 1, 1965, those provisions of the Area Redevelopment Act of 1961 which authorize a manpower training program and provides instead for a supplementary MDTA training program in areas designated as "redevelopment areas" by the Secretary of Commerce.[3] The bill authorizes the appropriation in each fiscal year of funds to be specifically designated for this supplementary training program and gives the Secretaries of Labor and Commerce discretion to expend these funds in the various States without adhering to the apportionment requirements that must be observed in distributing other title II training funds among the States. It provides for the participation of the Secretary of Commerce, as well as the Secretaries of Labor and of Health, Education, and Welfare in the administration of the program.

The act's provisions with respect to maximum amount and duration of training allowances and other aspects of MDTA training projects are made generally applicable to the projects established under this supplementary program—with the major exception that any unemployed or underemployed individual in a redevelopment area, whatever his past employment experience, age, or family status, is to be eligible for a training allowance if selected for training under this program.

In essence, the bill brings together under the Manpower Development and Training Act the two large-scale federally financed manpower training programs and eliminates certain arbitrary differences in the provisions governing them. The payment of allowances in ARA training programs is presently limited to a maximum period of 16 weeks, and the allowance payable (unchanged since 1961) corresponds to the maximum originally specified in 1962 for MDTA trainees—i.e., the average weekly unemployment compensation payment in the State where the allowance is being paid. The transfer of the ARA training program to MDTA extends to this program the more liberal MDTA provisions for duration of training and size of allowance, since there is no apparent reason why training projects in a redevelopment area should be subject to more restrictive terms than other projects. At the same time, the broader eligibility for training allowances under the present ARA program is preserved, in view of the particularly severe unemployment and other economic problems which characterize redevelopment areas. A relatively high proportion of individuals and families in these areas are likely to have suffered from chronic, long-term unemployment which has depleted their financial resources, and families will frequently have more than one member who is unemployed. The $20 weekly youth allowance may be especially inadequate for youths in such families. High and persistent levels of unemployment in these areas may also have made it impossible for some young people—in their early or middle twenties and no longer eligible for youth allowances—to have gained the 2 years of employment experience required for regular MDTA allowances. These considerations, as well as others, indicate the desirability of keeping the training allowance eligibility provision in this supplementary program for redevelopment areas free from the restrictions otherwise applicable to MDTA programs.

Special funding for a supplementary training program in redevelopment areas is desirable, since there may be a tendency to overlook the needs of these less prosperous areas, in the process of seeking out job opportunities for which workers can be trained. These funds will assure that lack of trained manpower will not be a barrier to local communities in their efforts to overcome their economic stagnation. The training contemplated under this section of the act should be closely related to the economic development activities of the areas. The objective of the training should be to place long-term unemployed or underemployed workers in jobs resulting from economic growth; in jobs in new and expanding firms; in jobs in firms assisted by Federal loan programs; and not in jobs resulting from labor turnover, because of inferior working conditions or wages, nor in jobs in establishments relocating from another area when the relocation will result in increased unemployment in the original location.

Experimental, developmental, demonstration, and pilot projects

The bill directs the Secretary of Labor to carry on, under title I of the act, a program of experimental, developmental, demonstration, and pilot projects. These projects will provide a better understanding of the problems involved in effectively training youth from deprived backgrounds, older workers, members of racial minorities, and other groups of workers with special employment difficulties. They will also help to develop better techniques and methods for meeting the training problems of these groups. The Secretary is authorized to enter into contracts with public or private organizations, and to make grants to public or private nonprofit organizations, for the purpose of planning, carrying out, and evaluating these projects.

In addition the bill makes specific references to two categories of such projects. First, the bill brings title I the labor mobility demonstration projects authorized by the 1963 amendments to the act, extends to June 30, 1967, the period during which these projects are to be carried out, increases to $5 million the funds that may be appropriated in a fiscal year for them, and removes certain limits on the Secretary's freedom to use loans, grants, or a combination of both to help defray the relocation costs of the workers selected for participation in these pilot projects.[4] Second, the bill directs the Secretary to carry out, during a period ending June 30, 1967, special experimental and demonstration projects to assist, particularly, the placement of MDTA trainees with police records. Limits of $200,000 for fiscal 1966 and $300,000 for fiscal 1967 are set on the funds that may be appropriated for these projects. The language of this provision of the bill is broad enough to allow the Secretary both to select other persons than MDTA trainees for participation in these projects and to carry out projects to assist in the placement of persons who are having difficulty in securing employment for reasons other than a record of past encounters with the law. However, it is expected that the greater part of the funds appropriated for these special projects will be expended to help meet the costs of securing bonds for persons with police records who have successfully completed MDTA training courses, but who employers are unwilling to hire unless bonding can be provided.

In summary, the bill brings all experimental, developmental, demonstration, and pilot projects under title I of the act and gives the Secretary of Labor explicit authority to make grants, as well as enter into contracts for carrying out these projects. This shift to title I is designed to make a clear distinction between these projects and the regular, conventional training projects carried on under title II. It also insulates these experimental and developmental projects from the State-matching requirements for title II training projects, and from the requirements under section 301 governing apportionment of title II expenditures among the various States.

The 2-year extension of the period during which labor mobility demonstration projects are authorized to be carried on is necessitated by the fact that a lack of funds made it impossible for the Department of Labor to get the first group of these projects underway until late 1964. It would be impossible, accordingly, to accomplish the purposes for which the labor mobility projects are designed, if they were abruptly halted on June 30, 1965.

The special placement assistance demonstration projects are clearly needed to explore means of eliminating the barrier to productive employment that is too often faced by individuals with police records. The Manpower Development and Training Act has the purpose of reclaiming our human resources, and it is highly appropriate that steps are now to be taken under the act to attack the problem of waste of these resources resulting from denial of job opportunities to those saddled with records of past arrests or convictions. This problem is particularly acute, in view of the large number of American youths who acquire police records at one point or another during adolescence—and who may be permanently handicapped by these records, even though as adults they may have matured into as good employment risks as the general population.

Footnotes at end of article.

Extension of Training Periods

The act presently limits payment of training allowances to a maximum of 52 weeks for those in occupational training programs. However, allowances may be paid for a period of up to 72 weeks to trainees assigned initially to programs of training in "basic education skills" which prepare them to enter occupational training programs.

The bill extends the period for which training allowances may be paid to a maximum of 104 weeks, whether the training is exclusively occupational or a mixture of "basic education" and occupational.

The purpose is not to bring about a sharp increase in the average length of MDTA training projects,[5] but to give needed flexibility to the program in two directions: (1) by enabling those with severely deprived educational backgrounds, who require much remedial instruction in "basic education skills" to receive a more adequate combination of "basic education" and occupational training than can now be provided within 72 weeks, and (2) to enable training to be carried on for more highly skilled and technical occupations than trainees can be adequately prepared for within the present limitation of 52 weeks.

Mrs. Ivan Nestingen, Under Secretary of Health, Education, and Welfare, pointed out the need for a longer maximum training period for the disadvantaged in his testimony before the Holland subcommittee:

"There are some programs for the extremely disadvantaged which we should be doing, but are not, because they cannot be carried out in a 72-week program * * *. Nearly 20 percent of all unemployed persons have less than 8 years of schooling. However, only 5 percent of the manpower training enrollees have less than an 8th grade education. An increase in the length of training weeks would permit an increase in the number of persons with * * * educational deficiencies who could be referred to training."

Turning to the opposite side of the training spectrum, Mr. Nestingen went on to explain:

"Our placement data tell us that graduates of the more highly skilled occupational training programs are readily placed in employment. * * * Even now we can anticipate the time when there will be few places in the world of work for unskilled persons. New jobs are being created, but only for skills of an increasingly higher order. Many of these more skilled job opportunities are now automatically excluded from consideration for possible training by the fact that successful preparation is not possible in 52 weeks. We are particularly aware that the manpower development and training program is not yielding enough workers who are prepared for scientific and technical fields which are vital to our continued economic growth. Training, however, in many of the electronic, mechanical, and health fields must extend beyond the present 1-year allowance limit."

Secretary of Labor Wirtz has also stated:

"Few of the current programs can be of sufficient duration to prepare jobless workers for the technical occupations which are and will be increasingly in greatest demand. In addition, the current 1-year limitation on allowances results in some programs being accelerated to the point where some trainees simply cannot adjust to the tempo required and are lost to the program. These are often the ones who need the program the most."

There is no question that an extension of the training allowance period is necessary if the MDTA program is to include properly designed projects to train workers for such occupations as computer programer, medical technician, automobile mechanic, electronic technician, electrical applicance serviceman, or engineering aid. Removal of the present 52-week limitation will further the congressional purposes of making the Manpower Development and Training Act an effective device for eliminating shortages in skilled occupations and upgrading the skill level of the Nation's work force.

Broadened eligibility, for regular training allowances

Under the act as originally passed in 1962, eligibility for regular training allowances (i.e., all allowances other than the special allowances of up to $20 a week provided under certain circumstances for youths below the age of 22) was restricted to unemployed persons with not less than 3 years of employment experience, who were either heads of families of heads of households.

In 1963, the Act was amended to extend eligibility for regular allowances to unemployed persons with only 2 years of employment experience, and to members of a household in which the head of the household or head of the family is unemployed. The amendment provided, however, that no more than one person in any one household could receive regular training allowances at one time.

This bill further liberalizes the eligibility requirements, in two ways. First, it provides that unemployed persons without dependents, who are not living as members of a family or household group, can also receive regular training allowances. This provision simply corrects the anomalous situation created by the 1963 amendments which made a single person eligible if he were living as a member of a family or household whose head was unemployed—but denied him an allowance if he were living apart from his family. There is no apparent reason why an unemployed single person living alone should have less need for a training allowance than an unemployed single person living in a household whose head is unemployed.[6]

Secondly, the bill allows more than one unemployed member of a family or household to receive a regular training allowance— provided that the head of the family or household is not employed. The status of the household or family head is thus a critical element in the eligibility determination process. If he is not employed, he and any number of otherwise qualified[7] unemployed members of his family or household are eligible for regular training allowances. If, however, he is employed, then no member of his family or household is eligible for a regular training allowance. This amendment, it should be noted, does not preclude the Secretary of Labor from exercising judgment as to how many persons in one family or household shall receive allowances at any particular time, consistent with good program administration.

With respect to administration of the provisions regarding training allowance eligibility, the committee notes that persons who have been determined to be eligible for training allowances under an MDTA program should not have their allowances suspended or terminated for reasons beyond their control. It considers it desirable that the eligibility provisions be interpreted liberally, in order to avoid placing severe economic pressure upon a trainee by unnecessarily withdrawing an allowance once his training has begun. Specifically, if an allowance is being paid to a member of a family or household whose head is unemployed, it would not further the purpose of this act to have the allowance periodically withheld from the trainee because the family or household head has occasionally obtained short-time or odd-job work—particularly when this earnings in such work are minimal.

Allowances for trainees with more than two dependents

The act originally provided that a trainee's regular weekly training allowance should not exceed the average weekly unemployment compensation payment (for a week of total unemployment) in his State during the most recent calendar quarter. In 1963, the act was amended to allow the regular training allowance to be as much as $10 above the average weekly unemployment compensation payment.

This bill increases the maximum regular training allowance for trainees with more than two dependents by authorizing an additional $5 per week for each dependent over two up to a maximum of four additional dependents. Thus, a trainee with a wife and five or more children is made eligible to receive an allowance of $30 above the average weekly unemployment compensation payment in his State. The Department of Labor shows a current range of $24 to $44 in this average payment, among the 50 States.

Secretary Wirtz, in supporting this provision of the bill, told the Holland subcommittee:

"These increases are urgently needed because the pressure of heavy family responsibilities frequently forces workers who need training the most to drop out of the program * * *. Many of the training programs are in the States having the lowest allowances. They are frequently not enough to enable a trainee to support his family, particularly for the more long-term training periods."

This liberalization of the maximum allowance payable is, as Secretary Wirtz implies, a logical accompaniment to the extension of the maximum compensated training period to 104 weeks. The longer the period of training, the greater the difficulty faced by a trainee with a large family in resisting the temptation to drop out to take any job which pays substantially more than the training allowance. It is in the public interest to minimize the obvious waste which is involved when a person who has been partially trained fails to complete sufficient training to qualify him for a new occupation. Such waste—of human resources and of Federal training funds—may be especially likely to occur in the case of a fairly well educated and talented trainee, engaged in a longer term MDTA training project preparing him for a relatively high level of skill, who may have an opportunity to take a less skilled job which at least offers an income well above the MDTA training allowance.

The objection usually offered to efforts to liberalize welfare and relief payments—namely, that a higher level of payments may reduce the recipient's incentive to find employment—is not relevant with respect to the allowances paid under the MDTA program. An MDTA trainee continues to receive an allowance only if he is making reasonable progress toward acquiring the occupational skill for which he is being trained. And the effort to master a new and usually higher level skill is a greater day-to-day challenge to the trainee than he would face by dropping out of the program and taking a job utilizing only his present skills.

Private Educational and Training Institutions

Although the committee restored a limited State matching contribution to the bill as reported from subcommittee, it specifically authorized the Federal payment of up to 100 percent of the instructional and other costs of projects to be carried out in private educational and training institutions, if the Secretary of Health, Education, and Welfare determines that such payment is necessary in order "to give full effect to the purposes of the act."

The intent of this committee amendment is to assure continuation of the present policy of assigning to private institutions those specific training projects which they can carry out with equal or greater effectiveness than public institutions, and at lower cost. Congress, when it passed the act in 1962, intended that the facilities of properly qualified, private training institutions could be

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Footnotes at end of article.

used for MDTA training. In 1963, Congress reemphasized its desire to have private institutions participate in the program by specifically amending the act to authorize the State vocational education agencies to contract for training with such institutions where they "can provide substantially equivalent training with reduced Federal expenditures."

Statements presented during the course of the Holland subcommittee's hearings on this bill indicated that private training institutions have so far played a small, but valuable, role in the MDTA program. These institutions can be especially helpful in achieving the purposes of the program in certain situations. One of these situations arises when private institutions possess more modern equipment and facilities than public training institutions. Another exists when a private institution can quickly absorb into one of its ongoing programs an individually referred MDTA trainee, or a small group of MDTA trainees, and thus prevent these approved trainees from waiting until a specific new MDTA project can be gotten underway in a public institution.[8] An additional case is found when the capacity of public vocational schools and other public institutions in an area becomes too fully utilized to allow them to take on the desired number of MDTA trainees.

Representatives of the Department of Health, Education, and Welfare, the American Vocational Association, and individual State vocational education agencies have indicated their strong support for preserving the role of private institutions as needed participants in MDTA training. In certain States, however, legal or other barriers may prevent a State's contributing the required 10 percent of training costs to an MDTA project assigned to a private institution. In view of this situation, the committee has acted to authorize full Federal financing, where necessary, of training projects that can best be carried on in private institutions.

Authorized Appropriations

The bill authorizes the appropriation, through the fiscal year ending June 30, 1968, of such amounts as may be necessary to carry out the purposes of the act.

The act presently contains authorization limits, specified separately by title. These limits, for the fiscal year ending June 30, 1965, are: $3 million for carrying out title I; $407 million for carrying out title II; and $1 million for carrying out title III.[9]

Though the committee has not written specific authorization figures into this bill, it supports the expressed intention of the Secretary of Labor, in his testimony before the Holland subcommittee, to devote substantially more funds to research than has been possible within the act's present annual limit of $3 million for title I appropriations, and also to increase expenditures for experimental, developmental, demonstration, and pilot projects above their present level.

The committee recognizes the great potential benefits of enlarged research and experimental programs, and believes that the initial returns from the relatively limited programs carried out thus far clearly warrant expansion of the scope of these activities. Well-qualified observers of the MDTA program have been particularly impressed with the way a number of the research efforts have immediately and directly guided the development of manpower policies and the improvement of training activities. An impressive array of academic and other research resources have been enlisted in these efforts, and members of the various social science disciplines have been effectively drawn together in pooled research undertakings. As Secretary of Labor Wirtz pointed out, "The wisdom of the Congress in establishing a strong mandate for research and experimental progress has been clearly demonstrated." The committee agrees with the Secretary that significantly larger financial resources are now required, in order to exploit the manpower research potentialities that are opening up.

Footnotes at end of article.

OTHER PROVISIONS OF THE BILL

Research grants

The bill amends title I of the act to explicitly authorize the Secretary of Labor to make grants, as well as to enter into contracts, for the conduct of research related to the Nation's manpower problems. This amendment is simply designed to give greater scope and flexibility in maintaining an effective, imaginative program of research. As explained by the labor market research specialists who appeared as witnesses before the Holland subcommittee, the use of grants is especially appropriate for the more pioneering and exploratory research projects whose probable results and findings are particularly difficult to predict. Prof. Richard A. Lester, of Princeton University, gave an effective summary of this point in his statement to the subcommittee:

"Formal contracts for research usually entail certain advantages and disadvantages. They apply best in fields that are fairly well developed and for research that can be well defined and definitely mapped out in advance, with a specific timetable. The disadvantages center around the redtape and rigidities that may involve considerable delay before the contract is finally signed, and the need for contract revisions with experience, all of which may involve extra expenditures of time by the agency staff and the contractor.

"The advantages of the research grant have been its relative simplicity and flexibility, its minimal reporting burden, and the opportunity it affords for initiative on the part of the research agency * * *. It would seem desirable for the Government contracting agency to have both means at its disposal so as to be able to make the best arrangements to fit particular sets of circumstances.

The authority to make grants will thus give greater flexibility where necessary for such purposes as the development of project planning, preliminary to negotiations of a contract; support of younger research personnel on small projects (particularly for Ph. D. dissertion research in the manpower fields); financing of relatively inexpensive projects (under $10,000) where the administrative burdens of the formal contract procedures are unduly cumbersome; and the development of manpower research centers. In particular, the committee notes its approval of the Secretary of Labor's proposed intention to use a portion of the funds available under title I to aid the establishment of a limited number of regional manpower research centers. Such centers will facilitate a continuity in research and other relationships among governmental and nongovernmental manpower experts that is not feasible under an ad hoc contract-by-contract arrangement; will encourage coordination of activities among research-oriented organizations within each region; and will assist the development of critically needed, trained manpower research personnel.

Payment of transportation costs

The act presently authorizes the payment of transportation costs (up to 10 cents per mile) only for a trainee who must move away from his regular place of residence in order to take training; e.g., a trainee with a home in eastern Oregon who is approved for a training project located in Portland.

The bill amends the act to authorize payment of transportation expenses for those MDTA trainees (the vast majority) who commute each day between their homes and the training facility. The limit of 10 cents per mile is not made applicable to these daily commuting expenses, since, for many trainees, the local bus, subway, or other public transportation fare will exceed this limit. The bill provides, instead, for reimbursement to the trainee of the cost of travel by the most economical means of public transportation.

This provision of the bill will reduce the financial hardship imposed upon a great number of MDTA trainees, patricularly those in large metropolitan areas, by the necessity to allot a far from insignificant proportion of their limited training allowances to meet the costs of getting to and from the training facility. These costs may well mount up to $5 per week and more for many trainees. The committee believes, therefore, that it will further the purpose of the act to reimburse trainees for the extra transportation costs they incur by demonstrating the personal initiative and motivation to take part in a training program, and thus to make the entire training allowance available to help meet their ordinary living expenses.

Computation of the average weekly unemployment compensation payment

The bill makes two minor changes in the method of computing the average weekly unemployment compensation payment figure which is to be used in each State as a primary element in determining a trainee's weekly allowance.

First, the figure is now to be computed as the average of payments made over the most recent four calendar quarter period for which data is available, instead of as the average of payments in the single most recent calendar quarter period. This change in the method of computation is desirable in order to prevent the occasional necessity to raise or lower the weekly MDTA training allowance, in some States, in response to seasonal fluctations (from one quarter to the next) in the States' average weekly unemployment compensation payment. Calculating the average over a four-quarter period is expected to eliminate such fluctuations due to seasonal factors. While the MDTA weekly allowance is designed to be related to the general level of unemployment compensation in each individual State, no purpose would be served by having the allowance rise or fall simply because of seasonal changes in that level.

Second, the figure is now to be computed as the average "gross" weekly unemployment compensation payment. The purpose of inserting the word "gross" is to eliminate certain arbitrary differences among the various States with respect to the computation. In some States the weekly payment and unemployment compensation claimant receives may, under State law, be reduced from the "gross" amount to which he would normally be entitled, on the basis of his recent work experience and earnings. Such reductions may be imposed because the claimant is also receiving a pension, social security benefits, dismissal pay in lieu of notice, or certain other forms of income. Since the types and amounts of such reductions vary greatly from State to State, and since changes in them can affect the State's average unemployment compensation payment, and thus the average MDTA allowance paid in the State,[10] the committee has decided to require them to be excluded from the process of computation. The insertion of the word "gross" into section 203(a) of the act is designed to eliminate from the computation the amounts paid to all persons who do not receive a "gross" payment during the period. Thus, the total amount paid to any individual whose unemployment compensation benefit payments has been reduced because he received other income of the types described above will be disregarded in calculating the average payment for purposes of determining the MDTA allowance payable.

Part-time work by on-the-job trainees

The act presently provides that an MDTA trainee—other than a trainee in an on-the-job training program—may receive the full allowance he is otherwise entitled to, if he is engaged in part-time employment for no more than 20 hours per week. If he is employed for more than 20 hours, his training allowance is reduced by the full amount of his earnings for those hours worked in excess of 20.

The bill now extends this provision to cover on-the-job trainees as well. That is, an on-the-job trainee will be entitled to receive whatever training allowance he would otherwise have received, if he is employed for no more than 20 hours per week in employment other than that provided as part of the training program. Presently, under the act, his training allowance is reduced by 2.5 percent for each hour of paid employment he has during a week, whether that employment is, or is not, part of the on-the-job training program.

No apparent purpose is served by treating an on-the-job trainee differently from other MDTA trainees with respect to the effect on his training allowance of taking part-time employment. Accordingly, the bill eliminates the distinction presently made in the act.

The effect of this provision of the bill can be illustrated by a hypothetical case. Assume that the regular training allowance to which an individual MDTA trainee would normally be entitled is $30. Assume that the trainee is enrolled in an on-the-job training program, for a period of 30 hours per week, that for 20 of these hours he is actually engaged in the production of goods or services and therefore receives payment from the training employer for these 20 hours, and that in addition the trainee has a part-time job for 12 hours a week with a second employer. Presently under the act, this trainee would not receive a weekly MDTA allowance of more than $6 (20 percent of $30), since he is engaged in 32 hours of paid employment during the week and for each hour of such employment his allowance is reduced by 2.5 percent. Under the act, as it would be amended by this bill, the maximum allowance which this trainee could receive would be raised to $15, since only the 20 hours of compensated employment under the training program would be considered in calculating his allowance.

Commitments of funds for training programs

The bill adds a new section 305(e) to the act, to provide that the costs, including training allowances, of all training programs approved in a fiscal year may be paid from funds appropriated for that year.

This provision is needed to deal with an essentially technical problem that has complicated the administration of the MDTA program. At present, when an MDTA training project is approved, all costs to be incurred for the project are obligated against the current appropriation in effect at the time of the project's approval. With respect to the costs of training allowances, however, this practice cannot always be followed, because the General Accounting Office has indicated that the payment of allowances to a trainee becomes a legal commitment on the part of the United States to the trainee only after the trainee is selected and referred for training. Thus, if a training project is approved shortly before the end of a fiscal year—for example, in early June—the training cost in its entirety becomes an obligation against the current appropriation. But the selection and referral of the trainees, and the incurring of a legal commitment to them, may occasionally not take place until after the beginning of the next fiscal year on July 1. The result, in effect, is that a program approved in 1 fiscal year creates a contingent commitment for training allowances against the next fiscal year's appropriation.

The Department of Labor states that the fiscal management of the MDTA program has been complicated by this distinction in the treatment of training allowances as opposed to other costs of MDTA training projects. Accordingly, the bill amends the act so as to authorize the obligation of all costs, including allowances, against the appropriation current at the time the project is approved, without regard to when the trainees are selected and referred.

The new section 305(e) added by this bill also provides that the Federal share of the costs of a training project shall be the share specified by the act at the time the project is approved. The practical effect of this provision is to assure 100 percent Federal financing of the costs of training projects approved prior to July 1, 1966, even though actual training under these approved projects may not begin prior to that date or may extend beyond that date.

Proportion of youth trainees

The bill amends section 203(c) to authorize the Secretary of Labor to make "such adjustments as may be necessary for effective management of programs under this section," in conforming to the act's limitation with respect to youth enrollment in the MDTA program. Though the act does not explicitly restrict the proportion of youths (age 16 or older, but below the age of 22) who may be accepted as trainees, it does state that no more than 25 percent of those trainees who are receiving training allowances or unemployment compensation benefit payments may be youths under the age of 22.

Since the MDTA program is highly decentralized, the hundreds of separate training projects being approved and carried on simultaneously in the 50 States, it has proven to be administratively difficult to conform to this 25-percent limitation when it is interpreted as an absolutely rigid limit. Accordingly, this bill gives the Secretary of Labor some degree of flexibility with respect to this limit, so that the approval of trainees for projects will not have to be unduly delayed while time-consuming examinations of the most recent national enrollment figures are carried out to determine whether the acceptance of a few more trainees below the age of 22 is likely to create a violation of the 25-percent limit.

The committee takes note of the fact that the Secretary's intention, in requesting this provision of the bill, is only to gain some needed flexibility and elbowroom. There is no intention to change present policies with respect to the enrollment of youth in the MDTA program. Since the act was last amended, in 1963, to increase effectively the proportion of youth trainees, Congress has enacted the Economics Opportunity Act of 1964. The Neighborhood Youth Corps, the Job Corps, and other programs authorized by this recent act provide extensive new work and training opportunities for youth. Accordingly, the committee reaffirms its support for a policy of maintaining a reasonable limitation on the proportion of youths in the MDTA program. The primary emphasis of the Manpower Development and Training Act, from its beginning, has been upon the training and retraining of unemployed adults with substantial past employment experience. This continues to be the proper emphasis, in the view of the committee.

Additional comments

As part of its reexamination of the Manpower Development and Training Act which has been prompted by this bill, the committee wishes to record its observations upon certain aspects of the MDTA program and upon some of the issues raised by those presenting testimony and statements to the Holland subcommittee.

Safeguarding against MDTA substitution for private training efforts

The committee considers it desirable to emphasize, as it has in the past, that the establishment of a manpower development and training program was not intended to substitute Government-subsidized training for training normally undertaken by management, to discourage training by private industry, or to inadvertently lead to disruption of an industry's competitive relationships. There are obviously situations accordingly, in which it is not appropriate for MDTA training projects to be established. Firms in the apparel and garment industry, for example, are intensively competitive in a national market, are highly mobile, and have traditionally provided their own training on the job. In this industry prior training or possession of a specific skill is not typically prerequisite for obtaining employment. In an industry such as this, Government-subsidized training can disrupt competitive relationships by providing an advantage to some employers over others, and wastes Government funds by shifting the training function from industry to Government. Moreover, such subsidized training does not add to the sum total of jobs but merely brings about a redistribution of production, employment, and unemployment within the industry. It is the committee's intention, therefore, that financial support under this act shall not be made available for training programs in such an industry.

Advisory committees

In its report[11] accompanying the proposed 1963 amendments to the act, the committee stated its strong conviction that manpower advisory committees:

"* * * should be established at the local and State or regional level wherever appropriate and their advice sought before projects are approved."

The act, accordingly, was amended in 1963 to direct the Secretary of Labor, where appropriate, to require the organization on a community, State, and/or regional basis of labor-management-public advisory committees."

Despite the legislative action taken in 1963, members of the committee have continued to receive criticisms concerning both the excessive slowness in establishing effective advisory committees in some regions and communities and the overly limited role that advisory committees have thus far played in the MDTA program. There appears to be evidence that administrators of the MDTA program, all too often, have failed to take sufficient steps to involve these committees in the planning and evaluation of program activities. The committee again calls to the attention of the Secretary of Labor, therefore, its belief that each proposed MDTA training project should be examined in advance by a properly constituted labor-management-public advisory committee.

If a committee has not been established in or near the community where the project is to be located, then responsibility for examining the project should be assumed by the State advisory committee. Moreover, when an MDTA training project is proposed for development on a nationwide basis—for example, by arrangement with a national trade association—it seems clearly desirable to have the proposal reviewed in advance by the National Manpower Advisory Committee.

The committee fully recognizes the importance, for an effective manpower development and training program of arousing broad-based community support and encouraging widespread participation by representatives of labor, management, and other interested groups. By having proposed projects subjected to the scrutiny of such interested parties, administrators of the MDTA

Footnotes at end of article.

program not only receive the benefit of expert advice, but are also helped in their task of assuring that MDTAs training does not become exploited as a source of cheap labor or as a means for undermining existing labor standards.

Congressional Review of President's Manpower Report

The committee notes with approval the suggestion made by representatives of labor, in testimony before the Holland subcommittee, that annual congressional hearings be instituted upon the manpower report of the President. The act requires that the report be transmitted to Congress within 60 days after the beginning of each regular session. This annual manpower report, since its first appearance in 1963, has proven to be one of the most stimulating, widely known, and valuable of Government documents and has helped immensely to focus public attention upon the Nation's challenging manpower problems. The committee believes that it would be enlightening both to the Congress and to the general public to have congressional hearings conducted each year upon the findings, conclusions, and issues raised by the manpower report. Such a congressional review has a precedent in the form of the hearings held annually by the Joint Economic Committee upon the Economic Report of the President. Congressional hearings upon the manpower report would serve to emphasize the critical importance of developing and utilizing our human resources and would provide a broader forum for examination of manpower problems generally than can usually be provided by hearings focused upon a specific item of legislation.

Adequacy of Operating Agencies

When the Manpower Development and Training Act became law in 1962, crucial responsibilities for effective operation of the MDTA program were assigned to the Federal-State employment service system. Under this act, the public employment service has the principal duties of identifying job opportunities for which training is appropriate, interviewing, testing, and selecting the trainees, providing counseling services to trainees, and seeking to place graduates of MDTA training programs in employment.

It was well recognized at the time this proposed act was introduced, in 1961, that the success of the MDTA program would depend greatly upon an effective employment service system. Secretary of Labor Arthur Goldberg, testifying in support of the legislation, stated:

"Before individuals are selected for training, we need to know not only the needs of our industries, but also a lot about each individual worker. * * * In this initial step in the training program, we will utilize to the fullest the counseling facilities of the local State employment service offices. Although such services already exist, they will have to be greatly expanded to do the kind of job that will be necessary. We have already launched a program of expanded services at the direction of the President, but even more will have to be done.

Congressional recognition that the MDTA program would call for an improved employment service was indicated in the Senate report accompanying the act, as originally proposed, in 1961:

It is evident that the large-scale program envisaged by this bill will require extensive upgrading, both in quality and in quantity, of the personnel of these State employment offices. In too many States and localities, these institutions are weak, and preoccupied with the mechanics of recordkeeping and paying unemployment benefits * * *. The committee has taken notice of the many studies surveying the employment services, which invariably recognize their weaknesses. These must be corrected if the tasks provided by this bill are to be performed".[12]

Since 1961, when the Kennedy-Johnson administration entered office, the committee notes that encouraging steps have been taken to revitalize and improve the Federal-State employment service system, so as to enable it to meet more adequately its heavy responsibilities not only under this act but also under other legislation of recent years. Nevertheless, the committee is aware that the personnel and other resources of the employment service need further strengthening. No public agency has a more vital and central role than the employment service in the Nation's effort to achieve full development and utilization of its manpower. Accordingly, the committee believes that it is essential that Congress take such steps as are still needed, in order to assure that the employment service is well prepared to carry out this role.

Administration of the program

The committee wishes to stress the obvious—but important—point that the achievements of the Manpower Development and Training Act depend greatly upon the judgment and discretion of its administrators in maintaining a soundly planned and well-balanced program. It should be noted that the 1963 amendments to this act and the amendments proposed in this bill have the effect of affording additional flexibility and opportunity for exercising discretion to those who are responsible for administering the program.

Among the suggestions made by witnesses before the Holland subcommittee were two proposals for limiting administrative discretion upon which the committee believes comments are in order. Representatives of industry who are enthusiastic over the progress of some of the major MDTA on-the-job training projects urged the committee to consider requiring that at least 25 percent of MDTA training funds be allocated to on-the-job training. The committee was not persuaded that it is desirable to establish a fixed division of funds between the on-the-job and the institutional training components of the MDTA program. It wishes, however, to emphasize again—as it did in its 1963 report—that a large role for on-the-job training was envisioned to the time the act was adopted, and that the committee counsels the Secretary of Labor to give continuing attention to the problem of assuring that this valuable type of training is not allowed to become a relatively neglected aspect of the program.

Secondly, representatives of organized labor vigorously urged the committee to write into the act—

"* * * a requirement that, at the very least, workers will not be trained for any jobs which pay less than the minimum wage stipulated in the Fair Labor Standards Act, whether or not the job is in a covered occupation or industry."

Although a strong case can be made on behalf of putting such a requirement into the act, the committee did not decide to impose such a limit upon the discretion of administrators in establishing MDTA training projects for specific occupations. Members of the committee are deeply concerned over the inexcusably low wage in many occupations—including occupations for which some workers have been prepared under the MDTA program—but a more direct attack upon this problem can be made through prompt legislative action to extend broadly the coverage of the Fair Labor Standards Act.[13] However, the committee expects that administrators of the MDTA program will remain acutely aware that the purpose of the act is not to reduce the statistically measured number of unemployed by putting individuals into any job vacancies that can be found, no matter how miserably paid and insecure such jobs may be. In occupations and industries where wages and working conditions are exceptionally substandard and turnover high, the number of reported "job opportunities" commonly tends to be high. The committee trusts that this fact will be given due consideration in the process of discovering and assessing those job opportunities for which MDTA training projects are to be considered.

FOOTNOTES

[1] Other than on-the-job training programs, under sec. 204 of the act.

[2] Matching in kind may be accomplished through a variety of arrangements, including: donation of space, physical equipment, personal services, grants by public organizations; such as, a city, county, school district, or any other State instrumentality, and donations by private (profit or nonprofit) agencies, or any other source. Thus the States will have considerable flexibility in determining what is particularly suitable for inclusion as its contribution.

[3] The necessary conditions for designation of areas as "redevelopment areas" are spelled out at length in sec. 5 of the Area Redevelopment Act of 1961. In brief, such areas must have suffered from "substantial" rates (6 percent or more) of unempoyment for specified periods of time, or, in the case of rural areas, be characterized by low incomes and underemployment.

[4] The act presently sets June 30, 1965, as the ending date for the labor mobility demonstration projects, limits appropriations for them to $4,000,000 in any fiscal year, specifies that grants may not exceed 50 percent of the relocation costs of a participant in the projects, and limits a combination of loans and grants to 100 percent of a participant's relocation costs.

The labor mobility projects are presently authorized under title II of the act, in sec. 208. The bill repeals sec. 208 and authorizes these projects under a new sec. 104 of title I.

[5] The average planned length of current MDTA projects, according to information supplied the Holland subcommittee, is 36 weeks.

[6] The word "single" is used here to denote an unmarried, widowed, or divorced individual without dependents.

[7] Two years' employment experience is still required, of course, before an individual can qualify for a regular training allowance.

[8] One of the more serious problems that arises in the MDTA program is the frequent necessity to keep an unemployed worker, who has been approved for training, waiting until a sufficient number of prospective trainees have been gathered together to enable a new training project to be undertaken on a reasonably economic scale. Particularly if the waiting period extends into a number of weeks, the individual may be induced by prolonged financial hardship to take a dead end job or one which underutilizes his potential abilities and thus forego his chance for training. Though this problem cannot be completely eliminated, the committee urges the administrators of the MDTA program to take every appropriate step to avoid the loss—to the individual and to society—that occurs when a person qualified and accepted for training is forced to give up his opportunity because of long delays in getting a project started. One of the developments in the administration of the program that is calculated to increase its usefulness is the referral of individuals, at the time that they are available for training, to institutions, both public and private, at the nearest available location. The project system alone does not provide sufficient suitable training opportunities for the wide variety of training needed and in the many localities in which it should be made available.

[9] The present limit on authorized annual appropriations for training programs under the Area Redevelopment Act, which are now to be transferred to MDTA, is $14.5 million,

composed of a $10 million limit on weekly training allowances and a $4.5 million limit on other costs of training.

[10] In Pennsylvania, for example, the State unemployment insurance law was recently amended to require a claimant's "gross" payment to be reduced by the amount of any pension he receives. The result was a reduction, for the 3d quarter of 1964, of $2 in the average "net" unemployment compensation payment in the State—with a consequent reduction in the weekly allowance being paid to MDTA trainees in Pennsylvania. A technical change in the Pennsylvania law thus forced a cut in the MDTA allowance which was resented and not easily understood by the trainees and which in no way served to further the purposes of the MDTA program.

[11] Rept. No. 861, 88th Cong., 1st sess.

[12] S. Rept. 626, 87th Cong., 1st sess.

[13] On this point, the committee calls attention to portions of a statement presented to the Select Subcommittee on Labor by the American Nurses' Association:

"We * * * wish to point out that unemployed persons being trained for the health occupations will be entering a field of employment that is itself economically depressed and has a high rate of turnover. Studies by the Bureau of Labor Statistics over the years raise serious questions about employment as a nonprofessional worker in a hospital as a self-supporting job placement. For example, according to BLS, in June and July of 1963, when the Federal minimum wage was $1.15 an hour, in none of the cities surveyed was the average as high as the Federal standard and in Memphis and Atlanta average hourly cash wages were from 38 to 53 cents lower than the minimum."

[HOUSE, APRIL 1, 1965]

Mr. POWELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4257) to amend the Manpower Development and Training Act of 1962, as amended, and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 4257, with Mrs. GRIFFITHS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. POWELL. Madam Chairman, I yield myself such time as I may require.

Madam Chairman, I speak to this House today on behalf of H.R. 4257, a bill entitled "The Manpower Act of 1965." This bill comes from the Committee on Education and Labor and amends the Manpower Development and Training Act of 1962, as amended.

The manpower development and training program established by that act is one of the most valuable weapons we have in this Nation's continuing battle to prevent the waste of our human resources and to realize the full productive potential of the American people. The new amendments to the act, proposed in H.R. 4257, are designed to make certain we will be able to use this weapon vigorously and effectively in the years ahead—and in all 50 States of this country.

The bill makes necessary changes in the act's present provisions for non-Federal matching contributions to Manpower Development and Training Act training costs. It also expands the eligibility for receipt of weekly subsistence allowances by trainees enrolled in the manpower development and training program. In several other ways it reduces the financial hardships that have discouraged some workers from taking training under the act and which have virtually forced some to drop out of training before completion. The bill further broadens the program to provide more adequate training for those with especially deprived educational backgrounds and to those capable of being trained for some of the advanced occupational skills that the Manpower Development and Training Act program has heretofore not been able to reach effectively.

These and other provisions of the bill will be presented in more detail by my fellow member of the Committee on Education and Labor, the gentleman from Michigan (Mr. O'HARA).

Madam Chairman, I think a tribute should be paid to two of our colleagues, in particular, as we consider this bill. One is the gentleman from Pennsylvania (Mr. HOLLAND), chairman of the Select Subcommittee on Labor. He, more than any other Member of this House, has been closely identified with the Manpower Development and Training Act ever since the early days of the 87th Congress, 4 years ago, when he first began the extensive hearings on manpower and automation problems which led ultimately to the passage of the act. The gentleman from Pennsylvania can be justly proud of his legislative accomplishments in making the manpower development and training program a reality and in securing the passage of further legislation which he introduced in 1963 to amend the act in a number of valuable ways. It is his bill, introduced on behalf of the administration which we consider today as we again seek to improve this act by new amendments.

The other Member to whom special mention should be accorded is the gentleman from Michigan (Mr. O'HARA), one of the most effective leaders in the effort that originally created the Manpower Development and Training Act. During February, in the unavoidable absence of the gentleman from Pennsylvania, the gentleman from Michigan very ably chaired the select subcommittee through 2 weeks of hearings on the bill before us today. He has an exceptionally fine understanding of the manpower development and training program, and I know of no one better qualified to explain to this House the need for keeping this indispensable program alive and healthy.

Mr. HOLLAND. Madam Chairman, in the two previous sessions the Members of Congress have acted on manpower training legislation.

In the 87th Congress, the Manpower Development and Training Act of 1962 was passed. For the benefit of our new Members this session, I would like to say this legislation resulted from a personal survey I conducted, immediately following President Kennedy's election, and public hearings of an ad hoc Subcommittee on Unemployment and the Impact of Automation which Chairman POWELL created and to which he appointed me chariman, early in 1961. With unemployment and its ever-increasing rate of growth considered as a most important domestic problem—all avenues were explored in an effort to find a satisfactory solution.

Today, as chairman of the Select Subcommittee on Labor, I ask the Members of the 89th Congress to pass the amendments to the Manpower Development and Training Act program—amendments which again broaden the coverage of the program, lengthen the training period, increase the subsistence allowance in specific cases, and make other provisions including the extension of full Federal financing for 1 more year—fiscal year 1966—with the States share, starting July 1, 1966, being reduced to only 10 percent in cash or kind.

The success of this program, in respect to reclaiming individuals and restoring their ability to become self-sufficient once more, is well known. The records show that between 70 and 80 percent of those, who have completed their training, are now employed. The fact that no opposition was raised in the Full Committee on Education and Labor, when this legislation was reported out, demonstrates not only bipartisan support but also the sincere recognition of the need for the continuation of this program.

Mr. O'HARA of Michigan. Madam Chairman, the bill before us today, introduced and sponsored by the gentleman from Pennsylvania (Mr. Holland) is a further step in the effort to provide a chance for American workers who are without the skills necessary to secure and hold substantially gainful employment. It represents the latest chapter in a struggle begun many years ago by the gentleman from Pennsylvania (Mr. Holland) to rescue from the human scrap heap of prolonged joblessness millions of our fellow citizens who needed to work and wanted to work but could not find a market for their labor. I would like to begin my remarks by paying tribute to the fight made by the gentleman from Pennsylvania for these neglected members of our labor force. It was a continuing struggle that he sometimes carried on nearly alone in which he persevered despite all obstacles. Its fruit is the Manpower Development and Training Act of 1962, one of the most successful programs ever adopted by the Congress. The gentleman from Pennsylvania has now proposed amendments to strengthen and improve this program which are embodied in H.R. 4257, the bill before us today.

It is a bill which has received the endorsement of both the majority and minority members of the Committee on Education and Labor. It is also a bill whose prompt enactment by the Congress is essential in order to preserve the manpower development and training program. This program, in the 2½ years since it began in the fall of 1962, has made an impressive contribution in restoring thousands of Americans to productive employment. Those of us who have watched the Manpower Development and Training Act program since its inception can testify to the satisfaction we have felt as it has demonstrated its value to our society.

The manpower development and training program was initiated in 1962 with exceptional bipartisan support in both Houses of the Congress—as was shown by the large majorities that voted to pass the original act. Since 1962, the program has proven itself a success, and has developed an even broader base of bipartisan support. The act was amended in important respects in late 1963—again by very large majorities in both Houses—and the additional amendments proposed on behalf of the administration this year have received a strongly favorable response. Manpower development and training is not, therefore, a controversial program. It is now well established and almost universally recognized to be one of the indispensable elements in this Nation's determined attack upon the problems of unemployment and waste of our human resources.

The select subcommittee held 8 days of hearings in February on the bill. Without exception, the witnesses who came before us, and others who submitted written statements, expressed enthusiastic support for continuing and expanding the manpower program. No one requested time to testify against the bill, and no statements in opposition were received. The bill was reported favorably from the full Committee on Education and Labor on March 4, without a dissenting vote, and with several improving amendments, including amendments proposed by minority members of the committee. There was no minority report.

Madam Chairman, I shall discuss briefly what has been and is being accomplished under the Manpower Development and Training Act program. By the time all the regular title II training projects that so far have been approved and given commitments of funds are completed—in addition to those projects that have already been completed—this program will have successfully equipped well over 300,000 American workers with new and much-needed skills. About 90 percent of these trainees, we should note, were totally unemployed before they entered Manpower Development and Training Act training, and practically all of the remainder were part-time workers or underemployed in jobs that did not fully use their potential productive capacity. In addition to these trainees I have just described—those enrolled in the standard title II training projects—the Manpower Development and Training Act program will also have given counseling, basic education, training, placement, and other services to approximately 60,000 more persons in the special experimental, demonstration, and pilot projects that have been designed for workers in our society with especially severe employment problems.

These experimental and demonstration projects have constituted an extremely valuable part of the Manpower Development and Training Act program, and have contributed to improving techniques for assisting such groups as older workers displaced by automation, workers handicapped by extremely limited educational backgrounds, nonwhite workers, and members of other racial minorities, members of low-income farm families who are struggling to make the transition to employment in urban areas, and young workers who dropped out of school because they were unable to adjust to formal academic education.

This, then, is the record of the Manpower Development and Training Act program. With the funds Congress has appropriated for its first 2½ years of operation, a total of almost 400,000 workers, by the end of this fiscal year, will have been involved in projects that are completed or under way.

Has the program been worthwhile? There is no question about it. The placement rate for those who have completed Manpower Development and Training Act institutional training projects has been approximately 73 percent. That is, almost three-fourths of these trainees are shown as having been placed in jobs within 90 days after completing a course of training. For the relatively smaller group of trainees who have completed Manpower Development and Training Act on-the-job training projects, the placement rate has been about 94 percent—this higher rate, of course, being a reflection of the fact that most on-the-job trainees begin their training in the establishment of employers who expect to keep them on as permament employees after the training period, while trainees in the institutional projects must go into the labor market to seek jobs when their training is over.

We can say, therefore, that around three-fourths of those who complete their prescribed course of training are finding jobs within a relatively short time after completion. This is a very solid achievement—especially in view of the fact that 9 out of 10 Manpower Development and Training Act trainees have been drawn from the ranks of the unemployed, and that a high proportion had been without jobs for 3 months, 6 months, a year or even longer before they were selected for training. Indeed, this is an achievement substantially greater than had been anticipated by many who voted, 3 years ago, to pass the Manpower Development and Training Act. The Manpower Development and Training Act program has more than fulfilled the hopes of its original supporters. It is putting thousands of Americans back to work—including great numbers whose long, frustrating search for decent employment seemed almost hopeless before Manpower Development Training Act training provided them with new skills.

The cost of the program, when set alongside the results being achieved, is a modest one for a great nation like the United States to pay. Looking at the institutional training projects and the on-the-job training projects combined, we have found that the direct cost of training one worker—including the cost of weekly subsistence allowances to those eligible for them—has so far averaged around $1,200 or $1,300. And no consideration has been given, in estimating this average cost, to the fact that a significant part of the cost of the weekly allowances actually just takes the place of unemployment compensation benefits or welfare and relief payments that otherwise would have been paid to many Manpower Development Training Act trainees.

The cost of training can be fully and completely measured in terms of dollars and cents. The benefits, of course, cannot be. It is impossible to put a price tag on the value of a worker, and the members of his family, receive when he is reclaimed from the industrial scrap heap, when his self-confidence is restored through the acquisition of a new and marketable skill. These are benefits that can accumulate over the lifetime of the worker—and even over the lifetime of his children, whose own motivation and chances of becoming productive members of our society may be greatly damaged if their father falls into the discouraged condition of the chronically unemployed.

The desirability of manpower training hardly needs to be defended at all, if the alternative is stagnation and demoralization. I doubt that there is a Member of this House who would contend that it is preferable for an unemployed worker—whether from the standpoint of his own interest or the interest of our society—to spend weeks and months in self-destructive idleness, rather than be engaged in skill training which can offer him even a fair fighting chance of regaining a place in the world of work.

If we confine ourselves just to those benefits from training that can be roughly estimated in dollars and cents, however, the clear indication is that manpower training is a very worthwhile investment in human beings. The Manpower Development and Training Act training program is still so young relatively, that only very limited information is yet available on the incomes and earnings, over a period of time, of those who have completed training. But I would like to summarize very briefly one of the few studies so far published on this question—a study carried out, with a grant from the Ford Foundation, under the direction of one of the country's most distinguished labor economists, Gerald Somers at the University of Wisconsin.

This study examined the post-training experience of approximately 500 previously unemployed workers who completed either ARA or State-sponsored training courses in West Virginia, and compared their experience with that of a control group of unemployed West Virginians, of comparable background. Observations over a period of several years clearly demonstrated that the first group—those who had completed training—enjoyed a very significant advantage over the control group with respect to stability of employment and with respect to the incomes they were able to earn. The conclusion of this University of Wisconsin study was that it had produced strong evidence that the benefits and potential benefits of manpower retraining substantially outweigh the costs.

In concluding my comments on the question of the cost of Manpower Development and Training Act training, I want to make two points, to help us see this program in perspective. First, the total amount paid out to unemployed American workers in weekly unemployment compensation benefits last year, 1964, was more than $2½ billion. By contrast, the amount of Manpower Development and Training Act funds committed for the payment of weekly training allowances during the year was not over 5 or 6 percent of this figure. For every dollar we committed to support a Manpower Development and Training Act trainee last year, while he undertook training, at least $15 to $20 was paid out in benefits to unemployed workers who were not being trained.

Secondly, the total number of workers whom the Department of Labor expects to be able to train under title II of the Manpower Development and Training Act program, during fiscal 1966—on the basis of the proposed administration budget—is approximately 275,000. This number is little more than one-third of 1 percent of the total number of people now in the American labor force. When we consider the high rate of productivity increase and of technological change in our economy, with its constant destruction of old jobs and creation of new job opportunities—and when we consider that the Manpower Development and Training Act program is now providing new skills to only about one-third of 1 percent of our labor force each year—then I think the proper question to be asked is not whether we are trying to do too much with Manpower Development and Training Act, but whether we are trying to do too little.

Madam Chairman, I will not discuss the main provisions of the bill we have before us, to amend the Manpower Development and Training Act.

This bill extends the life of the Manpower Development and Training Act program to June 30, 1968—that is, for 2 years beyond its presently scheduled expiration date of June 30, 1966. This extension for only 2 years does not indicate that members of the Committee on Education and Labor believe there is a possibility that we may not need a manpower development and training program after 1968. It simply reflects the view that the Manpower Development and Training Act program should be reexamined, within a reasonable period of time, by the committee, in order to develop any legislative action that the future may reveal is needed to improve the program.

The bill provides a 1-year extension, to June 30, 1966, of completed Federal financing of the Manpower Development and Training Act program. After fiscal 1966, a non-Federal contribution of 10 percent will be required for the costs—exclusive of the costs of training allowances—of institutional training under title II. This provision maintains the requirement of a non-Federal matching share, but it also sets that share at a level which will not threaten our ability to keep the Manpower Development and Training Act program going ahead in high gear. There is no doubt that this is a successful program, and that it is an essential program, for our unemployed workers and for the health of our economy. But there is also no doubt that most States—not all, but most—cannot take on a large share of the cost of the program. The provision we have in this bill, therefore, reflects the hard reality of the fiscal situation that faces practically all of our States.

The bill brings under Manpower Development and Training Act the separate training program which, since 1961, has been operated under authority of the Area Redevelopment Act. That act is scheduled to expire on July 1 of this year, but the administration is proposing to maintain the designation of redevelopment areas, which are to be eligible for special Federal assistance. Part of the Manpower Development and Training Act appropriation, from fiscal 1966 on, is expected to be specifically set aside for training in these redevelopment areas. The training projects in these areas will differ relatively little from other Manpower Development and Training Act projects. The chief points of difference are that the Secretary of Commerce will share the responsibility with the Secretaries of Labor and of

Health, Education, and Welfare for redevelopment area training, and that any unemployed or underemployed individual in these areas may be eligible to receive a regular weekly subsistence allowance when selected for training, whether or not he meets the usual manpower development and training act eligibility requirements with respect to previous work experience, age, and family status.

This bill consolidates all research, experimental, developmental demonstration, and pilot projects under title I of the act, and explicitly directs the Secretary of Labor to carry out such projects. It also increases somewhat the total allowed spending for the special labor mobility demonstration projects that were authorized by our amendments to the act of 1963, and extends to June 30, 1967, the deadline for concluding these projects. Under title I, the bill also directs the Secretary of Labor to carry out two more specifically named types of projects: First, a job development program to explore means of creating new employment opportunities, primarily in the service trades; second, a trainee placement assistance project, which will be a 2-year experimental undertaking designed chiefly to assist the placement of trainees with police records who need to be bonded for many types of employment and who find it difficult or virtually impossible to be accepted for bonding by commercial surety companies.

Another provision of the bill extends the period for which a trainee may receive a training allowance to a maximum of 104 weeks. The act presently limits allowances to a maximum of 52 weeks, if the trainee is engaged in strictly occupational training, or to a maximum of 72 weeks, if he is in a course which includes training in basic education skills as well as occupational training. This provision of the bill, let me emphasize, is not intended to produce a large increase in the average planned length of the Manpower Development and Training Act training projects. But it will give flexibility to the program in two desirable respects—first, by allowing longer periods of remedial instruction in basic education skills for trainees with especially deprived educational backgrounds, and; secondly, by enabling the Manpower Development and Training Act training projects to be instituted for a variety of the more highly skilled and technical occupations which are presently beyond effective reach of the program, under a limit of 52 weeks for occupational training.

The bill contains a set of provisions designed to reduce the financial hardships that bear upon many Manpower Development and Training Act trainees, and thereby encourage more individuals to enter training and to remain in training until their prescribed courses are completed. These provisions make single people, living apart from their families, eligible for the first time for regular training allowances. Also, eligibility for allowances is now extended to more than one member of a family, provided that the family head is unemployed.

The amount of the allowance that can be paid is increased for one category of trainees—those with more than two dependents. For each dependent beyond two, the allowance may be increased by $5. The maximum increase, however, is $20—which could be received by a trainee with six or more dependents. The final provision to be mentioned in this group is one which authorizes the payment of daily transportation costs for trainees, to and from the location of the training site. Since these costs can mount up to $3 to $5 a week in many cases, which is a much more than nominal proportion of the trainee's weekly allowance, the committee has endorsed the administration's proposal to begin defraying these costs.

The few remaining provisions of the bill are of a technical or minor nature, and I will only take time at this point to comment upon one of them. That is the provision which authorizes Federal payment of up to 100 percent of the cost of Manpower Development and Training Act projects assigned to private educational and training institutions, even after the 10-percent matching provision becomes effective at the end of fiscal 1966. This provision has been incorporated in the bill because the committee recognized that many States will be very reluctant to put up part of the costs of training projects outside the public vocational school facilities. Yet there are quite a few projects which can be most effectively and rapidly carried out in private institutions. The committee is convinced that it would be undesirable to reduce greatly the participation of well-qualified private institutions in the Manpower Development and Training Act program. For that reason, it has written into the bill this exception to the non-Federal 10-percent mating requirement.

Madam Chairman, I think this is an excellent bill and that its passage will mark an important step toward improving the manpower development and training program and solidly establishing it for the future on a sound, viable basis.

Mr. AYRES. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, this has been one of the most constructive pieces of legislation enacted in recent years to assist people in getting gainful employment. Fortunately, it has not been a partisan issue in any way. The subcommittee members and the committee members have worked diligently and have come here today with a bill that both sides agree should be passed. The gentleman from Ohio (Mr. ASHBROOK), the ranking member of the subcommittee, and the gentleman from Minnesota (Mr. QUIE), and the gentleman from New York (Mr. GOODELL) have done a superb job.

It will be recalled that several years ago when many amendments were offered and Mr. GOODELL was active in the legislation at that time it was predicted that this would be one of the most constructive laws in this field. That has proven to be the case.

Madam Chairman, I now yield to the gentleman from Ohio (Mr. ASHBROOK), ranking minority member of the subcommittee, 3 minutes.

Mr. ASHBROOK. Madam Chairman, I rise not to point out any inadequacies in this bill, but to refer to the fact we have a continuing obligation to proceed in the direction this bill indicates. It is important that we continue to perfect this program.

One of the main objections I stressed when this bill originally passed was duplication and a certain amount of overlapping in existing programs. Some of the overlapping is not really significant. To some degree there is overlapping in the existing vocational training program, but this is not an important factor.

One of the areas of overlapping, which was very significant, has been handled by this bill, due to the consideration and study of the gentleman from Michigan, and other members of the committee. That of course is the Area Redevelopment Administration program, commonly called ARA.

I think this is basically a step forward to prevent duplication, to bring existing efforts under one general program. I would point out at the same time that we do have a continuing obligation to incorporate other similar programs into the Manpower Development and Training Act. Again, I know the gentleman from Michigan (Mr. O'HARA) has recognized this and has been very diligent in this field. Even after the enactment of this bill, the improvement of this law, there will still be overlapping in several important areas.

Mr. O'HARA of Michigan. Madam Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield.

Mr. O'HARA of Michigan. I and all the members of the committee are aware of the gentleman's interest in making this more efficient. We share his belief that we ought to consider the entire field of training and we hope to do that in the very near future.

Mr. ASHBROOK. I particularly thank the gentleman from Michigan because this has been one of the most constructive subcommittees I have had the opportunity to serve on. Under the provisions of this bill, the ARA is brought into manpower development training. We do have existing programs which at the present time should be considered, although we are not going to offer amendments to this specific bill.

I read the following from page 127 of the President's manpower report transmitted to the Congress in March of 1965, to give you an idea of the further obligation of our committee in studying these programs:

"It is still too early to evaluate the Economic Opportunity Act programs."

That is the Economic Opportunity Act, the so-called poverty program.

"The law has been in effect only 6 months. By the end of the current fiscal year, these programs are expected to be providing work training for some 200,000 young people."

It can be seen that there is at the present time one basic program which is operating simultaneously with the manpower development and training program. There is also another program which I hope in the future we will consider incorporating in the provisions of the Manpower Development and Training Act. You all recall when we passed the Trade Expansion Act there were provisions for basic training or retraining, as the case might be, where workers were harmed by the effect of imports. This program has not been very fully implemented yet but undoubtedly it will be in the future. It is important, I hope, that we as members of the committee in the further study of this bill will endeavor to incorporate into this act the provisions of the Trade Expansion Act which provide for training in the case of those employees who are hurt by the impact of imports.

I also hope the Economic Opportunity Act provisions providing for retraining can at least be coordinated with this program if they are not, indeed, placed under the efficient leadership that is offered by the Manpower Development and Training Act.

Mr. O'HARA of Michigan. Madam Chairman, I yield 6 minutes to the gentleman from New Jersey (Mr. DANIELS).

Mr. DANIELS. Madam Chairman, I want to underscore my support for H.R. 4257 and also focus particular attention on some aspects of the task of manpower training which must be given increased emphasis. The Manpower Development and Training Act has been in operation for 2½ years, and the Nation and thousands of individuals have benefited from its provisions. Nevertheless, the size of the yet unaccomplished task is so great in dimension and in its variety of problems that new and imaginative techniques must be provided to meet the challenge. I call your attention, therefore, to the provision of the bill before us which directs the Manpower Development and Training Act administrators to maintain a much-needed program of research and of experimental and demonstration projects.

Research, experimentation, and demonstration are indispensable adjuncts to an effective Federal manpower training program. The resources of the Departments of Labor, and Health, Education, and Welfare must be combined with those of all community agencies that can contribute innovations to the total training effort on a broad and continuing basis. Much of the experimental and demonstration effort under the Manpower Act thus far has been conducted by the Department of Labor and has been concerned with finding special counseling, testing, and referral techniques. These are vital needs—and there is an equally important need for finding unique training methods that benefit all types of individuals, with diverse backgrounds, in a multitude of occupational areas.

There are groups of individuals who continue to have especially serious employment problems and for whom provisions of the Manpower Development and Training Act and H.R. 4257 are uniquely designed. Manpower Development and Training Act experience has shown that new approaches and methods are required to meet the needs of disadvantaged worker groups, such as the undereducated, the non-English speaking, the migrant workers, out-of-school and out-of-work youths, older workers, minority groups, the physically and mentally handicapped, and others. New approaches are needed to provide jobs and occupational training for the more than a million unemployed workers with less than 8 years of schooling, for older workers who comprise about 40 percent of the long-term unemployed, for the nonwhite workers who have double their proportionate burden of unemployment, for the unskilled and semiskilled workers who account for one-third of the unemployed, and other similarly disadvantaged worker groups.

Progress has been made in alleviating the burdens of unemployment among these severely disadvantaged workers. Up to this time, a limited experimental and demonstration program has been undertaken under title II of the Manpower Development and Training Act. The projects have tested and evaluated new or improved approaches and techniques for testing, counseling, motivating, finding jobs for and training groups of workers with especially difficult employment or training problems. They have arranged for critical supportive social services and supplemental financial assistance in order to prevent dropouts and to insure successful job placement. They have utilized a wide variety of community, educational, employment, labor, and local government organizations with special expertise in solving or investigating the problems of the target groups.

By January 1, 1965, over 110 projects, serving some 60,000 individuals had been authorized. The results of some of these projects have already been put to work in improving services to unemployed workers in regular Manpower Development and Training Act operations and in attacking complicated manpower problems.

Nevertheless, the remaining real challenge is that of marshaling additional know-how to cope with the problems of these severely disadvantaged workers. The amendments in H.R. 4257 are pointed toward expanding our tools and facilities for research and experimentation under title I of the act. These will be stepping stones in learning how to treat causes rather than symptoms of our still present manpower problems, and in opening up job opportunities which might otherwise be closed for reasons which may no longer apply.

In H.R. 4257, we now give the experimental and demonstration program the dignity of statutory language to acknowledge its rightful place in the total range of Manpower Development and Training Act activities. Such legislative authority will provide specific impetus for the Secretary of Labor to initiate a wide variety of imaginative and pioneering experimental and demonstration manpower projects to meet the needs and problems of workers, areas, industries, and occupations with severe or unique employment or training problems. This type of pioneering pays for itself many times over by improving regular training projects under the Manpower Development and Training Act and by guiding industries, communities, organizations, and the Nation to the solution of our manpower problems.

In concluding, I would like to call attention to the excellent cooperation of the Departments of Labor and of Health, Education, and Welfare—working closely with public authorities and private groups at the State and local level—in developing new techniques for reaching and training our disadvantaged workers. New methods of training have already been achieved as a result of the individual imagination and ingenuity of vocational educators, in cooperation with public institutions and private business. For example, here in the District of Columbia, private business is providing unique training methods to prepare persons for certain data processing jobs in a relatively short time. I have asked unanimous consent to have placed in the RECORD, at the conclusion of my remarks, a brief description of this and certain other interesting projects that have been developed by vocational educators in cooperation with public employment service officials under the Manpower Development and Training Act.

But these efforts by educators so far are limited in scope. A massive change in training practices can come only through an extensive research experimental and demonstration program, which includes participation by vocational educators who have the responsibility to provide institutional training as well as supplementary or related classroom instruction for on-the-job training.

The amendment to the act expanding the research, experimental, and demonstration program is designed to provide the Secretaries of Labor, and Health, Education, and Welfare with the tools they need to coadminister this important activity and learn more about how to develop and implement effective testing, guidance, counseling, referral, institutional training, on-the-job training, job development, and placement programs.

I am gratified to see this provision in the bill. It would not have been as good a bill without it.

Mr. DENT. Madam Chairman, I would like to say it would be remiss I believe if I did not at this time call to the attention of the Members of the House the fact that late in 1960, after the 1960 elections, my colleague of some 20 years in the State senate and house in Harrisburg, the gentleman from Pittsburgh, Pa., Mr. ELMER HOLLAND, the sponsor of this act, came down to Washington and from November until January worked, after consulting with the then President, the late President John Kennedy, and after talking to the chairman of the House Committee on Education and Labor, the gentleman from New York (Mr. POWELL), he and his good wife came down to Washington and with his wife and his staff, they worked for a period of about 7 weeks in making the preliminary studies and in getting this legislation into a position where it could be introduced.

Madam Chairman, from that time to this the gentleman from Pennsylvania has lived with, he has fought for, and has devoted most of his time in this House of Representatives to this particular subject.

Madam Chairman, it is a tribute to this House of Representatives and to the people of this great Nation of ours that dedicated men like Mr. HOLLAND will take their time and devote their efforts and energies to a field that up until that moment had been completely neglected.

Madam Chairman, I want to say while paying tribute to Mr. HOLLAND that he had in these last months, since he has been ill, the great right hand of the gentleman from Michigan (Mr. O'HARA) who has been stalwart in his support and in his efforts, and the great left hand, as it may be, of the gentleman from New York (Mr. GOODELL), who has also given of his own knowledge that this legislation could continue.

Madam Chairman, we really do not know, unless we live in a district where there has been longtime chronic unemployment and depression, what this particular bill means to the working people of this great Nation who find themselves, through no fault of their own, eliminated from the active work ranks due to their lack of ability to perform because of the lack of skills which they had no opportunity to learn.

Madam Chairman, I want to say that in my opinion this is a great moment in this House of Representatives, that we have again an opportunity to make the necessary amendments in order that this legislation may continue.

Mr. GOODELL. Madam Chairman, will the gentleman yield at that point?

Mr. DENT. Yes, I yield to the gentleman from New York.

Mr. GOODELL. Madam Chairman, I wish to join with the gentleman from Pennsylvania (Mr. DENT) in paying tribute to the gentleman from Pennsylvania (Mr. HOLLAND).

The gentleman from Pennsylvania (Mr. HOLLAND) has taken, from the very beginning with reference to this legislation, a completely nonpartisan view. This illustrates the remarkable stature of the man, that he was willing to accept suggestions and major changes from all sides in an effort to improve the legislation.

Madam Chairman, the history of the enactment of this law demonstrates that it is I believe a monument to every individual who had a part in it, and certainly the gentleman from Pennsylvania (Mr. HOLLAND) himself can take special pride in this as the man who made a major contribution to the enactment of this legislation.

Mr. DENT. On behalf of the gentleman from Pittsburgh (Mr. HOLLAND), I thank the gentleman from New York.

Madam Chairman, in our national effort towards solving the problems of unemployment and underemployment, the Manpower Development and Training Act has proved to be an effective and efficient piece of legislation. Of course, it is only part of the total picture which also includes such important pieces of legislation as the Vocational Education Act of 1963 and the Area Redevelopment Act along with other constructive efforts, such as the poverty program.

According to a recent survey of some 500 economists by the Chase Manhattan Bank of New York, 37 percent of the professors said that unemployment is the main problem of our country. The Manpower Development and Training Act program has proved itself to be worthy of continuation as set out in the measure now before the House. The Manpower Development and Training Act program is, to my way of thinking, exactly like a sharpshooter's rifle. With it we can take an accurate sight on our targets of unemployment and underemployment and, working with the States, bring to bear our joint efforts to use all types of educational institutions, public and private, to train people for jobs.

The Manpower Development and Training Act program does not, in the long run, cost money. Actually, it represents an investment in the future productivity of our citizens. In this day of automation all workers must be prepared for continuing education. No worker can afford to stop learning. Hence, jobs, employment and education are inexorably linked.

According to a recent survey by the well-known pollster, Lou Harris, which appeared in the Washington Post, Thursday, March 25, 1965, financial worries are the toughest problem in securing sufficient education. Of the people polled, 48 percent stated that finances were the main problem.

Madam Chairman, with the help of these 1965 amendments to the Manpower Development and Training Act we can continue to invest in the people of our Nation. An outstanding example of such investment was presented to the Holland subcommittee in the course of the hearings on this measure. At an investment of $474.19 per trainee a stenographer program was carried on under contract by the Detroit Institute of Commerce—a private business school. Out of 24 trainees, 20 were Negro and 4 were whites—18 trainees responded to a followup survey showing white-collar employment in such national corporations as: Jones & Laughlin Steel Co.; Prudential Insurance Co.; Vickers, Inc.; Sears, Roebuck & Co.; Ford Motor Co.; Chrysler Corp.; Burroughs Co.; General Motors.

The average earnings of the graduates of this program are $323.72 per month. On the basis of one deduction from a trainee's annual salary of $3,884.64 each of these Manpower Development and Training Act graduates will pay $456.80 in Federal income tax. In other words, the income tax paid in the first year after graduation just about equals the cost of our investment in human productivity and dignity.

Mr. Perkins. Madam Chairman, I rise in support of this legislation. I happen to represent a district where we have one of the highest unemplyoment rates in the whole Nation in the coalfields of Kentucky.

I have personally witnessed the great work that the employment opportunities have made available to the many unemployed of eastern Kentucky since the enactment of this legislation a few years ago.

Madam Chairman, I actively supported the passage of the Manpower Development and Training Act in the 87th Congress. For many, it represents a necessary second chance to prepare for job opportunity. For many others, it represents a first chance.

Before the advent of automation it was possible and highly acceptable for the breadwinner to enter a full lifetime occupation requiring little or no basic education or skill. Technology has changed all of that. Until the enactment of the Manpower Development and Training Act, many thousands of unemployed persons in many districts had no opportunity to support their families and at the same time pursue a course of training which would pave the way for them to secure a job.

To say that the Manpower Development and Training Act in its initial years of operation did not measure up to our full expectations is no condemnation of the act nor of its administration. The task ahead is monumental. Much has been accomplished. Much more remains to be done.

Mr. Quie. Madam Chairman, I yield myself 10 minutes.

Madam Chairman, the economists have disagreed on the persistent cause of unemployment which has prevailed during the last few years. However, there has been very little disagreement among observers of our current market situation that a large number of the unemployed are inadequately prepared to enter the current labor market, particularly in the occupations which have been expanding most rapidly in recent years. Long-term unemployment, that is, continuous unemployment lasting 26 weeks or longer, has averaged half a million a year since 1958, and the number of those unemployed for 15 weeks or longer has been 11 million. Many of them have not been able to return to their industries and occupations. There exists, therefore, a stagnant pool of hundreds of thousands of persons who need new skills and retraining to help them participate in the American economy.

We have heard from the Department of Labor that there are more jobs going unfilled than there are unemployed in the country. We have also heard that when a person begins his occupation in a semiskilled job he can look forward to four or five occupational changes during his lifetime.

As we look at the problem, however, of the unemployed and the fact that there are some adults who can be retrained, there is a necessity to retrain people for employment not only in their own area but there are many individuals who no matter what their training could not find employment in their own area and there is a need for them to learn skills just to find employment elsewhere in the State. Or another factor that is important, they would be required to leave the State to find employment if they are properly skilled. Therefore, the Federal Government becomes involved in this being interested in unemployment and being involved in unemployment compensation.

In 1962 the Manpower Training and Development Act was adopted by the Federal Government to provide assistance and incentive to go into the retraining as we have seen now operating in a number of instances.

This was amended again in 1963 and I believe the work that was done by a number of men who have been mentioned so far today should be mentioned again—the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. Holland], and the work he has done and his closest sidekick in this, the gentleman from Michigan [Mr. O'Hara]. As I mentioned earlier, I think on our side one who provided outstanding changes in the bill and gave great strength is the gentleman from New York [Mr. Goodell].

From this we now see a record in the Manpower Development and Training Act which I think is so good and so well developed that we ought to extend the act and make some changes in the act as we are providing in this legislation. Whatever its shortcomings, it emphatically is not merely another Federal welfare or handout program designed to relieve without curing some of the more unsightly and superficial aspects of poverty and despair resulting from being continuously out of work. Its purpose rather is to provide effective means for dealing successfully with, and eventually eliminating the basic causes of such unemployment.

It should not be forgotten that a concern by the Federal Government for improving the productive skills of our people did not originate in 1962 with the passage of the Manpower Development and Training Act. It has a much longer history.

The Federal Government manifested its concern almost 50 years ago by enacting the Smith-Hughes Vocational Education Act in 1917. This legislation provided for the Government to share part of the costs involved in meeting labor market demands for skills which were felt to be in short supply. During the following half-century, Federal aid for vocational education was expanded on several occasions in the George-Barden Act of 1946, title VIII of the National Defense Education Act, the Vocational Education Act of 1963, the Area Redevelopment Act, and the legislation which we are here proposing to amend.

In 1963, some 4 million youngsters and adults participated in the federally supported vocational education programs. However, this seemingly impressive total vastly exaggerates the real contributions of traditional vocational education to the acquisition of sorely needed skills. These federally supported programs of vocational education have tended to emphasize such activities as home economics and training for agricultural occupations. In fact, these two areas alone accounted for about two-thirds of all of the enrollees in the entire program.

The Manpower Development and Training Act constituted a new departure—an attempt to grapple with the unmet manpower needs of a highly complex and rapidly changing technical economy while simultaneously providing a hope of reabsorption into the productive life of the Nation for those whose skills had become obsolete or whose occupations had vanished.

The program has been in existence for less than 3 years. It is much too early to express any definitive conclusions about its effectiveness. But there is sufficient evidence to indicate that the prospects are hopeful and that many of those who are receiving training under the act are succeeding in finding jobs in which their newly acquired skills are being utilized. I regret that the committee report did not contain more information in the form of specific examples of what has been accomplished since the original enactment of the law in 1962.

However, shortly after the report was filed, an event occurred which not only constitutes a substantial contribution to the success of the program, but is a manifestation that important segments of American industry are eager to cooperate. I refer to the job-training contract entered into between the Government and Chrysler Corp. I would like to quote from the news story concerning this development which appeared in the Daily Labor Report published by the Bureau of National Affairs on March 18, 1965:

"The largest Federal on-the-job training program negotiated to date is announced by Labor Secretary Wirtz and Commerce Secretary Connor recently directed by the President to administer the job development program in the service industries.

"The new program begins with a contract between the Government and Chrysler Corp. to train 1,000 previously unemployed workers as automobile mechanics and auto-body repairmen while they are on the job at Chrysler dealerships on a starting wage of about $1.50 an hour, the announcement states.

"The contract was signed by Chrysler President Lynn A. Townsend and the two Cabinet members in a ceremony in Wirtz' office.

"The initial contract is expected to continue at least 3 years and to include another 1,000 workers later. The cost of the first, phase is $7,850,000, of which the company and its 6,300 dealers will contribute $6,463,000. The Government will contribute the remainder.

"Wirtz terms this agreement, under the Manpower Development and Training Act, 'one of the most significant developments to date in the growth of the job development program.'

"The program will begin among dealers in Chrysler's Detroit, Cleveland, Pittsburgh, and Cincinnati sales regions. It will be expanded later to include dealers in regions such as New York City, Philadelphia, Atlanta, Chicago, Kansas City, Los Angeles, and Portland, Oreg.

"The trainees will be employees of franchised dealers. Any union relationship this may involve will be a local matter between the dealer and any local bargaining unit to which his employees may belong.

"Three unions are said to have some dealers' mechanics organized in major cities: the Auto Workers, the Machinists, and the Teamsters.

"The average hourly wage rate for journeymen mechanics with Chrysler dealers is about $3 in most areas, the Wirtz-Connor announcement states.

"The length of the training courses will vary from place to place, as worked out with individual dealers, and may be as long as 3 years, according to a Labor Department spokesman.

"Local offices of the Employment Service will screen and test the jobless workers applying for the training. The Wirtz-Connor announcement adds:

"'Once selected by local Chrysler Motors dealers, individual workers will be employed on a full-time basis, but will also receive additional nighttime instruction in automotive repair at local vocational educational facilities. Needed equipment at such facilities will come directly from Chrysler, and from funds allocated by the Department of Health, Education, and Welfare. That allocation will also include the cost of nighttime supplemental instruction to trainees.'

"Secretary Connor has these prepared comments about the new program:

" 'This administration is convinced that the best way to provide job training as a means of generating increased employment for young and old is through the normal channels of the private enterprise system. It is now possible, under the Manpower Development and Training Act, for private industry and the Federal Government to work together to provide training in a normal working environment and on a scale big enough to be meaningful.

" 'I want to express our appreciation to the Chrysler Corp. for responding so quickly and affirmatively to President Johnson's call for a job development program to enlarge economic opportunities for our citizens.'

"Secretary Wirtz adds:

" 'The purpose of that program is to enable unemployed and underemployed workers to capitalize upon the evident job opportunities in many service and service-related fields. We are now producing automobiles at a rate that taxes our ability to provide trained personnel to service them. Some suggestion of this demand is found in the fact that courses in auto repair have consistently outpaced those for any other occupation for male trainees under the Manpower Development and Training Act.

" 'The participation of the Chrysler Corp. in this project may be regarded as a sign of the increasing interest in expanding job opportunity in the service industry, and filling immediate unmet needs, by major American employers. As such, this contract is to be doubly welcomed.' "

Madam Chairman, I am particularly impressed by the overwhelmingly huge proportion of the cost of the project's first phase which the employer, Chrysler Corp., has agreed to assume. Its share will be more than 80 percent, that of the Federal Government less than 20 percent. And that division of responsibility, which I think a highly desirable one, calls attention to one aspect of the amendments made by the committee bill which troubles me a little.

The Manpower Development and Training Act as written when it first became law in 1962, provided that before the act expired, the States were to make substantial matching contributions as a condition to receiving Federal funds during the last years of the program. Unfortunately very few of the States acted to assume their proper responsibilities. As a result, the law was amended in 1963 and the practical effect of the 1963 amendments was to relieve the States of any obligation to make any financial contribution whatsoever for the life of the statute.

The committee bill, as originally introduced in the present Congress, realistically faced the problem created by the apparent apathy of the States, and in extending the program, among other things it substantially reduced the matching requirements for the States. The bill provided that the Federal Government was to bear 90 percent, the States only 10 percent, of the costs of the various training projects and programs set up under the act. However, during the hearings, most of the witnesses testified in favor of eliminating all matching requirements and having the Federal Government assume the financing of the entire cost of the program.

A small number of witnesses, among them Prof. Richard Lester, of Princeton University, remommended that the 10-percent matching requirement should be retained. Professor Lester felt that it was desirable to give the States a sense of concrete participation in the program which would carry with it a sense of responsibility on the part of the States for the success of the program. The subcommittee decided, however, to eliminate the matching requirements in toto. This troubled me, and for precisely the reasons described by Professor Lester.

As a result, I discussed the matter with the acting chairman of the subcommittee, the gentleman from Michigan [Mr. O'Hara], and it was agreed that in the full committee I would offer an amendment to retain some element of matching and that the acting subcommittee chairman would support the amendment.

My amendment provides for the retention of some element of financial participation by the States. It is a compromise between what the bill originally proposed and the subcommittee's decision to eliminate the matching requirements entirely. It requires the States to contribute 10 percent of the costs of training programs, but relieves them of any obligation to bear any of the costs of the living allowances paid to trainees. These are borne entirely by the Federal Government. The full committee accepted my amendment and it is included in the bill as reported.

I regret that the States have not shown the willingness of a large private enterprise like Chrysler Corp. to assume more of the financial burden of the program; and this despite the fact that the contributions originally asked of them were so much smaller in proportion. However, Chrysler's willingness to cooperate bodes well for the future of the program.

I think that the amendments made by the committee bill are justified despite the briefness of the experience we have had with the act. The general summary of the results of the program to date, set forth on page 3 of the report are most heartening. But I do wish to express the hope that after we have learned more about the results of the program as time goes by, we will give more thought to possible changes in the law to encourage an even greater degree of participation by private industry of which the Chrysler Corp. project is so striking an example.

After all, what we are trying to do is effectively to meet the manpower needs of our rapidly changing economy. The achievement of this goal is just as important to American enterprise as self-respect through productive employment is to our unemployed and to the health of American society as a whole. I can think of none who are better qualified to see, yes to foresee, the labor needs of our productive system. But even self-interest sometimes requires an additional stimulus, and often requires material help. I look forward to possible future amendments in the manpower program which will provide real incentive to private industry in the form, perhaps, of tax credits or deductions. The possibilities are many, and I sincerely hope that the Congress will give them its serious attention as the manpower program develops.

Mr. Talcott. Madam Chairman, I have asked for this time for the purpose of directing two questions to the gentleman from Michigan [Mr. O'Hara].

I take it that one of the purposes of this bill—and I support the principle of the bill—is that we have some 4 million unemployed people in this country, and in other areas we have job opportunities that are not filled because people are not trained to perform them.

I happen to think that the farm labor situation is one of those areas. In my area we have a great demand for farm labor, particularly stoop labor, and yet there are no domestic workers who are willing or able to fulfill these jobs.

Will this Manpower Training Act supply training for this type worker?

Mr. O'Hara of Michigan. If the gentleman will yield, agricultural workers have been trained under this program. There is nothing in these amendments that would reduce or prevent further training of agricultural workers under this program. However, we expect the Department to exercise judgment on these matters and train people for jobs that will provide them with a more or less steady source of income.

If any agricultural job meets that requirement we would expect the Department to train people, and we hope they will.

Mr. Hathaway. Madam Chairman, I would like to take this opportunity to commend the Departments of Labor, and Health, Education, and Welfare, for their administration of the Manpower Development and Training Act over the past 2½ years. Within the limits imposed by the legislation itself, they have provided training, and new hope to thousands of formerly unemployed Americans.

On the basis of working with the Manpower Development and Training Act, the Departments made recommendations to this Congress for amendments to strengthen the act. The Holland subcommittee, under the able leadership of the gentleman from Michigan, Acting Chairman O'Hara, carefully considered the Departments' recommendations, presented their suggestions to the full Education and Labor Committee, and the full committee now asks all Representatives to further their commitment to provide training to the unfortunate unemployed in our Nation.

One of the changes contained in this Manpower Act of 1965, the amendments to the Manpower Development and Training Act, concerns the length of training.

Although there is, theoretically, no limit to the length of training courses, they are practically limited by the length of time a trainee may receive training allowances. For the training allowance often means the difference between being able to stay in the course or being forced to drop the course and accept any job, just for a little money.

The amendments we are considering here today include a provision to allow a trainee to receive allowances for 104 weeks, rather than the present 52- or 72-week limit. We are, in effect, asking for the right to conduct courses for up to 2 years under the Manpower Development and Training Act.

It should be made clear that a statutory increase to 104 weeks of training under the Manpower Development and Training Act would not mean that many courses would actually run that long; just as many courses do not now run the full 52 weeks, or 72 weeks with basic education. But it would allow the administrators enough flexibility to provide courses of the 104-week length where they are required; and they are required in some cases.

Essentially, there are two kinds of courses which require a longer training period.

The first involves those people who do not have enough basic education to enable them to absorb the occupational training itself, so that it is necessary to provide them with some basic education either before they begin job training or concurrently with it. Such additional basic education necessarily extends the total time necessary to prepare a trainee for employment.

This is particularly important for those Manpower Development and Training Act trainees—nearly half of all trainees—who come from the rank of the hard-core unemployed. These disadvantaged people, many of whom are many years away from high school or any kind of school situation, need more time to absorb both the preoccupational and occupational training.

The second kind of course which requires more than the present 52 weeks of training involves certain more highly skilled jobs. Many technical jobs which are a product of our increasingly automated society cannot be learned in just 1 year.

In connection with this kind of training, it should be noted that graduates of these highly skilled training programs are usually more readily placed in jobs than those with semiskilled and minimum-skilled training.

I am asking that we give the administrators of this important training program, who have proved themselves in the past 2½ years, the flexibility to provide the most meaningful training in every situation. As they have not abused the present limitations, we can all be assured that they will not abuse the new limitation.

Our first commitment and thought must be to aiding as many unemployed persons as possible. The Manpower Development and Training Act is an important facet of our overall educational program. Its improvement deserves our support.

Mr. O'HARA of Michigan. Madam Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. Pucinski).

Mr. PUCINSKI. Madam Chairman, I rise in support of H.R. 4257. I consider it a privilege to serve on the subcommittee that drafted this legislation and reported it to the full committee and to the House. It is gratifying to see support from both sides of the aisle for this important legislation, and the amendments that are proposed today. The Manpower Retraining Act will undoubtedly go down in history as one of the most important pieces of legislation ever approved by the Congress. I know of no greater waste of human resources in this country than an unemployed American. Unemployment erodes his self-respect; crushes his dignity. It costs the community vast sums of money which must be spent to provide assistance to him and to his family. And finally, Madam Chairman, prolonged unemployment tends to shatter the unfortunate worker's confidence in our economic system.

This bill is designed to help retrain those Americans who for various reasons are unemployed; people who had been dislocated by automation; people who had been layed off because their plant moved to another area of the country, and for various other reasons. This bill also is designed to help those young Americans who for various reasons, in many instances because they dropped out of school prematurely, are not qualified or prepared to gain employment.

On all fronts this legislation has indeed proved its merit and worth. It has worked extremely well in Chicago. If the people of this country could see how much money we actually are saving the taxpayers of America by retraining these unemployed Americans for employment, they would realize the full significance of this bill.

Madam Chairman, in rising in support of this legislation, I should like to recall one brief anecdote of an experience I had in Chicago. We had an American father of a family of five children, married, unemployed for several years, not that he wanted to be unemployed but he was unemployed because he could not find work because he was unqualified for any decent work. This family was costing the taxpayers of Chicago some $270 per month for welfare benefits. This had been going on for many months.

Finally this man enrolled in the manpower retraining program, and we took this fellow and trained him to be a chef. It took 8 months to complete the job. He did his studies well. He is now a good chef and is earning $350 a month. The taxpayers of Chicago are spared the expense of providing $270 a month in relief for himself and his family.

I recently had an opportunity to talk to him and he said, "Mister, you don't know how wonderful it feels to come home and be greeted by my children as a breadwinner instead of a reliefer."

This is one benefit that could not be defined in terms of dollars and cents, but this is one illustration of what is happening all over America.

The Secretary of Labor today announced that our unemployed have reached the lowest percentage in the past decade. Our ratio of unemployed today stands at 4.7 percent. This impressive reduction certainly reflects the people who are being retrained under the bill and put to work.

It is clear now that there will be full employment opportunity for every American citizen only if two policies are pursued:

First, the economic policy of promoting that degree of overall economic growth which will produce the demand for enough work to occupy the full work force;

Second, the manpower policy of matching people and jobs, of supplying the manpower needs that develop, of getting people into the jobs that exist—or can be developed.

The Manpower Development and Training Act has been carefully designed to enable us to carry out successfully the second of these policies that I have just described.

One of the unique and most important features of the Manpower Development and Training Act is its provision for income maintenance for unemployed individuals undertaking occupational training under title II. We can thank the 87th Congress for its foresight in introducing this provision into our body of Federal manpower legislation—a provision which permits literally thousands of individuals to take advantage of training which would otherwise be beyond their reach. The amount of the basic training allowance is small indeed. Nevertheless, it often spells the difference between having basic living support and no support—between training for a job and not training. Often, however, it has not been enough to permit an individual to enroll in a Manpower Development and Training Act training course—or to remain in training once begun.

In 1963, the Congress provided some extension of income maintenance benefits for the Manpower Development and Training Act trainees. Now, H.R. 4257 proposes other amendments to the allowance provisions to bring benefits more in line with the needs of the individuals for whom the act is intended. These amendments generally mean a broader scope of allowance payments available to more unemployed persons.

One step in this direction is the proposed amendment to allow more than one member of a family to receive a training allowance. Another is to provide increased allowances for workers with large families. Removal of the present provision that not more than one person in any one household may be receiving training allowances at any particular time permits training opportunities to be extended to several members of families living at very low income levels. Nine and one-half million families—one out of five in the United States—live in poverty. Of these, 6⅓ million have one or more wage earners, and over 2 million have two or more workers. For them, economic growth alone will provide relatively few escapes from poverty.

We must focus on the handicaps that deny these workers a fair access to the expanding income of a growing economy. The single greatest hope of escaping substandard living conditions for the adult workers in these families is attaining a vocational skill. Although we may not be able to provide training opportunities for every unemployed member in these families, we will be able to improve the situation in some of the more severely impoverished family units.

The proposed dependency allowances—increase of an additional $5 per week for each dependent over two up to a maximum of four additional dependents—are necessary because of the pressures of heavy family responsibilities of family heads. Over 25 percent of the Manpower Development and Training Act trainees have three or more dependents, and one in six have five or more dependents. The regular weekly training allowances now payable in the 50 States range from a low of $24 to a high of $44 per week, with some trainees drawing up to an additional $10 as provided by the 1963 Manpower Development and Training Act amendments. Much of the training is done in States paying the lower allowances, and it is obvious that a family of five or more persons cannot live on these low levels of income. Increased benefits in increments geared to family responsibilities is a must, in order to enable some individuals to enter training and to give them some of the wherewithal to remain in training until they are equipped with a skill for suitable full-time employment.

A further improvement contained in H.R. 4257 recognizes the financial needs of single adult trainees without dependents. Heretofore, one eligibility requirement for allowances has been that the trainee be either the head of a family or the head of a household. These definitions, however, excluded the single adult worker—the unmarried man or woman, the widow, and the widower who had no dependents. Nevertheless, their living expenses—rent, utilities, grocery bills, carfare, and the like—continued, and often have prevented them from accepting training opportunities for purely financial reasons. This inequity in the eligibility requirement for training allowances would be removed by the amendments in H.R. 4257.

The provision for payment of daily transportation allowances is recommended because of the financial hardships many trainees encounter in merely commuting between their home and the training facility. The cost of transportation is generally high in relation to the amount of the weekly training allowance, and can absorb a disproportionate amount of the trainee's weekly income for living expenses. The employed worker can afford to pay commuting costs because his salary is adequate to meet them. The average weekly wage in manufacturing is now over $100, but the average trainee receives an allowance much less than one-half of this amount. Obviously, it is only equitable to help those who are motivated enough to enter and persist in training by covering the transportation costs that training involves.

Madam Chairman, I have highlighted some of the more significant provisions in H.R. 4257, because of their importance in providing the type of income maintenance needed to assist individuals to participate in the benefits of the Manpower Development and Training Act. I hope that these improvements will reduce considerably the extent of dropouts because of financial burdens from family responsibilities, and allow individuals to train for full-time suitable employment. The Manpower Development and Training Act has passed through the initial testing stage of an infant program with so much distinction and accomplishment that I urge each Member of the House to give favorable consideration to the changes in allowance provisions and the many other improvements in the Manpower Act of 1965.

Mr. RHODES of Arizona. Madam Chairman, as chairman of the Republican policy committee I rise in support of H.R. 4257.

The concept of manpower development through retraining is a basic tenet of the Republican Party. The Manpower Development Act of 1962, was Republican drafted and Republican supported.

One of the Republican concepts included in the original bill was the requirement for a Federal-State partnership achieved through the medium of matching funds. Under the original act the States were required to provide matching funds in the amount of 50 percent. And this was reduced to 33⅓ percent in 1963.

This bill reduces this requirement still further to 10 percent and defers its effective date for another year, until July 1, 1966. However, it was only through the efforts of the Republican members of the Education and Labor Committee that even this small percentage of State participation remains.

While the Republican policy committee deplores this further erosion of the concept of Federal-State partnership through matching funds, we are relieved that at least the principle of matching funds is left intact.

We are pleased to note that the bill brings the training program for redevelopment areas now pending in the Area Redevelopment Act under the Manpower Development and Training Act. This as you know is a principle long advocated by Republicans.

The Republican policy committee has gone on record in support of the bill.

Mrs. Mink. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Mink: On page 19, line 24, after "transportation" insert the following: ", and except that in noncontiguous States and in areas outside the continental United States where the per diem allowance prescribed under section 836 of title 5, United States Code, exceeds the maximum per diem allowance prescribed under that section for contiguous States, the Secretary may provide for a reasonable increase in the transportation and subsistence expenses in such amounts as he may deem necessary to carry out the purposes of this Act, and subject to such limitations as he may prescribe".

Mrs. Mink. Madam Chairman, the purpose of this amendment is to make explicitly clear in the bill what I believe to be the committee's intention, which is, to provide the fullest opportunities for all of our potential trainees to take advantage of this wonderful program in order that they may fill the employment markets in the respective States.

The bill has been amended by the committee, and as reported to the House, it provides for full reimbursement for travel costs of trainees while they are at the training center. The bill also provides for transportation costs of persons who must leave their community to attend various training centers which may be set up in the States. But, unfortunately, there is a limitation of 10 cents per mile in this transportation allowance.

Madam Chairman, the reason for this amendment is to make special provision in this regard for two States, Hawaii and Alaska. Therefore, the use of the word "noncontiguous" is to single out these two States where the travel conditions within the State are highly unusual.

In Hawaii, the State that I have particular knowledge of, we are totally dependent upon air transportation provided by two commercial airlines between our outlying islands and the principal island of Oahu. Now, a large number of beneficiaries under this bill are individuals who live on the smaller neighbor islands who must travel to these training centers on Oahu, where 80 percent of our population is located. The limitation of 10 cents per mile on travel expenditures for them would discourage many who otherwise would be interested in participating in this program.

The second feature of the amendment is the subsistence allowance which, at a $5 per day maximum, would also be very, very severely limiting on the number of people who would be able to subsist in the city of Honolulu if no special considerations were provided for them.

The Federal Government by statute in the United States Code recognizes the high cost of living and expenses generally in these two areas of Hawaii and Alaska by providing additional per diem allowances for the civil servants of the Federal Government in these areas.

So, Madam Chairman, this amendment provides that in the noncontiguous States where the per diem allowance is in excess of that allowed within the continental limits of the United States, the Secretary may provide for additional expenses for travel and subsistence over and beyond the limitations now provided by the bill.

Mr. Ashbrook. Madam Chairman, the three members of the subcommittee on the minority side not only have no objection to this provision offered by the gentlewoman from Hawaii, but also support it.

The Chairman. The question is on the amendment offered by the gentlewoman from Hawaii.

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOODELL

Mr. Goodell. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goodell: On page 23, between lines 11 and 12, insert the following new section and renumber the subsequent sections accordingly:

"Sec. 9. Section 301 of the Act is amended by striking the period at the end thereof, inserting a colon, and adding the following proviso:

"'*Provided,* That no funds apportioned with respect to a State in any fiscal year shall be reapportioned before the expiration of the sixth month of such fiscal year and only upon thirty days' prior notice to such State of the proposed reapportionment, except that the requirement for prior notice shall not apply with respect to any reapportionment made during the last quarter of the fiscal year.'"

Mr. O'Hara of Michigan. Madam Chairman, I would like to advise the gentleman from New York that we have examined his amendment, we think it is a very useful amendment and would be inclined to accept it.

The Chairman. The question is on the amendment offered by the gentleman from New York [Mr. Goodell].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOODELL

Mr. Goodell. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goodell: On page 24, between lines 11 and 12, insert the following new section and renumber the subsequent sections accordingly:

"Sec. 12. Subsection (a) of section 306 of the Act is amended by inserting after the comma immediately following the word 'procedures' the following: 'subject to such policies, rules and regulations as they may prescribe, the approval of any program under section 202, the cost of which does not exceed $75,000,'."

Mr. O'Hara of Michigan. Madam Chairman, will the gentleman yield?

Mr. Goodell. I yield.

Mr. O'Hara of Michigan. Madam Chairman, this is another amendment which has been discussed with the Members on the majority side to which we have no objection.

The Chairman. The question is on the amendment offered by the gentleman from New York [Goodell].

The amendment was agreed to.

The Chairman. The question is on the committee amendment as amended.

The committee amendment as amended was agreed to.

The Chairman. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. Aspinall] having assumed the chair, Mrs. Griffiths, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4257) to amend the Manpower Development and Training Act of 1962, as amended, and for other purposes, pursuant to House Resolution 305, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The Speaker pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The Speaker pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The Speaker pro tempore. The question is on the passage of the bill.

Mr. Ashbrook. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 395, nays 0, not voting 38, as follows:

[Roll No. 60]

YEAS—395

Abbitt, Abernethy, Adair, Adams, Addabbo, Albert, Anderson, Ill., Anderson, Tenn., Andrews, George W., Andrews, Glenn, Andrews, N. Dak.

Annunzio, Arends, Ashbrook, Aspinall, Ayres, Bandstra, Baring, Barrett, Bates, Battin, Beckworth, Belcher, Bell, Bennett, Berry, Betts.

Bingham, Boggs, Boland, Bolton, Bonner, Bow, Brademas, Bray, Brock, Brooks, Broomfield, Brown, Ohio, Broyhill, N.C., Broyhill, Va., Buchanan, Burke.

Burleson, Burton, Calif., Burton, Utah, Byrne, Pa., Byrnes, Wis., Cabell, Cahill, Callan, Callaway, Cameron, Carey, Carter, Casey.

Cederberg, Celler, Chamberlain, Chelf, Clancy, Clark, Clausen, Don H., Clawson, Del., Cleveland, Clevenger, Cohelan, Collier, Conable.

Conte, Conyers, Cooley, Corbett, Corman, Craley, Cramer, Culver, Cunningham, Curtin, Daddario, Dague, Daniels, Davis, Ga., Davis, Wis., de la Garza.

Delaney, Dent, Denton, Derwinski, Devine, Dickinson, Diggs, Dingell, Dole, Donohue.

Dorn, Dow, Dowdy, Downing, Duluski, Duncan, Oreg., Duncan, Tenn., Dwyer, Dyal.

Edmondson, Edwards, Calif., Ellsworth.

Fallon, Farbstein, Farnsley, Farnum, Fascell, Feighan, Findley, Fino, Fisher, Flood, Flynt, Fogarty.

Ford, Gerald R., Ford, William D., Fountain, Fraser, Frelinghuysen, Friedel, Fulton, Pa., Fuqua.

Gallagher, Garmatz, Gathings, Giaimo, Gibbons, Gilbert, Gilligan, Gonzalez, Goodell, Grabowski, Green, Oreg., Green, Pa., Greigg, Grider, Griffin, Griffiths, Gross, Grover, Gubser, Gurney.

Hagan, Ga., Hagen, Calif., Haley, Hall, Halleck, Halpern, Hamilton, Hanley, Hanna, Hansen, Idaho, Hansen, Iowa, Hansen, Wash., Hardy, Harris.

Harsha, Harvey, Ind., Harvey, Mich., Hathaway, Hawkins, Hays, Hechler, Helstoski, Henderson, Hicks, Holifield, Holland, Horton, Howard, Hull, Hungate, Huot, Hutchinson.

Ichord, Irwin.

Jacobs, Jarman, Jennings, Joelson, Johnson, Calif., Johnson, Okla., Johnson, Pa., Jonas, Jones, Mo.

Karsten, Karth, Kastenmeier, Kee, Keith, Kelly, Keogh, King, Calif., King, N.Y., King, Utah, Kirwan, Kluczynski, Kornegay, Krebs, Kunkel.

Laird, Landrum, Langen, Latta, Leggett, Lindsay, Lipscomb, Long, La., Long, Md., Love.

McCarthy, McCulloch, McDade, McDowell, McEwen, McFall, McGrath, McMillan, McVicker, Macdonald, Machen, Mackle, Madden, Mahon, Mailliard, Marsh, Martin, Ala., Martin, Mass., Martin, Nebr.

Matsunaga, Matthews, May, Meeds, Mills, Minish, Mink, Minshall, Mize, Moeller, Monagan, Moore, Moorhead, Morgan.

Morris, Morrison, Morse, Morton, Mosher, Moss, Multer, Murphy, Ill., Murphy, N.Y., Murray.

Natcher, Nedzi, Nelsen, Nix.

O'Brien, O'Hara, Ill., O'Hara, Mich., O'Konski, Olsen, Mont., Olson, Minn., O'Neal, Ga., O'Neill, Mass., Ottinger.

Passman, Patman, Patten, Pelly, Perkins, Philbin, Pickle, Pike, Pirnie, Poage, Poff, Pool, Powell, Price, Pucinski.

Quie, Quillen.

Race, Randall, Redlin, Reid, Ill., Reid, N.Y., Reifel, Reinecke, Resnick, Reuss, Rhodes, Ariz., Rhodes, Pa., Rivers, Alaska, Rivers, S.C.

Roberts, Robison, Rodino, Rogers, Colo., Rogers, Fla., Rogers, Tex., Ronan, Roncalio, Rooney, N.Y., Rooney, Pa., Rosenthal, Roudebush, Roush, Roybal, Rumsfeld, Ryan.

Satterfield, St Germain, St. Onge, Saylor, Scheuer, Schisler, Schmidhauser, Schneebeli, Schweiker, Scott, Secrest, Selden, Senner, Shipley, Shriver, Sickles.

Sikes, Sisk, Skubitz, Slack, Smith, Calif. Smith, N.Y., Smith, Va., Springer, Stafford, Staggers, Stalbaum, Stanton, Steed, Stratton, Stubblefield, Sullivan, Sweeney.

Talcott, Taylor, Teague, Calif., Teague, Tex., Tenzer, Thomas, Thompson, La., Thompson, N.J., Thompson, Tex., Thomson, Wis., Todd, Trimble, Tuck, Tunney, Tupper, Tuten.

Ullman, Utt.

Van Deerlin, Vanik, Vigorito, Vivian.

Waggonner, Walker, Miss., Walker, N. Mex., Watts, Weltner, Whalley, White, Idaho, White, Tex., Whitener, Whitten, Widnall, Williams, Willis, Wilson, Bob, Wilson, Charles H., Wolff, Wright, Wyatt, Wydler.

Young, Younger.

Zablocki.

NAYS—0

NOT VOTING—38

Ashley, Ashmore, Baldwin, Blatnik, Bolling, Brown, Calif., Colmer, Curtis, Dawson, Erlenborn, Evans, Colo., Everett, Evins, Tenn.

Foley, Fulton, Tenn., Gettys, Gray, Hébert, Herlong, Hosmer, Jones, Ala., Lennon, McClory, MacGregor, Mackay, Mathias.

Michel, Miller, Pepper, Purcell, Roosevelt, Rostenkowski, Smith, Iowa, Stephens, Toll, Udall, Watkins, Yates.

So the bill was passed.

"That this Act may be cited as the "Manpower Act of 1965".

"SEC. 2. (a) Section 102(5) of the Manpower Development and Training Act of 1962, as amended (hereinafter referred to as the 'Act'), is amended by adding a comma after the word 'arrange' and inserting 'through grants or contracts,' immediately following the comma.

"(b) Section 102 of the Act is further amended by striking out 'and' at the end of the paragraph (4), by striking out the period at the end of the paragraph (5) and inserting in lieu of such period '; and', and by adding at the end of such section the following new paragraph:

"'(6) establish a program of experimental, development, demonstration, and pilot projects, through grants to or contracts with public or private nonprofit organizations, or through contracts with other private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and training problems of worker groups such as the long-term unemployed, disadvantaged youth, displaced older workers, the handicapped, members of minority groups, and other similar groups. In carrying out this subsection the Secretary of Labor shall, where appropriate, consult with the Secretaries of Health, Education, and Welfare, and Commerce, and the Director of the Office of Economic Opportunity. Where programs under this paragraph require institutional training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare. He shall also seek the advice of consultants with respect to the standards governing the adequacy and design of proposals, the ability of applicants, and the priority of projects in meeting the objectives of this Act.'

"SEC. 3. (a) Title I of the Act is amended by renumbering sections 103 and 104 as sections 106 and 107, respectively, and by inserting immediately after section 102 the following new section:

"'JOB DEVELOPMENT PROGRAMS

"'SEC. 103. The Secretary of Labor shall stimulate and assist, in cooperation with interested agencies both public and private, job development programs, through on-the-job training and other suitable methods, that will serve to expand employment by the filling of those service and related needs which are not now being met because of lack of trained workers or other reasons affecting employment or opportunities for employment.

"'LABOR MOBILITY DEMONSTRATION PROJECTS

"'SEC. 104. (a) During the period ending June 30, 1967, the Secretary of Labor shall develop and carry out, in a limited number of geographical areas, pilot projects designed to assess or demonstrate the effectiveness in reducing unemployment of programs to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses. In carrying out such projects the Secretary may provide such assistance, in the form of grants or loans, or both, only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, have bona fide offers of employment (other than temporary or seasonal employment), and are deemed qualified to perform the work for which they are being employed.

"'(b) Loans or grants provided under this section shall be subject to such terms and conditions as the Secretary shall prescribe, with loans subject to the following limitations:

"'(1) there is reasonable assurance of repayment of the loan;

"'(2) the credit is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

"'(3) the amount of the loan, together with other funds available, is adequate to assure achievement of the purposes for which the loan is made;

"'(4) the loan bears interest at a rate not less than (A) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (B) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purposes; and

"'(5) the loan is repayable within not more than ten years.

"'(c) Of the funds appropriated for a fiscal year to carry out this Act, not more than $5,000,000 may be used for the purposes of this section.

"'TRAINEE PLACEMENT ASSISTANCE DEMONSTRATION PROJECTS

"'SEC. 105. During the period ending June 30, 1967, the Secretary of Labor shall develop and carry out experimental and demonstration projects to assist in the placement of persons seeking employment through a public employment office who have successfully completed or participated in a federally assisted or financed training, counseling, work training, or work experience program and who, after appropriate counseling, have been found by the Secretary to be qualified and suitable for the employment in question, but to whom employment is or may be denied for reasons other than ability to perform, including difficulty in securing bonds for indemnifying their employers against loss from the infidelity, dishonesty, or default of such persons. In carrying out these projects the Secretary may make payments to or contracts with employers or institutions authorized to indemnify employers against such losses. Of the funds appropriated for fiscal years ending June 30, 1966, and June 30, 1967, not more than $200,000 and $300,000, respectively, may be used for the purpose of carrying out this section.'

"(b) Section 102(2) of the Act is amended by striking out '104' and inserting in lieu thereof '107'.

"SEC. 4. Section 202(i) of the Act is amended by striking out ', and such persons shall be eligible for training allowances for not to exceed an additional twenty weeks'.

"SEC. 5. (a) Section 203(a) of the Act is amended as follows:

"(1) Amend the second sentence thereof to read as follows: 'Such payments shall be made for a period not exceeding one hundred and four weeks, and the basic amount of any such payment in any week for persons undergoing training, including uncompensated employer-provided training, shall not exceed $10 more than the amount of the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available: *Provided*, That the basic amount of such payments may be increased by $5 a week for each dependent over two up to a maximum of four additional dependents: *Provided further*, That in any week an individual who, but for his training, would be entitled to unemployment compensation in excess of his total allowance, including payments for dependents, shall receive an allowance increased by the amount of such excess.';

"(2) Amend the second paragraph thereof to read as follows:

"'With respect to any week for which a person receives unemployment compensation under title XV of the Social Security Act or any other Federal or State unemployment compensation law which is less than the total training allowance, including payments for dependents, provided for by the preceding paragraph, a supplemental training allowance may be paid to a person eligible for a training allowance under this Act. The supplemental training allowance shall not exceed the difference between his unemployment compensation and the training allowance provided by the preceding paragraph.';

"(3) Insert the words 'under the training program' after 'compensated hours per week' in the third paragraph of such subsection:

"(4) In lieu of the fourth paragraph of such subsection insert the following:

"'The training allowance of a person engaged in training under section 204 or 231 shall not be reduced on account of employment (other than employment under an on-the-job training program under section 204) which does not exceed twenty hours per week, but shall be reduced in an amount equal to his full earnings for hours worked (other than in employment under such an on-the-job training program) in excess of twenty hours per week.'

"(b)(1) Section 203(b) of the Act is amended by striking out the matter following 'to defray transportation' and preceding '*Provided*', and by inserting in lieu of such matter the following: 'expenses, and when such training is provided in facilities which are not within commuting distance of the trainee's regular place of residence, subsistence expenses for separate maintenance of the trainee:'.

"(2) Such subsection is further amended by inserting immediately before the period at the end thereof the following: ', except in the case of local transportation where he may authorize reimbursement for the trainee's travel by the most economical mode of public transportation, and except that in noncontiguous States and in areas outside the continental United States where the per diem allowance prescribed under section 836 of title 5, United States Code, exceeds the maximum per diem allowance prescribed under that section for contiguous States, the Secretary may provide for a reasonable increase in the transportation and subsistence expenses in such amounts as he may deem necessary to carry out the purposes of this Act, and subject to such limitations as he may prescribe'.

"(c) Section 203(c) of the Act is amended as follows:

"(1) Strike the words 'not less than' in the first sentence and insert 'at least' in lieu thereof;

"(2) Strike out everything in the first sentence after the words 'gainful employment', and insert the following in lieu thereof: ': *Provided,* That they are not members of a family or a household in which the head of the family or the head of the household as defined in the Internal Revenue Code of 1954 is employed.';

"(3) Amend the last sentence to read as follows: 'The number of youths under the age of twenty-two who are receiving training allowances (or who would be entitled thereto but for the receipt of unemployment compensation) shall, except for such adjustments as may be necessary for effective management of programs under this section, not exceed 25 per centum of all persons receiving such allowances (or who would be entitled thereto but for the receipt of unemployment compensation).'

"(d) Subsection (d) of section 203 of the Act is repealed and subsections (e), (f), (g), (h), (i), and (j) of such section are redesignated as (d), (e), (f), (g), (h), and (i), respectively.

"(e) The first sentence of section 203(g) (2) of the Act (as redesignated by section 5 (d) of this Act) is amended by striking out everything that follows 'all of such benefits paid' and inserting in lieu thereof a period.

"SEC. 6. Section 208 of the Act is repealed.

"SEC. 7. Section 231 of the Act is amended by striking the third sentence and inserting in lieu thereof the following: 'The State agency shall be paid not more than 90 per centum of the cost to the State of carrying out the agreement, unless the Secretary of Health, Education, and Welfare determines that payments in excess of 90 per centum are necessary because such payments with respect to private institutions are required to give full effect to the purposes of the Act: *Provided,* That for the period ending June 30, 1966, the State agency shall be paid 100 per centum of the cost to the State of carrying out the agreement. Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to plant, equipment, and services.'

"SEC. 8. Title II of the Act is amended by adding part C to the end thereof to read as follows:

" 'PART C—REDEVELOPMENT AREAS

" 'SEC. 241. (a) The Secretaries of Labor and of Health, Education, and Welfare, in accordance with their respective responsibilities under parts A and B of this title, are authorized to provide a supplementary program of training and training allowances, in consultation with the Secretary of Commerce, for unemployed and underemployed persons residing in areas designated as redevelopment areas by the Secretary of Commerce under the Area Redevelopment Act or any subsequent Act authorizing such designation. Such program shall be carried out by the Secretaries of Labor and of Health, Education, and Welfare in accordance with the provisions otherwise applicable to programs under this Act and with their respective functions under those provisions, except that—

" '(1) the Secretary of Labor, in consultation with the Secretary of Commerce, shall determine the occupational training or retraining needs of unemployed or underemployed individuals residing in redevelopment areas;

" '(2) all unemployed or underemployed individuals residing in redevelopment areas who can reasonably be expected to obtain employment as a result of such training may be referred and selected for training and shall be eligible for training allowances under this section: *Provided,* That the amount and duration of training allowances under this section shall in no event exceed the amount and duration of training allowances provided under section 203(a) of this Act;

" '(3) the Secretaries of Labor and of Health, Education and Welfare shall, each with respect to his functions under this section, prescribe jointly with the Secretary of Commerce such rules and regulations as may be necessary to carry out the purposes of this section; and

" '(4) section 301 shall not apply with respect to funds available under this section.

" '(b) There are hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out this section.'

"(b) Sections 16 and 17 of the Area Redevelopment Act (42 U.S.C. 2513 and 2514) are repealed.

"(c) This section and the amendments made by it shall take effect on July 1, 1965.

"SEC. 9. Section 301 of the Act is amended by striking the period at the end thereof, inserting a colon, and adding the following proviso:

" '*Provided,* That no funds apportioned with respect to a State in any fiscal year shall be reapportioned before the expiration of the sixth month of such fiscal year and only upon thirty days' prior notice to such State of the proposed reapportionment, except that the requirement for prior notice shall not apply with respect to any reapportionment made during the last quarter of the fiscal year.'

"SEC. 10. Section 302 of the Act is amended by striking the word 'and' following 'the Smith-Hughes Vocational Education Act' inserting a comma in lieu thereof, and inserting 'and the Vocational Education Act of 1963,' following 'the Vocational Education Act of 1946,'.

"SEC. 11. Section 304 of the Act is amended to read as follows:

" 'SEC. 304. For the purpose of carrying out this Act there are hereby authorized to be appropriated for the fiscal year ending June 30, 1966, and for each of the two succeeding fiscal years such amounts as may be necessary.'

"SEC. 12. The following subsection is added to section 305 of the Act to read as follows:

" '(e) The costs of all training programs approved in any fiscal year, including the total cost of training allowances for such programs, may be paid from funds appropriated for such purposes for that fiscal year; and the amount of the Federal payment shall be computed on the basis of the per centum requirement in effect at the time such programs are approved: *Provided,* That funds appropriated for the fiscal year ending June 30, 1966, may be expended for training programs approved under this Act prior to July 1, 1965, and expenditures for such purposes shall be subject to the matching requirements in effect at the time such programs were approved.'

"SEC. 12. Subsection (a) of section 306 of the Act is amended by inserting after the comma immediately following the word 'procedures' the following:

" 'subject to such policies, rules and regulations as they may prescribe, the approval of any program under section 202, the cost of which does not exceed $75,000,'

"SEC. 13. Sections 309(a) and 309(b) of the Act are both amended by striking "Prior to March 1, 1963, and again prior to April 1, 1964, April 1, 1965, and April 1, 1966" and inserting in lieu thereof: 'Prior to April 1 in each year for which an appropriation is authorized by section 304'.

"SEC. 14. Section 310 of the Act is amended by striking out '1966' wherever it appears and inserting in lieu thereof '1968'.

[Senate, Apr. 9, 1965]

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. CLARK. I ask unanimous consent that a floor memorandum outlining the resolution of the nine substantive differences between the two versions of S. 974 may be printed in the RECORD at this point in my remarks.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

"FLOOR MEMORANDUM

"There were nine substantive differences between the versions of S. 974 as it passed the Senate and House of Representatives. The House conferees accepted five of the Senate's amendments to the act with two language changes. The Senate amendments to which the House receded were as follows:

"1. An additional finding of Congress that there is a need for brief refresher and reorientation training courses for unemployed professional workers.

"2. Authorization permitting the Secretary of Labor to pay when necessary training allowances to a trainee family member where the head of the family is employed, and

"Disqualification of training allowances for any trainee whose family head terminates his own employment to qualify his dependent for training allowances.

"3. Authorization for continued payments of training allowances to youths who become 22 years old if they have substantially completed their training.

"4. Guidelines for the States to follow in determining whether to conduct training in private institutions.

"5. Specific authorization figures for fiscal year 1966.

"The Senate accepted a House amendment permitting the Secretary of Labor to exceed the 10-cent-a-mile limit on transportation expenses paid to trainees where the most economical mode of local public transportation costs more than 10 cents per mile.

"The Senate receded from one minor difference in the State matching provisions of the act. The Senate version permitted full Federal financing of training programs in any State without constitutional authority to contribute to adult, noncollegiate, public education.

"A compromise was reached with respect to the effective date for repeal of the present training provisions of the Area Redevelopment Act and for the substitution of the new redevelopment area training provisions of the Manpower Development and Training, Act. The Senate accepted the House version which made these provisions effective as of July 1, 1965. In addition, the saving clause contained in the Senate version of S. 974 was accepted by the House.

"With respect to the differing termination dates of title II of the Manpower Development and Training Act, the Senate version extended the act to June 30, 1970, while the House version contained an extension until June 30, 1968. The conference committee agreed to a termination date of June 30, 1969."

Mr. MCNAMARA. Mr. President, I should like to make some legislative history on this subject. I should like to pose a question to the Senator from Pennsylvania.

As I understand, the basic objective of the Manpower Development and Training Act is the reduction of hardcore unemployment, unemployment which results from the fact that the potential employee lacks the skills essential to performance in an existing job vacancy. The bill was designed for situations where there is a demand for labor, but in which prior training or a specific skill is a substantial prerequisite for employment in the given job.

Mr. CLARK. The Senator is correct.

Mr. McNAMARA. It is not intended to cover industries, such as the garment and apparel industry, where minimal training is needed, where traditionally the employer has provided the necessary on-the-job training, and where there exist a substantial number of experienced and able workers who are presently unemployed. As I understand it, we do not intend to give a competitive advantage to one employer over another by having the Manpower Development and Training Act pay costs which usually and traditionally the employer has assumed, nor do we intend hereby merely to transfer unemployment from one area to another. We do not expect use of the Manpower Development and Training Act training programs in highly mobile, highly competitive industries where minimal employee training is needed and now is undertaken by the employer. I feel that Manpower Development and Training Act assistance in such cases would only add to industrial dislocation. It would be a waste of manpower resources, and in the long run would serve only to discredit the Manpower Development and Training Act and detract from its value.

Mr. CLARK. The Senator from Michigan has correctly stated my understanding of the congressional intent.

However, I would like to point out, Mr. President, that a question arose in conference committee with regard to the language on page 22 of the House committee report with respect to safeguarding against Manpower Development and Training Act substitution for private training efforts. It was agreed by the conference committee that the language used in the House report refers to the institution of Manpower Development and Training Act programs in unskilled or minimally skilled occupations for which prior training or possession of a specific skill has not traditionally been a prerequisite to employment. It is the belief of the committee that Manpower Development and Training Act training in such situations would substitute for threshold training normally undertaken at the expense of the employer and would not add to achieving the manpower goals which are the objectives of the Manpower Development and Training Act. The committee did not intend to imply that Manpower Development and Training Act programs would not be available for training persons in technical and skilled occupations in the garment industry or any other industry for which prior training or the possession of specific skills has traditionally been a prerequisite to employment. For example, it might be appropriate, under the proper circumstances, for Manpower Development and Training Act training to be utilized to provide skilled personnel for employment in repairing, adjusting, maintaining, and rebuilding machinery used in the apparel industry.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

[House, Apr. 13, 1965]

MANPOWER ACT OF 1965

Mr. O'HARA of Michigan. Mr. Speaker, I call up the conference report on the bill (S. 974) to amend the Manpower Development and Training Act of 1962, as amended, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT (H. REPT No.. 231)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 974) to amend the Manpower Development and Training Act of 1962, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following: "That this Act may be cited as the 'Manpower Act of 1965'.

"SEC. 2. Section 101 of the Manpower Development and Training Act of 1962, as amended (hereinafter referred to as the 'Act'), is amended by inserting before the last sentence thereof the following new sentence: 'The Congress further finds that many professional employees who have become unemployed because of the specialized nature of their previous employment are in need of brief refresher or reorientation educational courses in order to become qualified for other employment in their professions, where such training would further the purposes of this Act.'

"SEC. 3. (a) Section 102(5) of the Act is amended by adding a comma after the word 'arrange' and inserting 'through grants or contracts,' immediately following the comma.

"(b) Section 102 of the Act is further amended by striking out 'and' at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu of such period '; and', and by adding at the end of such section the following new paragraph:

"'(6) establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public or private nonprofit organizations, or through contracts with other private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and training problems of worker groups such as the long-term unemployed, disadvantaged youth, displaced older workers, the handicapped, members of minority groups, and other similar groups. In carrying out this subsection the Secretary of Labor shall, where appropriate, consult with the Secretaries of Health, Education, and Welfare, and Commerce, and the Director of the Office of Economic Opportunity. Where programs under this paragraph require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare. He shall also seek the advice of consultants with respect to the standards governing the adequacy and design of proposals, the ability of applicants, and the priority of projects in meeting the objectives of this Act.'

"SEC. 4. (a) Title I of the Act is amended by renumbering sections 103 and 104 as sections 106 and 107, respectively, and by inserting immediately after section 102 the following new sections:

"'Job development programs

"'SEC. 103. The Secretary of Labor shall stimulate and assist, in cooperation with interested agencies both public and private, job development programs, through on-the-job training and other suitable methods, that will serve to expand employment by the filling of those service and related needs which are not now being met because of lack of trained workers or other reasons affecting employment or opportunities for employment.

"'Labor mobility demonstration projects

"'SEC. 104 (a) During the period ending June 30, 1967, the Secretary of Labor shall develop and carry out, in a limited number of geographical areas, pilot projects designed to assess or demonstrate the effectiveness in reducing unemployment of programs to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses. In carrying out such projects the Secretary may provide such assistance, in the form of grants, or loans, or both, only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, have bona fide offers of employment (other than temporary or seasonal employment) and are deemed qualified to perform the work for which they are being employed.

"'(b) Loans or grants provided under this section shall be subject to such terms and conditions as the Secretary shall prescribe, with loans subject to the following limitations:

"'(1) there is reasonable assurance of repayment of the loan;

"'(2) the credit is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

"'(3) the amount of the loan, together with other funds available, is adequate to assure achievement of the purposes for which the loan is made;

"'(4) the loan bears interest at a rate not less than (A) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (B) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purposes; and

"'(5) the loan is repayable within not more than ten years.

"'(c) Of the funds appropriated for a fiscal year to carry out this Act, not more than $5,000,000 may be used for the purposes of this section.

"'Trainee placement assistance demonstration projects

"'SEC. 105. During the period ending June 30, 1967, the Secretary of Labor shall develop and carry out experimental and demonstration projects to assist in the placement of persons seeking employment through a public employment office who have successfully completed or participated in a federally assisted or financed training, counseling, work training, or work experience program and who, after appropriate counseling, have been found by the Secretary to be qualified and suitable for the employment in question, but to whom employment is or may be denied for reasons other than ability to perform, including difficulty in securing bonds for indemnifying their employers against loss from the infidelity, dishonesty, or default of such persons. In carrying out these projects the Secretary may make payments to or contracts with employers or institutions authorized to indemnify employers against such losses. Of the funds appropriated for fiscal years ending June 30, 1966, and June 30, 1967, not more than $200,000 and $300,000, respectively, may be used for the purpose of carrying out this section.'

"(b) Section 102(2) of the Act is amended by striking out '104' and inserting in lieu thereof '107'.

"SEC. 5. Section 202(i) of the Act is amended by striking out ', and such persons shall be eligible for training allowances for not to exceed an additional twenty weeks'.

"SEC. 6. (a) Section 203(a) of the Act is amended as follows:

"(1) Amend the second sentence thereof to read as follows: 'Such payments shall be made for a period not exceeding one hundred and four weeks, and the basic amount of any such payment in any week for persons undergoing training, including uncompensated employer-provided training, shall not exceed $10 more than the amount of the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available: *Provided*, That the basic amount of such payments may be increased by a $5 a week for each dependent over two up to a maximum of four additional dependents: *Provided further*, That in any week an individual who, but for his training, would be entitled to unemployment compensation in excess of his total allowance, including payments for dependents, shall receive an allowance increased by the amount of such excess.';

"(2) Amend the second paragraph thereof to read as follows:

"'With respect to any week for which a person receives unemployment compensation under title XV of the Social Security Act or any other Federal or State unemployment compensation law which is less than the total training allowance, including payments for dependents, provided for by the preceding paragraph, a supplemental training allowance may be paid to a person eligible for a training allowance under this Act. The supplemental training allowance shall not exceed the difference between his unemployment compensation and the training allowance provided by the preceding paragraph.';

"(3) Insert the words 'under the training program' after 'compensated hours per week' in the third paragraph of such section;

"(4) In lieu of the fourth paragraph of such subsection insert the following:

"'The training allowance of a person engaged in training under section 204 or 231 shall not be reduced on account of employment (other than employment under an on-the-job training program under section 204) which does not exceed twenty hours per week, but shall be reduced in an amount equal to his full earnings for hours worked (other than in employment under such an on-the-job training program) in excess of twenty hours per week.'

"(b)(1) Section 203(b) of the Act is amended by striking out the matter following 'to defray transportation' and preceding '*Provided*', and by inserting in lieu of such matter the following: 'expenses, and when such training is provided in facilities which are not within commuting distance of the trainee's regular place of residence, subsistence expenses for separate maintenance of the trainee:'.

"(2) Such subsection is further amended by inserting immediately before the period at the end thereof the following: ', except in the case of local transportation where he may authorize reimbursement for the trainee's travel by the most economical mode of public transportation, and except that in noncontiguous States and in areas outside the continental United States where the per diem allowance prescribed under section 836 of title 5, United States Code, exceeds the maximum per diem allowance prescribed under that section for contiguous States, the Secretary may provide for a reasonable increase in the transportation and subsistence expenses in such amounts as he may deem necessary to carry out the purposes of this Act, and subject to such limitations as he may prescribe'.

"(c) Section 203(c) of the Act is amended as follows:

"(1) Strike the words 'not less than' in the first sentence and insert 'at least' in lieu thereof;

"(2) Strike out everything in the first sentence after the words 'gainful employment', and insert the following in lieu thereof: ': *Provided*, That he shall not pay training allowances to members of a family or a household in which the head of the family or the head of the household as defined in the Internal Revenue Code of 1954 is employed, unless the Secretary determines that such payments are necessary in order for the trainees to undertake or to continue training: *Provided further*, That no allowances shall be paid to any member of a family or household if the Secretary of Labor determines that the head of such family or household has terminated his employment for the purpose of qualifying such member for training allowances under this section';

"(3) Amend the last sentence to read as follows: 'The number of youths under the age of twenty-two who are receiving training allowances (or who would be entitled thereto but for the receipt of unemployment compensation) shall, except for such adjustments as may be necessary for effective management of programs under this section, not exceed 25 per centum of all persons receiving such allowances (or who would be entitled thereto but for the receipt of unemployment compensation). The Secretary of Labor may authorize continued payments of allowances to any youth who becomes twenty-two years of age during the course of his training, if he has completed a substantial part of such training.'

"(d) Subsection (d) of section 203 of the Act is repealed and subsections (e), (f), (g), (h), (i), and (j) of such section are redesignated as (d), (e), (f), (g), (h), and (i), respectively.

"(e) The first sentence of section 203(g)(2) of the Act (as redesignated by section 5(d) of this Act) is amended by striking out everything that follows 'all of such benefits paid' and inserting in lieu thereof a period.

"SEC. 7. Section 208 of the Act is repealed.

"SEC. 8. Section 231 of the Act is amended by striking out the second and third sentences and inserting in lieu thereof the following: 'Such State agencies shall provide for such training through public educational agencies or institutions or through arrangements with private educational or training institutions where such private institutions can provide equipment or services not available in public institutions, particularly for training in technical and subprofessional occupations, or where such institutions can, at comparable cost, (1) provide substantially equivalent training, or (2) make possible an expanded use of the individual referral method, or (3) aid in reducing more quickly unemployment or current and prospective manpower shortages. The State agency shall be paid not more than 90 per centum of the cost to the State of carrying out the agreement, unless the Secretary of Health, Education, and Welfare determines that payments in excess of 90 per centum are necessary because such payments with respect to private institutions are required to give full effect to the purposes of the Act: *Provided*, That for the period ending June 30, 1966, the State agency shall be paid 100 per centum of the cost to the State of carrying out the agreements. Non-Federal contributions may be in cash or kind, fairly evaluated including but not limited to plant, equipment, and services.'

"SEC. 9. (a) Title II of the Act is amended by adding part C to the end thereof to read as follows:

"'PART C.—REDEVELOPMENT AREAS

"'SEC. 241. The Secretaries of Labor and of Health, Education, and Welfare, in accordance with their respective responsibilities under parts A and B of this title, are authorized to provide a supplementary program of training and training allowances, in consultation with the Secretary of Commerce, for unemployed and underemployed persons residing in areas designated as redevelopment areas by the Secretary of Commerce under the Area Redevelopment Act or any subsequent Act authorizing such designation. Such program shall be carried out by the Secretaries of Labor and of Health, Education, and Welfare, in accordance with the provisions otherwise applicable to programs under this Act and with their respective functions under those provisions, except that—

"'(1) the Secretary of Labor, in consultation with the Secretary of Commerce, shall determine the occupational training or retraining needs of unemployed or underemployed individuals residing in redevelopment areas;

"'(2) all unemployed or underemployed individuals residing in redevelopment areas who can reasonably be expected to obtain employment as a result of such training may be referred and selected for training and shall be eligible for training allowances under this section: *Provided*, That the amount and duration of training allowances under this section shall in no event exceed the amount and duration of training allowances provided under section 203(a) of this Act;

"'(3) the Secretaries of Labor and of Health, Education, and Welfare shall each with respect to his functions under this section, prescribe jointly with the Secretary of Commerce such rules and regulations as may be necessary to carry out the purposes of this section; and

"'(4) No funds available under this section shall be apportioned to any State pursuant to section 301 of this Act, nor shall any matching funds be required.'

"(b) Sections 16 and 17 of the Area Redevelopment Act (42 U.S.C. 2513 and 2514) are repealed. The repeal of these sections shall not affect the disbursement of funds under, or the carrying out of, any contract, commitment, or other obligation entered into pursuant to the Area Redevelopment Act prior to the effective date of the repeal of such sections.

"(c) This section and the amendments made by it shall take effect on July 1, 1965.

"SEC. 10. Section 301 of the Act is amended by striking the period at the end thereof, inserting a colon, and adding the following proviso: '*Provided*, That no funds apportioned with respect to a State in any fiscal year shall be reapportioned before the expiration of the sixth month of such fiscal year and only upon 30 days' prior notice to such State of the proposed reapportionment, except that the requirement for prior notice shall not apply with respect to any reapportionment made during the last quarter of the fiscal year.'

"SEC. 11. Section 302 of the Act is amended by striking the word 'and' following 'the Smith-Hughes Vocational Education Act' inserting a comma in lieu thereof, and inserting 'and the Vocational Education Act of 1963,' following 'the Vocational Education Act of 1946,'.

"SEC. 12. Section 304 of the Act is amended to read as follows:

"'Appropriations authorized

"'SEC. 304. (a) For the purposes of carrying out title I, there are hereby authorized to be appropriated not in excess of $46,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter such amounts as may be necessary.

"'(b) For the purpose of carrying out parts A and B of title II, there are hereby authorized to be appropriated not in excess of $385,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter such amounts as may be necessary.

"'(c) For the purpose of carrying out part C of title II, there are hereby authorized to be appropriated not in excess of $22,000,000 for the fiscal year ending June 30, 1966, and for each year thereafter such amounts as may be necessary.

"'(d) For the purpose of carrying out title III, there are hereby authorized to be appropriated not in excess of $1,000,000 for the fiscal year ending June 30, 1966, and for each year thereafter such amounts as may be necessary.'

"Sec. 13. The following subsection is added to section 305 of the Act to read as follows:

"'(e) The costs of all training programs approved in any fiscal year, including the total cost of training allowances for such programs, may be paid from funds appropriated for such purposes for that fiscal year; and the amount of the Federal payment shall be computed on the basis of the per centum requirement in effect at the time such programs are approved: *Provided,* That funds appropriated for the fiscal year ending June 30, 1966, may be expended for training programs approved under this Act prior to July 1, 1965.'

"Sec. 14. Subsection (a) of section 306 of the Act is amended by inserting after 'procedures,' the following: 'including (subject to such policies, rules, and regulations as they may prescribe) the approval of any program under section 202, the cost of which does not exceed $75,000,'.

"Sec. 15. Sections 309(a) and 309(b) of the Act are both amended by striking 'Prior to March 1, 1963, and again prior to April 1, 1964, April 1, 1965, and April 1, 1966' and inserting in lieu thereof: 'Prior to April 1, in each year'.

"Sec. 16. Section 310 of the Act is amended by striking out '1966' wherever it appears and inserting in lieu thereof '1969'."

And the House agree to the same.

Adam C. Powell,
James G. O'Hara,
Dominick V. Daniels,
Roman Pucinski,
Sam M. Gibbons,
William D. Hathaway,
William H. Ayres,
John M. Ashbrook,
Albert H. Quie,
Managers on the Part of the House.
Joseph S. Clark,
Jennings Randolph,
Pat McNamara,
Claiborne Pell,
Edward Kennedy,
Gaylord Nelson,
Winston L. Prouty,
J. K. Javits,
George L. Murphy,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 974) to amend the Manpower Development and Training Act of 1962, as amended, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a new text. The Senate recedes from its disagreement to the amendment of the House, with an amendment which is a substitute for both the Senate bill and the House amendment.

The differences between the House amendment and the substitute agreed upon in conference are described in this statement, except for incidental, minor, technical, and clarifying changes. References to the "act" are to the Manpower Development and Training Act of 1962.

TITLE I: MANPOWER REQUIREMENTS, DEVELOPMENT AND UTILIZATION

The House amendment omitted section 2 of the Senate bill which amended section 101 of the act to make an explicit finding of Congress that many professional employees, who have become unemployed because of changes in national defense and other industrial activities, are in need of refresher or reorientation training. Section 2 of the conference substitute contains a statement on this point, but in different form from the Senate version. The substitute leaves out the specific reference to defense and industrial activities, and states that Congress finds that "many professional employees who have become unemployed because of the specialized nature of their previous employment are in need of brief refresher or reorientation educational courses in order to become qualified for other employment in their professions where such training would further the purposes of this Act". In adopting this substitute, the conferees are not implying that it would be appropriate under this act to give professional training to an individual to enable him to qualify initially for a professional career. Their intention is only to make clear that the act should not be so narrowly interpreted as to exclude any provision of limited refresher or reorientation training to professionals who may require such training in order to escape unemployment as a result of obsolescence of their particular specialized skills.

TITLE II: TRAINING AND SKILL DEVELOPMENT PROGRAMS

The House amendment contained a provision amending section 203(b) of the act so as to authorize full payment of a trainee's local transportation costs, by the most economical mode of public transportation. The Senate bill limited such payment to a maximum of 10 cents per mile. The conference substitute contains the House provisions, since it was agreed that a trainee's cost of local transportation between his residence and the training site, by the most economical public transportation available, should be paid for, even though in some cases such cost might exceed 10 cents per mile.

The House amendment omitted provisions in the Senate bill which amended section 203(c) of the Act so as to (1) authorize payment of training allowances to members of a family or household whose head is employed, if the Secretary of Labor determines such payments are necessary in order for the trainees to undertake or continue training, and (2) deny payment of training allowances to any member of a family or household whose head has been found to have terminated his own employment for the purpose of enabling such member to qualify for an allowance. Section 6(c)(1) of the conference substitute adopts these provisions of the Senate bill. However, the conferees expect that restraint will be exercised by the Secretary, in using his new authority to grant allowances to members of a family or household whose head is employed. Such allowances should be granted only if the family or household head's employment does not provide sufficient income to support the trainee through his period of training. Under the provision adopted in conference, an allowance may be authorized for a member of a family or household with an employed head only if such allowance is "necessary" to permit the trainee to undertake or continue training.

The House amendment omitted a provision of the Senate bill which amended section 203(c) of the Act to authorize continued payments of training allowances to a trainee who becomes 22 years of age during the course of training, provided that he has completed by then a substantial part of his prescribed course. Section 6(c)(3) of the conference substitute adopts this Senate provision. The purpose of the provision is to make it unnecessary to cut off the allowance of a trainee, who is receiving the weekly allowance of up to $20 paid to youths enrolled in special youth programs, when he reaches his 22nd birthday. Trainees who continue to receive youth allowances under section 202(b) training programs after reaching age 22 will continue to be considered as youths receiving training allowances for the purpose of observing the limitation in section 203(c) that not more than 25 percent of persons receiving training allowances shall be youths.

The act presently permits State agencies to provide training through private institutions if it can be provided at reduced Federal expenditure. The Senate bill amended this provision to authorize training where private institutions could provide substantially equivalent training at comparable Federal expenditure, or provide equipment or services not available in public institutions, or make possible an expanded use of the individual referral method, or aid in reducing more quickly unemployment or current and prospective manpower shortages. Section 8 of the conference substitute adopts this Senate provision, but in a substantively reworded form, which authorizes training through private institutions where they can provide equipment or services not available in public institutions, or where—at comparable cost—they can provide substantially equivalent training, expand use of the individual referral method, or aid in reducing more quickly unemployment or manpower shortages.

The House amendment established an effective date of July 1, 1965, for both the repeal of sections 16 and 17 of the Area Redevelopment Act and the authorization of a supplementary training program in redevelopment areas, under the new section 241 of the Manpower Development and Training Act of 1962.

The Senate bill provided that repeal of these provisions and authorization of the redevelopment area training program be effective as of the date of the enactment of the bill, subject to a saving clause providing that repeal of sections 16 and 17 of the Area Redevelopment Act shall not affect the disbursement of funds under, or the carrying out of obligations entered into pursuant to that Act before the date of repeal. Section 9(b) of the conference substitute adopts the House amendment, but adds to it the saving clause in the Senate bill. The conference substitute, therefore, brings the training programs in redevelopment areas under the Manpower Development and Training Act of 1962, as of July 1, 1965. Except as expressly provided for in section 241 of the Act, these programs in redevelopment areas will be subject to the same conditions as other programs under the Act with respect to training allowances, transportation and subsistence allowances, duration of training, and other terms. It is expected that between the date of enactment of S. 974 and July 1, 1965, the administrators of the training programs now authorized under the Area Redevelopment Act will take appropriate steps to phase out the administration of their program and to phase in the MDTA administration of training in redevelopment areas. The saving clause is not intended to stimulate the creation of new ARA training projects in anticipation of the effective date of the repeal of the ARA training sections, sections 16 and 17.

The House amendment authorized the appropriation of "such amounts as may be necessary" to carry out the purpose of the Act through the fiscal year ending in 1968. The Senate provision limited authorizations for the fiscal year ending in 1966 to $46 million for title I, $385 million for parts A and B of title II, $22 million for part C of title II, and $1 million for title III; but provided for no limitations of authorizations for subsequent fiscal years. Section 12 of the conference substitute adopts the Senate provisions.

The House amendment provided, in section 310 of the Act, for termination of all authority under title II of the Act on June 30, 1968. The Senate bill provided for termination of such authority on June 30, 1970. Section 16 of the conference substitute provides for termination of all authority under title II on June 30, 1969.

ADAM C. POWELL,
JAMES G. O'HARA,
DOMINICK V. DANIELS,
ROMAN C. PUCINSKI,
SAM M. GIBBONS,
WILLIAM D. HATHAWAY,
WILLIAM H. AYRES,
JOHN M. ASHBROOK,
ALBERT H. QUIE,
Managers on the Part of the House.

Mr. O'HARA of Michigan (interrupting the reading of the statement of managers on part of House). Mr. Speaker, the conference report and the statement on the part of the managers of the House has been printed in the RECORD and I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. O'HARA of Michigan. Mr. Speaker, the conference report which we bring back to the House is unanimous. It makes only two really significant changes from the House bill. The first is that authorization figures are inserted for the coming fiscal year as provided in the Senate bill rather than the House authorization of such sums as may be necessary for the coming fiscal year.

The second important difference was that the Senate bill provided for an extension of the authority under title II until 1970, while the House bill provided for such extension only until 1968. The conferees agreed upon an extension until 1969.

Mr. Speaker, I would like to cover one other point.

Some question has arisen with regard to the language on page 22 of the House committee report with respect to safeguarding against Manpower Development and Training Act substitution for private training efforts. The language used therein refers to institution of Manpower Development Training Act programs in unskilled or minimally skilled occupations for which prior training or possession of a specific skill has not traditionally been a prerequisite to employment. It is the belief of the committee that Manpower Development and Training Act training in such situations would substitute for threshold training normally undertaken at the expense of the employer and would not add to achieving the manpower goals which are the objectives of the Manpower Development and Training Act. The committee did not intend to imply that Manpower Development and Training Act programs would not be available for training persons in technical and skilled occupations in the garment industry or any other industry for which prior training or possession of specific skills has traditionally been a prerequisite to employment. For example, it might be appropriate under the proper circumstances for Manpower Development and Training Act training to be utilized to provide skilled personnel for employment repairing, adjusting, maintaining, and rebuilding machinery used in the apparel industry.

Mr. Speaker, if there are any further questions with regard to the conference report, I would be happy to attempt to respond. In the meantime, I yield to the gentleman from Minnesota [Mr. QUIE].

Mr. QUIE. Mr. Speaker, I thank the gentleman for yielding. I will say that the gentleman from Michigan [Mr. O'HARA] states my understanding exactly as to what I believe is the congressional intent with respect to safeguarding against MDTA assistance for private training centers and its application to the apparel industry.

I might also say, Mr. Speaker, that I am in support of the conference report. I believe we reached a good compromise with the other body and it should be acceptable to all who supported this bill previously.

Mr. O'HARA of Michigan. I thank the gentleman from Minnesota.

Mr. Speaker, I now yield to the gentleman from Illinois [Mr. PUCINSKI].

Mr. PUCINSKI. Mr. Speaker, I would like to join in recommending the adoption of this conference report. It is my opinion that the conferees have done a good job. Most of the House provisions have been retained. I further believe that we have substantially strengthened this bill.

However, Mr. Speaker, there is one question which I would like to ask the manager of the bill, the gentleman from Michigan [Mr. O'HARA] so that we can establish some legislative intent.

We have provided in this bill now a greater flexibility for the use of private school facilities as a part of the manpower training program.

Now, in some areas of the country the public schools have taken the position that where there is a need for a training program and even though there is a private school that has such facilities available, the public schools must be given priority to develop a program before the Director of the MDTA can enter into agreement with the private school.

It is my understanding that the intent of the language of this bill is that if a private school is available and can provide the programs which would be available if a public school were to develop a similar program, the local director may enter into an agreement with the private school rather than wait until the public school tries to develop and put together a program to satisfy that need.

Is my understanding of this provision correct?

Mr. O'HARA of Michigan. I would advise the gentleman from Illinois [Mr. PUCINSKI] that his understanding is correct. As a matter of fact the conference report as the gentleman knows authorizes the use of private training facilities where they can expand the use of the individual referral method, a method we have found efficient in getting individuals into training quickly and at a substantial equipment savings in cost. This represents one of the advantages of the conference report.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. O'HARA of Michigan. I yield to the gentleman from Minnesota.

Mr. QUIE. As long as the cost is of the same amount for the private school, or thereabouts, it is acceptable. However, the public schools may still go ahead and put in the program, even though it would be substantially more expensive than the private school.

Mr. O'HARA of Michigan. The gentleman from Minnesota is correct.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

Public Law 89-15 was signed on April 26, 1965. For text see conference report, above.

[89th Congress, 2d Session, House of Representatives, Report No. 2017]

MANPOWER DEVELOPMENT AND TRAINING AMENDMENTS OF 1966

September 8, 1966.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. Powell, from the Committee on Education and Labor, submitted the following report (to accompany H.R. 16715).

The Committee on Education and Labor, to whom was referred the bill (H.R. 16715) to amend the Manpower Development and Training Act of 1962, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, after line 4, insert the following:

"SEC. 2. (a) Section 104(a) of the Manpower Development and Training Act of 1962 (hereinafter referred to as 'the Act') is amended by striking out '1967' and inserting in lieu thereof '1968'.

"(b) Section 105 of the Act is amended by striking out '1967' where it appears in the first sentence and inserting in lieu thereof '1968', and by amending the last sentence thereof to read as follows: 'Of the funds appropriated for a fiscal year to carry out this Act, not more than $300,000 may be used for purposes of this section.' "

Page 1, line 5, strike out "2." and insert "3.".

Page 1, beginning in line 5, strike out "Manpower Development and Training Act of 1962 (hereinafter referred to as 'the Act')" and insert in lieu thereof "Act".

Page 3, line 19, strike out "3." and insert "4.".

Page 7, line 11, strike out "4." and insert "5.".

Page 8, line 8, strike out "5." and insert "6.".

Page 8, line 11, strike out "(a)".

Page 9, line 13, strike out "6." and insert "7.".

Page 9, line 23, strike out "7." and insert "8.".

Page 10, line 4, strike out "The" and insert in lieu thereof the following: "Prior to April first of each year, the".

BACKGROUND OF THE LEGISLATION

The Manpower Development and Training Act was first passed in 1962. The act has been subsequently amended, in 1963 and in 1965. Throughout the 4 years of the act's life, there has developed a constantly growing degree of support for its principles and its purposes, crossing party lines and encompassing all groups in the labor market. The 1965 amendments originally passed the Senate by a vote of 76 to 8, and were approved in this House by a vote of 392 to 0. Using the congressional reaction to this legislation as an indicator of public opinion, the American people have come to look upon this act as one of the most useful tools by which this Nation can cope with the continuing problems of the new industrial revolution.

At the time the act was passed, many thoughtful Americans looked upon the advent of automation and the other aspects of the new technology as bringing with them inevitable and far-reaching economic dislocation. The debate over automation and its effects was not couched in terms of whether or not the effects would be traumatic, but on how quickly we could recover from them.

In 1966, there is still no question but that automation will continue to proceed apace, and that the techniques and structure of American industry will change even more in years to come than it has changed in years recently past.

If the MDTA program is to remain a useful tool for coping with the changes that we can expect in the near future, if we are to use this device, with others, to alleviate and even escape the economic penalties which technological change customarily exacts, this act must continue to be altered as experience and changing problems dictate. An act which 4 years ago was primarily aimed at the problems of those who had experienced or were facing technological unemployment, is not necessarily, and not without alteration, useful to meet the problems of the disadvantaged and the hard-core unemployed or to deal with critical skill shortages. The 1966 amendments are not simply a weapon in the war against poverty—though they are a weapon in that war. They are not simply a safeguard against the effects of automation—though they are such a safeguard. They are not simply a remedy for industry's problem of growing skill shortages—though they are such a remedy. Rather, these amendments, like the original act and its subsequent amendments, are an attempt to build the foundations upon which a national manpower policy can, as someday it will, be built, so that the Nation's most valuable natural resource—the brains and muscles and ingenuity of its people—can be most effectively utilized in the context of a free economy.

CONSIDERATION BY COMMITTEE

At various times during this Congress, individual Members have introduced bills to amend the Manpower Development and Training Act. In June of this year, the Select Subcommittee on Labor, under the chairmanship of Representative Holland of Pennsylvania, held 4 days of hearings, taking testimony from Members of the House, officials of the Departments of Labor and Health, Education, and Welfare, and experts, both academic and operational, in the areas covered by the various amendments. On July 29, Mr. Holland introduced H.R. 16715, an omnibus bill embodying the tentative conclusions of the subcommittee, and on August 1, the subcommittee reported the bill to the full committee. On August 25, in executive session, the committee adopted minor amendments and, without dissenting vote, ordered this bill reported to the House with those amendments.

MAJOR PROVISIONS

A. *Selection of trainees.*—The present act, in addition to calling for the Secretary of Labor to provide programs of testing, counseling, and referral to training for unemployed or underemployed persons generally, contains a specific direction that a special program be undertaken for training of young people whose educational background and work preparation have not adequately prepared them to enter the labor force. This bill amends the act by adding language directing the Secretary to formulate a program to meet the special employment needs of workers 45 years of age or more. The testimony in the hearings which immediately gave rise to this bill are filled with statements and direct testimony in support of such legislation. In addition, the Select Labor Subcommittee held, during 1965, 5 days of hearings on the employment problems of older workers, during which substantial testimony was offered to support the need for specific training programs in a broad range of skills to meet the very real employment problems facing such persons.

The "older worker," the worker who is not yet old enough to retire, and yet too old to face unemployment with any real hope of finding a new job, is the victim, not so much of antagonistic prejudices, but of well-meaning, even sympathetic ignorance. On all sides, it is assumed that a worker of 45 or 50 cannot adjust to a new job, that he no longer has the physical strength to perform the same tasks he could undertake when he was 25 or 30, that his health is such that he cannot be depended upon to be a steady worker, and such ideas. There are other problems which prevent the older worker from finding a new job, and some of them may be less based on folklore and more on economic fact than those cited above. This amendment will not be a panacea for the employment problems of older workers. But it will certainly help demonstrate that the older worker is a valuable member of the labor force. In a period of growing demand for labor, the older worker, in many cases, needs but the opportunity to show that he can do a new job in order to have doors now closed begin to open for him. This amendment offers that opportunity.

Your committee would not want to leave the impression that this will do the whole job of solving these problems. Further legislation in this area should be given careful study by this or other appropriate committees of the House. Suggestions for insuring vested pension rights, providing for pension portability, and for barring age discrimination all call for careful study. This bill is only a first step, and while it is true that a long journey begins with the first step, it is also true that it does not end there.

The act now provides not only for skills training, but also for training in basic education needs. A dexterous and intelligent prospective lathe operator may be unemployable or untrainable if he cannot read or write. This bill carries this principle one step further by providing for referral to training in communications and other employment skills. By this, your committee means to meet the need of the person who is technically literate, but whose environment may well have left him virtually unable to talk the language of the marketplace.

Excellent work is being done at Howard University and at other locations in showing that what may seem to be impenetrable ignorance and near illiteracy in a prospective worker may well be merely the result of having learned to communicate in a substantially different argot than that of the prospective employer or the members of the public with whom the worker may have to deal. The term "employment skills" is intended to include skills and characteristics other than specific occupational skills which may affect an individual's employability; for example, work habits, conformity to expected standards of behavior as an employee, job finding skills, and attitudes conducive to satisfactory occupational adjustment. Your committee also expects that this provision will be carried out imaginatively and that the newest findings of the professionals will be utilized here.

A new subsection is added to section 202 to provide physical examinations and minor medical treatment or prosthesis for trainees who cannot afford it or where it is not otherwise available in the community. This amendment is designed to reduce dropouts during training for reasons of health and provide minor correctional services for persons who could not otherwise pass appropriate and necessary company physical examinations after training has been completed. Examples of what is envisaged here would be eyeglasses, hearing aids, and other similar assistance. The committee intends that such medical services shall be furnished through agreements between the Secretary of Labor and the Secretary of Health, Education, and Welfare, that first recourse will be had to such Health, Education, and Welfare programs as the Public Health Service and Vocational Rehabilitation, and that, as a last resort, the Labor Department may procure such services directly where HEW is unable to do the job. Services and appliances under this provision are limited to an aggregate of $100 per trainee.

B. *Upgrading.*—One of the most useful roles MDTA can play in meeting skills shortages and in serving to combat hard-core unemployment is in making it possible for employed persons to be trained in skills beyond those utilized in their present jobs, thus enabling them to move to better jobs, and making their present jobs available for persons who have had special difficulty even entering the labor force.

What your committee contemplates is not simply a form of continuing adult education. We intend rather than an experimental program be undertaken which would include training techniques combined with personnel management practices which actively promote upgrading through delineation of skill levels and job relationships, job reengineering, and other methods of effective manpower development and utilization. The Secretary of Labor has full discretion to designate skill shortages and to formulate standards of eligibility for selection and referral to part-time training projects. The Secretary would also establish standards to assure that workers available for full-time training are not referred to part-time training with a concomitant lengthening of the training period.

The bill contains two closely linked provisions which are intended to make this kind of training possible. The first authorizes an experimental program of part-time training, primarily intended for the employed in areas and occupations where there are critical skill shortages.

The second provision authorizes payments not to exceed $10 per week, in lieu of any other payments under section 203, to persons selected for such training to meet the additional costs incurred in attending training.

Your committee intends the word "area" as used in this provision to be applied geographically as well as to specific skills or trades.

C. *Training allowances.*—Rigidity in the payment of training allowances has in many cases slowed down the selection of trainees, made training less desirable to those who could most profit from it, and in some areas has actually increased the cost of the program. Your committee has sought to make this part of the act easier to administer by several amendments.

First, the present act prevents the payment of training allowances to persons who have not had at least 2 years of gainful employment (with some exceptions which will be mentioned below). But 1 year's work experience seems to the committee an adequate time for a man to learn the basic habits of work, and to find out if his previous training has in fact equipped him for an optimum role in the labor force. This bill, accordingly, reduced the requirement from 2 years to 1.

The major exception to the "labor force attachment" mentioned above involves youths of 17 years or more who have finished or left high school. In the case of high school dropouts, the Secretary is presently required to ascertain that the local school authorities have availed themselves of all their resources, including guidance and counseling, and have concluded that the further presence of the young person in a regular school situation is simply not practicable. The Secretary is further required to wait until the young person has been out of school for an entire year. With the former requirement, your committee is totally in accord. The Manpower Development and Training Act is not and was never intended to be a substitute for the normal institutions of our educational system. It is your committee's firm intent that the Secretary should continue to make every effort to find out if a young person cannot usefully be placed back into that structure before referring him to MDTA training. But at the same time, your committee feels it is unnecessary and perhaps harmful to require a year's wait, in addition to this necessary screening process. There is no good reason to force a young person to wait a year and become habituated to the environment of the street corner or the back alley when he could be receiving skills training and be getting started in a trade.

Section 4(a)(3) of this bill is language which has also been approved by your committee and included in the bill to amend the Economic Opportunity Act. It provides that persons who have completed a program under the Neighborhood Youth Corps may be referred to MDTA training and paid an allowance. To quote from your committee's earlier report on H.R. 15111:

"An amendment to section 203(c) of MDTA would facilitate a nexus between the Neighborhood Youth Corps and MDTA programs by removing financial as well as other obstacles that have previously obviated corpsmen participation in MDTA training. Rather than being forced to relinquish approximately 40 percent of their Youth Corps wages when entering MDTA programs in return for weekly training allowances not in excess of $20 a week, Youth Corps men who embark upon MDTA programs could receive payments that are comparable to those received by adult MDTA trainees.

"Other barriers removed by this amendment which abrogates the application of the requirements of MDTA section 203 (c) and (h) to Youth Corps graduates include the 25-percent limitation on MDTA trainees under 22 and the proviso that receipt of a training allowance under another Federal act within 1 year of enrollment in an MDTA program disqualifies a person from any MDTA training allowance entitlement."

This bill also permits the Secretary to pay a training allowance to a person who is referred to a second course after having left or completed one, without waiting a full year, if he shall determine that there is good cause to do so. Your committee, without wishing to further limit the Secretary's flexibility in making such determinations, would suggest, as examples of this situation, a case in which a training course is completed, only to find that the industry utilizing the skills taught therein has left the area, or that what appeared to be a long-range skill shortage has been met by supply from other sources. Another example would be a case in which training was discontinued before completion for reasons beyond the trainee's control which would not preclude successful training in another type of course. Where the trainee is precluded from using his training for reasons beyond his control, the Secretary should have this authority without being restricted by artificial waiting periods.

In administering this exception, the Secretary shall take precautions to insure against the pyramiding of benefits by a trainee going from one course to another and absorbing training opportunities which should be spread among a greater number of individuals.

The bill takes cognizance of cases in which an unemployed person may be so poverty-stricken that he cannot enter training at all or continue in it until he has received at least some funds to enable him, perhaps, to buy a pair of serviceable shoes, or to meet some other immediately pressing need. The bill provides, in such cases, for a limited advance payment of his training allowance, to be repaid either through deductions from subsequent allowances or through other arrangements.

This provision would remedy the problem of training personnel having to assist trainees by making small loans to meet the cost of such items as carfare, lunches, etc. Such requests have been a source of inconvenience to project personnel, and experience indicates the need of a petty cash fund to meet these small recurring needs.

Procedures under this amendment should be devised to assure that funds are immediately and readily available for such expenses and that without sacrificing flexibility proper controls are instituted to protect the funds.

Under present procedures, a person in receipt of an MDTA training allowance who is receiving, or whose family is receiving public assistance under the Social Security Act, will have such assistance reduced by the amount of the MDTA allowance. This has the disadvantage of removing any immediate financial incentive for entrance into training. In some instances, also, there have been situations in which communications at the local level have been faulty, and persons have been paid both MDTA allowances and public assistance benefits.

To meet these problems, the committee proposes that beneficiaries of Social Security Act programs be referred to training without a "training allowance" as such, but that they be given instead a modest $20 weekly incentive payment, plus expenses directly attributable to training, which shall not be considered as income for social security purposes. This would enable the welfare benefit to be continued uninterrupted, and at the same time serve the purpose of the training allowance provisions of MDTA by making it financially beneficial for persons to enter training and to start on the road to self-support. The Departments of Labor and HEW were consulted on this amendment and have been of assistance in working out this solution to the problem.

This provision does not contemplate incentive payments and expense allowances in an amount greater than any other allowances the individual would otherwise be entitled to if he were not a recipient of benefits under the Social Security Act.

D. *Correctional institutions.*—Section 6 of this bill authorizes the Secretary of Labor to carry out, on an experimental and developmental basis, a program of training for the benefit of inmates of correctional institutions, to be carried out through agreements with Federal, State, and local penal officials, and after consultation with the appropriate area manpower training advisory committees. Your committee has received encouraging reports on the pilot projects already undertaken at the Federal institutions at Lorton and Riker's Island, and is convinced by the evidence submitted by the Department of Labor that such programs may be extremely valuable in reducing recidivism. Your committee is not yet prepared to recommend this as a permanent full-scale program, and the committee feels that great care must be taken to insure that such training does not result in any increase in the production of goods in competition with free labor. Your committee removed the phrase "on-the-job training" from this proposal because we were not prepared to see MDTA finance day labor by prison inmates in competition with free labor.

Suggestions for special programs for parolees and probationers were not adopted since there is nothing in the act now which prevents the Secretary from referring a parolee or probationer to training. The bonding provisions of section 105 of the act which this bill extends for an additional year are designed, in part, to assist such persons. Your committee has also taken note of the phenomenon in which paroled prisoners have been helped to secure employment only to find that the employer uses his relationship with the parolee and with the parole officer to prevent legitimate union organizational activity. The Secretary of Labor is urged by the committee to make full use of this amendment, but, at the same time, to take great care that such abuses as those mentioned above are not carried out under the protective umbrella of MDTA.

E. *Administrative provisions.*—The present act permits the Secretary of HEW to carry out his responsibility for providing for the setting up of institutional training through agreements with appropriate education agencies, including through agreements with private educational or training institutions can provide equipment or services not available in public institutions, "or where such institutions can, at comparable cost, (1) provide substantially equivalent training, or (2) make possible an expanded use of the individual referral method, or (3) aid in reducing more quickly unemployment or current and prospective manpower shortages."

In reviewing the administration of this section, your committee became convinced that a simpler, more flexible formula should be adopted, preserving the concept of preference for public agencies, but providing specific and unequivocal authority to the Secretary of Health, Education, and Welfare to provide training directly through private institutions as well as through State education agencies.

The bill, in section 5(a), eases the use of private institutions where such use can allow training to begin more quickly or be carried out more economically or more effectively.

The committee has received increasing complaints of the unavailability of training opportunities in given communities, notwithstanding availability of private institutions with established reputation for successful placement of their graduates. It is your committee's intent that the Secretary of HEW make every available use of this provision to accelerate entrance into training of workers desiring training opportunities, as well as to reduce to the greatest extent possible instances of training being denied eligible applicants.

Section 5(b) allows the training cost increment of research and development projects to be allocated without regard to the 10-percent matching requirement which has gone into effect at the beginning of fiscal 1967. The matching requirement, which previous amendments postponed until the beginning of this fiscal year, applied to all training costs. A very small part of the total program is carried on under title I, authorizing experimental, research, and development projects. The training increment of these projects—a small part of this small part—has been financed from the allotments to the several States under title II.

In previous years, this has posed no problem, since the States were not contributing any portion of the direct costs. With the coming into force of the matching requirement, the States will now have a virtual veto power over E. & D. projects, since they would, in the absence of this amendment, be required to contribute 10 percent of the training increment of such projects. Since the projects themselves are designed to benefit the entire program, rather than to meet the immediate manpower needs of the particular State in which they happen to be located, the State's objections would be quite understandable, even though relatively tiny amounts of money would be actually involved.

In order to allow research projects to continue without cutting into the allotment of the States in which they are located, it is proposed, therefore, to exempt the training increment thereof from the normal matching requirements. Your committee feels it appropriate to observe, in this context, that the effective date of the matching provisions, which has been delayed more than once, cannot be further delayed. The matching provisions, which are very liberally conceived, seem an eminently reasonable requirement for State participation, and there was no serious recommendation made to your committee that their effectiveness be further delayed, with the very minor exception provided in this subsection.

Section 7 of the bill amends the apportionment formula, confining its effect to 80 percent of the total funds appropriated in a given year, and leaving the Secretaries of Labor and HEW free to utilize the remaining 20 percent in areas of special need. The present formula, which remains unchanged, takes into account essentially the unemployment rate and the relative size of the labor force in a given State. No cognizance is taken of skills shortages, abrupt changes in the State's industrial pattern, or other criteria which could justify special emphasis in a given State in a given year. The existence of critical skills shortages in States where unemployment is not serious is a question of particular concern to your committee, as, indeed, it is to the economy as a whole. Your committee believes that such situations should receive particular attention by the Secretaries in their allocation of this 20 percent of the funds appropriated.

Section 104 of the act authorizes, on a pilot basis, projects exploring the feasibility of paying relocation expenses, on a grant or loan basis, as a means of reducing unemployment. Section 105 of the act provides experimental and demonstration authority in the area of securing bonds for trainees who require such bonding to obtain employment subsequent to their training. In both cases, the existing authority expires at the end of fiscal year 1967.

Your committee has been favorably impressed by the results of these projects to date, but neither the committee nor the Department of Labor is yet prepared for these experiments to be made permanent, full-scale segments of the MDTA program. In order to continue the experiments, and to make more data available on which to make such a judgment, your committee recommends that H.R. 16715 be amended to provide that the existing authority under both sections be continued for 1 additional year.

Finally, the bill repeals the requirement for an annual report to the Congress by the Secretary of Labor, though continuing this report as it applies to the Secretary of Health, Education, and Welfare. The Secretary of Labor's report, in the opinion of your committee, tends to be duplicative of the President's Manpower Report, which also has its statutory base in this act. Its absence from the "Federal paper-work jungle" should cause no massive unemployment at the Government Printing Office.

The report of the Secretary of Health, Education, and Welfare is in a slightly different case. The President's Manpower Report does not cover the innovations and improved training methods utilized to secure the objectives of this act. The report of the Secretary of HEW can and should do so. Accurate and detailed information on the techniques used under the MDTA program can be beneficial to school administrators throughout the Nation, and, if properly presented, can serve as a guide for updating the curriculum in the vocational education institutions.

In this context, your committee wishes again to emphasize that the duties assigned to the Secretary of HEW under this act are assigned to the Secretary, and they are not intended to be delegated by him to any particular one of the naturally divergent agencies within that Department. The Secretary's duties under MDTA are not duties analogous to those performed by the Office of Education, or any other single component part of that Department. The Secretary, the program, and the public interest will continue to best be served, in your committee's judgment, by the retention of these responsibilities in the Office of the Secretary.

[Changes in Existing Law Made by the Bill, as Reported]

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

TITLE I—MANPOWER REQUIREMENTS, DEVELOPMENT, AND UTILIZATION

* * * * *

LABOR MOBILITY DEMONSTRATION PROJECTS

SEC. 104. (a) During the period ending June 30, [1967] *1968*, the Secretary of Labor shall develop and carry out, in a limited number of geographical areas, pilot projects designed to assess or demonstrate the effectiveness in reducing unemployment of programs to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses. In carrying out such projects the Secretary may provide such assistance, in the form of grants or loans, or both, only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, have bona fide offers of employment (other than temporary or seasonal employment), and are deemed qualified to perform the work which they are being employed.

* * * * *

TRAINEE PLACEMENT ASSISTANCE DEMONSTRATION PROJECTS

SEC. 105. During the period ending June 30, [1967] *1968*, the Secretary of Labor shall develop and carry out experimental and demonstration projects to assist in the placement of persons seeking employment through a public employment office who have successfully completed or participated in a federally assisted or financed training, counseling, work training, or work experience program and who, after appropriate counseling, have been found by the Secretary to be qualified and suitable for the employment in question, but to whom employment is or may be denied for reasons other than ability to perform, including difficulty in securing bonds for indemnifying their employers against loss from the infidelity, dishonesty, or default of such persons. In carrying out these projects the Secretary may make payments to or contracts with employers or institutions authorized to indemnify employers against such losses. [Of the funds appropriated for fiscal years ending June 30, 1966, and June 30, 1967, not more than $200,000 and $300,000, respectively, may be used for the purpose of carrying out this section.] *Of the funds appropriated for a fiscal year to carry out this Act, not more than $300,000 may be used for purposes of this section.*

TITLE II—TRAINING AND PROGRAM DEVELOPMENT SKILLS

PART A—DUTIES OF THE SECRETARY OF LABOR

* * * * *

SELECTION OF TRAINEES

SEC. 202. (a) The Secretary of Labor shall provide a program for testing, counseling, and selecting for occupational training under this Act those unemployed or underemployed persons who cannot reasonably be expected to secure appropriate full-time employment without training. Workers in farm families with less than $1,200 annual net family income shall be considered unemployed for the purpose of this Act.

(b) Whenever appropriate the Secretary shall provide a special program for the testing, counseling, selection, and referral of youths, sixteen years of age or older, for occupational training and further schooling, who because of inadequate educational background and work preparation are unable to qualify for and obtain employment without such training and schooling.

(c) The Secretary of Labor shall provide, where appropriate, a special program of testing, counseling, selection, and referral of persons forty-five years of age or older for occupational training and further schooling designed to meet the special problems faced by such persons in the labor market.

[(c)] *(d)* Although priority in referral for training shall be extended to unemployed persons, the Secretary of Labor shall, to the maximum extent possible, also refer other persons qualified for training programs which will enable them to acquire needed skills. Priority in referral for training shall also be extended to persons to be trained for skills needed within, first, the labor market area in which they reside and, second, within the State of their residence.

[(d)] *(e)* The Secretary of Labor shall determine the occupational training needs of referred persons, provide for their orderly selection and referral for training under this Act, and provide counseling and placement services to persons who have completed their training, as well as follow-up studies to determine whether the programs provided meet the occupational training needs of the persons referred.

[(e)] *(f)* Before selecting a person for training, other than for training under subsection (i), the Secretary shall determine that there is a reasonable expectation of employment in the occupation for which the person is to be trained. If such employment is not available in the area in which the person resides, the Secretary shall obtain reasonable assurance of such person's willingness to accept employment outside his area of residence.

[(f)] *(g)* The Secretary shall not refer persons for training in an occupation which requires less than two weeks training, unless there are immediate employment opportunities in such occupation.

[(g)] *(h)* The duration of any training program to which a person is referred shall be reasonable and consistent with the occupation for which the person is being trained.

[(h)] *(i)* Upon certification by the responsible training agency that a person who has been referred for training does not have a satisfactory attendance record or is not making satisfactory progress in such training absent good cause, the Secretary shall forthwith terminate his training and subsistence allowances, and his transportation allowances except such as may be necessary to enable him to return to his regular place of residence after termination of training and withdraw his referral. Such person shall not be eligible for such allowances for one year thereafter.

[(i) Whenever appropriate, the Secretary of Labor may also refer for the attainment of basic education skills those eligible persons who indicate their intention to, and will thereby be able to, pursue courses of occupational training of a type for which there appears to be reasonable expectation of employment. Such referrals shall be considered a referral for training within the meaning of this Act.]

(j) Whenever appropriate, the Secretary of Labor may also refer, for the attainment of basic education and communications and employment skills, those eligible persons who indicate their intention to and will thereby be able to pursue, subsequently or concurrently, courses of occupational training of a type for which there appears to be a reasonable expectation of employment, or who have complete or do not need occupational training but do require such other preparation to render them employable. Such referrals shall be considered a referral for training within the meaning of this Act.

(k) The Secretary of Labor may enter into and agreement with the Secretary of Health, Education, and Welfare for the purpose of furthering the objectives of this Act by facilitating the provision of appropriate physical examinations, medical treatment, and prostheses for persons selected or otherwise eligible to be selected for training under this Act. The agreement may provide that where any such person cannot reasonably be expected to pay the cost of the services and the services are not otherwise available without cost to him from any other resource in the community, there may be expended (from sums appropriated to carry out this title and pursuant to arrangements made by the Secretary of Health, Education, and Welfare) not more than an aggregate of $100 to provide such services to that person. If the Secretary of Health, Education, and Welfare is unable to arrange for the provision of services under this section, the Secretary of Labor may expend not more than an aggregate of $100 to provide such services to any one person.

(l) In order to assist in providing qualified workers in areas or in occupations in which there are critical skill shortages the Secretary of Labor shall, in accordance with

regulations prescribed by him, provide an experimental program for part-time training of persons, including employed persons, to meet such skill shortages.

TRAINING ALLOWANCES

SEC. 203. (a) The Secretary of Labor may, on behalf of the United States, enter into agreements with States under which the Secretary of Labor shall make payments to such States either in advance or by way of reimbursement for the purpose of enabling such States, as agents for the United States, to make payment of weekly training allowances to unemployed persons selected for training pursuant to the provisions of section 202 and undergoing such training in a program operated pursuant to the provisions of the Act. Such payments shall be made for a period not exceeding one hundred and four weeks, and the basic amount of any such payment in any week for persons undergoing training, including uncompensated employer-provided training, shall not exceed $10 more than the amount of the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available: *Provided,* That the basic amount of such payments may be increased by $5 a week for each dependent over two up to a maximum of four additional dependents: *Provided further,* That in any week an individual who, but for his training, would be entitled to unemployment compensation in excess of his total allowance, including payments for dependents, shall receive an allowance increased by the amount of such excess. With respect to Guam and the Virgin Islands the Secretary shall by regulation determine the amount of the training allowance to be paid any eligible person training under this Act.

With respect to any week for which a person receives unemployment compensation under title XV of the Social Security Act or any other Federal or State unemployment compensation law which is less than the total training allowance, including payments for dependents, provided for by the preceding paragraph, a supplemental training allowance may be paid to a person eligible for a training allowance under this Act. The supplemental training allowance shall not exceed the difference between his unemployment compensation and the training allowance provided by the preceding paragraph.

For persons undergoing on-the-job training, the amount of any payment which would otherwise be made by the Secretary of Labor under this section shall be reduced by an amount which bears the same ratio to that payment as the number of compensated hours per week under the training program bears to forty hours.

The training allowance of a person engaged in training under section 204 or 231 shall not be reduced on account of employment (other than employment under an on-the-job training program under section 204) which does not exceed twenty hours per week, but shall be reduced in an amount equal to his full earnings for hours worked (other than in employment under such an on-the-job training program) in excess of twenty hours per week.

(b) The Secretary of Labor is authorized to pay to any person engaged in training under this title, including compensated full-time on-the-job training, such sums as he may determine to be necessary to defray transportation expenses, and when such training is provided in facilities which are not within commuting distance of the trainee's regular place of residence, subsistence expenses for separate maintenance of the trainee: *Provided,* That the Secretary in defraying such subsistence expenses shall not afford any individual an allowance exceeding $35 per week, at the rate of $5 per day; nor shall the Secretary authorize any transportation expenditure exceeding the rate of 10 cents per mile, except in the case of local transportation where he may authorize reimbursement for the trainee's travel by the most economical mode of public transportation, and except that in noncontiguous States and in areas outside the continental United States where the per diem allowance prescribed under section 836 of title 5, United States Code, exceeds the maximum per diem allowance prescribed under that section for contigous States, the Secretary may provide for a reasonable increase in the transportation and subsistence expenses in such amounts as he may deem necessary to carry out the purposes of this Act, and subject to such limitations as he may prescribe.

(c) The Secretary of Labor shall pay training allowances only to unemployed persons who have had at least **[two years]** *one year* of experience in gainful employment: *Provided,* That he shall not pay training allowances to members of a family or a household in which the head of the family or the head of the household as defined in the Internal Revenue Code of 1954 is employed, unless the Secretary determines that such payments are necessary in order for the trainees to undertake or to continue training: *Provided further,* That, no allowances shall be paid to any member of a family or household if the Secretary of Labor determines that the head of such family or household has terminated his employment for the purpose of qualifying such member for training allowances under this section. Notwithstanding the preceding sentence, the Secretary may pay training allowances at a rate not in excess of $20 a week to youths seventeen years of age or older who require such training allowance in order to undertake training, who are referred for training in accordance with section 202(b), and who are not entitled to allowances under the preceding sentence, except that no such training allowance shall be paid to any such youth who has not graduated from high school, unless the Secretary has satisfied himself that such youth has continuously failed to attend school for a period of not less than one year **[and]** *or* that the local authorities after pursuing all appropriate procedures, including guidance and counseling, have concluded, after considering any assistance available under section 13 of the Vocational Education Act of 1963, that further school attendance by such youth in any regular academic or vocational program is no longer practicable under the circumstances. The number of youths under the age of twenty-two who are receiving training allowances (or who would be entitled thereto but for the receipt of unemployment compensation) shall, except for such adjustments as may be necessary for effective management of programs under this section, not exceed 25 per centum of all persons receiving such allowances (or who would be entitled thereto but for the receipt of unemployment compensation). The Secretary of Labor may authorize continued payments of allowances to any youth who becomes twenty-two years of age during the course of his training, if he he has completed a substantial part of training. *Notwithstanding any provision to the contrary in this subsection or in subsection (h), the Secretary may refer to any individual who has completed a program under part B of title I of the Economic Opportunity Act of 1964 to training under this Act, and such individual may be paid a training allowance as provided in section 203(a) of this Act without regard to the requirements imposed on such payments by the preceding sentences of subsection (c) or by subsection (h) of this section. Such payments shall not exceed the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available. Such person shall not be deemed youths for the purpose of applying the provision under this subsection limiting the number of youths who may receive training allowances.*

(d) No training allowance shall be made to any person otherwise eligible who, with respect to the week for which such payment would be made, has received or is seeking unemployment compensation under title XV of the Social Security Act or any other Federal or State unemployment compensation law, but if the appropriate State or Federal agency finally determines that a person denied training allowances for any week because of this subsection was not entitled to unemployment compensation under title XV of the Social Security Act or such Federal or State law with respect to such week, this subsection shall not apply with respect to such week.

(e) A person who refuses, without good cause, to accept training under this Act shall not, for one year thereafter, be entitled to training allowances.

(f) Any agreement under this section may contain such provisions (including, as far as may be appropriate, provisions authorized or made applicable with respect to agreements concluded by the Secretary of Labor pursuant to title XV of the Social Security Act) as will promote effective administration, protect the United States against loss and insure the proper application of payments made to the State under such agreement. Except as may be provided in such agreements, or in regulations hereinafter authorized, determinations by any duly designated officer or agency as to the eligibility of persons for weekly training allowances under this section shall be final and conclusive for any purposes and not subject to review by any court or any other officer.

(g)(1) If State unemployment compensation payments are paid to a person taking training under this Act and eligible for a training allowance, the State making such payments shall be reimbursed from funds herein appropriated. The amount of such reimbursement shall be determined by the Secretary of Labor on the basis of reports furnished to him by the States and such amount shall then be placed in the State's unemployment trust fund account.

(2) If employment benefits under the Railroad Unemployment Insurance Act are paid to a person taking training under this Act and eligible for a training allowance, the railroad unemployment insurance account in the unemployment trust fund shall be reimbursed, from funds herein appropriated, for all of such benefits paid. The amount of such reimbursement shall be determined by the Secretary of Labor on the basis of reports furnished to him by the Railroad Retirement Board and such amount shall then be placed in the railroad unemployment insurance account.

(h) A person who, in connection with an occupational training program, has received a training allowance or whose unemployment compensation payments were reimbursed under the provisions of this Act or any other Federal Act shall not be entitled to training allowances under this Act for one year after the completion or other termination (for other than good cause) of the training with respect to which such allowance or payment was made *unless the Secretary determines that there is good cause to permit an individual referred to further training to receive training allowances so that he may be prepared adequately for full-time employment.*

(i) No training allowance shall be paid to any person who is receiving training for an occupation which requires a training period of less than six days.

(j) To assure the maximum use of training opportunities, the Secretary of Labor is

authorized to make, or cause to be made, advance payments of training allowances or a part thereof to individuals selected for training who, because of immediate financial needs for the maintenance of themselves or their dependents pending receipt of training allowances, would otherwise be unable to enter or continue training. The total advance payments to a trainee under this subsection outstanding at any time shall not exceed the amount of the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the four-calendar-quarter period for which such data are available most immediately prior to the commencement of training by such trainee. Such advance payments shall be repaid either through deductions from training allowances or through other arrangements with such trainee.

(k) Under such standards of the Secretary of Labor find appropriate to achieve the purpose of subsection 202(l), on individual referred to part-time training under such section shall be paid an amount not to exceed $10 with respect to each week in which he is engaged in such training and such payment shall be in lieu of any other payments to which he may otherwise be entitled under this section.

(l) (1) No training allowance shall be paid to any person for any period for which a money payment has been made with respect to the need of that person under a State plan which has been approved under title I, IV, X, XIV, or XVI of the Social Security Act and which meets the requirements of the first sentence of paragraph (2) of this subsection. The Secretary of Labor is authorized to pay to any such person (A) such sums as the Secretary determines to be necessary to defray expenses of that person which are attributable to training pursuant to the provisions of this Act, and (B) a training incentive payment of not more than $20 per week. Persons receiving payments under the preceding sentence shall be counted for purposes of the third sentence of section 203(c) as though they were receiving training allowances.

(2) Notwithstanding the provisions of titles I, IV, X, XIV, and XVI of the Social Security Act, a State plan approved under any such title shall provide that no payment made to any person pursuant to paragraph (1) of this subsection shall be regarded (A) as income or resources of that person in determining his need under such approved State plan, or (B) as income or resources of any other person in determining the need of that other person under such approved State plan. No funds to which a State is otherwise entitled under title I, IV, X, XIV, or XVI of the Social Security Act for any period before the first month beginning after the adjournment of the State's first regular legislative session which adjourns more than sixty days after the enactment of this subsection shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of this paragraph.

* * * * *

PART B—DUTIES OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

GENERAL RESPONSIBILITIES

SEC. 231. The Secretary of Health, Education, and Welfare shall, pursuant to the provisions of this title enter into agreements with States under which the appropriate State [vocational] education agencies will undertake to provide training needed to equip persons referred to the Secretary of Health, Education, and Welfare by the Secretary of Labor pursuant to section 202, for the occupations specified in the referrals, except that with respect to education to be provided pursuant to referrals under subsection (b) or (l) of section 202, the Secretary of Health, Education, and Welfare may make arrangements for the provision of the education to be provided under such subsection through other appropriate education agencies. Such State agencies shall provide for such training through public educational agencies or institutions or through arrangements with private educational or training institutions where such private institutions can provide equipment or services not available in public institutions, particularly for training in technical and subprofessional occupations, or where such institutions can, at comparable cost, (1) provide substantially equivalent training, or (2) make possible an expanded use of the individual referral method, or (3) aid in reducing more quickly unemployment or current and prospective manpower shortages. The State agency shall be paid not more than 90 per centum of the cost to the State of carrying out the agreement, unless the Secretary of Health, Education, and Welfare determines that payments in excess of 90 per centum are necessary because such payments with respect to private institutions *or programs carried out in conjunction with programs or projects under section 102(6)* are required to give full effect to the purposes of the Act: *Provided*, That for the period ending June 30, 1966, the State agency shall be paid 100 per centum of the cost to the State of carrying out the agreement. Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to plant, equipment, and services. Such agreements shall contain such other provisions as will promote effective administration (including provision (1) for reports on the attendance and performance of trainees, (2) for immediate certification to the Secretary of Labor by the responsible training agency with respect to each person referred for training who does not have a satisfactory attendance record or is not making satisfactory progress in such training absent good cause, and (3) for continuous supervision of the training programs conducted under the agreement to insure the quality and adequacy of the training provided), protect the United States against duties to be carried out by such State agency are performed in such fashion as will carry out the purposes of this title. [In the case of any State which does not enter into an agreement under this section, and in the case of any training which the State agency does not provide under such an agreement, the Secretary of Health, Education, and Welfare may provide the needed training by agreement or contract with public or private educational or training institutions.] *The Secretary of Health, Education, and Welfare shall give preference to training and education provided through State vocational education agencies and other State education agencies. However, in any case in which he determines that it would permit persons to begin their training or education within a shorter period of time, or permit the needed training or education to be provided more economically, or more effectively, he may provide the needed training or education by agreement or contract made directly with public or private training or educational facilities or through such other arrangements as he deems necessary to give full effect to this Act.*

RULES AND REGULATIONS

SEC. 232. The Secretary of Health, Education, and Welfare may prescribe such rules and regulations as he may deem necessary and appropriate to carry out the provisions of this part.

ANNUAL REPORT

SEC. *233 Prior to April first of each year, the Secretary of Health, Education, and Welfare shall make an annual report to Congress. Such report shall contain an evaluation of the programs under section 231, the need for continuing such programs, and recommendations for improvement. The reports shall also contain progress reports on the vocational training study which will be conducted under the supervision of the Secretary during 1966 and 1967.*

PART C—REDEVELOPMENT AREAS

SEC. 241. The Secretaries of Labor and of Health, Education, and Welfare, in accordance with their respective responsibilities under parts A and B of this title, are authorized to provide a supplementary program of training allowances, in consultation with the Secretary of Commerce, for unemployed and underemployed persons residing in areas designated as redevelopment areas by the Secretary of Commerce under the Area Redevelopment Act or any subsequent Act authorizing such designation. Such program shall be carried out by the Secretaries of Labor and of Health, Education, and Welfare in accordance with the provisions otherwise applicable to programs under this Act and with their respective functions under those provisions, except that—

"(1) the Secretary of Labor, in consultation with the Secretary of Commerce, shall determine the occupational training or retraining needs of unemployed or underemployed individuals residing in redevelopment areas;

"(2) all unemployed or underemployed individuals residing in redevelopment areas who can reasonably be expected to obtain employment as a result of such training may be referred and selected for training and shall be eligible for training allowances under this section: *Provided*, That the amount and duration of training allowances under this section shall in no event exceed the amount and duration of training allowances provided under section 203(a) of this Act;

"(3) the Secretaries of Labor and of Health, Education, and Welfare shall, each with respect to his functions under this section, prescribe jointly with the Secretary of Commerce such rules and regulations as may be necessary to carry out the purposes of this section; and

"(4) no funds available under this section shall be apportioned to any State pursuant to section 301 of this Act, nor shall any matching funds be required."

PART D—CORRECTIONAL INSTITUTIONS

Sec. 251. Without regard to any other provision of this title or section 301 of this Act, the Secretary of Labor shall, during the period ending June 30, 1969, develop and carry out experimental and demonstration programs of training and education for persons in correctional institutions who are in need thereof to obtain employment upon release. Arrangements for such education and training shall be made by the Secretary of Health, Education, and Welfare after consultation with the appropriate area manpower development and training advisory committee. Programs under this part shall be conducted through agreements with officials of Federal, State, and local correctional institutions. To the fullest extent practicable, the Secretary of Labor shall utilize the available services of other Federal departments and agencies. Programs under this part may include vocational education; special job development and placement activities; prevocational, basic, and secondary education, and counseling, where appropriate; supportive and followup services and such other assistance as is deemed necessary.

TITLE III—MISCELLANEOUS

APPORTIONMENT OF BENEFITS

SEC. 301. For the purpose of affecting an equitable apportionment of Federal expenditures among the States in carrying out the programs authorized under parts *A and B of* title II of this Act, the Secretary of Labor and the Secretary of Health, Education, and Welfare shall [make such apportionment] *apportion 80 per centum of the funds available for such purposes* in accord-with uniform standards and in arriving at such standards shall consider only the following factors: (1) the proportion which the labor force of a State bears to the total labor force of the United States, (2) the proportion which the unemployed in a State during the preceding calendar year bears to the total number of unemployed in the United States in the preceding calendar year, (3) the lack of appropriate full-time employment in the State, (4) the proportion which the insured unemployed within a State bears to the total number of insured employed within such State, and (5) the average weekly unemployment compensation benefits paid by the State. *The remaining 20 per centum may be expended by the Secretary of Labor and the Secretary of Health, Education, and Welfare as they find necessary or appropriate to carry out the purposes of title II.* The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to make reapportionments from time to time where the total amounts apportioned under this section have not been fully obligated in a particular State, or where the State or appropriate agencies in the State have not entered into the necessary agreements, and the Secretaries find that any other State is in need of additional funds to carry out the programs authorized by this Act: *Provided*, That no funds apportioned with respect to a State in any fiscal year shall be reapportioned before the expiration of the sixth month of such fiscal year and only upon 30 days' prior to such State of the proposed reapportionment, except that the requirement for prior notice shall apply with respect to any reapportionment made during the last quarter of the fiscal year.

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APPROPRIATIONS AUTHORIZED

SEC. 304. (a) For the purposes of carrying out title I, there are hereby authorized to be appropriated not in excess of $46,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter such amounts as may be necessary.

(b) For the purpose of carrying out parts A and B of title II, there are hereby authorized to be appropriated not in excess of $385,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter such amounts as may be necessary.

(c) For the purpose of carrying out part C of title II, there are hereby authorized to be appropriated not in excess of $22,000,000 for the fiscal year ending June 30, 1966, and for each year thereafter such amounts as may be necessary.

(d) For the purpose of carrying out part D of title II, there are thereby authorized to be appropriated for the fiscal year ending June 30, 1968, and for the fiscal year ending June 30, 1969, such amounts as may be necessary.

[(d)] *(e)* For the purpose of carrying out title III, there are hereby authorized to be appropriated not in excess of $1,000,000 for the fiscal year ending June 30, 1966, and for each year thereafter such amounts as may be necessary.

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[SECRETARIES' REPORTS

[SEC. 309. (a) Prior to April 1 in each year the Secretary of Labor shall make a report to Congress. Such report shall contain an evaluation of the programs under title I and part A of title II, including the number of persons trained and the number and types of training activities under this Act, the number of unemployed or underemployed persons who have secured full-time employment as a result of such training, and the nature of such employment, the need for continuing such programs, and recommendations for improvement.

[(b) Prior to April 1 in each year the Secretary of Health, Education, and Welfare shall also make a report to Congress. Such report shall contain an evaluation of the programs under Part B of title II, the need for continuing such programs, and recommendations for improvement. The first such report shall also contain the results of the vocational training survey which is presently being conducted under the supervision of the Secretary.]

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[House, Sept. 19, 1966]

MANPOWER DEVELOPMENT AND TRAINING AMENDMENTS OF 1966

Mr. POWELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 16715) to amend the Manpower Development and Training Act of 1962.

The Clerk read as follows:

Mr. POWELL. Mr. Speaker, this marks, if the House agrees, the 56th piece of legislation to be passed by the Committee on Education and Labor since I have had the privilege of serving as the chairman.

The bill embarks on no violent new departures from what had already been tried, and what is, in large part, working out well under existing conditions.

Rather, these amendments, like the present act, are an attempt to build the foundations upon which a national manpower policy can—and someday it will—be built, so that the Nation's most valuable resources—the brains and muscles and ingenuity of its people—can be most effectively utilized in the context of a free economy.

I have not enough praise for Mr. HOLLAND and his idea, the Manpower Development and Training Act, nor for the gentleman from Michigan [Mr. O'HARA], who has done a remarkable job backstopping this legislation during the past year.

Mr. Speaker, this is a bipartisan bill. My good friends on the other side of the aisle who are members of the Committee on Education and Labor have supported it. There are many weaknesses in it. The bill proposes today to strengthen those weaknesses, if not to eradicate them completely.

I yield now the balance of my time to the gentleman from Michigan [Mr. O'HARA].

Mr. O'HARA of Michigan. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. HOLLAND] may revise and extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOLLAND. Mr. Speaker, I am gratified to see before this House once again—and for the third time since its enactment in 1962—legislation amending the Manpower Development and Training Act. The original bill creating that act resulted from public hearings of an ad hoc Subcommittee on Unemployment and the Impact of Automation, created by Chairman POWELL and to which he appointed me chairman. As you remember, in 1961 the economy needed strengthening so that it would produce the large numbers of additional jobs that were needed to offset an unemployment rate of almost 7 percent. The Manpower Development and Training Act, at that time considered almost revolutionary, was one of the first in a series of measures—such as the Vocational Education Act, the Economic Opportunity Act, and so forth—enacted to help upgrade worker's skills, help match people to jobs and reduce unemployment.

As the economy and the manpower situation changed, the Manpower Development and Training Act was adjusted accordingly—in 1963 and again in 1965—each time becoming a more flexible instrument of manpower policy. The job situation has again changed and I am pleased to see this legislation, of which I am so proud, be adapted to work in a period of skills shortages. Manpower policy is important in periods of rising employment and tightening job markets, and measures to improve manpower development and utilization become steadily more important in easing and preventing labor shortages.

The Manpower Development and Training Act has provided the base for a broad range of programs and activities directed toward these complex manpower problems. Since its enactment in 1962, the Manpower Development and Training Act has provided a nationwide occupational training program for unemployed and underemployed workers, including basic education instruction when required, for over 680,000 persons. Of the 480,000 approved for institutional Manpower Development and Training Act programs, nearly 75 percent of those receiving training were subsequently employed. On-the-job training authorized for 193,588 persons has resulted in employment of 94 percent of the trainees completing training. Special youth programs providing severely disadvantaged out-of-work, out-of-school youth—16 through 21—with counseling, testing, prevocational and basic education instruction, job training, placement, and followup services have been equally successful. Redevelopment area training, formerly functioning as a separate program is now provided for as a part of the overall Manpower Development and Training Act manpower program of the Department of Labor.

The legislation we consider today, H.R. 16715, is designed to make certain we will be able to continue and broaden the battle to prevent waste of our human resources and to realize the full productive potential of the American people. H.R. 16715 amends the Manpower Development and Training Act by broadening the eligibility for referral to training, expanding training allowance provisions, providing for broader utilization of experimental and demonstration training projects for inmates of correctional institutions, and making some necessary administrative adjustments. I will not go into further detail on these various amendments, but will let the able gentleman from Michigan [Mr. O'HARA] give you the details of these provisions.

This act was amended in 1963 and 1965 by large majorities in both Houses. The amendments proposed this year have received strong bipartisan support, both in subcommittee and in the full committee. H.R. 16715 was reported favorably from the Committee on Education and Labor with no dissenting vote.

The Manpower Development and Training Act can rightly be called one of the Nation's indispensable weapons in the attack upon manpower problems. I urge you to pass these amendments today so that this act may continue to do its effective job.

Mr. O'HARA of Michigan. Mr. Speaker, as the gentleman from New York has said, H.R. 16715 is a bill to amend the Manpower Development and Training Act of 1962. It comes before the House with the unanimous support of the members of the Committee on Education and Labor, and with the active support, as well, of Members not on the committee, of major segments of the business and labor communities, and, I believe, without major opposition from any quarter.

I cannot say that these amendments are minor ones, or merely technical adjustments in the act; though I can say with confidence that they do not represent any major changes in the direction of the programs that have proven so successful under this act since its inception.

The thread that runs through all these amendments is the wish to make skills training available on a broader basis, with greater flexibility as to the selection of trainees, the payment of training allowances, and the ways in which skills training or retraining can be utilized as a tool to meet the specific needs, not only of those to be trained, but of the community as a whole.

We would make a mistake, Mr. Speaker, if we looked upon the Manpower Development and Training Act as being primarily a service to those who receive the training—though it is such a service and a very important one. Manpower Development and Training Act training has been highly beneficial to industry, in enabling our private enterprise system to find the workers that unceasing technological change requires. Manpower Development and Training Act training has been helpful to the cause of equal employment opportunity. It has been helpful in the great war against poverty. It has helped whole communities recover from major industrial dislocation.

But, in a period in which technological changes are coming more rapidly than most of us begin to realize, in a period when the face of the economy is changing with every passing hour, manpower development and training, successful as it has been, must be continually updated and improved to meet changing needs. This bill is part of that continuing process. I assume, Mr. Speaker, that the committee will come before the House again in future sessions to request further changes. For my own part, Mr. Speaker, I will become suspicious of the manpower development and training program only when—if ever—it becomes a rigid, unchangeable, self-satisfied institution.

Mr. Speaker, one of the questions that is often considered when a measure of this kind comes before the House is its cost. I have some very revealing figures about the true cost of manpower development and training. According to recent figures compiled by the Secretary of Labor, the Federal Government has thus far contributed some $95.8 million for training programs under this act, 53 percent of which has been returned to the Treasury already in the form of taxes paid by the very trainees who have been prepared for remunerative labor by the act. At this rate, the act will pay for itself every 2 years.

Here are some of the details, as they appeared in a story in the New York Times on Saturday, September 3, titled "Wirtz Says Trainee Repays U.S. Outlay in Income Taxes."

"President Johnson said in a Statement today that the Labor Department's on-the-job training programs were paying for themselves. Labor Secretary W. Willard Wirtz reported to him that taxes paid by the average trainee in the programs of the Manpower Development and Training Act compensated the Government for the full cost of his education within two years.

"The average trainee earns $57 a week during his 14-week training program and $73 a week after training. This average income the first year amounts to $3,572, the Secretary said.

"The Government pays about $500 to train one worker under the program. The income taxes paid on an income of $3,572 range from $419 to $74, depending on the number of dependents. More than 45 per cent of the trainees are unmarried, and 15 percent claim only one dependent.

"The incomes of almost 163,800 of the 182,000 people involved in the program since its inception in 1963 are taxable after deductions, Mr. Wirtz said.

"The Government has contributed $95.8-million for the training programs, and the trainees have returned to date $50.5-million in taxes, or more than 53 per cent of the training expenses, he said."

Let me briefly explain the amendments.

Section 2 of the bill amends those sections of the act which establish the experimental relocation and bonding provisions, by extending the life of each for 1 additional year. These provisions are designed to enable the Secretary of Labor to help those trained under the act in finding employment. Under section 104, he may assist unemployed workers to find employment in areas where there is a market for their skills—through grants or loans for reloctaion purposes. This is an experiment which has shown great promise, and a provision to make it a permanent part of the program is embodied in a bill recently passed by the other body. It is the feeling of your committee, Mr. Speaker, that the experiment has not yet proven the case for a permanent program, and, therefore, we propose extending the authority for 1 year, at the same level as is now authorized.

Section 105 of the act allows the Secretary of Labor to assist persons retrained under the act to obtain bonding where necessary to find jobs. As in the relocation experiment, this is a hopeful undertaking, and it may, in the future, be shown that it should be continued on a permanent basis. As of now, however, we ask only that it be continued on a limited experimental basis for 1 more year.

Section 3 of our bill deals primarily with the selection and referral of workers to training under the act. Section 3 (a) establishes a new program of training to meet the employment problems of older workers. The evidence on which this provision is based goes beyond the testimony in the pages of the committee hearings on this legislation alone. Last year, the Select Subcommittee on Labor, under the chairmanship of the gentleman from Pennsylvania (Mr. HOLLAND) conducted several days of hearings on the employment problems of the older worker. Two volumes of testimony taken at that time have been printed and are available for Members. During those hearings, a number of witnesses explained the great many problems which face the worker who is too young to retire and too old to find a new job. These problems, and the solutions to them are too varied to discuss at length here. But a lack of skills is one of these problems, and retraining is certainly one of the answers. As the committee report says, this is no panacea. This simple provision will not eliminate arbitrary and wasteful job discrimination on the grounds of age. But it most certainly will help in one area. The older worker—the worker in his forties or fifties—has many productive years ahead of him. For him to be withdrawn from the labor force because prospective employers think he cannot learn new skills is a serious misuse of our brainpower, energy, and ingenuity. The older worker can be retrained where he needs it, and this bill directs the Secretary of Labor to get about it.

Section 3(b) adds three additional subsections to section 202 of the act—the section governing referral to training. Two stem from a bill, H.R. 14671, originally introduced by the gentleman from California [Mr. BURTON]. The first of these makes a minor but important addition to the present authority to refer persons to training for the attainment of basic education. This was added to the act in 1963, after it had become obvious that a great many potential trainees needed to develop simple skills in arithmetic and reading and writing in order to perform on the job, or even in order to benefit from the skills training itself. In recent years some rather remarkable work has been done at Howard University and elsewhere, in the area of communications and linguistics which tends to show that people, especially but not exclusively in ethnic minority groups, find difficulty in communicating with prospective employers and with the general public, not because of ignorance or illiteracy, but simply because they are raised to speak a distinct dialect from that spoken in the labor market as a whole. The same research has shown that this problem can be solved, once it is recognized. The amendment which will be designated as section 202(j) authorizes the Secretary to refer trainees to courses which will enable them to develop communications skills and other techniques necessary to secure, keep, and adequately perform in a job, as well as for basic education of a more orthodox kind.

This bill adds a new subsection—also in Mr. BURTON's original bill—(k) authorizing the furnishing of medical examinations, treatment, and prosthesis for persons selected or otherwise eligible for training. The problem here has been that a number of prospective trainees have either been unable to enter training or unable to benefit from it because of minor physical defects, easily curable, but which are beyond the sometimes very limited financial resources of unemployed potential trainees. A trainee might need an inexpensive pair of glasses, a hearing aid, or simply a medical examination to determine if he was physically qualified to perform the work for which he is about to be trained. The benefits of the amendment are limited to those persons who cannot reasonably be expected to pay for such services themselves, and where the services are not available free from other community agencies. The amendment specifies that the Secretary of Health, Education, and Welfare should try to furnish the services—presumably through the Public Health Service or vocational rehabilitation program—and, failing this, the Secretary of Labor may spend not more than $100 to provide such services to a given trainee.

The final paragraph of section 3, taken together with section 4(c), makes what I consider, Mr. Speaker, one of the crucial amendments to the act. The Manpower Development and Training Act is not and was never intended to be purely a measure for providing skills training to the totally unskilled and entirely unemployed. From the very beginning, we recognized that skills upgrading was also an important aspect of the program. Persons who have some skills and have a job may find themselves able to benefit from further training in higher skills, so that they may move up the job ladder, leaving their jobs open for persons who can be trained for them, but who might not, without such background, be trainable for the higher level occupations.

Upgrading is beneficial to the employee, of course, but it can also be of real benefit to his employer, and to industry and the public at large. It can be, in many cases, a very economical way of improving the job prospects of two people at once—the upgraded worker and the unskilled applicant who can move into his job when he moves up.

This year's amendments, therefore, underscore the desirability of providing part-time training for persons, including employed persons, on an experimental basis, in areas of critical skill shortages. There are industries, there are States and cities, where some skills are in critical shortage. It is not always possible to train a totally unskilled worker for these jobs, but it is vitally necessary to train someone who can perform them. The second provision in section 4(c)—authorizes a partial training allowance, not to exceed $10 per week, to enable such persons to take advantage of this program. This modest allowance will enable a full-time employee to take such training, to meet the costs of transportation, eating out, or what-have-you, without dipping into his existing earnings.

Let me add a personal note here. The Manpower Development and Training Act legislation has, especially in recent years become more and more a source of real bipartisan pride and cooperation. The provision I have just described meets with the unqualified approval of all members of the subcommittee, but I should mention that it originated in a bill introduced by the gentleman from Minnesota [Mr. QUIE], who has been most helpful in the consideration of this and previous amendments to the act. I am delighted to be able to point the finger of credit to the other side of the aisle where, as in this case, it is so amply merited.

Section 4 of the bill makes alterations in the training allowance provisions of the act, primarily to eliminate some of the inflexible provisions which have caused what I sincerely believe to be unintended hardships facing some trainees. Ostensibly, these provisions could slightly raise the cost of the program. But, I recall the attention of my colleagues to the figures I have read earlier, to the effect that Manpower Development and Training Act training pays for itself in increased tax revenues. Additional training, made possible by more flexible training allowances, by the same reasoning will continue to pay for itself, and to return its cost over and over again to the Treasury.

Section 4(a)(1) reduces the present requirement for prior attachment to the work force from 2 years to 1. There is a good reason for requiring such attachment for eligibility for a training allowance. The act is primarily designed to provide for the retraining of mature workers, not to supplant or even supplement regular vocational education at the high school level. But 1 year's attachment to the work force meets this requirement amply. We have amended the act accordingly.

The act now permits the Secretary of Labor to pay a training allowance to a youth of 17 years or older who has dropped out of school only after every effort has been made to get the young person back into school, and proven unavailing, and a year has elapsed since he left school. The reason for this provision still enjoys the backing of your committee. As I have said before, the act is not supposed to compete with or supplant the orthodox vocational education institutions of which we are so rightly proud in this country. A high school dropout should have the benefit of every means at the community's disposal to persuade him to return to school, where he can get the kind of an education that can open up all kinds of new horizons for him. Only where this is manifestly impossible—only where it just is not in the cards for the young person to reenter the school situation with profit to himself—should he be encouraged to enter Manpower Development and Training Act training instead. This requirement remains in the present bill, with the enthusiastic blessing of the committee. But the present act also requires that the young man remain out of school for an entire year before he can enter a Manpower Development and Training Act program. This bill removes the word "and" and substitutes the word "or" before this requirement.

In the committee's judgment, if it becomes obvious that counseling, guidance, persuasion and all the other means available are not going to get a young man back into the classroom to learn, we are defeating the purpose of the entire provision by making him take a year's "training" in the skills of the streets and back alleys before he can enter into more constructive training. There are some young people who simply cannot benefit from a classroom environment. This may be unfortunate. This may be contrary to the conventional wisdom of the society. But he should be helped, not punished. We are all better off if such young people can be given occupational training as soon as it becomes obvious that this is the only useful road, than if they are made to wait on the doorstep for a year.

Section 4(a)(3) authorizes young persons who have completed a program under the Neighborhood Youth Corps provisions of the Economic Opportunity Act to enter immediately into Manpower Development and Training Act training without suffering a major loss of income by so doing. This subsection, incidentally, is identical to language in H.R. 15111, the poverty bill which has been reported to the House.

Section 4(b) seeks to solve the problem that exists because of the act's present ban on training allowances for a person who is enrolled in a second course immediately after completing one. It does so by allowing the Secretary to pay an allowance in such cases where he believes there is good cause to do so. This is primarily, but not exclusively, designed to meet those situations where a man drops out of a course for reasons beyond his control, or where he completes one and finds that because of economic shifts in his community the course has not in fact prepared him for employment. In such cases, your committee did not feel the trainee should have to wait an entire year before being eligible for a training allowance.

Section 4(c) adds three new subsections to section 203 of the act. The first, which originated as H.R. 14737, by the gentleman from New York [Mr. POWELL], shall be designated section 203(j), allowing the Secretary to make advance payments of training allowances to trainees who cannot otherwise enter training because of immediate and pressing financial need. Section 203(k), I have already discussed. It is an integral part of the amendment allowing part-time training. Section 203(l), which originated with the gentleman from New York [Mr. HANLEY], is an attempt to solve a very bothersome problem affecting persons on public assistance who are referred to Manpower Development and Training Act training. As the law now reads, the income that such persons receive must be subtracted from their income under public assistance, leaving no immediate financial incentive for the recipient to enter training. But what is worse is that the administrative arrangements between the two very different programs can become very complicated, and very bureaucratic, and it occasionally happens that either the public assistance people do not find out a trainee is receiving a training allowance—and he gets both—or they do not find out that he has completed his training—and he gets neither. In order to simplify the entire matter, and after consultation with the Social Security Administration of HEW, your committee has amended this bill to allow persons who—or whose families—are public assistance beneficiaries under the Social Security Act, to receive an incentive payment of no more than $20 per week in lieu of a training allowance. This incentive payment shall not be considered as income for purposes of the Social Security Act, and need not, therefore, be subtracted from public assistance payments.

Section 5(a) of the bill rewrites the last sentence of section 231 of the act, and deals primarily with the relationship between the Secretary of Health, Education, and Welfare and the State vocational education agencies. This amendment is more in the nature of a reemphasis of a previous decision of the Congress than an amendment. In the basic act, the Secretary of HEW is directed to make the actual arrangement for training with the States. It is visualized that the States, through their educational agencies will set up training courses, but that the Secretary can, where necessary or desirable, make contracts directly with other agencies or organizations for the provision of such training.

The existing law, in the committee's opinion, has in some cases been interpreted with excessive rigidity and strictness by both State agencies and the General Accounting Office. While there is a preference, as a matter of policy, for working directly through State public education agencies, the talents and resources of the private training institutions, and of private nonprofit agencies, should not be ignored. There is so much to do in this area that we cannot afford to have bureaucratic jealousies slow down the provision of training. In order to reemphasize our feeling on this matter, the committee has amended section 231. For the first time, we have spelled out the preference that is meant to be accorded to the public agencies. But we have also directed that the Secretary of HEW may make contracts for the providing of training with public or private training or educational institutions or agencies whenever it will speed up the provision of training, or permit the training to be given more economically, or more effectively.

The intent of your committee at this point, Mr. Speaker, is to give the Secretary of HEW whatever flexibility he needs to get on with the job, and to get people into training. Your committee is not interested in taking sides in the competition between public vocational education agencies and private training schools. This competition, to the extent that it makes both perform better, is a good thing. But neither type of institution has any area carved out for in this act. Neither has any area of fenced-in range, which they can develop at their leisure because their competitor cannot get into it. That, Mr. Speaker, is the intention of the committee, and I trust, of the House and of the entire Congress. On behalf of my colleagues on the committee, I ask that those responsible for the administration of this program take special note of this part of these remarks. Our subcommittee intends to carry out a continuing review of this program, and the interpretation of this section shall be central to our review.

Section 5(b) of the bill is here because we are keeping a promise that was made to this House in 1965, when this bill was amended. When the act was originally passed, in 1962, it provided for 100 percent Federal financing through June 30, 1964, and for Federal-State cost sharing thereafter. In 1963, and again in 1965, the 100 percent Federal financing was extended. In 1965, firm commitments were given that the States would begin to finance their share of this program after the end of fiscal year 1966.

That promise, Mr. Speaker, has been kept. The States are now sharing the costs. No serious recommendation was made to the committee that the cost-sharing date be further delayed, with one very minor exception which is embodied in section 5(b) of the bill. This relates to the training cost increment of certain experimental and development programs carried on under title I. Hitherto, these programs have been carried on without objection by many of the States because the States were not contributing to them. Under the act's terminal date for 100 percent Federal financing, however, the States would have to bear 10 percent of the training cost increment of every project in a State, even if they were experimental and demonstration projects.

This would give the individual States an effective veto power over E. & D. projects which might well have a major national impact, but which a State might understandably balk at helping, even in a minor way, to finance. The training costs of such projects, therefore, has been exempted from the otherwise all-inclusive provision that, beginning in this fiscal year, the States must contribute 10 percent of the training costs of all Manpower Development and Training Act projects within their respective borders.

Section 6, Mr. Speaker, is the only major addition to the act embodied in this year's amendments. Originating in a bill introduced by the gentleman from Florida (Mr. BENNETT), it adds a new part D to title II, authorizing the Secretary of Labor to conduct an experimental program ending June 30, 1969, of training for persons in correctional institutions. None of the proposed amendments to Manpower Development and Training Act this year have brought forth more comment, or more interest. Prison officials from States all over the country have testified or written to the subcommittee in support of this proposal. The Secretary of Labor has testified before the subcommittee with respect to the magnificent results that pilot projects at Federal institutions at Lorton and Riker's Island have shown. This amendment can be of major importance in reducing recidivism and in offering new hope to the men in correctional institutions, and to the taxpayer whose burden in maintaining such institutions can be materially reduced as inmates are encouraged and equipped to lead productive working lives upon their release.

Two problems were faced by the committee in considering this legislation, and the committee's report deals directly with them. The pertinent paragraphs read as follows:

". . . the committee feels that great care must be taken to insure that such training does not result in any increase in the production of goods in competition with free labor. Your committee removed the phrase 'on-the-job training' from this proposal because we were not prepared to see MDTA finance day labor by prison inmates in competition with free labor.

"Suggestions for special programs for parolees and probationers were not adopted since there is nothing in the act now which prevents the Secretary from referring a parolee or probationer to training. The bonding provisions of section 105 of the act which this bill extends for an additional year are designed, in part, to assist such persons. Your committee has also taken note of the phenomenon in which paroled prisoners have been helped to secure employment only to find that the employer uses his relationship with the parolee and with the parole officer to prevent legitimate union organizational activity. The Secretary of Labor is urged by the committee to make full use of this amendment, but, at the same time, to take great care that such abuses as those mentioned above are not carried out under the protective umbrella of MDTA."

Section 7 of the bill alters the apportionment formula in the act, making it applicable only to the first 80 percent of the funds appropriated under title II. The remaining 20 percent of the total appropriated is reserved for the Secretary of Labor and the Secretary of Health, Education, and Welfare, to apply as they see fit to carry out the purposes of the title. It is the committee's intention that such funds should be used primarily to set up training programs in States where there exist substantial and critical skills shortages, but where the basic apportionment formula does not adequately cover the situation. The existing formula—and it is a good one—concentrates the funds largely in areas where there is substantial unemployment. And, indeed, this is where a major portion of the money should go. But this act is not a relief measure. It is not strictly a grant-in-aid measure of the traditional kind. It is meant to help the Nation meet both problems of unemployment and problems of skill shortages. The reservation of this 20 percent of the funds, with the understanding set forth in these remarks and in the committee report, should help substantially in this area of concern.

Finally, section 8 of the bill repeals the requirement for an annual report on this act by the Secretary of Labor, largely because the Labor Department also participates in a major way in the preparation of the President's annual manpower report, and the Department report would be necessarily somewhat repetitive. The requirement that the Department of Health, Education, and Welfare make an annual report to the Congress on this act has been maintained.

Mr. Speaker, I have outlined the basic provisions of the bill before us. I think they are, in every case, reasonable and needed amendments to this vital and highly useful act. But, with the permission of the chairman of my subcommittee (Mr. HOLLAND), I wish to make a further commitment to this House, on behalf of the subcommittee. We are concerned over the lack of coordination between the Manpower Development and Training Act and related programs, including the war on poverty and others. At the beginning of the next Congress, it is the intention of the present members of the subcommittee to embark upon a thorough, detailed, professional study of the manpower training and work experience programs financed by the Federal Government, with a view to eliminating duplication, increasing efficiency and devoloping an overall policy in this vital area.

In this study, as in the preparation of this present bill, we look forward to working in the closest cooperation with the minority members of the subcommittee. It is our hope that at some point in the next Congress, we may be able to present to the House a series of basic amendments to the legislation in question, if basic amendments are in fact required; recommendations for administrative rearrangements, if they are in fact needed; and a broad, overall report to the Congress on manpower policy for the years immediately ahead.

In conclusion, Mr. Speaker, let me say that I am very proud of having had the opportunity to work on this important legislation under the chairmanship of a good friend and wise counselor, the gentleman from Pennsylvania (Mr. HOLLAND). The Manpower Development and Training Act can be said, if any bill can be said to be so, "ELMER HOLLAND'S baby." This year's amendments, like those of previous years, bear his name, and his stamp. He presided over the deliberations of our subcommittee where we were able, with speed and without wasted motion, to give careful consideration to a host of proposals, sort out the good ones from the bad and come up with a bill which, once again, enjoys the unanimous support of the members of Mr. HOLLAND'S subcommittee, the full Education and Labor Committee, and, I hope, of an overwhelming majority of the Members of this House.

Mr. AYRES. Mr. Speaker, I strongly support this legislation, because I feel that it strengthens the Manpower Development and Training Act in several essential respects. One significant omission in the existing law is the lack of any training program for older workers. The bill we are considering corrects this omission.

I wish to commend the members of the subcommittee for the excellent work they have done in developing this proposal. I wish particularly to commend the efforts of my esteemed colleague, the gentleman from Minnesota (Mr. Quie), who played an important role in producing the measure. I hope the House will give its overwhelming approval to the bill.

Mr. QUIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say that when this bill was first reported from our committee and enacted into law, I was a strong supporter of the bill, I helped in its development, and I was pleased to see that our committee took expeditious action in perfecting a piece of legislation that will long be supported by people on both sides of the aisle.

Also, as was stated earlier, there have been some mistakes. There have been some defects which must be corrected. We have in this bill made some of these changes and amendments to the act that are required both or correction of mistakes and for improvement and expansion of the program.

I believe the changes are well drawn. The Members on our side of the aisle gave complete and wholehearted support to this legislation. There is no controversy in connection with it. Rather than take any more of the time of the House, I will just say that we will give wholehearted and complete support to it. We look forward to the development of further studies of manpower training in order that we can reach all of the people who have the capability but not the skills to hold down the job which everyone needs in order to have an adequate income.

Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania (Mr. FULTON) may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FULTON of Pennsylvania. Mr. Speaker, I strongly favor the Manpower Development and Training Act Amendments of 1966 as good advances in a good program. I have voted for the original Manpower Development and Training Act of 1962, and the amendments in 1963 and 1965. This act is necessary to adjust people to the new challenges of our scientific advances which suddenly make useless hard-learned skills and experience, of whole groups of our workers. We in Congress must provide further advances of this manpower training program.

I favor particularly the amendment directing the U.S. Secretary of Labor to prepare programs to meet the special employment needs of workers 45 years of age and older. Our U.S. society and our U.S. economy must prepare these workers by education and training for continued productive employment, gainful to them and their families, and to U.S. progress and U.S. industry as well.

It is clear that these workers 45 years of age and older are substantial, experienced, and productive. They are not too old to work, they are clearly too young to retire or face forced retirement, without productive use of their capabilities, experience, and judgment.

This legislation is a strong step in the direction of constructive action to meet technological unemployment in our changing U.S. economy. I favor quick passage.

Mr. DENT. Mr. Speaker, I join the members of our committee in supporting this legislation.

To my mind, as has been said both by the gentleman from Minnesota (Mr. QUIE), the gentleman from New York (Mr. POWELL), and the gentleman from Michigan (Mr. O'HARA), this is one of the most important pieces of legislation that this Congress will deal with. I am happy because a small piece of this bill incorporates a bill which I introduced in which I was trying to make it possible for the facilities of private training schools in the United States to be used. There are thousands of these private training schools that have these facilities, and they can be used where public vocational schools are not available. Where the public vocational schools are available, if the private training schools are more useful at that particular time, then we will use those facilities. That is the section of the bill that I have been interested in and which is incorporated in these changes made here today.

Mr. Speaker, I am happy to add my support to the passage of H.R. 16715, a bill to amend the Manpower Development and Training Act. I am always happy to follow the lead of my distinguished and beloved colleague from Pennsylvania (Mr. HOLLAND), but in this case, I am doubly gratified since one of the provisions of this bill, section 5(a), is based on my own bill, H.R. 14637. This provision is designed to simplify the procedures involved in enabling the Secretary of Health, Education, and Welfare to utilize the expertise of the private sector of the vocational education structure. The act has been previously amended to relax what had become barriers against the use of such institutions, but the previous amendments seem to have been interpreted in some quarters in a most restrictive manner.

Mr. Speaker, section 5(a) of this bill should, when it becomes law, remove any doubts as to the propriety of utilizing qualified and available institutions outside the regular public vocational education structure. This act, we ought to remember, was not designed as an "aid to vocational education" act. It was designed and intended to make it possible to train people in new skills. The source of that training ought to be a secondary consideration, and ought to be determined entirely on a basis of what will get the training underway most rapidly and provide the best training. If public vocational schools are able to cooperate in a timely and effective manner, they should be used. If private trade schools are, in a given situation, better able to meet the needs of the trainees and of the program, then they should be utilized. The private institutions have performed splendidly so far, and under the terms of section 5(a), it is my hope, the Department of Health, Education, and Welfare will feel even more free to use their resources wherever it is appropriate and wherever it will accomplish the fundamental purpose of the act—to get workers retrained.

I urge passage of this bill.

Mr. BENNETT. Mr. Speaker, I want to express my deep appreciation to the Select Subcommittee on Labor for allowing me to testify in the hearings on amendments to the Manpower Development and Training Act. I warmly thank and commend the committee for including in section 6 of its omnibus bill the provisions of my bill H.R. 16116, to develop and carry out experimental and demonstration programs of training and education for persons in correctional institutions. I will restrict my remarks to section 6 since I am most familiar with the problem to which this section relates.

The basic tool in the rehabilitation of criminals is education, and a discharged prisoner without the knowledge and training to earn an honest living will probably soon be in criminal trouble again. This is a tragedy to him and very expensive to society. Of particular importance is training for the types of jobs where there is at the same time a shortage of manpower.

With crime costing our country $27 billion annually, we must do all we can to deter lawbreaking and to train the lawbreaker to live a responsible life in society.

As I pointed out in my testimony before the Select Subcommittee on Labor, it is estimated that 50 percent of released Federal and State prisoners resort to recidivism, a falling back into prior criminal habits. This percentage can be greatly reduced by adequate preparation for self-support when the prisoner is released.

To attack this problem I first introduced H.R. 14341, which was drafted with the help of many corrections officials and the Department of Labor, and would have established a sweeping program in the field of vocational training and basic education in correctional institutions on the Federal, State, and local level. Although the Department of Labor has no objection to such a broad program they feel more experimentation is needed before such should be attempted. It is for this reason that I submitted to the committee a new bill, the provisions of which are included in the bill now under consideration, which would limit the scope of the program in correctional institutions to experimentation and demonstration programs. It is, of course, a much less expensive program than the one originally envisioned.

This section of the bill will be a forward step in the anticrime fight, and I am glad to see the committee has seen fit to include this in the bill now before us.

Mr. HATHAWAY. Mr. Speaker, I add my support to the comments already made on behalf of H.R. 16715, the Manpower Development and Training Act Amendments of 1966. As the gentleman from Michigan (Mr. O'HARA) has already pointed out, this bill really began with contributions from a number of Members of the House. Section 4(a) (2) constitutes my own contribution to this legislation, which originated as H.R. 15467. Simply stated, my bill, and the related provision in this bill, were an effort to make it easier for young people to avail themselves of the Manpower Development and Training Act training if they have, for some reason which cannot easily be remedied, dropped out of school.

The existing law envisions admitting such people to the Manpower Development and Training Act training, but requires that a year elapse between their leaving school and their eligibility for a training allowance, and also requires that every conceivable effort be made to get them back into school.

No one, Mr. Speaker, objects to making such efforts. Counseling, guidance, and all of the persuasive talents of which the society is possessed ought to be utilized to get school-aged dropouts back into school. It is where they belong, and where they, in my judgment, can best be served. But there are cases where this is simply not possible. Young people perhaps rashly, get married. Young people, tragically, may have to support parents. Young people, for reasons which only the experts can even begin to understand, may find themselves totally unable to profit from an orthodox school environment. In these cases, where the best efforts to get them back into the classroom have failed, it seems to me that it should not be necessary to wait a year before the Manpower Development and Training Act training, if it is what they ought to have, can begin, and training allowances begin, as well.

It is not my intention, and, I believe, not the intention of the committee, that this provision should be used as an easy escape valve for those who can profit from regualr schooling, but want to make a quick buck instead.

I believe firmly that the requirement that the Secretary be certain—I emphasize the word "certain"—that the young man or woman cannot usefully return to the regular school system, should be fully complied with. But when it is complied with, let us not then wait 6 or 8 or 10 months before trying to see if that same young man or woman can benefit from the Manpower Development and Training Act training.

I support, of course, the remainder of H.R. 16715. These amendments to the act are as the gentleman from Michigan has indicated, not monumental in their effect, but they are useful, and they serve the important purpose of maintaining the flexibility of an important part of our national machinery for coping with the economic and with the human problems of our growing and changing economy.

The SPEAKER. The question is on the motion of the gentleman from New York (Mr. POWELL) that the House suspend the rules and pass the bill H.R. 16715.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

For text, see P.L. 89-792, below.

[Senate, Oct. 13, 1966]

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, and that the Senate turn to the consideration of Calendar No. 1680, H.R. 16715.

The PRESIDING OFFICER (Mr. PELL in the chair). Without objection, the pending business will be laid aside temporarily.

The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 16715) to amend the Manpower Development and Training Act of 1962.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, this measure was reported favorably, and I believe unanimously, by the Committee on Labor and Public Welfare.

When the Manpower Development and Training Act was passed in 1962, it was designed primarily to deal with the problems faced by the experienced worker who had been or was about to be displaced by technological or other economic change.

The changes that have subsequently occurred in the Nation's economy, notably the substantial reduction in the unemployment rate, have required a corresponding evolution in the emphasis and direction of the training and research programs provided by the act.

The 1966 amendments to Manpower Development and Training Act do not alter the basic objectives of the act. But they do provide a needed flexibility to its program and its administration which will permit a more effective effort in dealing with the manpower problems of the Nation in the last half of this decade—problems of the disadvantaged and the hard-core unemployed and the growing problem of skill shortages in some areas and some occupations.

From its enactment in 1962, the Congress has looked upon the Manpower Development and Training Act not as a static or fixed statute but as a living, changing law—always responsive to manpower problems as they emerge. New pathways to employment, new patterns of training have developed from the constant search for better ways of fulfilling the legislation's mandate. The support for this flexible and versatile approach is evidenced by our action in enacting amendments in 1963 and 1965, with large majorities, and by now again proposing a variety of legislative changes to make this an even more effective manpower development and training program.

The rapid change in the nation's economic climate underscores the need for flexibility. The Manpower Development and Training Act, at its conception, was an emblem of the effort to reduce high unemployment rates and soften the impact of a fast-growing labor force in a time of rapid technological change. Yet, at a time when unemployment has moved below 4 percent, the striking relevance of the law has been sustained. What might have been considered in its initial stages as an antiemployment device, a mechanism whereby the unemployed could move into jobs, serves equally well in a period of economic expansion as an instrument for meeting skill shortages and for increasing the quality of skills in the labor force.

H.R. 16715 passed the House on September 19 by a voice vote under suspension of the rules. It will help perfect the act and will not require additional appropriations. That it received total bipartisan support in committee and on the floor is evidenced by the speech of Representative Quie, Republican, of Minnesota:

"I believe the changes are well drawn. The Members on our side of the aisle gave complete and wholehearted support to this legislation. There is no controversy in connection with it. Rather than take any more of the time of the House, I will just say that we will give wholehearted and complete support to it. We look forward to the development of further studies of manpower training in order that we can reach all of the people who have the capability but not the skills to hold down the job which everyone needs in order to have an adequate income."

Mr. Ayres, senior Republican on the House Committee on Education and Labor, seconded this sentiment:

"I strongly support this legislation, because I feel that it strengthens the Manpower Development and Training Act in several essential respects. One significant omission in the existing law is the lack of any training program for older workers. The bill we are considering corrects this omission.

"I wish to commend the members of the subcommittee for the excellent work they have done in developing this proposal. . . . I hope the House will give its overwhelming approval to the bill."

The House bill was unanimously approved, without amendment, by the subcommittee and the full Committee on Labor and Public Welfare. The major provisions of the bill would—

First. Direct the establishment of special programs of testing, counseling, selection and referral of older workers for training and other programs.

Second. Authorize the Secretary of Labor to provide experimental programs of part-time training for workers in areas where there are critical skill shortages.

Third. Authorize experimental programs of training and education for inmates of correctional institutions.

There are a number of other provisions, whose explanation and justification can be found on pages 28–32 of the Senate hearings. As I indicated earlier, the bill requires no new authorization and has strong support of major segments of the business and labor communities as well as active bipartisan congressional support.

I enthusiastically recommend the enactment of these amendments to an act which is universally recognized as one of the Nation's most positive and successful solutions to continuing manpower problems.

The Presiding Officer. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 16715) was ordered to a third reading, was read the third time, and passed.

Public Law 89–792, 89th Congress, H.R. 16715, November 7, 1966

An act to amend the Manpower Development and Training Act of 1962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Manpower Development and Training Amendments of 1966".

Sec. 2.(a) Section 104(a) of the Manpower Development and Training Act of 1962 (hereinafter referred to as "the Act") is amended by striking out "1967" and inserting in lieu thereof "1968".

(b) Section 105 of the Act is amended by striking out "1967" where it appears in the first sentence and inserting in lieu thereof "1968", and by amending the last sentence thereof to read as follows: "Of the funds appropriated for a fiscal year to carry out this Act, not more than $300,000 may be used for purposes of this section."

Sec. 3. (a) Section 202 of the Act is amended by redesignating subsection (c) through (h), and all cross references thereto, as (d) through (i), respectively, and by inserting after subsection (b) the following new subsection:

"(c) The Secretary of Labor shall provide where appropriate, a special program of testing, counseling, selection, and referral of persons forty-five years of age or older for occupational training and further schooling designed to meet the special problems faced by such persons in the labor market."

(b) Section 202 of the Act is further amended by striking out the last subsection and inserting in lieu thereof the following new subsections:

"(j) Whenever appropriate, the Secretary of Labor may also refer, for the attainment of basic education and communications and employment skills, those eligible persons who indicate their intention to and will thereby be able to pursue, subsequently or concurrently, courses of occupational training of a type for which there appears to be a reasonable expectation of employment, or who have completed or do not need occupational training but do require such other preparation to render them employable. Such referrals shall be considered a referral for training within the meaning of this Act.

"(k) The Secretary of Labor may enter into an agreement with the Secretary of Health, Education, and Welfare for the purpose of furthering the objectives of this Act by facilitating the provision of appropriate physical examinations, medical treatment, and prostheses for persons selected or otherwise eligible to be selected for training under this Act. The agreement may provide that where any such person cannot reasonably be expected to pay the cost of the services and the services are not otherwise available without cost to him from any other resource in the community, there may be expended (from sums appropriated to carry out this title and pursuant to arrangements made by the Secretary of Health, Education, and Welfare) not more than an aggregate of $100 to provide such services to that person. If the Secretary of Health, Education, and Welfare is unable to arrange for the provision of services under this section, the Secretary of Labor may expend not more than an aggregate of $100 to provide such services to any one person.

"(l) In order to assist in providing qualified workers in areas or in occupations in which there are critical skill shortages the Secretary of Labor shall, in accordance with regulations prescribed by him, provide an experimental program for part-time training of persons, including employed persons, to meet such skill shortages."

Sec. 4. (a) Section 203(c) of the Act is amended—

(1) by striking out in the first sentence "two years" and inserting in lieu thereof "one year",

(2) by striking out in the second sentence "not less than one year and" and inserting in lieu thereof "not less than one year or", and

(3) by adding at the end thereof the following: "Notwithstanding any provision to the contrary in this subsection or in subsection (h), the Secretary may refer any individual who has completed a program under part B of title I of the Economic Opportunity Act of 1964 to training under this Act, and such individual may be paid a training allowance as provided in section 203(a) of this Act without regard to the requirements imposed on such payments by the preceding sentences of subsection (c) or by subsection (h) of this section. Such payments shall not exceed the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available. Such persons shall not be deemed youths for the purpose of applying the provision under this subsection limiting the number of youths who may receive training allowances."

(b) Section 203(h) of the Act is amended by inserting before the period at the end thereof the following: "unless the Secretary determines that there is good cause to permit an individual referred to further training to receive training allowances so that he may be prepared adequately for full-time employment."

(c) Section 203 of the Act is amended by adding at the end thereof the following new subsections:

"(j) To assure the maximum use of training opportunities, the Secretary of Labor is authorized to make, or cause to be made, advance payments of training allowances or a part thereof to individuals selected for training who, because of immediate financial needs for the maintenance of themselves or their dependents pending receipt of training allowances, would otherwise be unable to enter or continue training. The total advance payments to a trainee under this subsection outstanding at any time shall not exceed the amount of the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the four-calendar-quarter period for which such data are available most immediately prior to the commencement of training by such trainee. Such advance payments shall be repaid either through deductions from training allowances or through other arrangements with such trainee.

"(k) Under such standards as the Secretary of Labor may find appropriate to achieve the purposes of subsection 202(l), an individual referred to part-time training under such section shall be paid an amount not to exceed $10 with respect to each week in which he is engaged in such training and such payment shall be in lieu of any other payments to which he may otherwise be entitled under this section.

"(l)(1) No training allowance shall be paid to any person for any period for which a money payment has been made with respect to the need of that person under a State plan which has been approved under title I, IV, X, XIV, or XVI of the Social Security Act and which meets the requirements of the first sentence of paragraph (2) of this subsection. The Secretary of Labor is authorized to pay to any such person (A) such sums as the Secretary determines to be necessary to defray expenses of that person which are attributable to training pursuant to the provisions of this Act, and (B) a training incentive payment of not more than $20 per week. Persons receiving payments under the preceding sentence shall be counted for purposes of the third sentence of section 203(c) as though they were receiving training allowances.

"(2) Notwithstanding the provisions of titles I, IV, X, XIV, and XVI of the Social Security Act, a State plan approved under any such title shall provide that no payment made to any person pursuant to paragraph (1) of this subsection shall be regarded (A) as income or resources of that person in determining his need under such approved State plan, or (B) as income or resources of any other person in determining the need of that other person under such approved State plan. No funds to which a State is otherwise entitled under title I, IV, X, XIV, or XVI of the Social Security Act for any period before the first month beginning after the adjournment of the State's first regular legislative session which adjourns more than sixty days after the enactment of this subsection shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of this paragraph."

Sec. 5. (a) Section 231 of the Manpower Development and Training Act is amended by striking out "vocational" in the first sentence, and by striking out the last sentence of such section and inserting the following in lieu thereof: "The Secretary of Health, Education, and Welfare shall give preference to training and education provided through State vocational education agencies and other State education agencies. However, in any case which he determines that it would permit persons to begin their training or education within a shorter period of time, or permit the needed training or education to be provided more economically, or more effectively, he may provide the needed training or education by agreement or contract made directly with public or private training or educational facilities or through such other arrangements as he deems necessary to give full effect to this Act."

(b) The third sentence of section 231 is amended by adding, after the words "with respect to private institutions", the words "or programs carried out in conjunction with programs or projects under section 102(6)"

SEC. 6. (a) Title II of the Act is amended by adding at the end thereof the following:

"PART D—CORRECTIONAL INSTITUTIONS

"SEC. 251. Without regard to any other provision of this title or section 301 of this Act, the Secretary of Labor shall, during the period ending June 30, 1969, develop and carry out experimental and demonstration programs of training and education for persons in correctional institutions who are in need thereof to obtain employment upon release. Arrangements for such education and training shall be made by the Secretary of Health, Education, and Welfare after consultation with the appropriate area manpower development and training advisory committee. Programs under this part shall be conducted through agreements with officials of Federal, State, and local correctional institutions. To the fullest extent practicable, the Secretary of Labor shall utilize the available services of other Federal departments and agencies. Programs under this part may include vocational education; special job development and placement activities; prevocational, basic, and secondary education, and counseling, where appropriate; supportive and followup services and such other assistance as is deemed necessary."

(b) Section 304 of the Act is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d) For the purpose of carrying out part D of title II, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1968, and for the fiscal year ending June 30, 1969, such amounts as may be necessary."

SEC. 7. Section 301 of the Act is amended by inserting "parts A and B of" before "title II" in the first sentence, by striking out the words "make such apportionment" in the first sentence and inserting in lieu thereof "apportion 80 per centum of the funds available for such purposes", and by inserting after the first sentence the following new sentence: "The remaining 20 per centum may be expended by the Secretary of Labor and the Secretary of Health, Education, and Welfare as they find necessary or appropriate to carry out the purposes of title II."

SEC. 8. (a) Section 309 of the Act is repealed.

(b) Part B of title II of the Act is amended by adding at the end thereof the following new section:

"ANNUAL REPORT

"SEC. 233. Prior to April first of each year, the Secretary of Health, Education, and Welfare shall make an annual report to Congress. Such report shall contain an evaluation of the programs under section 231, the need for continuing such programs, and recommendations for improvement. The reports shall also contain progress reports on the vocational training study which will be conducted under the supervision of the Secretary during 1966 and 1967."

Approved November 7, 1966.

AID FOR PRIVATE AND PAROCHIAL SCHOOLS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ROONEY of New York. Mr. Speaker, I am today introducing legislation providing Federal income tax credits for individuals for tuition paid for dependents in private, nonprofit elementary and secondary schools. The tax credit allowed under my bill would be 50 percent of the tuition paid for each dependent up to a maximum of $500 per dependent. Such extras as transportation, books, extracurricular activity fees, and lunches would not be covered by the tax deduction.

Mr. Speaker, the purposes of this bill are twofold—to relieve the financial burden and to head off the collapse of the private and parochial school systems around the country. The costs of both private and public education have soared over the past few years and many parents now find themselves facing an almost intolerable burden of supporting the public school system through taxes and the private schools through ever increasing tuition fees. Yet at the same time many private and parochial schools cannot raise their tuition to meet their costs lest they drive away students without the wherewithall to pay. The prospect of the collapse of the private and parochial schools is a very real one and this would, if it came about, place an intolerable burden on already overcrowded public school systems. In New York State alone there are, according to the latest figures available, 841,378 students in 1,967 nonpublic schools, both elementary and secondary. Every educator in the State will tell you that if these almost 1 million students were dumped into the public school system, which already has 3,422,809 students enrolled, it would be utter chaos and present financial burden that could cripple the whole system.

The Office of Education estimates that the average per-pupil expenditure for public elementary and secondary schools throughout the country to be $858 per year. The cost then to New York State to absorb the pupils in the private and parochial schools in New York would be almost three quarters of a billion dollars—and frankly, neither the State nor the city of New York could afford it.

The situation obviously needs action and needs it fast. There is no question that the public schools are, and should remain, the backbone of our educational system. But if something is not done to help the private and parochial schools, around the country they will cease to exist, and their demise could well wreck many of the Nation's public school systems. There are now approximately 5.1 million pupils in private and parochial elementary and secondary schools in the Nation, while an additional 45.9 million children attend public schools. This bill is intended to help them all, and the children who came after them, to get the education that is rightfully theirs.

It would also provide relief to parents and to the private school systems by allowing them to charge fair tuitions and thus to grow to fit the need thereby easing the pressure on the public school system. Mr. Speaker, I believe that virtually every taxpayer in the country would receive directly or indirectly some benefit from this bill—certainly every school system would.

CONGRESSMAN WYDLER PRAISES SAINT VLADIMIR UKRAINIAN CATHOLIC CHURCH ON DEDICATION OF ITS PARISH CENTER

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. WYDLER. Mr. Speaker, recently, on March 12, I had the pleasure of attending the dedication of the Parish Center of St. Vladimir Ukrainian Catholic Church, in Uniondale, N.Y., in my congressional district. It was an important day in the life of our community, as this beautiful structure was dedicated to the service and love of God. I can well remember many years ago, when the property was first purchased by the church, and I attended picnics on the grounds, where the hopes and plans for the future of the land were discussed. Those hopes and dreams have now become reality, and I salute the congregation for their great sacrifices which have made this project and dream come true.

Quite properly, the pastor of the congregation, the Reverend Emile Sharanevych, saluted the occasion with some words entitled "A Great Day":

A GREAT DAY

(By Rev. Sharanevych)

This is a great day for our parish, for it represents the successful completion of a project which has been near our hearts and uppermost in our minds for many years.

Everyone who has the welfare of our parish at heart rejoices today at the opening of this modern building which will be the center of our various parish activities.

This building is the testimony to the sense of responsibility and the farsightedness of the people of this parish.

From this Parish Center will radiate lines of influence that will make our parish more progressive, its parishioners more acquainted with Ukranian heritage and better fitted for the privilegs and duties of our Holy Mother Church.

Those active in church organizations were as follows:

CHURCH ORGANIZATIONS

APOSTLESHIP OF PRAYER

President, Catherine Matulinski.
Treasurer, Maria Kochaniwsky.
Secretary, Maria Swaryczewsky.

CATHOLIC CLUB

President, John Atton.
First Vice President, Jerry Sydor.
Second Vice President, John Pawluk.
Treasurer, Olga Liteplo.
Recording Secretary, Ann Danyluk.
Corresponding Secretary, Bob Danyluk.

ROSARY ALTAR SOCIETY

President, Nancy Marko.
Vice President, Anne Choma.
Treasurer, Helen Savitsky.
Recording Secretary, Virginia Wowk.
Corresponding Secretary, Jean Kluba.

YOUTH CLUB

President, Mary Sydor.
Vice President, Ihor Szpaczynsky.
Treasurer, Donna Orinkawitz.
Recording Secretary, Oksana Dackiw.
Corresponding Secretary, Lysia Smejka.

CHOIR

Director, Steven Marusevich.

DANCE GROUP

Director, Millie Osenenko.

CHURCH COMMITTEE—1971–72

Chairman, Walter Liteplo.

Secretary, Anne Choma.

Irma Artim, Oksana Ilnyckyj, Ann Kapczak, Steve Kulynch, Ted Lipinski, William Mamus, Michael Rij, Nadia Yurkiw.

Trustees, Kasey Lipinski and Myron Mycio.

The program of the day celebrating this outstanding occasion was:

PROGRAM

Invocation, Very Reverend Peter Fedorchuk.

National Anthem.

Welcome, Reverend Emile Sharanevych, Pastor.

Toastmaster, Ed Orinkawitz.

Choral Selections, St. Vladimir's Choir; Steven Marusevich, Director; "All Glorify the Lord's Name" Bortniansky; "Mazepa" M. Hayvoronsky; Soloist George Shtohrwn.

Remarks, Anthony Bilenky, General Chairman Building Committee.

Introduction of Committees.

Musical Selections, Banduristy, Reverend Serhij Pastukkiv, Director.

Introduction of Church Committees.

Ukrainian Folk Dances, St. Vladimirs Osenenko Ukrainian Dancers, Millie Osenenko, Directress.

Introduction of Church Organizations.

Choral Selections, St. Vladimir's Choir, final scene from opera "Kozak in Captivity" S. Artemouski; Soloists: John Kapczak, Joseph Choma, Denise Marusevich.

Dance Finale, Osenenko Ukranian Dancers.

Guest Speaker, The Most Reverend Joseph J. Schmondiuk, Bishop of Stamford Diocese.

Acknowledgments, Reverend Emile Sharanevych.

Benediction, Reverend Basil Feddish.

BUILDING COMMITTEE

The members of the building committee who gave so much toward the completion of the building were:

General chairman, Anthony Bilenky.

Vice chairman, Joseph Choma, Andronic Kopystainsky, Onufry Stecko.

Planning and design chairman, Hilary Zarycky.

Committee, Oreste Dackiw, Miroslav Lomaga, George Shtohryn.

Finance chairman, Edward Orinkawitz.

Committee, John Atton, Oresia Dackiw, Bill Savitsky.

Canvass chairman, Michael Wowk.

Committee, Theodore Barniak, Anthony Bilenky, Joseph Choma, Alex Ciopyk, Oreste Dackiw, George Drance, Wasyl Horyn, E. Ilnynicki, John Kapczak, Walter Kluba, Steven Kochaniewski, Andronic Kopystianski, Mykola Kurczak, Kasey Lipinski, Ted Lipinski, Walter Liteplo, Miroslav Lomaga, Steven Marusevich, Ed Orinkawitz, John Pawluk, Nicholas Petrilyak, Michael Rij, Bill Savitsky, George Shtohryn, Onufry Stecko, Jerry Sydor, Walter Szpaczynsky, Hilary Zarycky.

Public information and ceremonial chairman, Irma Artim.

Committee, Julie Bilenky, Ann Choma, Joan Orinkawitz, Helen Savitsky, Kay Sereduke, Pat Szpaczynsky, Nadia Yurkiw.

Legal adviser, John Flis.

Recording secretaries, Nadia Yurkiw, Michael Rij.

Auditing committee, Mykola Kurczak, Nicholas Petrilyak, Michael Wenger.

I have been pleased as a Member of Congress to join in a resolution seeking the resurrection of both the Ukrainian Orthodox and Catholic Churches, which Stalin genocided during his reign. This is not just a matter of religious expression, but the fact is, that there has been a complete physical eradication of two major churches in the largest non-Russian nation, both within the Soviet Union and in Eastern Europe. The text of that resolution, introduced in the 92d Congress, by me, is as follows:

HOUSE CONCURRENT RESOLUTION 555

To seek the resurrection of the Ukrainian Orthodox and Catholic Churches in Ukraine.

Whereas the Charter of the United Nations, as well as its Declaration of Human Rights, sets forth the objective of international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion . . ."; and

Whereas in the Constitution of the Union of Soviet Socialist Republics article 124 unequivocally provides that "In order to ensure to citizens freedom of conscience, freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens"; and

Whereas not just religious or civil repression but the genocide—the absolute physical extermination—of both the Ukrainian Orthodox and Catholic Churches in a nation of over 45 million brutally violates the basic civilized rights enunciated above: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President of the United States of America shall take immediate and determined steps to—

(1) call upon the Government of the USSR to permit the concrete resurrection of both the Ukrainian Orthodox and Catholic Churches in the largest non-Russian nation both within the USSR and in Eastern Europe; and

(2) utilize formal and informal contacts with USSR officials in an effort to secure the freedom of religious worship in places of both churches that their own Constitution provides for; and

(3) raise in the General Assembly of the United Nations the issue of Stalin's liquidation of the two churches and its perpetuated effect on the posture of the USSR in the light of the U.N. Charter and the Declaration of Human Rights.

HON. JAMES KEE WORKS FOR HIS STATE AND NATION

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. WRIGHT. Mr. Speaker, all of us who have served in the Congress for any length of time know that there are "show horses" and "work horses." The "show horses" often get the publicity, but it is the steady, hard-working legislative craftsman—the "work horse"—who actually performs the hard, unglamorous, mundane work that results in legislation.

This is the work which, while sometimes not seen on the surface or known widely to the public, enables the Nation's lawmaking body to function. Without the energetic and dedicated services of those members who diligently attend the committee sessions, inform themselves as to the details of legislation and help actually in the drafting of that legislation, Congress could not function.

All of us who have worked over the last several years with our colleague, the Honorable JAMES KEE, of West Virginia, have increasingly been impressed with his selfless dedication to the hard work of lawmaking. He, like the foundation of a building without which its glittering facade would not be possible, is one of those whose strength undergirds the legislative process.

In the Committee on Public Works, we have long recognized the tireless service which JIM KEE gives to his State and his country. As chairman of our Subcommittee on Conservation and Watershed Development, he has compiled a record of hearings and a body of data in this Congress which will provide landmark guidance for years to come in the formulation of sound, workable, conservation legislation.

JIM KEE has been a champion of the upstream watershed development program, so vital to our country, just as he has worked so indefatigably on the Subcommittee on Mines and Mining of the Committee on Interior and Insular Affairs.

It was to a very great degree through his efforts as one of the prime cosponsors that the Coal Mine Health and Safety Act was passed. Because of this monumental legislation, future generations who produce the necessary fuel for the Nation will be safer, healthier and will live longer. For this work alone, future generations should rise up and call him blessed.

JIM KEE is a quiet and inobtrusive person not given to blowing his own horn or making flashy claims. But those of us who work with him day in and day out have come to value and appreciate the real worth of his solid contributions, and it seemed to me that it was time for some of us to make a public acknowledgment of his truly impressive service.

NATIONAL WEEK OF CONCERN FOR OUR POW/MIA'S

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. WINN. Mr. Speaker, this week has been set aside as the National Week of Concern for Our POW/MIA's. Although I support the President in naming this special week, I think each day we should all express our deep concern for these men who have served their country so well. We should all be aware of the daily suffering of their families and loved ones, who go on living, really not knowing their fate—little children who have never known their fathers—women who do not know whether they are wives or widows. There must be some accountability for these young American men.

For many months our delegation to the Paris peace talks has requested, even demanded, from the North Vietnamese the most basic rights under international law for these men—an accounting of those held prisoner, inspection by a neutral nation or neutral organization of prisoner of war camps, adequate medical care, and mail deliveries from their homes. None of these rights as guaranteed by international law have been honored by the North. Our Government will not cease in its efforts on their behalf.

Our troops are withdrawing, our men coming home; the President will have the number down to 69,000 by May. To all of us this is most welcome news, but we cannot and must not forget those men who are still listed as prisoners and missing in this most tragic war. Regardless of our feelings as to the morality of the conflict, we must be strongly united in our efforts to return these men who have served our Nation. One week will not do the job; we must work constantly until they are released.

SALVATION ARMY RESPONDS TO NEEDS OF PEOPLE AFTER BUFFALO CREEK DISASTER

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 29, 1972

Mr. RANDOLPH. Mr. President, one of the worst disasters in the history of our country occurred on February 26, 1972, when a mine impoundment broke through the mine refuse piles and sent millions of gallons of water rushing through the Buffalo Creek Valley in Logan County, W. Va. The death toll from this tragedy has reached 117. Hundreds of people were left homeless and property damage is in the millions of dollars.

Immediately after the flood, a large number of governmental agencies and private organizations began recovery work and caring for the people whose lives were affected by the flood. The American Red Cross, as usual, was on the job. Prominent among the organizations that responded to the need on Buffalo Creek was the Salvation Army. With the speed for which it is known, the Salvation Army moved into the area and immediately began providing humanitarian services so necessary to the flood victims.

Captain Charles White, commanding officer of the Salvation Army in Logan, W. Va., was on the scene immediately after the flooding had subsided, with other Salvation Army officers from nearby centers. They set up relief stations at Lundale, Amherstdale, and Accoville. The shelters provided food, clothing, medical attention and personal items to the stricken families.

Salvation Army officers in the National Capital and Virginias Division were immediately alerted and ready to serve. As soon as President Nixon declared the flood a national disaster, national resources of the Salvation Army were focused on the Logan County area.

Salvation Army officers came from other locations in West Virginia, as well as other States, including Ohio, Pennsylvania, North Carolina, Kentucky, Tennessee, Virginia, Maryland, and Washington, D.C. All were trained in administering emergency relief.

The Army established a national emergency telephone information center which was a primary means of phone communication to Logan, W. Va. With four telephone lines available 24 hours daily, more than 4,000 calls were received from 38 States. Salvation Army operators furnished information on the status and welfare of relatives and friends to more than 4,000 inquirers.

Seven Salvation Army mobile canteen units served the hundreds of homeless victims and workers in the Buffalo Creek area. The mobile canteen units also served as on-the-scene information centers, and transported supplies, such as lanterns, groceries, cooking utensils, and toiletries to the Salvation Army Centers. Homeless victims also were transported to shelter areas. Distribution centers were set up by the Salvation Army to give the victims food and clothing. Truckloads of items were brought to the five centers.

One of the most sensitive areas of service performed by the Salvation Army was in the morgue headquarters. Salvation Army officers as ordained ministers consoled the bereaved, and were on duty around the clock in the morgue at the South Man High School.

Many people chose to help the stricken through the Salvation Army. Forty-eight college students volunteered to aid the Salvation Army perform its services. Students from Berea College and Cumberland College of Kentucky, and Marshall University of Huntington, W. Va., were among the youth who worked night and day.

Organizations, too, chose the Salvation Army in their efforts to give help to the disaster victims.

The Salvation Army of Charleston, W. Va., headed by Brig. Warren Fulton, received all major out-of-town shipments for use in the 160 square miles of devastated area. Trucking firms, volunteering through the Salvation Army, met incoming shipments and furnished transportation to the disaster area and to the Salvation Army service centers for continuous distribution to flood victims and workers.

The Salvation Army in Charleston also received and is still receiving money donations from all over the country.

The Salvation Army is now changing to a long-range program in the disaster area. It will be stockpiling, and has been stockpiling food, clothing, and household necessities for all of the people who have been homeless. As the process of cleaning up and salvaging possessions began, the Salvation Army distributed a thousand mops, buckets, and brooms in distribution centers to help get the job done. Salvation Army officers helped transport many of the victims back to the disaster area.

As the families start to settle in their new homes, the Salvation Army gives them home furnishings, and household items. Officers help them move in, offer counseling, pray with the family, and present each a Bible, donated by the American Bible Society.

Mr. President, this is but a brief review of the many services provided by the Salvation Army to the people of Buffalo Creek.

The Salvation Army has given selflessly of its resources, both human and financial, in the way that has made it so widely known as a source of assistance to people in need. To date, the work of the Salvation Army in Buffalo Creek has cost more than $150,000 and this work continues. I know that so long as they are needed, the men and women of the Salvation Army will be on hand to assist the people of Buffalo Creek to rebuild their homes and their lives.

SISTER SYLVIA STEADY VOLUNTEER—KOREA NEXT

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SHRIVER. Mr. Speaker, an excellent article by Jack Kennedy, education writer of the Wichita, Kans., Eagle, concerns the continuing and rewarding services of Sister Sylvia Gorges, of Wichita. It has been my privilege to work with Sister Sylvia in her capacity as an educator and president of Sacred Heart College. She has made a splendid contribution to the college and our youth. Sister Sylvia now will continue to serve her church and the people of Korea. The State of Kansas and our Nation is a better place, because of the dedication and commitment of this humanitarian. The article follows:

SISTER SYLVIA STEADY VOLUNTEER—KOREA NEXT

(By Jack Kennedy)

Former college presidents might be expected to retire to the quiet, contemplative life free from budgets, personnel problems and endless trustee meetings.

Not Sister Sylvia Gorges.

Sacred Heart College president for 10 years until her resignation last year, she recently returned from five months at a Carlsbad, N.M., mission. At the end of April she will leave Wichita again, perhaps permanently, for the English faculty at 12-year-old Sogang University in Seoul, Korea.

A less-active person would establish two rules for ex-college presidents: never volunteer for anything and never be taken in by the ideals of college consultants you hire.

The soft-spoken, thoroughly dedicated nun of the Sisters Adores of the Most Precious Blood didn't listen to either bit of advice—and is very happy she didn't.

"When one of the workers became ill, I volunteered to step in and help out" at the Franciscan order's San Jose Mission, Carlsbad. "Helping out" meant long hours working with adults and children, many of them poor. Sister Sylvia adjusted to the slower style of mission life—she claims she has adopted it as her own style now—and did everything from teaching to assisting the 1,100 Spanish-American families with personal problems.

This mission staff is there to help "in just any way we can," Sister Sylvia said. "The area itself had developed much better than I had expected." There is considerable poverty, she said, although many of the families are doing well. New arrivals come to the mission constantly from nearby Mexico.

She met growing concern for "intellectual poverty, which I think is worse than the physical," and developed insight into Spanish-American life which should enable others to "accept them as they are, and to appreciate the beautiful in their culture."

First knowledge of the Korean venture came when four sisters enrolled at Sacred Heart after coming to the United States to join the order in Wichita. Two were Korean, two American. They returned to Sogang University last year.

Sister Sylvia had used several Jesuits as consultants to Sacred Heart. Sogang "came up in conversations" occasionally with members of the St. Louis-based order.

She began elementary teaching in 1932, switched to the secondary level in 1958 and was All Saints Elementary principal in Wichita before becoming Sacred Heart president in 1961. The lure of the classroom remained strong for the 59-year-old nun.

"They tried to persuade me," Sister Sylvia said. When the invitation to go to Korea came from Rev. John Daly, S.J., college president, she couldn't refuse.

Sister Sylvia will spend some time visiting friends and relatives in the United States before reporting to Seoul about May 1 to rejoin the four nuns already there, only members of her order on the staff.

The fledgling university started a graduate program two years ago. She will teach undergraduate English courses to Korean students, all of whom have had at least six years of English. The language is often required in Korean schools, Sister Sylvia said.

Her commitment in Korea is for one year—but the eagerness in her voice suggests Sister Sylvia's new career may be much longer.

PASSOVER 5732—AND PITTSBURGHERS REMEMBER THE PLIGHT OF SOVIET JEWRY

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 29, 1972

Mr. SCHWEIKER. Mr. President, this evening, at sundown, Jews in the United States, the Soviet Union, Israel, and all over the world will begin the celebration of Passover. Passover commemorates the freeing of the Jewish people from slavery under the Egyptian Pharaoh and the exodus of the Jews from Egypt to the land of Israel led by Moses. In our own day, Passover still sounds a call for human freedom and dignity, especially for the Jews of the Soviet Union. Moses' plea to Pharaoh, "Let my people go," echoes today as thousands of Jews in the Soviet Union seek to make their own exodus to Israel but are not granted permission to leave as free citizens.

In the spirit of Passover, Mr. President, a group of Pittsburgh people, both Jews and non-Jews, have been making special efforts to help one specific Moscow Jewish family obtain permission to go to Israel. The family consists of Emanuel Smeljansky, an engineer, his wife, Alla, an interpreter, and their baby son, Misha, of 17 Tashkentskaja Street, flat 42. The story of how the Pittsburgh group came to "adopt" the Smeljansky family is a stirring example of both international and interfaith cooperation among people and bears repeating.

The story is fully told in an article by Brad Vinocur which appeared in the Pittsburgh Press on January 13, 1972. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Pittsburgh Press, Jan. 13, 1972]

LET JEWISH FAMILY GO, CITY GROUP TELLS SOVIETS

(By Brad Vinocur)

A group of Pittsburghers has begun a battle to support a young Jewish family in Moscow which is fighting to go to Israel.

Sparked by a sign on a Squirrel Hill synagogue which had an impact as far as Berlin, the Pittsburgh group is planning to put pressure on Kremlin officials to let Mr. and Mrs. Emanuel Smeljansky and their baby son go.

The organization, known as the Pittsburgh Voice for Soviet Jewry, has also sent money and "care" packages to the family. Some Voice members also are writing to the family to assure them of their support.

The events leading to this effort unfolded this way:

In August, a young German school teacher, Doris Gebhart, was visiting the Arthur Schwotzer family of McMurray as part of the Pittsburgh Council for International Visitors program.

While touring Pittsburgh she noticed a "Save Soviet Jewry" sign on Shaare Torah Synagogue in Squirrel Hill.

She was surprised to learn of the public effort to aid Soviet Jews and she told the Schwotzers of a personal effort she had been making to aid a Jewish family in Russia.

Several years ago Miss Gebhart met the Smeljansky family while she was touring Russia and she learned they had been refused permission to leave Russia.

During the two subsequent trips to Moscow, Miss Gebhart stayed in touch with the family and wrote to them frequently from Berlin.

The Schwotzers, who like Miss Gebhart are Gentile, began writing to the family and they introduced her to friends at Voice.

Miss Gebhart told Voice members that Emanuel Smeljansky lost his engineering job as an interpreter.

Voice sent money and a "care" package to the family and one member, Miss Myra Lanson of Squirrel Hill, began writing to the family.

Miss Lanson has received several letters in return and the Smeljansky family told her that their situation "is desperate."

Now Voice members are mounting a letter-writing campaign to the Russian ambassadors at the United Nations and in Washington.

"We feel that if enough people write to these officials about the Smeljansky family, the Kremlin will free them in order to stop the publicity," David Mazer, a Voice member said.

STUDENT TRANSPORTATION SAFETY ACT OF 1972

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. PEYSER. Mr. Speaker, today I have introduced the Student Transportation Safety Act of 1972. This bill will hopefully avoid accidents similar to the one which recently occurred in Rockland County, N.Y., last week and which claimed the lives of four young people.

My bill will prohibit a local school board from authorizing any route for a school bus which crosses an open railroad crossing unless that crossing is first clearly marked with appropriate signs, a signal light warning of oncoming trains, and unless that crossing is protected by a warning gate.

Although nothing can bring back those young victims of the tragic accident, it is my hope that this bill will help to avoid such accidents in the future. I hope the Congress will take swift action on my bill.

In order to dramatize the need for this important legislation, and the extent of the lack of markings at railroad crossings, I would like to bring to the attention of my colleagues the following article which appeared in the New York Times of March 28, 1972, highlighting the problem in New York State alone:

ABOUT 2,400 RAIL CROSSINGS IN STATE UNGUARDED BY GATES OR LIGHTS

(By Frank J. Prial)

New York State has 4,300 railroad grade crossings, where tracks cross public roads, and more than half of them, some 2,400, have neither automatic gates nor electric warning lights.

The state and the railroads are embarked on a program to install more of these signals, but at the present rate—30 a year—it would take 80 years to complete the work. In New Jersey and Connecticut, similar but lesser problems were reported by railroad and government officials.

The crossing in Valley Cottage, near Nyack, where three children died and 40 were injured in a school bus-freight train collision last Friday, is one of those unprotected by automatic devices. Yesterday, a fourth child died of injuries received in the collision, and some 700 parents and friends crowded into St. Paul's Roman Catholic church in nearby Congers to attend a requiem mass for the three who died Friday.

Since that collision, parents and elected officials throughout the tri-state area have been raising questions about the safety of grade crossings and the competence of school bus drivers.

Angry resident of Valley Cottage and nearby communities said they had requested automatic signals at the site of the fatal collision a year ago. The Penn Central and the State Department of Transportation both said they had no records of such requests.

John Bryan, a spokesman for the State Department of Transportation, said there had been two known collisions between trains and road vehicles at the same crossing in the last four years, neither of them serious.

In 1971, New York State School buses were involved in 906 accidents, resulting in eight deaths and 402 injuries. In Connecticut, the state's 3,283 registered school buses had 390 accidents, with one fatality and 87 injuries. New Jersey figures were not immediately available.

While officials in all three states agree that rail grade crossings need to be improved or eliminated, they insist that their standards for training school bus operators are high.

Annual physical examination are required in each of the states. So are criminal record checks and stiff driver examination. New Jersey's chief of motor vehicle inspectors, Raymond Mockridge, conducts unannounced school bus inspections all over the state, and Connecticut's Motor Vehicle Commissioner, Robert C. Leuba, is pressing for a ban on the use of smaller "van" type trucks as school buses.

At the same time, Connecticut permits a school bus to be driven by a 19-year-old or by anyone, otherwise qualified, up to 69 years of age. In New York, the limits are 21 and 65.

Peter Lenehan, a spokesman for the Department of Motor Vehicles, said New York had the safest school bus operation record of any state in the country.

Nevertheless, some school officials share parent's concern over the quality of the people driving school buses. School officials pointed out that the work lasted only a few hours a day and the pay was therefore low.

Mr. Bryan of the State Department of Transportation said that none of the state's grade crossings "were substandard under the law."

The law, he said, requires a cross-arm sign in the shape of an X at each grade crossing, saying: "Railroad Crossing. The law dates from 1890. In 1957, he said, it was amended to make the arms four feet wide and reflectorized. "But," he went on, "we still have some around that were erected prior to 1957 and if they're still good, under the law, they don't have to be changed."

The law also requires that the municipality in which the grade crossing is located must erect approach warning signs not nearer than 100 feet to the tracks. These are round, white signs showing a black X and the word Railroad.

Last year, the New York State Legislature passed a law permitting municipalities to erect standard hexagonal red stop signs at railroad crossings. Such signs were erected at the crossing in Valley Cottage.

"The real answer is the elimination of grade crossings," Mr. Bryan said. He noted that upgrading a crossing costs around $30,000. Eliminating it, can cost from $1-million to $41-million, the price of a recent grade crossing elimination project in Buffalo.

PROPOSED 7-PERCENT DISCOUNT RATE FOR WATER RESOURCE PROJECTS CALLED "HEIGHT OF FOLLY HIGHLY DESTRUCTIVE"

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EVINS of Tennessee. Mr. Speaker, Mr. Harry M. Mack, president of the Ohio Valley Improvement Association, recently appeared before the Water Resources Council in opposition to proposed new standards for water resource projects that would include a 7-percent discount rate in project evaluation.

May I say that I share Mr. Mack's views on this matter—such a discount rate would be discriminatory, unfair and unrealistic.

In other Federal programs—in the construction of housing, highways, airports, medical facilities, parks, and countless other programs—there is no such requirement. Even the foreign aid program contains no such requirement.

Why then should any discount rate be applied to water resource development which performs such essential and indispensable services for the people of this Nation?

In my view there should be no discount rate for water resource projects.

Because of the interest of my colleagues and the American people in this most important subject, I place in the RECORD herewith excerpts from Mr. Mack's statement before the Water Resources Council.

The excerpts follow:

STATEMENT OF HARRY M. MACK, PRESIDENT, THE OHIO VALLEY IMPROVEMENT ASSOCIATION, INC.

THE INTEREST-DISCOUNT FACTOR AND OPPORTUNITY COST

. . . Turning to the rate to be employed in calculating interest on the public investment in water resources projects and in reducing future costs and benefits to a present value equivalent, we believe that the procedure loses all rational meaning if the rate chosen bears no significant relationship to the realities of federal finance or to the actual public policy preferences and needs of the American people in their capacity as citizens.

The opportunity cost principle as applied to water resource planning and evaluation is meaningless and perverse in these respects. In the first place, nobody knows what the opportunity cost rate is. It is universally conceded, however, that the principle opens the door to rate levels so high as to place only a fragmentary value on foreseeable benefits of great magnitude and thereby to dismiss most plans and projects vital to the long-term future of the county. Because the rate is actually indeterminable, the opportunity cost principle is thus a license to capricious upward adjustment and a superficially plausible device for disallowing highly beneficial programs for purely subjective reasons.

The rate used in planning and evaluation should be one which is clearly determinable. Prior to 1968, the rate employed by the evaluating agencies was the coupon rate on outstanding long-term government securities. The Department of the Treasury knew exactly what this rate was and certified it annually to the evaluation agencies. The present standard of the yield rate, whatever its other merits and defects, is likewise readily determinable. But, the opportunity cost rate is subject to estimates so broad and dependent on considerations so subjective as to be almost meaningless.

In 1958, economists of stature estimated on the basis of elaborate studies, that the opportunity cost rate fell between 5 and 6 percent. Numerous others now estimate it to be in the range of 8 to 10 percent. Senator Proxmire of Wisconsin has been informed by economists in good standing that the rate should be "perhaps 15 percent". We are thus presented with what purports to be a standard for water resource development subject to a margin of error of 300 percent of the lower figure.

Current rate estimates advanced by opportunity cost advocates all fall in the higher ranges and, with the passage of time, tend to moved upwards. The statement of proposed principles and standards cites a study by J. A. Stockfisch which concludes that the correct opportunity cost rate is 10.4 percent. The statement then proceeds to assert that the really correct rate is 10 percent, but that for totally nonquantifiable and subjective reasons, it ought to be 7 percent for the next 5 years. Having set up the 10 percent target with an air of scientific exactitude, there is little doubt that acceptance of the opportunity cost principle would initiate a rate escalation process, aiming at first towards 10 percent and eventually towards 15 percent.

The effect on water resource development would be disastrous, particularly with respect to projects offering major benefits during the later years of service life. Let us take, for example, a project with an estimated service life of 50 years. A one-dollar annual benefit during the second half of this 50-year life would amount in the aggregate to $25.00. At the discount rate of 3 percent formerly employed, the present value of this $25.00 would be $8.32. At the rate of 5⅜ percent now in use, this would shrink to $3.67. At 7 percent, it would be only $2.15, and at 10 percent the future $25.00 would be virtually dismissed from consideration as presently worth only 84 cents.

The effect on benefit evaluation for the earlier years of project service life would likewise be very injurious. Taking, for example, a project to be placed in service in 1975, at the 3 percent rate formerly employed, the present value of the $25.00 stream of benefits of one dollar per year for the first 25 years, beginning in 1976, would be assigned a present value of $17.41. But, at the proposed 7 percent rate we would reduce this $25.00 to only $11.65, less than half the actual amount. At 10 percent, we would call the $25.00 only $9.08. The effect of opportunity cost, therefore, would be not only virtual dismissal from consideration of all project benefits anticipated for the later years of service life, but also the assignment of only fragmentary value to the more immediate benefits.

Lacking as it does any known or determinable level, and subject, therefore, to upward adjustment without reference to established indicia, we can only conclude that opportunity cost represents a determination for subjective reasons to downgrade and disregard the foreseeable benefits of water resource development.

The opportunity cost principle rests on a standard highly inappropriate to public policy decisions. Its standard purports to be the free market rate of return on investment in the private sector of the economy. But private investment is completely neutral on objectives essential to the public interest—the national security, the quality of community life, the economic and social integrity of the nation, and the humane objectives of the relief of want and suffering. The free market dollar makes no distinction between luxuries and necessities.

It is, in fact, mainly by virtue of the public objectives to which the market rate is indifferent that water resource development is a public function. Thus, the reliance on a private market criterion would stultify the role of government in this area.

The opportunity cost rate undertakes to measure the rate of time preference as between consumption and saving on the part of the individual. But, private thrift is governed by a relatively short time span. for example, the brief period during which children grow up and prepare for college, the approach of retirement, and the very brevity of human life. Public investment, by contrast, lays the foundation for the livelihood of future generations. The typical water resource project is evaluated for a service life of 50 years. Few, if any, private investments are made on a consumer time preference looking ahead for half a century.

The private investor from whose decisions the market rate of return emerges is also a citizen. As a citizen he normally shares in the civic objectives which properly guide water resource development. He votes for representatives who will advance these objectives. The time preference of the individual human being in the conduct of his private affairs bears almost no relationship to the time preference of that very same person in his role as a citizen. Many a citizen would doubtlessly be shocked to learn that the narrow and mercenary criteria he employs in his private financial decisions had been adopted as a model by the national government to guide the long-term destiny of the country.

The opportunity cost principle is derived from an economic model. In the interests of a clean theoretical structure, this model reduces consumer motivations for saving and investment into a simplistic mercenary calculation. But, the human values and motivations underlying consumption and investment decisions are of enormous complexity, highly emotional, and normally subjective, and in seeking to reduce them to a mathematical formula, the opportunity cost theory throws reality to the winds in the interest of structural logic. Surely, it would prove the height of folly to subordinate the urgent and mounting needs of the nation's water resource development to the simplistic assumptions of an economic model.

Our Association views the opportunity cost doctrine as a standard for the interest-discount factor in water resource planning and evaluation as totally without merit and highly destructive in its potential effects. We vigorously recommend its rejection . . .

TRIBUTE TO KEITH BANDY

HON. NICK GALIFIANAKIS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GALIFIANAKIS. Mr. Speaker, I would like to share with you the accomplishments of one of my constituents, Mr. Keith Bandy, who has recently completed a tour of service with the Volunteer Development Corps in Jamaica.

More than 100,000 Jamaican families earn their living from the land. A few hundred of them—half of 1 percent—farm 45 percent of the cultivated acres. Another 2½ percent farm 20 percent of the land. The other 97 percent of the farmers raise their crops and livestock on 35 percent of the land. For these 97 percent, the 75-year-old Jamaica Agricultural Society is a spokesman and a source of farm production information.

Some years ago JAS found that its members needed better seeds than were available anywhere on the island, imported these improved varieties, and established distribution centers throughout the island. In time these centers grew into small farm supply stores, handling seeds, a little feed, a little fertilizer, some hand tools, and farm chemicals.

Today JAS members need larger quantities of these materials than the stores handle. JAS members need more efficient service. JAS members want lower priced farm inputs than these stores, with their limited volume, can provide.

So the society plans to construct perhaps a dozen one-stop farm service centers that would include expanded JAS farm supply services, perhaps a veterinarian, the Jamaica Government's farm credit agency, a food store, the JAS farm extensionist's office, a doctor, and a clothing store. Before proceeding with such an investment, JAS directors sought to design a model center and to develop a pattern of decisionmaking that would enable them to adapt this model to the needs of various communities throughout the island.

To do so, they turned for help to a fairly new organization, Volunteer Development Corps, which U.S. cooperatives have established to provide short-term, volunteer, technical help to cooperatives in the developing countries. VDC has headquarters here in Washington, and its funds come partly from cooperatives and largely as a grant from the Agency for International Development. VDC asked my constituent, Keith Bandy, to volunteer for this assignment.

Mr. Bandy is specially qualified for this undertaking. He is vice president for research and planning for FCX in Raleigh, the farm supply cooperative that serves farmers throughout the Carolinas and the largest distributor of farm supplies in this area. He formerly was a senior economist in Battelle Memorial Institute in Columbus, Ohio, one of the Nation's largest consulting firms. Mr. Bandy knows the needs of farm people. North Carolina has more farmers than any other State except Texas, and through FCX and its 81 supply stores, 50,000 Carolina farmers in effect meet their own needs for farm inputs.

Mr. Bandy volunteered his services. FCX continued him on leave with pay the 5 weeks he was in Jamaica. VDC provided his travel, lodging, meals, and clothing care. JAS provided his transportation in Jamaica, a place to work, and secretarial help throughout his assignment.

In Jamaica, he helped JAS officials devise a model farm service center and adapt this model to the first site at Santa Cruz, St. Elizabeth's parish. He helped them plan construction at this site in three stages so as to keep only a short step ahead of the needs of the center's lessees and to pay out in 15 or 20 years.

Mr. Bandy also devised for JAS officials a "framework for decisions" that will enable them to analyze potential sites for future centers, choose the most practical sites and select from among potential lessees those most likely to contribute socially and economically to the center. Thus, JAS officials can function as their own consultants—at least in making these decisions—and this seems to me especially important.

This was truly a joint effort. Using a private organization, AID provided some of the needed funds. U.S. cooperatives provided the rest. Mr. Bandy volunteered his services. FCX kept him on its payroll. The Jamaica organization provided services essential to his work.

AID funds did not flow until a private organization in a developing country asked for help. My colleagues and I are sometimes uncertain whether people overseas really want our help. In this case, we can be sure. I understand that this is VDC's operating pattern; it sends a volunteer overseas only when the group he will work with has asked him to come.

The people overseas—in this case, the directors of Jamaica Agricultural Society—are now less dependent on future assistance from the United States. With Mr. Bandy's "framework for decision" they can now make their own decisions regarding other farm service centers. This is the kind of help that enable people to help themselves.

Mr. Speaker, Mr. Bandy's efforts and achievements exemplify in the finest American tradition our willingness to make mutual understanding and cooperation in the world community a reality.

MEALS ON WHEELS

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GUDE. Mr. Speaker, elderly or disabled people living in their own homes or apartments sometimes need help in preparing balanced meals. I was pleased to join in the inaguration of such a service recently in Montgomery County, Md.

This report from the Montgomery County Sentinel describes the new program:

> A new Meals on Wheels service for Montgomery County began operation Monday when volunteers packed their cars with hot boxes and cold chests and set off to deliver meals to 14 homebound elderly people.
>
> Meals on Wheels of Wheaton is a volunteer non-profit program with a present capacity to serve 2 meals a day (one hot and one cold) five days a week to 40 shut ins.
>
> The other area program, Meals on Wheels of Washington, D.C. Inc., which began in June 1971 with kitchen headquarters at Zion Lutheran Church, Takoma Park, has been serving about 35 people weekly in Prince George's and Montgomery Counties and northwest Washington. According to Mrs. Jane Davis, president of the board of directors, it is cooperating closely with the new group and has offered extensive advice and encouragement.
>
> A similar service run by the Jewish Social Service Agency has been operating for about three years serving kosher meals on a nonsectarian basis in the county and northwest Washington. Mrs. Stacey Brooks of the agency's department of services to the aging points out that kitchen facilities at the Hebrew Home have limited this service to a maximum of 15 clients a week.
>
> ### CHURCH WOMEN BASED
>
> The Wheaton based program was initiated by Church Women United of Eastern Montgomery County. Their forum on the subject last February organized by the present publicity chairman, Mrs. Ruth Wise, revealed the pressing need for such a service. By November, a committee had firm plans and lacked only funds to get the program started. An appeal to civic organizations and individuals had reaped the necessary $3,000 by Jan. 1.
>
> Although it is a volunteer program, Mrs. Wise explained the high initial expenses. Wheaton Presbyterian Church offered the use of its kitchen, but an investment of $5,000 was required to purchase refrigeration equipment, storage cabinets, and the special hotboxes in which the food is transported ($100 per box) and cold chests for cold meals.
>
> The cook is paid but all other work of organizing, packing and delivering food is done on a volunteer basis.
>
> ### STRUCTURED PROCEDURE
>
> Kitchen workers wrap and pack the cold meal and place the hot meals in disposable units (somewhat like TV dinner trays) into the pre-heated hot boxes. Delivery volunteers place the boxes in their cars and follow a prescribed route. The driver remains with the car while the server places one of the dinners in a basket and takes it and the cold meal up to the client.
>
> Similar organizations have found these brief but cheerful visits have the added benefit of providing a few minutes companionship to break the monotony of the shutin's life.
>
> Menus are prepared by Velma Clark of Rossmoor, a professional nutritionist with over 40 years experience. They now follow a 5 week cycle with plans to increase this to a 7 or 8 week cycle.
>
> The volunteer worker who does all the buying is Mrs. Mary Garland, a professional dietician experienced in institutional buying.
>
> ### LOW SODIUM MEALS
>
> Although the menus are not specialized the food is cooked without salt to accommodate low-sodium diets, and a modified diabetic menu can be arranged by changing the dessert.
>
> Monday's menu featured a hot meal with cream of tomato soup, baked chicken breast, peas and rice, applesauce and a cold meal with fruit juice, egg salad sandwich with

lettuce on the side, carrot and raisin salad and milk.

Because of the kitchen's central location, and because of the efficiency of the hot-boxes which will keep food warm for up to an hour, the volunteers can serve a wide area and meet the need of clients in Bethesda, Chevy Chase, Kensington, Wheaton, Silver Spring, Rockville and Rossmoor.

A nominal fee of $10 a week is charged for the 10 meals provided, but if clients cannot afford this, other arrangements can be made. Cost of the Takoma Park service is the same. The determining factor is simply that a person is incapable—for whatever reason—of preparing his own meals.

The service is named for the location of its kitchen but its committee members and volunteers are drawn from a wide aea of the county.

Reaction has been immediate and enthusiastic. A Rossmoor client who is bedridden and whose husband has been ill since December called Monday night to say how wonderful the food was. She told Mrs. Andrew Thompson, treasurer of the group, that she felt the weight of the world had been taken off her shoulders now that she didn't have to worry about what they would have to eat.

DESPAIR—THE OLDER AMERICAN'S CONSTANT COMPANION

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BRASCO. Mr. Speaker, almost 25 million Americans are over 65, and it is no exaggeration to state that they are at the very bottom of society's heap. Perhaps the greatest shame of this Republic is the plight these fellow citizens are in as of this moment. We have put an American on the moon, but we have also sentenced many of these people to a lingering, agonizing existence in their old age that is as reprehensible as it is inexcusable. We stand disgraced before the developed world.

Today, the ranks of the poor are growing, and most of the new recruits are older Americans. Retiring on fixed incomes, these people are literally unchecked. The recent astronomical rise in food prices alone has had a devastating effect upon older people. Many of them cannot even afford hamburger. Some are even supposed to be eking out their diets with pet foods.

For many older people, particularly those with chronic conditions, the dilemma is yet worse. Because they are more prone to such conditions, prescription drugs are a "must" for many. Often, to purchase drugs of this kind they must skimp or do without food. Or, if food is bought instead, the pain of a chronic condition must be endured. It is an excruciating dilemma, and one that the administration and even the Nation as a whole seems to ignore completely.

Only in the United States do we seek to segregate the elderly, shoving them into nursing homes and rest palaces, just to get them out of sight. We frantically pursue the will o' the wisp known as youth. It is an image we desperately seek to constantly place before us. Hence, anything old is a reminder of our eventual graduation to that status. Therefore, we deliberately try to shut them away. In other societies, the elderly are honored, cared for and sought out for inclusion in innumerable family activities. Such used to be the case here as well, until the past few decades. The treatment these people receive from their own government sets the standard for shabbiness.

I support the first tangible reform that we can and should enact to allow these senior citizens some financial leeway they earnestly desire. We can amend the Internal Revenue Code to allow a full $5,000 exemption from income tax for amounts received as annuities, pensions or other retirement benefits. This is in addition to whatever other exemption is received by an older person. It would be a basic exemption, over and above any portion of a retirement benefit exempted in any other part of the Internal Revenue Code.

In addition, we should also consider the plight of millions of older persons who retired years ago, when benefits were much smaller than today. Many of these people are retired government employees and State workers. Their pensions are literally wiped out by a few basic expenses. Several measures have been introduced on both sides of Capitol Hill to alleviate their plight and update their fixed pensions.

Further, recent months have brought to light the fact that a good many millions of Americans are paying into pension funds for years in good faith, only to find that one technicality or another robs them of the enjoyment of such pension benefits. I urge a thorough investigation in this area, and Congress should move forthwith to shed light on what is transpiring.

Another immediate reform we can and should move on is to extend the umbrella of medicare to cover prescription outpatient drugs. Persons living at home but requiring constant medication are in an intolerable bind. In a hospital facility they have some relief. But once at home, they must bear the cost themselves. This has led to a series of evils. In self defense, many elderly citizens have prolonged or sought to prolong such hospitals stays in order to cover some of their drug costs. They should not be trapped in this manner. In 1966, more than half the elderly living alone had incomes of less than $1,500. Eleven percent of elderly families and 53 percent of elderly individuals received less than $30 weekly. Another 30 percent of each category had incomes of between $30 and $60 weekly.

Nor are these people seeking a mere free ride, as some few reactionary foes of reform claims. Almost always they have led useful and fruitful working lives. All they seek is aid because of intolerable pressures from forces they cannot control.

Private insurance is not meeting the challenge. A Task Force on Prescription Drugs established in 1967 by HEW found that only 9 percent of the elderly had any protection under private insurance plans. It was also found that private insurance met only 2.8 percent of all nonhospital and nonphysician medical care expenditures. Yet they buy, in total, 23 percent of all prescription drugs.

We have only one avenue open, and I endorse it wholeheartedly. Let us amend section 18 of the Social Security Act to extend regularly provided prescription drug coverage to outpatients in the same manner as to those now covered by existing legislation.

Our national Government can and must come up with an overall program aimed at creating a better life for these citizens. It should include the following:

A fixed proportion of all Government funds spent on housing should be earmarked for the elderly.

Older Americans should be provided with a minimum annual income based on an intermediate standard of living as determined by the Bureau of Labor Statistics.

Publicly funded programs for older Americans should be designed to include transportation breaks for them.

Chronological age should not be the sole criterion for retirement. A more flexible policy should be based on a worker's desires, needs, and ability to perform the job.

The equivalent of a national school lunch program should be established for the elderly.

A national Federal reform program affecting nursing homes should be carried through forthwith.

Mr. Speaker, these are the minimum programs we should create and make available to the elderly. Every developed nation in the world, and even, to our shame, the Communist countries, has done at least or more. We are the only Nation in the world among developed states which uses people and then throws them onto the national junk heap to be forgotten.

Their quiet suffering is to be noted by any careful observer. In literally hundreds of cities they dwell in loneliness and despair, hoping that somewhere and somehow, their situation will be noted. Heretofore, it has not been.

It is not enough to come forth with the usual election year promises for a raise in social security. These moves, even if well intentioned, are merely stopgaps; bandaids over a cancer. They are simply too little and too late.

The President talks about a generation of peace. To the elderly, the future is now. They do not have another generation to fritter away in sterile patience. We cannot set our internal affairs to rights without a meaningful, comprehensive program aimed at alleviating all aspects of this situation.

Up to now we have failed dismally. Let us at least acknowledge the present state of affairs. Let us at least begin to legislate effectively here with a distinct goal in mind and sight. We can do no less.

HIGH PRICE OF MEAT

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MYERS. Mr. Speaker, there has been much publicity recently about the high price of meat at the grocery stores.

The following letter that I received a few days ago gives an interesting comparison:

CLOVERDALE, IND.,
March 21, 1972.

Congressman JOHN MEYERS,
House of Representatives Office Building, Washington, D.C.

DEAR CONGRESSMAN MEYERS: With all the East Coast outcry for controls on raw agricultural products, I thought you might be interested in an article that appeared in the March, 1972 issue of "The Farmer-Stockman of Nebraska":

"A check of ads in a Nebraska daily in 1952, when choice to prime beef was selling for $35.50–$38.00 in Omaha, shows the price of key cuts of beef in the column at center below.

"A cattle feeder went into a chain store recently and checked these prices against the prices today. The column at right shows present day prices. The Omaha price of choice to prime beef that day was $36.75–$37.25:

	1952	1972
"Swiss steak	0.85	1.69
Hamburger	.49	.67–98
Rib steak	.79	1.59
Beef stew	.79	.98
Sirloin steak	.85	1.63
Round steak	.98	1.39
Beef roast	.65	1.19
Prime rib	.69	1.29"

You have always proven to be an eloquent and knowledgeable agricultural proponent. I hope this might help you in some way to explain to your colleagues the foolishness of applying controls to raw agricultural products.

Respectfully yours,
JOHN M. NALLY.

(PS—Cost in 1952 to produce calf $75.00 and cost in 1972 to produce calf $125.00.)

TELEVISION VIOLENCE

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GUDE. Mr. Speaker, recently I had the opportunity to keynote the Serious Speech Contest of Area III, Toastmasters International, in Silver Spring, Md. Among the contestants was Mr. Charles W. Day, immediate past president of Capitol Hill Club, Toastmasters International, who presented a speech on the incidence of violence in television programing. During his remarks, Mr. Day cited the activities of Action for Children's Television, an organization working toward better television programing for children. I am pleased that one of my constituents, Mrs. Deborah Schlein, is the Washington resources chairman for ACT. Television violence, which has already been the subject of hearings in the other body, will become increasingly discussed in the months ahead, and I feel my colleagues may find Mr. Day's remarks of interest.

The remarks follow:

THE BOY IN THE DARK

(By Charles W. Day)

A little boy sits in a darkened room and presses a button. A screen bursts with color and form and television—the greatest teaching device in man's history—is on and operating.

The boy, his arms around his legs, his chin on his knees, watches and listens, his young mind absorbing every detail.

Suddenly, the picture changes, and during the next hour, he sees two murders by gun, one attempted murder by car, one attempted murder by strangulation, a water torture, two chokings, two assaults, a rabbit punching, and a groining—CBS–TV—prime time—last Tuesday night.

That little boy might have been mine, or yours, or anyone's, because the typical American child, before he is 14 years old, will see 18,000 human beings killed on television—and last Tuesday, in a Senate hearing, I heard the Surgeon General tell Senator Pastore what many of us have felt in our hearts: violence on TV can cause violent aggression in children, yours and mine.

Think how hard you are working to bring up your children—not to make them perfect, just better. Think of the time you are spending to teach them the rudiments of manners, a sense of decency, a measure of kindness, and a reverence for life.

Then, in 30 seconds, the slickness, the persuasiveness of television—the slick chicks and mod guys who use violence—cut the ground from under you. Remember: A child's mind is a wonderful thing; a child can learn eleven languages simultaneously. But he can't reject; he can't blot out something placed in his mind; consciously or subconsciously, it will stay there forever!

And don't think that TV violence is accidental or coincidental. Federal Communications Commissioner Nicholas Johnson listed in his recent book these memorandums from TV producers. "Give me more *violence*," said one. "Give me *violence and sex*," said another. And this gem from a network vice president: "I rather like the idea of *sadism*."

Senator Abraham Ribicoff, after studying TV programming, said recently, "America professes to care about its children, but in reality, it doesn't."

I ask all of us tonight: *Do* we care? . . . Does anyone really care? . . .

One person does. She is Mrs. Evelyn Sarson of Newton Township, Massachusetts, a house wife who two years ago created ACT: Action for Children's Television. Starting with a meeting in her living room, Mrs. Sarson enlisted the support of her friends and neighbors, then the support of men and women all over America. She petitioned the Federal Communications Commission to open a formal inquiry into children's programming—and she got it! When the docket on that inquiry closed a year later, comments—100,000 letters—filled 63 volumes, and they are still coming in.

I have spent the past weeks reading that docket and I want to share one letter with you I found particularly poignant.

"I am writing this note from my hospital bed," she writes, "where I have just given birth to a boy. I wholeheartedly support any guidelines for Children's programs that will help improve the future for my son."

That new mother cares. Evelyn Sarson cares. And the man sitting in front of you cares very deeply.

Well, what can we *do* about it? About organized, well-financed, intrenched TV producers who get big money for big violence? I'll tell you what we can do, and not tomorrow, not even later tonight, but *now*. Each of you has a program. If you can find a pencil, I want to give you a telephone number to remember. I'm going to give you the number of the Washington Resources Chairman for ACT. The number is 593–5210. After it, please write ACT. That number will give the information you need to cast your vote against needless TV violence.

Last week a Senate Subcommittee focused national attention on TV violence, and what to do about it! This is a perfect time to get into the fight!

Yesterday I talked to Mrs. Sarson at the Senate hearing and told her about this meeting tonight. She was delighted, and asked me what she could do to help us. I also talked to Dr. Jesse Steinfeld, the Surgeon General. He urged us to work through ACT as a respected and responsive organization.

Your program is your reminder, but it is more. It's your pledge toward less violence . . . on TV and in our tangled lives.

If I had but one prayer, I suppose it would be this . . . Father of us all, grant us the courage to *ACT* . . . so that all of us here tonight . . . might not abandon . . . the little boy . . . in the dark.

RENSSELAER FRESH WATER INSTITUTE AT LAKE GEORGE

HON. CARLETON J. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. KING. Mr. Speaker, on Monday during the general debate on the Federal Water Pollution Control Act amendments I introduced a statement entitled, "The Rensselaer Fresh Water Institute at Lake George—Programs/Objectives." In the Saratogian, a newspaper published in my hometown, there was a further article in the Sunday, March 26, edition explaining and amplifying the work done by the environmentalists of the Lake George area and, in particular, the work done by the research team of Rensselaer Polytechnic Institute and a group of scientists known as the Rensselaer Fresh Water Institute at Lake George. I again commend the work of these scientists, and ask consent to introduce the article in the Saratogian for the benefit of my colleagues.

The article follows:

RPI COMPUTER "BECOMES" LAKE GEORGE WATER QUALITY OF AREA LAKES UNDER STUDY

"We should all be concerned about the future," Charles F. Kettering, the noted American industrialist once said, "because we will have to spend the rest of our lives there."

Rensselaer Polytechnic Institute of Troy has always concerned itself with the future. The common theme from its founding in 1824 to the present has been "for the purpose of instructing persons who may choose to apply themselves in the application of science to the common purposes of life."

In the early 1900's William Pitt Mason, a professor of chemistry, campaigned to persuade upstate New York communities to install treatment plants for their public water supplies. The first attempts to integrate environmental considerations into an academic program were made in 1929 by Prof. Edward J. Kilcawley who subsequently received numerous honors for his pioneering work in pollution control and public health.

In the mid-1940's a sanitary engineering option was offered which, by the 1950's had expanded into a new and extensive curriculum in environmental engineering embracing not only sanitation, but also air and water pollution. Enlarged in 1967 it became the bioenvironmental division of the School of Engineering.

The environmental programs currently underway at Rensselaer are based on these roots of the past. Faculty and students from science, engineering, humanities, architecture, and management, are brought together to focus their efforts on many environmental study projects. One of these is concerned with the preservation of a very basic natural resource, fresh water, and is being pursued both on the RPI campus and onsite at one of New York State's most beautiful and picturesque lakes, Lake George—a mecca not only for thousands of vacationing New Yorkers, but those from surrounding states and Canada.

This program, which includes initial water-quality studies on Oneida, Saratoga, and Schroon Lakes to confirm the aging quality condition of those lakes, was undertaken in 1967 by the Rensselaer Fresh Water Institute (FWI) at Lake George. Since its establishment, FWI has grown from an activity supported by the School of Engineering to an independent university activity.

In order to increase its research program the FWI seeks added public support, says Dr. Nicholas L. Clesceri, director. This, he said, is not easy despite today's anti-pollution sentiment.

Calling RPI's project, and a similar study underway at the University of Michigan, "unique in scope" for the nation, Dr. Clesceri stated:

"Pollution is bad only until people find out they are going to have to spend money or give up something in order to take care of it," he said. "In order to take care of it, the biggest problem is to convince people—the taxpayers who support organizations such as the FWI through government grants—that without research into pollution, its causes and cures, fresh waters might reach a stage of virtual irreversibility."

What actually is going on at Lake George, and in laboratories at Rensselaer, that warrants support?

How does the pollution process transform a clean lake or stream into a polluted one? How can this process be stopped? Reversed? Slowed down?

If, men reasoned, we can learn how nature acted—how man intruded and changed her design—and how nature responded to this intrusion, we will know a lake's life story from its beginning to the present. Then, by applying this knowledge, we could predict its future actions and reactions and learn precisely how much of man's intrusions it could tolerate without upsetting its ecological balance.

To find answers to these crucial questions, an intensive study of the many factors involved with environmental systems began at Lake George—a well defined, relatively unpolluted system that would allow the formation of a basic mathematical model which could then be applied to larger, polluted lakes.

A mathematical model basically is a computerized dimulation of a problem—a very complex, constantly changing problem—into which the FWI scientists feed the biological, chemical, physical, and even social data. The high-speed computer, with its enormous memory units "becomes" Lake George and it, rather than the lake, can react: What would be the lake's reaction if this intrusion were added? If this interference were stopped? If this pollutant imput were reduced 25 percent? 50 per cent? completely?

But first the biological, chemical, physical and social data must be obtained. And this requires sampling and surveys and many hours of laboratory research.

Water samples are taken from various locations and depths of the lake by means of a 225-foot length of 2-inch tubing mounted on a reversible power hose reel. The intake end of this power hose brings water into RPI's boat, Water Watch in summer or up through a hole in the ice in winter, and this water, both from batches and from a continuous water sample system are analyzed and recorded. Some 600 water samples from five different depths have been taken at 14 different stations to date.

Glass and plastic microscope slides, too, are suspended to measure the growth rate of algae in the lake and these changes are analyzed and recorded.

In the laboratory complex on the northeastern shore of the 32-mile long lake, at Smith's Bay, FWI researchers separate the individual water samples into three plastic, quart-sized containers. The contents of one are analyzed "as is" while the other two are filtered through membranes with micron-sized pores. The unfiltered sample is used to measure pH, alkalinity, as well as ammonia, total nitrogen and phosphorous concentration in the water. One of the filtered samples is analyzed for nitrate, total soluble phosphorous, orthophosphate and dissolved silica. The second filtered sample is evaporated in a small quantity of acid to concentrate its volume tenfold and is then analyzed for micronutrients such as cobalt, copper, zinc, and molybdenum.

The glass and plastic microscope slides are analyzed to measure algae growth and the tendency or capacity of the lake to support this growth giving another indicator of the water environment.

The area around the lake, but nevertheless affecting it, is not forgotten either. An account of the amount of water entering, leaving the remaining in the lake is important in any complete study as is the fact that a better understanding of the movement of water into and out of the lake will greatly help in maintaining its level within acceptable limits. Water entering the watershed is mainly in the form of precipitation. Rain gauges placed throughout the basin record the total amount of rainfall as well as its time distribution. To trace the water, measurements of stream runoff are made and this information provides a base for the calculation of chemical nutrients entering and leaving the lake.

Another study traces the effluent from the sewage treatment facility into deep natural sand beds for removal of remaining pollutional materials in the treated effluent discharged without chlorination.

"It's folly to think that we must treat sewage to the point of purity," Dr. Clesceri declared, "but there's a happy medium somewhere between purity and untreated discharge that will prevent overloading the lake."

"The more people, of course, the more we change the rate of natural processes," he added, "unless we cut into it somehow."

In other areas, studies of discharges from outboard engines indicate a buildup of oil and gas in the water and the researchers are trying to determine the number of boats that will be compatible with water quality—or the means of eliminating the discharge completely. Between 8,000 and 14,000 boats ply the lake already.

The ecologists are careful not to leave out any data necessary for the mathematical model and even conduct surveys among the lake's tourists, of their use.

All of this information, and more, reduced to mathematical computer language, is then fed into a computer and miles of computer tape will become a mathematical Lake George. Then, whatever is done to the lake itself, good or bad, can be done to the tape and the long-range results of the action can be concluded. This can also work in reverse: Will the addition of this nutrient, or that organism or an increase in either be beneficial to the lake or will it have adverse affects?

"Much has been done in the past," Dr. Clesceri said, "but much more must be done in the future. Geologists must contribute to the understanding of the geological and hydrological aspects of water supply and pollution; biologists must study and make decisions on the animal and plant life components; environmental engineers must focus on the adherence to the overall objectives of the research; mathematicians, limnologists, and chemists must add their knowledge; engineers must be available to design the necessary disposal or control systems; sociologists must study the social impact of the proposed solutions; resource economists must evaluate the financial considerations; public policy scientists must indicate the legislative activities necessary; and the professions, including medical and public health officials, must contribute to the understanding of the situation."

"We won't have the time and money to go into studies of this depth elsewhere," he concluded. "We'd better come up with a few answers here."

BRAVE BYELORUSSIANS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BIAGGI. Mr. Speaker, 54 years ago on March 25, 1918, the proclamation of independence by the people of Byelorussia took place. I am pleased to join my colleagues in the House of Representatives in paying tribute on this occasion to the brave Byelorussians whose brief period of freedom was cut short by the Bolshevik forces of the Soviet Union.

The Byelorussians who had lived under the czars for several centuries seized the opportunity afforded by the overthrow of the oppressive czarist regime, to break away from the old decadent empire. Indeed, they welcomed the chance provided by the Russian Revolution of 1917, and proclaimed their independence on March 25, 1918.

Then they formed their own democratic government in their capital city of Minsk, and began to rebuild their war-torn country. Unfortunately, this richly deserved freedom was not enjoyed by the Byelorussians for very long. In December of that same year the Red Army overran Byelorussia, annexed it to the Soviet Union and Byelorussians became the Soviet Union's helpless victims.

Since that time, for over five decades, the Byelorussians have been living under the oppressive yoke of the Communists. This tragic result, to which all men of good will still bear witness, was the launching of the slave ship of the state euphemistically christened the "Byelorussian Soviet Socialist Republic." Today the name Byelorussian remains an empty designation among the captive States that the Russians claim are free and independent nations. They are not free, however; they are under the same bondage that shackles many of the eastern and northern European states.

Today all Americans join with our fellow citizens of Byelorussian ancestry in renewing our own devotion to the principles of freedom and in our deeply felt hope that the day is not far off when the people of Byelorussia, as well as people everywhere, can join us in our enjoyment of the blessings of freedom.

REPORT FROM YOUR CONGRESSMAN ED ESHLEMAN

HON. EDWIN D. ESHLEMAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ESHLEMAN. Mr. Speaker, I have just recently sent my constituents a newsletter. I am including the contents of that newsletter in the RECORD at this point:

REPORT FROM YOUR CONGRESSMAN ED ESHLEMAN

SUPER SATELLITE

In the picture below [not shown] I am seen with a model of the Earth Resources Technology Satellite (ERTS) which is due to be launched in the near future. The satellite and I got together as a result of my work with the Task Force on Population Growth and Ecology.

If you wonder how space technology and making policy on population growth and ecology get tied up, it is all an example of how complicated any subject that Congress studies can become. The Task Force has determined that the best way to deal with our two subject areas is to look into the development of a national land use policy. The satellite will provide a great deal of data that will aid experts in determining how each parcel of land should be used. Therefore, before beginning work on land use legislation, we had to first become acquainted with what the space scientists have to offer.

ERTS is an amazing example of how our space program brings many benefits to mankind. With this satellite we will be able to detect such things as vegetation blight, urban sprawl patterns, water pollution sources, and mineral deposits. By using infrared, ultraviolet and visible light, it will take "pictures" of the earth which can be analyzed by computers and then used to solve problems or keep us from creating new problems.

Thousands of taxpayer dollars may be saved because the satellite information will tell highway engineers where not to build a road because to do so will result in higher than average repair costs. The spread of crop disease may be stopped because farmers will have advance warning from satellite data that blight is beginning to set in. These benefits, and others too numerous to mention, will give people all over the world a greater chance of avoiding disasters of many kinds.

CHERRY BLOSSOM TIME

Washington's annual Cherry Blossom Festival is scheduled this year from April 3–8. If the blossoms cooperate with the date set by the committee, and if you are willing to brave the crowds which descend on the city for this event, there is no doubt that you will see your Nation's Capitol at its most beautiful time.

PROMISES, PROMISES

During this year of political campaigning, keep this in mind: When it comes to Government spending, there's no such thing as something for nothing. The candidate who promises you greener fields will also send you the bill for grass seed, water and fertilizer.

FINDING VETERANS JOBS

There was a briefing on Capitol Hill recently sponsored by the various government agencies who are responsible for the coordinated national campaign to find employment for returning GIs. I attended this briefing and learned that the campaign is designed to bring the problem of the returning veteran to the attention of employers and to acquaint veterans with the facilities that are provided to help them get located in a new job slot.

Department of Labor statistics indicate that the efforts have met with some success. Unemployment has fallen among the 20–29 age bracket from 8.5 percent in January to 7.4 percent presently. Among the 20–24 age bracket, the group that is generally classified as Vietnam Era Veterans, the drop has been from 12.3 percent in January to 9.7 percent today.

Of course, the agencies who are working at finding jobs for veterans are not satisfied with the present unemployment figures which are still too high. But they are encouraged, as I was encouraged, that we are making some real progress toward assuring that the men who have served their country and acquired skills during that service are getting a better break than unemployment compensation.

REDISTRICTING

On January 25 the State Legislature passed a bill to reapportion Pennsylvania's Congressional Districts. The overall number of Congressmen from our State was reduced from 27 to 25 based on the results of the 1970 Census. As a result of this redistricting, I will no longer be representing Lower Dauphin County and part of Lebanon County. I am sorry to be losing these areas, but I intend to maintain the close personal relationship I have had there during the past five years.

Having lost some old friends, the Sixteenth District gained some new residents who hopefully will become friends too. I would like to take this opportunity to welcome the citizens of Chester County who will become part of the Sixteenth District under the redistricting plan.

For all constituents, old and new, my goals as a representative remain the same—to be a voice of and a voice for you in national affairs and to aid you in solving any problems you might have with the Federal Government.

NEW FEATURE

Just below you will find a guest editorial written exclusively for my newsletter by Gerald R. Ford, the Minority Leader of the House of Representatives. I am going to begin including this feature in these reports to you so that you can get some idea of the views of my colleagues on issues of the day or their work here in Congress. Jerry Ford kindly consented to write this first editorial, on the subject of busing, but in months to come I plan to ask Members of Congress from both sides of the political aisle to explain their opinions of a variety of topics.

GUEST EDITORIAL

Forced busing to achieve racial balance has suddenly become one of the hottest topics of conversation in the country.

Forced busing is controversial—and I think it is controversial because it is wrong. Most parents, black and white, want quality and equality in education for their children. I do, too. But they don't want forced busing, and neither do I.

I am a believer in neighborhood schools. I believe that the neighborhood school system is the cornerstone of American public education. It seems to me that anyone who believes that cannot favor forced busing for whatever reason.

I have signed the discharge petition which would take H.J. Res. 620, the anti-busing constitutional amendment sponsored by Rep. Norman F. Lent, R.-N.Y., out of the hands of the House Judiciary Committee and bring it to the House floor for a vote.

Let me state categorically that I do not believe in segregation. I would strongly oppose any system that assigned children to a specific school on the basis of their race, whether the intention was to combine or to separate the races. It is for that very reason that I oppose forced busing—because it intensifies racial distinctions.

My view on school segregation is that we should act to end dual school systems wherever we find them but there should be no forced busing of school children great distances from their homes to achieve racial balance. Forced busing should be stopped because it places a hardship on parents and students alike—black and white—and wastes taxpayer dollars that should be used to improve the quality of education.

Our concern should be with quality education, not with forced busing to achieve racial balance. Instead of spending huge sums to transport students to a distant school, we should upgrade our disadvantaged schools for the benefit of disadvantaged students. I believe taxpayers would be willing to do that although they vigorously oppose expensive plans involving forced busing.

As a Congress of Racial Equality leader has expressed it, better schools and better teachers are the answer to improving education for blacks—not transporting childrren to the suburbs.

CLEAR MESSAGE

I saw a book the other day putting down the free enterprise system. I saw it in a bookstore selling for $10.95.

OVER AND UNDER

Some people have been shocked to find that more income tax is being withheld from their pay even though Congress voted last year to cut personal income taxes.

There has been a cut in income taxes. This year some 60 million taxpayers will share a $3.6 billion reduction in individual income taxes under provisions of the Revenue Act of 1971.

But when Congress cut taxes last year, it also adopted new income tax withholding tables. The reason for this action was that individual income taxes had been underwithheld since the Tax Reform Act of 1969 and many people were finding themselves with a sizeable tax bill on April 15.

Now we are finding that employees who do not have a wage-earner spouse or who itemize deductions and come up with a far higher total than the standard deduction are being overwithheld. The answer is for these individuals (except for those with two jobs) to file a new Form W–4 claiming special exemptions. These forms may be obtained from employers or the I.R.S.

OFF AND RUNNING

Congress is a great institution. As you know, the entire House of Representatives and a third of the Senate are running this year—and that's only for the Presidency!

A HISTORY LESSON

Once there were two great powers who were always opposing each other. One was sophisticated, advanced, educated, shrewd in business, and very wealthy. Their opponents were crude, pragmatic and very warlike. The wise men in the enlightened, sophisticated country came up with the brilliant idea that if they destroyed their arms and armories, declared themselves for peace and renounced war, no one would want to bother them. If they proved that they were no threat, then those across the sea would feel safe, would no longer have fear, and everything could settle down to trading. Without military expenditures, things could be done. Prosperity would boom without the load of military spending. So they did it.

But, unhappily, the guys on the other side didn't play the game right. They decided that now they had a chance. They decided to make sure that the enlightened country wouldn't change its mind.

So, Rome destroyed Carthage.

THE BAYVILLE-RYE BRIDGE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. WOLFF. Mr. Speaker, my colleagues know of my longstanding opposition to the planned construction of a bridge between Rye and Oyster Bay, N.Y. Two recent editorials, one of which appeared in Newsday and one was broadcast over WCBS-TV, highlight some of the problems inherent in the conception of this project. I am including these editorials following my remarks:

THE BAYVILLE-RYE BRIDGE

Any driver who has experienced the Long Island Expressway during a rush hour knows that something has to be done to ease traffic congestion in the metropolitan area. The Bayville-Rye bridge is the Rockefeller administration's response to that challenge.

And that poses a problem for Long Islanders. For seldom have we been faced with a more perplexing issue that the proposal to build this bridge across Long Island Sound. This much is clear to us: Long Island will need another link with the mainland before the decade is out. Two state studies have, we believe, documented that need. This much is also clear: Both of these studies fail to examine the consequences of *this* bridge. Vital information is lacking in a number of areas, and such documentation—which will require further studies—must be provided before construction begins.

Motorists are not alone in appreciating the Island's present limitations. The bridge has the endorsement of the Long Island Association of Commerce and Industry for good reason. Transportation costs emphasize the dead-end-street status of Long Island to businessmen. We're sure many LIA members would prefer a bridge linking eastern Long Island to Connecticut, creating a new artery in the circulatory system of the Northwest corridor. But in the foreseeable future any Suffolk crossing is unlikely because the governor and legislature in Connecticut fear their state will lose industry and recreational business to Long Island. With that preferable option blocked and with time a critical factor, a western crossing becomes the only possibility.

But has the state seriously considered mass transit alternatives? Is a bridge, which inevitably generates still more traffic, the best response or simply the most expeditious? Why was Bayville chosen as the site of this western bridgehead, and what will the bridge do to Long Island? The state has never fully justified the Bayville site, never acknowledged the implication of the proposed hookup with the Seaford-Oyster Bay Expressway, never fully examined the environmental impact or explored the effect of the bridge on land-use and recreation.

Bayville, for example, was selected despite traffic studies that showed a bridge further west—parallel to the Throgs Neck Bridge—would lessen metropolitan congestion more effectively. The study cited vague difficulties with access roads further west. But it did not come close to an adequate examination of this alternative.

WHAT WILL FOLLOW?

The waters off Bayville are a center for recreational boating. Is this really a good site for a bridgehead? The state argues that it is because it facilitates a link between the bridge and the existing Seaford-Oyster Bay Expressway. But at its southern end, this expressway links truck traffic only with the already overtaxed Sunrise Highway. Will the bridge mandate a major east-west expressway along Long Island's South Shore? The creation of such a connection with the Verrazano-Narrows Bridge and New Jersey would mean (a) the transformation of Sunrise Highway into the proposed high-speed Sunrise Expressway or (b) the construction of a major road on the South Shore wetlands. Long Islanders can't evaluate the bridge unless the State Transportation Department is frank with them about all the implications.

The state's study of the environmental impact of the bridge doesn't lack candor; but it does lack facts. In its most recent report, the state used wetlands data compiled in 1952. Considering this absence of first-hand information, the conclusions reached in the report are understandably vague. The report skirts critical considerations by pleading a lack of knowledge. It can't for example specify what effect the bridge will have on young fish or how bridge pollutants (oil, abestos and rubber) will affect the quality of the water.

Nor has the state addressed itself to the probable effects of the bridge on land-use patterns. Northern Oyster Bay Town is Nassau's last open space preserve. Bridgeheads tend to stimulate development in their vicinity. The Nassau-Suffolk Regional Planning Board has recommended that the shoreline areas be protected from intensive development. Will the bridge make it more difficult to realize that goal? The state has never considered that.

The foregoing questions demand answers. Will we get them? It should be remembered that the state's latest report on the bridge was commissioned when the governor was running for reelection. Restudying the hot issue removed it temporarily from the political contest. The cost was $162,500, which may be a stiff price for dealing with a campaign issue but not much for analyzing a matter of such complexity.

So far as future studies are concerned, we recognize that they will take time and that time means delay. We also recognize that some opponents of the bridge are utilizing delay as a tactic, since they see pressure for the crossing fading when Rockefeller leaves office. Nevertheless, we believe more information in the areas noted is essential.

In dealing with other aspects of the bridge, the state's researchers were able to come up with the answers. The traffic studies, for example, adequately demonstrate how this bridge will serve a regional need by draining traffic from the 11 existing major expressways. The state also realistically views Long Island as a growth area that will need its own alternate routes for traffic: The Nassau-Suffolk Regional Planning Board projects a population of 3,300,000 in Nassau and Suffolk by 1985.

We recognize the need for another link with the mainland. But Long Islanders want to know: Why specifically a Bayville bridge? And what specifically will that bridge do to Long Island?

WCBS-TV EDITORIAL

BRIDGING THE SOUND

(By Peter Kohler)

FEBRUARY 10, 1972.

There are two important things to remember about Long Island. One is that it is long. And the other is that it is an island.

This bit of elementary geography is worth remembering when discussing Governor Rockefeller's plan to build a bridge from Oyster Bay on Long Island to Rye in Westchester County. Undoubtedly, such a bridge would help traffic get around New York City and help Long Island people and products get to New England and its markets more easily.

But, as we said, the other thing to remember about Long Island is that it is long, and that a bridge at Oyster Bay does virtually nothing to improve the dead-end status of eastern Long Island.

So it's no wonder that some Long Islanders believe that a much better site for a bridge would be further east, where the span could open up economic growth in what is now a largely rural area on eastern Long Island.

Now, this argument has merit, it seems to us, and if any new bridge is to be built to Long Island, it should be placed further east than the one proposed by Governor Rockefeller. But the most pertinent question of all is whether any new bridge should be built to Long Island, particularly when it is questionable whether this island and its limited water supply can accommodate the substantial additional growth such a bridge could bring.

The answer is by no means clear. But, on balance, the arguments against building another bridge to Long Island at this time are stronger than those favoring the project. And so, to this bridge, at this time, we say no.

KNOWLEDGEABLE, EXPERIENCED, EFFECTIVE REPORT NO. 1

HON. JAMES KEE

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. KEE. Mr. Speaker, while we, the Members of the 92d Congress are pursuing our legislative duties here in Washington, many of us are suffering attacks from those who are not informed as to the House rules and the responsibilities of its various committees. In all too many instances, we are the victims of statements loaded with half-truths, misinformation, and frequent charges which come very close to slanderous lies. Frequently, statements made by these individuals reveal a shocking lack of knowledge and a broad degree of ignorance on the workings of the Congress of the United States. I feel the time has come when I must put into perspective the facts as they are and the accomplishments of this Member.

A case in point: Recently a statement was made in my district that should this person be elected to this congressional seat, he would ask for an assignment to the Transportation Committee to insure that West Virginia would get the roads it so sorely needs. Now we all know there is no "Transportation Committee." Too, we all know that highway authorization comes under the jurisdiction of the Committee on Public Works. Not only am I a member of that committee, but I have the sacred trust of chairing a subcommittee of that committee, one which is important to my State—the Subcommittee on Conservation and Watershed Development.

As to highway authorizations for the State of West Virginia, hundreds of millions of dollars have been appropriated for construction of a modern highway system—millions for which I strongly fought. In fiscal year 1973 alone, nearly $123 million have been made available for all types of highways in our State. Of the 50 States, the District of Columbia, and Puerto Rico, 34 of these will receive less money July 1, 1972, than West Virginia. Congress does not build highways. Congress authorizes highways. The States must plan and build highways. Where and how these millions are to be spent is strictly a State affairs, and so it should be.

I hope this will provide a better understanding of how our highways come into being.

WEEK OF CONCERN FOR PRISONERS OF WAR AND MISSING IN ACTION IN SOUTHEAST ASIA

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mrs. GRASSO. Mr. Speaker, this week we solemnly mark the Week of Concern for Prisoners of War and Missing in Action in Southeast Asia.

Tragically, it has been many years since the first American was captured by the North Vietnamese and their partisans in the South. During this time, efforts in our Nation have intensified—through official channels and through private means initiated by various organizations—to secure an agreement with the North Vietnamese on the release of the prisoners of war. Currently, with the number of prisoners increasing, American policy has concentrated on four specific goals: the identification and accounting of all prisoners held; the establishment of regular communication between all prisoners and their families; prompt repatriation of the seriously sick and wounded; and observation and inspection of POW camps by impartial observers. According to Pentagon records of March 18, 1972, the number of prisoners or men missing in action was listed at 1,501.

The condition of our POW's has been a source of great anguish to the American people. The families and friends of these men bear the burden of personal grief and anxiety for the safety and health of loved ones. The Geneva Convention of 1949 set standards for the treatment of prisoners in any armed conflict, whether or not there has been a formal declaration of war. Among the Geneva Convention articles is a provision making the repatriation of all seriously sick and wounded prisoners an obligation for belligerents. Most unfortunately, the North Vietnamese have continually refused to respect any of the Convention's provisions.

The American people and people the world over have joined in expressing their concern for the American POW's and MIA's. We wait to be united with these men who have suffered so much in this war. It is my fervent hope during this very special week in the religious lives of millions throughout the world that our prayers for these men who are prisoners or missing in action will be answered, and that at long last we and they may find cause for rejoicing.

SPECTRUM AIRS CHINA VIEWS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ROONEY of New York. Mr. Speaker, the CBS radio network offers a program called Spectrum in which the various shades of opinion, left, center and right, are freely expressed. The objective of these programs is to present, so to speak, the other side of the coin—one which might not be heard in newscasts or in the quotes of leading public figures of the moment. While the programs originate on the CBS network, they do not necessarily reflect the views of the network itself. I believe that this effort by CBS radio to strike a balance is commendable; I wish there were more of it in other news media. As an example of the broad range of these shows I would like to include in the RECORD at this point, under permission heretofore unanimously granted to me, two recent broadcasts on Red China by M. Stanton Evans:

SPECTRUM—VARYING SHADES OF PERSONAL OPINION ON CURRENT ISSUES

CBS RADIO NETWORK,
March 14, 1972.

I'm M. Stanton Evans with my personal viewpoint. On the strength of his performance in Red China, Richard Nixon is emerging as the most effective left wing President since Franklin D. Roosevelt.

Observers on both sides of the political fence are increasingly aware that, in the most crucial areas of national policy, Nixon is carrying the country leftward at a much more rapid pace than any of the current Domestic leaders could hope to do. The New York Times rejoices that in three short years, Nixon has "transformed the political and ideological landscape" in favor of the Left, and that because of Nixon the Republican Party can never again stand forth for its traditional principles.

In the matter of China alone, Nixon's services to the Left have been enormous. In less than a year, he has rehabilitated Communist China in the eyes of the world, presided over its entry into the United Nations, downgraded and demoralized the anti-Communist forces of Chiang Kai-shek, and signaled to the world our abandonment of Taiwan. Along the way, he has fostered the return to glory of that claque of hard Left propagandists who promoted Mao Tse-tung to the world as an "agrarian reformer."

In addition to all this, Nixon has such once-respected leaders of conservative opinion as Barry Goldwater and Ronald Reagan falling over themselves to explain and endorse his every leftward move. The spectacle of Nixon kow-towing to the Red Chinese, and getting praised by Barry Goldwater for doing it, is truly pathetic—telling us more about both these men than some of us would have cared to know.

It is precisely that spectacle, of course, which accounts for Nixon's success in promoting the interests of the Left. Had Hubert Humphrey attempted any such appeasement of Communist China, Goldwater and Reagan would have denounced his action as a staggering concession to our enemies and a betrayal of our allies—and stirred a considerable public resistance by doing so.

The fact that these conservative leaders support such things when Nixon does them virtually insures that he will keep on doing them. In a very real sense, the liquidation of conservatism which The New York Times finds so pleasing is the work of Goldwater and Reagan. They are in effect destroying the cause that they are suppose to represent.

This is M. Stanton Evans with Spectrum.

SPECTRUM VARYING SHADES OF PERSONAL OPINION ON CURRENT ISSUES

CBS RADIO NETWORK,
March 18, 1972.

I'm M. Stanton Evans with my personal viewpoint. Among the more shocking aspects of our recent binge of friendship with Communist China is the way in which we have covered up for Peking's commerce in deadly drugs.

For the past year or so the Nixon Administration has been making a big to-do about cracking down on the drug traffic, and focused elaborate attention on such reported malefactors as Turkey. Shutting down the supply of heroin going to U.S. troops in Indochina and flowing into America is supposed to be one of Nixon's major crusades. Yet while all this has been occurring, not a single word has been uttered about the fact that Communist China, by reliable account, is the largest supplier of hard, addictive drugs in the world today.

Red China's long history of involvement in the drug trade is not exactly a secret. In years past the subject has been brought to the official notice of the United Nations by the American government, and U.S. Narcotics Commissioner Harry Anslinger has written rather extensively on Peking's traffic in opium, morphine and heroin. Now, to hear the Nixon Administration tell it, Red China has nothing whatever to do with drugs.

Professor Stefan Possony of the Hoover Institution, an acknowledged authority on Communist techniques, sees the matter differently. He notes the recent disclosure of a high official in the Egyptian government that Chou En-lai told Egypt's Nasser, in 1965, that the Communists were, "planting the best kind of opium for the American soldiers in Vietnam." Possony estimates that from 40 to 60 percent of the illegal drug market is supplied by Red China.

These calculations are supported by Philadelphia assistant district attorney John Steinberg, who conducted an in-depth study of drug problems in Vietnam. Steinberg noted that heroin was sold in Vietnam at prices far lower than the market rate, indicating ideological rather than profit motivation. He is convinced the drugs are coming from Red China.

In similar vein, columnist Ralph de Toledano observes that drug seizures from Red Chinese sources in Hong Kong increased almost 1000 percent between 1970 and 1971. And if the trade is real, we are face to face with an official whitewash of Communist China that staggers the imagination.

This is M. Stanton Evans with Spectrum.

TELEPHONE PRIVACY—VII

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ASPIN. Mr. Speaker, I have recently reintroduced the Telephone Privacy Act (H.R. 14097) with 28 cosponsors.

This bill would give to individuals the right to indicate to the telephone company if they do not wish to be commercially solicited over the telephone. Commercial firms wanting to solicit business over the phone would then be required to obtain from the phone company a list of customers who opted for the commercial prohibition. The FCC would also be given the option to require the phone company, instead of supplying a list, to put an asterisk by the names of those individuals in the phonebook who have chosen to invoke the commercial solicitation ban.

Those not covered by the legislation would be charities and other nonprofit groups, political candidates and organizations and opinion poll takers. Also not covered would be debt collection agencies or any other individuals or companies with whom the individual has an existing contract or debt.

As I noted in a statement on March 9, I have received an enormous amount of correspondence on this legislation from all over the country. Today, I am placing a sixth sampling of these letters into the RECORD, since they describe far more vividly than I possibly could the need for this legislation.

These letters follow—the names have been omitted:

PRAIRIE VILLAGE, KANS.,
February 20, 1972.

Representative LES ASPIN.

DEAR SIR: I was highly pleased to read the attached clipping last week.

Sure hope your legislation, is made into a national law. We pay a good price for our private phone, and its for personal use only.

Yours truly,

——— ———.

BILL TO BAR UNINVITED TELEPHONE SALES CALLS

WASHINGTON.—Rep. Les Aspin (D-Wis.), yesterday introduced legislation to prohibit telephone solicitors from calling individuals who do not want to receive an uninvited sales pitch.

Under the bill, which would be called the Telephone Privacy Act, individuals could tell telephone companies they do not want to be commercially solicited over the telephone.

Commercial firms wanting to do business over the telephone would be required first to obtain from the phone company a list of customers who want sales calls.

PORT ORCHARD, WASH.,
February 23, 1972.

DEAR SIR: You have my hearty support for your bill which would enable a person to prohibit his telephone being used for unwanted solicitation.

About ten years ago the State of Washington held hearings in various cities but the state took no action to outlaw or even restrict the practice. I believe that if it is true that telephone solicitors just take a sequence of numbers without referring to the telephone book persons with unlisted numbers would be especially irritated by solicitors you might consider this in your bill.

Sincerely yours

——— ———.

OCALA, FLA.,
February 21, 1972.

DEAR SIR: This is welcome news to me indeed. Since my mother became an invalid a year ago, we have been hounded by two local cemeteries wanting to sell us a plot, and the phone company says there is nothing they can do about it. I will write to my Fla. congressmen and urge them to support your bill.

Yours truly,

——— ———.

LITTLETON, COLO.,
February 25, 1972.

DEAR REPRESENTATIVE ASPIN:

"NO SOLICITOR" PHONE OPTION EYED

WASHINGTON.—Rep. Les Aspin, D-Wis., proposed Sunday that individuals be allowed to place "no solicitors" signs on their telephones.

Aspin said he plans to introduce legislation in Congress Monday that would give persons the right to indicate to the telephone company if they do not want to be commercially solicited over the phone.

"It will significantly reduce the use of the telephone as a tool for invading an individual's privacy," Aspin said.

Charities and other nonprofit groups, political organizations, and poll takers, as well as debt collection agencies would be exempt from the legislation.

This is a great idea. Good luck.

Thank you.

——— ———.

FORT LAUDERDALE, FLA.,
February 28, 1972.

DEAR MR. ASPIN: Enclosed is an article in which we learned of your proposed "no solicitor" legislation. We not only thought you would be interested but also that you might like to know we hope you get this bill first time around.

I have been carrying my own struggle against these solicitors—by taking the name of the company and also name of the boss (man who hired caller) and returning their call.

Ironically, none of these men want to be disturbed. This I found rather amusing and have to laugh when they usually say, "if you don't hang up lady you'll hear words you've never heard before" and then slam the receiver down themselves.

Sadly, I cannot convince them by myself that they don't want to be disturbed either. But your bill will do just that for the public!

I have told each caller to please remove my name from the list as I am moving out of town. But of course, this does not remove me from the original list and I still get a call a day—down here.

May we harrassed housewives wish you success and we hope your bill "rings the bell"!

Sincerely,

——— ———.

(NOTE.—Article mentioned not printed.)

BLOCKOUTS AND BROWNOUTS ARE POSSIBLE UNLESS AEC NUCLEAR POWER FACILITIES ARE PERMITTED TO OPERATE—10 NUCLEAR FACILITIES BUILT, READY TO PRODUCE POWER SUFFICIENT TO SERVE CITIES OF LOS ANGELES, PHILADELPHIA, AND CHICAGO COMBINED—EPA CLEARANCE NEEDED

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EVINS of Tennessee. Mr. Speaker, this Nation now faces an impending power crisis—blackouts, brownouts, and severe current shortages when peak demands flood our power systems throughout the country this summer.

As injunction suits, and executive actions have delayed bringing new power production facilities on the line, many Americans have warned of the danger of these delays. We have warned that a shortage of electricity could produce serious and severe consequences.

A proposed bill would permit the Atomic Energy Commission to grant interim operating licenses to nuclear plants already on the line but not operating while awaiting environmental impact clearance.

This bill should be passed—these plants should begin operating in the public interest—the people of this Nation need this electric power supply.

The Washington Evening Star on yesterday published an excellent editorial on this subject and I place the editorial in the RECORD herewith, because of the great interest of my colleagues and the American people in this most important matter.

The editorial follows:

THE ELECTRICITY CRUNCH

The specter of a national electric power crisis at last is beating on Congress' door and cannot be ignored. But the current alarms are mild compared to the public clamor that will arise if the lights go off in large areas this summer. The lawmakers had better get earplugs if they don't take action soon to prevent that from happening.

Even doing their best they won't be able to assure enough kilowatts everywhere if the summer is long and hot. It's the old story of waiting too long to head off an impending emergency. Government and private industry share the blame, but the fragmentation of authority and the environmental movement are large factors in the dilemma. Congress, however, now has the ball, which is radioactive. It was tossed over from the White House and deciding on the next play is no easy matter.

What the White House wants Congress to do is cut a temporary detour around the Environmental Policy Act, so that several disputed nuclear power plants can be placed in operation. An administration bill would allow the Atomic Energy Commission to grant "interim" opertaing licenses before full environmental impact studies (required by the act) have been completed. Those emergency permits would expire in July, 1973, and by that time the environmental findings presumably would be available.

This has, predictably, stirred up a hornet's nest. A procession of environmental spokesmen recently told a joint congressional committee that the proposal assigns higher importance to electric power than to public safety. All the long-debated questions about the ecological effects of "thermal pollution" and the safety of reactors were raised anew.

All are being restudied in depth by the AEC, but this research is far from completion. In fact, the country's whole nuclear power movement is in a limbo caused by last summer's federal court decree that all plants must be subjected to additional studies, to comply with the environmental act. Hence the AEC is bogged down, and cannot grant permits for five large nuclear installations that are ready to begin producing power. Five others that are almost ready also may have to stand idle. It's estimated that these 10 facilities could turn out enough power for the cities of Los Angeles, Philadelphia and Chicago combined.

And if they don't start producing power reserves in 40 percent of the nation (accounting for 55 percent of the kilowatt usage) are expected to drop below 10 percent. Some areas will have only 5 percent. Since 15 to 20 percent is considered an acceptable minimum, all this points to a dark and sticky summer if the mercury climbs very high.

Considering these omens, Congress should waste no time in authorizing the emergency permits, with one clear understanding: The remaining questions must be cleared up by the expiration date or the plants shut down. That should get some research results.

In any case, the risks seem miniscule. Nuclear generators have been in successful operation for years. They have a splendid safety record, and the AEC has studied them exhaustively all along. Congress should consider, too, the risks to the public in the blackout of large cities, some of which aren't safe even with all the lights turned on.

QUESTIONNAIRE RESULTS OF THE FOURTH CONGRESSIONAL DISTRICT OF KENTUCKY

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SNYDER. Mr. Speaker, in February of this year I sent out my annual questionnaire to the people of the Fourth Congressional District. As in previous years, their response was prompt, hearty, and encouraging. The Fourth District staff and I have just finished compiling and tabulating the answers and I wish to share the results with my colleagues here in the House.

As I have said here before, Mr. Speaker, I represent the people of our district with great pride. I believe that their considered opinions on this range of issues should be weighed earnestly and carefully.

The results of the questionnaire follow:

QUESTIONNAIRE RESULTS OF THE FOURTH CONGRESSIONAL DISTRICT OF KENTUCKY

(In percent)

1. Would you favor a Federally-controlled program of national health insurance financed by increased Federal taxes?

Yes, 22.1.
No, 74.8.
No opinion, 3.1.

2. Do you favor allowing college students to register and vote in the towns where they attend school, including local elections?

Yes, 19.4.
No, 79.8.
No opinion, 0.8.

3. Would you favor increasing the national debt by a projected $25.5 billion for the fiscal year 1973 in order to stimulate the economy and reduce unemployment?

Yes, 24.8.
No, 71.6.
No opinion, 3.6.

4. Do you approve revenue sharing of Federal funds by direct payment to states and local governments without Federal control in view of the National Deficit?

Yes, 29.4.
No, 65.0.
No opinion, 5.6.

5. Would you be willing to pay substantially more for products and service (automobiles, electricity, etc.) if they were made virtually pollution-free?

Yes, 56.7.
No, 39.6.
No opinion, 3.7.

6. Are you in favor of the United States expanding diplomatic and trade relations with Mainland China?

Yes, 68.7.
No, 26.3.
No opinion, 5.0.

7. Do you favor adjusting Social Security taxes and benefits automatically to cost-of-living increases?

Yes, 72.9.
No, 24.5.
No opinion, 2.6.

8. Do you approve the President's policy for ending U.S. involvement in Vietnam?

Yes, 81.2.
No, 16.1.
No opinion, 2.7.

9. Do you think that labor unions should be subject to the antitrust laws to the same extent as industry?

Yes, 87.5.
No, 7.6.
No opinion, 4.9.

10. Should welfare reform include a guaranteed annual income?

Yes, 10.3.
No, 87.5.
No opinion, 2.2.

11. Do you favor tax relief for parents supporting college students?

Yes, 51.5.
No, 46.4.
No. opinion, 2.1.

12. Federal spending in these areas should be . . .

	More	Less	Same	No opinion
Education	43.5	15.2	34.2	7.1
Defense	29.8	29.5	34.3	6.4
Crime control	77.0	3.5	14.3	5.2
Urban aid	15.1	35.1	36.6	13.2
Rural aid	16.6	33.1	38.1	12.2
Space exploration	12.1	51.8	28.4	7.7
Foreign aid	1.1	82.4	9.0	7.5
Mass transit systems	45.0	23.7	21.7	9.6

WHAT IS AN AMERICAN?

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FORSYTHE. Mr. Speaker, I would like to congratulate Maj. Robert J. Heckel, U.S. Air Force Reserve, on the receipt of the Defender of Freedom Award from the Freedoms Foundation at Valley Forge. Major Heckel began his military career in 1942 as a cadet in the Army Air Corps. Upon completing his training in 1944, he received a commission as a second lieutenant and his pilot's wings at Turner Field, Ala.-Ga. He was then assigned to the Southeastern Training Command as a B–24 bomber pilot. The war ended before he saw action, but he continued as an active reservist and served on active duty during the Berlin crisis of 1960–62.

A graduate of William and Mary College, Williamsburg, Va., and Syracuse University, where he received his BA and MA degrees respectively, he is now with the New Jersey Department of Community Affairs and resides in Willingboro, N.J.

I insert the text of Major Heckel's prize winning essay on "What Is an American?" as an example of the deep patriotism that can still be found in America today:

WHAT IS AN AMERICAN?

First and foremost an American is an individual—a free individual who accepts and preserves the Constitution of the United States and the Bill of Rights as the compound cornerstone of a free society.

An American is most reverent toward his God, but ever respectful of the God of his fellow American. He is forthright in his personal convictions, but ever tolerant of the tenets and beliefs of others. He reasons and whenever appropriate, speaks out constructively on the issues of the day, but always listens attentively to differing points of view on those same issues. An American courageously attacks his country's problems with constructive resolutions and openly decries destructive revolutions.

As an individual, an American is endowed with unselfish ambition, but always attempts to comprehend the motivation and goals of others. He is ever charitable toward Americans less fortunate than he, but offers charity as a stepping stone toward the self-improvement of the unfortunate, not condescending charity for charity's sake. An American maintains his pride and self-confidence, but is humble and understanding in supporting the pride of others. He is mindful of the right of self-determination of all nations, weak and strong, large and small, but is just as conscious of the need to defend his own nation against encroachment from its enemies, both internal and external.

While continuously laboring to improve his station in life, an American never conspires to impede or jeopardize the stations and standards of his fellow Americans. Like his forefathers, he is a pioneer dedicated to the pursuit of new horizons never before attained, not a self-satisfied consumer of his American predecessors' toils of the past. With undaunted will, an American forges his visions of today into the realities of tomorrow.

An American pays tribute to his country's heritage and traditions as he simultaneously strives to enlarge upon that heritage and establish new traditions that will be deserving of comparable tribute in time to come.

Fortunate indeed is the individual who holds claim to the title, "American"—for that individual is the posterity of men who sacrificed their "lives, their fortunes, and their sacred honor" to establish a free land for all Americans who follow. And two centuries later, an American is still an individual who is willing to make an equivalent sacrifice of his life, his fortune, and his honor to defend his and his countrymen's right to be free, so that Americans of tomorrow may enjoy that same privilege that he as an American enjoys today.

In final judgment, an American is an individual who weighs his nation's strengths and weaknesses on the scales of time and then states with unwavering resolve, "America and I are one—it stands for me and I stand for it!"

BRISTOL PRESS IS INVOLVED IN LEARNING EXPERIMENT

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRASSO. Mr. Speaker, on several previous occasions I have made remarks before this body regarding a marvelous daily newspaper in the city of Bristol, Conn., the Bristol Press. Last year, a very special year for the Press, marked a century of service to the people of the community.

Not to be outdone by this first 100 years, the Press has been quick to find new ways of touching the lives of its readership in a meaningful way. Recently, the newspaper began furnishing students at local schools with a new textbook each day. The "textbooks" are copies of the Press, furnished free of charge, to classrooms involved in an experimental program which uses the newspaper as an educational tool.

As always, the Press is to be applauded for its continued dedication and commitment to the people it serves. For the interest of my colleagues, an article by Laura Cook which appeared in the March 11 issue of the Press regarding this innovative program follows:

Bristol Press Is Involved in Learning Experiment

(By Laura Cook)

Joseph Wilson's seventh-graders at Memorial Boulevard School are studying the comics to learn about writing themes.

Harry Southey's eighth grade class is learning to write captions for pictures and, incidentally, to organize information coherently in sentences.

In Mrs. Janet Henton's Jr. High School Studies classes, students are putting together a sociological profile of the City of Bristol.

Eastern High School sophomores practice sentence recognition on an article about Big Horn Sheep with Mrs. Madeleine Driscoll while Raymond L. Robinson's remedial reading class discusses sex discrimination in The Latin School and Annapolis.

The single versatile textbook that is serving all these various educational purposes is, surprisingly, The Bristol Press. The Press is presently supplying 500 newspapers weekly, free of charge, to the school system, which is engaged on a pilot study of uses for the newspaper in the classroom.

TEACHING AIDE

The idea is not as strange as it may sound. The newspaper, with its constantly changing face, its relevance to experience, and its concise style, is being used as a teaching aide in increasing numbers of school systems across the country.

"American Education," a publication of the HEW Office of Education, last month featured the "Newspaper in the Classroom" movement in a series of articles by educators.

Because of the wide area covered by the newspaper, it has been proven a valuable educational tool in subjects ranging from mathematics through English to Social Studies in schools across the country, according to the articles.

Locally, the current study program got under way early this year with several Wednesday afternoon meetings with volunteer teachers in the Social Studies and English areas. Techniques for using the newspaper with students in grades seven through 12 were formulated and discussed. Now they are being tested.

Six to eight-week programs in the schools will end in the first week in April and then an evaluation period will follow during which teachers hope to create a curriculum for general use.

By comparing notes and compiling experiential information, the educators will also learn how problems can be ironed out: what is useful and what is not.

"BEHAVIORAL OBJECTIVE"

A big concept in education now is the "behavioral objective." It is believed that learning can be detected in the changes of behavior that occur in the pupil. This may be a physical activity or a change in feeling or thinking or both of these—to varying extents—at the same time.

For instance, teacher Mike Leahy at Memorial Boulevard states the behavioral objective he would like to achieve in his work with the newspaper as follows: "Students should be able to react to a front page."

Other teachers in the program have "the ability to distinguish between factual reporting and editorial opinion" as their objective.

Perhaps the most creative of the objectives this reporter heard was Mrs. Janet Henton's.

Mrs. Henton decided to use the local newspaper to put together "a picture" of Bristol with her three classes. In looking over The Bristol Press, she found 35 categories or columns that deal exclusively with the city.

She began the unit, now in its third week, by asking each student to pick two of these areas to read—one he or she was familar with and one that had never been read.

Then the students discussed possible questions the columns could answer—what information about the city they could learn. The church page, society, business and sports sections, and even the legal notices and Card of Thanks took on a new—sociological—meaning.

"Of course the test will be 'what are they going to come back with?'" Mrs. Henton explained. Near the end of the program she will give her students papers from a Californian community and they will have a chance to compare them with The Bristol Press.

TEACHING CHALLENGES

What's evident in the schools today is that holding the attention and engaging the interests of students is becoming more and more challenging. Young people who grew up getting most of their information from the television tube, find it hard to tune in on traditional education.

New educational methods are developing out of these needs and the Newspaper in the Classroom approach is one of them. How effective the program is remains to be seen but, at least in the opinion of one high school sophomore, reading the paper is "better than Julius Caesar."

NIXON VERSUS THE COURTS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HARRINGTON. Mr. Speaker, one of the major victims of the President's politically motivated attack on school integration is the Federal judiciary. What he has told the country is that a Supreme Court on which his own appointees constitute only one short of a majority cannot be trusted to continue the work begun 18 years ago to vindicate the rights of black people.

The article I wish to insert at this point by S. J. Micciche, himself a lawyer as well as a thoughtful commentator, points up the terrible irony of the President's recent performance:

Nixon Changes Tune on Court

WASHINGTON.—President Nixon evidently needs to be reminded at times of his own ennobling words.

The presidential lapse is glaringly manifested in his proposal for a moratorium on school busing, designed to crimp the discretion of the Federal judiciary and dictate by statute the limits of constitutional reasoning by the U.S. Supreme Court.

But last Oct. 21, President Nixon went before the network television cameras in a wholly different frame of mind. The occasion was to announce his choices of Lewis F. Powell and William H. Rehnquist to the U.S. Supreme Court.

In the course of that unveiling, Mr. Nixon sought to reveal the depth of his personal feelings regarding the high court, saying:

"Let me add a final word tonight with regard to a subject that is very close to my heart because of my legal background and because of years of study of the American system of government.

"I have noted with great distress a growing tendency in the country to criticize the Supreme Court as an institution. Now, let us all recognize that every individual has a right to disagree with decisions of a court. But after those decisions are handed down, it is our obligation to obey the law, whether we like it or not, and it is our duty as citizens to respect the institution of the Supreme Court of the United States."

Aside from the questionable constitutionality of the busing moratorium, there is implicit in the President's espousal of that course of action a refutation of the "respect" he rhetorically urged for the Supreme Court last October and the "obligation to obey the law, whether we like it or not."

That some lower Federal judges may have ordered excessive busing does not excuse the President's attempt at executive and legislative interference with the judiciary.

Those judges draw their discretion from the unanimous opinion of the Supreme Court last April which decreed that busing was a constitutionally permissible tool to eliminate the last vestiges of segregated schools. Any abuse of that discretion will eventually be resolved by the high court on appeals.

But Mr. Nixon's proposal attempts to prohibit by statute what the Supreme Court has declared to be constitutionally valid. And inescapably, there is presented a direct challenge to the "Supreme Court as an institution."

The President's busing moratorium, said U.S. Sen. Edward M. Kennedy this week, precipitates "a potentially serious challenge to the authority of the Supreme Court."

If passed by Congress, and surely it would be tested, the court would be confronted with "accepting a severe limitation" on how it may interpret equal protection under the Fourteenth Amendment, Kennedy said.

What the President suggests, said the Massachusetts senator, is that "regardless how flagrant the act of discrimination or how clear the effort to pursue a policy of segregation, the court not issue an order to desist such activities if it means a single student would be bused."

It is wholly improbable that the court could go along with such a proposition for, as Kennedy said, such acquiescence would compel the court to "void every decision" since school segregation was declared unconstitutional.

Obviously, before the court faces that dilemma, the election of 1972 will be long past, and perhaps Mr. Nixon will have succeeded in diffusing the busing issue to his advantage.

But the price will have been the tarnishing of his own burnished phrases about "a subject that is very close to my heart."

BLACK LUNG STATISTICS FOR WESTERN MARYLAND

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BYRON. Mr. Speaker, recently I asked the Social Security Administration to report on the status of black lung claims and benefits in western Maryland. These benefits were made possible by the enactment of the Coal Mine Health and Safety Act of 1969.

Recently, the House of Representatives passed H.R. 9212 extending and expanding the coverage of black lung benefits, including a provision that would prohibit denial of benefits solely on the basis of chest X-ray results. Black lung forms an important part of western Maryland congressional assistance and this latter amendment will no doubt provide much needed aid to miners in Allegany and Garrett Counties.

It was my pleasure to support and work for this legislation which is now pending before the Senate. I hope the Senate acts favorably on the measure to insure humane treatment for the miners of our Nation, and I look forward to seeing this bill become law during the current session of the 92d Congress.

Listed below are the benefits received in three of the Sixth District counties through December 30, 1971:

County	Claims filed	Claims allowed	Monthly payments	Total cumulative payments
Alleghany	1, 885	889	$131, 545	$2, 164, 858
Garrett	486	229	38, 706	628, 207
Washington	21	10	1, 681	29, 469

PEACE CORPS VOLUNTEER FROM TRUMBULL MAKES IMPACT IN COSTA RICAN TOWN

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MONAGAN. Mr. Speaker, I was gratified to receive today from the Peace Corps a press release identifying a friend and constituent as a Peace Corps volunteer doing a most effective job in the town of San Marcos de Tarrazu, Costa Rica.

The Connecticut volunteer cited by the Peace Corps for his remarkable initiative and accomplishments is Thomas H. Burns, 26, the son of Mr. and Mrs. John L. Burns of 110 Gilbert Drive, Trumbull. I am sure that Mr. and Mrs. Burns, who are long time friends and constituents of mine, are justifiably proud of the accomplishments of their son in Costa Rica just as they have been properly proud of his achievements prior to the time he volunteered for the Peace Corps.

Having supported the Peace Corps and visited many of its areas of service abroad, I am gratified that so many of my own constituents have served the Corps with distinction and among the foremost of these deserving commendation is Thomas H. Burns of Trumbull.

I attach here the press release which was made available to me by John Agronsky of the Office of Public Affairs:

PEACE CORPS VOLUNTEER FROM TRUMBULL MAKES IMPACT IN COSTA RICAN TOWN

Thomas H. Burns of Trumbull, Conn. believes in taking the initiative in his work as a Peace Corps volunteer in Costa Rica.

Assigned to assist the people of San Marcos de Tarrazú develop their electrical cooperative, Burns has started a monthly news bulletin and discount sales program.

He is working to expand the sales program for the "Coopesantos" to include two other electrical cooperatives in Costa Rica, hoping to obtain for members an even higher discount on electrical appliances.

Besides his work with the rural cooperative, Burns teaches three English classes. As an instructor, he has had to improvise and innovate. "Not being able to find an English book to my liking," he reports, "I have been putting together my own 'self-study', 'at-your-own pace' English grammar course."

Burns graduated from the College of Sante Fe in New Mexico in December 1968. He obtained his Secondary Teaching Certification from the University of Bridgeport in June 1970. While attending school, he also worked as an offset printer in Trumbull. He entered the Peace Corps in July 1970.

Burns, 26, is the son of Mr. and Mrs. John L. Burns of 110 Gilbert Drive, Trumbull.

Costa Rica has more than 100 Peace Corps volunteers, working principally in the fields of agriculture, cooperatives, community development, education, public health, and public works.

The Peace Corps is part of ACTION, the citizens service corps established by President Nixon last July to coordinate federal volunteer programs at home and overseas. Joe Blatchford is the director of ACTION.

Other ACTION programs are Volunteers in Service to America (VISTA), Foster Grandparent Program, Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE), Retired Senior Volunteer Program (RSVP) and University Year for ACTION.

THE POLITICS OF PRIVACY

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BRAY. Mr. Speaker, the February 8 attempt in the House to create a Select Committee on Privacy, Human Values, and Democratic Institutions unfortunately failed.

However, it did attract quite a bit of attention. Following are two articles from the Village Voice, by Mr. Nat Hentoff, on the issue, which I found to be interesting:

THE POLITICS OF PRIVACY—1

By way of preface to what I consider a crucially important story that has been neglected by much of the nation's press (including television), I submit a recent press release from the Eastman Kodak Company:

"SURVEILLANCE CAMERAS HELP ADMINISTRATORS MAINTAIN ORDER IN FLORIDA SCHOOLS

"BARTOW, FLA.—Smiles and friendly greetings now far outnumber scowls and random left hooks among junior and senior high school students throughout Polk County, Florida.

"That's because their actions are being recorded on film, and if anyone does anything to seriously disrupt school routine, the odds against establishing an alibi are far from even.

"For the School Board of Polk County, plagued like 23,000 other systems in the United States with unrest, vandalism, and confusion, recently became the first in the nation to install a new automatic super 8 camera security system to monitor unfavorable situations, provide positive identification of trouble-makers, and establish concrete evidence through which administrators can take remedial action.

"Polk County's system employs recently marketed Kodak Analyst super 8 camera encased in sound-absorbent boxes that are set to snap a picture every 30 seconds. A number of the cameras, costing less than $240 each, are already in operation in Polk County junior and senior high schools. More are to come. . . .

The Polk County system, with an enrollment of 60,000 students operates more schools in more towns than any other system in the United States. It controls 58 elementary schools, 14 junior highs, 10 senior highs, and one vocational-technical school.

"Located in corridors, outdoor campus areas, problem classrooms, and other areas, each Analyst super 8 camera will automatically take 7200 pictures per 100 feet of Kodak MFX film, which is contained in standard-size drop-in cartridges. . . .

"W. W. Reed, superintendent of the Polk County School Board, emphasizes that this is by no means a snooping operation. Although the cameras operate constantly during school hours, the film is processed and viewed only when disruptions have occurred. 'We're neither interested, nor do we have the time to "spy" on our students *when they are conducting themselves in manners normal for their age levels,*' he explains . . ." (Emphasis added—N.H.)

"Although the super 8 surveillance cameras have been in use only a short time, Reed reports that their psychological impact already has reduced disruptive incidents, and they already have had a definite effect on the total tenor at the schools. . . . In addition to the mounted cameras, junior and senior high school principals also are being supplied with Analyst cameras for hand-held use to cover incidents in areas that are not monitored."

On February 8 of this year, we moved farther toward what Representative Cornelius Gallagher has termed "post-Constitutional America." On that date, the House voted (216 to 168) to reject the creation of a Select Committee on Privacy, Human Values, and Democratic Institutions (H.R. 164). The New York Times thought the story worth only three paragraphs (February 12) although, to its credit, it did carry the vote tally (more of which later). The Times noted that a primary cause of the defeat of H.R. 164 was the strenuous opposition of Representative Emanuel Celler, who feared the new committee would encroach on the jurisdiction of the House Judiciary Committee, of which Celler is chairman.

The Times wholly ignored the serious, and indeed ominous, arguments of those supporting the bill; and it also ignored the details of the instructive lesson in political science (Realpolitik in raw action) disclosed by the way the votes split.

What follows is based on a variety of sources, including the record of the debate on the bill in the February 8, 1972, Congressional Record (pages 3181 to 3199). I would urge anyone interested in civil liberties to read the full text of that debate (which includes corollary articles and documents). And teachers, from junior high through graduate school, might well find the material conducive to lively class discussion in all kinds of courses.

Congressman Gallagher was co-sponsor of the bill to set up the committee on privacy, and he would have been its chairman. For seven years, 1965 to March 1971, Gallagher had headed the Special Committee on Privacy of the Government Operations Committee. It was finally abolished—again for parochial reasons of "jurisdiction" among House committees.

For that whole seven-year period, the now dead Gallagher Special Committee operated on a total budget of $75,000. (For the year 1971 alone, the House Internal Security Committee enjoyed a budget of $570,000.) Yet Gallagher and his small staff uncovered a number of significant assaults on privacy during that period. Meanwhile, Mr. Celler and his prestigious Judiciary Committee were largely somnolent concerning dangers to privacy during those years.

Among the accomplishments of Gallagher's Special Committee on Privacy from 1965 to 1971:

Its exposure in 1966 of a plan to establish a computerized national data center killed the proposal. (Such a center, as Congressman Sidney Yates of Illinois has pointed out, would have involved the "danger of consolidating individual dossiers, of incorporating inaccurate information, of misusing the information collected, and of breaching any safeguards of germaneness and legitimate need to know.")

In 1968, the Gallagher committee revealed startling information on the collection by commercial credit bureaus of political and behavioral data—as well as financial information—on 100 million Americans. One result of that exposure—though much more needs to be done—was the passage of the Fair Credit Reporting Act.

In 1970, Gallagher's committee was the first and only congressional group to focus national attention on the use of amphetamines to modify the behavior of at least 300,000 American schoolchildren. (See "Federal Involvement in the Use of Behavior Modification Drugs on Grammar School Children of the Right to Privacy Inquiry," the record of a September 29, 1970, hearing, available from the U.S. Government Printing Office, Washington.)

Also in 1970, as Gallagher observed during the floor debate last month, "I learned, in my capacity as chairman of the privacy inquiry, that there was under consideration at the very highest levels of our government, a proposal to give every American child a predictive psychological test to determine his potential criminality. The plan, by Dr. Arnold Hutschnecker, proposed to take those children who flunked the test and send them to rehabilitation camps. . . . The plan was studied within the Department of Health, Education, and Welfare for almost three months. It was only after I had announced my intention to hold public hearings on the issue that the plan was abandoned."

That first Gallagher committee having been killed in 1971, there is now a dangerous void in the House. Congressman Frank Horton of New York who co-sponsored the bill this year to set up a Select Committee on Privacy, emphasized during debate: ". . . we Members of the House cannot point to a single committee or subcommittee now structured to deal with the incredibly complex question of privacy." Among the areas now being ignored, Horton added, is the increasingly sophisticated use of computers, by government and in the private sector, "to create huge data banks of information, in immediately retrievable form, without congressional guidelines or, frankly, much congressional interest."

Horton also noted that "there is a behavior modification revolution in our society, but no existing committee of the Congress has the jurisdiction to evaluate these new tools of human manipulation."

B. F. Skinner's work was referred to frequently during the floor debate, and another advocate of the privacy committee, William Bray of Indiana, quoted Kenneth Little executive officer of the American Psychological Association: "All I hope is that the Executive and Congress take Fred Skinner's book seriously. Behavior shaping is here. If they dismiss Skinner's book, decisions will be made at a level beyond their control."

To which Congressman Bray added: "I do not know what Mr. Little means by his last sentence and I do not care to wait to find out . . . We ignore the potential danger in these things only at our peril."

Furthermore, without a committee on privacy, what likelihood do you think there is that the House is going to look into Orbis III? You don't know what Orbis III is? Gallagher has made it his business to find out.

"Many state highway departments," he point out, "are installing Orbis III. This system contains a sophisticated camera which can penetrate tinted glass or dark glasses worn by the car's occupants. It is tied in a computerized vehicle registration lists and produced automatic ticketing of speeders. A report is sent containing the picture of the occupants, the license plate number, the time, the weather conditions, the speed of the vehicle.

"Now this is undoubtedly valuable to find speeders but it is a singular example of the new surveillance technology. Its future applications may very well include being put in the driveway of anyone ever suspected of a crime to automatically tell when he leaves his home. Similar technology is being used to monitor on a 24-hour-a-day basis downtown street locations in towns.

"This represents," Gallagher adds, "a total surveillance society which is within the capabilities of our technology today. Unless questions are asked and future applications are evaluated, we all will be under the camera's eye and in the computer . . . The use of Orbis III and similar systems is a matter for all society to consider and only a group like the select committee would be able to ask the right questions."

Are *you* going to monitor Orbis III, Congressman Celler, now that the sanctified exclusiveness of your Judiciary Committee has been preserved? As a matter of fact, I am going to ask similar questions in this column from time to time as I get information about intrusions of privacy that the Gallagher committee would have likely gone into. And I'm not the only one keeping score. There will be another attempt to create a privacy committee during the next session of Congress, and a considerable burden of proof is now on Congressman Celler to demonstrate in exploratory action his professed concern with safeguarding privacy. His record up to now on this issue has been exceedingly poor.

Next week I'll go into the vote on the Gallagher bill and examine some of the surprising turns a number of congressmen took. Father Robert Drinan was one hell of a disappointment, as were John Conyers Abner Mikva, Don Edwards, and Robert Kastenmeier. But they are all members of the Judiciary Committee of which Emanuel Celler is the powerful and grudge-keeping chairman. In fact, only two of the 38-member Judiciary Committee voted for the Gallagher bill, defying Celler in the interest of trying to preserve the Constitution. One of the two, as you might expect, was the invaluable William Fitts Ryan. (Ed Koch and Bella Abzug, not members of the Judiciary Committee, were also on the side of privacy.)

Press coverage and analysis of this key debate—and vote—was scanty; and the carelessness of the New York Times is a further indication of how inept its Washington coverage often is. Nor did the Times see fit to editorialize on the issue. After all, when the Times' new staff goofs, the editorial writers tend to be at a decided disadvantage, not knowing what's actually going on.

By contrast, the St. Louis Post-Dispatch, on February 20, printed an editorial titled "Political Science Lesson." From the last paragraph.

"The episode is a lesson not only in the reluctance of Congress to alter in any way the traditional committee system but also in the tremendous individual power of committee chairmen. In this case, the 'integrity' of the Judiciary (Committee) was preserved; but only at the expense of a proposal that would have helped protect the privacy of every American."

A full-page ad in the February 1972 issue of Justice:

"RENT-A-NARC"

"Extra agents when you *need* them. For large or small jobs. In the community, correctional institutions, industrial plants on campus, in schools, many other situations."

The eager advertiser, Universal Detective, Inc., pledges:

"If your department or agency is short staffed, or lacks trained agents, our special service is designed for you. Our agents are trained in a narcotics agent training school, and receive polygraph and urine examinations. We provide weekly reporting systems that have *not failed* in obtaining convictions in *every* case. While your agents are in training growing their hair long, or sprouting beards, our specially trained narcotic undercover agents can be on the job."

That's it, kids. If the Kodak Analyst super 8 camera doesn't get you, Rent-A-Narc will.

Now, to continue with today's lesson on the foundations of the American way of life.

Fourth Amendment: "The right of the people to be secure in their persons, homes, and effects . . ."

Smile, you little bastard, this is a happy school.

The Politics of Privacy—II

During his unsuccessful attempt to convince his brethren in the House of the need for a Select Committee on Privacy, Human Values, and Democratic Institutions, Cornelius Gallagher received outside support from an unusually diversified array of individuals and institutions. The Washington office of the American Civil Liberties Union and the Daughters of the American Revolution were simultaneously working for the bill. Also in unaccustomed alliance were Harvard Law School professor Vern Countryman and conservative columnist Paul Scott. And there were statements and letters from the National Health Federation (whose national leadership is staunchly Republican) as well as from the Federation of American Scientists and from such professional experts on the erosion of privacy as Alan Westin of Columbia and Professor Arthur Miller. (The latter's book, "The Assault on Privacy," has just been issued in a Signet paper edition.)

I was not surprised at this ecumenism because when I first became involved in civil liberties work—growing up in Boston—I found that on certain issues, notably privacy, there were always a number of conservatives who took the Bill of Rights as seriously as many of us on the left did. There were also those on both right and left, of course, who weren't concerned at all. (A valuable early lesson for me was the utter contempt Stalinists I knew had for the civil liberties of Trotskyites.) In any case, then as now, the usual political categories don't necessarily hold.

This wide-ranging support was not enough to withstand the opposition to the Gallagher bill of Congressman Emanuel Celler, who considered a committee on privacy to be an incursion into his closely held fiefdom, the Judiciary Committee. Nor were Celler and the majority of the House moved by the substantive arguments concerning the necessity for such a committee (some of which were summarized in last week's column).

One supporter of the bill, Dr. Nicholas Kittrie, director of American University's Institute for Studies in Justice and Social Behavior, had warned: "There is a human modification revolution upon us, which in its magnitude is not unlike the industrial revolution of nearly 200 years ago."

Another advocate of the Gallagher bill, Dr. Peter Breggin of the Washington School of Psychiatry, wrote to endorse Gallagher's "concerns about mind control and deprivation of basic human liberties through psychiatric and psychological interventions, including the use of drugs, electroshock, and lobotomy, as well as the use of social engineering as urged by B. F. Skinner." (In a subsequent column, I'll report on some of

Breggin's research concerning the renewed growth of psychosurgery in this country.)

Sam Ervin, the Senate's paladin of privacy, also underlined the "real need in the Congress for a committee which can devote its *full attention* to a study of privacy as a human value necessary to our society." (Emphasis mine—N. H.)

As Robert Sherrill pointed out in the March 5 New York Times, Ervin has forced the Army to supply his Constitutional Rights Subcommittee with more information concerning their spying on civilians. Some of the most frightening of this material, however, is still classified; but Lawrence Baskir, chief counsel of the subcommittee, is able to say that it deals with "psychological aspects of people, and personal relationships and personal finances." Since this information has come from the pocket and brain of the subject, Baskir adds, the question is raised of "just how the hell did the Army get it."

There was, then, a case, to say the least, for the creation of the Select Committee on Privacy. But Emanuel Celler—calling on House Committee chairmen to unite and reminding members of his own Judiciary Committee of the consequences of crossing him—succeeded in getting the Gallagher bill defeated.

As I noted last week, only two members of the 38-member Judiciary Committee supported the Gallagher bill. Although the Black Caucus in the House had taken a formal position in favor of the Select Committee on Privacy, John Conveyers of the Judiciary Committee voted against it. So did Abner Mikva, even though he himself had been the subject of Army secret surveillance. Mikva is on the Judiciary Committee. Father Robert Drinan, a consistent critic of the privacy-invading work of the House Internal Security Committee (of which he is a member), voted against the Gallagher bill. Drinan is also a member of the Judiciary Committee. Intriguingly, Richard Ichord, chairman of the Internal Security Committee, voted for the bill—as did Wilbur Mills and a number of quite conservative congressmen. (That unpredictable ecumenism again.)

Two of the most dependable liberals in the House, Don Edwards and Robert Kastenmeier, have for years been speaking of the abuses of the seniority system there. But when this crunch came, both voted against the privacy committee. Both are subcommittee chairmen in the hierarchy of the Judiciary Committee.

As for the New York delegation, Jonathan Bingham followed Celler while James Scheuer, to his credit, did not. For those of you who missed the tally in the Times, the other metropolitan New York congressman who voted in the negative were Lent (the man who defeated Lowenstein), Addabbo, Brasco, Rooney, and Carey. Shirley Chisholm was absent. All the rest—including Koch, Abzug, Rangel, Ryan, and Badillo—voted for the Gallagher bill.

During the debate, Mr. Celler noted reassuringly that not only would his Judiciary Committee do what had to be done concerning privacy—though it has shown less than scant interest in the past—but there are also other troops on the way. The Organized Crime Act of 1970, he observed, establishes a National Commission on Individual Rights. It will have 15 members. And this is how they will be chosen—four by the Speaker of the House, four by the President of the Senate, and seven by the President of the United States.

With that kind of sponsorship, the 15 should at the very least have to pass an elementary school quiz on the Bill of Rights.

The provision of a National Commission on Individual Rights, as Gallagher said in debate, "was tacked onto the Organized Crime Act, in my judgment, as an attempt to distract attention from the anti-poverty thrust of that bill and perhaps to salve the conscience of some of our members. . . . The commission is not yet appointed but the 'no knock' provisions and preventive detention and preemptive surveillance as well as other constitutional mutations are very much part of the law of the land. So you see the priority that privacy has."

Furthermore, this august National Commission on Individual Rights doesn't have to make its final report to Congress and the President until SIX YEARS after its establishment. It may, "as it deems advisable," issue interim reports.

Considering the composition of the Commission, privacy will be no more protected whether or not it ever issues any reports at all.

The four members from the House on that Commission are Celler; Mikva; William McCulloch (who voted *for* the no-knock clause of the D.C. Crime Bill); and Charles Sandman, who also supported the no-knock provision and is otherwise an undistinguished conservative with no known passion for civil liberties.

Sam Ervin is one of the Senate appointees, but so is the Bill of Rights' most inflexible and effective enemy in that body, John McClellan, Senators Edward Gurney (Florida) and William Roth (Delaware) make up the rest of the Senate contingent. These two Republicans are among those conservatives who have not been touched with ecumenical concern for individual liberties. They are just plain antediluvian Republicans. Gurney's Americans for Democratic Action rating in 1969 was zero. In 1970, it was six. Roth's ADA rating while he was in the House ranged from 8 (1968) to 7 (1969) to 20 (1970). Sam Ervin excepted, the Senate contingent is hardly like to be zealous in defense of privacy when protecting privacy collides with vested "patriotic" and commercial interests.

But what of the seven members the Nixon administration is going to select? Well, the man in charge of making those choices is Donald Santarelli, Assistant Deputy Attorney General, Office of Criminal Justice, in the Department of Justice. Mr. Santarelli's accomplishments in safeguarding the Bill of Rights include his having drafted the District of Columbia Crime Bill. In addition to its no-knock clause, that measure allowed for unprecedentedly permissive wiretapping, along with other assaults on the Bill of Rights. It was this D.C. bill which Gallagher, by the way, described as "repression without representation."

The foregoing, it seems to me, puts the forthcoming National Commission on Individual Rights in a drastically different context than Congressman Celler indicated in his highly selective description of it during debate on the Gallagher bill. I do not accuse Mr. Celler of being disingenuous on the matter. I do believe that his indifference to privacy allows him to actually believe that the Commission, along with his own Judiciary Committee, takes care of the issue.

Anyway, with the Gallagher bill dead for this term, our privacy is as safe as the lives of the people of Vietnam, Laos, and Cambodia while our leader, "winds down" the war by intensifying the bombing of Asians.

Two notes in passing. The material in this two-part series ought first to have appeared in the New York Times, not here. It is that important and far-ranging a story.

Second, for some of the voting records and other backgrounds of a number of the politicians cited, I am indebted to "The Almanac of American Politics/1972" by Michael Barone, Grant Ujifusa, and Douglas Matthews, published by Gambit. In terms of its current reference value, I share John Kenneth Galbrait's view that "this is the single most useful political document I have ever encountered."

Back to Orwell land. I promised last week to submit to Congressman Celler key privacy issues that his Judiciary Committee might consider looking into—especially since he has so stoutly maintained that a Select Committee on Privacy is unnecessary so long as Manny is at the helm of the Judiciary Committee. Here, sir. is my first lead.

From a report by Diane Bauer in the March 2 Washington Daily News:

"The Metropolitan Council of Governments is about to ask for federal funds to set up a super police force made up exclusively of spies to search out and destroy drug traffic and organized crime in the Metropolitan area.

"Agents for the Metropol, working out of a CIA-type secret headquarters somewhere in the suburbs, would build a network of paid informers, set up a data bank, and use sophisticated electronic spy equipment.

"COG will soon ask for $2.5 million in Federal Law Enforcement Assistant Administration funds to set up what it officially calls the Metropolitan Washington Organized Crime Intelligence Unit (MIG)."

(As you read from here on, add "subversive" to such terms as "criminal" and illegal"; because once this kind of unit is set up, you can be sure as death that it will soon be in the business of also collecting political information.)

To return to Diane Bauer's account:

"Metropol's effectiveness would not be evaluated by numbers of arrests or convictions but by 'successful elimination of criminal groups.'

" 'Suppression' of organizations would not necessarily be gained 'through traditional means of arrest and prosecution . . . but may be achieved by making the illegal operations so expensive and hazardous' that operations are suspended.

"Twenty per cent of the first year's budget, $94,990 would go to paid informers 'to provide motivation for sources to cooperate.'

"A $1100 salary bonus would go to each area police chief for cooperating with the program." (I bet Lavrenti Pavlovich Beria never thought of that.)

"About $50,000 is requested for spy equipment, including three 'SK8 Intelligence Kits' at $3200 each, two $1500 telephoto cameras, a decoder, a $1000 paper shredder, closed circuit tv, 12 recorders with voice-activated microphones at $450 each, $20,000 worth of radio transmitter-receivers, and a surveillance van.

"Despite Defense Department promises a year ago after Senator Sam Ervin's hearings on military snooping—that the Army would get out and stay out of domestic spying—MIG would ask to have Army CID men as top advisers on its staff.

"MIG headquarters would be located outside the District to help 'maintain an innocuous appearance.' . . . MIG would be geared to get assistance and information exchanges from the Internal Revenue Service, the Bureau of Customs, Postal Service, Department of Justice, Law Enforcement Assistance Administration, the FBI, the Armed Forces, and the Bureau of Narcotics and Dangerous Drugs.

"Although an accountant would probe financial transactions of suspected persons and groups, and MIG would tap the Internal Revenue Service for help, no mention is made of how MIG would get around federal laws forbidding the use of IRS information by other agencies.

"Its data bank system is planned to connect wtih other data systems including the FBI's NCIC, the Washington area's WALES, Maryland's MILES, and SEARCH, an interstate computer hook-up.

"MIG agents would be recruited from the CIA, the Defense Intelligence Agency, the Army's CID, the Office of Naval Intelligence, the Air Force's OSI, and the National Security Agency. . . . The staff would also include investigators from all local police departments . . ."

Quite an intriguing order of battle, isn't it? And that's only for Washington, D. C. Why, every town and city law enforcement complex will soon want its own MIG. And Congress, with no committee to devote full attention to such rapes of privacy, will grant funds for more and more MIGs.

February 8, 1972—the day the bill to create the Select Committee on Privacy was shot down—is a date to remember as privacy becomes more and more rare—like clean air.

A CORNWALL FILM MAKER

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRASSO. Mr. Speaker, Albert Waller of Cornwall in my Sixth District has been called "the best film maker on literature in the United States."

A winner of countless awards, Mr. Waller's creative works have often graced our TV screens—giving the public some of television's best hours. It is an honor and privilege to know that while Mr. Waller and his family spend a great deal of time in Manhattan, they consider Cornwall home.

For the interest of my colleagues, an article which appeared in the Lakeville Journal regarding some of Mr. Waller's marvelous film achievements follows:

A CORNWALL FILM MAKER

(By Alison Wryley Birch)

Albert Waller has made a total of 36 films in the past eight years and almost every one of them has won him an award.

One, *In The American Grain* was made for CBS and won him *two* Emmys. It was the filmed story of the great American poet-physician William Carlos Williams. "Each film takes anywhere from four days to one year to make," Albert Waller says. "All of mine have been made for TV and run for one-half to two hours."

Albert and Kim Waller live in Cornwall. "We exist for five days a week in Manhattan," they say, "but we *live* in Cornwall." It was, in a round-about way, a film that first brought them here. The film showed Archibald MacLeish and Mark Van Doren conversing. Two great minds in the sunlit New England Corner talking about Cornwall. "I recalled it as we were driving over the covered bridge one day," Al Waller said. "On a whim we stopped to see a real estate agent and he brought us here. When Kim got out of the car and started to cry I knew we'd bought a house." That was five years ago.

BEGAN AS A WRITER

Albert Waller began his career as a writer. "I worked for The New York Times," he says, and had the euphemistic title of Exchange Editor. It's just another name for copy boy." Then we went to CBS as a news writer and worked the midnight to 8 a.m. shift doing the morning news report. "It was murder," he recalls.

"We lived on things like ham and chicken livers because they are two of the few things you can have for breakfast and dinner," Kim Waller adds.

Fated to be successful at whatever he does, Waller won the Esquire-Bantam book award for a long short story he wrote. Out of 5,000 entries, only 15 winners were chosen. Waller's story was later included in an anthology called *Stories For The 60's*.

WRITING LEADS TO FILMS

"I wanted to be a writer," Waller says. "I worked on TV to make a living while writing, then I went into filming." One of his first films, *In The American Grain* won not only the two Emmys but the Writers' Guild of America award for the best film written in the United States for TV. It was repeated on television five or six times. Only one Writers' Guild award is given a year.

Still specializing in instant success, Waller went to Africa to make a film for children. "I've made a good many of these," he says. One was *Jerry, Ralph and Jim*, a story about three seven-year-olds. Jerry is an upper middle-class boy, Jim comes from a huge potato farm and Ralph lives in Spanish Harlem—three totally diverse environments. Waller ended up with another award for that one.

Night of A Million Years was a film story of two ten-year-olds who get locked up in the American Museum of Natural History overnight, and in an effort to find their way out they live the evolutionary history of man. It's a silent film with no narration—totally visual.

The National Council Of Teachers Of English called Al Waller "The best film maker on literature in the U.S." Then, a film called *The Odyssey Of Michael Steinberg*, won Waller an award from the National Council of Christians and Jews for the best film that bridged the East and West. He also won the Ohio State Award for a film, which he says is actually more prestigious than the Emmy.

MOST ARE DOCUMENTARIES

Most of the Waller films are documentary. "I could be making commercials, but I'd go crazy!" he says. "You learn more in making documentaries than anything else." "I want to apply the techniques of documentary film-making to the making of feature films."

He has written a couple of screen plays so far. In spite of his visionary eye, Waller almost never takes the actual pictures. As the director, he has to know all the technical details involved in the creation of a film, but he doesn't have to be his own cameraman. He is his own writer and using his original talent with words, he writes every one of his films himself. Each film is done on a per-film basis and for each he lines up free-lance cameramen, assistants, researchers, editors, etc.

"Film is a chronological medium," Waller says. "The film exists in time even if the story doesn't. There's a rhythm to the film as there is to language. The director's main job is to hang on to the rhythm. It keeps you from shooting what you don't want to shoot.

"The best films don't necessarily have the most fantastic shots," he adds. A film is a series of shots that you remember as an emotion. A fantastic shot might spoil the rhythm of sequence. We're not after a picture—we're after an emotional statement."

FILM FESTIVALS ABROAD

Not only has Al Waller gone to other lands like Africa to shoot film, but many of his films have been shown in foreign countries. They've been shown at film festivals in Edinburgh, Scotland; Cork, Ireland; Tours, France; and in Melbourne and Sidney, Australia, as well as many other places here and abroad. The Council on International Non-Theatrical Events twice gave Waller an award for the best American non-theater films entered in competitions abroad.

There is a dreamy, poetic, quality to Waller's films, as well as a true story sense. The narration—done by people like E. G. Marshall and George C. Scott—has an epic poem quality and the filming matches the mood. A Waller film called *Century Next Door* is about one day in the life of the 19th century as seen through portraits in the Metropolitan Museum of Art in their 19th century exhibit. Another film, *Sense Of The City*, is a visual look at the urban experience through the eyes of professional writers. The uncommon attitude blended with the common event produces films of poetic mystery, blended nicely with the more prosaic facts of living.

EDITING IS THE KEY

"You have a responsibility when you make a film," Waller says. "I don't make exploitative films, so I have to maintain objectivity and sometimes it's difficult. In *Jerry, Ralph and Jim* it would have been easy to play one boy against the other, but I had a responsibility to those kids." One of the seven-year-old youngsters, he reports, wants to be a heart specialist or a mathematician when he grows up. "It's nothing to knock," Waller says, "He may very well grow up to be either!"

Editing, Waller believes, is the heart of the art of film making. "It's the language of the film. Even with a lot of bad footage you can come out with a great film if you have a great editor."

Albert Waller is working completely free-lance now. He's the only free-lance film maker ever to make a documentary film for NBC. It was called *Confrontation* and was a 90-minute film showing a confrontation between students and faculty at San Francisco State College. *The Great American Dream Machine* is a series on Channel 13 that Waller is working on now. "Al's relationship to his profession is as an artist and not as a worker," Kim Waller says.

"Oh, I love film-making" her husband says unequivocally, "If they didn't pay me to do it, I'd pay them!"

LAND USE PLANNING

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McKINNEY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following: Mr. Speaker, as we enter this last quarter century, there is no question that one of the major challenges we must meet and solve is that of land use planning. Recently, Connecticut's Environmental Protection Commissioner Dan Lufkin spoke to this issue and what emerged, in my view, was a concise and thought-provoking look at what is ahead. At the time, Commissioner Lufkin was addressing a joint conference on the Environment at Albertus Magnus College in New Haven. I feel that his thoughts on that day are worthy of review and at this point, I would like to include them in the RECORD:

COMMISSIONER LUFKIN'S ADDRESS

One of the most famous astrologers of the 18th century became so confident of his ability to predict the future that he announced publicly the precise date of his own death. When that time arrived and he was still in good health, he hung himself to make the prediction come true.

This is only one particularly dramatic example of the self-fulfilling prophecy—a neat trick men employ to give the illusion that they have more power and wisdom than they really do.

We have seen self-fulfilling prophecies employed on the international level with great effect. We do not like the political ideology of a nation, and so we predict that it will be a bitter and aggressive enemy. To protect against this enemy, we arm against it, propagandize against it, surround it with our own troops and armaments and, lo and behold, we have a bitter and aggressive enemy. President Nixon's visit to China is an historic example of an attempt to repeal a self-fulfilling prophecy. He is the first President in 20 years or more to realize that you don't have to make your predictions come true by hanging yourself.

It is in the area of the environment, however, that the self-fulfilling prophecy has had its most direct and devastating effect. In a very real sense, such prophecies have been used as substitutes for rational planning. Giving the illusion of control over events. They indicate powerlessness rather than power and even reflect the attempt of special interests to exert domination over the common good.

The story of post-war development in Africa has been a series of self-fulfilling prophecies. Based on extrapolations of population growth, traditional housing and land use patterns and the probable location of business and industry, we have positioned public services to accommodate our assumptions. And, lo and behold, when the road is built, the prophecy comes true. We have predicted urban sprawl, and we got it. We have planned for row housing with one-half-acre zoning, and it happened. We knew people would need their automobiles to get to work, and, by George, they do.

It is only very recently that we have begun to realize, as we feel the noose tightening around our necks. That we are hanging ourselves to prove our wisdom, rather than using our wisdom to keep our necks out of the noose.

Highways are only the most obvious. Visible, permanent examples of how the self-fulfilling prophecy has altered our environment. Calculation of energy use is another that is only now beginning to intrude on our consciousness and on our conscience. Again, based on straightline predictions of population and industrial growth, the power companies have prophesied future demand and built capacity to meet it. Then, through sales promotion, pricing structure, and other incentives, this demand has been simulated to meet the capacity.

There are sound, historic reasons why the self-fulfilling prophecy has governed so much of our environmental decision-making. In the first place, the whole notion of planning, either public or private, has only fairly recently become acceptable in the context of a free enterprise society.

Up until a decade or so ago, only a few of our great industries were much concerned with long-range planning. Each year most would add a growth factor to the previous year's production, stir in some intuitions concerning public tastes and desires, and gear their manufacturing and sales efforts to meet these guesstimates. Planning had connotations of socialistic control, of interfering with the free play of supply and demand. The Communist nations had their five-year plans, and they didn't seem to be working. So, why should we bother?

Today, every corporation that expects to stay in business for very long has five-year and even ten-year plans of its own, and woe to the manager who doesn't meet his planning budget.

Increasingly, Government and subdivisions of Government are doing long-range planning of some kind. There is a proliferation of blueprints for the future, usually pegged to the year 2000, emerging from national, State, regional and local planning agencies all over this nation.

What we now call the environmental crisis is responsible for much of this heightened activity. We are beginning to be aware of the mess we are in now and the greater mess we are going to be in if we don't begin to control the use and abuse of our finite, interconnected natural resources.

As William H. Whyte has said, "there is a good side to the mess. We needed it. It is disciplining us to do out of necessity what we refused to do by choice." Unfortunately, this necessity is perceived very unevenly by the various interests that make up our society. And, until there is a general awakening, resulting in more comprehensive planning, more intelligent regulation and more aggressive enforcement, the predictions of special interests are going to continue to determine the fate of our resources rather than public planning based on the common good.

It is exactly—almost to the day—10 years ago that the Governor of Connecticut wrote a letter to the then-Commissioner of Agriculture and Natural Resources. "Dear Joe," he said, "our recent review of Federal and State legislative action in the conservation field indicates that now is the time for Connecticut to move swiftly to save our dwindling open spaces and our great heritage of natural resources for the use and enjoyment of future generations."

The Governor requested that a plan be submitted within 60 days to guarantee the open space resources of the State. And, within 60 days, such a plan was, in fact, submitted, calling for the creation of regional and local planning agencies and setting priorities for the preservation of wetlands, flood planes, pollution abatement, park development, forest acquisition, and all the familiar concerns we have been repeating to ourselves for the past decade.

During that period, we have seen some progress made. But the environmental crisis has not abated. The destruction of wetlands has continued, the pollution of air and water has accelerated, flood plane problems remain and so on down the line. And now, 10 years later, we are facing these issues as if they were all new and again talking about the need for a plan. Only this time we cannot approach the problem piecemeal; we have got to be courageous enough to bite the bullet of land-use planning as a whole, for without such a comprehensive approach, even strong, separate efforts are eventually doomed to failure. And we cannot afford another decade of talk.

Russell Train, Chairman of the CEQ, has called land use planning "the most important environmental issue remaining substantially unaddressed as a matter of national policy." His analysis applies to the States as well as the Nation. Again, there are valid historic reasons why land use planning has come so late to the agenda. But we must not let history determine the future as it has the past.

Historically, no one has been in charge of land use in our country. Or, to be more accurate, everybody has been very much in command of his own small piece of property. And the notion that a man's home is his castle has extended to the rights accruing to his ownership of land. No one owns the air we breathe. No one owns the water we drink. We can all agree to that. But rights of land ownership are as solid as the land itself, and people have tended to feed strongly that what they do with their land is very much their own business. And understandably so.

Yet we have seen land use policy piecemeal by the diverse owners of the land. Farmers have sold to developers. Developers have built to meet predicted needs. The self-fulfillment of these predictions had led to more complex needs for schools, sewers, roads and highways. Open spaces have been gobbled up in the name of necessity. Pollution of air and water, noise, discomfort and crowding have resulted from this confluence of private decisions, and suddenly the individual citizen and land holder has found that his property is not his castle after all. It is wreathed in smog; surrounded by noisy traffic; overburdened with taxes; and separated, both physically and spiritually, from the sources of natural beauty, peace, recreation, and pleasant utility, which he thought were his to enjoy by natural right.

Faced with the acute dislocations brought about by unplanned, uncontrolled land use, the citizen has found himself powerless to do very much about it. Land jurisdictions are as diffused as land ownership—spread haphazardly among individuals, towns, counties, special districts and regions and even the state itself. Thus, it has been almost impossible to know where to look for guidance or decisiveness in policies relating to the use of land.

Everywhere we look we see decisions about the land being made by someone else: by other people's planning instead of our own or by default. And these plans—and these decisions—are generally the result of self-fulfilling prophesies rather than of any systematic approach to how we want things to be in the future. And so, even an agency of state government like the Department of Environmental Protection, which has a broad charge to protect the state's resources, finds itself spending much time on the results of actions already taken rather than planning for actions which should be taken. By history we are forced into commiting the cardinal sin of ineffective management, i.e., spending most of our time on our problems rather than our opportunities.

The office of State planning is now putting together a master land use plan, as required by the legislature. Based on population projections which predict 5 million people in Connecticut by the year 2000, this plan divides the State into 3 categories of land use—permanent open space; urban land; and the gray area of rural land, which is either agricultural or of low density residential development.

Such a projection is an important first step in analyzing what resources we have, cataloguing the use of these resources, and projecting probable trends 30 years in the future. But this is still not a master plan. We must substitute the word should for shall and involve every concerned public agency, bureau, and private organization which will impact on our resources over the next generation in the active creation, not passive projection, of our future.

What does this mean? It means firm decisions about what should be done in the future about transportation. It means the resolution of the debate over mass transit and the end to federally-induced, self-fulfilling prophesies about highway construction. It means firm decisions about utilities—the public need for power—the siting of power plants—and the location of power lines. It means some decisive policy about the location of industry—the construction of new population centers—and, above all, perhaps, it means the establishment of some parameters of optimum population growth for this State projected into the future.

We have had, in Connecticut, some significant approaches to local and regional planning; some valuable and experimental programs of new community development. Now it is imperative that land use planning, which is nothing less than total environmental planning—and it should be called just that—be elevated to the highest priority and made a function of the State as a whole.

What we are doing presently is creating a patchwork quilt of individual policies and remedies based on the solution to environmental crises as they arrive, almost on an ad hoc basis.

This is only natural. Individuals and groups tend to follow the path of least resistance—of custom and tradition—until they themselves are personally affected by the actions and activities of others. In a poll conducted by the White House, the question was asked, "What do you think is the most pressing environmental problem today?" Land use control ranked last. Right at the bottom. And it usually stays there until an emergency arises. Until the bland, neutral words "Land Use Policy" are suddenly translated into discomfort, ugliness, pollution, destruction of finite natural resources, or the forcible invasion of individual or group self-interest.

Right now, in the absence of any coordinated policy-making machinery for land use planning, we are using individual powers or prerogatives to obtain some necessary results.

This is going through the back door instead of the front door. Existing or proposed pieces of legislation pertaining to coastal and inland wetlands, scenic highways, protected rivers. conditional sewer grants and the nondegradation principle expressed in the new air quality standards give us some handle on the use of land. But these are stopgap. Totally uncoordinated, not based on overall policy determinations and unrelated to the specific and expressed wishes of the people of the state.

What is needed is not more activity at the back door but a concerted analytical, educational and, ultimately, legislative effort to get in the front door of land use policy planning. This does not mean the concentration of power in any one agency or commission. Rather, it will require the cooperation and the coordination of every interested agency of the state as well as every private group or organization involved in major determinations of the state's growth and development. And most important of all, it should and must involve the public.

Several other States are now far ahead of us in planning where they are going to be a decade or a generation from now and how they are going to get there. Either officially or unofficially, they are participating in long-range analysis and study. Leading to recommendations that can be placed before the legislatures and the public in time to make a difference and have an impact on the future. Planning is only an exercise in theory and often in futility unless it actively involves *all* the people who are going to be affected by the plan or whose concurrence is necessary to make it work.

And so, I strongly urge that the people of Connecticut become involved now on a statewide basis in planning for the future of Connecticut.

Before the final draft of our air quality standards was prepared for submission to Washington, we went through the process of local workshops and regional public hearings so that every group, every interest, public and private, would have an opportunity to know the facts and to be heard on the issues.

Our future is too important to be left to self-fulfilling prophesies or even to piecemeal planning no matter how good or how sound that planning may be.

The people of Connecticut should have a voice in such crucial issues as the optimum population growth for Connecticut; the construction of mass or other alternate transit systems; the location of new cities and new industries; the policies relating to State lands and open spaces and the projection of power needs and the size and location of new power-producing capacity.

There are only two parts, really, for Connecticut to follow. One is the path of obedience to the past; charted by statistical projections of growth—the computerized extrapolations of demographers and statisticians—many of them employed in securing the self-fulfilling prophesies of special interest groups. This path is a total abdication of true planning and can end only as it did for the 18th century astrologer—with our neck in the noose.

The other path is harder, more perilous, and requires far more individual effort and choice. This is the path of detailed analysis of the State's resources and the deliberate assessment of the kind of life and the quality of environment deemed acceptable by this generation—In trust for succeeding generations.

One path permits past trends in population, economic growth and urbanization to continue with little, if any, change in direction or control. The other is based on the assumption that Connecticut's people and politicians, industries and communities are flexible enough and creative enough to set goals for our environment and to make the changes necessary to achieve them.

Ian McHarg has listed seven steps of agreement on which a statewide planning sequence must be based. I think we have the wisdom and the will in Connecticut to concur on each of these steps.

First, we must agree that the area is beautiful and vulnerable.

Second, we must agree that development is inevitable and must be accomplished.

Third, we must agree that uncontrolled growth is inevitably destructive.

Fourth, we must agree that development must conform to statewide goals.

Fifth, we must agree that the observance of conservation principles can avert destruction and insure enhancement.

Sixth, we must agree that planned growth is more desirable than uncontrolled growth and more profitable.

Seventh, we must agree that public and private power can be joined in partnership in a process to realize the plan.

If we can concur on these points and on this process, then direct implementation must begin.

The State's master land use plan is a good first step, but it is only a part and only a description. It is not a final answer.

All involved state agencies must begin to work together cooperatively to develop a program of optimum growth and development for Connecticut.

Local and regional hearings should be held to give every citizen and every group a chance to have his say, and add his contribution.

And, when this process has resulted in a kind of overall informed judgment, appropriate legislation should be passed creating the procedures and the controls necessary to implement the plan.

As William H. Whyte has said: "Our options are expiring. The land that is still to be saved will have to be saved in the next few years. We must make our commitments now and look to this landscape as the last one. For us, it will be."

Thank you.

GI BILL NOT SUFFICIENT

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. LANDGREBE. Mr. Speaker, Mr. Henry Littrell III, a constituent who is serving as acting president of the Indiana State Collegiate Veterans Association was in Washington recently to express concern over the benefits received by our veterans. On the basis of his information, the funds available under the GI bill are not enough to meet the rising costs of education.

I would like to include the information that he has supplied me for the inspection of my colleagues. This information was given as testimony to the Subcommittee on Readjustment, Education, and Employment of the Senate Veterans' Affairs Committee.

The material follows:

TESTIMONY OF HENRY LITTRELL III

Mr. Chairman and Members of the Subcommittee, what is the veteran today faced with in his attempts to obtain an education? Let us look first at today's G.I. Bill and compare it to the G.I. Bill of 1948.

A large gap exists between the benefits that were available to the veteran in 1948 and the veteran of the Vietnam era. In 1948 the government paid for the cost of tuition as well as books and supplies up to a maximum of $500 a year. In addition, a monthly subsistence allowance was provided up to a maximum of 48 months. In the case of a veteran who was married and had one child, the total package amounted to $7,760. That amount rolled forward to today's dollar value is worth $14,511. Today's veteran going to college who has two dependents and is receiving benefits under the present G.I. Bill, has a package worth only $8,280 for the total 36 months he is eligible. This is paid in the form of a monthly subsistence allowance and there is no federal participation in the payment of tuition or books and supplies. The total package has increased only $520 in the last 23 years, a 6.7% increase.

I attend college at Purdue University in Indiana. I would at this time like to present to you the financial situation a married veteran with one child faces while attending school at Purdue. The following assumptions are made: 1) the veteran is going to school full-time under the G.I. Bill. 2) His wife is working. 3) This is a nine month budget. 4) There is no car payment for the family. 5) There is no prior indebtedness.

An Indiana resident pays $700 in fees for a nine month school year. He pays on the average $150 for books and supplies. Housing costs are $1200; utilities $220; telephone $72; food $900; new clothing $270; laundry and cleaning $100; personal expenses $270; recreation and entertainment $180; transportation, gas and oil $270; repairs $150; insurance and license $200; life insurance $100; medical expenses, doctor and dentist $150; prescriptions $90; medical insurance $130; baby-sitting $720; for a grand total of $5,872. These figures were provided by Mr. Dick Tombaugh, our Financial Aid Officer at Purdue University. The figures were arrived at on the basis of a survey that was made within the college community of Lafayette and West Lafayette.

Where does the veteran obtain funds to pay for the expenses he must meet while in the college environment? First of all there are his veteran benefits of $2,070 for nine months. Another source of income is a working wife. In our community, the average hourly rate of pay for a working wife is between $2.00 and $2.20 per hour. Assuming $2.20 per hour, a wife could earn $340 a month after taxes, etc. This would provide additional family income of $3,060 over a nine month period. This same amount added to the benefits received by the veteran would provide a total family income of $5,030 over a nine month period and the family would still be short $842. This leaves the veteran no choice but to go out and obtain a part-time job in order to bring in additional income.

How many veterans are willing to go to school under conditions such as these and endure the hardships that I have presented from the financial standpoint alone. The Veterans Administration tells us that in my state, Indiana, we have 25.8% of the Vietnam veterans population enrolled in some form of qualified educational programs. This is broken down further into four categories: College level—12.3%; Below college level—10.5%; On-the-job training—3.0%; and correspondence courses—6.8%. My state is seventh from the bottom in overall participation rate. What concerns me even more, however, is the question of how many people drop out of the programs into which they enter? Further, of those that do drop from a program, how many drop because of financial reasons? In the rate the VA has provided is included anyone who has taken advantage of their benefits for at least one month. What the VA has not provided is the rate of dropouts. What is the non-completion rate of individuals in the four categories previously mentioned? These figures are even more significant than the ones the VA has provided.

I can only conclude on the basis of the VA figures alone, that the veteran in my state cannot afford to take advantage of the many educational benefits available to him under the present G.I. Bill, which is inadequate.

Another problem the veteran of today encounters is one of public indifference to the Vietnam era veteran. We credit a great deal of this indifference to the unpopularity of the contemporary conflict in Southeast Asia. We feel it is unfortunate the veteran must be left behind simply because of the whims of public opinion.

Gentlemen, we have to answer one basic question. Is the veteran of the Vietnam War any less deserving than his counterpart of World War II and the Korean War? If we are not as deserving, tell us we are not and be finished with it. On the other hand, if you say we are just as deserving, then give us at least the same benefits, no more, at least the same benefits the veteran had in 1948.

It would seem that we always return to the basic issue of not having an adequate G.I. Bill. If we had an adequate G.I. Bill, we could eliminate a number of these special programs established because of the inadequacies of the present benefits. We could eliminate a number of special task forces established to study the problems of the Vietnam era veteran. The Indiana State Collegiate Veterans Association fully supports the four point doctrine of the National Association of Collegiate Veterans Incorporated.

Thank you, gentlemen, for your time in listening to the problems I presented to you today. Although they are representative of the state of Indiana, I feel that many of the same problems exist in the other states of this country. Thank you once again.

HENRY G. LITTRELL III,
Acting President,
Indiana State Collegiate Veterans Assoc.

TOTAL BUDGET

Expenses	Single	Married: No child	Married: 1 child	Married: 2 children
Tuition, fees (Indiana resident)	$700	$700	$700	$700
Books and supplies	150	150	150	150
Housing:				
Hall, house bill or rent	1,200			
Payment on house or trailer				
Trailer space rental		1,000	1,200	1,400
Insurance				
Utilities:				
Electric, gas or oil				
Water		200	220	240
Telephone		72	72	72
Food (if not included in housing bill)		720	900	1,050
New clothing		225	270	315
Laundry and drycleaning		72	100	130
Personal expenses (haircuts, cosmetics, etc.)		225	270	315
Recreation and entertainment		135	180	220
Transportation:				
Gas and oil	400	270	270	270
Repairs		150	150	150
Insurance, license		200	200	200
Life insurance		$50	$100	$150
Medical expenses:				
Doctor, dentist		100	150	200
Prescriptions		45	90	135
Insurance		80	130	180
Babysitting			720	900
Prior indebtedness to be paid during this budget period (from liabilities listed on page 2)				
Subtotal	$2,450	4,344	5,872	6,777
Other expenses not covered above:				
Additional nonresident tuition	900	900	900	900
Additional nonresident travel	50			
Total	3,400	5,244	6,772	7,677

COMPARISON OF GI BILL BENEFITS 1948 VERSUS 1971

[Example: Full-time student with 2 dependents]

	1948 unadjusted	1948 dollars adjusted to 1971[1]	Current 1971 bill
Maximum payment to school (4 years at $500)	$2,000	$3,740	None
Subsistence allowance (48 months at $120)	5,760	10,771	[3] $8,280
Total cash value	[2] 7,760	14,511	[4] 8,280
Purdue expenses:			
Fees (paid by U.S. Government)			2,800
Books and supplies (paid by U.S. Government)			600
Rent[5] (48 months at $40 per month)	$1,920	$3,590	[6] [7] $5,904
Total fees, books and rent paid by student	1,920	3,590	9,304
Total subsistence allowance paid	5,760	10,771	8,280
Allowance remaining for food, clothing, medical, insurance, etc	3,840	7,180	[8] −1,024

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[1] U.S. Department of Labor Consumer Price Index: 1967 equals 100; 1948 equals 66.9; September 1971 equals 125.1. 125.1/66.9 equals 1.87; 1,87 times 1948 prices equals 19 pr.

[2] Public Law 346, as amended in February 1948.

[3] 36 months at $230.

[4] $520 increase in 23 years/6.7 percent.

[5] Purdue University General Bulletin, 1948 (590 3 and 4 room apartments, rental, $35 to $40 per month).

[6] Post-freeze rental rates MSC II, 2-bedroom furnished, Purdue University, Lafayette Campus.

[7] 48 months at $123.

[8] Loss.

FARMERS' ROLE IN WILDLIFE UNDERRATED

HON. JOHN KYL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. KYL. Mr. Speaker, since 95 percent of Iowa's land is devoted to agriculture, the great majority of our wildlife live on, and from, farmland.

The wildlife picture in my State is excellent—thanks largely to Iowa's conservation farmers. With technical assistance from the Soil Conservation Service they have built almost 35,000 small farm ponds and improved almost 40,000 acres of wildlife-wetland habitat and more than 177,000 acres of wildlife-upland habitat.

Many other soil and water conservation practices also significantly benefit wild creatures. Farmers who terrace rolling land and plant on the contour—and you see this all over Iowa—not only reduce soil erosion, they also reduce the siltation of lakes and streams that can damage fishery habitat. Stripcropping, or planting alternate strips of cover plants and grains, attracts and supports many more wild creatures than the same field planted in a single crop. And minimum tillage—another excellent erosion control method used on almost 2 million acres of Iowa land—results in more wildlife because crop stubble retained over the winter provides food and cover for birds and small animals.

Through local soil and water conservation districts, many farmers in Iowa also sponsor small watershed projects, Public Law 566. Among other benefits, these require conservation treatment on the surrounding land and, through small lakes built under the program, provide many acres of new surface water to waterfowl and land animals.

I would hope that, as interest in the environment continues to grow, more hunters, birdwatchers, and nature lovers of all kinds would understand the very basic and significant role of the farmer in providing the majority of America's wildlife with the food, water, and habitat they need for survival.

EXPORTING TOBACCO

HON. JOHN L. McMILLAN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McMILLAN. Mr. Speaker and members of the House, I insert in the appendix of the CONGRESSIONAL RECORD a resolution adopted by the South Carolina State Legislature. We people in South Carolina are very much interested in the export of our tobacco. We have always had an excellent export market for tobacco, and I hope it can be further developed so that China and Russia can soon purchase millions of pounds of our tobacco in addition to the countries we are already exporting tobacco to at the present time.

The resolution follows:

A CONCURRENT RESOLUTION TO MEMORIALIZE THE SECRETARY OF AGRICULTURE AND THE CONGRESS OF THE UNITED STATES TO TAKE WHATEVER ACTION MAY BE NECESSARY TO ELIMINATE UNFAIR RESTRICTIONS ON IMPORTS OF U.S. TOBACCO PRODUCTS BY EUROPEAN COMMON MARKET NATIONS

Whereas, the tobacco growers of the Nation are concerned when they see a significant portion of their foreign market threatened as a result of unfair practices by foreign countries; and

Whereas, it is believed that a strong stand should be taken to persuade European Common Market nations to eliminate policies which raised internal support prices and provided for buyer discounts for the purchase of domestically grown leaf; and

Whereas, it is the sense of this body that retaliatory measures, perhaps a ten percent surcharge on imports, should be put into effect until such time as the European Common Market nations make such changes in their policies as will assure greater access to their markets for agricultural products of the United States.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

That the Secretary of Agriculture and the Congress of the United States are hereby memorialized to take such action as may be necessary or desirable to protect tobacco and tobacco products exported by the United States against unfair import restrictions on such products by the European Common Market nations.

Be it further resolved that a copy of this resolution be sent to the Secretary of Agriculture of the United States and to each member of the Congress of the United States from South Carolina.

CVN-70

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BENNETT. Mr. Speaker, there are two items with respect to the nuclear-powered aircraft carrier CVN-70 which I would like to bring to the attention to the House.

When this matter was considered by the Congress 2 years ago, the administration was saying that they might or might not build the carrier depending upon the outcome of studies then being conducted. Last year the Congress was presented with a statement by Deputy Secretary of Defense Packard that funds for the long leadtime items for CVN-70 would not be spent even if appropriated.

The situation is different this year. I have just received a letter from Secretary Laird saying that the funds will be expended by the administration if they are appropriated.

I have also received a document from the Navy showing in question and answer form the reasons for a nuclear-powered carrier. I include the Laird letter and the Navy document in the RECORD at this point.

THE SECRETARY OF DEFENSE,
Washington, D.C., March 27, 1972.

HON. CHARLES E. BENNETT,
Chairman, Subcommittee No. 3,
Committee on Armed Services,
House of Representatives.

DEAR MR. CHAIRMAN: This letter is in response to your request of March 14, 1972 for a clear cut statement as to the intent of the Executive Branch upon Congressional authorization and appropriation of long lead time funds for the nuclear aircraft carrier, CVN-70.

This carrier has been extensively studied and it is a firm requirement. I want to assure you that the administration fully intends to spend the money requested in FY 1973 for CVN-70 and plans to request authorization for the ship in the FY 1974 budget. We will definitely proceed with its construction, subject, of course, to the approval of the Congress.

Sincerely,

MELVIN R. LAIRD.

DEPARTMENT OF THE NAVY,
Washington, D.C., March 23, 1972.

Memorandum for the Secretary of the Navy.

Subject: Nuclear-powered aircraft carrier, CVN-70.

1. There has been great interest expressed in Congress and reflected in the press concerning the nuclear powered carrier, CVN-70, for which advance procurement funds have been requested in this year's budget. To assist in answering queries of Congress, the press, and the public related to this particular carrier and to the Defense Department carrier program in general, questions and answers keyed to the principal issues involved have been prepared and are attached herewith.

2. The CVN-70 will be the third of the three planned *Nimitz*-class nuclear-powered aircraft carriers. The first two ships of the class, the *Nimitz* and the *Dwight D. Eisenhower*, are under construction and are scheduled to be delivered in 1973 and 1975 respectively. The remainder of funding for the CVN-70 is planned for the fiscal year 1974 program, with delivery of the ship scheduled in 1980. The CVN-70 is needed to replace an old World War II carrier and is expected to be a vital element of the fleet well into the 21st century.

3. More than any other single new general purpose weapon system, CVN-70 will demonstrate our capabiltiy and resolve to meet the challenge of the Soviets; it will serve as a visible and credible naval deterrent. I consider CVN-70 the item of highest priority in the general purpose budget.

E. R. ZUMWALT, Jr.,
Admiral, U.S. Navy.

THE AIRCRAFT CARRIER

The following questions and answers have been prepared to set forth in simple terms, facts and rationale relating to the United States Navy carrier program. In their brief form, these answers cannot cover in detail all aspects of carriers, but they do present an unclassified discussion of the principal issues involved.

GENERAL

Q. What is the Role of the Aircraft Carrier in Today's Navy?

A. The aircraft carrier is the principal tactical weapon system through which the Navy carries out its primary nonstrategic mission of insuring the free use of critical sea lanes and its collateral mission of projection of power ashore. A credible capability to perform both missions is essential as a deterrent against direct Soviet action and as a stabilizing influence in our relationships with third country aggressors.

The aircraft carrier serves as the key member of a powerful, mobile naval task force, employing anti-submarine aircraft, attack and fighter aircraft, surface escorts and nuclear submarines. These air, surface, and submarine units together provide the greatest naval power that can be assembled to counter all threats at sea. The force has the mobility to operate where it can be most effective against any forces threatening our free use of the seas, and it has the sensors and weapons needed to defeat these threats. The maintenance of essential sea lines of communication with our allies and with our overseas military forces depends on the naval capabilities provided by this type of naval task force. The varied anti-submarine attack, and fighter aircraft capabilities provided by the aircraft carrier are essential for any naval operations in areas which are within the combat reach of Soviet air and naval forces.

For projection of power ashore, the carrier is a fully outfitted and equipped mobile air operating base. This mission requires large quantities of ordnance and significant numbers of air superiority, close air support, and interdiction aircraft. These aircraft must be able to counter all modern Soviet aircraft, penetrate to missile-defended targets, conduct precision day, night and all weather bombing, and perform the demanding tasks of reconnaissance and surveillance.

The requirement for these aircraft capabilities dictates the size and characteristics of their carrier base. Ships of the *Nimitz*, *Enterprise*, and *Forrestal* classes are best suited to these roles for they are large enough to operate such modern aircraft as the F-14, A-6, and A-7, and they incorporate the advantages associated with modern carriers. The *Nimitz* and *Enterprise* classes in addition provide the greatly increased tactical flexibility and responsiveness which derive from nuclear propulsion.

The distinctive operational characteristics of aircraft carriers can be summarized in four general categories:

First, *Air Power at Sea*. The aircraft carrier provides a concentration of aircraft of all types required to perform its assigned mission.

Second, *Mobility*. The tactical air capability provided by the carrier is mobile. It can be moved any place on the three-fourths of the earth's surface covered by the seas, without any international agreement or politcal commitment. It is always under complete and unquestioned United States control.

Third, *Complete Support*. The carrier is a floating air base, complete with aircraft; ordnance and jet fuel required to fly them; shops to support them; men to maintain and to operate them; facilities and equipment to direct and to control them.

Fourth, *Flexibility*. The carrier can be effectively employed across the full spectrum of warfare, from a demonstration of naval presence, though military confrontation and limited war, to general conflict with conventional weapons, to nuclear war.

Q. With our continuing investment in nuclear deterrent forces, why is it necessary to build a new aircraft carrier?

A. The principal effect of strategic nuclear parity is to decrease our military options in the event of a conflict of national interests. Whereas in the past we could rely on our nuclear superiority to deter many forms of warfare, we now must place increased reliance on our conventional forces to deter conventional war while seeking to maintain nuclear sufficiency to deter nuclear war. The capabilities and readiness of our conventional forces are increasingly important, since it must be assumed that they, rather than our nuclear forces, will be the deciding factor in future conflicts of interest, other than those involving national survival.

The aircraft carrier is the major striking arm of our conventional naval forces; it is our principal tactical weapon system which serves to insure our free access to the seas of the world. The nuclear-powered carrier can respond quickly and swiftly to areas of tension, traveling in international waters, and providing local naval superiority wherever it goes. It has the range of capabilities that permits it to react to any distint situation with just the proper response. The nuclear-powered aircraft carrier is that unique margin of difference between U.S. and Soviet Navies that provides the naval strength we require.

Q. What General Facts Describe CVN-70?

A. CVN-70 is the third ship of the *Nimitz* Class; it will be identical with *Nimitz* except for those minor changes necessary to accommodate the latest model aircraft flying when CVN-70 is delivered.

Its physical description is:

Length: 1092′.

Beam at water line: 134′.

Width of Flight Deck: 252′.

Displacement: 94,400 tons.

Propulsion: Two-reactor nuclear.

Endurance: 13 year reactor core life.

Ship's Crew: 2829.

Air wing: 90–100 carrier aircraft of 1980's

Air wing personnel: 2506.

Damage Control: Markedly improved over *Essex* Class, improved over all later classes.

Aviation Ordnance: 3.8 times that of *Essex* Class. 2.7 times that of *Midway* Class. 1.5 times that of *Forrestal* Class.

Aviation Fuel: 5.2 times that of *Essex* Class; 2.9 times that of *Midway* Class; 1.9 times that of *Forrestal* Class.

Construction schedule is:

Funding of Long Lead Time Components: FY-73.

Ship authorization: FY-74.

Lay Keel: 1975.

Deliver completed ship: 1980.

Replace World War II designed carrier: 1981.

REQUIREMENT

Q. What foreign naval forces could contest our free use of the seas?

A. At the present the Soviets have the only Navy capable of challenging our free use of the seas. The Soviet Union is embarked on a program revealing a singular awareness of the importance of sea power and an unmistakable resolve to become the most powerful maritime force in the world. They demonstrate a thorough understanding of the basic element of sea power: knowledge of the seas, a strong modern merchant marine, and a powerful new Navy. They are surging forward with a naval and maritime program that is technologically and militarily sound.

The genesis of this burgeoning naval development can be traced to the Cuban Missile Crisis of 1962. The inability of the Soviet Navy, in that instance, to act in support of foreign policy was quite clear. Having failed to support their overseas political objectives, the Soviets embarked upon a large scale expansion of their seapower. Every year in the decade since that confrontation at least one new class of cruisers, destroyers, submarines, or other combatant ships has appeared. In total numbers of major combatants the Soviet Navy is now the equal of the United States Navy, and Soviet naval ships of all types are being deployed ever more widely throughout the world.

The Soviet Navy now employs modern, capable ships for all phases of surface and submerged naval operations except sea-based tactical air. About 100 of the Soviet Navy's 340 submarines are nuclear powered; the subsurface fleet includes some 55 ballistic missiles. Their surface force of cruisers destroyers, and smaller craft includes at least 20 major surface ships and 160 patrol craft armed with surface missiles. They have introduced their first cruiser helicopter carriers. Soviet Badger medium bombers and Bear long range bombers operate over the seas in close coordination with Soviet naval units.

This proliferation of modern naval ships and submarines has permitted Soviet leaders to look well beyond their national boundaries. For the first time in its history, the Soviet Union is using a deployed naval force in support of foreign policy in distant areas. These modern Soviet submarines, ships, and aircraft together constitute a challenge to U.S. naval forces and to our use of the seas.

Q. Do we face threats to our use of the seas other than from the Soviet Union?

A. No other foreign nation has naval forces approaching in size and capability those of the Soviet Union. However, the Soviet Union has provided relatively sophisticated weapons of all types to certain smaller nations and continues to do so today. These weapons in themselves constitute a sustained threat only as they may be supported by Soviet forces. If they were employed in coordination with Soviet forces, they would represent a considerable expansion of the general Soviet challenge to our use of the seas. This potential growth is most evident, for example, along the southern coast of the Mediterranean.

Q. Is it credible to think that the United States and the Soviet Union could become involved in a non-nuclear naval confrontation?

A. The primary reality of global relationships today is nuclear parity betwen the U.S. and the U.S.S.R. We no longer possess superiority in nuclear arms. Both the United States and the Soviet Union have developed strategic nuclear forces to a level considered adequate to assure deterrence from nuclear attack. This fact is of fundamental importance in all naval force planning; it is the continuing backdrop against which all of our national actions occur.

There are those who dismiss as unrealistic the possibility of a direct confrontation between American and Soviet naval power. Events may show that they are wrong unless we build naval forces which can clearly counter the best Soviet naval forces. In the 1962 Cuban missile crisis the United States with superior naval power and superior strength in nuclear weapons was willing to confront the Soviets. Now we speak of nuclear parity with the Soviet Union. If we allow them to attain superior naval forces, why should we assume that they will not confront us with their naval power to obtain their objectives in areas where they consider we will not be willing to risk nuclear war. Failure on our part to provide naval forces which can stand up to the best naval forces the Soviets develop could lead to our having to give in on all issues for which we are not willing to go to nuclear war.

It is widely accepted that American nuclear superiority over the past 25 years has deterred nuclear war; it is not as widely understood that our naval superiority over this period has deterred lesser wars. If we do not maintain the capability to operate our first-line naval striking forces in all areas required by our national interests, we will have given up the ability to carry out sustained military operations away from our shores, not only by the Navy but by the other services as well.

The importance of naval conventional forces grows as the principles of the Nixon Doctrine are implemented. This policy of deterrence stresses increased self-reliance on the part of our allies and promises reductions in our own overseas bases and forces. However, as we reduce overseas bases and forces, it is essential that we maintain a credible capability to return in force if needed, even if opposed. And if this should occur, the control of the sea lines of communication to the threatened area will be mandatory if we are to furnish aid for our allies and support for our own armed forces.

The Soviet Union has recognized these aspects of our developing maritime strategy and is continuing to introduce naval weapons best suited to interdict our lines of communication.

A conflict between the United States and the Soviet Union could conceivably develop as a contest of conventional forces, a contest closely controlled by both sides to avoid the question of total national survival which could unleash nuclear destruction. In such a contest the Navy would act in its primary mission role to assure continued freedom of the seas as required in support of our national objectives.

"To serve as a realistic deterrent, our general purpose forces, together with those of our allies, must be such as to convince potential enemies that they have nothing to gain by launching conventional attacks.

"To deter conventional aggression, we and our allies together must be capable of posing unacceptable risks to potential enemies. We must not be in a position of being able to employ only strategic weapons to meet challenges to our interests. On the other hand, having a full range of options does not mean that we will necessarily limit our response to the level or intensity chosen by an enemy. Potential enemies must know that we will respond to whatever degree is required to protect our interests. They must also know that they will only worsen their situation by escalating the level of violence." (President's Foreign Policy Report, 1971.)

EFFECTIVENESS

Q. Why are aircraft carriers essential to the U.S. Navy today?

A. We cannot keep the sea lanes open without them.

As the principal combatant of our Navy's general purpose forces, only the aircraft carrier can provide the types and quantities of aircraft required for the successful conduct of war at sea—now and for the foreseeable future. No other weapons systems under development can replace the long-range sustained, concentrated firepower of the carrier air wing. The carrier packs the offensive punch and defensive capabilities of a modern floating air base.

Wherever it is directed to move on the oceans which cover three-fourths of the earth's surface, the aircraft carrier takes with it the following capabilities:

Jet fighters to destroy enemy aircraft and cruise missiles.

Jet attack aircraft to destroy enemy forces on the sea or land.

Early warning and control aircraft to detect enemy forces on the surface or in the air.

Reconnaissance aircraft to detect, locate and identify hostile forces.

Electronic warfare aircraft to detect, deceive and jam hostile electronic transmitter and receiving devices, including radar and communications equipment.

Anti-submarine aircraft to provide long range detection and destruction of hostile submarines.

Anti-submarine helicopters to provide anti-submarine defense for the carrier in conjunction with other ships of the carrier task group.

Fleet tactical support aircraft for carrier onboard delivery of personnel and high value cargo.

Aviation ordnance sufficient for days of maximum sortie levels against hostile forces before replenishing from underway replenishment ships.

Jet fuel for days of continuous air wing operations against hostile forces before replenishing from underway replenishment ships.

Shop facilities and personnel to maintain all assigned aircraft ready for continuous extended operations.

The range and capabilities of its embarked air wing, combined with the mobility and speed of the ship, permit the carrier to stand off and reach the enemy with the full weight of its offensive capabilities.

The unique capability of the aircraft carrier to provide a highly mobile umbrella of airpower at sea is required for the successful accomplishment of the Navy's mission—control of the sea. Without the air superiority and massive striking power provided by the aircraft carrier, no other naval surface operations could safely be conducted.

Q. Why can't overseas land air bases be used instead of carriers?

A. Sea-based air supplements land-based air. However, overseas land air bases can be used effectively only for those portions of a carrier's mission that occur near a coastline, and then only if certain conditions are satisfied:

1. The base must be capable of handling aircraft of the types and numbers required.

2. The base must be secure from hostile attack and air approaches to the base must be clear of enemy weapons.

3. Logistic lines of communication and a command and control infrastructure must be in existence or must be established before the base can be used effectivly.

4. The privilege to operate from the base and to overfly the sovereign territory of the host nation must be granted.

These requirements may be difficult to meet in areas and in situations in which tactical aircraft may be needed. A few of the obstacles which, encountered singly or in combination, have limited the use of land based tactical aircraft in past times of need and increasingly serve to limit its future effectiveness are:

1. There may not be suitable air bases within range of the scene of action. This was the case in Korea in 1950 after available land bases were overrun in the early days of action. The distance from Japanese bases severely limited the effectiveness of land based tactical aircraft, whereas aircraft carriers were able to move up and down both coasts of the Korean peninsula at close range.

2. Land bases, even when available and within range, cannot always accommodate the numbers of tactical aircraft required. This was the problem in Vietnam when our commitment there grew. We subsequently constructed a number of air bases to provide tactical air support. This experience indicated that two years from decision time were required to build up the needed base facilities.

3. The available land bases cannot be supplied with aircraft fuel and ordnance without constructing a major logistic network. In Spain and in Thailand we have found that pipelines and other lines of logistic support have had to be constructed to support land based aircraft. This is a major limitation on plans to use undeveloped airfields in distant areas of the world. The major logistic effort required to support a minor air assistance mission in the Congo highlighted this problem.

4. The privilege to fly from or over a friendly nation may not be granted or may be rescinded. This occurred during the Lebanon incident in 1958, when several European governments denied landing and even overflight privileges to United States aircraft attempting to transit to the Middle East. The 1970 Jordanian crisis again raised the question of such an impediment to land based air operations.

5. Vital land bases have not been secure from attack by air and ground forces and have been lost when most urgently needed. This happened in Korea when all of the local airfields were captured in the first five days of fighting. Even when the airfields are reasonably secure from capture, harassing attacks may be quite damaging. In South Vietnam over 400 aircraft have been destroyed on airfields and over 4,000 more have been damaged by enemy ground attacks.

Overseas air bases are essential for support of extended military operations; operations in Southeast Asia are the most recent confirmation of this fact. However, the factors and examples cited indicate that the bases may not be in the right place and may not be immediately available for our unrestricted use in a crisis; we should not place our entire reliance on static, foreign-dominated bases. For these reasons we need a combination of land-based and sea-based air wings.

Q. Aren't overseas air bases available in all the areas of our national interests?

A. The United States has a widespread network of air bases in the world. And these are, indeed, located in regions of our national interests. However, the area of the world covered by our overseas land base system is shrinking. At the end of the Korean War we had over 500 overseas bases of all types. As recently as 1957 we had over 100 air bases overseas. Operational air bases overseas today have been reduced by half and the trend continues downward.

Bases have been closed on the insistence of the host country; France is an excellent example of this action; Wheelus Air Base in Libya was the last of an extensive complex of United States Air Bases in North Africa.

Where we do retain our bases, it is frequently at considerable cost. We have spent over two billion dollars in Spain. A recent agreement with Portugal grants up to $435 million in economic and social development credits in return for our use of the base in the Azores for 25 months.

Q. Why can't commercial air fields be converted to military fields?

A. They can. Kits are being developed to be used for converting available runways into military airfields. However—for one tactical aircraft wing (approximately 90 aircraft—the equivalent of one carrier air wing) a kit includes over 6000 people, 7000 tons of cargo, and 1500 vehicles in its initial lift. It must be maintained by a daily logistic resupply flow of 3200 tons of consumables. This daily resupply, if provided by airlift, would require more than 100 C–5A transport aircraft. Since this is obviously impractical, overseas land bases are dependent on keeping the sea lanes open for logistic support. In many areas the Navy cannot do this without carrier aircraft.

Q. If the aircraft carrier is so important, why don't the Soviets have them?

A. When, after World War II, the Soviet Union began to develop and to construct a modern Navy, it was a strong continental power making first attempts to spread its military strength into the surrounding seas. The Soviet Navy was ineffective and virtually non-existent in terms of capable high-seas fighting units, and it had no recent experience nor tradition of operations in distant waters.

The Soviets, because of their central geographic position within the European and Asian land masses, are far less dependent on overseas logistic supply lines and on overseas alliances for their national objectives and for their defense than is the United States. The United States is essentially an island lying between the Atlantic and Pacific Oceans. We cannot obtain all of our essential materials over land routes; two of our states are separated from the others by miles of ocean.

The Soviets control an extensive system of land air bases throughout areas of the world vital to them. We have no such comprehensive land-base system. Their predominant land position has required mutual defense treaties with but two nations which do not share a land border with them. Our island position, on the contrary, has led us to enter treaty alliances with 41 overseas nations.

The Soviets, the predominant land power, have recognized the maritime position of the United States and our dependence upon free use of the seas to maintain economic and military contacts with friends and allies around the world. As the new Soviet Navy began to appear, its first units were those best suited for interdiction of the sea lanes.

An analogous situation is that of Germany in World War I and II. As the predominant land power she was able to use land transportation to extend her influence and to support her military and industrial effort. The Germans knew full well that the Allied war effort was almost totally dependent on overseas transportation. The naval forces they constructed and employed in numbers during those wars were designed for interdiction of the sea lanes.

The first priority for the Soviet Navy after World War II was to achieve the capability to deal with our superior Navy. This has meant the construction of submarines and surface ships capable of firing missiles against carriers.

Recent new classes of ships indicate that the Soviets are now thinking beyond this basic interdiction mission. For the first time in their history they are supporting an overseas foreign policy with deployed naval forces. They are maintaining naval forces for extended periods in Cuban waters, off the west coast of Africa, in the Indian Ocean, and they maintain a large naval force in the Mediterranean.

By the early 1950s, when they began to build their modern Navy, the Soviets were far behind the United States in carrier technology as well as in industrial capacity. Recently, they built two medium sized modern helicopter carriers. As they gain experience with these, and as they continue expanding their naval power, they may well build aircraft carriers to extend the areas in which they can project their national power.

PRESENT CARRIER FORCE

Q. What aircraft carriers are operational today?

A. The Navy has sixteen fully operational carriers in service today. This number represents a reduction by one-third from the twenty-four in service just seven years ago. This reduction has removed all but two of the carriers specifically dedicated to the development of air ASW techniques and has complicated the problem of deploying carriers to meet overseas commitments.

Our present operational carriers fall into four ship classes:

Essex class—four of these World War II designed veterans are operational (*Intrepid, Ticonderoga, Hancock, Oriskany*). A fifth, *Wasp*, is in the process of inactivation. All but *Oriskany* were completed and commissioned during World War II. *Oriskany* was started during World War II, but was not completed until 1950.

Midway class—three of these ships, commissioned between 1945 and 1947, are in the fleet (*Midway, Roosevelt, Coral Sea*). *Midway* was out of service for modernization of its aircraft facilities from 1966 to 1970.

Forrestals—eight large-deck, conventionally powered carriers commissioned between 1955 and 1968 are in service (*Forrestal, Saratoga, Ranger, Independence, Kitty Hawk, Constellation, America, Kennedy*).

Enterprise—the first nuclear powered carrier was commissioned in 1961.

Q. What carriers are under construction?

A. Congress authorized construction of the second and third nuclear-powered aircraft carriers, the *Nimitz* (CVAN 68) and the *Dwight D. Eisenhower* (CVAN 69) in the FY 1967 and FY 1970 Shipbuilding Program respectively.

In response to a request from the Secretary of Defense in August, 1964, the Atomic Energy Commission began development of a two-reactor nuclear propulsion plant for installation in these carriers. In May, 1968, the Naval Ship Systems Command awarded a contract to the Newport News Shipbuilding and Dry Dock Company, builder of *Enterprise*, for the design and construction of the *Nimitz*. Her keel was laid on June 22, 1968, by Senator Henry M. Jackson. In June 1970, the Naval Ship Systems Command extended the *Nimitz* contract to include construction of the *Dwight D. Eisenhower*. Her keel was laid August 15, 1970, by Dwight D. Eisenhower II, grandson of the late President.

The *Nimitz* Class will be an improved version of the *Enterprise* and the most modern warships in the world. Their two reactors are the highest powered, longest core life reactors under development. Their initial cores will last for approximately 13 years of normal ship operation.

Nimitz is well along in the construction process and is scheduled for delivery to the Navy in the fall of 1973. *Eisenhower* is in the early stages of construction, with delivery scheduled for the summer of 1975.

CVN-70, when completed in 1980, will be near duplicate of *Nimitz*. It will have the same hull, same nuclear propulsion system, the same major components.

These *Nimitz* Class carriers will not increase our numbers of carriers in active service. When they join the fleet they will replace old, World War Two-designed carriers which will be beyond their expected service lives.

CURRENT CARRIER FORCE

Name and number	Commissioning date	Age as of June 1, 1972	Age as of June 1, 1981, when CVN-70 is operational
Dwight D. Eisenhower:			
CVN-70	Sept. 1980		
CVAN-69	June 1975		6
Nimitz: CVAN-68	Sept. 1973		8
John F. Kennedy: CVA-67	Sept. 7, 1968	4	13
America: CVA-66	Jan. 23, 1965	7	16
Enterprise: CVAN-65	Nov. 25, 1961	11	20
Constellation: CVA-64	Oct. 27, 1961	11	20
Kitty Hawk: CVA-63	Apr. 29, 1961	11	20
Independence: CVA-62	Jan. 10, 1959	13	22
Ranger: CVA-61	Aug. 10, 1957	15	24
Saratoga: CV-60	Apr. 14, 1956	16	25
Forrestal: CVA-59	Oct. 1, 1955	17	26
Coral Sea: CVA-43	Oct. 1, 1947	25	[1] 34
Franklin D. Roosevelt: CVA-42	Oct. 27, 1945	27	[1] 36
Midway: CVA-41	Sept. 10, 1945	27	[1] 36
Oriskany:[2] CVA-34	Sept. 25, 1950	22	[1] 31
Hancock: CVA-19	Apr. 15, 1944	28	[1] 37
Wasp:[3] CVS-18	Nov. 24, 1943	29	
Ticonderoga: CVS-14	May 8, 1944	28	[1] 37
Intrepid: CVS-11	Aug. 16, 1943	29	[1] 38

[1] Beyond expected service life.

[2] Oriskany (CVA-34) was launched Oct. 13, 1945. Construction suspended 2 years. Rushed to completion for Korean war.

[3] Inactivated March 1972. Decommissions July 1972. Wasp is therefore not counted in the total of 16 operational carriers.

Q. Why is the new carrier referred to as CVN-70, rather than CVAN-70?

A. Until recently the Navy's carriers have been designated CVA or CVS with an "N" added when the carrier has nuclear propulsion. The "A" identified an attack carrier, one whose air wing was developed around aircraft capable of surface attack missions. The "S" designated an anti-submarine carrier, one whose aircraft were capable of detecting and attacking submarines. As the number of carriers in active service has been reduced, it has become quite clear that it will not be possible to maintain separate groups of carriers for these two missions. Recent operational exercises have investigated the feasibility of combining the missions, and have shown that both attack and anti-submarine aircraft can be operated together from our modern carriers. When a carrier is outfitted to support both anti-submarine and attack aircraft its designation will be changed to CV (CVN, when it has nuclear propulsion).

The designation of the Navy's new carrier as CVN-70, rather than as CVAN-70, describes the true multi-mission capability that will be available when this carrier joins the fleet. CVN-70 will have the varied air strength required to permit it to operate against hostile, air, surface, and sub-surface weapons. In addition to having the most modern and advanced facilities for supporting and operating fighter and attack aircraft, CVN-70 will have the sophisticated analysis, control, and support equipment developed by anti-submarine forces.

When the carrier is expected to operate in its control-of-the-sea role against submarine, surface and air threats, its air wing can be adjusted to provide the types and numbers of aircraft needed to defeat these hostile weapons. This flexible carrier air wing can be adjusted from one tailored for sea control missions with a high concentration of anti-submarine and fighter aircraft, through intermediate stages of moderate anti-submarine and increased attack strength to one optimized for projection of tactical air power ashore. At the antisubmarine end of the capability spectrum is an air wing of S-3 ASW fixed-wing aircraft and SH-3 ASW helicopters (to detect and to attack submarines), F-14 fighter aircraft (defense against air reconnaissance and air attack), and a moderate number of A-6 or A-7 attack aircraft (to defeat surface combatant ships). At the opposite end of this spectrum is the tactical air wing, strong in attack aircraft, developed and proven over the past several years of attack carrier operations.

CVN-70 will have the facilities for these varied capabilities installed during construction. CVN-70 will be a multi-mission carrier with a multi-purpose air wing, a ship whose strength can be tailored to combat the particular threat it is expected to encounter.

Q. What limits the service life of older carriers?

A. Obsolescence of aircraft carriers is determined both by the physical strength and structural integrity of the hull, propulsion plant, and installed components and by the ship's ability to accept and to operate modern aircraft. It cannot be determined with precision, but is a mattter of judgment depending upon continuing evaluation of the physical condition of the ships and of their employment of modern weapons.

An analogy to the aging of an automobile illustrates these factors and their influence in determining useful life. There is no fixed age beyond which an automobile cannot be operated, if the owner wishes to spend enough money to complete required maintenance and repairs. As the automobile advances in years, maintenance costs will increase. And as the automobile ages the likelihood increases that a trip will be interrupted by a breakdown or mechanical failure. The prudent owner will also determine that his aging automobile does not have the power or the safety devices needed for modern expressways. Replacement may not be required at any one point in the life of the automobile, but replacement becomes more and more desirable as age increases. For all of these reasons it is a rare owner who will operate his automobile for as long as eight or nine years. And an automobile more than ten years old is usually limited to local driving.

An investigation by the House Armed Services Committee and extensive testimony before other committees of the Congress have documented the slow deterioration with age of the material condition of ships and installed equipment. Older ships are characterized, to a greater or lesser degree, by rusted and corroded structural members, deteriorated wiring, inadequate space for electronic equipment, and crowded crew areas. Overhaul costs have been found to increase significantly with age. Fatigue becomes a concern in evaluating propulsion plants.

While there is no simple index to judge the capability of older ships, age has been found to be a useful indicator. It has been the experience in the Navy that an age of about 30 years is a reasonable maximum life expectancy for the hull, propulsion machinery and basic installations. To date, the longest any aircraft carrier has been operated is less than 29 years.

Q. Can our older carriers be modernized to support and to operate modern aircraft?

A. It is neither practical nor economical to attempt to further modernize the *Essex* class carriers. These ships have previously been converted from straight deck, hydraulic catapult configuration to angle deck, steam catapult configuration. Even with this modernization these ships cannot operate a number of aircraft now in the fleet, such as the F-4 Phantom II, RA-5C Vigilante, A-6 Intruder, and E-2 Hawkeye. A significant fact is that these older carriers experience about twice the landing accident rate with attendant higher cost in lives and aircraft, compared with the larger deck *Forrestal* class. The problem is simply that aircraft size and speed have become excessive for the smaller size World War II carrier decks. No growth factor is left.

The *Midways* have all received one modernization which provided angled deck, improved catapult, and enclosed bow. *Midway* itself was modernized a second time to install better aircraft elevators, arresting gear, catapults, and other aircraft control facilities. These ships can support all present aircraft except the RA-5C Vigilante. They will not be able to support new aircraft, such as the F-14 and S-3, without extensive installation of support equipment. Such an installation would be at the expense of already severely limited aircraft handling and maintenance space. This resultant reduction in the numbers of aircraft that the ship could operate, together with the fact that the physical age of these ships is nearing thirty, makes it infeasible to consider further modernization.

Q. Why is CVN-70 so important to our future carrier force level?

A. When CVN-70 joins the fleet in 1981 all *Essex* and *Midway* Class ships will have long since passed their 30th birthdays. Our carrier force then will consist of only 12 modern, broadly-capable carriers (8 *Forrestals* and 4 nuclear-powered carriers) plus, at the most, three old carriers, 34 to 36 years old and operating in a limited mission role. With such reduced numbers it is even more essential to have two nuclear carriers in the Atlantic and two in the Pacific capable of reinforcing at full speed our deployed naval forces.

CARRIER FORCE LEVEL

Q. What numbers of carriers are needed to meet national objectives in wartime?

A. The number of aircraft carriers which the U.S. should maintain in active service is based on the wartime requirements of our national strategy. A reiterative study and planning cycle provides annually a thorough and logical analysis of all factors and leads to conclusions on force level requirements.

The determination cycle is conducted in this manner. The commanders of unified and specified commands around the world are required to develop force requirements to meet the objectives of the national strategy within their geographic areas of responsibility. These force levels are based on the current and projected enemy threat, established military planning concepts, strength of allies, and probable situations.

These several force requirements are reviewed by the Joint Chiefs of Staff in their determination of objective force levels. Those force recommendations which the Joint Chiefs of Staff consider to be the minimum forces needed to support national objectives at prudent risk, are forwarded to the Secretary of Defense. Fiscal constraints are not a major consideration at this stage of the dialogue. The Secretary of Defense reviews these recommendations, as well as other factors including fiscal, and issues fiscal guidance. The recommendations of the Services and the Joint Chiefs of Staff as to force levels are then made to the Secretary of Defense and become a portion of the information on which the Secretary makes the final force level decisions which are reflected in the budget submission.

In this manner, the numbers of aircraft carriers considered essential to our defense are determined, at least annually, by thorough analyses of current factors.

The current objectives plan specifies an attack carrier level of 16 carriers plus additional anti-submarine carriers based on "prudent risk" and without fiscal restraints. The program force level approved by the Secretary of Defense, in consideration of fiscal constraints and with funding requested in the FY–73 budget, is 14 attack or dual mission carriers and 2 anti-submarine carriers.

An important comment on attack carrier requirements was voiced by General E. G. Wheeler, while serving as Chairman of the Joint Chiefs of Staff, in the following exchange concerning attack carriers before the Joint Senate-House Armed Services Subcommittee on CVAN–70 on April 15, 1970:

Senator STENNIS. "Do you mean to recommend 16 [attack carriers] all the way through the 1970s?"

General WHEELER. "Yes, sir. I do indeed and for this reason. Assuming the Vietnamese war is over, and assuming, of course that we retain the concept of the Nixon Doctrine, which envisages support to our allies with lesser involvement ourselves in small conflicts, I still think it would be desirable to have 16 [attack] carriers; not on the basis of a peacetime situation, but on the basis of a possible future war.

"Now, let's take a NATO conflict. A substantial number of carriers must be devoted to the NATO area, particularly for the support of the flanks. I am speaking now of Northern Europe and also in the Mediterranean. In fact, we are talking of a number that would require augmentation from the Pacific Fleet to carry out that commitment.

"At the same time, we must recognize that if we have a war in which the Soviet Union is involved, the war is not going to be confined to the Atlantic Ocean or to the Atlantic region. The Soviet Union is a two-ocean country as well as the United States, and therefore we will have a requirement for a carrier force to be deployed in the Pacific area.

"In addition to that, we are going to have to have something for contingencies. After going over a great number of mixes of carriers needed under varying realistic contingencies, I came down on the number of 16 as being within a prudent level of risk.

"Now, you can turn that argument around the other way and take a look at your contingency plans for operations in Asia and you still will come up with about the same number; in other words, 16."

Q. What are our carrier force level requirements for a limited war?

A. Our recent experience of operating carriers in support of the conflict in Vietnam provides some guidance for conclusions on force level requirements in a limited war. Early in this period the Navy was authorized to operate 15 attack carriers and 9 anti-submarine carriers. At the height of the build-up in Vietnam, the Navy was required to maintain five attack carriers in the Western Pacific and, at the same time, to maintain a naval presence in the Mediterranean with two attack carriers. One anti-submarine carrier was maintained in the Western Pacific and at least one was at sea in the North Atlantic.

The force level of fifteen attack carriers was found to be inadequate to maintain this operational posture for a period of time extending to years. In recognition of this deficiency the Secretary of Defense approved a force level of sixteen attack carriers. The Navy outfitted one anti-submarine carrier to support and to operate attack aircraft, a development which partially alleviated the problems generated by too few attack carriers.

Situation: Limited war.

Deployed: 7 CVA; 2CVS.

Force level: 16 CVA; 8 CVS.

Q. What carrier force levels have we had to support our employment of carriers as deterrent forces in confrontations?

A. A confrontation—an increase in political tensions in a limited area—has required reinforcement of our forward-deployed naval units or the dispatch of carriers from home waters to a new area of concern. Two such confrontations, the Cuban missile crisis of 1962 and the Jordan-Middle East crisis of 1970, are illustrative of carrier requirements.

At the time of the Cuban missile crisis the United States had 16 attack carriers (CVA) and 9 anti-submarine carriers (CVS) in active service. Both types of carriers were employed to demonstrate our determination to resist this incursion of Soviet weapons into Cuba. Seven carriers (four CVS and three CVA) operated in the Atlantic to carry out President Kennedy's quarantine of Cuba. One Pacific attack carrier and one anti-submarine carrier were moved forward to assume positions of increased readiness in the Middle Pacific, and our two Mediterranean and three Western Pacific attack carriers and one Western Pacific anti-submarine carrier were placed in an alert status. A total of 15 attack and anti-submarine carriers were committed.

Situation: Confrontation—Cuba.

Deployed: 9 CVA; 6 CVS.

Force level: 16 CVA; 9 CVS.

The Jordan-Middle East tensions of 1970 provided an assessment of the numbers of carriers required in this critical area.

At the time of the Jordanian crisis two attack carriers were in the Mediterranean with the Sixth Fleet and four were in the Western Pacific with the Seventh Fleet. One attack carrier was operating in the Caribbean with its air wing embarked and ready; it was immediately dispatched as a reinforcement for our two Mediterranean carriers. One Atlantic Fleet anti-submarine carrier was alerted for further Mediterranean reinforcement if needed.

Situation: Confrontation—Jordan.

Deployed: 7 CVA; 1 CVS.

Force level: 16 CVA; 3 CVS.

Q. What carrier force level has supported our peacetime requirement to maintain a naval presence overseas?

A. In years of uncertain peace our national strategy has relied on military forces deployed overseas, forces with a credible capability to respond to a spectrum of contingencies in overseas areas of primary national interest. In two primary overseas areas critical to our national interests, the Mediterranean and the Western Pacific littorals, carrier forces have provided the assurance of a capability for quick reaction to threats to our national security and objectives.

In these years of uncertain peace the United States has maintained two attack carriers in the Mediterranean to provide a visible naval presence there. In the years before the Vietnam conflict, three attack carriers were required as a visible naval presence in Western Pacific waters. In order to provide this total of five attack carriers for operations in distant areas, to provide for some carrier capability in Atlantic and Pacific waters near our coasts ready for reinforcement of forward naval forces, and to permit progressive maintenance and overhauls of our ships and leave for our crewmembers, a force of fifteen attack carriers has been needed.

Situation: Uncertain peace.

Deployed: 5 CVA.

Force level: 15 CVA.

Since the summer of 1971 the number of attack carriers has been fourteen. The Pacific Fleet has had eight attack carriers to support a forward deployment requirement of three. This is one fewer than the desired number, and deployment requirements have been met only by reducing time that the carriers are in home waters. This has affected personnel retention rates in Pacific Fleet carriers and may have long range effects on the level of readiness as determined by the state of maintenance of those carriers.

During the mid-1960s the Navy was authorized nine anti-submarine carriers. One was maintained in the Western Pacific and at least one was always at sea in the North Atlantic. Fiscal restraints have caused a gradual reduction in numbers of these anti-submarine carriers to the two supported by the funds requested in FY–73 budget.

The reduction in carriers dedicated to this vital naval activity has increased the responsibilities assigned to our remaining attack carriers, as they must now add an air anti-submarine capability to their previous missions.

EMPLOYMENT

Q. How will CVN–70 contribute to our naval responsiveness?

A. The unique capabilities of the four nuclear-powered aircraft carriers that the Navy will have when CVN–70 joins the fleet in 1980 will permit these ships to assume a readiness needed to meet national requirements. The substantial improvement in military characteristics that emerges when nuclear power is used for aircraft carriers has been discussed widely in the past and has been amply verified by the operational experiences of *Enterprise* in its ten years of fleet service. The significant capabilities of CVN–70 which are possible because of the use of nuclear power in this ship are:

Essentially unlimited high-speed steaming endurance;

Nuclear fuel for 13 years of normal carrier operations (the equivalent of 11 million barrels of fuel oil);

90% greater aviation fuel capacity than a conventionally-powered *Forrestal*;

50% greater aviation ordnance capacity than a conventionally-powered *Forrestal*.

An increased aviation fuel and aviation ordnance capacity is possible because a nuclear-powered carrier does not need to devote space in its hull to carrying a supply of propulsion fuel oil. This increased capacity for aviation support materials emphasizes the high degree of logistic independence possible with a nuclear-powered carrier.

With their speed of response and their high degree of logistic independence, the four nuclear-powered carriers of 1980 will be the heart of the Navy quick reaction forces. These four carriers, two each based in Atlantic and Pacific coastal ports, will provide for rapid reinforcement of deployed forces or for contingency response in other areas. They will be able to move rapidly to areas of potential crisis without delaying for logistic forces, to conduct protective air operations enroute, and then to carry out sustained air operations in their assigned operating areas. These carriers will represent a national capability to increase naval strength in a distant area with closely-controlled, versatile, credible, responsive forces.

CVN-70 is essential if we are to have the tools to assume this rapid response plan for naval readiness in the 1980s.

Q. What type of naval task force will operate with CVN-70?

A. The task force assigned to operate with CVN-70 will include the numbers and types of naval units required to perform the particular tasks assigned in any given situation.

The future naval task force organized for operations in a hostile air, surface, and submarine threat area can expect to supplement the offensive capability of CVN-70 with the anti-air and anti-submarine capabilities of destroyer and frigate escorts, and with the stealth of nuclear submarine escorts. Such a force contains the sensors to detect an enemy, and the weapons to combat and to defeat the enemy. Escorting nuclear submarines will have the hydrophones and the weapons to intercept and attack enemy submarines and surface ships. Destroyers and frigates will search for and attack enemy submarines, guard against surface ships, and assist in defense against missile and air attack. The carrier's aircraft will employ sensors and weapons in three dimensions, and will add those important qualities of speed, versatility, and a concentrated capability.

The cooperative effectiveness of such a naval task group far exceeds the sum of the capabilities of the assigned units. Acting together to accomplish their assigned mission this group will be the most powerful naval force that can be organized for control of the sea and for projection of national power against an enemy.

NUCLEAR PROPULSION

Q. What are the advantages of nuclear propulsion for the carrier?

A. The principal advantages afforded by nuclear propulsion in surface warships derive from the ability to steam at high speed for unlimited distances without refueling. In the carrier, there are important additional benefits. Because the nuclear carrier does not have to carry oil for propulsion, there is more room in the ship's hull for aviation fuel and other combat consumables. This gives the nuclear carrier greatly increased combat staying power compared to its conventional counterpart.

These two qualities give the nuclear carrier a capability unmatched by any other tactical air system. This is the ability to:

Respond immediately to a contingency beyond the range of emplaced U.S. forces without waiting for supporting units or for the prepositioning of logistic support.

Conduct combat operations while approaching the objective area.

Continue combat operations without support or replenishment for the period of time required to establish sea-based logistic support lines.

An all-nuclear carrier task force can steam at high speed to any point on the oceans of the world and conduct maximum sustained air operations for many days entirely without logistic support. An all-nuclear carrier task force also has the capability to transit at high speed to and from distant and less vulnerable sources of ammunition, aviation fuel, and other supplies when it is necessary to replenish thus reducing its exposure to hostile forces.

COST

Q. Isn't a carrier very expensive?

A. Yes, carriers are expensive. But there is no cheap way to provide weapons systems for our first line striking forces which will have the capabilities needed to counter the rapidly growing Soviet Navy. Actually, the increase in cost of carriers over the years has been the least of any major weapon system. By far the largest increase in cost of nuclear carriers has been caused by inflation.

The estimated cost of CVN-70, funded over two fiscal years, is $951M. This is the projected total of expenditures over the eight years between funding for initial long lead time items and final delivery of the ship. It includes a reserve for inflation of material prices and of shipyard construction costs over the next eight years. CVN-70, when delivered in 1980, will be essentially identical to *Nimitz*, which will be completed in 1973 at an estimated cost of about $628M. It will have the same propulsion system, the same components, and will undergo the same construction effort. Though slightly larger and with an improved nuclear power plant, CVN-70 will be approximately equivalent to *Enterprise*, which was delivered in 1961 at a cost of $451M. The $451M to $628M to $951M price increase for these comparable ships represents the rising cost of shipbuilding—the effects of inflation on material and labor rates. These are tested and proven weapons systems—there is no untried technology, no goldplating in these construction costs.

The investment in basing cost (construction of CVN-70) amortizes at about $32M per year over the 30-year life of the ship. For this investment the United States will gain a sophisticated mobile air operating base which can move in international waters to any area of national concern, free of any arbitrary restrictions of a foreign government. The history of this century has shown that the carrier goes where the action is. Of the 44 carriers built by the Navy since *Langley*, CV-1, in 1922, which today would be classed as attack carriers, 41 have participated in combat. One of these, *Bon Homme Richard*, has been in action in three wars.

The investment in a land base has an assured return only as long as the base is needed in the specific location, and political and military conditions do not deny or restrict its full use. The investment in an aircraft carrier remains valid for the 30-year life of the ship.

Q. How does the cost of a conventionally-powered aircraft carrier compare to the cost of the nuclear-powered CVN-70?

A. Commander, Naval Ship Systems Command estimates about $650 million for the cost to construct a *John F. Kennedy* size oil-fired carrier with today's equipments and minimum configuration changes (such as sewage disposal, F-14 jet blast deflectors and conflagration control features) delivered on the same schedule as that planned for CVN-70.

It should be noted that the approximately $300 million higher investment cost estimated for CVN-70 buys not only a nuclear proplusion plant, but substantially better military characteristics for this floating airbase including:

a. Nuclear fuel for 13 years of normal carrier operations, the equivalent of 11 million barrels of propulsion fuel oil;

b. Essentially unlimited high speed steaming endurance with the well documented advantages derived therefrom;

c. Over 70% more aviation fuel if escort fuel carried—90% more aviation fuel capacity if CVN-70 has nuclear escorts and her escort fuel tankage is filled with aviation fuel;

d. 50% more aviation ammunition capacity, three versus two weapons elevators and a 20% greater rate of ammunition strike up;

e. Four C-13 MOD 1 long catapults with their greater energy capability with less strain on the aircraft compared to two C-13 MOD 1 catapults and two C-13 MOD O short catapults which can be fitted on *John F. Kennedy* size carriers;

f. Berthing and ship facilities to support 50% more air wing personnel.

Further, a substantial portion of the higher investment cost of the CVN-70 will be directly offset by the elimination of the cost of buying and delivering propulsion fuel oil, and the reduced cost of the logistic support forces due to less frequent replenishment of combat consumables because of the larger capacity of the CVN for aviation fuel and ammunition.

Q. How do costs of sea-based and land-based tactical air wings compare?

A. Relative investment and operating costs vary in different situations, and studies have shown quite a wide range of results, depending on the factors considered. A general summary of these studies would show that the costs of the two systems have been comparable. A land-based tactical air wing has about the same number of attack aircraft as a carrier air wing, and some types of tactical aircraft are common to both services; for example, the Navy-developed F-4 and A-7.

A true comparison of the relative cost of sea-based and land-based tactical air wings must consider all of the support and protective costs of the systems. A recent study by a Department of Defense analysis organization identified direct and indirect investment and operating costs and concluded that the cost of equivalent capability is cheaper when sea-based. Previous studies using the pertinent factors in different combinations have had varied conclusions. This has led to an informed opinion that the two costs are very similar.

Such analyses, focused as they are on costs, tend to obscure other important considerations, and should not be used alone to determine forces required for our national defense. In fact, the two basing systems are not competitive, they are complementary. Both are needed and each is used in situations where it can be most effectively employed.

Q. Does funding a new carrier require the funding of other ships to form a task force?

A. From time to time an effort is made by budget analysts to define the cost of some "standard" task force. The implication of this effort is that the funding of a carrier requires the funding of some set number of destroyer-type ships.

Such a direct tie between a carrier and some number of destroyers simply cannot be made. There is no standard carrier task force. A carrier task force consists of one or more carriers with destroyers, frigates, and other escorting units in numbers appropriate to the assigned mission and to anticipated hostile threat. They operate together in a task force for mutual support and increased effectiveness in the destruction of enemy forces, an essentially offensive action. As the name itself implies, a task force is constituted to perform a task, and the number and kinds of ships involved are related to that task. Under some conditions the task force might have six escorts, under other circumstances only two.

In any case, CVN-70, when it joins the fleet, will replace an old carrier. Its need for accompanying destroyers will be similar to that of the older carrier. Indeed, the ships accompanying CVN-70 on its first operations mission may well include some of the same ships that were with the older carrier on its last operational mission.

We do not buy ships on a task force basis. New ships are procured to keep our Navy modern and capable, in numbers based on the expected threat.

SURVIVABILITY

Q. What are the defenses of a carrier task force?

A. In war all military elements—particularly those forward units carrying the fight to the enemy—are subject to attack. This is the fundamental fact considered in the formation of naval task forces for operation in a hostile environment. And it is the all-pervading influence in the basic design of a carrier and in the development of its protective systems. The carrier is the strongest naval ship that can be constructed; it is meant to go in harm's way—to carry out its mission in the face of intense enemy opposition.

A fully alerted naval carrier task force, operating at sea, is a very difficult target, with multi-layered defenses. The missile threat is well-recognized and has generated a broad development of protective weapons and techniques. Defensive measures which are available concurrently with the full spectrum of offensive might of the naval force include:

Inherent mobility (indefinite endurance at high speed for nuclear ships): A naval force at sea cannot be pre-targeted for ballistic or area-missile attack, as a land base can be, and any attempt at an attack on a carrier must be preceded by a major effort to locate and to identify the ship moving over the broad ocean.

Air attack by carrier aircraft against surveillance platforms, launching platforms, and missiles in flight: Carrier aircraft can operate well beyond the range of hostile anti-ship missiles. Air-to-air missiles carried by these aircraft are effective for intercepting and destroying anti-ship missiles in flight.

Anti-submarine aircraft, and surface ships and submarines to detect and to attack hostile submarines: The search for hostile submarines ranges beyond 100 miles from the carrier. Friendly surface ships and submarines provide the sophisticated underwater detection devices; the aircraft provide wide range and rapid response.

Surface-to-air missile systems in ships of the task force for use against missiles. Soviet anti-ship missiles are basically small, high-speed aircraft, and our missile systems in DLGs, DDGs, CGs, and DEGs can intercept them.

Close-in gun and missile systems in the carriers for use against missiles. Current installations for point defense of our carriers are batteries of *Sea Sparrow* radar-guided missiles.

Active and passive electronic countermeasures from aircraft and from ships. Electronic devices and other decoys are used to jam and deceive the guidance systems of hostile anti-ship missiles.

Q. How does carrier mobility contribute to survivability?

A. Mobility is the characteristic that has the primary impact on the survivability of a carrier task force. The force is continually in motion. It is clear that this movement prevents pretargeting of the force for ballistic missile attack, and that it forces a hostile nation to devote a considerable effort to attempt to find and to identify the carrier among the hundreds and even thousands of ships using the sea.

But, more important, mobility of a carrier force means that this force can move to positions where it has the best chance of completing its mission in the face of opposition. The force commander knows his defensive strength against air, surface, and submarine attack, and can move the force to operating areas where this strength can overcome the opposition. In war, the force would operate where it has local superiority. If forced to withdraw from a forward area because of an overwhelming concentration of enemy air and naval units, carrier forces could move to positions where they could attain local superiority and then, by destroying enemy forces, fight their way back to the forward area again. This is simply a statement of the principle that governs any contest for control of the seas. But since a war at sea would be fought in three dimensions—by aircraft, surface units, and submarines—a strong naval force must combat the threat in those three dimensions; and a carrier task force can do that. Only a strong carrier task force can attain local superiority at sea and, by destroying enemy units, fight its way forward.

The offensive and defensive might of the carrier task force provides the strength for this tactic, but mobility provides the essential key. Mobility is essential to carrier survivability—it permits the carrier force to operate where its strength can overcome the enemy opposition.

Q. What is the defensive strength of a carrier?

A. If an anti-ship missile penetrates the many defenses of a naval task force, the carrier itself has the physical strength and the built-in protective systems to survive hits and to remain in operation. This strength was shown when *Enterprise* endured accidental explosions of bombs on her flight deck during training exercises in 1969. Nine major caliber bombs (equivalent in weight of explosive to more than six anti-ship missiles) were detonated. On that occasion, all essential systems in the ship were maintained in operable status, effective damage control contained the effects of the fire, and the ship could have resumed her scheduled air operations within hours, as soon as the debris was cleared from the flight deck.

Nimitz class carriers incorporate the latest design and engineering features, improved even over those of *Enterprise* and far superior to those of our older ships. These include:

Flight deck and lower decks armored with high yield strength steel. Total thickness of the armor specified to defeat a major-caliber semi-armor-piercing explosive.

Side armor of high yield strength steel. The shell and supporting ballistic bulkheads give a total thickness sufficient to defeat a major caliber explosive.

Torpedo protection provided by a new energy-absorbing hull design which will counter major caliber torpedo explosive warheads.

Over 2000 watertight and shock-resistant compartments to limit damage.

Protective systems for all ordnance and fuel storage and handling spaces.

Extensive fire-fighting facilities throughout the ship, supported by high-capacity fire pumps and the latest chemical fire-extinguishing agents.

Over 30 fully-equipped damage control stations manned by trained and practiced personnel.

Structure and machinery designed and installed to meet latest blast protection and shock protection standards.

Redundancy of machinery; four independent engines, four propellers; several independent steam-driven and diesel-driven electric generators.

Redundancy of command stations; well-separated, independent stations which provide ship command and control capabilities.

The defenses of a naval task force and the strength of the carrier itself cannot guarantee invulnerability to attack. No weapon system, no base, no unit is invulnerable. But the carrier has been constructed with all possible defenses and strengths to give it the highest possible probability of carrying out its mission against intense opposition.

Q. Can the effectiveness of CVN-70 be limited by attacks on its replenishment ships?

A. The military characteristics of a nuclear-powered carrier, and the type of operations nuclear power makes possible, act together to minimize its logistic vulnerability.

The nuclear-powered carrier is not dependent on external fuel for its own propulsion. It can transit the oceans to a new station at high speed and without pausing to refuel. It can conduct operations without the periodic increase in exposure which would be occasioned by refueling evolutions.

Space inside the hull which would otherwise be reserved for fuel oil for its own use can be used in a nuclear-powered aircraft carrier for extra aircraft fuel and aircraft ordnance. In fact, CVN-70 will have about twice the capacity for aircraft fuel and 50 percent more for ammunition than modern conventionally-powered carriers. These increased aviation support capacities permit the nuclear-powered carrier to operate for a longer time than a conventionally-powered carrier before it must be resupplied with aircraft fuel and aircraft ammunition.

When resupply is needed, the nuclear-powered carrier can call on its virtually unlimited high speed steaming endurance and, if necessary, move rapidly to an area of reduced threat to meet replenishment ships. After replenishment, it again moves rapidly to its assigned operating area and resumes its mission.

When the carrier task group joins with the replenishment task group, the total defensive effectiveness of the combined force is far greater than that of either group alone. During resupply operations, all protective systems are in active use—flight operations continue with anti-submarine aircraft searching the depths and with fighters alert; escorting naval units patrol their stations searching for hostile submarine or aircraft; gun and missile batteries are manned and ready.

The nuclear carrier's independence of external fuel for its own propulsion, its enlarged capacity for aircraft fuel and ammunition, and its ability to run to an area of reduced threat for resupply are all fundamental to its total effectiveness. It has a high degree of logistic independence, and it can operate to keep its necessary resupply operations out of areas of intense hostile opposition.

Q. If it were decided not to build the CVN-70 because of concern over its vulnerability, what would be the impact on the vulnerability of other forces?

A. If we fail to continue modernization of our carrier force the vulnerability of almost all our naval forces will be increased. Further, the vulnerability of overseas forces of the other Services will also be increased.

All surface ships are to some extent vulnerable to antiship missiles and to torpedoes. Most vulnerable are the unarmored tankers, ammunition ships, and troop carriers which support our overseas allies and our own deployed forces. Least vulnerable are the large, fast, heavily armored and well-protected carriers; they provide the air superiority without which our amphibious forces, our ground troops, and our logistic supply lines would be much more vulnerable.

Those who cite the vulnerability to crippling damage of nuclear aircraft carriers as the basis for not building them appear to believe we would be able to transport men and supplies without the protection afforded by our carriers. They can come to this conclusion only if they believe that an enemy, in the absence of our carriers, would permit our cargo shipping and troop transports to proceed unmolested. This is both wishful thinking and illogical. Should we become engaged in a war overseas, there is no viable way we can sustain our Army, Marines or our Air Force unless we can protect the ships which carry supplies to them.

It should be noted that 96% of all the material sent to Vietnam has gone by sea. and the 4% which went by air depended on there being jet fuel delivered by sea to Vietnam for the return flight. If the sea lanes by which we deliver the bulk of supplies overseas come under attack the only way we can defend them in many areas is with aircraft carriers.

In war all ships, all bases, all forces are vulnerable in some measure to attack. But it must be thoroughly understood that we cannot conduct overseas military operations without naval support, for the simple reason that almost all of our supplies must be transported by ship.

The fact that carriers—and land air bases—can be damaged by enemy attacks does not reduce the need for air power—both sea-based and land-based. Without air power—and without nuclear powered carriers such as the CVN-70 to deliver it—all our other forces, including ground troops and our logistic supply lines, would become unacceptably vulnerable.

COMPLEMENTARY DEVELOPMENTS

Q. How do vertical take-off and landing aircraft such as the "Harrier" affect our future carrier requirements?

A. The *Harrier* does not affect the need for replacing our old World War II aircraft carriers with modern nuclear-powered carriers.

The *Harrier*, or any foreseeable VTOL aircraft, is not a replacement for the strike aircraft of our carrier air wings. It is a fine aircraft for the use to which the Marines will put it and the Navy is looking at it in connection with the planned Sea Control Ship. But the *Harrier* does not incorporate the high performance, diversity of combat mission capability, range and payloads vitally needed for operations against a determined enemy with a range of effective weapons. Carrier aircraft, on the other hand, are designed to gain and to maintain air-superiority in the face of the most sophisticated air threat and to conduct offensive operations against heavily defended sea-borne and land installations.

Q. How do missions and capabilities of Sea Control Ships compare to the missions and capabilities of attack carriers?

A. Our ability to control the seas in future crises will require a broad spectrum of sea-based air capability. At the top of the spectrum we have our attack carriers with powerful air wings. At the bottom we have our escort ships with LAMPS helicopters to extend the ship's sensor and weapons capabilities. The concept of the Sea Control Ship evolved to fill the gap between the two extremes.

The Sea Control Ship will not be a replacement for currently programmed ships since local area anti-submarine warfare needs for convoys and task forces are greater than can be met with currently programmed forces. Its primary mission will be to assist in providing protection for Underway Replenishment Groups, Amphibious Forces, Convoys, and other combatant groups in areas of relatively low threat, and where the threat consists primarily of submarines. As these convoys and combatant groups enter the high threat segments of their routes or as they approach amphibious objective areas it would be necessary to provide the depth and effectiveness of protection that can come only from aircraft carriers. The carrier task force is the only weapon system capable of handling the sophisticated three dimension threat that can be expected when these units are within Soviet bomber range and where the Soviet surface fleet could operate under the cover of her land-based tactical air power. Missions envisioned for the Sea Control Ship are based on its being able to provide a limited air capability for situations where attack carriers are not available. These include surveillance, anti-submarine warfare, limited anti-surface warfare, and limited anti-ship missile defense.

Thus the Sea Control Ship is seen as providing sea-based air capability supplementary to that contained in our aircraft carriers, which will continue to be our most powerful and dominant offensive force. The Sea Control Ship's offensive and defensive capabilities will be much less than those of attack carriers. Its limited top speed will preclude its being used in fast carrier task forces. It will be used primarily in low threat situations where the limited number of carriers would otherwise leave us essentially no air capabilities at all. The Sea Control Ship, in conjunction with our existing and programmed forces, will give us a much needed ability to strengthen our escort forces. It is not an alternative to modernizing our carrier force.

SIZE OF CARRIERS

Q. What factors determine the size of the "Nimitz" class carriers?

A. The basic requirements that determine the size of any carrier, including the *Nimitz* Class, derive from the types and numbers of aircraft and weapons for her air wing. The composition of the air wing is determined by the missions assigned to the carrier and to the severity of the threat the aircraft are expected to be able to counter.

For example, the size of the flight deck is a major characteristic affecting overall ship size. The flight deck is sized to provide the launching, landing, and aircraft parking and handling space required for the various types and numbers of aircraft in the air wing.

In order to be able to launch modern, all-weather attack aircraft and high performance fighters in the minimum takeoff distance, catapults are required. All our modern carriers have four catapults to provide maximum launching rate of aircraft and to provide redundancy in the event of malfunction or damage to a catapult. The *Nimitz* Class carrier will have four catapults.

The *Nimitz* Class will be the first carriers to have four of the latest design catapults which are 310 feet long and provide maximum flexibility for operating attack aircraft under a wide variety of operating conditions.

Catapult capability is extremely important since it determines the maximum fuel loads and ordnance loads that can be carried in the aircraft at launch and determines the rate at which the aircraft can be put into the air. A high launch rate not only gets the planes in the air ready to fight sooner, but it decreases the time the carrier is committed to a relatively fixed course and speed into the wind while launching aircraft.

The landing area required is dictated by the specific types of aircraft which must be handled. Approaching aircraft are limited in the vertical angle of descent at which they can approach the carrier by their own built-in strength. If they come in too steeply they may suffer structural damage when they land. If they come in at too shallow an angle they risk hitting the carrier's "ramp"—the after end of the flight deck. To minimize the risk of striking the ramp, aircraft are brought in a safe distance above it. This safe height, combined with the angle of descent, fixes the design touchdown point. Adding to this the distance required by the ship's arresting gear to stop the airplane, plus sufficient space forward on the angled deck to enable the aircraft to make a turn and clear the landing area brings us to a landing area with a length of about 750 feet.

The parking space provided must be sufficient to:

a. Park all the aircraft;

b. Handle the aircraft so as to provide the maximum launch rate in the specific sequences of types required for various missions to be performed;

c. Handle the aircraft so as to provide maximum recovery and re-arming rates.

The flight decks of all our modern attack carriers also have space for four elevators to provide maximum flexibility and speed in moving aircraft between various locations on the flight deck and the hangar deck. The multiplicity of elevators also minimizes the effects of battle damage and equipment malfunctions.

The requirements for simultaneous aircraft launch and recovery capability coupled with the above factors determine the overall flight deck that satisfies the aircraft requirements. Slightly less than 1100 feet in length and about 250 feet in beam in the case of the *Nimitz*, this flight deck size has varied only about 10% during U.S. aircraft carrier design of the past 20 years in spite of the more stringent requirements placed on carrier design by modern high performance jet warplanes.

The larger flight decks of our attack carriers built since World War II are also much safer than the smaller flight decks of our earlier carriers. Over the last five years for aircraft types operated on both large and small carriers the landing accident rate on the larger decks is one-third of that on the smaller decks.

With the key parameters of flight deck length and breadth set, ship volume is then determined primarily by the support requirements for the number and types of aircraft. These factors include space requirements for aviation fuel and ordnance, maintenance shops, repair parts, and personnel support. The ship volume must also accommodate the necessary sensors, active defense systems, communications equipment, command and control features, and propulsion plant.

The volume of the ship propulsion plant is determined by the shaft horsepower needed to propel the ship at the required maximum speed. The maximum speed must be sufficient to generate enough wind over the deck to launch and land aircraft under conditions where there is no natural wind and meet considerations of deployment time and ASW protection.

Because of the hydrodynamic characteristics of surface warships the same speed can be achieved for about the same horsepower over a range of ship sizes. Therefore, once the maximum ship speed is selected, the volume of the propulsion plant will be nearly the same for a range of carrier sizes.

The size of the carrier will be about the same whether nuclear or oil-fired steam propulsion is used. However, with nuclear power much of the propulsion fuel tankage needed for an oil fired ship can be used for aircraft fuel. This feature contributes to the fact that the *Nimitz* class nuclear carrier can carry about twice as much aircraft fuel as our largest conventional carrier.

Because of the essentially unlimited high speed endurance of a nuclear carrier and the greater capacity for aircraft fuel, the *Nimitz* class carriers are designed with adequate magazine capacity to carry about 50 percent more aircraft ordnance than our largest conventional carrier. This increases the overall combat endurance of the nuclear carrier, thus extending the time before replenishment of combat consumables is required.

Throughout the evolution of aircraft carrier design, holding ship weight and space to a minimum has been a major goal, consistent with attainment of required mission performance. It has required use of the most advanced technology and design techniques to build a mobile, fortified, jet air base with its high performance air wing and a vast electronic complex in a 1040 foot ship.

Q. What considerations are involved in deciding whether or not future nuclear-powered carriers should be made smaller?

A. The Navy has made studies of carrier design alternatives, including such configurations as catamarans and varying size mono-hulls. The result of these studies has clearly confirmed the superiority of the *Nimitz* size carrier over smaller attack carriers. Smaller nuclear carriers are technically feasible, but only with a considerable decrease in capability due to the sacrifice of air wing size, sacrifice of the amount of ordnance and jet fuel which can be carried, reduced number of catapults with less back-up redundancy, and reduced number of aircraft elevators with less back-up and less flexibility in handling aircraft.

For the foreseeable future the catapulting and arresting gear complex will be needed to handle projected carrier aircraft, including the F-14 now under development. VSTOL aircraft may be included in a future carrier, but for launching with strike payloads they require a long takeoff space or else must be redesigned for catapulting.

Projected future aircraft designs do not reduce the amount of aircraft ammunition and fuel needed. The need to reduce the requirement for logistic support for the striking forces emphasizes the importance of carrying as large a supply of combat consumables as possible.

The key consideration that would be involved in deciding whether or not future attack carriers should be made smaller would be the reduction in air wing capability that would result. If the total number of carriers in the fleet continues to decline and as the air, surface, and submarine threats our potential enemies can impose upon us increase, it becomes ever more important that the capabilities of the air wings on the remaining carriers be as broad as possible.

FIFTY-FOURTH ANNIVERSARY OF BYELORUSSIAN INDEPENDENCE DAY

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HUNT. Mr. Speaker, many of our colleagues have undoubtedly received a letter from the Byelorussian Congress Committee of America citing the 54th anniversary of the proclamation of independence of the Byelorussian Democratic Republic.

Like other captive nations whose independence in years long since past was snuffed out by Soviet oppression, so, too, are the people of Byelorussia prisoners of the U.S.S.R. after having lived free and independent of outside control for only 3 short years after independence was proclaimed on March 25, 1918.

Mr. Speaker, for the benefit of the historical background of the events leading to Byelorussian independence, Soviet conquest, and the subdued hope for freedom that lives on, I would like to include the full text of the letter I received from John Kosiak, president of the Byelorussian Congress Committee of America.

The letter follows:

BYELORUSSIAN CONGRESS COMMITTEE OF AMERICA,
New York, N.Y., March 17, 1972.

Hon. JOHN E. HUNT,
House of Representatives,
Washington, D.C.

DEAR SIR: March 25, 1972 will mark the anniversary of great significance for American citizens of Byelorussian descent. On that day Byelorussians everywhere in the United States and in other countries of the free world will celebrate the 54th anniversary of the proclamation of independence of the Byelorussiaan Democratic Republic. In Byelorussia, occupied by Soviet Russia today, this national observance is replaced by the commemoration of the Russian Bolshevik revolution. In this year the Soviet Russian government is also widely marking the 50th anniversary of the founding of the Union of Soviet Socialist Republics (USSR), to which Byelorussian SSR is annexed. The USSR is presented by Soviet propaganda as a voluntary union of sovereign nations. However, in reality the USSR is a prison of nations, reflecting the conquest, subordination, oppression and exploitation of Byelorussia, and other non-Russian nations by Soviet Russia.

The theoretical basis for creation of the USSR was invented by Lenin, father of Russian Bolshevism. Many years before usurping power in Russia he composed a program for the Bolshevik's Party, in which he formulated a status for non-Russian nations, conquered previously by the Russian Empire. His theses are follows: a) complete equality in rights for all nations; b) granting to all non-Russian nations the right for selfdetermination including separation from Russia and creation of independent states; c) merging of all nations in the single class organizations and educating them in the spirit of proletarian internationalism.

These theses were designated for propaganda purposes. Their obvious contradictions were clarified by Lenin in article, "On the Review of the Party Program". Lenin was stating this: "On our part we have not the desire for a separation. We want a large as possible state; a close as possible union of as many as possible nations, which are living in the neighborhood with Great Russians". In this way Lenin injected in Russian Bolshevism basic contradiction between propagandistic declarations and intended real policies for non-Russian countries.

The same false tactics was used by the Bolsheviks after their usurpation of power in Russia in 1917. The basic document of Soviet government, "The Declaration of Rights for Nations of Russia", proclaimed liberation of non-Russian nations from national oppression. The shameful policies of national oppression, existing in Czarist Russia, has to be changed to the policies of voluntary and equitable union of nations, belonging to Russia.

The Bolshevik "Declaration of Rights of Working and Exploited People", proclaimed that Russian Soviet Republic has to be erected on the basis of voluntary union of independent nations, as a federation of Soviet national republics. However, the policies implemented by Russia in to non-Russian nations presented a complete contradiction to these declarations.

On December 15, 1917 had assembled in Mensk the First All-Byelorussian Congress. It consisted of 1,872 representatives, elected by the people of all the ethnographical territory of Byelorussia. This was a national Byelorussian constituente, whose aim was to decide the future statehood of Byelorussia. Bolshevik-Russian delegates were in a small minority. They were not able to influence the Congressional decisions. After the Congress had chosen independence for Byelorussian state, the Soviet Russian Army dispersed this assembly.

The Council of this First All-Byelorussian Congress proclaimed independence of the Byelorussian Democratic Republic, on March 25, 1918. In opposition to their independent Byelorussian state the Soviet Russian government created the Byelorussian Soviet Socialist Republic (BSSR). This fictitious state was created and its government was selected in Moscow. Official proclamation of the BSSR took place in January 1, 1919 in the city of Smalensk which at this time was conquered by Russia.

Subsequently, the Soviet Russian Army conquered most of Byelorussia. Concluding a peace treaty with Poland in Riga in 1921, the Moscow government, without representatives from the BSSR, divided the territory of Byelorussia as follows: the BSSR was alloted a territory of six counties of the Mensk district only, with a population of approximately 1.2 million. Poland was given approximately 100,000 sq. km. of Byelorussia with a population of approximately 4.0 million. Directly to the Russian SFSR there was annexed approximately 250,000 sq. km. of Byelorussian territory with a population of over 9.0 million. In this way the Soviet Russian government brutally suppressed the aims of the Byelorussian people for self-determination and independence, and turned them into a colonial people of Soviet Russia. The government of the BSSR always is selected by the Russian Communist Party. Its functions are limited to those of local administration for the central Russian government in Moscow.

The formal creation of the USSR took place later, after all non-Russian independent republics were conquered and destroyed by Soviet Russia armies, and instead of them were created satellitic Soviet republics. On October 6, 1922 the session of the Central Committe of Russian Communist Party (Bolsheviks) accepted the draft by Lenin formulating the creation of the USSR. On December 18, 1922, the 4th Assembly of the Soviets of the BSSR accepted a declaration on the necessity for creation of the USSR. On December 30, 1922, the representatives of Soviet Republics signed the declaration and agreement formally establishing the USSR.

In the reality, the USSR is a continuation of the previously existing centralistic Russian Empire, using a different name, as well as different political, social and economic structure. The governing force in the USSR is the Russian Communist Party. This party presents a new Russian ruling class, substituting class of nobility, in the formerly Czarist Russia. The Polit-Bureau of this party is a totalitarian and dictatorial body, which establishes, executes and controls all policies for the USSR from Moscow, including non-Russian republics.

Consolidation of conquered countries by Russianization of their population is a continuous political process, pressed by Moscow government. This action includes: 1. Suppression of ethnic cultures of non-Russian nations of the USSR and forcible merging them in the one Russian stream; 2. Spreading of the Russian language by schools, publications, administrative use, etc. 3. Deportation of nationally conscious parts of the population, especially of the intelligentsia, to the other republics, with preference of Asian; 4. Sending in of many Russians for all leading positions; 5. Annihilation of those opposed to this denationalization; 6. Limitless and merciless exploitation of subjagated countries and their population for the benefit of Russian empirial aims; 7. Giving a high priority to the growth of the formidable military might and empirical expansion, neglecting the needs of incorporated non-Russian nations. As a result of this colonial policies of the Soviet Russian domination there were "liquidated" over six million of Byelorussian population.

Lenin envisaged creation of the USSR for the entire globe, obviously under Soviet Russian leadership. Subsequent governments of Soviet Russia are gradually realizing this goal. At present their military activities, covering many parts of the globe on the land, sea, underwater, in the air and strathosphere, often are surpassing those of other countries. This systematically growing threat to the security of free countries is the greatest menace to humanity of our time. It can be avoided by the liberation of Byelorussia and other non-Russian subjugated nations from Russian bondage and restoration of their truly independent states. The Russian state, limited to the ethnographical Russian territories, will not be capable of armed expansion in global dimensions.

At this time the Byelorussians under terroristic Russian domination do not have the possibility to defend their own national interests. Therefore, we take the liberty to ask you for support of the aims of the Byelorussian nation for liberation from the horrors of Soviet Russian occupation, and for restoration of an independent Byelorussian State.

Very respectfully yours,
JOHN KOSIAK,
President.

CITY PLANNING WITH FORESIGHT AND EFFICENCY

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HANNA. Mr. Speaker, the city of Garden Grove located in southern California and in the heart of one of the fastest growing counties in the Nation—Orange County—has made giant strides in providing its citizens better services without burdening the taxpayer with an increase in the tax rate. Garden Grove, incorporated as a general law city in 1956, presently has a population of approximately 123,000. Like so many other cities in the southern California region, Garden Grove has virtually exploded from an agricultural village of a few people to one of the largest cities in the county and the 14th largest in California. Primarily a residential community, it is bisected by a heavily traveled freeway with commercial activity along principal streets and a major industrial area located in the western section of the city and a smaller industrial area situated in the central and southeastern parts of the city. As the city has progressed from a small village to its present size, the city council through its foresight has kept abreast with the progress made in the principles of management, primarily the application of cost effectiveness to city operations. The end result for Garden Grove has been a service level which meets the needs for this fast growing community without an increase in the tax dollar.

A novel organizational pattern instituted in the city in 1969 and credited by many responsible sources to Councilman John R. Dean for its implementation has operated to increase the city's responsiveness to the public and its long-range needs. The new organization, implemented according to most of the recommendations of a management audit conducted by Theodore Barry and Associates, Los Angeles, has brought more centralization to the policy decision-making and goal setting function of the organization. The city has attempted to break down departmental barriers that so often plague large organizations and cause unnecessary duplication and resultant increases in operational costs. Garden Grove has applied techniques that private businesses have utilized in recent years to increase profit margins and dividends. The citizens of Garden Grove has reaped the dividends of increased services at the same level of costs. While faced with severe growing pains and the burdensome task of transition from a rural community to an urban city, the cost effective approach used by city administration should smooth the way in this process.

The plan has received national and worldwide recognition, has been commended by a State of California resolution, praising the city of Garden Grove for its farsightedness and wisdom in implementing a plan with such total public benefit.

The new organization, in addition to strengthening central management, has instituted some regrouping that has resulted in greater productivity and a much greater accountability for results. The reorganization has established six line operations departments and a staff cabinet to the city manager—assistant city manager for urban development, controller, personnel, assistant to the city manager, administrative assistant, and management operations analyst.

In effect, this city manager's "staff cabinet" consists of the primary staff associates and an "advanced planning group" which is a break from the traditional day-to-day planning so often performed in other cities. The assistant city manager for urban development, as the No. 2 man in the organization, serves as primary liaison with developers and heads the long-range planning staff. This "think tank" team consisting of staff specialists is divorced organizationally and physically from the land use and zoning functions. Its role is greater than the traditional master planning; it includes long-range planning of programs, of needed service levels and staffing as well as capital items on a 5-year budget plan. While line departments remain responsible for their own planning and budgeting, priority setting is based on a city-wide basis.

Incorporating a programed budget (PPBS), long a practice of private business and recently endorsed by the Federal Government, the controller, as the fiscal right arm to the city manager, is able to wed long-range planning and fiscal resources so that city objectives are met without violating fiscal responsibility. Budgets are no longer calculated on a year-to-year basis filled with incremental though unnecessary budget allocations. Nor are departmental or citizen needs necessarily denied because of an inflexible document. The program budget approach has eliminated meaningless preoccupation with line item sums and has brought responsible and cost effective long-range planning and flexibility to the city of Garden Grove. Assisting in this effort to be cost effective is a former industrial engineer who fills, the position of management operations analyst. With the utilization of data processing systems, management information, and control reporting has truly enabled the city of Garden Grove to develop the optimum input-output ratio in regards to city services.

Another major cost saving innovation now in use in the city of Garden Grove is the secretarial coordination function involving assignment and overall supervision of all clerical personnel. This function is performed by the assistant to the city manager who also heads the community relations bureau, which serves as an ombudsmen type office for all citizen inquiries and demands. The utilization of the pooling concept has provided maximum use of employee talent and has eliminated excess free time in one department at the expense of an overburdened secretarial staff in another department. This concept has been applied to other areas within the city family and has resulted in sharply defined responsibility and accountability for like functions. The consequence of this modern management tool has been increased effectiveness and reduction of unnecessary costs.

Among the concerns and citizen demands for city services, police and fire protection has reigned among the most important. Unfortunately, this service is also the most expensive and one which consumes the major portions of most city budgets. Faced with a low tax base and a determination not to burden the local taxpayer, the city of Garden Grove has applied cost analysis to its fire protection plan and is currently implementing an innovative method of fire protection.

As described in the July edition of Fire Journal, this plan is a positive approach to provide the necessary level of fire service at less cost to the citizens of the city of Garden Grove. Applying the public safety concept, the city of Garden Grove has met the challenge to be cost effective in its police and fire protection. While keeping police and fire line functions segregated, the city has integrated administrative functions performed by police and fire to maximize the amount of time police and fire personnel are available for public service.

The fire department's approach to fire protection has been a prime example of the application of refined management principles to a traditional and perhaps outdated methodology. Using a systems approach, the Garden Grove Fire Department developed a unique fire protection plan based on the proven needs of this community and the availability of funds. The analysis dealt with the problem of the upward spiral of costs for municipal services and its effect upon the traditional operations of the fire department. Among the issues to be decided were: How can the principles of constant manning, distribution of companies, and nonproductive standby time be changed to counteract rising costs? How can response time be shortened? How can manpower be better utilized?

A study of the organization's past history of methods and procedures revealed particular areas of fire protection in need of improvement. Of not were these findings: First, of an average 2,000 alarms received annually, 50 percent were for fires and 50 percent involved first aid and rescues; second, approximately 98 percent of fire emergencies were handled by the first-arriving unit; and third, some responses in certain areas of the city exceeded the time deficiency factor of 5 minutes' response time.

Based upon the assessment of prevalent shortcomings and projected needs, the following goals were established for reorganization of the emergency functions performed by the fire department:

1. A system to eliminate the distance and time deficiencies.
2. A distribution capable of handling 98 percent of the emergencies and a good back-up system for the remaining two percent of the emergencies.
3. A reserve force of apparatus, equipment, and capabilities to cope with large scale emergencies.

In an effort to accomplish these goals, three new engine houses were added to the fire protection plan so that there would be a total of seven fire stations strategically placed throughout the city. The money for the added costs of construction came through salary savings by eliminating 10 percent of the fire suppression forces and reassignment of the rescue functions. Noting the configuration of the city—the east and west parts being separate entities—the fire companies were located appropriately. In the eastern portion which is larger, the concept of task force satellite companies—two-man, 550-gallon attack pumpers—make the initial attack with backup provided by a task force group of two engine companies and a truck company—elevating platform. There are five stations in this eastern area, with four two-man stations and the centrally located task force station.

The western portions, the site of a major industrial area, has two four-man stations with heavy pumpers. At this time, only one station in the western portion of the city remains to be built. With the purchase of new pieces of satellite apparatus, new equipment has been added to the rescue force for large-scale emergencies. An on-call system is utilized for the purpose of calling off-duty firemen to the scene of an emergency. This system is an additional cost-saving aspect of the fire protection plan. For example, a task force can be recalled about four times a year at a cost of approximately $1,000, as compared to manning a four-man truck company on a full-time basis at a cost of approximately $200,000 per year.

In essence, the fire protection plan is the outcome of a concerted effort to provide adequate fire service to the citizens of Garden Grove within the framework of a low tax base and a desire not to increase taxes. It is based on a sound analysis of the fire experience of the city and with full awareness of the needs for effective fire service for the city of Garden Grove. Because the plan is only partially implemented, the total effectiveness cannot be fully measured. However, based upon recent statistics concerning response time and other fire services, many of the objectives that were stated at the outset have been achieved.

The application of cost analysis, programed budgeting, and systems analysis to public agencies is a relatively new concept. Indeed, in many instances, these concepts are not yet fully understood by public service organizations. PPBS began as recently as 1965 in the Department of Defense, and the process of adopting the system in other Federal departments let alone municipal agencies has indeed been a deliberate process. Measurement of input-output ratios in the area of public service is, ostensibly, an improbable task given the intangible nature of much of the services provided by local communities. However, the city of Garden Grove has made the attempt to employ modern management techniques in an effort to be cost-effective. In a time when individual citizens are asked to bear a tremendous share of public costs, the critical need for cost effectiveness has never been more urgent. Although the task is sometimes difficult and at best not precise, the implementation of innovative management principles in public agencies is a must. The city of Garden Grove has taken major steps in this endeavor, and despite controversy and disagreement that so often accompanies organizational change, has attained much success in providing services to its citizens at the lowest possible cost.

Many of the cities across the Nation facing fiscal dilemmas should look to the innovations of the city of Garden Grove for ideas and concepts to maintain or improve services plus cut the costs of government and meet the needs of the people. The city of Garden Grove, its citizens, its city council—and particularly Councilman Dean—are to be praised and emulated for such major steps in improved local government.

ACTIVITIES OF THE SUBCOMMITTEE ON RETIREMENT, INSURANCE, AND HEALTH BENEFITS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. WALDIE. Mr. Speaker, the Subcommittee on Retirement, Insurance, and Health Benefits of the House Post Office and Civil Service Committee has been extremely active this session, dealing with matters of great concern to many people. For this reason, I wish to include for the RECORD a summary and outline of the subcommittee's activities.

As chairman of the subcommittee, my main focus during the 92d Congress has been to improve the general level of benefits for a wide range of Federal employees and retirees. Government workers—both active and retired—have for too long been considered merely "public servants," and have had to accept a level of pay and benefits based on this concept of their role. It is my hope that through the efforts of the subcommittee, continuing progress can be made in assuring that the benefits of all Federal employees and retirees compare favorably with those in the private sector.

For the past year, the subcommittee has been investigating the Federal employees health benefits program to determine whether or not the program is providing the best possible health protection at the lowest possible cost.

In December 1971, we held hearings on the proposed 34.1-percent rate increase by Blue Cross/Blue Shield. During this hearing the Price Commission informed Blue Cross/Blue Shield that it must submit any rate increase to the Commission for approval. I submitted a third party statement to the Price Commission, recommending an increase of 8 to 10 percent, rather than 34.1 percent.

The Price Commission reduced the increase to 22 percent, but because the Government's contribution to the health insurance premium—based on 40 percent of the average of the premiums of the six largest plans—could not increase proportionately, the Federal employee and retiree will be paying about 34 percent more for high option Blue Cross/Blue Shield than last year. This figure is still much too high, and I am studying other ways to reduce the cost of health insurance.

In February of this year, we continued these investigatory hearings, with emphasis on the role of the Civil Service Committee in negotiating the contracts with the insurance carriers and administering the entire Federal employees' health benefits program. At this hearing, several witnesses testified regarding cutbacks in benefits to Federal employees and retirees by Blue Cross/Blue Shield. I am greatly distressed by the possibility that Federal employees, retirees, and dependents are being adversely affected by this punitive action on the part of Blue Cross. No notification of these cutbacks has been sent to Federal employees, nor has Blue Cross informed doctors that some claims will no longer be paid. The only means by which a person could determine that a previously covered service was no longer being paid would be to submit the claim and several weeks or months later, receive a denial. The end result is an employee stuck with a bill for a service that was previously covered by Blue Cross/Blue Shield.

As a result of this situation, I have sent letters to the heads of Government employee unions and to administrators of Blue Cross affiliated hospitals alerting them to this situation. The subcommittee staff has also been investigating cases in which benefit cutbacks have occurred. We are continuing our review of the Federal employees' health benefits program, and are in the process of planning additional hearings.

I am also aware of the fact that the present structure of the retired Federal employees health benefits program is quite insufficient. However, any reform of the present health plan for retirees will be premature until H.R. 1 is completed and signed into law. I am confident that the subcommittee then will try to develop an adequate health insurance plan for retirees which will supplement medicare A and B, and that such a supplemental plan will be available to all Federal retirees who wish to enroll.

In the area of retirement benefits, the subcommittee has made progress in expanding the category of hazardous duty occupations, and has also reported to the full committee legislative that would provide for earlier retirement of long-term Federal employees.

In addition, the subcommittee is considering legislation that would provide increases in minimum annuities for Federal retirees so that the years of retirement need not be years of continual financial struggle, as is now to often the case.

Hopefully, by the end of this session of Congress, the subcommittee will have made substantial progress in confronting those issues that are of the most concern to all Federal employees and retirees. My efforts and energies will be strongly directed toward this goal.

STATUS OF LEGISLATION REFERRED TO THE SUBCOMMITTEE

HEALTH INSURANCE

H.R. 12202: The bill would increase the Government's contribution to health insurance premiums to 55 percent for the remainder of 1972 and would provide for additional 5 percent increases in the Government's share in each succeeding year, until the Government is paying 75 percent of the cost of the premium in 1976. One section of the bill would allow those employees who retired prior to July 1, 1960 to enroll in the Federal employees' health benefits program. Another section of the bill would extend family plan coverage to dependent children over age 22 who are enrolled in school on a full time basis.

Status: The bill has been reported by the full Committee on Post Office and Civil Service, and now goes to the House floor. In February, hearings were held on the "Postal Amendment" that I introduced. This amendment, which would include Postal employees in this legislation, is now pending before the subcommittee.

I fully support the provisions of H.R. 12202 which will provide Federal employees and retirees with a level of benefits now enjoyed by many workers in the private sector.

H.R. 11255: This bill would permit voluntary retirement at such time as an employee's or member's attained age plus length of service aggregates at least 80 years. It would also permit an employee who has completed 25 years' service or who is at least age 50 and has completed at least 20 years' service, but who is not eligible to retire under the regular optional provisions, to retire voluntarily during a limited period while his agency is undergoing a major reduction-in-force.

Status: The bill is pending before the full Committee on Post Office and Civil Service. I support this legislation fully.

H.R. 1730: This bill would increase from 2 to 2½ percent the multiplier used in computing the annuity benefits of persons engaged in Federal criminal law enforcement activity.

Status: The bill has been considered by the full Committee on Post Office and Civil Service and referred back to the subcommittee for further study.

H.R. 7060: This bill would extend the preferential retirement treatment accorded law enforcement personnel to Federal firefighters, by allowing such persons to retire at age 50 after 20 years of service.

Status: This bill has been reported favorably by the full Committee on Post Office and Civil Service and now goes to the House floor.

H.R. 440: This bill would extend the preferential retirement treatment accorded law enforcement personnel to Customs and Immigration Inspectors, by allowing such persons to retire at age 50 after 20 years of service.

Status: The bill has been reported favorably by the full Committee on Post Office and Civil Service and now goes to the House floor.

H.R. 8726: This bill would liberalize the retirement benefits for secretaries of Federal judges, to make their benefits comparable to those of congressional secretaries.

Status: Hearings on this bill were held on March 27, 1972. The bill is now pending before the subcommittee.

H.R. 6622: This bill would increase the annuity computation for all Federal employees from 2 to 2½ percent.

Status: The bill is pending before the subcommittee. No action is scheduled at this time, but the bill may be included in hearings on minimum annuities.

H.R. 231: This bill would provide Federal retirement credit for service performed in Federal/State agricultural projects.

Status: The bill is pending before the subcommittee. No specific action is scheduled at this time, but the bill may be included in hearings planned on minimum annuities.

H.R. 13180: This bill, which I introduced, would provide Federal retirement credit for Japanese Americans interned in camps during World War II who are now Federal employees. There is no minimum age requirement at the time of internment to qualify for this credit.

Status: The bill is pending before the subcommittee. Hearings will be scheduled in the near future.

H.R. 2530—and 19 similar bills: This bill would provide full Federal retirement credit for service as a National Guard technician. Present law now credits only 55 percent of this service toward an annuity.

Status: Hearings were held on this bill in September 1971, and the bill is now under consideration by the subcommittee. Further hearings may be scheduled in the near future.

H.R. 7805: This bill which I introduced would provide an increase in minimum annuities on a graduated scale of percentage increases, with those persons at the lowest end of the annuity scale receiving the largest percentage increase.

Status: The bill is pending before the subcommittee. Hearings on this bill and many of the bills that have been previously described are planned for late spring. I believe an increase in annuities is essential if Federal retirees are to maintain a decent standard of living during this time of rising costs.

S. 1031: This bill would provide Federal retirement credit for District of Columbia substitute teachers during the year 1955–65.

Status: The bill is pending before the subcommittee and will be considered in the executive session in the near future.

The "rider" to H.R. 11255: This so-called "rider amendment" would allow Federal retirement credit for service performed on the railroads by persons now employed by the Federal Government. This "amendment" is simply an informal proposal and has not been introduced by any Congressman or Senator. If this legislation is formalized, the subcommittee will give it full consideration.

INSURANCE

H.R. 11563: This bill would waive an employee's deductions for life insurance during a period of erroneous separation, but would allow life insurance policy proceeds to be paid should the employee die during the period of separation.

Status: The bill is pending before the subcommittee and will be considered in executive session in the near future.

MY RESPONSIBILITY TO FREEDOM BY STUART D. BROWN

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. LUJAN. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conducts a Voice of Democracy Contest. This year nearly 500,000 secondary school students participated in the contest competing for the five national scholarships which were awarded as the top prizes. The contest theme was "My Responsibility to Freedom."

The winning speech from New Mexico was written by Stuart D. Brown, 894 43d Street, Los Alamos, N. Mex. I believe we can all be proud of Stuart and his accomplishment; if we had more young citizens like him, many of the problems facing our Nation today would vanish.

I would like to insert for the RECORD Stuart's speech as we can all learn from his words:

MY RESPONSIBILITY TO FREEDOM

(By Stuart D. Brown)

Not only have two hundred years come to pass since our nation was born, but in that time the Nation has also developed into the most advanced country in the world. The United States is and continues to be a growing and developing Nation. The American people are a dynamic society inspired by an atmosphere of freedom and Democracy. And in preserving this way of life, a new and stronger emphasis must be put into our basic responsibilities to freedom. Now that it is time I must accept the challenge of a position into this society and country, what should I do? What is expected of me? What are my responsibilities to this freedom and democracy that has been for so long so much a part of the American people?

A man once wrote: "My responsibility to freedom is to be free." Clearly this is not enough, it requires more, the responsibilities that come with our way of life are to know what these freedoms are, to practice and to recognize the importance of the opportunities opened to us by having these rights.

The early documents of the United States, spoke of things only rarely heard of throughout the history of man, they stated what rights each man, as an individual, possessed. Among these were the inalienable rights to life, liberty, and the pursuit of happiness; the right to freedom of opinion, of religion and speech, the rights of accused persons, the rights governing punishment, and under the Ninth and Tenth Amendments to the Constitution of the United States, the right to any other freedoms not specifically mentioned in the Constitution.

I believe democracy to be, of all forms of government, the most natural, and the one that is the closest geared with individual liberty, in it no one transfers his natural rights so absolutely that he has no further voice in affairs, he, instead, has a voice that is heard by the majority consideration, whereof he is a unit. Thus, all men remain, as they were in the state of nature, equals. And in that manner the government carried out its responsibility to the preservation of the rights of the people.

But knowing of the availability of these rights is only half of my responsibility to freedom. I must also practice and use them. I must not only recognize but respect the importance of their existence. And only by doing so can I maintain their existence for the generations to come. It is very much necessary to exercise the rights and freedoms the framers of our government so consciously granted. Only by their constant usage can we be insured that these rights and freedoms will never be overlooked or set aside, and only by wisely and consciously practicing these freedoms: the right of free opinion, religion, speech, and the many other freedoms granted through the Constitution can we truly recognize the importance of maintaining their existence.

Americans have rights and freedoms granted to few other countries in the world. America is based on the concept that each man is an individual, who has the right to be an individual. But this comes not without its responsibilities. My responsibility to freedom is to recognize, and to respect, and to appreciate these rights, and to use them.

WHO'S FOOT IS THE SHOE ON NOW?

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HUNT. Mr. Speaker, as a handful of self-righteous Senate Democrats continue their crude and ludicrous attempts to indict the Republican Party in connection with an ITT pledge for the Party's National Convention, the fact of a $1.5 million telephone bill owed by the Democrat National Committee from the convention 4 years ago is briskly sidestepped by both the committee and the news media.

There are some newspapers, however, that would like to see justice done, and the Asbury Park Evening Press is one of them. The following editorial from that paper hits the nail on the head and observes:

> Every presidential year the major parties start fund raising to persuade the nation that their candidates are best equipped to govern. Solvency should be one test, a standard the folks at A.T. & T. and their customers would be happy to have the Democrats meet.

The full text follows:

$1,500,000 Phone Bill

While it is sifting all the charges that ITT settled an antitrust suit with the government because an ITT subsidiary pledged $400,000 to the City of San Diego where the Republicans will hold their convention, the Senate Judiciary Committee should also inquire about the unpaid $1,500,000 telephone bill owed by the Democratic National Committee to A.T. & T.

Democrats on the committee imply there is some unholy alliance between big business and the Republicans. But they are not talking about the $1,500,000 owed to A.T. & T., dating back to the Democratic convention in Chicago in 1968. Senator Dole of Kansas, Republican National chairman, charges that this amounts to a gift by a utility regulated by the government.

The Democrats have been promised telephone service at Miami if they pay $100,000 in advance. But this still leave the old debt, plus $7,500,000 owed to others who have not been fully identified.

Every presidential year the major parties start fund raising to persuade the nation that their candidates are best equipped to govern. Solvency should be one test, a standard the folks at A.T. & T. and their customers would be happy to have the Democrats meet.

THE JOURNALIST AT SEA

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HOSMER. Mr. Speaker, the Oceanic Educational Foundation, with which I am privileged to serve as a member of the board of directors, sponsors a course in Humanities of the Sea at the University of Virginia.

One of the highlights of this course was a talk by Raymond McHugh, chief of the Copley News Service Washington Bureau. Mr. McHugh makes a delightful and eloquent case for new journalistic interest in the world ocean because of its limitless opportunities to benefit man.

Mr. McHugh's lecture follows:

Oceanc Education—the Humanities of the Sea

(By Raymond J. McHugh)

REPORTING THE WORLD OCEAN—A NEW DIMENSION IN JOURNALISM

I feel like a man traveling on a forged passport.

Captain Slonim has showed me the list of lecturers in this series. I hardly belong in such distinguished company.

A newspaperman—or "journalist", if you prefer high-faluting words—is essentially a man who knows a little bit about a lot of things, and not very much about anything. It's a handicap imposed on us by editors and deadlines.

When the subject is oceanics or the future of the seas, that feeling is magnified. There's too much around the corner, out of sight of our education and/or experience.

You are beginning to probe a new frontier. We in the communications media are going to have to watch you, talk to you and learn from you.

I'm reminded of a night two years ago when I was asked to introduce Herb Klein, the President's communication director, to the Las Vegas Press Club banquet.

Herb is an old friend and colleague, so I asked:

"What are you going to talk about?"

"The ABM," he replied—the anti-ballistic missile system.

"What in blazes do you know about an ABM," I asked. "I've known you for 15 years and you couldn't tell one end of a missile from the other."

"You're right," Herb said. "But the fellow who wrote the speech is an expert!"

You don't have that advantage.

I couldn't find any experts on oceanics and the communication media.

When I introduced Klein that night, I described him as a "weapon" expert—W-E-A-P-O-N.

"Why's everybody always picking on Nixon?"

I tried that tonight with the word "Oceanic"

O-C-E-A-N-I-C

"Oh, can't everyone accept normal inland civilization?"

I guess not, otherwise we wouldn't be here.

Capt. Slonim erred on another point in his selection.

It's true that I newspapered for 10 years in San Diego and allowed my son to be bitten by the Navy virus—badly enough that he went to Annapolis and is now serving as a nuclear engineering officer on a Polaris submarine—but I'm an old landlubber, a one-time Army sergeant who made five D-Day landings in the Mediterranean, simply because I was too frightened to stay on the ship!

That's why your new course fascinates me, why you fascinate me.

To me the sea has always been a forbidding, hostile world. You see something quite different.

I'm sure I belong to the majority, but I have that uneasy feeling that the majority is wrong.

Formal education in journalism—for better or for worse—started in 1869. It was a time when American Clipper ships were at their competitive peak in world-wide trade.

But as the professionalism of the media grew over a century, the American role at sea has declined. Perhaps there was a corrolation. Newsmen and seamen very seldom talk to each other, at least in a common language.

Today, we are discerning a new dimension in journalism—the World Ocean—but we really don't know how to describe it.

When Gen. Robert E. Lee, as president of Washington College launched the first journalism school, he overlooked an opportunity. He should have suggested to some enterprising graduate students that the seeds for his defeat were sown at sea by the maritime strength of the Union forces. He didn't and ever since American journalism has failed to report the dimension of the sea with the same zest that it covers day-to-day events on the land, in the air, even in space. We have just witnessed the excitement over the large land mass called China. But where is there parallel interest in that enormous ocean between that we call the Pacific?

I'm afraid that General Lee, the brilliant tactician and military genius, was like most of us, a land lubber. The average newsman who graduates from descendent J schools is trained to write for readers whose interests are largely landed. It is no surprise that oceanic matters catch him off-balance.

But the newsman, like the American people, is beginning to realize that the seas may be crucial in man's quest for a better quality of life, even his survival.

Whether the push comes from Cousteau, the Conservationists, Adm. Rickover, the Nixon Doctrine or the Russian Navy, he's becoming aware that the oceans, the dominant portion of man's planet, are also his last frontier for investigation and exploitation.

I would not wish to exaggerate this maritime renaissance. It's only an ember today, but if it is to be fanned into a flame our press must be convinced and educated. Then full coverage of the World Ocean will follow.

How does one do it?

My own Copley Press has been a pioneer in reporting the oceans and interpreting the significance of the sea to its readers. With a headquarters in San Diego that rubs shoulders daily with the Pacific fleet, Scripps Institution of Oceanography, the University of California, the aerospace and shipbuilding industry we should be a leader. For example, we're in a position to realize how a depressed aerospace industry is turning its eyes from the sky to the sea.

We've been casting our stone into the journalistic waters for several years, but we're frankly still not making waves.

The selling job is not an easy one.

President Nixon has called the 1970s "the decade of the seas," but the oceanic press in 70s lacks the breadth and depth that is warranted.

Even the editor who discerns the weakness finds it difficult to correct. There simply are too few writers and commentators who appreciate the sea, who have the educational background to analyze its importance.

The tide is turning, but is the average citizen being made aware of it?

The Navy this year will get $9.6 billion for new ships and equipment; that's $3 billion more than the Air Force; $5 billion more than the Army.

NOAA's budget is up 20 per cent.

The Navy's oceanographic research program is to get $203 million.

The Senate voted 83–0 to ratify an international treaty barring nuclear weapons on the ocean floor. It rated six inches of type or less in Washington newspapers.

Twelve European nations agreed to ban the dumping of harmful industrial waste in the northeast Atlantic. That rated two inches.

At your last meeting Rep. Craig Hosmer mentioned four predictions that he called "routine:"

Floating and underwater cities.

Trained porpoises herding schools of fish into automated processing factories.

Controlled fusion providing limitless electric power from the oceans.

Underseas farming to add to man's food supplies.

They may be "routine" predictions to you because of your specialized interest.

But how many people on the street would regard them as routine?

You are dealing in potentially one of the most exciting news-making areas one can imagine. The big problem is, there are too few of you and too few of us who can really communicate these ideas.

How do we find, educate and motivate talented writers to probe this new salt water dimension?

First we must kindle interest in youth and in veteran newsmen—comprehensive specialized courses in schools of journalism can be a beginning.

There is a striking relationship in the historic development of the sea grant program since 1966. It has a springboard for the study of the sea. At present, it is science-oriented. But major expansion is inevitable and it should move into humanistic-literary areas—ocean-oriented courses in international studies and law, economics, global geography, maritime history, oceanic art and literature. These disciplines, brought together into a single program, can foster a writer's appreciation of the total spectrum of the sea environment and its dynamic possibilities.

I like to go back to Athelstan Spilhaus's early statements of the potential of the program:

"Just as ocean study requires a multi-disciplinary pattern, competent reporters of oceanic activity with comprehensive educational background and varied experience will be able to develop in discerning depth the implications of oceanic enterprise.

"The seas beautiful, elegant, strong, dangerous and whimsical offer us military, recreational, educational, economic, artistic and intellectual outlets of unlimited scope. They offer us more space than space itself in which to remain human.

"Educationally this requirement has been recognized in the thinking resulting in the projection of centers of oceanic advancement and maritime studies to pursue the multi-disciplinary studies and research on university and college campuses throughout the United States."

I see no reason why journalists and schools of journalism can't be brought into the Center's intellectual sphere. Individuals aspiring to reporting the oceans require intellectual grounding and oceanic perspective if they are to give thorough, substantive interpretation to events and trends. The central thrust of this course, as I understand it, is directly related to this.

You have special interest, special motivation, but I think journalism school courses must begin at a relatively elementary level.

The normal schooling of the average American is deficient when it comes to the role of the oceans. His experience is not likely to compensate. The water dimension has not figured in the solution of his personal problems. Here and just across the Potomac we see a beginning.

The Washington Technical Institute has developed a job-oriented two-year program in Marine Science Technology that includes a four-day cruise for its undergraduates.

That's the technical side.

As a newsman, I prefer this University of Virginia approach to the "Humanities of the Sea." It is broader, more balanced.

But can't the two ideas be married?

We'll need many more courses of this kind in the United States before the country realizes how far we must go—and how late the hour is.

I suspect we'll need new texts, new curricula, a whole new concept.

Sea travel could be one short cut for the fledgling reporter attracted to your ocean environment. He would certainly benefit from a world cruise internship. Whether he circumnavigates the globe as a student or as a deck hand really does not make a great deal of difference. In some respects he will be better off working his way around the world, for it would involve realization of how the seafarer thinks—a kind of self-sufficient thinking that differs fundamentally from that of the landed individual. In any event, it will be important that the sea journalist gains a feel of the sea to buttress his writing. His scan of the sea and its time and space factors also will help him evaluate international affairs and strategy.

Observing the dynamics of ocean trade first hand will add to his discernment of what cheap water transport means to people world-wide, and how it promotes the interrelationship of people through ocean activity. The cultural, commercial, the diplomatic two-way flow across the oceans of the world has been altered by jet travel.

The pulse—the purpose, the global reality—of maritime activity has become remote. Too few appreciate its economic stimulus.

What I am suggesting is a time-consuming procedure, and necessarily so. But just as in oceanic research there is no royal road to reporting the sea. Our search is for a development of expertise in sufficient depth to give an insight into the vast potential of the oceans.

Lacking this substance, the country will not find the stimulating ideas that will convert the traditional land thinking of the frontier to your oceanic concept. We have to recognize that in its 200 years as a major maritime power, this rationale still has not become popular.

A revolution will not occur overnight. You'll be impatient. We live in a world geared to instant response. But I remind you of a comment by the sage Buckminister Fuller in his musing about the seas:

"To do anything really important, we have to think at least 25 years ahead."

Understanding the seas may help us regain the long range vision so necessary if we are to formulate new ideas for a new century.

Here I contend journalists must lead the way.

But where will we find young men and women willing to help forge this new dimension?

Who can find time for the serious studies and world cruising?

It won't be easy.

The serious-minded individual who shows writing talent and the required disciplined approach needs not only guidance but certain attractive incentives.

Perhaps a program can help support his apprenticeship at sea or close to the wharves of the world where he can gain the kind of background and enthusiastic enlightment that will give his articles the fine flavor of a sea-breeze, the romantic as well as the pragmatic dimension that will excite and invite others.

The nomad instinct in today's youth is an asset. Few seem to finish college anymore without a summer in Europe. Even when parents cannot afford to send them they find ways to get there. Soon, I suppose, they will be trekking to China. But most youngsters cross the ocean by jetliner. The sea to them is only a barrier to be crossed, not an adventure in itself.

I'm not the only parent who would like to slow their tempo. A slow boat to China, or to the Mediterranean would have psychological as well as educational rewards. The oceans can be a cushion for people chasing a Mach 3 existence. Aboard ship there's time to think.

Ocean travel also affords a more comprehensive global grasp of geography and a humanistic dimension in relating people and the role they plan in the mutual supporting process of world trade and other enterprises that attend ocean activity.

Special activity during port visits can afford insight into local problems, relating them to regional maritime activity. The concept of college aboard ship is not new; but the concept of ocean-oriented education aboard ships has been confined to Navy midshipmen or the maritime apprentice. Few journalism majors participate.

This same situation applies to a whole variety of new professions that are giving increased attention to the ocean environment.

But floating J-Schools are not the only answer.

Neiman fellowships on the sea could be offered. An international student exchange involving young people from Britain, Japan, Holland and other seafaring nations could be organized.

Independent study can also give the student of the sea a good grounding in fundamentals essential to writing with assurance and realism. As I mentioned earlier, the Sea Grant idea can be extended to journalism schools.

Dr. Horace M. Kallen, the venerable philosopher of the New School observes:

"In view of the little that had then been known of the role of the oceans in the formation, ongoing evolution and struggle for survival of homo sapiens as land animal, it was apparent that a reliable knowledge-in-depth of the oceans would have, at least an equal, and with considerable likelihood a higher, survival value for the future of mankind, than man's knowledge of the land."

Once a student grasps that he is dealing in survival, his quest for knowledge of the sea environment will grow beyond his curriculum. At this point he will shape his own course of study. He should give time to pursue his own intellectual basis for reporting the sea.

I recall a Reader's Digest article that describes Eric Severeid's early career. Upon completion of his studies at the University of Minnesota, Severeid contracted with the Minneapolis Tribune, his first employer, for a series of articles covering an arduous canoe trip through Minnesota and Canada to the Atlantic. It was a daring and difficult thrust into the wilderness. According to Severeid it served him in good stead, far beyond merely launching his brilliant career.

We should offer young students interested in the sea an opportunity to see it, smell it, experience it. It would result in exciting copy, I assure you.

Just the geographic aspect would broaden American interest in the world. That's a certain spin-off from the oceanic educational process. Editors could contemplate new newspaper sections; new television documentaries on "The Oceans" to give the public a fuller understanding and appreciation of this dominant portion of their planet. The Canadian Broadcasting System is currently planning a TV lecture series on the oceans. It will be interesting to hear the results.

I am not unmindful of the maritime coverage now offered in many major port newspapers. Conceptually, I am suggesting that broadening this coverage is essential to gain the full dimension of the oceans. The space allocated is limited and the scope is usually limited to merchant marine matters. Few are responsive to the entire ocean mosaic.

Chairman Helen Delich Bentley of the Federal Maritime Commission was an exception in her days on Baltimore's Sun papers. In fact, she owes her present job to the fact that she was such an outstanding exception.

We need more Helen Bentleys.

Until we get them, there will continue to be a certain pervasive mustiness in the maritime presentations one reads in the average newspaper and periodical. Part of it reflects the conservative cut of the jib of the Maritime community—a community not known for public relations success.

Always missing is the excitement that should be inherent if we are indeed talking of the frontier of the future. There's no sex appeal.

I won't minimize the romance of aviation. Charles Lindbergh's book "Spirit of St. Louis" is just as gripping as a Joseph Conrad tale of the sea. But who is reading Conrad anymore? Even college-level history texts are beginning to gloss over the Venetians, the Phoenicians and Genovese, the Hanseatic traders—and yes, the men who sailed the Yankee Clippers. They all shaped the world in which we live.

We're coming up to the bi-centennial of the United States, but how many young Americans understand that it was the French Navy, not the Continental Army that really decided the Revolutionary War?

My generation remembers Pearl Harbor, Midway, the U-boat battles in the Atlantic; but how many of us have read the stories of Trafalgar, Actium, Salamis, Lepanto—naval battles that changed not only the course of history, but of civilization.

The sea has a way of hiding its climatic moments; like storms they pass; on the surface nothing seems to change.

A stroll along the canals of Amsterdam or the streets of Djakarta will instruct any student in what the sea meant to tiny Holland for centuries. The still lavish homes of merchant princes standing cheek-by-jowl in Amsterdam; the palaces in Indonesia are testimony to a day when Dutchmen rode the sea to control New Amsterdam, the East Indies, South Africa, parts of Latin America and more islands than even the House of Orange could count.

The National Geographic Society, incidentally, has developed an excellent television documentary on Holland that features the Dutchman's constant struggle against the sea. It's the quality of work you should encourage in telling your oceanic story.

Walter Cronkite, who gained some of his discernment aboard the battleship *New York*, has expressed concern that too few young aspiring journalists are adventure-oriented. I think Walter would endorse enthusiastically the concept of sea-oriented journalism programs.

I know that men like Jim Copley who heads my organization and is dedicated to this nation's future will support such programs.

If we can attract the boys and girls with the sharp pens and typewriters, everyone will begin to comprehend the real dimension of this oceanic opportunity that is unfolding

President Nixon talks of a "generation of peace."

If it is achieved, think of the new challenges that will confront men: a better world, a better environment, full utilization of resources.

You in this class obviously sense that the sea holds solutions to many of these.

I hope you're right. And I hope you'll help the communication media in this country attract, train and inspire the people who can tell the tale.

Thank you.

BAPTISTS SUPPORT QUALITY EDUCATION FOR ALL

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SCHWENGEL. Mr. Speaker, quality education for all students has been a much heated controversy during the past month. Although we all are in agreement as to the ends, disagreement begins when we talk about the means.

Recently, the Baptist Joint Committee on Public Affairs, addressed a letter and resolution to my attention. This resolution strongly supports quality education and urges all necessary steps be taken to assure its immediate achievement. It is heartening when religious-oriented groups show such concern. I would like to share their letter and resolution with you, as follows:

BAPTIST JOINT COMMITTEE ON
PUBLIC AFFAIRS,
Washington, D.C., March 22, 1972.

Hon. FRED SCHWENGEL,
House of Representatives
Washington, D.C.

DEAR MR. SCHWENGEL: On March 8, 1972 the Baptist Joint Committee on Public Affairs unanimously passed the enclosed resolution. I commend both the letter and the the use of public funds for nonpublic education. I commend both the letter and the spirit of the resolution to you.

The Baptist Joint Committee on Public Affairs is composed of representatives from nine cooperating Baptist conventions with almost twenty-four million members. The Committee does not purport to speak for each Baptist, but on this issue of public aid to nonpublic schools our Baptist people have almost complete agreement.

I hope you will read the statement carefully. If you have any questions about our position, I will be happy to answer them.

Sincerely yours,

JONH W. BAKER.

RESOLUTION ON QUALITY EDUCATION

Whereas the Baptist Joint Committee on Public Affairs is concerned with many areas affecting the national welfare and destiny; and

Whereas quality public education for all children in the Nation is vital to the national welfare; and

Whereas many possible plans for promoting quality education are being considered or will be considered by the Congress and the Executive Branch;

Now therefore be it resolved that the Baptist Joint Committee on Public Affairs strongly supports quality public education for all children without regard to race, color, religion, sex or national origin; and

Be it further resolved that we urge that all actions designed to promote quality education be consistent with this Nation's historic position on separation of church and state, including no tax support for nonpublic schools.

PHONY BUSING ISSUE ROADBLOCKS DRIVE FOR QUALITY EDUCATION

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BOLLING. Mr. Speaker, John P. Roche terms the busing issue a phony one and discusses what our obligation to educate our children is all about. His column follows:

PHONY BUSING ISSUE ROADBLOCKS DRIVE FOR QUALITY EDUCATION

(By John P. Roche)

Last September in this space, I concluded an examination of the busing problem by suggesting that "we somehow move the wild men at both ends of the busing fight off to an island some place while the rest of us get down to the business of education."

Emphasizing the phony quality of the debate—which was just beginning—I argued that "it is the quality of the education at the end of the bus ride that counts. There is no point in riding kids across town or country just for the trip."

I wouldn't change a word of that column today, but, alas, instead of the wild men going off to an island to scream at each other, they settled on Florida.

From the day George Wallace arrived in Florida and—unlike us "pointy heads"—parked his bicycle straight, the debate over busing lost all contact with reality. As usual, the party of sanity got caught in an enfilade and its position—that it is the quality of education that counts, not the bus-ride—got tagged as a cop-out, as a compromise with "racism." It was almost as if George Wallace and John Lindsay had conspired to transform an educational dispute into a racial confrontation, each for his own political ends.

This is perhaps the place to pay tribute to Florida Gov. Reubin Askew. He could have stood aside and let the storm blow out. He certainly was aware of the risks involved in raising the flag of sanity. But he refused to take a dive. He is the kind of man that justifies one's faith in the democratic process and I want him to know—for whatever it may be worth—that I would be proud to be known as an Askew Democrat. What separates the men from the boys among politicians is that the men know when not to compromise.

While only an idiot would deny its racial implications, busing is not fundamentally a racial issue. As in the furious debate over public housing in Forest Hills, N.Y., class and race have been hopelessly confused. Most kids going to poor schools are not black: 80 percent of the American poor are white and they have not been dedicated to zero population growth.

Every morning at 7:15, the bus picks up my daughter and takes her to public school. It is an excellent high school, well-subsidized by property taxes in a wealthy suburb. If the same bus were going to take her to school in a white section of Boston or Cambridge, a school suffering from financial malnutrition, overcrowded, and largely populated by youngsters with no educational aspirations, I would be out screaming my head off.

But before you write me off as a self-made snob, let me add that I would vigorously support a program to bring students from these marginal schools—black or white—to attend our high school. Beyond that, I agree completely with the California Supreme Court, and other state courts, that local property taxes should not be the basis of school funding.

I don't see that we have any divine right to build a wall around our town, develop a fine school system, and lay out perhaps twice as much money per student as other neighboring systems. Particularly when in fact our tax level may be lower than those in other cities or towns, where a declining tax base has led to increased charges on individual property.

In other words, the underlying sentiment in the anti-busing configuration is our old acquaintance: "Let the poor rot." Whether the poor are black or white is fundamentally irrelevant.

However, the obligation of our society is to provide quality education for all its youngsters—which may or may not require a bus trip, but will certainly require a major reorganization of the units of public education and the expenditure of a lot of money, state and federal.

For openers, why not reinstate the 10 percent federal surtax on income, and specify that the money thus obtained be used to help equalize educational opportunity? This is not a pleasant message, but unless one is ready to pay the cost, he has no right to talk about quality education.

LEGISLATION TO END UNITED STATES-INDOCHINA CONFLICT

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROYBAL. Mr. Speaker, recently I joined with a distinguished group of Senators and Representatives in introducing legislation to halt the bombing in Indochina and immediately withdraw American Armed Forces within 30 days after enactment of this measure.

I took this action because of the President's failure to comply with the end-the-war provision of the 1972 Military Procurement Authorization Act, signed by the President on November 17, 1971. Under title VI, "Termination of Hostilities in Indochina," the act declares it American policy to terminate U.S. military operations in Indochina "at a date certain."

Since the President has failed to act, I have introduced H.R. 14077 which includes the following provisions:

First, termination of funds for U.S. military and paramilitary—CIA-type—operations in South and North Vietnam, Cambodia, and Laos within 30 days after the bill's enactment;

Second, immediate termination of funds for U.S. bombing of South Vietnam, except where the President determines that air support is necessary for the immediate and safe withdrawal of U.S. troops. The President, however, is required to report back to Congress all details of any bombing operation in South Vietnam within 48 hours; and

Third, a 30-day extension of the withdrawal date if arrangements on the release of American prisoners have not been made. Further extensions would require congressional approval.

According to a recent Harris poll—March 1972—a majority of 56 to 26 percent favored a U.S. policy of immediate withdrawal from Indochina. H.R. 14077 is clearly in accord with this national mandate.

Our Vietnam war policy under the previous and present administrations has brought ecological havoc to Vietnam and deaths of countless Americans and Vietnamese. By continuing the air war, we only multiply the tragedy and increase the number of captured American pilots.

Let me point out that during the months of July through November 1971, the United States bombed Indochina at the rate of 50,000 tons per month. In late December, while the Congress was in recess, the President ordered massive air attacks against North Vietnam, a total of 1,000 sorties over a 5-day period.

Subsequently, during February 1972, over 67,500 tons of bombs were dropped on Indochina, a 35 percent increase over the totals for the latter part of 1971. In addition, from January 1 through March 20 of 1972, there were 100 bombing raids against North Vietnam. This is five times the 20 strikes flown in the first 3 months of 1971 and will soon surpass the total of the 108 strikes for 1971.

The air war was further escalated by the addition of 42 B-52's operating from Thailand and Guam in February 1972, doubling the B-52 force in Southeast Asia. For the first time since November 1970, three aircraft carriers were operating off Vietnam last month, with reports of a fourth on route. Each carrier carries 75 attack planes.

The impact of this escalation is a rapidly increasing rate of human and ecological devastation in Indochina.

H.R. 14077 would put an end to our present destructive policy, and become the catalyst for the release of our prisoners of war. I believe that only when the U.S. Government sets a definite date for total withdrawal and ends all bombing of Indochina, will our prisoners be released.

SOCIAL SECURITY NUMBERS

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRIFFITHS. Mr. Speaker, for years, I have been urging the Ways and Means Committee to require that every child be given a social security number at birth, which would be put on his or her card along with the parents' social security numbers. I recently made this suggestion public. The witty answer of the News American, from Baltimore supports this idea very well indeed.

The article follows:

GIMME A 1, GIMME A 2 . . .

Speaking as [redacted], we see zero wrong with the suggestion by Representative Martha Griffiths (D.-Mich.) that every American be given a Social Security number at birth. With more than 200 million Americans, there are too many Smiths to confuse with other Smiths, Jones with Jones, Youngs with Youngs, ad infinitum.

By following Mrs. Griffith's advice, good old [redacted] would not have had to memorize a number obtained in the prime of his youth: 51258965, courtesy of the U.S. Army. Or yet another, employe number 99199. Or bank account number . . . Well, we've made our point. One man, one number.

FEDERAL CASTE SYSTEM AGAINST THE SPANISH SPEAKING

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROYBAL. Mr. Speaker, earlier this month I appeared before the House Civil Rights Oversight Subcommittee regarding job discrimination against the Spanish speaking in the Federal Government.

Data which I presented at the hearings showed convincing evidence of a virtual caste system which excluded the Spanish speaking from Federal jobs. Although comprising 6 percent of the total U.S. population, the Spanish speaking make up 2.9 percent of total Federal employment and only one-third of 1 percent of its executives. This is totally inadequate and reprehensible.

The enactment of the Civil Rights Act of 1964 was intended to break down the barriers of discrimination. The issuance of Executive Order 11,478, on August 8, 1969, was to provide leadership in achieving job equality within the Government itself. These promulgations, however, have seriously failed to end job discrimination and exclusion within the Federal structure.

The adoption of the 16 point program, on November 5, 1970, has yet to provide a significant increase in jobs for the Spanish speaking. I sincerely hope that it will not become an abstract document without enforcement powers, without concrete or visible goals. Such a misfortune would only obscure the indifference and neglect Spanish-speaking people have been experiencing in the area of Federal employment. Certainly the present level of staff support for the 16-point program, a total of only two professionals, would indicate a lack of serious commitment.

While I do not believe that population parity should be used as the only standard in evaluating Federal performance, I will use it here to emphasize the fact that equality in Federal employment has not been achieved.

Some improvement has been made within certain agencies. But the fact remains that at present rates of increase, the Spanish speaking must wait well over a half of a century before achieving job parity with other groups, including whites. For this reason many Spanish-speaking persons believe that the promise of job equality remains a myth.

NATIONAL LEVEL

As I stated earlier, the 2.9 percent representation for the Spanish speaking, with virtual exclusion from executive jobs, is absolutely unjustified. If we take the period from June 1966 through May 1971, we find that the Spanish speaking have been underemployed by over 50 percent.

It is estimated that with a 6 percent Spanish-speaking population, the Government would have to provide 80,000 additional jobs for the Spanish speaking to achieve parity with all other groups in this country. Given present rates of increase in Spanish-speaking employment, it would take the Government at least 60 years to achieve that goal.

At the GS 9–18 levels, we discover similar deficits. Since 1966 the Government has failed to provide better paying jobs to the Spanish speaking by 80 percent, and shortchanged them by nearly 30,000 jobs.

At the top grade levels, the Government has failed by well over 90 percent with a loss of 319 executive jobs for the Spanish speaking. Out of a total of 5,650 executive positions, the Spanish speaking only hold 20 with not one in the Civil Service Commission, which has the responsibility to carry out the Federal equal employment program.

I find it difficult to understand why Civil Service is incapable of finding qualified Spanish-speaking individuals to fill these positions immediately.

The representation of the Spanish speaking in middle and top level management cannot be overstressed. It is an important key to gaining a deeper Federal commitment to the problems and priorities of the more than 12 million Spanish-speaking Americans.

An analysis of various Federal agencies reveals in even greater detail the extent and depth of this exclusion. As of November 1970, those agencies falling below the overall Federal average of 2.9 percent include:

Agency	Total full-time employees	Spanish speaking	
		Number	Percent
Post Office	716,812	19,063	2.7
General Services Administration	37,165	918	2.5
Justice	39,373	953	2.4
State including AID and Peace Corps	20,690	477	2.3
Navy	318,913	7,298	2.3
Veterans Administration	149,257	3,131	2.1
Interior	63,354	1,263	2.0
Agriculture	87,859	1,484	1.7
AID	6,812	121	1.7
Labor	10,655	178	1.7
Treasury	88,351	1,489	1.7
Selective Service System	6,527	102	1.6
Defense Supply Agency	51,503	812	1.6
HUD	14,830	225	1.5
HEW	107,221	1,516	1.4
Transportation	65,128	696	1.1
Commerce	32,766	220	.7
NASA	30,326	226	.7
General Accounting Office	4,646	28	.6
Office of Management and Budget	592	1	.2

In addition to these findings, we were able to obtain November 1971 figures on a selected number of Federal agencies. The following fall below the 2.9 percent Federal average:

Agency	Total full-time employees	Spanish speaking	
		Number	Percent
Postal Service	697,919	18,186	2.6
Justice	42,938	1,065	2.4
State	9,186	446	2.3
Veterans' Administration	160,709	3,528	2.2
Labor	12,160	240	2.0
Treasury	94,557	1,754	1.8
Agriculture	88,817	1,613	1.8
HEW	108,603	1,947	1.8
HUD	16,365	289	1.7
Commerce	29,888	227	.7
Bureau of Census	4,712	26	.5

SOUTHWEST

In the Southwest the Spanish-speaking people are experiencing serious obstacles in attaining equality in Federal employment. Although comprising 17 percent of the region's population, they constitute only 10.8 percent of the Federal work force. It is estimated that the Government would have to provide 32,250 additional jobs to achieve parity.

Similar deficits exist at the GS 9–18 levels. Since 1966 the Government has failed by 75 percent to provide adequate employment for the Spanish speaking at these levels, and has fallen short of the mark by 95 percent at the executive levels.

CALIFORNIA

In California the Spanish speaking comprise 16 percent of the State's population but only hold 5.6 percent of local Federal jobs. It is estimated that the Government would have to provide 30,500 additional jobs to the Spanish speaking, or almost twice their current number in California's Federal work force.

At the GS 9–18 levels, the Government has failed to provide job equality to the Spanish speaking by 87 percent, and in top grade positions by 97 percent, or virtual exclusion.

The California situation is further dramatized by the level of exclusion within various agencies. Agriculture, HUD, Interior, NASA, Transportation and Commerce failed by 75 to 100 percent to provide jobs on parity with the State's Spanish-speaking population. Air Force, Army, Navy, Defense Supply Agency, Justice, GSA, HEW, Post Office, Treasury, Veterans' Administration, and Civil Service Commission failed by 50 to 75 percent.

Agencies failing by 50 percent or more:

Agency	Overall Percent of Spanish speaking	Percent of Spanish speaking in top levels
Transportation	2.1	0.7
Interior	2.4	0
Selective Service	2.8	0
Commerce	2.9	0
Agriculture	2.9	0
NASA	3.3	2.0
GAO	3.7	0
HUD	3.8	4.6
Civil Service	5.4	0
Air Force	5.5	0
Navy	5.7	.4
HEW	5.8	1.2
Post Office	6.6	2.0
General Services Administration	7.2	0
Defense Supply Agency	7.9	0

LOS ANGELES COUNTY

A similar discriminatory pattern exists in Los Angeles County, where Mexican Americans and other Spanish-speaking groups make up of 18 percent of the county's population but only 6.2 percent of local Federal jobs. It is estimated that the Government would have to provide 7,844 more jobs for the Spanish speaking to achieve parity.

At the GS 9–18 levels, the Government has failed by 85 percent, and in executive positions by 100 percent, or absolute exclusion of the Spanish speaking.

FEDERAL SUIT

These facts document the failure of the Federal Government to immediately end the serious inequity and exclusion of the Spanish speaking from Federal jobs. It was for this reason that I joined with the National League of United Latin American Citizens and the American GI Forum in suing the Federal Government for job discrimination.

The suit, filed in the District of Columbia Federal Court on October 22, 1971, seeks an immediate 90-day freeze on Federal hiring and promotions while the Government prepares a plan to end the exclusion of the Spanish speaking from Federal employment. It seeks an order requiring the Government to provide employment to the Spanish speaking in line with their percentage of the population in each State no later than January 1, 1974. It seeks to modify the current Federal Service Entrance and Postal Examinations as barriers to equal employment and seriously unreliable in measuring specific job skills and individual talent.

The constitutional grounds for this suit are based on, first, the due process clause of the fifth amendment, second, the Civil Rights Act of 1964, third, various United States Codes dealing with equal employment in the Federal Government, fourth, Executive Order 11478, issued on August 8, 1969 and fifth, the promulgation of the 16-point program on November 5, 1970.

Regarding the status of the suit, in late February this year the Government filed a motion to dismiss on technical grounds of standing and failure of plaintiffs to exhaust administrative remedies. Our lawyers are now preparing a response to that motion, and we hope to proceed with court hearings in the next few months.

Mr. Speaker, the evidence I have presented today shows the lack of serious commitment by this Government to Spanish-speaking employment. Unless the Government acts immediately to reverse its pattern of exclusion, there seems to be little hope that the Spanish speaking will achieve equal employment within our own lifetime, or even that of our younger generation.

NATIONAL WEEK OF CONCERN

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. LANDGREBE. Mr. Speaker, by a joint resolution of Congress, the week of March 26 has been declared a National Week of Concern for Prisoners of War and Missing in Action. I urge all Americans to join in this commemorative week. Special prayers for their well-being and safe return would be especially appropriate on Sunday, March 26, the National Day of Prayer.

You will recall that the resolution that we passed, stated the purposes of this week of concern is to proclaim and "to demonstrate the support and concern of the people of the United States for the more than 1,500 Americans listed as prisoners of war or missing in action in Southeast Asia, and to forcefully protest the inhumane treatment these men are receiving—at the hands of the North Vietnamese—in violation of the Geneva Convention."

There are approximately 1,140 men considered to be missing in action by the

Defense Department as of January 1, 1972, and approximately 475 of our fine young men, known to be prisoners of war and held by the enemy in Southeast Asia. All efforts to bring about their release have failed.

For many wives, sisters, moms and dads, the agony continues day after day, year after year as they await some word from their loved ones, not knowing their whereabouts. Sixty-seven families in Indiana await the return of their husbands, brothers, or sons.

During this special week of concern, let us remember these great men in our prayers and in our deliberations here in the U.S. Congress.

BYELORUSSIAN INDEPENDENCE DAY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. KEMP. Mr. Speaker, on March 25, 1918, the Byelorussian Democratic Republic was proclaimed in that country's ancient capital of Minsk. This year marks the 54th anniversary of Byelorussian independence and I feel privileged to join in the commemoration of that proud day.

The Byelorussians had long aspired to freedom and the right to govern their country without foreign control. This brave people, who had their own sovereign and independent state before the birth of the Russian empire, had suffered under the rule of the czars for several centuries. The Russian revolution provided the long-awaited opportunity for the Byelorussians and they proclaimed their independence in Minsk on March 25, 1918.

Unfortunately their freedom was to be short-lived, for in December of that same year the Lenin government sent troops into the country and dispersed the first Byelorussian Congress. Since that time the Byelorussians have lived in bondage, once again awaiting for the day when they can regain their freedom.

We live in a nation which also declared independence in the face of great odds and I feel that we share a common bond with this courageous people. It is right what we who have gained the blessing of liberty should speak out for our oppressed brothers and continue to remind the world that they live in oppression.

On this, the anniversary of their independence, I join with freedom-loving peoples everywhere in pledging support to the Byelorussians in their efforts to once again obtain the right to control their own national destiny.

Mr. Speaker, I include at this time a proclamation made by Gov. Nelson Rockefeller which pays tribute to the Byelorussian people and Americans of Byelorussian origin. I heartily agree with the sentiments which it expresses:

PROCLAMATION

Byelorussia, sometimes called "White Russia," is a land populated by more than eight million people, located at the western border of the Soviet Union.

Fifty-four years ago this March twenty-fifth, for a brief period of history, it existed as an independent state, with Minsk as its capital. Nine months after its birth, the new nation was absorbed into the Soviet Union.

Many Byelorussians, however, found refuge in the United States; and for them, the memory of those nine months of national independence remains as a high aspiration.

In New York State, many of the refugees live among us, where they make important contributions to our economy and society. It is fitting that we pay our respects to them on this anniversary of their homeland's independence.

Now, therefore, I, Nelson A. Rockefeller, Governor of the State of New York, do hereby proclaim March 25, 1972, as Byelorussian Independence Day in New York State.

WOMEN AND UNEMPLOYMENT

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRIFFITHS. Mr. Speaker, at this time, I insert in the RECORD a speech by Dr. Carolyn Shaw Bell, professor of economics at Wellesley, delivered at a conference on national priorities and the Federal economic program held in Washington, D.C. The remarks of Dr. Bell are directed at the seriousness of unemployment among women and the trend to minimize its importance in the total unemployment rate. The speech follows:

REMARKS BY DR. CAROLYN SHAW BELL

The cruelest, and most significant, expression of discrimination against women which exists in Federal economic policy goes far beyond the program of this conference. On your agenda, this meeting at 11:30 on Friday discusses merely one of several topics of domestic concern—the social priorities mentioned yesterday as alternatives to the defense budget. You have the printed program: Today we consider health, education, women, employment, and the cities, each of these a problem area in our economy. Each of these merits a higher priority, more attention, than that given by our current economic policy. But I say that discrimination against women is *not* one item on a program like today's, or one subject for a conference like this. It is not a matter of equal opportunity, of jobs or graduates schools or management positions. The fundamental economic policy of this administration, its programs for higher employment and price stability, reflect discrimination against women. Furthermore, most critics of this economic policy share the same discriminatory views. If the policies mapped out for 1972 and beyond go into effect, they will add a new burden of economic discrimination against women. I mean this to be as earnest, and total, a condemnation as I can make. For it is high time to recognize this basic discrimination and to rebut the policy pronouncements that have been made, in recent weeks, which denigrate the contribution of women to the economy.

This administration has been concerned—and well it should be—with the twin problems of inflation and unemployment. It is now attempting to solve the problem of unemployment by redefining it. It will make unemployment go away, as it has done the war in Vietnam, by calling it by a different name. It will make unemployment go away by neglecting the women who are unemployed, since they are not, really, unemployed . . . or at least they don't matter as much as the men. We are asked not to be concerned with the five million people out of work because after all over forty percent of them are women.

Who offers this argument? Two weeks ago, Secretary Connally testified before the Joint Economic Committee of Congress in this city. Two leading papers quoted him as saying that a rate of unemployment of six percent, is not critical as it was during the thirties, the forties, and the fifties. Then, many of the people who were unemployed were homeowners; today, many of the people without work are women. This particular juxtaposition—women versus homeowners—escapes me. Are homeowners more important than renters? If a breadwinner cannot pay the rent because there's no income from a job, is this less important than not meeting the mortgage payment? Or are homeowners more important than women? Are renters less important than women? What about women who help pay the rent? Or the mortgage?

But Secretary Connally's testimony occurred on the same day the famous Liebling study of unemployment was leaked to the press. It too, like the Secretary of the Treasury, warns that today's unemployment rates cannot be compared with those of earlier years, because today's labor force contains so many more women and teenagers. It recommends that we get used to a high level of unemployment—they're only women. A later commentary suggests that, politically, the unemployed teenagers won't matter for much anyway, come the November elections, and another points out that, like it or not, in economic terms people are not equal . . . or to rephrase George Orwell, we may all be equal but as far as the GNP is concerned, some of us, e.g. men, are more equal than others.

The unequal ones consist of teen-agers as well as women, and much of my criticism provides a defense of young people as well as women. For Secretary Connally is correct in observing that a social change has occurred, so that we face more than a "simple" statistical problem. But rather than deal with the social problem, it is proposed to revise the statistics. The council of economic advisers gives one example of how to do this. Looking back to those Halcyon days when the labor force didn't contain as many women and teen-agers as today, the council of economic advisers, in its annual report, obligingly recomputes the rate of unemployment. If, they suggested, you pretend that the labor force today was 70 percent male and only 30 percent female, the way it used to be, then you could see that in fact the economic policies followed by the administration have succeed. If it weren't for all those troublesome women the unemployment rate today would be very close to the goal of 4%.

Geoffrey Moore, commissioner of the Bureau of Labor Statistics, in a *Wall Street Journal* article published a month ago, explained patiently that focusing on unemployment could lead to overlooking the importance of employment, and furthermore that some kinds of unemployment mattered much more than other kinds. Let us look, he urged, at the unemployment rate for married men or heads of households, for those who have lost their jobs or who are seeking full time work. But Commissioner Moore's article contained no information at all about the unemployment of women, who *are* heads of households, nor any reference to the needs of women, who *have* lost their jobs, nor any indication of the number of women, who *are* seeking fulltime work. And his message that the unemployment rate for *married men* was most important was heartily seconded, by Senator Proxmire of Wisconsin, who flatly equates the role of family breadwinner with the classification of married men.

The people I have named, like others identified only as "a well-known private economist" or "a government spokesman" have not bothered to detail the reasoning behind their statement. We have all accepted their reasoning: We all know—even though it may not be popular with the Egalitarians—what prompts these conclusions. If pressed, the spokesmen will point out what they consider the brutal truths—that women work intermittently, dropping in and out of the labor force, switching jobs during their lifetime, being much less stable workers than men. They emphasize that women work part-time, so obviously they don't contribute as much to total employment as men; so obviously their *un*employment doesn't count as much as that of men. And finally, they say, women's work and women's earnings are peripheral, for, in the last analysis, women are not responsible for supporting a family—as are men. If the spokesmen would voice these so-called truths, this rationale for minimizing the impact of women's unemployment, we would all be better off. For every single one of these notions is false. The reasoning implied by the statements of Secretary Connally, by Commissioner Moore, by Mr. Liebling and all of the unnamed economists whose quotations have been bandied about—they are all fallacious.

Let me start with the Council of Economic Advisers. In their annual report to the President, they present the argument that, if today's labor force paralleled that of 1956, today's rate of unemployment would be close to 4½ per cent instead of 6%. It's mostly, they say, because women account for almost 40% of the labor force that we have a 6% rate of unemployed: it's really a misleading figure. Over the past fifteen years, the composition of the labor force has changed indeed. But it has changed to make the unemployment figures for women *more* significant, not less so. A labor force like that of 1956 does not, in fact, exist today. Today, a much smaller proportion of adult men is at work than fifteen years ago. Since the early fifties labor force *participation* rates among males have steadily declined. Every age group, both whites and blacks, show a smaller percentage of men in the labor force than at an earlier time. Over the same period of time, of course, real national output has almost doubled. If women had *not* gone to work in rising numbers, if we *did* have the same composition of the labor force that we had in 1956, it isn't unemployment that would be smaller, it's total national output. The people who recalculated the labor force, to get unemployment down, conveniently forgot that such a recalculation would also, inevitably, result in a smaller national product and national income. The rise in labor power represents the efforts of women, particularly married women, and they have *accounted for a major part of* the rise in total national output over the past twenty years. Since 1950, the labor force has increased by about seven million men and by about thirteen million women.

Let me digress here to squash one myth—the notion that most women are part-time, peripheral workers. Among adults, that is women over 20 years of age, four out of five are fulltime workers. For younger people part-time male workers outnumber part-time females. The thirteen million additional women workers, therefore, didn't mean replacing one good man with two half-time women. The young woman today faces a worklife expectancy of 20-30 years. You remember I quoted Commissioner Moore, who suggested that we pay attention to unemployment rates among people who are seeking fulltime work. I would like to ask the Bureau of Labor statistics—why not publicize these figures? Why not release, from the fine print of a little known statistical publication, the facts about the number of women seeking full-time jobs? Instead of harping on the fact that 44 per cent of the currently unemployed adults are women, why not emphasize that eighty percent of the unemployed women are looking for full time jobs? While the unemployment rate for men, seeking full time work, dipped to 4% in January of this year, the rate for women seeking fulltime jobs was 5.7%—this, like any unemployment figure for women, can be guaranteed to be significantly higher than for men.

But to get back to how the labor force has changed, since 1956. One result of the increasing number of women, of course, is that married men account for a smaller and smaller percentage of the *total* labor force—for over a decade they've made up less than half of total employment. How true is it, as an unnamed "government spokesman" claimed on Saturday of last week, that a drop in joblessness among this group is truly "impressive"? This economist described adult married men, and I quote, as "the prime economic group in the sense that they're the breadwinners." But over half the married men in the country had wives who worked at some time during 1971. In what sense *are* married men *the* breadwinners"? Almost eight million wives earned between $4,000 and $7,000 in 1970, and two-thirds of them were married to men who earned less than $10,000. Working wives contribute over 25 per cent of the total family income in the country. Whether or not they are ignored as "breadwinners" by statisticians and government spokesmen, these women are not ignored by their husbands and children. Women, like men, work to pay the bills, to earn income for their families.

Their incomes can keep a family from grinding poverty or can spell the difference between moderate comfort and just scraping by. Sterling Sonderlin, economics editor of the *Wall Street Journal*, argues that married men respond most quickly to pressures on wages—how far is this true if, in fact, their wages do *not* account for total family income, because of the earnings of their wives? The same people who point out the large number of married women in the labor force and object that they distort the unemployment figures ignore these same women when it comes to unemployment figures for married men.

Let me turn next to the charge that women's unemployment represents, more often than for men, a re-entry into the labor force and therefore it isn't as important as unemployment among those who've lost their previous jobs. (There is, throughout all these arguments, an undercurrent distressingly familiar to those of us who can remember the days of the thirties, when women were denied jobs on the grounds that men "needed" them more, no matter what the facts of the individual case. There's also a tinge of the famous Marxist Doctrine—to each according to his needs—rather than the Puritan American Doctrine, to each according to the work done. It would be strange indeed to find women's unemployment made light of because of Marxist infiltration of the treasury and the Bureau of Labor statistics.) It is true, of course, that more women leave and enter the labor force more frequently than men. But the numbers involved are much smaller than is generally supposed. Nor does it follow that the effect on overall employment or unemployment should be minimized. As Senator Proxmire has pointed out, the number of unemployed who were laid off or fired has been steadily increasing since 1969. What he didn't point out, relying instead on the re-entry myth, is that while two-thirds of the unemployed adult men, in January of this year, fall into this category, half of the unemployed women do so also. Most importantly, from the point of view of welfare, or to quote Mr. Sonderlin "economic hardship", employment and unemployment determine earnings, they count in terms of dollars. The impact on the family income is the same, if a woman is unemployed because she's been laid off, or if she's unemployed because she's re-entering the labor force. It's her family's income that is affected. While I'm at it, however, let me squash another myth which suggests that women change jobs and are absent more frequently than men. Data for comparable types of employment show that job turnover is significantly higher for men than women, while absenteeism for illness is fractionally higher for women than for men. When men are sick, however, they stay out of work for longer than do women—and in either case the differences are not statistically significant.

We have, therefore, abundant evidence of the massive contribution of labor power, to the American economy, by American women—a rising source of production over the past 20 years, especially in view of the declining input from men, in proportion to their numbers. But we may still cherish a nagging belief that, somehow women are peripheral to the economic structure, that we really could go back to the labor force composition of 1956 and be better off. Because, after all, married men do form some kind of special group—they do have wives and families to support. What about this?

Both Commissioner Moore and Senator Proxmire hint at the correct interpretation, though neither one gives it the proper emphasis. Let us, says Geoffrey Moore, look at unemployment rates for those whose unemployed status is not likely to be in doubt—I quote, "Married men or heads of households." Senator Proxmire is not quite so sure; his letter commenting on Mr. Moore's position equates married men with heads of household. In fact, there are thirteen million working women in this country without husbands. There are six million households who depend solely on a woman for their means of support. (Most of these women, by the way, are in the labor force, and most of them are poor.) There are more than twenty million people in this country—half of them dependent children—who look upon a woman as "breadwinner"—and for such families unemployment poses as stark a problem of economic hardship as can be imagined.

We have here to distinguish two types of families, those with both husband and wife and those with a single household head, if we are to understand the term "breadwinner." Married men in the labor force, employed or not, cannot with any degree of certainty be identified as breadwinners. For when the "married man" loses his chance at overtime work, or gets laid off, he does have a wife who can earn—even if it is only a part-time job.

The single men with families to support of course share the same economic burden as the single women—such people are in fact the sole support of the family. But only one million families like this depend solely on a man, compared to almost six million dependent on a woman. Furthermore, this figure understates the actual number of families for whom a woman is breadwinner. The term head of household always refers to the husband, if he is present in a family. There is some unknown number of households, then, listed with males as the heads, who in fact rely on women's earnings because the husband is ill or incapacitated. Such women, and those without husbands have no partner to help out—even by taking care of the children so she can work nights.

The woman who is sole support of her family—like most working women—has a limited choice among low-paying jobs. The fulltime, year round worker who is a woman earns about 58% of what a man working fulltime, year around, receives. The woman who works fulltime finds, when business drops off, that she is much more likely than the man to laid off, to work a short week, to have overtime reduced. Involuntary part-time employment, as it's called technically, occurs about twice as frequently among women workers as among men. Even in occupations where women outnumber men, like the clerical and sales positions commonly regarded as women's work, five times as many women as men face involuntary part-time, and the reduced income which results. For the woman who is sole support of her family, therefore, employment is vitally urgent. Yet we are told to pay attention only to the jobless rate for married men, we are told to adjust to the fact that overall employment rates will have to be high if women continue to make up a large fraction of the labor force.

Why don't we, instead, collect and publish data on employment and unemployment by those who are the breadwinners, the sole support of their families? The bureau of labor statistics, since the early fifties, has printed a neat little graph of four major employment indicators. I suggest that a major revision is due. To start with, instead of the unemployment rate for married men—half of whom depend on their wives for some family support—let's have the unemployment rate for heads of households, male and female. Let's rescue from the fine print of BLS data the facts that unemployment among women who do support their families alone, runs almost twice as high as unemployment among married men, who may have help from their wives. Let's have employment data in numbers instead of percentages, so we know that among adults, part-time workers consist of six and one-half million women and two and one-half million men. Let's publicize the unemployment rate among full time workers, both male and female. (For women, it's a stubborn 5.7%, for less than 4%.) Let's do away with the "might have been" computations of unemployment rates cooked up by the President's Council of Economic Advisers—unless we can be brutally honest and admit the other half of the "might have been." Let's not classify people by sex, when it comes to employment and income. Let's pretend the worker is worth the hire, and adopt an economic policy to provide work and wages for as many people as want to be employed.

The administration discriminates against women, in its presentation of employment data. And the use of these data not only misleads the public, which is bad enough, but leads inevitably to inappropriate economic policy—fiscal and monetary and manpower programs which are doomed to failure because they do not come to grips with women's role in the economy.

GEORGE TODT: EDITORIAL COLUMNIST

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SCHMITZ. Mr. Speaker, in a time when so many commentators in our communications media seem to be dedicated to tearing down and belittling America and perverting freedom into license, the efforts of those writers who follow a constructive course are particularly welcome. We are fortunate to have such a man in southern California in the person of George Todt, editorial columnist, commentator and lecturer whose column appears frequently in the Los Angeles Herald-Examiner and other area newspapers. Mr. Todt was elected to an unprecedented four successive terms as president of the California Society of the Sons of the American Revolution, and then served as national trustee for California. He has been president and chairman of the board of the American Institute of Fine Arts and now works with the American Center for Education. In World War II he was a combat infantry officer.

I would like to call to your particular attention excerpts from the following excellent examples of Mr. Todt's work:

DISPELS MYTHS ABOUT RED CHINA

(By George Todt)

"The peoples of Asia, Africa and Latin America can destroy the United States piece by piece, some striking at its head, others at its feet."—Premier Chou En-Lai

Seldom have I heard a more penetrating or learned discussion of the real Red China than in a fabulous address by Lt. Gen. Victor H. Krulak USMC (ret), president of Copley News Service, as he was guest speaker at the national defense banquet of the California Society of the Daughters of the American Revolution at Disneylnad Hotel. . . .

SOUNDS TRUE

General Krulak is precisely on target with his facts. In his discussion of China he went far beneath the surface of the flimsy wishful thinking of idealists and propagandists who have been regaling the public lately with educated guesswork on Maoism.

The tough down-to-earth assessment of the present Chinese situation from General Krulak rang true and came like a breath of clean, fresh air after reading and listening to millions of shallow, wishful words.

I believe he told it like it really is as you may judge from a few random excerpts from my notes.

LACK FRIENDSHIP

"There are four converging stories on Red China," said the knowledgeable newsman. "First, the propaganda myth like the Maoists tell it; second, the truth as it really is; third, the death struggle at the top in Peking; and, fourth, the setting in which it is all played—China's contest with Russia for world Communist leadership with us as their synthetic ally.

"All put together, the combined story promises little immediate benefit for the United States of America because real friendship with us does not fit anywhere in the pattern of the current Chinese leadership.

VISITS FAR EAST

"This group hates us, aspires to use us and ultimately to enslave us. And it doesn't hesitate to say so. It is their party policy and daily preachment."

The former high ranking Marine general has recently returned from a trip to the Far East in a thorough fact-finding mission of his own.

He thinks much of what we saw on television during the President's recent visit to Peking was staged for American consumption—a rosy story of cheering happy communes, busy smiling workers, roaring factories, abundant markets and fertile fields, or military prowess and modernization.

But General Krulak pointed out telling that this is really the story of how the Maoists want things to be in China some day, not now. . . .

The general showed accurately that most of the Chinese are quite disillusioned with Maoism and that China needs the United States far more than we need the Red giant. He says we should play hard to get.

FAVORS HARD LINE

Instead of merely bailing out the floundering Peking Maoists as we did the Soviet Union in 1932 when we recognized that latter nation—when it, too, was on the ropes as events later developed—why not ask and get a proper "quid pro quo" from Mao if we give him a hand now?

General Krulak said he would advocate a hard line with the Reds. That is the only one they would respect because of the character of the men with which we are dealing on the world stage now.

"Chou En-lai is not the Duke of Norfolk," was the way Krulak put it to his audience. "He is a charlatan, a brigand and a cut-throat who get where he is literally over the bloodied bodies of his contemporaries. He will understand straight and strong words best, words like these:

"We are not interested in your ideology or in your theories of government. What we are interested in is peace brought about by mutual concession, and specifically, here is what we want you to do.

"1—Leave your neighbors alone. Stop your imperialist aggression in Thailand, Laos, Cambodia, Burma and the Philippines.

"2—Cease your active support of subversive revolution in Indo-China.

"3—Stop your export of Marxist violence to Africa, the Middle East and Latin America.

"4—Stop flooding the world with raw and processed opium.

"5—Stop polluting the atmosphere with your nuclear tests.

"6—Stop your villification of our country and all we stand for.

"Until you take these actions, we will not be convinced that you really want a reasonable or dignified relationship with us."

The general said that, with luck, such a strong position—if we take a resolute stand and don't give in—just might bring peace to our troubled world. And that is what President Nixon says is the name of the game.

PATRIOTISM OF DAR LAUDED

(By George Todt)

"Where there is no vision, the people perish."—Proverbs 29:18 (DAR Theme)

Many pretend to the title of "patriot" and some have earned it in actual practice. In the latter category are the hard-working and much-to-be-esteemed National Society of the Daughters of the American Revolution.

The DAR was founded in 1890, numbers 193,000 members today.

Consistently and for more than 80 years these feminine patriots in American everyday life have devoted themselves unselfishly and with untold courage to the preservation of the best in our ideals and culture.

Forces of reactionary subversion and lightweights in loyalty have railed against the Daughters for vague, undefined reasons over the decades. The patriotic ladies treat such rantings with a majestic "So what?"

CARRIES LITTLE WEIGHT

Their commendable attitude is that they could hardly care less if their members are rich or poor, as long as they are good Americans.

The size of the check their husbands can write carries little weight in the pecking order. What counts with the DAR are their good works.

They are working, not professional patriots.

Recently Mrs. Todt and I were invited by our friends, Maj. Gen. Leroy H. Watson USA (ret) and Mrs. Watson of Beverly Hills to be their guests at the 64th annual conference of the California Society of the DAR at the Disneyland Hotel in Anaheim.

General Watson, a former mayor of Beverly Hills, was a classmate of Gen. Dwight D. Eisenhower and 53 other general officers in the famous West Point Class of '15, which included also such other military greats as Omar Bradley and George Patton Jr.

Lovely and gracious Bea Watson is a former regent of her DAR chapter.

Before the banquet for the DAR president-general that night, Mrs. Watson was hostess at a reception in her suite for her friends.

BIG BRASS PRESENT

Just about all the big brass in the DAR, with their husbands and friends, showed up at the event, including the president-general who is Mrs. Donald Spicer of San Diego—the first women on the West Coast to attain the highest office of this old organization.

Eleanor Washington Sullivan Spicer is the widow of a U.S. Marine colonel and a rare combination of beauty, intelligence and charm. She is a far cry from a "little old lady in tennis shoes."

MET MRS. SPICER

We had a chance to talk together a bit at the Watson reception and later at the banquet, where the gifted guest speaker was a remarkable former fighting marine: Lt. Gen. Victor H. Krulak USMC (ret), now president of the Copley News Service. But he is another story, or another column.

I had met Mrs. Spicer some years ago when she was the California state regent of the DAR and I had been state president of the SAR. The Sons and Daughters are on the most friendly terms, even though our organizations are independent of one another.

Our aims and background largely coincide but, of course, the Daughters have 10 times as many members as we do with a correspondingly much larger program. Still, we have some brownie points of our own.

RUN GOVERNMENT

"What are you fellows in the SAR doing these days?," asked the president-general. So I told her, briefly.

"A few of them (such as Sens. Barry Goldwater, Strom Thurmond, Congressman John Ashbrook and about 50 others on Capitol Hill) are trying to help run the government," I said.

"Usually, we have close to 100 in the House and Senate, but our numbers have fallen off a bit lately."

The SAR is justifiably proud of the fact that nine Presidents of the United States have served as members of this organization since its founding in 1889.

Among them have been Theodore Roosevelt, Herbert Hoover, Harry S. Truman, Dwight D. Eisenhower and Lydon B. Johnson. Also more than 1000 senators, congressman, justices, governors, mayors and other noteworthy citizens who rendered great service to their city, state or nation have belonged.

At the banquet in her honor, the president-general gave a lucid, hard-hitting speech that was right on target. In addition to numerous other accomplishments, she is a gifted speaker and completely down-to-earth in her language and good manners. To listen to her is a treat.

URGES REFLECTION

The thinking of Mrs. Spicer was superior uniformly throughout her thought-provoking address. Let these few excerpts serve as an example:

"A little reflection will convince any reasonable person that, without patriotism, our democratic form of government is doomed," she said. Without patriotism, we have no defense against aggression from the outside—or from upheavals, subversion and revolution from within.

"If the majority of Americans are not willing to defend their form of government in every way, its time is at hand. We shall no longer be free. Or some other nation will so intimidate us that it will reap the benefit of our achievements over many generations.

"Without patriotism there will be no freedom in the United States, including freedom of the press. Now, some use that freedom (of the press) to decry patriotism and other traditional virtues. They attack the military establishment and the need for adequate national defense.

"Basically, it comes down to those who feel and believe that military preparedness is absolutely vital to our survival—versus those who sniff at the idea that Communist nations will take advantage of us if they secure the upper hand. The record is plain to be seen."

For active patriotism, the DAR and Eleanor Spicer are hard to equal.

VALUE OF CANAL TO UNITED STATES CITED

(By George Todt)

"As an artery of marine transportation, the Panama Canal enterprise became, and still is, a part of the coastline belonging to the United States. As such, its exclusive control by the United States is necessary for national defense."—Sen. Strom Thurmond (R-S.C.)

Is there any valid or logical reason why the United States ought to give up the Panama Canal, its legitimate property, to an unstable and demagogic Panamanian government today or any other time?

"It is discouraging to report that negotiations are once again under way with Panama," wrote Sen. Thurmond recently, "even though the present government is a revolutionary regime with little prospect of stability and with no procedures for ratifying a new treaty."

Let's go back into history, prior to the time our Panama Canal treaty was ratified with Panama on Nov. 18, 1903 during the administration of President Theodore Roosevelt.

Prior to that time, Panama had been a province of Colombia and groaned, ostensibly, under oppression by the latter. Gaining our sympathy, we helped Panama liberate that province of Colombia and it became a nation.

PANAMA SIGNED

The grateful Panamanians of that time, recognizing the vast contributions of the United States to their much-desired independence, were pleased, willing and eager to sign the mutual treaty between our two countries.

Not only friendship in that long-past day, but also enlightened self-interest prompted Panama to recognize the progress which a Panama Canal could bring to that backward area in the future.

Consequently she signed the treaty with alacrity. None had their arms twisted in the process.

In the treaty, Panama granted the United States exclusive sovereign powers over the Canal Zone in perpetuity for the purpose of constructing, maintaining, operating, sanitating and protecting the Canal Zone.

This was no steal but a legal and mutually agreed-upon international contract. The United States gave more than its share of "quid pro quo." Without our desired and needed assistance, the Panamanians today would still be a backward province ground under the heel of Colombia. This they have conveniently forgotten.

PANAMA GAINS

Since the treaty was signed, the American taxpayers have invested more than $5,000,000,000 in the Panama Canal enterprise, including its defense.

Benefits to Panama have been sizeable and all out of proportion to its contribution—which has been little more than to receive a split of the profits earned by U.S. initiative and enterprise. And yell constantly for more.

Much of the trouble in recent years between the United States and Panama has been inspired by left wing university students and other agitators. This has been doubtless egged on and manipulated by agitprops from the Soviet Union whose undercover mission is simply to stir up continuous trouble.

The real issue at Panama is not United States sovereignty over the Canal Zone versus Panamanian—but U.S. control versus Soviet domination.

Loss of the Panama Canal to the USSR (remember Cuba?) which could result from the faulty planning concepts of certain elements of our own Department of State in recent years, would be a genuine threat to the entire free world.

DANGER SEEN

It seems incredible to many of our citizens in the United States that some of our officials could even dream of giving away such a strategic advantage as to be found in the Canal Zone—much less give away all the billions our taxpayers have invested there since the turn of the century.

Transfer of the Canal Zone to Panama would deprive our nation and the free world of significant military and economic protection. Most likely we could not even use it in time of hostilities or international crisis if antagonistic regime were in power there.

Actually, whoever controls the Canal Zone is in a position to bring almost unbearable pressure on all nations utilizing the Canal. Particularly is this true with reference to South American countries whose merchandise must use the vital waterway to reach U.S. and European markets.

Today, Panama lives under a rule of terror and dictatorship.

In contrast, the U.S. Canal Zone is a vital island of freedom in a sea of demagoguery and totalitarianism. Why turn the clock back?

WAR RECALLED

If we are so insensitive to the lessons of history that we might give away the Canal Zone to an unstable Panamanian regime, we will only deserve what will most likely be coming to us. Those who recall World War II times will remember that the free world only avoided Axis political domination of Panama by the narrowest of margins.

Also, there is the unfortunate lesson of Egypt staring us in the face. Those who are reasonable, lucid and logical must recall the monumental trouble which has resulted in the Mideast since this unstable nation controlled a key international waterway. Shall we duplicate this bitter experience again?

Those alert citizens who prefer that we do not do so ought to express their concern to Rep. John M. Murphy (D-N.Y.), the distinguished chairman of the House Panama Canal subcommittee, care of House of Representatives, Washington, D.C., 20515. Let him have the benefit of your honest opinions.

On a matter of such transcending importance to the United States as the Panama Canal, let the "number one architect" of American foreign policy—the President of the United States—have the benefit of your responsible thought, too. He needs to know the pulse of the public.

IOWA CITY VETERANS' ADMINISTRATION HOSPITAL OBSERVES 20TH ANNIVERSARY

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SCHWENGEL. Mr. Speaker, the Iowa City, Iowa, Veterans' Administration hospital celebrated its 20 anniversary on March 24. This hospital has provided important medical care for our veterans during the past two decades and its accomplishments deserve unqualified praise.

Donald E. Johnson, Administrator of the Veterans' Administration, delivered a special address at this commemoration. His remarks are relevant not only to the

Iowa City hospital, but to all our fine veterans hospitals across the Nation. I would like to share his remarks with you:

IOWA CITY VETERANS' ADMINISTRATION HOSPITAL'S 20TH ANNIVERSARY OBSERVANCE

Congressman Schwengel . . . Dean Eckstein . . . Dr. Hardin . . . Department Commander Renaud . . . distinguished guests . . . Mr. Brown, Mr. Haag, Dr. Eckhardt, and all of my VA associates:

It is a real pleasure to join you in this observance of the 20th Anniversary of our Iowa City Veterans Administration Hospital.

To come home to Iowa always give me a thrill. But if I appear—on this occasion—to be more enthusiastic than usual, I would attribute it to the intense feeling of pride I have in being a part of this celebration. It is, of course, a high honor to be associated with so great an institution of healing and learning as the Iowa City Veterans Hospital, and to be the principal speaker as we recognize a significant milestone in its history.

The source of my pride, however, is in the main a matter of personal history. For, in my many years as a volunteer veterans' service officer—representing my American Legion Post in West Branch—I witnessed the birth, the growth, and the maturation of this hospital. Throughout that period, it was to this hospital that I turned for assistance whenever I was to help a deserving veteran get needed medical care. And, no matter how often I asked for such help, I always received it—promptly, courteously, and—what is even more important—with sympathetic readiness on the part of VA employees here.

So, in my role as a service officer, I came to think of this VA hospital as "my hospital;" a place to which I could turn to get a job done the way it ought to be done. Now, in my role as Administrator of Veterans Affairs, I can tell you—sincerely—I still think the same way about the Iowa City Veterans Hospital.

Whatever our involvement with this historic event . . . whether we are met today as VA employees . . . as VA hospital volunteers . . . or as VA's valued friends and neighbors here in the heartland of America . . . we know that this Iowa City VA Hospital is more than a multi-million dollar, 20-year-old structure of concrete and glass and steel.

And it is more than the $13-million which VA spends each year to operate this hospital . . . significant as this expenditure is to the economy of Iowa City and the Hawkeye State.

What gives life and meaning to this hospital is *people.*

And by people . . . I mean the hospital staff . . . the "Deans Committee" University of Iowa, with which this hospital is affiliated . . . the men and women, and teenagers, too, who are the Veterans Administration Voluntary Service . . . and the officials and citizens of this great community.

There are approximately 950 doctors, dentists, nurses, medical specialists, and other employees on the Iowa City VA Hospital staff.

These highly skilled, dedicated, and compassionate men and women give more than their time and talent to ensure that an average of nearly 5,700 inpatients each year . . . in addition to the veterans treated during more than 33,0000 outpatient visits annually . . . receive the finest medical care in the world.

They also give their heart and their concern . . . because they know and appreciate how much these veterans have given to America.

In still other essential ways . . . of course . . . Fred Brown and his associates . . . and their predecessors . . . have been privileged to make . . . and keep . . . this hospital a vital part of the entire medical community.

Since 1952 . . . 110,000 veterans have been admitted for care and treatment . . . while hundreds of thousands of outpatient visits were made by veterans in the 57 Iowa and Illinois counties served by this hospital.

Contributing importantly to the high quality of inpatient and outpatient care which they have received has been the harmonious, effective, and . . . I sincerely believe . . . the mutually beneficial affiliation of our Iowa City VA Hospital with the University of Iowa, College of Medicine, Dentistry, Nursing, and other departments.

We are very proud of this affiliation. We rely upon it—as well as upon our superb staff—to assure that this VA hospital will continue to play a substantial role in the furtherance of the essential triad of modern medicine: patient care . . . research . . . education. And, that it will do so under the very highest of standards.

Through this affiliation, our Iowa City VA Hospital is today . . . and has been from its beginning . . . a major source of training of needed medical personnel.

Many of the doctors, dentists, nurses, and other medical specialists . . . who received part of their training here . . . have served . . . or are now serving . . . as valued members of this hospital's staff . . . and this medical community.

All of these former trainees . . . of course . . . wherever they may be serving . . . are helping to meet the health care needs of all of our people.

Further enhancing the availability of top quality, professional health care to all of Iowa City's citizens . . . not just this hospital's patients . . . have been the exchange and sharing programs that characterize the close cooperation between our VA hospital and your medical community.

Today . . . these programs . . . which were little more than a commendable ideal just a few years ago . . . are not only a mutually beneficial reality . . . here in Iowa City . . . and in other cooperating VA hospital-medical communities throughout America . . . but are medicine's imperative of tomorrow.

I'm sure that most of you know that this hospital is part of a system of 166 hospitals, making this system the largest—as well as the finest—hospital system throughout the free world. I'm also sure that each of you know that the primary mission of the VA hospital system is—today, as it has always been—to provide America's ill and disabled and aging veterans with the highest quality care possible.

I can . . . and do . . . tell you that this mission is being carried out . . . fully, effectively, and compassionately. Further . . . I can . . . and do . . . assure you that this mission will be carried out . . . even more effectively and compassionately . . . and for increasing thousands of veterans . . . in the years ahead.

As Administrator of Veterans Affairs . . . I can state this fact . . . and give you this assurance . . . because of my awareness of VA medicine's on-going, record-setting programs . . . and because of my total, personal commitment to the realization of VA medicine's essential goals . . . now and in the future.

But I also come before you today as the representative of the President of the United States.

Repeatedly . . . President Nixon has expressed his strong, personal conviction that this Nation has a special obligation to our veterans . . . especially our service-disabled veterans.

He has also resolved that this Nation shall meet its obligation to our veterans . . . especially our service-disabled.

I know, too, that all present today . . . whatever our differences on other issues . . . fully share President Nixon's conviction and resolve concerning America's veterans, their dependents and survivors.

Patrick Henry gave us wise counsel when he acknowledged that he knew of no way of judging of the future but by the past.

We can judge how well America's veterans will be served tomorrow . . . by examining President Nixon's record in securing and improving the welfare of our veterans and their families. And for this, there is no more revealing measurement of performance by a President and his Administration than the annual Federal budget.

In view of this anniversary observance today . . . with its appropriate emphasis on VA's quality hospital and medical care program . . . let's consider President Nixon's budgets for VA medicine.

Expenditures for the veterans medical care program . . . in the fiscal year beginning a little more than three months from now . . . will reach an all-time high of *two and one-half billion dollars!*

This is an increase of one billion dollars . . . or 40 percent . . . in the budget for this most visible of all VA programs . . . in the very few years since President Nixon appointed me as his Administrator of Veterans Affairs.

Called for in our proposed, over-all, record-high VA budget of $11.7 billion for fiscal 1973 is an increase in VA's average employment of 11,640 . . . to bring our work force total to 183,876 . . . second only to the civilian work force of the Department of Defense.

More significantly . . . however . . . nearly 11,000 of this employment increase is earmarked for VA's quality hospital and medical care program.

Stated another way . . . and reflecting more forcefully than anything else . . . I think . . . President Nixon's true concern for our Nation's veterans . . . the President is requesting only 20,300 more employees for all of the departments and agencies in the Federal establishment . . . an increase of less than one per cent.

While no employment increase or even decreased employment is projected for most other agencies in Government . . . VA has been allocated well over one-half of the total additional employees authorized for the entire Government.

And I reiterate . . . virtually all of these employees are earmarked for our Department of Medicine and Surgery.

A moment ago I mentioned that VA medicine's primary mission has always been . . . is now . . . and will always be . . . to provide quality hospital and medical care for America's ill, disabled, and aging veterans in need of . . . and entitled to . . . this care.

We all know . . . of course . . . that their numbers are increasing.

For example . . . in the coming fiscal year . . . we will provide inpatient care for nearly one million beneficiaries . . . the greatest number in history . . . and more than 24,000 over this year.

We will increase outpatient visits to nearly 11 million . . . an all-time high . . . and 1.5 million more than this year.

You should also know . . . however . . . and I raise this point because far too few of our citizens realize that even after meetings our primary mission . . . VA medicine truly has an enormous, on-going capacity . . . and an even greater, more exciting potential . . . for improving the health status . . . not of veterans alone . . . but of the entire Nation.

While the President has given his unhesitating and unstinting support to VA medicine . . . and to the immediate, pressing needs of our hospital and medical care program . . . he expects . . . as do I . . . and as I am sure you do, too, that:

From the record-high 62,000 individuals for whom VA will provide medical training in the coming fiscal year will come knowledge and dedication to help meet the health needs of all of our people.

From the record-high $77 million to be obligated in fiscal year 1973 for medical and prosthetic research . . . including more than a million dollars for our Iowa City VA Hospital's research program . . . will come breakthroughs to benefit all Americans . . . and, indeed, all mankind.

And from a 21-year high of $155 million in construction funds will be developed concepts, designs, techniques, materials and equipment accruing to the benefit of the entire American medical community.

The poets tell us that an anniversary is that vital moment which links the past and the future.

This afternoon we will dedicate a 26-bed intensive care unit addition to our Iowa City VA Hospital. In so doing we will give further testimony to VA's commitment to constantly improving care in the years ahead for the veterans we will be privileged to serve.

This unit is more than a symbol . . . of course. It is as much of a promise of life as man can make to his fellow-man . . . but a promise that no VA hospital could have made as recently as a decade ago.

Two decades ago . . . when this hospital first opened its doors . . . another promise was made . . . and has been faithfully kept . . . by the unselfish, concerned, and compassionate men and women who have been . . . and are today . . . the Veterans Administration Voluntary Service.

They promised . . . and by their tireless efforts redeemed their promise . . . that the veteran patients in this posital . . . in addition to receiving the finest medical care possible . . . would also always know the voluntary companionship and comfort and care of loving hearts and healing hands.

Medical science . . . for all of its advancements . . . has never found a substitute . . . and never will . . . for the mere "presence" . . . even though silent . . . of a volunteer.

Last year . . . here in our Iowa City VA Hospital . . . this "presence" was evidenced by nearly 1,300 volunteers . . . who gave more than 115,000 hours of their time and their heart.

Surely . . . these generous, good people can claim an indispensable share of the credit for this hospital's accomplishments during the past 20 years.

Certainly the thousands of veterans whom they served with such kindness and devotion would be the first to say that these volunteers can never be given enough credit.

I need not add that the thousands of veterans whom we will be privileged to serve in the next 20 years . . . and more . . . will be no less in need of the "presence" of volunteers . . . and no less indebted to them.

In a poem entitled "Neighbors" . . . it is written that:

"In ways too numerous to tell . . . Yet all in tune with Heaven's plan . . . He does his part and does it well . . . Who helps a neighbor when he can."

For 20 years . . . the Iowa City Veterans Administration Hospital . . . its patients and their families . . . and its staff . . . have been blessed with the finest neighbors possible. To back this up, I point to:

The officials of this community . . . who have always been willing to cooperate in any program or event arranged by the hospital for the benefit of patients, their families, and the community; and to

The great veterans organizations, community service groups, and other civic, professional, business, and voluntary organizations which have made such invaluable contributions to the hospital and to the veterans we have been privileged to serve;

And . . . of course . . . to the individual citizens who have gone out of their way to be friendly and helpful to our patients and staff members . . . and who have asked in return only, "What more can I do to help?"

I can assure you that all of us in VA value highly your friendship. I intend that the VA shall always try to be your friend and good neighbor . . . and a constructive force for good in your community.

Thank you.

A NOVEL EDUCATIONAL EXPERIMENT

HON. CHARLES M. TEAGUE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. TEAGUE of California. Mr. Speaker, I call to the attention of my colleagues a novel educational experiment in which a student from California Lutheran College participated in a research project under the Naval Civil Engineering Laboratory:

NAVAL CIVIL ENGINEERING LABORATORY,
Port Hueneme, Calif., March 22, 1972.

A novel educational experiment that took a selected California Lutheran College senior from the classroom into the research atmosphere of the Naval Civil Engineering Laboratory (NCEL), Port Hueneme, has proven so beneficial that both tutor and student recommended the unique program be continued.

Randy Puckett, 20, spent four full weeks in the Laboratory's Materials Science Division, working under research chemists and biologists in a variety of projects and assignments.

Realizing the value of practical experience and exposure to professional researchers, the Thousand Oaks college proposed the study program involving highly qualified students. To qualify for the program students must have a minimum overall grade point average of 2.75 and at least 3.25 GPA in mathematics and natural science courses.

Puckett, of 587 Camino Manzanas, Thousand Oaks, said, "The experience turned out to be invaluable. I once expected research to be dull. But not now. If my plans to attend and graduate medical school are thwarted, I feel a career in medical research would be a definite possibility now. Before studying at NCEL, such a future never entered my mind."

James S. Muraoka, senior project scientist and biologist under whom Puckett worked most of the time, said the student "conducted his assigned tasks in a highly professional manner with a minimum of supervision . . . his interest, enthusiasm, and attention to detail were very much appreciated."

Puckett's assignments included: (1) preparation of artificial seawater by mixing more than 10 different chemicals; (2) performing bioassay of various oil emulsifiers using brine shrimp as test animals; (3) photomicrographing shrimp and marine bacteria placed under a microscope; and (4) conducting studies on the biodegradation of DDT by microorganisms under the supervision of Dr. Harold P. Vind, senior research chemist at NCEL.

"On the basis of this experience," Muraoka said, "the current California Lutheran College program to assign students industrial and governmental research laboratories for one month to obtain new experience and insight seems well worthwhile."

Puckett added: "There is no doubt in my mind that such a program should continue and be enlarged as much as possible. I hope NCEL feels the same way."

The individual at CLC most responsible for inaugurating this unusual college-laboratory program is Dr. Curtis B. Nelson, chairman of the Department of Biological Sciences.

TRANSPORTATION SAFETY

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SHOUP. Mr. Speaker, last month Mr. John H. Reed, the Chairman of the U.S. National Transportation Safety Board, gave a speech on "Transportation Safety Needs in 1972," before the Transportation Association of America's February 1, 1972, meeting in New York City.

Because of my interest in this critical area that affects so many Montanans and other Americans throughout the country in such drastic ways, I am placing into the RECORD Mr. Reed's entire speech. I am particularly impressed with his speech and want my constituents and all of my colleagues to have the opportunity to read it.

Mr. Reed's speech follows:

SPEECH OF MR. JOHN H. REED

It is an honor and a privilege for me to speak to the Board of Directors of the Transportation Association of America. I am sure that all of you share with the National Transportation Safety Board a common objective—the attainment of improved safety in all modes of transportation.

As most of you know, the Safety Board was created by Congress in 1966 to operate as an independent agency within the Department of Transportation. The Board is composed of five Members, appointed by the President, and confirmed by the Senate—and is supported by a staff of 271 employees. This makes us one of the smallest agencies in the Federal Government.

The Safety Board's basic mission is to determine the cause of transportation accidents—and to make public recommendations to correct any safety deficiencies we find through accident investigations or special studies.

This function will never make us popular—but it helps make transportation safer. We call the facts as we see them, whether we are serving notice on a Government agency, a trade association, or a private company. Our safety recommendations have attained a high rate of acceptance—which may be due, in part, to the fact that we make all of them public.

In the delightful letter I received from Harold Hammon, inviting me to speak here today, he suggested that I discuss "Transport Safety Needs in 1972." Then he gave me twenty minutes in which to do it. With this limitation firmly in mind, gentlemen, I shall attempt to speak to the point—giving you the general safety outlook and some of the safety needs in each major mode of transportation for the year ahead.

HIGHWAY

In highway transportation safety the outlook is for a continued rise in exposure to accidents through increased highway traffic and speed. However, there is a strong suggestion that the initial effects of vehicle safety changes, introduced since 1965, are beginning to be felt—for instance, a slight reduction in highway fatalities occurred in 1970 despite increased mileage exposure. The deaths in 1971 were up slightly over 1970, but still below 1969.

As more vehicle safety standards are put into effect we can look forward to further improvements.

I find that there is a continuing desire on the part of users of highway transportation to increase the size, weight, and speed of vehicles and operations—and a tendency toward an increasing variety of loads to be carried over the highways. Thus, new problems are arising constantly. Because of the Interstate Highway System it is expected that an increasing proportion of movement of passengers and freight on the highways, in comparison with other transport modes, will continue. These factors behoove us to pay special attention to highway safety.

We must face up to the following needs in highway safey:

1. Our fatalities, injuries, and costs must be reduced—we are now aggregating 150 fatalities and six to ten thousand injuries per day; at a cost of from four to thirteen billion dollars annually.

2. A more systematic approach to national highway safety is needed. The interrelationship of the driver, the highway, and the vehicle requires closer attention.

3. There is a need to determine which priorities will yield the greatest improvements.

4. As we gain experience from the implementation of the National Traffic and Motor Vehicle Safety Act and the National Highway Safety Act of 1966—we should make necessary legislative and operational adjustments.

5. There is a need to identify and change many older, existing regulations or laws containing vague and unenforceable standards to make them more effective and reasonable.

6. Some months ago the Safety Board issued a special safety study entitled: "Risk Concepts in Dangerous Goods Transportation," which suggested a changed approach to the evaluation of hazardous materials regulations.

I would be remiss indeed if I failed to take this opportunity to express the Board's appreciation to the Transportation Association of America for arranging a symposium for the Board to explain this very technical study. I believe this cooperative effort of the TAA very substantially increased the probability that the matters described in the study will eventually be useful in producing better and more economical hazardous materials regulations.

In railroad transportation safety about seventy percent of fatalities occur at grade crossings—and thus are intermodal in nature. Of the remaining thirty percent of railroads deaths—about two-thirds are pedestrian trespassers struck by trains.

To install overpasses at all 215,000 grade crossings in the country would cost 100 billion dollars. As a large proportion of these crossings are in rural or low density areas, such a requirement would be unreasonable.

Methods being used to reduce this loss include closing highways at crossings, installing overpasses, and using automatic warning devices. Acceleration of these efforts should be accomplished.

It would appear that the fatality rate of passengers in railroad cars, and rail transit cars, could be brought nearly to zero by application of systematic hazard analysis and correction in the design of new cars—even though the speed of these trains will increase.

On the other hand, catastrophes involving the railroad shipment of hazardous materials is a continuing, and probably increasing threat—due to the concentration of materials through larger loads and the many new types of hazardous cargoes; such as flammable gases and chemicals.

It should be noted that an increase in fatalities has not followed the increase in train accidents—probably due to reduced rail passenger travel. However, with the introduction of Amtrak, rail passenger travel and fatalities could increase.

We must face up to the following needs in railroad safety:

1. Problems in the administration of the Federal Railroad Safety Act, the Hazardous Materials Transportation Control Act, and the Urban Mass Transportation Assistance Act—all of 1970—must be identified, and solved.

2. Existing older voluntary standards, which are vague or unenforceable, need to be identified and changed.

3. Safety investigations into rail passenger transportation and rapid transit are needed so that Federal assistance can be provided in such a way as to assure maximum safety of the systems.

4. Means to prevent potential large-scale hazardous materials accidents at the container/vehicle design stage must be discovered now rather than after accidents occur—and cause damage to the environment.

5. The problem of increasing property damage losses, especially from derailments which are a serious drain on the resources of the railroad industry, must be solved.

MARINE

In marine transportation, recreational boating accounts for about seventy percent of all marine fatalities—and recreational boat usage is expected to increase forty percent in the next ten years. However, new authority provided in recreational boating safety could bring about a substantial reduction in these losses.

In commercial marine operations a major threat is posed by the relatively rapid technological change in new types of vessels and greatly enlarged concentrations of hazardous materials. These conditions pose a particular problem to environmental pollution and corresponding ecological losses. The presence of very large integrated tug-barge combinations; cargo capacities in large tank vessels ten to twenty times those of a few years ago; a continuing boom in off-shore oil exploitations; introduction of new ground-effect machines; higher speeds of vessels; and probable increases in Arctic travel—all pose increases in exposure to accidents.

The following needs exist in marine safety:

1. The administration of the Recreational Boat Safety Act of 1971 must emphasize not only boat construction standards, but also the role of the boater, in order to counter an expected forty percent increase in exposure to accidents in the next decade.

2. Operation of the large scale Federal funding assistance to vessel construction, provided by the Merchant Marine Act of 1970, needs to be monitored to assure that safety gains will result.

3. Ways to attack high causalty rates among towing and fishing vessels must be found.

4. Accident investigation techniques for recreational boating must be perfected.

5. Marine casualties, which involve hazardous materials and pose a particular risk of largescale catastrophe, including damage to the environment, need to be controlled.

PIPELINE

Rapid progress in pipeline safety can be expected over the next five years through advance regulations under new authority. New commodities are expected to be shipped by pipeline, but the net effect will not be added hazardous but a reduction in total national freight transportation deaths—since pipeline transportation is by far the least hazardous method of transporting any form of cargo.

Nevertheless the risks of very large-scale catastrophes from pipeline accidents exist, however, but fortunately has not yet occurred in populated regions. I might point out, in passing, that if the pipeline accident which the Safety Board investigated in Missouri a few months ago had occurred 50 mile further east at St. Louis it could have killed 100 people and cost 50 million dollars damage. Experience with the Alaska pipeline proposal also points up the requirement to consider protection of the ecology even where human life is not involved.

We face the following needs in pipeline safety:

1. Accelerated implementaton of the Natural Gas Pipeline Safety Act of 1968 and the Transportation of Explosives Act of 1967.

2. Risks of the general population from existing pipelines due to increasing urban expansion must be reduced.

3. Recommendations are needed to reduce risks from increased exposure due to the rapid growth of liquid and gas pipelines.

4. Ways to counter environmental effects of pipeline accidents must be found.

CIVIL AVIATION

The civil aviation safety record is reviewed in two parts; air carrier transportation, and general aviation. I would describe the overall safety record in 1971 as relatively good—but not as good as the preceding year.

In all operations of U.S. air carriers there were 203 fatalities, up by 57 over the preceding year. More than 175 million passengers were carried, up by more than 600,000 over 1970.

The airlines flew over 6 million hours during this period and had eight fatal accidents—one involved a truck on the ground—but two occurred during approach for landing and three were midair collisions, two of which were nonfatal to the air carrier occupants. Our analysis of fatal air carrier accidents over the five year period 1966–1970 revealed that approach and landing accidents, and midair collisions, accounted for the greatest number of fatalities.

We estimate that in the early 1980's the total flight time compiled by U.S. air carriers will approximate ten million hours annually. This increase of over three million hours utilization, together with the introduction of the large, wide-bodied jets—such as the Boeing 747, the DC–10, and the Lockheed Tri-Star now coming into service—makes it imperative that future total accident rates be signficantly improved. With 250 to 400 passenger aircraft, we must face the paradoxical fact that a decrease in the number of accidents could still result in an increase in fatalities.

The general aviation segment continued to account for the greatest number of fatalities, up by 68 to a total of 1,322. At the same time, however, it also accounted for about 98 percent of the aircraft in the civil air transportation fleet; for 90 percent of the licensed pilots; 81 percent of all civil aircraft hours flown, and carried about 50 percent of all passengers. The current fleet of 133,000 private aircraft is expected to nearly double in 1980, resulting in an increasing accident exposure despite a gradual reduction trend in accident rates over the years.

Of particular concern to the Safety Board is the problem of approach and landing accidents under instrument flying conditions. These cases account for approximately forty percent of the fatalities in air carrier operation. With the projected growth of aviation and larger aircraft capacities, this continues to be the major problem.

Looking at the big picture, I see the following civil aviation safety needs:

1. Improved air navigation aids; facilities and services, particularly IFR approach and landing devices; and the airport environment.

2. Identification and correction of hazards attendant to the midair collision problem.

3. Development of methods to prevent aircraft fatalities from post-crash fires. Our records show that in many approach and landing accidents the occupants survived the crash impact but succumbed to fire and smoke. The Board has already recommended that safety devices be developed and required for transport category aircraft to prevent and control in-flight and post-crash fuel system fires and explosions.

4. Development of procedures and methods to improve safe emergency escape from high, wide-bodied jets. In our recent investigation of a nonfatal 747 accident at San Francisco, which involved an emergency landing at the

airport, we found that most occupant injuries were sustained during evacuation from the aircraft.

5. Increased research is needed in establishing aircraft performance requirements and certification standards compatible with human performance limitations, and eliminate design-induced pilot error.

6. In general aviation more research and development should be directed to eliminating stall-spin accidents; improving pilot proficiency through training and upgrading; and by substantially improving the crashworthiness of aircraft. This latter achievement could be speeded up by developing an experimental safety airplane featuring crashworthiness principles, under joint Government-industry sponsorship, and in much the same way that similar developments are conducted in the automotive industry.

In the time allotted me today, I have attempted to identify some of the transport safety needs of 1972—and the future. In varying degrees these needs affect all of us. The fact is that transportation determines how we live and work and spend our leisure time—and it is a vital contributory factor to our high standard of living.

The Nation needs the assistance of the Transportation Association of America to accelerate the reduction of the annual loss of nearly 60,000 lives, millions of injuries, and billions of dollars wasted.

Because of these facts of life—and it is life we are talking about—our good friend John A. Volpe, Secretary of Transportation, has proclaimed that: "Our first concern is safety in all models of transportation."

That could easily be the motto of the Safety Board. Our mission is to support that pledge—now and in the future. After serving on the Board since its inception in 1967, I have come to realize that work in transportation safety is never completed—of necessity, it is a continuing process that must never end."

THE EQUAL RIGHTS AMENDMENT: A BEGINNING

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EDWARDS of California. Mr. Speaker, the overwhelming vote by which the amendment passed both Houses of Congress augurs well for its swift ratification by the 38 States necessary to make this guarantee of equal rights for women a part of the Constitution. But even as the ratification process begins and we in this Congress congratulate ourselves for a job well done, we need to be reminded that a constitutional amendment is just the beginning of what must be a continuing affirmative effort to secure the rights for too long denied women in our society. The Washington Post reminds us on this morning's editorial page of the job which still needs to be done. I hope that all of my colleagues will read this editorial, and for this purpose I insert it in the Congressional Record:

A Matter of Simple Justice

Congress may have taken its time—49 years to be exact—but it has finally sent along to the states a constitutional amendment designed to let women share fully with men all the rights and responsibilities of American citizenship. The step is a historic one in terms of both of the nation's constitutional history and the evolving role of women in this society. Once the amendment is ratified, things will never be quite the same. But that is as it should be. Sex, like race, is a line to which the Constitution should be blind. A person should be no less or no more of a citizen just because she is a female.

There is, of course, a long road called ratification that this amendment must travel before it takes its place in the Constitution. And there will be, no doubt, opposition to its ratification in some state legislatures. But the amendment has had a great sendoff by the wide margins with which it finally cleared Congress and a happy reception in the quick action of Hawaii in ratifying it almost immediately. We urge the Maryland legislature to join with Hawaii before this year's session is ended and the leaders of the Virginia legislature to put ratification at the top of their list of priorities for next January's session.

Even while that ratification process is under way, Congress should take the next steps in the process of eliminating the laws and the practices of government which irrationally differentiate between men and women. Final adoption of the amendment will require changes in many federal laws. Since Congress has now said those changes ought to be made as a matter of constitutional right, it has an obligation to get on with the task of making them as a matter of legislative policy.

These changes in the laws will not come easily, if the country's experience in ending discrimination against black citizens and the experience of some states in ending discrimination against women are any guide. Virginia, for example, recently adopted a state constitutional amendment barring discrimination against women. But a blue ribbon commission appointed to propose revisions in existing state laws to bring them in line with the new constitution largely ignored that particular amendment. The tendency among men to regard such an amendment as the end of a road rather than just a way station on the way to equality is substantial. It will take a great deal of watchfulness and persistence, perhaps even a great deal of litigation, to ensure that the promise of this proposed amendment to more than half the citizens of the nation is fulfilled. But it is a promise that must be fulfilled. Equal standing before the law of all citizens is, in the phrase chosen as the title of the report of the President's Task Force on Women's Rights and Responsibilities, a matter of simple justice.

DEDICATION OF JOE WALKER JUNIOR HIGH SCHOOL

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROUSSELOT. Mr. Speaker, on February 26 of this year, an important additional tribute was paid to one of the fine heros and great test pilots of our country when the Joe Walker Junior High School was officially dedicated at Quartz Hill in the Antelope Valley, Calif.

Joe Walker had devoted his life not only to air research and high speed testing important to the development of our space programs, but also to the youth of our country to whom he contributed much of his time. It is only appropriate that a junior high school educational facility which is one of the most up-to-date in design should be named in honor of this courageous American who contributed to his Nation and his community in so many constructive ways.

Though many citizens throughout the country have known of Joe Walker's career as the most decorated and proficient NASA research pilot, I am sure my colleagues here in the House of Representatives would have wished to have been present with me on February 26 at the dedication ceremonies of the Joe Walker Junior High School to listen to the many tributes once again paid to this giant of a man who served our country so splendidly.

Many friends and associates came to speak at the program which was called to order by the new principal, Mr. A. D. Rutledge, Jr. Each related their personal experiences with Joe Walker and told of the many ways in which he worked to become the complete and total American citizen who we would all aspire to emulate.

On January 8, 1966, Ralph Story, a television and radio news commentator, gave a news report about the untimely and tragic passing of Joe Walker. This commentary was repeated very appropriately at the dedication ceremonies and I ask that it be included for your review today:

News Report—Ralph Story, June 8, 1966

People who defy death never die in the right way at the right time. The first cave man to slay a mammoth was probably fatally injured when he fell on a banana peel on the way home. General George Patton should have been killed in any one of a thousand reckless battles . . . but not in a peaceful staff-car ride after the war was over. Carlos Arruza should have been impaled on the horns of a bull . . . not on a steering wheel. And Barney Oldfield should have been impaled on a steering wheel . . . not to pass away of old age in a Beverly Hills bed. If John F. Kennedy had to go, logic says it should have been in those shark-filled waters of the South Pacific . . . not in a limousine in Dallas.

But it is the final landing for those who tempt death in the air which seems to be the most ironic of all. Paul Mantz stunted through the skies for years against all odds . . . and odds should have been with him for that slow flight over a sand-dune near Yuma.

Joan Merriam Smith dared the devil around the world but the dare was taken between here and Palmdale. Astronauts Elliot See and Charles Bassett were supposed to leave this earth at Cape Kennedy . . . not at the McDonnell factory in a Saint Louis fog.

And this shouldn't have been Joe Walker's last day . . . nor the XB–70's either. Maybe when Joe flew P–38 missions in world war two . . . and certainly when he pushed the X–15 to 4 thousand miles an hour and soared 70 miles into space . . . but not today just flying a common jet escort. The XB–70 should have crashed the day its landing gear burned . . . or a couple weeks ago when Pilot Al White saved the ship with a paper clip . . . but not today just flying over Barstow with no trouble.

It was all wrong . . . the wrong time, the wrong place, the wrong reason. It must mean that there are some brave souls death can only catch off-guard.

Chief of NASA's flight operations, Mr. Stanley P. Butchart, and several other officials of the National Aeronautics and Space Administration reviewed the almost unbelievable achievements and exploits of Joe Walker during his career as a test pilot. Some of these are recalled by Newsweek magazine in an article which appeared on January 20, 1966 entitled, "The Best":

THE BEST

On Joe Walker's first flight, he was hooked. In the 25 years that followed, the former farm boy from Washington, Pa., flew fighters for the Air Force and then became one of the government's top research pilots. Walker streaked through more than 100 pioneering flights, including ones in the experimental X-1, X-3, X-4, X-5 and in a possible lunar-landing vehicle. His greatest moments came with the cigar-shaped, rocket-powered X-15 in which he wrote aviation history by soaring to an altitude of 354,200 feet (67 miles) and pushing its speed to 4,104 mph (Mach 5.92).

Like all test pilots, Walker, 45, chief research pilot at NASA's test-flight center at Edwards Air Force Base, Calif., was fatalistic about the risks involved. But last week, in overcast skies 25,000 feet above the tawny Mojave Desert of southern California, the hazards inherent in his occupation finally caught up with him.

Who's Who in America additionally chronicled his outstanding performance record as follows:

Walker, Joseph Albert, test pilot; b. Washington, Pa., Feb. 20, 1921; s. Thomas Jefferson and Pauline Sharp (Smith) W.; B.A. in Physics, Washington and Jefferson Coll., 1942, D.Aero. Scis. (hon.), 1962; m. Grace McClary, Apr. 16, 1949; children—Thomas Daniel, James Paul, Joseph Brian, Elizabeth Ann. With NASA, 1945—; project pilot on D-558, X-1E, X-3, X-5, X-15; research on F-100, F-101, F-102, F-104, B-47; 1st flight on 15, 1960, since then 25 more; attained speed 4104 Miles per hour, 1962, altitude 348,700 feet, 1963; flight tested Lunar Landling Research Vehicle. Mem. Adv. Commn. Aviation, County Los Angeles. Served to capt USAAF, 1942-45. Decorated D.F. C., Air medal with 7 oak leaf clusters; recipient Robert J. Collier trophy. 1961. Harmon Internat. trophy for aviators, 1961. Kincheloe award, 1961, Octave Chanite award, 1961, pilot of year award Nat. Pilots Assn., 1963. Henry De Lavaulx prix Fedn. Aero. Internat., 1963, Charter men, Sox. Exptl. Test Pilots (v.p. 1963-64); mem, Aero-Space Profls., Phi Gamma Delta, Home: 1309 West Av., L-4, Lancaster, Cal. 93534. Office: care NASA, Edwards AFB, Cal. Died June 8, 1966.

The Reverend Dorsey Allen, of Lancaster's United Methodist Church, who spent many hours with Joe Walker both as a personal friend and as his religious counselor, appropriately concluded the dedication ceremonies by reading a meaningful poem by Gill Robb Wilson which gave an uplifting overtone to the whole activity of naming this ongoing, modern educational institution after Joe Walker:

We shall remember you in this good land
Where freedom found rebirth and reared you up
To walk the earth in search of truth. We
Shall remember that in youth's bright age
You sought by valiant deeds to keep the faith
With cherished heritage. We shall remember you
Because your dreams unfettered by the sod, fled
To the stars if thus perchance the knowledge
Gained might well pertain to God. But most we
Shall remember you in that you walked serene
Among your fellow men, your faith a badge that
All might wear, your hope a thing that all
Might share. We shall remember you because in
All creation's plan, there is no wonder here on
Earth or in the stars or in bright Heaven
Itself a work of God so noble as an humble man.—Gill Robb Wilson

I am including a copy of the program as it occurred as I felt my colleagues would be interested:

PROGRAM

Call to order: A. D. Rutledge, Jr., Principal.

Presentation of flag: Congressman Rousselot.

Acceptance of flag: Carla Frazer, Student Body President.

Flag raising: E.A.F.B. Air Police Color Guard.

National anthem: Joe Walker Junior High Band, Don Olson, Director.

Flag salute: Congressman Rousselot.

Invocation: Rev. W. E. Forte, Minister, Valley Baptist Church.

Introductions: Dr. Roland Lampela, Superintendent Westside Union School District.

"History of Westside School District", O. Milton Stark, President, Westside Union Board of Trustees.

"A look at Joe Walker Junior High and Westside District," Mr. Jim Skalicky, Board of Trustees.

Presentation of dedication plaque: Mr. Jim Skalicky, Board of Trustees.

Presentation by NASA: Mr. Stanley P. Butchart, Chief of Flight Operations.

Presentation of trophies: Mrs. Grace Walker.

"Things we like to remember", Rev. Dorsey Allen, Minister of United Methodist Church.

"This land is our land", Joe Walker Jr. High Chorus, Elizabeth Tallakson, Director.

Announcements: A. D. Rutledge, Jr., Principal.

Open house and tour.

There are so many reasons why this building which houses and educates the young people who are the future of America has been named in Joe Walker's honor, but they are probably all summarized in the tribute paid by one of his close colleagues who said of his friend, "He was the best I'd ever seen."

CONCERN FOR AMERICANS WHO ARE PRISONERS OF WAR OR MISSING IN ACTION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ANDERSON of California. Mr. Speaker, this week, March 26 through April 1, has been designated as a time to be especially aware of the plight of those Americans now being held as prisoners of war in Indochina or who are listed as missing in action.

The observance of the "National Week of Concern" provides an opportunity for the expression of national feeling at every level for the nearly 2,000 Americans held captive or missing. During this week, we renew our pledge to maintain constant pressure on the government of North Vietnam, the Pathet Lao, the Khmer Rouge, and the Vietcong, to render more humane treatment to the prisoners and bring nearer the day they may return home.

To be meaningful and effective, we must channel our concern into constructive activities which will arouse public opinion in this Nation and throughout the world.

Within the community of nations, certain rules and procedures have developed to mitigate the brutality of war and to some humane element into conflict. These rules center around the rights of prisoners and captives and were effectuated by the Geneva Accords of 1954, of which North Vietnam is a signator. But, today, we see these basic principles flagrantly violated in Indochina.

In a free society, such as ours, we respect differences of opinion and we are witnessing great debate on the best method for this country to end its role in Indochina. Yet, regardless of these differences, Americans are united in their deep concern for the plight of our young men who are prisoners or who are missing in Indochina. No one in Hanoi, or any other place in the world, should underestimate the unity of feeling with which we support these men. No one should misunderstand our desire to see them freed and returned home to their loved ones.

We are committed to do all in our power to end the mistreatment of our captive servicemen and, ultimately, to effect their release.

Our concern, which should be shared by all men of goodwill in every nation throughout the world, transcends all ideological passion. For, at stake, are the lives of helpless prisoners, as well as certain basic principles of humanity honored at all times and at all places.

Let this week of concern mark a renewal of dedicated effort by all in this land on behalf of our men captured or missing in action in Southeast Asia. Above all, let us unite in prayer for an enduring peace founded on unshakable principles of brotherhood. May this week of concern inspire in us a deeper sense of unity, not only with our fellow Americans held captive in a foreign land, but with all people who care for the cause of human dignity and decency.

THE 192D ANNIVERSARY OF THE EVACUATION OF BOSTON

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, the 192d anniversary of the evacuation of Boston was celebrated on Friday, March 17, 1972. It was my pleasure to participate in this historic event. I would like to take this opportunity to share with my colleagues in the House a most inspiring address delivered by State Representative Raymond L. Flynn on this occasion:

Reverend Clergy, Mr. Mayor, Chief Marshall Rogers, Colleagues in Government, Ladies and Gentlemen: I am certainly pleased to have been asked to come here today, and to commemorate, with you, who are after all, my friends and neighbors, an important and justly renown event in the long history of this community—and indeed, of this nation.

In years past this oration has been delivered by men and women who have not failed to draw from the day the sorts of inspiration an American has a right to expect on such an occasion. These men have included John W. McCormack, James Michael Curley and John Boyle O'Reilly, Louise Day Hicks, and James Burke.

Certainly, I am in good company, and grateful indeed for the opportunity.

I am also, honored to be in the company of these good men whose proud uniforms surround us all here today, whose contribution to this ceremony must surely be to remind us that to many citizens patriotism is not a word to be defined nor a concept to be argued about, but the natural response of the natural man, who does not forget the rich blessings this great land still reaps upon us all.

One reason he does not forget is that the morning newspaper will hardly allow him. The most timely example of this, surely is that even as we here today, mark the brave resolve of our forefathers to hurl the British from this place, nearly 200 years ago, it is significant that, in the land from which many of us derive, a peaceful land, but still tragically troubled, less fortunate men fight no less bravely the same fight fought here so many years ago. Interestingly enough, the password, here on the Heights, that cold night in 1776 was "St. Patrick."

But if we *are* more fortunate in this one thing, we may well be less fortunate in that we often do not perceive that there are still battles to be fought quite close to home.

We are perhaps, too comfortable. Like so many men of Irish heritage, my blood runs deeply when I think of "Bloody Sunday," but it runs no less deeply when I think upon the widespread surrender of so many people to the despairing and immature few who are determined to convince us that our country is too decayed even to think of saving, much less to love.

There are men here who have borne guns in her defense in earnest, and there would be nothing to say here today, if it were not so; but these other battles, being battles of the mind, require of us different weapons.

We must, firstly, be well informed. We must be reasonable men. Secondly, we must have the moral courage to act upon our convictions. You may ask, *where!* You will know better than I. For me the battles are fought in the stately halls of the Great and General Court. But leadership or citizenship, which is what we are talking about, is no less vitally important in the local hockey league, or in the parish guild, or in the boy scouts troops. It begs the question to ask, where—for we know in our hearts, where and when there is a job to be done.

All of us here today, moreover, have less excuse than most for being a poor citizen, for this community is an old and a proud community and with good reason. We have done our share in the religious profession, served in our armies, risen to great heights in the field of government, both nationally and locally, this is no ordinary community and I should not like to think our generation would want to make it so.

To be a part of the "silent majority" is every much as disgraceful than to be a part of the "noisy minority". One need not, one *should* not, cast oneself in the role of a self appointed judge of men and events, in order to stand up and be counted. But responsible citizenship ought not be so construed. There is for instance, nothing so quiet or modest as stepping into a voting booth and nothing any of us can ever do will matter quite so much.

So, then ultimately, I have come to ask you to help as indeed, have those many men who have stood and spoken here down through the years on this day. Notice injustice; do not surrender to apathy, let no one obscure your power, do not give up your rights.

Be worthy of this day, as indeed your ancestors were, and if this imperfect world seems disappointing, heed this text from Aristotle—"live nobly and you will change the world".

THE GOVERNMENT DENIES JUSTICE TO THE FARMWORKERS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROYBAL. Mr. Speaker, for nearly 100 years the farmworkers have been unorganized and powerless, facing constant poverty and poor health. They have worked long hours at physically exhausting labor for very low wages. Among the workers of this country they remain the forgotten and most isolated. Where others have gained labor rights and adequate wages, the farmworkers continue to be oppressed by the farm industry.

In 1965, after years of painstaking preparation and organizing, Cesar Chavez called a major strike against Di Gorgio Corp. and Schenley Industries. This action which began 7 years ago has evolved into a national movement.

The success of this movement has depended very much on its plea to the American public for basic justice and fair play. The strategy Chavez used to awaken us to the hardships of farmworkers has been the consumer boycott.

Denied the right to collective bargaining, the farmworkers resorted to the only practical strategy available to them: a nonviolent boycott movement. In Chavez' words, they believed the "American public would respond affirmatively." For the most part Americans have responded, they have championed the farmworkers' cry for justice and fair wages.

Today the United Farm Workers are facing a well planned, national attack by this administration to weaken the union's boycott. On March 9 the National Labor Relations Board under the political control of this administration filed a complaint in the Federal district court at Fresno to stop the boycott at stores selling nonunion wines. Court hearings are set for April 6.

In the past the Board has consistently ruled that the farmworkers were not protected under Federal labor laws and so were exempt from the boycott provisions of Taft-Hartley. It took this position as recently as March 15, 1971, in a letter to the union.

Now suddenly the Board has reversed itself. Its argument is that several laborers the union seeks to represent work at three packing sheds owned by growers who also loan out their sheds to other growers. On that basis, argues the Board, the sheds are now "commercial" not "agricultural," and so the union's activities fall under Taft-Hartley.

In effect, the Board is asserting the unbelievable: That although farmworkers are not entitled to the protections of the Labor Relations Act, they are bound by its restrictions and penalties.

This reasoning is tinged with legal sophism and callousness. It is clear the NLRB has ignored past decisions in filing this complaint. Based on legal precedents, it should have adopted a reasonable and practical understanding of the term "agricultural" instead of one tortured in its reasoning.

The sheds mentioned in the complaint are, in fact, an indispensable part of the grower's agricultural operations. That he permits others to use it does not change the meaning of the term.

For years growers used the farmworkers' exclusion from the law to subjugate them. Now that the union has become effective in organizing farmworkers, the administration would silence the movement to win support of growers and agribusiness in an election year.

This is political expediency not justice. It denies farmworkers their fundamental right to fair wages and equality under the law.

The administration had hoped to quietly execute the movement and gain the support of growers. While it wooed urban chicanos, Puerto Ricans, and other Spanish speaking with a few administration appointments, it would use every means at its command to smash the only effective hope for the poorest among them.

I call upon every citizen to reaffirm his support of the farmworkers and to protest this shameful effort of the National Labor Relations Board to destroy their union.

PRO-LIFE "MINORITY REPORT" ON POPULATION COMMISSION STUDY

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ZABLOCKI. Mr. Speaker, recently the President's Commission on Population Growth and the American Future has issued a series of reports on various aspects of population growth, population control, and family planning.

A number of the recommendations of the Commission have proven to be controversial and have been attacked for their antilife bias. Particularly offensive to many American citizens, including myself, is the emphasis on "liberalized" abortion.

Among the groups which has responded vigorously to the Commission reports and recommendations is the United States Coalition for Life. This organization has now released its "minority report" commenting on the issues which the Commission considered as well as the origins of the Commission itself.

Entitled "A Pro-Life Report on Population Growth and the American Future," the study was prepared by Mrs. Randy Engel of Export, Pa. It is available upon request from the Pennsylvanians for Human Life, Suite 1205, 240 North Third Street, Harrisburg, Pa. 17101, or from Women Concerned for the Unborn Child, Post Office Box 8071, Pittsburgh, Pa. 15216.

Although the report itself is of such a length as to make it impractical to reprint in the CONGRESSIONAL RECORD, I believe it should be of interest to every Member of Congress who is earnestly seeking answers to current population issues.

For that reason I am placing in the RECORD at this point several press releases which are concerned with the Engel report in the thought that Members may be further informed and will write to request the full study. The items follow:

MINORITY REPORT CHALLENGES OBJECTIVITY OF ROCKEFELLER POPULATION COMMISSION

American taxpayers will foot the bill for a so-called "study" on *Population Growth and the American Future* costing hundreds of thousands of dollars when they could have had access to the same "studies" and recommendations of the Rockefeller Commission seven years ago by reading *Look* magazine for half a buck.

The *Look* article, "The Hidden Crisis", written by John Rockefeller III in February of 1965 is quoted at length in a 60 page minority report on *Population Growth and the American Future* released today by Women Concerned for the Unborn Child, Pennsylvanians for Human Life and right-to-life groups across the nation. The controversial Rockefeller article calls for an explicit government policy of population stabilization to handle the U.S. population "crisis" that "only the government can attack on the scale required."

The minority report charges that as early as 1957 the Rockefeller Fund in conjunction with the Conservation Fund and Planned Parenthood published a scheme for controlling population called *Population—An International Dilemma*. The pro-life minority report states that as chairman of the Commission on Population Growth and the American Future, John Rockefeller III assisted by the Commission's Executive Director, Doctor Charles Westoff of Planned Parenthood, has effectively controlled the logistics and direction of the Commission including the selection of researchers and their assigned projects.

Instead of stressing the means by which America can accommodate population growth, the Commission's efforts have been directed at the rationale and means of limiting and finally halting population growth, the report states.

The report charges that while every major group which has a vested interest in population control is represented on either the Commission itself on the research staff or both, no right to life group is so represented.

The minority report was prepared by Randy Engel, demographic advisor for Women Concerned for the Unborn Child and a regular columnist for Pennsylvanians for Human Life, in cooperation with concerned right to life groups across the nation.

No minority report will be forthcoming from the Rockefeller Commission although at least three Commission members are expected to register minority opinions in specific areas such as abortion. Any opportunities for external dissent by disgruntled Commission members regarding the biases or irregularities of the Commission have been ruled out by the Commissioners' decision not to attack the internal workings of the Commission in order to promote a facade of unanimity designed to stave off any opposition.

The report includes three major areas of study: abortion and population control, an analysis of the Commission's Interim Report and world and U.S. demographic perspectives.

In the area of abortion, the minority report details the current involvement of the federal government in the areas of abortion funding and research. It also highlights the Rockefeller interests in repealing all restrictions on abortion.

Population control is inextricably linked to abortion as well as to other anti-life activities, including euthanasia and infanticide, the report notes. This factor as well as the threat posed to the sanctity of the family by population control advocates, says the report, accounts for the great interest of right to life groups in the recommendations of the Rockefeller Commission.

REPORT CHALLENGES SESAME STREET'S POPULATION POLICY

Is the "subliminal" extolling of small families by the award-winning children's program *Sesame Street* in violation of the National Association of Broadcaster's Television Code prohibiting the process called "subliminal perception" or the use of any similar technique whereby an attempt is made to convey information to the viewer by transmitting messages below the threshold of normal awareness?

This is one of the controversial questions raised in a study on population education included in a minority report on *Population Growth and the American Future* to be released tomorrow in Pittsburgh.

According to Randy Engel, who prepared the report at the request of Women Concerned for the Unborn Child and Pennsylvanians for Human Life, "Population control advocates have decided to hitch their wagon to the rising star of environmental education because the study of ecology is a much safer avenue than a more controversial area such as sex education to indoctrinate the young in the 'crisis' of overpopulation in America."

The report quotes Doctor Irwin Slesnick, a population education pioneer from Western Washington State College (Bellingham, Washington), as saying that *Sesame Street* now includes deliberate and persuasive messages that are intended to convince little girls that motherhood and large families are not necessarily their destiny.

Speaking to about 300 elementary school teachers in Seattle last fall for a teach-in (sponsored by Planned Parenthood, Zero Population Growth and the Sierra Club), Doctor Slesnick said that the message of the importance of smaller American families already is reaching thousands of children. "In New York, Governor Nelson Rockefeller earmarked funds for the television program *Sesame Street* designed for pre-schoolers, with the specification that the show's format would include 'subliminal' extolling of the virtues of small families," Slesnick said.

In addition to the Rockefeller and Ford Foundations *Sesame Street* receives funds from the Departments of H.E.W. and the Office of Education. These two federal agencies, the report indicates, are fully committed to propagandizing the young in the need for population control.

Two textbooks cited in the report are an elementary text on population produced by the Population Reference Bureau called *Our Crowded World* and a campus-circulated booklet produced by Optimum Population, Inc. which states, "A young person must learn that he (or she) is not doing a baby or anyone else a favor by allowing it to be born."

The report, while favoring objective demographic and environmental studies, lashes out at the current trend of deluging the American people, particularly the young, "with a profusion of ill-documented facts and facile biological analogies to support the so-called population explosion and urges parents to take a greater interest in the area of population education and to work for a balanced public hearing on the population question."

REPORT CHALLENGES ZERO POPULATION POLICY

What is the relationship between an explicit government policy of population stabilization and the reduction of poverty?

A soon to be released national minority report on Population Growth and the American Future challenges the concept that population control means economic betterment for the family and a more equitable distribution of the nation's wealth.

"It is just the opposite," the report states. Zeroing in on some of the large corporations and foundations prominent in the population control movement including Standard Oil, Dupont and the Rockefeller interests, the report concludes, "Population control is a means for rulers to control the population. And when the issue is considered in terms of modern technology, population control becomes a way to increase the wealth of a few individuals and corporations."

The report, prepared by Randy Engel of Women Concerned for the Unborn Child and Pennsylvanians for Human Life in cooperation with right-to-life organizations across the country, also responds to the question of population control as a deliberate tool of black genocide. "Population control advocates are not racists—for to the Malthusian, color is not as important a factor as poverty. In a sense therefore, they can be said to practice democratic eugenics."

The demographic facts of life in the United States, according to the report, are currently such that white Protestants and Jews have birth rates which are at replacement level but blacks, Puerto Ricans, Mexican-Americans and other minority groups are reproducing well above replacement levels. A zero population growth policy, therefore, will have little meaning for the former group but for the minority groups it will likely pose special problems since they have a long way to go in order to achieve a birth rate consistent with a population stabilization level. The report states that in theory the zpg policies of the Rockefeller Commission on Population Growth and the American Future is not specifically directed at drastically lowering the birth rate of minority groups. In practical application, however, "it simply happens to work out that way."

The current drive to promote tax supported programs of abortion is seen by many as one avenue of cutting down the number of children on welfare rolls, the report says.

According to Doctor Garrett Hardin of the University of Southern California, Santa Barbara, "It may seem a rather cold-hearted thing to say, that we should make abortions available to keep down our taxes, but let us not hesitate to say this if such a statement will move legislators to do what they should do anyway."

QUESTIONNAIRE

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. LANDGREBE. Mr. Speaker, for the information of my colleagues and for public knowledge, I am including a copy of my 1972 questionnaire in the RECORD In an effort to obtain full participation, I have asked for responses from both the man and the woman of the household and from 18 to 21 years olds:

MY 1972 QUESTIONNAIRE

MARCH, 1972.

DEAR FRIEND: Could I impose upon a few minutes of your time to help me represent you more effectively? The past year has brought this country several new controversial isues to be added to a number of old controversies which are still far from resolved. The winding down of the war in Vietnam, drugs, socialized medicine, etc. are but a few of the issues. While it is a Congressman's responsibility to exercise his own independent judgment on the issues, it is also his responsibility to know the desires of the people he represents. Could you please give me your views by filing out and returning this Congressional questionnaire? To assure the broadest possible participation, I have provided separate spaces for each of you to mark your responses. Thank you.

Very truly yours,

EARL F. LANDGREBE.

1. Should the U.S. continue its generous support of the U.N.?

2. Do you feel there is a sufficient national effort to control pollution?

3. Do you favor mandatory severe sentences for pushers of hard drugs?

4. Should general education be financed by a national sales tax rather than through our present property tax?

5. Do you feel that network television fairly represents both sides of major issues of our day?

6. Do you favor federal legislation to establish day care centers and nursery schools?

7. Do you feel that further socialization of our medical and health care services is a. necessary, b. desirable, c. not needed?

8. Do you feel that our national defenses are being adequately maintained?

9. Do you favor President Nixon's Family Assistance plan?

10. Should Congress make greater efforts to balance the federal budget?

11. Do you favor—

a. continuation of the food stamp program?

b. revision of the food stamp program?

c. discontinuation of the present program?

Are you: Hourly employee, Salaried employee, Businessmen, Professional, Housewife, Student, Retired, Other?

OFF-LIMITS CAMPUSES

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DRINAN. Mr. Speaker, I attach herewith a helpful editorial in the March 28, 1972, issue of the Washington Evening Star.

This editorial expresses satisfaction that apparently some accommodation has been worked out between the Pentagon and the desire of the House Armed Services Committee to boycott and blacklist those institutions which have dropped ROTC training programs.

At the same time the Evening Star editorial concludes that "the Pentagon's compromise" is not satisfactory because it "is too much of a concession" to the dicates of a congressional committee.

The editorial follows:

OFF-LIMITS CAMPUSES

The Pentagon has announced a sensible policy for deciding which universities may be used for graduate study by officers of the armed services. Campuses will be chosen, essentially, on the basis of the appropriateness of the education offered and the best interests of the services. That is as it should be, considering the need of the military for the most expert officer corps it can get, and the interest of the taxpayer in getting the best value for his money.

The seemingly mundane matter became a source of controversy some days ago when Navy Secretary Chafee, answering a congressman's query, reported that the Navy was boycotting 15 institutions for dropping Reserve Officer Training Corps programs. The Navy, it appeared, had knuckled under to pressure from Chairman Hébert of the House Armed Services Committee, who is conducting a vendetta against colleges and universities that have adopted anti-military postures.

One trouble with the Hébert campaign is that the campuses thus declared off limits to officer-students—including prestigious places like Harvard, Columbia and Princeton—are more useful to the Pentagon than the Pentagon's budget is to them. The small numbers of military graduate students (Princeton counted five or six from the Navy) do not swell the revenues of the institutions, which habitually lose money on instructional programs. So much for the silliness of the Hébert brand of retaliation.

But the main point is that the military should be able to use the best educational facilities available. Why, for instance, should the Pentagon with its massive management problems be cut off from the expertise on tap at Harvard's Graduate School of Business Administration?

This is not to defend the actions of many institutions of higher learning that, folding under anti-military hysteria and left-wing disruptions, have banned ROTC. Such a turning from one of the nation's defense needs shows inadequate regard for the public interest and the rights of those students who would like to take the officer training and serve the country in that capacity.

But it also ignores the public interest to deny the value of some of these schools for the further education of high-caliber officers, especially on such grounds as Hébert's contempt for Ivy League folkways. Even the Pentagon's compromise decision to prefer ROTC campuses, other considerations being equal, is too much of a concession to Hébert's anti-intellectualism.

The committee chairman now may carry out his threat to try to legislate a boycott of the offending schools when the military procurement bill is considered. He and his colleagues should concentrate more usefully on the nation's real security needs.

LOCAL POSTMARK A REFLECTION OF HISTORY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. PICKLE. Mr. Speaker, once again I would like to call your attention to the plight of local postmarks around the country. The postmarks of local towns and cities reflect the heritage of each community and this heritage should not be denied.

Oftentimes the town and therefore the postmark reflect a particular ethnic group or culture at a local level. This may be as various as the many ethnic groups which make up our great land. Should the U.S. Postal Service decide to remove these local postmarks, for whatever purpose, the net effect will be a great loss for the American people. That is what the U.S. Postal Corporation is trying to do: Eliminate the local postmark, and substitute a computerized number for your town.

At a time when we are preparing for America's bicentennial celebration, a celebration of our heritage, is it not proper to try to preserve our heritage today? Mr. Speaker, I contend there are other ways of speeding the mail than by destroying our local history and colorful heritage.

We have just celebrated another significant St. Patrick's Day in America. In the March 1972 issue of Postmasters Gazette, appeared an article by Mariette Hanhauser entitled "Irish Influence in Postal History—Alive and Well." It tells the story of how important Irish names have been preserved through the postmark: Dublin, Tex., Ga., Miss.; Kildare, Okla.; Shannon City, Iowa; Kilkenny, Minn., and many more. To that title, I would like to add "for how long?" Mr. Speaker, Mrs. Hanhauser's article is an excellent example of how important an otherwise seemingly unimportant postmark really is. I include this article in full, as follows:

IRISH INFLUENCE IN POSTAL HISTORY—ALIVE AND WELL

(By Mariette Hanhauser)

Like other countries in Europe and throughout the world, Ireland is not without representation in this country. A quick look through the Directory of Post Offices reveals numerous American cities named after famous Iris patriots, counties, and cities. A sampling includes several Dublins, Shannons, Sharons, a St. Patrick, a Parnell, an Ireland, two Shamrocks, a couple Patricks, several Londonderrys and a Kathleen, and Erin, and a Michael.

The Dublin, Georgia post office got its name from, as you might guess, the capital of Ireland. Mr. Jonathan Sawyer, a pioneer citizen of that community, named the city and was its first postmaster.

A steam flour mill drew Irish settlers to Ireland, Indiana where Postmaster William Rudolph. Jr. operates business from an Irish green brick building where he will stamp mail with a handsome shamrock upon request.

The Dublin, New Hampshire post office has for years cooperated with shamrock lovers across the country by obliging with postmarks of Dublin for St. Patrick's day.

Dublin was settled in 1753 by Scotch-Irish immigrants and a recent government survey has pronounced it the highest village in New England.

Shamrock, Texas, located in the Texas panhandle, boasts to have one of the largest Irish celebrations on March 17th in the country.

The name Shamrock was selected in 1898 by the first postmaster George Nichols, an Irish immigrant, for good luck. The first post office at Shamrock was located in a dugout near the Red River and the mail was carried by horseback from nearby Old Mobeetie. John Cullers, the present postmaster, is Shamrock's ninth.

The Wexford, Pennsylvania, post office was named after that county in Ireland. William Gibson, coming from Londonderry, Ireland, first settled in Pine Township, Pennsylvania, and subsequently bought land in the vicinity of what is now Wexford, for seven cents an acre.

Shannon City, Iowa postmaster Pearl M. Hailey gives this account of the history of her office:

The town of Shannon City was originally named Loomis after the practicing doctor there, Francis W. Loomis. An engineer of one of the earliest trains made the statement one day to the doctor that, as he approached Loomis, the town reminded him of his home on the River Shannon in Ireland. Dr. Loomis convinced the town residents that the name should be changed to Shannon. Later, the name was changed to Shannon City to distinguish it from that famous city in Ireland.

The first postmaster at Shannon City was an Irishman James F. McGinty who served until Dr. Loomis took over.

The Dublin, Texas post office was not established until 1875, however that community was settled by a group of hardy Irish immigrants in 1854. The present postmaster there, William L. Cowan, relates that the main street of Dublin is called Patrick and that most of the other throughfares have Irish names such as Grafton, Camden, O'Neil, Erin, Shamrock, Sheehan, Cagney, Grady, Ireland, O'Brien, Shannon, and Dublin.

Postmaster Cowan relates this interesting incident: "While in the Army during World War II, I was stationed in Belfast, North Ireland, and received an invitation to visit in the home of the Hunter family, which has operated the Hunter Distilleries for generations in Ireland. After dinner, I was talking to Mrs. Hunter and mentioned that I was from Dublin, Texas. She told me that she could name the principle streets there and proceeded to do so."

As its name implies, Dublin, Virginia was named after the Irish capitol. James Reed, an Irishman, settled a few miles from the present town site and went into the blacksmith business. He called the new settlement New Dublin. It was changed to Dublin in 1855.

The present postmaster there Bernard M. Anderson, Jr. states that a relative of his, Jacob Anderson, was the first postmaster at Dublin, serving from 1889 to 1893. His father, Bernard M. Anderson, Sr., served as postmaster until his retirement in 1963 when his son took over the postal responsibilities.

Roscommon, Michigan was named after that county in Ireland shortly after 1875. Every year, a supply of real shamrocks is sent from Roscommon, Ireland on St. Patrick's day. Roscommon postmaster Leo T. Valko is of Irish descent and his grandparents were from Kings County, County Mayo, County Kerry, and County Down.

Tyrone, Oklahoma post office was established in Beaver County, Oklahoma Territory, in 1892 with A. E. Blake as postmaster. Its name comes from the Irish County Tyrone and was designated by an Irish immigrant. The present postmaster there is Ralph O. Farmer.

The Armagh, Pennsylvania post office is named in Northern Ireland. The present postmaster is Ruth J. Svilar.

Green Isle, Minnesota has an interesting history. Postmaster Earl W. Dressen relates a story of three Doheny brothers, the first Irish settlers in the vicinity, who, in the spring of 1852, came up the Minnesota River on a riverboat called the "Black Oak." About 50 miles from their starting point at St. Paul they spotted a lush green valley that reminded them of their homeland. They decided that it was a good place to settle, did so and an early settler Christopher Dolan called it Green Isle. This original site of their disembarkation is less than 10 miles from Green Isle.

Kilkenny, Minnesota was named by Dennis Doyle who came to the area from Kilkenny, Ireland. The post office was established in 1857 with Doyle as the first postmaster.

The present Kilkenny postmaster, Ione Slattery, was confirmed in 1961.

According to Erin, New York postmaster Lydia Howard, Michael Robison, an enterprising and enthusiastic Irish settler, first gave the town the name Erin Go Braugh, or Erin Forever. The Erin part remained. Erin's first post office was established in 1872.

Parnell, Iowa is named after the famous patriot Charles Stewart Parnell, whose missions to America in the 1880's were to raise money for food for the starving people in Ireland.

The Parnell post office was established in 1884 and the town still maintains strong Irish ties: one can see Murphy's Grocery, Carney's Royal Beauty Salon, Carey's Shamrock Cafe, Weldon's Service Station, and Kelly's trucking. The present postmaster is Daniel P. McCarty.

Dublin, Indiana postmaster Margaret Horseman says that the first settlers to her community came from Dublin, Maryland. No doubt they had named the Maryland town after their original homeland.

As is evident, the Irish influence is alive and well in the annals of postal history.

SETTING THE RECORD STRAIGHT ON MEAT AND FOOD PRICES

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EDMONDSON. Mr. Speaker, Oklahoma is a proud and a pioneer State. The people I am privileged to represent are a patriotic and a self-sufficient breed, Their contributions to the Nation's economy and prosperity are intrinsic to the country. Now one vital and staunch member of the productive team of this State and Nation—our agricultural producer—is under attack. It is only fair to these people—and only fair to the other citizens of this country—to clarify the confusion on this issue.

There is no question about the gravity of rising meat costs to the consumer. There is considerable question about the responsibility for these increased prices and some charges of excess profits. However, an examination of the facts makes it obvious that the cattlemen, far from growing rich at the expense of the consumer, are only now beginning to catch up to the gains made by nonfarm workers.

The Department of Agriculture revealed that meat products this month rose above parity for the first time since 1910, for a parity ratio slightly above the depression day ratio. For the first time in 62 years, the meat producers are getting a return nearly equal to that of the rest of the economy.

A firm and vigorous agricultural system is essential to national stability. and a crucial part of that system is the meat industry. ANCA President John Trotman has stated that while cattlemen's prices have risen above the 1951 level, their costs advanced 125 percent during that time.

Beef producer prices only now are recovering to the levels of 20 years ago—and those levels are not taking into account a depreciated dollar. During this 20 years, other wages have more than doubled and supplements and fringe benefits have multiplied sevenfold.

Farm food prices are up 7 percent in the past 20 years; wholesale food prices are up 22 percent; retail food prices are up 44 percent. During 1971, the retail cost of a typical market basket of food increased $21—the farmer received $1 and the other $20 increase was absorbed by middlemen. Yet, during these years since 1951, production costs to the farmer have nearly doubled; hired help wages have doubled; real estate taxes, farm machinery prices, and indebtedness are all up. But farmworker's output is more than three times as great as it was 20 years ago.

Our farmers can hardly be accused of profiteering. The farmer's share of each food dollar is 38 cents, compared with 49 cents of each food dollar 20 years ago. His income after taxes is 75 percent of the income of nonfarmers. His 7-percent increase in prices over two decades cannot be considered inflationary.

The Dust Bowl days are painfully remembered by our farmers and ranchers—the "Grapes of Wrath" tragedy is familiar to everyone. And now, when the parity level is just above the level of those days, there are cries of outrage over higher prices charged to the consumer. These cannot be attributed to the producers.

The average consumer's disposable income has increased more than 100 percent since 1951, and average per capita meat consumption has gone from 56 pounds 20 years ago to 115 pounds today. The beef industry has performed a tremendous job in meeting that demand—producing 2½ times its former output. It is estimated that the 1980 per capita consumption will be 130 pounds, and I am confident that our beef producers can meet that challenge as well. But they will meet it only if their continuing productivity is not impeded by crippling controls and restrictive regulations.

The Price Commission has announced hearings into spiraling food costs. Certainly the consumer needs relief, but I hope the Commission will take a hard look at just where the profits are being made. Even the 5 to 6 percent increase forecast for farmers' realized gross income next year is modest compared with recent growth in other sectors of the economy. Excess profits are certainly not going to the farmers and cattlemen, some of whom are finally getting their heads above the economic waters that have long threatened to engulf them.

The President has promised action to halt the upward costs. The Congress will be interested to see what steps he proposes. Clearly, striking at a group having one-fourth less disposable income than the rest of the Nation is not an equitable solution. Perhaps a study of profit margins and dividend distributions of the big processing interests is in order. I hope the Congress will receive a constructive Presidential message on this vital issue soon.

One thing is for sure: the cattleman and the farmer are not the villains in today's inflation story. On the contrary, they have been at the bottom of the totem pole for far too long as general prices and costs have steadily increased, and only recently have some agricultural prices begun to approach the parity level which is fair and equitable.

Let the facts be generally known on this matter. "The record speaks for itself."

NORTH COUNTY EDUCATOR RETIRES

HON. ROBERT C. McEWEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McEWEN. Mr. Speaker, I would like to bring to the attention of my colleagues in the House the fact that Charles J. Murphy, one of the truly distinguished public educators in northern New York, has announced his retirement effective in June of this year.

Mr. Murphy, a native of Potsdam, N.Y., whom I have had the pleasure of knowing for a number of years, has untiringly dedicated his life to the education of the young toward the end that they may be useful and responsible citizens. He has served well the residents of the village of Saranac Lake for the past 30 years, first as a teacher of 12th grade American history, and for the past 19 years as principal. It has been through his high degree of professionalism and dedication to the public interest that Saranac Lake High School takes its place as one of the finest high schools in New York State.

I might also point out that his wife, Helen, who has been associated with the Saranac School system for the pasts 10 years, has announced her retirement effective in June.

I should like to add my voice to that of the Murphys' many friends in congratulating these distinguished public servants, and say that I am proud to have them reside in my district. I wish them both many happy days together in the years ahead.

The Watertown Daily Times recently carried a brief biography of Mr. Murphy, which I insert in the RECORD at this point:

[From the Watertown Daily Times,
Feb. 24, 1972]

PRINCIPAL RETIRING AT SARANAC LAKE

SARANAC LAKE.—Charles J. Murphy, principal of Saranac Lake High School, will retire June 30 after more than 37 years in the field of public education in New York State.

The son of the late Charles A. and Mary Murphy of Potsdam, he was educated in Potsdam schools and was graduated from the University of Michigan in June, 1933. He received his M.A. degree in August, 1940, from the State University at Albany with a major in secondary school administration. He did graduate work at Columbia University, Plattsburgh State University College and the University of Connecticut.

He taught social studies and special subjects at Speculator for seven years and joined the staff of Saranac Lake High School in September, 1942, as a teacher of 12th grade American History and chairman of the Social Studies Department. In September, 1953, Mr. Murphy was appointed principal of Saranac Lake Senior High School. He later served as principal of the Saranac Lake Junior-Senior High School and in September, 1969, was named principal of the newly-opened Saranac Lake High School.

Mr. Murphy, a past president of the Saranac Lake Teachers Association, served as a representative of the resolutions committee of the Northern Zone, New York State Teachers Association, and is a member of the New York State Association of Secondary School Administrators.

Mr. Murphy married Helen Duffy of Potsdam, who is a third grade teacher in the Saranac Lake Central School System. They have two children, John, a graduate of St. Michael's College, Winooski, Vt., and now associated with the National Association of Counties in Washington, D.C., and a daughter, Ann, a senior at Brockport State University College.

Mr. Murphy, a past exalted ruler of Saranac Lake Elks Lodge 1508, has served four years as north district scholarship chairman of the State Elks Association.

DR. JOHN SCHWADA BECOMES 12TH PRESIDENT OF ARIZONA STATE UNIVERSITY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RHODES. Mr. Speaker, recently I was privileged to attend the inauguration of Dr. John Schwada as the 12th president of Arizona State University.

Also in attendance for the ceremonies at ASU's beautiful and famous Grady Grammage auditorium, were 27 university presidents, 92 delegates from learned societies, and 200 delegates of universities.

The guest speaker was, Dr. Logan Wilson, president emeritus of the American Council on Education. His speech was extremely worthwhile and brought out ideas we all should consider. Therefore, I would like to include in the RECORD the text of Dr. Wilson's speech for the benefit of my colleagues.

A TIME FOR AFFIRMATION

Let me begin by saying that I am honored to be with you for this important occasion. Having spent many years on campuses, I am always pleased to get back to one of them, and a presidential inaugural is to me an impressive reminder of what a college or university should symbolize. Your new president and I, incidentally, have common associations with one major state university, and I am sure that over the years we must have confronted many similar problems. If President Schwada were not already an educational leader of demonstrated competence, one might wonder why he would enter what has been aptly described as the roughest profession. He already knows, however, that heading a large university is a rewarding as well as arduous undertaking. Although nobody asked me to give a be-kind-to-your-president address, I would urge that you join forces to make Dr. Schwada's term of office a long and rewarding one. In an area when the median tenure of presidents in some of our leading universities has become disturbingly short (just under three years among the institutions of the Association of American Universities), the need for more continuity of experienced leadership is critical.

As most of you are aware, this is not the happiest of times in American higher education. The golden age of the 1960s is at an end, and in many places there is much uncertainty, confusion, and even trepidation about what the future may hold. Within recent years we have witnessed the barricading of classrooms and the burning of buildings. Your campus, fortunately has not been among those marked by extremism and violence. But in altogether to many of the nation's colleges and universities enough students have behaved destructively, enough professors complacently or foolishly, and enough administrators indecisively to make urgent a period of affirmation. The title of my remarks to you here, accordingly, is "A Time for Affirmation."

I have chosen to stress the need for more affirmative action on all of our campuses in part because public confidence in higher education is now at low ebb. Federal aid has dwindled at the same time that federal guidelines, which some regard as interferences with institutional autonomy, have multiplied. Some state legislatures have leveled off or even reduced appropriations; many state governments have also curtailed campus authority in decision making. Private contributions last year showed a decline for the first time in many years. Hundreds of colleges and universities are in dire financial straits. Even though most public institutions are enrolling increasing numbers of students, the market demand for their graduates has recently been bearish rather than bullish. The surface aspects of our situation, in short, are not encouraging.

Some persons blame much of this adversity on a public backlash against recent campus disruption. Others state that the plight of many educational institutions simply mirrors a society that is confused, without real direction, and even sick. Still others attribute our setbacks to an overselling of formal education as a panacea for our ills and shortcomings, and feel that a period of belt-tightening while we reassess our priorities is indeed overdue. There is no denying a widespread disenchantment with traditional higher education, both inside and outside academic circles.

Whatever the explanations or rationalizations, I think our circumstances call for something more than educational breast-beating and self-flagellation. Continuous institutional self-examination and criticism are undoubtedly helpful, but unrelenting catharsis on the campus can debilitate energies needed for ongoing purposes. Although higher education has plenty of faults and shortcomings, my contention is that colleges and universities are on the whole better institutions than their detractors would have us think. To be sure, they are not perfect examples of economy, efficiency, productivity, equity—or what have you—but I would ask you to compare them with hospitals, courts of law, business enterprises, political agencies, and other real entities rather than with utopias. Our collective responsibility to such deserving institutions as colleges and universities, I would insist, is not to be a party to their denigration, but to extend and improve their services.

Here at Arizona State University, you are in a stronger position to confront the years directly ahead than are many other institutions. Looking back over the past decade, for example, one may note that your state has a better record of public support than the average state in showing a 446 percent gain as compared to a weighted national gain amounting to about 350 percent. You should be encouraged also to observe that Arizona's percentage increase for the past two years is exactly double that of the national average. For the fiscal year 1972, Arizona ranks fifth in the nation in per capita appropriation of state tax funds for operating expenses of public higher education. In brief, it would appear that insofar as public support of higher education is concerned, there is little disenchanment here in your state.

Competing demands on the public purse from many other sources, however, are likely to become intensified in the future. As the competition for funds increase, the inputs and outputs of our institutions will be under sharper scrutiny. Accountability is already a byword in state capitals; legislators and the publics who elect them are no longer willing to accord intrinsic merit to everything that passes under the guise of higher education. Furthermore, there is a growing realization among students themselves of the importance of really meaningful achievement.

All around us we see evidences of a strongly felt need to reaffirm continuing objectives, agree upon and affirm new purposes, and move forward with the main business of our institutions. One of the strengths of the American system of higher education, of course, is that its diversity makes possible the attainment of a wide variety of objectives. Even within a single institution, when it is as large and complex as Arizona State University, a considerable range of student aptitudes and goals can be accommodated, with—to modify a figure of speech from Sir Eric Ashby—human parallels to both Continentals and Pintos emerging as products. Regardless of objectives, however, I believe that if any college or university is to maintain viability, it must manifest a common affirmation of at least four operating principles.

The first of these operating principles is the essentiality of carefully structured teaching and learning. To illustrate what I mean, let me give just one example of an institution that became a disaster mainly because it failed to heed this elemental premise. Known as Old Westbury, it was established four years ago as an institution in the State University of New York system. The disaster of Old Westbury was described briefly in a *New York Times* article last April. A visiting committee of educators reviewed the wreckage to see what could be done to salvage it. They found a college where libertarianism had run its course—with a helter-skelter curriculum, no academic departments, no conventional testing, no failing grades, students doing largely as they pleased and getting course credit for it, nobody clearly in charge of anything, and nearly everybody endlessly arguing issues which never got resolved. The hapless venture was given the newspaper caption "Life and Death of a Far-Out College." It is true that the initial mode of operation was quietly phased out, and replaced with an arrangement which recognizes that carefully organized effort is no less essential in an educational enterprise than elsewhere.

Many of our traditional campus practices do need changing, to be sure, but to argue that all of them should be abandoned in the name of progress is, of course, utter nonsense. The disciplines of higher learning entail restraints as well as freedoms. Contrary to what the advocates of complete permissiveness would have us believe, programmed learning is not only more economical than the undirected kind but also less difficult for most undergraduates. Sequential courses are at times the manifestations of professional conspiracy, but more often than not they are the logical steps toward competence in a field. Grading and credentialing can be overdone, too, but before we discard them we ought to consider the consequences of living in a society where one would always have to be dubious about the competence of doctors, lawyers, or engineers. In the matter of general education, moreover, even though there now seems to be little agreement about what constitutes a well-educated person, surely there can be an insistence on minimum levels of intellectual attainment and of proficiency in such fundamentals as reading, writing, and mathematical calculation.

The campus is not, to be sure, the only place where educational endeavor can be carried forward. Yet because the substance of higher learning is in the main systematic knowledge, and the university is the best social invention man has yet devised for conserving, disseminating, and advancing it, there are necessarily some structural aspects of teaching and learning that must be accepted by all who would benefit from participation in the main endeavor of any campus. We all should bear in mind that if we permit a university's essential structure to be undermined, not only will its main reason for being disappear, but also its functions will remain unfulfilled.

A second indispensable operating principle for a viable college or university is continuity and coherence of effort. The basic purposes of academic institutions, I would argue, are not transitory, and perhaps this is one reason that such institutions are in the main longer lived than most other human enterprises. Lacking continuity and coherence of effort, virtually all of the so-called free universities founded by students and others in recent years have gone by the board. The *ad hoc* nature of their scattered concerns and the unquestioned right of everybody to do his own thing caused some far-out academics to regard them as models to be emulated by established institutions, but it seems to me that their main utility was to demonstrate what does *not* work in terms of the really serious business of higher learning.

Continuity in the curriculum and in the faculty are functionally related to institutional stability. Although no college or university can afford an ossified curriculum or faculty, in an era of permissive excess we must continuously remind ourselves that an equally bad situation is one in which the most transitory members of the academic community, the students, have the decisive voice regarding what will be taught and who will teach it. A further objection to the one-man one-vote mode of conducting academic affairs is the babel of voices that would render impossible any real coherence of effort. About this, however, I shall have more to say later.

Turning now to a third tenet of sound educational organization, I would emphasize that the maintenance of academic freedoms for faculty and students requires a willing acceptance of authority and responsibility. Let me explain what I mean by these terms. In the collegiate realm authority does not signify the giving and taking of orders, as is true, for example, among the military. Also, I would note that in any academic community ruled by reason the power concept of forcing other individuals to behave as one wishes, regardless of their own best interests, is a mistaken way of looking at the conduct of affairs. The authority of the professor in the classroom is analogous to that of the architect at the drawingboard, the surgeon in the operating room, or the flight captain behind the instrument panel. The authority of the administrative officer may variously resemble that of the quarterback on the football field, the dispatcher in a control tower, the leader of a sortie from a besieged place, or a presiding official who for procedural reasons is accorded first place among a body of equals. In short, academic authority in the true sense of the phrase rests not on force but upon reason, persuasion, and the influence of superior knowledge or earned competence associated with delegated status. Academic authority, when properly carried out, is thus authoritative without being authoritarian.

The larger society which supports our colleges and universities expects in return for its investment an assumption of responsibility on the part of all who are connected with such institutions. In the eyes of the public, the students are there primarily to learn, to enlarge their knowledge, and to improve their skills so that they later will be better citizens. Professors have a responsibility to diffuse and advance the higher learning and to refrain from propagandizing or otherwise obstructing the pursuit of truth. Administrators have an obligation to further the continuity and coherence of the whole endeavor by facilitating the achievement of basic institutional purposes.

I am aware, of course, that much of what I have just said is platitudinous, but the recent erosion of authority and responsibility on hundreds of campuses causes me to believe it would be worthwhile to restore to respectability some well-worn platitudes concerning the fundamentals of social organization. *True*, the establishment at any given time may be due a shake-up; *an* establishment, nonetheless, is essential to the ongoing operations of any college or university.

If our institutions are not be become perpetual debating societies where little is decided and even less accomplished, there is a fourth operational principle to be heeded. This is the necessity for effective leadership. Happily in virtually all colleges and universities, the day of educational autocrats has gone by, but on many campuses, most inopportunely, we find in their places administrators who are still loaded with responsibility yet stripped of requisite authority to discharge their duties.

To renew public confidence in higher education, I hope you will agree with me that presidents, vice-presidents, provosts, deans, department chairmen, and other administrative officers must be something more than mere pulse feelers and mediators. To have strong and creative leaders in academics, they too must be given certain freedoms. In my judgment, the proper way to keep them in check is not to remove their initiatives but simply to hold them accountable periodically for the achievement of agreed-upon objectives. I would also call it to your attention that in recent years the hamstringing of local leadership by faculty and students has been a critical element in the shift of decision making away from the campus to other locales where many of the controls are now being exercised.

As Fr. Hesburgh, president of Notre Dame, said in an eloquent adddress before the American Council on Education last fall, "the central person in exercising moral leadership for the life and prosperity of any academic institution must be its president." He went on to add that such leadership also requires support from all segments of the academic community. To quote him specifically:

"Moreover, a good leadership at the top inspires correlative leadership all down the line. Participatory democracy cannot simply mean endless discussion. Rather, if it is to work at all, it means that every member of the community, especially within his or her segment of the community, exercises moral responsibility, especially when it hurts and when it demands the courage to say and do what may be unpopular. Student judicial courts will not survive if they never find anyone guilty or never impose adequate sanctions for obvious wrongdoing. Student government will soon enough lose all credibility and acceptance, even from students, if its only concerns are freer sex, more parking, education without effort, and attainment of the heights of Utopia without climbing. Faculty senates will only be debating societies if they never recognize the central faculty abuses and move effectively to correct them. Vice-presidents and deans and departmental chairmen do not exist to pass the buck upwards and to avoid the difficult decisions. Leadership may be most important at the presidential level, but it is absolutely essential at every level—trustee, faculty, administrators, students, and alumni—if the community is going to be equal to the task that lies ahead for each college and university and for the total enterprise of higher education in America."

You will note that I have chosen to focus on the means rather than the ends of higher education. Here at Arizona State University, I am sure that you have diverse as well as shared objectives. The whole point of my stress on the need for common affirmations is their indispensibility in group endeavor, whatever the goals may be. You are fortunate in having a leader of President Schwada's proven capability at the helm, and in my judgment he is also fortunate in heading a university which has the potentials at hand for moving ahead into a very promising future. To you and to him, I extend congratulations and best wishes.

MENTAL HEALTH PROGRAM IN MISSOURI

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SYMINGTON. Mr. Speaker, Missouri has improved its mental health program a great deal in the last 5 years. However, like so many States, Missouri lacks sufficient funds to further develop its rehabilitation effort. I support full funding of all programs to assist the retarded and mentally ill. I oppose any impoundment of Federal funds appropriated by Congress for construction and improvement of mental health centers.

Federal funds authorized and appropriated to assist States in humanizing their rehabilitation efforts should alleviate problems of overcrowding, institutionalization, and custodial care. Federal dollars must be wisely administered. Missouri is fortunate to have legislators and administrators who care about this problem.

In this regard, I would call to the attention of my colleagues, an article detailing the use of Federal money by Missouri officials. The article was written by Les Pearson and appeared in the St. Louis Globe-Democrat of March 10, 1972, At this point I insert the article in the RECORD.

SCHOOL FOR THE RETARDED

(By Les Pearson)

State mental health officials are aiming at a "significant reduction" in the number of mentally retarded persons at St. Louis State School and Hospital, 10695 Bellefontaine Rd., perhaps within about a year.

At the same time, about $400,000—originally planned to pay for street widening and other purposes on the grounds—will go for air conditioning and other improvements intended to "humanize" the prison-like buildings, according to Dr. William Bradley, associate director for mental retardation.

These steps are part of a program aimed at bringing the state institution into conformity with federal standards.

If these standards—not yet fully defined—can be met, Dr. Bradley said "easily $2 million or $3 million" a year in new federal money could be made available for further improvements.

The decision to reduce population and improve conditions came after a Globe-Democrat investigation and a long series of stories about conditions under which the mentally retarded live in Missouri.

"We must be able to show more than just custodial care" to become eligible for the new federal money, which would become available under the Social Security Act on an individual basis for residents if the institution meets standards, Bradley said.

Bradley said the institution's 571 residents must be brought down to at least 528 to end overcrowding according to known accreditation standards.

Conversion of space now used for dormitory purposes to become needed space for recreation, therapy and other programs now contemplated would reduce the population to about 450.

Bradley has said that probably 300 of the residents at the state institution could live in the community, providing adequate residential facilities and other programs were available.

"There are no plans for a sudden reduction in population," Bradley said. "But I think we could make a significant reduction in perhaps one year."

Reduction of the population by 120 or so in one year is feasible, according to Mel Knowlton, acting executive director of the St. Louis Association for Retarded Children.

Knowlton, who established a successful community residential program for the retarded in Omaha, Nebr., said his organization is attempting to set up just such a residential program.

He takes the position that mentally retarded persons can live more happily and normally in a homelike setting in the community, rather than in an institution with its dehumanizing influence.

Knowlton estimated first year cost to set up and operate a small residence for 10 retarded persons to be $35,000, dropping to $25,000 or $30,000 the second year.

That would mean for less than $500,000, community residential facilities could be provided in the St. Louis area for 120 persons. Officials estimate recreation, therapy, education, training, day care and other services would cost no more than another $500,000.

The state estimates it costs $26 per day for residents at the institution now, which is more than $2 million a year for the 120 being discussed.

In the Omaha area, overall per diem cost for 1,000 mentally retarded persons being served is $6.78, Knowlton said, slightly more than half the per diem institutional cost in that state.

Bradley has been meeting with several North St. Louis County legislators in an effort to work out improvements in the institution now, by rearranging priorities for spending money.

They also have been attempting to find ways to reduce the population so that further improvements may be made.

Legislators involved are Sen. John D. Schneider (D.) of Florissant and four state representatives, all Democrats. They are James Mulvaney of Jennings, Judith O'Connor of Bridgeton, Earl Schlef of Dellwood and Walter Meyer of Bellefontaine Neighbors.

JOE PEPPER ADDS TO FAMILY RECORD

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FUQUA. Mr. Speaker, a young man from Tallahassee, Fla., is making a phenomenal record in his engineering studies at Stanford University.

Now in his third year of study on a doctorate in mechanical engineering at this great institution, he is Joe W. Pepper, son of Mr. and Mrs. Frank Pepper, of Tallahassee.

His uncle is Congressman CLAUDE PEPPER, my distinguished colleague.

Certainly Joe is carrying on a proud family name.

He is to present a paper to the 13th annual engineering meeting at Argonne National Laboratory in Chicago. The topic of his paper at the meeting this week is "Magneto-Hydrodynamics Steam Powerplant Systems."

Magneto-hydrodynamics—MHD—is a concept for generating electrical power that promises higher efficiencies than present day steamplants. Still to be determined, the university notes, is the question of air pollution from such MHD plants.

A graduate of Leon High, Pepper received his bachelor of arts and master degrees in engineering science at Florida State University.

I can confidently predict that you will be hearing a great deal about this young man in the future.

SIERRA CLUB EDITORIAL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. KEMP. Mr. Speaker, recent months have seen the proliferation of much careless rhetoric about our Nation's needs, the relative merits of alternative social programs, and demands for reordering our priorities.

In that context, I would like to share with my colleagues an excellent editorial from the February Sierra Club Bulletin. Michael McCloskey's interpretation of the hazards inherent in the parochialism of some social planners demands all our attention. His perception of the tragedy of seeing two crucial reform movements; namely, environmentalists and minorities competing for predominance on the social agenda of this Nation points to the kind of predicament we may be confronting if the parochialism and self-righteousness of some social planners is not soon brought to a halt.

The inevitability of changing our national priorities is not questioned; the trend of the President's budgets reaffirm that fact. Human resource outlays since the President entered office have jumped from 32 percent to 42 percent of the total budget while defense-related expenditures have plummeted from 59 percent to 34 percent. The annual rate of increase in human resources since 1962 has been more than 12 percent, and every single budget component is increasing more rapidly than national defense. In 20 years, expenditures for human resources have skyrocketed 1,170 percent, while defense increases have been only 57 percent.

The trend is unequivocal. But we need to stop competing to command exclusivity on the Nation's list of priorities. Mankind's growing interdependence demands a more even-handed and well-reasoned examination of society's needs. We must take account of the validity of separate agendas and reject the narrowness of those who insist upon the righteousness of one social program and the frivolousness of another.

We must add a new dimension to man's thinking so he can see himself not as an antagonistic isolated individual who alone comprehends the demands of society, but as a rational thinker who recognizes the scope of our needs, the complexity of our problems, and who understands that proposed solutions are useless unless advanced in the context of the realities of the American economy and the Federal budget.

With this preface, I insert the Sierra Club editorial in the Record at this point:

"You environmentalists care more about the fate of the black bear than that of the black man. You get more excited about a dying tree than a child dying in the ghetto." These are charges being heard more and more from spokesmen for minority groups. They are hurled at environmentalists at conferences where we gather to explore relationships. Are they fair? How should we respond?

Some environmentalists are tempted to reverse the charges. "You care more about the plight of minorities than the plight of mankind." "You care more about civil rights than survival."

We should stop hurling such charges at each other. It is tragic to see two crucial reform movements jealously vying for predominance. There are too few committed to social reform for us to be able to endure the tragedy of such misunderstanding.

Both movements should share a commitment to the wholeness of life and should revere it. We should care what happens to all life forms, human and non-human, and work together to secure and maintain sound life support systems. We have to care about all parts of the human race, and understand that other forms of life have claims upon our conscience too. A communion of purpose should join us which will cause us to shrink from thinking in terms of trade-offs between life forms and dropping one concern for another.

It is important that we understand the difference between the claims of conscience upon each of us as individuals and the raison d'être for specialized organizations. As whole persons, each of us should be concerned with many causes, pleas, and reforms. Yet the only efficient way to pursue these goals is through specialized organizations which have limited agendas. No organization can attempt to undertake all reforms. None should be indicted for having a limited agenda, and much less for being successful in attracting adherents. We should respect the value of divisions of labor, and draw comfort from the fact that many groups are pursuing so much that needs to be done. We need both environmental groups and civil rights groups, and many more too.

We need to stop competing to achieve ascendancy on the nation's list of social priorities. There is no *a priori* way to assert that civil rights or poverty is more important than the environment, nor vice versa. They are both important and deserve high priority. We and other life forms need to survive, and human dignity needs to be established and advanced. It makes no sense to sacrifice either.

And finally, we need to stop trying to coopt and manipulate each other. Environmentalists should stop trying to get minorities to be chiefly concerned with environmental programs. Despite the fact that the ghetto resident may be the chief victim of pollution, those suffering from so many ills there have to define their own priorities. And minorities should stop resenting the fact that so many Americans are now concerned with the environment. These Americans cannot be browbeaten into dropping their environmental concerns, no matter how urgent the case is for curing poverty.

We should work to respect the validity of separate agendas, and the vitality of a diverse movement for social reform. Respect will not bring us into total agreement, and points of conflict may occasionally emerge. But we need to see each other in the context of a larger purpose, to minimize our conflicts, and find opportunities to work together on projects where our programs overlap. As we do so, we may find that we need each other far more than we now suspect.

Michael McCloskey,
Executive Director.

UKRAINE—THE LARGEST CAPTIVE NON-RUSSIAN NATION IN THE U.S.S.R. AND EASTERN EUROPE

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FLOOD. Mr. Speaker, it is not generally known and sufficiently appreciated that the largest captive non-Russian nation in the U.S.S.R. and Eastern Europe is Ukraine.

With a population of over 45 million, Ukraine is one of the most resourceful nations in Europe, and if it were not under the domination of Russian Moscow, it would surely again become the granary of Europe in an advanced economic framework of industry and agriculture. Also, the country's geographic location, extending from the Carpathian Mountains toward the Caucasus and above the Black Sea, is a most strategic one as concern developments in Europe, Asia, and the Middle East.

Because we shall hear more and more about this largest captive nation in Europe, I submit for our popular edification the illuminating section on "Ucrainica in American and Foreign Periodicals" in the world-respected scholarly journal of East European and Asian Affairs, the Ukrainian Quarterly. The section, prepared by Dr. Lev E. Dobriansky of Georgetown University, regularly shows the growing interest in this captive nation and, above all, the prominent myths and misconceptions that many in the West still cling to when analyzing or commenting upon the Soviet Union, Russia, or Ukraine. It is high time these myths were dissipated, and a Select House Committee on the Captive Nations would be the most effective way of doing it—the Ukrainian Quarterly, volume XXVIII No. 1, spring 1972.

The article follows:

Ucrainica in American and Foreign Periodicals

"Who will be next?" a commentary and list. The Reader's Digest, Pleasantville, New York, October 1971.

In this issue of the Digest the long list of captive nations is featured under the caption "Who Will Be Next?". The list of over two dozen captive nations was compiled by the National Captive Nations Committee several years ago and is widely circulated every year during Captive Nations Week in July. The complete list includes the early captive nations which are now in the Soviet Union, such as Armenia, Byelorussia, Ukraine, Georgia and others.

Raising the question "Who will be the next to fall?", the commentary accurately points out at the start, "Today the communists still pursue their 50-year policy of relentless expansion." It mentions how this policy is backed with merciless genocidal practices. The Russian plot to incite a bloody revolution in Mexico is cited.

"Congressman Daniel J. Flood Named Honorary Doctor of Philosophy by the Ukrainian Free University of Munich, Germany," a statement by the Honorable Thomas E. Morgan. *The Congressional Record*, Washington, D.C., November 4, 1971.

At the banquet of the Fiftieth Anniversary of the founding of the Free Ukrainian University in Vienna, in 1921, the veteran and powerful Representative Daniel J. Flood was conferred with an honorary Ph.D. The sumptuous banquet was held on October 13 at the Statler-Hilton Hotel in New York City. Some five hundred distinguished guests attended the unique ceremony.

Congressman Morgan of Pennsylvania, chairman of the Committee of Foreign Affairs, introduced into the *Congressional Record* his remarks on the event and also the text of the address delivered by Dr. Flood after his acceptance of the degree. Chairman Morgan stated, "Congressman Flood has continuously supported the cause of Ukrainian culture, and served at the head of a committee a few years back which led to the erecting of the Shevchenko Monument here in the Nation's Capital. He has been since its inception a strong supporter of the Captive Nations Week resolution."

In his address of acceptance Dr. Flood declared in part, "It is an honor that I shall treasure richly and to the end of my day. Believe me, in granting me this privilege to become associated as a favored son of the Free Ukrainian University, you have rekindled more than ever before my hopes and desires to continue to work with you in the advancement and realization of the cultural and political aspirations of the Ukrainian nation. . ." The Free Ukrainian University is now centered at the University of Munich, Germany. It enjoys full accreditation, and for several days preceding the jubilee banquet important symposia were held at the Ukrainian Cultural Institute in New York on a broad variety of subjects.

"Rogers Cited Dangers," a commentary. *Wall Street Journal*, New York, October 5, 1971.

The dangers referred to in this commentary are related to the expulsion of the Republic of China from the United Nations. In a policy address to the General Assembly, Secretary of State Rogers warned that the ouster of ROC from the world body would be "perilous" for the future of other UN members. "To open it for one would be to open it for many."

Using the false analogy of Ukraine and Byelorussia, the Secretary argued that Washington's two-China policy wouldn't divide China any more than UN membership for Ukraine and Byelorussia has divided the USSR. Basically, what the matter of division had to do with the issue remains a mystery. The real division is between a Free China and a totalitarian Red China, largely two parts of a given nation. Ukraine and Byelorussia are not free republics, but nor are they parts of any larger nation. They are nations in themselves. And we simply suffered defeat as concerns Free China.

"Folly at the United Nations," an editorial. *The Evening Star*, Washington, D.C., October 27, 1971.

Folly is a mild term for the monstrous injustice done to the Republic of China by a majority of members in the U.N. These include our traditional member allies of Western Europe. This editorial is quite correct in its observation about the severe blow dealt to the prestige of both the U.S. and ROC. It is probably correct, too, in its prediction of the U.N. itself being the ultimate loser.

When in the course of this otherwise excellent editorial one reads what amounts to conceptual folly, one perhaps can appreciate some of the causes underlying our defeat in the U.N. This folly even goes beyond the widely circulated false analogy with Ukraine and Byelorussia. Just consider this: "One is hardly surprised to find such fictional nations as Byelorussia and Ukraine voting 'no.'" This foolish statement reflects our fictional about the two as nations; the fiction rests in their supposed independent statehood. And this can be applied also to the other captive nations in the U.N. membership from Eastern Europe.

"Formula for Peking Entry Into U.N.," an article by C. L. Sulzberger. *The Evening Star,* Washington, D.C., October 8, 1971.

In the summer and fall of 1971 innumerable articles and commentaries were written on the so-called China issue and relating it to what came to be called the Ukraine-Byelorussian arrangement. This article is just one additional example. Its alleged formula also rests on the oft-mentioned false analogy.

The basic confusion resides in the contrived parallelism between two distinct nations and one nation with two district states, a free China and an unfree one. The confusion underlies the formula Secretary of State Rogers alluded to when in his address he stressed "After all, we know Byelorussia and Ukraine are not separate states." The significant point is that they are two distinct nations.

The writer recalls Stalin's cable to Roosevelt, which is quite pertinent now: "You, of course, know that the Ukraine and Byelorussia, which are constituent parts of the Soviet Union, are greater in population and in political importance than certain other countries which we all agree should belong to the number of initiators of the establishment of the international organization." Aside from the motivations of its signer, the message carries solid objectives worth for the present, whether in the U.N. or elsewhere.

"Ukrainians Buck Vatican, Call Synod," a report. *The Catholic Standard and Times,* Philadelphia, Pa., November 4, 1971.

In addition to widespread discussion in the fall of '71 on the China and Byelorussia-Ukraine analogy, considerable coverage was given to the speech of Josef Cardinal Slipyj to the synod at the Vatican and also the convening of a Ukrainian Catholic synod constituted by sixteen Ukrainian bishops. This report and those following are only a few examples of the world-wide coverage given this event.

The chief object of this report was the convening of the Ukrainian synod, ostensibly in defiance of the Pope's will. According to it, "papal secretary of state Jean Cardinal Villot sent a letter to Cardinal Slipyj, indicating that the bishops could meet to discuss Church problems but adding that they 'are not allowed to convoke what in canon law is known as a synod.'" The convocation expressed obedience to the Pope and proved to be highly fruitful in results.

"True and Still Trying," a report. *Daily News,* New York, November 13, 1971.

Here, Josef Cardinal Slipyj is reported continuing the fight for a Ukrainian Catholic patriarchate. He and associated Ukrainian bishops "restated their loyalty to Pope Paul . . . but vowed to keep up their struggle to have the cardinal made a patriarch." The Pope rejected the request for a patriarchate at this time last July, holding the cardinal's authority did not extend beyond Ukraine.

"Slipyj Attacks Soviet Union on Ukrainians," an article by Reynolds Packard. *Sunday News,* New York, October 24, 1971.

For the first time Josef Cardinal Slipyj spoke out openly against Soviet Russian persecution of the Ukrainian Catholic Church. He criticized the Vatican of muzzling him "for diplomatic reasons." This article recounts at length the highlights of the speech and the background of the Cardinal.

As the writer describes it, "Carried away by the expression of his eight years of pent-up emotions, the Ukrainian Catholic leader ignored the five-minute limit on synod speeches. Nobody interrupted him." The Cardinal spoke for fifteen minutes, and minced few words about the impediments of Vatican diplomacy. As he put it, "People are saying that Cardinal Slipyj does nothing for his church. But what can he do?"

"Ukrainian Prelate Critical of Vatican," a report. *The New York Times,* New York, October 24, 1971.

This newspaper organ also reported on Cardinal Slipyj's address before the Vatican synod. Pope Paul VI was in the audience of the synod at the time of the Cardinal's address. . . . Some 210 church dignitaries from around the world attended.

Confirming other sources, the reporter stated, "the Cardinal's long silence indicated that Pope Paul VI had asked him to refrain from commenting on the situation in the Ukraine to ease Vatican negotiations with Communist regimes. . . ." Surely, bargaining strength is not derived from mute silence.

"He Speaks for Married Priests," a special report. *Daily News,* New York, October 5, 1971.

A part of Cardinal Slipyj's address to the Synod of Bishops which receives special attention in this report concerns the use of married priests in the Eastern Rite Churches. Among other things, the Cardinal defended its use and urged the principle of reciprocity regarding celibacy. As reported, "Slipyj said that if Eastern rite priests were forced to abide by the rules of the Latin Church in the West, then the same rule should apply to Latin priests in the East."

Evidently, the Cardinal alluded to the United States when he brought out that "the strongest feelings against celibacy were in the very countries where the Vatican had stopped Eastern married priests from carrying out their ministry." Eastern Rite Churches allow the ordination of men who are already married. Contrary to the disagreement expressed by the Coptic patriarch of Alexandria, Stephanus Cardinal Sidarouss, a celibate priesthood does not guarantee a full-time clergy. The expression of choice would maximize clerical output.

"Eastern Patriarch Defends Ordination of Married," an article by Edward B. Fiske. *The New York Times,* New York, October 3, 1971.

The attitude of Eastern Rite dignitaries in the Synod of Bishops is further reflected here in speeches delivered by the Melchite Patriarch of Antioch, Maximos V. Hakim and Maxim Hermaniuk, the Ukrainian Metropolitan of Winnipeg. The former is depicted here as defending "the ordination of married as well as celibate men in the priesthood." The Patriarch argued this would be "in accord with the earliest traditions of the church."

The position taken by Metropolitan Hermaniuk on the issue differed somewhat from the others. He urged that "the question of ordaining married men be left up to the Eastern churches and, in the case of those following the Latin rite, to national episcopal conferences." There can be no question, however, that the forceful expression of Eastern rite positions has provided a healthy airing of the issue in the councils of the Vatican.

"Patriarchal Role Denied to Ukrainian Rite Church," an article by George Dugan. *The New York Times,* New York, September 26, 1971.

A lucid account of the affairs surrounding the issue of a Ukrainian Catholic Patriarchate is presented in this concise article. Primary, of course, is the recent papal denial of a request for this status. A letter from Pope Paul VI to Josef Cardinal Slipyj, Major Archbishop of the Ukrainian Church, held that there were historical, spiritual, canonical and pastoral, reasons which "due to contemporary circumstances, do not, alas, permit us to satisfy the wishes and desires of the Ukrainian Catholic hierarchy."

The movement for a patriarchate began almost a decade ago. The Ukrainian Congress Committee of America, which represents not only Americans of Ukrainian Catholic background but also Orthodox and other religious affiliations, early in 1963 resolved to attain this goal. Since then, the movement expanded and gained impetus, though there were several unsavory expressions from fanatical elements. About two years ago the Ukrainian Catholic bishops formed a synod, but it was declared invalid by Maximilian Cardinal de Furstenburg, prefect of the Roman Curia's Eastern Rites Congregation. Nevertheless, the movement in tactful and moderate turns continues.

"Ukrainian Prelates End 'Synod' in Rome," a report. *The New York Times,* New York, November 6, 1971.

Five days of synodical deliberations ended with the Ukrainian Catholic bishops, 16 of them, establishing a five-member permanent synod to govern the Ukrainian Catholic Church. As reported, the "synod" in 1971 sought to establish the principle of self-government and dealt with procedures for the election of their own bishops.

Also reported was the reception extended by Pope Paul VI to Metropolitan Ambrose Senyshyn of Philadelphia. Archbishop Senyshyn is one of the prelates elected to the new permanent synod of five. The matter of a patriarchate is an outstanding one and in time will be resolved in the broader field of global politics more so than simply through the Vatican. For though some are unable to understand it, the problems of "detente" with Moscow, pressures within the USSR and other matters are tied up with this particularist issue. In short, it will require for its realization a more favorable environment, which inevitably in time will come.

"Pope Reportedly Bans Synod of Ukrainian Rite," an AP report. *Buffalo Evening News,* Buffalo, New York, October 30, 1971.

Without duplicating the reports and accounts appearing in other publications, this report furnishes some additional insights into this historic event. It states, "The Ukrainian rite has for years been a thorn in the side of Soviet authorities, who identify it with Ukrainian nationalism." There can be no question that the issue is an integral part of the general struggle for the freedom and independence of Ukraine. The problem among Ukrainians in various countries has been largely tactical than anything else. The problem for Moscow resides in the nationalism prevalent within Ukraine itself and its support from the outside. The convergence of events itself will in the last analysis determine its outcome.

"Ukrainian Catholics Seek Freedom From Vatican Control," an article by William R. MacKaye. *The Washington Post,* Washington, D.C., November 6, 1971.

One of the most thoughtful articles written about the formation and undertaking of the Ukrainian Catholic Synod is this piece by a well-known, religious writer in Washington. At the outset he observes, "The speediest way to decentralization in the Roman Catholic Church, as Ukrainian Catholic leaders appear to have demonstrated this week, is simply to declare independence of direct control by the Vatican." This couldn't have been phrased more aptly and perceptively.

The writer is correct in pointing out the goal of self-governance and its important application "in the area of selecting Ukrainian bishops through machinery of their own rather than deferring authority to the Vatican." With foresight, he asserts that ultimately the Ukrainian bishops seek to assert their right in selecting a successor to Cardinal Slipyj as leader of the Ukrainian Church. In addition, a number of salient facts are neatly assembled in this article. One, for example, refers to the Ukrainian Catholic rite as the largest of all the Eastern churches recognizing the supremacy of the Pope. A second fact is the resistance put up for nearly 25 years by Stefan Cardinal Wyszynski of Poland to the appointment of Ukrainian-rite bishops in three Ukrainian dioceses. It is estimated that over a half million Ukrainians live at present in Poland. His description of Soviet Russian repression of the Ukrainian Catholic Church in the USSR is standard and well incorporated.

"Wives of Soviet Dissidents Lead Difficult Lives" an article by Roman Rakhmanny. Winnipeg Free Press, Winnipeg, Canada, October 11, 1971.

The writer of this highly informative and well-written article is a journalist in Montreal and the author of numerous articles on the Soviet Union and Eastern Europe. As his title indicates, the plight of wives, and of mothers and sisters as well, is described under Soviet Russian conditions where husbands, sons and brothers have been unjustly imprisoned for years because of their defense of human rights and even national freedom. His description of the wives of Soviet dissidents as being the most tragic among the underprivileged women in the world is no exaggeration.

With interesting factual report, the writer vividly portrays the struggles of such women as Zinaida Grigorenko, Gyuzel Amalrik, Raissa Moroz, Nina Karavansky, and the wife of M. Ozorny. As he rightly observes, "To stand by an arrested or sentenced man in the Soviet Union means literal hell for a woman." Loss of employment, forced changes in living quarters, discrimination against one's children and a host of other social abuses are the lot of these courageous women. On record, it appears that the wives of Ukrainian dissenters are subject to even greater misfortune. Those in Women's Lib and similar movements of momentary fashion might well spend their time and energy fruitfully by concentrating on the real plights of their feminine counterparts in the USSR. A reading of this article and its choicely selected contents would be an instructive lesson to the Lib's in the ways of negative freedom.

"What Can We Do About the Soviet Union?", an editorial by Ray Lapica. *KACE Radio*, Riverside, California, August 26, 1971.

The writer of this editorial is president of KACE and a long-time student and analyst of the Soviet Union. The editorial is concerned about what the writer regards as "today's greatest menace to the United States . . . the Soviet Union." It rejects proffered solutions to the problem along lines of compromise, live-and-let-live, and so forth, "as though the Kremlin will permit us to do that . . ." It finds, however, a common sense solution in the position advanced in the book *The U.S.A. and The Soviet Myth*, written by Dr. Lev E. Dobriansky of Georgetown University.

As broadcast to listeners in southern California, the editorial held that the most important step to be taken at first is to explode the many myths surrounding the USSR. Chief among these "is the common belief held widely in this country that the Soviet Union is a powerful nation of Russians." It went on with Dr. Dobriansky's solution through concentration on the non-Russian nations in the USSR, the nationalism prevalent among them, and the measures to be taken in the trade, diplomatic, political and other areas. To paraphrase a familiar quotation of the moment, not to confront the many nations in the USSR, but to negotiate with their peoples.

"Moroz Rocking the Empire of Soviet Cogs," an article by Roman Rakhmanny. *The Windsor Star*, Windsor, Canada, October 21, 1971.

Valentyn Moroz, the heroic Ukrainian history teacher, is the chief subject of this lucid and factually packed article. Authored by an outstanding Canadian writer and journalist, whose other recent contribution was cited above, the article surveys the imprisonments, the writings, and the effects of the 35 year-old dissident's struggle in the USSR. The pitch of the fascinating presentation is summed up by the writer in these words: "Herein lies the significance of Moroz's self-sacrifice; the huge empire of cogs is rocking because this human cog would not keep silent."

Any totalitarian state is one of human or de-humanized automations, except of course for those in the driver's seat. The vast population in the USSR is driven as a mass of cogs. Moroz develops this truth in his essays, particularly his "Report From the Beria Reserve," which was written in a Mordovian slave labor camp. He was incarcerated there for four years on charges of "spreading anti-Soviet ideas." His other essays, which significantly made their ways to the Free World, are described here with emphasis on their plea for individuality, personal creativity, and human dignity. These essays and the man himself have made a deep imprint in Canadian, American and other circles.

"Address on the Right of Peoples to Self-Determination," delivered by the Honorable Edward J. Derwinski. Release USUN–186 (71). United States Mission to the United Nations, New York, November 15, 1971.

One of the most striking addresses made yet in the U.N. on the subject of national self-determination was delivered by Congressman Edward J. Derwinski last November. Quite appropriately, it began on this theme, "My country has a rich heritage of independence from colonial rule which Americans have cherished for almost 200 years." Then, in view of an outstanding congressional resolution on the forcible incorporation of the Baltic states, the able Congressman dwelled at length on Soviet Russian domination over the three Baltic countries.

In this and a subsequent release he amplified his statement by referring to "the grim events of 1956 and 1968," meaning the Russian rapes of Hungary and Czecho-Slovakia. He later alluded to "the other non-Russian nations in the Soviet Union." It appears that some high-level policy restraints were in operation. The U.S. still maintains proper relations with the free Baltic legations in this country. In his remarks in U.N. Committee III on human rights, the Congressman declared on November 16, "I would hope that this would in some way help lead to better treatment of the non-Russian peoples within the USSR."

"In an Atmosphere of Friendship and Understanding," excerpts from an address. *Radyanska Ukraina*, Kiev, UkSSR, May 22, 1971.

The excerpts from a published address here refer to that delivered by the Prime Minister of Canada, Pierre Elliott Trudeau during his visit to Kiev and the Soviet Union. On May 21 the so-called government of the Ukrainian SSR sponsored a dinner in his honor. Attending the affair were such officials as V. V. Scherbytsky, chairman of the republic's council of ministers, B. P. Miroshnechenko, USSR ambassador to Canada, and V. O. Husyev of the Kiev city council. In his calculated opening remarks Scherbytsky spoke of growing understanding between the people of Canada and the USSR and elaborated as follows, "What I mean is the fact that quite a number of your compatriots—Ukrainians by origin whom fate at various times drove across the ocean—have helped and are helping Canadian development through their fruitful labor efforts." He stressed, "After becoming Canadian citizens, many of them do not forget about the Ukraine; they take pride in her achievements and wish her happiness and prosperity."

Many a Canadian of Ukrainian ancestry can accept the last statement but not with the meaning cast. Happiness and prosperity yes, but as it can only be in a free Ukraine. Some aspects of Trudeau's short address are scarcely palatable to Canadians of Ukrainian background. His reference to visiting "a number of Soviet republics" and construing them as "local governments" from which he learned "the kinds of problems that face the provinces of Canada" is hardly suggestive of a commanding grasp of the situation in the USSR. He topped off his complete misunderstanding with the celebrated toast, "Today, we, your Canadian guests, salute Kiev—*The mother of Russian cities.*" One wonders how some of Trudeau's hosts reacted to this, for that kind of a mother would have to be Russian, too.

"Remarks by the Prime Minister to the Ukrainian-Canadian Congress," an address by Prime Minister Pierre Elliott Trudeau. Release, Office of the Prime Minister, Winnipeg, Canada, October 9, 1971.

Prime Minister Trudeau appeared before the Ukrainian Canadian Congress in Winnipeg and addressed the delegates exclusively along cultural lines. He expressed satisfaction in celebrating with them "the 80th anniversary of the arrival in Western Canada of the first Ukrainian settlers." His other pertinent points dealt with the multi-ethnicity of Canada, the utility of language, and the contributions of Canadians of Ukrainian origin to the culture of Canada.

" 'Realism' Toward China Founders on U.N. Issue," an article by Crosby S. Noyes. *The Sunday Star*, Washington, D.C., September 19, 1971.

Realism is in questionable quote here as concerns the U.S. two-China policy. Events the following month had borne out the writer's skepticism. However, his comment on "Byelorussia and the Ukraine as semi-autonomous provinces of the Soviet Union" and as an example for Taiwan's membership is grossly lacking in understanding.

CUTS IN THE VISTA AND PEACE CORPS PROGRAMS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HARRINGTON. Mr. Speaker, I wish to offer a few remarks on what is presently happening in the VISTA volunteer program.

At the time of the proposed merger of the various Government volunteer programs including VISTA and the Peace Corps last spring, many of us in the Congress expressed fears that such a merger would only be the first in a series of steps to eliminate the domestic poverty effort that VISTA represents.

Mounting evidence suggests that our fears were well grounded. Despite Mr. Blatchford's and Mr. Shultze's official assurances that the VISTA program would be greatly expanded and strengthened, in fact the number of volunteers for the program will slump to less than 4,000 by the end of June. On March 1, 1971, there were approximately 4,750 volunteers. Essential services such as training, transportation allowances and other forms of support to volunteers in the field have been drastically reduced, thus seriously impairing volunteer effectiveness.

A similar story of cutbacks could be told for the Peace Corps. These cuts disturb me, Mr. Speaker, because they seem to support the rumor that the administration really does not care about the poor, whether they live in this country or abroad. I would like to insert the following article, from the April 1 issue of the Saturday Review, which in a satirical way, portrays what has been happening to VISTA and the Peace Corps:

R.I.P.: PEACE CORPS AND VISTA

(By Wallace Roberts)

PORTLAND, OREG., April 1, 1973.—Peace Corps and Vista, that charming couple of liberal hope who danced, sang, and chatted for millions of Americans during the Sixties, died last week in a Portland, Orgeon, nursing home, penniless and without friends. The cause of death in both cases was reported to be lack of support, but it was understood that this attack was complicated by advanced stages of trivialization.

Peace Corps, the elder of the famous pair, was born of Confused Generosity and Good Intentions in Hyannis, Massachusetts, on December 6, 1960. Vista, his constant companion and colleague during the last half of his career, was the offspring of Genuine Concern and Co-optation and was born in Washington, D.C., on March 26, 1966. Together the couple gave Americans many hours of relief at a time when things seemed darkest. What Counter-culture, with its famous progeny, Woodstock and Alternate Life Style, was for the children, Peace Corps and Vista were to their parents.

For more than half the decade, Peace Corps alone dazzled the imaginations and warmed the hearts of many. He was a dashing figure, exotic, yet mundane, in a straightforward, innocent way. When he was later joined by Vista, his domestic counterpart who did so much for those who had never heard of Peace Corps, the pair became one of the most popular in the Liberal Circle. They were invited to fashionable dinner parties, where they were constantly invoked as the Hope of This World. They made several guest appearances on *Meet the Press*, where they gracefully accepted the apologies of their interrogators for having to ask tough questions. They were also the only couple ever to be honored two years in a row by Americans for Democratic Action. They stood for all that is best in Americans, and a grateful but troubled nation reached out to them, the last straws held out by the ever-elusive figure Domestic Tranquillity.

Circumstances surrounding the death of the team are clouded by Managed News, the Portland County Coroner, who has insisted that there be an autopsy for the advancement of political science. Meanwhile, rumors are replete, a few even suggesting that the deaths were due to other than natural causes, specifically conscious neglect. Coroner News has emphatically denied such a possibility, but until his report is made public, which is not expected to happen for another week when he presents it to the authorities, the speculation will undoubtedly continue. Our correspondent has, however, pieced together the following account of the last days of Peace Corps and Vista, based on numerous interviews with acquaintances and relatives of the deceased, as well as their critics and detractors. He has also had access to some of the preliminary reports made to Coroner News by the attending physician, the staff of the ACTION Nursing Home, and eyewitnesses.

Peace Corps and Vista moved into the ACTION Nursing Home on July 1, 1971, after languishing for more than two years in obscurity, playing to small audiences in the supper clubs of suburbia for a half and sometimes a quarter of their former income. At the peak of their fame they had been able to command fees of almost $200-million for a single fiscal year's engagement, but in their last days they considered themselves fortunate to get enough bookings to live on. In the end, even though they adapted gracefully to the more modest style demanded by their cramped quarters, they were playing to near empty houses.

Neither of them was ever known to speak harshly of the public for its great change of taste that put them and so many of their friends from the Reform Movement out of jobs. In fact, Peace Corps himself once said in an interview after the announcement of the loss of the War on Poverty, "It wasn't anyone's fault. We tried to make people happy, to forget their wretchedness for a moment, and I think we almost succeeded beyond what we had any right to expect. But people are impatient, and who are we to question their right to that?"

The move into the nursing home was made with just the amount of fanfare necessary to attract notice but not enough to convince many that anything really serious was wrong. Nevertheless, it was accepted without any real objection, partly because Peace Corps and Vista were simply not worth worrying about anymore, and partly because the thing today is to shuffle old ideas aside without admitting that they were naive or inadequately considered or just bad. You can't simply shut them away, but clearly they no longer are the big box-office attraction they once were, and letting them troupe around small-time circuits only underlines the fact that they are regarded as has-beens; so you have an announcement.

Richard Nixon, President of the National Political Performers Guild (which administers Peace Corps's and Vista's pensions and insurance policies), made the announcement of their move into ACTION on March 20, 1971, in Lincoln, Nebraska, before an audience carefully screened of possible troublemakers. He praised Peace Corps and Vista for their service to the politics industry and to the great American audience. He said that without their generous, unsolicited efforts both America and the World would be less happy places. Now, the time has come, he said, "to forge an alliance of the generations" by moving Peace Corps and Vista into the ACTION Nursing Home.

Mr. Nixon emphasized this was not a forced retirement for the two old performers. He said they would remain active, and to illustrate this he said he was also moving Foster Grandparents and Retired Service Volunteer Corps plus equally unknown old performers from the Small Business Administration into ACTION along with Peace Corps and Vista. He said he realized that none of these other performers had quite the fame of Peace Corps and Vista, but the best way to ensure that all performers can keep on giving the public what it wants is to group them according to type. Since all of these depended on volunteering, they should all be in the same nursing home that would, in his words, provide "a new volunteer service corps that will give young Americans an expanded opportunity for service."

The announcement was followed by months of planning and more announcements about how well the planning was proceeding and about what great places modern nursing homes were. Mr. Nixon appointed a promising, young dues-paying member of the Performers Guild, "Just Plain Joe" Blatchford, to take over as director of ACTION and, with appropriate ceremony, swore him into office. Among the rumors sweeping Portland this week is one that implies that the death of Peace Corps and Vista happened either directly or indirectly at the hands of this man.

Those who say "directly" assert that Blatchford was too intent on being promoted to the directorship of the state Mental Institution to do a good job of caring for the elderly. Those who say "indirectly" claim that there was deliberate intent on the part of the Performers Guild, which had instructed Blatchford, accordingly, to let the old troupers die by mismanagement under the guise of reorganization.

Neither rumor is true. Blatchford's record is spotless, and the public records of the Performers Guild show no such intention, even though it is known that a number of its members are not mourning the deaths.

"Just Plain Joe," as he asks everyone to call him, has an honest but abashed desire to serve his fellow man. In an interview with this reporter, Mr. Blatchford waved off the charges that he craved stardom himself or that he was the hatchet man for the Performers Guild. "We are at a point in history," he said, "at which it is absolutely necessary for government and society to rekindle this magnificent thing that Americans have—the willingness to do something.

"The point of leverage in ACTION is that it's primarily staffed by the person who leaves his private life and job for one or two years. It costs government less than $5,000 or $6,000 a year for dedication greater than the professionals give. In addition, you get feedback; we have 23,000 volunteers who are not paid to be yes-men. They are volunteers who will walk off the job. They'll tell you what's wrong.

"It's good for this nation's mental health. We've been through the war, the urban riots, and campus disturbances, and now we have college graduates who are asking, 'What can we do?'

"Remember, it was one man who invented the miracle rice, and it's the Peace Corps volunters who are teaching people how to grow it. *Sesame Street* may lead to a new idea in early childhood education, and it's the Peace Corps volunteers in Thailand who are doing it. What we're doing is spreading attitudes. There are Peace Corps types around the world, and now they are coming from other countries."

And so it went for more than half an hour. We were interrupted twice by members of the nursing home staff who had to confer with the director over financial problems; indeed, it seemed as if the whole staff of ACTION was more concerned with their own economic survival than with caring for their patients, a condition that bolsters the statement that Peace Corps and Vista died from lack of support.

Dr. Troubled Economy, the ACTION staff physician who was with Peace Corps and Vista to the end, said in his report to Coroner Managed News that it is true that the patients did lack support and that this technically was the cause of death. However, he went on, "Lack of support is a disease like pneumonia; that is, it doesn't usually exist unless it is brought on by a more fundamental weakness, such as simple exhaustion or an even more debilitating but slower acting disease. In the case of Peace Corps and Vista, the disease was a once rare but now quite prevalent form of diminution called trivialization."

Asked to explain in layman's terms just what this disease did to the body, Dr. Economy said in a telephone interview that trivialization attacked the soul and, by fragmenting its relatively few parts into millions of tiny duplicates, made them, in effect, useless. This brought on, he said, severe side effects, such as ennui, insecurity, frustration, and, in a few cases, despair or fear. "Together, all of these amounted to disenchantment, which in simple political terms means lack of support."

At that point in our conversation, Dr. Economy was recalled to the dinner party he was attending at the Portland County Country Club, but he referred this reporter to Professor False Dichotomy, who holds the Walt Disney Chair of Social Pathology at the University of California at Nevada City, for a more complete and thorough description of the effects and causes of trivialization.

Professor Dichotomy said, "Trivialization is a disease of the primary mythologizing system. Its basic cause is an obscure virus, hitherto regarded as benign in terms of human biochemistry. The common name of the virus is Soaring GNP, and the method of infection is through media pollution, particularly on the *Six O'Clock Report* or in the "modern living" sections of the newsweeklies."

Professor Dichotomy said that the conditions that favor the Soaring GNP virus, and upon which it depends for sustenance, are the simple Machiavellian devices of disarming potential enemies by using their own weapons "combined with the spongelike quality of this society that leads it to latch onto whatever idea is the latest. No distinctions are made between fads, fashions, and genuine ideas. All are indiscriminately popularized and, hence, rendered useless, since they all appear equally valid and valuable."

Vista herself had some understanding of her affliction. In a letter she wrote to her parents in Weymouth, Massachusetts, four years ago, she said, "I know that Peace Corps and I are really watered down ideas of fundamental change, but I think that although no real power will change hands through our efforts, we can do some good in small ways."

And in April of 1972, just a year before she died, Vista again wrote her parents, "I fear we are useless now. We can't even cheer the faithful following that grows smaller every day; they all seem to prefer the up-and-comers like Ecology. I feel wretched and miserable—I want to do so much, but I'm so weak and tired all the time."

Miss Placed Idealism is a nurse at the ACTION Nursing Home, and yesterday she described the therapy that had been administered to Peace Corps and Vista since they entered the home. "They were both pretty debilitated when they got here," she said. "Peace Corps bookings alone had dropped from 42,000 in 1966 to 19,000 in 1970. There wasn't much we could do for them, but we tried. We put them both on a strict diet and tried to feed them specialized material that would be more receptive to their audiences. They began to respond to treatments, and bookings took on a slight increase in the last few months."

What then finally killed them? Why did they suddenly succumb? "I don't really know," Miss Idealism said. "No one does, and anyone who pretends to know is fooling himself. Trivialization is a strange disease It can lie domant for months and even appear to be defeated by treatments; then suddenly the patient just pops off, apparently in this case because the disease had progressed further than any of us expected. You just can't fight the ratings."

You just can't fight the ratings. To the generation that took *The Greening of America* to heart, those gentle democrats who believed there were rational solutions. Peace Corps and Vista were symbols of a way out, of Hope itself. Any public is fickle, but the politics industry is, perhaps, the most fickle of all. Whatever the coroner's verdict, the real cause of their deaths, and the obscurity that preceded them, is our own perception that they were only what we made them.

FORCED BUSING

HON. JACK H. McDONALD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McDONALD of Michigan. Mr. Speaker, I believe the Supreme Court misinterpreted the equal protection clause of the 14th amendment and the intent of Congress in the 1964 Civil Rights Act in its decision of April 20, 1971, which upheld the use of busing as an interim method for eliminating from the public schools all vestiges of deliberately fostered segregation. Various legislative attempts, both before and after this significant decision, to prohibit forced busing have been disregarded by the courts and, therefore, have proven ineffective. Clearly, other solutions to this problem are needed.

On March 16, the President offered his plan designed to come to grips with the busing issue. He has proposed the observance of a 1-year moratorium on busing during which time the Congress, working with the States and localities, can develop a system that will assure an equal, quality education for every child. I wholeheartedly support this approach.

While the President's proposal buys us some time in which to work out our educational problems, I feel that the ultimate and most effective answer to the busing dilemma is the enactment of a Constitutional amendment. As you may know, I am involved in a campaign to secure the adoption of House Joint Resolution 620, a proposed Constitutional amendment which provides that no public school student shall, because of race, color, or creed, be assigned to or required to attend a particular school. The House Judiciary Committee is reviewing this resolution. I am hopeful that the committee will report the measure; in the event that such action is not forthcoming, efforts to discharge House Joint Resolution 620 will continue.

THE 75TH ANNIVERSARY OF POLISH NATIONAL CATHOLIC CHURCH CELEBRATED BY MEMBERS IN CLEVELAND

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. JAMES V. STANTON. Mr. Speaker, last Sunday the five Polish National Catholic Churches in the Greater Cleveland area held ceremonies commemorating the 75th anniversary of the church's founding, and I would like to extend my warmest congratulations to the members and officials upon this occasion. For a great many Americans of Polish descent, the Polish National Catholic Church has provided spiritual guidance and support in these times of uncertainty, and its growing membership indicates the degree of success it has had in conveying moral and religious values.

At the celebration in Cleveland, the speakers expressed a strong feeling of optimism for the future growth of the church, and I would now like to insert in the Record the following article from the Cleveland Press which describes the celebration:

[From the Cleveland Press, Mar. 27, 1972]

More Growth Predicted for Polish Church

A further growth of the Polish National Catholic Church in America, Canada and Poland was predicted by speakers yesterday at Holy Trinity Catholic Church, 7460 Broadway.

The occasion was a 75th anniversary celebration of the founding of the Polish National Catholic Church in Scranton, Pa., by the late Bishop Francis Hodur.

A jubilee banquet at noon followed anniversary services celebrated by Bishop John Misiaszek, Holy Trinity pastor and leader of Ohio's 19 Polish National Catholic churches.

Principal speaker was retired Polish National Catholic Bishop Bernard Golawski. He explained the 75-year growth of the church which now has 165 parishes in America, 18 in Canada and 185 in Poland.

Father Casimer Wilczyk, pastor of St. Mary Church in Parma, one of the five Polish National Catholic Churches in Greater Cleveland, gave the English address.

PRETTY GIRL MODEL PURSUES SUCCESS

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. NICHOLS. Mr. Speaker, every now and then, we read about some young person who, in spite of numerous difficulties, becomes a success and then strives to help others who have similar disadvantages. I have a number of such people in my district. One young lady who has done just this is Miss Trisha Mitchell of Anniston who was recently featured in a story, written by Frank Sikora, which appeared in the Birmingham News. I would like to enter this article for the reading of my colleagues with the hope that Miss Mitchell's desire to return to Alabama and help disadvantaged youngsters becomes a reality.

The article follows:

[From the Birmingham (Ala.) News,
Mar. 23, 1972]

Motives Steel Determination—Pretty Girl Model Pursues Success

(By Frank Sikora)

Anniston.—One night about a year ago Trisha Mitchell sat down at the kitchen table and wrote a little poem about a girl going to New York.

Going there to be a fashion model has been Trisha's dream since she was eight.

Now, it's finally going to happen.

"I just can't wait," says the lithe blonde who stands just a shade over 5'9". "I've made up my mind that I'm going to make it up there and I'm determined . . ."

Although "making it big" is a long shot for any girl in New York, that fact that Trisha is even going is remarkable.

Her father left home when she was two and money was hard to come by; living in a low-rent government project, she watched all her sisters and brother drop out of school.

With little to inspire her, she made plans early in high school that she would do the same.

The only time she would dismiss the notion was when she would daydream. "I used to have a Ouija board and I'd ask myself if I'd ever go to New York. I'd cheat and make sure the answer came up yes."

The daydreams were more real than she had imagined.

At 14 she enrolled in a modeling course with Macy Harwell who immediately recognized talent when she saw it.

Trisha (her real name is Patricia but she changed it she says, because she could never write the letter "P" very well) soon blossomed as one of the top students.

When those feelings to quit school erupted, it was Mrs. Harwell who would give her a pep talk. "You have to finish," she would tell her.

But it wasn't until she was in her final year at Saks High that she knew for sure that she was going to stay with it and graduate.

Last year she entered and won the Miss Anniston pageant and came to Birmingham for the Miss Alabama. She didn't win but did earn a scholarship with the Mannequins Agency in Birmingham.

Yet, the thing that really impressed her most was the reaction of the children living in the housing project. "When do you get to move into a castle," some of them asked.

"They really thought I was something," she beamed, "and all of a sudden I knew that I wanted to help them. They were poor, many of them unwashed. They had nothing."

Trisha got permission from the project manager to use a small activity building for a couple of hours a days and started a modeling class. More than 30 kids from 6 to 14 showed up and stayed with it faithfully for a month.

As the finale, she had set up a fashion show at Quintard Mall and borrowed a furniture truck to transport the youngsters. "It was a great show," she said, "and the kids really outdid themselves."

Meanwhile, Mrs. Harwell had hired Trisha as a full time instructor, advancing her a couple of paychecks to help with clothing needs.

In addition, she models part time during dinner hours at Ramada Inn and the Downtowner, and works nights as a sales clerk at a clothing store at Quintard Mall.

In mid-April they will go to New York to take part in a modeling event which could launch Trisha's career there.

"I'm going to make it," she insists. "I want to stay up there for about three years, make some money and contacts, then come back here and help underprivileged girls pursue modeling careers. I mean the girls who have no hopes of doing so on their own."

Helping the underprivileged or handicapped has already been part of her activity. Along with Mrs. Harwell, she has donated time teaching modeling to blind and deaf girls at Talladega School for the Deaf and Blind.

"This is really an inspiration to me the way the girls catch on. The blind ones have to touch my feet and hands to understand a stance. And I've learned sign language to talk with those who can't hear."

Last month those girls put on the first fashion show in the country in which the models were exclusively deaf and blind.

"I want to help people," says Trisha, "but in order to do it I have to go to New York and be a success. When I come back I will help those who need help. And someday I want to write a book filled with nothing but poems . . ."

To those who know her—including the tots in the project and the girls at Talladega—whether Trisha makes it big in New York or not, she's still a success. Smashing, in fact.

EDITORIAL URGES CRITICS OF PRESIDENT TO STUDY SCHOOL REPORT

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. COUGHLIN. Mr. Speaker, I am pleased to bring to the attention of my colleagues an editorial that was published in the Philadelphia Inquirer on the importance of the report by the President's Commission on School Finance.

While the topics of schoolbusing and Federal aid to education are attracting widespread attention, the editorial correctly points out that the significant findings detailed by the report deserve scrutiny. The editorial urges the President's critics to "stop their sniping long enough" to study this document.

The editorial, "Critics of Nixon's School Plan Should Read That New Report," was published in the Philadelphia Inquirer on March 22, 1972.

The text of the editorial:

CRITICS OF NIXON'S SCHOOL PLAN SHOULD READ THAT NEW REPORT

President Nixon's message on busing, and his proposal for $2.5 billion in federal aid during the next fiscal year to improve the quality of education in poverty areas, give new significance to the recent report of the President's Commission on School Finance.

The commission documented widespread neglect of education in urban slums and recommended massive new funds to bring poverty area schools up to standards prevailing in more affluent communities. This is precisely what the President has proposed.

Mr. Nixon's legislation is designed to deal with the immediacies, pending development of a long-range program to end the tragic neglect of poverty schools. The commission's report has timely relevance to long-range needs, too, especially in the light of recent court rulings that public education financed by local property taxes is discriminatory against children in communities with a low tax rate or substandard tax base.

A key recommendation of the commission is that equality in education should be achieved without lowering the quality of education in any school system. This would be done by raising the standards of all schools in each state to the highest prevailing standards in that state.

To accomplish this, the commission proposes a federal subsidy of about a billion dollars a year to the states plus another billion to be used for upgrading education in urban areas where quality is low and costs are high.

Under this formula an additional expenditure of $6 billion a year by the states nationwide would be required to bring all their schools up to highest current standards, the commission's staff estimates.

These are huge sums, but they are not out of reach for a nation that poured more than $40 billion into the space program during the 1960s.

Whether city schools would be better off with states assuming more of the financial burden for public education would depend on the fairness of state governments in allocating funds. Philadelphia schools have consistently been short-changed by legislators in Harrisburg when money for schools is apportioned.

Unequal treatment of school districts by unfair state governments is no less discriminatory than inequities resulting from the financing of schools by local property taxes. Either way, the kids in city slums are the victims.

The U.S. Supreme Court has not yet ruled on the property tax issue and, until it does, the future role of states in financing public education will be clouded in uncertainty. Meanwhile, President Nixon proposes action now—on the premise that neglected schools in poverty areas should not be condemned to continuing substandard quality of education while seemingly endless litigation drags on in the courts.

Mr. Nixon's approach goes beyond the legalisms and gets to the heart of the matter—the children in poverty areas who, unless they are provided quality education in neighborhood schools without further delay, will be denied equal economic opportunity as adults. The President's critics should stop their sniping long enough to study the report of the Commission on School Finance.

THE PLIGHT OF THE AUTISTIC CHILD

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HARRINGTON. Mr. Speaker, yesterday, I inserted in the RECORD two articles describing the abhorrent conditions that exist in some of our institutions for the mentally retarded. Certainly, many of the so-called institutions resemble warehouses for human beings more than they do centers of rehabilitation for the mentally ill. I inserted these articles in an effort to speak out on behalf of those who cannot speak for themselves. Today I would like to continue that effort and address myself to the plight of the autistic child.

While most of us think of mental illness in terms of mental retardation or cerebral palsy, it encompasses much more. "Mental illness" is just an umbrella under which fall the diseases of autism, aphasia, hydrocephalus, just to name a few. Each of these disorders is distinctly different, though we tend to group them into one category. The result of this is very little understanding of the types and degrees of mental illness. I would like to concentrate today on just one of these disorders—autism.

What exactly is "autism"? The dictionary defines it as—

> A state of mind characterized by daydreaming, hallucinations and a disregard of external reality.

Mr. Speaker, it is much more. It is a child who, although he looks very normal and quite often handsome, is a world apart from others. It is a child that lacks normal and seems not to hear and is, therefore, assumed deaf and even dumb. It is a child who is often disruptive, hyperactive, and hard to manage and yet one who leads a robot-like existence because he is so detached from the world of reality. And lastly, it is a child who cannot think conceptually and must be taught to relate to the real world on every level. The starkness of his handicap is overwhelming; the story is a heartbreaking one.

The autistic child is in desperate need of individualized education in order to relieve or reduce his plight. There is a paucity of educational services available to him. The cost of special education programs and training efforts are almost prohibitive. His needs are abundant; the resources are negligible.

Along another line, his disease, like all other forms of mental illness, carries with it a pejorative social stigma. All too often we view mental illness as an individual failure or shortcoming rather than as a disease. In doing so, we suppress the reality of the situation and thus deny the potential for curing these mysterious disorders. In turn, families suffer unneedful problems.

Mr. Speaker, I call for a concerted effort on the part of this body to seek to "cure all children with severe disorders of communication and behavior such as infantile autism, childhood schizophrenia, and other child psychoses." We can afford to do no less.

I submit this article in the hope that it will increase the public awareness of autism.

The article follows:

[From the Wall Street Journal, Mar. 22, 1972]

DENIAL OF EDUCATION TO ABNORMAL CHILDREN SPURS PARENT PROTESTS—MANY LAWSUITS SAY STATES NEGLECT THE HANDICAPPED; REBUTTAL: LACK OF MONEY

(By David Gumpert)

MEDFORD, MASS.—Every weekday morning at about 7:30, 14-year-old Wayne Keel stations himself by the living-room window to watch the yellow school bus pick up the children from neighboring houses in this pleasant Boston suburb. As he watches the bus make its round, the thin boy turns to his mother and asks, "Go to school?"

Sometimes Mrs. Keel tells Wayne that school is closed. On other days, she tells the boy that he's too old to go to school. Wayne never presses the issue, but the mother knows her son isn't satisfied, because the question always comes up again. "I think he's really puzzled," Mrs. Keel says. "Every day he looks out and sees that bus, and he can't understand why he isn't going to school."

The morning ritual in the Keel household has been going on for almost two years now. The reason: Wayne Keel is afflicted with autism (a little-understood form of schizophrenia characterized by withdrawal) and also shows signs of mental retardation. His schooling stopped in April 1970, when the special private institution that he'd attended said the boy's behavior made further assistance impossible.

Now, Wayne Keel has nowhere to go for schooling. The Medford public school system says it doesn't have any regular classes for severely disturbed children. The few state and private schools that are equipped to handle children like Wayne are full. Since mid-1970, the boy's sole schooling has consisted of sporadic private tutelage, ranging from one-and-a-half to 10 hours weekly, provided by the Medford system. So Wayne, who has no friends or playmates, spends his days pasting together paper rockets and buildings, and babbling to himself.

A COMMON PLIGHT

The plight of Wayne Keel, unfortunately, is far from uncommon in the U.S. According to Department of Health, Education and Welfare estimates, fewer than three million of the nation's approximately six million handicapped children of school age are receiving adequate special education. And of those who aren't receiving special attention, slightly more than two million are either in regular classes, where they're often failing and learning little or else they're receiving a minimal amount of home instruction, like Wayne. About a million receive no instruction whatsoever.

"This means there are more than three million children for whom the American school system has said, 'We don't have the time or the resources to provide you with an appropriate education,'" says Fred Weintraub, assistant executive secretary of the Council for Exceptional Children, a nonprofit organization for the handicapped based in Arlington, Va.

Until recently, protests have been rarely voiced by parents whose handicapped children were excluded from special programs. In the vast majority of such cases, however, this lack of action hasn't been caused by apathy. Rather, many parents were reluctant to discuss their abnormal children because of the real or imagined social stigma involved in the desiring of retarded or emotionally disturbed off-spring.

CHANGING ATTITUDES

But attitudes have changed, largely because of increasing exposure in the media and in discussion groups of the many families (including prominent families) whose children are handicapped. Around the country, parent groups are going to court in an attempt to force school systems to provide special classes for abnormal children. For example, class-action still on behalf of abnormal, out-of-school children have been filed in the District of Columbia and a number of states, including California, Pennsylvania, Michigan, New York and Maryland.

Such activity is beginning to have some effect. Federal courts in Pennsylvania and the District of Columbia have already cleared the way for at least some handicapped children to be enrolled in special public-school classes. And on both federal and state levels, legislation is being proposed to grant handicapped children the same educational rights as other children have. (Among the states, Florida, Georgia, Massachusetts and South Carolina are in the process of overhauling their laws on education to benefit handicapped children.)

"The incredible number of . . . handicapped not receiving any educational services is one of the great tragedies in the American way of life," asserts Rep. Charles A. Vanik (D., Ohio); sponsor of a bill in the House that would amend the 1964 Civil Rights Act to prohibit discrimination against the handicapped in federally assisted programs, including education-aid plans. The House bill and an identical bill in the Senate are pending.

Federal agencies have also become increasingly active in protecting the educational rights of the handicapped. According to Edwin Martin, associate commissioner for the Health, Education and Welfare Department's Bureau of Education for the Handicapped, federal spending to spur the education of the handicapped has increased to an estimated $215 million this year from $45 million five years ago.

OPTIMISM FOR 1980

Mr. Martin also cites the fact that the number of handicapped children being placed in special classes has been increasing at a rate of about 100,000 a year for the past five years—partly because of increased federal spending. He adds that this rate should accelerate to the point that by 1980 all handicapped children will be receiving an adequate education.

But such acceleration is dependent on state cooperation—and school systems in most states have traditionally done little for handicapped children. To be sure, some public schools have established special classes for the handicapped; but more often than not these classes aren't all-inclusive in their acceptance of pupils, and many will accept only those with the mildest disabilities. Medford, for example, has elementary school classes for mentally retarded children, for children with mild emotional disturbances and for those who are blind or visually handicapped; it has no classes for other types of handicapped children. (State residential schools, which usually do accept severely disabled children, are in most cases hopelessly overcrowded and understaffed—New York's highly publicized Willowbrook being a case in point.)

"The more serious the handicap, the more difficult it is to get services," Mr. Martin says. "It's kind of as if a doctor would treat you if you had a cold but not if you had pneumonia."

Certainly, the range of abnormalities afflicting handicapped children is wide. Such abnormalities, which often stem from birth defects, include emotional disorders, deafness, blindness, cerebral palsy and other types of brain damage, and mental retardation. It's estimated that 10% to 12% of all school-age American way of life," asserts Rep. Charles children have one or more of these handicaps.

Despite the problems of educating all these children, Mr. Martin believes further state cooperation is possible. Furthermore, he says, it's "not an unreal possibility" that the government might consider withholding federal funds from a state that doesn't fully cooperate in the education of handicapped children.

On their side, public schools argue that they're not equipped to cope with the special problems of many handicapped children. Some physically handicapped children, the schools say, aren't toilet-trained. Emotionally disturbed children, they contend, often disrupt classes and are sometimes violent.

SPECIAL CLASSES? "TOO COSTLY"

What about special classes for these children? "Too costly," school administrators say. They point to the fact that educating a handicapped child can cost up to three times that of educating a normal child—at a time when most school systems across the country are squeezed for cash. And some administrators say that even if funds were available their use could often be wasteful since, they argue, many handicapped children will never benefit from schooling.

Such arguments have little sway with many educators and parents of the handicapped. "If a new apartment house goes up, and there are more children, the schools find facilities," says Lewis Klebanoff, a professor of special education at Boston University and an editor of *The Exceptional Parent* magazine.

Others charge that public schools often don't care what happens to handicapped children. "Some principals simply tell parents, 'The schools aren't for crippled kids,'" says Larry Brown, director of the Task Force on Children Out of School, a Boston group that has studied the exclusion of handicapped children from public schools.

The contention that many handicapped children can't benefit from education is also dismissed by numerous educators. While these educators concede that some children are so severely disabled that they'll require lifetime institutionalization and that schooling would be of little help, they add that the vast majority—possibly 95%—of handicapped children could benefit from proper educational treatment. "There's no reason why, if we spend a few dollars, these kids can't fit smack into society," says Frances Connor, a professor of special education at Columbia Teacher's College in New York.

According to others who favor aiding the handicapped, the payment of these "few dollars" now will also be cheaper for the public in the long run. HEW's Mr. Martin, for example, says that more than 30% of the 2.5 million handicapped children expected to leave school during the next five years may need either partial or full public support in the form of institutionalization or welfare. Mr. Martin adds that it costs about $250,000 for lifetime institutionalization or welfare. But with proper education, he says, "at least 90% of the handicapped are potentially employable."

Money, however, will not provide the entire solution to the problem. Other than the absence of funds, a major obstacle exists: finding all handicapped children. Many state and local school officials say they don't know how many handicapped children are being denied a proper education. In Massachusetts, for example, Joseph Rice, associate commissioner of special education for the state, readily concedes that he doesn't know the number of handicapped children who aren't in school. "In theory, we ought to have records of this," Mr. Rice says. "In practice, we don't" (The location problem is compounded by the fact that some of the less severely handicapped children are enrolled in regular classes and are being simply dismissed as slow learners.)

The early discovery of handicapped children is particularly crucial, educators say, since intelligence and physical coordination develop to the greatest extent in the earliest years. For this reason, HEW's Mr. Martin says his bureau has been advising states to begin "preschool programs (for the handicapped) as a priority." Nevertheless, most educators concerned with the plight of the handicapped agree that even delayed discovery and treatment can be productive.

The history of 20-year-old Laura Bernard is illustrative. Laura has slight brain damage but went through the fourth grade before her condition was noticed, says her mother, Martha Bernard, president of the New York Association for Brain Injured Children. When the Bernards realized that their daughter wasn't learning to read or write, they had her examined by a neurologist. Following the neurologist's discovery of "minimal brain dysfunction," Laura was placed in special classes for the remainder of her school career and today she is learning to be a teacher's aide in a special program at New York University for handicapped people and slow learners.

Laura Bernard's brain damage is slight, but educators say even severely handicapped children can profit from special classes despite years of neglected treatment. For example, the Campus School, a state-supported school for the handicapped operated under the auspices of Boston College, Chestnut Hill, Mass., reports that it has had success in preparing many types of severely handicapped children for school programs from which they had previously been excluded.

According to Dan McCarthy, director of the Campus School, his institution last year moved four of its 30 students into regular school programs. Mr. McCarthy says one case involved a 14-year-old emotionally disturbed boy with cerebral palsy who had been sitting home for a year prior to enrollment in the Campus School. After one year of special treatment, the director says, the boy was admitted to a Boston private school for mildly handicapped children; prior to his treatment, the school had rejected the boy.

"There's no question even the most severely handicapped children can be helped with the proper program," Mr. McCarthy says. He adds, however, that the Campus School, which this year hopes to integrate about 20 of its 57 students into regular school programs, hasn't been able to enroll all the children it would like because of a shortage of state funds. The school currently has a waiting list of about 70, Mr. McCarthy says, and most of these applicants are sitting at home.

Such children may ultimately be helped by the courts—as has already occurred in Pennsylvania and Washington, D.C. Last year's successful suit in Pennsylvania, for example, claimed that denying an education to some mentally retarded children violated the equal protection provisions of the Constitution's 14th amendment. The suit, filed in federal district court by the state's Association for Retarded Children, resulted in a consent agreement that, in effect, obligates Pennsylvania to provide schooling for all retarded children in the state.

SUCCESS FOR SEVEN CHILDREN

The successful suit in Washington, D.C., was filed in federal district court by the National Law Office, a legal-aid organization, on behalf of all handicapped children in the city. Specifically listed were seven handicapped children, who had been excluded from public schools. The court subsequently ordered the Washington school system to immediately provide the seven children "with a publicly supported education suited to their needs" and to compile a list of all city children who are excluded from school. The court is expected to decide about the latter group in the near future.

Court action on handicapped children's education rights isn't always immediate or affirmative. In New York, for example, a federal appeals court recently received a case brought by parents of two brain-injured boys, who, the parents claimed, were being denied an education. The federal court, however, referred the case to state courts, where an outcome is pending. (Lawyers in such cases say they prefer to avoid state courts, which, they say, tend to be more protective of state school officials and less receptive to class-action suits than federal courts.)

Expeditious court action favoring the handicapped may pose its own problems. Some special education experts express concern that hasty court action will leave the public schools unable to cope with a flood of handicapped children. "I'm worried that all this is being dumped on one agency," says I. Ignacy Goldberg, a professor of special education at Columbia University's Teachers College; he cites the fact that Pennsylvania public schools must place all mentally retarded children by next September.

Nevertheless, as time goes by, uneducated handicapped children and their parents continue to suffer. Robert Dickinson of Spencer, Mass., for example, worries that his nine-year-old brain-damaged son, Tony, may never learn to speak or otherwise communicate since the youth has never had proper training.

Tony Dickinson is physiologically able to speak, and Mr. Dickinson says he has been told by speech therapists that the youth, with proper special training, might be helped to speak to some degree and that he also has the potential to learn sign language. Tony, however, has spent only slightly more than a year in school and now spends most of his days watching television. (He is also tutored an hour a day in academic subjects.)

"We must develop some communication before his neurological growth stops," Mr. Dickinson says. He adds that he has inquired about enrolling Tony at special schools as far away as Kansas and Georgia—all to no avail.

Here in Medford, Barbara Keel, mother of autistic Wayne, says that caring for her son "keeps me at home almost constantly." Mrs. Keel has one source of optimism, however. In early April, she says, Wayne will be enrolled in a four-week evaluation program at a state school to determine whether he has the potential to learn a vocation.

Meanwhile, Mrs. Keel says, Wayne's hyperactivity prevents her taking him on outside excursions. She also worries about the absence of playmates.

"I really think he needs someone besides me," she says.

RECOGNIZING GOD IN THE COMMONWEALTH OF KENTUCKY

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SNYDER. Mr. Speaker, we have expanded enormous energies here in the Congress for some time now over the issue of prayer and Bible reading in our public schools. I believe there has been little, if any, doubt in our minds that a great preponderance of the American people support the concept and practice of this type of religious expression.

In the recently concluded session of the Kentucky General Assembly, both Houses of the Kentucky Legislature gave their approval to a resolution embodying this affirmation of God Almighty in our public life.

The representatives of the people of Kentucky, on the State level, expressed their view on the subject in a resolution, the text of which follows. I commend it to my colleagues:

A RESOLUTION TO RECOGNIZE THE PROVIDENCE OF ALMIGHTY GOD IN THE COMMONWEALTH OF KENTUCKY AND THE SCHOOLS

Whereas, The Preamble to the Constitution of the Commonwealth of Kentucky expresses gratitude to Almighty God for civil, political and religious liberties we enjoy; and

Whereas, we teach our children in the Pledge of Allegiance to the Flag, that this is "one nation under God"; and

Whereas, we date all transactions according to the birth of Jesus Christ, A.D.—"in the year of our Lord"; and

Whereas, we recognize as did President Lincoln, the word of the Psalmist, that a nation is blessed "whose God is the Lord;" and

Whereas, it is evident with each passing day that our schools and our system of government will surely fail without God;

Whereas, public polls now show an overwhelming majority of the American people favor the historic recognition of Almighty God in the public schools; and

Whereas, this issue of the Rule of God in America transcends all partisan and sectarian divisions;

Therefore, be it resolved; That the Senate of The General Assembly of The Commonwealth of Kentucky:

1. Hereby requests the Honorable Governor of Kentucky to call the attention of our citizens to the truth of Holy Scripture quoted by the late President John F. Kennedy in a final speech never delivered, "Except the Lord build the house, they labor in vain that build it."

2. Hereby declares that it is in keeping with our national heritage that the Providence of Almighty God be recognized in every appropriate way in our public schools, and that voluntary, non-compulsory prayer and Bible reading and the Pledge of Allegiance to our Flag be encouraged in our schools and commended as a way of life for the children of the Commonwealth.

CONGRATULATIONS TO WAIPAHU, HAWAII, ON ITS 75TH ANNIVERSARY, MARCH 29, 1972

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. MINK. Mr. Speaker, as a resident of the town of Waipahu, Hawaii, I have always been captivated by its unique mixture of thriving growth and old time charm.

Waipahu grew up around a sugar mill which was founded some 75 years ago on the leeward side of the Island of Oahu. It existed as a sleepy plantation town for many years, but over the last two decades it has experienced a rapid rate of commercial and population growth.

Situated on the outskirts of the city of Honolulu, Waipahu is now an important community whose residents participate actively in the public affairs of their State. Yet they are also concerned with the environment and retained as much as possible of the old plantation flavor which contributes so greatly to Waipahu's uniqueness.

The city this year is celebrating its Diamond Jubilee anniversary with appropriate events and festivities. In connection with this members of the Hawaii congressional delegation have jointly introduced resolutions congratulating Waipahu on its 75th anniversary and extending the wishes of the people of the United States for its continued growth and prosperity.

The Diamond Jubilee was launched with the dedication of the new Hans L'Orange Park on March 5. Mr. L'Orange, a retired executive of the sugar company, participated in the ceremonies.

We look forward to many other activities as Waipahu observes its birthday.

For the interest of my colleagues, I am inserting at the conclusion of my remarks the text of the resolutions introduced as well as several articles about Waipahu.

The resolutions and articles follow:

CONGRESSIONAL RESOLUTION

Whereas, the Hawaiian word "Waipahu" means "spring water"; and

Whereas, the availability of spring water in the Aualii area of the Island of Oahu, Hawaii, led to the development of an agricultural district whose principal crops were bananas and rice; and

Whereas, the sugar company was incorporated in 1897, and thereupon built a mill at a place known to the Hawaiians as Waipahu; and

Whereas, over the years the company grew, expanded, acquired new lands, and brought great prosperity; and

Whereas, a thriving plantation town was created at Waipahu, amid the picturesque setting of the old sugar mill of the 1900's with its towering smokestack, the smell of molasses and the vista of sugar cane fields, the rickety clatter of a sugar cane railroad train tugging crop-laden cars, the activity of horses, mules, and pack animals, and the laughter of browned, barefooted children walking over dusty roads to rural school houses; and

Whereas, the slow growth of the community over the first 60 years was in marked contrast to the "boom" experienced in more recent times; and

Whereas, the faded red plantation houses down from the mill, with their little lawns and gardens and flowers have been replaced by a bustling business community with modern shopping centers, medical clinic, health center, theater, new post office, fire department, banks, churches, and numerous schools including three elementary schools and one high school; and

Whereas, Waipahu was once described as "a sleepy plantation town, where field and mill workers brought the necessities of life from the company store and lived in company-provided housing," but now the residents own their land, there are 300 businesses, and many individuals are employed in Honolulu 18 miles away; and

Whereas, Waipahu is the hub of Leeward Oahu, and has a population of 25,000 who are community-minded citizens anxious to preserve for their town the flavor and charm of an old plantation community; and

Whereas, the city of Waipahu will celebrate its 75th anniversary birthday in 1972 with appropriate "Diamond Jubilee" ceremonies, events exhibits and festivities:

Now, therefore, be it Resolved by the House of Representatives (the Senate concurring), that the Congress sends its greetings and congratulations to the city of Waipahu, Hawaii, and its residents, on the occasion of that city's Diamond Jubilee, and extends the good wishes of the people of the United States that Waipahu will continue to grow and prosper.

[From the Honolulu Star-Bulletin,
Feb. 14, 1967]

WAIPAHU

On the Mainland in the Colonial period, the Creaky Old Mill by the Old Mill Stream became a symbol of much that was good in the Good Old Days. In the Hawaii of tomorrow, the corresponding symbol will be the old sugar mill of the old 1900's with its towering smokestack, cane-carrying flumes, the smell of molasses and burning cane fields, the dusty brown trucks on dirt roads in green fields, and browned, barefooted children walking to rural schools in plantation towns.

If Waipahu were wise, it would preserve for the next 300 years the charm it now possesses but does not really see. This plantation town bordering Pearl Harbor, population 15,000, is the home of the Oahu Sugar Company, founded in 1897. It has, in its creaky old mill and the few nearby old plantation-style houses, a cultural treasure worth preserving for the 2 million visitors a year expected here within 10 years.

Save it all now! Save every rickety old board in those little faded-red houses down the hill from the mill. Save their little laws and gardens and flowers. Preserve every fine shade tree and those towering royal palms beside the curving streets and old asphalt sidewalks. These are the memories of our time.

How swiftly time and memories pass! The Oahu Sugar Company had 345 mules for cane hauling in 1930, 2,400 employees in 1939, 1,800 plantation homes in 1947. Today, the company has 700 employees, few plantation houses and hardly a mule in sight.

How swiftly time and memories pass! The man who planted the first sugar cane in Waipahu had a son who became chairman of the board of United Air Lines. He has named jet planes "Waipahu" after the town of his birth. Will a child walking Waipahu's streets today walk the pathways of the Moon or Mars tomorrow? Of course she will!

Waipahu is blessed with an extraordinary civic pride, much of it an outpouring of the pride of the Arakawa family, which owns a department store near the mill. Recently, Goro Arakawa organized nine committees, 14 zones and innumerable street lieutenants in a major town beautification project. It shows. It shows, perhaps better than anywhere else in this State, how attractive, how livable, how lovable an old town can be, even while $25 million in new homes and construction goes up all around it:

Civic pride? Just two weeks ago, Waipahu High School students held an assembly. They donated $1,500 they had raised—by hard work—to a school in Botswana, Africa, exactly on the opposite side of the world from Waipahu. They have not seen the school nor its teachers and children, nor do they know even yet its name or exact location. That's more than civic pride. That's teen-age love, pure and undefiled.

The story of modern Hawaii—the historic past moving over to make way for the progressive future—is being retold just a half mile from the old plantation town of Waipahu where a 65-acre housing development, Waipahu Gardens is being built.

Part of the 250 homes will be on the historic nine-acre site of the old "stable camp" of the Oahu Sugar Company, often called the Waipahu Plantation Sugar Company.

Most of the hauling work for Oahu Sugar before 1930, when mechanized equipment was initiated, was done by the 300 big mules and 45 small mules which were stabled and pastured on this land.

The large California mules did the heavy cane hauling and plowing, and the small pack mules hauled seed cane and fertilizer to the fields.

The mules continued to be used throughout World War II, but in the middle '40's, most of the big mules bowed to progress and were replaced by machines.

Six of the smaller mules were retained to carry seed cane into tight sections of the fields where the large machines cannot enter. These mules are kept at the Waimalu Stables and ride by truck to the fields whenever they are called upon to work.

Before the formation of Oahu Sugar Company in 1897, this area was used for growing rice and bananas, but thousands of surrounding acres were arid cattle range.

Wise development of water resources transformed that semi-wasteland into 11,700 productive acres, making Oahu Sugar Company the second largest sugar producer in the Islands.

Five acres adjoining the stable camp, also part of the new development, housed all of the plantation workers and their families.

Working for the plantation was almost a family tradition. The women, known as "hoe hana" women because they worked with hoes, did plowing and odd jobs in the fields.

The men drove the mules and cared for the stables and other plantation operations. Even the children worked during the summer, and particularly at harvest time.

But, as one old-timer reflected, "Most of the kids have gone now . . . they're either going to school or working in government jobs . . ."

Some of the history of this area is still visible near Waipahu where an old foot bridge is still standing which passed over the railroad track and made a walkway for the children as they went from town to Waipahu Elementary School.

The school is also still standing; the old cement structure has been painted pink to match the new buildings which replaced the old wooden teachers' cottages. Waipahu Gardens' first to sixth graders will attend this school.

The memorable old stable is no longer there. It burned in 1959.

And the last families still working in the fields have been moving out of the area since 1957, giving up their little homes and gardens for homes in the new $5 million development.

Now only a few memories remain in the minds of the local people who worked and lived there. They remember old Joe Love, the "Mainland haole" who was about the best "muleskinner" they'd ever seen. They cringed when they saw him coming because he was such a cranky perfectionist.

Joe was the man who won silver trophies for "Best Six Mule Team" and "Grand Champion" muleskinner at the Honolulu fairs because he could make his team run in a figure eight.

Former veterinarian and member of the Honolulu police force, he seemed to know and work with animals better than with people.

It's said he roared out profanities when things went slightly amiss at the stables, but he trained perfectly the 40 horses that were ridden to and from work by the section bosses.

Old-timers still chuckle when they recall how Joe Love used to come home roaring drunk after a night out gambling with the boys at Moniz's Saloon on the corner of Depot and Waipahu Streets.

Cantankerous as he was, they still remember with respect this old stable boss who must have been around there for 25 years before he died in 1939.

They also remember that during the war they had to raise great quantities of Irish potatoes, in addition to their regular sugar cane crop to feed the locals and troops who flooded the Island.

There weren't many men around to tend the plantation then, for they were all called to war. After the war, not many of them were able to return to their old jobs because modern heavy equipment had taken over.

Now in place of the old mule pasture, there's a lovely playground and park which were built by the City and County for the Waipahu Elementary School children.

And in place of the old plantation houses high on the ridge separating two low lying cane fields, with a creek running down and off to the side where the old trestle still stands, new modern homes will rise on the gently sloping ground.

Waipahu's wooden streets have been replaced by cement sidewalks, and the Salvation Army now has its building where Moniz's Saloon once stood.

The families who will move in probably never have worked in a cane field, and the only hoeing the women will do will be in their ornamental flower beds . . . and the youngsters . . . most of them have never even seen a mule.

THE STORY OF OAHU SUGAR CO., LTD.—1894 TO 1971

More than seventy-five years ago a group of enterprising businessmen considered the possibility of starting a sugar plantation at Waipahu where ten thousand fertile acres were laying at waste covered with brush. By 1894 the first prospectus prepared by Mr. B. F. Dillingham was submitted to probable investors. It was a detailed study of the land and its resources, and foretold the possibilities believed to be held in store for those willing to venture into the enterprise. In 1896 an agreement was effected between landowners and H. Hackfield & Co. to insure its successful inauguration and in 1897 the Oahu Sugar Company was incorporated.

Mr. August Ahrens, who resigned his position as manager of Waianae Company to become Oahu's first manager, skillfully laid the pattern and plan which is the foundation of our plantation today.

He does not write in detail of all that was accomplished in the first few years of our Company's history, but the size of his first crop, following by just two years the organization of the Company, is sufficient to indicate the hustling which must have taken place. Wells were drilled and pumping machinery purchased; the mill was built and equipped; horses, mules, pack animals and tools for cultivation were obtained as well as seed cane; transportation was provided to get the cane to the mill; a labor force and experienced supervisory staff were employed and housing accommodations provided. Accomplishing all this in such a comparatively short time without the means of modern mechanical equipment such as is employed in enterprises of this sort today, shows to a remarkable extent the determination and hard work involved.

The first crop milled in 1899 totaled 7,900 tons of sugar from slightly more than one thousand acres.

Soil examination, along with the knowledge of the benefits derived from cane culture on neighboring lands of the newly organized Ewa Plantation Co., left little doubt about the possibility of growing fine crops at Waipahu, but the greatest problem facing Mr. Ahrens and each successive manager to the present, has been the development, conservation and efficient utilization of water. Sugar cane cannot be grown successfully on our lands without a reliable and sufficient supply or irrigation water. Steady development of walls and pumping plants provided water for early fields in the lower areas but some dry land fields were cultivated which produced pitiably low yields. The areas above the 500-foot level in Hoaeae depended entirely upon rainfall and in 1915 when drought seriously affected the plantation, 198 acres of long ratoon cane on unirrigated land dried up completely and had to be abandoned.

The plentiful supply of water in the Koolau range of mountains had, from the first been looked upon as a source from which a wealth of water might be drawn. A survey for determining a means of developing this water was made in 1905. By 1912 the water rights had been acquired and the Waiahole Water Company organized for the purpose of developing these water sources. The tunnel project, under the direction of a Mr. H. K. Bishop was started in that same year. In the 1912 annual report to the stockholders, Mr. E. K. Bull, who had taken over management of the Company in 1904 following the resignation of Mr. Ahrens, has this to say, "What the development of this irrigation project means to this plantation, and what effect it will have on our future crops when this water reaches our fields and an additional area of 3,000 acreas of the choicest new land has been brought under cultivation, is hardly necessary to comment upon; it is sufficient to state that it is hardly possible to overestimate the value and importance of this water development, and that with it assured we may look to the future with confidence."

Mr. Bishop was succeeded by Mr. J. Jorgensen who, with Mr. H. Olstad as his chief engineer, signed a contract for the job and completed construction of the Waiahole tunnel and its connecting ditches. Water was turned on May 27, 1916. In 1918 the Waiahole Pump was added to the mountain system to further improve it. Mr. Olstad joined the Company as Superintendent of Waiahole Water Co., in 1916 and remained in that capacity and as civil engineer of Oahu Sugar Company until his retirement in January 1948.

The development of the new Waiahole water supply brought several thousand acres of new land under cultivation. In view of larger crops expected in the future, it was decided to install an additional 14-roll mill and increase the boiling house capacity by 50%. Erection of the entire new mill and power plant was accomplished in 1917 while taking off the largest crop harvested so far—37,210 tons. Simultaneously the railroad system had to be extended. Locomotives were acquired as well as cane cars, main line and portable track.

By 1918 practically all available land had been brought under cultivation and the plantation was in the front ranks as a producer. From this date until 1947 when the lands of Honolulu Plantation Co. were acquired by Oahu Sugar Co. there was no significant change in acreage but the size of crop rose steadily and reached a high of 76,888 tons in 1937. Practical experience and studies in cultural operations, crop cycles, fertilization, irrigation, timing of operations, selection of cane varieties, control of diseases and pests, etc., are some of the leading factors responsible for this higher sugar production. Such development is a continuing process necessary to the success of the Company.

The topic of cane varieties is important in our development and would make an interesting story in itself. When the plantation started, "Lahaina" was the most successful variety in the Territory and accordingly the entire crop was planted to this cane.

Mr. Robert Fricke, former manager of Waianae Co., who was employed at the start of Oahu Sugar Co., recalled that about 100 acres of seed cane was purchased from Ewa Plantation and hauled to Waipahu by mule team. The land planted in the first year was entirely plowed by mule team and planted by hand.

In 1903 destruction of growing cane by the leaf hopper amounted to losses estimated at hundreds of thousands of dollars, and while research was going forward to find an insect enemy capable of destroying the pest, experiments were also conducted to find a variety which would have greater resistance to the damage caused by this pest. The leaf hopper was well under control in Waipahu by the end of 1907 through introduction of an egg-parasite by the H.S.P.A. entomologists, but variety tests continued, the object being to find some special variety which would eventually give better results than "Lahaina" on certain lands where conditions seemed to be unfavorable to this variety.

By 1918 the "Lahaina" disease, a root infection, which had been troublesome for several years, had spread over an extensive area. Its only control seemed to be the introduction of other more resistant canes. By 1921 close to half the crop was in H–109, although prior to that date Yellow Caledonia and other canes had been widely planted.

Yields from H–109 were so promising that its replacement of Lahaina and other varieties continued rapidly.

The search for varieties better suited to our conditions went forward, and in 1933 several seedling varieties proved superior to H–109, were 32–8560 and 37–1933. Since then other varieties have been developed and planted. Today we have 50–7209 and 49–3533 as the leading varieties on the plantation.

Until 1923 all cane was hand cut, hand piled and hand loaded, but labor shortages in the early 20's brought about revolutionary changes in harvesting operations and eliminated "hapai ko" or heavy hand loading. The 1925 crop was the first to be entirely loaded by machines except for fields which were flumed and a few small areas in gulches, etc. Today the fields are entirely harvested mechanically and the cane is transported to the mill in large thirty to forty ton semi-trailer diesel units.

When first built, our 9-roller mill was considered by Mr. Ahrens to be one of the very finest plants in these Islands, capable of handling an enormous crop. As time went on new improvements and changes altered it considerably, but we still have the same good word to say about it today—it ranks among the best in the State.

Factory changes and improvements are too numerous to mention in detail. However, the highlights are the addition to the crushing plant in 1903. making it a 12-roller mill, the first of its kind in the Territory; introduction in 1914 of special grooves in the feed and discharged rollers, an invention of Mr. Messchaert, Mill Superintendent at that time; addition of 14-roll mill in 1917 with new boilers, concrete smokestack, steam turbine and generators as well as 50% enlargement of boiling house capacity; numerous mechanical and automatic controls replacing hand operations; addition of cane cleaning plant in 1942 to overcome difficulty in grinding mechanically harvested cane; expansion of power plant to 7,000 KW capacity; enlargement of mill capacity in 1949 and addition of improved cane washing plant capable of handling over 200 tons of net cane an hour. This second full scale enlargement of the mill in 1949 was made necessary upon the acquisition of 3,000 additional acres of land in 1947 which formerly was cultivated by Honolulu Plantation Co. In 1961 there was a reorganization of the company and it became a wholly owned subsidiary of American Factors, Limited (now called AMFAC, INC.).

In 1963 the installation and placing in operation of a new steam generation plant, the largest bagasse operating boiler in the world, also the addition of a new turbo-generator in the power plant increasing our power generation to 16,500 KW capacity.

In 1964 the installation of 150 acre automatic overhead sprinkler system was made on an experimental basis which could have, if successful, a tremendous effect on agricultural operations and practices.

In the past half century many factors have contributed to the increase or decrease in the size of crops harvested not the least of which has been Government control and restriction of production and marketing which was inaugurated in 1934 and continues in force today.

It was in connection with this legislation, known as the Jones-Costigan Sugar Act, that Mr. E. W. Greene went to Washington as a representative of the Hawaiian sugar interests. He had been manager since December, 1923 following the resignation of Mr. J. B. Thompson who had been manager since 1918 succeeding Mr. E. K. Bull. When it became evident that Mr. Greene's full time was required in Washington, he resigned as Manager and was succeeded by Mr. Hans L'Orange in 1937.

The taking of land by the Government for defense purposes during World War II also caused a serious decrease in sugar production. Between 1941 and War's end, nearly 3,000 acres of cane land were occupied by the Army and Navy for Military installations.

Mr. L'Orange was succeeded by manager, Mr. C. E. S. Burns, Jr., on February 16, 1957. Land has always been of major concern to the managers of the plantation, but more so during the fast increase in population of the island of Oahu. One of Mr. Burns' greatest problems was the renewal of leases and development of subdivisions with the various land owners and the acquiring of new land in order that the Company would be in the position to produce at least 71,000 tons of sugar a year. With the acquiring of new lands formerly in pineapple, and planting these lands in sugar, presented problems in water distribution and development, new roads, cane varieties, etc.

On January 1, 1965, Mr. C. E. S. Burns, Jr., Vice President and Manager of Oahu Sugar Co. since 1957 was appointed President of American Factors Associates, Ltd. of American Factors. Mr. Burns was replaced by Mr. Karl Berg, manager of Esperance Land and Development Co at Esperance, West Australia since 1960 and who was formerly manager of Pioneer Mill Co. on the island of Maui.

On December 1, 1965, Mr. John T. Humme, Assistant Manager of Kekaha Sugar Company came to Oahu Sugar Co. as Vice President and Manager replacing Mr. Karl Berg who was transferred to AMFAC in charge of the Plantation Department. During the period of 1965 to 1971 a number of important events took place which were a real challenge, among them being the construction of the H-1 highway through the center of the Plantation, the combining of two plantations, Ewa and Oahu Sugar, increasing factory capacity, the automation of pumps, shift of the plantation westward taking over pineapple lands for sugar cane, installation of facilities and modifying practices to comply with pollution requirements.

Labor relations in general over the years at Oahu Sugar Company have been very good as is evidenced by the fact that over half of our employees have service records of more than twenty-years and many who started when the Company was organized, remained until their retirement. Oahu Sugar has a well trained work force of 1072 employees, 127 of which are non-bargaining unit employees and 945 bargaining unit employees. The bargaining unit employees who with the other plantations in the sugar industry in the State of Hawaii are the highest paid sugar workers in the world and are provided year round employment of forty hours per week and many fringe benefits such as pensions, group insurance paid holidays, vacations with pay, medical plan, dental plan, sick leave, low cost housing and recreational facilities.

A great reduction in size of labor force occurred during World War II when hundreds of workers left to do defense work or to join the armed forces. During this period we also loaned labor amounting to many thousands of man-hours a year to the U.S. Government Engineers.

Throughout its history, the plantation on various occasions has participated in diversified agriculture. In early days an experiment in cotton planting on unirrigated lands proved unsuccessful. In more recent years experimental crops have consisted of tomatoes, papayas, macadamia nuts, sweet potatoes and Irish potatoes. Most of these crops were planted in conjunction with food conservation and defense plans.

The town of Waipahu, where our main office and mill are located, has an important place in this story since it originated with the organization of the Company and developed in relation to the growth and prosperity of the plantation. Prior to the selection of the mill site, this was an agricultural district known as Aualii, with bananas and rice the principal crops under cultivation. The interpretation of the Hawaiian word Waipahu is "spring water."

Today we have several modern shopping centers, medical clinic, health center, theater, new post office, fire department, banks, churches and numerous schools, including three elementary and one high school.

Looking back over the 75 years of life of Oahu Sugar Company, one can see that there have been many challenges and problems faced and overcome. We continue to have a progressive plantation, the largest on the Island of Oahu and the second largest in the State. Our factory is modernly equipped and our fields are well cultivated and high yielding. In addition to these physical assets, we have the confidence, the loyalty and support of our employees who are experienced in their work and who are interested in the community and in the welfare of a company on whose successful operation depends their own future and happiness.

VANISHING MEN WITH A TINY WISH

HON. CHARLES M. TEAGUE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. TEAGUE of California. Mr. Speaker, I call to the attention of my colleagues the excellent editorial which appeared in the March 23 issue of Stars and Stripes. It was written by my old friend and former townsman, Mr. Harold Say:

VANISHING MEN WITH A TINY WISH

Four hundred thousand of them there were, back in 1898, when they piled into the recruiting stations to volunteer to fight in the war with Spain. They did not know how long the war would last or how many of them would not come back. To many of them it was a great adventure. They had grown up in a generation of peace when the nation was settling its great West and building railroads to tie the country together and move its products from the interior to the coasts. To thousands of others it was an answer to the defense of the country; a crusade to free a downtrodden people from tyrants of the old world.

And like the boys of 1861, and those of 1917 still to come, they cast aside the safety and pleasures of home, factory, farm and school to answer their country's call. Whether the war was needed or could have been avoided was not a part of their thinking or concern. They went to war, a dedicated mass of patriots with no thoughts other than that of duty in answer to their country's call.

Some historians, and particularly textbook writers, over the years have downgraded the Spanish-American War, tending to picture it a bit on the Gilbert and Sullivan opera side. That Spain proved weaker than suspected and America's strength, particularly its naval arm, stronger than the country knew, in no way lessens the quality of patriotism that marked the volunteers of 1898. The war was over sooner than the naval and military heads could have hoped. Out of it, America stepped on the world stage where it remains to this day in major way.

Last week, this paper published the totals by states of Spanish-American War Veterans still living—some 2700 of them as of Feb. 29. A few years more, and none will be on this earth. It is a sad thing to watch these men go. These volunteers of long ago ask for no particular sympathy or special treatment.

Over the past many years they have asked for only one tiny favor—a postage stamp honoring their day. But over in the Post Office department there are apparently some controlling figures who like many school products do not know much about the Spanish-American War or the breed of men who volunteered to fight it—whether it be short or long, easy or deadly. The erudite ones who decide on postage stamps can find a spot for elephants, African animals and such, but they simply cannot fit a Spanish war stamp into their demanding schedule.

Perhaps some of the younger veterans' organizations with more members and more influence on Congress can take time out to press for this small, inexpensive item—a postage stamp—that these vanishing men of 1898 hope for. To them it means much, and is their only request to a great government that finds a way to spend and give away billions too many to count.

COMMISSIONER SPEAKS ON EDUCATION OF THE HANDICAPPED

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. QUIE. Mr. Speaker, last Friday U.S. Commissioner of Education, S. P. Marland, Jr., addressed the 50th annual convention of the Council for Exceptional Children. The convention attracted over 10,000 educators and others who work with the handicapped and gifted from the United States and Canada.

In his speech, the Commissioner detailed some of the first-year accomplishments of the drive to assure appropriate educational opportunities for each handicapped child by 1980. The emphasis within the U.S. Office of Education began a year ago when the Commissioner named education of the handicapped as a major priority. In my judgment, Commissioner Marland's speech was a very frank and forward appraisal of the situation.

I believe my colleagues would benefit from reading the text of the Commissioner's speech—not only because it forcefully describes the tremendous needs of 7 million children, but also because it suggests some directions those of us in the public and private sectors can go, to further close the gap between what is and what ought to be.

EDUCATION OF THE HANDICAPPED: CLOSER TO EQUALITY

(By S. P. Marland, Jr.)

A year ago, at your convention in Miami, Ed Martin made the initial public announcement that full education opportunity for handicapped children had been designated as a national goal of the United States Office of Education. Today, on your 50th Anniversary as an organization dedicated to improving the lives of handicapped boys and girls, I would like to report to you on the progress made toward that objective.

We all recognize that bringing full educational opportunity to the handicapped children of America—the six million of school age and the one million preschoolers—is a challenge for this entire Nation. It is not a challenge that the Federal Office of Education alone can assume. It is not a challenge that the local communities can meet using only local resources. It is not a challenge that State governments can cope with by themselves. Our call for the development of a national goal of education for all handicapped children by 1980 was a call for leadership from within the entire education community, a call for the cooperative activity without which we cannot hope to achieve this goal as a total Nation.

During this year, we have attempted to strengthen the State, local, and Federal partnership which has been growing over the past decade and to accelerate its progress. Education for the handicapped did not start this year simply because we have given it a new importance in the Office of Education. Your own 50-year engagement in the noble struggle is striking evidence of the long history of concern that many educators and many private citizens and, of course, many parents have felt for the need to develop the abilities of the special child. But I do think there is an important qualitative difference in special education this year. By establishing education of the handicapped as an objective of the Office of Education, all of us in that Office share a sense of concern and involvement in the objective, rather than just our specialists in the education of the handicapped. Specialists in higher education, vocational education, educational research, teacher training, and so forth—all the members of our family are involved and their involvement, I would say, grows deeper by the day.

If one analyzes the development of educational programming for handicapped children, the credit must be given in large part to groups such as your own—to teachers and other education professionals who have been advocates for the children they serve. Recognition must also be made of the tremendous contribution that parents have made. They have carried their case to school boards, to State legislatures, and to the United States Congress itself in attempting to develop a public policy that would be responsive to the needs of handicapped children. The legislative bodies have responded and continue to do so. More recently the Courts have begun to respond as I will discuss in a few minutes. But to be thoroughly honest with you, general educators have not always provided all of the leadership in this area that might have been desirable. This has by no means been universally true, of course. Many principals and local and State superintendents have in a variety of instances aggressively pursued more programming for handicapped children. But impeding these efforts has been the fact that the cost of educating handicapped children is inevitably greater, that there are many and cogent competing needs for funding, and that responsibility for seriously handicapped children has been left largely unassigned. Are they the responsibility of the schools? Or are they the charges of other kinds of social organizations? These factors have produced an uneven pattern of leadership within the education community. It is to this point that I think that I, as Commissioner of Education, and Ed Martin as Director of the Bureau of Education for the Handicapped, must attend. We must to the best of our abilities and to the limits of our resources attempt to joint with our State and local colleagues in providing leadership toward achieving the goal of full services to handicapped children.

In planning for this objective, we developed four national targets for Fiscal Year 1972: *First,* 100,000 handicapped children in in preschool programs. *Second,* 250,000 children added to the special education roles. *Third,* 250,000 children and young adults receiving vocational education in order that they might leave school with marketable skills and a chance for self-sufficiency and increased self-regard. *Fourth,* 17,000 teachers and professional personnel receiving the full or part-time training that will be necessary in reaching these other goals.

EARLY CHILDHOOD EDUCATION

A major focus of our concern has been in stimulating the development of early childhood programs for handicapped children. The research that you and your colleagues have done has suggested that in each area of handicapping conditions early stimulation and training can reduce or eliminate later educational handicaps. The significance of this in human terms—in the reduction of frustration and failure for children as well as in the amelioration of despair and isolation for parents—is obvious. And, in addition, there is increasing evidence that such programs are cost-beneficial in that they will reduce costs of later institutionalization or full-time special class placement.

Reports coming to us from our Model Preschool Programs are very encouraging. By the end of this year we will have at least one model program in each State. There is a tremendous variety in these programs. Some are serving infants in the first year of life, others concentrate on the five and six year olds; some deal with small groups of similarly handicapped children; others work to integrate handicapped into programs with nonhandicapped. There are programs in rural areas, and in inner-cities, some dealing with Spanish-speaking, and some with Indians. There are programs in schools and there are programs in hospitals.

In short, we are attempting to reach into widely varied segments of our population in order to gather from each wisdom in relation to preschool and early childhood training, and to give to each an assist in demonstrating the effectiveness of programming for handicapped children of all kinds. Program after program report gains in children's language and cognitive functioning, reduction of the sort of disruptive behavior that has caused children to be excluded from regular day care and preschool programs, and other well-documented and deeply encouraging improvements. We established the goal of 100,000 children in preschool programing at the end of this year on the basis of several factors: our accelerated efforts, increased efforts on the part of States to use Education of the Handicapped Act and State money for these purposes, a specific effort on our part to stimulate increased participation of handicapped children in programs under Head Start and other authorities, and in general, a full range of catalytic activities including encouragement and stimulation of new State legislation. It now appears that the Nation will come very close to having 100,000 children in preschool programs in 1972. We are able at this time to account for over 70,000 participating in programs under the Education of the Handicapped Act and Title VII of the Elementary and Secondary Education Act. And the complete roster of reports will not be available to us until sometime after the school year ends. As professionals in this field you know, as I do, that there is no comprehensive recordkeeping system which can account for all the handicapped children in cooperative preschool programs, in privately operated day care and preschool programs across the country. This data is simply not collected systematically by State education agencies. Part of our efforts, then, has been to work cooperatively with the Office of Child Development and other HEW agencies in establishing better records of participation of handicapped children in preschool programming, and there are indications of substantial progress toward this objective. For FY 1973 we have requested an additional $4.5 million for Model Programs which will bring the number supported to 100. Our mutual planning activities with State education agencies and other responsible agencies will continue. For example, we have worked closely with the Governor's office and the Governor's Department of Human Resources in Illinois, offering support and assistance in the development of a new program in that State requiring preschool education for all handicapped children.

CAREER EDUCATION

Another major Office of Education objective is to accelerate development of the career education concept. In brief, the career education theme calls for a renewal of elementary and secondary curricula to place new emphasis on the variety of career opportunities available to young people. Career education would provide information and training in sensible alternative directions that may be pursued, and would provide specific skills training to students so that each would leave public education either with marketable skills or with specific higher education goals.

The Career Education goal and our Education of the Handicapped goal interact, and this year we have begun by expanding opportunity for vocational education for handicapped children. In 1971, about 115,000 handicapped young people were enrolled in pre-vocation or vocational programming. An analysis from 40 States indicates that over 200,000 children are in programs within those States, and it is expected that the goal of 250,000 will be reached this year.

It seems critical to me that the concept of career education takes hold in special education. From the earliest years curriculum should be developed in terms of realizable goals for productive lives for handicapped children. We cannot afford to let special education programming phase out after elementary school but must carry through with appropriate program for junior high school and high school so that our young people may enter into the world of work or go on to further study with confidence and competence.

EDUCATIONAL PERSONNEL

We will also meet the manpower target we stipulated. In fact, it will be oversubscribed. In addition to providing partial assistance to more than 20,000 undergraduate, graduate, and Special Institute trainees, we have been able to exceed our goals in terms of new programs established and new models of training under our special projects and programs. Other developments in the manpower area are encouraging. Our analyses indicate that more and brighter students are enrolled in special education each year, and that because of the overall manpower supply additional teachers are becoming available for the special education manpower pool. The critical problem which faces us and which faces those of you in the teacher education preparation field is to analyze more carefully the competencies which our teachers need, and to relate the progress that children make in school to the kind of training teachers receive. We must focus on the *outcomes* of our training process so that our goals can increasingly become qualitative as well as quantitative.

In attempting to come to terms with a national problem of the magnitude of the one which faces us in developing special education opportunities for all handicapped children, we proposed the establishment of 1980 as a target date. In a number of States the target date was legally mandated to be earlier than 1980. For some, such legal dates have already passed, unmet. In other States there is no date by which the task must be done. In order to afford additional services for approximately three million children by 1980, the total national effort would have to provide increased opportunity for a quarter of a million children this year and that figure would have to accelerate over the next few years, reaching the level of between 400,000 and 500,000 children per year as the decade ends.

It may be important at this point to reaffirm the meeting of target figures. There has been some confusion about some that I have mentioned. Not long ago one State leader said to us, "Well, you have established this national goal of full services by 1980. When are you going to give us the detailed plan for our State? When are you going to give us the money to do the job?" While that kind of question surprised us, as we have thought about it we can understand where we have failed to communicate clearly the true sense of our objectives and goals. We do not intend to develop from the Federal Office of Education a specific plan to serve all of the children in Pennsylvania or in Alabama or in Texas. Clearly we do not intend to impose a Federal plan on those States, or assume Federal responsibility for the education of the children in those States. We could not if we wanted to since the Constitution assigns primary responsibility for education to the States. What we do hope to do is to establish a national target, one point in time against which we can, as a Nation, measure our progress. We hope to provide a climate of leadership by affirming the right of handicapped children to an education, and by highlighting this right in the eyes of the public and in the eyes of the education community. We hope to stimulate the establishment in each State of a similar goal, developed by the people of that State, which would be a plan for the use of local, State and Federal resources in that State. At the same time, in developing such a national goal, we naturally hope to develop on the part of the Federal government—both the Congress and the Executive Branch—an increased sense of commitment toward this end and an increased share of national resources for these purposes.

We had an alternative. We could have set our goals in terms of just how far the Federal dollars would go. We could, for example, decide to give scholarships to X numbers of teachers. Or help Y numbers of children with Federal funds. Then we could have reached our goals quite easily, since they would match exactly the dollar resources we had available to us. Instead, we have said that the real meaning of the Federal dollar is not just to do a limited job, but to be a catalyst to the meeting of a national need. The $37.5 million in Education of the Handicapped Act funds could be spent in this fashion to provide an education for a maximum of 20,000 children at $1,800 per child. But through careful State and local planning in combination with the use of other Federal resources, this same amount could be a catalyst to stimulate better education for hundreds of thousands of children. As you know, we have chosen the latter strategy, and the State directors of special education and the colleges and universities are cooperating with us. They are investing Federal dollars very carefully so as to get the maximum mileage out of them. Programs are supported in areas where there is no State authorization, such as preschool, to demonstrate the value of such programs. Funds are being spent to aid seriously handicapped children—the multiple handicapped, the emotionally disturbed—programs for which sufficient State funding and priority have not been available. Funds are being spent to support Instructional Materials Centers and similar kinds of applications of education technology which are not easily supportable under current State program assumptions. Incredibly enough, this year our reports suggest that 90 percent of dollars spent under Part B of the Education of the Handicapped Act, Grants to the States, was spent for such purposes. Only 10 percent was spent for things that could have easily have been done routinely by the States. So that our goal of 250,000 new children receiving special education then can serve two purposes: ***First,*** it can serve as a mark against which the Nation can measure its efforts and help stimulate State goals. *Second,* it can provide for the parents, children and teachers a method of accountability, a sense of visible stepping stones so that year-to-year progress may be more easily and accurately determined.

A major strategy in developing new education opportunities for handicapped children has been to work cooperatively with other groups. For several years we have supported the CEC activity which has cataloged all State legislation on handicapped children and which has developed a model special education statute. This information resource has been used by a number of States in studying their special education programming.

We also reached out this year to the Education Commission of the States, an organization of governors, State legislators, and professional and lay people interested in education. ECS has adopted as its own goal our 1980 full education opportunity standard. With our support, and with the cooperation of the Council for Exceptional Children, a series of conferences was held around the country in which each State had a chance to examine its special education program in relation to those of neighboring States and in relation to the model statute. The recommendations from these conferences for improvement of State programs are fed back to legislators, to governors, and to State education officers. An index of the activity in this area is the fact that 899 bills have been introduced in State legislatures this year involving education for handicapped children and 237 have passed, 86 of them regarded as major in scope. Every State with a legislature in session has considered special education legislation. A number of very interesting trends are thus apparent:

(1) there is an accelerating movement toward mandatory legislation;

(2) there is a revamping of testing and diagnostic procedures and a greater concern for due process in identifying and prescribing for children;

(3) there is a general concern for the civil rights of handicapped people;

(4) preschool programming is receiving a great deal of attention;

(5) the definitions of handicapped children are being extended to include categories not previously served such as the trainable mentally retarded;

(6) transportation laws are becoming more flexible;

(7) private schools are getting more help, and regional programs are being established.

Now, of course, we recognize that these efforts are not solely attributable to the CEC legislative study or to the ECS conferences, but represents in large part the cumulative effect of years of work by parent groups, by professional groups, by State education agencies, and so forth. But it is also true that in situation after situation the legislators or the State special education officials have pointed out to us that these recent activities have moved them much further along. This week, for example, we have learned that the entire model statute was introduced in one State and that another plans to adopt it in toto. We have had direct contact from three governors in addition to numerous contacts with Chief State School Officers.

Most of our catalytic efforts specifically designed to reach our objective of 250,000 children added to the special education programs will not be felt until the next school year. This year we estimate that 215,000 additional children will receive special education services, and next year the 250,000 mark should be reached. This is 35,000 fewer children than we hoped for this year and about 45,000 fewer children than we hoped for next year, so we must either increase our efforts or lower our expectations. I think conditions are favorable, however, for more rapid gains in future years and thus feel that the 1908 goal is entirely within our reach. I think this optimism is warranted because we have seen new responsiveness within HEW and at the State and Federal legislative levels and because the recent Federal court decisions in Pennsylvania and in Alabama suggest a whole new judicial concern which will provide added stimulation. The Pennsylvania decision says in essence that a child who is mentally retarded, or thought to be by school officials or his parents or guardian, cannot be denied admission to school or have his educational status changed without notice and a chance for a due process hearing. And that by September 1, 1972 every retarded person between the ages of 6 and 21 must have access to a free public program of education and training appropriate to his learning capabilities. Furthermore, if any of the schools in the State provide a program for children younger than six they must also provide appropriate programs for retarded children. The larger message is clear: handicapped children are entitled to public education.

In the Alabama case, Federal Judge Frank Johnson ordered State officials to correct conditions at the Partlow State School and Hospital at Tuscaloosa which is for retarded children. Judge Johnson entered an interim order to correct immediately such things as fire hazards and unhealthful food and to begin a disease immunization program, and also ordered the hiring of 300 staff people by March 31, and this has already been done. According to observers, this is the first time that a Court has held that a mentally retarded person, involuntarily confined to an institution, has a right to adequate treatment and care.

These court decisions are exciting and encouraging and they bring us to a point in time where all the great arms of our Government—the judicial, the legislative, and the executive—are increasing their concern for the handicapped person and for his intrinsic rights as a human being. As educators, our responsibilities are not reduced because of this legislative and judicial concern. We know that handicapped children should have an education. We know that education for handicapped children works. We know that preschool programming can positively effect the growth and development of the handicapped child physically, emotionally, and cognitively. We know that given appropriate career education, handicapped children can be employed and we know that if we do our job well 90 percent or more of handicapped people can be partially or fully self-sufficient. We know that handicapped people can participate in higher education and in adult and continuing education. And it is clearly our responsibility to take the leadership in planning such programs, in demonstrating their effectiveness, and in providing equal educational opportunity.

When we made education of the handicapped a priority of the Office of Education it was not a one-year enthusiasm, as it is not a one-year enthusiasm for us to become interested in the gifted and talented children and to establish an Office of Gifted and Talented Children. Providing appropriate educational opportunity for handicapped and gifted children demands a long-term effort, presupposes a continuing priority, and obviously requires unremitting efforts to focus public attention and public resources on these children.

We intend this year and in the future years to continue our efforts to provide national leadership in special education. We will talk with the Chief State School Officers, we will enlist support from the school boards, we will present our case to the Secretary and to the Office of Management and Budget. I can assure you that it will not be an effort limited only to our Bureau of Handicapped Children and our program for the gifted and talented, but it will be an undertaking woven into the very fabric of the entire Office of Education and the Department of Health, Education, and Welfare. In fact, we are already launching cooperative activities with the National Institute of Mental Health, the Office of Child Development, and the Social and Rehabilitation Service so that we can integrate all our resources more effectively to serve children.

In closing I would like to quote Dr. Larry G. Stewart, associate director of the New York University Deafness Research and Training Center. Dr. Stewart, who is himself deaf, refers to America's deaf as a truly silent minority but one which is growing restless "under the yoke of centuries-old discrimination and denial of their right as Americans to equal treatment under the law."

"The patience of the silent minority is growing thin," Dr. Stewart writes. "How much longer" he asks, "must they wait for the freedom, justice, and equality promised to all Americans?"

The same might well be asked about all of our people who are somehow out of the ordinary, whether their differences are due to handicaps of mind or body, extraordinary mental gifts, social or economic disadvantagement, or race. For the patience of all these special Americans is growing thin.

But we can say today that education at all levels is beginning to respond to these legitimate claims and, as I hope the steps I have outlined to you today indicate, the Federal Government is beginning to move with accelerating effectiveness to meet the special needs of the handicapped and the gifted. It has been a long and difficult struggle for you of the Council—50 years long. But your message is beginning to be heard throughout America and I would say that as a result the educational prospects of millions of special children were never brighter.

TELEPHONE PRIVACY—VIII

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, I have recently reintroduced the Telephone Privacy Act (H.R. 14097) with 28 cosponsors.

This bill would give to individuals the right to indicate to the telephone company if they do not wish to be commercially solicited over the telephone. Commercial firms wanting to solicit business over the phone would then be required to obtain from the phone company a list of customers who opted for the commercial prohibition. The FCC would also be given the option to require the phone company, instead of supplying a list, to put an asterisk b. the names of those individuals in the phonebook who have chosen to invoke the commercial solicitation ban.

Those not covered by the legislation would be charities and other nonprofit groups, political candidates and organizations and opinion poll takers. Also not covered would be debt collection agencies or any other individuals or companies with whom the individual has an existing contract or debt.

As I noted in a statement on March 9, I have received an enormous amount of correspondence on this legislation from all over the country. Today, I am placing a seventh sampling of these letters into the RECORD, since they described far more vividly than I possibly could the need for this legislation.

These letters follow—the names have been omitted:

FORT WAYNE, IND.,
February 22, 1972.

Representative LES ASPIN,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: I have just read an article in our local newspaper indicating you were to introduce a bill to give persons the right to indicate to the telephone company if they do not want to be solicited over the telephone for commercial purposes.

I would like for you to know that I would certainly like to have a bill of this sort enacted and greatly appreciate your efforts along this line.

Yours truly,

——— ———.

FAIRFAX, VA.,
February 23, 1972.

Hon. LES ASPIN,
House of Representatives,
Washington, D.C.

DEAR MR. ASPIN: This is just a short note to express my wholehearted support for your bill H.R. 13267 to bring telephone solicitations under some control. I believe that this type of legislation is far overdue.

As one who was forced to remove his phone number from the telephone book because of repeated solicitations for everything from cemetery lots to mombo lessons, I hope that the merit of your proposal is recognized by the Interstate and Foreign Commerce Committee and all of Congress. I firmly believe that I do not pay my telephone bill to have it ring every few minutes with some unwanted sales pitch.

For years it has bothered me that members of Congress have decried the invasion of privacy by third class mail. It arrives quietly in your mail box and does not in any way invade your privacy as does an unsolicited sales pitch on your phone.

A copy of this letter is also being sent to my own Congressman, Joel Broyhill, in the hopes that he will also support your proposal.

Thanks for at least beginning to move the legislative wheels in this area.

Sincerely,

——— ———.

ARKANSAS SHERIFFS' ASSOCIATION,
February 21, 1972.

Hon. LES ASPIN,
House of Representatives,
Washington, D.C.

DEAR MR. ASPIN: The Arkansas Sheriffs' Association, the Arkansas Law Enforcement Officers' Association, and the Municipal Police Association of Arkansas feel, after having read an article in the Arkansas Gazette today regarding your proposed legislation on telephone solicitors, that we could wholeheartedly endorse your bill in its present form as we have been plagued with solicitors of this nature for the past two years.

We would, however, very much appreciate your sending us a copy of this bill at your earliest convenience.

Thank you very much for your cooperation.

Respectfully,
ARKANSAS SHERIFFS' ASSOCIATION.

TERRE HAUTE, IND.,
February 21, 1972.

Hon. LES ASPIN,
Congressman from Wisconsin,
House Office Building,
Washington, D.C.:

DEAR SIR: I read with pleasure a piece from the Indianapolis Star which told of your proposal to place "No solicitor" signs on private telephone numbers.

I have had people calling me selling insurance, light bulbs, and everything else that you could think of. I have called the telephone company to see if anything could be done to stop it, and they tell me that I should get an unlisted number. For me this is not possible.

Please drop me a line before this comes up for a vote so that I can put the word to my congressman: John Myers (7th dist.) and Roger H. Zion (8th dist.). I go to school in one district, and live in the other. Good luck and thank you for your effort.

Respectfully yours,

——— ———.

MEMPHIS, TENN.,
February 23, 1972.

Representative LES ASPIN,
U.S. House of Representatives,
Washington, D.C.:

Read enclosed article in today's paper.

I hope your legislative proposal succeeds in passing.

I am tired of receiving uninvited telephone calls for light bulbs or vacation resorts, etc., etc.

The article follows:

BILL WOULD CURB PHONE SOLICITORS

WASHINGTON, Feb. 19. Representative Les Aspin (D-Wis.) has introduced legislation to prohibit telephone solicitors from calling individuals who do not want to receive an uninvited sales pitch.

Under the bill, which would be called the Telephone Privacy Act, individuals could tell telephone companies they do not want to be commercially solicited over the telephone.

Commercial firms wanting to do business over the telephone would be first required to obtain from the phone company a list of customers who wish the practice.

TRIBUTE TO HERMAN BRANDT

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BELL. Mr. Speaker, on Friday, April 14, 1972, a testimonial banquet will be given for our friend Herman R. Brandt who is retiring as city clerk of Manhattan Beach after almost 22 years of distinguished municipal service.

Born in New York City, Herman Brandt attended Columbia University and completed his studies at the University of Southern California. Serving in England and France during World War I, he received the Silver Star, the Purple Heart, and the French Medal of Honor for extraordinary valor in combat.

Early in his career he served as president of the Los Angeles City Civil Service Commission and directed public relations work for the Los Angeles Department of Water and Power. And for almost a third of a century he has been a leader and generous contributor to the community life of Manhattan Beach and the South Bay area.

Herman is a past president of the Manhattan Beach Property Owners Association, past president of the Manhattan Beach Coordinating Council, and past president of the South Bay Art Association. He has served as local chairman of both the American Red Cross Welfare and Disaster Fund and the American Cancer Society. For the past 30 years he has been city chairman of the March of Dimes.

He has been active in the Boy Scouts of America, the Veterans of Foreign Wars, the American Legion, the Elks Club, the South Bay Shrine, the Eastern Star, and virtually every other organization or project in which the indispensable ingredient has been service to others. In the 1950's he helped organize the South Bay Hospital District, served as its first president, and continues as an active participant.

Herman Brandt has already received recognition for his contributions to the community by those of his coworkers who know him best. He was presented with the Rose and Scroll Award by the Manhattan Beach Chamber of Commerce in 1955 and was voted Citizen of the Year in 1965.

He will formally retire as city clerk on April 18. He will not easily be replaced. He will not ever be forgotten. For in a nation which honors an historical tradition of local self-government, Herman Brandt has become a symbol of all that is best in local community life and government. He has been a man who makes the system work.

For these reasons, Mr. Speaker, it is with special pleasures that I call attention to the banquet honoring Herman Brandt on April 14 and to note that I will be joining with his many friends in Manhattan Beach on that evening to show him something of our profound admiration, gratitude, and respect.

NO AMNESTY FOR DRAFT EVADERS

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MYERS. Mr. Speaker, during the debate which has occurred in recent weeks on the question of granting amnesty to draft evaders and military deserters, many have argued that the thousands of young men who have fled the United States to avoid military duty should not suffer legal repercussions because of their personal abhorrence of war. Others, however, do not subscribe to the view that a person can decide to be a "fair-weather" citizen, and choose to serve his country at his discretion. This point of view stresses the importance of defending the principles for which this Nation stands and gives prime consideration to the sacrifices of thousands of young Americans, many of whom were undoubtedly strongly opposed to war, who answered the call of their country to serve in the agonizing struggle in Vietnam. It is in reference to this latter view that I wish to direct the attention of my colleagues to House Resolution No. 15 which was adopted by the Indiana House of Representatives during the recent session of the Indiana General Assembly.

I am pleased to insert this resolution at this point in the RECORD:

HOUSE RESOLUTION NO. 15

Whereas, The war in Southeast Asia is rapidly coming to a close; and

Whereas, Thousands of young Americans have left the United States rather than serve in the armed forces and face the possibility of fighting in Viet Nam; and

Whereas, Thousands of young Americans went to Viet Nam (died there, were injured there or were made a prisoner of war while there) in the service of their country; and

Whereas, Sacrifice and devotion to duty has been one of the hallmarks of the American experience: Therefore

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

Section 1. That the President and the Congress of the United States of America are urged to adopt a policy of not granting amnesty to those young Americans who left the United States rather than face the possibility of military service during the Viet Nam conflict.

Section 2. That this Resolution be transmitted by the Principal Clerk of the House of Representatives to the President of the United States, to the United States Senators and the United States Congressmen from the State of Indiana and to the national offices of the American Legion.

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DINGELL. Mr. Speaker, Congressman PELLY and I have introduced H.R. 14103 to amend the National Environmental Policy Act of 1969 to provide a temporary partial exemption from the requirements for the issuance of environmental impact statements.

This legislation was drafted to meet a temporary problem which has arisen with regard to the issuance of Refuse Act permits. I am in receipt of a letter under date of March 27, 1972, from Administrator Ruckelshaus of the Environmental Protection Agency relating to this matter which I would like to share with my colleagues. Therefore, I insert the text of the Administrator's letter at this point in the RECORD:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., March 27, 1972.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife Conservation, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to call to your attention a serious problem confronting the Environmental Protection Agency in implementing our programs in the water quality area. As you know, the Refuse Act permit program faces a massive backlog of pending applications. Since President Nixon signed Executive order 11574, instituting the permit program, in December of 1970, approximately 20,000 permit applications have been received. We have moved as quickly as possible to process these applications and issue permits. However, in the decision of *Kalur and Large* v. *Resor, Ruckelshaus, and Clarke*, the District Court for the District of Columbia ruled that no further permits could be issued until EPA complied with the requirements of the National Environmental Policy Act by establishing procedures for the preparation and issuance of environmental impact statements in connection with Refuse Act permits.

We believe that it is vital to issue permits under the Refuse Act as quickly as we are able to perform a thorough evaluation of each application. Although under the law a discharge from an industrial point source without a permit is illegal, we cannot shut down every water-using industry in the United States. Instead, we must issue permits with specified conditions so that the discharger will know precisely the requirements he must meet. Every day of delay in issuing permits means further delay in attaining effective control over discharges subject to the Refuse Act.

From our examination of the administrative requirements of preparing impact statements in connection with the backlog of permits which we are now processing, we have reluctantly concluded that to undertake this additional workload would result in serious delays in this program. While some delays are acceptable with respect to Federal actions which are expected to have a detrimental effect on the environment, and may even be necessary in order to examine those effects, the effect of delay in the permit program is ultimately detrimental to the environment. I do not believe that this is acceptable. We must ask at this time for legislative relief from this serious problem.

I believe that the broad purposes of NEPA will not be compromised by this limited suspension. The permit program contains many safeguards designed to ensure that the permit is a vehicle for the improvement, rather than the degradation, of the environment.

Applicants for a permit are required to obtain a certification from their state that the discharge will not violate water quality standards. All permits are conditioned upon compliance with water quality standards, including compliance with any standards that are up-graded during the term of the permit. Where water quality standards are inadequate, more stringent conditions are imposed. There are special restrictions on the discharge of oil and hazardous and toxic substances. Every permit holder is required to periodically monitor his discharge to assure that he is in compliance with the terms of the permit, and in significant cases, the permit holder must monitor the impact of his discharge on the aquatic environment. In addition, EPA intends to require every permit holder to come up to certain defined levels of industrial treatment, regardless of the quality of the particular body of water involved.

As a procedural matter, the permit program offers ample opportunity for public participation. In all cases public comments are solicited and taken into account in the administrative decision. Where substantial public interest is displayed, public hearings are held. Citizens who are dissatisfied with the terms of the permit may obtain judicial review in the federal courts.

Section 402 of S. 2770, as passed by the Senate, and of H.R. 1896 as reported by the House Public Works Committee, would establish a new permit program administered by EPA. That section also contains numerous safeguards to assure protection of the environment and public participation. Every permit must be conditioned on compliance with applicable effluent limitations and performance standards, including standards for toxic substances. In general, existing industrial dischargers will be required to adopt the best practicable treatment, while new dischargers will be required to adopt a higher level of treatment. EPA is required to guarantee effective citizen participation in the permit issuance process. Public notice is required for every application, and in addition, an opportunity for a public hearing is required for every application. Finally, EPA's action in issuing or denying a permit is subject to judicial review in the federal courts.

In summary, we intend to scrutinize each permit application for compliance with water quality standards, and to develop stringent conditions to ensure that the permit is a tool for the enhancement of the quality of the environment, and not a license to pollute. Thus, we believe that a temporary suspension of NEPA's procedural requirements for the permit program would not allow us to be lax in our enforcement of environmental standards through that permit program. Indeed, without such a suspension, we will be subject to intolerable delays in utilizing the program to clean up the Nation's waters.

My staff will be available to work with you to develop a mutually acceptable legislative solution. I urge that early attention be given to this crucial problem.

Sincerely yours,
WILLIAM D. RUCKELSHAUS,
Administrator.

TRIBUTE TO COL. EARL G. PECK

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McCOLLISTER. Mr. Speaker, personnel changes at Offutt Air Force Base in Nebraska's Second Congressional District take place frequently, but rarely do they involve a man as dedicated to the community as Col. Earl G. Peck, base commander since August 1970.

Colonel Peck will leave in May to become commandant at the Squadron Officers School, Air University, Maxwell Air Force Base, Ala. He will be missed in the Omaha-Bellevue area as an active participant in a variety of organizations.

He has served on the boards of the United Community Services, the Mid-America Council of the Boy Scouts of America and the Ak-Sar-Ben Chapter of the Air Force Association. He has been a member of the Military Relations Committee of the Bellevue and Omaha Chambers of Commerce and the executive committee of the Omaha-Lincoln Federal Executives Association.

His dealings with my district office in Omaha have been very beneficial to my staff there. When the office opened, Colonel Peck arranged a complete tour of the Strategic Air Command to familiarize them with base operations and he has assisted us on several occasions with military questions and problems.

A native of Metuchen, N.J., he attended Rutgers University. After enlisting in the Air Force in 1948, he earned a bachelor's degree in political science at the University of Texas and was chosen for Phi Beta Kappa.

His involvement in civic activities began in 1963 when he first was assigned to Offutt with the Directorate of Personnel at SAC Headquarters. He left in 1967 to attend the Industrial College of the Armed Forces, a senior military staff school in Washington, D.C. While there, he earned a master's degree in business administration from George Washington University.

Colonel Peck's assignment prior to returning to SAC was chief of Special Air Operations at Military Assistance Command Headquarters, Vietnam.

I would like to extend my personal thanks and best wishes to Colonel Peck and wish him well in his new position. My staff and I look forward to working with his replacement, Col. Frank E. Knapp, and hope for a similar rewarding association.

WE SHOULD BE CONCERNED

HON. DONALD D. CLANCY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. CLANCY. Mr. Speaker, this week rightfully has been designated as "Week of Concern for Prisoners of War and Missing in Action in Southeast Asia."

It was so designated to remind Americans that 1,619 loyal and patriotic American men in uniform have vanished from, or are imprisoned from our way of life—the freest, most prosperous life in world history. This week of concern is called because 8 years ago, on March 26, 1964, Floyd Thompson of the U.S. Army was lost while on patrol in Southeast Asia, thus becoming the first name on a long list of prisoners and missing in actions.

Surely, no other Americans are more entitled to enjoy the freedoms and privileges of America than these servicemen. We can never repay them for their great, grave sacrifices.

Regretfully, in America today, there are people who must be reminded of these cruelties and sacrifices of war.

But, there are Americans who are concerned every single day for our servicemen who have become the missing or captives in the war with North Vietnam. They are the American fathers, mothers, wives, sons, and daughters of these men. Some of these concerned American families have not known the fate of their loved ones since 1967.

They have seldom, if ever, heard from the prisoners. They do not know if the missing-in-action are dead, alive, wounded, paralyzed, maimed, amnesiacs, or prisoners. The wives and children of missing men must go on living as if their husbands-fathers will someday return—although, tragically, a great many of them are dead.

This is unjust and unnecessary cruelty imposed by the enemies in North Vietnam. Under the Geneva Convention agreement, they could and should release a list of the Americans they hold in prison. They could and should release a list of Americans whom they know are dead. This information would ease the anxieties and solve some of the multitudinous, human problems of American relatives.

By Geneva Convention agreement, the North Vietnamese enemies should allow the exchange of mail between prisoners and their American families. They should allow a neutral country or neutral organization to inspect the prison camps and hospitals where our American comrades are held, to assure that they are being contained in humane and healthy conditions.

But this is a vicious enemy. They refuse to even talk about captive or missing Americans. They defiantly refuse to discuss an exchange of prisoners. Since 1964, 26 Americans have escaped from the enemy, three have been recovered or rescued and only 32 have been released by the enemy. Never before in American history has an enemy at war refused to agree to a prisoner exchange, even during hostilities.

This is the most inhuman enemy that America has encountered. Americans must be concerned this week. We should encourage and support every effort to gain the release of American prisoners, to cause the North Vietnamese to abide by their commitment to the Geneva Convention, and to focus the attention of the world on the inhumanity demonstrated by the government and leaders in North Vietnam.

RETURN THE POW'S

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McCLOSKEY. Mr. Speaker, a number of families of men captured or missing in Southeast Asia have joined to ask Congress to implement our request to the President as embodied in last year's Mansfield amendments.

Our colleagues will recall that twice we overwhelmingly passed the Mansfield amendment language—first as an amendment to the Selective Service Act extension, and second, as an amendment to the military procurement bill.

We asked the President to make the return of our POW's the sole condition for our withdrawal from Vietnam.

The President, however, has rejected our request, and insists that there be a second condition for our withdrawal, that being the survival of the Saigon government. This second condition, of course, prolongs both the war and the suffering of our POW's, as the North Vietnamese and Viet Cong have made it amply clear that they are determined to fight indefinitely, if need be, to overthrow a Saigon government which was promised to be disestablished over 15 years ago by a solemn treaty, the Geneva Accords of 1954.

Some additional support has recently been announced for the position taken by Congress. This position comes to us in the form of a moving plea from a number of the families most affected—those of the POW/MIA families for immediate release. I place it in the RECORD at this point in the hope that it will stimulate our consideration of final congressional action to withdraw funds for this war at the earliest practicable future date:

POW/MIA POLITICAL HEADQUARTERS,
Washington, D.C.

Eight years ago Everett Alvarez became the first prisoner of war in the Indochina conflict. Since that time 1617 more men have become captured or listed as missing. Try to imagine what it would be like to remain in the same bare cell, hour after hour, day after day, month after month, year after year, not knowing when or even if you will ever see your family again, or whether or not they even know you're still alive. Imagine what it is like for families who receive letters like a wife in California recently did, describing in vague abstractions of metal and wood his dream of escape—not the metal of a new car, or the wood of their dream home, but the components of his coffin.

It has been four years since President Nixon promised to end the war and win the peace. He has not done it and Vietnamization will not do it. Every three days since President Nixon took office another American has become prisoner or missing in action. Forty five Americans have died for every American held prisoner, under the pretext that their sacrifices would secure the release of the prisoners and missing. Vietnamization may bring ground troops home, but it will not bring the prisoners of the missing home. We have wound down the ground war in Vietnam, but we have also wound up the air war and increased the number of men held as prisoners. The air escalation has increased the suffering of over 1600 prisoner of war families as well as countless Americans who have lost their loved ones. Vietnamization will continue the deaths, suffering, destruction, and refugeeing of millions of Indochinese.

We have no stated reason for being in Indochina. The time has come for the people of Indochina to determine their own destiny. Likewise the time has come for the President of the United States to honor the edicts of Congress and the mandate of 73% of the American people—to set a date for total withdrawal of all American forces, land, sea, and air, from Indochina contingent only upon release of the prisoners and full accounting of the missing, and the safety of our withdrawing troops.

We don't want your sympathy, we don't want your pity, and we don't want any more weeks of concern. We don't want emblems, we don't want bracelets with prisoners' names on them, we don't want postage stamps, we don't want your bumper stickers. We don't want your letters and petitions to Hanoi, Moscow, Paris, and Peking, and we don't want your parks and buildings named after them. We don't want them used as an excuse to continue the war, and we don't want them honored as if they were dead! We want our men home—alive—now!

DR. Z. ALEXANDER LOOBY

HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FULTON. Mr. Speaker, Dr. Z. Alexander Looby, public servant, educator, and early and dedicated leader in the quest for black equality, died on Friday, March 24.

Dr. Looby was not only a man with a strong and abiding dedication to the cause of civil rights, but possessed a profound faith in the decency of man. These principles were the driving force behind his own conduct and his life's endeavors.

Dr. Looby served our community in many ways. He was a councilman in our old Nashville city government and later, when our city and county governments were consolidated, he served again as a metropolitan councilman.

Dr. Looby was a leader in the effort to remove racial restrictions against not only blacks in Nashville, but all black Americans. I say "remove" rather than "tear down" restrictions against blacks, because Dr. Looby was a gentle man of peace. He is quoted as saying:

> The idea is to open a door without breaking it down. When you break a door down, you injure the whole house.

These words and this philosophy, Mr. Speaker, can be carried as sage advice by so many of us today as we deal with so many seemingly insurmountable problems.

Dr. Looby, while sometimes a controversial figure in our community, was at all times a constructive worker laboring to achieve that which was right through that which is good.

It has been said that Dr. Looby's legacy to the community of Nashville is "more valuable than many know, not only in terms of service and leadership but for the countless acts of help and kindness and for a life that exemplified the best in human spirit."

Dr. Looby was a very positive and contributing influence in our community and will be missed.

Mr. Speaker, on March 26, 1972, the Nashville Tennessean paid tribute to Dr. Looby in an editorial entitled "Dr. Z. A. Looby Left a Legacy." I include this editorial in the RECORD at this point and commend it to the attention and consideration of my colleagues:

DR. Z. A. LOOBY LEFT A LEGACY

Dr. Z. Alexander Looby was a quiet and unassuming man, but those who met him for the first time knew instinctively there was steel in him, although it was tempered by compassion and good will.

He was a man of dignity and integrity. He was independent of mind and spirit, and some inner strength of character carried him along through setbacks, or violence or physical harassment.

Dr. Looby assumed automatically that there was good in every person, and that even where there were flaws in relationships, that man's innate decency and a sense of fair play would prevail.

He was long a leader in the struggle for civil rights, and his was a persistent, determined effort. If some thought him too moderate in the battle, it was because he felt that an outstretched hand was more persuasive than a clenched fist.

"The idea," he once said, "is to open a door without breaking it down. When you break a door down, you injure the whole house." In his long life-time, Dr. Looby helped open many doors and he held the respect of both races.

As a councilman and an attorney—he held a doctor of jurisprudence degree from New York University—Dr. Looby could cut through the extraneous and get to the heart of the matter quickly and precisely. His counsel was often sought by his colleagues and his wisdom was a beacon in many stormy council session.

Dr. Looby's legacy to the community is more valuable than many know, not only in terms of service and leadership, but for countless acts of help and kindness and for a life that exemplified the best in human spirit.

HAITI AND THE LOW PROFILE

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MOORHEAD. Mr. Speaker, at this time I want to acknowledge and take sour note of the recent visit to this country of Luckner Cambronne, the new strongman of Haiti. It was easy to see that Cambronne was on a "good will" mission to the United States, because he spent his time shaking hands with the right people—those who decide who gets what. In the spirit of the Easter season, Cambronne apparently came to the United States seeking to have his Easter basket filled with foreign aid goodies.

I am afraid, Mr. Speaker, that our Government—the Easter bunny to so many military dictators—is going to drop some military goodies in Cambronne's basket. The New York Times reported that the Nixon administration is giving "favorable consideration" to granting Haiti approximately $1.5 million worth of credits to purchase military goods in the United States.

These military credits would be the first direct U.S. aid to Haiti, other than humanitarian relief, since President Kennedy banned aid to Haiti in 1962. President Kennedy halted aid to Haiti, because of the repressive, terrorist tactics of Haiti's dictator "Papa Doc" Duvalier.

Today, with Cambronne the real power behind a figurehead president, Haiti's Government can become equally repressive as it was under the infamous "Papa Doc." Cambronne has replaced "Papa Doc's" feared personal army, the Tonton Macoute, with his own army, the Leopards, reportedly the 1972 version of the Haitian gestapo. Haiti's people are among the poorest in the world, and yet President Nixon is considering the approval of military aid credits that cannot do anything but make them poorer.

Mr. Speaker, Haiti already is delinquent in paying its debts to the United States, so why throw another rock on the pile? Haiti's people live in abject poverty. I am certain Haiti can use $1.5 million to help its people. Guns are a poor substitute for food, shelter and other basic human needs.

If this proposed military aid credit for Haiti is part of the administration's low profile policy for Latin America, the United States is stooping low indeed. I hope the Foreign Affairs and Appropriations Committees will put a stop to this nonsense.

Mr. Speaker, I insert at this point in the RECORD the following excerpts from a column by Virginia Prewett which appeared in the Washington Daily News on March 17, 1972:

Haitian's Visit Breeds Disgust

(By Virginia Prewett)

Latin Americans along Embassy Row, with other Western World diplomats, have watched in dismay this week as the U.S. State Department and even the Pentagon have wined and dined Haiti's current strongman, its Minister of Defense and Interior Luckner Cambronne, and two cabinet companions.

"We've had so many of these jolts, we're just sort of numb," said one. Others have not hesitated, in confidence, to express quiet disgust.

Luckner Cambronne, who signs himself "Acting Premier" in Haiti, has been publicized the world over as the late "Papa Doc" Duvalier's former bagman now implicated in the international drug traffic. Widely circulated news reports tell how he skims profits from Haiti's new quickie divorce mill and other officialized rackets. Cambronne cannot move around Haiti without an armed guard.

Usually accurate Haitian exile sources report that the high-level entertainment afforded Cambronne—he was even given a luncheon by Secretary of State William C. Rogers—was done at the urging of our Port-au-Prince ambassador, Clinton Knox, with the idea of "stabilizing" Haiti before an oncoming storm.

"Papa Doc's" young "lifetime-president" son, Jean Claude, has a rare type of goiter, which must be operated on. Called a sunken goiter because it has grown behind the sternum, or neckbone, its removal will be a tricky surgical process. Jean Claude sooner or later means to go to Europe for it.

Meanwhile, Mrs. Simone Ovide Duvalier, Jean Claude's mother, who props up the playboy heir, suffers blood disease complicated by an allergy that is activated by some of the transfusions she increasingly needs. She has been to Miami in recent months for treatment.

Ambassador Knox, forseeing the day when these last two of the Duvaliers will have to leave Haiti, "sold" the State Department on this week's exercise in building up Cambronne, according to the exile sources.

If this is true, and it obviously may be a part of the motivation, then State has made what promises to be a costly blunder. For the visit is having the effect, both at home and abroad, of firing up opposition to the Haitian dictatorship made up of Duvalier holdovers.

HISTORY REPEATS

The 50 or so Haitians from New York, Montreal and Washington who picketed Cambronne's press conference here Wednesday—and, as he left, spat on him—are getting together for the first time. Native Americans who picketed with them afterward had several conversations in Senate offices on Capitol Hill. If Haiti becomes an electtion issue later on, the Nixon administration can blame this week's blunder for it.

The upshot is that history grimly repeats itself, as the United States builds up yet another cutthroat-type dictator for Haiti with no regard for our own national dignity.

FATHER LOWELL SHEKLETON

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. CULVER. Mr. Speaker, on March 18, one of the outstanding churchmen and spiritual leaders in my district, Father Lowell J. Shekleton, passed away in Dubuque. A man of extraordinary personal courage, human understanding, and vigorous enterprise, Father Shekleton died at an age when he had not reached the full promise of his career. His passing leaves a large void in the diocese and particularly among his parishioners in Guttenberg where he served since 1969, and for the 12 years previous in Fayette and Hawkeye. His personal example and pastorate spread far beyond the members of his parishes to include countless Iowans of all faiths including this member who gratefully valued him as a friend. Mr. Speaker, I insert the obituary notice and a moving editorial published in the Witness of Dubuque in the Record:

Father Lowell Shekleton, Guttenberg Pastor, Dies

Guttenberg.—Funeral services for the Rev. Lowell J. Shekleton, 52, were held at St. Mary's Parish here Monday, March 20, at 11 a.m. Father Shekleton died at Mercy Medical Center in Dubuque Saturday, March 18.

He was born in Lawler, Iowa on February 22, 1920 and was educated in the parochial school at Greene, Iowa, Loras College in Dubuque and the St. Paul Seminary, St. Paul, Minnesota. He was ordained a priest on June 8, 1946 and served as associate pastor of Nativity Parish in Dubuque until 1954, He served in the same capacity at St. Joseph's Church, Bellevue, for one year and was chaplain at Mercy Medical Center in Dubuque for two years.

FAYETTE PASTOR

In November of 1957 he was named pastor of St. Francis Church of Fayette and its mission at Hawkeye. During the twelve years that he was pastor in Fayette he re-located the parish and built a new church and rectory. In July of 1969 he was transferred to St. Mary's Church in Guttenberg where he served as pastor until the time of his death.

The Most Rev. James J. Byrne, Archbishop of Dubuque, was the chief concelebrant of the funeral Mass on Monday. Twenty-two priests concelebrated with the Archbishop. Present in the sanctuary was Bishop Francis Dunn, auxiliary bishop of Dubuque. The homily was delivered by the Rev. David A. Wheeler, pastor of St. Francis Xavier Basilica, Dyersville.

Burial of Father Shekleton was at Mt. Olivet Cemetery, Key West.

He is survived by his parents, Mr. and Mrs. Emmett Shekleton of Greene; two sisters, Mrs. Robert (Angela) Dolan of Decorah; Miss JoAnne Shekleton of St. Paul, Minnesota and one brother, Rev. Gerald Shekleton, Editor of The Witness, Dubuque.

Father Lowell Shekleton

The world has never understood suffering, nor its need of it. St. Augustine said God uses all things, even our sins, to save us. It is better that men suffer pain than God be profaned by our indifference. Pain and suffering were an integral part of the life of Christ. Through pain He taught man the way to peace, purification and salvation. The impact of His suffering is still reverberating throughout the world. Man comes to perfection because of the suffering of Christ.

Man is in great need of repentance. Today's world would tell him there is no need of sacrifice, denial or atonement. But if we are to return society to Christ we need to be purified, humbled and stripped of self so that the grace of God can work in and through man.

History is replete with examples of how the sufferings of the saints were able to heal the wounds of the world. Suffering is effective only when those who bear that burden know the mystery of their own Christianhood.

Father Lowell Shekleton was a priest just a bit over twenty five years. His death on Saturday, March 18, culminated a period of time that demanded from him much pain, anguish and suffering. Those close to him during the past several months knew how he used his suffering to help his parishioners in Guttenberg and strengthen his family.

There was never any question in his mind about the need to prepare for death through long days of suffering. He welcomed that mission. His Archbishop told him that throughout the years of his priesthood he had told and shown his people how to live. Now God was asking him to show them how to die. And that he did in a splendid fashion.

Kindness has been described as the overflowing of one's self into the lives of others. If this is kindness then Father Shekleton was indeed a kind man.

Many tributes have been paid to him during his last illness and death. A tribute that will linger long is the presence of the parish complex in Fayette. When he was assigned there in 1957 it was with the idea that he relocate the physical structures of the parish unit and build a new edifice. When it was completed the Archbishop who assigned him there remarked that he had done in Fayette, what a lot of bishops would not be able to accomplish in a See city

It is never easy for a young man to die. It was easy for Father Shekleton because he had studied the meaning of death very well. He was not afraid of death. He saw it as a new chapter in his life, a chapter that would introduce him into the unending presence of divine love. His preparation for this new chapter was bolstered by the genuine and sincere care tendered him by the Presentation Sisters of Dubuque where he resided during the crucial days of his illness.

Shortly before he passed into the risen life he expressed one last wish. He called by name each member of his family and asked that they say the rosary with him. "When that's finished," he said, "I'll leave."

The Christian faith gives man courage and strength. St. John wrote to the Christian Community that "We are God's children now; what we will be later has not yet come to light, we know that when it comes to light we shall be like Him, for we shall see Him as He is."

For Father Shekleton that time has come. His life was a hymn to divine light. His Easter is being celebrated now and this year of 1972 many people will find more meaning to their crosses as they behold the witness he gave.

May he rest eternally in the sweet embrace of God.

A JOB WELL DONE

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GUDE. Mr. Speaker, residents of the Washington area fortunate enough to have heard the marching band of Archbishop Carroll High School know what an excellent group of musicians and showmen they are.

Recently, the Carroll High School Band participated in the St. Patrick's Day parade in Dublin, Ireland, and in a contest parade in Limerick, Ireland. To their great credit, the Carroll Band took the top prizes in these events, and I am told that they were the hit of both Dublin and Limerick. In fact, the people of Dublin were so impressed that the news of their performance made the front page of the Dublin Times.

Washington-area residents and the American people can take great pride in these students for representing America so well abroad. The type of one-to-one contact these students had with the Irish people and the good will engendered by their visit is something that all the foreign aid in the world cannot buy.

The Carroll High Band is comprised of young people from throughout the Washington area. Members of the band are:

Kevin Armstrong.
Gregory Bartock.
Alfred Bernstein.
William Breedlove.
Byron Briese.
Clifton Brown.
Kenneth Burnett.
William Butler.
John Callahan.
Louis Casey.
Kurt Cherry.
Keith Credit.
Prescott Coleman.
Stephen Cunningham.
David D'Agostino.
Robert Davis.
Thomas Davis.
Mills DeBosier.
John DiBartolo.
Robert Dimond.
Ben Dolcich.
Richard Doyle.
John Dziduch.
Thomas Eloshway.
Damon Flemons.
Charles Florence.
William Forrestel.
Richard Gibbs.
Timothy Goenner.
Richard Greene.
Joseph Jenifer.
Timothy Keane.
James Kern.
Thomas Kern.
Mark Kern.
Kevin King.
John Lerch.
Michael Maloney.
Bernard Mattingly.
Mark Meeks.
Mikel McCall.
LaMar McClain.
Terrence McGrath.
Bracy Means.
Edmund Millard.
Paul Mondor.
Joseph Morris.
John Moss.
Melvin Mumford.
Richard Nelson.
Joseph Nolan.
Thomas H. Noone.
George Norwood.
Mark O'Donnell.
Richard O'Meara.
John O'Shea.
Gregory Peters.
Bryant Potosky.
Ivan Proctor.
Stephen Quander.
Timothy Quinn.
Bernard Rafferty.
Timothy Sawyer
Stuart Smith
Kevin Sullivan.
Paul Thompson.
Joseph Trimble.
Kevin Tyner.
Theodore Verbich.
Thomas Vereb.
Donald Wheeler.
Jerome Wheeler.
Albert Williams.
Kathy Behrens.
Carol Blatzheim.
Mary Ann Blatzheim.
Kathy Bovio.
Lisa Ceccorulli.
Loretta DiGennaro.
Debbie Fowler.
Karen Kelly.
Kathy Maryman.
Maureen McNulty.
Nancy Morgan.
Maureen Nolan.
Jeanne Parker.
Mary Beth Scalley.
Agnes Zimmerman.
Irene Zimmerman.
Mary Ellen Zimmerman.

I know that my colleagues in the Congress join me in offering our congratulations to these students for their success, and in thanking them for a job well done.

OCCUPATIONAL HEALTH AND SAFETY ACT ONLY PARTIALLY SUCCESSFUL

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, a year ago the Congress passed the Occupational Health and Safety Act which assures that "no employee will suffer diminished health, functional capacity, or life expectance as a result of his work experience." The letter of the law and reality are light-years apart. As a result of a series of actions by this administration, the Occupational Health and Safety Act can be best characterized as only partially successful.

The Nixon administration's interest in occupational health is best demonstrated by the amount of money devoted to occupational health and safety. The Department of Labor for fiscal year 1973 has allocated only $67 million for occupational health and safety. Of that amount $29 million will be given to the States where traditionally slow State legislators and State bureaucracies will probably do little to accomplish the important goals of the original act. Of the total funding for the program only $4 million is being used for occupational health research. This small amount is devoted to research despite the fact that a recent survey by the Public Health Service estimates that as many as 50 million American workers work in an environment that is potentially hazardous to their health.

American workers have the right to work in a safe environment that does not endanger their health and their lives. The Occupational Health and Safety Act embodies this principle of workers' rights. But the letter of the law and the spirit of the law do not conform to the Nixon administration's priorities. Control by business-oriented groups like the National Safety Council, limited funding, and the placement of NIOSH at the bottom level of HEW bureaucracy all point to the low priority the Nixon administration gives to occupational health and safety. The Nixon administration emphasizes occupational safety rather than occupational health. While this is a real and important problem that must be solved, the law requires that the Federal Government fight to eliminate all environmental hazards to workers. Surely safety is important, but workers also have a right to their health and to their lives.

Members of the Congress and officials of the administration who hail the great success of the Occupational Health and Safety Act are simply not considering all the facts. The act has not lived up to its intent because of a conscious effort by the Nixon administration to place occupational health at the bottom of its priorities.

Mr. Speaker, I am including at this point in the RECORD a series of articles that reveal the true story of the implementation of the Occupational Health and Safety Act. Included is an address by the president of the UAW, Leonard Woodcock, to the Midwestern Occupational Health and Safety Conference in Detroit on November 17, 1971, and several newspaper articles:

RALPH NADER'S DOCTOR SUGGESTS: ZERO POLLUTION LEVEL GOAL FOR MILLIONS EXPOSED TO ASBESTOS

If workers were guinea pigs and asbestos was a food additive, the Delaney Clause of the Food and Drug Act would have mandated the elimination of this carcinogenic dust from the environment long ago.

However, in 1972, 12 years after the publication of Dr. C. Wagner's data showing the relationship between asbestos exposure and mesothelioma (cancer of the lung linings) in *humans* and at a time when there are now hundreds of cases of this cancer in workers exposed to asbestos, the slaughter continues.

The question thus arises, how much longer, in the face of a massive, ever-increasing amount of evidence linking asbestosis, lung cancer and mesothelioma to asbestos exposure, will workers (and non-workers with "incidental" exposure) continue to be used as though they were guinea pigs.

In a recent report, the U.S. Environmental Protection Agency stated that, "A safe exposure level to asbestos has not been established." (Background information—*Proposed National Emission Standards for Hazardous Air Pollutions,* E.P.A., December, 1971.) This statement is the inevitable conclusion of a series of studies over the past decade, each showing the capability of lower and lower levels of asbestos fibers to cause disease.

A situation is thus present in which there is no safe level of exposure yet established, data exists suggesting that asbestos can develop at levels under 2 fibers/cc and the level of exposure causal to mesothelioma is even less than that which causes asbestosis. Under these circumstances regulations which do not propose to ultimately reduce the fiber count to zero (0) fail to comply with the 1970 Occupational Health and Safety Act which assures that "no employee will suffer diminished health, functional capacity, or life expectance as a result of his work experience.

In this light, the proposed regulations should be revised in accordance with the goal of gradually reducing the fiber count to zero (0) fibers per cubic centimeter. We concur with the Oil, Chemical and Atomic Workers' Union proposal to accomplish this in three years. What can be done now?

According to Dr. Joseph Wagoner, Director of the Division of Field Studies and Clinical Investigations of NIOSH, the only two factors for setting standards are 1) is the substance hazardous and 2) it is *technically* feasible to achieve reduction to a given level of exposure.

The NIOSH criteria document on asbestos clearly shows the ability of industry to reduce the 8-hour weighted exposure to below 2 fibers/cc. If one or two plants can achieve this goal, there is no *technical* reason why all others cannot do the same. We agree with labor that this should be accomplished in 6 months rather than two years.

We are presently realizing that setting emission standards for air pollutants based on total weight or particle count without regard for respirable fraction is inadequate Similarly, it is not difficult to see how fibers shorter than 5 micra or fibrils may also be implicated as a cause of disease. As this new information becomes available, it should promptly be converted into regulations.

NIOSH is to be commended for the thoroughness of the criteria document on asbestos. In a certain sense, however, it is two documents rather than one. The bulk of the study reviews data on the hazards of asbestos which would support the idea of reducing exposure to zero. The recommendations, however, fall short of this. It can only be speculated that this discrepancy is the result of pressure applied by industry via the Department of Labor.

We hope that the elimination of the killing and crippling hazards of asbestos marks the beginning of a long struggle to give higher priority to the life and health of the American worker.

Union Leaders Demand No Concealment

Scientists and government officials who "cover up" vital life and death information about worker health are guilty of a "My Lai syndrome," according to the Oil Chemical and Atomic Workers Washington Director, Tony Mazzocchi.

Referring to the concealment of civilian murders in Vietnam, the union leader said that government and corporate officials have kept asbestos exposure information "locked in government drawers."

During a press conference last week, Mazzocchi said his union was demanding of both the Department of Labor and the Environmental Protection Agency (EPA) that more monitoring of asbestos exposures occur at the workplace and in the community. He insisted that information on asbestos exposures be released when it is done.

A deadline for submitting a new asbestos standard for worker exposure occurred last Friday. The OCAW, plus the Industrial Union Department and the AFL–CIO, are seeking the right of workers and unions to have continuous monitoring to see what the exposure levels are.

Mazzocchi praised present officials of the National Institute of Occupational Safety and Health (NIOSH) who released information which had previously been concealed from workers and their unions.

The data concerned exposures at a Tyer, Texas, plant which showed unsafe levels far above the present safety and health standard.

"What happened in Tyler could happen, and probably does, in hundreds of other plants in America," the OCAW official said.

"We consider what happened in Tyler to be an environmental disaster—because the danger is not only to the workers, but to the entire community," he noted.

In an urgent warning to William Ruckleshaus, EPA's director, the union said the Pittsburgh Corning Corp. (the company in question) "sold tens of thousands of empty burlap bags, in which asbestos was shipped into the plant, to nurseries in the area.

"These bags are heavily polluted with asbestos fibers and this poses a health hazard to nursery workers and possibly to others, including the ultimate consumers, who handle the nursery products."

The Tyler, Texas, plant has shut down and is not now operating. Mazzocchi said the workers are now jobless and seeking other work, but he said the workers wanted the plant shut down when they discovered what dangerous levels of asbestos they were working with could do to their health.

An earlier study by Dr. Irving J. Selikoff showed that workers in a New Jersey plant of the same company were dying of cancer at ten times the expected rate. The New Jersey operation was shifted to Texas; another plant which is non-union is presently operating in Pennsylvania.

The hazard of asbestos is to the worker, to members of his family and to the community.

Paul Brodeur, author of a new book called "Asbestos and Enzymes," told the press conference last week that random autopsies in a random selection of cities showed the presence of asbestos in 95 percent of the cases.

Asbestos is, thus, a treacherous substance, which is most potent at the workplace, but which is widely used in the total environment.

Company MDs Criticized for Cover-Ups

The medical director of the Pittsburgh Corning Corp. (whose plant was under fire from its union last week) is president of the American College of Preventive Medicine.

Dr. Lee Grant, the company's chief medical officer and a physician, was attacked last week by officials of the Oil Chemical and Atomic Workers of America for allowing a bad situation to get worse and for failing to warn workers of threats to their health.

Grant has a long string of official associations and is a big man in industrial medicine.

"This is symtomatic of the occupational health problem in this country," OCAW Washington Director Tony Mazzocchi charged last week.

"It took doctors from NIOSH to release these reports," Mazzocchi said. "The victims were never informed. It is shameful that the information was kept from the employees."

In other comments, Dr. Sidney Wolfe, a physician with Ralph Nader's Health Research Group, said that most journals in occupational medicine are the handmaidens of industry.

UAW Washington Report

The co-author of the Williams-Daniels Occupational Safety and Health Act has charged that the Nixon Administration is "anti-worker" and is "subverting" the intent of Congress in administration of the law.

"It is now clear that many of our hopes and expectations are being frustrated," Senator Harrison A. Williams, Jr. (D–N.J.) told the 9th Constitutional Convention of the AFL–CIO's Industrial Union Department.

Williams, who is chairman of the Senate Labor Committee, said that "implementation of this Act is in the hands of an Administration which has failed to approach its objectives with vision and imagination. Instead, the Administration has adopted the penny-pinching attitude that health and safety for workers is something that this nation can barely afford."

The charges by Williams are particularly significant since this is the first time that he has spoken out on the administration of his law. His criticism of the law's administration parallels that voiced by organized labor.

Citing five areas, Williams warned that he believes "the time is not far off when the Senator Labor Committee will have to begin oversight hearings to determine, in a formal way, just how this law is being implemented and to establish a basis for a more realistic level of funding for the Act's program."

The five areas cited by Williams include:

Funding—"Despite the fact that this Act covers more than four million workplaces," Williams said, "the Labor Department asked for only enough funds ($24.9 million) to place 550 compliance officers in the field by next June 30."

This adds up to one inspector for every 7,200 establishments. Efforts by organized labor, supported by Williams, to get 1,000 new inspectors by June 30 failed. However, money was obtained for 200 new inspectors but this may be lost through the Administration hiring cutbacks.

Job Health—The New Jersey Senator said that "we still have no indication that it (the Administration) is undertaking any major new efforts to cope with the great range of occupational health hazards that have been ignored for so long."

The law created the National Institute for Occupational Health and Safety in the Department of Health, Education and Welfare. Williams pointed out that the Institute's budget is being increased only $8.5 million for occupational health activities.

Williams noted that there are currently more than 10,000 potentially toxic substances now found in regular industrial use but that the Institute, with its budget constraints, "is able to work on the development of standards for only ten of these 10,000 substances this year."

Anti-Worker—Among the "shortcomings" in the law's administration, Williams said, is the "reluctance to recognize that workers and their representatives must be treated as full partners, along with business and government."

He said that "despite the first-hand experience that workers have had with problems of safety in the work place . . . the Administration has made it pretty clear that workers are just wasting their time in applying" for jobs with the Occupational Safety and Health Administration (OSHA).

Training Programs—This same "anti-worker" attitude, Williams said, is evidenced in government-supported training programs.

The Labor Department, he continued, has done "virtually nothing" for helping workers in each plant to acquire sufficient knowledge about the Act to lodge complaints. He said that while in-depth training programs are needed, OSHA is paying the Boeing Company $65,000 to provide the orientation for union representatives.

He said, "the Department completely ignored the educational and training capabilities of so many unions."

State Programs—Williams declared that the Administration, in its haste to turn the programs over to the states, ignored "the record of failure of many decades on the part of most states that led to the conclusion that a Federal program was needed."

OSHA, he continued, "seems willing to approve plans on the basis of paper promises" from the states. The Senator noted that Undersecretary of Labor Laurence Silberman has announced publicly that the worker representatives to visit work sites for inspection need not be included in state plans.

Following are five objectives that Senator Harrison A. Williams (D-N.J.) says should be sought in job safety:

An all-out effort to perform the research necessary for developing the most effective standards for protecting employees against the full range of on-the-job hazards.

The development of an adequate compliance staff in the Department of Labor, equal to the task of providing a regular and effective inspection procedure. The staff should have the capacity to respond promptly when workers send notice that dangerous conditions exist in their places of employment.

The refusal to approve a state plan for any state which is not able to commit itself to at least as vigorous and effective a program as the Federal program—including full recognition of the principle of worker participation and worker rights.

A comprehensive program to provide employees with training in the Act's requirements and the application of those requirements to their own places of employment. In this way, they themselves may bring about a maximum level of compliance, without the need to depend upon Government inspectors in every instance.

Imaginative use of the Institute's resources and the Act's authority in an effort to integrate occupational medicine into an overall system of health care. Major emphasis should be on individualized screening and prevention.

Williams said it will take both money and "constant vigilance and commitment on the part of all of us to achieve these objectives."

HAZARDS IN THE WORK PLACE: THE CHALLENGE TO INDUSTRY

(Address by Leonard Woodcock, President, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America—UAW; to the Midwestern Occupational Safety and Health Conference of the Engineering Society of Detroit, Michigan, November 17, 1971.)

Let me begin by expressing my gratitude for the opportunity to be here this morning for discussion of the very important subject of occupational health and safety. I am supposed to be presiding over a meeting of the UAW International Executive Board this moment, but I am here instead because we in the UAW attach the highest importance to effective new measures to protect our members and all other working men and women against on-the-job hazards.

We see the promise of such protection in the Occupational Safety and Health Act of 1970 (OSHA) which has been in effect little more than half a year. And we are determined to do our utmost in the plants, in Washington, and in state capitals to convert that promise into fulfillment.

OSHA's passage was a kind of revolutionary event. It constituted an official commitment by the President and the Congress that 57 million American working men and women who are quite literally on the cutting, poisoning and killing edge of technological change would henceforth—and for the first time—enjoy the simple but very basic democratic and human right to work in environments where health and safety hazards would be held to a reasonable minimum, to participate along with management in maintaining adequate health and safety standards—and to have recourse to effective remedies when those standards are violated.

Such rights, one would think, would be a matter of course in any democratic society. The distinguished scientist, Rene Dubos, in his preface to "Peril on the Job," a study of hazards in the chemical industries, wrote:

"In a truly civilized society, protection of the worker should be regarded as the most essential, irreducible aspect of production cost."

Unfortunately for all of us, but especially for industrial workers, the world of industry and mass production is something less and other than a democratic, civilized society. The advent of unionism and collective bargaining made it more democratic and civilized. But even with the power to bargain, even with the right, which workers have under UAW contracts, to strike over unresolved issues affecting health and safety, it has not been possible to cope with the relentlessly increasing number of work hazards flowing from a system that has been almost totally permissive with respect to the exploitation of new technologies.

All of us here today have no doubt detected the signs that the age of such permissiveness is drawing to a close, albeit with a great wailing and gnashing of teeth. We are entering an era when corporate and governmental decision-makers will no longer be able to chart their course with an eye on economic indicators alone, but will have to give increasing attention to the social consequences of their economic performance. The enactment of OSHA is a sign of the new era with regard to the work place. Another sign is the rising demand for a national health security program which will organize the delivery of quality health services, with stress on preventive care, and with budgetary controls that will put an end to the cost inflation inherent in the present non-system. The Health Security Program now before the Congress is a working and essential counterpart of OSHA. Working men and women and their families need both, because the hazards to health are pervasive in our society and require equally comprehensive remedies.

For decades the UAW and other unions pressed for Federal legislation that would oblige employers to correct and prevent hazards threatening the health and safety of workers, to no avail. Despite efforts in recent years to make state workmen's compensation laws more responsive and relevant to workers' needs, most of them still lack benefit structures that give employers a strong cost incentive to maintain a safe and healthy working environment. And one could count on the fingers of one hand the number of states with adequate health and safety programs.

So the carnage in the work places of the land continued and augmented. As assistant Secretary of Labor Guenther has pointed out, there has been a serious increase in work-related injury and illness in recent years. When Congress passed OSHA in December of 1970, its members were responding to a critical national epidemic of industrial accidents and disease that could no longer be ignored by the Federal government because it had become a major preoccupation of the mass of American workers. The House Committee on Education and Labor stated in an October 1970 report that "The on-the-job health and safety crisis is the worst problem confronting the American workers." Annual BLS statistics cited by the Committee indicated that 14,500 workers were killed in a year, an average of 55 per day during a five-day work week; 2.2 million were injured; 300,000 were suffering from occupational diseases; and 250 million man days of work were lost, 10 times as many as from strikes.

And there was evidence that these data did not tell the full story. According to Congressional Quarterly, a report submitted by the Delphic Systems and Research Corporation to the Labor Department found that the annual BLS survey of work-related accidents was "seriously restricted" by survey-sampling and data-collection procedures at state levels. As a result, according to the Delphic study, even in the State of California, which has rigorous accident reporting procedures, more than 36 percent of firms reporting no injuries actually had employee accidents. On a national basis, Delphic projected about 200,000 disabling work injuries beyond the 2.2 million reported to the BLS in 1969.

If employers were minimizing the accident rate, a study of worker attitudes conducted by the U.S. Department of Labor in late 1969 and summarized in the October 1971 issue of Occupational Hazards makes it clear that workers themselves were seriously concerned over the risks they were running on the job. Sixty-four percent of all workers regarded protection against health and safety hazards "very important." Seventy-one percent had the same reaction to work-related illness and injury. And 69 percent deemed it very important to have protection against inadequate expense coverage during work-related illness or injury.

Along with the increase in on-the-job hazards and the failure of employers and state agencies to cope with them, another force was making a strong Federal commitment to occupational health and safety inevitable: the coming-of-age of a new generation of workers and changing values among many older workers. Younger workers are better educated and more demanding. Their expectations have been formed by the influences of a relatively affluent consumer society, rather than by the constraints and inequities of a hierarchical work environment that denies or turns upside down the notions of participation and equal treatment that are widespread in the broader community. And a growing number of older workers have come to share their views. The autocratic management dogma that health and safety are off limits for the very workers whose health and safety are at stake could not possible survive the generational and cultural change of the last several years.

In addition, the American people as a whole have acquired a new environmental awareness, and as a result there is a growing perception that the wall separating the hazards at work from the hazards in the rest of the community is permeable, in fact no longer exists in an age when a flood of toxic substances threatens our lives or health everywhere. It is now apparent that working men and women are the major victims of environmental deterioration, and the risks they run at work have been exposed to national attention. In and out of the work places, we are all being more or less battered and poisoned by a selfish and shortsighted use of science and technology.

Yet despite this new environmental awareness, and although OSHA represents a humane, reasonable and urgently necessary democratic response to a deep-going national concern, both in government and industry there are disturbing indications of something less than a full resolve to implement the law.

In much of industry there is an evident tendency to approach OSHA as another sinister encroachment on management's domain rather than to seize the opportunity it offers to achieve the obvious good of drastically reducing on-the-job hazards, to improve the quality of the work environment, and through those actions to increase productivity.

Industrial consultant Leo Teplow, writing in the April 19, 1971, NAM Reports, said disparagingly of OSHA, "It is a strange melange of Naderism and Laborism." Referring to the OSHA requirement that citations be issued to employers who violate standards or other provisions of the law, Teplow writes:

". . . The employer is then required to promptly post a copy of the citation in the workplace to which it applies, thereby practically inviting activists to charge the employer with bad faith in his safety/health program, or to discourage employes from continuing to work in what has been officially ruled to be a hazardous area."

Mr. Teplow states:

"A positive, effective occupational safety/hygiene/health program throughout the country is probably the best way to avoid the employee-relations complications built into the law."

But he also advises:

". . . One way to avoid being caught between conflicting state and Federal requirements, and to have the law administered closer to the plant is to have the state prepared to enforce the new law. It can be hoped that the state law can avoid the employe-relations problems which characterize the Federal law."

And he concludes:

"It is a mistake to dismiss this new law as something for the safety specialists to worry about. Its employe relations aspects may, in the long run, be more important . . . and more painful . . . than its basic objective of ensuring safe and healthful workplaces."

It would seem that Mr. Teplow's somewhat ambiguous advice caters to or reflects a kind of paranoia widespread among employers. If it is followed widely enough, the probable consequences will be the opposite of the result Mr. Teplow envisages. For if OSHA's basic objective of "ensuring safe and healthful workplaces" is to be subordinated to management efforts to keep workers and their representatives at bay in dealing with problems of health and safety, then management can count on reaping the whirlwind of far more "employee-relations" problems than would flow from a bona fide employer effort to cooperate with workers and their unions toward the end of attaining fail-safe, pollution-free work environments.

American industry has had a good deal to do with creating the need for the new law. Industry continues to aggravate the situation to this moment, by accelerating the pace of work, often with disregard for the health and well-being of those involved. New and higher production quotas are set with first priority given to profits, and only incidental attention to the impact on workers and their families. Instead of assuming the social costs entailed in the creation and maintenance of a civilized and humane work process, American industry has obliged the worker and the community to shoulder them. Instead of opting for a safe and healthful environment, instead of promoting new technologies to prevent accidents and work-related illness, employers often opted for under-reporting of casualties and fierce lobbying to hold compensation costs to a minimum.

I know you recognize with me that the health and safety of workers cannot be looked at solely within the limits of the workplace. Today it is increasingly difficult for workers and their families to secure adequate medical care. And the continuing skyrocketing of costs makes it increasingly difficult for workers to pay for that care or for the insurance which would pay for much of it. In recognition of the inter-relatedness of health in the workplace and health in the society, the UAW and many other progressive forces in the community are promoting the Health Security Program. This proposal for universal financing, reorganization of the health delivery system and the institution of appropriate cost and quality controls on services is one I hope you as professional people and employers, as managers and as citizens, will support in the interests of all of us.

I recognize, too, that in talking about management's responsibilites for safety in the workplace there is a parallel responsibility on the part of workers and the unions who represent them. I know we must join together in constructive safety and health education programs and that unions must help workers develop understanding that it is in their interest to make full and proper use of safety and health devices when installed.

The UAW and many other unions are seriously at work developing internal union programs to help carry out our own responsibilities as well as to see that the employers of the workers we represent carry out theirs.

And just as we propose to fulfill our obligations, we hope and expect business will meet theirs.

Fortune Magazine, in an invitation to a "major management conference" held last May, introduced its agenda with the following remarks:

"Your success as a business executive in the seventies will depend on thorough understanding of unprecedented social, political and psychological uncertainties. They will deeply affect your decision-making and your corporation's prospects and profits in this decade. For the first time in American business history, the so-called 'non-market public forces' will be so powerful that the implications are staggering . . ."

I would add that the business executive himself may well be a major part of the problem and of the uncertainty. If he lacks the social responsibility and the simple humanity to insist on a strategy of production that protects his own workers, rather than exposing them as usual to the mounting risks of the new technologies, all the institutional advertising and press releases in the world will not save him.

The environmental crisis will not go away, nor will the occupational health and safety crisis which is an integral part of the larger threat. I would hope that the professional societies would summon up their courage and their social conscience and persuade American businessmen that social responsibility in the substantive as opposed to the image-making sense is the only realistic path through the uncertainties of the seventies and after. I would hope in particular that the engineering community will press for the introduction of new technologies already available to create safer and healthier work environments, and to give the highest priority to research and development along that frontier. Rene Dubos, in his preface to "Peril on the Job," makes this very relevant observation:

". . . Anyone familiar with the history of science and technology knows that progress has always resulted from the necessity to meet reasonable constraints and regulations. Scientists and technologists are so inventive that they can and will improve technological efficiency even as they develop working conditions compatible with the maintenance of health."

Labor—let there be no mistake about it—is determined that the benefits implicit in OSHA will be forthcoming. We are not content to wait patiently until planners in Washington, state capitals and the regions have fully staffed the program. Nor are we content to count the casualties in industries and plants that are not singled out in a worst-first strategy. We expect management to assume its responsibilities to implement the law forthwith. A readiness to cooperate when violations of OSHA standards are pointed out to supervision will minimize the potential for "employe-relations" problems and will produce time- and production-saving solutions without the necessity of having recourse to the more protracted Federal or state procedures.

We in labor are also disturbed over the ambiguous and what might be called the ideological approach of the Nixon administration toward implementation of the health-safety law. And we hope the Administration will not make the mistake of believing that union leadership is "out of step" with union members in warning that the labor movement has not fought so long for an effective law protecting working people from the hazards they face at work, only to lose the benefits implicit in the provisions of OSHA through failure to provide for vigorous administration.

Fail-safe, pollution-free workshops will not be attained through a weak-willed, penny-pinching, leave-it-to-the-states approach to occupational health and safety. We have been down that road. If it had taken us where we need to go, the Congress would not have heard from workers and their unions, and the Williams-Steiger Act would not have been signed into law.

We in the UAW are open to persuasion—through performance, not promises—that the purposes of OSHA can be fulfilled through state administration. It should be understood, however, that the UAW, like the rest of the labor movement, has had long experience in dealing with state administration in many fields, and that experience warns us that the so-called New Federalism of the Nixon Administration is a will-o'-the-wisp, a political equivalent of the Edsel.

For working people, OSHA is the best hope they have ever had that they will be able to earn a living with minimal risk to life and limb. And to the extent that the Nixon Administration loses sight of that hope and need, and comes to think of OSHA as a showcase or promotion stunt camouflaging the same old health-safety run-around, there is going to be hell to pay.

Already the Labor Department has muddied the waters by its casuistry in defining requirements for state plans, particularly with regard to walk-around rights for employees when inspections are made. As far as the UAW is concerned, there will be no cooperation with state plans that exclude precise walk-around provisions, penalty provisions equivalent to those in the Federal law, and the unequivocal obligation of employers to report to complaining workers. Nor will we accept a state administration which uses Federal monies available under the Act to effect cuts in its own funding for implementation. The Federal monies were intended to improve administration, not to facilitate cutbacks in state outlays.

We have other misgivings over implementation of the Act. We share the concern of Senator Williams, the Act's co-author, over the inadequacy of appropriations, a lack which will gravely impair the range and effectiveness of inspection and enforcement—and which will seriously cripple the very crucial research function of HEW with respect to the growing number of toxic substances continuously invading the work environment, in many instances in the absence of any or adequate knowledge of their possible effects on health and life.

And we have a further complaint. The Department of Labor is staffing the program as if it were a responsibility of the Department of Commerce. We see little more than token representation of persons with practical shop and union experience. And we warn again that this is a program to benefit working men and women. It must not be staffed and operated as an exercise in the New Federalism and the New Conservatism.

For these and probably other reasons, we are monitoring the progress of OSHA very carefully, with an open mind and a skeptical eye. And we appreciate the readiness of Senator Williams to open oversight hearings if and when it becomes apparent that labor's long search for on-the-job health and safety has again been frustrated.

It would be much more comforting if business executives would accept the offer of cooperation extended by the UAW and other unions and pursue the course of prevention, rather than bringing upon themselves and all of us the storm and fury that may well arise if industry, in this instance as in so many instances of the past, has to be carried, "kicking and screaming", into what is left of the 20th century.

[From the Washington Post, Mar. 16, 1972]

AFL–CIO WARNS ON ASBESTOS CANCERS

(By Victor Cohn)

"The largest epidemic of occupational cancer ever recorded" may be afflicting asbestos workers and their families, the AFL–CIO charged yesterday.

An associate of Ralph Nader also stated that this whitish rock fiber is becoming a more common and hazardous urban-air pollutant—the result of its use in insulating, fire-proofing, building, brake linings, floor tiles and other uses.

The labor group said that in the asbestos manufacturing area around Manville, N.J., (population 15,000) one group of surgeons alone has seen 52 cases of mesothelioma, a form of chest or abdominal cancer considered so rare just a few years ago that some medical books did not mention it.

Most of the 52 are asbestos workers. Some are family members who handle their asbestos-fouled clothes.

Dr. Maxwell Borow of Somerset Hospital, one of the New Jersey surgeons, told a news conference Tuesday that no one knows how widespread mesothelioma really is in such persons because no one has made wide enough surveys.

The AFL–CIO quoted Dr. William Johnson of the government's National Institute of Occupational Safety and Health as saying that the Manville situation "may be only the tip of an iceberg."

Either cancer of some form or asbestosis—lung impairment—causes nearly 40 per cent of the deaths of New York-New Jersey asbestos workers, Dr. William J. Nicholson, professor at Mount Sinai Medical School, New York, estimated. He called this "a national disgrace."

The AFL–CIO charges came as the Labor Department held hearings on new limits for asbestos in the air in industrial plants.

The department in December ordered the permissible daily average asbestos exposure cut from 12 to 5 fibers per cubic centimeter of air. It proposes to cut this to 2 fibers starting June 1, 1974.

The Oil, Chemical and Atomic Workers International Union seeks a zero-exposure level in refineries, and the AFL–CIO urges a maximum level in any plant of one fiber per cubic centimeter.

Testifying at the Labor Department hearings, union spokesmen have been backed by Nicholson and by Dr. Sidney Wolfe of Nader's Health Research Group.

Wolfe yesterday called asbestos "a classic example of the invisible line between the work place and the environment, because a lot of people are affected who don't even work on the stuff."

He cited a British study of 76 mesothelioma victims showing that 31 were asbestos workers, nine were their relatives and 11 were persons who lived within half a mile of an asbestos plant.

Industry spokesmen and medical consultants are expected to argue against the AFL–CIO and Mount Sinai Medical School conclusions and to say that even the Labor Department December action was unwarranted.

Nicholson argued that no one knows what the safe working level of asbestos is, or if there is one. Therefore, he maintained, asbestos users should be required to show that they can use it without raising any dust.

The Environmental Protection Agency recently proposed to cut the amount of asbestos industry may discharge into the air, and to ban spraying the stuff on buildings for insulation or fireproofing.

[From the Wall Street Journal, Dec. 1, 1971]

JOB-HAZARD LAW SPURS COMPLAINTS FROM FIRMS ON COST OF SAFEGUARDS

(By Byron E. Calame)

The classic cry of "timber!" may no longer be clearly heard ringing through the forests of the Pacific Northwest.

Why? Because Uncle Sam now requires lumberjacks to don earmuffs as protection against the whine of their power saws. "If they want to continue to work in these jobs, they've got to wear the gear," says a man at Gilchrist Timber Co. in Oregon.

Protection of lumberjacks' hearing is one result of the nation's first comprehensive law covering health and safety on the job. In partial effect for more than seven months and in full effect for more than three, it is forcing most employers to take a fresh look at protection of their workers. And, on pain of fines or jail terms, many are finding it necessary to adopt what they consider inconvenient or costly safeguards.

At a plant run by New York-based American Standard Inc., limits imposed by the law have required a reduction in pressure in nozzles used to spray plastic on plastic-coated bathtubs and toilet seats; production has been slowed as a result. Sanitation requirements are forcing another major manufacturer to install new and larger partitions between restroom stalls; the cost is calculated at $200,000. And at Detroit's Regal Stamping Co., a subsidiary of Peabody Galion Corp., has had to put in new guards on its metal-stamping machines. The 100 employees are being required to make use of the guards and to follow more restrictive operating procedures as well. Regal President J. G. Wynn reports productivity has dropped 10% to 15%, though he hopes it will bounce back as employees learn the new procedures.

A HIGH RATE OF VIOLATIONS

Several hundred companies have been fined for violations of the law. The stiffest penalty to date: a maximum $10,000 fine levied against a Lockheed Aircraft Corp, construction subsidiary after a fire in California. (Lockheed is appealing.) REA Express Co. has drawn a $900 fine for an accident even though the employe injured had failed to use safety equipment provided by the company. (REA is contesting the fine.)

"We are witnessing the most extensive federal intervention into the day-to-day operation of American business in history," Leo Teplow, a Washington management consultant, says of the Occupational Safety and Health Act. Aimed at reducing the more than 14,000 on-the-job deaths occurring yearly, the sweeping law covers 57 million workers in 4.1 million factories, offices and shops.

There clearly is a gap between many corporate safety programs and the provisions of the new law. Violations have been discovered in 79% of the 5,600 establishments inspected since the law became partially effective April 28, according to George Guenther, assistant secretary of labor for occupational safety and health. (The law took full effect on Aug. 28.)

The standards in the law are hardly new to many larger companies. Most were drawn from "consensus" safety standards previously developed by groups such as the American National Standards Institute as voluntary guidelines for business; others came from safety regulations formerly prescribed for federal contractors and for the maritime industry. Most standards deal with guardrails, machine guards and similar basic safety precautions.

THE WORST FIRST

What's new, and is spurring many worried employers into action, is the stiff enforcement provisions of the new law. Employers can be fined up to $10,000 for each violation and can be sent to jail for up to six months where a willful infraction causes an employe's death.

Many employes are concerned, too, that workers will seek to harass management by initiating safety complaints; under the law, each employe complaint must be investigated. At last count, however, there had been only 556 employe complaints filed since April 28—fewer than the thousands that some leery businessmen had predicted.

With less than 500 federal compliance officers in the field, Labor Secretary James D. Hodgson has ordered them deployed—along with 70 inspectors from eight cooperating states—on a "worst first" basis. Top priority goes to checking on fatal accidents. Next are investigations of employe complaints. After that come industries with high injury rates; the initial five are longshoring, roofing and sheet metal, meat-packing, mobile-home manufacturing, and lumber and wood products.

The enforcement manpower is expected to remain limited, so Mr. Hodgson is stressing voluntary action. "We depend heavily on voluntary cooperation," he says, and he emphasizes that his inspectors "will be guided equally by the spirit of the law as by the letter." He adds: "We're certainly not going to measure the success of this program by how many penalties we assess."

Organized labor, which fought in Congress last year to win some of the enforcement provisions, is already protesting about lax enforcement. "The administration is 'tempering the wind to the shorn lamb a little too much,'' complains George Taylor, executive secretary of the AFL–CIO health and safety committee. A United Auto Workers' spokesman complains: "The jet set has 1,200 sky marshals at work to keep expensive airline equipment from going to Cuba, but 57 million workers will have less than 500 safety inspectors by next July 1."

One major union complaint involves the slow pace of the government's attack on health hazards. "Labor Department agents are going after boiler eruptions hammer-and-tongs while they boggle at those more insidious chemically induced explosions of cell tissue in the working man's liver, pancreas, kidneys and brains," asserts the UAW's weekly Washington newsletter.

Almost everyone agrees the toughest problem for employers will come when the government gets around to setting precise limits on workers' exposure to thousands of dangerous chemicals and other substances. "The real hooker is in the occupational health area," says W. E. McCormick, manager of environmental control at B. F. Goodrich Co. "I think the most far-reaching implications and serious consequences of the law are in this area."

The area of health hazards is largely uncharted. The National Institute for Occupational Safety and Health created by the law hopes to put out a dozen standards for toxic materials by the end of the year, a spokesman says. But critics say that's next to nothing compared with the 9,000 potentially harmful substances for which standards are needed.

Even though the most difficult compliance problems are yet to come, many companies, especially smaller ones, complain they have their hands full trying to meet the standards already spelled out.

The superintendent of a small California shipyard claims his costs are going to rise at least 20%. One reason: management is being forced to provide such things as "permanent-type" rather than temporary scaffolding and barricades around shipboard hatches during overhauls.

SAFETY CAN PAY

"An older plant can go broke trying to comply with some of these standards," asserts William Miller, manager of corporate safety at Goodyear Tire & Rubber Co. Mr. Teplow, the management consultant, claims the $200,000 another company is spending to remodel restroom stalls "isn't going to do anything for anybody's health and safety."

Yet some corporate safety experts, including Goodyear's Mr. Miller, emphasize that safety can pay. "When you look at workmen's compensation costs and weigh them against the costs of a safety program, you see a lot can be gained," he says. Robert DeRose, president of DeRose Industries Inc., an Indianapolis maker of mobile homes, says complying with the act should help pare his workmen's compensation insurance premiums by 10% during the next two years.

Such considerations, along with the act's tough penalties, are spurring companies to pressure employes to use safety devices. REA Express Co., for one, has a special reason for applying heat: It was fined $900 after an electrician was injured when he wasn't using the rubber mat provided for him to stand on. "Naturally, we're tightening down on making employes use the safety equipment," an REA official says.

But getting employes to use safety equipment is a problem at Richardson Homes Corp., an Elkhart, Ind., maker of mobile homes. Since the employes are paid on a piecework basis, an executive explains, they're reluctant to use safety devices, such as guards on power tools, for fear of slowing their production and cutting their pay checks.

DAMNED IF YOU DO . . .

Complying with the safety law presents a special headache for Robert Burns, manager of a Missouri Beef Packers Inc. plant in Plainview, Texas. A federal safety inspector in September cited the concern for not having a guardrail on the platform where employes stand to work on carcasses that move by suspended from an overhead track. But an Agriculture Department meat inspector has warned the company not to install the rail because germs could be spread as the carcasses rub past it. Mr. Burns says he is seeking a formal hearing with the federal officials involved to resolve the matter.

Despite the problems, safety officials at a number of larger corporations maintain they're well on their way to complying with the law. General Motors Corp. has sent experts to many plants to explain the law's impact. American Standard is conducting mock inspections of its facilities to help managers get ready for the real thing. At Boise Cascade Corp., safety administrator Marvin Strode is working closely with company purchasing agents; he made sure that an order for a new paper-mill machine specified the equipment must operate within presented noise limits.

But it's harder for smaller companies to muster the expertise needed for compliance, says an executive of the National Association of Manufacturers. At a recent seminar for small businessmen, he found "one guy who didn't even know a safety law had been passed."

A 1972 LEGISLATIVE QUESTIONNAIRE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DUNCAN. Mr. Speaker, I am mailing the citizens of the Second District of Tennessee a questionnaire on major legislative subjects facing this Congress. This is an annual project for me, and I find it is well worth the time involved for I have a data processing company tabulate the answers. This questionnaire provides me with, a basis for judging the sentiment of my constituents on these vital issues. Following is the legislative poll which is now being processed and will be in the mail shortly:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., Spring 1972.

DEAR CITIZEN: Again it is a pleasure for me to ask your opinions on major issues that are extremely helpful to me as I cast my votes in the House of Representatives. I will be grateful to you for your answering these questions with "yes" or "no" and hope you will return this to me as soon as possible.

Each year there are thousands of bills brought before the Congress. It is difficult to choose questions for this poll, but I want you to feel free to write to me about any that I was unable to include. Or, if you feel that a "yes" or "no" answer is insufficient to cover any items on this questionnaire, I welcome a separate letter.

Thank you very much for your interest, and please call on me any time I can be of assistance.

Sincerely,

JOHN J. DUNCAN,
Member of Congress.

A 1972 LEGISLATIVE QUESTIONNAIRE

1. Do you believe that the U.S. should have a policy of military superiority over Russia?

2. Assume you learned that Russia had gained military superiority over the U.S. and that it would cost $20 billion a year more for the U.S. to regain superiority. Would you favor or oppose spending the $20 billion?

3. Do you favor the establishment of a minimum wage?

4. Were you satisfied with the President's trip to China?

5. Do you favor the proposal to allow citizens to register by mail to vote?

6. Do you favor the proposed amendment to stop court-ordered busing to achieve integrated schools?

7. Are you satisfied with our withdrawal progress in Vietnam?

8. Do you think the wage, price and rent freeze programs have worked to improve the economy?

Name ______________ Age: 20–35 ________ 35–50 ________ 50–Over ________
Address ______________ Zip ________
Voting Preference: Democrat ________ Republican ________ Independent ________
Whom do you want as our next President? ______________

MAYOR MERRILL HARRISON OF LAUREL, MD.

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HOGAN. Mr. Speaker, I would like to pay tribute today to a man who has contributed 28 years of his life to the service of the citizens of Laurel, Md. He is my longtime good friend and counselor, Mayor Merrill Harrison, who has literally dedicated his life to Laurel and its citizens and is now retiring.

His public life began in 1936 when he became clerk to the city council and continued through service as a city councilman, president of the city council and as mayor of Laurel for seven terms.

None of us can begin to count the hours he spent away from home or the financial sacrifices he has made for the town he loves. I know he has not counted them and I am sure he would be embarrassed if I tried. He simply saw what needed to be done and he went out and did it.

When a Laurel resident needed someone to talk to or turn to for help, Merrill Harrison was always there. He embodies the finest in the tradition of municipal leadership that has gained steadily in importance in Maryland and across the Nation as Federal, State, and county governments have grown increasingly complex. Merrill Harrison has always been right there when he was needed, close to the people of Laurel.

All of us in Maryland will be forever in his debt for the leadership and example he has provided. The spirit and dedicated hard work of men and women such as Merrill Harrison in municipalities across the Nation have helped to make our country great.

The tremendous contributions Merrill Harrison made to Laurel and its citizens are best described, I think, in a speech presented by Gertrude L. Poe, editor of the Laurel News Leader, during ceremonies honoring the retiring mayor on March 25.

I was privileged to participate in those ceremonies and heard her excellent address. I insert excerpts of those remarks into the RECORD.

This is your night, Mr. Former City Clerk for 12 years; Mr. Former City Councilman for two years; and Honorable Mayor of Laurel for 14 years.

An old mountain philosopher once said: "A feller can't no more talk about what he don't know than he can come back from where he ain't been."

If the converse of that philosophy is true, then it is the only thing that qualifies me—regardless of the introduction—to take on this task of speaker on this historic occasion. . . . for it is a sure thing that I know my subject . . . and I've been a long way with him. . . .

Merrill Harrison was born at 932 Montgomery Street in the house his grandfather built. His son lives there now. Four generations of Harrisons have lived there. That's how far back the roots of this man go in Laurel.

Baseball was his favorite sport. As a kid, he'd play on any vacant field in Laurel—and there were plenty of them. And until the last few years, he attended every World Series game—no matter where; no matter when. Nothing stood in his way. One might say that was the only time he deliberately forsook his duties as a Laurel official. No Council meeting was quite as important as that World Series game. And the bets he won and lost on them would make good listening.

Merrill's book learning began in one of Laurel's two elementary schools. It was at 9th and Montgomery where the Fire Hall now stands.

"The Laurel I knew as a young kid," Merrill recalls "was a sleepy little country town. Main Street was paved, but that's the only street that was. My street—Montgomery—was either dusty or muddy. I remember we did have street lights—the only trouble was they didn't give any light. Electricity was not available in day time except on Mondays when housewives were supposed to use their electric irons. We had one policeman, on foot, of course, on duty only at night. Our City Hall and jail were in a frame building at 5th and Montgomery where the Armory now stands." And that is a picture of Laurel when this man was a kid.

Friends, I'm sorry to have to reveal this and burst one of your bubbles—and it's probably why Merrill didn't get very far in life. He was a high school drop-out. In his senior year at Laurel High, some of the gusty temper and resolute decision making he later became famous for were beginning to blossom. He simply got fed up with an uncooperative commercial teacher and walked out in his senior year. He immediately, however, entered Strayer Business College in Washington and on graduating went to work for Kann's Department Store there where he has remained all these years and is now general superintendent.

General Everard E. Hatch was mayor in 1936 when Merrill was first appointed to municipal office. Mr. Bert Ayton, who died just a week ago, was president of the City Council and recommended Merrill for the job. The appointment of Merrill as City Clerk at the age of 25 and looking like a young Rock Hudson, came about when Town Treasurer John V. O'Brien was killed in an automobile accident and City Clerk Lee E. Gilbert was named to replace him, leaving the Clerk's job open.

Only one member of the Council serving in 1936 when Merrill entered municipal service is living. He is G. Bowie McCeney—my boss.

Merrill had served three years as City Clerk when I began to "cover" his as editor. There was no City Hall. The Council met in a ground level room of the Laurel Armory with a 5th street entrance until the Town bought the old Fire Hall and converted it to City Hall. But there was standing room only at most of the meetings in that Army room—unlike today's poorly attended meetings. In the winter time it was cold and damp; in the summer time it was hot and humid. But a lot of Laurel's history was made there, not only by Merrill but by some of these men who've been introduced tonight.

Merrill served for 12 years as City Clerk under the Hatch, Tolson and Fetty administrations.

In 1948, it was *again* his friend, Bert Ayton, who encouraged Merrill to run for Mayor. Merrill ran unopposed—so his ascent to the municipal throne was painless—the kingdom he inherited was not.

Serving on the Council with Merrill in his first term as Mayor were Roy Armstrong, president of the Council, and Gilbert White, James B. Turney, Maynard L. Ward and Norris C. Beall, all of whom are deceased.

Merrill makes no bones about inheriting the worst police department in the entire USA. The streets were in deplorable condition. During WWII street material wasn't available and some of the streets were literally impassable.

The State Board of Health had advised no more building permits could be issued in Laurel until provision was made for increased water supply.

On top of that the Town had no money.

With all those things going for him, Merrill assumed for the first time the post of Mayor which he was to hold for a total of seven terms, longer than anyone in the Town's history.

He has never been defeated for office, though one time he was the only one on his ticket to be elected. It was in 1952 when he was opposed by Tom Israel who also headed a ticket. In what was probably the Town's most historic election upset, Merrill, whose slate included all incumbents, was reelected and found himself serving with a completely new City Council. Mr. Israel had headed a ticket of winners, save one, himself. A record 61 percent of the voters went to the polls in that one.

At the conclusion of those first three consecutive terms from 1948 to 1954, the highlights of his administration had to include:

Providing an unlimited supply of water. The Town had entered into a 40-year contract with Washington Suburban Sanitary Commission. Parenthetically, this was later voided by another administration when the Town permitted the Sanitary Commission to take over its entire water and sewer system. Because the Town had always made money on water, Merrill has always believed this was—and I quote—"a sad mistake."

But back to those highlights. Others certainly had to include:

Annexation of the 160-acre Fairlawn District to the Town, for Merrill believes this was the beginning of marked growth in Laurel. Although opposition to the annexation and subsequent development with all its ramifications was vehement, as some of you officials will recall, in retrospect the Mayor has pointed out that when the Laurel Shopping Center located in Laurel in 1956 they would have been just outside the Town limits had Fairlawn not been annexed—and the economic influence of the Laurel Shopping Center on the Town has been inestimable . . . and during those first three administrations, a Town Supervisor was appointed, which relieved the mayor's job in future years to a great degree.

Curiously, during those first six years as mayor, Merrill saw every ex-mayor die: DeWilton H. Donaldson, Edward F. Tolson, Capt. J. B. Anderson, whose daughter-in-law, Peggy, now serves on the Council; and John H. Fetty . . . so when Merrill left office he became Laurel's only living ex-mayor . . . a status risk I urged him not to assume, to no avail.

He dropped out of the municipal picture from 1954 to 1962—and I mean dropped out. He told me he would not even attend Council meetings. He intended to quote keep my mouth shut unquote. He thought it unfair to the incumbent mayor to continue a voice for Laurel. And he is the first to admit that Laurel's growth did not stop when he stepped down . . . it might even have accelerated, he adds a little reluctantly, and enumerates that . . .

The most elaborate street repair and drainage program in the Town's history was completed during his absence from the municipal scene.

The Laurel Shopping Center was built.

And the Comprehensive Master Plan with its accompanying Zoning Ordinance were adopted.

Merrill chalked up another first in the town's history when he was elected to the City Council during the Melbourne administration in 1962. He became the first person to have served as mayor and then Councilman.

It was inevitable that he be Council president and Council liaison to the new Laurel Planning Commission. I well remember in those painful early days of adjusting to a Zoning Ordinance and a Master Plan, chaos often reigned at meetings—the president's gavel was seldom heard.

But when Merrill got hold of the gavel he restored order to the Council meetings and never hesitated to put people in their places if they got out of order. Indeed, he sometimes asked them to leave. Ask Ron Davies, who later became his Councilman, about that.

Merrill has always called a spade a spade . . . which reminds us of a good old anecdote of a fellow Republican friend of Merrill's, Abe Lincoln. Abe used to ask, "If you call a tail a leg, how many legs has a dog?" To which the obvious answer was five, but Abe would then say, "No, calling a tail a leg, doesn't make it a leg."

And that's been Merrill's philosophy.

Almost as quotable as Abe Lincoln himself, Merrill told The News Leader one time—and with elections imminent it's worth repeating: "You soon learn that the mere fact that you received a few more votes than your opponent does not automatically endow you with omnipotence. Nor does it increase your normal intelligence and it does not provide you with any unusual powers of prognostication. You need plenty of competent advice. You get plenty advice. The main problem is deciding what is competent."

Another time we quoted him as saying: "The relatively few people who attend Council meetings usually are motivated by self-interest and you must be constantly on guard that you are not stampeded or pressured into some hasty, ill-considered action. You must be ever mindful of the vast majority of citizens who never attend a Council meeting. You must see that their rights are protected also."

Now that he is drawing to a close those years of involvement and responsibility as a municipal officer, Merrill is ready to warn his successors in office here that "the ideal mayor should possess the wisdom of Solomon, the patience of Job, the tenacity of a bulldog, and have an over-abundant supply of tolerance—enough to permit him to be tolerant of intolerance."

He hastens to admit that he has not possessed those qualities at all times.

But there were times when it was a good thing he did not have the patience of Job—and when Merrill's patience is finally exhausted, his temper flares to the boiling point. Am I right, Minnie?

It was in 1964, I remember, in June, when parts of Laurel ran completely out of water while other sections suffered a sharp drop. Complaints poured into City Hall and the Mayor's home. He passed the problem on to the Washington Suburban Sanitary Commission—after all it was their problem.

Water pressure was restored temporarily, but the next night the same thing occurred. Like a seesaw, as the water pressure went off and on, so did the Mayor's phone . . . and so did his temper. He had already checked personally at the Patuxent Filtration Plant at Laurel and the men there were as upset as he was. They were helpless to correct the situation.

The problem had to be resolved by the Commission itself.

So . . . the next morning found the Mayor and Town Supervisor George Barkman, who I think was trying to disassociate himself from the Mayor by walking a few steps to the rear and out of contact with the Mayor's boiling temper . . . walking into the Chief Engineer's office, only to be told he was attending a meeting with the Commission.

Delighted to discover that he had hit the jackpot by finding the entire board of commissioners and the chief engineer together, Merrill, with George, proceeded to the meeting room.

Without even a knock, the Mayor opened the closed door, and entered the crowded room where the Commissioners were in the midst of a hearing. Reasoning that if he took a seat and waited his turn, he might be there all day—and by that time his temper may have lowered to a simmering point, the Mayor in what he described as "the rudest, crudest, most offensive performance of my entire life," announced in his nastiest voice:

"I'm Mayor Harrison of Laurel and I've come here to get the water situation in Laurel straightened out and I want it straightened out today." He gave them until 4 p.m. or he would take action."

The water situation was resolved by 4 p.m. and Laurel hasn't run out of water since.

It wasn't until a long time later that I asked the Mayor what action he would have taken—and he told me he had intended to take six policemen to the Filtration plant and actually cut off the entire metropolitan district—using force if necessary—knowing he would have wound up in jail, but willing to take the chance.

I'm almost sorry the WSSC did respond to his demand, for Laurel history might have recorded another first for Merrill.

But that is typical of Merrill's philosophy through his 14 years as mayor: that the only reason for having a local government is that it is extremely sensitive to the needs and wants of its citizens."

There was an exception to that, Merrill, as I recall, and it probably was the most bizarre incident of your administration.

Remember the night a young man who occupied an apartment on Snowden Place arrived at City Hall with a cage containing a 7-foot boa constrictor, indignant (the man, not the snake) that he was not being permitted to keep his friend in his apartment? He requested permission to retain it as a pet and, as I remember, presented very valid arguments which the snake occasionally rearing its head in agreement, but you weren't very sensitive to their needs!

You have often exhibited righteous indignation when your Town officials were unfairly attacked. I remember your fierce defense of your Police Department on occasions when Prince Georges County officials have seemed to include them in a blanket indictment of all municipal police as inefficient and untrained—and I believe Gladys will remember it too.

You have never feared criticism and you have never shied away from what you considered unwarranted attacks on your own integrity and that of your officials. I remember well an exchange between you and the West Laurel Civic Association a few years ago in which you were indubitably the victor.

These are the traits which have woven strong threads of stability, of integrity, and of loyalty in the fabric of your administration.

Loyalty does appear to have been a steadfast characteristic of yours:

Born in Laurel, you never left it. Living in the west end of Laurel, you never moved.

Starting with Kann's you have remained there uninterruptedly.

Marrying Minnie, you have never thought of divorce—murder, yes, you confess, but not divorce.

Having started in municipal service, you never sought higher political office.

Having been persuaded to join a service club (a joiner you're not), you have been such a loyal member, I think the entire Rotary Club is in the audience tonight—which is tantamount to saying you inspire loyalty too.

Perhaps being born during the administration of Republican President Taft and Republican Mayor George P. McCeney of Laurel influenced your party affiliation . . . but that has been pretty loyal, too, if we can believe Vice President Agnew.

Well, we've already run out of those 20 minutes in which I was to wrap up your 28 years of service to Laurel, Merrill, and there are lots more things I want to tell your friends:

About the accomplishments of your latter administrations . . . the capital improvement program; the imminence of a new City Hall and Police Department; the annexation of another 430 acres to Laurel—you've seen the geographic size of Laurel double during your tenure of office and its population triple.

About how you've helped to bridge racial differences and inflammable situations in a quiet, dignified manner, and proof of this lies in the fact that I see leaders who worked with you in solving those racial problems among your friends tonight.

About the time you preached the sermon at Laurel Presbyterian Church. Even you were the first to admit you were operating out of your area of competency. You've always left the churchgoing up to Minnie.

About your French citizenship . . . remember when the Mayor of Pessac, France, met you when visiting a former countryman here, he was so impressed he made you an honorary citizen of his town?

You've certainly cut more ribbons to open more places than anyone in our history—and the smallest store received as much attention as the largest.

About your sincere search for the right answer to the perennial Main Street problem and your regret you're leaving an unfinished symphony with many discordant notes.

And about your frankness: "I drag my feet purposely at times. It's been my design," you told me one time. "I don't want this town to get into the financial mess Prince George's County and the United States are in."

About so many things only someone who has known you as long as I, has been able to observe that prove without a shadow of a doubt that although you've evidence some of the shortcomings of your sex your service, your faith, and your dedication are unmatched in Laurel's 102 years as a municipality.

"I am not quite sure just what 'Laurel' means," you said a few years ago. "I guess it means many things to many people, depending upon your relationship with the town. As one who was born in Lauren and has lived here all my life, it has a special significance. To me, it is home. My years here have provided me with an abiding faith in three things:

The fatherhood of God;
The brotherhood of man;
And the neighborhood of Laurel."

This has been your moral code, Merrill, Laurel has been the beneficiary of that code all of these years, and future generations will be its legatees. On behalf of all your friends gathered tonight, I think you for that legacy.

May you and Minnie—who has to be the most patient woman in Laurel for having shared you with Laurel so many years in a capacity that certainly didn't make you millionaires, now enjoy the riches of health and happiness as you step out of municipal limelight.

God bless you both . . . and will you take with you Merrill, this gift as a token of the love and respect and appreciation which your friends gathered here have for you both.

PERSPECTIVE FOR A PLANET

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BENNETT. Mr. Speaker, I have heard many graduation speeches through the years, but one of the best, if not the best I ever heard, was the one recently made by Nathaniel P. Reed, Assistant Secretary of the Interior, at the University of Florida on March 18, last. If it was as inspiring to the graduates as it was to me, they were indeed helped to better wisdom by this fine and dedicated public servant. I insert at this point in the Record the complete text of his speech:

Perspective for a Planet

I can't help thinking as I look over this sea of bright intelligent-appearing faces of all those old worn phrases which are dragged out at commencements.

I would only say welcome. Welcome to the real world—the world beyond the university. It is not altogether a pleasant world: in fact, it cries out for your involvement.

I am truly delighted to be here with you today—especially when I consider the alternatives.

Life in Washington, D.C. is not all heady and fascinating, or even that educational. It is taxing and wearisome and frustrating, too. It's also rewarding—very rewarding in the sense of participating in decisions where frequently one man armed with the facts can change a policy or improve a program.

I am sometimes surprised how much one can do with the supposedly immobile hulk of the bureaucracy. And I have been surprised by the greed and blindness and just plain stupidity I have found in places it has no business being.

But then, I'm surprised by a lot of things on the opposite side of that coin. I'm surprised at the openness and depth I find in many places where I did not expect such treasures. And I am, I hope, as grateful for these pleasant pluses as I am disappointed and furious over the miserable minuses.

Being here today is one of the pluses, and I am fully aware of the responsibility that goes with the privilege.

It wasn't that long ago that I sat where you do now, and paid attention off and on to what some old bird was saying from where I am standing today.

You grope for phrases that supposedly will add a last modicum of meaning to the four-year accretion of wisdom that has been laid on the class.

It is then that you realize that your seventeen years of future are past history; that the journey from that point forward is unknown territory for you both.

So now we are standing here together, and you can sense, perhaps, something of my dilemma.

I have *had* the seventeen-year journey you are about to begin, and yet the moment after this one is as new for me as it is for you.

So what good does it do for someone to stand here and exhort or describe the view to you—you with your good, young eyes and your fresh new education?

Well, *some* good, I think, I'm not really all that humble, or I wouldn't be here.

I *do* have some thoughts that I think would have passed my own critical muster if I had heard them in 1955. They might even have made a measureable impression, although my hindsight is not that good and so I cannot say.

At any rate, I think I would have listened to hear something that would have told me whether or not the speaker had really engaged in the struggle out there, or just read about it and observed it and discussed it.

And so I would like to begin by saying that I have had seventeen full, passionately involved, endlessly varied, challenging and consuming years since graduation. I have totally engaged every resource I could find within, or lay hand to without, in the effort to "make a difference."

This, then, is the part of what I have learned that seems to me worth spending these very few minutes on, with you.

How does one man or one woman make a difference?

If I could start with a recipe for beginners, I would name four basic ingredients: *enthusiasm, patience, a sense of process,* and *love.*

The first five years after I returned from military duty in 1959 were exhausting, but for the most part unproductive.

These were the years in which I threw rocks at the bureaucracy from the other side of the street. I railed and denounced and regretted everything that had to do with the establishment. I was like the critic reviewing the movie, "Ben Hur," who wrote "loved Ben, hated Hur," not realizing that the Florida I loved and the systems I hated were inseparable . . . ceaselessly interacting, continuously changing, and begging for less petulance and more participation.

In those five years, I had plenty of enthusiasm, but I had not yet learned either patience or the sense of process—the ability to take one step, and then another, and another . . . with the sureness and serenity to stop if necessary; to go sideways or even a step backward if necessary; to bide my time, without ever losing sight of the objective or heart for the long haul.

Enthusiasm—the kind I am pushing—is not the frothy surface attitude that is constantly shouting "Wheeeee . . ." over every new idea or cause. It must be coupled with a tough set of values, a discerning eye, a discriminating taste. These are guardians of your integrity, and I cannot recommend them too highly.

But beyond these priceless treasures lie their irrational extremes—doubt and cynicism, and these two are destroyers—first, of your effectiveness, and eventually, of you.

Soundly based, enthusiasm is the best possible extender of the animal spirits bequeathed us in our cradles. It doubles and trebles our ability to make a difference—no matter what our chosen field of endeavor.

Curiosity and a sense of play are the child's greatest natural gifts—providing the kindling for the lifelong fires of enthusiasm, the fuel for that extra effort beyond mere survival that we call "living."

As an additive to life, nothing so adds to its zest as a gigantic appetite for involving yourself in its processes.

If I could speak to the ambitions of each one of you, I would. But strapped as I am to dealing in generalities, I can only urge you to explore my second ingredient—*process.* In the strengthening of your sense of process, you will discover the patience that is so much a part of the equipment of those who stay in the race.

The exploration of total process and your own part in it is endlessly fascinating, and it matters not a whit which avenue of the world you choose.

Process is at work there, and you are part of it. Process is at work in the heavens and you may choose to follow it with the telescope or the Bible. Process is at work in the atom and you may decide to track it in the Wilson Cloud Chamber or in the Genetic Code. Process is at work in society and you may seek it in the National Archives, a kitchen midden, an inner city ghetto, or a corporate board room. But *no*where will you find stasis, and *no*where will you escape yourselves.

You . . . and *process*. These two are at least as eternal as your mortal life span; and patience can lengthen that span.

And so you must come to terms with the process of living—joyfully, with powering enthusiasm, or reluctantly, with crippling doubt. Unless you have been competently diagnosed by a qualified psychiatrist as a hopeless masochist, terminal case, I strongly suggest the former.

Once you have determined your objective, then *change*, of course, is the vital tool. But don't think you will build the second America this very evening. You won't for a variety of reasons. The great separater of the men from the boys (and the women from the girls) is a highly developed, finely tuned sense of process.

If you want to change a system—*any* system—you must learn to plot a course of action; one that *surrounds* the problem, *envelops* the objective, until support comes from *all* sides and change becomes *mandatory* . . . not your personal victory against all odds, but instead, an inevitable step in inexorable process.

A university can be a tremendously exciting place to start shaping your objectives, to start charting your plan, to start developing your sense of process.

There is a new level of human awareness rising in the land, and the academic world will be hard put in the immediate future to maintain its leadership. Many schools will be lucky to hold their own in the new atmosphere of quest and inquiry—the new attitudes of the citizenry in relation to their world and to knowledge of that world.

I have found few signs of the death of morality, but much evidence of an eagerness for new values, new attitudes, new life styles that put less stress on the earth. I see everywhere a whole new set of environmental expectations.

The spirit behind this awareness is active and eager to start coping.

It takes the old linear approaches to problems and bends them—first into question marks and then, full circle, to where a man and his whole world become one closed ring.

This explosive new awareness is unabashed in its challenge to old authorities. It will not be turned off by a barked command, a denial of tenure, an order to conform. Nor will it stop respectfully at the walls of an entrenched institution or a hallowed discipline. Many of you in the rising mainstream of this new awareness are too polite to make rude noises. But even the meekest of you no longer accept "because I said so" as an adequate answer. There must be reason, and *good* reason for repressive actions, where before an arbitrary authority sufficed.

A university campus should be the epitome of the open questing ground—tolerant of many diverse points of view, cherishing its rebels and iconoclasts—flexible in the face of change, open-minded as a proving ground for intellectual alternatives. It must be a testing ground—even, if you will, a *conflict* ground, for great ideas and ideals.

At a university, above all, must youth and the establishment be "care-full" of each other. . . . . "care-full" as in full of care.

Here, if anywhere, the lines of "thou shalt" and "thou shalt not" must be exercised with consummate skill and tact, lest the whole delicate structure of a university . . . possibly man's highest *real* achievement in the sense of an open-ended, growing event . . . could suffer a setback with consequences comparable to the dark ages.

There should be a rule book—a clear concise set of standards, but beyond those, the university must be the center of free expression.

Do not be too disturbed by those who still equate change with national disgrace and treason.

The great debate in my college days was over another war, vastly different from Viet Nam, but our campus was wracked by the McCarthy hearings and the domestic scandals of the then Administration. Events change and yet they always retain something of their shape.

We surface from each of these national confrontations, hoping that we have learned something that will last, believing that change and process are not the devil incarnate, but the wellspring of hope. A sense of process can imbue change with purpose, and purposeful change is the greatest hope for a second America. Mix enthusiasm with purposeful change and we have the makings of something very exciting.

The last ingredient is love, and I place it last for the same reason that Babe Ruth and Ted Williams came fourth in batting order. Love adds the dimension of fullness, the texture of richness to life. Of all the great secret wellsprings of life and of living, it is the greatest. My own life was incomplete until I took the fateful step, and I commend love—with all its various complications—to you all.

Love is both an expenditure and a source of energy. You may choose to focus your love on an author, an artist, a game, your work—whatever. It is the *act of loving* that is important, more than the object. A peculiar thing about love is that the whole idea of it changes as you mature. In the beginning, to *be* loved is the most important aspect. Love me, love me, love me!

As you pile up life behind you, there comes a day when you turn to examine your love, and you find that *loving*—the ability to give outward from yourself in a loving way—the joy that flows back into you in the form of boundless energy—is the greatest reward. It is no longer love *me*—it is love! Pure and simple. In the end, it is the greatest reward you can find. And in the beginning, it is the surest guarantee against boredom.

And so I call upon you to broaden your young lives by passionately involving yourselves in your community. This Country can't stand a bored generation which refuses to commit itself. This Nation needs you and thousands like you who have not lost their acute sense of outrage for stupidity and injustice. This Country is crying out for the young to become involved.

It is not good enough to curse a system you do not approve of—you must accept the challenge and work to make it work.

If I were out there sitting with you, one assignment I would take on regardless of my major or my future avocation, is the pursuit of an environmental ethic by which to live.

I would combine the attributes of which I have spoken—enthusiasm, patience, a sense of process, and love to fulfilling the great challenge of our lives—can we live on this earth without destroying her?

There is no greater priority to be found than that of environmental sanity.

You—each one of you—can make a difference, today as never before. One out of 210 million you may feel is too small a fraction to affect the course of history. But you are wrong. Throughout this Nation, good and wise men *are* changing America. The incredible challenge to be a part of this moving force is open to all. You needn't be president, or a congressman, or a governor. You need not be rich. You do need to know, and to believe, and to be willing to work.

The immediate goal is a strong, working, national environmental ethic. There will be other, even more significant world goals beyond, if we can achieve this one. Our great grandchildren may not be able to identify our era with a slender stripe in the Grand Canyon walls.

But if *we* are successful in meeting head-on the innumerable challenges of our consumptive, willy-nilly, growth-oriented, polluting society, our great grandchildren will enjoy the great mysteries of this Nation's ecosystems as *we* have . . . its scenic grandeur, its pristine wilderness, its unique wildlife.

Perhaps simply the presence on earth of these treasures will be testimony that our generations of concerned citizenry were able to change a budding life style into a sturdy environmental ethic.

As a people, we have to accept a new rule book of behavior. The environmental movement is not, as a few reactionaries think, a leftwing movement against commerce and development. Nor is it, as a few anarchists think, the answer to their radical prayers. The American people's long suit is common sense, and they see a broad avenue of environmental cleanup and quality lying between these two extremes.

So far, the movement is composed mainly of the rich and middle classes, those who have had the opportunity to rise above mere subsistence, to have lived richly with nature's bounty.

If you are mired in an urban ghetto, fending off drug pushers and rats, it is hard to concern yourself over loss of an estuary or erosion from clear-cutting.

Any movement that endures must survive some bad times. The environmental movement has come through a severe recession, the whiplash of skeptics, and the backlash of extremists.

It remains very much alive and growing. Nowhere is it stronger than in your generation . . . perhaps because you have widely varied your patterns and experiences of natural life, or because you are determined to change an era you reject for many reasons.

Being a concerned environmentalist means being a student of alternatives. An environmentalist arms himself with facts and is committed to thinking problems through before deciding on a course of action. He considers the possible gains against environmental losses before undertaking any project. He rejects the cant that big is better, that expanding tax bases justify anything, that nature can be controlled and subjugated by guns and pesticides, by D–9 bulldozers, draglines and dredges.

Man is prone to leave a record on walls saying, "I was here" with spray paint. But on the walls of the Grand Canyon, where nature has written of man in embarrassing perspective, we rate only a handful of inches. Our puny little layer on that majestic earth log is silent warning to an animal that thinks it is not an animal—a hind-leg walker who disregards and destroys all animals except those he wants to eat, or ride, or bet on.

Thank God that as a people we are at last showing signs we are ready to become part of the system—part of the process—not content to remain a character rubber-necking from the side of the field.

This is a journey we are all on together. Look to it with excitement. It's for real, and to the best of our knowledge, it's just once around.

Don't lose time or heart over your errors. Consider them lessons, and learn them well.

The broad-based beginnings of wisdom and the budding ability to find relationships in parallel processes, begun at birth and well nourished here at the University of Florida, are firm grounding in the fundamentals of the journey.

The part no university can give you is the personal strength and courage and commitment to bet your life . . . to stay in the thick of it . . . to embrace it . . . to live it . . . to love it . . . and to *change* it.

We need you.

Welcome aboard.

WHY MA BELL STILL BELIEVES IN SANTA

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RYAN. Mr. Speaker, on December 23, 1971, the Federal Communications Commission abandoned its investigation of A.T. & T., which had been pending for 7 years, on the grounds of inadequate staff and funding. That decision constituted a default of the Commission's regulatory responsibility and was the target of widespread public outcry and criticism.

On January 18, the opening day of this session of Congress, Senator FRED HARRIS and I held a press conference with Commissioner Nicholas Johnson of the Federal Communications Commission, who had dissented from the December 23 decision. At that press conference Senator HARRIS and I discussed legislation—S. 3060 and H.R. 12423—which we were introducing, authorizing $2 million for the Federal Communications Commission to carry out this study. On January 27, 1972, the Commission then reversed its decision and announced that it would investigate the rate structure of A.T. & T.

However, those of us who have been involved with this issue are still concerned that this newly reinstated investigation may turn out to be a relatively superficial examination of what goes into the rate base of A.T. & T.

In this connection, Commissioner Nicholas Johnson has written an article for the March issue of the Saturday Review in which he expresses his concern that the FCC's decision to reinstate the A.T. & T. rate base hearing may not in fact lead to full-fledged, far-reaching examination of the Nation's largest corporation.

I commend Commissioner Johnson's article to the attention of my colleagues:

[From the Saturday Review, Mar. 11, 1972]

WHY MA BELL STILL BELIEVES IN SANTA

(By Nicholas Johnson)

Christmas came a little early for Ma Bell last year—to be precise, two days early. On December 23, the Federal Communications Commission announced its decision to dismiss its six-year-old inquiry into AT&T's rate base and operating expenses, while continuing its generous effort to set ever higher rates of return for Bell. (Two of the seven commissioners, H. Rex Lee and I, dissented, and Commissioner Robert Bartley concurred "reluctantly.") The commission, which acknowledged that it hadn't been doing much to regulate the telephone company anyway, as usual chose a "graveyard time" to announce an important decision—the late afternoon of the last working day before Christmas—in the hope that the press would not particularly notice the announcement. Journalists, as well as consumers and public officials, are bored and confused by the subject of regulation of public utilities—or at least so the FCC thought, and no doubt AT&T officials though so too.

After that holiday weekend, AT&T stock went nicely up, and telephone executives could gather round the hearth a few days later to toast what promised to be a vintage new year.

In the next few weeks a storm of public protest boiled up, stunning the majority of the FCC, which had never really understood the consumer movement or correctly measured its powerful influence on the press, citizens, and Congressmen. The first day Congress reconvened after the Christmas holiday the AT&T matter came up for floor discussion. Even the Department of Defense, on behalf of all the federal executive agencies, said that without an inquiry the fairness of long-distance phone rates could not be determined. What had seemed to the FCC majority as merely a more candid way of dealing with business as usual ("As long as we're not really going to conduct a hearing anyway," one commissioner had said, "why not just cancel it?") was publicly denounced. On January 28 the FCC reinstituted the inquiry, and on February 1 Chairman Dean Burch was trying to explain to the Senate Commerce Committee why an investigation that involved billions of dollars in phone company charges had been dropped in the first place.

Before trying to unravel the implications of the December 23 decision and the January 28 reversal, we must understand a little about the economics of the Bell System and the FCC's so-called "rate regulation." It's not all that complicated. The Communications Act of 1934 gives the FCC the responsibility of regulating the rates of "common carriers by wire." The act states that these rates must be "just and reasonable" and that proposed rate increases must be "in the public interest." Any charges not in the public interest are prohibited. As it works out, the FCC sets the long distance rates and state commissions set local rates.

Telephone rates are based on three variables: Bell's capital investment, or "rate base" (the value of the poles, your telephone, and so forth), the "rate of return" (or profit on that capital investment, and Bell's expenses.

First, consider the rate of return. Suppose the FCC, after a hearing, decides that Bell should get, say, 7 per cent as a fair return on its investment. Taking Bell's capital investment figure, compute 7 per cent of it. Then, figure out how much revenue all our telephone bills have to generate so that, after all expenses are paid, Bell will be left with that 7 per cent figure as profit. Finally, figure out what long-distance telephone rates must be to provide their share of the money. Conceptually, it's a relatively simple process.

You would think that, since the public interest is the guiding criterion for this calculation, Ma Bell would use FCC hearings to tell us how the public will be better off in terms of faster dial tones, fewer busy signals, and more telephone installations if we would grant an 8 per cent return as opposed to a 7 per cent one. Right? Wrong. I asked a Bell attorney at the 1967 rate hearing how service would be affected if the company got 4 per cent—or 10 per cent. He was totally unprepared for such a question.

Instead, the hearings are concerned almost exclusively with the marketability of Bell stocks and bonds—stock prices and rates of interest. Ever higher stock prices are assumed to be necessary for the phone company to raise new money for construction. For some reason, the commission seems to buy this reasoning, in spite of the evidence that the quality of telephone service has declined during the very years Bell has enoyed its highest earnings.

The size of Bell's capital investment, the rate base itself, may have a far more substantial effect on telephone rates than the rate of return. If we assume that Bell has a legitimate capital investment of $50-billion and is entitled to a 10 per cent rate of return, that's a $5-billion profit. An 8 per cent rate of return would give the company $4-billion—and the subscribers a $1-billion saving. But suppose the $50-billion figure is too high. Suppose that for any number of reasons—unreasonable depreciation practices, paying Western Electric, Bell's wholly owned subsidiary and supplier, too much for equipment, or counting items of operating costs as capital investments—Bell has inflated its rate base. Even at the higher 10 per cent figure, if the company's rate base ought to be valued at $20-billion, its return is only $2-billion—rather than $4- or $5-billion. I don't charge that Bell has done any of these things. I don't know any more than you do. The point is that nobody else at the FCC knows either and that the commission has not yet made any real effort to find out.

Let's look at an example. What's the rate base value of the telephone instrument in your home? Bell purchased that phone from Western Electric, whose phones are produced only for Bell and are the only ones Bell buys. And Western Electric's price—including Western's *profit*—has never been regulated by the commission. As far as the Bell System is concerned, these purchases are merely bookkeeping entries. Bell's incentive, in general, is to put as much value as possible on a rate base item because every dollar "in the ground" immediately starts earning its own rate of return. When that dollar includes Western's *profit*, it means AT&T is making two profits on the same piece of equipment—a rate of return on a rate of return. The FCC's trial staff—the agency's "prosecuting attorneys"—now urges the commission to consider Western Electric's rate of return in any decision on AT&T's overall rate of return.

Most of your phone bill doesn't have anything to do with Bell's profits, but with the third variable, "expenses"—$13-billion of them. How much do the executive get paid—in salaries, stock options, expense accounts? Is there a cheaper way of installing a telephone than sending a man to take out the old phone one day and another man to put in an identical one in the same apartment two days later? Advertising, policies on accelerated depreciation, use of employees, and maintenance costs all go into Bell's expenses. You're paying every month for those telephone trucks you see running around your town—and the public relations firm that told Bell it was time to give up on the drab green paint and the nineteenth-century company emblem. The FCC is supposed to be ensuring that Bell—and you—are not paying too much. In the thirty-eight years since the 1934 act, the agency has yet to complete a single hearing examining expenses. We have always simply accepted the figures supplied by Bell itself. At best, that is a lot of trust in Bell's multibillion-dollar infallibility.

Finally, there is the manner in which AT&T apportions its phone rates among different classes of customers. FCC's jurisdiction over long-distance service is not limited to individual subscribers' calls. It includes rates for "free'" (flat rate) long-distance calls (Wide Area Telephone Service, or "WATS" lines), TELPAK (cheaper-by-the-dozen rates for private lines), and other large corporate uses of long-distance lines for transmission of voice, picture, and computer data. In 1964, when AT&T earned a 7.5 per cent rate of return on its total long-distance investment, the rates charged reflected a rate of return ranging from 10 per cent for individual long-distance consumers like you and me to 0.3 per cent for corporate TELPAK users.

In years of off-again, on-again hearings, starting in 1965, the commission has been unable to come to grips with any of these questions essential to regulation. All that came out of the first two years' work was the determination of a reasonable rate of return and a few rate reductions, although not enough, as it turned out, to bring Bell down within the range determined by the commission to be reasonable. The commission really never did get around to Bell's capital investment, expenses, and the apportioning of rates. Then, in 1969 and without a hearing at all, the commission granted Bell a new, higher rate of return. Finally in November 1970, Bell filed substantially higher rates still, and the FCC ordered the new hearing. None of the big issues were settled when the commission dismissed that part of the hearing that would have dealt with those larger issues last December.

Struggling to come up with explanations of this dismissal, the FCC majority said it had neither the staff nor the budget to carry out an AT&T hearing. The commission implied that priorities made it impossible to readjust ongoing projects in order to find the funds necessary to conduct a proper inquiry. It seemed to me the public indignation was predictable. Chairman Burch was surprised, however. In a letter to members of Congress, he said that the commission did and would regulate Bell "vigorously and effectively" through private, cozy, closed-doors chats with Bell officials—or "continuous surveillance," as the commission prefers to call them.

Bell officials were of mixed mind about the decision. AT&T Vice President for Federal Relations. E. B. Crosland said that the decision to dismiss the hearing into rate base items was "encouraging, because it should lead to a prompt commission decision" on the now pending rate increase case, and he applauded the long record of success of the FCC's practice of "thorough regulation without excessive costs and extended hearings." But AT&T Board Chairman H. I. Romnes later backtracked and called the dismissal "very unfortunate." As a Bell lawyer put it, the decision was embarrassing, because it "made it appear as if Bell isn't regulated." It is always unfortunate for an unregulated monopoly when the public learns the truth.

Now that the hearing is to be reopened, will it finally deal with all the real issues of regulating Ma Bell? It likely won't be as broad a hearing as the one originally planned, nor can we expect it to be accomplished as soon as we had hoped. Chairman Burch told the Senate Commerce Committee in January that he couldn't even indicate a starting date.

The FCC still doesn't know where it is going to get the manpower to conduct the inquiry. Indeed, it has admitted that it doesn't even have the resources or expertise to determine what resources it will need. After all, the commission has never done so large a study before, and it is difficult, if not impossible, to find a suitable model. If the commission intends to proceed with the investigation using its current resources, or with just a few additional staff members, it will surely be engaged in what Chairman Burch called "window dressing."

Senator Fred Harris and Congressman William Ryan, as well as Senator Philip Hart and Congressman Jonathan Bingham, have introduced bills to give the commission the necessary funds. When given an opportunity to support the Harris-Ryan bill, and accept the funds, Chairman Burch, in a letter to Senator Harris, declined even to comment on his proposed legislation.

What, in fact, has been the FCC's budget position? In fiscal year 1972 Congress gave the FCC all the money it requested. Indeed, for fiscal 1973, after the criticism of the commission, the Office of Management and Budget insisted the commission take more than it had asked for AT&T regulation. Thus, if the FCC does not in fact have sufficient funds to conduct an investigation, the responsibility rests with the commission itself. It is hard to plead poverty when you get all you ask for, and more, and refuse to accept a $2-million gift from Senator Harris and Congressman Ryan.

What is the meaning of the AT&T caper? At least the days of bluntly "dismissing" such hearings seem to be over. But telephone users will continue to suspect, with some reason, that they are being charged more for long-distance service than the law permits. Beyond that, state public utility commissions, most of which have even fewer resources than the FCC, will be under pressure to permit excess charges for local and intrastate service as well. Many of them were legitimately concerned by the commission's admission of inability to regulate Bell.

It is difficult to predict precisely the dollar benefits that could come to you and me from the reopened inquiry. In establishing a rate base and expenses, there are, for example, hundreds of accounting decisions that affect your telephone bill—among them the proportion of debt and equity financing, using (or not using) accelerated depreciation, and the methods of evaluating property. But for the consumers dealing with a monopoly, these are more than "accounting practices." In an industry whose annual revenues are roughly twice the yearly income tax collected by all fifty states combined, a fraction of a percent here and there may amount to millions of dollars in phone-bill savings.

There are implications to this whole affair that are bigger than our phone bills, however. The history of nonregulation of AT&T is a bad omen for the current efforts at broader economic regulation. Public utilities regulation is the closest working model we have to the current Phase II wage and price controls. In both, the guiding criterion is "fair and reasonable" profits, and the controlling question is where the balance should be struck between corporations and consumers. In both, the regulated industries are well organized and capable of hiring the finest lawyers and economists to plead their cases, while the affected public is essentially unrepresented. The inadequacies and biases of public utility regulation do not speak optimistically for the success of the much vaster Phase II regulation. If the FCC cannot effectively regulate one company, how can we expect to accomplish meaningful regulation of the entire economy by the Wage, Price, and Rent boards?

The short-lived FCC dismissal of the AT&T hearing is only part of the current pattern of governmental deference to large corporations at the expense of the small consumer. Other examples include the continuing reluctance to reexamine, in a serious way, the Internal Revenue Code with its capital gains taxes, oil depletion, allowances, prepaid interest deductions, bad debts, reserves, tax-free municipal bond income, investment credits, and other "special interest" loopholes. The tax code, through these provisions, gives those earnings more than $25,000 each year a "welfare payment" of at least $4,000 annually; those earning below $3,000 a year get $16 in such "welfare." The oil-import quota costs the consumer an additional 5 cents a gallon in gasoline prices. The maritime subsidy gives big ship companies and shipyards benefits estimated at $750-million annually from the Treasury, with no advantage to consumers or taxpayers whatsoever. The continuing refusal to require quality labeling of canned goods (labels describing the grade or the product, measured against government standards) produces a 20 percent increase in the cost of such items. In virtually every area where government affects business, there is a battle between consumer interests and corporate interests, and the corporate interests generally win hands down. Publicity aside, the trend in the day-to-day decisions in government during the past three years is against the consumer on every front.

Possibly the most distressing aspect of this corporate-consumer imbalance is that those who make such decisions often honestly believe they are acting in the public interest. Just as supporters of the SST argued that the project provided jobs, and opponents of the recently vetoed day-care legislation felt the family was being threatened, so those who applaud the commission's decision in the AT&T case believe we are protecting the investments of countless "little people."

Maybe so. But if that is the justification, let those who make the decisions say so. If the public interest is to be found in some secondary gain, let the choice between the alternative ways of attaining that gain be given to the public. If American automobile production is to be encouraged not because it produces the best product for the money (it clearly doesn't) but because the planned obsolescence creates jobs and stimulates economic growth, let the American people decide that's the way they want to do it. If we can't—or won't—regulate AT&T, let's consider breaking it up into manageable pieces, or perhaps nationalizing it, and then find another way to support those who are holding its shares.

Some would argue that our decision to reinstate the AT&T rate base hearing is a step in the right direction. I would like to share their optimism, but in my eight years in Washington I have seen too much that leads me to believe otherwise. Until the finance company comes to repossess the Christmas loot, Ma Bell is going to go on believing in Santa Claus.

SPEECH BY SECRETARY GENERAL OF U.N.

Hon. PETER H. B. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FRELINGHUYSEN. Mr. Speaker, on March 22, the Secretary General of the United Nations, Mr. Kurt Waldheim, addressed a meeting of the Organization of American States held here in Washington. To the best of my knowledge this was the first appearance of the Secretary General before the OAS. He appeared at the invitation of the Secretary General of the OAS, Mr. Galo Plaza.

The Secretary General's speech, which should be of real interest to Members of Congress, follows:

SPEECH BY THE SECRETARY GENERAL AT THE ORGANIZATION OF AMERICAN STATES, WASHINGTON, D.C., MARCH 22, 1972

Mr. President, Mr. Secretary-General, Excellencies, I am very grateful for your invitation to be here with you today. I am glad that so soon after my appointment as Secretary-General I have the opportunity to become acquainted with two regional organizations—the Organization of African Unity last month in Addis Ababa, and now the Organization of American States here in Washington.

You will understand, I am sure, if I do not say much about the work of our two Organizations, our collaboration and our achievements. We all know very well our problems, our successes and our failures.

Instead, I shall speak of the present role of regionalism as related to world security and development and indicate a few avenues of possible progress.

The Charter, if fully realised, would allow for the gradual development of a world-order under which national, regional and global considerations and interests would be harmonised. In such a way we might evolve a system for peaceful evolution which would take account of the interests and concepts inherited from the past as well as the urgent requirements of an increasingly interdependent world. Were it not for the tensions between the great Powers which have dominated international relations since World War II, we might be much closer to such a situation today, and the effectiveness of regional arrangements might also have been greater.

But there are hopeful signs which should encourage us to think very hard how international organizations and regional arrangements can help to foster and consolidate the process of reapprochement which is now underway.

There can be little doubt that we have now entered, to the great relief of the rest of the world, a period of detente between the big Powers. The smaller countries need this detente to survive, and the less affluent countries need it to develop. We may indeed be living at a turning point in modern history. What we can, what we must do in all multilateral organizations, is to foster this process of detente by any means at our disposal. There have been, and there are likely to be, many pitfalls and accidents on the road to detente. International organizations can do a great deal. The main role of the Security Council, for example, at this particularly crucial juncture, should be to diagnose in time potential conflicts, to forestall them, to limit them and, if possible, to resolve them speedily.

We must do what we can to foster universality both in the United Nations and in regional organizations. Hopefully, with time, patience and statesmanship, detente might gradually develop into an intelligent, workable entente among governments. We are indeed in urgent need for more friendly, more concrete and more practical co-operation among all nations. Governments should not forget that the international institutions which may have developed over the years by now cover practically every field of human endeavour on a world-wide basis.

Global and regional organizations must actively seek practical opportunities to help solve problems and promote co-operation and better understanding. In this process each region has its particular contribution to make. Let us remember that at a time when the continent of Africa was largely unrepresented in the world scene, the members of your Organization played a very important role in creating the United Nations. The Latin American States advocated some of the most important ideas which were enshrined in the Charter: the aspiration of universality; the importance of creating international agencies for the promotion of economic and social co-operation; the necessity of solving regional controversies through methods consistent with the United Nations Charter. At the San Francisco Conference the Latin American States played a significant part in increasing the role of the less powerful States in the world Organization, and strongly urged the formal recognition of the importance of international law. Until 1955 the Latin American States constituted one-third of the membership of the United Nations. They played a major role in encouraging the extension of sovereignty and independence to dependent peoples in other parts of the world. They were in the forefront of the evolution of the concept of economic development through international assistance. The Latin American countries also played a prominent role in bringing about the Universal Declaration of Human Rights, one of the historic documents of our time.

We must be on the constant lookout for opportunities to make both regional organizations and the world organization more effective. If we seize these opportunities actively and realistically, we may not only be able to render a service to governments but also to reinforce the concepts of world order which our organizations represent. It will be my approach as Secretary-General to be available at anytime to give what assurance I can in any place on earth where there is conflict nd suffering. It is only by demonstrating their practical usefulness that international organizations will command the respect of governments and of the public and convince them that they can be an active part, indeed an increasingly important part of the instrumentalities needed to guide a rapidly expanding human society on a very complex planet.

I intend to maintain regular contact with the members of your Organization. I hope to visit many countries of your region and I will soon have my first opportunity to visit Latin America on the occasion of UNCTAD III in Santiago. I will also keep in touch with your Secretary-General, Mr. Galo Plaza, who has been closely associated with the United Nations since the beginning when he signed the Charter on behalf of his Government, and later when he played a key role in three of the peace-keeping operations of the United Nations. Another of the representatives here, Ambassador Sevilla-Sacasa, has the distinction of having signed the Charter of both Organizations. I hope that during future contacts we can explore together methods of developing regional and multilateral actions likely to consolidate the process of detente.

The tasks in front of us are immense. I was already well acquainted with them as a delegate of Austria to the United Nations and as Chairman of the Outer Space Committee, but never before have I seen them so vividly as from the point of view of my present position. The world is confronted from every side by a host of problems covering simultaneously the past, the present and the future.

In this regard may I say how useful it is that even when political rapprochement or unity in any particular region is not possible, institutional arrangements exist which allow for co-operation in nonpolitical fields. The United Nations Economic Commission for Europe has provided a forum for all-European economic co-operation and contacts throughout the worst periods of the cold war. The United Nations Economic Commission for Africa was the first all-African institution created on that continent. The United Nations Economic Commission for Asia and the Far East has created a spirit of economic and social co-operation in a most heterogenous region. I do not have to mention the United Nations Economic Commission for Latin America which is well-known to you and which, under the leadership of some of the best economists of our time, has pressed very hard for economic co-operation and integration in Latin America. Across and above these regional efforts, the United Nations Specialized Agencies, its aid programmes, its humanitarian efforts, have often been able to provide a much needed practical intergovernmental co-operation even when political relations were at their worst.

Regarding the present, there is little to say which is not known to you about bilateral, regional and international efforts in economic and social development, more equitable distribution of wealth and income, industrialization, urban problems, unemployment, trade problems, monetary problems and so forth. Under the dual leadership of your Organization and the United Nations Economic Commission for Latin America, an immense task has been achieved in better understanding the problems of the region and in devising appropriate solutions. In the Charter it is recognised that economic and social deveolpment is a pillar of peace. Whatever is being done in this field is therefore a contribution to peace. Each region has its own geographical characteristics, its own cultural background and its own dynamics. Latin America has vast natural resources and geographic features which lend themselves to bold multinational co-operative projects such as the Andean enterprise or the development of great river basins. Its humanistic heritage and pioneering contributions to international law are of great value to the world's dynamics of peace and order. If each country and region contributes its own best to the forces which will shape the world, I believe that we will move rapidly towards a better political future.

Let me now turn for a moment to the future which already so deeply preoccupies all of us. When I see the work of the United Nations in nonpolitical fields, I am struck by the number of long-term projections in practically every direction: population projections, economic projections, forecasts of world food consumption, education needs, resources consumption and so forth. In this connexion, we have seen in recent years a new current which is rightly a cause of concern. The highly industrialized countries are encountering new problems which they bring to the United Nations and which are likely to become global in the future, but which do not as yet touch significantly the developing countries. Some of these problems are, as a matter of fact, very far from their concern at the moment. The environment has been the first of such issues, and the recent widespread public debate on the limits of growth is another one. There is a danger that these genuine preoccupations in the most industrialized countries, if projected too swiftly on to the entire world, might stifle efforts at development of the less affluent ones. There is therefore an urgent task for the regional organizations to interpret correctly regional conditions and needs.

I am grateful to the Organization of American States for its close co-operation with the Secretary-General of the Conference on the Human Environment, which will be held this coming June in Stockholm. Our efforts in the United Nations in the field of environment were designed from the start to take into account regional preoccupations and the views of regional organizations.

The area of global challenges is vast and growing. There is plenty of room for both regional and global action. There should be no duplication, no waste in such important historical tasks. Governments, as I have so often stressed since my appointment, are somewhat disillusioned with the United Nations. I have made it a priority in my work to do everything I can to increase the efficiency and effectiveness of the Organization and to give to the public a better understanding of our efforts as well as of our limitations. Governments have placed great hopes, perhaps sometimes exaggerated ones, in their international institutions. They expect us to avoid the classical pitfalls of bureaucracy, duplication, waste and doing things in the old way. They expect from international civil servants the highest degree of public service. I welcome their concern for it will prepare us better for the difficult tasks which lie ahead.

I am personally convinced that with pragmatism, realism, hard work and devotion we can help the world reach its adulthood without wars and global disasters. This is the greatest challenge of our time, a time more complex, more frightening, more beset with problems but also blessed with more achievements, more rewards and more capacity for progress than any previous epoch in human history. I am deeply convinced that this challenge can be met.

I wish you great success.

FOUNDING OF THE DETROIT JEWISH NEWS

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BROOMFIELD. Mr. Speaker, this week marks the 30th anniversary of the founding of the Detroit Jewish News. For those who have followed the growth of this excellent chronicle, for those who have witnessed its service to the entire community, there is little that I can add to embellish its well deserved reputation.

Under the able direction of editor-publisher Philip Slomovitz, Michigan's only English-Jewish newspaper has remained true to the lofty ideals which were set out in its credo in 1942. These include the pursuit of truth, service to the Jewish community and indeed service to the American way of life.

Today, just as that day at the beginning of the Second World War, there remains an urgent need for a forum to give voice to the cultural and spiritual heritage of the Jewish people. As a patron of principle rather than a disciple of partisanship, the Detroit Jewish News has and continues to be a worthy forum for that voice.

Mr. Speaker, I, therefore, insert the following editorial from the Jewish News as well as congratulatory messages from President Nixon and Mr. Jacob Marcus, director of the American Jewish archives, in the CONGRESSIONAL RECORD:

OUR 30TH ANNIVERSARY—REAFFIRMATION OF BASIC JOURNALISTIC IDEALS AND DUTIES TO THE COMMUNITY

THE JEWISH NEWS: OUR PLATFORM

The Jewish News makes its appearance with this issue as your newspaper, as an organ for the moulding of Jewish public opinion, as an instrument to strengthen the Jewish community, and for the advancement of the morale and courage of American Jews in this hour of crisis.

This is our credo:

A newspaper's responsibilities are immense in time of peace; they are far greater in time of war.

We are conscious of these responsibilities as Americans.

We are conscious of these duties as Jews.

The Jewish News believes in the American way of life and is here to contribute everything possible toward its survival.

The Jewish News believes in the sacred American ideal of Fair Play and dedicates itself toward the complete realization of this ideal.

The Jewish News is confident that Americans are prepared to fight for their rights and that they will refuse to permit fear to dominate our land. We are here to help defeat the spirit of fear.

The Jewish News believes in the Four Freedoms enunciated by President Roosevelt and will fight for these freedoms on every American front, in the American way.

The Jewish News pledges itself to a program whose concern it becomes to keep Jews and non-Jews fully informed on facts relating to the Jewish position; whose chief interest it is to advance the morale of our people and to hold high the banner of democracy, religious freedom and good will among all faiths to fight against fraud, deceit and misrepresentation, and in that spirit to set a high example for ethical conduct in our community.

We are motivated by the community responsibility of establishing the most friendly inter-denominational relations, of advancing the Good Neighbor policy between Jews and non-Jews, of establishing the type of relations which serve to build a wholesome American life based on interfaith co-operation.

The Jewish News pledges itself to serve as the organ for the good of the Jewish communities of Detroit and Michigan, and for our sister communities throughout the land.

To that end The Jewish News subscribes to all the American Jewish news-gathering agencies and pledges to give its readers the fairest collection of factual information regarding Jews everywhere—locally, throughout the state, nationally, throughout the world.

In order that the Jewish communities may keep abreast with all that is transpiring in Jewish life and with the various shades of opinion among us, we pledge ourselves to serve as a clearing house for these opinions, and to approach Jewish issues without partisan coloration. An effective Jewish public opinion must be an informed Jewish public opinion, and our task is to achieve that end.

The Jewish News dedicates itself to the cause of alleviating suffering among the oppressed Jewish masses in lands of slavery and bigotry, and to that end we pledge ourselves to do everything possible to enlighten our people on the various needs making claims upon us, be they in the fields of relief, of Palestine's reconstruction, or the defense of our rights everywhere.

The Jewish News pledges itself to place service to the community above the profit motive.

In this spirit The Jewish News makes its formal appearance as your newspaper, as the organ dedicated to the service of the most sacred causes having your interest and concern.

We are here to serve and to befriend you. Acting together, we are in a position to bring the most good to America, to the ideals for which America stands, and to the Jewish communities which form an important element in the American commonwealth.

Entering upon our 31st year, we reaffirm this Platform as a basis for service to our community—as a guideline in a program to assist in creating a knowledgeable community.

Much has happened since our Platform was formulated. We experienced a Holocaust, and we were witnesses to the rebirth of Israel. We have been part of a great American Jewish community that is committed to fulfillment of the needs involved in redemption in Israel as well as community-building on the domestic front.

In the years that have ensued, we have experienced the shock that goes with vanishing cities, and we are observing the emergence of new communities in which we must perfect policies to assure basic commitments to the American society while striving for continuity of Jewish allegiance and perpetuation of the ideals that are our legacies as the People of Israel.

In the years ahead, our obligations toward the advancement of the basic Jewish ideals are as firm as on the day on which our initial Platform was written.

The Jewish News is grateful for the responsiveness from a community that shares with us the responsibilities toward Jewish needs everywhere, on the worldwide and local fronts. We have duties to Israel. We are obligated to encourage ever-greater cultural and spiritual devotions to our people. We have duties to our nation, state and the cities that make up this great state. We are community-wise obligated to keep the human interests uppermost in the feelings that nourish our existence.

The Jewish News commences its 31st year as a journalistic entity in a spirit of total dedication to the goals that reach out for an assurance of dignity and honorable participation by all of us in a society that firmly protects the highest Jewish and American ideals.

THE WHITE HOUSE,
Washington, D.C., March 1, 1972.

Mr. PHILIP SLOMOVITZ,
Editor and Publisher,
The Jewish News,
Southfield, Mich.

DEAR MR. SLOMOVITZ: As *The Jewish News* observes three decades of reliable journalism, I am pleased to congratulate you and your staff on your success in maintaining the high standards that this milestone reflects.

I warmly commend the creative expression you have given to a heritage that has so significantly enriched the American way of life. Your success is hailed not only by the Jewish community, but by a nation that continues to benefit from the ideals, the values and the traditions that you perpetuate.

Sincerely,

RICHARD NIXON.

AMERICAN JEWISH ARCHIVES,
Cincinnati, Ohio, January 5, 1972.

Mr. PHILIP SLOMOVITZ,
The Jewish News,
Southfield, Mich.

DEAR PHIL: I know that you are soon to celebrate your thirtieth anniversary as publisher of *The Jewish News*. I want my congratulations to be added to those you'll be receiving from all your other friends and admirers.

You have a magnificent background and have done a wonderful job. You are a newspaper man in the best sense of the term. It is my hope and prayer that you will continue for another generation to carry on the splendid efforts which have always distinguished you.

With kindest personal regards, I am,
As ever,

JACOB R. MARCUS.

PLIGHT OF FARMERS AND RANCHERS IN TEXAS

HON. GRAHAM PURCELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. PURCELL. Mr. Speaker, as part of a continuing effort to inform my colleagues in the Congress who are uninformed with the plight of farmers, ranchers, and cattlemen in this country and in the state of Texas, I would like today to call attention to the unheralded yet thorny problem of mesquite control and to the singularly effective crusade of a true "brush fighter"—Mrs. Carroll Koch of Quanah, Tex.

Each year the mesquite tree drains a tremendous amount of dollars from the economy of the Southwest. Although bankers and ranchers of the area know and appreciate the nature of this pest, everyday businessmen and housewives have no idea of its ultimate cost in higher prices to the consumers of beef products.

Those who benefit from the control of mesquite on the ranges of the Southwest probably owe more to Mrs. Carroll Koch than to any other single individual. From her position as publisher of the Quanah Tribune Chief, Mrs. Koch was instrumental in organizing the Southwest Brush and Mesquite Eradication Association Almost single-handedly, Mrs. Koch used her influence and her enthusiasm to focus attention on the brush control problem and to generate valuable grants and legislative appropriations for much needed research. Most of what we have learned about effective brush control methods stems from Mrs. Koch's untiring efforts.

The following article, excerpted from the most recent issue of The Cattleman, is a story not only of how the problem of mesquite control is being attacked in the Southwest, but even more significantly, it is a story of how one dedicated individual has effectively martialed available human resources for the betterment of her community, to the advantage of ranchers throughout a multi-State region, in addition to saving consumers throughout the country valuable household dollars.

Mrs. Koch's exemplary "get the job done" spirit should serve as inspiration to all, especially to the legislators of the country who bear the awesome burden of providing leadership and solutions to problems that affect our citizens and all of their endeavors.

Any of my colleagues would be fortunate to have Mrs. Koch as a constituent. Her dedication and effectiveness as a community leader help to make my job as U.S. Representative for the 13th District of Texas more efficient and more productive for all the people I represent. I submit the following article for your careful review:

RANGE—BRUSH+WATER= —THAT'S THE FORMULA THAT THIS TIRELESS LADY IS STRIVING TO PERFECT AND THE ANSWER COULD PROVE OF UNLIMITED BENEFIT TO TEXAS RANCHES

(By Bob Bracher)

A farmer, a rancher, a publisher, a water conservationist, a brush fighter and a lady—but this story is about Mrs. Carroll Koch, the brush fighter. She has worked for the past seven years on the brush control problem in the Southwest and was instrumental in bringing the mesquite brush story before the people of Texas.

Her story of brush fighting goes back to a phone call she received in 1965 from U.S. Rep. Graham Purcell to discuss "just what we could do to awaken the people in the country to a problem that is costing Texas ranchers millions of dollars a year."

This phone call resulted in an energetic lady inviting more than 5,000 people to her small ranch west of Quanah for a mesquite field day on Dec. 8, 1965. This event was attended by researchers, ranchers, businessmen, equipment companies, United States Secretary of Agriculture Orville Freeman, and a host of state and federal officials.

The significance of the field day was perhaps not noted seven years ago, but since then it has been considered the first real attempt to discuss the need for mesquite brush to be seriously studied and controlled.

"We wanted to have the largest possible demonstration to show the people everything that was being used to fight brush and show them that nothing was working," Mrs. Koch said. "And it opened a lot of people's eyes to the fact that this brush was taking a tremendous amount of money from our economy. Of course, the bankers and ranchers knew this, but the everyday businessman and housewife really didn't know how much brush was making their beef cost."

The "experiment station" on the 300 acre pasture of Mrs. Koch's farm is still in use today with about 30 plots of mesquite brush being studied by different research groups in an effort to come up with a workable control method.

"We invite any group or research-minded individuals to come out to the place and put his control method on one of those plots of brush to find an economical control for the problem," she said, 'and I would wager that there is never a week that goes by, that some group does not come by to view these experimental plots."

Mrs. Koch has received much praise for her efforts toward the brush control eradication. She was instrumental in organizing the Southwestern Brush and Mesquite Eradication Association in Quanah in 1065, and it was this organization which hosted the field day that year.

"She has probably interested more people in brush control than any other one single person," said Jay Taylor, an Amarillo cattleman. "She started out in her own community and got the Secretary of Agriculture to come down and look at the mesquite problem and help with solving the problem. I consider that the greatest contribution to highlighting the real problem of mesquite," he said. "She is a true daughter of the soil."

Dr. Joseph L. Schuster, head of the brush control studies at Texas Tech University, said Mrs. Koch "brought the plight of the ranchers to the attention of the legislators and they, in turn, took her lead and appropriated money for brush research. It was through her influence and enthusiasm that the brush problem was focused in the minds of these lawmakers and the initial research grants were obtained," he said.

Mrs. Koch became publisher of the Quanah Tribune Chief in 1956 when her husband suddenly died. The Quanah newspaper was founded by J. A. Koch's father in 1889 and then run by her husband from 1941 until 1956.

She has since entered partnership with Ed Eakin who edits the paper, and has acquired an interest in the Iowa Park Leader published by Bob Hamilton. Her third "partner" in her business operations is Bill Dollar, who operates the Nortex Offset Publication company in Wichita Falls. This company not only prints books, brochures, newspapers, special booklets and magazines, but also handles the printing of a number of weekly newspapers in the Wichita Falls area.

"My partners and I work together in a team effort to try and offer some help to West Texas agriculture," the congenial lady said. "It is really because of their dedication that I am able to go running around the country promoting brush and water programs."

But it was her ranch at Lazare that was the catalyst for her becoming interested in the mesquite problem. As the years went by she continued to notice that she was able to run less cattle on her place and after "thinking about what was causing the grazing problem, I placed that call to Graham Purcell."

The Southwestern Brush Eradication Association, which hosted that enthusiastic field day, was formed through the Soil Conservation Service and has been headed by W. C. Howard of Quanah since 1965. This association and the SCS worked together on Mrs. Koch's farm to set up the plots and encourage new control methods to be tested.

"Up until the time of that field day, there were many people researching brush control who were totally unsuccessful," she said. "In fact, half of the problem that we had was that many of the people doing the researching really didn't know the problem."

Mrs. Koch was quick to give credit to a great many individuals who were important in bringing the brush control program before the public and those who have made accomplishments toward an adequate solution to the problem, but she singled out several men who were real leaders in this effort.

"There was never a program that came along which the late J. S. Bridwell of Wichita Falls did not support," she said. "Other men who have had a major impact on brush eradication have been W. C. Howard of Quanah; Jimmy Powell of San Angelo; Dr. Joe Schuster, head of the range and wildlife management department at Texas Tech; Jay Taylor of Amarillo; Dr. Gerald Thomas, former dean of agriculture at Texas Tech; and Claude Holcomb of Quanah. All of these men have taken an active interest in these brush fighting programs and have been largely responsible for the progress which has been made in controlling it so far."

However, Mrs. Koch is not only interested in controlling the brush, but finding some way of economically utilizing the resources which it has to offer. She pointed out that she hopes to see economic utilization of mesquite in products such as floor tiles, cattle feed or maybe even furniture.

"I feel like we are so close to controlling the mesquite that we might need some little something to find that feasible control," she said. "We are going to continue needing more research on this control and certainly more research on the utilization of mesquite."

Texas Tech University is currently running a number of tests on the Koch farm at Lazare, and has employed a full-time scientist to work on those plots and similar ones in the Quanah area for brush research. Bev Herndon, the scientist who is studying the brush problem in that northwest Texas area, has a number of tests including shredding, burning and chemical treatments.

In addition to her great accomplishments in brush control, Mrs. Koch has worked diligently in promoting another of the ranchers, ever-present problems—water. She was the prime mover behind a successful project to obtain federal funding of the Thirsty Water System, a distribution system that has brought water to many farms in a six-county area of northwest Texas.

"I just happended to read in the paper where there were to be some federal grants of money for rural water systems and so we called a meeting of some area ranchers and civic leaders and decided to work on obtaining some of that money for our area," she said. "That meeting ended up in obtaining about $750,000 for this water system, which is installed today and probably the biggest influence on our ability to get this water system was U.S. Rep. Graham Purcell."

That first meeting was held on Aug. 31, 1965, in the offices of the Quanah Tribune Chief, where Fred Parkey, Red River Water Authority manager, explained the prospects of the system to concerned rural residents. Since that meeting, a water line has been extended to several hundred people in five counties in more than a 100 mile direction.

"That system was the result of a lot of hard work and by never losing sight of the goal—to bring water to rural residents where they could stay on the land," she said.

In 1966 Carroll Koch was the recipient of the West Texas Press Association Community

Service Award which is given annually by the West Texas Chamber of Commerce. In 1966 she also received the Soil Conservation Society of America's Award for unselfish service for soil conservation. In 1968 she was cited as Quanah's Citizen of the Year.

She has truly been a citizen of the year for the ranchers and livestock producers throughout the state for the past seven years in her continuing efforts to fight mesquite brush.

DISCRIMINATION AGAINST THE HANDICAPPED IN FEDERALLY REGULATED TRANSPORTATION

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. VANIK. Mr. Speaker, federally regulated public transportation discriminates against the physically and mentally handicapped American. America is truly a nation on the move. Mobility is the keynote and modes of transportation that are dependable, convenient, and comfortable are coming to be considered a necessity rather than a luxury. However, with increasing frequency, persons with a temporary, or a permanent, disabling condition are encountering experiences that make them only too aware that public transportation does not serve the handicapped. Some barriers to transportation seem to be inherent in the operation of the particular vehicle while others are unintentionally built in by design. Regardless of how obstacles are created, they do exist. We must help make our handicapped, both physically and mentally, part of the traveling public.

We have made our handicapped peoples invisible on public transport. We have imprisoned them in their homes, making it all but impossible for them to travel long distances or commute even short ones. We have too long been apathetic socially, and indifferent legally towards their travel problems. They have sought to use public transportation, but are faced with one prohibiting barrier after another. Everyone should have access to public transportation, regardless of physical and mental capacity.

We consider the handicapped as a tiny minority of our population. In fact, the handicapped already constitute a sizable minority at present and the numbers are growing. The handicapped, by definition, are that percentage of the civilian noninstitutional population experiencing one or more chronic diseases or impairments over a 24-month period. The Institute of Rehabilitative Medicine in New York City has suggested that by 1980, 50 percent of the American population may be disabled, suffering from chronic disease, or over 65 years of age. The years 1961–63 saw 44 percent of our population, that is, 80 million, suffering from chronic diseases or impairments.

The handicapped person is present everywhere in society. He should participate in that society as well. One reason that he has not done so is the lack of public transportation for him. It is of great shame that arms of our Federal Government have both initiated new laws and tolerated old laws which allow for discrimination against the handicapped. Federally regulated and congressional empowered agencies continue to unconsciously inhibit the progress of the handicapped in opening up public transportation for themselves.

One such situation exists in the airlines industry. The Federal Aviation Act of 1958 gives all resolutions and regulations of the Civil Aeronautics Board the full force of law, and as law, these rules remain on the books until the courts might rule them illegal in the event of a contention to the law. The CAB presently lists its rules governing the carrying of mentally and physically handicapped persons on airlines. All commercial carriers are subject to their regulations. Technically, the CAB delegates the authority to accept or reject potential travelers to individual pilots. Their decisions are subjective, and are due scrutiny, as are the CAB rules. While a variety of the CAB rules relating to the handicapped go unenforced, it has come to the attention of my office that some are being enforced. I hope to alter the present rules which discriminate against the handicapped without medical verification of their hazard to the safety of the aircraft.

The Air Traffic Conference's Trade Practical Manual insists that—

> Persons who cannot take care of their physical needs should not be transported unless, by previous agreement, a suitable attendant accompanies them.

While this regulation could justifiably be applied to one who is unable to function without help during travel, it has been grossly misapplied to those capable of caring for themselves in flight. While airlines do make an effort in assisting the handicapped in boarding and deplaning, et cetera, they fall short by requiring that all passengers in wheelchairs be accompanied by a companion, a companion paid by the wheelchair patient.

In all, about 250,000 persons in this country are confined to wheelchairs, according to the Department of Health, Education, and Welfare. Additionally, about 1.5 million must use a cane or require other assistance to get around. Many of these are the elderly, but specialists emphasize that the number of young people and those in middle age confined to wheelchairs is increasing because of the war and a high rate of automobile accidents involving teenagers. Land mines and booby traps have caused proportionately more spinal cord injuries in Vietnam than in any previous war, according to the Surgeon General's office. Through the spring of this year, more than 2,100 servicemen were paralyzed below the waist or neck in Vietnam.

Airlines have traditionally opposed the lone wheelchair traveler with the expectation that in a crash the passenger would have a difficult time in freeing himself from the wreckage. It must be noted that also applies to the nonwheelchair traveler. How many survive from a jetliner crash, much less walk away. The CAB must develop rules and regulations that will not make airline travel prohibitive for the handicapped within reasons of safety.

The following bitter experience of one wheelchair-confined potential air traveler is set forth to illustrate the kind of treatment that disabled persons frequently encounter.

During April 1971, Mr. Ralf Hotchkiss, who is an engineer and writer, was engaged to be interviewed on a nationwide radio program of the Canadian Broadcasting Co. in Montreal. Mr. Hotchkiss is physically disabled, and uses a wheelchair. He made a reservation on Northeast Airlines flight 304 from Washington National Airport to Montreal. Upon reaching the airport, however, Mr. Hotchkiss was informed by a Northeast ticket agent that people in wheelchairs were never permitted to travel alone. Having previously traveled on airlines which never mentioned this rule, Mr. Hotchkiss questioned the rule. In response, a Northeast agent informed him that while this rule had been forced on the airlines by the CAB for years, the airline had only recently been sent orders for its enforcement, in fear of some crackdown by the CAB. Mr. Hotchkiss was able to recruit two fellow passengers as "attendants," but on discovering that they were not going as far as Montreal, the airlines booted him off the plane again. The airline personnel offered to telephone CBC in Montreal to cancel his appearance. They also called the other airlines serving Montreal, American and Eastern, and informed him that they were subject to the same rule and would not be allowed to take him either. Mr. Hotchkiss was denied compensation for his ticket, the argument being that Mr. Hotchkiss, not the airlines, was responsible for his not arriving in Montreal.

The Aviation Consumer Action Project, whose object is to provide an effective voice for environmental and consumer concerns in aviation, suggests that incidents of this nature are absolutely unacceptable on the part of regulated common carriers. This incident speaks for itself with respect to the competence and responsibility of the management of the airline involved; but it is a parody of public law and an insult to the CAB that it could be attributed to the lawful mandate of a Federal agency which is supposed to protect citizens. Unfortunately, this is not an isolated incident.

Again, what is especially chilling is the fact that this kind of abuse appears to be growing more serious at precisely the time when the number of injured persons relying on airlines for public transport is growing rapidly. In addition to the civilian public, the sacrifices our military men have already made in the service of their country must not now be compounded by the crude, arrogant behavior of airlines which care more for personal gain than public service. Additionally, the recent discontinuance of rail passenger service in many parts of the country leave air travel as the only viable means of conveyance for the American public. I urge the CAB to take prompt action which will protect these people from such arbitrary and discriminatory treatment and will reaffirm the obligation of airlines to provide service for all persons.

The right of physically disabled or

crippled persons to travel by air is arbitrarily curtailed and circumscribed by a tariff rule—No. 15 of CAB No. 142—formulated by the airlines and approved by the CAB. This rule, as I earlier mentioned, requires attendants for all wheelchair inhabitants. This unconscionable rule, insofar as it permits the airlines to refuse transportation to physically disabled passengers, should be removed from the files of the CAB. The rule requires such passengers not only to pay additional fares for attendants but also to give assurance that they will not ask for "unreasonable attention or assistance" from carrier employees. One pertinent issue here is whether the employees of carriers are responsible for helping passengers in need of reasonable assistance for their transportation, or whether they should be principally employed for profitmaking purposes such as the sale of sex appeal, alcohol, tobacco, and duty-free goods. I believe that the employees have the primary responsibility to help physically disabled passengers. Another airlines rule allows carriers to refuse transportation to crippled persons on the grounds that they make passengers uncomfortable.

The conditions for international travel by the handicapped person are prohibitive, and the airlines' discretion to refuse air transportation to such persons is absolute. For instance, one tariff rule allows Pan American and Braniff to accept an incapacitated passenger, allowing these carriers also to charge four adult first-class fares for one stretcher patient. Their own tariff rules indicate that the stretcher passengers and disabled persons are charged arbitrary fares without giving due regard to the space occupied by those persons.

Section 404(a) of the Federal Aviation Act of 1958 provides that—

> It shall be the duty of every air carrier to provide and furnish interstate and overseas air transport as authorized by its certificate and to establish just and reasonable rules and practices relating to such air transport.

Rule 15 of the CAB n. 142 not only disregards the admonition contained in the section 404(a), but also violates the various provisions of the act which prohibit unjust discrimination. The act never authorized the carriers to refuse transport on the grounds of passengers' body shape or physical condition. I believe that a government action permitting the exclusion of persons from the use of a common carrier facility on the grounds of physical infirmity amounts to the denial of equal protection of the law.

I would hope that the CAB institute a rulemaking proceeding to guarantee the right of disabled persons to travel by air, without being subject to arbitrary conditions imposed by air carriers, and grant such other and further relief as may be appropriate.

The Air Traffic Conferences' Trade Practice Manual also lists other regulations which are outrageous. Section 2a states:

> Persons who have malodorous conditions, gross disfigurement, or other unpleasant characteristics so unusual as to offend fellow passengers should not be transported by any member.

Who determines when these conditions offend other passengers. Persons not only with contagious, but also "repulsive" skin conditions are not allowed to fly. Who determines what repulsive means. On one airline an unaccompanied blind person may not sit next to a person of the opposite sex. Another airline will not accept the mentally retarded as passengers. Seven airlines do not even accept mentally ill passengers, while five do if the patient's illness is inactive. One airline will not accept epileptics.

While air transportation is the major mode of long distance travel in the United States, surface transportation also is an important part of mobile America.

Buslines plead lack of trained personnel in helping the passenger off and on the bus, and insist that the bus aisles are too narrow for any sort of manipulation equipment. While there is no evidence that their ruling is enforced to the letter consistently, Greyhound has an official policy that states if an individual cannot walk onto the bus on his power he cannot ride the bus. The Interstate Commerce Commission has given its tacit approval to this discrimination.

Railroads, under the ICC jurisdiction, are guilty of allowing and even fostering discrimination against the handicapped on their own carriers. The Penn Central Metroliner denies wheelchair passengers the use of its coaches, because of the storage problem, but allows for the passenger to ride in the Metroliner club cars. All of this is provided if the passenger is accompanied by a competent attendant who can handle the wheelchair and assist the passenger in all requests en route. The railroad does not provide this service. It is difficult to understand why an attendant is required for the Metroliner when it has not been a requirement on any other train service. As for the railroad's rationale that Metroliner personnel are not always in a position to render assistance, I would hope that they might put themsevles in such a position as they have for so many years on other trains.

If, the railroads have determined that it is not the job of the train personnel to render assistance to the passengers, then one would expect it to be mandatory that the railroads make this position clear by prohibiting all passengers who require assistance. This category would as a minimum include the blind and many of the aged, as well as anyone who at any time during any train trip could be expected not to be fully self-sufficient. The very least we can demand of the railroads and the ICC is consistency. They are not consistent in who they discriminate against, only in that they do discriminate.

A great part of the problem, in both the air and on the ground, is architectural. Many airports and bus and train depots pose—to those in wheelchairs—an obstacle course of curbs, stairs, and restrooms they cannot use. Restroom barriers on transport facilities for those in wheelchairs are commonplace. Taxi drivers ignore them, and subway and transit buses are designed only for people who can walk up and down steps. Largely because of pressure brought by the President's Committee on Employment of the Handicapped and other groups, specialists in the field say the problems are now getting substantial attention and that progress is being made in some areas. Federal legislation of 1969 insists upon ramps, restrooms accessible by nonambulatory persons, and other design features tailored for people in wheelchairs, to be included in all buildings constructed with Federal funds. For too long the lack of architectural facilities has been the excuse of air and surface carriers in their discrimination against transporting the handicapped. Present aircraft and some railroad cars are too narrow for some physical handicaps, that is, a wheelchair. The removal of these architectural barriers should be given consideration by future designers and builders.

The issue is one of the application of ridiculous CAB and ICC tariff regulations. They allow for the carriers themselves to widely discriminate against the mentally and physically handicapped. These regulations, I believe, are unconscionable.

Do or should carriers have a duty to provide transportation to physically disabled persons, whether or not that person is accompanied by an attendant? I believe that they do.

What conditions may or should a carrier reasonably impose on the transportation of physically disabled persons? They should review the older CAB rules, and adjust them to present realities.

I introduced legislation on December 9, 1971—H.R. 12154—to amend the Civil Rights Act of 1964 to specifically include the mentally and physically handicapped. This bill would make it illegal to discriminate against any handicapped individual and to deny him access to federally regulated transportation. This amendment will reinforce prior efforts on behalf of the disabled American by making the spirit and the intent of the law equal. We must force the CAB and the ICC to view their rulings in light of the constitutionality of those rulings.

It is my hope that this legislation, which also has been introduced in the Senate, will receive early hearings and support from my colleagues. This endeavor to insure the protection of the legal and constitutional rights of our citizens is an effort that deserves the support of all Americans.

SURFACE TRANSPORTATION ACT

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DORN. Mr. Speaker, the Surface Transportation Act is supported by the Association of American Railroads, the American Trucking Association, and the Water Transport Association. The following concurrent resolution was unanimously adopted by the South Carolina General Assembly. I commend it to the attention of my colleagues in the Congress and to the American public.

A CONCURRENT RESOLUTION

To memorialize the Congress of the United States to enact the Surface Transportation Act of 1971.

Whereas, the present and future needs of the United States for a stable and an expanding economy require the smooth functioning of a balanced surface transportation system making the best possible use of all modes, rail, highway and waterway; and

Whereas, there is perhaps no single industry upon which the economy of this State and Nation depends as much for its growth and even its continued functioning as surface freight transportation; and

Whereas, much of the surface transportation system is today in a precarious financial position which impedes its ability to modernize and to meet increasing needs of both shippers and consumers alike; and

Whereas, existing federal policies relating to regulation and financing have lagged far behind and have impeded the progress and health of the transportation industry; and

Whereas, the need for revising and modernizing the regulatory laws affecting all modes of surface transportation has been recognized for many years, and numerous proposals for such revision have been advanced and considered by the Congress; and

Whereas, the Association of American Railroads, the American Trucking Association and the Water Transport Association are unanimously supporting this legislation.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

That the Congress of the United States is hereby memorialized to enact the Surface Transportation Act of 1971.

Be it further resolved that copies of this resolution be forwarded to each member of the South Carolina Congressional Delegation in Washington.

POW/MIA WEEK OF CONCERN

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, the President has proclaimed this week POW/MIA Week of Concern.

All Americans recognize the courage and sacrifice of the more than 1,600 men who are currently either prisoners of war in Indochina or missing in action. Their families have suffered the heartache of being separated from their loved ones for as long as 8 years.

It is my hope that this week will be more than a week of prayer and of concern for POW's and MIA's. Rather it should be the beginning of a new effort on the part of our Government to negotiate a fair and equitable agreement that includes the release of all of our POW's and an accounting for all of our MIA's.

All Americans want the POW's released. All Americans join with the President in expressing their concern and prayers for the fate of the POW's and the MIA's. And I am sure that most Americans hope that the United States will resume regular negotiations with the No. 1 topic of discussion being the release of our POW's and an accounting for MIA's.

INTERVIEW WITH OLIN "TIGER" TEAGUE

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BELL. Mr. Speaker, in light of the much-deserved praise and often uncalled for criticism that our space program has recently received, I think it appropriate to enter in the RECORD an exclusive interview with my good friend and colleague, OLIN "TIGER" TEAGUE, which appeared last month in the North American Rockwell publication, Skyline.

Because of his brilliant war record and the extremely important role he has played in the advancement and success of our space program, TIGER has justifiably earned his nickname.

Both his commitment and expertise in this area enhance the value and interest of this informative exchange. I therefore urge a careful and thoughtful reading of TIGER's eloquent discussion of the relevance and significance of our role in space for both the Nation and the world.

The interview follows:

INTERVIEW WITH OLIN "TIGER" TEAGUE

Q. Through the 1960s, there was a continuing, strong sense of public pride in our space program; an exhilaration that culminated, magnificently, with Apollo 11 in July 1969. Since then, however, with the brief exceptions of subsequent moon flights, apathy has set in, or worse—the program has been subjected to abuse and attack. People either aren't interested at all, or openly challenge why space money isn't spent elsewhere. In the restructuring of national priorities, space has slipped close to last.

What are the causes of this phenomenon?

A. It is important to point out that, in my view, several space myths have grown up in the last several years. First, I am convinced that the general public still strongly supports our national space program. The apathy, abuse and attacks come from a small group of people. However, that group is vocal and articulate, and it has seriously damaged our space efforts reducing the support available to it and delaying the start of crucial new programs.

There is much talk of national priorities and of restructuring them. I believe our priorities should be put into perspective. Space expenditures have never exceeded four and one-half percent of total annual federal budget outlays, and this percentage has steadily declined since 1966. Today, funds for the national space effort are less than one and one-half percent of total federal outlays.

Q. Even so, why shouldn't the space priority be down-graded throughout the seventies, or until the time more pressing domestic problems can be remedied? If we diverted all space money to these problems, wouldn't it solve them?

A. The vast majority of our federal funds *are* directed to the solution of our national problems. In 1971 over $70 billion was, I believe, necessarily spent on national defense. In the areas of health, commerce, transportation, education and welfare benefits and other services and agricultural development we spent approximately $95 billion.

In 1971 we spent about $3 billion in space research and development.

I do not see how we could further downgrade space in terms of national support. It already commands a relatively low level of effort. Solutions for our domestic problems require a large amount of money along with new ideas and technology. This in turn is dependent upon a strong and expanded economic base. To promote an expanded economic base requires adequate support of research and development to create the new and more efficient processes, materials, tools, and techniques needed to solve our day-to-day problems.

Those nations in the world which do not persevere in research and development programs are, at the same time, those which fail to develop an economy which adequately feeds, clothes, educates and houses its people.

To those who ask 'why we spend money to explore space when there is so much to be done right here on earth,' I reply there was plenty to be done in Europe when Columbus first sailed. And there is still plenty to be done there. *If Columbus had waited until Europe had no more internal problems, he would still be waiting!* But the opening of the New World did more to revive the European culture and economy than any internal actions could possibly have done.

Our nation's accomplishments in space should serve to inspire a reawakening of the American spirit and a rebirth of our national pride.

Q. What then needs to be done to rekindle interest and support of the program?

A. What is needed to get public support is for people to realize the vast amount of knowledge, skill, and new technology which has been made a part of our daily lives in the last decade as a result of the space program. We also need to let people know what the consequences of not remaining the technological leader of the world will mean.

If we provide the proper leadership to the program, public support will be there. Notwithstanding this, NASA and the aerospace industry need to bring the message of the contributions of our national space program more forcefully to the public.

For instance, NASA has a continuing technology utilization program. It provides a means by which space-generated ideas, equipment and the techniques can be made available to American industry. We need to do more, however, in this area.

There are at least two things that industry can do to help achieve this: first and foremost—to do a good job on the programs they are undertaking now. Nothing can take the place of work well done. In this regard I believe that the aerospace industry deserves high praise. Industry also needs to bring the space program, its difficulties, and achievements to the public. By freely providing this information I am convinced that the American public will support our national space effort.

Q. As taxpayers, then, what specifically are the American people getting for their space dollar? Can such benefits be tangibly measured? What do you tell your Congressional constituents who doubt?

A. First and foremost, every dollar spent on our national space program is spent right here on earth. At its peak, 42,000 people in industry, universities and NASA were working on our space effort. If you apply the standard multiplier of approximately five, that represents about two million people directly or indirectly benefiting, and I believe that is a conservative estimate of the short term gains from our space program.

Perhaps the best way to discuss this is to consider our largest exports which are jet aircraft and computers. Both of these products come from the aerospace field and have depended on the research and development from the aerospace industry. For the United States to continue to be a world leader in these industries requires continuous growth in research and development. Our aerospace industry provides that growth. More importantly these are jobs creating industries. To many this is the way to measure what the significance of our space program is—by the way it creates jobs not only directly in the space program but in the industries which surround it.

In talking with the constituents in my district I try to tell them these things, and, frankly, most of my mail is in support of the national space program. The mail that I receive is not just from my district but from people throughout the country, and in general it says, "Let's get on with the space program."

Q. You mentioned earlier the need to inform the public of the consequences of the United States *not* remaining the technological leader of the world. If the space budget is slashed to the bone, what could be some of the consequences?

A. I am convinced that the space budget *already has been* slashed to the bone. We are not doing the things either for the short range or the long range that need to be done to maintain our technological edge and to assure the maximum benefits from the investments we have already made.

As a nation, we are in a position to capitalize on our first decade in space by providing this country and the world with a low cost transportation system that will open new opportunities for Earth oriented applications as well as the additional scientific investigation. Near-space can become a place of commerce. For example, it is well known today that several manufacturing techniques could be developed in space and would be profitable, perhaps not alone but in combination. Crystal growing for industrial applications . . . refining of certain materials for industrial applications . . . improvements of vaccines by "zero G" processing—these techniques use the unique characteristics of a "zero G" laboratory which cannot be achieved here on Earth.

This new capability, I believe, will provide advances in processing materials that today we cannot envision. All of these will have high potential and high return if we choose to develop the ability to manufacture in space. In addition to this, Earth resources surveys both with automated and manned spacecraft can directly improve man's living.

It is time we proceeded with these important, and ultimately essential programs which will not only improve the living of the people in our country but the people of the world. Continued reductions in our national space effort, in my view, eventually will make the United States a second rate nation.

It should be recognized, too, that this nation needs a sound technological base—sort of a technology bank. This bank must be replenished on a regular basis. Our space program is a major contributor to accomplishing this aim. Without this nation continuing to penetrate the technological frontier, our ability to improve our living standards and compete in the world market will be damaged.

Q. You have been quoted as saying "space vehicles could be used for interception and inspection, surveillance and other missions for which high performance aircraft are now used." What should be the future of the military in space, and what are the consequences of not developing this capability?

A. Our National Space Act of 1958 specifically directs NASA to furnish the results of its research and development to the Department of Defense. With the reduction in the military space effort as well as that of NASA, remaining space research and development becomes of even greater importance. Certainly the military has a role in space.

I am convinced that because the United States has been a major sea power we have contributed to open use of the seas by all nations. I am equally convinced that *only* so long as the United States is a major space power will the free use of space be available to all mankind. Space today is the "high ground" militarily. To abrogate the field to a potential enemy is to court disaster.

Q. With Sputnik, 14 years ago, Russia shook the U.S. and triggered our active involvement in space. We then passed the Soviets with a great technological surge and beat them to the moon.

Now our space effort is slowing and theirs is accelerating—the tortoise and the hare. If they leapfrog us and we declare a crash program would not that be far more expensive in the long run than if we continued at a steady pace? Can we not profit from history?

A. Yes, I think we have to profit from history and remember the shock of Sputnik. But the pace of technology has accelerated since the days of Sputnik and attempting to catch up will be more difficult in terms of human and natural resources. What I am saying is that if we continue to fall behind in our technological efforts, particularly in space, it may become so expensive and time-consuming that we will not be able to retrieve our position.

Q. In this vein, should we declare a new national space goal, such as Kennedy did in 1961 when he announced the manned lunar landing commitment?

A. I believe we should be establishing several goals which comprise building blocks for a strong continuing space program. The keystone to those building blocks is low cost transportation to space—the space shuttle.

(Editor's Note: Shortly after Congressman Teague was interviewed, President Richard Nixon gave NASA the okay for development of the space shuttle system. He said the shuttle "will revolutionize transportation into near space by routinizing it. It will take the astronomical costs out of astronautics.")

Beyond this can be built a number of important scientific and technological programs which include planetary exploration, additional lunar exploration and use of the moon as a space obseravtory and space base and near-Earth applications such as communications, weather prediction and ship and aircraft navigation.

Q. After Apollo, why will we need man in space? The Russians sent unmanned craft to the moon. Why can't mechanical satellites do the job as well and cheaper, as, for example, they do via communication and weather satellites? Why is man necessary to the further exploration—and exploitation of space?

A. I really think that is a wrong question. It seems to me that the right one is: "What is it we wish to do in space and how best can we do it?" In some cases, such as communications and weather satellites, it has made sense to use a completely automated spacecraft. That may or may not be true in the future. In other areas, such as resource surveys and applications, some may lend themselves to automated *or* manned effort.

It makes more sense to me to decide it on the basis of the missions to be accomplished rather than on some arbitrary and artificial division between manned and automated spacecraft. *The essence of exploration in my mind indicates the anticipation of man.* He is not preprogrammed. He can make decisions, changes, and can generally adapt to unknown situations. Man, therefore, is an integral part of exploration.

Q. You have mentioned the need for a manned space shuttle system, a whole new transportation concept. Why do we have to have a new system. Why can't we extend the ones we have?

A. I have heard it said many times that every major high-technology program stands on the shoulders of past scientific and engineering giants. This certainly is true of our space program. In 1961, as a layman, I was convinced from talking to those who were experts in the program that we could not build a space shuttle. It was technologically beyond our capability. By having developed hydrogen-oxygen rocket engines, by having developed the ability to operate and navigate in space, by having the ability to operate complex ground based systems, we have established the building blocks necessary for a more complex technology.

My understanding of the shuttle is that it will be simpler to operate, even though it will be a more complex vehicle. This is much like our colored TV sets today which are more complex than our black and white sets, but have been simplified as far as operation is concerned. The shuttle represents a reduction to practice of the complex concepts that we successfully utilized in our first decade in space. It seems to me, in fact, that the low cost shuttle is the answer in our space program. Not only does it eliminate a large inventory of costly throw away vehicles but it introduces a new degree of flexibility into the way we do our work in space.

Whenever we provide greater access and mobility in a new frontier, whether it be the far West of the 1800s or space of the 1970s, new ways are found to utilize that frontier. A low cost transportation system is the major part of the answer to a low cost scientific exploratory and near-space applications programs.

Q. Development of the shuttle system has aroused some criticism in Congress. What chance does it have for approval?

A. Criticism of the shuttle from a limited group has been loud. I believe that if NASA provides consistent and understandable goals for the shuttle as well as other space programs they will receive Congressional support. However, this will not come without hard work and effort on the part of NASA, the Administration, and Congressmen who believe in a strong national space effort.

Q. What about cooperation with the Russians? Will we team up on future space flights?

A. Both the Soviets and the United States have learned a lot about space in this last decade. Eight years ago I would not have considered it useful for the Soviets and the United States to attempt close space cooperation. However, since then NASA has cooperated with over 78 countries in space research and flight programs. This cooperation has been a useful two-way street to the nations involved.

As you know, NASA and their Soviet counterparts have been seriously discussing and exchanging information on a possible international docking capability. This could lead to an American spacecraft docking with a Russian spacecraft or space station or the Soviets docking with one of our spacecraft or space stations in the future.

I feel this is an appropriate time to fully explore this possibility so that we may have joint rescue capability in space and may be able to find mutually significant reasons for cooperation in space on a direct basis.

No matter what we may do, it is worthwhile to note that the Soviets consider this an important undertaking. There is good reason why they value their national space program. It would be a serious mistake for us to do less.

Q. A final question: Will space ever return its investment on the same magnitude that the development of commercial aviation did?

A. Yes, in many ways. One that we all see today is the communications satellite. In less than 10 years we have revolutionized worldwide communications. Communications satellites represent a direct dollars and cents improvement over earlier methods of transmission of information. As our population expands and our needs expand in the future the only way that we can fulfill our communications needs will be with the application of satellites. Navigation satellites also are available today to our Navy and it is only a matter of time before our traffic control and commercial sea-going vessels will use navigation satellites.

It is interesting to note in the communications area that our COMSAT Corporation had operating revenues of almost $60 million. Yet it was less than a decade ago that COMSAT was organized for the purpose of developing a commercial communications satellite system. Already slightly over $200 million has been invested in COMSAT—an entirely new industry providing new jobs and opportunities in this nation and throughout the world.

Through Earth resources surveys it is possible from low Earth orbit to determine the size of oil slicks at sea and with only slight modification Earth satellites can report world-wide air pollution. Information on the gulf stream has already provided fishermen with improved fish catches. Photographs from the earlier Gemini program have helped identify large reserves of natural oil and gas in Saudi Arabia.

However attractive these may be, a low cost transportation system to space is needed to make them reach their full potential.

Another return that is difficult to measure is the added capabilities that we have achieved through communication satellites and weather satellites which I have already mentioned. Here we add a whole new dimension to world commerce.

Jobs and new income are created by it and living standards improved by it. In these kinds of areas there is a multiple return on the investment which we have already received and which appears to me to far outstrip the relatively small investment we have made to achieve it.

I have great faith in the return on investment achieved and promised by our national space program. We have only to look back the length of two generations to see what has happened to commercial aviation. From Orville and Wilbur Wright's initial flight to the 747 is technologically the same kind of jump as from Sputnik to the Apollo 11 lunar landing.

STATEMENT AGAINST THE CONTINUED EROSION OF OUR FEDERAL INCOME TAX BASE, PARTICULARLY BY HIGH-INCOME INDIVIDUALS

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SIKES. Mr. Speaker, early in 1969 former Secretary of the Treasury Joseph Barr testified before the Joint Economic Committee that unless we make major reforms in our income tax soon we would face a taxpayer revolt. He further stated that the people were particularly angry over the fact that 155 taxpayers in 1966 with incomes over $200,000 paid no income tax.

Recognizing that this was an intolerable situation, the Congress enacted the Tax Reform Act of 1969, which was generally regarded as one of the most substantive and comprehensive income tax reform laws ever enacted.

Yet, preliminary figures show that in 1970 there were still 104 individuals who had incomes over $200,000 and paid no income tax and there are many others who pay such minimal taxes that their contributions to the Treasury are laughable. There are many high-income corporations that are in exactly the same situation. There are foundations which are fattened from income which, in reality, should go into tax revenues and which produce little in the way of useful accomplishments.

How much longer can we allow high-income individuals to use tax shelters and erode our tax base? Such practices make a sham of the published schedule of tax rates at which individuals are supposed to be paying their income tax. For example, the current rates start at 14 percent and rise to 70 percent. However, tax experts have shown that the top effective rates are actually closer to 40 percent when we take into account incomes received by the high-income persons but not subject to income tax.

Actually, the income tax base is seriously eroded in the case of all income level taxpayers. A comprehensive income tax base, it is estimated, could reduce substantially the present rates, provide a more equitable tax structure, and create a sounder fiscal base on which to derive our present level of revenue.

While we can justify some of the exemptions and deductions in the tax laws, such as those which permit families with poverty-level incomes to be free from income tax, we certainly cannot condone large-scale avoidance by the wealthy. They must pay their fair share of taxes if our tax system is to be fair and sound. They have been benefiting too long from a host of tax preferences which the Tax Reform Act of 1969 in some instances attempted to remedy. It is obvious that the act did not go far enough and the Congress must take action to provide further corrective measures.

No one likes to pay taxes but people like it even less when they realize that there are tax dodgers who take advantage of loopholes which are not available to ordinary people and who, as a result, pay little or no taxes.

VIETNAM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BIAGGI. Mr. Speaker, 8 long years have passed since our first heroic man was taken as a prisoner of war in Vietnam. Eight years: During that time, two presidential elections have occurred and America has progressed from circling the globe to walking on the moon. We have seen children grow from infants into their preteens. It is hard to believe that some Americans have been in enemy prison camps since 1964—but it is true.

They remain there in desolation and discomfort, too often forgotten by their fellow countrymen. It is difficult for most Americans to identify with the daily struggle of these men, a struggle far more devastating to one's body and soul than the one they faced on the battlefield: They are confined and isolated, cut off from family and friends in a hostile and threatening environment. They live from day to day and they wait—for scraps of news about their release, for some indication that they soon will be free and back home. Meanwhile, our POW's live in a state of limbo, confident they are not forgotten, but without assurances that they are, indeed, remembered.

Here at home, their families wait and hope, often not knowing if their loved one is dead or alive, wounded or well, or if he will ever return. Their children must grow up without fathers, their wives must continue without husbands. The wives and children live in a world of hope and courage—confident that their patience will not go unrewarded.

For they have been patient, and perhaps for too long. The time has come to bring these men home. We must dedicate ourselves to the task of obtaining the release of our POW's. Let us vow that 8 years will not turn into 9.

This is not a partisan issue. Nor is this a question of "hawks" versus "doves": it is a fundamental issue of humanity. We must make our determination and concern felt in the White House: Let us tell the President that on this issue there can be no compromise.

But more than that, we must make our determination to free our men known in Hanoi. Today, we have an opportunity to do just that. The President recently visited Red China; he intends to visit the Soviet Union in the near future. Both of these nations have shown signs of "accommodation," of a softening of their attitude toward the United States. So our leverage, our bargaining power with them, is at a peak. What better time is there than now to exert pressure on the nations closest to Hanoi, on those nations most likely to influence the decision-makers in North Vietnam? We must make clear to President Nixon that POW's should be a high-priority item in his discussions with Peking and Moscow. And President Nixon should make clear to those Communist powers that America considers the release of its captured men one of its most pressing concerns. One of the chief aims of any and all negotiations must be to secure the freedom of those courageous soldiers. I know that my colleagues will join with us in this effort.

The POW issue has been a low-priority item for too long. Most of us have been so demoralized and disturbed by the conflict in Vietnam that we no longer want to think about it. Our participation in the war seems to be winding down, so we think about other things. But we cannot yet afford to do that.

These men are perhaps the most important men who remain in that strife-torn area. We owe it to them and to their families not to forget them, and not to desert them in their time of greatest need. Our attitude today cannot be one of complacency, one of relaxed indifference now that our combat troops are being withdrawn. We must redouble our efforts to free our POW's, for now is the time when they need us most.

How must they feel, knowing their brothers are returning home while they remain? How must they feel, when they hear reports that America's commitment in Vietnam is ended, but they are still there? How can they feel anything but loneliness, despair, even desperation?

It is our obligation to help these valiant men: not tomorrow, not next year, but now, using all the diplomatic tools at our disposal. I hope that my colleagues will join with me in keeping the pressure on the President to find alternatives and to seek initiatives in this area. We must stand as one on this issue. This is an issue that cries for our attention; we can do no less than to answer that cry. We owe at least that much to the more than 1,600 men who are prisoners of war in Vietnam.

CLEMSON UNIVERSITY LEADER IN ENVIRONMENTAL RESEARCH

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DORN. Mr. Speaker, Clemson University is a national leader in applying scientific advances in new and exciting ways for environmental improvement. Clemson University is making a magnificent positive contribution to environmental improvement. This splendid progress is another tribute to Clemson University's dynamic president, Dr. R. C. Edwards, and is in the great Clemson tradition of leadership. The following excellent article from the Keowee Courier, Walhalla, S.C., describes research being carried out in Clemson's ceramic engineering department concerning the commercial feasibility of using scrap and waste glass to manufacture bricks.

BRICK FROM OLD GLASS—CLEMSON EXPERIMENT

CLEMSON.—Considering the abuse it takes, it must be among the most unwanted things in the world.

Americans burn it, bury it, squeeze it into small, neat bundles and throw it away, and spend millions of dollars annually on new ways to get rid of this environmental cancer of affluent living.

Apparently no one has any use for garbage, alias trash, or the more pleasant sounding "in" term, solid waste. But American ingenuity appears on the verge of changing this because someone has found there is some good even in garbage.

The problem, perhaps oversimplified, is how to economically separate the good from the bad on a large scale basis so certain materials can be recycled or reused. Government testing on new garbage processing systems hints that the age-old outcast of society is already in for better treatment.

The potential of one component of processed garbage—mixed scrap glass—as a useful material in the brick manufacturing industry has captured the research interest of Clemson University's ceramic engineering department for the past three years.

Preliminary results on the feasibility of using waste glass as a major part of the brick material mixture indicate that Americans may literally find a place in their homes for some of the refuse now being discarded.

Ceramic engineering students under the direction of Prof. Gilbert C. Robinson, department head have just completed a short-term project for the U.S. Bureau of Mines which is looking at brick manufacturing as an ideal area to dispose of large quantities of waste glass.

Working around the clock in three shifts, ceramic engineering students fashioned some 2,000 bricks on a manually operated press. The bricks were fired in a tunnel kiln in Clemson's laboratories for 15 hours at 1,580 degrees F., then shipped to the Bureau of Mines experiment station at Tuscaloosa, Ala., for a variety of tests.

The Bureau of Mines supplied all raw materials for the project, 7,000 pounds of an impure scrap glass mixture obtained from the incineration of garbage, and 3,000 pounds of clay. The Bureau specified that the bricks be made of 70 per cent glass and 30 per cent clay.

Robinson said the glass brick project is part of a larger comprehensive study by the Bureau of Mines and others to find new solutions to the nation's growing solid waste problem. They are experimenting with a garbage disposal system in which mixed garbage can be separated into useful, individual components, including waste glass which would not be desirable for reuse in making glass containers.

"We believe that scrap glass can be developed into a valuable raw material for the brick industry," said Robinson, "but whether or not glass brick will be competitive in costs with present brick is not known because studies on the cost of preparing scrap glass are incomplete."

He said part of the final cost will depend on the proximity of the brick manufacturing plant to the glass source. This cost uncertainty has led Clemson researchers to pursue an alternate approach to using glass in brick making.

Robinson and Clemson's ceramic engineering department wants to determine how little glass can be used rather than how much. A small quantity such as two or five per cent may give brick manufacturers the necessary incentive to use scrap glass, he said.

Clemson research has shown that addition of a small amount of powdered glass to the mixture actually improves properties of natural raw materials used in brick making.

Many natural clays contain glass forming constituents which are an important link in the manufacturing process. During firing, these particles develop a glassy liquid which is mainly responsible for sealing and reducing the size of the brick's pores, as well as determining its strength, coloration, and other valuable properties.

Other naturally occurring clays, however, are deficient in these glass formers and the manufacturer must make adjustments in the raw materials to get a product which meets desired specifications.

"Addition of a small percentage of powdered scrap glass to deficient natural materials could solve a real problem for manufacturers in production of certain types of brick," said Robinson, "by improving properties of the brick and reducing manufacturing costs."

With only a two percent addition, bricks can be fired at lower furnace temperatures of product strength can be increased at present firing temperatures, said Robinson. Also, various color shades can be obtained by altering the quantity of glass in a mixture.

Whether or not reclaimed glass will be a panacea for the industry must be decided by further research. And Robinson said Clemson has plans for a detailed, in-depth study to refine present knowledge and answer many other basic questions on utilization of scrap glass in bricks.

REFLECTIONS—THE NEW JUSTICE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HARRINGTON. Mr. Speaker. We witnessed much turmoil in the past 10 years. There has been an alarming amount of violence, in life and fiction. Crime was on every citizen's mind. Protests and marches were a daily phenomena. History tells us that in such times, the tendency is not only to seek peace and order, but to seek it at all costs. We are witnessing today, a search for an order at the expenses of our civil liberties.

Over the cause of the present administration, the Justice Department has treated us to a myriad of new rules, statutes, and regulations designed to bring back the older order. Criminals are swiftly wisked into jail until trial so that the streets will be safe once again. Police are given a free hand with "probable cause" to protect us once and for all from the forces of evil. Agents are sent to infiltrate our groups and our privacy to restore a political order conducive to right-of-center bliss.

This is a false order Mr. Speaker. There is no easy "once and for all" in terms of remedies for the most main problems facing us today. Although our campuses are quiet, our students are still burning with latent rage at the insensitivity of the present administration to war, poverty, and discrimination. Organized crime is still spreading its greedy arms into the safest of communities and enterprises. And criminals, whose punishment is now emphasized over rehabilitation, are no fewer in number or less inclined to crime than before. And what we have lost in the process is the vital center of democracy, the recognition that no matter how repugnant a thought or action might be, the citizen involved must be guaranteed to the fullest extent his freedom of action and his civil liberties. Civil liberties must not be offered begrudgingly, or else they mean little when it comes right down to protecting them. Love of the Constitution, and its Bill of Rights, must be paramount. In the present administration it is not. Protection of civil liberties is in the hands of the Justice Department, and I for one, Mr. Speaker, am not happy with their enthusiasm for full freedoms and protections. Order seems to have taken a large bite out of 'the law. I have seen no better documentation of that bite than in this month's New Yorker magazine, in an article by Richard Harris. I insert that perceptive review in the RECORD and commend it to every Members attention.

The article follows:

REFLECTIONS—THE NEW JUSTICE

Although some conservatives in this country cling to the belief that Communist conspirators still pose the gravest internal threat to the United States, the most astute and practical-minded members of the right wing have long since concluded that the domestic

Cold War is more or less over, and have swung their fire toward a new enemy—the criminal and anyone who is "soft" on him. They have much to gain by the switch. For one thing, unlike Communism, the widespread existence and the alarming growth of crime in America directly affect, or can easily be made to seem to directly affect, just about everyone. For another, the scope of what once was considered to be criminal behavior has recently been broadened in the public mind to cover a large number of activities that only a few years ago no one except political hysterics on the extreme right would have viewed as truly criminal—civil disobedience, the expression of political dissent through demonstrations, and, at times, even harsh criticism of the government.

Since most people are personally afraid of the mugger, the robber, the rapist, or the murderer and are generally distressed by social discord, politicians who promise most in the way of soothing private fears and restoring public order have a far better chance of changing the shape and direction of society, or of stopping the kind of change they don't like, than they ever had when they relied on an ominous-sounding but vague Red menace to frighten the people and to intimidate moderate and liberal leaders.

Phrases like "handcuffing the police," "coddling criminals," and "allowing the depraved to roam the streets at will and prey on the innocent" have a far more immediate appeal to the average person who is unhappy about society, probably without quite knowing why, than all of Senator Joseph R. McCarthy's murky fulminations against "the minions of Stalin" in the State Department "who have been betraying this nation," which so inflamed the populace twenty years ago.

There are some signs—clear but not clear enough to constitute evidence—that the "crusade" or "war" on crime has been and continues to be used by officials of the Nixon Administration, particularly of the Justice Department, to alter what has long and widely been accepted as the fundamental nature of our society. The danger today is not only that the Constitution will continue to be violated by the government, as it has been repeatedly in the past couple of years, but that the present Administration will rewrite the essential protections contained in that document, with the consent of the governed and the agreement of Congress and the Supreme Court, in the name of private and public security. While some revision of this kind has already been made in recent years—to a critical extent in certain areas of civil liberties—it would be rash to conclude that the nation is in the grip of a repressive and authoritarian regime.

At the same time, it would be equally rash to ignore the realities taught by history. Chief among them in this regard is that every government tries to increase its power at the expense of the individual, because at all times and in all places there are government officials who *know* what is best for the people and are determined to impose it on them for their own good.

Radical movements typically select a powerful and terrifying foe on whom they can heap enough blame for what seems to be wrong with society to conceal what is actually wrong. Over most of the past half century, the threat of Communism provided such a screen for the right-wing movement in this country. Many of its members were also convinced, by no means incidentally, that the Communists would separate them from what they so cherished—their property. Dire as that threat seemed, it scarcely compares, in depth or breadth, to the kind of fear that assails millions of citizens today who feel that they may be separated at any time from property, security, and even life.

Conservatives have always used government to prevent change, and since the backbone of conservatism is made up of a series of economic vertebrae—from hatred of taxes to disapproval of all welfare—it was perhaps inevitable that among the many advantages those on the right could expect to gain from the new conservatism would be its power to forestall large economic changes. Liberals are probably correct in claiming that the foster parents of most criminals are slum life and hopelessness. But conservatives are certainly correct in sensing what an alarmed public wants—something to be done *now* about crime. And doing something now does not include mounting an immense rescue mission for the poor, who commit most of the violent crimes that frighten people.

That kind of reform would cost too much money and would take too long, even if it were politically and socially desirable, and for conservatives it isn't. Rather, they say, the solution lies in enacting stricter new laws, applying unused old laws, imposing longer sentences, and making prisons so disagreeable, despite all the current talk about prison reform, that their occupants won't want to be sent back to them once they get out.

For some years, Richard Nixon has been the leading proponent of this view. In the 1968 Presidential campaign, he repeatedly called for a crackdown on lawbreakers, and offered his solution: "If the conviction rate were doubled in this country, it would do more to eliminate crime in the future than a quadrupling of the funds for any governmental war of poverty." Since today's prisons and jails are vicious crime factories, doubling their occupancy now would actually insure that twice the number of hardened criminals would be returned to society in the future. Still, Mr. Nixon's course has one virtue—it is cheap. Compared to the costs of reconstructing the country's major cities, building thousands of schools, and creating millions of jobs, the cost of doubling the capacity of the country's "correctional facilities" would be virtually invisible.

Most urban robberies, rapes, and homicides in this country are committed by men under the age of twenty-five. In a composite portrait of the kind of young man who commits them, the President's Commission on Law Enforcement and Administration of Justice has described him as "likely to be a member of the lowest social and economic groups in the country, poorly educated and perhaps unemployed, unmarried, reared in a broken home, and to have a prior criminal record." Other studies add that he is likely to live in a city and to have a grievance against society, especially against the police, with no constructive way of working it out. All this describes not merely the average young criminal but a very large number of young black men today.

More than half of the black people in the United States are under the age of twenty-five. According to the Bureau of Labor Statistics—whose figures have been criticized as being far too low in this area— roughly fourteen percent of black men of all ages are unemployed or underemployed, compared to half that percentage for white men. And thirty-one percent of all black teenagers have no jobs at all. From 1966 to 1975, the number of youths between the ages of fourteen and twenty-four living in black slums—the group with the highest crime rate—will have risen by a staggering sixty-three percent. That presages not an increase in the flow of crime but a torrent.

Inescapably, the poor commit crimes, sometime out of resentment, sometimes out of laziness, or sometimes out of need, but most of all because they live in a society where they find little besides poverty, sickness, and violence and are rarely exposed to any traditional moral standards. Today, most of those who commit the crimes that are most feared—assault, rape, murder—are black, and most of their victims are black, too, although by now enough violence has spilled over into white neighborhoods to make it a political problem. (A dozen years ago, Nathan Sobel, Chief Judge of the Kings County Court of General Sessions, stated that the majority of crimes committed in Brooklyn were the work of young Irish Catholic men.) If a third of all young black men cannot get work and cannot earn enough money, say, to buy a suit of clothes or even enough to take a girl out for a movie and a glass of beer, they are likely to steal. And if they have little hope of ever getting a decent job, they will likely turn to drugs to ease their frustration and bitterness.

Then, of course, they will have to steal more. Since very little is being done to provide training or work for them, the results seem inevitable. And since these figures are no secret, the Nixon Administration seems to be purposely following a course—malignant neglect, one might call it—that aggravates rather than alleviates the major cause of crime in America.

When the plight of the poor, particularly the black poor, became unavoidably clear to white Americans a decade or so ago, Congress enacted a greater number of effective civil rights laws in half a dozen years than it had in the previous century—most of them aimed at ultimately improving the social and economic lot of the deprived. No doubt part of this response was caused by fear that the poor, particularly the black poor, would take what they had been denied for so long if it wasn't given to them.

The great civil-rights demonstrations of the early nineteen-sixties showed their determination, and the riots of the late nineteen-sixties showed their desperation. The ordinary white citizen was alarmed and sickened by the brutal repression at Selma, but as time passed he was also alarmed, and then frightened, when a black family moved into his neighborhood and the value of the house he had worked for plummeted, or when he found that a black man was after his job, or when large sections of cities were burned and looted by blacks, or when he discovered that most street crime was black crime. If these factors did not make him an out-and-out racist, they made him often act like one. And they also provided politicians on the right with an opportunity to lure such citizens, mainly lower- and middle-class white-collar workers and skilled laborers, away from their traditional support of the kind of liberalism that promised more for "the little man." After all, who was the little man now?

In the view of William F. Buckley, Jr., conservatives are realists above all else. Compared to most liberals, they are—at least, in the short run—for they are usually more practical planners, more capable managers, more willing to compromise differences among themselves for the sake of a common effort, and less given to prima donna posturing to proclaim their integrity and independence. (Liberals have held a numerical superiority in the Senate over the past decade or so, but they have a far poorer record of achieving their ends than the conservatives there.) Primarily, though, conservatives are more realistic because they have such a low opinion of humanity, and are willing to put it to use.

One way they have put it to use politically is by nurturing the white man's fear of the black man—a very deep, perhaps ineradicable, fear by now—as the seed of their grass-roots support. Barry Goldwater planted the seed during his 1964 campaign for the Presidency, and Richard Nixon harvested the crop in 1968 by repeatedly promising in the North that he would crack down on those who committed crime or fomented disorder and by repeatedly implying in the South that he would slow down the pace of desegregation. North and South, the message was the same: black men would be controlled.

If demands for social reform were to be silenced through exploitation of whites' fear and resentment of blacks, the agitation for civil rights for Negroes had to be discredited.

One way to accomplish this was to equate it with crime. By now, the equation has been drawn and accepted by many people. "I suppose it was almost inevitable that 'law and order' got mixed up with civil rights," former Attorney General Nicholas deB. Katzenbach wrote in 1969. "It had been, after all, the plea of the white segregationist. To compound the connection, 'law and order' was also the catchword of Barry Goldwater, who voted against the 1964 [Civil Rights] Act, and George Wallace—the segregationist hero—in the 1964 and 1968 Presidential campaigns. It was, too, Senators McClellan and Ervin and Thurmond—fervent segregationists and strong critics of the Court's civil-rights decisions—who led the legislative battle to curb the Court on criminal procedure." Those procedures governed treatment of criminal suspects and defendants, the bulk of whom, again, were black.

A year after Katzenbach's statement, a leader of the right wing spelled out the connection between crime and civil rights even more precisely. In a letter to the Washington *Post* during the contention over the nomination of George Harrold Carswell to the Supreme Court, Assistant Attorney General (now Associate Justice) William H. Rehnquist wrote that "further expansion of Constitutional recognition of civil rights . . . logically brings in train . . . further expansion of the Constitutional rights of criminal defendants, of pornographers, and of demonstrators."

In other words, if you give someone you don't like the right to go to a decent school or to sit at a lunch counter or to vote, you're going to have to give other undesirables the ancient privilege against self-incrimination that the rest of us have, and you're going to have to give still others you disagree with the right to speak and to assembly freely.

The black riots that followed the assassination of Dr. Martin Luther King in 1968 made it far easier for conservatives to equate the assertion of civil rights with crime. In this case, the equation had some substance, for, whatever their grievances and whatever their needs, the rioters broke the law in violent ways that had not characterized earlier black protests. But the right wing interpreted their behavior as sufficient reasons to deny black people in general the simple human right to a bearable life—the right to decent housing, decent education, and decent jobs—because if these were provided now, the argument went, it would prove that the rulers of society could be easily blackmailed.

One leading politician of the right wing, James Buckley, who demonstrated *his* realism by getting elected to the Senate, recently went further than most conservatives have ever dared to publicly by suggesting that the civil-rights upheavals that shook the nation in the nineteen-sixties not only were criminal but created part of the crime problem that exists today. In a speech last fall in Rochester, he said, "Somewhere along the way in the last few years, the idea somehow got itself accepted that one must obey only those laws with which he agrees, and that one who disobeys a law, so long as he is righteous enough, is entitled to relative impunity. That sounded pious, safe, and harmless enough in the early sixties—at least in the Northeast—so long as the laws in question were court orders in Birmingham, Alabama."

The result, he said, was that outbursts like the one at Attica had less to do with the state of our prisons than with "the state of our attitude toward the law" that had grown out of the earlier violence of it. Actually, of course, Dr. King and his followers did not behave at all like criminals: they set out to prove that certain local laws and the court orders supporting them violated the Constitution and were unlawful, and they were ready to go to jail, as they often did, for breaking these laws and defying these orders. But Senator Buckley's casual distortion of recent history is less revealing than his underlying theme: the kind of equality that black men have is their sameness—Dr. King equals the black rapist or the black murderer in prison who revolts against the intolerable circumstances of *his* life.

Acceptance of this theme reduces the plea for social reform to a craven cry of surrender. And there are many signs that acceptance is fairly widespread, for the Nixon Administration met little real resistance as it slowed down desegregation and refused to use existing law to break up all-white suburbs, or as it downgraded the anti-poverty program, VISTA, summer-job programs for the young, and, until Congress put its foot down at the last moment, even the school-lunch program. Recently, the President vetoed an act of Congress providing two billion dollars' worth of day-care centers for children whose mothers, mainly welfare recipients, need such facilities in order to hold jobs. As hateful as welfare is to conservatives, it apparently is preferable to a sizable outlay of tax money that might create some measure of self-sufficiency for those who are now totally dependent on public charity.

Not long after this veto, President Nixon announced plans to construct a space shuttle; the cost is estimated at between ten and fourteen billion dollars. Later, Wernher Von Braun said that the project will bring closer the day when a child will be born on the moon. Presumably, it will not be a black child. In any event, the anti-crime coalition made up of a President and a generally compliant Congress will undoubtedly achieve a great many of the restrictive economic and repressive racial goals that were pursued for so long by the old conservative coalition of Southern Democrats and Northern Republicans in Congress. The "war on crime" should keep Negroes in their place and save a lot of money at the same time.

Those who are most deeply committed to the status quo are incapable of blaming society itself for its ills, because a conclusion of that sort would amount to an admission that society should be changed. Such people can ignore what is wrong and hope it will somehow be righted or simply go away; or, if the threat is large and lasting, they can select a few scapegoats and link them together with a conspiracy theory. That is the most common way out, and it was the way chosen by the far right in exploiting the crime issue. Criminals had been encouraged to do their worst, this theory went, by fuzzy-minded liberals (mostly on the Supreme Court), do-gooders in high places (Lyndon Johnson, for one), and, of course, Communists (all over the place).

Endless reiteration of the claim—at first in extremist publications, then gradually by policemen and prosecutors, who hoped to justify their failure to control crime, and finally by millions of citizens who could not understand how their sweet society had gone sour—had an effect beyond all expectation. The advertising campaign was immense, and the people bought the product. Few of them took the trouble to ask themselves why men in the highest places in government had set out to unleash society's malefactors, and the sheer volume of attacks, most of which were aimed at the Supreme Court, finally convinced a majority of the public that they must have substance. In the course of the 1968 Presidential campaign, Mr. Nixon led the assault on the Court, and by midsummer of that year the Gallup Poll organization reported that "unfavorable feelings toward the Court outweigh favorable sentiment by a 3-to-2 ratio." That was the first time a negative response to the Court had been recorded. Then, shortly before the election, Louis Harris's poll revealed that this response was increasing rapidly; now the ratio stood at three to one against the Court, with nearly seventy per cent of the public convinced that "violation of law and order has been encouraged by the courts."

Mr. Nixon's attacks on the Court undoubtedly helped him win the Presidency. They also dangerously shook the nation's delicately balanced tripartite system, for the Court is far more vulnerable in practice than it is imagined to be in theory. At the height of the barrage, Chief Justice Earl Warren, in a speech before the Judicial Conference, reminded his audience of representatives from all the federal courts that "the greatest adhesive power we have is the profound belief of the American people in our Constitutional system, the dedication of our public servants to obey its injunctions, and the independence of our judiciary." Then he added, "If one of our three coordinate branches of government is discredited, the entire structure of government is weakened.

None of them can strengthen the democratic process by climbing over the weakened body of another. In the nature of things, the judiciary is the most susceptible to attack, because it cannot enter the political arena and trade blow for blow with those who would discredit its work. The others can and do. In other words, if demagogues ever persuade the people that the Constitution endangers rather than protects them, and in response to public demand for a change Congress alters that document or the executive branch refuses to enforce it, our system of government will cease to exist.

Being the most vulnerable branch, the Supreme Court has historically been very sensitive to its inherent weakness, and has rarely gone far out in front of or lagged far behind the popular will or whim. Possibly through a desire to preserve itself as an institution, the Court has meekly stood by whenever the government has indulged itself or the public in convulsive fits of repression.

In 1953, toward the end of one of those periods—McCarthyism—Professor John P. Frank, of the Yale Law School, spoke at a symposium on the Supreme Court held at New York University. "The most striking fact in the relation of the history of repressions to the history of judicial review in particular or to the Supreme Court in general is that no direct action by the Court has ever had any significant bearing in either *stopping* or *slowing* a repression," he said.

Going on to list some of these—the Alien and Sedition Acts, anti-Mason scares, Know-Nothing threats, fear of anarchism, alarm over espionage and Bolshevism, and McCarthyism—he pointed out that the Court had done nothing about any of them. "The dominant lesson of our history in the relation of the judiciary to repressions is that courts love liberty most when it is under pressure least," he said, and added, "The great inescapable fact is that in a century and a half no substantial restriction on liberty has yet been invalidated."

The Warren Court had only recently been formed when Professor Frank spoke, and it wasn't until the spring of 1954 that it delivered its unanimous opinion ordering the desegregation of public schools. That decision and subsequent rulings on criminal-law procedures—the Gideon, Mapp, Wade, Mallory, Escobedo, and Miranda cases in particular—could be said to have certainly invalidated substantial restrictions on liberty. Still, those restrictions were the product of age-old racial and class supervision rather than the convulsive pressures Frank referred to.

Even so, over the years the Warren Court's decisions in these areas were sufficiently far out of the mainstream to set the Court up as a target—an enemy of society, so to speak—for the right wing. Stirred up by cries of treason and demands for the impeachment of the Chief Justice, the right wing marched off to join its greatest crusade since it followed Barry Goldwater over a cliff. Although the move to impeach the Chief Justice was futiley absurd, it served to keep the band together while recruits were enlisted.

And by the time an army of irate citizens had joined up, politicians who occupied less extreme positions than those held by the crackpot wing must have wondered what might be done with such an immense force and its restlessness over race and crime. (It has been said that during the 1968 Presidential race one of Mr. Nixon's fears was that President Johnson would choose a well-known judicial conservative of impeccable standing to succeed Warren. From the right wing's point of view, the choice of Abe Fortas was ideal, for now anti-Semitism could be added to what was basically a racist crusade anyway.) As millions of people became disenchanted with the Supreme Court, its members were almost certain, if Professor Frank was correct, to behave in a more subdued fashion. "Experience shows that there is not enough power in any five or nine appointive officials long to resist the overwhelming demands of democracy," he noted. "When public opinion reaches the proportions of a tidal wave, no merely intellectual appeal can stop it."

"In Dubious Battle," by John Steinbeck, describes how anyone who arouses a mob can never be sure that it won't turn on him in the end. Similarly, any politician who attempts to create and manipulate public opinion may find himself its victim rather than its master. That possibility confronted Mr. Nixon when he took office, for his use of crime as the basic issue of his Presidential campaign meant that he had to do something about the problem, but at the same time the policies he was committed to made it impossible for him to do anything that would work.

A more scrupulous and inflexible man might have been confounded by the dilemma. As events of the past three years have demonstrated, however, President Nixon has managed to transform the dilemma into an advantage that finally may be of inestimable value to the right wing's most cherished goal—destruction of liberalism as an effective force in American politics.

That is a tall order, to be sure, but there are indications that it may be on the way to being filled. If it ever is, much of the credit, or blame, will belong to the conservatives' adroit use of the crime issue to silence and then destroy their opponents. In retrospect, it appears clear that the Supreme Court was merely the first target and that the ultimate objective was, and is, the Bill of Rights.

Most Americans probably assume that they have always enjoyed the protection of the Bill of Rights by virtue of their citizenship. Until very recently, though, most of those protections were theirs only in federal proceedings, and the states were more or less free to interpret them as they saw fit. The process of extending criminal-law procedures in the Bill of Rights to the states began only about thirty years ago, and it wasn't until the Warren Court applied the bulk of its provisions to the states that the average citizen got the rights that he had taken for granted all along.

To the most informed and perceptive members of the right, it was probably this innovation, more than the Court's supposed softness toward criminals, that was unbearable. As every domestic autocrat knows, no authoritarian control—of a city, a state, or the nation—can exist alongside a Bill of Rights that is enforced. Still, the Warren Court's efforts to make that a reality left the right wing one alternative: if the Constitution means what the Supreme Court says it means, then perhaps a subdued Court or a newly constituted Court might decide that it means less than the Warren Court claimed.

While the Court itself could not initiate such a change, an Administration or Congress could—by proposing and enacting laws that legislatively redefine, limit, or abolish certain protections of civil liberties that are contained, or are presumed to be contained, in the Constitution. And if the Court were to let such changes stand, then the Constitution would become what Congress said it was.

As it has emerged, that is what the anti-crime coalition has attempted, and, to an unimagined extent, has accomplished. According to Lawrence Baskir, staff director and chief counsel of the Senate Subcommittee on Constitutional Rights, "The only part of the Bill of Rights that the Administration hasn't either rewritten or violated is the only one it should have—the 'right to bear arms.'" For the most part, these changes—some small, some monumental—have been made through a series of bills drafted largely in the Department of Justice and approved by Congress with appallingly litle study and virtually no debate.

"By the time repressive legislation reaches the Supreme Court," Professor Frank observed, "we may expect that almost always some appointees of the repression period will be there, too." When President Nixon announced his last two appointments to the Court, he explained the reasons behind his choices. "As a judicial conservative, I believe that some Court decisions have gone too far in the past in weakening the peace forces as against the criminal forces in our society," he said, echoing the theme he had used again and again during the 1968 campaign. "The peace forces must not be denied the legal tools they need to protect the innocent from criminal elements."

Having convinced the nation that crime was its most pressing domestic concern and that the Supreme Court was in large measure responsible for creating it, Mr. Nixon was now able to claim that the proper Supreme Court justice was a firm law-and-order man. This concealed one fact of major importance: by far the largest part of the Court's calendar is made up of non-criminal cases. In holding out the promise of public security against criminals by way of a hardfisted Supreme Court, the President ignored—publicly, at least—the likelihood that justices who favor the conservative approach to crime will also favor the conservative approach to such matters as race, economics, labor-management relations, states' rights, and, above all the other multifold problems that reach the Court, civil liberties in general.

Moreover, in the new Court judicial activism will be far likelier than judicial avoidance, and there is little doubt about the philosophical direction that activism will be aimed toward. If the Warren Court's rulings in criminal matters are revised, as a couple of key decisions already have been, so may be such opinions as the one that Chief Justice Warren considered the Court's greatest accomplishment during his stewardship—reapportionment of state legislatures to give every person an equal vote. If that is overturned, state legislatures will be securely returned to conservative control. All this, of course, gives the right wing a far better chance to remake society in its own image than it ever had when it claimed that whatever it feared or disliked was part of a Communist plot.

Radicals of the right and radicals of the left usually view life in such a remorselessly committed and narrow fashion that they are bound to view all opposition to them as fundamentally evil and probably a conspiracy. They continually imagine plots against them that do not exist and concoct plots of their own that cannot succeed. What both sides ignore is that history is their master, not their servant, and that its course is determined more by accident than by human direction. Like any other major historical development, political use of the crime issue did not happen by deliberate design.

Rather, it has come about in piecemeal fashion through a series of apparently unrelated events that have accidentally suited a prevailing national mood. However, once enough of these events occurred and the possibility of using them and creating others like them became obvious, then a movement—a collusive hope rather than a conspiratorial plot—to push society to the right gradually emerged. Again in retrospect, it can be seen that the radical right's war on crime began, quite inauspiciously and without a map or a plan, on January 24, 1967, when one of the leading right-wing zealots in Congress, Senator John L. McClellan, Democrat of Arkansas, who has done his best throughout his many years in public office to make sure that the helpless stay that way, introduced a bill to legislatively reverse the Supreme Court's decision in Miranda v. Arizona, which had been handed down the summer before.

At the outset, little attention was paid to the shot that McClellan fired, for his bill was put down as no more than a futile attempt to take revenge on the Court for its civil-rights decisions over the previous dozen years. Legal authorities dismissed the measure as being clearly un-Constitutional, since its effect was to say that Congress, not the Supreme Court, was the final arbiter of what the Constitution means—an issue that everyone assumed had been settled in 1803 by the case of Marbury v. Madison, which left the final interpretation of Constitutional issues up to the Court. Today, McClellan's proposal may look like part of a plot, because in many respects it was typical of the later moves to undermine the Bill of Rights that the right wing was to make intentionally.

To begin with, the bill seemed to abrogate the Fifth Amendment's privilege against involuntary self-incrimination, which the Miranda decision had been designed to secure for the lowliest suspect; further, it was clearly intended to diminish the authority of a liberal Court, or, if the Court overturned it, to whip up more public wrath to subude that institution; still further, it was racist; and, finally, its effect on the crime rate was almost certain to be negligible. In a five-to-four decision, the Court had stated in the case of Ernesto Miranda that suspects in criminal matters must be told that they have the right to remain silent when questioned; that they have the right to have a lawyer present, of their own choice if they can afford it and court-appointed if they can't; and that whatever they say may be used against them in court.

Of course, professional criminals, ranging from the pickpocket to the hired killer, and other citizens who are reasonably well informed already know that they have such rights. The only people who don't know it—the very poor and the uneducated, most of whom are black—have little reason to believe that they have any rights at all. In short, McClellan's move was bound not only to hurt the Court, which had tried to help the defenseless, but to hurt black people as well.

Opposition to the measure on the part of the legal community was virtually unanimous. "The effort to legislatively overrule Miranda is unfortunate and illegal," Joseph O'Meara, dean of the Notre Dame Law School, informed the Senate. "Unfortunate because Miranda, when all is said and done, does no more than extend to the poor and stupid what the wealthy and sophisticated have had all along. Illegal because it attempts to amend the Constitution by statute, which is a legislative version of what Senator McClellan accuses the Court of [doing judicially]."

The Bar Association of the City of New York, the American Bar Association, and the Judicial Conference also announced their opposition to the proposal, and urged Congress to defeat it. Early in 1968, while the measure was still in committee, the Associated Press polled members of Congress on what their constituents were most concerned about, and announced, "Overwhelmingly, the members reported that anger over riots and crime overshadowed all other domestic issues and, in many cases, even the war in Vietnam." Five months later, both houses of Congress approved McClellan's proposal by wide margins. Many members who publicly supported it were believed to have privately opposed it but to have been unwilling to appear soft on crime in an election year that was rife with charges that liberals had created the crime problem. One liberal senator who reluctantly voted for the bill said privately at the time, "I assume that the members of the Court, who don't have to worry about being reelected, will knock down the law as soon as it comes up for a test."

Of course, neither he nor anyone else in Congress could have foreseen that before the new law could be tested the narrow liberal majority on the Court would be replaced by a conservative majority. Without that accident of history, the right wing's attempt to subvert the Bill of Rights in the name of fighting crime might have failed—in this one case, at least. Of course, even if a fairly liberal Court existed now, the repressive mood of the people might still overwhelm it.

Professor Frank (who, by another accident of history, left academic life for private practice in Arizona, and later served as counsel to Ernesto Miranda) has made the point that although the Court has occasionally stood up to Presidents and often has stood up to state governments, it has been extremely hesitant about challenging Congress. The Court gives "an appearance of a judicial veto in the field of liberty when in fact there is almost none," Frank said, and he continued, "The average congressman would be surprised to know how little actual restraint the Court puts upon him. The repeated episode of buck-passing exemplify Congress's refusal to trouble itself about legal issues in a comfortable, if mistaken, assurance that the judiciary will correct the worst errors."

Senator McClellan's attack on the Miranda decision was the first of several attacks, most of them equally successful, that the right wing was to mount against the Bill of Rights in the next few years. His stroke was bolder than many of the others because it not only struck at the protection that the right most detests—the Fifth Amendment's stricture against involuntary selfincrimination—but also denied the Supreme Court its right to decide what the law means. In any case, McClellan's promise that enactment of his bill would sharply reduce street crimes seemed unlikely to be fulfilled, for almost all of the studies have demonstrated that the Miranda decision did not have much effect on those crimes in the first place; as Katzenbach told a congressional committee, it was "unutterable nonsense" to suppose that Court rulings on criminal law were related in any way to the rise in crime. But, politically speaking, the right wing could at least claim that a start had been made and that, unlike their do-good opponents, they were going to be tough with criminals.

That toughness was displayed again, by way of a measure, also introduced by McCellan, to allow municipal, state, and federal law-enforcement officials, with court approval, to tap and bug anyone who had committed, seemed to be in the act of committing, or was believe to be about to commit a crime punishable by a year or more in prison. The question of the Constitutionality was less clear-cut in this matter than it was in the attack on the Miranda decision, because the Supreme Court had never squarely faced the issue of the right of privacy, and had applied the Fourth Amendment's prohibition of "unreasonable searches and seizures" to official eavesdropping in specific rather than general ways. Supporters of the bill—mainly policemen, prosecutors, and criminal-court judges—based their defense on necessity. They argued that electronic surveillance is the best, and perhaps the only, way to control crime, especially organized crime. Opponents based their opposition on a variety of arguments: electronic surveillance is inefficient (a tap or bug requires the daily attention of several people, who might otherwise occupy themselves with less questionable and more productive investigations).

It is ineffectual (professional criminals avoid using telephones or discussing their plans where they can be overheard, and although police officers have been covertly tapping and bugging members of one criminal syndicate or another for years, organized crime is flourishing more than ever); it is probably un-Constitutional (most laws implementing the Fourth Amendment require reasonable limits on what is covered by a search warrant, and a tap or bug cannot be limited, since it records everything that anyone, however innocently involved, might say); it opens the way to wholesale political and personal blackmail and intimidation (one corrupt district attorney or police chief and one corrupt magistrate or judge could snoop on anyone).

The bill's permission for policemen or prosecutors to tap or bug anyone without court permission for up to forty-eight hours in cases of emergency involving organized crime could be flagrantly abused (the emergency is defined by the police or the prosecutors); and no such broad invasion of the people's privacy should be allowed until it has been demonstrated beyond dispute that it is necessary and that it will work (no evidence was ever submitted to sustain either claim).

In 1968, at the same time that Congress approved the anti-Miranda measure, it approved the tap-and-bug measure—for much the same reasons. This time, some of the votes were provided by Mr. Nixon, who paused long enough from his campaigning for the Presidency to express wholehearted support for the measure and to instruct his followers in Congress to vote for it.

Riots engulfed black slums in more than a hundred cities after the assassination of Dr. King in the spring of 1968, and shortly afterward Congress, in a state of alarm, passed the Civil Rights Act of 1968, which was designed to break down black slums by opening up suburbs to integrated housing. Conservatives cried that the nation was being blackmailed, and Senator Strom Thurmond, the extreme-right Republican from South Carolina, threatened to filibuster unless the bill also contained an amendment designed to prevent black militants from crossing state lines to foment riots.

Hoping to avoid any further delay while the slums were still smoldering, civil-rights leaders in the Senate accepted the package, including Thurmond's rider—once again in confidence that the Supreme Court would throw it out. The Rap Brown law, as it was known at the time, defined a riot as a public disturbance involving "an act or acts of violence" by anyone in "assemblages of three or more persons," and made anyone who crossed a state line to participate in an assemblage that turned violent subject to five years in federal prison and a fine of ten thousand dollars.

Under this law, if a man travelled from any state to, say, Washington, D.C., to participate in an anti-war demonstration and then was attacked by two or more policemen or *agents provocateurs*, he could be imprisoned and fined merely because he had made himself available for the beating. The effect of the law, of course, would be to discourage any large-scale demonstrations—in short, to abolish the rights of free speech and assembly for those whom the government dislikes.

Attorney General Ramsey Clark refused to use the reversal of Miranda, the wiretapping-and-bugging act, or the anti-riot law, on the ground that they were un-Constitutional and useless. To make certain that Clark's successor rejected this policy, Senator McClellan demanded, and received, assurances from the incoming Attorney General, John N. Mitchell, during his confirmation hearings before the Senate, that the intent of Congress had been amply demonstrated by its overwhelming approval of the new laws and would be heeded by the Nixon Administration.

Actually, of course, the intent of most members of Congress had been to escape retribution at the polls for failing to control crime. The members of Congress who had ignored the dictates of Constitution and conscience in voting for the bills provided the new President with the kind of support he needed to use these laws as he pleased. One of his earliest official acts, carried out by the Justice Department. was to use the one that Congress had directed against black agitators like Rap Brown.

The targets were the white organizers of the protests at the Democratic National Convention in Chicago the previous summer. Since the best evidence available—compiled by Justice Department observers who were on hand at the time and by a committee of the National Commission on the Causes and Prevention of Violence—showed that the police had been the chief lawbreakers, the prosecution of their victims was clearly a political maneuver that encouraged policemen to crack skulls at will the next time and discouraged just about any political dissenters who might be thinking of expressing their views out loud.

This move toward consensus by intimidation could scarcely have failed, for prosecution of the Chicago Seven was bound to be as popular as they were unpopular. Millions of Americans had watched on television as Mayor Daley's police beat, Maced, and gassed helpless people after they were arrested, and then a national poll showed that sixty-seven percent of the public approved the way the police had behaved.

Perhaps the most alarming act on the part of the Nixon Administration during its first year in office was the claim it made shortly before the trial of the Chicago Seven that in such cases it was not bound by federal statutes or, for that matter, by the Constitution—at least, in the ways it had usually been interpreted in the past. Some of the evidence collected by the government, the Justice Department admitted in court, had been obtained by means of wiretaps and bugs. In view of the Attorney General's support of tapping and bugging, this announcement didn't surprise anyone—until the Department also claimed that it was not bound by the provision in the McClellan surveillance law that such evidence was legally admissible only if court approval had been obtained before it was gathered.

In defending the government's use of the evidence, the Justice Department submitted a brief—one of the most astonishing documents in American legal history—which declared that the President was not bound by the McClellan law or by the Fourth Amendment's stricture against "unreasonable searches and seizures," because it was his overriding duty to protect the nation against anyone who meant to "attack and subvert the government by unlawful means."

Mr. Mitchell did not explain then or later how the disorganized crowd of ten thousand demonstrators who gathered in Chicago—unarmed and outnumbered better than two to one by heavily armed policemen, National Guardsmen, and federal troops—could be a serious threat to a nation of two hundred million people who wholeheartedly disapproved of them. But if ordinary citizens were to be persuaded that dissenters were criminals, their leaders had to be prosecuted as criminals. And if it was impossible or inconvenient to obtain evidence within the framework of the law, then evidence collected outside the law had to be used, and justified by placing the President above the law.

The McClellan law requires that a warrant be issued by a judge before the surveillance can be carried out, that records of all taps and bugs be filed with the court having jurisdiction, and that periodic reports be filed with Congress on the extent of such surveillance nationally. The law also allows the President to bypass the court warrant in cases involving threats to the "national security," which, until Mitchell's time, had been interpreted to mean foreign threats to the nation.

Under the Mitchell doctrine, the government defines what constitutes an attempt to attack or subvert the government and then monitors the words of anyone, foreigner or citizen, who fits that definition, without notifying any official body of what is being or has been done. (Although "warrantless surveillance" had been conducted by the government against domestic "subversives" long before Mitchell took office, this was the first public admission that such practices had been going on—and the first time they were defended as being legal.) As expected, Judge Julius Hoffman, who presided over the Chicago trial, upheld the Justice Department's contention. But in two subsequent cases where the Department made the same claim, federal judges rejected it as unConstitutional, and the government has appealed those decisions to the Supreme Court.

The Administration may not have expected the Court to uphold its position—at least, not as the Court was constituted. But that may not have been of crucial importance, for by the time the issue was finally adjudicated an enormous number of people could be spied on, and enough could be prosecuted, and ruined, to frighten others out of speaking or acting in a way that the government might not like.

Now, with a new Court, there is a chance that the government's claim will be sustained. If it is, the effect could be broad, deep, and lasting, because the Justice Department has reportedly employed the Mitchell doctrine in numerous other cases—most notably the prosecution of Daniel Ellsberg, for passing classified documents to the press, and of the Harrisburg Seven, who are charged, among other things, with a plot to kidnap Henry Kissinger—and under its limitless power has put the leading anti-war organizations under surveillance.

According to several lawyers who have kept a watch on the Administration's legal maneuvers, from both inside and outside the government, another purpose behind the Justice Department's appeals was to persuade the Supreme Court to revise or to throw out altogether the so-called exclusionary rule, which makes illegally obtained evidence inadmissible in a trial. Since 1914, the rule has applied to federal cases, but it was not until 1961, in the case of Mapp v. Ohio, that the Warren Court extended this protection to state trials. "As matters stand, the exclusionary rule is the only thing that discourages policemen from breaking the law more than they already do when they gather evidence," a lawyer who spent two years in the Justice Department under the Nixon Administration said recently.

"Its effect is to say to policemen, 'Look, you might as well not get evidence illegally, because you won't be able to use it in court anyway.' Of course, a lot of evidence is still collected unlawfully and presented at the time of trial as if it had been discovered through legitimate means. But, even so, the exclusionary rule provides some measure of protection against government infringement of individual rights—enough protection, it seems, so that this particular government wants to get rid of it."

That is understandable in view of the Administration's proclivity for entertaining conspiracy theories, and the Justice Department has made increasing use of conspiracy charges. The simplest way to sustain, or manufacture, a conspiracy charge is by monitoring the participants, and the safest way to do that is secretly—that is, without controls like those imposed by the exclusionary rule. Conspiracy cases have many advantages for governments that hope to silence their critics.

To begin with, the word "conspiracy" itself suggests treason. And, in a legal sense, conspiracy charges are comparatively easy to support, because conspiracy laws give prosecutors the kind of broad procedural latitude that they are denied in ordinary criminal cases. In fact, people can be convicted of conspiring to commit an act even if they have never met or had any contact with each other.

In April, 1971, President Nixon publicly stated that when it came to "executive" or "warrantless" surveillance—euphemisms for the Mitchell doctrine in action—"the total number of taps is less, has been less, than fifty a year." The Attorney General and the director of the F.B.I. had earlier made similar statements. But Senator Edward M. Kennedy, using figures from the Justice Department, showed that the number of warrantless taps used was actually more than double the Administration's figure.

Moreover, he pointed out, the government listened in on such taps as much as ten times longer than it did on ordinary court-approved taps. No one outside the government knows what "national security" surveillance of domestic groups or individuals has produced, except fear. But it is known that out of a hundred and forty-eight thousand conversations overheard by federal agents *with* court permission during 1970 forty-eight convictions resulted, most of them for gambling. According to one former high official in the Justice Department, it is not so much that wiretapping is being used to prevent gambling as that gambling is being used as a pretext to support wiretapping.

Senator Sam J. Ervin, Jr., is an old-style conservative who has long been the Senate's leading authority on the Constitution and who is chairman of the Senate Subcommittee on Constitutional Rights. After having vigorously supported McClellan's original wiretapping-and-bugging bill in 1968, Ervin's change of mind on the issue has been complete, and he is now Congress' foremost opponent of government surveillance. "Such a system can result in great personal injury to the innocent in the form of social ostracism, loss of employment, and, of course, loss of liberty," he observed recently. "It also has the effect of discouraging legitimate political activity by those who fear that their views and acts will be recorded by the government and stored for some future use.

This fear is not restricted to so-called 'nervous Nellies.' Knowledge that the government is engaged in surveillance of its citizens creates an atmosphere of fear, which is inimical to freedom. It stifles political discussion and leads to a cowed and subservient population which does not dare disagree with government policy or accepted wisdom. Democracy cannot survive if the people are sullen, scared, and rebellious."

Not long after Daniel Patrick Moynihan left his White House post of Special Assistant for Urban Affairs, he wrote a letter to Mr. Nixon in which he described some of his recent experiences in private life. Among them were a large number of conversations that he had had with various businessmen, he related, and added, "More than any other thing, what seems to concern them most is the belief that the Justice Department in particular and the Administration in general is intent upon the diminishment of civil liberties in the nation, and has already to some extent succeeded." A number of other experienced and concerned citizens were convinced that such a movement was indeed taking place.

They included some leading Republicans, such as John W. Gardner, who spoke of "the frightening trend toward repression in this country;" Senator Jacob Javits, who said that "there seems to be the threat of a more insidious form of repression in our land [than McCarthyism] . . . tolerated, if not actually condoned, at the highest level of our federal government;" and former Ambassador to Italy Clare Boothe Luce, who declared, "There will be a repression of some sort in the U.S. very soon." In a report issued last summer by the Young Lawyers Section of the American Bar Association, a group that is not noted for radicalism, the Committee on Protection of Civil Liberties and Civil Rights concluded that "there is, indeed, an anti-libertarian climate in the United States which can properly be labeled 'repressive.'" The report went on to say, in part:

> This anti-dissent and anti-libertarian climate has been both promoted by and mirrored in the words and actions of our highest government officials. We have heard those officials use divisive and inflammatory rhetoric against persons who have disagreed with the Administration's policies and actions. Those who have questioned official policies have been branded as "radical liberals," "bums," "home-front snipers," and part of "an effete corps of impudent snobs," or have been otherwise personally attacked or indiscriminately classified with those who would express themselves through violent, destructive, and unlawful means. Discrediting and intimidating these dissenters into silence is the apparent objective underlying these tactics. There are several ways in which American civil liberties are adversely affected by such rhetoric. First, many people are intimidated by such verbal attacks. Second, those who are intolerant of differing ideas and views thereby become convinced that they have official sanction to suppress those views. Third, officials at all levels of government are guided by what is said in Washington.

All this raises the question: What, actually, is repression? Professor Frank defined it as "an intense spasm of social fury in which a commonly latent impulse to destroy opposition without regard to the norms of democratic behavior becomes a dominantly conspicuous element in the American scene." That kind of spasm could take place in either the public at large or the government, or both. To Jefferson, the greatest danger was that such an impulse would go unchecked when it appeared in public officials. "The natural progress of things is for liberty to yield and government to gain ground," he wrote to a friend in 1788.

And in another letter, written many years later, after he had left the Presidency, he noted, "The functionaries of every government have propensities to command at will the liberty and property of their constituents. There is no safe deposit for these but with the people themselves." In the summer of 1970, Senator Ervin took the floor of the Senate to warn his colleagues against giving the Administration the powers it had asked for to combat crime, and told them, "Nothing short of tyranny can quench the insatiable search of government for power, and in its ardor to extend and multiply its authority government will extinguish the freedom of the individual unless it is restrained from so doing by fundamental law which it alone can neither repeal nor amend."

In this country, of course, that fundamental law is the Constitution. Ervin's warning might well have been delivered by any old-fashioned conservative, for fear of governmental power had long been one of the deepest and most abiding instincts among conservatives. But the new conservatives don't seem to mind such power at all, now that it is theirs. Have they used it repressively?

The answer is, in part, yes, although not to the degree that the Administration as a whole could be considered a repressive Administration. Yet the instruments of large-scale repression, most of them forged by the Justice Department under Attorney General Mitchell's stewardship, have been prepared; some have been used repressively by the government, and the others could be used in the same way at any time.

In an article that appeared in the *Denver Law Journal* last year, Senator Ervin wrote that while we are not living in a truly repressive society, "freedom is on the defensive." He went on:

> The balance is shifting decisively toward the acceptance of harsher laws and the cutting of Constitutional corners which impede this search for security. The Administration has not been sensitive to this changing atmosphere. Rather, it has nurtured, encouraged, and fostered it. . . . Its policy . . . has produced a mood in the country which is extremely receptive to harsh, punitive, and Draconic measures in the name of security. This is a dangerous game. It produces a situation in which fear breeds fear and in which the government is encouraged to use its powers ever more freely. Ours is not a country in which government can become a tyranny against the will of the people. But tyranny can come just as surely if the people are willing to deliver over their freedom in search for safety.

Some of the laws recently proposed do not just cut corners off the Constitution but plunge perilously close to its heart. Six months after the Nixon Administration took office, the Department of Justice (a truly repressive branch of the government, in Ervin's estimation) sent Congress the first of its "anti-crime" bills—the District of Columbia Court Reform and Criminal Procedure Act, which is commonly known as the D.C. Crime Bill. Associate Deputy Attorney General Donald E. Santarelli, who had written Mr. Nixon's major speech on crime during the 1968 campaign, drafted the bill, and he personally assured Senator Ervin that it merely reformed the court system in the capital—something that everyone had long urged—and that it contained nothing the Senator would find objectionable.

With that, Ervin agreed to Santarelli's request that he co-sponsor the measure, but when it reached the Senate, with Ervin's name prominently displayed at the top, he discovered that it did more than reform the courts. It added some "extremely controversial" provisions to existing law, he said when he took the Senate floor to announce his opposition to the bill he had officially co-sponsored.

Ordinarily, few senators are on the floor—during even the most crucial debates—and it is unlikely that his disavowal reached many of his colleagues; those who didn't hear it but who saw his name on the bill probably concluded that if the Senate's foremost expert on the Constitution didn't object to the proposal they could safely support it. Since Ervin had supported McClellan's move to reverse the Miranda decision, and had even introduced a measure to remove Supreme Court jurisdiction over writs of habeas corpus in state cases, perhaps Santarelli felt that he would go along now with the Administration. No matter what the Senator's views may have been, however, the Administration's misrepresentation of the bill to a very influential member of the Senate was extraordinary.

The Senate drafted and approved a fairly moderate measure revising the court system and the criminal laws in the District of Columbia. But, under prompting by the Administration, the House District of Columbia Committee, an extremely conservative body dominated by Southern members, voted out an entirely different bill, which had not been the subject of hearings or debate in either house. This measure, drafted largely by Santarelli, was four hundred and thirty-nine pages long, and less than a quarter of it dealt with court reform. The rest, Ervin angrily told the Senate when the proposal arrived there, was "literally a garbage pail of some of the most repressive, nearsighted, intolerant, unfair, and vindictive legislation that the Senate has ever been presented."

However, when a conference committee finally met to consider the Senate and House bills, it approved the Administration's measure—largely because the Senate floor leader of the Administration's proposal, Joseph Tydings, a Democrat and a sometime liberal, fought for that version. Afterward, Ervin took the floor of the Senate and pleaded with his colleagues to reject the conference report, and the bill that came with it, but although they had never had a chance to vote on its provisions separately, they approved the conference bill on July 23, 1970, by a vote of fifty-four to thirty-three. " 'Law and order' had become such a powerful political slogan that very little could be done to any proposal championed in its name," Ervin said later. "Almost by the day, the ranks of those who would dare cite the Constitution to defeat or amend anti-crime bills had evaporated. It became almost impossible to oppose a proposition which was labeled 'anti-crime'."

One proposition in the new law established a system of preventive detention in the District of Columbia. The provision calls for up to sixty days of imprisonment, prior to trial, of any defendant who, in the opinion of the judge presiding over his arraignment, seems likely to have committed the crime he is charged with and likely to commit other crimes if released on bail until he is tried; the crimes that the system applies to are violent crimes or certain "dangerous" crimes such as narcotics peddling. In the view of many Constitutional scholars, this innovation violates the Fifth, Sixth, and Eighth Amendments to the Constitution.

Moreover, there is little reason to believe that it will work. During a set of hearings that Ervin's Subcommittee on Constitutional Rights had held on preventive detention, witnesses pointed out that judges are wholly incapable of spotting likely repeaters, even after their records and characters have been revealed during trial and the judges, furnished with that knowledge and with detailed probation-department reports, impose sentences. In any event, the Justice Department offered no evidence to support its claim that preventive detention was necessary. After Ervin repeatedly demanded that the Department prepare some kind of scientific analysis to justify such a radical innovation, the Administration finally authorized the National Bureau of Standards to make a study.

The Bureau's report undercut the Administration's position, and the Administration, in effect, ignored the report. "Regrettably, the Department's approach to the study was emulated by the Congress when the issue came up for a vote," Ervin remarked later. "There was little effort on the part of preventive-detention advocates to join in a debate. There was not even much formal speechmaking in support of the proposal. The main argument used was that this was an 'anti-crime' proposal. That was all that was said and all that needed to be said."

In proposing and in approving preventive detention, the Administration and Congress abrogated the basic principle underlying our adversary system of criminal law—the presumption of innocence. That act was not merely radical; it was so revolutionary in nature that it could ultimately lead to what this nation has always professed to abhor—the inquisitorial system of criminal law—and thereby transform society itself.

In view of the proposal's exceedingly doubtful Constitutionality and the Administration's persistent refusal to listen to the most compelling evidence against it, the suggestion was bound to be made that perhaps its authors had something in mind besides getting dangerous hoodlums off the streets. Laurence H. Tribe, a professor at Harvard Law School, raised this question in an article that appeared in the *Virginia Law Review* while the bill was pending before Congress. Observing that the Administration probably saw political advantage to be gained from such a no-holds-barred approach to criminals, Tribe went on:

> But Mr. Mitchell may also understand more to be at stake in the controversy than the fate of this particular law. For while the Attorney General stresses the supposed narrowness of the pending measures, the demands of the not-so-silent majority for security would make a further expansion of preventive incarceration too attractive to resist. . . . The inevitable consequence is a continuing pressure to broaden the system in order to reach ever more potential detainees. Indeed, this pressure will be generated by the same fears that made preventive detention seem attractive in the first place. What begins as an ounce of detention, therefore, may well become the first step of a profound shift in our system of criminal justice—a system that, at least until now, has operated on the premise that crime should normally be prevented by the threat of subsequent punishment rather than the imposition of prior imprisonment.

Several months after the D.C. Crime Bill was enacted, the Administration sent Congress a measure, which has not been voted on so far, to make preventive detention apply to the federal system throughout the nation. The expanded measure adds offenses that may be considerd political crimes, including hijacking of airplanes, theft of government documents, or "an attempt or conspiracy to commit any of the foregoing offenses." The possibilities of broadening the new bill are obvious. It now includes anyone who sells or distributes narcotics, and it would probably seem a very small and legally unimportant step to the general public if that category was widened to include anyone who uses narcotics. Since addicts are believed to commit a large proportion of all crimes in the country's major cities, sweeping a large number of them off the streets would probably bring about a striking reduction in the kinds of crimes that the public most fears. That form of preventive detention plus the use of compulsory evidence such as blood tests and urinalysis might constitute a mass violation of the Constitutional privilege against self-incrimination.

The Administration appears ready to take that risk, for under another of its proposals, which also has not been acted on as yet, police officers would be empowered, with the approval of a magistrate or a judge, to detain suspects without observing the age-old requirement that there be "probable cause" to arrest them for a crime, and to subject them to a series of "nontestimonial identification procedures"—including lineups, fingerprinting, footprinting, voiceprinting, photographing, and taking samples of hair, saliva, handwriting, urine, and blood.

The so-called "no-knock" provision contained in the D.C. Crime Bill permits law-enforcement officials and private citizens who are assisting them to enter private premises, only or stealthily, without identifying themselves. The Administration's defense of this statute again rests entirely on necessity—

that surprise is essential in order to prevent suspects from destroying evidence such as narcotics or gambling devices before they can be arrested. Black leaders angrily denounced the provision as being designed to harass them, and threatened to shoot anyone who broke into their houses or apartments or places of business unannounced; if they didn't, they argued, they would be inviting every housebreaker, holdup man, rapist, or killer in to do his worst. Ervin asserted that the provision flatly contravenes the Fourth Amendment's prohibition of "unreasonable searches and seizures." The no-knock law, like preventive detention, could easily be broadened to cover the nation and to include other offenses—say, alleged conspiracies against the government.

Among the largely unpublicized provisions in the D.C. Crime Bill is one called "Sentencing of Multiple Offenders," which states that anyone who is convicted of any crime more serious than a "nonmoving traffic offense" in the District and has been previously convicted of the same kind of offense in any jurisdiction may be sentenced to one and a half times the maximum penalty for the second offense; if there were two previous convictions, he may be sentenced to three times the maximum penalty for the third one. The Fifth Amendment states that no one can be charged with an "infamous crime" unless first indicted by a grand jury, and both the Supreme Court and Congress have defined an infamous crime as a felony; in most jurisdictions, felonies are punishable by a year or more imprisonment.

In practice, then, this provision allows a judge to impose a felony sentence for a lesser offense without *any* grand-jury action, and thereby flatly contravenes the Fifth Amendment. (Also, the law would empower District of Columbia judges to send anti-war or anti-government demonstrators who break the law in Washington in the future and who have been convicted of breaking it in two or more other demonstrations, as many have, to federal prison.)

The same provision goes on to assert that anyone who is convicted of a felony and has previously been convicted of two or more felonies may be sentenced to life imprisonment. In a case of this kind, the judge bases his decision on "information" about the defendant's previous criminal record, which the prosecutor presents to the court with the jury excluded. In any attempt to rebut this information, the new law declares, the defendant "shall have the burden of proof."

In the opinion of Senator Ervin and other legal scholars, this provision violates the presumption of innocence, Article 3 of the Constitution, and the Fifth and Sixth Amendments. Another section of the new law makes it a felony, punishable by up to three years in prison, to break into a coin-operated telephone box, a parking meter, or a vending machine of any kind. By combining this provision with the multiple-offender provision, any judge in Washington can send someone to prison for life for breaking into parking meters three times. And the law permits these judges to sentence anyone who commits a crime of violence while armed, even if the weapon isn't used or displayed, to life imprisonment; if it is a second or subsequent armed crime, the defendant must be confined for a minimum of five years. And the law allows a prosecutor to appeal certain basic rulings by a judge during trial, and to interrupt it for as many four-day periods of delay as he can find cause for.

Of course, most criminal trials don't last four days, and neither do most jurors' memories. The defendant, on the other hand, has no such right of appeal against rulings that harm his case. Also under the law now on the books, a person who resists an unlawful arrest is automatically guilty of resisting arrest—an astonishing means of encouraging policemen to make illegal arrests, for even if a judge throws out the alleged cause for the arrest, he must uphold a charge of resisting it.

Almost no member of Congress who voted for the D.C. Crime Bill knew that it contained a provision greatly facilitating the use of electrical and electronic eavesdropping across the nation. The provision was contained not in the subchapter entitled "Wire Interception and Interception of Oral Communications"; instead, it was buried thirty pages past the end of that section, under the heading "Conforming Amendments," which followed and appeared to be a part of the section on capital punishment. This particular conforming amendment states:

"It shall not be unlawful under this chapter for an officer, employee, or agent of any communication common carrier to provide information, facilities, or technical assistance to an investigative or law enforcement officer who, pursuant to this chapter, is authorized to intercept a wire or oral communication. * * *

"An order authorizing the interception of a wire or oral communication shall, upon request of the applicant, direct that a communication common carrier, landlord, custodian, or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such carrier, landlord, custodian, or person is according the person whose communications are to be intercepted. Any communication common carrier, landlord, custodian, or other person furnishing such facilities or technical assistance shall be compensated therefor by the applicant at the prevailing rates."

The most common communication carriers, of course, are telephone companies. For many years, they were reluctant to assist agents who wanted to place wiretaps, because that would have betrayed customers and subjected the companies to highly unfavorable publicity; moreover, the procedure was costly and time-consuming, and it was awkward to accept payment either openly or covertly. Now, however, all the repairmen and installation men working for telephone companies must, under federal law, place wiretaps on request—not in the District of Columbia alone but throughout the country. And landlords, building superintendents, and all other employees working in apartment houses or commercial buildings must lend a hand when an agent wants to install a tap or a bug.

Complaints about the Supreme Court's leniency toward criminals have partly grown out of the widely held but mistaken impression that anyone who robs a candy store and feels unjustly treated by the law can take, and often does take, his complaint to the highest court, thereby clogging the judicial system and, in the end, probably getting off. And complaints about lower courts' leniency toward the same criminal defendants have grown out of common ignorance of what the bar of justice is like. Most criminal-court judges who let defendants off with a light sentence or no sentence at all, to the public's endless outrage, usually have no other choice, because they know that there is no room left in jails and prisons.

If their years of courtroom work have left them with any sympathy, it is rarely for the people who appear before them. "To a mind-staggering extent—to an extent that conservatives and liberals alike who are not criminal-trial lawyers simply cannot conceive—the entire system of criminal justice below the level of the Supreme Court of the United States is solidly massed against the criminal suspect," Anthony G. Amsterdam, a leading Constitutional scholar and trial lawyer, observed recently. "A few appellate judges, a very few, can throw off the fetters of their middle-class backgrounds . . . and identify with the criminal suspect instead of with the policeman or the putative victim of the suspect's theft, mugging, rape, or murder.

Trial judges still more, and magistrates beyond all belief, are functionally and psychologically allied with the police, their co-workers in the unending and scarifying work of bringing criminals to book." Of course, case-hardened judges can be expected to applaud what one of them recently called, in discussing the D.C. Crime Bill, "some minor technical alterations in the criminal law." And, of course, the public can be expected to follow their lead, for few men would seem to know more about what is needed in the way of revision in the criminal law than judges on criminal courts. Moreover, the President of the United States asked for these revisions, and the Congress of the United States overwhelmingly approved them.

If measures ostensibly designed to control the ordinary criminal who commits the kind of ordinary crimes that most frighten the ordinary citizen—violent crimes—were approved by citizens high and low, it was inevitable that measures aimed at organized crime would be acclaimed, too. They were—as demonstrated by the manner in which Congress carelessly approved the Organized Crime Control Act of 1970, which was largely put together by the Administration, with some assistance from Senator McClellan. The bill was guided through the Senate by McCellan and his right-wing Republican colleague Roman L. Hruska, that defender of mediocrity in high places.

Both men had little to offer in support of the act besides the old claim of necessity, and on that ground—what William Pitt called "the argument of tyrants"—several basic parts of the Bill of Rights that remained intact after the D.C. Crime Bill's assult were now trampled on. To begin with, the act authorizes federal district courts to set up "special" grand juries in any district where the Attorney General or a designated subordinate decides they are "necessary because of criminal activity" or in any federal judicial district containing more than four million inhabitants. Like any other grand jury, special grand juries are empowered to investigate and to indict, but, unlike any grand jury heretofore, they are also instructed that if they find insufficient evidence to justify an indictment they can still issue reports "concerning non-criminal misconduct, malfeasance, or misfeasance in office involving organized criminal activity by an appointed public officer or employee as the basis for a recommendation of removal or disciplinary action."

As originally written, the bill placed elected, as well as appointed, public officials under scrutiny and exposure by special grand juries, but the House Judiciary Committee deleted those who are elected. In a furious minority report on the bill, three Democratic members of the committee—John Conyers, Jr., of Michigan, Abner J. Mikva, of Illinois, and William F. Ryan, of New York—pointed out that the power granted such grand juries amounts to a permit for "sanctified calumny." They went on to explain that special-grand-jury reports, under the proposal, need not be based on legally admissible, or even relevant, evidence but can consist of opinion, hearsay, and slander, all tied together by "prejudicial casuistry."

Although the law permits the subjects of these reports to appeal the conclusions before they are made public, this opportunity is confined to confronting the accusations, not the witnesses who made them. In effect those who are accused are allowed to prove their innocence but have almost no means of doing so. Moreover, publication of such charges—perhaps concocted by an ambitious prosecutor who is out to destroy appointed officials in order to get at an elected official who appointed them—would be almost certain to ruin anyone they are aimed at. Such a law flies in the face not only of decency and common sense but of clear rulings from the Supreme Court. In 1959, the Court declared:

"Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. While this is important in the case of documentary evidence, it is even more important where the evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealousy. We have formalized these protections in the requirement of confrontation and cross-examination. This Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases . . . but also in all types of cases where administrative and regulatory actions were under scrutiny. . . . Nor, as it has been pointed out, has Congress ignored thee fundamental requirements in enacting regulatory legislation."

Now, of course, Congress *has* ignored them. Prompted by the Administration, it has turned aside from one of the most fundamental principles of democracy—that the weakest and most despised man is entitled to a fair chance to defend himself against the government.

On the off-chance that this provision of the new law did not sufficiently pervert the original purpose of the grand-jury system—to protect the innocent against official oppression and private smears—the Administration and Congress provided that grand juries in general could be sidestepped if they stood in the government's way. Another section of the law, which was ostensibly designed to prevent organized-crime forces from invading legitimate private businesses, provides that whenever the Attorney General "has reason to believe that any person or enterprise may be in possession, custody, or control of any documentary materials relevant to a racketeering investigation," he can "cause to be served upon such person a civil investigative demand requiring such person to produce such material for investigation."

Until now, the Attorney General, in his handling of criminal matters, did not possess anything so closely resembling the subpoena power, which had always been limited to federal grand juries. Although the new authority may be limited in scope, it seems inevitable that if the Attorney General is granted it for certain criminal proceedings he will be granted it for all criminal proceedings; otherwise, the law is discriminatory. The likelihood that this new power will be expanded through new legislation and upheld by the new Court is ominous, for in the past three years compliant federal grand juries have increasingly been used to harass and intimidate political "criminals" and political enemies, and a vindictive Attorney General could use his newly expanded authority similarly but with even less regard for the rights of particular individuals.

In 1790, the First Congress enacted a statute stating, "No conviction or judgment shall work corruption of blood or any forfeiture of estate"—that is, one's heirs cannot be punished for one's own misbehavior, and one's property cannot be entirely confiscated without regard to its value and the penalty imposed. In 1970, the Ninety-first Congress enacted a statute, as part of the Organized Crime Control Act, stating that anyone who has received income from a "pattern of racketeering activity" or who has collected "an unlawful debt" and has used the proceeds to invest in a legitimate business affecting interstate or foreign commerce can be fined up to twenty-five thousand dollars, imprisoned for as much as twenty years, and compelled to forfeit to the government all property or interests that have been obtained with such investments.

A "pattern of racketeering activity" is defined as two or more criminal acts, including everything from playing cards for money to committing murder, and collecting an unlawful debt is defined as accepting payment for a bet placed in contravention of any local, state, or federal law. In other words, a man who wins money in a weekly gin-rummy game and invests it could be fined twenty-five thousand dollars, sent to prison for twenty years, and lose, for himself and his family, his share of the business he invested in.

Supporters of this law content that it will be used only against organized criminals, while its critics retort that law should not be based on promises, that this law creates unequal justice, and that if the government could prove, as it so rarely does, that a member of a criminal syndicate had played in a couple of poker games where money changed hands, that would be enough to send him away without having to prove in addition what he had done with his winnings.

In addition, "any person injured in his business or property by reason of a violation of [this law]," the statute states, "may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee."

That is to say, if a restaurant owner who was not involved with a criminal syndicate won some money on a couple of bets placed through a bookie on the World Series and used his winnings to refurbish the inside of his place or put up a new sign outside, he could be sued for triple damages by a competitor down the street who *was* a racketeer, on the ground that these improvements had lured away his customers. Although the damages might be difficult to prove, winning that point wouldn't be vital, for tagging a competitor with the charge that he was a racketeer—a rather easy charge to support under the law's flagrantly loose definitions of that term—would ordinarily be enough to ruin a man.

A section of the Organized Crime Control Act that is entitled "Dangerous Special Offender Sentencing" has the effect of extending the D.C. law governing "multiple offenders" to the rest of the nation. Once again, a statute that is supposed to be confined to organized criminals could be used against a wide variety of other defendants, including those who are accused of committing political offenses.

Under this section of the law, a defendant charged with committing a felony that is punishable by a year or more in prison who has previously been convicted of two or more separate felonies and has served time within the last five years for at least one of them may be adjudged a dangerous special offender; a defendant who commits a felony "as part of a pattern of conduct" that is criminal under the law, that constitutes "a substantial source of his income," and that reveals "special skill or expertise" on his part may also be adjudged a dangerous special offender, and, finally, a defendant who commits a felony as part of a criminal conspiracy with three or more other people to engage in "a pattern of conduct criminal under applicable laws" and who had anything to do with starting, organizing, planning, financing, or directing such a conspiracy, or who gives or receives a bribe or uses force in such a conspiracy, may be adjudged a dangerous special offender.

A person who is found by the presiding judge to fit any one of these categories may be sent to prison for up to twenty-five years. Before the defendant's plea is entered, a prosecutor who intends to ask that he be designated as a dangerous special offender must present the judge, before the trial, with "information" about the defendant, and the law states that "no limitation shall be placed on the information concerning [his] background, character, and conduct."

In opposing this provision at a Senate hearing, a spokesman for the New York City Bar Association pointed out, "The trial court is directed to base its findings on a 'preponderance of the information,' yet the sentencing decision may be far more critical than the initial determination of guilt or innocence, which must be made on the basis of admissible evidence and beyond a reasonable doubt. 'Information' of all kinds, not only hearsay and rumor but also, presumably, the fruits of unlawful searches or illegal wiretapping, could be used and the defendant sentenced to . . . twenty-five years without any of the real protections afforded by a jury trial."

At a pre-sentencing hearing, the defendant has the right to counsel and to cross-examine "such witnesses as appear at this hearing," but, as in the case of reports put out by special grand juries, the witnesses will ordinarily be those who prepared the reports, not the informants who contributed to them. Moreover, the judge may omit from the material shown to the defendant any allegations that were originally contained in it and yet may base the decision that he is a dangerous special offender on what was left out. The judge may also infer that the defendant has engaged in "a pattern of conduct which was criminal" solely becuse he "has had in his own name or under his control income or property not explained as derived from a source other than [criminal] conduct." Once again, the burden of proof is shifted from the prosecutor to the defendant, and the presumption of innocence vanishes. Of course, when that is taken away from anyone, it may be taken away from everyone. Finally, the law gives the government the right to appeal the decision of a judge who has declined to call a defendant a dangerous special offender.

This is an unprecedented grant of power that may well violate the Constitutional stricture against double jeopardy. The law also gives the government the right of appeal in dangerous-special-offender cases if it feels that the sentence imposed is not long enough; this is also an unprecedented grant, and assuredly constitutes double jeopardy, for it amounts to a right to appeal the facts rather than the law. These changes give any federal prosecutor a huge club, for a defendant who refuses to plead guilty and to bargain for a lesser sentence than he could be given might face the risk of being charged as a dangerous special offender and sent to prison for much longer than he would have been had he pleaded guilty to the original charge. And, finally, these innovations could readily be expanded to cover other areas of criminal law, such as political crimes.

The Fifth Amendment privilege against involuntary self-incrimination—"nor shall any person . . . be compelled in any criminal case to be a witness against himself"—has always been one of the most bitterly contested sectors in the war between the left and the right. Those on the left and in the center have defended it as an essential bulwark against an inquisitorial government. And those on the right have attacked it as a screen that criminals and traitors hide behind. Before being appointed Chief Justice, Warren E. Burger called for revision of the Fifth Amendment, and one of the earliest official acts of Attorney General Mitchell was to order a secret Justice Department study of the feasibility of amending the amendment. As it turned out, that wasn't necessary, because the liberals, overcome by panic at being charged with coddling criminals and confused by dissension with the ranks, blew up their own front line.

In 1966, Congress had set up the National Commission on Reform of the Federal Criminal Laws, under the chairmanship of Edmund G. Brown, who was known less for his legal acumen than for having defeated Richard Nixon for the governorship of California in 1962. The commission, which was controlled by a liberal majority, completed its work in 1970, and recommended several thousand large and small changes in the federal criminal code. One of them was a proposed revision of the federal immunity laws, based on the Fifth Amendment, which the Supreme Court and Congress had long defined as being absolute—that is, no person could be compelled to testify against himself unless he was granted *total* immunity from *any* prosecution for *any* part he might have had in the event or transaction being inquired into.

The Brown Commission recommended that this total immunity be legislatively changed to partial immunity. The suggested revision, known as "use immunity," would prevent anyone who was compelled to testify from being prosecuted on the basis of that testimony but would not prevent prosecution based on evidence that was obtained independently of, and was untainted by, the coerced testimony.

Use immunity was drawn up in the form of a bill and introduced in the House by three representatives who had served on the commission and were also members of the House subcommittee having jurisdiction over legislation dealing with criminal law—Richard H. Poff, a conservative Republican from Virginia; Don Edwards, a liberal Democrat from California; and Robert W. Kastenmeier, a liberal Democrat from Wisconsin. Their subcommittee, which had a strong liberal majority, held a one-day hearing on the proposed weakening of the Fifth Amendment's privilege against compulsory self-incrimination.

Only six witnesses appeared to testify, including Poff, who described the measure for the other members. Another witness was Will Wilson, then head of the Criminal Division of the Justice Department, who gravely declared that some kind of change like the one contemplated was desirable, because "public knowledge of the Fifth is such that there is wide acceptance of it, and more people will probably use it than has been the case in the past." In other words, something had to be done to stop all those citizens who had learned about their rights from asserting them.

Only one witness—Victoria Popkin, a spokesman for the American Civil Liberties Union—testified against the bill. After delivering a long, detailed, and persuasive exposition to demonstrate that the proposal ignored practically everything that the Supreme Court had ever said on the subject of the Fifth Amendment's privilege against compulsory self-incrimination, she went on to describe a few of the results that one could expect if the bill became law. Once a prosecutor can force a prospective defendant to testify about his own possibly criminal actions, she said, the government's already enormous advantages—in manpower, money, and the oppressive atmosphere of the courts—become colossal, for such a procedure would enable the prosecutor to narrow his search at once to a single person. "A less than candid prosecutor would be limited only by his ingenuity and diligence in uncovering an independent piece of evidence from which he could claim his investigation and its fruits proceeded," Miss Popkin explained.

Of course, ambitious prosecutors intent upon building records of convictions often use illegally acquired tips from wiretaps or bugs, or covertly broaden court-imposed limits on ordinary search warrants to include everything in a suspect's possession, so there was little reason to believe that they would not abuse the power inherent in use immunity. It would encourage prosecutors to ignore the clear intent of the Fifth Amendment, she continued, for under such a law they could grant immunity to a suspect and go on to prosecute him afterward just the same. In the past, suspects had ordinarily been granted immunity only as a last resort—most often in the case of peripheral rather than principal suspects—because prosecutors were naturally unwilling to take a step that would make later prosecution impossible.

But grants of use immunity would probably be the first resort of the lazy or incompetent or tyrannical prosecutor. Under existing law, Miss Popkin told the subcommittee, federal courts had authority to approve or deny an official request by a federal prosecutor that a witness either testify or go to jail for contempt of court, whereas under the use-immunity bill federal courts were required to approve such a request. This amounted to the direst kind of assault on the judicial system itself, as well as on the rights of the individual, she added because it placed "totally unrestricted power to grant immunity in the hands of the prosecutor," while at the same time it "reduces the requirement of a court order to a mere paper procedure."

In the case of federal departments and agencies, the rules laid down in the use-immunity proposal were open to even more extravagant abuse. Once again, the bill transformed court approval of official requests that a witness be forced to testify into rubber stamps. Citing the example of the Subversive Activities Control Board, which the Nixon Administration recently rescued from its almost moribund state and revived with a large infusion of funds, Miss Popkin pointed out that in the past the S.A.C.B. had hesitated to give witnesses immunity, since that would have precluded their prosecution.

Now, however, the board would be able, under such a law, to "call controversial witnesses and use this power to expose and harass" them, thereby violating not only the right of privacy but the rights of free speech and assembly, along with the right not to incriminate oneself. In the case of congressional committees, she went on, the bill made court approval of congressional requests for grants of immunity and contempt citations mandatory as long as two-thirds of the members of a committee of either house voted in favor of them. Since courts would lack the authority under such a law to determine whether a congressional grant of use immunity was proper, relevant, and necessary, as existing law required, Miss Popkin went on to say, Congress might use this power to harass unpopular witnesses.

In view of the demagogic excesses of the old House Committee on UN-American Activities, the Senate Subcommittee on Internal Security, the Subversive Activities Control Board, and the Department of Justice under comparatively strict law, it would seem to be the most dangerous kind of folly to loosen the law.

Miss Popkin was the last witness at the one-day hearing, and when she concluded her testimony a couple of subcommittee members questioned her for about ten minutes. Not long afterward, the subcommittee approved the bill with only one dissenting vote—cast by Congressman Ryan, of New York, who stated that such a law would destroy the Fifth Amendment. Later, the parent Judiciary Committee, also under the control of a strong liberal majority, approved the measure, and it was included as part of the Organized Crime Control Act.

Even so, the committee was sufficiently uneasy about what might be done with the new act to add at the last moment a title that provided for a federal commission to oversee the operation of it and to report to Congress and the President on any intrusions on individual rights that were made under its provisions, including the one authorizing use immunity.

The commission was to consist of fifteen members—four appointed by the President of the Senate, four by the Speaker of the House, and seven by the President. Senator McClellan tried to block adoption of the title, but failed; he then accepted a Senate appointment to the commission. However, the President has so far failed to appoint anyone to the commission, which was supposed to begin functioning on January 1, 1972, and it has never met. Rumor has it that McClellan, who is chairman of the Senate subcommittee on appropriations that would provide operating funds for the commission, has threatened to withhold them if the White House names even one civil libertarian to it. Recently, he also introduced a bill to amend the title so that it safeguards the prosecutor's rather than the individual's liberties.

Although Congress designed use immunity to replace total immunity, the latter is still on the books, to protect the government in the event that use immunity is ultimately thrown out by the Supreme Court. In the meantime, government prosecutors have offered a number of prospective witnesses use immunity, and when they have refused, as several have, and have threatened to take the issue to court, the government has granted them full immunity and federal courts have forced them to testify or go to jail.

In short, the government has used the law to bargain with people over their most basic rights. When use immunity is added to secret surveillance and the more or less unrestrained reports of grand juries, the so-called "chilling effect" on the First Amendment rights of free speech and free assembly is bound to plummet by several degrees. Under these repressive conditions, only the hardiest would venture to associate themselves with those who actively oppose government policy.

Aside from the ancient rule that a man should not be forced to condemn himself out of his own mouth, there is the point that even an innocent person may have something to hide, and the right to hide it—particularly if he finds himself living under an inquisitorial government. In that event, behavior that would otherwise be officially tolerated as a nuisance may become a crime.

Although the Nixon Administration could not be fairly characterized as tyrannical, some of its acts certainly have been, for they have employed, often unjustly, the most immense government power in response to the most trifling threats. For instance, conspiracy theorists on the right who hold high posts in the Justice Department have charged, in effect, that critics of the war in Vietnam are actually critics of the government and are bent on destroying it.

How they could possibly succeed, even if this were their intent, has never been explained. Preposterous as such conspiratorial fantasies may be, their use in an increasing number of federal cases serves a very serious political purpose—destruction of the left. Nothing has so unified or typified the liberal movement in this country in the past generation as opposition to the war in Vietnam, and to the right wing, of course, nothing could be clearer evidence of Communist inspiration than opposition to an anti-Communist war. Once again, crime is the issue—the most monstrous crime: treason—in the attempt to destroy, or at least discredit, the opposition. In the prosecution of Dr. Daniel Ellsberg and of Father Philip Berrigan and six other defendants in Harrisburg, grand juries have been employed to harass and intimidate associates, friends, and relatives of the accused. For instance, a federal grand jury in Los Angeles summoned Ellsberg's fifteen-year-old son at seven-thirty one morning to appear before it at nine-thirty the same morning, and then grilled him for over two hours on what his father had told him about the classified Pentagon

Papers, which had been published in several newspapers.

Immunity has been granted many witnesses in these cases, along with some of the defendants, to compel them to testify against each other. A federal district judge in Boston found Ellsberg's stepmother-in-law in contempt for refusing to divulge what she knew. And Anthony Russo, who admitted that he had helped Ellsberg duplicate the Pentagon Papers but refused to say any more, spent forty-seven days in jail for his defiance of the government.

In the Harrisburg case, several defendants and prospective witnesses have also been granted immunity and then held in contempt for refusing to talk. Moreover, many of these people, along with Ellsberg's friends and associates, have been relentlessly investigated by the F.B.I. and called before grand juries. If any of these people—however innocent of any involvement in either affair and however convinced that there was no conspiracy of any kind—should refuse to tell whatever the government wants to know, they may go to prison.

"Where the press is free, and every man able to read, all is safe," Jefferson observed a few years after he left the Presidency. Yet he had been the object of as scurrilous attacks by journalists as have been endured by any President. "Our newspapers, for the most part, present only the caricatures of disaffected minds," he wrote to an acquaintance in Europe halfway through his first term in office. "Indeed, the abuses of the freedom of the press here have been carried to a length never before known or borne by any civilized nation." Probably every President has resented the press, and at times feared it, but until now none has tried to silence it with quite the zeal the Nixon Administration has displayed. Since the people have no other means by which they can learn what their government is doing, any attempt by it to control the press in any way—whatever its worst excesses, and they are always plentiful—must be tyrannical by nature, even if the public applauds it.

Vice-President Agnew's fulminations against the press were approved in advance by the President, who, Mr. Agnew recently revealed, watched a television broadcast of his first broadside against TV commentators with the greatest relish. At best, that suggests an insensitivity to Constitutional propriety. Senator Ervin, who is no great admirer of American journalism, called the attacks "a clear attempt to bully the press into changing its attitudes," and added, "The Administration assaulted the very integrity of the press and called into question its right to disagree with official views. Other administrations have had a hostile press, but other administrations have been content to complain or cajole. This time the very *bona fides* of the press were put in issue."

While the Nixon Administration has declared that it has every right to know what reporters learn in the course of their work, as displayed by its prosecution of Earl Caldwell, of the New York *Times*, for refusing to give a federal grand jury his notes on interviews with the Black Panthers, at the same time the Administration has declared that the people have no right to know about past Administrations' blindness and deception, as described in the Pentagon Papers. Although the publication of classified documents could not simply be ignored, there was one compelling political reason for the Nixon Administration *not* to make an issue of these documents—they contained nothing about the Nixon Administration.

There was also one compelling legal reason for not trying to stop publication of the papers—the First Amendment. Despite the obvious drawbacks in taking action against Ellsberg and the newspapers that had published the Pentagon Papers—principally the *Times* and the Washington *Post*—the chance to crush the Administration's opponents, or critics, in the press and in the anti-war movement was apparently too attractive to pass up. While it is probably too early to determine whether the attempt paid off conclusively, it has almost certainly had an adverse effect on those it was aimed at.

By now, nearly every reporter in the country must have heard about what has happened to Neil Sheehan, who prepared the Pentagon Papers for use in the *Times;* in a frenzied effort to prove its conspiracy theory, the government has investigated his wife, his relatives, his friends, his associates, his comings and goings, and his bank account. It will probably be a long time before his fellow-reporters forget the lesson. "Not since the Presidency of John Adams has any Administration so instinctively distrusted the exercise of freedom of speech and of the press by the American people as this one," Henry Steele Commager wrote recently. Of course, distrust of so fundamental a principle expresses distrust of the people themselves.

In an appearance before Senator Ervin's subcommittee last year, Assistant Attorney General Rehnquist assured its members that no one had to fear government surveillance, because in an important matter involving the rights of citizens the Administration could be relied on to conduct itself with "self-discipline.'" To date, the most notable examples of this doctrine in practice have been the government's self-discipline in not making vigorous efforts to prosecute the National Guardsmen who killed four students and wounded eight others at Kent State University in 1970 or the Mississippi state troopers who murdered two students at Jackson State the same year.

Perhaps the best measure of the Administration's promise to behave with restraint was its response to the Mayday demonstration in Washington last spring. After the riots that crippled Washington following the assassination of Dr. King in 1968, an advisory panel recommmended that in future large-scale disturbances police use "field-arrest forms."

Under this system, which the panel devised, a policeman who has arrested someone is to take him to the nearest police van, where a Polaroid photograph is taken of the two together as evidence that a particular officer arrested a particular person; the officer is then to fill out a brief form describing the circumstances of the arrest, attach the photograph to the form, and give the document to the custodian of the van. Washington police adopted this system, and during the comparatively small protests that took place in Washington in the days immediately preceding May 3, 1971—the day that a group of militant anti-war protesters known as the Mayday Tribe had promised to halt traffic and slow down government operations throughout the city—the new procedure was used successfully in several hundred arrests. But at a little before seven o'clock on the morning of Monday, May 3rd, Chief of Police Jerry V. Wilson suddenly ordered use of the field-arrest forms suspended and the streets cleared. Within a few hours, more than seven thousand people had been arrested. Almost all of them were charged with disorderly conduct, which is a misdemeanor. Assistant Attorney General Rehnquist justified the government's action, which, he said, had been taken under a legal principle akin to "qualified martial law."

There is no such legal principle. Nor was martial law, or anything resembling it, invoked by the Administration. The principle that should have applied to the arrests was a very basic and very simple one: due process of law. Under federal law and most state laws, a police officer cannot arrest someone for a misdemeanor unless he sees the person commit the crime and can identify him and describe what he did before a magistrate. Wilson's order openly violated this elementary rule of due process, for, as everyone knew at the time, few policemen would later be able to connect suspects with acts committed during the melee.

In sum, any policeman who made an arrest without recording on the spot the identity of the suspect and the details of the crime made prosecution impossible. That, under the law, made the arrest illegal. Some of those who were arrested that day were taken into custody while they were actually breaking the law, but since they were arrested in a manner that precluded prosecution, they were arrested illegally.

Others who had broken the law earlier and intended to break it again later were arrested while they were not doing anything wrong, so their arrests, too, were illegal from the moment they were taken into custody. And still others who were illegally arrested were innocent bystanders: passersby, attorney observers, government employees and business people on the way to work, journalists, and even a group of Canadian schoolchildren who had been brought to Washington by their teacher to observe democracy in action. Since a person who is unlawfully arrested or against whom there is no evidence of having committed a crime cannot be lawfully detained, the imprisonment of almost all the people locked up that day—and then held for anywhere from ten to sixty hours—was illegal.

And every official involved—from the greenest rookie cop to the police chief, from the staff of the District's corporation counsel to the mayor, and from junior lawyers in the Justice Department to the Attorney General and the President—could not help but know that the most basic Constitutional right of due process of law, which lies at the heart of our system of criminal justice, was willfully disregarded from the moment that the first arrest was made until the last prisoner was released.

Chief Wilson, who is widely regarded as one of the most skillful and decent police chiefs in the country, took entire responsibility for suspending the field-arrest forms and ordering the mass arrest. It would be difficult to find anyone experienced in the ways of government who believes that these moves were made without prior approval by the Attorney General, with whom Wilson spent the better part of the Saturday before the arrests, and by the President, who had vowed that the protestors would not be permitted to close down the city for even an hour.

"After all, the federal government is immediately and finally responsible for what goes on here," a judge who sat on many of the Mayday cases said afterward in private. "It is utterly inconceivable that a policeman would be allowed to make unprecedented decisions of that magnitude. However, it is not inconceivable that he would be allowed to take the blame." Time after time that day, Wilson was observed watching his men behave illegally and doing nothing about it; for example, they repeatedly ordered people, demonstrators and passersby alike, to move on, and then arrested them when they did. "Wilson was therefore guilty of openly flouting the Constitution," the judge went on. "Since he did that in full public view, he must have known that he had his superiors' full support. That proved to my satisfaction that a high-level decision had been made to arrest as many people as possible."

On May 4th, thirty-eight hundred more people were arrested, over half of them for sitting down on the street in front of the Justice Department. Another judge, who happened to be on hand, later described what he had witnessed. "The demonstrators were orderly and peaceful," he said. "They came there by prearrangement with Chief Wilson, who had led them in an orderly fashion down the street. When they were all jammed in before the Justice Department, he waved them to a stop, and they sat down. Then, suddenly, the police came out of hiding in buildings at either end of the Department and slid across the street like two doors, boxing in the crowd. They put up barricades and ordered everyone to disperse.

"When some of the demonstrators tried to obey, they were arrested for crossing police lines. Then some of the cops who had taken off their nameplates waded in and started clubbing the kids on the perimeter, who sat there, unresisting, and took it. When no one fought back, the cops stopped beating them, and then everyone was arrested. This was a legal gathering—an expression of every citizen's right to petition the government for a redress of grievances and to speak and assemble freely.

"But by some sudden flick of an official switch it was all made illegal, without a shread of justification under the law. Every policeman who arrested anyone there ignored the law. So did Jerry Wilson, who gave the order. And so did the Attorney General, who was watching from a balcony at the Justice Department and didn't lift an eyebrow at this public rape of the people's rights." On the following day, fifteen hundred more people were arrested, twelve hundred of them on the steps of the Capitol, where they had gathered, peaceably and without any threat of violence, to listen to anti-war speeches by three members of Congress. Without warning, this crowd—or audience—was also rounded up and taken off to jail.

Of course, the Mayday Tribe's attempt to stop the government from operating was itself illegal. It was also foolish, and it produced some extremely ugly and senseless acts of violence. In a speech before the Rotary Club of Cleveland a month later. Deputy Attorney General Richard Kleindienst described a long list of these to demonstrate his contention that the government had been forced to respond as it did. Undoubtedly, each act that he mentioned had actually taken place. But his speech, entitled "Mayday Fable and Mayday Fact," contributed more fable than fact to the popular legend about the event by implying that his catalogue was typical of "this vicious and wanton mob attack."

Such behavior was no more typical of the protest than the occasional outburst of brutality committed by some officers was typical of the Washington Police Department. (Most of the violence that Kleindienst described occurred in Georgetown, and it was largely due to a lack of forethought on the part of the police there. They failed to have enough men on hand at the spot where the greatest concentration of young people was bound to be—the vicinity of Georgetown University—and although the police were outnumbered, they provoked a confrontation unnecessarily, and at the same time neglected to cordon off the small area involved, some ten blocks in all, or to reroute traffic entering it by way of the only through street in that part of town.)

In any event, word had gone out from the Mayday organizers to campuses around the country that anyone who had violence in mind should stay away from the demonstrations, and while some of those who turned up assuredly were bent on violence, the consensus was that their number was probably one or two percent of the total—some two hundred to four hundred hardcore radicals in all.

As for the claim that the government's dragnet arrests had been necessary, most experienced observers were convinced that if the actual lawbreakers had been handled calmly under the field-arrest-form system, government workers would have been delayed in getting to work by, at most, an hour—the kind of delay that is ordinarily caused by a heavy rain or a light snow. "But the President had vowed that there would be no stoppage of the government, even for an hour, and he kept his word," one observer said a few days later. "God knows what he might do if there were a real emergency."

The police and the Administration were fully apprised of most of the demonstrator's plans, because several weeks earlier the Mayday organization had widely and openly distributed a twenty-four-page booklet called "The Mayday Tactical Manual," which described in detail the methods to be used during the protest. Early Sunday morning, the day before the mass arrests, the police gave the protesters four hours to break up their encampment in West Potomac Park.

Almost all of the people there obeyed, and on their way out of the park their leaders posted hand-lettered and mimeographed signs on trees notifying everyone, including a legion of undercover agents, that such-and-such a state group would meet at such-and-such a place elsewhere in the city at such-and-such a time. When these meetings took place, again with undercover agents present, they were devoted to discussions of the specific targets for the next morning. Everything was talked over openly and each plan was voted on, communal fashion, in each group.

Most of the plans involved little more than elaborate practical jokes; for instance, an especially popular one was for several demonstrators to pretend to look for a missing contact lens in the middle of a key intersection during rush hour. A more serious proposal was that trash containers on street corners and loose materials at construction sites be used to block traffic. Despite these forewarnings, neither city nor federal authorities took any steps to remove the containers or guard the sites.

One lawyer who served as a congressional observer rose at 5 A.M. on May 3rd and proceeded to drive around Washington to see what was happening. "Between six and seven o'clock, I made a complete circuit of all the city bridges, where the main trouble was expected, and found practically no trouble," he reported later. "At one small exit, about sixty kids were sitting down on the ramp. I was the first motorist who was stopped. After a couple of minutes, they got up and left in a group. If they had had any kind of a plan at all, they would have detailed twenty people or so to stay and cut off that exit, while the rest went on to do something else. But apparently they only wanted to stay together.

They were just kids, with no plan, no coordination, and certainly, in this particular case, with no vicious, wanton aims in mind. If they had planned to sabotage cars, they would have disabled mine, but they made no attempt to. When they left, they got teargassed—at that point, for doing nothing illegal. Then I drove around the grounds of the Washington Monument half a dozen times. Periodically, a few demonstrators would go out and sit down in the street, and the police would tear-gas them—again unnecessarily, because it would have been a simple matter to arrest them, without gas or violence or even much delay.

As for the trash cans that got so much publicity, I found that most drivers simply stopped, got out of their cars, removed the cans, and drove on. There was almost no delay anywhere. In fact, because the presence of so many policemen discouraged double parking and illegal turns and such, most people got to work more quickly than usual."

Afterward, the police contended that if the field-arrest forms had not been dispensed with officers would have had to spend more time processing than arresting people. "That claim was based on the assumption that *all* of the demonstrators were going to break the law sooner or later, so they *all* had to be arrested," the same lawyer commented afterward. "But that was a wild assumption, because a lot of the kids were just out for a lark and would have fled at the first sign of a real bust—at least in the areas I observed. If the arrests had been confined to those who actually broke the law—a fairly simple matter—that would have scared off many of the others and reduced the problem to a manageable size."

He went on to point out that while the number of demonstrators was limited to around twenty thousand at the outside, and the number of key intersections and bridges they could hope to tie up was limited to perhaps twenty, the number of troops available to Chief Wilson was, in practical terms, unlimited. "Wilson could have had all the troops he could possibly have used deployed wherever he wanted to keep the traffic moving," the lawyer added. "But it seems that he was unwilling to admit that his men couldn't handle things alone, so he ordered the mass arrests. At that point, he had to make a choice between violating the President's orders or the Constitution."

Apparently, it was also a case of official reliance on unreliable intelligence agents, who reportedly fed their superiors' worst fears by submitting as facts the kind of hysterical rumors that are most commonly the work of *agents provocateurs*. The only intelligence network that was worse than the Police Department's was the Justice Department's.

"No one high up in the Department seems to know that you can pay small prices for big gains," a former employee in the Department said shortly after leaving there a year ago. "They have no imagination, no experience, no skill. And although they're supposed to be tough, cool guys, they jump out of their skins at the slightest shadow. Their fears are always political fears, and they are so committed to their impressions that they can't escape from them, whatever the evidence to the contrary.

For example, Kleindienst later charged that there had been an international threat involved in the Mayday affair, because a few members of the crowd there had gone to Hanoi earlier to talk to North Vietnamese students, and one had also gone to Paris to talk to the North Vietnamese peace negotiators. It's difficult to believe that a grown man could get up and say that sort of nonsense—until you remember that he was one of Goldwater's campaign managers in 1964 and is a real Red-menace type. Of course, most of the intelligence material he relies on comes from F.B.I. agents, and they don't understand the simplest things. Shortly after Mayday, several hundred lawyers came down from Wall Street to protest the invasion of Cambodia. They were all dressed in three-piece Brooks Brothers suits and were carrying briefcases, and the F.B.I. men tried to infiltrate them while still wearing the beards, purple shirts, and bell-bottom trousers left over from Mayday."

Having ignored due process of law in arresting and imprisoning the Mayday people and anyone else who happened to be in the area being swept, the Administration proceeded to ignore the Constitutional and human rights they were entitled to as federal prisoners.

The detention centers were human stockyards, or worse. They were dangerously overcrowded, some to the point where mass hysteria or violence was a constant threat; there were few beds or blankets, sanitary facilities were inadequate, and the filth, stench, and danger of influenza and hepatitis went unchecked. The government claimed that it was doing its best—to make certain, one critic remarked, that the prisoners would not be in a hurry to protest again. One judge took a look at the worst place of all—a cellblock under the Superior Court Building, where six hundred people were crammed into cells built to hold a quarter as many—and ordered that they be transferred at once to proper quarters, and officially stated that they had suffered "cruel and unusual punishment and irreparable injury."

During the five days that demonstrators were detained, lawyers were denied access to most of the detention centers for protracted periods. Where conditions were the worst of all—in the cellblock—the police refused to allow lawyers from the District of Columbia Public Defender Service, the American Civil Liberties Union, and other legal-aid organizations in to confer with prisoners for nearly a day, on the ground, as a representative of the Police Department later testified under oath, that they gave the prisoners undesirable advice and were unwilling to cooperate with the police.

Kirby Howlett, a Public Defender Service attorney who regularly worked in the cellblock during ordinary times, finally got admitted there, along with one other lawyer, on a court order. Nobody has ever had so many Constitutional rights violated in this town before," he said afterward. "On the day of the mass arrests, I saw many, many examples of police brutality. Cops clubbed demonstrators who hadn't done anything. If the cops couldn't catch somebody who had just broken the law, they'd club the nearest person, sometimes a demonstrator, sometimes just a passerby. But the cellblock was the worst thing I'd ever seen.

The police there were full of hatred. Some of them whom I'd known for years and considered friends asked me why I wanted to help these rotten Commies—why did I want to stay in this filth? They suggested that I leave, and let them do the job that had to be done. I had expected to find a bunch of hell-raising kids spouting obscenities—the kind that the papers and TV had concentrated on—but most of them were decent, straightforward kids. They were militant, but they weren't at all radical or even sophisticated in terms of politics or political protests. But the police had a hatred for them unlike anything I'd ever seen before—far worse than their reaction to blacks during the 1968 black riots or even to black cop-killers. I had nightmares afterward—here it was, unbridled police power encouraged by the highest authority in the country."

To process the seven thousand people arrested on May 3rd, the Justice Department that night sent over some of its lawyers, who were generally young and inexperienced in such procedures but willing to help out after they were told that their assistance would enable the young people to obtain their release and be sent off to find hot food and warm beds. It wasn't until these lawyers had been processing prisoners for several hours that one of them realized what he was actually doing on instructions from his superiors in the Justice Department—falsifying arrest records. When he told his colleagues of his discovery, several of them immediately switched over to the legal-aid side and began advising the prisoners not to accept the Justice Department offer.

One of these lawyers later testified under oath about what he had been told to do by the Department. First, he said, they were instructed to fill out an ordinary arrest form by writing down all pertinent personal data about the prisoner at hand. Then under "Location of the Arrest" they were to write "D.C.," under "Type of Premises" they were to write "Public street," under "Specification" they were to write "Arrested during demonstrations in D.C. on May 3, 1971," and under "Arresting Officer" they were to write the name and badge number of one police officer, taken in rotation from a list of seven. Of course, the absence of specific details rendered the forms legally worthless (that is, once a judge saw them), and the arbitrary choice of arresting officers made them as unlawful as the arrests themselves. If any doubt remained about the Justice Department's determination to keep the protesters under its control as long as possible, law or no law, the betrayal of its own young employees, who by concocting official records may have committed far more serious crimes than any that the demonstrators were accused of, finally settled it.

While the police and the Justice Department's highest-ranking members were violating the letter of the law, the courts were violating its spirit. The District of Columbia Superior Court, which was set up by the court-reform part of the D.C. Crime Bill, was the court that was immediately in charge of the Mayday cases during the early stages. Its chief judge, Harold H. Greene, who had formerly served in the Civil Rights Division of the Justice Department in the Kennedy Administration, was known among his fellow-lawyers as both capable and decent. As soon as the District of Columbia Public Defender Service learned of the mass arrests on Monday, May 3rd, it hurriedly drew up a petition for a writ of mass habeas corpus and submitted it to Judge Greene. He heard arguments by both sides, the other side being the D.C. corporation counsel, under direction of the Justice Department in this case, and then, at eleven o'clock on Monday evening, granted the request—to take effect twenty-one hours later.

That got the government through the next two crucial periods of rush-hour traffic—Tuesday morning and Tuesday evening. "Considering that the arrests were clearly illegal and that the defendants were being illegally held in horrible conditions, his decision was obviously based on political rather than judicial concerns," one defense attorney said later. "Judge Greene violated the whole purpose of habeas corpus, because he put himself in the role of an executor of public policy rather than in the role he was supposed to fill—the judge of that policy on objective legal grounds. To my mind, it's far worse for a judge to act as he did than it is for a cop to club an innocent person." At another point, defense attorneys pleaded with Judge Greene to order that they be allowed in to give the prisoners counsel, and, after a long delay, he ordered that two lawyers be allowed into the cellblock to consult with six hundred people for one hour. Ordinarily, anyone accused of disorderly conduct in Washington—the charge that nearly all the demonstrators were held under—is released upon posting a ten-dollar bond. Aware of this, the protesters had come to town with at least ten dollars apiece. Suddenly, after a meeting in the chief judge's chambers, judges of the Superior Court began setting bail in uniform amounts—usually two hundred and fifty dollars—and bail bondsmen uniformly refused to deal with demonstrators.

To get the young people out of detention, the Public Defender Service finally informed Judge Greene that it would try to persuade them to be processed if he would order that the processing not constitute an arrest record and that no records be sent on to the F.B.I., since it routinely distributes these on request to local police departments and to credit bureaus and banks; defense lawyers hoped to forestall this in the expectation that the cases would ultimately be thrown out for lack of evidence. Greene issued the order requested, but then the corporation counsel appealed the decision to the District of Columbia Court of Appeals, and this court overruled Greene.

In the meantime, many of the demonstrators who had heard about Greene's order had agreed to undergo processing, and now had police records. "There was absolutely no basis in law for the Court of Appeals' order," Barbara Bowman, director of the Public Defender Service, said afterward. One widely accepted explanation was that the court knew the Justice Department wanted the fingerprints and photographs of all the demonstrators, and wasn't going to stand in the way; in the course of the litigation during that week, it seemed clear that, next to keeping demonstrators off the streets, establishing arrest records for them was the main aim of the government.

"It was terrible to stand up there in court," Mrs. Bowman said, "knowing that you were absolutely right in appealing to the judges to understand that not far away thousands of peoples' basic rights were being abused and to suddenly realize that nothing was going to be done, because no one cared." Although there is no indisputable evidence that the Administration compelled, or persuaded, judges to delay matters, when one of them was privately asked if reports of such pressure were true he answered, "I can give personal assurance that they are."

On May 6th, a spokesman for the Administration announced that President Nixon was "totally satisfied" with the way the Mayday demonstrations had been handled, and added that no evidence had been produced to show that any unlawful arrests had been made. Two days later, the President met with Chief Wilson and commended him for acting "with firmness but yet with restraint." Two days after that, Attorney General Mitchell, in a speech before the California Peace Officers' Association, called the demonstrators "rights robbers," compared them to the Brown Shirts in Germany in the nineteen-twenties, praised "the valiant Washington policemen," and urged his listeners to adopt the same practices in the event of mass civil disobedience and disorder in their cities.

During a Presidential press conference three weeks later, Mr. Nixon responded to a question about the affair by saying that the government has always protected the right to lawful dissent. Then he added, "But when people come in and slice tires, when they block traffic, when they make a trash bin out of Georgetown and other areas of the city, and when they terrorize innocent bystanders, they are not demonstrators, they are vandals and hoodlums and lawbreakers, and they should be treated as lawbreakers." To be sure, those who acted in such ways should have been treated as lawbreakers. But the point was that they weren't. By treating the guilty and the innocent alike—illegally—the government made it impossible to prosecute those who should have been prosecuted.

It also probably turned many ordinary dissenters into confirmed radicals. When Ralph J. Temple, legal director of the A.C.L.U. in Washington, talked to a group of prisoners who were held in the Washington Coliseum, they kept asking him what had happened, why couldn't they use a telephone or get legal help. "Yes, you have those rights and they're being violated because the court system has broken down," he answered. One of the prisoners nodded, and said, "You see? The Establishment has won, as we've been telling people like you all along. You tell us to work within the system, and when we try to, *they* ignore the system. Oh, they may throw up a sop now and then, but when it comes to the crunch they smash us with naked power."

Apparently, President Nixon had not learned much from his hasty prejudgments of Charles Manson and Lieutenant William Calley in earlier press conferences, for when he charged that the Mayday protesters were lawbreakers more than four thousand cases were still pending before the courts. Of the first two thousand defendants, one was found guilty. In the cases of nearly twenty-five hundred other defendants, which were dropped for lack of "adequate evidence," the A.C.L.U. volunteered to take on the task of notifying them that they did not have to appear for trial if the prosecution would provide a list. It did—one that was partially illegible and lacked a large number of addresses.

When the A.C.L.U. finally got a proper list, it learned from some of the people on it that their inquiries to the Superior Court clerk's office about the state of their cases, after the order to drop all charges had been issued, had brought the uniform response that they had to appear for trial. The A.C.L.U. complained to the court, which explained that this had been an error and promised that it wouldn't happen again. Afterward, several A.C.L.U. employees telephoned the court, said that they were defendants on the list, and asked about their cases; they were all told that they had to appear for trial. Whenever defendants whose cases had not been dropped failed to appear for trial, corporation-counsel attorneys invariably asked the court to forfeit their posted bonds and to file criminal records; this resulted in about two thousand technical convictions. Another six hundred people pleaded either guilty or no contest—according to the A.C.L.U., under coercion. Of the other thousands of people arrested and detained, sixty-one were finally convicted—all on minor charges. In the end, the United States Circuit Court of Appeals threw out all the cases remaining that had not been settled one way or another, and directed that criminal records not be sent to the F.B.I. or, if they had already been sent, that they be returned.

Shortly before the Presidential campaign of 1968, Mr. Nixon remarked that any American President's overriding concern must be foreign affairs and that he can leave domestic matters largely to his Cabinet. As misguided as that outlook may be—no leader can deal successfully with other nations unless he has dealt successfully enough with his own to have its people behind him—it suggests that President Nixon may not have been fully aware of what his subordinates in the Department of Justice were actually doing when they devised the new anti-crime laws or when they put down the Mayday threat.

Indeed, it is even possible that neither he nor the deputy to whom he gave the greatest trust and responsibility in domestic affairs, former Attorney General Mitchell, realized what such policies could lead to. As largely political men, they have often seemed to view the power the people have given them to do what is fitting as power to do as they see fit. To such men, who have demonstrated an inclination to consider the immensely complex forces of the nation solely in terms of short-run political gains or losses, the Constitution must at times seem an obstacle to their ends rather than a bulwark of the people's freedom. And it is conceivable that the President and his Attorney General never fully acknowledged to themselves one price they paid for the support of the right wing in 1968 — the appointment of Goldwater, Thurmond, and Reagan men to key places in the Administration. Yet these men, too, undoubtedly believe in their cause—to preserve America as they understand it.

For instance, Richard Kleindienst, Attorney General designate, who was in daily charge of the Department of Justice and *had* to know what his subordinates were doing, is apparently convinced that a few thousand radicals on the opposite side, with no power and no support from the public at large, threaten to bring down the nation. None of these officials has acted or spoken in any way that would demonstrate an understanding of how fragile a system our democracy is.

If they do in fact understand that, then their official actions—in pressing for laws that can now be used to crush civil liberties, in prosecuting leaders of the anti-war movement to still dissent, in harassing the press to end criticism, in invading the privacy of tens of thousands of citizens to catch a handful of crooks, in illegally suppressing protest to show firmness—must be taken as signs that they see the system's weakness as an opportunity, not a peril. The system has survived this long largely because no President before now has used, or allowed to be used in his name, the people's deepest fears to divide them and to turn the majority's tyrannical instincts against his political enemies. No one can say that the President has willfully set out to undermine the Constitution that he swore to uphold. But how would the results be different if he had?—RICHARD HARRIS.

RURAL ECONOMIC DEVELOPMENT ACT

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MIZELL. Mr. Speaker, I am today reintroducing my comprehensive Rural Economic Development Act as an amendment to the Public Works and Economic Development Act of 1965.

I have outlined the provisions of this legislation for my colleagues on several occasions in the past, and I will not dwell on specifics again today.

Briefly, however, my proposal calls for the establishment of a 5-year Rural Development Commission to concentrate solely on solving the problems and improving the potential of rural America.

The bill calls for a first-year funding level of $1 billion in new money, with funds to be distributed among the States on the basis of rural population and the percentage of low-income residents within the States.

These funds will be used to improve transportation systems, promote industrial development, provide better education, health care and housing, protect the rural environment, and assist in planning new responses to rural needs.

The commission's work would rely heavily on local initiative for formulation of projects, and would also actively involve the States in overall planning functions, with the Federal role limited to general policy decisions.

This commission would be composed of the 50 State Governors and a Federal cochairman representing the President.

As I have told my colleagues before, the program I am proposing is basically a national adaptation of the Appalachian Region Commission, which was established under this same Public Works and Economic Development Act I am seeking to amend today.

I am honored and pleased to have as cosponsors of this legislation several of my distinguished colleagues from both sides of the aisle. Endorsing my proposal today are Messrs. ANDREWS, BEVILL, BROYHILL of North Carolina, CARTER, CLEVELAND, FLOWERS, GRAY, KEMP, KYROS, MONTGOMERY, and THONE.

The Committee on Public Works, which was so largely responsible for the success of these earlier economic development efforts, is now considering new means of improving local and regional economies as part of its extensive economic development hearings that are now being conducted.

I believe the legislation I am introducing today could be a significant contribution to those hearings, and I am convinced that the program it establishes would be a worthwhile product of those hearings. I further believe that enactment of this legislation by the Congress would serve as both symbolic and practical evidence of our commitment to improve the quality of life in rural America on a massive but well-organized basis.

I invite my colleagues to give this legislation their careful consideration, and I urge that action be taken on it as soon as possible.

ALLTIME BASEBALL GREAT "PIE" TRAYNOR DIES

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. MOORHEAD. Mr. Speaker, my city of Pittsburgh suffered a great loss with the recent death of Harold "Pie" Traynor, the best third baseman ever to play baseball.

In the early 1930's, Pie lead the Pirates as both a player and then later as manager. He was an inspiration to all with his reckless, dynamic play and hard hitting.

But Pittsburghers remember more than just the supreme athlete when they think of Pie Traynor. He was everybody's friend and the original Mr. Niceguy.

Pie could not walk down the street in Pittsburgh without somebody recognizing him and stopping the grand old gentleman and talking baseball. And Pie always listened and always offered his thoughts on whatever point the citizen was trying to make.

He was a fixture at every Pirate spring training camp, often taking young infielders aside and showing them the finer points of the game. He did this right up until the time he died.

The Pittsburgh Post-Gazette eulogized Pie Traynor in an editorial last week. I include this fine statement in the RECORD at this time:

PIE TRAYNOR—MODEST IMMORTAL

On the playing field the late Harold Joseph (Pie) Traynor was a dauntless competitor, justly heralded as the finest third baseman in major league history. Anyone privileged to watch his glittering performances during the Twenties and Thirties can recount epic tales of a wide-ranging gloveman who hurled himself headlong at wicked smashes far inside the bag to rob incredulous hitters of extra bases.

A gaudy lifetime batting average of .320 attests to his prowess at the plate. Unlike Mike Gonzales' "swell field-no hit" rookie, Pie Traynor was an accomplished clutch hitter, equally adept at laying down a perfect bunt or hitting to the opposite field. His steady brilliance for 17 seasons with the Pittsburgh Pirates made his election to Baseball's Hall of Fame inevitable.

In private life, Pie Traynor had nothing of the flamboyance of the celebrated superstar. It has been said that the test of a gentleman is the way he treats people who can be of no use to him. The soft-spoken gentleman with the pleasant New England accent was as gracious to a newsboy as to a corporation president.

A lover of the tall tale and the gentle rib, Pie Traynor won the love of people largely unaware of his greatness on the diamond. Pie Traynor was even greater as a human being than he was a baseball star. There can be no higher praise than that.

POWER BLACKOUTS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DINGELL. Mr. Speaker, I have introduced a bill to amend the National Environmental Policy Act of 1969 by providing authority to the President to suspend the requirement that an environmental impact statement be filed covering Federal actions in order to permit emergency actions or other similar actions in the public interest.

My colleagues may be aware that there have been a number of proposals made in recent days to amend NEPA in one respect or another. One of them, H.R. 13752, I introduced myself as a means of sharpening the question of the necessity for providing a limited exception to NEPA to avoid possible power blackouts during the coming year. I am not satisfied that this or any other bill to accomplish these limited purposes is necessary, but I am satisfied that the questions are being asked and deserve careful consideration. The bill which I introduce today has been drafted for that purpose.

It would permit the President, upon making a determination on the public record that an emergency exists or that the public interest so requires, to suspend for a period of 180 days the requirement that major Federal actions, as described by section 102(2)(C) of NEPA, not be accompanied by an environmental impact statement. His suspension could be further extended in increments of not to exceed 90 days. Any such action would have to be taken by Executive order and published in the Federal Register, supported by the background and the facts justifying his action. The bill goes on to make it clear, however, that the existence of any such extension would not in any other way suspend the operation of NEPA, nor would it override the basic commitment of that act to the conception of environmental protection. Its only effect would be to suspend for a limited, definable period of time, the procedural requirement that no Federal action might be taken until a 102 statement had been prepared, filed, and circulated for comment.

I will be frank to say that I do not believe that this exception to NEPA, if enacted, would often be used. It was not intended to cover the normal situation where an operating agency felt its prerogatives or options constrained by the pressures of time or expediency. It is intended to reach situations, such as we are told exists with respect to the ability of nuclear plants to fend off imminent power crises, where prompt emergency action must be taken of sufficiently national implication that the President feels compelled to intervene personally.

For the convenience of my colleagues, I include the bill, H.R. 14137, in full at the conclusion of my remarks:

H.R. 14137

A bill to amend the National Environmental Policy Act of 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331–4335) is amended by adding at the end thereof the following new section:

"SEC. 106. (a) If the President finds, in the case of any major Federal action for which the detailed statement and agency review process required by section 102(2)(C) is not completed, that—

"(1) failure to proceed with such Federal action on an expedited basis could result in an emergency situation which threatens the public welfare; or

"(2) the proper protection of the public interest requires that all or some portion of such Federal action be undertaken in advance of the completion of such statement and agency review,

he may, by Executive order, declare that such Federal action may be undertaken for a period of not to exceed 180 days notwithstanding the fact that such detailed statement and agency review process have not been completed. The effective period of any executive order issued under this section may be extended for such periods (but each such period may not exceed 90 days) as the President finds necessary. Any Executive order issued under this subsection, and notice of each extension thereof, shall be published in the Federal Register together with a statement which sets forth in reasonable detail the background facts and the justification for the order or extension. Any such order shall not take effect until five days after the date of its publication.

"(b) The issuance of any order or extension thereof under this section shall not in any other way affect the requirements imposed by section 102(2)(C) and the responsible official shall proceed, while the order or extension is in effect, with the preparation of the detailed statement and the agency review process."

DR. WALKER COMMENDS THE ARKANSAS COUNCIL ON ECONOMIC EDUCATION

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HAMMERSCHMIDT. Mr. Speaker, on the occasion of the 10th anniversary of the Arkansas Council on Economic Education, Under Secretary of the Treasury, Dr. Charls E. Walker, presented the following message.

I take this opportunity to agree with him about the quality of the economic education program in Arkansas, his comments on Bessie Moore's outstanding leadership, and also to congratulate Arkansas' many Kazanjian award recipients.

I am reading these remarks of Dr. Walker for the benefit and enlightenment of my distinguished colleagues in the House of Representatives:

COMMENTS BY DR. CHARLS E. WALKER, UNDER SECRETARY OF THE SECRETARY

It is indeed a pleasure for me to extend my very best wishes to friends and supporters of the Arkansas Council on Economic Education on this, your tenth anniversary.

Although, unfortunately, my present duties have cut down on the time available to work in the field of economic education, I still follow with interest the progress that is being made. And when anybody talks about progress in economic education, they always talk about the work being done in Arkansas—and especially about Bessie Moore.

Arkansas' corner on the Kazanjian awards still receives national attention. Your teacher workshops receive enthusiastic support. Your TV series on economic education has led the way for many other state councils. Yes, Bessie Moore still keeps things going full blast.

But the basic ingredient that makes the Arkansas Council so effective is the spirit of cooperation that exists—between educators, businessmen, bankers, labor leaders, government officials. All of these elements are essential if the maximum impact of an educational program is to be achieved.

A few years ago I had the very great pleasure of participating in one of your teacher workshops at Fort Smith. The interest on the part of educators could not have been higher. I saw why that evening when two busloads of businessmen drove in from Little Rock to attend that dinner.

It takes money to run a good program. But money alone will not assure the success that you strive for. Involvement—involvement of important people—is the name of the game. And it takes a willingness to provide time and effort—in addition to the money—to make a comprehensive program work and work well.

As you well know, the economic relationships between free world nations are now going through some dramatic transitions. And, although we are making significant progress in terms of reducing inflation and expanding job opportunities here at home, we still have serious problems that must be faced and mastered.

If we are to maintain healthy economic growth, stable prices, and relative balance in our international accounts, the people of the United States must better understand basic economic concepts.

It's not too much to say that the people of this nation have the power to vote our economic system down the drain. This is true because in a democracy such as ours the ultimate economic decisions are made through the political process. And, with the lowering of the voting age, a bigger burden than ever is being placed on our public schools to raise the level of economic understanding.

Many observers have perhaps rightly concluded that in the elections coming up this year economic factors will be the deciding issues. How well are the American people prepared to discuss, debate and analyze the basic concepts of these issues?

I can think of few items that should be higher on the agenda for the nation than an upgrading of economic understanding on the part of our citizens.

Toward that end, I wish you all well as you start your second decade of leadership in the economic education movement.

Thank you very much.

SOFT DRINK FRANCHISE AGREEMENTS

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. PRICE of Texas. Mr. Speaker, there are 10 soft drink manufacturing plants in six different towns in my congressional district as it is presently constituted and 15 in nine different towns in the district as it has been redrawn for next year.

I am considerably concerned over the action of the Federal Trade Commission which would, if brought to the conclusion desired by that regulatory agency, seriously disrupt the soft drink industry and its method of marketing which has been in operation for more than 70 years.

What the FTC is trying to do is to have declared illegal the clause in contracts between eight soft drink franchise companies and soft drink manufacturers that gives a bottler an exclusive sales territory. If the public was not well-served by the soft drink industry or if there was a lack of competition between brands of soft drinks, perhaps FTC would have a point.

The facts, however, are otherwise. The public has been well-served; as a matter of fact, there is probably no product so readily accessible on the market today to so many at so reasonable a price as a soft drink. And there is no discernible lack of competition between brands so far as I can determine.

In brief, soft drink manufacturers contend that the following will result if the FTC prevails in its suit against the soft drink franchise companies:

First. Large soft drink manufacturers will become larger, and many smaller manufacturers will be compelled to quit the marketplace. New soft drink entries into markets will be more difficult if not impossible. With the demise of many manufacturers, some products will become unavailable in many market areas. It would follow that consumer choices and options would be limited.

Second. Years of financial investments would be eradicated. Many small bottlers will be fearful during years of litigation to reinvest in their businesses when the venture might well accrue to the benefit of another soft drink manufacturer marketing the same brand.

Third. When the smaller manufacturer is faced with the necessity of expansion in his market to ward off the larger predators selling the same brand product, his opportunity to obtain financial assistance for expansion will be diminished. This is even true during the period of litigation. Thus, the soft drink marketplace will become static.

Fourth. The consumer in many markets will face the following detriments: poorer market service—service would simply stop to the smaller, less profitable retail accounts; price increases; use of the one-trip container would be spurred as the market mix of the more expensive returnable bottle would make container ownership obscure; and determining liability would become difficult since the origin of the product could be from more than one manufacturer in a particular market.

Fifth. The soft drink retail market will become monopolistic, dominated by large-volume outlets and chainstores with their own warehouse controls on the distribution system and absent the many small outlets which now proliferate every locale. Finally, many local communities would witness the removal from their locale of local capital, labor, and taxes. Investment, incentive, and local growth will be stifled.

These briefly, then, are the compelling considerations which should be taken into account when one attempts to evaluate the prudence and wisdom of any attempts to declare unlawful a method of doing business which in the soft drink industry has for more than 70 years permitted small businessmen to enter and compete in the American economy.

In order to prevent the reorganization of an entire industry that is comprised primarily of many independent small businesses, I have today introduced legislation that, when enacted, will permit the continuation of their method of operation without threat of interference from the Federal Trade Commission.

THE CRISIS IN CAPITAL PUNISHMENT

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ECKHARDT. Mr. Speaker, Prof. Charles L. Black of the Yale Law School delivered the following Morris Ames Soper Lecture at the University of Maryland Law School on March 16, 1972. The topic of Professor Black's lecture was "The Crisis in Capital Punishment." Both the House and Senate are now considering legislation that would put a moratorium on executions. In light of these deliberations and the need for greater long-term consideration of this very serious question, I urge all my colleagues to read Professor Black's very learned remarks:

THIS CRISIS IN CAPITAL PUNISHMENT

(By Charles L. Black)

We are at crisis. For about four years, no human being has been killed by warrant of law in the United States. If we resume the infliction of death by law, we shall have to answer to ourselves, to the future, to the rest of the world, and to whatever or whomever else it may be that judges us, how it came about that we did this, after so much time for reflection. Meanwhile, some six hundred persons have been condemned to die, and are in the death cells of our capital punishment states.

If the protection of the judicial stays be removed, and if no other remedy supervene, it is reasonably certain that within a year a good many times as many people will be killed in the name of law as in any year in recent American history. Most of what I shall have to say cannot be new, and my subject is a most unpleasant one, but I dare not put myself in the position of having to explain to my children how it happened that at such a crisis I could find myself honored by being tendered a platform at a great University such as this, and then not use that opportunity to have my say on this subject.

I propose tonight, therefore, to go through the reasons which underly my own opinion concerning the punishment of death. I shall then mention a few of the constitutional means for dealing with this problem, if the public will to deal with it can be found.

Capital punishment is an evil, unless justified, for two general reasons. The first of these is that it extinguishes, after untellable suffering, the most mysterious and wonderful thing we know, human life; this reason has many harmonics. The second reason is that this suffering and death must necessarily be inflicted sometimes by mistake. This reason has more branches than are commonly talked about, and I shall therefore lay particular stress upon it tonight.

The first of these reasons is at the heart of the matter, but for sheer considerations of time I am going to pass over it very briefly. Official killing, the prolonged fear of being killed, and the utterly undeserved suffering inflicted on those who love the one who is to be and at last is killed, are the things we are talking about, centrally and always. One could talk about them a long time, but I judge that few if any persons here tonight will not already regard these things as horrible evils in themselves, crying for justification. I ask you, therefore, to keep them continually in mind, as I discuss a few matters of greater intricacy and difficulty, though of an importance only ancillary to that of the killing, the fear, and the undeserved suffering of kin.

I will say very litle about the brutalizing effect of capital punishment on society. I would only say here that, to me, the abolition of capital punishment would convey a most desirable message about the State and its competence and powers. Here I recur to Wordworth's sonnet, the fifth in his lamentable sequence *On The Punishment Of Death.* The message of this sonnet is that the State cannot retain full and absolute dignity unless it has and wields the final power of life and death; "she" would be he says, "self-shorn of Majesty . . ." I heartily agree with Wordsworth's deadly accurate poetic intuition as to the importance of the State's possessing and using this power, as a definitory sign of the State's character. What I would disagree with is his conclusion that the use of this power defines a concept of the State that we need in these times, or in any times. Capital punishment defines the omnipotent State, the State that can and will do anything to its citizens—even kill them after they have been rendered utterly helpless. The difference I have with Wordsworth is that that is just exactly the kind of State I do not want. Of course the State *can* kill its citizens. Authentic majesty would, for me, be found in its solemnly deciding that it will never do so.

I must also refer, under this heading of general effects, to the possible effect of abolition on the treatment of prisoners in general. Without pressing the point—for it is only a conjecture in social psychology—I suggest that the fact that society is willing to kill some people tends to define the limit of what society will do to its deviant members, and so to make every other form of treatment of them, however brutal, seem less than extreme. The abolition of capital punishment would move the line; there would then no longer be possible a sort of vague emotional *a fortiori* argument generating the feeling that, since men who transgress the law may be killed, those who are not killed are getting a break, and have no reason to complain of their treatment. Their consideration, if it has any validity, would be a partial and collateral answer to those who argue that capital punishment is no worse than long imprisonment, given the conditions in today's prisons, for it might hold out hope that the abolition of capital punishment would be a first step in still further self-limitation on the part of society.

But let me put all this—everything on general societal effects and on effects upon prison life—in its place. It is conjectural. What is sure, once again, is the killing, the dehumanizing fear, and the suffering spread among innocent people who love the condemned man. These things, I repeat, are enough. If they are to be continued, they ought to be justified—not by guesses, not by smirking ironic questions, but by the solidest fact and the solidest reason.

Now let me pass on—for here I think I have something slightly new to say—to the possibility of mistake. If you have concluded, with shrinking regret, that it is necessary and proper to kill the *right* man or woman, then you must nevertheless concede that there is in the whole universe of moral possibility hardly anything more horrible than the killing of the *wrong* man or woman. Yet I doubt, from what reading I have done, that the subject of mistake in the infliction of death by law has yet been accorded comprehensive justice.

The word "possibility", so innocent in its sound, can be quite misleading.

The possibility of mistake, however small in each single case, adds up to affirmative probability in a long run of cases, and to virtual certainty in a sufficiently long run. That which is fallible sometimes fails. So let us be clear about it: The evil of capital punishment consists, in part, with practical certainty in the long run, in the infliction of its cruelty on some people who do not meet the proclaimed standards, who have not deserved to suffer so, even under the rules society has set. The justification for such a horror must rise to a height almost beyond attainment by any prudential or moral consideration.

Let us consider "mistake" in its full range. When most people think of "mistake", they think of a certain rough kind of mistake, the mistake that consists in a finding that the defendant killed the victim, when in fact he did not do so. That kind of mistake can happen; in the long run, it must sometimes happen, and in a few cases it has been shown, with high probability, actually to have happened. But it is very far from being the only kind of mistake that counts. For we have not committed ourselves, as a society, to kill or even to punish every person who kills somebody else. We have, exactly on the contrary, committed ourselves not to kill, and in many cases not even to punish, many of those who kill other people. And—since this is just about the most serious matter with which our society, as a society, deals—we have to assume that this commitment is seriously binding, and that a grave mistake has occurred if a person be executed who falls, as to *any* of the rules we have committed ourselves to, on the wrong side of the line.

First of all, we have committed ourselves not to execute people, even though they have killed others, where certain gross factual conditions are found to have existed in connection with the killing. A defendant may, for example, admit that he killed the victim, but he may plead self-defense, claiming that he reasonably feared for his own life or bodily safety. The trier of fact must pronounce on the validity of this defense. In the first murder trial I remember—one held perhaps forty-five years ago in Texas—the defense was that the defendant thought the victim was reaching for a gun, though in fact he was reaching for a handkerchief. As it happens, the jury acquitted. But the defendant was a minister. Would the jury have acquitted if the defendant had been a shifty-eyed drifter? I don't know for sure. All I need to know, and all you need to know, is that mistake, in regard to the validity of the plea of self-defense, is a clear and ever-present possibility.

We have committed ourselves not to kill, though not to refrain from punishing, one who accidently kills another. I need not go through examples to convince you of the obvious fact that mistake is plainly possible—even quite likely—with respect to this commitment. In many cases, nobody will really know the truth about this except the defendant; the jury has to make a plausible guess based on circumstances. Yet, if you assume the jury is right nine times out of ten on this issue—a pretty good performance, after all—then a little elementary arithmetic will convince you that in a run of only eight cases it is more likely than not that a mistake will be made.

So far, I have sampled only what I may call the grossly factual mistakes possible in any fact-finding process. Let me pass to mistakes involving a mixture of matters which are progressively more difficult to classify as purely factual. But in doing so, let me *strongly* remind you that we have in this most serious of matters committed ourselves not to kill anyone whose case falls on the exculpating side of *any one* of the lines I am about to mention. The fact that the lines become progressively more difficult to locate does not excuse us from the unspeakable offense of executing the wrong man. It only makes it enormously more likely that we will do so.

Let us pass, then, to the concept and clouded reality of "premeditation" to the distinction, introduced rather generally in the last century, between "first degree" and "second degree" murder. It is familiar and despairing learning, to those who have written on the subject, that the distinction between "premeditation", which makes one eligible for the gallows, and absence of "premeditation" which does not, is in close cases virtually impossible to state with any clarity. Yet we must sometimes submit an issue so framed to the finder of fact, and sometimes it is the crucial issue. How likely do you think it is that the jury will always be right in resolving it? Yet its right resolution goes to our moral life and death as a society; if we premeditatedly kill one as to whom this issue has been wrongly resolved, then we, and not he, are quilty of first-degree murder, rendered immune from punishment only by the fiction, the arrogant fiction without cozening ourselves with which we could not bear to inflict capital punishment at all, that we are always right.

I come now to the issue of "insanity". We are committed, as a society, not to execute people whose action is attributable to what we call "insanity" or who are mentally incapable of standing trial, or who are what we call "insane" at the time of execution. As to the second and third of these, I shall say nothing; obviously, mistake is easily possible in either of these two respects, and doubtless often occurs. Let me focus on so-called "insanity" as a defense.

Once again, let us remember that we have committed ourselves not to kill by law, or even to punish, anyone who satisfies certain criteria as to the connection of "insanity" with the commission of the act. Yet the astounding fact is that, having made this commitment, for what must be the most imperative moral reasons, we cannot state these criterial in any understandable form, in any form satisfying to the relevant specialists or comprehensible to either judge or jury, despite repeated and earnest trials. The upshot of the best writing on the subject is that we have so far failed in defining exculpatory "insanity", and that success is nowhere in sight. Yet we have to assume, unless the whole thing has been a solemn frolic, that we execute some people, and put others into medical custody, because we think that the ones we execute fall on one side of this line, and the others on the other side.

I am talking about mistake, and it is hard to apply the concept of *mistake*, or rightness or wrongness, to the application of criteria of the quality we have succeeded in expressing, criteria which we do not ourselves even pretend to understand. But what a fearful alternative faces us here! Either mistake is possible as to the application of such criterial, or else the criteria themselves are quite meaningless, and mark no line. If the latter is true, then we are executing some people, and treating others medically, on an irrational basis.

We are dealing here, in truth, with philosophic issues which philosophy has quite failed to resolve—issues of determinism, free will, and responsibility. But we are not debating these issues philosophically. We are putting some humans through inutterable agony on the basis of a pretense, nothing short of frivolous, that we have satisfactorily resolved these issues. How can we dare go on doing this?

I believe I have now adequately sampled the possibilities of mistake with respect to the question of guilt in the narrow sense, and I believe I have said enough to show that the possibility of mistake in that regard is not a simple one, involving the mere question whether the defendant did it or not, but rather a very complex one, ranging into the puzzling but tragically real possibility of mistake in application of rules notoriously refractory to the best-instructed human understanding. To make the picture complete, I must now go on into the possibility of mistake with respect to judgments which are openly advertised as "discretionary", with no standards set out in words. Executive clemency has always been like that. A recent case in the Supreme Court holds that due process of law does not require that any verbally expressed standards be given to the jury that is to choose between life or death for the defendant, but that that matter is to be left in their discretion. So be it, or, rather, so must it be. But this makes discretionary decision, without publicly expressed standards, a major part of the capital punishment system.

Can one properly speak of "mistake" in the exercise of "discretion"? Some of the most interesting recent jurisprudential work has been done on that question. I cannot be sure that I have understood all that the legal philosophers have been concerned about. But I *am* sure that we have to choose between two things, or a mixture of them. The first alternative is that, though discretionary judgment is not bound by any *verbal* standards, it *is* bound by standards that cannot be and are not expressed in words. If that is true, then a discretionary decision may be right or wrong, in that it implements or fails to implement the unstated and unstateable standards that bound it. If this alternative is right, then it is clearly possible that a jury or a governor may make a mistake in selecting which man is to die and which is to live, and that, given the absence of authoritative verbal expression of standards, mistake is likely and even invited. Under the other alternative, the one that says that discretion is bound by no standards, stated or unstated, statable or unstatable, mistake would be impossible, for there is nothing to be mistaken about. But how dreadful (again) that alternative is! For if the decision of life or death is not being made by standards, as to which mistake is possible, then it is being made on some other basis—whim, prejudice, chance, or blind unconscious factors. The psychological fact in most good-faith decisions labelled as "discretionary" probably is a mixture of these two things—some vaguely-felt standards and some degree of uncontrolled hunch or impulse. But no imaginable mixture is any better than either of the alternatives in isolation.

Now I have depicted the capital punishment system, first, as a system breaking violently, in the name of law, on the greatest of mysteries, human life; as a system imposing the most horribly cruel and prolonged fear on those who are caught in it; as a system visiting utterly undeserved indelible horror on their families; as a system containing multiple serial possibilities of mistake in selecting those who are to die, with, very probably, an element therein of prejudice and caprice. I think that is an accurate description of the system—sensational, to be sure, because the subject is sensational in its nature, and sentimental, if you like, because it is only sentiment, after all that makes us abhor cruelty, or see human life as a mystery, just as it is only sentiment that makes us love our children. Saving such epithets, however, I submit that the picture I have drawn is true and undistorted.

Such a set of practices is a very great evil in itself. It cries rather than calls for justification. Let us now examine the justifications proferred.

The only practical or utilitarian justification, of a magnitude even arguably commensurate with the facts of the capital punishment system, is the allegation that capital punishment deters potential killers, and so saves innocent lives. As has often been pointed out, it is very important. The question is whether the whole of the evidence makes it substantially probable that the threat of capital punishment has *greater* deterrent force than the threat of long imprisonment.

Now the short facts about the deterrence question are these: After comprehensive study, not only is it not known to any slight degree of probability whether capital punishment has this *differential* deterrent effect, but, for systematic and easily comprehensible reasons, it can never be known whether this effect exists, barring some radical and utterly unforeseeable breakthrough in methodology. The first of these propositions is the consensus, I believe, amongst all competent persons who have studied the subject, and who claim to speak on the basis of solid evidence. The second proposition is really a by-product of the studies which have been conducted, for it is in the course of their conduct that the following insights have emerged:

First, there is no possibility of any adequate control, in the scientific sense. No state is in the same social condition at one time as at another, and no two states are exactly alike at any one time. Variances, therefore (and the variances tend to be small) could easily be owing to other factors than the presence or absence of capital punishment. (Lest I sound apologetic here, let me say that the raw statistics, viewed absolutely uncritically, show that there is more homicide in capital punishment states than elsewhere, but I certainly do not want to make anything out of that.)

Secondly, we have no reliable statistics on capital homicide, and, more important, we will never have such statistics, principally because most people who are charged with homicide plead guilty to a lesser offense, or have their cases disposed of in some other way. We do not know, and never can know, whether any one of these would, if charged and tried, have been found guilty of capital murder.

Thirdly, it is known for sure that *some* persons use murder as a form of suicide, killing in order to be killed, but we have no way, and never will have any way, of knowing how many. This phenomenon is not surprising; one could be pretty sure that it must be the case. There are a great many suicides. One of the main things standing in the way of suicide is irresolution—sheer inability to perform for oneself the final fatal act. What could be more natural than that the would-be suicide try to produce a situation in which, as in his disturbed condition he believes, the state will do the job for him? And of course we now know that the impulse to self-destruction is sometimes unconscious, and may easily be the real motive for some killings that seem senseless on any other ground. Such cases may balance out any deterrent effect, but we cannot know whether that is true or not, because we cannot know how many such cases there are, or how much deterrent effect there is, if any.

Any one of these three reasons, considered independently, stands athwart the path to any firm scientific conclusion about deterrence, one way or the other. Together, they make the position quite hopeless. No responsible person can assert (or, as far as we can foresee, ever will be able to assert that capital punishment does or does not deter.

If evidence fails us, then it is reasonable to pass from evidence to common sense. When I do this, I encounter insuperable difficulty. Like you, I have never come close to considering the killing of a human being; I have never been on anything like intimate terms with anyone who has. The mind of a person premeditating a murder is a mind unknowable to me; I can only attempt to imagine its state. Insofar as I can perform that act of imagination, my own common sense advises me, with all the appropriate incertitude, that a mind so far gone down a strange and wild path would probably not be swayed by the difference between possible (though highly improbable) execution and possible (and much more probable) long imprisonment. But whichever hunch I had, I would think it a totally unsatisfactory basis for putting human beings through the agony of dying by deliberate publicly sanctioned killing, and of waiting for that end—particularly as mistake is in the long run certain.

Evidence and common sense leave the matter of deterrent effect in equipoise. As lawyers, then, I think we have to ask where we want to place the burden of proof.

Does it not seem plain that the burden of proof ought to be on the proponents of legalized killing? If this cruelty is to be inflicted in the name of deterrence, then a solid evidentiary case should be made for the superiority of capital punishment as a deterrent. That case has not been made. It cannot be made. Summarily, (so far as deterrence goes) we are inflicting this cruelty without in the least knowing whether it does any good. That is a strong language. But does it not precisely summarize the case? Do we not shrink from its strength because we know it is true, rather than because of its extremeness of expression?

Other arguments are more difficult to answer, because it is more difficult to make out what is being asserted. I have more than once been confronted with an argument from history, which seems to boil down to the assertion that capital punishment is a very old institution, practiced *semper et ubique et ab omnibus*, and should in consequence (as I understand the argument) be continued. It is difficult to state this argument in plain form without appearing to caricature it, and perhaps that is all the answer it needs. I derive an exactly opposite suggestion from history.

The relevant history has in all civilized nations uniformly been one of reduction in the number of crimes for which this punishment may be inflicted, and in the number of cases, even of such crimes, in which it actually is inflicted. This historical movement includes progressive eliminations of refinements of cruelty in infliction, and has in recent times moved toward culmination in a world-wide trend to complete abolition, realized in many countries and in some of our States. In the United States, even before the recent judicial stays, capital punishment had become vestigial—a token payment, as it were, to some sinister lurking creditor, made at fearful cost to a few. The ecumenical movement of history is strongly and unambiguously against the retention of capital punishment.

I am afraid that all we come down to at last is retribution, or, to give it its shorter name, vengeance. I think we all know that capital punishment would not last two weeks, anywhere, if it were not supported by the naked desire for vengeance, felt by enough people, intensely enough, to support the continuance of the token payment we make.

There is not much rational you can say about vengeance. No logical or experimental demonstration can show that the desire for vengeance is wrong, anymore than such demonstration can show that murder is wrong.

One can note, however, that vengeance restores nothing. The slaughtering of the killer does nothing for the one already dead, or the bereaved family.

It ought also to be said here, as so many others have said, that the payment which vengeance, in its death-penalty form, exacts is in most cases, even under the *lex talionis*, grossly out of proportion to the crime. Few murderers possess either the means or the combination of ingenuity and diabolic derangement requisite for a crime corresponding, in prolonged and resolute cruelty, to the penalty exacted. The few who do are probably in all cases visibly mad.

But in the end, as I have said, one comes at last, as with all moral questions, to the naked choice. Reason leads and then leaves you there. One has to decide for oneself whether the desire for vengeance is to be indulged. The conflict at last is between the desire for vengeance on the one hand, and on the other the desire to avoid great cruelty, sometimes, inevitably, inflicted by mistake. These desires are equally sentimental; the first is as much a sentiment as is the second. One has simply to choose between incompatible sentiments.

I am entirely confident that most intelligent people who make those inquiries which any sensitive conscience must require will come to see that capital punishment rests on no rational ground, but only, after all, on the desire for vengeance, and that they will reject that desire as an inadequate and unworthy justification. From now on I shall speak to and for those who have so chosen, talking about ways and means, while asking you to remember, again, that we are at crisis.

What are the structural means for change? Most obviously, the state legislatures, one by one, might abolish capital punishment. Governors possessing clemency power might be induced to exercise it generally, as some have already done. As a constitutional lawyer, I don't think I need to say any more about these obvious possibilities. I want to pass on to some not quite so obvious.

I believe it can now be said to be the consensus among academic constitutional lawyers of standing that Congress has the power to abolish capital punishment for the entire nation, for state as well as for federal crimes. No two lawyers reason exactly alike, but, broadly, the grounds of this congressional power are two. First, Congress could very reasonably conclude—indeed, it is hard to see how it could fail to conclude—that capital punishment has for some time been administered in a racially discriminatory manner, and hence is likely to continue to be so administered. This conclusion would bring capital punishment squarely within the rationale of South Carolina v. Katzenbach and Oregon v. Mitchell, cases which held that where a device, innocent in itself, is shown to have been used as a vehicle for racial discrimination, Congress may altogether forbid the use of the device. Secondly, the Fourteenth Amendment incorporates the Eighth Amendment, which forbids the imposition of cruel and unusual punishments. In Section 5 of the Fourteenth Amendment, Congress is given the power to enforce that Amendment—including, of course, whatever is incorporated in it. Thus Congress has the power to enforce the ban on cruel and unusual punishments. Now these words—cruel and unusual—are vague. Part of the process of "enforcing" vague standards is the process of making them more concrete. There could be no more necessary and proper exercise of the power of enforcing this standard than a congressional finding that capital punishment is indeed cruel and unusual. Congress is the uniquely fit body for declaring the national sense and will on this question. And let me emphasize strongly that such action would not be made improper by a judicial decision (if, as I hope will not be the case, such a decision should come down) that, *without* the aid of congressional findings and action, the words standing alone could not serve as a ground for striking down the death penalty. Such a judicial decision would probably have been uttered, *mutatis mutandis*, as to the "devices" which Congress was held to have power to abolish, in the two cases just cited. It would make neither common nor constitutional sense—and let us hope that these march along together—to equate the situation in which the people's representatives have fixed a concrete meaning on these vague words with the one where they have not done so.

The most important pending legislative proposal on capital punishment is the Hart-Celler bill, now under consideration in Congress. That bill, basing itself on the foregoing constitutional grounds, would impose on the death penalty, whether inflicted by the nation or by any of the states, a two-year moratorium, during which Congress could study its own powers and the subject in general. This bill ought to be the focus of effort today, though not at the cost of abandonment of effort in the state legislatures and with state governors.

I think two amendments ought to be added to the Hart-Celler Bill, unless addition would make passage less likely. First, Congress, if it has a right to impose this moratorium, has a right to do so on humane terms; the attainment of humaneness is as "necessary and proper" as any other objective. I think Congress might easily conclude that, as to persons already under sentence of death, it would be inhumane to keep them in the agony of suspense for two more years. I would therefore favor an amendment to the bill effecting the commutation of all such sentences. Secondly, I should think it proper that the bill prohibit not only the carrying out but also the imposition of the sentence of death during the moratorium. In this way, Congress would put itself in the position of writing on a clean slate, without pressure.

If the Hart-Celler bill were to pass in time—with or without the amendments I have suggested—then the way would be cleared for thorough national deliberation on this question. This interim victory would be a great one—perhaps the best we can hope for now, outside of a favorable Supreme Court holding. But we have to face the possibility that an adverse decision of the Court may come down any day, and that the Hart-Celler Bill may not be passed in time.

For the constitutional theory I would put forward to take care of that contingency, I can claim no consensus. The theory is my own, as far as I know, but I believe in it and invite you to consider it.

In the event of a gap between an adverse Court decision and seemingly possible passage of the Hart-Celler bill, it is my contention that it lies within the power of the President to provide by Executive Order for a stringently limited moratorium, strictly in aid of proposed legislation and so conditioned as to expire after a stated time, or to be rescinded upon the President's further order. Such an Executive Order would be ancillary to the legislative process, and in no wise in derogation of Congressional power, since it would do no more than prevent a cruelly irreversible change in the *status quo*, pending Congressional deliberation. Its issuance would not even imply the espousal by the President of any views on the merits of capital punishment, or on Congressional power thereover. It would simply preserve an irrestorable situation, while the Congress deliberated on both these issues.

The theory is a simple one, appearing on the face of the matter. An irreversible change in situation threatens; the possibility looms that many lives may be destroyed, in contravention of what may after deliberation be judged by Congress to be our dearest national moral interests, expressed in the Constitution. The executive power, I contend, may validly act, simply and solely in order that Congress may not be rendered powerless to act with effect. It is, in part, for just emergencies that executive power exists.

There is, of course, no direct precedent for this executive action. But neither is there an entire dearth of suggestive authority in the cases. In *United States* v. *Midwest Oil Co.*, it was decided (by a Bench on which there sat, among others, Justices White, Holmes, and Hughes) that President Taft, "in aid", as his order put it, "of *proposed legislation*", might validly suspend the sale of certain lands which the Congress had actually, some twelve years earlier, explicitly laid open to public purchase. Approving this action the Court said:

"The President was in a position to know when the public interest required particular portions of the people's lands to be withdrawn from entry or location his action inflicted no wrong upon any private citizen, and *being subject to disaffirmance by Congress, could occasion no harm to the interest of the public at large.*"

These words, particularly the ones I have emphasized, would apply, *mutatis mutandis*, to the present issue.

The *Midwest Oil* case is, admittedly, distinguished on three grounds—none of them, I submit, sufficient to make a difference.

First, that case involved property rather than federal interest with respect to the taking of life. The clear satement of this distinction exposes its nearly shameful inadequacy. The United States has, to say the least, as much interest in the sufficiency of deliberation on issues concerning the lives of its citizens as it has in holding on to its property.

Secondly, the *Midwest* opinion rested principally on prescription; the Presidential power there exerted, the Court held, had been so long acquiesced in as thereby to be legitimated. But that distinction is far from fatal to the contention I am making, for long acquiescence in a process such as that used in *Midwest* could occur only in a government whose general tone and theory was friendly and not hostile to the enjoyment by the President of such power as is necessary, in affairs of the first importance, to preserve a status upon which legislation may effectively act, rather than being frustrated by intervening events. Concededly, the power I am here upholding does not rest on prescription—far from it. But the very grounds on which *Midwest* is placed suggest the point that such a power as the one now contended for would not be exotic or strange in a system of government that could acquiesce so long in actions of the *Midwest* sort.

Thirdly, the action which I contend is authorized would effect a temporary and provisional incursion on a power *prima facie* belonging to the States, whereas the *Midwest* decision concerned only federal matters in the narrow sense. This cannot be an insignificant consideration in a federal system. But I would direct attention, first, to the smallness of the proposed incursion; all that would be involved, or could be involved, would be a few weeks' reprieve for the condemned, pending consideration by a Congress in which the States, and the people of the States, are fully represented. I would also make the much more important point that nothing is so vital to the maintenance of a sound federalism as is adequate, and therefore unhurried, deliberation on the location of its balances. In the nature of the case, it is in Congress and then in the courts that this deliberation normally takes place. In debating the Hart-Celler bill, Congress will be considering whether the law and the high policy of federalism justify its own intervention. The adequacy of that deliberation, and the efficacy in practice of its outcome, are the very life's blood of sound federalism. An Order of the sort which I contend the President is empowered to make, therefore, would be exactly apt to sustaining a sound federalism, in this profoundly important sense. It would go not a step further than insuring that, if Congress should determine that the national power is paramount in the premises, that determination would (if sustained by the courts) be efficacious.

In the end, however, as to a novel question such as the present, one must turn to the question concerning Presidential power stated and, by implication, answered by affirmation of its second branch, in *In re Neagle*:

"Is this duty limited to the enforcement of acts of Congress or of treaties of the United States according to their *express terms*, or does it include the rights, duties and obligations growing out of the Constitution itself, our international relations, and all the protection implied by the nature of the government under the Constitution?"

Condemned men, whose lives may soon be spared by Congressional action, are entitled to "protection implied by the nature of the government under the Constitution." During necessary Congressional deliteration, only the President can give them that protection.

It is of interest, moreover, that the actual judgment in the Neagle case, by a step only one remove logically from the general Presidential power therein approved, took a man charged with murder out of the hands of the state authorities and freed him. What I am advocating now is a much lesser degree of interference with state power in regard to the punishment of crime—the mere suspension of the administration of a penalty pending Congressional deliberation thereon. The quotation from *Neagle* also serves to remind us that our foreign relations are sure to be affected by wholsesale executions; this fact might motivate the President to act, and may even serve as a second basis for his power to act.

It should be pointed out, finally, that a Presidential moratorium order could be and undoubtedly would be tested in the courts, unless Congress acted soon enough to moot any possible test. The President need not, therefore, step back, as in some other sort of case he conscientiously might, from unreviewable innovation. Indeed, Presidential action might suitably include directions to the Attorney General to implement the declared moratorium by court action—perhaps, for reasons of expedition, within the original jurisdiction of the Supreme Court—so as to ensure the concurrence of the judiciary on the constitutional question before the moratorium took other than provisional effect.

Other possibilities suggest themselves. Under the constitution of any particular state, the governor, even if he does not possess full clemency power, might be held to possess a power, with respect to executions in his state, analogous to that I have advocated for the President. Either state or federal judges, sitting in equity and faced with a threat of irreparable harm quite *sui generis,* might impose stays pending legislation action, where the latter (either in Congress or in a state legislature) seems definitely possible. Any state legislature, even if unwilling to abolish capital punishment altogether, might be prevailed upon quickly to pass a little Hart-Celler bill, imposing a moratorium for purposes of study. All these possibilities should be fully explored and pushed to the end; others may suggest themselves to other minds.

It is perhaps time to summarize. But I shall not do so; I think my principal points must be fresh in your minds. Let me instead go at last to the heart of the matter. There once were uttered six tremendous words: "The greatest of these is charity". Law which blushes or smirks at the mention of charity is bad law. Charity is not sending in money; charity is not merely giving other people the benefit of the doubt. Charity in its human-to-human aspect, is the virtue of connectedness with all other people, of concern for them of obligation for their well-being. Charity is the belief, and action on the belief, that we are all severally members each of the other. Now human society will never attain to within calling distance of full charity; we need not worry about going too far in that direction. But I have been talking tonight, after all, about the extremist possible denial of charity, the denial that stultifies every other move toward charity, namely our claim, and our acting on that claim, of a right officially to classify a helpless human being as a piece of trash merely to be destroyed, a *thing* with which we have a right to end all relation by deliberately killing him or her after long brutalizing fear. Underlying everything I have said is my belief that we cannot move an inch toward that rough approximation to charity which must be the foundation of any good society, so long as we keep this institution in place. If you agree with me, whether in the same words or in others, then let us work together, using the ample means afforded by our consitutional democracy, to bring it about that not one person ever again be killed by law in the United States.

TRIP TO NORTHERN IRELAND—PART II: THE TRIP TO BELFAST

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BIAGGI. Mr. Speaker, the situation in Northern Ireland grows increasingly worse every day. Soldiers are stationed everywhere. The streets are constantly patrolled by the military, on foot as well as in mobile units. Moreover, the death toll continues to rise. Thus far, 285 people have lost their lives in the fighting in that strife torn country since August 1969. This statistic is even more shocking when we consider that the death toll represents such a high proportion of the population.

As I pointed out in my first report on my trip, I have been extremely active over the course of the last 2 years in trying to bring about a solution to this conflict. Legislatively, I have introduced measures calling for an end to hostilities, the withdrawal of British troops and the holding of a plebiscite of all of Ireland to determine the question of national reunification. In addition, I have also introduced legislation to provide 25,000 emergency refugee visas for residents of Northern Ireland. This would provide for possible Irish immigrants in much the same way that we provided for the Hungarians, the Cubans and the Soviet Jews in the past.

I have repeatedly called upon the Nixon administration to use informal diplomacy to resolve the conflict. Moreover, I have contacted the United Nations on several occasions to urge an inquiry into the atrocities being committed and to seek an international settlement of the problem.

Recently, I testified before the House Foreign Affairs Committee, Subcommittee on Europe, and reiterated my deep concern on the tragic situation in Northern Ireland.

In the first part of my report on my visit to Northern Ireland, I described the march at Newry where I acted as an observer. Today, I would like to discuss my trip to Belfast and what transpired there.

First, however, I think that it would be useful to briefly review the historical background of the current problems. In 1920, Ireland was divided into an independent state, the Republic of Ireland, and Northern Ireland, now known as Ulster. Since that time London has ruled Northern Ireland through its subordinate Parliament at Stormont in Belfast.

Northern Ireland is comprised of one and a half million people, two thirds of which are Protestant and generally support the Unionist Government. The remaining one-third are Catholic and support a variety of opposition parties.

Although violence has spread throughout Northern Ireland, Belfast has been the focal point of most of the violence in the past. The most violent incident in the recent past took place in Derry, where 13 civilians were shot by British troops. Since that time there have been numerous bombings and shootings resulting in even more deaths.

This was the extremely tense atmosphere engulfing Belfast as I entered that city. There was a warlike air about the entire area. Numerous bomb craters made passage through the streets difficult. Across the streets were blockades consisting of barbed wire and heavy lumber, flanked by armored cars and troops. Many buildings were pockmarked from gunfire and others were so destroyed that they resembled London after the blitz.

When we arrived at the Europa Hotel where I was to stay, I noticed a makeshift fence in front of the building. It was constructed in such a way that we were channeled through a small opening and compelled to be searched before entering. Once settled at the hotel, I had many lengthy conversations with the representatives of both sides of the issue. A theme which was constantly expressed by the minority was that the unification of Ireland must be a part of any agreement. These discussions provided me with information on a whole range of topics and enabled me to leave Ireland with a better understanding of the serious and deeply entrenched views of both sides.

For example, in a discussion with Mr. William Craig, a leader of the ruling Unionist party, he presented his views on the problems besetting Northern Ireland. He spoke at great length about how the Catholics were socially, economically, and culturally abhorrent to him. Surely, there are glaring examples of discrimination in virtually every aspect of life there. Unemployment among Catholics in Ulster is as much as twice the province's average. In Balymurphy, 40 or 50 percent of the male adult population were never afforded the opportunity to go to work. Moreover, in the Harland and Wolf shipyards in Northern Ireland, which pays its employees very well, less than 300 of a total work force of 9,000 are Catholic. Even in the postal system only four percent of the employees are Catholic. This is a truly shocking statistic when we consider that the Catholics represent 35 percent of the total population. These high unemployment statistics explain why so many Catholics live in ghetto districts such as Bogside. These revelations made me realize just how extensive the discrimination was in the north.

In addition to the discrimination, there are also some serious questions regarding the continued denial of civil liberties. The application of the Special Powers Act and the whole policy of internment without trial is appalling to me. I spoke with former detainees, who presented me with the grotesque details of their treatment at the hands of the British troops. The gestapo-like tactics of the British would not be tolerated for 1 minute in the United States. It is ironical that the country which gave us the Magna Carta, the greatest charter ever written for human rights, is using this type of interrogation technique.

Mr. Francis McGuigan, one of these detainees, and the only person to escape from Long Kesh internment camp, described the type of treatment he received. I was appalled. He told of how he was awakened one morning at 4:30 a.m., hit in the stomach with a rifle butt and told to get up. Standing over him were several British troops. They told him he would not have time to get dressed. Only after pleading to an officer was he allowed to put on a pair of trousers. He was taken outside and placed at the rear of an armored car. There he witnessed his 63-year-old father being dragged out of the house on his back. This older gentleman had been under a doctor's care for more than 3 years. But this was just the start of what was to be a long ordeal for Mr. McGuigan.

He was forced into the armored car and soon found three men piled on top of him. He was then driven to another location and put in a gymnasium and a hood was placed over his head. He remained in the gym for the next 2 days and was only given one cup of tea and a bowl of soup for nourishment.

Following this harassment, he was taken in a helicopter to yet another destination and given a physical examination. He was handed an oversized boiler's suit to wear and told to stand against the wall with his feet spread apart with a constant electronic noise in the background. Under this pressure and torture, he finally collapsed several times under the strain. In fact, when he was asked to spell his own name he could not.

The case of Francis McGuigan is not an exception. Wherever I went I heard accounts of similar treatment being used. For example, when I visited Stormont Castle and spoke with Dr. Newe, a member of the Stormont Parliament, he acknowledged that there was a need to reform the internment centers.

Of course, there have been denials by the Stormont government of any atrocities such as those committed against Mr. McGuigan. At congressional hearings in Washington, Captain Henderson of the Ulster Guard stated that the complaints of Mr. McGuigan were totally unfounded. At the same time that Captain Henderson was making his statement, however, the Prime Minister of England was announcing that atrocities would no longer be allowed. In other words, the statement by Mr. McGuigan must have been the truth. Surely, the Prime Minister of England would not have issued his edict if the conditions did not exist.

These deplorable conditions which I have described underscore the arguments and grievances put forth by the Catholic minority in their cry for justice. When I saw the combined effects of chronic unemployment and the repressive internment policy, it became clear that what I had been reading about in the United States was not only true, but in some cases understated. The reporting and eyewitness accounts of men like Pete Hamill of the New York Post should open the eyes of those who have not been concerned about the conditions in Northern Ireland.

After retiring for the evening at my hotel, I could hear the sound of bombs exploding and rifle shots being fired. I could not help feeling like I was in the center of a war zone. It is small wonder that the people of Northern Ireland live under a cloud of constant fear. They never know whether their family will be safe. Mothers are afraid to let their children outside for fear that they might be shot. Indeed, the children of Belfast are perhaps the most tragic victims of the war. In the Catholic sections the children have scrawled slogans on the walls such as "Up the IRA" and "Informers Beware." In the Protestant areas they read "No Popery Here." This is a very saddening situation to encounter. In every other part of the world Protestants and Catholics live together without difficulty. The situation which exists in Northern Ireland, however, is the result of the tragic escalation of the fighting which began in 1968 as a nonviolent campaign for civil rights by Ulster's half million Catholics. In fact, it has escalated into an all-out campaign resulting in 285 deaths.

Looking back over the day's events, I wondered how much longer such a situation could exist without totally exploding into an all-out civil war. The need for an immediate political solution is obvious and yet, the British refuse to yield in their position. Of course, the IRA members that I spoke to were just as stubborn in their position on the subject.

In the words of Mr. McSwiney who died in 1920, of a hunger strike while protesting the British tactics at that time:

> It is not those who inflict suffering but those who can suffer most that eventually conquer.

How much longer will the rights of a minority be suppressed? How much longer must the minority in Northern Ireland be treated as second-class citizens? When will they be freed of a condition resembling surfdom?

In my discussions with Mr. Austin Currie, M.P. of the Stormont government, he expressed his belief that peace will come about in the following way. First, the British policy of internment without trial must come to an end before any discussion may commence. Second, the Stormont parliament should be suspended. This would be followed by the appointment of a commission which represents all parties concerned to carry out the administrative functions of the Stormont government. Finally, the members on both sides of the issue could sit down and negotiate a long term political solution. I believe that this approach is a most reasonable and logical one.

The problems of the minority and the treatment of the citizens of Northern Ireland were reiterated by the other community leaders that I spoke with. Mr. Tom Conaty, chairman of the Central Citizens Defense Committee for example, expressed a deep concern for the British internment policy. Others such as Father Murphy, the pastor of Balymurphy and Mr. Gerard Fitt, leader of the Socialist and Democratic Labour Party, along with various IRA men also let their objections be known concerning the plight of the minority and the British policies in Northern Ireland.

Mr. Fitt was even served with a summons for his participation in the peaceful march at Newry. His response to this, however, was that it was a small price to pay when 13 people had lost their lives in Derry.

The overall attitude of the people of Northern Ireland seemed to reflect a loss of faith. They have lost faith in the Stormont government, they have lost faith in London, and they have lost faith in the courts. The British have made promise after promise, but the people no longer believe them. They have been told the same unkept promises year after year.

As I prepared to leave that beautiful country, I could not help but wonder why the Irish immigrants of the past had ever left. Then I remembered why my parents had left Italy. They left for better opportunities in employment, and to provide a better world for their children.

PERSPECTIVE ON NUCLEAR SAFETY

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HOSMER. Mr. Speaker, an inordinate volume of material has appeared in the CONGRESSIONAL RECORD over the past year bad-mouthing alleged nuclear powerplant safety features. There has been particular, although not particularly informed, emphasis on the postulation of a hypothetical loss of coolant situation, however remote a possibility in actuality. The complicated scenario involves a multitudinous and concurrent failure of all the many, many engineered safeguards specifically designed and built into these reactors to prevent or ameliorate just such a hypothecated event.

Only rarely does someone bother to put into the RECORD reading matter offering a fair perspective on the subject, or the difficulty of understanding the interrelationship of the assumptions which the hypothesizers make which underlie such postulated failures, or the calculations used to predict the potential consequences, or the weight to be assigned to small-scale experiments carried out to investigate a particular aspect of the phenomenon, or the worth of the redundant engineered safety devices which are part and parcel of the reactor design.

The event which must occur to produce a loss of coolant situation in a nuclear power reactor which has to be dealt with by an emergency core cooling system is this: There must be an instantaneous and complete rupture of the largest circulating coolant pipe—typically 29 inches in diameter, 2 inches in wall thickness—so that the coolant rushes simultaneously out of both broken ends at maximum flow rate.

Such an event is theoretically possible and should not be ignored. Nor is it ignored. It is included as a factor in the decision whether or not to license a nuclear power station. Far better that it be analyzed there than in the pages of the CONGRESSIONAL RECORD by people who know little, if anything, about it. These are the same types who pulled the Chicken Little act, predicting that the sky was going to fall in if the Amchitka test were carried forward, then, when it all came out safely as predicted, acted like they thought it was blind luck instead of good planning and judgment.

The same type could just as logically hypothecate disaster from a ruptured natural gas line in some metropolitan city, or a major oil pipeline in any area. But they are stuck in a nuclear rut. They act like it is a big lark to imagine nuclear accidents by playing the game of "what if" this and this and that and this and so on ad nausem happens in a reactor.

Well, what would happen? Would it follow the lurid scenarios you have been reading in the CONGRESSIONAL RECORD almost telling us we would not need nuclear electricity because everybody would start to glow in the dark anyway?

To find out what would happen in the event of an emergency core cooling failure let us listen to a knowledgeable expert for a change. Now, I am no fan of the eminent physicist, Dr. Hans A. Bethe, when it comes to his notions about arms control and other subjects outside the area in which he won his Nobel Prize, but I respect what he has to say when it comes to nuclear physics and reactors and emergency core cooling and this is what he said concerning the latter subject on March 6, 1972:

> The recent concern about emergency cooling following a reactor accident is well taken, but the hazard in this case is primarily the damage to the reactor, a great financial loss to the utility involved, rather than any hazard to the public.

My point is: In view of the potential hazards which can easily be associated with extreme assumptions, should one conclude that a particular activity is not safe and should be stopped or should one re-examine his assumptions? And, why should public attention be focused almost exclusively on the nuclear power area, aren't there some other subjects that deserve some attention, too?

One result of the public attention being given to this alleged nuclear hazard has been the introduction of bills which would impose a prolonged moratorium on the construction and/or operation of all nuclear powerplants. This would provide time to educate and convince all who may be interested in understanding and judging for themselves rather than accepting the judgment of the responsible agency of our Government, the Atomic Energy Commission, and its statutory independent Advisory Committee on Reactor Safeguards. I have seen no bills which would impose a moratorium on the construction and operation of oil and gas pipelines or any of the countless other activities which could be extremely hazardous if certain events were postulated. I have seen no studies showing the damage to public health and safety consequent upon chronic power shortages in an energy dependent economy, but the consequences would be many.

Clearly nuclear safety is a complex technical problem which must be judged in a professional manner by competent objective scientists. Only Monday of this week the attorney for the National Intervenors, participating in the 31st day of the Atomic Energy Commission's rulemaking hearings on emergency core cooling system interim criteria, remarked prophetically—to the chairman of the hearing board:

> I would bet, sir, that there probably aren't a hell of a lot of people in the United States who understand the criticalities of a loss of coolant accident or indeed, what kind of margins of safety there are.

I would certainly agree with that and conversely state that there are darned few physicists or engineers not already trained in this particular field who would be able to develop any expertise in anything short of a year.

Returning to my earlier remarks about the abundance of material in this RECORD concerning the technical aspects of nuclear power reactor safety, I am amazed to see that some of our Members, who are attempting to educate the Congress and the public in these areas, have shown some lack of objectivity in reporting to this body their findings.

A good example of this occurred just yesterday. In the House of Representatives, during debate, the gentleman from California (Mr. HOLIFIELD) held up during his speech a stack of recent Joint Committee on Atomic Energy hearings records over a foot tall. It was impressive evidence. Yet, at practically the same moment over in the other body a gentleman from Alaska (Mr. GRAVEL) was quoting only semirelated documents from AEC files to "explain why Congress has heard so little in the past about nuclear hazards."

Maybe this situation is due to the fact that some people only hear what they want to hear, see what they want to see, say what they want to say, and, also, only place in the CONGRESSIONAL RECORD what supports their preconceptions and not what helps give a balanced view.

The March 6 quote from Dr. Hans A. Bethe of Cornell University was not pulled from thin air. Actually, it is out of a letter over 3 weeks old to the gentleman from Alaska himself, which, to the best of my knowledge, has not previously found its way into the RECORD. In his letter, Dr. Bethe displays uncommon insight concerning utilization of nuclear power, its risks and its benefits and the impact that it can have on providing mankind with the much needed energy to be derived therefrom.

The letter follows:

CORNELL UNIVERSITY,
LABORATORY OF NUCLEAR STUDIES,
Ithaca, N.Y., March 6, 1972.

Senator MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRAVEL: Thank you for sending me your various releases concerning atomic power and other potential sources of energy, and in particular your press release No. 468, on your bill calling for a halt in nuclear power plant construction and operation.

I am sorry to say that I consider this bill pure mischief, for the following reasons:

1. This country is already suffering from a power shortage. This becomes acute every summer in cities like New York, and also in the Northwestern part of the country.

2. The economic health of the nation depends sensitively on the availability of sufficient power. We have seen in 1970 and 1971 that the economic health of the U.S. is precarious at best, and even now it is very doubtful whether this country can maintain its prosperity under the pressure of competition from foreign countries with their cheaper labor. If you were to add to these economic difficulties a chronic and increasing power shortage, permanent depression would be the inevitable result.

3. Atomic power is the cleanest of the now-developed power sources. You may not be aware that a coal-fired power plant puts far more radioactivity into the air than a nuclear plant in which the radioactive products are carefully contained.

4. Consideration of pollution would dictate a shift from coal to oil. Our oil production is insufficient to satisfy the demand for automobiles and planes, so that we would be increasingly dependent on imports from such politically unstable countries as the Arab nations.

5. No other major sources of power are now in view. While you have mentioned many other possible sources of power, it would take research and development for at least 20 to 30 years to bring any of them into major practical use. However, I would support you in calling for vigorous research efforts to investigate the feasibility of some of the other power sources, notably the direct use of sunlight in such areas as Arizona. (Of course, any such power source would create an enormous problem of storing the energy produced during the day for the next night and longer.)

6. Nuclear power plants are designed with extreme care so that only minimal amounts of radioactivity are discharged to the outside world. Even the first plants were completely safe according to accepted AEC biological standards, but in modern plants the discharge of radioactivity into the surroundings has been cut down by an additional factor of 100.

7. The standards set by the AEC for biological safety are far more stringent than those of any other country. Western European countries, notably the United Kingdom, have many atomic energy plants and have much less stringent standards. Those in the U.S.S.R. are even less stringent.

8. Every nuclear plant is carefully examined before construction for its safety. Nuclear explosions are simply impossible for the standard power reactors working with thermal neutrons, and lesser accidents are stopped at very early stages by careful monitoring, including the use of computers. Even in case of a major accident, the release of radioactivity to the outside is prevented by airtight containment buildings. Probably more thought has gone into the problem of reactor safety than into any other problem of industrial safety.

9. The recent concern about emergency cooling following a reactor accident is well taken, but the hazard in this case is primarily the damage to the reactor, a great finanical loss to the utility involved, rather than any hazard to the public.

10. The safety record of nuclear power plants has been very good.

In my opinion, even leaving economics aside, just the danger to the health of the population of the United States from a chronic power shortage is thousands of times greater than the potential hazard from nuclear plants. I sincerely hope that you will reconsider, and withdraw your bill.

To end on a more positive note, I appreciate your efforts to initiate serious research on some alternative power sources. Such projects as geothermal energy (and, even more, wind or tides) seem to me very unlikely to give appreciable sources of energy at anywhere near economic cost. Solar heat is a different matter; it has been calculated that 5,000 square miles in Arizona devoted to this purpose could supply the energy for the entire United States, even taking into account losses of power in transmission. Therefore, it would seem worthwhile to devote a substantial effort to the exploitation of this source of energy. However, storage of energy is exceedingly costly and difficult, witness the batteries in our automobiles which only store a minimal amount of energy. Whether this problem can be solved at tolerable cost, e.g. by massive storage of water in reservoirs and subsequent release, I do not know. Since these reservoirs would presumably have to be in scenic locations in the mountain states, we would probably have the conservationists in these states against us in this venture, even if it were feasible. A similar project in Switzerland, the Grand Dixence, storing only very moderate amounts of energy, turned out to be extremely expensive in spite of the most favorable geographic conditions.

It is all not as easy as it looks on paper.

Yours sincerely,

HANS A. BETHE.

RACIAL DISCRIMINATION AND LAW ENFORCEMENT FUNDS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RANGEL. Mr. Speaker, the shocking fact is that the Federal Government has, without any strings attached, funneled nearly $1.5 billion to State and local law enforcement agencies, even though many of these agencies remain staunch bulwarks of racial discrimination.

The 1968 Report of the National Advisory Commission on Civil Disorders—the Kerner Commission—publicized what blacks have long known—that police brutality and harassment occur repeatedly in just about every black community in the Nation. This was unquestionably one of the major reasons for intense black hatred and fear of law enforcement officers, the Commission reported.

But, the Kerner Commission also stated that physical abuse is only one form of police harassment suffered by black communities. In nearly every city surveyed, the Commission cited instances of police stopping black people on foot or in cars without reasonable cause of repeated dispersals of peaceful street gatherings, and reported numerous instances of demeaning verbal abuse.

Even more reprehensible, however, is the use of the preventative patrol. In many areas police departments have sent roving task forces into black communities without prior notice to conduct intensive, and occasionally indiscriminate, street stops and searches. Not only suspicious persons, but also respected members of the community have been frequently subjected to back alley justice dispensed with a nightstick.

It is no wonder that the Kerner Commission concluded that the deep hostility existing between police and ghetto communities was a primary cause of the massive civil disorders that occurred in Watts, Newark, Detroit, Atlanta, and a dozen other cities in 1967.

Yet, today the Law Enforcement Assistance Administration—LEAA—of the Justice Department continues to give huge block grants to States who turn a blind eye to the reprehensible behavior of their police departments. As an example, the LEAA pork barrel doled out over $48 million in planning, block action, and discretionary grants in fiscal year 1969. And the amount has skyrocketed ever since: $236 million in 1970, $436 million in 1971, and $521 million in fiscal year 1972. These hundreds of millions were dispersed without any thought given to civil rights except for an insignificant and unenforceable boiler plate assurance printed in fine print on the bottom of each grant.

While it is obvious that Federal funds cannot be terminated every time an instance of racial discrimination occurs—for otherwise the funds would never be dispersed at all—there nevertheless is a simple and effective solution. This solution is to hire more black policemen to minimize racial tensions in the black communities and to increase minority representation on the State and local planning agencies where the policy decisions are made.

There is nothing new about this. In 1969, the U.S. Commission on Civil Rights found that many police departments, which were beneficiaries of LEAA funds, had purposely failed to recruit blacks, Puerto Ricans, and other minorities, had given minority members in the ranks unequal job assignments and undeserved harassment and had set up dual standards of promotion.

One of the main reasons police discrimination has gone unabated, is that the Federal officials who oversee law enforcement agencies have been chronically understaffed and their initiative have been dampened by their superiors.

On July 10, 1970, for example, Associate Justice William Rehnquist, then head of the Justice Department's Office of Legal Counsel, concluded that title VI of the 1964 Civil Rights Act—governing nondiscrimination in federally assisted programs—was not applicable to the employment practices of LEAA grantees and subgrantees, such as State and local police departments.

In fact, as late as October 1970 LEAA did not even have an office of civil rights compliance and was the only Federal agency dispersing Federal grants to have this dubious distinction.

Finally, it was decided that LEAA programs of Federal aid were in fact covered by the provision in the 1964 Civil Rights Act prohibiting discrimination in federally assisted programs. However, even after LEAA published its equal employment opportunity regulations on December 31, 1970, it has acted as a reluctant guardian of civil rights, since it continues to play a subservient role to State and local interests.

In fact, the U.S. Commission on Civil Rights in its 1971 report emphatically states that LEAA's compliance program has not noticeably improved the discriminatory attitudes of the agencies they finance.

LEAA still has not conducted a satisfactory title VI or equal employment opportunity compliance review. It has done a fast check of the 50 States to select the ones needing a thorough audit. It had promised to get this audit completed, but so far it is just in its second group of seven out of the 25 States that it is reviewing in depth.

LEAA's Office of Civil Rights Compliance has only seven professionals, a woefully inadequate number for the monumental tasks it should perform. It is no wonder that their efforts have been limited primarily to processing the numerous complaints it already has received. Civil rights enforcement, if any, is left primarily to the disinterested States.

Finally, last December, LEAA published some revised regulations which strengthen on paper its role in civil rights compliance. The Leadership Conference on Civil Rights alertly took exception, charging there still existed no provision for termination of Federal funds for reasons of discrimination or for the holding of reviews prior to grantees receiving funds.

Thus, LEAA continues to subsidize racial discrimination with Federal dollars. One example is *Davis* v. *Washington*, D.D.C. Civil Action No. 1086–70, a lawsuit filed in April 1970, by black policemen against the Washington Metropolitan Police Department for alleged discrimination in its promotion procedures. One month after the suit was filed, LEAA awarded the department over $1 million to recruit and hire 1,000 more policemen under the same employment practices.

Another example is *Allen* v. *Mississippi Commission on Law Enforcement*, Civil Action No. 4487, (S.D. Miss. 1970) and *Morrow* v. *Crisler*, Civil Action No. 4716 (S.D. Miss 1970). Allen challenged the racial composition of the Mississippi State planning agency which disperses LEAA funds and Morrow successfully challenged the systematic exclusion of blacks from the State highway patrol. During 1970, while both these suits were pending, LEAA gave the State planning agency $2 million and gave the State highway patrol a substantial grant.

These are not isolated instances. In the eight Southeastern States, over 99½ percent of the 5,000 State highway patrolmen and troopers are white. South Carolina and Louisiana have four blacks; Georgia and Florida have two each; Tennessee has six; Alabama and Mississippi, none, and North Carolina leads with nine blacks. The State planning agencies in most of these States have an equally dismal and discriminatory racial composition.

This shocking record is not confined to the South. In Northern States its been amply demonstrated that racism is also impeding fair treatment. Of course, part of the problem stems from the general antagonism blacks and other minority groups have toward policemen, and from the obvious fact that recruiting is often done in rural areas where few blacks reside. But, sometimes there are other less legitimate barriers. Thus, in *Castro* v. *Beecher*, Civil Action No. 70–1220–W (D.C. Mass. Nov. 17, 1971), it was found that the Boston police had used intelligence tests that failed to comply with State law, were not related to the police jobs for which the applicants were applying, and which gave an unfair edge to whites.

LEAA's Office of Civil Rights Compliance is aware of these problems but is hampered by a staff shortage. In a recent interview, the Director stated that it was LEAA's policy to have civil rights enforcement questions handled by the State, not his office. Most of its time is used in processing complaints and drawing up a compliance form which it soon plans to send to 15,000 law enforcement grantees and subgrantees. So far, funds have been dispensed regardless of whether States or subgrantees have signed the boiler-plate assurance forms.

The only means of enforcement so far used has been a mild query here and a gentle nudge there. The very thought of fund cut-offs for noncompliance seems to horrify LEAA bureaucrats.

So far, with the assistance of the Civil Rights Division of the Justice Department, LEAA has become involved in only three suits involving racial discrimination by LEAA grantees: Boston, Mississippi, and Alabama. But, most revealingly, all the suits were initiated by private parties, not LEAA.

In order to correct this blatant record of neglect, in order to make certain that LEAA faces up to its responsibility of insuring that no Federal funds are used to finance racial discrimination, and in order to eliminate discriminatory practices in the Nation's law enforcement agencies, I am today introducing legislation:

First, to prevent the granting of federal funds if the grantee or subgrantee is in noncompliance until such times the discrimination has been eliminated;

Second, to prohibit racial discrimination in the membership of the State planning agencies, local planning boards, and similar units;

Third, to require a finding of civil rights compliance prior to becoming eligible for a grant;

Fourth, to delete the section of the Omnibus Crime Control Act relating to Federal control and racial balance; and

Fifth, to provide for affirmative action to overcome the effects of past discrimination by the grantee in employment and in the services provided.

Section 1 of my bill amends the Omnibus Crime Control and Safe Streets Act of 1968 to require that State planning agencies submit a State plan which will provide for affirmative action to overcome the effects of past racial discrimination in recruitment and promotion, in selection of sites for correctional and other facilities, and in the services provided. The site selection provision is to help avoid another Attica-type tragedy. New York's correctional facilities in the past have been built in rural areas and staffed with local white recruits who supervise a majority of nonwhite prison population.

Section 2 of my legislation eliminates the unnecessary prohibitions against racial quotas and Federal influence. These stale and musty amendments to the Omnibus Crime Control Act represent remnants of an earlier era.

Section 3 of this bill adds the following new provisions: First, prior to making any grant, the Justice Department must conduct a summary compliance review to determine if there is racial discrimination by a grantee or subgrantee. This practice is not novel. The Office of Federal Contract Compliance already conducts such reviews for Government contracts. The intent of this provision is to prohibit practices which led to the Davis, Morrow, and Allen cases.

The second provision of section 3 would require that no LEAA funds be given to a grantee or subgrantee who is found to be in noncompliance unless it is afterward found following a notice and hearing that such discrimination has been eliminated.

Such legislation will provide LEAA with the mandate comprehensive to its need to correct the inequities existing in thousands of State and local police departments, sheriff's office, and correctional facilities. Only by so strengthening and improving law enforcement at every level will we become better able to promote domestic peace, security, and justice in a Nation which is presently ravaged by internal turmoil and strife.

THE PIED PIPERS OF POVERTY

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, the crowd that gathered on the Washington Monument grounds last Saturday was festive, but the note struck by its leaders was ominous. Thousands of poor children were exploited by "The Pied Pipers of Poverty" in an attempt to kill a progressive and realistic welfare rights plan, while holding out the cheap and empty hope of a totally unrealistic one. Those who would denigrate the President's family asistance plan, while demanding in its stead a guaranteed annual income of $6,500, are not only indulging in cynicism but teaching it to little children.

At this point, I would like to insert in the RECORD a statement made by Under Secretary of Health, Education, and Welfare John G. Veneman and a New York Times editorial which appeared March 28. I think that, taken together, these two pieces put the problem of poverty in much better perspective than Messrs. Harris, Wiley, and others:

STATEMENT BY JOHN G. VENEMAN

Behind all the kites and balloons at tomorrow's welfare march lies a special interest.

It is the special interest of a few men whose private ambitions seem to depend on the continuation of poverty in America.

The legislation these pied pipers of poverty have enticed school children to march against would, at one stroke of a pen, wipe out half of all the poverty in our country.

These men say that they oppose the President's welfare reform bill because it is not enough.

What they are opposing is a bill that would invest more money into helping people escape poverty than has ever before been proposed in a single piece of social legislation—$6.5 billion.

They say "We demand more"—$70 billion. more—a figure that would cost the taxpaying families of the Nation an average of $2,000 more a year.

Their proposal, hasn't the chance of a snowflake in the Sahara of ever passing Congress—and they know it.

Yet Senator Harris of Oklahoma stood on the steps of the Capitol yesterday and boasted:

"I think we can kill welfare reform this year."

The bill that he wants killed would provide $200 a month to a welfare mother in Mississippi who now receives only $60 a month to feed and clothe her children.

Are Senator Harris or George Wiley representing the best interests of that mother and those children?

That same bill would, for the first time, provide wage supplements to the parents of five million children of America's working poor; and enable those families to continue working and living in dignity at a livable income.

Are these children and these parents being honestly represented by those who want this bill killed?

And what about the crippled and retarded children who would benefit? Or the lonely children waiting for adoption who would also benefit from H.R. 1?

And who represents the disabled on Social Security who would receive Medicare coverage at no cost if H.R. 1 becomes law?

Or the blind, the aged and the disabled whose public assistance would be raised by $2 billion.

What do the pied pipers of poverty offer all of these people in exchange for the benefits they will not get if the President's welfare reform bill does not pass?

They do not offer bread.

They offer circuses.

I hope that people of good will and good sense will reply, loud and clear, to that cynical offer.

[From the New York Times, Mar. 28, 1972]

WELFARE MIDDLE WAY

President Nixon has again come strongly to the support of his welfare reform program, the Family Assistance Plan. After suggesting last summer that the wage-price freeze somehow made it desirable to postpone the effective date of the plan, Mr. Nixon in a special message to Congress yesterday reiterated his conviction that reform of the ramshackle welfare system is imperative.

Unfortunately, the President gave little hint of his willingness to accept strengthening amendments to F.A.P. He may have calculated that his more extreme critics such as the National Welfare Rights Organization and sure to antagonize so many voters—and members of Congress—as to make it unnecessary for him to compromise.

The "Children's March for Survival" which these organizations sponsored in Washington last Saturday was a dubious venture on every ground. The demonstrators may feel as the march slogan proclaimed that "Nixon Doesn't Care," but adults who do care about the emotional security of small children hardly prove their own concern by involving youngsters in a huge demonstration in which several hundred became separated from their parents.

As a practical effort in lobbying the march's political and propaganda impact was almost certainly negative. Congress is simply not going to provide a minimum annual income of $6,500 for every family of four. In city halls and state capitals, the overwhelming political problem is to prevent unwise, inhumane cutbacks in existing programs as welfare costs steadily rise. Those who agitate for utopian solutions are not helping poor people.

Yet substantial improvements in the Administration's welfare bill are necessary and possible. The proposed minimum income of $2,400 for a family of four is too low. Whatever level is finally agreed upon, no recipient should get less than the benefits he or she is now getting. There should be coverage for childless couples and for single individuals. The work requirements should be revised to exempt mothers with preschool children.

Senator Ribicoff, Connecticut Democrat, is sponsoring amendments to the Administration bill which would attain these objectives. There is already considerable support in the Senate for the essential principles of the Administration bill—coverage for the working poor, a minimum income, uniform level of support across the nation. A lobbying effort in behalf of the Ribicoff amendments would be worthwhile and constructive. Verbal fireworks and protest marches for unattainable goals are not going to pay anyone's rent or brighten any child's life.

THE HARASSMENT OF FARMWORKERS BY THE NLRB AND THE NIXON ADMINISTRATION

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HELSTOSKI. Mr. Speaker, on Monday, the President of the United

States sent yet another message to Congress urging prompt enactment of his welfare reform legislation. In tones of great sympathy, the President wrote of "millions of children" suffering, being "forced to live in deplorable and degrading conditions." He stated further:

> We must hit head-on the cruel fallacy that any income, no matter how low, is sufficient for an American family merely because that money comes from full time work.
>
> We must establish the more humane and relevant principle that the total income of each American family must reach a certain minimum standard.

In sum, the President pronounced himself firmly committed to improving the lives of the millions of Americans who live in degrading poverty.

These were fine words of concern for the poor and the working poor. However, Mr. Nixon's messages to Congress are always laced with verbal assurances of his concern. We would be better advised to heed former Attorney General Mitchell's advice of a few years ago: "Watch what we do not what we say."

What the administration is really doing about the economic conditions of poor people can be discovered a block from the White House at the National Labor Relations Board. The Nixon-appointed General Counsel of that "independent" agency is currently engaged in a campaign of legal harassment of the United Farm Workers, the organization representing the impoverished agricultural workers of California. I include at this point in the RECORD a New York Times article of last Sunday detailing the unholy alliance which has been formed between the California agribusiness interests and Peter G. Nash of the National Labor Relations Board against the struggling farmworkers of that State:

CONSERVATIVE GROUPS MOUNT CAMPAIGN AGAINST CHAVEZ UNION

(By Steven V. Roberts)

KEENE, CALIF., March 25.—Less than two years after it won landmark contracts in the California grape industry, the United Farm Workers is under fierce attack, and its leaders are fighting for survival.

A well-organized, well-financed campaign has been mounted against the union by a loose coalition that includes the American Farm Bureau Federation, large corporate growers and shippers, right-to-work committees—and a variety of other conservative organizations.

The main target is the boycott, the weapon the farm workers union used successfully against the grape growers for three years ending in 1970 and is now employing against iceberg lettuce harvested by Mexican workers and against nine California wineries.

"They are using everything to hit us over the head," said Cesar Chavez, the union's director, whose headquarters are now in this mountain hamlet about 30 miles east of Bakersfield. "The right wing is spending a tremendous amount of money against us. They want to stop the boycott. They know it's the only way we can organize and they will do anything to take it away from us."

BOYCOTT A KEY WEAPON

The United Farm Workers is the first union to organize America's migrant agricultural laborers, and Mr. Chavez has gained an almost saintly reputation among workers for his leadership of La Causa, Spanish for "the movement." The boycott has been indispensable in that organizing campaign, because the migrants are too poor and too transient to conduct an effective strike.

To the union's opponents, however, the boycott is a "vicious weapon" and Mr. Chavez is a dangerous and power-hungry man. As the Free Marketing Council, an organization of growers, shippers and chain stores, put it recently:

"Forces of coercion threatening a massive take-over of the nation's food supply in the field must be brought under control through state and Federal legislation."

These attacks are growing at a time when the union has scored several notable successes. In recent weeks the farm workers have won two major contracts in the Florida citrus industry, their first victories outside California and Arizona. In addition, the American Federation of Labor and Congress of Industrial Organizations upgraded the farm workers from "organizing committees" to a full-scale union.

NLRB SEEKS CURB

The most immediate threat to the union is a petition filed in Federal Court by the general counsel of the National Labor Relation Board. That petition asked the court to enjoin the farm workers from conducting boycotts, which are prohibited by the National Labor Relations Act. Arguments will be heard in Fresno on April 6.

The case presents a complex legal problem, since farm workers have always been explicitly excluded by the act.

However, the Free Marketing Council and other groups have charged that the union represents some workers who help pack produce for shipment. These workers are covered by the act, and thus the union should be subject to its restrictions, the complaints contend.

Korbel, one of the nine wineries now being boycotted, has also asserted that the union wanted to represent workers who were not agricultural laborers.

The requested injunction would stop boycotts until the labor board judges the case on its merits, a process that could take a year.

The farm workers reply that the workers in question account for one-tenth of 1 percent of their total membership working under contract, which is about 60,000 workers. Moreover, they contend, the N.L.R.B. has consistently ruled in the past that farm workers were not covered by the board.

The difference, they say, is that until last August, the general counsel of the N.L.R.B. was Arnold Ordman, a Democrat first appointed by President Kennedy. When his term expired, the Nixon Administration replaced him with Peter G. Nash, a 35-year-old Republicant from Rochester.

The N.L.R.B. decision to pursue the case, the union stated last week, was a "purely political" one "made at the highest level" of the Republican party. "It is nothing less than an effort to destroy our union," the statement said.

Union officials point out that large corporate farmers are generally strong backers of both President Nixon and Gov. Ronald Reagan. For example, C. Arnholt Smith of San Diego, an old friend of the President, controls a number of large ranches and finances other growers, the union said.

CITED BY LIFE MAGAZINE

Life magazine charged last week that the Nixon Administration had "tampered with justice" by quashing an investigation of Mr. Smith's campaign-financing activities.

A spokesman for the N.L.R.B. called the union charges "bull" and added: "The only question is whether the evidence indicated there was a violation, and the general counsel concluded there was."

According to well-informed sources, however, there was some disagreement among the board's staff over whether to authorize the complaints against the farm workers.

One staff member expressed sympathy for the union and said it would be "very unfair" to subject the farm workers to the limits of the law, without the advantages. But that is what would happen if the complaints are upheld, he said.

The union has also been beseiged on the legislative front. Lobbyists in about 15 states, often led by the Farm Bureau, have pushed for laws that would prohibit boycotts by farm workers. Usually the bills also contain clauses that would require elections before union recognition and hinder strikes at harvest time.

ADOPTED IN TWO STATES

Such laws have already been adopted in Idaho and Kansas. One passed the Oregon legislature last year but was vetoed by Gov. Tom McCall. A similar bill was killed in the California Legislature, but a campaign is starting here to place an initiative on the November ballot.

Just last week, a bill was introduced in Congress that would create an Agriculture Labor Relations Board. Its provisions are similar to the National Labor Act, but it would allow growers to demand arbitration if farm workers struck, and impose a 40-day waiting period.

Historically, farmers have opposed placing workers under Federal legislation, but when the grape boycott proved so successful, they changed their position. In its early years, the union wanted legal protection. Now it feels that any legislation would be so restrictive that it could not organize effectively, and it would do better outside the law.

The third arena of conflict is the lettuce fields of the Salinas Valley, the "salad bowl" of America. In 1970, after the grape victory, Mr. Chavez announced that Salinas would be his next target. Almost immediately, most of the growers signed contracts with the International Brotherhood of Teamsters as a way of warding off Mr. Chavez.

CONTRACT DENOUNCED

The farm workers denounced the contracts as "sweetheart" deals and struck the lettuce fields in August. A month later a boycott started and four large growers signed with the Chavez union, but the rest held fast.

Last March, the teamsters agreed to give up their contract with the farm laborers. Mr. Chavez opened negotiations with the Salinas growers and imposed a moratorium on the strike and boycott. But after six months of no progress, the talks collapsed in November.

Last week, Mr. Chavez declared that the boycott would resume, and a new strike against the Salinas growers was imminent. The mood here in Keene is that the campaign will be a long and costly one. The lettuce growers are larger, wealthier and "more savvy" than the grape growers, according to Marshall Ganz, the Harvard graduate who directs boycott activities.

The union has already dispatched 200 organizers around the country to resurrect the boycott machinery.

The whole idea of a consumer boycott has lost some "freshness since the grape campaign," Mr. Ganz conceded. "But the American public is better educated about farm workers, and that's all helpful," he said.

"Lettuce is a tricky problem," Mr. Ganz added. "You can eat it in a sandwich or a salad and you don't think about it. It will take a lot of public education. Grapes became very stigmatized during the boycott—lettuce has to become a similar kind of symbol."

The tactics will again be grass-roots organizing among anyone who will listen:

housewives, students, labor unions, civic groups. There will also be the publicity from a dramatic strike. As Mr. Ganz put it:

> "The grape boycott never depended on the romance of it, but on grinding work. There is no substitute for that kind of commitment, and it's something the growers can't buy with money. It's a classic confrontation between money power and people power."

Mr. Speaker, there are a number of important points contained in this article about which I would like to comment.

First, it should be clear to any objective observer that Mr. Nash's court suit is intended to subject the farmworkers to the restrictive and punitive aspects of the National Labor Relations Act without simultaneously affording these workers any of the rights and protections of that legislation. In effect the farmworkers would be stripped of their only effective economic weapon against the growers, the boycott. They would be left with no other means of obtaining economic and social justice, a situation which would lead to a fast reversal of the gains made during Cesar Chavez' many years of struggle. As one NLRB staff member reportedly stated:

> It would be "very unfair" to subject the farmworkers to the limits of the law, without the advantages.

I submit that it would not only be "very unfair" but a perversion of justice for the NLRB to succeed with this anti-Chicano, anti-union gambit.

Secondly, we should ask who stands to benefit from this NLRB suit. Many will recall the 1968 photograph of candidate Nixon in California merrily devouring a bunch of scab grapes. That did not win too many votes among the Mexican-Americans toiling in the fields, but I am sure it did not hurt the flow of funds from California's enormously wealthy corporate farmers to the Nixon campaign chest.

Now another election year is with us and Mr. Nixon is undoubtedly anxious to assue his agribusiness financial angels that he is their candidate. As Steven Roberts' article stated:

> Union officials point out that large corporate farmers are generally strong backers of both President Nixon and Gov. Ronald Reagan. For example, C. Arnholt Smith of San Diego, an old friend of the President, controls a number of large ranches and finances other growers, the union said.
>
> Life magazine charged last week that the Nixon Administration had "tampered with justice" by quashing an investigation of Mr. Smith's campaign-financing activities.

The NLRB's new-found concern for the pocketbooks of various wealthy California growers is, I believe, just one aspect of the intimate relationship between administration figures and large campaign donors. We have witnessed the development of the ITT case, which shows at the very least that officials of that multibillion-dollar conglomerate have ready access to and receive favored treatment from the highest officials of the Justice Department and the White House. Whether or not there was any direct link between the $400,000 ITT donation to the GOP Convention and the antitrust suit settlement we shall perhaps never know. It is clear, however, that the administration knows where its bread is buttered.

And that bread is being buttered today in California. In fact a special effort is being made by Maurice Stans and other fundraisers for the Republicans to beat the April 7 deadline when the new campaign disclosure law goes into effect. In this regard I am including at this point in the RECORD an excerpt from a front-page New York Times article of last Sunday quoting a typical fundraising letter being sent out by the administration's financial friends in California:

RUSH TO BEAT EFFECTIVE DATE OF THE NEW, TOUGHER LAW

> One such letter sent recently from Los Angeles by Thomas P. Pike, a drilling machinery manufacturer, vice chairman of the Fluor Corporation in California and a donor, with his wife, of $10,000 to Mr. Nixon's 1968 campaign. The letter spoke openly of methods to circumvent the public reporting of Nixon contributions, "which," it said, "we all naturally want to avoid."
>
> Mr. Pike, who was an Assistant Secretary of Defense from 1953 to 1956, later served as Mr. Nixon's California campaign chairman in the election of 1960 and as vice chairman of his Los Angeles County finance committee in 1963. His Los Angeles office said he was in France and he could not be reached to confirm the language of his letter, a copy of which was obtained by The New York Times. But other ranking California Republicans said they had received the identical letter and had discussed it with Mr. Pike. The letter said;
>
> "A the request of former Secretary of Commerce Maurice Stans, I have agreed to serve with Leonard Firestone and Taft Schreiber and others as California co-chairmen of the Committee for the Re-election of the President, to raise the necessary funds.
>
> "I am personally committed to give and secure a total of $50,000 from family and friends for this vital campaign.
>
> "My plan is to secure from members of my family and a few friends approximately one half of this amount and then give the balance myself.
>
> "The simplest and most painless way to do this is by giving appreciated low-cost securities to several committees (whose names I can supply) in amounts of $3,000 to each committee. In this way neither the gift tax nor the capital gains tax liability is incurred, and I can easily explain to you the mechanics of doing it.
>
> "The standard of giving suggested is one-half percent, more or less, of net worth. This makes for a very substantial campaign contribution which will actually have a minimal effect on your life-style and personal estate, but will have a tremendous effect on your family's personal stake in the future of our economy and our country. I can't emphasize too strongly that the protection of your stake and my stake is precisely what is at stake here.
>
> "We have a deadline of April 7th to meet for this important gift phase of the drive, because that is the effective date of the new Federal campaign law which will require reporting and public disclosure of all subsequent campaign contributions in excess of $100, which we all naturally want to avoid."
>
> Mr. Pike's letter closed by saying that "you may rest assured that he [Mr. Nixon] will be personally appraised of your support."

One line from this letter to California's economic royalists deserves repetition. Mr. Pike states:

> I can't emphasize too strongly that the protection of your stake and my stake is precisely what is at stake here.

So there it is. Mr. Nixon will make sure that the "stake" of these various fatcats, many of whom are undoubtedly growers, will be protected provided they ante up a fraction of their wealth to keep Mr. Nixon in office. If that is not a quid pro quo as cynical as the alleged ITT deal, I do not know what is. The coincidence of the NLRB taking action against the farmworkers at a time when Mr. Nixon's fundraisers are working the financial vineyard in California is peculiar at best. One is led to suspect very strongly that, all of his rhetoric and concern for the poor to the contrary, Mr. Nixon has decided to aid the growers in destroying the farmworkers union in return for financial contributions. It has been said that the ITT case is only the tip of the iceberg, just one example of corporate contributions influencing the legal decision-making of the administration. The harassment of the farmworkers by the NLRB seems to be another.

Mr. Speaker, I intend to do all I can to see that the NLRB's General Counsel fails in his effort to render the farmworkers union powerless. I urge all of my colleagues who are deeply concerned with social justice to express their views on this critical issue and to press for abandonment of the NLRB's legal attack on the farmworkers.

BEST WISHES TO "BRAD" MORSE

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROBISON of New York. Mr. Speaker, this is evidently bound to be a year of substantial change in the membership of this House—what with the already announced numbers of retirements, with more perhaps yet to come, plus the normal turnover as the result of next November's elections.

It is already clear that the Congress is losing some excellent Members—whose absence will be marked upon in years to come. Surely included in such a category would be our friend and colleague, Representative F. BRADFORD MORSE, of Massachusetts, whose energy, vitality, and devotion to his legislative duties, has earned him the respect and admiration of all of us. "BRAD" MORSE goes on, now, by virtue of a Presidential appointment, to the post of Under Secretary General of the United Nations—a position formerly held by the late Ralph Bunche. We are proud of the recognition thus granted our colleague's interests and talents in this field of foreign policy endeavor, and we know he will do well in his new assignment.

However, I am sure we all view this event with mixed emotions, for reasons well summed up in the following editorial from the March 29 New York Times:

"NEW LIFE" AT THE U.N.

The appointment of Representative F. Bradford Morse of Massachusetts to be an Under Secretary General of the United Nations arouses mixed feelings. As top-ranking American in the U.N. Secretariat, Mr. Morse will be replacing the late Ralph J. Bunche, though his duties will not be identical with Mr. Bunche's. Many at Turtle Bay and elsewhere will regret that President Nixon did not designate an experienced diplomat for the post.

Another cause for regret at home will be the further depletion of the ranks of liberal internationalist Republicans in the House where Mr. Morse had built an impressive record and twelve years of seniority. The qualities that made him an able and useful member of the House and of its Foreign Affairs Committee will serve Mr. Morse well as Under Secretary General for Political and General Affairs.

Mr. Morse will be joining the Secretariat under the new Secretary General, Kurt Waldheim, who says he wishes to "breathe new life" into the organization. Mr. Waldheim has offered to the People's Republic of China the job of Under Secretary General for Political Affairs and Decolonization and has named the U.N.'s first woman Assistant Secretary General—Mrs. Helvi Sipila of Finland.

With experience, Mr. Morse no doubt will discharge his U.N. duties with distinction but he will be missed on Capitol Hill.

LOS ALAMITOS, CALIF., POLICEMAN OF THE YEAR

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HOSMER. Mr. Speaker, on April 8, I have the privilege of addressing the sixth annual Policeman of the Year banquet in Los Alamitos, Calif. The dinner is being sponsored by Los Alamitos Post 716 of the American Legion.

The winner of this year's award is Detective Tom Hicks, who was selected by his supervisors as the city's outstanding policeman for 1971. Mr. Hicks has been a member of the Los Alamitos Police Department force for 8 years, including the last 3 years as a detective.

His contributions to his community have come not only in the line of duty as a policeman, but for many outside activities as well.

Police Chief Roy Kundtz commends Detective Hicks for many successful undercover narcotics investigations during the past year, including one which resulted in the largest marihuana seizure in the city's history.

Mr. Hicks also is the first aid instructor for all police department employees and reserves, in addition to teaching adult classes to many local citizen groups. His other contributions to Los Alamitos include instigation of a local motorcycle training program and a merchant crime prevention campaign.

He recently received his associate of arts degree in law enforcement from Cerritos College in Norwalk. Mr. Hicks is married and he and his wife, Peggy, have two children.

Mr. Speaker, I would like to add my congratulations to Detective Hicks for his outstanding achievements as a policeman and for bringing new credit to his profession.

And I would also commend the members of American Legion Post 716 for their efforts to bring this much needed public recognition to the hard-working members of the police department. By improving public awareness and appreciation for law enforcement, the job of Detective Hicks and the other men of the Los Alamitos Police Department will be made easier.

IN MEMORIAM: THE WARSAW GHETTO UPRISING

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. CAREY of New York. Mr. Speaker, the date of the 27th of Nisan—April 11—is burned into the heart of Jews everywhere for all time, and, indeed, will never be forgotten by men and women of good will of whatever faith, nationality, or race. Just 29 years ago, with nearly the whole of Europe under the scourge of Hitler, the Jews of the Warsaw Ghetto, faced with cruel death at the hands of a brutish oppression, affirmed with their lives the dignity of human nature and the courage of men, women, and children in the utmost extremity.

The monstrous deeds of Nazi barbarism are written in blood across the pages of history. Foremost among them was the deliberate slaughter—the genocide—of a whole people. As early as 1938 a murderous pogrom gave warning of what was to come. By 1941 far-reaching preparations for the deportation and mass killing of European Jewry began to take shape in the infamous death camps, whose names have become bywords in the annals of inhumanity. Extermination on a vast scale—the "final solution" devised by Hitler for the so-called "Jewish problem"—eventually would claim the lives of some 6 million Jews.

The sheer magnitude of the crime staggers the imagination. The tragedy of an individual human being can be grasped only if we are able to identify personally with it. But it is virtually impossible to comprehend the appalling statistics of the Nazi program and what they meant in terms of human suffering. Seldom, if ever, has human technology lent itself to abuses of such enormity and horror.

There were relatively few instances of resistance, largely due to the incredulity of the victims in the face of Nazi deception and worldwide indifference. Among those instances, the story of the Warsaw Ghetto continues to inspire and sustain Jews and all men as an example of the valor of which human beings are capable.

Jews had settled in Warsaw as early as the 14th century, and, despite intermittent persecutions, had played an honorable part in Polish history. With the coming of the 18th century, larger numbers settled from Russia and adjacent areas. By 1939 some 30 percent of the total population of Warsaw—370,000 souls—were Jewish. The Jewish community of Warsaw became one of the great cultural and religious centers of Jewish life in the Diaspora. Flourishing Yeshivot, seminaries, political and religious associations, Yiddish and Hebrew periodicals and dailies, and the like, all testified to the vitality of that community.

The conquest and partition of Poland in 1938 by German and Soviet armies marked the advent of a new darkness for Polish Jewry in the areas occupied by the Nazis. Jews throughout Warsaw were brutally rounded up and concentrated into a small, sealed off area of the ancient ghetto. Some 433,000 men, women, and children were thus isolated from the life of the city, and subject to cruel abuse designed to break their spirits and bodies alike. Hunger, disease, and a systematic reign of terror gradually reduced the inhabitants of the ghetto by many thousands. In 1942 the "resettlement" deportations began, and in the end some 20,000 people a day were taken away to be killed in an atmosphere of deceit.

Gradually, the spirit of resistance took hold, especially as reports of the death camps began to filter back. In April of 1943 the Jewish Fighting Organization came into being, and the uprising was ready. There are very few battles in the history of mankind to compare with the fantastically unequal struggle that ensued, the last stand of the Warsaw Ghetto. Pitted against the remnants of Warsaw Jewry—some 40,000 emaciated and exhausted people, led by small combat units—were the German Panzer units, the Gestapo, and their collaborationist allies. Nevertheless, the Nazi forces were held at bay for no less than 42 days. Some 5,000 of the enemy perished along with nearly all of the Ghetto resistance forces, except a few who escaped in the terrible carnage of the last days.

The Warsaw Ghetto uprising sent a thrill of hope throughout the Jewish communities of the world. More than an act of despairing martyrdom—though its heroes are rightly honored as martyrs to the Holy Names and to religious freedom—it was an act of affirmation proclaiming the survival of the Jewish people in the face of all their enemies might do. It is so remembered today.

Our commemoration this year has a special significance in light of the conditions which confront the Jews of Soviet Russia in their desire to emigrate. The message of Passover in every age is one of deliverance—of Exodus and freedom from bondage. May it speak with renewed power to the Jews of Russia in their struggle for the right freely to migrate and to dwell in safety in the land of their choosing.

As a Member of Congress and as a deeply concerned American citizen, I pledge my continuing support to every effort in behalf of the oppressed in every land, and I commend the courage, the faith, and the hope which are symbolized for Jews and for all men in the deathless story of the Warsaw Ghetto. God grant that never again may such inhumanity stain the pages of history. To that end may we all work and pray as brothers of a common Father.

CLUB AMERICANA VISITS IRELAND

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. WHALEN. Mr. Speaker, as they have for the past 2 years, some 200 members of Club Americana recently toured the Republic of Ireland. Their trip was another in a series of club-sponsored excursions to foster unofficial diplomacy.

While in Ireland, the group marched in Dublin's St. Patrick's Day parade. More importantly, the club members met with the Lord Mayor of Cork, Councillor O'Sullivan, and city officials in Limerick, Waterford, and Dublin. Through such meetings, Club Americana endeavors to harness our "people power" into a force for peace and understanding in our country and throughout the world. During their travels abroad, efforts also are made to arrange visits in homes of private citizens. Another commendable activity of the club is to maintain a scholarship fund for students in all parts of the globe who compete in an essay contest on the subject of "How can all nations live peacefully together?"

Mr. Speaker, Club Americana, which is comprised of private citizens from the Washington area, was organized and is directed by Robert J. Flynn whose son, Carey, graduated from Capitol Page School in 1966. One of the active members of the club is my administrative assistant, Alfred Swift Frank, Jr. Mr. Frank, at my suggestion, drafted a summary of the impressions which he gained during the club's latest visit to Ireland. In view of the present situation in that country, I believe his remarks will be of great interest to my colleagues and to the readers of the RECORD:

STATEMENT OF ALFRED S. FRANK, JR.

Upon landing in Shannon and planting the feet on the "old sod", the traveller is almost immediately struck by the total preoccupation of the people with "the troubles in the north." Thus, after the first few words of conversation, the native Irishman will invariably introduce the subject. "What do you think of the IRA?" "Do you think your country will get involved?" "Do you think we can ever have a united Ireland?" And so on. Moreover, it is not simply a matter of a typically friendly Irishman with his penchant for conversation and political talk. In some cases, they are seeking, albeit probably in vain, for specific answers or solutions. In others, they are espousing a firmly held conviction or belief. But whatever the specific motivation or interest of each individual, it is all too forcefully indicative of the seriousness of the latest convulsions in Ireland's long and stormy history of political, economic, and religious divisions and antagonism.

It is obvious that the Republic of Ireland has quite literally been shaken to its very roots by the recent tragic episodes of violence in Derry and Belfast. What is far from obvious, however, is any agreement or consensus as to a solution to the whole problem. Few in the Republic would argue against the concept of a united Ireland. However, opinions as to how it could come about range from civil war, if the situation should continue to deteriorate, to some kind of a negotiated, political unification possibly growing out of the EEC, should Ireland become part of the Common Market (a lively topic of conversation in itself). Many recognize, nevertheless, the economic burdens which would be placed on the Republic by unification at this time.

And so, after a week of virtual saturation from both public and press, the visitor is left with the seemingly unanswerable questions. What if anything can the Lynch government do (if, indeed, it should or could take any initiative)? Is there any way under a coalition, provincial government in Stormont that peace could be maintained, given the existing social and religious divisions there? Was there any alternative to the long awaited (but by no means universally expected) action by the Heath government at Westminster? Will the latter initiative result irreconcilable backlash by the Ulster Protestant radical faction (such as William Craig's Vanguard movement)? Or, on the other hand, would unification result in repression by the large Catholic majority in the south?

A recent poll taken in the North found that a majority of Catholics and nearly half of the Protestants in Ulster have said that they would accept a restructured Stormont parliament and a community government including Catholic ministers of cabinet rank. It would seem that the Heath plan is in line with this thinking.

Nevertheless, American travelers can now only perceive a deep sense of frustration and share with his Irish "cousin" a fervent, if perhaps distant, hope for a united and peaceful Ireland.

SCRAP THE SPACE SHUTTLE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, Congress is charged with the task of establishing the priorities for the Nation. Whatever advice we receive from elsewhere, in the final analysis, it is Congress who must act. We are now facing a significant decision in this respect with regard to a portion of the NASA program.

The space transport system—the so-called space shuttle—requires $200 million for fiscal year 1973. This is only a small portion of the total of $1.581 billion for the manned space flight funding. Total cost for the space shuttle, NASA assures Congress, will be $5.15 billion.

This budget request—indeed the entire concept of the program itself—needs to be looked at with extreme care by the Congress.

Continued exploration of space is needed. But the space shuttle is of marginal utility at best. A number of outstanding space scientists question its value. Further, NASA's assertions of "economy" need examination. This is a make-work project geared to keep a manned space flight program in operation and NASA knows it.

Congress must redirect the Nation's priorities away from this kind of make-work project that will cost the taxpayers billions for the primary benefit of an ailing space industry. It is a billion dollar bonanza for a favored few. It is clear that NASA is expecting a green light on this program. But there are other, more pressing needs. The priorities of our Nation need a redirection away from marginal programs of this kind.

The billions and billions of dollars that are going to be needed for this gold-plated gimmick in the next 10 years will saddle the taxpayer with unwanted and wasteful debt.

Nevertheless a slick and persuasive sales pitch by NASA seeks to convince Congress that the space shuttle is vital to "assure that the United States will have a continuing effective presence in space. Without it there would be no U.S. manned space flights after the Apollo and Skylab missions." After all the rhetoric is peeled away, the rationale for the space shuttle is really for continuing a manned space program.

Outstanding scientists—a number of whom have been associated with NASA in the past—affirm that the continued presence of man in space is simply not needed. Exploration and analysis can be conducted more efficiently with a great deal less cost using modern means of instrumentation. Man in space is an expensive luxury that NASA continues to justify in cold war terms as a space competition. This simply makes no sense.

Manned space applications will end with the Apollo and Skylab programs. There is no genuine justification to perpetuate manned space exploration through an expensive proposition like the space shuttle.

We are assured by NASA, of course, that the space shuttle is "economical" and "will reduce the cost of space operations substantially." Many critics, however, contend with good reason that the shuttle program is an expensive and wasteful venture. In fact, it has been exceedingly difficult to determine from NASA in the past exactly what this program will cost.

In their recent testimony before the several committees dealing with the space program, however, NASA now affirms that "This year we can give clear answers." Cost estimates nonetheless are still cloudy and uncertain. The taxpayer can be forgiven if he doubts the validity of future budgets; he knows from past experience that these figures seldom hold up.

The so-called economy to be derived from the space shuttle hinges on the "frequency of use" for the space shuttle and the promised savings of a billion dollars a year are similarly predicated on application a decade hence.

The real reason for the space shuttle is to keep a vast army of space technicians employed. Everyone realizes that aerospace is a sick industry. But a billion dollar bail-out is not the answer. A make-work boondoggle stretching over 10 years will merely put off the problem for 10 years while billions of tax dollars are sacrificed for a prestige item.

Make no mistake, special interest and big lobby groups are going to attempt to sell the American public on this project. Heavily-financed pressure groups and opinionmakers are behind this effort. But it is the American public who will have to pay out billions of hard-earned tax dollars.

We are at a critical crossroad. This is the year of decision—for Congress and the American people.

A green light to go ahead now will in effect give us 10 years of a program to produce an unneeded shuttle for a space transportation system.

The persistent and persuasive selling of this product by NASA is calculated to promote the space shuttle into a gigantic space boondoggle. The American people have a right to know what this newest space activity is going to cost and why. Costs will not stop at $200 million and they are likely to spiral far above the $5.15 billion now estimated. This modest beginning of funds is just the nose of the camel in the tent. These budget requests need to be looked at with extreme care by the Congress.

Before this program slips by Congress, let us bring forward all the facts and information available. On-going programs have been pared and redirected in an effort to give emphasis to the space shuttle. These curtailments came about, NASA now tells us, because these programs received less than wholehearted support from some in the scientific community. The space shuttle has been roundly criticized by a number of outstanding scientists.

In addition, NASA does not claim the primacy of economics that it once did, since that argument has been effectively beaten down. Now NASA claims that it will save money, but the total savings made possible by the shuttle depend on its frequency of use. In the projections for use the military is supposed to be one of the biggest customers. If this is a project so urgently needed maybe some means ought to be worked out to let the military budget assume a significant portion of the cost.

It is time to take a hard, cold look at this entire program—its costs and missions—and decide if we really want to burden the American taxpayer with billions of dollars of additional debt for a fancy space gimmick.

All that I am seeking is a thorough hearing for this program. So far, trying to pin down NASA on costs and details and the total concepts and implications of this program has been like trying to nail jelly to a tree.

In his "Tale of a Tub," Jonathan Swift, a satiric observer of man's folly, wrote "it is manifest what mighty advantages fiction has over truth." Truth, to have opportunity to prevail, must be told. When the American people learn the truths about the space shuttle I am firmly convinced that Congress will act to end this latest folly and get on with the real priorities of the Nation.

NLRB ATTACK ON UNITED FARM WORKERS UNJUSTIFIED

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BINGHAM. Mr. Speaker, on April 6, the National Labor Relations Board is scheduled to appear in court in Fresno, Calif., in support of a complaint which it filed against the United Farm Workers seeking to enjoin the secondary boycott activities of the UFW. The Board's decision is an abrupt reversal of a longstanding policy that it regards the farmworkers' organization as outside the coverage of the National Labor Relations Act and, therefore, not subject to the secondary boycott provisions—section 8 (b)(4)—added by the Taft-Hartley Act.

In my estimation there has been no change of circumstances to warrant any interference whatsoever in the activities of the UFW by the NLRB. As long as the Board maintains that farmworkers are not covered by the provisions of the Labor Act which protect workers and assists unions, it should not arbitrarily adopt a position which applies a provision of the act designed to curtail union activities.

NEW INFORMATION IN THE DEBATE OVER PSYCHOSURGERY

HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GALLAGHER. Mr. Speaker, on February 24, 1972, I inserted into the CONGRESSIONAL RECORD a long descriptive article by Dr. Peter R. Breggin entitled "The Return of Lobotomy and Psychosurgery." That article had not been published before and it triggered an intense nationwide debate over the resurgence of brain mutilation as a surgical technique. Dr. Breggin exposed the return of irreversible operations which most laymen, and many medical men as well, assumed had been deservedly cast into the trashbin of history. His original article was well written, extensively researched and, in my layman's view, presented solid fact, justified opinion, and sensible courses of action.

As I learned during the 7 years I headed the Privacy Subcommittee of the House Committee on Government Operations, however, any time an existing technology is criticized—even by someone as qualified as Dr. Breggin—the advocates of the procedure are never hesitant to claim that each of the criticisms had already been evaluated and all that concerned members of society need do is to relax and let the experts continue in the unimpeded exercise of their own judgment. This happened when I initiated congressional consideration of the credit bureau industry, when I held pioneering hearings into the computer and invasion of privacy, and most particularly when I questioned the use of behavior modification drugs—most often the amphetamines—on grammar schoolchildren who were thought to suffer from the ill-defined, perhaps indefinable, malady known as minimal brain dysfunction.

Predictably, Mr. Speaker, exactly this same closing of the professional ranks has now occurred in response to Dr. Breggin's questioning of the assumptions underlying the new use of mutilating healthy brain tissue in an attempt to control behavior that deviates from someone's version of normal. Dr. Breggin has prepared a response to his critics which, as in the case of his first article, has not been published before and is copyrighted.

The Washington Star's prize-winning, columnist, Judith Randal, wrote a very interesting column which appeared March 2, 1972, based on Dr. Breggin's earlier disclosures. She asks a very important question:

> Is there any length to which society will not go to suppress behavior it considers deviant?

If there is not to be a permanently negative response to her question, the Congress must do more to understand and, hopefully, control the behavior of the practitioners, in dozens of disciplines, of the "technology of behavior," to employ Harvard Prof. B. F. Skinner's particularly repugnant phrase.

Mr. Speaker, as a means to further emphasize the seriousness with which I view Judith Randal's question, I insert her article from the Washington Star of March 2, 1972 and Dr. Peter Breggin's unpublished, copyrighted article "Psychosurgery for the Control of Violence" into the RECORD at this point:

PSYCHOSURGERY TREND ALARMING

(By Judith Randal)

Is there any length to which society will not go to suppress behavior it considers deviant?

The question is raised by a 20,000-word report on brain surgery inserted into the Congressional Record last week by Rep. Cornelius E. Gallagher, D-N.J. Written by Dr. Peter R. Breggin, a Washington psychiatrist, after almost a year's research, it documents in chilling detail what surgical intervention for psychological purposes portends.

At the University of Mississippi School of Medicine, for instance, Dr. Orlando J. Andy, working with a psychologist, has operated on several dozen people, most of them children. Some were only 5 years old.

According to letters written by the pair to Breggin, "these are not psychiatric cases, but behavioral problems." Furthermore, the goal seems to have been less the welfare of the children than to "reduce their hyperactivity to levels manageable by the parents."

What this may entail is illustrated by a boy whom Andy calls J. M. Nine years old at the time of his first operation, in 1966, the child has had three others since because his short-temper, aggression and other symptoms recurred after initial periods of "improvement."

At last report he was "manageable," which should at least spare him further surgery. But in that 1970 account, Andy notes: "Intellectually, however, the patient is deteriorating." Since the effects of psychosurgery are permanent, there will be no turning back.

It would be bad enough if such mutilation were confined to Mississippi. Unfortunately, it is not. Lobotomy—the procedure which ironically won Portuguese neurologist Antonio C.A.F.E. Moniz a Nobel prize—was replaced by electro shock and drugs as a treatment for the insane in the late 1950s. Now, however, it is experiencing a worldwide comeback, both in its original form and with refinements that reflect recent progress in medical technology. And this time, it is not only the schizophrenics whose brains are under siege.

Breggin has found, indeed, that most of the targets are people with "anxiety-tension states" and "obsession syndromes," particularly individuals of "good intelligence and personality." A disproportionate number of them are, he says, women and children, rebellious adolescents and, in a few cases—notably in California—prisoners whom authorities have found troublesome.

In fact, anyone who rubs his family or society the wrong way is apparently at risk.

In Texas, it has been drug addicts and alcoholics; in Canada, individuals who become "intractable" with age; in Britain, people with a pathologic fear of open spaces, and homosexuals; in Germany, sexual deviants, too.

Even chronic gamblers are in peril. Hauled into court for stealing money to meet his gaming debts, one Englishman was offered a choice between "voluntary" surgery and imprisonment. It is not hard to imagine that this could happen to political radicals as well.

An "old-fashioned" lobotomy involves deliberate destruction by scalpel of a portion of the brain's frontal lobes that is not by objective criteria diseased. More recently, however, other brain structures just as crucial to the personality have also been attacked and radium seeds, ultrasound, injections of olive oil or implanted electrodes have sometimes replaced the knife.

No matter how done, however, the operations have a uniform purpose: The "taming" of an uruly spirit that if not cowed by one procedure can always be blunted by the next. Thus, while these advances have the advantage of greater surgical ease and safety, their very simplicity makes them disturbingly attractive as tools for the mass application of mind control.

For the would-be despot—be he politician, prison warden, mental hospital superintendent, law enforcement official, bigot or simply family tyrant—psychosurgery is a dream come true.

Take the case of a woman with a long history of depression. So angered was she by what had been done to her in two operations insisted on by her mother that she refused to undergo a third and, let out of Boston City Hospital to go shopping took a fatal dose of poison. Yet instead of interpreting her suicide as understandably symbolic of vengeance, her doctors described her behavior as "paranoid" and were "gratified" that her apathy had lifted to the point where she could act.

The last time psychosurgery was in fashion some 50,000 Americans underwent this assault on their inmost beings and virtually every state hospital still harbors pitiful remnants of the results. Among the nations of the world, Russia alone has taken legal steps to see that it will not happen again. If the public cares about the rights of the individual guaranteed by the Constitution, it will demand that the United States do so, too.

[Copyright 1972 by Peter Breggin]

PSYCHOSURGERY FOR THE CONTROL OF VIOLENCE—INCLUDING A CRITICAL EXAMINATION OF THE WORK OF VERNON MARK AND FRANK ERVIN

(By Peter Roger Breggin, M.D.)

(NOTE.—Peter R. Breggin, M.D. is a practicing psychiatrist and faculty member of the Washington School of Psychiatry. He was trained at Harvard College, Case Western Reserve Medical School, The New York Upstate Medical Center in Syracuse and the Massachusetts Mental Health Center, where he was a Teaching Fellow at Harvard Medical School. Before going into private practice he was a fulltime consultant to the National Institute of Mental Health. He is the author of a variety cf scientific papers and two novels, as well as co-author of a book on the rehabilitation of state mental hospital patients.)

Recent statements by lobotomists and psychosurgeons have appeared in the press and on television to the effect that lobotomy has been replaced by newer methods. Other reports say that psychosurgery is carried out under carefully controlled conditions and that it is based upon careful scientific methodology. Several other psychosurgeons have tried to give the impression that the technique is limited to individuals with brain damage, epilepsy and violence. All these statements are false.

In the Congressional Record of February 24th, I describe in detail the return of lobotomy and psychosurgery as a treatment for psychiatric disorders in which the patient suffers from neither brain disease nor epilepsy. In the entire study involving nearly 100 papers and 1,000 recent cases in America, none of the psychosurgeons were operating on individuals with brain disease and none were basing their work on the treatment of epilepsy. In fact, only one project in America is dealing with this combination of brain disease, epilepsy and violence, and I did not discuss it in the first review in the *Record*. But the recent publicity necessitates an examination of this work by Mark and Ervin.

Concerning the self-resistraint and scientific orientation of lobotomists and psychosurgeons, in the several hundred published articles by lobotomists and psychosurgeons, there are few if any that qualify as "scientific." The matched control group is the acme of the scientific method, and there are *no* such studies in the entire psychosurgical literature, except for three follow-up studies which showed that the surgery was no help and tended to produce severe side-effects, including lethargy, loss of interest in the world and intellectual deterioration (79, 94 and 121. See also 33, 81, 84 for descriptions of brain damage in follow-up studies.)

Concerning the self-restraint of psychosurgeons, the situation has changed little since the Group for the Advancement of Psychiatry published a report condemning psychosurgery as a method whose promoters exaggerated its good effects while denying its mutilating effects upon the personality. The Group for the Advancement of Psychiatry advocated scientific research and careful controls and warned the psychosurgeons to limit their work and their claims. None of this has taken place. Mark and Ervin are the only group who have described a board whose duty it is to review pre-surgical candidates. But their board is concerned with certifying the presence of epilepsy, and cannot stop them from doing psychosurgery on their epileptics. In general, there are no controls on the activities of surgeons, and in several centers, disheartened psychiatrists have been unable to stop the activities of psychosurgeons against whom they have strong feelings. In one medical center I have contacted, the Department Chairman in Psychiatry did not know that the Department Chairman in Neurosurgery was active in psychosurgery. So much for self-supervision and restraint!

Because Mark and Ervin have received considerable publicity for their work on epileptics with violence, it is important to emphasize that this is the only psychosurgical group in the country specifically tying their work to a theory of epilepsy and violence. All the others are operating on patients without known brain disease and without any epileptic cause for their violence. In fact, as I describe in the Record, the majority of patients operated on in America are women with neurotic problems!

But the publicity given to Mark and Ervin in response to my disclosures in the Record necessitates a thorough examination of their work in this study. Limited as it is, it also offers unique political dangers which also require analysis. As I will try to show, they are simply performing a psychosurgical operation on violent people who also happen to have epilepsy.

Since the publication of the Record study, a new interest in psychosurgery for the control of violence has become apparent. Vernon Mark and Frank Ervin have drawn particular attention to brain surgery as a means of political control in their recent book, Violence and the Brain, and in still more recent statements to the media. The President of the new International Association for Psychosurgery, William Scoville of Yale and Hartford, has also advocated the use of psychosurgery for psychopaths in Arthur Winter's new book, The Surgical Control of Behavior.

M. Hunter Brown has also advocated and described psychosurgery for psychopaths in recent publictions and at the March 9–11 Houston Conference (89). O. J. Andy in Mississippi has operated on adolescents with criminal records and on little children as young as age five who demonstrate aggression and hostility. Aarons in the Washington Post has disclosed the use of brain surgery on violent inmates in the California prison system, as well as proposed plans to expand this program. In addition, Judy Randal of the Washington Star has reported that Frank Lorimer of the Illinois Prison system is advocating a similar program (131).

Closely related to this "law and order" orientation, Fields has recently unearthed the use of psychosurgery on heroin addicts in Philadelphia. Experimental work on psychosurgery for addiction has also been carried out in Philadelphia with much publicity but with no scientific reports (92).

The political dangers of psychosurgery for violence will be discussed in the conclusion of this study, but here it is necessary to point out that the psychosurgeons themselves have been advocating their approach for wide scale social control. Mark and Ervin and Sweet in 1967 remarked that the Detroit riots could not have been caused by political conditions alone. Based on no evidence whatsoever, they conclude that violent protesters may have had brain disease, and they advocate large scale screening and treatment. In their book in 1970 they elaborate upon their use of electrical methods of screening and control and even take it on themselves to describe what is "unacceptable violence" in both the personal and political arena. They imply that 5–10% of Americans have brain disease that may require treatment! Their work has obvious "law and order" appeal, and it is no surprise that they are supported in part by more than $100,000 from the Justice Department, Law Enforcement Assistance Administration (134).

Sweet, Mark and Ervin are not alone in their interest in political applications of psychosurgery. In a recent popular paperback, Delgado of Yale has advocated "physical control of the mind," including psychosurgery, for the control of domestic and international violence in the political sphere. He wants the United States to begin a billion dollar program for physical control of the mind, complete with mass education, public school projects and research into psychosurgery.

As we shall see in this review, psychosurgery has a long and awesome history as a means of social control, and it is being resurrected for this purpose within our institutions and within the society at large.

It is no exaggeration to say that we are in danger of a massive use of psychosurgery to intimidate and control our population.

DEFINITION OF PSYCHOSURGERY

Psychosurgery is any surgery which mutilates or destroys brain tissue to control the emotions or behavior without treating a known brain disease. In 99% of the cases, the brain surgery will actually attack normal tissue. In a few cases, some brain disease will be present, but in these instances, the brain disease will have nothing in particular to do with the symptoms which the surgery is attacking. Thus, psychosurgery is a pacifying operation which blunts the emotions and subdues behavior regardless of the presence or absence of any brain disease or any particular psychiatric problem. It is simply a mutilating operation whose effect is to destroy the individual's ability to respond emotionally.

Lobotomy, or destruction of a portion of the frontal lobes, is the original psychosurgical operation. It is still in use, as recent books by Kalinowsky and Winter demonstrate. Lobotomy directly impairs the highest human centers for creativity, empathy, understanding, abstract reasoning and future planning. The original lobotomy operations left the patients in a state approaching vegetation.

Newer operations attack the brain lower down in the "limbic system." The lower down the operation, as Scoville says, the less intellectual damage and the more emotional blunting. The basic pacification is the same, and when the operation is repeated several times, as in studies by Mark and by Andy, intellectual damage is also obvious. Since the parts of the brain attacked are all interrelated, a generalized damage to the personality must always follow the surgery.

I. The First Major Studies in Lobotomy

The history of lobotomy is rooted in the problems within massive state custodial institutions. The very first recorded lobotomy was done by Burckhardt in Switzerland for the specific purpose of taming some difficult patients under his care. That was in the 1890's and the outcry against these brain mutilations was so great that it was not attempted again on a significant scale until Egas Moniz, John Fulton and Walter Freeman met at a conference in 1936 and observed the effects of lobotomy on two monkeys and a man. All three subjects had become somewhat demented, passive and untroubled by any degree of frustration. Within one year, Moniz had begun operating on mental hospital inmates in Portugal. His career was cut short, however, when the state hospital psychiatric director refused to let him operate any more and when a patient maimed him with five pistol shots. Moniz did live long enough to get the Nobel Prize for his efforts, but it was left to Walter Freeman to promote his work and to operate upon 4,000 Americans over two decades.

Freeman, too, had his problems. While humanist William Allanson White was superintendent at St. Elizabeth's, Freeman was barred from operating at the largest institution in his home city, Washington, D.C. (41). Freeman also spoke openly about censure he met from his neurosurgical colleagues who believed that a psychiatrist should not be permitted to do major brain surgery (1950, 1971.) And he, too, met resistance from some of his patients, two of whom pulled guns during pre-lobotomy interviews (38).

Freeman describes in *Psychosurgery* (1950) how his very first patient fought for her life prior to surgery.

"Who is that man? What does he want here? What's he going to do to me? Tell him to go away. Oh, I don't want to see him." Then she cried out, writhing about in bed so that the nurse was scarcely able to control her sufficiently to administer avertin by rectum.

After surgery the patient becomes docile, and the first question Freeman puts to her says a great deal about lobotomy:

Q. Are you content to stay here?
A. Yes.
Q. Do you have any of your old fears?
A. No.
Q. What were you afraid of?
A. I don't know. I seem to forget. p. xix.

Freeman describes another patient who is operated upon under local anesthesia so that he can report on what is happening to him. The patient screams, "O Gee whiz, I'm dying. O doctor. Please stop. O, God."

Freeman orders the patient to sing God Bless America, and then describes how the patient becomes more disoriented and passive with each "stab" into his brain.

Freeman also describes "a negress of gigantic proportions who for years was confined to a strong room at St. Elizabeth's Hospital." It takes five attendants to drag her to the operating room, but she immediately becomes passive after the surgery. The attendants are still afraid of her "300 lbs of ferocious humanity," so Freeman puts on demonstrations of her docility:

"Yet from the day after operation (and we demonstrated this repeatedly to the timorous ward personnel) we could playfully grab Oretha by the throat, twist her arm, tickle her in the ribs and slap her behind without eliciting anything more than a wide grin or a hoarse chuckle. pp. 406–7.

Freeman makes clear that the brain damage is responsible for this docility. He advocates giving two or three electroshocks to knock difficult patients into unconsciousness, disrupting their brain patterns before the final surgical disruption. He uses this electroshock technique on both the adults and the young children upon whom he performed single and multiple lobotomies.

One six year old child is a difficult behavior problem for her mother, and so she is subjected to electroshock and two "radical" (large mutilations) lobotomies. After the first one, "she returned to her habit of smashing toys." After the second extensive raking of her frontal lobes, she still has a great many problems. When seen at home, "she was quite withdrawn but less troublesome." When she is seen several years later, "In spite of her increased speed and strength, she can be more easily managed at home, is beginning to put sentences together and the impulsive, destructive behavior is subsiding." p. 444.

Writing in 1965, Freeman observes that there's no sense operating on a patient once the ward notes read "Gives no trouble on the ward." And in one of his few direct observations on the problem of law and order, he notes in the American Handbook of Psychiatry, "lobotomized patients seldom come into conflict with the law precisely because they lack the imagination to think up new deviltries and the energy to perpetrate them."

In 1971, Freeman is again advocating psychosurgery with pride in its usefulness within large custodial institutions: "it proved to be the ideal operation for use in crowded state mental hospitals with a shortage of everything except patients."

The political pacification implications of Freeman's work has largely been ignored by Freeman and by critics, but they stand out in his summary of ideal surgical candidates in his textbook, Psychosurgery. He is obviously describing a levelling operation that controls oppressed and discarded elements of the society when he lists the following four top criteria for psychosurgical candidates: age: older; sex: female; race: black; and occupational role: the "simpler" ones. The Negro female—remember Oretha?—is described as his best patient. p. 515.

Again publishing and lecturing, and new Honorary President, The International Association for Psychosurgery, Walter Freeman is a significant figure in the revival of lobotomy and psychosurgery.

Freeman's anecodotal style is complemented fully by the more scientific style of the second great classic of the lobotomy literature, Studies in Lobotomy, by Greenblatt, Arnot and Solomon, from the mecca of psychiatry at the old Boston Psychopathic Hospital, now the Massachusetts Mental Health Center, the main Harvard teaching facility. In a study of more than 200 of 500 lobotomized patients, Solomon starts off by lauding the work as "adding to the total joy of living" of their patients. But the psychologist's report, tucked away in a chapter no larger than the one on urinary problems, describes the patients as "slap-happy" from brain damage, many of them suffering from a downhill course of deterioration brain damage. They cannot focus on their tasks and suffer from a cardinal sign of brain damage, "concrete thinking," or the inability to think abstractly. But in the conclusion to the study, Greenblatt gainsays the psychologist's report. He says outright that there's nothing necessarily wrong with "concreteness," and points out that "fewer variables concern the patient, less attention is given to the future, and the patient attends better to mundane realities." p. 469.

Brain damaged patients make good inmates!

Furthermore, after lobotomy they can at last be made to work in the demeaning jobs available within the hospital, so that "the hospital plant can be run more economically." Also, "It is gratifying to know that they are apparently more comfortable and less troublesome within the hospital." pp. 136–137.

Some patients even get out of the hospital, but almost invariably they are women who can function as brain damaged housekeepers, "because of the devotion of the spouse, or because they have shown some improvement mentally and were partially able to perform household duties." p. 162. But the husbands don't agree with this improvement, and they find that these brain damaged people "cripple the group activities and spoil the freedom and happiness of the entire family." p. 173. Besides, it is openly admitted that more wives than husbands return home because it doesn't take much "for a wife to keep house." p. 161. Wives apparently make good inmates, even at home. Five men in the entire study are able to return home, but a scanning of the book turns up some disastrous results even in these best cases. "Even though her husband was supporting her and her children," the authors lament, one woman still declared, "I wouldn't sign permission for lobotomy on a dog." p. 162. The authors seem to complain, "even if the dog was supporting you?" Another of these five men is lethargic around the house and terrorizes the wife with his surgically induced convulsions, while another is so bad to his children, his wife declares "It would be better off for all of us if he were dead." p. 152–153.

In only three instances did patients become less dependent on their families after lobotomy. p. 169.

As a pacifying operation, lobotomy at best produced docile inmates in and out of the hospital.

II. Current Lobotomy and Psychosurgery Studies

Pacification is equally apparent in the newer forms of lobotomy and psychosurgery. In his recent text, Kalinowsky describes modern lobotomy patients as sometimes blunted and subdued, often with shallow feelings and impaired sense of self. In his articles and his recent contribution to Winter's book, Scoville speaks of lobotomy as a "blunting operation," and he includes all the newer forms of psychosurgery as "partial" lobotomies which dull the personality. Arthur Winter, writing with Leo Shatin, says that psychosurgical patients become "more placid—sometimes passive."

Operations aimed below the frontal lobes at the remainder of the limbic system produce the same effects, perhaps with less intellectual damage. Turner talks about the cingulotomy as the operation of choice for "intractable and uncontrollable aggression," independent of any brain disease. He recommends combining cingulotomy with frontal lobotomy and temporal lobotomy in people with rage, fear and depression—a kind of cranial clean out.

Roeder describes the "cure" of a sexual deviant whose potency is weakened and who can no longer indulge in erotic fantasies after hypothalamotomy. Sano shows how the same operation will tame aggressive and hyperactive children as young as age four. His best case, recorded in the literature and read as his one illustration at a recent conference he and I both attended:

"Emotional and personality changes: the patient became markedly calm, passive and tractable, showing decreased spontaneity."

Sano calls it "sedative surgery."

Vernon Mark, Frank Ervin and their colleagues (1970) have also operated on the thalamus, in this instance upon a woman with "chronic intractable agitated depression." This is frank, undisguised psychosurgery, for there is no pre-operative indication that the woman has any brain disease whatsoever. This is the most detailed clinical case in the entire current psychosurgical literature, and it is particularly interesting because the physicians consider it a "gratifying" example of the efficacy of psychosurgery—even though the patient became enraged at her doctors, refused further surgery, and finally killed herself the moment she began to recover from the surgery 40 days after the operation. The authors state that the suicide was further evidence that she was getting better—well enough to act upon her underlying depression—although the dynamics of her suicide seem grossly apparent and merit some description.

The authors admit that the patient and her mother are "frankly antagonistic to each other," and they describe her mother as "rigid, insensitive, and dominating." But they do not comment on their observation that the mother, along with the patient, "insisted that something be done." Nor do they comment on the fact that the patient brought the poison into the hospital with her prior to surgery, a poison her deceased father had told her about "in case she ever needed it."

She is operated on with heat coagulation of her anterior thalamus in an area in which when stimulated caused the patient to look "drawn" and to cry out "Don't do that; don't do that!" After this coagulation, she shows gross brain damage: an acute brain syndrome marked by "confusion," "severe" recent memory loss and moods swings "from near euphoria to severe depression." Soon she responded to a confrontation with her neurosurgeon "with bristling hostility, and her anger spread to others including the psychiatrist."

Her mood swings remain unpredictable and she is operated on a second time by means of her indwelling electrode. After surgery, she continues to be hostile and the authors tell us she is "definitely paranoid." She refuses further surgery and even refuses to see her neurosurgeon ever again. She expressed "wishes that someone might 'cut her throat.'"

She continues to suffer from obvious symptoms of severe post-operative brain damage. Her recent memory is "quite impaired," as well as her remote memory; she has periods of "confusion," cannot find her way around, cannot recall names and suffers wide mood swings. When she is in a high period, clearly associated with a brain damage induced euphoria, the authors blithely quote the mother—this hostile, dominating mother—as saying "she is her old self again!"

In December, forty days after surgery, she is finally recovering from the trauma sufficiently to become "concerned with reality problems." Her "spirits are good" and she seems to be improving, and she is given a pass to go shopping on the forty-fourth day after surgery. She goes to a phone booth, calls her mother to say "goodbye," and kills herself with the poison she had stashed away four months earlier.

To me the clinical course speaks for itself: rage at her neurosurgeon and her psychiatrist, rage at her mother who brought her in for surgery, persistent signs of brain damage, and suicide the first few days that her confusional state begins to clear.

Orlando J. Andy at the University of Mississippi has been pacifying so-called hyperactive children with a variety of operations, including thalamotomies. He writes to me that he's operated on thirty to forty patients, the majority children, many of the others adolescents, some with criminal records. In operating on children, his avowed purpose is to control their aggressivity and to make them more manageable. In one case, he operates upon a nine year old boy of normal intelligence, and after six operations and signs of gross brain damage, he becomes "adjusted." "Intellectually, however, the patient is deteriorating," Andy lets us know in 1970.

Amygdalotomy is the pacification operation par excellance and we need to look at it more closely. The amygdala is an almond sized nerve center on the inner side of the temporal lobe. Envisioning the brain as a boxing glove with two thumbs, the fingers are the frontal lobe, and the thumbs are the temporal lobes, with the amygdala in the crease between the thumb and fingers, somewhat beneath the surface of the thumb.

Anatomically it has connections to the basic structures of the limbic system, including the frontal lobes via the thalamus, and the hypothalamus as well. It is an important moderator and switchboard for the entire limbic system and hence for all emotions and drives, and even for all higher level activities through its connections to the frontal lobes. Destroying it to cure one "symptom" such as violence makes no more sense than bombing a railway center to stop one passenger on one train. The symptom may be knocked out, but many other tracks and greater numbers of humanity will be brought to a halt.

Now let us examine the specific form of psychosurgery called amygdalotomy, the method which has received so much publicity in the hands of Mark and Ervin who claim they are treating violence associated with psychomotor epilepsy. This is the same surgery which has already been used on prisoners in California.

There are dozens of animal studies which indicate that amygdalotomy pacifies the animal in the absence of any brain disease or mental illness. Now Kling has shown that while the chimp makes a good inmate after amygdalotomy (but a poor learner), once the chimp is let out into the monkey tribe, he cannot survive. He is isolated and sometimes withdraws and dies. Mark and Ervin themselves describe in their book how amygdalotomy will pacify an aggressive or a frightened animal, making it tractable and easy to handle They also acknowledge in passing that amygdalotomy has been used to pacify human beings in the same manner. Furthermore, of the four cases described in detail in their book, the first three are suffering from violence which clearly has no relation to their epilepsy. They are cured of their violence without curing their epilepsy, further evidence of the psychosurgical pacification which they are inducing in their patients.

There is also a great deal of literature demonstrating that amygdalotomy pacifies human beings of every age regardless of the presence or absence of any brain disease or any particular mental illness.

Balasubramaniam is probably the most experienced surgeon in the world when it comes to amygdalotomies. His basic theoretical paper is entitled "Sedative Neurosurgery," and he states "Sedative neurosurgery is the term applied to that aspect of neurosurgery where a patient is made quiet and manageable by an operation." He most frequently operates on "hyperactive children" whom he describes as "restless."

Writing in July 1970 in International Surgery, Balasubramaniam summarizes his results on 115 patients, 3 of them under age five and another 36 under age eleven. He produces this result with his amygdalotomies and occasional hypothalamotomies:

"The improvement that occurs has been remarkable. In one case a patient had been assaulting his colleagues and the ward doctors; after the operation he became a helpful addition to the ward staff and looked after other patients. In one case the patient became quiet, bashful and was a model of good behavior."

He sums up his own work: "This operation has proved to be useful in the management of patients who previously could not be managed by any other means."

In Japan, Narabayashi and Uno report on a follow-up of 27 children ages five to thirteen who have had amygdalotomies. Again the non-specific pacifying effect is apparent. They operate on children characterized by unsteadiness, hyperactive behavior disorders and poor concentration rather than violent behavior; it was difficult to keep them interested in one object or a certain situation.

In five of their many cases, this is the best result they achieved:

(they) have reached the degree of satisfactory obedience and constant, steady mood, which enabled the children to stay in their social environment, such as kindergarten or school for the feebleminded.

Chitanondh has also performed amygdalotomies on a wide variety of patients, but his scientific justification is somewhat more specific. He operates on individuals who have a problem involving their sense of smell on the grounds that the amygdala is particularly involved in the olefactory system. In one case, his pacification is particularly apparent, as he operates on a nine year old boy who is involved in a struggle with his parents. They lock him up in his room but he runs away to "smell engine oil" in parked cars.

In a number of the studies we have reviewed, multiple and combined operations have been used to achieve at least the proper degree of pacification. The amygdalotomy is growing in popularity now, particularly abroad, and so this operation is sometimes superimposed upon other psychosurgical operations when pacification has not been achieved. At times the amygdalotomy may simply be the last straw, but at other times it may indeed suggest a more potent effect toward pacification. But since psychosurgeons never perform controlled studies (never! not in the entire literature is there a matched control group study!) it is difficult to differentiate the pacification effect achieved by multiple operations versus amygdalotomy by itself.

Two studies indicate this problem, as well as illustrate the generalized principle that we are dealing with pacification rather than treatment of any one syndrome.

First, Vaernet reports on 12 schizophrenic patients in whom aggressive and destructive behavior was a prominent feature. Five of the patients had been unsuccessfully pacified with prior lobotomies and two with prior cingulotomies, but now eleven of twelve are finally pacified with amygdalotomies. In addition, two patients were given lobotomies in the modified method of Knight with radium seeds.

The second study has not been published, and I have only been able to read the 200-word summary in the programme of the Second International Conference on Psychosurgery. It is called "Neurosurgical Treatment of Aggressivity: Stereotaxic Amygdalotomy versus Leucotomy," and it is presented by J. Siegfried and A. Ben-Shmuel of Zurich. They performed lobotomies and amygdalotomies on different patients in a non-controlled fashion, so their results are of little significance. What is interesting is that they don't even bother to mention the psychiatric diagnoses of these patients. They were all being treated for "aggressivity," and that was enough to put into the summary. No better illustration could be given of the generalized pacification sought by psychosurgeons.

III. Violence and the Brain: an analysis of the work of Mark and Ervin

Mark and Ervin never clearly state their hypotheses and so neither they nor their critics can clearly analyze their research work. But as the title indicates, they do hypothesize a direct connection between brain disease and a wide variety of violence that occurs in both the personal and political arena, from alcoholic outbursts, bad driving, child murder and rape to ghetto uprisings and warfare between nations. They further hypothesize that the violence in their patients is causally related to their psychomotor epilepsy. They then claim that their successfully pacifying surgery somehow proves the link between the epileptic brain disease and the surgery—even though the brain disease is untouched by the surgery.

The most gross flaws in this study can be described in seven major categories.

First, in a book devoted to amygdalotomy, they never review the existing literature on amygdalotomy, thus ignoring the body of material indicating that amygdalotomy is a pacifying operation. In one place they do mention its taming effects in animals, without drawing the logical conclusion from this. In their very brief summary of the literature, they describe only studies done on epileptics, lending the misleading impression that amygdalotomy for violence is somehow related to epilepsy.

Second, they never discuss psychosurgery in general, and do not mention that all forms of psychosurgery produce a reduction in violence, even the old fashioned lobotomy. Thus they lend the impression that their surgery is unique in kind when in fact it is at best unique only in the degree of pacification which it produces with relatively small lesions.

Third, in their clinical presentations they ignore the fact that their surgery pacifies the patient no matter what the cause of violence in the patient. In one instance the violence is a direct product of surgically induced brain damage, in another the product of diffuse brain disease, in another a possible response to the emotional frustrations of enduring psychomotor epilepsy; and in most cases, throughout the book, the picture is of a multiple causation, social, economic, personal and perhaps biological.

Fourth, in most cases the epilepsy itself is uncured by surgery, again suggesting a lack of association between the pacified aggression and the epileptic brain disease.

Fifth, in the first four cases there is no indication that the violence described is associated clinically with seizure phenomena, such as a distinct aura, automatic movements, or forced actions. Nor do the authors mention in this regard that most neurologists and neurosurgeons believe that violence in association with psychomotor epilepsy is rather rare.

Sixth, their study fails to fulfill most of the qualifications ordinarily required of scientific methodology. There are no control groups and there are no attempts to prove that a group of clinicians would reach a consensus about the association of the violence with the epilepsy. There are no discussions of the difficulty of judging the importance of an electrical discharge from an area which has recently been traumatized with an electrode. There are no considerations given to the notoriously difficult task of reaching consensus on the reading of EEG's in routine clinical cases, let alone in experiments. And finally, anecdotes are mixed with observations and homilies are presented as scientific truths, with no attempt to separate experimental results from their interpretations.

Seventh, from meager unscientific evidence momentous conclusions are drawn concerning the biological nature of violence as well as the political means for its control.

They make anecdotal references to bolster the importance of their book, including the Speck murders in Chicago, rape, drunken driving, wife beating, child murder, ghetto uprisings and Viet Nam. Then they relate this to a "considerable percentage" of dangerous individuals who fall into the "5 to 10 percent of the population whose brains do not function in a perfectly normal way." p. 5. But both their large percent of organically damaged Americans and their assumption of organic disease as a major cause of violence are completely unsubstantiated and highly controversial assertions.

They achieve their inflated 5–10% by listing a pot pourri of syndromes, most of which have little relationship to proven brain disease, and *none* of which has proven relationship to violence. The list includes cerebral palsy, mental retardation, hyperactive behavior disorders, maternal deprivation, social deprivation and all head injuries sustained in accidents and in war, although they have no proof that these traumas caused longterm after-effects. Similarly, their case for relating organic disease to violence seems to rest upon scattered reports relating violence to that highly inconclusive and often incorrectly read measurement, the EEG.

When they finally discuss the basic hypothesis of their research, that there is a frequent and strong association between psychomotor epilepsy and violence, they offer no scientific evidence. They fly in the face of strong dissent from their view in traditional textbooks and in the opinions of most neurologists and psychiatrists, and yet show no diffidence to the notorious unreliability of clinical impressions. But their entire work and enormous research funding depends upon this unproven, generally unaccepted assumption.

The first case they cite as an illustration strongly indicates, in fact, that the violence has a specific root other than the epilepsy. "Mary" has psychomotor epilepsy for ten or more years without any associated violence. Her seizures, however, become worse and worse, and finally she becomes a menace to herself and to other people, because she starts fires when she is smoking during a seizure. Then her "violence" appears for the first time:

"Worst of all, she insisted on smoking continually, even after she had started a number of small fires during her periods of unconsciousness—fires in which she herself was repeatedly burned. When anyone in her family said anything to her about her constant smoking, she would hit at them with her fists. She also used a broom handle to beat her husband on a dozen different occasions, and once attempted to stab him with a bread knife.

"Eventually Mary's violence and her refusal to be reasonable about the dangers inherent in her smoking, as well as her uncontrolled attacks of epilepsy, prompted her physicians to seek a surgical opinion." P. 64.

The tests are then described, including findings of a seizure pattern, especially in her left amygdala, and so her left amygdala is destroyed.

Now the authors write:

"The initial results of this temporal lobe surgery have been gratifying. She still has seizures but her rages have disappeared. She has set no more fires, and she has become able to function once more as a housewife and mother.

"Temporal lobe epilepsy, then, is an important example of a known disease state that is related to violent behavior." P. 64.

No, nothing could be further from the truth. This, their one illustrative case in the chapter, proves if anything that temporal lobe epilepsy is not related to violence, at least in this case. First, the patient develops her "violence" long after her history seizures. Second, the violence is not associated in any way with her seizures either temporally or clinically, but it is associated very directly with a struggle over her smoking habits and her endangering herself and others. Third, she is brought to surgery in large part to control her violence, not her seizures. Fourth, when "cured" of her violence—pacified—her epilepsy remains unchanged. Another person has been pacified by psychosurgery—nothing more and nothing less.

The fact that she is returned to being a satisfactory housewife and mother is again typical of psychosurgery studies. Not only have the vast majority of patients been women, both in the past and in the current literature, but the two most in-depth prolobotomy studies have already told us that psychosurgery is much more effective on women than on men because women can more easily be returned home to function as partially crippled, brain damaged housewives, while there are no social or occupational roles for partially crippled, brain damaged men.

The second case is also a woman and her violence is again unrelated to psychomotor epilepsy but instead develops post-operatively as a result of brain damage from a temporal lobe lobectomy. She is operated upon because she attacks hospital attendants. Her rage is also cured by amygdalotomy, but not her seizures.

The third case is a young man who is frankly psychotic and who suffers from typical paranoid suspicions and delusions. When his wife would deny his allegations, he would physically assault her, after which he would feel remorse, sob uncontrollably and eventually fall asleep.

He also appeared to have suffered brain damage from a severe blood loss earlier in life, and on occasion he was noted to have psychomotor epileptic seizures, though these are only briefly mentioned and apparently observed by only one or two people. As the authors say, "Thomas's chief problem was his violent rage."

During a period of ten weeks of probing and stimulating his brain, they discover one area in which the patient feels pain and states "I am losing control," both of which are said to precede his seizures. Thomas is taken for surgery, but becomes violently opposed to it. Eventually he is talked into it. Since the operation—bilateral amygdalotomy—"Thomas has not had a single episode of rage. He continues, however, to have an occasional epileptic seizure with periods of confusion and disordered thinking." P. 97.

The fourth case, Julia, is more complicated. She has a long history of brain disease with seizures beginning with encephalitis at age two. Sometime around or after the age of ten, she begins to have "temper tantrums," but these are not associated with her seizures. At the age of 18, she begins to have periods of terror after which she assaults the person near to her. That she was already carrying a knife at the time of her first assault indicates a more planned process than a seizure, but there is no doubt she suffers from repeated outbreaks of panic and hostility. Nor is there any clinical evidence that her violence is a product of her seizures rather than a product of her life situation as a brain damaged person. Still the authors conclude:

"Julia's case clearly illustrates the point that violent behavior caused by brain dysfunction cannot be modified except by treating the dysfunction itself." P. 98.

Of some interest, in this one case, the authors were able to observe a seizure associated with amygdala activity and followed by an outburst of violence.

After bilateral amygdalotomy, her violent episodes are reduced, but her seizures and her psychotic behavior continue.

In their four cases, the authors have demonstrated nothing more than the well established fact that amygdalotomy, like all psychosurgery, has a pacifying effect. In addition, they have conducted many experiments on a severely brain damaged youngster who frequently becomes violent and who sometimes shows spiking and a seizure after which she becomes typically violent. The subsequent violence does not even mimic her clinical pattern in which her outbreaks follow panic states, not seizure states. So what caused her violence? Panic in the experimental situation? A disturbing sensation in her head produced by the experimental electrodes? A mimicry of something expected of her in the way of violence? Even that alternative is not out of the question, for Charcot had the entire medical profession convinced that not only violence but all psychiatric disorders sprang from epilepsy. And Charcot was unconsciously able to train all his patients to throw fits for him! (103).

But the authors consider no alternative but the one they have been searching for to justify their surgery—that violence is a product of psychomotor epilepsy and can be treated, incidentally, by an operation which doesn't even treat the epilepsy.

The importance of their much heralded finding in this girl cannot be guessed. But it can easily be over-estimated in importance.

These are the authors' best cases. After the first four, they go on to discuss cases of "hidden brain disease" and hidden relationships between seizures and violence!

Based upon absolutely no evidence—since they have developed none—the authors assume that the violence they have observed was related to the brain disease of their patients, in particular the epileptic feature. They then describe common features of their brain diseased patients and a prison population, and come up with the absolutely meaningless observation that these violent people have four common characteristics—1. a history of physical assault, especially wife beating; 2. violent responses to a little drinking; 3. impulsive sexual assaults; and 4. a history of traffic violations and accidents.

They call this "the dyscontrol syndrome," but it should simply be called a list of forms of violence, for they admit that the four traits aren't necessarily present in the same person!

They then go on to repeat the obvious observation that a great deal of crime is produced by criminal repeaters, as if this somehow indicates a syndrome of biologic origin.

Then they describe a case, Tony, who has had a number of these violent and irresponsible traits, plus a history of hallucinations. We are told he once suffered a head injury while driving, but we don't know if this was before or after the start of his chronic violence. Nor would it make much difference in proving a connection between brain disease and violence, let alone limbic system disease and violence. Besides, his neurological studies are normal.

"He is started on Dilantin and then we are told it produced a marked improvement in his behavior. We were not able to see if the improvement kept up because he refused to return for a follow-up examination and there was no way for us to compel him to continue with treatment." P. 128.

So why do they mention this case at all? And why make it the first illustration of the correlation between a supposed "dyscontrol syndrome," brain disease and the necessity of somatic therapy?

This book is nothing more than a collection of largely irrelevant anecdotes interspersed with a great many exhortations concerning the extent of violence all around us. It proves nothing, but does tend to illustrate the well-established fact that amygdalotomy, like all psychosurgery, has a pacifying effect upon emotions and behavior without otherwise changing psychiatric and seizure disorders.

The inexplicable fact is that Mark and Ervin must have known this before they began their research. Decades of experimentation prove that removal of the amygdala in animals usually produces a de-fused creature who cannot get excited about anything. Fierce animals become tame and fearful animals cease to act afraid. Placid animals lose interest in everything. An animal without its amygdala loses instinctual drive, sociability, and the motivation to learn. He is leveled off, deadened or blunted. He is, in short, less alive, but a good inmate. So it is with humans as well.

Mark and Ervin clearly recognize all this early in their book when they note that killer rats no longer attack and that fearful mallards no longer take flight, but that both become manageable after amydalotomy, even after "normal provocation." Then they go on to say about humans:

"Indeed, neurosurgeons have surgically removed areas of the amygdala to treat assaultive behavior in patients for whom this symptom was a feature of some other brain disease." P. 28.

They do not footnote these references, ignoring them as they do when they later review the literature on humans, for this psychosurgical evidence undermines their basic hypothesis about treating psychomotor epilepsy and instead lumps them along with lobotomists and psychosurgeons who practice the art of deadening their fellow men until they can no longer respond to "normal provocation."

Mark and Ervin also fail to point out that neurosurgeons have been using amygdalotomy to pacify patients whose assaultive behavior has no relationship at all to any brain disease (8, 9, 85, 86, 105, 120). Amygdalotomy will even undo the hostility of a patient whose anger is directed at a psychosurgeon who seeks to mutilate him. Thus psychosurgical patients rarely complain afterward—no more than a mutilated rat will fight, no more than a mutilated mallard will take flight.

The most striking exception I can recall belongs again to Mark and Ervin—their patient who killed herself after refusing to have anything more to do with her neurosurgeon. Mark, Ervin and their colleagues had planned a third operation for her. Had she accepted it, she too would have stopped complaining.

DISCUSSION

A number of years ago I described how adrenaline may function as a sedative in the normal human being by crossing the blood brain barrier to calm the brain through its effects upon the trophotropic centers of the hypothalamus. I developed evidence that this adrenaline feedback mechanism led to the fatigue and exhaustion experienced during chronic anxiety and severe stress. It crossed my mind at the time that we might someday develop means of reducing these inhibitory effects, thus ameliorating the debilitating effects of chronic stress and anxiety. Little did I imagine that quite the reverse would happen and that psychosurgeons would actually disrupt the balance of the hypothalamus and the limbic system to produce these same debilitating effects in order to control the hyperactive or aggressive individual. Sano has developed this to a true science in which he stimulates the hypothalamus to discover its arousal centers. Then he coagulates them, leaving the child at the mercy of an imbalance which makes him inhibited and docile.

To some degree all psychosurgery disrupts the limbic system to create this sort of imbalance. But the situation is far more complex, for the entire limbic system is integrated within itself and with the frontal lobes. Disruption within this system must do more than create an energy imbalance. It must eventually disrupt the inter-relationships between all man's higher functions in the frontal lobes and the energy centers that lie beneath. Eventually the effects will be felt in both the higher symbolic systems and the lower energy systems. When the surgery is aimed more directly at the frontal lobes, the higher symbolic functions will be more grossly disturbed. When the lower brain centers are the target, the blunting or deenervating effect will dominate.

I believe the pacification effect of psychosurgery is now so well documented and so well understood that it is unrealistic to say that we do not know what is going on. We may not understand the exact mechanics or the details of the symbolic disruptions, but we do know that all psychosurgery destroys the capacity of the brain as an emotionally responsive organ, ultimately pacifying the individual without regard for any brain disease or psychiatric disorder.

The ethical and political implications of this pacifying operation can only be touched upon here.

As I have described in my first novel, The Crazy from the Sane, and in "Coercion of Voluntary Patients in an Open Hospital," mental patients are so vulnerable and so easy to victimize that even the most voluntary patient in the most open hospital has little control over what happens to him. Psychosurgery will be a particular menace to these individuals. But the situation of the captive child in a state institution or the incarcerated adult in a state prison is even more disastrous. Both are entirely under the control of authorities whose major intention is to manage them in the most economical and most efficient manner. Most of the first 50,000 victims of psychosurgery were incarcerated adult mental patients. The next 50,000 may be incarcerated children and state penitentiary prisoners.

But there is a still greater political menace in the psychosurgery movement—the danger that all of our citizens will become potential victims as the nation is turned into one large therapeutic state dominated by technological totalitarianism. This is not so far-fetched as it may seem. Thomas Szasz has already described the dangers of the therapeutic state in some depth, and I described its potential reality in my new novel, The Hebrew Disease, including the political use of psychosurgery, before I had any inkling of the actual return of psychosurgery. But even more impressive, Sweet, Mark and Ervin have been talking in some depth about the possibilities for screening large segments of our population for possible physical control.

In both a letter to the editor of the Journal of the American Medical Association, and in their book, Mark and Ervin advocate a national screening program for the identification and treatment of potentially violent people. And in both instances they clearly intend this as a large scale political measure. In the letter, they argue that the violence in the Detroit riots cannot be explained by environmental conditions, such as poverty and racism, because not all of the ghetto dwellers rioted and because even fewer became violent. Instead, they suggest the possibility of brain damage as a cause for rebellion, and in particular for violence, and then they advocate their screening and treatment program. In the book, they widen their interests to an "early warning" alert system whereby "unacceptable violence," including crimes against property, can be detected and screened out for prophylatic treatment. Their definition of "unacceptable violence" applies "equally to police or public authorities as well as to politically activist groups (students, racial, etc.), and all violent acts that do not fit into this category would be 'unacceptable'."

Mark, Ervin and other psychosurgeons do have an effective pacifying operation in their hands. It has already been applied to a few prisoners in California, to aggressive epileptics in Boston, to hyperactive children and adolescents with criminals records in Mississippi, to drug addicts, alcoholics and a wide variety of neurotic and psychotic individuals around the nation. Mark, Ervin and Sweet say they want to focus their research and treatment on individuals with brain disease, but this is irrelevant. The Justice Department is already interested in their work and their operation will pacify anyone, with or without a brain disease or a psychiatric disorder. Jose Delgado has gone so far as to advocate a National Space Agency styled crash program pumping millions of dollars into physical control of the mind.

Even if the projects of men like Mark, Ervin and Delgado find only limited application, the presence of these projects will most certainly intimidate a large portion of our population. The growth of psychosurgery brings us much closer to a future state of totalitarianism based on technological intimidation.

In the Congressional Record of February 24 I have advocated the abolition of all forms of psychosurgery and I am currently framing a bill to this effect with Congressman Cornelius Gallagher (D-N.J.). I believe it is time to take action before the psychosurgical forces are fully marshalled.

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128. Fields, Larry, "Addict Who Died Had Brain Surgery to Fight Habit," Philadelphia *Daily News,* March 13, 1972, p. 3. This was the first in a series in which an unpublished psychosurgery project surfaced for the first time. The surgeon, Jewell Osterholm, Director of Neurosurgery at Hahnemann Hospital, had operated on twelve people with cingulotomies for addiction, alcoholism, pain and "emotional problems."

129. Hampton, Jim, "Eerie Brain Surgery," *National Observer,* March 25, 1972, p. 1. Contains considerable independently gathered opinions and reports.

130. Von Hoffman, Nicholas, "Brain Maim," The Washington *Post,* July 16, 1971. This was the first article in the media based on my research.

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132. D'Arazien, Steve, "The New Lobotomists," *Boston After Dark,* March 7–13, 1972. This is one of the more detailed analyses published.

133. Trotter, Robert, "Clockwork Orange in a Calif. Prison", *Science News,* March 11, 1972. This is important reading, including new material uncovered by Trotter concerning grants from the Justice Department and the National Institute of Mental Health to support the work of Vernon Mark and Frank Ervin, and including some of the difficulties these men have had gaining support for their work from the medical establishment.

134. The Justice Department, Law Enforcement Assistance Administration, has given to William Sweet, and to Mark and Ervin, a grant of $108,930, for the following purpose (summary from Justice Department): "The role of neurobiological dysfunction in the violent offender. Specifically, the grantee will determine the incidence of such disorders in a state penitentiary for men; establish their prevalence in a nonincarcerated population; and improve, develop and test the usefulness of electrophysiological and neurophysiological techniques for the detection of such disorders in routine examination." In addition, Vernon Mark, Frank Ervin and William Sweet have two other grants from the National Institute of Mental Health totaling more than $500,000 and dealing with violence, epilepsy and brain surgery.

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In addition, the Associated Press and Reuters and numerous newspapers, columnists and magazines have begun covering the return of lobotomy and psychosurgery.

THE TYRANNY OF COMMUNIST CHINA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. CRANE. Mr. Speaker, in the euphoria following President Nixon's trip to Peking, many Americans seem to have forgotten the difference between freedom and tyranny.

Many, for example, have been heard to hail the accomplishments of the Communist regime in China because "crime and prostitution has ceased, the streets are clean, and the society is orderly." Such statements are reminiscent of the apologies which were made for the regimes in Nazi Germany and Fascist Italy in the 1930's. It was said at that time that fascism was of great benefit to the Italian people because Mussolini had at least "made the trains run on time."

Such past refusal to understand the nature of a totalitarian society led us to miscalculate our relationships with the leaders of such societies. Today's apparent willingness to accept the dictatorship of Mao Tse-tung as a responsible and legitimate government with whom the United States may somehow work in an effort to achieve a meaningful peace, is fraught with serious and probably insurmountable difficulties.

It has been said, since the President's trip, that if the United States can have cordial relationships with such "nondemocratic" societies as Spain, Greece, and Taiwan, why not with the Communist regime in Peking?

The fact is that there are serious differences between the quality of life in the non-Communist world, with its varying degrees of allegiance to democratic values, and within the orbit of Mao Tse-tung. In a recent column, William F. Buckley, Jr., set them forth this way:

> In Taiwan, in Greece, and in Spain a human being can: (1) practice his religion, (2) quit his job, (3) join a labor union, (4) leave the country, (5) travel within the country where he wants to, (6) enter into contracts whether to buy or sell a loaf of bread, exchange a piece of land, or provide a personal service. (7) What he owns is his. (8) He is free to buy all but a very few books, and in fact he can get these by the mildest exertions. (9) He may say things he wants to say: except that he cannot attempt to bring down the government—he has no political freedom.

The contrast between life in such non-Communist societies and life under the Communist regime of Mao Tse-tung is profound. Mr. Buckley points out that:

> In China, you may not practice a religion, you may not change your job without permission of the state, there are no labor unions to join, you cannot leave the country, or travel within your country except by special permission. You may not engage in contracts except by leave of the state, which owns all your services. You may not own property, outside the tooth-brush category. You will find to read only accepted works of Communist theology.

Mr. Buckley notes that:

> There should be differences enough to be visible to most people.

If Americans can no longer tell the difference between a totalitarian society and one which provides individual freedom, even if it be less than we provide in our own country, then we have reached a time of crisis. When a nation cannot differentiate between friends and enemies, between governments which tyrannize the individual and those which do not, it has reached a point in which its own future remains questionable.

I wish to share Mr. Buckley's column which appeared in the Chicago Daily News on March 16, 1972, with my colleagues, and insert it into the RECORD at this time.

The column follows:

COMMUNIST CHINA LEADERS NOT MERELY DICTATORS—BUT TYRANTS CHAINING NATION

(By William F. Buckley, Jr.)

In the aftermath of the Peking summit the distinction crushers are hard at work insisting that after all, what is the difference between having affable social relations with the governors of China, and having affable social relations with the governors of Taiwan, Spain, and Greece? One has the feeling that some of the people who make the comparisons really do not know the difference, unlike those others who are merely polemical opportunists.

A gentleman who broadcasts from Long Island, to give an example, amused himself at the surprise expressed by some of us over the enthusiasm with which Mr. Nixon threw himself into the business of toasting the person of Mao Tse-tung. Here is how he put it. Why be "appalled at the sight of the President drinking toasts and exchanging civilities with the despotic rulers of Red China?" Because of the "embarrassment (caused to) our friendly client despots on Taiwan? As if Mao and Chou weren't the moral equals of Franco, Papadopoulos, and other dictators toasted and praised on their own home grounds last October by Vice President Agnew."

Of course for years now it has been chic to refer to the "so-called free world," the idea being that much of the world on this side of the Iron Curtain is no more free than the world at the other side of the Iron Curtain. The gentlemen who slur the distinction spend, on the whole, not enough time . . . thinking.

In Taiwan, in Greece, and in Spain, a human being can: (1) practice his religion, (2) quit his job, (3) join a labor union, (4) leave the country, (5) travel within the country where he wants to, (6) enter into contracts, whether to buy or sell a loaf of bread, exchange a piece of land, or provide a personal service. (7) What he owns is his. (8) He is free to buy all but a very few books, and in fact he can get these by the mildest exertions. (9) He may say anything he wants to say: except that he cannot attempt to bring down the government—he has no political freedom.

In China, you may not practice a religion, you may not change your job without permission of the state, there are no labor unions to join, you cannot leave the country, or travel within your country except by special permission. You may not engage in contracts except by leave of the state, which owns all your services. You may not own property, outside the tooth-brush category. You will find to read only accepted works of Communist theology. You may not criticize the state nor, obviously, attempt to bring down the government.

At a positive level, you are required to submit to hours of instruction every week in the state religion, to fawn on its leaders, dogmas, rituals, and hope (but not pray) that you will find yourself aligned with the winning faction during civil uprisings.

There should be differences enough there to be visible to most people. To be sure, Mr. Nixon has not greatly helped. His perfunctory references to our "different systems" make him sound as though Americans like calico, while the Chinese Communists like gingham. Still, people who influence opinion ought always to distinguish between the despot and the totalitarian. Papadopoulos is a despot. Mao is a totalitarian, which is a stage advanced from the tyranny about which political philosophers have written from the beginning of time.

Papadopoulos did not take power in order to tyrannize. He took it, as Franco did, in an intractable social and parliamentary situation. That they haven't yielded more of their power is either a discredit to their integrity, or a tribute to their perspicacity (closer to the former, I judge, than to the latter).

A LOOK AT THE SECOND SESSION—STATEMENT BY SPEAKER CARL ALBERT

HON. CARL ALBERT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ALBERT. Mr. Speaker, major new laws enacted this year include election campaign reform, equal employment opportunity enforcement, the Special Action Office for Drug Abuse Prevention, and the equal rights amendment.

Top priority bills still to be resolved in conference include the higher education amendments, water pollution, and welfare reform, including liberalization of the social security program.

The House leadership includes among its high priority measures for the months ahead the $2 minimum wage bill to be taken up by the Rules Committee on April 11, an omnibus housing measure being marked up in the Banking and Currency Committee, a $5 billion emergency community facilities bill, the $5.3 billion ways and means bill for assistance to State and local governments, repeal of equal time for presidential candidates, and further liberalization or expansion of Federal health assistance programs.

Still ahead of us are the money bills, with only the legislative appropriation approved so far. I requested all committee chairmen some time ago to move expeditiously on authorizations to speed the appropriation process, and nearly all of these measures are advancing in committees to enable us to fund programs by or shortly after the beginning of the fiscal year.

The emerging thrust of this session is the provision of massive Federal aid for local community development, with hoped-for fallout in reduced unemployment and stimulus of the economy generally. The welfare reform bill will offer job assistance and provide financial savings for the States. The Rural Development Act will create new business opportunities and many new jobs in those areas of the country hit hardest by the sluggishness of our economy. The community facilities bill will generate employment and provide needed improvement for basic water and sewer systems and other local public works. The water pollution measure is a major facility-modernization and job-creating bill. And revenue sharing will revitalize local government by assisting with the provision of needed public services and hopefully create jobs in its wake. A package of major legislation such as this will help alleviate some of our most pressing domestic problems and generate activity which will revitalize communities across the country.

We have prepared a progress report on important measures acted on this year.

BILLS SIGNED INTO LAW THIS YEAR

Election campaign reform: The House began the Second Session of the 92d Congress by approving the conference report on the first comprehensive campaign reform bill since 1925. The act, which goes into effect on April 7, places limits on advertising expenditures and certain forms of contributions and contains stringent disclosure and reporting provisions.

Equal rights amendment: With Senate approval of the House-passed bill, the proposed 27th amendment to the Constitution guaranteeing equal rights for women was signed on March 23 and sent to the States for ratification.

Equal employment opportunity enforcement: This act, approved by the House in 1971 and recently passed by the Senate, empowers the Equal Employment Opportunity Commission to bring court action against employers or labor unions which fail to observe anti-discrimination laws. Coverage is extended to State and local government employees, employees of education institutions, and employers and unions with 15 or more full-time workers or members.

Debt limit increase: The fourth debt limit increase requested by the Nixon administration was for $50 billion above the existing $430 billion ceiling. Congress however approved an increase to only $450 billion for the duration of fiscal 1972, requiring the administration to seek a further increase for 1973.

Special Action Office for Drug Abuse Prevention: This act authorizes more than $1 billion to centralize and coordinate all Federal drug abuse prevention programs, including education, treatment, rehabilitation, training, and research efforts. Formula grants to the States to assist their drug abuse prevention efforts are also authorized.

Food programs for the elderly: This new legislation provides $100 million in fiscal 1973 and $150 million in 1974 for low-cost nutritional meals for the elderly. It authorizes grants to the States for providing such service to persons over 60 years of age and calls for a broad range of supportive services such as health care, recreation, and social counseling.

Inter-American Development Bank: The act provides $900 million over the next 2 years as the U.S. contribution to the fund for special operations of the Bank, with loan restrictions against countries which fail to control narcotics traffic into the United States and which expropriate American-owned property.

Asian Development Bank: A U.S. contribution of $100 million for the special funds of the Bank is authorized over the next 2 years, with the same restraints aimed at narcotics traffic and discriminatory acts against American interests.

International Development Association: $960 million is authorized over the next 3 years for increased U.S. participation in the association.

AWAITING PRESIDENTIAL SIGNATURE

Eighteen-year-old jury duty: Lowers the age for service on Federal juries to 18, a logical sequel to the constitutional amendment lowering the voting age and other legal developments in various States.

Guam and Virgin Islands Delegate: Provides for the election of one nonvoting delegate from Guam and one from the Virgin Islands to begin serving in the next Congress. This will be the first time that every American territory will have Congressional representation.

OTHER MAJOR BILLS APPROVED BY THE HOUSE THIS SESSION

Rural Development Act: This legislation is designed to facilitate economic growth and development throughout rural America. It raises the loan limit in the agricultural credit insurance fund from $100 million to $500 million for rural economic development, pollution control, watershed protection, flood prevention, and resources conservation and development. The authorization for water and waste disposal grants is raised from $200 million to $500 million, and the Secretary of Agriculture will be authorized to share the costs of water quality management, land utilization, and waste management.

Office of Economic Opportunity: This measure authorizes $2.3 billion for fiscal 1972 and $3 billion for 1973 to continue existing antipoverty programs and to fund a new independent Legal Services Corporation and a new rural housing development and rehabilitation program. The $1.5 billion earmarked for an expanded Headstart is double the administration budget request in an effort to meet the needs of the thousands of children presently unable to benefit from this important program.

Vocational Rehabilitation Act amendments: The bill authorizes $4 billion over 3 years for vastly expanded services to the handicapped, including comprehensive centers for the deaf, transportation and housing assistance, and funding of new and expanded rehabilitation facilities.

Noise control: Authorizes the Environmental Protection Agency to establish and enforce noise emission standards for products deemed harmful to human health, including construction and transportation equipment, motors or engines, and electrical or electronic equipment. Regulations are to be ready within 18 months, and citizen suits against violators will be authorized.

Sickle cell anemia: $105 million is authorized for 3 years for the diagnosis, prevention, and treatment of a disease which hereditarily afflicts blacks and for which there is no known cure. Grants will be available for screening, counseling, informational services, and research and development programs.

Office of Technology Assessment: Authorizes $5 million in 1973 and 1974 for the establishment of a 10-member board to identify for Congress the impact of existing and developing technology and to assist in the setting of national priorities. The board would have subpena power and would be required to cooperate with the National Science Foundation and to promulgate rules and regulations.

Amtrak financing: The National Railroad Passenger Corporation will be authorized an additional $170 million until 1973 for acquisition of passenger cars and locomotives and to provide related services. The Corporation will be required to increase its mail and express revenues in order to put itself on a sound financial basis.

Veterans education and training amendments: The GI bill program will be considerably liberalized, with advance payments authorized and allowances raised to $200 a month for a single veteran and proportionately more for families. On-the-job training, apprenticeship programs, and correspondence course work will be eligible for support.

Marine mammal protection: Establishes a 5-year moratorium on the capture or killing of ocean mammals for commercial purposes, and creates a Marine Mammal Commission to review the condition of various species and make recommendations for future regulation.

High-speed ground transportation: Authorize $315 million for 3 years of research and development and demonstrations of advanced concepts in intercity and door-to-door transit, with areas of high unemployment receiving priority consideration.

Modification of gold value: Raises the price of gold from $35 to $38 an ounce to accomplish the devaluation requested by the President in connection with realinement of the international monetary system.

Water pollution: The House bill will authorize $24.6 billion through fiscal 1975 for grants for the construction of waste treatment facilities, with the Federal share increased to 75 percent; sets 1985 as a target for cleanup the Nation's waterways and 1981 as the deadline for application of the best available technology; and delegates responsibility for pollution control and abatement to the States under EPA guidelines and approval.

NEW HEALTH-CARE CENTER IN MARTINEZ, CALIF.

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. WALDIE. Mr. Speaker, in late November of last year I became aware of plans for a creative new health facility in Martinez, Calif. Although I have known for some time that Contra Costa County was in need of new medical facilities, this new facility goes far beyond the scope of being just another town hospital. Martinez has come up with an exceptional plan for truly comprehensive health planning which is deserving of National attention.

Planning for this new health center has progressed markedly since I first became aware of it last year. I recently met with representatives from the proposed facility and the school of medicine at the University of California, Davis to further discuss the proposal for making the new Martinez Hospital into a model health-care delivery system, functioning under the auspices of the Martinez Health Center, in conjunction with the nearby VA hospital and the University of California Medical School at Davis.

The Martinez Health Center will include construction of new facilities for a 48-bed general hospital, a 172-bed convalescent hospital, a multiphasic health assessment unit and an ambulatory care center to replace the long outdated and nearly obsolete Martinez Community Hospital. In addition, there are plans for a day-care center for the children of the employees and additional space set aside for physicians' offices.

The Contra Costa Labor, Health, and Welfare Council, in cooperation with the directors of the Martinez Community Hospital, plan to build the new plant adjacent to the present U.S. Veterans' Administration hospital located in Martinez, Calif. The medical adviser for this new facility, Mr. Bruce Hannon and the executive secretary of the Labor, Health and Welfare Council, Mr. Louis Martin, are now in the process of planning a health-care delivery system for Martinez using this model facility as a training unit for the department of family practice of the school of medicine at the University of California, Davis. It would be used to help train family practice residents—physicians—family nurse practitioners, health aides, social workers, administrative and other personnel.

Mr. Speaker, I ask to insert a letter from William R. Nesbitt, M.D., assistant to the chairman of the department of family practice at the medical school at Davis which describes the planned health-care system involving the team approach, be inserted in the RECORD at this point.

The letter follows:

UNIVERSITY OF CALIFORNIA,
Davis, Calif., March 3, 1972.

Hon. JEROME R. WALDIE,
Martinez, Calif.

DEAR CONGRESSMAN WALDIE: First, I would like to express our deep appreciation to you from the School and especially from the Department of Family Practice for taking time from your busy schedule to meet with us concerning the Martinz Project. The following is a report about our meeting:

Dean Tupper reviewed the history of the University of California Davis School of Medicine and its commitment to improving primary health care. It was mentioned that the Department of Family Practice has developed a system of health care delivery involving the team approach. The proper development and utilization of such teams delivering health care, especially in medically deprived areas, would have a tremendous impact on the health care delivery systems of the United States. In theory, the ideal health care delivery team could accomplish the following:

(1) Expand the services of the physician to approximately double his present capacity through use of the health care team members.

(2) Improve overall medical care by giving a continuity of care that was never before possible.

(3) Reduce the costs of medical care by the optimum use of members of the health care team and also by optimum use of the physical facilities provided for medical care.

(4) The primary health care team would be responsible for the patient's total care. In the event that the primary care physician was unable to satisfactorily treat the patient, specialists would be brought into the primary health care setting and would see the patient with the primary health care physician. This would give a greater degree of continuity of care to the patient, while still assuring him of the expertise of the medical specialist.

Mr. Louis Martin has developed the physical facilities in Martinez where such an ideal program could be carried out. The Department of Family Practice has the expertise to assist local physicians to organize an ideal health care delivery system to be used in these model facilities. In addition to this it would be desirable to set up an affiliation with the family practice residency program at the Contra Costa County Hospital in Martinez and also to have a clinical affiliation with the Martinez Veteran's Hospital, preliminary steps have been taken to accomplish this.

Construction is about to begin on the acute hospital of 49 beds, the convalescent hospital of 172 beds, the comprehensive health screening unit, and the day care center. In the planning stages is the ambulatory clinic. All of these facilities except for the ambulatory clinic are under one roof. The plan for the development of this program would be as follows:

The Martinez Health Center will own and operate the physical facilities. In cooperation with the local physicians and in consultation with the University of California, Davis, Department of Family Practice, Martinez Health Center would form four health care delivery teams, each consisting of one physician, two family nurse practitioners, four health aides and one social worker. These teams would function as modular units to give care to individual families, either on a fee-for-service basis or on a capitation basis. It is estimated that one team could adequately care for a patient population of 2400. National statistics indicate an average of four visits per year per patient population. On the basis of these figures, each team physician would be responsible for 800 visits a month or approximately 200 visits per week. There are many primary care physicians who are taking care of this many patients without the use of the health care team. By the use of the health care team, the physician would probably see approximately one-half of this number or 400 patient visits per month and other members of the health team, such as the middle level practitioners and the health aides, would be able to take care of the remaining 400. In addition to taking care of the 400 patients that the doctor was not required to see, they would also be able to give a great deal more preventative health care than would be possible if they were seen by the physician alone. The family nurse practitioners would be able to see the patients who came in for routine health check-ups, for immunization, for well baby checks, for weight control checks, for allergy shots and a multitude of other minor medical conditions, for which consultation with the doctor would not be required, but which, under the present system, he is now responsible for. The physician is now free to devote more time to complex medical problems.

The Department of Family Practice has applied for funds under the National Comprehensive Health Manpower Training Act of 1971. If the grant is approved, it would provide a physician, a family nurse practitioner and an administrator, who would supervise and conduct a teaching program in the facility. The physician employed under the grant would consult with the team physicians working at the Martinez Health Center, helping them to utilize the team concept to its maximum degree. He would also be responsible for supervising the residency program in Family Practice, which we envision would be established. The family nurse practitioner would supervise the family nurse practitioners and the health aides in the health care teams and also provide supervision for the training programs for family nurse practitioners and health aides, which would be carried out in this setting. The administrator would be responsible for developing and refining administrative procedures involved in the use of the health care team. Such matters as insurance, Medi-Cal, Medicare, unemployment insurance and the actuarial data on this type of health care program would require a full-time person to keep meaningful records that could be satisfactorily analyzed and evaluated periodically as the project proceeded.

Since this is a new concept in health care delivery and has never been instituted in the United States, to the best of our knowledge, it would become mandatory that it would be underwritten by the Government before embarking on such an innovated program. We would not want to commence such a program and discover that unanticipated difficulties made it impractical to continue, thereby leaving the subscribers without continuity of care. Although we anticipate that after the program is underway for three years, it will be fully self-supporting at a more economical level than comparable care under the present system. The start-up costs, evaluations, and the refinement of the health care delivery program would probably constitute a greater expense than the private subscriber would be able to handle initially.

In order to give you a clear picture of the function of this facility, a description of the care of a hypothetical family is as follows: Mr. Jones works in an oil company. His hours of work are from 8:00 a.m. to 5:00 p.m. He and his wife and three children live two miles from the clinic. The children's ages are 14, 12, and 5. Mrs. Jones develops blood in her bowel movements and is given an appointment in the outpatient clinic. There she is seen by a family nurse practitioner who takes a complete history and does a physical examination and then refers the patient to the multiphasic screening center for a complete laboratory work-up, including upper and lower GI Series. At the same time, she makes an appointment for Mrs. Jones with the team physician. One week later Mrs. Jones is seen by the team physician who re-examines her, reviews her laboratory work, along with her X-ray findings, which indicate the probable existence of cancer of the large bowel. Arrangements are made to admit her to the acute hospital for a major abdominal operation. The husband and the wife meet with members of the health care team where the seriousness and the degree of disability of the ensuing surgery is discussed. Arrangements are made to put the five-year old into the child day-care center, the two older children will be able to attend school. Either a health aide or a social worker will visit the home on a weekly basis and provide Mr. Jones with menus of easily prepared well-balanced meals that can be fed to the family in the absence of the mother. They will be assured of the interest and support of the health care team and encouraged to bring any problems that arise to the team members. Mrs. Jones has her surgery done by a board certified surgeon with the team physician acting as first assistant and the family practice resident acting as second assistant. Surgery is uneventful and on the third post-operative day the patient is transferred to the convalescent hospital, where she ramains under the care of the team physician but has the normal follow-up care of the operating surgeon. After an additional week of hospitalization in the convalescent hospital unit, the patient is sent home, where she is seen by the family nurse practitioner who changes her dressing every other day. In 12 weeks when her wounds are completely healed, she returns to the convalescent hospital section, where she will stay during her term of cobalt therapy, which will be given to her across the street in the Veterans' Administration Hospital. Upon completion of this course of treatment, she will be returned home and followed in the outpatient clinic by health care team members.

It can be seen from the ambitious nature of this project that it will need to be subsidized to approximately 50 percent of its costs until its fiscal feasibility can be established. If, as anticipated, improved health care can be given for less money, this should be amply demonstrated within a three year period at which time the operation should be self-sustaining. The degree of support would be estimated as follows: 75% of projected cost for the first year, 50% of projected cost for the second year, 25% of projected cost for the third year. I am sure a strong advocate with the Government will help us realize this revolutionary new concept of health care.

We deeply appreciate any assistance you can give in helping us demonstrate the validity of the health care team concept.

Sincerely,

WILLIAM R. NESBITT, M.D.,
Assistant to the Chairman, Department of Family Practice.

The letter from Dr. Nesbitt describes what is possibly the most innovative of all the new plans being incorporated into the Martinez facility, that of the utilization of the medical team approach to health care. This approach would allow one physician to do the work of two by doubling his present capacity. Such a health care concept could have a tremendous impact on providing better and less costly health care throughout the Nation.

The proximity of the new health center to the Veterans' Administration hospital would allow both facilities to share such expensive equipment as the nuclear medical equipment, including the VA's cobalt machine. Because of the communities interest in keeping down the ever rising costs of medical care, organized labor has given its pledge of $880,000 in donated labor from member painters, carpenters, roofers, and electricians. By maintaining the hospital on a low profile of one story construction the considerable capital investment can be reduced significantly over contrasting costs of the multistory steel and concrete buildings found in urban areas. Such savings would help hold down the investment per bed to less than $16,000 compared to $50,000 and up for high-rise construction. This combination of innovative health care delivery and the community efforts to keep health cost investment per hospital bed at a minimum represents a long overdue and encouraging form of medical health care reform.

I am extremely enthusiastic about this proposal, and I think it is deserving of full consideration and assistance by the Federal Government as an innovative approach to health care.

NEW ROLE FOR CIVIL DEFENSE

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DAVIS of Wisconsin. Mr. Speaker, the Office of Civil Defense has been assigned the additional role of using its know-how and organization to prepare for natural as well as nuclear disaster.

Our colleagues, Mr. BRINKLEY of Georgia and Mr. BOB WILSON of California, have jointly introduced H.R. 13384 to clarify, legislatively, this expanded role. The bill has been referred to the Committee on Armed Services, where I hope it will receive prompt consideration.

It seems to me that a disaster is a disaster, whether it be nuclear or natural, and it takes the same kind of organization, skill, and participation to deal with either. The Office of Civil Defense is attempting to get State and local participation in disaster planning, which, in my opinion, is the way it should be.

This whole matter is comprehensively and knowledgeably dealt with in an article in last Sunday's Washington Star written by Miriam Ottenberg. I commend its reading to my colleagues:

CIVIL DEFENSE MOVES ON NATURAL DISASTERS

(By Miriam Ottenberg)

With spring ushering in death-dealing floods, tornadoes and storms, the government has mounted a massive effort to limit the effects of natural disasters before they happen.

Both the disasters and the effort to cut losses go far beyond spring. The Office of Emergency Preparedness (OEP) is mobilizing Federal experts to determine the best ways to meet other calamities—for example, a West Coast earthquake or an East Coast hurricane.

And the Office of Civil Defense (OCD), which had been limited in recent years to protecting against the effects of a nuclear attack, now has been formally assigned a dual role: using its know-how and organization at the local level to prepare for natural as well as nuclear disaster.

The new government push against nature's worst will start emerging publicly tomorrow when the U.S. Civil Defense Council opens its midyear conference at the Sheraton Park Hotel here. Both George A. Lincoln, the OEP director, and John E. Davis, the OCD director, will address the opening session.

Within two weeks, the OEP will spell it all out for Congress. In a three-volume report, more than a year in the making, OEP will tell Congress what can be done to reduce or prevent losses of life and property resulting from forest or grass fires, earthquakes, tornadoes, freezes and frosts, "tsunami" (tidal waves), storm surges and tides and floods. Congress ordered the study in the Disaster Relief Act of 1970—most of which deals with what happens after a disaster. This deals with what could be done beforehand to mitigate the effects.

From advance reports, it looks as if the three volumes will become a disaster bible—all you want to know about disasters, what causes them, where they occur most, what man can do to cope with them, what new Federal and state disaster laws are needed, how disasters can be mitigated through modifying the weather and changing the way buildings are built and the land is used, how science and technology can help.

SIMULATED EARTHQUAKES

The new thrust—as it shows up in the report and the way the OEP and OCD are thinking—is to become risk-oriented in terms of natural disaster, to find out more about the specific impact of a variety of disasters and what can be brought to bear to lessen the damage and loss of life.

That's why OEP asked the National Oceanic and Atmospheric Administration (NOAA) to simulate earthquakes of varying magnitude in the San Francisco Bay region. What OEP wants to know is exactly what would happen in a mild quake and in a quake as severe as the 1906 catastrophe.

Through continuous monitoring, a study of seismology and the 1906 records, NOAA is determining just how vulnerable the area is and where the heaviest damage would be suffered. Then the facilities on the surface will be inventoried—the locations of the major hospitals, the reserve or "package" hospital facilities, ambulance services, clinical laboratories, railroads in proximity to the fault, the airports and freeways.

Already some lessons are being learned. Two major airports in the bay area are on landfills—the poorest kind of land to resist earthquake. The lesson to be learned from that: In case of a major quake, help might not arrive by plane.

Then there are the highways. A freeway paralleling the fault could be broken up some, but one crossing the fault would surely take a beating. As a result, in future planning certain roads might be relocated.

The study is delving into every aspect of metropolitan life. Some 28 California and Federal planning committees will take the systematic and thoroughgoing estimate of what could happen and follow it up with plans realistically tailored to meet the worst eventuality. They're concerned particularly about saving lives, so they have to know what hospitals are most vulnerable and what might have to be brought in to replace the lost medical facilities.

On the East Coast, NOAA is taking a similar look at hurricanes. Chosen for a major study to look at a large population center vulnerable to hurricanes were Miami Beach, the Biscayne Bay area and the rest of Dade County. NOAA is developing a risk map to show what could happen when hurricanes of varying strength hit the coast.

One concern is helping people escape the worst of it. The population must get into protective shelters or evacuate the area. Getting away may not be as easy as it sounds. Unlike some other areas, such as the Gulf Coast, where people simply flee inland, escape from Dade County is along the coast highway, which could be underwater in the storm surge accompanying the hurricance where it hits the coast. Most loss of life in hurricanes is caused by drowning.

VERTICAL EVACUATION

To meet this kind of problem, OEP and NOAA are talking about "vertical evacuation." Instead of leaving town, people could escape from wind and water by sheltering on the upper floors of Miami Beach's luxury hotels.

OEP has also been surveying areas in need of a better warning against flash flooding, the scourge of spring on many of the nation's waterways. Already, instruments are being put in rivers to warn of floods.

Tornadoes present their own difficult problem. Authorities may know the area and time of year where they are most likely but the storms are too erratic to pinpoint the locations accurately.

NOAA has compiled some rather terrifying statistics about the lethal effect of tornadoes. According to these figures, from 1953, when the present warning system was developed, through 1971, an average of 118 people a year lost their lives to tornadoes.

Because tornadoes are so unpredictable, OEP has had NOAA work with newspapers, radio and television stations on what to tell the people about tornadoes and when.

OEP, in carrying out its role of coordinating disaster preparedness as well as disaster relief, even uses the technique of the U-2 planes to overfly hurricanes before and after they strike to make high altitude photos of the action for future planning.

In getting disaster preparedness down to the people who ultimately have to make it work, the OEP, which coordinates the total disaster program for the President, has turned to OCD. Lincoln formally presented his request to the Secretary of the Army last December. He emphasized that preparedness for such disasters as tornadoes, hurricanes, floods and earthquakes "makes a contribution to preparedness for a nuclear attack situation."

"It is clearly in the national interest," he said, "to make full use of available Federal capabilities to improve preparedness for disasters generally." He called for a systematic survey of selected communities in disaster-prone areas to determine what their most pressing disaster needs will be, and he noted that OCD was already doing some of that.

Davis, who was governor of North Dakota before becoming OCD director, enthusiastically took on the added tasks, although he'd like to have the authorization now pending in Congress to use federal civil defense money "to assist state and local governments to prepare to cope with the effects of local disasters."

Davis isn't asking for more money, just the legal authority to use it the way it's being used now through the back door. That is, a community may ask for and be willing to pay matching funds to get an emergency operating center. Civil defense approves because such a center is basic to trying to keep a community functioning under nuclear attack. Once built, however, the center is the mayor's command post when a tornado hits.

Dual use for everything is Davis' idea: Certainly have what the community needs to survive nuclear fallout, but don't let the equipment rust and the manpower get equally rusty while waiting for a bomb to fall. Davis wants to use everything for every kind of disaster and he wants the responsible people to know what's needed and how to use it when they must.

"It's very difficult to sell disaster preparedness in terms of a nuclear attack that people think will never happen but we can sell preparedness for peacetime disasters because they're happening all around us and people demand protection. Any good plan is applicable to both," Davis says.

The dual-use idea permeates his thinking about shelters, about the warning system, even about pollution.

Take shelters, one of the primary responsibilities of OCD. Thousands of architects have been taught how to gain protection against fallout while reducing the noise level and vandalism at the same time. The idea is that while it may be hard to sell a school board on the kind of construction that would offer protection against fallout, the board would be interested in thick walls with no outside windows that would offer here-and-now protection against noise and vandalism.

Right now, civil defense can point to enough shelters to protect 208 million people against radiation fall-out but much remains to be done because they aren't all where they're most needed. There is a shortage of shelters in suburban and rural areas.

Since more shelters must be acquired OCD has embarked on new shelter surveys. The agency is taking 250 buildings selected by computer from ones surveyed earlier for fall-out and determining whether buildings of those dimensions and made of those materials could offer protection from blast and fire.

OCD knows more about surveying buildings than anybody because it has done more of it. That expertise encourages them to go one step further. They're new determining whether it would be feasible to apply the same data to natural disaster that is, whether a building with this thickness of walls could withstand the worst a tornado has to offer or keep from collapsing in an earthquake.

Because of the vital relationship that exists between how much warning is given and how many lives are saved—whether the disaster is nuclear or natural—OCD is determined to speed the warning. Now under construction at Edgewood Arsenal, Md., is the prototype of an alarm system that OCD says would take only 30 seconds to alert 98.5 percent of the population. It's called the Decision Information Distribution System (DIDS).

The low frequency radio station under construction will cover the 50 million residents of the 10 Eastern Seaboard states. One aspect of DIDS causing some viewing-with-alarm as a possible invasion of privacy is a proposed gadget that sounds a warning even when a television set is turned off. OCD hasn't gotten to that stage yet but it's in the planning as the government seeks the most effective way to reach the man who never gets the word.

WHOLE HAZARD

In presenting the new "whole hazard" approach to local governments—as OCD is now doing—the federal government is helping the local government make the best use of what it's got to cope with disasters and seeing what more it needs.

Actually, many communities have done a fair job of preparing for disasters, although the amount of money spent on civil defense nationwide is less than the price of a hamburger for every person in the United States. Last fiscal year, OCD spent $31.4 million on matching funds which go to local communities. The cities and counties put up $44.2 million and the states spent $10 million. The money went into salaries, office equipment, warning sirens, radiological monitoring equipment, communications and emergency operating centers. Although it's officially purchased for protection against nuclear fall-out—until OCD gets the legal authority now pending in Congress—once the equipment is installed in the community, it can be used for other disasters.

What federal OCD wants is to get the mayor and the governor of a state involved in disaster planning, since they are the ones the people look to in a real emergency.

One device for getting officials involved is the simulated disaster. Some towns have simulated both nuclear and natural disaster—at different times, of course—to see where their planning breaks down, what they've forgotten to do. This year OCD has scheduled 434 simulated disasters and has already held a quarter of them.

The other major gambit to assure more prepared communities is the "onsite inspection". OCD tells a state what it can do for communities to help them prepare for disaster and asks what communities want and need assistance. They all want it.

Thus invited, OCD teams go into town to advise officials on what decisions must be made, to make an inventory of the town's civil defense assets and unmet needs, to discuss improved communications, to compile a report on disaster threats, to assess the capability to handle the threats and determine what should be done to increase that capability.

AMERICAN CLOCK AND WATCH MUSEUM

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRASSO. Mr. Speaker, time is an important attraction in all our lives, and in Bristol, Conn., has taken the form of the famous American Clock and Watch Museum.

The museum's collection contains a vast array of time pieces and early trade catalogs, including a reproduction of the 1880 catalog of the E. Ingraham Co. There is also an exhibit of various styles of clock designed by Elias Ingraham of Bristol—one of America's clock pioneers. The museum's new curator and librarian, Chris H. Bailey, brings years of horological experience to his fascinating job. A visit to the American Clock and Watch Museum in Bristol is a must for anyone planning to visit this area of Connecticut.

For the interest of my colleagues, an article which appeared in the March 24 issue of the Bristol Press regarding this year's museum opening, follows:

CLOCK MUSEUM OPENS APRIL 1 WITH NEW CURATOR AND DISPLAYS

The American Clock and Watch Museum will open its doors for the season April 1 with several new displays and a new full-time curator and librarian.

The museum, located at 100 Maple St., will be open daily, except Mondays, from 1 to 5 p.m. through Oct. 31.

Chris H. Bailey, a graduate of Brigham Young University and a native of Robinson, Ill., is the museum's new curator and librarian. Bailey has a B.S. degree in the specialized field of historical and genealogical research. He is an accredited genealogist and one of two persons in this country accredited in Australian genealogical research.

From 1966 to 1968 he spent two years in southern Australia and has lived in various cities and towns in the states of Victoria and South Australia. After returning from that country, he finished his education and started working for the Brigham Young University, teaching a few classes and working as the American analyst at the University's Genealogical Research Center. He recently revised, edited and published a 700 page family history entitled, "Highsmiths in America."

Bailey has been interested in clocks and other horological items for more than half of his life. He bought his first clock, made less than 10 miles from Bristol, when he was 12 years old. He first came to Connecticut three years ago to stay with friends in New London and work the summer and buy "just two" clocks. He added 21 to his collection that summer.

During that time, he first visited Bristol and the clock museum. He has returned each year since then to visit the museum and study the collection. Just before last Christmas, he returned to Bristol to talk with the late Edward Ingraham and other museum officials about his present position.

The museum has reproduced two early trade catalogs from its library and exhibits are on display in connection with each.

These recent publications are the 1874 catalog of the E. Howard Clock Company of Boston, Mass., and the 1880 E. Ingraham Company.

The Howard Company was a manufacturer of precision timepieces, regulators, and tower clocks, many of which adorned many early public buildings, railroad stations and churches in the past century and early part of this century.

The museum's collection contains a number of examples of these clocks. Two outstanding examples are an Astro-regulator made about 1850 and a handsomely carved watchmaker's regulator made special order for the Charter Oak Life Insurance Company of Hartford in 1872.

Two exhibits have been made in connection with the reproduction of the 1880 catalog of the E. Ingraham Company. One exhibit shows various styles of clocks which Elias Ingraham is credited with designing during his clock production years. The second exhibit shows approximately 20 of the clocks from the museum collection which are are advertised in the 1880 catalog.

Another interesting display shows the step by step evolution of the production of a wooden movement from the time it is finished wheels, etc., and finally an assembled movement. This exhibit, made and loaned by George Bruno of Torrington, depicts the production of a "Torrington" type horizontal wood clock movement which was made by Norris North and others from the period of about 1822 to 1842.

Elias M. Bidwell of Farmington has loaned the museum a collection of seven museum different Blinking Eye novelty clocks which were produced about the Civil War years and later in Connecticut. These clocks, in the shape of people and animals, have eyes which move in a winking fashion as the clocks run.

During the 1972 season, Mrs. Muriel Harris, Mrs. Elsie Isles, Mrs. Laura Tracy and Mrs. Dorothy Noel will work as museum hostesses. Mrs. Rose Proudman and Mrs. Clara Downs will also assist in this capacity.

Interested persons are invited to visit the museum and observe the products of the industry which was perhaps the earliest factor in the building up of Bristol and surrounding areas. Members of the Museum Association are admitted free, as well as children under 8 who are accompanied by adults. All others must pay a small admittance fee.

WOMAN OF THE YEAR IN ARKANSAS

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ALEXANDER. Mr. Speaker, Arkansas is fortunate in having many outstanding women as citizens of our State. One of our civic leaders who has demonstrated great leadership and untiring efforts, is Mrs. Joe N. Basore, of Bentonville and formerly of West Memphis.

I am pleased to enclose an article from one of our periodicals which describes the noteworthy achievements of Mrs. Basore.

[From the Springdale (Ark.) News, Mar. 19, 1972]

CHOSEN WOMAN OF THE YEAR: STATE PTA PRESIDENT HONORED

(By Becky Hall)

Mrs. Joe Basore of Bentonville was chosen recently as Woman of the Year by the Arkansas Democrat in Little Rock, mainly, she believes, because of her work with state and local Parent-Teacher Associations. She is currently president of the Arkansas Congress of Parents and Teachers and serves on many state councils.

A two-year resident of Bentonville, Mrs. Basore and her husband lived in Cherokee Village from 1955 until Cooper Co., Inc., Basore's employer, moved an office to Northwest Arkansas. They are now in the process of building a house in Bella Vista. Basore's home is Berryville and she was born and raised in West Memphis.

Mrs. Basore started in P-TA as a local unit president when her son, now a freshman at the University of Arkansas, was in the first grade. She moved up the ladder of state offices from district president to seventh vice president (director of the department of health), to first vice president (aid to the president and counselor of directors), to president.

"It's really a full time job right now," she said. "Fall and spring are the busiest times of the year because in the fall is the membership drive and the convention is in the spring. This year is also the 75th birthday of the P-TA."

"There are 501 P-TA units, so I travel quite a bit," she continued. "I try to visit as many local units as possible—at least the ones I'm invited to."

The state is divided into 15 districts and each district has a director elected by the Board of Managers of the state P-TA.

"I think there are lots of problems facing parents and teachers today and rather than deal with problems individually, they found out they needed an organization," Mrs. Basore explained. "People feel there is an apathy on the part of the parents, and many teachers feel that if parents don't care, then they don't either," she commented. "I think parents and teachers realize that to give training to youngsters there has to be cooperation between them. Parents want the best for their children and it is not always a college education."

"The P-TA for so long has been the moneymaker," Mrs. Basore commented, "but we have to reach parents about early school education, school bonds, and many other things. Program is about the only way you can get parents interested. P-TA needs to be taken to the parent. There are some P-TAs having afternoon meetings, and more have night meetings which involve fathers. Over one-third of local unit presidents are male."

Each year the P-TA holds workshops in vulnerable spots over the state for parents and teachers to get together to discuss problems. The Board of Managers decides a central theme for each year, and local P-TAs carry on from workshops. Last year the emphasis was on health education, including smoking. They hoped to reach both children and parents with this topic. "We've had many programs of drug education," Mrs. Basore explained. "Last year we held several workshops on school and community relations."

Children's emotional health was the topic this year. "We had workshops throughout the year in Fort Smith, Texarkana, Conway, Monticello, Jonesboro, Harrison and Arkadelphia," Mrs. Basore said. "Springdale had a series of meetings resulting from those workshops and other local units over the state had programs. Rogers had a film on drug abuse, an Art Linkletter film entitled "Knock on Any Door."

The P-TA chose this year's topic of emotional health because it dealt with early childhood education, affects of school age child, teen-agers and their use of drugs, smoking and general health—things that cause the generation gap between parents and child, according to Mrs. Basore.

"P-TAs have now encouraged PTSA, a parents, teachers and students organization," she explained. "Most are located in high schools and involve students as full members of the P-TA. There is one at Highland High School in Hardy and Central High at Little Rock, and North Little Rock has one. There are also others.

"A group of people shouldn't go out and do this without discussing it with the students," Mrs. Basore warned. "But I think we kid ourselves if we don't think we have to involve our young people. It's past the point when you can lay it out and say, 'Here it is, take it.' "

"My work in P-TA has told people I'm interested in children," she said, adding that was one reason she was on so many state councils.

This will be her fourth year on the Council of Economic Education, which is responsible for programming the Arkansas Council on Economic Opportunity. They provide in-service training for teachers, who go back to their schools and use what they have learned. Dr. Bessie Moore is director and the annual meeting is March 28.

She is also serving on the state 4C Committee, a group of people from different organizations and agencies and consumer parents who formed the Coordinating Community Child Care Services. They try to coordinate all child care services in the state so programs will not overlap or be duplicated.

The Junior League and another group are sponsoring a conference on abused children and Mrs. Basore said she became a member of this by virtue of her P-TA work.

Another of her appointments includes the Coordinating Committee for Educational Television, for which she and others study curriculum recommendations presented by committees and approve the curriculum to use in schools.

Recently reactivated for a White House conference, the Executive Committee for the Arkansas Council on Children and Youth has also enjoyed the services of Mrs. Basore, who helped prepare studies on the need for childhood education in Arkansas.

"My husband and I are charter members of the Cherokee Methodist Church," she said, adding that she served on different committees of Women's Society of Christian Service (WSCS), of which she was president.

"Most all Board of Trustees have the president of the WSCS as a member," she explained. She added that she never served churchwomen on a district level, and has taken a leave of absence from her church work to devote her time to the P-TA.

"The work I have done in P-TA is what is responsible for my selection as Woman of the Year," she said. "I'm glad women have spotlighted the programs so well that people became aware of our efforts."

STATEMENT CONCERNING "WEEK OF CONCERN FOR PRISONERS OF WAR AND MISSING IN ACTION IN SOUTHEAST ASIA"

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. CRANE. Mr. Speaker, this week has been set aside as a "Week of Concern for Prisoners of War and Missing in Action in Southeast Asia." It is important that in showing our concern we understand quite clearly the nature of the enemy with whom we are engaged in combat and the disastrous effects which would follow any potential victory which we might permit him in the future.

Thousands of Americans have died fighting Communist aggression in Vietnam, and too many are today languishing in Communist prisons in North Vietnam.

Some have been imprisoned for as long as 8 years. The Government of North Vietnam has violated the Geneva Convention and has not permitted many of the imprisoned servicemen any communication with their families. In many instances, that Government has refused to acknowledge the names of the men who are, in fact, under their control.

Buried in Communist prison camps, these brave Americans must often think they have been forgotten by the very Nation which sent them into battle. They live their lives with the hope that they are, in fact, remembered, and during this week we have the opportunity to make it clear that they are.

Yet, there are many who espouse their cause by advancing a policy which would make their sacrifice meaningless. Many now state that the United States should unilaterally withdraw from Vietnam, even if a Communist victory is the result, if only our adversaries will return the prisoners.

Such an approach means that those brave Americans who have died in this conflict have died in vain, that aggression will, in the end, be permitted to succeed, and that the suffering which these prisoners have endured has been for no reason.

We have an obligation to our allies in South Vietnam, to the Americans who have died, and to those in North Vietnamese prison camps today, to make it clear that aggression committed by totalitarian states will not be permitted to succeed.

We should also consider for a moment what the cost would be in human lives were the Communists permitted to come to power in South Vietnam. Prof. P. J. Honey of London, widely recognized as one of the foremost authorities on North Vietnam in the free world predicts that "on the basis of past Communist deeds, and given the size of South Vietnam's population, the minimum number of those to be butchered will exceed 1 million and could rise to several times that figure."

Col. Tran Van Dac, a North Vietnamese officer who defected after 24 years in the Communist movement, informed the press that the Communists, if they win, will slaughter up to 3,000,000 South Vietnamese who have resisted them so bitterly for so long.

Douglas Pike, author of the definitive work, "The Viet Cong," who made an in-depth study of the organized mass killings carried out by the Communists during the brief occupation of a portion of the city of Hue, concludes his study with these ominous words:

> The meaning of the Hue Massacre seems clear. If the Communists win decisively in South Vietnam what is the prospect? First, all foreigners would be cleared out of the South, especially the hundreds of foreign newsmen who are in and out of Saigon. A curtain of ignorance would descend. Then would begin a night of long knives. There would be a new order to build. The war was long and so are memories of old scores to be settled.

We must not lose faith with those Americans who today suffer as prisoners of war and to those thousands of others who have made the supreme sacrifice of their lives for freedom and for their country. To argue, as some have done, that we should, in effect, surrender if only the prisoners are returned, is to make a mockery of that suffering and that sacrifice. The war has been fought to defeat aggression in the hope that a better world in which men and nations would be free could be achieved. Despite the opposition to the war, the protests, the parades, the slogans, the fact remains that the Communist enemy is a brutal foe, and his success would lead to more tragedy and conflict, not to less.

We must be thankful that our Nation has produced men as brave and daring as those who today suffer under the yoke of Communist prisons. We must make every effort to see to it that these men are returned to their homes and families as rapidly as possible, and in the honorable manner that they all would wish.

They must understand that their fellow Americans do care, that those who do not, or appear not to, are a small if vociferous minority. The American people have not broken faith with their men in North Vietnam and will never do so. They will continue to do everything possible to see to it that their imprisonment ends and that a new day of freedom and reuniting with their families comes as rapidly as possible.

DOROTHY DAY RECEIVES LAETARE MEDAL OF THE UNIVERSITY OF NOTRE DAME

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BRADEMAS. Mr. Speaker, I take this opportunity to announce that Miss Dorothy Day, the founder of the Catholic Worker Movement and befriender of society's outcasts for almost a half-century, has been named the 1972 recipient of the Laetare Medal, the University of Notre Dame's highest honor. She became the 19th woman to receive the honor, conferred annually since 1883 on outstanding American Catholics.

Rev. Theodore M. Hesburgh C.S.C., president of the University said:

> Dorothy has been comforting the afflicted and afflicting the comfortable virtually all of her life, always a little bit in advance of the acceptable she has pricked the conscience of us all, reminding us that the way to the Father is in service to the least of His brethern. In a society buffeted by various types of political radicalism, she has exemplified the most radical approach of all: Christian love. No one has put it any better than she once did when she said, "Love is indeed a harsh and dreadful thing to ask of us, of each of us, but it is the only answer."

Mr. Speaker, Miss Day, at 74 still guiding both the Catholic Worker Movement and its newspaper, was born in Brooklyn and spent her adolescence in Chicago. In 1914 she entered the University of Illinois as a scholarship student, and her awakened interest in social justice led her into the Socialist Party. Two years later she dropped out of the university when her father moved to a new job in New York City. During the next 10 years, she wrote for radical publications in New York and Chicago, entered into a short-lived common law marriage in which a daughter was born, and was converted to the Catholic Church in 1927.

In 1932 she met French-born Catholic layman Peter Maurin, who envisioned a "green revolution" which would unite scholars and workers in houses of hospitality for the needy and in farming communes. In 1933, the two of them published the first issue of the Catholic Worker, a monthly which is still the only periodical in American journalistic history to cost more by the year—25 cents—than by the issue—a penny.

Mr. Speaker, in the wake of the newspaper appeared houses of hospitality, which numbered around 30 in the Nation's inner cities at the peak of their movement's popularity during the depression. To live in these houses, sharing bread and bed with the poor and sick, came young men and women attracted by the ideals of Dorothy Day and Peter Maurin. They lived in voluntary poverty, caring for the faceless victims of industrial society's economic catastrophe and preaching the cooperative, decentralized social order of Maurin.

Mr. Speaker, the Catholic Worker Movement was a rite passage for many of today's Catholic social activists. One observer wrote:

> It was a Christian revolution she was starting. She was opening the minds of bishops, priests, seminarians, and lay people to the fact that Christianity was not a stuffy sacristy affair. She was a trumpet calling for all of us to a tenant farmer, migrant worker or Negro. We think of Church history as being made by popes and bishops. Here is a woman who has placed her stamp on American Catholicism. The seed she sowed in the thirties is now bearing fruit a hundredfold.

Today Dorothy Day continues her work at the movement's headquarters in New York City, writing and lecturing, busy enough to regret not spending more time with her daughter and nine grandchildren. Her most recent book, "Meditations," a collection of commentary on social ills in the light of the Christian Gospel, was published in 1970.

Mr. Speaker, the Laetare Medal will be presented to her at Notre Dame's commencement exercises on May 21. She joins such recent recipients of the award as President John F. Kennedy, poetess Phyllis McGinley, industrialist J. Peter Grace, the Associate Justice William J. Brennan of the U.S. Supreme Court.

INTERNAL REVENUE SERVICE AND THE FREEDOM OF INFORMATION ACT

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MOORHEAD. Mr. Speaker, the Foreign Operations and Government Information Subcommittee of the House Government Operations Committee is presently conducting oversight hearings on the administration and effectiveness of the Freedom of Information Act (5 U.S.C. 552). Thus far, we have received testimony from more than 40 witnesses, including legal authorities on the operation of the act, representatives of the media, former Presidential Press Secretaries and public information officers, and officials of executive departments and agencies.

As part of these hearings, testimony will be taken from officials of the Treasury Department and Internal Revenue Service on Friday, April 14. In this connection, I would like to call attention to three excellent articles by Mr. E. Edward Stephens, whose syndicated series "Counsel for the Taxpayer," appears in newspapers throughout the country. These articles from the New York Daily News for February 25, 1972, March 10, 1972, and March 17, 1972, describe allegations against the Internal Revenue Service for the withholding of information and documents from Mr. and Mrs. Philip H. Long of Bellevue, Wash., and from Mr. Stephens himself, when IRS documents strangely disappeared from the shelves of the Treasury Department library.

Mr. Speaker, it is just this type of questionable actions in the information field on the part of Government bureaucrats that our subcommittee is investigating in our hearings. When Treasury and IRS officials appear before the subcommittee we will certainly demand a full explanation of the actions described in Mr. Stephens' articles.

The articles follow:

[From the New York Daily News, Feb. 25, 1972]

It May Pay To Contest Findings of IRS Agent

(By E. Edward Stephens)

Q. A revenue agent is auditing my income tax returns. If he concludes that I owe more taxes, but I disagree, should I go along with him or what?

A. Chances are it will pay to fight. Odds are heavily in your favor, as revealed by the recently released annual report of the Internal Revenue Service for fiscal 1971, which ended last June 30.

This 130-page book, resembling the annual report of a giant corporation, details IRS operations for the year. Amid lavish self praise—a large part of which is justified—the book contains statistics of vital importance to taxpayers.

For one thing, it shows that in '71 IRS appellate conferees settled 19,743 "nondocketed" cases at an average of 28.77 cents on the dollar, saving the taxpayers $773.4 million. These were cases in which no U.S. Tax Court petitions had been filed.

Taxpayers did even better than they had done in the previous year, when appellate conferees settled 20,780 nondocketed cases at 34 cents on every dollar of deficiencies served up by revenue agents, for total tax savings of $548 million.

All of which indicates that it generally pays to contest the findings of an agent if you think they're wrong.

AUDIT PROCEDURE

Under normal IRS audit procedure, if you're not satisfied with an agent's findings, you can try to settle with either a district conferee or an appellate conferee. Or, you can go to a district conferee first, then to the appellate division if you don't reach agreement.

So it would be helpful to compare the average district settlement with the average appellate settlement. Unfortunately, you can't do this by studying the IRS annual report, because it doesn't publish district figures that are comparable to those published for appellate conferences.

IRS admits that it has the district settlement figures. They're in its "quarterly statistical report," compiled at taxpayers' expense. But IRS officials are curiously hush-hush.

Since they have stubbornly refused to disclose the desired figures, I can't tell you at this writing how taxpayers came out in 1971 district conferences. But I can report that, in years 1967 through 1970, district conferees settled 105,070 cases at an average of 41.13 cents on the dollar.

The figures were supplied by Philip H. Long and his wife, Sue, who somehow were able to examine the quarterly statistical reports that IRS keeps under wraps.

DATA FROM MANY SOURCES

Phil and Sue Long have gathered a wealth of useful data from many sources, and they share it generously with other embattled taxpayers. You can contact them at 4885 Lakehurst Lane, Bellvue, Wash. 98006.

Among other charges, the Longs accuse IRS of failure to comply with the letter or spirit of the Freedom of Information Act, passed by Congress in 1967 to force federal agencies to disclose, upon request, information they concoct at public expense—data that they had been hiding from taxpayers who pick up the tabs.

Section 552(a) (2) (C) states:

"'Each agency . . . shall make available for public inspection and copying . . . administrative staff manuals and instructions to staff that affect a member of the public."

Citing this section, the Longs requested a look at a portion of the Internal Revenue Manual entitled "Disclosure of Official Information Handbook." Although this appears to fit squarely into the mold of the law, the request has been denied.

IRS officials soon may have to answer in court. The Longs don't give up easily when they believe they're being deprived of their legal rights.

[From the New York Daily News, Mar. 10, 1972]

Settle 1971 Tax Cases for 41.6 Percent

(By E. Edward Stephens)

Q. It will help me to know how taxpayers came out last year in district settlement conferences. Your column stated, two weeks ago, that the Internal Revenue Service had refused to give you the desired figures. Have you succeeded in getting them?

A. Yes—without IRS cooperation. The figures are taken from the "Quarterly Statistical Report," prepared by IRS employes at taxpayers' expense and marked "for official use."

In the fiscal year 1971, which ended last June 30, IRS district conferees settled 25,615 cases at a nation-wide average of 41.57 cents on each dollar of deficiencies and penalties proposed by revenue agents and tax auditors. The corresponding average for the preceding four years ('67 through '70) was 41.14 cents on the dollar.

The location of your residence can make quite a difference. In the North-Atlantic Region—New York, Connecticut, Rhode Island and Massachusetts, plus Maine, New Hampshire and Vermont—taxpayers were able to settle for an average of 37.05% of IRS proposed deficiencies and penalties. But the neighboring Mid-Atlantic Region—Pennsylvania, New Jersey and Delaware, with Maryland, Virginia and the District of Columbia—the average settlement was 61.04%.

RESULTS BY DISTRICTS

There's an even wider variation which you break down the results by IRS districts. A few examples:

	Percent
Manhattan	35. 13
Brooklyn	40. 23
Buffalo	41. 47
Wilmington, Del	43. 32
Baltimore	46. 57
Philadelphia	50. 39
Albany, N.Y	53. 34
Richmond	61. 18
Newark	83. 64

Taxpayers who took their cases to the IRS appellate division did better. In fiscal '71, appellate conferees settled at a nation-wide average of 28.77% of deficiencies and penalties toted up by revenue agents and tax auditors.

These figures show that it's generally wise to by-pass the district settlement conference and try your luck with an appellate conferee. They also flatly refute the claim that IRS treats taxpayers uniformly throughout the country.

AGAINST SMALL TAXPAYER

The truth is that the IRS audit system works viciously against the small taxpayer. Here's the way the wheels grind:

A revenue agent or tax auditor makes his examination. He then proposes deficiencies and penalties, throwing in everything but the adding machine—to give IRS maximum advantage in settlement negotiations.

Even when the taxpayer believes the deficiencies are inflated, he'll probably give up if the amount involved is relatively small. He doesn't know how to handle the case himself, and he can't afford a tax specialist because there isn't enough money at stake. So he generally grits his teeth and pays the full amount, with interest.

If the deficiencies and penalties were larger, it would pay to retain help and shoot for settlement with a district or appellate conferee. As IRS figures reveal, prospects would be bright.

Under the present set-up, the IRS juggernaut rolls right over the little fellow. He should be able to get free assistance from public tax defenders paid by the federal government.

[From the New York Daily News, Mar. 17, 1972]

How You Can Force IRS To Disclose Its Statistics

(By E. Edward Stephens)

Q. Your Feb. 25 and March 10 columns revealed amazing figures taken from the Internal Revenue Service's quarterly statistical reports. How can I get a peek at these fascinating documents?

A. Apparently you'll have to take the slow road—send IRS a written request and try to force disclosure under the Freedom of Information Act. Follow IRS procedural regulations, section 601.702(c). You'll find them in volume 26, Code of Federal Regulations.

Chances are you'll win eventually, but you may have to drag IRS officials into court to make them comply with the law. By the time you get the desired reports, you may have forgotten why you wanted to examine them.

If you had asked your question a week ago, I could have pointed out a fast road. I would have directed you to the Treasury Dept. library, open to the public, where the quarterly statistical reports had been displayed prominently for ages.

It may have been just a coincidence that the reports mysteriously disappeared shortly after my Feb. 25 column was published. When I looked for them on March 9, the library shelves were as bare as old Mother Hubbard's cupboard.

The librarian, an attractive young lady—sweet, conscientious and efficient—would say only that the reports had been "taken off the shelves." She sent me to the Internal Revenue Service for further information.

I called on Mr. D. O. Virdin, chief of the disclosure staff in the office of the IRS assistant commissioner for compliance. But the interview turned up nothing but double talk—even though Virdin was assisted by three other IRS officials. Nobody mentioned the strange disappearance of the reports from the Treasury library shelves.

IRS officials soon may have to give more forthright answers than I got. They're due for questioning by the foreign operations and government information subcommittee of the House government operations committee. Hearings started March 6, will continue through June.

"We plan to find out whether the executive branch of the federal government is following the letter—and the spirit—of the freedom of information act," said Congressman William S. Moorhead (D-Pa.), the subcommittee's chairman.

The subcommittee is going to pinpoint federal agencies with the "best" and "worst" performance records as shown in an analysis of case-by-case denials of information. You can contact the subcommittee at: Room B–371, Rayburn House Office Bldg., Washington, D.C. 20515, or by calling area code 202, 225–3741.

FOR "WORST" RATING

One case that will help insure the "worst" rating for IRS is that of Philip H. and Susan Long, of Bellevue, Wash. Here's how it went:

Nov. 11, 1971: The Longs sent Virdin a written request for a look at the IRS Disclosure of Official Information handbook.

Dec. 9, 1971: Request denied by John F. Hanlon, IRS assistant commissioner for compliance.

Jan. 7, 1972: The Longs appealed by letter to Commissioner of Internal Revenue Johnnie M. Walters.

Feb. 25, 1972: The Long case was exposed in this column. Walters reversed Hanlon's decision and sent Longs the desired handbook, with the exception of one section entitled "Special Tax Check Reports."

It may have been just another coincidence that, after a delay of nearly two months, Commissioner Walters made up his mind the very day that IRS hanky panky in the Long case was revealed. But at least two people—Phil and Sue Long—are sure it was no mere happenstance.

WORKING FOR PEANUTS

HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HAGAN. Mr. Speaker, I am proud to take this opportunity of sharing with my colleagues the story of a fine young man in my district who literally "worked for peanuts." He is an 18-year-old who has just been selected to coordinate the Georgia Peanut Commodity Commission's youth program in peanut promotion. Mike Daniel is his name and he comes from Claxton, Ga. Mike and his father, Herbert A. Daniel, were 1971 winners in the Father-Son 4–H Peanut Production Contest. Mike attended the National 4–H convention in Chicago last fall as a State winner in field crops competition making him well-qualified to represent the peanut commission throughout the State of Georgia.

When we learn about young people like Mike who are working hard and proving they have what it takes, we do not have to worry about what is happening to our younger generation. I believe the future of America is in good hands and that the majority of our young men and women all across this country, like Mike, are preparing themselves in many fields of endeavor to take their place as responsible citizens. These are the young folks who will be our leaders and it is they who will carry on the principles on which this Nation was founded.

I am pleased to present Mike Daniel's story as it was told in the Claxton Enterprise on March 23:

Evans County Youth Selected To Coordinate Peanut Program

Mike Daniel isn't the only 18-year-old farm boy who ever went away to college and "worked for peanuts," but he may be one of the few who has made peanuts work for him.

The Evans County youth, a student at Abraham Baldwin College, has been selected to coordinate the Georgia Peanut Commodity Commission's youth program in peanut promotion.

Mike and his father, Herbert A. Daniel of Claxton, were 1971 state winners in the Father-Son 4–H Peanut Production Contest, and Mike attended the National 4–H Convention in Chicago last fall as a state winner in field crops competition.

As one of the state's youngest peanut growers, Mike will travel throughout Georgia speaking to youth groups, civic clubs, conventions and other organizations interested in the future of agriculture and peanut production in Georgia.

"Mike will help lead a new youth organization called the "Growing Georgia Goober Group,'" said Dr. George "Pete" Donaldson, executive secretary of the Peanut Commission. "He will work with various youth groups in the state with the objective of exploring possibilities for young people in agriculture."

The young Georgia peanut farmer recently represented the Peanut Commission at the tenth annual Teenage Nutrition Conference in Atlanta where he prepared and served homemade peanut butter to hundreds of Georgia teenagers attending the conference.

Donaldson said the average age of peanut growers in Georgia is 55, but he hopes the commission's youth program will lower this age level by encouraging young people to stay on the farm.

Peanuts have been the leading cash money row crop in Georgia for the last five years with the state's 28,000 peanut growers producing more peanuts than any other two states combined.

"The lawyer, the businessman, the grocer and everyone else is dependent on agriculture," explained Mike, who has farmed his own crops since the tenth grade. "Working on the farm has given me a strong sense of responsibility and a great deal of respect for the farmer as a businessman, manager and economist."

Mike is an honor graduate of Claxton High School and recipient of $500 Georgia Farm Bureau Scholarship presented annually to four college students throughout the state.

LEGISLATION TO PROVIDE FOR NATIONAL PRESIDENTIAL PRIMARIES

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. MINK. Mr. Speaker, presidential primaries have taken on the spectacle of a horse race.

Instead of a valid exercise in citizen choice, the present primary system is a chaotic, haphazard obstacle course whose returns bear little relationship to the desires of the electorate.

Nearly every honest observer of the political scene readily agrees that the vast majority of our people are fed up with their Government. Most have little faith or confidence in the political system. They do not believe that an individual can any longer have any impact on the governmental decisions which increasingly affect his daily life.

The hodgepodge primary system guarantees that the wishes of the voters will be distorted and used to affect the results of other primaries.

The ground rules of primaries vary from State to State. It is difficult to get on the ballot in some, and in others it is difficult to get off. The winner in some gets committed delegates, but in others he gets no guarantee because it is only a preference poll. Even if a candidate wins in terms of receiving the most votes, he may lose because news media interpret his share of the vote as less than he should have received.

Undue emphasis is placed on the results of a small State like New Hampshire, where a candidate is subjected to the personal vendettas of a self-styled publishing tycoon. States are increasingly seeing primaries as a revenue source, attracting publicity and roving bands of newsmen and pollsters. The showmanship generated is demeaning to democracy.

Candidates needing only a fraction of the vote for an interpreted victory are free to pick and choose among States where they can work the primary situation to their particular advantage. There is never a clear-cut decision. The voters must try to weave their way through the conflicting claims and differing analyses and interpretations.

In the past, many concerned citizens have urged that this mishmash which has now reached 25 primaries be replaced by a single national primary. Never before has the need for this been more evident. Instead of assisting in the democratic process, the primaries are subverting the right of the electorate to have a meaningful input in the selection of the major party candidates for the highest effective office in the land.

Carefully staged publicity gimmicks, endorsements by public figures, and financial support by special interests are ingredients in the current battle for survival. The 5 months of primaries would tax the endurance and perseverance of the hardiest of souls. While this type of contest might be appropriate to the law of the jungle, it is not a fit system for choosing our President.

To correct this scandalous situation, I have introduced legislation to provide for a national presidential primary. My bill is similar to a measure introduced by Senators MANSFIELD and AIKEN, but with some changes.

Basically, the plan envisions the nomination of presidential candidates by a single nationwide closed primary to be held in early August. To get on the ballot, a major party candidate would be required to file petitions signed by qualified voters in at least 17 States equal to 1 percent of the vote cast in the last election for presidential candidates in those States. Provision would be made for minor party candidates as well. There could be no cross-filing and for the most part, the place and manner of holding the primary would be left to individual States. There would be a runoff only when no candidate received more than 40 percent of the vote. The proposal leaves the selection of a vice presidential nominee to each party. The role of conventions would be reduced to shaping party platforms and possibly assisting in the vice presidential nominee selection. Our recent campaign spending reforms would apply equally to the national primary.

My bill provides that all citizens who meet the qualifications of a State for voting for the members of the most numerous branch of the State legislature, may vote for President and Vice President. There would be only a 30-day State residency requirement. Any candidate would be permitted to withdraw from contention by filing an affidavit with the Secretary of the U.S. Senate.

I feel that this amendment to the constitution should be approved as quickly as possible. Obviously it is too late to save us from our present predicament, but a national primary would restore order from another chaos in 1976.

We cannot permit our political process to be destroyed by a primary system which reduces the Presidency to a 25-ring circus. Today, as our citizens watch numbly, we inflate trifles to traumas, and downplay the issues which are of fundamental importance. As the presidential derby careens over its wildly fluctuating course, there is no clear decision which inexorably emerges.

A national primary would permit the undivided attention of the principal contenders for a brief period of time. Much of the debate could be over national news media. Cost of the national primary would not be a factor now since the general election campaign would be paid by the taxpayer's $1 checkoff system which prohibits any other solicitations and limits spending.

Only persons who could amass the required signatures could get on the ballot. The signature campaign would cost little and could be done by volunteer supporters.

The candidates' stand on issues would be the prime concern in the national primary. The result of one primary would have no effect on another since all occur on the same day. The news media would become more responsible.

The national primary will give politics back to the people and enable the selection of a President by ballot and not by the polls.

In my view, there is no more imperative goal now than to perfect our political system by implementing a national primary. I hope that the legislation which has been introduced will be speedily considered and approved by the Congress.

SHORTAGE OF NATURAL GAS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. PICKLE. Mr. Speaker, the following article that appeared in the March 29 edition of the Washington Post is only one of a series of indicators that this Nation is facing a severe energy shortage. The article points out that last year was the third in the last four that the Nation consumed more natural gas than the industry was able to discover.

Although some critics challenge the accuracy of the figures the AGA use to show the shortage of natural gas, I do not think anyone can deny the fact that this country is not meeting its energy demands. Although different committees of Congress are looking into the energy shortage problem, I say that some immediate action is necessary. Lengthy hearings have been held on H.R. 2513, the national gas amendments. This bill would at least give the natural gas producer a guarantee of certainty in his operations. Under this proposed bill once the FPC had approved a contract between the producer and the pipeline the FPC could not come back in and change the price or other terms of the contract. This bill is not granting the producer a lot, it is just giving him the assurance that once a price has been agreed on that the FPC would not change it. This is assurance that a businessman needs to have before he can make investments and carry on his operations.

I think the Washington Post article points out again the need for this bill as an initial step. I insert the article in the Record, as follows:

U.S. Reserve of Natural Gas Seen Reduced

(By James L. Rowe, Jr.)

The American Gas Association reported yesterday that the nation's shortage of natural gas worsened last year as proven reserves tumbled to 278.8 trillion cubic feet from 290.7 trillion cubic feet at the end of 1970.

Last year was the third year in the last four that the nation consumed more natural gas than the industry was able to discover. In 1970, proved reserves—those which the industry knows exist and can recover from the earth—increased, but only because the AGA included 26 trillion cubic feet of Alaskan gas for the first time.

In a statement, F. Donald Hart, president of AGA, said, "Total proved reserves of natural gas are now lower than they were in 1964, yet demand has risen by nearly 45 per cent since then."

The Federal Power Commission, in a staff report issued last month, estimated that, in 1971, American consumers demanded 0.9 trillion cubic feet more than the gas industry was able to supply.

The estimate was based on a projection that 22.8 trillion cubic feet of gas would be produced last year. The AGA reported yesterday that actual production in 1971 was 22.1 trillion cubic feet, which could mean unfulfilled demand was as high as 1.6 trillion cubic feet.

By 1990, the FPC study estimates, the nation will demand 17.1 trillion cubic feet more of natural gas than the gas industry can supply.

In two related developments:

A Federal Power Commission hearing examiner said the commission had no authority over construction of a $39.5 million plant to manufacture syntheic gas from naphtha, but said when the synthetic gas is mixed with natural gas for interstate shipment, the FPC could exert jurisdiction. Synthetic gas is seen as an important supplement to natural gas.

The chairman of the House Interior Committee, Wayne Aspinall (D-Colo.), said his panel would hold hearings next month to examine "the dimensions of the energy crisis and explore alternatives to further crisis over the next 15 years."

The American Gas Association, an organization of natural gas distribution companies, said reserves in the lower 48 states declined last year to 247.7 trillion cubic feet, the lowest level since 1957.

AGA estimates of reserves have not received universal acceptance from consumer groups, although at present AGA estimates are used by the Federal Power Commission in determining rates it sets for natural gas. The FPC, however, is conducting a national gas survey to determine to the total extent of the nation's gas shortage.

The FPC granted billions of dollars of increases to natural gas producers last summer to encourage them to explore for more gas reserves. The Potential Gas Committee of the Colorado School of Mines estimates that the nation has potential reserves of 1,178 trillion cubic feet in addition to the proven reserves of 278.8 trillion cubic feet. The AGA estimated total proven and potential gas reserves can supply the nation for 60 years.

The natural gas shortage already has had some impact on gas distribution companies. The Washington Gas Light Co. announced several weeks ago that it would not be able to supply any new customers with natural gas because it could not buy any more gas than it already has contracts for from gas pipeline companies.

The gas company also is considering construction of a synthetic gas plant to help it over shortages of pipeline gas.

FURTHER TESTIMONY THAT THE GROCER IS NOT TO BLAME

HON. SHERMAN P. LLOYD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. LLOYD. Mr. Speaker, on the "Today Show" for March 30 the former consumer adviser to President Lyndon B. Johnson stated that since she had been associated with the Retail Food Store Organization she had changed her mind regarding the culpability of retail food markets in the matter of higher food prices.

This further substantiates the need for both Government and consumers to be fairminded in our essential search for the most effective way to stabilize the cost of living. It is simply wrong to point the finger of blame at any one segment of American industry. I submit the editorial from the Salt Lake Tribune of March 30, which is a responsible statement on the issue:

[From the Salt Lake Tribune, Mar. 30, 1972]

Meany Wrong in Blaming Retailers for Most of Food Cost Increase

When he said that Price Commission rulings cannot be enforced without a large investigative staff, AFL–CIO President George Meany challenged a basic tenet of the administration's anti-inflation effort.

Though the small Pay Board and Price Commission staffs are augmented by Internal Revenue Service personnel, the anti-inflation program relies heavily on voluntary compliance stiffened by public opinion. If Mr. Meany is correct that some 200,000 full-time agents would be needed to enforce Price Commission regulations, then volunteer compliance has failed.

Mr. Meany assumes that most of the blame for rising food prices falls on the retailer. But that basic assumption is open to serious question.

There probably are instances where retailers have taken advantage of the Price Commission's lack of enforcement staff. But the retailer is but one link in the long and complicated chain from producer to consumer and every link that handles a food product along the way is also suspect.

Farmers and supermarket operators usually get most of the blame for soaring food prices because they are most visible to consumers. Both in turn blame "middlemen," a mysterious lot which includes suppliers, commercial carriers, processors, distributors, wholesalers and a host of lesser figures most consumers don't even know exist. Placing all the blame for high food prices on any one part of the food production and merchandizing apparatus, as Mr. Meany has done, is grossly unfair.

Since so many have a hand in setting the ultimate price of most food items, stepped up price control enforcement directed mainly at the supermarket would be missing a good part of the target. Even if Mr. Meany's 200,000 investigators turned up in every supermarket in the land, their effect would be minimal.

A better way is suggested by Treasury Secretary John B. Connally who met Wednesday with the heads of large supermarket chains to discuss rising meat prices. Mr. Connally should quickly follow up the Wednesday gathering by arranging for similar meetings with large food producers, dealing in grains and other foodstuffs and food processors and distributors.

All should be told, as the grocers were told, "We are going to be watching your profit margins and we are going to be watching your pricing policies." The relatively few investigators at the Price Commission's disposal should then be deployed at key points along the production and distribution tube to make the secretary's threats stick.

A TIME FOR CONCERN

HON. ALAN CRANSTON

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Thursday, March 30, 1972

Mr. CRANSTON. Mr. President, on February 20, 1972, I had the pleasure of addressing the annual convention in Los Angeles, Calif., of the distributors of Shaklee products. Shaklee Co. was one of the first manufacturers of "vitalized minerals" as a natural organic food supplement. This product was actually first marketed before the word "vitamin" had been coined. The convention gave me an opportunity to discuss some recent concerns of mine with the problems of environmental degradation. I hope my colleagues will be interested in sharing these thoughts with me.

Mr. President, I include the following portion of my speech at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

A TIME FOR CONCERN

The theme of the 1972 convention—A Time for Concern—seems especially appropriate for a gathering of Shaklee employees.

After all, it is only natural that you, who have contributed so much to our nutritional well-being, would now be interested in and concerned about the well-being of our environment.

For too long, we have based our decisions on social planning about the utilization of our resources solely on short-term economic indicators.

It is now imperative that we expand the bases for our decisions to include environmental considerations.

We have made great strides in developing an understanding of and a respect for our environment.

Just as the decade of the 1960's found national attention focused on the human tragedy of poverty, hunger and malnutrition—and the discovery by the majority of Americans that poverty was a daily reality for millions of their fellow citizens—I think that the decade of the 1970's will be looked upon as a time of environmental "consciousness-raising."

In a few short years, the general public has developed a fair understanding of some complex ecological principles.

We are growing out of our environmental "adolescence" toward a maturity that recognizes our individual and collective responsibility to preserve our natural resources and to maintain a quality environment.

A good indication of the diffusion of this new environmental awareness is our language.

The American vocabulary today abounds with words that reflect our environmental concerns.

Words like "ecology," "biodegradable," "recycling," and phrases like "endangered species," and "natural or organic foods," are now commonly used in our daily speech.

An organization of bicycling enthusiasts in Santa Barbara has even coined a new word—"Bikecology"—to illustrate the ecological advantages of riding bicycles instead of driving cars.

Incidentally, I have introduced legislation to provide federal financial assistance for the development of bicycle transportation facilities in our cities.

Young people—always the nation's most precious resource—are particularly concerned about the deterioration of our environment.

And rightly so.

It is our sons and daughters who will inherit our environmental mistakes.

It is they who must find solutions to the overwhelming problems of over-population, air and water pollution, solid waste disposal, noise pollution, urban decay, suburban sprawl, and the energy crisis, just to name a few.

I am encouraged not only by their enthusiasm but also by their willingness to "roll up their sleeves" and work to reverse the deterioration of our physical world.

They are, in short, taking responsible action to solve these problems.

President Nixon expressed the need for action very well in his recent environmental message to Congress:

"Each of us, all across this great land, has a stake in maintaining and improving environmental quality: Clean air and clean water, the wise use of our land, the protection of wildlife and natural beauty, parks for all to enjoy.

"These are part of the birthright of every American.

"To guarantee that birthright, we must act, and act decisively.

"It is literally now or never."

We have heard from the doomsday prophets that the end is in sight for life on earth.

Although California did not drop into the sea as predicted by local soothsayers in April 1969, many of these predictions are made by respected scientists and can not be lightly dismissed.

The famed anthropologist, Dr. Louis S. B. Leakey, for example, has warned that man is "not only the most dangerous species on earth, he may also be one of its most endangered."

If society acts now against pollution and overpopulation, Leakey said before the 138th meeting of the American Association for the Advancement of Science, man can survive for another 20,000 years—about the length of time since the species broke away from the line of common descent that gave rise to the great apes.

If not, goodby!"

The species, man, may be extinct in as little as 30 years!

Just to get a perspective on why it is "literally now or never," I'd like to discuss briefly the magnitude of a few of our environmental difficulties.

1. Over population.

In 1950, there were 151 million Americans. Today there are 208 million.

By the year 2000—only 28 years from now—that number will have swelled to around 300 million.

In other words, if present growth patterns remain constant, our national population will have doubled in a span of 50 years!

The National Academy of Science said of this population growth in 1965:

"If present fertility and mortality trends persist, [U.S.] population will surpass the present world population in a century and a half.

"And in about 650 years, there would be one person per square foot throughout the United States."

Since most environmental damage in the U.S. today is directly or indirectly a result of the pressures of a growing population, these trends have obvious implications for the quality of our future environment.

We must be thinking *today* about how our society and our environment will absorb the additional 10 million people that will be added to our burgeoning population in the next 25 years.

We must answer:

Will there be jobs available?

Will there be suitable housing?

Can we grow enough food and fiber over the next 25 years to feed and clothe these millions?

Can we preserve open space and wild and scenic places in time?

How will we dispose of the solid waste produced by a nation of 300 million?

How will we produce enough energy to satisfy the tremendous appetites of 300 million American consumers?

And can we produce this energy without ruining the quality of our air and water?

What about hospitals, schools, and roads and mass transportation?

2. *Noise pollution,* which most of us think of as an annoyance, is actually a serious health hazard.

Consistently high levels of noise affect our heart rates and our metabolism and increase levels of mental and physical stress.

Some experts have predicted that noise pollution will leave every city dweller in America deaf by the year 2000.

3. *Endangered species.*

Our encroachment on wildlife habitats now threatens the extinction of many familiar plants and animals.

Experts are now predicting that within 20 years, more than half of today's familiar species will be extinct.

Not only will the loss of so many species of plants and animals drastically alter the present ecological balance, but it will also hasten what Dr. Kenneth E. F. Watt has called "man's efficient rush toward deadly dullness."

Expanding on this concept in the February issue of Natural History, Dr. Watt theorizes that diversity may be an essential element for man's survival.

We know, for example, that complex and diversified ecosystems are generally stabler and have more compensatory resources to resist invasion from outside plants and animals.

Dr. Watt suggests that diversity may be something more than a luxury for human well-being.

It may be necessary for our survival.

4. *Air pollution*—a major concern for those of us who live in Los Angeles—is reaching crisis proportions.

The Environmental Protection Agency has estimated that the annual toll on human health, vegetation, materials and property values due to air pollution amounts to around 16 billion dollars—more than 80 dollars for each person in the United States.

Furthermore, air pollution is the cause for increasing alarm about its hazards to life and health.

In Los Angeles County—an area with the world's highest concentration of cars (4.2 million in 1970)—doctors are advising between 9,000 and 10,000 patients each year to leave the area in order to prolong their lives.

While an absolute cause-effect relationship between air pollution and health has not yet been established, we know that they are linked.

Recently, researchers at Cornell University were able to demonstrate that even a slight increase in the levels of air pollution leads to a rise in the death rate.

Furthermore, evidence is growing that even long-term exposure to low levels of pollution can cause chronic illness and promote premature death.

Major illnesses linked to air pollution include emphysema, bronchitis, asthma and lung cancer.

In 1967, the public health service reported that emphysema is the fastest growing cause of death in America.

In the 10 year period between 1950 and 1959, deaths among males from emphysema rose from 1.5 per hundred thousand to 8 per hundred thousand.

In 1962, more than 12,000 persons died of emphysema.

PHS also reported that chronic bronchitis affects as many as 21 percent of the men between the ages of 40 and 50.

In short, deaths from chronic bronchitis over the past 10 years have increased 200 percent.

5. *Solid waste disposal:*

Every day each of us generates about 4½ pounds of solid waste.

This means something like 800 million to a billion pounds a day in the United States.

If we cannot manage the wastes produced by 200 million people, it will be a catastrophe when we reach 300 million.

To sum up, let me state it this way:

Every eight seconds a new American is born.

He will require over a life-span of 70 years: 56 million gallons of water, 21,000 gallons of gasoline, 10,150 pounds of meat, 28,000 pounds of milk and cream, 9,000 pounds of wheat and 31,500 pounds of pulpwood in paper products.

He will also have to be educated, clothed and housed.

This will average out to 8,000 dollars worth of schooling, 6,000 dollars worth of clothing, and 7,000 dollars worth of furniture.

Unless there is a devastating war, electric power production will increase five times by the year 2000, building will increase five times, and there will be 244 million automobiles on America's roads.

And so, it is a "time for concern."

It must also be a time for action, for time is growing short.

Forces set in motion by the industrial revolution have brought us—in less than 100 years—to the bring of environmental catastrophe.

Solving the environmental crisis will require vast federal expenditures.

It may also require significant changes in our style of life, particularly in our rates of consumption.

It will certainly require the development of a low-emission engine, a decreased reliance on the automobile as a means of transportation, the development of a clean source of energy, the recycling of at least part of our solid waste, and the harnessing of our vast technological skills to solve environmental pollution rather than to contribute to it.

I am fully convinced that we can accomplish all of these imperatives and more if we have the will to do so.

We need a firm national commitment and the full cooperation of every American—along with some wise, thoughtful planning, followed by sound, constructive, creative action.

We also need the kind of dedication and ingenuity that has characterized the Shaklee family since a small boy who lay ill with consumption resolved that he would live.

And he did.

The determination that grew out of that experience developed into a life-long philosophy: "We are what we think."

That philosophy became the cornerstone that grew into Shaklee Products and that small boy who survived that cruel Iowa winter was Forrest G. Shaklee, Sr., president of Shaklee Products.

Before I turn the rostrum over to Dr. Shaklee, I would like to express personally my admiration and my gratitude to him for the planning followed by action that led to the unlocking of some of nature's best kept secrets for the betterment of man.

If we could harness his energy and his determination, we would be well on our way to solving our environmental crisis.

And our environment could certainly profit from a good, strong dose of vitamins.

THE 196TH ANNIVERSARY OF THE EVACUATION OF BOSTON

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, the 196th anniversary of the evacuation of Boston was celebrated on Friday, March 17, 1972. It was my pleasure to participate in this historic event. I would like to take this opportunity to share with my colleagues in the House a most inspiring address delivered by State Representative Raymond L. Flynn on this occasion.

The address follows:

ONE HUNDRED AND NINETY-SIXTH ANNIVERSARY OF THE EVACUATION OF BOSTON—MEMORIAL EXERCISES AND ANNUAL REDEDICATION AT DORCHESTER HEIGHTS ON FRIDAY, MARCH 17, 1972

(By Raymond L. Flynn)

Reverend Clergy, Mr. Mayor, Chief Marshal Rogers, Colleagues in Government, Ladies and Gentlemen:

I am certainly pleased to have been asked to come here today, and to commemorate, with you, who are after all, my friends and neighbors, an important and justly renowned event in the long history of this community—and indeed, of this nation.

In years past this oration has been delivered by men and women who have not failed to draw from the day the sorts of inspiration an American has a right to expect on such an occasion. These men have included John W. McCormack, James Michael Curley and John Boyle O'Reilly, Louise Day Hicks and James Burke.

Certainly, I am in good company, and grateful indeed for the opportunity.

I am also, honored to be in the company of these good men whose proud uniforms surround us all here today, whose contribution to this ceremony must surely be to remind us that to many citizens patriotism is not a word to be defined nor a concept to be argued about, but the natural response of the natural man, who does not forget the rich blessings this great land still reaps upon us all.

One reason he does not forget is that the morning newspaper will hardly allow him. The most timely example of this, surely is that even as we here today, mark the brave resolve of our forefathers to hurl the British from this place, nearly 200 years ago, it is significant that, in the land from which many of us derive, a peaceful land, but still tragically troubled, less fortunate men fight no less bravely the same fight fought here so many years ago. Interestingly enough, the password, here on the Heights, that cold night in 1776 was "St. Patrick".

But if we *are* more fortunate in this one thing, we may well be less fortunate in that we often do not perceive that there are still battles to be fought quite close to home.

We are perhaps, too comfortable. Like so many men of Irish heritage, my blood runs deeply when I think of "Bloody Sunday", but it runs no less deeply when I think upon the widespread surrender of so many people to the despairing and immature few who are determined to convince us that our country is too decayed even to think of saving, much less to love.

There are men here who have borne guns in her defense in earnest, and there would be nothing to say here today, if it were not so; but these other battles, being battles of the mind, require of us different weapons.

We must, firstly, be well informed. We must be reasonable men. Secondly, we must have the moral courage to act upon our convictions. You may ask, *where!* You will know better than I. For me the battles are fought in the stately halls of the Great and General Court. But leadership or citizenship, which is what we are talking about, is no less vitally important in the local hockey league, or in the parish guild, or in the boy scouts troops. It begs the question to ask, where,—for we know in our hearts, where and when there is a job to be done.

All of us here today, moreover, have less excuse than most for being a poor citizen, for this community is an old and a proud community and with good reason. We have done our share in the religious profession, served in our armies, risen to great heights in the field of government, both nationally and locally, this is no ordinary community and I should not like to think that our generation would want to make it so.

To be a part of the "silent majority" is every much as disgraceful than to be a part of the "noisy minority". One need not, one *should* not, cast oneself in the role of a self appointed judge of men and events, in order to stand up and be counted. But responsible citizenship ought not be so construed. There is for instance, nothing so quiet or modest as stepping into a voting booth and nothing any of us can ever do will matter quite so much.

So, then ultimately, I have come to ask you to help as indeed, have those many men who have stood and spoken here down through the years on this day. Notice injustice; do not surrender to apathy, let no one obscure your power, do not give up your rights.

Be worthy of this day, as indeed your ancestors were, and if this imperfect world seems disappointing, heed this text from Aristotle—"live nobly and you will change the world".

COOLEY'S ANEMIA

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRASSO. Mr. Speaker, once again Leonard J. Patricelli, president of WTIC–TV, channel 3 in Hartford, Conn., has embraced an excellent and worthy cause as his own.

Mr. Patricelli was in the forefront of the battle to make the public aware of sickle cell anemia. His activities helped bring about the passage of national legislation that would provide resources for an all-out attack on sickle cell anemia. Now he is mobilizing support in behalf of efforts to find a cure for another dread blood disease, Thalassemia, which is often known as Cooley's anemia. This illness most frequently afflicts descendants of persons from the Mediterranean area. Congressman GIAIMO and I have introduced a bill, H.R. 14016, which would provide $7.1 million over 3 years for counseling, screening and treatment programs for Cooley's anemia. Grants to public and nonprofit private organizations would be available under this bill, in addition to programs to inform and educate the public about the disease.

The WTIC film on Cooley's anemia, presented on February 25, is an example of public service at its best. It has received wide acclaim in Connecticut. Channel 3 has graciously made this film available to me, and I intend to give my colleagues in the House the opportunity to view it soon after the Easter recess.

For the benefit of my many colleagues who have recently been made aware of Cooley's anemia, correspondence between interested viewers and Mr. Patricelli follows:

NEW HAVEN, CONN., *December 29, 1971.*

DEAR MR. PATRICELLI: All Connecticut residents are proud to know that WTIC–TV, Channel 3, of Hartford, has brought the "Forgotten Disease" to the public's attention. I have known about Sickle Cell Anemia for over 20 years; I have had friends who passed away with this dread illness and I have studied about Sickle Cell Anemia as a Doctoral Candidate at St. John's University. I was very satisfied to know that Connecticut is doing testing to prevent, eventually, the spread of this genetic disease and now that Congress has passed legislation for monies to be applied for research, treatment, detection, and prevention of this illness.

However, let me call your attention to another hemoglobin disorder—Thalassemia Disease (Cooley's Anemia). This may be called the "Unknown Disease." It, also, is a genetic illness involving the hemoglobin chains. In Sickle Cell Anemia, there is a genetic error in one of the B-chains where one amino acid is substituted for another. This results in sickling of the red blood cell.

In Cooley's anemia, a fetal hemoglobin chain does not "switch over" to the normal adult hemoglobin B-chain due to a genetic error of the "switch-over" gene. This means a person with thalassemia disease grows and lives with fetal hemoglobin Hb F rather than with normal hemoglobin—Hb A. People with sickle cell anemia and thalassemia have some of the same symptoms—joint-pain, need for transfusions, *abnormal hemoglobins, anemia, genetic disorder.* Some people even have a form of disease called S-thalassemia where they genetically acquire HbS–Hb F (sickle cell hemoglobin combined with fetal hemoglobin of thalassemia).

So you see, only half of the abnormal hemoglobin diseases have been brought to the public's attenion. (There are others, though, such as sickle cell-hemoglobin C disease, hemoglobin H disease, and other minor hemoglobin anomalies—there are hemoglobins for every letter of the alphabet, but it is unknown whether these cause severe illness). I am writing to you about thalassemia because each time I have seen your programs and spot commercials for sickle cell anemia, it has caused me to feel badly that no one pays attention to thalassemia, a disease which affects mainly our youth. Let me explain.

I have thalassemia major. It was called Mediterranean anemia because it affects people mostly from that region. Mostly Italians and Greeks were known to have it. I'm an Italian. Now the illness has been found in great number in Southeast Asia, Africa, Ireland (one case), and all over the United States. People with the major form of thalassemia never lived beyond 20 years. But that has changed recently. I am 30 (Jan. 27, 1972), and the oldest person in Connecticut with thalassemia. I feel that if someone is going to do anything about this, I must. I am the oldest, best educated (a true miracle—a Ph. D. Candidate with a M.S. in microbiology and now working in physiology with my research and thesis being written on a topic in hematology) and a knowledgeable person (and patient) in Connecticut. My sister had this illness and recently passed away from it. This illness requires a lifetime supply of blood—I receive two units of packed red blood cells per month—because of the defect in hemoglobin synthesis and ineffective erythropoiesis. As the illness progresses, the iron from the transfusions of blood accumulates and deposits in all the tissues of the body. Growth and maturation slow up and development may be arrested. The newer technique of more intensive transfusion therapy has now permitted growth and development to maturity, However, iron deposition may be accelerated. Deposited iron affects endocrine glands—I am now a diabetic—and muscles such as the heart—I have had two heart failures—may lead to complications. Death is usually caused either by massive infection or heart failure. To lessen the iron stores of the body has been the subject of much research. Recently, a new chelating (binding) agent for binding iron has been placed into the hands of clinical researchers. It is called Desferal. My own doctor has been giving me this medication since I had the first heart failure. There is the possibility that I may be excreting enough iron to remain at a steady state with regard to input and output of iron. Normally, people hardly excute iron at all, except menstruating women. So of course, the addition of iron into food is very bad for people with thalassemia.

Therefore, Mr. Patricelli, I would like to ask you to help not only the people with Sickle Cell Anemia but also those with Cooley's Anemia (Thalassemia). A cure for one may lead to a cure for the other if they are both attacked at the genetic level. I would like to see 1972 as the year that the "Unknown Disease" is attacked.

We have formed a Connecticut Chapter of the Cooley's Anemia Blood and Research Foundation for Children, Inc. Our chapter President is Mrs. Dorothy Guilliotis, 196 Ellsworth Avenue, New Haven, Connecticut 06511. Tel. 777-2607. Our goals are: (1) Blood Donations for Cooley's Anemia; (2) Donations of Money for Research into Treatment and Cure of Cooley's Anemia; (3) Enlargement and Support of our Local Chapter; (4) Education of the Public about Cooley's Anemia.

However, I would like to see even more done. I believe that an institute is necessary for the study of abnormal hemoglobin diseases, mainly for Thalassemia and Sickle Cell Anemias since these are the worst in the sense that they are terminal illnesses. I also believe that the State Health Departments do not do enough, that there should be a central agency to coordinate the evaluation of potential carriers, numbers of patients, available facilities to treat this illness, etc. New York now has before its legislature a bill which would create in its State Health Department a blood disease institute which would also treat patients. Do you know that many patients from Connecticut go to New York—usually Cornell Medical Center or Presbyterian Medical Center—because they feel we in Connecticut do not have good or adequate facilities? I, too, have gone to New York for consultations and to start Desferal therapy. Won't you help us? The University of Connecticut Medical Center could possibly be a fine choice for the Institute for Hemoglobin Disorders.

My own personal desire would be to do research in Cooley's Anemia right here in Connecticut to help all of us. But no one is interested, except the chapter members.

Sincerely yours,

MICHAEL IOVENE, Jr.

P.S. Some thoughts for publicity for Thalassemia, if you will help us Mr. Patricelli:

1. We have a film "Another Tomorrow for Theresa" see Page 2 of Cooley's Anemia Newsletter and spots from the film are available.

2. *What's Happening Update.*

Interview of patient(s) receiving blood transfusions, playing, etc. and discussion of parents difficulties, concerns, pay, and love for their children with Thalassemia.

Discussion with physicians caring for Thalassemia patients—children and young adults—concerning cause, treatment, research, possible cure.

Interview chapter members of New Haven Chapter of Cooley's Anemia Blood and Research Foundation.

3. Suggestions for Services for Patients with Cooley's Anemia, Sickle Cell Anemia.

a. Research.

b. Education.

c. Social Services.

d. New Legislation.

Make Education more available to patients.

Possible Institute for Research.

Aid to Handicapped Patients Jobs, etc.

Spot Commercials.

MARCH 6, 1972.

DEAR MR. PATRICELLI: I wrote you a while back asking your help for more informative broadcasting of Cooley's Anemia and I was most happy to see the program aired on Fri. Feb. 25th "What's Happening" which delved into this more deeply.

As a mother of two children who both suffer from this incurable disease, I was—needless to say—very sad and heartsick to see what my children will have to go through and what they will have to face in a few more years. The one thing that gives me hope is the research that is being done. My pediatrician had told me that my children would not live beyond the age of 14 years; but now through advanced research, these children are given the promise of two decades of life.

I only hope and pray that further research will help eliminate some of the pains and discomfort they now have to face. But further research requires extensive funds. So I am asking you—no I'm begging you to find it in your heart to help us begin a campaign to collect funds for the Cooley's Anemia Foundation of New Haven of which I am a member. We need to find some means of beginning a National Drive for funds—and what better advertisement than television. *Please* for the sake of my children and those of others, *please* help us. You helped Sickle Cell Anemia victims greatly, now give us a helping hand. I would be truly and eternally grateful.

Sincerely,

(MRS.) PAULINE FUSCO.

FEBRUARY 25, 1972.

GENTLEMEN: Thank you for a wonderful show! Your program about Thalassemia was well done and informative. You've performed a great service for all your viewers and particularly those of us of Greek extraction.

Many, many thanks.

Yours truly,

Mr. and Mrs. MINO G. MARNEL.

FEBRUARY 26, 1972.

DEAR SIR: I watched the "What's Happening" program on Cooley's Anemia which was on Friday, February 25th, and was very happy that some notice is finally being given to a very serious health problem.

I think you did an excellent job in such a short time showing the different aspects of the problems—information given by the doctors and problems faced by patients and families.

I know this program will start many people thinking about this dreaded illness and I hope this will be the first of many programs of this kind.

Thank you for your interest.

Sincerely yours,

HARRIET KRAL.

SOUTHERN CONNECTICUT STATE COLLEGE,
New Haven, Conn., February 26, 1972.

DEAR MR. PATRICELLI: You and your staff are to be heartily commended for the excellent job you performed in making us aware of the seriously debilitating disease called "Cooley's Anemia." I personally would appreciate seeing even more coverage given to this affliction. I am particularly concerned about the specific financial (as well as psychological) stresses which confront parents of such children.

That "Cooley's Anemia" is primarily an affliction of the Greek and Italian populations should be a source of both surprise and concern to many Connecticut residents. Utilizing 1960 census data, it was discovered that the four cities in the United States with the largest proportion of Italians in the population were New Haven, Waterbury, Stamford and New Britain—all in Connecticut!

Once again, most grateful for the service you have rendered, and trusting that you will enlighten us further on the subject, I remain

Sincerely,

EUGENE FAPPIANO,
Instructor of Sociology.

EAST HAVEN, CONN.

DEAR SIRS: The program you presented Friday, Feb. 25, at 7:30 on Cooley's Anemia was very interesting and very well put together. Will there be any other programs on this subject? Being of Italian descent, this program really struck home and was so true to life. Few people have even heard of this disease. Thank you for your interest. We of the Terrazzanos' really appreciate your showing of this disease.

Very truly yours,

JOANN TERRAZZANO.

NEW HAVEN, CONN., *March 2, 1972.*

MR. LEONARD J. PATRICELLI,
President, Channel 3,
Broadcast Plaza,
Hartford, Conn.

DEAR MR. PATRICELLI: Please accept my thanks and congratulations on your organization's film on Cooley's Anemia presented on the "What's Happening" program Friday, February 25, 7:30 to 8:00 P.M. Howard Pearson and I have long been aware of your interest in and contributions to Sickle Cell Anemia. But your efforts on behalf of Cooley's Anemia are enormously appreciated.

Your team did an excellent job of filming, interviewing and editing. I was impressed with the way in which scenes of other areas were spliced in while a commentator was talking about such areas. The only criticism I have heard relates to the fact the high cost of the disease to the patient was not adequately stressed. This comment came from a victim of the disease. If you have film covering this point in the interviews it would be worth splicing it into the story.

With thanks for your very real help in this worthy cause, I am,

Sincerely,

DAVID H. CLEMENT, M.D.

BLOOD AND RESEARCH
FOUNDATION FOR CHILDREN, INC.,
New Haven, Conn., March 6, 1972.

MR. LEONARD J. PATRICELLI,
WTIC, Channel 3,
Broadcast Plaza,
Hartford, Conn.

DEAR MR. PATRICELLI: On behalf of the Connecticut Chapter of the Cooley's Anemia Blood and Research Foundation for Children, Inc., I would like to express my appreciation for the informative program presented on the "What's Happening?" show on Friday evening, February 25, 1972, and for the advertisements placed in the New Haven and Hartford newspapers on the day of the telecast.

The thirty minute documentary on Cooley's Anemia, a little known disease which primarily affects those of Mediterranean origin, was quite skillfully done.

I personally witnessed the three days of shooting which went into the preparation of the program and was quite impressed with the finished product. A great deal of credit is due the crew of men who worked on the film. The telecast contained all of the ingredients necessary for a complete understanding of the problems of Thalassemia. The five interviews conducted by Brad Davis and John Sablon, the laboratory and blood bank shots, and the slide insertions were very effectively blended together. Director Jack Gutkin is to be commended.

The seriousness of Cooley's Anemia cannot be summed up in this brief note, but please know that the public service which you rendered to us by providing us with the half hour of prime television time will be of significant value in helping us to brighten the lives of youngsters afflicted with this fatal disease.

Our chapter which was organized in November, 1971, has undertaken five main goals: education, fund raising, screening legislation and service to patients and their families. Your program, in one evening, has allowed us to take our message into the homes of thousands of people we might otherwise never reach.

It truly was a *Public Service Program.*

I hope that you will not think me ungrateful if I impose upon your kindness to make the following requests:

1. My tardiness in thanking you for presenting our program *must* not be reflected as a lack of gratitude—but rather that the response received as a result of the telecast has been so overwhelming that this is the first opportunity I have had to put my thoughts and comments on paper. Many of the people who responded had seen the program but an equal number had not. Those who did not later heard about it. They expressed interest in learning more about Cooley's Anemia and asked if the program were to be aired again. May I ask if it is your intention to repeat the program? I would be most grateful if this were to be possible. If we were notified that a rerun was planned, we would contact all those who have inquired and inform them of the date scheduled. Another reason for this request is the fact that the program happened to appear on a Friday during Lent when many of the audience upon whom we hoped to make our greatest impact—namely, those of Greek and Italian descent were attending Friday evening church services. I hope that you will consider scheduling the film again.

2. My second request is that we might be given a 16 mm. copy of the film. We feel that the film is so well done that it would be a tremendous aid in our educational program. The quality of your film far exceeds the quality of the film we now use in presentations to various organizations throughout Connecticut.

3. Public exposure is very important to the success of our Chapter. We would be most appreciative if members of our organization might be invited as guests on appropriate programs broadcast on W.T.I.C. We would also be most appreciative if our 59 second commercials and news releases could be aired.

In conclusion, I would like to state that in all of our contacts with W.T.I.C. we have been treated with courtesy and understanding. Dick Ahles, Rufus Coes, Brad Davis, John Sablon, Jack Gutkin, and all of the others with whom we worked were very cooperative. They are indeed a credit to you and to your organization.

Again, on behalf of our chapter, our deepest gratitude for a *Public Service* very well done.

Sincerely,

DOROTHY K. GUILIOTIS,
Chairman, Executive Board.

BROADCAST-PLAZA, INC.,
Hartford, Conn., March 15, 1972.

Miss DOROTHY K. GUILIOTIS,
Chairman, Executive Board, Cooley's Anemia Blood and Research Foundation for Children, Inc., Connecticut Chapter, New Haven, Conn.

DEAR MISS GUILIOTIS: It was a pleasure to read your comments concerning our "What's Happening?" program of February 25. Cooley's Anemia is unquestionably a serious problem and I am glad that WTIC has been able to help out in the fight. Normally we do not repeat programs of this kind but we are considering it in this case. Furthermore, I am pleased to inform you that we have ordered a black and white 16 mm print of the program made for the use of your group at our expense.

WTIC welcomes every opportunity to assist the Connecticut Chapter of the Cooley's Anemia Blood and Research Foundation for Children. I suggest that you keep Brad Davis and John Sablon informed about your activities as well as Ross Miller, who is program manager for WTIC Radio. An occasional guest appearance by one of your group on one of the regular WTIC radio programs would be most interesting to our audience and helpful to your effort.

In addition, we would very much like to broadcast public service announcements in support of Cooley's Anemia on television. I have asked Brad and John to produce an effective and appropriate spot for your group within the next few weeks and they will be in touch with you concerning this project. When it is complete they will give you copies of the announcement for distribution to other television stations in Connecticut.

I wish you continued success in this important work.

Sincerely

L. J. Patricelli.

TELEPHONE PRIVACY—IX

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, I would like to include in the Record today an article, entitled "Can't a Family Eat in Peace," which appeared on page 1 of the Christian Science Monitor on Monday, March 27.

I believe many of my colleagues will find this article of considerable interest. It follows:

CAN'T A FAMILY EAT IN PEACE?

(By Robert P. Hey)

Washington.—Between the soup and the pork chops the phone too often rings: "Hello, there," purrs your friendly dinnertime interrupter, "We'd like to invite you and your family to take a lovely drive this weekend at our expense to see . . ."

It's another telephoned advertisement adroitly timed to find you home trying to eat supper.

For years American husbands and wives have complained to each other about their unwelcome intrusion into their privacy—one of too many intrusions nowadays.

Now somebody in Congress is trying to stop it. And he has struck a responsive chord with the American public.

Rep. Les Aspin (D) of Wisconsin has introduced a bill which he says would allow Americans to "place a 'no solicitors' sign on their telephones." Under his bill people who don't want to receive telephone ads could tell the phone company, which would have to keep a list of them, or place asterisks beside their names in the telephone book.

Firms that wanted to solicit business over telephone would be required to check with the telephone company—and to skip over those people on the "do not call" list.

Mr. Aspin's bill would exempt some organizations from these requirements: nonprofit groups, political candidates, poll takes, and debt-collection agencies.

In the month since he first mentioned the bill be has received 200 letters from all parts of the United States. With a single exception they have cheered him on.

He says it's more mail than he has received on any other issue.

Some people have written that they receive four or more phone calls a day. One writer expressed the general sentiment: "For years family, friends, relatives, and I have complained about nuisance calls from salespeople selling magazines, roofing, siding, and you name it. They always call when a person is in the middle of something involved, when someone is ill or taking a nap, and worst of all, when those who work third shifts are sleeping."

One elderly letter writer, an invalid, complained that she had been commercially solicited over the phone by undertakers.

"If there is any place where the right to privacy is absolute," says Mr. Aspin, "it is within one's own home. This legislation is simply designed to stem this growing telephonic invasion of our privacy."

NO OPPOSITION INDICATED

Letters have come from husbands and wives, from retirees and the young, from mayors and police chiefs. "It's the sort of thing that affects everybody, says an aide to Mr. Aspin.

He adds that, thus far, "we haven't found any opposition to it at all."

Right now the bill merely has been referred to committee. Should other members of Congress get letters on it from their constituents, too, there could be hearings this year—and possibly even action by the full House.

If the bill appears to be going somewhere in this Congress, some firms soliciting business via phone could be expected to object, says Mr. Aspin's aide.

"But what we're fighting" now, he says, "is not any lobbies as such—it's inertia."

Two hundred letter writers have told Mr. Aspin it's time Congress did somethiing about the problem. He hopes they're telling their own representatives in Congress, too.

PROTECTION FOR THE DAY LABORER

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MIKVA. Mr. Speaker, last June, I introduced legislation—H.R. 9282—to protect the day laborer in this country by eliminating abuses in the day labor-temporary help industry.

Government, the labor movement, and society itself have forgotten about the day laborer—the unemployed and often unemployable men and women who must depend on a labor agency to send them to a job each day so they can earn a few dollars. Because they are desperate for work, they are ripe for exploitation. With the support of more than 20 of my colleagues, I introduced the bill to prevent that exploitation.

At present, only one State, New Jersey, regulates temporary help services. My proposal, the Day Labor Protection Act, would require that any temporary help service obtain a license from the Secretary of Labor who would establish and enforce strict standards for the industry. It would eliminate the 90-day restrictive hiring clause and insure fair labor practices and an adequate workman's compensation plan. Between the time he reports to the day labor agency and the time he gets his check, a day laborer may spend 12 to 14 hours, yet he is paid only for the time actually spent working at the jobsite. The Day Labor Protection Act would eliminate that injustice. Under the bill, a worker will be paid for the time spent in transit between the jobsite and the temporary help agency, and he will be paid half time for the hours spent waiting assignment at the agency.

Several months ago, the Special Labor Subcommittee of the House Education and Labor Committee held hearings on the bill. Industry representatives testified that the abuses were greatly exaggerated. They claimed, for example, that their firms no longer followed the 90-day rule, which prevents a company from permanently hiring a day laborer until 90 days after he has worked there on a temporary basis. We presented evidence and witnesses, including day laborers themselves, which indicated that the abuses were very real and not exaggerated, including the use of the 90-day restriction. Now, there is more evidence to support the bill.

Recently, a reporter from the Chicago Sun-Times, William C. Harsh, Jr., and Chicago Alderman Christopher Cohen took jobs as day laborers in Chicago to find out what it is like. That experience generated several newspaper articles, which I commend to my colleagues. They explain in vivid detail the plight of the day laborer and make an effective argument for the kind of legislation I have introduced.

The text of the articles follows:

DAY LABOR—ITS EVILS, PROBLEMS

(By William C. Harsh Jr. and James Campbell)

At 7 a.m. each workday, Lake Shore Labor Service distributes pay vouchers in its basement office at 7 N. Halsted.

The place on Skid Row is dark and smells of vomit, but the men wait quietly. They know the vouchers can be cashed only at King's, a bar around the corner at 816 W. Madison. King's opens at 7.

When the vouchers come, the men climb the stairs, pass a sign telling drunks to stay out and wander into King's. There, the bartender shoves a pencil stub and a 15-cent glass of wine at them.

Outside, the wind is cold. Inside, the men sign the vouchers and are paid their few dollars. A color set is tuned to a television show. A sign says food is available but "only with bar drinks."

Many of the men take another glass of wine. Others order "a dollar's worth"—pint of wine and a pack of cigarets. They can be found later standing in small groups in nearby alleys.

A few look for work. The jobs are gone at Lake Shore and the other day-labor agencies near Madison, but, if they get lucky, a trucker will hire them off the street to unload his rig.

If they don't get lucky, they'll be back at the day-labor offices the next morning at 5 a.m., broke and hoping for work.

The men are day laborers. They are descended from the old-time casual laborers who followed the lumber camps—whose portable dormitories mounted on skids coined the term "skid row"—and built the railroads.

They hire out one day at a time at the nearly 50 day-labor offices in the city. Of the roughly 5,000 men and women working day labor on any given day, the ones on Madison are the worst off.

To find out who works day labor in Chicago and under what conditions, two Sun-Times reporters and Ald. Christopher B. Cohen (46th) hired out as day laborers and then talked to the industry's representatives and its critics.

Day-labor agencies came to Chicago near the end of World War II. They set up on the Near West Side and in other decaying areas of the city. Today, day-labor agencies in these original areas are shriveling, and the largest offices are in Uptown.

Persons looking for work through the agencies generally show up at about 5 a.m. Men and women wait in separate areas. A few offices offer free coffee, but most charge for it. In Uptown, the Salvation Army serves coffee and doughnuts from a truck.

Between 5 a.m. and 7 a.m., the dispatcher —who has a list of the orders phoned in from customers—calls the workers forward in groups and hands them work orders.

When a worker gets a work order, he is, in fact, being hired by the day-labor agency for that day. It is the agency that will pay him. The firm where he will work pays the agency.

The first work orders go to the agency's regulars, who are valued by the dispatcher because they are known quantities and because the agency's clients prefer to get the same workers every day to cut down on training.

Ed Pfaff, president of the Chicago chapter of the American Temporary Service Contractors Assn. and Chicago manager for Manpower, said such regulars are rare. He said a recent survey by the ATSCA showed that only 3 of 10 day laborers stay within the same agency for even a month.

When the day laborer gets his work order, he can, if he's broke, also get cash for carfare and lunch. This advance will be deducted later from his daily pay. Arrangements for the advance range from forms filled out in duplicate at one agency to a simple "need some money?" at others.

Critics point out that the worker usually gets his work-order hours before he's expected at work. Since he's an employe of the day-labor agency, they say, he should be paid for his waiting time. Pfaff disagrees.

"The precedent for our system is the union hiring hall," he said. "Remember, when a man walks into the office at 5 a.m., he's not our employe—he's applying for a job. If it becomes a bone of contention, we can hire the guys later. But we try to give people an idea of whether we can use them so they don't hit the street."

Many agencies own buses or vans, which sometimes are filled beyond legal limits, to take employes to work. Most charge for the ride. At the job, the day laborers work the number of hours required, often a full shift, and then return to the agency with their signed work orders and pick up their pay.

The pay is the biggest complaint raised by the agencies' critics.

The going rate is $1.60 an hour, although some agencies pay more. To pay $1.60, Pfaff said, most agencies charge their client firms $2.35 an hour. Critics say the agencies could afford to pay more. Pfaff disagrees.

He said the agencies generally earn between 6 and 8 per cent profit before taxes with the current setup and that the industry is so competitive that no one can afford to raise his rate above $2.35 in order to pay the laborers more.

He said that, out of the money it retains, the agency must pay the employers' Social Security tax, workmen's compensation and unemployment compensation contributions, liability insurance premiums and all its salaries and office expenses.

VOLUME IS THE KEY

The key to profits, and survival, in day labor is volume, and if an agency raised its rate, it quickly would lose volume, Pfaff said.

"In this industry," he said, "if somebody isn't generating fairly decent volume, he can go down the drain fairly quickly." Since the economy turned sour and knocked the floor out of the industry in 1969, more than a dozen firms have gone under here.

Most, Pfaff said, were marginal operations on Madison that constantly flirted with the 50-jobs-a-day minimum needed to make anything but an owner-operated agency worthwhile.

All that makes little difference to the day laborer, struggling to make it on $1.60 an hour.

It doesn't make him feel any better to know that, in many cases, the firms dealing with agencies are paying their own workers less than $2.35 (but more than $1.60).

The firms are willing to pay the premium rate for day laborers for a number of reasons. Many companies located in the suburbs can't find unskilled labor nearby and are not located near public transportation. They turn to day-labor agencies to bring unskilled workers to them.

(Conversely, of course, many day laborers turn to agencies simply because they cannot get to plants needing unskilled help. This includes persons who work at the same plant for as much as a year but need the agency bus to get there.)

Firms using day laborers also save on fringe benefits that might be paid to regular employes and, since day laborers never accumulate seniority that would bring higher wages, they can save on payroll in the long run.

Some firms also like the constantly changing work force day labor brings because it discourages union organizing. (An attempt by Local 743 of the International Brotherhood of Teamsters to organize the day laborers failed in 1970.)

Finally, since, other things being equal, a firm's unemployment compensation contribution is tied directly to the number of claims against it, firms with business requiring a widely fluctuating work force prefer day labor to keep claims down.

As the rate charged by agencies rises, the industry argues, some of these advantages dissolve and day-labor jobs disappear. But critics of the agencies say the break-even point on most of the advantages is far from current levels.

In the end, the fundamental disagreement between the industry and its critics hinges on whether day laborers choose that life or are trapped into it.

DEFENSE OF SYSTEM GIVEN

Those who defend the industry point say that, prior to the industrial revolution, everyone worked only enough to fulfill his needs. Some persons, they say, continue to prefer that way of life.

"Basically, modern society strives for security," Pfaff said. "But here we have a small group that actually strives for insecurity, and that is a deep-rooted psychological problem that the industry has nothing to do, with.

"These people do not respond to the things we respond to. They aren't looking to do anything with themselves. They work when they want and play when they want.

"Actually, if you took a group of day laborers and a group of people with comparable wages and steady jobs, I think you'd find the skill level of the day laborers was higher. It's the emotional level that's the problem."

The critics, of course, disagree.

THEY'RE TRAPPED, HE SAYS

The Rev. Thomas Millea, an Uptown priest who long has worked with day laborers, argues that such persons are trapped.

"These people have their own personal and economic problems," he said "Some have drinking problems—there's no question about that. Others have rural skills and have a hard time surviving in the city. All they really have is their strength and willingness to work hard. You know, a lot of these people could make more on welfare, but they would rather work for their money.

"But the day-labor system helps to trap them. They have to wait around to see if they can work. They have to connive and sometimes pay for a job. It produces a horrible dependency."

In the past, critics also have been displeased by a 90-day ban on firms hiring a day laborer permanently. After a laborer had been sent by an agency to a firm for a day's work, that firm agreed not to try to hire the worker until 90 days had elapsed. That rule now has been eliminated—at least formally.

EIGHT HOURS' PAY TAKES 12 HOURS

(By William C. Harsh, Jr.)

It was dark and cold when Ald. Christopher B. Cohen (46th) and I rubbed a little dirt from the gutter under our fingernails and headed for the Ready-Men day-labor office at Milwaukee and Halsted.

Like those on the street with us, we dressed in dark clothing and worked slowly, with our eyes downcast. Bright clothes, bright eyes or fast movement would set us apart in the day-labor world.

We wanted to blend in, to become two of the roughly 5,000 men and women who, on any given working day, are hired by day-labor agencies in Chicago and rented to firms needing temporary help throughout the city.

The office was much like the others we would see. Three dozen men sat on benches against the walls or milled around near the door. The entrance to the women's waiting room was down the block.

SITTING AND DOZING

A sign near the door warned the men not to bother women at a nearby bus stop, police order. We both took seats and dozed.

"You! You with the jacket. What's your name?"

Two dispatchers sat in a high, narrow window on the back wall. I gave my name to one.

"You worked here before?"

I hadn't. I filled out the W-2 form. Nobody checked to see if the name or social security number was mine. Later a city worker told us that identification means little in the day-labor world. People dodging something can get lots of work.

A Ready-Men employe who didn't know there was a reporter there said he thought 55 per cent of the agency's employes worked under false names.

The dispatcher handed me my work order. I was to report to Juanita at the Papermate pen plant in La Grange. Fifty cents, to be deducted from my pay, bought me two ham sandwiches and a pickle in a white paper sack. The pickle was already soaking through the sack.

"The bus leaves at 6:30."

WAITING, WAITING . . .

I'd been hired, but I'd have to wait an hour for the bus to leave, and it would be another hour until I'd get on a payroll.

Day-labor critics say that, since I became a Ready-Men employe at 5:30, I should have been paid from 5:30.

The people who own the agencies say that, if that becomes an issue, they will simply wait to hire right before the bus is ready to leave.

Cohen was also going to Papermate, so we had breakfast in a nearby cafe. We then boarded a bus that would take us to the Papermate factory.

The bus, which seats 24, had 33 people aboard. Boards were placed between the seats to make room for everybody. The windows were fogged over and most people tried to sleep.

EXTRA DUTY

Once, on an earlier trip, the driver had made Cohen "chairman of the boards"—which gave him the privilege of stacking the boards at the front of the bus at the end of the trip.

They took attendance and we left.

The Papermate factory is large, functional, box-like. It is typical of hundreds of other light-assembly and light industrial plants that have located in the suburbs. Unskilled laborers are not welcome in many of these areas and so employers import them through Ready-Men.

We waited in the punch clock area while the guard gave us time cards. A schedule on the bulletin board said assemblers—the lowest-paid category—made $2.14 to $2.93 an hour. The Ready-Men agency would bill Papermate $2.35 an hour to rent me, and pay me $1.60. The agency would make 6 to 8 percent on the transaction after expenses.

The plant was clean, the cafeteria was good and the people were friendly. I opened cartons of Flair pens and gave them to the women on the assembly line, who packed them into display cartons.

I also stacked wooden pallets, swept up and emptied trash. Cohen assembled shelves. The work was tiring.

JUST PASSING THROUGH

Before lunch, my supervisor asked me what my story was. I was just passing through. She said she'd have Ready-Men keep sending me to Papermate as long as I wanted to come.

At quitting time, I asked if I could get steady work as a regular employe at the plant for awhile. I knew that, at least formally, most day-labor agencies have eliminated the controversial "90-day clause" that would have prohibited Papermate from hiring me away from Ready-Men for 90 days.

My supervisor talked to her boss. I wasn't to tell Ready-Men, but I could come back. She said her boss was good friends with Ready-Men, and that "sometimes things can be waived."

There was a lot of grousing about the crowding on the bus on the way back to Milwaukee and Halsted. The driver triumphantly told the complainers that there would be 40 people riding the next day, and everyone would sit six to a seat.

"If you don't like it, get out the door," he told us. "Lots of people who want to work can take your place."

ELEVEN IN A CAR

He told us he'd once taken 11 people to a job in his own car. Someone wondered why anyone would submit to that.

"When you get hungry enough, you'll work," he said.

It was 5:30 p.m. and raining when we hustled from the bus into the Ready-Men office for our pay. The dispatcher barked our names and handed out the checks. He was pleasant enough about it.

I'd been with Ready-Men for 12 hours, and I'd worked a full 8-hour shift. I made $9.35 after taxes and deductions for my lunch and 50 cents bus fare.

The dispatcher had finished with the checks. He smiled and held up three pairs of new socks.

"Now," he said, circus-barker style, "who wants to buy some socks?"

Nobody did.

Mama's is a nearby bar and many of the men cash their checks there. Some stayed, but most seemed to linger only for a drink or two and then drift out.

Ready-Men has its share of steady workers and family people who work day labor simply because they have no way to get to the suburban plants except on the Ready-Men bus.

Cohen and I drifted out with some of the last of them. It had been a long day.

Cohen Plans Measure To Assist Day Laborors

(By William C. Harsh, Jr.)

Ald. Christopher B. Cohen (46th) told a City Hall press conference Monday that he will introduce an ordinance to license and regulate day labor agencies at the next meeting of the City Council.

Cohen said the ordinance would seek to correct abuses he found when he and two Sun-Times reporters hired out as day laborers during the last two weeks. Articles describing the day labor industry appeared in Sunday and Monday editions of this newspaper.

Cohen, whose ward office at 4527 N. Broadway in Uptown is within three blocks of 13 commercial day-labor agencies, said "Since being sworn into office last April, I have received many complaints about the day-labor industry in my ward and I decided to see for myself just what the situation was."

SOME FINDINGS

During his investigation, Cohen said, he found that:

(1) Some day labor agencies pay their workers with IOUs cashable only at one tavern.

(2) Some agencies maintain unsanitary hiring halls.

(3) Some agencies don't pay overtime rates to day laborers who work more than 8 hours a day.

(4) There may still be fly-by-night operators in the city who close before paying their employes.

(5) Some day labor agencies still enforce the controversial "90-day clause" that prevents day laborers from moving to permanent jobs. The clause prohibits companies using day-labor help from putting those workers on permanent payrolls until 90 days after the laborers leave.

(6) That day laborers lack even the most basic fringe benefits, such as medical insurance.

(7) That agencies charge employes for rides on the company bus, and that such buses are often loaded far beyond their legal capacities.

LICENSE LAWS FAIL

Cohen said that the city's 50 day-labor agencies are not licensed by the city, state or federal governments, and that attempts to pass a state law licensing them have failed because "Downstate and suburban legislators are not interested, because the problem doesn't affect them."

The city gained the power to license the agencies on July 1, when home-rule powers under the new state constitution took effect.

"What I think the City Council should do is see that the mayor, or one of his representatives, regulates these agencies," Cohen said.

Cohen, a regular Democrat, said he will introduce the ordinance at the Council meeting March 29, and will hold hearings on it in Uptown during early April.

HOW IT OPERATES

In the day-labor industry, workers are hired one day at a time by day labor agencies that, in turn, rent them to firms needing temporary help.

The agencies generally charge their client firms $2.35 an hour and pay the workers $1.60 an hour. The agencies pay the employers' taxes and other expenses, and generally make between 6 and 8 percent in pre-tax profits on the transactions.

About 5,000 Chicagoans hire out as day laborers on any given work day.

SAM J. KELLNER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RANGEL. Mr. Speaker, we have recently read about unscrupulous land operators and the tragic results of their manipulations. I would like to tell my colleagues of the work of an honest developer and the community he has built. Too many elderly people have had the experience of buying a retirement home somewhere and then being abandoned after the deed was signed. Too many senior citizens had been taken in by cunning real estate operators who fleece the public in phony land sales. Too many retired couples have wasted their life savings on homesites which turned out to be located in swamps or deserts.

Every so often, one comes across a humanitarian who has deep concern and feeling for the millions of senior citizens who cannot maintain the same standard of living that they had while living on fixed pensions and social security incomes, finding that the cost of living is too expensive for their meager monthly income.

Sam J. Kellner of Hicksville, a longtime Long Island builder, is the builder that I commend today. Ten years ago, Mr. Kellner set out to build unique, low-cost, high-quality housing for older Americans. He searched out 5,000 acres of the highest, driest, most finely treed acres of Florida land and started to build a community for the retired—a city where older Americans get a return for their money, where they get proper medical attention when needed, employment if required, modern sanitation services, and even educational, social, and recreational programs to fill out the many hours that a retired person has on his hands.

Mr. Kellner's dream city for senior citizens—Beverly Hills—is marking its 10th anniversary now. His organization, Rolling Oaks Corp., has made a dream a reality, and in the process, has provided a haven where thousands of retirees are enjoying a new and happy way of life.

Beverly Hills, located some 65 miles north of Tampa in Citrus County, Fla., today has almost 2,000 homes and a population of some 4,000 people. This city will accommodate up to 17,000 homes when completed in the late 1970's.

Mr. Kellner believes that a prospective purchaser should have the opportunity to see what he is going to pay his hard-earned money for. The homes are priced for persons of modest means. A model of the homes available in Florida is presently on view in Hicksville, Long Island, and in Detroit, Mich. Other models are to be built shortly in a number of other cities.

Mr. Kellner is especially proud of the fact that he is spending his own hard-earned money in developing Beverly Hills. There are no mortgages or construction loans on any of the property, thus saving all interest; even the 300,000-gallon water tank is free of debt. He presently is giving this huge tank a paint job so that it would blend into the environment of the community.

A retiree buying a retirement home must buy a whole community, Mr. Kellner maintains. This is why Beverly Hills has a huge recreation center, where over 1,200 meetings of various clubs and groups are held annually, where there is a public safety department staffed entirely by residents on a volunteer basis, where there is a fully equipped library which also maintains a "bookmobile" that regularly tours the community, delivering books to residents.

Mr. Kellner donated the land for the permanent library, as well as providing land and buildings so that the residents could build churches and synagogues. He also installed a free bus service for residents who do not drive.

Under construction at Beverly Hills is a $1 million shopping center on an 8-acre site that will have 22 stores upon completion later this year. Coming also, on a tract of 30 acres, will be a modern medical and nursing center completely staffed by doctors and nurses.

People who have worked hard and steadily all their lives deserve the best in their retirement years, Mr. Kellner says. At Beverly Hills, the residents have a sense of security and independence because they own their own homes and can enjoy a whole new and rewarding way of life in a vibrant and active community of their contemporaries.

RISING MEAT PRICES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FRASER. Mr. Speaker, last week I introduced a bill, H.R. 14034, to repeal the meat quota law. The American housewife is paying through the nose for protectionist practices. The United States is much more protectionist than people imagine. A dramatic example of how people pay for restrictive trade measures can be seen in the rising price of meat.

This month the administration announced that meat imports for 1972 would be limited to a meager 1.24 billion pounds, less than one-thirtieth of the total amount of meat Americans buy each year. In spite of phase II, the wholesale price index for February showed an increase of 0.7 percent. Half this increase was due to rises in the prices of livestock, poultry, meats, and fish.

Even without quotas, imports of meat are being restricted. Voluntary restraints by our major foreign suppliers of fresh and frozen meat—Australia, New Zealand, Ireland, Mexico, and several Central American countries—cost the U.S. consumer some $350 million annually. This hits the low-income family hardest because meat imports are used largely in lower-cost items like frankfurters and hamburgers.

It is about time that American consumers realize how much trade restrictions are costing them. A recent study by C. Fred Bergsten of the Brookings Institution shows that barriers on imports of oil, textiles, steel, and sugar all whittle away consumer income. Quotas make oil prices 60 percent higher than they otherwise would be. It is hard to get an exact figure, but the best estimates are that tariffs, import quotas and voluntary restraints all add up to from $10 billion to $15 billion in extra costs each year to the American consumer. Consumers have a personal stake in avoiding any new import restrictions and in liberalizing our present trade policy.

The bill to repeal the meat quota provisions of Public Law 88–482 follows:

H.R. 14034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of August 22, 1964 (Public Law 88–482; 78 Stat. 594), is repealed.

FURTHER INJUSTICE FOR THE AMERICAN FARMWORKER

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GONZALEZ. Mr. Speaker, I am placing in the CONGRESSIONAL RECORD a copy of the statement my colleagues and I issued earlier this week at a press conference we held in the Rayburn House Office Building. It is our hope that the administration will reconsider the sudden adverse position it has taken against the Farm Worker's Union.

A TORTURED INTERPRETATION OF THE LAW CAUSES FURTHER INJUSTICES FOR THE AMERICAN FARMWORKER

Most Americans know that farm workers are the least organized, the most overworked, the least paid and the most exploited of all workers.

Every citizen receives his daily bread, his fresh fruits and vegetables, his meat, his pork, his poultry, his canned goods, his wine from the hands of these farm workers, most of whom are Mexican Americans, Puerto Ricans, and blacks.

Every decent citizen is offended by the degradation of farm workers.

Farm workers are confident that Americans have a fundamental sense of justice and decency. That is why they chose the boycott as their principal instrument in their struggle for organization and recognition. Against every provocation, against every power and against all odds, the farm workers union has emerged as a real power working in behalf of farm workers, making progress in the fight for decent wages, decent working conditions, and just treatment. Every success that the farm workers have had has come in the absence of any legal protection, and legal guideline, any help from past precedent.

The farm workers have organized simply by calling to the attention of the people of this country the misery and degradation they have been subjected to, and by calling on all of us to refrain from buying products that are not produced by union hands.

That is all the farm workers have to use as a weapon, the boycott. Up until now, that has been all they have needed or wanted. They do not want violence; they do not want to cripple anything or anyone. They simply want the right to appeal to the American sense of fair play, decency and justice. They cannot coerce anyone to join a boycott—they do not need to, because enough Americans have responded to their plea to make their boycott work.

The blunt fact is that the retail boycott is the only means that farm workers can use to organize themselves.

The equally blunt, and profoundly shameful fact is that the National Labor Relations Board is trying to take that frail instrument away from the farm workers. The National Labor Relations Board is saying that the farm workers have no right to cry out for justice, no right to plea for support, no right to the freedom to ask us simply to refrain from buying given products. The President feels free to ask us not to buy meat, but would tell the farm workers that they have no equal right to ask us not to buy lettuce.

The National Labor Relations Board is petitioning the Federal courts to outlaw the farm workers boycott nationwide. It is claiming that the boycott is illegal, an activity barred by the Labor Relations Act. But that Act does not cover farm workers. The Board is saying, and it is almost impossible to believe—that a farm worker is not entitled to the protections of the Labor Relations Act, but is bound by its restrictions. A farm worker is not entitled to supervised elections, not entitled to call on the Board for relief—but is subject to all its restrictions.

This tortured interpretation of the law flies in the face of every previous action, position and decision of the National Labor Relations Board with respect to the farm workers union. It defies common sense, and would kill common decency. It would destroy the farm workers union.

This grotesque action is the invention of the present NLRB counsel, Peter Nash, who was not long ago appointed by President Nixon.

The irony of it is that the Administration is on the one hand wooing Mexican American and Puerto Rican voters and, with the other, using every means at its command to smash the only effective hope for the poorest among them. One out of every five Mexican Americans is a farm worker—one out of every five will see his only hope for justice extinguished if the NLRB succeeds in its actions. A million Mexican Americans will, if the Administration has its way, see their union destroyed, while the President parades twenty-seven of his appointees through the country to show how magnanimous he is.

We denounce the actions of the NLRB and its counsel.

We demand that the NLRB withdraw its petition.

We affirm our belief in the right of farm workers to organize, in their right to appeal to every American for support in their efforts.

We will not stand idly by and see these humble workers silenced, crushed, and smashed by the Administration.

We can understand why the Administration would want to smash the farm workers union, for it receives vast revenues from those who have fought the union every inch of its painful way—but this is not a matter to be determined by the size of party contributions. It is a question of decency, and we will not see decency sold out.

We call upon every citizen to reaffirm his support of the farm workers, and to protest this shameful effort of the National Labor Relations Board to destroy their union. We are confident that enough citizens will hear us and heed us to force the President to lift his hands from the backs of the farm workers, who are already overburdened by oppression.

Bowed by the weight of centuries he leans
Upon his hoe and gazes at the ground,
The emptiness of ages on his face
And on his back the burden of the world.
—MARKHAM.

SENATOR CHARLES PERCY TESTIFIES IN SUPPORT OF THE NATIONAL BLOOD BANK ACT

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. VEYSEY. Mr. Speaker, few products are as vital to the practice of medicine as pure and safe human blood. Yet, adequate supplies of safe blood are the exception, rather than the rule in this country. Senator CHARLES PERCY recognized this problem some time ago and was one of the first of the bipartisan group of Senators to introduce the National Blood Bank Act to deal with it. Senator PERCY's bill is identical to H.R. 11828, now pending in the House with more than 80 cosponsors.

A recent hearing of the Senate Health Subcommittee dealt obliquely with the need for supervision of blood banks and more vigorous recruitment of volunteer donors. Senator PERCY submitted an informative statement of the problem and his reasons for supporting the National Blood Bank Act. I commend the Senator's comments to those interested in improving the safety of blood recipients across our Nation.

STATEMENT OF SENATOR CHARLES H. PERCY

Mr. Chairman, members of the subcommittee, I appreciate this opportunity to present a statement in support of the National Blood Bank Act (S. 2909) which Senator Hartke and I introduced on November 29th. I regret, however, not having the opportunity to testify in person. Being informed at the close of business on March 23, that the subcommittee would consider S. 2909 the subsequent morning, unfortunately, left me no other alternative but to submit this prepared statement.

No one can be as pleased as I that this subcommittee is dealing with this country's number one cause of death—cardiovascular diseases—with such dispatch. I am a proud cosponsor of the National Heart, Blood Vessel, Lung and Blood Act of 1972, and I have time and again supported and worked for the eradication of all dread diseases. I can, therefore, understand the subcommittee's eagerness in dealing with one of this country's most urgent health problems. However, I urge the subcommittee not to overlook in its good-intentioned haste another equally urgent national health problem.

I am speaking of this country's blood problem.

According to Stanford University's Dr. J. Garrott Allen, whom many health specialists regard as the nation's leading expert on the blood problem, blood transfusions now kill at least 3,500 Americans and medically injure another 50,000 each year. Dr. Allen further estimates that of every 150 patients over 40 years of age who receive blood transfusions, one dies.

The common reliance on commercial blood is the biggest contributor to the serum-hepatitis rate among transfusion patients. No less than eight studies conducted by scientists in leading institutions from 1968 to 1971, have shown that the risk of hepatitis from commercial blood runs from 11 to 70 times greater than the risk from voluntarily donated blood. The Government's Center for Disease Control (CDC) in Atlanta reports that no one knows exactly how high the transfusion hepatitis rate is because physicians often fail to report serum-hepatitis cases. The CDC estimates that the real serum-hepatitis rate could be two to 10 times Dr. Allen's estimate, or 35,000 deaths and 500,000 illnesses each year. Whether it is 3,500 or 35,000 that die each year, the fact is that no one should have to die. Even one death is too many.

Newsmen have corroborated many of the above findings. NBC's Chronolog program last October carried a critical report of this country's blood banking systems based on nine months of research. One of the best articles to come from newspaper investigations was a series by that fine Illinois paper, the Chicago Tribune. A three-reporter task force found that paid donors accounted for 60 percent of the 250,000 pints drawn annually in Chicago. They pictured the paid donor as "most likely to be an alcoholic or drug addict who needs the money for a bottle of cheap wine or a bag of heroin." They also found "winos who sold blood so often that they had scar tissue on their arms." They learned that suspected hepatitis carriers were rejected by one bank and then accepted by others. They discovered that one commercial blood bank paid skid-row donors with vouchers cashable only at a nearby liquor store. This same blood bank firm paid the same way in Washington, D.C.

Clearly, there is a lack of adequate inspection and supervision of blood banks. 17 states have no blood-banking laws whatsoever, and 21 others only have laws that exempt blood banks from legal claims of patients harmed by contaminated blood. Only seven state license blood banks, and only five provide for blood inspection. The Division of Biological Standards of the National Institute of Health, responsible for "some supervision, some research and some inspection" of this country's blood banking systems, licenses only 166 of the 7,000 blood banks in this country.

The transfusion hepatitis risk would be minimal if doctors had an infallible laboratory test to detect serum hepatitis in blood. The most reliable detector is the Australia-antigen test which researchers have found to be effective only 25 percent of the time. Because hepatitis detection is still unreliable, many authorities say the only solution to the nation's blood problem is to use only low-risk volunteer blood. And this, most agree, means the creation of a nationally coordinated noncommercial blood banking system under a single agency.

The National Heart, Blood Vessel, Lung, and Blood Act of 1972 is an excellent heart bill. However, its provisions dealing with blood and blood products are totally inadequate in bringing adequate supervision to blood banking and in creating a national voluntary blood program that can guarantee every American high quality blood at a price he can afford. What is needed to deal with this country's blood problem are the more comprehensive blood banking provisions contained in the National Blood Bank Act, introduced by myself and Senator Hartke in the Senate and by Congressman Veysey in the House.

Following is a summary of the provisions of the National Blood Bank Act. I hope the subcommittee will give the bill the serious consideration that it deserves—either as a component of the National Heart, Blood Vessel, Lung and Blood Act of 1972, or as an independent bill.

AND IF ELECTED, HERE'S WHAT I'D DO ABOUT POLITICAL TV SPOTS

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. MIKVA. Mr. Speaker, in this time of primaries and an up and coming presidential election, political advertising has once again become an often discussed issue. As expenditures for campaign advertising increase, there is growing public concern over the lack of substantive information presented in much political advertising.

The following is a speech presented by a distinguished expert in the advertising field. He is Mr. John E. O'Toole, president of Foote, Cone, & Belding Communications, Inc. The speech, entitled "And If Elected, Here's What I'd Do About Political TV Spots," emphasizes some of the problems inherent in the present style and form of political advertising, and presents some sensible alternatives.

Mr. O'Toole examines the negative effects that the buying of TV spots has on the electoral system, and points out that talented men find it difficult or impossible to enter politics because they cannot afford the costs. As an alternative, he describes the system adopted in Great Britain, where the buying of political commercials is forbidden. Rather, the television stations allocate a certain number of 10 minute broadcasts to each party, depending on the size of the party's membership.

The text of Mr. O'Toole's speech follows:

AND IF ELECTED, HERE'S WHAT I WOULD DO ABOUT POLITICAL TV SPOTS

(Speech by John E. O'Toole)

Recently I found myself in Washington, D.C. In an earlier and more innocent era, that might be the last place you'd look for an adman. But in the balmy autumn of 1971 many of us were there at the cordial invitation of the Federal Trade Commission.

Washington is a city from which has been heard, in recent months, a lot of commentary about our business which might make the most hardened of us reluctant to tell our kids what we do for a living.

And as I was cabbing it back to National Airport, I thought about all the elected officials in that very city who had used television in their campaigns in ways that would never be tolerated for product advertising. I thought of abuses and misuses which, were they for a product, would never get past a continuity acceptance department. And I got mad. Not only because of the importance of the electoral process, but because I'm tired of the advertising business taking it in the seat of the pants for these excesses.

We have enough people on our backs now without the thinking electorate of the United States accusing us of "packaging candidates" and "selling Presidents."

And we can do something about it. All of us in advertising agencies and particularly people in broadcasting. We can learn from the mistakes of 1970 and make 1972 the year some maturity enters the whole area of political campaigning on television.

And there is some evidence that mistakes were made in '70. A week after the November elections Foote, Cone & Belding interviewed more than 1600 people through our Monthly Information Service and the Gallup Organization. We wanted to know if voters shared our concern with the way TV was used. We found three-quarters of the sample favoring restriction or control of political advertising on television. Most were concerned about the inequity of TV time and funds among the candidates. Of those favoring restriction, 23% felt the content wasn't truthful or honorable enough. That percentage was higher here in the West, interestingly enough.

Well, how did we reach this sorry state?

It all began back in 1952, which happened to be the first election in which I was qualified to vote. More importantly, it was the first election in which television advertising was employed.

General Eisenhower, with the help of Robert Montgomery and Rosser Reeves, did a series of spots in which he answered questions asked by voters—usually ending with "Let's clean up the mess in Washington."

From there, for twenty years, the political use of television has, for the most part, gone downhill.

There have been some brilliant exceptions. The Kennedy-Nixon debates, for example—a format so candid and revealing it has been skillfully avoided by presidential hopefuls ever since.

There has been little subsequent use of debates and longer length expositions. In the 1968 campaign, 70% of the TV advertising was in "spots."

Meanwhile, television was getting a larger and larger proportion of the campaign media expenditure. 58 million dollars in 1968. And television time got more and more expensive.

As a result, the standard campaign today is a big reach/frequency spot effort of 10, 20, 30 and 60-second commercials: the most expensive form of communication this side of Telstar.

And if you can't afford it, you don't play. Even if you're an embryonic Abe Lincoln.

With that much cash going into media, needless to say a lot of people got their mitts into the creative work. A lot of people who don't share with most of us a certain respect for the powerful tools of mass communication and for the rationality of the individual.

Professional image-builders began to emerge and take over the creation and production of the messages. In the public mind, these people were lumped into the pejorative designation "Madison Avenue," although many of them didn't represent any recognized advertising agency.

But they talked like the worst huckster stereotype. And the statements they made about their craft—statements that would get one forcibly ejected from any reputable ad agency—sounded like this:

"Our job is to glamourize them and hide their weaknesses."

"It's much more important to know the man than to know his stand on an issue."

"If I had only three weeks for a campaign, I'd pick a pretty boy."

"He was a beautiful, beautiful body and we were selling sex."

"Voting is an emotional response."

Well, friends, in my opinion that's a sad compendium of cynicism.

The people behind those statements are making some mistakes about product advertising, too. But I won't get into that right now. Their fundamental error, if not sin, is in equating the communications program of a candidate for public office with the advertising of a consumer product.

If you say it's just like advertising packaged goods, the simile breaks down immediately. Most packaged goods are minor purchases. Most depend for their survival on establishing a predisposition to repurchase. The consumer's most effective response to a disparity between advertising claim and reality is never to buy it again.

When you "buy" a political candidate as a result of his advertising, you're stuck with the "purchase" for four years—with results that can be far more devastating than not getting your teeth as white as you'd hoped.

If you draw the comparison with a big-ticket purchase, the analogy crumbles just as quickly. An appliance, an automobile, an insurance policy are not sold by advertising. They are sold by a dealer or an agent. Advertising can only establish, in the mind of the prospect, an appropriateness between his need or life-style and the product, then direct him to the personal salesman and the actual product.

Unfortunately, this essential second step is missing if you apply the same techniques to selling a candidate. And the candidate offers you neither a money-back guarantee nor any kind of service warranty.

Furthermore, none of the safeguards imposed upon contemporary television advertising apply to political spots. Even the libel laws are suspended.

The NAB and network continuity acceptance departments wouldn't think of challenging the statements, claims and promises made by a political commercial.

Indeed, I wonder if the FTC is going to insist on the same kind of documentation from candidates as it demands from automobile manufacturers in 1972.

So it's not only insulting to the issues and office involved to equate them with claims for a can of soup, it's potentially quite dangerous.

But it's been done. Done consistently since 1952. And I'd like to show you some examples.

There have been commercials that didn't mention, much less provide an opinion on, a single issue.

Films: JFK, "It's Up to You"; Nixon, "Nixon's the One"; Taft, "One Man Who Can Win."

There have been commercials that never once showed you the candidate.

Films: Buckley, "John Wayne"; Evans Water ID.

There have been commercials so caught up with image-building you wouldn't know there was a political campaign going on.

Film: Agnew, "My Kind of Man."

Some just registered the product name.

Film: Mezvinsky, "What's His Name?"

And there were unsubstantiated claims galore.

Film: Stokes, "Saturday Night."

Every now and then there's been one that attempts to emulate candor.

Film: Lindsay, "Snow Removal."

But primarily the theme has been disparagement.

Film: Johnson, "Hydrogen Bomb."

Disparagement and more disparagement.

Films: Smith, "Police are Pigs"; Humphrey, "Laughing Man."

When communication like that can form an important part of a major political campaign, there's something very wrong. And since the advertising industry is being blamed for it, I think we ought to initiate some remedies.

One possibility is for advertising agencies not to accept a political account. This is the simplest solution. It's our solution at FCB at the moment. But I'm not sure it's the right solution.

I think the talents that reside in an agency could, under the right conditions, be ideal for creating and placing meaningful messages for a candidate.

What are those conditions? Well they certainly aren't a high-level, saturation barrage of spots.

The system adopted in England seems very reasonable to me. Under the Independent Television Act, political commercials are forbidden. However, during general elections the BBC and ITA allocate a certain number of free broadcasts to each party, the number based generally on the membership of the party.

In the 1970 elections, the Conservative and Labour parties each received five TV broadcasts of ten minutes duration and seven radio broadcasts of either ten or five-minute length. The Liberal party was given three TV broadcasts and four radio.

After a year-long study headed up by Newton Minow, the Twentieth Century Fund recommended something similar for the U.S.—one of the few nations in the world, incidentally, that allows political candidates to purchase TV time.

The Fund suggested that, during the last five weeks of a presidential campaign, all TV and radio stations simultaneously carry six prime-time half-hour programs featuring the candidates and attempting to "illuminate campaign issues and give the audience insight into the abilities and personal qualities of the candidates."

That sounds pretty reasonable, too. As an absolute minimum, I think we should have the restrictions on TV expenditures put forth in the bill approved by the Senate on August 5. This bill—which would also rescind the ridiculous equal-time proviso, at least for presidential candidates—made so much sense to both parties that it passed with an 88-2 vote.

But the House has turned it into a partisan political joke composed, as far as one can perceive through the procedural pandemonium, of a multiplicity of different plans.

Equally important is the *kind* of message to be used. Notice the word "message." The idea and terminology of political TV "spots" should be dumped forever.

10-second, 30-second, even 60-second lengths are inadequate and inappropriate for presenting a candidate to the voter.

These lengths defy a discussion of issues and encourage the shallowest kind of imagery, the shoddiest kind of logic and the most reprehensible kind of mud-slinging.

I'm in total agreement with Ward Quaal of WGN Continental Broadcasting who will not allow a political message of less than five minutes on his stations.

If, in an uncharacteristic display of responsibility, the broadcasting industry would follow Quaal's example and set a five-minute minimum on political messages, many of the abuses would automatically be eliminated.

I don't think any political image-builder would risk the ennui inherent in five minutes of groovy music and up-shots of a grinning candidate.

I don't think they could successfully refrain from giving us a glimpse of their man for five minutes or manage to elude every issue.

And I am at least hopeful that they would see the peril in a full five-minute implication that the other guy is a fascist freak.

But just in case, I would suggest a few simple guidelines that would not unduly restrict the creative construction of the message.

And these guidelines would be a code for political broadcast messages that the candidate himself would assent to in writing before he or his supporters would be sold time on any station.

One, the message should be designed to help the voter know and understand the candidate, his character and his ability to communicate.

Two, the message should establish what the issues are which the candidate feels are important.

Three, the message should clearly state where the candidate stands on these issues.

That's all. It's very simple. So simple that I'm sure many of the professional image-builders would smile at the naivety of such an ingenuous proposal. They'd probably point out that longer lengths would blow their reach and frequency and render their TV campaign ineffective.

I have a little too much faith in the intelligence of the American voter, having dealt with him as a consumer for some time, to buy that.

And, like a good adman, I also have some research. There was a study done on political broadcast advertising by the School of Journalism and Mass Communication at the University of Wisconsin. It was done in areas of Wisconsin and Colorado among 512 voters after the 1970 campaigns.

Here's the last paragraph of the introduction: "The results of this study suggest that a moderate number of high-quality, substantively informative advertisements may be more effective than a saturation presentation of superficial image-oriented spots."

And here's the final sentence of the study: "Thus, the most effective advertising strategy would be one that allocates campaign funds away from a high frequency of exposure approach into a more modest number of ads containing substantive informational content that is presented in an interesting and entertaining manner by skilled producers."

"Yeah," reply the image-builders, "but how do you make it interesting and entertaining? Five minutes of a guy talking issues is about as exciting as watching paint dry."

Well, there's only one way to prove that this kind of political message doesn't have to be dull. To make one.

At the time that thought occurred, there were only two announced presidential candidates—Representative McCloskey and Senator McGovern. We placed calls to associates of both candidates. Only Senator McGovern's group responded, and he agreed to work with us in developing the kind of message I'm talking about under the guidelines I've set forth.

So last month, one of our producers named Burns Patterson and a damn good cameraman named Al Taffet went with the McGovern group to New Hampshire.

Out of the footage they shot, every inch of which was concerned with Senator McGovern's view of the problems and his proposed solutions, comes this model for the five-minute political message. At a cost, I might add, of about one-tenth of some of those orgies of imagery I showed earlier.

Film: McGovern.

I leave it to you to judge whether that kind of treatment is too dull or too cerebral for the American voter. It's serious, I'll admit. Not a prat-fall or gag-line in it. But somehow I continue to regard that job on Pennsylvania Avenue as a rather serious matter.

Ever mindful of the equal-time provision, we're offering to do the same kind of message, at cost, for any announced presidential candidate from either major party.

So that's my platform, fellow Americans. I'm urging the House to stop weaving loopholes into the bill to restrict candidates' TV expenditures.

I'm urging the broadcast industry to set a minimum length of five minutes on all political messages. And to insist that the content concern itself with the candidate, his view of the issues and his proposed solutions.

And I'm urging all of us in the advertising business not to be beguiled into making commercials that confuse a candidate and an office with a deodorant and an armpit.

If these minimum standards of responsibility aren't observed—if we have an encore of those abuses that characterized television campaigning in '70—those fragile strands of public confidence that we're trying so hard to maintain for advertising could be eroded entirely.

And November 1972, is only twelve months away.

SENATE—*Tuesday, April 4, 1972*

The Senate met at 12 o'clock meridian and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who rules in splendor in realms above all earthly kingdoms, we thank Thee for Thy luminous presence with us as we seek to serve a nation under Thy providence and judgment. Save us from small and selfish living in a time requiring greatness. Keep ever before us the vision splendid of Thy divine fatherhood and human brotherhood as we dream our dreams, enact our laws, build our Nation, and plan our world, until Thy kingdom comes on earth as it is in heaven.

In the great Redeemer's name, we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 4, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that the President had approved and signed the following acts:

On March 30, 1972:

S. 18. An act to amend the United States Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty;

S. 904. An act to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases; and

S. 3353. An act to provide for the striking of medals in commemoration of the first U.S. International Transportation Exposition.

On March 31, 1972:

S. 3160. An act to provide for a modification in the par value of the dollar, and for other purposes.

REPORT ON OPERATIONS OF THE INTERNATIONAL COFFEE AGREEMENT—MESSAGE FROM THE PRESIDENT (S. DOC. NO. 92–65)

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Finance:

To the Congress of the United States:

I transmit herewith my report on the operations of the International Coffee Agreement during 1971.

Last year the International Coffee Agreement proved its continuing value as an instrument of international economic cooperation. The 62 members of the International Coffee Organization worked together effectively to stabilize world coffee trade.

This stability serves the interests of the United States in two important respects.

First, it benefits the American consumer by helping to prevent the recurrence of the extremely high coffee prices recorded in the years prior to the Agreement. In 1971, for example, the International Coffee Organization successfully dealt with the supply crisis of the previous year and served to bring down the price of our imported green coffee by eight cents per pound between January and December.

Secondly, the International Coffee Organization reduces the fluctuation in the foreign exchange earnings of coffee producers. It thereby supports the development efforts of over 40 nations in Latin America, Africa, and Asia and supports our own aid objectives.

The recent passage by the Congress of enabling legislation permits us to fulfill certain of our obligations under the Agreement. Approval of this important legislation constitutes an important reaffirmation of our determination to cooperate with the developing countries.

RICHARD NIXON.

THE WHITE HOUSE, *April 4, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. ALLEN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 2770) to amend the Federal Water Pollution Control Act, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H.R. 13361) to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 13361) to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended, was read twice by its title and referred to the Committee on Agriculture and Forestry.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 30, 1972, be disposed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 695 and 696.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MISSOURI RIVER BASIN

The bill (S. 3284) to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated the sum of $114,000,000 to provide for completion of work in the Missouri River Basin to be undertaken by the Secretary of the Interior pursuant to the comprehensive plan adopted by section 9(a) of the Act approved December 22, 1944 (Public Law No. 534, 78th Cong.), as amended and supplemented by subsequent Acts of Congress, plus or minus such amounts, if any, as may be required by reason of changes in construction costs, as indicated by engineering cost indices applicable to the type of construction involved. No part of the funds hereby authorized to be appropriated shall be available to initiate construction of any unit of the Pick-Sloan Missouri Basin program, whether included in said comprehensive plan or not.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–726), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE MEASURE

The purpose of this measure, which was proposed by the Department of the Interior, is to authorize appropriations to complete the program of the Bureau of Reclamation for the completion of construction of the Pick-Sloan Missouri Basin program formerly called the Missouri River Basin project.

BACKGROUND

Initiation of a comprehensive plan of development for the Missouri River Basin project was authorized by the Flood Control Act of 1944 (58 Stat. 887). Section 9(e) of the act authorized appropriations in the sum of $200 million for the partial accomplishment of the portion of the plan undertaken by the Secretary of the Interior. The ceiling on appropriations for the comprehensive plan has been increased by a series of subsequent acts which are enumerated in an attachment to the executive communication appended to this report.

The act of August 14, 1964 (78 Stat. 446) initiated a policy of authorizing additional appropriations to continue the program for 2 fiscal years only. Furthermore, that act included language prohibiting the use of funds appropriated under that authorization to initiate construction of additional units of the project. Since that time, acts authorizing construction of additional units have included separate authorizations of construction appropriations.

PROPOSED LEGISLATION

The Department proposes in S. 3284 to provide an increase of $114 million in the authorization for the comprehensive plan. This amount would provide for the completion of construction of units which were authorized without individual appropriation ceilings, including deferred drainage work which may be undertaken after some years of experience in irrigating the lands. It will also provide for completion of the electric power transmission system associated with the development. A summary of the application of authorized funds by units is included in the executive communication appended to this report.

RECOMMENDATION

The Committee on Interior and Insular Affairs by unanimous vote of a quorum present in executive session recommends that S. 3284 be enacted.

SALINE WATER CONVERSION PROGRAM

The bill (H.R. 12749) to authorize appropriations for the saline water conversion program for fiscal year 1973 was considered, ordered to a third reading, read the third time, and passed.

ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER (Mr. Stevenson). Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFIDENCE IN GOVERNMENT

Mr. GRIFFIN. Mr. President, recently in remarks prepared for the 20th annual University of Michigan congressional dinner on March 22, Michigan's Gov. William G. Milliken had some very cogent observations concerning the state of politics in this election year.

I ask unanimous consent that the text of the Governor's remarks, as delivered in his absence by Lt. Gov. James Brickley, be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks by Gov. William G. Milliken

Ladies and Gentlemen: I want to thank you for giving me this chance to speak to you tonight and to see how strong and deep loyalty to the Universtiy of Michigan runs in this capital. The University of Michigan is one of the world's greatest univerities, and I'm very proud to be among so many of its alumni. The list of distinguished guests who are with us tonight is so long that I couldn't possibly run through it. But I do want to say how pleased I am that President Robben Fleming can be with us. He is a most impressive man and a most impressive and able administrator. And I want you to know that we in Michigan recognize very clearly how much his wisdom and his vision are contributing to the progress of the great institution which he was chosen to lead.

I suspect most of you keep in pretty close touch with what's going on back in Michigan, so I'm going to refrain from giving you a progress report on what's happening in the Legislature, or what kind of sour cherry crop we can expect this year, or how automobile sales are going to do this spring. I thought instead that you might be more interested in hearing something about how a governor—the governor of your own state—views the mood of the Country and the condition of politics as we move more deeply into this election year.

Who will survive after November and who will not survive will be debated fiercely in the coming months. While we may differ in our predictions, we can be certain of one thing: the Country will survive, and the System will survive.

Frankly, I don't take much comfort in that, for it seems to me that if we're going to have this system in the long run, we are going to have to take some important steps in the near future to prevent its total collapse—a collapse brought on by the crisis in confidence.

Cynicism is nothing new to Washington, but the degree of cynicism which grips the entire country today *is* new.

It seems to me that in order to understand the force and dimensions of this cynicism, you have to be a target of it—that is, you have to occupy some position in politics or public life. I am continually surprised at the difficulty I have in convincing people that I mean what I say on vital issues such as civil rights, education, taxes, crime, drugs, and so forth. I, and others I know in public life, are also constantly surprised at how willing people are to challenge our motives. It is almost as if people believe we are not trying to solve the terrible problems that affect the quality of life for everyone in this country. It is almost as if people believe we are trying to prove that the System doesn't work, instead of trying to show, as well as we can, that it does.

Two factors underlie this terrible misunderstanding and cynicism about politics, I beileve. One is the accumulated effect resulting from years of oversell on the part of political figures. The other is the real misunderstanding about the nature of American politics and American institutions.

Is it any wonder that many Americans have become dulled by political promises? For two decades now, and longer politicians have been promising to cure poverty, abolish crime, create a genuinely integrated society, reform prisons, improve the medical care system, lower taxes, and ease traffic congestion. And yet these problems are still with us. Whatever the issue, most Americans have been so inundated with promises for so many years—promises that were simply too unrealistic ever to be kept, that they regard what politicians say with a skepticism unmatched in history.

Today's public cynicism is the natural child of yesterday's political irresponsibility. For public officials, nothing much can be gained by condemning this cynicism. Our clear duty is to wage a slow, painful campaign to erase this cynicism from public life—to make no promises which we cannot keep, to speak with candor, and to remind people continually what progress will cost them.

So much about oversell as a cause of today's cynicism. The other factor in this widespread public apathy and disbelief, it seems to me, is that many Americans have a very distorted idea about the nature of public institutions and politics.

In short, most people have an exaggerated idea of political power. They conceive of state political parties as great, powerful bodies that are run by large, well-paid staffs that maintain tight discipline and close liaison with a political network which responds immediately to the leaders at the top. In this fantasy, a governor, or a mayor, or a senator or a party chairman only has to pull a switch to send thousands of party faithful into action in behalf of a good cause. In this fantasy, a twitch of the party mechanism can bring recalcitrant legislators to heel and fill the coffers of the party's empty treasury.

Well, of course, the truth is somewhat different, regardless of what party you are talking about. The truth is that the parties, on a state level at least, are fragile, skeletal organizations, operating with small staffs in unimpressive offices. The truth is that while these mighty political parties are brought to life during election years, they awake only after the most vigorous prodding. The rest of the time, they move along in something resembling a suspended life state—the kind of deep sleep you see in science fiction movies about astronauts going to the farthest planets.

Far from being disciplined, tightly knit organizations, these parties are restless amalgams of people with highly divergent backgrounds and opinions—from the way-out left of the Democratic fringe to the way-out right of the Republican fringe. Getting these people together behind a single program, not to mention a whole collection of programs, is a task that requires the combined skills of a diplomat and a wagonmaster.

Any time a politician tries to describe the true sluggishness of the American political system, or any time he tries to describe the force of bureaucratic inertia, he is accused of constructing an excuse for inaction. And yet I'm convinced there is simply no alternative to this kind of talk. We have to convince the American people that we will not move as rapidly ahead as we should until we revitalize the political parties and make them truly effective instruments for change.

To do this, we have to first bring them into the Twentieth Century. We have to streamline them, make them responsive to the needs and will of the people, and revise the antiquated procedures which have discouraged so many people who have tried to work within the party system.

Some of that is already going on in both parties, and I think that is encouraging. But we have to do a lot better job of convicing the great mass of people that they do have the power to affect the quality of their lives—by the simple and effective use of their freedom.

Now this is a very much abused and misused word—freedom. It is abused on the extreme left by the radicals who say freedom is a fraud; that fascism has already been established in this country. It is equally abused on the extreme right by the proponents of an unrestrained capitalism who believe happiness can be measured by counting the smokestacks around us and that the curve of human contentment precisely follows the Dow-Jones Index.

I reject both extremes. I believe we need a new definition of freedom in this country, a new understanding of who is free to do what to whom, and how. Because the idea that we are free to build a factory in every meadow, subdivide every forest, plow a new freeway through every city neighborhood—this idea has already seriously damaged the quality of life in this country and could lead to the final triumph of the ugly over the beautiful.

In the cities, we need change. In the countryside, we need preservation. The power to change and the power to preserve lies, in the first analysis, in the hands of government, and in the last analysis, in the voice of the people. Very little will be done to produce the necessary changes in the cities, and very little will be done to preserve the unspoiled parts of the country unless people produce governments with the will and the power to preserve and change. If governmental agencies are powerless to change and preserve, we must give them the power.

In this country, we have freedom—political freedom. We must learn how to use it more effectively than we have in the past. As we learned how to control the power of the atom, so too we must learn how to control and use the enormous force of political freedom. And in the same way that we use atomic power for peaceful purposes, so we must use political freedom in behalf of human values—to create beauty where ugliness now exists; to prevent the destruction of the environment.

Change is often difficult, but not impossible. Tradition, custom, special interest, vested interest—all of these things are formidable obstacles, but they are not insurmountable. Nobody—certainly not the left-wing radicals—nobody has convinced me that the System can't be made to work just because it squeaks along in certain places and has ground to a halt in others. Nobody has convinced me, either, that freedom doesn't exist in this country and that it can't be made to work for the betterment of life everywhere and for everyone.

In Michigan, we have been showing that the System can be changed. We lowered the age of majority to 18 to give youth the full rights of citizenship that they deserve. We changed the drug laws so that a young person will not be sent to prison for a long period just because he smokes marijuana. And as most of you know, the two parties reached a compromise that will give Michigan its first presidential primary this spring.

This progress hasn't made the ghettos of our larger cities fit for life; it hasn't stopped the destruction of our environment; it hasn't brought crime to a halt. But among many people, the progress we are making is being felt. It is, in small, often undramatic and yet important ways, improving the quality of life.

We're in a race with cynicism. We have to accelerate change—find ways to make state legislatures and Congress more immediately and directly responsive to the will of the people. And I think whether you're a Republican or a Democrat, you will agree that people must come to understand that governmen, while ubiquitous, is not omnipotent. Government can't stop somebody from throwing a beer can on the highway or force someone to paint his front porch. Government is an instrument for change; it can also be a force for stagnation. People have to get a better hold of government and use it to better purpose.

Those of us who are in politics strongly resent the idea that politics is a dirty word. Many of us are working hard to make politics a cleaner business than it is and to make it more productive in improving the quality of life.

As Governor of Michigan, I'm convinced that we do have the power and means to solve our enormous problems. What we need is the will to act and the support of the people in our efforts.

In order to restore the people's faith in government, we need to demonstrate that progress is possible. But we need to go further than that. In politics and public life, we need to revive truth, discard the exaggeration, bury the false hope, and close the awful gap between the image and substance of things.

If we can do that, and if we can get people to use the freedom they have for the benefit of society, then this country will leave the Age of Cynicism behind and move into a new age of hope and progress.

ABSENCE OF SENATORS

Mr. GRIFFIN. Mr. President, I wish to announce that the Senator from Delaware (Mr. ROTH) and the Senator from Vermont (Mr. STAFFORD) are absent on official business while attending an interparliamentary meeting in Tokyo.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

Is there any morning business?

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIEWS DIFFER OVER ECONOMIC OUTLOOK

Mr. PROXMIRE. Mr. President, Mr. H. Erich Heinemann, writing in the Sunday, April 2, 1972, New York Times noted a number of the Joint Economic Committee's recommendations and the conflicting views of some business economic forecasters. The clash of views is of great importance. I welcome Mr. Heinemann's article and the views he quotes because the clash promotes public understanding and, in the long run, will help us all in making correct judgments.

Mr. Heinemann notes in particular that the business economists agree with the $100 billion estimate in economic growth projected for 1972. The issue is how much of this will be real and how much of it inflation.

He also notes that the economists predict a Federal tax increase through the value added tax in the coming year. They also believe unemployment will be reduced below the present 5.9 percent, but apparently arrived at no particular consensus as to how much it will fall.

These are interesting and important views and clashes of opinion. I commend them to the Senate and to the readers of the CONGRESSIONAL RECORD. I ask unanimous consent that the article be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOST BUSINESS ANALYSTS DISCERN UPTURN, BUT ECONOMY IS STILL KEY ELECTION ISSUE

(By H. Erich Heinemann)

As the second quarter of 1972 begins, the national economy is gathering momentum. But its performance—and President Nixon's radical policy departures last August to deal with its shortfalls—is still at the center of a swirling controversy in this election year.

The Democratic majority of the Joint Economic Committee in Congress has characterized business as "sluggish," the Phase Two wage and price control program as "ill-conceived and poorly managed," and at the same time charged that little was being done to "meet our most pressing economic problem, which is the need to reduce unemployment."

On the other hand, the preponderant view among professional business forecasters—who, whatever their personal political biases, make their livings on the quality of their advice—appears to be quite the contrary in some major respects.

Alan Greenspan, president of Townsend-Greenspan & Co., Inc., a leading economic consulting concern, says "the pace of the economy is clearly quickening."

Mr. Greenspan's outlook is consistent with the composite prediction of a large group of forecasters whose opinions are tabulated regularly by the American Statistical Association and the National Bureau of Economic Research. This foresees for a marked acceleration in business, coupled with reduced unemployment and somewhat lower inflation.

Interviews with, and a culling of reports from, a large number of business forecasters in recent days disclosed substantial, though far from unanimous, agreement on the following points:

A marked acceleration in economic growth is likely this year, in line with the Administration's forecast of a $100-billion increase in Gross National Product.

There is a high probability of a Federal tax increase in 1973—most likely in the form of a value-added tax—to moderate the huge Federal budget deficits that now appear to be in prospect at least through mid-1975.

Substantial, though probably erratic, progress is expected in reducing unemployment below last year's average of just under 5 million people, or 5.9 per cent of the civilian labor force.

There is wide concern about the possibility of a significant shortfall from the Administration's aim of getting the rate of increase in prices below 3 per cent by the end of the year, and the concomitant threat that this might be met with a "Phase Three" price control program much more stringent than its predecessors.

To Mr. Nixon's partisans, he has good reason to be pleased with the performance of the economy in the first quarter of 1972—notwithstanding his confrontation with organized labor over the Pay Board and the growing anger among consumers over the sharp surge in food prices in the last three months.

While the official figures will not be published for several weeks, there is every indication that the nation's total output of goods and services (the Gross National Product) topped $1,100-billion at an annual rate during January, February and March.

This estimate, which is widely held among private business analysts, would represent an increase of roughly $30-billion from the $1,073-billion average in the final quarter of last year.

Equally as important, private economists believe that the bulk of this gain was in "real" terms (that is, production measured in dollars of constant purchasing power), so that substantial progress was made in reducing the nation's backlog of idle men and machines.

Since the nations' labor force and its output per manhour are together growing at a long-term annual rate of about 4 per cent, this means that real output must expand at a rate more rapid than that if unemployment is to be reduced and presently surplus industrial capacity put back to work.

REAL GROWTH ESTIMATED

According to the Argus Research Corporation, a Wall Street advisory concern, the $30-billion gain in G.N.P. in the first quarter—assuming that this, in fact, was what occurred—represented an 11 per cent annual rate of gain, with real growth accounting for 6.6 percentage points of that total, and higher prices 4.4 points.

William Wolman, vice president and economist at Argus is certain that the momentum the economy developed in the first quarter will carry through at least until mid-year, and probably well beyond that, thus breaking the pattern of sluggish recovery that has been characteristic since the end of the 1970 recession.

A gain of $30-billion in total output in the first quarter, Mr. Wolman said in an interview that other day, would be "fully consistent" with meeting the Administration's target of a $100-billion increase in the average level of G.N.P. (measured in current dollars) during 1972, as compared with 1971.

It would be wrong, however, to leave the impression that private business analysts believe either that the Administration has solved all of the nation's economic problems, or that there are no major uncertainties in the current outlook.

HUGE BUDGET DEFICIT

Perhaps most important of all is the huge deficit in the Federal budget that President Nixon has programmed, which is currently estimated to total roughly $65-billion in the two fiscal years ending June 30, 1973.

In a letter to his clients two weeks ago, Mr. Greenspan said that while the deficit in the current fiscal year (ending this June) was apt to run a $1-billion or $2-billion short of the Administration's $38.8-billion forecast, "the fiscal '73 deficit is likely to be well above the $26-billion indicated in the President's budget message."

"With welfare reform and possibly some version of health insurance being fitted into the fiscal '74 budget," he went on, "the need for additional revenue is now going almost unquestioned."

Michael K. Evans, a brilliant, young mathematical economist who is president of Chase Econometric Associates, said last week that the Nixon Administration, "which still plans to be in office at this same time next year," was preparing the groundwork for the introduction of a "value-added" tax in 1973, in large part to "provide a badly needed source of additional tax revenue."

Mr. Evans cautioned that the incidence of the tax—a form of sales tax that would be imposed on the value added to a product in each stage of its manufacture—would have "potentially inflationary effects" unless the Administration were prepared to reduce other taxes by roughly the same amount.

"In my opinion," he said, "it has absolutely no intention of doing so."

VALUE-ADDED TAX

Indeed, the value-added tax, according to Mr. Greenspan, is "the only reasonable vehicle for a major increase in revenues in the area of $10-billion to $15-billion," and moreover would be the "politically easiest route to increased revenues since it is a new and complex tax which everyone vaguely thinks is paid by someone else."

At the same time, and equally as important, the Federal Reserve System is now providing a powerful stimulus to future business activity by adding rapidly to the quantity of money in the economy.

Last year, the Federal Reserve pursued an erratic course—first pumping up the money supply at a rate that the money managers themselves considered to be excessive and then in the second half of the year for all practical purposes halting the growth of money entirely.

In the view of many economists—and especially the monetarists who emphasize the rate of change in the supply of money as a key influence in inducing change in the overall economy—the Administration's success in achieving its economic goals this year will depend importantly on whether the central bank can avoid the errors it made in 1971.

According to Keith M. Carlson, a monetarist economist on the staff of the Federal Reserve Bank of St. Louis, "the prospects for reducing inflation and phasing out price-wage controls are good, if monetary expansion is maintained at a moderate rate."

But Mr. Carlson cautioned that "substantial employment gains in 1972 may be incurred at the cost of rekindling inflationary pressures in the future."

While economists are debating the need for higher taxes to reduce the Federal deficit in the years ahead and the impact of Federal Reserve policy a parallel problem is also getting increased attention. That is the definition of full employment.

Largely because the United States economy is currently operating well short of full employment, with an estimated 4.9 million people seeking work in February and unable to find it, most economists are willing to accept substantial deficit spending as providing an appropriate stimulus to business activity.

But the preponderant view among private forecasters, according to economists at the Chase Manhattan Bank, is that unemploy-will be down to 5.3 per cent by the fourth quarter—as opposed to 5.7 per cent in February and headed still lower.

The question then, is at what point along the economy's upward path will labor markets become sufficiently tight that further increases in output become difficult. At that point, whenever and wherever it occurs, continued Government stimulation will be more apt to produce higher prices than further gains in real output.

LABOR FORCE CHANGES

A widely held view in the business community—which, it should be noted, is rejected equally by organized labor and by the Democrats on the Joint Economic Committee—is that changes in the composition of the labor force in the last few years have altered basically the nature of the unemployment problem, which in turn has raised substantially the level of unemployment that should be considered the "full employment" target.

Edwin H. Yeo 3d, vice chairman of the Pittsburgh National Bank, puts it bluntly:

"A good deal of the increase in labor unemployment represents structural unemployment. It does not represent excess supplies of workers with the right skills located in the right places to satisfy the particular increases in labor demand that are likely to emerge."

In fact, this may be one reason why unemployment has been little changed since midyear last year, while employment has grown by 2 million.

Chase Manhattan's economists make the same point in a different manner. In particular, they point out that the 16.9 per cent rate of teen-age unemployment last year was much higher than in 1954 or 1959, which were past periods when the over-all rate of joblessness was around 6 per cent.

RISE IN YOUNGER WORKERS

The vast increase in the number of young people in the population, the bank's analysts asserted, had not been matched by a comparable increase in the number of jobs that they were willing or qualified to perform. The analysis continued:

"Business is likely to run into situations of outright shortages of skilled, mature and experienced workers at significantly higher unemployment rates than in the past."

On the West Coast, Chase asserted, companies were already having problems in hiring experienced machinists, despite "soft" labor markets there.

The definition of full employment—the point on the unemployment curve where expansionary economic policies tend to become increasingly inflationary—in Chase's view, "many have shifted upward. It may even be as high as 5 per cent. If it is, then current United States fiscal policies could turn out to be substantially more inflationary than is generally recognized."

While the Democrats on the Joint Economic Committee, as representative of another viewpoint, will have none of this—"we are not persuaded that low rates of unemployment are harder achieved than they once were or that inflationary pressures at any given level of unemployment are necessarily greater now than they once were"—the fact remains that many business planners are concerned that the Administration may be applying too much of an upward shove to the economy.

SLUGGISH RETAIL SALES

Far more worrisome than unemployment to many business analysts has been the apparently sluggish trend in retail sales—notwithstanding steady growth in personal incomes—and a concomitantly high rate of personal saving (probably more than 8 per cent of disposable income in the first quarter this year).

Norman Robertson, the respected chief economist at the Mellon National Bank in Pittsburgh, noted recently (as have other economists) that this was a reflection of consumer uncertainty generated during the 1970 recession, and then he went on to say:

"Some analysts suggests that the currently high saving rate may be reflecting, in part, a fundamental change in attitudes among young people. Many younger members of the labor force, this argument suggests, are saving at high rates, either because of a lessened desire to acquire material goods or to enable them subsequently to drop out of the labor force for an extended period of time."

However, Mr. Robertson cautioned that "for the present this hypothesis must remain highly speculative, since no hard evidence has been uncovered to support it."

But whether or not the retail sales/personal savings pattern recently has been "a sour note marring the spring symphony"—as the Morgan Guaranty Trust Company asserted recently—is quite controversial.

Sam I. Nakagama, vice president and economist at Kidder, Peabody & Co., is convinced that "consumers are really beginning to loosen up," with sales at furniture and appliance stores, in particular, running sharply ahead of last year. Airline traffic and restaurant sales—"two good indicators of consumer confidence"—have begun to boom, he said.

Restaurant sales in particular, are considered to be a significant sign, since families will rarely incur the added cost of eating out unless they are confident about their prospects for future income.

In any event, even with an apparent slowdown at the end of last year, retail demand has been growing at a compound annual rate of better than 8 per cent since October, 1970.

On top of this, there is a long list of other sectors of strength in the economy. Among these are the following:

State and local government outlays are expected to increase by more than $15-billion this year, to a total of over $150-billion, which would substantially exceed the 1971 gain of $13.5-billion in this spending.

Housing starts soared to a new record annual rate of nearly 2.7 million units in February. Even though such respected housing economists as Michael Sumichrast, of the National Association of Home Builders, are forecasting that starts will decline gradually from this peak through the balance of the year, residential construction should make a meaningful * * * the G.N.P. this year.

Business investment, both in inventories and in new plant and equipment, should be up substantially in line with the expected rise in industrial production. Capital spending is projected to rise despite the appearance of considerable idle capacity among manufacturers. Much of the gain in capital outlays, according to Lionel D. Edie & Co., Inc., an economic consulting concern, should come from communications companies and from commercial concerns, while in the paper and non-ferrous metals industries outlays for pollution abatement are going up sharply.

Finally, net exports from the United States should improve markedly this year as a result of the devaluation of the dollar which will have the effect of reducing the relative price of American goods in international markets, while raising the price of imported goods here.

Whether this pattern of gathering economic strength will be translated into a new boom, new inflation, and perhaps harsher economic controls, only time will tell.

But provided that the nation's money managers in the Federal Reserve System keep a relatively steady hand on the monetary throttle, there is at least a chance that the elusive goal of prosperity without inflation can be achieved.

OVERHAUL OF PHASE II—JOINT ECONOMIC COMMITTEE'S RECOMMENDATIONS

Mr. PROXMIRE. Mr. President, the Joint Economic Committee recently issued its annual report which, under the Employment Act, is the congressional counterpart to the President's economic report. It is the congressional reply.

The report was significant in a number of respects. Its sections on unemployment, phase II, military spending, the failure to reorder priorities, and its international economic sections are, in my judgment, among the most salient and well written of any report the committee has published.

In last Sunday's Washington Post, the very able and perceptive economics and business writer, Hobart Rowen, commented on the report. He pointed out the significant areas of agreement between the majority and minority members of the committee. He noted the strong stand against the Hartke-Burke approach to trade, and he particularly noted the important differences between both the committee and the President, and the committee and Mr. Meany, over the workings of phase II.

A majority of the JEC believes that phase II attempts too much. It should be limited to controlling those prices and wages set by market power, or what is called administered prices.

The President, on the other hand, has covered the waterfront, but in the committee's view, this has been done superficially. The results have been continued price rises and ineffective wage controls over the big contracts. Mr. Meany's view is that since wages are controlled, and because every employer becomes an enforcement agency of the Government over wages, prices must be much more effectively controlled as a matter of equity and fairness.

These are the issues and these are the differences which exist. I believe that it is in the public interest that they be put out on the table and debated. From that clash of opinion and judgment the right policies are more apt to emerge than if they are ignored.

Mr. Rowen's article makes these issues very clear. I ask unanimous consent that it be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAJOR OVERHAUL IS NECESSARY FOR PHASE II PAY-PRICE CURBS

(By Hobart Rowen)

The Joint Economic Committee of Congress, one of the best on the Hill, put out its annual study of the President's Economic Report the other day and got only the barest mention in the papers. Reason: the JEC study was released at the same time that George Meany and two AFL–CIO cohorts walked off the Pay Board—and that stole the headlines.

But the JEC effort is worth going back to. For one thing, the minority and the majority members were able to agree on a joint statement calling not only for reforms in the international monetary system, but firmly opposing "any broad system of quotas for solving our international trade problems."

This bipartisan rejection of the protectionist Hartke-Burke Bill offers real hope that oppressive quota legislation will be killed this session even though the passel of Democratic senators running for president hasn't been vigorous in arguing against the inward-looking principles of Hartke-Burke.

Presidential candidate Hubert Humphrey, who happens to be a member of the Joint Committee, footnoted his "strong disagreement" with some of the "dogmatic conclusions" offered by the Democratic majority on international economic issues—although they were not so radical that the Republicans couldn't support them in large measure.

Sen. Humphrey has retrogressed from the old days when he was a fighting, free-trading liberal. One of his own staff quotes him about as follows to a group of factory workers last month in Pennsylvania: "The way imports are growing, you're going to have to learn Japanese in order to get your TV repaired."

On domestic issues, the Democratic majority, as might be expected, tended to be critical while the Republicans looked on the brighter side. But the committee as a whole was sensitive to the fact that the problems of unemployment and inflation dominate everyone's thinking.

The Phase II effort, the Democrats said, "is ill-conceived, poorly managed and apparently of little real help in controlling inflation." With considerable foresight, it spotted a key stumbling block to Phase II success, citing testimony of Agriculture Secretary Earl Butz that food prices would rise over 4 per cent in 1972.

Nor were the JEC Republicans unaware of a potential food-price bombshell, hastening to the defense of the farmer in this volatile situation. "Consumer price increases in recent years," the Republican minority asserted, "have largely been the result of increased costs after the product has left the farmer's hands and before it is sold to the consumer."

There is plenty of evidence that this is also the political posture of the White House, although Economic Council Chairman Herbert Stein told a press conference a couple of weeks ago that the margin of the middlemen—wholesaler and retailer—was in fact narrowing.

It makes little difference to the consumer pocketbook whether prices are advancing too fast because the farmer is to blame, or whether the reason is that distribution process is not sufficiently controlled.

Nor is it useful, except as an academic exercise, for the administration to break down the skyrocketing monthly increases in wholesale and consumer prices into what portion represents controlled commodities, and what part isn't controlled.

"What's controlled and what isn't controlled is less of an issue than going into a grocery store and finding out that prices have increased," Martha Robinson of the Consumer Federation of America observes.

Now that the chief labor members have left the Pay Board, and the leaky sieve at the Price Commission is making a mockery of price controls, President Nixon is faced with the need to revamp both pay and price mechanisms.

He can follow the advice of the Joint Committee majority (which drew on testimony by former Economic Council Chairman Gardner Ackley) and de-control almost all of the economy while clamping down on the big companies and big labor—"those sectors of the economy characterized by definite market power."

Or, the President can go the route suggested by George Meany on the "Today Show" last week by putting the whole economy under full controls—with an adequate bureaucracy to police it. A preliminary to this would have to be another wage-price freeze of the kind suggested by Rep. Wilbur Mills (D-Ark.) covering profits and dividends as well as wages and prices.

Mr. Nixon could take another route that would suggest neither de-control of large segments of the economy (Ackley), nor the straitjacket of a fully controlled economy (Meany): he might choose to get out of the present bind by a freeze on all food prices, processed and nonprocessed, pending formulation of a specific regulation. That would require the Cost of Living Council to bite the bullet by including a freeze of all foods at the raw agricultural level.

That's harsh medicine, particularly for an administration anxious to keep them happy down on the farm. Maybe it won't work. But labor isn't going to participate in a wage-control program while prices, notably food prices, are uncontrolled.

To be sure, there is yet another option: Mr. Nixon could junk the whole messy business. But with unemployment at 5.7 per cent and prices bursting at the seams even while controlled, that's not likely.

A decent wage-price policy is probably a permanent part of the economic landscape; the administration might just as well admit that Phase II needs a major overhaul. Above all, Phase III's objectives should be set out clearly, and a realistic appraisal offered on the chances of reaching them.

FITZGERALD, THE WHISTLE-BLOWER

Mr. PROXMIRE. Mr. President, A. Ernest Fitzgerald has paid in time and money for his efforts in uncovering the astronomical costs of the C-5A to the taxpayers of the United States. Blowing the whistle on waste is an heroic act. But the whistle-blower is not always treated as a hero.

Ernie Fitzgerald is a hero. A piece that appeared in the Washington Post's Potomac magazine last Sunday tells his story. It is a solid piece of reporting by George C. Wilson that deserves widespread readership.

For that reason, Mr. President, I ask unanimous consent that Mr. Wilson's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A. ERNEST FITZGERALD DISCLOSED COSTS OF C-5A

(By George C. Wilson)

Chairman PROXMIRE. I will begin my questioning with Mr. (Ernest) Fitzgerald. . . . You have told us this morning you did not prepare a statement for the record. Why not?

FITZGERALD. Mr. Chairman, I was directed not to prepare a statement.

PROXMIRE. Who told you not to prepare a statement?

FITZGERALD. Directly my immediate superior, Mr. Nielsen, the Assistant Secretary of the Air Force for Financial Management, but it is my understanding that he was, in turn, acting on the direction of our legislative liaison people . . .

PROXMIRE. Is it true that the costs of the contract (C-5A transport) will be approximately $2 billion more than was originally estimated and agreed on?

FITZGERALD. . . . If the total amount of estimated cost variance were to come to pass . . . If we were to buy the follow-on production runs using the repricing formula, and if our Air Force support items, things that have not yet been contracted for, increase proportionately, your figure could be approximately right.

And that is how an official of the Air Force—on the morning of Nov. 13, 1968—disclosed in public before a hearing of Sen. William Proxmire's (D-Wisc.) Economy in Government Subcommittee that the C-5A transport was out of control on costs.

The subsequent four years have documented the $2 billion overrun to the point that Air Force Secretary Robert C. Seamans Jr. no longer brands stories about it as irresponsible reporting—as he once did. And Lockheed Aircraft Co., the builder of the C-5A, came so close to bankruptcy by its poor financial management of the project that it had to ask the Federal Government for special loan assistance.

Seamans is still Air Force Secretary; Lockheed got the loan, but the man who first reported that cost overrun to Congress—Arthur Ernest Fitzgerald—has been fired.

Fitzgerald refuses to act like the banished bureaucrat who said too much. He is suing the government to retrieve his old Air Force job and he is writing a book about the C-5A and other atrocities of military procurement.

His suit will have far-reaching implications for the 2.5 million government employees covered by the U.S. Civil Service Commission. And his book, entitled *The High Priests of Waste* (W. W. Norton), promises to be a multiple warhead blast when it explodes over the Pentagon.

Fitzgerald does not quite seem like the zealot willing to take on the most powerful military organization in the world. He looks like a man comfortable to go fishing with—gray hair, medium build, mirthful around the eyes. He talks with that soft Alabama drawl, which coats over his stinging observations about the way the Pentagon spends the taxpayers' money for weaponry.

"You know," he said, talking recently in his McLean home, "everybody has written about me getting fired for talking about the $2 billion overrun on the C-5A. But what about that $2 billion? Nobody talks about that anymore. That's more important than me getting fired. I can always go back to the farm."

Free of the Air Force muzzle he had to wear as the $31,874-a-year Deputy for Management Systems for the Secretary of the Air Force, Fitzgerald has some pungent comments on defense matters:

On David Packard, former Deputy Secretary of Defense, who tried to straighten out the C-5A contract inherited from former Secretary Robert S. McNamara: "Packard was a disaster. The C-5A was a chance for the government to enforce a contract. But he gave it all away. We will never be able to enforce another contract."

On the Russians-are-coming theme of generals and admirals seeking more weapons: "Why doesn't someone ask these military guys how many weapons they could build with the money they waste? That's how to keep strong; stop wasting the money. What do you suppose the Soviet An-22 costs, the Russian counterpart for the C-5A? Probably about $5 million or $10 million. This compares to at least $60 million a copy for ours because the Air Force tried to build a plane to land on a cow pasture. The C-5A can't do that. And it won't carry any more than the simpler An-22."

On Maj. Gen. John L. Zoeckler (retired), project manager for the F-111 (TFX) fighter-bomber that soared way over cost estimates: "He told a bunch of us trying to cut costs while he was managing the TFX that 'inefficiency is national policy; that pressing for efficiency diverts management from more important problems; that only the national policy of inefficiency could provide equal opportunity, hiring of the handicapped and aid to small business.'"

On SRAM, the Air Force's short-range-attack-missile to be fired from aircraft at ground targets: "They knew it wouldn't work when they bought it."

To learn how a man developed such strong views and, more surprising, found a way to act on them right inside the Pentagon—for a while anyhow—one must start out in Birmingham, Ala., where Fitzgerald was born 45 years ago. His father was a "make-anything" pattern craftsman for steel mills in the city. Fitzgerald's mother, by all accounts an amazing woman, managed to infuse her son with a sense of mission about his life work. Now a 65-year-old widow, she practically single-handedly runs an organic farm on the Gulf side of Alabama between the towns of Fairhope and Magnolia Springs.

After graduating from Birmingham's Woodlawn High, Fitzgerald encountered for the first time the ways of military procedure as a seaman first class in the Navy from 1944 to 1946. For reasons that were unclear to him at the time, and remain so, the Navy decided it would be nice to tow its ancient ship, the USS Stewart, all the way from Guam across the Pacific to San Francisco, where it could repose as a kind of Naval museum. Fitzgerald was on the Stewart when she went under tow in September, 1945. After countless tow-cable breaks and other snarls, it reached San Francisco in March, 1946. "Birmingham Boy Helps Bring Ghost Ship," read one headline in his hometown paper.

"After we had dragged this thing all the way across the ocean," Fitzgerald recalls, "they decided to tow her out to sea again and use her for target practice. That taught me a lot about the military."

Leaving the Navy, gratefully, Fitzgerald attended the University of Alabama, graduating with a bachelor of science degree in industrial engineering in 1951.

After working as a quality control engineer in a Birmingham valve firm for two years, he began in 1953 what was to be a long and often stormy association with the aircraft business. He took a job as a cost-cutter at Hayes Aircraft Corp., also in Birmingham.

"Even in the mid-1950s," recalled Fitzgerald of his days at Hayes, "there was really no reason to have tight quality control—or controls of any kind for that matter. It was just a lot easier for the company to hire retired generals to work out any problems with the military."

Interrupting his aircraft career with a three-year stint as a cost analyst for Kaiser Aluminum, he returned to planes and their rising prices in 1957. He went to help out the Lockheed-California Co. as a consultant from Arthur Young & Co. Lockheed was finishing production of its Constellation passenger liner and starting on the Electra—the plane which had disastrous wing failures in its early days.

"They flimsied up the airplane to make weight guarantees," Fitzgerald says, explaining the Electra failures. A Lockheed employee protested shaving down the wing thickness, Fitzgerald maintains, but was ordered to go ahead and do it anyhow. Then, when the wings failed, this same employee was blamed.

Fitzgerald's mission was to reduce Lockheed's financial losses on the Electra. "That's where I got all my gray hair." He worked the Electra from 1957–62. He did not get into the company's aeronautical engineering problem, but put through cost-saving reforms, such as more systematic scheduling of the work by the factory supervisors, and other administrative changes.

After the frustrations of working for a small aircraft company in Birmingham which really did not care about cost controls; of being the S.O.B. who came to Lockheed from the outside, and of believing he could make a difference in management if he had clout of his own—Fitzgerald went into business for himself in 1962.

While living in Los Altos, Cal., he organized Performance Technology Council as an offshoot of the then existing Management Systems Corp. of Cambridge, Mass. Fitzgerald served as PTC's first president. Contracts which Management Systems Corp. had on the Air Force Minuteman ICBM were bought by PTC, Fitzgerald's outfit. Which is how he ended up working in the Pentagon for the Air Force.

Fitzgerald and his associates told the Air Force in 1963 that the vital guidance system on the Minuteman ICBM would work only one-third as long as it was supposed to, before breaking down. "With that kind of dependability," he said, "the President could find himself pushing a button, and nearly half of the Minuteman 2 missiles would remain in their holes as duds."

It was unnerving for the Air Force and the builder of the guidance system, Autonetics, to hear such predictions from an outside management firm like PTC. But the evidence seemed compelling enough for the Air Force to invite the PTC president, Fitzgerald, to leave California and set up shop right in the Pentagon to work on that and other problems. So, in 1965, he moved into an office in the Pentagon as Deputy for Management Systems for the then Air Force Secretary, Harold Brown.

"I went in there thinking they really did want to shape up the acquisition business," Fitzgerald recalls of his entry into the Pentagon bureaucracy. "Everybody seemed to be from Harvard, except me. But that didn't worry me. I had been through the airplane missile business from the inside. I got hold of the Mark II guidance system (also built by Autonetics) for the F–111 (TFX fighter bomber) pretty early. There was a big fuss when I and others said the contract penalties for less than the stated performance should be enforced. I saw it as the first chance to enforce the contract. But the Air Force caved in. They didn't want to make Autonetics lose money."

In those days of argument, Fitzgerald said the then Assistant Secretary of the Air Force, Robert Charles, told him: "We just can't cause them to lose all this money." Fitzgerald said his reply was, "Why not?"

Such an attitude, however, was not the way to win friends and influence people at the Pentagon, even though the then Secretary of Defense, Robert S. McNamara, bore an image of being tough on procurement. McNamara called the C–5A contract, for example, "a damn good contract" right after it was signed with Lockheed.

By the time Fitzgerald went to the Proxmire hearing on Nov. 13, 1968, it was widely known inside the Pentagon that the C–5A was in trouble on costs. But the Air Force hoped to keep it quiet until the matter could be resolved inside the family, not in public. But, under the law, Fitzgerald and any other witness is required to answer questions truthfully when members of Congress ask them. That was how Fitzgerald saw it, anyhow, he confirmed Proxmire's estimate of a $2 billion cost overrun on the plane.

But, right after he testified, the Pentagon freeze for non-team players moved over to him. "I just didn't get invited to any meetings that were important," he said in recalling phase one of that particular freeze.

Next, government snoopers began opening his mail and leaving their inked stamps on the letters to show what was being done. "I learned later," Fitzgerald said, "that this was done to scare me. A flap and seal man (one who surreptitiously opens letters) said they have a long needle to open letters in a way that leaves no telltale signs of tampering."

In what appeared to be another scare tactic, Fitzgerald said an unknown man in a sedan followed him from the Pentagon parking lot all the way to his home in McLean, Va.—remaining parked outside for no apparent purpose other than to worry the Fitzgerald family.

Large powers of the government bureaucracy then became involved:

The U.S. Civil Service Commission on Nov. 25, 1968, notified him that his civil service tenure had been revoked retroactively—as of Sept. 6, 1968. This back-dating of the action, Fitzgerald said, prevented him from challenging the revocation.

Defense Secretary Clark Clifford on Nov. 27, 1968, wrote Proxmire a letter which Fitzgerald said misrepresented his stand on previous Air Force testimony about procurement problems.

The Air Force drafted a memo outlining the various ways Fitzgerald could be fired.

Air Force Secretary Robert C. Seamans Jr. claimed before the House Armed Services Committee in May, 1969, that Fitzgerald had passed confidential documents to Congress—a charge Seamans later retracted.

Brig. Gen. Joseph Cappucci, director of the Air Force Office of Special Investigation, conducted an investigation of Fitzgerald. Anonymous and unproved accusations put in the Fitzgerald file included: seeming conflict of interest by trying to help his old company; suspicious conduct, such as working late at the Pentagon; pinch-penny habits, such as driving a Rambler automobile.

The Air Force relieved Fitzgerald of his duties overseeing contractors and their work—relegating him to less consequential matters, such as the financial state of some bowling alleys in Vietnam.

Fitzgerald and his family withstood all the pressure. He stuck to his desk at the Pentagon, waiting to see how the bureaucracy would try to get rid of him. The answer came on Nov. 4 in a form letter: "This constitutes the required 60 days advance notice," it said, "of proposed separation by reduction-in-force due to the abolishment of your position necessitated by a reorganization under the current Air Force retrenchment program . . . You will be retained in an active duty status through 5 January 1970 . . "

The form firing also contained this sentence: "If you believe that this proposed action violates your rights under Civil Service regulations, you may submit a written appeal to the Appeals Examining Office, Office of the Executive Director, U.S. Civil Service Commission . . ."

Fitzgerald, with the help of Washington lawyers John Bodner Jr. and William L. Sollee, assigned to him by the American Civil Liberties Union, appealed his firing on Jan. 20, 1970. The appeal asserted that Fitzgerald was fired "solely" because of his C-5A testimony and that "the importance of a resolution of this matter in favor of Mr. Fitzgerald in encouraging government employees to testify openly and freely about defense costs and policies cannot be overestimated . . ."

The letter requested his job back; removal of "untruthful material" from his record; cessation of government harassment. The Civil Service Commission did not get around to hearing Fitzgerald's case until May 4, 1971—raising the question of what a discharged employee without independent income or other job is supposed to live on during such a 15-month wait. Happily for his family, Fitzgerald's specialized background attracted enough non-defense clients—some in the area of business administration, a congressional committee, business management groups—to keep his income up to his old level after he was fired for about a year, but it has gone down since.

At the May 4 Civil Service hearing, Fitzgerald asked the examiner to hear his case in public so he could clear his name. The request was unprecedented for a case like Fitzgerald's. The examiner refused. The hearing went on in closed session May 4 and 5. Before its scheduled reopening date of June 16, Fitzgerald resorted to the court in hopes of forcing the Civil Service Commission to hear his case in public.

"It is well recognized that individuals cannot be deprived of their livelihood by the Federal government without due process," read the Fitzgerald brief to the U.S. District Court. "It is a basic tenet of our legal system that procedural due process requires a full and open hearing when a hearing is called for, as it is in this case."

Civil Service Commission Chairman Robert E. Hampton rebutted in a letter made part of the court record: " . . . until and unless this long established regulatory policy is changed, there is no basis for an open hearing even though an appellant may request it . . . Our long experience in the conduct of hearings has heretofore warranted the judgment that we operate best in the search for truth when hearings are freed as much as possible from complicated or rigid procedural rules and distractive formal trappings . . . The obstacle to an opening hearing . . . is a long-established regulatory policy and practice of the commission . . ."

In what looked like a victory for Fitzgerald, District Judge William B. Bryant on June 25, 1971, ruled that the only justification for the commission to hold a closed hearing on such an appeal was if the dismissed employee wanted it that way. "The important advantages of a public hearing in judicial and quasijudicial proceedings have been thoroughly recognized," said Bryant, "to the extent of being taken for granted as an ingredient of due process . . ."

Bryant's ruling failed to budge the Civil Service. It held no more hearings at all on Fitzgerald—open or closed. At this writing Fitzgerald is waiting for a ruling by the U.S. Court of Appeals on his plea to order open hearings. The Air Force witnesses his lawyers want to call may well have left government by the time the Appeals Court acts. And his lawyers cannot subpoena witnesses to a U.S. Civil Service Commission hearing.

But someday—maybe even from the Supreme Court—the word will come down on whether an employee fired by the government has the right to face his accusers in an open hearing of the Civil Service Commission. This makes the case a landmark for the 2.5 million employees covered by the Civil Service.

Fitzgerald's critics in the Pentagon charge that he is a publicity hound who just wants to make a circus out of the Civil Service proceeding; that while in the Air Force he had no ideas when asked for reforming procedures to correct the C–5A mess and other ones like it; that he helped Proxmire instead of his own boss, Air Force Secretary Seaman's on the C–5A issue and thus should have been kicked off the team for lack of loyalty.

Richard F. Kaufman, who is the economist on the joint Economic Committee, which has employed Fitzgerald as a consultant after he was fired by the Air Force, said such criticism is way off the mark.

"In the Northeast," said Kaufman, "we associate clipped tones with toughness. So in that way Ernie's warm drawl and charm are deceptive. Once you work with him, you find someone who is tenacious, knowledgeable, extremely bright.

"But that's only part of the explanation for the way Ernie works—the way he hangs in there. He is one of the very few people in a business full of tension who has sense of responsibility to society, not just to himself. He has an appreciation of moral and ethical values—old-fashioned Americanism."

Qualities which seem reflected in Fitzgerald's attitude today toward the Pentagon. If, after all his personal wars, he is awarded his old Air Force job, one wonders if he would actually take it, or if instead the symbol and meaning of his victory are his goals.

"Sure I'll go back to the Pentagon. I've got unfinished work to do there."

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VALUE-ADDED TAX

Mr. PERCY. Mr. President, the Joint Economic Committee has just completed the first series of hearings on a very important subject, the value-added tax. I am very pleased that the distinguished chairman of the Joint Economic Committee, the Senator from Wisconsin (Mr. PROXMIRE), is on the floor this morning.

My own interest in this subject goes back many years. I realize that we are going to have to develop some tax reform ideas. We have certain taxes which are very onerous, and which are discriminatory and unfair in their application. Certainly today the discussion of tax reform is dominating the political campaign in the State of Wisconsin.

In 1970, while in Europe on NATO matters, I visited the U.S. Embassy in Paris and had a talk there with the Counselor for Economic Affairs. I told him that inasmuch as France has had a value-added tax for a number of years, I thought the French experience would be useful to us in making decisions on the value-added tax. In view of the fact that this involves an exceedingly complex subject and the French regulations themselves on the tax are contained in two loose leaf volumes containing several hundred pages, my ability to digest all of this material, particularly in French, had its limitations. I asked if the Embassy could not summarize the French experience with the value-added tax so that I might more easily understand it and so that I could pass it on to the Members of the Senate.

The Embassy has put together a summary of the tax and has compressed its basics into a few pages rather than several hundred pages.

As I offer this summary to my colleagues for their understanding, I wish them happy hunting in seeking an understanding of what is in substance a simple tax.

As we go through the summary, I think that we can see it as an exceedingly complex tax. Many problems arise in connection with the tax. Collection is not simple. When it comes to small manufacturers and farmers or different types of products, the tax cannot be applied uniformly on all types of products. There are different rates and gradations depending on the type of product.

In France, the rates on what they consider to be luxury items run as high as 33⅓ percent. On other items they range somewhat lower. However, I feel it would be very instructive for us to study the tax as it applies to France and to recognize that, stiff as the rates are, running up to 33⅓ percent, the tax still provides less than half of the gross revenue required to run the central government.

It is quite appropriate also that the Senator from Michigan (Mr. GRIFFIN) is also on the floor. The State of Michigan, as I understand it, is the only State that ever tried to apply the principle of a value-added tax within the confines of the State borders. I understand from a distinguished Governor of Michigan, Governor Milliken, the State rather quickly abandoned the experiment and no other State followed in its footsteps.

I ask unanimous consent to have printed in the RECORD, in addition to the summary of the value-added tax I received from the U.S. Embassy in France, an article entitled "The Value-Added Tax," published in the March 1970 issue of Finance and Development, written by Bjorn Matthiasson, an economist of the International Monetary Fund. This article has been provided to me by the Minister of Economic Affairs at our Embassy in Paris which covers the subject from a broader viewpoint than France allows and discusses in more detail than is undertaken in the summary, the major implications of the value-added tax.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FRENCH TAX ON VALUE ADDED

1. The French tax on value added is a general tax on sales of goods and services. It is collected, in a series of fractional payments, throughout the entire production and distribution cycle from the earliest stage of production up to and including the retail level. Each taxpayer making a taxable sale is liable for tax not on the full sales price of his product or service, but only on the portion of the price that represents the value added by him. "Value added" is the difference between a firm's receipts and its expenditures in buying goods and services from other firms, and thus is equal, generally speaking, to the total amount of wages, salaries, rent, interest and similar outlays, plus the amount of profits earned.

CREDIT MECHANISM

2. The heart of the value-added tax system is a tax credit mechanism. Each taxpayer invoices his customers for the full amount of the tax, calculated on the sales price at the applicable rate for the product or the service rendered. To ensure that he is taxed only on the value he adds, however, the law permits the taxpayer to credit, against the tax due at the applicable rate on his taxable sales, the amount of tax he paid on his purchases. Each taxpayer thus pays tax to the French Treasury only on the difference, representing the tax on the value he has added to the product or to the service rendered. Whatever the economic circuits of production and distribution, the total tax burden on a product or service does not exceed the tax at the applicable rate on the price to the final buyer (price for this purpose including the amount of the tax itself). Advocates of the value-added tax regard this feature as an important advantage compared to the "cascade" system of turnover taxes that has been utilized elsewhere in Europe, and that results in taxes being levied on taxes paid at previous stages in the production and distribution cycle of a product or service.

3. The right to credit tax on purchases applies both (a) to tax on purchases of materials and components physically incorporated into the final product, or consumed in its manufacture or in the rendering of the service (the "physical credit"), and (b) to tax on capital expenditures (purchase of industrial or commercial buildings and machinery and equipment) and many overhead expenses (the "financial credit"). There are, however, some limitations on the scope of the tax credit. Until recently, no credit was granted for the value-added tax on petroleum products. Now a credit may be taken for the tax on petroleum products used as a raw material or as fuel in such industries as steel-making or in the production of electricity however, gasoline, fuel oil for space heating, and lubricants continue to be excluded. In the case of the "financial credit," acquisitions of passenger vehicles and furniture, for example, and the purchase of items of substantial value (e.g., transistor radios) for gifts to customers or star salesmen do not give rise to a right to a tax credit.

4. The taxpayer declares his total taxable sales and his credits and pays his tax monthly. Unused credits in any given month may be carried forward for application against tax liabilities in future months. However, unused credits may not be applied retroactively to liabilities for prior months that have already been settled. Nor—except

for exports (see below) and a few minor instances involving domestic transactions—is the taxpayer entitled to a cash refund from the French Treasury for any unused credits.

RATES

5. Since the tax on value added is not cumulative, and since it strikes not the full sales price in each transaction but only a fraction of that price (the value added by the taxpayer), the rate must be high if the yield is to be substantial. This consideration has, in turn, given rise to the fixing of four different rates, in order to reduce the burden of the tax on commodities and services that are regarded as necessities of life and, on the other hand, to impose a kind of surtax on a limited list of "luxury" products. While certain products—such as bread and milk—were formerly exempt from tax, this was done away with in 1968, when the tax on value added was extended to the retail sector. The reason was that a producer of a tax-exempt product has no way to realize the tax credits available to him, with the result that his costs of production and his capital expenditures are simply inflated by the value-added tax on his purchases.

6. Effective January 1, 1970, the rates are applied to the sales price, before tax, of the product or the service rendered (previously the law specified the rates in terms of the sales price, taxes included. For example, the normal rate was set at 19 percent, which meant an effective rate of 23.456 percent on the price before tax). The current rates are as follows:

(a) Normal rate of 23 percent, which applies in all cases where there is no specific provision for another rate.

(b) Reduced rate of 7.5 percent, which applies to all food products, except those specifically listed as being subject to the intermediate rate (see subparagraph (c) below); unprocessed agricultural and fishery products, including meat; water; books; and nonluxury hotel accommodations.

(c) Intermediate rate of 17.6 percent, which applies to coal; wood; petroleum products; transport of persons; hospital care; laundry and dry cleaning; moving; restaurant and hotel accommodations not subject to the 7.5 percent rate; and specifically designated food products, such as beverages, coffee, tea, chicory, flour other than that used in making bread, pastry and other quality baked goods, candy, ice cream, sherbet, margarine and vegetable shortening. Construction of buildings is subject to the 17.6 percent rate, when the construction is for the account of the central government or political subdivisions, or when at least three-fourths of the total floor space is intended for living quarters; in all other cases the normal rate of 23 percent applies.

(d) Increased rate of 33⅓ percent on a short list of specified luxury products, including passenger automobiles.

TAXABLE AND EXEMPT PERSONS

7. In general, the value-added tax applies to the business transactions in France (affaires faites en France) of persons, natural or juridical, who buy for resale or who engage in transactions relating to an industrial or a commercial activity. Agricultural producers are taxable when they engage in activities which, by reason of their nature or their scope, are assimilated to those exercised by manufacturers or tradesmen. Persons exercising a liberal profession are taxable when their remuneration constitutes an important element in the cost of products or services subject to the tax on value added.

8. The law imposes a special tax on financial and banking activities, and banks and financial institutions are thus removed from the scope of the tax on value added. The base of the special tax is fairly narrow; for example, operations of mutual credit associations, banking operations relating to the financing of exports, and all interest and agios are exempted. In essence, the special tax applies only to purchases, sales and subscriptions of securities, safekeeping fees, foreign exchange operations, rental of safety deposit boxes, transactions in gold, and commissions on transfers and for the management of accounts—in other words, banking services in the narrow sense of the term. Taxpayers subject to the value-added tax on their own receipts are not entitled to a credit for any amounts of the special tax on financial activities charged to them by their banks.

9. Persons other than those specified in the two preceding paragraphs may opt to be subject to the value-added tax under conditions specified in the tax regulations. These persons include landlords of industrial or commercial premises, and farmers and persons exercising a liberal profession who are not mandatorily subject to the tax. The advantage to such persons in electing to put their business transactions under the tax on value added is that they can realize a credit for the value-added taxes included in their purchases of goods and services from other persons and firms subject to the tax. In particular, this enables them, in effect, to make capital outlays free of the tax on value added.

10. On the other hand, taxpayers who are fully subject to the tax are required to keep fairly detailed business records and thus to have a fairly sophisticated system of business accounting. Many small businesses—particularly, single-proprietorship retail outlets—and many small farmers are unable or unwilling to meet these requirements. To accommodate them, the tax system provides for a number of special possibilities:

(a) Business enterprises whose annual turnover does not exceed 500,000 francs for wholesalers and retailers and 125,000 francs for furnishers of services may elect to be taxed on an estimated basis (*forfait*), rather than on their actual volume of business. The amount of tax is, in effect, negotiated between the taxpayer and the Tax Administration, and the agreement is binding on both parties for a two-year period. If the annual amount of estimated tax is less than 1,200 francs, no tax is due. Above 1,200 francs and up to 4,800 francs, the taxpayer is entitled to a reduction in tax on a descending scale. Even more generous arrangements are available to handicraft enterprises for which remuneration of labor represents more than 35 percent of total turnover. Taxpayers subject to the estimated system continue to be entitled to a credit for the value-added tax on their investment expenditures, with the amount of credit being determined through estimation.

(b) The regulations contain a number of simplifications as regards the rules for taxation of small farmers. In addition, a number of special options are available to farmers:

(1) Individual proprietors are exempted from tax when their annual volume of business does not exceed 10,000 francs. Between 10,000 and 13,500 francs, they are entitled to a 60 percent reduction of their tax liability; between 13,500 and 17,000 francs, to a 30 percent reduction.

(2) Only farmers subject to the value-added tax have the right to take a credit for the tax on their purchases of equipment goods and other products. In order not to provide too great a discrimination against farmers not subject to the tax on value added, the law provides for an estimated refund to such persons, based on their sales of agricultural products either to persons subject to the tax on value added or for export. The rate of the refund is 3 percent for sales of poultry, eggs and meat; 4 percent for certain of these products marketed through producer cooperatives; and 2 percent for all other products.

(3) As an alternative to the estimated refund (subparagraph (2) above), farmers not subject to the tax on value added may obtain a rebate of 8.87 percent on purchases of agricultural equipment. This facility, which has been in effect since the introduction of the tax on value added in 1954, is a survival from the time when most farming activities were outside the scope of that tax. It is scheduled to expire at the end of 1971.

11. Newspapers, periodicals and press agencies are exempted from the tax on value added on their sales and are entitled, under appropriate safeguards, to receive from their suppliers free of tax the raw materials utilized in the production of their publications—e.g., newsprint, ink and solvents, electricity utilized to run presses, photographic prints, etc. Receipts from advertising, of course, remain subject to the tax on value added.

12. The law allows relatively few exemptions from the tax based on the status of the final purchaser—that is, a person who is not himself a taxpayer. In contrast to the situation as regards the U.S. Federal excise taxes, neither the French Government nor its political subdivisions enjoy exemption from the value-added tax with respect to their purchases of goods and services. There are a few such purchaser exemptions, however. For example, the tax is waived on transactions relating to the erection of monuments to the war dead; the American Battle Monuments enjoys this exemption with respect to the monuments which it erects in France. Likewise, expenditures made in France by the U.S. Forces in the interests of the common defense are exempted from the value-added tax by the Franco-American Tax Relief Agreement of June 13, 1952.

INTERNATIONAL ASPECTS

13. In its application of the tax on value added, France follows the "destination principle." The tax applies only to transactions carried out in France. A transaction is deemed to have been carried out in France if delivery is made in France. Thus, France, as the country of origin of an exported product, does not apply its value-added tax to a product whose destination is another country. On the other hand, it applies the tax to products imported into France (the country of destination), whatever the tax treatment of the products in the country of origin.

14. The importation into France of any product subject to the value-added tax on the domestic market is a taxable transaction. The tax is calculated on the value of the import, as defined by the French Customs Code (generally the landed cost), increased by applicable customs duties and entry fees. A taxpayer subject to the value-added tax may credit, against the tax due from him with respect to his sales, the value-added tax levied on his purchases of imported products.

15. French exports are exempt from the tax on value added. The exemption relates not just to the tax that would otherwise have been due on the value added to the product by the exporter himself, but to the full amount of tax that would have been invoiced at the applicable customer. To give effect to the exemption, the exporter excludes all export transactions from his taxable sales, the effect being to exempt from tax the value he himself added to the exported product. At the same time, he may claim a credit for value-added taxes on his purchases of materials and components incorporated into the exported product, or consumed in its manufacture, as well as capital equipment used in export production. This credit provides the basis for relieving the export from taxes on the value added to the product at previous stages. In the ordinary case, where the volume of domestic sales exceeds the volume of export sales, the exporting firm realizes its export credits by offsetting them against its liability for tax due on its domestic sales. In the case where a firm is engaged wholly, or primarily, in production for export, and where the tax on its purchases, for which it is entitled to credit, exceeds the tax due with respect to its

domestic sales, the law specifically provides that the exporter may receive a cash refund for the excess tax credits attaching to exported products. Moreover, to avoid the administrative complexities and financial burdens that this system of payments and refunds might entail, an exporter may acquire, tax free, materials for export production that would otherwise be subject to tax.

16. In the case of services, the value-added tax is due when the service is utilized or enjoyed in France. Conversely, services rendered in France, but utilized or enjoyed outside of France, are exempted from the tax. Thus, for example, a French engineering firm which makes a survey in connection with a French bid on a hydro-electric project outside of France is not liable for the value-added tax on the transaction.

SOME ECONOMIC ASPECTS

17. The tax on value added is far and away the best revenue producer among all French taxes. As shown in the attached table, it accounts for about 45 percent of the total tax revenues of the central government.[1] In this regard, it brings in more than all direct taxes taken together, which yield only about one-third of central government tax revenues. Heavy reliance on indirect taxes is deeply imbedded in French traditions of taxation, and the value-added tax is the culmination of an evolution that began with the imposition of a turnover tax in 1920.

18. In economic terms, the major innovation of the tax on value added was the decision to relieve from taxation, through the mechanism of the "financial credit" (see paragraph 3 above), expenditures on plant and equipment by business firms whose sales were themselves subject to tax. As compared with its immediate predecessor, the production tax (which utilized a credit mechanism for taxes on purchases of raw materials and components but gave no credit for tax on capital expenditures), the tax on value added thus provided a considerable tax break for business investments. While it would be difficult to establish a precise cause-and-effect relationship, there is a widespread belief in France that the introduction of the value-added tax in the mid-1950's was one of the factors responsible for raising the level of gross capital formation in that period.[2]

19. If the value-added tax tends to favor investment, conversely, it bears heavily on consumption. In this connection, the use of four different rates, as mentioned above, is an attempt to mitigate somewhat the regressive character of the tax. Nevertheless, the French rates are considerably above those in Germany and the Netherlands—the other two Common Market countries that have so far put into effect a value-added tax in accordance with the decision of the European Community to apply this tax throughout the Community. It is clear that the French rates will have to come down in the process of European tax harmonization. Indeed, the French Finance Minister has publicly expressed himself on the desirability of lower French rates. A first step in that direction was taken at the beginning of 1970, when the tax on many food products was cut from the intermediate rate of 17.60 percent to the reduced rate of 7.50 percent.

20. As already discussed, the value-added tax mechanism provides for complete relief from tax for French exports and, conversely, for the imposition of tax on imports. These features—particularly the export exemption and the precise and automatic way in which the amount of tax to be relieved is determined—are often cited as important advantages of the value-added tax over other form of turnover taxation. The effects of the value-added tax on trade have been a matter of considerable international discussion in recent years. While differences of opinion exist on numerous aspects of this complex question, it is believed in many quarters that the change-over to a value-added tax, or important modifications in an existing system, can have significant trade effects. An illustration of the latter point is the move made by France at the close of 1968 to increase the rates of the tax on value added, while abolishing a tax on wages borne by the employer but not rebated in the case of exports.[3] The announced purpose of this change, which followed the decision of the French Government in November 1968 to defend the then-existing parity of the franc, was to provide an additional stimulus for exports and a corresponding deterrent to imports.

FOOTNOTES

[1] The central government in turn collects more than 80 percent of all taxes levied in France, excluding employed and employee contributions to the Social Security System, whose accounts are separate from those of the central government.

[2] Undoubtedly another factor was the stimulus of the Algerian war effort on the French economy.

[3] This wage tax was levied for the account of the central government general fund, and should not be confused with the employer social security contributions.

TAX REVENUES OF FRENCH CENTRAL GOVERNMENT

	Billions of francs		Percent	
	1968	1969	1968	[1] 1969
Direct taxes:				
Personal income tax	24.1	20.6	21.0	19.6
Corporation taxes	11.0	10.4	9.6	9.9
Other	3.7	2.5	3.2	2.4
Total direct taxes	38.8	33.5	33.8	31.9
Indirect taxes:				
Tax on value added [2]	51.2	49.7	44.5	47.1
Other	25.0	22.1	21.7	21.0
Total indirect taxes	76.2	71.8	66.2	68.1
Total	115.0	105.3	100.0	100.0

[1] 1st 9 months only.

[2] Including the special tax on financial and banking activities.

Source: French Finance Ministry, Statistiques et Etudes Financieres.

[From Finance and Development, March 1970]

WHAT DOES IT REALLY MEAN?—THE VALUE-ADDED TAX

(By Björn Matthiasson)

A number of countries have in recent years adopted a new tax called the value-added tax. Its spread has been very rapid; only ten years ago there was but one country, France, that used it. Then, with the inception of the Common Market, it was decided to align some of the taxes levied in the member countries. This decision involved the initiation of value-added taxes in the member countries, which in turn has inspired a number of other European countries to follow suit in their efforts to associate themselves later on with the European Economic Community. At present there are nine countries in Europe (see timetable) that have either put the value-added tax into operation or passed legislation for its introduction in the near future.[1] A number of other European countries, including the United Kingdom, have also given the value-added tax serious consideration, and it may be expected that in a decade it will be a predominant instrument of taxation in Europe.

STRUCTURE AND COVERAGE

The value-added tax is a sales tax levied in the value added to a product or service each time it changes hands. To illustrate this, the chart shows how a value-added tax is imposed on a steel product as it progresses from iron ore in the mine to the final transaction when an article incorporating it is handed to the consumer over the counter. The tax rate is in this instance 10 per cent of the price as it was before the tax is levied.

TIMETABLE OF VALUE-ADDED TAX ADOPTION AND BASIC RATE (PERCENT)[1]

Country	Year	Rate
France	1955	[2] 23
Denmark	1967	12.50
Germany, Federal Republic of	1968	11
Sweden	1969	11.11
Netherlands	1969	12
Belgium	1971	20
Luxembourg	1970	8
Italy	[3] 1972	----------
Norway	[4] 1970	20

[1] Based on price excluding tax.

[2] As of Jan. 1, 1970.

[3] Tentative date of adoption.

[4] Legislative adoption in process

The *mining company* brings the iron ore out of the ground and sells it to the steel mill for $50. For simplicity's sake we shall assume that the mine got the iron ore for nothing and paid nothing for its capital equipment and intermediate goods. The "value added" of the ore at the time of sale to the steel mill would thus be all of the $50 and the steel mill would pay $5 to the mining company in value-added tax, which the mining company would in turn remit to the Treasury. The *steel mill* then processes the ore in its blast furnaces and rolls it into sheets, selling it for $150 to a manufacturer. The manufacturer pays the steel mill $15 in value-added tax. But the mill passes on only $10 to the Treasury. The other $5 received from the manufacturer compensates the steel mill for the tax that it paid on the iron ore. The *manufacturer* shapes the steel into an appliance and sells it for $300 to the retailer, collecting $30 in value-added tax. Of this amount $15 goes to the Treasury, the other $15 is a compensation for the tax paid by the manufacturer to the steel mill. The *retailer* sells the appliance to the consumer for $500 and the consumer pays the retailer $50 in value-added tax, $20 of which the retailer remits to the Treasury, the other $30 being a compensation for the tax he paid to the manufacturer.

From this oversimplified description we see that each link in the production distribution process acts as a tax collector for the Treasury and the tax paid at each juncture is passed on next time the product changes hands, until the final product lands in the hands of the consumer who in the end bears the whole tax. It is thus conceived not as a tax on the producer, but rather as a tax on the product, borne by the consumer. We can also see that the proceeds collected by the Treasury come to exactly $50, or 10 per cent of the final net price.

This illustration presents a simple hypothetical outline of the tax. In practice the matter is of course more complicated. In our illustration the mining company got its ore for nothing and hence its sales price for the ore was all value added. In reality we would have to drop this assumption. The company's value-added tax liability is in fact the difference between the value-added tax collected and the value-added tax paid out to others by the company. Thus, if it collected $100,000 in value-added tax on its sales in one tax period and paid $40,000 in tax on its mining equipment and mining rights to others, its tax liability for that period would be $60,000.

The value-added tax is levied on almost all goods and services in domestic trade. Exemptions from the tax are usually few, but vary between countries. Banking and insurance, postal services, medical services, newspapers,

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Footnotes at end of article.

and services and goods used exclusively by the government are most frequently exempted. Sometimes a good or service is subjected to a special excise tax and at the same time exempted from the value-added tax. In France, for instance, entertainment in theaters, cinemas, etc., is subject to an entertainment tax, but is exempted from the value-added tax.

Exports are always exempted from the value-added tax. In theory the export firm pays the value-added tax on its taxable intermediate goods and services, but gets a refund from the tax authorities. France, the country with the longest experience in value-added taxation, has eliminated this procedure for the most part and allows exporters in practice to accept goods and services for export production or delivery tax free, with the supplier in turn not remitting value-added tax on such delivery to the Treasury. This avoids the system of collection of value-added tax on supplies to export producers with a later refund of the same tax proceeds to the exporter.

SOME MERITS OF THE TAX

All countries that have so far adopted the value-added tax have done so in place of a sales tax of some other kind. These have either been a multiple stage gross turnover tax (as in the Federal Republic of Germany) or single stage sales taxes at the manufacturer and/or wholesale level (Denmark) or at the retail level (Sweden).

The advantages of the value-added tax lie primarily in the fact that it eliminates some of the knotty problems of misallocation, double taxation, and unfair tax exemption that have undermined the success of other sales taxes. There are many sources of such troubles.

A manufacturer who buys machinery subject to sales tax and in turn has to pay for the machinery out of taxable sales revenue can do one of two things. If he has any measure of control over his own sales price (i.e., if he is not unduly restricted by competition from increasing his prices), he can shift a part of or the full price of the machinery, including the sales tax, onto his sales. The sales price of the final product thus has more than the share of sales tax included in its price than the tax percentage by itself would indicate. If he has no control over the final sales price the manufacturer must bear the sales tax, in addition to any income tax, out of his profits. He is thus placed in an inequitable position vis-a-vis any other manufacturer who can at least partly control his sales price. The same is true if a raw material or semifinished product is make subject to sales tax.

Most systems of single-stage sales taxation have sought to eliminate this double taxation effect by exempting capital goods and goods into production. The difficulty in doing so is twofold: first, it is difficult to eliminate all taxation of capital and intermediate goods, especially for small manufacturers and craftsmen who may need such goods only in small quantities. Secondly, the broader the exempted range of capital and producer goods, the easier it is to have such goods bypass the production process altogether and let them land tax free directly in the hands of the final consumer. Many such goods can alternatively be used as production inputs or as final consumer goods.

For multi-stage gross turnover taxes this problem of cumulation (often referred to as the cascade effect) simply has to be tolerated and few amends are made to correct its uneven impact on the final consumer. Such a turnover tax (at one time levied in Germany and still levied in Austria) is levied at a low rate and its impact on the final product price is often not even known.

The value-added tax gets away from these problems. It simply allows the value-added tax paid on all capital and intermediate products and services bought by the firm to be credited against the value-added tax collected on its sales. For example, if a company collected a value-added tax of $50,000 on its sales in a tax period, but bought at the same time equipment on which it paid a value-added tax of $10,000 in addition to its tax on normal inputs of $25,000, the company's tax liability would be $15,000. Thus, double taxation is eliminated.

The second advantage of the value-added tax is its neutrality toward transactions in goods and services and allocation of resources. Under the gross turnover tax system, as it existed in Germany before the value-added tax, there was a strong tendency to minimize the tax by integrating firms vertically—for example, a steel mill might amalgamate with a steel-using manufacturer. This reduced the number of times the product changed hands and thereby the number of opportunities the authorities had to levy the turnover tax. In Germany, one study estimated that for steel bars the cumulative tax burden in the nonintegrated production-distribution process was about twice as high as in a highly integrated system. To counteract these integrative tendencies, Germany resorted to devices creating an artificial transaction within a firm for tax purposes (to cancel the integration advantage) and it also let some transactions between affiliated companies forming a "community of interest" to go tax free so as not to give them incentive to merge.

The single-stage sales taxes have somewhat fewer drawbacks in this respect, but are nevertheless not neutral either. With a manufacturer/wholesale tax, as in the United Kingdom, difficulties arise in determining what the actual price to the retailer is, should the transaction between manufacturer or wholesaler on the one hand and retailer on the other be eliminated. Then a national wholesale price has to be arbitrarily determined, a matter of great complexity. The United Kingdom has had its sales tax system (called the Purchase Tax) under continous review over the years for this and other reasons, but the difficulties and inequities of the tax have not by any means disappeared. The tax has not, however, been so disadvantaged that the authorities would have wished to replace it with a retail sales tax.

FEWER COMPLICATIONS

The value-added tax gets away from most of these complications. As was seen in the example above of the travel of a product from the mine to the final consumer, the value-added tax stays always in proportion to the final sales price. The tax would not be any less if the number of stages that the product went through had been any fewer, unless such integration had led to greater efficiency, the benefits of which had been passed to the consumer in the form of lower prices. Nor do valuation problems for tax base purposes arise, as with a tax at the wholesale/manufacture level. The tax base of each company becomes simply the value added of that company in the tax period. The definition problems of value added are, of course, also somewhat complex when one gets right down to detail, but they are not nearly as vexing as definition problems with other sales taxs.

The third main advantage has to do with tax enforcement. For single-stage sales taxation the incentive to evade taxes is considerable, particularly if the rate is high. This is especially true of a high retail sales tax. There the problem of tax administration is compounded by the number of taxpayers being much larger than if the tax had been levied at the wholesale level or manufacturing level and by the fact that retail bookkeeping is often poor. The value-added tax has a built-in advantage in this respect. It automatically provides opportunities for cross-checking because each taxpayer is legally liable for the full amount of the tax and can reduce that tax liability only by providing that tax has been paid on his purchases.

The burden of proof is here placed on the taxpayer, which automatically makes it his interest to maintain records of his purchases and thereby of someone else's sales. It is thus much harder for the seller to let some sales go unreported, knowing that some purchaser will as a matter of course submit records of these to the tax authorities. Only at the retail stage does some danger of evasion exist. It is in any event less than the single-stage retail taxation (given equal tax rates) since only a fraction of the total tax proceeds on a product pass through the hands of a retailer under the value-added tax, whereas in the case of a retail sales tax he handles all of the tax proceeds alone and none is levied at other stages. It is also viewed as an advantage against evasion that the tax is collected in fractions at the different stages of production and distribution (often referred to as the fractional payments system) and thus there is less of a temptation to evade it. French business reported to the British Richardson Committee that somehow the value-added tax seemed less onerous than a one-stage tax. "A tax of 10 units on one's product is felt to be less burdensome, if one pays 8 units with one's left hand to one's supplier as an addition to his price, leaving only 2 units of tax to be paid with one's right hand to the government."[2]

SOME DISADVANTAGES

While these advantages are appealing and persuasive, the value-added tax is not without disadvantages. For the individual firm, particularly for small firms with limited bookkeeping, it is often complex. In a country that switches from a single-stage sales tax to the value-added tax, the number of taxpayers proliferates, often tripling or quadrupling. This makes the administration of the tax both expensive and cumbersome. In fact, the British Government commission investigating the value-added tax cited administrative expense as one of the main reasons why it thought it inadvisable to adopt a value-added tax in place of the purchase tax at the wholesale or manufacturing level.[3] German and French concern over administrative expense was less, since both countries already had an extensive tax administration machinery in existence at the time of the adoption of the value-added tax. Denmark and Sweden, however, had both only single-stage sales taxes prior to the value-added tax and neither viewed the increase in administrative expense as a particular problem.

Another special characteristic of the value-added tax is that it does not lend itself easily to exemptions of individual products or services. It functions best when all goods and services in domestic trade are subject to it. Under the single-stage sales tax, the division of a taxable firm's sales into tax-free and taxable sales was simplified because it could be done at one stage in the production-distribution process. Under the value-added system it would have to be done in perhaps twice as many places. Also, since the calculation of the value-added tax involves the deduction of previously paid tax against total tax liability the calculation of the tax is further complicated by the necessity of disallowing some of the previously paid tax as a counterpart of the tax-free sale. Therefore, the value-added tax is generally broader and has fewer exemptions than previous sales or turnover taxes.

While this inflexibility of the value-added tax is viewed as a drawback, it should not be forgotten that it is a blessing (perhaps in disguise) for lawmakers. It gives them a convenient excuse to resist pressure from special interest groups seeking exemptions of

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Footnotes at end of article.

particular products and services for reasons that are less than sound. On the other hand, the impact of the value-added tax on such things as previously exempt food products (e.g., in Denmark) has led to a sharp price increase in basic necessities that cut into the living standard of lower income groups. This cut has in some cases been compensated for by increasing social security allowances and similar benefits. Finally, the value-added tax, like other sales taxes, is regressive but has at least the advantage over other sales taxes that its burden is proportional to taxable consumption.

OTHER ISSUES

There are a number of important side effects stemming from the imposition of the value-added tax that also carry both advantages. The issue that gets mentioned most in the newspapers nowadays is the so-called border tax controversy between countries in the European Economic Community already levying a value-added tax and countries outside, principally the United States. This issue arises because the United States has a relatively low load of indirect taxes and uses direct taxes as the main source of government revenue. Indirect taxes are generally refunded on exports in all countries,[4] but direct taxes are not. This relief from indirect taxes in the United States on exports is therefore a relatively smaller proportion of total taxes than in Europe with its heavy indirect taxes. Before the value-added tax, e.g., in Germany, the refund of indirect taxes was complicated by the fact that the actual tax load on the final export product was difficult to calculate due to the complexity of the gross turnover tax system. The refund was therefore probably lower than the actual tax load.

This changed when the value-added came along. With it the tax burden on an export product because quite explicit at the stage before the export was refunded in full. The amount of total export refunds rose thereby and the countries with no value-added tax claimed that this was a devaluation in disguise. For example, at the time that Germany imposed a value-added tax it was estimated that the devaluation implicit for merchandise trade was between 1 per cent and 3 per cent.

A second major impact of the value-added tax is associated with investment. As was said above, the payer of the value-added tax figures his tax liability by calculating the gross tax on his sales and subtracting the tax already paid on his intermediate products and capital goods. The significance of this method of taxation is that the value-added tax is primarily a tax on consumer purchases including housing, but production capital is in effect exempted from the tax through the right to deduct the value-added tax paid on it.

The consequences of changing to a value-added tax will largely depend on what tax the value-added tax is replacing. If it is replacing a retail sales tax with identical coverage and full exemption of production capital and intermediate goods, then theoretically there will be no change. In practice, however, this is not so. In all instances, so far, the value-added tax has replaced tax systems that in one measure or another taxed investments.[5] The profoundness of this change rests therefore to a considerable degree upon the way in which investments were handled under sales taxes prior to the imposition of the value-added tax.

But the structural investment problem is not the only one. A substantial transitional problems can also arise as a country goes over to a value-added tax, because investors are apt to postpone their investments if they anticipate that under the value-added tax they will escape the sales taxes previously levied on their investments. Germany, Belgium, the Netherlands, and Sweden all made arrangements to ease the transitional effects. Germany levied a special nonrefundable tax on investments that decreases gradually from 8 per cent in 1968 to 2 per cent in 1972, disappearing altogether at the end of that year. This tax is separate from the value-added tax under which the tax on investments is immediately creditable toward tax received on sales. In Belgium and the Netherlands, the credit of value-added tax paid on investments is limited to a certain percentage of actual tax paid, the percentage increasing as time goes on.

DOES IT HELP GROWTH AND THE EXTERNAL BALANCE?

In the last analysis it is of profound importance what effect the value-added tax has on economic growth. It is a far-reaching tax and is meant to be one of the mainstays of government revenue in all the countries that have adopted it. Thus, it is important that it should not hamper economic growth in any way through its effects on the price mechanism and the allocation of real resources. The simplicity of the tax may lead superficial observers to the conclusion that it must be conducive to growth and that there are no adverse economic effects to be feared from it. In the literature on value-added taxation this is quite widely disputed and arguments pro and con are presented in complex detail.

The argument that the substitution of a valued-added tax for a general sales tax of the types discussed above will stimulate growth are centered upon two main points: (1) that the exemption of exports, while imports are taxed, will benefit the balance of payments; (2) that the tax will stimulate growth through its exemption of productive investment and taxation of consumption.

The skeptics have raised a number of points about the value-added tax in criticism of these simple premises. An adverse impact of the value-added tax, they claim, can result from its effect on the price level. If its imposition raises wages by a substantial amount,[6] then it can unleash a wage/price spiral, particularly in countries with a weak income policy. The beneficial effect from the tax exemption on exports can thus quickly be canceled through higher wage costs placing export industries in a more difficult position than they were in before. Higher money incomes could at the same time accelerate the pace of imports, further weakening the balance of payments. The weakened balance of payments would thus necessitate a restriction in domestic demand for goods and services, thus dampening the growth rate.

In evaluating the second point, skeptics have tended to question whether investment is dependent on the level of taxation to such an extent that an exemption of productive investment from the value-added tax will materially stimulate it. Empirical studies have long found that investment was notoriously fickle in reacting to a change in interest rates and similar variables. Thus, it is by no means certain that investment would rise under the value-added tax, but if it should rise (and this is at least likely), one great limitation placed on the expansion of investment stems from the possible curtailment of consumption which can also be expected to result from the value-added tax. Such a curtailment could limit the need for new investment and thus place the economy in an overinvestment-underconsumption situation.

It seems from the foregoing that the benefit for growth and the external balance derived from adopting the value-added tax is subject to certain conditions falling in two broad categories: (1) that adoption of a value-added tax will not set off a wage/price spiral leading to adverse effects on the balance of payments, and (2) that a likely increase in investment at the expense of consumption will find outlet for its productive capacity.

CONCLUSION

The value-added tax is a unique taxation instrument in the sense that it leads to fewer misallocations of resources than most other taxes. Therefore, it deserves wide consideration among countries that are dependent on an efficient economic mechanism to achieve a satisfactory rate of growth. It has not been shown to be without qualifications or disadvantages, so that its benefit is subject to conditions, as shown above. In the opinion of this writer the adoption of the tax could materially benefit the tax structure in most industrialized countries. The administrative complexity of the tax may make it less wise to apply it in less developed countries where long experience in tax administration is not available.

Finally, it is to be hoped that the value-added tax could lead to further restructuring of taxes in a direction more conducive to growth, equity, and the allocation of resources.

FOOTNOTES

[1] Three other European countries—Finland, Greece, and Turkey—have a form of value-added tax that extends over only some of the stages of the production-distribution process. The production taxes in many French-speaking countries are similar.

[2] Chancellor of the Exchequer, *Report of the Committee on Turnover Taxation* (London, March 1964), p. 37.

[3] *Ibid.*, p. 8.

[4] Their imposition on exports is even prohibited in the United States by its Constitution.

[5] The only country that came close to exempting its production investment under the system prevailing prior to the value-added tax was Denmark.

[6] A value-added tax with an identical rate to a previous retail sales tax should not raise prices for goods previously covered, but the value-added tax is in effect always broader than prior sales taxes, especially in respect of services, and hence has tended to accentuate price increases.

Mr. PERCY. Mr. President, primarily I wish to commend the distinguished chairman of the Joint Economic Committee on the hearings that have been held.

Mr. President, I commend to my colleagues a careful study of the way in which testimony was taken. Here again it proves the value of having a joint committee of the House and the Senate. As we now undertake a study in depth of the principles of a new form of taxation it is well, with the time ahead of us, to take into account all of its implications before we are simply responding to a piece of legislation sent to us.

I commend the chairman of the committee for having undertaken this study in depth of a very important measure that is being proposed and discussed. In my judgment, it is not a simple tax and it does not have the advantages of progressive taxation as does the Federal income tax. If it were imposed on the American people it may provide many penalties for low-income people, which this Congress should be very concerned about after years of tax reform where we have tried to lighten the tax on low-income persons.

Mr. PROXMIRE. I thank the distinguished Senator from Illinois. The hearings we had in the Joint Economic Committee were held because there had been reports in the press that the administration intended to propose a value-added tax, and those reports were very consistent and persistent. However, when the representatives of the administration came before the Joint Economic Committee they disavowed this and said they would not propose it this year. For this reason we thought it was a good idea to have hearings this year and our committee held hearings, not on the revenue aspect, but on the overall impact on the economy and society, what the value-added tax would do, and whether or not it would be appropriate.

We had some of the outstanding economists in the country testify. Although two of the economists who testified favored the value-added tax, the preponderant view was opposed to it.

To me one of the astounding revelations about the value-added tax was the conclusion that the value-added tax would not only increase prices, which all of us recognize—it is, after all, a sales tax—but also it would reduce employment, reduce economic growth, and probably not have a favorable effect on our exports, which is the principal reason, presumably, for putting it into effect.

It was pointed out that when the value added tax is considered in this country, we consider the European experience. What is overlooked is that it was put into effect there to replace a different tax, a cascaded sales tax, which was a very bad form of taxation. In this country it was proposed as a substitute for the property tax or as a substitute in part for the Federal income tax.

The arguments were most convincing that the property tax is not as bad as the value added tax would be.

I thank the Senator from Illinois. I did place in the Record at the time of the hearings several of the best papers on the value added tax, and I do hope that Senators who have a chance to do so will read those papers and consider them because I think they are of extraordinarily high order.

If next year Congress should adopt a value added tax—if whatever administration is in office should propose it— we should do so with our eyes open. It could have a profound effect on our society and I hope we recognize all the consequences.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

(The remarks Mr. Javits made at this point on the introduction of S. 3446 are printed in the Record under Statements on Introduced Bills and Joint Resolutions.)

S. 3382—ORDER FOR STAR PRINT

Mr. JAVITS. Mr. President, in view of the fact that the sponsorship by the Senator from Rhode Island (Mr. Pell) of S. 3382, the gifted and talented children's bill was not shown in the print for some reason we cannot understand, although he was one of the original sponsors and so stated in the Record, I ask unanimous consent that a star print of the bill may be prepared to include his name.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the junior Senator from West Virginia (Mr. Robert C. Byrd) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDITORIALS ON WAR POWERS ACT

Mr. COOPER. Mr. President, as the Senate debates the historic War Powers Act, I think it important to call the attention of all Senators to the large number of editorials that have been written in support of war powers legislation in general and S. 2956 in particular. In view of the significance of this legislation and of the intelligent comment given to it by major newspapers and magazines throughout the Nation, I ask unanimous consent to have these editorials printed in the Record.

Wall Street Journal, "No Short-Cut to Power," April 3, 1972;

The New York Times, "President's War Powers," March 31, 1972;

Commonweal, "War Power," March 31, 1972;

The New York Times, "The Balance in the War Powers Bill," February 14, 1972;

The Albany Times Union, "Javits Bill on War Powers Is Sound," February 10, 1972;

Newsday, "In Favor of Javits-Eagleton," December 29, 1971;

The New York Times, "Toward Bipartisanship Abroad," December 14, 1971;

Newsday, "Congress Awakes," December 10, 1971;

The New York Times, "Executive Omnipotence," July 29, 1971;

The New York Times, "The Conversion of Hugh Scott," July 29, 1971;

Life magazine, "The President's War Powers," June 11, 1971;

The Plain Dealer, "Restore Congress' War Power," May 16, 1971;

The Buffalo Evening News, "Clarifying the War Power," May 13, 1971;

The Dallas Morning News, "The War Decision," May 11, 1971;

The New York Daily News, "Capitol Stuff," March 28, 1971;

The Los Angeles Times, "Javits Bill Would Seek To Balance War Powers of President, Congress," February 21, 1971;

The Denver Post, "A 'Brake' on War Involvement," February 17, 1971;

The Dallas Morning News, "Best of Both," July 12, 1970; and

The Wichita Eagle, "Javits Bill Would Return Warmaking Power to Congress," June 18, 1970.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Apr. 3, 1972]

No Shortcut to Power

The war powers legislation now before the U.S. Senate is described by its author, New York's Jacob Javits, as "one of the most important pieces of legislation in the national security field that has come before the Senate in this century." It may be, since it purports to do that which the Founding Fathers were reluctant to attempt: the fairly precise delineation of the President's war-making powers.

The bill, fashioned with backward glances at the origins of the Vietnam experience, permits the President to deploy the armed forces in specified kinds of emergencies for up to 30 days. To continue thereafter, he must have sought and received a congressional mandate to proceed or he would be forced to desist, his authority having expired.

The measure has generated surprisingly little controversy. While the administration opposes it as being "unconstitutional and unwise," it has not been noticeably vigorous in lobbying against it. And with only scattered opposition, it's expected to pass easily in the Senate. Perhaps because detente, not war is on the mind, and the Javits exercise now seems more philosophical than real.

More specifically, the bill does seem to redress a grievance that has become widely acknowledged, that in recent decades Congress has allowed the Executive Branch to arrogate unto itself a disproportionate share of decision-making power in foreign policy. Thus, the Javits bill has the blessing of Sen. John Stennis of the Senate Armed Services Committee, who argues that in years ahead "it will be easier and easier to go to war, to get pushed into war by a series of decisions." He adds, "As I see it, one man—wise as he may be—after he gets so far cannot back up. And he is further along the line than he realizes, maybe."

We thoroughly agree, but must confess to nagging doubts about the Javits approach. His bill assumes that it will force the Executive to consult more closely with Congress, out of anxiousness to win its concurrence in military enterprises. Yet it can just as easily be suspected that some future President may be forced to play his free hand for 30 days without consulting Congress at all, believing Congress would not yank troops out of action once they have been committed.

In opposing the war powers legislation, former Under Secretary of State George Ball had this worry. He observed: "History never repeats itself with any precision, and it shows a capacity for infinite imagination, and I would think there is a danger that if we tried to spell the limits or the situations out too precisely there is going to be enormous pressure on the executive, who feels it necessary to act in the interests of the country, to make some very ingenious but rather fantastic constitutional interpretations of his own. . . ." This isn't a concern to be dismissed lightly. Indeed, it has the ring of probability.

But where is the alternative? How does the nation return to the partnership approach to decision-making in foreign policy, the approach that has eroded, at times collapsing altogether, since the bipartisan understandings that marked the Truman and Eisenhower administrations? In those years, remember, the counsel of congressional leaders such as Lyndon Johnson strongly influenced President Eisenhower's decision to refuse to send U.S. airpower to rescue the French at Dienbienpnu.

An attempt to legislate a return to this halcyon era cannot succeed, and might even yield a perverse effect. It is not as easy for Congress to grant itself more power as it is for it to raise its salaries. The partnership approach can only survive where the political will exists, not only on Capitol Hill and in the White House, but in the nation at large. No statute can substitute for the hard work that must go into building a cooperative working arrangement between Congress and the Executive.

Sen. Stennis himself suggests that the legislation "is of secondary importance." Rather, "The most important balance to be restored is the balance in the minds of the nation's citizens, both those who are inclined to surrender their own responsibilities of decision to the Executive, as many in the Congress have too often done, and those who believe that no cause is worth fighting for." For this, the people themselves have to commit themselves to deciding in the future whether or not to go to war.

Sen. Stennis thinks legislation won't hurt, and perhaps he is right. But we suspect it could also lead to the lazy notion that the war powers problem has been solved. While we can agree with Sen. Javits' objective, and applaud his good faith and earnestness, we doubt that his short cut to power will get him where he thinks it will. At the very least the Senate should be careful not to obscure the real point: the next time a decision is required on whether or not to commit the armed forces, once again the judgment will depend not on this law or that, but on the political will of the nation.

[From the New York Times, Mar. 31, 1972]

PRESIDENT'S WAR POWERS

Senator Javits is indulging in Nixonian hyperbole when he asserts that his War Powers Act, currently before the Senate, is "one of the most important pieces of legislation in the national security field that has come before the Senate in this century." The act merely attempts to spell out powers which Congress has always enjoyed under the Constitution but which successive Congresses, especially in recent years, have allowed dangerously to erode. Unless Congress acts more responsibly than it did, for example, in 1964 when the Tonkin Gulf Resolution was hastily adopted without serious challenge, the War Powers Act is not likely to prove effective in checking the arbitrary extension of Presidential authority in the war-making field.

The Javits bill is, however, a useful appendage to the Constitutional powers because it compels Congress to face up to its responsibilities. While granting the President ample latitude to act immediately in emergency situations, the bill requires a prompt report to Congress and Congressional authorization for the continuation of hostilities beyond 30 days. Congress could no longer allow a Presidential initiative to stand and grow by default as it has done time and again during the steady escalation of the Indochina conflict.

Administration spokesmen have assailed the War Powers Act as an unconstitutional abridgement of the President's powers as commander-in-chief. But it is the President and his predecessors who have defied the Constitution by ascribing to the commander-in-chief exclusive powers to commit the nation to war that were certainly not intended by the Founding Fathers. Senator Javits has pointed out that the Second Continental Congress, wary of the arbitrary authority of kings, strictly instructed George Washington as commander-in-chief ". . . punctually to observe and follow such orders and directions . . . from this or a future Congress . . ."

In a nuclear age when the President of the United States commands forces of unprecedented power scattered around a volatile globe it is especially important to reassert the Congressional checks on Presidential war-making authority that were explicitly written into the Constitution. Senate passage of the War Powers Act could be a significant step toward redressing a perilous imbalance in the American federal system.

[From the Commonweal, Mar. 31, 1972]

WAR POWER

Who will ever be able to measure the cost of the Vietnam war, both in human suffering and material waste? Thanks to our national technological know-how, vast areas of Indochina have been laid waste, and if the casualty figures are even remotely accurate, over one million men, women and children have been killed. Scores of thousands of others have been uprooted from their ancestral homes, and there are no accurate figures on the number of Vietnamese families that have been hopelessly shattered by the war.

Such devastation has been the price of a war carried on by succeeding Presidents but never really debated in House or Senate. Congress has voted funds for Vietnam year after year, true, but this is no substitute for a full-scale debate. When American troops are committed by the President, whether in Vietnam or the Dominican Republic, it is very hard for legislators to cut off the funds necessary to support them. And when the lives of "American boys" are already being lost in combat, the public tends simply to rally behind the President rather than weigh the issues seriously; in such circumstances the hard question as to exactly why our troops are involved in the first place tends not to get asked.

All of this makes very important a recent, little-noticed action of the Senate Foreign Relations Committee, in which that body issued a favorable report on a bill designed to curb the President's war-making powers. By this action the stage has been set for a momentous constitutional debate in the Senate during the weeks ahead. In that debate the battle lines are already reasonably clear. On one side are those who would define and in the process curb the Presidential war-making powers of the kind that plunged us into the morass in Vietnam. What the proposed legislation would provide is that in the absence of a Congressional declaration of war, the President could not use the armed forces except in certain specified emergencies, such as an attack upon the United States or its forces or an imminent threat of such attack, or to protect American citizens endangered in a foreign country. Even in such emergencies the President could not continue hostilities for more than 30 days without Congressional approval. Lined up in support of the measure are Republican and Democratic Senators representing a wide range of opinion, from Senators Jacob Javits of New York and Thomas Eagleton of Missouri to Senators Robert Taft Jr. of Ohio and John Stennis of Mississippi. Arrayed against the bill are the Administration, those in the Senate who still support the war in Vietnam, and those in general who fear any tampering with the Presidential powers. Speaking for this group was Senator Barry Goldwater of Arizona, who called the legislation unconstitutional; some idea of how much unchecked power Senator Goldwater would grant to the President may be seen in his statement that "183 years of experience under the Constitution has firmly established the principle that the President, as Commander-in-Chief and the primary author of foreign policy, has both a duty and a right to take military action at any time he feels danger for the country or its freedoms." To give a President such unchallenged power, of course, is to risk the danger of constant war.

In point of fact, it should be noted, those who support the curb on the President's power to make war do not question his right to take quick and decisive action in the event of a sudden attack or any other genuine emergency. What they do object to is the notion that the President may use the armed forces at will in situations that do not constitute national emergencies and for as long a period as he sees fit, as has been done in Vietnam. With these views we are heartily in sympathy—indeed, there is much to be said for Senator Fulbright's claim that even this restrictive law allows the President more power than he should have; if he had his way, for example, Senator Fulbright would ban the use of nuclear weapons entirely without prior Congressional authority. Points like these deserve the most sober consideration by Congress and public alike, and we hope the eventual debate in the Senate will prove worthy of the gravity of the topic.

[From the New York Times, Feb. 14, 1972]

THE BALANCE IN THE WAR POWERS BILL

(By JACOB K. JAVITS)

WASHINGTON.—A national debate has begun on "the War Powers Act."

The bill was the subject of intensive year-long nearings before the Senate Foreign Relations Committee.

There has been criticism of the bill from Secretary Rogers, as well as from such former Kennedy and Johnson advisers as George Ball, Eugene Rostow and Arthur Schlesinger, Jr., and from Senator Goldwater. These critics have largely presented their objections to the bill from the perspective of "President's men." But I do not believe that they have grasped the real reason for the bill, nor do they give sufficient weight to the constitutional and legislative imperatives arising from our national experience of the past several decades.

The United States emerged from World War II as the dominant world power—a role quite alien to all our previous national experience. The unique challenges arising from this new role were such that we slipped into a practice which ran counter to the genius of our Constitution and the underlying structure of our political institutions. This practice tended to concentrate the essential power of war and foreign policy in the institution of the Presidency and to leave to the Congress only an appropriations or confirmatory role. This practice has proved to be a most costly failure which has dangerously strained the fabric of our whole society.

The War Powers Act corrects the basic flaw of the postwar practice by restoring to the Congress and to the people a meaningful role on the question of war or peace.

Critics of the War Powers Act have alleged most frequently that the provisions of the bill are too rigid; that the bill does not and cannot foresee all the "unforseeable" contingencies which might face the nation at some future time. Such criticism is wide of the mark. The bill provides four categories of situations in which the President may take emergency military action in the absence of a declaration of war: first, to repel or forestall an attack—or imminent threat of an attack—upon the United States; second, to repel or forestall an attack upon the armed forces of the United States located outside of the country; third, to rescue endangered U.S. citizens abroad in defined circumstances, and fourth, "pursuant to specific statutory authorization."

This last category is designed specifically to enable the President and the Congress *together* to meet any contingency the nation might face.

Over the last twenty-five years the Congress on a number of occasions has passed so-called "area resolutions" at the President's request—most famous the ill-begotten Tonkin Gulf Resolution. The "fourth category" of the War Powers Act envisages replacement of the old, loosely-worded "area resolution" with precisely worded, new resolutions—as needed—which establish a national policy, jointly constructed by the President and

Congress, respecting developing crises or threats which could involve use of the armed forces. A Congress and a nation so badly burned by Vietnam and the Tonkin Gulf Resolution can be expected to exercise more appropriate caution, prudence and precision.

The War Powers Act makes ample provision for emergency action by the President. Its unique feature is that, in doing so, it builds in a "trip-wire" necessitating affirmative Congressional action within thirty days. If the President takes emergency action putting the armed forces into hostilities, he must immediately make a full report of the circumstances, authority for, and expected scope and duration of, the military measures he has initiated. If the President is unable to obtain the concurrence of Congress to extend his authority, he must terminate his actions at the end of thirty days. The bill has strict provisions to prevent filibuster or other delays.

The War Powers Act cannot create national wisdom where there is none. But it can insure that the collective wisdom of the President and the Congress will be brought to bear on the life and death questions of war and peace. The Pentagon papers and the Anderson papers have shown us how dissenting and questioning viewpoints are screened out or excluded altogether from the present Presidential decision-making process. The real danger to our security today is not that the Congress might hamstring the President. The real danger is that Presidents can—and do—shoot from the hip. If the collective judgment of the President and Congress is required to go to war, it will call for responsible action by the Congress for which each member must answer individually and for restraint by both the Congress and the President.

[From the Albany (N.Y.) Times Union, Feb. 10, 1972]

(By John P. Roche)

JAVITS BILL ON WAR POWER IS SOUND

About once every 20 years, it seems, the United States Senate goes in search of a chastity belt to protect us from unwarranted intrusions of presidential power. In the early 1950s, Senator John Bricker of Ohio, in cooperation with the American right wing, put a great deal of energy into the so-called Bricker Amendment. In terms of the real world, the amendment was rather foolish—it was designed to prevent the President from betraying the nation to the Communists by executive agreements—but on a symbolic level it was clearly retroactive vilification of Franklin D. Roosevelt.

The debate on the amendment, of course, followed the latter direction. When I presented testimony against it on the basis that it was just damned foolishness, everybody got angry: the Democrats because I should have joined the ghost dance defending F.D.R.; the Republicans because I questioned their I.Q.

Well, now we are off again on the same sort of symbolic safari. Only this time the liberal Democrats are at point and their objective is to prevent Lyndon B. Johnson from ever taking us to war in Vietnam again. The chosen instrument for this operation is a bill, introduced by Senator Javits of New York, "to make rules governing the use of the armed forces of the United States in the absence of a declaration of war by the Congress."

Despite the fact that Secretary of State William Rogers has argued that it will undermine the President in time of crisis (and the joy on the other side of the hill that his opposition engendered) I wish to report that the Javits bill is essentially sound. It contains provisions that would regularize in quite sensible fashion the relationship between the commander-in-chief and the Congress in moments of crisis.

The central provision is that, in the absence of a declaration of war, the President may act to repel attack upon the U.S., or on the armed forces of the nation outside the country, or to protect the lives of American citizens caught, say, in the middle of a revolution. Strong proponents of presidential power are annoyed by this set of stipulations because they claim the President has inherent power as commander-in-chief to take such actions. Without getting into the historical dispute on the intention of the framers of the Constitution, I simply do not find this argument persuasive: the American system is based on the President and Congress sharing the power to govern (with an occasional assist from the courts).

The Javits proposal does, however, require the President to report to Congress within 30 days of any intervention and stipulates that hostilities can not be continued beyond 30 days without affirmative action by Congress. Again, unless one believes that Congress has constitutional leprosy, what is wrong with this? Any president who went off prowling around the world with the war power without firming up his congressional base should be impeached for incompetence.

There is one sticky bit: the Javits bill sounds at one point as though it were revoking all treaty commitments. The relevant provision states that no treaty can be considered a specific statutory authorization for the exercise of the war power by the President. For example, the North Atlantic Treaty alone would not sustain the President for more than 30 days. This, however, merely echoes the provisions of existing treaties: Art. 11. North Atlantic Treaty states "its provisions (shall be) carried out by the parties in accordance with their respective constitutional processes." The Southeast Asia treaty similarly noted that "the parties will act to meet the common danger in accordance with (their) constitutional processes." In other words, these treaties already include the essence of the Javits proposal.

There is probably no way to head off the high theorists. In no time the debate will be 30,000 feet above ground as senators prepare major addresses on "me and Vietnam." That will be unfortunate: Senator Javits' bill deserves consideration on its common sense merits. And it is not an "anti-Vietnam" bill: current hostilities are explicitly exempted from its coverage.

[From Newsday, Dec. 29, 1971]

IN FAVOR OF JAVITS-EAGLETON

(By Clayton Fritchey)

WASHINGTON.—These are the holiday headlines:

"Plain of Jars in Laos Falls."

"War Setback Deepens Cambodian Crisis."

"U.S. Confirms Loss of Jets Over Laos."

"U.S. Jets Hit Hanoi."

These are the questions raised by the headlines:

Is the U.S. winding down the war in Indochina, or is it becoming still more involved?

Have the invasions of Cambodia and Laos helped or hurt the battered peoples of those nations?

Should the Senate pass the Javits-Eagleton resolution to restore some of the constitutional war-making powers of Congress, or should it let the President continue to exercise these powers as he will?

The last question will be one of the first the Senate deals with when it returns to Washington after the holidays. In the light of the administration's gunboat diplomacy in the Indian-Pakistani war, a number of senators consider passage of the Javits-Eagleton legislation more urgent than ever.

The Indians are still furious over the pro-Pakistani Nixon administration sending a U.S. naval task force headed by the Enterprise—the world's only nuclear aircraft carrier—into the Bay of Bengal at the height of the war. They regarded this as a reckless and threatening action. The administration denies having had any hostile intention, but it was surely an intimidating show of force, if nothing else.

In any case, it has put some new thoughts in the minds of some of the senators who voted for the Cooper-Church resolution, which forbids the President from sending further ground troops into Cambodia without Senate approval. The talk now is of a similar ban against the chief executive deploying our armed forces into war zones via ship without congressional consultation. As one senator says, intervention by the Navy or the Air Force can involve the U.S. in war just as much as intervention by the Army.

Now that the fighting has subsided on the Indian subcontinent, attention has returned to Southeast Asia where our protege armies in Cambodia and Laos are in disarray despite strong U.S. efforts to sustain them. We have spent billions to train, equip and supply these forces, and our Air Force is fighting around the clock to back them up. But they are no match for the North Vietnamese.

Having staked its prestige on the success of the Cambodian and Laotian campaigns, the administration is beginning to step up its bombing attacks on North Vietnam. Mr. Nixon has repeatedly warned Hanoi that he would retaliate if it interfered with his strategy. If the North Vietnamese military successes continue, what will the President do? How and where will he strike? That is the troubling question.

Sen. Mike Mansfield, the majority leader, has time and again called the turn in this war. Sometime ago he said, "We may be getting out of South Vietnam, but it looks like we are getting into Cambodia. It appears to me that the old pattern is perhaps being repeated; that the handwriting is on the wall for another Vietnam, despite all disclaimers to the contrary."

Since it is obvious that the local armies in Indochina would collapse without continued massive U.S. air support, there is no danger of Mr. Nixon withdrawing all of our forces this year. The danger is some new form of escalation (which won't be called escalation) and this, of course, is what the Senate wants to head off.

First, there is the Mansfield resolution which calls for the withdrawal of all U.S. forces from Vietnam next year. Then there is the resolution introduced jointly by Sens. Jacob Javits and Thomas Eagleton, which would give the President power to deal promptly with emergencies like Pearl Harbor and the attack on Korea, but would require him to obtain congressional approval to continue hostilities after 30 days. It's not ideal, but it's better than no restraint, and it's soon going to be adopted.

[From the New York Times, Dec. 14, 1971]

TOWARD BIPARTISANSHIP ABROAD

Under the Constitution, only the Congress can declare war and pay American troops. But the President, as Commander in Chief, can commit the armed forces to combat on his own. In an era of undeclared wars, this ambiguity has led inevitably to executive encroachment on Congressional prerogatives.

Efforts by the Congress to resist the trend now encounter the argument that Congressional debate is a luxury that cannot always be enjoyed in the nuclear age, when split-second reactions may be vital to avoid the nation's destruction. But it is not the nuclear contingency that is in fact at issue. It is the relatively limited military engagement—such as the Dominican intervention or the Indochina conflict—that has most eroded Congressional control over the war-making powers. And it is essentially the no-more-Vietnams syndrome that is spurring current efforts in the Senate to increase the Congressional role in future military decisions.

The legislative formula recently approved by the Senate Foreign Relations Committee to restrict the war-making powers of the Presidency is not and cannot be watertight. It is recognized that the Congress cannot and probably should not attempt to prevent the Commander in Chief from engaging the nation in hostilities in certain emergency situations. The intention is to prevent military action from continuing more than thirty days without Congressional approval.

The thirty-day clause is the heart of the proposed legislation, rather than the attempt to define the circumstances under which the President would be authorized to use the nation's military power. The bill would indeed authorize armed force to repel or to forestall an attack on the United States or on American forces stationed abroad. While the President's constitutional powers could not be limited to such contingencies by legislation the Congress can insist on its participation in decisions to extend or enlarge a conflict beyond the measures taken in the initial emergency period.

This approach undoubtedly involves some disadvantages. The need to sway the Congress could conceivably impel a future Administration to escalate low-key military moves and to attempt to arouse popular emotion. The Congress itself is not impervious to an exigent President and can be misled, as the Tonkin Gulf resolution demonstrated in 1964.

But such risks are smaller than those revealed by unrestricted exercise of the Presidential war-making powers. What would chiefly be restricted would be the President's power to take the nation into a large-scale war without its consent, explicitly expressed by its elected representatives.

Instead of resisting the proposed legislation, the Nixon Administration would be well advised to embrace it and to go beyond it to create a new atmosphere of cooperation with the Congress in foreign policy generally. With a necessarily divisive Presidential campaign approaching, it is imperative to restore some semblance of the old tradition that politics stops at the water's edge.

As a first move to restore a bipartisan foreign policy, Mr. Nixon could well invite the Senate majority and minority leaders to accompany him to Peking and Moscow—and to the summit meetings with allied leaders that will precede these historic voyages. Although it is too late for the talk under way with President Pompidou of France in the Azores, Senators Mansfield and Scott would be valuable additions to the American delegation for the projected meetings with the leaders of Britain, West Germany and Japan. Now that he has wisely if belatedly moved to take the allies into his confidence, Mr. Nixon can afford to make the same gesture toward the Congress.

[From Newsday, Dec. 10, 1971]

Congress Awakes

After decades in which the President's war-making powers waxed large, there are rumblings in the Congress signaling that the constitutional machinery of checks and balances is moving into action. A most encouraging and significant sign of movement came this week when the Senate Foreign Relations Committee unanimously approved bills that would put limits on a President's ability to ease the nation into another Vietnam war. One bill would require the executive branch to submit all international agreements to Congress for its information. The other would define the presidential power to use armed force, and forbid a President to continue hostilities for more than 30 days without obtaining the approval of Congress. It would also require a President to receive congressional authority before sending military advisers to a country engaged in hostilities. The bills will not reach the floor until next year. They will face strong opposition from the President. Sen. Jacob Javits (R-N.Y.) is the chief author of the legislation, and we agree entirely with his assessment of the importance of the committee's unanimous vote. He called it "a very historic day in which we are coming to grips with an open question in the Constitution." And it's about time.

[From the New York Times, July 29, 1971]

Executive Omnipotence

(Tom Wicker)

WASHINGTON, July 28.—President Nixon's approach to Peking, no matter how welcome it may be, was planned in secrecy, decided by Presidential fiat, carried out clandestinely and finally announced only as accomplished fact. Thus, whatever else it was, this grand diplomatic undertaking was another exercise in executive omnipotence. Though aimed at peace, the operation so far has not been much different from the hidden processes that carried the nation into the war in Vietnam, and its consequences could be even more far-reaching.

Faced with this kind of unchecked power, the Senate is pondering a resolution by Senator Cooper that would require the C.I.A. to keep germane Congressional committees as fully informed as the executive; and Senator Ervin's subcommittee is considering how the rules of "executive privilege" can be tightened. Trying for some leverage on the Paris talks, Senator Hartke has offered a resolution for Senate confirmation of Ambassador Bruce's successor as chief negotiator.

Senator Fulbright's Foreign Relations Committee, meanwhile, has been trying to find effective means to limit the most dangerous form of executive omnipotence—the waging of undeclared war. Congress has ample constitutional authority to do so, but a major problem is to avoid inhibiting or frustrating the President's ability to act in a crisis. Another question is whether Congress itself is prepared to accept greater responsibility in question of war and peace.

William D. Rogers, a former State Department official, told the committee rather bluntly that if Congress intended to exercise an effective role in such matters, it would have to improve itself. "Your staffing is woefully inadequate. Your organization is wrong. Your ways of doing business are outmoded. And your conventional habits and practices are in need of fundamental reform."

He was, however, fundamentally in favor of Congressional action to redeem the situation created by what Prof. Alexander Bickel of Yale called the "unprecedented extension of Presidential power" that launched the Vietnam war in 1965. The decisions of that year, he said, "amounted to an all but explicit transfer of the power to declare war from Congress, where the Constitution lodged it, to the President, on whom the framers refused to confer it."

Constitutional scholars generally concede that the Constitution gives the President the power to repel or prevent sudden attack and to protect the lives of American citizens at home or abroad. But most agree with John Bassett Moore, the authority on international law, who said:

"There can hardly be any room for doubt that the framers of the Constitution, when they vested in Congress the power to declare war, never imagined they were leaving it to the executive to use the military and naval forces of the United States all over the world for the purpose of actually coercing other nations, occupying their territory, and killing their soldiers and citizens, all according to his own notions of the fitness of things, so long as he refrained from calling his action war or persisted in calling it peace."

The Foreign Relations Committee, therefore, is really considering what Mr. Rogers called "rules of practice" in exercising the war powers and not a "redistribution of power." The most practical proposals before it are a requirement for advance Congressional authorization before troop deployments that raise a "reasonable possibility" of combat (for instance, the stationing of troops in Europe in 1950, or President Kennedy's dispatch of thousands of "advisers" to Vietnam in 1961); and another requirement that a President who took emergency action to repel attack or protect American lives would have to obtain Congressional sanction within thirty days.

The latter provision probably would not have hindered President Truman from intervening in the Korean war in 1950, since Congress no doubt would have supported the repelling of invasion. It might have given Mr. Nixon trouble after the Cambodian invasion of 1970 and would certainly have forced him to greater consideration of Congressional and public opinion. And while President Johnson might have been able on his own to launch air raids in reply to the supposed Tonkin Gulf attack in 1964, he could hardly have launched the round-the-clock bombing of North Vietnam or sent a half-million troops to Asia without such authorization.

But there's the rub. Even if effective "rules of practice" are devised, the greatest responsibility to make them work will lie on Congress itself. It will need to know more and act more efficiently, and it will have to be resolute. When a President has sent troops into combat under the flags of peace, freedom and patriotism—no matter how fraudulently—it will take a bold and confident Congress to refuse him sanction.

[From the New York Times, July 29, 1971]

The Conversion of Hugh Scott

Efforts of the Administration to perpetuate what George W. Ball has called "the myth of executive privilege" in the conduct of foreign affairs have received a setback with the conversion of Senate Minority Leader Hugh Scott. The Pennsylvania Republican has now joined the growing ranks of legislators of both parties who seek to reassert the constitutional role of Congress in the war-making process.

"The time has come," Senator Scott told the Foreign Relations Committee the other day, "when Congress will not be denied the right to participate, in accordance with the Constitution, in the whole enormous business of how wars are begun." Until now, the Minority Leader has generally been the Administration's principal spokesman in efforts to head off mounting Congressional pressure to reverse the trend toward arbitrary Executive actions in the foreign policy field.

For some time now, other leading members of his own party plus a few Southern Democratic conservatives who have for long supported the Vietnam policies of President Nixon and his predecessors have been challenging Presidential assumptions of exclusive authority. For instance, Republican Senators Jacob K. Javits and Robert Taft Jr. and Democratic Senator John C. Stennis, chairman of the Armed Services Committee, are among the sponsors of limiting legislation of the kind that Senator Scott now says he is ready to support.

The Minority Leader is too astute a politician to continue to buck this powerful tide of Senatorial sentiment. It is not unreasonable to hope that President Nixon, too, in time may respond more positively to Congressional initiatives which are quite consistent with his own constitutional philosophy as a strict constructionist. The President has everything to gain by thus engaging the Congress as a partner in the difficult foreign policy decisions that still lie before him.

[From Life, June 11, 1971]

THE PRESIDENT'S WAR POWERS

In their frustration over the interminable and costly Vietnam war, a number of Senators and Congressmen have been moving over the past year or so to limit the President's war-making powers. Some of the recent proposals to limit the extension of the military draft or abolish it, as well as Senator MANSFIELD's bill to halve the U.S. military garrison in Europe, are ill-considered. But there is a good deal of merit in another movement, currently under way in the Senate, to restrict the President's power to take the Nation into future wars.

In the isolated infant United States of 1787, the sparse language of the Constitution seemed sufficient to limit those powers. The President, the Founding Fathers agreed, should have the power as Commander-in-Chief to make war, but only after it had been declared by Congress. The last war explicitly declared by Congress, however, was in 1941, just after the Japanese attack on Pearl Harbor. After World War II, with the United States emerging as world policeman and member of no fewer than eight foreign alliances, the President's powers became virtually unlimited, or at least unchecked. From the standpoint of Congress, our participation in the Korean war was a presidential fait accompli, justified in part by our obligations as a United Nations member. As for Vietnam, it will be argued for years whether the 1964 Gulf of Tonkin resolution was tantamount to a congressional declaration of war, as Under Secretary of State Nicholas Katzenbach later argued. But it was not presented to the American people, or to the Congress, as an explicit declaration of war. Senator FULBRIGHT, who urged passage of that resolution, thinks he was deceived over what happened in the Tonkin Gulf (were those two American destroyers really attacked by North Vietnamese gunboats? He has been suspicious of administration pronouncements ever since.

Senators JAVITS of New York, EAGLETON of Missouri and STENNIS of Mississippi—whose politics range from Eastern liberal to Southern conservative—have separately introduced resolutions which, while differing in certain details, would reassert Congress's power to declare war. The most recent of the three, introduced by Senator STENNIS, would in some ways place the most restraints on the President. With certain exceptions, it would prohibit the President from using the armed services in any future conflict without congressional authorization. The exceptions would apply only in emergency situations: the President could, on his own, order the Armed Forces to repel an attack on the United States by a foreign power, to prevent an imminent nuclear attack, or to evacuate American citizens from a foreign country if their lives were endangered. The emergency powers would be for a maximum of 30 days, and any extension would require congressional action.

Secretary of State William P. Rogers has opposed all three bills. In particular, he warns that any law circumscribing the President's powers raises the "grave risk of miscalculation by a potential enemy regarding the ability of the United States to act in a crisis." Even the Stennis resolution, however, allows considerable latitude. It probably would not have prohibited Eisenhower's landing of troops in Lebanon in 1958 or Johnson's in the Dominican Republic in 1965, nor would it have hamstrung President Kennedy in deploying naval vessels to deal with the Cuban missile crisis in 1962. On the other hand, the resolution would have made the U.S. involvement in Korea impossible without a specific declaration of war. And Congress would have had to face up to the issue of military involvement in Vietnam in the early 1960s, before the big buildup ordered by President Johnson, when American personnel were already in a period of transition from military advisers to combat soldiers.

The whole matter needs considerable study in a dispassionate atmosphere. The constitutional issues are exceedingly complex, and it is essential that any redressing of the President's virtually unlimited war-making powers not be at the expense of his ability to deter potential aggressors in a convincing fashion. But after two medium-sized wars that have taken 90,000 American lives, one undeclared and the other semideclared, the people are surely entitled to some congressional restraints on the executive branch. Vietnam in particular has been hard on presidential reputations, and this might be less true if Congress shared more in the deliberations, the knowledge and the responsibility. One of the lessons of the painful Vietnam experience is that the country should never again commit American lives to a long struggle on foreign shores unless the people's elected representatives explicitly authorize it.

[From the Cleveland (Ohio) Plain-Dealer, May 16, 1971]

RESTORE CONGRESS WAR POWER

Congress has let slip out of its hands, and into the hands of presidents, its constitutional powers to declare wars, to limit or to sustain this country's military actions.

Many members of Congress feel that they were pressured into voting to support undeclared wars. A growing number of men in Congress have been struggling, throughout the Vietnam involvement, to re-instate Congress once again as a partner in decisions committing the nation's lives and property to the chances of overseas hostilities.

Now the peace voices have been joined by John C. Stennis, D-Miss., a conservative and relatively pro-Vietnam chairman of the Senate Armed Services Committee. Sen. Stennis has fallen in step with such liberal northern peace advocates as Sen. Jacob Javits, R-N.Y., on the issue of reclaiming for Congress power to check a president if he uses armed forces.

The men who wrote the Constitution, back in the 18th century, couldn't foresee a push-button war, or a war that starts with sneak thievery, snipers, street disorders and subversions—and then bursts into a "people's war of liberation." Some wars today are undeclared.

A president must have instant power to cope with possible nuclear attack. A president must protect Americans, military and civilian, now stationed by treaty or otherwise lawfully deployed in foreign territories. Congress must not tie the President's hands in that kind of crisis.

Treaties of mutual security multiplied profusely after World War II. United States commitments bind this country to go to the assistance of other countries all around the globe and all along the political spectrum. Those treaties were ratified by the Senate. There is no honorable way to junk those commitments, and to do it would discredit faith in America.

But it still is possible to find reasonable ways in which Congress can be brought into the decisions of war. And such ways should be found. As Sen. Stennis points out, the decision to make war is too big for one man, and it is doubtful that an American nation would effectively wage a war unless its own representatives—Congress as a body—supported it. That is a lesson Vietnam has taught.

Bills now pending would give the President necessary powers to use armed force in emergency situations spelled out by Congress. Sen. Javits' bill would then give Congress 30 days in which to declare war, to authorize limited hostilities or to tell the President to halt the military operations he has begun.

In some such formula—the Stennis bill narrows the presidential power a bit more—the American public would find some assurance. There must be a way for Congress to play the role of people's spokesmen in the days and hours, if not the first moments, of decisions as fateful as peace or war.

[From the Buffalo (N.Y.) Evening News, May 13, 1971]

CLARIFYING THE WAR POWER

Ever since President Johnson began the great escalation in Vietnam, with the Tonkin Gulf resolution providing the main cover of legality, a growing cross-section of congressional leaders has been seething in frustration over the Chief Executive's assumption of a war-making power which the Founding Fathers intended to repose in Congress.

While the effort to retrieve some semblance of this lost, strayed or stolen power has found its greatest support among Senate doves—with New York's Sen. Jacob Javits coming to the fore in recent months as the most articulate exponent—this movement is now immeasurably enhanced by the support of a leading southern hawk, Sen. John Stennis (D., Miss.).

Actually, the aggrandizement of the President at the expense of Congress in this vital war-making area is part of a generations-long pattern which, in the thermonuclear age, could not possibly be reversed in any ultimate sense. Obviously, we cannot have 531 thumbs on the nuclear button; the President must be free to confront any instant challenge to our survival with whatever emergency actions he deems necessary.

But this is not the kind of challenge we faced in Korea or now face in Vietnam, Cambodia and Laos, where this nation has waged prolonged war under presidential direction without either a congressional war declaration or specific congressional regulation of its conduct. Not only that, but the President takes it for granted that he alone has the power to wind the war up or down, widen it or narrow it, continue it or end it—just so long as Congress keeps supplying the money and refrains from imposing any absolute restrictions.

The Javits resolution, which Sen. Stennis' proposal seems to echo in most major respects, would authorize the President to commit our armed forces under four specific conditions: (1) to repel a sudden attack on the U.S.; (2) to repel an attack against U.S. armed forces on the high seas or abroad; (3) to protect U.S. lives abroad, and (4) to comply with a specific treaty or other formal national commitment.

But whenever such hostilities have been initiated, the President would be required to give Congress a full and prompt account of the circumstances, and, in the absence of a declaration of war, he would be prohibited from sustaining the hostilities beyond 30 days except as Congress may provide by law. To make sure that the whole Congress could act on such war-sustaining legislation within the 30 days, the desolution gives it a special priority guaranteeing it prompt committee clearance and a vote in each house within three days thereafter.

The only point on which Sen. Stennis seems to differ with this approach is that he would explicitly exclude any application to the Indo-China war. On this point, Sen. Javits said in his interview with The News this week that his proposal, while not retroactive and therefore not intended to apply in Vietnam, nevertheless could apply there, too, if hostilities involving American troops should be renewed after they had ceased. But that is a relative quibble compared with the broad constitutional purpose of redefining the war power in a context relevant to this dangerous age.

We think the Javits resolution does accomplish this in a most effective way, and we are impressed by the caliber of the many constitutional authorities who agree that it will help restore the balance intended by the Founding Fathers. The fact that the President must have untrammeled authority to act in bona fide emergencies does not, in our judgment, justify the waging of prolonged hostilities in the absence of either a formal declaration of war or a specific act of Congress. It is time that the basic constitutional responsibility for keeping this nation at war be put, as Sen. Stennis says, "where it belongs, on the people's representatives."

[From the Dallas (Tex.) Morning News, May 11, 1971]

THE WAR DECISION

When a legislative proposal bears the seal of both a conservative Southern Democrat like Sen. John Stennis and a liberal Northern Republican like Sen. Jacob Javits, it would seem to be an idea whose time has come.

Sen. Stennis told television newsmen Sunday that he will sponsor a resolution to clarify and limit the war powers of the presidency. Stennis, chairman of the Armed Services Committee, has been a strong supporter of the military and the Nixon administration's handling of the Vietnam War—he made it clear that nothing in his plan applies to that conflict.

But as he detailed his plan, he also made it clear that his ideas on war powers of the executive and legislative branches are similar to those of his colleague Javits. Javits had earlier introduced a resolution much like that now favored by the Mississippian.

Both the Javits plan and the Stennis version acknowledge the fact that in today's world, particularly when a nuclear confrontation is threatened, decisions to commit military forces must often be made quickly. This need for dispatch and the overall growth in the power of the presidency have resulted in a steady erosion of Congress' constitutional power to decide whether the nation will go to war.

Even in the beginning the architects of the Constitution realized that the president would have to have emergency power to repeal sudden attacks, defend the nation until Congress could speak. But in recent years this power has grown until Congress has been edged out of the decision-making picture.

Both Javits and Stennis would reaffirm the original principle laid down in the Constitution. The president would still be empowered to act quickly in case of emergencies such as a surprise attack or danger to the lives of Americans. But a new limit would be set on this power. The president would be required to get Congress to back his action wtih a declaration of war within 30 days or the troops will have to be withdrawn.

The purpose of these resolutions is to restore to Congress the final decision on whether or not this country is to fight a war—though leaving the President the task of fending off an enemy until Congress can decide.

The purpose is a valid one. As Stennis says, the plan "puts the responsibility where it belongs, on the people's representatives."

We have learned that it is important not only to get quick decisions but in the case of a national decision to carry on a war, to mobilize a broad base of support for the national effort in and out of government. The Vietnam War has shown the necessity for firm national unity even during a limited conflict.

Some members of Congress now say that they did not know what they were doing when they approved the Tonkin Gulf Resolution. Under the new plan, they would have no such escape hatch—they would be required to face the question squarely and bear the responsibility for their chosen answer. The trend in recent years has been for Congress to pass the hard decisions to the presidency—this plan would help to reverse that trend and return to Congress the duty and responsibility to make this crucial decision for the nation.

In facing up to its responsibility Congress can acknowledge both constitutional principle of the past and the practical lessons of the present. This idea's time has not only come, but it is plainly overdue.

[From the New York (N.Y.) Daily News, Mar. 28, 1971]

BILLS AIM FOR LIMITS ON PRESIDENT

(By Jerry Greene)

WASHINGTON, March 27.—President Nixon sounded the campaign cry of "no more Vietnams" back in 1968, and now it appears that this is being converted—slowly but surely—from slogan to hard legislation designed to impose strict limits on presidential powers.

Whether the President will buy the pending legislation, or even the idea of such a restriction, is yet uncertain. But Secretary of State Rogers, slated for early testimony on the issue before the Senate Foreign Relations Committee, is understood to be receptive to the idea.

It is doubtful that legislation to preclude any extended U.S. intervention in somebody else's war would be necessary for another generation at least. As Sen. John C. Stennis (D.-Miss.) told a national security seminar in January, the first lesson that has been learned from Vietnam is "that in the future, there must be a declaration of war by the Congress with respect to these engagements unless, of course, there is some major Pearl Harbor-type attack on the country."

Certainly, after Vietnam no President any time soon is going to make a heavy commitment of American troops to any so-called small war without solid approval of Congress. Not if he likes his job and wants to keep it.

Nixon himself accepted this fact of life when in his so-called state of the world message Feb. 25 he said: "Our experience in the 1960s has underlined the fact that we should not do more abroad than domestic opinion can sustain."

The Nixon doctrine of a "lower profile" for America around the world, and for assistance to beleaguered friends and allies in terms of arms aid and advice only, was a step toward implementing the policy of no more Vietnams.

But a policy wasn't enough for concerned members of Congress, including some of the backers of Nixon's Vietnam operations, such as Stennis. A crop of proposed restrictive legislation came early in this session of Congress. Primary attention has focused in the bill introduced by Sen. Jacob K. Javits (R.-N.Y.), with Sens. Charles Mathias (R-Md.), Claiborne Pell (D-R.I.) and William Spong (D-Va.) as cosponsors.

The Senate Foreign Relations Committee has been conducting hearings seriously, without fanfare, calling on constitutional experts as well as supporters of the measure. Publicly and privately, Javits has sought to lean on the President for support, contending that a Nixon endorsement of the war powers limitations would go far toward blocking the spread of the "new isolationism" that has caused the President concern.

In Javits' view, presidential approval of his bill would demonstrate Nixon's desire to "establish a role for Congress and the people in controlling undeclared wars."

The Javits bill would allow the President to repel attacks, to protect U.S. lives and property abroad and to comply with national commitments that had been approved by Congress. But if he moved into a limited war otherwise, he would have to end the intervention in 30 days without specific congressional authorization.

JEALOUS OF EXECUTIVE POWERS

Presidents traditionally have been exceedingly jealous of their executive powers and their authority as commander-in-chief of the armed forces, as laid down in the constitution.

Before World War II, FDR had his innings with Congress over the Neutrality Act and its repeal. Only last year Nixon battled successfully to stave off what he considered an intrusion into presidential powers by backers of the McGovern-Hatfield amendment to set a terminal date for Vietnam.

Nixon wanted no action by Congress, binding or not, that would in his view, interfere with his plans for withdrawal from Vietnam, and negotiations with the North Vietnamese in Paris for return of the war prisoners and a peace settlement.

But future commitments are something else again. It is quite likely that the President will raise no serious objection if forthcoming war power limitation legislation is carefully drawn and does not throw roadblocks in the way of swift movement in an emergency, and does not contravene authority clearly granted by the constitution.

STENNIS' OWN VERSION OF BILL

The constitutional issue is complex and debatable; the Senate committee must be mindful of equally complex treaties and "arrangements" the U.S. has with 43 foreign countries.

Stennis is at work on his own version of a limitation of powers bill. It will reach the Foreign Relations Committee during the hearings and will strive "to help perfect a more-realistic method that Congress shall use in providing explicit authority for the President to repel an attack, but requiring congressional authorization before hostilities can be extended for an appreciable time."

Many hereabouts are convinced that most of former President Johnson's latter-day political troubles stemmed from his reliance on the old Tonkin Gulf resolution as authority for commitment of combat troops to Vietnam in 1965. That was a time for review, and for acquisition of specific, clear-cut congressional authority.

Javits, in testimony before the Senate committee, said: "We live in an age of undeclared war, which has meant presidential war."

This observation may have been true enough until now, but not any longer. The national stress resulting from Vietnam will surely preclude any early repetition.

[From the Los Angeles (Calif.) Times, April 4, 1972]

JAVITS BILL WOULD SEEK TO BALANCE WAR POWERS OF PRESIDENT, CONGRESS

(By Ernest Conine)

It is possible to believe that the U.S. role in Vietnam has been essentially right and honorable, and still regret that President Lyndon B. Johnson did not seek a clear expression of congressional approval before committing this country to one of the bloodiest wars in our history.

Had he done so, this would have been an American war—right or wrong—and not "Johnson's War" or "Nixon's War." We might, as a consequence, have escaped a great deal of the pain and turmoil which has wracked this nation for the past five years.

All this being true, one does not have to be a Dove, a neurotic President-hater or a 1971-model isolationist to conclude that Sen. Jacob K. Javits (R-N.Y.) has come up with a proposal which merits serious consideration.

The Javits "Bill to Regulate Undeclared War," introduced earlier this month, would establish certain rules concerning the conduct of undeclared wars.

Specifically, the bill would recognize four kinds of circumstances in which the President, in his constitutional role as Commander-in-Chief, could initiate combat hostilities without asking for a declaration of war by Congress.

Emergency action could be taken, for example, (1) to repel a sudden attack on the territorial United States or its possessions; (2) to repel an attack on U.S. armed forces legally stationed abroad; (3) to protect the lives and property of American nationals abroad, and (4) to comply with a "national commitment lawfully taken by the affirmative action of the Congress and the President."

The President, however, would be required to report fully and promptly to Congress as to the circumstances of and authority for the action which he had initiated. And he would be required either to terminate the hostilities within 30 days, or to seek congressional approval for continuing hostilities beyond that time.

Javits makes no bones of the fact that his intention is to prevent the fighting of another "presidential" war such as Vietnam. As he put it, "Our tragic experience in Indochina shows that the pendulum has swung too far in the direction of presidential warmaking."

Unlike some of his dovish colleagues, however, Javits is trying to deal with the world as it is. He is not trying to cripple the ability of the President to conduct a rational —and, if need be, strong—foreign policy in pursuance of American interests.

It is worth remembering how the Vietnam conflict became "Johnson's War." When Mr. Johnson made the fateful decision in mid-1965 to dispatch large numbers of U.S. ground troops to combat in Vietnam, practically everybody agreed that it would be a mistake for him to seek an actual declaration of war. Such a declaration would have put China and the Soviet Union on the spot and increased the chances of their direct involvement in the war. Or so it was thought.

There is no reason, however, that Mr. Johnson could not have outlined his Vietnam intentions to Congress and asked for a clear resolution of support.

If he had done so, there is no cause to doubt that he would have gotten it. Members of Congress, once having gone clearly on the record, would not have found it so easy to trade their hawk feathers in for dove feathers when the political going got rough. They would have had to share the blame or the credit for the war with the President.

It is highly unlikely, too, that we would now be suffering so heavily from inflation and unemployment if things had happened that way. Why? Because Mr. Johnson would never have been allowed to get away with the massively unbalanced budget in 1966 that triggered the economic woes with which President Nixon is still struggling five years later.

In mid-1965, however, LBJ was in the middle of trying to sell his "Great Society" program to Congress and the country. It was controversial and very, very expensive. The last thing he wanted to do was alarm everybody by talking forthrightly about the escalating U.S. involvement in the war.

It is not unfair, in retrospect, to say that Mr. Johnson got us into the war by stealth.

Later, as the full scope of the involvement became more clear and criticism mounted on Capitol Hill, the Johnson Administration fell back on the Tonkin Gulf resolution—a thin reed, to say the least—and upon the inherent powers of the President as Commander-in-Chief.

Obviously, there is something wrong when the President needs congressional authorization to deepen the harbor at San Pedro, or to build a flood control project in Kansas, but not to involve the United States in a conflict which has cost us thousands of lives and many billions of dollars.

Yet it would be most unwise to so hamstring the President that he could not legally respond to a genuine emergency—something like the Cuban missile crisis of 1962 or a Korea-style Communist invasion of some country which we are pledged to help defend.

Javits' approach gets around such objections by giving the President 30 days in which he can act without congressional approval. Beyond that time, he would have to make a case to Congress and to the country for the continuation of hostilities.

There may be constitutional complications. There always are in the murky field of presidential vs. congressional power. However, it is hard to see how anybody—even a President—could object to the substance of the idea that Congress should be consulted on the most fundamental decision which a nation can make; the decision to go to war.

[From the Denver (Colo.) Post, Feb. 17, 1971]

A "BRAKE" ON WAR INVOLVEMENT

Sen. Jacob Javits, R-N.Y., has introduced a bill, with bipartisan co-sponsorship, which would impose a 30-day time limit on a president's power to commit U.S. troops to hostilities abroad, unless within that time Congress approved his course of action.

This measure would close a significant gap in federal law and, in our view, deserves most serious consideration by the public, the President and Congress.

The measure has been inspired, of course, by the legal ambiguities of the undeclared war in Vietnam. The fact that even a "hawk" on the war, such as Mississippi's Sen. John Stennis, has declared himself in favor of the general idea, suggests that this is a measure whose time has come.

As the law stands, all the Constitution says is that Congress alone has the power "to declare war." However the President, as commander-in-chief of the armed forces, has been conceded the power, in case of sudden attack on U.S. forces or civilians abroad, or of a threat to them or our interests, to respond with force if he deems it necessary.

But no laws specifically authorize the President to do anything of that kind, nor are any limits—of time or any other kind—put upon how he uses this vague power.

In the kind of world we have now— where peace is kept only by a delicate, ever-shifting nuclear "balance of terror"—this loose, unregulated way of possibly slipping into a major war is too dangerous a way to live.

So the Javits proposal has, at first look, at least three major virtues:

First, it would put other nations on notice that Congress has authorized the President to take hostile action in case of threats or hostile action against us or our interests.

Second, it would put any president on notice that, if he responds to foreign provocation with hostile action, his reasons must be good and solid enough to win congressional approval within 30 days. This should make a president look even more carefully before he leaps into any such action.

Third, hopefully this measure would force Congress to make up its mind, within 30 days, whether it approved or disapproved of what the president was doing. Congress just couldn't let the matter slide for years as it did in Vietnam, until it finally passed the Tonkin resolution.

All these effects, in our judgment, would be healthy. And they would relieve a lot of fears among the public.

We believe Congress, the President and the public should give this proposal most serious study.

[From the Dallas (Tex.) Morning News, July 12, 1970]

BEST OF BOTH

The question of war powers has been a tough one since the days of the Constitutional Convention. It is, if anything, more controversial today than it was then.

The Founding Fathers clearly wanted the power to declare war—along with most of the other important powers—in the hands of Congress. But they also saw the danger in tying a president's hands, refusing him power to defend the country against a sudden attack until he could round up Congress for a formal declaration. It was clear that there would be times when he might have to act on his own initiative to meet a sudden emergency.

Presidents and Congresses have interpreted these powers first one way and then the other, but the question is still unresolved. The need for speedy action—in a sudden emergency—is still balanced off against the need for a broad base of considered, committed support in lengthy wars.

The question may never be fully resolved to the satisfaction of all, but a recent bill authored by Sen. Jacob Javits is a reasonable plan for a compromise solution.

Javits' bill would affirm the president's power as commander in chief:

To repulse a sudden attack on the U.S. or its territories.

To repulse an attack on U.S. troops legally stationed abroad.

To protect the lives and property of Americans.

To comply with the requirements of a recognized commitment through treaty or pact with other nations.

However, the Javits bill would also require that the president seek and get legislation from Congress to affirm this action within 30 days, if action beyond that span is required. The president would have a free hand for immediate action in defense of the Nation's interests. But for a sustained war, the formal approval of Congress would be required.

Javits' bill immediately gained strong support from Sen. Robert Dole, who has been the Nixon administration's champion in skirmishing around this issue. But it would seem to have appeal for many of Sen. Javits' liberal colleagues as well. It might even have something for Sen. Fulbright, who has taken strong, unequivocal stands on both sides of the war powers issue.

With Sen. Fulbright, the stand is quicker than the eye. But there is, in fact, something to be said for both the strong-president school and the traditional school that reserves to Congress the power to commit the nation to war.

Aside from the split-second requirements of nuclear crisis, there are times when a battalion deployed quickly in the right spot for a week can succeed, where much greater force would fail if it arrived too late.

An illustration of the quick, decisive action is President Johnson's success in cooling off the Communist attempt to take over the Dominican Republic, a success accomplished with little loss of life and fine support from other American nations.

On the other hand, the Founding Fathers were foresighted in seeing that a long war, requiring arduous effort and great sacrifice, should not be undertaken without the broad base of support that Congress can represent.

The Javits' plan to combine the strengths of both schools of thought is not foolproof. In its language, there are unavoidable loopholes that might allow either a president or a Congress to dodge responsibility. But it is nevertheless a creditable step toward updating and clarifying the proper roles for both branches of our government in a world where wars and threats of wars seem to be permanent fixtures.

[From the Wichita (Kans.) Eagle, June 18, 1970]

JAVITS BILL WOULD RETURN WARMAKING POWER TO CONGRESS

Sen. Jacob K. Javits, R-N.Y., may have the answer to the dilemma of the increasing power of the executive branch to involve the nation in undeclared wars.

Senator Javits has introduced a bill which would limit participation in such conflicts to no more than 30 days, unless Congress gave its specific approval in the meantime.

This would allow the President to take action in an emergency, a necessity which seems obvious in this nuclear age. Yet it also would preserve the constitutional right of Congress to be the sole authority capable of involving the nation in a full-scale war.

Perhaps the need for the President to take emergency action has been exaggerated in our minds, but as long as there are intercontinental missiles, as long as there are American troops and military installations all over the world, it does seem that the commander-in-chief must be allowed some liberty to respond in an emergency.

Yet it is increasingly clear that there must be definite boundaries to that power. While a President can move quickly, he is dependent upon a handful of advisers, and particularly vulnerable to manipulation by the Pentagon. Congress moves slowly, but as a diverse body, it is more likely to represent the many views of the country, and to come up with decisions that do not follow the thinking of only one group.

Many contend that the congressional powers to institute military action were observed in the present disputed conflict, when President Johnson went to Congress in 1964 and was granted, in the Gulf of Tonkin Resolution, the power to "take all necessary measures to repel any armed attack against the U.S. and to prevent further aggression."

But that resolution was pushed through in record time. The U.S. destroyers Maddox and C. Turner Joy were attacked on August 2 and 4, 1964, and President Johnson won the Tonkin Resolution by August 7. It is now alleged that Congress was given wrong information about the Tonkin action. But in that short a time, pressed by the President, how could it sort out truth from misrepresentation?

Thirty days isn't much time for deliberation either, but it might be long enough for Congress to do a better job of assessing facts and situations.

The Javits bill shows a recognition of realities, but it would go a long way toward returning to the people—through their representatives most accessible to public opinion—the power of making war.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORT ON DEPARTMENT OF THE ARMY CONTRACTS FOR MILITARY CONSTRUCTION AWARDED WITHOUT FORMAL ADVERTISEMENT

A letter from the Acting Secretary of the Army, transmitting, pursuant to law, a report on Department of the Army contracts for military construction awarded without formal advertisement, for the 6-month period ended December 31, 1971 (with an accompanying report); to the Committee on Armed Services.

PROPOSED LEGISLATION RELATING TO AUTHORIZED NUMBERS OF CERTAIN OFFICERS OF THE ARMED FORCES

A letter from the Assistant Secretary of the Air Force, Manpower and Reserve Affairs, transmitting a draft of proposed legislation to amend the Act of September 26, 1966, Public Law 89-606, to extend for four years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

REPORT ON U.S. EXPORTS TO YUGOSLAVIA

A letter from the Secretary, Export-Import Bank of the United States, reporting, pursuant to law, on U.S. exports to Yugoslavia, for the period November 1971 through January 31, 1972; to the Committee on Banking, Housing, and Urban Affairs.

PROPOSED GRANT AGREEMENT WITH THE UNIVERSITY OF WISCONSIN

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed grant agreement with the University of Wisconsin (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORTS ON DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on certain defector aliens (with accompanying papers); to the Committee on the Judiciary.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered for temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF AN ALIEN

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, an order suspending deportation in the case of Giovanni Borstelj (with accompanying papers); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and naturalization Service, Department of Justice, copies of orders suspending deportation of certain aliens (with accompanying paper); to the Committee on the Judiciary.

THIRD-PREFERENCE AND SIXTH-PREFERENCE CLASSIFICATION FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports concerning visa petitions according the beneficiaries of such petitions third preference and sixth preference classification (with accompanying papers); to the Committee on the Judiciary.

REPORT OF U.S. COMMISSIONER OF EDUCATION

A letter from the United States Commissioner of Education, transmitting, pursuant to law, his report, for the fiscal year 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF PRESIDENT'S NATIONAL ADVISORY COUNCIL ON SUPPLEMENTARY CENTERS AND SERVICES

A letter from the Chairman, President's National Advisory Council on Supplementary Centers and Services, transmitting, pursuant to law, a report of that Council, for the fiscal year 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT

A letter from the Chairman, National Advisory Council on Education Professions Development, transmitting, pursuant to law, a report of that Council entitled "People for the People's College" (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A resolution of the Senate of the State of Hawaii; to the Committee on Banking, Housing and Urban Affairs:

"SENATE RESOLUTION NO. 214 OF THE STATE OF HAWAII

"Relating to the agreement between the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association

"Whereas, the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association have reached agreement after a lengthy strike which lasted one hundred and thirty-four days; and

"Whereas, the gravity and urgency of reaching accord on this situation have taken much hard work and concerted effort on the part of many concerned individuals representing labor, management, the arbitrator, and the Federal Mediation and Conciliation Service; and

"Whereas, the agreement reached after much discussion was regarded with favor by the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association; and

"Whereas, the Pay Board has just slashed this agreement, the product of so much exertion by all concerned, by a substantial amount, a move that risks unnecessary confrontation between the International Longshoremen's and Warehousemen's Union, the Pacific Maritime Association, and the Federal Government; and

"Whereas, the International Longshoremen's and Warehousemen's Union, under the leadership of Harry Bridges, has cooperated with management to improve the companies and especially productivity; and

"Whereas, this increased productivity has led to higher profits for the corporations involved; and

"Whereas, the workers, who have not struck for many years, have not received their rightful share of the increased profits that resulted from increased productivity and were forced to strike to obtain benefits that should have been theirs; and

"Whereas, the agreement which was submitted to the Pay Board was recommended for approval by the staff of the Pay Board; and

"Whereas, the Pay Board itself, contrary to their staff's recommendation, has not approved the agreement in its entirety; and

"Whereas, the International Longshoremen's and Warehousemen's Union and the

Pacific Maritime Association have both urged that the Pay Board approve the agreement to avoid further disruption of commerce; and

"Whereas, such action by the Pay Board against a small but important Union may create difficulty and hardship for our people; and

"Whereas, these members of the International Longshoremen's and Warehousemen's Union number only thirteen thousand one hundred workers; and

"Whereas, such action may be detrimental to a small and responsible Union such as the International Longshoremen's and Warehousemen's Union; and

"Whereas, such action may actually hurt efforts to build the American economy into a viable one that may provide a good life for all; now, therefore,

"Be it resolved by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that the Pay Board be, and hereby is, respectfully requested to reconsider its action and approve the agreement between the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association; and

"Be it further resolved that certified copies of this resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President and President Pro Tempore of the United States Senate, the members of the Pay Board, and the members of the Cost of Living Council."

A concurrent resolution of the Legislature of the State of Hawaii; to the Committee on the Judiciary:

"Senate Concurrent Resolution No. 39 of the State of Hawaii

"Ratifying a proposed amendment to the Constitution of the United States providing for equal rights under the law without discrimination on account of sex

"Whereas, the Congress of the United States has proposed an amendment to the Constitution of the United States to prohibit the denial or abridgement of equal rights under the law on account of sex; and

"Whereas, the transformation of our legal system to one which establishes equal rights for men and women under the law is long overdue; and

"Whereas, what was begun in the Nineteenth Amendment to the United States Constitution, extending to women the right of franchise, should now be completed by guaranteeing equal treatment to women in all areas of legal rights and responsibilities; and

"Whereas, the proposed Equal Rights Amendment provides for the establishment of complete legal equality so that before the law women and men will be treated without discrimination and individuals will be accorded the dignity and respect to which they are entitled politically and morally; and

"Whereas, House Joint Resolution 208, approved by the Ninety-Second Congress, Second Session, reads as follows:

"HOUSE JOINT RESOLUTION 208—JOINT RESOLUTION

"Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress;

" 'ARTICLE

" 'SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

" 'SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

" 'SECTION 3. This amendment shall take effect two years after the date of ratification.';

"now, therefore

"Be it resolved by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, the House of Representatives concurring, that the Article proposed as an amendment to the Constitution of the United States as set forth in United States House Joint Resolution 208, dated March 22, 1972, be hereby ratified by the Legislature of the State of Hawaii; and

"Be it further resolved that a certified copy of this Concurrent Resolution be transmitted to the Administrator, United States General Services Administration, and that certified copies of this Concurrent Resolution also be transmitted to the President of the United States Senate and to the Speaker of the United States House of Representatives and to the members of Hawaii's delegation to the Congress of the United States."

A joint resolution of the Legislature of the State of New Mexico; to the Committee on Commerce:

"State of New Mexico Senate Joint Memorial 1

"A Joint Memorial requesting the Congress of the United States to enact legislation controlling television advertising of certain drugs and medicines

"Whereas, drug abuse constitutes one of the nation's major problems; and

"Whereas, the attitudes conducive to drug abuse are widespread, as President Richard Milhous Nixon noted when he stated that ". . . we have produced an environment in which people come naturally to expect that they can take a pill for every problem—that they can find satisfaction and health and happiness in a handful of tablets or a few grains of powder . . ."; and

"Whereas, television 'mood' advertising of over-the-counter drugs and medicines having a stimulant, depressant or tranquilizing effect on the central nervous system, including calmatives, sleeping aids and caffeine stimulants, has tended to encourage people in false expectations similar to those castigated by the President, and thus has fostered a climate of drug misuse and abuse;

"Now, therefore, be it resolved by the Legislature of the State of New Mexico that the Congress of the United States be respectfully requested to enact legislation controlling or eliminating television 'mood' advertising of drugs and medicines having a stimulant, depressant or tranquilizing effect on the central nervous system; and

"Be it further resolved that copies of this memorial be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives and to the members of the New Mexico delegation in Congress."

A concurrent resolution of the Legislature of the State of Michigan; to the Committee on Commerce:

"State of Michigan Senate Concurrent Resolution No. 235

"A concurrent resolution memorializing the Congress of the United States relative to the Surface Transportation Act of 1971

"Whereas, The present and future needs of the United States for a stable and an expanding economy require the smooth functioning of a balanced surface transportation system making the best possible use of all modes—rail, highway, and waterway; and

"Whereas, The demand for freight transportation is growing three times as fast as the population and will double by 1985; and

"Whereas, Much of the surface transportation system is today in a precarious financial position which impedes its ability to modernize and to meet increasing needs of both shippers and consumers alike; and

"Whereas, Existing federal policies relating to regulation and financing have lagged far behind and have impeded the progress and health of the transportation industry; now therefore be it

"Resolved by the Senate (the House of Representatives concurring), That the Michigan Legislature urge the Congress of the United States to enact the Surface Transportation Act of 1971, with its provisions for updating regulations and extending limited financial assistance to the nation's surface transportation modes; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the Senate, the Speaker of the House of Representatives and to each member of the Michigan delegation to the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Interior and Insular Affairs:

"State of California Assembly Joint Resolution No. 1

"Assembly Joint Resolution No. 1—Relative to the creation of a Commission on Indian Treaties.

"Resolved by the Assemoly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to create a commission to review and evaluate the various treaties made between the United States government and the various Indian tribes and nations; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution of the Legislature of the State of Florida; to the Committee on the Judiciary:

"State of Florida Senate Memorial No. 1145

"A memorial to the Congress of the United States to provide for the establishment in the State of Florida of a four year bachelor degree granting institution to be known as the United States Academy of Criminal Justice

"Be It Resolved by the Legislature of the State of Florida:

"Whereas, one of the most significant social problems in the country today is the issue of criminal justice, and

"Whereas, there is a growing need for the development of a uniform body of knowledge in the criminal justice field, and

"Whereas, the citizens of the United States are demanding that the United States government take the lead in establishing reforms in the field of criminal justice, and

"Whereas, an institution patterned after the U.S. Military Academy, U.S. Naval Academy and the U.S. Air Force Academy would provide a cadre of well educated, highly trained officers to serve as sheriffs, chiefs of police, prison wardens and in other similar offices, and

"Whereas, there are many able and highly qualified young people who are sensitive to social problems and willing to pursue law enforcement as a profession, and

"Whereas, such academy should have the best available resources, including a model prison, established in conjunction with the academy, for the purpose of allowing students practical experience in the most modern techniques of correction and rehabilitation of prisoners, and

"Whereas, Florida because of its moderate climate and its ease of access by all modes of transportation would be an ideal location, and

"Whereas, Mr. Frederick H. Owen, Jr., a citizen of the state has devoted much time and energy to preliminary plans of the proposed academy and model prison, has located possible construction sites and has coordinated efforts with officials of this state, and

"Whereas, the United States government has created and fully funded various military academies and it is proposed that this academy be established in similar fashion, now, therefore,

"Be It Resolved that the Congress of the United States is hereby requested to provide funds and other necessary support for the establishment of the National Academy of Criminal Justice, in the State of Florida, and

"Be It Further Resolved that copies of this memorial be dispatched to the president of the United States, to the president of the United States senate, to the speaker of the United States house of representatives and to each member of the Florida delegation to the United States Congress."

A resolution of the Legislature of the State of Arizona; to the Committee on Labor and Public Welfare:

"State of Arizona Senate Memorial 1005

"A memorial relating to a federal program for research and cure of sickle cell anemia, and recommending passage of pending legislation

"To the Congress of the United States:

"Your memorialist respectfully represents:

"Whereas, sickle cell anemia is a disease now afflicting fifty thousand black persons in this nation, with an additional two million black persons as possible carriers of this disease.

"Whereas, one child of every three hundred to five hundred black children will be stricken with sickle cell anemia and of those that the disease strikes, nine out of ten will die before reaching the age of forty.

"Whereas, millions of dollars have been raised in volunteer campaigns to fight approximately twelve hundred new cases of cystic fibrosis and eight hundred cases of muscular dystrophy, but less than one hundred thousand dollars has been raised to combat approximately eleven hundred new cases of sickle cell anemia.

"Wherefore, your memorialist, the Senate of the State of Arizona, prays:

"1. That the Congress give favorable consideration to passage of bills now pending before it to implement a program of research, diagnosis, treatment and public education of sickle cell anemia.

"2. That the Secretary of State of the State of Arizona be directed to transmit a copy of this memorial to the President of the United States Senate, the Speaker of the House of Representatives of the United States and each member of the Arizona Congressional Delegation."

A resolution of the Legislature of the State of Arizona; to the Committee on Post Office and Civil Service:

"State of Arizona House Memorial 2001

"A memorial urging Congress to investigate problems created by Federal Civil Service tenure provisions and to make constructive modifications thereto

"To the Congress of the United States:

"Your memorialist respectfully represents:

"Under the tenure provisions of the federal civil service system there has built up over the years a situation which demands the attention of and corrective action by the Congress of the United States.

"On the one hand the job security provisions of civil service laws afford much needed protection to the thousands of loyal, hardworking, conscientious employees whose salary levels are generally lower than those offered by private industry.

"On the other hand the same job security provisions provide the disloyal, disruptive, power hungry few a shield with which to ward off attempts to remove them.

"The Congress must initiate and put into effect needed reforms in the tenure provisions of the civil service laws so that administrative responsibility within the agencies of the federal government may be returned to the control of the people.

"Wherefore your memorialist, the House of Representatives of the State of Arizona, prays:

"1. That the Congress appoint a special committee of its members to study, investigate and make recommendations to the Congress for changes in the tenure provisions of the civil service laws toward the goal of returning agency employee responsibility to the elected representatives of the people in the legislative and executive branches of the government.

"2. That the Honorable Wesley Bolin, Secretary of State of Arizona, transmit copies of this memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each member of the Arizona Congressional Delegation."

A resolution of the Senate of the State of Florida; to the Committee on the Judiciary:

"State of Florida Senate Memorial No. 227

"A Memorial to the Congress of the United States making application to Congress to call a convention for the sole exclusive purpose of proposing to the several states a constitutional amendment relating to the choosing of a presiding officer of the Senate

"Whereas, the government of the United States has traditionally been structured upon a system of checks and balances in order to maintain equality between the three branches of government; and

"Whereas, it is of primary importance that the legislative branch of government be free of any restraint or pressure in order to be more fully representative of the people; and

"Whereas, the vice president of the United States is the president of the senate pursuant to Article I, Section 3 of the Constitution of the United States, and may vote therein when the membership is equally divided; and

"Whereas, Article I, Section 3 of the United States Constitution further provides that the senate shall choose their other officers and also a president pro tempore; and

"Whereas, the continued existence of the representative of the executive branch as the presiding officer of an independent house of Congress is inimical to the preservation of an independent legislature free from leadership supplied by the executive branch of government; Now, therefore,

"Be It Resolved by the Legislature of the State of Florida:

"That, pursuant to Article V of the Constitution of the United States, the legislature of the state of Florida does hereby make application to the Congress of the United States to call a convention for the sole and exclusive purpose of proposing to the several states a constitutional amendment which shall provide:

"That the senate shall choose its officers, including a presiding officer selected from its membership, who shall be designated as the president of the senate, and also a president pro tempore who shall preside during the absence of the president of the senate.

"Be it further resolved that this application shall constitute a continuing application for such convention pursuant to Article V until the legislatures of two-thirds of the states shall have made like applications and such convention shall have been called by the Congress of the United States unless previously rescinded by this legislature, and

"Be it further resolved that certified copies of this resolution be presented forthwith to the president of the United States senate and the speaker of the United States house of representatives and to the legislature of each of the several states a testing the adoption of this resolution by the legislature of the state of Florida."

Resolutions of the Legislature of the State of Nebraska; to the Committee on the Judiciary:

"Legislative Resolution 86

"Whereas, the 92nd Congress of the United States of America at its second Session, in both Houses, by a Constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words, to wit:

" 'Joint Resolution

" 'Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress;

" 'Article

" 'Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

" 'Sec. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

" 'Sec. 3. This amendment shall take effect two years after the date of ratification.'

"Now, therefore, be it resolved by the members of the Eighty-Second Legislature of Nebraska, Second Session:

"1. That such proposed amendment to the Constitution of the United States be and the same hereby is ratified.

"2. That copies of this resolution duly certified by the Secretary of State with the Great Seal of Nebraska attached thereto be forwarded by the Secretary of State to the Administrator of General Services, Washington, D.C., and to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

"Legislative Resolution 83

"Whereas, the 92nd Congress of the United States of America at its second Session, in both Houses, by a Constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words, to wit:

" 'Joint Resolution

" 'Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress;

" 'Article

" 'Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.'

"Now, therefore, be it resolved by the members of the Eighty-Second Legislature of Nebraska, Second Session:

"1. That such proposed amendment to the Constitution of the United States be and the same hereby is ratified.

"2. That copies of this resolution duly certified by the Secretary of State with the Great Seal of Nebraska attached thereto be forwarded by the Secretary of State to the Administrator of General Services, Washington, D.C., and to the President of the Senate and the Speaker of the House of Representatives of Congress of the United States."

A concurrent resolution of the Legislature of the State of Arizona; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION 2009

"A concurrent resolution urging Congress to call a Constitutional Convention to propose an amendment to the Constitution of the United States to permit offering voluntary prayer in public schools

"Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

"1. In accordance with the provisions of Article V of the Constitution of the United States of America, the Legislature of the State of Arizona hereby applies to the Congress of the United States to call a Constitutional convention for the purpose of proposing an amendment to the Constitution of the United States, which amendment shall permit the offering of voluntary prayer in public schools.

"2. If Congress shall have proposed an amendment to the Constitution to the same effect as the foregoing prior to January 1, 1973, this application for a convention shall no longer be of any force or effect.

"3. The Secretary of State of Arizona is directed to transmit authenticated copies of this Resolution to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation."

A concurrent resolution of the Legislature of the State of Arizona; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION 1002

"A concurrent resolution urging an amendment to the Constitution of the United States permitting each State to establish residency requirements for public welfare assistance

"Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

"Whereas, the Legislature of the State of Arizona many years ago enacted into law a residency requirement for receipt of public welfare benefits; and

"Whereas, the Supreme Court of the United States has declared similar laws unconstitutional on the grounds in part that they violate the constitutional right of free travel; and

"Whereas, there are presently many laws which condition entitlement upon residency, that is, the right to use the courts of this state, for example, divorce proceedings require residency; driver's licenses and other licenses, such as the practice of law, medicine, and other professions; voting rights are conditioned on residency, and yet the judiciary has not declared such residency requirements unconstitutional; and

"Whereas, it would appear that in order to constitutionally establish a residency law for public welfare assistance, it is necessary that an amendment to the United States Constitution be enacted; and

"Whereas, the Legislature of the State of Arizona believes it to be for the best interest of the people of the United States that there be an amendment to the Constitution of the United States permitting each of the states to enact a residency law for public welfare assistance; and

"Whereas, the state of the economy in Arizona and elsewhere is one of severe stringency and the challenges facing state and local governments in these times of inflation and high unemployment are such as to sap the ability of governments at all levels to deal effectively with the myriad social problems which face our urban areas; and

"Whereas, our great metropolitan areas are faced in particular with problems of housing shortages, rising numbers of those addicted to narcotics, rapid rises in crime rates, air and water pollution, costs of fire and police protection, overburdened schools and many others and the provision of essential public services has become increasingly more financially difficult; and

"Whereas, the continual spiral upwards of welfare costs increases these problems both by increasing the demand for other essential services and by necessitating a diversion of limited funds from them; and

"Whereas, the greatest public good and least public harm will come from the maintenance of the levels of public assistance rather than from the stretching of limited state and local funds of any state to cover persons who have not yet established dependence upon them, those who are the most recent arrivals in the state.

"Therefore be it resolved by the Legislature of the State of Arizona:

"1. That the Congress of the United States of America is requested to propose an amendment to the Constitution of the United States permitting each state to enact a residency law relating to public welfare assistance.

"2. That the Secretary of State of the State of Arizona is requested to transmit a copy of this resolution to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Congress from the State of Arizona."

A joint resolution of the Legislature of the State of Idaho; to the Committee on Post Office and Civil Service:

"HOUSE JOINT MEMORIAL NO. 10

"A Joint Memorial to the honorable Senate and House of Representatives of the United States in Congress assembled, and the honorable delegation representing the State of Idaho in the Congress of the United States

"We, your Memorialists, the Senate and House of Representatives of the state of Idaho assembled in the Second Regular Session of the Forty-first Idaho Legislature, do hereby respectfully represent that:

"Whereas, regulations of the United States Postal Service prohibit the forwarding of state income tax forms mailed under certain conditions; and

"Whereas, regulations of the United States Postal Service provide for the destruction of nonforwardable tax forms under certain conditions.

"Now, therefore, be it resolved by the Second Regular Session of the Forty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we most respectfully urge the Congress of the United States to take such action as is necessary to provide the same treatment of state tax forms as that afforded the federal government in the forwarding and return of federal tax forms.

"Be it further resolved that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and to the Senators and Representatives representing this state in the Congress of the United States."

A joint resolution of the Legislature of the State of Colorado; to the Committee on Labor and Public Welfare:

"HOUSE JOINT MEMORIAL NO. 1005

"Memorializing the Congress of the United States to reconsider the effectiveness of existing legislation relating to farm labor housing in the light of certain regulations promulgated by Federal agencies

"Whereas, The federal farm labor housing regulations, previously promulgated by the Secretary of the United States Department of Labor under the authority of Title 29, United States Code, section 49k, have already forced many agricultural producers of this state to close otherwise safe and sanitary housing; and

"Whereas, The reason many agricultural producers were forced to close otherwise safe and sanitary housing was that compliance with the federal farm labor housing regulations would have imposed an undue economic burden; and

"Whereas, As a result of this closing of agricultural labor housing, many farm workers have been unable to find housing and in some cases have been forced to sleep in automobiles or fields, thereby defeating the purpose of the federal labor housing regulations; and

"Whereas, The provisions of the occupational and safety standard covering temporary labor camps, as promulgated by the Secretary of the United States Department of Labor pursuant to the Williams-Steiger Occupational Health and Safety Act of 1970, would force the agricultural producers of this state to close even more otherwise safe and sanitary farm labor housing and could cause further undue economic burdens; and

"Whereas, While each and every separate provision of the federal farm labor regulations in and of itself may not be burdensome, when such regulations are taken as a whole and applied to farm labor housing, they can and do pose a burden for the agricultural producers; and

"Whereas, The federal farm labor housing regulations should be written with some degree of flexibility in order that farm labor housing which does not meet each and every provision of the farm labor regulations yet is otherwise safe and sanitary may be used; and

"Whereas, The state division of employment by federal regulation cannot recruit for or refer potential employees to an agricultural employer unless such employer's labor housing meets the requirements of the federal farm labor housing regulations even if such housing may otherwise be safe and sanitary; and

"Whereas, As a result, many agricultural employers no longer use the division of employment as a source of labor, thereby defeating one of the primary functions of the division of employment which is to place employee with employer; now, therefore,

"Be It Resolved by the House of Representatives of the Forty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

"(1) That the Congress of the United States is hereby memorialized to reconsider regulations concerning farm labor housing which may have the effect of restricting rather than encouraging the availability of safe and sanitary farm labor housing.

"Be It Further Resolved, That copies of this Memorial be sent to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of Congress from the State of Colorado."

Two joint resolutions of the Legislature of the State of Idaho; to the Committee on Interior and Insular Affairs:

"In the Idaho House of Representatives, House Joint Memorial No. 12, by State Affairs Committee

"A joint memorial to the Senate of the United States to the members of the Senate Interior Committee, and to the Senators representing the State of Idaho in the United States Senate

"We, your Memorialists, the Senate and House of Representatives of the state of Idaho assembled in the Second Regular Session of the Forty-first Idaho Legislature, do hereby respectfully represent that:

"Whereas, the state of Idaho has, since statehood, exercised authority over the fish and wildlife management within the state boundaries; and

"Whereas, state management not only has merit based upon long standing precedent, but is the condition greatly preferred by the sportsmen who value the preservation of the state's natural resources; and

"Whereas, this tradition of state management is threatened in the adoption of H.R. 6957 establishing the Sawtooth National Recreation Area and vesting with the Department of Agriculture a usurpation of the fish and wildlife management within the area; and

"Whereas, such usurpation is an unnecessary invasion into a well managed state jurisdiction; and

"Whereas, H.R. 6957 has passed the House of Representatives and is now pending before the Senate of the United States.

"Now, therefore, be it resolved by the Second Regular Session of the Forty-first Idaho Legislature, the House of Representatives and Senate concurring, that we urge the Senate of the United States to give careful consideration of the language in section 8 of H.R. 6957, and to strike therefrom the reference to authority over fish and wildlife management in the interests of avoiding intrusion into state management.

"Be it further resolved that the Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate, the members of the Senate Interior Committee, and the Senators representing this state in the Senate of the United States."

"In the Idaho House of Representatives, House Joint Memorial No. 14, by Ways and Means Committee

"A joint memorial to the honorable members of the Idaho congressional delegation, the chairmen of the Interior Committees in both the Senate and the House of Representatives of the United States Congress, the leadership of the Senate and the House of Representatives, the Secretary of Interior, and the Director of the Bureau of Reclamation

"We, your Memorialists, the Senate and House of Representatives of the State of Idaho, assembled in the Second Regular Session of the Forty-first Idaho Legislature, hereby request that:

"Whereas, the area of Twin Falls County, Idaho, known as the Salmon Tract and relying for irrigation upon the waters of the Salmon Falls Creek has been an area of extreme water shortage during all of its sixty year history as an irrigated tract; and

"Whereas, adequate water supply for the Salmon Tract would be a great stimulus to the economic development of south central Idaho generally and to Twin Falls County, Idaho, particularly; and

"Whereas, the Commission intimated that Twin Falls and Cassia Counties, Idaho, in the area generally known as the Milner-Cottonwood Area, are facing severe cutbacks due to lowering water tables and are in extreme need for supplementary surface water supplies; and

"Whereas, water supplies are available in the Snake River for the supplemental water supplies needed on the Salmon Tract and the Milner-Cottonwood areas at a relatively low cost and at high benefit-cost ratios under the terms of the proposed Salmon Falls Division Project of the Bureau of Reclamation, Department of Interior of the United States of America.

"Now, therefore, be it resolved by the Second Regular Session of the Forty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully urge the Congress of the United States to take appropriate action to implement and fund the Salmon Falls Division Project as approved by the United States Bureau of Reclamation and the Secretary of Interior with appropriate safeguards for all persons now holding rights in the water supply of the Snake River.

"Be it further resolved that the Clerk of the House of Representatives be, and he is hereby authorized and directed to forward copies of this Memorial to Representatives and Senators representing the State of Idaho in the Congress of the United States, the chairmen of the Interior Committees in both the House and Senate, the leadership of the Senate and the House of Representatives, and the Secretary of Interior and Director of the Bureau of Reclamation."

A joint resolution of the Legislature of the State of Idaho; to the Committee on Labor and Public Welfare:

"In the Idaho House of Representatives, House Joint Memorial No. 11, Agricultural Affairs Committee

"A joint memorial—The Honorable President of the United States, the Honorable Senate and House of Representatives of the United States in Congress assembled, the Honorable congressional delegation of the State of Idaho, the Honorable Secretary of the United States Department of Labor, and the Honorable Secretary of the United States Department of Agriculture

"We, your Memorialists, the House of Representatives and Senate of the state of Idaho assembled in the Second Regular Session of the Forty-first Idaho Legislature, do respectfully represent that:

"Whereas, agriculture is a vital segment of the economy of the state of Idaho; and

"Whereas, agriculture has a decided effect on all other segments of the economy of this state; and

"Whereas, it is vital that agriculture have available during the growing season an adequate water supply; and

"Whereas, much of the water supply in this state is through the sprinkler pipe system; and

"Whereas, during this crucial period of time, there is not always available in the local labor supply an adequate number of sprinkler pipe movers; and

"Whereas, it is recognized that all reasonable efforts should be exhausted to supply the necessary labor from local labor supply sources.

"Now, therefore, be it resolved by the Second Regular Session of the Forty-first Legislature of the state of Idaho now in session, the Senate and House of Representatives concurring, that we most respectfully urge the President of the United States, the Congress, and the Secretaries of Labor and Agriculture to recognize the problem facing agriculture, and undertake to provide solutions for the great disparity between the supply of local pipe movers and the demand for their services, and including the recognition that after reasonable efforts have been exhausted to secure said labor from local labor supplies, that it may be necessary to legally import foreign labor to accomplish this vital task.

"Be it further resolved that the Chief Clerk of the House of Representatives of the state of Idaho be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, to the Senators and Representatives representing this state in the Congress of the United States, to the Honorable Secretary of the Department of Labor, and the Honorable Secretary to the Department of Agriculture."

A resolution of the Senate of the State of Hawaii; ordered to lie on the table:

S. Res. No. 210

"Resolution congratulating President Richard M. Nixon, the Congress of the United States, and the Commission on Population Growth and the American Future for their concern and work towards a better America.

"Whereas, the subject of population growth is presently a most vital and volatile issue to the people of the United States; and

"Whereas, the Commission on Population Growth and the American Future was proposed by President Nixon and established by Congress in March 1970; and

"Whereas, the first of three final reports was recently released after a detailed, two-year assessment of the impact of population growth on the economy, the environment, government, and the quality of life; and

"Whereas, the twenty-four member Commission chaired by John D. Rockefeller, III, and composed of members of Congress, businessmen, union leaders, foundation and university officials, youth and minority groups concluded: 'No substantial benefits would result from continued growth of the Nation's population'; and

"Whereas, the report expressly rejected views at the extremes of current public debate over population, challenging both 'bigger-the-better' boosterism on the one hand and 'the emergency-crisis response' on the other; and

"Whereas, the operative word is 'prudence', not 'crisis' nor 'complacency'; and

"Whereas, the Commission's report thereby called on the United States to become the first nation to adopt a deliberate population policy and enable parents now to avoid unwanted childbearing; and

"Whereas, the Commission's main concern in preparing this first report was not the quantity of people in the future but the quality of life; and

"Whereas, it concluded that unless population growth is checked, social freedom will be choked by fees, forms, licenses, lines, regulations, and red tape; and

"Whereas, the resulting society would be so oppressive that "the population of the year 2020 may look back with envy on what, from their vantage point, appears to be our relatively unfettered way of life"; and

"Whereas, the size of the population as well as the distribution of the population is important in promoting the future welfare of Americans; and

"Whereas, the stabilization of the national population would greatly allay the burdens of metropolitanization; and

"Whereas, the report also expresses that 'the time has come to challenge the tradition that population growth is desirable: what was unintended may turn out to be unwanted, in the society as in the family'; and

"Whereas, the Commission intimated that in the next two reports it would offer recommendations concerning regional and metropolitan government and the idea of purposely establishing alternate growth centers to ease pressures on existing metropolitan areas; now, therefore

"Be it resolved by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that this body extend its congratulations and appreciation to Richard M. Nixon, President of the United States, members of the Congress of the United States, John D. Rockefeller, III, Chairman of the Commission on Population Growth and the American Future, and members of the Commission on Population Growth and the American Future for their unselfish concern and work towards the betterment of America for the people; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President and President Pro Tempore of the United States Senate, and John D. Rockefeller, III, Chairman of the Commission on Population Growth and the American Future."

A resolution adopted by the Pasadena Classroom Teachers Association, Pasadena, Tex., praying for the enactment of legislation to oppose forced consolidation of independent school districts in the State of Texas; to the Committee on the Judiciary.

The petition of Harold Vroom, and sundry other citizens of the State of New Jersey, expressing opposition to the massive busing of pupils; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JAVITS:

S. 3446. A bill to amend section 7 of the Small Business Act. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CASE:

S. 3447. A bill terminating certain assistance to Portugal and Bahrain until the agreements relating to the use of military bases by the United States in the Azores and Bahrain are submitted to the Senate for its advice and consent. Referred to the Committee on Foreign Relations.

By Mr. STENNIS (for himself and Mrs. SMITH) (by request):

S. 3448. A bill to authorize certain construction at military installations and for other purposes. Referred to the Committee on Armed Services.

By Mr. ROBERT C. BYRD (for Mr. JACKSON):

S. 3449. A bill to authorize and direct the Water Resources Council to coordinate a national program to insure the safety of dams and other water storage and control structures, to provide technical support to State programs for the licensing and inspection of such structures, to encourage adequate State safety laws and methods of implementation thereof; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. CRANSTON:

S. 3450. A bill to authorize continuation of programs of ACTION, create a National Advisory Council for that Agency, and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS:

S. 3446. A bill to amend section 7 of the Small Business Act. Referred to the Committee on Banking, Housing and Urban Affairs.

ELIGIBILITY OF SHELTERED WORKSHOPS FOR SMALL BUSINESS LOANS

Mr. JAVITS. Mr. President, I introduce for appropriate reference a bill to amend the Small Business Act to make eligible for SBA loans nonprofit sheltered workshops for the blind and the severely handicapped.

These nonprofit sheltered workshops, which can serve up to an estimated 100,000 persons in every State of the Nation, seek out the most restricted of workers because such individuals require the most assistance. The workshops endeavor to maximize the earnings of these handicapped persons, giving them dignity and making them self-supporting rather than community supported. The workshops consequently must subsidize such items as the wages of low producers, health and rehabilitation services as well as management and overhead. These supportive services are funded by fees from State rehabilitation agencies, community chests, private donors, community fundraising drives, Government grants and bequests.

Since the workshops spend almost all their funds on their clients, they cannot accumulate capital funds; they also have limited access to other sources of capital in the community. Thus, the small business loan program offers a major hope that they can obtain the funds needed to tool up adequately to meet the demands for the goods and services which they can sell.

Access to SBA loans for capital expansion will increase the Nation's resources for handicapped persons. It will also help special workshop groups that ordinarily find difficulty in securing employment in most of the sheltered workshops, such as the homebound, the multi-handicapped and minority group members.

Sheltered workshops have proven excellent risks—they can repay the money loaned them in addition to providing remunerative work and training opportunities where private enterprise has not done so.

The recently enacted Public Law 92–28—the so-called Javits-Wagner-O'Day Act—has opened up for these workshops new opportunities in securing Federal contracts for goods and services; the legislation I am introducing will afford nonprofit sheltered workshops the chance to grasp this new opportunity. And that is all that the handicapped ask of us—a chance.

Mr. President, I ask unanimous consent that the text of the bill may be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof a new subsection, as follows:

"(g) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any agency—

"(1) organized under the laws of the United States or of any State, operated in the interest of blind or other severely handicapped individuals, the net income of which does not inure in whole on in part to the benefit of any shareholder or other individual;

"(2) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

"(3) which in the production of commodities and in the provision of services during any fiscal year in which it receives financial assistance under this subsection employs blind or other severely handicapped individuals for not less than 75 per centum of the man-hours of direct labor required for the production or provision of these commodities or services."

By Mr. CASE:

S. 3447. A bill terminating certain assistance to Portugal and Bahrain until the agreements relating to the use of military bases by the United States in the Azores and Bahrain are submitted to the Senate for its advice and consent. Referred to the Committee on Foreign Relations.

Mr. CASE. Mr. President, I am today introducing a bill which would block all assistance to Portugal and Bahrain promised in recent executive agreements. This ban would remain in effect until the executive submits to the Senate as treaties these two executive agreements. I expect to offer the substance of this legislation as an amendment to the Foreign Aid Act.

I would have preferred that this matter be handled in a less drastic fashion. For several months now, I have been taking actions which urge the executive to submit to the Senate the agreements for U.S. military bases in the Portuguese Azores and in Bahrain—but to no avail.

I started out by writing to Secretary of State Rogers on December 9, 1971, urging that the agreement with Portugal for a 25-month extension of U.S. bases rights in the Azores in return for about $435 million in U.S. assistance and credits be submitted as a treaty.

I wrote:

> There is no question in my mind that in and of itself, the stationing of American troops overseas is an issue of sufficient importance to necessitate the use of the treaty process.

And I added that—

> The furnishing of economic aid to Portugal is complicated by the fact that Portugal is involved in colonial wars in Africa.

When it became clear that the administration would not react favorably to my letter, on December 16, 1971, with the cosponsorship of four other senior members of the Foreign Relations Committee, I introduced a resolution which called on the executive to submit the Portuguese agreement as a treaty.

Then on January 6, I read in the newspaper that the United States had entered into an "unpublicized" agreement with Bahrain for the establishment of a naval base on that island in the Persian Gulf. Again, the administration intended not to submit the agreement to the Senate but to settle the whole matter with a stroke of a diplomat's pen. Again, I pointed out on the Senate floor that the stationing of American troops overseas could lead to a commitment toward the host country and ultimately to war, and that the United States was becoming involved in a volatile part of the world where previously we had never had our own base.

On that day, I announced my intention to expand my resolution on the Azores to include also the submission to the Senate of the Bahrain agreement. The Foreign Relations Committee then held 3 days of public hearings during which the State Department testified it still would not submit the Azores and Bahrain agreements.

Nevertheless, on March 3, the Senate passed my resolution 50-6. The vote was significant not only because of the overwhelming majority by which it was adopted but also because Senators of all ideological persuasions joined in the effort to reassert the Senate's explicit constitutional role in the treatymaking process.

On March 6, I wrote again to the Secretary of State asking, in view of the Senate's passage of my resolution, if and when the executive would submit the two agreements to the Senate for advice and consent.

I have now received the State Department's reply—dated March 21—which says that after "serious consideration," it still will not submit the Bahrain and Azores agreements to the Senate. Claiming that the agreements "were appropriately concluded as executive agreements," the State Department's only reaction to the overwhelming vote of the Senate on my resolution is to "have noted the sense of the Senate."

I understand full well that a Senate resolution is not legally binding, so the State Department technically has the right only to "note" it. Yet, I must say that the attitude of the Department is most unwise and is shortsighted in the extreme.

The framers of the Constitution were explicit in their inclusion of the requirement for advice and consent of the Senate in the making of a treaty. And nowhere in the Constitution did they mention that the executive could skirt senatorial approval by simply calling a pact with a foreign government an executive agreement.

But the Department still refuses to take heed of the Senate's will on this question. So, I am faced with two choices: Either I can let the matter drop—content to have a resolution with my name on it passed by the Senate—or I can at least try to take further action. I have chosen the latter course because I believe a fundamental constitutional question is at stake.

The Senate cannot compel the executive to submit the agreements, but at the same time the Senate does not have to appropriate any money to pay for the agreements' costs.

I am today calling on my colleagues to uphold the Senate's vote of March 3 and cut off the funds needed to implement the agreements with Portugal and Bahrain until they are submitted as treaties.

Mr. President, I ask unanimous consent that there be printed in the RECORD the text of my bill, various background documents, and earlier editorial comment on the Portuguese and Bahrain deals.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress declares that, until the agreements signed by the United States with Portugal and Bahrain, relating to the use by the United States of military bases in the Azores and Bahrain have been submitted to the Senate as treaties for its advice and consent, assistance to be furnished Portugal and Bahrain as the result of such agreements should be terminated, and that Senate Resolution 214, 92d Congress, agreed to March 3, 1972, expressed the sense of the Senate that such agreements should be so submitted to the Senate as treaties.

(b) Therefore, notwithstanding any other provision of law, on and after the date of enactment of this Act—

(1) no vessel shall be loaned or otherwise made available to Portugal;

(2) no agricultural commodities may be sold to Portugal for dollars on credit terms or for foreign currencies under the Agricultural Trade Development and Assistance Act of 1954;

(3) no funds may be provided to Portugal for educational projects out of amounts made available to the Department of Defense;

(4) no excess articles may be provided by any means to Portugal;

(5) no defense articles may be ordered for Portugal from the stocks of the Department of Defense under section 506 of the Foreign Assistance Act of 1961; and

(6) the Export-Import Bank of the United States may not guarantee, insure, extend credit, or participate in any extension of credit, with respect to the purchase or lease of any product by Portugal, or any agency or national thereof, or with respect to the purchase or lease of any product by another foreign country or agency or national thereof if the Bank has knowledge that the product is to be purchased or leased principally for the use in, or sale or lease to, Portugal; until such agreement with Portugal is submitted to the Senate as a treaty for its advice and consent.

(c) Notwithstanding any other provision of law, on and after the date of enactment of this Act, no funds may be furnished by the United States to Bahrain for the use of any such base in Bahrain until such agreement with Bahrain is submitted to the Senate as a treaty for its advice and consent.

DEPARTMENT OF STATE,
Washington, D.C., March 21, 1972.
Hon. CLIFFORD P. CASE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CASE: The Secretary has asked me to reply to your letter of March 6, 1972 asking to be informed if and when the Administration plans to send the recent agreements with Bahrain and Portugal to the Senate for its advice and consent.

The Department has given serious consideration to S. 214, as is deserving of any resolution expressing the sense of the Senate on a matter of this nature. However, as Under Secretary U. Alexis Johnson stated in his testimony before the Senate Foreign Relations Committee on February 1, the Department of State believes that the agreement with Portugal to continue United States rights to station forces in the Azores and the agreement with Bahrain to permit the Middle East Force to continue to use support facilities in Bahrain were appropriately concluded as executive agreements. The agreements involve no new policy on the part of the United States nor any new defense commitment. Indeed, to seek Senate advice and consent would, in our view, carry a strong implication of new commitments that were not in fact intended by the parties. Of course the agreement with Portugal is in implementation of our already existing commitments under the North Atlantic Treaty, which was approved by an overwhelming majority of the Senate.

We realize, of course, that there may be a difference of view on the form an international agreement should take, and we have noted the sense of the Senate with respect to the Bahrain and Azores agreements as expressed in the vote on S. 214. We will continue to make every effort to keep the appropriate Congressional Committees informed of important agreements under negotiation and to consult with those Committees whenever there is a serious question whether an international agreement is to be made in the form of a treaty or otherwise.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

TREATY WITH PORTUGAL AND
U.S. ECONOMIC AID,
December 9, 1971.
The Hon. WILLIAM P. ROGERS,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: In this morning's *New York Times*, it was reported that the United States and Portugal had negotiated an agreement regarding the future use by the United States of air and naval bases in the Portuguese Azores. It was further reported that the United States would furnish Portugal with economic aid in return for the use of the bases.

While not questioning the right of the Executive to negotiate agreements of this sort, I would like to receive your assurances that any final agreement will be submitted as a treaty for the Senate's advice and consent, and that no economic assistance will be furnished to Portugal without affirmative action of both Houses of Congress.

There is no question in my mind that in and of itself, the stationing of American troops overseas is an issue of sufficient importance to necessitate the use of the treaty process. It is unfortunate that American forces have been in the Azores since World War II only on the basis of executive agreements, but this past oversight in no way justifies the enactment of a new agreement without conforming to our Constitutional processes.

Similarly, the Executive has the right to discuss with any foreign government the furnishing of foreign assistance, but the Constitution clearly establishes that the Congress must appropriate (and hence authorize) the funds to institute such a program. Congress has provided the President with certain discretionary authority to make changes in the allocation of foreign aid funds, but the clear intent of Congress has been for this discretionary authority to be used in emergency situations. The new agreement with Portugal is not a matter on which the Executive must act immediately and thus would not and have time to come to Congress for authorization.

Finally, I would point out that the furnishing of economic aid to Portugal is complicated by the fact that Portugal is involved in colonial wars in Africa. You stated on March 26, 1970: "As for the Portuguese territories, we shall continue to believe that their peoples have the right of self-determination. . . . Believing that resort to violence is in no one's interest, we imposed an embargo in 1961 against the shipment of arms for use in the Portuguese territories."

Yet there would seem to be a clear tie between the furnishing of economic aid to

Portugal and the wars in the Portuguese colonies. *The New York Times* said this morning: "The loans could reduce pressure on Portugal's foreign currency reserves, which are under considerable strain because of the need to import foodstuffs in part because of the war against the guerrillas in Angola, Mozambique and Portuguese Guinea."

This additional complication is an added reason for the Executive Branch to seek the advice and consent of the Senate before final action is taken on the reported agreement with Portugal. I am confident you will agree and I await your affirmative response.

Sincerely,

Clifford P. Case,
U.S. Senator.

Department of State,
Washington, D.C., December 17, 1972.

Hon. Clifford P. Case,
U.S. Senate,
Washington, D.C.

Dear Senator Case: The Secretary has asked me to reply to your letter of December 9 regarding the recent exchange of notes with Portugal formalizing continuance of the rights of the United States to use certain military facilities in the Azores.

The basis of our defense cooperation with Portugal is the North Atlantic Treaty, which was, of course, overwhelmingly approved by the Senate on July 21, 1949. The bilateral Defense Agreement of 1951 with Portugal, which was executed in implementation of the North Atlantic Treaty, provided for wartime use of the Azores facilities by United States forces "during the life of the North Atlantic Treaty" and for the peacetime presence of American personnel during a specified time for the purpose of preparing the facilities for possible wartime use, storing materiel, and otherwise achieving a state of readiness. These rights to peacetime presence of United States forces in the Azores, in pursuance of the goals of the North Atlantic alliance, were extended by agreement on November 15, 1957 to December 31, 1962.

Upon the expiration of our agreed rights of peacetime use under this bilateral agreement in 1962, those rights were extended unilaterally by the Portuguese Foreign Minister in a letter of December 29, 1962 to the American Ambassador. The exchange of notes which took place last week restored those rights to a bilaterally agreed basis, as was the case from 1951 to 1962. This exchange of notes did not, of course, expand in any way our presence in the Azores, which has remained substantially the same for many years. Likewise, it does not expand our commitments beyond those accepted by the Senate in giving advice and consent to ratification of the North Atlantic Treaty.

The various forms of assistance we intend to make available to Portugal will come under existing programs of the Departments of Defense, Agriculture and the Export-Import Bank of the United States. All assistance is expressly conditioned on the availability of authorizing legislation and appropriated funds. The Department does not agree that there is "a clear tie between the furnishing of economic aid to Portugal and the wars in the Portuguese colonies." Contrary to the press article you cite, there is no strain on Portugal's foreign currency reserves, which, in fact, have been rising continually and now stand at an all-time high of $1.6 billion. The main effect of the Eximbank and PL-480 credits we are offering Portugal should be to increase the United States share of Portugal's import market, which is lower than our share of the market in any other Western European country.

I am enclosing for your information, a complete set of the documents exchanged last week between the Secretary and the Portuguese Foreign Minister. If you have any further questions about them, please do not hesitate to let me know.

Sincerely yours,

David M. Abshire,
Assistant Secretary for Congressional Relations.

December 9, 1971.

His Excellency Rui Patricio,
Minister of Foreign Affairs of Portugal

Excellency: I have the honor to acknowledge receipt of Your Excellency's Note dated December 9, 1971, which reads as follows:

" I have the honor to refer to the letter of the Foreign Minister of Portugal to the Ambassador of the United States of America, dated December 29, 1962, and to the notes of this Ministry and of your Embassy, dated January 6, 1969, and February 3, 1969, respectively, relating to the conversations regarding the continued stationing of American forces and personnel at Lajes Base in the Azores and its use by the same.

"I have the honor to propose that the continued use by American forces of the facilities at Lajes Base be authorized by the Government of Portugal for a period of five years dating from February 3, 1969.

"The continued use of such facilities will be regulated by the mutual arrangements affirmed and described in the letter of the Foreign Minister of Portugal dated December 29, 1962. Either party may propose the commencement of conversations regarding use of such facilities beyond the period described in this note six months before the expiration of such period, but no determination that a negative result has arisen in such conversations shall be made for at least six months following the expiration of such period. In the event neither party proposes the commencement of further conversations, a negative result shall de deemed to have arisen upon the expiration of the period described in this note.

"I should like to propose that, if agreeable to your Government, this note together with your reply, shall constitute an agreement between our two Governments."

I confirm to you that the above quoted proposal is acceptable to the Government of the United States, and that Your Excellency's note and this reply shall be regarded as constituting a formal agreement between the two Governments.

Accept, Excellency, the assurances of my highest consideration.

William P. Rogers,
Secretary of State of the United States of America.

The Secretary of State,
Washington, D.C., December 9, 1971.

His Excellency Rui Patricio,
Minister of Foreign Affairs of Portugal.

Dear Mr. Minister: I refer to the series of discussions that have taken between our two Governments designed to enhance our political, economic, and cultural relations and in particular to the discussions that have centered on Portugal's development programs in the fields of education, health, agriculture, transportation, and science.

As a result of these discussions, the United States agrees, within the limitations of applicable United States legislation and appropriations, to help Portugal in its development efforts by providing the following economic assistance:

1. A PL–480 program that will make available agricultural commodities valued at up to $15 million during FY-1972 and the same amount during FY-1973. The terms of the agreements under PL–480 will be 15 years at 4½ percent interest, with an initial payment of 5 percent and currency use payment of 10 percent.

2. Financing for certain projects of the Government of Portugal, as follows: The two Governments have reviewed development projects in Portugal valued at $400 million and the United States Government declares its willingness to provide, in accordance with the usual loan criteria and practices of the Eximbank, financing for these projects.

3. The hydrographic vessel USNS Kellar on a no cost basis, subject to the terms of a lease to be negotiated.

4. A grant of 1 million to fund educational development projects selected by the Government of Portugal.

5. $5 million in "drawing rights" at new acquisition value of any non-military excess equipment which may be found to meet Portuguese requirements over a period of two years. The figure of five million dollars is to be considered illustrative and not a maximum ceiling so that we may be free to exceed this figure if desired.

As soon as the Government of Portugal replies to this letter, discussions shall be initiated to implement the details of each of the individual items listed herein.

Sincerely yours,

William P. Rogers.

The Secretary of State,
Washington, D.C., December 9, 1971.

His Excellency Rui Patricio,
Minister of Foreign Affairs of Portugal.

Dear Mr. Minister: During the recent discussions between our two Governments regarding possible participation by my Government in the plans which your Government has drawn up for the economic and social development of your country, Portuguese and American technicians have reviewed various Portuguese proposals with a total value of some $400 million. These included, inter alia, projects for airport construction, railway modernization, bridge-building, electric power generation, mechanization of agriculture, harbor construction and town planning, and the supplying of equipment for schools and hospitals.

I am pleased to inform you that the United States Government is willing to provide, through the Export-Import Bank of the United States, financing for U.S. goods and services to be used in these projects, in accordance with the usual loan criteria and practices of the Bank. Applications for loans or preliminary commitments covering specific projects may be submitted to the Bank through the Portuguese Embassy in Washington or directly at any time and will receive expeditious handling.

Sincerely yours,

William P. Rogers.

January 14, 1972.

Hon. William P. Rogers,
Secretary of State, Department of State, Washington, D.C.

Dear Mr. Secretary: As you may know, I have already informally told the Department that I plan to include the Bahrain base agreement in my resolution on Azore bases (S. Res. 214). I am enclosing for your information a copy of the amended resolution.

Since we are now in the process of preparing for hearings on S. Res. 214, I would be grateful if you could send me the details of the Bahrain agreement as the Department did earlier on the Azores pact.

Sincerely,

Clifford P. Case, *U.S. Senator.*

Department of State,
Washington, D.C., January 26, 1972.

Hon. Clifford P. Case,
U.S. Senate,
Washington, D.C.

Dear Senator Case: The Secretary has asked me to reply to your letter of January 14 requesting details on the agreement between the U.S. and Bahrain providing for the continued stationing of the U.S. Navy's Middle East Force in Bahrain.

I enclose a copy of the text of the agreement, which was concluded December 23, 1971, and will soon be published in the Treaties and Other International Acts Series. The Chairman of the Foreign Relations Committee has also been provided with a copy.

I would like to stress that this agreement is essentially a logistics arrangement to permit Middle East Force to continue to carry out its mission of visiting friendly ports in the Persian Gulf and Indian Ocean area as a manifestation of the United States interest in the states of the region. The agreement with the Government of Bahrain was necessary because the British have relinquished the naval facilities in Bahrain, a small portion of which our Navy has utilized on an informal basis for over two decades. In addition, the British retrocession of legal jurisdiction over all foreigners in Bahrain as that state became fully independent last year necessitated a direct U.S.-Bahraini arrangement on the legal status of the personnel of Middle East Force.

The agreement with Bahrain involves no change in U.S. naval presence or mission in the area and the agreement in no way involves a political or military commitment to Bahrain or any other state.

Department officers would, of course, be pleased to have the opportunity to discuss with you the Bahrain agreement and its relationship to U.S. policy toward the Persian Gulf.

Sincerely yours,

David M. Abshire,
Assistant Secretary for Congressional Relations.

Enclosure: Text of Bahrain Agreement.

I, the undersigned consular officer of the United States of America, duly commissioned and qualified, do hereby certify that the attached is a true and faithful copy of the original this day exhibited to me, the same having been carefully examined by me and compared with the said original and found to agree therewith word for word and figure for figure.

In witness whereof I have hereunto set my hand and affixed the seal of the American Embassy at Manama, Bahrain this day of December 23, 1971.

Richard W. Rauh,
Vice Consul of the United States of America.

Embassy of the
United States of America,
Manama, Bahrain, December 23, 1971.

His Excellency Shaikh Mohammad bin Mubarak al-Khalifa,
Minister of Foreign Affairs, Government of the State of Bahrain.

Excellency: I have the honor to refer to the present deployment in Bahrain of the United States Middle East Force, including its flagship and other vessels and aircraft. The United States Government proposes to maintain this presence and its related support facilities subject to the following arrangements:

1. Vessels and aircraft assigned to or supporting the United States Force may freely enter and depart the territorial waters, ports, and airfields of Bahrain;

2. Members of the United States Force will be allowed freedom of movement within Bahrain and freedom of entry to and egress from Bahrain;

3. If there is any substantial change contemplated by the United States Government in the deployment of vessels or aircraft or numbers of personnel to be supported on Bahrain in connection with the United States Middle East Force, the United States Government will consult with the Government of Bahrain before effecting that change;

4. Passport and visa requirements shall not be applicable to military members of the United States Force except as shall be agreed upon between the two governments. All members of the United States Force, however, shall be furnished with appropriate identification which shall be produced, upon demand, to the appropriate authorities of the Government of Bahrain. Members of the United States Force will be exempt from immigration and emigration inspection on entering or leaving Bahrain, and from registration and control as aliens, but will not by reasons of their entry into Bahrain be regarded as acquiring any rights to permanent residence in Bahrain;

5. Members of the United States Force will respect the laws, customs and traditions of Bahrain, and abstain from activity inconsistent with the spirit of these arrangements. The authorities of the United States will take necessary measures to that end;

6. Members of the United States Force shall not be subject to taxation on their salary and emoluments received from United States sources or on any other tangible movable property which is present in Bahrain due to their temporary presence there;

7. The authorities of Bahrain will accept as valid, and without a driving test or fee, driving licenses or military driving permits issued by the authorities of the United States to members of the United States Force;

8. The authorities of the United States will pay just and reasonable compensation in settlement of civil claims (other than contractual claims; arising out of acts or omission of members of the United States Force done in the performance of official duty or out of any other act, omission or occurrence for which the Force is legally responsible. All such claims will be expeditiously processed and settled by the authorities of the United States in accordance with United States law;

9. The United States Force and its members may import into Bahrain (without license or other restriction or registration and free of customs, duties and taxes, equipment, supplies, household effects, motor vehicles and other items required by the Force or for the personal use of the members of the Force. Any items imported under this paragraph may be exported freely without customs, duties, and taxes. However, any property of any kind imported entry free under this paragraph which is sold in Bahrain to persons other than to those entitled to duty free import privileges shall be subject to customs and other duties on its value at the time of sale.

10. Personal purchases by members of the United States Force from Bahraini sources shall not be exempt from Bahraini customs, duties and taxes except for certain articles to be agreed upon between the two governments;

11. The Government of Bahrain shall exercise civil jurisdiction over members of the United States Force, except for those matters arising from the performance of their official duties. The Government of the United States shall exercise criminal jurisdiction over members of the United States Force. In particular cases, however, the authorities of the two governments may agree otherwise;

12. The term "members of the United States Force" means members of the Armed Forces of the United States and persons serving with, or employed by said Armed Forces, including dependents, but excluding indigenous Bahraini nationals and other persons ordinarily resident in Bahrain territory, provided that such nationals or other persons are not dependents of members of the United States Force;

13. The occupancy and use of the support facilities required by the United States Force will be governed by administrative arrangements between the United States authorities and the authorities of Bahrain or, as appropriate, private property owners;

14. Should either government determine at some future time that it is no longer desirable to continue the presence on Bahrain of the United States Middle East Force, the United States shall have one year thereafter to terminate its presence.

If the foregoing is acceptable to the Government of Bahrain, I have the honor to propose that this note and your note in reply confirming acceptance will constitute an agreement between our respective governments regarding this matter.

Accept, Excellency, the assurance of my highest consideration.

John N. Gatch, Jr.,
Charge d'Affaires ad interim.

State of Bahrain,
Ministry of Foreign Affairs,
December 23, 1971.

John N. Gatch, Jr.
Charge d'Affaires ad interim, Embassy of the United States of America, Manama, Bahrain

Sir: I have the honour to acknowledge the receipt of your note dated December 23, 1971, reading as follows:

"His Excellency,
Shaikh Mohammad bin Mubarak al-Khalifa, *Minister of Foreign Affairs, Government of the State of Bahrain.*

Excellency: I have the honour to refer to the present deployment in Bahrain of the United States Middle East Force, including its flagship and other vessels and aircraft. The United States Government proposes to maintain this presence and its related support facilities subject to the following arrangements.

1. Vessels and aircraft assigned to or supporting the United States Force may freely enter and depart the territorial waters, ports, and airfields of Bahrain;

2. Members of the United States Force will be allowed freedom of movement within Bahrain and freedom of entry to and egress from Bahrain;

3. If there is any substantial change contemplated by the United States Government in the deployment of vessels or aircraft or numbers of personnel to be supported on Bahrain in connection with the United States Middle East Force, the United States Government will consult with the Government of Bahrain before effecting that change;

4. Passport and visa requirements shall not be applicable to military members of the United States Force, except as shall be agreed between the two Governments. All members of the United States Force, however, shall be furnished with appropriate identification which shall be produced, upon demand, to the appropriate authorities of the Government of Bahrain. Members of the United States Force will be exempt from immigration and emigration inspection on entering or leaving Bahrain, and from registration and control as aliens, but will not by reason of their entry into Bahrain be regarded as acquiring any rights to permanent residence in Bahrain;

5. Members of the United States Force will respect the laws, customs and traditions of Bahrain, and abstain from activity inconsistent with the spirit of these arrangements. The authorities of the United States will take necessary measures to that end;

6. Members of the United States Force shall not be subject to taxation on their salary and emoluments received from United States sources or on any other tangible movable property which is present in Bahrain due to their temporary presence there;

7. The authorities of Bahrain will accept as valid, and without a driving test or fee, driving licenses or military driving permits issued by the authorities of the United States to members of the United States Force;

8. The authorities of the United States will pay just and reasonable compensation in settlement of civil claims (other than contractual claims) arising out of acts or omission of members of the United States Force done in the performance of official duty or out of any other act, omission or occurrence for which the Force is legally responsible.

All such claims will be expeditiously processed and settled by the authorities of the

United States in accordance with United States law;

9. The United States Force and its members may import into Bahrain, without license or other restriction or registration and free of customs, duties and taxes, equipment, supplies, household effects, motor vehicles and other items required by the Force or for the personal use of the members of the Force. Any items imported under this paragraph may be exported freely without customs, duties, and taxes. However, any property of any kind imported entry free under this paragraph which is sold in Bahrain to persons other than those entitled to duty free import privileges shall be subject to customs and other duties on its value at the time of sale.

10. Personal purchases by members of the United States Force from Bahraini sources shall not be exempt from Bahraini customs, duties and taxes except for certain articles to be agreed upon between the two governments.

11. The Government of Bahrain shall exercise civil jurisdiction over members of the United States Force, except for those matters arising from the performance of their official duties. The Government of the United States shall exercise criminal jurisdiction over members of the United States Force. In particular cases, however, the authorities of the two governments may agree otherwise;

12. The term "members of the United States Force" means members of the Armed Forces of the United States and persons serving with, or employed by said Armed Forces, including dependents, but excluding indigenous Bahraini nationals and other persons ordinarily resident in Bahrain territory, provided that such nationals or other persons are not dependents of members of the United States Force;

13. The occupancy and use of the support facilities required by the United States Force will be governed by administrative arrangements between the United States authorities and the authorities of Bahrain or, as appropriate, private property owners;

14. Should either government determine at some future time that it is no longer desirable to continue the presence on Bahrain of the United States Middle East Force, the United States shall have one year thereafter to terminate its presence.

If the foregoing is acceptable to the Government of Bahrain, I have the honour to propose that this note and your note in reply confirming acceptance will constitute an agreement between our respective governments regarding this matter.

Accept, Excellency, the assurance of my highest consideration.

John N. Gatch, Jr.,
Chargé d'Affairs ad interim".

It is my pleasure to inform you that the Government of Bahrain agrees to all that was said in this note.

Accept, Sir, the assurance of my highest consideration.

Mohammad bin
Mubarak al-Khalifa,
Minister of Foreign Affairs, Government of Bahrain.

[From the Washington Post, Dec. 18, 1971]

TRADE LEADS THE FLAG

Eager to sell more American goods overseas, the United States discovered that Portugal had (1) a long list of civilian needs and (2) a tradition of buying from West Europe. So the State Department went to work to open the Portuguese market. It succeeded handsomely. The other day it announced for the Export-Import Bank that the bank would finance American exports for Portuguese development projects (Lisbon happens to have an excellent credit rating) valued at about $400 million. Exim currently is financing only $17 million worth of exports to Portugal; the total since 1934 is only $175 million. Portugal, whose economic and political lag continues to keep it out of the European Common Market, had obvious economic reasons of its own to make the deal.

In return, Portugal got several things. First, it got a base-extension agreement from Washington. We have used Lajes field in the Azores since 1962 without a formal accord and, assured of use anyway, we didn't want or seek a renewal. But Lisbon sought the political imprimatur which, it felt, a formal renewal would bestow on its general policy. Second, Portugal got a visit from Mr. Nixon, who met Prime Minister Caetano (and French President Pompidou) there this week. Mr. Caetano may not do much for Mr. Nixon's political image but Mr. Nixon does plenty for Mr. Caetano's. And third, Lisbon got a few other conspicuous goodies, such as $30 million worth of PL 480 food, $5 million worth of civilian gear (roadscrapers) from Pentagon "excess" stocks, and a $1 million grant for education projects "selected by the government of Portugal."

Well, these days export promotion is all the rage. And if the United States in fact needs an Atlantic base to track Soviet subs and to keep an eye on the mouth of the Mediterranean, then it's not outlandish that it should sign for it. Often, after all, as with Spain last year, base agreements are paid for in military supplies or in credits for such supplies, not in credits for development goods, as is the case now with Portugal.

There is, however, a high price to pay; many Americans, and black Africans, wish we weren't willing to pay it. It is to give Europe's last colonial power extra status and encouragement in its dominion over Portuguese Guinea, Angola and Mozambique. By allowing trade priorities to lead it into closer association with Lisbon, Washington unavoidably identifies itself further with a colonial regime. It did so without a word to indicate it may have some residual sympathies for Africans fighting for independence. It did so with a gratuitous visit to the Azores by Mr. Nixon. And it did so without any visible effort to separate the negotiation or at least the announcement of the base and credits deals so as to avoid the damaging impression that the credits were some kind of aid given in return for the base.

There is also the question raised by Senator Case's resolution calling on the President to submit the new pact to the Senate as a treaty demanding ratification: "I cannot believe that the founding fathers would not consider to be a treaty an agreement, such as the reported one with Portugal, which calls for the stationing of American troops overseas and which furnishes a foreign government with a reported $435 million in assistance." We don't think the $400 million in export credits can fairly be counted as aid, but Mr. Case has a good point anyway. "Nowhere in the Constitution," he said, "did the [the founding fathers] mention that the Executive could skirt senatorial approval simply by calling a pact with a foreign government an Executive agreement."

[From the Trenton Evening Times,
Dec. 20, 1971]

ADVICE AND CONSENT

The five senators who are seeking to have the administration submit the recent agreement with Portugal to the Senate for its advice and consent may be batting their heads against a stone wall. But they deserve an A for effort and their proposal merits the thoughtful consideration of their colleagues and the American public.

Under the accord, which the administration describes as an executive agreement not legally subject to congressional ratification, the United States promises Portugal up to $435 million in economic and social development credits in return for continued use of air and naval bases in the Azores.

Senator Case of New Jersey, a member of the Foreign Relations Committee, immediately wrote Secretary of State Rogers demanding that the pact be submitted to the Senate as if it were a treaty because it involves the stationing of American troops overseas. The Case move was not unprecedented. Senator Fulbright, the chairman of the committee, had sought unsuccessfully last year to have the administration submit a bases agreement with Spain to Senate consideration. Now Sens. Case and Fulbright have been joined by Sens. Javits of New York, Symington of Missouri and Church of Idaho in the introduction of a resolution that would declare it to be the "sense of the Senate" that any new agreement with Portugal for military bases or foreign assistance be submitted as a treaty for the Senate's advice and consent, and that no economic assistance be furnished Portugal without affirmative action by both houses of Congress.

The justification of an arrangement with a highly authoritarian regime that has been engaged for a decade in wars against nationalist guerrillas in Africa might be a distasteful and difficult problem for the administration. But that does not justify the bypassing of the constitutional role of the Senate in the treaty-making area. And, as Senator Case said, the framers of the Constitution "did not mention that the executive could skirt senatorial approval by simply calling a pact with a foreign government an executive agreement."

[From the Long Island Newsday, Dec. 22, 1971]

THE AZORES AGREEMENT

The recent decision of the Nixon administration to negotiate a five-year agreement with Portugal allowing this nation to use air and naval bases in the Azores has distressed one member of our United Nations delegation to the point of resignation.

And—as a black man and an American—Rep. Charles Diggs (D-Mich.) had good reason to be upset. The Azores agreement, said Diggs upon leaving the UN mission, was just another example of the "stifling hypocrisy" that characterizes this nation's policy toward black Africa.

For, the agreement comes complete with a $436,000,000 American donation to Portugal—money, said Diggs, that will be used to the disadvantage of suppressed blacks in Portugal's African territories.

Diggs is not the only person in Washington perturbed by the agreement. Sen. Clifford Case (R-N.J.) and four other senators, all members of the Foreign Relations Committee, last week introduced a "sense of the Senate" resolution that would put the upper house on record as opposing any new agreement with Portugal involving aid and military installations not first cleared by the Senate as a treaty.

The State Department says the White House was able to act unilaterally in this instance because the pact was an "executive agreement" and *not* a treaty. But Case and his co-sponsors—including Sens. Jacob Javits (R-N.Y.) and J. William Fulbright (D-Ark.)—are not satisfied with that answer.

On humanitarian and economic terms, the agreement with Portugal is questionable, at best. And, as an instrument of practical necessity, it is of doubtful purpose. An outpost in the Azores hardly seems vital to our national defense.

We urge the Senate to pass the Case resolution quickly when Congress reconvenes next month. Perhaps then the White House will get the message and re-think its position, at the very least when it considers future arrangements with foreign governments. Major U.S. support for the Portuguese—and the concomitant loss of respect for U.S. intentions among emerging African nations—is too vital a matter to be settled by Presidential decree.

[From the New York Times, Dec. 26, 1971]

IN CONTEMPT OF THE CONSTITUTION

Since World War II, the United States has had the privilege of refueling its military planes at an air base in the Portuguese Azores. This arrangement included port facilities for the U.S. Navy. A so-called "executive agreement" was entered into between this Government and Portugal and regularly renewed until 1962, when the Portuguese allowed it to lapse because of their resentment against the Kennedy Administration's anti-colonial policy in Africa. Use of the facilities continued, however, without a formal agreement. About 1,500 American servicemen have been stationed in the Azores for many years.

Earlier this month, President Nixon revived the agreement and not only renewed it for five years but also granted $435 million in economic aid to Portugal without consulting Congress.

Air and Naval bases, the stationing of troops overseas, the granting of money—these are the very substance of foreign policy. If the Senate is to exercise its constitutional authority to advise and consent in the making of foreign policy, it has an obligation to pass judgment on these issues.

Under the North Atlantic Treaty, of which Portugal is a signer, and under various laws enacted in the past the Nixon Administration can find a color of legality for the latest Azores deal. But the truth is that the President did not submit this agreement to the Senate as a treaty because he knew that he could not get two-thirds approval. It is doubtful if he could get the support of a simple majority. Rather than put the question to a test, he has put himself in contempt of the plain intent of the Constitution. It is an odd posture for a President who claims to be a "strict constructionist."

It is worth recalling that in 1947 when President Truman wanted to extend a smaller amount of aid—$400 million—to Greece and Turkey, he addressed a joint session of Congress and committees of Congress held lengthy hearings before approval was granted.

The amount of assistance granted to Portugal is enormous in terms of that small country's limited budget. It is also politically significant because it eases Portugal's budgetary difficulties when her finances are strained by the cost of combating the guerrilla warfare of the black rebels in the African colonies. Do the American people with their anti-colonial traditions wish to provide a subsidy to this last ramshackle little empire?

Senator Case, Republican of New Jersey, and four other members of the Senate Foreign Relations Committee from both parties have challenged Mr. Nixon's righthanded behavior by introducing a resolution calling upon him to submit the Azores agreement to the Senate for ratification as a treaty. If the Senate wishes to restore its constitutional credibility as a partner in the making of foreign policy, it will adopt this resolution.

[From the Washington Post, Jan. 9, 1972]

WHAT'S OUR GAME IN THE INDIAN OCEAN?

The stated grounds for the new American naval role planned in the Indian Ocean are so flimsy that one can only wonder if it has not been undertaken merely to provoke "the lady," as Indian Prime Minister Gandhi is apparently known in the White House these days. On the one hand, the larger and more frequent patrols will supposedly fill the "vacuum" being left by the British; on the other, they will offset the expanding but still modest presence (10 ships) of the Russians. Take your pick—or take both; they're small.

The Pentagon makes no effort to identify any newly threatened American interest. Rather, it says the Navy is eager for Indian Ocean "operating experience," vessels are available from the Vietnam war, and "we do have the capability." In a similar pose of innocence, the Pentagon calls attention to its new mid-Ocean "communications center" on Diego Garcia, as though to say, we've got it so let's use it.

Just last July, addressing a House Foreign Affairs subcommittee, administration witnesses could discern no pressing reasons for enlarging the then-modest American naval presence in and about the Indian Ocean. Since then, of course, the Indo-Pakistani war has taken place. In a gesture intended, according to the "Anderson papers," to distract Indian forces from Pakistan, the United States sent a task force including aircraft and helicopter carriers into the Indian Ocean. The administration's explanation that the ships were meant to evacuate Americans, if a threat to them materialized, must be set against the fact that three weeks after the war, the ships are still there. Is this not the spirit in which the new patrols have been ordered?

For the United States substantially to upgrade its politico-military role in an ocean heretofore spared the excesses of great-power competition is, however, a major move deserving of thorough public discussion. It goes well beyond the administration's disturbing step, just revealed, to take over from the British a naval base on Bahrain in the adjoining Persian Gulf; Senator Case has correctly demanded that this new executive agreement be submitted to the Senate as a treaty. Just what American interests are being served, and how? Will the American move solidify or loosen the Soviet purchase in India? Should we move unilaterally into a new theater, international sea though it be, when no litoral state has invited us and when all litoral states have just demanded in a General Assembly resolution that the big powers stay out? Should we consider responding in kind to the public Soviet offer of last July to negotiate naval limits in the Indian Ocean and elsewhere? Will our increased presence there give the Russians a stronger claim to increase their presence in the Caribbean?

We would have thought that the vaunted "Nixon Doctrine" militated against such an initiative as the President has now taken in the Indian Ocean. Or is this Doctrine already extinct?

[From the New York Times, Jan. 10, 1972]

NEEDED: CANDOR AND CONSENT

From the strategic viewpoint it makes good sense for the United States to maintain a modest naval task force in the Persian Gulf, as it has done for twenty years. What concerns us about the new arrangement for a permanent American naval station on Bahrain is the same problem that bothers Senator Case of New Jersey and four of his Foreign Relations Committee colleagues.

The agreement, signed with the newly-independent Government of Bahrain Dec. 23, was not announced; it was confirmed by Washington only after a New York Times dispatch had disclosed its existence, it was not in the form of a treaty, which would require Senate advice and consent, but an executive agreement, which does not have to be submitted to Congress at all.

It thus fits the pattern of Administration behavior illustrated only last month by revival of a pact with Portugal for continuing use of bases in the Azores in return for $535 million in credits, and by the signing last year of a new agreement with General Franco for bases in Spain at a comparable price. Mr. Case and his colleagues, who have already asked the Administration to submit the pact with Portugal as a treaty, say they will broaden their resolution to include the Bahrain agreement.

The presence in the Persian Gulf of even a converted seaplane tender and two destroyers—the current size of the task force—could bolster stability in a volatile area. Along with the decision to deploy Seventh Fleet patrols more frequently in the Indian Ocean, the force at Bahrain could offset an expanding Soviet naval presence and fill a vacuum left by Britain's withdrawal last year.

But if anything is clear about American military deployment and American bases in Asia after the bitter disillusionment in Indochina, it is that the Administration must make its case openly for every major move—with Congress and the country. Senator Case deserves plaudits, as usual, for reminding the Administration that establishment of an American base abroad is "a very serious matter" on which the Congress should be consulted.

[From the Philadelphia Evening Bulletin, Jan. 10, 1972]

SHOWING THE FLAG OFF INDIA

The U.S. Senate is restive over the emerging American presence in the Indian Ocean. And properly so, despite the Navy's argument that the "showing of the flag," in the shape of the giant nuclear carrier Enterprise, is necessary to counter Soviet penetration in this area of fast fading British influence.

Several senators have posed two critical questions: Could the deployment and the simultaneous leasing of an old British base from the Sheikdom of Bahrain precipitate the same disastrous sequence of events which culminated in the Vietnam War? And shouldn't the Bahrain agreement be submitted to the Senate for ratification?

There is, of course, a distinction to be made between the deployment of a carrier off the Indian subcontinent to assert "freedom of the (Indian) seas" and the leasing of a base.

The former suggests a transient presence, to be augmented, reduced, or, as the Navy asserts in this instance, to be withdrawn altogether, periodically.

But a base, in anybody's definition—the Senate's or the Nixon Administration's—is just the dangerous stuff unwanted commitments are made out of. There's always the danger the Bahrain agreement might escalate to a commitment far exceeding Mr. Nixon's "low (Asian) profile . . ." And this possibility is all the more real for the fact that Bahrain views the agreement as an effective counter to territorial demands by Iran and Iraq.

Thus, the understandable anxiety of U.S. Senator Case (R-NJ) and Senator Fulbright (D-Ark). It may well be that the senators overreach in demanding that not only the Bahrain accord but the recent agreement with Portugal for expanded U.S. use of the Azores be submitted to the Senate for ratification. But one thing is certain. Only such demands, registered in firm and uncompromising language, can set the stage for the comprehensive debate such agreements dictate.

The debate may not bring the vote on ratification Mr. Case wants, or even prove that the accords are "treaties," properly subject to Senate action. But surely debate on such a critical constitutional question would serve to set and illuminate the limits of the U.S. commitment, on Bahrain and the Azores.

It is knowing precisely where the limits are that prevents or, at least substantially reduces, the threat of another Vietnam.

BACK TO THE CONSTITUTION

With no fanfare at all President Nixon has now entered into an agreement to establish a naval base on Bahrain, an island in the Persian Gulf that recently proclaimed its independence. Sen. Case of New Jersey rightly protests that the agreement is actually a treaty, and he insists it should be submitted to the Senate as the Constitution directs.

President Nixon is probably quite right in supposing that the base on Bahrain makes sense. He might even have been right in suppositions leading up to another so-called executive agreement with Portugal concerning bases in the Azores. But his rightness should not be permitted to obscure the central point, that major agreements with foreign nations should be submitted to the Senate for its review and advice.

The President's power in foreign affairs is enormous, which has been demonstrated for years in Vietnam and lately again in the war between India and Pakistan. But the Constitution and common sense insist that it be not unlimited. Congress does have its role.

There is need for debate of an issue like a naval base in the Persian Gulf. That is a dangerous part of the world. As Sen. Case points out, Iran has lately occupied certain islands in the Persian Gulf, and there is a territorial dispute among several Arab countries about islands there. The United States could become involved, and the Senate should have full knowledge of the possibilities.

Sen. Case has been joined by Sens. Javits, Fulbright, Church, and Symington in sponsoring a resolution calling for submission of the Azores agreement to the Senate for confirmation as a treaty. He now intends to submit a new resolution on Bahrain or to extend the Azores resolution to cover Bahrain.

Mr. Case stated the case well when he said:

> The Senate's treaty-making role is so clearly defined in the Constitution that it should be redundant to be introducing resolutions calling for the Senate to give its advice and consent to treaties. Yet the Senate's role in the treaty-making process has become so eroded that we have no choice.

By Mr. STENNIS (for himself and Mrs. SMITH) (by request):

S. 3448. A bill to authorize certain construction at military installations and for other purposes. Referred to the Committee on Armed Services.

Mr. STENNIS. Mr. President, for myself and the senior Senator from Maine (Mrs. SMITH) I introduce, by request, a bill to authorize construction at military installations and for other purposes.

I ask unanimous consent that the letter of transmittal requesting introduction of the bill and explaining its purpose be printed in the RECORD immediately following the listing of the bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., March 23, 1972.
Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation "To authorize certain construction at military installations and for other purposes."

This proposal is a part of the Department of Defense legislative program for FY 1973. The Office of Management and Budget on March 6, 1972, advised that its enactment would be in accordance with the program of the President.

This legislation would authorize military construction needed by the Department of Defense at this time, and would provide additional authority to cover deficiencies in essential construction previously authorized. Appropriations in support of this legislation are provided for in the Budget of the United States Government for the FY 1973.

Titles I, II, III, and IV of this proposal would authorize $1,869,250,000 in new construction for requirements of the Active Forces, of which $980,396,000 are for the Department of the Army; $540,869,000 for the Department of the Navy; $301,585,000 for the Department of the Air Force; and $46,400,000 for the Defense Agencies.

Title V contains legislative recommendations considered necessary to implement the Department of Defense family housing program and authorizes $1,073,684,000 for costs of that program for FY 1973.

Title VI contains authorization to expand the Homeowners Assistance Program (authorized by section 1013 of Public Law 89-754) to cover two limited situations in which Department of Defense homeowners outside the United States have not been eligible for assistance.

Title VII contains General Provisions applicable to the Military Constitution Program.

Title VIII totaling $97,185,000 would authorize construction for the Reserve Command Components, of which $33,570,000 is for the Army National Guard; $33,500,000 for the Army Reserve; $14,715,000 for the Naval and Marine Corps Reserves; $9,000,000 for the Air National Guard; and $6,400,000 for the Air Force Reserve. These authorizations are in lump sum amounts and will be utilized in accordance with the requirements of chapter 133, title 10, United States Code.

The projects which would be authorized by this proposal have been reviewed to determine if environmental impact statements are required in accordance with Public Law 91-190. Eighteen projects have been identified which may require environmental impact statements. Environmental statements will be submitted to the Congress by the military departments when required procedures have been completed.

Sincerely,

MELVIN R. LAIRD.

By Mr. ROBERT C. BYRD (for Mr. JACKSON):

S. 3449. A bill to authorize and direct the Water Resources Council to coordinate a national program to insure the safety of dams and other water storage and control structures, to provide technical support to State programs for the licensing and inspection of such structures, to encourage adequate State safety laws and methods of implementation thereof; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

NATIONAL SAFETY OF DAMS ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I introduce a bill and I ask unanimous consent that a statement prepared by Senator JACKSON together with the text of the bill be printed in the RECORD at this point.

There being no objection, the statement and bill were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON—NATIONAL SAFETY OF DAMS ACT

Mr. President, I introduce for appropriate reference the "National Safety of Dams Act."

This measure would provide for an expedited national program, coordinated by the Water Resources Council, to insure the safety of dams and other water storage and control structures. At the request of the Governor of any State, the Council, together with State officials, would prepare a technical assistance plan to insure the safety of water storage and control structures in that State. Under the Council's direction, technical assistance would be provided to the State by the Bureau of Reclamation and Geological Survey, the Army Corps of Engineers, and the Soil Conservation Service for its program of licensing and inspection of such structures and for other activities necessary for implementation of the plan. As a precondition for Federal assistance, the State would have to demonstrate that it has adequate safety laws and methods for implementation of those laws. An annual sum of $5,000,000 would be authorized for the administration of the program.

Mr. President, the tragic Buffalo Creek disaster which occurred in West Virginia has focused public attention on one aspect of a widespread danger to life and property. The dam which failed on February 26th was constructed out of mine refuse and was intended to impound water from a washing process at the mine. The failure apparently resulted because the structure was not properly designed for the release of excess water and because it was capable of impounding more water than the dam could safely retain.

In the aftermath of this tragedy, it has become evident that there are other similar structures, possibly equally as dangerous, existing throughout the country.

The terrible loss of life, human misery, and destruction of property which resulted from the Buffalo Creek disaster cannot be lessened by legislation, but the lesson of that disaster can provide the incentive to remedy the potential disasters which exist elsewhere.

Mine impoundments are only one of the many kinds of water control structures which pose threats to life and property. There are dams throughout the nation which have been constructed by public and private entities for all manner of purposes, many of which are of far greater size than the Buffalo Creek structures and which may pose threats of far greater disasters than did the failure at Buffalo Creek.

There are nearly 30,000 dams and reservoirs in the United States which are under state supervision. Some of these dams and reservoirs may be subject to Federal regulations under such statutes as the Coal Mine Health and Safety Act. Others are exclusively under State supervision. Unfortunately, neither situation provides for adequate regulation and inspection throughout the nation.

The safety of these impoundments should be a matter of great concern to public officials. The security of life and property below the reservoirs depends upon professionally competent design and construction supervision, and programs for regular inspection and maintenance of completed structures. Unfortunately, there is no uniformity among State laws regulating these structures.

In July of 1966, the United States Committee on Large Dams surveyed existing State law and reported that the majority of the states either had not enacted laws adequate to safeguard the public or did not fully support the laws already enacted. In 1969, the same body prepared and circulated a model State law for State supervision of safety of dams and reservoirs.

As is often the case, however, most states have small water resources staffs which are already overburdened with a variety of duties regarding water supply, water quality control, and other water resource responsibilities. If an expedited program of inspection of all non-Federal impoundments nationwide is to be carried out by the States, as it should be, the expertise and manpower of the Federal agencies which have engineering competence and which are leaders in the field of hydraulic structures must be mobilized to assist in the effort.

It is not logical to confine this effort to the type of mine spoil impoundments which failed in West Virginia. The problem is much broader than that. The problem is the lack of law and staff and monetary resources at the State level to insure the safety of water control structures of every type.

We as a Nation cannot countenance the continued threats to life and property which unsafe dams and water impoundment pose. Congress must act to provide for an expedited national program to insure dam safety.

The bill I propose today would lend needed support to the States to encourage them to attack the problem of dam safety. The vastly greater resources in technical knowledge and manpower of the Federal government would be placed at the States' disposal. The States, in turn, would be required to strengthen their safety laws and programs so as to make effective use of these Federal resources.

S. 3449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Safety of Dams Act."

Section 1. The Congress, recognizing the responsibility of the Federal Government and the governments of the several States to provide for the public welfare, finds—

(a) That provisions for the licensing and inspection by the States of the construction and operation of structures for the storage and regulation of water vary widely among the several States and in a number of States are inadequate to insure the safety and welfare of the public;

(b) That even in States which do provide for State licensing and inspection of such structures, there frequently are not adequate funds, personnel, and technical ability to maintain an adequate schedule of inspection of dams and other water control structures with the frequency and detail necessary to insure their safety;

(c) That the Federal Government has accepted responsibilities for broad public protection from floods in programs for the direct Federal construction of flood control and waterway improvement works, Federal financial assistance for the construction of flood control works by others, regulation of the construction of impoundments on navigable streams, and programs of disaster relief for areas affected by floods;

(d) That the Federal water resource development agencies possess technical competence in every aspect of design, construction, operation, and safety of water storage and control structures which need not and probably cannot be duplicated at the level of State government; and

(e) That the necessity for an expedited national program to insure the safety of water storage and control structures has been recently and tragically demonstrated in the cost of lives lost and property damaged and in reports which document the lack of safety in many such structures throughout the Nation.

Sec. 2. To implement an expedited national program to insure the safety of water storage and control structures, the Secretaries of the Interior, Army, and Agriculture, acting through the Water Resources Council, are authorized and directed to develop a program of technical assistance for the support of State programs for the licensing and inspection of non-Federal dams and other water storage and control structures. The existing technical personnel and facilities of the Bureau of Reclamation and Geological Survey, the Army Corps of Engineers, and the Soil Conservation Service shall be made available as otherwise provided in this Act to implement this program.

Sec. 3. Upon the establishment of the program authorized by Sec. 2, and upon written application by the Governor of a State to the Water Resources Council (hereinafter referred to as the "Council"), the Council shall, in consultation with State officials designated by the Governor, prepare a technical assistance plan to insure the safety of water storage and control structures in the State. Federal assistance provided under the plan may include any or all of the following functions—

(a) Technical review and recommendations to the appropriate State official concerning the adequacy of the designs of water storage and control structures which are proposed for State licensing or are currently under construction;

(b) Field inspection of existing water storage and control structures and recommendations to appropriate State officials concerning the safety of such structures and remedial measures required to protect life and property from any inadequacies found therein;

(c) Technical assistance to State officials on specific problems arising from State licensing and inspection of water storage and control structures; and

(d) Technical assistance to State officials on the development of general criteria for the design, construction, operation, and maintenance of water storage and control structures.

Sec. 4. No State shall be eligible for assistance under this Act until it has shown to the satisfaction of the Council that:

(a) The State requires by law that the construction of new water storage and control structures, as defined in this Act, and the modification, enlargement, and removal of existing such structures must be approved in writing by an appropriate State agency having engineering competence;

(b) The State provides by law for the inspection by a State official having engineering competence of water storage and control structures during construction and of existing structures periodically during operation;

(c) The State by law provides authority to an appropriate State official having engineering competence to suspend construction work, to restrict operation, and to require repairs or modifications of water storage and control structures for the protection of life and property;

(d) The State provides by law or regulation a procedure acceptable to the Water Resources Council for prompt and adequate consideration of complaints to the State by citizens who are or claim to be endangered or damaged by water storage and control structures; and

(e) The Governor of the State has designated a State official with engineering competence to administer the State laws and to represent the State in cooperation with the Council pursuant to this Act.

Sec. 5. Nothing in the Act shall add to or detract from the legal responsibility of the United States for damages caused by the partial or total failure of any water storage or control structure.

Sec. 6. For the purposes of this Act—

(a) A "water storage or control structure" means any artificial barrier including appurtenant works which does or will impound or divert water and which (1) is or will be 25 feet or more in height above the natural streambed or from the lowest elevation of the base of the barrier to the maximum elevation of impounded water, or (2) has or will have a maximum impounding capacity of 50 acre-feet or more, or (3) is a conveyance work designed to pass flood flows for the purpose of protecting life or property. *Provided,* That barriers which either are less than six feet in height or have a maximum impounding capacity of less than 15 acre-feet shall be excluded: *Provided further,* That "water storage or control structure" shall not include any structure constructed, operated, or owned by the United States.

(b) A "State" includes the District of Columbia, Puerto Rico, and the Territories of Guam, American Samoa, and the Virgin Islands.

Sec. 7. The Water Resources Council is authorized to make such rules and regulations as it may deem necessary or appropriate for carrying out the provisions of this Act.

Sec. 8. There are authorized to be appropriated to the Water Resources Council not more than $5,000,000 annually for the five fiscal years beginning with the fiscal year of the date of enactment of this Act for the administration and for transfer to the agencies enumerated in section 2 of this Act to carry out the purposes of this Act.

By Mr. CRANSTON:

S. 3450. A bill to authorize continuation of programs of ACTION, create a National Advisory Council for that Agency, and for other purposes. Referred to the Committee on Labor and Public Welfare.

ACTION ACT OF 1972

Mr. CRANSTON. Mr. President, I introduce today, for appropriate reference, on the request of the administration, S. 3450, the proposed ACTION Act of 1972, a bill to authorize continuation of programs of ACTION, to create a National Advisory Council for that Agency, and for other purposes.

This draft legislation was transmitted to the President of the Senate by the Director of ACTION on March 16, 1972. Mr. President, I ask unanimous consent that this transmittal letter, together with the proposed draft bill and section-by-section analysis, be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Action,
Washington, D.C., March 16, 1972.

Hon. Spiro T. Agnew,
President of the Senate,
Washington, D.C.

Dear Mr. President: I am transmitting herewith a proposed bill authorizing the continuation of programs of ACTION, creating a National Advisory Council for ACTION, and for other related purposes.

Reorganization Plan No. I of 1971 brought together in a new agency, ACTION, a number of programs which together provide a broad mix of volunteer services—Volunteers in Service to America (VISTA), Retired Senior Volunteer Program (RSVP), Foster Grandparents Program, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE). The Peace Corps and the Office of Voluntary Action were also transferred to ACTION by Executive Order No. 11603 on July 1, 1971.

When the President submitted Reorganization Plan No. I to the Congress on March 24, 1971, he outlined in his message of transmittal additional steps which would be necessary in support of his goal of an expanded government contribution to volunteer service.

This bill would provide the Director of ACTION with sufficient authority to achieve that goal. It would modify existing legislation to take into account the effects of the creation of ACTION, to broaden the areas of endeavor in which volunteers may be employed, and to eliminate some of the differences between the treatment afforded domestic volunteers and that afforded volunteers in international programs. The provisions of the bill are described in the attached section by section analysis.

Among the major provisions are—

A continuing authorization for the international and domestic activities of ACTION;

Grant-making authority for new programs to stimulate and initiate improved methods of providing volunteer services and to encourage wider volunteer participation; and

A broadening of the scope of the VISTA and Foster Grandparent Programs.

The amendments contained in this bill are a substantial step towards providing ACTION with the necessary authority to utilize to the fullest extent the abilities of volunteers in programs of service supported by the Federal Government, and to permit the effective management of them. We recommend their prompt enactment.

We are advised by the Office of Management and Budget that enactment of this legislation would be in accord with the program of the President.

Sincerely yours,

Joseph H. Blatchford,
Director of ACTION.

A Bill Authorizing Continuation of Programs of ACTION, Creating a National Advisory Council for That Agency, and for Other Purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Action Act of 1972."

TITLE I—PEACE CORPS

Sec. 101. There are authorized to be appropriated such sums as may be necessary to carry out the functions, powers, and duties authorized by the Peace Corps Act.

Sec. 102. Paragraph (2) of subsection (b) of Section 301 of the Peace Corps Act (22 U.S.C. § 2501a), which relates to encouragement of voluntary service programs, is amended by deleting "$300,000" and substituting therefore "$350,000" and deleting "1971" and inserting before the word "fiscal" the word "any".

TITLE II—VOLUNTEERS IN SERVICE TO AMERICA

Sec. 201. Section 801 of the Economic Opportunity Act of 1964 is amended to read as follows:

"Sec. 801. This Title provides for a program of full and part-time voluntary service, and for the operation and funding of special and demonstration volunteer programs, together with other powers and responsibilities designed to assist in the development, encouragement and coordination of volunteer programs. Its purpose is primarily to strengthen and supplement efforts to eliminate poverty and, additionally, to deal with a broad range of human, social, and environmental needs through the use of volunteers."

Sec. 202. Section 810 of such Act is amended to read as follows:

"Sec. 810. (a) The Director of Action (hereinafter in this Title referred to as the 'Director') may recruit, select, and train persons to serve in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or Indian reservations, in full-time volunteer programs, and, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to programs and activities designed to carry out the purposes of this Title.

"(b) The assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities. No program designed to carry out the purpose of this Title shall be established within a State unless such program has been submitted to the Governor and has not been disapproved by him with 45 days of such submission. The assignment of a volunteer in any State shall be terminated by the Director when so requested by the Governor of such State not later than 30 days or at a time thereafter agreed upon by the Governor and the Director after such request has been made by the Governor to the Director."

Sec. 203. Section 810 of such Act is amended by adding at the end thereof the following new subsection:

"(c) The term 'Governor' as used in this section means the Governor of the State, in the case of any of the 50 States, and in the case of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, the chief executive officer thereof."

Sec. 204. The first sentence of subsection (a) of Section 811 of such Act is amended to read as follows:

"Sec. 811. (a) Volunteers under this Part shall be required to make a full-time personal commitment to achieving the purposes of this Title and the goals of the projects or programs to which they are assigned."

Sec. 205. Subsection (b) of Section 811 of such Act is amended to read as follows:

"(b) Volunteers under this Part shall be enrolled for such periods of service as the Director may determine."

Sec. 206. Subsection (c) of Section 811 of such Act is amended to read as follows:

"(c) Volunteers under this Part shall, upon enrollment, take the same oath of office as prescribed for persons enrolled in the Peace Corps (22 U.S.C. § 2504(j)): *Provided,* That persons legally residing within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, either permanently or temporarily, but who are not citizens of the United States, may serve in programs carried on under this Title without taking or subscribing to such oath, if the Director determines that the service of those persons will further the interests of the Unted States. Those persons shall take such alternative oath or affirmation as the Director shall deem to be appropriate. No funds may be expended to transport such persons either to or from any place outside the areas specified in this subsection."

Sec. 207. (a) Section 812 of such Act is amended by adding at the end thereof the following new subsection:

"(d) For the purposes of the Internal Revenue Code of 1954, a volunteer shall be deemed to be paid and to receive each amount of any such stipend to which he is entitled under this section when such amount is transferred from funds made available for the payment of such stipend to the fund from which such stipend is payable."

(b) Section 1304 of the Internal Revenue Code of 1954 (26 U.S.C. § 1304) is amended by adding at the end thereof the following new subsection:

"(g) For treatment of the stipend paid to VISTA volunteers and volunteer leaders, see Section 812(d) of the Economic Opportunity Act of 1964 (42 U.S.C. § 2992b(d))."

Sec. 208. (a) Title VIII of the Economic Opportunity Act of 1964 is amended by adding the following new section:

"VISTA ALLOWANCES

"Sec. 813. (a) In the case of an individual who is a volunteer or volunteer leader within the meaning of title VIII of the Economic Opportunity Act of 1964, amounts received as allowances other than amounts received as—

"(1) leave allowance, or

"(2) such portion of living allowances as the Director may determine as constituting basic compensation

shall not be included in gross income for purposes of income taxation under the Internal Revenue Code of 1954."

(b) Section 3401(a) of the Internal Revenue Code of 1954 (26 U.S.C. § 3401(a)) is amended by adding at the end thereof the following new paragraph:

"(17) to a volunteer or volunteer leader within the meaning of title VIII of the Economic Opportunity Act of 1964, except stipends, leave allowances or living allowances determined by the Director of Action to be basic compensation."

and by eliminating the word "or" from the end of paragraph 15 and adding it to the end of paragraph 16.

(c) Section 124(a) of the Internal Revenue Code of 1954 (26 U.S.C. § 124(a)) is amended by adding at the end thereof the following new paragraph:

"(19) Certain allowances paid to VISTA volunteers and volunteer leaders, see section 813 of the Economic Opportunity Act of 1964 (42 U.S.C. § 2992(c))."

Sec. 209. The first sentence of subsection (a) of section 820 of such Act is amended to read as follows:

"Sec. 820. (a) The Director shall develop programs designed to expand opportunities for persons to participate in a direct and personal way, on a part-time basis or for short periods of service either in their home or nearby communities or elsewhere, in volunteer activities contributing to the elimination of poverty or otherwise in furtherance of the purposes of this title."

Sec. 210. Section 822 of such Act is hereby repealed.

Sec. 211. Subsection (c) of section 833 of such Act is amended to insert after the word "service" the first time it appears the following: ", including training,".

Sec. 212. Section 815 of such Act is hereby repealed.

TITLE III—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAM

Sec. 301. (a) Section 601 of the Older Americans Act of 1965 is amended by adding at the end thereof the following new subsection:

"(d) No compensation provided to individual volunteers under this Part shall be considered income for any purposes whatsoever."

Sec. 302. (a) The heading of Part B of Title VI of such Act is amended to read as follows: "Foster Grandparent Program and Other Senior Volunteer Programs".

(b) Section 611 of such Act is amended to read as follows:

"Sec. 611. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of the development and operation of community projects designed to provide volunteer opportunities for low-income persons aged 60 or over to render supportive services to people having exceptional needs.

"(b) For the purposes of subsection (a), grants or contracts shall be made principally for projects providing services as 'Foster Grandparents' to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs.

"(c) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine."

(c) The first sentence of Section 613 of such Act is amended to read as follows:

"Sec. 613. In administering this part, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this part with other public or private programs or projects carried out at State and local levels."

Sec. 303. (a) Title VI of such Act is amended by striking out the word "Secretary" wherever it appears, and inserting in lieu thereof "Director".

(b) Such Title is further amended by adding at the end thereof the following new section:

"MEANING OF DIRECTOR"

"SEC. 615. For purposes of this Title, the term 'Director' means the 'Director of Action.'"

(c) Section 202(3) of the Older Americans Act of 1965 is amended by inserting before the semicolon at the end thereof ", except for Title VI thereof".

TITLE IV—GENERAL PROVISIONS

SEC. 401. (a) There is hereby established a National Advisory Council for Action (hereinafter referred to as the "Council"). The Council shall consist of not more than 35 members appointed by the President. They shall be broadly representative of educational institutions, voluntary agencies, farm organizations, business and labor organizations, volunteers, and other public and private organizations and groups as well as individuals interested in the programs and objectives of Action. The Council shall advise and consult with the President and the Director of Action (hereinafter in this Title referred to as the "Director") with regard to policies and programs designed to further the purposes of that Agency.

(b) Members of the Council shall serve at the pleasure of the President and meet at his call or at the call of the Director. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of the Council or while otherwise serving at the request of the President or the Director, shall receive no compensation but may each receive out of funds available for the purposes of Action, while serving away from their homes or regular places of business, actual travel expenses and a per diem allowance or actual and necessary expenses as authorized by Section 5703 of Title 5 of the United States Code for persons in the Government service employed intermittently.

SEC. 402. Section 12 of the Peace Corps Act (75 Stat. 619, 22 U.S.C. § 2511) is repealed, and the Peace Corps National Advisory Council is abolished, effective 90 days after the enactment of this Act.

SEC. 403. (a) The Director is authorized to make grants to any public or nonprofit private agencies, organizations, or institutions in the United States and to enter into contracts with any such agencies, organizations, or institutions, or with any individuals in the United States—

(1) to develop and demonstrate new approaches, techniques, and methods with respect to the recruitment, training, and use of full-time and part-time volunteers for service to communities in the United States;

(2) to evaluate those new approaches, techniques, and methods; and

(3) to foster the establishment by public and private nonprofit agencies, organizations, and institutions of new programs for the use of full-time and part-time volunteers to perform work in the United States of the type described in Section 801 of the Economic Opportunity Act of 1964, as amended by section 201 of this Act.

(b) To the extent he deems it appropriate, the Director may require the recipient of a grant or contract under this section to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(c) Payments under this section pursuant to a grant or contract may be made (after necessary adjustment, on account of previously made overpayments or underpayments) in advance or by way of reimbursement and in such installments and on such conditions as the Director may determine.

SEC. 404. The Director is authorized, at the request of any Executive Department or agency, to recruit, train, accept, utilize, and refer to such Department or agency, volunteers who will provide voluntary services which are not normally performed by the employees of such Department or agency.

SEC. 405. The Director is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of Action. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Director. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. For the purpose of the Internal Revenue Code of 1954 (including sections 170(j), 2055(f), 2106(a)(2)(f), and 2522(d)), property accepted under this section shall be considered as a gift or bequest to the United States.

SEC. 406. Notwithstanding any other provision of law, not to exceed 10 percentum of the sums appropriated or otherwise fixed by law to Action for a fiscal year to carry out any activity or function vested in that agency may be transferred and used by the Director for the purpose of carrying out any other such activity or function.

SEC. 407. There are authorized to be appropriated such sums as may be necessary to enable the Director to carry out his functions, powers, and duties, except those authorized under the Peace Corps Act.

SECTION-BY-SECTION ANALYSIS OF THE ACTION ACT OF 1972

The first section of this bill provides that it may be cited as the "Action Act of 1972."

TITLE I

Section 101 provides for a permanent authorization of appropriations for the Peace Corps.

Section 102 amends Section 301(b) of the Peace Corps Act to increase the limitation on expenditures authorized to encourage the development of international voluntary service programs from $300,000 to $350,000 and to make the limitation applicable to any fiscal year.

TITLE II

Section 201 amends Section 801 of Title VIII of the Economic Opportunity Act of 1964 (EOA), which contains the "Statement of Purpose" of Domestic Volunteer Service Programs, including Volunteers in Service to America. The amendment provides authority for an expanded area of service for domestic volunteers in programs dealing with "a broad range of human, social and environmental needs," in addition to the elimination of poverty, which remains the primary purpose of programs authorized by this Title.

Section 202 amends Section 810 of the EOA to authorize the recruitment, selection, training and assignment of volunteers to perform the expanded mission described in Section 801. It also provides that programs to be established within a State must first be submitted to the Governor of the State, and may not be commenced if they are disapproved by him within 45 days after submission. This provision replaces a requirement for prior affirmative approval of programs by the Governor, and is in line with the practice in other parts of the EOA, except that the Governor has 45 rather than 30 days in which to disapprove a program, and the Director has no authority to override a veto.

Section 203 amends Section 810 of Part A of the EOA by defining the term "Governor" to clarify that the chief executives of the District of Columbia and the Trust Territory of the Pacific Islands, which technically do not have Governors, have the same responsibility with respect to volunteers as the Governors of States and other jurisdictions.

Section 204 amends Section 811(a) of the EOA to harmonize the provisions of the Act relating to terms of service for volunteers with the broader mission for volunteers contained in Section 801. Volunteers will be required to make a full time personal commitment to the project to which they are assigned. No change is made in the current requirement that volunteers working in poverty-related programs live in the communities which they serve.

Section 205 amends Section 811(b) of the EOA to eliminate the mandatory one year term of service (plus training time) for volunteers, and to permit the Director to fix the term of service. It is intended that the term of service will be commensurate with the cost to the Government of training and transporting volunteers to and from their homes.

Section 206 amends Section 811(c) of the EOA to make the oath required of VISTA volunteers the same as that required of Peace Corps volunteers, permitting easier transfers between the programs. The amendment also authorizes the Director to prescribe an alternative oath or affirmation to be taken by aliens residing in the United States who serve as volunteers in programs under Title VIII, and prohibits funds from being used to transport such persons from or to areas outside the United States.

Section 207 adds a new subsection (d) to Section 812 of the EOA which adopts the language of the Peace Corps Act with respect to the treatment of readjustment allowances for income tax purposes. This language assures that the readajustment allowance will be taxed ratably over the period in which it accrued, but that the tax will not be payable until the volunteer actually receives the allowance.

Section 208 adds a new Section 813 to the EOA. The new section exempts from income tax amounts received by volunteers and volunteer leaders within the meaning of Title VIII of the EOA as allowances, except leave allowances or such portion of living allowances as the Director may determine are basic compensation. This treatment of allowances is identical with the treatment of Peace Corps allowances (see 26 U.S.C. § 912 (c)), and will permit consistent treatment of both domestic and international volunteers. It is intended that the allowance now referred to by VISTA as the "living allowance," amounting to $75 per month for volunteers on projects, and $1.00 per day for trainees, which is for personal expenses, would be taxable, but that food and lodging allowances and adjustment allowances would not be subject to income tax. Stipends (readjustment allowances) remain subject to tax.

The section also amends 26 U.S.C. § 3401 (a) by adding a new subsection (17), which removes the allowances described above from the definition of "wages" for the purpose of the withholding provisions of the Internal Revenue Code. Peace Corps allowances receive similar treatment under subsection (13) of 26 U.S.C. § 3401(a).

Section 209. The first sentence of Section 820(a) of the EOA is amended to include the broadened areas of service described in amended Section 801 of the EOA in the scope of opportunities for service available to short-term or part-time volunteers supported under Part B of Title VIII of the EOA.

Section 210 repeals Section 822 of the EOA, which authorized the operation of demonstration projects to help young criminal offenders during a three-year period which ended June 30, 1970.

Section 211 amends subsection (c) of Section 833 of Title VIII of the EOA in order to provide that training time shall be included in any period of satisfactory service of a volunteer which is credited in connection with subsequent employment by the United States Government, as is now the case with Peace Corps volunteers.

Section 212 provides for the repeal of Section 835 of Title VIII of the EOA, which provided for the termination of the programs provided for in that Title.

TITLE III

Section 301 provides that no compensation paid to individual volunteers in the Retired Senior Volunteer Program (RSVP) program for out-of-pocket expenses shall be considered income for any purposes whatsoever. This confirms the informal indication of the Internal Revenue Service that they do not consider such compensation as taxable income. It also resolves such questions as those which have been raised by welfare offices with regard to deducting from benefits paid to welfare recipients involved in the Retarded Senior Volunteer Program, the monies they receive as reimbursement for out-of-pocket expenses incident to their volunteer service.

Section 302. Part B has been amended to provide additional opportunities for low-income persons aged 60 or over to render supportive services to people having exceptional needs. This includes the person-to-person services presently provided under Part B, Foster Grandparent Program, to children in institutions, i.e. hospitals, homes for dependent and neglected children or other establishments providing care for children with special needs. It is intended that appropriations under this Part will be used principally for the Foster Grandparent Program.

In addition, it includes services described by the President at the White House Conference on Aging on December 2, 1971, where he stated that the kinds of persons who participate in the Foster Grandparent Program should also work with older people. This expansion of Part B would also permit low-income older people to work with children with exceptional needs in their own homes or with children and adults with exceptional needs in community settings. These expanded programs would operate under regulations which are substantially similar to those which presently exist for the Foster Grandparent Program.

Section 303. This substitutes the Director of Action for the Secretary of Health, Education, and Welfare wherever it appears in this Title. This is in keeping with the transfer of Title VI programs to the Director of Action pursuant to Reorganization Plan No. 1 of 1971.

TITLE IV

Section 401 establishes a National Advisory Council for Action similar to the Peace Corps National Advisory Council. The Council is to be made up of not more than 35 members to be appointed by the President, and those members shall be entitled to receive actual travel expenses and a per diem allowance while attending meetings or otherwise serving at the request of the President.

Section 402 provides for the repeal of Section 12 of the Peace Corps Act, which established the Peace Corps National Advisory Council.

Section 403 authorizes the Director to make grants to public or nonprofit private agencies, organizations, or institutions in the United States, and to contract with such agencies, organizations or institutions and individuals in the United States,

(1) to develop, demonstrate and evaluate new approaches, techniques, and methods with respect to the recruitment, training, and use of volunteers serving in the United States; and

(2) to foster the establishment by public and private nonprofit agencies, organizations, and institutions of new volunteer programs of the type described in Section 801 of the EOA.

This section complements Section 821 of the EOA which authorizes the Director of the Office of Economic Opportunity to design and conduct special programs to improve methods of providing volunteer services and to encourage wide volunteer participation.

Section 403 would also permit the Director to require grant or contract recipients to contribute money, facilities or services with regard to particular projects.

Section 404 provides the Director with the authority to recruit, train, accept, utilize and refer volunteers upon request, to any Executive Department or agency to perform services which are not normally performed by the employees of such Department or agency.

Section 405 provides the Director of Action with sufficient authority to accept and utilize gifts to Action, similar to the authority he has to accept gifts to the Peace Corps and VISTA.

Section 406 permits the Director to transfer not more than 10 percent of the funds available within Action to carry out a particular activity or function, to any other activity or function within Action.

Section 407 provides for a permanent authorization of appropriations to carry out all functions, powers and duties vested in the Director of Action, except those authorized under the Peace Corps Act for which a separate appropriation authority is provided. In addition to appropriations for VISTA and other activities under Title VIII of the Economic Opportunity Act of 1964; Foster Grandparents; RSVP; and other activities under Title VI of the Older Americans Act of 1965; and SCORE/ACE activities under section 8(b) of the Small Business Act, this section authorizes appropriations for programs and activities authorized by this Act.

Mr. CRANSTON. Mr. President, the bill I am introducing today, by request, contains provisions identical to titles II—VISTA; III—national older volunteers program; and IV—general provisions—of the administration's draft legislation except that these titles are redesignated I, II, and III, respectively.

The bill does not include title I—Peace Corps—from the draft legislation, because jurisdiction of the Peace Corps program is in the Foreign Relations Committee. Consideration of the two proposed sections in the original title I of the administration-proposed legislation should be carried out entirely by the Foreign Relations Committee in such form and manner as it deems appropriate. There are, however, three provisions in the bill as introduced—sections 301 and 302 to establish a National Advisory Council for Action and abolish the present Peace Corps National Advisory Council, and section 306 to authorize up to 10 percent transferability of funds between programs carried out under Action—which have a direct relationship to the Peace Corps program, and therefore, to the jurisdiction of the Foreign Relations Committee. Therefore, I plan to consult and coordinate fully with that committee as to those provisions during consideration of the bill in the Committee on Labor and Public Welfare. Alternatively, we would be fully receptive to referral of the bill to the Foreign Relations Committee as to those provisions for an appropriate period of time.

Mr. President, I wish to make plain at this point, that in introducing the domestic provisions of this bill, by request, I am not necessarily endorsing any or all of these provisions. Indeed, I already have the most serious reservations about several of the provisions, particularly the form in which they were proposed by the administration. My intention is merely to provide a service to the administration and a starting point for detailed consideration by the Committee on Labor and Public Welfare of the Action program and such additional enabling legislation for it as may be determined desirable and appropriate.

Based upon discussions with the chairman of the Committee on Labor and Public Welfare (Mr. WILLIAMS); the chairman of the Subcommittee on Employment, Manpower, and Poverty (Mr. NELSON); and the chairman of the Subcommittee on Aging (Mr. EAGLETON); this bill upon reference to the Committee on Labor and Public Welfare will be referred to the Special Subcommittee on Human Resources, which I am privileged to chair. Based on these same discussions, consideration of the provisions of the bill relating to the poverty program will be carried out with the closest coordination with the Employment, Manpower, and Poverty Subcommittee and consideration of those provisions relating to the Older Americans Act of 1965 and other senior volunteer programs will be carried out with the closest coordination with the Subcommittee on Aging.

Mr. President, I ask unanimous consent that the full text of the bill I am introducing followed by the section-by-section analysis prepared by the administration—altered to reflect the new section numbers—be printed in the RECORD at this point.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Action Act of 1972."

TITLE I—VOLUNTEERS IN SERVICE TO AMERICA

SEC. 101. Section 801 of the Economic Opportunity Act of 1964 is amended to read as follows:

"SEC. 801. This title provides for a program of full and part-time voluntary service, and for the operation and funding of special and demonstration volunteer programs, together with other powers and responsibilities designed to assist in the development, encouragement and coordination of volunteer programs. Its purpose is primarily to strengthen and supplement efforts to eliminate poverty and, additionally, to deal with a broad range of human, social, and environmental needs through the use of volunteers."

SEC. 102. Section 810 of such Act is amended to read as follows:

"SEC. 810. (a) The Director of Action (hereinafter in this title referred to as the "Director') may recruit, select, and train persons to serve in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or Indian reservations, in full-time volunteer programs, and, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to programs and activities designed to carry out the purposes of this title.

"(b) The assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities. No program designed to carry out the purpose of this title shall be established within a State unless such program has been submitted to the Governor and has not been disapproved by him within 45 days of such submission. The assignment of a volunteer in any State shall be terminated by the Director when so requested by the Governor of such State not later than 30 days or at a time thereafter agreed upon by the Governor and the Director after such request has been made by the Governor to the Director."

SEC. 103. Section 810 of such Act is amended by adding at the end thereof the following new subsection:

"(c) The term 'Governor' as used in this section means the Governor of the State, in the case of any of the 50 States, and in the case of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, the chief executive officer thereof."

SEC. 104. The first sentence of subsection (a) of section 811 of such Act is amended to read as follows:

"SEC. 811. (a) Volunteers under this part shall be required to make a full-time personal commitment to achieving the purposes of this title and the goals of the projects or programs to which they are assigned."

SEC. 105. Subsection (b) of section 811 of such Act is amended to read as follows:

"(b) Volunteers under this part shall be enrolled for such periods of service as the Director may determine."

SEC. 106. Subsection (c) of section 811 of such Act is amended to read as follows:

"(c) Volunteers under this Part shall, upon enrollment, take the same oath of office as prescribed for persons enrolled in the Peace Corps (22 U.S.C. § 2504(j)): *Provided*, That persons legally residing within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, either permanently or temporarily, but who are not citizens of the United States, may serve in programs carried on under this Title without taking or subscribing to such oath, if the Director determines that the service of those persons will further the interests of the United States. Those persons shall take such alternative oath or affirmation as the Director shall deem to be appropriate. No funds may be expended to transport such persons either to or from any place outside the areas specified in this subsection."

SEC. 107. (a) Section 812 of such Act is amended by adding at the end thereof the following new subsection:

"(d) For the purposes of the Internal Revenue Code of 1954, a volunteer shall be deemed to be paid and to receive each amount of any such stipend to which he is entitled under this section when such amount is transferred from funds made available for the payment of such stipend to the fund from which such stipend is payable."

(b) Section 1304 of the Internal Revenue Code of 1954 (26 U.S.C. § 1304) is amended by adding at the end thereof the following new subsection:

"(g) For treatment of the stipend paid to VISTA volunteers and volunteer leaders, see Section 812(d) of the Economic Opportunity Act of 1964 (42 U.S.C. § 2992b(d))."

SEC. 108. (a) Title VIII of the Economic Opportunity Act of 1964 is amended by adding the following new section:

"SEC. 813. (a) VISTA ALLOWANCES.—In the case of an individual who is a volunteer or volunteer leader within the meaning of Title VIII of the Economic Opportunity Act of 1964, amounts received as allowances other than amounts received as—

(1) leave allowance, or

(2) such portion of living allowances as the Director may determine as constituting basic compensation

shall not be included in gross income for purposes of income taxation under the Internal Revenue Code of 1954."

(b) Section 3401(a) of the Internal Revenue Code of 1954 (26 U.S.C. § 3401(a)) is amended by adding at the end thereof the following new paragraph:

"(17) to a volunteer or volunteer leader within the meaning of Title VIII of the Economic Opportunity Act of 1964, except stipends, leave allowances or living allowances determined by the Director of Action to be basic compensation."

and by eliminating the word "or" from the end of paragraph 15 and adding it to the end of paragraph 16.

(c) Section 124(a) of the Internal Revenue Code of 1954 (26 U.S.C. § 124(a)) is amended by adding at the end thereof the following new paragraph:

"(19 Certain allowances paid to VISTA volunteers and volunteer leaders, see Section 813 of the Economic Opportunity Act of 1964 (42 U.S.C. § 2992(c))."

SEC. 109. The first sentence (a) of Section 820 of such Act is amended to read as follows:

"SEC. 820. (a) The Director shall develop programs designed to expand opportunities for persons to participate in a direct and personal way, on a part-time basis or for short periods of service either in their home or nearby communities or elsewhere, in volunteer activities contributing to the elimination of poverty or otherwise in furtherance of the purposes of this Title."

SEC. 110. Section 822 of such Act is hereby repealed.

SEC. 111. Subsection (c) of Section 833 of such Act is amended to insert after the word "service' the first time it appears the following: ", including training,".

SEC. 112. Section 835 of such Act is hereby repealed.

TITLE II—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAM

SEC. 201. (a) Section 601 of the Older Americans Act of 1965 is amended by adding at the end thereof the following new subsection:

"(d) No compensation provided to individual volunteers under this Part shall be considered income for any purposes whatsoever."

SEC. 202. (a) The heading of Part B of Title VI of such Act is amended to read as follows: "FOSTER GRANDPARENT PROGRAM AND OTHER SENIOR VOLUNTEER PROGRAM".

(b) Section 611 of such Act is amended to read as follows:

"SEC. 611. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of the development and operation of community projects designed to provide volunteer opportunities for low-income persons aged 60 or over to render supportive services to people having exceptional needs.

"(b) For the purposes of subsection (a), grants or contracts shall be made principally for projects providing services as 'Foster Grandparents' to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs.

"(c) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine."

(c) The first sentence of Section 613 of such Act is amended to read as follows:

"SEC. 613. In administering this part, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this part with other public or private programs or projects carried out at State and local levels."

SEC. 203. (a) Title VI of such Act is amended by striking out the word "Secretary" wherever it appears, and inserting in lieu thereof "Director".

(b) Such Title is further amended by adding at the end thereof the following new section:

"MEANING OF DIRECTOR

"SEC. 615. For purposes of this Title, the term 'Director' means the 'Director of Action:

(c) Section 202(3) of the Older Americans Act of 1965 is amended by inserting before the semicolon at the end thereof ", except for Title VI thereof".

TITLE III—GENERAL PROVISIONS

SEC. 301. (a) There is hereby established a National Advisory Council for Action (hereinafter referred to as the "Council"). The Council shall consist of not more than 35 members appointed by the President. They shall be broadly representative of educational institutions, voluntary agencies, farm organizations, business and labor organizations, volunteers, and other public and private organizations and groups as well as individuals interested in the programs and objectives of Action. The Council shall advise and consult with the President and the Director of Action (hereinafter in this Title referred to as the "Director") with regard to policies and programs designed to further the purposes of that Agency.

(b) Members of the Council shall serve at the pleasure of the President and meet at his call or at the call of the Director. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of the Council or while otherwise serving at the request of the President or the Director, shall receive no compensation but may each receive out of funds available for the purposes of Action, while serving away from their homes or regular places of business, actual travel expenses and a per diem allowance or actual and necessary expenses as authorized by Section 5703 of Title 5 of the United States Code for persons in the Government service employed intermittently.

SEC. 302. Section 12 of the Peace Corps Act (75 Stat. 619, 22 U.S.C. § 2511) is repealed, and the Peace Corps National Advisory Council is abolished, effective 90 days after the enactment of this Act.

SEC. 303. (a) The Director is authorized to make grants to any public or nonprofit private agencies, organizations, or institutions in the United States and to enter into contracts with any such agencies, organizations, or institutions, or with any individuals in the United States—

(1) to develop and demonstrate new approaches, techniques, and methods with respect to the recruitment, training, and use of full-time and part-time volunteers for service to communities in the United States;

(2) to evaluate those new approaches, techniques, and methods; and

(3) to foster the establishment by public and private nonprofit agencies, organizations, and institutions of new programs for the use of full-time and part-time volunteers to perform work in the United States of the type described in Section 801 of the Economic Opportunity Act of 1964, as amended by Section 201 of this Act.

(b) To the extent he deems it appropriate, the Director may require the recipient of a grant or contract under this section to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(c) Payments under this section pursuant to a grant or contract may be made (after necessary adjustment, on account of previously made overpayments or underpayments) in advance or by way of reimbursement and in such installments and on such conditions as the Director may determine.

SEC. 304. The Director is authorized, at the request of any Executive Department or agency, to recruit, train, accept, utilize, and refer to such Department or agency, volunteers who will provide voluntary services which are not normally performed by the employees of such Department or agency.

SEC. 305. The Director is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of Action. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Director. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. For the purpose of the Internal Revenue Code of 1954 (including sections 170(j), 2055(f), 2106(a)(2)(f), and 2522(d)), property accepted under this section shall be considered as a gift or bequest to the United States.

SEC. 306. Notwithstanding any other provision of law, not to exceed 10 percentum of the sums appropriated or otherwise fixed by law to Action for a fiscal year to carry out any activity or function vested in that agency may be transferred and used by the Director for the purpose of carrying out any other such activity or function.

SEC. 307. There are authorized to be appropriated such sums as may be necessary to enable the Director to carry out his functions, powers, and duties, except those authorized under the Peace Corps Act.

SECTION-BY-SECTION ANALYSIS OF THE ACTION ACT OF 1972

The first section of this bill provides that it may be cited as the "Action Act of 1972."

TITLE I

Section 101 amends Section 801 of Title VIII of the Economic Opportunity Act of 1964 (EOA), which contains the "Statement of Purpose" of Domestic Volunteer Service Programs, including Volunteers in Service to America. The amendment provides authority for an expanded area of service for domestic volunteers in programs dealing with "a broad range of human, social and environmental needs," in addition to the elimination of poverty, which remains the primary purpose of programs authorized by this Title.

Section 102 amends Section 810 of the EOA to authorize the recruitment, selection, training and assignment of volunteers to perform the expanded mission described in Section 801. It also provides that programs to be established within a State must first be submitted to the Governor of the State, and may not be commenced if they are disapproved by him within 45 days after submission. This provision replaces a requirement for prior affirmative approval of programs by the Governor, and is in line with the practice in other parts of the EOA, except that the Governor has 45 rather than 30 days in which to disapprove a program, and the Director has no authority to override a veto.

Section 103 amends Section 810 of Part A of the EOA by defining the term "Governor" to clarify that the chief executives of the District of Columbia and the Trust Territory of the Pacific Islands, which technically do not have Governors, have the same responsibility with respect to volunteers as the Governors of States and other jurisdictions.

Section 104 amends Section 811(a) of the EOA to harmonize the provisions of the Act relating to terms of service for volunteers with the broader mission for volunteers contained in Section 801. Volunteers will be required to make a full time personal commitment to the project to which they are assigned. No change is made in the current requirement that volunteers working in poverty-related programs live in the communities which they serve.

Section 105 amends Section 811(b) of the EOA to eliminate the mandatory one year term of service (plus training time) for volunteers, and to permit the Director to fix the term of service. It is intended that the term of service will be commensurate with the cost to the Government of training and transporting volunteers to and from their homes.

Section 106 amends Section 811(c) of the EOA to make the oath required of VISTA volunteers the same as that required of Peace Corps volunteers, permitting easier transfers between the programs. The amendment also authorizes the Director to prescribe an alternative oath or affirmation to be taken by aliens residing in the United States who serve as volunteers in programs under Title VIII, and prohibits funds from being used to transport such persons from or to areas outside the United States.

Section 107 adds a new subsection (d) to Section 812 of the EOA which adopts the language of the Peace Corps Act with respect to the treatment of readjustment allowances for income tax purposes. This language assures that the readjustment allowance will be taxed ratably over the period in which it accrued, but that the tax will not be payable until the volunteer actually receives the allowance.

Section 108 adds a new Section 813 to the EOA. The new section exempts from income tax amounts received by volunteers and volunteer leaders within the meaning of Title VIII of the EOA as allowances, except leave allowances or such portion of living allowances as the Director may determine are basic compensation. This treatment of allowances is identical with the treatment of Peace Corps allowances (see 26 U.S.C. § 912 (c)), and will permit consistent treatment of both domestic and international volunteers. It is intended that the allowance now referred to by VISTA as the "living allowance," amounting to $75 per month for volunteers on projects, and $1.00 per day for trainees, which is for personal expenses, would be taxable, but that food and lodging allowances and adjustment allowances would not be subject to income tax. Stipends (readjustment allowances) remain subject to tax.

The section also amends 26 U.S.C. § 3401(a) by adding a new subsection (17), which removes the allowances described above from the definition of "wages" for the purpose of the withholding provisions of the Internal Revenue Code. Peace Corps allowances receive similar treatment under subsection (13) of 26 U.S.C. § 3401(a).

Section 109. The first sentence of Section 820(a) of the EOA is amended to include the broadened areas of service described in amended Section 801 of the EOA in the scope of opportunities for service available to short-term or part-time volunteers supported under Part B of Title VIII of the EOA.

Section 110 repeals Section 822 of the EOA, which authorized the operation of demonstration projects to help young criminal offenders during a three-year period which ended June 30, 1970.

Section 111 amends subsection (c) of Section 833 of Title VIII of the EOA in order to provide that training time shall be included in any period of satisfactory service of a volunteer which is credited in connection with subsequent employment by the United States Government, as is now the case with Peace Corps volunteers.

Section 112 provides for the repeal of Section 835 of Title VIII of the EOA, which provided for the termination of the programs provided for in that Title.

TITLE II

Section 201 provides that no compensation paid to individual volunteers in the Retired Senior Volunteer Program (RSVP) program for out-of-pocket expenses shall be considered income for any purposes whatsoever. This confirms the informal indication of the Internal Revenue Service that they do not consider such compensation as taxable income. It also resolves such questions as those which have been raised by welfare offices with regard to deducting from benefits paid to welfare recipients involved in the Retired Senior Volunteer Program, the monies they receive as reimbursement for out-of-pocket expenses incident to their volunteer service.

Section 202. Part B has been amended to provide additional opportunities for low-income persons aged 60 or over to render supportive services to people having exceptional needs. This includes the person-to-person services presently provided under Part B, Foster Grandparent Program, to children in institutions, i.e. hospitals, homes for dependent and neglected children or other establishments providing care for children with special needs. It is intended that appropriations under this Part will be used principally for the Foster Grandparent Program.

In addition, it includes services described by the President at the White House Conference on Aging on December 2, 1971, where he stated that the kinds of persons who participate in the Foster Grandparent Program should also work with older people. This expansion of Part B would also permit low-income older people to work with children with exceptional needs in their own homes or with children and adults with exceptional needs in community settings. These expanded programs would operate under regulations which are substantially similar to those which presently exist for the Foster Grandparent Program.

Section 203. This substitutes the Director of Action for the Secretary of Health, Education, and Welfare wherever it appears in this Title. This is in keeping with the transfer of Title VI programs to the Director of Action pursuant to Reorganization Plan No. 1 of 1971.

TITLE III

Section 301 establishes a National Advisory Council for Action similar to the Peace Corps National Advisory Council. The Council is to be made up of not more than 35 members to be appointed by the President, and those members shall be entitled to receive actual travel expenses and a per diem allowance while attending meetings or otherwise serving at the request of the President.

Section 302 provides for the repeal of Section 12 of the Peace Corps Act, which established the Peace Corps National Advisory Council.

Section 303 authorizes the Director to make grants to public or nonprofit private agencies, organizations, or institutions in the United States, and to contract with such agencies, organizations or institutions and individuals in the United States,

(1) to develop, demonstrate and evaluate new approaches, techniques, and methods with respect to the recruitment, training, and use of volunteers serving in the United States; and

(2) to foster the establishment by public and private nonprofit agencies, organizations, and institutions of new volunteer programs of the type described in Section 801 of the EOA.

This section complements Section 821 of the EOA which authorizes the Director of the Office of Economic Opportunity to design and conduct special programs to improve methods of providing volunteer services and to encourage wide volunteer participation. Section 403 would also permit the Director to require grant or contract recipients to contribute money, facilities or services with regard to particular projects.

Section 304 provides the Director with the authority to recruit, train, accept, utilize and refer volunteers upon request, to any Executive Department or agency to perform services which are not normally performed by the employees of such Department or agency.

Section 305 provides the Director of Action with sufficient authority to accept and utilize gifts to Action, similar to the authority he has to accept gifts to the Peace Corps and VISTA.

Section 306 permits the Director to transfer not more than 10 percent of the funds available within Action to carry out a particular activity or function, to any other activity or function within Action.

Section 307 provides for a permanent authorization of appropriations to carry out all functions, powers and duties vested in the Director of Action, except those authorized under the Peace Corps Act for which a separate appropriation authority is provided. In addition to appropriations for VISTA and other activities under Title VIII of the Economic Opportunity Act of 1964; Foster Grandparents; RSVP; and other activities under Title VI of the Older Americans Act of 1965; and SCORE/ACE activities under section 8(b) of the Small Business Act, this section authorizes appropriations for programs and activities authorized by this Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 704

At the request of Mr. Inouye, the Senator from Nebraska (Mr. Hruska) was added as a cosponsor of S. 704, a bill to amend title 37, United States Code, to provide for the procurement and retention of judge advocates and law specialist officers for the Armed Forces.

S. 2754

At his own request, Mr. Griffin was added as a cosponsor of S. 2754, a bill to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 214

At the request of Mr. Case, the Senator from Utah (Mr. Moss) was added as a cosponsor of Senate Resolution 214 relative to the submission of any Portuguese base agreement as a treaty.

ADDITIONAL COSPONSOR OF AMENDMENTS

AMENDMENTS NOS. 1030 THROUGH 1040

At the request of Mr. Tunney, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of amendments Nos. 1030 through 1040, intended to be proposed to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

RESCHEDULING OF HEARING ON THE WHEAT AND WHEAT FOODS RESEARCH, EDUCATION, AND PROMOTION ACT

Mr. ALLEN. Mr. President, I wish to announce a rescheduling of a hearing. The Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture and Forestry had planned to hold a hearing Tuesday, May 9, on S. 3276, the Wheat and Wheat Foods Research, Education and Promotion Act; the hearing is now scheduled for Thursday, May 4, in Room 324, Old Senate Office Building beginning at 10 a.m. Anyone wishing to testify should contact the committee clerk as soon as possible.

ANNOUNCEMENT OF HEARINGS ON S. 1407

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an announcement by the distinguished Senator from Nevada (Mr. Bible) on open hearings to be held by the Subcommittee on Parks and Recreation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Announcement by Senator Bible

I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Parks and Recreation for 2 p.m. on April 12, and at 10 a.m. on April 13, in Room 3110, New Senate Office Building, on the following bill:

S. 1407, to establish the Sawtooth National Recreational Area in the State of Idaho, to temporarily withdraw certain national forest land in the State of Idaho from the operation of the U.S. Mining laws, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on March 30, 1972, he presented to the President of the United States the enrolled bill (S. 2601) to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

ADDITIONAL STATEMENTS

RADIO FREE EUROPE—ADDRESS BY STEWART CORT

Mr. MATHIAS. Mr. President, on March 22, Mr. Stewart Cort, national chairman of Radio Free Europe and chairman of Bethlehem Steel Corp., addressed the first business leader fund-raising luncheon of 1972 in Maryland at the Baltimore Hilton. Mr. Cort's address, entitled "Radio Free Europe in an Era of Negotiation," vividly outlines the critical importance of Radio Free Europe and Radio Liberty in maintaining a free flow of uncensored information so eagerly awaited by countless thousands in the countries of Eastern Europe.

I highly recommend Mr. Cort's remarks to the Senate and ask unanimous consent that they be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Radio Free Europe in an Era of Negotiation

A year ago last January, the senior Senator from New Jersey, Mr. Case, made an important public revelation about Radio Free Europe and Radio Liberty. He said they were getting financial support from the Government of the United States.

What happened to RFE and RL thereafter has been the subject of front-page reports and editorial comment in newspapers throughout the United States and Europe, both West and East. I propose to review the highlights of what happened and try to give you an assessment of where matters stand today.

The Senator's revelation in itself was really not all that revealing. It could hardly have come as a great surprise to anyone who had had occasion to give the matter much thought. RFE is a substantial enterprise and, as Senator Fulbright has said more than once in recent weeks, it has a substantial budget. It could never be covered fully from non-government sources alone.

THE COSTS OF BROADCASTING

RFE is not a station but a network. It broadcasts an average of 15 hours a day, in each of six foreign languages. It employs more than 1600 people. It has a verified audience of some 30 million regular listeners. (That, incidentally, is more than half the population of East Europe over the age of fourteen.) It operates 32 transmitters and deploys some 80 frequencies from two widely separated locations in Europe. It maintains its own news-gathering and research operations so that it can meet the particular needs and interests of its listeners.

All that costs money. About $23 million this year. That's less than 77 cents per listener per year. But it is a substantial budget. And unfortunately, RFE is in no position to sell commercial advertising-time to non-existent advertisers in the non-existent competitive economy of its market area.

Under the circumstances, RFE has had to function—and I hope will continue to function—as the beneficiary of government as well as private support.

THE ROLE OF PRIVATE SUPPORT

Incidentally, a good deal of misinformation has been circulating lately about the extent of the private contributions over the years. Let me set the record straight. During the past twenty years (fiscal 1951 through 1971), according to independent auditors, RFE raised more than $47 million from private sources. That represents approximately 18.7 percent of the total operating costs of the Radio during that period.

Private support has been and will continue to be an indispensable part of RFE's total budget. For the future, we are hoping that the government's participation will begin to fully cover operational costs, so that the private funds can be applied to RFE's long-deferred equipment-renovation and capital-maintenance program.

Senator Case's further statement—that the government's financial support had been channeled through the CIA—shocked some people.

I suggest, that what matters is not the past, but the present—and the future. The relevant questions are: How well is RFE doing its job?—and—Does the job really need doing? There are also two related questions that have been widely discussed in recent weeks: Could the job be done as well or better by the Voice of America? And shouldn't our friends in Western Europe be helping us foot the bill?

I propose to give you very briefly my personal reflections on those questions. I might say that before joining the Board of RFE a year ago, I had at best a "smattering of ignorance" about how RFE really works. That had one advantage: I was able to approach the organization with an open mind. Not everyone can make that claim. I've had an opportunity to learn a lot. I have been to Munich. There and in New York, I met the men and women of RFE and had a close look at what they do and how they do it.

Like almost everyone else who has observed the RFE operation first hand, I came away enormously impressed with the professional skill of the staff and with their devotion to their work.

THE PROBLEM OF SURVIVAL

Perhaps most of all, I had to admire their steadfastness.

The men and women of RFE and RL have lived through more than a year of profound uncertainty about the very survival of the organization. This uncertainty was caused by the efforts of just one man. Surprisingly, he is a man with a worldwide reputation for devotion to the ideals of freer international communication, better understanding among peoples, and more normal relations between East and West—the very same ideals that RFE is trying to serve.

I would like to take a little time today to consider some of the things Senator Fulbright, as Chairman of the Senate Foreign Relations Committee has been saying about Radio Free Europe.

One must in fairness give Senator Fulbright credit for the courage of his convictions. It is regrettable—and it came close to being tragic—that in this matter the Senator's convictions are simply mistaken. I believe they are at odds with the facts. And they are clearly at odds with the views of almost everybody else who has expressed an opinion on the subject—and, by now, practically everybody else has expressed an opinion.

You may find it interesting to compare the things the Senator has been saying with what has been said—in response—by his colleagues, by the President, by the American and West European press, by scholars, labor unions, diplomats, contributors, and listeners.

The clash of opinion on this is a small part of what may be shaping up as a new "Great Debate" on American foreign policy. A reasonably complete documentation of the debate thus far, as it relates to Radio Free Europe and Radio Liberty, is yours for the asking. Just write or call RFE at 2 Park Avenue, New York City.

Much of that documentation has been published in recent issues of the Congressional Record. We have time here to consider only a few of the highlights.

COMMUNICATION AND DETENTE: THE FUNDAMENTAL QUESTION

Senator Fulbright posed the fundamental question in a Senate speech on February 17, 1972 in which he suggested that the activities of RFE and RL are an "irritant to our relations" with the Russians, that they constitute "meddling in the internal political affairs of other countries," and that they are "fundamentally inconsistent with the purposes of the President."

The President does not agree. In a letter to me last December 23, President Nixon wrote:

"I would like you and your associates to know that in my view the free flow of information and ideas among nations is indispensable to more normal relations between East and West and to better prospects for an enduring peace.

"The comprehensive news and comment which East Europeans get from RFE help immensely to neutralize the censorship of speech and press that is still imposed under Communist rule. RFE's broadcasts thus serve what should be everyone's right, as stated in the Universal Declaration of Human Rights, 'to seek, receive and impart information and ideas through any media and regardless of frontiers.' "

As the Washington Post put it in a lead editorial last June 28:

"Detente, if it means anything, means widening the West's contacts with the East, not helping the East seal off its people from the West. It means the exchange of people, goods, words and ideas. This is the essential business of RFE and RL."

Does the exchange of ideas really help? Let me quote the answer given by Professor Zbigniew Brzezinski of Columbia University, in testimony last fall before the House Foreign Affairs Committee:

"East-West reapproachement will become a reality only if the East European and Soviet populations are able to exercise subtle but continuing pressure on their own regimes on behalf of greater liberalization and closer contacts with the West. They will not be able to do so if they are deprived of access to independent sources of information. It is only by learning more about themselves as well as about such things as liberal reforms in other communist states, that the different groups in communist societies—the intellectual, the technocrats, the youth, the peasantry—can generate sustained pressure and articulate relevant demands . . . Arms are becoming less important as instruments of policy . . . More than ever before, it is what people think that shapes actions and that defines relations between states."

It is hardly surprising that the Communist governments do not welcome "independent sources of information." Of *course* they are "irritated" by the Radios. As a former Polish official admits (H. Birecki, letter to Washington Star, September 28, 1971), they are feeling "deep concern over the growing influence of Radio Free Europe, not merely on the population but above all on the Communist Party itself . . ."

The well-orchestrated campaign of the Communist governments in their own mass media and their complaints through diplomatic channels have had one purpose: to get RFE off the air.

To the censors, RFE's broadcasting is "provocation." To almost anyone else, it would be nothing more than the practice of professional journalism. Real provocation—name-calling, falsification and extravagant polemics, which the Communist press itself employs against Western media—is no part of the programming of RFE and RL.

But does the irritation really interfere with negotiations toward "detente"? The Soviet Union obviously does not consider its *own* international broadcasting to be inconsistent with *its* vision of detente. It devotes more than 330 hours a day in 78 languages to the conduct of what it continues to call its "ideological struggle against imperialism." And nobody is objecting to *their* broadcasts.

The fact is that East-West negotiations are proceeding on a variety of issues. Agreements have been reached on matters of perceived mutual interest. International broadcasting does not interfere with that process.

Indeed—and this is the heart of our case—full normalization of East-West relations will become negotiable only with the further evolution of Communist purposes. We must hope, as the President has stated (Report to Congress, February 18, 1970), that this will come about through "the passage of time and the emergence of a new generation in the Communist countries."

As the President put it in a letter last week to Senator Hugh Scott (Congressional Record, March 16, 1972), these Radios "can play an essential role in the reorienting of East-West relations that is *now taking place*." (My emphasis.)

I'm going to leave this aspect of the subject by quoting from a letter received by RFE in Munich on March 13, 1972. It was written by a Hungarian listener who signed himself "Tizedes". (As translated):

"I would like to react to [Sen. Fulbright's statement] in my own simple way: to ask the good Senator to come here and spend a few months among us, but not in the Hotel Gellert or the Hotel Duna, but with us! . . . Do come and watch television with me for one week . . . Do come to our country, Mr. Senator and become thoroughly involved in our lives. You should be aware of the fact that I am and we are simple workers but have the right to know the news, films, books and achievements from the other side, to learn from them and if necessary to draw strength and even enthusiasm from these."

PROFESSIONAL INDEPENDENCE AND RESPONSIBILITY

One of several myths that RFE has had to live with is the notion that because it is government-supported it could not possibly be privately-managed or enjoy professional independence. As Senator Fulbright put it in his Senate speech of February 17, 1972: "The covert funding has . . . been accompanied by policy controls and monitoring arrangements so as to insure compliance with official policy guidelines. All of this indicates, beyond question, that the Radios still constitute an integral part of our foreign policy toward Eastern Europe and the Soviet Union."

There are really two questions here, and I would like to get the record straight on both of them.

The first is, Does the government exercise "policy controls" on the work of RFE?

The answer is emphatically No. Unlike the Voice of America, RFE is not a spokesman for governmental policy. RFE (and RL) are simply professional media of news and comment, a kind of substitute free press for East Europe and the Soviet Union. They have their own boards of directors, their own management teams, their own staffs, their own corporate structures, their own procedures. Each of the Radios is really nothing more than a large "newspaper of the air." As such each puts heavy emphasis on straight, objective news reporting, while also providing editorials, features, and comprehensive roundups of Western opinion and analysis.

Of course they are, as Senator Fulbright said, "an integral part of our foreign policy." But this is true in one sense and one sense only: our foreign policy calls for freedom of communication among nations not just at the government level but at all levels.

I have personally observed how RFE gets the news, evaluates it, and processes it for broadcasting. I can assure you there is no attempt and no need to intervene from Washington (or even from New York) in the editorial judgments that are made in Munich every day about the meaning of the day's events and how they should be covered.

This point has been corroborated by many outside observers, including a commentator for the Dutch National Radio Service, which did a 50-minute documentary on RFE last April 21. He concluded that RFE applies "normal journalistic standards" and that governmental influence on RFE's programming "is just as negligible as that of the Dutch government on its subsidized artists."

The other question is this: Does the government "monitor" the work of RFE and RL? Of course it does. No responsible government would put up hard cash without knowing a lot about how the cash is being used.

Detailed information about the Radios—their programming and research operations, administration, budgets and expenditures—is available to the Department of State, and indeed to anyone else with a legitimate interest in such information. And of course the entire final product of RFE is broadcasting, and is therefore fully in the public domain. Their financial records are regularly audited by reputable commercial auditing firms and are routinely available to the General Accounting Office.

President Nixon summed up this whole aspect of the Radios' operation in two sentences in the letter he wrote to me last December:

"RFE's task is particular its coverage of internal developments in East Europe, is of course one that only an independent broadcaster could undertake. This Administration is pleased to contribute to the financial support of Radio Free Europe, because we have followed closely the work of RFE and are satisfied that it continues to serve a fundamental national interest."

THE DIFFERENT ROLES OF VOA AND RFE–RL

The President's statement also helps answer the perennial question: Isn't the Voice of America all we need, or if not, could the VOA take over the work of RFE and RL?

There is in fact no essential overlapping of purpose or function. VOA is the radio voice of U.S. policy. RFE and RL, on the other hand, provide the kind of all-round home service for its audience countries that domestic stations might offer if censorship did not exist. They are, as Anatoli Kuznetsov has written (letter to the House Foreign Affairs Committee, September 8, 1971), "a substitute for a free press non-existent in our countries." Kuznetsov added:

"It is precisely the fact of being able to speak the language of a free press and not of the government propaganda that makes the broadcasts of Radio Free Europe and Radio Liberty so attractive to their audiences."

Even if VOA were to assume the special functions of RFE and RL, it would have to take over not only all of RFE's and RL's transmitters and frequencies but their personnel and their budgets.

Today VOA broadcasts an average of about 3 hours a day per country to RFE's audience area, as compared to RFE's average of nearly 16 hours a day. VOA could not physically transmit RFE and RL programming over its existing facilities without drastically curtailing its own worldwide output and without sharply reducing the number of transmitters that RFE and RL must now operate in order to cover their target areas in the face of jamming and other interference.

FINANCIAL SUPPORT FROM WESTERN EUROPE

In a letter to Senator Percy (Congressional Record, March 6, 1972), Senator Fulbright expressed his concern over "the lack of any apparent interest on the part of our Western European allies to help share the financial burden imposed by the Radios." The Senator added:

"Such sharing would certainly be consistent with the Nixon Doctrine and would serve to erase the doubts that I and others have about continuing U.S. support for these Radio operations. Accordingly, it seems to me that multilateral funding arrangements would provide a meaningful alternative to the present arrangement and this, of course, is something that could be fully explored in connection with any fiscal 1973 funding request."

On this point, I am happy to find myself in substantial agreement with Senator Fulbright. And I am pleased to report that our own explorations began some time ago. I met personally on this matter in Munich last January with Dr. Dirk Stikker, the former Dutch Foreign Minister and former NATO Secretary General, who is the Chairman of RFE's West European Advisory Committee. A number of other knowledgeable and influential West Europeans took part in the discussions.

I believe our efforts can yield worthwhile results. But let me enter a note of caution. First, mobilizing European financial support will take some time. It would be unreasonable to expect or demand that this be worked out by the beginning of fiscal 1973, that is, by July 1. As the *Washington Post* pointed out in an editorial on March 13, 1972:

"To convert a 20-year American operation into an alliance project under the June 30 gun now held by Senator Fulbright, is simply not feasible."

Secondly, as Dr. Stikker said in a cable to Senator Percy on March 16:

"I know that you will appreciate that if West Europeans are to be encouraged to begin contributing their own funds—private or governmental—it will be important for them to have whatever assurance may be possible that the Radios continue to enjoy the full confidence of the Congress and that their future will not continue to be subjected to unreasonable uncertainties."

Third, we would do well to avoid creating any impression that this broadcasting service is a project of our military alliance. Hopefully, the governments of our NATO allies, and the NATO parliamentarians also, will keep themselves informed of this work and give it their support. But I would hope that the participation of West Europeans will also include others, and will extend to the private sector as well as to governments.

A SUMMING UP

In his speech in the Senate on February 17, 1972, Senator Fulbright declared that Radio Free Europe and Radio Liberty "have outlived any usefulness they may have once had." He added:

"The American public recognizes this; so do the Western Europeans."

The speech triggered a spontaneous and almost overwhelming response throughout the United States and Western Europe in favor of keeping the Radios on the air.

Editorials and other commentary appeared in virtually every major newspaper on both continents. Nearly all of them—including, I am glad to say, the Baltimore Sun and the Baltimore News-American—expressed unqualified support for the Radios and urged that they be kept on the air.

Scholars, diplomats, contributors, and listeners wrote letters to the same effect. The AFL–CIO issued a strong statement.

A 60-member national Citizens Committee was formed under the leadership of George Ball, former Under-Secretary of State. It includes Clark Clifford, Douglas Dillon, Milton Eisenhower, Averell Harriman, John J. McCloy, George Meany, Nelson Rockefeller, and nearly all the living former U.S. Ambassadors to the Soviet Union.

A separate in-depth study of each of the Radios was prepared by the Congressional Research Service of the Library of Congress at the request of Senator Fulbright. Both studies have been published in the Congressional Record on March 6, 1972. The findings firmly endorse the aims and performance of the Radios.

The President of the United States issued a statement on March 11, calling the Radios "unique voices of freedom" and saying that, "It would be a tragedy if their light should now be extinguished because of a parliamentary impasse between the two Houses."

The parliamentary impasse mentioned by the President resulted from the failure of attempts to reconcile differences between the House and Senate authorization bills through the normal processes of compromise in the conference committee. A majority of the Senate conferees under the chairmanship of Senator Fulbright had refused to accept or to offer any concession.

That in itself was unusual. What was perhaps even more unusual was the sequel.

On March 2, 1972, Senator Charles Percy and Senator Hubert Humphrey introduced a resolution taking note of the impasse and stating that:

"The Senate hereby expresses (1) its continued appreciation of the valuable work being performed by the personnel of Radio Free Europe and Radio Liberty and (2) its intention to provide adequate support to these two radios while the methods for future support are carefully examined within the framework of United States foreign policy objectives."

That resolution has now been co-sponsored by 65 Senators—nearly a two-thirds majority, including a majority of the members of the Senate Foreign Relations Committee. This distinguished bipartisan roster, I am happy to note, includes both Senators from the State of Maryland, Mr. Mathias and Mr. Beall.

Ladies and Gentlemen, this has been a long report—longer than either you or I might have wished. But it has been a long year and we have reached a point where it seemed to me useful to take stock. I appreciate the opportunity you have given me to do so.

If I were to sum up the results of the past fifteen months, I would put it this way: The perhaps unpremeditated attack by Senator Fulbright against RFE and RL, following Senator Case's announcement of January 1971, has had an enormously constructive effect. It has compelled all of us—including our friends in Western Europe—to take a hard, close look at a couple of twenty-year-old institutions and to ask ourselves whether indeed the time has come for them, in Senator Fulbright's words, "to take their rightful place in the graveyard of cold war relics."

The verdict of thoughtful people throughout the Atlantic community has been rendered. It says that Radio Free Europe and Radio Liberty are serving a vital and humane purpose and that they should stay on the air as long as censorship prevails in Communist Europe.

In reaching this verdict, I believe Americans and West Europeans have exercised a few ghosts, disposed of a few myths, that have haunted RFE for many years.

Hopefully, this has also helped prepare the way toward more reliable and more adequate financial arrangements, and toward a more active participation in this effort by our friends in Western Europe.

Above all, we have reaffirmed the right and the efficacy of the freedom of communication among nations. In an era of negotiation, what could be more promising than that?

DECISIONMAKING PROCESSES OF THE GOVERNMENT

Mr. McGEE. Mr. President, last week, during debate on the war powers bill presently pending before the Senate, I suggested that what we really need is a high-level commission to conduct an in-depth study of the decisionmaking processes of our Government, particularly in respect to the war powers.

My concern in offering this suggestion is that the world has changed significantly from what our Founding Fathers knew in 1787. As a consequence, it would seem feasible for us to commission our best minds in a study to determine whether there is a need for an updated decisionmaking mechanism in our Constitution to enable us to deal more effectively with the problems which confront our Nation now and problems which will arise in the future.

In the Sunday Washington Star, Paul Hope reviewed a book recently written by Gerald W. Johnson, a noted journalist-historian-biographer. In his book, Mr. Johnson points out the United States "must reshape its Government to fit the needs of the modern world or it is going to go the way of the Roman, Byzantium, and British empires."

Mr. Johnson concludes that—

> If we fail, our place in world history will be that of another promising experiment that didn't pan out, and some other people will take up the struggle for it will never be abandoned while men retain imagination enough to dream of a better world.

While Mr. Johnson offers no solution to the dilemma confronting our Nation, he recognizes the scope of our problems. That is why I think now is the time for us to seek solutions in the hope that we can indeed draw up that much-needed mechanism which would allow us to realistically live up to our responsibilities in the latter third of the 20th century.

I ask unanimous consent that Paul Hope's review of "The Imperial Republic" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES ON THE BRINK OF COLLAPSE

(By Paul Hope)

Gerald W. Johnson, sometimes known as Baltimore's "Sage of Bolton Street," thinks the United States is teetering on the brink of collapse as a world power.

The 81-year-old journalist-historian-biographer has been setting his acerbic pen to problems of man and country for nearly 50 years since he gave up editorial writing for the Baltimore Sun for the freedom of freelance writing.

In this latest of 35 books, Johnson's main point is that the United States must reshape its government to fit the needs of the modern world or it is going to go the way of the Roman, Byzantium and British empires.

"If we fail," he says, "our place in world history will be that of another promising experiment that didn't pan out, and some other people will take up the struggle, for it will never be abandoned while men retain imagination enough to dream of a better world."

Johnson says the nation is in a third period of evolution. The first was a federated republic that didn't work and was soon replaced by the adoption of the Constitution that started the second phase—a "national republic." The third phase, which he calls an "imperial republic," began at the end of World War II and is not working.

Americans, he says, have to accept that the U.S. is a world empire and proceed from there. It can, he says, either lead the way to a better world or retreat into an isolationism that will cause it to be ostracized by the rest of the world.

The shortcoming of Johnson's book is that he never really defines what is wrong or what is needed to correct it. To the question of whether the "imperial third republic" can achieve anything remotely approaching the success of the second "national republic," he says:

"The only positive answer is that there is no positive answer. Unfortunately, answers are given, daily, positively, loudly, furiously. The consequence is that well-meaning Americans have lived for a quarter of a century deafened by such a clangor of brazen-tongued liars that rational, coherent thought is almost impossible."

Whatever the answer is, he says, it must come from an informed and interested citizenry.

"It will be a test of American democracy, not of American leadership, because whether we are governed by wise men or fools they govern by consent of the governed," he writes.

Because of communications systems developed in this country, he says, American people are always aware of events but what they don't know is the truth.

"It is needless to emphasize," he says, "that no man can ever be master of the whole truth, but it is necessary to emphasize that any man above the mental level of a half-wit can learn more of it than seems to be known by any but a relatively small segment of the American people."

He has no sympathy for people who don't vote, comparing them to "idiotes" of ancient Greece who refused to take any interest in the affairs of the city-state.

"For political purposes these people are worthless. . . . As far as determining the destiny of the country they are sheer dead weight," he says.

Nor has he any sympathy for leaders who withhold information from the people:

"Treason against the American people may include deliberately lying to them or denying them the facts, and thus the truth, about a critical situation."

Nor can Johnson tolerate those who would stifle dissent. He says that toleration of dissent is a severe test of courage because dissenters are so often fools. He recalled that the late H. L. Mencken once told him: "The trouble with standing for free speech is that you have to spend half your time defending sonsofbitches."

"What creates the quandary," says Johnson, "is that some dissenters are not fools, and they are the most valuable people in the nation because they produce action, including the correction of abuses and the abandonment of follies."

THE REVEREND JESSE JACKSON: SOUL LEADER

Mr. PERCY. Mr. President, for the 6 years that Operation Breadbasket has been alive in Chicago, the name of the Reverend Jesse Jackson has been synonymous with that effort.

Under his direction, Operation Breadbasket has labored for welfare reform, for ending hunger in America, for better health care, for minority enterprise and employment, and for the better education of our Nation's black children. Jesse Jackson is recognized as a forceful civil rights leader and a dynamic social reformer. I have worked closely with him on numerous occasions. Some of our early efforts by the Select Committee on Nutrition and Human Needs to focus national attention on the problem of hunger and malnutrition were greatly aided by Mr. Jackson's compassionate, sometimes angry concern for the plight of the urban poor.

There is every indication now that the Reverend Mr. Jackson's new effort, People United To Save Humanity, will be equally vital to the black community. I am confident that PUSH will be characterized by strong leadership, tremendous energy, and real accomplishments toward economic self-sufficiency.

An article published in the Wall Street Journal of March 16, 1972, presents some very interesting and candid reflections on the Reverend Jesse Jackson. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOUL LEADER: JESSE JACKSON BECOMES A MAJOR NEGRO FORCE BUT HAS MANY CRITICS

(By Jonathan R. Laing)

CHICAGO.—Seven years ago, Jesse L. Jackson, a divinity student, went to see Mayor Richard J. Daley about a job in the city's poverty program. Instead, the mayor offered him a post as a highway toll collector provided that he hustle votes in one of the city's black neighborhoods. Mr. Jackson declined the offer.

Last fall Mayor Daley paid a visit to Mr. Jackson. The occasion was a breakfast to kick off Black Expo, a massive trade fair organized by the minister. There, in the cavernous International Amphitheater before some 700 of the city's white and black business elite, the beaming mayor laid a thumb-grabbing "soul" handshake on the flamboyantly garbed Mr. Jackson as flashbulbs popped and the crowd roared.

Thirty-year-old Jesse Jackson has come a long way from the dilapidated shack in Greenville, S.C., where he grew up. He is handsome, articulate and dynamic—so much so that some of his more zealous followers regard him as a sort of Black Messiah. Philosophically, he combines the old-line Booker T. Washington doctrine of self-help with a latter-day appeal to black pride and militant tactics. Many observers feel that Mr. Jackson is the most important black leader to emerge since the Rev. Martin Luther King, under whose tutelage he first rose to prominence in the movement.

His status hasn't been dimmed by the fact that last December he bolted from the long-established but money-pinched Southern Christian Leadership Conference, which Mr. King had founded. Mr. Jackson formed his own Chicago-based organization, which he grandly named People United to Save Humanity, or PUSH. When he split, he took with him not only his thousands of loyal followers but also a good number of wealthy black businessmen and prominent black politicians and entertainers, whose support is essential to any such group.

A LACK OF CONCRETE ACHIEVEMENT

At the same time, however, Mr. Jackson is having problems realizing his goal of an independent, self-sufficient black community in Chicago—a community he hopes will serve as a model for other big American cities. Like other civil-rights leaders, he is finding it difficult to translate the legal and legislative civil-rights victories of the past two decades into concrete black advancement.

On a personal basis, critics assert he is overly vain and is inclined to substitute high-blown rhetoric for the kind of sustained effort needed to effect tangible gains. The second of these alleged defects, they say, mirrors the current state of the civil-rights movement generally.

"The movement has an infinitely tougher job today than it has had in the recent past," says Herbert Storing, a University of Chicago political scientist who has written extensively on the civil-rights movement. "Other issues like ecology have risen that jostle it for attention. The problems of the blacks in the Northern urban ghetto are greater and more subtle than the Southern-type segregation that the movement was set up to overcome. As a result, leaders like Mr. Jackson tend to resort to posturing and shuttling from issue to issue. Too often, headline hunting has become an end itself."

Mr. Jackson heatedly denies these charges. He says he has won thousands of jobs for blacks, opened grocery-chain shelves to black-produced goods, channeled millions of dollars into black banks and in the process materially expanded the economic base of Chicago's black community. "You don't do all this without a lot of sweat and organizing," he says. "After all, what good is it for blacks to be able to go to any school or hotel or live anywhere when we can't afford it?"

As to his style, Mr. Jackson says, "Sure I'm out in front, but it's because black people put me there. My charisma is a natural gift, but I've also nurtured it through victories."

A COMMANDING NATIONAL PRESENCE

Whatever the case, few deny that Mr. Jackson is a commanding presence on the national scene. His appeal is made up of a complex of characteristics. On the one hand, he is an ordained Baptist minister—a disciple of the Rev. Mr. King—who likes to refer to himself as the "country preacher." He says he adopted the sobriquet to avoid "pretentiousness." The title also strikes a responsive chord in his black constituency, steeped in the gospel tradition.

On the other hand, his image is anything but country with his bushy Afro hairstyle and mod wardrobe, his taste running from leather vests and puffy-sleeved, open-neck shirts to hand-stitched bell-bottom trousers. He jacks 220 pounds on a six-foot two-inch frame and still looks very much like the football star he was at North Carolina Agricultural and Technical College in Greensboro. "He isn't one to mess with. He's one brother who doesn't let anyone tell him what to do," says a black student at Farragut High School in Chicago's crumbling west-side ghetto, where Mr. Jackson recently addressed the student body.

He is, perhaps, most impressive when he takes the stage as the featured speaker in his weekly Saturday meetings of PUSH, staged at the massive Shiloh Missionary Baptist Church. The sessions, which start at 8:30 a.m., are a combination Southern Baptist prayer meeting, civics class and show-business spectacular. Each week the church's two thousand seats are packed while many more people tune in on radio.

Part of the meeting's allure is the black celebrities that Mr. Jackson attracts. In recent weeks they have included Richard Roundtree, star of the black motion-picture hit "Shaft"; singer Aretha Franklin; Bill Russell, the basketball star; Richard Hatcher, mayor of Gary, Ind.; former Cleveland Mayor Carl Stokes; and Sammy Davis Jr. Mr. Jackson's ability to draw such names, sometimes two or three at a time, attests to his status as a national figure.

No matter who is with him, though, Mr. Jackson is always the star. He is normally the last speaker on the bill. Shortly after 10 a.m., following a radio-station break, he strides confidently onto the stage as PUSH's 100-member teen-age choir, backed by a five-piece combo, sings the spiritual "He Included Me."

After a short prayer, Mr. Jackson kicks off his speech with the cry, "I am somebody." The crowd roars back, "I am somebody." Continuing the black-pride litany, the minister chants, "I may be poor." *"I may be poor."* "I may be on welfare." *"I may be on welfare."* "But I am somebody." *"But I am somebody."* "I must be protected; I must be respected." *"I must be protected; I must be respected."* "What time is it?" *"Nation time"* (meaning unity). "Right on."

His fiery hour-long speeches draw frequent cries from the audience of "right on" and "tell it, Jesse." In recent months he has spoken on such subjects as the threatened cut in Illinois welfare payments, an economic "bill of rights" for blacks, the legacy of Mr. King and the "unresponsiveness to blacks" of Mayor Daley's Cook County Democratic organization.

Whatever the topic, Mr. Jackson invariably hammers away at the theme that blacks must arise their aspirations. "Don't just be checking out your clothes and hairstyle—check out your mind," he says. "You can't teach what you don't know. You can't lead where you won't go."

He ends with a repeat of the "I am somebody" chant followed by a hand-clapping spiritual that leaves the audience in a fervor.

Some regard the Saturday morning meeting as stagy and without much point. Mr. Jackson, however, considers them important—sufficiently so that he is always present, even when his travels take him far from Chicago during the week.

"The meetings get people's heads together by instilling black pride and unity," he explains. "Self-hate is a major problem for blacks—especially for the Northern black who was pushed out of the South only to be a loser again in the North. With the celebrities, the speeches and the chant, we really convince people that they are somebody."

SOUTHERN SELF-CONFIDENCE

Mr. Jackson says that he, himself, has never lacked self-confidence, a fact he attributes to his Southern upbringing. Born in Greenville, S.C., the illegitimate son of a cotton-mill worker, Jesse was raised by Charles Jackson, a janitor his mother later married.

According to Jesse Jackson, growing up in segregated Greenville wasn't nearly as psychologically crippling as the Northern urban ghetto. "Most of the people in authority I encountered (in the South)—my principal, teacher and coaches—were black," he says. "Unlike kids in the North, I never doubted that blacks could do these things."

Indeed, his first real contact with whites turned out to be ego-bruising. It came when he went to the University of Illinois on a football scholarship in 1959. "I was amazed to find that there were whites who were smarter than I was and just as good athletes," he says. "But I never got a fair chance there, for blacks were pretty much excluded from campus life. They didn't even let me try out for quarterback because blacks just didn't run major college teams in those days."

Disillusioned, he transferred the following year to a Negro college, North Carolina A&T. There he became the star varsity quarterback, student-body president, campus civil-rights leader, the national officer of his fraternity and an honor student in sociology.

Mr. Jackson began the meetings and his coincident rise to prominence in 1966 when, while still a student at Chicago Theological Seminary, he was named by the Rev. Mr. King to head up the newly formed Chicago chapter of the Southern Christian Leadership Conference's Operation Breadbasket. Modeled after a similar SCLC group in Atlanta, the aim of the chapter was simple—to win jobs for blacks in white-owned businesses operating in the black community through moral suasion and, if necessary, picketing and boycotts.

Under Mr. Jackson's leadership, Chicago's Breadbasket soon eclipsed the record of the Atlanta chapter. Starting in early 1966 with Chicago's dairies, Breadbasket won agreements, or "covenants," from about 20 companies, including such national chains as A&P, National Tea and Walgreen's.

MORE THAN JOBS

Many of the agreements guaranteed more than jobs. For instance in the 1968 A&P covenant, negotiated after a bitter 16-week boycott of more than 40 of its ghetto stores, the chain agreed to provide shelf space and promotion for products of black businessmen. It also agreed to use minority-owned garbage-collection firms, exterminators and janitorial services in ghetto stores, to hire black public-relations firms, to advertise in black media and to bank in black institutions.

In addition, Breadbasket obtained a number of private business and government building contracts for black building contractors. Black Expo, a heavily attended trade fair that Breadbasket began in 1967, resulted in millions of dollars of new business for the city's black business community.

In all, Mr. Jackson figures that Breadbasket directly obtained about 5,000 jobs for blacks with an annual payroll of nearly $50 million and probably got more indirectly. Some neutral observers concur with the figures but say many of the jobs would have gone to minority groups anyway because of increased social awareness by business. In addition a number of black businesses in Chicago have profited handsomely from Breadbasket's efforts. Since 1965, Grove Fresh Distributors, which handles orange juice, has had a sales rise of 500% and Joe Louis Milk Co. of 400%, largely because of access to chain stores won by Breadbasket.

BEYOND THE BOYCOTT

Lately, Mr. Jackson has largely foregone boycotts for more grandiose economic programs. He is currently calling for a national black economic development plan. It calls for at least $15 billion of federal tax revenues (his estimate of annual black tax payments) to be deposited in black-owned banks. It also calls for community development, for massive job-training programs for blacks by the government and private industry, and for black reconstruction of the nation's inner cities.

PUSH recently disclosed a 35-page plan to eliminate disparities between black and white income levels, employment opportunities and unemployment rates. Among the plan's proposals is a guaranteed annual income of $4,000 keyed to a family of four, plus income supplements. Democratic presidential candidate Sen. George McGovern recently adopted the plan as part of his campaign platform.

Critics charge that his programs, though often laudable, are mostly rhetoric. The same goes for many of Mr. Jackson's activities, they say. Take his whirlwind trip to the last AFL–CIO convention in Miami Beach, where he called for a general strike to protest government wage controls and a more vigorous effort by unions to open leadership posts to minorities and to organize the unorganized. Other than meeting with several dozen black delegates, his activities there consisted mostly of issuing press releases and holding press conferences. Since the convention, he has apparently all but dropped the proposals, having done little to follow up on them.

Mr. Jackson is somewhat vague about how some of the things he proposes would be accomplished. When pressed for details on his job-training programs, for instance, he merely replies, "They must be different from the programs under the poverty program; they must train people for jobs that exist."

In the political sphere, where Mr. Jackson has become increasingly active in recent years, he has enjoyed only moderate success. He perhaps is most influential in the national arena, having played a key role in the recent black political strategy sessions leading up to the Democratic National Convention and the recent National Black Political Convention. He has the ear of leading black politicians, many of whom he has campaigned for.

MUSTERING THE MUSCLE

At times Mr. Jackson is able to muster plenty of muscle. A few years ago he headed off a proposed $125 million cut in Illinois welfare funds when he brought some 8,000 demonstrators to the state capitol in Springfield to protest the threatened action by the state legislature. He also worked effectively behind the scenes buttonholing state legislators and getting Gov. Richard Ogilvie to pressure fellow Republicans in the legislature to withdraw the budget cut. "He was phenomenal in action," says one of Gov. Ogilvie's top aides.

Yet Mr. Jackson's political influence is sharply limited because of his failure to swing votes in local elections. Despite his stature in Chicago's black community, he has largely failed to shake the political hold of the powerful Daley Democratic machine over the city's more than one million blacks.

Over the years most of the local candidates Mr. Jackson has backed have been trounced by their machine opponents. Last spring, running as an independent, Mr. Jackson challenged Mayor Daley in the mayoralty race but was unable to collect enough nominating signatures to get on the ballot. On the eve of the election, he threw his support to Mayor Daley's Republican opponent, who was swamped at the polls the following day, especially in the black precincts.

Mr. Jackson attributes his local political failures of Mayor Daley's "dictatorial hold" over Chicago. "I could give any other politician in the country trouble if I wanted," he insists. Other observers, however, say that the minister's defeats stem from poor organization and political ineptitude. "Jesse doesn't realize that elections are won by tedious, unrelenting precinct work and not emotional speeches and hand-clapping rallies," one political observer says. "Jesse doesn't put in the necessary hours in grass-roots organizing. He just wants the easy victories."

PREACHING UNITY BUT—

Lately Mr. Jackson has been talking about the need for a confederation of civil-rights groups to give united voice to black demands. Although preaching black unity, last December Mr. Jackson took his Chicago-based group out of the SCLC, thus seriously hobbling the SCLC's operations in the North.

The break came after Ralph Abernathy, the SCLC national president, suspended Mr. Jackson for 60 days as Breadbasket director because of "administrative improprieties." The national board of the SCLC charged that Mr. Jackson had violated the group's national constitution and organizational policy by incorporating Black Expo without obtaining the approval of the parent body.

He declines to discuss the split, but insiders say that it was inevitable because of the growing rivalry and antagonism between Mr. Jackson and Mr. Abernathy. The rift between the two surfaced a month after Mr. King's death, when Mr. Abernathy demoted Mr. Jackson as manager of Resurrection City, the camping ground during the 1968 Poor People's Campaign in Washington. In recent years the two have studiously avoided appearing together at rallies.

"Jesse always felt that he and not Ralph should run the SCLC because Ralph wasn't dynamic or effective enough for the job," an SCLC staffer says. "But SCLC is a Southern-based movement, and Jesse realized that there was no way he could ever displace Ralph, so he left."

Although Mr. Jackson insists that all is well within his own group, the turnover of aides has been heavy in recent years. A number of staffers who left complained of the minister's "egotism" and constant need for "self-glorification." "Jesse's on a constant ego trip," says Noah Robinson, his 29-year-old half-brother, who joined Breadbasket for a year but then left. "Jesse got rid of me because he was afraid that I was pushing him out of the limelight." Mr. Jackson declines comment.

GENOCIDE: BANGLADESH TRIBUNALS TO JUDGE PAKISTANI WAR CRIMES

Mr. PROXMIRE. Mr. President, recent newspaper articles indicate that the infant nation of Bangladesh will convene tribunals to hear charges of war crimes and atrocities leveled against captured Pakistani military leaders and soldiers. These Pakistani soldiers are presently being held in Indian POW camps as a result of the 2-week war on the Asian subcontinent.

Certainly there can be no doubt that the West Pakistani occupation of the East brought brutality and bloodshed. Many native Bengalis were slaughtered and their women raped in the effort to achieve the political submission of the East. No crime should be ignored. But during the course of every bitter war these wretched and unjustified acts of violence occur, and no nation escapes responsibility for a few reckless and criminal troopers. Clearly acts of atrocity and genocide were perpetrated by some soldiers serving West Pakistan, but also by Indian and Bangladesh troops in retaliation.

Justice is not served by victors judging the vanquished. Nor is morality served by punishing men solely for reasons of nationality, while ignoring the crimes of comrades. Ultimately we must hope that mankind will outgrow its need for violence, vengeance, and brutality. But as long as these needs remain we must look for more equitable methods for dealing with them. The tribunals soon to be convened in Bangladesh suffer from the same moral and judicial weaknesses which the controversial Nuremberg trials embodied. No international law sustains such action and no international organization has created a tribunal of impartial judges.

The Genocide Convention has provisions for such an international tribunal for the punishment of genocide. Bangladesh is not a party to it by virtue of her national youth. But the United States cannot offer such an excuse. Therefore I urge Senators to move quickly to ratify this humanitarian treaty with the hope that Bangladesh and all new nations will follow our lead. With such a treaty both justice and morality will be well protected, and the legal vacuum evident in Nuremberg and Dacca will be filled.

AIR TRANSPORTATION TO NEW ENGLAND

Mr. COTTON. Mr. President, I noted with special interest the statement of my friend the distinguished senior Senator from Georgia (Mr. Talmadge), which appeared in the Congressional Record of March 28, concerning air transportation to New England.

At that time the Senator from Georgia placed in the Record the reply which I received from Mr. R. S. Maurer, senior vice president-general counsel of Delta Air Lines, Inc. This reply was in response to my letter of March 20 to Mr. Tom Beebe, chairman of the board and chief executive office of Delta Air Lines, which was included with the material which I placed in the Congressional Record of March 23—see pages 9893–9897.

Mr. President, I am grateful for the assurances expressed by Senator Talmadge indicating that Delta does a "pretty good job" of serving his State, including smaller communities, and that he has "never known Delta to shirk its responsibilities with respect to the smaller communities it is required to serve."

I do not for one moment question the veracity and sincerity of my friend from Georgia. But the fact remains that the record in the Delta Air Lines-Northeast Airlines merger case—Docket No. 23315, the New England Service Investigation—Docket No. 22973, and the hearing record developed by the Aviation Subcommittee of our Committee on Commerce in September of last year in my own State of New Hampshire, do not encourage us from northern New England to believe that Delta Air Lines will render us the kind of service necessary if our region is to prosper and grow. In fact, I must, in fairness to Delta, give them credit for being most candid and forthright in their testimony before our committee and in their private conferences with me. Their representatives stated quite frankly that while, of course, they would comply with whatever requirements the CAB exacted from them in the merger went through, they intend, if permitted, to curtail sharply the service that New Hampshire and Vermont have received in the past from Northeast and Mohawk. The only North-South service they would render would be from Concord and Manchester, N.H., to New York—none to Boston. This would mean that three-quarters of New Hampshire and the whole State of Vermont with the exception of Burlington would be without air transportation except what could be afforded by the so-called third level carriers. They would operate an East-West service from some point in Maine through Lebanon, N.H. and Burlington, Vt., to Albany and points west, but there is little demand for such service by the people of New Hampshire and Vermont. What they need is access to Boston and New York. Subsequent communications from Delta Air Lines have been evasive in nature and give us no ground to believe that their intentions have changed.

Mr. President, in order that the Record may be complete in this matter I ask unanimous consent to have printed in the Record my reply to that of Mr. Maurer, which my good friend the Senator from Georgia (Mr. Talmadge) placed in the Record of March 23.

There being no objection, the letter was ordered to be printed in the Record, as follows:

March 28, 1972.

Mr. R. S. Maurer,
Senior Vice President-General Counsel, Delta Air Lines, Inc., Atlanta Airport, Atlanta, Ga.

Dear Mr. Maurer: Your letter of March 23rd responding to mine of March 20th was a source of both disappointment and bewilderment.

It was a disappointment since it furnished no information that I did not already know about and because it was *not* responsive to either of my two inquiries.

It was bewildering for two reasons: first, because I thought I had addressed my inquiry to Mr. Tom Beebe, Chairman of the Board and Chief Executive Officer of Delta Air Lines, and not yourself; and secondly, because I cannot see how anyone could have responded to my letter without first having read the article in the *Commuter Airline World* of January 1972 to which I referred and to which you parenthetically admitted "we have not yet seen".

Accordingly, after reading your own response to my letter of March 20th, I am all the more anxious to see what Mr. Beebe has to say on this matter which is of such vital importance to my own State of New Hampshire, the State of Vermont and other areas similarly situated in the northern New England area.

With best wishes,
Sincerely,

Norris Cotton,
U.S. Senator.

VOTER RESIDENCY REQUIREMENTS

Mr. McGEE. Mr. President, though the Senate has tabled my bill to establish a

National Voter Registration Administration to ease the path to the polling place for millions of functionally disenfranchised Americans, the issue is not dead. Even before the smoke had cleared from our recent vote, the Supreme Court found lengthy residency requirements to be, in effect, crude barriers to voter participation. Thus, the thrust of the law was, I believe, unmistakenly placed behind those provisions of S. 2574 which would have limited residency requirements for Federal election contests to 30 days.

Many close observers of the political scene are likewise convinced that registration procedures too often are used as another form of barrier to voting. As the New York Times observed editorially just before S. 2574 was tabled last month:

> Nothing is more frustrating for a citizen than to discover he cannot vote because he has not lived in his state or community long enough or because he forgot to register weeks or months before Election Day.

Mr. President, although the question is not before us at present, I believe Senators should carefully weigh their attitude toward a system of simplified registration for Federal elections. I ask unanimous consent, then, that the New York Times editorial, entitled "The Frustrated Voter," published on March 10, 1972, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE FRUSTRATED VOTER

Nothing is more frustrating for a citizen than to discover he cannot vote because he has not lived in his state or community long enough or because he forgot to register weeks or months before Election Day. Nothing could be more ironic since democracy thrives on popular participation.

The Senate is now considering a bill sponsored by Senator McGee of Wyoming, which would do much to smooth the way to the polling place. The bill would permit a citizen to vote in Federal elections if he had been resident in a state for thirty days. Twenty-four states now require that a potential voter reside in that state for at least one year, an old-fashioned residence requirement that no longer makes sense if it ever did.

The bill would also permit potential voters to register until thirty days before an election. Most states have approximately the same registration deadline, but this provision would do away with the anomalous requirements which now prevail in a few areas.

It is also desirable to make it easier for citizens to register. Except in progressive communities which have mobile registration centers, getting one's name on the voting roll often involves a trip to an inconveniently located office on a workday. The McGee bill eliminates this obstacle. It would set up a National Voter Registration Administration within the Census Bureau to register potential voters by mail.

There is no constitutional barrier to this reform inasmuch as local governments would still control the actual registration process—the Federal form would be mailed back to the local voting registrar—and the states could still set voter qualifications for the own elections.

The McGee bill is now before the Senate, but it has encountered stiff Republican opposition. Yet this reform ought not be a partisan issue. The frustrated voter is as likely to be a suburban Republican businessman recently transferred from another state as he is to be an inner city Democrat. A simplified registration procedure is long overdue.

THE EX-OFFENDERS EMPLOYMENT PROJECT OF ILLINOIS JAYCEES

Mr. PERCY. Mr. President, one of the overwhelming problems faced by a man when he is released from prison into the community is the lack of suitable employment. The problem is not simply one of a lack of available jobs. It is much more. The principal problem is a very antagonistic attitude on the part of employers. They regard ex-offenders as suspect and untrustworthy. Though in some cases, their fears may be justified, this type of attitude perpetuates the problem. Because an ex-offender cannot get a job, the chances are greatly increased that he will return to crime. And with this, the recidivism rates continue to increase, thereby supporting a potential employer's reluctances to hire ex-offenders. It is an endless and vicious circle.

However, there have been breaks in this circle. Organizations have sprung up that have tried to break the cycle and provide ex-offenders with not only a job, but a well-paying satisfying job. Though many of these programs are government funded, the greatest source of encouragement are those private organizations which have taken an active part in this area on their own. One such organization which has served as a model for other such groups is the Ex-Offenders Employment Project of the Illinois Jaycees. This is a group of men who are interested in getting ex-offenders jobs. The people who run the program happen to be in prison themselves. This enables them to play a unique and important role in helping to insure that when a man comes out of prison, he has a better chance of making it. They make sure that an alternative exists in the form of a job. To the individual prisoner, this can mean the difference between rejoining the community as a contributing citizen, or returning to crime. To society it can mean that instead of a criminal, we have a man interested and active in the welfare of the community.

Mr. President, I ask unanimous consent that an article published in the March edition of Manpower, the publication of the U.S. Department of Labor, be printed in the RECORD. It explains the Illinois Jaycees program and what it means in human terms to all of us. As the title of the article indicates, this Jaycee project forges the missing link between the community and the ex-offender.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRISON JAYCEES: FORGING THE MISSING LINK

Like most Jayees, James L. Trimble and David Blumenthal are optimistic, hardworking, and devoted to community betterment. But there's one big difference. Unlike most Jaycees, they are both in prison. And it's lucky for their cellmates at the State Prison at Joliet, Ill., that they are.

Trimble is chairman and Blumenthal co-chairman of the Ex-Offenders Employment Project, sponsored by the Joliet East Jaycees, a chapter inside the prison and composed entirely of inmates. The project has led to jobs and early release for about 300 Joliet inmates, and has attracted laudatory notices from correctional officials, employers, the U.S. Jaycees, and the U.S. Senate.

The prison Jaycees, of course, lack the mobility of their colleagues on the outside. But with the help of prison authorities, they have overcome this crucial handicap. They do their job-finding through links with Jaycee (formerly called Junior Chamber of Commerce) chapters throughout the State which are composed mostly of young business and professional men who have good contacts with employers. The prison makes this possible by giving Trimble and Blumenthal virtually carte blanche to send and receive mail and to make and receive phone calls.

"The Joliet East Jaycees' program is one of the really important steps taken in our State to involve the community in the responsibility of improving our correctional and rehabilitation program," said Peter Bensinger, director of the Illinois Department of Corrections. "My feeling is that without meaningful employment, the potential for real reintegration into society of ex-offenders is very limited."

Here's the way the project works.

About 6 months before his parole hearing, an inmate routinely receives a program application form from the prison's clinical services department. If he wants the Jaycees' help in finding a job he fills out the two-page application and sends it through the prison mail service to inmate Raymond Larsen, records coordinator for the project. The application asks for all relevant information about the inmate's background that bears on placing him in a suitable job. Specifically excluded are references to race, religion, or the nature of his offense.

But the prisoner is asked about his education and training, including prison training. This last is important because for many prisoners it represents the only vocational preparation or skill they possess. And while even prison officials admit that the training at Joliet could stand improvement, inmates do have access to classes in about 40 occupations, including barbering, food supply, auto mechanics, typewriter repair, drafting, and cement finishing. Volkswagen has established a course in auto repair and Portland Cement in cement finishing.

The application also asks the prisoner about his job preferences, work experience, hopes for the future, salary required, whether he needs help in finding housing, and whether he wants further education.

Jaycee chapters throughout the State have appointed coordinators to work with the project. After making sure the application is filled out properly, Larsen mails it to the coordinator in the area where the convict wants to settle when he is released. Along with the application goes a medical report describing the offender's present physical condition, and when possible, a vocational evaluation made by the prison's staff employment counselor.

The Jaycee coordinator—a volunteer who has to do the work in his spare time—then begins pounding the pavements, tapping friends and acquaintances among employers for a job for the offender. Information about the man's criminal background is made available to the coordinator on a confidential basis in case a prospective employer asks. But this information is not divulged unless the employer specifically asks for it.

The 6-month lead time gives the Jaycees ample opportunity to place a man and make sure he has housing before his parole hearing comes up. Without these two items, chances for parole are slim.

If the coordinator fails to come through with a job, the case is turned over to another Jaycee in the same area. The Jaycees are aided in their job-finding efforts by a directory listing Illinois employers who have indicated an interest in helping. The list—now about 110 firms—was compiled by the Senate Chamber of Commerce, which has given the project solid backing. Cooperating employers include such major firms as Caterpillar Tractor, Sears, Precision Castings, and Teletype Corporation.

Sometimes an employer wants to see a man before hiring him. Illinois has a work furlough law permitting a convict to go out on a job interview. But until recently the inmate had to pay all his own expenses plus those of a guard to accompany him, which made it impossible for most inmates to afford the trip. Inmates no longer have to pay these expenses, but the change has not yet been implemented so the Joliet East Jaycees invite the employer to visit the inmate at the prison.

Most employers, fortunately, are content to hire the man sight unseen. "This is due mainly to the 'selling job' performed by the outside coordinator," said Trimble.

The beginnings of the prison program go back almost 10 years, according to Fraser Young of the outside Jaycee chapter in the city of Joliet. Now outside coordinator in Joliet for the prison project, Young was chairman of the Joliet Jaycees' effort to establish a chapter in the prison. "The idea cropped up in 1963," he said. "But we met a stone wall from the prison administrators."

The situation remained unchanged until January 1970 when the new Illinois Department of Corrections was formed, taking over the correctional functions of the Illinois Youth Commission and the Department of Public Safety. The first director was Peter Bensinger, now 35. Bensinger, a member of the task force appointed by the Governor to launch the new correctional setup, was a top executive with the Brunswick Corporation of Chicago and was active in volunteer work with youth.

Bensinger took over with a commitment to improve and liberalize the correctional system of the State. He particularly wanted to strengthen education and training programs for prisoners and to ease their transition back into society.

Young said that in April 1970 Bensinger passed the word to try again. "We received a call from Bensinger's office that a meeting had been set up with the warden."

PILOT CHAPTER LAUNCHED

Young and two other Joliet Jaycee officers met with Frank Pate, then warden, A. M. Monahan, assistant director of corrections, and several other prison officials. They agreed that a Jaycee chapter should be started on a pilot basis in the prisons' Reception and Diagnostic Center. Within 30 days officers had been elected and "we were off and running," according to Young.

Normally, Jaycees are 21 to 35 years old. But the Jaycees have a sort of associate member category called "exhausted roosters." This device permits individual chapters to use the talents of men like Trimble, 48, and Blumenthal, 46, who are over the age limit. They do not hold elective office but they are sometimes named chairmen of special projects—particularly in prison where there are no other civic clubs, such as the Lions and the Kiwanis, for older inmates to join.

The first thing a Jaycee chapter needs is a project for improvement of its community. The community in this case was the prison and the big need was jobs. The inmate chapter, with aid from the Joliet chapter, drew up a plan which won the approval of the Illinois Jaycees' State Board of Directors.

The plan was then presented to the Illinois Law Enforcement Commission along with a request for money. Joliet Warden John J. Twomey gave his blessing. And when Bensinger put his stamp of approval on it, in December 1970, a $9,000 grant was forthcoming within 15 days.

The climatic event was a 2-day training seminar at a Joliet motel in January 1971. About 165 people attended, including 85 Jaycees representing 50 chapters throughout Illinois and many correctional officials, among them Twomey and Bensinger. Also on hand were six prison inmates representing the Joliet East Jaycees who were allowed outside the prison to attend the meeting—a first for the State of Illinois.

From this promising beginning, the project in the next 9 months compiled the following record:

Of 622 applications placed with coordinators, 287 inmates were paroled to jobs; 111 were conditionally released; 51 were placed on work release, transferred, or discharged; 6 withdrew; and 167 applications were pending.

Young reported that of the 287 paroled to jobs, only six have returned to prison. He noted that out of a similar group of 244 men—"released under normal conditions at the same time and not in our program"—82 have been returned to prison either for parole violations or new offenses.

"While it is still far too early to draw any positive conclusions from this fantastic decline in the recidivism rate . . . we think we know why this is happening here," declared Trimble and Blumenthal in a letter to a North Carolina prison inmate. "Where else do inmates have someone on the outside—a Jaycee volunteer—who writes to and visits the inmate while he is still confined; who makes an all-out effort to find him a meaningful job opportunity; who keeps in touch with the Parole Board after the inmate's parole hearing; who invites the man to visit his home after his release, enlists the inmate as a member of the local Jaycee chapter; who counsels, encourages, and establishes a solid friendship with the inmate in the free world?"

Bensinger believes the project "changes the odds" for men leaving prison in "two portant part of the community-at-large, important ways." First, "it involves an important part of the community-at-large, the business or employment community, which was not previously involved." And "it reduces having to rely on temporary low-paying jobs for inmates seeking parole."

This latter is a key point, in Trimble's view. He believes one of the project's main achievements has been to upgrade the types of jobs parolees and others being released can find.

"We get applications from only about half the men going out," he said. "A lot of them are people with no outside ties, no roots, no home. They come to us when they've exhausted every other possibility.

"Frequently a man will take any job just to qualify to get out of here. We're not interested in jobs like that. We're interested in a job with a future; with normal pay raises and some security, so the man won't be coming back."

The jaycees have found permanent jobs for ex-inmates as barbers, salesmen, cement finishers, meatcutters, construction craftsmen, auto mechanics, truck drivers, and welders. One skilled tool and die maker nailed down a job paying $5.80 an hour.

Precision Castings Company of Rockford has put more than 20 ex-offenders from Joliet and two other States prisons on the payroll, some of them before the project began. Most of them start on piecework production jobs, earning a minimum of $2.38 an hour, according to Edward James, Precision Castings personnel manager.

"One I hired recently from Joliet is on piecework, operating a punch press, and he's making $140 to $150 a week," he said. "Another fellow is a floor inspector. He's on hourly rate, $2.98 plus 16 cents cost-of-living. He's been with me 3 months. White or black, we take them."

OLDER WORKERS PREFERRED

Many employers prefer to hire younger men who are presumably more easily trained. Not James. He'll take the more settled man.

"Only three or four I've hired were not worth a damn, and they were younger fellows. I got rid of them. Some of the older fellows work 4 or 5 months, get a better job and go, and that's okay as long as they notify me. I've had really good luck. Only one fellow gave me any real trouble. He got mixed up with a woman and began drinking. I think he's back in the pen now."

James believes it is best not to put ex-inmates together in the factory.

"I spread them around, put them in different departments on different shifts. They're assured that nobody knows their records, not even the foremen. We treat them like anyone else. I tell them, 'As long as you want to work, everything's okay. If you horse around, I have to get rid of you.' They do okay."

Some outside Jaycee coordinators feel that simply finding a parolee a good job is not enough. Thorough-going followup is considered essential by G. Richard Dunkirk, 30, coordinator for the Bloomington chapter and State Jaycee vice president.

Dunkirk, president of a manufacturing and sales firm, had placed four Joliet ex-convicts by the end of 1971. One of these, Bob, 25, a former burglar, was paroled last March after Dunkirk persuaded the business agent of the Iron Workers Union local in a nearby city to give him an apprentice's card. Bob had a good deal of experience in the trade and within 6 months had his journeyman's card. He now earns $7.35 an hour. Despite this high pay, it quickly became evident that Bob had a proclivity for getting into trouble and several times he came close to technical violations of his parole.

Dunkirk now requires that all offenders he helps spend every evening of their first 3 weeks out of prison at a different Jaycee's home, talking and getting acclimated to freedom. Then they are required to check in with Dunkirk by phone every day after work for the next 3 months and discuss their problems. And they are further required to spend 2 hours every month for an indefinite period talking to a clinical psychologist.

JOLIET CALLED MODEL PROJECT

"What we try to do is turn major problems into little ones," said Dunkirk. "Take Bob, for instance. He has to do some welding on the job and that burns his clothes up. He called me one evening scared because all his clothes were burned and he couldn't buy new ones without his parole officer's permission. I called the officer at his home and got permission so Bob could be at work on time the next day.

"The ex-offender's biggest problem is he can't relate to free society," Dunkirk said. "All they can talk about is what they know—prison. You've got to get them on a fresh track, talking about jobs and other things related to the outside world."

Gary Hill, consultant on crime and corrections for the U.S. Jaycees, regards the Joliet project as a model effort. There are nearly 200 Jaycee chapters in prisons today "and all of them have some kind of employment project or referral to outside job sources," he said. "In my opinion, Joliet and Chino, Calif., are the best. Both of them tie together the efforts of correction professionals, the outside community, and the inmates."

Trimble noted that some parolees are now themselves acting as coordinators. By December, eight of them were out job-seeking for those still behind bars. Usually—but not always—they join the Jaycee chapter in their home community.

Walter Collins of Peoria is one of these coordinators. His first move after leaving Joliet on parole September 3, following 10 months served on a theft charge, was to get his old job back at S. V. Cain, Inc., a janitorial service. Trimble has sent him three applications. Collins placed one applicant with the Cain firm and is looking for jobs for the other two.

Placing ex-convicts is "an uphill battle," said Collins, who is especially interested in helping fellow blacks coming out of prison. "You have to be a good salesman. Employers give you the fishy eye. They think because a man's been in prison he's killed 40 people. If I ever get a business of my own I will hire nothing but ex-offenders. At least I'll consider them first. I know how important it is for these fellows to have a job."

The Joliet prison project has attracted inquiries from more than 125 Jaycee organizations—including one in Australia—interested in starting similar porgrams. Particularly satisfying to Trimble was an inquiry he received last September from Senator Charles H. Percy of Illinois.

Percy, who said he had been following the effort "with great interest," asked Trimble what he thought about "the possibility of expanding a project like yours on a nationwide scale." Percy also asked for the views of Trimble and other members of the Joliet East Jaycees on "a program of Federal incentives to businessmen to hire ex-offenders."

In a lengthy reply, Trimble said: "While we have some reservations as to the desirability and viability of providing Federal incentives to private businesses to employ ex-offenders—at least on a vast scale—we know from experience that private-sector involvement is absolutely essential. Thus we feel that every avenue should be explored to attain the fullest possible measure of cooperation and support from this area, up to and including incentives on a limited, experimental basis at the outset."

Before they got into trouble, Trimble and Blumenthal both had positions of some prestige in their communities. Trimble, now serving a 3-to-5-year sentence, was once administrative aide to the Mayor of a large southern city, and in 1949 was named by the Jaycees there as "Outstanding Young Man of the Year." Blumenthal, who is serving a 2-to-6-year sentence, was a sales executive for a luggage manufacturing firm.

TOO BUSY TO NURSE REGRETS

Fortunately, they are too busy to nurse their regrets. Like all Jaycees, they must do their civic work in their spare time. Both have full-time jobs in the Reception and Diagnostic Center at the prison. Trimble is a captain's clerk and Blumenthal is head clerk in the office of the center's superintendent, Wilson Meeks, a strong supporter of the employment project.

Meeks feels that the value of the project goes beyond its job placement activities. He noted that about 20 Jaycee chapters have come to the prison to hold joint meetings with the inmate chapter and last summer there were recreation and social programs between the prisoners and their outside colleagues. All this, he said, makes the inmates feel part of the community, enhances their social contacts, and gives them a feeling of responsibility.

Warden Twomey also believes that efforts to rehabilitate offenders must go beyond prison walls. "To return offenders to society as law-abiding and productive citizens, institutions must have programs for the improvement of values, attitudes, education, and work skills," he said. "Inmates must develop self-motivation and the community must be receptive and provide helpful resources to ex-offenders. It's a three-way effort. The Jaycees have gone that extra mile in providing community support and assistance."

Twomey's attitude and that of other correctional officials has helped, in Trimble's words, to turn the "shattering experience" of being in prison into "the rewarding experience" of helping others.

MARYLAND BICENTENNIAL DAY IN HARFORD COUNTY

Mr. BEALL. Mr. President, in little more than 4 years from now, the United States of America will mark its 200th birthday. Preparations to mark this event are even now taking place on the Federal, State, and local levels. The decade of the 1970's is a time to look back on our glorious past and rededicate ourselves to the promise of those formative years.

It is with great pride and pleasure that I bring to the attention of Senators the work of the citizens of Harford County, Md., to commemorate this significant period in our history. On March 22, the county celebrated Maryland Bicentennial Commission Day, when members of the community reverently memorialized the contributions of Harford County to our national heritage. On that day, 197 years ago, the Bush Declaration of Independence, believed to be a forerunner of the document approved in Philadelphia a year later, was signed by 34 Harford Countians who pledged themselves to the resolves of the Continental Congress, at the risk of their lives and fortunes.

This year is also the 199th anniversary of the founding of Harford County. The first governmental acts of the new county were performed on March 22, 1774, and thus the tribute at Abington, Md., last week had an important double significance.

Mr. President, I commend the citizens of Harford County for their concern for our Nation's past. I also ask unanimous consent that the remarks of Judge Wilson K. Barnes, chairman of the Maryland Bicentennial Commission; the Honorable Fred B. Baldwin, member of the Board of County Commissioners of Harford County; and Mr. Allan H. Constance, coordinator for the host committee at the wreath-laying ceremonies on March 22, 1972, at Bush, Md., be printed in the RECORD, for I believe they bring to bear some most notable thoughts on our Nation's history.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF HON. FRED B. BALDWIN, SR.

We stand today in the Community that was the First County Seat of Harford County and where the first governmental acts of our County were performed on March 22nd, 1774—198 years ago, today.

Our County had been created by an Act of The Maryland Assembly at its meeting in Annapolis, in the year of 1773. This means we are honoring our County's 199th Birthday, today. The act of the Assembly also designated this spot to be the first County Seat and indicated it should be called "Harford Town."

While there are no indications that any governmental buildings were ever erected here, the importance of this Colonial Community can never be over estimated. Due to travel conditions of those days, Harford Town was just about one day's journey from Baltimore, so that many of the Colonial leaders, in their trips to and from Philadelphia, spent the night in our County Seat.

These visits gave ample opportunity for our County leaders to exchange ideas and so the actions taken by our Colonial Forefathers, were a means of influencing actions taken by all the colonies in their meetings in Philadelphia.

So it is, that we latter day Harford Countians, take great pride in the leadership found here in Colonial Harford Town and are all happy for the opportunity to express our feelings in this symbolic ceremony today.

Greetings to our Honored Guests, Judge Wilson K. Barnes, Chairman and Members of The Maryland Bicentennial Commission for the Commemoration of The American Revolution and to Friends of Harford County.

I am sure that I could find no better words, with which to open this program, than the ones used 72 years ago, when this monument was dedicated. On that occasion, the Honorable Samuel W. Bradford opened his remarks thusly:

"We have met upon sacred soil, whereon we have this day erected a memorial dedicated to the imperishable virtues of human liberty. Upon yonder spot, now wrapped in the stillness of peaceful nature, there once stood men who gave to the World their most solemn pledge that Government by man without the consent of the governed should perish."

It seems very fitting, that in these days of a so called revolution, that we should take the time to honor the past and to reflect on those events which lead to the establishment of this great nation. Perhaps, as we examine the past, we will find a better understanding of our heritage and reach the basis for an even greater growth in our appreciation of those standards that came from our Colonial Forefathers.

The Harford Committee, provided for by the Maryland Provincial Convention, first met in 1774 as a Mass Meeting Committee. However, faced with events that were arousing the Colonists, this group felt that they should be more truly representative. With this in mind, they called for an election and set forth the ratio of elected representatives to be "ten in each hundred". They established the "hundred areas" and set up polling places.

The newly elected Committeemen met on February 22nd, 1775 and organized in a strictly parliamentary manner and adopted rules of procedure. On the following day they met and made a provision for a collection to be taken for the poor of Boston and also for the purchase of arms and ammunition. They then adjourned, apparently to await word of the reaction from the British Parliament to the Resolves of the First Continental Congress.

When word of the rejection of the Resolves came from England, the Harford Committee was called to meet and on March 22, 1775 they passed and signed the Proclamation that has come to be known as the Bush Declaration of Independence and it reads:

"We, The Committee of Harford County, have most seriously and maturely considered the Resolves and association of the Continental Congress and the Resolves of the Provincial Convention, do most heartily approve of the same, and as we asteem ourselves in a more particular manner, intrusted by our Constituents to see them carried into execution, we do most solemnly pledge ourselves by every tie held sacred among mankind to perform the same at the risque of our lives and fortunes."

As we reflect on the words of the Bush Declaration, it seems apparent that the principles set forth in this document, became the very cornerstones upon which this Nation was built. It is also very significant that it was the act of "a duly elected body of men" who had in their hearts a sense of deep responsibility to those they were elected to represent. All this stands to the Glory of the Bush Declaration and to those who put their signatures, thereto.

It is with a feeling of high honor that we can be a part of this celebration that calls attention to this the 197th Anniversary of the signing of the Bush Declaration of Independence at Harford Town on March 22nd, 1775.

PRESS ATTENTION ON THE NATIONAL BLOOD BANK ACT

Mr. PERCY. Mr. President, I invite the attention of Senators to the interest that the National Blood Bank Act (S. 2909), which Representative VEYSEY, of California, introduced in the House and the Senator from Indiana (Mr. HARTKE) and I introduced in the Senate, is receiving in newspapers across the country. The press has been closely following the fine efforts of Representative VEYSEY, who has done more than anyone else to bring about an effective solution to this country's critical blood problem.

I ask unanimous consent that articles describing our distinguished colleague's activities be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

Capital Report, Blood Bank Bill—Price Commission

(By Mal Schechter)

"Blood on Capitol Hill" might sound like the title of a movie about political vampires, but it belongs to growing congressional concern over transfusion hepatitis and what the federal government can and should do, beyond current efforts.

A freshman California representative, Republican Victor V. Veysey (pronounced Vee'-see), may have set the stage for Congressional hearings this year. In introducing a bill for federal licensing of all blood banks, the 56-year-old "agri-businessman" launched an attack on the National Institutes of Health, whose Division of Biologics Standards licenses interstate blood banks. DBS, he charged, has shied away from attacking sources of transfusion hepatitis, that is, commercial banks relying on paid, often skid-row, blood donors. DBS says it's the wrong target. The row may interest the House commerce health subcommittee under Rep. Paul G. Rogers (D-Fla.) in holding hearings, Rep. Veysey hopes.

There seems little controversy over the identification of commercial blood donors as high-risk hepatitis carriers. Nobody seems to be saying that this country can do without commercial donors: perhaps 20%–40% (there are no hard figures) of all blood collected comes from them. Everybody seems to agree that the risk of hepatitis is far greater from commercially donated than from voluntarily donated blood. And almost everybody probably would be a lot happier to see more blood coming from volunteers. When you start looking for remedies, that's when you run into heavy controversy.

Rep. Veysey proposed a National Blood Bank Act that would establish a program in the Department of Health, Education, and Welfare to inspect, license, and regulate all blood banks. It would regulate standards for donor selection and manage blood inventories (to minimize dumping of expired blood). It would label as "high risk" any blood from a paid donor. To promote voluntary donations, a recruitment effort is authorized; it would honor and recognize voluntary donors and take other steps toward the ultimate goal of a 100% voluntary blood system.

Such national collecting systems as the American National Red Cross and the American Association of Blood Banks would police themselves, if their own inspection and accreditation efforts satisfy the federal program. There would be "Class A" banks with a high percentage of voluntary donors. All other banks would be "Class B." To renew a "Class A" status, a bank would have to meet a voluntary donation percentage set annually by the federal program. The level would be raised, consistent with needs of an adequate supply. Federal agencies could obtain blood only from Class A banks.

There would be a federally run national registry of donors to allow cross-checking for hepatitis cariers. Whenever the federal program has reason to believe that an imminent public health hazard exists, it may apply for a court injunction to close down a blood bank. Violators of the law could be fined up to $1,000 per count and imprisoned for up to a year.

It's unusual for a bill to expressly forbid an agency from an administrative role, but the Veysey bill specifically excludes DBS. The Center for Disease Control is a favored candidate for the role but the congressman would let a hearings process work the designation out.

Rep. Veysey holds DBS and the states responsible for what he calls inadequate supervision of blood banks. He told the House that 17 states have no law on blood banking and 21 have only one: "to prevent patients infected by tainted blood from recovering monetary damages."

He referred to the DBS efforts as "close to scandalous" for allowing the use of skid-row donors. He referred to a federally licensed blood bank in Washington, D.C., that pays donors with vouchers collectible at a liquor store. This kind of practice, he said, attracts a risky donor and spreads death and suffering. "The NIH knows this is going on, they know how much hepatitis it spreads, but they do nothing about it," he declared.

SOURCES OF BLOOD

Where do the nation's 5,800 community hospitals get their blood for transfusion? According to the American Hospital Association, three-million units were transfused in the first six months of 1971. Nearly 21% came from hospitals' own blood programs, 40.5% from American Red Cross centers, 20.5% from community blood banks, 13.6% from commercial blood banks, 1.7% from other hospital blood banks, and 2.9% from miscellaneous sources.

DBS says it can't go beyond the law as it now exists. Within that law, DBS says it has done the best it can. The chief of its laboratory of blood and blood products, Dr. John Ashworth, says the Veysey bill has a commendable approach to improving the voluntary blood supply. He agrees that voluntary blood carries a lower risk of serum hepatitis than blood from the so-called "paid" donor. But he parts company on a regulatory solution to the problem.

"How do you define a 'paid' donor?" Dr. Ashworth asks. For regulatory purposes, he goes on, you have to be specific. If you define him as someone who gets cash or other compensation, then you run into trouble. For example, suppose a family member needs blood and you would be charged $25 if you did not replace it. Are you a paid donor when you do replace it? "It's hard to imagine that giving blood to save $25 on a hospital bill isn't the same as getting cash in your pocket," Dr. Ashworth says. Moreover, some donors get time off from work or prizes for giving blood. Is this payment?

Federal law doesn't allow for prohibiting payment for giving blood, he continues. Nor does it apply to blood banks operating outside of interstate commerce, that is, wholly within a state. Thus, DBS can't get at some kinds of targets, under current law. Actually, Dr. Ashworth said, DBS issues 166 licenses that cover about 85% of the blood collected in the nation annually. (Although Rep. Veysey said DBS licenses only 166 of the nation's 7,000 blood banks, DBS maintains that one license may cover many banks. The Red Cross has one license for 60.) The American Association of Blood Banks applies standards to banks, whether in or out of interstate commerce, Dr. Ashworth noted. The thousands of banks beyond DBS or AABB networks are very small and would be hard to police, he said. Some of the blood they collect is not used whole but is processed in forms not associated with hepatitis transmission.

Wholesale embargoes on "paid" blood would possibly cost many more lives than they would save, another DBS spokesman said. The danger to a patient of being without blood is often greater than the hepatitis risk, he added.

DBS claims it has worked hard to get a test for hepatitis-associated antigen cleared for marketing. In April, two months after issuing the first manufacturing license, DBS told the blood industry it intended to require testing as soon as supplies were sufficient. (Rep. Veysey thinks DBS dragged its feet in clearing the test and in moving to make use mandatory.) A proposed regulation to require testing was pending in December and was expected soon to be final.

But the regulation was almost academic, Dr. Ashworth said; he knew of no licensed laboratory not already using the test. However, he noted that the test was only 25% reliable in detecting hepatitis-associated antigen. Better tests were in prospect, he said, and would be moving along as fast as possible.

Rep. Veysey says his bill had the consultation of AABB, American Red Cross, and AFL–CIO. None of these groups have endorsed the bill, though spokesmen find much to like. The AFL–CIO thinks the bill is "a short step forward"; it wants a single national blood banking system and an end to commercial blood banking. Last February, organized labor called for unpaid donors to get a legal claim on "low risk" blood when they or their designees needed it. An AFL–CIO spokesman said both DBS and the Red Cross should be more vigorous in improving the nation's blood supply.

Indeed, there seems agreement among reformers that recruitment of volunteers has to be much improved. Rep. Veysey stresses that the two R's—Regulation and Recruitment—must go hand in hand. Whether Congress is interested enough to consider the blood problem and whether it would legislate on one R in preference to the other, if not both, remained to be seen. Moreover, philosophical issues about "free enterprise" and its role in blood banking may influence Congress.

Noninstitutional providers of health services—including clinical labs, physicians, and blood banks—are subject to an average 2.5% limit on price hikes, which must be justified by cost increases and which must not produce higher profit margins as a percentage of pre-tax revenues. The U.S. Price Commission also announced that institutional providers—including hospitals, hospital-operated facilities, and skilled nursing homes—also are being held to 2.5% without need to obtain prior approval from the Internal Revenue Service.

Increases 2.5% to 6% above price in effect Nov. 14, 1971, must be reported to IRS and the Medicare intermediary with cost justification. Increases above 6% require prior approval, according to commission policies recommended by the Committee on the Health Services Industry. The goal is to cut by at least half the current 12.9% rate of inflation for health services.

POINTS OF VIEW

TRUTH IN TEACHING

If they really study student troubles, faculty will find "the student's greatest needs are to be competent and to be respected. The faculty member knows that these ends can be accomplished only through hard work and personal discipline. To let students believe otherwise would be immoral," says editor W. Lippincott, in the Journal of Chemical Education.

MEDICO-LEGAL PERIL

"The forced delegation of medical tasks to allied medical personnel is fraught with medico-legal peril . . . Doctors and hospitals may well incur liability for improper delegation or negligent failure" to provide proper supervision, writes attorney R. Crawford Morris, in the Journal of the American Medical Association.

MORE SEMANTICS

"As we all require services, goods, care, whatever, we are all therefore consumers," Dr. Kenneth E. I. Macleod writes in The Nation's Health. "The tendency to use, therefore, the term 'consumer' as a euphemism for some special group of people, say the poor, or the blacks, the Indians, or the Puerto Ricans, is a profound mistake in fact and as a strategy."

PHARMACISTS READY

In the midst of talk about new categories of health professionals, Dr. Lloyd M. Parks, president of the American Pharmaceutical Association, urges greater opportunities for pharmacists to perform at a higher level. "Drug product selection is a function which the pharmacist is qualified to assume today. It is a function that can lead toward even more responsible roles in the future," Dr. Parks urges.

GOP Newsmaker—"Ooze for Booze" Is Hit by Veysey

A Republican Congressman has discovered a nationwide blood-bank racket which is spreading hepatitis—a dangerous, infectious disease—at an alarming rate among persons receiving blood donations.

In Washington, D.C., the Congressman, Victor V. Veysey of California, found a commercial blood bank giving donors a $5 voucher redeemable only at a local liquor store. Veysey said doctors advised him that "skidrow" types are especially likely to suffer from hepatitis. Veysey has introduced a bill to require the Department of Health, Education and Welfare to regulate the 7,000 blood banks in the U.S. (Only 166 now are inspected by the Federal Government.) HEW would screen out donors infected with hepatitis, label the source of blood and conduct a computerized follow-up.

Veysey also is investigating means of encouraging voluntary blood donorship, such as conducted by the Red Cross. He said unpaid donors are much less likely to carry hepatitis.

The Californian said he was alerted to the problem by British reports comparing the high rate of hepatitis infection from commercial donors in the U.S. with the low rate of the disease in Britain, which relies on a voluntary system. He then checked with physicians at the Stanford Medical Center who told him of the spreading hepatitis problem in this country. A check of Washington commercial blood banks quickly turned up the so-called "ooze for booze" system, which Veysey said is nationwide.

Veysey, born in Los Angeles, is a graduate of Cal Tech with a master's degree from Harvard. He is a former college professor, rancher and plant manager. He served eight years in the California legislature before being elected to the U.S. House in 1970.

Regulation of All Blood Banks Asked

(By Jean R. Hailey)

Rep. Victor V. Veysey (R. Calif.) said yesterday that a commercial blood bank here gives vouchers to paid donors that are redeemable only at a nearby liquor store.

He made the statement at a press conference before introducing a bill that would regulate all blood banks in the country and provide for the major national effort to recruit voluntary instead of paid donors.

Accusing the National Institutes of Health Division of Biological Standards of neglect in supervising blood banks, he said his bill would establish a new office in the Department of Health, Education and Welfare to license and inspect all blood banks. Of 7,000 blood banks in the country, only 166 are licensed and inspected by the NIH division he said.

Veysey said much of the hepatitis in this country comes from the paid blood donors, many of whom may be alcoholics or drug addicts.

He then referred to the Scientific Blood Bank, Inc., 1007 H St. NW, which gives vouchers that can be cashed only at Moe's Liquor Store two blocks away, at 1203 H St. NE.

William Reiland, administrator of Scientific Blood Bank, which has branches in six major cities, said later that the liquor store was chosen to cash the vouchers because of its proximity to the blood bank and because the proprietor was willing to cash them.

He said all donors are given physical examinations before they are accepted and must wait eight weeks before they can make another donation.

A spokesman at the liquor store said those who come in to cash vouchers are not urged to make purchases and those who do usually buy only a bottle of wine or a pack of cigarettes.

[From the New York Times, Nov. 19, 1971]

Blood Bank Controls Sought

Washington, November 20.—Charging that alcoholics, drug addicts and other paid donors are infecting thousands of Americans with hepatitis, Representative Victor V. Veysey, Republican of California, has introduced legislation to regulate blood banks.

[From the Chicago Sun Times, Nov. 18, 1971]

Seeks Tight Curbs for Blood Banks

(By William Hines)

Washington.—Hepatitis-tinged Skid Row blood from Washington slums may be entering the veins of Chicago surgery patients because of "scandalous neglect" by a government agency responsible for maintaining the purity of the fluid, a California congressman charged Wednesday.

But the director of the beleaguered Division of Biological Standards countered in the wake of charges by Rep. Victor V. Veysey (R.-Calif.) that none of the blood in question is being used for transfusions in Chicago or elsewhere.

Furthermore, DBS director Roderick Murray said, allegations of negligence and a sweetheart relationship between blood banks and their supposed regulators in his agency are baseless.

NEW CONTROLS SOUGHT

Veysey's charges came at a press conference where he announced submission of a bill that would regulate the quality and distribution of transfusion blood more tightly than is now possible. The bill also would take authority for control of this vital commodity away from DBS' parent organization, the National Institutes of Health.

Veysey claimed that derelicts, drunks and drug addicts are being bled for $5 a pint at a storefront center on Washington's down-at-the-heels H St. N.E. and are given vouchers, which they cash at a nearby liquor store. All parties concerned agree that the story is correct up at this point.

They part company on the subject of what happens to the blood after it leaves the Washington outlet of Scientific Blood Banks Inc., a Chicago-based company with collection centers in four cities: Washington, Detroit, Cincinnati and Chicago.

SHIPMENTS TO CHICAGO

Dr. William Battle of Washington, president of the National Assn. of Blood Banks, said the fluid collected at the H St. location is shipped daily by air to Chicago, where it is processed and made available to hospitals in that area.

But Murray, whose DBS is already under attack for alleged laxity in upholding purity standards for vaccines, said none of the blood collected at Scientific station in Washington is used for human transfusions.

Inspectors from DBS cracked down on Scientific operations here a few weeks ago, and "until they put their house in order they will not be in the blood-banking business," Murray said.

But there was no dispute that up until a few weeks ago blood from H St.—some of it undoubtedly from the alcoholic and addicts that abound there—was getting into Chicago operating rooms.

(In Chicago, William Rieland, administrator of Scientific Blood Banks at 1434 W. 79th, said all donors undergo a medical screening under procedures stipulated at the National Institutes of Health.

SERIOUS HEALTH THREAT

(Donors are given NIH–approved questionnaires, he said, and NIH inspectors make periodic, unannounced inspections of the company locations.)

The dispute between one junior congressman and one medium-echelon federal official sparked more than usual interest because of the seriousness of the public health threat from hepatitis-tainted blood. Serum hepatitis is a serious liver disease that can be transmitted in the blood. At present there is no known cure, and about 20 per cent of those afflicted die, particularly those over 40 years of age or in an enfeebled condition.

Some studies indicate that serum hepatitis is transmitted 11 to 70 times more frequently through fluid obtained from donors who sell their blood than from those who give it free through Red Cross and similar banking programs.

Murray contested these statistics, arguing that commercial blood is perhaps only 5 times riskier than donated blood. He did not dispute the fact, however, that the risk of infection is considerably greater with $5-a-pint fluid.

Government statistics show that some 52,000 cases of serum hepatitis are reported in the United States each year and that about 10,000 infected patients die. Veysey contended—and many public health experts agree—that this is "only the tip of the iceberg" for a number of reasons.

One of these is that a doctor who transfused a patient and later had the patient come down with something he officially reported as serum hepatitis might be laying himself open to a malpractice suit. Another is that hepatitis is passed around the drug subculture via improperly sterized needles and that victims in this milieu rarely get medical attention even when they sicken.

Veysey charged that the fault for the hepatitis pandemic lies in good measure with Murray's agency, which, he said "seems to have been 'captured' by the groups it is supposed to regulate."

Murray heatedly denied any improper "sweetheart" relationship between his staff and commercial blood bankers.

[From the St. Paul Pioneer Press, Nov. 18, 1971]

Hepatitis Danger Cited in Call for Blood Bank Law

Washington.—Charging that alcoholics, drug addicts and other paid donors were infecting thousands of Americans with hepatitis, Rep. Victor Veysey, R-Calif., introduced legislation Wednesday to regulate blood banks.

Veysey illustrated his point by displaying to a news conference a voucher for $5 ("the going rate") given to donors by a commercial Washington, D.C. blood bank.

The only place the voucher could be cashed said Veysey, was at a nearby liquor store.

"We all know how this works—the donor it attracts and the death and suffering it spreads," commented Veysey.

Veysey said more than two million blood transfusions would be performed this year in the United States.

"One out of every 150 of these will cause death from serum hepatitis in the over-40 age group, plus a lot of sick younger people," he said.

The principal cause of much of the hepatitis, Veysey said, was the paid blood donor.

"Here is the man or woman with a reason to lie about his past medical history to get the money," he said. "He may be an alcoholic or a drug addict or live in conditions that invite hepatitis.

"Commercial blood banks that depend on the paid donor move right into his neighborhood and make it easy for him to sell his body."

The freshman congressman's bill would establish a federal office to license, inspect and regulate all blood banks. All blood collected would be labeled "high risk" if it came from a paid donor or "low risk" if it was taken from a volunteer.

[From the Miami Herald, Nov. 18, 1971]

Bill To Regulate Blood Banks Is Introduced

Washington.—Charging that alcoholics, drug addicts and other paid donors are infecting thousands of Americans with hepatitis, Rep. Victor V. Veysey (R., Calif.) introduced legislation Wednesday to regulate blood banks.

Veysey illustrated his point by displaying to a new conference a voucher for $5 ("the going rate") given to donors by a commercial blood bank in Washington, D.C. The only place the voucher could be cashed, said Veysey, was at a nearby liquor store.

"We all know how this works—the donor it attracts and the death and suffering it spreads," commented Veysey.

Veysey said more than 2 million blood transfusions would be performed this year in the United States. "One out of every 150 of these will cause death from serum hepatitis in the over-40 age group, plus a lot of sick younger people," he said.

The principal causes of much of the hepatitis, Veysey said, is the paid blood donor.

"Here is the man or woman with a reason to lie about his past medical history to get the money," he said. "He may be an alcoholic or a drug addict or live in conditions that invite hepatitis. Commercial blood banks that depend on the paid donor move right into his neighborhood and make it easy for him to sell his body."

The freshman congressman's bill would establish a federal office to license, inspect and regulate all blood banks. All blood collected would be labeled "high risk" if it came from a paid donor "low risk" if it was taken from a volunteer.

[From the Chicago Tribune, Nov. 18, 1971]

Bill for Licensing Blood Banks Is Introduced in U.S. House

Washington, November 17.—A California congressman today introduced legislation for federal inspection, licensing, and regulation of the nation's 7,000 blood banks.

The bill introduced by Rep. Victor V. Veysey [R., Cal.] would set up a federal system for supervising blood collection and distribution thru the Department of Health, Education, and Welfare. Veysey said his legislation seeks to stop "a tragic and death-dealing disease epidemic caused by this country's blood business."

CITES HEPATITIS SPREAD

Veysey said present state and federal laws are not controlling the spread of serum hepatitis in blood transfusions. Most of this infected blood, he said, comes from paid donors who often are recruited in skid row areas of cities.

"The risk of contracting hepatitis from the blood of paid donors is from 11 to 70 times greater than the risk from voluntarily donated blood," Veysey stated. "Blood banks that use paid donors make it easy to ooze for booze, but the product they sell is death by the pint."

"WOULD AID REPUTABLE BANKS"

In urging passage of his measure, Veysey cited findings of The Chicago Tribune's Task Force. The task force stories, which appeared in September, told of skid row alcoholics and drug addicts giving blood over and over again for $5 a pint.

Veysey said his legislation would aid blood banks that do not take blood from diseased persons and which rely primarily on volunteer donors.

"The best way to aid reputable blood banks is to require less scrupulous ones to live up to the same high standards," he said. "My bill would require this."

Illinois licenses and inspects blood banks he said, but in 38 other states there are no such laws.

"In these states anything is legal," he asserted. "Anyone could run a blood bank. It would be legal to use the blood of cadavers and of ill people."

ONE DEATH IN 150

Of 2 million blood transfusions which will be performed in the United States this year, he said, "One out of every 150 of these will cause a death from serum hepatitis in the over-40 age group, plus a lot of very sick younger people."

His bill would have blood labeled as either "low risk" when it comes from voluntary donors, or "high risk" when it comes from paid donors. Additionally, blood banks would be classified as class A or class B depending on the per cent of paid and volunteer donors the banks used.

All blood banks would have to submit to licensing, inspection, and regulation. This power would be vested in a national blood banks program in the Department of Health, Education, and Welfare.

ONLY 166 LICENSED

Veysey said the government's national institutes of health's division of biologics standards licenses only 166 of the country's blood banks. Asserting that this supervision has been inadequate, he said:

"The division seems to have been 'captured' by the groups it is supposed to regulate. There appears to be a pattern of senior personnel in the division going to work for blood banks that use paid donors . . . it produces the kind of regulatory neglect we find in blood banking today."

Veysey's bill also seeks to encourage the recruitment of volunteer blood donors. The recruitment of more healthy volunteer donors, he stated, would go far in cutting down the incidence of serum hepatitis caused by blood transfusions.

WANTS BLOOD COUNCIL

An advisory council of representatives from blood banks, blood consumers, organized labor, and public relations agencies would be established within the national blood bank program.

Veysey said the problem with infected blood was graphically illustrated by a friend of his who was involved in a traffic accident. Veysey said the Fresno, Cal., man was taken to a hospital, given blood transfusions and later sent home.

"Sometime later they had to take him back to the hospital," said Veysey. "He died a painful death of serum hepatitis. So he won the battle but lost the war."

Blood Banks

Washington.—A California congressman, claiming that alcoholics, drug addicts and other paid donors were infecting thousands of Americans with hepatitis, introduced legislation today to regulate blood banks.

Republican Rep. Victor V. Veysey illustrated his point by displaying to a news conference a voucher for $5 ("the going rate") given to donors by a commercial Washington, D.C. blood bank. The only place the voucher could be cashed, said Veysey, was at a nearby liquor store.

"We all know how this works, the donor it attracts and the death and suffering it spreads," commented Veysey.

In 1971, said the lawmaker, more than 2 million blood transfusions would be performed in the United States.

"One out of every 150 of these will cause death from serum hepatitis in the over 40 age group, plus a lot of sick younger people," he added.

During 1970 the center for disease control of the HEW Department reported 52,583 cases of this disease, which Veysey described as only the tip of the iceberg. The true figure may be as high as 500,000, he maintained.

The principal cause of much of the hepatitis, Veysey insisted, was the paid blood donor.

"Here is the man or woman with a reason to lie about his past medical history to get the money," he said. "He may be an alcoholic or a drug addict of live in conditions that invite hepatitis. Commercial blood banks that depend on the paid donor move right into his neighborhood and make it easy for him to sell his body."

States are not policing the practice, according to Veysey. Of the 50 States, 38 have no laws whatsoever to protect the recipient of a blood transfusion, Veysey said, while 17 States have laws that block patients who have received "tainted" blood from suing for damages.

The freshman representative's bill would establish an office in HEW to license, inspect and regulate all blood banks. All blood collected would be labeled "high risk" if it came from a paid donor or "low risk" if it was taken from a volunteer.

The measure would also authorize $9 million to conduct a national program to eventually attain a 100 per cent voluntary blood donation system.

[From the Billings (Mont.) Gazette, Nov. 25, 1971]

Local Blood Case Led to Legislation

(By David T. Earley)

An October jury decision in Billings district court is "particularly significant" in current efforts in Congress to regulate the nation's blood-bank industry.

With 180,000 cases of post-transfusion hepatitis annually from tainted blood—3,500 of them says attorney Jeff Scott, the local jury award to a stricken patient was a milestone in legislative efforts toward more careful testing of donated whole blood.

The $32,941 award to his client, Charles A. Hutchins, was the first jury verdict to such a victim in the nation's history says the Billing attorney.

And the plaintiff's expert witness in the recent case, Dr. Garrott Allen of Stanford (Calif.) University's medical school, has since aided in drafting a regulatory bill for Congress.

Congressman Victor V. Vesey, R-Calif., submitted his bill to the House last week. The legislation provides for federal regulation of the blood-bank industry and requires a label on whole blood taken from paid donors: "high risk."

The intention, says Scott, is to provide an attending physician and his patient with information upon which to base a decision. "Now, they have none."

If the situation warrants they may decide to accept the risk of infection by the disease, apparently transmitted in higher than normal frequency by those who seek the extra money a paid donation will bring.

Hepatitis is one of the country's more serious health problems, says Scott, and now—particularly if the Vesey bill passes Congress—it is also a major problem to the blood banks, which do a $160-million business annually.

Defendant in the landmarks court suit was Blood Services of Montana, and the jury found it negligent.

Scott points out, however, that the defendant was shown by evidence introduced at the trial to have used "every test and screening device" used by other such services in the country.

In that sense, he adds, it wasn't simply the logical firm that was found negligent but the industry as a whole.

"The problem is in the use of paid donors. They have been demonstrated statistically to be more dangerous in transmitting hepatitis."

Effect of the Vesey bill would be to tighten control of blood from this high-risk group and give a patient the option of asking for donations from friends and relatives who would have no motive for concealing medical history from the doctor.

[From the Fort Worth Press, Nov. 22, 1971]

A Bloody Bad Business

A Washington, D.C., blood bank pays donors not in cash but by $5-a-pint vouchers redeemable only at a neighborhood liquor store.

That suggests much about an apparently not a typical commercial venture which supplies blood to the desperately ill.

It's small comfort that the D. C. blood bank operating this way is licensed and inspected by the Biologics Standards Division of the National Institutes of Health.

Even assuming the best, the bank is among only 166 of the 7000 blood banks in the nation that come under any federal supervision because only these 166 are deemed to operate in interstate commerce.

Rep. Victor V. Veysey, R., Calif., source of these statistics, argues there must be a better way to oversee enterprises that fulfill the ever-increasing emergency need for blood transfusions throughout the nation.

He contends winos, dope addicts and other derelicts, selling their blood to finance their habit, pass along serum hepatitis to unsuspecting patients who have to pay not only for the blood but for its possibly fatal taint.

State regulation, he reports, is abysmal, with 38 states either having no laws to protect patients from tainted transfusions or patients from filing damage suits.

Veysey proposes an office within the Dept. of Health, Education and Welfare to license, inspect and regulate all blood banks; a national program of aid and education that would lead eventually to a 100 per cent voluntary blood donation system; and a national registry of donors that would screen out infected "ooze-for-booze" suppliers.

Veysey's proposal merits immediate and full consideration by the Congress.

[From the Hollywood Sun-Tattler, Nov. 25, 1971]

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State regulation, he reports, is abysmal, with 38 states either having no laws to protect patients from tainted transfusions or specifically forbidding such victimized patients from filing damage suits.

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Veysey's proposal merits immediate consideration by the Congress.

[From the Washington Post, Nov. 18, 1971]

Regulation of All Banks Asked

(By Jean R. Hailey)

Rep. Victor V. Veysey (R-Calif.) said yesterday that a commercial blood bank here gives vouchers to paid donors that are redeemable only at a nearby liquor store.

He made the statement at a press conference before introducing a bill that would regulate all blood banks in the country and provide for a major national effort to recruit voluntary instead of paid donors.

Accusing the National Institutes of Health Division of Biological Standards of neglect in supervising blood banks, he said his bill would establish a new office in the Department of Health, Education and Welfare to license and inspect all blood banks. Of 7,000 blood banks in the country, only 166 are licensed and inspected by the NIH division, he said.

Veysey said much of the hepatitis in this country comes from the paid blood donors, many of whom may be alcoholic or drug addicts.

He then referred to the Scientific Blood Bank, Inc., 1007 H St. NW, which gives vouchers that can be cashed only at Moe's Liquor Store two blocks away, at 1203 H St. NE.

William Reiland, administrator of Scientific Blood Bank, which has branches in six major cities, said later that the liquor store was chosen to cash the vouchers because of its proximity to the blood bank and because the proprietor was willing to cash them.

He said all donors are given physical examinations before they are accepted and must wait eight weeks before they can make another donation.

A spokesman at the liquor store said those who come in to cash vouchers are not urged to make purchases and those who do usually buy only a bottle of wine or a pack of cigarettes.

[From the Virginian-Pilot, Nov. 18, 1971]

Blood Bank Regulations Urged

WASHINGTON.—Charging that alcoholics, drug addicts, and other paid donors are infecting thousands of Americans with hepatitis, Rep. Victor V. Veysey, R-Calif., introduced legislation Wednesday.

Veysey illustrated his point by displaying to a news conference a voucher for $5 ("the going rate") given to donors by a commercial Washington blood bank. The only place the voucher could be cashed, said Veysey, was at a nearby liquor store. "We all know how this works, the donor it attracts, and the death and suffering it spreads," commented Veysey.

Veysey said more than 2 million blood transfusions will be performed this year in the United States. "One out of every 150 of these will cause death from serum hepatitis in the over-40 age group, plus a lot of sick younger people," he said.

The principal cause of much of the hepatitis, Veysey said, is the paid blood donor.

"Here is the man or woman with a reason to lie about his past medical history to get the money," he said. "He may be an alcoholic or a drug addict or live in conditions that invite hepatitis. Commercial blood banks that depend on the paid donor move right into his neighborhood and make it easy for him to sell his body."

The freshman congressman's bill would establish a federal office to license, inspect, and regulate all blood banks. All blood collected would be labeled "high risk" if it came from a paid donor or "low risk" if it was taken from a volunteer.

[From the Washington Star, Nov. 17, 1971]

Giving Blood, Buying Booze

(By David Braaten)

A Republican congressman from California has discovered that a Northeast Washington branch of a Chicago-based commercial blood bank pays its donors with $5 vouchers which can be redeemed only at a nearby liquor store.

Rep. Victor V. Veysey, a freshman from Southern California, made the disclosure as he called for federal supervision of the nation's 7,000 blood banks as a means of cutting down on the thousands of cases of hepatitis caused each year by impure blood transfusions. Only 166 blood banks are supervised by the federal government now.

The Congressman charged at a press conference that "ooze for booze," selling their blood to commercial blood banks for $5 a pint, endanger the health of patients who may get the tainted blood in transfusions.

There are 2 million blood transfusions each year, Veysey said, and in the over-40 age group one out of every 150 recipients dies from serum hepatitis.

The unusual arrangement between Scientific Blood Bank, Inc. of 1007 H St. NE and Moe's Twelfth&H Liquors two blocks away was confirmed by William Reiland, administrator of the blood bank.

Reached by telephone in Chicago, Reiland described the voucher system as a security measure. Keeping cash on hand "in that neighborhood" would be asking for trouble, Reiland said, and bank checks are easier to forge when stolen in a burglary. The solution, he said, was to work out an agreement with a neighborhood businessman to redeem the donor's voucher payments in cash.

Reiland called the choice of a liquor store "unfortunate" but said it really had nothing to do with the quality of the blood donation, since the donor goes there after he has sold his blood, not before.

Reiland said all donors must pass a physical examination before they are accepted, must wait eight weeks before selling blood again, and can sell only four pints a year. The impression that winos and derelicts can wander in off the street and sell blood without a screening is erroneous, Reiland said.

The blood bank's banker, Morris (Moe) Shulman, offered a more jaundiced view.

"I'll tell you, if I was sick, I wouldn't want to get blood from some of the ones who come in here," he said.

Shulman said there is no pressure on blood donors to make a purchase, and that those who do buy generally are good only for a bottle of wine or a pack of cigarettes. He charges Scientific 25 cents per voucher ("They wanted me to do it for 15 cents, but I said a quarter or nothing doing") and he complained that the blood bank of ten let $300 or more in vouchers pile up before redeeming them by check.

Shulman estimated the daily traffic at around 20 donors, but said that "early in the month, when the welfare checks arrive," the blood business slacks off. "I wouldn't care if they never sent another one around," said Shulman. "It's a pain in the neck, if you want to know the truth."

He said that "about half" of the donors who come in, buy wine or liquor with the money. Others buy gum or cigarettes, he said.

Rep. Veysey's staff estimated commercial blood banks are a $150 million-a-year industry and claimed that a profit of as much as $50 a pint is possible.

Reiland rejected this figure as "way out of line." He said the usual sale price to hospitals is $25 a unit, with the patient paying probably $35 a pint.

"Reliable studies have repeatedly shown that the risk of contracting hepatitis from the blood of paid donors is from 11 to 70 times greater than the risk from voluntarily donated blood," Veysey said.

Reiland noted—as did Veysey—that Scientific Blood Bank, Inc., as an interstate shipper of blood, is one of the 166 blood-banks in the country licensed and inspected by the Biological Standards Division of the National Institutes of Health.

Veysey said the Division of Biologics Standards "seems to have been 'captured' by the groups it is supposed to regulate." There appears to be a pattern of senior personnel in the division going to work for commercial blood banks, he said.

Veysey's bill would take the responsibility for blood bank supervision away from NIH.

His bill, which he said he would introduce today, also would require the source of the blood to be clearly stated on the labels.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

WAR POWERS ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, S. 2956, which the clerk will read.

The assistant legislative clerk read the bill by title, as follows:

> A bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

AMENDMENT NO. 1099

Mr. BEALL. Mr. President, for the past several days, and it will do so probably for a quite a few more to come, the Senate has been engaged in a discussion of S. 2956, legislation designed to define the warmaking powers of the President of the United States. For those of us who are anxious to see the Congress reassert itself as a coequal branch of the Government, the delineation in law of the conditions under which the President may commit American troops to action has great appeal. But at the same time the measure raises serious practical and constitutional questions demanding considerable thought and study.

I might add, Mr. President, that as a Member of the House of Representatives during the 91st Congress, I joined in cosponsoring a proposal similar to S. 2956. That bill did not come to the floor of the House for a vote and thus died with the adjournment of the 91st Congress. During the last year and a half, however, I have devoted considerable thought to the fundamental issues involved in this debate and, as a result, I have had second thoughts about solving the problem in this way at this particular time.

I am, therefore, sending to the desk a proposal that I plan to call up later in the debate on this legislation. This proposal is an amendment in the form of a substitute to S. 2956, which would, if adopted, create a National Commission on the Proper Roles of the Congress and the President in the Use of the Armed Forces Abroad and in Undeclared Wars. This 24-member bipartisan Commission would be composed of 12 members appointed by the President of the United States, some of whom would be appointed within the executive branch and others from private life. Among those who might serve are former Presidents, former Secretaries of State, diplomats, historians, constitutional lawyers, and so forth, in an effort to bring together the finest minds in our land to tackle one of the difficult constitutional problems confronting our Nation today. The remaining 12 members of the Commission would be appointed by the President of the Senate and the Speaker of the House of Representatives.

This Commission, mandated by law, would have up to 1 year to study in a deep and scholarly way the constitutional intricacies of the "War-making Powers". The duties of the Commission are contained in section 5A of my proposed amendment which reads:

> DUTIES OF THE COMMISSION
>
> Sec. 5. (a) Scope of Study.—The Commission shall make a thorough study of the authority of the Congress and the President in the use of the armed forces abroad, including authority to pledge United States military assistance, authority to deploy the armed forces abroad, authority to commit the armed forces to combat abroad, authority to conduct hostilities and authority to terminate hostilities. The Commission shall in making its study examine the constitutional structure and intent of the framers, constitutional history and practice, relevant judicial precedents, and relevant functional strengths of the President and Congress under present international conditions. The Commission shall undertake its study with a view to determining the proper role and relationship of the President and Congress in the modern world and shall recommend such measures in its judgment as are useful for strengthening the present structure.

At the conclusion of its study, the Commission's recommendations will be submitted to the President and to the Congress, which could at that point pursue a coherent and practical legislative course of action that would be well founded in thorough research, free from political pressures, and thus able to be successfully enacted into law.

Mr. President, in introducing this proposal, I fully expect to be criticized for putting forth an idea which would, if enacted, sidetrack the so-called war powers bill. But I contend that I am saving, for the Senate and the 92d Congress, an opportunity to begin reasserting its proper role in the field of foreign affairs and military matters. I believe that probably the votes exist within this Chamber to approve S. 2956. But I do not think that the war powers bill stands a proverbial "snowball's chance" of becoming law. The obstacles that lie in its path are numerous and formidable:

First, there is considerable evidence that the other body will refuse to approve a bill such as the one that is presently pending before the Senate. The chairman of the House Foreign Affairs Committee's Subcommittee on National Security Policy and Scientific Developments recently stated that even if the Senate passes S. 2956 "it is very unlikely that war powers legislation will be taken up again." He went on to say that the Senate bill "presents a number of constitutional and practical difficulties which make its passage undesirable."

Second, we cannot overlook the issue of this bill's constitutionality. The constitutionality question, which hangs like a cloud over S. 2956, is in itself an interesting double-edged sword. Either we are significantly curtailing the powers of the President as Commander in Chief, thus running the risk of violating his constitutional mandate, or else we are leaving his powers as Commander in Chief intact, which means we are failing to substantively alter the President's ability to make war. Since 1789, Chief Executives have deployed American forces abroad over 150 times without a congressional declaration of war. The absence of significant legislative or judicial efforts to define or curb this Presidential power lends credence to the argument that our forefathers meant to invest the President of the United States with broad authority to make and carry out our Nation's foreign policy. On an issue of this magnitude, it is important for us to do more than simply posture the Senate. We must ultimately decide upon a course of action that is clearly constitutional, completely compatible with our national security interests, and unquestionably credible to the people of this Republic.

Third, I believe that there is a possibility that we could see an extended debate develop in this body over the merits of this war powers legislation. Since this is a presidential election year, the Congress must complete its important tasks between now and early July. Since even its supporters doubt that this proposal stands any serious chance of being enacted into law in 1972, I suggest that it would be prudent for us to follow the course of action I have outlined in my proposed substitute amendment and then proceed with the other pressing measures that directly effect the health, safety, and welfare of our 200 million people.

Fourth, the power of the President in foreign affairs and military matters stems from the recognition that he is Chief of State, Chief Executive of the Government, and Commander in Chief of our armed services. I am inclined to believe that the President, or any of his 35 predecessors, would be very reluctant to sign this measure into law. The President is responsible for preserving the prerogatives and integrity of the Presidency.

The above-listed reservations caused me to begin drafting legislation creating a national commission as early as last August. Last fall, I submitted copies of this proposal to Prof. John Norton Moore, of the University of Virginia Law School, who had previously expressed a willingness to assist me with this matter. Mr. President, I deeply appreciate the assistance and advice Dr. Moore rendered in the drafting of this legislation, and I ask unanimous consent that a copy of the correspondence that I exchanged with him last fall be printed in the Record at the conclusion of my remarks along with a complete text of the amendment that I have just introduced. In addition, Mr. President, I would like to call the Senate's attention to an editorial entitled "The War Powers Debate" which appeared in the Evening Star on Monday April 3, 1972, and ask that it, too, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table; and, without objection, the correspondence, amendment, and editorial will be printed in the Record, as requested.

The material ordered to be printed in the Record is as follows:

September 24, 1971.

Dr. John Norton Moore,
Professor of Law, University of Virginia, School of Law, Charlottesville, Va.

Dear Professor Moore: I appreciate your sending me the various articles with respect to use of armed forces abroad.

I have been considering introducing legislation to establish a Commission on the proper roles of the Congress and the Executive Branch in undeclared wars. The draft is in the roughest of forms and I would appreciate having your general reaction to this proposal and any suggestions you might have with respect to the same.

With best wishes, I am
Sincerely yours,
J. Glenn Beall, Jr.

University of Virginia
School of Law,
Charlottesville, Va., October 1, 1971.

Hon. J. Glenn Beall, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Beall: Thank you for inviting me to comment on your proposed legislation to establish a Commission on the proper roles of the Congress and the Executive in undeclared wars. The subject is one which is particularly in need of review and I support your excellent proposal to establish a Commission to study the issues and to make recommendations to Congress. The issues are extremely complex and there is a danger that our understandable preoccupation with the Indo-China experience may lead us astray unless the most careful thought is given to any proposals for legislative intervention. On the other hand, it is possible to strengthen the present framework for Executive-Legislative cooperation on war/peace issues and this task should be tackled before the present momentum is lost. Your proposal to establish a carefully balanced Commission to prepare a thorough study and to make recommendations not later than one year after its establishment would seem a good compromise between these conflicting tensions.

Several minor changes in the proposed legislation would, I believe strengthen it greatly. First, I would recommend that the name of the Commission and its description in Section 1 be changed from "the Commission on the Proper Roles of the Congress and the President in undeclared wars" to "the Commission on the Roles of Congress and the President in the Use of the Armed Forces Abroad." The constitutional and practical issues, which include authority for initial "commitments to foreign nations," the conduct of hostilities, and the termination of hostilities,[1] are broader than implied by the term "undeclared wars." To be most useful a Commission study must look at each of these issues and their overall interrelation. Moreover, the Commission might also wish to study constitutional principles concerning uses of force falling short of war, etc. The suggested title would be descriptive of a broader and more useful study. Similarly, for the same reasons section 7(a) "Study and Investigation" might be usefully rewritten to read:

Sec. 7(a) *Scope of Study*: The Commission shall make a thorough study of the authority of the Congress and the President in the use of the armed forces abroad, including authority to pledge United States military assistance, authority to deploy the armed forces abroad, authority to commit the armed forces to combat abroad, authority to conduct hostilities and authority to terminate hostilities. The Commission shall in making its study examine the constitutional structure and intent of the framers, constitutional history and practice, relevant judicial precedents, and relevant functional strengths of the President and Congress under present international conditions. The Commission shall undertake its study with a view to determining the proper role and relationship of the President and Congress in the modern world and shall recommend such measures in its judgment as are useful for strengthening the present structure.

By way of one minor point, would it be advisable to delete the final sentence in Section 8? I doubt that the issues would yield to extensive hearings and I would leave it up to the Commission to hold hearings, if any, wherever it would like to. In any event, isn't this geographic admonition inconsistent with the grant of authority to the Commission in the immediately preceding sentence of Section 8?

If I can assist in clarifying any of these suggestions or in assisting in any other way please let me know.

Sincerely,
John Norton Moore,
Professor of Law.

S. 2956

Strike out all after the enacting clause and insert in lieu thereof the following:

ESTABLISHMENT OF COMMISSION

Section 1. There is hereby established a commission to be known as the Commission on the Proper Roles of the Congress and the President in the use of the Armed Forces abroad and in Undeclared Wars (hereafter referred to in this Act as the "Commission").

MEMBERSHIP OF THE COMMISSION

Sec. 2. (a) Number and Appointment.—The Commission shall be composed of twenty-four members as follows:

(1) twelve appointed by the President, of which no more than four may come from the executive branch of the Government;

(2) six appointed by the President of the Senate, four from the Senate and two from private life; and

(3) six appointed by the Speaker of the House of Representatives, four from the House and two from private life.

(b) Political Affiliation.—Of each class of members appointed under subsection (a), not more than one-half shall be from the same major political party.

(c) Vacancies.—Any vacancies in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointments were made.

(d) Chairman and Vice Chairman.—The Commission shall elect a Chairman and a Vice Chairman from among its members.

(e) Quorum.—Twelve members of the Commission constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

Sec. 3. (a) Members of Congress.—Members of Congress who are members of the Commission shall serve without compensation in addition to that received from their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Members From the Executive Branch.—The members of the Commission who are in the executive branch of the Government shall serve without compensation in addition to that received from their service in the executive branch, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission

(c) Members From Private Life.—The members from private life shall be compensated in accordance with section 3109 of title 5, United States Code, when engaged in the actual performance of duties vested in the Commission (including travel time), plus reimbursement for actual travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

STAFF OF THE COMMISSION

Sec. 4. (a) Staff.—The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to those provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, but at rates not to exceed the maximum daily rates prescribed for GS-15 under section 5332 of that title, except as may be authorized in accordance with section 5108 of that title.

(b) Experts and Consultants.—The Commission may employ experts and consultants in accordance with section 3109 of title 5, United States Code.

DUTIES OF THE COMMISSION

Sec. 5. (a) Scope of Study.—The Commission shall make a thorough study of the authority of the Congress and the President in the use of the Armed Forces abroad, including authority to pledge United States military assistance, authority to deploy the Armed Forces abroad, authority to commit the Armed Forces to combat abroad, authority to conduct hostilities and authority to terminate hostilities. The Commission shall in making its study examine the constitutional structure and intent of the framers, constitutional history and practice relevant judicial precedents, and relevant functional strengths of the President and Congress under present international conditions. The Commission shall undertake its study with a view to determining the proper role and relationship of the President and Congress in the modern world and shall recommend such measures in its judgment as are useful for strengthening the present structure.

(b) Reports.—The Commission shall submit its final report and recommendations to the President and Congress no later than one year after the date of enactment of this Act. The Commission shall cease to exist thirty days after submission of its final report. The final report of the Commission shall include, but not be limited to such legislative proposals as in the judgment of the Commission are necessary to carry out its recommendations.

HEARINGS AND SESSIONS

Sec. 6. The Commission or, on the authorization of the Commission, any subcommittee thereof, may for the purpose of carrying out the provisions of this Act, hold such public hearings at such times and places as the Commission may deem advisable.

COOPERATION BY EXECUTIVE DEPARTMENTS AND AGENCIES

Sec. 7. The Commission is authorized to request, at the direction of the Chairman, from any executive department or agency any information and assistance deemed necessary to carry out its functions under this order. Each department or agency is requested, to the maximum extent permitted by law and within the limits of available funds, to furnish information and assistance to the Commission.

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[1] I have set out the full range of issues in my testimony before the Senate Foreign Relations Committee earlier this year.

AUTHORIZATION

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Amend the title so as to read: "A Bill to establish a Commission on the Proper Roles of the Congress and the President in the use of the Armed Forces abroad and in Undeclared Wars."

[From the Washington Evening Star, Apr. 3, 1972]

The War-Powers Debate

The war-powers bill now being debated in the Senate is a document grounded firmly on historical hindsight. The whole impetus behind the measure is the contention that this country was led into the war in Vietnam through an abuse of the constitutional powers of the President as commander-in-chief of the armed forces and that if Congress or the people had been consulted, the whole unhappy episode could have been avoided.

This, also, is a monumental piece of historical hogwash. The Congress and the people were well and duly informed and consulted about our involvement in Vietnam from the very outset and gave their massive endorsement of the objectives pursued there. In 1964 the House unanimously and the Senate with exactly two dissenting votes (Morse and Gruening) whooped through the Tonkin Gulf Resolution, authorizing the President "to take all necessary steps, including the use of armed force to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requiring assistance in defense of its freedom." The contention of many senators today that they didn't know what they were doing is an affront to the intelligence of the Senate itself and a latter-day piece of political sophistry that scarcely bears examination.

In any event, the proposal today is to correct what happened by laying down a whole new set of ground rules on the circumstances under which the President would be authorized to commit the armed forces of the United States to combat without a declaration of war. He could act in case of an attack—or imminent threat of an attack—on the United States itself. He could act to defend our armed forces overseas, to protect the lives of American nationals, or "pursuant to specific statutory authorization" by the Congress. But in all of these cases, the President would have to come before Congress to ask permission to continue military operations beyond a 30-day time limit. If such authorization were denied, the war would have to be called off.

We will leave aside, for the time being, the highly dubious constitutionality of these proposals. In the current debate, all parites are wrapping themselves in the Constitution and citing voluminous historical precedent to support their arguments. To some, the pertinence of what the Founding Fathers had in mind about potential military problems of the United States in 1787 has fairly dubious relevance to the problems that confront the nation in 1972.

Our concerns about these proposals are largely practical ones. One wonders, for instance, how they would affect our treaty commitments around the world or how they would appear to affect them to our allies and our enemies. One wonders how they would affect our ability to respond quickly and decisively—or subtly and carefully—in case of an emergency. One wonders whether it is really within the authority of Congress to prescribe the conditions under which a President can exercise his constitutional powers or limit the exercise of those powers to a specified period of time.

We would agree most fervently that in times of war it is essential to have national unity and the closest cooperation between the Executive and the Congress. A forceful argument can even be made that a declaration of war—regardless of its inherent dangers—would have prevented the terrible divisions that have rent the country over the last five years.

But there is no need to rewrite the Constitution to atone for the tragedy of the Vietnam war. There is no legislative formula that can guarantee against "future Vietnams" and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. Legislative bandaids are comforting. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

Mr. BEALL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the Senate Foreign Relations Committee has revived one of the eternal questions of the American political experiment. Like the ebb and flow of a recurring tide, the issue of who controls the greatest share of the Nation's war powers has surfaced frontcenter in the Halls of Congress with amazing regularity only to recede on each occasion with a renewed endorsement of Presidential discretion.

The first clash over the great matter of war and peace arose in the term of our first President. When George Washington, with the rhetorical backing of Alexander Hamilton, issued a proclamation of neutrality during hostilities between Great Britain and France, it followed a vigorous political battle with Thomas Jefferson. Forecasting the strained and doctrinaire assumptions we hear today about the same power, Jefferson argued that since Congress alone had the power to declare war, it alone had the power to decide we were not at war. Clinton Rossiter writes that Washington's early rejection of this narrow reasoning is generally credited with establishing from that time forward the principle of Presidential primacy in the making of foreign policy.

Since then there have been numerous contests betwen the President and Congress, with Congress sometimes pushing the President into forceful action, as in the War of 1812, and more often denouncing Presidents for their military initiatives. The first Adams was criticized for arming naval vessels in violation of the spirit of an act of Congress, Tyler and Polk for their maneuvers inciting war with Mexico, Grant for attempting the annexation of the Dominican Republic by military as well as diplomatic means, Wilson for occupying Santo Domingo in 1916 and keeping American troops in Europe after Amistice Day—call the roll of Presidents, nearly all have been pilloried at one time or another from the forum of Congress.

What distinguishes the current effort by those who would leash the President's prerogatives in the field of foreign policy is the fact that never before in the country's history has any such legislation been so sweeping and inflexible. This is not an effort to order American soldiers home from Europe. It is not an effort to impose a 9-month deadline on the withdrawal of troops from an overseas hostility. It is not an effort to prevent military appropriations from being used for the purpose of maintaining or employing marines in two named foreign countries. These limitations, which seem strangely familiar but were actually settled 50 years ago, at least had the virtue of being proposed at the time and in the setting of the specific situation in question. Needless to say, these challenges were all rejected in Congress as was every legislative gambit throughout history meant to legally bind the Chief Executive in his military command powers.

Unlike these earlier attempts, the current legislation seeks to enact a permanent restriction, in all conceivable situations, unrelated to the incident at hand. The bill sets out four narrow situations in which it authorizes military action to commence. If a situation does not fit one of the imminent emergencies which the draftsmen of the bill have foreseen, the President is prohibited from acting until Congress authorizes him, no matter how fixed and untenable the situation may eventually become as a result of our failure to act. Even when the President is allowed to move, the bill states that his activity shall not continue beyond 30 days unless Congress grants an extension of his authority. Another provision of the bill enables Congress to stop whatever action the President has started before 30 days are up, so that he cannot even count on having 30 days for action even in those cases where it said he has a power to act. What the bill gives with one hand it takes away with the other.

Mr. President, this legislation is unrealistic, unwise, and unconstitutional. It makes no sense from the standpoint of safe or intelligent military planning. It is disruptive of our entire mutual security system which now safeguards world order. It is totally without any statutory precedent in American history. And it invalidly prohibits the President in the exercise of his constitutional powers of national defense.

Mr. President, the war powers bill is jerry built on false assumptions—false beliefs about the power of Congress to enact this kind of legislation, false claims of what the bill actually provides, and false understanding of what the role of Congress has really been in the shaping of important decisions bearing on war.

Mr. President, I shall discuss only the last of these assumptions today, for it goes to the very heart of the question of whether there is any need for the legislation. It is said a bill is needed which will allow the people to speak out before the country is ever again embroiled in a major, lengthy war. The assumption is made that the people, acting through Congress, did not exercise a voice in the military ventures of the last quarter century.

But, Mr. President, this view is wrong. It is contradicted by the hard facts of history. Congress now has and always has had an influential role in deciding upon significant policies affecting foreign affairs, both before and after a hostility begins.

Each year, when Congress votes on the defense budget, it undertakes a thorough-going review of the Nation's defense posture, including what our worldwide commitments are and should be, what kinds and amounts of weapons should be produced, what the capabilities of our possible foes are, what the size of the individual armed services should be, and what equipment and services we shall extend to foreign governments.

Every time Congress acts on one of these defense appropriations or authorizations, it makes, or certainly has an opportunity to make, its own independent evaluation of both our overall defense requirements and projected commitments as seen at that moment. If Congress believes the Nation should not become involved in major conflicts around the world, it can severely restrict the designs of an activist President by reducing the size of the Armed Forces he can spread about the globe. Or Congress can limit the arms and machinery at his disposal by slashing billions of dollars from his procurement requests.

Congress also participates in war policy by passing area resolutions and ratifying defense treaties announcing an American policy of interest and concern in specific spots of the world. By refusing to adopt such measures, Congress might well discourage the President from moving forward with initiatives in those areas.

Of course, once a conflict has begun, Congress can influence the course of events either by providing money to sustain the fighting or by refusing such funds. No war is going to continue for long until a President must request funds for its support, at which point Congress can either collaborate by appropriating the money requested or force a change in policy by cutting or denying the funds.

Contrary to what some revisionists would like us to believe, all three of the above processes were utilized by Congress in the instance of Vietnam. War powers bill or no war powers bill, Vietnam would still be with us based on what happened in Indochina. In fact, Vietnam is a case history in proving why the authors of the war powers bill are badly mistaken in promising that their bill will stop future Vietnams. The fact is the bill would not even have stopped Vietnam itself. In the words of a Washington Star editorial published yesterday, this contention "is a monumental piece of historical hogwash."

It has now been judicially determined that Congress was involved in the expansion of the Vietnam war from its inception. The representatives of the people in Congress have played a broad role in authorizing both the onset of military measures in Indochina as well as each expansion of the American presence there. For example, when the Senate Foreign Relations Committee reported the SEATO Treaty in 1955 it forewarned that:

> The treaty is intended to deter aggression in that area by warning potential aggressors that an open armed attack upon the territory of any of the parties will be regarded by each of them as dangerous to its own peace and safety.

If that did not lay down the gauntlet to Communist schemes of aggression in Southeast Asia, perhaps the blunt explanation of the treaty by its floor manager, Senator George, did. He observed:

> It is our purpose, Mr. President, to give advance notice to any Communist nation contemplating aggressive action in that area that they will have to reckon with the United States.

But perhaps the strongest indication that Congress was deeply aware of the prospects for American military involvement in Asia is found in the concluding words of the 1955 report from the Foreign Relations Committee, where it states:

> The Committee is not impervious to the risks which this treaty entails. It fully appreciates that acceptance of these additional obligations commits the United States to a course of action over a vast expanse of the Pacific.

On top of these very determined congressional statements, there is a broad policy announcement by Congress included in the Foreign Assistance Act of 1963, which shows that Congress knew there was a war going on in Vietnam and knew American money and American men were committed to that struggle. This provision declares that economic and military assistance authorized by the act should be used in Vietnam "to further the objectives of victory in the war against communism."

A year later, but before Tonkin Gulf, President Johnson requested and obtained from Congress an additional $125 million of military aid earmarked for increasing the American advisory mission in Vietnam and expanding the Air Force of South Vietnam. Here was a clear-cut and visible opportunity to prevent a future escalation of our Indochina activity. What did Congress do? It voted all the funds which the President had requested.

This brings us forward to the Gulf of Tonkin resolution, which those of us who were here can remember was avowedly aimed at meeting the United States obligation under SEATO. The resolution frankly speaks of taking "all necessary steps" including "the use of armed forces." But we do not have to stop with the resolution itself. Less than 9 months later, President Johnson asked Congress for additional support of the war in Vietnam. He sought $700 million to increase the number of American troops in South Vietnam and expressly informed Congress he would regard a vote for the appropriation as a vote of approval for his policy in Indochina. Need I add that Congress approved the money by an almost unanimous vote?

A year afterward, in 1966, President Johnson submitted a whopping $133 billion supplemental appropriation request meant mainly to fund the cost of continued military operations in Indochina. The bills implementing his request became the focus for a full national debate complete with televised hearings by the Foreign Relations Committee on the proper American policy for Southeast Asia. Congress concluded the whole affair by approving each dollar for waging the war that the President had sought.

Mr. President, the list goes on and on. I could detail at least 24 statutes in which Congress has specifically spoken of Vietnam over the past two decades and has authorized the conduct of that campaign. These collaborations enacted after full and open debate, placed Congress knowingly and foursquare behind U.S. military operations in Southeast Asia. These actions were taken thoughtfully and after a full explanation of what the implications were. None can now claim innocence of what he was voting about.

Mr. President, there is simply no basis for the excuse that Congress did not know about and did not involve itself with United States policy toward Indochina. The Vietnam experience in no way gives rise to a change in the constitutional arrangement by which the Executive and Congress now share in decisions of basic military policy. The fundamental justification for the war powers bill explodes upon close inspection.

This measure stands upon no more than the flimsy need of emotionalism. It is riding the crest of a temporary wave of public longing for peace and calm, while the truth is that nearly every politician and newsman who hoists the banner of "no more Vietnams" has personally known of or been involved in all the currents of national policy with regard to Southeast Asia from the late 1940's to date.

The real story is that Presidents and their Cabinet members have historically spent an enormous amount of time working with Congress and striving to put the two branches in unison. It would be folly to alter this longstanding constitutional practice by a mere statute. Even more, it would be a falsehood to use the tragedy of Vietnam as the fulcrum of a contest with the President by a Congress which was wholly involved in the policies it now questions.

In fact, Mr. President, in testifying before the committee, I recognized the questions that had arisen in the minds of the American people and the questions that have arisen in the minds of Members of Congress relative to the power of the President in taking our country to war and the power of the President in taking our country into peace. I said at the time that even though I would probably vote against any such amendment, I would welcome the chance to allow the American people to vote on this constitutional matter through their State legislatures. I did not like to see it pursued through the legislative paths, because we can make mistakes that we will regret later.

I have no quarrel with the sincerity and the depth of feeling of the people who have introduced this measure. I would prefer to see it take the constitutional amendment route, so that Americans across this land could decide over an unhurried period of time whether it would be wiser to have 500 Members of Congress decide about war in moments of grave threat or to have one man, with his staff, make the decisions involved and judgment about the necessity for defensive action.

A short while before his death, Dean

Acheson confided to me his impressions about the war powers legislation then pending before the Senate Foreign Relations Committee. I will read his words now because they bear directly on the division of powers between the President and Congress and contain a lasting message for an improvident legislature.

Mr. Acheson writes:

> If the President and the Congress are to assume attitudes of hostility, the nation in this modern world will be subject to grave perils. The separation of powers is not based upon the premise of their fundamental hostility. Criticism and restraint are contemplated in the workings of the system, and can be accomplished. The present legislative proposals do not seem to me to provide for this, but, instead, by setting up a series of rigid rules, to limit the powers of the President beyond safety and to give the Congress, by inaction, what the Constitution never contemplated, a veto upon executive action.

I might add, Mr. President, that when I started the study—in which I have been engaged, together with Mr. Terry Emerson of my staff, over the past 3 years—into this very interesting and very deep field, I wrote to every Cabinet member I could recall, every influential man who advised Presidents, both Democrat and Republican, on these matters and I have never received a letter from any of them that indicated that they thought the legislative process was a wise process. In fact, I cannot recall precisely, but I do not believe any of them even advocated the changing of the war powers of the President as granted to him by the Constitution.

Mr. President, Congress does not need new legislation to give it a place in the political command centers. It already has a very forceful and effective policymaking position. Through its power of the purse, Congress has basic control over the size and strength of the military sinews with which the President can wage war.

I point out, Mr. President, that in recent years Congress has, for example, enacted legislation that placed the decision as to the size of the military directly upon the military affairs committees of both Houses as the final judgment of Congress. In addition, Congress can grant or withhold a multitude of emergency powers bearing on foreign trade and the distribution of strategic materials and other economic elements that comprise the Nation's defense machinery. Members of Congress also enjoy a prominent public forum from which they can immediately and easily gain the ear of a free press and reach the American people directly with alternatives to Executive policies. Moreover, Congress can reject treaties or resolutions with defense implications.

These are the channels through which Congress is intended to exercise its very important share of the national war powers. These are the processes by which the Constitution invests Congress with a means for coequal participation in deciding questions of war and peace.

Whenever a President wages war in protection of American rights and freedoms, he does so only with the military forces and equipment that Congress has furnished him. He will not and cannot continue a war, secretly or for long, without the ultimate collaboration of Congress in the form of appropriations and perhaps an extension of the draft. That the President can begin defensive measures whenever necessary without the advance approval of Congress is one of the risks which the Nation must assume in order to survive in an imperfect world. In the highly complex society of the 20th century, when the domination of an ocean strait, or control of a critical resource, by one country might place that nation in a position of exclusive superiority from which it can dictate terms to all others, the President must be able to use his judgment in determining whether or not a present situation requires action now, because it might develop into an irremovable threat later if it is left unchallenged. As one well-known constitutional lawyer, Bernard Schwartz, has put it:

> A Constitution which did not permit the Commander in Chief to order belligerent acts whenever they are deemed necessary to defend the interests of the nation, would be less an instrument intended to endure through the ages, than a suicide pact.

I inject here, Mr. President, that as of this moment, the President is faced with a decision which he either has to make or not make, as to the issue of enlargement of the war in North Vietnam, where the Vietnamese have violated the agreement that she made with us relative to a cessation of bombing several years ago, where the North Vietnamese are now using the thousands of trucks we know she has had stored up there, where she is using more and more modern equipment, and where she is advancing her surface-to-air missile sites to the point that they will become dangerous to our B–52's.

I frankly think that the President is going to have to make up his mind—and soon—whether we will continue to sort of dilly-dally in the bombing of supplies once they have started down, or whether we will go in after the source of the supplies, which would be in the northern part of Vietnam, probably south of Hanoi, but I would not exclude the harbor or Haiphong.

With this background, Mr. President, I do not believe that Congress can change an arrangement which is so firmly structured into the Constitution by now legislating, in effect, that Congress shall not be deemed to know what it is doing when it appropriates money, or approves a treaty, or adopts an area resolution. The Members of Congress are grown men, wise in the ways of government, and we must be held responsible for our own actions. The Constitution itself has provided the means by which Congress and the President shall share in the important decisions of war and peace and Congress cannot substitute a different process by legislative fiat.

Mr. President, I believe that the pending proposal is not only totally impractical in the context of the real world; it is unconstitutional as well. It may be that the legislation has received a great deal of attention, but it has received it from the wrong committee. For the fundamental issue is whether or not a constitutional amendment is the only means by which Congress can enumerate in advance the sole circumstances in which the President will have authority to use the armed forces abroad. This question is one which should rightly be considered by the only standing committee assigned the task of treating constitutional amendments, the Committee on the Judiciary.

In this, the Senate would conform to the method chosen by the legal profession itself, which is currently undertaking a major study of the "declaration of war" clause and the entire war powers issue. On February 5, at New Orleans, the American Bar Association opened public hearings on a planned year-long examination of the constitutional allotment of war powers. Which leads me to ask, if lawyers themselves cannot reach a collective position on the distribution of war powers without examining the Constitution more fully, can we responsibly decide on the same matter without additional study of our own?

I might point out that the Standing Rules of the Senate are clear on what the different committees should have as their responsibilities. One might think that this could be sent to the Committee on Armed Services—

> to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
>
> 1. Common defense generally.
> 2. The Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force generally.
> 3. Soldiers' and sailors' homes.
> 4. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces.
> 5. Selective service.
> 6. Size and composition of the Army, Navy, and Air Force.
> 7. Forts, arsenals, military reservations, and navy yards.
> 8. Ammuniton depots.
> 9. Maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone.
> 10. Conservation, development, and use of naval petroleum and oil shale reserves.
> 11. Strategic and critical materials necessary for the common defense.
> 12. Aeronautical and space activities perculiar to or primarily associated with the development of weapons systems or military operations.

Mr. President, I suggest that from this language legislation of this kind might be sent to the Committee on Armed Services. But as a member of that committee, I would think it very unreasonable for us to consider such legislation.

Then we think of the Committee on Foreign Relations which, under the Standing Rules of the Senate, has responsibilities—

> to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
>
> 1. Relations of the United States with foreign nations generally.
> 2. Treaties.
> 3. Establishment of boundary lines between the United States and foreign nations.
> 4. Protection of American citizens abroad and expatriation.
> 5. Neutrality.

6. International conferences and congresses.

7. The American National Red Cross.

8. Intervention abroad and declarations of war.

9. Measures relating to the diplomatic service.

10. Acquistion of land and buildings for embassies and legations in foreign countries.

11. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

12. United Nations Organization and international financial and monetary organizations.

13. Foreign loans.

So here, with 13 areas of responsibility, only reason No. 8, "intervention abroad and declarations of war," might be reason to send this bill to the Committee on Foreign Relations.

I would disagree with that, however, because only the President can command our Armed Forces. I repeat, only the President. I say this from the vantage point of history. Indeed, out of the 201 hostilities in which American troops have been used abroad in defense of our liberties and interests in the world, there have been only five declarations of war, and two of those were in the same war.

Let us turn now to the Committee on the Judiciary which, I feel, is the committee that should really hear this matter.

The rules of the Senate provide:

> (1) Committee on the Judiciary, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
>
> 1. Judicial proceedings, civil and criminal, generally.
>
> 2. Constitutional amendments.
>
> 3. Federal courts and judges.
>
> 4. Local courts in the territories and possessions.
>
> 5. Revision and codification of the statutes of the United States.
>
> 6. National penitentiaries.
>
> 7. Protection of trade and commerce against unlawful restraints and monopolies.
>
> 8. Holidays and celebrations.
>
> 9. Bankruptcy, mutiny, espionage, and counterfeiting.
>
> 10. State and territorial boundary lines.
>
> 11. Meetings of Congress, attendance of Members, and their acceptance of incompatible offices.
>
> 12. Civil liberties.
>
> 13. Patents, copyrights, and trademarks.
>
> 14. Patent Office.
>
> 15. Immigration and naturalization.
>
> 16. Apportionment of Representatives.
>
> 17. Measures relating to claims against the United States.
>
> 18. Interstate compacts generally.

Mr. President, it has been customary in the years in which I have served in the Senate to refer legislation that would have a bearing upon amending the Constitution to the Judiciary Committee. I hate to see us begin to proliferate the assignments of each committee. For example, I think it would be ridiculous to have the Armed Services Committee start to concern itself with foreign relation problems or with economic problems any more than it has to in the consideration of funds requested.

Mr. President, as the action by the American Bar Association in deciding to review war powers proves, the war powers issue is fraught with legal questions. And yet the Foreign Relations Committee has heard from only two professors of law, one of whom, Prof. John Norton Moore, has since written to me that he believes it is more important than ever to more adequately explore the constitutional issues. His letter, dated February 28, reads:

> It would seem appropriate in view of the substantiality of the Constitutional issues involved to encourage the Senate Judiciary Committee, and perhaps the House as well, to hold careful and balanced hearings on the new proposal and not to have the bill passed precipitously.

These are wise words, Mr. President, which the Senate would be prudent to heed. They bear out the reason why the Senate should approve a motion for referral of the war-powers bill to the Judiciary Committee, a motion which I will support.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial appearing in yesterday's Washington Evening Star entitled "The War-Powers Debate."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE WAR-POWERS DEBATE

The war-powers bill now being debated in the Senate is a document grounded firmly on historical hindsight. The whole impetus behind the measure is the contention that this country was led into the war in Vietnam through an abuse of the constitutional powers of the President as commander-in-chief of the armed forces and that if Congress or the people had been consulted, the whole unhappy episode could have been avoided.

This, also, is a monumental piece of historical hogwash. The Congress and the people were well and duly informed and consulted about our involvement in Vietnam from the very outset and gave their massive endorsement of the objectives pursued there. In 1964 the House unanimously and the Senate with exactly two dissenting votes (Morse and Gruening) whooped through the Tonkin Gulf Resolution, authorizing the President "to take all necessary steps, including the use of armed force to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." The contention of many senators today that they didn't know what they were doing is an affront to the intelligence of the Senate itself and a latter-day piece of political sophistry that scarcely bears examination.

In any event, the proposal today is to correct what happened by laying down a whole new set of ground rules on the circumstances under which the President would be authorized to commit the armed forces of the United States to combat without a declaration of war. He could act in case of an attack—or imminent threat of an attack—on the United States itself. He could act to defend our armed forces overseas, to protect the lives of American nationals, or "pursuant to specific statutory authorization" by the Congress. But in all of these cases, the President would have to come before Congress to ask permission to continue military operations beyond a 30-day time limit. If such authorization were denied, the war would have to be called off.

We will leave aside, for the time being, the highly dubious constitutionality of these proposals. In the current debate, all parties are wrapping themselves in the Constitution and citing voluminous historical precedent to support their arguments. To some, the pertinence of what the Founding Fathers had in mind about potential military problems of the United States in 1787 has fairly dubious relevance to the problems that confront the nation in 1972.

Our concerns about these proposals are largely practical ones. One wonders, for instance, how they would affect our treaty commitments around the world, or how they would appear to affect them to our allies and our enemies. One wonders how they would affect our ability to respond quickly and decisively—or subtly and carefully—in case of an emergency. One wonders whether it is really within the authority of Congress to prescribe the conditions under which a President can exercise his constitutional powers to a specified period of time.

We would agree most fervently that in times of great danger and in times of war it is essential to have national unity and the closest cooperation between the Executive and the Congress. A forceful argument can even be made that a declaration of war—regardless of its inherent dangers—would have prevented the terrible divisions that have rent the country over the last five years.

But there is no need to rewrite the Constitution to atone for the tragedy of the Vietnam war. There is no legislative formula that can guarantee against "future Vietnams" and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. Legislative bandaids are comforting. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

Mr. JAVITS. Mr. President, I think it will be valuable to Senators if there is an immediate juxtaposition of the speech of the Senator from Arizona and my reply in respect to this measure.

I have listened very carefully to his analysis of the problem as he sees it and to what he thinks ought to be done; namely, to kill the bill by sending it to the Judiciary Committee for review. Those are not my words. Those are the words of the distinguished majority leader who, when speaking of referral to the Judiciary Committee, called it the graveyard in this context.

However, that matter aside, I think it is much more helpful to the Senate in a debate such as this if the issue is joined. Mr. President, I would like to join issue with the Senator from Arizona on the question as he sees it. These are his words, as I copied them: "whether it would be wise to have 500 men in Congress make the decision about war or to have one man with a staff make that decision."

Mr. President, these are the words of the Senator as closely as I heard him. He then later added:

> Only the President can commit our Armed Forces.

He made reference to the fact that the Congress could pass declarations of war every 10 minutes or every half hour, I think he said, but only the President could commit our Armed Forces.

Mr. President, this is not that kind of a country yet, thank God, and that is not the Constitution unless the Senator from Arizona (Mr. GOLDWATER) can amend it. And I doubt very much that the overwhelming majority of the American people would want to live in a country in which the power of decision over the life and death of all the citizens would be in the hands of one man and his staff, no matter how beneficent.

Mr. President, this contention defies the Constitution itself which, in plain language, gives the power to declare war only to Congress, as it gives the power to execute that decision to the Commander in Chief of the Armed Forces, who is the President. That is a far cry from one man; namely, the President, making the decisions about war and one man being the only person who could commit our Armed Forces.

Mr. President, this immediately raises the question: Suppose war was declared on a resolution of the Congress and the President refused to commit our Armed Forces. What then? Would the United States go down to destruction because one man does not want to do, perhaps willfully, his duty? I doubt very much that anyone would contend that.

Additionally, have we not advanced at all in the world in terms of the experience which we have gained from the subtleties with which war comes upon us now and the rather evident way in which war came upon us in other days?

Mr. President, the bill has been introduced as a result of what we have learned in past efforts to meet this situation. The Evening Star of yesterday published an editorial. The Evening Star may not like the bill. However, a lot of other newspapers do, including some of the most respected in the country, including the New York Times, the Washington Post, and many others. The Senator from Kentucky (Mr. COOPER) was kind enough earlier today to place in the RECORD quite a few editorials from a wide variety of publications in support of the measure.

I would like to read, although I have read it before, because it is so pertinent, with respect to whether it should be the 500 men in Congress who would make the decision or one man with a staff who would make the decision, the words Abraham Lincoln, who as a member of the Congress said in connection with the Mexican War in 1848:

> The provision of the Constitution giving the warmaking power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention undertook to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us.

Mr. President, on this issue I take my stand with Abraham Lincoln.

There are circumstances, as we have recognized in this bill, where the celerity of a decision is absolutely imperative for the security of the Nation.

The bill providently takes care that the President may have his full constitutional power. This is not a constitutional change, but it exercises the authority Congress has to make the necessary laws to implement constitutional power by codifying the methodology, the procedure, which will be engaged, when we face the kind of situation in which the President has to act, and we want him to act. This is contained in sections 3(1), 3(2) and 3(3) which codify the implied "emergency" powers of the President. Then, there is an opportunity for the representatives of the people, the House and the Senate, to join and determine whether they come to the same conclusion, in the exercise of their own enumerated constitutional war powers.

There is a very significant point respecting this bill in the testimony of Prof. Alexander Bickel of Yale Law School, who testified strongly as to the constitutionality of this bill, in discussing just such a situation as Vietnam, which the Senator from Arizona (Mr. GOLDWATER) discussed, and which was discussed in committee. We wanted to know how does there come about a quantitative change in the action taken by the President. We confirm in this bill constitutional authority to take action in the event of sudden attack. Debates in the Constitutional Convention and other subsequent holdings use that wording. We confirm that power.

At what point does the state of affairs which flows from sudden attack become war? Professor Bickel explains that most admirably in one sentence which is quoted on page 16 of the committee report. He said:

> But there comes a point when a difference of degree achieves the magnitude of a difference in kind.

That is the pivot of the issue. What happens when the President, as Commander in Chief, "repels a sudden attack" and that leads us into war, triggering the war powers of Congress? The Constitution, characteristically, is silent. So we have chosen the 30-day test in that regard. We have no illusions that that is a perfect answer but we believe that it is the best that a group of men, the sponsors and the members of the Committee on Foreign Relations, could develop as a test of automacity, when a question of degree has brought about a change in kind, and we are no longer "repelling a sudden attack" but we are faced with a war.

At that moment the Congress, as provided by the Constitution, becomes the body whose decision is necessary to commit this Nation to what has become an emergency of a different kind, to wit, an emergency of war. I refer to the powers of Congress in general; it is the President who has the specific power as Commander in Chief. We have shown by research what the Continental Congress defined the role of the Commander in Chief and his relation to Congress, to wit, one in command of the forces, but subject to the orders of Congress.

But, Mr. President, that is all you have. The President is Commander in Chief. He has no general authority beyond that, but Congress does, and Congress has the general authority, in article I, section 8 of the Constitution—

> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof.

That includes the President of the United States.

So it is Congress which would proceed in this matter with authoritative constitutional power, rather than the President. The President is being deprived of nothing. If anything, he is being confirmed in powers which are at most implied by his designation as Commander in Chief.

It is very interesting to me that the main citation which the Senator from Arizona chose to make is a citation from former Secretary of State Dean Acheson. We are not speaking of respect for or derogation of the reputation of Dean Acheson. I happen to admire him. He was a great American and I have nothing but words of praise for him. But this goes beyond that and it goes to the outlook of an individual on government. I have the utmost regard and respect for him, but that does not mean we cannot differ on this deeply critical issue.

So if the Senator from Arizona chooses to quote Dean Acheson it is very important to get an idea of what Dean Acheson thinks about the powers of the President. This is what he said in 1951 when he was supporting President Truman's plan to station six divisions of American troops in Europe:

> Not only has the President authority to use the armed forces in carrying out a broad foreign policy of the United States in implementing treaties, but it is equally clear this authority may not be interfered with by Congress in the excercise of powers it has under the Constitution.

What does that leave us? Nothing. He does not need even a declaration of war, a threat of danger, or attack. He needs nothing, in the view of Dean Acheson.

If in pursuit of the "foreign policy" of the United States we should be committed to a nuclear attack against the Soviet Union, that is fine, he said, and Congress would have no power to stop him, let alone launch him on his way.

If that is the authority against the bill, it is a mighty good bill, because I doubt there are many in this Nation who would take that kind of extreme position on the President's authority as then Secretary of State Acheson did.

McGeorge Bundy and George Reedy testified with great approval respecting this measure. Indeed, George Reedy appeared on television and engaged in debate, in which I also participated, to sustain this position. So we come to one final point which I think it is right to deal with.

I come to the final point the Senator from Arizona referred to and that is whether or not the route for Congress is not the appropriations route; and utilizing the Vietnam war as an example, whether this is not, as the editorial in the Star stated, which the Senator from Arizona quoted, "a document grounded firmly on historical hindsight."

The difficulty with the appropriations route has been demonstrated very clearly, exactly in this Vietnam war. In the first place, does not this counsel to rely only on an appropriations cutoff assail reason, elementary reason? You have in the Constitution the provision that Congress shall declare war? Leave everything else out.

An action of retaliation against an alleged attack on an American destroyer took place in an afternoon and resulted in the Gulf of Tonkin resolution. The sequel to that is what? It is 8 years of war, 50,000-plus deaths, almost 300,000 war casualties, over $100 billion in treasure. Mr. President, what is war? Are we so blind we cannot see it? Or will we permit our judgment to be obfuscated by our unwillingness to accept responsibility?

That is what is at stake, Mr. President. That is what was at stake in the Gulf of Tonkin resolution, and that is what is at stake in this bill. Will we jointly with the President undertake to make this awful decision, or will we shunt it off to him, as we did in the Gulf of Tonkin matter?

I plead no lack of understanding then, and I knew what I was doing in respect to the Gulf of Tonkin resolution. I knew so well what I was doing that I do not want it to happen again. Is that a denial or an affirmance of human intelligence? Experience taught me that I do not want it to happen again. So I do not have hindsight; I have futuresight. That is one trap I do not ever want to fall into again. We know now the danger involved in our acting on the theory that we would take some retaliation for an attack on the United States, without having 30 days even to find out if there really had been an attack, but moving down into a retaliatory action. Fine. That is the President's power. He did not need us to repel an attack on our forces. But then, Mr. President, there is war, and war, and war. And yet we are told we have no authority, let alone to launch into it, to stop him when he has launched into it, except to cut off money.

All right—let us examine that. We have the best experience in the world on it. The Senator from Montana (Mr. MANSFIELD), with all the prestige in the world, proposes the Mansfield amendment in a money bill in the Senate, and he cannot get to first base on it. Why? Because at that point the issue is all tangled up. Are we going to support our men in the field? This money is not only for men in the field; it also goes for camps and post stations everywhere else. Are we going to bring this American democracy to a halt by denying the President moneys while we are in the middle of a war, and let him look like a fool in the eyes of the world?

Are we impotent? If we cannot do it through the money route for reasons we consider good and sufficient, are we tied to some shibboleth that the President is likened to the divine rule of kings? He would be the first man to deny it and lay down his life to deny it. I know it. That is a very important precedent in modern times. And yet that is the argument that is made against this bill.

One final thing, Mr. President. I would not vote for a constitutional amendment which says what this bill says. That is what the Senator from Arizona (Mr. GOLDWATER) recommends. I thoroughly disagree. I would vote against it, and I would fight against it, because it would then be too rigidly imbedded and not easily subject to adjustment as experience may indicate. That is exactly why we should not do it as a constitutional amendment, and why, rather, we should do it as a statute.

The draft that we are proposing to the Senate is not a constitutional amendment; it is a law, because it is a method we are trying to develop, not any basic change in the constitutional authority and the constitutional power of the United States. A method—we believe this is a good method. We believe it is an excellent method, the best we have been able to devise. We believe that method is necessary considering the exigencies which we have faced and are facing today, with hundreds of "tripwires" placed all over the world where we are, possibly, allowing ourselves to be involved.

A law is all this requires, and nothing else—a law with which we can again have experience in history and a law which we can change or repeal if we do not think it fills the bill, but certainly not to imbed this methodology in the Constitution of the United States, which, in our judgment, shows ample ability to absorb the methodology which we are proposing here to the Senate.

Mr. President, I think this speech of Senator GOLDWATER can fairly be considered, in view of the distinction of the Senator from Arizona (Mr. GOLDWATER) as a Senator of long-standing and as a former presidential candidate of my party, as a very authoritative statement of the case against this measure. It makes a presentation of the case which I think joins the issue, on practically everything I have heard, very accurately, and I deeply believe that it proves rather than disproves the urgent need for this legislation.

Finally, Mr. President, there is the matter of reference to the Judiciary Committee on the ground that the Judiciary Committee deals with constitutional questions. The Judiciary Committee deals with constitutional amendments, but it is by no means the exclusive body to deal with constitutional questions. If it were the only one to deal with constitutional questions, then we might as well eliminate at least half of the jurisdiction of every other committee around here.

Mr. President, can you fancy the Finance Committee agreeing that only the Judiciary Committee handled constitutional questions and that all such questions should be referred to it before anybody could act around here? What about one committee which deals with labor? We are dealing there right now with a law which will endeavor, at long last, to introduce some element of legislation into national emergency strikes. There is a hot issue of constitutionality there. When President Truman ordered strikers back on the railroads and we passed a law, did that come out of the Judiciary Committee? And how many bills do we have—probably some on the calendar right now—involving constitutional questions that will be contested under the Constitution?

We had a measure here about a year or so ago, which I argued for very strongly, relating to the Philadelphia plan to give minorities in the construction industry an opportunity to be enlisted in the work process in the building trades. There was a very deep constitutional question there. The Attorney General of the United States and the Comptroller of the United States took exactly opposite views on that question, and the Supreme Court ultimately decided it. Did we stop and send it to the Judiciary Committee? Of course we did not, because the Judiciary Committee has no exclusivity whatsoever in respect to constitutional questions, as distinguished from constitutional amendments. Every committee in the Senate which proposes legislation would properly feel itself threatened and capable of being overridden by what might be for the time being the opinion of the Judiciary Committee as to whether a particular measure was constitutional.

So, Mr. President, that has not been our practice, it has not been our precedent, and it should not be, and it is not imbedded in any way in the powers that are assigned to the respective committees. As a matter of fact, the only specific jurisdiction which relates to this particular question is the jurisdiction of the Foreign Relations Committee. The Senator from Arizona (Mr. GOLDWATER) himself read it. The definition is very clear on that score, and the Foreign Relations Committee, and the Foreign Relations Committee alone, is given jurisdiction. It could not be more specific if we considered that. Item 8 in its jurisdictional provisions under the Standing Rules of the Senate is "Intervention abroad and declarations of war." Intervention abroad—that is what this bill is all about. Intervention abroad when we send forces abroad. Intervention abroad when we engage in hostilities abroad. That is specific. It is not general—it is in so many words the jurisdiction of the Foreign Relations Committee.

Mr. GOLDWATER. Mr. President, will the Senator yield at that point?

Mr. JAVITS. I yield.

Mr. GOLDWATER. If the rules of the Senate as read by the Senator, under paragraph 8, mean that this country could not go to war or declare war without the consent of Congress, what, in effect, does that do to the warmaking powers of the President as outlined in the Constitution under the Commander in Chief language?

I know that the bill will permit the President, in the protection of our country and our people from foreign threats, to commit troops in some emergencies, but within 30 days Congress can decide that he is wrong and order him to stop. I can see here a complete tieup in at least 17 treaties that we have exercised with the NATO countries, that specifically call us to act in mutual defense. The others do not too much concern me, but are we not leaving the whole subject of the defense of this country and the defense of our people pretty much in limbo when we say to the President, "Fine, you can send troops, but within 30 days we might tell you to bring them back"?

Frankly, if I were an enemy I would like to see that a part of our law.

Mr. JAVITS. Mr. President, I think there are two questions wrapped up in this issue. One is the question as to the power of the Foreign Relations Committee, and the other is as to the substantive provisions of this bill. I should like to answer each separately.

As to the Foreign Relations Committee, the provision here regarding its authority does not in any way create any new authority under the Constitution or even under law. It says that insofar as we have before us measures dealing with intervention abroad and declarations of war, they will go to the Committee on Foreign Relations. That is all I contended. I did not contend that this measure gave any power—it could not—to the Foreign Relations Committee to do something which was permitted by law outside of this assignment of authority, any more than the assignment of authority to the Committee on the Judiciary over constitutional amendments gives it the power to make or unmake a constitutional amendment. Of course it does not. So I lay that question aside.

As to the substantive question, I think the issue is very clear between the Senator and myself. It is my view, as sponsor of this measure, and that of others who are interested, that after 30 days a reaction by the Commander in Chief has become a war, and there can be no war without Congress' intercession, so it becomes the duty of the Commander in Chief to bring the troops back—with the greatest concern for their preservation and protection—and to effect the process of withdrawal if the Congress has not authorized a continuation. That is what we are talking about.

As to treaties, the Senator raised the question of the NATO and other treaties. Under all the treaties we can move to war or to hostilities only pursuant to our constitutional processes.

The State Department, not once but on many occasions reiterated that it does not construe Section 5 of the NATO treaty as exempting the authority of the United States to engage in hostilities to be free from constitutional processes. That is, it must be according to our constitutional processes. That is their own construction.

I ask unanimous consent that the construction of the State Department in that particular matter, as most recently supplied, be printed in the Record at this point.

There being no objection, the State Department construction was ordered to be printed in the Record, as follows:

Memorandum of Law

Subject: Procedures for Implementing the Commitments Contained in the North Atlantic Treaty

In the course of hearings held on February 1, 1972, before the Senate Committee on Foreign Relations concerning the recently concluded agreements relating to facilities for the stationing of United States forces in the Azores and Bahrain, a question was raised concerning the extent to which the commitments undertaken by the United States in the North Atlantic Treaty, particularly those contained in Articles 3 and 5, are self-executing. We understand the issue to be tne extent to which these commitments may be implemented by the President, without further action by the Congress. This question is considered in the light of the executive agreement with Portugal relating to the Azores facilities.

I. IMPLEMENTATION OF NORTH ATLANTIC TREATY COMMITMENTS

Article 11 of the North Atlantic Treaty expressly provides that the decisions concerning the means by which particular treaty provisions are given effect by this country are to be made in accordance with the constitutional processes of the parties. With respect to each category of implementing action, therefore, the question of procedure must be answered in accordance with United States constitutional procedure.

Article 5. This is the operative article of the North Atlantic Treaty. It provides:

"The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

"Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security."

No action to implement the commitments undertaken pursuant to this article is required unless and until the condition requiring such action comes into being—an armed attack against one of the parties in Europe or North America. If this condition is fulfilled, the Treaty obligates each member to assist the party attacked. Such assistance is to be rendered individually and in concert. The nature of the assistance however, is not specified, and is left expressly to the discretion of the parties themselves, to be undertaken, as provided in Article 11, in accordance with their respective constitutional processes.

Various types of assistance may be envisioned. At the very lowest level, the United States could make diplomatic representations and issue statements condemning the attack. At a somewhat higher level of response, the United States could furnish arms and other material assistance to the party attacked. At the highest level, the United States could employ its own armed forces against the aggressor. The extent to which any of these actions would be undertaken by the President alone or would require Congressional authorization or approval would depend upon the respective powers of the President and the Congress under the Constitution.

As the Committee stated in its report to the Congress recommending approval of the North Atlantic Treaty:

"Article 5 records what is a fact, namely, that an armed attack within the meaning of the treaty would in the present-day world constitute an attack upon the entire community comprising the parties to the treaty, including the United States. Accordingly, the President and Congress, each within their sphere of assigned constitutional responsibilities, would be expected to take all action necessary and appropriate to protect the United States against the consequences and dangers of an armed attack committed against any party to the treaty. The committee does not believe it appropriate in this report to undertake to define the authority of the President to use the armed forces. Nothing in the treaty, however, including the provision that an attack against one shall be considered an attack against all, increases or decreases the constitutional powers of either the President or the Congress or changes the relationship between them." Senate Executive Report No. 8, 81st Congress, 1st Session, p. 14.

Speaking more generally concerning this question, the committee stated that:

"The committee wishes to emphasize the fact that the protective clause 'in accordance with their respective constitutional processes' was placed in article 11 in order to leave no doubt that it applies not only to article 5, for example, but to every provision in the treaty. The safeguard is thus all-inclusive.

The treaty in no way affects the basic division of authority between the President and the Congress as defined in the Constitution. In no way does it alter the constitutional relationship between them. In particular, it does not increase, decrease, or change the power of the President as Commander-in-Chief of the armed forces or impair the full authority of Congress to declare war.

"Except for the proposed foreign military assistance program, no legislation related to the treaty is presently contemplated or considered necessary. The treaty would constitute legislative authorization for our share of the expenses of the organization contemplated in article 9, but appropriations by Congress would be necessary. As the United States representatives on the council and the defense committee will have no authority to bind the United States Government, the committee believes that officials previously appointed with the confirmation of the Senate will not require further confirmation for these assignments." Senate Executive Report No. 8, 81st Congress, 1st Session, pp. 18–19.

It will be observed from the statement in the first two of the above-quoted paragraphs that the treaty does not enlarge or impair any constitutional powers of either the President or the Congress. The third paragraph recognizes that application of the Treaty requires the exercise of some of the Constitutional powers of the Congress, particularly by the enactment of legislation. It necessarily follows that the President is also required to exercise his Constitutional powers in the application of the Treaty. The powers of neither branch of the Government are changed but implementation of the Treaty may necessarily involve actions by each within the sphere of its authority that would not be taken in the absence of the requirements of the Treaty.

Article 3. Although the basic "security commitment" provision of the North Atlantic Treaty is contained in Article 5, Article 3 is of great significance also. It provides:

"In order more effectively to achieve the objectives of this Treaty, the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack."

The actions taken pursuant to Article 3 must be taken, like those under Article 5, in accordance with the constitutional procedures of the parties. From the standpoint of the United States, the procedures to be followed depend upon the actions to be taken. They may involve the constitutional powers of both the President and the Congress. Certain joint arrangements undertaken pursuant to Article 3 can only be concluded by treaty, with the advice and consent of the Senate; the principal example of action of this type is the NATO Status of Forces Agreement (TIAS 2846), which contains various provisions altering federal and state legislation with respect to members of the armed forces of other NATO members who are stationed in the United States from time to time in connection with NATO affairs.

Other agreements, including agreements relating to the stationing of American forces in other countries, have traditionally been made by executive agreement. Such agreements effect no change in federal or state law; to the extent that they require authorizing legislation or appropriations to implement them, the agreements are made subject to the enactment of such legislation by the Congress. In every case, however, the necessary authorizing legislation has already been in existence, subject, of course, to the power in Congress to amend or repeal it. The United States has concluded executive agreements with every NATO country except

Norway concerning the stationing of United States forces.

II. THE AZORES AGREEMENT

Under the terms of the letters signed by the Secretary of State on December 9, 1971, relating to assistance and credits for Portugal, the United States agrees, subject to the limitations of authorizing and appropriating legislation, to furnish certain grant assistance and certain credit opportunities to Portugal. Pursuant to the exchange of notes relating to facilities in the Azores, which was signed the same day, Portugal agrees to continue, in accordance with the Defense Agreement of 1951, to make facilities in the Azores available for the stationing of United States forces. The agreement does not differ significantly from other executive agreements concluded over a period of thirty years with other countries both before and after the conclusion of the North Atlantic Treaty. The agreement does not require the stationing of United States forces in the Azores, although it contemplates that they will be stationed there; the decision regarding stationing is made by the President, pursuant to his power as Commander-in-Chief of the military forces of the United States.

The legal authority for the conclusion of the Azores agreement consists of (1) the existing legislation pursuant to which the President is given the authority, subject to appropriations, to provide assistance to foreign countries, (2) the power of the President, as Commander-in-Chief, to arrange for the stationing of United States forces in accordance with the requirements of national security, and (3) the North Atlantic Treaty.

Under Article 3 of the North Atlantic Treaty, we have agreed to develop our individual and collective capacity to resist armed attack; where it appears that this purpose and the security of alliance members can be strengthened by the stationing of United States forces on the territory of another country, the President, in his capacity as Commander-in-Chief, has the power to carry out the Treaty by such a stationing of forces.

In the case of the Azores agreement, the Executive determined that nothing in the substance of the agreement imposed a legal or constitutional requirement that the agreement be submitted to the Senate for approval; thus, it could legally be concluded as an executive agreement. The Department further concluded that no other factors dictated the use of the treaty process for this agreement. Basing arrangements of this type have always been handled by executive agreement. The Azores agreement contains absolutely no new commitments to Portugal; it neither expands nor reduces the commitments undertaken to that country in the North Atlantic Treaty.

CARL F. SALANS,
Deputy Legal Adviser.

Mr. JAVITS. Now, Mr. President, the question is, what are constitutional processes? We argue—and I think this is something that they themselves have said during the argument—that the constitutional processes include whatever powers the Constitution grants to Congress and to the President. So what we say, and I think we are eminently correct, is that we in Congress may define—this is the first time any effort has been made to define them—the constitutional processes, because we have the power under the Constitution to make precisely that definition. That is why I read the "necessary and proper" clause.

The President does not have the power to define what shall be a constitutional process, Congress does.

So, to sum up my answer to the Senator's question, it is precisely the effort to assert that "constitutional process" is defined to include action by Congress that we have introduced this measure and brought it before the Senate.

Incidentally, the Southeast Asia Treaty Organization is conditioned precisely the same way, that we shall carry out our intervention, in the event we choose to intervene with force, through our constitutional processes.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Certainly. I yield for anything. If I may say to the Senator, I think he is doing exactly the right thing, and I hope he can exhaust us, as it were, and that any conceivable question that he can think of that he would like us to try to answer, it is our duty to try to respond.

Mr. GOLDWATER. I will do my best.

Mr. JAVITS. I know that.

Mr. GOLDWATER. What would be the situation if the President decided that he had to send military forces to "X" area of the world, and he conferred, as he usually does in major matters, with the leadership of Congress, and Congress agreed that they would entertain a declaration of war, and a declaration was made? Would the 30-day clause apply?

Mr. JAVITS. No. The bill says specifically "in the absence of a declaration of war."

Mr. GOLDWATER. All right. Just to touch briefly on one of the reasons that I advance for sending this measure to the Committee on the Judiciary—and Senators far better equipped than I to argue law can argue this question—is that the Judiciary Committee deals with proposals that require a constitutional amendment to modify law, and it seems to me that is precisely what the Senator's bill is attempting to do, first, by trying to analyze what is meant by constitutional processes—and I must say I think that matter has been exhaustively gone into—and, second, to codify and clarify the language we often hear used, that under the Constitution it is the power of Congress to raise and support armies, navies, et cetera, and to provide rules, and so forth and so on.

I think the Senator is doing a good thing in trying to clear that matter up, because I think too many people in this country are confused—and this includes law students and great students of military history—about what the language in the Constitution really means. That is why I told the Senator in the committee meeting that while I would prefer the amendment route, I would join him in opposing it and voting against it, but on a different basis.

I do not think we should tamper with these powers the way they are. I fully understand the feelings of the American people and the feelings of the people who have backed this bill that something has to be done. I do not believe any change is needed, myself, but I welcome the opportunity to explore with both proponents and opponents of this measure the full ramifications of what we are getting into, and I welcome the invitation of the Senator from New York to enter in at any time. I certainly will, and I look forward to it.

Mr. JAVITS. Mr. President, may I say in reply that the words of authority or jurisdiction of the Committee on the Judiciary in item 5, "revision and codification of the statutes of the United States," are words of art. We have had commissions on revision and codification of the laws. They mean, as words of art, the compilation of the statutes, really, or laws dealing with the compilation of the statutes. They do not mean original substantive law on every conceivable case or question before Congress, which is what the Senator would imply, nor do they give the committee the executive authority to deal with the "necessary and proper" clause of the Constitution. Every committee has that as to the matters which are committed to its care, and in this particular case the Foreign Relations Committee, in the power to deal with "intervention abroad and declarations of war."

So I really do not think that that in any way changes the absolute provisions of the standing rules of the Senate.

May I say, too, that the report on NATO to which I referred, is a memorandum of law prepared by the Department of State, entitled "Procedures for Implementing the Commitments Contained in the North Atlantic Treaty," it quotes with approval the Senate Executive Report No. 8, 81st Congress, first session, which was the committee report on the NATO Treaty, saying:

> The committee wishes to emphasize the fact that the protective clause "in accordance with their respective constitutional processes" is placed in Article XI in order to leave no doubt that it applies not only to Article V, for example, but to every provision in the treaty. The safeguard is thus all inclusive.

This was treated as a safeguard because, as the committee viewed it, and as the Senate viewed it, it referred to the intercession of Congress in respect of the utilization of the forces of the United States in order to make good on the responsibilities which we undertook in the NATO Treaty.

Mr. President, so far as I am concerned, this has been a very helpful interchange in highlighting the main objections of the opponents of the proposed legislation and our replies thereto. I welcome the debate, as I explained to Senator GOLDWATER. We have had this exchange before, in the committee and outside the committee, on the Senate floor. I must say that I am deeply pleased with the capability of the basic provisions of the bill to stand up to the most detailed and intensive scrutiny.

Mr. President, if no further debate is momentarily desired, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. WEICKER). Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I rise in opposition to the present form of the bill before the Senate commonly known as the War Powers Acts of 1971.

In taking up the War Powers Act, the Senate is attempting to enter an area which involves not only difficult and ambiguous constitutional considerations, but also frightening implications for the ability of this country to pursue a comprehensive, integrated foreign policy. On first reading, the bill appears rather harmless. It reflects on face value the desire for the Congress to reassert its powers in the warmaking process and calls upon the President to provide the Congress with that information necessary to make objective and sound decisions in the event of U.S. confrontations around the globe.

However, having studied the bill carefully, it is my feeling that as written not only is the bill's constitutionality in doubt in many areas, but it would virtually abrogate our 42 defense treaties around the world, severely limit our role in NATO and thereby render NATO itself much weaker in the event of a serious confrontation, would possibly deprive the President of the authority he needs to carry on a forward defense, would preclude U.S. forces from protecting U.S. nationals on the high seas, and would severely limit our credibility with our allies.

There are countless historical precedents in the attempt of Congress to put statutory limits on and codify the President's power to deploy American forces, however, each case in the past was so rampant with variables, constitutional question marks and "what if's" that passage of specific guidelines became virtually impossible, and statutory limitations of this nature have never materialized. This is what we face with the Javits proposal, and I do not feel that passage of this bill would be in the best interest of the country, even though it might be helpful in bolstering the ego of the Senate.

The experience of the Vietnam war has whetted the appetites of most Senators, myself included, for more information upon which to judge the progress of and reasons for U.S. troop involvements. Often, those of us on the Armed Services Committee find it frustrating or difficult to assess accurately the intent and purposes behind some military decisions without more extensive and immediate information upon which to base our judgments. However, I do not think that this desire for more immediate and detailed information should properly extend to statutory limits on the President's powers as Commander in Chief.

S. 2956 states that:

> It is the purpose of this Act to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities . . .

Collective judgment, in my mind, is one thing, while collective decisionmaking in a hostile confrontation requiring rapid response is quite another.

So once again, we are plunging into a mental exercise in trying to establish the intent of the framers of the Constitution.

The Constitution of the United States has served us remarkably well for nearly two centuries, primarily because of its flexibility and its ability to accommodate the requirements of a technologically advancing world. With new problems born of a world with rapid communication and nuclear power, relevant change has emerged in the role and power of the Congress in meeting pressing needs, both foreign and domestic. An example of this is a changing interpretation of the declaration-of-war authority which the Congress holds under the Constitution. One hundred years ago, the consequences of issuing a declaration of war were quite different from those today. For example, one practical reason for Congress' failure to declare war in all but four of our nearly 200 military confrontations in U.S. history is the fact that a formal declaration could call into play the active belligerence of adversaries under provisions of their treaties of which we may have no knowledge. In the Vietnam war, we did not know what secret treaties might have existed between Hanoi and Moscow or Peking. In this context, I believe that risks should be limited to what circumstances require, not enlarged to meet constitutional formalism. I am suggesting that there are perfectly adequate constitutional means for Congress to exercise this power short of a formal declaration. As Vincent Davis of the Patterson School of Diplomacy at the University of Kentucky commented:

> In one sense, the Constitution sets up an inherent conflict between the Congress and the President in matters of war and peace. It is a case of shared powers rather than separation of powers. The Congressional involvement stems from the constitutional provisions for (1) creating the armed forces, (2) declaring war, (3) the crucial "power of the purse," and (4) Senate advise-and-consent powers on treaties. But, with respect to deploying forces, the Congressional authority to "declare war" is in effect obsolete and something of a dead letter. This constitutional provision stems from an ancient American idea that war and peace are black-and-white, clearly separate circumstances, but this is seldom true. Even when the Congress did "declare war" this tended to be merely a legalistic ratification of a circumstance which already existed de facto.

Interpolating here, Mr. President, as most Members will recall, when we declared war on Japan and later on the Axis Powers in Europe, we were in fact already at war. We had been attacked by Japan. In the case of the Axis Powers, they had already declared war upon us. So we had already had that circumstance existing prior to the time Congress in fact declared war.

As all of us know, no war was ever declared insofar as Korea or Vietnam were concerned.

Is the will of the Congress any less clear, or its purpose any less certain, if it chooses to authorize hostilities or deployment in the threat of hostilities by a resolution or by adopting a series of appropriation measures specifically designed to initiate, slow, or stop a U.S. military confrontation instead of a formal declaration? I think not.

To render judgment properly, whether by informal or formal means, however, Congress should be kept fully informed as to areas of tension, problems which might arise and, in most instances where security would not be jeopardized, the proposed mechanisms by which the problem will be met.

Interpolating again, Mr. President, I would say that the State Department, the Defense Department, and the White House—regardless of who holds the White House—can greatly expand their communications with individual Members of the Senate and of the House in order to keep us up to date on what the risks really are.

The focus of attention in the course of this debate has been on the power of the President as Commander in Chief to commit American forces to hostilities without the approval of Congress. The authority of the President to commit troops in limited conflict has not gone unchallenged. Congress has confronted an exercise of the use of this alleged Executive authority more than once. President Truman's commitment of troops in response to a U.N. resolution without prior approval of, or subsequent formal ratification by, Congress led to the great debate of 1951.

President Truman had relied upon his authority as Commander in Chief and upon resolutions of the U.N. Security Council declaring that armed aggression existed in Korea and calling upon U.N. members to assist in halting that aggression. He cited the history of actions by the Commander in Chief to protect American interests abroad. He characterized the U.N. Charter as the cornerstone of our foreign relations and singled out article 39 which authorizes the Security Council to recommend action to members to meet armed aggression.

The President's opponents noted that all treaties are not self-executing and that, until implemented by Congress, non-self-executing treaties confer no new authority on the President. Article 39, it was said, was not self-executing. Article 43, which provides expressly for the commitment of troops by members in accordance with their constitutional processes, had been implemented to the extent of Congress authorizing troop agreements, but since no agreements had been entered into, it was inoperative—so went the argument. Without any added treaty authorization, the President's action must be viewed solely in terms of his basic constitutional authority, it was said, and this authority does not extend to long-term commitments of troops in numbers ranging up to 250,000.

While scholarly views were quoted on both sides of the issue, and the congressional debate raged from January to April, there was no legal resolution to the President's authority in light of the U.N. Charter or independent of it. Nevertheless, it is clear that Congress acquiesced in the President's action, and since judicial precedents are virtually nonexistent on this point, the question is one which must of necessity be decided by historical practice. Viewed in the light, congressional acquiescence in President Truman's action furnishes strong evidence that this use of his power as Commander in Chief was a proper one. If history and precedent are relevant, it appears that there is a strong case to be made for the power of the President to commit American forces abroad without the explicit permission of Congress, although that commitment may lead to war. This power is not unlimited, but it cannot be easily circumscribed or easily dismissed just because those of us in Congress are bitter about the times over the last 7 years in which we were taken by surprise or were confronted with mounting public and personal opposition to the Vietnam war.

It strikes me that it is appropriate to ask why the power of the President in the realm of foreign affairs has grown so great. Is it because Presidents are usurpers? Or is it because events have necessitated it? Do the conditions of the world allow us safely to conduct our foreign policy on the floor of Congress? Can we safely attempt to substitute our judgment for that of the President at times of immediate crisis, when circumstances are such that only he can have all the facts available and only he can promptly act?

I know there is a belief among some of my colleagues that Congress has abdicated much of its responsibility in this and other matters to the executive branch, but we should not use this bill as a vent for our frustrations—adding insult to injury as far as the constitutional process is concerned.

I would be the first to support any feasible measures which would insure the Congress more immediate information upon which to judge our decisions concerning military and foreign policy. However, as I said before, the Senate should be extremely careful not to get so carried away with having such information or with being an integral partner in formulation of our foreign and military policies that we attemp to cloak ourselves, by statute, with powers never intended to reside in the Halls of Congress.

More important, however, than the constitutionality question, is the very practical consideration of whether or not the War Powers Act would dangerously limit the ability of this country to respond, even in a limited sense, to a confrontation. And second, if we give the appearance around the world of having limited this ability, we will have snatched from our allies their ability to rely on any credible protection from the United States.

Various situations come to mind, even with the most sketchy consideration of this bill, which bring up the "what if" problems in the event of hostilities.

In the even of an attack on NATO forces, other than U.S. forces, the proposed bill would preclude action or assistance by U.S. forces. U.S. assistance would require specific congressional authorization. It can be argued that this restriction does not change anything since the Senate in giving its advice and consent to the North Atlantic Treaty never intended for the President to have the authority to involve U.S. forces in the case illustrated without further approval of the Congress.

I would suggest that is a far different interpretation than was originally implied and intended when the Senate ratified the treaty. The legislative history is clear in that the strength of the treaty rested in the collective intentions of the signatories to respond quickly as one. Otherwise there would be little purpose in banding together as one and declaring in article V, "that an armed attack against one or more of them in Europe or North Africa shall be considered an attack against them all."

The strength of the treaty is in the collective unity of the members which announces to any potential aggressor that if you attack one of us you have, in effect, attacked us all. This is the heart and power of the treaty and if the President were precluded from promptly taking those actions he felt were in the best interest of the United States and the NATO alliance the security of both would be seriously endangered.

Such restrictions as proposed by the bill would remove the option of the initiative from our commanders. It could well be, in the situation postulated, that the President would wish to consult with the Congress on a mutually agreed course of action. But it could just as well be he might not because of the time element which necessitated immediate action to forestall and preclude a far more serious situation from developing.

Again, in the NATO area, the proposed bill would preclude continuation in command by U.S. officers assigned to NATO when an attack was mounted against other than U.S. forces. This would literally devastate the entire command structure of the alliance and greatly aid any enemy. It will be difficult enough to make the command structure function in a crisis environment brought on by an attack, let alone having all U.S. personnel pack up and go home during the middle of a crisis. Would any nation or group of nations trust its security to a commander whose participation can be manipulated by the nature of a would-be adversary's attack—by an attack on NATO where no U.S. troops are positioned?

I am glad that the distinguished sponsor of the bill (Mr. JAVITS) has indicated he would sponsor and introduce a joint resolution that would clarify this point. However, I might ask him if he is going to do that, why should we not do it in the process of disposing of the pending bill instead of leaving it up to future decision by the Senate at a time when we will be occupied, in a great many cases, with extremely important legislation.

Even with the exceptions granted to the President under section III there is a serious oversight. This section does not give the President authority to repel an attack against the United States and to take necessary retaliatory actions. Section III does give the President authority to repel an attack against U.S. forces outside the United States but, in this case, it does not give him authority to retaliate.

Why? Why should an aggressor against U.S. forces outside the United States be any less immune from retaliatory action? Admittedly, an attack against the United States, its territories and possessions is far more serious but, in my mind, any enemy that attacks an American, regardless of where he may be, should understand such actions will automatically be repelled and may bring rapid and retaliatory action by the United States. To limit any response by U.S. forces to "repel only" clearly restricts the ability of a commander to protect his forces. And what, by the way, is the meaning of repel within the context of the bill?

Does it relate to defensive actions only? Would a U.S. Navy ship on the high seas subjected to an attack by cruise missiles only be able to try and repel those missiles? Would the U.S. ship commander be allowed to attack the vessel that launched the missiles? Would he be allowed to attack an enemy picket ship that was relaying data information to the enemy attacker?

Such a restriction would impair the ability of our commanders to defend their forces and would communicate to any potential attacker the limits of the response our forces could take. It would further require each commander to carry a checklist of what he could do and I suggest he might be seriously impaired as a commander for fear he would violate some predrawn rule of engagement.

Whenever the President takes an action authorized by section III he must come to the Congress at the end of 30 days to get continuation authorization, if such is needed. Such a restriction could lead to a piece-meal strategy in countering an attack or threat of attack. This raises the question of whether military commanders are to include in all plans a contingency for withdrawal after 30 days. It further raises the possibility that the President would, if he were doubtful continuation authorization would be granted by the Congress, adopt an overkill strategy in the action taken—a strategy that might be far more than was required to handle the crisis at hand.

Mr. President, there are several other situations that come to mind that I would like to bring to your attention.

Nothing in the proposed legislation permits U.S. forces to protect American nationals on the high seas. Are we to assume the United States cannot immediately go to the assistance of an American merchant vessel and take what action is required to assure the safety of those on board? Does the Congress seriously believe it has time to debate the merits of such an action, assuming it is in session?

Again, the sponsor of the bill (Mr. JAVITS) states this is not the case and such actions are precluded. Nevertheless, this point should be expanded and clarified.

The proposed bill, in my opinion, would preclude a show of force, for example, to the Eastern Mediterranean in response to increased Israel-Egyptian tension. Let us do not kid ourselves that the world situation has evolved to the point that force, or the threatened use of force, is no longer a necessary instrument of national power. The insertion of U.S. military forces in an area where hostilities are "imminent" could well, as it has in the past, preclude those imminent hostilities from developing. And again, the effectiveness of such an action on our part does not allow time to debate and authorize the President to take those actions he deems necessary in support of national interests and policy. Again, the bill's sponsor states this is not the case and would be authorized. Nevertheless, it continues to bother me that there is so much ambiguity in the proposed bill and that completely opposite interpretations are possible.

For example, in the Cuban crisis, to the best of my knowledge, President Kennedy had already mobilized and authorized the deployment of naval ships, and had mobilized many of our ground forces in support of the ultimatum which was given to Mr. Khrushchev. Without any doubt whatever, this was placing our troops in a position of imminent threat of hostilities, yet to the best of my knowledge no advance consent was asked of Congress. It did not last 30 days, nor did he have to come back and request authority later.

Again, Mr. President, you can refer to this in the 1970 Mediterranean crisis and the 1967 crisis when President Johnson was in direct contact with the Soviet leaders.

Mr. COOPER. Mr. President, will the Senator yield or would the Senater prefer to finish his remarks and then yield?

Mr. DOMINICK. I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I have listened with interest to the able arguments the Senator has made on several issues. The chief sponsor of the bill, Senator Javits, is not in the Chamber at the present time and I do not assume to speak for him. However, on the last issue mentioned, I know of no provision in this bill, which would deny a "show of force"?

Mr. DOMINICK. It depends on the definition of "imminent threat." It gives the President the power to send in troops in an area where there is an imminent threat of hostilities.

But the question would be if he exceeded his authority on the definition of what is "imminent threat."

In the Mediterranean situation I am not sure we thought there was an imminent threat, as far as our troops were concerned, but there was so far as the Israeli troops were concerned. In Cuba it was a different situation.

I wish to give one more example. When I was with the Senator from Arizona (Mr. Goldwater) back in 1961, we were turning around Europe. One of the things I asked was, "What indications would you have there might be an imminent threat of hostilities in the NATO area?" The person we asked the question of said, "There are a number of ways we could get information but we would not be sure unless something was started." Whether or not there is an imminent threat is a matter of grave concern so far as it relates to the power of the President to deploy our troops.

Mr. COOPER. During the last several years, we have studied the warmaking power thoroughly. I see a distinction between preparation for an attack or for defense and what is called a show of force to warn a posible adversary against an attack.

For example, as the Senator has said, under the administration of President Kennedy, at the time of the confrontation between this country and the leaders of the Soviet Union, the President, I assume, took steps to prepare to meet any contingencies. He was preparing to defend this country.

It could be argued also that the movement of planes along the eastern seaboard toward Florida and other preparations was a show of force.

There are dozens of similar situations throughout history, but, as I understand "show of force" in its proper sense, it is to move ships or forces, not with the present to an adversary a face of strength, saying, "You had better not make an attack" to deter an attack. I find nothing in this bill to prevent the United States from doing that.

The old books on the laws of war recognize the right of a show of force to deter hostilities.

Does the Senator see my distinction?

Mr. DOMINICK. I know of the Senator's concern regarding the bill. I have had the pleasure of reading the Senator's individual views. Here is the wording in section 2, under so-called Purpose and Policy Section:

> At the same time, this act is not intended to encroach upon the recognized powers of the President, as Commander in Chief and Chief Executive, to conduct hostilities authorized by the Congress.

That is fine.

Then, it states: "to respond to attacks" and that is fine "or the imminent threat of attacks upon the United States, including its territories and possessions," and it says nothing about allies; and then "to repel attacks or forestall the imminent threat of attacks against the armed forces of the United States."

The question, then, is what is "imminent threat of attack"? On the next page, page 8, it is specifically stated:

> In the absence of a declaration of war by the Congress, the armed forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, only—
>
> (1) to repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack:

My question is: What is a direct and imminent threat of such an attack? Obviously, as I said, there was no direct and imminent threat in 1967 in the Mediterranean. There might have been; I am not sure. The Navy was there in good force, Soviet submarines were all around the 6th Fleet. In the Cuban situation we were much less in danger of imminent attack than we were in the Mediterranean situation. Yet, as I gather from what the Senator has said, he thinks the Cuban situation was probably justified under this language, but the Mediterranean was not. It was a forward deployment. Is that correct?

Mr. COOPER. No, I did not comment on the Mediterranean situation at all.

As the Senator knows, I raised in my view some questions which concerned me about this bill, and I shall address myself to them in a day or so. With some amendments they can be corrected.

I am glad that the Senator has raised the question. First, I do not think there is anything in the bill which prohibits a show of force. Second, he has raised the question of retaliatory action. I think there is a right of retaliation if there is an attack on this country, and similarly, a right of retaliation if our forces should be attacked in any other place.

According to the laws of war, one can retaliate if attacked at sea or anywhere else. A country can retaliate upon attack to let the adversary know that he must not continue the attack. If the attack is continued, of course, the necessary measures to defend our forces or possessions could be used.

For example, after the Tonkin Gulf incident, if there was an attack—and we will assume there was an attack—on a U.S. destroyer, President Johnson bombed the ports from which, it was believed, the vessels came. It was retaliatory and, according to the laws of war, was correct. Conversely, the attack on the destroyers was not sufficient to enter war.

I believe paragraphs 2 and 3, section 3, which the Senator just read, are a correct statement of the authority of the President, but beyond those situations, he has no authority to move the country into war without the consent of Congress. I do not know whether the Senator would agree with me.

Mr. DOMINICK. I think the problem then is that we get down to strict formalism under the Constitution—that only the U.S. Congress has power to declare war. The difficulty is that we are in hostilities when we could have prevented them by forward deployment, and this bill does not permit that. I point out that the President may go forward, he may exercise that power anyway, and I do not know what we are going to do about it. He would say it is in the best interests of the United States. My guess is that if there were an imminent threat that he knew about and we did not, he would move rapidly to prevent it. I think this is a poor basis on which to legislate. That is my point.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. GOLDWATER. I would like to show why this worries some of us. Would this require congressional action to authorize the United States to exercise its right to access to Berlin which might be blocked by the Russians and the East Germans, but might not pose an immediate threat of attack on our forces even though our future security might be very much imperiled? Would it not raise a question of imminent hostilities?

Mr. DOMINICK. I agree. This is one of the points I wanted to come to later. We conducted the airlift into Berlin for a whole winter—longer than 30 days by far. Certainly, there was an imminent danger of attack during that whole operation. Yet we did not have to have a 30-day clause and did not have to have congressional approval. In fact, we never got into any hostilities, so we did not have that problem. But the point is, as the Senator well pointed out, How do we plan to take care of something like that that has no definite time, in requiring that type of action by Congress, and debate what we are going to do, and then the enemy will know about it, anyway?

Mr. GOLDWATER. I think everyone would recognize that our involvement in NATO is one where they have a broad understanding of this approach. I cannot say, from the intelligence standpoint, how long it would take, but certainly, with our ability to look upon the world in a way that we have never been able to look upon it before, we could gather information about our enemy that we were never able to before. So how do we get to the question of imminent threat? Is, for example, what is going on right now in Vietnam an imminent threat? Is it a direct and imminent threat, or one which might not ripen for several weeks, when 4,000 tanks are massed north of the DMZ, when SAM's are being brought into South Vietnam, when artillery and other weapons are moved to South Vietnam? Would the Senator call that a direct and imminent threat?

Mr. DOMINICK. If I were there, I surely would.

Mr. GOLDWATER. Yet, under the terms of this bill, it might not be direct and imminent because the threat of attack lies in the more distant future. But even if it were, the President could exercise the use of our troops only for 30 days, without the consent of Congress.

Mr. DOMINICK. That is correct. This is one of the problems.

Mr. GOLDWATER. I said earlier that if I were an enemy contemplating an attack on the United States or on one of its possessions, I would want nothing better than that clause in this bill, because it would guarantee the defeat of the United States.

What would be the Senator's answer to this? Section 3 of S. 2956, in my opinion, would flatly prohibit the U.S. involvement in NATO integrated commands from exercising any functions without specific congressional authorization whenever there was an imminent threat that any NATO forces would become engaged in hostilities.

In other words, we revert now from North Vietnam to the massing of tanks, trucks, artillery pieces, and a mass moving of arms in the Warsaw Pact nations, which I think any intelligence officer would see as an imminent threat, for all practical purposes. Yet is my interpretation of the language correct that we could not operate unless attack is threatened in the next day or two?

Mr. DOMINICK. It certainly seems so to me. The Senator will note that on line 14, insofar as NATO is concerned, there is a sentence which starts there saying that a specific statutory authorization is required for assignment or investment of Armed Forces of the United States to command coordinate personnel in the movement of or accompany regular or irregular military forces of any foreign country or such armed forces, to conduct hostilities, and so forth. This seems to negate the possibility of any NATO command or use of troops in support of our NATO allies under those circumstances unless we have specific authorization for it.

Mr. GOLDWATER. I call my friend's attention to another meaning of the bill—retaliatory action is limited to 30 days, unless authorized, in the event of attack on the United States, its territories, or possessions. This would pretty well shoot down our commitment to NATO.

Mr. DOMINICK. Yes. It would go further, because it means no mutual defense treaty we might make in the future would ever be credible, because it would become effective only when Congress had acted, after the hostilities had started.

Mr. GOLDWATER. The Senator will recall that only the President has access to the red button, and only through Presidential approval can the Supreme Commander in NATO retaliate with nuclear tactical weapons, and he can do that only after he has consulted with the President. But under the pending bill there is real doubt about the kinds of situations in which the President could do that? Is that not right?

Mr. DOMINICK. Under this bill, he would be in violation of the law. But as I said, I do not think anyone in those cases is going to pay any attention to this law, anyway. And that is a poor basis on which to legislate.

Mr. GOLDWATER. And the President would be in violation of law.

Mr. DOMINICK. He would, and presumably, in the case of a deliberate order of any kind, he might be subject to impeachment, regardless of who the President was.

Mr. GOLDWATER. I am glad that the Senator from Colorado is speaking freely as he is, and has permitted me to intervene. I personally think this is one of the most important matters to come before this body in my years as a Member. I think it is highly emotional; I have yet to hear any argument not based on emotion, and I am afraid the impression is somehow being created in the minds of the American people that we have finally found a way out of the war. I think there is a dangerous impression, and I commend the Senator for his remarks.

Mr. DOMINICK. I thank the Senator from Arizona. I should like just to pose one more matter, if I could. The Senator brought up himself that we have enough intelligence now to be able to tell as to when a Warsaw Pact country might be mobilizing for attack. But I would suggest to the Senator that, as newspaper reports have pointed out, the Soviet Union now has killer satellites, so that we could, on an intelligence basis, be blinded at the very moment of real tension. Would that alone be considered an imminent threat, if all of a sudden our intelligence communications satellites were knocked out of the sky by Soviet killer satellites? Would that in itself be an indication that we are imminently threatened with attack somewhere, by either Warsaw Pact forces or other nations, whatever it might be?

I frankly do not know, and I do not know what the President would do at that point, except to get on the hot line. I do not know what he could do under this bill in any way, and I think that might be the very key to let them make the last minute preparations in order to mount an attack.

Mr. GOLDWATER. I would say to the Senator that it would be difficult for me, as it is for him, to give a specific answer to that question, although I think it is fairly general knowledge that the Soviets can render inoperative any of our electronic-type satellites.

I would judge this to be an imminent threat. As I recall, however, there was some testimony by Professor Bickel before the committee in which he said that he felt an imminent threat would be one with 1 or 2 days' advance information. Certainly, in the case of Cuba, we had much longer than that. We have had it in the case of the invasion, now, of Hue, and I understand Hue is very seriously threatened as of this moment. We have known of this buildup since last October. I would have to say it has been an imminent threat all along.

As we watch the Russian accumulation of MIG's gathering in Egypt, I would have to assume that is an imminent threat against Israel. No matter where we find a buildup of arms, countries do not build up arms just for practice unless it is in their own country, when they are on maneuvers; and I would say that any overt action that indicates accumulations of force would have to be considered by any country an imminent threat to their peace and an imminent threat to their country. However, the legislative history of the bill before the committee indicates that "direct and imminent" only means something that is immediate—today or tomorrow.

Mr. DOMINICK. I thank the Senator from Arizona. I would certainly agree.

I want to make one other point, which I think somewhat ironic, I guess is the best way of putting it: Without quoting directly, when one of the leading Israeli officials was here, he was asked whether or not we had any treaty with Israel. Of course, the answer was no. Someone then asked whether a mutual defense treaty would be helpful.

The answer was no, that after all, they had had a treaty to protect the Gulf of Aqaba; that they had had a treaty by which U.N. representatives were supposed to stand between the Egyptian and Israeli forces; and that on each and every occasion when imminent hostilities seemed to be apparent to the Israeli, either the treaty was changed on the ground that it was long past the time and the circumstances under which it was entered into, or the U.N. representatives would pull out.

This representative said simply, "Give us the arms, and we will fight our own war. We do not want any treaties with anyone."

If that is true in that case, then should we pass this act, no country with a mutual defense treaty with the United States would ever believe us again, in my opinion. I think it would make totally incredible any effort by the United States to have any mutual defense alliance anywhere. This is the thing that really deeply concerns me.

Mr. SPONG. Mr. President, will the Senator yield for a question?

Mr. DOMINICK. I will, after I have yielded to my colleague from Colorado.

Mr. ALLOTT. Mr. President, I thank the Senator for yielding, and I want to say I think he has presented a very strong and forceful case here, but if he will bear with me, since there has been an interruption in his regular speech anyway, I would like to return for just a few moments to the gist of the argument of the Senator from Kentucky. Incidentally, I think he has written a very fine set of individual views here, and if I were to read just those and read nothing else about this measure, I think I would be inclined to vote against the bill, although he decided, after writing them, to vote the other way.

The Senator from Kentucky attempted, during the course of the discussion—and legitimately so; I am not being critical at all—that perhaps we do have something to which we can latch on here, which will give us a little bigger handle on the thing we are talking about.

He attempted, particularly in the case of the Cuban missile crisis, to distinguish, as connected with that, between the words "show of force" and "direct and imminent threat of an attack."

I was a delegate appointed by President Kennedy to the United Nations during the time that crisis was in effect, and saw many things from the viewpoint of the U.N. that were not apparent here. I am sure. But let us take two things: Was what President Kennedy did at that time a show of force, or was it deploying of troops to protect us from imminent attack?

As I recall the situation, he did two things: First of all, there is no question that troops and all sorts of military equipment were heading toward Florida as if the whole State of Florida were a one-way road.

Second, as I recall it, he deployed certain of our ships in that area, not by way of a blockade, but the more euphemistic term of "quarantine" was used.

Now, let us assume that this was, as I think the Senator from Kentucky was trying to demonstrate, a mere show of force. Let us assume that that is what it was. Let us stop it there, and let us assume that the hotline grew cold, and that instead of negotiation of an agreement to pull the missiles out—and incidentally, I do not know of any absolute proof that they have all been pulled out yet—instead of an agreement to take them out and photographing certain long canisters on the decks of ships as they went out, the Soviets had said, "We're not going to do it. We call your bluff." What would we have done in that instance?

No. 1, the very euphemistic quarantine which we had established would then have become, without the stroke of a pen, a blockade. I have no doubt that the United States and President Kennedy would have considered very seriously, if not actually, mounting an invasion against Cuba in order to rid ourselves of those missiles. I feel fairly certain that this was the climate in which we were operating.

My point, therefore, is this, and I would like the Senator's comments on it: We cannot distinguish between a show of force and the deployment of troops to forestall a direct and imminent threat because troops were there as well as missiles, and we are in a gray area, and an attempt to define it is only going to lead to confusion and mischief down the road when we reach a similar situation.

Mr. DOMINICK. I agree entirely with the Senator. I think the point and case he has made is a very good example of this problem.

Another very simple one is this: Suppose we send our Coast Guard cutters out to rescue, off the coast of Cuba, some merchantman with American citizens on board, which the Cuban cutters are taking into control. Presumably, this would be a type of imminent danger, because the Cuban cutters are armed; and if we go in to get our nationals back in international, or even in Cuban waters, the chances are that we are going to be shot at. What do we do then? Do we have to get prior authorization in Congress, or is the President allowed to do it under the imminent threat aspect? If so, are we not in the same box we were in before; namely, we are engaged in hostilities without having Congress concerned or involved? So we are right back to the same spot again, it seems to me.

Mr. ALLOTT. I think the Senator has put his finger on this, or at least that is my understanding of what he was saying in the main portion of his speech, when he was speaking about nationals, or U.S. citizens.

I am referring especially to subparagraph 3 of section 3, which says that the President shall have power only "to protect while evacuating citizens and nationals of the United States, as rapidly as possible, from any country in which such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control."

In the case just cited by the Senator, as I see it, even though it might constitute a direct attack upon our citizens on that ship, and it might even be an American Merchant Marine, it does not fall within the four classifications that the committee has set up in its bill under section 3.

Mr. DOMINICK. If it is, it is certainly implicit, as opposed to being explicit. This is part of the problem I have, because I do not like to see us become involved in a gray area such as my colleague has suggested, where we are legislating without really knowing what we can or cannot do.

In many ways, it reminds me of the rather extraordinary effort to say that American airpower had done no good in the Vietnam war. The pilots during that situation, as the Senator knows, had to have a full legal-sized page of what they could not do before they could find out what they could do in the way of attacking a target. It made it almost impossible for airpower to be effective the way it was designed to be.

Mr. ALLOTT. As a matter of fact, I think the limitations consisted of more than a page.

Mr. DOMINICK. As a matter of fact, it was three pages, I happen to know.

What I am pointing out is that the same connotation is here—that no one will really know what he can or cannot do legally under this bill, if it should pass the way it is now. That is my great concern.

Mr. ALLOTT. I thank the Senator for permitting me to intervene, because I am sure that during the course of this debate there will be a great deal of discussion about the "what if" arguments in this bill.

It seems to me that it helps to show that one cannot distinguish between a show of force and an actual deployment of troops to forestall direct and imminent threat of such an attack. It seems to me that the missile crisis in Cuba is a classic example of it.

Mr. DOMINICK. I thank the Senator. I think he has made a very good point.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. COOPER. The Senator will recall the statement I made. Perhaps I was not clear. I had argued as he argued—that it was difficult at times to distinguish between a deployment of forces or ships, and a show of force, although there is a distinction. I said that the movement of air forces and people in Florida could have been interpreted in different ways.

The point I make is that I know of nothing in this bill which denies the deployment of forces to protect the country, to protect our forces, to protect our ships. I know nothing that denies a proper show of force. The chief objective of this bill is to prohibit the Executive from engaging our forces in hostilities except under certain conditions.

Mr. DOMINICK. I should like to add one more thing, and then I will yield to the Senator from Virginia.

Some years ago—I have forgotten whether it was 1967 or 1966—we were involved in a buildup in Vietnam, under President Johnson. We were involved in an extremely ticklish situation in the Mediterranean area. We were involved in rather acute tensions in the European theater—in Berlin particularly. All of a sudden, President Johnson, as Senator will recall, introduced transport aircraft into the middle of the Congo, with backups on Ascension Island. If hostilities had broken out in Europe or Israel, that would have meant that we would have a good chance of being at war on three continents at the same time.

No one in Congress had been consulted prior to that—not a single person. At that time, I prepared a letter of protest to President Johnson, in the strongest possible terms, and I received the signatures of 18 fellow Senators within 2 hours. I had it hand delivered to the President at the White House. I did not even try to get more signatures because I thought it was urgent that we move rapidly.

Thirty days later, I received an acknowledgment that it had been received. Six months later, he started withdrawing some of our military forces which were engaged as pilots and mechanics. Some of the planes were even flown, I gather, by Ethiopians, virtually by Ethiopians brought down there on behalf of the government, by us. It was only about 6 months later that he started to pull back from that position.

My point is that, if we pass an act of this kind, I do not know whether or not that will stop that type of action. I certainly would like to see some method by which we could. But, more importantly, I doubt very much if the President would have done that, if he had come up and briefed Congress on what he planned to do and had received what I conceive to be the unanimous disapproval of most Senators, at least to that kind of action. He did not even do that.

So what we need, at least, is a good deal more consultation, a good deal more information, and a good deal more ability to be able to express our opinions to the White House without having to go through legislation of this kind which, in my view, will seriously jeopardize the ability of anyone to be able to protect the best interests of the United States. That is the difficulty I see.

I yield now to the Senator from Virginia.

Mr. SPONG. Mr. President, I thank the Senator from Colorado. I recognize that he has not finished his remarks. The many questions he has brought to the attention of the Senate should be answered, and I am sure that they will be in the course of this debate.

Inasmuch as we talked somewhat extensively about the Cuban missile crisis, however, I should like to ask the Senator one question. Is the Senator under the impression that, had this legislation been in effect as of the time of the Cuban missile crisis, this would have in any way impeded the President?

Mr. DOMINICK. It would have not impeded him if we were certain he was introducing naval forces into position because of an imminent threat of attack; but I do not believe we can say, initially at least, that there was any danger of an imminent threat of attack on the United States from Cuba, insofar as we are talking about a day, 2 days, or a week. But I do believe that we introduced ourselves into a position where our own ships might well have been attacked, in which case it would have been a different kind of situation.

Mr. SPONG. I should like to make two or three observations.

First of all, situations such as the missile crisis were, of course, a matter of concern during the hearings on the Javits proposal and other proposals before the committee. Mr. McGeorge Bundy testified. He was not quite so ubiquitous as Dr. Kissinger has been, but he had a comparable position at the time of the crisis. The Senator from New York (Mr. JAVITS) specifically asked him, had legislation of this kind been in force, would that have in any way hamstrung—I think that was the word used—the President? And Mr. Bundy replied, on page 425 of the record of the hearings, as follows:

> I think the essential processes of the Cuban missile crisis would not have been sharply affected by this resolution or this bill or this kind of procedure.
>
> That was a very unusual case, in my judgment, in that the justifications for a private deliberation and a secret decision were unusually great and those justifications had to do with the importance of having an established U.S. position clear and on the record, in a sense to take the diplomatic initiative from the Soviet Union, and I think there would have been very important advantages in that which probably would have led the President—and I am of course speculating—to follow the essentially lonely executive route of decisionmaking which he did follow in that case. Then, of course, under this bill and others like it, he would have had to do what he did in any case, namely, to report the matter to the Nation and to the Congress and within the 30-day period under your proposal there would have had to have been an affirmative authorization for the quarantine to be sustained, naval quarantine.

Mr. President, I should like to note here for the RECORD that, at the time of the crisis, first of all, we had a Cuban resolution already in force. One of the procedures we are seeking to establish in this legislation is the very thing the Senator from Colorado has just finished speaking to, and that is more consultation between Congress and the President. But, in the missile crisis, the authority was there for the President to act, had he chosen to rely on that resolution. Congress had already acted, to some extent. Second, I wish to agree with what the Senator from Kentucky (Mr. COOPER) has just said, that there is nothing in the bill which would prevent a show of force in international waters, which the President did. He has that right to deploy our naval forces in international waters.

Third, I should like to make this point: when the Senator from Arizona (Mr. GOLDWATER) and the Senator from Colorado (Mr. DOMINICK) ask each other what constitutes an imminent threat, the real question is: What is the President's judgment as to what is an imminent threat.

The cosponsors believe that under sections 1 and 2 of the bill, the judgment is with the President to make the determination as to whether or not there is an imminent threat. If, in his judgment, there is, he proceeds. And, again I want to say that if there are places in the bill—with regard to NATO, for instance—where some tightening can be done, the Senator from Virginia is not averse to that, if I think a specific proposal is necessary. I think we have to bear in mind that——

Mr. DOMINICK. Could I interrupt there and ask where the Senator finds that? When it is in his judgment?

Mr. SPONG. He is the only one who would act. The President is given the authority to introduce armed forces into hostilities——

Mr. DOMINICK. If later on he should introduce troops and they should be engaged in hostilities, and it is later determined by Congress that the reason for the hostilities was the introduction of the troops, then this group could say that there was no imminent threat and impeach the President for an illegal action.

Mr. SPONG. The possibility has always been there with regard to that kind of Presidential action, with regard to what the President does. All I am saying to the Senator from Colorado is that the authority for the President to act is recognized here if, in his judgment, there is a threat. Under the legislation, the President does report immediately to Congress, guaranteeing to Congress the very thing the Senator from Colorado was concerned about in the Congo situation; namely, an opportunity to participate in the decision.

I would close by——

Mr. DOMINICK. Opportunity—no—this is again what I said before, the distinction between collective judgment and collective decisionmaking. What we can do is to interject our judgment but he should not be bound by it. He has to make the decision. The problem here is, we are making the decision. We are saying whether he can act, by this act, not just interposing our viewpoints down to the White House as to what we think should be done.

Mr. SPONG. We are simply saying the Constitution provides that the President has the right to act in an emergency situation to repel attacks or to forestall imminent threats of attack. He has that right under the Constitution. He has that right under this legislation, but we are requiring him to report to us under the legislation, so we may thereafter participate in the decision. Congress seems to be absolutely agreed on one thing with regard to all this legislation, and that is that there should be a reporting process. That is what the House has already approved. The President, having reported to the Congress under the proposed legislation—almost immediately, we would hope—there would then be a 30-day period during which Congress has the right to give affirmative support to the President, or—after looking over the situation—to say that hostilities should be terminated.

Mr. DOMINICK. I thank the Senator from Virginia for his comments. I am not sure we are very far apart, except for the fact that he is apparently defending the specific language in the bill. I have made speeches for some 5 years now saying that Congress should—and the Senate in particular should—have more import into the decisionmaking prior to the introduction of American forces into hostilities. I think we should. But, this is judgment. The decisionmaking has to be by the President of the United States. What we are doing is preventing specifically that decisionmaking in a great many areas. Let me read the language which starts out in section 3, and I point out that we have assumed that we have only had about four declarations of war and about 200 hostilities in a period of almost 200 years:

> In the absence of a declaration of war by the Congress, the Armed Forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicatd by the circumstances, only—

This again brings out what is a situation where imminent involvement in hostilities is clearly indicated by the circumstances. It seems apparent to me that the NATO forces have been grouped together in Europe, because it was felt there was imminent danger of hostilities. That is why NATO was created.

I remember specifically writing to the State Department before the Soviet Union invaded Czechoslovakia and stating to them that the buildup indicated to me an attack on Czechoslovakia. I got a reply to the effect that certainly nothing like that could possibly happen.

About 2 days after my letter, the Soviet Union came in and wiped out a group in Czechoslovakia that was merely trying to let the citizens eat, drink, and enjoy themselves in that form of government.

I do not say that because I was right, but because there was a total divergence of opinion in the circumstances. The State Department had one view and I had another. I happened to be right on the occasion.

How can we tell? The NATO troops are present, because of the imminent danger of hostilities. Otherwise there is no point in their being there.

We have a large base largely for the purpose of coping with the presence of Soviet submarines in the Atlantic. We have other bases around the world. We have some in the Philippines that have been there for a long time. The purpose of the Philippine base is to prevent the imminent danger of hostilities against the Philippines.

It strikes me that nowhere in the world could we say that there is not an imminent danger of hostilities if we have troops there, because that is the only reason that we place troops there. If we do not have the imminent danger of hostilities, we do not have any reason to have troops there.

The net result of that is that the President could logically say: "Every deployment is all right. I do not have to do any more." And we would be exercising our total judgment in a vacuum as far as the pending bill is concerned.

We can go one or two ways and say that it casts doubt on our credibility—which I think it does—or that under the pending bill we will not accomplish anything, even though we would like to accomplish something.

I would like to see us come up with a mechanism by which we could get more information in Congress before these things happen.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMINICK. Mr. President, I have not yet completed my prepared remarks. However, I would be happy to yield to the Senator from New York for a question.

Mr. JAVITS. Mr. President, I do not think that a question will do it in any way. The answer has to be hours and not minutes. However, I noticed that the Senator raised a question as to what was meant in section 3 by the imminent threat of hostilities.

Mr. DOMINICK. Yes, because the bill then goes on to specify four instances and say that they are the only four in which we can inject troops.

Mr. JAVITS. Mr. President, we have already defined that, in quite an exhaustive colloquy with the Senator from Alabama (Mr. ALLEN), to mean, according to the way we understood the bill, that this would be in the judgment of the President. In other words, if the President thought or believed, and so reported to Congress—because a prompt report is required by section 4—that he is committing troops where there is the imminent danger of hostilities, it would bring the act into force and effect.

We understood that is the way in which this would work. And we believe that the President of the United States will act in good faith. That is one of the basic suppositions of this whole proposition.

I just rise to add a point of fact, that in the colloquy with the Senator from Alabama (Mr. ALLEN), it was made clear that the meaning of this phrase related to the judgment of the President. He would be the one to put the act into effect, and thereupon report promptly to the Speaker of the House, the President of the Senate, and so on, as required by section 4.

Mr. DOMINICK. Mr. President, I thank the Senator from New York for clarifying what the intent is, even though the bill does not say it. That always helps insofar as the history of a bill is concerned. However, I am interested in section 6, too. Section 6 provides that the use of Armed Forces of the United States in hostilities, may be terminated prior to the 30-day period for the imminent danger of hostilities, which authorizes the President to introduce troops.

Mr. President, as I said before, this is quite interesting, because if we assume that we are keeping troops in the European Theater in NATO, because of the imminent danger of hostilities, then I would presume that once this bill becomes effective, we would have to do something practically every 30 days. If it is not assumed that this is an imminent involvement in hostilities, I suppose that is a different situation. Under those circumstances he can place troops wherever he wants to. However, having been an advocate for quite a period of time of the belief that we ought to take more troops out of the European area and probably put them over in the Mediterranean force, I can find all kinds of difficulties in accomplishing either of these situations under this type of legislation.

Mr. President, I continue with my prepared remarks. Another "what if" is pretty interesting.

The proposed bill makes no mention of intelligence activities, for example, intelligence flights. That is only one of them. Are they prohibited or not? It may be distasteful, but it is necessary for the United States to engage in these activities, and there are adequate examples in the past of their necessity, one of which occurred off the coast of Korea in terms of aircraft, and one of them over the Soviet Union. Another example, of course, is the intelligence flights which were made over Cuba.

It brings to mind the missile crisis. As I said before, it seems perfectly clear that if our overflights are within a claimed territorial area, we can inject equipment in an area where there is imminent danger of attack. Then the question is: Do they come to Congress to authorize this every 30 days?

Let me give another "what if" which is not in my prepared statement. What do we do, I may suggest to the Senator from Virginia, about the American air patrols in the Korean DMZ that go on practically all the time. North Koreans have been trying to infiltrate into the South again, as we all know. They have not only attacked and captured the *Pueblo*, but also killed one crew member and imprisoned others for years.

And then I wonder how the bill would affect the operation of U.S. patrols in the Korean DMZ. It is not clear to me whether the provisions of section 9 are applicable or not, since, although we are in a truce situation and peace negotiations are continuing, the atmosphere there is certainly tense.

But they also shot down our intelligence flights off the coast.

Are we to assume from this bill, since these are imminent hostilities that there has not been authorization by Congress, that we have to withdraw our troops totally from Korea or authorize them every 30 days?

It seems to me this is another problem we are creating if we move in this direction.

Mr. President, I am also disturbed by other language in section III of the proposed bill. In particular, I refer to the use of the term "imminent threat." If we assume the proposed bill becomes law, does not the possibility arise that if the President took action under section III in response to his interpretation of an imminent threat, the Congress could fault his actions as not being within its interpretation of "imminent threat"? Is it not possible, because of this difference of interpretation, the Congress could take other measures designed to prohibit further action by the President even before the 30-day period had expired?

There is only room for one Commander in Chief, not 535. Only one individual, the President, has the facts immediately at hand necessary to determine what is best for the national security. So even though the proposed bill purports to guarantee the President can take those actions he deems necessary in certain situations, it really jeopardizes and endangers his ability to do so.

Mr. President, I am very much concerned that many Senators may not have studied this bill thoroughly enough to realize the many dangerous consequences of some of its provisions. In essence, this bill would make null and void, without initial authorization from the Congress, our defense commitments under the North Atlantic Treaty, the SEATO Treaty, the United Nations Charter, and many others. Can we honestly take upon the shoulders of the Congress not only the final authority in a President's decision to deploy troops in the event of hostilities but also attempt to become the repetitive top authority on all negotiated U.S. treaty commitments, even after the Senate has had one opportunity to ratify and consent to the original negotiation of each of our standing treaties?

Our allies would soon gain the impression that we were incapable of acting swiftly under the conditions of our mutual security agreements. I am sure, for example, that our friends in Western Europe would find little comfort in the fact that under this law, Congress would have to give its approval before the United States could participate in NATO command activities in the event of an attack on West Germany. Can we justify creating a situation in which our commanding officers in NATO cannot even participate in the planning and execution of operations of NATO troops until we get the Congress' collective interpretation of an "imminent threat?" How many of our allies would soon begin to feel that they were not in fact our allies at all?

Many will say that nothing regarding our treaty commitments would be changed by this legislation. They will argue that as our treaties are not self-executing and as most contain a clause which reads "in accordance with our own constitutional processes" the Senate is already authorized to initiate implementing legislation. However, the fact that our treaties contain this provision has never altered the reality that throughout our history Congress has performed an ex post facto role in this regard. This reality has come from a basic recognition on the part of many consecutive Congresses that prior consultation with and authorization from the Congress cannot in fact provide the necessary prompt response to our treaty commitments. This situation has not prevailed for nearly 200 years because Presidents have ignored the Congress. It has prevailed for the very practical reason that consultation in the midst of initial hostilities, which this bill would in many areas require, is not only impractical but self-defeating. Under the Javits bill, however, Congress would have to give legislative authorization before the President could dispatch troops in accordance with treaty commitments. There is a world of difference between the two approaches and the latter approach certainly precludes rapid response to an attack on allies or forward deployments and reinforcements to prevent such an attack.

Would this bill necessarily accomplish the goal of making more information available to Congress? I think not. As written, whenever the President takes action authorized by the bill, he must come to the Congress at the end of 30 days to get continued authorization. Might not a President, realizing that he had only 30 days to act before coming to the Congress for further authorization, be tempted in a "hostile" situation to do some "quick striking" or go further than he otherwise would have in order to accomplish as much as possible before congressional review? Would a President be tempted to give the Congress less, rather than additional, information because of the necessity for him to avoid congressional interference? Would it not be more expedient for a President to simply announce that on the basis of highly classified intelligence made available to him he was taking authorized action under the bill, accomplish as much as possible before the 30-day limitation, and indeed continue by maximizing the appearance of hostilities supposedly justified by classified information? Taking this one step further, would a President be tempted to provoke the hostilities he would need under the bill in order to obtain further authorization from the Congress?

There are many questions in this area which I hope we would not have but we are dealing with long-term legislation, not knowing who the President might be in a series of decades ahead, and we are preparing legislation which I think will not have the result which we might like it to have.

Another important point should be made in connection with the 30-day limitation provision. Such a proviso could lead to a piece-meal strategy in countering an attack or threat of attack. Do we seriously want this kind of approach to our military policy around the world when we have just begun to emerge from the ridiculous situation of a limited, step-by-step war such as Vietnam? This is further illuminated by the prospect that once the Congress gave its initial authorization for the President's introduction of troops in a hostile situation it could continue to put time limits on his use of those troops. The introduction of this element of uncertainty into military planning would place the United States in a situation of always being "too little too late."

Perhaps the most frustrating aspect of this bill is its utter vagueness. In considering the merits of a proposal such as this, it is necessary to consider all possible interpretations under every conceivable circumstance, and having done that, it seems to me that we are dealing with a bill which would be at least as subject to interpretation as the U.S. Constitution. Any time you can count as many lawyers on one side of a bill as you can on the other, it seems it would be rather difficult to respond with a real consensus.

One key to the very nature of this bill is the number of times the word "imminent" occurs. This word is usually accompanied by the word "hostilities." That is all very fine, but I wish someone would tell me how we would define these two words within the time period necessary to give the President the authority to respond to a military threat; and if he had done that, would not we already be saying that our troops are deployed overseas and are there for that reason, and so every 30 days Congress should authorize their being at those bases?

It seems to me the bill should be defeated, but at the very least it should be referred to the Judiciary Committee to determine its constitutionality and to interpret its meaning.

Mr. President, there was an editorial in the Washington Evening Star of yesterday, April 3, entitled "The War Powers Debate." I ask unanimous consent that the editorial be placed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The War Powers Debate

The war-powers bill now being debated in the Senate is a document grounded firmly on historical hindsight. The whole impetus behind the measure is the contention that this country was led into the war in Vietnam through an abuse of the constitutional powers of the President as commander-in-chief of the armed forces and that if Congress or the people had been consulted, the whole unhappy episode could have been avoided.

This, also, is a monumental piece of historical hogwash. The Congress and the people were well and duly informed and consulted about our involvement in Vietnam from the very outset and gave their massive endorsement of the objectives pursued there. In 1964 the House unanimously and the Senate with exactly two dissenting votes (Morse and Gruening) whooped through the Tonkin Gulf Resolution, authorizing the President "to take all necessary steps, including the use of armed force to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." The contention of many senators today that they didn't know what they were doing is an affront to the intelligence of the Senate itself and a latter-day piece of political sophistry that scarcely bears examination.

In any event, the proposal today is to correct what happened by laying down a whole new set of ground rules on the circumstances under which the President would be authorized to commit the armed forces of the United States to combat without a declaration of war. He could act in case of an attack—on the United States itself. He could act to defend our armed forces overseas, to protect the lives of American nationals, or "pursuant to specific statutory authorization" by the Congress. But in all of these cases, the President would have to come before Congress to ask permission to continue military operations beyond a 30-day time limit. If such authorization were denied, the war would have to be called off.

We will leave aside, for the time being, the highly dubious constitutionality of these proposals. In the current debate, all parties are wrapping themselves in the Constitution and citing voluminous historical precedent to support their arguments. To some, the pertinence of what the Founding Fathers had in mind about potential military problems of the United States in 1787 has fairly dubious relevance to the problems that confront the nation in 1972.

Our concerns about these proposals are largely practical ones. One wonders, for instance, how they would affect our treaty commitments around the world, or how they would appear to affect them to our allies and our enemies. One wonders how they would affect our ability to respond quickly and decisively—or subtly and carefully—in case of an emergency. One wonders whether it is really within the authority of Congress to prescribe the conditions under which a President can exercise his constitutional powers or limit the exercise of those powers to a specified period of time.

We would agree most fervently that in times of great danger and in times of war it is essential to have national unity and the closest cooperation between the Executive and the Congress. A forceful argument can even be made that a declaration of war—regardless of its inherent dangers—would have prevented the terrible divisions that have rent the country over the last five years.

But there is no need to rewrite the Constitution to atone for the tragedy of the Vietnam war. There is no legislative formula that can guarantee against "future Vietnams" and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

Mr. DOMINICK. Among other things, for the benefit of my colleagues on the floor, the last paragraph reads:

> There is no need to rewrite the Constitution to atone for the tragedy of the Vietnam war. There is no legislative formula that can guarantee against "future Vietnams" and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. Legislative bandaids are comforting. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

With those comments I would certainly agree, but I think the overall, interesting point with which we are all concerned is having more of a say in the judgment process. By this bill—and I call the attention of my colleague from New York to this—we are not just indulging in the judgment process; we are trying to inject ourselves into the decisionmaking process, and what we are doing is wrong.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. GOLDWATER. I do not want to add at any great length to the colloquy, but I think the key words beginning to shape up in this debate are "imminent attack." I would like to read a few paragraphs from page 712 of the hearings, in a colloquy between the chairman of the Foreign Relations Committee and the chairman of the Armed Services Committee, one of the coauthors of the bill, one of the most knowledgeable men we have in Congress on the subject we are talking about. If the Senator will bear with me, I should like to read from page 712 of the hearings. The chairman of the committee said:

> One provision in your bill raises a question which you touched on, and I would like for you to comment on it. I am referring to where you say, "To prevent or defend against an imminent nuclear attack on the United States by the forces of any foreign government or power, but only if the President has clear and convincing evidence that such attack is imminent."
>
> This raises a very difficult question, but while you are here, I would like you to comment on it.
>
> Does this mean that the President would be the sole judge, if he thought that it was a dangerous situation, and that we might be attacked, then he has the right under this to launch a first strike—would he not, without consulting anybody?
>
> Senator Stennis. Yes, under those conditions, and it is a matter of wording and a matter of degree, but I think the law of necessity is operating there, and you just have to yield to it. That issue has held us back from dealing with this overall problem heretofore.
>
> The President would ordinarily have a lot of fine counsel. We know about the experience on that. But the power, I think, the ultimate power, you would have to leave it with him.
>
> The Chairman. I don't know what that counsel is. He doesn't counsel with the Senate to any extent that I know of. I don't know with whom he counsels other than Mr. Kissinger.
>
> Senator Stennis. Well, we had the Cuban crisis, so-called, and there was certainly a lot of counseling done there.
>
> The Chairman. Not with the Senate.
>
> Senator Stennis. Well, I think so, Senator. I was not called to the White House.
>
> The Chairman. I was called there 2 hours before they made the public announcement, but the decision was long since made. It wasn't consultation. We are often informed shortly before—
>
> Senator Stennis. Yes.
>
> The Chairman (continuing). The decision is public, but I don't call that consultation.
>
> Senator Stennis. Well, I think some were called in, Senator.
>
> The Chairman. It is my feeling that if we should incorporate into the law without any consultation at all required that if he thinks that the country is in danger he may launch a nuclear war, I think this is something that deserves very serious consideration. I don't know whether that is what you interpret that section to mean or not. I was just inquiring whether that is what you think it means.
>
> Senator Stennis. Yes, that is virtually what I think it means.
>
> The Chairman. You think it does?
>
> Senator Stennis. I think we have got to meet that problem, and we won't get legislation if we don't, I feel. You can modify it, of course, requiring some advisers or some commission or something else; but I think we have got to meet it.
>
> The Chairman. Personally, I would rather leave it vague, let it be uncertain, rather than to give him authority by law. I think I would prefer that, if I have to choose between having a bill that says "Yes, you may do this," and just leaving it as it is as to where he is uncertain, but certainly responsible for his actions.

Again the term "imminent attack" is a very difficult term that we are faced with. The danger of an imminent attack by a nuclear weapon is entirely different from the danger of an imminent attack by conventional weapons. We cannot read the minds of the Kremlin or the minds of Peking or the minds of Japan when it becomes a nuclear power, or the minds of any other nation, because only in the minds of their leaders will be able to find an imminent danger, and there is no possible way that our detection system can discover whether any enemy is going to launch a nuclear attack on us. We do not even have eyeball information on how we should be able to determine this.

So as I understand it, I say to my friend from Colorado, the President now has the authority by law under the Constitution, and the only authority, to press the red button and launch a nuclear attack when he decides it is necessary for the security of the United States. What would be the effect of this legislation on a decision by the President, say, to even retaliate, because after 30 days there probably would not be anything left of either side? Would this in any way affect the President's right and power to act?

Mr. DOMINICK. I frankly cannot interpret it. It refers to the interjection of armed forces into hostilities or under the imminent threat of hostilities. I would presume that if the President unleashed nuclear weapons on an enemy in retaliation, or just prior to a nuclear strike hitting us, by that time the water is over the dam, anyway, and we will just forget about the act. That is the point I made before. I think where the President totally believes the security of the United States has been almost wiped out or so threatened that it is impossible to deal with, he is going to act whether this law is here or not. He has to.

Mr. GOLDWATER. This touches very deeply on my understanding of the early arguments that went on among the Founding Fathers, as to whether the power of war this bill seeks to obtain should reside exclusively in the Congress, or should reside in one man, as should be shared, I happen to have great faith in the decision of the Founding Fathers in this matter, and I think they gave a divided authority in the affairs of war to both the Congress and to the Office of President. One of my fears about this is that we can get terribly political about which country we are going to defend and which we are not going to defend, or which treaty we are going to honor and which we are not going to honor. I would suggest that these decisions may not have any direct bearing upon the defense of our country, but merely on the political views made by some 500 people in Congress as to which country it would be politically wise to defend or attack.

Mr. DOMINICK. I strongly suspect the Senator is accurate on this. I have a deep and fundamental belief, whether it is justified or not, that Vietnam started bringing this whole situation into really serious thinking by a great many Senators, including the Senator from Arizona and myself. I have been working on the subject for a long period of time to try to see what we could do by way of a responsible act by which we could have some consultation and interject a judgment factor into the President's thinking in all cases of hostilities or threat of them. I have found no reasonable method yet, except the possibility of some sort of select group of Senators who would be consulted with prior to the President's making a decision. But, as I said before, my thinking was that we ought to distinguish between the judgment import we give to the White House and the decisionmaking which the President has to make.

This bill does not do that. This bill says that we are going to make the decisions and, in effect, have the overall exercise of judgment. That, I think, is wrong. We can inject our judgment and give it to the President or to the White House as much as possible, but any time we start making the decisions as to what the Commander in Chief can or cannot do in order to protect the interests of the United States, our own nationals, and our allies as well, I think we are making a very bad mistake.

Mr. GOLDWATER. I could not agree with the Senator more. I can envision situation after situation around this world where, while imminent attacks might not necessarily jeopardize our people per se, they could jeopardize the whole future of our country in an economic way, which in itself could be an act of war, in that it would bring distress and havoc to our people.

I am thinking, for example, that if we should allow the Soviets to take the Suez Canal and take the Strait of Malacca, and we offer no opposition to either one of those actions, our position of some dominance in the economic world, in my opinion, would disappear. I think the President would be right in judging such an action to be an imminent attack upon the economic strength of the United

States, and therefore upon the welfare of our people.

I do not wish to delay this measure, but I think the meaning of this term "imminent attack" has got to be beaten out on this floor, and I think we have to have a much broader, more complete understanding of what we are talking about than has been brought out by the hearings or thus far by the debate on the Senate floor; and while I do not think the whole bill will hinge upon this point, I think we have to think first of the safety of our people and the ability of the American people to resist attack and to confront any danger that may face us; and again, I rather prefer to have that faith in one man than in the political decision of 500.

Mr. DOMINICK. I share the viewpoint of the Senator from Arizona, as he well knows, and I think his comments extremely pertinent.

Just recently, Mr. President, Mr. Hanson W. Baldwin, writing in the New York Times, had published in that newspaper a three-part series of articles concerning the Soviet naval presence in the Indian Ocean, and the increasing efforts of the Soviet Union to exert influence in South Asia and the Middle East.

I ask unanimous consent that those articles be printed in the Record at this point.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Mar. 20, 1972]

The Indian Ocean Contest: I—The Soviet Union's Increasing Interest

(By Hanson W. Baldwin)

Roxbury, Conn.—In the age of the missile and the nuclear warhead, the Indian Ocean, the world's third largest, represents a vast launching pad for missile-firing submarines.

It is as close or closer to many Russian missile-launchers and industrial centers as the Mediterranean—and less well defended. From south of India across the Himalayas vast stretches of Soviet Siberia and Red China lie within range of sea-based missile attack.

Small wonder that the Indian Ocean—already a theater of global struggle for raw materials and a vital international maritime route—has new-found importance.

So far, the opaque sea water has given the submarine relative invulnerability, and the Indian Ocean has not been vital to U.S. nuclear deterrence. But the vast Soviet expansion program in land-based ICBM's and ABM's, in air defense, in submarine and naval construction and in antisubmarine war fare continues despite the Strategic Arms Limitation Talks. If the talks should restrict offensive missiles, and if technological developments should lead to breakthroughs in submarine tracking, the Indian Ocean—with its 28,350,000 square miles of blue water in which to get lost—becomes increasingly important in the "balance of terror."

Major political changes have also altered fundamentally the stability and the power balance in the Indian Ocean area. In place of the colonial empires of yesterday a large number of independent states now border that ocean, which is the vital route for transit of Middle East and Persian Gulf oil to Japan.

Russia has clearly indicated by trade, fishing fleets, intensified oceanographic research, a naval presence, footholds around the Indian Ocean littoral and political and economic aid an increasing interest in the area.

This interest may not fully represent a long-term Grand Design pointed toward the replacement of British power and an ultimate primacy, but the actions taken by Moscow fall into a clear pattern.

In the West, Soviet interest centers upon the Arab-Israeli conflict and maintenance of Soviet positions in Arab lands, and slow penetration of Middle East oil lands.

Opening of the Suez Canal and consolidation of dominant Russian positions at its northern entrance and in the Red Sea-Gulf of Aden are obvious objectives. In Iran, now linked by a gas pipeline to the U.S.S.R., Afghanistan and Pakistan north-south land communications between Russia and the Indian Ocean littoral nations have been tremendously improved. North of Afghanistan, close to Sinkiang and bordering disputed Kashmir, the U.S.S.R. can now support some 22 divisions, intelligence officers estimate, as compared to five or six in 1951.

Eastward, there appears to be one primary Soviet motivation—to checkmate Red China; a secondary one is to assume dominant power in the area once held by Britain.

Peking must be preoccupied primarily with her land frontiers with the Soviet Union where she faces more than a million Russian troops. But she is competing ideologically everywhere with Russia and has great ideological and political influence in West Bengal—particularly in Calcutta. China's small navy (except for submarines) is chiefly coastal and none can be spared for the Indian Ocean. But she is increasing her trade with African states, is helping to support a small guerrilla war in Oman, supplies left-wing fedayeen movements against Israel, has established a major foothold in Tanzania, is building a railroad from Zambia to Dar-es-Salaam, supports anti-Indian Naga and Mizo tribesmen in Assam and Communist guerrillas in Burma and maintains in Tibet and along the crest of the Himalayas sufficient strength to tie down about ten Indian divisions.

More important are reports, as yet unconfirmed, that Chinese in Dar-es-Salaam are preparing instrumentation to monitor test ICBM's to be launched in China and to overfly the Indian subcontinent to impact point in the Indian Ocean.

To the United States, the winding down of the Vietnam war, the continued turbulence of Southeast Asia, the uncertain future of Singapore, for decades the pivot of British power in the Far East, the slow emergence of Indonesia, the prospects of a mercurial Africa, the Sino-Soviet conflict, the increasing importance of raw materials and the vital prize of Middle Eastern oil (particularly to our Allies), and the complete change in the power balance in the Indian subcontinent pose both threat and challenge.

[From the New York Times, Mar. 21, 1972]

The Indian Ocean Contest: II—Staking Their Claims

(By Hanson W. Baldwin)

Roxbury, Conn.—A new chapter in the history of the Indian Ocean opened long before the winding down of the Vietnam conflict and the Indian-Pakistan war.

The sortie into the Bay of Bengal of a U.S. naval task force from the Seventh Fleet, spearheaded by the nuclear-powered carrier Enterprise, was directly keyed to the birth throes of Bangladesh. It served notice that Washington was interested in what happened east of Suez and west of Singapore.

But it was not the first visit of the Enterprise to the Indian Ocean. A U.S. policy of concern and of low-profile action has been evident for many years.

What has happened recently is that the tempo of events has speeded up.

It is useless to argue who did what first. The United States has had a Mideast naval force of three ships based in the Persian Gulf for more than twenty years. As long ago as 1957–58, the Russians sent oceanographic research ships to the Indian Ocean. In 1966 and 1967 the first Soviet naval combatant vessels visited the area. Since 1968 there has been an almost continuous Soviet naval presence. Despite the great distances from Vladivostok, and around the Cape of Good Hope from Soviet naval bases in the Arctic, the Baltic and the Black Sea, the Russians are now maintaining continuously, on rotation in the Indian Ocean, an average of ten combatants and auxiliaries—small task forces of electronic trawlers, submarines (conventional and nuclear), tenders and supply vessels and tankers, guided-missile cruisers and destroyers, minesweepers and one or two amphibious vessels.

The Soviet Navy does not pay many port visits, except on formal or ceremonial occasions, and its sailors are carefully chaperoned when allowed ashore. Moscow recognizes the value of flag-showing, and Soviet squadrons have paid some fifty port visits in Africa and Asia. More important, Soviet ship-days (one ship, one day) in the Indian Ocean have increased threefold since 1968.

The Soviet ships favor offshore anchorage or moorings on banks or shoals, and replenishment (fuel, food and supplies) while at anchor, or occasionally, under way.

Mooring buoys, with Soviet markings, have been laid about 180 miles off the British Seychelles Islands, off Mauritius, in the Arabian Sea and presumably at other points.

The Rusians have entered into agreements with many countries, which provide port access and facilities, or aircraft basing or transit rights, communications stations or other rights. These include: Egyptian Red Sea ports; Hodeida in Yemen on the Red Sea; Aden; the island of Socotra in the Gulf of Aden; Berbera and Mogadishu in Samalia; a fort at the head of the Persian Gulf in Iraq; Mauritius, where Aeroflot flies replacement crews to the Soviet fishing fleets; Vishakhapatnam in Indian on the Bay of Bengal, where Soviet-built vessels of the Indian Navy are home-ported and where Soviet naval and other advisers have been assigned for some years; and access of some sort to other ports in the Indian subcontinent, including Gwadar in Pakistan, and possibly Trincomalee and Colombo in Ceylon, the Nicobar Islands, and Port Blair in the Andaman Islands. This Soviet build-up around the Indian Ocean littoral is far more important than the small naval forces they maintain there.

Most authorities agree that two events—one in the recent past, one in the more distant future—will eventually greatly strengthen Soviet political, economic and ideological influence—and eventually, military power—in the area: the recent Russian-aided victory of India over Pakistan, and the consequent consolidation of an already strong Soviet position in the subcontinent; and the opening of the Suez Canal, which would greatly ease Soviet logistic problems in the Indian Ocean, would facilitate Russian support of Communist "liberation" movements around the gulf, and would shorten by 7,000 miles or more, the maritime lines of communication between European and Asiatic Russia.

[From the New York Times, Mar. 22, 1972]

The Indian Ocean Contest: III—And the U.S. Presence

(By Hanson W. Baldwin)

Roxbury, Conn.—The United States and Western positions in the Indian Ocean area are, so far, small scale and low profile.

The only permanent and continuous U.S. military force in the area is the Middle East Force, at Bahrein, in the Persian Gulf. This force—though authorized five ships—has actually consisted of only three—the old converted seaplane tender Valcour as flagship and two old destroyers. An upgrading is now taking place. The 1,800-ton Valcour is being replaced this summer by the LaSalle, a 14,000-ton LSD, completed in 1963, converted with special facilities into a flag command ship. More modern destroyers will be assigned, and in time, two more ships may be added. At Bahrein, the United States by executive agreement with the Sheik of Bahrein is taking over a few minor British naval facilities. The United States, by agreement with Saudi Arabia, still uses the large nearby airbase of Dhahran, which can handle any type of aircraft.

Two years ago Secretary of Defense Melvin Laird announced that as the Vietnam war was wound down and more ships became available, the U.S. Navy would send more vessels on periodic cruises into the Indian Ocean.

In 1969 and 1970, 358 port visits were paid to Indian Ocean countries by U.S. Navy ships. The U.S. Navy has been showing the flag considerably more than Soviet vessels but the Russians have run away with the publicity.

Obviously, the U.S. presence in the area is not new; equally obviously it is becoming somewhat stronger, more frequent, and certainly more discernible. But there are no present plans for any permanent U.S. Indian Ocean fleet or task force except the small Mideast force. Unless there is a major increase in the naval budget the U.S. Navy will not be able to maintain a *permanent* presence in the Indian Ocean, even after Vietnam, larger than four to six ships. The name of the game for the discernible future, therefore, is cruises, mainly from the Pacific Fleet, whose "chop line" or jurisdiction has been extended effective Jan. 1, 1972, to a longitude extending due south from the western border of Pakistan.

More important is the new $19 million U.S. naval facility, to be completed in 1973, on the British island of Diego Garcia, almost in the center of the Indian Ocean. The base has no indigenous political liabilities; the entire Chagos archipelago has a population of only 900 people. The principal purpose of Diego Garcia is as a "modest communications facility."

U.S. Seabees have built an 8,000-foot coral runway and transport aircraft, flying from Thailand, are using the strip to bring in personnel, construction material and supplies. The station complement will number 274 U.S. and British personnel.

In Indochina there are no plans to retain *any* military facility. Camranh Bay, once a center of French naval interest, is not a part of the future U.S. naval planning. But long before Vietnam, the U.S. maintained a prepositioned cache of arms and equipment for one brigade in Thailand, and the Sattahip area in Thailand, at the head of the Gulf of Siam, has been partially developed into a combined air and naval complex with a major airfield, docks, refueling and ammunition facilities.

Attempts to interest the United States in Singapore have been largely unavailing, militarily. Some U.S. naval and many merchant ships have utilized Singapore and this may be done more frequently in the future. But there will be no permanent U.S. presence. Instead a small combined U.K.-Australian-New Zealand force (one brigade, plus; a few aircraft squadrons, and seven or eight destroyer or frigate types) will supplement Singapore's and Malaysia's tiny forces of fifty to sixty planes and 60,000 to 70,000 men.

But the British will continue to maintain other military footholds in the area. The British retain air base rights on Masira island off the coast of Oman; and Masira, along with Gan in the Maldive group (which is politically sensitive), Diego Garcia and the Australian-administered Cocos islands, 800 miles southwest of Singapore, offer limited staging or transit air facilities, plus communications.

For some time to come Red China's influence in the Indian Ocean area—except for possible occasional submarine cruises and merchant shipping—will be exercised, indirectly by the poised threat of ICBM's, by the influence of overseas Chinese and covert guerrilla and other operations, and by direct pressure around the borders of Southeast Asia and India.

The strategy of the Indian Ocean is a strategy of maritime control of the important trade routes that use that ocean. Three sea bottlenecks lead to that ocean. Russia today has dominant position, power and influence over the Suez Canal-Red Sea route; the Cape of Good Hope is relatively free to all, and the future of the Strait of Malacca is uncertain.

Mr. DOMINICK. I would also point out that in today's Washington Post I saw a very short Associated Press article, about a paragraph long, somewhere on a back page, in which it was reported that the Soviet Union had sent naval vessels into the harbors of Bangladesh, and that they were there ostensibly to repair and reequip 21 of the Bangladesh ships which had been sunk during the process of the recent fight between East Pakistan, West Pakistan, and India.

As most people would recognize, the area where they are conducting this operation is, once again, an outflanking position insofar as the Malacca Strait is concerned, and if they should, through India or Bangladesh, get a naval base in that area, their naval force would undoubtedly be rather substantially increased. It is already far larger than anything the allied free world countries have in the Indian Ocean, and we would find the last commercial waterway in the world outflanked by the Soviet Army.

I do not know whether this is an imminent threat. It all depends upon what the Soviets decide to do with it. I do not have the faintest idea what we would do in the event they decided to close off these commercial waterways of the world. But there is no doubt whatsoever that if you look at the situation from conventional terms, any commercial traffic through the international waterways, wherever there is a narrow passageway, has been outflanked by their navy, which in effect, at least strategically, is thus in an extremely advantageous position.

I think this is worthwhile putting into the RECORD. There is a good deal more that we could put in as time goes on, but this should be sufficient, for today, to indicate some of the concerns which I have with this particular measure, while I share the desire of most Senators to try to get more consultation with and information from the Executive insofar as our overseas commitments and deployments may be concerned .

Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I rise in support of S. 2956, the War Powers Act.

It is clear to me, and I know to a great many of my colleagues, that there should be no need for this bill. Unfortunately, there is very great need for it. In this age of secrecy, contingency plans, hidden funds, and covert paramilitary operations, recent Presidents have allowed this country to slide into conflicts in clear defiance of constitutional procedures. To cite the most notorious example, the Tonkin Gulf resolution was interpreted as the functional equivalent of a declaration of war. Worse still, President Johnson asserted that even the resolution itself was unnecessary. The present administration continues to display this attitude. Unless we act now, Congress will increasingly allow itself to be used as the passive recipient of ceremonial gestures.

The War Powers Act is clearly in line with constitutional intent. In article I, section 8, the Constitution vests the authority to "declare"—that is, to authorize the initiation of—war in the Congress. Among the chief reasons for establishing these congressional powers was the cost of waging war. As Jefferson wrote to Madison, the power of unleashing the "dog of war" was transferred from those who spend to those who pay. The staggering price of American involvement in Southeast Asia underscores the importance of restoring the constitutional balance.

In terms of dollars, that unhappy, tragic war in Southeast Asia has now cost the American people $150 billion. The most reliable estimate I have seen of its final, total cost to the American people, when we have paid the final bill a couple of generations hence, will be $1 trillion. That is one thousand billion dollars that this war will have cost us.

Money alone, of course, would not justify the War Powers Act. There are other costs of war. Thinking in terms of the Vietnam war, one of those costs is lives lost. Another cost is lives shattered. Another cost is families broken. Another cost is the despair that has struck our land. Another cost is the division that has swept our Nation. Another cost is the diversion of our attention and our resources from pressing problems at home, and perhaps more pressing problems abroad, to this unhappy, tragic war in Southeast Asia.

One man simply should not have the power to initiate war even if he could do it free of charge. By providing that war powers should not be concentrated in the President's hands, the framers of the Constitution explicitly intended to make it more difficult to launch a war than to stop one. Past experience has shown that even a minor operation can have major consequences. The time is ripe for reasserting congressional authority, not in order to violate the Constitution, but rather to clarify and fulfill its provisions.

It is sometimes argued that the nature of contemporary war does not permit consultation with Congress, and that a bill restricting the President's warmaking powers would therefore damage national security. Nothing could be further from the terms of the War Powers Act than a threat of this kind. The bill explicitly permits the President to take direct and immediate action. Section 5 does provide that such action shall not be sustained for more than 30 days, but if American forces are still under attack at the end of that period, the operative clauses permitting Presidential action would automatically apply. Furthermore, in a less immediate sense, investing warmaking powers in the hands of one man is very possibly more dangerous than sharing these powers with elected legislators. In short, the act is fully compatible with the requirements of national security both now and in the future.

The constitutional evidence in support of the War Powers Act is clear. The Foreign Relations Committee has already studied the relevant legal questions thoroughly and responsibly. I urge an affirmative vote.

The PRESIDING OFFICER. Who yields time?

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

LIBERALIZATION OF CERTAIN CIVIL SERVICE RETIREMENT ANNUITIES

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Wyoming (Mr. McGee), I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1681.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to S. 1681, a bill to liberalize eligibility for cost-of-living increases in civil service retirement annuities which was to strike out all after the enacting clause and insert:

That section 8340(c) of title 5, United States Code, is amended—

(1) by renumbering paragraphs (1) and (2) thereof as paragraphs (2) and (3), respectively; and

(2) by inserting immediately above paragraph (2) (renumbered as such by paragraph (1) of this section), the following new paragraph:

"(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

"(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

"(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339 (m) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.".

Sec. 2. Section 8348 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) Notwithstanding any other provision of law, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to active and retired Postal Service officers and employees, and to their survivors, when such increase results from an employee-management agreement under title 39, or any administrative action taken pursuant to law, which authorizes increases in pay on which such benefits are computed.

"(2) The estimated increase in the unfunded liability, referred to in paragraph (1) of this subsection, shall be determined by the Civil Service Commission. The United States Postal Service shall pay the amount so determined to the Commission in thirty equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the first fiscal year after the fiscal year in which an increase in pay becomes effective.".

Sec. 3. Section 1005(d) of title 39, United States Code, is amended by adding at the end thereof the following new sentence: "The Postal Service shall pay into the Civil Service Retirement and Disability Fund the amounts determined by the Civil Service Commission under section 8348(h)(2) of title 5.".

Sec. 4. The amendments made by the first section of this Act shall apply only with respect to annuities which have a commencing date after the effective date of the first annuity increase under section 8340(b) of title 5, United States Code, which occurs on or after the date of enactment of this Act. The amendment made by section 3 of this Act to section 1005(d) of title 39, United States Code, as enacted by the Postal Reorganization Act (84 Stat. 732; Public Law 91–375), shall become effective on that date on which the other provisions of such section 1005(d) become effective.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Wyoming (Mr. McGee), I move that the Senate disagree to the amendment of the House on S. 1681 and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McGee, Mr. Randolph, Mr. Burdick, Mr. Fong, and Mr. Boggs conferees on the part of the Senate.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Weicker) The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND LAYING BEFORE THE SENATE OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, following the remarks of the junior Senator from West Virginia (Mr. Robert C. Byrd), there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The seocond assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Weicker). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 11 o'clock a.m. After the two leaders have been recognized under the standing order, the junior Senator from West Virginia (Mr. Robert C. Byrd) will be recognized for not to exceed 15 minutes.

There will then be a period for the transaction of routine business for not to exceed 30 minutes, with statements therein limited to 3 minutes each.

After the conclusion of the routine business, the Chair will lay before the Senate S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress. Debate will continue thereon. It is hoped that amendments will be called up and voted on tomorrow.

Therefore, rollcall votes may occur tomorrow.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 o'clock a.m. tomorrow.

The motion was agreed to; and at 4:12 p.m. the Senate adjourned until tomorrow, Wednesday, April 5, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate April 4, 1972:

Office of the Special Representative for Trade Negotiations

Harald Bernard Malmgren, of the District of Columbia, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

National Oceanic and Atmospheric Administration

Rear Adm. Allen L. Powell to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration, Vice Rear Adm. Don A. Jones, retiring.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Samuel B. Block, of the District of Columbia, to be an associate judge, Superior Court of the District of Columbia, for the term of years prescribed by Public Law 91-358, approved July 29, 1970, and vice a new position created by said Public Law 91-358.

Robert H. Campbell, of the District of Columbia, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, vice a new position created by Public Law 91-358, approved July 29, 1970.

Joseph M. Hannon, of Maryland, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, vice a new position created by Public Law 91-358, approved July 29, 1970.

Margaret A. Haywood, of the District of Columbia, to be an associate judge, Superior Court of the District of Columbia, for the term of years prescribed by Public Law 91-358, approved July 29, 1970, and vice a new position created by said Public Law 91-358.

John R. Hess, of Virginia, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, vice a new position created by Public Law 91-358, approved July 29, 1970.

Luke C. Moore, of the District of Columbia, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, vice a new position created by Public Law 91-358, approved July 29, 1970.

Donald S. Smith, of Maryland, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, vice a new position created by Public Law 91-358. approved July 29, 1970.

DIPLOMATIC AND FOREIGN SERVICE

The following-named Foreign Service information officers for promotion in the Foreign Service to the classes indicated:

Foreign Service information officers of class 1:

Robert C. Amerson, of Minnesota.
Lyle D. Copmann, of Nebraska.
Robert T. Curran, of Michigan.
Arthur S. Hoffman, of Florida.
Wallace W. Littell, of Maryland.
James Moceri, of Washington.
Harold F. Schneidman, of Pennsylvania.
Francis B. Tenny, of Virginia.
Gordon Winkler, of the District of Columbia.

Foreign Service information officers of class 2:

Philip W. Arnold, of New York.
Royal D. Bisbee, of Illinois.
David M. Burns, of Kansas.
William B. Davis, of Michigan.
F. Weston Fenhagen, of California.
Hans Holzapfel, of Virginia.
Miss Marilyn Johnson, of Massachusetts.
Leonard L. Lefkow, of Washington.
Robert Don Levine, of New York.
Miss Joann Lewinsohn, of Oklahoma.
James A. McGinley III, of Florida.
William J. Miller, of Virginia.
Robert W. Mount, of Nevada.
Robert L. Nichols, of New Hampshire.
Patrick E. Nieburg, of New York.
Melvin C. Niswander, of Maryland.
Michael T. F. Pistor, of New York.
W. Clinton Powell, of Hawaii.
Victor L. Stier, of California.
Ted M. G. Tanen, of California.

Foreign Service information officers of class 3:

Donald H. Albright, of Arkansas.
Theophilus E. Ashford, of New Jersey.
Leonard J. Baldyga, of Illinois.
Paul P. Blackburn, of Maryland.
Hugh L. Burleson, of Maryland.
John F. Cannon, of Massachusetts.
Philip C. Cohan, of Maryland.
John J. Daly, Jr., of Pennsylvania.
Neal T. Donnelly, of Florida.
Edward A. Elly, of Michigan.
Richard J. Gordon, of Maryland.
Miss Elinor Green, of New York.
John L. Griffiths, of California.
Andrew P. Guzowski, of Florida.
Miss Barbara A. Hutchison, of Delaware.
Stanton Jue, of California.
Leslie M. Lisle, of West Virginia.
Charles R. Meyer, of Ohio.
Dale A. Morrison, of Illinois.
Gordon W. Murchie, of California.
Warren J. Obluck, of California.
Alvin Perlman, of New York.
Mrs. Lois W. Roth, of New York.
William A. Rugh, of New York.
John C. Scafe, of Kansas.
Wesley D. Stewart, of Ohio.
John J. Tuohey, of New Jersey.

Foreign Service information officers of class 4:

Peter J. Antico, of New York.
Miss Juliet C. Antunes, of New York.
Robert K. Baron, of Pennsylvania.
Richard Birn, of New York.
Merton L. Bland, of California.
John L. Bright, of Ohio.
Gilbert R. Callaway, of Arkansas.
Michael P. Canning, of North Dakota.
Robert T. Coonrod, of New York.
Miss Victoria R. Cordova, of Washington.
Frank Darlington, of Texas.
Sherwood H. Demitz, of Missouri.
Robert Barry Fulton, of Pennsylvania.
Miss Mary E. Gawronski, of New York.
Robert K. Geis, of Texas.
Robert R. Gosende, of Massachusetts.
Donald W. Hauger, of Florida.
Miss Corinne A. Heditsian, of Rhode Island.
Christopher M. Henze, of California.
John H. Hudson, of Virginia.
Larry J. Ikels, of Texas.
William L. Jacobsen, Jr., of Washington.
Duane L. King, of Washington.
Howard A. Lane, of Virginia.
Alfred A. Laun III, of Wisconsin.
Dell F. Pendergrast, of Illinois.
Robert David Plotkin, of California.
James C. Pollock, of Pennsylvania.
Jerry Lincoln Prillaman, of Virginia.
Harold F. Radday, of California.
Christopher W. S. Ross, of the District of Columbia.
Richard C. Schoonover, of California.
Carl D. Schultz III, of the District of Columbia.
Donald F. Sheehan, of New York.
Miss Barbara M. Shelby, of New York.
Terry B. Shroeder, of California.
Willis J. Sutter, of New Jersey.
Daniel L. Traub, of California.
Ernesto Uribe, of Texas.
Richard A. Virden, of Minnesota.
Harvey M. Wandler, of New York.
Joel M. Woldman, of Ohio.

Foreign Service information officers of class 5:

Dennis A. Allred, of Illinois.
Robert Bemis, of the District of Columbia.
Miss Beverly H. Brock, of California.
Stephen M. Chaplin, of Hawaii.
Dennis D. Donahue, of Indiana.
Richard B. Fitz, of California.
Ludlow Flower III, of California.
John Frankenstein, of the District of Columbia.
Wayne F. Gledhill, of Utah.
Miss Gail J. Gulliksen, of Illinois.
L. Michael Haller, of Illinois.
John P. Harrod, of Ohio.
David W. Hess, of Iowa.
Edward J. Hinker, of Minnesota.
Edward W. Holland, Jr., of New Jersey.
David L. Jamison, of Maryland.
David K. Krecke, of Michigan.
Miss Susan E. Lowe, of Pennsylvania.
Anthony A. Markulis, of Virginia.
William H. Maurer, Jr., of Pennsylvania.
Miss Marilyn McAfee, of Pennsylvania.
Miss Caroline V. Meirs, of New Jersey.
Michael J. Nugent, of Maryland.
Michael Patrick Phelan, of Michigan.
Donald J. Planty, of New York.
Robert W. Proctor, of New Mexico.
Roger C. Rasco, of Texas.
Douglas S. Rose, of California.
Miss Janet E. Ruben, of Pennsylvania.
Andrew D. Schlessinger, of New York.
Stanley S. Shepard, of Colorado.
Jonathan L. Silverman, of New Jersey.
Lawrence M. Thomas, of Tennessee.
Richard C. Tyson, of California.
Miss Sandra L. Vogelgesang, of the District of Columbia.
Kenneth A. Yates, of Connecticut.

Foreign Service information officers of class 6:

Miss Barbara Joan Allen, of Missouri.
Parker J. Anderson, of California.
Miss Sarah R. Anderson, of West Virginia.
Peter T. Becskehazy, of Ohio.
Arthur S. Berger, of the District of Columbia.
Miss Jan Carol Berris, of Michigan.
Michael L. Braxton, of the District of Columbia.
Nelson C. Brown, of Louisiana.
Brian E. Carlson, of Virginia.
Miss Paul J. Causey, of Virginia.
Mrs. Janet C. Demiray, of Virginia.
Fredric A. Emmert, of Michigan.
C. Roy Fleming, Jr., of Tennessee.
Robert B. Geyer, of Pennsylvania.
Mark A. Giago, of New York.
Miss J. Alison Grabell, of New Jersey.
William Henry Graves of California.
Richard F. Hayse, of Kansas.
Robert C. Heath, of California.
Thomas A. Homan, of Illinois.
Miss Judith R. Jamison, of the District of Columbia.
John E. Katzka, of Wisconsin.
Miss Katherine Kline, of Ohio.
Robert F. Le Blanc, of Montana.
Charles C. Loveridge, of Utah.
Eugene A. Nojek, of Illinois.
Michael F. O'Brien, of California.
Joseph Daniel O'Connell, Jr., of Maryland.
Mrs. Donna Marie Oglesby, of Florida.
Miss Anne M. Sigmund, of Kansas.
John C. Thomson, of California.
John Treacy, of New York.
John C. Wicart, of Virginia.
Leonardo M. Williams, of Minnesota.

Foreign Service information officers of class 7:

Howard A. Cincotta, of Maryland.
David P. Good, of New York.
Andre N. Gregory, of New York.
Hugh H. Hara, of Illinois.
Philip C. Harley, of New York.
Miss Ann Jeryl Martin, of Tennessee.
Robert D. Miller, of Pennsylvania.
Robert C. Wible, of Ohio.

The following-named Foreign Service officers for promotion in the Foreign Service to the classes indicated:

Foreign Service officers of class 1:

Richard J. Bloomfield, of Virginia.
William G. Bradford, of Illinois.
William D. Broderick, of Michigan.
Jack B. Button, of Kansas.
Edwin D. Crowley, of New Jersey.
William E. Culbert, of New Jersey.
Richard A. Ericson, Jr., of California.
Gerald Goldstein, of New York.
John H. Holdridge, of California.
Miss Margaret Hussman, of Idaho.
Richard E. Johnson, of the District of Columbia.
Lowell Bruce Laingen, of Minnesota.
William W. Lehfeldt, of California.
Frank E. Maestrone, of Connecticut.
Henry Hunt McKee, of the District of Columbia.
Jacob M. Myerson, of Maryland.
Sandy MacGregor Pringle, of the District of Columbia.
Stanley D. Schiff, of New Jersey.
Thomas D. Shoesmith, of Pennsylvania.
Monteagle Stearns, of California.
Richard D. Vine, of California.

Foreign Service officers of class 1 and consular officers of the United States of America:

Arthur R. Day, of New Jersey.
Arthur I. Wortzel, of New Jersey.

Foreign Service officers of class 2:
S. Morey Bell, of Virginia.
Calvin C. Berlin, of Ohio.
Robert R. Bliss, of Michigan.
Charles W. Brown, of California.
Michael Calingaert, of New York.
Harvey J. Cash, of Arizona.
Michael E. Ely, of the District of Columbia.
Brandon H. Grove, Jr., of the District of Columbia.
Brewster R. Hemenway, of New York.
Ernest B. Johnston, Jr., of Alabama.
Archie S. Lang, of Illinois.
Donald C. Leidel, of Wisconsin.
H. Freeman Matthews, Jr., of Maryland.
David H. McCabe, of California.
Noble M. Melencamp, of Kansas.
Alan G. Mencher, of New York.
John L. Mills, of Georgia.
James B. Moran, of Washington.
John J. O'Neill, Jr., of Connecticut.
Wendell A. Pike, of Washington.
Stephen H. Rogers, of Virginia.
David E. Simcox, of Kentucky.
Melvin E. Sinn, of New Jersey.
Thomas W. M. Smith, of Maine.
William R. Smyser, of Pennsylvania.
Roger A. Sorenson, of Utah.
Michael Sterner, of New York.
Thomas E. Summers, of Maine.
Joseph Terranova, Jr., of Arizona.
Nicholas G. W. Thorne, of Connecticut.
Robert E. White, of New Hampshire.
Amos Yoder, of California.
Dan A. Zachary, of Illinois.
Albert L. Zucca, of Florida.

Foreign Service officers of class 2 and consular officers of the United States of America:
James L. Carson, of Oregon.
Maxwell Chaplin, of California.
John R. Davis, Jr., of Maryland.
Harry George French, of Maryland.
Holsey G. Handyside, of Ohio.
Robert B. Houston, Jr., of Maryland.
Charles K. Johnson, of California.
Robert Gerald Livingston, of Connecticut.
Christoper A. Squire, of the District of Columbia.
Jack A. Sulser, of Illinois.
Nicholas A. Veliotes, of California.

Foreign Service officers of class 3:
George A. Anderson, of Iowa.
James K. Bishop, Jr., of New York.
Edward C. Bittner, of Pennsylvania.
Archie M. Bolster, of Virginia.
Stephen W. Bosworth, of Virginia.
Carleton C. Brower, of California.
Alanson G. Burt, of California.
Thomas C. Colwell, of California.
Ernst Conrath, of Wisconsin.
Emmett M. Coxson, of Illinois.
John E. Crump, of Kansas.
Willard B. Devlin, of Pennsylvania.
John W. DeWitt, of Florida.
Robert B. Duncan, of New Jersey.
Emil P. Ericksen, of California.
James Ferrer, Jr., of California.
Rudy V. Fimbres, of Arizona.
Allen S. Greenberg, of the District of Columbia.
Myles L. Greene, of Florida.
Mrs. Winifred T. Hall, of New Jersey.
Kenneth Allen Hartung, of New York.
Miss Theresa A. Healy, of New Hampshire.
Robert M. Immerman, of New York.
Norbert J. Krieg, of California.
Denis Lamb, of Ohio.
Robert E. Lamb, of Georgia.
Larry E. Lane, of Texas.
David E. L'Heureux, of New Hampshire.
William H. Mansfield III, of Connecticut.
Frank A. Mau, of Wyoming.
Paul B. McCarty, of Massachusetts.
Chester E. Norris, Jr., of Maine.
Miss Alison Palmer, of New York.
Donald K. Petterson, of California.
James A. Placke, of Nebraska.
Mark S. Pratt, of Rhode Island.
Henry Precht, of Georgia.
Anthony C. E. Quainton, of Washington.
Alexander L. Rattray, of California.
Miss Rozanne L. Ridgway, of Minnesota.
Robert J. Ryan, Jr., of Massachusetts.
Roger C. Schrader, of Missouri.
N. Shaw Smith, of Virginia.
Richard W. Smith, of New York.
Walter Burges Smith II, of Rhode Island.
Thomas Solitario, of California.
Ulrich A. Straus, of the District of Columbia.
Thomas M. Tracy, of Connecticut.
Lannon Walker, of California.
E. Allan Wendt, of Illinois.
Richard L. Wilson, of Iowa.

Foreign Service officers of class 3 and consular officers of the United States of America:
Hugh W. Burrows, of Michigan.
John J. Harter, of California.
John J. Helble, of Illinois.
Edward Hurwitz, of New York.
James T. Johnson, of Montana.
Gerald R. Olsen, of Michigan.
Russell E. Olson, of Illinois.
James G. Sampas, of Massachusetts.
Edward W. Schaefer, of Connecticut.

Foreign Service officers of class 4:
Andrew F. Antippas, of Massachusetts.
Richard C. Barkley, of Michigan.
Samuel B. Bartlett, of Massachusetts.
Adrian Anthony Basora, of Puerto Rico.
J. Peter Becker, of Florida.
John P. Becker, of California.
Harry C. Blaney III, of New York.
Kenneth W. Bleakley, of New York.
Richard W. Bogosian, of Massachusetts.
Parker W. Borg, of Minnesota.
William J. Boudreau, of Massachusetts.
William T. Breer, of California.
Charles F. Brown, of Nevada.
Richard G. Brown, of the District of Columbia.
James N. Bumpus, of California.
Ronald B. Casagrande, of the District of Columbia.
David P. N. Christensen, of Nevada.
Richard A. Christensen, of Wisconsin.
Malcolm H. Churchill, of Iowa.
Wat T. Cluverius IV, of Illinois.
John P. Crawford, of Ohio.
Marion V. Creekmore, Jr., of Tennessee.
Ernest B. Dane III, of the District of Columbia.
Edmund T. DeJarnette, of Virginia.
Edward P. Djerejian, of New York.
Robert W. Farrand, of New York.
Lowell R. Fleischer, of Ohio.
Patrick J. Flood, of Ohio.
Arthur M. Giese, of Mississippi.
Jay R. Grahame, of Virginia.
Marvin Groeneweg, of Iowa.
Richard D. Harding, of Michigan.
Douglas G. Hartley, of the District of Columbia.
John H. Hawes, of New Jersey.
Walter A. Hayden, of New York.
Richard Hines, of New York.
John L. Hirsch, of New York.
Francis S. M. Hodsoll, of New York.
Jerome L. Hoganson, of Wisconsin.
Robert Onan Homme, of Minnesota.
James F. Hughes III, of New York.
Miss Karen D. Jenkins, of Virginia.
James J. Johnston, of Arkansas.
John P. Jurecky, of Arizona.
Vladimir Lehovich, of New York.
David L. Mack, of Oregon.
James B. Magnor, Jr., of Virginia.
Edward J. Maguire, Jr., of California.
Dwight N. Mason, of New Jersey.
Gary L. Matthews, of Missouri.
Donald Floyd McConville, of Minnesota.
Henry Young McCown, Jr., of Texas.
Joseph D. McLaughlin, of Kansas.
Michael J. Mercurio, of Ohio.
Michael A. G. Michaud, of Maryland.
Bradford William Miller, Jr., of New York.
David T. Morrison, of Michigan.
James H. Morton, of Illinois.
Nicholas M. Murphy, of New York.
Geoffrey Ogden, of California.
Robie M. H. Palmer, of Vermont.
Dennis R. Papendick, of California.
Samuel R. Peale, of the District of Columbia.
Robert A. Peck, of California.
Chester F. Polley, Jr., of Illinois.
Gary S. Posz, of California.
Robert Rackmales, of Maryland.
Eugene J. Schreiber, of Missouri.
Larry W. Semakis, of New Jersey.
William C. Sergeant, of Florida.
Gilbert H. Sheinbaum, of California.
Robert William Smith, of California.
Rufus Grant Smith, of New Jersey.
John P. Spillane, of Illinois.
Joel S. Spiro, of Pennsylvania.
Walter E. Stadtler, of Maryland.
John C. Stephens, of Colorado.
Andrew Tangalos, of the District of Columbia.
Paul Daniel Taylor, of New York.
Dirck Teller, of Maryland.
Norman E. Terrell, of Washington.
Richard S. Thompson, of Washington.
Archelaus R. Turrentine, of Arkansas.
John D. Whiting, of Wisconsin.
Olin S. Whittemore, of California.
Philip C. Wilcox, Jr., of Colorado.
Milton J. Wilkinson, of California.
Theodore S. Wilkinson III, of the District of Columbia.
David S. Wilson, of California.
John J. Youle, of New York.

Foreign Service officers of class 4 and consular officers of the United States of America:
Frank L. Berry, of Kentucky.
Reppard D. Hicks, of Florida.
Robert E. Jelley, of California.
Edward R. O'Connor, of New York.
John G. Peters, of Maryland.
Foreign Service officers of class 5:
Frederick Brenne Bachmann, of New Jersey.
Paul E. Barbian, of Wisconsin.
Robert W. Beales, of Virginia.
David Russell Beall, of Michigan.
Charles R. Bowers, of California.
Charles H. Brayshaw, of Colorado.
Malcolm Heaton Butler, of Texas.
Timothy Michael Carney, of Georgia.
Robert K. Carr, of California.
John B. Craig, of Pennsylvania.
Brian G. Crowe, of New York.
Richard D. Cummins, of New York.
Miss Martha Ann DeWitt, of Colorado.
David J. Dunford, of Connecticut.
Vincent J. Farley, of New York.
Brian R. Furness, of Connecticut.
Robert P. Gallagher, of Rhode Island.
William L. Gallagher, of California.
Jon D. Glassman, of California.
Victor S. Gray, Jr., of the District of Columbia.
William D. Heaney, of California.
Richard E. Hecklinger, of New York.
Paul W. Hilburn, Jr., of Texas.
David L. Hobbs, of California.
Thomas R. Hutson, of Nebraska.
Philip A. King, of Florida.
Arthur L. Kobler, of New Jersey.
Donald B. Kursch, of New York.
David Burton Langhaug, of Michigan.
Edward Gibson Lanpher, of Virginia.
Richard R. La Roche, of Rhode Island.
Larrie D. Loehr, of California.
Robert A. MacCallum, of Pennsylvania.
Richard A. McCoy, of New Jersey.
Kevin J. McGuire, of New York.
Richard Keller McKee, of Illinois.
Miss Marilyn L. Muench, of Idaho.
Patrick A. Mulloy, of Pennsylvania.
Robert C. Myers, of Virginia.
Stefan Cox Nadzo, of Virginia.
Miss Sarah Louise Nathness, of Ohio.
Jerome C. Ogden, of New York.
Mrs. Mary Dell F. Palazzolo, of Georgia.
Robert Stephen Pastorino, of California.
Lee M. Peters, of Minnesota.
Paul P. Pilkauskas, of New York.
Blaine D. Porter, of Utah.
Kenneth M. Quinn, of Iowa.
Algirdas J. Rimas, of Virginia.
Miss Mary A. Ryan, of New York.

Miss Barbara L. Schell, of Pennsylvania.
Miss Marsha D. Smith, of Maryland.
Ronald L. Spaulding, of Washington.
Larry C. Thompson, of Oklahoma.
Edward A. Torre, of New York.
Miss Jane Whitney, of Washington.
Irving A. Williamson, Jr., of Missouri.
Richard LaVerne Williamson, Jr., of California.
Ralph Winstanley II, of Indiana.
Toby T. Zettler, of Ohio.

Foreign Service officers of class 6:

Eugene C. Bailey, of California.
Alan Whittier Barr, of California.
Ross E. Benson, of California.
Paul H. Blakeburn, of New Hampshire.
John S. Blodgett, of Virginia.
Michael A. Boorstein, of Colorado.
James C. Cason, of the District of Columbia.
Kenneth W. Chard, of Colorado.
Peter R. Chaveas, of New Jersey.
Donald R. Cleveland, of Oregon.
Daniel Chester Cochran, of Illinois.
Lee O. Coldren, of California.
Michael Congdon, of California.
Frederick R. Cook, of New York.
Richard Arthur Coulter, of Oregon.
Miss Kathleen J. Croom, of Missouri.
Jeffrey R. Cunningham, of Idaho.
Roger L. Dankert, of Nebraska.
Jan de Wilde, of Virginia.
Morton R. Dworken, Jr., of Ohio.
Douglas A. Dworkin, of Tennessee.
Lawrence F. Farrar, of Washington.
Royce J. Fichte, of Illinois.
Donald Lee Field, Jr., of California.
John Seabury Ford, of Ohio.
Edward F. Fugit, of Illinois.
John Michael Garner, of Texas.
Harold W. Geisel, of Illinois.
Allen McDowell Hale, of Virginia.
Albert Lee Halff, of Texas.
Michael L. Hancock, of Georgia.
David C. Harr, of Illinois.
Donald Vance Hester, of Illinois.
James G. Huff, of the District of Columbia.
Miss Judith I. Hughes, of Utah.
Morris N. Hughes, Jr., of Nebraska.
Paul Andrew Inskeep, of Virginia.
Robert Leonard Jacobs, of Illinois.
Mark Johnson, of Montana.
Christopher G. L. Jones, of the District of Columbia.
Karl K. Jonietz, of Massachusetts.
Richard Dale Kauzlarich, of Illinois.
Harvey Lampert, of California.
Warren E. Littrel, Jr., of Illinois.
Frederic William Maerkle III, of California.
Lann A. Malesky, of North Carolina.
David Jordan Mangan, Jr., of Wisconsin.
Pedro Martinez, of Texas.
Gregory Lynn Mattson, of New Jersey.
Miss Mary Helen Maughan, of Utah.
Steven McDonald, of Missouri.
Brunson McKinley, of Pennsylvania.
David Norman Miller, of Nebraska.
William A. Hoffitt, of Texas.
Day Olin Mount, of New York.
Thomas F. Murphy, of Illinois.
Clarence M. Nagao, of Hawaii.
Ronald E. Neumann, of California.
J. Michael O'Brien, of Pennsylvania.
Scott Huston Ochiltree, of Connecticut.
Gordon Brent Olson, of Washington.
Allen R. Overmyer, of the District of Columbia.
Raymond J. Pardon, of New York.
Robert C. Perry, of North Carolina.
Ross S. Quan, of California.
William Christie Ramsay, of Michigan.
Paul V. Ray, Jr., of Wisconsin.
David E. Reuther, of Washington.
Wayne Alan Roy, of Virginia.
John W. Salmon, Jr., of Missouri.
Clement Laurence Salvadori, of Massachusetts.
Basil Scarlis, of the District of Columbia.
Robert L. Scott, of Virginia.
L. Gordon Shouse, of Florida.
William H. Siefken, of Texas.
Hugh V. Simon, Jr., of Tennessee.
Charles B. Smith, Jr., of New York.
James A. Smith, of Ohio.
Richard A. Smith, Jr., of Connecticut.
Frank J. Spillman, of Hawaii.
Joseph Gerard Sullivan, of Massachusetts.
Russell J. Surber, of Washington.
James W. Swihart, Jr., of the District of Columbia.
Robert E. Tynes, of Virginia.
Frank P. Wardlaw, of Texas.
Lyn F. Wheeler, of the District of Columbia.
Arlen Ray Wilson, of Wyoming.
Andrew Jan Winter, of New York.
Ira Wolf, of Virginia.
Leo R. Wollemborg, of New York.
Franklin Miller Zuttermeister, Jr., of Florida.

Foreign Service officers of class 7:

Marc Allen Baas, of Michigan.
Larry G. Butcher, of Oklahoma.
Mrs. Suzanne S. Butcher, of Pennsylvania.
Richard Dunlap Heim, of New Jersey.
Miss A. Elizabeth Jones, of Maryland.
John Scott Monier, of Illinois.
Christopher T. Seaver, of California.
Gregory D. Strong, of Montana.
Robert Taylor, of Texas.
Arthur M. Weisburd, of Arkansas.
John Stern Wolf, of Pennsylvania.

In the Coast Guard

The following-named officers of the Coast Guard Reserve for promotion to the grade of captain:

John D. O'Malley
Robert L. O'Brien
Richard L. Sprague
Donald M. Draper

The following-named officer of the Coast Guard Women's Reserve for promotion to the grade of captain:

Eleanor C. L'Ecuyer

The following-named officers for reappointment in Coast Guard Women's Reserve in the grade of commander, having been found fit for duty while on the temporary disability retired list.

Frances S. Turner

The following-named officer of the Coast Guard for promotion to the grade of commander:

Jules A. Peebles

The following-named Reserve officers to be permanent commissioned officers in the Coast Guard in the grade of lieutenant:

Richard R. Cottingham
William S. Shaffer
Arthur A. Whiting III
Eric J. Williams III

In the U.S. Army

The following-named officers to be placed on the retired list, in grade indicated, under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Hugh McClellan Exton, 224-52-2891, Army of the United States (major general, U.S. Army).

Lt. Gen. James Benjamin Lampert, 224-52-8480, Army of the United States (major general, U.S. Army).

In the Navy

The following-named officers of the Navy for permanent promotion to the grade of rear admiral:

LINE

John D. Chase
David M. Rubel
Robert S. Salzer
Paul E. Pugh
John "L" Butts, Jr.
William M. Pugh II
Ward S. Miller
Roger E. Spreen
James Ferris
John H. Dick
William H. Livingston
Howard E. Greer
Jon L. Boyes
Donald C. Davis
Donald V. Cox
Herbert S. Ainsworth
Earl P. Yates
Donald D. Engen
Oliver H. Perry, Jr.
Edwid K. Snyder
Herbert S. Matthews, Jr.
Dean L. Axene
Patrick "J" Hannifin
James W. Nance
Rembrandt C. Robinson
Worth H. Bagley
Clarence M. Hart
Lewis A. Hopkins

MEDICAL CORPS

William C. Turville

SUPPLY CORPS

Charles Becker

CHAPLAIN CORPS

Richard G. Hutcheson, Jr.

DENTAL CORPS

Anthony K. Kaires

In the Air Force

The following officers for appointment in the Reserve of the Air Force (Medical Corps), in the grade of lieutenant colonel, under the provisions of section 593, title 10, United States Code, and Public Law 92–129, with a view to designation as medical officers, under the provisions of section 8067, title 10, United States Code, with effective dates to be determined by the Secretary of the Air Force:

Buckley, Richard E., [redacted].
Hodgson, Corrin J., [redacted].
Kachinski, Frank E., [redacted].
Lowe, James C. Jr., [redacted].

The following persons for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

To be captain (Dental)

Van Asma, Kenneth L., [redacted].

To be captain (Medical)

Carroll, Herman G., Jr., [redacted].
Koop, Lamonte P., [redacted].
Simerville, James J., [redacted].

The following Air Force officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be captain

Akers, James C., [redacted].
Albrecht, Jerry E., [redacted].
Allen, Archie G., [redacted].
Andress, Robert S., [redacted].
Andrews, Melville M., Jr., [redacted].
Armistead, Jack D., [redacted].
Avery, Richard D., [redacted].
Badalamente, Richard V., [redacted].
Bainbridge, Thomas A., [redacted].
Bair, William K., [redacted].
Baker, Kennieth W., [redacted].
Baker, Richard A., [redacted].
Ballas, Andrew W., Jr., [redacted].
Banks, Tommie L., [redacted].
Bartlow, Gene S., [redacted].
Bateman, Wilbur, W., Jr., [redacted].
Beck, James R., [redacted].
Becker, Larry L., [redacted].
Benedict, Calvert A., [redacted].
Berwager, Steven L., [redacted].
Bevis, James N., [redacted].
Bingham, Billy J., [redacted].
Blakeley, William B., [redacted].
Blassingame, Arthur A., [redacted].
Blizzard, Gerald V., [redacted].
Boman, Francis R., [redacted].
Bourgeois, Warren H., Jr., [redacted].
Bradham, John H., [redacted].
Brass, William I., [redacted].
Brown, Michael J., [redacted].
Bryant, Lucious E., Jr., [redacted].

Bryant, William L., [redacted].
Burks, William N., [redacted].
Bushfy, James W., [redacted].
Byers, Jerrold K., [redacted].
Cadle, Larry D., [redacted].
Calcote, James D., [redacted].
Capan, David R., [redacted].
Capshaw, Billie D., [redacted].
Carr, Michael L., [redacted].
Carter, Jack D., [redacted].
Carver, Lawrence A., [redacted].
Cary, Leo M., [redacted].
Casey, William E., Jr., [redacted].
Cashman, James F., [redacted].
Casleton, Jeffrey L., [redacted].
Cecil, Allan C., [redacted].
Celestini, Arnold C., [redacted].
Chestnut, Robert B., [redacted].
Cheveres, Robert, [redacted].
Churchwell, John E., [redacted].
Claiborne, James F., III, [redacted].
Clark, Babe M., [redacted].
Cleveland, Durand E., Jr., [redacted].
Clingman, Billy G., [redacted].
Cofod, Robert K., [redacted].
Colley, William M., [redacted].
Collins, Willie R., Jr., [redacted].
Connors, Ronald E., [redacted].
Crooker, Christian A., [redacted].
Culp, Joseph P., [redacted].
Cummings, John W., Jr., [redacted].
Cunningham, Gene R., [redacted].
Curtis, Richard R., [redacted].
Davis, Forrest W., [redacted].
Delar, Robert J., [redacted].
Dews, John D., [redacted].
Dickerson, Warren C., [redacted].
Dodge, Ronald B., II, [redacted].
Dolezal, Edward J., [redacted].
Dorn, Raymond G., [redacted].
Doubrava, Peter C., [redacted].
Dougherty, James F., Jr., [redacted].
Douville, Douglas E., [redacted].
Driggers, Paul N., Jr., [redacted].
Drouin, Donald V., [redacted].
Druva, Karlis J., [redacted].
Duffey, John G., Jr., [redacted].
Dunn, Charles A., [redacted].
Eakle, Bruce F., [redacted].
Edwards, Charles R., [redacted].
Ellis, Smokey F. C., [redacted].
Erickson, Donald W., [redacted].
Erickson, Eric J., [redacted].
Eyermann, Richard J., [redacted].
Fain, Maxwell, N., [redacted].
Faris, Earl S., [redacted].
Feltch, Milton L., Jr., [redacted].
Ferro, Richard L., [redacted].
Finlay, Thomas M., [redacted].
Fisher, Neil, [redacted].
Flatrush, William E., Jr. [redacted].
Flick, Earl D., Jr., [redacted].
Foley, Norman R., [redacted].
Ford, David G., [redacted].
Fore, Kenneth E., [redacted].
Fortney, Frank L., [redacted].
Fowler, Joseph B., Jr., [redacted].
Frankle, John C., [redacted].
Franklin, Lyle D., [redacted].
Freeman, Augustus M., Jr., [redacted].
Fretz, John W., Jr., [redacted].
Gallerani, Robert B., [redacted].
Gardner, Clarence L., [redacted].
Garlett, Harold F., [redacted].
Gilbert, Clifford F., [redacted].
Gillespie, Richard W., [redacted].
Gleckel, Gerard G., [redacted].
Goforth, William C., [redacted].
Golemis, Denis, [redacted].
Gomez, Danny, [redacted].
Goodman, Raymond W., Jr., [redacted].
Grace, Paul J., [redacted].
Gray, Charles F., [redacted].
Green, Joseph E., Jr., [redacted].
Griffin, John F., [redacted].
Griffin, Michael P., [redacted].
Gruetzmacher, John H., [redacted].
Guyse, Barry D., [redacted].
Haas, Barry L., [redacted].
Haddix, Ronald [redacted].
Hall, Adeil, [redacted].
Hall, Kenneth N., [redacted].
Hall, Robert D., [redacted].
Halsaver, Richard A., [redacted].
Hamlin, James W., Jr., [redacted].
Hancock, Thomas P., [redacted].
Hannan, Robert R., [redacted].
Harden, Franklin D., [redacted].
Harden, Kaye M., [redacted].
Harris, Samuel L., [redacted].
Hart, Gordon, [redacted].
Hartman, John W., [redacted].
Harzman, Charles N., [redacted].
Hawk, John D., [redacted].
Hebinck, Robert V., [redacted].
Hernandez, Louis Jr., [redacted].
Herring, Harold C., [redacted].
Hewer, David J., [redacted].
Heydinger, Jerry J., [redacted].
Hicks, Rodman P., [redacted].
Holland, Bruce B., [redacted].
Holland, George W., III, [redacted].
Holmes, Melvin R., [redacted].
Holtz, Robert L., [redacted].
Hood, Robert M., [redacted].
Horras, Herbert H., [redacted].
Howard, Dennis D., [redacted].
Huddleston, Harold J., [redacted].
Hudman, James D., [redacted].
Hudson, Morris R., [redacted].
Hufnagel, Raymond J., Jr., [redacted].
Hughes, Ann M., [redacted].
Hunt, Marshall G., [redacted].
Iben, John B., Jr., [redacted].
Jakubczak, Donald R., [redacted].
Jarvi, Dennis W., [redacted].
Javier, David, [redacted].
Jefferson, Perry H., [redacted].
Jensen, Anthony F., [redacted].
Johnson, Bruce R., [redacted].
Johnson, Leroy L., [redacted].
Johnson, Robert G., [redacted].
Johnston, William D., [redacted].
Kaiser, Richard A., [redacted].
Kalivoda, George F., [redacted].
Keating, Kevin O., [redacted].
Kehoe, Thomas L., Jr., [redacted].
Kelly, William A., [redacted].
Kholos, Clark J., [redacted].
Kiibler, Joseph D., Jr., [redacted].
Kish, John G., [redacted].
Kjellberg, Robert K., [redacted].
Klein, Peter B., [redacted].
Klein, Thomas K., [redacted].
Knight, Andrew S., [redacted].
Knight, William A., [redacted].
Kozej, Freddie G., [redacted].
Krahulec, James R., [redacted].
Krajczynski, Robert G., [redacted].
Kreideweis, John L., [redacted].
Kren, Anthony J., [redacted].
Kross, Walter, [redacted].
Landry, Jerome A., [redacted].
Lane, Emmitt D., [redacted].
Laramore, Arleigh L., [redacted].
Law, John R., [redacted].
Leino, Richard A., [redacted].
Leonardo, John A., Jr., [redacted].
Leuenberger, John E., II, [redacted].
Lilly, Carroll R., [redacted].
Limpp, James A., [redacted].
Lindell, Kenneth G., [redacted].
Little, William P., [redacted].
Loar, Dennis H., [redacted].
Lombard, William H., [redacted].
Long, David H., [redacted].
Long, John H. S., [redacted].
Lukas, Leonard P., [redacted].
Main, Don R., [redacted].
Makris, Dion G., [redacted].
Mamiya, Roy A., [redacted].
Marquette, John W., [redacted].
Marsh, Robert L., [redacted].
Martin, Harold R., [redacted].
Mason, Jack C., Jr., [redacted].
Massmann, Thomas A., [redacted].
Mathews, Paul C., [redacted].
Mattson, Robert C., [redacted].
Matyaz, Joseph C., [redacted].
Maxwell, Burton L., [redacted].
May, Benjamin L., Jr., [redacted].
Mayo, James W., III, [redacted].
McAllister, Carol B., [redacted].
McBride, Charles W., [redacted].
McCabe, John R., [redacted].
McCain, John P., [redacted].
McClanahan, James R., [redacted].
McCorry, Terrell D., [redacted].
McDonough, Nancy B., [redacted].
McDuffie, Jerry D., [redacted].
McGarry, Thomas A., [redacted].
McGowan, Raymond G., [redacted].
McPhail, William T., [redacted].
McWhitney, Edgar E., [redacted].
Meadows, Eugene T., [redacted].
Menard, Allen J., [redacted].
Mercer, James A., [redacted].
Merifield, James W., [redacted].
Miller, Raymond R., [redacted].
Milligan, Joseph E., [redacted].
Moore, Harry J., [redacted].
Moore, James L., Jr., [redacted].
Moore, Jimmie L., [redacted].
Morin, Paciand Jr., [redacted].
Morris, Lawrence W., [redacted].
Moyer, Darrell D., [redacted].
Muller, Lloyd H., [redacted].
Mumma, David R., [redacted].
Murray, Edward H., [redacted].
Namaksy, Diane B., [redacted].
Netzer, Leonard A., Jr., [redacted].
Nicolaus, Richard C., [redacted].
Nitsch, Anthony J., [redacted].
Nye, Harvey N., [redacted].
Oak, Kirby G., [redacted].
O'Halloran, Gerald J., [redacted].
O'Hara, William F., [redacted].
Oles, Michael J., [redacted].
Oliver, Thomas J., [redacted].
Ormesher, Thomas A., [redacted].
Ortloff, Victor C., [redacted].
Palinkas, Donald, [redacted].
Panzenhagen, Donald N., [redacted].
Parham, John L., [redacted].
Parker, John S., [redacted].
Pate, Glenn S., [redacted].
Pazik, Anthony J., Jr., [redacted].
Peach, Ernest B., [redacted].
Perantoni, Edward J., [redacted].
Petersen, Nolan R., [redacted].
Peterson, Willard L., [redacted].
Phillips, Harold R., [redacted].
Pierce, Bruce J., [redacted].
Pizzino, Larry J., [redacted].
Place, Earl W., [redacted].
Plotnicky, John R., [redacted].
Podmenik, Raymond W., Jr., [redacted].
Poole, Merle L., [redacted].
Popkin, Michael M., [redacted].
Powell, Theodore R., [redacted].
Proska, Richard R., [redacted].
Purvis, Stanley L., [redacted].
Quednow, William J., [redacted].
Radford, John F., [redacted].
Raphael, Joseph, [redacted].
Ratner, Solomon, [redacted].
Reed, Robert E., Jr., [redacted].
Reeves, Larry E., [redacted].
Reisbick, John N. P., [redacted].
Rembacz, William P., [redacted].
Reyonlds, Horace H., III, [redacted].
Richmond, Patrick G. [redacted].
Riley, Mason E., Jr., [redacted].
Ritter, Peter H., [redacted].
Roberts, Kenneth S., [redacted].
Robinson, Elmer A., Jr., [redacted].
Rogers, Terry R., [redacted].
Root, James P. [redacted].
Rose, Chester A., [redacted].
Roth, Richard E., [redacted].
Sammon, Bobby G., [redacted].
Sanders, Robert E., [redacted].
Sands, James E., Jr., [redacted].
Sautter, Jack G., [redacted].
Scalft, Earl J., Jr., [redacted].
Schauer, Gaylen L., [redacted].
Scheuermann, Andrew J., Jr., [redacted].
Schmid, Robert E., [redacted].
Schnepper, Ronald J., [redacted].
Schonberger, John J., Jr., [redacted].
Schuler, George G., [redacted].
Schunk, William A., [redacted].
Scott, James P., [redacted].
Seymour, Walter E., Jr., [redacted].

Sharp, Paul A., [redacted].
Shields, Merle R., [redacted].
Shive, Donald L., [redacted].
Shooshan, Daniel M., [redacted].
Siegel, John L., [redacted].
Simons, Lewis G., [redacted].
Simpson, William L., [redacted].
Sims, Clarence N., [redacted].
Skelton, Charles H., [redacted].
Sladek, Robert F., Jr., [redacted].
Smith, Charles D., [redacted].
Smith, David J., [redacted].
Smith, Jerry P., [redacted].
Smith, Myron D., [redacted].
Smith, Palmer W., [redacted].
Smoot, Charles H., [redacted].
Somers, Robert B., [redacted].
Sorcf, Domonic P., [redacted].
Sorge, Martin K., [redacted].
Speice, Donald R., [redacted].
Stein, John L., [redacted].
Stevenson, Dwight P., [redacted].
Stevenson, Richard E., [redacted].
Stoll, Leonard P., [redacted].
Stoll, Tibor G., [redacted].
Stratton, Charles W., [redacted].
Streff, George W., [redacted].
Strickland, Terry C., [redacted].
Strong, Brent M., [redacted].
Sullivan, Kenneth L., [redacted].
Sumner, Bobbie T., [redacted].
Sweeney, James K., [redacted].
Swenston, Ralph G., [redacted].
Sykes, Michael P., [redacted].
Symonds, Joseph E., Jr., [redacted].
Takahara, Edmund W., [redacted].
Taylor, Gilbert R., [redacted].
Thau, John W. Jr., [redacted].
Thomas, Kenneth D. Jr., [redacted].
Thompson, Lyle W., [redacted].
Thompson, Tracey A., [redacted].
Tidwell, Howard N., [redacted].
Tully, Paul F., [redacted].
Uchimura, Walter S., [redacted].
Uhls, William T., [redacted].
Underwood, Jesse A. Jr., [redacted].
Undlin, Jesse P., [redacted].
Valentine, John R., [redacted].
Wailly, Louis F., [redacted].
Walker, Julian C., [redacted].
Wann, Thomas C., [redacted].
Warner, Terry R., [redacted].
Warren, John R., [redacted].
Watson, John I. Jr., [redacted].
Waugh, Thomas W., [redacted].
Wedding, Joseph P. Jr., [redacted].
Weiner, Robert M., [redacted].
White, James P., [redacted].
Whitehead, Ronald S., [redacted].
Whitfield, Edwin P. Jr., [redacted].
Whitfield, Glenn T. Jr., [redacted].
Wiegand, Harold G., Jr., [redacted].
Wielunski, Michael E., [redacted].
Wilbur, Anthony D. H., [redacted].
Wilde, Donald J., [redacted].
Williams, Jerome F., [redacted].
Withereli, Roland E., [redacted].
Wood, Emery G., [redacted].
Wood, William A., [redacted].
Wooton, Dennis F., [redacted].
Wyatt, Jim E., [redacted].
Zadrozny, Joseph E., [redacted].
Zimmerman, George V. Jr., [redacted].
Zimmett, Howard N., [redacted].

To be first lieutenant

Aarnio, Paul R., [redacted].
Abbott, John F., [redacted].
Ackert, James E., [redacted].
Adams, David H., [redacted].
Adams, John L., [redacted].
Adams, Ronald, [redacted].
Adee, Eugene C., [redacted].
Adleman, Ronald W., [redacted].
Agren, Emanuel W., [redacted].
Albers, Robert M., [redacted].
Alder, Gordon S., [redacted].
Alexander, David W., [redacted].
Alexander, Peter M., [redacted].
Alexander, Roger A., [redacted].
Allen, Jerry L., [redacted].
Allen, Robert G., Jr., [redacted].
Allen, William R., [redacted].
Alley, Michael L., [redacted].
Allison, Mark J., [redacted].
Alsup, Larry W., [redacted].
Alward, John B., [redacted].
Alwine, Dennis C., [redacted].
Ameele, Reginald C., [redacted].
Ames, Donald L., [redacted].
Anders, Gregory E., [redacted].
Anderson, Andrew J., Jr., [redacted].
Anderson, Charles R., Jr., [redacted].
Anderson, Phillip G., [redacted].
Anderson, Wayne H., [redacted].
Andrejak, Gary E., [redacted].
Andrews, William J., [redacted].
Anglemyer, Richard M., [redacted].
Applegate, William J., [redacted].
Arant, Michael H., [redacted].
Archambault, George F., Jr., [redacted].
Arndt, Richard A., [redacted].
Arthur, Charles W., II, [redacted].
Artz, John C., [redacted].
Ashmore, Frederick M., [redacted].
Aston, James A., [redacted].
Atkins, Joe P., [redacted].
Auwarter, Carmen E., [redacted].
Avery, Sanders L., [redacted].
Bailey, Thomas F., [redacted].
Baird, Arthur D., [redacted].
Baker, John P., III, [redacted].
Baker, John R., [redacted].
Baker, Michael D., [redacted].
Baker, Samuel B., [redacted].
Baker, Vincent T., [redacted].
Baker, William H., [redacted].
Baldridge, John R., Jr., [redacted].
Baldwin, William R., [redacted].
Balkcom, Robert E., Jr., [redacted].
Bangs, Terry L., [redacted].
Barazzotto, Richard A., [redacted].
Bare, Richard L., [redacted].
Barnes, George R., [redacted].
Barnhart, Claude I., [redacted].
Barr, Robert D., [redacted].
Barrett, Paul H., Jr., [redacted].
Bassel, James R., [redacted].
Bassett, Kenneth R., [redacted].
Batchelder, Floyd P., [redacted].
Bates, Eugene F., [redacted].
Battista, Archer B., [redacted].
Bauer, John W., [redacted].
Bauer, Jon C., [redacted].
Bauer, Lee A., [redacted].
Bayliss, Samuel A., [redacted].
Bean, Gary P., [redacted].
Beard, Gary L., [redacted].
Beaudette, Daniel C., [redacted].
Beck, Theodorf P., [redacted].
Becker, Allan R., [redacted].
Beckner, Malcolm K., [redacted].
Bedwell, James W., [redacted].
Beeler, Claude F., Jr., [redacted].
Beishke, John J., Jr., [redacted].
Bell, Charles T., [redacted].
Bell, Robert L., [redacted].
Bellen, Jerome T., [redacted].
Belz, Raymond E., [redacted].
Benefield, Gary G., [redacted].
Bengtson, Raymond V., [redacted].
Bennett, Steven L., [redacted].
Benton, Jeffrey C., [redacted].
Berger, James C. [redacted].
Bergman, Alan R., [redacted].
Bertfro, Edward P., [redacted].
Bestland, Roger J., [redacted].
Betts, Charles C., Jr., [redacted].
Bibb, Harry L., Jr., [redacted].
Bienias Ronald M., [redacted].
Billick, Donald M., [redacted].
Bir, James F., [redacted].
Birnie, Cameron, [redacted].
Bishop, Gerald K., [redacted].
Blair, Charles W., [redacted].
Blair, James R., III, [redacted].
Blake, Peter D., [redacted].
Bode, William P., [redacted].
Boggan, James F., [redacted].
Bohman, Richard T., [redacted].
Boneske, Franklin, [redacted].
Bonin, Martin E., [redacted].
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Fredin Kurt A., [redacted].
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French, Edgar C., [redacted].
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Luther, Robert C., [redacted].
Lutz, William J., [redacted].
Lyon, Thomas J., [redacted].
Lyons, Rickard L., [redacted].
Maas, Stuart W., [redacted].

Mabus, Robert, [redacted].
Machovina, Gary J., [redacted].
Maddle, Scott W., [redacted].
Madsen, William S., [redacted].
Mahan, Kevin M., [redacted].
Mahany, Richard E., [redacted].
Mahoney, William F., [redacted].
Maier, John C., Jr., [redacted].
Maier, Thomas G., [redacted].
Maillard, Charles A., [redacted].
Makielski, Dennis J., [redacted].
Manix, Daniel J., [redacted].
Mann, Sheldon R., [redacted].
Mansfield, John L., Jr., [redacted].
Marcelli, Joseph R., [redacted].
Marcus, Marvin W., [redacted].
Martin, Fred E., [redacted].
Martin, John M., [redacted].
Martin, Kenneth E., [redacted].
Martin, Stephen L., [redacted].
Martin, Terry L., [redacted].
Martinez, Rudolfo, [redacted].
Marusa, Robert E., [redacted].
Marzolino, Phillip S., [redacted].
Massen, Mark A., [redacted].
Massey, Jack L., [redacted].
Mastascusa, Joseph J., [redacted].
Masterson, Michael D., Jr., [redacted].
Mathews, James W., [redacted].
Matsui, Melvin K., [redacted].
Matteis, Vincent M., [redacted].
Mauchline, Chester H., [redacted].
May, Fred L., III, [redacted].
Mayberry, Byron L., [redacted].
McAuliffe, Daniel M., [redacted].
McBroom, William E., Jr., [redacted].
McCammon, Terry Q., [redacted].
McCarthy, Dennis M., [redacted].
McClain, Stephen M., [redacted].
McCloskey, Michael T., [redacted].
McCluer, Jerry W., [redacted].
McCollum, Terrance J., [redacted].
McEachron, Clayton H., [redacted].
McFarland, Larry J., [redacted].
McFarlane, David E., [redacted].
McGrady, William F., [redacted].
McGuire, Frederick T., [redacted].
McKee, Leland T., [redacted].
McKenna, Robert S., [redacted].
McKerricher, John A., [redacted].
McKinney, William L., [redacted].
McKnight, Theodore, [redacted].
McLennan, Warren S., III, [redacted].
McNabb, Joseph O., [redacted].
McNabb, Robert B., [redacted].
McNamara, Martin J., [redacted].
McNamara, Michael T., [redacted].
McNeil, George B., Jr., [redacted].
McPherson, Ronnie L., [redacted].
Mead, Robert C., [redacted].
Meadows, Carl D., [redacted].
Mears, Noel N., Jr., [redacted].
Meeks, Robert M., [redacted].
Mekash, Gary A., [redacted].
Merrell, Larry D., [redacted].
Messer, Robert D., [redacted].
Meyer, David J., [redacted].
Meyer, Scott W., [redacted].
Miles, David A., [redacted].
Milledge, Henry L., Jr., [redacted].
Miller, Jon A., [redacted].
Miller, William B., [redacted].
Mills, Richard B., [redacted].
Milner, Thomas S., [redacted].
Mims, Charles W., [redacted].
Miner, Thomas M., [redacted].
Mischler, Harold L., [redacted].
Mitchell, Alan M., [redacted].
Mitchell, John J., [redacted].
Mitchell, Mike H., [redacted].
Molloy, Coleman C. III, [redacted].
Molnar, Roger P., [redacted].
Molstad, James L., [redacted].
Montgomery, Clifford N., [redacted].
Moore, Alvia W. II, [redacted].
Moore, John A., [redacted].
Moore, William B., [redacted].
Moran, Michael, [redacted].
Morey, Paul H., [redacted].
Morgan, Donald P., [redacted].
Morgan, Harry C., [redacted].
Morgan, John G., [redacted].
Morin, Raymond, [redacted].
Morrison, David M., [redacted].
Morrissey, Henry F., Jr., [redacted].
Morvant, Dane A., [redacted].
Moses, Harold E., Jr., [redacted].
Mower, Joseph C., [redacted].
Mowrer, Kurt C., [redacted].
Mudd, Joseph F., [redacted].
Mulsand, Louis A., Jr., [redacted].
Mumford, Paul R., [redacted].
Munoz, Gary F., [redacted].
Muralt, Nicholai A., [redacted].
Murphy, Jack P., [redacted].
Murray, William S., [redacted].
Nakashima, James S., [redacted].
Nasipak, Richard M., [redacted].
Neal, Charles W., Jr., [redacted].
Neal, Thomas S., [redacted].
Nealy, Charles V., Jr., [redacted].
Neely, William R., Jr., [redacted].
Neill, Don F., [redacted].
Nelms, William S., [redacted].
Nelson, Clyde J., [redacted].
Nelson, Denny R., [redacted].
Nelson, George H., [redacted].
Nelson, James D., [redacted].
Nelson, Lonnie D., [redacted].
Nemmers, Stephen J., [redacted].
Neutzling, Thomas G., [redacted].
Newland, Claude G., [redacted].
Newman, Alan G., [redacted].
Nichols, James H., [redacted].
Nicolai, Grant G., Jr., [redacted].
Noel, William J., [redacted].
Noland, William R., [redacted].
Nolte, Patrick F., [redacted].
North, John R., [redacted].
Norton, Harold W., [redacted].
Novich, Dennis J., [redacted].
Nowicki, Brund R., [redacted].
O'Connor, Ronald L., [redacted].
Odell, Richard P., [redacted].
O'Hara, Garry C., [redacted].
Ohlde, Douglas A., [redacted].
Olivo, John X., [redacted].
Olson, Richard J., [redacted].
Ondrejko, John J., [redacted].
O'Neill, Richard E., [redacted].
Openshaw, Robert G., [redacted].
O'Quinn, Robert A., [redacted].
Orlando, James A., [redacted].
Orr, Robert W., [redacted].
Osborn, Raymond M., [redacted].
Ostroth, Donn D., [redacted].
Otto, James J., [redacted].
Overdeer, Lynn R., [redacted].
Owens, Joel M., [redacted].
Oyler, William W., [redacted].
Padula, Russell, [redacted].
Page, Charles E., [redacted].
Page, Robert A., [redacted].
Paine, James C., [redacted].
Painter, Gary R., [redacted].
Palmer, Julian R., [redacted].
Palmer, Stetson G., [redacted].
Pampe, Carl W., [redacted].
Panning, Joel D., [redacted].
Panza, Robert C., [redacted].
Parker, Madison J., [redacted].
Parmelee, James W., [redacted].
Parr, John D., [redacted].
Partington, James L., [redacted].
Patterson, Dennis C., [redacted].
Paul, Bryan B., [redacted].
Paul, Dennis F., [redacted].
Payne, Eddie T., [redacted].
Paynter, Stephen D., [redacted].
Pchelkin, Nicholas R., [redacted].
Pearson, Jeffrey B., [redacted].
Pearson, William P., Jr., [redacted].
Peckham, Wallace T., Jr., [redacted].
Peeke, John L., [redacted].
Penn, Donald F., Jr, [redacted].
Perkins, Ronald J., [redacted].
Peroyea, Emile C., III, [redacted].
Perras, Claude D., Jr., [redacted].
Peterson, David R., [redacted].
Peterson, Michael J., [redacted].
Pettit, Robert J., Jr. [redacted].
Pfeifer, David L., [redacted].
Phaneuf, Robert K. Jr., [redacted].
Phariss, George D., [redacted].
Pieczko, James M., [redacted].
Pike, Howard E., III, [redacted].
Pine, David E., [redacted].
Pitstick, John P., [redacted].
Platte, Jeffrey L., [redacted].
Plebanek, Robert A., [redacted].
Plewes, David S., [redacted].
Plutt, William J., [redacted].
Podielski, Steven R., [redacted].
Poe, Jerry W., [redacted].
Policastro, Joseph W., [redacted].
Polonis, Thomas V., [redacted].
Pope, Kermit R., Jr., [redacted].
Porter, Gary R., [redacted].
Porter, Ronald G., [redacted].
Posid, Steven J., [redacted].
Poston, William D., [redacted].
Potter, William J., [redacted].
Prairie, Gerald L., Jr., [redacted].
Prater, Nickey I., [redacted].
Price, David J., [redacted].
Pugh, Richard R., [redacted].
Quigley, Bruce D., [redacted].
Race, Mark S., [redacted].
Racette, Richard J., [redacted].
Radabaugh, James J., [redacted].
Raggio, Frank F., [redacted].
Raker, Joseph G., [redacted].
Rakers, Raymond A., [redacted].
Ramsden, Donald E., [redacted].
Rankin, David H., Jr., [redacted].
Ransdell, Kirk R., [redacted].
Rasmussen, Paul N., [redacted].
Ratledge, Danny L., [redacted].
Rauh, Conrad A., [redacted].
Rawley, James M. K., [redacted].
Rawls, Frederick S., [redacted].
Ray, Leonard F., Jr., [redacted].
Reaney, Kim A., [redacted].
Redman, Charles R., [redacted].
Redmon, Donald L., [redacted].
Redmond, William R., [redacted].
Reeves, Jan A., [redacted].
Reichensperger, James F., [redacted].
Reifenburg, Jan P., [redacted].
Reisinger, Danny M., [redacted].
Repp, Paul F., [redacted].
Retter, Ross D., [redacted].
Rhodes, Homer N., Jr., [redacted].
Rhodes, John D., [redacted].
Rice, Richard W., [redacted].
Richards, Jacob P., Jr., [redacted].
Richardson, Dennis W., [redacted].
Richardson, Harry C., Jr., [redacted].
Richey, Lee H., [redacted].
Rieff, Steven C., [redacted].
Riegle, Harold L., Jr., [redacted].
Riemondi, Daniel G., [redacted].
Riley, Edward A., Jr., [redacted].
Roach, John T., [redacted].
Roache, Michael E., [redacted].
Roback, Raymond P., [redacted].
Robb, George L. III, [redacted].
Robb, William B. III, [redacted].
Roberts, Jeffrey L., [redacted].
Robertshaw, David J., [redacted].
Robinson, Daniel H., [redacted].
Robinson, Earl F., Jr., [redacted].
Robinson, Lynn C., [redacted].
Rock, William F., [redacted].
Roe, John W., [redacted].
Rogers, Barry C., [redacted].
Rogers, Charles T., [redacted].
Rogers, Henry D., Jr., [redacted].
Romeo, Frank A., Jr., [redacted].
Romer, Irving F., [redacted].
Rosevold, Gary L., [redacted].
Rosquist, William C., [redacted].
Ross, Craig E., [redacted].
Rouse, William R., [redacted].
Rowell, Mark K., [redacted].
Rumple, Thomas P., Jr., [redacted].
Runyon, Robert C., [redacted].
Rush, James M., Jr., [redacted].
Rush, Robert M., [redacted].
Russell, Robert E., [redacted].
Rutledge, William D., [redacted].

Rybolt, Henry C., Jr., [redacted].
Rynearson, Richard A., [redacted].
Saddler, Donald G., [redacted].
Sakole, Patrick T., [redacted].
Sanderson, George N., [redacted].
Sanderson, Peter B., [redacted].
Sandlin, Garld L., [redacted].
Santucci, Edward B., [redacted].
Sartori, Michael C., [redacted].
Savarda, James S., [redacted].
Schadle, Clark W., [redacted].
Schaffer, Gary W., [redacted].
Scharett, David E., [redacted].
Schauss, John B., [redacted].
Scheible, Henry W., [redacted].
Schenker, Albert R., Jr., [redacted].
Schneider, Gary N., [redacted].
Schoeni, Arden W., [redacted].
Schofield, Richard D., [redacted].
Schomburg, Jerry P., [redacted].
Schwartz, Richard M., [redacted].
Schwenker, Richard L., [redacted].
Schwerdt, Gary F., [redacted].
Scofield, John R., [redacted].
Scott, Glenn D., [redacted].
Scott, Lowell E., [redacted].
Scott, Michael D., [redacted].
Scraper, Douglas D., [redacted].
Scriba, Karl S., [redacted].
Sebren, George H., [redacted].
Seibold, James C., [redacted].
Seifert, Robert O., [redacted].
Seith, James F., [redacted].
Selvig, Dennis M., [redacted].
Shackelford, Joseph H., [redacted].
Sharek, Ronald A., [redacted].
Sharp, Gary W., [redacted].
Shaw, Timothy J., [redacted].
Shedd, Kenneth W., [redacted].
Shelton, Gary M., [redacted].
Shepard, Carl W., Jr., [redacted].
Sherman, Marc I., [redacted].
Sherrill, Marcus L., [redacted].
Sherwood, Michael D., [redacted].
Shields, Steven P., [redacted].
Shillito, Charles L., [redacted].
Shipp, Bill J., Jr., [redacted].
Shorf, John W., [redacted].
Shorteil, Pat A. H., [redacted].
Sikkink, Gary T., [redacted].
Silver, Robert M., [redacted].
Simaitis, Sanford B., [redacted].
Simcox, James D., Jr., [redacted].
Sime, Donald L., [redacted].
Simmons, Ralph W., [redacted].
Simms, James D., [redacted].
Simonson, Dwight A., [redacted].
Simpson, Richard L., [redacted].
Sink, Charles C., [redacted].
Sink, Johnny G., Jr., [redacted].
Sizemore, Rodney B., [redacted].
Skanchy, Robert B., [redacted].
Skillern, Christopher L. [redacted].
Slater, Marshall T., Jr., [redacted].
Smaby, Stephen E., [redacted].
Smallman, Herbert W., [redacted].
Smart, Joseph F., [redacted].
Smith, Clifford E. II, [redacted].
Smith, Darrell G., [redacted].
Smith, Donald G., [redacted].
Smith, George T., [redacted].
Smith, Jeffry B., [redacted].
Smith, Joseph A., [redacted].
Smith, Mark W., [redacted].
Smith, Phillip F., [redacted].
Smith, Robert F., Jr., [redacted].
Smith, Robert H., [redacted].
Smith, Samuel D., [redacted].
Snellgrove, Robert T., [redacted].
Solli, George A., [redacted].
Sonnenleiter, James E., [redacted].
Sorensen, Donald L., [redacted].
Spanyol, Robert L., [redacted].
Sparker, Jesse E., [redacted].
Sparks, William T., Jr., [redacted].
Spence, James R., [redacted].
Spitzer, Leonard S., Jr., [redacted].
Stan, Robert S., [redacted].
Stapleton, Edward J., [redacted].
Staton, George E., [redacted].
Staugler, Steven D., [redacted].
Steele, Andrew N., [redacted].
Steimer, Herbert N., [redacted].
Steincamp, Lynn, Jr., [redacted].
Steiner, Edward G., [redacted].
Stevens, Byron K., [redacted].
Stevens, Robert L., [redacted].
Stevenson, James B., [redacted].
Stewart, Jimmie C., [redacted].
Stewart, Will R., [redacted].
Stickley, Alan F., [redacted].
Stockton, Darryl L., [redacted].
Stohler, David L., [redacted].
Stokes, Richard W., Jr., [redacted].
Stolberg, Paul C., [redacted].
Stoughton, Richard H., [redacted].
Stout, Wayne L., [redacted].
Strang, Robert S., [redacted].
Strauss, Henry M., [redacted].
Streett, Arthur C., [redacted].
Strom, William H., [redacted].
Strom, William H., [redacted].
Stromquist, Kenneth J., Jr., [redacted].
Stropes, Eugene L., [redacted].
Stuckey, Walter C., [redacted].
Sturgeon, Robert P., [redacted].
Sudberry, Charles E., [redacted].
Suess, David C., [redacted].
Summers, Robert L., [redacted].
Sutter, Frederick J., [redacted].
Sutton, Jeffrey D., [redacted].
Swank, Jerry J., [redacted].
Swanson, David I., [redacted].
Sweeney, Frank P., [redacted].
Sweeney, Gordon C., [redacted].
Swenson, James H., [redacted].
Swenson, Ronald D., [redacted].
Talbert, David P., [redacted].
Tateishi, Chris M., [redacted].
Taylor, Alan C., [redacted].
Taylor, Larry J., [redacted].
Taylor, Michael L. F., [redacted].
Templin, Philip S., [redacted].
Tetrick, Byron R., [redacted].
Tewell, Dennis P., [redacted].
Thaler, William B., [redacted].
Theuerkauf, Wade F., [redacted].
Thomas, David L., [redacted].
Thompson, Gerald V., [redacted].
Thompson, Jay F., [redacted].
Thompson, Kenneth R., [redacted].
Thompson, Terence N., [redacted].
Thomsen, Mark E., [redacted].
Thorson, John E., [redacted].
Thrush, Allen J., [redacted].
Tipton, Charles L., [redacted].
Tobias, Jerry E., [redacted].
Tomlinson, Larry D., [redacted].
Tomlinson, Ralph F., [redacted].
Tonn, Jackie L., [redacted].
Towle, John C., [redacted].
Townsend, Dale P., [redacted].
Trask, John A., Jr., [redacted].
Travell, Harold F., [redacted].
Treadway, Major A., II, [redacted].
Trent, John R., [redacted].
Tretler, David A., [redacted].
Trevathan, Robert B., Jr., [redacted].
Truitt, William L., [redacted].
Trusty, Dennis E., [redacted].
Tucker, Richard G., [redacted].
Tumlinson, Kenneth W., [redacted].
Tupker, William J., [redacted].
Turner, Fitzhugh L., III, [redacted].
Turner, Wilburne M., Jr., [redacted].
Tuthill, Lanny Y., [redacted].
Tworek, Edward J., [redacted].
Tyson, Thomas H., [redacted].
Umpleby, Howard D., [redacted].
Usry, Henry G., [redacted].
Uttaro, Gerald J., [redacted].
Valentine, Ronald J., [redacted].
Valentino, Paul H., [redacted].
Vancil, William H., [redacted].
Vanderford, Charles R., [redacted].
Vandeventer, James B., [redacted].
Vandyke, Raymond H., [redacted].
Vanlerberghe, Ross P., [redacted].
Vansickle, Robinson W., [redacted].
Vanvleft, Alan C., [redacted].
Vaspra, Lenwood H., [redacted].
Venables, Ronald K., [redacted].
Verploegh, David R., [redacted].
Vore, Donald A., [redacted].
Voskuhl, Marvin A., [redacted].
Voxland, Charles D., [redacted].
Waddell, John J., [redacted].
Wade, James M., [redacted].
Wadleigh, Gerald J, III, [redacted].
Waldron, Robert E., [redacted].
Walker, James R., [redacted].
Walker, Paul H., [redacted].
Walker, Perry D., [redacted].
Walker, Warren H., III, [redacted].
Wallack, Chester L., [redacted].
Wallingford, Albert W., [redacted].
Walsh, James J., [redacted].
Waltz, Robert R., Jr., [redacted].
Ward, Timmie J., [redacted].
Warren, Larry R., [redacted].
Warren, Michael E., [redacted].
Warren, Stanley M., [redacted].
Warzon, James R., [redacted].
Watkins, Thomas G., III, [redacted].
Watson, Paul B., [redacted].
Waugh, Gary A., [redacted].
Waxman, David R., [redacted].
Way, Douglas T., [redacted].
Wayland, John B., [redacted].
Wcisio, Robert J., [redacted].
Wear, Thomas R., II, [redacted].
Weatherford, Joseph D., [redacted].
Weatherly, Brian K., [redacted].
Weaver, Dennis M., [redacted].
Weaver, William F., Jr., [redacted].
Webb, Edwin G., Jr., [redacted].
Webb, James C., [redacted].
Webb, Wiley E., Jr., [redacted].
Webster, Alan H., [redacted].
Wedberg, William R., Jr., [redacted].
Wedel, Roger A., [redacted].
Wedge, Roy D., Jr., [redacted].
Wells, Donald L., [redacted].
Wesson, Allen B., III, [redacted].
Westenrieder, Reinhard M., [redacted].
Westfrholm, Harold S., II, [redacted].
Westmoreland, Lynwood K., [redacted].
Weston, Robert W., [redacted].
Westphall, Walter D., [redacted].
Weyrick, Thomas M., [redacted].
Whipple, Barry B., [redacted].
White, Edwin W., [redacted].
White, Jimmy T., [redacted].
White, Terry L., [redacted].
Whitefield, Perry N., [redacted].
Whitley, Alton C., Jr., [redacted].
Whitley, Russell V., [redacted].
Whitney, Donald C., [redacted].
Wiggin, Thomas T., [redacted].
Wiggins, Dan P., [redacted].
Wikstrom, Robert E., [redacted].
Wilborn, Henry E., [redacted].
Wilbur, James R., [redacted].
Wilder, David J., [redacted].
Wilhelm, Virgle H., [redacted].
Wilkinson, Thomas P., Jr., [redacted].
Willett, Gordon H., [redacted].
Williams, Don L., II, [redacted].
Williams, Frank M., [redacted].
Williams, Gerald C., Jr., [redacted].
Williams, John V., [redacted].
Williams, Joseph H., [redacted].
Williams, Lonnie R., [redacted].
William, Stephen B., [redacted].
Williamson, Kenneth C., [redacted].
Williamson, Stephen, [redacted].
Williford, Graham G., [redacted].
Willingham, Rainer D., [redacted].
Williston, Frederick F., [redacted].
Wilson, Bruce W., [redacted].
Wilson, James R., [redacted].
Wilson, John G., [redacted].
Wilson, Raymond T., [redacted].
Wilson, Robert I., [redacted].
Wilusz, Stanley F., [redacted].
Winburn, Larry A., [redacted].
Wingfield, Timothy D., [redacted].
Winkelman, Charles B., Jr., [redacted].
Winterer, Randall N., [redacted].
Winters, George F., [redacted].
Witter, Terry P., [redacted].
Wittrock, Charles H., [redacted].
Woerheide, Victor A. D., [redacted].

Wolfe, Bryon L., Jr., [redacted].
Wolfe, David R., [redacted].
Wolfe, Jerry L., [redacted].
Wolfe, Larry J., [redacted].
Wolke, Gerard G., II, [redacted].
Wolozyn, Joseph R., [redacted].
Woodall, James R., [redacted].
Woolen, Glen D., [redacted].
Woolley, Richard E., [redacted].
Woolley, Robert H., [redacted].
Wooten, Randall E., [redacted].
Workman, James H., [redacted].
Wright, John R., [redacted].
Wright, Kendall J., [redacted].
Wysong, Robert T., Jr., [redacted].
Yarbrough, James E., [redacted].
Yeackle, Henry J., III, [redacted].
Yett, Daniel A., [redacted].
Yoder, Richard A., Jr., [redacted].
Young, Alan P., [redacted].
Young, David L., [redacted].
Young, Oliver S., [redacted].
Young, Robert A., [redacted].
Young, Thomas O., [redacted].
Youngblood, Roger L., [redacted].
Younkin, Charles R., [redacted].
Yuss, Ronald B., [redacted].
Zedeck, Freddy, [redacted].
Zentz, Tom A., [redacted].
Zeri, William T., [redacted].
Zigan, Theodore, [redacted].
Zimmerman, Carroll L., Jr., [redacted].
Zimmerman, Robert E., [redacted].
Zollweg, Dennis C., [redacted].

IN THE AIR FORCE

The following officers for promotion in the Air Force Reserve, under the provisions of section 8376, title 10, United States Code, and Public Law 92–129.

Lieutenant colonel to colonel, Dental Corps

Wilkens, Donald H., [redacted].

Major to lieutenant colonel

Allen, Carl G., [redacted].
Aycock, Gerald E., [redacted].
Barnes, Robert R., Jr., [redacted].
Beagle, Francis G., [redacted].
Bentson, Roger L., [redacted].
Birkhofer, Harold J., [redacted].
Blissett, Arthur S., Jr., [redacted].
Bouline, William C., [redacted].
Brillas, Luis, [redacted].
Brown, Rodney W., [redacted].
Brunt, Donald J., [redacted].
Carlen, John H., [redacted].
Cass, Ronal E., [redacted].
Chester, Farrow H., [redacted].
Christianson, Kennard J., [redacted].
Ciniglio, Raphael F., [redacted].
Collum, Thomas E., Jr., [redacted].
Conlon, James F., Jr., [redacted].
Davis, James R., Jr., [redacted].
Deibert, George P., [redacted].
Delaney, James F., [redacted].
Doran, James P., [redacted].
Doud, Almond B., Jr., [redacted].
Dunlap, Noel B., [redacted].
Engen, Jerome T., [redacted].
Fitz, Keith E., [redacted].
Foreman, Marvin E., Jr., [redacted].
Furr, Reather C., Jr., [redacted].
Glenn, John W., [redacted].
Godwin, James H., [redacted].
Gonzalez, Joe V., [redacted].
Gross, Jacob R., [redacted].
Ground, Richard C., [redacted].
Harman, Robert D., [redacted].
Harrison, Edward E., [redacted].
Hattaway, Thomas L., [redacted].
Herrera, Henry A., [redacted].
Hinkle, Scott C., [redacted].
Hodgson, John H., [redacted].
Hubbard, Edwin L., Jr., [redacted].
Hughes, Edward J., [redacted].
Hughes, Harry L., Jr., [redacted].
Jabs, Edward H., [redacted].
Jarvis, Robert G., [redacted].
Johnston, Dale A., [redacted].
Jones, Claude R., [redacted].
Jones, William H., [redacted].
Kelso, Joseph M., [redacted].
Knauss, Robert R., [redacted].
Lacina, Edwin L., [redacted].
Langlis, Alfred G., [redacted].
Langston, James W., [redacted].
Lockmiller, Kenneth E., [redacted].
Mach, James B., [redacted].
McBride, David T., [redacted].
McIntosh, Lee D., [redacted].
McKeown, Donald F., [redacted].
McPherson, Peter R., [redacted].
Michelsen, Niels T., [redacted].
Morris, Billy L., [redacted].
Nelson, Eugene D., [redacted].
Pierson, Richard E., [redacted].
Poff, Robert D., [redacted].
Rogers, Donald F., [redacted].
Roland, Ivan R., [redacted].
Roth, Lawrence R., [redacted].
Ruonavaara, Russell B., [redacted].
Satterfield, Richard N., [redacted].
Sedgwick, Wesley L., [redacted].
Spurrier, Donald V. M., [redacted].
Steely, Lowell V., [redacted].
Steinhauer, Arthur W., Jr., [redacted].
Stetson, Norman G., [redacted].
Stewart, John A., [redacted].
Thiele, Raymond G., [redacted].
Thompson, William R., [redacted].
Verrillo, Lewis N., [redacted].
Viscount, Joseph, Jr., [redacted].
Windels, Frederick G., [redacted].

Nurse Corps

Carfagno, Theresa C., [redacted].

IN THE NAVY

The following-named midshipmen (Naval Academy) to be permanent ensigns in the line or staff corps of the Navy to qualification therefor as provided by law.

Andrew R. Adams
George F. Adams, Jr.
Jerry C. Adams
Carl W. Akers
Lawrence R. Albert
Elliot L. Alderman
Eric L. Anderson
Stewart R. Andrew
James W. Angelo
Berthold L. B. Antonik
James M. Appelgate
Arthur C. Argue III
Michael C. Ash
Shay D. Assad
Eric J. Atkinson
Bruce M. Aukland
Jon F. Ault
Kenneth B. Austin, Jr.
Stephen P. Axtell
John L. Ayon
Daniel L. Baas
James C. Babbitt, Jr.
Robert C. Baczenas
Howard F. Baer, Jr.
Edward G. Bagley III
William C. Bailey
Richard C. Baker
Eugene Bal, III
William A. Ballweber
Richard S. Bates
Dale E. Baugh
Jeffrey R. Beard
John C. Beason
Albert F. Beede
Richard G. Been
Stephen E. Behringer
Robert B. Benefield
Webster L. Benham III
Randal T. Bent
Raymond W. Berard
Robert J. Berg
John W. Berriman
George Z. Berry
Timothy O. Beutell
Paul A. Bienhoff
Steven H. Bills
Stephen V. Bisceglia
Phillip A. Bishop
Blake V. Blakey, Jr.
Robert K. Blanchard
William D. Blanton, Jr.
Timothy R. Blevins
Hugh D. Blomeke
John D. Blosser
Paul F. Blunt
William Bobo, Jr.
Gerard R. Bodson
Richard T. Boeshaar
John D. Bones III
William S. Boniface
Walter G. Boost
Jeffrey L. Boroff
David C. Boy III
Jerome P. Boyle
John E. Boyle
Virgil Bozeman III
James W. Bradley
James L. Branson
Peter C. Braseth
Thomas L. Breiner
Michael F. Brennan
Bruce M. Bridewell
Joseph V. Bridgeford
Richard G. Brilla
David K. Brown
Glenn T. Brown
Guy H. Brown
Peter G. Brown
Nicholas M. Brownsberger
James W. Broyles
Robert J. Bruce
Blaine R. Brucker
David L. Brumbaugh
Todd T. W. Bruner
Michael L. Bryant
Bruce L. Bullough
Allen L. Burdette II
Jon A. Buresh
Douglas R. Burnett
James P. Butler
Richard J. Byham
John T. Byrd
Frank S. Calcaterra
Daniel E. Caldwell, Jr.
John W. Caldwell
Gerald P. Cameron
Michael B. Candalor
Robert W. Cannan
Scott T. Cantfil
Donald J. Carlson
John S. Carmichael
Guy J. Carrier
Henry D. Caskey, Jr.
Kevin G. Cassidy
Christopher H. Castle
Robert E. Cattanach, Jr.
John H. Cavanaugh
Stephen J. Cereghino
Robert E. Chabot
John E. Chalker
Kevin V. Chambliss
Richard W. Chandler
Steven D. Christensen
William G. Chung
Dion F. Clancy
Thomas R. Clarkin, Jr.
Michael J. Clawson
Stephen H. Clawson
Neal W. Clements, Jr.
John D. Clifford
Jeffrey G. Coffey
Fred L. Cohrs
Alfred B. Coleman, Jr.
David S. Coleman
Joe T. Coleman, Jr.
Robert O. Coleman
William W. Collins
Thomas J. Connelly, Jr.
Robert B. Cook, Jr.
William E. Cook, Jr.
Charles C. Cooper, Jr.
Wayne L. Cornell
Craig W. Corson
Douglas E. Cosgrove
Patrick E. Cosgrove
Kenneth M. Costigan
Craig H. Cover
Richard B. Covington
Gary L. Coyle
Michael C. Craig
Dennis J. Crane
Thomas F. Crawford III
Harold T. Cronauer Jr.
Kevin P. Crook
David L. Crouse
Darryl P. Cummings
Randall C. Curnutt
Delbert A. Curtsinger
Paul W. Dahlquist
Brian S. Dalby
Michael J. Daley
Thomas R. Danco
Ralph E. Darling
George R. Darwin
Jeffrey J. Davidson
Dan A. Davis
Eric S. Davis
Nelson C. Davis
Robert M. Davis
Thomas G. Deacon
Perry W. Dempsey
Robert J. Dengler
David A. Dennis
John C. Dentler
Julian P. Devillier
James D. Devin
John C. Devlin
George K. DeVore
Leif L. Dietrich
Glen A. Dilgren
John L. Dillingham
John M. Dillon
John F. Dohse
Joseph A. Donlan
Barry L. Dougherty
Vincent P. Dowd
Roger T. Doyel
Michael T. Doyle
Patrick R. Doyle
Richard A. Drawneck
Robert A. Drews
Joseph F. Driscoll
Peter M. Drobnak
Donald K. Drumm
David P. Dudek
James P. Dunn, Jr.
Patrick W. Dunne
John A. Dunning
Thomas J. Dziedzic
Robert S. Eads
Charles W. Ebeling II
Daniel N. Edelstein
Joseph P. Eisenhuth
Lance E. Elberling
Jimmy L. Ellis
Mark A. Emmert
David C. Endicott
Bruce B. Engelhardt
Richard T. Englund
Gary G. Evans
Stephen C. Evans
Ted R. Evans
Mark S. Falkey
Dale J. Feltes
Kevin J. Ferguson
Louis G. Fifer
Robert W. Filanowicz
Daniel A. Filippini
John W. Fisher
Dean M. Flatt
Daniel H. Fleming
George B. Foley
Roger W. Fosse
Thomas H. Foster II
Stephen G. Foti
Donald A. Frahler
Roland M. Franklin
Powell A. Fraser, Jr.
Stephen E. Frederick
David V. Fulwider
Joseph M. Galluccio
Frederick B. Gallup III
Daniel T. Galvin, Jr.
Francis L. Garrick
Martin D. Gastrock, Jr.
Wallace L. Gavett, Jr.
Bud S. Gear
Donald J. Gersuk
Darryll J. Getzlaff
James C. Giambastiani
Bruce B. Giannotti
Wendell J. Gift II
James M. Gilbert, Jr.
Richard P. Gilbert
David M. Gilchrist, Jr.
Timothy J. Gill
Thomas G. Gilson, Jr.
Paul A. Gimer
Joseph W. Glass
Raymond M. Glennon
Dean F. Glick
James R. Goddard, Jr.
Nelson G. Goddard
Richard E. Goldsby
Robert J. Goldstein
George B. Goldthwaithe, Jr.
Paul Goluboys
Thomas J. Goodwin
William V. Goodwin
David W. Gorden
Michael A. Gorman
Frederick D. Gorris
Jeffrey L. Gossett
Thomas C. Goudy
Patrick J. Grady
Gary A. Graf
William L. Graham
Geoffrey E. Grant
James D. Green
William H. Gregory
Gary A. Griffiths
Gary G. Groefsema
James C. Grover
Alan L. Grube
Ralph E. Grutzmacher
Richard M. Gutekunst
Brian C. Haagensen
Robert C. Hahn, Jr.
John T. Haislip
Richard L. Haley, Jr.
Barney R. Hall
Delmon E. Hall III
Gary M. Hall
Harold L. Hall, Jr.
James D. Hall
Thomas D. Hall
Timothy J. Hallihan
James E. Halwachs
Gregory R. Hamelin

David W. Hamilton
Gary R. Hammond
William A. Hancock
William J. Hannan
Dennis R. Hansell
Robert O. Hardy II
Robert W. Hardy
Allan D. Harper III
Michael J. Farrington
Craig H. Harris
Robert W. Harrison
John B. Harrold
John K. Harrop
Thomas F. Hartley
Gerald A. Harvey
Christopher G. Hauser
Michael E. Hayes
David W. Hearding
Christopher E. Heath
Michael K. Hedrick
Daniel R. Heimbach
Gregory L. Hemphill
Christopher R. Henry
Neal P. Hesser
Paul M. Higgins
Clarence E. Hill
James M. Hines
Larry A. Hinson
Gerald R. Hirsch
James E. Hoffmann
David J. Hogan
Wayne D. Hogue
Timothy A. Holden
Wallace W. Holdstein, Jr.
Howard M. Holland
John B. Holt
Lloyd N. Holz
James H. Hopper III
William F. Hopper
Bennett F. Horne, Jr.
Richard F. Horstmann
Robert J. Horstmeyer
Damon R. Hostetter
George R. Howard
John F. Howard
Robert H. Howe
Paul E. Huck
Colin C. Huddleston
Ronald A. Hughes
Michael J. Hutfless
John T. Iaia
Stephen R. Ingalsbe
Kenneth M. Ives
Richard H. Jacobs
Robert A. Jacobson
Robert B. James
John M. Jarosinski
Stephen M. Jarrett
Jerry M. Jenkins
Keith A. Jewell
Stephen B. Johns
Arthur G. Johnson
Glenn L. Johnson
Larry C. Johnson
Mark G. Johnson
Ralph W. Johnson III
Lawrence E. Jones
Thomas L. Jones
Paul C. Jorgensen
Alfred M. Joseph
Michael C. Joyner
Thomas M. Judd
Glenn L. Kaden
Thomas M. Kait
Kendall W. Kalstad
Leonard Kaplan II
Theodoro L. Kaye
Daniel S. Keefe
John J. Keenan, Jr.
Michael G. Keith
Thomas M. Keithly
Pat B. Keller
Clifford P. Kelly
Jesse J. Kelso
Curtis A. Kemp
Steven J. Kemple
William J. Kendall
Terence S. Kennedy
William G. Kennedy
Paul S. Kenney
Lawrence V. Kester
George K. Kilgore
Robert C. Killough
George F. Kindel
David F. King
Manton A. King
John J. Kirby
Douglas I. Kirkland
Phillip D. Klein
Saul D. Klein
James R. Klima
Christoper L. Klueber
William B. Knight
Maurice M. Koelemay
Gene M. Kohler
Andrew J. Koss
Alan R. Kraft
Lawrence L. Kraker
Theodore W. Kreeger
Lawrence H. Kube
Frank J. Kuezler Jr.
Edward J. Kujat
Frederick J. Kull Jr.
James J. LaBelle
Nicholas P. Lakis Jr.
Stephen M. Landrum
Douglas S. Lane
Gregory B. Lane
Ronald D. Lanning
Robert L. Larkin
Stephen L. LaRue
John C. Lasken
Selwyn S. Laughter
Davil E. Lawrence, Jr.
Karl T. Lawson
Christopher L. Lee
Patrick D. Lee
Richard P. Lee
Robert C. Leib
John S. Leidel, Jr.
Stanley P. Lenc
William A. Leonard, Jr
Lawrence A. Lewandowski
Paul S. Lewis
Robert D. Lichtenberg, Jr.
Robert D. Liggett
David J. Lind
Steven A. Livesay
Robert D. Loeffler
Thomas A. Loftus III
Stephen J. Logue
Mark A. Lohsen
William R. Lottes II
Patrick S. Love
Eugene Lovely
Gary S. Luote
Vincent J. Lynch
Thomas W. Lyons
William A. Lyons
Stanley J. Mack
Richard G. Macklin
Raymond M. MacKown
Robert A. MacPherson
Robert S. Madden
Michael R. Maixner
Dean M. Makings
Gary D. Mann
Walter W. Manning
Philip S. Mansfield
John T. Manvel
Robert D. Marlin
Robert D. Marrinucci
Anthony D. Martin
William G. Martin
James R. Mason
Daniel S. Mastagni
Robert L. Mastin, Jr.
John A. Mavar
James D. McArthur, Jr.
Stephen L. McCrory
Russell A. McCurdy
Rodney P. McDevitt
Daniel W. McElroy
John E. McEnearney, Jr.
Martin H. McGee
Leo F. McGinn, Jr.
William L. McGraw
Richard R. McIver
Kenneth P. McKay
Rayburn L. McKay
Michael McKinney
Arthur McKinnon
Robert L. McLane
John P. McLaughlin
William J. McMican
Hugh N. McWilliams
Gregory G. Mead
Mark Mendillo
Joseph A. Mentecki
Ellis W. Merschoff
Charles W. Merwine
Daniel H. Meyer
John G. Meyer
John E. Meyers
Thomas E. Miars
Kirk B. Michael
Ralph R. Michalska
Jeffrey C. Milanette
David R. Miller
Steven R. Miller
Donald M. Mills
Michael J. Milo
Richard D. Minnis
Michael K. Mitani
William G. Moffatt
Mark M. Mokodean
Christoper P. Molteni
Robert P. Monahan
William V. Moody
Robert L. Moon
William T. Moore III
Theodore R. Morandi
Kelly B. Morgan
Dennis G. Morral
Bruce V. Morreale
William D. Morris
Lewis F. Murphy
Robert P. Musselman, Jr.
Warren E. Musselman
Daniel H. Mutty
Howard H. Myers III
Rodney A. Myers
William J. Nadeau
James A. Natter
Charles W. Neihart, Jr.
John D. Nellis, Jr.
Jeffrey R. Nelson
Christian Q. Ness
Don A. Nestor
Stephen L. Neuman
Albert J. Neupaver
Ronald S. Newlan
Todd C. Nichols
Peter W. Nickodem
Jack S. Nielsen
Roy H. Nitschke
Eduardo C. Nocon
Ted L. Norris
John T. Nosek
James L. Nupp
Matthew P. O'Connell
Timothy D. O'Connell
Michael L. O'Connor
James G. O'Keefe
Paul J. V. Olechnovich
Alfred J. Olsen
Dennis P. O'Malley
Walter G. Opyd
Bernard R. Orender
William D. Orr
Kip R. Osborne
Robert E. Ostendorf, Jr.
Eugene P. Pache
Philip F. Palmatier, Jr.
Christopher W. Panos
Nicos S. Pantelides
Gregory A. Papin
Larry R. Papineau
Robert R. Pariseau
Thomas J. Pastorino
James H. Patterson
Terry L. Patterson
Kenneth A. Paul, Jr.
MacGregor H. Paul
Gregory R. Peairs
John E. Pack
Robert A. Pell
Mark D. Perreault
Gordon C. Perry
Robert P. Perry
John G. Peske
James G. Phillips III
John L. Phillips
William C. Pine, Jr.
Mark D. Pistochini
James E. Pledger
Stephen W. Plovanich
Alan E. Porter
John S. Porter
Whitton M. Potampa
Fred C. Pottschmidt
Thomas J. Powers
Russell H. Poy
Michael W. Praskievicz
John H. Preisel, Jr.
Randall D. Preston
Michael J. Price
Thomas A. Prince
Thomas A. Prince
James A. Protzman
Glenn R. Pruden
Hershel W. Pryor, Jr.
Theodore A. Pytlik
Dale K. Quinlan
Robert W. Raber
Robert B. Rae
John C. Rainey
David J. Rappe
Rodger C. Rawls
Glenn E. Reitinger
Thomas J. Repeta
David B. Reppard
Charles M. Ress
Charles B. Reymann
Gary M. Rheam
Randall L. Rice
Michael P. Richard
William L. Rigot, Jr.
Patr!ck O. Riley
Raymond A. Ritchey
Norbert W. Robertson
Charles R. Robie
Richard A. Robison
Philip J. Rodgers
Thomas J. Rodjom
George C. Rogers
William Armstard Rogers, Jr.
Homer J. Rood
David A. Rosenzweig
Jeffrey A. Rothwell
William E. Roukema
Douglas R. Roulstone
William H. Round
William R. Rubel
Thomas G. Ruggles
Stephen J. Ruschmeier
Douglas K. Rush
Robert H. Ryskamp
William J. Sabo
Timothy A. Saboski
James A. Salamon
Kurt M. Salscheider
William W. Sandvig
Robert P. Saunders
Charles L. Savage
Adam J. Savitsky
John E. Schaffer
Stephen L. Schey
Christoper G. Schlehr
Larry E. Schluderberg
Colman A. Schmidt
Stephen V. Schmidt
Wesley H. Schmidt, Jr.
David A. Schneegas
David F. Schneider
Richard W. Scholl
John F. Schork
Mark S. Schramm
Jerry L. Schubert
Charles D. Schwalier II
Terry R. Schwieger
William S. Schwinghammer
Bruce B. Scott
David N. Seckinger
James R. Seeley
Fred A. Semko
Wilson O. Shealy, Jr.
Geoffrey L. Shearer
Jon Sheller
Paul Shemella
David E. Sheppard
William L. Sheppard, Jr.
Vining A. Sherman, Jr.
Robert B. Shields
William A. Shilling
James E. Shoemaker
Marshall S. Short
Edward E. Sievers
John H. Silcox, Jr.
Michael J. Silvestri
Steven A. Sisa
Richard T. Sizemore III
John L. Skolds
Michael W. Smiley
Earl M. Smith
James A. Smith
Jeffrey F. Smith
Kenneth R. Smith
Robert D. Smith, Jr.
Robert G. Smith
Robert S. K. Smith
Ronald C. Smith
Murray C. Snow
Thomas E. Snyder
William L. Snyder
Walter M. Soha, Jr.
John H. Sohl III
Bruce E. Sonn
Steven L. Soroka
Robert L. Spahr
William D. Speights
Maurice F. Spence
Robert E. Springman
Lemuel C. Stabler III
Gerald W. Stahl, Jr.
Ronald B. Staton
Scott L. Steele
Mark K. Stender
Michael S. Stevenson
Alton L. Stocks
Herbert N. Stockton
Ronald S. Stowell
Carl N. Strawbridge
George F. Stringer III
Richard H. Stringer
David C. Strube
Dale C. Sugg
William T. Sullivan
Michael D. Supko
John H. Swailes
Richard N. Swanson
Lloyd F. K. Swift
William A. Swisher
David R. Switzer
Allen J. Szigety
Michael A. Szoka
John F. Teply
Louis F. Terhar
Thomas G. Tetlow
John O. Thoma
Alan D. Thomson
James W. Thorpe, Jr.
Michael R. Tierney
Arthur R. Tillberg
John F. Timony
John R. Tindle
Erik A. Tobiason
Lloyd A. Tolk
Steven J. Tomaszeski
Edwin L. Tomlin
Nicholas M. Torelli, Jr.
Joseph F. Torres, Jr.
John Willie Townes III
Robert D. Trammell
William M. Trant
Timothy J. Traverse
Wayne O. Traynham
Michael W. Treeman
Kirk A. Troxler
Henry G. Ulrich III
Arthur R. Underwood III
Eugene F. Uricoli
Bruce N. VanderEls
Raymond W. VanDyke
John E. VanMaele
Robert R. VanOradel
Douglas R. VanSchoik
James A. VanVliet
Walter A. Varakin, Jr.
David R. Vaughn
Daniel R. Veldstra
Robert P. Vessely
Daniel Vislocky
George E. Voelker
Charles S. Vogan, Jr.
Michael C. Vogt
John A. Walderhaug
James L. Walker III
James L. Wall
David L. Walla
Edward C. Wallace
Harry R. Wallace, Jr.
Walter W. Wallmark
Dennis P. Walsh
Bruce E. Walter
William R. Waltman
David A. Ward
William E. Wardlaw
Bruce E. Warner
Cecil L. Waters
William B. Watwood
Stephen S. Weatherspoon
Daniel H. Weaver
Jacob F. Wechselberger
Charles A. Weigard
Stephen P. Weise
David R. Weise
John K. Welch
Bruce D. Wellington
Kenneth J. Wessel
Paul K. West
Eric F. Westberg
Harold J. Wetterlin
Gregory T. Whalen
William G. Wheeler
Donald G. White
Joseph W. White
Kimber L. White
Dennis J. Whitford
Peter A. Wick
Stephen H. Wiestling
Conrad J. Wigge, III
Galen D. Wilcox
Mark D. Wilhelmy
Steven C. Wilkie
Joseph B. Wilkinson, Jr.
Steven J. Willats
Craig D. Williams
David B. Williams
Robert E. Williams, Jr.
Richard C. Williamson
Clarence C. Willis
Leland S. Willis III
Steven E. Wilson
Steven P. Wilson
Justin W. Winney, Jr.
Stephen J. Wismer
Dallas M. Wolf
Thomas P. Wolfe
Rodney K. Womer
Charles A. Wood
Dennis L. Worley
John R. Worthington
Christopher B. Yates
Charles S. B. Young
Gregory G. Yount
James D. Zuber, Jr.

The following-named U.S. Army cadets to be permanent ensigns in the line or staff corps of the Navy, subject to the qualification therefor as provided by law:

Robert P. Coonan
Donald H. Costello, Jr.
George W. McFetridge, Jr.
Patrick H. McGann, Jr.

The following named (naval enlisted scientific education program candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualification therefor as provided by law:

Stoy W. Addison
Charles C. Adkins, Jr.
Joseph L. Akins
Robert C. Averill
Robert C. Bailey, Jr.
Richard M. Bailly
John A. Bakshis
John T. Barrow
Jack D. Bonewald
Bruce E. Boughton
Karl W. Breitenbach
Ronald L. Bryson
Douglas E. Coshow
Peter F. Coste
John R. Delorez
Andrew J. Dillon
Lyle L. Drew, Jr.
Harry B. Elam
William M. Espinosa
David M. Fennelly
John L. Fisher, Jr.
Robert L. Foster
Charles R. Franze
James C. Froman
Michael I. Fulcher
Craig B. Garbarini
Charles M. Gooden
Jon M. Gould
William R. Greenen
Dennis N. Herbert
William B. Herpin, Jr.
Robert M. Hinton
Gray D. Hobby
Johnnie R. Hyson
Lowell R. Kent
Gordon C. Lannou
James W. Loadwick
Robert L. Mashburn, Jr.
Robert W. McConchie
Martin W. Mellor
Ronald (nmn) Messen
Joseph W. Messier
Harry G. Moore
Richard E. Murphy
Wayne H. Nitsche
Jackie D. Pendleton
Donald E. Peters
Ronnie "H" Prewitt
Martin B. Rambo
Philip Ruputz
Van A. Schaffer
Kenneth A. Schwarz
Michael N. Schwartz
Frank J. Schwindler
Joe B. Scrivner, Jr.
Charles E. Shirah
Michael D. Shon
Guy M. Smith
Leland R. Snelson
Robert B. Stack
Gordon A. Staley
Lawrence G. St John
Louis C. Stengel
Walter W. Stephenson
John W. Stillwell
David L. Tash
James W. Taylor
James W. Thomas
John F. Throckmorton
Richard L. Tunison
Jerry P. Wagner
Clarence W. Walther
William H. Ward
Stephen R. Warner
Franklin G. Wells
Trene A. Williams
Willie E. Woods

The following named (Naval Reserve Officers' Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law.

Jerry W. Bean
Hal L. Cook
Scott W. Edwards
Steven L. Enewold
Paul J. Gruehnau
John G. Morgan, Jr.
Peter Nemeth
Paul T. Newport
Robert O. Passmore
Carl A. Wilhelm

Betty A. Meriwether (Naval Reserve officer) to be a permanent lieutenant commander and a temporary commander in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

The following named (Naval Reserve officers) to be permanent lieutenants and temporary lieutenant commanders in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

Corder C. Campbell
Frederick R. Ellwanger
Richard F. Kiepfer
William J. Klein
John E. Osborne

Douglas A. Kramer (civilian college graduate) to be a permanent lieutenant (junior grade) and a temporary lieutenant in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

The following named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

Joseph B. Callahan
William D. Craver
Ronald T. Harris
George H. Heye
Norman T. Jette II
Robert B. Jones
John M. LaPoint
William G. Lowell
Ronald L. Rish
Ferdinand F. Sauer
Stephen A. Schechner
Avery Stiglitz
James S. Westby
John W. Zirkle

The following named (Naval Reserve officers) to be permanent lieutenants in the Dental Corps of the Navy, subject to the qualification therefor as provided by law.

Martin T. Barco
Melvin L. Davis
Wayne A. Labore
Jeffrey F. Larson
James T. Mudler
William H. Wilson

The following named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law.

Johan P. Dahler
John S. Garrett
Kenneth A. Gerstein
Franklyn D. Gile
Robert M. Maass
James W. Olson
Robert E. Oyler
Robert N. Smyth
Thomas P. Torrisi
John D. Wallace
Leonard W. Widmer

The following named (civilian college graduates) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualification therefor as provided by law.

Dennis W. Anderson
Alan G. Bourne

George J. Miller, Jr., U.S. Navy officer, to be a permanent lieutenant and a temporary lieutenant commander in the Medical Corps of the Navy, in lieu of permanent lieutenant (junior grade) and temporary lieutenant in the Medical Corps of the Navy, as previously nominated and confirmed to correct grade, subject to the qualification therefor as provided by law.

The following-named U.S. Navy officers to be temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law.

William E. Billings, Jr.
Judson L. Crow
Walter L. Jensen

Dean O. Davis, Jr., U.S. Navy (retired), to be reappointed from the temporary disability retired list as a permanent lieutenant (junior grade) and a temporary lieutenant in the line of the Navy, subject to the qualification therefor as provided by law.

The following-named U.S. Air Force Cadets to be permanent ensigns in the line of the Navy, subject to the qualifications therefor as provided by law:

Harold M. Collins
Wilbur Wanamaker

Johanna H. Gorman (Naval Reserve officer) to be permanent commander in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

IN THE NAVY

The following-named Reserve officers of the U.S. Navy for temporary promotion to the grade of commander in the line, subject to qualification therefor as provided by law:

Adams, Richard D.
Ahlers, George H.
Albrecht, Robert A.
Alker, Paul B.
Anderson, John W.
Anthony, Lee S.
Apicella, Frank L.
Archambault, Guy A.
Arena, Albert A.
Arnett, Robert C.
Arnold, Derrel W.
Arrigo, Anthony D.
Ayers, Larrie D.
Baer, Peter
Baggott, Richard
Baker, Herman D.
Baldwin, Robert C.
Barbee, Walter E.
Barger, Richard E.
Barich, F. X., Jr.
Barrett, Robert E.
Barrett, S. P., Jr.
Barrett, W. H., Jr.
Bartholmey, Don S.
Basye, Charles B.
Battie, Gerald G.
Baxter, Donald J.
Baxter, George W.
Bechtoid, J. A., Jr.
Bednarek, Norbert H.
Beene, Jerry T.
Bell, Norris H.
Benjes, William B.
Benson, Donald D.
Bird, Paul L.
Bischoff, Herman C.
Bissell, Elliston P., III
Bitting, Robert A.
Black, Robert R.
Blackburn, C. A., Jr.
Blair, Harry R., Jr.
Blanchard, John N.
Blence, Franics A., Jr.
Bodden, Arthur I.
Boland, William K.
Bolwerk, James M.
Bond, Ronald K.
Boone, David V.
Booze, Joseph L., Jr.
Bordeaux, Kenneth R.
Borenstein, Jerome
Botterbush, William C.
Bousum, G. W., Jr.
Bowers, Henry K. W.
Boyd, Rudolph C.
Boyden, Richard F.
Braeckel, John A.
Brainerd, Walter S.
Brame, John H.
Brant, Richard E.
Bratz, Theodore A., Jr.
Braverman, Allen S.
Bray Larry E.
Bredehorn, Jack H.
Brees, David I.
Brinn, Ronald C.
Brockington, Philip S.
Brooks, James L.
Broussard, Warren J.
Brown, Donald R.
Brown, Richard N.
Brown, Robert S.
Browne, Gerald F.
Bruce, Robert W.
Brymer, Bufford R.
Bullock, William G.
Burdwell, Gerald B.
Bures, Frank, Jr.
Burke, Nicholas E.
Burkhart, Jack L.
Burkhart, Robert A.
Burrowes, Thomas, Jr.
Calkin, Theron B.
Callaghan, James F.
Camp, Carl R., Jr.
Campanini, Nicholas T.
Campbell, Boyce L., Jr.
Campbell, Robert J., Jr.
Carlson, Kenneth L.
Carlton, Anthony G.
Carris, James B.
Carroll, William J.
Carter, James G.
Carter, Malcolm K., Jr.
Carter, Walter W., Jr.
Cartozian, Haig O., Jr.
Catriz, Albert G.
Chadwick, Charles A.
Chisum, William R.
Chodorow, Alan M.
Chrisman, Virgil E.
Christiansen, Reed H.
Clarbour, Bertram N.
Clark, Leo W.
Clayton, William O.
Cobb, Joseph K.
Coffey, John J.
Cohen, David M.
Cohune, James S.
Cole, Joseph G.
Coleman, James E. M.
Collier, James L.
Collier, Joe B.
Collins, William B.
Compton, Cecil C.
Comstock, Craig
Condaxis, Paul P.
Corr, James V.
Corriher, Cotesworth E
Cox, Jerry G.
Crawford, Cal R.
Crawford, Charles W.
Cross, Gene B.
Crowhurst, Thomas J.
Cubbison, Robert J.
Cunningham, Shane A.
Cunningham, James S.
Curby, William A.
Currier, Rowland Jr.
Curtis, Wendell J., III
Cushing, Edward J.
Cusick, George M., Jr.
Czajkowski, Francis W., Jr.
Dalrymple, Jack L.
Davis, Gary S.
Davis, Grant
Davison, Gregory L.
Dean, Richard W.
Decosterd, Charles E.
Delplato, Lawrence S.
Devorsey, Louis, Jr.
Dickey, Gene P.
Dienger, Howard E.
DiPaima, Mario
Dixon, Robert G.
Doherty, Bernard J.
Dolbeare, Robert L.
Donato, Frank Jr.
Doyle, William L., Jr.
Drath, Robert J.
Dreher, Richard W.
Dudziak, Donald J.
Dufficy, Thomas J.
Dunbar, Richard M.
Duncan, Donald G.
Durham, William E.
Durr, James E.
Duryea, Robert O.
Dutton, Arthur C.
Eades, Glenn B.
Eaton, Winford R.
Edney, John W., Jr.
Eggert, Robert H.
Elliott, Norman S., Jr.
Elvin, Richard W.
Estep, Eldon M.
Evans, Edwin J.
Ewing, Robert A.
Featherstone, Robert J
Ferguson, Earl A.
Ferguson, Hugh M.
Fidler, Paul P.
Finnerty, Arthur J., Jr.
Fischer, Peter J.
Fitzgerald, Donald P., Jr.
Fitzgerald, Richard S.
Flanigan, Joseph D.
Flynn, Ronald D.
Forehand, William E., Jr.
Forsyth, William D., Jr.
Fort, Thomas H.
Francis, Perry G.
Frede, Edward W.
Freedline, Yale
Frimodt, Gerald L.
Frisby, Donald R.
Fry, Charles R.
Fulton, Luther G.
Gadow, John R.
Gallaudet, John C.
Gard, Robert L., Jr.
Gartmann, Russell J.
Gatti, John
Gaudet, William G.
Gera, John Jr.
Gerdes, Walter H.
Gerzevitz, Walter E.
Giardini, Giovanni T.
Giddens, Darrell G.
Gifford, Laurence S.
Gilbert, George S.
Gilmore, Daniel C.
Gilson, Roger W.
Gimbert, Kenneth C.
Gintowt, Charles C.
Giordano, Vito A.
Glatzer, Maurice
Gleason, Burton J.
Gleason, Russell D.
Glutting, John A.
Godfrey, Lawrence M., Jr.
Goforth, Roy B., Jr.
Goldsmith, Watson W.
Gossman, Max G.

Grace, Daniel L., Jr.
Graf, Donald V.
Grauer, John A.
Gray, John W., Jr.
Green, Clyde L., Jr.
Green, Don H.
Greene, Marshall W.
Greenlee, Wilfred M.
Greenspan, Alan E.
Grey, Edward R., Jr.
Grief, Donald J.
Grimes, Roy T.
Grocki, Chester J.
Grosskopf, George W.
Grow, Bruce W.
Gutowski, Leopold
Hair, Max A.
Hajek, Victor V.
Hald, Rodney D.
Haley, Thomas O.
Hall, Charles W.
Hall, Vaughn E.
Hall, Wilford H.
Hallett, John D.
Hansen, Helmuth H.
Hardin, James T.
Hardt, Dan A. II
Hardy, Edward W. III
Harmon, George P. W.
Hartley, Edward S., Jr.
Hartman, James W., Jr.
Haruch, John
Harwell, Layne H.
Hausmann, Albert C.
Hawkinson, Arthur A.
Hayes, Charles C.
Hayes, Robert T.
Hazlett, Arthur W.
Hazley, George J.
Hearn, Neal E.
Hedrich, David R.
Hedrick, Charles W., Jr.
Helweg, Otto J.
Henshall, John H.
Hertel, John R.
Hessel, Mark L.
Hinson, Brue H.
Hipkiss, Robert A.
Hobson, Robert L.
Hodella, Fred H.
Hohman, Glenn W.
Holland, Maurice J.
Hollenbach, Roger C.
Hooker, John B.
Hooper, John R.
Hostetler, John E.
Houldsworth, John C.
Howard, William J., Jr.
Hoy, William H.
Huch, Francis R.
Huffer, Nicholas R.
Huggins, Richard, Jr.
Hughes, Bruce N.
Humber, John L.
Hunt, Alan G.
Hunter, Carlyle E.
Hunter, Malcom K., III
Hylan, Leo P.
Iborg, Eugene L.
Imeson, Horace L., Jr.
Isham, Don Jr.
Jameson, Robert Q.
Janss, Charles E., Jr.
Jefferson, James F.
Jeffords, James M.
Jenkins, Emmanuel L.
Jetton, Thomas C.
Johnson, Paul S., Jr.
Johnson, William C., Jr.
Johnston, David R.
Johnstone, William N.
Joyce, Harrison T., Jr.
Jung, Charles A.
Justus, Norman E.
Kaempfer, Frederick P.
Kahabka, Clarence T.
Kale, Stephen H.
Kashmanian, Gregory
Keicher, Charles R.
Kelley, Eugene
Kelly, William S.
Kershner, Roger P.
Kevlin, Steven G.
Kilburg, Robert G.
Kildea, James T.
Kilgore, James C.
Kipp, David G.
Kirby, Lawrence G.
Kolb, Stanley D., Jr.
Konetchy, Howard A.
Korinke, Robert F.
Krummeck, "K" Kenneth
Kuehn, Gregory T.
Kunst, Arthur F.
Lackowski, Donald H.
Laidlaw, Scott D.
Lait, Hale H.
Lambden, Jerry D.
Lancaster, John S.
Landers, John D.
Landsverk, George R.
Larocca, Joseph P.
Larson, Lowell D.
Lau, Bernard S. K.
Lawes, Robert B.
Lawson, Donald R.
Leary, Donald W.
Lee, Roland D.
Lell, Virgil G.
Leo, Paul P.
Leonard, Archibald S.
Leukhardt, Martin W.
Levin, Roger L.
Lewis, Robert T.
Ligtenberg, Victor R.
Lillie, Robert B.
Littlefield, Ralph W.
Livingston, John G., Jr.
Lopez, Manuel B.
Loy, William G.
Luetge, James D.
Lusk, Marvin M.
Luthringer, John D.
Lynch, Harvey J.
Lynch, Maurice P.
MacFarlane, Robert C.
Maciolek, Ronald J.
MacQuarrie, John C.
MacWilliams, Walter W.
Magill, James E.
Maier, Richard L.
Malone, John S.
Malone, Michael E.
Mann, Charles K.
Marjenhoff, August J.
Martel, Leon C., Jr.
Martin, Michael J.
Martin, Thomas W.
Martini, Joseph C.
Mason, John A., III
Masterson, Russell W.
Mathews, Richard A.
Matza, Joseph A.
Mayer, Paul J.
McCauley, Hugh W.
McCormick, Paul J.
McGuinness, James P.
McIlvain, William C., Jr.
McKay, Bruce B.
McLallen, Walter F.
McLean, James C., Jr.
McMahon, Thomas T.
McMillian, Joseph C.
McMinn, Jim T., Jr.
McNergney, Robert P.
McWhorter, Bruce N.
McWhorter, William C.
Means, John H., III
Meggitt, William F.
Mellberg, Kenneth E.
Melville, Reid T.
Menke, Allen G.
Menzie, Douglas
Merriman, Marcus A.
Merritt, William A., Jr.
Mesics, Joseph C.
Messner, Karl R.
Meyer, Walter C.
Milat, John P.
Miller, Ralph E.
Miller, Wayne F.
Mitchell, Richard J., Jr.
Mitchell, Robert D., Jr.
Mizer, George A., Jr.
Moll, Frank H.
Monahan, Robert E., Jr.
Monell, Gary E.
Moon, Tylman R.
Morehead, John A.
Morgan, Bobby S.
Morgan, Donald A.
Moriarty, Brian M.
Morris, Edwin G.
Morrison, Joseph G.
Morss, Strafford
Moses, Thomas H.
Mullaney, James F.
Mullen, Edward W.
Mulligan, John R.
Mulvey, James H., Jr.
Murphy, Robert J., III
Myers, Thomas W.
Nasife, Lewis I.
Neal, Rodney D.
Needham, Robert M.
Neff, Benjamin G., Jr.
Neilan, Harvey D.
Neill, Lawrence D.
Nelms, Harry A.
Nelson, Clinton A.
Nord, Frederic J.
North, John H., III
Nourse, David A.
O'Bold, Charles E.
O'Connell, William B.
Ohea, William C.
Oliver, William L., III
Orecchio, John J.
Osciak, John W.
O'Sullivan, Paul L.
Owens, James W.
Paillette, Donald D.
Papritz, Gordon R.
Pare, David F.
Parsons, Milton K.
Patterson, Ralph A., Jr.
Patterson, Robert A.
Peters, William J., III
Peterson, Dennis H.
Peterson, Thorild F.
Pietkiewicz, Wesley
Piner, Thomas
Pitts, Phillip R.
Pizzeck, Eugene X.
Platts, Paul K.
Poff, Philip W.
Polson, Ralph W.
Potter, John L.
Potts, Edward S.
Prechtl, Jerome S.
Price, James C.
Prickett, Gordon O.
Prince, William G.
Proctor, Donald J.
Prophet, John M.
Pulice, John
Pullo, Anthony R.
Rash, Paul J., Jr.
Rausa, Rosario M.
Ray, Edward J.
Reardon, Freddie H.
Reavis, Marshall W., III
Redmond, James W., Jr.
Reidy, William J.
Reynolds, David W.
Rich, James H., Jr.
Richards, James H.
Riebe, Richard C.
Riggs, Joseph R.
Riley, Mark C.
Rimmington, John B.
Ritner, Joseph W.
Rittenberry, James G.
Robbins, Charles R.
Roberts, Tim H.
Robertson, Edward B., Jr.
Robinson, William A.
Roche, Kevin J.
Rodgers, Tommie J.
Roe, John E.
Roffey, Robert C., Jr.
Rogers, George M. Jr.
Rohm, Edward L.
Romance, Francis J.
Ross, Harold M.
Ross, James W.
Rossi, Robert J.
Rouch, Lawrence L., Jr.
Russell, James F., Jr.
Ryan, Edward P.
Salvino, Richard V.
Sams, Richard H.
Satterfield, Don G.
Scales, Carter H.
Schleter, John H.
Schoen, Rodric B.
Scholes, John F.
Schultz, Roman V.
Schutt, Harold J.
Secker, Charles W., Jr.
Sell, Curtis W.
Sessions, Joseph W.
Severin, Marlow P.
Sharp, George K.
Shepherd, Charles W.
Sherck, David L.
Sieber, Donald C.
Simmons, Roger A.
Sink, John D.
Sinnott, George P., Jr.
Skahan, Robert J.
Sloan, Robert L.
Smith, Denis G.
Smith, Henry G., Jr.
Smith, Paul E., Jr.
Smith, Ralph W., Jr.
Snyder, William P.
Sorensen, Edward J.
Spano, Salvador B., Jr.
Spare, Robert L.
Stainton, David G., Jr.
Stanfill, Hiram J.
Stanton, Paul F.
Stapleford, Thomas C.
Steacy, Bernard H., Jr.
Steere, Donald J.
Stephan, Charles A.
Stephen, Earl M., Jr.
Stephenson, John M., Jr.
Sternberg, Harold I.
Stevens, Rollin M., II
Steyer, Francis J.
Stieber, Conrad H.
Stinson, Robert G.
Storey, Sammy M.
Strickland, James M.
Stuart, Douglas A.
Surovchak, Richard J.
Swenson, Maynard L.
Tansor, Robert H.
Tapley, John T., Jr.
Tarn, John L.
Tassell, Harry P., Jr.
Teare, Paul L.
Thompson, Donald E.
Thompson, Neal P.
Tiedemann, John G.
Tivnan, Edmund L.
Tomlinson, Allen R., III
Torgersen, Edward H.
Torsen, Richard M.
Torstenson, Richard J.
Tranchell, William J.
Trimmer, Terry
Troemel, Arthur H.
Truesdell, Lemoyne F.
Turner, Peter C.
Twist, Gerald A.
Valentine, Alden G.
Vanarsdale, Jack M.
Vancise, Richard A.
Vanoni, Roy T.
Vaughn, William H.
Vestal, Ellis B.
Voepel, William C., Jr.
Vonlorenz, James E.
Wagner, Richard G.
Walberg, Robert F.
Wangerin, Ronald R.
Wattenburger, Walter W., Jr.
Weaver, Donald E.
Webster, Kenneth A.
Weigman, Jay M.
Weintrub, Arnold
Weiss, Mitchell L.
Welch, Houston L., Jr.
Welch, Joseph R.
Weldon, Joseph D.
Wellborn, Earl E.
Welton, Robert G.
White, Robert F.
White, Robert R.
White, Thomas G., Jr.
Whitlow, George S., Jr
Whitney, Clarence C
Wiant, Mark C.
Wilkins, John M.
Williams, Harmon M.
Williams, John A., Jr
Williams, Kenneth T
Wilson, Alan F.
Wilson, Bruce B.
Wilson, Glynn R.
Winters, Robert D.
Wolf, Charles R.
Wooddell, John G.
Wooldridge, Clark E.
Wright, Darryl L.
Wright, Jack R.
Wright, John R.
Yeager, Robert D.
Yorio, Beniamino
Youel, Donald A.
Young, Charles F.
Young, Harold H.
Young, Stanford
Young, Stephen G.
Yusem, Stephen G.
Zeh, Thurber G., Jr.
Ziemann, Terry N.
Zimmerman, Richard .

The following-named lieutenant commanders of the line of the Navy for temporary promotion to the grade of commander, pursuant to title 10, United States Code, section 5787, while serving in, or ordered to, billets for which the grade of commander is authorized and for unrestricted appointment to the grade of commander when eligible pursuant to law and regulations, subject to qualification therefor as provided by law:

LINE

Barron, Douglas W.
Derryberry, William D.
Farnham, David W.
McFerren, Robert W.
Nelson, Mark Van Voy
Sommer, Henry J., Jr.
Sullivan, Gerald F.

EXTENSIONS OF REMARKS

THE AMTRAK RECORD

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 4, 1972

Mr. METCALF. Mr. President, prior to Amtrak, I often said that it appeared to me the railroads had purposely reduced their service and discouraged public use of their lines in an effort to bring about abandonment of their responsibility in passenger service.

I supported the legislation establishing the National Passenger Corporation because we were told there was no other way to stop train discontinuances and because we were assured that a quasi-government corporation and Federal money would provide what the carriers had not provided—efficient and pleasant passenger service.

Regrettably, many of my constituents report that reality has fallen short of promise. Service is about as indifferent as before the carriers became operators for Amtrak. Thus there is a familiar refrain describing hours of waiting in dirty depots, delayed arrivals and departures, cold dirty cars, unfriendly personnel, oversold reservations, and locked bathrooms.

In Montana, there is an added factor that is cause for great concern. When Amtrak restored partial service on Montana's southern route, the old Northern Pacific line, we were told to "use it or lose it." Mr. President, the service is such as to defy passengers to use it. And I am told that "lose it" often refers to baggage.

The parallel with pre-Amtrak days of deliberate downgrading is very uncomfortable. It is alarming when a constituent tells you that at least 200 fellow passengers on a recent trip say they would never again ride the train. Mr. President, is Montana going to lose rail passenger service again, and for the same old reasons?

On December 24, 1971, Mr. Louis W. Menk, chairman of Burlington Northern Railroad and a member of Amtrak's Board, issued a prepared statement from his office in Minneapolis-St. Paul. He said:

> My company and its predecessors have a long record of operating excellent passenger service and we intend to continue that on behalf of Amtrak.

Perhaps Mr. Menk spends much of his time in the corporation offices, or travels only as the chairman on his very own railroad might be expected to travel—as a VIP. Many Burlington Northern passengers receive different VIP treatment—they travel as very ignored passengers.

However, in all fairness, Mr. Menk has not always pointed with pride. According to the January 20, 1972, issue of Public Utilities Fortnightly, he reiterated his prophecy that—

> The long-distance passenger train is in the same position now as the stagecoach once was to railroading; it is time to let it die an honorable death.

The people of Montana want passenger trains; they will patronize them; they would welcome the excellent service that was Mr. Menk's pride and joy in December.

The spokesmen for an organization I refer to as CASTRO—Conglomerate America's Slick Transportation Rip-Off—Wally Schirra, continuously asks in misleading TV and radio advertisements, "Who needs them?" Mr. President, the people of Montana and other States need their railroads; they need good passenger service. More than 440,000 people patronized Burlington Northern passenger trains between May and December, 1971.

The order that restored part-time service through southern Montana will be reviewed before September of this year. My constituents are asking me if Amtrak is purposely providing poor service in an effort to abandon the route. One describes her "bad trip" with the conclusion:

> It appeared to the passengers that so many things could not go wrong without being done intentionally.

Mr. President, I have sent every one of my constituents' complaints to Amtrak. But they keep coming in.

I should like to share these letters with Senators so that the realities of passenger train service will be before them when Amtrak legislation is considered.

I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

BOZEMAN, MONT.

DIRECTOR OF PASSENGER SERVICES, AMTRAK,
Burlington Northern Inc.,
St. Paul, Minnesota

DEAR SIR: I have a sad tale which begs to be told!

During the last week of November, 1971, I made reservations to go to Seattle on Train #9, leaving Bozeman, Montana on December 19, and returning from Seattle to Bozeman on December 27, 1971. The train was on time out of Bozeman on December 19th. and all went according to schedule to Spokane, Washington, where we arrived at 12 midnight. At Spokane we were put on a siding without dining services or heat and we stayed there until 8 a.m., December 20th. During this eight hour vigil the railway personnel walked through the cars occasionally, but did not tell the passengers what was going on or how long we might expect to be marooned there. Of course, the train was crowded, as was to be expected during this season, but some of the seats were reserved as many as three times just in the near vicinity of the seat which I occupied (#46, car #932). The train from Seattle to Bozeman was very dirty: there were three large brown paper bags overflowing with garbage in the ladies' room on car #932, and the ladies' rooms in the cars both in back and in front of car #932 were out of order and were locked!

We were scheduled to arrive in Seattle at 11:30 a.m., and finally arrived at 6:30 p.m. During this entire trip the Conductors did not announce a single stop in our car. Passengers determined where we were by consultation with each other and by peeking out the windows to try to read the names on the stations along the way. I can understand how schedule delays can be unavoidable, but the surely unresponsive attitudes of the train service personnel is difficult, if not impossible, to understand.

My return trip, Seattle to Bozeman, on Train #10—Car #1032, seat #36, started very well and only one hour late. The train was clean, the service personnel neat and much more friendly and cooperative than the crew had been on the Bozeman to Seattle trip. I enjoyed the trip until we reached Garrison, Montana at 7:45 a.m., when the conductor awakened me and told me to get my things together as the train was to be rerouted to Helena (instead of going through to Butte), where I would be taken off the train along with all the passengers whose destination was Bozeman or Butte, and where I was to be put on a bus and taken to Bozeman. That would inconvenience us somewhat, but would have been bearable. But——, About 150 of us got off the train at approximately 9 a.m. and packed into the station in Helena where it was cold, crowded and *no one* seemed to know what was going on.

There were two busses (Capacity, 38 passengers each), brought to the station. This despite the fact that the railroad personnel had known for at least two hours about the planned transfer of passengers to busses, and 38 × 2 = 76, or about half enough space for the passengers being transferred! At 10:30 a.m., we were told to go outside and get aboard the busses. We could not even determine for sure which bus was going to Butte and which to Bozeman, or whether both would go to one destination. Finally, I stood in a line with the people who were going to Bozeman and the first 38 people were loaded on one bus. We then stood in line (outside in the cold weather), at the second bus until a decision was made for that bus to go to Butte. At this point we were sent back into the station and were told that two more busses had been ordered and would arrive soon. About noon two more busses were brought to the station. After much ado, one of these was loaded for Butte and one for Bozeman.

There were not enough seats on the second Bozeman bus for all Bozeman passengers. Those of us who did get a seat sat in the loaded bus with all our carry-on belongings for one-half hour when one gentleman went inside the station to report that we were very cold. There were old people, children, and at least one small baby on this bus load. A man came from the station and started the bus motor and turned on the heater. After another half-hour the fumes inside the bus were making the passengers ill, though we felt no heat as yet. So, once again, an old gentleman reported this to someone inside the station. A man came out of the station and into the bus and turned off the motor, saying we couldn't have heat and fresh air. I called to this man from my seat near the middle of the bus and asked if he had any idea of how long it would be before our driver arrived and we would get underway because if there was to be enough time some of us would like to go into the beanery or a nearby cafe and get coffee and something to eat.

The man hesitated and then answered, "I'm not supposed to tell you this and will probably lose my job for it—but, this bus *isn't* going anywhere!" When I asked why we had been kept on the bus under such extermely uncomfortable conditions for an hour without being told, he said, "Because they don't want you back in the station. It's too crowded." I couldn't believe my ears! All passengers left the bus immediately and most of us went into the beanery which was warm and nearly empty. What a blessed relief! Soon an announcement was made in the beanery that our train was being brought back to Helena and that we would occupy the same seats we had left at 9 a.m. and would resume our trip to Bozeman. Meanwhile, our train had been rerouted and was 30–35 miles on its way to Great Falls.

Upon reboarding the train and resuming my seat, I was told by passengers across the aisle, whose destination was Jamestown, No. Dakota, that the train had been backed all the way back to Helena. The people who had been loaded on the first bus for Bozeman had moved around the block; we, in our bus, had not moved at all; and since we did not go through Butte, I assume that the Butte passengers were bussed to their destination.

Finally, after this extraordinary comedy of errors, our train delivered us to Bozeman at 3:50 p.m.—5 hours, 20 minutes late—for no good reason.

During this trip I heard at least 200 people state that they would never ride a train again. From the quality of the service, most of us suspect that AMTRAK is another name for "Executioner," to be used to "finish off," the passenger service. "Use it or lose it," does not seem to be a valid admonition, since the train was over-sold on the Bozeman to Seattle part of the trip and almost full on the Seattle to Bozeman trip. It appeared to the passengers that so many things could not go wrong without being done intentionally. If this is indeed the case, and the passenger service is to be finished-off, you were remarkably successful in alienating a large segment of potential passenger clientel with just one, "bad trip."

I sincerely hope that this is not the case, and that you are making a genuine effort to serve the public. The people do not want to lose their passenger train service. This letter is written with the intent of helping you see AMTRAK from the passenger's point of view. I hope this may help you to take some action to correct the many idignities and inconveniencies which the passengers so patiently suffer.

Sincerely yours,

Mrs. ALICE I. DURANCEAU.

MISSOULA, MONTANA.

Hon. LEE METCALF,
United States Senate,
Washington, D.C.

DEAR MR. METCALF: Enclosed (in case you don't subscribe) in an article that struck home with me. It seems the Amtrak system is trying even harder than the individual railroads to discourage passengers, at least on the Southern Montana route. Then when the time comes they can say people wouldn't use it and we're abandoning service.

My sister came from Bozeman to Missoula a week before Christmas. She too had a reservation plus a paid 50c charge they've added on for a seat. Someone else had the seats she'd paid for her and her granddaughter. They were left with the observation car which was dirty and contained a cigar smoker which is not supposed to be permitted. Then to top it off they sent her baggage to Paradise and she didn't get it back until two days later when she was leaving on the same train that was bringing it back.

Something needs to be done to bring this to the peoples attention. You have done much good in the past and I feel you could aid this situation.

CATHERINE MOLITOR.

BOZEMAN, MONT.,
January 20, 1972.

Hon. LEE METCALF,
United States Senate,
Washington, D.C.

DEAR MR. METCALF: Enclosed is a copy of a brief letter to the chief executive of Amtrak stating my concern about the way Amtrak is being run, and the reasons for my concern.

Can anything be done about this incredible situation? The billions of dollars in land and subsidies given to the railroads in the past and present would seem to obligate them to provide service, or at least make a serious attempt to do so. Yet they make no such effort, and now even subsidize the firm relieving them of their responsibilities (to the public and even their own employees with passes).

Are you doing anything to correct this?

Sincerely yours,

RICHARD STROUP,
SANDRA STROUP

BOZEMAN, MONT.,
January 20, 1972.

CHIEF EXECUTIVE,
Amtrak,
Washington, D.C.

DEAR SIR: I am writing to report and protest the shocking decline in the quantity and quality of rail passenger service in Montana and the Northwest since Amtrak began operation. I believe the account below of my recent rail experience amply supports the following contentions:

(a) Amtrak's general policies and style of operations are not consistent (by design or otherwise) with attracting or keeping travel customers, and thus with keeping rail service viable.

(b) The day-to-day operations of the system (at least in this area) are in an incredible mess, considering the hundreds of millions of dollars in fares and government subsidies being expended.

Some of the problems encountered on my recent trip with my family are listed below. On the same trip, I heard several people say that *never, never* again would they subject themselves to this kind of treatment by traveling Amtrak. I sincerely hope that this is not the result *desired* by Amtrak.

1. Having requested and received confirmed slumber coach reservations in advance of the Bozeman-Pasco trip, I was called a few days before departure and told that my reservations were revoked. This service was being discontinued without even existing obligations being fulfilled. (This service had earlier been reduced to three days per week.) No alternative accommodations were offered, as they would have been by a customer-conscious travel mode.

2. We re-applied for reservations (coach) and received them. On boarding the train, however, we discovered that the reservations were useless. Our seats (and most others, at least in that car) had been sold at least twice. The conductor told us brusquely to "fend for ourselves" and that it wasn't *his* fault, which of course was true.

3. Without a place to sit, we trudged (children in tow) to the club car to find temporary seats and refreshments. Before we could even sit down, the waiter (or porter?) told us very sharply that there were "no soft drinks!" When we continued toward some seats, he repeated the statement even more loudly and rudely. Since it was dark, we were able to find some seats in the Vista Dome though, of course, they did not recline. Finally, coming to a large town where several people would get off, we hovered like vultures over some seats which would be vacant, and which thereafter we would be unable to leave for fear of losing them.

4. In Spokane, we were delayed for about 8 hours without warning, information during the wait, or later explanation. This total lack of information, explanation, or apparent concern for the comfort of passengers contrasts sharply with treatment that airlines, for example, offer. There, a late flight is routinely handled with a courteous apology and explanation, and a meal and/or motel stay provided. Even though we were stuck in the large Spokane terminal, we couldn't even so much as buy ourselves a sandwich.

5. All through the trip, there appeared to be several empty bedroom units although the ticket office said there were none available. Never was this space offered even to those without seats due to the reservations foul-up. This was infuriating, as surely this could have soothed the plight of several wronged people, at little or no cost to Amtrak. Why wasn't it done?

In summary, both the quantity and quality of rail service have declined, by our experience, since Amtrak went into operation. My conclusion is that, unless your purpose is to quickly kill the passenger rail business, both the general policies and the day-to-day operations of Amtrak need quick and thorough revision.

Is anything being done?

Sincerely yours,

RICHARD L. STROUP.

JANUARY 17, 1972.

Hon. LEE METCALF,
Senate Office Building,
Washington, D.C.

DEAR SIR: The attached letter is an account of my experience with the new Amtrak rail passenger service. I am sending you this copy with the thought that you might be interested in this one encounter which suggests that the new Amtrak system still leaves a very great deal to be desired.

Respectfully,

JOHN M. LONG.

ELLENSBURG, WASHINGTON,
January 17, 1972.

Mr. S. T. THORSON,
Regional Manager, Passenger Sales, Burlington Northern Amtrak, Seattle, Washington

DEAR SIR: This letter is a follow-up on our telephone conversation December 14, 1971, and the result of an incredible string of errors incident to my trying to acquire round-trip Amtrak reservations to Detroit, climaxed by a $122.00 error in the quoted price! The events of this painful process were as follows:

November 29, 1971: I telephoned the passenger ticket sales office in Ellensburg, Washington and inquired whether it would be possible to get reservations to Detroit, leaving December 15, and returning around January 1. The immediate answer was yes, there was still ample time. I then inquired about the cost of the tickets, specifying the most economical accommodations with sleeping facilities for my wife and a three year old child. The price quoted was $342.00 total.

November 30, 1971: I called the Ellensburg depot and instructed them to go ahead and obtain the above reservations. I gave them several alternative dates. The price was also reaffirmed at that time as $342.00.

December 6, 1971: My wife called the depot and in response to her inquiry was told the reservations had been made (leaving Ellensburg Dec. 15—returning Jan. 1) and we could pick them up anytime up to the date of departure. No mention was made of the price in that conversation.

December 10, 1971: I went to the depot to pay for the tickets. However, at that time they discovered that they had reservations only from Ellensburg to Chicago—they had failed to make reservations for the return trip. When I expressed concern, I was assured that there was still ample time. I then stated I would wait at the station until they had called Chicago for reservation confirmation. They informed me that it would be impractical since it often took them *days* to get an open line to the Chicago reservations office. I was also told that the Amtrak reservations system in Chicago is almost hopelessly inadequate. To impress me with the futility of waiting I was further regaled with stories of ticket agents calling the Chicago reservations office via long-distance telephone, but when finally getting through, being put on "hold" for 30 minutes or more, only to be hung up on in the end.

December 12, 1971: After having telephoned the Ellensburg passenger service daily, I was finally informed that they have been able to make return-trip reservations for me leaving January 2 (the fifth of five alternative dates I gave them). No further mention was made of the price.

December 14, 1971: I made my second trip to the Ellensburg depot to purchase our tickets. When I identified myself I was immediately informed that there was one additional problem: the new price was $464.00—$122.00 higher than the price originally quoted and earlier reconfirmed! When I complained about the $122.00 error I was simply told by the agent that *they couldn't be expected to know everything!* I then called you at your office in Seattle.

Since I was one day away from departure, and had made commitments I was obligated to keep, I was forced to pay the additional money and take the reservations. However, I found that in response to a call you made to Ellensburg, that the second price was also an error! The price I finally had to pay was $427.20—still $85.00 more than the original.

I appreciate the assistance you gave me on December 14, but I feel that your organization has an obligation to do more.

On the basis of the original price quoted to me, I chose Amtrak over available reservations on the Canadian National Railway (from Vancouver, B.C. to Toronto, Ontario) and air reservations out of seattle. By the time the Amtrak errors had all been revealed, all my alternatives had been eliminated.

The ticket sales people I talked to, however inept they may have been, were acting as agents of your organization and I feel you have at least a moral obligation to absorb the consequences of their errors.

I feel that your organization should hold to your original commitment and reimburse me the $85.20 difference between the original price and the final price I paid.

I might add that the reservations I finally received were for first class accommodations which I specifically stated in the beginning I did not want.

Very truly yours,

JOHN M. LONG,
Assistant Professor of Business Administration, Central Washington State College.

P.S.—For the sake of future passengers, as well as myself, I hope your organization can do something about a system that takes 17 days just to find out if a reservation is available, ticket agent personnel who consider errors as the norm, and a reservation service which seems to treat passenger service (in my case at least) as a nuisance rather than a business.

ST. PAUL, MINN.,
January 31, 1972.

Mr. JOHN M. LONG,
Assistant Professor of Business Administration, Central Washington State College, Ellensburg, Wash.

DEAR PROFESSOR LONG: I am sorry to learn of the difficulties experienced in arranging for your recent trip from Ellensburg to Detroit, Michigan, as outlined in your letter of January 17 to Mr. S. T. Thorson.

As a member of Amtrak, the Burlington Northern is dedicated to making this venture a successful one, and I want to assure you a thorough investigation will be made of the circumstances reported by you.

I appreciate your writing and will contact you again as soon as our investigation is complete.

Sincerely,

L. W. MENK,
Chairman.

BILLINGS, MONT.,
January 7, 1972.

Hon. MIKE MANSFIELD,
Hon. LEE METCALF,
Hon. JOHN MELCHER.

GENTLEMEN: You gentlemen are quite interested in rail passenger service, particularly the continuance of such service through Montana via the Southern route on what formerly was Northern Pacific. Prior to Amtrak the Burlington Northern had a slumber coach on its North Coast Limited, but did not have such a car on its Empire Builder. This slumber coach has since been discontinued on the North Coast train through here, but notice it is now being operated on the Empire Builder through the Northern part of the state. There has been quite a bit of comment on this around here as travel on the slumber coach was considerably cheaper and the accommodations just about as good as on the regular sleeping cars.

To use the slumber coach the coach rate was charged instead of first-class, and also the family plan applied. Also the berth accommodations were cheaper. Shown below is breakdown of cost from Billings to Minneapolis in slumber coach as compared to first class sleeping cars:

Slumber coach	
Self	$31.25
Wife	20.90
Dbl. BR	17.95
Total OW	70.10
Total RT	140.20
Standard sleeper	
Self	$39.75
Wife	39.75
Dbl. BR	27.20
Total OW	106.70
Total RT	213.40

Conductors running through here on the North Coast Ltd. tell me the slumber coach was patronized more than the standard sleeper, and they have heard much comment on the discontinuance of this car. Naturally, we are all interested in trying to get as much revenue for Amtrak as we can, and we who are living on the Southern Montana route want to have our passenger service continued, but think we should have the same advantage of the reduced cost of slumber coach fare as our friends to the north.

Your consideration of this matter will be greatly appreciated.

Respectfully,

W. L. WOOD.

JANUARY 20, 1972.

Re W. L. Wood, Billings, Montana
Hon. LEE METCALF,
United States Senate,
Washington, D.C.

MY DEAR SENATOR METCALF: Your communication has been received and is receiving our attention.

Response will be sent to you as soon as possible.

Sincerely,

GERALD D. MORGAN,
Vice President, Government Affairs.

BILLINGS, MONTANA,
January 6, 1972.

Mr. K. D. WALTON,
Trainmaster B. N. Railroad,
Livington, Montana

DEAR MR. WALTON: Per our conversation on January 4, 1972 as to the reason that I did not allow passengres to board train No. 9 at Livington on January 2, 1972.

Be advised that the train consisted of five coaches, two sleepers, and the observation lounge car. The train was filled to full visual capacity out of Billings with about fifteen people standing in the isles and sitting on their luggage. All coach seats, dome seats, and all seats in the lounge car were full as well as people sitting in the rest rooms. There were also many coach passengers sitting in the bedrooms and roomettes. At Livingston we found two bedrooms we could use to Missoula, this space we filled at Livingston.

People are what we want on this train but we think that they should have a place to sit, therefore, the only solution is to give us some coaches during these holidays. I did not make a head count on this day but we, the crew, estimate that we had about four hundred and twenty (420) people on this train at Livingston. I do know that I had eighty eight for Bozeman and one hundred and forty for Missoula at Livingston.

Some four weeks ago I talked to Mr. Burks' office in St. Paul and at that time I asked where all of the coaches were that we had the year before to handle the holiday traffic. I was advised that they were in Minneapolis yard. I therefore asked why they were not available and I was told that they were in bad order and could not be used and that Burlington Northern would not repair them and neither would Amtrak. I was also told that we would have five or six coaches with which to handle the holiday traffic. To me this was a big deal when last year, 1970, we had eight and nine coaches on this train.

May I again say that it would have been nice to have some of the very intelligent Amtrak personnel riding these trains during the holidays and possibly they could see the conditions that exist, as well as how unsatisfactory their reservation system functions.

Hoping that this letter will suffice, I remain

Yours truly,

C. O. MOORE.

JANUARY 11, 1972.

Mr. DAVID W. KENDALL,
Chairman of the Board, National Railroad Passenger Corporation, Washington, D.C.

DEAR MR. KENDALL: Enclosed is a copy of a letter I have received from Mr. C. O. Moore of Billings, Montana, describing inadequate accommodations for passengers on Train No. 9, Burlington-Northern on 2 January.

You may recall that the resumption of BN service on the southern Montana route was accompanied by the admonition, Use it or Lose it. The history of rail passenger service in the last several years was replete with examples of carrier practices, often deliberate, designed to discourage patronage. Where carriers succeeded in evading prospective passengers (by closing depots, failing to answer telephones, reducing consists, sending passenger trains to sidings to await passage of freight trains, or the use of only the dirtiest available of passenger coaches) they brought their statistics to the Interstate Commerce Commission and said the public had abandoned them.

I profoundly hope that instances such as that cited by Mr. Moore will not be used by Amtrak to demonstrate that the southern route service is not being patronized and therefore should be discontinued.

Very truly yours,

ICC-AMTRAK.

BILLINGS, MONT.,
December 13, 1971.

Senator LEE METCALF,
Senate Office Building,
Washington, D.C.

Would appreciate your trying to prevent Amtrack and/or Burlington Northern down grading passenger service for southern Montana particularly during holidays between Seattle and Chicago. They are not providing sufficient sleeping and other cars.

F. W. POWELL.

DECEMBER 29, 1971.

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: Your communication has been received attaching telegram to you from F. W. Powell of Billings.

We have added as many cars as were available to take care of as many people as we can at this holiday time. Be assured we are putting as much equipment on the line as possible.

Kindest regards,

Sincerely,

GERALD D. MORGAN,
Vice President, Government Affairs.

MONTANA STATE
HOUSE OF REPRESENTATIVES,
Forsyth, Mont., November 6, 1971.

Mr. DAVID KENDALL,
Director, Amtrak,
Department of Transportation,
Washington, D.C.

DEAR MR. KENDALL: I am enclosing a copy of my letter addressed to The Today Show referring to what appears to be a considerable down-grading of our present Amtrak service in my particular area. My wife and I travel to Seattle quite often by train because she cannot fly, so we have a considerable personal interest in addition to the public interest. My experience in the past has always been that slumber coach reservations are always much more difficult to obtain while pullman space was very often practically unoccupied. We always thought the slumber coach was the answer to getting more people to use sleeping accommodations. In many cases we have found them superior to some pullman space, one example being that you don't have to put the bed away to get to the toilet, a sizeable factor in many peoples' lives. I am sure that dropping these cars will impair any efforts to attain your goals and I urge reconsideration not only of the sleeping accommodations but also hope there will be no degrading of dining facilities, which I am sure contribute much to the urge to travel.

Sincerely yours,

VIC EAST.
State Representative.

MONTANA STATE,
HOUSE OF REPRESENTATIVES,
Forsyth, Mont., November 6, 1971.

Mr. FRANK MCGEE,
The Today Show,
National Broadcasting Co.,
New York City, N.Y.

DEAR MR. MCGEE: Your subject on November 5, 1971, regarding Amtrak was of great interest to me and no doubt to many Americans. It was gratifying to know Mr. Cunningham felt that some improvement had been made though his experiences were evidently confined to east of Chicago where the service has been beneath that of the western railroads. You may know that after considerable battle we were able to convince Amtrak to provide on a temporary basis of Use it or Lose it service three times a week between Minneapolis and Seattle by way of a southern route through the most populated areas of North Dakota and Montana to supplement the daily service through the northern route they originally felt to be the most logical.

Later in the day, after your program, I went to the railroad station here at Forsyth to make reservations to Butte and Missoula this weekend and to Seattle next month. I was told that on November 14th the slumber coaches would no longer be carried, which causes me great concern because this will force anyone who desires sleeping accommodations to first buy a first class ticket at a considerably higher price and in addition pay a higher price for pullman accommodations.

This will hit hardest at those to whom the train means the most, the aged and infirm, those of moderate means and those whose health may prohibit flying or busing. It seems to me that if we are trying to provide the service needed to those who will ride the trains this is extremely short-sighted. I was also advised the dining facilities would be a "dining lounge car." While this may not be the repulsive automat or self-service car, it sounds suspiciously like a "beer and sandwich" type of thing. I hope I am wrong. Your guest, Mr. Cunningham, made much of the satisfaction of sitting in the nice surroundings of a traditional dining car and enjoying America going by and I think everyone who rides a train feels exactly like that. The employees interviewed on your program spoke of the flowers and the linens again being used and that they really felt everything at last was up, up, up.

Now, in this instance, we seem to be going down, down, down again, and I and thousands of others feel that to now degrade the service or price it out of reach of the great majority would be a tragedy. I would appreciate your giving the enclosed extra copy to Mr. Cunningham and assure you that programs such as we see on Today are much appreciated by many of us.

Sincerely yours,

VIC EAST,
State Representative.

DECEMBER 21, 1971.

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: David Kendall has asked me to respond to your communication of November 11, 1971 concerning service on the North Coast Hiawatha.

It is true that the North Coast Hiawatha is being operated from September 15 to approximately June 15 without the slumber coaches. Our Marketing people tell me that good marketing judgment requires that these cars be placed in the services which have sufficient ridership to justify their inclusion in the consist. We intend to return them to the Southern Montana service in June of next year.

During the off-season, the only possible solution for a train such as the North Coast is its operation at absolute minimal cost, for ridership both at present and in years past has not been sufficient to justify an expensive train. The train will continue to have full leg-rest coaches and domes, and, in fact, will be upgraded to the extent that it has acquired ex-California Zephyr bedroom, lounge and observation domes.

Regarding the dining facilities, arrangements have been made to acquire and ready for service a group of four Santa Fe combination dining-counter-dormitory cars, but I am informed that during the upcoming Holiday Season some standard 36 seat diners will be in use on this run.

Amtrak has no intention of downgrading any service, but rather to use its limited equipment in the most productive manner.

Sincerely,

GERALD D. MORGAN,
Vice President, Government Affairs.

MISSOULA, MONT.,
April 12, 1971.

Hon. LEE A. METCALF,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: While writing you about another matter, I would like to include a few words about the "Railpax" situation.

Writing both as a citizen of "The Lost Wilderness of Southern Montana", and as a former railroad employee, it seems that the interests and welfare of both classes have been over-ridden for something else—for what?

Railroads were built to transport people and goods. From the beginning of railroad history free transportation has been an inferred, (though unwritten) right for railroad employees and retired railroad employees. In fact it always has been one of the "fringe benefits" whether written or inferred. Now, all of a sudden, it is not going to be possible to even "buy" passage on a train without traveling a hundred miles or more to where a passenger train stops, and then, the chances are against the passanger going to the identical point where the train will let him off, which will necessitate other means of transportation to the passenger's destination. Probably it would be best to not attempt the trip at all, as with only one train per day, say, from Chicago to Seattle, one might not be able to get a seat on the train for several days.

Congress created Railpax. Will Congress discipline Railpax? or is it to be a Bureaucracy answerable to no one? Can anything be done to improve a very sad outlook?

Sincerely yours,

E. H. MURRAY.

CHRISTCHURCH, NEW ZEALAND,
August 8, 1971.

DEAR SENATOR METCALF: I took that Amtrak train to Missoula from here July 23 through the most beautiful country in the land at night. My return reservation was (Monday July 26) for a day when there was no train out of Missoula, though my purchase of the ticket was specifically on the premise there would be. Nor did the Burlington Northern compensate me for having to remain in Missoula another day. Indeed I had to buy a return ticket on the Tuesday (Partially I am sure because I would not relinquish the ticket which proved their negligence or malfeasance). The slumber coach from Spokane to Missoula was—on the total run from Seattle to Missoula two and one half hours late, which without an accident, must be impossible.

The return trip was in a coach which was the noisiest and filthiest I have experienced all over the world. The toilets for instance were pig sties without soap. I wrote a letter for "damages" to the President of the Burlington-Northern in St. Paul. Should he answer it I shall send that and my original along for your amusement. But the evidence is simply cumulative that with these people in charge public transport hasn't a prayer.

Prof. RICHARD T. TENCH.

AUGUST 10, 1971.

Mr. RICHARD T. TENCH,
Professor of Law,
Spokane, Wash.

DEAR MR. TENCH: We appreciated your letter of July 29, 1971, in which you call attention to the very serious error of our ticket office at Spokane in advising that you could return from Missoula to Spokane on July 26, 1971, when in fact the train was not scheduled to operate through Missoula on that date. We very much regret this unusual mistake on the part of an experienced ticket staff and I certainly understand your feelings as to the resulting inconvenience.

You have paid for one round trip ticket between Spokane and Missoula and one one-way ticket from Missoula to Spokane. All you have received is the round trip transportation. We feel that we should refund what you paid for the one way ticket from Missoula to Spokane in the amount of $9.50 and will be more than happy to do so. For accounting purposes, we require return of the unused portion of the round trip ticket. Upon receipt by us of that portion of the ticket, we will see that refund is promptly made.

For your convenience, a return addressed envelope is enclosed.

Sincerely,

LOUIS W. MENK.

DETROIT, MICH.,
October 11, 1971.

Prof. RICHARD T. TENCH,
Christchurch, New Zealand

DEAR PROFESSOR TENCH: Senator Metcalf has forwarded to me a portion of your letter telling of the troubles which you unfortunately had on the train out of Missoula. I can't tell you how sorry we are that any inconvenience at all, let alone what was apparently a major one, should have occurred.

In the first place, these are not things which we think should happen to anyone and particularly to one from your beautiful country, visiting what we think great scenery in ours.

I have sent copies of this correspondence to the people involved, hoping that it will prevent a reoccurrence of such an unfortunate incident.

I don't suppose you visit Montana with any frequency at all from the other side of the world, but should you plan another trip, please get in touch with us ahead of time.

With very best regard,

Sincerely,

DAVID W. KENDALL,
Director, National Railroad Passenger Corporation.

ST. PAUL, MINN.,
January 13, 1972.

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: I am cognizant of the correspondence with Professor Richard Tench, including correspondence from your office and David Kendall of Amtrak, and my own reply dated August 10 which apparently was neither forwarded nor received. It was addressed to Professor Tench at Spokane. As he apparently moved to Florida and later to New Zealand, it may not have been received by him. I am, therefore, enclosing a copy of it with this letter and favoring him with a copy of my letter to you.

There is little more to add except to again acknowledge an error on the part of the reservation people at Spokane and to say that our operating people have been alerted as to complaint concerning the alleged condition of the car on the return portion of the journey.

I feel keenly about the obligation of Burlington Northern to do its part in providing a comfortable and efficient service and you may be sure that any deficiencies brought to light are made a matter of concern to our Operating Department. Amtrak passenger trains are in constant operation over our lines and I am fully aware that travellers' verified complaints are an important part of helping BN, as operator, to maintain a commendable level of rail passenger service and this is a concern that we do not take lightly, while admitting that situations such as Professor Tench describes can occur. It is our desire and objective to minimize or eliminate the recurrence of unsatisfactory conditions.

Sincerely,

L. W. Menk.

Missoula, Mont.,
August 31, 1971.

Mr. Roger Lewis,
National Railroad Passenger Corp.
Washington, D.C.

Dear Mr. Lewis: Remembering Amtrak's warning, "Use it or Lose it!", I took my grandchildren from Helena to Missoula in mid-Aug. on the train, rather on the bus to Butte, where we were told the train would be 3½ hours late. Instead it was over 4½ hours late, making up some time out of Butte to get us into Missoula at ten, instead of six. What irked me was the fact that we were assured in Helena that the train was on time, whereas, as a matter of fact, employees of Amtrak in Butte told me the train had been four to six hours late for thirty days. I had friends coming to visit me in Missoula that same afternoon with whom I could have had a ride, but I chose to to use Amtrak.

I have been a very frequent passenger on trains previously, having gone to Chicago, Seattle, Thompson Falls, and Helena frequently in the past year. I also testified at hearings here in the federal building when the train was going to be taken away from Missoula. It is a vary harrowing trip for a widow to drive over the mountain passes alone in the winter.

There was no snack bar service on Amtrak; or was there even a waiter to serve softdrinks or cocktails in the Traveler's Rest, as there always had been previously. I saw some old people sit in that miserable train depot in Butte the entire 4½ hours with no place to get a snack, one a paralyzed old man, who could have stayed in Helena another few hours at home or in the veteran hospital, where he was probably released.

One woman told me she had left Casper for Billings with two small children at three in the morning, thinking the train was on time. Instead she waited over six hours in the Bililngs station. She said service and connections were even worse coming from Seattle.

Who are you kidding, "Use it or Lose it?" I was so exhausted after my trip from Helena to Missoula with two small children. I shall certainly hesitate before I make that trip again, especially in view of the fact that you have raised the fare from $7.50 to $10.00 round trip.

Another complaint is the fact that the train was posted on the board to leave Butte at seven when we returned from roaming all over the area to pass the time. Yet the train didn't leave the station until after eight o'clock with about fifty people waiting impatiently on the platform. I do not know how many were passengers and how many seeing others off.

Yours truly,

Mary S. Gallagher.

Secretary of Transportation,
Washington, D.C., September 23, 1971.

Hon. Lee Metcalf,
U.S. Senate,
Washington, D.C.

Dear Senator Metcalf: On behalf of Secretary Volpe, I wish to thank you for your recent letter, accompanied with a copy of a letter from Mrs. Mary S. Gallagher of Missoula, concerning the operation of rail passenger service by the National Railroad Passenger Corporation.

All decisions concerning schedules, fares, reservations, tours, excursions, special trains, passenger services, promotions, other marketing or operational services are made by the Corporation. For this reason, we have forwarded your correspondence to the Corporation for appropriate handling.

You may also wish to write the Corporation, known as AMTRAK. The headquarters are located at 955 L'Enfant Plaza North, Washington, D.C. 20024.

We sincerely appreciate your interest in the improvement of rail passenger service.

Sincerely,

A. B. Virkler Legate,
Executive Secretary.

October 6, 1971.

Mrs. Mary S. Gallagher,
Missoula, Mont.

Dear Mrs. Gallagher: I hope you will accept my apology on behalf of Amtrak for your very disagreeable encounter with rail passenger service. While not attempting to make excuses, I would appreciate the opportunity to explain.

The quality of rail travel has been deteriorating for many years prior to the takeover of operations by the National Railroad Passenger Corporation (Amtrak) on May 1st of this year. Since Amtrak must rely on the member railroads to provide track, stations, equipment and personnel, there was obviously little change that could have been reasonably expected overnight from April 30th to May 1st, nor for the immediate weeks following.

What did come into being on that day was a corporation which would bring together a central management team responsible for operating, planning, and marketing rail passenger service to attempt to reverse the decades-old trend of loss of revenue and ridership.

To accomplish this, Amtrak faced the challenge of actually keeping the trains running, while at the same time beginning the process of selecting the best equipment to purchase, and then scheduling the refurbishment of these cars according to our new designs before introducing them into service on routes throughout the country. Concurrently, we had to begin a complete revision of the many different rate and tariff structures applied by the railroads and unify them into a single, easier-to-understand national system.

We also initiated studies on improving communications which therefore would provide better means for passengers to obtain information and reservation assistance. Food—its quality, variety, preparation and methods of service, and its cost—is now undergoing intensive priority attention. And finally, a complete program of public information, promotion and advertising—that is, marketing—is being developed to let our present and potential passengers know of the improvements we are planning as we are able to introduce these updated programs for more comfortable, efficient, and desirable rail passenger travel.

I hope you will understand by this explanation that what you experienced was not the kind of service that Amtrak stands for. We shall immediately investigate the circumstances to avoid this situation in the future, and we are very grateful you cared enough to write to us.

Sincerely,

Mary Reisner,
Manager, Customer Relations.

"Report back, please."

October 14, 1971.

Hon. Lee Metcalf,
U.S. Senate,
Washington, D.C.

Dear Senator Metcalf: With further reference to your communication of September 8 regarding travel experience of Mrs. Mary S. Gallagher, we are enclosing copy of October 6 letter sent to Mrs. Gallagher by Miss Mary Reisner, Manager of Customer Relations.

We are sorry Mrs. Gallagher encountered problems and certainly appreciate your courtesy in passing along her letter. It will help us in our effort to make passenger train travel a pleasure.

Sincerely,

Gerald D. Morgan,
Vice President, Government Affairs.

A CONSTITUENT EXPLAINS HOW HE IS PENALIZED BECAUSE HE WORKS HARD AND GETS ABOVE POVERTY-LEVEL

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FISHER. Mr Speaker, we hear much these days—from presidential candidates and others—about burdens being borne by the middle class. They talk most about disproportionate tax burdens, but there are other areas which should not be overlooked. Among them is Government financing of housing.

Much of this latter complaint relates to the Housing Act of 1968, which included the famous sections 235 and 236—under which the more enterprising are penalized. The lower income are favored with 1 percent loan rates, little or no down payments, and middle-class-type housing loans are available to them.

Reports are multiplying of vast losses by the Government on loans made under those two sections. And considerable community disturbance has resulted. It happens that I was one of those who voted against the 1968 act.

Under leave to extend my remarks, I include a letter from a constituent who as a middle-class wage earner is a victim of the arbitrary application of the laws which foster housing loans.

The letter follows:

Dear Mr. Fisher: I am 32 years old and have had to work since I was 14—every day, except for three years in the Army—20 months in the Middle of the desert in Turkey during which I volunteered for duty in Vietnam. I have 5 years of college and work for an insurance company here in San Antonio, a job I have held for 6 years.

I make $710.00 per month. After taxes, Social Security, and $30 per month which goes into a company savings plan, I take home $499. I pay $130 rent for a two-room apartment in a 30-year-old 4-plex. I pay a bank note $74 for some furniture and doctor bills incurred three years ago.

After the first of the year my wife and I started looking for a house as we have lived in this apartment for 3 years since our marriage in 1969. We don't have the few thousand dollars it would take to buy someone's equity and take up payments, so my only means is through the VA.

I went to a well-known local Savings and Loan and was informed that on my salary I could only qualify to purchase a $14,000–$14,500 house. Of course, I was told by the loan officer, if I made less than $6,000 per year or was on welfare that they could put me in a $20,000 to $22,000 house and let the government pay for it under the 235 bill. And, after I moved in, we could stock the pantry with food purchased with food stamps.

Of course this isn't news to you, you being a member of the House of Representatives. It wasn't news to me either but it has become a very cold, hard fact that it is hardworking, honest persons like myself who are paying for the good life of the welfare chislers and are reaping none of the benefits.

I could, of course, take my $14,000 house, which would be on the west side of San Antonio and be the first WASP "blackbuster" over there but I fear for the safety of my family should I take this course of action.

To just accentuate the above I submit this tidbit: About 3 weeks ago I read in the paper that a man had been arrested for some crime and when he was booked at County jail it was discerned he was a "wetback" and when he was searched there was found in his pocket an *Approved Application* for this wetback's government-financed 235 house. Now, this is just too much to stomach!

Mr. Fisher, I don't expect any consolation from you as I realize as do everyone I know that today's trend is towards the "big giveaway" to the "minorities" and the rich and let the man in the middle pay for it all. However, I fear (do I really?) that some day, maybe in the near future, there is going to be a "middle-class" backlash that is going to bring this nation to its knees and all the freeloaders, chiselers and crybabies and the "pay-no-tax" rich are going to get what they deserve.

In the meantime, I will continue to work for a living so I can help support them all while I live in these two rooms and watch television for entertainment.

Thank you for the time it took you to read this.

Yours truly,

——— ———.

ODDS SPEAKING AND SHIFTING AGAINST TRANS-ALASKA PIPELINE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, I insert in the RECORD today an article discussing the proposed trans-Alaska oil pipeline and the most prominent alternative to it, a trans-Canadian pipeline. This article, from the March 28 issue of the Toronto Globe, discusses in some depth and with real understanding the relative environmental, economic, and political aspects of these two possible pipeline routes. Anyone even marginally interested in the trans-Alaska pipeline issue will find this article worth reading.

It follows:

ODDS BEGIN SHIFTING AGAINST TAPS PLAN

(By Ross H. Munro)

WASHINGTON.—In just one week, the prospect of oil from Alaska's North Slope flowing through a Canadian pipeline to the Lower 48 states has become a real possibility rather than a near impossibility.

The odds began shifting last Monday when a U.S. Interior Department report produced evidence that a Canadian line would create less environmental damage than the original Trans Alaska Pipeline System proposal for bringing out Alaska's oil—a trans-Alaska pipeline system consisting of a north-south line across Alaska and a fleet of tankers to carry the oil down the Pacific Coast.

Political clout was added Saturday evening when 243 Democratic and Republican senators issued a call for public hearings on the environmental dangers of the TAPS before it is permitted to go ahead.

The growing attractions of a Canadian pipeline for Alaska's oil are becoming increasingly worrisome to some powerful interests in the United States. During the past few days, the Canadian alternative to the TAPS has been attacked by leaders in U.S. Government and industry. They know the odds still favor the TAPS but they see those odds decreasing.

The Canadian Government already has seized upon the changing circumstances. Energy Minister Donald Macdonald, for instance, said last week that the Government has "a fairly strong belief" that a Canadian pipeline is the best way of getting oil out of Alaska. And for many months Canada has been quietly telling the United States that it will "welcome" any proposals for a Canadian line.

ALREADY PREDISPOSED

Even though it will not receive reports on the economic and environmental feasibility of a Canadian pipeline until the end of the year, the Canadian Government is already strongly predisposed toward a Canadian line. This line would cross Alaska into the Yukon, then run down the Mackenzie River Valley in the Northwest Territories, across Alberta, Saskatchewan and Manitoba to the U.S. border. From there it would proceed to Chicago.

Given the mood of Canadian economic nationalism, why is the Canadian Government already predisposed toward a pipeline through Canada that would carry U.S. oil to U.S. customers? There are three basic reasons.

First, if the TAPS goes ahead the B.C. coastline will fall victim to oil spills by tankers travelling from the southern terminus of the Alaska pipeline to refineries in Washington state and California. Last week's report on the environmental impact of the TAPS says such spills are inevitable. The spills could scar the shoreline and kill fish, birds and shellfish. This has become a big political issue in British Columbia and Ottawa is taking notice.

The second reason is the existence of oil in the Mackenzie River delta area. The problem is that exploration has not yet proved that enough oil can be extracted to jutsify the cost of building a separate pipeline to the south. But if a Canadian line is built for Alaskan oil, it would cost relatively little to use it eventually for Canadian Arctic oil.

The third argument for a Canadian line is the general impact it could have on Canada's economic development. A pipeline means a corridor, a corridor means a road and a road means greater access to Canada's northern resources.

Three counter-arguments suggest themselves. The first is that Canada should not be anxious to develop energy resources that will not be used domestically but by the United States. The only answer here is that Canada seems already committed to this course by giving its go-ahead to the oil companies to explore for oil in the Arctic.

Another related drawback, in the eyes of some Canadians, would be an inevitable increase in Canada-U.S. interdependence. Although this could well stop short of any continental energy agreement, the two countries would have to reach an understanding on the sale Canadian Arctic oil. And Canada would inevitably be forced to allow much of the labor and material for the pipeline to come from the United States—if only to avoid a balance of payments crisis.

The other counter-argument is an ecological one. Although it probably won't cause as much environmental damage as the TAPS, a Canadian pipeline would inevitably disrupt the environment as well.

There is an answer here, too, although it is a negative one: some sort of pipeline through the Mackenzie valley is almost an eventual certainty. If it is not a pipeline for Canadian Arctic oil then it would be a pipeline for natural gas from Alaska's North Slope.

According to last week's U.S. Government report, the tremendous amount of natural gas that will surface along with the oil on the North Slope cannot feasibly be reinjected indefinitely into the ground or shipped by tanker. It will have to be transported by pipeline. In other words, through Canada.

A cool natural gas line, however, would not pose the same threat to the North's permafrost that a hot oil line would. The consolation here is that the permafrost along the Canadian route is much less vulnerable, according to the U.S. report, than the permafrost along the Alaska route.

The Alaska permafrost has a generally higher ice content along a route with more mountains and with two earthquake zones. Earthquakes create a significant possibility of a line breaking and oil excaping to melt the permafrost and permanently scar the landscape.

This is one of the arguments that will be used by the U.S. environmental groups that are preparing their attempts to block the TAPS, or at least to stall the U.S. Government from granting a permit to begin its construction.

New hope for a delay of the TAPS was raised Saturday night by the call for public hearings in a letter drafted by senators Philip Hart (D, Mich.) and Clifford P. Case (R., N.J.) and signed by 21 other senators. They called the TAPS the largest engineering undertaking in history, which should be subjected to "the closest public scrutiny".

"Many are also concerned about whether alternatives have been given adequate consideration", the senators said, in an obvious reference to the Canadian route.

MINOR ISSUE

The TAPS therefore shows signs of becoming a minor issue during the U.S. presidential election this year. The predominantly Democratic make-up of the TAPS opponents also makes it obvious that if a Democrat were somehow to replace Richard Nixon in the White House next year the odds would turn against the TAPS.

Even if this does not happen, the politicians and the environmentalists in the United States may possibly delay the start of construction on the TAPS for some time. And if the delay continues into 1973 the Canadian Government will be able to call for formal proposals for a Canadian line. This would heighten the TAPS issue in the United States and confront the oil companies with a real dilemma.

The Canadian Government has a dilemma on its own right now. How does it keep the possibility of a Canadian route alive in the

United States without souring its already touchy relations with the U.S. Government?

Obviously, Canada is going to continue to tell the U.S. Government privately that it does not want oil spills on the West Coast and that it does want time to develop the proposal for an alternative Canadian pipeline.

Mr. Macdonald has already said he will talk to U.S. Interior Secretary Rogers Morton this week about it. This may prepare the way for Prime Minister Pierre Trudeau to say a few words to Mr. Nixon when he visits Ottawa in mid-April. It is just possible that Mr. Nixon, facing a reelection battle this year, will be a little bit receptive.

Somehow the Canadian Government must also ensure that U.S. politicians and environmentalists fighting the TAPS become better aware of the Canadian position on the pipeline. This would include an awareness that the Interior Department's report last week did not include any concrete references to the information already assembled by the Canadian Government on a Canadian route.

CONFUSED ISSUES

After the report came out, the alternative of a Canadian pipeline was attacked by U.S. Government spokesmen and by the TAPS proponents in such a way as to confuse rather than clarify the issues.

Mr. Morton, for instance, appeared on NBC's Today Show and argued that "a great deal more land" would be disturbed by a Canadian pipeline. This is true, but his argument did not address itself to the nature of the environmental disturbance or the problem of oil spills on the West Coast.

Mr. Morton also conveyed the impression that the Canadian line is nothing more than a hypothetical alternative. "There is no application before us for a pipeline other than the one through Alaska", he told the TV audience.

The next day the Interior Department's radio news service made available a tape-recording of undersecretary William T. Pecora stressing the supposed drawbacks of the Canadian route.

"To serve its purpose, the Canadian line would have to divide somewhere in Alberta. One portion would cross the Rockies, the Cascades and probably the Sierra Nevada mountains on the way to Seattle or California", Dr. Pecora warned.

This was a new twist. Everyone else assumes that any oil from the Canadian pipeline destined for Washington state could be carried by an expansion of the Trans Mountain Oil Pipe Line Co. system. A line all the way to California is not being taken seriously by anyone at present.

But why do Mr. Morton and Dr. Pecora attack the Canadian alternative even though the Interior Department ostensibly is maintaining its neutrality until a final decision is reached on granting or denying a permit for the TAPS?

MAIN REASONS

These are the main reasons why it is almost universally believed that Mr. Morton and the Nixon Administration want the TAPS, and not the Canadian line to go ahead:

The oil shortage. Every year the United States consumes increasingly more oil than it produces. While the delivery of North Slope oil to the Lower 48 states will not reverse this trend it will slow it down. A Canadian line will take longer to complete than the TAPS and this would mean a greater U.S. dependence on foreign oil for a greater length of time.

Shipping: The TAPS would require spending $1.1-billion for oil tankers—a shot in the arm for the chronically ailing U.S. shipbuilding industry and a decrease in U.S. dependence on foreign-owned tankers.

Alaska's economy: The TAPS would increase employment and economic activity for an ailing state economy.

Industry pressure: The oil companies that largely control the North Slope reserves and Alyeska—the consortium that would build and operate the TAPS—have invested their money, time, know-how and prestige in the TAPS.

A look at Atlantic Richfield, one of the major companies involved, is instructive. Analysts of the oil industry say Atlantic Richfield has less available crude oil, especially on the West Coast, than most other major oil companies. It needs the Taps and it needs it soon.

Its chief executive officer is Robert O. Anderson, who is close to the Nixon Administration. He is the Republican national committeeman for New Mexico and is currently advising the U.S. Secretary of State on environmental matters. It can be assumed that Mr. Morton pays attention to Mr. Anderson's point of view.

Taken together, all these factors mean that the odds still favor the TAPS over the Canadian alternative, even though those odds are getting smaller. But U.S. politics, Canadian initiative and the fact that time is working against the TAPS could change all of that.

HIS MEMORY A BENEDICTION

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. CHAPPELL. Mr. Speaker, in answer to the question, "What is success?" a writer once wrote:

> He has achieved success who has lived well, laughed often and loved much; who has gained the respect of men and the love of little children; who has filled his niche and accomplished his task. Who has made the world a better place, no matter how small the contribution; who gave unselfishly of himself so that others might enjoy a better life; whose life was an inspiration; whose memory a benediction.

Mr. Speaker, I can think of no better words to describe the life of Melvin T. Dixon, whose service to the veterans of this Nation spanned 27 years. Melvin was only 54 at the time of his death, but the service he rendered as State service officer and director of the Florida Department of Veterans Affairs will make the burdens of those veterans disabled in the defense of our Nation a little easier to bear.

Melvin's work with veterans began in 1945, soon after his retirement from the U.S. Air Force because of disabilities incurred during his wartime military service as an officer. He served as contact representative for the Veterans' Administration Regional Office in St. Petersburg, Fla., and trained most of the postwar contact representatives hired during that period.

He joined the Florida Department of Veterans Affairs as a claims specialist and in 1948 was named senior assistant State service officer. One year later he assumed the directorship of the State office.

Concurrently, he served the American Legion Department of Florida as its department service officer, and held a similar position with AMVETS.

His administrative abilities, coupled with his ability to get to the crux of a problem with empathy and understanding, earned him the respect of his fellow service officers throughout America.

He served as president of the Southeastern State Service Officers Association, the Southern Governors Veterans Advisory Council, the National Association of State Directors of Veterans Affairs, and the National Association of Department Service Officers of the American Legion.

President Johnson took note of Mel Dixon's abilities and in 1967 appointed him to the U.S. Veterans Advisory Commission which was charged with the responsibility of holding hearings throughout America on the overall veterans benefits program.

As a result of the studies of this commission, legislation was developed and passed by the Congress which will have untold effect upon the lives of present and future veterans, their dependents and survivors.

With all of his responsibilities, Mel Dixon was never too busy to counsel with a disabled veteran, to encourage him to make a success despite his handicap. He offered no sympathy. Instead, he offered understanding, determination, and stability to troubled men and helped to make them useful, productive citizens.

Truly, Mr. Speaker, Melvin T. Dixon filled his niche and accomplished his task and made the world a better place with contributions big and small. He set an example for others to follow. To his family and the thousands of veterans whose lives he touched, his life was an inspiration, his memory a benediction.

AID INACTION RESULTS IN DEATH OF 350 CIVILIANS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday March 29, 1972

Mr. ASPIN. Mr. Speaker, I am releasing to the public today a document written by a senior Agency for International Development—AID—officer in South Vietnam that reveals that American officials failed to report a serious health problem in Pleiku Province that resulted in the death of 350 Vietnamese civilians. It is a national disgrace that our own officials failed to report a serious health problem in Pleiku that resulted in the death of 350 war victims. A simple call for help could have saved 350 lives.

Specifically, the AID document charges that despite the fact that 350 people died of "exposure, malnutrition, tuberculosis, and pneumonia," reports by American officials in Pleiku Province "failed completely to indicate the seriousness of the situation—since at least 350 people died it might be expected that the word 'death' would appear at some point. It does not."

"The situation in Pleiku province became known through unofficial channels reported by people who, although not directly concerned, were moved by humanitarian concern to do what they could.

"Had CORDS (the U.S. Military Aid Command) been forced to rely on official reports from Pleiku, this tragedy would not have been known until much later, with even worse human suffering the result."

The document goes on to charge that this is "inexcusable conduct" that should result in "punitive action" and urges the reporting in the future be much more accurate.

Mr. Speaker, yesterday I called upon AID Director John A. Hannah to report what action he had taken against officials who have been directly responsible for the tragic death of 350 innocent people.

The problem of officials in the field reporting half truths and sugarcoated reports that cover up the truth must be stopped. All that I am asking is that our officials in the field be honest. Currently they nurture and nurse the documents and reports so that bad is removed and the good shines out. It is this kind of reporting and this kind of dishonesty that got us involved in Vietnam in the first place. All of us recall the glowing documents reporting improvements and security in the countryside many of which apparently were fabrications.

I am asking Dr. Hannah to report at length what his agency has done to insure that the truth reaches senior officials in South Vietnam and eventually reaches the American people.

While our participation in ground combat may be limited, we still have a moral responsibility to alleviate the human suffering caused by this tragic and seemingly endless war.

I am inserting at this point in the RECORD the AID document which I have obtained and my letter to Dr. Hannah, Director of AID:

Dr. JOHN A. HANNAH,
Director, Agency for International Development, Washington, D.C.

DEAR DR. HANNAH: I am enclosing a copy of a memorandum prepared by an official of your agency in South Vietnam last June regarding the needless death of 350 innocent Vietnamese civilians.

This document indicates that reports from CORDS personnel in Pleiku province "failed completely to indicate the seriousness of this situation". Apparently 350 people died as a result of a serious health problem in that region. AID officials did little, if anything, to alleviate the problem. The document goes on to discuss this "inexcusable conduct" and concludes "it is my firm belief that punitive action is called for in this place."

I am writing to you to find out what action the Agency for International Development has taken against officials who have been directly responsible for the tragic death of 350 innocent people.

The document also indicates that reporting from the field has been less than honest. I wonder how many other unnecessary deaths could have been prevented if our officials had simply told the truth about the situation in that part of Vietnam.

I hope that you will report at length what has been done to assure that the truth reaches senior officials in South Vietnam and the American people.

While our participation in ground combat may be limited, we still have a responsibility to alleviate human suffering caused by the war.

Sincerely,

LES ASPIN,
Member of Congress.

REPORTING OF PROBLEMS IN PROVINCIAL MONTHLY REPORT

1. The War Victims Directorate is extremely disturbed when instances come to light where serious problems involving human suffering are not reported by those whose responsibility it is to prevent and/or alleviate such suffering.

2. A case in point is the serious public health problem as the De Groi/Plei Kotu and Plei Blong 3 relocation sites in Pleiku. Over three hundred (300) people have died at De Groi/Plei Kotu, and a lesser number at Plei Biong 3, since these sites were relocated in December and January. Deaths are due to exposure, malnutrition, tuberculosis, pneumonia. During the time period from December to April, the Provincial Monthly Report from Pleiku failed completely to indicate the seriousness of the situation. Only one mention exists—in February, of a health problem in Plei Blong 3; De Groi/Plei Kotu was not mentioned in regard to public health in any fashion until April. Since at least 350 people have died, it might be expected that the word "death" would appear at some point. It does not. Even when the PSA denied to mention the problem, it was in generalities, couched in terms of progress being made.

3. That progress being made is due solely to the fact that the situation became known through unofficial channels, reported by people who, although not directly concerned, were moved by humanitarian concern to do what they could. Had CORDS been forced to rely on official report from Pleiku, this tragedy would not have been known until much later, with even worse human suffering the result. This is an example of inexcusable conduct on the part of the PSA, who at the very least, is personally responsible for reporting events, be they good or bad. It is my firm belief that punitive action is called for in this case, and renewed emphasis upon couple, reliable reporting from the field, to prevent such tragedies from occurring again. I urge you to take decisive action on both these points.

REPORT ON STATUS OF 180-DAY NOTICES ON FEDERAL-STATE WATER QUALITY STANDARDS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday March 29, 1972

Mr. DINGELL. Mr. Speaker, on September 10, 1971, I wrote to the Environmental Protection Agency requesting a report on the status of 180-day notices issued to municipalities and industries for violation of Federal-State water quality standards.

I have received responses to this and a subsequent letter which would appear to be of interest to my colleagues and, therefore, I insert the text of various letters and reports relating to this matter appear at this point in the CONGRESSIONAL RECORD:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., March 1, 1972.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR MR. DINGELL: This is in response to your letter of January 18, 1972, requesting detailed information on the status of several industries and municipalities which were issued 180-day notices of water quality standards violations.

The following information is provided in response to each of the points you have raised.

1. "Chicopee, Massachusetts has failed to take action since the issuance of a notice which expired on November 9, 1971. When will Court action be brought against the city?"

The Massachusetts Division of Water Pollution Control took legal action against the City of Chicopee. The final decree was entered on July 28, 1971, with the Suffolk County Court establishing a detailed abatement schedule. This Court-imposed schedule requires Chicopee to provide a report and preliminary plans by March 1972.

Although Chicopee has been recalcitrant in meeting prior due dates, the City has authorized funds for necessary abatement projects. It is our view, in keeping with the intent of section 10(b) of the Federal Water Pollution Control Act, that State action should not be supplanted by the Federal Government at this time. We have recommended that our Regional Office carefully monitor compliance with the court-imposed schedule. Federal legal action will be initiated promptly should the State of Massachusetts or the Suffolk County Court fail to take further action as may be indicated to abate pollution.

2. "EPA stated that the Piels Bros. Inc. of Chicopee, Massachusetts has presented a program which would send its wastes into the Chicopee treatment system. Since Chicopee, Massachusetts is not complying with the EPA's notification, how is it possible that Piels Bros. Inc. proposed program can be considered adequate by EPA?"

As required, Piel's Brothers has taken steps to reduce its waste discharge through in-plant modifications. Moreover, the company is proceeding with the design of the pretreatment facilities needed before connection to the planned municipal system. At present, the company is complying with the program developed as a result of the 180-day proceedings. Since connection to the City system is the most desirable treatment process in this case, our primary interest is focused on the City of Chicopee toward assuring timely completion of the required facilities.

3. "The City of Pepperell, Massachusetts was to have drawn final plans and specifications for its proposed sewage treatment facility by November 30 of last year. Have they complied wtih this directive and, if so, will you please send me a report on those specific arrangements?"

The City of Pepperell did not meet the precise program developed and a recommendation for court action was cleared. While this action was developing the City did take the required action and we have temporarily stayed our court suit. Our Regional Office will monitor progress by Pepperell and advise us promptly should reactivation of our court suit be required.

4. "EPA requested the Santa Fe Land Improvement Company in Kansas City, Kansas to obtain, in writing, a commitment from the city permitting the company to tie into its treatment facilities. Has such a commitment been received? On what date is the connection expected to be made? Does the city's treatment facility fully meet water quality requirements?"

The Santa Fe Land Improvement Company pollution abatement situation has been complicated by recent action on the part of the Company in deeding over its entire sewer system to the City of Kansas City, Kansas. The City of Kansas City, at present, provides primary treatment and is required under Federally approved water quality standards to complete secondary treatment facilities by January 1, 1975. Although the 180-day period for the Santa Fe Land Improvement Company has expired, our Regional staff will continue their negotiations with the Company and the City toward effecting a definite program to provide adequate treatment for Santa Fe's wastes through the Kansas City municipal treatment facility. Our Office of Enforcement and General Counsel will review this situation in four weeks, and you will be advised of further developments.

5. "The Ashland Oil and Refining Company of Kent, Ohio was also to have submitted a schedule. Has your office received notice from this company, if not, when can it be expected?"

Our 180-day notice action involved Ashland Oil at Ashland, Kentucky. A schedule has been developed for Ashland Oil and Refining Company. This schedule, which calls for completion of the recommended waste treatment facilities by November 1, 1974, was submitted as part of Kentucky's amended water quality standards which I formally approved on December 23, 1971.

6. "I understand that samplings will be taken from the Holly Sugar Company in Wyoming during the month of January. I would appreciate receiving, at the earliest possible date, a detailed report of your findings."

Holly Sugar at Torrington, Wyoming, was sampled by our technical staff in Denver on January 6, 7, 8, 9, and 10, 1972. We are informed that the report on the results of this survey is in preparation and will be sent to us shortly. A copy will be forwarded to you as soon as we receive it.

7. "Finally I feel that the brief descriptions in the December status report, relating to the Cleveland suburbs, need considerable clarification and expansion. I would appreciate receiving more detailed analyses of the Cleveland situation before February 10th."

Our Enforcement staff have prepared a detailed report on this situation. This report is enclosed.

Sincerely yours,

WILLIAM D. RUCKELSHAUS,
Administrator.

STAFF REPORT, OFFICE OF ENFORCEMENT AND GENERAL COUNSEL—180-DAY NOTICE ACTION—CLEVELAND, OHIO AND SUBURBAN COMMUNITIES

This report summarizes the situation concerning the 180-day notices issued to 30 Cleveland suburbs on August 9, 1971. Although 31 suburbs discharge to the Cleveland sewerage system, only 30 suburbs were issued notices as part of this action. The 31st, the City of Euclid, was the subject of a separate 180-day notice, issued July 30, 1971, based upon its separate discharge to Lake Erie.

BACKGROUND

On December 9, 1970, a 180-day notice was issued to the City of Cleveland, Ohio, for violation of Federal-State water quality standards for Lake Erie. The violations cited concerned public water supply criteria for bacteria, recreational criteria for bacteria, and the "four freedoms." On January 28, 1971, an informal hearing was held pursuant to the established 180-day notice procedures. After months of negotiations betwen EPA, the City of Cleveland, and the State of Ohio, an agreement was reached. This agreement has not been fully implemented principally as a result of:

1. The lack of approval by the Cleveland City Council of an increase in the sewer rate structure required to implement the plan; and,

2. The lack of an agreement between Cleveland and the 31 suburban communities that are connected to the Cleveland system.

On July 20, 1971, EPA called a meeting in Cleveland to assess the necessity for further direct EPA abatement action in the Cleveland area in order to fully implement the agreement between EPA and Cleveland. It was clear that the plan agreed to by the City of Cleveland and EPA, even though reasonable in terms of dates for compliance and facilities to be built, could not be met unless the City of Cleveland and the suburbs it serves reached an agreement quickly on a plan to pay for the needed improvements. The City of Cleveland and the 31 suburbs (including Euclid) were invited to attend the July meeting, but only 23 of the suburbs attended and of these only nine made any type of statement.

ISSUANCE OF THE 180-DAY NOTICES TO THE SUBURBS

On August 9, 1971, the Administrator issued 180-day notices to the 30 suburban dischargers to the City of Cleveland sewerage system for violation of Federal-State water quality standards; these violations being public water supply criteria for bacteria, recreational criteria for bacteria, and the "four freedoms."

The Lake Erie water quality criteria compliance schedule violations result from the collective discharges by Cleveland and the suburbs through Cleveland's three inadequate treatment plants. The suburbs account for approximately 40 percent of the wastes discharged. Therefore, the suburbs are equally at fault, along with Cleveland, for continuing pollution of Lake Erie and consequently are responsible for doing whatever is necessary in terms of financing and management to see that water quality standards are met.

Prior to the issuance of the 180-day notices to the suburbs, the responsibility and burden for control of pollution in the Cleveland area had essentially been placed on the City of Cleveland alone. The State of Ohio, in April of 1970, imposed a building ban on the City of Cleveland to halt further connections to the sewer system. This ban, which is still in effect, curtailed construction within the central city while the suburbs continued "business as usual."

On September 24, 1971, an informal hearing was held, pursuant to the 180-day notice, between EPA and the 30 suburban dischargers. The State of Ohio and the City of Cleveland also participated. At the hearing all parties emphasized the need for the City and the suburbs to reach an expeditious agreement as to financing and management of the Cleveland Sewerage System. The Board of County Commissioners of Cuyahoga County proposed a program whereby the County would run the system on a county basis. As the hearing progressed, substantial distrust between Cleveland and the suburbs surfaced indicating that voluntary formulation of a regional system would be a most difficult task.

Subsequent to the 180-day notice hearing, contracts were made with the suburbs and the City of Cleveland on a number of occasions by both the EPA Great Lakes Regional Office and the Region's Ohio District Office located in suburban Cleveland. Numerous attempts were made to schedule follow-up meetings, but no formal meeting was ever held. At that point, meaningful negotiations toward a regional system had virtually reached a standstill.

ACTIONS IN THE CUYAHOGA COUNTY COURT OF COMMON PLEAS

On December 1, 1971, a judicial hearing in the on-going case of the Water Pollution Control Board of the State of Ohio v. the City of Cleveland was held in Cleveland. The action had been initiated by the Ohio Water Pollution Board in 1970 to enforce the building ban which it had placed on Cleveland in April of 1970. At the 1971 hearing, the court heard testimony from both parties as to the violations by Cleveland of the Board's order and the pollution problem in general in the Cleveland area. The court, at the conclusion of testimony, granted Cleveland's motion to implead the suburban dischargers as third party defendants. A new hearing date of January 18, 1972, was set for Cleveland's motion to extend the building ban to the suburbs. EPA made a formal presentation as a court witness, urging extension of the building ban to all suburban dischargers as a form of additional pressure to break the impasse.

On December 7, 1971, there was also a hearing in a separate local case before the Cuyahoga County Court of Common Pleas concerning sewer rates being charged to certain suburbs by the City of Cleveland. The court issued an order, whereby the City of Cleveland could collect 95 percent of the sewer rate charged from East Cleveland and Cleveland Heights, both of which had been withholding payments, but little was accomplished by this decision as far as providing sufficient long-term rate structures to implement the massive building requirements to abate existing pollution. However, a surprising development at this hearing was the merging of the rate case with the Ohio Water Pollution Control Board's building ban case and a court order that directed:

"On or before January 11, 1972, all parties (Cleveland and the 31 suburbs) will formulate and file with the court a plan, acceptable to themselves, for a metropolitan sewer system."

A hearing was set for January 18, 1972, to discuss the plans submitted by the parties, in addition to considering Cleveland's motion to extend the building ban to the suburbs.

At the January 18, 1972, hearing both Cleveland and the suburbs submitted their respective metropolitan or regional treatment system proposals. The plans, as submitted, were very far apart and the court ordered the parties to meet on January 26, 1972, to discuss the differences in their proposals. The three main differences centered around control of the system, plant operation, and rate structure. On the issue of the building ban, the court granted Cleveland's motion for a temporary restraining order extending the ban to the suburbs for 14 days (until midnight February 2, 1972) without a formal hearing on the merits.

On February 1, 1972, the three major areas of difference were discussed in open court by the parties. The temporary restraining order was extended another 14 days without a formal hearing. The suburbs amended their pleading to include a counterclaim for $100 million against the City of Cleveland for violation of their agreement to adequately treat the suburban wastes. The court severed this counterclaim from the rest of the trial. The judge then met in chambers with both Cleveland and the suburbs to discuss going to trial on the merits. The parties agreed to a stipulation that sufficient evidence had been received as to the existence of pollution upon which the court should grant relief in accordance with the court's plenary equity powers. The parties will attend a hearing on February 15, 1972, with reference to the type, makeup, and conditions that should be established in creating a metropolitan Cleveland sewer district. The court also severed the rate issue from the case by appointing a referee who will be responsible for establishing fair and equitable rates to enable a metropolitan district to function properly.

FURTHER ACTION

It is anticipated that following the February 15, 1972, hearing, the court will establish a regional system if the parties involved cannot agree to one. In addition, the State of Ohio's Attorney General, representing the Ohio Water Pollution Control Board has stated that the Board does not wish the building ban to extend into the spring building season. The Board could invoke a new State law enabling the State to take over in situations such as this. The State could then plan, control, and operate the system, imposing the rate structure necessary to enable it to function.

JANUARY 18, 1972.

Mr. WILLIAM D. RUCKELSHAUS,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. RUCKELSHAUS: According to the EPA's status report of December 7, 1971, a number of the 180-day notices issued for violation of Federal-State water quality standards remain in limbo. I am particularly concerned that several municipalities and companies have failed to take effective action toward compliance, thereby challenging the present enforcement system.

For example, Chicopee, Massachusetts has failed to take action since the issuance of a notice which expired on November 9, 1971. When will Court action be brought against the city?

EPA stated that the Piels Bros. Inc. of Chicopee, Massachusetts has presented a program which would send its wastes into the Chicopee treatment system. Since Chicopee, Massachusetts is not complying with the EPA's notification, how is it possible that the Piels Bros. Inc. proposed program can be considered adequate by EPA?

The city of Pepperell, Massachusetts was to have drawn final plans and specifications for its proposed sewage treatment facility by November 30 of last year. Have they complied with this directive and, if so, will you please send me a report on those specific arrangements?

EPA requested the Santa Fe Land Improvement Company in Kansas City, Kansas to obtain, in writing, a commitment from the city permitting the company to tie into its treatment facilities. Has such a commitment been received? On what date is the connection expected to be made? Does the city's treatment facility fully meet water quality requirements?

The Ashland Oil and Refining Company of Kent, Ohio was also to have submitted a schedule. Has your office received notice from this company and, if not, when can it be expected?

I understand that samplings will be taken from the Holly Sugar Company in Wyoming during the month of January. I would appreciate receiving, at the earliest possible date, a detailed report of your findings.

Finally, I feel that the brief descriptions in the December status report, relating to the Cleveland suburbs need considerable clarification and expansion. I would appreciate receiving more detailed analyses of the Cleveland situation before February 10th.

With every good wish,

Sincerely yours,

JOHN D. DINGELL,
Member of House Committee on Merchant Marine and Fisheries.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., December 17, 1971.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR MR. DINGELL: In further response to your letter of September 10, 1971, we are enclosing the current status report on 180-day notice actions, as promised in our letter of October 6, 1971.

Sincerely yours,

HOWARD A. COHEN,
Director, Office of Legislation.

STATUS 180-DAY NOTICE ACTIONS

(December 1970 to December 1971)

1. City of Atlanta, Georgia (Chattahoochee River).

Notice issued on December 9, 1970.

Informal hearing held on January 12, 1971.

At the informal hearing, the Mayor of Atlanta agreed to propose a detailed plan to the City's Board of Aldermen at the Board's January 18, 1971, meeting, for funding the necessary treatment facilities so that a detailed construction schedule could be developed. Action was promptly initiated by the City to finance and schedule the construction of remedial facilities. On June 11, 1971, the Administrator approved the time schedule, agreed to by the City of Atlanta, for construction of the necessary facilities. Atlanta is currently on schedule and construction is underway. Surveillance of the progress of construction will be maintained.

2. City of Detroit, Michigan (Detroit River-Lake Erie).

Notice issued on December 9, 1970.

Informal hearing held on January 25, 1971.

Agreement among the EPA, the City of Detroit, and the State of Michigan was reached at the informal hearing. Specifics of the agreement are embodied in a Final Order of Determination issued to Detroit by the Michigan Water Resources Commission on May 21, 1971. Construction is currently underway. Surveillance of progress of the construction will be maintained. No further enforcement action is recommended at this time.

3. City of Cleveland, Ohio (Lake Erie).

Notice issued on December 9, 1970.

Informal hearing held on January 28, 1971.

The informal hearing resulted in an approval plan of implementation between the Environmental Protection Agency and the City. However, it was found necessary to issue separate 180-day notices to Cleveland's suburban communities in order to involve them directly in the proposed implementation plan. (See Nos. 19 to 48.)

The agreement which was reached at the informal hearing established the need for three things:

(1) A general expansion of facilities

(2) Year-round disinfection

(3) An increase in the level of treatment

No further enforcement action is recommended at this time.

4. Bemis Company Inc. (Nashua River) East Pepperell, Massachusetts.

Notice issued on April 6, 1971.

Informal hearing held on June 3, 1971.

Bemis Company is planning to tie into the Town of Pepperell's proposed sewage treatment plant for treatment of the Company's domestic wastes. However, the Town is not proceeding in an expeditious manner to complete the municipal system. Bemis has received a permit for disposal of its industrial wastes (paste and ink waste washup) from the Pepperell Board of Health, pursuant to the Company's installation of a new pit with polyethylene lining to take industrial waste and dye washup and paste. Satisfactory progress is being made, and no further enforcement action is recommended at this time.

5. Pepperell Paper Company (Nashua River) (formerly St. Regis Paper Company).

Notice issued on April 6, 1971.

Informal hearing held on June 3, 1971.

On July 30, 1971, Pepperell submitted a preliminary engineering report. Final plans and specifications for the required wastewater treatment facilities have also been submitted. Pepperell is making many in-house changes including embarking on a program to recycle 100% of its wood fiber wastes, which can be reused as inexpensive container stuffing or remade into cardboard. Satisfactory progress is being made. No further enforcement action is recommended at this time.

6. Pepperell, Massachusetts (Nashua River).

Noticed issued on April 6, 1971.

Informal hearing held on June 3, 1971.

At a special meeting held on June 14, 1971, the Town voted to raise and appropriate the sum of $1,800,000 to construct a sewage treatment facility. Surveyor maps detailing meets and bounds of the proposed sewage treatment plant site have been forwarded to the Massachusetts Division of Water Pollution Control. The Town has not yet selected an engineering firm to draw final plans and specifications, which was required by November 30, 1971.

7. Chicopee, Massachusetts (Connecticut River).

Notice issued on April 6, 1971.

Informal hearing held on June 2, 1971.

Within the 180-day period, Chicopee has failed to take effective action toward compliance with State and Federal water quality standards.

8. Piels Bros, Inc. (Connecticut River).

Notice issued on April 6, 1971.

Informal hearing held on June 2, 1971.

Piels Bros., Inc., has taken steps to remove 1,800 pounds per week of hops; 36,000 pounds per week of yeast solids; and 2,100 pounds per week of labels from the bottle washing operation. In addition, piping changes to remove stormwater from the industrial waste system are in progress. On July 2, 1971, Piels Bros, entered into an agreement with the City of Chicopee under which the City agreed to accept and treat the industrial wastes from Piels Bros., Inc. No further enforcement action is recommended at this time.

9. Reserve Mining Company (Lake Superior) Silver Bay, Minnesota.

Notice issued on April 28, 1971.

Informal hearing held June 3, 1971.

Reserve Mining has been informed that if it does not develop a satisfactory plan to dispose of 67,000 tons per day of taconite tailings now being discharged untreated into Lake Superior, Federal court action will be brought against the Company. Reserve Mining engaged the services of Roy F. Weston, Inc., to develop a concept evaluation of feasible treatment and disposal alternatives. The Weston report has been issued and is now under review. The Environmental Protection Agency is preparing for possible litigation.

10. Santa Fe Land Improvement Company (Kansas River) Kansas City, Kansas.

Notice issued on June 1, 1971.

Informal hearing held on July 13, 1971.

Engineering studies have been completed in accordance with a resolution passed by the City of Kansas City, Kansas. At an informal meeting, held on November 23, 1971, with EPA and Company representatives, the Company presented its accomplishments to date. The Company is presently completing work on its interim treatment system in order to tie into the Kansas City system. EPA has requested the Company to obtain, in writing, a commitment from the City with regard to the date that the connection may be expected. Satisfactory progress is being made.

11. Holly Sugar Company (North Platte River) Torrington, Wyoming.

Notice issued on June 15, 1971.

Informal hearing held on July 21, 1971.

Holly Sugar has completed its interim treatment facility. The Company has complied with all requirements and the implementation schedule which were agreed upon at the informal hearing. Sampling of the Company's outfall will be performed by EPA in January. Satisfactory progress is being made. No further enforcement action is recommended at this time.

12. Ashland Oil and Refining Company (Big Sandy River) Ashland, Kentucky.

Notice issued on June 22, 1971.

Informal hearing held on August 6, 1971.

A follow-up meeting was held on September 22, 1971, at which a schedule was agreed upon. This proposed schedule will be submitted to the Administrator for his approval in the near future.

13. Stamford, Connecticut (Long Island Sound).

Notice issued on July 16, 1971.

Informal hearing held on September 3, 1971.

Stamford has signed an agreement to let the Town of Darien tie into its proposed treatment plant. Satisfactory progress is being made. No further enforcement action is recommended at this time.

14. Darien Connecticut (Long Island Sound).

Notice issued on July 16, 1971.

Informal hearing held on September 3, 1971.

The Town of Darien is planning to tie into the Town of Stamford's sewage treatment plant. Satisfactory progress is being made. No further enforcement action is recommended at this time.

15. Bogalusa, Louisiana (Pearl River).

Notice issued on July 21, 1971.

Informal hearing held on September 9, 1971.

The principal impediment to a successful abatement program by the City has been the inability to pass a bond referendum. This factor controlled the development of an implementation plan at the informal hearing and is the key to Bogalusa's remedial program. Based on testimony at the hearing, it appeared reasonable to rely on Mayor Rawls's judgment that the referendum be by special election in February, as it was believed that the bond referendum vote would be lost or overshadowed in the general election held in November 1971.

The implementation schedule agreed upon at the hearing is as follows:

Bond referendum election, February 1972.

Complete plans and specifications, December 1972.

Advertise for bids, January 1973.

Award contract, February 1973.

Complete construction, August 1974.

16. Eastlake, Ohio (Lake Erie).

Notice issued on July 30, 1971.

Informal hearing held on September 9, 1971.

An additonal follow-up meeting was held on September 27, 1971. Although this is still under negotiation, it is believed that Eastlake is making satisfactory progress toward reaching an agreement.

17. Willoughby, Ohio (Lake Erie).

Notice issued on July 30, 1971.

Informal hearing held on September 9, 1971.

An additonal follow-up meeting was held on September 27, 1971. Although this is still under negotiation, it is believed that Willoughby is making satisfactory progress toward reaching an agreement.

18. Euclid, Ohio (Lake Erie).

Notice issued on July 30, 1971.

Informal hearing held on September 9, 1971.

Additional meetings were held on September 27, 1971, and October 26, 1971, and were attended by representatives of Euclid, the State of Ohio, and the Environmental Protection Agency. Resolution of the problem is still under negotiation, pending approval by City, State, and EPA.

19. Beachwood, Ohio.
20. Bratenahl, Ohio.
21. Cleveland Heights, Ohio.
22. East Cleveland, Ohio.
23. Gates Mills, Ohio.
24. Lyndhurst, Ohio.
25. Mayfield Heights, Ohio.
26. Richmond Heights, Ohio.
27. South Euclid, Ohio.
28. Lakewood, Ohio.
29. Brooklyn, Ohio.
30. Brook Park, Ohio.
31. Garfield Heights, Ohio.
32. Maple Heights, Ohio.
33. Newburgh Heights, Ohio.
34. Highland Heights, Ohio.
35. Mayfield Village, Ohio.
36. Shaker Heights, Ohio.
37. University Heights, Ohio.
38. Bedford Heights, Ohio.
39. Brooklyn Heights, Ohio.
40. Cuyahoga Heights, Ohio.
41. Linndale, Ohio.
42. Middleburg Heights, Ohio.
43. North Randall, Ohio.
44. Parma, Ohio.
45. Seven Hills, Ohio.
46. Parma Heights, Ohio.
47. Warrensville Heights, Ohio.
48. Warrensville Township, Ohio.

Notices issued on August 10, 1971.

Informal hearings held on September 23–24, 1971.

Negotiations are continuing. Delay is due to recent elections of Mayors.

49. Franklin, New Hampshire (Winnepesaukee and Merrimack Rivers).

Notice issued on August 20, 1971.

Informal hearing held on October 19, 1971.

A regional treatment plan is under consideration which may include the City of Franklin. A meeting will be held in January, attended by representatives of the City, the State, and EPA, at which the regional treatment plan will be discussed. Funds and land have been appropriated by Franklin to be used in the event that the City is not included in the regional plan.

50. Vincennes, Indiana (Wabash River).

Notice issued on September 3, 1971.

Informal hearing held on October 8, 1971.

An additional meeting was held on November 4, 1971. Negotiations are continuing.

51. Superior, Wisconsin (Lake Superior).

Notice issued on September 30, 1971.

Informal hearing held on November 17, 1971.

A follow-up meeting was held on November 29, 1971. Negotiations are continuing.

52. Superior Fiber Products (Lake Superior) Superior, Wisconsin.

Notice issued on September 30, 1971.

Informal hearing held on November 17, 1971.

A follow-up meeting was held on November 29, 1971. Negotiations are continuing.

53. Hurley, Wisconsin (Montreal River).

Notice issued on September 30, 1971.

Informal hearing held on November 18, 1971.

A follow-up meeting was held on November 29, 1971. Negotiations are continuing.

54. Hammond Sanitary District (Lake Michigan).

Notices issued on October 12, 1971.

Informal hearing held on December 1, 1971.

Another meeting is tentatively scheduled for the middle of December.

55. Whiting, Indiana (Lake Michigan).

Notice issued on October 12, 1971.

Informal hearing held on December 1, 1971.

Another meeting is tentatively scheduled for the middle of December.

56. Dunkirk, New York (Lake Erie).

Notice issued on October 22, 1971.

Informal hearing held on December 1, 1971.

At the informal hearing, information was developed on which EPA will be able to base a decision on a new schedule for construction of the required secondary treatment facilities. Dunkirk is to present the new schedule at a meeting to be held on January 27, 1972.

57. Covington, Indiana (Wabash River).

Notice issued on November 3, 1971.

Informal hearing scheduled for January 5, 1972.

58. Montezuma, Indiana (Wabash River).

Notice issued on November 3, 1971.

Informal hearing scheduled for January 5, 1972.

59. Logansport, Indiana (Wabash River).

Notice issued on November 3, 1971.

Informal hearing scheduled for December 14, 1971.

60. Tahoe-Douglas District (Lake Tahoe Basin) Zephyr Cove, Nevada.

Notice issued on November 9, 1971.

Informal hearing date has not yet been established.

61. Kingsbury General Improvement District (Lake Tahoe Basin) Stateline, Nevada.

Notice issued on November 9, 1971.

Informal hearing date has not yet been established.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., October 6, 1971.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR MR. DINGELL: Administrator Ruckelshaus has asked me to reply to your letter of September 10, 1971, requesting a report outlining the cause for each of the 180-day notices issued to municipalities and industries for violation of Federal-State water quality standards, and the current status of each.

Enclosed is a listing of the 180-day notices issued to date, together with copies of the individual notices of violation.

A status report is in the process of being prepared at this time, and will be forwarded to you as soon as it is completed.

Sincerely yours,
GRAHAM W. MCGOWAN,
Director of Congressional Affairs.

ENFORCEMENT WATER QUALITY STANDARDS

(180-Day Notice of Water Quality Standards Violation)

Under the provisions of section 10(c)(5) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 *et seq.*), notices have been issued by the Administrator of the Environmental Protection Agency to the following sources of waste that an abatement action could be brought by the United States unless action were taken to resolve the problem within 180 days:

On December 9, 1970, the Administrator of the Environmental Protection Agency issued 180-day notices of water quality standards violations as follows:

1. City of Atlanta, Georgia (Chattahoochee River) Informal hearing held January 12, 1971.

2. City of Cleveland, Ohio (Lake Erie) Informal hearing held January 28, 1971.

3. City of Detroit, Michigan (Detroit River-Lake Erie) Informal hearing held January 25, 1971.

On April 6, 1971, the Administrator of the Environmental Protection Agency issued 180-day notices of water quality standards violations as follows:

1. Bemis Company, Inc., East Pepperell, Massachusetts (Nashua River) Informal hearing held June 3, 1971.

2. St. Regis Paper Company, East Pepperell, Mass. (Nashua River) (New owners—James River Paper Company, Richmond, Virginia) Informal hearing held June 3, 1971.

3. City of Pepperell, Massachusetts (Nashua River) Informal hearing held June 3, 1971.

4. City of Chicopee, Massachusetts (Connecticut River) Informal hearing held June 2, 1971.

5. Piels Bros., Inc., Chicopee, Massachusetts (Connecticut River) Informal hearing held June 2, 1971.

On April 28, 1971, the Administrator issued a 180-day notice of water quality standards violation to: Reserve Mining Company, Silver Bay, Minnesota. Informal hearing held June 3, 1971.

On June 1, 1971, the Administrator issued a 180-day notice to: Santa Fe Land Improvement Company, Kansas City, Kansas. The informal hearing was held on July 13, 1971, at Kansas City, Kansas.

On June 15, 1971, the Administrator issued a 180-day notice to: Holly Sugar Company, Torrington, Wyoming. Informal hearing held on July 21, 1971.

On June 22, 1971, the Administrator issued a 180-day notice to: Ashland Oil and Refining Company, Ashland, Kentucky. Informal hearing held on August 6, 1971.

On July 16, 1971, the Administrator issued 180-day notices to: Stamford, Connecticut, informal hearing held on September 3, 1971, and Darien, Connecticut, informal hearing held on September 3, 1971.

On July 21, 1971, the Administrator issued a 180-day notice to: Bogalusa, Louisiana. Informal hearing held on September 9, 1971.

On July 30, 1971, the Administrator issued 180-day notices to: Eastlake, Ohio, informal hearing held on September 9, 1971; and Willoughby, Ohio, informal hearing held on September 9, 1971, one hearing. Euclid, Ohio, informal hearing held on September 9, 1971.

On August 10, 1971, the Administrator issued 180-day notices of the following suburban communities of Cleveland, Ohio:

1. Beachwood, Ohio.
2. Bratenahl, Ohio.
3. Cleveland Heights, Ohio.
4. East Cleveland, Ohio.
5. Gates Mills, Ohio.
6. Lyndhurst, Ohio.
7. Mayfield Heights, Ohio.
8. Richmond Heights, Ohio.
9. South Euclid, Ohio.
10. Lakewood, Ohio.
11. Brooklyn, Ohio.
12. Brook Park, Ohio.
13. Garfield Heights, Ohio.
14. Maple Heights, Ohio.
15. Newburgh Heights, Ohio.
16. Highland Heights, Ohio.
17. Mayfield Village, Ohio.
18. Shaker Heights, Ohio.
19. University Heights, Ohio.
20. Bedford Heights, Ohio.
21. Brooklyn Heights, Ohio.
22. Cuyahoga Heights, Ohio.
23. Linndale, Ohio.
24. Middleburg Heights, Dhio.
25. North Randall, Ohio.
26. Parma, Ohio.
27. Seven Hills, Ohio.
28. Parma Heights, Ohio.
29. Warrensville Heights, Ohio.
30. Warrensville Township, Ohio.

On August 20, 1971, the Administrator issued a 180-day notice of water quality standards violation to: Franklin, New Hampshire, (Winnepesaukee River-Merrimack River).

DO DOCTORS CHARGE TOO MUCH?

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FISHER. Mr. Speaker, we are all naturally inclined to think that doctors charge too much. The same can be said of those who repair TV sets, fix the plumbing, overhaul your automobile, or who engage in other specialties. An electrical repairman is ordinarily well paid. No doubt some of them gouge the public, and I feel sure the same can be said of some doctors.

But, at the same time, we are talking about the exception and not the rule. In an interesting article which appeared in the spring issue of the American Mercury, Dr. Irwin Ross puts doctors' charges in proper perspective. Here is one paragraph:

> Most people do not realize that less than one-third of the total amount of money spent for medical care in the United States goes to doctors. Out of every hundred dollars spent by the average American family, $4.35 goes for medical care; out of this the physician receives only $1.22, the hospital gets a somewhat smaller share, and the rest of the money goes for drugs, dentists, nurses, etc.

One thing we do know: The medical profession in this country has done more to advance medical science, prolong life, and alleviate suffering than has been the case in most of the nations of the world. Let us protect this advantage by repudiating moves to socialize medicine and thereby contribute to a deterioration of the quality of medical care in our society.

Under leave to extend my remarks I include the article written by Dr. Ross. It follows:

DO DOCTORS CHARGE TOO MUCH?

(By Irwin Ross, Ph. D.)

SOME FACTS AND FIGURES BEHIND YOUR DOCTOR'S BILL

Recently you have been very ill, or just moderately ill, or perhaps your doctor has used his time and skill to determine that you were not ill at all. You are grateful—that is, until you receive his bill. Then, quite often, resentment takes the place of gratitude.

The bill never seems to break down into $10 or $20 or $30 a visit. Always there appears to have been something added, and you are convinced you have been overcharged. Why is it that the setting of equitable fees seems to be so difficult?

One reason is that the doctor sells his services, not a product. Even when the care he renders the patient is lifesaving, some people feel that he charges too much. These people are becoming resentful and very vocal about it.

With their help, the American Medical Association has publicly denounced the few unscrupulous doctors who have been sending big bills for ordinary services, or who have refused to perform operations unless large sums were paid in advance, or who would not make house calls unless assured of immediate cash payment. But what about the charges made by the great majority of doctors? Are those too high?

To get a better understanding of the economic problems involved, consider Mrs. Smith's recent difficulty. Mrs. Smith, a young newlywed, was excited and pleased when her husband said he was bringing his boss home for dinner. She knew that if the boss liked her, and the way she ran the home, he husband might get a raise.

She was happily preparing dinner when suddenly the kitchen sink plugged up. She called Joe, the plumber. Joe worked briskly and efficiently, but it took almost two hours to clear the pipes. He charged $39.80 for the job—$30 of this for labor.

Mrs. Smith cheerfully paid him and her evening was a success. But an older person might have remembered that in 1955, the cost of labor would probably have been only $7 for the same job—and materials would have cost less, also.

ALLOWANCE FOR INFLATION

Most people, like Mrs. Smith, seem to feel that because of inflation, it is proper for workers to be paid much more than they were ten years ago. But strangely enough, when it comes to doctors' bills, they have a different attitude.

Let me tell you about my friend, Bob, a businessman of 42. Not long ago he had to attend a management meeting in New York City. At the banquet that followed, he ate too much lobster. At 3:00 a.m., he was awakened by a frightful itching.

Looking in the mirror, he was horrified to see his face disfigured by a puffy, red swelling. Promptly he called his doctor. Half an hour later, the drowsy-voiced doctor arrived at his house and told him: "You have a case of giant hives. Probably the lobster you ate."

FAST RELIEF

Some injections and a few pills gave Bob quick relief. Soon after the doctor left, he fell asleep and next morning felt fine and was able to go to work.

A month later, Bob phoned me. "I've gotten a bill from that doctor—it's robbery!"

When Bob quieted down, I learned that the bill was for $30. For this, the physician had seen him in the middle of the night and spent half an hour administering medical care.

I asked: "How much do you think he should have charged?"

Bob thought a moment. "The last time I had to call a doctor at night, he only charged $10.00."

It turned out that this visit was made in 1952, the year you could get a jumbo banana split for 30 cents, send a postcard for a penny, or buy a brand new Ford for $1,400.

A doctor friend of mine in his early days of practice decided to allow each hospitalized patient to set the price for services rendered. This seemed like a fair and painless method of handling the fee problem.

Among the first 20 patients were a secretary, a millionaire, several well-to-do businessmen a successful lawyer, several housewives, a chemist, a toolmaker and an engineer. Out of these patients, one paid about three times the average fee for services received. Two paid just the average. The remainder paid some small sum.

When his accountant tallied the results, he found the doctor had been paid an average of $1.75 for each hour of actual service rendered. From that time onward, the doctor set his fees according to services rendered, the nature of the case and the patient's ability to pay.

Patients generally get the type of medical care they want—and at a price which nearly always is fair. Some patients want care only when they have a specific illness; others want to see their doctor periodically; still others require more or less continuous care.

For more than 20 years, statistics show that the average sum spent for medical care amounts to only a little more than four per cent of total consumer expenses. This seems to be a small figure to pay for health. Furthermore, the United States Bureau of Labor Statistics reports that, while the cost of living for the average American family has risen 92% since after World War II, physicians' fees have increased by only 61%.

Most people do not realize that less than one-third of the total amount of money spent for medical care in the United States goes to doctors. Out of every hundred dollars spent by the average American family, $4.35 goes for medical care; out of this the physician receives only $1.22, the hospital gets a somewhat smaller share, and the rest of the money goes for drugs, dentists, nurses, etc.

Moreover, the latest Department of Commerce statistics show that the nation's tobacco and alcohol bill is more than five times as high as its collective doctor bill! And every year the public pays more for television, automobiles and musical instruments than they do for doctors' services.

UNEXPECTED EXPENSE

But statistics fail to tell the whole story. Medical expenses tend to pile up unexpectedly during certain periods of life. It is during these times that the doctor is most likely to be accused of charging excessively high fees.

Young couples getting started in life often have heavy medical expenses as a result of the birth of children and subsequent childhood illnesses. Accidents or major illnesses may create severe economic problems, especially when these affect the bread-winner. Again, in the older years, illness can cause serious trouble.

The principal way of tiding oneself over such trying periods is by developing a special item in the budget for sickness. This alone, however, is likely to be inadequate, especially when serious illness strikes. Additional help is obtained through carrying insurance. In extreme need the help of private charities or governmental agencies may be needed.

NOT IN THE BUDGET

Few people today budget for medical expenses. Even when this item does occur, it is at the very bottom of a heavy list of "must"—which includes a new car, vacation, entertainment.

Most people believe that doctors are well-to-do and keep all the money they take in. Few realize that a doctor spends 40 per cent of his gross income for expenses in connection with his practice. The mean net income for doctors runs around $35,510 a year. To earn this, the average doctor works more than 60 hours a week. His net income per hour of work averages about $7.50. Surely this is not overpayment for his services when you consider the importance of his work.

THE DOCTOR'S FINANCES

A doctor has financial problems preculiar to his profession. He rarely begins practicing before 28, by which time he has spent nine or more years preparing for his carrer. During these years he has usually gone into debt. When he starts practice, he goes further into debt to finance the opening and maintenance of his office. Then it usually takes him several years to build up his practice so that he reaches the financial break-even point.

But the doctor's real income is even less than it appears. He is obliged to maintain a high standard of living in order to appear successful. He has to pay for his continuing post-graduate medical education, which does not increase his earning ability but merely improves the efficiency of the services he renders you.

If he gets sick, his practice ceases, as does most of his income. Furthermore, there is no such thing as a paid vacation for him. If he does take a much-needed holiday, not only does his income cease but he may even lose patients.

Despite these special financial problems, most doctors try to keep their fees low, even though by so doing they automatically limit their earning capacity. For example, several years ago in various localities medical societies tried to standardize charges for various services. On the surface, this seemed like a good thing. But unfortunately there are no two patients who have exactly the same type of illness and need exactly the same type of care.

Ideally, each patient must be treated as an individual case. But the fixed-fee system means that if a doctor is to earn an average living, he cannot afford to give his patients more than a rationed amount of time. This puts a premium on seeing the greatest number of patients in the shortest period. As a result of doctor and patient dissatisfaction with this method, some fixed-fee schemes have already been modified or discarded.

FEES ARE SET ARBITRARILY

The most serious problems in fee-setting are faced by surgeons. Most believe the patient should pay according to his ability to do so, the complexity of the operation and the amount of care given. They set the fees arbitrarily.

This means that one patient may pay $200 for a given surgical operation, whereas another may pay $1,000. Wealthy patients object to this arrangement and feel that they are being unduly penalized.

The charges of specialists are generally higher than non-specialists, but even within these categories, some doctors charge more than others for approximately the same services. Those physicians who develop the highest degrees of skill, the best professional reputations, do charge more. This results from the workings of the law of supply and demand. Medicine is an intensely competitive profession in which doctors try to excel in accomplishments to reap honors and financial rewards. This is true even though financial considerations are always secondary to the satisfactions a doctor gets from practicing his profession.

If one takes away the realistic rewards for superiority and substitutes the fixed-fee system, one reverts to the type of backsliding which has overtaken many physicians who, in England, participate in nationalized medicine. Whenever the law puts fetters on medicine, prescribing how it should be practiced, without taking into consideration what is really best for patients and doctors alike, medicine develops prison-pallor.

FACTORS IN ESTIMATING FEES

Doctors usually base their fees on their own estimate of the skill they have, the time they must spend with the patient, their office expenses, the customary charges made for such services in their locality, and the patient's ability to pay. Doctors have always scaled down fees to fit the economic status of the patient, and permitted deferred payments. But, always, the doctor has contributed a considerable amount of his own time to the care of many patients who pay only token fees, or no fees at all.

Yes, some complaints about overcharges are valid. But these are rare, and organized medicine is attempting to reduce even these to a minimum.

The best system for setting charges is, first, where the doctor places some realistic evaluation on his services. Then, if necessary, the fee may have to be adjusted to suit the economic needs of the patient. This requires that the patient ask his doctor to discuss fees frankly.

On his side, the patient will divulge the special reasons why the fee should be modified. There is no reason why the doctor should make all the economic sacrifices. Often, to pay for necessary care, a patient may have to forego some luxuries. Or the patient may have to recognize that he must carefully budget for illness as well as health.

To receive the most from your medical care, you must have faith in your doctor, believing that he will not only give you the best service he can, but that he will also charge a fair fee. Likewise, the doctor must have faith that you will follow his medical advice and also recompense him fairly for the services he has rendered.

When I think of what doctors can do for patients today that couldn't be done ten or 15 years ago, I am convinced that the costs of medical care are low. For example, many dangerous infections which formerly created prolonged illnesses requiring hospitalization and nursing care, are now tamed in a few days at small expense with powerful drugs. Even when complicated surgical procedures are required, the average stay in the hospital is shorter and the patient's period of invalidism is reduced.

Do doctors charge too much? My answer is this: dollar for dollar, the price you pay your doctor for medical care is not out of line with the price you pay for everything else in the world today.

ASPIN SUES PENTAGON

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday March 29, 1972

Mr. ASPIN. Mr. Speaker, yesterday I filed suit in Federal district court in the District of Columbia in order to force the Army to publicly release its investigation of the Mylai massacre. I believe that the Pentagon is guilty of covering up the criminal conspiracy on the part of senior American officials in the aftermath of the Mylai massacre.

I am filing this action under the Freedom of Information Act which requires all Government agencies to provide documents sought by private citizens except in special circumstances such as when the national security is involved. My distinguished colleague, the gentleman from New York (Mr. STRATTON) has written to the Pentagon asking for release of the report. The Army did not even have the courtesy to formally answer his request. Members of the press have asked the Pentagon to release the report. The Department of Defense has consistently refused to make this document public. The Pentagon's adamant refusal to release the report only raises new doubts about the extent of the brutal massacre and the subsequent coverup by senior American officials.

It is my hope that the filing of this suit and the eventual release of the report will stimulate debate on how effective our system of military justice has been. The Peers Commission report also makes a series of recommendations for improvement in the system of military justice and education of our troops in their rights and obligations under the military code of justice and international law. The Army's implementation of these recommendations should be scrutinized.

The most distressing aspect of this entire tragic chapter in the history of the Vietnam war is that the Pentagon is covering up its own investigation which first unearthed the initial conspiracy guide of the truth about Mylai. The military is guilty of a double coverup—first with the massacre and now with the investigation.

It is my belief that as a Member of Congress and a private citizen, I have a right to know why 25 men were charged with criminal offenses and only one man convicted. Surely the American people have the same right to know the truth about the aftermath of the Mylai massacre.

Specifically I am requesting the release of the Peers Commission report chaired by Lt. Gen. William Peers that investigated the initial investigation of the Mylai massacre. The aftermath of this horrible incident has been the indictment of 25 American soldiers including two generals but the result has been a conviction of only one man, Lt. William Calley.

My suit names Secretary of Defense, Melvin Laird, and Army Secretary, Robert Froehlke, as defendants. Under the Freedom of Information Act the burden of proof is on the Pentagon to show why the report should be withheld. Thus my suit requests an injunction against Laird and Froehlke requiring them to cease from withholding the document.

Previously the Pentagon has refused to release the report contending that since the Calley case was on appeal, the release of the report might prejudice the court. However, all the relevant portions of the Peers Commission report have been made available to both the prosecution and defendants in the Calley case. Furthermore, normally on appeal only points of law and matters of procedure are open for consideration rather than the introduction of new evidence.

The Pentagon also asserts that the Peers Commission report is an internal memorandum and a preliminary investigation and thus is outside the provisions of the Freedom of Information Act. Strangely enough this internal document was in large part, written by two civilian lawyers brought from outside the Department of Defense to work on the case. In addition, the Peers Commission report functions very much like an indictment in a criminal proceeding that outlines charges against particular individuals and the reasons that those charges have been brought.

Quite frankly, I believe that the Pentagon's excuses are phoney. They are simply afraid of the truth being made public.

I am being represented by public interest lawyer, Benny Kass, who assisted in the drafting of the Freedom of Information Act. Attorney Kass previously represented two Members of Congress, the distinguished gentleman from California (Mr. Moss), and the distinguished gentleman from New York (Mr. REID) who sought release of the Pentagon Papers last June in the Freedom of Information Act action.

My exchange of letters with the Department of Defense and the text of my complaint file in Federal District Court follows:

FEBRUARY 18, 1972.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: More than two and a half years ago the My Lai masacre occurred. The Army commissioned a major investigation of this incident officially designated "Department of the Army Review of the Preliminary Investigation into the My Lai Incident" and commonly referred to as the Peers Commission.

This document is the most comprehensive and authoritative report on the My Lai incident but it has been withheld from the general public. The Army's rationale has been that prosecution recommended by the report has not been completed and that the document was part of an investigation and therefore an internal working document.

I find that rationale unsatisfactory. All of the trials resulting from indictments contained in the Peers Commission Report have been completed and one convicted individual has entered an appeal on points of law and procedure not facts. The Peers Commission Report was not an internal document. Rather its role was similar to that of an indictment handed down by a grand jury.

As a member of Congress who is concerned with the system of military justice I believe I have a right to study this report and transmit its finding to my colleagues and the general public. As a private citizen I also have a right and an obligation to review the report.

I am requesting that you release the Peers Commission Report to me or the general public. This request is made pursuant to the Freedom of Information Act (5 U.S.C. 522) which places the burden of proof for withholding a document upon the administrative authority.

Since I am sure that you are very familiar with this case I expect that you will be able to notify me of your decision and the rationale for such a decision by February 29, 1972.

Sincerely,

LES ASPIN,
Member of Congress.

DEPARTMENT OF THE ARMY,
Washington, D.C., March 1, 1972.

Hon. LES ASPIN,
House of Representatives,
Washington, D.C.

DEAR MR. ASPIN: The Secretary of Defense has asked me to respond to your inquiry of February 18, 1972, in which you request, both as a Member of Congress and as a private citizen, the report of investigation prepared by the Peers Commission.

Last year the entire report was made available to the Armed Services Committee of the House of Representatives. Since you currently serve on that Committee, I would suggest that it would be appropriate for you to direct that part of your request to the leadership of the Committee itself.

Because the Freedom of Information Act, by its own terms, 5 U.S.C. § 552(c), does not apply to the release of information to Congress, I shall assume that your reference to the Act was intended to support your request for release of the report as a private citizen or as a Member of Congress desiring to ". . . transmit its findings to . . . the general public." As a result, your request must be considered in accordance with 5 U.S.C. § 552 and Army Regulation 345–20.

The Freedom of Information Act exempts from mandatory disclosure to the public several statutorily defined and judicially developed categories of information. Among these categories, each of which constitutes a separate exemption, are included several which, in our view, offer valid legal justifications for withholding from mandatory public release portions of the report you have requested. 5 U.S.C. § 552(b) (4), (5), (6), (7).

To the extent that information contained in the report was elicited from sources who were previously assured that confidentiality would be maintained, nondisclosure is authorized under the provisions of 5 U.S.C. § 552(b) (4), which exempts from release information of a privileged or confidential nature.

Moreover, based on all the information obtained, the Peers Commission submitted its findings, recommendations and conclusions to both the Secretary of the Army and the Chief of Staff. Such findings, recommendations, and conclusions are precisely the type of information contained in "intra-agency memorandums," which the fifth exemption to the Act, 5 U.S.C. § 552(b) (5) was designed to protect from public release. Nondisclosure of these matters serves the legitimate purpose of ensuring that agency action is informed by a frank and uninhibited exchange of views among government officials.

Furthermore, much of the testimony obtained by the Commission includes raw and unevaluated allegations, the disclosure of which is likely to constitute, in the terms of the sixth exemption, 5 U.S.C. § 552(b) (6), "a clearly unwarranted invasion of personal privacy."

Finally, the report as a whole may be properly characterized as an investigatory file compiled for law enforcement purposes, which would be exempt from mandatory release under 5 U.S.C. § 552(b) (7). As you may know, judicial proceedings in one case are still pending, and a number of administrative actions are also presently unresolved. With respect to the on-going judicial proceedings, it is our view that public disclosure of the report would risk jeopardizing a fair and impartial disposition of the case, regardless of the grounds for the defendant's appeal. The report is also a crucial part of the pending administrative actions.

You may rest assured that our decision to withhold the documents in question was reached only after weighing carefully the strong policy reasons for public release which you and other interested persons have expressed from time to time. For the present, however, our position is to withhold the report from the public. As Secretary Froehlke announced at his press conference on January 28, 1972, once the reviews are completed in all actions involved within the scope of the Peers Commission inquiry, the Army will once again consider the issue of release to the public. Until then, I hope you will be satisfied that the Army's position is based upon what we perceive to be the best interests of all concerned. The paramount interest at this time is to maintain an atmosphere in which military justice can be dispensed without prejudice to the rights of those individuals involved.

We appreciate your expression of deep concern in this matter and regret that our reply could not have been more favorable.

Sincerely,

ROBERT W. BERRY,
General Counsel.

[United States District Court for the District of Columbia, Civil Action No. ——]

Les Aspin, 515 Cannon Office Building, Washington, D.C., and William B. Broydrick, 515 Cannon Office Building, Washington, D.C., Plaintiffs v. Department of Defense and Melvin R. Laird, Secretary, Department of Defense, Washington, D.C., and Department of the Army and Robert F. Froebike, Secretary of the Army, Defendants.

COMPLAINT UNDER "FREEDOM OF INFORMATION ACT" FOR INJUNCTION AGAINST WITHOLDING

1. This is an action under the Public Information Section of the Administrative Procedure Act, 5 U.S.C. § 552, popularly known as the Freedom of Information Act of 1966. Plaintiffs sue to obtain an order and judgement of this Court enjoining the Defendants from withholding, and ordering them to produce, a report entitled: "Department of the Army Review of the Preliminary Investigation into the MyLai Incident", more commonly referred to as the "Peers Commission Report".

2. Plaintiff Aspin is a member of Congress, a citizen of the United States and a resident of the State of Wisconsin. Plaintiff Broydrick is a citizen of the United States, a resident of the state of New York, and is employed by Plaintiff Aspin.

3. Defendants Department of Defense and Department of the Army are agencies of the United States. Defendants Melvin R. Laird and Robert F. Froehlke are herein sued in their official capacity, respectively, as the duly appointed and qualified Secretary of the Department of Defense and Secretary of the Department of the Army. Both have their official office in Washington, D.C. Under and by virtue of the statutes of the United States. Defendants Laird and Froehlke are responsible for the proper execution and administration of all laws administered by their respective Departments. Furthermore, both Defendants Laird and Froehlke have authority to make rules and regulations necessary and proper to carry out the laws administered by the Department of Defense, the Department of the Army and the constituent agencies.

4. Jurisdiction is conferred on this Court by the public information section of the Administrative Procedure Act, Public Law 89–487, 80 Stat. 250 (July 4, 1966), as codified, Public Law 90–23, 81 Stat. 54. 5. U.S.C. § 552(a) (3).

5. Venue of this action is based upon 5 U.S.C. § 552(a) (3) and lies within this District because the plaintiffs' principal place of business lies in this District.

6. Public Law 90–23, 81 Stat. 54. 5 U.S.C. § 552(a) (3) provides in pertinent part"

". . . each agency, on request for identifiable records made in accordance with published rule stating the time, place, fees to the extent authorized by statute, and procedure to the followed, shall make the records promptly available to any person."

7. On February 18, 1972, Plaintiff Aspin made written application to Defendant Laird seeking release of the documents in ques-

tion. Said letter included the following request: "Since I am sure that you are very familiar with this case I expect that you will be able to notify me of your decision and the rationale for such a decision by February 29, 1972." (See Plaintiff's Exhibit A).

8. On or about March 6, 1972, Plaintiff Aspin received a letter dated March 1, 1972, from a Mr. Robert W. Berry, General Counsel, Department of the Army. (Plaintiff's Exhibit B). In rejecting Plaintiff Aspin's request for a copy of the Peers Commission report, Mr. Berry stated, *inter alia*:

"You may rest assured that our decision to withhold the documents in question was reached only after weighing carefully the strong policy reasons for public release which you and other interested persons have expressed from time to time. For the present, however, our position is to withhold the report from the public . . . I hope you will be satisfied that the Army's position is based upon what we perceive to be the best interests of all concerned. . . ."

9. Plaintiffs have not received the material requested from Defendants.

10. Plaintiffs have exhausted the administrative remedies by which they could have obtained the withheld reports.

11. Plaintiffs have a right to inspect and copy the requested documents pursuant to 5 U.S.C. § 552(a)(3). Defendants are improperly withholding the material contrary to statute, contrary to the intent and policy of the Freedom of Information Act as expressed by Congress in enacting the law, by the President in approving it, and by the Attorney General's memorandum on the public information section of the Administrative Procedure Act (June, 1967) which advised all government agencies, inter alia, that the policy of the Act required ". . . that disclosure be the general rule, not the exception . . . (and) that there be a change in government policy and attitude." (pp. ii-iv)

12. The public information section of the Administrative Procedure Act, 5 U.S.C. § 552 (a)(3), further provides that in any legal action brought pursuant thereto "the burden is on the agency to sustain its action" in refusing disclosure. Plaintiffs do not believe that Defendants have met this burden, nor have in any way justified their withholding.

13. The public information section of the Administrative Procedure Act, 5 U.S.C. 552 (a)(3) also provides that proceedings under this Act, with certain exceptions, "take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way."

WHEREFORE, Plaintiffs pray that this Court:

(i) issue a preliminary and final injunction directing Defendants to cease from withholding from Plaintiffs the report entitled: "Department of the Army Review of the Preliminary Investigations into the My-lai Incident", commonly referred to as the "Peers Commission Report".

(ii) order Defendants to make available to Plaintiffs, or their designated representative or representatives, for inspection and copy the report in question;

(iii) direct that this cause receive the precedence in hearing and trial and expedited treatment required by statute; and

(iv) for such other and further relief as this Court deems just and proper.

BENNY L. KASS,
Attorney for Plaintiffs.

Dated: April 3, 1972

SENATE—*Wednesday, April 5, 1972*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou Creator Spirit, we thank Thee for the resurrection of springtime and for the symphony of beauty all about us. We thank Thee for the beauty of color and motion, for the beauty of sound and silence, and for the beauty of day and night.

Create in us, O Lord, an inner beauty, in harmony with the splendor of the world about us. Take from our common life the discord which separates man from man and man from God. Make our lives incandescent with Thy presence that in selfless service to the Nation we may be instruments for the making of a new world of justice, peace, and brotherhood which sets forward Thy kingdom on earth as it is in heaven. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, April 4, 1972, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE BY FOUR FRIENDS TO THE LATE BILL LAWRENCE, OUTSTANDING JOURNALIST

Mr. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD remarks at the National Press Club by four friends of the late Bill Lawrence, an outstanding journalist who died on the campaign trail in New Hampshire while on assignment for ABC. The thoughts are of former Chief Justice Earl Warren; Elmer W. Lower, president of ABC News; Warren Rogers, president of the National Press Club; and Arthur Krock, former Washington bureau chief of the New York Times, longtime associate of Bill Lawrence while he was covering politics for that newspaper.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

IN APPRECIATION OF BILL LAWRENCE, 1916–1972

CHIEF JUSTICE EARL WARREN

If Bill Lawrence had known of our determination to have a memorial service for him in this setting, I am sure he would have approved. To Bill, these quarters of the National Press Club were sacred halls, and in the membership of the club are those with whom he shared the most thrilling and rewarding experiences of his life.

This room and the people here are reminiscent of his world-wide treks reporting the poignancy of war and other human crises that make both the news of the day and world history.

He would not want us to attribute perfection to him, and we shall not try because, like the rest of us, he was subject to common infirmities of human nature.

He knew all the moves in journalism, but on one occasion, at least, he could not find his way home from a night baseball game in old Griffith Park. As the crowd moved out after the game, he and my daughter, Virginia, whom he had taken there, fell into a sidewalk excavation. And Bill phoned me from George Washington Hospital to say that she was there with a broken leg. He neglected to tell me—but I suppose he could be pardoned for that because he might think I would know anyway—that the Senators lost the ball game, also.

He knew how to marshall all his reportorial talents for exciting trips to distant parts of the world, but sometimes he would forget his clothes.

Once when he was hurrying to Africa and was at our home before going to the airport, he suddenly discovered the only shirt he was taking with him was the one on his back, and my wife was obliged to expropriate some of mine for him.

With him, journalism was a passion. He not only believed the public has a right to know and to judge for themselves the events of the day, but he believed they must know if our institutions are to serve their true purpose.

It was to this cause that he dedicated his entire adult life of more than a third of a century. No journey was too long; no assignment too difficult; no danger to his health or safety too great if there was a job to be done. He worked to the bitter end not unmindful of the danger involved. Advised by his doctor and forewarned by a series of heart seizures, he knew that any unusual strain might mean the end.

It was not necessary for him to go to New Hampshire, but there were incidents there to be reported to the American people, and he went to that snow-bound state when he could well have remained here or comfortably in a warmer climate to the south.

He passed on, as any man of action would prefer, reading background material for his work, without a struggle and looking forward to whatever might develop.

As president of the National Press Club, he presided in this room and presented many important men of his time for discussion or world problems. He accepted that presidency as well as other journalistic honors which came to him, not for the honor they represented, but as further dedication to his profession. He made this room more meaningful as your presence here to honor his memory also enriches it.

If, at his insistence, this is not to be a solemn occasion, certainly it can be one of respect for that dedication, for his warm human qualities, and of appreciation for his friendship. I am sure he would not have denied us that privilege.

Our memory of Bill as a friend, a journalist, and as an American dedicated to the well-being of our country will remain with us always.

WARREN ROGERS

It is impossible for me, for you, for anybody who knew him to sentimentalize Bill Lawrence. We can only appreciate him. He was, by turn, mean and gentle, irascible and affectionate, tough-minded and romantic. In short, he was the complete practitioner of our trade—a professional newsman.

I remember Bill Lawrence best in an incident during his tenure as president of the National Press Club. He was arranging the Khrushchev lunch. It came out that the New York Herald Tribune would have only one seat. That left me out because a more senior member of the Trib bureau would pre-empt that seat, even though I was doing the personal color on Khrushchev.

I caught Bill sitting down in the taproom. I stood over him and bawled him out for doing that to me. I said it was a mean trick for a Times man to pull on a Trib man.

Uncharacteristically, Bill took it. He never said a word. Finally, he crooked his finger at me to bend over. I did. His mouth was in a crooked grin and his eyes twinkled. He whispered in my ear, "Shut up, you fool. I've had a ticket stashed for you from the beginning."

I felt about two inches high. We had already taken care of me even before I knew what it was I needed. And he had done it quietly, professionally. I might add that, very characteristically, he never let me forget the incident.

And so, when I think of Bill gone, I think of the epitaph on my wife's grave, where I, too, shall shortly lie. It is a quotation from Christina Rosetti, "Sing no sad songs for me."

ELMER W. LOWER

Last Monday I spoke by telephone to Bill Lawrence for the last time. He said he was going to New Hampshire to do his homework for our Primary Election coverage.

Bill had been confined to a sick bed for about ten days prior to that call. But he felt he had to go. He died in New Hampshire—on the job.

Bill had been in the news business for forty years. After four decades most players in this ball game are content to let a few of those line drives whip past them. They are satisfied to go after the pop flies and easy grounders.

Not Bill. He was too much of a newsman to let a big story go by without chasing it; especially a big political story.

I'm going to speak about Bill's professional career. If he wasn't perfect as a human being—and no one is—he was as close to perfect as we're likely to get as a reporter.

Bill shunned the elder stateman's role he deserved. He considered himself—first and last—a reporter. He was the best political reporter I knew in nearly four decades. I daresay he was the best political reporter any of us ever knew.

When it came to reporting, Bill was an impatient man. He couldn't wait to get to work. He quit the University of Nebraska to become a reporter for the Lincoln Star in 1932. In 1961 he quit the New York Times—after a distinguished twenty-year career—and joined ABC News because he felt the Times had left him out of a major story. And last week he quit a sick bed to go to New Hampshire.

When you read a list of the major stories Bill covered, it's hard to believe he was only fifty-six when he died. He had observed so much history first hand. His career mirrored the tumultuous times of the last forty years.

Bill made an impressive name for himself as a war correspondent in World War II and Korea and as a foreign correspondent. But it was reporting the rough-and-tumble American political scene that he loved best. He covered all of the presidential election campaigns between 1940 and 1968, except 1944 when he was overseas. 1972 would have been his eighth presidential campaign. He was as excited about reporting it as he must have been about that Willkie-Roosevelt race he covered thirty-two years ago in 1940 as an aggressive young reporter for the United Press.

Bill's dedication was total. In 1968, he collapsed the first night of the Republican Convention in Miami Beach and spent the rest of the Convention in an oxygen tent. Although he was still in frail health, he insisted on rejoining us for the Democratic Convention in Chicago.

He confessed to me a year later that a Chicago doctor kept him going each day with an assortment of medicines.

Bill was always on top of the big stories. Some said he was lucky, but those of us who worked with him knew that—like all great journalists—Bill made his own luck—made it by unyielding tenacity and by hard, determined work.

Sometimes, Bill's reports provoked controversy. When he reported on the liberation of the Maidanek Concentration Camp in Poland during World War II, his eyewitness account of the death factory was discounted by some as wartime propaganda. But the mass deaths were only too horribly true. When Bill reported that President-Elect John F. Kennedy would appoint his brother, Robert, Attorney General, his own newspaper ran an editorial suggesting Bill had been "had" by a trial balloon. And when, in 1966, he forecast that President Lyndon B. Johnson would not seek re-election, he became a target for his colleagues' gibes. In both cases, Bill was spectacularly right.

Bill's personality helped him in his work. He possessed a gruff honesty. He could be trusted. Everyone knew that. He became the good friend of dozens of important leaders—the movers and shakers whose politics ran the spectrum. Only rabid extremists found Bill's undoctrinaire attitudes and irreverent wit hard to take.

Bill's wit was as impartial as his reporting. He could deflate his own pretensions with barbs as deft as those he used on the pretensions of the great and would-be great.

We called him our National Affairs Editor. To Bill, national affairs were politics, thoroughbred racing's Triple Crown, professional football's Superbowl, any football game Nebraska happened to be playing, and what he insisted on calling the World Serious.

The 1969 World Series pleased Bill more than any other sports event he covered—because the Mets won.

The Mets were come-from-behind underdogs. And Bill was always a partisan of the underdog or the minority. He was a big man who never got too big to stand up for the little man.

Last year Bill went back to his high school in Lincoln, Nebraska, to deliver the commencement address. He returned from his home town proud and impressed—not because he had been asked to speak, but because both the Senior Class President and the Valedictorian were minority group members.

Bill Lawrence was proud to be a reporter. When he received his coveted Peabody Award in 1965, he viewed it as more than a personal honor. "They've recognized the poor bastards who stand out in the cold and snow and rain and cover the news," he told me. (Bill was plagued by a lot of cold and snow and rain in his forty years.)

If there was anything else that pleased him as much as that honor, I think it probably was his book.

Bill took a six-month leave of absence last year to write it. Its title sums up not only his career but also our times—"Six Presidents, Too Many Wars."

Bill didn't live to see publication of the book. It won't be in bookstores until next month. But his excitement about his memoirs was contagious. Many of us received blow-by-blow accounts from him on the researching, writing, editing and even the printing of the book. Just a few weeks ago he was proudly showing the book jacket all around our New York offices.

I'd like to quote briefly from his book.

It opens this way: "By 1972, I had been a reporter for forty years, spent eleven terms at the White House with six presidents, and, in between, reported on entirely too many wars.

"It has been an exciting, exhilarating experience for a boy from Nebraska, roaming the world in peace and war and, somehow, getting involved personally in the news.

"I've had a grandstand seat on history, and while some of it has been grim, especially in wartime, it has for the most part been a lot of fun."

Bill closes the book by quoting Senator Barry Goldwater, who said: "I have never known Bill to be vicious. I've never known him to take off on anybody. I have no qualms at all about an interview by him because I know he's going to report what I said, not what he thinks I said."

Bill then wrote. "I could not have hoped for a better epitaph to cap my journalistic career."

I can't either.

All of us here today honor the career of a great political reporter who called them like he saw them.

ARTHUR KROCK

The Psalmists, the Prophets and the Apostles had at least one thought in common—that when death comes in the full flood of achievement it is, as Isaiah put it, "Swallowed up in victory."

This was so strikingly demonstrated in the circumstances surrounding the death of Bill Lawrence that inevitably it has been the theme of the elegies delivered here today.

Yet, despite the fact that Bill died as he wished—engaged in the profession he adored and which made him famous—an enduring sadness must intrude. For he still had so much to give of the rugged reporting by which the people were enlightened in the ways of the political system under which they live. And we were ready with praise for his latest triumph—an autobiography of the highest quality.

But, though I never heard Bill quote Christina Rosetti, we know from what Paul Porter has told us that she spoke for him when she wrote: "When I am dead . . . sing no sad songs for me."

Accordingly, I shall speak of him as the friend and colleague I knew, respected, delighted in and dearly loved. This unforgettable association with one of the great reporters of our time—though it was like having a yearling tiger for a pet—continued after we ceased to be comembers of the Washington Bureau of The New York Times.

The last time I saw Bill he was, as usual, trying to maintain in journalism the honesty he brought to it, the determination that it should never allow itself to be misused by government.

"A high official who declined to be identified"—so runs the jargon which reflects one of the problems of our trade—had just inspired a news report that IF—as our intelligence services suspected—India planned to invade West Pakistan, and the Soviet Union did not do more to restrain India than currently appeared, President Nixon might cancel his plan to go to Moscow.

Bill telephoned me to ask if I would comment for ABC on this example of the use of the press, knowing full well what my comment would be.

Presently he arrived with his bewildering team of electricians, cameras and helpers; the apparatus was set up, and the interview began. It consisted of his question: "Do you think the press should allow an anonymous source to sue it in this way in a matter of such delicacy and international importance?" and of my answer: "It definitely should not be a party to such flagrant abuse." At which Bill, saying, "Thank you," signaled his Frankenstein monsters to pack up.

He knew what he wanted—and got it.

One more recollection:

Three of us were having a drink one day in a most distinguished residence: Bill and I and a President of the United States. Though off-the-record, the President fuzzed one of those gut-probings for the facts that were Bill's glorious trademark.

"Now listen here," burst out Bill. And, just as the President's ears began to turn red, he added, "Sir."

So Bill, if you have been able to endure this loving memorial, I venture to say to you: "Now listen here . . . Sir."

HEALTH CARE IN PHILADELPHIA

Mr. SCOTT. Mr. President, a group of leading Philadelphia physicians recently established a medical clinic in the city which provides residents with reasonably priced health care so as to help alleviate the crowded conditions in area hospitals. The group, headed by Dr. Raymond E. Silk, is seeking to open, in as many of the depressed neighborhoods as possible, clinics that provide comprehensive medical care to people in all income brackets. They also decided to provide medical care to those who cannot afford to pay for it. It is their feeling that those patients who cannot afford an office visit should not be deprived of good medical care, because an ounce of prevention for these underprivileged individuals can prevent serious illnesses at a later date.

The first facility to be established by Dr. Silk is the West Philadelphia Out-Patient Clinic at 49th and Baltimore Avenues in Philadelphia. Physicians at the clinic will be available for every major branch of medicine. Consultations are available between specialists to insure excellent care of the patients. The outpatient diagnostic services are limitless. The disabled members are entitled to specialists' evaluations to aid their recovery. Certain difficult cases, that have not been treated successfully by family physicians, may be referred to their medical team for correct diagnosis and proper treatment. Clinic facilities include allergy, arthritis, cardiac, podiatry, dental, diabetic, ear, nose and throat, eye, gynecology, medical, orthopedic, prenatal, rectal, skin diseases, surgery, urology, and X-ray, as well as physical therapy.

Mr. President, there is no question but that the reorganization for the delivery of health care services has to be done. In recent years, a new method of delivering health services has achieved growing respect. This new approach has two essential attributes. First, it brings together a comprehensive range of medical services in a single organization so that a patient is assured of continuous access to all of them. Second, it provides needed services for a fixed contract fee which is paid in advance by all subscribers. At the present time, Dr. Silk's West Philadelphia group has two unions that have a prepaid plan with them which, basically, is a modified health maintenance organization.

In President Nixon's special health message to Congress in February 1971, entitled "Building a National Health Strategy," he mentioned that such an organization has a variety of forms, names, and sponsors. One of the strengths of Dr. Silk's program, the embodiment of this new concept, is its great flexibility.

At the West Philadephia clinic, there is, basically, a health maintenance organization for some of the unions, and it is the clinic's intention to widen this for additional unions which will pay the clinic a prenegotiated and fixed periodic payment made on behalf of each patient and family unit enrolled in the plan. The clinic's physicians feel that they can provide medical care at a lower cost and can, without question, prohibit, restrict, and try to prevent duplication of services which, at times, can be very expensive.

The comprehensive health maintenance and treatment services that are available to people attending the West Philadelphia clinic include primary care and emergency care. At the present time, acute inpatient hospital care has been provided for at two institutions and inpatient care for chronic and disabling conditions is also available. Dr. Silk hopes to open such a clinic, or service, in South Philadelphia, North Philadelphia, Kensington, and any other area of the city that has such a need.

Dr. Silk has formulated plans for building a new hospital that would be made available for needy patients. He is not satisfied that the cost per day in the city's larger established institutions ranges from $95 to $125 for a semiprivate room. The hospital which Dr. Silk owns, the Broad Street Hospital Medical Center in Philadelphia, can provide medical care for approximately $50 per day in a semiprivate room, a tremendous savings. With the new facility which Dr. Silk has in mind, his group could maintain low medical costs, in fact, much lower than those of the teaching institutions, and provide a significant amount of care.

In the vicinity of the West Philadelphia clinic, Dr. Silk hopes to open a "soft" drug center called Action. This will be for the management and treatment of patients on "soft" drugs, and will place more emphasis on prevention. Additional Action centers will be located in North Philadelphia and center city.

Dr. Silk also intends to open, in the near future, a methadone maintenance clinic. The goal of this program, as with any narcotic drug treatment program, should be detoxification with residential facilities as a therapeutic community concept to keep the individual drug free. However, such broad programs command only limited facilities at this time; as such, the methadone maintenance program provides another alternative, one which is less complex.

Mr. President, I want to congratulate Dr. Silk and his able associates on their bold and far-reaching programs. They have demonstrated the tremendous capabilities of our Nation's private health care system and have done an exemplary job without a great deal of Government intenvention. Dr. Silk deserves the commendation and highest praise of all Americans who believe, as I do, that good health care is one of this Nation's top priority items.

FREEDOM FOR BYELORUSSIA

Mr. SCOTT. Mr. President, 54 years ago, on March 25, 1918, a struggle for freedom began in Byelorussia. This small nation, nestled between the Soviet Union and the Baltic States, planted a seed of nationalism when they proclaimed their independence from czarist Russia on that glorious 25th day of March. That seed is still growing and will continue to grow until Byelorussia breaks out of the Communist grip.

Not enough can be said for the courageous population of this nation and the Byelorussian Americans who work constantly to make sure the free world does not forget their brethren. The heritage of these United States further points out that America should never forget the plight of a people deprived of all social, political, and economic freedom.

May the hope for freedom live long in Byelorussia and may we all pray for liberty to become a reality for these people.

COMMITTEE SERVICE

Mr. SCOTT. Mr. President, under the provision of Senate Resolution 382, 90th Congress, creating a Commission on Arts and Antiquities of the U.S. Senate, the ranking minority member of Rules and Administration is a member of that Commission.

Recent action by the Republican Committee on Committees appointed Senator Marlow Cook, ranking member of Rules and Administration. By virtue of this action, Senator Cook becomes a member of the Commission on Arts and Antiquities vice Senator Ted Stevens.

PRESIDENT NIXON'S WELFARE REFORM PROPOSALS

Mr. SCOTT. Mr. President, John G. Veneman, Under Secretary of Health, Education, and Welfare, recently made a statement on the President's welfare reform proposal and the "Children's March for Survival" which I believe deserves the attention of my colleagues.

I ask unanimous consent that Under Secretary Veneman's statement as well as a thoughtful editorial from the New York Times on this subject be printed in the Record.

There being no objection, the statement and editorial were ordered to be printed in the Record, as follows:

Statement by John G. Veneman

Behind all the kites and balloons at tomorrow's welfare march lies a special interest.

It is the special interest of a few men whose private ambitions seem to depend on the continuation of poverty in America.

The legislation these pied pipers of poverty have enticed school children to march against would, at one stroke of a pen, wipe out half of all the poverty in our country.

These men say that they oppose the President's welfare reform bill because it is not enough.

What they are opposing is a bill that would invest more money into helping people escape poverty than has ever before been proposed in a single piece of social legislation—$6.5 billion.

They say "We demand more"—$70 billion more—a figure that would cost the taxpaying families of the Nation an average of $2,000 more a year.

Their proposal hasn't the chance of a snowflake in the Sahara of ever passing Congress—and they know it.

Yet Senator Harris of Oklahoma stood on the steps of the Capitol yesterday and boasted:

"I think we can kill welfare reform this year."

The bill that he wants killed would provide $200 a month to a welfare mother in Mississippi who now receives only $60 a month to feed and clothe her children.

Are Senator Harris or George Wiley representing the best interests of that mother and those children?

That same bill would, for the first time, provide wage supplements to the parents of five million children of America's working poor—and enable those families to continue working and living in dignity at a livable income.

Are these children and these parents being honestly represented by those who want this bill killed?

And what about the crippled and retarded children who would benefit? Or the lonely children waiting for adoption who would also benefit from H.R. 1?

And who represents the disabled on Social Security who would receive Medicare coverage at no cost if H.R. 1 becomes law?

Or the blind, the aged and the disabled whose public assistance would be raised by $2 billion?

What do the pied pipers of poverty offer all of these people in exchange for the benefits they will not get if the President's welfare reform bill does not pass?

They do not offer bread.

They offer circuses.

I hope that people of good will and good sense will reply, loud and clear, to that cynical offer.

Welfare Middle Way

President Nixon has again come strongly to the support of his welfare reform program, the Family Assistance Plan. After suggesting last summer that the wage-price freeze somehow made it desirable to postpone the effective date of the plan, Mr. Nixon in a special message to Congress yesterday reiterated his conviction that reform of the ramshackle welfare system is imperative.

Unfortunately, the President gave little hint of his willingness to accept strengthening amendments to F.A.P. He may have calculated that his more extreme critics such as the National Welfare Rights Organization are sure to antagonize so many voters—and members of Congress—as to make it unnecessary for him to compromise.

The "Children's March for Survival" which these organizations sponsored in Washington last Saturday was a dubious venture on every ground. The demonstrators may feel as the march slogan proclaimed that "Nixon Doesn't Care," but adults who do care about the emotional security of small children hardly prove their own concern by involving youngsters in a huge demonstration in which several hundred became separated from their parents.

As a practical effort in lobbying the march's political and propaganda impact was almost certainly negative. Congress is simply not going to provide a minimum annual income of $6,500 for every family of four. In city halls and state capitals, the overwhelming political problem is to prevent unwise, inhumane cutbacks in existing programs as welfare costs steadily rise. Those who agitate for utopian solutions are not helping poor people.

Yet substantial improvements in the Administration's welfare bill are necessary and possible. The proposed minimum income of $2,400 for a family of four is too low. Whatever level is finally agreed upon, no recipient should get less than the benefits he or she is now getting. There should be coverage for childless couples and for single individuals. The work requirements should be revised to exempt mothers with preschool children.

Senator Ribicoff, Connecticut Democrat, is sponsoring amendments to the Administration bill which would attain these objectives. There is already considerable support in the Senate for the essential principles of the Administration bill—coverage for the working poor, a minimum income, uniform level of support across the nation. A lobbying effort in behalf of the Ribicoff amendments would be worthwhile and constructive. Verbal fireworks and protest marches for unattainable goals are not going to pay anyone's rent or brighten any child's life.

(The remarks Mr. Scott made at this point on the introduction of S. 3452 are printed in the Record under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from West Virginia (Mr. Robert C. Byrd) is now recognized for not to exceed 15 minutes.

THE WAR POWERS ACT

Mr. ROBERT C. BYRD. Mr. President, I rise today to express my support of the War Powers Act, S. 2956. The purpose of this act is to fulfill the intent of the framers of the Constitution of the United States, and to insure that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances.

I believe that legislation of this nature is vital to the national interest. It is needed at this time to reestablish a constitutional balance between the executive and the legislative branches with respect to the use of the Armed Forces in hostile situations.

This act is not intended to encroach upon the recognized powers of the President, as Commander in Chief, to conduct hostilities authorized by the Congress, to respond to attacks or the threat of attacks on the United States, to repel attacks or forestall the imminent threat of attacks against U.S. Armed Forces, or to rescue endangered citizens and American nationals located in foreign countries.

The legislation constitutes an effort to confirm and codify the intent of the framers of the Constitution with respect to the war power. In my judgment, this legislation is needed to prevent the involvement of our country in future Vietnams. Its enactment would be prospective and would not have any bearing on the present war in Indochina. That war is fait accompli and the President is rapidly deescalating the American effort there. Vietnam, however, has proved the futility and the unwisdom of going to war without the clear-cut prior support of the American people, and the fundamental issue involved in this bill is that we insure that this country never again will participate with blood and treasure in a foreign war without such clear-cut prior support of the American people.

WAR POWERS OF CONGRESS

The war powers of Congress are enumerated in article I, section 8 of the Constitution. They are as follows:

> The Congress shall have power . . . to provide for the common defense; to declare war . . .; to raise and support armies; to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to . . . repel invasions; to provide for organizing, arming, and disciplining the militia; to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the government of the United States, or in any department or office thereof.

The list of powers which I have quoted from the Constitution is detailed, lucid, and comprehensive.

WAR POWERS OF THE PRESIDENT

The war powers of the President are set forth in article II, section 2, of the Constitution:

> The President shall be Commander-in-Chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States.

The foregoing cryptic statement constitutes the sum total of the Presidential war power delineated in the Constitution. It would be appropriate, however, to add the first sentence of article II, section 1:

> The executive power shall be vested in a President of the United States of America.

THE INTENT OF THE FRAMERS

It is, to me, indubitably clear, from the foregoing constitutional passages, that the framers of that great document were neither uncertain nor ambiguous about where they wished to vest the authority to initiate war. That authority was vested in the legislative branch, and in the legislative alone.

The Founding Fathers had been much dismayed by the power of the British Crown to commit Great Britain to war, and the absence of extended debate over the war powers, during the Constitutional Convention, testifies to the near unanimity as to where that authority was intended to be placed. Only one delegate, Pierce Butler of South Carolina, favored vesting the war power in the President.

Congress was to "declare" war. The President, as Commander in Chief, was to respond to sudden attacks and to conduct war once it had started. The President was to command the Armed Forces once they were committed to action.

Alexander Hamilton's statement in Federalist 69 is worth noting:

> The President is to be commander in chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the

> military and naval forces, as first General and Admiral of the Confederacy, while that of the British king extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature.

Jefferson put it metaphorically to Madison in 1789:

> We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.

In the early years of the Republic, Presidents acknowledged and carefully respected the war power of Congress. President Madison said that the question of "opposing force to force" was one "which the Constitution wisely confided to the legislative department of the Government."

President Buchanan said that the executive government of this country "Cannot legitimately resort to force without the direct authority of Congress, except in resisting and repelling hostile attacks."

Daniel Webster, while serving as Secretary of State, said:

> The war making power in this Government rests entirely in Congress; . . . the President can authorize belligerent operations only in the cases expressly provided for in the Constitution and the laws.

Abraham Lincoln expressed his viewpoint on the matter as follows:

> The provision of the Constitution giving the warmaking power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention undertook to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us.

TRANSFER OF THE WAR POWER TO THE EXECUTIVE

It is in the perspective of American history since World War II that the war powers bill must be considered as necessary legislation. Only since the Second World War have American Presidents claimed, and exercised, the power to commit the Armed Forces to full-scale and extended warfare overseas without prior congressional authorization. Such Presidential actions have reached their furthest extension in the case of Vietnam. Congress bears a heavy burden of responsibility for seeing that such an assertion of power is not legitimized in the future. We should be under no illusions as to the consequences of our failure to act now.

The handwriting on the wall can be seen from the comments of the Department of State in 1969, when the national commitments resolution was pending:

> As Commander-in-Chief, the President has the sole authority to command our Armed Forces, whether they are within or outside the United States. And, although reasonable men may differ as to the circumstances in which he should do so, the President has the constitutional power to send U.S. military forces abroad without specific congressional approval.

The same assumptions of executive warmaking authority have been expressed from time to time in comments of the Department of State during the past two decades, so my remarks are not to be interpreted as being critical of the present administration alone. As a matter of fact, Congress is not faultless in view of its passive acquiescence in the unwarranted expansion of Presidential power. Such usurpation of power has, undoubtedly, more often been unintentional than deliberate, the major cause of the unhinging of the checks and balances in the war power equation having been the impact of three decades of almost uninterrupted crisis in foreign policy.

In time of emergency there is a natural tendency to fall in line behind the leadership of the President. In this constant state of emergency, our country found itself drawn little by little and deeper and deeper into the vortex of Vietnam. Who could have foreseen in 1961 or 1962 or 1963 or even 1964 that this inch-by-inch, day-by-day, deepening involvement would ultimately take 549,000 American fighting men to Vietnam?

CONGRESS MUST REASSERT ITS WAR POWERS

We must do all that we can, against the background of the difficult and costly lessons of the past, to prevent history from repeating itself. This bill, if enacted, will not constitute a catholicon. If the country is to be continually at war, or in crisis, or on the verge of war, or in small-scale, partial or surrogate war, the force of events must lead inevitably toward Executive domination despite any legislative roadblocks that may be placed in the Executive's way. But the adoption of this bill would help to restore the confidence of the American people in the processes of their Government, particularly as they relate to the vital and overriding questions of war and peace. I do not say the bill is perfect. I hope it can be improved, and I shall support any amendments which will improve it. But the fact remains that congressional inertia and quiescence can no longer be tolerated when it comes to the commitment of American forces abroad.

The war powers of Congress, as specificated in the Constitution, can no longer be permitted to atrophy. The constitutional authority to initiate war has never vested in the President, but has always remained where it was reposed in the beginning—in the Congress. Yet, the actual power to initiate war, as distinguished from the constitutional authority, has, practically speaking, shifted since World War II from Congress to the Executive. This power of Congress must be reasserted in no uncertain terms if the constitutional balance between the legislative and the Executive is to be restored.

Most Americans trust the President—the one now in office or any other. I trust Mr. Nixon to do what he thinks is best for our country. I trusted President Johnson and President Kennedy and President Eisenhower and President Truman in this regard. But when it comes to committing our country's men and resources to a foreign war, only the people's representatives in the legislative branch should make that decision. It should be a collective decision, not the decision of one man, regardless of how much confidence we have in that man.

> Confidence—

Said Jefferson—

> is everywhere the parent of despotism—free government is founded in jealousy; . . . it is jealousy and not confidence which prescribes limited constitutions to bind down those we are obliged to trust with power. . . . In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution . . .

EXPLANATION OF THE BILL

Mr. President, the constitutional basis for this bill is found in article I, section 8 of the Constitution, which I have quoted.

The essential purpose of the bill, therefore, is to reconfirm and to define with precision the constitutional authority of Congress to exercise its constitutional war powers with respect to "undeclared" wars and the way in which this authority relates to the constitutional responsibilities of the President as Commander-in-Chief. The bill is in no way intended to encroach upon, alter or detract from the constitutional powers of the President, in his capacity as Commander in Chief, to conduct hostilities authorized by Congress, to repel attacks or the imminent threat of attacks upon the United States or its Armed Forces, and to rescue endangered American citizens and nationals in foreign countries.

Section 3 of the bill defines the emergency conditions in which, in the absence of a declaration of war by Congress, the Armed Forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is indicated by circumstances.

The conditions under which the President may make such emergency use of the Armed Forces, defined with a view to reconciling modern conditions of warfare and politics with the intent of the framers of the Constitution, are as follows:

(1) to repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack;

(2) to repel an armed attack against the Armed Forces of the United States located outside of the United States, its territories and possessions, and to forestall the direct and imminent threat of such an attack;

(3) to protect while evacuating citizens and nationals of the United States, as rapidly as possible, from any country in which such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control; but the President shall make every effort to terminate such a threat without using the Armed Forces of the United States, and shall, where possible, obtain the consent of the government of such coun-

try before using the Armed Forces of the United States to protect citizens and nationals of the United States being evacuated from such country; or

(4) pursuant to specific statutory authorization, but authority to introduce the Armed Forces of the United States in hostilities or in any such situation shall not be inferred (A) from any provision of law hereafter enacted, including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in such situation and specifically exempts the introduction of such Armed Forces from compliance with the provisions of this Act, or (B) from any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of this Act. Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such Armed Forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities. No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United State in hostilities or in any such situation, within the meaning of this clause (4); and no provision of law in force at the time of the enactment of this Act shall be so construed unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in any such situation.

One of the most important provisions of the bill is Subsection (4) of Section 3. This subsection sets forth the criteria, by means of which the Congress can "pursuant to specific statutory authorization" give the President advance authority to take emergency action. Authority which might be granted in advance to the President under Subsection (4) differs from the authority which the President has in Subsections (1), (2) and (3). The emergency authorities specified in the first three subsections of Section 3 are recognized to be authority which the President enjoys in his independent Constitutional office as President/Commander-in-Chief. In codifying this independent emergency authority of the President, the Congress is exercising its own Constitutional power: "To make all laws which shall be necessary and proper for carrying into execution—all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

It was thought essential to specify—in Subsection 4 of Section 3—that no treaty, existing or future, may be construed as authorizing use of the armed forces without implementing legislation. The treaty-making power has been held not to extend so far as to authorize what the Constitution forbids. This limitation is properly construed in the Committee's view, as preventing the President and the Senate from exercising by treaty a power vested elsewhere by the Constitution. The President and the Senate could not, for instance, use the treaty power to abridge the Bill of Rights; nor, in the Committee's view, can a treaty be used to abridge the war-declaring power, which is vested not in the Senate alone but in both Houses of Congress. The framers of the Constitution considered and rejected the possibility of vesting in the Senate alone the power to declare war. That power was deliberately vested in the Congress as a whole; a decision to initiate war must be made by both the Senate and House of Representatives and cannot, therefore, be made by treaty. None of our existing treaties in any case require automatic military action.

It is also specified in Subsection (4) that specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to participate in combat-related military activities of the regular or irregular forces of any foreign country—the purpose here being to prevent secret, unauthorized military support activities.

Section 4 of the bill specifies that any emergency use of the armed forces shall be reported promptly in writing by the President to the Speaker of the House of Representatives and the President of the Senate, together with a full account of the circumstances and authority under which action was being taken and its projected scope. The President would be further required to make periodic reports on any military action outside of the United States, and in no event less often than every six months.

The heart and core of the bill—the provision which will give substance and weight to the Congressional war power—is Section 5, which provides that the use of the armed forces under any of the emergency conditions spelled out in Section 3 shall not be sustained for a period beyond thirty days unless Congress adopts legislation specifically authorizing the continued use of the armed forces. The intended effect of Section 5 is to impose a prior and unalterable restriction on the emergency use of the armed forces by the President. Emergency use of the armed forces by the President—under Section 3—would be undertaken with full knowledge on his part that the operation could be continued beyond a thirty-day period only with the specific authorization of Congress. The President would thereby stand forewarned against any emergency use of the armed forces that did not conform with the law and that he did not feel confident would command the support of majorities of both Houses of Congress.

Section 6 complements the restriction spelled out in Section 5 by specifying that Congress may terminate a military operation prior to the end of the thirty-day period by act or joint resolution.

Section 7 spells out mandatory procedures for expeditious action within the Committees and on the floor of both Houses of Congress with respect to any legislation authorizing a continuation of the use of the armed forces beyond the thirty-day period of the President's emergency powers or beyond a period authorized by Congress under Section 3 (4). The purpose of this section is to eliminate the risk of dilatory tactics to prevent or delay a Congressional decision with respect to the use of the armed forces. However, the accelerated procedures would not apply to advance requests for authorizations under Subsection (4) of Section 3 of the bill.

Section 8 contains a separability clause, specifying that, if any provision of the bill should be held invalid, the remainder would not be affected thereby.

Section 9 specifies that the bill would take effect on the date of its enactment but would not apply to hostilities in which the Armed Forces of the United States were involved prior thereto. The effect of this provision would be to exempt current military operations in Indochina from the application of the war powers bill.

CONGRESSIONAL AUTHORIZATION IS NOT OBSOLETE

We live in an age when declarations of war are obsolete, but I cannot accept the contention supported by some that because declarations of war are obsolete, so also, is the authority of Congress to authorize—or refuse to authorize—the initiation of war. The transfer from Congress to the Executive of the actual power—as distinguished from the constitutional authority—to initiate war has been one of the most remarkable and, to my mind, unfortunate, developments in the constitutional history of the United States. As I stated previously, we, in the Congress, bear a heavy burden of the responsibility for this metamorphosis.

I cannot conceive of circumstances in which the United States will play the role of aggressor in any war in which we may find ourselves involved in the future. Nor am I under any illusions as to the shocking suddenness that will attend any nuclear attack of which this country is the target. In any such eventuality, which I devoutly hope will never occur, protocol, constitutional power, and authority will be meaningless. But unless and until the minds of men and nations are substantially uplifted, we will continue to live in a world where armed conflict of a less cataclysmic nature is a constant threat. It behooves us, therefore, as a nation, to accept reality, and to be ever mindful of our own security, while striving always to use every means in our power to further the cause of international amity and peaceful human progress.

It is my firm opinion that an essential element of our national security, and a significant manifestation of our national prudence, lies in the willingness of the Legislature, of which we are a part, to reassume the powers and authority to initiate, or refuse to initiate, any foreign wars in which this Nation may be involved in the future. This is not merely a prerogative—it is a bounden duty. I shall vote for the passage of S. 2956, and I urge my colleagues to join me in fulfilling our Constitutional obligations to the people we represent.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I am delighted to yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I commend the distinguished Senator from West Virginia for the remarks he has just made and for his support of the legislation which will again soon be pending.

References have been made to the Southeast Asian Treaty, during the course of this debate and before. Reference has also been made to the fact that I was one of the signatories to that treaty. That is correct. I was a signatory, along with the late Secretary of State, John Foster Dulles, and the late Senator from New Jersey, H. Alexander Smith.

I must say with some degree of pride that, while I never had much confidence in the Southeast Asian Treaty—sometimes known as the Manila Treaty and collectively referred to as SEATO—I was responsible for inserting in that treaty the phrase "due constitutional process." I did so because I wanted to make sure that Congress would have a say in anything which appeared inherent in the meaning and definition of the Southeast Asian Treaty. That is only one of the reasons why I am supporting the pending legislation.

"Due constitutional process" does not mean that the President—any President—has the right on his own initiative to engage this country in war except under certain limited and unusual circumstances. The Constitution gives the Congress the right to declare war.

In my many years in the Congress and in positions of responsibility, I have never been informed beforehand on what the Executive was going to do. But I have been told after the decision had been made, when it was too late to do anything except to protest. That protest, on the basis of what had been done to date, clearly does not go very far.

So, I am delighted that this measure is before the Senate and that Congress is once again trying to reassert its constitutional role in this particular area.

Mr. President, I ask unanimous consent that an editorial published in the Commonweal under date of March 31, 1972, entitled "War Power" and an editorial entitled "The Authority To Wage War" which was published in the Boston Globe of March 14, 1972, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

WAR POWER

Who will ever be able to measure the cost of the Vietnam war, both in human suffering and material waste? Thanks to our national technological know-how, vast areas of Indochina have been laid waste, and if the casualty figures are even remotely accurate, over one million men, women and children have been killed. Scores of thousands of others have been uprooted from their ancestral homes, and there are no accurate figures on the number of Vietnamese families that have been hopelessly shattered by the war.

Such devastation has been the price of a war carried on by succeeding Presidents but never really debated in House or Senate. Congress has voted funds for Vietnam year after year, true, but this is no substitute for a full-scale debate. When American troops are committed by the President, whether in Vietnam or the Dominican Republic, it is very hard for legislators to cut off the funds necessary to support them. And when the lives of "American boys" are already being lost in combat, the public tends simply to rally behind the President rather than weigh the issues seriously; in such circumstances the hard question as to exactly why our troops are involved in the first place tends not to get asked.

All of this makes very important a recent, little-noticed action of the Senate Foreign Relations Committee, in which that body issued a favorable report on a bill designed to curb the President's war-making powers. By this action the stage has been set for a momentous constitutional debate in the Senate during the weeks ahead. In that debate the battle lines are already reasonably clear. On one side are those who would define and in the process curb the Presidential war-making powers of the kind that plunged us into the morass in Vietnam. What the proposed legislation would provide is that in the absence of a Congressional declaration of war, the President could not use the armed forces except in certain specified emergencies, such as an attack upon the United States or its forces or an imminent threat of such attack, or to protect American citizens endangered in a foreign country. Even in such emergencies the President could not continue hostilities for more than 30 days without Congressional approval. Lined up in support of the measure are Republican and Democratic Senators representing a wide range of opinion, from Senators Jacob Javits of New York and Thomas Eagleton of Missouri to Senators Robert Taft Jr. of Ohio and John Stennis of Mississippi. Arrayed against the bill are the Administration, those in the Senate who still support the war in Vietnam, and those in general who fear any tampering with the Presidential powers. Speaking for this group was Senator Barry Goldwater of Arizona, who called the legislation unconstitutional; some idea of how much unchecked power Senator Goldwater would grant to the President may be seen in his statement that "183 years of experience under the Constitution has firmly established the principle that the President, as Commander-in-Chief and the primary author of foreign policy, has both a duty and a right to take military action at any time he feels danger for the country or its freedoms." To give a President such unchallenged power, of course, is to risk the danger of constant war.

In point of fact, it should be noted, those who support the curb on the President's power to make war do not question his right to take quick and decisive action in the event of a sudden attack or any other genuine emergency. What they do object to is the notion that the President may use the armed forces at will in situations that do not constitute national emergencies and for as long a period as he sees fit, as has been done in Vietnam. With these views we are heartily in sympathy—indeed, there is much to be said for Senator Fulbright's claim that even this restrictive law allows the President more power than he should have; if he had his way, for example, Senator Fulbright would ban the use of nuclear weapons entirely without prior Congressional authority. Points like these deserve the most sober consideration by Congress and public alike, and we hope the eventual debate in the Senate will prove worthy of the gravity of the topic.

THE AUTHORITY TO WAGE WAR

The objections of Secretary of State Rogers to a Senate Foreign Relations Committee proposal carefully defining the circumstances under which Presidents may commit the nation to war without a declaration by Congress are perhaps understandable from the perspective of what are called "President's men." The fact is that Mr. Rogers has been joined by several other "President's men," including George Ball, Undersecretary of State in the Johnson Administration, Eugene Rostow, Arthur Schlesinger Jr. and others.

Neither Presidents nor the men around them happily surrender any of the powers that have accrued to Presidents over the years—accruing sometimes by accident, sometimes because they are strong while the congressional leadership is weak, and usually because, as George Reedy, press secretary to former President Johnson, has written, the trappings and sycophancy with which the Presidency is surrounded convince all but the most down-to-earth occupants of the office that they above all others know what is best for the nation.

In the case of the proposed War Powers Act, drafted by Sen. Jacob K. Javits (R-N.Y.) and unanimously endorsed by the Foreign Relations Committee to resolve the constitutional question of undeclared wars, the stated objection is that the proposal is too rigid, that it does not and cannot provide for the unforeseeable contingencies with which the nation might be faced at any time, especially in the nuclear age.

If this were so, the objection would be a compelling one. But it is not so. The bill lists four specific categories of situations in which the President would be empowered to take immediate action without consent of Congress: to repel an attack or the imminent threat of attack upon the United States; to repel or forestall an attack upon U.S. armed forces located outside the country; to rescue U.S. citizens threatened abroad; and in pursuance "of specific statutory authorization."

If there can be any legitimate objection to these provisos, it would have to be that they are not restrictive enough, rather than that they are too restrictive. The definition, for example, of "an imminent threat" could be too broad to leave to the exclusive judgments of Presidents, who, as Sen. Javits has said, "can and do shoot from the hip," as in the case of Vietnam after a reported attack on two U.S. warships in the Tonkin Gulf.

At any rate, it is hard to see how the President's hands would be tied in any situation which might require immediate action. The Executive Department's objections result from the requirement that a President, having taken emergency action, must thereafter make a full report to Congress and obtain its affirmation within 30 days or terminate the action, whatever it may be. The Javits bill contains strict provisions against filibuster or other delay. White House objections are hard to understand.

"The War Powers Act," as Sen Javits concedes, "cannot create national wisdom where there is none. But it can assure that the collective wisdom of the President and the Congress will be brought to bear on the life and death questions of war and peace. The Pentagon papers and the Anderson papers have shown us how dissenting and questioning viewpoints are screened out or excluded altogether from the present Presidential decision-making process."

Sen. Javits is amply supported by the facts. Historian Henry Steele Commager has pointed out that "Presidents, in the last 20 years or so, have thrown caution and constitutional scruples to the wind, as it were, and ventured on their own authority into military operations that were in fact acts of war" in Vietnam, Laos, Cambodia, Latin America, Cuba and elsewhere:

"The unlimited power of the Executive in foreign relations is no longer justified as an emergency power but is asserted to be a normal and almost routine exercise of executive authority . . . President Johnson asserted he did not need the Tonkin Gulf Resolution to justify his bombardment of North Vietnam, for he said he already had that . . .

President Nixon's Attorney General asserted that the President's authority to invade Cambodia 'must be conceded even by those who read executive authority narrowly' . . . Presidents act under 'the Nixon doctrine' . . . 'to contain Communism' . . . to protect 'vital interests' 9000 miles away or 'to fulfill commitments' that are somehow never made clear."

The Javits bill will be debated as soon as congressional decks can be cleared for it. Its passage over White House opposition will not be easy. But it is the nation's only assurance against another Vietnam.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of routine morning business with each Senator being limited to 3 minutes.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SOUTHEAST ASIA

Mr. GRAVEL. Mr. President, I wish to make a few brief comments on the situation that exists today in Southeast Asia. I also wish to comment on statements made by the present administration as to those events, and to comment on the activity that has taken place in Paris with reference to the refusal of our Government to sit down and go ahead with discussions with the North Vietnamese.

I think this a very tragic situation and part of a tactic to try to isolate North Vietnam, and is related to the President's trip to Peking and his proposed trip to Moscow. The hope is that this will cause them to waver in their resolve to do what they feel is necessary to bring about peace. I think that is wrong. There is always something to be gained by talking. I think the administration made a tragic error in pursuing this tactic, which can only lead to a total collapse of negotiations. I hope our Government will sit down and, regardless of the degree of patience required, continue to talk, even if negotiations may not be fruitful in the beginning. There is more to be gained by talking than there is by killing.

On the subject of killing, I understand that a Member of this body, and it was reported in the press, made the suggestion that we should bomb Haiphong and Hanoi. This proposal comes with the increased activity in Vietnam which brought the war again to the front pages of the newspapers. Interest is now focused not on the increased number of American deaths, because supposedly we wound down the war and we are extricating ourselves, but on the problem of Vietnamization—whether South Vietnam can defend itself. Obviously, it is too soon to say with assurance what happened, because even our intelligence community does not know what is happening. But thus far there has not been a good account given by the troops of South Vietnam. The Vietnams, North and South, have relatively the same population. South Vietnam has a little larger military establishment than North Vietnam; certainly it has a larger air force. Nonetheless, they continue to retreat in the face of the North Vietnamese. This can lead to only one conclusion: they do not want to fight for the government they have.

The question we arrive at quickly is, What will our Government do? Obviously, it is a civil war between the Vietnamese people. We have given the South air cover. This air cover apparently is not enough. What will our Government do now? Will it increase the air cover and increase the use of U.S. ground troops? The President has this power, because he has the troops and he can escalate the ground war. Or will he get out entirely, as many of us advocate? I wish it would be the latter, but that will not be the case. I think we will see an escalation of the bombing—not an escalation of bombing of military forces, but an escalation of bombing of the civilian areas which, I think, underscores the total immorality of our bombing program.

The Governments of North Vietnam, South Vietnam, Laos, and Cambodia do not represent a threat to the American Government. The only two nations that could be a threat to us are the Soviet Union and possibly, to a considerably lesser degree, the People's Republic of China.

The President has gone to China and he has banqueted, supped, and toasted with the Chinese Communists, at the same time we are killing Vietnamese Communists. The President will now go to Moscow, sit down, and banquet with those Communists. How can we morally sustain ourselves when our Chief Executive is banqueting with the leaders of countries which can be a threat to us, and waging war against a country which is no possible threat to us? The argument that we are trying to give the South Vietnamese a chance for self-determination is specious, because that is a dictatorship. That was proven last October 11 in the elections, and there is no reason that we should spend our tax money and human resources for a dictatorship.

We are endorsing a dictatorship there. It is a civil war. Why not hold to the principle we hold so dear, self-determination, and let the people of Indochina determine the type government they want? We have honored obligations that were not there and we should get out.

I would caution this administration that the possible use of accelerated bombing or tactical nuclear warheads would be anathema to this Nation's desire for peace, and would cast us in a light in this century that we could never outlive.

I would hope the advice the President is receiving, and will receive, on possible escalation of bombing and possible use of nuclear warheads would be turned down, because this would only bring about a moral disaster.

Mr. President, I ask unanimous consent to have printed in the RECORD certain articles that focus attention on the situation that exists today inside East Asia.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 5, 1972]

HANOI SIGNALS CIVILIAN UPRISING

(By Victor Zorza)

In his last public statement before the Hanoi offensive, President Nixon said that if the South Vietnamese lines do not "break" under attacks from the North, "it will be the final proof that Vietnamization has succeeded." Therefore, if the lines do break, the converse would presumably be true, and Mr. Nixon would have to concede that Vietnamization has indeed failed.

If he did concede any such thing, his policy would be in ruins, and his chances of reelection much reduced. Therefore, as soon as the unexpected strength of the North Vietnamese offensive revealed itself, the administration began to wriggle out of its previously self-confident posture.

After the first assurances that the South Vietnamese themselves "can cope with the enemy threat," official spokesmen decided that "it is too early to judge the ability of the South Vietnamese to meet this." But if they are not able to "meet" it, Mr. Nixon will have to eat his words, and so will those who provided him with the wrong information.

The experts have led the administration to believe that the Communists might perhaps be capable of a few spectacular fireworks displays to catch the headlines, but no more than that. These analyses take no account of the political factors which, as the Communists themselves have always stressed, are as important in their strategic planning as are the military.

If these factors had been given their rightful place in the official analysis, special importance would have been attached to the recent emphasis in Hanoi on the key role of the cities in the final uprising that should mark the end of the war.

Pham Van Dong, the North Vietnamese premier, spoke of the coming political struggle in the cities. Another politburo warhorse, Truong Chinh, said that this would "seriously shake the enemy right in his den," and that it would be coordinated with the military struggle—that is, evidently, with the coming offensive.

General Vo Nguyen Giap, the commander-in-chief, made it clear that final success in the war would depend on civilian participation in the fighting alongside the regular army. A Vietcong broadcast said that the urban struggle would develop into a revolutionary movement which, in "coordination" with other attacks, would overthrow the Thieu regime.

Official analysts tend to dismiss such signs on the ground that they have seen them all before. They claim that the Vietcong do not have the military organization to mount a serious challenge to the regime. But the Communists have had plenty of time to rebuild their strength since their 1968 Tet disaster.

Once again, overconfident military and political intelligence in the field appears, as has happened so often in this war, to lead to misjudgments in Washington. In February, the intelligence experts told the White House to expect a Tet offensive when the political signs were clearly against it. When the Tet offensive did not come, senior American officials let it be known in Saigon that they expected the big push to come in the late spring or summer, in order to affect the United States election.

They were still sticking to that view last week, in spite of indications, which coincided with the arrival of a Soviet military delegation in Hanoi, that the North Vietnamese had decided to strike before the dry season was over—that is, almost immediately.

They now say that they had expected it all along. But when the blow did fall, U.S. Ambassador in Saigon Ellsworth Bunker was visiting his wife in Nepal. The U.S. commander in Vietnam, Gen. Creighton Abrams, was out of the country. A key sector of the Demilitarized Zone was held by a newly formed, unseasoned division. Two aircraft carriers had to be rushed back to Vietnamese waters.

If the signs from Hanoi are read correctly now, they will show that the Communists are saying to Mr. Nixon: Make us an offer that will persuade us before the election to hold back the general uprising which could play havoc with your chances for a second term.

[From the Washington Post, Mar. 26, 1972]

THE UNITED STATES GIVES POSITION ON SUSPENDING PARIS TALKS

(From the remarks by Ambassador William J. Porter at the Paris peace talks on March 23.)

Unfortunately, there is no "give" in your position, no readiness on your side to listen to anything except what you call a "positive response" to your ultimatums, meaning a complete acceptance of everything you propose . . .

The absurdity of this attitude, in the light of your moral, military and political failures, is apparent to all who look at the Vietnam problem in detail. Among those who do, as you know, are an increasing number of young men of North Vietnam who are beginning to weight the failures of your policies and their cost . . .

In matters governed by international convention—I refer specifically to prisoners of war—you prefer the status of outlaws rather than abiding by the convention you signed. You reject our efforts here, and the efforts of others elsewhere, to persuade you to live up to your legal obligations. You pursue the vain hope that you can use the prisoners in your hands to extract political and military advantage, that you can achieve your goals by exerting a particularly abhorrent form of blackmail. Only your most hardened professional apologists continue to excuse your conduct in that domain . . . Indeed, you have acted in a manner which has made a great many people wonder whether you would dishonor any additional commitments you might make in the future as readily as you have dishonored those you have made in the past . . .

As you know, President Nixon, at the request of the Congress, has declared next week as a week of national concern for our men held prisoner by you and your associates. It would be a mockery of our concern for them were we to sit in this room with you and listen to more of your blackmail and distortions to the effect that the prisoner of war issue is an "imaginary problem." Therefore, our side does not agree to a meeting next week.

As for meetings in the weeks that follow, we believe it would be preferable to await some sign from you that you are disposed to engage in meaningful exchanges on the various points raised in your and our proposals . . .

[From the Washington Post, Apr. 1, 1972]

NIXON SCORES ON HANOI

(By Murrey Marder)

If scoring points really matters, the Nixon administration has succeeded in badly outmaneuvering North Vietnam and the Vietcong in the propaganda struggle in Paris.

With the return to Washington this week of chief negotiator William J. Porter for "consultations" of unspecified duration, the United States has completed what President Nixon has called a new pattern of actions "to break the filibuster."

To arouse the Paris talks now from a coma deeper than any the conference has experienced since the first encounter in May 1968, the United States has laid down the condition that the Communist side must first convince Washington that it has bonafide "intentions" to engage in "serious discussion."

Perhaps what is most interesting about this near-abortion of the Paris talks is not so much that it has happened, but that the happening has been greeted with a yawn by most people in the United States.

What this shows is that the American public has passed the numbness point of caring who proposes what formula for ending the war. All that matters is whether the war continues or ends. If the Nixon administration could extend national numbness with the war to that issue also—the war's existence—it would have a massive political accomplishment.

The Nixon administration has demonstrated that it can achieve almost anything short of that goal. It has proved, with remarkable public opinion "conditioning" skill, an ability to mold press and public attention that the Johnson administration never dreamed of attaining.

How many can now remember that two months ago, on Jan. 25, President Nixon said he was disclosing the record on 30 months of secret talks, by Henry Kissinger in Paris, "to try to break the deadlock in the negotiations?" Said Mr. Nixon, "Just as secret negotiations can sometimes break a public deadlock, public disclosure may help to break a secret deadlock."

Nothing, of course, happened. Nor was there any real expectation among experts in the administration that anything productive would happen. Breaking silence on the secret talks simply marked the end of an effort that failed.

But the Nixon administration accomplished two things by revealing the secret talks. The disclosure knocked the administration's domestic political critics off stride, at least temporarily, and it caused considerable confusion in North Vietnam. Hanoi's strategists were caught by surprise just before another blow was to fall—President Nixon's visit to China, which played on North Vietnam's suspicion of a sellout by one of its major allies.

Next, as Nixon administration strategists evidently calculated, Hanoi was reeling enough to be ripe for the next blow in Paris, the U.S. switch in the ground rules for holding the Paris talks.

Ambassador Porter in Paris, and other U.S. officials, long had urged an end to the automatic "assured propaganda forum" for the Communist side in the weekly Paris talks. President Nixon earlier authorized a progressive squeeze on this forum by skipping occasional meetings. Once the secret Kissinger-level talks were disclosed, the United States had a more plausible rationale for lopping off the ritualistic weekly talks: There could always be secret talks.

It was only "coincidence," U.S. officials maintain, that President Nixon happened to authorize that shift immediately before the return to Paris of the Vietcong's chief negotiator, Mrs. Nguyen Thi Binh, after a seven-month absence. But at least some officials smile when they say that. Mrs. Binh generally comes back to Paris with at least a new public wrinkle on Communist peace plans. Mrs. Binh is not foreclosed now from presenting any new offering at a resumed conference session—providing she can convince the U.S. side that she has something "serious" to offer.

On the scale of international maneuvering, the United States therefore now appears to have the Communist side clearly outpointed in Paris. Unfortunately, however, the outcome in Indochina, where the war goes on, is unlikely to be resolved on points.

U.S. ACTION IN LAOS BARED

(By Tammy Arbuckle)

VIENTIANE.—Americans have been flying helicopter gunships in combat areas in North Laos on certain occasions since the United States introduced a gunship program into Laos in late January, well informed American sources say.

But top U.S. Embassy officials here have been denying this American air crew participation is happening.

(The downing of an AC130 gunship by an enemy missile farther south in the Laos panhandle was announced today in Saigon. The crew of 14 is missing.)

Embassy officials say the helicopter gunship programs is flown by Thai "irregulars" and helicopters have been used solely for medical evacuation of Thai volunteer forces in Laos.

Informed American sources say, however, the Thais are "not doing a very good job and they have had a hard time up there and Americans have had to show them how, so there have been times when Americans have had to fly the choppers."

This correspondent's observations bear this in the early afternoon of February 20 at Ban Son, also known as Site 272 some 60 miles northeast of Vientiane, this reporter saw three Huey gunships take off in the direction of Long Cheng and the Plain of Jars. The Hueys were armed with door machineguns and twin rocket pods. Standing at close range as one ship took off this reporter saw the right door gunner was definitely American and other four crew members though partially obscured by gear and helmets also appeared to be Americans.

Through radio conversation and from U.S. and Meo officials this reporter learned the gunships were striking at Phou Teung in the southeast corner of the Plain of Jars to support the advance of Lao irregular force code-named "gumdrop."

CASUALTIES A PROBLEM

Conversations indicated the gunships were softening up Phou Teung to prepare for the Lao advance but in all fairness it must be admitted a problem also existed on evacuating wounded. Gumdrop had several wounded who could not be evacuated because of intense Communist groundfire and the strikes therefore may have been medivac oriented rather than assault oriented though with Americans on the gunships and picking up Lao, not Thais, it did not sound like it.

Informed American sources said the gunship program is controlled and advised by U.S. Army helicopter pilot Maj. Robert Moberg, a U.S. Army attache in the Vientiane army attaches office.

One American source said Moberg flew a control helicopter while gunships were operating but the control ship remained high and did not go down to participate in the action.

The gunships' crews are told they have no right to poke their noses into the running of the war here and at Long Cheng. Where the gunships operate has been mysteriously out of bounds to reporters for more than 10 days.

There is also the clandestine nature in which gunships were introduced. There was no announcement of such an addition being made to the airwar.

"OFF THE RECORD"

When this correspondent first saw the ships on February 20 U.S. officials put the matter "off the record" on grounds the ships had not yet been used and therefore the North Vietnamese did not know about them. They were a military secret.

Even after several strikes were made by

the gunships, officials did not want to go on record concerning their use and the program did not come to light till one gunship crashed in a thunderstorm near Vientiane in front of witnesses. All five crew members were killed and U.S. officials say they were Thais.

U.S. officials, however, promised to investigate who was flying the helicopters on Feb. 20 and as has happened in past they base their defense on ground rules as they read rather than as they are carried out in practice.

"I have read the language of orders applying to this program and Americans are forbidden to fly such missions," a U.S. embassy official said. "I categorically deny that Americans are flying on these missions," he said.

Such denials are not surprising because of what is involved. While the U.S. is ostensibly pulling out of Southeast Asia the war has been escalated in Laos by introducing gunships under the cover of medivac operations. That additional Americans should be introduced even temporarily to get the program going and be exposed to enemy fire makes it worse. That this escalation is in response to North Vietnamese escalation by introducing long-range artillery and tanks into North Laos does not really help. The gunships are not going to make an appreciable difference and there is danger of American officials are going too far in the game of tit for tat involving the U.S. more deeply.

[From the Washington Post, Mar. 24, 1972]

THAI-BASED U.S. OPERATIONS CLOSETED IN TIGHT SECRECY

(By Jack Foisie)

BANGKOK, March 22.—Thailand is gradually becoming the staging area for most American-directed ground operations in Indochina as U.S. troop withdrawals from Vietnam continue and the war and political situations in Cambodia and Laos become more tense.

This has resulted in increased sensitivity on the part of Thai and American officials alike concerning U.S. air bases in Thailand and the camps and bases involved in cross-border operations.

In answer to a newsman's request, U.S. officials disclosed that there are 245 U.S. military advisers in Thailand and 280 members of the U.S. Special Forces.

But other than outlining their acknowledged training and advising roles, the officials declined to go deeper into Thai-based American operations in the Indochina war.

Officially, the role of all American Green Berets is to "train the Thais to be trainers" in counterinsurgency warfare, teaching tactics to their own troops and to those of "third-country" armies—that is, Laotians and Cambodians.

But these same American officials acknowledge that there are numerous secret camps—they call them "ad hoc training areas"—at which Americans are placed. They will not discuss the American role in these camps.

It is known, however, that some are border camps fronting on Laos and Cambodia, manned by Thai soldiers and American Green Berets engaged in clandestine cross-border operations. Rebellious areas in Burma are also being penetrated from Thai-American camps in the western provinces of Thailand.

The participation of Thai army "volunteers" in Laos, as part of a Western-backed Royal Lao army, is now an established fact. More than 5,000 Thai troops, artillerymen and airmen are in action on foreign soil.

They are American-paid, but the Thai government has its own reason for making the "volunteers" available. The North Vietnamese army and its Communist Pathet Lao auxiliary are closer to the banks of the Mekong River than in past dry seasons, and the Mekong is Thailand's border.

Despite contrary evidence, both Thai and American officials continue to pretend that the volunteers sign up on their own. They are, in fact, regular Thai units led by their own officers and taking orders mostly from the U.S. Central Intelligence Agency.

One of the assembly areas for this trans-Mekong migration is the Thai army camp of Saritsena, outside the north central town of Phitsanulok. CIA-operated Air America transport planes fly the new men from there directly into Laos.

In the most recent explanation of the Thai presence in Laos, a U.S. State Department spokesman last week described the Thais as "local forces" eligible for U.S. support.

This definition is intended to avoid violating the congressional ban on recruiting and paying mercenaries for fighting in Laos and Cambodia.

Secrecy concerning military assignments in Thailand has reached the point that a visitor with a great deal of aplomb can stumble into a secret American camp and stay a while by pretending that he, also, is on mysterious assignment.

It happened this way, without a lie being told. The gate guard challenged: "Who are you?" The newsman assumed a serious, knowing look and replied: "Don't ask me!"

For emphasis he pressed a finger to his lips, "Oh," the guard said, impressed. "I understand." He opened the gate and directed the visitor to the command post.

Exotic code names also figure into the secrecy. "Peppergrinder" is the name of a big American-Thai logistical base, for weapons and supplies destined for allied forces in Laos.

Despite their various unpublicized roles, the American Special Forces in Thailand have declined from the high point of 369 in 1969. The reduction was made possible after the Thai field police assumed their own training. The U.S. advisory force also has been cut back by 25 per cent from its high point.

Other American military activities have offset the reduction.

ORDER FOR RECOGNITION OF SENATOR PACKWOOD ON FRIDAY, APRIL 7, 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leadership has been recognized at the convening of the Senate on Friday morning next, the distinguished Senator from Oregon (Mr. PACKWOOD) be recognized for not to exceed 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m. today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Thereupon, at 11:29 a.m, the Senate took a recess until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENSON).

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Geisler, one of his secretaries.

REPORT ON INTELSAT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

In the relatively short span of seven years, communications by satellite has changed the world forever. We now live, in one very real sense, much closer to other peoples and to faraway events.

The fast-developing science of satellite communications must rate as one of the true marvels of the 20th century—a technological triumph that is bringing greater understanding to a world badly in need of closer ties and deeper insights.

As one might expect, the seven years since the launching of the first communications satellite, Early Bird, have been filled with important developments in this new field. The year 1971 was one of particular accomplishment, since it marked the completion of two years of multilateral negotiations which produced the governing instruments for the International Telecommunications Satellite Consortium. When the resulting Definitive Agreements come into force, possibly in 1972, that will signal the start of a new era for this highly successful organization.

It is my pleasure to report to the Congress on our activities and accomplishments in 1971 under the Communications Satellite Act of 1962. I am certain the Congress will share my fascination and satisfaction with the speed in which participation in satellite communications is spreading across the world as a new and constructive force among nations and peoples.

RICHARD NIXON.

THE WHITE HOUSE, *April 5, 1972*.

WAR POWERS ACT

Mr. TALMADGE. Mr. President, the single most important decision we as a Nation can make is the decision to go to war.

In our Nation's relatively short history of 196 years, the Armed Forces of the United States have been committed abroad on 174 separate occasions. Yet, the Congress has formally declared war only five times.

This means that for every war declared by the Congress, we have been involved militarily on over 30 other occasions solely at the direction of the President.

Our Nation has been at war for 15 of the past 22 years, and in the past 10 years alone Presidents have launched major military interventions in seven different nations.

In short, Mr. President, since World War II, our Nation has become greatly overextended throughout the world, both militarily and economically, without any expressed congressional mandate.

The expansion of Presidential authority and the erosion of Congress role in foreign affairs generally, and in war policy specifically, have precipitated a constitutional imbalance of grave proportions.

The purpose of S. 2956, the so-called War Powers Act, is to restore that constitutional balance of responsibilities between the executive and legislative branches without hamstringing the President in the performance of his duties as Commander in Chief.

How does this legislation go about accomplishing this goal? Stated simply, it defines the circumstances in which the President, without prior congressional authorization, can unilaterally commit the Armed Forces of our Nation, and the circumstances in which prior congressional authorization is required before the President can act militarily.

The starting point, and rightly so, is the Constitution itself. The bill recognizes that the Constitution vests in the President the power, even in the absence of a congressional declaration of war, to use American forces to repel sudden attacks on U.S. territory or U.S. forces outside this country, and to protect U.S. nationals whose lives are endangered abroad. These so-called emergency powers have been exercised by various Presidents in the past. There is no question that this authority arises from the President's independent constitutional office as Commander in Chief.

The bill goes to great lengths to preserve and protect these constitutional prerogatives of the President. Recognizing that ours is a troublesome and perilous world, it further empowers him to use the Armed Forces to forestall the threat of a direct and imminent attack on this country or this country's forces abroad.

However, the bill clearly and unequivocally states that any other use of the Armed Forces by the President for any other purpose, in any other circumstances, is prohibited, unless specifically authorized by Congress by law in advance.

We want no more of this calling of American troops into action because of some vague treaty commitment or executive agreement.

Let us have no more of this implying or inferring after-the-fact approval of a Presidential war because of congressional passage of an appropriations bill providing supplies and ammunition to troops already in the field of battle.

Perhaps most importantly, Mr. President, the bill prescribes procedures by which the Congress may overrule the President's exercise of his emergency war powers.

Any commitment of U.S. forces initiated by the President under the emergency conditions outlined in the bill is limited to 30 days, unless Congress by specific legislation authorizes their continued use.

Moreover, if it disapproves of the President's action, Congress may pass legislation terminating the use of our forces before the 30-day period has expired.

In my judgment, these provisions are the essence of the bill. The President, any President, would stand forewarned against any emergency use of the Armed Forces that did not conform with the law and that would not command the support of the Congress.

Finally, Mr. President, in cosponsoring and supporting this legislation, my intention is not to criticize those Presidents whose administrations have spanned the Vietnam war. My desire is not to strip the Commander in Chief of his rights and responsibilities under the Constitution. Nor am I motivated by jealousy or animosity toward the executive branch.

In answering the question of why, after 196 years, a war powers bill is needed now, let me restate what I said at the outset: The single most important decision we as a nation can make is the decision to go to war. I strongly feel that we must make that decision as a nation. In the recent past, however, the President, acting virtually alone, has determined whether we followed a course of war or peace. This is not right. It is the people who should decide this course, through their elected representatives. The decision is too great for one man to make, no matter how thick his hide or how broad his shoulders.

The War Powers Act (S. 2956) is a step in the right direction toward restoring this authority and this responsibility to the people and creating a better and more effective partnership between the Congress and the executive branch in foreign affairs.

Mr. JAVITS. Mr. President, will the distinguished Senator from Georgia yield?

Mr. TALMADGE. I am delighted to yield to the distinguished Senator from New York.

Mr. JAVITS. I was very much honored when the Senator from Georgia became a cosponsor of the bill. I am really inspired to hear him speak as he has. Some idea has been sought to be disseminated that those who back the bill have some desire to restrain the power of the United States in terms of either its own security or its true mission in the world.

I deeply believe that the historic value of the support of the Senator from Georgia, the Senator from Mississippi, and others, who have been identified with the very highest efforts to maintain the competence of the United States in the security field, is a clear underwriting of the fact that I have no such design. I have consistently voted for an effective defense of this country—and always will. This is a design to strengthen rather than in any way to derogate from that security power. I cannot tell the Senator from Georgia the degree of strength which I feel that that position is given by adherence to this measure by the Senator from Georgia.

In addition, the South has had a great tradition of constitutionalism. I believe that that is exactly what we are asserting here.

Again, I am greatly fortified by the position taken by the distinguished Senator from Georgia.

Mr. TALMADGE. Mr. President, I thank my distinguished friend, the Senator from New York. I certainly do not want to weaken the military security of this country. On the contrary, I want to strengthen it.

I greatly fear that we are not as strong as we should be in the dangerous world in which we live at the present time. But there is a gray area in the Constitution of the United States that needs clarifying. The President of the United States clearly, under the Constitution of the United States, is the Commander in Chief of the Armed Forces of this country. The Constitution clearly gives to Congress, and to Congress alone, the power to declare war.

There is a gray area between the power of the Commander in Chief and the power of the Congress to declare war. That gray area needs resolving.

In my judgment the bill, as primarily sponsored by the distinguished Senator from New York, seeks to take a great step forward in eliminating that gray area.

When this country goes to war, it ought not to be as a result of the action of the executive branch alone. It ought not to be as a result of the action of the Congress alone. But it ought to be as a result of the concerted action of the executive branch, through the President of the United States, and the Congress. And under those conditions, I believe that if our country has to go to war again—and God forbid that it does—the people of this country would be united and they would be prepared to fight to a successful conclusion.

I hope we get in no further wars that we are backed into by the executive branch without Congress sharing in that action and carrying out its constitutional mandate and responsibility.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. TALMADGE. I am happy to yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I want to commend the distinguished senior Senator from Georgia for his remarks and for the arguments he has just made.

He has emphasized that this is not an adversary proceeding against the President. It is an expression of intent to find an accommodation and partnership by which to bring about a restoration of some of the powers which the Congress has under the Constitution but which have been allowed to fall into disuse. It is not an effort to overshadow the President, but to work with him and, in so doing, to work with and for the best interests of the people and to avoid if at all possible, involvement in the type of conflicts in which we have been engaged in recent years and in which the Congress had little or no voice.

Mr. TALMADGE. Mr. President, I commented in my statement that this is a sharing of responsibility as provided in the Constitution.

I yield the floor, and I thank the distinguished majority leader, the distinguished majority whip, and the distinguished junior Senator from Arizona for yielding this time to me.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PUBLICATION ISSUED BY FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a Publication entitled "The Gas Supplies of Interstate Natural Gas Pipeline Companies, 1970" (with an accompanying document); to the Committee on Commerce.

REPORT ON OPERATION OF TRADE AGREEMENTS PROGRAM

A letter from the Chairman, U.S. Tariff Commission, transmitting, pursuant to law, the 21st report of that Commission on the operation of the trade agreements program (with an accompanying report); to the Committee on Finance.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Determination of Nonprofit Organizations' Eligibility For Reduced Postage Rates Should Be Improved", U.S. Postal Service, dated April 4, 1972 (with an accompanying report); to the Committee on Government Operations.

ENVIRONMENTAL IMPACT STATEMENT ON THE TRANSPORTATION REGULATORY MODERNIZATION ACT OF 1971

A letter from the General Counsel, Office of the Secretary of Transportation, transmitting, pursuant to law, a draft environmental impact statement on the Transportation Regulatory Modernization Act of 1971 (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION RELATING TO CERTAIN PRISONERS OF WAR AND MISSING FEDERAL EMPLOYEES

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to provide certain benefits for American civilian prisoners of war in Southeast Asia, for Federal employees in a missing status, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

REPORT OF DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

A letter from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, his report for the fiscal year 1971 (with an accompanying report); to the Committee on the Judiciary.

REPORT ON NATIONAL HIGHWAY NEEDS

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on National Highway Needs, for the year 1972 (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of Oklahoma; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION NO. 1074

"A concurrent resolution memorializing Congress to take appropriate measures to curb federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance; and directing distribution

"*Whereas*, it was ordained and established in Article III of the Constitution of the United States of America that the Supreme Court's appellate jurisdiction shall be subject to such exceptions and under such regulations as Congress shall make; and

"*Whereas*, under this existing provision in the framework of governing law of the country, Congress can except from the jurisdiction of the Supreme Court such subjects as it sees fit; and

"*Whereas*, under the existing provision in the Constitution, Congress can surely take appropriate measures to curb federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance; and

"*Whereas*, the time has come when it should be called to the attention of Congress, the members of the House, the members of the Senate and the people of this country, that Congress can presently, without awaiting any amendment of the Constitution, except appeals of questions concerning a public school system of any state or public school system of any political subdivision of any state from the appellate jurisdiction of the Supreme Court.

"Now, therefore, be it resolved by the House of Representatives of the 2nd session of the 33rd Oklahoma Legislature, the Senate concurring therein:

"Section 1. That the Congress of the United States of America be memorialized to take appropriate measures to curb federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance.

"Section 2. That duly authenticated copies of this Resolution be distributed to members of the House of Representatives and Senate, including the Oklahoma Congressional Delegation, and the President of the United States.

"Adopted by the House of Representatives the 28th day of March, 1972."

"Adopted by the Senate the 23rd day of March, 1972."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOLE, from the Committee on Agriculture and Forestry, with an amendment:

S. 1943. A bill to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes (Rept. No. 92-728).

By Mr. JORDAN of North Carolina, from the Committee on Agriculture and Forestry, without amendment:

S. 3068. A bill to amend the provisions of the Agricultural Adjustment Act of 1938, as amended, relating to the lease of tobacco acreage allotments and marketing quotas (Rept. No. 92-729).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SCOTT:

S. 3451. A bill for the relief of Crown Coat Front Co., Inc. Referred to the Committee on the Judiciary.

By Mr. SCOTT (for himself and Senator MCCLELLAN) (by request):

S. 3452. A bill to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees. Referred to the Committee on the Judiciary.

By Mr. TOWER:

S. 3453. A bill to authorize the crediting for certain purposes, of service performed as a member of the Senior Reserve Officers' Training Corps program, service as a midshipman at the U.S. Naval Academy, and service as a cadet at the U.S. Military Academy, U.S. Air Force Academy, or the U.S. Coast Guard Academy. Referred to the Committee on Veterans' Affairs.

By Mr. STEVENS:

S. 3454. A bill for the relief of United Contractors, a partnership consisting of James E. Ward, Elkan Morris, and Andrew J. Dickies. Referred to the Committee on the Judiciary.

By Mr. INOUYE:

S. 3455. A bill to provide that time spent by individuals interned in places operated by the U.S. Government for U.S. citizens and nationals of Japanese ancestry shall be considered creditable service for purposes of civil service retirement. Referred to the Committee on Post Office and Civil Service.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCOTT (for himself and Senator MCCLELLAN) (by request):

S. 3452. A bill to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees. Referred to the Committee on the Judiciary.

Mr. SCOTT. Mr. President, as the ranking Republican member of the Subcommittee on Patents, Trademarks and Copyrights, I introduce by request on behalf of myself and the senior Senator from Arkansas (Mr. MCCLELLAN) a bill to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees.

This legislation is being introduced at the request of the Department of Commerce and provides for three miscellaneous amendments to the Trademark Act of 1946, as amended.

Under section 13 of the Trademark Act, any person who believes that he would be damaged by the registration of a mark upon the principal register may oppose the same by filing an opposition within 30 days after the publication of the mark sought to be registered. Section 1 of this bill provides for automatic extension of the period of filing oppositions in trademark cases on request of a prospective opposer. No reasons for requesting a first extension would be required. Subsequent extensions could be granted if good cause is shown.

Section 21 of the Trademark Act requires that a party taking an appeal to the U.S. Court of Customs and Patent

Appeals must give notice to the Commissioner of Patents and file his reasons of appeal with the Patent Office. The requirement for filing "reasons of appeal" no longer serves a useful purpose and has occasionally deprived litigants of legal rights. Section 2 of the bill eliminates the statutory requirement for filing "reasons of appeal."

Section 35 of the present Trademark Act provides for the awarding of treble damages in appropriate circumstances in order to encourage the enforcement of trademark rights. The general rule in the U.S. judicial proceedings is that, absent specific authority by statute or contract, attorney fees are not recoverable in ordinary actions at law or in equity by either a successful plaintiff or defendant. Section 3 of the bill provides that attorney fees may be awarded to the prevailing party in actions under the Federal trademark laws, when equity justifies such awards. It would make a trademark owner's remedy complete in enforcing his mark against willful infringers, and would give defendants a remedy against unfounded suits.

By Mr. TOWER:

S. 3453. A bill to authorize the crediting, for certain purposes, of service performed as a member of the Senior Reserve Officers' Training Corps program, service as a midshipman at the U.S. Naval Academy, and service as a cadet at the U.S. Military Academy, U.S. Air Force Academy, or the U.S. Coast Guard Academy. Referred to the Committee on Veterans' Affairs.

Mr. TOWER. Mr. President, I am introducing today a bill to credit for pay and retirement purposes time performed as a member of the Senior ROTC program or as an academy cadet or midshipman. This bill is another in a series designed to increase the attractiveness of a military career, but it is also designed to eliminate an inequity that has inadvertently arisen.

Recently, I introduced a bill to establish Reserve enlistment and reenlistment bonuses with the hope that this measure would strengthen our declining Reserve component strengths. Those strengths had dropped 45,000 below the congressionally authorized floor as of December 1971. While that measure benefits enlisted men of the Armed Forces, the bill I introduce today is directed at the officer corps.

There are really two separate systems for raising officers for the Armed Forces, from college. The one with which we are most familiar, the Reserve Officers' Training Corps program, is utilized by the Army, Navy, and Air Force. The Marine Corps, however, has a special program called the platoon leaders course which is the prime source of their officers. College students are recruited early in their college careers and must normally serve two 6-week summer camps before commissioning.

Until last year members of the Platoon Leaders Course received no subsistence allowance. ROTC students were given $50 a month. To overcome this inequity, it was the practice of the Marine Corps to allow graduates of the PLC to count their service for pay and retirement purposes. The effects of this were to give these officers an approximate 2-year advantage in pay and to allow these officers to retire about 2 years earlier than their Army, Navy, and Air Force counterparts. These were considered sufficient incentive to overcome the lack of a subsistence allowance while in college.

However, last year Public Law 92-192 was passed. This gave both ROTC and PLC students a $100 monthly subsistence allowance, thus removing the original inequity but creating a new one. This bill will solve that problem by allowing ROTC students to count their years of service for basic pay and retirement purposes. It will additionally give service academy cadets and midshipmen the advantage of counting their years in the academies for these purposes. It is my belief, Mr. President, that this measure is essential to removing a pay inequity that was inadvertently created last session and it provides an additional incentive for officer procurement for the all-volunteer force.

By Mr. STEVENS:

S. 3454. A bill for the relief of United Contractors, a partnership consisting of James E. Ward, Elkan Morris, and Andrew J. Dickies. Referred to the Committee on the Judiciary.

Mr. STEVENS. Mr. President, on July 1, 1970, I introduced into the 91st Congress Senate bill 4052 providing for the relief of United Contractors, a partnership consisting of James E. Ward, Elkan Morris, and Andrew J. Dickies. Although the bill was not enacted during the 91st Congress, I still believe that it is a most worthy piece of legislation. Accordingly, I am resubmitting it today.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 32

At the request of Mr. KENNEDY, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 32, the Conversion Research, Education, and Assistance Act.

S. 2219

At the request of Mr. CRANSTON, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 2219, the Veterans' Administration Health Manpower Training Act of 1971.

S. 2354

At the request of Mr. CRANSTON, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 2354, the Veterans' Health Care Reform Act of 1971.

S. 2851

At the request of Mr. ALLOTT, the Senator from New York (Mr. BUCKLEY), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 2851, a bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions.

S. 3010 AND S. 3193

At the request of Mr. NELSON, the Senator from Oklahoma (Mr. HARRIS) was added as a cosponsor of S. 3010 and S. 3193, bills to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

S. 3291

At the request of Mr. PACKWOOD, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 3291, a bill to eliminate the discriminatory tariffs on fish nets and netting which are not produced in the United States.

S. 3309

At the request of Mr. ROBERT C. BYRD (for Mr. BURDICK) the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 3309, a bill to reduce recidivism by providing community-centered programs of supervision and services for persons charged with offenses against the United States, and for other purposes.

S. 3351

At the request of Mr. BROCK, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 3351, a bill to establish a Council on International Economic Policy.

S. 3436

Mr. ALLOTT. Mr. President, I join today with the distinguished junior Senator from Utah (Mr. MOSS) in sponsoring S. 3436, entitled an act to amend the Soil Conservation and Domestic Allotment Act and provide for a Four Corners Area program, introduced March 29, 1972. The bill is an effort to concentrate our attention upon the very real environmental problems that exist in the Four Corners Region. We who represent the Four Corners States are only too familiar with the problems of sediment and salinity as well as other pollutants in the streams and ponds of the Four Corners Area. This regional approach to solving the problems peculiar to this area is the logical avenue to pursue. It will arm the Soil Conservation Service with the authority to "tailor-make" needed solutions to regional environmental problems.

S. 3439

At the request of Mr. STEVENSON, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 3439, a bill to authorize expenditures to correct or compensate for substantial defects in section 203(b) FHA mortgaged homes.

SENATE CONCURRENT RESOLUTION 74—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF SENATE REPORT 92-634

(Referred to the Committee on Rules and Administration.)

Mr. WILLIAMS submitted the following concurrent resolution:

S. CON. RES. 74

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Labor and Public Welfare two thousand additional copies of Senate Report 92-634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971", a report by its Subcommittee on Labor pursuant to section 4 of Senate Resolution 35, Ninety-second Congress.

SENATE RESOLUTION 290—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE CHIEF COMMISSIONER OF THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. SCOTT submitted the following resolution:

S. RES. 290

Resolved, That the bill (S. 3451) entitled "A bill for the relief of the Crown Coat Front Company, Inc., now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any legally or equitably due from the United States to the claimant.

EXTENSION OF THE ECONOMIC OPPORTUNITY ACT OF 1964—AMENDMENT

AMENDMENT NO. 1100

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. STEVENSON. Mr. President, I submit an amendment to S. 3193, a bill to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

Mr. President, 3 weeks ago President Nixon told a national radio and television audience that—

> It is time for us to make a national commitment to see that the schools in the central cities are upgraded so that the children who go there will have just as good a chance to get quality education as do the children who go to school in the suburbs.

Last week the Office of Education announced a 15-percent cutback for next fall's funding of one of the most successful Federal efforts to bridge the educational gap in urban America—Project Follow Through. Conceived in 1967 as a kindergarten-third grade followup to the comprehensive program approach of Project Headstart, Follow Through has proven its worth by producing students who have consistently maintained higher levels of academic achievement, lower dropout rates, and more positive attitudes toward learning than their counterparts in urban schools who have not been fortunate enough to participate in the Follow Through program.

The story of how 26 Follow Through programs are in danger of being terminated this fall is one of broken promises, budgetary miscalculations, and disordered national priorities. If we as a Nation are to make the "national commitment" about which the President spoke, programs like Follow Through must be expanded, not curtailed. The legislation I introduce today is designed to do just that. If these programs are allowed to die, "equal educational opportunity" and "national commitment" will be just so much empty rhetoric for the thousands of families who have already seen what Follow Through can do and the thousands more who could follow them. I trust the Congress will not allow this to happen.

Last year the administration requested $59 million for the fiscal year 1972 Follow Through program, some $9 million less than the $68 million for fiscal year 1971. The Office of Education explained at the time that its goal was to reduce Federal per pupil Follow Through costs through more efficient administration. There was to be no cut in the number of Follow Through programs. Although this was the administration's position in August of 1971, we are now told that the $9 million cutback for fiscal year 1972 funds, which will be used for the school year beginning in the fall of 1972, will necessitate a 15-percent cutback in Follow Through programs, including three in the State of Illinois. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a list of the 26 Follow Through programs being eliminated by the administration.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Effect of $9 Million Fiscal Year 1972 Budget Cutback of Follow Through—School Year 1972–73

The following cities are losing their Follow Through projects (also included is the amount for which they would have been programed in the coming school year in the absence of cuts):

Lincoln, Nebraska	$43,500
Chicago (Howland-Lathrop)	152,000
Dimmitt, Texas	218,400
Jefferson Parish, La	205,000
Philadelphia (Elverson)	144,000
Wood County, Wisconsin	75,000
Riverhead, New York	314,400
Philadelphia (Stevens)	60,000
Philadelphia (Waring)	176,000
Stuarts Point, California	18,700
Randolph County, West Virginia	225,690
Texarkana, Arkansas	250,000
Pittsfield, Massachusetts	236,520
Chicago (Ogden)	39,375
Lansing, Michigan	337,500
Prince Georges County, Maryland	190,485
Laurel, Delaware	230,280
El Monte, California	336,995
Vincennes, Indiana	119,850
DuVal County, Fla. (Jacksonville)	763,290
Leflore County, Mississippi	337,500
Fort Yates, North Dakota	136,800
Hillsboro County, Florida	447,603
Lamont, California	240,000
Great Falls, Montana	249,000
Waukegan, Illinois	347,650

Mr. STEVENSON. Mr. President, it was not stated last year, when this year's cuts were ordered, that some 26 programs would have to be terminated. As of today, there is no new Federal or cooperative Federal-State effort to take over where these programs have been ordered to leave off. The administration has changed its signals in midstream, and unless we in the Congress do something about it, the disadvantaged children now being served by 26 fully operative Follow Through programs throughout the country will bear the brunt of the administration's miscalculations.

The amendment I submit today would earmark $100 million of the funds authorized by the Economic Opportunity Amendments of 1972 for Follow Through programs in fiscal year 1972 and $100 million in fiscal year 1973. In fiscal year 1972, $70 million of this would be enough to save all current programs, while the additional $30 million would permit a modest expansion. As quality preschool programs grow, there must be parallel growth in complementary programs such as Follow Through.

Among the projects scheduled to be terminated at the end of this school year are three in Illinois, involving four separate schools, one of which the Office of Education has called one of the most innovative and successful Follow Through programs in the Nation. These cutbacks are among the greatest for any State in the Union. Many years of hard work went into developing the programs at the Ogden School in Chicago, at the Howland and Lathrop Schools in Chicago, at the Carman School in Waukegan, and at other schools across the Nation. Much remains to be done, but years of work could be tragically destroyed by abrupt program terminations.

We cannot abandon these children who are finally beginning to receive what has for too long been the object of an empty national commitment—a quality education. By providing the funds necessary to keep current Follow Through projects operative, we can insure that children who now benefit from this Federal aid are not made victims of insensitive and unwarranted budget cuts.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1103

(Ordered to be printed and referred to the Committee on Finance.)

ELIMINATION OF THE PART B PROGRAM FROM MEDICARE PROGRAM

Mr. WILLIAMS. Mr. President, the present program of health insurance for the aged, or medicare, as you know, is composed of two parts, parts A and B. Part A is a hospital insurance program which provides practically every person 65 and older with vital protection against the astronomically high costs of hospitalization and other forms of related institutional health care. Hospital insurance is currently financed by means of a special payroll tax, much in the same way as payroll taxes are used to pay for retirement, disability, and survivors' cash benefits under social security. Part B, known as the supplementary medical insurance program, affords the elderly an additional margin of needed protection against the high costs of physicians' and other medical services required by older people. This program is, as you know, voluntary. The aged elect to choose coverage under the program and pay 50 percent of the costs of program benefits and administration.

About 6 years ago, when medicare began, monthly premiums for supplementary medical insurance were only $3. The costs of protection under this program, protection which has remained largely unchanged, is now $5.60 a month.

On July 1 of this year, monthly premiums will rise to $5.80, nearly double the original costs of the program. The limited and fixed resources of more than 20 million older people will be reduced by a staggering $1.5 billion solely to finance the supplementary insurance program. The time has surely come, I am convinced, to examine our entire approach toward financing medical insurance protection for the country's millions of retired workers and their spouses.

I think it would be a sham for this Congress to act on increases in cash retirement benefits under social security on one hand, while allowing the Government to take back part of these increases in the form of higher monthly premium payments on the other. In my view, the part B premium now imposed on older enrollees should be eliminated altogether. First, it would provide an immediate measure of badly needed financial relief for an aged population that is already smarting severely under the intensifying pressures of inflation. And, second, elimination of premiums would remove any future monetary barriers which would serve to deter an older person from obtaining the protection afforded by the supplementary program.

To accomplish this reform in our social security system, I am introducing the following amendment which will eliminate the premiums for supplementary medical insurance.

The administration agrees that there is an urgent need to do away with part B premiums under medicare. But the President has asked the $1.5 billion represented by these premiums be financed through the hospital insurance payroll taxing mechanism. This means of financing part B benefits is, in my opinion, unnecessary and unjustified. It is wholly unfair to shift the burden of the costs of part B to an already burdensome and much too regressive tax levied on the salaries and wages of workers in this country. One-half of part B costs are now paid for from general revenues, and I see no reason why the entire cost cannot be financed in this matter.

Mr. President, when the social security legislation now in committee reaches the floor of the Senate, I hope a provision of the kind I have just described will be included in it. If not, it is my intention to support amendments that will achieve this objective.

AMENDMENT NO. 1104

(Ordered to be printed and referred to the Committee on Finance.)

Mr. NELSON. Mr. President, I am introducing an amendment to H.R. 1, the social security bill now before the Finance Committee, that would substantially increase the work incentives for welfare recipients.

Last Tuesday, in a message to the Congress, President Nixon had this to say about the present welfare system:

> Its shocking inequities continue to drain incentive from the many poor who work but who see some families making as much or more on welfare.

From the beginning, the desire to provide a greater work incentive has been one of the major motives behind the family assistance plan. In his message to Congress of August 11, 1969, in which he first presented this proposal, President Nixon declared:

> I propose a new approach that will make it more attractive to go to work than to go on welfare . . . For the first time, training and work opportunity with effective incentives would be given millions of families who would otherwise be locked into a welfare system for generations . . .

I support the President's goal. Nothing can contribute as much to the well-being and financial independence of the poor as jobs. Many of today's welfare recipients want to work. Under H.R. 1, coverage is extended to several million families whose heads are either already working, or who could work if employment were available. For all of these people, the welfare system should provide a strong incentive to seek—and hold—jobs.

Unfortunately, H.R. 1 does not meet this test. It does not live up to the Presidential rhetoric.

Here is how the bill would work. For every $1 earned by a welfare recipient—above $720—his welfare check is reduced 67 cents; at the same time, he must pay 5 cents in social security taxes. As a result, he keeps only 28 cents. Moreover, if he earns enough to pay income taxes, every additional dollar earned means 14 cents in income tax. In that event, the recipient ends up with 14 cents per dollar earned.

But that is not all. Most welfare recipients receive benefits from a variety of other programs—medicaid, public housing, et cetera—which also taper off as earnings rise. As a result it is quite possible for recipients to actually lose money from an additional $1 of earnings. As Senator LONG pointed out in his Senate speech of August 6, 1971:

> In many cases after one considers the increase in Social Security taxes paid, the loss of medicaid benefits, and especially if the family is enjoying the benefit of subsidized public housing, the family income would be reduced by more than 100 percent of every dollar that a father or mother proceeded to earn.

But even if this situation does not exist, the arithmetic is not very encouraging. A man who is paid the present legal minimum wage of $1.60 an hour and can keep only one-third of it is in effect working for 53 cents an hour. Not many people are prepared to do that.

Of course, a similar problem exists under current law. But as Alice Rivlin, former Assistant Secretary of Health, Education, and Welfare, and Joseph Pechman, director of economic studies at the Brookings Institution, testified before the Finance Committee in January:

> H.R. 1 gives significantly less incentive to welfare recipients . . . than present law.

The same conclusion has been arrived at in a study by Jodie Allen of the Urban Institute.

What it boils down to is this: The administration is trying to sell its welfare reform bill on the basis of a virtue which it patently does not possess.

It may be argued that although H.R. 1 provides little incentive to work, it will increase employment among welfare recipients because of the work requirement. This amounts to saying that we can accomplish through coercion what we are unwilling to try through economic incentives.

However, as Senator LONG has put it:

> The so-called work requirements are, in fact, a farce.

Work requirements have been in existence for at least 10 years under AFDC, and they have certainly not increased employment substantially among the AFDC population. If a welfare recipient is determined not to work, he can easily get himself fired after being placed on the job. As Roger Freeman of the Hoover Institution at Stanford University and one of the most outspoken opponents to H.R. 1, told the Finance Committee:

> There probably is only one way in which a man (or woman) can be made to find and take a job and keep it: *To make him want it.* No mandatory work requirement can make him do that . . .

A number of provisions contained in the Ribicoff amendment would improve work incentives. In particular, a credit should be provided for social security and income taxes paid by welfare recipients.

However, my amendment would go further. For the great majority of the working poor, it would provide a 50-percent tax rate—for every $1 earned, the welfare check would be reduced by only 50 cents, instead of 67 cents as in H.R. 1.

Specifically, this proposal would continue to disregard the first $720 of earnings. Over the next $1,000 of earnings, welfare benefits would be reduced 67 cents for every $1 of earnings, as in H.R. 1. However, for any additional earnings, benefits would be reduced by only 50 cents on the dollar. Table 1 compares this proposal with H.R. 1 for different earnings levels.

TABLE 1.—WELFARE BENEFITS AND TOTAL INCOME UNDER H.R. 1 AND UNDER THE NELSON AMENDMENT FOR A FAMILY OF 4 AT DIFFERENT EARNINGS LEVELS

	H.R. 1: $720 disregard 67 percent tax rate		Nelson proposal: $720 disregard 67 percent on next $1,000; 50 percent thereafter	
Earnings	Welfare benefit	Total income	Welfare benefit	Total income
0	$2,400	$2,400	$2,400	$2,400
$720	2,400	3,120	2,400	3,120
$1,720	1,733	3,453	1,733	3,453
$2,000	1,546	3,546	1,593	3,546
$3,000	873	3,873	1,093	4,093
$4,000	212	4,212	593	4,593
$4,500		4,500	343	4,843
Break-even	4,320		5,186	
Coverage	19,400,000		24,400,000	
Cost	6,400,000,000		7,400,000,000	

Admittedly this amendment would not improve the situation for those with very low earnings. However, these low earners already have a considerable work incentive as a result of the $720 disregard. Thus, a man earning $1,500 under H.R. 1 would have his welfare benefit reduced by only $520—his total income would increase by $9.80 as a result of his job.

The amendment would help those earning over $1,720, where help is most needed. These are the families that are most likely to become self-supporting through increased work effort.

Table II shows the distribution of families eligible for benefits under H.R.

1 by earning levels; 1.6 million, or about 43 percent of the total, have annual earnings under $360. These are primarily families headed by women with young children. Some of them will be able to find work if jobs and day care become available, but it is unrealistic to suppose that any large portion of them will become self-supporting in the near future.

At the other end, there are 1.4 million families with earnings over $1,720. These are largely families headed by a male who is working full time or part time, but whose earnings are not sufficient to remove the family from poverty. These are the families that are most likely to move out of poverty over time. These are the families that should be given the greatest inducement to increase their work effort and their wages. Yet under H.R. 1 these are the families that are faced with the highest work disincentive.

TABLE II.—DISTRIBUTION OF ELIGIBLE FAMILIES BY EARNINGS UNDER H.R. 1

Earnings:	*Eligible families*
Under $360	1,578,000
$361–$720	246,600
$721–$1,720	513,900
Above $1,720	1,375,700
Total	3,714,200

Source: Department of Health, Education and Welfare.

This amendment will add an estimated $1 billion to the cost of H.R. 1. This is no trifling sum. But consider the advantages:

To the extent that it encourages greater work effort, this approach will reduce the welfare caseload and welfare expenditures over time. As Governor Sargent of Massachusetts told the Finance Committee:

> High benefit reduction rates will surely encourage people to reduce their hours of work, and thereby increase their federal income payments. In this way, such high rates will encourage rather than discourage welfare dependency, and will be more expensive in the long run.

It will reduce the incentive for family breakup. Under H.R. 1, the incentive for an employed father to desert his family is less than under present law, but it is still considerable. If he deserts, the father can keep almost all his earnings while his family receives its welfare benefit. But if he remains with his family, the welfare benefit is reduced by two-thirds of his earnings above $720. By cutting the rate at which welfare benefits are reduced by earnings, this amendment decreases the employed father's incentive to desert.

The $1 billion would go to the "working poor." True, about 1 million additional families would receive welfare benefits. But these are not the people who have been pictured traditionally as "lazy" and "shiftless." Rather, these are hard-working families whose poverty results from the low wages of the breadwinner. As a matter of simple equity, these families should be allowed a higher income than families that do not work.

This proposal will tend to diminish cheating among recipients. The income maintenance studies sponsored by the Office of Economic Opportunity have shown that high tax rates tend to drive earnings underground—recipients do not report them.

In the Tax Reform Act of 1969, the Congress approved a maximum tax rate of 50 percent on earned income so as to diminish the incentive for wealthy taxpayers to seek out tax loopholes. Similar logic applies here.

Numerous witnesses before the Senate Finance Committee attacked the lack of work incentives in H.R. 1. Many—like Lucy Benson of the League of Women Voters—supported a 50-percent benefit reduction—or tax—rate. The case was put most succinctly by Alice Rivlin, former Assistant Secretary of HEW, and Joseph Pechman of the Brookings Institution:

> This is what we want to emphasize in this testimony—the bill does not make it worthwhile for people receiving welfare payments to hold jobs. The rate at which their earnings are "taxed" is too high. We believe that families receiving payments should be able to keep at least half of their earnings . . . If this Committee were to limit itself to one change in H.R. 1 . . . we believe the most important improvement that could be made would be to lower the marginal tax rate at least to 50 percent.

Mr. President, H.R. 1 has been presented to us as a program to solve the welfare problem by encouraging work and financial independence among the poor. Yet most of those who have studied the legislation are agreed that it provides little or no work incentive. Indeed, many experts argue that in this respect it is worse than present law.

My amendment may not represent the final solution to this problem. It may not go far enough. But it will help. It will lend some substance to the President's claims. The cost is high—$1 billion—but this is a small price to pay for a program that works. It would be tragic indeed if a few years from now the welfare crisis is back before us—unresolved, and out of control again—because we were not bold enough to pass a real reform in 1972.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 410

At the request of Mr. Hart, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of Amendment No. 410, intended to be proposed to the bill (S. 1478), a bill to amend the Federal Hazardous Substances Act.

AMENDMENT NO. 955

At the request of Mr. Stevenson, the Senator from Maine (Mr. Muskie) was added as a cosponsor of Amendment No. 955, intended to be offered to the bill (H.R. 1), the Social Security Amendments of 1972.

NOTICE OF HEARINGS BY SUBCOMMITTEE ON PRODUCTION AND STABILIZATION

Mr. CRANSTON. Mr. President, I wish to announce that the Subcommittee on Production and Stabilization of the Committee on Banking, Housing and Urban Affairs will hold hearings on S. 669, a bill to amend and extend the Defense Production Act of 1950, as amended and S. 1901, a bill to amend the Defense Production Act, as amended. These hearings will be held on April 12 and 13, 1972, beginning at 10 a.m. in Room 5302, New Senate Office Building.

Persons wishing to testify or to submit written statements in connection with these bills are requested to contact Mr. Reginald Barnes, Assistant Counsel, Senate Committee on Banking, Housing and Urban Affairs, Room 5300, New Senate Office Building, Washington, D.C., 20510, telephone 225–7391.

ANNOUNCEMENT OF HEARINGS ON S. 1430 TO ESTABLISH A DEPARTMENT OF COMMUNITY DEVELOPMENT

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Florida (Mr. Chiles), I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Committee on Government Operations for 10 a.m. on April 11 and 12, 1972, in room 3302, New Senate Office Building, on S. 1430—to establish a Department of Community Development. Those tentatively scheduled to testify are: April 11, 1972—Earl L. Butz, Secretary, Department of Agriculture, and James T. Lynn, Under Secretary, Department of Commerce; April 12, 1972—James M. Beggs, Under Secretary, Department of Transportation, Phillip V. Sanchez, Director, Office of Economic Opportunity, and Frank C. Carlucci, Associate Director, Office of Management and Budget.

NOTICE OF HEARING ON FORESTRY INCENTIVES ACT OF 1972

Mr. TALMADGE. Mr. President, on behalf of the Senator from Mississippi (Mr. Eastland) I hereby announce the Subcommittee on Environment, Soil Conservation, and Forestry of the Committee on Agriculture and Forestry will hold a hearing Monday, April 17, on S. 3105, the Forestry Incentives Act of 1972. The hearing will be in room 324, Old Senate Office Building, beginning at 10 a.m. Anyone wishing to testify should contact the committee clerk as soon as possible.

ADDITIONAL STATEMENTS

NOTICE OF REPORTS REQUIRED BY SENATE RULES OF CONDUCT

Mr. STENNIS. Mr. President, early in this session, each Senator received a letter from me in my capacity as chairman of the Select Committee on Standards and Conduct reminding him of his responsibilities to file disclosure reports as required by the Senate Rules of Conduct. The letter included revised printed instructions and suggested forms for use in making these reports. A set of the instructions and the sample report forms also were sent to each administrative assistant and staff director with the thought that they would coordinate requests for instructions and forms for other members of their staffs.

Rule 44 requires that each Senator, candidate for Senator, and employee who is paid by the Senate at a rate in excess of $15,000 a year must file a confidential personal disclosure with the Comptroller General and a public disclosure with the Secretary of the Senate. These filings must be made before May 15. Rule 41, which governs outside employment or professional practice by employees, requires that a report of such activity be made on May 15 and at certain other times.

It is my purpose, Mr. President, in making this announcement today to respond to those Senators who have asked me to remind them again of these reporting requirements.

The staff of the Select Committee on Standards and Conduct is available to assist Senators and employees in making these reports, and will make instructions and copies of suggested report forms available upon request.

TRIBUTE TO FORMER SENATOR LISTER HILL, OF ALABAMA

Mr. ALLEN. Mr. President, on Sunday, April 2, 1972, in its In Dixieland magazine section, the Birmingham News published an interesting article about Senator Lister Hill, whose decision to retire from the U.S. Senate led to my own presence today in this body.

During an illustrious 45-year career as a Member of Congress, 31 of which were in the Senate, Senator Hill set an outstanding record of legislative achievement. While he is more widely recognized for his legislation dealing with health, other programs he conceived, sponsored or helped guide to passage in Congress encompass a broad spectrum of governmental responsibilities.

Many Members of the Senate enjoyed a close association with Senator Hill.

I ask unanimous consent that the article from the Birmingham News ably written by its talented staff writer, Miss Anita Smith, be printed in the Record, so that all will know that Senator Hill is well and active in retirement at his home in Montgomery, Ala. He is greatly missed in the U.S. Senate by Senators on both sides of the aisle.

There being no objection, the article was ordered to be printed in the Record, as follows:

America's Health Statesman—After 46 Years of Fighting for Better Health Legislation, Lister Hill Is Enjoying Retirement

(By Anita Smith)

The year was 1951. The scene was one of those political-talk sessions up on Washington's Capitol Hill. A well-known leader in the national health field walked up to President Harry Truman and complained politely but profusely that the Federal Bureau of the Budget wasn't releasing enough funds for health projects in the country.

Well-known for his outspoken talk, President Truman wasted no time in telling the complainer where he could find an ally for his health projects.

"Now look . . . there is a fellow up on the Hill whose name is Hill," said the President. "I served many years with him in the Senate. He doesn't pay any attention to Presidential budgets. He just busts them.

"No one can conduct a more successful raid on the Federal Treasury than Lister Hill."

Many others have agreed with President Truman. They have witnessed Lister Hill's well-known ability to conduct budget raids for the purposes of health causes in the nation. The man who came to be known as "America's health statesman" began his fight for health legislation as a member of the House of Representatives in the early 1920s. He continued his battles for health legislation when he moved over to the Senate in the 1930s. And during his 14 years as chairman of the two Senate committees having total jurisdiction over health appropriations, he guided to passage more than 80 major pieces of health legislation. Through his persistence and power, federal support for medical research alone rose from $125 million a year to some $2 billion a year under his chairmanship.

Today, the eloquent Lister Hill is far from the spotlight of the speaker's podium of the U.S. Senate, where he spent many an hour praising the legislation he sought and filibustering that which he abhored. He's far from the distinguished Washington offices where he drafted many a piece of legislation. And he's far from those endless piles of mail that poured in from people around the nation who wanted Lister Hill's help in getting a hospital for their small town, a research project to fight cancer, or a new center for mentally retarded children.

Instead, he's living a much quieter life with his wife Henrietta in a comfortable three-bedroom house in Montgomery, the town of his birth. He has just ended his third year of retirement from a 46-year career in Congress.

Lister Hill is 77 years old now, but still alert and active and still talking about health matters. He rattles off the names of the various health projects he endorsed as if the bills were passed yesterday.

When he hears that funds have been reduced or cut off for one of those projects, he shakes his head and says, "I'm not up there to fight for the money now. But if I were there, I'd fight 'em. We need money for health. There are just so many people suffering and dying."

With the pressures of public life no longer around to make endless demands on his time, Lister Hill has more hours to fill now with pastimes totally of his own choosing.

One of those pastimes is the joy of his life, reading. It's nothing unusual to see Sen. Hill seated in his green fabric upholstered chair in front of a window in his book-lined den, reading until 11 o'clock at night.

"He'll take hours to read a newspaper," said his wife Henrietta. "It seems to me that he reads every word . . . We've got so many newspapers and magazines that it has gotten to the point there's no place to put anything in the den."

No matter how late the senator stays up reading at night, he'll likely as not be up bright and early the next morning . . . to read his newspaper. "I've got to get up and see what's going on in the world," he smiles.

The retired senator spends hours, too, poring over the documents and letters that tell many of the tales of his 46 years in Congress.

His bedroom is covered with envelope after envelope of papers which record those pieces of legislation he championed—not just health legislation, but legislation for conservation, crop loans and insurance, TVA, waterway development, aid for military veterans and their dependents . . . And many, many others.

As he sits at his desk poring over these documents, the senator doesn't say that he's trying to write his memoirs. He just says, "I'm trying to get things together."

But much of what went on during those 46 years can't be found in any document. The cloak room talk, the late night caucuses, the behind-the-scenes maneuvering—those are things that are catalogued only in Lister Hill's memory.

"One of the biggest regrets of my life is that I didn't keep a diary," said the senator.

For more active pastimes these days, the retired senator walks for short distances. For many years, he took long walks. "I remember when we were in Washington, he used to walk as far as five miles," said Mrs. Hill. She said she'd go along and walk with him sometimes "but I'd get so tired I'd just sit down on somebody's curb and wait for him to come back by."

Now the senator has to take it a little easier when he walks, since he broke his hip in Oct. 1970 when he slipped in a darkened hotel room in New York one night.

From time to time, one can still see Sen. Hill at the airport, hopping a plane to attend a meeting in some other state.

And one can still see him in an office from time to time. He maintains an office in Montgomery's Post Office Building and spends a few hours there each week dictating answers to correspondence to his secretary. This office has a luxury of privacy and solitude he couldn't afford when he was in public office—no telephone.

Much of his time at the office is spent answering the requests for help he still gets in the mail. "You'd be surprised how many people still don't know I've retired and still write me or call me wanting me to do this or that," said Sen. Hill. "I write my colleagues in Congress from time to time to make a few suggestions."

When Sen. Hill was still in Congress and could convert his own suggestions into his own legislation, his four big health "pets" were preventive medicine, the building of hospitals and other health facilities, the training of health workers and medical research.

In the field of preventive medicine, Sen. Hill began the battle as early as the 1920s. As a member of the House of Representatives, he led the push for the Gorgas Memorial Institute of Tropical and Preventive Medicine, designed to conduct and encourage research in preventing and treating tropical diseases.

In the field of health facilities construction, Lister Hill etched his name permanently in the mind of America in 1946 by pushing through his most famous piece of legislation—the Hill-Burton Hospital and Health Center Construction Act. At the time the Hill-Burton bill was proposed, the nation was faced with a critical scarcity of hospital beds and other health facilities. Particularly in rural America, many people had to drive long distances to find a hospital bed in times of injury and illness when every second and every mile counted.

By the time the senator retired in 1969, the Hill-Burton program had provided federal matching funds for close to 400,000 desperately needed beds in some 10,000 hospitals, tuberculosis sanatoria, nursing homes, crippled children's clinics, rehabilitation centers and other facilities.

U.S. Sen. Mike Monroney of Oklahoma once said, "The Hill-Burton Hospital Act has done more to bring about the services of modern day medicine to more people than anything else Congress has ever done."

As for the training of health workers, Sen. Hill still expounds his feelings on this subject whenever health care is mentioned. In this interview, he said, "We've just got to have more doctors, more dentists, more nurses and other health personnel in this country." As evidence of his concern when he was in Congress, he pushed through such landmark health training programs as the Omnibus Health Act of 1956, the Health Professions Educational Assistance Act of 1963 and the Nurse Training Act of 1964.

And in medical research, it was Sen. Hill who after World War II sponsored the original bill to establish the now world-famous National Institute of Health (NIH) as the research arm of the U.S. Public Health Service. In 1955, when he assumed the chairmanship of the Senate's powerful appropriations subcommittee charged with health expenditures, the budget of NIH was only $81 million. But for years, Sen. Hill worked in close cooperation with his colleague in the House, the late John Fogarty, to change that. By the time he left Congress, the NIH appropriations had risen to well over $1 billion a year—making NIH the largest medical research enterprise in the world.

Add to all these measures numerous other Hill-sponsored health programs such as his measures to construct a nationwide network of community health centers, to establish facilities to aid the mentally retarded, to rehabilitate the disabled and the handicapped . . .

Although the bills passed, Lister Hill was not without political opposition. There were some who voiced their opinions loudly and clearly that the federal government should not get so financially committed to taking care of the nation's health.

But until this day, the senator passes off the opposition with a wave of his hand. "I went to Congress so long ago . . . at a time when the federal government had not yet become involved very much in health matters," he said. "But it was necessary for Congress to get involved. It just wasn't being done until we did it."

As the senator's successes in health legislation began to pile up, the torrents of praise poured in. One of Sen. Hill's colleagues said that no doctor in the entire history of medicine had matched the contribution of the senior senator from Alabama to the increasingly successful battle against disease and premature death.

Former President John F. Kennedy once called Sen. Hill "the outstanding congressional leader in the field of medical legislation in the nation today."

Former President Lyndon B. Johnson said, "There are millions of our people who are better off today, and millions who will be better off in the future, because of the fine work that you have done on health and welfare legislation."

And noted newsman and author William S. White wrote in Harper's Magazine in 1959, "Countless millions owe their lives to Lister Hill. He has done more for the public health than any American in history."

If one wonders what prompted Lister Hill to choose the nation's health as the subject for his legislative crusade, he has only to look at the senator's background for an answer. Sen. Hill's father was a well-known surgeon, Dr. L. L. Hill. The senator also is the cousin to five doctors and the brother-in-law to two others. He even is named for one of the world's all-time great men of medicine, famed British surgeon Lord Joseph Lister.

When Lord Joseph Lister was informed that the newborn son of Dr. L. L. Hill had been named for him, he wrote a letter wishing "a life of health, goodness and usefulness to my namesake."

Lister Hill feels that he indeed is enjoying that good, healthy life that Joseph Lister wished for him. During this interview, he walked down the long hallway and through the den of his home, reminiscing about the memories recalled to him by pictures, plaques and books along the walls.

One picture showed a beautiful Southern mansion in Columbus, Ga.—the home of some of Mrs. Hill's ancestors. It was in the house on Feb. 20, 1928, that Lister and Henrietta Hill were married.

The house is gone now. "And you know what's in its place? . . . A filling station," said the senator. Then, waving his hand, he laughed and said, "Now isn't that a hell of a note? A filling station."

Another picture reminded the senator of President Harry S. Truman. He chuckled in admiration, "Yes, I called President Truman 'Intestinal Fortitude'," said Sen. Hill. "He had guts, all right."

There were plaques and awards, too. By the time he retired, the senator had received honorary degrees from 14 colleges and universities, and well over 100 citations and plaques for his legislative victories, mostly awarded by health organiations.

A picture of the senator's father occupied a special place of honor. The senator beamed with pride. "He was the first American surgeon to successfully suture the human heart . . ." Sen. Hill talked of the small hospital that the late Dr. Hill founded in Montgomery, the same hospital where Dr. Hill delivered the first-born child of Sen. Hill. "The hospital is gone now . . . I think there's an office building in its place," said Sen. Hill.

Then, last but not least, the senator pointed to pictures of the five lights of his life—his grandchildren, the sons and daughters of his own son and daughter.

He finished his tour, settled into a chair in his den, rubbed his hands together thoughtfully, and said, "I thank the good Lord every night for the good life he's given me."

NORTH VIETNAM INVASION OF SOUTH VIETNAM

Mr. THURMOND. Mr. President, the current invasion of South Vietnam reaffirms my long-held belief that world communism, and the Soviet Union in particular, has not altered its goal to extend its philosophy by spilling the blood of friendly and nonaggressive people.

South Vietnam has never invaded North Vietnam, and military actions of its forces in the past decade have been defensive in nature. Today, the North Vietnamese Communists have ripped off the mask as insurgents and openly moved as aggressors across a broad front to acquire the land of their neighbor and brothers to the south.

It is also clear that this use of raw military power to seize the lands of another nation could not have been undertaken without massive military support from the Soviet Union. As they are now doing in Egypt, the Soviets continue to use third party countries to expand their control of the world's land and seas.

Too few American leaders have deplored this invasion of South Vietnam—a country whose people nor government covet the territory from which these attacks are being launched. It is inconceivable to me that some in high public office who have constantly criticized U.S. bombing north of the Vietnamese border fail to find fault with this Communist invasion of South Vietnam.

The reality of this situation tells us bluntly that our justifiable efforts at Vietnamization now face the acid test. Military men know that any well-planned and well-supported invasion will initially gain ground. However, the panic reports of the press in Vietnam may not tell the whole story. The South Vietnamese should not be written off until the smokes clears and the battle decisions have been more fully resolved. That period may involve many weeks.

In the meantime, it is my view that U.S. ground forces should not be committed but rather held in place to protect remaining American personnel in South Vietnam. However, in keeping with the Nixon doctrine, U.S. air and sea power should be applied in support of the South Vietnamese as they struggle to protect their homes and families from death and destruction.

As the events unfold in South Vietnam during the next few weeks and months, I trust these lessons will impress upon the American people that world communism threatens us so long as it threatens any peace-loving nation. To meet this challenge, we must realize that there cannot be peace without power. To that end I would hope there will be more support in Congress and among our people for a Military Establishment of sufficient size and quality to insure peace for our people and the hope of peace for other nations.

MISS SYLVIA PORTER: AMERICA'S FAVORITE ECONOMIC ADVISER

Mr. PERCY. Mr. President, I invite the attention of Senators to an article, published in the Wall Street Journal of March 25, describing the approach, working style, and personal background of Miss Sylvia F. Porter, one of the most widely read and best known columnists in the world.

As the Journal points out, Miss Porter got into the business of economics as a student at Hunter College in New York because of the effects of the depression on her own family—she wanted to find out exactly what was happening, and why. She has been telling Americans what, and why, for decades since she began writing for the New York Post in 1935. More important, Miss Porter gives us sound advice about what personal actions to take to protect or advance our own interests in response to economic events. This pragmatic, personalized approach is the reason why Miss Porter has been able to convert the often dull events of economics into interesting columns read by millions daily.

From my own personal experience I can attest that Miss Porter is entirely competent to fill the important advisory role in which she serves so many of us. She is exceptionally well informed, has a clear eye for fact as opposed to interpretation, and an unusual ability to convey her meaning in technical terms. At the same time, she is at home with even the most sophisticated economic concepts and analytic materials.

It is with great pleasure that I recommend this excellent article about this most distinguished jouralist, and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Miss Porter's School: A Columnist's Advice Wields Wide Influence Coast to Coast

(By William R. Galeota)

As columnist Sylvia Porter might present the situation in her chatty second-person style:

You're a general-circulation syndicated writer who's been reporting for many years about an industry and often depending on the industry's executives for source material to help fill five columns a week.

One day you learn the industry is beset by problems that could shake its very foundations and send reverbations through the whole economy.

Thus your dilemma: Do you rush into print out of obligation to the public (your readers, after all)? Or, do you remain silent and hope the problem will be solved by the industry (your sources, after all)?

In fact, Sylvia Porter indicates she faced just such considerations a few years back as the paper-work plague began spreading through Wall Street. Last year, after the plague had felled a few brokerage firms and left a trail of red ink through many others, Miss Porter told her estimated 31 million readers she had had early information about the problems but didn't write about them for fear she might start panic.

The confession raised a lot of eyebrows. "If she really uncovered such a can of worms," says the business editor at an East Coast daily newspaper, "didn't she have an obligation to the public to launch an immediate fishing expedition?"

PRESERVING THE STRUCTURE

For her part, Miss Porter concedes that most newspaper reporters wouldn't agree with her motivation, but she asks rhetorically, "If you're going to be an analyst and a columnist on economic life, don't you think you have a responsibility not to bring the whole structure down?"

Whether Miss Porter wields enough power to wreck or save the economy remains in doubt, but her columns in 350 papers from the New York Post to the New Bern, N.C., Sun Journal have been known to send some ripples through segments of the economy. They have also made her one of the most famous working newspaperwomen in the country, and probably the richest.

A Treasury spokesman says her attacks on the low yields of savings bonds in 1969 and 1970 helped precipitate a flood of bond cashins. (Lately, with the decline of other interest rates, she's more favorably disposed toward savings bonds.) Consumer advocates also credit her columns with inducing reforms on such things as unit pricing of food items.

Former President Johnson, cognizant of her clout, once sought to forestall her criticism of a bulging federal budget by inviting her to the LBJ Ranch for an advance peek at the figures—without avail, as it turned out, because Miss Porter promptly blasted the budget as inflationary.

TRANSLATING ECONOMICS

The handsome, 58-year-old Miss Porter came by this impressive influence through diligent application to her grueling daily-column job for the past 20 years. Those readers who like her—and their numbers are legion—say she succeeds admirably in what she sets out to do: translate what she calls economic "baffle-gab" into English to educate and guide the consumer.

When she begins to discuss an esoteric subject like dollar devaluation, she literally starts at the beginning—by giving a dictionary definition of devaluation.

This basic approach has led some professional economists to sneer at her work as "economics by the eyedropper." But a member of an economics faculty, for example, applauds her ability to get the basics across without distortion. "She's not one of these medicine men of economics; you talk to her on a professional basis, and you agree or disagree on a professional basis." He calls her work "competent throughout" and compares it to a well-written bank newsletter.

But other professionals fault her for sounding too much like a banker, businessman or Wall Street analyst. They cite instances such as her failure to report the brokerage industry's back-office problems promptly and other cases where her columns are devoted to one executive's point of view, without advising her readers that contrary opinions exist.

Still, her basic success at the job of educating and guiding the consumer is evidenced by the praise she gets from some consumer groups. Says an official of Consumers Union, "Her economic philosophy is a very sound one, namely that an informed consumer is an asset in the marketplace. And she's tough when she has to be tough."

Another indicator of her success is the growing number of journalists who have joined the ranks of consumer economists in recent years. "The times have caught up with me," she says. "But there's plenty of room for all of us."

INSPIRATION FROM DEPRESSION

Her introduction to economics came in the school of hard knocks. Long Island born Sylvia Feldman was 12 years old when her physician father died. Four years later, when she was a freshman at New York's Hunter College, the stock-market crash of 1929 wiped out most remaining assets of her mother, who was speculating on 10% margin. Like many another family at the time, the Feldmans were forced to adjust to a new life-style known as stretching the dollar.

"The Depression left a giant blotch on a whole generation," she notes. "So I said, 'I'm going to find out why this is happening.' " She dropped plans to become a poet, switched her major to economics and began finding out why.

After graduating (magna cum laude and Phi Beta Kappa) from Hunter, she worked for a bond dealer, freelanced for financial publications and then, at the age of 22, tried to break into general journalism full time.

But in 1935 editors at most New York dailies and the Associated Press weren't ready for a female financial writer. The New York Post finally agreed to hire her only on two conditions: She would be paid on a space-rate basis, and she would write under the name of S. F. Porter to disguise her gender. (In her junior year in college she married Reed Porter, a banker, from whom she was divorced in 1941.)

In her early days on the job, Miss Porter sometimes found bankers would avoid talking to a woman reporter, so after press conferences she relied on second-hand information passed along by friendly male reporters.

WINNING HER WOMANHOOD

But then she swamped the Post with so much copy, she says, that the paper decided it would be cheaper to give her a regular salary. And in 1942 the Post finally conceded her femininity by switching her byline to Sylvia F. Porter. She began writing a regular column for the Post in 1942, and it became syndicated in 1947.

While her early work concentrated on heavier economic analyses, she gradually introduced articles giving readers detailed advice on such things as managing their money. "It wasn't a conscious decision," she says, "I just gradually arrived at a formula which says, 'Here is what is going on and here is what you can do to protect yourself.' "

The new format eventually boosted her column's readership far beyond what it would have been otherwise, she figures. "If I can get the readers on Monday by telling them how to save 20% on clothes, the chances are they'll still be with me on Wednesday when I tackle the dollar," she suggests.

So now, in a typical week recently, her readers learned that:

A major bank feels the best way for an individual to succeed in Wall Street is to avoid looking for "dream" growth stocks, and stick to basic industries.

President Nixon and Congressional leaders are proposing plans that would allow Americans currently not covered by pension plans to set up their own tax-deductible plans.

Now's the time to borrow money if you have to, as interest rates will climb when economic recovery boosts corporate demand for funds.

A new market in diamond futures is a "wild gamble" because the low margin involved means that a trader can double his money or lose it overnight.

PERSONALLY VIVID

She often employs vivid, descriptive images ("Deflation to cure inflation is like running over a man with a car and then, to apologize, backing up and running over him again") and personal-experience anecdotes (telling how her TV repairman advised her against paying for a repair warranty on her antiquated color-television set).

At work, Sylvia Porter is a blum of energy, and she is at work almost from the moment she arises, generally around 8 a.m., in her seven-room apartment on lower Fifth Avenue. She bids goodbye to her second husband, G. Sumner Collins, as he leaves for his job as promotion director for Hearst News papers. Then, after doing her daily exercises, she sits down to a weightwatching breakfast. (Her exercises and diet keep her quite trim.) At the breakfast table, she also begins devouring The New York Times, The Wall Street Journal and The American Banker, and then moves on to reading background material for her column of the day.

Her office, in a cramped corner of the 42nd Street suite of Publishers Hall Syndicate, serves mainly as a stopover between interviews. "My office is really in my head," she remarks as he pauses for a moment to take care of mail sorted out by her secretary. The mail, mostly publicity releases, all goes quickly into the waste basket. She keeps no background files, relying instead on quick phone calls to gather necessary statistics.

Her husband co-authors her weekly bond letter along with a Washington Star reporter. But for her column, her only staff is her secretary and a researcher, Lydia Radcliff, who lives hundreds of miles away in Vermont.

"I don't have to be surrounded with people," Miss Porter says. "If I need to see her, she can come down here." Miss Radcliff concurs, "We'ed only get in each other's hair if we were in the same office. She's a tremendously intense person. She thinks about three times as fast as she can talk. She's always firing memors to me saying, 'Do this now!' underlined three times."

Miss Porter's driving energy shows through at an interview, this one with George Johnston and James McCullough, executives of Scudder Stevens & Clark, the investment counseling firm, in the firm's Park Avenue offices.

CHARM BRACELETS AND LAMB CHOPS

At the lunch table, she flips off a dangling charm bracelet so she can jot down data with one hand while balancing a forkful of lamb chops with the other. She totes up the advisers' calculations of the supply and demand for stocks, and pauses to offer an observation on the changing supply of labor in New York—a plumber miraculously answered her call for help on a Sunday.

Then she gets to the question concerning her: "Well, what do you do with your widow and orphan? You've got to get her out of AT&T." The executives' answer provides her column's lead, which she writes and polishes in longhand before sitting down at a typewriter to produce the finished column.

This particular column advises her readers: "Do not buy stocks during this era unless you are confident that your return from each stock will be at least 6% a year. . . . Do not in fact settle for a return per year of less than 9%" including dividends and capital gains.

The reason, she tells her readers, is that the investment firm thinks bonds and fixed-income securities will "provide increasing competition for a stock market likely to be held down by a continuing (big) supply of stock during the 1970s."

That viewpoint may not be revolutionary among Wall Street veterans, but Miss Porter figures it should help her readers. "I don't know how many of those readers are aware of the 9% thing. I do think the level of ignorance out there is pretty great. For that matter, I myself don't know how many of the stocks we own are over 9%."

One reason she doesn't know is that, in investing some of the $100,000 she earns annually, she and her husband use the suggestion she often gives her readers—if you don't have enough time to manage your money, get a professional.

Even so, she sometimes advises her investment adviser with ideas of her own. In the spring of 1970, for example, she told her readers that bond yields probably were peaking, and she bought some 9.35% bonds of New Jersey Telephone Co. Despite her subsequent fat capital gain on the issue, the highest coupon yield ever for a Bell System bond, she continues to hold onto the securities with a collector's passion.

One of her most astute predictions, however, never saw the light of print in her column and enriched her by only $1.86. Last June, at lunch with Yale economist Harry Wallich, Miss Porter argued that President Nixon would have to resort to wage and price controls to get out of his economic difficulties, but wouldn't dare do so until the steel talks were concluded. So she bet Mr. Wallich 600 German pfennigs to one that the President would announce controls during the week after steel talks—the week of the President's Aug. 15 announcement of controls, as it turned out.

"It was utterly implausible," says Mr. Wallich. But he paid off in bills, to the disappointment of Miss Porter, who wanted those 600 pfennig coins.

An interviewer who believes in doing her homework (she read a Scudder Stevens report and compared it with one a year earlier before interviewing the firm's executives), she has little time—and little inclination—to relax. She and her husband have a country place in New York's Westchester County, but she quickly gets restless there and frustrated by her golf game.

A favorite pastime is reading Sherlock Holmes books. She once stumped a group of Holmes aficionados at a party by showing up disguised as a Holmes character, Irene Adler.

Fascination with whodunits isn't so illogical for an interpreter of economic jargon. But if Sir Arthur Conan Doyle has Miss Porter's knack for simplification, his books might have become known as here's-how-hedunits.

BIRMINGHAM, ALA., ALL AMERICA CITY

Mr. ALLEN. Mr. President, 10 years ago liberal publications throughout the North were using the State of Alabama and its largest city, Birmingham, as targets for their journalistic diatribes. Despite the unfair attacks and the abusive indignities heaped upon us, we Alabamians continue our efforts to overcome the problems that face us. Last year the city of Birmingham was presented an "All-America City" award by the National Municipal League and Look magazine, recognizing the great forward strides being made in my home State. On Tuesday, March 28, 1972, the New York Times published an article entitled "Birmingham Steers Into Mainstream U.S.A.," written by Roy Reed. This story describes the great across-the-board progress made in this fine Alabama commercial, cultural, and industrial center—the youngest of the world's great cities.

I invite Senators to visit Birmingham and all Alabama and see for themselves evidence on every hand of the progress that is taking place there. Citizens of Birmingham greet visitors with, "It's nice to have you in Birmingham." They mean it and they show that they do.

Mr. President, because it does project a picture of continuing progress and growth in Birmingham and the rest of Alabama, I ask unanimous consent that the Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROUD BIRMINGHAM STEERS INTO MAINSTREAM, U.S.A.

(By Roy Reed)

BIRMINGHAM, ALA.—As it begins its second century, Birmingham has finally become sufficiently Americanized that Northerners who move here feel right at home. Some like it so well they refuse to leave.

"I've been here two and a half years and I wouldn't trade it for New York," John Woods, president of the First National Bank, said recently. He was an executive on the Chemical Bank of New York before moving here.

"We love it here," said Jane Lysinger, who moved here six years ago from Boston. Her husband, William R., recently turned down a transfer to his insurance company's home office at Hartford.

"About 50 per cent of the people we know here are from other places and they all feel the same way," she said.

SOME REMAIN UNSATISFIED

Some might find it hard to believe Mr. Woods and Mrs. Lysinger were speaking of "Bombingham," the police dog capital of the nation, the place that the Rev. Dr. Martin Luther King Jr. once called "the most segregated city in America," the city that 10 years ago was so ill-regarded that its businessmen and civic leaders were frequently snubbed when they went to other cities.

But it is true—Birmingham has changed. Just how much is not easy to measure; and some say that whatever the change, it is not enough, that some of the old rigidities of race, power and thought are still intact.

There are those here, too, who believe that this maligned city was never as different from the rest of the country as the country once thought. A nation that has accommodated the assassinations in Dallas, Memphis and Los Angeles and the mass killings in Detroit, Watts, Mylai and Attica, they say, has lost its right to feel superior to Birmingham.

"Except for the four girls being killed, Birmingham's trouble in 1962 was minor," Mayor George G. Seibels Jr. said the other day. "But that's history. What we're worried about now is where we're going."

Where Birmingham and its suburbs (population 731,668) seem to be going is straight into mainstream America.

Blacks are participating in city politics and most of the city's white political leaders are now considered racially progressive.

The downtown skyline is rising and sparkling. Beauty and quality are becoming more important.

A new spirit can be felt, partly because of newcomers who are slowly beginning to dilute the steel industry's power here. Other industries are moving in.

A MAJOR MEDICAL CENTER

The city is rapidly becoming a major medical center and, if the present trend continues, it could also become one of the South's leading centers of higher education.

Birmingham even has an expressway, at last. The first leg of $422 million worth of interstate highways for the metropolitan area was opened in 1970, years after other cities of similar size were crisscrossed with expressways.

As if to certify that Birmingham was finally catching up with the country, the National Municipal League and Look Magazine, just before the magazine went out of business, presented the city with an "All America City" award last year.

The most obvious change here during the last 10 years has been in racial matters.

The second black man was elected to the City Council last fall. Dr. Richard Arrington, a biochemist, won in a city-wide race although nearly 60 per cent of the city is white. He estimates that 8,000 of his 29,000 votes came from whites.

Elected with him were two white liberals, David Vann, a lawyer who was once a law clerk for the late Justice Hugo Black of the Supreme Court, and Angie Grooms Proctor, the daughter of a Federal judge who has written a number of anti-segregation school decisions. With a white moderate and a Negro already on the council, the city's governing body now has a 5-to-4 moderate-liberal majority.

One of the new council's first acts was to appoint the city's first black judge, Peter A. Hall, a long time civil rights lawyer. There was virtually no adverse public reaction.

Mayor Seibels, a Republican, was re-elected last fall with black support. He has tried, with more enthusiasm than success, to hire additional black policemen. Police Chief Jamie More, said to be an obstacle to the hiring of more blacks, resigned a few days ago.

After a series of black complaints against the police two years ago, the city's white leaders agreed to serious talks on a broad range of black grievances. Twenty-seven black and white leaders joined in a no-holds-barred discussion group called the community affairs committee. It still meets for breakfast every Monday.

One of the main changes the committee gets credit for is quietly doing away with the old separate lines of progression for black and white workers in the steel mills.

As in other southern cities, the young seem less concerned than their elders with racial differences. The students of the University of Alabama in Birmingham, which is 10 per cent black, recently elected a black student president.

Physically, Birmingham has never been beautiful except in pockets of rich, exclusive residential areas. It was gouged out of the mountains as a mining, smelter and railroad town and the scars have never quite healed.

The most distinguishing thing about the city in the past was the smoke from steel mills. It hung over the valley and darkened the uninspired squares of houses and low brick commercial buildings. The downtown area was laid out on a perfect grid, emphasizing its plainness.

No one seemed interested in building new buildings. During the late nineteen-fifties and early nineteen-sixties, the city went through an economic depression as the steel mills began to automate and lay off workers.

Now the look and smell of the place are changing. Twenty-three industrial plants were closed during a period of especially bad air pollution last fall. The big steel companies have since announced ambitious and expensive pollution abatement programs.

A building boom is under way. A convention hall that is the first part of a $35-million civic center has been finished, and two 30-story office buildings are being opened this winter. They are the tallest buildings in town, rising almost as high as the big statue of Vulcan, the god of fire and metal-working, which looks down on the city from the top of Red Mountain.

It is reported that 180 companies looked at Birmingham last year and 25 decided to move or build branches here. Building permits show that the value of construction in the city increased from $52-million in 1968 to $110-million in 1971.

Plans for several million dollars worth of new hotels have been announced in recent months. The city's most famous old hotel, the Tutwiler, which once refused a room to the late Ralph Bunche, is bankrupt.

Perhaps the depth of the new pride here can be gauged more accurately in smaller projects designed mainly to make the city more livable.

For example, the city will spend $40,000 this spring to spruce up Kelly Ingram Park, the scene of most of the racial violence in the city in 1963.

The arts are increasingly well supported, too. The well-to-do now compete for $135 tickets to the annual Galaxy Ball to help maintain the Birmingham Symphony. And one day recently, the city art museum was showing paintings by Thomas Eakins, Andrew Wyeth and Winslow Homer.

One of the most far-reaching changes of the last decade, one already affecting almost every facet of the community from economics to taste, has been a phenomenal enlargement of the University of Alabama in Birmingham.

Dr. Joseph F. Volker, the school's president, remarked recently that Birmingham was once the only major Southern city without a university.

The university in Birmingham, once a few branches of the main campus at Tuscaloosa, was made autonomous in the mid-nineteen-sixties. It now has 8,000 students, 5,000 employes (second only to U.S. Steel's 12,000) and a budget of $68-million.

The University Medical Center, surrounded by private and semi-private clinics and hospitals, has become one of the nation's best known. It is especially well regarded for studies and treatment of the heart.

And on some 54 blocks obtained through urban renewal, the university is building $41-million worth of new facilities.

Some believe that Birmingham will eventually be known as an educational and medical center rather than as a steel town. In all, there are seven institutions of higher learning here, and they are growing and attracting out-of-state professionals who would not have given a thought to Birmingham 10 years ago.

A few years ago, Birmingham hired an out-of-state public relations firm to change its image. There now appears to be some danger that the city's leaders have swallowed their own propaganda.

During conversations recently with a large number of prominent citizens, only one white man, the Mayor, seemed really worried about the city's remaining problems.

The growing self-satisfaction here is illustrated by an apparent belief among most whites that Birmingham has practically solved its race problem.

Emory Jackson, managing editor of The Birmingham World, a black newspaper, said: "Going from zero to where we are, it looks good. But when you measure in terms of where we ought to be, it doesn't look so good."

For example, few whites seem to be aware that many blacks are still dissatisfied with the progress of school desegregation. After years of pressure from the Federal courts, the students of Birmingham—like those of many other larger cities—still live and attend classes largely in racial isolation.

The American Friends Service Committee says that 56 per cent of the city's 89 schools are more than 90 per cent black or white. It says the school board, which has one black member, continues to build schools in racially isolated places that will almost guarantee their being segregated.

The suburbs here become whiter each year. Birmingham lost 40,000 persons during the nineteen-sixties (down to 300,000) and most of them were whites moving to the suburbs.

The leadership euphoria extends beyond race. The same white leaders who believe that the race problem is substantially solved seem to be unquestionably committed to more skyscrapers and freeways, even though urban thinkers in cities that have plenty of both have begun to question the value of massive office buildings that attract more people to congested areas and of automobile facilities that subtract money from mass transit.

And only a few here are yet willing to assert themselves publicly against the absentee-owned steel companies, most of which have headquarters in the North.

Charles Morgan Jr., southern director of the American Civil Liberties Union, who was hounded out of Birmingham, where he grew up, several years ago because of his liberal racial utterances, told an audience of fellow Birminghamians recently, "We were a province of steel and to a large degree still are. Steel still has tremendous power in this city."

One way the industry has exercised its power over the years has been to keep the city's boundaries from expanding. The steel companies own large tracts of land that would be taxed more heavily if they were annexed to the city.

The most recent annexation attempt was defeated last year. Some leading citizens say that once again the steel interests were instrumental in the defeat. However, it may be noteworthy that steel's influence was wielded quietly. In the past, the industry campaigned openly; once a major company threatened to close if the city annexed its property.

Optimism flourishes now in spite of the problems here. Mrs. David Roberts 3d, a liberal leader who has been appointed by Gov. George C. Wallace to head the Alabama State Council on the Arts, talked recently of the changes she has seen.

She has not received a threatening telephone call for several years, she said, and Mr. Wallace, who once had little use for Birmingham and its cultural leaders, has now publicly proclaimed it "the queen city of Alabama."

TRADE AND COOPERATION BETWEEN UNITED STATES AND MEXICO

Mr. FANNIN. Mr. President, in recent years there have been some significant developments in international trade and cooperation along the border between the United States and Mexico.

Factories which would have located abroad have been set up on the U.S. side of the border, and "twin plants" have been established on the Mexican side.

This program has been criticized by shortsighted union leaders.

It is obvious, however, that this program has been a boon to workers in both nations. The twin plants program is a success.

An article about the program was published in the March issue of the Latin American Digest, which is edited by Marvin Alisky, director of the Center for Latin American Studies at Arizona State University.

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Trade and Cooperation Between United States and Mexico

Border Industries Increase U.S. Jobs—The AFL–CIO claims that U.S. assembly plants on the Mexican side of the border take jobs away from U.S. citizens. But a U.S. Department of Commerce report and a Harvard study indicate just the opposite: borderland plants increase both Mexican and U.S. job opportunities.

The U.S. Secretary of Commerce in January received a staff study of the relationship of U.S. investments in foreign countries to U.S. employment. On February 12 a summary of the staff report was made public.

Item 807 of the U.S. Tariff Schedule exempts duties on products of U.S. origin when imported into the U.S. as identifiable parts of an assembled article.

This tax break in recent years has prompted U.S. companies to open assembly plants in Mexico from Tijuana to Matamoros, allowing the assembly products to flow into border cities from San Diego to Brownsville.

The U.S. Tariff Commission found that if Congress in 1970 had yielded to pressures against the Mexican border industries, no increases in job opportunities for U.S. workers could have been expected.

Instead, there would have been a 200-million-dollar deterioration in the U.S. balance of trade, forcing various U.S. concerns to cut back, rather than expand operations domestically in 1971.

The Tariff Commission has reported to the Commerce Secretary that U.S. assembly plants across the Mexican border provide one additional job for a U.S. worker for each three jobs created for Mexican workers. Tariff Commissioners, in the Commerce Secretary's staff report, assert that should Item 807 be repealed, a net loss of jobs for U.S. citizens would result.

Backing up the Commerce Department, a study by Harvard economists in February concluded that U.S. labor actually profits from U.S.-owned and Mexican-staff plants across the Mexican border.

The Harvard study argues that without such U.S. investments in plants in Baja California, Sonora Chihuahua, Coahuila, and Tamaulipas, the parent corporations involved would have lost out to foreign competitors in their various product lines—musical instruments, electronic devices—both European and Japanese, and such loss of sales would have eliminated further assembly and sales jobs at branches of these corporations in the U.S. as the corporations began to reflect reductions in total sales.

Reacting to the Commerce and Harvard reports, in mid-February the Allen Bradley Company announced it will build a plant in Ciudad Juárez. Chihuahua, near El Paso, Texas. The plant will employ 100 by late 1972 and 400 in early 1973.

Bradley announced that the new Mexican plant "is not a matter of choice but is a matter of survival for our company." Without the new low-cost operation in Mexico, Bradley would have to curtail some operations inside the U.S. as foreign competitors continue to outsell Bradley at lower-production costs.

Ironically, the Bradley plant in Chihuahua, rather than reduce job opportunities for workers in the U.S., will help increase the corporation's yearly total sales and ability to maintain or increase jobs for U.S. Citizens.

McKinsey Management Consultants warn that the growth of multinational corporation operations along the border inside Mexico may reach a "socio-political pain threshold, at which point vigorous damaging local reaction may occur."

Implications of the McKinsey study include regional U.S.-Mexican management-labor conferences involving California and Baja California, Arizona-New Mexico and Sonora, Texas and Chihuahua-Coahuila-Tamaulipas. If uncertainties can be cleared up among U.S. and Mexican organized labor and political leaders, the border industrialization programs can avoid political arguments.

ADDRESS BY SECRETARY OF COMMERCE PETERSON

Mr. BAKER. Mr. President, yesterday at the National Press Club, the new Secretary of Commerce, Hon. Peter G. Peterson, delivered what was, in my judgment, an unusually thoughtful and hopeful address.

Perhaps the hallmark of the speech is its air of realism. During any political season, there is a natural temptation to oversimplify what is, of course, an extraordinarily complex and constantly changing world. Secretary Peterson clearly knows what it is we are up against. It is equally clear that he has no intention of being overwhelmed by it. The country is fortunate to have a man of Mr. Peterson's calibre in the Cabinet.

I ask unanimous consent that his April 4 address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE HONORABLE PETER G. PETERSON, U.S. SECRETARY OF COMMERCE

Today I'd like to talk with you about the future, in particular our economic future—and some things the Commerce Department may be doing to make us a more prosperous, employed, competitive and, perhaps, even a more fufilled people.

A couple of years ago, Alvin Toffler's book, *Future Shock* was very much in vogue. Its thesis, of course, was that the rate of change in our society is so swift that both individuals and institutions are unable to cope with it. The result is future shock which Toffler defines as "the stress, both physical and psychological, that arises from an overload of the human organism's . . . adaptive system and its decision-making processes. . . ."

One of our problems, I believe, is that we are so bombarded by the events of today that we have no time to think about tomorrow—though I realize I am taking some risk in making that point before an audience which is responsible in large measure for the bombardment.

Charles Kettering, the great automotive pioneer once said that "we should all be concerned about the future, because we will have to spend the rest of our lives there".

Of all our institutions, government is one that has special difficulty in focusing on the future for it is bound by elections to a very regular, short-term timetable. In order to survive, any government has to think a great deal about the next election. And that leaves precious little time for thinking about the next generation.

Our problem, I think, is that most of us still expect problems to hold still while we try to solve them. We still do not appreciate what it really means to be residents of the "State of Flux". We have not been thinking far enough ahead. We stand in line for tickets on a train that has left the station.

A great newsman from my home area of Chicago, Ben Hecht, once put it this way: "Time", he said, "is like a circus, always packing up and moving away." And the challenge of keeping up with time is not simply a matter of predicting where it is going and organizing some elaborate welcoming ceremony in the hope it will choose to settle down. Rather, our challenge is to move on with time—to travel light enough so that wherever it goes we can pack up and tag along. And that means we must get rid of the heavy baggage we bring with us from the past.

John McDonald, a 19th century Canadian Prime Minister, was once asked the secret of his political success. His simple answer: "I thought a little ahead." We, too, must think a little ahead if we are to rise above the *threat* of *future shock* and get about the *task* of *future shaping*.

For example, for a long time the central motivations of our economy came solely from internal competition. One American business competed against another American business. As far as the economy as a whole was concerned, however, there was very little real competition from the outside world. As President Nixon has put it, we were running against the clock—like Paavo Nurmi. Perhaps this spring we should say we were a little like the UCLA basketball team that people often say faces its stiffest competition from its own freshman squad.

The result of all this was that we almost forgot that there was a game going on in the international arena. We were not even very careful about keeping score. We collected very few statistics, we sent out very few scouts, we studied no game films of our opponents. And in the absence of stiff competition, we even grew a little fat and lazy. The competition today is lean, hard, and talented.

Thus, at Commerce, we are now exploring ways that we can begin a much more systematic method of collecting information on our competitors abroad. The federal bureaucracy, I've found, tends to produce tons of data but only ounces of analysis as to what it means. We are now engaged in an effort to try to get a very comprehensive look at the competitive position of the U.S.—in our technological position, in our new plant and equipment investments, in tax incentives, in share of export markets, in raw materials, and so forth. I propose such a competitive intelligence system on the grounds that diagnosis should usually precede the cure.

Another new reality which will affect our long-range future is the interrelated nature of the problems we confront and the interdependent quality of their solutions. It is no longer enough to address one part of a problem with the confidence that others are addressing other parts of the problem and that the various solutions will eventually converge.

More than that, the time and energy and resources we apply in any one place are not available at another place. To decide to do any one thing in a finite world is to *trade off* the opportunity to do something else. In short, the problems we face today are "systems problems" and they demand a "systems approach" to their solution.

Our energy situation, for example, includes the entire web of social, economic, political, scientific and technological factors. It is not just a security problem, or a scientific one, or an economic one, or a balance of payments, or an environmental one: it is all of these, and probably more, interacting.

It is a root problem of our society, but we have not yet fully grasped the nature of the alternatives open to us and the consequences of those alternatives for our national future.

The fact is that decisions which are made primarily for *tax* reasons or for *security* reasons or for *environmental* reasons or for *transport* reasons, and which affect business generally, all have an enormous impact on our ability to supply sufficient energy. The problem is that the *immediate* considerations in *each* of these related fields always seem more important than energy considerations which will not be felt for another few years. History suggests that only when there is a brownout—or some other dramatic event—can the people who make energy their *primary* business get the attention of those who make *tax* policy or *security* policy or *environmental* policy or *transportation* policy their primary business. No wonder many say the nation has developed a crisis mentality and is engulfed by crisis rhetoric.

As the President's energy message has made clear, as a nation we failed to anticipate and adequately plan for the present national energy crisis—and this is a problem with which Commerce and others in the Administration are already deeply involved in a major Domestic Council effort. The problem caught up with the country faster than expected. The U.S. formerly had sufficient energy reserves to meet almost all of its needs and sustain economic growth. In fact, this abundant supply of low cost energy has provided the base for much of our industrial might.

There are a variety of broad options for dealing with this energy crisis.

Should we restrict energy demand? How? Perhaps more relevant, whose demand? For what products and services? At what costs to our economy?

Or, should we stimulate domestic production? Of what energy reserves? How? By increasing prices? or tax incentives? or developing new energy sources? or tapping the continental shelves? (Which is why the next fiscal year, we will launch an intensified program of mapping our continental shelves.)

Or, should we increase imports? Of which products? From where? Transported how? Where?

Each of these options has different security implications, different competitive implications, different cost implications, different environmental implications—in short, different trade-offs, and undoubtedly different constituencies.

While we are not presently prepared to accept these projections without further study, we have heard it said by some that it will be necessary to import an estimated one-half to two-thirds of our daily oil requirements, to reach the total demand that has been projected for 1985. According to estimates prepared by the Maritime Administration at the Department of Commerce, this would require a U.S. tanker fleet as large as the present world tanker fleet of 160 million deadweight tons to transport this fuel to the United States by 1985. To accommodate larger tankers, and achieve the necessary reduced shipping costs, the country will need to develop deepwater port facilities—which it presently lacks, and which in some cases have been opposed for political or environmental reasons.

These facilities will be difficult and costly to obtain since, in most instances, we have reached the economic and practical limit of dredging existing harbors. The answer could be constructing one or more ocean terminals in U.S. coastal waters. As you know, the oil industry is now going north and south to build refining and trans-shipment facilities in Canada and the Caribbean.

You may ask why it is so important that supertankers be employed in the transport of our petroleum imports. To put this in perspective, it is important to realize that almost three-quarters of the free world's oil reserves are in the Middle East and, therefore, any oil import in the future is likely to come from this area. Because of its great distance from the U.S., transportation costs for this oil will become a significant part of the ultimate cost to the U.S. consumer. If the oil continues to be transported in the average size tanker that now calls at our Atlantic and Gulf ports, a ship somewhat less than 50,000 deadweight tons in size, the annual transportation cost would be approximately 60% more than if it were transported in ships at least five times this size, and these have become standard in world trade. And even with the full utilization of the lower cost supertanker, transportation would represent some 30% of the landed costs of the imported oil.

As I have indicated, because of this cost difference, the large ships are being projected for transportation to the Bahamas and Canada. In doing so, we are exporting refining capacity and jobs from the U.S. and contributing further to the balance of payments problem.

Let's review the progression I cited in discussing the energy crisis: our needs may require increased imports, but we cannot import without more and bigger tankers, and we cannot use bigger tankers without adequate ports, and we can't have ports until we solve a lot of related environmental and political problems.

Because a problem such as this is so interrelated, the Department of Commerce cannot either be a one-cause advocate: the cause of business exclusively. This is why I strongly support not only the Domestic Council concept and, as you might expect from my previous incarnation, the Council on International Economic Policy. This is why I also strongly support the President's proposed reorganization plan: melding into a new Department of Economic Affairs the functions of commerce, labor, and transportation.

The fact that Cabinet Secretaries are seen as advocates for various constituent groups rather than general public servants is particularly dangerous at a time when hard problems are so interrelated and their solutions interdependent.

To take another example, I suppose there is no systems problem that is more human or important than the problem of training our people for a world of work. What systems problems are likely to emerge in the future, or for that matter now?

By 1980 jobs will be needed for something close to 100 million Americans—a record number—up to 20 million more than at the beginning of the decade. The problem of finding jobs for this labor force will require both an economy growing at its full potential (which, in turn, means exploiting to the fullest our international opportunities) and, among other things, a much improved system of fitting manpower skills to job requirements and the new industries we expect to emerge.

The U.S. today is over-supplied with technical manpower for its defense and space requirements. Yet there are shortages of laboratory specialists, medical assistants, computer technicians, and maintenance personnel for other complex equipment. I am told that less than half of the available jobs have been filled in these specialties.

The mis-match of technical skills to opportunities, and what might be the current and perhaps continuing excess supply of college graduates, is compounded by an apparent shortage of appropriate vocational training in high schools and post high-school education and training. Some estimate that 8 of 10 in high schools should be receiving occupational skill training, yet less than one in four are receiving it—and much of this training is directed to past rather than anticipated needs in the labor force. Yet, our high schools and colleges (with nearly 40 percent of college-age young people now in colleges) are turning out many graduates in much the same way as always, on the presumption that society will need their skills.

If indeed it doesn't, we can logically look forward to future generations of angry young men and women. And, of course, unemployment will be significantly higher than it need be.

What should we be doing in terms of projecting tomorrow's manpower needs and its impact on education and training policies?

We must as part of this problem think through how and where in our government and our society, given our culture, our system—we should systematically project and think about this future.

While I have talked about the energy problem and the education and training problem, or perhaps I shall say the jobs problem, these are only illustrative of a class of future-oriented systems problems that cut across a variety of constituencies, disciplines—where the sum is larger than the parts.

Dean Acheson summed it up when he said "As a nation of short-term pragmatists accustomed to dealing with the future only when it becomes the present, we find it hard to regard the future trends as serious realities . . . to treat as real and urgent—as demanding action today—problems which appear critical at some future date."

According to popular notions, one of the chief culprits and most frequently cited examples of short sightedness has been the mindless march of technology. I don't want to minimize the adverse effects we have suffered from techn0logy, but I have to conclude that it is a great force for good will as well as evil. Ever since our distant ancestors started playing with fire it has solved more problems than it has created.

What we have to do is to borrow a phrase from tin pan alley—to "accentuate the positive; eliminate the negative."

On the positive side, we must, as the President has said "harness the discoveries of science in the service of man." Also on the positive side, we have to reap more economic benefit from our R&D dollars. We now spend $17 to $18 billion in government R&D—enormous sums spent on R&D that are several times the total research and development investment of our leading competitors abroad and almost 60% more than all of U.S. company sponsored R&D budgets in America. A certain mythology has developed that there has been vast industrial fallout from government R&D.

It is true that there are a number of outstanding examples of such manna. Nonetheless it is my starting view that the level of industrial fallout is simply inadequate in relation to the enormity of the investment and in relation to the payout to the U.S. competitive position.

This is the reason that the President, in his new technologies program, has provided money to the Department of Commerce for some major experiments on how this industrial fallout can be increased.

As a preliminary hypothesis I would suggest that there are two kinds of companies with regard to government R&D. I have a terrible habit of oversimplifying. I had a friend and critic in Chicago who used to say to me—"Peter, there are two kinds of people in this world, there are those who say there are two kinds of people and there are those who don't."

I will now proceed to tell you that there may well be two kinds of companies in America. There is one, it seems to me, which looks upon research contracts with government R&D as an end in themselves. They have developed a special mentality—they are a part of a special subculture—they see government R&D contracts as profitmaking opportunities measured solely by the profit in the contract itself. And by their own public statements, they have done poorly in creating commercial businesses.

There is a second type of company—some of America's best commercial companies, which have demonstrated their innovative ability to build industries, patents and jobs, who either do not get involved at all in government R&D or, if they do, usually not with their best people, not with the company's total resources. Why is this so? Well, I suspect one of the reasons is the patent policies of the government. In the risky entrepreneurial world of innovation, many of these companies have apparently concluded that what belongs to everybody, in fact, really belongs to nobody. They have learned many times that is what is everybody's job is really nobody's job. Thus, high on our agenda must be a whole new look at incentives for companies to commit their best technical people and some of their money and still repay the public interest, the public investment on that technology.

The President has asked the Department to explore incentives for private sector investment in R&D and new patent policies to insure that Government-held technology is put to work for the people who paid for it—the U.S. public.

We will have to ask ourselves some hard, and in some ways, new questions. How much economic value is inherent in the Nation's publicly paid for R&D? How successful have the agencies been in moving this technology to the market, creating jobs and increasing productivity?

I have asked the Patent Office to gather together in one place the answers to questions like the following: How many government patents have been licensed? How many have been used in commercial products?

While this study is still in its early stages, this much can already be told.

1. The overwhelming percentage of these patents have not been licensed to anyone.

2. Even among the licensed patents, the preponderant number have not found their way into commercial production.

3. Virtually all of these patents are offered on a non-exclusive royalty-free basis—to foreign partners; or if you don't mind, foreign competitors as well.

I believe we will also find, when we take a hard look at the Government's efforts at technology utilization for economic benefit, that the best success stories concern R&D projects designed originally with their potential for commercialization in mind. In short, one does not tend to find things he isn't looking for and the Government must find better ways to factor in at the outset commercial possibilities into Government technology strategy.

I would like to make one more point on this technology business, and to do it let me anecdotalize this a bit. Some of you know I spent a little time in the photographic business. It was always more than a little embarrassing to some of us in that field to remember that the two success stories—the two most important developments in the field of photography were those developed by Dr. Edwin Land—Polaroid—and those developed by Dr. Chester Carlson: Xerography. It has always been interesting to me that in both of these cases we had courageous, brilliant inventors, very small enterprises, who spent a lot of time trying to convince much larger firms in the industry that what they had was important and worthwhile and good. In our infinite and conventional wisdom, we persuaded ourselves that what they had wouldn't sell, couldn't sell, wouldn't work, etc. Several billion dollars later it's clear that the industry was wrong.

Now, this isn't to say that a lot of the innovative technology isn't done in the large "establishment" companies. It was rather to say, that given a budget restraint that we feel so deeply, it seemed like the logical starting point in terms of the "biggest bang for the buck" to start with the inventor and the small company. This is why one of the President's new *experimental* technology programs is to experiment with ways of bridging the gap between the inventor or the small business with a good idea and the market place.

As we wring the last drop of benefit out of our R&D expenditures, we must proceed with the vision that this is only half of our job. The other half is to assure that progress does not trample other values—that it does not impede our progress toward achieving a better quality of life. But, that's a subject for a whole talk, if not a treatise. Clearly, it's in the front of our minds and on our agenda for the national debates of the 70's.

What all this means to me is that we are facing a new world. We are facing more than an era of impressive new competition of goods from abroad. We are facing equally impressive competition of new ideas and new values at home.

It will not be enough, I am afraid, to say, we want more productivity—we want better use of technology—we want better thinking about our economic future—we want to win the economic competition of the 70's. For I think we will be asked win for what—win to what end? In the short run of course, there are pocketbook goals that have clear meaning to every American family—more jobs, more pay, more buying power. But in the long run, there are important questions. I think the new citizens of this country must know both that it matters and why it matters. They must know that it makes a difference.

A people must first possess, it seems to me, an active will to be the author of their own history—to have a new sense of purpose that is theirs.

A poet, John Ciardi once said, "It is easy enough to praise men for the courage of their convictions—I wish I could teach them the courage of their confusions." We cannot bring meaning to a confused world if we contend that the confusions do not exist. We should be perfectly clear about the fact that in some important ways we are a confused people.

Some of the same people who call for zero growth also call for major expansion of government programs in the quality of life. The Office of Management and Budget tells me if we just project the cost of existing quality of life programs and those that are now in the President's program—programs incidentally that many of these critics would suggest are completely inadequate—the costs of these programs alone will be about $75 billion more than they are today—by the year 1976.

It is no wonder that a professor, in recently talking about long-term side effects, defined side effects as "effects I don't want to think about".

From the very beginnings of our country the "boundless" nature of our resources has been critical in shaping our character. Tocqueville used this very word, "boundless," as a key to understanding America. The endless abundance of our country allowed us to believe in unlimited opportunity, it allowed us to dream impossible dreams. As the pioneers went westward they sang a song which said that "Uncle Sam is waiting to give us *all* a farm."

But now we are faced by a growing sense that there are limits to this abundance, that our economic expansion—like our geographic expansion—may be running out of room. To the degree that these are accurate assessments, they can affect not only our economic behavior but our way of looking at the world.

The pursuit of social justice, for example, can be a relatively uncontroversial thing when the pie of opportunity is growing ever larger. But the challenge becomes much more difficult when we come to believe the pie's growing more slowly or stops growing altogether, when the pressures mount for cutting some pieces smaller so that others can be bigger.

As a society, we have compounded our confusion by permitting ourselves to enjoy the luxury of polarized rhetoric—to become reconciled, as it were, with the irreconcilable. It is a form of contemporary cop-out to take rigid, ideological, even theological and always simplistic positions to what are, at their core, highly complex but equally pragmatic problems. Secretaries of Commerce are not the ultimate source of theologies, new or old, and I shall not try to do so.

But I would only say nothing may help lift the curtain over our confusion than for us to live in the *future—predict* it, *project* it and most certainly not be paralyzed about it—and, then as a people, decide what we want and what it is we are working for. We may well find that, as in so many things, this elusive thing we call national purpose will be found in our making the journey, rather than picking the destination.

THE FOSTER GRANDPARENTS PROGRAM: THE OLD WORKING WITH THE YOUNG

Mr. PERCY. Mr. President, I noted with interest in this morning's Washington Post, an article by Ivan G. Goldman entitled "Foster 'Gramps' Aid Retarded." The article comments favorably on what I consider one of our most successful Government programs, the Foster Grandparents program.

Simply described, the Foster Grandparents program brings together people who have love and attention to give with people who need such commodities. It allows retired people aged 60 and over to work 20 hours a week with disadvantaged children and to receive modest stipends for their work. The "grandparents" work in hospitals, correctional institutions, and day care centers.

People associated with the program seem almost unanimous in praising it. The project director for the program in Lincoln, Ill., Mr. Merle Ording, reports that at the Lincoln State School, where grandparents work with retarded children, the 1-to-1 relationship of grandparent-to-child has brought about tremendous improvements in the vocabularies and general behavior of the children, as well as in the physical and mental health of the grandparents. It has enabled older people to maintain their dignity and to stay off the welfare rolls. In the words of one participant:

> If it had not been for this program, I wouldn't have been able to exist for the last several years.

Last spring, when the Senate was debating how much money to allocate for Foster Grandparents, I received many letters on the program and I remember vividly the enthusiasm and sincerity which came through in these letters.

At the White House Conference on Aging, President Nixon personally requested more money for Foster Grandparents, and in a true bipartisan effort Congress responded almost immediately in granting this request.

In April of last year, I introduced S. 1580, to increase the number of community service opportunities, such as those provided by the Foster Grandparents program. I believe very strongly that we should continue to work for the expansion of a program which obviously works so well.

Mr. President, I ask unanimous consent that Mr. Goldman's article be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOSTER "GRAMPS" AID RETARDED: LOVE IS THEIR MOST IMPORTANT PRODUCT

(By Ivan G. Goldman)

Wynn was too retarded to speak, but she laughed like any other 9-year-old being pushed toward morning clouds on a playground swing.

Providing the muscle was Douglas Furr, a retired railroad switchman, a kindly man fighting a child's melancholy at Great Oaks, a Maryland center for retarded children near Beltsville.

For despite such cheerful touches as brightly colored tops, smile posters, and funnyface balloons in the dormitories, Great Oaks is unmistakeably an institution. And the grounds can be a lonely place when the wind blows across the naked spring grass.

Furr, 66, is one of 36 persons employed by Prince George's County in the Foster Grandparent program, a federal project employing 4,400 persons in 40 states.

Financed nationwide with $25 million from the federal Action program, the 7-year-old program is designed to provide employment for low-income men and women over 60, and individual attention for institutionalized children. Each foster grandparent spends 20 hours a week divided betweeen two children, and receives $1.60 an hour to do it.

Action, a catch-all department that oversees such programs as the Peace Corps and Vista (Volunteers in Service to America), pays for 80 per cent of each local Foster Grandparent program.

Prince George's financed with $160,000, is the only jurisdiction in Maryland, Virginia, or the District to take advantage of the program, said an Action spokesman.

The county sends half of its foster grandparents to Great Oaks, and a half to the county day care center for retarded children in Lanham. It plans to hire 20 more oldsters this year to work at Edgemeade, a private institution for emotionally disturbed childreen, near Upper Marlboro, said L. W. Mahaffey, county program director.

Furr, 66, who was among the first foster grandparents hired by the county three years ago, says, "I can see where I'm doing these children some good.

"I didn't show up Good Friday, and they tell me Wynn and Paul (age 8) cried all day. You see, Saturday and Sunday they don't miss me, because they know I won't be here. Isn't that something?"

Furr, who has six grandchildren of his own, said his mornings at Great Oaks "are really . . . something good—a good way to pass the time. It gets monotonous sitting around the house all the time," he said, still pushing Wynn's swing.

Foster Grandparent is one of those few programs that seem to please everyone. County and federal officials, staff members at Great Oaks, the "grandparents," and the children, all sung its praise in their own way.

"These people (the grandparents) are receiving something from these children that you can't buy with cash," said Mahaffey. "The children make them feel needed, and the income helps them to be self-reliant.

"As for the children, they receive love and attention on a one-to-one basis. Some of them may not ever be able to learn. But they all learn to recognize that grandparent. Something is getting through. It exists there."

To be qualified, an enrollee must have an annual income of less than $2,000, pass a physical examination, and undergo a combined screening and orientation process lasting two weeks.

Mahaffey said that in many cases, the lunch grandparents receive at Great Oaks is their only meal of the day. The center also provides the transportation, and it has become a meeting place—a way of "socializing" for the grandparents, Mahaffey said.

The only drawback: "We have to watch out for overattachment on the part of the grandparents," said Mahaffey. "Once we had a grandparent who became so involved with her little girl that when the girl got sick, the grandmother felt sick also. In that case we gradually weaned her away from the child, and then assigned her to another."

Another time, Mahaffey said a woman grew depressed from seeing hopelessly retarded children day after day.

"She was a very genteel lady," he said. "She probably hadn't seen much suffering in her life. She became very depressed that this even had to be on earth." The woman was transferred to another county program—assigned as a semisocial worker to help other elderly people.

Although some children at Great Oaks have IQs below 35—placing them in a retarded category so low that many may never learn even to walk—grandparents tend to set goals, however, slight, for their charges.

Said Mary Smith, 75, of Fairmont Heights: "When I got Bryan, he's 7, a year ago, the first thing I wanted to do is toilet train him. It took us a whole year, but we did it."

Elizabeth Jennings, 81, of Cottage City, said her charge, Barry, 5, was very retarded, and she was uncertain at first whether she could set a goal for him. Finally, she decided to teach him how to unclench his fists, which he did, after many visits.

Her other charge, 6-year-old Sherry, was also severely retarded, and strapped in a wheelchair so she would not fall out.

"I'm trying to get Sherry to hold her head up," Mrs. Jennings said. "She always wants to sort of stoop like this. Come on, Sherry, you have such a pretty face, you don't want to hide it. Now give us a smile."

And Sherry smiled.

RULES OF PROCEDURE OF THE COMMITTEE ON GOVERNMENT OPERATIONS

Mr. MANSFIELD. Mr. President, at the request of the Senator from Florida (Mr. CHILES), I ask unanimous consent that, in accordance with section 133B of the Legislative Reorganization Act of 1946 as amended by the Legislative Reorganization Act of 1970, the rules of procedure of the Committee on Government Operations be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE ADOPTED BY THE COMMITTEE ON GOVERNMENT OPERATIONS, PURSUANT TO SECTION 133B OF THE LEGISLATIVE REORGANIZATION ACT OF 1946, AS AMENDED

RULE 1. MEETINGS AND MEETING PROCEDURES OTHER THAN HEARINGS

A. *Meeting dates.* The committee shall hold its regular meetings on the first Thursday of each month, when the Congress is in session, or at such other times as the chairman shall determine. Additional meetings may be called by the chairman as he deems necessary to expedite committee business. (Sec. 133(a), Legislative Reorganization Act of 1946, as amended.)

B. *Calling special committee meetings.* If at least three members of the committee desire the chairman to call a special meeting, they may file in the offices of the committee a written request therefor, addressed to the chairman. Immediately thereafter, the clerk of the committee shall notify the chairman of such request. If, within three calendar days after the filing of such request, the chairman fails to call the requested special meeting, which is to be held within several calendar days after the filing of such request, a majority of the committee members may file in the offices of the committee their written notice that a special committee meeting will be held, specifying the date and hour thereof, and the committee shall meet on that date and hour. Immediately upon the filing of such notice, the committee clerk shall notify all committee members that such special meeting will be held and inform them of its date and hour. If the chairman is not present at any regular, additional or special meeting, the ranking majority member present shall preside. (Sec. 133(a), Legislative Reorganization Act of 1946, as amended.)

C. *Meeting notices and agenda.* Written notices of committee meetings, accompanied by an agenda enumerating the items of business to be considered, shall be sent to all committee members at least three days in advance of such meetings. In the event that unforeseen requirements of committee business prevent a three-day notice, the committee staff shall communicate such notice by telephone to members or appropriate staff assistants in their offices, and an agenda will be furnished prior to the meeting.

D. *Open business meetings.* Meetings for the transaction of committee business, shall be open to the public, except during executive sessions for marking up bills, for voting, or when the committee by majority vote orders an executive session. (Sec. 133(b), Legislative Reorganization Act of 1946, as amended.)

RULE 2. QUORUMS

A. *Reporting legislation.* Ten members of the committee shall constitute a quorum for reporting legislative measures or recommendations. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

B. *Transaction of routine business.* Six members of the committee shall constitute a quorum for the transaction of routine business. (Rule XXV, Sec. 5(a) Standing Rules of the Senate.)

C. *Taking sworn testimony.* Two members of the committee shall constitute a quorum for taking sworn testimony, provided, however, that one member of the committee shall constitute a quorum for such purposes, with the approval of the chairman and the ranking minority member of the committee, or their designees. (Rule XXV, Sec. 5(b), Standing Rules of the Senate.)

D. *Taking unsworn testimony.* One member of the committee shall constitute a quorum for taking unsworn testimony. (Sec. 133(d)(2), Legislative Reorganization Act of 1946, as amended.)

E. *Subcommittee quorums.* Subject to the provisions of sections 5(a) and 5(b) of Rule XXV of the Standing Rules of the Senate, and section 133(d) of the Legislative Reorganization Act as amended, the subcommittees of this committee are authorized to establish their own quorums for the transaction of business and the taking of sworn testimony.

F. *Proxies prohibited in establishment of a quorum.* Proxies shall not be considered for the establishment of a quorum.

RULE 3. VOTING

A. *Quorum required.* No vote may be taken by the committee, or any subcommittee there of, on any measure or matter unless a quorum, as prescribed in the preceding section, is actually present.

B. *Reporting legislation.* No measure or recommendation shall be reported from the committee unless a majority of the committee members are actually present, and the vote of the committee to report a measure or matter shall require the concurrence of a majority of those members who are actually present at the time the vote is taken. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

C. *Proxy voting.* Proxy voting shall be allowed on all measures and matters before the committee, or any subcommittees, thereof, except that, when the committee, or any subcommittee thereof, is voting to report a measure or recommendation, proxy votes shall be allowed solely for the purposes of recording a member's position on the pending question and then, only if the absent committee member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. All proxies shall be addressed to the chairman of the committee and filed with the chief clerk thereof, or to the chairman of the subcommittee and filed with the clerk, thereof, as the case may be. All proxies shall be in writing and shall contain sufficient reference to the pending matter as is necessary to identify it and to inform the committee as to how the member wishes his vote to be recorded thereon. (Sec. 133(d), Legislative Reorganization Act or 1946, as amended.)

D. *Announcement of vote.* (1) Whenever the committee by rollcall vote reports any measure or matter, the report of the committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the committee. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

(2) Whenever the committee by rollcall vote acts upon any measure or amendment thereto, other than reporting a measure or recommendation, the results thereof shall be announced in the committee report on that measure unless previously announced by the committee, and such announcement shall include a tabulation of the votes vast in favor of and the votes cast in opposition to each such measure and amendment thereto by each member of the committee who was present at that meeting. (Sec. 133(b), Legislative Reorganization Act of 1946, as amended.)

(3) In any case in which a rollcall vote is announced, the tabulation of votes shall state separately the proxy votes recorded in favor of and in opposition to that measure, amendment thereto, or recommendation. (Sec. 133 (b) and (d), Legislative Reorganization Act of 1946, as amended.)

RULE 4. HEARINGS AND HEARING PROCEDURES

A. *Announcement of hearings.* The committee, or any subcommittee thereof, shall make public announcement of the date, place, time and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearing, unless the committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date. (Sec. 133A(a), Legislative Reorganization Act of 1946, as amended.)

B. *Open hearings.* Each hearing conducted by the committee, or any subcommittee thereof, shall be open to the public unless the committee, or subcommittee, determines that the testimony to be taken at that hearing may (1) relate to a matter of national security, (2) tend to reflect adversely on the character or reputation of the witness or any other individual, or (3) divulge matters deemed confidential under other provisions of law or Government regulations. (Sec. 133 A(b), Legislative Reorganization Act of 1946, as amended.)

C. *Radio, television, and photography.* The committee, or any subcommittee thereof, may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television or both, subject to such conditions as the committee, or subcommittee, may impose. (Sec. 133A(b), Legislative Reorganization Act of 1946, as amended.)

D. *Advance statements of witnesses.* A witness appearing before the committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least one day prior to his appearance, unless this requirement is waived by the chairman and the ranking minority member, following their determination that there is good cause for failure of compliance. (Sec. 133A(c), Legislative Reorganization Act of 1946, as amended.)

E. *Minority witnesses.* In any hearings conducted by the committee, or any subcommittee thereof, the minority members of the committee shall be entitled, upon request to the chairman by a majority of the minority, to call witnesses of their selection during at least one day of such hearings. (Sec. 133A(e), Legislative Reorganization Act of 1946, as amended.)

RULE 5. COMMITTEE REPORTS

A. *Timely filing*. When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time. (Sec. 133(c), Legislative Reorganization Act of 1946, as amended.)

B. *Supplemental, minority, and additional views*. A member of the committee who gives notice of his intention to file supplemental, minority or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than three calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views. (Sec. 133(e), Legislative Reorganization Act of 1946, as amended.)

C. *Draft reports of subcommittees*. All draft reports prepared by subcommittees of this committee on any measure or matter referred to it by the chairman, shall be in the form, style, and arrangement required to conform to the applicable provisions of the Standing Rules of the Senate, and shall be in accordance with the established practices followed by the committee. Upon completion of such draft reports, copies thereof shall be filed with the chief clerk of the committee at the earliest practicable time.

D. *Cost estimates in reports*. All committee reports, accompanying a bill or joint resolution of a public character reported by the committee, shall contain (1) an estimate, made by the committee, of the costs which would be incurred in carrying out the legislation for the then current fiscal year and for each of the next five fiscal years thereafter (or for the authorized duration of the proposed legislation, if less than five years); (2) a comparison of such cost estimates with any made by a Federal agency; or (3) a statement of the reasons for failure by the committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Sec. 252(a), Legislative Reorganization Act of 1970.)

RULE 6. SUBCOMMITTEES AND SUBCOMMITTEE PROCEDURES

A. *Regularly established subcommittees*. The committee shall have four regularly established subcommittees, as follows:

Permanent Subcommittee on Investigations

National Security and International Operations

Intergovernmental Relations

Executive Reorganization and Government Research

B. *Ad hoc subcommittees*. Following consultation with the ranking minority member, the chairman shall, from time to time, establish such ad hoc subcommittees as he deems necessary to expedite committee business.

C. *Subcommittee membership*. Following consultation with the majority members, and the ranking minority member, of the committee, the chairman shall announce selections for membership on the subcommittees referred to in paragraphs A and B, above.

D. *Subcommittee meetings and hearings*. Each subcommittee of this committee is authorized to establish meeting dates and adopt rules not inconsistent with the rules of the committee.

E. *Subcommittee budgets*. Each subcommittee of this committee, which requires authorization for the expenditure of funds for the conduct of inquiries and investigations, shall file with the chief clerk of the committee, not later than January 10 of that year, its request for funds for the 12-month period beginning on March 1 and extending through and including the last day in February of the following year. Each such request shall be submitted on the budget form prescribed by the Committee on Rules and Administration, and shall be accompanied by a written justification, addressed to the chairman of the committee, which shall include (1) a statement of the subcommittee's area of activities; (2) its accomplishments during the preceding year; and (3) a table showing a comparison between (*a*) the funds authorized for expenditure during the preceding year, (*b*) the funds actually expended during that year, (*c*) the amount requested for the current year, and (*d*) the number of professional and clerical staff members and consultants employed by the subcommittee during the preceding year and the number of such personnel requested for the current year. (Sec. 133(g), Legislative Reorganization Act of 1946, as amended.)

SOVIET ANALYST—A NEW FORTNIGHTLY NEWSLETTER

Mr. ALLOTT. Mr. President, I am delighted to be informed of the launching of a new publication which promises to be very useful to all citizens concerned about the continuing problem of coping with the Soviet Union.

This new publication is Soviet Analyst, a fortnightly newsletter published in London and edited by Messrs. Robert Conquest and Tibor Szamuely.

I am acquainted with Mr. Conquest, who is author of many works on the Soviet Union, including the monumental study of Stalinism, The Great Terror. He worked for 10 years in the British Diplomatic Service and the Foreign Office. He has held fellowships at the London School of Economics, and Columbia University's Russian Institute. He has testified before the Senate and has been helpful to those Senators who have consulted him.

I am not personally acquainted with Professor Szamuely but I am acquainted with some of his published works. Professor Szamuely has lived in the Soviet Union—indeed, served as a prisoner in one of the Kotlas labor camps. He has been vice rector of Budapest University, and he has taught in Ghana. Today he is a British citizen, and a lecturer at Reading University.

Mr. President, so that all Senators can appreciate the high quality of Soviet Analyst, I ask unanimous consent to have printed in the RECORD 11 articles from the first two issues.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

RUSSIA AND OURSELVES

Our relations with the Soviet Union are are the centre of the whole refractory array of international problems before us, and thus of the future of the world. The depth and accuracy of our understanding of the Soviet Union is the crux of our correct handling of these problems. It is the purpose of Soviet Analyst to keep before its readers, regularly and continually, a clear view of the nature of the Soviet political culture, so different from our own; of the actions and the motivations of the Soviet leadership; and of the whole Soviet presence on the world scene.

Our editorial position is, of course, that of 'bourgeois democracy', 'bourgeois objectivity' and 'bourgeois morality', that of the traditional civic culture of the West.

The culture we will be dealing with is radically different in its whole history and beliefs. In Imperial Russia there was no tradition of mutual rights and obligations, but merely of the state and its servants or slaves.

The Westernizing element which had arisen by 1917 was virtually eradicated by the revolution, from which a despotism arose differing from Tsardom in its dedication to a messianic or utopian ideology. As Peter the Great and Catherine the Great had done, it sought the technological and military methods of the West, but excluded its political values. The Leninist theory of dictatorship imposed on a culture already deficient in civic content a system of ideas and of rules highly alien to Western conceptions. After fifty years a social stratum and interest, deriving power and legitimacy from these ideals, has become firmly established.

The relations between the two thoroughly dissimilar cultures, in fact, constitute the essence of the international scene.

The editors themselves with long experience of attending to and writing on Soviet affairs, have nevertheless felt the difficulty of keeping clear in their own minds the strange perspectives of that alien culture. As one of them remarked, while giving evidence to a committee of the United States Senate, 'an effort of the imagination, as well as of the intellect', is needed if one is not to find oneself making 'common sense' assumptions inapplicable to Soviet realities.

But if Western habits of mind make Soviet realities rather hard to grasp, it also seems to be the case that a tendency has arisen in the West to avoid contemplating the often raw and repellent difficulties at the centre of world problems. This may be natural enough. Years of coping with the facts, of endless vigilance, have taken their toll. There are many, it appears, who wish to be deceived, who desire the comfort of thinking that the situation cannot be as difficult as it looks, 'for how unpleasant if it were.'

Moreover, it is sometimes felt, or seems to be felt, that frank reporting and critical judgment of things Soviet is in some way harmful to international understanding. It is the common experience of almost all serious writers about these subjects that a parrot cry of 'Cold War' is raised, if only in limited and low-grade circles of the media, against comment unfriendly to Soviet officialdom.

After the Soviet invasion of Czechoslovakia in 1968, a number of commentators remarked that the Cold War had recommenced. They thought, that is to say, that the Soviet leaders had changed their policies for the worse. But, in fact, their policies had not changed. Events like the invasion only came as a surprise and shock, and seemed a new and disastrous phenomenon, to those who had let themselves become deluded about the whole question of Soviet motivations and policy. It is no part of the purpose of Soviet Analyst to overstate, let alone exacerbate, tensions. But, if reality is uncomfortable, it is nonetheless reality. And, plainly, any tendency in the West to see Russia in a delusive light may be comforting for the moment but may also be lethal in the long run. An international harmony based on the repression or distortion of information and opinion about the USSR unwelcome to the ruling party would be hollow, jerry-built and generally unreliable. The clearer the view we take about Russian affairs, the more firmly we express our own opinions, the better chance we have of attaining the greatest degree of international understanding possible today.

Though we take this critical view of the Soviet system, we do not mean in any way to misrepresent it. And we ask our Soviet and pro-Soviet subscribers (of whom a gratifyingly large number have already declared themselves) to draw our attention to any errors of fact which may elude our own vigilance.

The element of detente in present international relations is, as far as it goes, both genuine and valuable; but it is not based on any present Soviet acceptance of basic principles of permanent cooperation or of pacific orientation. It is ill-defined, variable and subject to instabilities. To exaggerate it is to do a disservice to peace, which cannot subsist on a basis of misunderstanding of fact and misconception of motive.

From our point of view, a detente based on clear and realistic appraisal of the facts and possibilities is seen as an immediate aim of Western policy. In the longer run, we would feel, a true world peace—as against this utilitarian and vigilant truce—can probably arise only as the result of an evolution of the Soviet system into a civic order. Friedrich Engels remarked nearly a century ago that as soon as Russia reached the level of genuine constitutional development, the traditional Russian policy of conquest is a thing of the past.

Meanwhile the principles of Soviet policy, both at home and abroad, have been in effect to deny the legitimacy of the mere existence of non-Communist (or deviant Communist) ideas or regimes. This has never been concealed. Or rather, while major ideological analysis by or on behalf of the Party leadership has always clearly asserted the principles involved, there has indeed been an accompanying smoke-screen of more liberal, tolerant and peaceable remarks by various sponsors of Soviet propaganda in the West. But (as Professor Hugh Seton-Watson has said) it seems a mistake to believe that 'What 200,000 Communist party officials, from Brezhnev down to the secretaries of party branches in factories or collective farms, tell their subjects is all camouflage: the *real* views of the Soviet leaders are what some nice guy from the Soviet delegation at the UN said over a quiet drink, or what an itinerant Midwestern scientist heard from some friendly academician in Novosibirsk.'

We do the Communist Party of the Soviet Union the justice of accepting that it believes what it says. The Soviet leadership really seek a world dominated by their system. They are really, in the long run, not prepared to accept a continuance of the Western and democratic order. It is only at a much lower level, that of deceptive propaganda, that any question arises of an end to this central intransigence.

This is a clear and understandable position. It is compatible with wishing to avoid nuclear war, and seeking a certain style of detente. But it is, all the same, one of a central and basic hostility to other forms of political life.

Mr. Brezhnev and other members of the Politburo have more than once made it clear that the Soviet conception of 'peaceful coexistence' is of a form of struggle against non-Communist concepts, that 'in the ideological field' no truce can apply. (The current persecutions of Soviet intellectuals who speak for civil liberty is, in one aspect, no more than part of a single campaign of irreconcilability towards the whole Western concept.)

Brezhnev's point is developed at length in the authoritative work *Peaceful Coexistence and the Revolutionary Process* by V. N. Yegorov, published in Moscow last year. Yegorov (who sees, for example, a violent Communist revolution in Britain as a tolerable possibility) goes out of his way to deny that the Soviet concept of 'peaceful coexistence' is even *'mainly'* favourable to the development of peaceful forms of socialist revolution outside Russia. On the contrary, it helps the intensification of the whole 'world revolutionary process', including 'non-peaceful forms of the struggle.'

'Peaceful coexistence,' he adds, 'by its very nature has always been a specific form of intense economic, political and ideological battle between countries having different social systems, in the international arena.' And he specifically denounces any 'rapprochement' between the two systems, or any 'mutual concessions' or 'convergence'.

Or, as another leading post-Khrushchev theoretician, Academician P. N. Fedoseyev, has put it: 'The struggle for the liberation of the working class has an international character, since the final solution of the problem *"kto-kogo."* ("who-whom?") in the confrontation between socialism and capitalism is possible only on an international scale.' (*Dialetics of the Contemporary Epoch*, Moscow 1966, p. 253).

As for the immediate scope of Soviet aims, Foreign Minister Gromyko asserted flatly in his speech to the Supreme Soviet in June 1968:

'The Soviet Union is a great power situated on two continents, Europe and Asia, but the range of our country's international interests is not determined by its geographical position alone . . . The Soviet people do not plead with anybody to be allowed to have their say in the solution of any question involving the maintenance of international peace, concerning the freedom and independence of the peoples and our country's extensive interests. This is our right, due to the Soviet Union's position as a great power. During any acute situation, however far away it appears from our country, the Soviet Union's reaction is to be expected in all capitals of the world.'

Current tendencies (commoner in some Western countries than in others) to burke the issues, to avoid the cold light of such reality, may appear to be an intellectual scandal, but also a moral one. In extenuation, it may be urged that the facts, or many of them, have not been readily available—or, at least, that they tend to reach the non-expert occasionally and episodically, giving time in between for the effect to be blurred or forgotten. In Soviet Analyst we mean to contribute, as far as we can, to filling this gap.

NATIONALITY PROBLEMS: LATVIA

Since 1917 nationalities policy has always been one of the main pre-occupations of the Soviet government. This is understandable: the USSR is the last of the great multinational empires, with ethnic Great Russians comprising only a little over one half of the population. The stability of the state depends to no small degree upon its success in controlling and curbing the growth of national feeling among more than 100 divergent national groups.

Despite every effort, and contrary to much official propaganda, the CPSU has failed to find a satisfactory solution to the nationalities question. There is every indication that today the problems are more intractable than ever. National feeling is on the increase (partly under the influence of the world-wide decolonization of the last 20 years). On the other hand, the party can neither grant sufficiently far-reaching concessions to national sentiment nor revert to Stalin's policy of large-scale terror and mass deportations. This situation could only lead, and has led, to a general growth of resentment, ever more openly expressed. The recent arrests of "bourgeois nationalists"—many of them CP members—in the Ukraine and elsewhere illustrate the government's increasing difficulties.

For years the West knew hardly anything about nationality problems in the USSR. Very little information filtered out, apart from the exceptional case of Stalin's deportation of eight small nationalities, and the intermittent campaign of antisemitism. The outside world remained largely ignorant even of the widespread nationalist guerrilla movements of the immediate post-war years.

Today the position has radically changed, thanks to the flow of underground *samizdat* material, which includes such outstanding works as Ivan Dzyuba's *Internationalism or Russification?* Yet only a small fraction of this information has received the attention it deserves. In view of the crucial importance of the nationalities question Soviet Analyst intends to give it as wide a coverage as possible.

Almost all the recent *samizdat* revelations concerned developments in the Ukraine. Now, for the first time, a highly significant document has reached the West from Latvia (and received even partial coverage only in the *Daily Telegraph*): an appeal to the leaders of several Western Communist Parties from 17 Latvian Communists. The authors describe themselves as old party members, including some of pre-1940 standing. Since the appeal is—understandably, though unusually in recent *samizdat* practice—unsigned, it is impossible to verify their claim. However, the information contained in the appeal is undoubtedly authentic and could hardly be accessible to anyone outside the party *apparat*. It provides an unpredecentedly full picture of Soviet nationalities policy and of systematic Russification of one of the three Baltic republics annexed by the USSR in 1940.

The authors have taken this desperate step, they say, only after a number of Communists had suffered "repressions" for voicing their complaints to official party bodies, including the Central Committee in Moscow. They were driven to it because, after many years' loyal service, they had become convinced that Leninism was merely a screen for Russification, "that Great Russian chauvinism is the deliberate policy of the leadership of the CPSU, and that the forcible assimilation of the small nations of the USSR is regarded as one of the most urgent and important aims of state policy."

The forcible assimilation of Latvia began immediately after the end of German occupation in 1944–5, and was pursued with growing intensity until Stalin's death on the 5th March 1953. Then, for a brief moment, things seemed to change.

It has long been accepted by many Western scholars that Beria was the real initiator of the first and in some ways most far-reaching wave of de-Stalinization, immediately after the old dictator's death. Later the criminal indictment against Beria charged him with having attempted to "sow enmity and discord among the peoples of the USSR and, in the first place, to undermine the friendship of the peoples of the USSR with the great Russian people". This was a clear reference to a relaxation of Russifying policies introduced by Beria. Nothing more specific about the sudden change in the party line has ever been disclosed—until now, when the Appeal of the Seventeen supplies some of the missing information.

On the 22nd June 1953 the First Secretary of the Latvian CC Kalnberzin informed a Central Committee plenum of the decisions taken 10 days before by the Presidium of the CC CPSU, as follows:

"(1) All party and state organs are directed to correct fundamentally the situation in the national republics: *to put an end to the distortions of Soviet nationalities policy;*

(2) The training, development and large-scale promotion to leading posts of persons of the local nationality is to be organized; the practice of appointing cadres not from the local nationality is to be abrogated; the *nomenklatura* officials displaced from their jobs and unfamiliar with the local language are to be recalled to the disposal of the CC CPSU;

(3) Official business in the national republics is to be conducted in the local native tongue".

The Appeal correctly describes this document as unique in the last forty years of Soviet history.

Kalnberzin informed his colleagues that the Presidium had specifically criticized distortions of policy in Latvia. He referred to the fact that the proportion of Latvians among officials of the republican CC was 42 per cent, and among the secretaries of city and district party committees, 47 per cent. Not one of the departments of the Riga city party committee was headed by a Latvian, and only two of its 31 "instructors" were Latvian. The situation was even worse at lower levels: only 17 per cent of the secretaries of the republic's primary party organizations (cells) and 18 per cent of all Communists in Riga were Latvians.

But the new political line lasted only for a few days—until the fall of Beria at the end of June. The decision of the Presidium was never officially rescinded, yet shortly after the plenum Russification was further intensified. To this day it remains the basis of Soviet nationalities policy.

The Appeal defines two principal aims of this policy. The first is the mass settlement of Russians, as well as of brother-Slavs such as Ukrainians and Byelorussians, or the territory of Latvia (and the other two Baltic republics). This is achieved by a variety of methods. The first step (taken apparently in 1953) was the establishment of an Organizational Bureau of the CC CPSU for Latvia (a strictly extralegal body, the existence of which has never been disclosed). Within the Latvian Central Committee itself the key posts of Second Secretary and Secretary for Cadres have always been occupied by Russians, together with similar posts at lower levels, in particular those of personnel directors in all party, state and economic bodies.

The Appeal convincingly shows that one of the main motives behind the much-publicised industrialization of the Union republics is the impulse given thereby to further Russification. Numerous industrial enterprises have been built in Latvia without any economic justification (diesel, turbine, autoelectric instruments and meteorological instruments plants in Riga; a synthetic fibre plant in Daugavpils; the Plavinas hydroelectric power station on the river Daugava, etc.). The builders, workers and specialists for these plants were brought in from Russia, and their output is shipped to other parts of the Union. Several non-Latvian towns have been built up in the new industrial centres. Many of the republic's most important enterprises employ hardly any Latvians.

The growth of the Russian population of Latvia is also achieved by the location on its territory of large military garrisons, and by transforming almost the whole seashore into one vast all-union holiday resort. Almost all the indigenous population has left these parts.

Between 25 and 35 thousand outsiders arrive in Latvia annually for permanent settlement (a considerable figure for a land of 2.4 million people). Not surprisingly, in 1959 Latvians comprised 62 per cent, in 1970 only 57 per cent of the population of their country. They are already in a minority in their capital, Riga, where the proportion of Latvians in 1970 barely reached 40 per cent. After 30 years of Leninist nationalities policy Russians account for nearly one-third of the population of Latvia.

The second main aim of Soviet policy, according to the Appeal, is the Russification of Latvian life and the assimilation of the Latvian people. Here, too, a multiplicity of methods is applied. One each of the republic's two television and two radio programs is conducted exclusively in Russian while the second remains "mixed". In other words, about two-thirds of total broadcasting time is allocated to Russian. Half the periodicals appearing in Latvia are published in Russian. Official business in all republican, city and district organizations, as well as in all industrial enterprises, is conducted in Russian. Public meetings and conferences of all kinds—with a few exceptions—are also conducted in Russian. "There are many collectives with an absolute majority of Latvians, but if the collective has at least one Russian member he demands that the meeting be held in Russian and his demand is accepted; should it be refused the collective will be accused of nationalism."

Russian is rapidly taking over as the language of education and instruction, beginning from the kindergarten. Wide publicity is created for mixed Russian-Latvian marriages. Only four or five pre-Soviet Latvian writers have had their works republished—in contrast to the endless republication of the Russian classics.

No aspect of life is too insignificant to escape Russification. Latvian national dishes have been replaced by Russian recipes in the menus of all restaurants, cafes and cafeterias; the familiar national brands of cigarettes, sweets, etc. have likewise disappeared. National festivals have been abolished. Not one of Riga's six administrative districts bears a local name; they are called Lenin, Kirov, Moscow, Leningrad, October and Proletarian. Most of the streets have also acquired Russian names. Repertoires of Latvian professional and amateur theatres, orchestras, choirs, etc. do not receive approval unless they include Russian plays or songs.

The Russification of Latvia has not been carried out without resistance, even within the party. The Appeal lists 27 prominent officials removed from their posts and disgraced for "bourgeois nationalism" i.e. for attempting to defend some remnants of national identity. At their head is E. Berklavs, former Deputy Prime Minister of the Latvian Republic, who for some time led the resistance to forcible assimilation, and managed even to win a majority of the Bureau of the Latvian CC over to his side. Khrushchev personally arrived in Riga to take charge of the situation; Berklavs was dismissed from his posts and exiled from the republic.

Among the high-ranking Communist victims of the Soviet nationalities policy: the Chairman of the Presidium of the Latvian Supreme Soviet Ozolins; the Chairman of the Republican Trades Unions Council Pinksis; the Second Secretary of the Latvian CC Krumins; CC Secretary Bissenieks; First Secretary of the Riga city party committee Straujums; the editor of the Latvian party newspaper *Cina* Pizans; the republican Minister of Culture Kalpins; the First and Second Secretaries of the republican Komsomol, Ruskulis and Valters; the Chairman of the republican Commission of Party Control Plesums.

Today, after repeated purges, the top posts in the republic are occupied either by Latvians from Russia, who have spent most of their lives outside their country and hardly know the language—the First Party Secretary, the Prime Minister, the Chairman of the Presidium of the Supreme Soviet, the CC secretaries for propaganda and industry—or by Russians and Russified aliens; the two other secretaries of the CC and the Deputy Prime Minister.

Even worse than the position of the Latvians is that of the non-Russian national minorities living in the republic: Lithuanians, Estonians, Poles, Jews, etc.—nearly 14 per cent of the total population. Before the establishment of the Soviet regime they all had their own primary and secondary schools, they published books and periodicals in their own languages, ran their own theatres, clubs, choirs and similar institutions. Soviet nationalities policy has abolished all this; today minorities within a minority territory can use only the local language or, preferably, Russian. "Russians have everything in all the republics", concludes the Appeal, "the basic native populations have something in their own republics, the rest have nothing".

Such are the realities of the national question in the USSR. As the authors of the Appeal point out, the situation is identical in all the non-Russian parts of the country. They themselves would have very little hope even if the Western Communist Parties were to intervene on their behalf: the leaders of the CPSU "are unaccustomed to listening to the opinions of others. They act from positions of power and recognise only power". The outlook for the national republics looks bleak indeed. But it is also clear that the regime is creating vast reserves of future trouble.

The Tale of a Glove

Almost every Soviet statistical report on the fulfilment and over-fulfilment of the current plan contains, tucked away unobtrusively among the data showing constant growth of production, consumption and welfare, a brief phrase like this one (taken from the report on the fulfilment of the 1971 plan): "Despite the considerable increase in commodity circulation, the demand for certain goods such as fish, herring, vegetables, some types of woolen fabrics, clothes, footwear and kitchen utensils has not been fully met".

Outside observers often miss these little phrases completely, believing that they refer to esoteric items of conspicuous consumption. The absence of frills is even taken for a sign of virtue compared to our own consumer-oriented capitalist society. Yet from time to time the Soviet press spells out the precise nature of the missing goods and the extent of the shortages. *Pravda* has just devoted two stories to one such, fairly typical case. They provide a useful insight into everyday life in the USSR.

On the 16th January *Pravda* recounted the sad tale of A. D. Nikontov from Voronezh. Mr. Nikontov had been wounded in the hand during the war and experiences a certain sensitivity to cold (the average January temperature in Voronezh is –10 degrees C.). Beginning from last July Mr. Nikontov regularly visited every shop in Voronezh (a city of 660 thousand) in search of a pair of gloves. No luck: everywhere the shop assistants gave him the same reasonable reply, "If there had been gloves we'd have bought some ourselves". By the end of October Mr. Nikontov lost his patience and wrote to the Ministry of Trade of the Russian Republic asking for a pair of gloves via the State mail-delivery firm. Instead of sending him the gloves the deputy head of the ministerial department concerned, Comrade Pronichkin, forwarded Mr. Nikontov's letter to the head of the Voronezh Regional Trade Department, Comrade Sotnikov, with a covering note: "Kindly attend to this letter, taking into account all the circumstances described therein, and if possible render Comrade Nikontov assistance towards the purchase of a pair of gloves."

Comrade Sotnikov's deputy sent the letter on still further, to the director of the Voronezh City Administration for Consumer Goods Trade, Comrade Yevteev. The request was made more specific: "The Department of Trade asks you, upon arrival of the aforementioned gloves for sale, to inform Comrade A. D. Nikontov of this, and, exceptionally, to render him assistance towards their purchase".

Mr. Nikontov received no such notification. However, he proved indefatigable in tracking down his complaint from one office to another, until finally he learned that the necessary instructions had been issued to the local equivalent of Woolworths. There he met with a friendly welcome, was offered a choice of shoe-polish, putty, penknives and various other useful objects—but no gloves. The shop did not stock them.

Mr. Nikontov returned to the Department of Trade. This time his reception was markedly cooler: he had become a nuisance, he was told, and no more assistance would be forthcoming. If he was so impatient to buy his precious gloves he would have to do it on his own.

Having told the story of Mr. Nikontov's misadventures, *Pravda* expressed its indignation. Not over the total absence of gloves for many months in one of the country's largest cities—apparently it found nothing unusual in that—but over the heartless bureaucratic treatment of an invalid of the Great Patriotic War: "Why, one asks, was it necessary to undertake months of correspondence, to involve so many organizations, merely, in the end, to pull wool over a person's eyes and to turn down his request?"

A good question. Five weeks later, on the 23rd February, *Pravda*, not without satisfaction, reported on the results of its intervention. Comrade Yevteev had received a reprimand, the director of the quasi-Woolworths a severe reprimand. The other participants had received corresponding punishments. The Voronezh Regional Department of Trade had "taken steps" to improve its investigations into customers' complaints and to inspect the commercial services available to invalids of the Patriotic War.

"The Ministry of Trade also informs us", concluded *Pravda*, "that the orders of commercial organizations for gloves are not fully met and that the demand cannot be satisfied. Measures are being taken towards increasing the production and the delivery of gloves to the trade network".

We are not told whether Mr. Nikontov finally managed to buy a pair of gloves.

FICTIONS AND FALLACIES

So many extravagant misunderstandings or misreportings of things Soviet still appear in the West and cannot in the nature of things be nailed every time by a letter to the offending periodical, that we propose to deal with them here in the hope of to some extent deterring this nuisance. We would welcome our readers letting us know of any especially egregious instances that come to their attention.

This time we note a few recent oddities from the world of scientific journalism:

(*a*) The *New Scientist* (2 December 1971) names and praises the Soviet Academician Vasili Emelyanov as one in a group including well known Western left-wingers, active in Stockholm in putting pressure for signing a SALT agreement on the stupid and recalcitrant governments of which they are subjects. Emelyanov, a member in good standing of the CPSU since 1919, winner of two Stalin Prizes, a government official in Stalin's time and more recently a member of Council of Ministers, has never criticised his masters. He is, in fact, their spokesman vis-a-vis his Stockholm friends rather than vice-versa. There are indeed Soviet atomic physicists (Emelyanov is a metallurgist) who have put what pressure they could on the Soviet government—Academician Sakharov, for example: but *he* does not get abroad. In fact, such travel is rather difficult Dr. Zhores Medvedev (who was himself prevented from travelling to deliver a scientific paper at a recent international meeting in Sheffield) tells us that there is only one passport actually in the possession of a Soviet private citizen—that of the poet Yevgeni Yevtushenko.

(*b*) Another British scientist (Dr. T. E. Allibone FRS) writes to *The Times* (11 February 1972) that unlike himself, Soviet Academician Peter Kapitza has a direct line to his authorities, and used it to get them to print a stamp commemorating Lord Rutherford. Good. Still, Kapitza has perhaps earned this privilege in a harder way than a British scientist might care to endure, being lured to Moscow from the Cavendish laboratories at Cambridge in 1934, and prevented (contrary to promises) from leaving for the next thirty years.

(*c*) A book, ***The Siberians,*** by anthropologist Farley Mowat, published last month, describes a visit to the Kolyma basin, formerly one of the largest and worst of Stalin's slave-labour zones. Mowat says that many prisoners died, of disease and lack of food due to inefficiency (though with no mention of the mass shootings by Major Garanin's squads; nor of mass death from 'penal diet' consciously imposed). But, he adds thousands escaped and merged with the civil population. In Stalinist (or current) conditions of documentation and 'vigilance' this is naturally impossible: and we are expressly told by the Soviet writer Varlam Shalamov that only *one* successful escape was known. Mowat has simply believed-what-someone-told-him, as so often. (It is also the case that though Mowat says that the number who died in the Kolyma camps cannot be known, it is not difficult to arrive at an estimate which cannot be far from the truth—about two million).

(*d*) *The Guardian* of 6 January 1972 headlined a report on a memorandum of the British Council for Social Responsibility in the Sciences on security methods in Ulster: "Methods of Interrogation 'Harsher than KGB's.'" The text was more restrained.

PEACE AND EASTERN EUROPE

An idea behind some recent Western foreign policy moves seems to be that a line can be drawn in Europe between the Soviet and Western blocs, and agreement, détente, and general stability in the area be consolidated on that basis.

There is, of course, a certain fallacy in the notion that the Soviet Union would in any case regard a Western sphere as inviolable. Still, it can be argued that so long as Western power and morale on this side of the line are maintained, and all attempts to 'Finlandize' Western Europe resisted, a settlement of this sort would be advantageous, and even that an Ostpolitik so based *could* eventually lead to a more positive easing of international, and 'inter-ideological', tensions.

However, there is a hidden assumption here. Such a stability implies that Eastern Europe itself will remain reasonably calm. The opposite is the truth. And recent reports show that tensions within the Soviet bloc, far from easing, are becoming more and more dangerous.

First, of course, there is the problem of Rumania. Reports in some Western papers that the Rumanians have lately been making concessions to the Russians are unfounded, (as are similar rumours to the effect that Communist China has abandoned its interest in Eastern Europe, and in Rumania and Albania in particular.)

Mr. Ceaucescu, in fact, has understood the situation correctly. The only concession the Russians want is the overthrow of his regime. Nor is it seriously open to him to compromise by admitting pro-Soviet elements to his leadership: for that could only result in a progressive purge of himself and his supporters, on the Czechoslovak model. The now virtually confirmed execution of General Serb on charges of espionage for the Soviet Union, accompanied by the expulsion of the Soviet military attache, was a sharp lesson—closely resembling the similar execution by the Albanians of Admiral Sejko in 1964. As in Albania, this amounted to the suppression of a pro-Soviet plot. The Rumanians are reported to have purged 40 staff officers, and a number of important officials, including the Minister of Defence, and the Central Committee Secretary in charge of propaganda, have been demoted. At the same time a strong campaign of vigilance and indoctrination is proceeding in the Rumanian Communist Party, specifically against this type of treason. Moreover, Ceaucescu has understandably decided that his best policy is to sharpen, rather than disguise, differences with the Soviet Union over matters of foreign policy, and especially over China. Recent Rumanian approaches to the EEC, and the conduct of relations with West Germany on a basis quite uncoordinated with that of the Soviet Union, have been overshadowed by the reception of a Chinese military mission. Rumours have even been allowed to circulate, whether probable or not, that the Chinese have offered to provide the Rumanians with nuclear warheads.

A key move in the campaign not only against Rumania but for the re-establishment of strict Soviet control throughout the bloc, is the secret report by Vasil Bilak to the Central Committee of the Czechoslovak Communist Party, made on the 21 October 1971, whose content has recently become known in the West. He attacked the Rumanians for opposing their national interests to the international obligations arising from the membership by their country of the socialist community', condemning their principle of 'sovereignty outside all class spirit', and failure in 'the struggle against opportunist deviation, against revisionism and nationalism in the international Communist movement.' This nationalism he detected in current Rumanian historical works, in the arts, and above all in the conduct of a foreign policy 'against the interests of a socialist community.'

Ceaucescu, during the visit of the Hungarian leader Janos Kadar at the end of February, firmly defended the Rumanian position and the possibility of 'differences of opinion'. In fact, actually during the visit, the official paper *Scinteia* (23 February 1972) warmly welcomed President Nixon's visit to China, which has been sharply condemned by the Russians. After Ceaucescu's ostentatious visit to China in June last year, it was a leading Hungarian Communist, Komocsin—the Party Secretary in charge of relations with the other Communist parties—who was put forward in both a speech in the National Assembly and an article in *Magyar Hirlap* (13 August) to attack the possibility of China forming an 'anti-Soviet axis' in the Balkans with Albania, Yugoslavia and Rumania.

In his report, Bilak also attacked Yugoslavia, largely for its foreign policy. And it is now learned that he also, to a lesser degree, criticised the leaderships in Poland, Hungary and East Germany. The Hungarians were (he said) repeating the errors made by the Czechoslovaks in 1966 and 1967—that is, attempting piecemeal economic reforms without realising that this 'centrifugal' conduct might lead to political disintergration. (Of East Germany he said that it would take 20 years for the economy and the party to recover from the 'sclerotic' rule of Ulbricht!) More importantly, he first condemned the Poles for excessive pliability and weakness towards the Church, and then said that Gierek's concession of "workers' committees" after last year's riots in the Baltic ports could lead to an 'anarcho-syndicalist' situation, rather than the improvements hoped for. (Qualms about Poland had already been expressed last year, in a little noted circular from the Party organisation in Moravska Ostrava dated 14 February 1971: in that region Poles crossing to and from the area of the Polish minority in Czechoslovakia were having a bad influence.)

Bilak's report is a call for the more effective re-Stalinisation of Eastern Europe on the Czech model. The question is, whether Bilak was put up to speak by the Soviet leadership. He has certainly, more than anyone else, played the part of Moscow's man over the last few years. It has been suggested, on the other hand, that he was acting to some extent on his own, as a known hardliner putting a case, and not necessarily implying full Soviet support. This might not necessarily be off his own bat: his Soviet links are said to be closest with Pyotr Shelest, First Secretary of the Ukranian Communist Party, and on most issues one of the most intransigent members of the Politburo. On the whole, though, it seems more likely that Bilak was acting as a fairly discreet mouthpiece for the Soviet leadership as a whole. (It will be remembered that during the invasion of August 1968 his daughter was on holiday in Cumberland and was kidnapped and taken either home or to Russia by Soviet security men—an action which shows their particular concern for Bilak.) A further point in favour of this view is that Bilak also uttered considerable criticisms of the Sudanese Communist Party (see below), in which the Czechoslovaks and he personally can have no direct interest whatever, and on which he must clearly have been speaking to a Moscow brief.

Bilak's report ranges wide, and indicates all the major trouble-spots of Eastern Europe. The mere existence of the Rumanian regime amounts, from the Soviet point of view, to a permanent temptation to break the peace. Yugoslavia has recently been the scene of a great purge of the Croatian party leadership, which was working for greater autonomy. Soviet agents have been in contact with anti-Communist nationalist elements in Croatia. And in the event of Tito's death there seems to be every prospect of a large-scale disintegration, of which the Russians would be ready to take advantage, possibly by force. A little less obvious, but in some ways even more dangerous, is the position in Poland.

It is generally agreed that Poland's economic and other problems have not after all been solved by the Gierek leadership. A further explosion within the next year or two seems highly probable. In March 1968, the demonstrations by students and intellectuals did not (as in 1956) rouse the working class; while in 1970 the fighting in the Baltic ports was purely by workers, and did not throw up or attach to itself a political or intellectual leadership. Next time it may be different. Moreover, a failure by the Gierek group would mean in effect that there was no further alternative party leadership capable of even promising with any hope of being believed that they could satisfy the working class. This is a formula for real trouble.

In fact, all in all, Eastern Europe remains a powder keg. Nor is there any question of Western influence calming down these fissiparous and rebellious tendencies, and achieving stability on the basis of the status quo.

For the reasons are absolutely fundamental. The Communist culture has simply not 'taken' in Eastern Europe. Most of these nations have not undergone, or have long since broken free, of the servile condition which the Russians have endured for 700 years. The demand for personal and national liberty is ineradicable. These countries are willing to live at peace with, and even in alliance with, the Soviet Union, and to admit Russia's supremacy in the area as a great power. If the Russian leadership would settle for that, then—and only then—could a 'spheres-of-influence policy be viable. But they have not done so and show no signs of wishing to do so. This is not an internal matter of the countries concerned, nor even of the Soviet block. It is a decisive factor for peace or otherwise in Europe.

Cruelty to Animals

For some months a correspondence on cruelty to animals has been going on in the Moscow *Literary Gazette*. The most recent contribution (16 February 1972) is a letter from Krasnodar in the North Caucasus, condemning the way in which dogs and cats are advertised for, at 65 and 35 kopeks respectively for experimental purposes, no questions asked.

There is in fact no Soviet law to prevent cruelty to animals. On the other hand, the question is on the face of it a wholly non-political one—that is, of the type admissible for debate. The present discussion started last September, with a long article by the biologist Dmitri Sukharev. He mentioned some horrifying cases of inhumanity actually published in research papers—for example, the throwing of rabbits into boiling water and pouring spirit over others and setting them alight. Sukharev pointed out that the cruel type of experiment mentioned was in any case entirely useless to science. He then noted that in England there are laws controlling excessive suffering under vivisection. Of course, 'One should not idealize English charity, traditionally merely a flowery disguise for hypocrisy. A community cannot excuse itself by its kindness to cats and dogs, when it is famous throughout the world for its cruelty to other nations.

The anti-Western angle soon prevailed. First, a letter to the paper from the British Anti-Vivisection Society was quoted, and sneered at as showing a 'ladylike' and extremist approach. And the question has since been extended to include the cruel experiments by doctors on human beings, performed by the Nazis during the war, and in Britain now. 'Where for example, newlyweds from poor families obtain the means for going on their honeymoons on condition that they allow themselves to be injected with various diseases' (*Literary Gazette*, 8 December 1971).

It was also pointed out (11 November 1971) that 'experiments on people, bringing these people to death and mutilation, are only possible in countries where the moral climate is darkened by force, wars, and mass repression against the dissenters . . . the activity of the British neocolonisers in Ulster cannot but influence the general atmosphere.'

Nevertheless, a number of the biologists and others who have written in are clearly attempting an improvement in the Soviet attitude to animals. There has as yet been little sign of legal action, but that may come. It seems unlikely, though, that they will then be allowed to divert their attention from Western medical and other malpractices to the chemical and physical tortures performed on dissidents in the Soviet 'psychiatric' hospitals.

Switch on the Sudan

The report by Bilak to the Czechoslovak Central Committee, referred to above, contains a most significant passage on recent events in the Sudan. As we have said, there is no real Czechoslovak interest in the matter, and we can certainly take it that Bilak is here speaking to a Soviet brief.

Bilak's thesis is that it was wrong of the Sudanese Communist Party to attempt a military coup against the Numeiry government, and the other Communist parties knew nothing about it. The Numeiry regime consisted of 'progressive officers' who had overthrown the previous 'feudal-upper bourgeois' government and should not have been opposed a l'outrance. The putsch was ill prepared, and supported neither by the army nor by the masses.

The repudiation and condemnation of unsuccessful attempts to seize power by foreign Communists is an old Soviet practice, dating from similar adventures in Europe in the 1920s. And, as so often, a switch from the earlier line that no coup had been planned, and that, on the contrary, the Sudanese Communists had been framed up by fascist officers, leaves those Western fellow travelers who swallowed it in the usual awkward position.

More important, this pronouncement seems to foreshadow a new line towards the Sudan, and the other Arab countries too. Bilak specifically condemns the Sudanese Communists for opposing Arab federation, as 'playing the pro-American game.' The defeat of the attempt to establish a full-scale Communist bridgehead at Khartoum has, in fact led (for the time being at least) to a further play of the 'united anti-imperialist front' card, and we are now evidently going to see an attempt to re-establish Egyptian, Libyan and Sudanese confidence in the Soviet Union's intentions. That may be a difficult task.

A Note on Soviet Oil

We here briefly consider one element in Soviet policy in the Middle East, of which we shall treat more fully in later issues.

Not so many years ago, we were asked to tremble at the thought of overdependence on Soviet oil, which, so it seemed to some, was going to disrupt markets in the western world. It should have been realised that world demand is rising fast, and that Soviet exportable surpluses were not large enough to constitute a menace, though of course they could and did make some inroads into particular markets, like that of Italy. Now the wheel has turned full circle. We hear of shortages of oil in the USSR, and Soviet policy in the Middle East is alleged to be influenced by a desire to assure herself of oil from this source.

Let us look at some facts. Soviet oil production has increased very rapidly, and oil is among the few sectors of the economy which has kept to its plan of schedules.

[In million tons]

	1960	1965	1970		1975 plan
			Plan[1]	Actual	
Oil output	148.0	243.0	350.0	353.0	496.0
Oil exports[2]	33.2	64.4	....	95.8	....

[1] The 5-year plan (1966–70).

[2] Crude plus products.

The figures clearly show a rapid rise in oil consumption within the Soviet Union itself. Exports to the west have not been increasing fast in recent years, and this can only be due to lack of oil to sell, since we know that sales in such markets as Sweden have been below possibilities. The USSR has undertaken to supply oil to its own Comecon partners, it must supply its own needs, and, although western "hard" currency is urgently wanted, there has not been enough oil over to take full advantage of the market opportunities that exist.

This has largely been due to difficulties in developing new fields. The old Baku centre has long ceased to be a key centre of the oil industry. The Urals-Bashkir area replaced it. But now the great centre of expansion in the Tyumen' area of northwest Siberia (and to lesser extent also the northern and eastern fringes of the Caspian Sea). But Tyumen' is a difficult area to develop. It is sparsely populated, it has hardly any roads and inadequate railway, it has a harsh climate which interferes with construction and would-be migrants. Massive injections of social overhead capital are needed, people must be persuaded to go there and to stay, under conditions in which they are free not to go there, and free to leave once they get there. (Only a few weeks ago a Soviet journal informed us that of 100 assisted migrants to a part of West Siberia, 70 leave within a year of arrival). This oilfield is believed to be very rich indeed. Once it is fully operational, and the necessary pipelines are built, the comparative shortage of exportable oil might be overcome. Recent press reports speak of negotiations with the Japanese, designed (among other things) to secure help and credits for Siberian development, with the USSR paying in Tyumen' oil, moved across Siberia through an immensely long pipeline, which will take a long time yet to complete. There would, of course, also be pipelines from Tyumen' to centres in the European parts of the USSR, linking up with the so-called "Friendship" pipelines stretching across the border into East Germany and Czechoslovakia, and might extend further west.

Does all this mean that the Soviet oil "invasion" forecast in the early sixties will become a reality in the late seventies?

Nothing is easier than to make mistakes in forecasting the riches of an oilfield. (Think of the number of times America was "threatened with the exhaustion of *her* oil reserves, but they keep finding more of it.) However, it seems that we should not change our views drastically The "dangers" of Soviet oil exports were exaggerated ten years ago, the "oil shortage" was exaggerated by some analyst in 1970. If Tyumen' develops as expected, the USSR should fulfill her five-year-plan for the oil industry, and no doubt this plan envisages a large rise in domestic utilization, and expansion of sales to both Eastern Europe and the capitalist world. This is unlikely to represent any major increase in the share of the USSR in world trade in oil, but clearly it does leave room for the possibility of a sizeable invasion of some one market. Let us, however, bear in mind that the impact of Soviet oil sales in a few countries was due largely to the fact that Soviet oil was (and is) kept out of some very large markets, of which Great Britain is one, impact is heightened if sales of a given quantity are concentrated in a few places. This concentration was not, however, intentional: the Soviet salesmen went to the countries from which they were not barred.

Anyhow, the view that the USSR is likely to become a net importer of oil cannot be sustained, it has no evidence whatever to support it. Less clear is the position of the Comecon countries taken together. Only Rumania among them is an oil producer. The others are large importers, and their consumption will certainly rise fast. Will the USSR be able to meet all their needs, and at the same time continue to be a supplier to western markets? It may be confidently stated that Soviet planners will not wish to forego the convertible currency earnings which oil brings them. Therefore it is possible that such countries as East Germany, Czechoslovakia and Poland may buy increasing quantities of Middle East oil. But there is no strong case for asserting that the Comecon countries taken together will be net importers of oil, and it seems at least as probable that Soviet exports will exceed the imports from non-Soviet sources of the smaller Comecon countries, especially if Rumania's contribution is taken into account.

So, in assessing Soviet policy in the Middle East, it seems wrong to lay stress on actual Soviet neeed for oil as a significant factor.

The Price of a Television Set

Soviet publications hardly ever print any hard facts about retail prices in the USSR. This sensitive area is touched upon only when the government decrees price reductions on some types of goods. One such rare revelation was made by the weekly *Nedelya* on the 6th February. Commenting on the reduction, from February 1st, in prices of TV sets, the paper stated that colour television sets, previously cost 850 rubles, would now sell at only 650 rubles—the equivalent of six months average wages for Soviet workers and employees—while black and white 59 cm. (23 inch) screen sets had come down from 420 to 320 rubles: a mere three months average wages. The paper further remarked that even at the old price levels "many families" already possessed two TV sets—one in their flat and another in the dacha. Hardly to be wondered at: people who can afford dachas can probably manage two television sets as well.

Fictions and Fallacies

A common recent attitude to events in the Soviet Union is to condemn or criticise them, but to say that they are not substantially different from what goes on in the Western democracies. In particular, there have been many items lately claiming that there is little difference between the Soviet and British or American treatment of dissenters.

For example:

(a) In the *New Statesman* (3 March 1972) Mr. Anthony Arblaster reviews Dr. Peter Reddaway's edition of the first eleven issues of the clandestine Soviet journal Chronicle of Current Events, *Uncensored Russia*. He argues that a similar book could be produced in England called *Uncensored Ulster*, consisting of material suppressed by the authorities. The comparison breaks down rather, when one considers that (i) The "suppression" in the British case consists of failure to show certain film on television, to print articles in particular newspapers, etc. while in the Russian case it is not a question of material critical of official activities not being given adequate coverage on television or in particular papers, but of it not being allowed at all: in Britain of course (as for example in the *New Statesman* itself) a continuous stream of material attacking the government, the army, and so on, appears quite legally. (ii) he compares "the denial of civil rights" in the Soviet Union with "their denial in the United Kingdom itself". The denial of civil rights with us consists of the internment of suspected gunmen; in the Soviet Union of the imprisonment of anyone publicly objecting to official policy in conditions of civil calm. There may be objections to the former. But the two things cannot be made comparable simply by using the same words about them. (iii) Similarly he compares the "manhandling of demonstrators in Red Square" with the "equally brutal treatment of protesters in Chicago, Paris or Belfast". The three western examples were of rioters or armed rebels attempting to overawe a party convention or overthrow a government. The action of the protesters in the Red Square was to raise a few placards. A comparison with even the Chicago riot should be of the rioters in Chimkent in 1967. There the police opened fire; the dead are estimated as anything up to 200; on its suppression three "ringleaders" were executed; their trial was not held in public; the evidence was not reported—and so on. (iv) Mr. Arblaster writes that "no fair-minded person can fail to notice that while Soviet dissenters are held up for our admiration . . . Western dissenters" are generally speaking condemned. Here again, a sleight of hand has been performed with the general word "dissenter". In the one case men expressing a deviant opinion: In the other, that small section of the huge number of freely writing dissentients from official policy who go, to put it mildly, rather further. Mr. Arblaster does indeed see that what the Russian dissenters long for is the commonplaces of orthodox Western liberalism" which he regards as silly of them. He finds it "depressing" that they do not seem to want anything more "radical" or "socialist". As a Czechoslovakian student recently wrote in the American progressive *Dissent*, the inhabitants of the Communist states have 'had their fill of Utopia". *Experientia docet.*

(b) Mr. Stuart Hood in the *Listener* (24 February 1972) also, though less recklessly, compares the trial of Pavel Litvinov and others with the Chicago Trial. Perhaps the differences are more striking. In addition to the incommensurability of the events leading to the trials, we may note (1) that the Chicago accused were all out of bail, (2) that their case was followed and favourably reported on by large sections of the American press, (3) that they were acquitted, (4) that they openly expressed their desire to overthrow the American government by any means whatever, (5) that the trial was public, (6) that the American courts do not resemble those of the USSR in, for example, the recent appointment of two secret police generals to the Soviet Supreme Court.

(c) Professor Alec Jenner, Professor of Psychiatry at Sheffield University, is reported (*Guardian*, 24 January 1972) as being wholly opposed to the internment of Soviet dissidents in mental hospitals. But, in all fairness, he points out that the Soviet concept of schizophrenia is much 'wider' than ours. The definition of madness is "terribly difficult," and society has often "used or misused the term with people who do not fit into acceptable patterns of behaviour." He gives as an example the fact that parents or teachers may say that a child taking cannabis is mentally ill in some way. Thus Russians, similarly, believe that anti-Soviet behaviour must be a sign of insanity. The difference, of course, is that a lay citizen saying that "You must be mad" is not the same as a government defining opposition as lunacy and carrying out the necessary seizure and certification of the victim.

(d) Dame Peggy Ashcroft in a letter to *The Times* (2 February, 1972) also complains of the brutality and hypocrisy of putting Soviet dissidents into mental homes. She mentions the legitimate complaints of people like herself against the jailing of oppositionists in Greece, Rhodesia, etc. (though not in Zanzibar, Cuba, etc.) but then goes on to speak of the apparently comparable "harassing" of young revolutionaries in England. Here, it is the *word* "harass" which appears to cover a very wide range of different actions.

Among the Dissidents

AN UNREPORTED POLITICAL TRIAL

A highly significant Soviet political trial, thinly disguised as a common criminal case, has just gone completely unnoticed by Western news media. On the 14th February 1972 *Vechernyaya Moskva*, the Moscow evening newspaper, carried a short account of the trial of Mrs. Alisa Shokolskaya, accused of stealing hundreds of "antique" books from Moscow libraries with the aid of forged documents. Yet even the scanty details provided by *Vechernyaya Moskva* make it clear that this was no ordinary case of theft—if, indeed, Mrs. Shokolskaya's offence can be at all described as theft in any recognisable sense of the world.

Mrs. Shokolskaya is alleged to have obtained 1,233 books from the Lenin Library with "forged requisitions" from her employers, described as the Institute of Pedagogical Sciences. The books were then passed on to three leading Soviet intellectuals: Roy Medvedev, author of the massive study of Stalinism, *Let History Judge*, recently published in the USA and scheduled for publication in Britain on March 23, and twin brother of the famous geneticist Zhores Medvedev whose incarceration in a lunatic asylum in 1970 created a world-wide scandal; V. Y. Lakshin, the well-known literary critic and longstanding colleague of the late Alexander Tvardovsky; and V. P. Danilov, the eminent historian of collectivization, head of a research sector in the Institute of History in the Academy of Sciences. All three testified on Mrs. Shokolskaya's behalf. *Vechernyaya Moskva* remarked that they 'did not confine themselves to favourable character references'—whatever this rather ominous phrase may imply. Roy Medvedev, says the newspaper, even attempted to 'blackmail' Mrs. Shokolskaya's director in front of the court. No details of this mystifying episode are supplied. Medvedev also stated that he was unaware that the books had been stolen. 'Strange', commented *Vechernyaya Moskva*.

The garbled newspaper account is nevertheless sufficient for a fairly definite picture of Mrs. Shokolskaya's true 'crime' to emerge. The term 'antique books' in Soviet parlance does not refer to *incunabula* or other rare editions: it applies to Soviet books which for some reason or another have been included in the official index of prohibited publications, or of 'out-of-date publications', as it is euphemistically called. Copies of such books are preserved in the 'special collections'—the *spetskhrany*—of select libraries; only authorized persons are allowed access to them, by special permit and for clearly stated specific reasons. Roy Medvedev's book is remarkable for its wealth of published sources, most of them inaccessible to the ordinary Soviet reader or to anyone conducting unofficial research.

It is quite clear that Mrs. Shokolskaya's crime lay in contravening Soviet censorship regulations with the purpose of assisting the valuable though unauthorized historical research of scholars like Roy Medvedev. In the USSR such a misdeed is far graver than common theft. So is the punishment: Alisa Shokolskaya was sentenced to *six years imprisonment*.

This case, which gives a particularly clear picture of the Soviet attitude to truth, and to the search for truth, attracted no attention in Britain, nor, apparently, elsewhere in the West. In itself it provides an answer to the question often put about the 'real' difference between Soviet and Western attitudes to unorthodox publication.

SOLZHENITSYN

Interest has been aroused in Soviet dissenting circles, as well as in Britain, by instructions sent by Alexander Solzhenitsyn through his legal representative in Switzerland, Dr. Heeb, to protest against the impending publication by Macmillan and Company of a biography of him, as a result of which Macmillan abandoned the project.

We now learn the origins of Solzhenitsyn's qualms about such biographies. It has come to his notice that the KGB, through a supposed friend of his, attempted to plant in the West an entirely false story, both damaging and dangerous to him. He fears that, however, innocently, unauthorised biographies appearing in the West (and the one in question was specifically based on conversations with his 'friends') may in one way or another harm him.

PLEA IN MITIGATION

A curious difference between the Soviet attitude and that of the West emerges in a description of the trial last year of the dissenter V. Kukui at Sverdlovsk. Kukui seems to have been the victim of a Moscow decision to make an example of at least one Jewish activist in each major city. However nothing could be found against him except the possession of writings of Jewish interest, and about Israel, (including material published in the Soviet Union itself, though in "antique" pre-Stalin times): none of it, anyhow, of a type previously held to be criminal even under current draconic interpretations of an already draconic law. Kukui was sentenced to 3 years imprisonment, which he is now serving in the Novaya Liyaliya labour camp; a number of his letters to a friend who holds his power of attorney have been intercepted without notification, contrary to Soviet regulations, which at least provide that prisoners should be told that their letters have been suppressed.

However, an even more remarkable illustration of the nature of Soviet legal practice has now emerged. In a letter to the Supreme Court signed by Academician Andrei Sakharov and Dr. Valery Chalidze, the point is made that the defense attorney "having substantiated the conclusion that there was nothing criminal in the activities of V. Kukui, asked the court . . . to mitigate the punishment". We were reminded of the story, dating from Stalin's time, where one prisoner asked another,

"What did they give you?"

"15 years."

"What did you do?"

"Nothing."

"There must be some mistake. For nothing you only get ten years."

DECLINE OF U.S. EXPORTS

Mr. FANNIN. Mr. President, the Department of Commerce tells us that American exports declined 9.8 percent in February while imports increased by 3 percent.

Exports totaled $3.8 billion; imports $4.4 billion.

This, the statisticians tell us, means that our trade deficit increased by $278.8 million.

These figures are alarming because they demonstrate the continued deterioration of the ability of American industry to compete with other industrial nations.

There are two major reasons for this decline.

First, we have the unrealistic international trading agreements which allow foreign governments to give extraordinary aid to their export industries.

Second, and perhaps more important, we have the unrealistic wage rates imposed upon U.S. plants. The high wages imposed by unions have not brought prosperity to the American worker; the exorbitant wage increases have brought only inflation and a loss of jobs.

Mr. President, the situation has reached the point that leaders of many industries are asking for intervention by our Government.

The situation even is causing union officials to sit down with management to try to work out proposals to save our industries. These efforts are somewhat belated, and in some cases misdirected, but at least they are encouraging.

The only lasting solution, and the only one which will be fair to the American consumer, is for organized labor to start showing responsibility and restraint in bargaining. Increased wages must be allowed only when it is justified by increased productivity.

Mr. President, the business and financial editor of the Arizona Republic, Don G. Campbell, wrote an interesting column which appeared in his newspaper on March 12, 1972. I ask unanimous consent that the article be reprinted in the RECORD for the benefit of Senators who are concerned about the international trade problem.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PINCH OF LOW-COST IMPORTS DRIVES STEEL MEN TO PROTECTIONIST MOVES

The sound of the "Ouch" rings loudly across the land and no longer is there any question about whose ox is being gored.

It's labor's ox that is being gored, and the bellowing has reached ear-splitting proportions. It's a segment of the populace that is being pinched, and pinched badly, by foreign imports and, in the process, it has picked up an unaccustomed ally—a fellow-pinchee—with an equal amount of political clout: management.

And it is hardly a coincidence that the domestic steel industry is a prime mover in the attempt to get new legislation through Congress that is, by anyone's definition of the word, "protectionist" in nature. And while the effort to keep out imports is taking many forms, a major share of the lobbying is currently zeroed in on pending legislation amending the old "Buy American" Act of 1933.

How intense the pressure on Congress is destined to become was evident here this past week where a quiet group known as The Labor-Management Committee for Fair Foreign Competition met at Scottsdale's Doubletree Inn for a day-long strategy session.

Aptly named, the group is a blend of company executives and union officials representing the badly hit West Coast steel industry. Collectively and individually, the members of the committee feel their economic security sorely threatened by the influx of foreign (particularly Japanese) steel. And they are dead-right.

"Nationally," George Leonard of Northwest Steel Rolling Mills of Seattle, Wash., and a vice president of the committee, said in an interview, "imported steel has taken about 15 per cent of the market but, on the West Coast, it averages out to to about 35 per cent of the market, and in some places, like Seattle, a full 50 per cent of the market has been lost."

What this means in terms of American jobs, and lost tax revenues for Uncle Sam, gets up into some pretty impressive figures.

"We know for a fact that employment in the steel industry in the Seattle area is down about 30 per cent," said George Stender, the committee's president and an official with the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers. "In other West Coast cities the average drop is only about 15 per cent, but this is a deceptive figure since—on top of the layoffs—many of the plants are also on a four-day week."

Here in Phoenix, Larry C. Haines, president of Allison Steel Manufacturing Co., said, the firm utilizes 70,000 man-hours a month when in full production, but is currently operating on a 39,400 man-hours-a-month basis. The local company, a subsidiary of the Houston-based Marathon Manufacturing Co., is a producer of re-enforced steel bars, and fabricates and erects structural steel.

But the steel industry and labor aren't the only losers, Stender added. Uncle Sam also takes a beating since lost tax revenues are equal to about 35 per cent of the purchase price of all steel acquired from overseas.

There's no great mystery in all of this, of course. The big bugaboo is the spread between U.S. wage rates and foreign wage rates. The average American steel worker earns about $5 and $6 an hour and the wage rate in Japan's steel industry is $1 an hour.

In Phoenix, Haines added, the average steel worker makes roughly $4 an hour although other costs in the fabricating process (exclusive of the raw material in the steel) runs the cost of production up to about $8 per man-hour. And, in addition to Japanese and Italian steel, this Southwest market is also competing against highly sophisticated Mexican producers operating in a labor market where wages average $4.60 a day.

Translated into hard selling terms, this means that U.S.-made steel normally selling in the $200-a-ton range is competing against foreign steel selling anywhere from $40 to $50 a ton cheaper.

While the members of the Labor Management Committee for Fair Foreign Competition attending last week's meeting here back away from the use of the word "protectionism" this is still basically, what the session was all about.

"The Buy American Act," Stender said, "was passed in 1933 and specified that the federal government should buy what it needs domestically unless it is unavailable or 'unreasonable' in price. 'Unreasonable' was interpreted as meaning that there was a 25 per cent or more price differential between the domestic and the foreign price."

Under President Eisenhower, however, the spread was lowered drastically—with the exception of defense-oriented items where the price differential was raised. Today, Stender said, everything is pegged at 6 per cent except defense items where the differential is 50 per cent.

This means that, under the "best and lowest" bid concept, the federal government can buy its needs overseas if an item selling for $100 domestically can be purchased from a foreign producer for $94. If it is defense oriented, of course, it MUST be purchased domestically unless the $100 items can be obtained overseas for $50 or less.

What the West Coast-oriented labor-management group is pressing for is a series of three legislative amendments to the Buy American Act that would: (1) establish equitable quotas on foreign imports; (2) require the individual states to follow the federal government's lead in buying domestically, and (3) raise the price-spread on all items to a flat 50 per cent.

It isn't merely that foreign labor costs are putting American labor at a disadvantage, members of the committee insisted. Our trading partners, they insist, are taking unfair advantage of us by subsidizing their own producers and using the U.S. as a gigantic "dumping ground"—encouraging their manufacturers to unload their goods here at prices that are far lower than their own prices at home, and absorbing the industry's losses. Japanese steel, for instance, sells for about $50 more a ton in Japan than it does in the United States.

"Protectionism?" Sure it is.

"Why should we lower our standard of living here?" a labor member of the committee asked rhetorically, and heatedly. "Isn't it better that they should raise their's?"

A NEW WAY OF HEARING

Mr. EAGLETON. Mr. President, an article published recently in the Washington Star has brought my attention to a new method which may prove to be a great help in overcoming the problems of the deaf.

This method is called infracode. Rather than use the ear as the path for hearing, infracode utilizes the sensitive nerve receptors in the skin. When an oscillator about the size of a wristwatch is placed on an area of the skin, vibrations are passed to the brain and are interpreted as sound.

Though the infracode method is new and is still being tested, there have been a number of encouraging results.

I am sure that Senators and those who deal professionally with the problems of the deaf will be interested in reading about infracode.

I ask unanimous consent that the article, entitled "A New Way of Hearing," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A NEW WAY OF HEARING

(By Judith Randal)

A new technique called Infra-Code may do for the deaf or partially deaf what Braille has done for the blind.

And, just as Braille makes use of the sense receptors in the skin, Infra-Code makes use of one of the body's least-appreciated collection of sense organs—the network of nerve receptors in the skin.

Pioneered at the University of Zagreb in Yugoslavia, the technique takes advantage of the fact that if normal conduction pathways are inoperative, others will take over if given a chance. Instead of trying to restore hearing by dealing with the structures of the ear, therefore, Infra-Code works by using an oscillator about the size of a man's wristwatch.

VIBRATING SENSATIONS

When placed on the skin and linked to a machine designed for the purpose, the oscillator causes the subject to have a different, but painless, vibrating sensation for every syllable spoken into a microphone. The vibrations in turn are passed along to the brain and interpreted as sound.

Once these individual pulses are imprinted on the nervous system, the patient continues to be able to pick them up and identify them even though he is not using the oscillator and does not hear them in the usual way.

Thus, after he has "learned" the word sounds through the oscillator, they become his.

The degree of success varies with such factors as the age and motivation of the subject and the duration and severity of his deafness, and some people continue to benefit from a hearing aid.

But of the same 200 who have been trained by the method in this country, almost all are in better contact with spoken language than before. They include some with nerve deafness who had been written off by doctors as beyond help, and a few deaf-mutes.

Infra-Code has been refined in this country by John S. Medaris, president of the Bethesda firm of that name. He has had the help of a Yugoslav physician, Dr. Arsen Stejnjajic, now on the staff of the Mt. Sinai Hospital in New York.

SOME TESTS DONE

Because almost anyone can easily learn to teach the technique and because large numbers of oscillators can be plugged into the basic unit, Medaris envisions its use in group situations so that several people can be rehabilitated at once.

He readily admits that doctors and audiologists consider his method unorthodox and unproved. For this reason, he is eager to have a recognized ear specialist or medical center subject it to rigorous trials.

The technique already has been evaluated for group use at the Western Pennsylvania School for the Deaf in Pittsburgh. In the test, 48 children from 3 to 5 years old were divided into two groups and half were taught to speak by conventional methods and half by Infra-Code.

So it became apparent that those trained with the oscillator were making far more progress in achieving clear, natural speech and at greater speed. So impressed were Pennsylvania educators that the state is considering substituting this method for long term special training, which would save its government $4,600 per year per child.

Another organization planning to use Infra-Code is the San Francisco Bay Hearing Society. The charge for lease of the equipment to them, as to other organizations, is $450 a month.

FREQUENCIES CHECKED

Meanwhile, word-of-mouth brings people of all ages from all over the nation to the Infra-Code Center in Besthesda.

Contrary to what many doctors believe, Medaris has found that even the totally deaf are sensitive to low sound frequencies. The first step toward rehabilitation, therefore, is an individual analysis, using the Infra-Code equipment, of the precise sound frequencies which the subject can and cannot hear.

Properly manipulated, says Medaris, sensitivity to low sounds can be exploited to help patients hear higher ones so that the totally deaf can be converted to being merely hard-of-hearing and the partially deaf can be made less so, even without wearing a mechanical aid.

No two cases of deafness are alike, of course, but the experience of Jimmy, a 13-year-old from a Kansas City, Kans., suburb is perhaps typical. A child with multiple handicaps, Jimmy has overcome most of the disabilities of cerebral palsy, but—despite ear surgery and two hearing aids—his speech was largely unintelligible when his adoptive mother brought him to Medaris a week ago.

Now, after two one-hour sessions daily for five days, he is still going to have to work on his enunciation, but much of what he says comes across loud and clear. He was beside himself with excitement Thursday night when, with his back to a window and without his hearing aids, he heard an ambulance siren scream outside.

During his training sessions, Jimmy wore the vibrator on his wrist and a headset whose only function was to block out any sound that might reach him through his ears.

His teacher, Janet Whitt, then gave him simple sentences through the microphone that is part of the Infra-Code equipment and asked him to repeat them, correcting his pronunciation whenever it wasn't quite right. Jimmy can lip-read, but he was able to respond correctly even when he couldn't see the teacher's face.

NOW USES TELEPHONE

Another of the people who say they have been helped by Infra-Code is Jeanette Perison, 22. Born totally deaf, she, too, is an expert lipreader, but before Infra-Code training, could not use the telephone. Now she can hear at distances up to 60 feet and is able to take phone messages at Microbiological Associates in Bethesda, where she works with laboratory animals.

Because Infra-Code structures and imprints messages in the brain, Medaris believes it also may be capable of helping people who are not deaf, but handicapped in other ways.

Many of the people with the form of mental retardation known as Mongolism, for example, speak poorly because of an over-sized tongue, one of the symptoms of the disorder. With the aid of Infra-Code, however, it may be possible to train at least some of them to overcome this barrier. Only one 30-year-old patient has been treated to date and only for an hour. But in this single trial, she learned to say distinctly, "My name is Marjorie."

And then there is Kenny, 17, who spoke normally until after an operation when he was four and has uttered nothing since except an incoherent babble. No one can predict whether Kenny, whom doctors say is schizophrenic, will ever speak again or dare to emerge from his private world.

But he was persuaded by Infra-Code last week to say "ba" instead of his usual "swa" or "swee," and when Janet Whitt asked him to put his hand in hers if he would like to come back, he did so immediately.

JOBS FOR VETERANS IN PRINCE GEORGES COUNTY, MD.

Mr. BEALL. Mr. President, all Senators are keenly aware of the distressing employment problems our veterans are now facing as they return from serving their country. These men, who have performed their duties with skill and dedication throughout the world, often at high personal sacrifice, possess the desire and ability to do an outstanding job in civilian pursuits, just as they did in the military. All they lack is the opportunity.

I invite the attention of the Senate to the fine efforts of one jurisdiction, Prince Georges County, Md., in coping with this pressing problem. Cooperating with the county Jobs for Veterans Task Force, the Chamber of Commerce, and other service organizations, the local government, under the able direction of County Executive William W. Gullett, has devised a system that might well serve as a model for other communities near large cities, but with unique problems of their own.

The county has created an Office of Veterans' Affairs, manned by a staff of six, all new veterans themselves, designed to help returning servicemen find employment, job development, and proper placement. I commend Prince Georges County for this much-needed project, and ask unanimous consent that the article "Suburb's Unemployed Veterans Get Attention in Maryland," in the JFV Report of March 1972, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Suburb's Unemployed Veterans Get Attention in Maryland

A relatively new "one-stop" service center for veterans in Prince George's County, Maryland, might well serve as a model for other communities adjacent to large cities but with specific problems of their own.

In this case, the large city is Washington, D.C., which, like other major towns, has had its suburbs burgeon with incredible speed in the last years.

Prince George's has been and still is largely a bedroom community for federal workers in the Nation's Capitol. But its rapid rise in population and the press of its own population for services has left the county government groping for ways to cope with problems springing up at every hand. And one of these is the problem of unemployment among the county's Vietnam era veterans.

Late last year, the members of the county's JFV task force, and the heads of service organizations, and the chamber of commerce, lent their support to an effort to lobby the county government for more effective service to the county's young crop of returning veterans.

They brought to the attention of County Commissioner William W. Gullett the fact that most of the county's veterans were forced to go to offices of the Veterans Administration in Washington or to local employment service units for benefits and job information.

The ride to Washington, they pointed out, was often a long one from distant points of the county, and was, in a sense, asking the Washington VA offices to take care of a Maryland problem. In addition, the rapid return of so many veterans had left state veterans employment representatives in local offices in Maryland at a loss in handling their increasing caseloads.

Mr. Gullett agreed that something should be done, and the timely arrival of Emergency Employment Act funds made it possible. In late November the county set up an Office of Veterans Affairs in a shopping center a few miles from the county's boundary with the District of Columbia.

From an original three, the staff has now grown to six, all of whom are paid by funds provided under the Emergency Employment Act. All are recently separated veterans or recent retirees from military service, and their salaries will be paid for by the county when EEA funds expire in July.

Essentially, the six staffers are helping to find veterans jobs, and they concentrate their efforts on job development and placement. Raymond Thomas, deputy director of the office, said that, despite the continuing softness in the job market, more and more employers are requesting that veterans get the first crack at the jobs they are offering.

While the new office restricts its job development efforts to employers in the county, its referrals run to employers throughout the Washington metropolitan area because the office is plugged into the area-wide job bank system. This note of cooperation between the county, the city government, and other suburban organs of government is significant when one considers the difficulty frequently encountered in trying to get different governmental units, particularly a city and its suburbs, to work together.

Staffers in the new veterans office also are supplied by forms from the Veterans Administration so that an ex-GI can apply for various kinds of benefits without having to make the trip to Washington to pick up forms.

RECENT FEDERAL COURT DECISION LIMITS REGULATORY AUTHORITY OF FEDERAL TRADE COMMISSION

Mr. COOPER. Mr. President, yesterday, a decision by the U.S. District Court for the District of Columbia held that the Federal Trade Commission lacked authority to make general industry-wide regulations defining unfair and deceptive trade practices.

In his written decision, Judge Aubrey E. Robinson held that a trade regulation rule promulgated by the Federal Trade Commission requiring octane ratings to be posted at all gasoline pumps was "null and void as it is in excess of the Federal Trade Commission's statutory authority." He went on to state that:

> The Federal Trade Commission lacks the requisite statutory authority to issue Trade Regulation Rules.

In my testimony before the Senate Commerce Committee on April 2, 1965, concerning proposals dealing with cigarette labeling, one of the major points of my testimony was that the Federal Trade Commission did not have the statutory authority to promulgate industry-wide trade regulations for the labeling of cigarettes as related to health hazards without congressional authorization.

I do not know what the final decision, perhaps by the U.S. Supreme Court, will be in this issue. I do make the point that action by the FTC or other Federal agencies should be according to law under regulations made or authorized by Congress.

I ask unanimous consent that Judge Robinson's order and decision and a news report published in the New York Times of April 5, together with my statement before the Senate Commerce Committee in 1965, be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[U.S. District Court for the District of Columbia, Civil Action No. 1180–71]

National Petroleum Refiners Association, et al., Plaintiffs, v. Federal Trade Commission, et al., Defendants

ORDER

Upon consideration of Plaintiffs' and Defendants' motions for summary judgment filed February 1, 1972, and their respective briefs, it is this 4th day of April, 1972,

Ordered and adjudged, that for reasons set forth in an opinion filed herewith, the Federal Trade Commission's Trade Regulation Rule dated December 30, 1970, as revised on December 9, 1971, and published in the Federal Register on January 12, 1971, and published, as revised, on December 16, 1971, relating to the posting of octane numbers on gasoline pumps at service stations, is null and void as it is in excess of the Federal Trade Commission's statutory authority; and it is further,

Ordered and adjudged, that Plaintiffs' Motion For Summary Judgment be and hereby is *granted;* and it is further,

Ordered and adjudged, that Defendants' Motion For Summary Judgment be and hereby is *denied*.

OPINION

William Simon, Esq., J. Wallace Adair, Esq., Robert W. Steele, Esq., Roger C. Simmons, Esq., of Howrey, Simon, Baker & Murchison, Washington, D.C. for the Plaintiffs, National Petroleum Refiners Association, *et al.*

L. Patrick Gray, III, Assistant Attorney General, Harold H. Titus, Jr., United States Attorney, Harland F. Leathers, Attorney, Department of Justice, Stuart E. Schiffer, Attorney, Department of Justice, Ronald M. Dietrich, General Counsel, Federal Trade Commission, Harold D. Rhynedance, Jr., Assistant General Counsel, Federal Trade Commission, Alvin L. Berman, Attorney, James P. Timony, Attorney, and Nicholas S. Reynolds, Attorney, Federal Trade Commission, for the Defendants, Federal Trade Commission, *et al.*

This suit questions the authority of the Federal Trade Commission (FTC) to promulgate Trade Regulation Rules pursuant to 15 U.S.C. § 41 *et seq.* (1971). It is a case of "first impression," no other courts having directly considered the issue.[1]

The FTC announced, on July 30, 1969, that it intended to issue a Trade Regulation Rule declaring that failure to post octane numbers on gasoline pumps at service stations would be an "unfair method of competition" and a "deceptive practice," constituting a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45 (1971) (hereinafter FTCA).[2] On December 30, 1970, the Commission issued such a Rule;[3] extended the effective date of the Rule on April 13, 1971 for the purpose of considering a revision thereof; withdrew the effective date[4] and proposed an alternative Rule on August 19, 1971;[5] and on December 9, 1971 issued a revised Rule in this respect that was to be effective March 15, 1972[6] but for a stay entered by this Court.

This Rule, in simple fashion, makes the failure to post octane numbers an "unfair method of competition" and an unfair or "deceptive act" or practice without the necessity of further proof. Plaintiffs here contend that the Commission lacks statutory authority to promulgate this Rule.

The Court need not consider the several other contentions raised by the Plaintiffs, for the answer reached here pretermits all other issues. For the reasons set forth below, that to this Court are persuasive, it is held that the FTC lacks the requisite statutory authority to issue Trade Regulation Rules.

Initially, one considers that the FTC is materially distinct from other administrative bodies. The FTC was created with the express purpose that it be a purely investigative body. This factor distinguishes the FTA from other agencies that are regulatory in nature. Recognizing that the FTC might serve a more vital function, Congress appended to FTC's investigatory powers, quasi-judicial authority to file complaints, hold hearings, afford due process and determine; based upon a finding of fact, whether viola-

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Footnotes at end of article.

tions of the FTCA had or were occurring. The determination having been made that a violation existed, the FTC was granted cease and desist power to correct and prevent there continuance. Judicial review of cease and desist orders was specifically provided for to the Courts of Appeals. These quasi-judicial powers are laid out separately in Section 5 of the FTCA.[7] The investigative powers of the FTC are expressed in Section 6 of the FTCA.[8]

There is only one reference in the FTCA that speaks to the issuance of rules and regulations. The FTC relies heavily upon its substance and it states:

> The Commission shall also have power . . .
>
> (g) From time to time to classify corporations and to make *rules and regulations* for the purpose of carrying out the provisions of sections 41–46 and 47–58 of this Title. (emphasis added)[9]

This clause is located in Section 6 of the FTCA where the investigative powers are conferred.

While the authority at issue may at first impression be thought to fall within this section; to issue rules and regulations concerning deceptive or unfair trade practices or competition; both the context of Section 6 (g) and the legislative history accompanying it demonstrate that this particular authority was not, nor has it been, granted.

The history of this section is clear. Section 6(g) of this Act was intended only as an authorization for internal rules of organization, practice, and procedure. The section was to insure that the FTC had the power to require reports from all corporations.[10] Section 6(g) of the FTCA originated in Section 7 of the House Bill of 1914 that conferred only investigative powers on the Commission.[11] This House Bill did not contain provisions analogous to Section 5 of the Statute, as enacted, that conferred adjudicative authority upon the FTC. This is because the House Bill considered the FTC as an investigative body. Thus, the rulemaking grant in Section 6(g) could only have been intended as an adjunct to the Commission's investigative powers. Supportive of this analysis is the fact that the Senate version of this FTCA made no provision whatever for the promulgation of rules and regulations in any context. Therefore, the only provision concerning rules and regulations that were considered by the Conference Committee and the Congress stem from the House Bill. The existence of Section 6(g) in this statute could only pertain to housekeeping or procedural matters, as under the House Bill, the Commission had no authority to prescribe unfair, deceptive, or anti-competitive business practices.[12] The House Bill conferred only investigative powers.

Notably, when the Senate Bill's provision enabling the Commission to institute adjudicative proceedings to prevent unfair methods of competition was added, there was no indication that Section 6(g) rulemaking authority was intended to extend to this new area affixed by the Senate Bill in such a way as to circumvent the extensive due process procedures expressly provided for in Section 5 of the FTCA. Despite several amendments to the Act, no indication of such an intent has since been expressed.

Significantly, Congress refused to amend its proposals on two separate occasions that would have granted the Commission the very rulemaking power it now seeks to exercise.[13] In addition to the provisions of Section 6(g), the Amendment offered by Congressman Lafferty urged that the Commission be given the power to "make, alter, or repeal regulations further defining more particularly unfair trade practices or unfair or oppressive competition." [14] Thus, when Sections 6(g) and 5 were first proposed, Congress felt that an explicit grant of legislative authority was necessary. other than 6(g), to grant substantive rulemaking powers to the FTC. This Congress consistently refused to permit.[15]

Section 6(g) has remained unchanged since 1914, and it is still located in Section 6 of the Act among the Commission's other investigative powers.[16] If Congress at any time had intended to confer upon the Commission the authority to prescribe substantive law in such a manner as to vitiate the substantial procedural safeguards specified in the Act itself, there certainly would be some reference to this extraordinary grant of power in the Act or the legislative history. The fact that there is none lends credence to the conclusion that the Commission has no substantive, legislative rulemaking authority under the FTCA.

It is important, also, to consider the fact that the FTC, for approximately 50 years from the passage of the FTCA, never asserted the authority it claims to have always possessed. This indicia points to the fact that the FTC knew it was not originally granted this rulemaking authority.

Another critical analytical factor is that where Congress intended to grant substantive rulemaking authority to the FTC, it has done so clearly and unequivocally.[17] In each of those instances Congress felt the need to specifically authorize the Commission to issue substantive rules.[18] These examples of specific authorization would be "a meaningless and superfluous legislative gesture" if the Commission had had the authority it now claims was given it in 1914.[19] The fact that Congress particularized the grant of substantive rulemaking power in these narrowly circumscribed statutes and yet did not do so with respect to the Federal Trade Commission Act, that deals, not with consumer labeling, but with "competition" generally in all its many aspects, makes clear that Congress did not intend the Commission to have such powers under the latter statute.

This conclusion is further substantiated by the history of the Flammable Fabrics Act. Unlike the Wool, the Fur, and the Textile Fiber Acts, the general rulemaking power granted the Commission in the Flammable Fabrics Act did not specify the subjects upon which rules could be issued, nor did it contain an express provision that a violation of rules promulgated would constitute a violation of the FTCA.[20] It provided only that the Commission could make, "such rules and regulations as may be necessary and proper for purposes of administration and enforcement of (the Act)," [21] *i.e.,* in language similar to that of Section 6(g) of the FTCA. In 1967, however, Congress amended the Flammable Fabrics Act [22] to specifically provide that the Commission could issue rules requiring the "maintenance of records relating to fabrics, related materials, and products" and the following language was added by Congress to that provision:

> The violation of such rules and regulations shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice, in commerce, under the Federal Trade Commission Act.

The purpose of that amendment, according to the Report of the House Committee on Interstate and Foreign Commerce, was to "make the Flammable Fabrics Act more flexible by permitting flammability standards and other regulations to be issued under rulemaking procedures rather than having them fixed by law as is now the case." [23] The report explained further that, under the amended Flammable Fabrics Act, the Commission was authorized "to establish regulations for record keeping" and that "(v)iolation of any such regulation would be an unfair trade practice under the Federal Trade Commission Act." [24]

The original language of the Flammable Fabrics Act was *in para materia* to Section 6(g) of the FTCA.[25] Nevertheless, Congress felt the need to amend the statutes to give the Commission the power to include "provisions for maintenance of records relating to fabrics, related materials, and products," and the further need to amend the statutes to provide that violations of such rules would constitute a violation of Section 5.[26] Logic compels a similar need to spell out substantive rule-making authority in the case of Section 6(g) before such authority can be said to exist. Congress has not done so.[27] The Commission's claim of unlimited rulemaking power under the FTCA is, therefore, not only unsupported by anything in that Act itself, or its legislative history, but is also inconsistent with the history of other statutes entrusted to the Commission's administration by Congress.

The Federal Trade Commission further argues that the words rules and regulations in Section 6(g) are to be defined as they are in the Administrative Procedure Act (APA). "The whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. . . ." [28] The Federal Trade Commission Act was passed in 1914. The APA was passed in 1946. It is inconceivable to this Court that those words, when written and considered by Congress in 1914, can have the same exact meaning as those words carry today via the 1946 APA. There exists no cross reference or other legal relationship between these words in their respective statutes. The APA gave a specialized construction to these words. Congress recognized this special meaning by amending the National Labor Relations Act, also passed before the APA, to read, "to make . . . in the manner prescribed by the Administrative Procedure Act, such rules and regulations as may be necessary to carry out the provisions of this subchapter." [29] Congress, however, did not make a similar amendment to the Federal Trade Commission Act. The inference, therefore, is that Congress did not expect the FTC to engage in substantive rulemaking in the manner prescribed by the APA. The rulemaking power in Section 6(g) of the FTCA remains unchanged by Congress to date, and conveys only the authority to make such rules and regulations in connection with its housekeeping chore and investigative responsibilities.

The Commission further contends that Section 5(a)(6) of the Act, that authorizes it to "prevent" unfair methods of competition, constitutes implied rulemaking power. In making this argument, the Commission ignores Section 5(b), the very next paragraph of the statute that requires the Commission to conduct adjudicative proceedings. General rules of statutory construction and the scheme of the FTCA itself demonstrate that the mandate of Section 5(a)(6) is to be carried out by means of adjudicative process specified in Section 5(b).[30] Moreover, the Supreme Court has expressly stated that the FTCA must "be read as an integrated whole." [31] Thus, the FTC's claim is patently untenable. If the legislative history of the Act will not permit the issuance of Trade Regulation Rules under the only section explicitly granting the Commission rulemaking authority, such sweeping authority cannot be based upon an implied grant of power in some other section of the Act or in the Act as a whole. In the face of an overwhelmingly contrary legislative history, there must be some basis for granting an agency unprecedented and far-reaching rulemaking power other than the claim of the agency itself that such power is necessary or desirable for its more efficient operation. The only support, however, for the Commission's novel

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Footnotes at end of article.

theory of statutory construction is its own words. While the courts may have sustained imprecise grants of rulemaking power in some instances, they have never done so in the face of an overwhelmingly contrary legislative history, such as that of the Federal Trade Commission Act.[32]

The record amply reflects that the Commission itself has repeatedly admitted that it has no power to promulgate substantive rules of law[33] and Congress has implicitly rejected the efficacy of Commission Trade Regulation Rules by legislatively superseding them.[34]

Moreover, the Supreme Court has impliedly rejected the Commission's claim of rulemaking power, as have many of the legal commentators.[35]

The Court has considered fully all the other arguments put forth by the FTC in this suit. The sum total of their argument is a "bootstrap" operation, designed to conclude that the FTC possesses powers that it clearly does not have. The famous stricture of Mr. Justice Brandeis applies here:

"What the Government asks is not a construction of the statute, but, in effect, an enlargement of it by the court, so that what was omitted, presumably by inadvertence, may be included within its scope. To supply omissions transcends the judicial function.[36]"

It is therefore the conclusion of this Court, that for the above stated reasons, the statute (FTCA) does not confer upon the Federal Trade Commission the authority to promulgate Trade Regulation Rules that have the effect of substantive law.

Plaintiffs motion for Summary Judgment is hereby granted.

Defendants motion for Summary Judgment is hereby denied.

FOOTNOTES

[1] In two cases, courts have refused to enjoin the Commission from holding hearings looking toward the promulgation of Trade Regulation Rules holding that the proper procedure was to attack the rule after it issued. *Bristol-Meyers Co. v. Federal Trade Commission*, 1968 CCH Trade Cas. ¶ 72, 496, pp. 85, 677–78 (D.D.C. 1968), *rev'd in part and aff'd in part*, 424 F.2d 935 (D.C. Cir. 1970); *Lever Brothers v. Federal Trade Commission*, 325 F.Supp. 371 (D.Me. 1971).

[2] 34 F.R. 12449 (1969).

[3] 36 F.R. 354 (1971).

[4] 36 F.R. 7309 (1971).

[5] 36 F.R. 16120 (1971).

[6] 36 F.R. 23871 (1971).

[7] 15 U.S.C. § 45 (1971).

[8] 15 U.S.C. § 46 (1971).

[9] 15 U.S.C. § 46(g) (1971).

[10] Federal Trade Commission Bill, Comparative Print, S. Doc. No. 573, 63d Cong., 2d Sess., p. 14, 15 (1914); H.R. Rep. No. 533, 63d Cong., 2d Sess., p. 3 (1914); 51 Cong. Rec. 8845, 9047 (1914).

[11] H.R. 15613, 63d Cong., 2d Sess., Sec. 8 (1914).

[12] Having admitted that both the drafters in the House and the Senate had no intention of granting the Commission any rulemaking power, the Commission took the position that rule making authority was somehow mysteriously incorporated into the Conference Committee Report that was ultimately passed. Reasoning from this unsupported position, the Commission claimed that the House and Senate debates prior to the Conference Report were of no relevance to whether Congress intended to grant substantive rulemaking powers to the Commission.

In making this argument, the Commission ignores the fact that the legislative authority of a Conference Committee is limited to resolving differences between the two Houses. Such a Conference Committee cannot authorize new legislation that has not been submitted by one of the two Houses. *See Jefferson's Manual*, Section 546, which has governed House procedures since 1837. In short, the Conference Committee could not have given the FTC a power that was not included in the bill as it passed one of the Houses. *House Rule XXVIII* (3) (1971); *Rules and Manual of the United States Senate, Section 343* (1965). *See also* comments of Judge Covington, a member of the Conference Committee, 51 Cong. Rec. 14932 (Sept. 14, 1914); and the remarks of Congressman Sherley, 51 Cong. Rec. 14938 (Sept. 10, 1914).

[13] 51 Cong. Rec. 9047, 9049–50, 9056–57 (1914).

[14] H.R. Rep. 533, 63d Cong., 2d Sess., Part 3, p. 21 (1914).

[15] The amendment proposed by Congressman Lafferty that would have given the Commission the power to make, alter, or repeal regulations further defining more particularly unfair trade practices or unfair or oppressive competition also included the text of Section 6(g) within it. Thus, even in Congressman Lafferty's own view, Section 6(g) did not in and of itself confer the legislative rulemaking powers that the Commission now asserts it confers upon it. *See also* 51 Cong. Rec. 14,932 (1914) where Judge Covington, a member of the Conference Committee, who was called the "author of the bill," specifically stated in this regard: "The Federal Trade Commission will have no power to prescribe the methods of competition to be used in the future. In issuing its orders it will not be exercising power of a judicial nature . . ."; and 51 Cong. Rec. 14,928 (1914) where Congressman Sherley expressed the thought: "In other words, (the Trade Commission) exercises in no sense a legislative function such as is exercised by the Interstate Commerce Commission." Moreover, the evidence is overwhelming that Congress intended the Commission to act only upon Orders issued in specific proceedings after a complaint, hearings, and basis in fact established. 51 Cong. Rec. 14,928 (1914).

[16] 1951 *Annual Report of the Federal Trade Commission*, pp. 16–18 that states "the broad scope of the Commission's authority to investigate is indicated" by the powers conferred on the Commission in Section 6 of the Federal Trade Commission Act, specifically including the rulemaking power of Section 6(g). Other annual reports also refer to the Commission's rulemaking power in an investigative context. *See, e.g.*, 1954, p. 12; 1955, p. 9; 1956, p. 9; and 1957, p. 8; all Annual Reports of the Federal Trade Commission.

[17] Wool Products Labeling Act, 15 U.S.C. §§ 68–68j (1971); Textile Fiber Products Identification Act, 15 U.S.C. §§ 70–70k (1971); Fur Products Labeling Act, 15 U.S.C. §§ 69–69j (1971); Flammable Fabrics Act, 15 U.S.C. §§ 1191–1200 (1971); and the Fair Packaging and Labeling Act, 15 U.S.C. §§ 1451–61 (1971).

[18] This is consistent with the Congressional belief in 1914 that a separate provision from Section 6(g) was necessary to grant the FTC substantive rulemaking authority.

[19] R. Burris and H. Teter, *Antitrust: Rulemaking v. Adjudication in the FTC*, 54 Georgetown L.J. 1106, 1125 (1965).

[20] *Compare* 15 U.S.C. § 1192 (1964) *with* 15 U.S.C. § 68a, 15 U.S.C. § 69a (a), (b), (c), and 15 U.S.C. § 70a (a), (b), (c) (1964).

[21] 15 U.S.C. § 1194(c) (1971).

[22] *Id.* at 5.

[23] H.R. Rep. No. 972, 90th Cong., 1st Sess., p. 1 (1967).

[24] *Id.* at 5.

[25] 67 Stat. 112 (1953).

[26] 81 Stat. 570 (1967).

[27] *See Textile and Apparel Group, American Importers Ass'n* v. *Federal Trade Commission*, 410 F. 2d 1052 (D.C. Cir.), *cert. denied*, 396 U.S. 910 (1969); *Federal Trade Commission* v. *B. F. Goodrich Co.*, 242 F. 2d 31 (D.C. Cir. 1957) which indicates that broad power to promulgate trade regulation rules does not exist beyond the narrower grants of rulemaking authority given by the Congress.

[28] 5 U.S.C. § 551(4) (1971).

[29] 29 U.S.C. § 156 (1971).

[30] Section 5 remained a single unitary provision without separate, designated subsections throughout the House and Senate consideration of the measure. Today's lettering of Section 5 paragraphs resulted from the 1952 McGuire Act, a development 38 years after the original passage of the statute and completely unrelated to the question here under consideration.

[31] *United States* v. *Morton Salt Co.*, 338 U.S. 632, 650 (1950).

[32] This factor readily distinguishes cases such as *National Broadcasting Co. v. United States*, 319 U.S. 190 (1943) where neither the statutory scheme nor the legislative history of that Act clearly negated an implied grant of legislative power to the Federal Communications Commission and that statute was intended to authorize an agency to broadly regulate a specific, narrow segment of industry; *United States v. Oregon*, 366 U.S. 643, 648 (1961); *United States v. Public Utilities Comm. of Calif.*, 345 U.S. 295 (1953); *Schweaman Bros. v. Calvert Distillers Corp.*, 341 U.S. 384 (1951); *Paific Coast European Conf. v. Federal Maritime Comm.*, 376 F. 2d 785 (D.C. Cir. 1967). *See also* Weston, *Deceptive Advertising and the Federal Trade Commission: Decline of Caveat Emptor*, 24 *Fed. Bar J.* 548, 570–71 (1964) where it is stated:

To support is theory (of implied power), the FTC cites Supreme Court decisions involving the S. E. C. under the Public Utility Holding Co. Act, and the F. C. C. and the F. P. C. as authority for the proposition that an administrative agency has the choice to use either adjudication or rulemaking procedure to make 'substantive' rules. These cases, however, involve agencies with not only express power to issue 'legislative' rules but also with far more pervasive regulatory jurisdiction over the specialized industries involved. It may be that some agencies vested with both adjudicatory and legislative rulemaking powers have a choice of which procedure to use. But it is not at all clear that an adjudicatory agency specifically denied 'legislative' rulemaking power can use legislative type hearings to make 'substantive' rules other than merely 'interpretative' rules that are open to full-scale judicial review.

Testimony by former Federal Trade Commission Chairman Paul Rand Dixon before a Senate Subcommittee, *Hearings before the Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary*, 88th Cong., 1st Sess. 169–70 (Oct. 31, 1963).

[33] *Hearings before the Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary*, 88th Cong., 1st Sess. 169–70 (Oct. 31, 1963); *Hearings before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary*, 88th Cong., 1st Sess. 281 (March 20, 1963); *Hearings before the Senate Committee on Commerce*, 91st Cong., 1st and 2d Sess., p. 9 (Dec. 17, 1969); *Hearings before the House Subcommittee on Commerce and Finance of the Interstate and Foreign Commerce Committee*, 91st Cong., 2d Sess., p. 54, 76–77 (Feb. 4, 1970). *See also* Title II of S. 986, 92d Cong., 2d Sess. § 206 (1972), currently pending in Congress, where Section 206 of that Bill would amend Section 6(g) of the FTCA to authorize the Commission to define with specificity through legislative rules those acts or practices which are unfair or deceptive to consumers and in violation of Section 5(a)(1) of the FTCA. It is noteworthy, here, that almost sixty years after the passage of the original Act that the Commission claims implicitly granted it authority to promulgate

rules to regulate all otherwise non-regulated industries, the Senate found the grant of such authority so far reaching and so inherently capable of abuse that it retained a sixty day veto over any use of that power in their proposed Bill. It is further significant that Congress has still not passed this legislation giving the Commission rule-making authority. *See,* Cong. Rec., Nov. 8, 1971, Daily Ed., p. S 17828, and statements of Senator Hruska at, *Id.*, p. 17857; Senator Cotton, *Id.* at S 17873; and Senator Cooper, *Id.* at S 17884.

[34] The Trade Regulation Rule relating to unsolicited mailing of credit cards (16 C.F.C. 415) was superseded by express provisions in the Truth-in-Lending Act (15 U.S.C. §§ 1642–44, *et seq.* (1971); The Rule relating to the prevention of unfair or deceptive advertising in labeling of cigarettes (29 F.R. 12626, 15570) was preempted by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331 *et seq.* (1971); and the proposed Rule relating to shipment of unordered merchandise (16 C.F.R. 427) was superseded by express provisions of the Postal Reorganization Act, 39 U.S.C. § 3009 (1971).

[35] *Federal Trade Commission v. Colgate Palmolive Co.*, 380 U.S. 374, 385 (1965); *Addison v. Holly Hill Fruit Products, Inc.*, 322 U.S. 607, 617–618 (1944); *Schechter Poultry Corp. v. United States*, 295 U.S. 495, 532–33 (1935); *Federal Trade Commission v. Raladam Co.*, 283 U.S. 643, 648 (1931); *Federal Trade Commission v. Gratz*, 253 U.S. 421, 427 (1920). *See* Comment, 113 *U. PA. L. Rev.* 303, 304–05 (1964); Shapiro, *The Choice of Rulemaking or Adjudication in the FTC*, 54 *Georgetown L. J.* 1106 (1965); Weston, *Deceptive Advertising and the Federal Trade Commission: Decline of Caveat Emptor*, 24 *Fed. Bar J.* 548 (1964). *But see,* Wegman, *Cigarette and Health: A Legal Analysis* 51 Cornell L. Q. 678, 741 (1966); Elman, *Rulemaking Procedures in the FTC's Enforcement of the Merger Law*, 78 Harv. L. Rev. 385 (1964).

[36] *Iselin v. United States*, 270 U.S. 245, 251 (1926).

[From the New York Times, April 5, 1972]

COURT CURBS FTC AUTHORITY ON DECEPTIVE TRADE PRACTICES

(By John D. Morris)

WASHINGTON, April 4.—A Federal district judge dealt a heavy blow today to the Federal Trade Commission's consumer protection program by holding that the commission lacked authority to make rules defining unfair and deceptive trade practices.

The decision, if upheld on appeal, would severely hamper the commission's ability to proceed against industrywide practices that it believed were violations of the F.T.C. act.

It could still issue complaints and cease-and-desist orders on a case-by-case basis but would have to establish in each case that a particular act or practice violated the law.

This has not been necessary when industrywide regulations, called trade regulation rules, have defined the acts and practices in advance as violations.

Today's opinion was issued by Judge Aubrey E. Robinson Jr. of the United States District Court for the District of Columbia in nullifying a pending trade regulation rule requiring octane ratings to be posted on gasoline pumps.

"NULL AND VOID"

The regulation, which was to have become effective March 15, had been stayed pending Judge Robinson's decision on a suit by 34 refiners and two trade associations challenging the commission's authority to issue it.

The judge called the regulation "null and void as it is in excess of the Federal Trade Commission's statutory authority."

Further, he held, "the F.T.C. lacks the requisite statutory authority to issue trade regulation rules."

The refiners' suit was the first court test of the commission's authority to issue such regulations, although it had been doing so for about 10 years.

In two cases, courts have refused to prohibit the commission from conducting hearings looking toward the promulgation of trade regulation rules. However, they did not make a determination of the commission's authority, holding that the proper procedure was to attack the rules after they had been issued.

"UNFAIR METHOD"

In the regulation invalidated by Judge Robinson, the commission declared that the failure to post octane rating at gasoline stations was an "unfair method of competition" and a "deceptive practice."

Unfair methods of competition and deceptive private practices are prohibited by Section 5 of the F.T.C. Act, but the act does not define them.

The regulation was designed to give motorists a reliable benchmank for determining the antiknock quality of various brands and grades of gasoline. The octane number is important to consumers because each engine needs gasoline with a number high enough to prevent knocking, but it is a waste of money to buy a more expensive grade with a higher-than-necessary rating.

The commission's staff has estimated that the average motorist pays $50 to $75 a year for unnecessarily high-octane gasoline.

Judge Robinson said in his opinion that the legislative history of the F.T.C. Act of 1914 contradicted the commission's contention that the act gave it implied authority to issue substantive rules.

"Significantly," he said, "Congress refused to amend its proposals on two separate occasions that would have granted the commission the very rule-making power it now seeks to exercise."

As "another critical analytical factor," he said, when Congress intended to grant substantive rule-making authority to the commission it did so "clearly and unequivocally." He noted in particular the specific rule-making authority contained in the Flammables Fabrics Act, which the commission enforces.

"The commission's claim of unlimited rule-making power under the F.T.C. Act is, therefore, not only unsupported by anything in the act itself, or its legislative history, but is also inconsistent with the history of other statutes entrusted to the commission's administration by Congress," the judge held.

"The court," he said, "has considered fully all the other arguments put forth by the F.T.C. in this suit. The sum total of their argument is a 'bootstrap' operation, designed to conclude that the F.T.C. possesses powers that it clearly does not have."

LABELING AND ADVERTISING OF CIGARETTES

Mr. MORTON. Mr. President, during our Senate Commerce Committee hearing last Friday, April 2, on the cigarette labeling legislation, my distinguished colleague from Kentucky [Mr. COOPER] presented what I consider to be an outstanding challenge of the authority of the Federal Trade Commission to impose any so-called trade regulation rule with regard to labeling and advertising in relation to the hazards of smoking.

His legal and perceptive reasoning was of such high interest to committee members that I felt other Senators would find considerable food for thought in his remarks.

Therefore, Mr. President, I ask unanimous consent that his statement before the Commerce Committee and attachments mentioned therein be printed in the RECORD.

STATEMENT OF SENATOR JOHN SHERMAN COOPER, BEFORE THE SENATE COMMITTEE ON COMMERCE, APRIL 2, 1965

Mr. Chairman and members of the committee, I thank the committee for this opportunity to present my views on the bills before you, and on the general proposition of regulating the labeling and advertising of cigarettes. I know that this committee is giving thorough consideration to this question, its relationship to health and to the tobacco industry, and to the very important issue of the claim of authority by the Federal Trade Commission to extend its powers further than has ever been done before.

I have read several times the Surgeon General's report, "Smoking and Health," and I do not derogate its importance. I say this as one who is a representative of Kentucky—the second largest producer of tobacco in the United States, and the largest producer of burley tobacco—with 200,000 farmers engaged in the production of burley, dark air cured and dark fired tobacco, representing an annual value of $300 million. And, of course, the total value of the industry to Kentucky's economy is much larger—considering the manufacture, warehousing, transportation, and all aspects of the tobacco industry.

Having read the Surgeon General's report several times, and, as I said, recognizing its importance, nevertheless, I say to the committee that the report does not confer upon the Federal Trade Commission any powers that have not been authorized to it by the Congress.

I have read the statement of the Federal Trade Commission in which it attempts to justify, and I use the word "justify" advisedly, the basis and purpose upon which it proposes its "trade regulation rule for the prevention of unfair or deceptive advertising and labeling of cigarettes in relation to the health hazards of smoking." As you know so well, the rule was promulgated by the Commission on June 22, 1964, and is intended to become effective on July 1, 1965. From my study of the statement of the Federal Trade Commission and the testimony given by Chairman Dixon before the House Committee on Commerce and this committee, it is my judgment that the FTC is without authority to promulgate a rule such as it has proposed with respect to cigarettes.

I believe there is a serious question as to whether the FTC has authority to promulgate any general trade regulation. I make this statement upon several grounds. The authority is not specified in the statutes. The Commission, after the enactment of the statute in 1914, did not claim the authority to promulgate trade regulations until 1962—48 years later—and had limited itself to trade practice rules which are designed as guides to industry. Further, Congress, found that it was necessary to grant the FTC specific authority to promulgate trade regulation rules in the cases, among others, of the Wool Products Labeling Act of 1939, the Fur Products Labeling Act of 1951, and the Fiber Products Identification Act of 1953. I will not press this issue further, but I raise the question for the committee's legal inquiry and consideration about the authority of the FTC to promulgate a general trade regulation rule.

Now I want to speak specifically concerning the authority of the FTC to regulate labeling or advertising of cigarettes. And I repeat my earlier statement that, significant as the report of the Surgeon General is, the report does not provide any authority to the FTC. A study of the statement of the FTC attempting to justify its rule, discloses that the FTC makes a labored and contradictory argument.

The statement, as Chairman Dixon testified before this committee, essentially bases the authority of the FTC on the findings of the Surgeon General's report. Chairman Dixon said:

"The reasons justifying such a rule, as more fully explained in the statement of basis and purpose, are basically twofold. First, there is a concensus of medical and scientific opinion that cigarette smoking is a significant cause of certain grave diseases and contributes substantially to mortality from those diseases and to the overall death rate. These were the findings of the Surgeon General's blue-ribbon Advisory Committee on Smoking and Health. These findings are authoritative, reliable, and stand essentially unchallenged. They provide a compelling basis for prompt and effective governmental remedial action."

I am not here to attempt to argue on my part about the findings of the advisory committee, because they are scientific and technical, but I do challenge the statement of Chairman Dixon that "these findings are authoritative, reliable, and stand essentially unchallenged." The report was not based upon original research, but primarily upon a review and evaluation of research conducted prior to the appointment of the committee, and data previously accumulated. The element of causality which is of ultimate importance, was admitted by the report to be based upon statistical association and a combination of factors, rather than the identification of any incriminating component of cigarettes or any finding of the direct affect of any component upon the health of an individual. But most important, it cannot be said, as the chairman claimed, that the report has not been challenged. There is a substantial body of scientific and medical opinion which holds views contrary to that of the report—and the FTC knows that this is correct.

The effect of the ruling which the FTC is attempting to promulgate is to establish as a matter of substantive law that the report of the advisory committee is complete, correct, and unchallenged. The advisory committee itself did not go that far. It has conceded that additional research is needed. To give an example, a few days after the publication of the report, I raised several questions with Dr. Luther Terry regarding the effectiveness of filters, as it had been reported that the committee had found that filters had no value. In response to a letter written by me to him, he said the advisory committee made no judgments as to the effect of adding filters to cigarettes, and further that the committee felt that the development of better filters or more selective filters is a promising avenue for further development. I ask that the letters be made a part of my testimony.

This one instance, among others, indicates the position of the committee that further research is needed. And yet, the FTC adopts the position that the report is complete, conclusive, and unchallenged. If the rule should be maintained, any advertiser would be denied any opportunity to question the basic finding of the Commission. He would be limited to denying that he had advertised in a manner prohibited by the Commission. The statement of the FTC accompanying the rule does not substantiate its claim of legal authority to make such a broad finding. The FTC admits that it does not rely on sections 12–15 as a basis for the substantive prohibitions in its rule. Sections 12 to 15 deal with foods, drugs, devices, or cosmetics, and provide for injunctive relief where there is immediate possibility of danger to human life, health, or safety. The case of *FTC* v. *Liggett and Myers Tobacco Company*, cited on page 22 of the FTC report, held that cigarettes are not subject to the food and drug section. Therefore, the FTC's authority must be limited to section 5 of the act, which I quote:

"SEC. 5. (a)(1). Unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce are hereby declared unlawful."

Undoubtedly, the Commission has authority concerning affirmative misrepresentations and deceptive half-truths which induce a significant number of purchasers to choose a particular product, including cigarettes. But the claim of authority of the FTC to regulate the advertising of cigarettes is not based upon its claim that there are any affirmative misrepresentations about cigarettes, or upon deceptive half-truths or that there are any false statements. The cases cited in support of its claims that cigarette advertising represents half-truths has no application at all.

The FTC is reduced to making its case upon the ground that as advertisers claim that a particular cigarette is pleasurable, or socially acceptable, that it is an inducement to smoke, and consequently the advertiser should be required to balance its inducement by stating the health injuries alleged to be consequent on smoking. It claims that the failure to do so is the unfair and deceptive practice which provides it with the authority to regulate.

But on page 95 of the FTC report, it makes this correct statement:

"First, in stating that the Trade Commission Act imposes special requirements with respect to the advertising of such producers we do not, of course, imply that the Commission has been given by Congress a general jurisdiction to protect health and safety of consumers. The Commission's responsibility is not to control or prevent the sale or use of dangerous products, but to insure that the advertising of such products is not unfair and does not deceive." In the face of this correct statement, the Commission is attempting to use an authority which it admits it does not possess—"a general jurisdiction to protect the health and safety of consumers." And with respect to its claim that the advertising of cigarettes—indicating their qualities are pleasurable or socially acceptable—is unfair or deceptive, the Commission has been asserting for 10 years that such advertising is proper. The guides adopted by the Commission "for the use of its staff in the evaluation of cigarette advertising" contain the following notice: "(a) Nothing contained in these guides are intended to prohibit the use of any representation, claim, or illustration relating solely to taste, flavor, or enjoyment."

Let me summarize the claim of authority of the Federal Trade Commission as I understand it from a study of its own report. First, it would arrogate to itself the authority to determine that the Surgeon General's report is conclusive and unchallenged. This is obviously incorrect, and it is an assertion of larger findings and scientific competence that that of the advisory committee. Second, having made this large claim, it now proposed to issue a rule giving to this incorrect statement the force of substantive law. Third, it would then proceed to control labeling and advertising as hazardous to health, not under the Food and Drug section of the Trade Commission Act, under which it admits it has no specific authority, and against its own admission that it has no general authority to do so. Fourth, it asserts its authority under the principle of section 5, claiming that advertising of the pleasurable use of cigarettes and so forth is deceptive or unfair. It does this, although for 10 years it has maintained in its Cigarette Advertising Guide that such advertising is not prohibited. Fifth, the larger consequences of confirming the claim of the authority of the FTC are these—in the future, if this precedent is confirmed, it would mean that the FTC could, on its own judgment, determine that any product might be hazardous to health and thus be permitted to censor advertising.

I want to make it clear that I do not question the power of the Congress to give this broad authority to the FTC if it desires to do so. Also, I do not question the authority of the Congress to enact such legislation as it determines is proper in connection with the labeling and advertisement of cigarettes. And this is the determination that the committee will make. I do suggest that the committee should halt this claim of authority by the FTC by preemption, at least until it determines whether it desires to give the FTC a broad authority which, as I have said, would not be limited to cigarettes but could be extended to any other product.

Finally, I would suggest that if the committee in its wisdom determines to act with respect to labeling any warning statement it imposes should be a truthful one. The proposals of the FTC are not correct and not fair. In my judgment, it would be a statement something on this order: "The Advisory Committee to the Surgeon General has found that smoking is a hazard to health, but there is a substantial scientific and medical opinion to the contrary." Considering the unsettled situation and that research is going forward, I would support the labeling of cigarette packages in a fair but correct manner.

I ask permission of the committee to amplify my statement.

U.S. SENATE,
January 13, 1964.

Dr. LUTHER L. TERRY,
Surgeon General, Public Health Service, Department of Health, Education, and Welfare, Washington, D.C.

DEAR DR. TERRY: The report on "Smoking and Health," and the press conference Saturday, January 11, by the advisory committee to the Surgeon General, appear to be widely interpreted as having included a finding that cigarette filters have no effect. On the contrary:

1. Is it not correct that the advisory committee made no judgment as to the effect of adding filters to cigarettes?

2. Do I understand correctly that the committee made no finding on filters because it believed it had insufficient evidence from animal experiments, clinical studies, or population studies—the three kinds of evidence it considered—on which to base any finding as to the effect of the various types of filters?

3. To the extent that a filter removes tar, nicotine, and the gaseous elements of cigarette smoke, is it not reasonable to assume that the effects of the filter will be similar to the effects reported by the committee of smoking fewer cigarettes?

4. Does not the limited discussion of a new-type filter, on page 61 of the report, suggest that the advisory committee believes that the development of selective filters may have significance in terms of reducing the hazards to health the committee believes it has found?

5. Would not standardied research on the effectiveness and selectivity of filters, as well as additional research on the components of smoke, be desirable?

Because the report of your advisory committee is the subject of wide and general interest, it will be helpful to have your answers, at least to the first question, as quickly as possible.

Sincerely,

JOHN SHERMAN COOPER.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, PUBLIC HEALTH SERVICE,
Washington, D.C.

Hon. JOHN SHERMAN COOPER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOPER: This is in response to your letter of January 13 which poses certain questions as to the advisory committee's views on cigarette filters. Certainly, it is erroneous to conclude that cigarette filters have no effect. As noted in the committee's report, filters in common use do remove a variable portion of the tars and nicotine. Your specific questions and our replies will follow:

1. Is it not correct that the advisory committee made no judgment as to the effect of adding filters to cigarettes?

Answer. Yes.

2. Do I understand correctly that the committee made no finding on filters because it believed it had insufficient evidence from animal experiments, clinical studies, or population studies—the three kinds of evidence it considered—on which to base any findings as to the effect of the various types of filters?

Answer. Yes.

3. To the extent that a filter removes tar, nicotine, and the gaseous elements of cigarette smoke, is it not reasonable to assume that the effects of the filter will be similar to the effects reported by the committee of smoking fewer cigarettes?

Answer. A categorical answer to this question is difficult. The best I could do would be to answer yes—perhaps, or yes—probably. A part of the problem here is whether the filter in addition to removing tar, nicotine or other elements of cigarette smoke might also lead to different levels of cigarette consumption and different amounts of inhalation, etc. Another difficulty is that we do not know all of the substances which different filters do or do not remove. Since we do not yet know all of the substances in tobacco smoke which have adverse health effects, a given filter might permit the selective passage of hazard substances, as well as selectively removing others.

4. Does not the limited discussion of a new-type filter, on page 61 of the report, suggest that the advisory committee believes that the development of selective filters may have significance in terms of reducing the hazards to health the committee believes it has found?

Answer. Yes. The committee felt that the development of better filters or more selective filters is a promising avenue for further development.

5. Would not standardized research on the effectiveness and selectivity of filters, as well as additional research on the components of smoke be desirable?

Answer. Yes, unquestionably.

I hope these responses will be of assistance.

Sincerely yours,

LUTHER L. TERRY,
Surgeon General.

THE VIETNAM OFFENSIVE

Mr. KENNEDY. Mr. President, nothing more brutally demonstrates the moral and military bankruptcy of the President's policy on Vietnam than the horror of the new offensive at the DMZ. The decision to send in our bombers to rain down massive new death and destruction on the people of Vietnam is a clear confession, if any new confession were needed, that the cruel and revolting policy of Vietnamization is a failure, a bald pretext to keep President Thieu in power.

After all the talk of peace, we are no closer to peace in 1972 than we were at the time of the Tet offensive in 1968. Four years of promises to end the war, and still the war goes on. When will the President learn that he cannot bring peace by making war? When will he learn that he will never get our prisoners back so long as American bombs are raining down on the people of Vietnam? When will he learn that it is not enough to promise peace, that he also must deliver peace?

It is wrong, terribly wrong, to debate the current offensive in terms of how Vietnamization should be tested, or whether or not there should be American air support. I am against any test of Vietnamization at all because it means a test carried out with human lives, with the lives of men and women and children. I do not believe that anyone in America or Vietnam has the moral right to demand a test like that.

Is this to be the result of our decade of involvement in Vietnam? Is this what the policy of Vietnamization and our support of President Thieu have brought us to—a final fight to the death between North and South Vietnam? By some cruel distortion, our leaders seem willing to let the war become a spectator sport, with the American people watching the slaughter on television, as though we were Romans watching gladiators in the arena.

I reject that role for America, and I think that the American people reject it. Instead, we must end the war, and the only way we can end it is through negotiations, not Vietnamization.

It is no coincidence that the escalation of the war on the battlefield is being accompanied by our boycott of the peace table in Paris. Three weeks ago, on the very day that President Nixon was criticizing American labor leaders for walking off the job on the Pay Board, he was ordering Ambassador Porter to walk off the job at the peace talks in Paris. Just as our policy on the battlefield has been a failure, so our policy in Paris is a failure.

By breaking off the peace talks, we broke off any hope for peace. We delivered a clear invitation to the Vietcong and North Vietnamese to escalate the violence. Perhaps we shall never know whether this long anticipated new offensive would have materialized had we chosen to stay at the peace table last month. The President claims that he is keeping all his options open, but he seems to have forgotten how he so recently foreclosed the most important option of all, the option of peace at the conference table, the only place where peace will ever be achieved.

And now, because of the flagrant and tragic failures in our policy, more American bombs are being dropped and more American fliers are being taken prisoner. Because of these failures, the people of Vietnam will have to pay for this new and much more terrible escalation. They will pay with the blood of thousands of soldiers and innocent civilians. They will pay with the devastation of their cities and villages. They will pay with countless families streaming into new refugee camps to escape the murderous impact of the fighting.

To me, the policy we ought to have is a simple one. Let us have a test of negotiations, not a test of Vietnamization. Let us go back to the peace table in Paris. Let us make a genuine effort to end the killing now.

I call on the President to demonstrate to the American people that he wants peace. I urge him, now, publicly, to call for an immediate cease-fire in the DMZ. I urge him to announce that America is going back to the peace table in Paris tomorrow, to seek an immediate end to the war. Let us discuss the plans already on the table. Let us develop new plans. Let us explore every possible avenue. But above all, let us stop this insane new round of killing, and end this unconscionable and interminable war.

MINERAL POLICY

Mr. ALLOTT. Mr. President, on March 16, in Dallas, the Assistant Secretary of the Interior for Mineral Resources and my good friend, Hollis Dole, addressed the Institute of Petroleum Exploration and Economics.

The title of his address was "Mineral Policy—the Art of the Possible." It should be required reading for all citizens concerned—as all citizens should be—about the problems implicit in the premise which Secretary Dole accepts:

> We face demands for immense quantities of minerals of all kinds over the foreseeable future.

As Secretary Dole says:

> This is particularly true of fuel minerals, which must furnish virtually all our energy until well into the next century at least.

Secretary Dole's address demonstrates his command of this complicated and crucial subject.

I am convinced that the "energy crisis" unlike so many of the trumped-up crises" we hear so much about, is real and dangerous and growing. I urge all Senators to give their attention to this crisis, and to begin by examining Secretary Dole's address. I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

REMARKS OF HON. HOLLIS M. DOLE

One of the first things we are taught about poetry is that the subject of a poem is something different from its theme. This is true of much of our communication, and it is no less true of what I have to say today.

My subject is policy: my theme is politics—the vague, complex, chancy, non-linear, frequently non-rational process which a human community uses to determine what its goals are and how to go about attaining them. In the next few minutes I shall talk about some of the relationships between this political process and the satisfaction of mineral requirements which inclined me to give my remarks the title of "Mineral Policy—The Art of the Possible."

Since I'm not debating any zero-growth advocates on this occasion, I'm simply going to state as one of the "givens" the premise that we face demands for immense quantities of minerals of all kinds over the foreseeable future. This is particularly true of fuel minerals, which must furnish virtually all our energy until well into the next Century at least. Obtaining adequate, dependable, and hopefully low-cost supplies of these minerals becomes the basic objective of minerals policy.

In pursuit of this objective, we have adopted certain public policies addressed to mineral imports, public land use, taxes, conservation, direct subsidies, stockpiling, production, anti-trust, and research and development—all in an effort to coax, encourage, cajole, and otherwise induce the private sector to take the actions required to make these desired mineral commodities available. And along with these policies specifically addressed to minerals are others, adopted with other purposes in mind, but which impinge, lightly or heavily, upon the production and use of minerals. Environmental policy is a conspicuous recent example. Human health and safety is another. Foreign policy another. To some degree, perhaps as many as half a hundred discrete influences deserving to be called government policy exert some effect upon the operations that have to do with mineral supply and demand.

The pulling and hauling that goes on between these varied and often conflicting aims; the maneuvering, the bargaining, and the trade-offs that finally materialize over specific issues, form the broth in which our mineral policies are steeped, and they often come out with quite a different flavor and smell than the cook intended them to have. Thus, policy states what our actions should be; politics determines what they are.

Most of the pulling and hauling to which I refer focuses upon the cost element, and most of our present difficulties stem from our past unwillingness to pay the full cost of the other objectives we seek. Too often these objectives have been compromised by a mindset that has failed to recognize that no matter how closely you try to control the market for something, it always remains a free market in this important sense: in the end you get only what you pay for; and if you don't pay enough, you don't get enough. Our policy toward natural gas pricing at the wellhead is a classic illustration of how we traded adequacy and security of supply for the objective of low cost—and were rewarded for our penuriousness by having to pay higher prices anyway.

A distinguishing feature of our natural gas pricing policy is that it was originated by the Judiciary, not the Executive. It arose, as you all know, out of the Supreme Court's 1954 decision that the Federal Government, ostensibly to protect the consumer against excessive gas prices, had the responsibility for setting wellhead prices for gas sold in interstate commerce. The Federal Power Commission was assigned this task by the Court, and over the years the Commission strove to establish sales prices that would cover the true cost of finding and producing the gas, and provide a fair return to the producer, at a fair price to the consumer.

This turned out to be an impossible assignment. The price set by the Commission did *not* reflect the costs incurred by producers, and predictably the producers found better uses for their money than investing it in exploration and drilling for gas after 1961. In time, this cutback in exploration activity showed up in reduced additions to reserves, in falling reserve-to-production ratios, and finally in the actual pipeline curtailments in gas deliveries we are now seeing. Even the attempts of the present Commission to reach more realistic prices have not been able to reverse the downswing in exploration effort. The present outlook is for gas deliverability to peak out in the 1974–1975 period, followed by a marked and steady decline over the foreseeable future.

This prospect has given rise to efforts of the most urgent sort on the part of gas pipelines and distributors to bolster their dwindling supplies of domestic gas with imports of LNG or feedstocks for the manufacture of synthetic gas. These imported supplements are to come from the same unstable overseas sources that have given us concern for the security of our oil supply, and because of the logistics involved they are far more vulnerable to interruption. The system-entry prices we are looking at trend upward from a dollar per million Btu, and in no case can these increments be expected to fill the gap now opening between demand and domestic supply.

Ironically, the effects of this failure in our domestic gas supply will fall with particular force upon the Northeastern consumer, who was the special object of the Commission's solicitude for so many years. For it is the Northeastern consumer who is served by the interstate pipelines who were prevented from paying the true market price for gas as the intrastate buyers were able to do. And it is the interstate pipelines and their distributors who are now in curtailment, and who are negotiating so earnestly for supplementary supplies at five times the wellhead price of domestic natural gas. Thus, the consumer is put in a no-win situation; as the load factor drops on the highly-leveraged pipelines which serve him the cost of his service must inevitably rise; but the steadily increasing share of imported or synthetic gas in the stream will eventually cost him even more. To this must be added the belated price increases at the wellhead which will be necessary to revive the interest of producers in gas exploration. The latter can be quite substantial and still not approach the cost of the foreign supplements: the current average wellhead price in Southern Louisiana could be tripled, and the gas still deliver in New York at less than the minimum prices estimated for gas of overseas origin. Notwithstanding their relatively modest impact, however, these increments will still add to the consumer's bill.

Our experience with oil import policy also reflects our reluctance to pay the full cost of realizing our professed objectives. We determined in 1959 that an adequate and secure supply of petroleum was a proper national concern. It has now become obvious that over the intervening years we have forfeited a large part of our oil security: we are presently three million barrels a day short of being able to produce our full requirements; and we shall be dependent upon outside sources to meet 36% of our oil needs by 1975. The attractiveness of foreign oil prices has been heavily eroded by the events of the past two years. And we are now beginning to see that the term "adequacy"—even when applied to Middle East oil—may need some qualifications. To me, the price increases we have seen are significant not for what they are, but for what they say about a production philosophy that may be taking form within the minds and the councils of those who rule the oil exporting nations. Such a philosophy may for the soundest of reasons determine that oil is the ultimate hedge in a world trading system that is adrift for want of a standard of value; that it is better to hold black gold in one's own ground than yellow gold in someone else's; and that in these circumstances it may no longer be in a nation's interest to maximize production of an exhaustible resource which may be its only counter at the game table.

Should the production of the Middle East and North Africa be cartelized in this manner, the economic opportunities and expansion of consuming nations may come to be regulated not by their own needs and expectations, but by the rate at which the oil exporting countries consent to make their oil available.

It was to avoid just such developments as I have noted that we determined in 1959 that it was necessary to restrict oil imports to insure that most of our demand was met by domestic production which we could count on and control. Domestic producers were accordingly given a protected market in the expectation that they would thus be encouraged to find and develop the oil reserves that would be needed to keep this market satisfied. There was another *quid pro quo* involved, reflected in the oil import proclamation itself, to the effect that domestic producers, having been given this preferred status, would not take advantage of it by unduly raising prices. The sanction, implied but never stated, was the use of oil imports to prevent an unwanted rise in domestic oil prices. This price-for-protection bargain virtually immobilized the price of crude oil for a decade in the face of strongly rising costs—expressed not only in the price of oil country goods and labor, but much more significantly, in rapidly diminishing returns per unit of drilling. In theory, the price of domestic crude oil bore no relation to the world price; in practice the political realities linked the two so firmly that it was impossible for domestic prices to offset the steadily rising cost of find and producing oil in the United States. Responding to this, producers became extremely selective in their prospecting, forsaking the historic onshore provinces, and concentrating on the relatively untapped areas in Alaska, the continental shelf, and the deeper basins onshore.

Considering the rank uncertainties involved in petroleum exploration, I consider that the domestic producers have done astonishingly well. They have found a great amount of oil, and but for the inhibiting influences I shall presently discuss, I am confident that they would by now have found a great deal more. In toto, the crude oil reserve-to-production ratio at the end of 1970 was 11.7 to 1, which in other times and circumstances would have been considered very satisfactory. The fact that one fourth of these reserves is presently unreachable must not be charged against those who found them but against those whose efforts have prevented them from being brought to market. The North Slope oil, by the way, will cost the Nation far less than an equivalent volume of Middle East oil—a savings of $15 to $17 billion is involved—and requires no outflow of dollar exchange. I do not mean to imply here that these efforts of producers here provided all the oil we require; it is quite obvious that a much greater search is needed to restore some semblance of balance to our oil supply. I do maintain that the industry has been both diligent and successful, under the protection of the oil import control program, in finding oil on the new and promising lands that were made available to it.

Which brings me to my final topic today.

We have the good fortune to inhabit a country that is enormously rich in mineral resources, and no less than an Act of Congress declares that it is our national policy to encourage private enterprise to develop these resources—including mineral fuels—for the Nation's use. This law, the Mining and Minerals Policy Act of 1970, is a model of clarity and brevity: it is less than a page in length, and its purpose is to provide a sound, domestic minerals resource base and an industry able and willing to make these minerals available to the economy.

Now the first requirement for minerals exploration and development is access to areas where mineral deposits might reasonably be expected to occur. It happens that most of the mineralized lands in the country lie in the public domain so the obligation to provide access is a particluar concern of the Federal Government. Over many years we have enacted numerous laws which speak to this matter of mineral access, including the Mining Law of 1872 and the Outer Continental Shelf Lands Act of 1953. We have published regulations to prescribe how operations on these lands shall be conducted, and we have developed leasing programs to assure that they are made available for development in a timely and orderly manner. We have maintained an extensive surveying and mapping service to point out the general areas where deposits of particular minerals might be found. We have developed and published a vast amount of geological information to aid those interested in exploring for minerals in every part of the country. From time to time we have awarded subsidies in the form of loans, bonuses, purchase guarantees, or favorable tax rates, all designed to motivate prospectors to enter and develop the mineral resources of both private and public lands.

And they were indeed so motivated, and their efforts produced the base upon which we were able to build an industrial economy that last year provided a trillion dollars worth of goods and services to those who were lucky enough to share its bounty.

Now once again we are witnessing the interaction between policy and politics. In the face of an acknowledged, growing shortage of natural gas and a rapidly growing dependence upon foreign sources for oil, a group of environmentalists was successful in preventing the leasing of 360,000 acres of prime prospective oil and gas tracts in the Outer Continental Shelf off Louisiana last December. Other militant groups have brought the development of oil discoveries made in the Santa Barbara Channel to a dead halt, despite the fact that the West Coast is dependent upon outside sources for half its oil. Even the suggestion that the Department of the Interior was considering leasing tracts on the OCS off the Atlantic Coast brought forth a storm of opposition from activists in the Coastal States. The development of the fifth largest oil field in the world has been stymied for more than two years by the efforts of various groups seeking to deny its developers the access to Federal lands they require for a pipeline to bring the oil to a shipping terminal in southern Alaska.

Thus the historic policy of mineral access, which for more than a century has provided the basis for our phenomenal industrial growth, is being upset by the politics of a newly recognized public concern: environmentalism. The process has been greatly facilitated by certain court decisions and laws which compel courts and regulatory commissions to entertain the claims of those who previously had no standing before these bodies, and who could not heretofore have qualified as legal parties at interest. As an example, the suit against the Department in the Louisiana lease sale case was brought by three environmentalist groups whose headquarters are in San Francisco and New York, and heard in a court 1,200 miles from the physical site of the controversy. The people of southern Louisiana, whose jobs, income and general economic well-being were directly involved, were not represented in the court, yet no one can deny that they were "parties at interest" in the most literal sense of the term.

We are thus witnessing the rise of a new class of absentee landlords, who assert the power to control the economic affairs of distant areas in which they have no interest other than a professed concern for the environment. The opposition to the Alaskan pipeline does not come from the people of Alaska, but from the urban elite of the Lower 48. Yet it is the people of Alaska who must contend with an 18% unemployment rate, with the enormous problem of providing decent care and opportunities for their Native population, with financing necessary programs that are unsupportable on their present tax base, and who look upon the revenues from their oil production as the only way out of their difficulties. The enfranchisement of the professional adversary as a potential intervenor in any action involving the development of natural resources anywhere in the United States has consequences we can only begin to envisage. It is something totally new to our experience. It means that the would-be developer of a mineral property must now reckon with the power of some remote dissident to enjoin him from all action pending the outcome of a lengthy court trial which he may eventually win, but at a shattering cost in money, time, and lost opportunities. The possibilities it provides for the delay and frustration of vitally needed resource development are endless.

I have used these three examples to show how elusive are the goals of policy, and how readily they may be subverted by the politics of our society. Yet it is no less true that the outlook is for more government involvement in the affairs of the mineral industries rather than less. I think we all must concede that. And this means that we have no choice but to deal with the inherent clumsiness, the rigidity and the irrationalities of the political process in ways which still permit the private sector to do its job effectively. Education of the public is part of it. Active political participation is part of it, at every level. The development and strengthening of these associations among groups who recognize the importance of mineral resources in their daily lives is part of it: producers, their suppliers, labor unions, commercial clubs, taxpayers organizations—even consumer groups. Is it not conceivable that those with a concern for the Nation's economy and the continued flow of the goods and services it provides might unite in a common cause of their own?

These are all legitimate means for the attainment of the needs of the various constituencies in an open society. They have been used by others with telling effect. They can, and should, be used by those who are obliged not only to provide the minerals the Nation needs, but to secure public consent to do so. For in the last analysis, it is only through the political process that irrationalities can be dispelled and mistakes corrected, and the way made straight for constructive action. And it is the patient, daily attention to this process that will in the end provide validity for my thesis that mineral policy is in truth, the art of the possible.

THE OCCUPATIONAL HEALTH AND SAFETY ACT

Mr. TOWER. Mr. President, on February 29, the Senator from Nebraska (Mr. CURTIS) introduced the Occupational Health and Safety Amendments of 1972. Senators HRUSKA, BAKER, DOLE, HANSEN, PEARSON, and I have joined him in sponsoring this measure.

The Occupational Health and Safety Act, Public Law 91–596, was enacted into law in the waning days of the 91st Congress. In the 14 months since its enactment, the act has turned out to be a real problem for many Americans who are trying to the best of their ability to comply with the many hundreds of regulations that have since been promulgated.

The Occupational Health and Safety Act Amendments of 1972, S. 3262, is a responsible proposal aimed at achieving an equitable policy of occupational safety.

Mr. President, no doubt some of the problems we now face concerning the act would never have surfaced if the Senate had adopted the Dominick amendment proposed as a substitute to vest the authority of promulgating safety and health standards in a presidentially appointed five-member board. This amendment, which I strongly supported, was tabled by two votes. As the act was passed, the Secretary of Labor is given the power to set and enforce safety standards.

I am sure that every Senator and Representative has received a great amount of mail on the arbitrary manner in which the act is being implemented. On my visits to Texas, I have talked to many emloyers faced with the problem of meeting the regulations of this act.

The defects in the law and the manner in which it is being administered are easily recognizable. While S. 3262 includes 13 different amendments to the current law, a great many of these amendments relate to the same types of defects that create an impossible situation insofar as ability to comply is concerned.

I would like to discuss some of the remedies envisioned by the bill we have proposed. The bill would exempt from the act small businesses and farms that employ 25 or less people. This same exemption has been applied to the Equal Employment Opportunities Act. This is a crucial section of the bill because the Occupational Health and Safety Act is frustrating the orderly activities of small businessmen and farmers. I regret that this subject was not considered when the act was passed in 1970. The hearings in the Senate Labor and Public Welfare Committee centered around the separate views of organized labor and big business.

It is the small businessman and farmer who are facing the tremendous task of complying with the act. To begin with, the Labor Department has not made any distinctions between large and small businesses. Yet, it is easily discernible that problems of small business and what we have labeled as big business are totally different. The corner grocery store or small town radio repairman has little in common with our larger corporations whose interests are national and, in some cases, international. It is unrealistic to apply the same standards to both small and large business operations.

Many small businessmen have contacted me concerning the problems they have had in complying with the Occupational Health and Safety Act. Some have told me that the act is threatening the very existence of their business.

I think it is fair to assume that the same Federal interest does not exist when talking about the small businessman as compared with larger businesses and corporations. The need for occupational health and safety legislation is present in the large factory or business environment where much of the work is done with large machinery and where there is a high turnover rate with employers, because of the size of their operation, unable to have a close relationship with employers.

This is to be contrasted with the small business environment. In this situation there exists an everyday relationship between employer and employee. The small businessman has an interest in keeping his employee turnover at a minimum and therefore will go out of his way to make sure that safety conditions are adequate and remain adequate. In most instances, good health and safety conditions in a small business environment work to the personal advantage of both the employer and the employee since they work side by side very often.

I could direct myself to a number of regulations now being enforced that are proving detrimental to small business and have no effect upon health and safety conditions. For instance, section 1910.22(b)(2) states that—

> Permanent aisles and passageways shall be appropriately marked.

I cannot see the relationship between health and safety and this regulation when it pertains to department, hardware or drugstores.

Section 1910.22(d) requires the posting of design loads approved by building officials. This regulation is being enforced even though many Texas communities made up exclusively of small businesses do not have building officials. Furthermore, many of those that employ building officials have stated that these officials have never made such designations in the past and do not feel qualified to analyze this question.

Section 1910.22(a) relates to the maintenance of sanitary conditions in places of employment. I have no quarrel with this regulation on its face. However, the broad language employed has allowed for arbitrary enforcement. There are businesses across this country that by their nature may not appear to be perfectly clean on a 24-hour basis. Yet, I have been informed by many Texans that Labor Department inspectors have given out citations under this section, because the inspectors happened to walk into the factory at a particular time in the day when, due to the type of production, the area was not in the best condition. The inspector handed out a citation although had he entered the establishment an hour or two later, the Government requirement would have been met.

Section 1910.141(c) of the act deals with toilet facilities. Taking into consideration the fact that local political subdivisions are governed by some type of ordinance for health and sanitation purposes, I think that this section is completely irrelevant to the national objective at least insofar as it relates to small businesses. A constituent of mine wrote me about the fact that he was given a citation for not having a toilet facility for his female employees. This small businessman with about 10 employees had one female employee, yet the Federal Government was forcing him to build another facility in order to meet the needs of this one secretary who had never complained about the facility previously.

The amendment exempting businesses with less than 25 employees also would reach our small farmers. This is most important to them as they are likewise finding it increasingly difficult to comply with safety standards under the act. Farmers face the task of complying with regulations that in many instances were composed for manufacturing and industry. Furthermore, like the small businessman, the small farmer cannot be expected to face the same safety problems as those faced by the large corporation farmer. Besides being unable to comprehend many standards that are irrelevant to his small farming operation, he also cannot be expected to become an instant expert on the Federal Register's safety regulations at a time when the nature of the small farmer's place in our society is being jeopardized.

Mr. President, other Members of Congress have addressed themselves specifically to the specific regulations of the Occupational Health and Safety Act that have placed an undue burden on small businesses and farmers. It is also important to recall that the administration's original bill on this matter exempted the small businessman and farmer. Yet, because these groups were not adequately represented at the hearings on the bill their interests were, for the most part, neglected.

This act has completely taken these people, which make up the backbone of our economy, by complete surprise. Considering the fact that most of the regulations were promulgated without going through the normal rulemaking procedures that would have allowed for the possibility that their interests could have been represented before the enforcement stage and because of the fact that compliance under current circumstances has proved to be impossible, I think that small businessmen and farmers should be exempted from the act. This exemption should be permanent unless and until the regulations are redesigned to take into consideration the practical problems that have arisen.

Another provision of the 1972 amendments would amend section 6 of the Occupational Health and Safety Act to require that the Secretary of Labor evaluate all of the regulations, distinguish the various facets of a given general form of business, and determine if the rule should apply to each facet. Obviously, some requirements which are entirely reasonable and proper for a form of business of "hazardous nature" would prove to be most oppressive when applied to a "nonhazardous" facet. Such a distinction is not possible under the current statute.

A good example of such a duality might be found in the construction industry—"heavy construction" versus "light residential construction." Activities in light residential construction, which includes remodeling and decorating activities, are different from those activities which are associated with heavy construction. The work is different in that it is smaller in scope, in the number of employees on a given job, and the scale of activities necessary to complete the construction. By definition, light residential construction is limited to structures no more than three stories high without elevators. Working on a structure of this size must be viewed as being different from working on a structure 30 stories high.

I firmly believe that the requirements promulgated to provide such working conditions should be tempered in accordance with the segment of the industry involved. Certainly, the differences between "heavy construction" and "light residential construction" or homebuilding are sufficient to warrant the development of separate standards for the latter.

Mr. President, I think it is clear from the tone of my remarks that my intent in sponsoring this legislation is to bring needed reform to our national health and safety effort. This reform is vitally needed from a procedural as well as a substantive viewpoint. Procedurally, the 1972 amendments would provide safeguards to employers who are now facing difficulty in complying with the nonemergency standards or national consensus standards which have been promulgated without going through the usual rulemaking procedures embodied in the Administrative Procedures Act. These national consensus standards were intended to serve as a base for more up-to-date regulations. However, practically speaking, employers are being forced to comply with them and in many instances suffer penalties and violations without knowing their content or being afforded the opportunity to contest the regulation in a judicial setting. This is certainly contrary to the legislative scheme envisioned by the Occupational Health and Safety Act, and in my mind, is certainly not fostering the type of Government-private sector cooperation that is needed if our goal of effective health and safety conditions is to become a reality.

With this in mind, the 1972 amendments seek to correct many of the deficiencies that would not be present if the rulemaking procedure was adopted across the board. One provision in the 1972 amendments would allow an employer to waive a penalty handed out under a national consensus standard unless the employer received a copy of the requirement in question and was given 30 days to comply or request administrative review. Another provision of the bill would require the Secretary to provide technical assistance to employers with less than 100 employees so that compliance with the law could be effectuated on a much smoother basis.

Mr. President, I am sure that many public officials will say that the Occupational Health and Safety Act is still in its experiment stage and that eventually the problems it now has will be ironed out. Of course, this is a conclusory statement and has little or no relation to the evidence presented. I do not believe that the current problems will be ironed out until legislative reform is enacted, since it is obvious that the Labor Department cannot improve the current situation by administrative action. This legislation is of national significance and for that reason deserves continual observation by the Congress. We should not allow Americans to suffer unequal and arbitrary treatment, hoping in the meantime that the current problems will somehow disappear. Unless we act immediately the difficulties will only spread to additional sectors and individuals within our economy.

HOFFA AND PRISONS

Mr. PERCY. Mr. President, prison is a place where common decency and basic humanity are strangers to the inmates. The people whom society puts behind bars are those whom it wants to have out of its midst. Once they are gone from sight, society forgets about them. No one wants to trouble himself with what happens to those nameless men behind the gray walls.

On occasion, our complacency is shattered. Terrible scenes of death—Attica, for example—attract and hold the attention of people for a little while: Then, that, too, is forgotten. We console ourselves with the thought that such instances are aberrations, that normally, the prisons are not so bad.

Prisoners are released from behind the walls, as 98 percent of all prisoners are, but few talk about their experiences. The ex-offender has a story to tell about what happened behind the walls, but few listen few care. This is not the case, however, with James Hoffa. He was a prisoner for 58 months at Lewisburg Federal Penitentiary. He is out now, and he has told his story, and will, I hope, continue to tell it, in very graphic and moving detail. All of us who are concerned with the problems of the prisoners should listen to what he has to say.

We cannot forget that one part of the cause of that rising crime rate lies within our prisons. If we could truly rehabilitate all who are now in prison, crime could be reduced significantly. I believe that if we are interested in breaking the back of crime, we should pay close attention to the words of those who return from the places that breed crime to such an alarming degree, particularly to a discerning and intelligent former inmate.

Mr. President, on April 2 the Washing Post featured an interview with Mr. Hoffa. In the interview, he recounts some of the nightmares he lived through while in prison, nightmares from which one never quite awakens. I hope that Senators will read the interview, not just because it is a picture of what happens in our prisons—but because it is what one man experienced while in a supposed institution of rehabilitation.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOFFA ON PRISONS: "ALL INDIVIDUALITY IS GONE"—TELLS OF EFFORT TO ADJUST

(James R. Hoffa, former head of the Teamsters Union, was released last December after serving 58 months of a prison term at Lewisburg Federal Penitentiary.)

(The following interview with Hoffa on his prison experiences was conducted by Al Stark of the Detroit News:)

"I was in my cell one day," says Jimmy Hoffa, "when an orderly was mopping the floor outside. The electric switch that unlocks the cells was thrown, because when the orderly finishes mopping the corridor he has to go into each cell and mop it out.

"He was in the corridor when the guy in the cell next to me jumped out and stabbed him 17 times. Just like that. It took seconds. Seventeen times.

"Well, I'll tell you what caused it. The orderly was the best sport—the best athlete—in the whole prison. The guy in the cell next to mine was always talking about how if the orderly wasn't around he would be the best athlete.

"The day before he had played handball with the orderly, and the orderly beat him again. What he was doing by stabbing him was getting rid of his competition. Then *he'd* be No. 1."

"As a matter of fact the orderly lived. He was in such great shape he survived."

Hoffa stops a moment.

"If you want to know what's wrong with prisons, you can start with this. Everybody is dumped together. The kid who stole a car or a kid who wrote a $40 bad check, dumped right with a psychotic like the one who stabbed the orderly, or the homo, or the rapist.

"Their attitude is, 'We've got you. What are you going to do about it?'"

Hoffa will testify Wednesday before a judiciary subcommittee headed by Sen. Marlow W. Cook, of Kentucky. He has an invitation, too, from a House committee, headed by Congressman Hamilton Fish Jr., of New York. He is scheduled to address lawyers in St. Louis and judges in Minnesota, and he says he's ready to go any place else where people want seriously to talk about prison reform.

Hoffa's own life in prison, the way he tells it, was a paradox.

He says he was far from pampered. He spent a long time in the A block, supposedly for the most violent prisoners. Then he spent a longer time in the mass dormitories, where 175 prisoners live together, where when prison rapes occur everybody does no more than wait for the screams to die down.

On the other hand, Hoffa was Hoffa—a famous man, a tough little guy.

"I didn't have any trouble with inmates," he says. "They knew who I was—and they knew I have as many friends as they have, so they caused me no trouble. Remember, too, I've dealt with all kinds of people in my life.

"The guards weren't any problem, either. One of them once came up and said he had a brother who was a Teamster, and the brother said you better take care of Hoffa because he's always taken care of me. Sometimes guards would come by and say 'so and so asked me to say hello'. And you know, the guards are unionized, too."

His companions among the inmates also were a paradoxical group.

There were Carmine DeSapio, former boss of Tammany Hall, in prison on a bribe conviction; Bobby Baker, the U.S. Senate's master-arranger; a mayor who got caught; an Army colonel; a major; some PhDs.

Hoffa is now 50 years old, and he shows his age in the grey on his temples and lines on his face.

But he is trim, and hard of body. "I worked out every day that I could in prison, in the gym or outside," he says. "I made it a point to exercise."

And he exudes energy—a peppery, even snarly sort of energy. He doesn't at all seem beaten down.

"I'll tell you," he says, a certain hard low snap to his voice.

"My body was in the prison, sure. But I never let my mind believe it. That cell is 7½ feet by 9 feet, and if you want to know what that's like you go home and spend the rest of the day in your biggest closet.

"But my mind was always somewhere else. I read books, and my mind wasn't in the cell. It was away somewhere in the books. And I wrote. And I had people send material for me to study."

Hoffa paused with the heat in which he said this. Then he said:

"Okay. How about the people in there who can't read? How about the people in there who don't have people outside to send them things?

"These are the guys who sit there and look at the walls and look at the ceiling.

Hoffa has ideas about prison reform.

Treat prisoners like human beings.

"Look" Hoffa says, "they broke laws and that's why they are there. But is that any reason to do everything to demoralize them?"

Most prison sentences are not life sentences; the prisoner presumably is one day going to return to free society, he says.

"But everything that happens to the inmate in prison reduces the chances of his making it on the outside. He's stripped of his personality and his individuality. He is treated as if he is nothing. He is put in cells that are too small with people he shouldn't be with.

"He has no dignity. His word is not taken as true on anything. And the result is, when his time is up, he has learned to hate everything and everyone."

The process of dehumanization often starts, Hoffa says, before the prisoner sees his prison cell.

A government car pulls up to the prison and out gets a marshal leading a prisoner in chains.

"Five to 10 pounds of chains!" Hoffa says. "On his arms, his legs and a chain belt around his waist. Standard procedure for transporting a prisoner. Are you going to take a kid who stole a car or a kid who cashed a bad check and chain him like that, display him like some animal?

"It's something he'll never forget!"

Once at the prison, Hoffa says, "he gets the prison haircut, high on the sides, and he gets the prison clothes—maybe new clothes and shoes, maybe used clothes and shoes, depending on what they've got. All individuality is gone. And they resent it.

"This is particularly important with the younger prisoners. I suggested to a lieutenant that they let prisoners bring their own trousers in and wear them in prison. Or circulate a Sears Roebuck catalogue and let the guys choose what trousers they want to buy for themselves.

"The lieutenant liked the idea, and he said he would take it upstairs. But it died. "Some of these things," Hoffa says, "just little things, would reduce a lot of tension, take off a lot of the pressure."

After the new inmate has his prison uniform and haircut, he joins the regular population.

"If he's been convicted of a violent crime," Hoffa says, "he goes to A block, which was meant to house the violent inmates. But, if the other parts of the prison are full, anybody might end up with those guys in A block.

"I was there more than two years. That's where that stabbing took place.

"Sometimes kids who've only stolen cars end up there for months.

"Often, if they're lucky, they get assigned to a dormitory. Lucky. Hah.

"There are 165 to 175 inmates in a dormitory. The beds are maybe only 18 inches apart. There are three showers, 2 urinals, two toilet stools for all those men.

"Now here you have that first offender in a prison dormitory for the first time, with all kinds of people, none of them he knows. There are homosexuals. There are rapists. Everything you can imagine.

"I think the single most important thing, to relieve pressure and tension in the prisons, would be to classify prisoners, by age and by offense.

"Get the young ones together. Keep the homos together, and away from the others. Keep the violent ones apart. Nothing would help more than this to relieve tension inside prisons.

"But that isn't done.

"Everybody is dumped together."

Hoffa thumps his desk.

"I'll tell you some things.

"A guy hears his wife is sick or she's been hurt in an accident. Or one of his kids. And he asks if he can go visit her in the hospital.

"Well, if his behavior record is good, they may say yes, he can go. But then they say he has to make a choice. He can have one visit. If he goes now, when she's hurt, that's it. If she dies, he has used up his chance and he won't be able to go to her funeral.

"When he goes, he has to pay the salary of the guard who escorts him and the mileage and expenses of the trip.

"And when he gets there, if he's done this, he may find the guard with him is one of those that makes him wear handcuffs to his own wife's funeral.

"Or take his own parole. A guy waits 10 years for a parole hearing, behaving in prison, trying to do the right thing. Finally he gets a hearing—not with the parole board, but with an examiner who gives him three minutes. Three minutes after 10 years!

"Then, a couple of months later, he gets a one-word reply. 'Denied.' No explanation, no nothing.

"Just 'denied'."

Official punishment in prison takes three forms: "There's the Hole, where they take your clothing and put you in a 7½-by-9 cell with the one window painted over so you can't see out and where they slide your food in through a slot in the door.

"Sometimes they take your mattress, and you've got two choices. The metal bed frame or the floor. Some guys are in there 30 or 60 days or more. And boy, let me tell you they hate everything when they come out of there.

"Then there's segregation. You spend all your time in a cell. They take your showers away. They don't let you shave. You don't see anyone.

"Or they take our good time away.

"You can work up good time by working well at the job they give you and generally behaving. Well, a guy starts to count his good time. He's got 100 days or 150 days, and those are days they'll take off his time. Those are days he'll get out early.

"A guy thinks of nothing but his good days.

"Then he's charged with breaking some prison rule, say some contraband in his cell.

"He goes before a board made up of prison officials—guards, lieutenants, captains. The guard who charges him tells the details. The inmate can tell his side in rebuttal, but he can't bring in evidence and he can't cross-examine.

"And he's going to be found guilty.

"They take 100 good days or 200, just like that, days this man has saved and saved and worked for. Just like that.

"I've had guards tell me they know this inmate or that inmate wasn't guilty. But do they speak up? No! And the reason—they tell you this openly—is that the guards have to back each other up.

"Now you wonder why there is tension in prisons, why the inmates become less than human beings?"

Hoffa looks out an unbarred window high in the office where our interview takes place, out over the city and the river.

"You're in the dormitory with those other 175 guys and some new kid, some young kid who just was brought in is going to get it The dormitories are three stories, and the two guards are downstairs and outside.

"So one night a bunch of guys grab this new kid, haul him upstairs, put a knife to his throat and rape him.

"I've seen these kids. I've heard them scream. I've seen them afterward, and I can't describe the shock. I don't think mentally they'll ever get over it.

"The next day the rapists are sent to the Hole—and so is the kid who was the victim. They treat them both the same way. The rapists spend some time in the Hole, and then they come back to the same dormitory, where you know they'll do it again to some other kid.

"The kid who was victim? They sew him up and then they transfer him to some other prison to start over, 1,000 miles away where his family probably can't visit him.

"That's how they handle it.

"And you ask why the other inmates don't rescue the kid, why they don't gang up on the rapists and put them off.

"I'll tell you.

"You jump a rapist and you're fighting. That's against the rules. So you get locked up, too, just like them.

"And do you want to take a chance of losing that good time you've worked so hard for?

"So you sit there or lay there on your bunk, and pretty soon the screams are over."

Hoffa paused.

"But it's not only things like rapes and psychotic prisoners who will try to kill a guy who beats them at handball.

"It's other things, too.

"Medical treatment—the worst thing at Lewisburg was the fear of getting sick. I've seen guys worry so much about getting sick that they made themselves ill.

"You get a heart attack. The guy reading your cardiogram machine is an inmate who never has been trained. They put him into the hospital, probably because he had a little education, give him two days training or a week, and he's the guy reading your machine.

"Same with the guy who reads your x-ray. Or the dental technician.

"I'll tell you what happened with Carmine DeSapio (former boss of Tammany Hall politics in New York).

"He came to prison with all his pills and letters from doctors saying he had to take those pills. And he was really worried about his health.

"So first thing they do is to take all his pills away.

"Why? Don't ask me why. Probably because they didn't prescribe them. They run things. They don't want you dependent on anyone else." Every little thing they can do that strips the inmate of a little more personality, a little more dignity, they do."

Hoffa calls for an end to prison overcrowding (Lewisburg, he says, was built for 950 and now houses almost 1,600). He wants college-trained prison staffs. He wants more doctors and dentists. He wants better education for those who need it.

He wants prisons with enough room to segregate inmates by types of crimes or types of behavior. He wants inmates paid better for the work they do in prison.

All this costs money, money that will have to come from taxpayers. Most taxpayers have no firsthand knowledge of prison. And some hold the attitude that prison is meant to be punishment, and if it's a hard life the inmate brought it on himself.

"Well," Hoffa says, lips thin, "those people are going to have to realize that kind of system doesn't work. If they don't spend the money on prisons they are going to be spending a helluva lot more for more policemen, more judges, more prosecutors.

"Because what the prisons are turning out is nothing but trouble.

"I estimate that 15 per cent of the inmates I saw are going to be able to go back to society untarnished by prison, and you can identify those 15 per cent easily. They're the ones who have real associations on the outside, people who can help them.

"The other 85 per cent? Most of them have no one outside—half of them never get mail or visitors. They have no one to help them when they get outside. They aren't going to get decent jobs because they're ex-cons, and they aren't going to get any help from the prison officials. . . ."

"They are going to have nowhere to go and nothing to do that would make them at all fit for society, because they've been containerized all these years in a place where every little dignity they might have is stripped away. And they're going to be more trouble than when they went in."

TRANS-ALASKA PIPELINE

Mr. STEVENS. Mr. President, the Propeller Club of the United States at its 45th annual convention held in Tulsa, Okla., on October 13, 14, and 15, 1971, promulgated a number of position papers on issues they deem to be of particular importance. Position paper No. 15 was on the trans-Alaska pipeline from Prudhoe Bay to Valdez. I believe this subject is of sufficient importance to warrant my asking unanimous consent that it be printed in the RECORD. I respectfully invite the attention of Senators to this position paper of the Propeller Club of the United States.

There being no objection, the position paper was ordered to be printed in the RECORD, as follows:

TRANS-ALASKA PIPELINE FROM PRUDHOE BAY TO VALDEZ

BACKGROUND

At this time of extremely high unemployment, the benefits of the trans-Alaska oil pipeline to the welfare of the nation cannot be overlooked. With the uncertainties and hostilities that now exist in world relations, a policy of continued dependence on mid-east and other world oil supplies would, under the circumstances, appear perilous. During the three years considered necessary for completion of the pipeline, it has been estimated that 5,000 to 10,000 new jobs will be created by the project. When the pipeline is completed and in operation, hundreds of men will be employed to operate and maintain it, and hundreds more will be put to work in the oil fields on the North Slope. Construction of the pipeline will also have a highly beneficial impact on the depressed shipbuilding and ship repair industry as well as on shipping, supply, construction and tool making, and many other industries throughout the West and the nation as a whole.

POSITION

The Propeller Club strongly supports the construction of the Alaska pipeline from Prudhoe Bay to Valdez for the transportation of Alaska Slope Crude Oil.

NUCLEAR ERRORS: THE END OF PRIVATE ELECTRIC UTILITIES?

Mr. GRAVEL. Mr. President, today the AEC's Atomic Safety and Licensing Board will start consideration of new danger warnings from an extraordinary source, namely a Westinghouse subcontractor for the Indian Point No. 2 nuclear powerplant. The plant is on the Hudson River about 25 miles north of New York City.

On March 14, Mr. H. K. Brill, who is president of the PECor Division of the Pennsylvania Engineering Co. in New Castle, wrote a five-page letter to the AEC's Director of Reactor Licensing, L. Manning Muntzing. In this letter, he urges that the operating license for Indian Point No. 2 "be positively withheld until the Commission can thoroughly examine the complete contract file and related final technical data of the structures and parts fabricated and shipped by our company in 1967 and 1968."

Mr. President, I ask unanimous consent that this letter be printed at the end of my remarks. In addition, I ask that the article entitled "Subcontractor

Denounces Indian Point A-Plant Work," from the front page of the New York Times of March 31, be printed following the letter.

DEVIATION AND DISTORTION PLAGUE IMPORTANT COMPONENTS

Among "the many problems" which Mr. Brill identifies in his letter are the steam-generator supports and the reactor support-ring:

> Our company fabricated the steam-generator supports in accordance with the inadequate and incorrect Westinghouse drawings. Our staff observed in 1968 the steam-generators were delivered with serious deviations with respect to both size and form. As of December 1, 1971, there is a serious problem of plant safety because of the deviations of both the steam-generator supports and the out-of-tolerance steam-generators delivered by other suppliers.
>
> Your attention is called to the inadequate, incomplete, and questionable design of the important reactor support-ring, one of the principal items of our contract. . . . There are a number of very serious deviations with respect to the fabrication of this important structure. . . . Our shop records conclusively indicate a serious problem of distortion during heat treatment of the welded assembly and subsequent problems of non-destructive testing. . . . As of December 1, 1971, we believe there are problems of this structure with respect to the safety of operation on Indian Point No. 2 plant for the design life of 30 years.

Mr. Brill concludes his letter by warning that—

> In our opinion, these problems have a direct relation to the safety of the operation of the subject power plant for the AEC-licensed design life of 30 years.

REPERCUSSIONS ON PRIVATE ELECTRIC UTILITIES

If any of this is true, then Consolidated Edison may have been saved by the bell from inadvertently operating an unsafe plant. Con Ed has announced that it will now conduct its own investigation.

How many defective nuclear plants are already in licensed operation, like time bombs with an uncertain schedule?

How many fatal flaws have gone unrevealed, undetected, or covered up?

If a nuclear power calamity someday forces us to abandon a city and a few States, will American citizens and industries still tolerate private electric utilities at all? It is not hard to imagine widespread revulsion leading to public operation and ownership of all the electric utilities.

I believe that corporate prudence will guide investor-owned electric utilities away from nuclear fission.

THE CHOICE OF PRUDENT MANAGEMENT

Any nuclear plant which is ordered today will come into operation in 1980 at the earliest.

However, by 1980, or perhaps sooner, safe, clean gasified coal can be abundantly available, along with fuel-cell technology offering twice the efficiency of steam boilers.

In short, the utilites have lost their last excuse for subjecting their stockholders, their creditors, the regional economy, and the public, to an irresponsible nuclear gamble.

I do not exaggerate nuclear hazards. It is the safety propaganda which is exaggerated.

WARNING FROM FORMER AEC LAB DIRECTOR

The magnitude of the "peaceful atom" threat is described well by the former director of the AEC's Argonne National Laboratory, Dr. Albert V. Crewe. He reviews Glenn Seaborg's book, "Man and Atom," in the February 25 issue of Science magazine:

> One emerges from reading the book with a distinct feeling of uneasiness. Each chapter reassures us of the inherent safety of the development described and explains the enormous care which is undoubtedly taken to protect the public. And it would be hard to find fault with any of these precautions. Yet one cannot help feeling that if all the things that are described in this book come to pass, then our lives and our health will depend upon three factors: the ability of the medical profession to make quantitative assessment of the hazards of radiation exposure, the ability of engineers to provide the necessary precautionary engineering, and finally overcoming the much more difficult problem of maintaining administrative controls that are not subject to the whims of international politics or capricious domestic exigencies.
>
> Should any of these three lines of defense fail, then the entire population of the world could be in serious danger.

WARNING FROM 1970 NOBEL LAUREATE

The 1970 Nobel Laureate for Physics, Dr. Hannes Olof Alfven, has warned us in a forthcoming article:

> We now approach the key issues. The reactor constructors claim that they have devoted more effort to safety problems than any other technologists have. This is true. From the beginning, they have paid very much attention to the safety, and they have made remarkably clever work in devising safety precautions.
>
> This is perhaps pathetic, but it is not relevant. If a problem is too difficult to be solved, one can not claim that it is solved by referring to all the efforts made to solve it.

WARNING FROM A CURRENT AEC LAB DIRECTOR

The present Director of the AEC's Oak Ridge National Laboratory, Dr. Alvin Weinberg, has acknowledged in the December 1971 issue of Nuclear News that technical "deficiencies" in a radioactive or plutonium economy, if unremediable, "could mean catastrophe for the human race."

THE NUCLEAR POWER MORATORIUM BILL

Considering the stakes, it would be prudent for Members of Congress to look carefully at S. 3223, the nuclear power moratorium bill, which was introduced on February 23, 1972.

There being no objection, the letter and article were ordered to be printed in the RECORD, as follows:

PENNSYLVANIA ENGINEERING CORP.,
New Castle, Pa., March 14, 1972.

Subject: Docket No. 50-247, Indian Point No. 2 Nuclear Power Plant, Consolidated Edison Co. of New York.

Mr. L. MANNING MUNTZING,
Director of Reactor Licensing,
U.S. Atomic Energy Commission,
Washington, D.C.

GENTLEMEN: This letter is forwarded to directly request the present "as built" engineering drawings of the design, manufacturing, assembly and installation of several Class I components of the subject nuclear power plant. It is realized a construction permit No. CP PR-21 was issued October 14, 1966 to Consolidated Edison Company for the construction of the 873MW(e) nuclear generating station. In addition, our staff has noted a recent press release No. 0186 dated October 20, 1971 of the Atomic Energy Commission stating that Consolidated Edison Company is permitted to commence fuel loading of the subject nuclear power plant but is prohibited from reaching a point of criticality or start up operation for commerical power generation.

Our company in December 1966 received from Pittsburgh Bridge & Iron preliminary "sketches" of several Class I structures of the subject power plant for purposes of bidding to fabricate these Class I structures and parts.

Pittsburgh Bridge & Iron had received in the latter part of 1966 these Westinghouse Electric Corporation "sketches" from United Engineers and Constructors of Philadelphia, Pennsylvania. United Engineers and Constructors were the architect engineer firm under contract with the Westinghouse Electric Corporation, Pittsburgh, Pennsylvania. The Consolidated Edison Company had contracted with the Westinghouse Electric Corporation for the complete Indian Point No. 2 nuclear generating station, ready for operation.

In January 1967 and the next three months additional Westinghouse Electric Corporation drawings were received by our company through the subject chain of subcontractors. Our company in turn submitted proposals to Pittsburgh Bridge & Iron Works to construct the various Class I items. In each case without exception the Westinghouse Electric Corporation drawings indicated both the design criteria and the choice of material for the important parts and assemblies. PB&I awarded a contract to our company on May 28, 1967, No. 13838.

On July 19, 1967 our company received from Pittsburgh Bridge & Iron two fundamentally important and essential contract documents covering (1) Specifications and (2) Special Conditions for the fabrication, assembly and test of the subject assemblies. This serious failure of not notifying our company of these basic contractual documents was the direct responsibility of Westinghouse Electric Corporation in that these documents were Westinghouse Electric Corporation documents as completed by their architect engineers, United Engineers & Constructors. The documents were dated December 12, 1966 and October 1, 1966 respectively.

It is essential to recognize the safety aspects of these Class I structures. The weldments and testing thereof of the parts and assembly could not be completed in accordance with standard commercial practices but were to be in accordance with special requirements of the American Welding Society. This included qualified welders and qualified welding procedures for the weldments.

In general the original Westinghouse Electric Corporation drawings for the structures and parts of our purchase order 13838 dated May 22, 1967 with Pittsburgh Bridge & Iron contained serious deficiencies. Dimensioning and tolerancing of the features of the parts were not in accordance with nationally accepted engineering standards; e.g., the ASA standards. The errors, omissions and incorrect features of the Westinghouse drawings included problems of positioning of the components and assemblies. The Westinghouse drawings did not indicate required engineering standards relating to the important standards of non destructive testing of the weldments.

The Westinghouse drawings indicated serious problems of assembly with parts and equipment furnished by other suppliers; e.g., the steam generators of the Indian Point No. 2 power plant. Our company fabricated the steam generator supports in accordance with the inadequate and incorrect Westinghouse drawings. Our staff observed in 1968 the steam generators were delivered with serious deviations with respect to both size and form. As of December 1, 1971 there is a serious problem of plant safety because of the deviations of both the steam generator supports and the out of tolerance steam generators delivered by other suppliers.

Your attention is called to the inadequate, incomplete and questionable design of the important reactor support ring, one of the principal items of our contract 13838 with PB&I. This Class I structure was to be fabricated in accordance with a "sketch" identified as Westinghouse Electric Corporation No. 9321–F–1287 and finally a drawing marked Revision I dated February 1967. There are a number of very serious deviations with respect to the fabrication of this important structure. These deviations have not been recorded by our staff because we have not received, after repeated requests, the present "as built" Westinghouse Electric Corporation drawing 9321–F–1287, Rv. 4. Our shop records conclusively indicate a serious problem of distortion during heat treatment of the welded assembly and subsequent problems of nondestructive testing. It should be noted the Westinghouse Electric Corporation to date has not indicated an engineering standard of rejection or acceptance for the dye penetrant examination of this Class I structure. As of December 1, 1971 we believe there are problems of this structure with respect to the safety of operation of Indian Point No. 2 plant for the design life of 30 years.

Our staff is cognizant of the legal requirements stated in the Code of Federal Regulations, Title 10—Atomic Energy of the United States Government. Title 10—Atomic Energy is public law and is the expressed intent of the Congress of the United States in accordance with the Atomic Energy Act of 1946 as amended by the Act of 1954. There are additional numerous subsequent amendments as enacted by the several Congresses of the United States. There is the essential and important requirement of owners and operators of commercial nuclear power plants to assure the safety and well being of the citizens of the United States. The referenced paragraphs are detailed as follows—

a. Part 20—Standards for Protection Against Radiation. This part requires the Director of Reactor Licensing of the Atomic Energy Commission to assure that at all times the levels of radiation within the containment structure, the plant site and adjacent to the plant site for the design life of the plant to be within the stated precise and exact limits dosage of radiation of all types.

b. Part 50—Licensing of Production and Utilization Facilities. This section has direct application to the serious problems as of December 1, 1971 and of the Class I structures and parts of Indian Point No. 2 completed by our company under contract with Pittsburgh Bridge & Iron. In particular, your attention is called to Section 50.34, paragraph b, "The description should be based on the design criteria for the facility as a whole and for those major component parts which are essential to the safe operation of the facility, and are essential to the safe operation of the facility, and should be presented in sufficient detail to allow an evaluation of the adequacy of the various means proposed to minimize the probability of danger from radio activity to persons both on and off site." As of December 1, 1971 our company has not and cannot record the large number of deviations of the structure of purchase order 13838 because to date we have not received the so called "as built" drawings required to be on file with the Director of Reactor Licensing of the AE.

c. Your attention is called to Section 50.35 subparagraphs a, b, and c. In particular, subparagraph c states: "any construction permit will be subject to the limitation that a license authorizing operation of the facility will not be issued by the Commission until (1) the applicant has submitted to the Commission by amendment to the application, the complete final safety analysis report, portions of which may be submitted and evaluated from time to time, and (2) the Commission has found that the final design provides reasonable assurance that the health and safety of the public will not be endangered by the operation of the facility in accordance with the requirements of the license and the regulations in this chapter."

d. Your attention is also called to Section 50.36, subparagraph b which states: "Appendix A is provided as a guide to the type of materials which the Commission would generally expect to be covered by the technical specifications." Your attention is called to Section 50.40, paragraph (a) which states: "the processes to be performed, the operating procedures, the facility and equipment, the use of the facility and other technical specifications, or the proposals in regard to any of the foregoing collectively provide reasonable assurance that the applicant will comply with the regulations in the chapter, including regulations in Part 20 and the health and safety of the public will not be endangered."

This letter is directed to the Atomic Energy Commission to suggest the proposed operating license for Indian Point No. 2 nuclear generating station, Buchanan, New York, of Consolidated Edison Company, New York, be positively withheld until the Commission can thoroughly examine the complete contract file and related final technical data of the structures and parts fabricated and shipped by our company in 1967 and 1968. In addition we request of the Director of Reactor Licensing the complete "present" file of Westinghouse Electric Corporation drawings of the structures and parts of our purchase order 13878 with PB&I.

Our company as of December 1, 1971 has not either marked or recorded on the applicable drawings the large number of deviations which occurred during the fabrication of the items. The principal problem is of course the Westinghouse Electric Corporation through its chain of subcontractors will not forward to us their file of present "as built" drawings.

It is not possible for the AEC to inspect these structures to assure safety of operation until the deviations are officially recorded by our company for these Class I structures.

Our staff will be pleased to meet with your staff to explain or clarify the serious problems outlined in this letter. We shall pursue all possible means for a resolution of the many problems of Indian Point No. 2 power plant. In our opinion these problems have a direct relation to the safety of the operation of the subject power plant for the AEC licensed design life of 30 years.

Very truly yours,

H. K. Brill,
President, PECor Division.

[From the New York Times, Mar. 31, 1972]

Subcontractor Denounces Indian Point A-Plant Work—Calls on AEC To Hold Up Opening of No. 2 Unit in "Safety Problem"

(By David Bird)

A subcontractor who has built a key part of Consolidated Edison's new nuclear power plant at Indian Point, N.Y., has asked the Atomic Energy Commission to withhold the licensing of the reactor because of "inadequate, incomplete and questionable design" of parts of the reactor that pose "a serious problem of plant safety."

The request was made by H. K. Brill, president of the PECor Division of the Pennsylvania Engineering Corporation of New Castle, Pa. Mr. Brill's company constructed the support mechanism for the reactor, which is being built for Con Edison by the Westinghouse Electric Corporation.

Westinghouse, in a statement yesterday, said the Brill charges were "totally untrue . . . and have no bearing on the licensing of the plant."

A spokesman for Westinghouse refused to comment on the specific technical charges detailed by Mr. Brill's five-page letter.

The complaint by Mr. Brill is expected to delay, and could even block, the opening of the plant—an opening that already has been delayed three years beyond schedule.

Mr. Brill outlined his objections in a letter to L. Manning Muntzing, the A.E.C.'s director of reactor licensing.

Asked about the letter which was dated March 14, a spokesman for the A.E.C. in Washington said only that the charges were "under investigation by our division of compliance."

Environmentalists, who have been attempting to delay the operation of nuclear plants until safety questions can be more fully resolved, praised the Brill letter.

LETTER CALLED "SIGNIFICANT"

Anthony Z. Roisman, a Washington lawyer who has been leading the battle against Indian Point and other nuclear plants, said yesterday that the letter was "the most significant piece of information that as come into this or any other nuclear-plant hearing."

Mr. Roisman said that the letter marked the first time that someone who was actually building a nuclear plant had come out and raised serious questions about its safety.

Up to now, he said, charges against nuclear plants have been dismissed "as the usual ranting-raving of uninformed citizens." But that charge, he said, cannot be made about Mr. Brill, who was directly involved in the construction.

Questions about the safety of the Indian Point plant had been raised earlier by the Pennsylvania Engineering Corporation in letters to Westinghouse and Con Edison. Westinghouse said in its statement yesterday that a review in 1969 and 1970 had "confirmed that there were no safety problems, and we are completely confident that all applicable Atomic Energy Commission safety standards were met."

CON ED PLANS INQUIRY

Con Edison said yesterday that Westinghouse had assured it then that the matter was only a "contract dispute."

A spokesman for the utility said that Con Edison would now conduct its own investigation.

Samuel W. Jensch, chairman of the Atomic Safety and Licensing Board, which has been conducting the hearings on the Indian Point plant, said he would ask interested parties for suggestions on what to do about the Brill charges when the hearings resume on April 5. The hearings are being held in the Springvale Inn, a home for the elderly in Croton-on-Hudson.

Mr. Roisman said he would ask for a complete reopening of the safety question, which proponents of the plant thought had been resolved after hearings that ran for more than a year. The inquiry had recently moved on to other environmental problems, such as fish kills and thermal pollution of the Hudson River that might be caused by the water used to cool the plant.

SERIES OF DIFFICULTIES

The Brill letter is the latest of a series of difficulties that have plagued the 873-megawatt plant, officially called Indian Point No. 2. Indian Point No. 1, a 265-megawatt pilot plant, has been operating on the site.

The new plant is completely built, but it cannot be operated until it receives an A.E.C. operating permit.

Last November a fire that caused damage estimated at $5-million swept through the plant. The damage has been repaired.

But then, when the plant was being tested recently, conservationists charged that there had been massive fish kills as vast amounts of water were sucked inside for cooling purposes.

Henry L. Diamond, the state's Commissioner of Environmental Conservation, ordered the plant to halt its testing.

Yesterday Commissioner Diamond authorized the plant to resume testing, but only after the utility had agreed to reduce the water intake velocity and to install more efficient screening devices to prevent "irreversible harm to the fish life of the river."

The Commissioner also asked Attorney General Louis J. Lefktowitz to seek fines for previous fish kills caused by the Indian Point plant. Testimony at recent department hearings indicated that the utility might be liable for penalties as high as $1.6-million.

The charges on the safety of the reactor raised in the Brill letter centered on what were termed "serious deficiencies" in Westinghouse's drawings for the plant.

"Dimensioning and tolerancing of the features of the parts were not in accordance with nationally accepted engineering standards," Mr. Brill said in his letter.

"The Westinghouse drawings indicated serious problems of assembly with parts and equipment furnished by other suppliers."

"SERIOUS DEVIATIONS" REPORTED

"Our company fabricated the steam generator supports in accordance with the inadequate and incorrect Westinghouse drawings," the Brill letter went on. "Our staff observed in 1968 that steam generators were delivered with serious deviations with respect to both size and form.

"As of Dec. 7, 1971, there is a serious problem of plant safety because of the deviations of both the steam-generator supports and the out-of-tolerance steam generators delivered by other suppliers.

"Your attention is called to the inadequate, incomplete and questionable reactor support ring. Our shop records conclusively indicate a serious problem of distortion during heat treatment of the welded assembly."

Further delays in the opening of the Indian Point No. 2 plant could affect the reliability of New York's power supply. ConEdison has said it is counting on the capacity of the new plant to meet peak demands this summet.

BUSING OF SCHOOLCHILDREN

Mr. BROCK. Mr. President, for some months a number of us have been working very hard in an effort to correct the excesses of the lower courts in the matter of forced busing of our public schoolchildren for the purpose of achieving "racial balance." Increasingly, forced busing has been done in the name of carrying out Supreme Court decisions. Upon examination, however, it would seem that just the opposite has been decreed by the high court, and Federal courts have been usurping the role of the legislative branch in their interpretation of the law. I ask unanimous consent that an article from the Wall Street Journal entitled "Behind the Busing Fuss" be inserted in the Record at this point:

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Behind the Busing Fuss

In pursuit of our conviction that it will be best if the courts themselves solve the "busing problem," we have been reading about trying to find some available rationale that will preserve some impetus toward racial justice without falling into the absurdities of racial quotas. We can report that such a rationale does exist, as extracts printed alongside testify.

The source comes as something of a surprise, though, being the unanimous Supreme Court decision in Swann v. Charlotte-Mecklenburg County Board of Education, the very case in which the court first backed the use of quotas and busing to dismantle previous dual school systems. As the administration weighs its position on busing, we hope it takes note of how careful the high court has been, how much room for maneuver it has left in the judicial process itself.

The rationale in these extracts is precisely what we, at least, have been looking for as a way out of the present impasse. It rejects racial quotas, though recognizing the prudence of starting any discussion of desegregation by looking at the existing racial balance. It does not flatly outlaw all-black or all-white schools. It preserves pressure toward dismantling dual school systems where they exist, but recognizes that there will come a point when that transgression will be atoned.

The implication is that with the South desegregating, we will with all deliberate speed, as it were, reach a point where the school systems in North and South will be on equal footing. Then the nation will be in position to repair to the great principle the first Justice Harlan offered in his dissent to the notorious Plessy v. Ferguson decision, that "our Constitution is color blind, and neither knows nor tolerates classes among citizens."

But if all this is already the law of the land, or at least the direction indicated by the most crucial Supreme Court decision since Brown v. Board of Education, what in the world can be behind all the fuss? There is a good answer to that question, which is one reason why Nathan Glazer's article in the current Commentary ought to be required reading for anyone who hopes to understand the current "busing" controversy.

Mr. Glazer, the Harvard sociologist and long-time student of ethnic amalgamation, reviews a great many aspects of the problem, one of the most revealing being what the lower courts have been doing since Charlotte-Mecklenburg. He quotes a San Francisco judge's ruling, for example, "that the ratio of black children to white children will then be and thereafter continue to be substantially the same in each school." He quotes a Detroit judge blaming segregation on blacks as well as whites because "blacks, like ethnic groups in the past, have tended to separate from the large group and associate together." The Detroit court ordered busing between the central city and suburbs to end such separation.

The fuss, in short, arises because these and other lower courts have been going far be-beyond anything the Supreme Court mandated; indeed, they have been ordering precisely the things the Charlotte-Mecklenburg decision told them the Constitution did not require. The lower court judges have not been waiting for the legislature or even for the Supreme Court itself; they have simply been writing their own social opinions into the Constitution.

Mr. Glazer has trenchant things to say about the "crude Americanizing and homogenizing" that make up the substance of those social opinions. What's wrong with blacks wanting to associate with blacks, for example? In fact, the chief American answer to ethnic diversity has been to allow each group to pick its own associations under cover of a color-blind law, and to open the way for advance through political bargaining. He finds it healthy and hopeful that blacks are winning bargaining power today.

Meanwhile, though, the law has reached such confusion that Mr. Glazer can pack into one sentence irony like this: "The promise of Brown is being realized. Black children may not be denied admittance to any school on account of their race (except for the cases in which the courts and federal offiicals insist that they are to be denied admittance to schools with a black majority simply because they are black)."

The Supreme Court can correct much of the confusion by starting to overrule lower court decisions that are excessive in the use of busing and especially quotas, by writing the sensible obiter dicta of the Charlotte-Mecklenburg decision into binding law. It would seem to us appropriate if the administration concluded that Justice Department intervention in current suits could help achieve this result, and might also help rein back the lower courts to the pace the high bench sets.

This, in fact, is a point that goes beyond busing and desegregation. Unquestionably the legal system now and then—as in the Brown decision—needs a way for the Supreme Court to put aside cold precedent and follow the feelings and opinions of its human members. Yet this freedom to write personal opinion into law can easily be abused even by Supreme Court Justices, and we can scarcely see how a meaningful legal system can long function if it is abused by every district court judge as well.

REGULATION OF FOREIGN FISHING FLEETS

Mr. STEVENS. Mr. President, on March 18, 1 week ago last Saturday, the Japanese fishing vessel *Kayo Maru*, No. 31, was observed by a Coast Guard long range, search aircraft 10 miles northwest of Cape Sarichef. The Japanese vessel was seen retrieving crab pots. The aircraft, from the Coast Guard Air Station at Kodiak, gave the vessel orders to stop, but the Japanese vessel continued retrieving pots and moved out to 12 miles from shore. The nearest Coast Guard vessel on patrol was the *Mellon*, based at Honolulu, and was 32 hours away. The aircraft had only 3 hours of fuel remaining and had to abandon the chase after dropping a message block to the vessel, warning it not to fish in contiguous waters.

The waters north of the island of Unimak, in this locality, have been designated a crab pot sanctuary in the United States-Japanese agreements. However, this right to crab pot fishing does not extend to the contiguous waters.

Today, in addition to the *Kayo Maru*, 32 other Japanese vessels are fishing for crab just off Unimak Island.

On April 3 the Coast Guard seized two Japanese fishing vessels for another violation of the U.S. contiguous fisheries zone near Kodiak. Fortunately the cutter *Mellon* was nearby, this time, and it was expected that they would be escorted into Kodiak on Tuesday.

When the king crab fishery in Alaska began to decline 4 years ago, fishermen and processors tried to turn to the snow crab as a substitute, but a gloomy picture faces us for 1972.

We are able to produce and process snow crab, but foreign competition, using methods not available to our fishermen, and cheap labor, has dampened prices, and consequently, sustained advances in production.

There are a total of 268 foreign fishing vessels off the Nation's shores in Alaska today.

One ship, the *Mellon*, is responsible for the patrol of the Bering Sea, an area of 873,000 square miles, much of which is ringed by American shores. In that area, 48 Russian and 10 Japanese are fishing for ground fish and herring between St. Matthew Island and the Pribilofs. The 77 Russian and 139 Japanese are between the Pribilofs and Unimak Island in the Aleutians.

Seventeen Russian are trawling for shrimp near Sand Point.

Three Russian and three Japanese near Kodiak, and 10 Japanese in the waters between Dixon Entrance and Dry Bay, fish for black cod and perch.

The Coast Guard vessel *Confidence* arrived in Juneau this week to patrol this area. The *Storis*, which was scheduled for drydock, has been sent to Kodiak to assist the *Mellon* with the escort of the two Japanese vessels.

Ordinarily, a total of two vessels patrol a coastline greater than that of the entire contiguous United States for the protection of a fishery resource that equals or surpasses that of the remaining 49 States combined.

Mr. President, we must bring these foreign fishing fleets under effective regulation, and we must provide for adequate enforcement of our laws and foreign treaties.

ANOTHER TRANSPORTATION CRISIS

Mr. BELLMON. Mr. President, most of us here today are aware that within the next 60 days we may once again be called up to legislate a railroad settlement to avert another threatened transportation emergency. The President has appointed Emergency Boards in the United Transportation Union-Penn Central and United Sheet Metal Workers Union disputes, thereby postponing shutdowns for 2 months. But in all probability, Congress will be faced with the necessity of legislating another ad hoc solution or solutions at the end of the no-strike period.

The reason? Existing statutes are ineffective in preventing crippling transportation tie-ups, and Congress has so far failed to enact new and more effective laws. We could end the constant intervention by Congress by enacting S. 3232, introduced by Senator PACKWOOD, and of which I am a cosponsor. It is a farsighted and comprehensive bill that would take Congress out of this labor dispute settlement business once and for all.

An excellent editorial on this subject appeared in Saturday's Washington Post. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CONGRESS, LABOR LAW, AND THE PENN CENTRAL

We have noted on previous occasions that the lackadaisical attitude of Congress toward the labor laws is rapidly turning it into the nation's No. 1 arbitrator. It won't legislate major reforms in the labor-management area when there isn't a major crisis somewhere in the country. And it will only pass measures to put a patch on the immediate problem when a crisis does exist. As a result, the country moves from one crisis to another in the transportation field with Congress having to step in each time. Now, on the horizon, is another one.

Everything is set, or so it seems, for a monumental battle this spring between railway labor and, of all things, the bankrupt Penn Central. The current contract between the railroad and the United Transportation Union expired last night and all the signs indicate that a new agreement will not be reached easily. Most observers think that later this year, after all the delaying options in the existing laws are used up, a strike is inevitable because the issue separating the two sides is so fundamental. And once the strike begins, Congress will be forced into another patchup job, this one with an election drawing near.

The issue in the Penn Central dispute is that old problem of the size of train crews. The trustees of the railroad say they will go to the mat on it because, they contend, the railroad can never be brought out of bankruptcy without a sharp cut in labor costs. The union contends that reducing the crew size will make railroad operations more dangerous, an argument management says is unsupported by the evidence. Involved in this dispute directly are about 6,000 freight train conductors and brakemen on the Penn Central and indirectly about 25,000 similar employees on other railroads. Both sides recognize that a victory for the Penn Central would result in identical demands by all other railroads when their contracts come up for renewal.

Regardless of the merits of this particular dispute, its existence points out the problems of the labor laws. There are mechanisms in those laws through which a strike can be postponed but nothing other than moral suasion in them to prevent a strike at the end of the postponements. There has been enough experience with the process in recent years to predict what will happen this spring. The devices for postponement will be invoked, an agreement will not be reached, a strike will be called, and Congress will rush into the breech in an effort to get the trains running before their absence ties up a substantial part of the nation's economy. How much better it would be if Congress would give up its role as the arbitrator of situations like this!

The best mechanism we have heard about to take Congress out of this labor dispute settlement business is the final offer selection procedure backed by the administration and being pushed in the Senate these days by Senator Packwood. It establishes at the end of the road of negotiation and mediation in major transportation disputes a procedure under which the final offer of each side is submitted to a board of arbitrators. That board must choose one offer or the other with no middle ground and its choice is binding on both sides. This arrangement, of course, is compulsory arbitration, something the unions and many managements have long opposed. But that, it seems to us, is a better arrangement than legislative arbitration which is what exists at the end of the road now. The public interest desperately needs to be inserted into the bargaining process in this particular industry and that is more likely to occur through this kind of arbitration board than through patchup jobs carried out by Congress, particularly in election years when the attraction of votes and contributions can play a major role in determining the size of the patch.

VOTING BY 18-YEAR-OLDS

Mr. BROCK. Mr. President, this is the first year in which 18-year-olds will vote in national elections, and interest has justifiably focused on their attitudes and opinions. A number of test elections have been held on campuses in various parts of the country and many more will be held in the months ahead. As chairman of the Congressional Advisory Board of the Young Voters for the President Committee, I have followed the results closely. They have shown thus far that President Nixon enjoys wide support among young people.

I have here the results of test elections held on 47 high school and college campuses. The large majority were sponsored and conducted by official organizations, such as student councils and student government associations. The others were handled by independent, nonpartisan groups. Polling was conducted in several different formats; in some cases in the form of primaries, in others as mock conventions, and in still others as general elections in which all candidates of both parties were pitted against each other. In 46 of these 47 test votes President Nixon was the winner, regardless of format.

This strong support for the President from young Americans reflects, I believe, a widespread appreciation of his record on matters of particular concern to young people—his record on the draft, on an all-volunteer military service, on the new lower voting age. On the campuses and in the voting booths young people are demonstrating their endorsement of that record.

For the most part, these test votes have been held in New Hampshire and Florida, the first two States to hold primaries. In Florida they were conducted at more than 30 colleges and universities under the auspices of the student government of Florida Technical University and were sanctioned by the State legislature. Statewide, the President received more votes and carried more campuses than any other candidate of either party. In New Hampshire he won all of the 10 test votes conducted at six high schools and four colleges.

As other polling takes place at other schools across the Nation, similar support from young people will be shown. In recent elections at the University of Wisconsin, Whitewater, and the University of Southern California, for example, the President received more votes than any other candidate.

These results confirm what many of us have already learned from visits to campuses and talks with young people in various parts of the country. And that is that young voters in the primaries to follow and, of course, the general election in November, are going to help substantially in providing President Nixon with an overwhelming victory.

Mr. President, I ask that the names of these 46 schools—where young people have demonstrated such strong support for the President—be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF SCHOOLS SUPPORTING PRESIDENT

New Hampshire College.
New Hampshire Technical Institute.
Plymouth High School.
New England Aeronautical Institute.
Kearsarge High School.
Dover High School.

Plymouth State College.
Spaulding High School.
Keene High School.
Laconia High School.
Atlantic University.
Central Florida Community College.
Chippola Junior College.
Embry.
Florida Presbyterian College.
Palm Beach Atlantic College.
Lake Samter College.
St. Petersburgh Junior College.
St. Leo College.
Seminole Junior College.
Brevard Junior College.
Gential Campus.
Valecis Junior College.
Polk Community College.
North Florida Junior College.
Rollins College.
Hillsborough Community College.
Dale-Marby Campus.
Indian River Community College.
Brevard Junior College.
South Campus.
St. Petersburgh Junior College.
Florida Southern College.
Palm Beach Junior College.
Gulf Coast Community College.
Miami Dade College (North).
Daytona Beach Junior College.
Okaloosa—Walton Junior College.
Stetson University.
University of Miami.
Florida Technological University.
Barry College.
Florida Institute of Technology.
Hillsboro Community College.
Seminole Campus.
Pensacola Junior College.
Tallahassee Junior College.
Florida State College.
University of Wisconsin—Whitewater.
University of Southern California.

AMERICAN LEGION AWARD TO LOWELL THOMAS

Mr. STEVENS. Mr. President, the American Legion presented its National Commander's Public Relations Award to the distinguished broadcaster and journalist Lowell Thomas during the Legion's recent meeting in Washington.

The award, in recognition of Mr. Thomas' pioneering efforts as a broadcaster, lecturer, and newsman, was made by the national commander of the American Legion, John H. Geiger.

Mr. President, I ask unanimous consent that the presentation be printed in the RECORD.

There being no objection, the presentation was ordered to be printed in the RECORD, as follows:

PRESENTATION OF AWARD TO LOWELL THOMAS BY JOHN H. GEIGER, NATIONAL COMMANDER OF AMERICAN LEGION

"It is always a pleasure to attend this annual Public Relations luncheon which is one of the most significant activities during our annual Washington Conference.

"We consider this luncheon session important for two reasons.

"First, it gives us an opportunity to renew acquaintanceships with our friends in the Washington media who do so much to help us get the story of the American Legion to the American people.

"Secondly, it gives us an opportunity to honor a practitioner of the communications art—an individual in media related activities who we believe has made a significant contribution to the American way of life. This honor is in the form of the National Commander's Public Relations Award.

"This year's honoree defies precise fitting into any mold. His career has spanned such a wide variety of activities—that just to read his biography inspires awe in the reader. The list of his accomplishments and honors is equally inspiring.

"Reporter—Author—Lecturer—Editor, he is all of these things and more. He is the friendly radio voice remembered from our youth—a pioneer in the use of the electronic media to disseminate the news—and when television was ready, he was among the first to effectively utilize this new form of communication.

"He is a world traveler and explorer—having unlocked for America and the world, remote and breath-taking vistas few had ever seen before.

"He has been among those who have carried the film medium to its ultimate extension through cinerama.

"This great American was born in Ohio on April 6, 1892—and the far reaches of the world have been home to him ever since. He has achieved, if any man has, legendary status in his own time.

"It is my great honor and privilege to precent to you—Mr. Lowell Thomas—the American Legion National Commander's Public Relations Award for 1972. I believe the inscription on the plaque signifying the award is the best indicator of the high esteem your fellow Americans feel for you.

"It reads:

"The National Commander's Public Relations Award, presented to Lowell Thomas, Author—World Explorer—Commentator.

"In recognition of his pioneering efforts in the audio visual field as a commentator and lecturer on our world.

"He has introduced America and the world to the concept of 'instant history'—the sight and sound recording of events as they occur. He also has brought to the people of the world a greater understanding of diverse lands and cultures.

"His sense of the American ethic and his service to humanity are a source of inspiration to us all"

Congratulations, Mr. Thomas.

ENVIRONMENT AND POPULATION

Mr. PACKWOOD. Mr. President, on March 29, Russell Train, Chairman of the Council on Environmental Quality, spoke before the Los Angeles World Affairs Council on a matter of utmost concern to many of us here in the Senate, environment and population and their close interrelatedness. Chairman Train made some astute observations about the ability of mankind to coexist with the rest of nature on the planet earth, and some of the requirements which must be met if we are to successfully reach that goal.

Because of its timeliness and relevance, I ask unanimous consent that Chairman Train's address be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY THE HONORABLE RUSSELL E. TRAIN

I am delighted to have this opportunity to address the World Affairs Council. Environmental problems are increasingly engaging the attention of nations throughout the world, and environmental cooperation among nations in rapidly becoming a major factor in international affairs. Environmental issues are gut issues that go to the heart of mankind's ability to survive in a world worth living in.

In 1968, just before the Nixon Administration took office, I chaired a conference on the subject of "Ecology and International Development." In welcoming the participating scientists to the conference, I made an observation which I will repeat in another context today:

"I suspect that a major reason ecology is so often ignored is not so much lack of expertise as the fact that an ecological awareness leads to the questioning of goals—and this is something few wish to do. The time has come when questions must be asked about the validity of development goals here and abroad . . ."

Since 1968 we have asked a great many questions, and more than ever before, Americans have become ecologically aware. As the President has observed, we now recognized that—

"At the heart of concern for the environment lies our concern for the human condition: for the welfare of man himself, now and in the future. As we look ahead to the end of this new decade of heightened environmental awareness, therefore, we should set ourselves a higher goal than merely remedying the damage wrought in decades past. We should strive for an environment that not only sustains life but enriches life, harmonizing the works of man and nature for the good of all."

This, of course, is the goal we shall pursue at the United Nations Conference on the Human Environment in Stockholm. As you know, all U.N. member nations have been invited to be represented at the Stockholm Conference this June to take stock, for the first time in history, of our international environmental condition. The success of this conference may well lie less in the specific agreements we come to there—although we expect some significant ones—than in the process of international dialogue and concern that Stockholm has brought about.

Over the past two years an unprecedented, high-level attention has suddenly been focused on the environment in nations across the world. Big and small, rich and poor, countries everywhere have had to decide first immediate and mundane issues—who will represent us, how will we select our delegation to the numerous preparatory meetings, larger issues have had to be addressed in various countries: What are our environmental problems? What are we doing to correct them? How are we organized to deal with them? How are other countries coping with their environmental problems?

During the past couple of years many countries have established a focal point of responsibility for the environment. Thus, significant reorganizations have taken place in Japan, Great Britain, Canada, France, Norway, and Australia, among others. Cabinet-level exchanges on the environment have occurred between the United States and Japan, and the United States and Canada, and heads of State now routinely include the environment on their agenda at international meetings.

Thus, the Stockholm Conference has served as an action-forcing mechanism, as we hoped it would. As world interest in the environment has grown, our expectations have also grown, and we now look forward to concrete agreements in several areas. We hope for an international convention on the control of ocean dumping, an area in which the United States has provided strong leadership, most notably in the Administration's proposed legislation which would severely curtail ocean dumping, legislation which has passed both houses of the Congress and is now in conference. We are also hopeful that the President's proposal for a World Heritage Trust, to provide international identification and uniform high standards of protection for areas of outstanding natural or cultural value, will be supported. I expect that some agreement on the establishment of institutional arrangements to conduct world environmental monitoring will be reached in Stockholm, and that a permanent new unit will be created in the United Nations to provide policy guidance on environmental issues.

The United States has worked hard to make the Stockholm Conference, and the international environmental activity it symbolizes, a success. The President has proposed a fund of $100 million to support a five-year international environmental effort in several areas, and he has pledged the United States to contribute $40 million on a matching basis to that fund. In my travels and those of my fellow Council members, Mr. Cahn and Dr. MacDonald, we have tried to work out ways of overcoming the very real obstacles to success at Stockholm. One of these obstacles is the concern that exists in some countries about the extent to which environmental progress entails economic costs, and possible effects on growth.

The question whether we should continue to regard growth—of population, the economy and resource use—as the primary measure of our progress as a society is a very important one and I want to raise it with you today. This is an issue that is bigger than the Stockholm Conference, and bigger than any individual country. It is in many ways an issue for long-term consideration beyond Stockholm. There are some who say that it is an issue for affluent societies in their post-industrial period, that lesser developed countries, or even poor Americans, cannot yet indulge the thought that growth and economic development may have to be curtailed if we are to maintain an environment conducive to personal health and well-being.

Well, I would be among the first to sympathize with the argument that economic development is essential to the good life, and that a dynamic economy is necessary to many of the social and even environmental goals of people everywhere. I believe it is of the highest priority to achieve a level of full employment that will provide all Americans the opportunity for meaningful employment—the President's policies are firmly committed to this goal.

However, I cannot leave it at that, for as a public official responsible for advising the President and the Congress on environmental matters, I feel obliged to share my thoughts on an issue which deserves urgent attention in the United States and elsewhere. Therefore, I would like today to call for a national debate on the desirability of growth, and I would like to suggest five areas where reflection and research should be directed.

I am aware that no concept is more central to western civilization than continued growth, whether it be of population, the economy, or of technology. In the United States we have conquered a great wilderness and built the largest industrial machine in the history of the world. We have greatly increased our agricultural productivity, we have been responsible for technological miracles from computers to moon landings, and we have attained an unprecedented standard of living.

In a sense, we are driven by our own prosperity. Keynesian economics has shown us how to manipulate the economy to achieve maximum growth and employment. Most of us march to the tune "produce or perish" and this has helped make of Americans a nation of high achievers.

But with all of the benefits from continued economic growth, as a people we are beginning to question whether more is really better:

Communities from coast to coast are more and more willing to forego new industries to prevent pollution and impairment of the local environment. Public debate in States such as California, Colorado, Oregon, Florida and others has begun to question the desirability of growth. Delaware, a heavily industrialized eastern State, last year called a halt to heavy development of its coastal zone.

The President's Population Commission has recently reported that ". . . There is hardly any social problem confronting this Nation whose solution would be easier if our population were larger . . ." After two years of research, the Population Commission concluded that "no substantial benefits would result from continued growth of the Nation's population."

The Club of Rome, an international group of scientists and industrialists, has recently sponsored a project at MIT on *The Limits of Growth*. That study predicts that current population, resource use and other trends will end is disaster in the next century.

One need not accept the dire hypotheses and methods underlying some of the more extreme predictions to acknowledge the fundamental validity of the questions these various groups are asking. They are questions which touch upon public policy choices in several fields, and most particularly upon environmental policy.

First is the question of the size and distribution of our population. The President has referred to this issue as "one of the most serious challenges to human destiny in the last third of this century . . ." According to the Population Commission, in the year 2000 per capital income may be as much as 15 percent higher under the two-child per family, than under the three-child growth rate.

Moreover, the anticipated distribution of future population makes clear that under even the lower population growth projections we may have to make substantial sacrifices in the quality of our lives to accommodate large numbers of people in our urban regions. While about 70 percent of the U.S. population is now concentrated in metropolitan areas, 85 percent is expected to reside there in the year 2000. In that year, more than six out of every ten Americans will live in cities of one million or more compared to four out of ten who now live there, and 50 percent will live in the huge urban agglomeration along the East Coast and adjoining the Great Lakes. Another fifteen percent will live in the area reaching from about San Francisco to Los Angeles.

This distribution will demand that we change our lives, and perhaps our values, very significantly. We must learn to adjust to higher density living, learn to share our open spaces and public facilities with more and more people, increasingly forego use of the automobile in favor of public transportation, and give up some cherished habits of privacy and solitude.

These projected settlement patterns will have serious consequences for land use and pollution. Industrial activity, transportation, and the like will be highly concentrated in large metropolitan areas. Pollution control will be more difficult, and higher levels of abatement will be imperative. The encroachment on the countryside will make the preservation of areas of critical environmental concern, such as wetlands, flood plains and scenic areas, extremely difficult.

In the face of these inevitable adjustments, it is especially tragic to learn from the Population Commission that between the years 1966 and 1970, 15 percent of all births were unwanted and 44 percent were unplanned. Since 1967 the Uinted States has contributed more than $260 million in support of a world-wide program of population control and family planning activities. Although our population problems here at home may be less severe than those of some other nations, we can no longer deny that we have them. And so I think it is time to call upon every American to consider the implications of the future population growth and distribution that has been predicted for us as it affects his own choices and values.

The second question on which we should begin to focus scientific and popular attention concerns the carrying capacity of the earth itself. We must begin to ask ourselves whether food production will continue to be adequate for population increasing at exponential rates? Whether we will in time deplete certain resources and thereby bring an end to increased industrial production? And whether we can depend on technology and the market structure to allocate resources and continue to meet high levels of productive endeavor?

One group recently addressed these questions in Great Britain and concluded that the British population is twice as large as it should be for sustained resource use. Another group, as I have already mentioned, has developed a mathematical model which purports to show that continued population growth, resource depletion and pollution would have castastrophic consequences in the next century.

I offer no conclusive answers to this question. Since the time of Malthus few people have questioned the adequacy of resources to support growth and we should not be surprised if current efforts are somewhat primitive and unsophisticated. And above all, we should not allow cosmic issues to distract us from the societal housebreaking that modern man has so recently begun—the dirty job of cleansing the air and the waters of the wastes we have disposed in them.

Nevertheless, a thoughtful civilization would be foolish to dismiss lightly the grave considerations that are involved in the examination of the sufficiency of resources to support continued economic and population growth. And so I call for a national debate upon this question, and I suggest that we consider not only the adequacy of resources and the possible technological developments that may render productivity sustainable, but that we also inquire into the ability of our institutions to cope with change, to get food and goods to where people are, and to protect us from some of our own breakthroughs when, for example, a green revolution proves vulnerable to insects, or enhanced agricultural productivity causes farmers to inundate the cities in search of work.

The institutional questions are especially critical because we must look to government to anticipate change well before it occurs. For example, population tends to build on the previous generation, and increases can be built into the system. If all U.S. families henceforth had only two children, population would not level off for 70 years. Persistent pollutants even if stopped now would continue through the ecosystem for years. Hence, our traditional response to problems, generally when they become acute, is inadequate when we have to deal with long lag times.

A third and related issue concerns resource use and the ability of the market to allocate resources in the future. Most of the earth's resources are plentiful in total but their numbers are limited using current methods of extraction. As resources become scarce, their prices will go up and substitutes will be sought or new mining methods employed. Both of these will greatly increase the costs, and at some point in time, the question must be asked whether the devotion of significant amounts of money to this end will lessen the overall productive capacity of our economy. We must ask whether the market allocates long-term needs in an effective manner or whether prices only rise as a resource is close to depletion. Instead of dismissing these matters with an ideological reflex, we must apply careful analysis for it is by no means clear that the market place and technology will solve all of our problems in an even-handed manner.

A fourth issue on which I recommend national attention concerns technology. Can we rely upon technology to continue to increase at the same rate as population, and if we can, what will be the side effects of technological progress? Acceleration of growth demands that new technology developments increase at least as rapidly as population growth. Yet we may create new problems as technologies are introduced without proper testing and analysis of their implications. These questions underscore the great need for technology assessment. Technology assessment should deal not only with hardware items like new energy technology and transportation technology, but should also explore the implications of monocultural agricultural systems, information technology and its impacts on privacy, and the like.

The issue we face here is how to develop technology in such a way as to make use of its benefits while at the same time anticipating potentially harmful side effects and taking those actions which reduce the risk of developing technology. The problem is particularly severe in that the side effects are often second or third order, their anticipation difficult, and the development of adequate safeguards complex.

A fifth issue I would pose to you is somewhat out of my area of responsibility, but is undoubtedly implied in much that I have said. That is the question of income distribution. If a policy of restrained growth were to be pursued, it is unreasonable to expect the poor to stay back while the wealthy settle in. Here at home, as well as in foreign countries, the tensions that threaten to tear apart the social order would be considerably reduced if economic circumstances were more equitable.

On the one hand, a growing economy produces a larger pie for all to share. If the pie is not increased there may be more competition for the same sized pie.

On the other hand, as the Population Commission has pointed out, reduced population growth, while it will lead to a lower GNP will lead to greater per capita income for all.

Perhaps the most perplexing problem facing any growth strategy is how to continue to maintain a high quality of life and meaningful employment opportunities without the continued burgeoning of the production of goods. The challenge will obviously entail improvements in services, education, the arts and recreation, and probably with greater amounts of leisure time. It may well be possible actually to lower production and yet maintain the same level of goods satisfaction through production of longer lived goods.

All of these questions suggest that we must improve our analytical techniques to understand the future. This means not only better projections of future trends, but a more profound understanding of the interrelationship among a wide variety of factors such as population, food, industrial growth, resources and pollution. We must improve our ability to assess technology all the way from personal conveniences to agricultural production to new energy sources and to new chemical products.

We must begin to understand the policy options before us. For example, if we understand better the impact of resource depletion and marketplace allocations, we can examine alternatives such as earlier substitution and recycling. Understanding population distribution, we can better devise our land use policies to meet tomorrow's problems. Understanding pollution trends will help us know when to change certain materials and products and how to develop better abatement technologies.

Above all, we need a national debate on growth. States and communities should begin to plan and discuss their short- and long-term alternatives for land use, population growth, and industrialization. (The President's National Land Use Policy legislation now pending in Congress would encourage the States to undertake a far more vigorous role in controlling land use and in giving direction to growth.) Federal agencies working with State and local governments should give these matters more attention and should provide greater research funds. Our academic institutions should begin to provide analyses and studies that give decision-makers a greater range of policy alternatives.

We can no longer escape our responsibilities. In the past we have acted as though our land, air, water and other resources were limitless. We have now learned from experience that this is not true. New analytical tools are beginning to give us a clue as to the potential for serious problems in the future if we do not develop policies and programs to deal with them now. If we do not think about the future, we have abdicated our most basic public and private responsibilities.

Personally, and as a father of teenage children, I should point out that I have been impressed by the way in which young people have challenged the smugness of our traditional assumptions about growth. Long before most of us, the young have identified the quality of life issue as separate and distinct from the quantity issue. Many young people have been saying in their concern for the under privileged, their openness to each other, their regard for nature and their disregard for accumulating goods, that another path toward happiness is possible. The question I wish to raise for national debate is whether it may not also be necessary.

We in the United States have a historic opportunity. The problems we face—poverty, pollution, the urban crisis—we share with all the world. Often, because we face them first, our solutions and our performance become the measure, mold the expectations, of what is possible.

It is the task of the national Administration to chart an orderly course through a confusing and disorderly time, to accommodate the need for institutional change as quickly as possible without wrecking what is essential and useful in our processes of government. We in this Administration are fully committeed to the reappraisal of the goals of technology and its consequences that is implicit in the environmental awareness, and I believe that as a people we are ready to ask some of the hard questions.

As we begin to ask them we will require not only sophistication, but also conciliation, moderation, and respect for each other's deeply felt wishes and desires. A posture of disciplined application to the business at hand is difficult to maintain in an atmosphere charged with passion as the coming debate is sure to be. But it is the only approach capable in the long run of achieving the broad goals and the better quality of life we seek.

THE BIRTH OF BANGLADESH

Mr. KENNEDY. Mr. President, the birth of Bangladesh is a saga of human courage and tragedy rarely witnessed in modern times. Millions of Bengalis perished in the violence of the Pakistan Army's repression last year, while millions more sought refuge in India, and countless thousands died of disease and malnutrition in the refugee camps. Today, because of this violence and dislocation, more millions face severe food shortages and famine.

Never has there been so massive a shift in population, In as short a span of time, as the flow of nearly 10 million refugees into India last year, and their spontaneous return this year to a free and independent Bangladesh. It is, and will likely remain, one of the great human migrations of the 20th century.

But although millions of men, women, and children found it necessary last year to flee their homes and their lands, in order to escape the genocidal violence of the Pakistan Army, most have now returned to Bangladesh, with hope and determination, to build a better future out of their destroyed lives and homes, because of the destruction and chaos caused by the civil war—because millions of people have been dislocated and economically ruined—the first year of Bangladesh will be more critical than for many new nations. For its first year will not only test whether its government survives, but also whether countless millions of its people survive hunger and disease.

Mr. President, to travel in Bangladesh today is to better understand the immensity of past tragedy, and to better comprehend the challenges which now face the Bengali people. Tragedy and triumph are everywhere present. One sees the tragedy in the massive devastation of the countryside, in the eyes of maimed children, in the whitened skeletons of mass graves, and in the faces of millions who must start life anew in the aftermath of a repression which created the most appalling tide of human misery in modern times.

The triumph can be seen in the joy of a people relieved that a nightmare of fear and violence has come to an end, and in the hope of a people who have courageously won a victory for self-determination and democratic principle. Dacca University—a primary target in the early days of the repression—reopened its doors just 2 months ago. More than 10,000 students are now registered. The vice chancellor and many of the students were among the refugees I visited in Eastern India last August.

In devastated Kushtia town—a district town some 90 miles northwest of Dacca near the Indian border—the rubble is now being cleared. And even though local resources are meager and the food and stocks very low, returning refugees have started to rebuild their shops and homes and lives. What is happening in Kushtia is fairly typical of what is happening all over Bangladesh. And if one doubts the remarkably fast and smooth return of the refugees, one needs only visit the Salt Lake refugee camp outside Calcutta, which I did on the day following my visit to Bangladesh. Last August this largest camp in India was filled with a teeming mass of humanity—some 300,000 Bengali refugees. In February, the Salt Lake camp was a ghost town, with little more than 10,000 people remaining—and they have now left for home.

I spoke with an Indian priest who succeeded reasonably well in running a medical center during the refugee influx. But he spoke of how only a few months ago he thought that the refugees would never return. He spoke of the despair that he and the other voluntary agency personnel felt in trying to battle an unending tide of refugees, disease, and squalor. But now he, too, has left, his work done. He has returned to his regular assignment with village health centers in rural India.

So, Mr. President, a visitor to Bangladesh today has the sense that things have come nearly full circle—that a tragic story, which unfolded after the Pakistan Army's repression last March 25, has now come to an end—and the people of Bangladesh have now courageously and energetically turned to the task of building their new nation and rebuilding their broken lives. In a sense, the real story of Bangladesh is just beginning.

Much of the world has eagerly and promptly responded to the appeals of the Bangladesh Government for international assistance to help meet the immediate humanitarian needs of the Bengali people. The response of the U.S. Government, however, has been unconscionably lethargic and characterized by the awkward silence that has governed this administration's attitude towards the crisis in South Asia over the past year. Our national leadership persists in rationalizing its past policy of support for a shabby and shameful military regime which sought, but failed, to suppress a free election and the self-determination of the Bengali people. We readily provided military and diplomatic support to the military dictatorship of Pakistan last year, while today we have all but ignored the appeals of the government of Sheikh Mujibur Rahman for assistance in helping to feed and rehabilitate the refugees returning to Bangladesh.

Indeed, on February 2, representatives from the administration appeared before the Subcommittee on Refugees and sought to put a cloak of normality on conditions in Bangladesh, and bluntly told the subcommittee that "nothing"—including America's long failure to recognize Bangladesh—"is standing in the way of the movement of relief supplies."

They should have gone to Bangladesh. For their testimony then as well as their statements now run counter to the facts in the field. Congress and the American people were misled once again, and the best humanitarian instincts of the American people were betrayed by the failure of this administration to recognize and act upon the humanitarian crisis in Bangladesh over the past 3 months.

After speaking with Sheikh Mujib and officials of his government—after speakink with countless representatives of the voluntary agencies, the Red Cross and the United Nations—after speaking with the head of the American mission in Dacca and members of his staff—I have little doubt that our Government's failure to recognize Bangladesh has been the main stumbling block, paralyzing the new allocation or shipment of U.S. relief supplies and funds to Bangladesh. It made our consul general an official leper, unable to represent the American people in the initial humanitarian programs of the Bangladesh Government, the United Nations, and other international relief projects, especially those involving the needed distribution of food commodities under the Public Law 480 program. And it endangered the continued functioning of many valuable long-term U.S. humanitarian projects in Bangladesh such as the Cholera Research Laboratory—one of the world's finest cholera control organizations—due to the absence of bilateral programs. Moreover, the United States has traditionally supplied the largest share of food imports into Bangladesh under bilateral Public Law 480 programs, generating local funds that have been used for a variety of essential humanitarian and developmental projects. Today, that program is suspended, having waited months for the day of recognition.

During the subcommittee's hearing on February 2, the administration's witnesses said our Government was then poised to help Bangladesh, but that our commitments were simply awaiting an appeal from the United Nations. On February 16, that appeal was made by the Secretary-General on behalf of the United Nations Relief Organization in Dacca, and it was received by silence from the administration. A full month elapsed before our Government so much as even mentioned the problem, and many critical weeks passed before we actually committed funds, and then it has been only a token contribution.

Mr. President, over the last several months we have heard a great deal from administration spokesmen about how much the United States has contributed to humanitarian relief programs in South Asia and Bangladesh. We have been told that "all of us can be proud" of the administration's record in "giving generously and promptly" to the massive relief needs of the refugees and others in distress. But the actual record shows a more complicated story. A close analysis of the administration's list of contributions reveals that all too often they reflect nothing more than a transfer of earlier commitments from one account to another. Furthermore, after public inquiries by the Subcommittee on Refugees as to the actual amount of humanitarian aid delivered to the Bengali people over the past year, the administration was forced to admit on March 15 that $97 million of the $158 million worth of aid previously announced by the President was in fact canceled.

What pride, Mr. President, can there be in a record of nondeliveries, of recommitting old commitments, of bureaucratic delays and outright cancellations of congressionally authorized humanitarian assistance to Bangladesh? Whether it is doubletalk, incompetence, or both, the administration has a sorry record over the past year in responding to the human needs of the Bengali people. It has oversold and overannounced its aid programs. It has canceled and refused to expediously spend appropriated funds. And the record reveals a clear contrast between rhetoric and performance.

The time is long overdue for this administration to turn its priorities around in South Asia. Already we have heard, and the Congress has been informed, that the administration has resumed bilateral assistance to Pakistan. But what of the other nations of South Asia? What of Bangladesh whose needs are even more pressing? What of India, which carried nearly single-handedly a massive refugee burden created by the Pakistan military repression of last year? Why cannot this administration give the same sense of priority to the needs of all the peoples of South Asia? Are we to learn that our great Nation, with its long tradition of humanitarian service, will actually resume bilateral military assistance to Pakistan before it resumes bilateral food assistance to Bangladesh?

The record is clear that there remain today massive humanitarian needs in Bangladesh. The Congress has appropriated $200 million for Bangladesh relief needs, yet we read dispatches from the field that tell us that relief programs of the United Nations have been canceled or stymied because of the lack of significant American contributions. And so in desperation, the Bangladesh Government is turning instead to the Soviet Union. Should we be proud of the fact that the Russians are proving themselves to be more responsive and efficient in humanitarian assistance than the United States?

Mr. President, American policy in South Asia remains in a shambles. The latest pronouncement from the administration suggests that, aside from our begrudging and delayed recognition of Bangladesh, little else is being done to change our relations with South Asia. But we must change, Mr. President, if this administration is to remain true to America's tradition and ideals.

So let us begin anew in South Asia—let us start with Bangladesh. For more than most new nations, Bangladesh deserves the support and assistance of the American people—not simply for genuine humanitarian reasons, but for the sake of peace and stability in all of South Asia.

Mr. President, I ask unanimous consent to have printed in the RECORD a partial text of my report to the Subcommittee on Refugees on "The Birth of Bangladesh."

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE BIRTH OF BANGLADESH

(A report by Senator EDWARD M. KENNEDY)

INTRODUCTION

Nearly one year ago, on the night of March 25, 1971, systematic violence and political repression was unleashed upon the people of East Pakistan and the crisis that would change the map of South Asia forever, was set in motion. On April 1, 1971, one week later, the Subcommittee Chairman spoke on the Senate floor of the Subcommittee's growing concern for the plight of the East Bengali people caught in the violence of the Pakistan Army, as well as the direction and course of United States policy towards the crisis.

In the months that followed—as a tide of human misery engulfed the area, and as local violence escalated into open civil warfare—the plight of the people dislocated in East Bengal, now Bangladesh, and the nearly ten million refugees who fled into India, became matters of primary concern to the Subcommittee. In addition to a field study of the situation conducted in India last August by the Chairman, the Subcommittee has also held extensive consultations with experts in this country and overseas, as well as conducted five public hearings in Washington on June 28, July 22, September 30, October 4, 1971 and February 2, 1972.

As stated in the Chairman's first report to the Subcommittee,[1] these hearings and the field investigations have attempted to focus attention on the humanitarian problems within the region as well as offer the Subcommittee's help and suggestions in a diligent effort to find reasonable and humane solutions, to them. The Subcommittee recognizes again that progress has been made in at least meeting some of the humanitarian needs. But it regrets that whatever priority our own government has attached to those needs, has been measured more by the degree of Congressional and public pressure, than by an active moral or political concern at the highest levels of our national leadership.

The current field study was conducted in Bangladesh by the Chairman on February 14–16, at the invitation of the government of Sheikh Mujibur Rahman, Prime Minister of Bangladesh. The Chairman was accompanied by the Counsel to the Subcommittee, Dale S. de Haan, and Staff Consultant, Jerry M. Tinker, who arrived in Dacca February 10. In addition to consultations in Dacca with the Prime Minister, the President, the Foreign Minister, and other senior officials involved in the Bangladesh government's relief and reconstruction program, the Chairman also visited several refugee resettlement areas in the field. In Kushtia District, along the western border with India, the team observed conditions of returning refugees, traveled by jeep through the town to observe the extent of destruction and disruption of the rural transportation system, and spoke with local relief authorities. In Narayanganj, south of Dacca, the team visited the large grain silo and observed the problems involved in the food distribution system, visited hospitals where civilian war victims were being treated, and observed the congestion of the port facilities. In addition, the Chairman made an unannounced stop at the Adamjee Jute Mill outside Narayanganj to inspect the conditions of the minority Bihari community who have taken temporary shelter there.

In Dacca, the Chairman and other members of the team had extensive consultations with both government, nongovernment and international agency personnel serving in Bangladesh. The team visited the headquarters of the United Nations Relief Operation in Dacca (UNROD) for a formal briefing directed by Mr. Toni Hagen, Chief of the U.N. Mission. A separate meeting was held with the heads of many foreign voluntary agencies now working in Bangladesh, including the International Committee of the Red Cross, CARE, Catholic Relief Services, OXFAM, the Cholera Research Laboratory and Hospital, World Council of Churches, among others. Additionally, conversations were held with the U.S. Consul General, now Chief of the U.S. Mission in Dacca, Mr. Herbert Spivak, along with members of his staff.

After leaving Bangladesh, the team visited Calcutta briefly, meeting with Indian refugee relief officials and touring the Salt Lake Refugee camp outside Calcutta. Several days were also spent in New Delhi by Mr. deHaan and Mr. Tinker, to confer with Government of India officials and voluntary agency personnel who had worked with the Bangladesh refugees while they were in India.

Prior to visiting Bangladesh, the Chairman conferred in Geneva, Switzerland with officials of the United Nations, including the U.N. High Commissioner for Refugees and the heads of the specialized agencies. He also met with the President of the International Committee of the Red Cross and officials of the United States Mission in Geneva.

The tone and purpose of the team's visit to Bangladesh, and the hope of the Subcommittee in studying the relief and reconstruction needs of the Bengali people, was stated by the Chairman in his opening speech at Dacca University on February 14th:

"I have come to Bangladesh to bring you the prayers and hopes of millions of Americans. And I am proud to stand here at Dacca University—long the symbol and focus of the Bengali struggle for self-determination, and the first target of those who sought to repress that freedom.

"It is in the finest tradition of America to embrace the cause of freedom, wherever it may be found.

"The American people are proud to stand with those who struggle for liberty, for human dignity, and for the noblest aspirations of man.

"You know that while some governments do not yet recognize you, the people of the world *do* recognize you, and they recognize all you have accomplished here in the name of *freedom* from tyranny and oppression.

"We are brothers in liberty, and no man, no policy, no government can change that fact.

"I have come to Bangladesh as one who has tried to be with you in your struggle. A few months ago, in August, I walked among the living and the dying in your refugee camps in India.

"I saw children starving and families destroyed by the ravages of war. I hoped to come to Bangladesh as well, but I was turned away by the Government of West Pakistan, a military government afraid for the world to see inside its borders.

"I was troubled, as the world was troubled, by the suffering of your people. And now I rejoice, as the world rejoices, at the bright new chapter you have written in the history of liberty on earth. . . . The prayer of Bengal's great poet and philosopher has been answered:

"Where the mind is without fear," said Tagore,
"And the head is held high;
"Where knowledge is free . . .
"Into that heaven of freedom, my Father let my people awake."

"Freedom is yours and the future belongs to the people of a new Bengali nation.

"For generations to come, the story of Bangladesh will be a lesson to the world. The birth of the Bengali nation will be an inspiration to other people in other lands—a symbol to all who share your love of life and the spirit of your courage, but do not yet share your freedom.

"There are many parallels between the United States and Bangladesh.

"Two hundred years ago, in America, ten thousand miles from where we are today, there were other people who followed the star of freedom. Our beginning was no more auspicious than your own.

"Like you, a powerful and established government was determined to deny us freedom. Like you, our early leaders endured terrible adversity before their cause prevailed. Like you, once the new American nation was born, there were those who said that such a weak and impoverished country could not survive in the modern world. They thought our great experiment in freedom would surely fail.

"And yet, we confounded all their wisdom. We were poor in everything but hope and courage. We had no wealth, but we had resources far more valuable and important—we had people with the energy and commitment to make our nation strong, and leaders with the vision to see the way, and help the people build their future.

"The revolution in America did not end in 1776. It did not die with Washington and Jefferson. It lives today in our efforts to fulfill the goal of liberty and equality for all our citizens, black and white alike.

"And it lives as well in the hopes we share for those who are oppressed in other nations.

"That is why the struggle of the people of Bangladesh has deeply touched the conscience of America. It evokes the greatest memories of our past, and demonstrates that our love of freedom transcends all thought of race or color or religion or nationality.

"The people of America were with you in recent months, although our government was not. We are with you now in spirit, and the leaders of America will not be far behind.

"The real foreign policy of America is citizen to citizen, friend to friend, people to people—forging bonds of brotherhood that no tyranny can diminish. For in a sense, we are all Bengalis, we are all Americans, and we all share the great alliance of humanity. For those who doubt that freedom and self-determination are the most powerful forces at work in the world today, let them come to Bangladesh.

"I have come here to say that America cares. I have come to learn from the father of your country, Sheikh Mujibur Rahman. I have come to talk again with those who suffered so much in the refugee camps, and to ask what my fellow countrymen and I can do to ease the pain of those who have survived and have done so much to preserve freedom.

"If any words of an American can help to heal the wounds you have endured, to reconcile those who live among you and who now must live together, they are the words that Abraham Lincoln spoke a century ago, as we neared the end of our own great civil war.

"With malice toward none," said President Lincoln, "with charity for all; with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan—to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations."

"In the spirit of the best in America, in spirit of our Constitution, and our Declaration of Independence, I salute your great new birth of freedom, and I say Joi Bangla—victory for the Nation of Bangladesh."

SUMMARY OF FINDINGS

Return of the refugees

1. The flow of the East Bengali refugees into India last year was without parallel in modern history. In little less than 200 days 9,774,140 people found it necessary to flee their homeland—to escape the repression and escalating violence of the Pakistan army—and take refuge in the crowded refugee camps of India. While two-thirds of the refugees found shelter in organized camps, the remainder camped along rural roads or lived with relatives or friends. From the beginning, the daily influx of refugees outpaced the best efforts of the Indian government and others to cope with the refugees' needs, and thousands died of exposure, diseases and malnutrition.

2. As unparalleled as was the tide of the refugees that flowed into India last year, the return movement during the past two months has been more astounding still. Officials, both of the United Nations and Indian government, as well as voluntary agency personnel, testify that between January 1, 1972 and February 11 alone—just 42 days—an estimated 7,780,000 refugees left Indian territory and returned to Bangladesh, or nearly 190,000 refugees each day. As of March 25th, nearly all of the remaining two million refugees in India had returned home. This spontaneous, mass movement of people far exceeded official plans and expectations for repatriation, and it dispelled fears

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[1] *Crisis in South Asia,* A Report by Senator Edward M. Kennedy to the Subcommittee to Investigate Problems connected with Refugees and Escapees, Committee on the Judiciary, U.S. Senate (Washington, D.C. Government Printing Office, November 1, 1971).

in many quarters that some refugees, particularly Hindu families, would never return. Almost as proof of the horror of violence and repression which drove them from their lands and villages last year, as soon as that violence ended in December—as soon as the Pakistan army was no longer operating in the countryside—the refugees began trekking homeward.

3. Elaborate plans and schedules for the repatriation of the refugees were established by both the Indian and Bangladesh governments. On the Indian side, an organized schedule for truck transportation was provided in order to take the refugees to transit centers on the Bangladesh side of the border. Supplies of blankets, rice for two weeks, and some cash was distributed to each family. On the Bangladesh side, some 250 transit camps were established to receive and temporarily house their returning citizens. After registration—to provide evidence to local village authorities of the refugee's eligibility for housing grants, welfare assistance and other benefits that the government hopes to provide the returning refugees—transportation, where possible, and additional food supplies, were provided as the refugee families headed towards their villages. To quote an official report from the United Nations High Commissioner for Refugees' Special Mission in Dacca:

"The Indian and Bangladesh authorities, military as well as civilian, are executing their part of the repatriation operation in a most admirable manner, combining efficiency with humanitarian sympathy . . . The overwhelming determination and eagerness of the refugees to return home made many decide not to await their turn in the organized repatriation, but rather leave the camps in India on their own initiative . . ."

Relief needs

1. Although the refugees are returning with great hope, they are also returning with little more than one or two weeks' food supply, with no immediate means of subsistence, and to homes that have been destroyed. As a result, there are three urgent requirements for relief assistance in Bangladesh:

a. *food* until the refugees are self-supporting;

b. *housing* to replace destroyed homes; and

c. *financial assistance* until jobs or farming is possible.

2. The Bangladesh government has established a relief assistance program, but, given the disruption and serious shortages in the countryside, these plans often remain more a hope and an aspiration than a functioning program in the field. Where possible, Bangladesh authorities are providing returning refugees with six pounds of rice or wheat each week for adults, three pounds for children, and milk for infants, until the family is self-supporting again. In addition, cash grants of Rs. 30 ($4.00) are provided each family each week. For those whose homes were completely destroyed, local authorities are providing Rs. 100 ($13.50) towards rebuilding their houses, and Rs. 50 for homes partially destroyed.

3. Relief Committees have been established at all levels of local administration, even to the village "panchayat", or local village council. In addition to monitoring relief assistance, these committees have been charged with settling disputes over the share of last year's crop when it has been grown by neighbors on the refugees' land; normally it is split 50-50.

4. Because of serious food shortages in many areas, coupled with a crippled transportation system, the government's plan for food distribution simply is not being implemented as fast as it should, if at all in many areas, and food riots are predicted in several district towns. The food crisis that not affects many areas is already beginning to undermine the massive popularity and leadership of Sheikh Mujib, threatening to destroy the new possibilities for growth and stability.

5. To combat serious food shortages in these districts, external assistance is urgently required. The U.N. Relief Operation in Dacca (UNROD) estimates that the minimum monthly requirement of foreign imported foodgrains for "bare minimum emergency relief needs" is 200,000 tons. There is also an urgent need for 200,000 tons of housing materials before the monsoon begins in late April. Further agricultural commodities, medical supplies and other emergency relief items were estimated by UNROD at 300,000 tons, for a total import tonnage of 700,000 tons. This compares with a monthly actual maximum transport capacity of 400,000 tons which means, says UNROD, that "if 700,000 tons of emergency goods arrive in Bangladesh, the monthly pile-up in ports will be on the order of 300,000 tons and the ports will be totally clogged . . ."

Relief priorities

1. The relief needs for the returning refugees are food, housing, and financial assistance, but the requirements for distributing it, and making it available and useful are:

a. restoration and reconstruction of *transport* facilities; and

b. rehabilitation of *local production*.

2. After nine months of civil strife and war, the transport infrastructure of Bangladesh has been severely disrupted. Port facilities have been crippled. The transport and off-loading capability of Chittagong port, the major sea port, is down to 70,000 tons—just 22% of capacity. Rail transport has been restored in portions of Bangladesh, but this can only be slightly increased during the coming year because two large bridges, the Hardinge and Mekna bridges, were sabotaged by the Pakistan army in the last days of the conflict and will require nearly a year to repair. Road transport can be improved only if 2,000 metres of "bailey bridges" are built before the monsoon rains come, otherwise long-distance road transport will collapse. In addition, of the estimated 8,000 trucks available in the country prior to the conflict, only 1,000 remain operational.

3. Surface shipment of relief goods from abroad, either by governments or voluntary agencies, must be coordinated and their arrival phased, otherwise supplies will simply rot in the harbors. Highest priority should be given to improving the unloading facilities at the docks of Chittagong and Chalna; for example, all 62 fork lifts available in the ports in 1970 are now completely inoperable. More bailey bridges, trucks, rolling stock for the railway are important, and consideration should be given for an emergency airlift for certain single, critical items that might have a "multiplier" effect on improving the transportation infrastructure—such as fork lifts, port machinery, and other key transportation items.

4. Additional, emergency food imports to Bangladesh are clearly needed during the coming months prior to the boro rice crop in April. However, a program that will mean "food saturation" must be avoided. As an UNROD report states bluntly: "this is not the time for the richer nations to simply dump their surplus goods into Bangladesh" and consider relief needs met. Not only will the logistic system not absorb massive amounts of food, other critical import needs will go unmet. But thus far, international pledges of donor countries to the United Nations indicate that most funds are being pledged in kind, mostly food, while only a small portion has been offered in cash.

5. Only by rehabilitating local production can the need for imports from abroad be reduced—reduced even to the deficit levels of pre-1970 production. Priority should be given to restoring local production, and donor nations should be encouraged to donate to these programs, rather than to further importations of food or supplies that can be produced in Bangladesh. For example, the United Nations recommends that immediate efforts should be made to restore the fertilizer plant at Ghorasal, which had an annual capacity of 350,000 tons of fertilizer. Instead of offering cash or equipment to restore this plant, most nations simply offered imported fertilizer. Emergency imports are, of course, required, but not at the expense, nor at the delay, of restoring local production.

6. Less than one-third of industry is now operational in Bangladesh, due to monetary, credit or organizational problems, or the lack of raw materials. In some cases, equipment and machinery has been ransacked. According to UNROD statistics, unemployment affects approximately 75% of the labor force normally employed in industrial establishments. Cottage industries, which account for approximately 57% of the total employment in Bangladesh, have also been adversely affected, especially textiles. Rather than importing clothing from abroad, which many nations have offered, priority should be given to importing raw cotton in order to re-open both mechanized cotton mills as well as provide work for one million weavers.

Rehabilitation needs

1. Because there is an inevitable connection between immediate, emergency relief needs and longer-term rehabilitation and development requirements—because today's need of a bridge to haul food supplies to avoid famine. is also tomorrow's bridge for industrial use—it is important to identify some of the longer-term rehabilitation needs. At least three areas require attention now:

a. *revival of the economy*, requiring outside monetary support;

b. improvement of technical skills through *training programs;* and

c. support of *medical programs*, including birth control.

2. The revival of the economy depends on more than just the restoration of the transportation system, as critical as that now is. There is also an immediate need for monetary stability and support, which can come only with international participation. At the earliest date the admission of Bangladesh to the International Monetary Fund should be supported by the United States Government. In addition, bi-lateral U.S. assistance through the P.L. 480 program can assist the Bangladesh government in generating rupee funds to support emergency employment programs through public works projects.

3. An area of pressing need is the establishment of special training programs for the improvement of technical and organizational skills. Such programs could well be supported by voluntary agencies with long experience in establishing and conducting short-term specialized training programs.

4. Health Needs: Months of dislocation and large-scale refugee movement, of overcrowding, disrupted water supplies and sanitation systems, and malnutrition have served to make the population of Bangladesh extremely susceptible to epidemic diseases. There are three immediate health-related emergencies in Bangladesh today.

a. Cholera and other diarrheal diseases, traditionally the largest killers in East Bengal, must be combatted on an emergency basis. At present a cholera epidemic is raging in Comilla District, and the establishment of rural treatment centers for diarrheal and cholera symptoms should be given the highest priority.

b. Smallpox prevention should be a primary feature of health programs in Bangladesh. Historically, smallpox has struck Bangladesh in five-year cycles, the last being in 1967. Most medical authorities in the field fear another major smallpox epidemic has already begun, with a serious outbreak in the south western districts of Faridpur and

Bakarganj where refugees from Calcutta are returning.

c. There is an immediate need for public health surveillance programs. Since preventive and therapeutic services cannot be extended to the entire population, a system of disease surveillance should be established as an early warning signal of areas facing health emergencies. Such a system would also report on nutritional problems, particularly among children.

d. Normal personnel resources and institutional facilities for handling these health programs, such as the Cholera Research Laboratory, are currently without adequate funds or are in organizational chaos. To meet these health emergencies, outside funds are urgently required, as well as some outside personnel.

TABLE I.—MINIMAL REQUIREMENTS FOR RELIEF AND REHABILITATION: THE ABSOLUTE MINIMAL[1] REQUIREMENTS FOR 1972 FOR PREVENTING ANOTHER MAJOR DISASTER IN BANGLADESH ARE AS FOLLOWS—

	Value	Tonnage per month
1. Rehabilitation of 10,000,000 destitute people, duration of 6 months (this includes only 250,000 houses and a total food supply of 540,000 tons)	$80, 000, 000	190, 000
2. Additional minimum food imports to add to a total of 1,500,000 tons per year (previously imported from Pakistan)	80, 000, 000	70, 000
3. Additional wooden posts for strengthening the houses and corrugated iron sheets for a total of 800,000 houses (has to be imported until end of May)	41, 000, 000	30, 000
4. Repair of major railway bridges	15, 000, 000	30, 000
5. 6,000 feet of bailey bridges average length 200 feet	1, 500, 000	
6. Reestablishing of inland water transport system, Dacca, including ferries	13, 000, 000	
7. Reconstruction of schools and their reequipment with furniture, teaching aids, and science equipment	6, 000, 000	
8. U.N. chartered vessels, 12 months	6, 000, 000	
9. Raw materials for industries, agricultural inputs, and implements and fishery equipment, POL, cement, etc	200, 000, 000	110, 000
	439, 000, 000	400, 000

[1] Source: U.N. Relief Organization in Dacca, Feb. 18, 1972.

The Bihari problem

A critical problem facing the long-term stability of Bangladesh is the settlement of the minority problem—the integration or repatriation of some 1,500,000 Bihari Muslims now residing in Bangladesh. Although most of the Bihari community speaks Bengali and have the capacity to integrate themselves into Bengali society, until now they have had no incentive to do so while the Urdu-speaking West Pakistanis were in control. There is clearly a crisis of confidence in the Bangladesh government among most Biharis today, and they will need, and have been pledged protection by government security forces. As communal passions subside in the coming months, and if adequate protection and assistance can be given during this period, there is every prospect that most Biharis can eventually be reintegrated into society. For those who cannot—who do not speak Bengali, or have ties in West Pakistan—efforts at repatriation must be made, even though the Biharis now in West Pakistan have not been fully integrated.

U.S. assistance to Bangladesh

1. Despite brave words and frequent announcements of aid, this Administration's record in responding to the humanitarian needs of the people of Bangladesh shows a sad gap between promise and performance, between aid commitments and aid deliveries. For example, on February 9, 1972, the President stated in his Foreign Policy Message to Congress:

"We responded to the humanitarian emergency. . . . We committed . . . $158 million both through the United Nations and bilaterally for the 60–70 million people in East Pakistan to help avert famine and stem the further outflow of refugees."

However, earlier testimony by officials of the Administration revealed other, somewhat conflicting, assessments of the amount of U.S. aid extended to the people of East Bengal. In a statement before the Subcommittee on October 4, 1971, Deputy Administrator of A.I.D., Maurice Williams, testified that:

"The United States contributed $37 million . . . and United States voluntary agencies $1.8 million for cyclone assistance relief. Additional relief since the cyclone . . . the United States has provided $112 million. These funds are humanitarian relief funds to help suffering people, and this suffering has arisen out of a series of disasters that have been inflicted on East Pakistan. . . . The United States share is $150 million, and most of that in food . . ."

But, later, on February 2, 1972, Mr. Williams had to revise his figures downwards:

"The United States . . . supported the U.N. humanitarian relief effort in East Pakistan with resources of food, money, boats and trucks. *The United States actually delivered about $65 million in food and essential relief*, or over two-thirds of the $94.7 million the U.N. records as pledged by all countries. This does not count additional US contributions of food from earlier programs which arrived during mid-1971 and were crucial to the overall food situation"

2. With each passing week, the total amount of U.S. aid "actually delivered" and made available to the people of Bengal, has been revised downwards by Administration spokesmen. It now is clear that the "record of pride" that the President has spoken of to the American people is less than the $158 million total reported in the President's message to Congress. It is, in fact, more on the order of $40 million—or less than 38% of the announced total. On the basis of available data, from both the Subcommittee's investigation and preliminary reports from the General Accounting Office (GAO), the following facts describe the actual level of American assistance to Bangladesh:

a. Of the total of $109.1 million in aid commitments announced last year, some $91 million in aid contracts were cancelled, or never signed or not implemented.

b. Of the total of some $38.9 million committed by the Administration in December 1970 for cyclone relief, most was not implemented until one year later, and then less than 15% of the tonnage of food grains represented in these agreements were traced as actually having been "delivered".

c. In addition to the cyclone and so-called "civil strife aid" listed above, the U.S. sold to the Government of Pakistan on November 25, 1970, 722,000 tons of wheat valued at $42.7 million, as part of the normal P.L. 480 sales program. At least 208,000 tons of this food is still unaccounted for, and some 169,000 tons was in fact sent to Karachi, West Pakistan, and not to East Bengal.

3. Preliminary reports from the GAO suggest that these instances of delayed aid commitments, of cancelled aid contracts, and of unfulfilled and undelivered aid promises, are but a sample of the failure of American humanitarian aid to the people of Bangladesh. (The Subcommittee has requested the GAO to undertake a full-scale investigation of U.S. aid to East Pakistan, and their reports are expected to be filed with the Subcommittee soon.)

4. For fiscal year 1972 the Congress has appropriated $200 million for Bangladesh relief, but less than $70 million had been committed to date, and nearly half of this, or $27 million, has gone to pay old refugee debts in India, and not to aid the new nation of Bangladesh.

5. During the last three months of crisis in Bangladesh, the Administration has thus far committed (not necessarily "delivered") $113 million. This has been composed of $71 million in P.L. 480 food, $35 million in cash for the United Nations' program, and $7 million in cash for various volunteer agency programs. This leaves approximately $130 million remaining out of the $200 million appropriated by Congress. There is an obvious need to expend these resources now, when the need is the greatest, not later.

6. No information is available to explain the Administration's lethargy in expending already appropriated and authorized Congressional funds for Bangladesh.

CONCLUSION

Bangladesh is a reality today, not simply in the minds of the majority of the Bengali people, as at the time of the Subcommittee's last visit to the field in August, but now in the fact of a government that functions, controls territory, administers to the peoples' needs, and, most important of all, holds a popular mandate to govern. These are realities that should have commanded the recognition, as well as the respect, of the United States Government from the beginning.

However, as this report documents, there can also be little doubt as to the reality of the problems that the people and government of Bangladesh face today. Not probably in this century has as many disasters fallen upon a single nation as have swept over Bangladesh in just this past year—from the natural disaster of a cyclone-driven tidal wave that killed 300,000 people, to a monsoon flood that swept away crops and homes, to the man-made disaster of civil war, which was by far the worst of all. So the refugees that have returned from India to Bangladesh are not only returning to destroyed homes and lost crops; they are returning also to destroyed lives and a devastated land. Everywhere there is evidence of mass graves, the grim evidence of the violence and repression unleashed last March 25th by the Pakistan army. Hardly a single family has remained untouched by this violence, and few do not mourn for lost brothers or sisters or parents.

But as evident as are the tragedies and the challenges facing the people of Bangladesh, so, too, are the resilience and courage and determination of the Bengali people to face the difficult tasks ahead. They are far from the "international basket case" some would have us believe, and there are many hopeful signs amidst the tragedy of Bangladesh.

First, there is now a government and a political leadership which has near-universal support, a rare phenomenon in any country. The present government of Prime Minister Sheikh Mujibur Rahman can make nearly any emergency decision without the threat of crippling opposition. As a result, long overdue reforms can be made. Sheikh Mujib can redirect the administration, set priorities for social reform and economic reconstruction, and eliminate all non-essential imports—all steps which would have been difficult, if not impossible, for earlier governments of the region.

Second, because the Bengali society and economy is largely homogeneous and relatively egalitarian, there are few of the social and political schisms and tensions that tear at most nations in South Asia. As one observer has said, "the average income is low, but this is bearable when everyone else's is, too." In addition, there has been a collective experience which has brought the majority of the people even closer, the sole exception being the Bihari community, which has been discussed earlier. There is also a sense of euphoria at having fought and achieved independence, and a collective sigh of relief at having survived a year of looting, arrest, rape and death.

Third, the "green revolution" is still ahead for Bangladesh. The new high-yielding seeds are only now being introduced, and if fertilizer consumption can be increased, and if the potential for water control can be tapped, Bangladesh will greatly increase its agricultural capacity. According to most experts, this will likely permit it to achieve self-sufficiency in food production for the first time in decades.

The potential for agricultural development is particularly excellent now that the possibility exists for joint planning of water control with India. Dams in India can reduce floods during the monsoon and increase water availability during the dry season in winter. Renewed relations with India will have other benefits as well: access to the Calcutta market for agricultural commodities, especially jute; access to cheap Indian products, such as coal, limestone, other mineral resources Bangladesh does not have; and income from Indian transit fees between Calcutta and Assam and Tripura. In short, the economic and ecological unit of Bengal will again be whole.

Fourth, Bangladesh no longer must bear the burden of a huge military establishment, nor of providing foreign exchange for civic developments in West Pakistan. Formerly, Pakistan spent approximately three percent or more of its national income on military expenditures, a high figure for a poor country, and directly related to the anti-Indian bias of the Pakistan military. These resources can now be diverted to local developmental projects. And since Bangladesh earned over half of Pakistan's foreign exchange through the export of jute, and received directly or indirectly less than 40% in return, it should now have a relatively secure basis for earning foreign exchange.

Fifth, the government of Bangladesh can rely on a relatively well established and trained civil service. Since 1963, the administrative structure of East Pakistan was progressively staffed by Bengalis. In the districts, as well as in the provincial government in Dacca, most of the civil servants today in the Bangladesh government are the same people who have held these positions over the past several years. And one of the great administrative problems of the past—the centralization of all decision-making authority in West Pakistan, which crippled local initiative in East Bengal—has now been removed with independence.

Clearly, Bangladesh faces immense problems, and there can be little doubt that it is, and will likely be, a tragically poor nation, by world standards, for many years to come. But it is far from a hopeless area, and certainly not a "basket case." Bangladesh deserves American help, not simply because it needs it, but because it has a demonstrated ability to effectively use it to help its people help themselves.

Furthermore, the immediate relief and reconstruction needs of Bangladesh are certainly not of unmanagable proportions. The requirement of two million tons of foodgrains this year is substantial, but only a fraction of what the United States alone has shipped in past years under the P.L. 480 Program to other nations in South Asia. According to United Nations estimates, the probable cost of reviving public and private sectors of industry, fisheries and agriculture for one year in Bangladesh, will be approximately $312 million. Longer-term development projects would perhaps require another $200 million.

The Congress has already authorized and appropriated $200 million, an admirable initial contribution, and additional assistance can be provided through existing P.L. 480 funds and appropriations for fiscal year 1973. If the Administration will only move ahead, if it will only marshal available resources, our nation can in fact be proud of its contribution to the relief and reconstruction of Bangladesh. But the record to date has been a sorry one of delay and inefficiency, and suggests the need for continued public and Congressional pressure in order to close the gap between repeated Administration "announcements" of aid, and actual delivery, between rhetoric and performance. We can only expect other nations to contribute more to Bangladesh if *we* take the initiative and if *we* live up to our traditional leadership in humanitarian assistance.

As the world waits, as we delay, the danger signs mount in Bangladesh. Already many of the hopeful signs for change—many of the new possibilities for growth and stability—are being sabotaged simply because food and other essential relief supplies are not effectively and swiftly being distributed in the countryside. There is an increasing danger that the massive popularity and leadership of Sheikh Mujib may be undermined in certain districts simply because of the lack of food—food that the United States and the international community can easily supply on an emergency basis, by airlift, if necessary, to avoid the clogged and damaged harbors of Bangladesh.

The needs of Bangladesh are known, the resources are there to help, we need only an Administration that will act now, not later.

RECOMMENDATIONS

If nothing else, the force of historical inevitability is finally bringing our national leadership to recognize the diplomatic reality of Bangladesh—although American foreign policy seems to persist in failing to recognize other new realities in South Asia. But the failure of American policy in the region has not really been *when* diplomatic recognition would be offered, but *how*: begrudgingly, with missed opportunities, and a time-lag that has had a tragic impact upon the humanitarian assistance program in Bangladesh. Already, America's delay in responding to the immediate humanitarian needs of the Bengali people for food and relief supplies, is serving to undermine what progress the Government of Bangladesh has made in bringing peace and stability to the countryside. Further delay will only further contribute to the disaster.

To learn the lessons of Bangladesh—for America to resume its traditional leadership in responding to humanitarian needs—our government must finally turn its policy around in South Asia and begin to move on several fronts.

1. Resumption of Bi-lateral Relations with Bangladesh:

With diplomatic recognition our government must resume those productive bi-lateral relationships which we have had with the people of Bengal over the past two decades. A host of important American bi-lateral projects—from the excellent Cholera Research Laboratory to essential P.L. 480 funded programs—have all been seriously endangered during the long winter of this Administration's non-recognition of Bangladesh. The importance of our role in the new multilateral programs now being undertaken through the United Nations must not diminish the importance of our special bi-lateral assistance programs, such as the Cholera Research Laboratory in Dacca. A renegotiation of the P.L. 480 food-for-peace program would have advantages for both the government of Bangladesh as well as for the American aid program. Already, in the absence of funds generated by the P.L. 480 program—which have traditionally been used by U.S.A.I.D. to finance employment generating rural public works projects—the United Nations has received proposals for a U.N. "Food Bank" to work along similar lines. Whether bi-laterally, multi-laterally, or both, it is clear that there is an urgent need for a P.L. 480-type program in Bangladesh today.

2. Emergency Response Needed to Humanitarian Program:

The Administration has been unconscionably lethargic in its response to the emergency humanitarian needs of Bangladesh. For too many months our government has allowed the lack of recognition to stall our nation's ability to meaningfully contribute to the relief needs of the Bengali people. Relief requirements have been known for months, and funds have long been available—including $200 million appropriated by Congress. Yet little has been spent or ear-marked of this appropriation for Bangladesh.

Nothing should stand in the way of allocating that money—now, not later—and to respond on an emergency basis to the following relief needs of Bangladesh: food supplies, transportation equipment, and cash to support the importation of critically needed relief supplies.

Consideration should be given to funding a temporary emergency airlift of high-priority relief supplies and to support distribution programs within Bangladesh. For example, an airlift of such items as fork lifts, port machinery, and other key transportation items that serve to speed off-loading at ports would have a "multiplier" effect on the relief effort. A single fork-lift delivered immediately to Chittagong port would be more than worth its air freight costs in how much it would help unloading of relief supplies and food commodities now idly waiting on ships in the harbor.

3. Financial Support for the United Nations Program:

Our government should provide leadership in mobilizing further international support for the United Nations relief program in Bangladesh, organized now under the format of a special United Nations Relief Organization in Dacca (UNROD).

Although UNROD has made an important contribution to the initial, emergency relief needs of the Bengali people, and remains a useful channel for short-term humanitarian relief efforts, it must not be allowed to become the permanent U.N. organization in Bangladesh. If an unfortunate parallel to the United Nations Relief and Works Agency (UNRWA) in the Middle East is to be avoided, the international community must now look towards the evolution of UNROD into a regular U.N. office administering regular U.N. programs, such as UNICEF, WHO, FAO, UNDP, etc. The future of Bangladesh requires more than simple humanitarian assistance, and only a more permanent U.N. role can effectively contribute to longer term developmental objectives.

4. World Bank Support:

Our government should provide leadership in encouraging the admission of Bangladesh into the World Bank system, and should also express our willingness to join international arrangements to assist in the reconstruction and long-term development of Bangladesh. Only through support of such international institutions as the World Bank can Bangladesh begin to stabilize its economic relations with other nations and promote its trade in the international market.

5. Assistance to the Biharis:

The problem of the integration of the minority Bihari Muslim community in South Asia has been a source of instability and friction for a generation, both in Pakistan and East Bengal. It now poses one of the most severe tests for the new nation of Bangladesh, as well as for relations between the other nations in South Asia. The international community can assist the Bihari's by first, supporting the work of the International Committee of the Red Cross, which has been asked by the Government of Bangladesh to provide temporary relief to the Bihari community until the Government's program is fully operational. The Red Cross should also be asked to expand the purpose of its mission in Bangladesh to include the stationing of international observers to assist the Government in fulfilling its sincere pledge of protecting the Bihari community.

Secondly, our government should encourage and facilitate arrangements for a population exchange, where possible, between Pakistan and Bangladesh of minority communities wishing to leave. Preliminary repatriation plans have been made by the representatives of the Secretary-General of the United Nations, and contacts established with all governments in South Asia. These constructive approaches should be actively supported by the United States.

6. Renewed Need for a Bureau of Humanitarian and Social Services:

An important lesson for the U.S. government from the experience of Bangladesh should be the recognition of the need for a continuing mechanism within the Department of State to give priority and coordination to U.N. humanitarian programs.

The President, in consultation with appropriate committees of the Congress, should issue an executive order establishing a Bureau of Social and Humanitarian Services within the Department of State. This Bureau should be headed by an Assistant Secretary of State. The time is long overdue to raise the level of responsibility and encourage stronger national leadership in international humanitarian and refugee affairs.

There continues to be no administrative unity among the various departments and bureaus of the executive branch which are presently concerned with refugee and humanitarian affairs. There is no single office to give guidance and impulse, no regularized decision making process, no ready mechanism to quickly evaluate and respond to frequent emergencies, no central office controlling and weighing over all allocations of resources, and little high-level interest and concern in the effective operation of the various humanitarian programs.

Nothing illustrates more the shortcomings in this significant area of public policy, than recent developments involving America's response to humanitarian needs in South Asia, the uncoordinated response to the human need produced by last year's earthquake in Peru, our ambivalent and tardy response to the massive human tragedy produced by the Nigerian civil war, and our early failure to anticipate and identify the very serious problems of displaced persons and civilian casualties in South Vietnam and Laos, which even today are not being accorded the priority they so rightly deserve.

NATIONAL WEEK OF CONCERN FOR POW/MIA'S

Mr. BROCK. Mr. President, marking one of the most moving and appropriate observations of the National Week of Concern for Prisoners of War/Missing in Action, Tennessee was one of the first States to validate legislation which will provide free tuition for the children of POW/MIA servicemen.

Introduced in the House by Representative Dale Engstrom and in the Senate by Senator Ray Albright, both from Hamilton County and my hometown of Chattanooga, the proposal received enthusiastic support from the Tennessee Legislature. Tennessee has some 63 families who have a member either held as prisoner of war or missing in action in Southeast Asia.

I want to commend Ray Albright, Dale Engstrom, and the entire Tennessee Legislature for making a real contribution to the welfare of our POW/MIA families during the second National Week of Concern for POW/MIA's.

EARTH WEEK

Mr. NELSON. Mr. President, our reports strongly indicate that Earth Week this year, April 17–23, will be even more widely observed than it was in 1971. The President has once again proclaimed this national environmental observance, and 45 Governors have proclaimed it or confirmed their intentions to do so. More than 100 mayors have already proclaimed Earth Week, and many schools and communities are planning Earth Week activities.

At the request of environmental and educational groups, I wrote articles last year and this year reporting Earth Week aims and activities. In view of the widespread interest in Earth Week once again, I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From National Education Association Publications—1971]

EARTH DAY—FIRST STEP TOWARD SAVING OUR ENVIRONMENT

(By GAYLORD NELSON)

America is finally awakening to an environmental crisis that has already spread around the world. Only now are we beginning to realize that nowhere in this country is there a breath of unpolluted air, and that nowhere is there a lake or a river unaffected by the waste products of our society.

The first Earth Day, held on April 22, 1970, was a dramatic recognition on the part of the American people that the crisis exists and that it is everybody's problem and everybody's business to do something about it.

The participation was overwhelming, with some 10,000 high schools and grade schools, some 3,000 colleges and universities, and several thousand communities involved in programs and clean-up efforts.

One of the most heartening experiences of Earth Day was the quick and enthusiastic response of the nation's young people. Across the country, students from elementary school to college level joined hands to express their concern about the future of the world's physical environment.

In classrooms from Maine to California, schoolchildren focused their attention on environmental pollution by setting up room displays, presenting skits and puppet shows, and even composing songs warning of environmental danger. Some walked to school to note their concern about pollution from motor vehicles, while others took a hard look at their littered world and set out to beautify some part of it.

For example, third-grade pupils from San Francisco's Francis Scott Key School turned beachcomber to pick up beer cans, bottles, and other debris from a stretch of ocean beach.

In Ripon, Wisconsin, local merchants offered to pay schoolchildren a penny apiece for each discarded can they could collect from the countryside. The merchants expected to pay $100, but the children brought in so many cans that the total outlay was $250.54.

In Topeka, Kansas, and San Diego, California, young people avoided using automobiles and buses (major pollution sources) to get to school. Instead, they showed up on bicycles, on horseback, on roller skates and skateboards.

The widespread involvement and initiative of young people in Earth Day was a very heartening sign. As the new generation, they will inherit the pollution of the present. They have every right to start being concerned and involved now.

The next question is how can young people, as well as adults, establish Earth Day on a year-round basis?

The answer is for everyone to become a better citizen of the environment in two ways—by working with other people to accomplish anti-pollution goals, and by doing what he can to make the world a more decent place.

Young people can continue Earth Day activities in their schools and communities by establishing programs with definite goals and by working to solve the problems of their local environment.

The first step in such a program is to make an environmental inventory of the community, asking the questions: What are the sources of pollution in the lakes and rivers? What is the nature of the pollutants? What is the source of pollution in the air? What is the status of the local parks? Find out what can be done about each problem.

On those projects you can do something about, prepare a plan of action. Organize local groups—such as Boy Scout and Girl Scout troops, school classes or religious organizations—to work together.

For example, once you have found a dirty hillside, river bank, beach or roadside, inform the landowner that your group would like to clean it up. Be sure to tell the local newspapers, radio and television stations what you are doing.

Ask the city refuse collection department how to recycle the types of waste you expect to collect. Ask if any of the materials—such as aluminum cans, steel containers, paper, scrap iron—can be recycled and separate it into piles.

Sponsor assemblies at your school on pollution problems, and present programs at churches and synagogues and for community organizations such as the Chamber of Commerce, the Kiwanis Club, and the Lions Club.

Finally, help your community by finding projects your group can carry out. Plant flowers or trees in park areas and make sure there are trash containers in public places.

Earth Day, which soon became Earth Week, was an important first step in bringing Americans of all ages together in the fight to save the environment. But Earth Week should be celebrated every year, and a resolution calling for Earth Week to be proclaimed in the third week of every April was introduced at the National Governor's Conference last August.

You can help by writing to your Governor and asking him to proclaim the week in your home state. Write your Congressman too, and tell him you support a nationwide Earth Week.

Remembering Earth Week every year would help us measure our progress. In looking back at last year's projects, it would tell us if we are making headway in dealing with environmental problems. In looking forward, it would help us plan new projects to meet the most critical challenge facing mankind.

[From National Education Association Publications, 1972]

EARTH WEEK, 1972—APRIL 17–23

(By Senator GAYLORD NELSON)

Because of the overwhelming public concern peacefully expressed in Earth Day 1970 and Earth Week 1971, the environmental issue has now become a part of the national political dialogue, which was a prerequisite for achieving meaningful action on a broad scale.

However, actually solving our environmental problems is going to take decades, not just years, and will require a lasting commitment by all institutions and citizens.

Thus, Earth Week should be permanently established as a continuing educational effort—a time each year to renew the nation's environmental awareness and for local environmental inventories and reviews as well as special public and media reports.

This year, Earth Week can uniquely contribute to two special environmental needs:

Establishment of environmental education as an integral part of our schools and of environmental awareness as part of the daily community life;

Assurance that in the upcoming elections throughout the country, all candidates seriously address and take specific positions on the environmental issue.

The great burst of public creativity and enthusiasm from Earth Day 1970 and Earth Week 1971 has produced models for a new environmental citizenship and planted the seeds for a new environmental ethic.

An indication of the overwhelming interest in the environmental issue is that more than 3,500 applications have been filed for aid under the Environmental Education Act since the program was established in 1971.

Because the Administration has sought only a small share of the money Congress authorized in the Environmental Education Act, only a few projects have actually been funded. Strong public support is needed to more adequately fund this important Act which aims at stimulating environmental education pilot projects around the country.

In Ann Arbor, the University of Michigan has established a community garden to demonstrate for teacher workshops and school field courses a chemical-free alternative for the home-growing of flowers, vegetables, and lawns. It also provides access to a garden for people who can't have one of their own.

In Menlo Park, California, trained student teams will set up and promote the use of a waste recycling program in the community.

In San Benito County, California, a consumer's group will provide for disseminating environmental, social, and health information to a target population of Mexican-Americans.

In the Midwest, students from Wisconsin's Beloit College toured 75 secondary schools in the Mississippi River Basin in what they called an EnvironVan, bringing pollution control demonstrations, workshops, lectures, and field trips to more than 25,000 students.

In Manchester, N.H., an 18,000-acre swamp will be the focus of ecology instruction for local college and high school students.

In Pittsburgh, a citizens' ecology clearinghouse will train 20 high school students who will return to their classrooms with the knowledge, leadership techniques, and resources to develop a cadre of students to work for environmental improvements.

In Pontiac, Michigan, the board of education is building an alternative school for 2,000 students in the inner city, with environmental education emphasizing the day-to-day, large-city problems which are the immediate concerns of the students.

In the Washington, D.C., metropolitan area, what appeared to be the nation's first "environmental fair" was held for metropolitan area high school students at a regional shopping center, displaying for hundreds of thousands of citizens the results of such student projects as inventories of area pollution and demonstration of the impact of pollution on aquatic life.

The challenge now is to adapt these pilot efforts into permanent environmental education and citizenship programs in our schools and communities nationwide. Earth Week can be the launching point for such an effort.

And, Earth Week this year provides the opportunity for the environmentally concerned to more fully exercise their responsibilities in the political process.

The course of environmental programs will be strongly influenced for the next several years by positions political candidates at all levels take in the upcoming elections.

In 1968, not one of the presidential candidates saw the environmental issue as important enough to merit their serious attention. Just two years later, however, the President declared it as the issue of the 1970's, and public leaders at all levels were addressing environmental concerns.

As the nationwide environmental awakening has so dramatically shown, supporting strong environmental measures is not only good sense, but good politics and good economics.

If we started making a reasonable investment now in pollution control, the average American family would in a few years be realizing $200 in annual savings from a cleaner environment, according to a recent report.

This is the estimate of a National Wildlife Federation study based on current figures.

According to the Federation report:

Currently, air and water pollution cost each American family an average of $481 a year in damages. The total national damage bill is $28.9 billion a year.

By contrast, estimates are that a cleanup program would require $170 per year per family, $10.2 billion for the nation.

For this investment by all of us, the pollution damages would be reduced by some $22.2 billion, $370 per family.

The net savings would be $200 per family, $113 a year for air cleanup by 1976 and $87 a year for water cleanup by 1980, according to the National Wildlife Federation study.

By bringing about a more realistic balance sheet to measure costs and benefits, concern for environmental quality is becoming one of the most positive forces in American life today.

But where short-term gain, despite long-term consequences, is still the priority, the call to "wait a minute" on environmental measures still has a strong appeal.

As a dramatic example, strip mining operations carve up Appalachia at an accelerating pace, reaping immediate profit but destroying the region's economic future.

Similar examples can be found in almost every community in America, whether involving highway or airport locations, dams and reservoirs, pollution sources, the inner-city environment, scenic areas, recreation resources, noise levels, solid waste disposal, or building programs—or all these problems together.

Environmental action in the public interest on these key matters will depend on the continued public presence.

As an immediate public action priority in this election year, environmentally concerned individuals and groups should begin discussing environmental issues with all candidates for public office at all levels.

Earth Week in April provides every community a special time to determine its environmental issues and, through public forums, the candidates' specific environmental positions and plans. In this way, we can assure that the environment is a high priority election concern.

Finally, the nationwide review of environmental issues and our future needs provided by Earth Week should be especially useful in view of the United Nations Conference on the Human Environment scheduled for June in Stockholm.

In just two years, the environmental movement has blossomed from the peaceful nationwide demonstration of Earth Day 1970 to a global environmental conference.

We are taking the first big steps toward restoring harmony between ourselves and the fragile systems that support life on this planet.

We are beginning to adopt a perspective which views mankind as *of*, not *above*, his environment.

The challenge now is to translate this new view into a way of life, a joint effort by the citizens of all nations to restore and protect the integrity and livability of their environment.

ALASKA OIL PIPELINE BATTLE

Mr. STEVENS. Mr. President, the issues involved in the decision as whether to construct an oil pipeline across the State of Alaska, from the vast oil deposits at Prudhoe Bay to Valdez, vitally affect not only Alaskans, but every American.

The tremendous energy demands that will confront our Nation in a few years, at a time when we will be relying increasingly on foreign oil from the turbulent Middle East, make it mandatory that the Alaska pipeline be constructed without delay.

A report in the Congressional Quarterly of March 11 gives a comprehensive and unbiased report of these issues. I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ALASKAN OIL: POWERFUL INTERESTS IN PIPELINE BATTLE

Two powerful coalitions of organized interests are grappling over an issue affecting the last great wilderness in the United States—Alaska. One of the richest oil strikes in American history touched off the controversy.

The battle lines are smudged but with exceptions shape up something like this: On one side are important elements of the oil industry and their allies in government and industry; on the other are environmental groups and their allies.

The division is complicated by costly company efforts to solve environmental objections, spurred by the virtual certainty of unprecedented government controls resulting from ceaseless prodding by environmental pressure groups.

Despite overlappings that obscure the line between the forces—such as financing of some environmentalists by their nominal opponents—a basic gap exists in this as in many other environmental disputes: Between those who give higher priority, on one side, to an energy crisis and, on the other, to an ecology crisis.

Both sides say their stance serves the public interest. Both possess strong political connections. Figures in both broad factions express hopes of reconciling differences, in spite of strong words exchanged in the recent past. Though working arrangements may emerge, political, economic and philosophical differences going beyond environmental topics render complete accord unlikely.

Immediately at stake is what industry sources say is the costliest private construction project ever—a proposed 48-inch pipeline to haul oil 789 miles south across Alaska. Estimated construction costs have swollen to well above $2-billion in three years of struggle.

Proponents say the oil is badly needed by the nation and cite benefits from development of Alaska's natural resources. They say the benefits far outweigh ecological risks which they pledge will be held to a minimum under close government supervision.

Opponents express unresolved fears of damage to the environment from construction of a pipeline carrying 170-degree oil across tundra and permafrost. They cite the possibility of pipeline breaks from earth settling or tremors, speak of potential oil spills from supertankers and have challenged in the past whether native rights were adequately protected. They also question whether alternatives have been sufficiently considered.

BROADER ISSUES

Some liken the situation to that prevailing in the early American West. Upon resolution of the pipeline dispute hinge at least in part broad questions of public policy. Some of these pertain to:

Development of huge new oil resources on

Alaska's icelocked North Slope at a time when the United States is relying increasingly on foreign oil, particularly from the turbulent Middle East during the next decade. (*Middle East pressures, Weekly Report p. 242*)

The opening to development or widespread use for business or recreation of the largely virgin lands of Alaska, one-fifth the area of the other 49 states put together and more than twice as big as Texas. Alaskan state officials make it plain they look to mineral income to develop and operate the nation's 49th state.

A test of the growing activism among lawyer groups that have sprung into existence to convert lobbying into a sophisticated triple threat operating in the judicial, executive and legislative arenas at federal, state and local levels.

This has carried over into a general election year which finds national and international environmentalists with strong support from tax-exempt foundations bucking heavily financed oil, shipping and financial interests. The dispute is inextricably bound up in politics.

David R. Brower, former Sierra Club executive whose three-year-old organization, Friends of the Earth, has been a prime foe of the pipeline to date, indicates he is ready to postpone Alaskan oil development for at least several years longer. "We must cut down on the use of fossil fuels," Brower said in January 1972. "We need a cooling of this drive for more energy."

A tax-exempt companion group formed by Brower when he founded the politically oriented Friends of the Earth is called the John Muir Institute for Environmental Studies. It was made possible by an $80,000 gift from Robert O. Anderson, chairman of Atlantic Richfield, one of the main oil companies seeking to develop Alaskan oil.

E. L. Patton, president of Alyeska Pipeline Service Company, the consortium proposing to build the pipeline, termed some charges by Brower and other environmentalists "balderdash" and another—that the Alaskan oil was destined for Japan—"plain foolishness" when Patton and Brower spoke on the same platform before the Pipe Line Contractors Association.

The Sierra Club, veteran of wilderness fights from the Redwoods to the Everglades and now shifted onto an international footing, says the story of Alaska "and of the pressures to extract the black gold that lies beneath it reflects nothing less than a test case of what the struggle to save this planet is all about."

Dispute Over New Law. In the middle of the Alaska oil controversy is the National Environmental Policy Act of 1969 (42 U.S.C. 4321). Largely the outgrowth of legislation proposed by Rep. John D. Dingell (D Mich.) and by Senators Henry M. Jackson (D Wash.) and Edmund S. Muskie (D Maine), both candidates for the 1972 Democratic nomination for President, it was virtually unopposed when enacted by Congress late in 1969 and was promptly signed by President Nixon—symbolically, as his first official act of the 1970s.

The law declares as national policy the safeguarding of the environment and requires that environmental impact must figure in government decision making. The law has been a primary tool of opponents to the Alaska pipeline as originally conceived.

As the formerly non-controversial law becomes more and more the legal basis for bitter environmental struggles over large stakes, attorneys on both sides say the legislation may have been a sleeper subject to court interpretation as granting powers which few members of Congress realized when they voted for it. One writer on environmental law likened the act's use in the Alaska pipeline case to the role once reserved for the Colt revolver: "the great equalizer."

Court rulings in the Alaska pipeline or others of the approximately 160 cases pending under the law may ultimately determine the extent to which the 1969 law established, as some suggest, a new judicial veto power over the executive branch based on an open-ended definition of environment.

"Life under the National Environmental Policy Act has approached chaos," the *Oil & Gas Journal* said editorially in 1972. Noting the proliferation of court suits filed under the act and resultant delays in major decisions from executive departments and agencies, the publication for the domestic oil industry said:

"Under this hopeless confusion, the environment is running the government."

ALASKA PIPELINE

An Atlantic Richfield Company well struck oil commercially on Alaska's North Slope in the summer of 1968. The major obstacle to large-scale development of the field was the difficulty of transporting the oil at economical cost from the frozen north to markets far to the south.

In October 1968, eight companies based in the United States, Canada and Great Britain set up the Trans-Alaska Pipeline System (TAPS) as a joint enterprise. The major participants, directly or through subsidiaries, were Atlantic Richfield, Humble Oil & Refining Company and British Petroleum. Humble is a subsidiary of Standard Oil Company (New Jersey), world's largest oil company.

The state of Alaska, which included 2 million acres of North Slope land in its selections for state ownership in compliance with the Alaska Statehood Act of 1959, auctioned leases Sept. 11, 1969, netting $900-million from oil companies.

By January 1972, about 15 billion barrels of proven reserves had been located on the Beaufort Sea, site of the Atlantic discovery. Of these, Atlantic Richfield's proven reserves were about 1.9 billion barrels. Some estimates are that Alaskan oil reserves may exceed 100 billion barrels, far beyond known U.S. reserves.

The oil companies applied for permits to build an access road and a four-foot pipeline to Valdez in south Alaska. Tankers would carry the oil from that point.

Opposition to the proposed pipeline soon crystalized. Opponents attacked on several fronts in the courts, Congress and administrative agencies. They opposed the building of a road—first step toward actual pipeline construction and toward opening up the Alaska interior—and pressed Alaskan native land ownership claims.

Various groups said the heated oil could melt the terrain along the pipeline, causing changes in a delicately balanced environment lacking the capability of regenerating itself because of climate. They said caribou migrations might be interfered with by fear of crossing the pipe where it was above ground. Ecologists have cited dangers of pollution from oil spills in Alaskan waters and in Washington's Puget Sound to which oil would be hauled. Some have challenged the need for the oil and suggested Japan would become the major recipient.

In a move which has held up the pipeline until at least 1972, three plaintiffs on April 13, 1970, won a preliminary injunction from U.S. District Court Judge George A. Hart Jr. in Washington, D.C.

The judge barred the secretary of the interior, who was then former Alaska Gov. Walter J. Hickel, from issuing a pipeline construction permit. Plaintiffs obtained the order on grounds that the Interior Department had not complied with the National Environmental Policy Act of 1969 by filing a detailed statement on environmental impact of the pipeline proposal and of possible alternatives.

The injunction obtained by the Wilderness Society, Friends of the Earth and the Environmental Defense Fund Inc. of New York continues in effect until Hickel's successor, Secretary of Interior Rogers C. B. Morton, publishes a final environmental impact statement. The statement has been postponed several times.

Alyeska Formation. Trans-Alaska Pipeline System was succeeded by the Alyeska Pipeline Service Company, the formation of which was announced Aug. 28, 1970, at Houston, where Humble Oil has its home office. The group was set up to build and operate the pipeline, with original owners retaining their interests. It was headed by Edward L. Patton, former manager of a new oil refinery complex opened by Humble near San Francisco Bay.

It was Humble that conducted a multimillion-dollar exploration of possible tanker routes from the Arctic in 1969, during which the icebreaker S.S. Manhattan became the first commercial ship to make a round trip through the Northwest Passage. Humble also has studied the feasibility of building a new pipeline across the United States from Puget Sound to the East Coast.

Alyeska has sought in various ways to counter the claims of its foes. For example, it published a full-page advertisement in *The New York Times* Jan. 19, 1971, giving assurances concerning the pipeline and the environment. "Geology and engineering are our areas of basic competence," the ad said. After discussing some of the questions involved, Alyeska said:

"On this you have our pledge: The environmental disturbances will be avoided where possible, held to a minimum where unavoidable and restored to the fullest practicable extent. And we can assure you that the pipeline will be the most carefully engineered and constructed crude oil pipeline in the world."

PIPELINE INTERESTS

Major proponents of an Alaska pipeline and the opening of the Alaskan frontier to development include:

Oil and gas interests.

The state of Alaska, admitted to the Union in 1959.

Shipping, and lumber and other natural resources interests.

In addition to business and financial interests, there also are those motivated by considerations of national security and the desire to develop domestic oil as insurance against excessive reliance on foreign oil. Without referring to Alaskan oil, Adm. Elmo R. Zumwalt, chief of naval operations, told the Senate Armed Services Committee Feb. 22, 1972, that "the potential for coercion of the U.S." when the United States imports about half its petroleum perhaps by 1985 "is ominous when one considers the measures the Soviets are taking to improve their navy."

OIL COMPANIES

The original oil consortium that formed Trans-Alaska Pipeline System consisted of:

Amerada Hess Corporation; Atlantic Pipe Line Company, a subsidiary of Atlantic Richfield Company; B. P. Pipe Line Company, a subsidiary of B. P. Alaska Inc.; Home Pipe Line Company, a subsidiary of Home Oil Company of Canada which later sold its interest; Humble Pipe Line Company, a subsidiary of Humble Oil & Refining Company, which in turn is a subsidiary of Standard Oil Company (New Jersey); Mobil Pipe Line Company, a subsidiary of Mobil Oil Company; Phillips Petroleum Company, and Union Oil Company of California.

Corporate officials, with some of the directorships or other positions they have held—within the period 1970–72 unless specified—included:

Amerada Hess Corporation.

Chairman and chief executive officer: Robert O. Anderson, director, American Petroleum Institute (API).

Chairman, executive committee: Leon Hess.

President: A. T. Jacobson, director, API.

Atlantic Richfield Company.

Chairman and chief executive officer: Robert O. Anderson, director, Chase Manhattan Bank; director, Chase Manhattan Corporation, a one-bank holding company; director, Pan American World Airways Inc.; director, Columbia Broadcasting System Inc.; director, Smith Kline & French Laboratories; chairman, Diamond A Cattle Company; director, API; chairman, Aspen Institute for Humanistic Studies; director, Resources for the Future; vice chairman, John F. Kennedy Center for the Performing Arts; member, finance committee, Nixon for President, 1967–68; Republican national committeeman, New Mexico, 1968—.

Vice chairman: Rollin Eckis, director, API.

President: Thornton F. Bradshaw, director, Atlas Chemical Industries Inc.; director, National Industrial Conference Board; director, Foreign Policy Association; director, API.

Directors include:

Courtlandt S. Gross, president, 1956–61, and chairman of board, 1961–67, Lockheed Aircraft Corporation, now chairman of Lockheed finance committee and director; director, Smith Kline & French Laboratories; director, Girard Company.

Robert S. Ingersoll, chairman and director, Borg-Warner Corporation; trustee, Aspen Institute for Humanistic Studies; confirmed Feb. 25, 1972, as U.S. Ambassador to Japan.

Ellmore C. Patterson, chairman and chief executive officer, Morgan Guaranty Trust Company of New York; chairman and chief executive officer, J. P. Morgan & Company Inc., a holding company; director, Atchison, Topeka & Santa Fe (AT&SF) Railway; trustee, Carnegie Endowment for International Peace; trustee, Alfred P. Sloan Foundation.

Kendrick R. Wilson Jr., chairman of board, Avco Corporation, a conglomerate.

Humble Oil & Refining Company, subsidiary of Standard Oil Company (New Jersey).

Chairman and chief executive officer: M. A. Wright, various posts with Standard Oil (New Jersey) culminating in executive vice president, 1960–66, when he took the top post with Humble; president, 1966–67, and chairman of board, 1967–68, U.S. Chamber of Commerce; director, National Wildlife Federation.

Vice chairman: Charles F. Jones, director, National Science Foundation.

President: T. D. Barrow.

Standard Oil Company (New Jersey)

Chairman of board, chairman of executive committee and chief executive officer: John K. Jamieson. Canadian-born, moved to United United in 1958, naturalized in 1964; executive vice president and director, Humble Oil Refining Company, 1962–63; president, Humble, 1963–64; executive vice president, Standard Oil (New Jersey), 1964-65; president, Standard Oil (New Jersey), 1965–69; chairman, 1969——; director, Chase Manhattan Bank; director, Chase Manhattan Corporation.

President: Milo M. Brisco, director, First National City Bank, New York City; director, First National City Corporation; member, New York Urban Coalition, 1967——.

Directors include:

Bert S. Cross, chairman of finance committee and director, Minnesota Mining & Manufacturing Company; chairman, National Industrial Pollution Control Council.

W. H. Franklin, president and director, Caterpillar Tractor Company.

T. Vincent Learson, chairman and chief executive officer, International Business Machines Corporation (IBM); director, Carborundum Company.

Donald S. MacNaughton, chairman and chief executive officer, Prudential Insurance Company of America; on policy council, Common Cause.

Mobil Oil Corporation.

Chairman and chief executive officer: Rawleigh Warner Jr., director, API; director, Time Inc.; director, Caterpillar Tractor Company; director, Bedford Stuyvesant Development & Service Corporation.

Directors include:

Grayson L. Kirk, president emeritus, Columbia University; finance committee and director, IBM Corporation; director, Council on Foreign Relations.

Lewis A. Lapham, vice chairman and director, Bankers Trust Company; president and director, Bankers Trust New York Corporation; director, H. J. Heinz Company; director, Tri-Continental Corporation; president of Grace Lines Inc., 1953–59.

George C. McGhee, various ambassadorial posts with State Department plus assistant secretary for Near Eastern, South Asian and African affairs, 1949–51; chairman, policy planning council and counselor, State Department, 1961; under secretary of state for political affairs, 1961–63; special assistant to chairman of Urban Coalition, 1969–70; director, Aspen Institute for Humanistic Studies.

Albert L. Williams, chairman of finance committee, member of executive committee and director, IBM Corp.; director, First National City Bank; director, General Foods Corporation; director, Eli Lilly & Company; director, GM Corporation; trustee, Alfred P. Sloan Foundation.

Phillips Petroleum Company.

Chairman of board and chief executive officer: W. W. Keeler, head of at least 10 Phillips enterprises in various countries; special consultant to secretary of interior, 1961; chairman, National Petroleum Council, advisory group to Interior Department, 1971.

Chairman, executive committee: William C. Douce.

Deputy chairman: John M. Houchin, vice president, American Independent Oil Company; director, API.

President: William F. Martin, director, American Independent Oil Company.

Directors include:

Clark M. Clifford, secretary of defense, 1968–69, whose firm Clifford, Warnke, Glass, McIlwain & Finney registered in 1970 to lobby for Avco Corporation "in support of adequate appropriations for mineral resources research." *(1970 Almanac p. 1218)*

A. F. Mayne, president and director, A. F. Mayne & Associates Ltd., Montreal; director, Kennecott Copper Corporation.

William Piel Jr., partner, Sullivan & Cromwell, New York City.

William I. Spencer, president and director, First National City Bank; president and director, First National City Corporation; director, United Aircraft Corporation; president and director, First National City Foundation; director, Sears, Roebuck & Company; director, Bedford Stuyvesant Development and Service Corporation.

W. Clarke Wescoe, executive vice president (for medical affairs) and director, Sterling Drug Inc.; president and chief executive officer, Winthrop Laboratories, a division of Sterling Drug Inc.; director, Hallmark Cards Inc.

Union Oil Company of California.

President and chief executive officer: Fred L. Hartley, director, North American Rockwell Corporation; chairman, Union Oil Company of Canada Ltd.; vice president and director, California State Chamber of Commerce; director, DiGiorgio Corporation.

Directors include:

Robert DiGiorgio, chairman and chief executive officer, DiGiorgio Corporation, San Francisco, dealing in lumber, food, wholesale groceries, drugs, recreational vehicles, etc.; director, Bankamerica Corporation; member of executive committee, Bank of America N.T. & S.A.; director, Foremost-McKesson Inc.; director, AT&SF Railway.

Prentis C. Hale, chairman, Broadway-Hale Stores Inc.; director, Bank of America N.T. & S.A.; director, Foremost-McKesson Inc.; director, AT&SF Railway.

R. O. Hunt, director, Crown Zellerbach Corporation (formerly its chairman and chief executive officer).

Henry T. Mudd, chairman and chief executive officer, Cyprus Mines Corporation; vice chairman, Marcona Corporation; director, United California Bank; director, Southern Pacific Company; chairman, Pima Mining Company; director, North American Rockwell Corporation.

Charles B. Thornton, chairman and chief executive officer, Litton Industries Inc.; director, MCA Inc.; director, United California Bank; member of exectuive committee and director, Cyprus Mines Corporation; member of finance committee and director, Trans World Airlines Inc.

STATE OF ALASKA

State officials have pushed for approval of the pipeline project. Four days after Earth Day 1970, which focused national attention on environmental issues, more than 100 Alaskan businessmen accompanied Gov. Keith Miller to Washington to lobby for prompt approval of the pipeline and road permits.

Eric E. Wohlforth, revenue commissioner for the state, said in a speech Feb. 4, 1972, that the state's pipeline position stems partly from the view "that Alaska's economic future is deeply wedded to the public conveyance of petroleum throughout the state. . . .

"Any final assessment of the economic potential of the state must start with a realization of one basic fact. To an extent greater than any other state, Alaska owns its sub-surface resources. With development of those resources we can and will share in the monetary gain which their ultimate sale will represent. Thus, unlike other oil and gas states, our state revenues need not be derived only from taxation of the resources but also from the participation in their development."

Wohlforth said passage of the native claims legislation in 1971 was a "giant step" toward developing Alaska's resources, adding:

"The battles which will be faced over the issue of 'lock up Alaska forever' as proposed by some environmentalists versus the state's desire for 'sound development' are similar to those which Alaskans faced during the natural disaster of the earthquake of 1964 and the Fairbanks flood of 1967."

MARITIME

Secretary of Commerce Maurice H. Stans, just before resigning in mid-February 1972 to head President Nixon's election campaign funds drive as he had in 1968, addressed a dinner sponsored by the National Maritime Council.

Stans, who was budget director when Alaska became a state, said the proposed Alaska pipeline "offers perhaps the greatest single opportunity for new cargoes and new jobs that the American fleet has ever had." *(The Washington Lobby, CQ paperback book, 1971, p. 75)*

"A fleet of some 30 new supertankers would be needed to carry North Slope oil from southern Alaska to the West Coast, and constructing them would pump an estimated $1-billion through the shipbuilding industry into the economy," Stans said.

He said the environmental dangers were recognized, but that "when the minimized risks are weighed against the great need for the pipeline and its potential benefits, I am certain that it must be built."

PIPELINE OPPONENTS

Opposition to the Alaska pipeline draws recruits from pre-pipeline battles over the Alaska wilderness. Many participants are active to varying degrees on environmental fronts elsewhere, involving such issues as offshore oil drilling, the supersonic transport, auto exhaust fumes, tanker or refinery pollution, power plants and thermal pollution, nuclear testing, waste disposal, auto safety and consumer affairs.

Groups gravitating around environment as their focus include those operating largely as pressure and public opinion organizations and lawyer task force groups. Supporting these are foundations, some former government officials and miscellaneous elements from among student, antiwar, civil rights and consumer activists. Other allies have included members of Congress and federal officials, as well as Alaskan native factions. Ties are sometimes tenuous but real.

Among groups whose activities have tended to hold up the pipeline development on one basis or another, with some of the participants' associations, are:

Sierra Club. Long a pressure group in the environmental field, the club underwent a change in management and expanded its membership in the 1970s. Executive Director Michael McCloskey said the group's membership doubled in 2½ years to 140,000 at the start of 1972.

"Our size gives us a powerful voice in the halls of Congress and in dealing with government agencies across the country," McCloskey wrote in the club's *Bulletin*. "Our chance of prevailing is proportional to the strength we can amass."

The club in 1971 fought the supersonic transport, the Amchitka nuclear test, timber cutting in national forests and what it contended was lack of adequate environmental protection in the Alaska Native Claims Act.

The Sierra Club engages in grass roots pressure campaigns which have relied heavily on book publication. Book editor John G. Mitchell has said several books "had a profound influence on the outcome of crucial issues." One, called *Oil on Ice*, dealt with the Alaska oil situation and was sent to members of Congress as the club's first "Battlebook."

President Raymond Sherwin says growing numbers of legislators have become sensitive to environmental problems through club efforts but adds: "However, to be effective we must be in their offices and committee rooms when crucial decisions are being made."

The Sierra Club Foundation supports the non-legislative activities of the Sierra Club, including legal action conducted by the Sierra Club Legal Defense Fund which had about 60 court suits in progress in mid-1971.

Two of the Sierra Club's attorneys are James Watt Moorman, director of the Sierra Club Legal Defense Fund, and David Sive. Moorman is secretary of the Center for Law and Social Policy. Sive, who was executive director of the Committee on Natural Resources, New York State Constitutional Convention, in 1967, is a partner in Winer, Neuberger & Sive, New York City. He is secretary of the John Muir Institute for Environmental Affairs and is on the executive committee of Friends of the Earth. Sive was an attorney for the Committee for Nuclear Responsibility, which with other groups unsuccessfully sought to prevent the Amchitka underground test off Alaska Nov. 6, 1971.

Center for Law and Social Policy. Three of the six attorneys who brought the injunction suit which blocked the Alaska pipeline pending a final environmental impact study were connected with the Center for Law and Social Policy. It was incorporated Nov. 14, 1968, and has received extensive foundation funding including grants from the Ford Foundation, Stern Fund, Meyer Fund and Rockefeller Brothers Fund, whose chairman, Laurance S. Rockefeller, was a director of the Natural Resources Defense Council founded at Princeton in March 1970 to fight conservation cases.

Initial directors of the center were Arthur J. Goldberg, chairman, Charles R. Halpern, Richard B. Sobol and Bruce J. Terris. Leadership as of the annual report filed April 6, 1971, included:

Chairman of board: Goldberg, secretary of labor, 1961–62; associate justice of the Supreme Court, 1962–65; U.S. ambassador to the United Nations, 1965–68.

Vice chairman: David F. Cavers, president of the Council on Law Related Studies at Cambridge, Mass.; Mitchell Rogovin of Arnold & Porter, assistant attorney general (tax division), 1966–69. Rogovin also was treasurer for the center.

Secretary: James W. Moorman, who with Halpern and Dennis M. Flannery of the center participated in the injunction suit filed by Wilderness Society, Friends of the Earth and the Environmental Defense Fund.

Trustees include Stewart L. Udall, secretary of the Interior (D-Ariz.), 1961–69; J. Lee Rankin, Office of Corporation Counsel, New York City, U.S. solicitor general, 1956–61, chief counsel, Warren Commission, 1963–64; Ramsey Clark, attorney general, 1967–68, chairman of national advisory council to American Civil Liberties Union, 1969–; and Mrs. Marian W. Edelman, Washington Research Project.

Goldberg, Clark and their New York law firm Paul, Weiss, Goldberg, Rifkind, Wharton & Garrison registered July 18, 1969, to lobby for the Alaska Federation of Natives on land claims legislation. They testified on the group's behalf Aug. 7, 1969, before the Senate Interior and Insular Affairs Committee. (*1969 Almanac p. 1129, 544*)

Congress cleared the Alaska Native Claims Settlement Act (HR 10367—PL 92-203) Dec. 14, 1971, granting Alaska's estimated 53,000 natives $462.5-million in grants, $500-million from state and federal mineral revenues and ownership claims to 40 million of Alaska's 365 million acres.

Another lobbyist for the Alaska Federation of Natives was Claude J. Desautels Associates, which registered April 28, 1971. Desautels was executive assistant to Rep. Wayne N. Aspinall (D-Col.) 1949–61; congressional liaison for Presidents Kennedy and Johnson, 1961–65; executive assistant to the postmaster general, 1965–68. Aspinall, Chairman of the House Interior and Insular Affairs Committee, was a sponsor of the Alaska Native Claims Settlement Act and urged passage in the final form, noting he had worked on native claims since 1951. Rep. John P. Saylor (R-Pa.), ranking Republican on the Interior Committee, told the House Dec. 14, 1971, that if the same formula had been applied for all Indian tribes in the United States, "there has never been enough money in the U.S. Treasury to pay their claims." (*Weekly Report p. 130, 1971 Weekly Report p. 2657, 1141*)

Of Alaska's 365 million acres, about 95 percent were under federal control in March 1972. When pending land selections authorized by Congress are completed, about 60 percent of Alaska will be under some form of federal control.

The right-of-way for the proposed Alaska pipeline from the North Slope to Valdez has been reserved under Interior Department supervision. All Alaska public lands are frozen under department authority until March 17, 1972.

Udall is one of the three directors of both the Overview Foundation Inc., a non-profit environmental consulting group, and the Overview Corporation environmental consultants. The president and treasurer of both organizations, headquartered across from the Executive Office Building, is Henry L. Kimelman, in 1972 the national finance chairman for Sen. George McGovern's (D.-S.D.) campaign for the Democratic presidential nomination. Kimelman ranked third ($24,306.50) among McGovern's contributors as made public Feb. 28, 1972.

Friends of the Earth. The Friends of the Earth was among plaintiffs in the pipeline-blocking case filed in April 1970 against Alyeska. David R. Brower, longtime chief officer of the Sierra Club forced out in a leadership fight, in September 1969 announced formation of the Friends of the Earth, its subsidiary League of Conservation Voters and the John Muir Institute for Environmental Studies. The Friends of the Earth and the institute are internationally based.

Brower is president of the Friends of the Earth and vice president of the institute, founded with financial help from Atlantic Richfield Chairman Robert O. Anderson. The institute's president is Max Linn of Albuquerque, N.M., public relations director for Sandia Laboratories, a key nuclear installation. Linn also was named a vice president of Friends of the Earth, along with Stewart M. Ogilvy of Yonkers, N.Y. Attorney David Sive, on the Friends of the Earth executive committee, was appointed secretary of the John Muir Institute.

The Friends of the Earth registered in 1970 as a congressional lobby organization "to promote legislation to preserve, restore and encourage rational use of the ecosphere." Executive director Gary A. Soucie, also formerly with the Sierra Club, is a registered lobbyist for Friends of the Earth.

In 1970, the Friends of the Earth won 11 of the 12 House races and one of the three Senate contests in which it took part. Among those it successfully backed was Sen. Philip A. Hart (D.-Mich.), chairman of the Senate Commerce Energy, Natural Resources and Environment Subcommittee. (*Details, The Washington Lobby, p. 45, 101*)

OTHER ENVIRONMENTAL GROUPS

Among the many other environment-oriented groups that have shown varying degrees and types of involvement in Alaskan issues are:

Conservation Foundation. Incorporated in 1948 in New York, the foundation moved to Washington in 1965. Not a membership group, it is financed by grants and gifts from foundations, organizations and individuals and is a non-profit organization to which contributions are deductible for income tax purposes. Donors have included the Ford Foundation.

Sydney Howe, the foundation's president, and two members of Congress—Sen. Gaylord Nelson (D Wis.) and Rep. Paul N. McCloskey Jr. (R Calif.), in 1972 opposing Richard M. Nixon for the Republican presidential nomination—incorporated Environmental Teach-In Inc., which was the guiding force behind Earth Day which focused attention on the environment April 22, 1970. Staff members of the Conservation Foundation helped plan the program and set up the Teach-In office.

Russell E. Train, past president of the Conservation Foundation, held the number two post in the Interior Department as under secretary during preliminary moves in 1969 on the Alaska pipeline permit and now is chairman of the Council on Environmental Quality established by the National Environmental Policy Act of 1969.

An annual report filed with the Foundation Center in August 1971 showed among trustees as of Dec. 31, 1970:

Chairman: Samuel H. Ordway Jr., a lawyer, vice president of the Conservation Foundation, 1948–61; president, 1961–65; chairman, 1969—. He served on the U.S. Civil Service Commission, 1937–39.

Vice chairman: William H. Whyte, a writer who was assistant managing editor of *Fortune* magazine, 1951–59.

Eugene R. Black, president and chairman, International Bank for Reconstruction and Development, 1949–62; director, International Telephone & Telegraph Corporation; director, *New York Times;* director, Chase International Investment Corporation; chairman of John F. Kennedy Library; director, Boise Cascade Corporation; chairman, Overseas Development Council; chairman, Council of Economic Advisers of state of New York.

Ernest Brooks Jr., president of Old Dominion Foundation, New York City.

Mrs. Edgar M. Cullman, whose husband is president of General Cigar Company.

Gilbert M. Grosvenor, associate editor, *National Geographic.*

S. Dillon Ripley, secretary, Smithsonian Institution.

The foundation's consulting council included Donald E. Nicoll, aide to Sen. Edmund S. Muskie (D Maine); Dr. Michael F. Brewer, vice president of Resources for the Future, and Joseph L. Sax of the University of Michigan, chairman of the American Bar Association's Committee on Public Lands and Waters and a trustee of the Center for Law and Social Policy.

The Conservation Foundation opposed granting of the pipeline authority on the basis of the Interior Department's first impact statement, contending it did not ensure environmental protection. Howe said the foundation in 1972 considered it important that alternative routes across Canada be fully considered, with Canadian participation.

OUTLOOK

The next move on the Alaska pipeline is up to Secretary of Interior Morton, former Republican national chairman and U.S. representative (R Md. 1963–69). Both sides expect him to grant the permit, but that may be far from the end of it.

The Interior Department Feb. 24, 1972, issued two documents—making a total of 12 studies on Alaska pipeline impact released so far—on stipulations concerning the pipeline if approved and on findings of possible tanker oil spills.

The department said the stipulations would be "the most stringent and comprehensive set of terms and conditions dealing with environmental protection ever attached to the granting of a permit to use public lands."

Once Morton issues the environmental impact statement required by the National Environmental Policy Act, the Council on Environmental Quality headed by Train has 30 days to review it and make recommendations to the President. Plaintiffs who obtained the earlier injunction can challenge granting of the permit in court. Appeals could go all the way to the Supreme Court and consume all of 1972 or longer.

Meanwhile, participants on both sides have noted increasing attention given environmental considerations by all parties. Morton made his position clear before the National Petroleum Council Feb. 10, 1972. He said that from the contention of past years an essential fact has emerged:

"We recognize at last that there is an interlocking bond between the quality of the environment and energy demands in sustaining large numbers of people at decent levels of comfort and well-being."

Noting the steps that can be taken to conserve resources, Morton said that nevertheless "we still face the enormous backlog of unsatisfied needs that can only be met by increasing higher levels of energy and of productivity. . . .

"One thing the extremists in environmental groups do not understand is that these necessary jobs to enhance the quality of life can be accomplished through the use of energy and more energy directed by an ever escalating plateau of technology."

Regardless of the eventual outcome of the Alaska pipeline struggle, it appears likely to take its place as one more in a continuing series of confrontations waged around environment and involving many of the same participants.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

WAR POWERS ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, S. 2956, which the clerk will report.

The legislative clerk read as follows:

> Calendar No. 577 (S. 2956), a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

The Senate continued the consideration of the bill.

WAR POWERS CONTRADICTIONS

Mr. GOLDWATER. Mr. President, 20 years ago, Prof. Henry Steele Commager, whose testimony is heavily relied upon by the authors of war powers legislation, attacked critics of Executive power as "unregenerate isolationists." When some political leaders of my party were challenging President Truman's decision to send American soldiers to Korea without congressional authorization and when a proposal was introduced in Congress seeking to prevent such deployments from ever occurring again without prior congressional approval, Professor Commager ridiculed these ideas as having "no support in law or in history." In two articles published in the Times magazine, Professor Commager charged that the assault upon the executive power was a dangerous attack on the integrity of our constitutional system which, if persisted in, may result in the "substitution of a parliamentary system of government for our presidential system."

The legislation which Professor Commager criticized was a close predecessor of the one before us today. As Professor Commager described it in his article, the legislation "centered upon the right of the President to commit American forces to danger points outside the boundaries of the United States without prior congressional authorization." He argued "that the overwhelming weight of authority supports Presidential discretion in this field." He assured us that the constitutional issue was not a new one, but had arisen and been settled in one administration after another, and in the courts as well, with always the same result. Professor Commager stated that "a century and a half of interpretation, a century and a half of tradition, practice, and custom," provides us not merely with precedents, but with guidance, to the conclusion that Presidential discretion in the conduct of foreign relations had served us well and was firmly based on the constitutional document.

He quoted from a great President and a learned student of foreign relations, John Quincy Adams, who, in his eulogy on Madison, said:

> However startled we may be at the idea that the Executive Chief Magistrate has the power of involving the nation in war, even without consulting Congress, an experience of fifty years has proved that in numberless cases he has and must have exercised the power.

Professor Commager goes on to summarize the numerous instances in which American Presidents have sent U.S. troops abroad on their own authority without any prior declaration of war by Congress. Some counts would put these Presidential commitments at 150, although my own research indicates that they total around 196. As Professor Commager describes in his article, all of these Presidential acts involved the danger of war. "Congressmen protested, from time to time," he writes, "but on no occasion did Congress repudiate Presidential power or even refuse to sustain it by such appropriations as were required."

Mr. President, I disgress from my prepared remarks to comment briefly on some of the remarks made just recently by my friend, the distinguished senior Senator from Georgia.

Nearly every cosponsor of this War Powers Act has had an opportunity—not once, not twice, but many times—during the conduct of the Vietnam war to have expressed an opinion against that war by having voted against appropriations, authorizations, the Gulf of Tonkin Joint Resolution, and the SEATO Treaty.

Never was a resolution offered on this floor to my memory that in any way condemned the President. I am not being critical on this point, because I do not believe that any Congress, once having seen this country committed to war or any intervention by the President, would ever try to undercut the President at that point. But we have had our chances. And I point out that the Constitution and the rules of the Senate gives us these chances and these opportunities. But we have never taken advantage of them.

Thus, Mr. President, did Professor Commager defend on constitutional grounds the authority of President Truman to commit American soldiers to a major land war in Korea without congressional authorization. It is with this in mind, that I believe the Senate should evaluate Professor Commager's testimony before the Senate Foreign Relations Committee in 1971. I think that we should balance the doctrinaire assertion by Professor Commager now that the war powers bill is constitutional with his conclusion in 1951 that similar legislation was an example of "congressional usurpation."

But Professor Commager is not the only witness relied upon in support of the war powers bill who has taken a completely opposite stance in the past. One year before his testimony at the Foreign Relations Committee, Prof. Alexander Bickel confided to a House committee exploring the same legislation that "Codification seems to me difficult, heavily prone to error, quite possibly dangerous, and unnecessary." Washington attorney, William D. Rogers, remarked at the same hearing:

> I think the Javits proposal requiring the President in effect to get out if Congress did not act within 30 days is dangerous.

McGeorge Bundy warned the members of the House committee that—

> No single rule is likely to meet all our needs, and in particular, I think it is dangerous to try to deal with the future by legislating against the past.

Let me repeat, all these statements were made by individuals whose testimony is used in support of the bill.

In 1971, advocates of the war powers bill raised new doubts about the wisdom of their own legislation. One statement, inserted in the record of the hearings as support for Senator JAVITS' bill, comes from Judge Philip C. Jessup of the Council on Foreign Relations, who wrote what he described as an "unhelpful note." Judge Jessup observed that in his opinion "a fundamental difficulty arises from the fact that the concept of 'declaration of war' which was current when the Constitution was framed . . . is now an outmoded concept." Judge Jessup added:

> Because of my belief about the lack of real legal relevance of the declaration in these times, I would hesitate to tie new legislation so tightly to the "declaration of war" clause of the Constitution.

In other words, Mr. President, Judge Jessup expressed serious doubts about the legal relevance of the principal peg on which the Foreign Relations Committee claims constitutional authority to codify the war powers.

Professor Bickel apparently has not lost all of his reservations about the legislation, because he testified last year:

> I don't think the President can be deprived of his power to respond to an imminent threat of attack—as well as to the attack itself—on the United States or on troops of the United States lawfully stationed wherever they may be, nor I believe can he be deprived of the power to continue to see to the safety of our troops once they are engaged, even if a statutory 30-day period has expired.

Mr. President, I might add, that Professor Bickel was the only professor of law who testified before the committee in support of the general constitutionality of the war powers bill. So when the sole legal authority who is relied on by the committee testifies that he does not believe a time limit can be imposed on the power of the President to respond to an imminent threat as well as to an attack itself, I think the committee is treading on very weak ground in reporting a bill which includes a provision that is directly contrary to what one of their major witnesses told them could be validly done.

Another matter of concern was raised when Senator JAVITS revealed in a question to me at the hearing that the 30-day restriction on emergency military actions might pressure a President to go all out by resorting to nuclear war during the short period of time allowed him since there is nothing in his bill that stops the President from doing that.

McGeorge Bundy also verified before the committee a contention I have made that in some situations the war powers measure might aggravate a crisis rather than calm it. Speaking of the Cuban missile event, he testified that—

> If there had been a national debate over what to do about those missiles we might easily have had a much more dangerous reaction that in fact we had.

And yet this is exactly what the war powers bill would cause. Just at the time when a crisis is likely to be at a pitch of public excitement is when the legislation requires that Congress must vote on whether or not to sustain U.S. involvement in the hostility.

I can see that day arriving if this legislation is passed and approved by the President. In some situations, I can hear the networks talking against the war. I can see the large eastern press talking against involvement. I can see Congress bowing to political pressure, in many cases over their wisdom, to make sure they are not going to be castigated by the media or the press. I do not say this in a derogatory way. It is a matter of fact that most of the media we listen to and see would follow this course and they would certainly support this bill, and I think they would be opposed to any action of the President regardless of what it might entail.

On the other hand, if the war powers bill had been in effect at the time of the Cuban missile crisis, Congress would have been required to act swiftly on the matter of continuing the naval blockade of Cuba before the 30-day emergency authorization had expired. One can easily suppose in the setting of the time—with enemy missiles being aimed at cities holding 80 million American citizens, with reports arriving of attacks on American reconnaissance planes, and with the killing of an American pilot over Cuba—that a majority in Congress would have favored an allout bombardment of Cuba or even an invasion.

Those who believe Congress is the ultimate haven of peace and love might thumb through Robert Kennedy's short book on the 1962 missile crisis where he writes that his brother's conference with the leaders of Congress "was the most difficult meeting." The late Senator Kennedy reports that many congressional leaders "felt the President should take more forceful action, a military attack or invasion, and that the blockade was far too weak a response."

And so, is it not possible, Mr. President, that Congress might, when confronted with dramatic pressure for making a swift decision, vote in favor of a military attack far beyond anything the President wished? We might remember that historians generally concur that it "was the War Hawks—Members of Congress all—who aggressively sought the War of 1812," and that in 1898 it was "the press and Congress" who pressured President McKinley into requesting a declaration of war against Spain.

In this regard, Mr. President, I should observe that if Congress acts as I have described in order to steer our Nation into broader hostilities than the President believes prudent, the authors of the war powers bill will leave him no exit. This is the logical end to which the rigid and doctrinaire constitutional claims of the sponsors of the legislation will take them.

For their whole argument on behalf of the power of Congress to pass legislation making rules regarding military hostilities is based upon their contention that the President must faithfully carry out the military policies passed by Congress. A legal brief on the war powers bill inserted by Senator JAVITS into the hearings record on his bill flatly declares that—

> The President as Commander in Chief was intended to be the executive arm of Congress, carrying out its policy directives in the prosecution of military hostilities.

This legal brief, which is a part of the legislative history explaining the purposes of the primary author of the pending legislation, also asserts that—

> Congress has the right to legislate concerning the initiation of war and the President has no right to contravene such legislation.

Mr. President, these unqualified doctrines, which stand as the legal support for the war powers bill, mean that Congress not only has the power to restrict the President's action, but also the power to order the President into taking whatever military conduct it chooses. If the President is subject at all times to the directives of Congress, as the sponsors argue, this is the absurd result to which their arguments lead. And if the President should veto any continuing authorization which proposes to expand U.S. participation in a hostility, the same legal concept would dictate that he has thereby terminated all authority for sustaining our involvement in the military hostility, placing him in an awful dilemma. Furthermore, Congress could override the President's veto under this legal reasoning.

Mr. President, this ramification is not the only way in which the war powers measure might bring about a military confrontation, not avoid it. As Secretary of State Rogers testified:

> To circumscribe presidential ability to act in emergency situations—or even to appear to weaken it—

I think that is a very, very important statement—

> would run the grave risk of miscalculation by a potential enemy regarding the ability of the United States to act in a crisis.

I might add to the word "ability," the "desire" of the United States to act in a crisis—

> This might embolden such a nation to provoke crises or take other actions which undermine international peace and security.

Dr. James MacGregor Burns, a Pulitzer Prize historian, takes the same view. Dr. Burns testified at the 1970 war powers hearing that any legislation which would encumber the President's ability to respond and adjust to changing world situations, as he determines proper, will remove the one essential ingredient preventing world war III—flexibility. Dr. Burns warned that imposing artificial restrictions on Executive discretion "may not lead to peace but to war, as foreign adversaries estimate that the United States will not respond to a threat to world peace because of legislative restrictions on the Executive."

I repeat, Mr. President, that this is probably one of the most important points that can be made against this type of legislation. Certainly, no one can argue with the intent. All of us want to see peace. All of us want to see each branch of the Government acting in its own constitutional way. I think we are doing that today. But when we broadcast to the world that this Congress does not have faith in the President of the United States, or the next Congress does not have faith in the President of the United States, to assume his constitutional role as Commander in Chief and the chief framer of foreign policy, I can see our allies around the world doubting us, leaving us.

In fact, we already see in the world today the beginning of a realinement. We are beginning to see some of our historic friends looking to the potential enemy when they have doubts as to whether or not we will respond. I have to say ashamedly that some of the remarks made on the floor of Congress—in both Houses—have given those people the right to believe that, come a test, the people of the United States, the U.S. Congress, do not have the courage to measure up to the responsibilities that they have assumed in making treaties with people around the world.

The same warning was sounded by former Under Secretary of State George Ball, who testified that the neutrality acts adopted in the aftermath of World War I "very probably" impeded the United States from taking firm steps which would have averted World War II. The great problem which Mr. Ball sees in the pending bill is that it is impossible to prophesy all the situations in which the President may need to act without advance congressional approval. In his words:

> The lesson one learns from the active practice of foreign policy is how often and at what critical times the totally unexpected event occurs to dominate and transform the scene.

For this reason, Mr. Ball sees the war powers bill as representing "an attempt to do what the Founding Fathers felt they were not wise enough to do," that is, to anticipate at any given moment the unlimited variations which the future is capable of presenting.

Mr. President, I have addressed myself mainly to some of the contradictions which the advocates of war powers legislation themselves have raised about the bill. I also have very grave concerns about the constitutionality of the legislation and will discuss these doubts further, probably tomorrow.

For now, I would only add, that the questions which proponents of the legislation have expressed in the past should serve as further reason for our taking a great deal more time on the bill. Why, the matter is so complex I understand the Foreign Relations Committee took 2 months, from December 7, when the bill was ordered reported, to February 9, when the report was filed, to obtain agreement by the committee members on the language of its report on the bill. If the committee itself required 2 months to prepare its report, surely the Senate as a body should be allowed an ample time in which to examine the bill.

Mr. President, in the Washington Evening Star is a very fine column by Mr. David Lawrence entitled "Danger in War-Powers Legislation." I think to sum-up Mr. Lawrence's thought on this matter would be to sum up what I said before—that one of my major concerns with this legislation—and I have many, but one of the major ones—is wrapped up in what our allies and our potential enemies might think this country is getting into. Mr. Lawrence says, in the second paragraph of his article:

> If there had been a strong Western alliance which included the United States, there might have not been a World War I or II. In both instances, the assumption was that the American people were advocates of isolationism and would not participate.

Mr. President, I do not charge the authors of the bill with being isolationists. I know all of them personally. I know some of them had extremely honorable service with the military in World War II and Korea. But I can remember the days in the 1920's and the 1930's, and I can remember the wonderful feeling that was over all of us that the United States would never go to war again. We had become an isolationist country. We had no Army, we had very little Navy, we had practically no Air Force. We trained in Louisiana with cardboard tanks and wooden guns. We knew nothing at all about strategic air warfare and tactical air warfare. We had, in fact, become so isolated from the rest of the world that we honestly believed that Hitler was no threat to the peace of the world and that Mussolini carried no threat to the peace of the world anywhere.

I can remember those days, and I can remember what a comfortable feeling it was; and I can remember what a terrible, shocking feeling we had on the morning of December 7 when Pearl Harbor was attacked, when we knew this country was not prepared for war.

Mr. President, whether we like to think of it or not, the same kind of feeling is wrapped up in this legislation that permeated the feeling of the people of this country, that permeated the Congress, and, to a degree, that even permeated our military, who had become mesmerized to a great extent by the feeling of isolationism in those days. We believed in Fortress America. We believed what George Washington said in his Farewell Address that we should live with our friends but keep the hedges high. And then the hedges were torn down in a short while.

I know, from my travels around the world—and they have been extensive lately—and I know from my visits with people around the world that precisely this kind of thinking is going on in the minds of the leaders in the world: Where will the United States be? Where will we sit if imminent danger occurs, imminent danger to any of our allies to whom we have made commitments? Where will we be ourselves if the enemy knows that, no matter what the President does by way of going to war to answer any attack on the United States or on American citizens abroad or on the American military abroad, within 30 days, or even less, the Congress—not particularly noted for expertise for decisions in military affairs, but noted for expertise in detecting through their extended antennae the feelings of the people—might say to the President, "You have to quit this," and the President has to do that under the terms of this legislation?

I understand that this fear that I carry is shared by some others and that the measure is not shockproof. I understand the authors may start amending it.

Mr. President, they may amend it to doomsday, but it will never be a proper piece of legislation for this Congress to consider.

So that my colleagues may have the benefit of reading the article by Mr. David Lawrence, I ask unanimous consent that it be printed at the conclusion of my remarks, and these are my concluding remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DANGER IN WAR-POWERS LEGISLATION

(By David Lawrence)

The biggest question mark around the world today is whether the United States is going to repeat history—weaken its military position abroad and give the impression that it will not help to prevent another world war.

If there had been a strong Western alliance which included the United States, there might have not been a World War I or II. In both instances, the assumption was that the American people were advocates of isolationism and would not participate.

What is happening in Congress, as various members sponsor legislation declaring the executive branch shall have authority to commit military forces for only 30 days and must get congressional permission for continuance of operations beyond that, is being taken to mean that the foreign policy of the United States hereafter will not be regarded abroad as enduring.

As long as the employment of military force by major powers can at any moment upset the peace of the world, the United States must do its planning through use of bases in other countries and by dispersing its submarines carrying Polaris missiles, utilizing foreign ports where they are available.

The Germans were convinced that the United States would not enter World War I or II. When they read the American press, they noted that elections were being won in 1916 and 1940 by denouncing any involvement in the war then in progress and by promises of candidates for the presidency to "keep out of war."

There are still those in Congress who think that the United States can stay out of Europe and Asia altogether or that use of military forces should be authorized merely when the other side has begun a war against us. Military men, however, say that wars can be prevented only by having an army, navy and air force distributed in strategic locations and in such size that potential enemies will not dare to take chances and start a war against the United States.

If an adversary thinks that the Congress will have to give its consent for American action in any critical situation around the world, there will be built up a feeling that the United States will no longer be of assistance to smaller countries and will be reluctant to furnish aid even to larger ones.

While the Constitution stipulates that Congress shall have the power "to declare war," it doesn't give either the Senate or the House the right to conduct foreign policy. This is a delicate task and requires secrecy in planning and in carrying out programs for cooperation with various allies.

If the consent of Congress were required for the presence of American military forces in a friendly country for possible help in certain emergencies involving a broad-gauged policy of protecting American interests and preventing a larger war, the United States would find itself blocked in its dealings with allied nations.

This becomes even more serious if senators insist that the President should have only 30 days in which to conduct a military operation. What is overlooked is that the planning and stationing of armed forces in different parts of the world must take place a long time before any emergency develops.

The prospects are that a third world war is much more likely if it is definitely established that the United States cannot make and commit itself to the necessary preparations with allied countries. Plans for military operations would have to be submitted to Congress in advance in order to be able to get congressional approval and assure allied nations that assistance would be continuous and would not be interrupted by any action of Congress.

There are many other problems that could arise. This is why the State Department and the Department of Defense are emphatic in their statements that the proposals to interfere with the operations of the chief executive in conducting foreign policy can only result in more difficulties. They insist that America's position could be weakened in the world with respect to treaties it has signed and agreements it has made with its allies in the past.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mr. BENTSEN. Mr. President, I have the honor of being a cosponsor of S. 2956, which I think is one of the most important pieces of legislation that will be considered during this session of the Senate, particularly because it deals with the very awesome problem and responsibility of when and how and why this Nation goes to war.

I think all of us see some evidence of how far the Chief Executive has gone in exercising responsibilities that really lie with the Congress when we see a distinguished and eminent statesman like the Senator from Arizona, who can make such a sincere plea, questioning the validity of a bill such as this, which I think once again restores the balance of power.

As I rise to speak in support of this bill, my thoughts turn to the people of Texas who sent me here to represent them. My thoughts turn also to the Constitution, which I have solemnly pledged to uphold.

When the American people go to the polls to elect their Senators and Representatives, they make their decisions in the full knowledge and assurance that these elected representatives will have in their hands the power of determining when, and where, and under what conditions this Nation will go to war.

When the American people go to the polls to elect a President, they cast their ballots in the full knowledge that the candidate they choose will be Commander in Chief of the Armed Forces, and that they will have to trust his judgment to act prudently, responsibly, and expeditiously in situations involving our national defense.

This in itself is an awesome responsibility.

Let me say again, this is no ploy to try to attack a President, this one or any past one, or to try to put the finger of blame on this particular military engagement or any past one. But the greater responsibility of committing our entire nation to armed conflict—with all its global implications—is too awesome to vest in any one man, however trusted he may be, however clear his mandate.

The framers of our Constitution perceived this. And so they made wise provisions for distributing that responsibility among the Members of Congress, who represent the broad geographical reaches of this country as well as the broad range of political and socioeconomic views in this diversified Nation.

The balance of power that is one of the miracles of this carefully phrased document is emphasized in article 1, section 8, which specifies that the Congress shall have the power to declare war.

This is not a responsibility that can be transferred, nor a prerogative that can be waived without denying the very foundation of our system of government.

But we in the Congress must use our keenest vision to perceive the realities of the world situation and deal with them courageously and forthrightly—just as our founders did in their time.

With all their wisdom, they could not envision the newborn nation of the 18th century transformed to a mighty world power in the 20th century.

That is what we have tried to provide for in this piece of legislation. We tried to adapt this fundamental principle of the division of powers so that the mechanics of the decision would fit the Nation of today. Nor could the founders of this Nation foresee this age of instant communication and nuclear umbrellas, of swiftly shifting alliances and delicate balances in the international power structure.

These are the realities that command our attention today.

The judgments we make, the actions we take—or fail to take—in the light of these realities can determine not just the survival of our small corner of this planet, but the planet itself.

It is not beyond the reach of our imaginations to envision a capricious act by a megalomaniac or an irrational power that could produce world chaos. We are keenly aware of the possibility that our Commander in Chief may have to use the full power of his office to act in an emergency, to respond to a surprise attack that places the United States or its citizens in instant jeopardy.

We are equally aware of our own obligations to the people and to our democratic institutions—and we make no apology for having our antennas stuck out there, trying to reflect the will of the people of the United States. That is a part of our solemn responsibility.

Mr. President, we constitute a deliberative body—and deliberation is the essence of democracy. But we know there are times of crises and moments of great decision when time does not allow for deliberation. Then our survival as a people may depend on the ability of our Government to act swiftly and decisively, in the person of our President. Then we have no choice but to place our trust in him. And that we do.

That trust will be strengthened if, in the regular conduct of foreign policy, we adhere strictly to the principle of separation of powers spelled out in our constitution. It can be strengthened further if we are all agreed on what constitutes an emergency.

That is what we are trying to write out in this piece of legislation, and a great deal of time and thought has been put into it. That is what S. 2956 attempts to define, with sufficient clarity to give the Chief Executive specific criteria for making decisions involving the use of armed force, when time is of the essence.

This proposal is not an attempt to tie the hands of the President. Quite the contrary. By establishing clear guidelines, it would free him of the hazards of indecision when quick action is essential to the national defense.

Again, this proposal does not imply a criticism of any President, past or present, nor is it a political ploy to curb the power of the President. Rather, it is intended to reassert the constitutional powers and obligations of the Congress and to reassure the citizens of this Republic that we are mindful of our obligations and our responsibilities, and that we intend to discharge them.

In my opinion, the adoption of this measure would have a salutary effect in restoring the confidence of the people in the processes of government. This system of ours is on trial today, and we have to restore a balance of trust. The people recognize the protection that is inherent in the system of checks and balances. We do not have to spell it out for them. They are keenly aware of the weakened position of the Congress in this past decade, and of the gradual disruption of the historic balance of power that has occurred since World War II.

Mr. President, statesmen are not concerned with recrimination or fixing the blame for past errors. We are concerned for future generations in this country. But if anything is to be gained from bitter experience, it is the knowledge that our survival as a democracy rests heavily on that delicate balance of power, as spelled out in the Constitution.

We have been silent witnesses to the disruption of that balance, and our silence has served as sanction. Now we are reaping the whirlwind of distrust and shattered confidence.

It is time—and past time—for us to act affirmatively to restore the constitutional role of the Congress in the conduct of foreign policy and to reaffirm the balance between the executive and the legislative branches which has been our strength in the past.

No President could deny the need to restore that balance.

No President should fail to welcome the shared responsibility of the Congress, as elected representatives of the people, in making the vital decisions of war and peace.

It should not be a gradual process, a dollar-by-dollar appropriation, but the Senate should face the question foursquare. It should be forced to bite the bullet on an issue such as this.

There can be and there will be disagreement between the President and the Congress, and that is the kind of healthy debate that we want in a democracy. But there must not be distrust. Disagreement is healthy. It is fundamental to the democratic process. When expressed in open, vigorous debate, it provides the surest route to a policy that can be accepted in good spirit by all the people.

Distrust is unhealthy. It questions motives rather than means, and its pathway is destructive. Its victims are unity, strength, and the ability to move forward.

If we are to move forward in the latter half of this century and fulfill our early promise as a democracy, we must revitalize the institutions that have fallen into disrepair. We must act in such a way as to restore the faith of the people in those institutions. We must insist firmly on the balance of power that, in its turn, insures the balance of trust.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. MANSFIELD. Mr. President, I am sorry that I was not in the Chamber to hear all the Senator's speech; but, having heard him speak many times on this floor, I appreciate what he has had to say, and I am sure that the part I heard fits in with the beginning which I missed. It appears to me that in this body and in the other body there are Members who can be called "the President's men," just as there are advisers, past and present, who can be called by the same appellation. In their view, everything a President recommends is right; everything a President does is right; and any time Congress, a coequal branch of the Government, seeks to exercise the equality granted to us under the Constitution, we are accused of engaging in adversary proceedings.

The Senator has correctly indicated that what we are trying to do is to work in accommodation and in partnership with the President, not taking away any of his constitutional rights—perhaps retaining too much of what we have given to him, and for that we have no one but ourselves to blame—but merely asserting the rights of Congress under the Constitution to play its part in these difficulties which arise from time to time.

For example, I believe it was stated on the floor today and previously that there have been a total of approximately 183 interventions by U.S. troops in all parts of the world from the beginning days of this Republic. How many of those interventions were accompanied by a declaration of war? Not when the Marines were sent into Santo Domingo, Haiti, Nicaragua, and elsewhere. Not when we became involved in Korea. Not when we sent 25,000 troops into the Dominican Republic a few years ago. Not when we became involved in the present difficulty.

To the best of my knowledge—and this is a reiteration on my part of something I said earlier today—I do not recall a single instance when Congress or its leaders or the chairmen and the ranking minority members of the appropriate committees were called in before a decision was made involving the lives of the young men of this country and its economy, but always after action was underway and it was too late for recall.

What this bill does is to allow the President a great deal of leeway. In my opinion, I think we are bending over backward to uphold his constitutional powers and his authority as Commander in Chief. I think it is about time for the Senate at least to stand up on its hind legs and reassert its constitutional powers under the Constitution, and that power primarily is the power to declare war in this instance.

The last time war was declared was in 1941, after the President inaugurated action. But there was a justifiable reason then. The last time before that was in 1917, when, on the basis of attacks upon American ships on the high seas and other incidents, the President acted and then came to Congress; and that was very likely justifiable.

I do not recall whether there was a declaration of war against Spain in 1898. I do not recall whether there was a declaration of war against the confederacy in 1860–61. I do not recall whether there was a declaration of war in 1846 against the Republic of Mexico. In fact, the constitutional authority on the part of Congress to declare war—and we are the closest to the people—has been negated down through the years, and never more so than in the past two or three decades.

So I commend the distinguished Senator for his statement this afternoon. I hope that the men and woman who comprise the membership of this body will not be "the President's men" in this instance, and they are in too many—and I apply this to all Presidents, because the same thing happened under Kennedy and Johnson and Truman and Eisenhower and Roosevelt—but will be "the Senate's men," representing the mandate which has been handed to them by their people and exercising the authority which, in my opinion, is theirs under the Constitution.

I want to reiterate one more thing I said earlier today. I happened to be one of the signatories to the Southeast Asia Treaty. The other two were the late Secretary of State Foster Dulles and the late H. Alexander Smith of New Jersey. I signed that document, along with those two, not because I thought it was a good treaty, because I did not think so then and I do not think so now. I signed it after I had insisted that the phrase "due constitutional processes" be inserted in that treaty. A "due constitutional process" means coming to the Congress of the United States. I think we have lost the sense of what that term means. In doing so, we have abandoned a responsibility which is ours under the Constitution, and in doing so I think we have negated what the Founding Fathers had in mind—and the documents will bear it out—when this Republic was founded.

In allowing ourselves to be used in this manner—and I blame no one but ourselves—I do not think we are keeping faith with the people who sent us here, nor do I think we are upholding our oath under the Constitution of the United States.

Again, my deep and most sincere commendation to the distinguished Senator from Texas, who has made many contributions during his service in this body.

Mr. BENTSEN. I thank the distinguished majority leader, who I think we can all say never has been any President's man. He has always been a strong defender of the responsibilities as set forth under the Constitution and a defender of the rights of the role of Congress and its charge of responsibility to the people.

What we are really saying in this bill is that if there is going to be a "blast-off," we would like to be consulted ahead of time, not just asked to come in for the crash landing.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. JAVITS. Mr. President, I rise to compliment the Senator on his address and the obvious thought and historical research which he has given to his position. He is one of the original cosponsors of a war powers bill. He came to this quite voluntarily—he was not solicited by me—in deep concern about the future of our country which he shares with so many men who are sponsoring this legislation—men with different ideological views and views on national defense and views on what the policy of the country should be.

The one thing about all this which strikes me so forcefully is the fact that we have, unhappily, come to define a "strong" President as one who is willing to employ the Armed Forces of the United States in hostilities. The theory, somehow, is that if one is to be an effective President, he has got to fight. I thought that the history of astuteness in government was to see how often we could win without fighting. Yet this seems to be the criterion, to facilitate and make it easy to fight.

The Founding Fathers themselves spoke of the awesomeness of the decision to unleash the dogs of war, as one of them wrote, and the intolerable consequences of war for the whole body politic. The men who back this legislation, like the Senator from Texas, are not pacifists. We have served our country, and we have no illusions about the world in which we live, its demands, and its hazards to life if one would retain freedom.

The Senator from Texas subscribes so eloquently to the great tradition which feels that the surest guarantee of freedom is the checks and balances which we have built into the Constitution.

The Senator comes from a great State—an enormous empire—in this country. Its people are probably as close to the frontier in their outlook, dynamism, and faith in their own abilities and their own two hands, probably as much, if not more than, any other State in the Union today. So I count it a great element of strength with respect to this measure that the distinguished Senator from Texas has joined in it. He has made a very important contribution to its ultimate success.

I am grateful to him. But much more than that, this is not an easy road for me or anyone else to take, especially in view of the kind of opposition which seems to indicate that, somehow or other, we are jeopardizing the security of this Nation. I am very strongly fortified when such Senators as the Senator from Texas come to the same conclusion quite independently, based on their own study and convictions of the matter.

Mr. BENTSEN. I thank the distinguished Senator from New York. He is an eminent scholar in this and many other fields. The Founding Fathers were very wise when they decided that the most awesome of our responsibilities was that of the Nation's going to war, and that such a decision should rest in the hands of the representatives of the people.

I now yield to the distinguished Senator from Virginia (Mr. Spong).

Mr. SPONG. Mr. President, I thank the distinguished Senator from Texas. I should like to join the majority leader and the Senator from New York in commending the able Senator from Texas for his remarks this afternoon. As has already been pointed out, the Senator from Texas introduced his own version of the war powers legislation and gave the Committee on Foreign Relations the benefit of his views with his testimony. He has followed up his interest in this legislation with the presentation he has made to the Senate this afternoon.

The distinguished Senator from Texas comes from a State with a long and fine military tradition. It is, in many respects, similar to the State that I have the honor to represent. I do not believe either one of us would espouse legislation which we believed would in any way impair the security needs of the United States of America.

What we seek to do, as has been noted before, and as the Senator from Texas has so eloquently stated here, is to restore the role of the people and the people's representatives in the warmaking process.

I like what the Senator said about biting the bullet. I believe that the Senate and Congress must face this constitutional dilemma over war powers—and face it now. I do not believe that referring this matter to another committee, or referring it to a commission to study for 1 or 2 or more years, is facing the responsibility the Senate has, especially since a bill has been reported, after extensive hearings and exhaustive consideration of a number of pieces of legislation, including the one sponsored by the Senator from Texas.

So I commend him for what he has had to say.

As an addendum to the remarks of the distinguished majority leader, I would like to say that there have been five declarations of war: the War of 1812; the Mexican War; the Spanish-American War; World War I; and World War II. Those are the five instances in American history when Congress has followed through with its constitutional mandate.

Again I commend the distinguished Senator from Texas.

Mr. BENTSEN. I thank the distinguished Senator from Virginia who has labored long, diligently, and constructively on this piece of legislation.

Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, I will keep these comments as short as I can.

I want to make it perfectly clear, early in this debate, that I am not quarreling one bit with the desire of some of my colleagues to restate the constitutional intent. I am not quarreling with their feeling that there should be a closer liaison between Congress and the President at all times.

However, I think, unless we actually change the Constitution, we are going about this entirely in the wrong way. What we are doing, in effect, is trying to amend the Constitution with legislation. I sincerely feel that that is unconstitutional. That would have to be decided by the courts. By the way, the courts have never put their hand on this question, yet it has been coming up constantly for nearly 200 years.

The only remarks that come to mind quickly were those made by William Howard Taft which supported the contention—and this was when he was on the Supreme Court—that the President has these exclusive powers and that they cannot be meddled with by Congress.

I agree with the Senator from New York that we need a strong President. I do not agree that his strength should be judged on his willingness to go to war. I think the strength of the President must be judged, for example, on his willingness to stay at peace. Although it came as a surprise to many of my friends in my own party, I supported President Nixon in his recent trip to China. I think it took a lot of courage on his part. That is the kind of man we need in the White House. It also took a great deal of courage for Jack Kennedy to do what he did in relation to Cuba, but it had to be done.

I do not think that we will ever judge the qualities of a President merely by his desire to go to war. I never particularly agreed with President Truman when he was in office, although I have repeatedly said that, as time goes on, he is getting to look like the best President we have had in this century. I think we will find that the reason is, as history records it, he was willing to assume responsibility.

Now, if assuming the responsibility of defending this Nation, defending its people, and defending it from harassment and invasion, means a strong President, then I would not want to be in this country when we had a President so weak that he would yield to any country, whoever attacks us.

As a layman, I should like to express my interpretation of the Constitution and present, offhand, some arguments that I feel are pertinent.

Under article I, section 8, of the Constitution, the Congress has the right to declare war.

Now this was one of the big stumbling blocks in the Articles of Confederation.

We had just finished, or were about to finish, a very long struggle, and the founders could not agree that the Congress again should have the power to make war.

So, when the Constitution of the Republic was written, they remembered these experiences and they gave us merely the power to declare war.

Now, throughout the nearly 200-year history of this Republic, I have been able to find about 196 instances of the Presidential use of Armed Forces abroad. They go from practically nothing to major wars.

Mr. President, I ask unanimous consent that a chronological list of 192 military hostilities abroad without a declaration of war be printed in the Record at the conclusion of my remarks. They appear in an article published in the West Virginia Law Review.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GOLDWATER. Mr. President, there is no question that we have the right to declare war. We have never given that right up. We never had a right to make or conduct war. That is one of the great points that the American people misunderstand and that we misunderstand. We could declare war every 5 minutes here. However, only the President of the United States could call out the troops. We might recall also that the framers did use the words "sole power to commence or conduct war", which is the unsupported way the sponsors of this bill read the declaration clause.

We might argue further that the power to call forth the militia to execute the laws of the Union, suppress insurrections and repel invasions might be construed to give us the power to actually send troops abroad. I do not think that means that. I think that we have witnessed, at least within my lifetime, President Hoover's calling out the troops in Washington, I think back in 1929, to repel, not an insurrection, but possible trouble in Washington. We witnessed another occasion a few years ago when the troops of the National Guard were asked to stand by in the event there was trouble occasioned by demonstrators in Washington. This is what these clauses mean.

It also provides that we may raise and support an army. We have never given up that power. The Committee on Armed Services, on which I serve, has been working almost daily in an effort to bring to the Senate an authorization bill which would authorize expenditures to raise and to support armies. Here is a very effective way by which Congress can influence military policies.

We have gone a little further than that. Some of our colleagues seem to forget that we have now given the Armed Services Committees of both Houses the right, and in fact, the duty to set the individual service strengths of each of the Armed Forces of our country.

It provides further that we may provide and maintain a navy. We have not taken that power away from ourselves, nor has the President. In fact, if I were to be critical in any one area of the Presidents in the past, it would be concerning the fact that we have not maintained a navy adequately enough. We have a navy today that I feel is second in the world.

Our committee has worked on that matter every year. In a few weeks I hope that we will have asked the Senate to support the request for a very large sum of money to provide and maintain a navy.

It provides further that we may make rules for the Government and regulation of the land and naval forces. We do not often become actively engaged in this. However, I believe that under the subcommittee headed by the Senator from North Carolina (Mr. ERVIN) there have been hearings and will be additional hearings held on the courts martial processes of the armed services. This is what we mean by making rules for the Government and regulation of the land and naval forces.

I might state parenthetically that the Constitution does not mention an air force. We might consider that. In fact, I think that during the course of this debate, I might suggest to my friend, the Senator from New York, that we write in a provision for the Air Force. I would not want him left with a loophole that big.

I have already read the provision for calling forth the militia.

That is the power that is given us in Congress by the Constitution of the United States. We cannot make war. We can declare war. We have been asked to declare war only five times in the history of this country.

The President, on the other hand, can point to four distinct powers under article II as the root of his warmaking authority. He is vested with all the executive power of a sovereign nation, he is responsible for the conduct of our foreign affairs, he has the right and duty to execute the laws, and he is designated Commander in Chief.

The critics of the President argue that the Constitutional Convention intended, by giving Congress the power "to declare war," to confer the power "to commence war." It must be remembered, however, that the Constitutional Convention specifically rejected a clause giving Congress the power "to make war" and substituted for it only the power "to declare war." By doing this, the framers decidedly meant to leave with the executive the power to repel sudden attacks. That they meant to leave more is implicit in the many passages of the Federalist where Madison, Jay, and Hamilton focus on the safety of the people as the first objective of Government.

Mr. President, I have read those papers.

For example, Jay wrote:

> Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be the first. The Federalist, No. 3, at 10 (rev. ed. 1901).

The framers had just come through a long and difficult war, the successful prosecution of which had been greatly hampered by the Continental Congress. They were concerned with correcting the weaknesses of their past political experience. One way to do this was by infusing national strength through the new Executive Office. Thus, Hamilton asserts in The Federalist No. 73:

> Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of executive authority.

Prof. David Watson, the author of a textbook on constitutional law, that of all the explanations of why the Constitution should make its President Commander in Chief:

> . . . none seems more reasonable than the fact that during the Revolution Washington experienced great trouble and embarrassment resulting from the failure of Congress to support him with firmness and dispatch. There was a want of directness in the management of affairs during that period which was attributable to the absence of centralized authority to command. The members of the Convention knew this and probably thought they could prevent its recurrence by making the President Commander-in-Chief of the Army and Navy.

Nor does the power to command forces conflict with the design of the Founding Fathers to avoid a monarchy. Charles Evans Hughes, a great Justice of Supreme Court, wrote in 1917:

> The prosecution of war demands in the highest degree the promptness, directness and unity of action in military operations which alone can proceed from the executive. This exclusive power to command the army and navy and thus direct and control campaigns exhibits not autocracy but democracy fighting effectively through its chosen instruments and in accordance with the established organic law.

Mr. President, I read these things to try to keep this whole debate in context. I would hope that the American people would become aware of what is being said on the floor on both sides. I think it is extremely important that American citizens really understand the power of the Congress is to declare war and the power of the President is to be Commander in Chief.

I repeat what I have often said, that if the American people want that changed, I believe that the only proper way to do it is through a constitutional amendment.

I might add that I have yet to meet or to talk with or to write to or receive correspondence from any man, who is still alive, be he Democrat or Republican, who has ever been connected with the State Department, or with any department of the Government concerned with foreign policy, who argues against the power resting where it now is. In fact, they will all emphatically state that it should not be changed.

Mr. President, I am going to request from several of these prominent people who have written me permission to have their correspondence printed in the RECORD. If they decline, I will not do it. However, I expect that they will allow me to do it. I think that the American people should be well aware of what we are doing and what it takes.

In closing, the distinguished Senator from Texas made the remark that is made whenever anyone feels we should make some changes; namely, that we are living in a different world, that the power of communication is so rapid and the power of detection from the sky has become so absolute that we should allow a lengthy process to be undertaken.

If I were going to try to use that argument, I would defeat myself immediately by saying that might have worked back in the Mexican War or when the American Army was in my territory fighting 200 Indians, or it might have worked even in World War I and possibly in World War II.

But we have an amendment, for example, that is going to be offered by the Senator from Arkansas (Mr. FULBRIGHT) that would destroy the President's use of nuclear weapons without the prior explicit authorization of Congress. I have notified the leadership I will not agree to any time limitation on that amendment. I have no objection to the authors of the bill writing any amendments they feel needed for so-called perfection purposes, although I do not think they can offer enough amendments to make it acceptable enough for this Senator to enjoy.

This action, if we take it, is one step. Assuming that the House would approve it, and assuming that the President signed it, and assuming that the Supreme Court holds it to be constitutional, the grave question in my mind, among other things, is, what will follow this? If we assume by law we have the power to make war, how long is it going to be before we have legislation introduced stating we will not only have the power to make war, but the power to conduct war? Again, I do not think any political body here or anywhere else has the ability to make strategic or tactical decisions.

I believe in our great concept of government where the man in uniform is sort of set aside from the rest of us and protected by civilian Secretaries is a sound one, but when we get into hostilities the man trained in the art of warfare must take over that war and this is probably the major problem we are confronted with in Vietnam today.

We went to war and failed to ask the advice of the man in uniform how to fight and win that war. This decision on the part of whoever was responsible for it will go down in history as one of the major mistakes ever made by any country going into war.

I am going to speak on this matter at great length. It is a subject I became interested in over 8 years ago. It is one filled with interesting study and I look forward to reading both sides of the argument. However, I could not allow what has been said after my remarks, although it did not pertain to my remarks to remain in the RECORD without trying to keep the RECORD reasonably straight.

Mr. President, I yield the floor.

EXHIBIT 1

[From 74 West Virginia Law Review 88–119, "War Powers Legislation," by J. Terry Emerson]

APPENDIX

A. CHRONOLOGICAL LIST OF 192 U.S. MILITARY HOSTILITIES [1] ABROAD WITHOUT A DECLARATION OF WAR

1798–1800: *Naval War with France.* When John Adams became President in 1797, he faced the serious problem of strained relations between France and the United States, in which France had made it a practice to seize American merchant ships and to manhandle their crews. Adams first attempted to

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Footnotes at end of article.

negotiate a settlement but, when the French demanded exorbitant bribes and loans, his envoys rejected the proposals and departed.

Adams, thereupon asked Congress for the power to arm merchant ships and take other defensive measures. Congress responded by creating a Navy Department, voting appropriations for new warships, and authorizing the enlistment of a "Provisional Army" for the duration of the emergency. In July, 1798, the French treaties and consular conventions were abrogated.

The result was a "quasi-war" during which neither country declared war. The American Navy attacked only French warships and privateers and fought primarily for the protection of commerce. Some ninety French ships were captured during this naval war. In 1800 a convention was agreed to and peace was achieved. State, 2.[2]

1800: *West Indies*. On April 1, U.S. Marines, participated in the action between the U.S. schooner *Enterprise* and a Spanish man-of-war brig in the West Indies. USMC, I, 40.

1801–1805: *War with Tripoli*. During the early years of the Republic, the United States following the practice of several European nations, paid tribute to North African pirates. Shortly after Jefferson became President, the Pasha of Tripoli, dissatisfied with the apportionment of tribute, declared war on the United States (May 1801). Jefferson thereupon sent warships to the Mediterranean. After naval actions and landings under Commodore Preble, an inconclusive treaty of peace with Tripoli was signed in 1805. Congress passed various enabling acts during the conflict but never declared war. State, 3.

1806: *Mexico (Spanish territory)*. Captain Z. M. Pike, with a platoon of troops and on the orders of General James Wilkinson, invaded Spanish territory at the headwaters of the Rio Grande, apparently on a secret mission. State, 16.

1806-1810: *Gulf of Mexico*. American gunboats operated from New Orleans against Spanish and French privateers. State 16.

1810: *West Florida (Spanish territory)*. Governor Claiborne of Louisiana, on orders from the President, occupied with troops disputed territory east of the Mississippi as far as the Pearl River. No armed clash occurred. State, 16.

1813: *West Florida (Spanish territory)*. On authority granted by Congress, General Wilkinson seized Mobile Bay with 600 soldiers; a small Spanish garrison gave way without fighting. State, 16.

1813-1814: *Marquesas Islands, South Pacific (claimed by Spain)*. U.S. Marines built a fort on one of the islands to protect three captured prize ships. State, 16.

1814-1825: *Caribbean Area*. There were repeated engagements between American ships and pirates both ashore and offshore about Cuba, Puerto Rico, Santo Domingo, and Yucatan. In 1822, Commodore James Biddle employed a squadron of two frigates, four sloops of war, two brigs, four schooners, and two gunboats in the West Indies. The United States sunk or captured 65 vessels. Marine detachments participated in at least 14 of these actions. State, 16.

1815: *Second Barbary War (Algiers)*. In 1812 an Algerian naval squadron operated against American shipping in the Mediterranean. In one attack an American merchantman was captured and its crew imprisoned. In March, 1815, Congress passed an act that authorized the use of armed vessels "as may be judged requisite by the President" to provide effective protection to American commerce in the Atlantic and the Mediterranean. A naval squadron of 10 vessels under Commodore Stephen Decatur attacked Algiers, compelling the Dey to negotiate a treaty. Decatur also demonstrated at Tunis and Tripoli. All three states were forced to pay for losses to American shipping, and the threats and tribute terminated. State, 3.

1816–1818: *Spanish Florida*. During the "First Seminole War," U.S. forces invaded Spanish Florida on two occasions. In the first action, they destroyed a Spanish fort harboring raiders who had made forays into United States territory. In the second, Generals Jackson and Gaines attacked the Seminole Indians because their land was a haven for escaped slaves and border ruffians. In the process of pursuing the Indians, United States forces attacked and occupied Spanish posts. State, 17.

1817: *Amelia Island (Spanish Territory)*. Under orders from President Monroe, U.S. forces landed and expelled a group of smugglers, adventurers, and freebooters. State, 17.

1818: *Oregon*. The *U.S.S. Ontario* landed at the Colombia River and in August took possession. Russia and Spain asserted claims to the area. Rogers, 96.

1820: *West Africa*. Marines participated in the capture of seven slave schooners by the U.S. corvette *Cygne* off Cape Mount and the Gallinos River on the west coast of Africa during the period from April 5 through 12. USMC, I, 64.

1820–1822: *West Coast of South America*. Marines were aboard three of the U.S. ships stationed off the west coast of South America from 1820 until May, 1822, to protect American commerce during the revolt against Spain. USMC, I, 65.

1822: *Cuba (Spanish Territory)*. U.S. naval forces landed on the northwestern coast of Cuba and burned a pirate station. State, 17.

1823: *Cuba (Spanish Territory)*. Between April and October naval forces made a number of landings in pursuit of pirates, apparently incident to Congressional authorization which became operative in 1822. State, 17.

1824: *Cuba (Spanish Territory)*. In October, the *U.S.S. Porpoise* landed sailors to pursue pirates during a cruise authorized by Congress. State, 17.

1825: *Cuba (Spanish Territory)*. In March, British and American forces landed on two offshore Cuban islands to capture pirates who were based there. The action appears to be incident to Congressional authority. State, 17.

1827: *Greece*. Apparently acting pursuant to legislation, in October and November, United States forces from the *U.S.S. Warren* and the U.S. schooner *Porpoise* engaged in seven actions against pirate vessels off Greece and made landings on three Greek Islands. State, 17.

1828: *West Indies*. In December, incident to legislation, Marines participated in the capture of the Argentinean privateer *Federal* by the U.S. sloop *Eric* at St. Bartholomew Island, W.I. USMC I, 67.

1830: *Haiti*. On June 5, marines participated in the capture of the slave brig *Fenix* by the U.S. schooner *Grampus* off Cape Haitien, Haiti. USMC, I, 67.

1831–1832: *Falkland Islands (Argentina)*. American forces under Captain Duncan of the *U.S.S. Lexington* landed to investigate the capture of three American sailing vessels. The Americans succeeded in releasing the vessels and their crews and dispersed the Argentine colonists. State, 17.

1832: *Sumatra*. A force of 250 men from the *U.S.S. Potomac* landed to storm a fort and punish natives of a town for an attack on American shipping and the murder of crew members. State, 18.

1833: *Argentina*. Between October 31 and November 15, at the request of American residents of Buenos Aires, a force of 43 marines and sailors landed from the *U.S.S. Lexington* to protect American lives and property during an insurrection. State, 18.

1835: *Samoan Island*. On October 11, eighty marines and sailors burned the principal village on the island to avenge harsh treatment meted out to American seamen. Paullin, 729.

1835–1836: *Peru*. Marines from the *U.S.S. Brandywine* landed at various times at Callao and Lima to protect American lives and property during a revolt, and to protect the American Consulate at Lima. State, 18.

1837: *Mexico*. On April 16, marines joined in the capture of a Mexican brig-of-war by the *U.S.S. Natchez* off Brasos de Santiago for illegal seizure of two American merchantmen. USMC, I, 70.

1839: *Sumatra*. In January, American forces from the U.S. sloop *John Adams* and the U.S. frigate *Columbia* landed at Muckie, Sumatra, to protect American lives and property and to punish natives of two towns for attacking American ships. USMC, I, 70.

1840: *Fiji Islands*. American forces totaling 70 officers and men, landed on July 12 and 26 to punish natives of two towns for attacking American exploring and surveying parties. State, 18.

1841: *Samoan Islands*. On February 25, an American force of 70 marines and seamen from the *U.S.S. Peacock* landed to avenge the murder of a seaman. They burned three native villages. USMC, I, 71.

1841: *Drummond Island (Kingsmill Group, Pacific Ocean)*. On April 6, marines from the *U.S.S. Peacock* landed and burned two towns to avenge the murder of a seaman by natives. State, 18.

1843: *China*. In June and July, a clash between Americans and Chinese at the Canton trading post led to the landing of 60 sailors and marines from the *St. Louis*. Paullin, 1095–1096.

1843: *West Africa*. In November and December, four U.S. vessels from Commodore Perry's squadron demonstrated and landed various parties (one of 200 marines and sailors) to discourage piracy and the slave trade along the Ivory Coast and to punish attacks made by the natives on American seamen and shipping. In the process, they burned villages and killed a local ruler. The actions appear to have been pursuant to the Treaty of August 9, 1842, with Great Britain relative to the suppression of the slave trade. State, 18.

1844: *Mexico*. President Tyler deployed our forces to protect Texas against Mexico, anticipating Senate approval of a treaty of annexation, which was rejected later in his term. Corwin, 245.

1844: *China*. On June 18, Marines from the U.S. sloop *St. Louis* went ashore at Canton, China, to protect American lives. USMC, I, 72.

1845: *African coast*. On November 30, Marines joined in the capture of the slave bark *Ponus* by the U.S. sloop *Yorktown* off Kahenda, Africa. The action was consistent with the Treaty of 1842. USMC, I, 72.

1846: *Mexico*. President Polk ordered General Scott to occupy disputed territory months preceding a declaration of war. Our troops engaged in battle when Mexican forces entered the area between the Nueces and Rio Grande Rivers. The fighting occurred three days before Congress acted. U.S., 378.

1849: *Smyrna (Now Izmir, Turkey)*. In July, the *U.S.S. St. Louis* gained the release of an American seized by Austrian officials. State, 18.

1850: *African coast*. On June 6, Marines joined in capturing a slave ship by the U.S. brig *Perry* off Luanda, Africa. The action was consistent with the Treaty of 1842. USMC, I, 77.

1851: *Turkey*. After a massacre of foreigners (including Americans) at Jaffa, the U.S. Mediterranean Squadron was ordered to demonstrate along the Turkish coast. Apparently, no shots were fired, but the display amounted to compulsion. State, 19.

1851: *Johanna Island (East of Africa)*. The *U.S.S. Dale* delivered an ultimatum, bombarded the island, and landed a force to

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Footnotes at end of article.

punish the local chieftain for the unlawful imprisonment of the captain of an American whaler, State, 19.

1852–1853: *Argentina.* Several landings of marines took place in order to protect American residents of Buenos Aires during a revolt. State, 19.

1853: *Nicaragua.* American forces landed at Greytown and remained for two days (March 11–13) to protect American lives and interests during political disturbances. State, 19.

1853: *China.* On September 11, a small Marine force from the U.S. steamer *Mississippi* boarded a Siamese vessel in the Canton River and put down a mutiny. USMC, I, 78.

1853: *West Coast of Africa.* In accordance with the Treaty of 1842, on December 3, Marines joined in the capture of the slave schooner *Gambrill* by the U.S. frigate *Constitution* off the Congo River on the west coast of Africa. USMC, I, 78.

1853–1854: *Japan.* Commodore Matthew C. Perry led an expedition consisting of four men-of-war to Japan to negotiate a commercial treaty. Four hundred armed men accompanied Perry on his initial landing at Edo Bay in July, 1853, where he stayed for ten days after refusing to leave when ordered. He then sailed south, landing a force at the Bonin Islands, where he took possession, and at the Ryukyus, where he established a coaling station. In March, 1854, he returned to Edo Bay with ten ships and 2,000 men, landed with an escort of 500 men, and after six weeks signed a treaty with Japanese authorities at Kanagawa. The whole campaign was on executive authority. State, 19.

1854: *West Coast of Africa.* Pursuant to the Treaty of 1842, on March 10, Marines joined in the capture of a slave brig by the U.S. brig *Perry* off the west coast of Africa. USMC, I, 78.

1854: *China.* American and British forces consisting of 150 English sailors, 60 U.S. sailors, and 30 merchant sailors landed at Shanghai on April 4 and stayed until June 7 to protect their nationals during a battle between Chinese imperial and revolutionary troops. State, 19.

1854: *Greytown, Nicaragua.* In July, the commander of an American naval vessel demanded reparation after an American official was injured during a riot. When this was not forthcoming, the vessel bombarded the town. Foreign property, including British and French, was destroyed. President Pierce defended the action of the American commander in his annual message to Congress. State, 19.

1854: *Okinawa.* On July 6, a force of 20 Marines from the U.S. steamer *Powhatan* went ashore on Okinawa and seized a religious shrine in punishment of persons who murdered an American. On November 17, Marines and seamen from the U.S. sloop *Vincennes* went ashore again at Okinawa to enforce treaty provisions. USMC, I, 78.

1855: *China.* There were two brief actions by U.S. warships, the first a landing in May at Shanghai to protect American interests there, the second an attack in August at Hong Kong against pirates. State, 20.

1855: *Fiji Islands.* In September and October, marines from the sloop-of-war *John Adams* landed four times to seek reparations for depredations against Americans and to force natives to honor a treaty. The landing parties fought skirmishes and burned some villages. USMC, I, 79.

1855: *Uruguay.* In August and November, U.S. naval forces put sailors ashore to protect American interests in Montevideo. State, 20.

1856: *Panama, Republic of New Granada.* U.S. forces landed and stayed two days to protect American interests, including the Isthmian railroad, during an insurrection. (By the treaty of 1846 with New Granada, the United States had acquired the right to protect the Isthmus and to keep it open, in return for guaranteeing its neutrality.) State, 20.

1856: *China.* In October and November, the U.S. warships *Portsmouth* and *Levant* landed 280 officers and men to protect American interests at Canton during hostilities between the British and the Chinese and in response to an unprovoked assault upon an unarmed boat displaying the U.S. flag. The Americans took and destroyed four Chinese forts. State, 20.

1858: *Uruguay.* Forces from two U.S. warships landed in January to protect American lives and property during a revolt in Montevideo. The action was taken in conjunction with the forces of other powers at the request of the local government. State, 20.

1858: *African coast.* On September 8, Marines joined in the capture of a ketch laden with slave food by the U.S. sloop *Marion* off the southeast coast of Africa. The action was consistent with the Treaty of 1842. USMC, I, 80.

1858: *Fiji Islands.* On October 6, about 60 marines and sailors from the U.S.S. *Vandalia* landed to punish natives for the murder of two American citizens and engaged in a fierce conflict with 300 native warriors. State, 21.

1858–1859: *Turkey.* American citizens were massacred in 1858 at Jaffa and mistreated elsewhere. In the face of Turkish indifference, the Secretary of State asked the U.S. Navy to make a display of force along the Levant. State, 21.

1858–1859: *Paraguay.* From October 1858, to February, 1859, an American expedition went to Paraguay to demand redress for an attack on a naval vessel in the Parana River during 1855. Apologies were forthcoming after a display of force, which amounted to compulsion. Congress authorized the action. State, 21.

1859. *African coast.* On April 21 and 27, Marines joined in the capture of a slave ship near the Congo River, Africa. The action was consistent with the Treaty of 1842. USMC, I, 81.

1859: *Mexico.* Two hundred U.S. soldiers crossed the Rio Grande in pursuit of the Mexican bandit Cortina. State, 21.

1859: *China.* On July 31, forces from the U.S.S. *Mississippi* landed at Woosung and Shanghai, where they remained until August 2, to protect American interests and restore order. The American consul had called on the ship for assistance. State, 21.

1860: *Kissembo, West Africa.* On March 1, 40 Marines and seamen from the sloop-of-war *Marion* landed twice to prevent the destruction of American property during a period of local unrest. State, 21.

1860: *Colombia (State of Panama).* On September 27, the Marine guard from the sloop *U.S.S. St. Mary's* landed to protect American interests during a revolt. This may have been authorized pursuant to the Treaty of 1846. State, 21.

1863: *Japan.* On July 16, when Japanese shore batteries at Shimonoseki fired on a U.S. merchant ship, the *U.S.S. Wyoming* retaliated by firing on three Japanese vessels lying at anchor. The shots were returned, and, by the time the action was over, there were casualties on both sides. State, 21.

1864: *Japan.* From July 14 to August 3, U.S. forces protected the U.S. Minister to Japan when he visited Yedo concerning some American claims against Japan. The forces also were designed to impress the Japanese with American power. LRS, IV, 52.

1864. *Japan.* Between September 4 and 8, naval forces of the United States, Great Britain, France, and the Netherlands, jointly forced open the Straits of Shimonoseki, which had been closed in violation of commercial agreements. Shore batteries were destroyed and 70 cannon seized. State, 21.

1865–1866: *Mexican border.* In late 1865, General Sheridan was dispatched to the Mexican border with 50,000 troops to back up the protest made by Secretary of State Seward to Napoleon III that the presence of over 25,000 French troops in Mexico "is a serious concern to the United States." In February, 1866, Seward demanded a definite date be set for withdrawal and France complied. Though American forces did not cross the border, the threat of foreign military operations was clear and imminent. U.S., 580–581.

1865: *Panama.* American forces from the *U.S.S. St. Marys* landed to protect American interests during a revolt. This was apparently implied by the Treaty of 1846. State, 22.

1866: *China.* Various landings by over 100 marines and seamen were made in June and July at Newchang to punish an assault on the American Consul and to guard diplomats. State, 22.

1867: *Formosa.* On June 13, 181 Marines and seamen from the *U.S.S. Hartford* and *U.S.S. Wyoming* landed to punish natives who had murdered the crew of a wrecked American merchantman. Several huts were burned. USMC, I, 91.

1867: *Nicaragua.* On September 6, Marines landed and occupied Managua and Leon. USMC, I, 92.

1868: *Japan.* From February 1 until April 4, landings were made at Hiago, Nagasaki, and Yokohama to protect American lives and property during local hostilities. USMC, I, 92.

1868: *Uruguay.* At the request of local Uruguayan authorities, several landings were made from five U.S. steamers at Montevideo during the month of February in order to protect American lives and property during an insurrection. State, 22.

1868: *Colombia.* An American force landed at Aspinwall in April to protect the transit route during the absence of local police. This was impliedly permitted by the Treaty of 1846. State, 22.

1870: *Mexico.* On June 17, the *U.S.S. Mohican* pursued a pirate ship up the Tecapan River near Mazatlan, landed a party of Marines and seamen, and destroyed it during a pitched battle. State, 22.

1871: *Korea.* In June, American landing forces under Admiral Rodgers captured five Korean forts after a surveying party, granted permission to make certain surveys and soundings, had been attacked. No treaty or convention was in effect. State, 22.

1873: *Colombia.* In May and September, nearly 200 American forces landed at the Bay of Panama to protect American lives and interests during local hostilities. The actions were impliedly allowed by the Treaty of 1846. State, 22.

1873–1882: *Mexico.* U.S. troops repeatedly crossed the Mexican border to pursue cattle thieves. Mexico occasionally reciprocated. Such incursions were finally recognized as legitimate by an agreement in 1882. State, 23.

1874: *Hawaii.* In February, a party of 150 men from two U.S. vessels landed to preserve order at the request of local authorities. State, 23.

1876: *Mexico.* On May 16, at the request of the U.S. Consul at Matamoras, a small American force was landed to preserve order when the town was temporarily without a government. State, 23.

1882: *Egypt.* On July 14, over 100 forces from the *U.S.S. Lancaster, U.S.S. Quinnebaug,* and *U.S.S. Nipsic* landed at Alexandria, when the city was being bombarded by the British navy, in order to protect American interests there, including the American consulate. State, 23.

1885: *Colombia (State of Panama).* On January 18, March 16, March 31, April 8, April 11, April 12, and April 25, American forces landed to protect American property and guard valuables in transit over the Isthmus during local revolutionary activity, an action authorized under the Treaty of 1846. USMC I, 96.

1888: *Korea.* On June 19, 25 men from the *U.S.S. Essex* landed at Chemulpo and marched to Seoul to protect American residents during unsettled political conditions. The action was requested by the American Minister. State, 23.

1888–1889: *Samoan Islands.* In 1886, the

German consul announced that the Sanwan group was henceforth a German protectorate, an action that brought the United States and Great Britain together in opposition. By 1889, Germany and the United States were close to a direct confrontation. The United States and Germany, together with Great Britain, shared certain treaty rights in Samoa for the maintenance of naval depots. In November 1888, U.S. Marines landed from the *U.S.S. Nipsic* to protect American interests after civil strife broke out ashore. In January, 1889, German forces landed, and, when those forces were attacked by the natives, German ships shelled the island. This action by Germany aroused the American public, and Congress appropriated $500,000 for the protection of American lives and property on the island and $100,000 for the development of Pago Pago harbor. The United States also ordered two more warships to the scene. All three powers had warships on the scene and an untoward event might have touched off war had not a hurricane in March, 1889, destroyed all the warships except one British vessel. Thereafter, the Germans invited the three powers to a conference, which was agreed to and held in Berlin. In April, 1889, they established a three-power protectorate there. In 1899 the Samoans were divided, the United States acquiring Tutuila. State, 23.

1888: *Haiti*. In December, American warships made a display of force to obtain the release of an American merchant vessel captured by a Haitian warship. The Haitian Government surrendered the ship and paid an indemnity after Admiral Luce gave an ultimatum ordering its release before sunset. State, 24.

1889: *Hawaii*. On July 30, at the request of the American Minister in Honolulu, the *U.S.S. Adams* sent a marine guard ashore to protect American lives and property during revolutionary disorder. State, 24.

1890: *Argentina*. The *U.S.S. Tallapoosa* landed a party in July to protect the American Consulate and Legation in Buenos Aires during a revolt. State, 24.

1891: *Navassa Island, Haiti*. American forces from the *U.S.S. Kearsarge* landed on June 2 to protect American lives and property during a period of unrest. The action was taken pursuant to Congressional action. State, 24.

1891: *Bering Sea*. An American squadron operated from June to October, jointly with British naval vessels, seizing four schooners. Rogers, 109.

1891: *Chile*. In August, 102 Americans of the South Pacific station landed at Valparaiso during a revolt in order to protect the American Consulate and American lives. State, 24.

1894: *Brazil*. The U.S. Navy engaged in gunfire and a show of force in January to protect American shipping at Rio de Janeiro during a revolt of the Brazilian navy. President Cleveland stated our action "was clearly justified by public law." State, 24.

1894: *Nicaragua*. In July, American forces landed at Bluefields to protect American interests during a revolt. State, 24.

1894–1896: *Korea*. On July 24, at the request of the American Minister, a force of 21 Marines and 29 sailors landed at Chemulpo and marched to Seoul to protect American lives and property during the Sino-Japanese War. A Marine guard remained at the American Legation until 1896. State, 24.

1894–1895: *China*. On December 6, 1894, Marines disembarked from the *U.S.S. Baltimore* at Taku and marched to Tientsin to protect American lives and property during the Sino-Japanese War. The landing party maintained order until May 16, 1895. USMC, I, 98.

1895: *Colombia (State of Panama)*. Marines from the *U.S.S. Atlanta* landed in March to protect American interests during a revolt. This appears to have been authorized by treaty. State, 24.

1895–1896: *Korea*. During internal disorders from October 11, 1895, to April 3, 1896, the American Legation at Seoul was protected by Marines from various ships. Ellsworth, 60.

1896: *Nicaragua*. On May 2, Marines were put ashore at Corinto by the *U.S.S. Alert* during revolutionary disorders to protect American interests. USMC, I, 99.

1898: *Nicaragua*. On February 7, Marines landed at San Juan del Sur by the *U.S.S. Alert* to protect Americans against disorders. USMC, I, 99.

1898–1899: *China*. American forces guarded the Legation at Peking and the Consulate at Tientsin from November, 1898, to March, 1899, during a period of unrest. State, 25.

1899: *Nicaragua*. On February 24, in response to a petition from foreign merchants during an insurrection, Marines landed to protect life and property at San Juan del Norte and Bluefields. State, 25.

1899: *Samoan Islands*. Sixty Americans landed on February 14 from the *U.S.S. Philadelphia*, and on April 1 joined a British force in efforts to disperse native rebels. This may have been under color of treaty or statute. State, 25.

1899–1901: *Philippine Islands*. The United States employed 126,468 troops against the Philippine Insurrection without a declaration of war after the Treaty of Peace with Spain was concluded. Presumably the United States acted to suppress the rebellion under authority of the Treaty of Peace, which transferred to it the sovereignty possessed by Spain in the Philippine Islands. 40 Ct. of Claims 26–32.

1900–1901: *"Boxer" Rebellion (Peking)*. In 1900 President McKinley sent 5,000 troops to join the international military force organized for the relief of foreign legations besieged in Peking by Chinese "Boxers." Using troops already mobilized for the Spanish-American War and the Philippine Insurrection, McKinley did not seek authority from Congress. Peace terms were concluded at an international conference, and a peace Protocol was signed September 7, 1901. The Protocol was not submitted to Congress. Because of the obvious inability of Chinese authorities to control local disorders, the United States acquired the right to maintain a guard at Peking for defense of the American Legation and to station military forces at certain points in Chinese territory to keep open communications between Peking and the sea. (Earlier, in 1858, the United States had acquired the right by treaty to station naval vessels in Chinese waters.) State, 3–4.

1901: *Colombia (State of Panama)*. American forces went ashore in late November and stayed until December to protect American property and to keep transit lines open across the Isthmus during serious political disturbances. This apparently was authorized by the Treaty of 1846. State, 25.

1902: *Colombia (State of Panama)*. Marine guards landed in April to protect American lives and the railroad across the Isthmus during civil disorders. They continued to land at various times between April and November. This appears to have been authorized by the Treaty of 1846. State, 25.

1903: *Honduras*. American forces disembarked at Puerto Cortez in March to protect the American Consulate and port facilities during a period of revolutionary activity. State, 25.

1903: *Dominican Republic*. In April, 29 Marines landed at Santo Domingo, where they remained for three weeks to protect American interests during a period of political disturbances. State, 25.

1903–1904: *Syria*. A Marine guard landed and remained for a few days at Beirut in April to protect the American Consulate during a Moslem uprising. Also our Mediterranean Squadron demonstrated at Beirut from September to January and at Smyrna the next August. State, 25.

1903: *Panama*. A revolution leading to the independence of Panama from Colombia broke out in November. Marines landed from the *U.S.S. Dixie* to prevent Colombian troops from carrying out a threat to kill American citizens, after Commander Hubbard had refused to allow the Colombians to transport their troops across the Isthmus. Marine guards remained on the Isthmus from the date of Panamanian independence (November 4, 1903) until January, 1914, to protect American interests during the construction of the Canal. This was allowed under the Hay-Bunau-Varilla Treaty. State, 25–26.

1903–1904: *Abyssinia*. Twenty-five American marines were sent to protect the U.S. Consul General from November 18, 1903, to January 15, 1904, while he was negotiating a treaty with the Emperor. USMC, I, 109.

1904: *Dominican Republic*. On January 3, 7, and 17, and on February 11, over 300 Marines landed at Puerto Plata, Sosua, and Santo Domingo to protect American lives and property during a revolt. USMC, I, 108–109.

1904: *Morocco*. A squadron demonstrated in Moroccan waters in June to force the release of a kidnapped American. A Marine contingent had landed on May 30 to protect the Consul General. State, 26.

1904: *Panama*. American troops were used to protect American lives and property at Ancon in November when a revolt seemed imminent. This action seems to have been authorized by treaty. State, 26.

1904–1905: *Korea*. In January, 1904, over 100 American troops were sent to guard the American Legation at Seoul because of the outbreak of the Russo-Japanese War. They remained until November 1905. In March, 1904, marines assisted in the evacuation of American nationals. USMC, I, 108.

1906–1909: *Cuba*. An American squadron demonstrated off Havana, and, in September, marines landed to protect American interests during a revolution. In October, marine and army units landed and took up quarters in many Cuban towns in connection with the temporary occupation of the country under a provisional governor appointed by the United States. This occupation was within the scope of the provision of the 1903 Treaty of Relations between the two countries, which gave the United States the right to intervene to preserve order. The occupation lasted until January, 1909. State, 26.

1907: *Honduras*. On March 18, during a war between Honduras and Nicaragua, the *U.S.S. Marietta* disembarked 10 men to guard the American Consulate at Trujillo. The *U.S.S. Paducah* also landed forces at Laguna and Choloma on April 28. State, 26.

1910: *Nicaragua*. In May, one hundred men from the *U.S.S. Paducah* landed at Greytown to protect American lives and property during a revolt. The *U.S.S. Dubuque* also engaged in shows of force. Joined combat was "hourly expected." State, 26.

1911: *Honduras*. Sixty men from the *U.S.S. Tacoma* and *Marietta* went ashore at Puerto Cortez during a revolt to protect American interests. The American Commander threatened to use force if necessary. State, 26.

1911–1912: *China*. American forces made six landings to protect American interests during the initial stages of a revolution. They were stationed at Foochow, Chinkiang, Peking, Hankow, Nanking, Shanghai, and Taku. This may have occurred pursuant to treaty rights acquired during the "Boxer" Rebellion. State, 27.

1912: *Panama*. During June and July, at the request of local political groups, American troops supervised elections outside the Canal Zone. This was impliedly authorized by the Hay-Bunau-Varilla Treaty. State, 27.

1912: *Cuba*. In May, American troops landed in eastern Cuba during a revolt and remained for three months to protect American interests. This appears to have been authorized by the treaty of 1903. State, 27.

1912: *Turkey*. A troop detachment from the *U.S.S. Scorpion* assisted in the protection of the diplomatic corps at Istanbul during the Balkan War. State, 27.

1912: *Nicaragua*. During a civil war, the President of Nicaragua asked the United States to protect its citizens resident there. Acting on a recommendation of the American Minister, President Taft ordered sizable landings of marines in August and September, 1912. Political stability returned to Nicaragua by January, 1913, but a detachment of marines was kept in Managua to guard the American Legation after the rest of the American troops withdrew. The Legation guard was reinforced in 1922 and remained until August 1, 1925, State, 27.

1913: *China*. U.S. forces landed in July at Chapei and Shanghai to protect American interests. Rogers reports there were many demontrations and landing parties by United States forces for protection in China continuously from 1912 to 1941. He writes: "In 1927, for example, this country had 5,670 troops ashore in China and 44 naval vessels in its waters. In 1933 we had 3,027 armed men ashore. All this protective action was in general terms based on treaties with China ranging from 1858 to 1901." Rogers, 117.

1913: *Mexico*. In September a few Marines disembarked at Claris Estero, during a period of civil strife, to aid in the evacuation of American citizens. State, 27.

1914: *Haiti*. Marines landed in January, February, and August to protect American citizens during a period of unrest. State, 27.

1914: *Dominican Republic*. During a period of revolutionary activity, U.S. naval forces fired at revolutionaries who are bombarding Puerto Plata, in order to stop the action. Also, by a threat of force, fighting in Santo Domingo was prevented. State, 28.

1914: *Occupation of Vera Cruz, Mexico*. On April 9, 1914, an American naval officer and 9 crewmen from the *U.S.S. Dolphin* anchored off the coast at Tampico, Mexico, were arrested and marched through the streets by local authorities. They were released and an apology was extended as soon as the local Mexican commander learned of the incident. Admiral Mayo, commander of the American squadron, also demanded a 21-gun salute to the American flag. The Mexicans refused and President Wilson promptly ordered the North Atlantic battleship fleet to Tampico. On April 20, he addressed Congress in a joint session and asked for authority to use the armed forces. While Congress debated, Wilson learned that a German steamer was headed toward Vera Cruz to unload munitions for Huerta, and he decided to direct the naval action against Vera Cruz instead of Tampico. American armed forces landed at Vera Cruz, and, after an armed engagement resulting in 400 casualties, the Americans occupied the city on April 22. The same day, apparently after the fighting began, Congress passed a joint resolution which declared that the President was "justified in the employment of the armed forces of the United States to enforce his demand for unequivocal amends for certain affronts and indignities committed against the United States," but that "the United States disclaimed any hostility to the Mexican people or any purpose to make war upon Mexico." By November, 1914, American troops had left Mexican soil. State, 4.

1915: *Dominican Republic*. On August 15, the 5th Marine Regiment arrived at Puerto Plata to protect American lives and property during a revolutionary outbreak. Their protective mission lasted until October 12, 1915. USMC, I, 116.

1915–1934: *Haiti*. In July, at the initiative of the Executive, the United States placed Haiti under the military and financial administration of the United States, in part to protect American lives and property and in part to forestall European intervention to collect debts. Marines were stationed in Haiti until 1934. The occupation was sanctioned by a treaty signed and ratified by the Senate in February, 1916, but the first months of the occupation were on executive authority alone. State, 28.

1916–1924: *Dominican Republic*. President Wilson ordered the occupation of Santo Domingo in May, 1916, owing to local unrest. At one point, 3,000 marines were ashore. The United States placed a military governor in the Dominican Republic but turned political affairs over to the Dominicans in 1922. U.S. troops withdrew in 1924, and a general treaty signed that year formally sanctioned the previous occupation. State, 28.

1916: *China*. American forces landed at Nanking to quell a riot taking place on American property. Apparently this was authorized by a treaty. State, 28.

1916–1917: *Pershing Expedition into Mexico*. In October, 1915, the United States recognized the Carranza regime as the *de facto* government in Mexico. At the same time, Mexican rebel, Pancho Villa, directed a campaign against the United States. In January, 1916, Villa's followers massacred 18 American mining engineers in Santa Ysabel, Mexico.

Then, on March 9, 1916, 400 of Villa's men raided Columbus, New Mexico, and killed 17 Americans. The American public was incensed, and Wilson delayed sending an expedition only until he could obtain Carranza's consent. On March 13, 1916, when Carranza's government acceded, Wilson ordered General John J. Pershing to take U.S. Army units into Mexico. On March 16, Pershing crossed the border with 6,000 troops. On the following day, Congress adopted a joint resolution introduced by Senator Robert LaFollette sanctioning the use of the armed forces. Until then, Wilson had been relying on the Acts of 1795 and 1807 relative to employing the armed forces whenever there is "imminent danger of invasion."

Villa eluded Pershing, and the size of the U.S. expedition soon grew to such proportions (12,000 men) that Carranza protested and demanded its withdrawal, threatening war. Wilson on June 18 called out the National Guard and incorporated it into the Army; 150,000 militia were ordered to the Mexican border. But neither country really wanted war, and the crisis gradually subsided. Wilson decided to withdraw all American troops from Mexico in February, 1917. State, 5–6.

1917: *Armed Atlantic Merchant Ships*. In February, President Wilson asked Congress for authority to arm U.S. merchant vessels with defensive guns, but Congress refused to pass such a law. Thereupon President Wilson acted, on his own authority, to equip American merchant vessels with guns and gunners assigned to them from the Navy. His action occurred prior to the declaration of war on Germany which did not take place until April 6, 1917. Willoughby, III, 1568.

1917: *Cuba*. American troops landed in February at Manzanilla to protect American interests during a revolt. Various other landings were made, and, though the revolt ended in April, 1917, troops remained until 1922 because of continued unsettled political conditions. This was authorized by the Treaty of 1903. State, 28.

1918: *China*. American troops landed at Chungking to protect American lives during a political crisis. Apparently this was done pursuant to a treaty. State, 28.

1918–1919: *Mexico*. U.S. troops entered Mexico to pursue bandits three times in 1918 and six times in 1919. In August, 1918, there was a brief skirmish between American and Mexican troops at Nogales. State, 28.

1918–1920: Expeditions to Russia. Following the Bolshevik revolution in Russia in 1917, Allied expeditions landed, in 1918, at Murmansk and then Archangel. American troops first landed in August, 1918, with most arriving in Archangel Harbor on September 4. Though Armistice Day came on November 11, 1918, the American forces remained until June 27, 1919. At Archangel, the U.S. contributed some 5,208 men and suffered some 549 causalties, including 244 deaths.

The Allies also landed units in Siberia in August and September of 1918 where Bolshevik troops were fighting a force of 65,000 Czech soldiers who were trying to fight their way eastward. The Japanese sent 74,000 soldiers; the American sent 8,388; and the British and French provided minor contingents. The American forces began embarking for home on January 17, 1920, and the last units left on April 1, 1920.

President Wilson, who acted without Congressional approval, agreed to participate in the Allied expeditions to aid the anti-Bolsheviks, to help several thousands of Czech troops get back to their homeland, and to forestall possible Japanese expansionist plans in Siberia. State 6.

1919: Turkey. On May 14, a Marine detachment from the *U.S.S. Arizona* landed to guard the U.S. Consulate at Constantinople during the Greek occupation of the city. USMC, I, 121.

1919: Honduras. A small American force went ashore at Puerto Cortez to maintain order in a neutral zone during an attempted revolt. State, 29.

1918–1920: Panama. American troops went outside the Canal Zone, on request of the Panamanian Government, to supervise elections. This apparently was authorized by treaty. LRS, 55.

1920: China. American forces landed at Kiukang and Youchow to protect American lives and property. This may have been authorized by treaty. State, 29.

1920: Guatemala. Forty men from the *U.S.S. Tacoma* and *Niagara* went inland to Guatemala City to protect the American Legation and other American interests during local fighting. State, 29.

1920–1922: Siberia. The United States stationed a marine guard on Russian Island, Bay of Vladivostok, to protect United States radio facilities and other property. State, 29.

1921: Panama-Costa Rica. American naval squadrons demonstrated for one day on both sides of the Isthmus to prevent war between the two countries over a boundary dispute. This was impliedly authorized by treaty. State, 29.

1922: Turkey. In September forces from several American warships went ashore with the consent of both Greek and Turkish authorities to protect American interests when the Turkish forces were advancing on the city Smyrna. State, 29.

1922–1923: *China*. There were five landings by Marines from April, 1922, to November, 1923 (at Peking, Tientsin, Taku, Tungshan, and Masu Island) to protect Americans during periods of unrest. This may have been authorized by treaty. USMC, I, 122–123.

1924–1925: *Honduras*. There were intermittent landings from February, 1924, to April, 1925, to protect American lives and property during local unrest. In March, 1924, the *Denver* put ashore 167 men and in September, the *U.S.S. Rochester* landed 111 additional forces. USMC, I, 123–124.

1924–1925: *China*. From September 1924, to December, 1924, over seven landings were made by the Marines at Shanghai to protect Americans during a period of unrest. This may have been authorized by treaty. USMC, I, 124–125.

1925: *Panama*. As a result of strikes and rent riots, and at the request of Panamanian officials, 600 troops from the Canal Zone entered Panama City in October and remained for 11 days to maintain order. This conformed to American treaty rights. State, 29.

1926–1933: *Nicaragua.* When local disturbances broke out in 1926, the Nicaraguan Government requested that American forces undertake to protect lives and property of Americans and other foreigners. In 1927, five thousand soldiers were put ashore.

Rebel political leader, Sandino, who received Communist propaganda and financial support, turned the situation into a real civil war. In January, 1928, Sandino was forced to flee to Mexico by Marine forces, but backed by Communist aid, he returned in 1930 and Nicaragua flared again. By 1933 an all-Nicaraguan Guardia Nacional became strong enough so that all U.S. Marines could leave. In all the marines had engaged in 150 clashes and lost 97 men, 32 in action. Rebel losses were approximately over a thousand.

The occupation was initiated entirely on the executive responsibility of President Coolidge. The Democrat minority bitterly critized his policy as a "private war" and as "imperialism," but did not question the President's authority. State, 6–7; and Dupuy and Baumer, 168.

1926: *China.* American forces landed at Hankow in August and September and at Chingwangtao in November to protect American interests. This may have been authorized by Treaty. State, 29.

1927–1928: *Armed Actions in China.* Anti-foreign incidents in China reached a climax in 1927.

In February, a U.S. expeditionary battalion landed at Shanghai, and in March, 1,228 Marine reinforcements landed there. By the end of 1927, the United States had 44 naval vessels in Chinese waters and 5,670 men ashore. In 1928, when the Nationalists had gained greater control over Chinese territory and purged themselves of Communist support, the United States reached a separate accord with the Nationalists, and, in July, signed a treaty which constituted United States recognition of the Nationalist Government. A gradual reduction of United States forces in China began in the same month. State, 7–8.

1932: *China.* In February, American forces landed at Shanghai to protect American interests during the Japanese occupation of the city, apparently under treaty. State, 30.

1933: *Cuba.* During a revolution, United States naval forces demonstrated offshore, but no forces landed. This was pursuant to the Treaty of 1903. State, 30.

1934: *China.* In January, marines from the *U.S.S. Tulsa* landed at Foochow to protect the American Consulate, apparently pursuant to treaty rights. USMC, I, 129.

1936: *Spain.* From July 27, through September 19, the *Quincy*, carrying a marine guard, served in the Spanish war zone. The vessel touched at several ports, sometimes evacuating American nationals. (Master rolls.)

1937–1938: *China.* Beginning on August 12, 1937, several marine landings were made at Shanghai to protect American interests during Sino-Japanese hostilities. Marine strength in China, assigned under the International Defense Scheme, reached 2,536 men by September 19. USMC, II, 2–3.

1940: *British possessions in Western Atlantic.* On September 3, President Roosevelt informed Congress that he had agreed to deliver a flotilla of destroyers to Great Britain in exchange for a series of military bases granted us on British soil along the Western Atlantic. American troops and ships occupied a number of these points in the following months. The President did not ask approval from Congress. State, 8–9.

1941: *Greeland (Denmark).* In April, after the German invasion of Denmark, the U.S. Army occupied Greenland under agreement with the local authorities. Congress was not consulted, and the action appears to be contrary to an express Congressional limitation on using troops outside the Western Hemisphere. State, 8–9.

1941: *Iceland.* By Presidential order, U.S. troops occupied Iceland on July 7, the same day Congress was notified. The President did not consult Congress in advance, and in fact, the action clearly violated an express restriction that Congress had enacted a year before. Both the Reserves Act of 1940 and the Selective Service Act of 1940 provided that United States troops could not be used outside the Western Hemisphere. Iceland is generally placed with the section on Europe in each World Atlas and is some 2,300 miles away from the United States. State, 8–9.

1941: *Dutch Guiana.* In November, the President ordered American troops to occupy Dutch Guiana by agreement with the Netherlands Government-in-exile. Again there was no Congressional authority for the military occupation. State, 8–9.

1941: *Atlantic Convoys.* By July 7, President Roosevelt had ordered U.S. warships to convoy supplies sent to Europe to protect military aid to Britain and Russia. By September, our ships were attacking German submarines. There was no authorization from Congress. Corwin, 247.

1946: *Turkey.* In April, during USSR-Iran hostilities and USSR–Turkey tensions, a U.S. carrier unit was deployed as an affirmation of U.S. intentions to shore up Turkey against Soviet imperialism. USN, 15712.

1946: *Trieste.* In July, during the Trieste ownership dispute, U.S. Naval units were dispatched to the scene with open warfare imminent. USN, 15712.

1946: *Greece.* During the political crisis in September, naval units were requested by the U.S. Ambassador. One carrier was on the scene. USN, 15712.

1948: *Palestine.* On July 18, a Marine consular guard was detached from the U.S.S. *Kearsarge* and sent to Jerusalem to protect the U.S. Consular General there. One consular official was assassinated, and two Marines were wounded during the Arab–Israeli War. USMC, III, 7.

1947: *Mediterranean.* On January 7, Fleet Admiral Nimitz implied Marine reinforcements sent from the U.S. to Mediterranean waters served as a warning to Yugoslavia that the 5,000 U.S. Army troops in Trieste were not to be molested. USMC, III, 5.

1948–1949: *China.* A platoon of Marines was sent to Nanking in November, 1948, to protect the American Embassy when the fall of the city to Communist troops was imminent. The guard was withdrawn on April 21, 1949. In November and December, Marines were sent to Shanghai to aid in the evacuation of American Nationals and to protect the 2,500 Americans in the Communist encircled city. USMC, III, 8–9.

1950–1953: *Korean Conflict.* Communist armies of North Korea invaded South Korea on June 25, 1950. Later that day the United Nations Security Council denounced the aggression, called for an immediate cease-fire, and asked member nations "to render every assistance to the United Nations in the execution of this resolution." On June 27, President Truman announced that he had "ordered United States air and sea forces to give the Korean Government troops cover and support" and had ordered the Seventh Fleet to prevent any attack on Formosa and also to prevent the Chinese Government on Formosa from conducting any air and sea operations against the Communist mainland. The Security Council, on the same day, adopted a resolution "that the members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area."

The Department of State prepared a memorandum, on July 3, 1950, which defended the authority of the President to take the necessary action to repel the attack on Korea, using the argument that the "President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof."

Truce talks began in July, 1951, but it was not until July, 1953, that an armistice was signed. State, 9–11.

1954–1955: *Tachen Islands (China).* From July, 1954, to February, 1955, U.S. Naval units were employed in evacuation of U.S. civilians and military personnel. Five carriers were on the scene. USN, 15712.

1956: *Egypt.* On November 1 and 2, a Marine battalion evacuated over 1,500 persons, mostly U.S. nationals, from Alexandria, Egypt, during the Suez crisis. USMC, III, 34.

1957: *Indonesia.* On February 14, the 3rd Marines took up station 550 miles northeast of Sumatra ready to intervene to protect U.S. nationals during the Indonesian revolt. USMC, III, 34.

1957: *Taiwan.* During Communist shelling of Kinmen Island in July, naval units were dispatched to defend Taiwan. Four carriers were on the scene. USN, 15712.

1958: *Venezuela.* In January, when mob violence erupted in Caracas, a company of Marines embarked on board the *U.S.S. Des Moines* and remained on station off Venezuela ready to protect American interests. USMC, III, 36.

1958: *Indonesia.* In March, a Marine company, attack squadron, and helicopter squadron were deployed with elements of the Seventh Fleet off Indonesia prepared to protect U.S. citizens and interests. USMC, III, 36.

1958: *Lebanon Operation.* A period of civil unrest began in Lebanon in May, 1958, led by Moslems who reportedly were aided by the United Arab Republic's President Nasser. When a pro-Nasser coup took place in Iraq July 14, President Chamoun of Lebanon appealed for assistance to President Eisenhower. On July 15, President Eisenhower sent 5,000 marines to Beirut to "protect American lives" and to "assist" Lebanon in preserving its political independence. The President publicly stressed the provocative Soviet as well as Cairo radio broadcasts. Eventually, 14,000 American soldiers and marines occupied strategic areas in Lebanon, but with orders not to shoot unless shot at.

On the day of the initial landings, the United States asked the United Nations Security Council to establish an international police force to preserve Lebanon's independence, but the Soviet delegate vetoed the American resolution. Further, the Soviet Union announced that it would hold military maneuvers near the Turkish and Iranian frontiers.

On August 21, the General Assembly passed a resolution calling on the member states to respect one another's territorial integrity and observe strict non-interference in one another's internal affairs. The resolution requested that practical arrangements be made leading to the withdrawal of troops from Lebanon. On September 26, the United States notified the Secretary-General of the United Nations that it had been possible to withdraw a portion of the American forces and to work out a schedule to withdraw the remainder by the end of October. State, 11–12.

1959–1960: *Cuba.* In the period from November 20, 1959, to February 15, 1960, the 2d Marine Ground Task Force was deployed to protect U.S. nationals during the Cuban crisis. USMC, III, 42.

1961: *Show of Naval Force in Dominican Waters.* On May 30, Dominican dictator Rafael Trujillo was assassinated. Political conditions in the Dominican Republic steadily deteriorated during the summer and early autumn. Then, on November 15, General Hector Trujillo and General Jose Trujillo, brothers of the slain dictator, returned to the island. Secretary Rusk stated three days later they appeared "to be planning an attempt to reassert the dictatorial domination of the political and economic life of the country . . ." He added: "the United States is considering the further measures that unpredictable events might warrant."

On November 19, U.S. Navy ships took up positions three miles off the Dominican coast, and Navy jet planes patrolled the shoreline. The show of force produced the desired result because the Trujillo brothers and other members of the family departed for Miami before the day was over. According to one authority, "It later transpired that the Kennedy Administration was prepared to order U.S. Marines ashore if President Joaquin Balaguer had so requested or if the Trujillos had ousted Balaguer from the presidency." ERR, 449–500.

1962: *Thailand.* On May 17, the 3d Marine Expeditionary Unit landed in Thailand to support that country during the threat of Communist pressure from outside. On July 1, President Kennedy ordered 1,000 Marines in Thailand to return to their ships, and on July 30, the U.S. completed the withdrawal of the 5,000 Marines sent there. USMC, III, 56–57.

1962: *Cuban Naval Quarantine.* On October 24, confronted with a build-up of Soviet surface-to-surface missile bases in Cuba, President Kennedy ordered a quarantine 500 miles wide in the waters around Cuba. The blockade was aimed both at preventing delivery of additional Russian missiles and obtaining the removal of those offensive Russian weapons already in Cuba.

The crisis appears to date from Tuesday, October 16, when the Government's inner circles first began to discuss the idea of a blockade. On October 20, the First Armored Division began to move out of Texas into Georgia, and five more divisions were placed on alert. The base at Guantanamo Bay was strengthened. The Navy deployed 180 ships into the Caribbean. The Strategic Air Command was dispersed to civilian airfields, and the B-52 bomber force was ordered into the air fully loaded with atomic bombs.

On October 22, President Kennedy went on television to explain before the nation the situation in Cuba and the reasons for the quarantine. The President first notified members of Congress that same day. On Tuesday, October 23, the Council of the Organization of American States formally authorized by a unanimous vote "the use of armed forces" to carry out the quarantine of Cuba. Apparently, one day later the blockade went into effect.

Other notable dates include October 27, when the Defense Department announced that 24 troop-carrier squadrons of the Air Force Reserve were being recalled to active duty; October 28, when Premier Khrushchev, in a message to President Kennedy, announced he had ordered the dismantling of Soviet missile bases in Cuba, November 11, when Deputy Secretary of Defense Gilpatric announced the United States had counted 42 medium-range missiles being removed from Cuba on Soviet ships; and November 20, when President Kennedy announced he had ordered the lifting of the naval blockade.

On December 6, U.S. Navy planes verified that 42 Soviet jet bombers were being transported home from Cuba. The United States apparently closed the book on the Cuban crisis about this date. LRS, I, 24–25; and LRS, II, 1–18.

1963: *Haiti.* On May 4, a Marine battalion was positioned off the coast of Haiti for five days when trouble developed in that country. USMC, III, 61.

1964: *Congo.* In August, the United States sent four C–130 transport planes with approximately 100 flight and maintenance crews and paratroopers to protect the aircraft while on the ground. The purpose was said to be to provide airlift for the regular Congolese troops to combat areas during a rebellion against the government of Premier Tshombé and President Kasavubu. Earlier, in July, the United States had sent 68 officers and men to Leopoldville to advise the Congolese army. Both actions followed the withdrawal on June 30 of the last of the 20,000-man force which the United Nations had placed in the Congo in order to keep the peace.

Subsequently, in November, rebels in the Stanleyville area held over a thousand foreign civilian hostages, including 60 Americans, who were subjected to many atrocities and whom the rebels threatened to kill. When negotiations between the rebels and the United States failed, the United States and Belgium arranged to land Belgian paratroopers to undertake a humanitarian rescue operation.

On November 24, the force was airdropped by U.S. transport aircraft in the Stanleyville area and liberated most of the hostages. Belgian paratroopers undertook a second rescue operation on November 26, capturing the rebel town of Paulis. In all, about 2,000 foreigners were rescued. President Johnson assumed "full responsibility" for the United States role in the decision to transport the Belgian troops in American planes. Davids, 296–310.

1964–1971: *Armed actions in Laos.* At the request of the Laotian Government, unarmed United States jet planes began flying reconnaissance missions over the Plaines des Jarres in May, 1964, in order to gather information on rebellious forces headed by leftist Pathet Lao. After two jets were shot down on June 6 and 7, President Johnson decided to carry out a limited reprisal. On June 9, U.S. Navy jets attacked a Communist gun position in north central Laos, and this was followed by 36 "sorties" which knocked out a number of Communist posts. The United States has continued to play a role of air support in Laos to date. State 30.

1964–1971: *Armed Action in Vietnam.* Following the Geneva Accords of 1954 which provisionally divided Vietnam at approximately the 17th parallel, the Communists held control of the northern half of the country while anti-Communists maintained a precarious hold on the south. A U.S. Military Assistance Advisory Group, which assumed responsibility for the training of the South Vietnamese army after the French relinquished command, was steadily expanded as Communist guerrilla activity supported and directed from the north intensified. By 1962, there were 12,000 U.S. advisors.

In August, 1964, at the request of President Johnson following an attack on American naval vessels in the Gulf of Tonkin, Congress passed the Gulf of Tonkin Resolution, unanimously in the House and by a vote of 88–2 in the Senate. The Resolution expressed approval and support of "the determination of the President as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." Also it provided the United States is "prepared as the President determines to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." (South Vietnam is a protocol state of SEATO). The joint resolution was signed into law on August 10 as Public Law 88–408.

Both this resolution and the SEATO agreement itself have been claimed as authority for United States activities in Vietnam. In addition, several appropriations laws providing for support of the hostilities in Southeast Asia are purported to represent authority for our engagement there. The Tonkin Gulf Resolution was subsequently repealed by P. L. 91–672 (Jan. 12, 1971).

Since assuming office in January, 1969, President Nixon has ordered the withdrawal of 364,000 troops. The latest reduction will lower the total of American military forces in South Vietnam to 184,000 by December, 1971. State, 12–14.

1965: *Dominican Republic.* A revolt broke out in the Dominican Republic on April 24, 1965, and on April 28 President Johnson announced that Dominican military authorities had requested assistance from the United States in protecting the lives of United States citizens living in that country. The President added that he had ordered the Secretary of Defense to put the necessary troops ashore to protect Americans, and that this assistance would be available to the nationals of other countries as well.

The first United States military contingent to the Dominican Republic consised of 400 men. On May 2, the President announced that he was sending 200 more men immediately and that an additional 4,500 would go at the earliest possible moment. He cited the increasing Communist control of the revolutionaries, as well as the urgent need for food, medical supplies, and other humanitarian assistance to the Dominican people, as reasons for his decision. At their peak, 21,500 United States troops were in the Dominican Republic.

On May 5, a five-man OAS peace commission succeeded in achieving a cease-fire agreement among the contending forces, and on May 6, the OAS voted to create an Inter-American Peace Force to assist in restoring peace and order. The arrival on May 21 of the first contingent of a Brazilian force permitted the withdrawal of 1,700 United States troops, and as other foreign contingents arrived, additional United States troops were withdrawn. By the end of 1965, the Inter-American Peace Force totaled 9,400. In the meantime, a formula to restore constitutional government, worked out by an OAS Ad Hoc Commission, made considerable progress. The inauguration of a civilian, Hector Garcia Godoy, as provisional president on September 3, 1965, was a major step toward the restoration of stability. State, 14–15.

1967: *Syrian Coast.* In June of 1967, during the Arab-Israeli War, President Johnson ordered the U.S. 6th Fleet to move to within 50 miles of the Syrian Coast as a sign to the Soviet Union it "would have to deal with us" if it entered the conflict. The action was taken as a counter-move against the Soviet Union after Premier Kosygin told President Johnson over the hotline that the Soviets "had reached a decision that they were prepared to do what was necessary, including using the military" to stop the advance of Israeli troops into Arab territory, and would give the Israelis just five hours to halt their operations. Star, D–4.

1967: *Congo.* In July, Lt. General Mobutu, who had now become President of the Congo, was challenged by a revolt of about 170 white mercenaries and a few hundred Katangese troops. The Congolese army numbered around 32,000, but required outside logistical support in order to crush the revolt.

Responding to a direct appeal from President Mobutu, on July 8 the United States sent three C–130 military transport aircraft to the Congo, with their crews, to provide the Central Government with "long-range logistical support." Approximately 150 American military men arrived with the planes.

The small American task force immediately began to drop several plane loads of paratroopers and their equipment and continued to fly troops until November. On July 15, the first aircraft was withrdawn; on August 4, the second; and on December, the last. LRS, III.

1970 [3] *Cambodia.* From April 30 to June 30, U.S. troops attacked Communist sanctuaries in order to ensure the success of the program of Vietnamization. LRS, IV, 57.

Footnotes at end of article.

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B. FIVE U.S. MILITARY ACTIONS ABROAD UNDER A DECLARATION OF WAR

War of 1812: (1812–1815) On June 18, Congress approved a declaration of war against England. The war was officially concluded by the Treaty of Ghent, December 24, 1814, but the major battle of the war occurred with an American victory at New Orleans in January, 1815.

War Between the United States and Mexico: (1846–1848) Congress declared war on May 11, 1846. The Treaty of Guadalupe Hidalgo ended the conflict on February 2, 1848.

Spanish-American War: (1898) On April 25, 1898, the United States declared war against Spain. The peace treaty ending hostilities was signed in Paris on December 10, 1898.

World War I: (1917–1919) The United States declared war on Germany on April 6, 1917, and against Austria on December 7, 1917. The Treaty of Versailles was signed on June 28, 1919. The treaty was never ratified by the United States.

World War II: (1941–1945) The United States declared war on Japan December 8, 1941, and on Germany and Italy December 11, 1941. The war ended in Europe on May 8, 1945. Japan signed the formal surrender in Asia on September 2, 1945.

C. FORTY-THREE MAJOR MILITARY ACTIONS FOR BROAD STRATEGIC AIMS

1798–1800: *Naval War with France*. The U.S. fought primarily for the protection of its free commerce.

1801–1805: *War with Tripoli*. The U.S. upheld its right of free commerce.

1814–1825: *Caribbean Area*. The U.S. sank or captured 65 vessels to protect American commerce.

1815: *Second Barbary War*. The U.S. acted to provide effective protection to American commerce.

1844: *Mexico*. President Tyler deployed our troops to protect Texas one year before annexation.

1846: *Mexico*. President Polk ordered General Scott to occupy disputed territory between the Nueces and the Rio Grande.

1853–1854: *Japan*. Commodore Perry's expedition of 2000 men and ten ships advanced American commercial interests.

1864: *Japan*. U.S. Naval units participated in a joint effort to force open the Straits of Shimonoseki for the free conduct of international commerce.

1865–1866: *Mexican border*. General Sheridan and 50,000 U.S. troops backed up a demand from Secretary of State Seward that French forces withdraw from Mexico.

1888–1889: *Samoan Islands*. Germany and the United States were close to warfare due to their rivalry over naval privileges in the Samoans.

1890–1901: *Philippine Islands*. The United States used 126,468 troops against the Philippine Insurrection in order to preserve and foster any rights it had acquired from Spain.

1900–1901: *Boxer Rebellion (Peking)*. The U.S. sent 5000 troops and marines to relieve foreign legations in Peking and to keep open communication between Peking and the sea.

1903–1914: *Panama*. Marine guards landed and remained on the Isthmus to protect construction of the Canal.

1906–1909. *Cuba*. The U.S. temporarily occupied Cuba to preserve order.

1912: *Cuba*. American troops remained three months to preserve order.

1915–1934: *Haiti*. By force of Arms U.S. troops took over Haiti in part to forestall European intervention.

1916–1924: *Dominican Republic*. U.S. troops occupied Santo Domingo and supported a military governor in the Dominican Republic.

1917: *Armed Atlantic Merchant Ships*. President Wilson armed American merchant vessels with guns and gunners assigned from the Navy.

1917: *Cuba*. Several American landings were made to preserve order.

1918–1920: *Expeditions to Russia*. The U.S. contributed some 14,000 men to aid the anti-Bolsheviks and to forestall Japanese expansionist plans in Siberia.

1926–1933: *Nicaragua*. The occupation of Nicaragua foiled the first attempt of Communism to infiltrate Latin America.

1927–1928: *China*. Nearly 6000 U.S. troops acted to help stabilize China.

1937–1938: *China*. Some 2500 marines helped preserve order in Shanghai under the International Defense Scheme.

1940: *British possessions in Western Atlantic*. U.S. occupied military bases on British soil to protect long range national security interests.

1941: *Greenland*. The U.S. Army occupied Greenland for the same reason as above.

1941: *Iceland*. U.S. troops occupied Iceland for the same reason as above.

1941: *Dutch Guiana*. American troops occupied Dutch Guiana for same reason as above.

1941: Atlantic convoys. U.S. warships were used to convoy military supplies to British and Russia.

1946: *Turkey*. A. U.S. carrier unit was deployed to affirm U.S. intentions to shore up Turkey against Soviet imperialism.

1950–1953: *Korean war*. U.S. forces acted to assist the Republic of Korea in order "to restore international peace and security in the area."

1957: *Taiwan*. U.S. naval units were dispatched to defend Taiwan.

1958: *Lebanon*. A primary purpose of using U.S. armed forces in Lebanon was to assist Lebanon in preserving its political independence.

1961: *Dominican Waters*. U.S. Navy ships took up positions three miles off the Dominican coast and Navy jet planes patrolled the shoreline to prevent a revolution in the Dominican Republic.

1962: *Thailand*. Some 5000 marines landed to support Thailand during a threat of external Communist aggression.

1962: *Cuban Naval Quarantine*. President Kennedy ordered a naval quarantine of Cuba to prevent delivery of additional Russian missiles and to obtain the removal of those already in Cuba.

1963: *Haiti*. A marine battalion was positioned off Haiti when trouble developed there.

1964: *Congo*. A task force of four U.S. C–130 transport planes with paratrooper guards was sent to the Congo to provide airlift for the regular Congolese troops against a Communist-assisted rebellion.

1964–1971: *Vietnam*. American forces have acted to support freedom and protect peace in Southeast Asia.

1964–1971: *Laos*. The United States has supported the free government of Laos, particularly with air missions.

1965: *Dominican Republic*. The threat of a Communist takeover and the need to provide humanitarian assistance to the Dominican people were major reasons for the American landings.

1967: *Syrian Coast*. During the Arab-Israeli war, the U. S. 6th Fleet moved to within 50 miles of the Syrian Coast as a sign to the Soviet Union it "would have to deal with us" if it entered the conflict.

1967: *Congo*. A task force of three U.S. C–130 transports and 150 men ferried Congolese paratroopers in order to crush a revolt against Mobutu's government.

1970: *Cambodia*. U.S. troops were ordered into Cambodia to assist the program of Vietnamization.

D. 81 HOSTILITIES WITH ACTUAL COMBAT OR ULTIMATUMS

1798–1800: Quasi-war with France.
1800: West Indies.
1801–1805: War with Tripoli.
1806: Mexico.
1806–1810: Gulf of Mexico.
1814–1825: Caribbean area.
1815: Second Barbary War.
1816–1818: Spanish Florida.
1817: Amelia Island (Spanish Territory).
1820: West Africa.
1820–1822: West Coast of South America.
1822: Cuba.
1823: Cuba.
1825: Cuban Keys.
1827: Greece.
1828: West Indies.
1830: Haiti.
1831–1832: Falkland Islands (Argentina).

Footnotes at end of article.

1832: Sumatra.
1835: Samoan Islands.
1837: Mexico.
1840: Fiji Islands.
1841: Drummond Islands (Pacific Ocean).
1841: Samoan Islands.
1843: West Africa.
1845: African coast.
1846: Mexico.
1850: African coast.
1851: Turkey (apparently no shots fired, but the force displayed amounted to a compulsory ultimatum).
1851: Johanna Island (East of Africa).
1853: China.
1853: West Coast of Africa.
1853–1854: Japan (Commodore Perry's expedition including 10 ships and 2000 men conveyed an imminent threat of force.)
1854: China.
1854: Greytown, Nicaragua.
1854: West Coast of Africa.
1854: Okinawa.
1855: China.
1855: Fiji Islands.
1855: Uruguay.
1856: China.
1858: Fiji Islands.
1858: African coast.
1859: African coast.
1859: Paraguay (The Naval display of force amounted to compulsion.)
1863: Japan.
1864: Japan.
1865–1866: Mexico border (General Sheridan and 50,000 American troops backed up the demand of Secretary of State Seward that French forces leave Mexico.)
1867: Formosa.
1867: Nicaragua.
1870: Mexico.
1871: Korea.
1888: Haiti (American Commander issued an ultimatum threatening force if necessary.)
1888–1889: Samoan Islands (Three powers had warships on the scene during an intense rivalry over claims in the islands. War was close when a hurricane destroyed German and American vessels.)
1891: Bering Sea.
1894: Brazil.
1899: Samoan Islands.
1900–1901: Boxer Rebellion (China).
1899–1901: Philippine Insurrection.
1910: Nicaragua (Armed combat was "hourly expected.")
1911: Honduras (The American Commander expressly threatened to use force if necessary.)
1914: Dominican Republic.
1914: Occupation of Vera Cruz, Mexico.
1915: Haiti.
1916: Dominican Republic.
1916–1917: Pershing Expedition into Mexico.
1917: Armed Atlantic merchant ships.
1918–1919: Mexico.
1918–1920: Expeditions to Russia.
1926–1933: Nicaraguan occupation.
1927–1928: Armed actions in China.
1941: Atlantic convoys.
1946: Trieste.
1948: Palestine.
1950–1953: Korean War.
1962: Cuban naval quarantine.
1964–1971: Armed actions in Laos.
1965: Dominican Republic.
1964–1971: Vietnam War.
1967: Syrian coast.
1970: Cambodia.

E. 93 MILITARY ACTIONS LASTING MORE THAN 30 DAYS

1798–1800: Quasi-War with France.
1801–1805: War with Tripoli.
1806–1810: Gulf of Mexico.
1813–1814: Marquesas Islands (South Pacific).
1814–1825: Caribbean Area.
1815: Second Barbary War.
1816–1818: Spanish Florida.
1820–1822: West Coast of South America.
1823: Cuba.
1827: Greece.
1831–1832: Falkland Islands.
1835–1836: Peru.
1838–1839: Sumatra.
1843: West Africa.
1843: China.
1844: Mexico.
1846: Mexico.
1852–1853: Argentina.
1853–1854: Japan.
1854: China.
1854: Okinawa.
1855: Fiji Islands.
1855: Uruguay.
1856: China.
1858–1859: Paraguay.
1858–1859: Turkey.
1865–1866: Mexican border.
1866: China.
1868: Japan.
1873: Colombia.
1873–1882: Mexico.
1885: Colombia.
1888–1889: Samoan Islands.
1891: Bering Sea.
1894: Nicaragua.
1894–1895: China.
1898–1899: China.
1899: Samoan Islands.
1899–1901: Philippine Islands.
1900–1901: "Boxer" Rebellion (Peking).
1901: State of Panama.
1902: State of Panama.
1903: Panama.
1903–1904: Abyssinia.
1903–1904: Syria.
1904: Dominican Republic.
1904–1905: Korea.
1906–1909: Cuba.
1907: Honduras.
1911–1912: China.
1912: Panama.
1912: Cuba.
1912: Nicaragua.
1913: China.
1914: Haiti.
1914: Vera Cruz (Mexico).
1914–1915: Dominican Republic.
1915: Occupation of Haiti.
1916: Occupation of Dominican Republic.
1916–1917: Pershing Expedition into Mexico.
1917: Armed Atlantic merchant ships.
1917: Cuba.
1918–1919: Mexico.
1918–1920: Expeditions to Russia.
1918–1920: Panama.
1920–1922: Siberia.
1922–1923: China.
1924–1925: China.
1924–1925: Honduras.
1926–1933: Nicaragua.
1926: China.
1927: China.
1936: Spain.
1937–1938: China.
1940: Occupation of British possessions in Western Atlantic.
1941: Occupation of Greenland.
1941: Occupation of Dutch Guiana.
1941: Occupation of Iceland.
1941: Atlantic convoys.
1948: Mediterranean.
1948–1949: China.
1950–1953: Korean War.
1954–1955: Tachen Islands (China).
1958: Lebanon.
1959–1960: Cuba.
1962: Thailand.
1962: Cuban naval quarantine.
1964–1971: Laos.
1964–1971: Vietnam.
1964: Congo.
1965: Dominican Republic.
1967: Congo.
1970: Cambodia.

F. 100 MILITARY ACTIONS BY THE UNITED STATES OUTSIDE THE WESTERN HEMISPHERE

1801–1805: War with Tripoli.
1813–1814: Marquesas Islands (South Pacific).
1815: Second Barbary War.
1820: West Africa.
1827: Greece.
1832: Sumatra.
1835: Samoan Islands.
1838–1839: Sumatra.
1840: Fiji Islands.
1841: Drummond Island (Pacific Ocean).
1841: Samoan Islands.
1843: West Africa.
1843: China.
1844: China.
1845: African coast.
1849: Smyrna (Now Izmir, Turkey).
1850: African coast.
1851: Turkey.
1851: Johanna Island (east of Africa).
1853: China.
1853: African coast.
1853–1854: Japan.
1854: African coast.
1854: Okinawa.
1854: China.
1855: China.
1855: Fiji Islands.
1856: China.
1858: Fiji Islands.
1858: African coast.
1858–1859: Turkey.
1859: African coast.
1859: China.
1860: Kissembo (West Africa).
1863: Japan.
1864: Japan.
1864: Japan.
1866: China.
1867: Formosa.
1868: Japan.
1871: Korea.
1874: Hawaii.
1882: Egypt.
1888: Korea.
1888–1889: Samoan Islands.
1889: Hawaii.
1894-1896: Korea.
1894: China.
1895–1896: Korea.
1898–1899: China.
1899: Samoan Islands.
1899–1901: Philippine Islands.
1900–1901: "Boxer" Rebellion (Peking).
1903–1904: Syria.
1903–1904: Abyssinia (Ethiopia).
1904: Morocco.
1904: Korea.
1911–1912: China.
1912: Turkey.
1913: China.
1916: China.
1917: Armed Atlantic merchant ships.
1918: China.
1918–1920: Expeditions to Russia.
1919: Turkey.
1920: China.
1920–1922: Siberia.
1922: Turkey.
1922–1923: China.
1924: China.
1924–1925: China.
1926: China.
1927: China.
1932: China.
1934: China.
1936: Spain.
1937–1938: China.
1941: Occupation of Greenland.
1941: Occupation of Iceland.
1941: Atlantic convoys.
1946: Turkey.
1946: Trieste.
1946: Greece.
1948: Palestine.
1948: Mediterranean.
1948–1949: China.
1950–1953: Korea.
1954–1955: Tachen Islands (China).
1956: Egypt.
1957: Indonesia.
1957: Taiwan.
1958: Indonesia.
1958: Lebanon.
1962: Thailand.
1964–1971: Laos.
1964–1971: Vietnam.

1964: Congo.
1967: Syrian coast.
1967: Congo.
1970: Cambodia.

FOOTNOTES

[1] The list includes only actual battles, landings, or evacuations. Deployments to maintain an American presence, or alerts bringing an advanced state of readiness are not included, except for seven or eight incidents when the risk of war was unusually grave. No military operations known to have been subsequently disavowed or repudiated have been included. The list was prepared with the direction of U.S. Senator Barry Goldwater and is published with his consent.

[2] Authority for each of the listed hostilities is given at the end of its description. The reference is to one of the sources in the author's Sources for Compilation which follows this section of the Appendix.

[3] Eight military engagements which were subsequently disavowed or repudiated have been omitted from the above list of precedents. These are:

1812: Amelia Island, Spanish territory. United States disavowed General Matthews' occupation of the area when he made himself the head of a revolutionary party. State, 16.

1824: Puerto Rico, Spanish territory. Commodore Porter was later courtmartialed for exceeding his powers when he forced an apology from a group of pirates who had insulted American naval officers. State, 17.

1842: Mexico. Commodore T.A.C. Jones occupied Monterey in the mistaken belief that war had started between the United States and Mexico. He withdrew and saluted, thereby disavowing his action. State, 18.

1857: Nicaragua. An American naval commander compelled the leader of a rebel group who was trying to seize Nicaragua to leave the country. The American commander's action was tacitly disavowed by the Secretary of State and apparently repudiated by President Buchanan. State, 20.

1866: Mexico. After General Sedgwich obtained the surrender of the Mexican border town of Matamoras, he was ordered to withdraw and his act was repudiated by the President. State, 22.

Late 1880's: Bering Sea. The United States paid nearly $500,000 to Britain in damages resulting from the seizure of British sealers by United States patrol boats outside the three mile limit. U.S., 586.

1893: Hawaii. On January 16, Marines from the schooner *U.S.S. Boston* landed at Honolulu and were dispatched until April 1 to protect American lives and property, after the deposition of Queen Liliuokalani. The action was later disavowed by the United States. LRS, III, 53.

1912: Honduras. A small naval force landed at Puerto Cortez to protect an American-owned railroad there. Apparently Washington disapproved and the men were withdrawn in a day or two. State, 27.

[4] Only the primary source is cited, although in several instances the summary was prepared from a composite of information published in more than one of the sources referred to herein.

81 MILITARY OPERATIONS ARGUABLY INITIATED UNDER PRIOR LEGISLATIVE AUTHORITY (NO DECLARATIONS OF WAR)

Year	Military operation	Legislation	Treaty
1798–1800	Quasi-War with France	X	
1801–1805	War with Tripoli	X	
1813	Spanish Florida	X	
1806–1810	Gulf of Mexico	X	
1813–1814	Marquesas Islands	X	
1814–1825	Caribbean area	X	
1815	Second Barbary War	X	
1817	Amelia Island	X	
1820 [1]	West Africa	X	
1822	Cuba	X	
1823	Cuba	X	
1824	Cuba	X	
1825	Cuban Keys	X	
1827 [2]	Greece	X	
1828 [2]	West Indies	X	
1832 [2]	Sumatra	X	
1835 [2]	Samoan Islands	X	
1838–1839 [2]	Sumatra	X	
1841 [2]	Drummond Island	X	
1841 [2]	Samoan Islands	X	
1843 [1] [2]	West Africa	X	
1845 [1]	African coast		X
1850 [1]	African coast		X
1851 [1]	Johanna Island, east of Africa	X	
1853 [1]	African coast		X
1854 [1]	African coast		X
1854	Okinawa		X
1855 [2]	China	X	
1856	Panama		X
1858 [1]	African coast		X
1859 [1]	African		X
1859	Paraguay		X
1860	Panama		X
1864	Japan		X
1865	Panama		X
1867 [2]	Formosa	X	
1868	Columbia		X
1870	Mexico	X	
1873	Columbia		X
1885	Panama		X
1888–1889	Samoan Islands	X	X
1891	Navassa Island, Haiti	X	
1894	Brazil	X	
1895	Panama		X
1899	Samoan Islands	X	X
1899–1901	Philippine Islands		X
1901	Panama		X
1902	Panama		X
1903	Panama		X
1904	Panama		X
1906	Cuba		X
1911–1912	China		X
1912	Panama		X
1912	Cuba		X
1913	China		X
1914	Vera Cruz, Mexico	X	
1916	China		X
1916	Pershing Expedition into Mexico		X
1917	Cuba		X
1918	China		X
1918–1920	Panama		X
1920	China		X
1921	Panama-Costa Rica		X
1922–1923	China		X
1924	China		X
1924–1925	China		X
1925	Panama		X
1926	China		X
1927	China		X
1932	China		X
1933	Cuba		X
1934	China		X
1937–1938	China		X
1950–1953 [3]	Korean war		X [6]
1957	Taiwan	X	X
1958 [4]	Lebanon Operation	X	
1962 [5]	Cuban Naval Quarantine		X [7]
1962	Thailand		X
1964–1971	Vietnam	X	X
1964–1971	Laos	X	X
1970	Cambodia	X	X

[1] Indicates operation occurred under Act of 1819 or Treaty of Aug. 9, 1842, with Great Britain, both relative to the suppression of slavery.

[2] Indicates military activity may have occurred pursuant to broad interpretation of authority conferred by certain Acts of Congress against piracy. See Act of Mar. 3, 1819 (3 Stat. 510), Act of Jan. 14, 1823 (3 Stat. 720), and Act of Aug. 5, 1861 (12 Stat. 314)

[3] Though reliance was also placed on the U.N. Charter, the Truman Administration based its authority to commit troops squarely on the President's independent Constitutional authority. Rogers, discussion supra, note 55, at S7197.

[4] In fact President Eisenhower sent troops into Lebanon without seeking specific congressional approval and without specifically basing his authority on the 1957 Middle East Resolution. Id.

[5] According to Secretary of State Rogers, "the Cuban Resolution, unlike the other area resolutions, contained no grant of authority to the President." Id.

[6] U.N. Charter.

[7] OAS.

Mr. JAVITS. Mr. President, I have listened with great interest to the statement by the Senator from Arizona. None of us is alone in this body. We all serve together. There are 100 of us. The rules of the Senate give each of us rights and they give us collective rights. So I am not unduly dismayed by the promise of the Senator from Arizona that he will speak on this measure at very great length.

We have some perfecting amendments we will submit as soon as we feel the situation is appropriate, perhaps as early as today or tomorrow. We are entirely agreeable to a time certain for voting whether this matter should or should not be referred to the Committee on the Judiciary, with an agreement for an appropriate period of debate to precede that submittal to the Senate.

The Senator from Arkansas (Mr. FULBRIGHT) has amendments which we hope very much he will press forward with.

Finally, the Senator from Maryland (Mr. BEALL) has an amendment which offers to the Senate an alternative to the war powers bill through a presidential study commission. I do not think the committee considered this, and I do not think it would be for it. I would be unable to espouse it.

However, there is an orderly pattern by which after full and fair debate the bill may be considered and acted on. I rise only to express the hope that that pattern will be followed. This is a matter of great importance to the people of our country. As has been said before, we will be joining issue with the House, which has acted thus far only on the Zablocki reporting resolution. The orderly process of debate and consideration here, together with the relationship the other body has to this or a bill of its own, will produce a final result which will go to the President.

I hope that notwithstanding this idea which was expressed that they will fit within the orderly pattern of producing legislation in the Senate, and I hope no one will get especially dug in upon the consideration of this measure as contrasted with its merits. I certainly shall not. I see no disposition of that character on the part of the committee or the Senator from Virginia (Mr. SPONG) who is managing the bill for the majority on the floor.

I rise only to make the point and express my hope that in this particular case, a matter of such historical importance, we will do our utmost to give it every consideration it deserves. I made that clear yesterday. But I hope every effort will be made by the opponents as well as the proponents to bring the matter to a point within a reasonable time where the Senate can manifest its will.

Mr. SPONG. Mr. President, I said at the opening of the hearings on the pending war powers legislation that a number of "red herrings" would be raised in connection with this bill. That is exactly what has happened.

In addition, an attempt has been made to make this legislation appear complex and confusing. The truth is, however, that the bill is a very simple one. It, first of all, in effect, makes a distinction between defensive and offensive military actions. The right—and indeed the responsibility—of the President to act to defend our Nation—is restated in the bill. There has never been any question over this authority. The framers of the Constitution discussed it. It has been recognized by the courts. It was debated during the consideration of the Church-Cooper amendment dealing with Cambodia. It was covered extensively in testimony on the war powers proposals. It is included in this bill.

Offensive actions are, however, another matter. The power to declare war was given to Congress, and those of us who support this bill believe Congress should exercise that power. Congress should decide when hostilities are to be initiated with a foreign nation. We also believe that there are times when an action taken in defense of our Nation or our troops could become an offensive action. For instance, an attack on NATO forces in West Germany could, in a matter of days or weeks, turn into a situation in which NATO was taking offensive action. And, what the cosponsors of this legislation are saying is that we want a voice in these decisions, a voice which we believe was given to us by the Constitution when it specified that Congress was to declare war.

It has been suggested to us that under the pending legislation, the President would not be able to act quickly under NATO, that the U.S. would have to drop out of the NATO unified command during a crisis, that all our commitments would be reduced to 30-day possible commitments. In the first place, these charges are not true. The President could act quickly under the circumstances specified in section 3, circumstances which could be construed to cover hostilities against NATO. As the sponsors of this legislation have noted, there is no intent to prevent participation in the unified command and we are willing to adopt perfecting language to that effect. Finally, the 30-day limit is also a limit on Congress to act either negatively or affirmatively, not necessarily the arbitrary 30-day end-of-hostilities provision which some of the opponents of the bill are trying to make it out to be.

Second, these charges suggest something about the Congress. They are all based on the assumption that Congress will be unresponsive which is contrary to a natural instinct to support the President in hostilities abroad—an instinct which has, as a matter of fact, been demonstrated a number of times during consideration of legislation dealing with Southeast Asia.

While assuming an unresponsive Congress on the one hand, some of the opponents of the bill assume an irresponsible President on the other by arguing such things as that the President might be encouraged to escalate hostilities in order to conclude his activities within a 30-day period.

I would agree with a conclusion which is implicit in the argument that Congress might be unresponsive and the President over-anxious in the use of force abroad—that is, that neither the Congress nor the President is all-wise or all-foolish. But, I do not believe the opponents can logically argue both these points and then determine that the President should be unrestricted in war-making. Indeed, I believe that the argument leads to the determination that because neither the Executive nor the Congress is infallible that a collective judgment is the best arrangement we can have.

Finally, I would like to turn to several examples which have been raised. One involves what action might be taken if a U.S. military patrol were attacked in the Korean DMZ. In one way, I cannot give a specific answer. Under the bill, the actions that might be taken would depend on two matters: the circumstances of the attack and the President's determination of what type of threat the attack represents. Under most circumstances, I believe that an attack on a military patrol would be construed as an attack on U.S. forces abroad and therefore the President could act to repel an attack on those forces. That determination would, however, belong to the President. But what we are saying in this legislation is that after the President has involved the United States in hostilities—perhaps in repelling the attack—then he must report to Congress. The President would tell us what had been done to protect our troops. In most situations, I would expect the Congress to sustain him. If, however, his actions led to an expanded conflict, I think the Congress would want to examine them carefully so that it could exercise its constitutional authority to declare war, to participate in use of force decisions involving offensive actions by U.S. troops abroad.

During this debate there have been continuous references to Southeast Asia. There has, I believe, been an over-emphasis on Southeast Asia. There are various other situations which we are seeking to cover in this legislation. We have had reference to the Dominican Republic and to Korea, for example. Perhaps, to avoid the charge that we are legislating in the emotional aftermath of Vietnam, we who support the bill should argue that we are legislating in the aftermath of Korea.

But, the experience in Southeast Asia is fresh in our minds and it does suggest things to us. One of the most tragic things it suggests is the divisiveness which can wrack our Nation. To those who would argue that this bill will raise questions among our allies, I would suggest that it might, rather, reassure them. Certainly, a divisiveness in our nation cannot be very reassuring to our allies—anywhere in the world. But, knowing that military actions were being undertaken by decision of both the Executive and the Congress could eliminate questions as to U.S. position on and support for a military move.

I do not believe the legislation will of itself prevent future Vietnams or whatever situation will arise next. But, it will establish procedures and methods whereby the Congress can know about and review use of force decisions and whereby the Congress can participate in those decisions which might involve our Nation in war, and thereby, hopefully, help preclude unwanted involvements.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SPONG. I am glad to yield.

Mr. JAVITS. The Senator has made some reference to certain perfecting amendments which we shall in due course propose. Will the Senator agree with me that there is nothing in mind to propose which we have not stated is already included in the bill; that these are truly perfecting amendments in the sense of spelling out with more specificity the precise answer to what is of concern, as would be natural in any debate, as it has been in this debate?

Mr. SPONG. I agree with the Senator. I can say, in reply to the Senator from New York, that the principal sponsors of this legislation have all agreed that the amendments to be offered do not change the bill but seek to specify in more detail our intent.

Mr. JAVITS. One of the things the Senator did not mention was the question of the high seas in the context of Section 3(3). Several statements have been made, and this was the subject of a colloquy between the Senator from Alabama (Mr. ALLEN) and myself last week, on March 29.

Of course, American-flag vessels would be "American soil"; would they not?

Mr. SPONG. Yes.

Mr. JAVITS. And foreign-flag vessels, vessels flying under foreign flags, would be "foreign soil"; would they not?

Mr. SPONG. Yes.

Mr. JAVITS. Again we are considering spelling out the applicability of the legislation to anything that happens on the high seas, though it is the very clear intention of the legislation that this be covered.

Is there any barrier whatever to any President's deploying our naval forces anywhere in international waters?

Mr. SPONG. The Senator from Virginia knows of none, and he would liken that to the naval activities which the Senator from Kentucky and I discussed on yesterday.

Mr. JAVITS. That is exactly right.

Mr. SPONG. They are very similar.

Mr. JAVITS. As the Senator has said very properly, there is no deleterious, or even constraining, effect upon the President in matters which are not explicitly addressed in this bill, which deals with introducing the Armed Forces in hostilities, or situations where hostilities are imminent.

Mr. SPONG. That is true. There are those who view this legislation as a constitutional change. It is not. It is, as the Senator from New York has said, the delineation of a methodology whereby Congress and the President can consult together and whereby the Congress can play a role in the matter of going to war.

Mr. JAVITS. It seems to me that the colloquies, including—and I use this word in quotation marks because I do not mean it invidiously—"hostile" colloquies, all serve to sustain the legislation rather than to break it down, in posing to us all the possibilities—many, of course, being hypothetical—which we may face in the foreign policy field. Does the Senator concur?

Mr. SPONG. I do concur.

Mr. JAVITS. I thank the Senator very much.

Mr. President, on March 30, 1972, Senator McGEE and Senator DOMINICK circulated a letter to all Senators which leveled seven specific criticisms of the War Powers Act. I believe that those criticisms are not warranted. I have prepared a written response to each of these seven charges and, although we have actually covered most of this already in colloquy, I ask unanimous consent that the text of a rebuttal memorandum which I have prepared be printed in the Record, so as to be available to all Senators.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

REPLY TO POINTS RAISED BY SENATORS McGEE AND DOMINICK

1. Criticism: An attack on NATO forces, other than U.S. forces, would preclude action or assistance by U.S. forces and would preclude continuation in command by U.S. officers assigned to NATO.

Response: (a) This assertion is based on an apparent misunderstanding of the legislation. Under Section 3(1) and 3(2) the President, if the circumstances justify, could construe an attack upon non-U.S. NATO forces as posing the "direct and imminent threat" of an attack upon the U.S. or upon the U.S. forces deployed in Europe. If the circumstances warranted such a construction of the situation, the President is empowered to take necessary forestalling actions which could certainly encompass any necessary military actions, including command assignments.

(b) Should foreign forces within the NATO integrated command structure be subject to incidental attack, or embroilment in hostilities, which are of such a nature as would not lead to a good faith finding by the President that such an attack or embroilment brought the emergency authority of Section 3(1) or 3(2) into play, the United States would still not be obliged to withdraw from the NATO integrated command structure as such. Rather, the pertinent provision of Section 3(4) merely would prohibit members of the United States Armed Forces from commanding those particular local forces of another NATO nation which were actually engaged in the hostilities in question. To give an example, if Norwegian forces became embroiled with Swedish forces as a result of a dispute between those two nations, the effect of the pertinent provision of Section 3(4) would merely be to require specific statutory authorization for the assignment of U.S. personnel to command, etc. *those*—and only those—particular local Norwegian units which were actually engaged in such hostilities. General Goodpaster and his U.S. deputies could certainly continue to exercise their full integrated command functions under NATO with respect to all other forces under the NATO command.

(c) Should non-U.S. NATO forces be attacked in an isolated or incidental context not related to the security of the Alliance and the security of the United States, the bill would prohibit the President from embroiling the United States in such hostilities without further specific statutory authorization. Such a hypothetical situation might involve an attack on Portuguese forces by leftist terrorists or, for instance, an attack by Cypriot partisans upon Turkish or Greek forces stationed in Cyprus, or, hypothetically, an attack by Quebec extremists upon Canadian military forces. Such coincidental attacks would not, and should not, in themselves trigger a capacity by the President to intervene and involve the United States in a war without Congressional concurrence.

2. Criticism: The bill gives the President authority to repel an armed attack against the U.S. and to take necessary retaliatory actions. It gives the President authority to repel an attack against U.S. forces outside the U.S., but, in this case, it does not give him authority to retaliate. Such restrictions clearly limit the President in his role as Commander-in-Chief and communicate to any potential enemy or attacker the limits of any response.

Response: As noted, the power to repel attacks upon the Armed Forces located outside the United States is less comprehensive in one respect than the power to repel attacks upon the United States itself. While the subsection contains the authority to repel and forestall, it does not include the separate and broader power to retaliate. There are good reasons for this. First, it should be emphasized that the President could, of course, take retaliatory action if an attack upon our Armed Forces abroad was construed as integral to an attack upon the United States. And he could do this respecting our NATO forces in Europe as part of his forestalling powers relating to an attack upon the United States. Nonetheless, the wording of this provision is meant to retain safeguards against wider embroilment resulting from incidental attacks upon U.S. Forces. Thus, for instance, an attack upon a Marine Guard at our Embassy in Nepal would not trigger an authority to retaliate by seizing the country. Likewise, for instance, a sneak attack on security guards at one of our airbases in Thailand, would not trigger an authority to retaliate by launching search and destroy missions in Northern Laos.

3. Criticism: Whenever the President takes an action authorized by the bill he must come to the Congress at the end of 30 days to get continuation authorization. Such a proviso could lead to a piecemeal strategy in countering an attack or threat of attack. It could also force the President, if he were doubtful continuation authorization would be given, to adopt an overkill strategy in the action taken;

Response: The premise of this criticism is that there would be a deep division between the judgment of the President and the judgment of the Congress as regards the national security interests of the United States in a given situation. It might be argued that such a division of judgment has prevailed with respect to the continuing war in Indochina. History has shown us that U.S. military strategy is not likely to be effective when the judgment of the President is not shared by the Congress and the Nation. It is in part to prevent the embroilment of the Nation in such questionable enterprises that this legislation is being offered. The Constitution grants fundamental powers to the Congress respecting the involvement of this Nation in war. It has been proven by history that efforts to involve this Nation in war without seeking the concurrence of the Congress through the exercise of its constitutional responsibilities is against the national interest and is likely to be deeply damaging not only to the overall interests of our Nation but also to the conduct of military campaigns. It should be noted, however, that this bill does not attempt to involve the Congress in military strategy or tactics. That is the job of the Commander-in-Chief and his military advisers. The responsibility for unwise or ineffective strategy or tactics properly rests upon the President. On the other hand, on the basic policy decision on whether this country is to go to war, the Constitution specifies that the Congress must play a major concurring role.

4. Criticism: Nothing in the bill permits U.S. forces to protect American nationals on the high seas;

Response: This question was the subject of a colloquy between Senator Javits and Senator Allen. The colloquy is to be found in the Congressional Record of March 29 on pages 11037 through 11041. It is suggested that Senators read this colloquy.

5. Criticism: The bill would preclude a show of force, i.e., to the Eastern Mediterranean in response to increased Israel-Egyptian tension.

Response: Nothing in this legislation constrains or diminishes the authority of the Commander-in-Chief to make a "show of force" anywhere in international waters. The right of U.S. vessels to operate anywhere in international waters is a basic international right long recognized and proclaimed by all branches of the U.S. Government. Should any nation seek to interfere with, prohibit or constrain that right materially, such constraint would undoubtedly pose the "direct and imminent threat" of an attack upon the forces of the U.S. thus involved. The President would accordingly be authorized to act under Section 3(1) and 3(2). On the other hand, should the actions taken by an adversary to inhibit our naval forces be of a nature which falls below the threshold of posing an "imminent threat" of hostilities, the bill does not apply. In this regard the attention of the Senators is drawn to the language of Section 3 which states that the legislation applies only to the introduction of the Armed Forces of the United States "in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances."

It should be noted that the interpretation in the preceding paragraph applies with respect to the deployment of U.S. forces in international waters, as recognized by the United States. It does not apply to the territorial waters of other nations, nor would it authorize the introduction of ground forces in hostilities or situations where hostilities are clearly indicated by the circumstances, unless he had prior specific statutory authorization to do so (or he were exercising the emergency powers enumerated in Section 3 (1), 3(2) and 3(3)).

6. Criticism: The bill makes no mention of intelligence activities, i.e., intelligence flights: Are they prohibited?

Response: This bill applies to the "Armed Forces of the United States" and it applies to the introduction of such forces in hostilities or in situations where "imminent involvement in hostilities is clearly indicated by the circumstances." Intelligence activities would not be expected to fall within these parameters. However, if they did fall within its parameters, they would be subject to the provisions of this legislation.

7. Criticism: Are patrols by U.S. forces in the Korean DMZ prohibited? No mention is made of this.

Response: With respect to U.S. forces deployed in Korea, the President has authority specified in Section 3(2) of the bill "to repel an armed attack against the Armed Forces of the United States located outside of the United States, its territories and possessions, and to forestall the direct and imminent threat of such an attack." Routine patrolling in the Korean DMZ would not be affected by the provisions of this legislation. However, should our forces in Korea, in the exercise of their mission, be subjected to attack or the "direct and imminent threat of such an attack," broad actions are authorized under the bill which would certainly include patrols in the Korean DMZ.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SPONG. I am pleased to yield to the majority leader.

Mr. MANSFIELD. Earlier the distinguished Senator from Virginia, in response to a question raised by the distinguished Senator from New York, made it very plain that the purpose of this legislation was not to alter, amend, or adjust the intent of the framers of the Constitution or the Constitution itself.

I think that the initial two paragraphs of the committee report state the case succinctly, to the point, and in such a way that anyone can understand it.

First, let me say it is my recollection that this proposal was reported by the Committee on Foreign Relations unanimously; is that correct?

Mr. SPONG. That is correct.

Mr. MANSFIELD. Unanimously. Furthermore, it is my belief and my recollection that this is a composite of a number of similar resolutions which had been introduced by such Senators as the Senator from Ohio (Mr. TAFT), the Senator from Missouri (Mr. EAGLETON), the Senator from Texas (Mr. BENTSEN), the Senator from Maryland (Mr. MATHIAS), the Senator from Rhode Island (Mr. PELL), the Senator from New York (Mr. JAVITS), the Senator from Virginia (Mr. SPONG), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Montana now speaking; and if memory serves me correctly, a similar resolution was introduced by the distinguished Senator from Kansas (Mr. DOLE).

Mr. SPONG. As I recall, the distinguished Senator from Kansas was the first cosponsor that the Senator from New York had. I was present, and I believe presiding, when the Senator from New York introduced the original legislation. His was the first bill, and the Senator from Kansas, in a colloquy that followed, asked to be made a cosponsor of that legislation.

The Senator from Montana is correct; the idea of the initial legislation introduced by the Senator from New York (Mr. JAVITS) was followed by resolutions offered by Senator BENTSEN, Senator EAGLETON, Senator TAFT, and Senator STENNIS. In addition, many other Senators were cosponsors of the various resolutions.

There was some mention earlier of the length of time that these measures stayed before the Committee on Foreign Relations. What the legislation brought to the floor represents is the collective effort of all of those prime sponsors, because all of them ended up joining with Senator JAVITS in the legislation that was reported.

Mr. MANSFIELD. So what we have is a composite group of Senators representing all sides of the political spectrum coming up with a composite bill, which, in their combined judgment, represents their best efforts at facing up to a situation which should not be avoided any longer; is that correct, generally speaking?

Mr. SPONG. That is correct. I suppose if one looked carefully at the list of Senators who have worked on this legislation, he could hardly find a broader philosophical span. Certainly it has been a bipartisan effort.

Mr. MANSFIELD. If the Senator will yield further I would like, not for the information of the Senate—I am sure every Member has read the report of the Committee on Foreign Relations—but to emphasize to the Senate, in two short paragraphs, what this measure provides, to read an excerpt from the committee report, which was placed on the calendar on February 9, 1972, 2 months ago, although the first resolution was introduced, I believe, by the distinguished Senator from New York on June 15, 1970, almost a year ago.

Mr. JAVITS. Two years.

Mr. MANSFIELD. Two years ago is correct.

The two paragraphs read as follows:

> The purpose of the war powers bill, as set forth in its statement of "purpose and policy," is to fulfill—

And I emphasize the word "fulfill"—

> not to alter, amend, or adjust—the intent of the framers of the United States Constitution in order to insure that the collective judgment of both the Congress and the President—

Of both the Congress and the President—

> will be brought to bear in decisions involving the introduction of the Armed Forces of the United States—

Which, of course includes the Air Force, may I say to the distinguished Presiding Officer (Mr. GOLDWATER)—

> in hostilities or in situations where imminent involvement in hostilities is indicated by circumstances. The constitutional basis for this bill is found in Article 1, Section 8, of the Constitution, which enumerates the war powers of Congress, including the power to declare war—

There was, if I recall correctly, some argument among the Founding Fathers about the use of the word "make," and finally they ended up by using the word "declare" instead—

> and to make rules for the Government and regulation of the Armed Forces, and further specifies that Congress shall have the power "to make all laws necessary and proper for carrying into execution" not only its own powers but also "all other powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof."
>
> The essential purpose of the bill, therefore, is to reconfirm—

Again I repeat, to emphasize the word—

> to reconfirm and to define with precision the constitutional authority of Congress to exercise its constitutional war powers with respect to "undeclared" wars—

If my memory serves me correctly, the statement has been made that the correct figure is not 183 undeclared wars, but closer to 196 undeclared wars since the founding of this Republic.

Continuing—

> and the way in which this authority relates to the constitutional responsibilities of the President as Commander in Chief.

The President's authority as Commander in Chief is in no way, shape, or form questioned in the proposal before the Senate.

> The bill is in no way intended to encroach upon, alter or detract from the constitutional powers of the President, in his capacity as Commander in Chief, to conduct hostilities authorized by Congress, to repel attack or the imminent threat of attacks upon the United States or its Armed Forces, and to rescue endangered American citizens and nationals in foreign countries.

I was surprised—I should have known better—that in all our history there have been only five declared wars. So it just goes to prove that all of us can learn a little if we listen enough.

Here we are, trying to bring about an accommodation, a partnership, constitutionally between the executive and the legislative branches of the Government; and here we are, finding this clear-cut subject a matter of debate, a matter of difference. That is all right.

But I repeat: I would hope that those of us who serve in this body by the sufferance of the people, from our various States, but who are also Senators of the United States, would be aware of the awesome responsibilities which are ours to assume, if we will. We have been too willing, going back to the days of Franklin D. Roosevelt, and perhaps to a lesser degree beyond—but to a greatly lesser degree, if that be the case—going back over the past four or five decades, to give up the authorities under the Constitution and the responsibilities which are ours. Then, when we make an attempt to restore equilibrium in the powers of the branches of the Government, the argument is made that we are trying to downgrade the President, that we are trying to take away something from the President which is not constitutionally his but which is ours; and we are castigated because we try to assert an equality of power which the Founding Fathers said applies to both branches of the Government, just as they do, within the Congress, between the House and the Senate.

So I would hope that every Member, if he has not done so, would just read this report. He will find the gist of the arguments which brought a unanimous approval by the Committee on Foreign Relations, and he will understand, I hope, the reasons why it is necessary, even at this late date, to bring forth a resolution of this kind to rectify a situation for which we are to blame, and to do so in a way which, hopefully, will prevent future Vietnams and thereby redound to the benefits of the people of this Nation, whom we are sworn to serve, and bring about an application of the Constitution, which we are sworn to uphold.

Mr. SPONG. I thank the distinguished majority leader for calling the attention of the Senate to that section of the report, which is the very crux of what the committee had to say.

The Senator is quite correct. Congress has been the architect of the demise of its own powers. The debate that has taken place in the last few days is the third or fourth that has transpired in this body on this subject. Senator Stennis called to our attention the debate over the Korean treaty. Both Senator Javits and I were moved to remark upon the participation of the Senator from Ohio (Mr. TAFT) in this effort, because in many respects it echoed what his father had to say on the floor of the Senate at the time the sending of troops to Korea was debated, at the time of the sending of divisions to Europe, without any congressional authorization.

Coming as it does, this legislation, in my judgment, is perhaps the last chance for Congress to assert its powers and to reestablish the balance of the war powers that was envisioned by the Founding Fathers.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SPONG. I yield.

Mr. MANSFIELD. Mr. President, when I first came to the Senate, Mr. Eisenhower was President, and the late Senator Taft was the leader on the Republican side. I never got to know Senator Taft too well, because within a matter of a year he was taken away from us because of cancer, as I recall. But I look upon Senator Taft as one of the most remarkable men of our generation.

I recall the affection which the present Presiding Officer, the distinguished Senator from Arizona—who came to the Senate at the same time I did—had for the leader on his side of the aisle. I also recall the strenuous efforts of the Senator from Arizona to bring about the creation of a memorial to our late departed colleague, a successful initiative which stands as an enduring monument to the contributions which Senator Taft made to this body and to our country.

I think of the late Senator Taft as a man who, almost alone, stood up and denounced the Nuremberg trials. The rest of us remained silent. I remember Senator Taft being accused of being a Socialist because he wanted to do something about housing for the low- and middle-income groups. What Senator Taft, along with Senator Wagner and others, espoused then has come to pass since and is accepted by both parties as sound economic doctrine.

But I remember Senator Taft most vividly because of his opposition to the war in Korea—not because of the war itself, because I think the justification was there to intervene, but because Congress was not brought in to give its judgment.

I was called to the White House at the time of the outbreak of the Korean hostilities. I was a Member of the House of Representatives at the time. Senator Taft was called to the White House, and he raised that question then, even though he recognized the need that to protect the U.S. forces south of the 38th parallel something had to be done. He raised the question then with President Truman that this matter, he hoped, would be brought before Congress very shortly. It was not. But down to the very end, Senator Taft made this argument; and I think the argument he made then is the argument which those of us who support the proposed legislation are making today.

So this man, a member of the opposite party, a man of great integrity and patriotism, a man of great foresight, could be considered, in a certain sense, one of the progenitors of the type of legislation, the unfinished business, which is before us today.

I hope that what he sought in the early 1950's will come to fruition in the early 1970's.

Mr. SPONG. I quite agree with the distinguished majority leader. I mentioned the Korean treaty and the sending of troops to Europe. Actually, Senator Taft first spelled out his position on this when the troops were sent to Iceland in 1941——

Mr. MANSFIELD. Before the war even.

Mr. SPONG. Yes, before the war, in 1941. A careful reading of what Senator Taft had to say in the debates that took place, and in the books he wrote, will show that he did not necessarily disagree with the need for the security measures that were being taken on those occasions, but he objected to the method by which they were done. He was the very first Senator, in this modern age, followed by Senator Stennis and Senator Cooper, who questioned Senator Wiley at the time on the Korean treaty, to attempt to establish the principle that the Constitution required consultation and authorization from the representatives of the people.

Mr. JAVITS. Mr. President, I think this is an important colloquy to have included in making the complete record on this measure. We have a Republican President in the White House. Senator Taft was called "Mr. Republican," and for very good reason, because he exemplified what the Republican Party represented in the various fields of civil rights, the private enterprise system, economy in Government, efficiency in Government, belief in the private sector as being the true guarantor of freedom—and many other doctrines. So it is especially fitting that he should be cited. It is important as an authority in this respect that there is no desire—and I think this certainly demonstrates it—to curb this President because of party. The measure originated with me. Its sponsorship backing is thoroughly balanced and bipartisan. It is the product of men who were deeply troubled by what was happening under their very eyes, and which has now been referred to so eloquently by the distinguished majority leader and the distinguished Senator from Virginia. It is a pertinent and necessary element in the consideration of this measure. It is truly bipartisan in the finest spirit of what was called in Arthur Vandenberg's day, "bipartisan foreign policy." It will result in strengthening, not weakening, Presidents.

It is very important to understand that the President of the United States himself felt undermined and weakened when the Senate voted time and again to use the appropriations authority to try to have some say with respect to the Vietnam war. How much stronger a President could be, and how much more those who deal with the United States could feel that our commitments would be honored with the whole Nation committed in a considered way, not because we are backing the President and he has done it, but because the law says that we should concur with the same authority that he has.

Think of the reassurance to our people who bear the burden, who shed the blood, who pay out the money, who suffer the inflation. Are they not entitled to have their representatives make an independent determination? I do not denigrate the President's supreme authority with respect to the total of the national election at all, but there is another quotient, being the people's participation and that is why I joined in urging this law.

Mr. SPONG. I thank the distinguished Senator from New York.

Mr. McGEE. Mr. President, as the debate on the War Powers Act continues, I think it would be worth while for the Senate to take notice of Crosby S. Noyes' review of Gen. Maxwell Taylor's new book, "Swords and Plowshares," which appeared in the Sunday Evening Star.

General Taylor's analysis of where we stand in the wake of Vietnam has a direct correlation to the war powers debate. In effect, this piece of legislation is an extension of what General Taylor views as—"The record of our violent internal divisions, our loss of morale, and our psychotic inclination to self-flagellation and self-denigration. . . ."

General Taylor further points out that all this—". . . justifies serious doubts as to the performance to be expected from us in any future crisis—an uncertainty which will becloud our prestige and diminish our ability to influence world events as long as it lasts.

I think that one of the serious shortcomings of the War Powers Act is the fact that it is tied emotionally to our experience in Vietnam and it does not look to the future and what our role in a world filled with so many uncertainties should be. We should realize the dangers of attempting to undue the past without giving a sense of direction to the future.

The Evening Star of Monday, April 3, 1972, contains an editorial which strikes to the very heart of the war powers debate. The editorial correctly asserts that the war powers bill "is a document grounded firmly on historical hindsight."

And finally, the editorial raises another relevant issue to this debate by concluding that—

> There is no legislative formula that can guarantee against 'future Vietnams' and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. Legislative bandaids are comforting. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

I ask unanimous consent that the editorial and the Crosby Noyes column be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Evening Star, April 3, 1972]

The War-Powers Debate

The war-powers bill now being debated in the Senate is a document grounded firmly on historical hindsight. The whole impetus behind the measure is the contention that this country was led into the war in Vietnam through an abuse of the constitutional powers of the President as commander-in-chief of the armed forces and that if Congress or the people had been consulted, the whole unhappy episode could have been avoided.

This also is a monumental piece of historical hogwash. The Congress and the people were well and duly informed and consulted about our involvement in Vietnam from the very outset and gave their massive endorsement of the objectives pursued there. In 1964 the House unanimously and the Senate with exactly two dissenting votes (Morse and Gruening) whooped through the Tonkin Gulf Resolution, authorizing the President "to take all necessary steps, including the use of armed force to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." The contention of many senators today that they didn't know what they were doing is an affront to the intelligence of the Senate itself and a latter-day piece of political sophistry that scarcely bears examination.

In any event, the proposal today is to correct what happened by laying down a whole new set of ground rules on the circumstances under which the President would be authorized to commit the armed forces of the United States to combat without a declaration of war. He could act in case of an attack—or imminent threat of an attack—on the United States itself. He could act to defend our armed forces overseas, to protect the lives of American nationals, or "pursuant to specific statutory authorization" by the Congress. But in all of these cases, the President would have to come before Congress to ask permission to continue military operations beyond a 30-day time limit. If such authorization were denied, the war would have to be called off.

We will leave aside, for the time being, the highly dubious constitutionality of these proposals. In the current debate, all parties are wrapping themselves in the Constitution and citing voluminous historical precedent to support their arguments. To some, the pertinence of what the Founding Fathers had in mind about potential military problems of the United States in 1787 has fairly dubious relevance to the problems that confront the nation in 1972.

Our concerns about these proposals are largely practical ones. One wonders, for instance, how they would affect our treaty commitments around the world, or how they would appear to affect them to our allies and our enemies. One wonders how they would affect our ability to respond quickly and decisively—or subtly and carefully—in case of an emergency. One wonders whether it is really within the authority of Congress to prescribe the conditions under which a President can exercise his constitutional powers or limit the exercise of those powers to a specified period of time

We would agree most fervently that in times of great danger and in times of war it is essential to have national unity and the closest cooperation between the Executive and the Congress. A forceful argument can even be made that a declaration of war—regardless of its inherent dangers—would have prevented the terrible divisions that have rent the country over the last five years.

But there is no need to rewrite the Constitution to atone for the tragedy of the Vietnam war. There is no legislative formula that can guarantee against "future Vietnams" and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. Legislative bandaids are comforting. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

Gloomy View of What the War Has Done to Us

(By Crosby S. Noyes)

"Swords and Plowshares"—a new book of personal memoirs by Gen. Maxwell D. Taylor (Norton, $10)—is something more than a chronicle of the long career of a distinguished soldier-statesman. It also is the coldest, hardest and in many ways the gloomiest analysis of where we stand in the wake of Vietnam yet produced by anyone who played a prominent part in shaping the events.

It is by no means an apologia for the conduct of the war. So far as Taylor is concerned, our involvement in Vietnam was the result of a massive miscalculation of the costs arising out of a disastrous lack of knowledge about our allies, our enemy and, perhaps above all, about ourselves. Besides failing to calcuate the costs of victory, we also have failed to appreciate the increasing cost of failure as time has passed.

Taylor, who practically invented the concept of limited war, has the gravest doubts of its feasibility in situations like Vietnam. The gradual, piecemeal commitment of American power, he believes, ended by defeating its own purposes. The restraints placed on the use of air power were interpreted as a lack of decisiveness by the North Vietnamese. The main result of the gradual approach was a prolonged war in which more people lost their lives and the national will of the United States was eroded.

Before committing the country to any limited war, an American president should take a number of precautions that were overlooked in the case of Vietnam. Among them, rather surprisingly, Taylor strongly recommends that the President should go to Congress to seek a declaration of war. He also is opposed to the use of draftees and reservists in such situations, and emphasizes the need for sufficient force to attain the objectives in a short time.

The general, who served a tour as ambassador in Saigon, has a number of harsh things to say about the ineptitude of our diplomats in Paris and elsewhere who failed to exploit our military advantage in South Vietnam.

He is equally bitter toward the news media, whose objectivity in reporting from Vietnam he does not greatly admire. The unabashed bias of many correspondents and the rise of "selective reporting" contributed greatly in his view to the collapse of political will that took place in the United States in 1968.

It is this erosion of national will, the loss of a sense of national purpose, that constitutes the gravest problem for the country in the coming decade, in Taylor's view. He sees it primarily as the erosion of the sources of the power of the state—its leadership, institutions, economy and national unity—which makes us vulnerable as never before to our internal and external enemies.

In spite of this, Taylor believes that we have it in our power to achieve our objectives in Vietnam. In comparison with the prices paid so far, the cost of "victory"—defined as the assurance that South Vietnam can choose its own form of government, free of the danger of having a Communist regime imposed by force—is rated as inconsequential. The cost of a defeat, on the other hand, would be prohibitive in terms of the consequences in Southeast Asia and in the United States. In Taylor's view, it would result in a "national disaster" of unacceptable proportions.

It is, withal, a melancholy closing of a career which coincided with an unprecedented rise of American power and prestige in the world. The over-all conclusion is that the United States is entering the decade of the '70s in a condition of declining power while facing increasingly difficult and complex problems at home and abroad that challenge our claims to world leadership.

The weaknesses revealed in Vietnam are a large part of the problem.

"At this moment," Taylor writes, "President Nixon's Vietnamization policy holds promise of achieving our main objectives providing those Americans who appear dedicated to its failure do not find means to salvage defeat from the costly achievements of past years.

"But even in victory we cannot completely redeem the unheroic image created by many aspects of our behavior in the course of the conflict. The record of our violent internal divisions, our loss of morale, and our psychotic inclination to self-flagellation and self-denigration justifies serious doubts as to the performance to be expected from us in any future crisis—an uncertainty which will becloud our prestige and diminish our ability to influence world events as long as it lasts."

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FANNIN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

NORTH VIETNAMESE OFFENSIVE ACROSS THE DEMILITARIZED ZONE

Mr. TOWER. Mr. President, the North Vietnamese 5 days ago launched a major offensive across the Demilitarized Zone. This blatant aggression violates both the original Geneva Accords that divided Vietnam and the agreements reached in 1968 that led to the bombing halt. It appears the North Vietnamese, having forgotten the lessons taught them during the 1968 Tet offensive, are trying to achieve on the battlefield once more, what they failed to get during Tet or at the conference table—the overthrow, against the will of the majority of South Vietnamese, of the Government of the Republic of Vietnam. It also appears that they are using substantially more heavy equipment than in 1968 and more conventional tactics. This, of course, is an advantage to the Allies in that the enemy will expose himself to a greater degree to artillery and aerial bombardment. Thus, while he stands to win a great deal more than by sporadic rocket attacks, he also stands to lose a great deal more—his tanks, heavy equipment, and some of his best troops.

It is clearly a gamble, and his purpose is not yet clear—whether to affect the American political scene, force the United States back to unproductive "peace" talks, hand the South Vietnamese a moral defeat, or divert attention from a possible offensive in the critical central highlands. Certainly, the ripples of the North Vietnamese offensive have already reached our shores. There are those calling for panicked withdrawal from South Vietnam once more, those predicting imminent disaster for the South Vietnamese, those suggesting cessation of air and naval fire support.

The fact is that our withdrawals are continuing in an orderly fashion. The burden of land combat is necessarily on the shoulders of the South Vietnamese, for the United States has only seven combat battalions in South Vietnam, compared to 112 such units in April 1968. But, the South Vietnamese continue to require U.S. air and naval support. The President is scheduled in the future to make further announcements concerning troop withdrawals after the May 1 troop level of 69,000 is reached.

I feel the President will take into account levels and intensity of enemy activity in South Vietnam before making any decision on further withdrawals. Nevertheless, the fact remains that no large contingent of U.S. troops is currently in danger and there is no indication at this time that the North Vietnamese have the desire or the ability to drive on to Da Nang where there are larger numbers of U.S. troops. This is not a rout. There is no reason for panic.

The fact is that disaster is not imminent for the South Vietnamese, unless we withdraw our air and naval fire support. Some people have the impression that this dependence upon extensive air and naval support is a sign of weakness or cowardice. It is not. The American infantryman also depends heavily on such fire support. Most modern armies utilize extensive fire support because it saves friendly lives. It is obviously better to stop the enemy with bombs than bodies. To deprive our Allies of this support would mean higher casualties and would indeed imperil their chance to hold the northern provinces.

As the North Vietnamese capture outposts, they demonstrate their disregard for agreements. As they invade South Vietnam, they demonstrate the hypocrisy of their calls for a return to the "peace" negotiations. The North Vietnamese are hardly being "welcomed as liberators"; instead, the South Vietnamese civilians are fleeing for their safety and freedom.

I am confident that with the continued support, according to the current administration plans already enunciated, the South Vietnamese can repel this current Communist aggression. But, we must provide the support we have already pledged.

We must not panic. We must give our President the popular backing here at home which he needs to carry on his withdrawal objective while at the same time providing the South Vietnamese the minimum support necessary to safeguard their own borders.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. GOLDWATER. I am glad the Senator from Texas has spoken as he has. I think we have literally leaned over backward trying to respect the honor of the word we gave that we would not bomb north of the 17th parallel, that we would recognize the demilitarized zone as a zone, more or less, of no man's land. Now, we have known, as I am sure the Senator knows, for probably 4 months or more of the biggest buildup, the biggest concentration of trucks, artillery, and supplies in the history of this war. I have seen reconnaissance photographs of this buildup. We know harbors have been improved that were not improved before. One railroad—maybe two—has been built down to the DMZ or near it. Several roads have been constructed and at least one, Highway 1, has been improved.

We have known of this buildup and we have not done a thing to get at the very seat of the trouble. I do not want the Senator to commit himself; I merely wanted the opportunity to point out that I think in all honesty our President has a perfectly honest duty to go before the American people and remind them of our patience in this matter, of our willingness to observe our word, that they have violated their word, and they are now endangering not just South Vietnamese lives, but they are endangering American lives. In view of that I think the President has every right to say to the North Vietnamese, "We are going to destroy your equipment where you have it cached and stored, all marshaling yards will be destroyed, including Mig airfields and Mig airplanes if necessary, including the harbor of Haiphong itself."

I believe today, as I did 8 years ago when I was soundly spanked by the American people for suggesting we might win the war, that if we took this step at this logical point the war in Vietnam could come to an end, not by dragging it out for another year or two by the slow withdrawal of our troops.

Mr. TOWER. I was an early advocate of closing the harbor in Haiphong. There were three means available: Bombing the loading facilities, sowing mines, or a naval blockade. I think it is generally agreed that mining the harbor was the best method. I think it should have been done at that time.

Unfortunately, during the moratorium on bombing of far northern targets since 1968, the enemy dispersed his loading so there is no practical point where we could cut off the flow of external forces into North Vietnam.

I agree with the Senator that wherever there are large logistical buildups that are designed to support the current offensive, we should have no restraints in terms of using our superior airpower to destroy those logistical buildups.

Mr. GOLDWATER. I thank the Senator. I repeat that I think the American people, if confronted with the truth and if the American people were confronted with, I will not say possible, but probable result, they would rally around the President in any effort he might make in this direction.

Mr. TOWER. I concur with the Senator in that belief. It might result in perhaps some more outcry from people at home who want us to meet all the conditions laid down by the North Vietnamese, and, in effect, want us to surrender, but I think those cries would be short lived. I do not think what we are discussing is a long term, extended exercise, but something to be accomplished in a relatively short period of time.

I, of course, am delighted the President has made the decision to concentrate air and naval power in the area of the demilitarized zone. This is what we have been waiting for for some time, for the enemy to deploy his troops where we can bring our superior air and naval power to bear on them. I feel that with unrestricted use of that power in that area we can stop the offensive and make it more costly to the enemy than the Tet offensive of 1968.

Mr. GOLDWATER. I thank the Senator.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. PERCY. Mr. President, on May 14, 1970, speaking in this Chamber, I submitted Senate Resolution 409, declaring it to be the sense of the Senate that the President should not use the Armed Forces for any combat activity abroad without the express consent of Congress. The only exception would be an instance where the use of our forces would be necessary, pending congressional approval, to respond to a clear and direct attack upon the United States, its territories or possessions, of upon U.S. forces lawfully deployed pursuant to a treaty or other specific congressional authorization.

I said on that occasion that—

> It would be in the best interests of this country that the Senate have an open debate soon on this fundamental question bearing so heavily on Presidents and Congresses since the founding of the Republic, but as yet unresolved.

I said that I did not seek to impose my own solution, that it was more important to bring out all opinions, and to come to a decision which would give clearer definition to the relative roles of the Executive and the legislature in warmaking.

Since that time, there has been rational and orderly consideration of the issue. A number of other bills and resolutions have been introduced in both Houses. Extensive hearings have been held by the Committee on Foreign Relations.

Now a war powers bill has been brought to the floor with wide support and cosponsorship. It is not a liberal initiative. It is not a conservative initiative. Rather, it is a bipartisan, nonideological attempt by many Members of this body to delineate more clearly the executive-legislative relationship as it relates to warmaking. I agree with the principal sponsor of this legislation, the distinguished senior Senator from New York (Mr. JAVITS), that this is landmark legislation.

As I stated nearly 2 years ago, historical precedent adequately supports congressional authority in warmaking. There is no question that the framers of the Constitution meant to give Congress the power to initiate hostilities. They made only one exception, empowering the President, as Commander in Chief, to repel sudden attacks.

At the Constitutional Convention, during the debate on warmaking powers, James Madison, of Virginia, and Elbridge Gerry, of Massachusetts, challenged the phrase "to make war" which had been the focus of discussion. They moved to change the phrase from "make war" to "declare war," contending that this would leave to the President the power to repel sudden attacks. This motion was agreed to by a vote of 8 to 1.

The Constitution ultimately named the President as Commander in Chief of the Army and Navy, and empowered him to make treaties with the advice and consent of Congress. To Congress was allocated the power to levy taxes for the common defense, to declare war, to raise and support armies, to provide and maintain a navy, and to make rules for the government and regulation of the land and naval forces.

When, at the Convention, Pierce Butler, of South Carolina, had suggested that the warmaking power could be safely vested in the President, Mr. Gerry replied that he never expected to hear in a republic a motion to authorize the Executive alone to declare war. As I have mentioned, the Madison-Gerry motion was adopted, limiting the war-initiating power of the President to repelling sudden attacks.

But that is the limit of the Constitution's mandate in regard to warmaking powers. Nowhere does the Constitution specify whether, under what circumstances, or by whose decision can the Armed Forces be sent into battle when Congress has not declared war and there has been no sudden attack on the Nation.

At the beginning of our constitutional history, the primary responsibility of Congress in the initiation of war was frequently proclaimed and upheld. President Adams, in 1798, concerned about French threats to American shipping, waited until Congress provided the authority to move. Alexander Hamilton had advised the administration, in a letter to Secretary of War James McHenry, as follows:

> In so delicate a case, in one which involves so important a consequence as that of war, my opinion is that no doubtful authority ought to be exercised by the President.

In 1801, in his opinion on the Amelia case, Chief Justice John Marshall stated that the "whole powers of war" were vested in Congress.

That same year, Tripoli declared war on the United States when the United States refused to pay tribute in exchange for safe passage of American ships. President Jefferson moved ships to the Mediterranean with orders limiting them to self-defense and the defense of other American ships. He told the Congress that he felt obligated to take only defensive actions because he was "unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense."

During a dispute with Spain in 1805, President Jefferson renounced the use of force, saying that he thought it was his duty to await congressional authority "considering that Congress alone is constitutionally invested with the power to changing our position from peace to war."

In equally unequivocal statements, President Monroe and Secretaries of State John Quincy Adams and Daniel Webster stated that the initiation of war is a prerogative of Congress. President Monroe wrote:

> The Executive has no right to compromise the nation in any question of war.

Adams wrote that under the Constitution "the ultimate decision" belongs to Congress. Webster states:

> I have to say that the war-making power rests entirely with Congress and that the President can authorize belligerent operations only in the cases expressly provided for by the Constitution and the laws. By these no power is given to the Executive to oppose an attack by one independent nation on the possessions of another.

In 1846, when President Polk moved troops into territory disputed between this country and Mexico, resulting in hostilities, Congress reluctantly declared war after the fact. Later, when the House of Representatives was resolving to thank Zachary Taylor, the victorious general, an amendment to the resolution stated that the war "was unnecessarily and unconstitutionally begun by the President of the United States." Former President John Quincy Adams, then a Member of the House, and future President Abraham Lincoln voted for the amendment which was adopted by a vote of 85 to 81, but later dropped.

In 1857, Secretary of State Lewis Cass, responding to a British request to send ships in support of an expedition to China, wrote to the British Foreign Office as follows:

> Under the Constitution of the United States, the executive branch of this Government is not the war-making power. The exercise of that great attribute of sovereignty is vested in Congress, and the President has no authority to order aggressive hostilities to be undertaken.

President Buchanan made the point as forcefully when he asked Congress for authority to protect transit across Panama in 1858. In his message to the Congress on December 6 of that year, he said:

> The executive government of this country in its intercourse with foreign nations is limited to diplomacy alone. When this fails it can go no further. It cannot legitimately resort to force without authority of Congress, except in resisting and repelling hostile attacks.

In 1900, President McKinley sent thousands of American troops to suppress the Boxer Rebellion in China and to rescue Western nationals in Peking. Although he was accused of acting without congressional authority, Congress had already adjourned and, because it was an election year, there was no interest in returning for a special session.

In 1911, President William Howard Taft sent troops to the Mexican border, but conceded that only Congress could authorize sending troops across the border. In a message to Congress, President Taft said:

> The assumption of the press that I contemplate intervention on Mexican soil to protect American lives or property is of course gratuitous, because I certainly doubt whether I have such authority under any circumstances, and if I had I would not exercise it without express Congressional approval.

Since the turn of the century, Presidents have used military force more freely, moving troops in support of foreign policy decisions and in reply to particular situations. Thus, an incursion was made into Mexico in pursuit of the bandit, Pancho Villa, in 1917. President Wilson sent marines to fight in Haiti and Santo Domingo. President Truman sent hundreds of thousands of troops to fight in Korea. All these actions were taken by the Executive without congressional authority. They negate the concept, central to the Constitution, that our Government requires a balance of powers within a system of checks and balances.

Of course, questions about the division of powers and the Congress' prerogatives have been raised most strongly in connection with the sending of U.S. troops into the Dominican Republic and Vietnam. Until Congress passed the Gulf of Tonkin resolution, the use of American troops in combat in Vietnam was totally without congressional approval. For this reason, more than any other, the question of congressional responsibility for warmaking has become a major issue in the country. As most of us in Congress well know, the American people are determined that there shall be no future undeclared wars initiated by Presidents and prosecuted without wide public support. The people insist that Congress measure up to its constitutional role, and this legislation seeks to do just that—to clarify the congressional role so that this Congress and future Congresses will do their duty.

The legislation is in no way a reflection on President Nixon, who inherited a major American war and has consistently reduced American involvement in that war. Had this legislation been enacted in 1960, President Nixon might never have had the conduct of the Vietnam war thrust upon him because the United States might not have committed troops to combat in that war.

Some critics of the bill contend that such legislation will affect the ability of presidents to meet emergency situations effectively. I do not agree with them. The President will still be free to commit American Armed Forces to combat, but the bill provides that such an involvement cannot be continued beyond 30 days without congressional accord. Since a President cannot effectively prosecute a war without congressional support and popular approval, this can serve to save Presidents from undertaking military adventures contrary to the wishes of the American people.

Moreover, legislation of this type can be a deterrent to impulsive, ill-considered actions which may involve the Nation in undesirable wars which are of no direct consequence to our national security. There would be quick congressional accord when a military action is obviously necessary to the Nation's security. Certainly the authority of Presidents to respond to instant threats would in no way be impaired.

The distinguished journalist and student of world affairs, Roscoe Drummond, has written:

> One thing the whole nation has learned from the Korean and Vietnam wars is that the United States armed forces must never be used in combat abroad without advance and explicit authorization by Congress except in case of direct attack. No president should ever make that decision by himself—never again. That is why it is urgent that Congress soon recover its full constitutional power to decide if, when, and under what circumstances the U.S. shall go to war.

Referring to my own Senate Resolution 409 which, like the pending bill, seeks to affirm congressional responsibility in warmaking, Mr. Drummond wrote:

> This is no radical proposal. It is simply bringing practice into conformity with the Constitution. . . . Now is the moment to put this principle and this policy into practice.

Now is surely the moment, although I think all will agree that 10 years ago would have been an even better moment for the enactment of legislation to protect the Nation from unnecessary, undesirable wars.

The American people demand it, and I submit that the American people are right.

Mr. President, I think that there can be no better example, tragic as that example is, of the way in which this Nation has gotten into recent wars, and the fact that this must never happen again, than the Vietnam war. Part of the tragedy of that war was unfolded before the Committee on Foreign Relations this morning, in considering what we are going to do about the 700,000 orphans who have been created in Vietnam.

Although we have done more than was ever required of a nation to fulfill its commitments, we are going to be paying for that tragic mistake for years, and years, and years to come, and not just in the divisions which have been created in this country, which have torn us asunder, not just in the $130 billion that have been expended, nor in the more than 50,000 lives that have been lost and the hundreds of thousands of casualties that are permanent remembrances and reminders to this country that never again must we make this kind of a mistake.

I am not certain that Congress would have had more wisdom 10 years ago than we have now. Hindsight is always best. But at least if we had resolved to go into this war by direct action of Congress, after deliberation and debate, with all the facts brought to bear, we might never have made that tragic mistake.

If there is any feeling that I get from the people of the United States as I have talked with them across the country and in my own State, it is that they expect Congress to do something about it now.

No one interprets this as a move against the incumbent President. I cannot imagine a man who has been as frustrated in his attempts to end the war as President Nixon has, as he realizes the extraordinary cost that the war continues to cause the American people to bear and the programs that have to be set aside because of it; and I should think this administration would want to make sure that it plays a role in insuring that—in a world where we make war but never seem to declare war any more—we go back to the original intention of the Founding Fathers.

Here we have a world which, since World War II, has not had a declared war: No declared war in Korea, no declared war in Vietnam, no declared war in the Middle East, no declared war between Pakistan and India. It is just out of vogue to declare war. But that has not stopped the world from engaging in more than 100 major and minor hostilities since the end of World War II.

What I have tried to do in my remarks today is to prove beyond the shadow of a doubt the intention of the Founding Fathers. Moreover, I think we should remind ourselves that we have an obligation to update procedures and practices involving the important matters of war and peace.

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. PERCY. I yield very gladly to the majority leader.

Mr. MANSFIELD. The Senator seems to indicate the opinion that declarations of war are supposedly out of date. Did the Senator not say something to that effect?

Mr. PERCY. That is right. As far as I know, there has not been a declaration of war in 25 years, and yet we have been engaged in wars all over the world.

Mr. MANSFIELD. Is the killing of young Americans out of date? The reason I ask is that we are engaged in wars without declarations of war, but with or without declarations of war, young men die, and the latest figures put out by the Department of Defense, through March 25, 1972, indicate that 302,787 Americans have been wounded, 45,669 Americans have been killed in combat, and 10,119 Americans have been killed in noncombat activities in Southeast Asia.

So the total U.S. casualties—Americans, that is—to March 25, 1972, less than 2 weeks ago, is 358,575.

On the other side, the South Vietnamese have, dead, 147,305. These are Department of Defense figures. Other free world forces, dead, 4,870. Listed under "enemy dead," 803,145. And if I add correctly, that is more than 1 million known dead.

The Senator has mentioned over 700,000 orphans. How many millions of refugees? How do you calculate a destruction of a culture and a society and a land? How do you estimate all this cost in relation to what is happening in our own country and the impetus which this tragic, mistaken, begotten war has had on our own people, on our own problems here at home? How do you add up these costs?

Perhaps Congress, under a resolution of this sort, might have had something to say about our not getting into Vietnam, now into all of Indochina, including Laos and Cambodia.

What price do you put on a man's life, on the loss of a leg or an arm or a mind? How much have we paid already, and for what? In an area which is not vital and never has been vital to the security of the United States?

Declarations of war are not out of date. It is only because those in authority, both Democratic and Republican chiefs of state, have felt that they needed extraordinary powers in this extraordinary age to do the things which they considered—I say this in all candor—from a patriotic point of view. But that does not make their judgment right, and that does not make it inadvisable for us to admit mistakes.

Hopefully, a resolution of this kind, which strengthens the Presidents' hand but restores to Congress its rights under the Constitution, may well prevent future Vietnams and Dominican Republics and other imbroglios in which we have become involved.

We can do a great deal of talking in this Chamber; but none of us, to my knowledge, is or has been involved in the war in Vietnam or in Indochina, although I think that just about every Senator on this floor has served in the Armed Forces of his country during time of war.

I think it is about time that we think not only of the Constitution and what it means, what it really means, but also of what real equality, constitutionally defined between the executive branch and the legislative branch, really means. It is about time to stop talking of an extraordinary age in which we live and to accept the fact that these things are going to happen willy-nilly whether we like them or not if we do not have something to say about them.

Frankly, I am heartsick, and have been for years, about this war in Indochina, about this useless loss of life, about people who have been destroyed along with their culture and their land. It is about time that the Senate faced up to its responsibilities.

This is a good bill, but it does not go far enough. But it is a step in the right direction. When we talk of the refugees and the dead and the wounded, let us think a little about our own, and let us shed a silent tear for those who have done so much and whose services and whose lives we miss very deeply today.

Mr. PERCY. Mr. President, I appreciate the very thoughtful comments of the distinguished majority leader, whose views on this subject have been consistent and well articulated for many years. We can understand his exasperation that we are still dealing with the same tragic problem.

Just to update his figures of 2 weeks ago, if the figures were even updated as of last night they would have been out of date, because when I was coming in this morning I heard on my automobile radio the news we all know, that another aircraft was just announced as lost. It was downed over North Vietnam, and four more American boys are listed as missing in action. Four more families face the tragedy of knowing what war is all about—not that they have not known it through the anxious months, and years, possibly, that their men have been gone.

But now they are faced with the grim reality of not even knowing what the status of their fathers or husbands or sons may be for an indefinite time.

These are statistics and figures. But as all of us deal with them in our own constituencies, we talk with, we get to know intimately, the families of men missing in action or killed in action or injured in action. The tragedy of this war becomes very real as we face the families and try to explain what they have sacrificed for and where we are going from here.

Our new ventures in foreign policy have revealed the fallacy of much of the thinking of recent years—the outdated idea of a monolithic communism, one central point pulling all the strings to conquer the world through military aggression. This idea is being disproved by the very testimony, firsthand, being taken by those who have visited Peking and have visited and will be visiting Moscow. Today there is much divisiveness inside the Communist world, and more bitterness and more hatred between Communist capitals than, possibly, between capitals of the free world and Communist capitals.

I think we are indebted to the distinguished Senator from New York, who has been joined by a coalition of Senators, not ideological in makeup—not just liberals, not just conservatives, not just southerners, not just northerners, not just Democrats, not just Republicans—but Americans who have a constitutional responsibility to rectify what has been wrong in our procedures for many years and to find a way to bring the intention of the Constitution back into actual practice.

I say that when the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from

Mississippi (Mr. Stennis) join, and are the principal sponsors of a bill, we had better take a good look at it, because that coalition of forces does not come together too frequently; but, when it does, I trust that the executive branch of Government will not fight too hard a proposal responding to the attitudes and feelings, and hopes and prayers, of millions of Americans who never want to see us stumble into war again.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. PERCY. I am glad to yield to the distinguished Senator from Virginia, who is another cosponsor of the proposed legislation.

Mr. SPONG. Mr. President, the managers of this bill welcome the supportive statement made this afternoon by the able Senator from Illinois. His remarks are consistent with and elaborate upon positions he has taken on this floor over a period of almost 2 years.

He has underscored two points that have been before us this afternoon in previous debate. The first is the nature of the sponsors, the makeup of the sponsors, of the proposed legislation.

This is truly a bipartisan effort, without regard to philosophy or geographical origin.

Second, the Senator from Illinois says that the people expect Congress to act in this area and he is quite correct. The time for action may be long overdue but certainly the measure before us comes to the floor after long deliberation and after collective effort. Those managing the bill welcome the support of the Senator from Illinois and the statements he has made this afternoon.

Mr. PERCY. I thank my distinguished colleague from Virginia.

Mr. JAVITS. Mr. President, I should like to interpose, my tribute to the Senator from Illinois for the fine statement he has made and his great perception in this field. I thank him especially for raising the question of why the administration feels it has to oppose and stand foursquare against this particular measure. I must say that it puzzles me. It has nothing to defend on that score. The President does not have to feel self-conscious about the Vietnam war. He has said many times it is not his war and he has properly claimed credit for beginning to get us out of it. There has been unusual generosity on both sides of the aisle—on the part of Democrats as well as our own—in recognition of that fact.

Also the President has made much on many occasions of being against centralization of power and the role of Congress in sharing that authority with him and in seeking, as it were, the cooperation of Congress with respect to many things which he needs to do. But when we touch this nerve, apparently, of this awesome power of life and death over our people, which one would think the philosophy certainly dictated would be one area he would want to share the responsibility, yet suddenly we find a stiffening and a hardening, as if some power of the presidency was not the presidency but some kind of kingship, some divine right, that was being invaded.

When we listen to the President's men testify on this subject, like the very highly respected Dean Acheson, whose words have often been quoted here, and Under Secretary Katzenbach and others with similar points of view, as well as the present Secretary of State, I must say, it makes one really wonder.

I am grateful to the Senator from Illinois for having discussed that point.

I wonder, too. I do not understand, along with the Senator from Illinois, why this administration would want to place itself athwart this legislation instead of, with humility—and this is a subject which calls for humility—cooperating with us and sitting down with us trying to work out a way which would be best to give reassurance to 200-plus million Americans that if we do commit the lives and fortunes of our people in this bloody business of war, at least we will do it together.

Mr. PERCY. Mr. President, I should like to respond. I cannot fully or adequately explain what the administration's position is, or do justice to it. As I have tried to do in all major legislation, before I submitted the resolution in May of 1970, I did discuss it with members of the administration and found them reluctant about it. I have had extensive conversations with members of the administration this past month on the pending legislation, trying in every way I could to persuade the administration that this was in the best interests of the administration, the Nixon administration which inherited this war and which has been straining in every possible way to extricate itself from the war at the earliest possible opportunity.

I have indicated that I have stayed off cosponsorship of this legislation so that I could be an independent advocate for the principles it represents.

I have questioned Secretary Rogers and have talked to Dr. Kissinger recently about it, as well as others. I have tried to look at it from the standpoint of the Middle East and other areas vital to the United States. I had to satisfy myself that this legislation would not in any way impair our ability to act, if we had to act to preserve peace in an area vital to the concerns of the United States.

I cannot see that this legislation would in any way impede necessary action. The President would have adequate power to move if necessary, but the Congress would be able to exercise its own constitutional role in such a situation. Certainly the number of cosponsors of the amendment who have advocated a firm policy in the Middle East would not endanger that part of the world to overt aggression. They have taken into account, as I see it, every possible contingency.

It should be noted that the letter from Secretary Rogers to the Senator from Colorado (Mr. Allott) included the following paragraph:

> I wish to make it clear that the Administration is not opposed in principle to congressional action seeking to clarify the exercise of shared war powers by the Legislative and Executive Branches. For example, the Administration has not opposed House Joint Resolution 1, the Joint Resolution concerning the war powers of the Congress and the President, which has passed the House of Representatives and does not present the serious constitutional and other problems posed by S. 2956.

This indicates it was not a rigid position being taken against anything and everything, that the administration has an open mind.

Mr. President, I would think that it would be the responsibility of the administration, at this stage, actually to point out the kinds of situations that could exist that would endanger, somehow, the national security or that would unduly restrict the President as Commander in Chief of the Army, Navy, and Air Force. Certainly, no one in this body wishes in any way to endanger the country.

What we have demonstrated proof of is that nothing has occurred in the past decade, or in the history of the country, that has perhaps weakened the national security more than the Vietnam war. Our ships have become older and obsolete, the maintenance of our bases has been neglected. It has caused us to delay the production of new systems which the military feel they need but do not have the money for. We know that this war has been a devastating blow, in many respects, to the whole of our national strength. It is our national strength we are trying to preserve when we say that we must have a much broader executive-legislative cooperation as regards the warmaking power.

Mr. JAVITS. I thank my colleague from Illinois very much for an extremely helpful intercession here. He will find the letter from the Secretary of State of page 11054 of the Record, of March 29, 1972. We can perhaps discuss it a moment or two later on.

Mr. President, we are about to present to the Senate three perfecting amendments which have been worked out and are essentially in response to a discussion which was had here on matters which we feel are very fully covered by the bill, but in which we seek to give whatever reassurance Members of the Senate may feel they should have, by spelling out in words within the bill exactly what we have covered in colloquy. So, Mr. President, I shall offer these amendments. I will first suggest the absence of a quorum so that Members may be advised that the amendments will be offered. It is my understanding that the majority leader wishes to have a rollcall vote on these amendments. Therefore when I offer them, I shall offer them en bloc. However, since they apply to different parts of the bill and deal with different matters, unless someone wishes to ask for a division of the question, as anyone has a right to do, we would have one vote rather than three rollcall votes.

Mr. President, with that word of notice, I suggest the absence of a quorum.

Mr. GRAVEL. Mr. President, would the Senator withhold his request?

Mr. JAVITS. Mr. President, I withhold that request.

Mr. GRAVEL. Mr. President, I would like to send to the desk some amendments and will suggest the absence of a quorum if there are not a sufficient number of Senators present to ask for the yeas and nays.

Mr. MANSFIELD. Mr. President, would the Senator yield?

Mr. GRAVEL. I would be happy to yield.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Sentor from New York, it is my understanding that he is going to offer three amendments and try to get them voted on en bloc, and very possibly voted on this afternoon, if possible.

Mr. JAVITS. The Senator is correct.

Mr. MANSFIELD. Mr. President, I understand that the Senator from Alaska has amendments that he would like to submit but not call up today.

Mr. GRAVEL. I could call them up today, if the leadership would like, or I could call them up another day.

Mr. MANSFIELD. Mr. President, would the Senator from Alaska care to discuss the subject with the Senator from New York while I suggest the absence of a quorum?

Mr. GRAVEL. That would be agreeable.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I will not call up these amendments today because of their nature. I think it would take some time to deal with them and, if I might use the expression, let them "silt in" because of their profound import.

I think it is very important to explain the amendments and to explain them in tandem, because I will call them up in tandem, as they cannot be handled separately.

One of the amendments I, myself, would not be prone to vote for. However, I think it is something that the Senate should vote on and be on record on.

AMENDMENT NO. 1101

The first amendment would change section 9 of the bill. On line 6 of page 13, it would strike out the word "but" and the word "not", and in place of the word "but" would insert the word "and". So, section 9 would read as follows:

> This Act shall take effect on the date of its enactment and shall apply to hostilities in which the armed forces of the United States are involved on the effective date of this Act.

Then my first amendment, amendment 1101, would add to that: "after the word 'Act' on line 8 of page 13, strike the period and place a comma so that it will read:

> . . . unless by not later than 15 days after the date of the enactment of this Act, the Congress declares war against any foreign power with which the Armed Forces of the United States are engaged in such hostilities.

It is not difficult to comprehend what this would do. If we feel—and I think we all do—that these war powers have been exercised capriciously by the Chief Executive of this country, regardless of party, in the 25 years, then we should do something about it in the future. What I am trying to do is to take the future and bring it to the present.

If I could make a comparison that is possibly not very pleasant, but very apt, I would say that if this body feels that it has been raped with respect to its prerogatives on declarations of war, that is fine. However, the Senate should understand that this act of rape that has been done is not an act in the past but is an act that is being done today. And if rape is wrong in the future or in the past, it is wrong today. And what the Senate will have to do is to face up to its responsibilities to vote on it under this particular piece of legislation.

AMENDMENT NO. 1102

The second amendment I offer is a very simple substitution for section 9. That is, we would substitute for the present section 9 an outright declaration of war against North Vietnam.

A new section 10 would relate to the date that the act takes effect.

I am not for a declaration of war against North Vietnam. But I think that we have stood around long enough. Not more than a few minutes ago, we heard that it is not considered to be in vogue to declare war, and this has been the situation since the Second World War, because wars are not nice. However, we go ahead and wage war. As the distinguished majority leader pointed out, we kill people. We cut off arms and legs. We make people insane. We rip out their psyches and send abroad the best youth that this Nation has. However, we do not find it within our vocabulary or within the niceties or proprieties of our society to declare war when we wage war.

Right now there is a war going on. It is a civil war. It is going on in Indochina.

We are supposed to be getting out of that conflict. Yet, right now, as these hostilities are being exacerbated for whatever tactical or strategic reasons the North or South Vietnamese leadership might have, we find that we are moving two new aircraft carriers onto the line. We are privy to the information that, though we are supposedly winding down the war, from the sanctuaries in Thailand we are increasing our activities in a remote control fashion. Information on the air war is kept secret—not from the North Vietnamese, not from the South Vietnamese, and not from the Cambodians or the Laotians. It is kept secret from the American people. If that is the way this Nation is going to act and act in secret, not from the enemy but from its own people, we ought at least to have the guts to say that we are waging war, and killing human beings. Let us do it in the way it has been done in the days of old, and done legally, and that is to say, "Let us declare war."

Mr. DOLE. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield.

Mr. DOLE. Is the Senate going to make that retroactive?

Mr. GRAVEL. We do not have to make it retroactive. It would have no effect at all. We would make it effective as of the present. Does that answer my colleague's question? Perhaps I could ask my colleague what would be the purpose of the question. What would be the advantage of making it retroactive?

Mr. DOLE. It would fix responsibility for the war in Southeast Asia.

Mr. GRAVEL. Is it possible my colleague would like to have it retroactive?

Mr. DOLE. I was curious about the Senator's amendment.

Mr. GRAVEL. Does my colleague have a purpose in proposing such a question?

Mr. DOLE. My purpose is to seek information.

Mr. GRAVEL. The Senator has the information now. Is there any purpose to his question?

Mr. DOLE. My purpose was to get information.

Mr. GRAVEL. I hope my colleague will share his wisdom with us since I was gracious enough to answer his question.

Mr. DOLE. The Senator is talking about declaring war and decrying all we have done as a nation and all those we have maimed and killed. I do not recall a reference to what the enemy has done to the South Vietnamese and our American servicemen. I find it interesting that sometimes we find fault with our own Government before we find fault with the enemy. I just wondered if the Senator from Alaska, in his amendment, would pinpoint the date of the origin of the war in Southeast Asia and then recite the history of the war since that time, the involvement of America in the war since that time, the administration during which we became involved and all administrations, Democrat and Republican, that have been charged with responsibility for dealing with this war. Then we would have it before the American people.

Mr. GRAVEL. I tried to do that as effectively I could when I read the Pentagon papers into the public record. The Senator from Kansas was critical of that at the time.

My colleague can now get a set of those papers from the Defense Department, which released them a week before the Beacon Press published them. I, therefore, will not take the time of this body by going through that historical exercise.

Mr. DOLE. I understand what the Senator from Alaska is doing. That is a judgment the Senator made, and it is one he will have to live with.

Mr. GRAVEL. I am happy to live with it and I am very proud of it.

Mr. DOLE. The Senator from Kansas is not proud of it.

Mr. GRAVEL. I might ask if the Senator from Kansas were to find something going wrong in a concentration camp, if we were killing people in Kansas and it were top secret information, would the Senator withhold that information from the constituency and the Nation?

Mr. DOLE. The Senator's analogy is not appropriate, nor is it relevant to the question at hand.

Mr. GRAVEL. Is there a difference in killing people in Kansas and killing people in Indochina? They are human beings.

Mr. DOLE. I know a little about the consequences of war.

Mr. GRAVEL. My colleague has not answered the question. Is there a difference in killing people in Kansas and killing people in Indochina?

Mr. DOLE. The result is the same. They are dead in either instance.

Mr. GRAVEL. They are human beings, are they not?

Mr. DOLE. Oh, yes, they are human beings.

Mr. GRAVEL. Should we not be concerned?

Mr. DOLE. I am concerned about anyone engaged in any conflict, armed or otherwise, where death and injury are possibilities. But the question posed by the Senator from Alaska is far afield.

Mr. GRAVEL. Not as far afield as my colleague has brought me. I am happy to go far afield if it is pertinent. We are talking about a hypothetical situation. If you have knowledge of a crime and something is going wrong, and it is marked secret, do you have to be a part of that secret or do you not have a responsibility to this country?

Mr. DOLE. I have a responsibility to the Government and to the Senate.

Mr. GRAVEL. Is the Senator placing that responsibility above human life?

Mr. DOLE. I will not discuss that with the Senator from Alaska.

Mr. GRAVEL. Why not discuss it? These are the momentous decisions we are talking about. When we talk about war powers, what are we talking about? We are talking about the power to take life. Why not discuss it?

Mr. DOLE. The Senator from Alaska can discuss anything he wishes, but I think the Senator from Kansas understands we have different views of our responsibilities as Members of this body and as citizens of America. I have one view and the Senator may have another view.

Mr. GRAVEL. Is that view so complex that the Senator cannot answer the question with regard to human life? Does he place his office in the Senate above human life? Does he place the decorum of this body above human life?

Mr. DOLE. The Senator is posing irrelevant questions.

Mr. GRAVEL. I think my colleague is right. We do have a difference because I find no such right above human life. When you talk about human life you talk about something definitive.

Mr. DOLE. Let me say to the Senator from Alaska that I would guess every Senator, and I am certain that everyone in this Chamber, deplores armed conflict just as does the Senator from Alaska, although he may speak more about it than other Members of this body.

Mr. GRAVEL. I beg to differ. If we measure the RECORD line by line, we will find the Senator from Kansas came here the same time as I, and he has been more verbose.

Mr. DOLE. We will measure our war records and our records in the Senate and find we know a little about conflict, death, and war, but I suggest there comes a time in every nation's history when the choice is very difficult. Sometimes we are engaged in armed conflict. Whether we made a mistake in becoming engaged in armed conflict is easier to judge from hindsight than it was at the time.

I only suggest the Senator is proposing that we have a formal declaration of war. That is his right. I believe it is a little late for that, because we are now withdrawing from Southeast Asia under the guidelines established by President Nixon. We have been doing so for a number of months. Eighty-seven percent of all troops and more than 90 percent of the combat troops will be out of Southeast Asia by the end of this month. That is progress to me, but maybe the Senator from Alaska is correct.

Mr. GRAVEL. It could well be a charade. How many deaths does it take to get out of South Vietnam? If the President wanted to do so he could get out in 30 days without the deaths and maiming and acceleration of the bombing. He is talking about moving American troops. We see it today. There are no American troops at the DMZ fighting that battle, but we have an air cover and our fighter pilots are being killed and captured. The Senator says we are winding it down. We have the power to end it, and all that I offer are two humble amendments to bring the issue to the floor.

We talk about war powers. Is there any purpose the Senator sees in our continued involvement in Indochina?

Mr. DOLE. The Senator said a while ago—maybe he has forgotten—that a death is a death, regardless of who is involved. Now he suggests we should let the killing go on, the killing by the North Vietnamese. A life is a life, the Senator said.

I believe we made our commitment in Southeast Asia, and I am not going to put an administration tag on it because it has been going on through three or four different Presidents and both parties. As a Member of the House I supported the Gulf of Tonkin resolution as did 413 other House Members on August 7, 1964.

Mr. GRAVEL. Was my colleague here to vote for the Gulf of Tonkin resolution?

Mr. DOLE. I was not in the Senate. I was on the other side of the Capitol in the House of Representatives. I voted for it. The Senator from Alaska had not arrived in Washington yet. One wonders what he would have done. Based on his statements prior to coming here he was rather hawkish.

Mr. GRAVEL. The Senator is in error.

Mr. DOLE. I would put it in the RECORD. It was in a magazine and in other material. But in any event, there is a change of public opinion, and a person can change to catch up with public opinion. But I do not think the American people want the commitment to end so quickly, although it is——

Mr. GRAVEL. Would that mean that people are not ready to honor commitments to Pakistan, to support commitments we had to Pakistan? There were four. Why should we now hang on the issue of American commitment? We had commitments to slavery, but our country has matured. We have a moral obligation to change. That is what the Senate is. It is a living body and not a dead body that enshrines itself to be worshiped.

We have a responsibility to change. That is all we ask for. My colleague suggests that because we did it in the past we must do it for all time. That makes no sense.

Mr. DOLE. Well, there are a lot of fools, and some will never be identified, but it might still be pointed out that we are ending the war in Southeast Asia. The Senator from Alaska, I think, would agree with that.

Mr. GRAVEL. No, I do not agree with that.

Mr. DOLE. Should we just walk away and let the North Vietnamese take over South Vietnam? Is that what the Senator is suggesting?

Mr. GRAVEL. Is it our country? Are they a threat to us? Should we have gone into Chile because that was a Communist country? What is the purpose of going in there? We have instituted a dictator in South Vietnam. We have instituted a dictator in Cambodia. Every time we turn around in Southeast Asia we have put in a dictator.

Mr. DOLE. The Senator is making a judgment he should have made several years ago. That is why I suggest the Senator make his declaration of war retroactive, so it would cover what he was thinking 7 or 8 years ago.

Mr. GRAVEL. We cannot change what has happened in the past. We can use the cliche that it is "spilt milk," but we can do something about the future, and the future starts today.

Let me reiterate the purpose of these amendments. We are today debating a law and will vote on a law which I think is a good one, and which will affect the war powers of the President of the United States. They should be affected, because this is a very serious power.

All I say is that if it is important to control those war powers one day in the future, it is important to control those war powers this very day—today, when we suffer the possibility of seeing the war reescalated, because the options are very simple. Depending on what happens in the present onslaught in Vietnam, the President has the following choices: One, he can escalate the war by sending in more troops. He has power to do that because this body gave him the draft. So he can pull in as many people as he wants and send them back into Indochina, which occurred in 1965 and 1966, because we did not limit that power.

The other option is that he can escalate airpower. He has already done that. The minute the last Congress adjourned the minute we left Washington, this administration stepped up the air war. I offered an amendment last October to limit the bombing only to protection of our withdrawing troops. So if truly we are talking about winding down the war, we should have had support to stop the bombing, because the bombing would have been related to the withdrawal of American troops. But that is not the case. The bombing that has been taking place this last year has not been related to the withdrawal of American troops. It has expanded the entire conflict. It has permitted us, as a matter of tactics, to change the war from a ground war with American troops to an automated war at a distance. We have waged this automated war. We have accelerated this automated war. We are now on the brink of accelerating it still further.

My fear—and I say I stand here trembling at the thought of it, because it is not an idle fear, and I say this most respectfully—is that since the President of the United States is on record as considering tactical nuclear warheads as something that can be used in a tactical sense, he may use them now. We face a situation where he may not have alternatives politically; it may not be politically feasible for him to reescalate the war with troops. So what other devices does he have? He is reescalating it currently with bombing. If that does not work, what is his next step? I pray his next step will be to get out lock, stock, and barrel. But if he is not of that persuasion, what is his next step? Tactical nuclear warheads.

I do not think there is a Member of this body who does not have that fear down at the bottom of his gut and is not worried and is not watching for developments day by day. But we sit here as though we were impotent. We sit here discussing a war powers bill that will take effect in the future, not today. We sit here as though we were impotent, hoping he will not do it. Yet we have power to have a role in what will be done and what will not be done.

I hope these amendments, which I now send to the desk and will call up and ask for a vote, will act as a vehicle in these very difficult times for this Nation.

The PRESIDING OFFICER. The amendments will be received and printed and will lie on the table.

Mr. JAVITS. Mr. President, I now repeat the statement I made before with respect to my intention to offer three perfecting amendments en bloc.

The majority leader has advised me he will ask for a rollcall, so the attachés should, in the usual course, notify Members of the Senate.

I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, pending the arrival of a sufficient number of Senators, I ask unanimous consent at this time that it will be in order to ask for the yeas and nays when a sufficient number of Senators have arrived on the floor. The purpose is to allow the amendments to be laid before the Senate and the debate to start.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. May I say to the attachés that if the Members are not forthcoming, there will be a live quorum.

Mr. JAVITS. Mr. President, I again suggest the absence of a quorum. May I just explain to the Senate that we are having copies of these amendments made. They will be in in a minute, and then I shall debate them.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. In line with the previous unanimous-consent agreement, I ask for the yeas and nays.

The PRESIDING OFFICER. On the three amendments en bloc?

Mr. MANSFIELD. Yes.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I send to the desk the three amendments which were the subject of the previous unanimous-consent agreement. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Has unanimous consent been given that they be considered en bloc?

The PRESIDING OFFICER. It has.

Mr. JAVITS. I send the amendments to the desk on behalf of myself, the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), and the Senator from Virginia (Mr. SPONG).

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. JAVITS. I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The three amendments submitted by Mr. JAVITS, ordered to be considered en bloc, are as follows:

AMENDMENT No. ——

On page 8, line 11, immediately after the word "from," insert:

(A) any situation on the high seas involving a direct and imminent threat to the lives of such citizens and nationals, or

(B)

AMENDMENT No. ——

On page 11, line 8, strike out "the continued use thereof" and insert "(1) the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities; or (2) Congress is physically unable to meet as a result of an armed attack upon the United States; or (3) the continued use of such Armed Forces"

On page 11, line 19, strike out the period after the word "Congress" and insert in lieu thereof a comma and the following:

"except in a case where the President has determined and certified to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities."

AMENDMENT No. ——

On page 13, line 8, after the period, insert the following: "Nothing in section 3(4) of this Act shall be construed to require any further specific statutory authorization to permit members of the Armed Forces of the United States to participate jointly with members of the Armed Forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this Act and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date."

Mr. JAVITS. Mr. President, there are 26 cosponsors of the war powers bill. In view of the limitations on time, to make a list of all of the sponsors of these amendments available for the RECORD, I ask unanimous consent that a list of the sponsors of the bill in alphabetical order be printed at this point in the RECORD, under a separate heading reading "List of Sponsors of the War Powers Bill."

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF SPONSORS OF S. 2956, THE WAR POWERS ACT

1. Birch Bayh
2. Lloyd Bentsen
3. J. Caleb Boggs
4. Edward W. Brooke
5. Clifford P. Case
6. Lawton Chiles
7. Alan Cranston
8. Thomas F. Eagleton
9. Mark O. Hatfield
10. Hubert H. Humphrey
11. Daniel K. Inouye
12. Jacob K. Javits
13. B. Everett Jordan
14. Charles McC. Mathias, Jr.
15. George McGovern.
16. Claiborne Pell
17. Abraham Ribicoff
18. William B. Saxbe
19. Richard S. Schweiker
20. William B. Spong
21. John C. Stennis
22. Adlai E. Stevenson III
23. Robert Taft, Jr.
24. Herman E. Talmadge
25. Lowell P. Weicker, Jr.
26. Harrison A. Williams

Mr. JAVITS. Mr. President, I ask unanimous consent that, preceding each of these explanations, the text of the amendment be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The first amendment is as follows:

On page 8, line 11, immediately after the word "from," insert:

(A) any situation on the high seas involving a direct and imminent threat to the lives of such citizens and nationals, or

(B)

Mr. JAVITS. Mr. President, the first of these amendments occurs at page 8, line 11, and proposes to insert, after the word "from" on line 11, the words "(A) any situation on the high seas involving a direct and imminent threat to the lives of such citizens and nationals, or (B)".

The point of this amendment is to answer a question which has been raised as to whether citizens and nationals of the United States who are on the high seas will be protected as if they were in another country. That is the general thrust of paragraph numbered (3) of section 3 of the bill.

Mr. President, we stated that that was our purpose and intention. We stated that we believed the word "country" which appeared throughout this particular paragraph with reference to a foreign country applied as well to a ship bearing the flag of that country, and that every ship carries some flag and, therefore, ships were included.

We are now spelling it out in so many words, so that there may be no need for transmuting the word "country" to mean a ship carrying the flag of a given country.

There is no question but that U.S. ships are soil of the United States.

Similarly, Mr. President, if Armed Forces of the United States are outside the United States of America, they are just as much outside when they are on the high seas as in a foreign country, and that is, therefore, fully covered by paragraph (2) of section 3. So the one place as to which we spell it out is where we deal with the presence of Americans in a foreign country, and there we state it.

That accounts for the first amendment.

The second amendment is as follows:

> On page 11, line 8, strike out "the continued use thereof" and insert "(1) the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities; or (2) Congress is physically unable to meet as a result of an armed attack upon the United States; or (3) the continued use of such Armed Forces"
>
> On page 11, line 19, strike out the period after the word "Congress" and insert in lieu thereof a comma and the following:
>
> "except in a case where the President has determined and certified to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities."

Mr. JAVITS. The second amendment, Mr. President, occurs at page 11, line 8. It will be noted that this provision is section 5. The question, Mr. President, has arisen respecting what happens at the end of those 30 days, if our forces should still be engaged in hot combat. This explanation will be made by my colleague, the Senator from Virginia (Mr. SPONG), and if he is ready, I yield to him now.

Mr. SPONG. Mr. President, as the Senator from New York has stated, I would like to make a few brief remarks in support of the amendment to sections 5 and 6 of the bill which pertains to the bill's 30-day period.

I have listened carefully to some of the arguments made by individual Senators in the course of this debate—arguments which have pertained to their difficulties with this 30-day provision. Some Senators had doubts about the assertion of congressional authority to halt hostilities after 30 days because they believe that the assertion of this authority conflicted with the authority of the President as Commander in Chief.

I have always believed, however, that this 30-day provision was constitutional because I do not view it as a seizure by the Congress of the President's Commander in Chief powers. I have always felt that it was clearly understood by all that the President has certain irreducible powers as Commander in Chief of the Armed Forces which are given to him and not to Congress under the Constitution. Within the scope of these powers he is charged with maintaining the security of the members of the Armed Forces. Thus, as long as the President is acting in good faith to implement a decision which has been made by a higher authority—namely, by he and Congress acting together under the Constitution and according to law—he has certain duties and responsibilities, as Commander in Chief, which are his alone.

I have never believed that the bill sought to take this authority away from the President. For example, if our troops are engaged in hostilities, in an emergency and pursuant to law, and Congress decides that it will authorize no wider war, then the President is under an obligation to disengage the Armed Forces. I would add that he is under an obligation to disengage promptly and not to use such disengagement as a cover for pursuing a wider war which Congress has not authorized. But if he is, in good faith, seeking to disengage, I do not believe it would be constitutional for Congress to require him to order the members of the Armed Forces to cease fighting before they were safely out of reach of enemy attack. As an example, we might all recall the valiant and effective retreat by our Armed Forces from the reservoirs in the northern part of North Korea after the unexpected Chinese attack. No one would contend that, if such a situation should occur again and the President were required to extricate troops after the 30-day period expired, the President could not order our men to continue to fight their way out of an enemy encirclement.

Despite the fact that I do not believe the bill seeks to assert such congressional authority, I believe it is wise for us to accept this perfecting amendment which simply clarifies this point.

The amendment provides that the use of the Armed Forces shall not be sustained beyond 30 days under the President's emergency powers unless Congress so authorizes or unless: First, the President determines and certifies to Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities; or, second, Congress is physically unable to meet as a result of an armed attack upon the United States.

Several words of this amendment are important, Mr. President. First of all, there must be "unavoidable military necessity." This itself narrows the circumstances to those in which continued action by our Armed Forces is militarily completely unavoidable respecting the safety of those American Armed Forces who are engaged pursuant to the President's emergency powers. Furthermore, the President must certify to Congress not only that this military necessity regarding the safety of these forces exists, but also that this necessity requires the continued use of these forces" in the course of bringing about a prompt disengagement from such hostilities." Under this wording, I would argue that the President is authorized to protect the safety of our men as he is attempting to disengage them but that he is not authorized to seek a wider war for reasons which he has adopted, no doubt in good faith, but have not been found persuasive by Congress. Moreover, he may only use "such Armed Forces," referring to the Armed Forces which are in the process of disengagement. I would interpret this to mean that he may not engage in lengthy or extensive reenforcement of these forces for the purpose of pursuing some policy other than disengagement. Finally, I believe the word "disengagement" is significant because it implies an actual tactical disengagement, not merely a long-range theoretical hope of eventually retiring from the theater of war.

I would add only one further point. Some Senators have asked the question as to what the President's authority would be in case Washington and the Members of Congress were destroyed in a nuclear attack or in case Washington were occupied, as it was during the War of 1812. This point is easily dealt with, Mr. President, by a simple provision which permits the President to extend hostilities under his emergency powers if Congress is "physically unable to meet as a result of an armed attack upon the United States."

I believe that it will be clear to everyone that the sponsor and the cosponsors of this bill meant what they said when they stated several days ago that they were ready to accommodate legitimate requests for redrafting sections of the bill to clarify or to deal with points which came up in the course of the debate. We all felt this to be a strong bill which reasserts a constitutional role for Congress, which is in danger of becoming seriously weakened and even extinct. But we also want to take every reasonable step to insure that the President's constitutional responsibilities are not degraded as we take this important step to define and specify them. As I have pointed out many times, I believe that, under the provisions of the necessary and proper clause of the Constitution and under Congress authority "to make all laws necessary and proper for carrying into execution" not only its own powers but also "all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof"—article 1, section 8—our authority to delineate and specify these powers is clear.

I think that the second amendment that the Senator from New York has offered in behalf of the sponsors of this bill merely further delineates and specifies our feeling as to what the Constitution provides for emergencies continuing beyond the 30-day period.

Mr. President, I yield to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I, too, would like to address some brief remarks to the second amendment, which is part of the three-amendment package offered by the distinguished Senator from New York.

I feel that the second amendment will be very helpful in clarifying the meaning of the 30-day authorization period as stated in section 5 of this bill. I believe it is important, however, that both Congress and the President understand fully what the President would be asked to certify if he found it necessary to continue the use of Armed Forces beyond 30 days in order to assure their protection. I am specifically concerned that all parties understand the meaning of the word "disengagement" as it appears in this amendment.

We have alluded on several occasions during the course of this debate to the effect that the Vietnam War has had on the drafting of this legislation. Concern has been expressed throughout that the confusion and uncertainty surrounding our involvement in Vietnam be avoided in the future.

President Nixon first announced on November 3, 1969, a plan to withdraw U.S. combat forces from Vietnam and replace them with South Vietnamese forces. He called his plan "Vietnamization."

The President specifically used the word "withdrawal." Three years later, we are still in the process of "withdrawal"; and if recent events are any indication, that process will continue for some time.

Now we use the word "disengagement" in this amendment.

Mr. President, I feel it is important that the legislative history of this amendment show clearly the intent of the sponsors as to the definition of the word "disengagement."

I draw a sharp distinction between the word "withdrawal" and the word "disengagement," and this amendment was drafted with that distinction in mind.

I see the action of withdrawal as being indefinite and ongoing. By itself, the word "withdrawal" would simply describe the direction of a movement or action but would fail to place a quantitative limit on that action.

The word "disengagement," on the other hand, I see as having two dimensions. It encompasses the full meaning of the word "withdrawal" but also includes the strong implication of finality. A quantitative limit is supposed.

By using the word "disengagement" in this amendment, we seek to require a complete divorce from prior policy considerations. The President not only would be obligated to withdraw U.S. Forces from the hostile situation but also would be required to cease his pursuit of the objective for which he initially involved them in hostilities. He would be asked to certify that his only objective or policy consideration is the safe removal of troops from the hostile situation in the minimum time possible.

I would add that Congress denial under section 5 of the President's request to continue involvement in emergency hostilities, or the termination of emergency authority prior to 30 days under section 6, would obligate the President to forego his original objective in a very explicit way. The word "disengagement" as used in this amendment would carry the same message but rather implicitly. The word "disengagement" as used in this amendment would carry that same message but do it implicitly.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, I want to respond to the Senator from Missouri, and then the Senator from Kentucky (Mr. COOPER) has a question or two to ask of the Senator from Virginia (Mr. SPONG).

First, I assume that when the Senator says the "objective," and when he mentions the word "objective" in his explanation, he means the objective with which the President used the troops rather than perhaps some overall diplomacy or policy objective which might affect that country or a situation?

Mr. EAGLETON. The Senator from New York is correct.

Mr. JAVITS. Second, I assume the Senator is trying more clearly to define the power of Congress and the power of the President, in view of a statement from the administration which appears on page 291 of the hearing record of the Committee on Legislative Proposals relating to the war in Southeast Asia which was held in April and May of 1971. In that statement the administration said:

> Putting aside the question of the President's general authority under the Constitution to deploy troops abroad, we consider that the President certainly has the constitutional authority to take all reasonable efforts to protect the troops once they have been committed and to bring about their withdrawal under circumstances that contribute to a durable peace.

The Senator makes the point, as I understand it—and I wish to evidence my concurrence with the Senator—that we are not giving the President, in our judgment, all that latitude, that he bring about the withdrawal "under circumstances that contribute to a durable peace." We use the word "disengagement" in order to demonstrate that we actually expect them to be disengaged. It is only the tactical situation relating to disengagement which we will countenance as an element of delay in the 30-day period, not any other policy objectives such as achieving "a durable peace."

Mr. EAGLETON. The Senator is correct. Using the word "disengagement," we felt it connoted a quantitative and finite limit, that it would not be perpetual or limitless.

Mr. JAVITS. That was different from the word "withdrawal" which the administration uses and the word "withdrawal" which the President has used with reference to Vietnam.

Mr. EAGLETON. The Senator is correct.

Mr. JAVITS. I thank the Senator.

Mr. COOPER. Mr. President, I support the amendment interpreted by the Senator from Virginia (Mr. SPONG), and the Senator from New York (Mr. JAVITS), and Senator EAGLETON. I believe that the Senators from Virginia, Missouri, and New York have interpreted it well. Sitting through the hearings on this very important bill, I came to the conclusion that I would support it.

One section troubled me, however. In my separate views as to section 5, I raised the question of whether, when the President was exercising his constitutional authority, Congress could require him to suspend hostilities. I do not think so. The Senator from Virginia recalls my questions about section 5, does he not?

Mr. SPONG. Yes, I do.

Mr. COOPER. Section 3, subparagraph 1 and subparagraph 2, describes the situation in which the sponsors believe, and I believe our committee would agree, that the President has the constitutional authority to engage in hostilities.

Mr. SPONG. That is correct.

Mr. COOPER. I said a few days ago on this floor, during the debate, that if the same circumstances were present on the 30th day that prevailed on the first day, the President would have the same constitutional authority to continue to engage our forces in hostilities. Would the Senator not agree?

Mr. SPONG. I quite agree with the distinguished Senator from Kentucky. I know what his concern has been all along. As a matter of fact, it harkens back to the debate on the Cooper-Church amendment on Cambodia about certain limitations that could be placed on time and distance. I agree that the very fact of time, 30 days, cannot render something unconstitutional that would be constitutional if the same elements are present.

Mr. COOPER. This amendment provides that if at the end of the 30 days or prior, the President reported to the Congress that circumstances were such that the safety of our forces was still imminent, then he would be relieved of the responsibility to suspend hostilities, at the end of the 30 days.

Mr. SPONG. That is true. Under the bill as reported from the committee, the one specific exception to the 30-day authorization period—that is, beyond the constitutional argument that the Senator from Kentucky has presented—was that there be specific legislation which authorized the period to be extended. This amendment adds two things to that. It details what I had already understood concerning the President's Constitutional authority to protect U.S. troops but it also gives a mechanism, under which the President certifies to Congress that there is unavoidable military necessity for continuation of hostilities beyond 30 days. This merely says that by certifying the necessity to Congress, the 30-day authorization period is extended or, it is extended if Congress is physically unable to act. We would, however, expect that extention to be a reasonable one.

Mr. COOPER. Even though the amendment would now relieve the President of suspending hostilities 30 days, under the circumstances which the Senator describes, nevertheless, by using the word "disengagement" it is intended that the President in any period of time after 30 days would not misuse the authority, and that military action taken after 30 days would be directed towards disengagement of our forces; is that not correct?

Mr. SPONG. That is correct. In other words, he would proceed with the disengagement. The only way he could act to expand what he is doing is to have additional authorization from Congress.

Mr. COOPER. I must say that I am pleased with what the sponsors of the bill have done. It corrects, in my view, a constitutionally doubtful part of the bill. We have listened to the interpretations of the Senators from Virginia, Missouri, and New York on this point, and I am satisfied with the suspension of the 30-day period.

Let me ask one more question. If our country should be engaged in a war with countries and our national security is not threatened and our forces are not threatened, unless we deploy them in foreign countries where they are in danger, I would say that our duty is to disengage as quickly as is possible from hostilities. We have argued this through amendments during the past 2 or 3 years, in an effort to disengage in Vietnam and Southeast Asia.

This amendment may not meet another possible situation which I hope will never occur, that all of us hope will never occur. If the United States should become involved in a war with a nation which has the capacity to destroy us—and there are just a few, the Soviet Union in particular—in a nuclear exchange, as we could destroy them, would this amendment insist upon a disengagement when the very life and security of the Nation would be at stake. Would this prevent in any way the President of the United States continuing whatever whatever steps are necessary to defend this country where disengagement might not be the immediate answer.

Mr. SPONG. I do not think it would under the bill as reported. I do not believe that is the case under the bill if amended.

Mr. COOPER. I do not believe so either. I thank the Senator, and I thank the Senator from New York.

Mr. JAVITS. Mr. President, I thank both of my friends for the elucidation. I wish to state that I associate myself with the successive explanations which have been made to the first two of the package of three amendments.

The third amendment reads as follows:

> On page 13, line 8, after the period, insert the following: "Nothing in section 3(4) of this Act shall be construed to require any further specific statutory authorization to permit members of the Armed Forces of the United States to participate jointly with members of the Armed Forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this Act and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date."

Mr. JAVITS. I come now to the third amendment. This will be found at page 13, line 8, at the very end of the bill.

Our desire here, Mr. President, is to insert the following:

> On page 13, line 8, after the period, insert the following: "Nothing in section 3(4) of this Act shall be construed to require any further specific statutory authorization to permit members of the Armed Forces of the United States to participate jointly with members of the Armed Forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this Act and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date."

Mr. President, we had hoped that the Senator from Mississippi (Mr. STENNIS) would be on the floor and be able to explain this amendment. However, he is not present. So, I shall endeavor to explain it.

Mr. President, I want to discuss briefly the amendment which deals with the headquarters operations of existing commands which we share with some of our allies. I should explain that this perfecting amendment is introduced with the understanding in mind that there are three of these: NATO, the United Nations Command in Korea, and the North American Air Defense Command—involving Canadian and U.S. forces. In these three cases American commanders do not at the present time have actual complete command over allied forces, but they do have, under existing arrangements, "operational control" over some of these forces. This control increases in times of crises and approaches full-scale command. There is no intention that the bill interfere with these integrated command relationships and I do not believe that it does. Some Senators have expressed concern, however, that these existing command relationships might be affected by the provision in section 3(4) of the bill which pertains to the assignment of U.S. advisers to command foreign regular or irregular troops. Advanced statutory authorization is required by the bill for the assignment of such advisers.

The concern has been expressed that we should not have to await statutory action, for example during a crisis in NATO, for the American NATO commanders to assume their added responsibilities under existing arrangements.

The amendment before us clarifies this point and it simply excepts these existing command arrangements from the requirement for prior statutory authorization in a crisis. I want to point out, Mr. President, that this provision is very narrowly drafted. It does not except any use of actual combat forces. It does not except any command arrangements which are included only in contingency plans, and it refers solely to the use of members of the Armed Forces in the "headquarters operations of high-level military commands which were established prior to the date of enactment of this act and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date." I should perhaps add, Mr. President, that members of U.S. Armed Forces work from time to time in planning groups or joint exercises with members of other armed forces. The bill does not affect such activities and thus it is not necessary explicitly to deal with them.

Finally, Mr. President, I want to point out that the Congress could terminate the involvement of these members of the Armed Forces from such commands at any time, so there is ample protection against opening up a loophole in the bill both by the wording of the amendment and by the existence of this termination power. We would all assume, however, that the executive branch would operate in good faith on important matters such as this. The intent and thrust of the exception is clear and I believe the amendment provides on important, but limited, clarification to the bill.

In point of fact, Mr. President, this perfecting amendment does not contain any further authorization beyond what is intended originally in the bill—and beyond what I believe the bill actually does permit. Nonetheless, as there has been some concern expressed on this point. The sponsors wish to offer this perfecting amendment to make the matter clear beyond dispute.

In closing, I wish to emphasize that it is our understanding that their amendments will be accepted in all good faith, and that it does not open the gates for subsequent establishment of additional integrated commands at any time between the time of their amendment and final enactment of the bill. In summary, we are talking about three existing commands: NATO, North American Air Defense Command—NORAD—and the United Nations Command in Korea.

Mr. President, there is one last point that I wish to emphasize. It will be noted, if Members will follow me and look at the sentence in section 3, paragraph 4, which starts on page 9, line 14, that this sentence ends with the assignment of members of the Armed Forces of the United States in respect to the military forces of another foreign country.

It is our intention that the U.S. Government could in the event it is an element in the exercise of the authorities contained in section 3(1) and 3(2), work with the armed forces of other countries in many ways.

In other words, we are not confined with respect to actions under 3(1) and 3(2), but we could be working within the operations of the armed forces of the foreign countries. This is also a part of that kind of response which could be encompassed in 3(1) and 3(2), after they have been invoked on some other basis. Of course, the assignment of commanders or advisers to foreign forces could not be used as a pretext for invoking 3(1) or 3(2) if such personnel got caught under fire.

That completes a statement of the purpose of the legislation with respect to this entire matter of participation in high level commands of the activities of members of the Armed Forces in respect to the armed forces of other countries.

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. JAVITS. Mr. President, I yield to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I too, would like to add a few brief words in explanation on the third amendment in the package introduced by Senators JAVITS, SPONG, STENNIS, and myself.

Mr. President, I feel it should be made clear that this third amendment does not in any way imply a forfeiture of the constitutional obligation of Congress to be involved at the outset in the decision to go to war. It merely permits and gives legal sanction to a procedure which has been followed in the past. That is that American officers be permitted to participate in the joint commands of NATO and other defense structures previously established by treaty.

Mr. President, no treaty—not even the NATO treaty—is self-executing. Implementation of treaty provisions must be accomplished in accordance with the constitutional processes. Our Constitution states that the full Congress must participate in the decision to go to war and not just the Senate. A treaty, of course, is acted upon only by the Senate and not the House. For this reason, the language in section 3 subsection (4) of this act states that—

> Authority to introduce the Armed Forces of the United States in hostilities . . . shall not be inferred from any treaty hereafter ratified . . . no treaty in force at the time of the enactment of this Act.

I believe that this third amendment has clearly interpreted the words "to participate jointly" as having a limited scope. This language would in no way cause the NATO Treaty or any other treaty to which the United States is a signatory to be self-executing.

Mr. JAVITS. The Senator is correct. I am glad to confirm his explanation of the amendment which we have proposed.

Mr. GOLDWATER. Mr. President, will the Senator from New York yield.

Mr. JAVITS. I yield.

Mr. GOLDWATER. I should like to say, in reference to the few questions I have, that I think it is rather strange that after months and months of hearings—and I attended some of them—we now find the sponsors of the bill admitting that there are weaknesses in the bill or that some facts have been overlooked. This indicates to me that if we are unsuccessful in referring the bill to the Committee on the Judiciary for further hearings, we should either take the Taft amendment, which would establish a Commission to study the subject, or debate the bill at greater length. I do not suggest a filibuster; I merely suggest that we have a chance to work out the additional inequities. Although we have these amendments, they are small changes compared with the enormous problems which arise in the bill.

Again, I do not think any of us especially want to limit ourselves if there is one provision in the bill that could be construed as unconstitutional.

I should like to ask the Senator from New York about the amendment on page 8, line 11, which reads:

> Any situation on the high seas involving a direct and imminent threat to the lives of such citizens and nationals, or . . .

What about situations that arise in aircraft?

Mr. JAVITS. Mr. President, I would say those are situations which would be covered. I call to the Senator's attention we did not believe this was essential. We believed the bill encompassed protection with respect to the high seas for the reasons I stated. But the question has been raised and we spelled it out in words. We saw no harm in that.

Mr. GOLDWATER. Would the Senator include the word "aircraft"? I think the recent occurrence where the son of a former Member of this body, young Mr. Kennedy, had his life endangered by a hijacking into a foreign country would be relevant. I would not say that would bring on an engagement of any sort but let us say an airplane was hijacked containing a high ranking delegation of U.S. Government officials. I do not think the language here would cover them because I do not think any court would hold the high seas has any relation to the blue skies because the same laws do not apply. If the Senator feels it does cover it, would he add language to include aircraft?

Mr. JAVITS. I arrived at an agreement with our cosponsors on the use of the term "high seas." I assure the Senator we will study further, and if we feel, again for the same reason, that we should include a reference to what the lawyers call the boilerplate respecting the air, I do not see any great objection to including it. I do not wish to undertake a commitment for it, but we will look at it.

Mr. GOLDWATER. I hope the Senator will. I am not speaking of military aircraft. I am speaking of private aircraft, of commercial aircraft engaged in round-the-world flight or intercountry flight that is hijacked.

I remember the Arabs or the Egyptians destroyed a 747. The very destruction of American property does not necessarily mean we would go to war; but let us say the destruction of this private property also involved the destruction or harm to American citizens under which, I might say, the high seas would certainly apply if they were attacked and harmed on the high seas.

I hope the Senator would do that because we will probably offer an amendment on that in the debate.

I think it is important in this same amendment to question the situations in international straits or where U.S. naval vessels are engaged in innocent passage in the territorial sea.

I refer to page 471 of the hearings. John Moore was testifying. He said:

> In the absence of a prior declaration of war S. 731 would prohibit, among others, the following kinds of Presidential initiatives: humanitarian intervention similar to the joint United States-Belgian operation in the Congo if the intervention were not for the protection of U.S. nationals—

And this is the important point with respect to this amendment—

> an attack on U.S. naval vessels in transit in international straits or engaged in innocent passage in the territorial sea . . .

As I understand it, there is a distinct difference between territorial or international sea and a strait which is the property of a particular country.

Mr. JAVITS. Mr. President, in answer to that I would say we consider Professor Moore is wrong on that because section 3, paragraph 2 states specifically, "to repel an armed attack against an armed force located outside the United States." That does not seek to base jurisdiction on the definition of where it is; it bases it negatively. If it is outside the United States the response can be immediate. So in straits, territorial waters, or anything else, the American ship would be outside the United States. So I state the response would be immediate under section 3, paragraph 2.

Mr. GOLDWATER. Again, I would not disagree with John Moore too often. He is an outstanding internatioal lawyer. I remind my friend there is a distinct difference in the waterways of the world. Where one is on the ocean has a great deal to do with what can and cannot be done. I am thinking not of a U.S. naval vessel but a pleasure ship or freighter, or any other kind of vessel flying our flag that is involved in problems in an international strait where the countries adjacent to the strait, or in the case of a strait going through a country, would have rights, there being no 3-, 12-, 200-mile limit within those waters.

I think it would be much better if the Senator were to spell this out a little more accurately, because I do not think the language the Senator has there is sufficient to do even what the Senator is trying to do.

Mr. JAVITS. Mr. President, in response may I say the sponsors of the amendment believe that that situation is very adequately covered. We cannot have it both ways. In other words, if they are international waters, then the high seas amendment which we are now proposing certainly covers it in so many words. If they are claimed to be territorial waters or straits within the confines of a particular foreign country, then they are provided for by the rest of paragraph (3) of section 3, which deal with such countries. If it is a U.S. ship, then it is U.S. soil. If it is an element of the armed force, to wit, a naval ship, then we have the power under section 3(2).

I just said a minute ago that we do not condition these powers upon where our forces are, where our ships may be. So long as any element of our forces is outside the United States, whether in international waters or in a strait or in the territorial waters of another country, we believe—we really have no doubts about this—that it would be covered by the various paragraphs to which I have referred. So we think that the network is complete respecting this coverage.

Mr. GOLDWATER. The language "high seas," as I understand it, was in the original bill, S. 731, and it was that to which Mr. John Moore objected, and it was eliminated from the bill which reached the floor under a different designation.

I am not going to press this point, but I have had some experience on the seas, and there is a great difference between international waters and national waters. We are running into this problem with respect to Peru and Venezuela. They claim rights out to 200 miles, and there is a question of protecting our own tuna fleets. They interpret their rights as extending to 200 miles while we more or less confine our rights to 3 miles to 25 miles.

So I disagree completely with the Senator that "high seas" is going to cover this situation. Again, I think it points up one of the many weaknesses in the bill that can only lead to more trouble in the end.

Second, the language is suggested to strike out "the continued use thereof," on page 11, line 8, and insert "(1) the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of the Armed Forces of the United States," and so forth.

Is not that language a little ambiguous? I do not think it is necessary. What is "unavoidable military necessity"?

Mr. JAVITS. Mr. President, with the consent of the Senator from Arizona, I would appreciate it if my colleague from Virginia (Mr. SPONG), who has handled this particular matter, would respond. However, I am thoroughly with it. I am not asking him to do it because I do not know the answer, but as long as he dealt with it, I would ask him to reply.

Mr. SPONG. Mr. President, yes, I shall be glad to respond to the Senator from Arizona.

I think we should go back to the colloquy between the Senator from Kentucky and myself on this particular subject. What is involved here is similar to the reservoir situation in Korea. Where it is not possible at the end of the 30-day period to totally disengage the troops—and when the Congress has not acted affirmatively—then the President merely certifies the necessity to continue to the Congress. Again, however, I emphasize that the President would be expected to act in good faith.

I do not know that the words in the amendment are so ambiguous. We certainly know what "unavoidable" means. I suppose the Senator from Arizona would be more of an authority on military necessity than I am, but the fact is that if the President finds that Congress has not acted affirmatively, that there is no specific authorization for him to continue, and that the 30 days have ended, the position of the proponents of the legislation is that the Constitution would not allow us to cut off his duties as Commander in Chief, so long as he was acting to protect U.S. troops or pursuant to situations which could be construed as coming under section 3 of the bill.

In the debate that we have had, the proponents of this legislation have maintained from the beginning that we do not seek to cut off any constitutional powers of the President as Commander in Chief.

Through the use of this certification, if pursuant to sections 3(1) and 3(2), and in acting to forestall an imminent attack or to repel an attack, there is a military situation where more time is necessary to bring about prompt disengagement, we merely affirm, through this provision, that he has that constitutional authority. He merely needs to certify to Congress that the situation is such as described in the amendment.

I cannot define "unavoidable military necessity" any better than can the Senator from Arizona. The sponsors of this legislation do not want to see the lives of Americans, soldiers, and sailors, who have been used pursuant to section 3(1) or 3(2) imperiled because 30 days have passed. We feel that the President has the authority to continue, under certain circumstances, but he has to certify the existence of those circumstances to Congress.

Mr. GOLDWATER. First let me state one of the worries I have about this matter, and then I shall make a suggestion. We have heard long debates on the floor of this body insisting that we reduce our strength in NATO, for example; that we reduce our strengths in other places of the world.

I can see the possibility of the charge being made that the President could have avoided "unavoidable military necessity" had he listened to the Congress and brought the troops home. But the point is, I can see eliminating the language "unavoidable military necessity" because, as the Senator has suggested, it is a rather difficult point to define, and merely substitute, in the next few words, "the safety of the United States or of the Armed Forces of the United States engaged pursuant" et cetera, et cetera.

Would the Senator be inclined to accept that language in place of "unavoidable military necessity"? I think then we would be more in consonance with the Constitution and I think the desires of the writers of this legislation to continue the protection of the United States without any question.

Mr. SPONG. The Senator from Virginia can only speak as one of the sponsors. I have always felt that the President has the right and the duty to protect American soldiers and sailors in the field. I think the debate on the Cooper-Church amendment covered that very thoroughly.

What we are seeking here, and what I would like the Senator from Arizona to understand, is that this certification comes after the President has initiated some action himself under his constitutional authority, and after the Congress has already acted—either negatively or affirmatively—on the matter.

We will have to assume that the situation is conventional. The President initiates the activity. He reports this to Congress. Hopefully Congress would either act affirmatively or choose not to act. If Congress chooses not to act, they are saying by inaction—or they might even do it by affirmative action—that they do not approve of what the President did.

We have to go back in history a little, but the Senator will recall that in this debate we had the example of the President going into Mexico, and then there occurred the debate in which I think former President John Quincy Adams engaged, and later President Lincoln, and they both stated as Members of Congress that what had been done should not have been done.

This bill would also allow the Congress to act during the 30-day period. But if 30 days passes, and the troops are in danger—the very language the Senator has suggested—in my judgment, falls within "unavoidable military necessity." That is my opinion.

Mr. GOLDWATER. I thank the Senator from Virginia. I am still a little worried about it, but we can talk about it as we go along.

The third amendment that was offered and just explained by the Senator from New York leaves only one question in my mind, and I believe it has been answered. This has to do with page 13, line 8, where the amendment would insert the following language:

> Nothing in section 3(4) of this Act shall be construed to require any further specific statutory authorization to permit members of the Armed Forces of the United States to participate jointly with members of the Armed Forces of one or more foreign countries in the headquarters operations of high-level military commands.

I think the Senator from New York explained that very clearly, and I believe he is thinking of headquarters like the Air Defense Command, which combines American and Canadian forces, Korea, NATO, and I presume to some extent Southeast Asia.

I am thinking of headquarters operations of high level military commands. I cannot make this statement with any substantiation other than I made it during my campaign 8 years ago, and I was roundly taken to task, and later several national magazines admitted I was right: There is an agreement, tacit though it may be, that in case of an attack on the NATO countries by nuclear weapons, not specifying size—I am thinking of small tactical nuclear weapons—our commanders in headquarters operations would have the authority to retaliate without the authorization of the President. I am not speaking of ICBM's or intermediate IRBM's; I am speaking of small tactical weapons. Would this have any effect upon such an understanding?

Mr. JAVITS. Mr. President, I do not know whether any such understanding exists, or whether it is lawful if it does exist, or whether the President has authorized any such thing. I only know that the control of all nuclear weapons is in the hands of the President, and I can say flatly there is nothing in this bill which prevents the President from using any weapon of the United States which he feels he must use in order to perform the functions which we have confirmed to him by this bill.

That is a generic answer; it is the best I can do.

Mr. GOLDWATER. I am glad that the Senator cleared that up. I think it was rather clear before I asked the question, but this has been discussed in times past. I personally feel that such an agreement is in existence, but I cannot prove it any more than the Senator can prove there is not one.

Those are all the questions I have. I just hope that in the course of debate on this matter, if we are unsuccessful in returning it to the Committee on the Judiciary, we can expect to see some amendments to clear up some very questionable areas in the bill. I am not being critical of the author of the bill or any of the cosponsors. I understand their purpose. I would like to see the same thing achieved. I just happen to feel that we are tying the hands of the President and we are tying the hands of the Congress. In fact, we are going to make it very difficult for this country to continue to be a respected power in this world.

I know there are some amendments I might offer; I do not know whether I shall offer any. I am glad that some amendments have been offered. But I think we should go a long, long time, and offer amendments to get this bill into some kind of shape. It is refreshing to note that the authors recognize, after just 2 days of debate, that there are several very important areas that need amendment.

Mr. JAVITS. Mr. President, I thank the Senator. That is what debate is about. In fact, the quality of debate is enhanced by the fact that we were listening, and did hope to profit collectively. I think the Senator knows my record. If we think he has proposed something that is useful to the purpose of the measure, its sponsors will embrace it, even though we know the man who proposed it is not going to vote for the bill anyhow.

Finally, Mr. President, we have only expressed in words what was very clearly implied and expressed in another form of words by this measure. Just as an example, I might say to the Senator, in dealing with the evacuation of Americans from aircraft, we cannot evacuate them while they are in the air. The plane would have to settle somewhere, on the high seas or on other land, and then the bill is certainly clear on that score.

We have not had any illustrations that we will eliminate all policy questions. We narrow the scope of the problem; but suppose the President certifies there is an imminent threat, which would come under this bill, and goes ahead and launches a tremendous operation. We do not agree with him within the 30-day period. The only way we can say we do not agree with him is by not giving him authority to continue.

We have no illusions, as sponsors, that we are locking everything up and there is no longer any ground for controversy or confrontation. We say we are establishing better methodology. The Senator may disagree as to either the desirability of the methodology or the type of methodology we have established, but we have put it forward without any illusions or any effort to build it up as more than it is.

Mr. GOLDWATER. Mr. President, something the Senator just said raises a question in my mind that I believe must be answered somewhere in the bill.

If the President's action is not answered within 30 days, is this considered essentially a pocket veto, an outright veto, or is it permission for the President to continue with the action?

Mr. JAVITS. The question is answered in the bill. We say specifically, in section 5—I would like to read that:

> The use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act shall not be sustained beyond thirty days from the date of the introduction of such Armed Forces—

And so on.

The words "shall not be sustained beyond 30 days" have now been amplified to include the contingencies to which the Senator addressed himself with his colloquy with Senator SPONG.

The Senator used a word which is not in here—"pocket veto" or "veto"—but the President then has no authority from Congress under this law to proceed. The President conceivably could defy Congress.

Mr. GOLDWATER. That has happened before.

Mr. JAVITS. Of course.

Mr. GOLDWATER. I recall that at the outset of World War II—I do not recall the date or the year—Congress said that no draftees would be sent outside the limits of the Western World, or something like that. So President Roosevelt made Iceland a part of our part of the world and sent troops there. There are many ways by which to skin that cat, I suppose.

I thank the Senator for his explanations. I do not want to hold up the proceedings any longer at this time.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Is further time requested? No further time is requested.

The question is on agreeing to the amendments. By unanimous consent, the amendments will be voted on en bloc. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), the Senator from South Carolina (Mr. HOLLINGS) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. MAGNUSON), the Senator from Georgia (Mr. GAMBRELL), the Senator from North Carolina (Mr. ERVIN), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Kentucky (Mr. COOK), the Senator from Hawaii (Mr. FONG), the Senator from Florida (Mr. GURNEY), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), the Senator from Idaho (Mr. JORDAN), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from Delaware (Mr. ROTH) and the Senator from Vermont (Mr. STAFFORD) are absent on official business while attending an interparliamentary meeting in Tokyo.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Kentucky (Mr. COOK), the Senator from Florida (Mr. GURNEY), the Senator from South Carolina (Mr. THURMOND) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 59, nays 0, as follows:

[No. 132 Leg.]

YEAS—59

Aiken
Allen
Allott
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Ellender
Fannin
Gravel
Griffin
Hansen
Hart
Hughes
Inouye
Jackson
Javits
Jordan, N.C.
Kennedy
Long
Mansfield
Miller
Montoya
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Schweiker
Scott
Smith
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Tower
Tunney
Weicker
Williams

NAYS—0

NOT VOTING—41

Anderson
Bayh
Bennett
Brooke
Cannon
Church
Cook
Eastland
Ervin
Fong
Fulbright
Gambrell
Goldwater
Gurney
Harris
Hartke
Hatfield
Hollings
Hruska
Humphrey
Jordan, Idaho
Magnuson
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Mundt
Muskie
Pastore
Ribicoff
Roth
Saxbe
Sparkman
Stafford
Talmadge
Thurmond
Young

So Mr. Javits' amendments were agreed to.

Mr. JAVITS. Mr. President, I move that the vote by which the amendments were agreed to be reconsidered.

Mr. SPONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there will be no additional votes this afternoon.

ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, that, when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR RECOGNITION OF SENATOR BEALL, TRANSACTION OF ROUTINE MORNING BUSINESS AND LAYING BEFORE THE SENATE OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the distinguished Senator from Maryland (Mr. Beall) be recognized for not to exceed 15 minutes; and that thereafter there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BROCK ON WEDNESDAY, APRIL 12, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on Wednesday next, April 12, 1972, immediately after the two leaders have been recognized under the standing order, the distinguished Senator from Tennessee (Mr. Brock) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, before moving to adjourn for the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will reconvene at 11 o'clock tomorrow morning. After the two leaders have been recognized under the standing order, the distinguished junior Senator from Maryland (Mr. Beall) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business, S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Debate will be resumed.

The leadership hopes and expects that amendments will be called up and voted on tomorrow. Consequently, there is a good possibility that rollcall votes will occur on tomorrow.

ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 11 o'clock tomorrow morning.

The motion was agreed to; and at 6:10 p.m., the Senate adjourned until tomorrow, Thursday, April 6, 1972, at 11 a.m.

EXTENSIONS OF REMARKS

FEDERAL EFFORTS TO DEVELOP AND DEMONSTRATE NEW AND ENVIRONMENTALLY ACCEPTABLE MEANS FOR ELECTRIC POWER GENERATION, USING COAL, SEEM TO BE INADEQUATE

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, April 5, 1972

Mr. RANDOLPH. Mr. President, I shall discuss the problems associated with the environmentally acceptable generation of electricity from such fossil fuels as coal and oil.

As my colleagues realize, supplies of fossil fuels must grow if our Nation's projected energy requirements are to be met in the future.

My responsibilities as a Senator from a major coal-producing State compel me to devote extensive and priority consideration to the problems surrounding this industry, which employs more than 40,000 people in West Virginia. It is an industry on the viability of which rests in large degree the future of our energy-dependent economy.

Yet, our coal future, our economic future and our Nation's future are critically endangered by the ad hoc nature of national energy policy and the lack of a comprehensive national fuels and energy policy for the environmentally acceptable development and utilization of energy resources.

THE ENERGY CRISIS

Mr. President, I do not overstate the critical nature of this Nation's energy future when I say that we face today and will face tomorrow, and many more tomorrows, a possible acute shortage of environmentally desirable fuels to satisfy the needs of America's industries, business establishments, and homes.

On July 16, 1970, I introduced legislation to establish a National Commission on Fuels and Energy. Had this Commission not been opposed by the administration, but instead established, the pending energy crisis of which I speak might well have been mitigated. The study it would have carried out, however, is being conducted in-house by the Senate Committee on Interior and Insular Affairs under Senate Resolution 45 which I introduced with the Interior Committee chairman, Mr. Jackson of Washington, as principal cosponsor. My words of almost 2 years ago are valid today:

> The crisis of which I shall speak today is a real and genuine one. It is not synthetic. It is not one that has been created. It has developed with the growth of our complex society. It is a crisis that faces approximately 205 million men, women, and children in the United States.

For several decades there have been massive Federal expenditures on nuclear energy research to develop long-term electrical energy supplies. The short term—the 1970's and 1980's—was neglected with respect to energy from nonnuclear sources. The breeder reactor holds promise as a key to providing our energy supplies in the 21st century, but, it is at least 15 years from commercial operation and 20 years from any widescale application as an electrical energy supply source. Electricity amounts to less than 10 percent of our national energy demands and these requirements are and will remain until the next century overwhelmingly dependent on fossil fuels, including coal.

During the interim period, until the year 2000, however, this Nation's indigenous, nonrenewable oil reserves may be sufficiently depleted so that their use for nonenergy petrochemical purposes such as synthetic fabrics may be restricted. In addition, nonrenewable natural gas reserves, if not depleted before the year 2000, most likely will be restricted to priority uses. The critical period is from 1976 to 1990 when alternative and reliable supplies of fossil fuels, which satisfy environmental control requirements, must be developed.

There are several joint Government-industry efforts underway to develop commercial processes for the conversion of coal into liquid and gaseous fuels. When they are subjected to vigorous analysis, however, it appears that these efforts are inadequate from two standpoints:

First, the technologies most likely will not be available when the gap between supply and demand occurs in the middle or late 1970's; and

Second, the amounts of synthetic fuels commercially available most likely will not be sufficient to satisfy an ever-widening gap between environmentally acceptable energy supplies and demands.

If coal liquefaction and gasification and other advanced technologic options are to contribute significantly to easing the energy crisis, increased Federal funding is needed immediately. Until recently the potential and the need for the development of these technologies has been largely ignored.

These technologic alternatives, which rely on our abundant reserves of coal and oil shale, must be pursued more vigorously. The only alternative is an ever-increasing reliance on imports of residual and crude oil. Besides the obvious short-term implications for national security and balance of payments, there also is the catastropic possibility between now and the year 2000 that international supplies of oil and gas cannot meet international demands.

The most likely reasons for this situation are inadequate transportation capacity and environmental factors, as well as political factors.

Our Nation and, indeed, the world are embarked on a gigantic gamble in attempting to maintain reliable and abundant sources of crude oil, natural gas, and coal and, hopefully, some substitute source of immense amounts of energy—the breeder reactor, fuel cells, or solar power—to replace nonrenewable fossil fuels when they are depleted. Should available energy supplies falter or be depleted, the American people and, perhaps, large portions of the earth may experience catastrophe.

Superimposed on this picture of our energy future is a real concern for the potential side effects of satisfying the energy requirements which must accompany the projected growth in our economy. An "environmental ethic" has developed as a response to the realization that we are faced with an environmental and potential human health crisis of our own making. The problem is of sufficient concern that it is the subject of a June 1972 United Nations Conference on Man and the Human Environment in Stockholm, Sweden.

ENVIRONMENTAL IMPLICATIONS

Growing energy consumption potentially includes increased discharges of waste heat into the environment; increased emissions of particulates, sulfur oxides, and nitrogen oxides from fossil fuel usage; and increased radioactive wastes from nuclear powerplants with their associated disposal problems.

Every present electric powerplant still may be in use 20 to 30 years from now with its associated environmental impact. If we are to be successful in resolving the dilemma between energy growth and preservation of environmental quality, the means must be developed for assuring the availability of clean fossil fuels.

The foresight of former Federal Power Commissioner Carl E. Bagge, in a speech before the American Power Conference in 1970, deserves repeating:

> The problem posed by the necessity to rely on fossil fuel generation as the backbone of the industry for many years to come is compounded by the fact that low sulfur fossil fuels are simply not presently available in sufficient quantities to clear the air pollution hurdle which now has been imposed upon the industry. Natural gas, the cleanest fossil fuel, accounts for one-quarter of all electric generation by steam plants and for one-sixth of the gas consumed in this country. It appears unlikely, however, that domestic gas supplies will be able to substantially alleviate the problem. While imported LNG (liquefied natural gas) and residual fuel oil hold out some promise, neither do their prospects appear sufficient to resolve the problem.

Although spoken in 1970, Mr. Bagge's words constitute an important warning today.

The time has come for our society to act to assure ample environmentally acceptable energy supplies while averting future energy crises. A comprehensive national energy policy is needed which would enable us to restore that balance between man's activities and nature. Perhaps the most critical factor in reestablishing this equilibrium is man's determination to create an environment based not on economic considerations alone but based, too, on his total physical, psychological, and spiritual needs.

CONGRESSIONAL MANDATE

When the Air Quality Act was enacted in 1967, the Congress considered the potential health and environmental implications of projected energy demands. In 1970, this was affirmed by the Congress when a national policy was enunciated that the protection of the health of the citizens of the United States must be assured, regardless of economic cost.

The 1967 act also included an amendment which this Senator authored and offered calling for the development and demonstration of new and improved methods for the prevention and control of air pollution resulting from the combustion of fuels. This authority was reinforced by the Congress in the Clean Air Amendments of 1970 which specifically authorized the Environmental Protection Agency to undertake research and development in the area of "improving the efficiency of fuels combustion so as to decrease atmospheric emissions; and producing synthetic or new fuels which, when used, result in decreasing atmospheric emissions."

The 1970 amendments also provided authority for EPA to establish performance standards for new stationary sources which reflect the best available technology and methods for controlling atmospheric emissions of such pollutants as sulfur oxides. Under this authority Administrator Ruckelshaus in 1971 promulgated new source performance standards for steam electric powerplants which cover emissions of particulates, sulfur oxides, and nitrogen oxides. Emissions from existing steam electric powerplants also are being controlled by federally approved State plants which must provide, at a minimum, the protection of public health.

From information supplied by the Environmental Protection Agency, the following observations can be made concerning these actions:

Forty percent of the U.S. population is living under conditions where sulfur oxide levels are unacceptable from the standpoint of health;

Achievement of the primary or health standard in these areas will require control of both existing and new sources to a level equivalent to one-tenth percent sulfur coal or 2.4 pounds of sulfur per ton of coal; and

New Source Performance Standards for steam electric generating sources located in other areas and using fossil fuels will require the use of seven-tenths percent sulfur coal or 14.4 pounds of sulfur per ton of coal.

The public has expressed a desire to deal directly with the environmental costs of energy production. Therefore, utilities are being asked to take the necessary control measures to protect and enhance the quality of the human environment. The resultant expenditures are estimated to involve large sums of money for air pollution control, for cooling towers to dissipate waste heat, and for newer powerplants and transmission lines which are compatible with surrounding landscapes. These expenditures undoubtedly will be reflected in electric utility rate structures. The critical factor, however, is the availability of environmentally acceptable fuels, coal and oil in particular.

AVAILABLE EASTERN COAL SUPPLIES

As mentioned, air pollution control regulations already enacted, and others pending, will eliminate the use of coal containing more than seven-tenths percent sulfur unless adequate means can be provided at the point of use for providing environmentally acceptable emissions. The immediate effect of implementation of these standards on the use of eastern coal for electric power generation was estimated by the Environmental Protection Agency to have the following implications:

Only about 18 percent—70 million tons—of the steam coal supplied in 1975 from the Appalachian and interior regions to large eastern steam generating capacity can be expected to meet environmental standards;

In 1975, there essentially will be no new supplies of interior region steam coal available which will meet the new source performance standard for sulfur oxides;

In 1975, there will not be any practical potential for increasing the rate of production of steam coal in the "as mined condition" from the Appalachian region to meet the new source performance standard.

Coal cleaning is possible by mechanical or chemical means; however, it is anticipated that it will be 1985 before this technology could potentially permit all

Appalachian and interior steam coal to meet the new source performance standard.

These sources of supplies, however, constitute more than 90 percent of the current total coal-fired electric utility capacity of the United States and 70 percent of the projected total 1975 U.S. steam coal consumption.

ALTERNATIVE FOSSIL FULL SUPPLIES

Several fossil fuel sources are available as alternatives to eastern coal. These include western region coal, residual oil, and natural gas. There are also emission control technologies such as fuel cleaning and flue or stack gas cleaning. I ask unanimous consent to have printed at this point in the RECORD EPA's analysis of these alternatives.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

EFFECT OF STANDARDS FOR STATIONARY COAL FIRED POWER GENERATING SOURCES ON THE USE OF EASTERN COAL

The New Source Performance Standard for solid fuel (coal) will limit the use of Appalachian and Eastern Interior steam coals unless additional SO_x emission control technology is applied. Realizing this potential effect, the Office of Research and Monitoring has supported study efforts designed to quantify the supply/demand relationship for steam coal in the eastern United States after application of the New Source Performance Standard in 1975. The results of these efforts are summarized in the following paragraphs.

The estimated 1975 coal demand of eastern steam generating capacity to which the New Source Performance Standard directly or indirectly applies; i.e. units greater than 250 x 10^6 BTU/hr. (about 25 MWe) is 400 million tons. This includes both new and modified capacity coming on stream in 1975 and existing capacity to be controlled by the states to levels equivalent to the New Source Performance Standard. This constitutes more than 90% of the total coal-fired electric utility capacity of the United States and 70% of the projected total 1975 United States steam coal consumption. As shown in Table II, only about 18% (70 million tons) of the steam coal supplied from the Appalachian and Eastern Interior region in 1975 to large Eastern steam generating capacity can be expected to meet the standards of 0.6 Lbs. S/MBTU at the current industry production growth rate of 7% per year.

TABLE I

Region and pounds S/10^6 B.t.u.	Cumulative mineable reserves* (10^6 tons)	Cumulative 1975 production (10^6 tons)
Appalachian:		
0.6	1,500 (3,000)	70
0.8	3,000 (8,000)	135
1.2	4,000 (13,000)	160
All coal	9,500 (25,000)	275
Interior:		
0.6	25	0.7
0.8	125	1.5
1.2	1,800	22.0
All coal	68,000	230.0

*The 1st column under cumulative mineable reserve in the Appalachian Region is based on the results of "1967 Appalachian Coal Data Survey Report", U.S. Bureau of Mines, published in 1971. The column represents the reserves held by operating mining companies with production greater than 100,000 tons per year. The 2d column in parenthesis is derived from Averitt's estimate of total mineable coal reserves in the ground to which the sulfur estimates contained in Bureau of Mines Information Circular I.C. 8312, (1966) have been applied.

Two facts are of particular importance in Table I: (1) Essentially no steam coal meeting the New Source Performance Standard exists in the Interior Region and (2) no practical potential for increasing the rate of production of steam coal meeting the New Source Performance Standard in the "as mined condition" exists in the Appalachian Region. For example, based on a 20-year lifetime for the *total* mineable reserves shown in Table I, the production growth rate on low sulfur steam coal in Appalachia could not exceed the current 7% per year.

Based on the previously summarized results, the Office of Research and Monitoring has evaluated the potential of (1) alternative fossil fuel sources and (2) SO_x emission control technology currently available or under development by EPA to meet the coal supply *deficit* at the New Source Performance Standard for SO_x. These alternatives include the following:

FOSSIL FUEL ALTERNATIVES

Western Region Coal
Residual Oil
Natural Gas

EMISSION CONTROL TECHNOLOGY ALTERNATIVES

Flue Gas Desulfurization
Clean Fuel

1. Western Region Coal

Although vast reserves of low sulfur coal are known to exist in the Western Region, the bulk of these reserves are of the low heat content lignite rank and have a sulfur content in terms of Lbs. S/MBTU exceeding the New Source Performance Standard. Reserves of strippable bituminous and sub-bituminous coal estimated to meet the New Source Performance Standard are only 5.5 billion tons.

TABLE II.—SUPPLY/DEMAND RELATIONSHIP FOR ACHIEVING THE NEW SOURCE PERFORMANCE STANDARD IN EASTERN UNITED STATES COAL-FIRED COMBUSTION

	(10^6 tons)		
	1975	1980	1985
Demand: Total estimated eastern United States demand for coal meeting new source performance standard	400	500	650
Supply factors:			
Natural low sulfur Appalachian and interior region coal	70	110	150
Western region coal	40	70	120
Flue gas desulfurization	30	200	240
Cleaned fuels	20	90	140
Total supply potential	160	470	650
Supply/demand, percent	40	72	100

The estimated 1975 production from these sources is about 60 million tons of which 40 million tons will be absorbed directly in the Western Region. The remaining 20 million tons will be shipped for use in the Interior Region. This production represents a growth rate of 20% per year between 1970 and 1975. Based on the probable maximum availability of strip mining equipment and railroad transportation, Western Region production might be raised to 80 million tons by 1975. Thus, 40 million tons, or an additional 10% of the Eastern utility steam coal demand could be met by this source in 1975. Based on a 20-year lifetime for the mineable reserves, a maximum annual production growth rate of about 15% could be maintained for these Western coal sources.

Transportation costs on the order of $8 per ton per 1000 miles and major differences in moisture content and other characteristics also limit its use in Eastern steam generating capacity. The major foreseeable Eastern application for new Western coal production will be in new capacity designed specifically for this fuel. It is expected that transportation costs will limit this application to locations no farther east than Indiana.

2. Residual Oil

By 1975, it is estimated that only about 40% of the total residual oil supply required by the Eastern United States will meet the New Source Performance Standard. This demand projection does not include any additional conversion of coal fuel steam generating capacity to oil beyond that already defined. Despite improved capabilities and capacity to desulfurize residual oil, no decrease in the supply shortage is foreseen before 1985. As a result of this forecast, residual oil does not appear to have a measurable impact on reducing the coal supply/demand deficit in the Eastern United States at sulfur levels defined by the New Source Performance Standard.

3. Natural Gas

Physical shortages of natural gas including pipeline importation and liquefied natural gas are expected to be on the order of 30% by 1975 and as much as 40% by 1980. This shortage is again based on currently defined gas demand projections without consideration of additional increase for conversion of coal-fired steam generating capacity. Thus, no impact on reducing the coal supply/demand deficit in the Eastern United States is considered practical.

4. Flue Gas Desulfurization

The development of flue gas desulfurization technology by EPA can have a significant impact on increasing the availability of Appalachian and Interior Region steam coal capable of achieving the New Source Performance Standard. It is expected that three flue gas desulfurization systems will be commercially available for application by 1975. These are (1) Lime/limestone Wet Scrubbing, (2) CAT-OX and (3) MAG-OX. These systems can be applied by all new coal-fired utility steam generating capacity coming on stream after 1975. In addition to new utility capacity, these systems, as well as others in development by EPA, may be eventually retro fitted to an estimated 40% of existing utility steam generating capacity. Because of the level of construction and manufacturing effort required, it does not appear practical to expect this retrofit effort to be completed until at least 1980. Based on an ability to remove 80% of the sulfur oxides in the flue gas, flue gas desulfurization will increase the supply of Interior and Appalachian coal meeting the New Source Performance Standard by an estimated 32 million tons in 1976 or 8% of the coal demand by large Eastern steam generating capacity. By 1980, assuming the maximum retrofit capability, this percentage could increase to 50% of the coal demand of large Eastern steam generating capacity. In addition, the application of this technology to Interior region coal will eventually permit all coal in the region to meet the New Source Performance Standard. The cost of this technology is expected to be about $2 to $5 per ton of cleaned coal.

5. Clean Fuels

The Office of Research and Monitoring is currently developing several processes for reducing the sulfur content of coal prior to combustion.

5.1 Mechanical Coal Cleaning

This process, long used by the metallurgical coal industry involves the crushing of coal to release about one-half of pyritic bound sulfur component. This crushing is followed by washing to remove the pyrite by specific gravity difference. The optimization of this process for steam coal by EPA is well advanced and could be commercially applied prior to 1975. The maximum commercial application of physical coal cleaning technology under development by the EPA could increase the availability of Appalachian steam coal meeting the New Source Performance Standard in 1975 from 70 million tons to about 90 million tons. The increase is equivalent to 5% of the coal demand of large Eastern Steam generating capacity. In addition the application of this technology to Interior region coal will permit essentially all coal in the region to meet the New Source Performance Standard when used in conjunction with Flue Gas Desulfurization systems. The low cost of mechanical coal cleaning technology (about $1 per ton of cleaned coal) also makes it economically practical for the user to consider these additional flue gas control options.

5.2 Chemical Coal Cleaning

The commercial application of technology for the removal of sulfur from coal by solvent extraction refining is expected to be achieved by 1975. By 1978 this technology could increase the availability of Appalachian and Interior steam coal directly meeting the New Source Performance Standard by 90 million tons or 23% of the demand of large Eastern Steam generating capacity. The cost of this cleaning process, based on preliminary development results, is estimated as about $2.00 per ton of cleaned coal.

Technology for the removal of organic sulfur is also being developed by EPA. If successful the commercial application of this technology could begin in about 1978 in conjunction with the previously described inorganic bound sulfur removal process. By 1985 it could potentially permit all Appalachian and Interior steam coal to meet the New Source Performance Standard. The additional cost of this organic sulfur cleaning process is estimated at about $3.00 per ton of cleaned coal.

It is important to point out that although these chemical cleaning processes can have an important impact on utility scale steam generating capacity, their primary impact may be in controlling emissions from smaller industrial and area combustion sources to which other flue gas control alternatives such as flue gas desulfurization or combustion modification do not apply. The control of these smaller sources can be of particular importance in achieving ambient air quality standards.

SOURCE.—Letter of March 9, 1972 to Senator Jennings Randolph from Stanley M. Greenfield, Assistant Administrator for Research and Monitoring, Environmental Protection Agency, Washington, D.C.

Mr. RANDOLPH. Mr. President, the following observations are painfully apparent from EPA's material:

In 1975 only 10 percent, or 40 million tons, of the total demands for eastern utility steam coal can be supplemented or met by western coal sources;

By 1975, only about 40 percent of the total available residual oil supply required by the Eastern United States will meet the New Source Performance Standards which are less stringent than those for the critical urban areas;

It does not appear that new residual oil supplies will have a measurable impact on reducing the coal supply/demand deficit in the Eastern United States for the sulfur levels represented by the New Source Performance Standard;

Physical shortages of natural gas are expected to be on the order of 30 percent by 1975 and as much as 40 percent by 1980. Thus, there is no practical potential for reducing the impact of the coal supply/demand deficit in the Eastern United States through use of natural gas; in addition, there is an anticipated gas supply/demand deficit to be satisfied; and

Flue gas treatment systems offer potential for application by all new coal-fired electric generating capacity coming on stream after 1975; however, it only appears practical to expect that a maximum of 40 percent of existing facilities can be retrofitted and this cannot be expected to be completed until at least 1980. The maximum retrofit capability could increase, however, to 50 percent of the coal demand of large eastern steam generating capacity by 1980. The cost is expected to be about $2 to $5 per ton of coal.

The critical question is whether the industry can survive the period of adjustment represented by these controls. These observations were affirmed by President Garvey of Bituminous Coal Research in a letter to me—February 11, 1972—which I ask unanimous consent to have printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BITUMINOUS COAL RESEARCH, INC.,
Pittsburgh, Pa., February 11, 1972.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: At the February 8, 1972 hearing before the Committee on Interior and Insular Affairs, on S. Res. 45, you requested that I submit for the record additional information on coal reserves, as such information relates to a part of my statement in which I said, "The use of low-Btu gas will allow the efficient and non-polluting use of the still-remaining coal resources in Appalachia and the Midwest." You specifically asked that the information submitted refer to West Virginia, the Appalachia region, and the Midwest.

Air pollution control regulations already enacted and others pending enactment will eliminate the use of coals containing more than 0.7 percent sulfur unless some means is provided at the point of use for prevention of sulfur oxide emissions from the stack. How do existing reserves of coal in the eastern half of the United States from which most of our production now comes fit this requirement?

The only available reference which presents data on coal reserves according to sulfur content was published by the U.S. Bureau of Mines in 1966 (Sulfur Content of United States Coals, U.S.B.M. Information Circular 8312). While this publication gives data on coal reserves as of January 1, 1965, and some of the reserves have since been depleted, it is believed that the analyses contained therein are still appropriate for the purposes of your request. As of 1965:

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The total reserves were 102.7 billion tons, of which 81.9 billion tons, or 80 percent, had sulfur content in excess of 0.7 percent.

APPALACHIA

The Appalachia region includes the states of Alabama, Tennessee, Virginia, West Virginia, Ohio, and Pennsylvania. This is the largest depository of high-rank bituminous coal with approximately 31 percent of the total remaining reserve of the nation. About 204 billion tons, or 90 percent of this total reserve could not meet the 0.7 percent sulfur limitation.

MIDWEST

The states of Illinois, Indiana, Iowa, and Kansas have bituminous coal reserves totaling about 198 billion tons, of which 99.9 percent is more than 0.7 percent sulfur content.

KENTUCKY

Although neither totally in Appalachia nor the Midwest, the reserves in Kentucky should also be mentioned. Of the approximate 66 billion tons, 79 percent of that state's coal exceeds the 0.7 percent sulfur limit.

Obviously, to enable the use of the tremendous coal reserves contained in the eastern half of the United States, of which only about 14 percent is less than 0.7 percent sulfur content, while at the same time meeting the sulfur emission requirements stipulated by the Environmental Protection Agency, processes must be developed which will prevent emission of sulfur oxides from the stack following combustion. While some progress has been made in the development of stack gas clean-up methods, and this may be an interim solution for existing plants, I feel a long-range program should be pursued with the objective of eliminating sulfur oxide emissions in a more efficient manner. I believe the application of low-Btu gas using the basic technology being developed through the high-Btu gas research program offers the most attractive solution.

Sincerely yours,
JAMES R. GARVEY,
President and Director of Research.

Mr. RANDOLPH. Mr. President, the opinion expressed by EPA that:

> It appears that the only satisfactory method for maintaining Eastern seam coal in the energy market is through conversion to synthetic gaseous or liquid fuels.

Elimination of environment regulation displaced coal production would represent a loss of $1 billion annually in sales, a loss of a critical energy resource; and a reduction of about 30 percent in the current work force employed in the bituminous coal industry. Some 44,500 mine workers would be affected adversely, including 15,000 in West Virginia.

SURFACE MINING CONTROLS

Added to the factors I have mentioned is concern for the environmental impacts of surface mining. In many areas of the country, surface mining has become a highly emotional issue. Unfortunately, a polarization of viewpoints is developing with one side advocating total abolition of surface mining and the other, in effect, insisting that surface mining has produced substantially good results.

I understand and sympathize with the feelings of both groups. People who have seen the country ravaged by reckless mining have every right to be disturbed. At the same time, the responsible surface mine operator should not be victimized by the shortcomings of his less responsible associates.

In recent years, more than half of the coal mined in the United States has been produced by surface mining methods. Accompanying this increase in surface mining activity has been a heightened public awareness of the potentially adverse environmental impacts resulting from the extraction of coal by this method. In West Virginia, surface mining is perhaps the most intensely debated public issue. In 1967, the West Virginia State Legislature enacted new controls over surface mining. Since then, additional surface mine law amendments have been enacted and other proposals have been made. And there have been recommendations that all surface mining be banned in West Virginia.

Mr. President, after examining carefully a number of legislative proposals relating to surface mining of coal, on February 24, 1972, I introduced a bill (S. 3282) on this subject. The legislation would establish a program of strict controls of surface mining operations and require reclamation of the highest quality. It would provide for neither abolition of surface mining nor its conduct without careful attention to its consequences.

In a study commissioned by the Legislature of West Virginia, it was estimated that approximately 8,000 people would lose their jobs if surface mining were prohibited in our State. I do not believe that irresponsible surface mining can be condoned; neither do I believe that total abolition is necessary to protect the environment.

FUTURE TECHNOLOGIC OPTIONS

The Air Quality Act of 1967 authorized a major Government-industry program for the development and demonstration of methods for the control of air pollution from the combustion of high sulfur fuels from the regions I have mentioned. While there has been progress under this program, accomplishments have not met congressionally estimated needs. Some processes have fallen far short of expectation while others are approaching commercial status; but the effort, as a whole, has been seriously inadequate, and both Government and industry are to blame.

Section 104 of the 1967 Air Quality Act provided for research and development activities into new and improved methods for the prevention and control of air pollution resulting from the combustion of fuels. These provisions contain two special features:

First, funds remain available until expended providing a flexibility that is useful in the planning and scheduling of research and development and demonstration projects which may extend beyond one fiscal year; and

Second, a legal basis is defined for supporting projects involving construction and installation of pollution control equipment on private property; this authority is very useful since industrial plants are the best possible sites for making a realistic evaluation of the economic and technological feasibility of new processes for the control of problems such as sulfur oxides pollution.

In 1969 a National Academy of Engineering—National Research Council Ad Hoc Panel on the Control of Sulfur Dioxide—concluded that "contrary to widely held belief, commercially proven technology for control of sulfur oxides from combustion processes does not exist," and a 5-year research plan was recommended to assure that the technology was available to meet 1975 air pollution control requirements.

Today, many industry spokesmen quote this almost 3-year-old report extensively as the current recognized judgment of experts and as their basis for not installing sulfur oxide control methods. Except for the foresight and leadership of a few companies, the progress that has been made would not have been accomplished. There also has been an obvious reluctance by industry to participate in this 5-year-old Federal program which has been consistently underfunded and understaffed by the Congress and by the executive branch alike.

As anticipated in 1970, one of the recommendations of the first annual report of the Council on Environmental Quality was:

> Federal research and development on sulfur oxides and nitrogen oxide control technology should be accelerated. Sulfur oxides control technology for large coal-and-oil-fired power plants should be demonstrated in actual operation so that the technology can be applied throughout the industry.

The Council's first annual report also recommended:

> A more balanced research and development program is necessary to hasten the development of more efficient energy processes. Although control technology for sulfur oxides will provide appreciable improvements for several decades, a longrun answer to this type of air pollution lies in better energy conversion processes which will emit less pollutants per unit of energy produced. Gasified coal, fluidized bed combustion, breeder reactors, and nuclear fusion all hold promise. Although research for new nuclear power sources has already received significant support, greater attention must be given to these other processes. Even now, the Nation needs to use its fuel resources more effectively through development of a national energy policy. Such a policy would guide the use of natural gas, low-sulfur coal and oil, and other energy resources to assure their availability and minimize air pollution.

ADEQUACY OF EPA FUNDING AND EXPENDITURES

The Congress responded to this need in 1967 and authorized in the Air Quality Act $370 million for the 5-year period, 1968 through 1972, for the total research and development program under section 104. Appropriated funds fell short of these estimates and authorizations, the actual appropriations for the 5-year period having been $133.5 million. Although the full amounts appropriated reportedly have been obligated, expenditures have been only $85.6 million, leaving $38.9 million of appropriated funds unspent. Of these amounts, expenditures for stationary source pollution control research and demonstration were some $50.5 million.

I propose to place these levels of funding in perspective. In 1967, the then National Air Pollution Control Administration projected Federal expenditures for a 5-year research and development plan for the control of sulfur oxide emissions from stationary sources alone should be $394 million.

A separate study by the Stanford Research Institute at the agency's request estimated sulfur oxide control technology development alone would require a Federal commitment of $255 million in the same 5-year period between 1968 and 1972 in order to have available an adequate sulfur oxide control capability by 1975. Yet, expenditures for the whole technology development program have been $85.6 million—for sulfur oxide, nitrogen oxides, particulates, special industry problems, and incineration control problems.

Congress increased the administration's budget request and appropriated $45 million for fiscal year 1970 for EPA's effort under section 104 of the Clean Air Act. However, only $36 million was obligated to this effort by the executive and expenditures were only $14 million. Obviously, Federal program efforts and funding have been unresponsive to anticipated requirements and this lack of foresight has contributed significantly to the potential coal supply problems I have mentioned. Mr. President, I ask unanimous consent to have printed at this point in the Record correspondence from EPA Administrator Ruckelshaus and Deputy Administrator Greenfield indicating expenditures and obligations for this program.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., December 1, 1971.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Enclosed, with exceptions, is the information you requested in your letter dated November 11, 1971, on the research, development, and demonstration program conducted pursuant to Section 104 of the Clean Air Act, as amended.

Since the President's program and related funding level are still in the formulating stage, and will not be available until January 1973 when the President submits his Budget to Congress, data for FY 1973 is not reflected. Similarly, and for the same reason, funding data for subsequent years is also not provided.

I hope this information that is provided will be helpful. If we can be of further assistance to you, please let us know.

Sincerely yours,
WILLIAM D. RUCKELSHAUS,
Administrator.

SEC. 104—FUNDING HISTORY, FISCAL YEARS 1967–72

[Dollars in thousands]

	1969	1970	1971[1]	1972[1]
I. Appropriations and expenditures:				
Appropriations	$18,700	$45,000	$29,100	$40,700
Expenditures	3,587	14,289	27,684	39,000
II. Expenditures by major program:				
a. Stationary source pollution control	2,844	8,028	14,199	22,514
b. Mobile source pollution control	443	2,315	6,684	15,181
c. Other related programs	300	3,946	6,801	1,305
Total	3,587	14,289	27,684	39,000

[1] Estimates.

Note: Fiscal year 1969 1st years funds appropriated for this purpose, therefore fiscal year 1967 and fiscal year 1968 not shown.

CHANGES IN EMPHASIS IN SO_x CONTROL TECHNOLOGY R.D. & D. PROGRAM, 1971 THROUGH 1972

SHORT TERM SO_x PROGRAM

The major change in emphasis will concentrate funding in flue gas treatment so that it is focused on the completion of major demonstrations which can impact on the attainment of primary SO_x standards by 1977 and earlier, where possible. Two new demonstrations will be added during fiscal 1972, making a total of six major demonstrations. Beginning in fiscal 1972, second generation flue gas treatment processes will be deemphasized. These processes generally tended to represent processes which could not be carried through a demonstration stage in time to impact on attainment of primary standards. The processes being dropped generally represented new ways of accomplishing the same results.

Physical desulfurization of fuel will be deemphasized starting in fiscal 1973. Coal producers and consumers have generally been dispassionate about the cost sharing of a demonstration for physical cleaning of coal. By the end of fiscal 1972, the washability of over 80 percent of Eastern coal production will have been defined. Projects will have been completed which provide design guidelines on the optimization of physical cleaning processes with respect to sulfur removal. This information can provide considerable guidance to coal producers in the building of any new coal cleaning plants.

The potential for chemical cleaning of coals will be evaluated and any work undertaken in the period fiscal 1973 through 1975 will emphasize these processes as opposed to physical methods. It is not anticipated that chemical cleaning of coal can be demonstrated in time to impact on the attainment of primary standards.

LONG-TERM SO$_x$ PROGRAM

The emphasis of the long-term SO$_x$ program will be more sharply focused on a specific end product, namely the demonstration of an advanced power cycle. Such a cycle represents a systems approach in which the derivation of energy from the combustion of fossil fuels can be considered in terms of the resulting environmental pollution problems. The system takes into consideration the desirability of removal of potential air pollutants in concentrated rather than dilute gas streams resulting from final combustion. It furthermore provides the opportunity for less waste heat, thus increasing overall efficiencies and minimizing thermal pollution. The existing program will be reoriented so that the present contributing components (new combustion techniques and fuel conversion) will be sharply focused on the needs of the state-of-the-art demonstration of the advanced power cycle.

III—SO$_x$ CONTROL PROGRAM FISCAL YEARS 1971-72, FUNDING LEVELS AND MAJOR CONTRACTORS

[In thousands of dollars]

	Funded prior to fiscal year 1971	1971	1972	P—Planned A—Active
I. SHORT TERM SOX CONTROL				
A. Flue Gas Treatment				
(i) 1st generation—demonstration:				
Dry limestone		857	509	
TVA (Demo)	Yes	750	390	A
Research Cottrell (tests)	Yes	40		A
Other contracts and in-house	Yes	67	50	A
West Virginia University (injection process).	Yes		15	A
Illinois Geological Survey (carbonate rock).	Yes		54	A
Wet limestone		3,528	3,243	
Bechtel (demo)	Yes	367	800	A
TVA (demo)	Yes	2,005	1,630	A
Cottrell (Venturi)	No	163	95	A
Radian (study of limestone wet scrubbing).	Yes	262	25	A
Combustion engineering (marble bed scrubber).	No	249		A
West Virginia University (Venturi)	No	30		A
West Virginia University (Flyash)	Yes	57		A
USAF Aerospace (Flyash)	No	100	117	A
Environmental engineering (pilot study).	Yes	20		A
Other contracts and in-house	Yes	183	106	A
TRW (holographic techniques)	Yes	92		A
Monsanto (pilot scrubber)	No		115	A
McCrone (sampling train)	No		20	A
International minerals and chemicals (pore volume).	Yes		10	A
Catalytic oxidation		107	350	
Mitre (test program)	Yes	100	350	A
Illinois Power Co. (scale model)	No	7		
Magnesium oxide (oil)		39		
Babcock-Wilcox	No	39		A
Magnesium oxide (coal)			500	
Chemico/Boston Edison	Yes		500	P
Soluble alkaline scrubbing			5,958	
(2 demonstrations)	No		5,958	P
Total		4,531	10,560	
(ii) Second generation-pilot plant				
Sodium citrate	No			P
Ammonia scrubbing		240	173	
TVA (pilot study)	Yes	240	173	A
Molten carborate		40		
North American Rockwell (development of process).	Yes	35		A
Sigmaster-Breyer (evaluation of process)	Yes	5		A
Regenerable char		347		
Westvaco (development of process).	No	347		A
Total		627	173	
(iii) Second generation—other:				
Modified chamber		130	170	
Tyco (development of process)	No	130	170	A
Aqueous formate	No			P
Conceptual design		225	225	
TVA (evaluation of process)	Yes	225	225	A
Metal oxides		80		
USBM (evaluation of sorbents)	Yes	80		A
Total		435	395	
Total flue gas treatment		5,593	11,128	
B. Fuel Desulfurization				
Coal cleaning	Yes	822	609	
USBM (support)	Yes	649	404	P
USAF-NITRE (technical reviews)	Yes	90	105	P
Bituminous coal research (evaluation of Pyritic Sulfur).	Yes	83	100	P
Chemical fuel desulfurization		69	397	
TVA (removal of NOx and SOx)	No	69	398	P
High sulfur combustor study		15		
Chemico (Study)	Yes	15		A
Other contracts			262	
Total		906	1,269	
C. Other Direct Related Effort				
Total		2,960	6,529	
Analysis and measurements		1,558	2,454	
Industrial processes		428	2,175	
General support		974	1,900	
Total short term SOx		9,459	18,926	
II. LONG TERM SO$_x$ CONTROL				
A. New Combustion Techniques				
Total		1,484	2,685	
Westinghouse (evaluation of fluidized bed combustion).	Yes	375	400	A
ESSO (fluid bed)	Yes	179		
Argonne National Lab. (atmospheric pollution)	Yes	441	300	A
USBM (fluidized bed combusion)	Yes	265	150	A
Pope, Evans, & Robbins (char. of air pollutants)	Yes	224	35	A
ESSO, England (coal gasifier)	Yes		350	A
ESSO (regenerable fluidized bed of limestone)	Yes		200	A
National Coal Board (reducing emissions)	Yes		400	A
Other contracts and in-house	Yes		850	A,P
B. Fuel Conversion				
Total		852	535	
Black, Sivalls, & Bryson (submerged combustion)	Yes	667		
Scientific Research Inst. (sulfur sequestering)	Yes	185	300	A
Pittsburgh-Midway (de-ashed/de-sulfurized coal)	No		200	P
Other Contracts & in-house	Yes		35	A
C. Advanced Power Cycles				
Total		282	808	
Consolidated Coal Co. (CO$_2$ acceptor)		282	400	A
Other contracts and in-house			408	P
D. Other Direct Related Effort				
Total		300	484	
General support		300	484	
Total long term SOx		12,377	23,438	
NOx adjustment		−560	−970	
Adjusted total		11,817	22,468	

• Includes $25,000,000 in addition to the budget currently being planned for 1973.

Environmental Protection Agency,
Washington, D.C., March 9, 1972.
Hon. Jennings Randolph,
Chairman, Committee on Public Works, U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: In response to your February 14 request for additional material in support of my February 8 testimony, I am enclosing the following:

1. Data to update Administrator Ruckelshaus' December 1, 1971 information on the research, development, and demonstration program pursuant to Section 104 of the Clean Air Act, as amended.
2. Status report on EPA fuels combustion research program.
3. Briefing document describing estimated effect of standards for stationary coal-fired steam generating sources on the use of Eastern coals.
4. Information and current status of proposals to demonstrate advanced or combined power cycles.

I trust this information is responsive to your needs. If I can be of further service, please let me know.

Sincerely yours,
Stanley M. Greenfield, Ph. D.,
Assistant Administrator for Research and Monitoring.

SEC. 104. CLEAN AIR ACT, STATUS OF EXPENDITURES

FUNDING HISTORY

[Dollars in millions]

	Fiscal years—				
	1969	1970	1971	1972	1973
Appropriated	$18.7	$45.0	$29.2	$34.8	$39.5
Carried over from previous year		5.6	14.1	15.9	3.7
Available for obligation	18.7	50.6	43.3	50.7	43.2
Obligated	13.1	36.5	27.4	47.0	43.2
Carry-over to subsequent year	5.6	14.1	15.9	3.7	

Note: The status of funding for sec. 104, Clean Air Act, is summarized and updated in the table below for fiscal years 1969 through 1973.

Mr. RANDOLPH. Mr. President, without the development of economically and technically feasible methods to control sulfur oxide and other emissions, the Nation's commitment to effective air pollution control cannot be honored. The effect of underfunding this vital activity has delayed important research and development work in control technology, thus delaying the establishment and implementation of emission standards and new source performance standards, and impeding vital efforts to improve the quality of our air resources.

AVAILABLE SULFUR OXIDES CONTROLS

Recently, the research emphasis of EPA's sulfur oxide control program was changed to concentrate on completion of major sulfur oxide flue gas treatment demonstrations which can influence the attainment of primary air quality standards for sulfur oxides by 1977 and possibly earlier. This implies a possible 2-year extension for compliance with the primary quality standard from 1975 to 1977. The data for existing sources suggests a slippage to possibly 1980 for compliance. This is hardly pollution control progress.

The EPA's principal and overriding criteria for funding sulfur oxide demonstration proposals is the nearness of the technology to a commercial system. The Department of Commerce and the Federal Power Commission have interpreted "available technology" to mean a process has been demonstrated on 100 megawatt—electric—facility for at least 1 year. In light of this definition, the current program does not provide sufficient latitude to fund proposals which will not produce a commercial process by 1975 to 1977.

As a result of this policy, second generation or advanced flue gas treatment methods have been deemphasized. These processes generally represent new and often more economic ways of accomplishing the same results. These "second generation" processes, which offer potential improvements in efficiency and cost in the post-1977 period, cannot be pursued under current budgetary restrictions. Therefore, control of sulfur oxides may very well be imposed at a premium cost which ultimately must be borne by the consumer.

Four control systems are being advanced to the stage of demonstration on the scale of about 100 megawatts electrical:

A dry limestone injection process developed by the Air Pollution Control Office and the Tennessee Valley Authority;

A limestone and wet scrubbing process being undertaken by the same group;

A magnesium oxide wet scrubbing process developed by the Chemico Corp., to be demonstrated by the Boston Edison Co.; and

A catalytic oxidation process developed by the Monsanto Company, to be demonstrated by the Illinois Power Co.

Two new demonstration processes for the control of sulfur oxides were called for in the President's June, 1971, energy message, raising the total to six major demonstrations. Yet, neither of those processes has been selected and announced by the Environmental Protection Agency from such potential candidates as:

The Westvaco regenerable char process, which produces elemental sulfur;

The Tyco modified chamber process to remove sulfur oxides, nitrogen oxides, and particulate matter with the production of sulfuric and nitric acids as byproducts;

The Atomic International's molten carbonate process, which produces elemental sulfur;

An ammonia scrubbing process, which can be made to produce sulfuric acid; and

A Venturi wet scrubbing process under development by De Seversky.

Considering the significant impact that the lack of this technology could have on increasing the availability of Appalachian and Interior Region steam coal, a crash program is warranted to develop environmentally acceptable means for generating electricity from these coal supplies.

NITROGEN OXIDE CONTROL

Development of technology for controlling nitrogen oxide emissions to meet established standards lags well behind that for sulfur oxides. Although there is considerable potential for improvement in controlling nitrogen oxide emissions from the combustion of oil and gas, techniques for controlling emissions from coal-fired plants have yet to be demonstrated at even the pilot or prototype scale.

According to the Environmental Protection Agency, at the present rate of development it may well be 10 or more years before methods are available which can control nitrogen oxide emissions from powerplants. Significant reductions may well take even longer unless special attention is given to the development of reliable control alternatives for both new and existing facilities. In the interim, nitrogen oxide levels in the ambient air can be expected to almost double in the next 30 years.

On March 17, 1972, a panel of the National Academy of Engineering and National Research Council released an EPA contracted report which concluded that:

> No proven process is currently available for substantial removal of nitrogen oxides from combustion stack gases once the nitrogen oxides have been formed.

The report, which deals with the Abatement of Nitrogen Oxides Emissions from Stationary Sources, the panel recommends that first priority in research and development should be given to methods of combustion modification. A substantial reduction—50 to 80 percent—in the amount of nitrogen oxides released into the atmosphere will come most economically from modifications of the combustion process rather than from stack scrubbing or absorption systems. Mr. President, I ask unanimous consent to have printed at this point in the Record the conclusions and recommendations of the panel.

There being no objection, the items were ordered to be printed in the Record, as follows:

Insert IV

Abatement of Nitrogen Oxides Emissions From Stationary Sources

Prepared by *Ad Hoc* Panel on Abatement of Nitrogen Oxides Emissions from Stationary Sources, Committee on Air Quality Management, Committees on Pollution Abatement and Control, Division of Engineering, National Research Council, National Academy of Engineering (Washington, D.C., 1972)

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

A. Summary

National and regional standards for air-quality management are being defined under the Clean Air Amendments of 1970 (Public Law 91–604). Keeping the costs of meeting these standards within bounds and minimizing the burden on our national economy will call for the best efforts and most careful planning at all levels, from individuals, civic groups, and companies to local, regional, state, and federal agencies.

The nitrogen oxides emitted from industrial sources are essentially nitric oxide (NO) and nitrogen dioxide (NO_2). They are generally grouped together and, for convenience, termed NO_x. Nitrous oxide, N_2O, at the levels emitted by most chemical processes, is believed to be innocuous and is not included in the definition of NO_x. About 53 percent of the total manmade NO_x emissions in the United States are from stationary sources. (The remainder is emitted by vehicles.) The largest stationary-source contributions are from the fossil-fuel-fired boilers of electric utilities and from industrial furnaces. At the 1970 level of control, NO_x emissions from stationary sources would approximately double by the year 2000. The need to reverse this trend is clear.

On a world-wide basis, man-made sources of NO_x produce but a tenth of that produced naturally. But the distribution of man-made NO_x is closely related to population distribution; over 60 percent of the emissions in the United States occur in urban areas. The relative contributions from stationary and mobile sources vary substantially from city to city and the proportionate contribution at ground level is presumably more from mobile sources than from stack emissions. Stack height and meteorological factors also affect the relative contributions. NO_x has a residence time in the atmosphere of three to four days. Thus, pollution from NO_x is a regional rather than a global problem.

Unlike emissions of sulfur oxides (SO_x), which are directly proportional to the sulfur content of the fuel, NO_x is formed largely by the reaction of nitrogen and oxygen from the atmosphere at the high temperatures existing during combustion. A smaller contribution is from organo-nitrogen compounds in the fuel. *The most promising prospects for significant early reduction of* NO_x *in fuel-combustion stack gases lie chiefly in application of some combination of combustion-modification processes to reduce the* NO_x *formed. The probability that processes can be developed for removal of* NO_x *from stack gases is not encouraging.*

B. Conclusions

With regard to combustion-control modification the following conclusions are drawn:

1. Of the three fuels used in firing, gas, oil, and coal, gas allows the most precise control in the attainment of the lowest levels of NO_x. The term "coal" covers a variety of types of solid fuels varying greatly in their combustion characteristics and the nature of the ash formed. A variety of boilers and burners are required to burn these various types satisfactorily. Present emission levels from coal firing vary greatly. Of the three fuels, least is known about coal relative to minimizing NO_x formation from combustion. *A realistic objective for new plants using natural gas to be placed in operation by 1980, is a reduction in* NO_x *concentration to about 100 ppm from present-day uncontrolled levels, which average about 350 to 400 ppm, but range as high as 1,400 ppm.* However, natural gas may not be available as a fuel for utility boilers very far into the future. For oil, the most common range today, when the combustion process has not been modified, in about 180 to 280 ppm for tangentially fired units and 300 to 700 ppm for horizontally fired units. *A realistic objective for oil-fired plants placed in operation by 1980, achievable by the flue-gas recirculation and off-stoichiometric combustion, is about 150 to 200 ppm. For smaller* furnaces or where low-nitrogen oil is available, there is a possibility of reaching this objective at an earlier date. *Control methods are not yet established for coal. The Panel recommends a review to establish realistic objectives after more data become available in the next two or three years.*

2. Both theory and practice indicate that NO_x emissions from combustion sources can be lowered by: (a) reducing the amount of oxygen present in the flame zone, as by use of staged admission of air (or off-stoichiometric combustion), and (b) reducing the peak flame temperature, as by use of flue-gas recirculation to the flame zone. *The practicality of these abatement techniques has been developed primarily in furnaces burning gas or oil. Little has been done on coal-fired units.*

3. The principal problem in reducing NO_x emissions by the use of staged combustion is to avoid the significant increase of emissions of CO, hydrocarbons, and smoke. In addition, with coal, it is important to avoid increasing the hazard of flame-outs, the rate of corrosion of boiler components caused by a reducing atmosphere, and the percentage of unburned carbon in the ash. The applicability of the above techniques to coal firing is not well understood and it will vary considerably with burner design; e.g., flue-gas recirculation may be less effective with cyclone burners than with other burner designs.

4. The amount of NO_x formed per unit quantity of heat released on combustion can vary by a factor of about 10 depending on a number of interrelated factors: (a) the fuel (coal, oil, or gas); (b) the percentage of excess air used in combustion; and (c) the size of the furnace—as furnace sizes increase from domestic heating units to large utility boilers, the amount of NO_x formed per Btu released usually increases, probably because lower surface-to-volume ratios and increased heat-release rates per cubic foot lead to less rapid thermal quenching of the combustion process. For large utility boilers, increased furnace volume (while holding all other variables constant) will act to reduce the average temperatures and will therefore always act to reduce NO_x. However, it appears that the effect of furnace volume on NOx formation is of secondary importance when compared with other combustion-control modifications such as off-stoichiometric combustion. This is not to say that furnace volume is insignificant. In designs in which combustion is spread out in the furnace, e.g., tangentially fired units, it seems likely that increasing furnace volume would cause a reduction in NO_x; (d) burner design—designs that produce more intense combustion and higher temperatures, e.g., cyclone burners for coal, produce considerably more NO_x than designs that allow combustion to occur out in the furnace, e.g., tangentially fired boilers. It is impractical, however, in an existing installation to replace cyclone burners with tangential burners located in the furnace corners, for this would require nearly complete rebuilding of the furnace. It is not the fact that the burners are positioned to admit fuel and air in a tangential configuration that brings about a reduction in NO formation, but rather the manner in which fuel and air are admitted and mixed; and (e) load—as load is first reduced in any particular installation, the concentration of NO_x formed at first drops. With further reduction in load, the change in NO_x concentration is determined primarily by the degree to which increased air-fuel ratio may be required to prevent excessive carbon monoxide or smoke at lower loads.

5. Preliminary data exists regarding the relative importance of conversion to NO_x of fixed nitrogen in oil fuels. These data suggest that combustion of oil or coal under reducing (sub-stoichiometric air) conditions in a first stage helps reduce the amount of fuel nitrogen converted into NO_x or increases the conversion of NO_x to N_2 and the combustion products, but additional research is needed.

6. Presently feasible technology that can be applied to NO_x control in utility boilers varies with the fuel utilized and the nature of the installation—retrofitting an existing boiler or designing a new boiler. Furnace design (e.g., opposed vs. tangential firing), burner configurations (e.g., cyclone vs. conventional burners), and provisions for adjusting fuel and air flows and recycling combustion gases determine the degree of NO_x control achievable in an existing installation. Research, development, and design studies are needed to determine combustor configurations and designs that will facilitate complete combustion of coal and oil (avoiding carbon, hydrocarbon, and CO losses and preventing smoke and soot formation), and will at the same time minimize emission of NO_x (formed either by N_2–O_2 fixation or oxidation of nitrogen in the fuel).

7. Combined-cycle systems involving the combustion of coal or oil in combinations of gas and steam turbines are of considerable interest to utilities. Some of these may involve external coal gasification closely coupled to a turbine or boiler. NO_x emissions are expected to be low, comparable to those from natural gas, but little information is available.

8. On the basis of laboratory and pilot-scale tests, fluidized-bed-combustion boilers show promise of appreciably reduced NO_x emissions, compared with conventional coal-fired boilers. Burning of the coal is carried out at relatively low temperatures, 1400–1900° F.; tests indicate that the NO_x emissions originate almost entirely from nitrogen in the fuel. In fluidized combustors burning coal at atmospheric pressure, two-stage combustion has reduced NO_x emissions to about 70 ppm. In pressurized combustors, NO_x emissions have been reduced substantially in single-stage combustion. Fluidized-bed-combustion boilers, therefore, show excellent potential for NO_x control, and their development should be pursued.

Removal of NO_x from stack gases may offer potential for control in the future. *However, no proven process is available for substantial removal of* NO_x *from combustion stack gases.* Conclusions based on presently available information are:

9. Any wet scrubber system for NO_x removal will be expensive for two reasons: (a) Most of the NO_x is in the form of NO, which is relatively unreactive and insoluble. The maximum rate of absorption in an aqueous system occurs at a NO/NO_2 mole ratio of unity, which requires either (1) recycle of NO_2 and a method of generating NO_2 from the scrubbing system, in turn requiring very high scrubbing efficiencies for substantial overall removal of NO_x, or (2) oxidation of about half of the NO to NO_2 prior to scrubbing. The rate of oxidation of NO to NO_2 is slow and decreases with increasing temperature; and (b) large vessels are required for scrubbing because of the large volumes of gas that must be handled and the necessity for low pressure drop.

10. Catalytic reduction of NO_x to N_2 by a reducing agent as a process for treating stack gases from large utility boilers requires a sulfur-resistant catalyst if coal or oil is used as a fuel. Space velocity (i.e., catalyst activity) and catalyst life also limit this approach at present. The catalytic reduction of NO_x with ammonia or other reducing agents is being studied by several groups. Information is insufficient to assess fully the potential of any catalytic reduction methods of control.

11. Decomposition of NO_x in the absence of a reducing agent requires such high temperatures, on even the best catalysts known, as to be impractical.

The following conclusions have been reached for other stationary combustion sources and for chemical manufacture:

12. Somewhere between two percent and 21 percent of the NO_x emissions from stationary sources are produced by internal-combustion engines (burning natural gas or diesel fuel, used in conjunction with pipelines and gas plants). With diesel engines, techniques such as control of fuel injection, exhaust-gas recirculation, water injection, and alteration of combustion-chamber design, are available to reduce NO_x emissions. With gas turbines, redesign of combustors and methods of fuel injection accompanied by more fuel-lean conditions in the combustion zone should produce significant reduction in NO_x emissions.

13. More data are required on emissions from industrial process and commercial furnaces, residential furnaces and heaters, and incinerators.

14. Emissions from nitric acid plants and chemical operations may be "decolorized" (conversion of NO_2 to NO) by catalytic reduction with natural gas. A similar method can be used to reduce NO to N_2 (typically from 3,000 ppm to 100 to 500 ppm), but requires careful control. Adsorption by molecular sieves has been shown in the laboratory to produce even lower emission levels but no demonstrated commercial process is yet available. Alkaline scrubbing may be used but involves liquid-waste disposal problems.

15. In some chemical processing with nitric acid, a substantial portion of the nitrogen oxides emitted may be in the form of N_2O, which is considered to be harmless.

C. Recommendations

On the basis of its review and in conjunction with the above conclusions, the Panel recommends that:

1. *Combustion-modification studies be given first priority in research and development to control NO_x emissions. Studies of coal combustion are especially required. Studies of the effect of fuel nitrogen on NO_x emissions and the potential of flame-temperature-control techniques in oil and coal burning are also needed.* A substantial reduction in the amounts of NO_x released to the atmosphere (i.e., of the order of 50 to 80 percent) will come least expensively from modifications of the combustion process rather than from scrubbing or adsorption systems to remove NO_x from stack gases.

2. Experimentation to develop firing methods for minimizing NO_x emissions be accompanied by data correlation and theoretical analyses of the data obtained in order to develop the basic understanding for configuring and designing new combustors and for choosing operational modes in a variety of applications.

3. Boiler manufacturers and utilities incorporate as much flexibility as possible in the design of new boilers to permit taking advantage in the future of increasing knowledge of the factors affecting NO_x emissions in combustion.

4. Additional work be funded on new energy-conversion concepts—such as fluidized-bed combustion, coal gasification for electric-power production, and combined-cycle gas- and steam-turbine generating plants operating in conjunction with such combustors and gasifiers—to develop their potential for reducing NO_x and other pollutants.

5. New concepts claiming potential for the economic simultaneous removal of NO_x and SO_x be evaluated carefully.

6. Evaluation of all new electric-power-generation techniques utilizing fossil fuels—including magnetohydrodynamics (MHD), fuel cells, and combined-cycle plants with fluidized-bed combustion or coal gasification—incorporating estimates of NO_x formation and the economic cost of NO_x control, begin as soon as practicable.

7. Careful consideration be given to improving present methods of sampling and analysis of NO and NO_2 particularly in the presence of other pollutants from stationary sources.

8. The potential for the generation of NO_x by such sources as stationary internal-combustion engines, industrial and commercial furnaces, residential furnaces and heaters, incinerators, electrostatic precipitators, and other high-voltage equipment needs further evaluation. If the level of emissions is significant and the effect on ambient air quality is detrimental, then control techniques should be sought.

Mr. RANDOLPH. Mr. President, I am informed that the current Environmental Protection Agency program on nitrogen oxides control is largely restricted to two components: the National Academy of Engineering contract I mentioned and spinoff or side benefits from its sulfur oxide control program.

It is clear from EPA reports that a drastic reduction in nitrogen oxide emissions is required if the health problems of our smog-bound cities are to be solved. Yet, limited, if any, control technology is available or under development. Here also there is a need for a major Federal commitment of funds and manpower if this Nation's air resources are to be preserved.

ADVANCED POWER CYCLES

Although progress can be made in developing stack gas cleanup methods for sulfur oxides and nitrogen oxides, the long-range program should be pursued with the objective of eliminating these pollutants more efficiently.

On the basis of a hearing which I chaired before the Senate Committee on Interior and Insular Affairs on February 8, it is apparent that the emphasis of EPA's long-term sulfur oxide control program must continue to be on advanced power cycles for the generation of electricity. Such methods employ coal gasification without going to the lengths necessary to produce coal gas of pipeline quality. Development of this technology is anticipated to assure the future use of the ample coal reserves of the Midwest and Appalachia. These processes not only offer pollution-free energy but an efficiency considerably higher than that of conventional powerplants, thus decreasing thermal pollution and prolonging the life of our coal reserves.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a summary of the National Fuels and Energy Policy Study, Senate Resolution 45, hearing I chaired on advanced power cycles which appeared in the February 1972 issue of Energy Digest.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

ENERGY DIGEST,
Washington, D.C., February 1972.

COAL GASIFICATION

U.S. efforts, in the meantime, remain focused on advancing technology for producing synthetic gas from coal, with federal responsibility being increasingly split between Dept. of Interior and the Environmental Protection Agency (EPA).

EPA is concentrating on advanced power cycle technology, involving one-site production of low-Btu fuel gas for use in gas turbines, while Interior's programs are emphasizing synthetic pipeline quality gas that can be mixed with natural gas for distribution through existing natural gas pipelines, Administration officials told the Senate Interior Committee. Dr. Richard E. Balzhiser, assistant director for natural resources in the White House Office of Science and Technology, told the Committee that 3 major topping cycles are under consideration for continued federal R&D funding: gas turbines, magnetohydrodynamics (MHD), and alkali metal topping cycles.

"A low-Btu gasification system with hot gas cleanup feeding a gas turbine topping cycle and steam bottoming cycle is one of the more promising approaches to producing electricity cleanly and efficiently from coal," Balzhiser reported. He said preliminary estimates by one of EPA's contractors suggests that the cost of such a system might be comparable to the capital costs of existing power systems, without flue desulfurization systems." One of the advantages of the advanced power cycle technology is that it solves particulate and sulfur oxide emission problems and eliminates the need—and costs—for other desulfurization technologies.

However, according to Balzhiser, developing these technologies will be no overnight achievement—at least at present funding rates. Increasing the size of individual gas turbines and increasing gas inlet temperatures are two advancements that must be made to improve combined cycle performance. This calls for, he said, "a significant advancement" in materials technology as well as application of advanced aircraft turbine technology to industrial turbine design. "Significant progress in this area is expected in the next 5 years," he said, from large turbine manufacturers already working in conjunction with the Dept. of Defense (DOD) Advanced Research Project Agency, which is working to develop the technology necessary for higher temperature operations.

The Lurgi system for low-Btu coal gasification, developed and in use in Europe and now being adapted by some U.S. firms, "suffers from low efficiency and small unit size," he noted, and also "can't now be used with all of the available American coal." Interior Dept.'s Hollis Dole told the Senate Interior Committee that for utility purposes, fixed-bed gasifiers for low-Btu gasification do not appear to be "sufficiently attractive in terms of capital costs and potential efficiencies." He said the Interior Dept. does not anticipate "major expenditures" in this area. Instead, he noted, Interior has asked for $6.4 million for the 25–50 ton/hr. entrained-bed gasifier for the pilot plant slated to be built in Homer City, Pa. (see also ENERGY DIGEST; Vol. 2, p. 22). "This system should be of sufficient interest to power utility and to coal companies to elicit financial participation in the project" as well, Dole predicted.

He said Interior hoped to develop sufficient engineering data on all three topping cycle systems "so that a utility can choose a system for the coal they use and to fit their system's needs." However, "the real (engineering) contribution will probably not come until very late in the decade and probably no real substantial contribution to the generation of electricity through these combined cycles before the mid-80s," he said.

In questioning by Sen. Jennings Randolph (D–W. Va.), EPA's Dr. Stanley Greenfield, assistant administrator for research and monitoring, admitted that EPA has received $38.9 million between '69 and '72 which hasn't been spent; and that, although unsolicited industry proposals have been received for R&D funds for advanced power cyle R&D, EPA still has awarded no R&D contracts for it. Sen. Randolph hinted at a Government Accounting Office (GAO) probe of the matter, but will wait until after EPA oversight hearings in April before the Public Works Committee (of which he is chairman) before making a decision on the GAO investigation.

Specifically, an industry consortium submitted a proposal to EPA last year requesting some $25 million—to be matched to $35 million of their own money—to help fund a combined cycle plant fueled by low-Btu gas from coal. The consortium, headed by Westinghouse, has now submitted the proposal to the Office of Coal Research (OCR) in Interior Dept. in hopes of tapping funds there. Other industry members of the consortium include Bechtel Corp., AMAX Coal Co. and Public Service of Indiana.

One major reason Sen. Randolph is pushing so vigorously for low-Btu gasification is that without it, much of the coal in his home state of West Virginia would be unsaleable under current environmental regulations. One EPA study estimated that without coal conversion, the bituminous coal industry would lose $1 billion a year, and 44,500 coal miners would lose jobs—one-third of them in West Virginia.

In a related development, North American Coal Corp. and Michigan Wisconsin Pipe Line Co. are jointly exploring the possibility of North American dedicating more than a billion tons of coal reserves to Michigan Wisconsin Pipe Line for eventual conversion into synthetic gas. Because of the long lead time for synthetic gas development, "it isn't too early to enter in to the planning stages of the project, including a determination of the availability of adequate coal reserves," Michigan Wisconsin president Wilber Mack told news media.

In the meantime, Washington observers are predicting that the Coal Gasification Development Corp. Act (S-1846) will pass this year despite opposition to the bill by the Nixon Administration. Hearings have concluded, and the Subcommittee on Mining, Minerals and Fuels—before which the hearings were held—is working on an interim report and hopes to get the bill approved by the full Committee soon. The House will probably take no action on the bill until the Senate has acted on it.

Mr. RANDOLPH. Mr. President, Congress specifically provided expanded authority in the Clean Air Amendments of 1970 authority for the Environmental Protection Agency to undertake research and development in the area of "improving the efficency of fuels combustion so as to decrease atmospheric emissions; and producing synthetic or new fuels which, when used, result in decreasing atmospheric emissions."

It has been under this statutory authority that the Environmental Protection Agency has pursued, as an air pollution control strategy, the development and demonstration of advanced power cycles for the generation of electricity.

In the opinion of principals within EPA and the Department of the Interior, that advanced or combined power cycle offers the potential for assuring that eastern and interior region coals remain in the energy market. Therefore, development of the advanced power cycle is important from the standpoint of energy, environment, and economy. The Environmental Protection Agency program which was initiated in 1969 should be encouraged and adequately funded for fiscal year 1973.

The Environmental Protection Agency has estimated that the total cost for demonstrating commercial advanced power cycles for the environmentally acceptable generation of electricity from coal would be approximately $75 million. In a joint Government-industry venture, industry contractor teams have indicated they are prepared to fund two-thirds of this cost. Several unsolicited proposals have been received by the Environmental Protection Agency.

Recently, however, the administration fragmented this program, admittedly without any assurance that the advanced power cycle will be developed to alleviate the emerging gap between coal demands and environmentally acceptable means for conversion of this resource into electricity.

Reportedly EPA requested $25 million for fiscal year 1972 to implement this program: The funds were apparently denied by the Office of Management and Budget. Instead the Department of the Interior, with a recognized expertise on synthetic high-B.t.u. coal gas, was allotted $3 million to pursue low-B.t.u. gas development. EPA is to pursue the development of fuel and stack gas cleaning methods and phase out its low-B.t.u. coal-gas program.

To date, however, there has been a difference between EPA's advanced power cycle program and the Department of the Interior's coal gasification program. As I understand it, the principal difference is EPA's emphasis on a combined system for the on-site production and combustion of a low-B.t.u. coal-gas, while the Department of Interior's program emphasizes the production of a synthetic pipeline quality coal-gas which can be mixed with natural gas for distribution through existing natural gas pipeline distribution systems.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD materials furnished by the Environmental Protection Agency describing its fuel combustion research and development programs for assuring the environmentally acceptable generation of electricity from coal.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATUS OF EPA FUELS COMBUSTION RESEARCH AND DEVELOPMENT PROGRAM

Combustion of fossil fuel is the major single source of sulfur oxides, nitrogen oxides, and particulates.

The principal goal of the EPA fuels combustion research program is to develop and demonstrate technology that will permit the continued use of fossil fuels to supply increasing energy demands without excessive pollution. Specific objectives include the development and demonstration of hardware that is capable of providing high efficiency combustion of fossil fuels and concurrently provide maximum availability of energy. A second objective of this program is to minimize or eliminate in the fuel preparation or combustion system the formation of sulfur dioxide, particulate and nitrogen oxide. A third objective is to develop combustion systems thus partially offsetting the cost of pollution control.

A major thrust of the EPA program is directed toward control of emissions from utility power plants. Industrial combustion of fossil fuels is the second principal source frequently making the major impact on the ambient air qality. Increasing attention is being given to the control of this segment of the fossil fuel combustion control problem.

Specific programs and their status are as follows:

SUBMERGED COMBUSTION PROCESS

The submerged combustion process being developed under contract with Allied Technologies Corp., 135 Delta Drive, Pittsburgh, Pennsylvania 15238, is a 2-stage combustion process which is based on the principle of combusting coal with air in a molten iron bath. The process in analogous to a basic oxygen furnace technology practiced in the steel making industry. Coal is injected beneath the surface of the molten iron bath where it dissolves freeing both organic and inorganic sulfur constituents. Iron has a strong affinity for both carbon and sulfur which consequently will dissolve readily in the molten iron. Sulfur migrates from the iron bath to collect in the floating molten alkaline slag to form calcium sulfide. The resultant calcium sulfide can be subsequently regenerated to form a concentrated stream of SO_2 or elemental sulfur.

Carbon dissolved in the molten iron is oxidized by air blown into the molten bath to form carbon monoxide. Combined with hydrogen methane and nitrogen from the gasification step, the product is a low BTU fuel gas which can be subsequently combusted in a power plant.

In addition to capturing sulfur from the fuel the molten process also retains most of the ash from the fuel. The ash becomes part of the recycling slag. Because of the contamination by the ash, slag must be continually purged from the system to avoid excessive build up. This slag is expected to have characteristics which would make it suited as a building material.

Development of the submerged combustion process has proceeded to the point that a single lance pilot scale has been constructed and is presently in operation. This pilot unit has a cylindrical bed 28'' in diameter and a depth of 4 feet.

The contractor is currently conducting a test series to evaluate the several process operating viables and to characterize the performance of the device and further establish its operating feasibility. Initial results are very promising indicating that the majority of the sulfur from the fuel is captured in the slag. Indications are that SO_2 emissions, less than 100 parts per million are obtained almost without regard to the initial sulfur content of the fuel. Particulate removal efficiency has not been measured.

The process continues to look quite promising. It is planned to push the development of this system as rapidly as possible into the demonstration phase.

Application of the 2-stage combustion system to existing power plants and industrial boilers appears quite promising. Insufficient data are available to definitively assess the process economics although preliminary estimates are quite encouraging.

FLUIDIZED BED TWO-STAGE COMBUSTION OF OIL

EPA is currently cost sharing a study with Esso England to develop a process for two-stage combustion of residual oil. Residual oil is injected into a chemically active fluidized bed containing calcium carbonate. Calcined calcium carbonate reacts with the reduced sulfur (H_2S) from the partially combusted residual oil forming calcium sulfide which is subsequently regenerated to produce a high concentration stream of SO_2. Sulfur-free fuel gas from 150–250 BTU is produced for second stage combustion. This process has potential for both retrofit to existing power plants and to industrial boilers.

A pilot scale facility has been operated in England to evaluate the effect principle process operating variables. Extended runs of up to two hundred hours have been made. To date, results from the pilot plant study have been encouraging resulting in 90% sulfur oxide removal and efficient regeneration of the spent calcium sulfide. Further tests are needed to complete the design data requirements that must precede the scale up of this process. EPA has entered into a second contract in Esso England to complete the test program and develop scale-up design data. These studies will be completed in Fiscal Year 1973 with design of a 100 megawatt demonstration initiated in early 1973.

PRESSURIZED FLUIDIZED COAL COMBUSTION

During the past four and one-half years, the Environmental Protection Agency has researched the fluidized bed coal combustion system as a new technique for pollution-free combustion of coal. This work has been conducted under several contracts with Westinghouse, Pope-Evans-Robbins, BCURA England, Atomic Energy Commission (Argonne

National Laboratories) and Esso, USA. This work has progressed to the point of design of a small scale pilot facility to further evaluate the feasibility of this system. While data concerning this fluidized bed combustion concept appears encouraging as a power generation system, there is some question about its future impact on the air pollution control problems, particularly as applied as a combustion system for utilities. From the air pollution control standpoint the greatest impact could be made if the system could be applied to the industrial boiler combustion area. At present, EPA is re-evaluating the merits of the fluidized bed combustion and reassessing its potential for application to the industrial combustion problem.

If pursued further by EPA, the project has now reached a point of constructing a pilot scale facility of the I–5 MW size. A decision on this portion of the EPA combustion program will be reached within the next month.

Source.—Letter of March 9, 1972 to Senator Jennings Randolph from Stanley M. Greenfield, Assistant Administrator for Research and Monitoring, Environmental Protection Agency, Washington, D.C.

Status of Proposals to EPA To Demonstrate Advanced or Combined Power Cycles

The Environmental Protection Agency, during the period July 1, 1969–December 31, 1970, funded a technical and economic study with the United Aircraft Corporation (EPA contract 22–59–114).

The results of this study were published in December 1970 in a report entitled "Technological and Economic Feasibility of Advanced Power Cycles and Methods of Producing Non-Polluting Fuel for Utility Power Systems." As a consequence of this study three unsolicited proposals were submitted to EPA:

1. United Aircraft Research Laboratory proposal P–K 32 "Proposal for the Conceptual Design for the Gasified Coal Fired COGAS pilot plant," dated March 12, 1971.
2. Industry team consisting of Westinghouse Electric Corporation, Public Service Company of Indiana, Bechtel Corporation, American Metal Climax Corporation; proposal number 70M318A "Coal Gasification for Air Pollution Control" dated April 29, 1971.
3. Institute of Gas Technology; proposal number P17G371AK "Combined Cycle Power Generation Utilizing Fuel Gas Produced by Hydro-Gasification of Coal" dated March 1971 and revised October 6, 1971.

EPA reviewed the United Aircraft Research Laboratory report and the above mentioned proposals and came to the following conclusions:

1. The concept of advanced power cycle appears economically and technically attractive if developmental problems can be successfully solved. These problems include: (a) development of advanced low BTU gasification systems (b) development of high temperature gas turbine (c) development of high temperature gas clean-up systems.
2. The proposals were heavily oriented towards early demonstration of a current state-of-the-art plant. Although one advocated simultaneous development of advanced components, the whole program effort appeared to be underestimated. The principle advantage of an early state-of-the-art demonstration was that it appeared to be a means of attracting substantial industry funds to the overall program.
3. EPA concluded, after thorough evaluation of the proposals, that none should be accepted, but that if the program were to be pursued, it would be formulated differently from any of the proposed approaches and in a way more suitable to the EPA objectives. It was also concluded that if pursued the projected should be competitively contracted.

It was subsequently decided that the Federal government will pursue development of the advanced power cycle in the following manner:

1. The Department of Interior would pursue development of a fluid bed low BTU gasifier.
2. EPA will develop high temperature gas clean-up systems and combustion systems such as submerged molten iron gasifier and 2-stage combustion of residual oil. It was felt that the component technology was sufficiently well developed and involved sufficiently low risk to expect that this stage of development could be left to industry. When OCR and EPA have developed significant improvements in gasifier and fuel gas clean-up systems, federal participation in a development/demonstration project can again be considered. The development of advanced gas turbine technology, a tremendously difficult and costly problem in itself, is expected to spin off from ongoing federal and industry sponsored programs.

Source.—Letter of March 9, 1972 to Senator Jennings Randolph from Stanley M. Greenfield, Assistant Administrator for Research and Monitoring, Environmental Protection Agency, Washington, D.C.

Mr. RANDOLPH. Mr. President, I question the desirability of the transfer of EPA's activities on low-B.t.u. coal gasification to the Department of the Interior at this time. This program has been in existence since 1969 and to fracture it now could easily result in a 3-year delay in demonstration of advanced power cycles. There also is no assurance that the advanced power cycle would even be developed under such arrangements. These factors cause discouragement.

There are other unconventional uses of coal being pursued by the Department of the Interior which offer low pollution and high efficiency utilization of coals. These include magnetohydrodynamics—MHD—coal-based fuel cells, synthetic petroleum from coal, and the solvent refining of coal to yield to low-ash, low-sulfur product which can be handled as either a solid or a liquid.

Some of these methods have begun to receive modest Government research funds. The need for them is so great, however, and their prospects are so attractive in terms of benefits to the Nation's environment and energy supply, that there should be substantially increased funding for these purposes, also.

Mr. President, I ask unanimous consent to have printed at this point in the Record materials furnished by the Department of the Interior describing its fuels combustion research and development programs for assuring the environmentally acceptable generation of electricity from coal.

There being no objection, the items were ordered to be printed in the Record, as follows:

U.S. Department of the Interior,
Washington, D.C., March 2, 1972.

Hon. Jennings Randolph,
Chairman, Public Works Committee,
U.S. Senate,
Washington, D.C.

Dear Senator Randolph: In response to your letter of February 14, 1972, there are enclosed responses to 8 questions for assistance of your Committee in evaluating the hearings held February 8 on new energy technologies.

We hope this will be useful to the Committee and we are most desirous to supply such additional information that it may require.

Sincerely yours,
Hollis M. Dole,
Assistant Secretary.

Question 1: In your prepared statement it is estimated that the Department of the Interior's program to produce pipe-line quality gas from coal contemplates a total expenditure of $120 million over a four year period. Would you supply for the record the estimated Federal and industry funding contributions for each process by year to demonstrate these processes?

Answer: The Department commitments for pipeline quality gas (high B.t.u.) are allocated among three projects for 1972, with AGA contributions as follows:

Project and contractor (prospective contractor) and location	Fiscal year 1972		
	OCR	AGA	Total
Hydrogasification: IGT, Chicago, Ill	$4,670	$2,330	$7,000
Lignite gasification: Consol, Rapid City, S. Dak	3,870	1,930	5,800
Bi-gas: BCR, Homer City, Pa	7,377	3,220	10,597

Beyond 1972, the Department is contemplating the allocation of funds among seven additional projects, as appropriate, as follows:

1. Steam Iron Process;
2. Liquid Methanation;
3. Lurgi Gasifier Studies;
4. Hydrogen/Synthetic Gas;
5. Molten Iron Process;
6. Process Selection; Evaluation Designs; & Engineering Assessments Studies; and
7. Demonstration Plant Engineering, Planning, & Design.

Question 2: Would you supply for the record a description of the synthane process being developed at Bruceton, Pennsylvania, including estimated funding?

Answer: *Expenditures Related to the Synthane Process for Converting Coal to Pipeline Gas:* From 1961 through 1970, in-house coal gasification and related studies led to the development of the Synthane Process. In 1971, contracts were let to Hydrocarbon Research, Inc. (HRI) and to the Lummus Company for pilot plant research and plant design.

HRI had a larger gasifier than was available in the Bureau, and the purpose of the contract was to gasify selected coals under conditions that would provide data additional to those from the Bureau's in-house research, thus providing additional assurance that the Synthane Process would be commercially feasible.

The Lummus Co. contract was to design a pilot plant capable of converting 75 tons of coal daily to a gas of pipeline quality. In fiscal year 1973, a contract will be let for the construction and operation of the pilot plant.

EXPENDITURES FOR BUREAU RESEARCH RELATED TO THE SYNTHANE PROCESS

	In-house	Contract	Cumulative total
1961–69 (inclusive)	$1,140,000		$1,140,000
1970	878,000		2,018,000
1971	596,000	$1,246,000	3,860,000
1972	649,000	1,500,000	6,009,000
1973	649,000	6,000,000	12,658,000

The publications entitled "Status of the Synthane Coal-to-Gas Process" and "A Process to Make High-Btu Gas From Coal" are attached.

Question 3: Would you supply for the record an indication of past and future research expenditures for the development of improved power generation systems by the Department of the Interior, including fuel cells, binary alkali metal cycles, combined gas turbine-steam turbine cycles, and MHD (magnetohydrodynamics)?

Answer: The Interior Department has been interested in improved power systems for many years. This interest has included work on the coal-fired gas turbine and conventional power systems as well. For the past six to eight years our principal interest has been in fuel cells and open cycle-magnetohydrodynamics for central station power. This effort has been in Bureau of Mines laboratories and by the Office of Coal Research contractors. The total expenditures are approximately:

Fuel Cell	$4,500,000
Magnetohydrodynamics	2,500,000

For FY 73 the budget includes:

Fuel Cell (reprogrammed)	$400,000
Magnetohydrodynamics	3,700,000

We have made internal studies and evaluations of improved cycles, including:

1. MHD—steam;
2. MHD—gas turbine;
3. Gas turbine-steam turbine;
4. Steam turbine-ammonia; and
5. Alkali metal turbine-steam turbine.

Additionally, we have evaluated closed cycle MHD and liquid (alkali) metal MHD systems. The Office of Coal Research has good proposals for work in each of these important areas and work will begin during the coming year if our budget is approved. Improved power generation systems are needed on a national basis but are particularly necessary in the Eastern U.S. to meet projected demand and satisfy environmental constraints.

Question 4: The National Petroleum Council last December issued the second volume of its interim appraisal of the U.S. Energy outlook. The task force report estimates that synthetic pipeline gas produced from western surface mined coal would cost from $.90 to $1.10 per million BTU; from eastern shaft mined coal the price would be $1.05 to $1.25, or $.15 more per million BTU.

Can it not be concluded from these economic estimates that eastern shaft mined coal has no immediate future as a supply for synthetic pipeline gas?

Is it reasonable to assume this price differential between eastern and western synthetic pipeline gas will continue?

Answer: (a) No. The price difference should be considered at *the point of use*. As an example, Appalachian coal converted to gas and transported to New York City would be cheaper than gas manufactured from Western coal after it had been transported to New York City. Pipeline costs are significant.

(b) We would expect the price difference *at the mine* to continue, but the delivered cost should continue to favor Appalachian coal by virtue of the geography.

Question 5: What specific proposals have been received for demonstration of advanced or combined power cycles for the generation of electricity? When were these received? What action has been taken? What action is anticipated?

Answer: The Office of Coal Research has received proposals for development of advanced gasification systems from the Institute of Gas Technology and Bituminous Coal Research, Inc. Additionally, preliminary exploratory proposals have been received from Westinghouse and United Aircraft. These latter proposals are related to turbine rather than gasifier, development. Proposal dates are as follows:

Proposal No.	Company	Effort	Date
536	Burns & Roe	Design study	June 22, 1970.
538	BCR	Entrained bed	July 27, 1970.
563	Burns & Roe	Fuel cell technology	Mar. 18, 1971.
571	United Aircraft.	Gas turbine	June 29, 1971.
(1)	Westinghouse	Gasifier and gas turbine.	July 1971.
586	do	Improved power cycles.	Sept. 23, 1971.
592	General Electric.	Alkali metal	Nov. 1, 1971.
605	Inst. of Gas Tech.	Fluid bed gasifier	Dec. 21, 1971.

[1] None.

To date we have not taken any action with respect to these proposals because of budget limitations. However, the budget request, now before the Congress, proposes $3 million for development of low-B.t.u. fuel gasification, $3 million for the development of magnetohydrodynamics, and $500,000 for the fluid-bed boiler. With these funds, we will begin work on an entrained gasifier and a fluid-bed gasifier as I indicated in my statement to the Committee. We will be seeking cosponsorship from the utility and coal industries but propose to begin the work as soon as the funds are available.

We believe our clean fuel/improved power cycle program holds great promise for improved efficiency and potential elimination of all air pollution and drastic reduction of water requirements for central station powerplants. This will allow utilities more latitude in siting their plants and allow us to mine the coal we need, convert it to power, and restore the earth. In effect, the cost of environmental controls will be offset by improved efficiency and lower capital cost for the power station.

EPA OVERSIGHT HEARINGS

Mr. RANDOLPH. Mr. President, as I have discussed, the Environmental Protection Agency's research, development, and demonstration program has been totally inadequate considering the anticipated impact of proposed and existing air pollution standards on Appalachian and Interior region coal supplies. The response of the electric utility industry to the problem, except for a few isolated utilities, also has left room for improvement.

Anticipated effects on coal production in the Appalachian and Interior regions could have been minimized or even avoided had both Government and industry accepted the responsibility set forth in the Air Quality Act of 1967. Their leaders should have responded as prudent men, dedicated to assuring an environmental quality which protects the health of our citizens and assures the viability of our coal resource developments.

There is reason to suspect that much of the progress that was made prior to the formation of the Environmental Protection Agency has almost been lost. There are signs that there actually has been a reduction in scope of Federal efforts for the demonstration of methods for the environmentally acceptable generation of electricity.

Mr. President, on April 10, 11, and 17 the Committee on Public Works has scheduled hearings before its Subcommittee on Air and Water Pollution to review the research programs of the Environmental Protection Agency in this critical area.

The subcommittee is particularly interested in four aspects of the accelerated research and development program required by section 104 of the Clean Air Amendments of 1970.

These aspects are the availability of alternative fuels, the efficiency of those fuels, new developments in technology to reduce emissions from combustion of fuels, and the impact of Federal support for this research on State air quality programs.

The hearings will begin at 10 a.m. each day in room 4200 of the New Senate Office Building. Witnesses invited to testify are:

MONDAY, APRIL 10

Dr. Ralph Lapp, Quadri-Sciences, Washington, D.C.

Dr. Vincent E. McKelvery, Director, U.S. Geological Survey.

Carl E. Bagge, president, National Coal Association.

TUESDAY, APRIL 11

Arthur M. Squires, chairman, Department of Chemical Engineering, City University of New York.

Carl Beard, director, West Virginia Air Pollution Control Commission.

Jean Schueneman, chief, Division of Air Quality Control, Maryland Department of Health and Mental Hygiene.

B. Hudson Milner, president, Louisville Gas and Electric Co.

MONDAY, APRIL 17

Dr. Stanley Greenfield, Assistant Administrator for Research Environmental Protection Agency.

Although these Public Works Committee hearings are of an oversight character by its Air and Water Pollution Subcommittee, they are also of particular importance to the National Fuels and Energy Policy Study, Senate Resolution 45, on which I serve as an ex-officio member of the Committee on Interior and Insular Affairs. Hence, I have discussed these matters with Senator HENRY M. JACKSON, chairman of the Interior Committee and of the fuels and energy policy study group. We are in agreement that the critical nature of these issues to the formulation of a comprehensive and effective national fuels and energy policy will necessitate that they be considered as part of the official National Fuels and Energy Policy Study.

FEDERAL WATER POLLUTION CONTROL ACT

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BLACKBURN. Mr. Speaker, we have considered today a bill dealing with one of the most emotional issues which we face as a Nation. The great and justified demand of the American public that abuses of our waterways be dealt with has created an atmosphere which requires action. The House today indicated that when action is demanded, action will follow in the Congress.

For myself, however, I must look upon the purposes of this bill and the ambitions of its framers and ask if the action which the Congress is taking today is as much the result of a reasoned approach as it is a nervous reaction.

Several years ago we established the Environmental Protection Agency. We granted to this new organization broad powers reaching into every facet of environmental concern, as well as into the functions of State and local governments in the area of clean environment. We combined in one agency authorities dealing with every facet of environmental protection where previously such authorities had been spread among many departments. I supported this reorganization, because I felt that the time had come when expertise in the field of environmental protection should be concentrated into one agency for a more efficient effort.

Today, we are granting to this same organization contract authority over the next 3 years totaling $17 billion for the construction of waste treatment facilities. The Environmental Protection Agency has many fine and dedicated persons in its employ, but to assume that this relatively new agency, with very little experience, is now qualified to commit the taxpayers of the country to expenditures of $17 billion is to me extremely questionable.

Have we forgotten so soon the lessons from the Great Society days when new agencies were created and huge sums of money placed at their disposal to abolish poverty in America. No serious student of government today argues that the war on poverty was won or that any major engagement was successful. The lesson to have been learned from that approach to government was to warn us that new agencies with broad and noble purposes, manned by dedicated and sincere people and armed with huge sums of money, did not necessarily achieve the result intended.

The responsibility of the Congress to exercise a continuing review of executive agencies is just as great in areas dealing with the environment as it is in areas dealing with social programs, or any of the other areas now considered proper for governmental action.

In the past few months my personal experience with an oversight of operations of the Department of Housing and Urban Development and its various FHA and public housing programs only affirms the necessity for alert congressional oversight into the operations of executive agencies.

I see no reason to believe that EPA with its still new organizational and untried methods, can or should operate apart from congressional oversight.

Only today, the newspapers carried an article calling to our attention the fact that the balance-of-trade deficit was more serious during the past months than during any time in the history of our Nation. This legislation could jeopardize the jobs of American workers by compelling industries to purchase equipment that is extremely costly, if not prohibitive, at a time when the economy needs a boost. Workmen without jobs, by reason of plant closings, by reason of precipitous and unreasonable demands upon their employers, or by reason of lack of orders for the goods being produced, because they are priced out of the international market, will show little patience with a Congress that failed to take these factors into account.

It is a well-known fact that the incremental cost of achieving successively higher levels of discharge removal accelerates rapidly once your standards exceed 85 percent of the pollutants in the discharge. Former Chairman Paul McCracken, of the Council of Economic Advisers, cautioned that pollution removal costs will skyrocket as we approach 100 percent removal of all pollutants. Specifically, Chairman McCracken argued that to remove 85 to 90 percent of all discharge pollutants would cost the Nation about $61 billion, or $700 million for each percentage point of removal. However, when you get into the 95 to 99 percent removal range, the cost would double, or come to nearly $120 billion—about $6 billion per percentage point of removal. To move one more percentage point to 100 percent removal, or no discharge, would cost the Nation about 2½ times the previously mentioned amount, or $317 billion. As you can easily see, this figure is many times more costly than if we stayed in the 85 to 90 percent range. It has been estimated that if we were somehow able to achieve no discharge over a 25-year period, the total cost to the Nation would be about $2.34 trillion. Undoubtedly, the cost of cleaning up our rivers and streams is going to be expensive and will have a significant impact upon our economy.

In light of the above-mentioned facts, it must be remembered that the United States is today facing an ever-increasing trade deficit. American industry is finding it extremely difficult to compete in world markets. The requirement that we attempt to have zero discharge into our waterways by 1985 could cause economic havoc; unemployment would increase; American industry would not be able to compete; and the cost of goods to the consumer would rise astronomically. I believe that for this reason we should impose those limits which will still allow American industry to compete while making a serious effort to clean up our rivers and streams at the same time. It is hoped that technology will be developed within the next few years which will allow the recycling of our liquefied wastes in a manner which will alleviate the need for complete reliance upon the "no discharge" method of water pollution abatement.

As all Members of this body are aware, laws already exist to regulate what can and cannot be discharged into the Nation's waterways. The present regulations are going to have a significant affect on the Nation's economy. Recently, the Council on Environmental Quality released a report summarizing the economic impact of present pollution control requirements. They studied the effects of these requirements on approximately 12,000 plants currently operating in the industrial sector of our national economy. The study concluded that 300 of these plants will be forced to close, because of present pollution abatement requirements. These plant closings and production curtailments, because of pollution abatement requirements will have both a direct and indirect impact on the Nation's economy. There will be a significant loss of jobs and a reduction of equity in plants and equipment. Furthermore, an indirect impact is that certain suppliers and related firms will be forced to close or reduce production. The study indicates that because of present environmental regulations, prices in the affected industries are expected to rise over 10 percent in the period from 1972 to 1976. Furthermore, the study suggests that job losses directly attributable to environmental regulations will be between 50,000 to 125,000 over the 1972–76 period. This will create a 1-percentage point increase in the Nation's unemployment rate.

Pollution control devices will have a direct affect on the national economy in the form of higher produce prices and new demands for investment in pollution control equipment. It is expected that in order to comply with today's regulations, industry must immediately invest in $26 billion worth of additional equipment. Undoubtedly, prices will rise as a result of the cost push impact of pollution control costs. It is a well-known economic fact that as prices increase, this tends to slow down the growth of demand in the economy. Consequently, the growth of our gross national product will be severely retarded. Furthermore, unemployment will increase, because of the slow-down in real product work. The current amount balance of our international trade position will deteriorate primarily as a result of increasing domestic prices when compared with world market prices. Beyond the shadow of a doubt, foreign prices will not increase due to environmental regulations overseas. It is clear that net exports from the United States will decline.

Mr. Speaker, the reason I point out these facts regarding present regulations is to emphasize the devastating economic impact that the changes proposed in this bill would have.

There are several other portions of this bill that gravely concern me. The position of States with regard to initiative in the water pollution abatement area would be seriously eroded. We see a good example in my own State of Georgia, where the Georgia Water Quality Control Board has made continuing progress in cleaning up and preserving Georgia's waterways. I believe that the States have a valuable role which they could play in this area. However, the provisions of this bill would allow EPA to overrule many of the State programs if they did not conform to Federal guidelines. We had the situation in Georgia where the State guidelines were stronger than those of the Federal Government and where the State had to reduce its standards in order to conform with Federal guidelines.

Finally, the bill would allow the Environmental Protection Agency to make contracts for a 3-year period with different units of State and local governments for construction of waste treatment facilities. By giving this contract authority to EPA, we have placed another uncontrollable expenditure provision in our budget. In a time of continuing deficits which are being fostered because of continuing uncontrollable expenditures, I do not believe this is the time or place to give such commitment authority to an executive agency.

We recognize a noble cause, and to demonstrate our degree of concern for the cause, we obligate the Treasury for huge sums of money with little thought as to its availability in the coffers. The uncontrolled items in the budget now constitute 71 percent of the Federal budget. Although we hope to come to grips with this most serious problem, the procedures adopted here today have made any serious congressional effort toward fiscal control almost impossible.

I believe that we should do everything reasonable to clean up the Nation's water systems and I have consistently cosponsored legislation which I feel would do this. During this session of Congress I have cosponsored legislation to increase grant authorizations for State and interstate water pollution prevention and control programs; a bill to provide financial assistance for the construction of waste treatment facilities and for the development of financial and other capabilities responsive to future waste treatment needs; a bill to strengthen and clarify the authority of the Administrator of the EPA to establish and enforce water quality standards; and the Environmental Financing Act. In addition, I have voted for the Water Quality Improvement Act of 1970 and the Water Resources Planning Act of 1971. Furthermore, I have consistently worked to preserve and protect our Nation's wetlands from unnecessary destruction by stream alteration.

Our hope to successfully upgrade the quality of our Nation's waterways lies in a continuing evolution of improved technology. I fear that the Federal Water Pollution Control Act will force commitments for huge expenditures by industry, as well as Government bodies, based on present technology which could well become obsolete in the very near future. For example, this bill has an overwhelming emphasis on limiting discharges into our streams. However, this fails to take into account the increasing appeal of recycling liquid instead of the "no discharge" approach. If we had more certain congressional oversight each year, errors in policies enunciated by this act could be more readily corrected.

In summary, I fear that Congress has gone too far in this legislation. I fear that we have granted too much authority to a relatively new Federal agency, promised far more money that we can reasonably hope to make available, and abdicated congressional responsibilities to the executive branch of the Government to a degree which is not necessary.

AUTO THEFT

HON. HERMAN E. TALMADGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Wednesday, April 5, 1972

Mr. TALMADGE. Mr. President, there has been brought to my attention an interesting editorial column from the Bethesda-Chevy Chase Tribune regarding the auto theft problem.

Written by Charlie Belt, formerly of Midville, Ga., the column recommends changes in title laws and auto inspection regulations in order to render car theft less profitable and less possible. Mr. Belt points out that such laws have effectively reduced the rate of auto theft in the State of Georgia.

I ask unanimous consent that the article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REDUCE CAR THEFT 70 PERCENT

(By Charlie Belt)

An examination of the auto theft situation indicates a substantial reduction could result from a few changes in the title laws.

First, the principal purchasers of stolen parts should be pinpointed. Eliminate the purchaser, and the profit factor is removed. Without profit from sale of stolen property, no theft would exist.

The insurance industry is the single largest national purchaser of stolen auto parts. It has a built-in constant demand for used cheap parts to repair damaged autos. The companies also purchase parts to repair a car stripped by auto thieves. This is a vicious cycle—buying parts stolen from one car to repair or replace parts stolen from another. This then creates demand for parts again and again in a never ending circle.

To eliminate this situation would be very simple: change the title laws and automobile inspection laws. Adopt a policy that when a vehicle is damaged or has sustained a loss that would not permit it to pass the automobile inspection in its present condition, require the insurance company to execute a form of triplicate, identifying the vehicle by I.D. number, color, year, model, make and type of damage. The adjuster would send one copy to the state explaining whether or not the vehicle was declared a total loss or repairable. When totaled out, the I.D. number would have to be physically removed by the adjuster, and sent in to the state. If repairable, the adjuster would have to indicate the repairing garage, showing address and trade name when repaired. The repairing garage would also receive one copy of the form, and would have to attach a notarized affidavit of I.D. number of the vehicle used parts were removed from for repairs. New parts would have to be shown by dealer's invoice.

This would eliminate parts being sold from any vehicle without an I.D. number or record of origin of the parts. It should also be illegal to repair any vehicle without an I.D. number. This would greatly reduce the ability to sell stolen vehicles or parts.

The insurance companies will say this will increase handling cost by requiring extra paper work, and reduce the value of salvage since rebuilders would have to apply to the state for a reissue of an I.D. number.

I grant that the paper work cost will be more, but it will be more than offset by the reduction in the companies' losses brought about by reduced theft.

Also, the companies contention that salvage vehicles will not sell for as high a price as they do now is true. With a special state reissue I.D. number, everyone would be able to recognize a formerly salvaged vehicle. This would eliminate palming off a vehicle as being only used driving to church on Sunday by a nice "little old lady."

How do I know this proposal will work? The State of Georgia in 1960 was one of the states with a very high rate of auto theft, having rebuilding garages for stolen vehicles. An Act such as I have described was passed in 1962 in that state, and the increase in auto theft has been held to about a 70% increase through 1970. The increase in Maryland and Virginia has been about 158% during the same period. It is evident that Georgia must be doing something right.

To have a question on insurance answered in this column, mail it to Charlie Belt. Certified Public Adjuster, c/o Bethesda-Chevy Chase Tribune, P.O. Box A, Bethesda, Maryland, 20014, or call 654–3496, 7–9 p.m. This service will be limited to what time and space permit.

DRUG TREATMENT IN PHILADELPHIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EILBERG. Mr. Speaker, two new methadone treatment centers were opened recently in my city of Philadelphia. Each of these centers will have a treatment capacity of 200 addicts.

While the opening of these facilities is an important step forward in the city's fight against drug addiction, it is a very small step.

Drug addiction is undoubtedly the most important domestic problem facing this country, but at the Federal level we continue to fight it with a minimum amount of resources.

The cities and States simply do not have the money to deal adequately with the problem of drug addiction. The main thrust must come from Washington.

Methadone is an answer to one part of the problem. It will help some addicts. It certainly will not help all addicts, probably not even a majority. Methadone is not a remedy for the disease of drug addiction; it is a treatment for one of the symptoms. If we are going to end the problem of drug addiction we are going to have to deal with the problems which force people to turn to drugs for relief and we are going to have to cure the social and psychological problems of the addicts so they will not go back to drugs when things get tough.

At this time, I enter into the RECORD a statement by the city representative of Philadelphia on the drug treatment situation in the city, not to show how well we are doing, but to point out how much more must be done.

The statement follows:

METHADONE TREATMENT CENTERS

The first of two new methadone treatment centers for heroin addicts began caring for patients today (Monday, March 27), it was announced by Acting City Health Commissioner Dr. Lewis D. Polk. Located at 830 N. Board st., the clinic is operated by the Health Department's Office of Mental Health and Mental Retardation.

The second methadone clinic operated by the Health Department, at 716 South st., is expected to begin functioning within the next two to three weeks, Dr. Polk said.

Funds for the establishment of the centers come from a $293,835 grant from the Law Enforcement Assistance Administration of the U.S. Department of Justice, plus $125,930 matching funds from the Office of Mental Health and Mental Retardation.

Each of the new centers will have a treatment capacity of 200 addicts, 50% of whom will be referred through the criminal justice system and 50% enrolling on a voluntary basis, according to Dr. William Wieland, Director of the Addictive Diseases Division of the Office of Mental Health.

"Approximately 1,000 addicts are already being treated in three other methadone maintenance clinics housed in City health facilities and staffed by West Philadelphia Mental Health Consortium," Dr. Wieland noted.

"Another 700 are enrolled in methadone programs at St. Luke's Hospital, Mantua Halfway House, and Rehabilitation A.I.D. In addition, addicts are receiving therapy from other treatment programs in the city that do not utilize methadone but offer alternative approaches to drug abuse and addiction.

"We are working to expand both the methadone and the alternative treatment programs in the coming year, since all of the present programs have long waiting lists and some areas of the city have no programs at all at the present time," he said.

Heroin addicts who are 18 years or older are eligible for treatment at the City's methadone treatment centers. The center at 830 N. Broad st. will care for addicts who live in the Hahnemann Community Mental Health Center catchment area, between the Delaware and Schuylkill and from Montgomery ave. to Chestnut st. The center at 716 South st. will treat those who live in the Pennsylvania Community Mental Health Center catchment area, south of Chestnut st. and east of Broad.

The new City centers will be open seven days a week—from 8 a.m. to 6 p.m. Monday through Friday, and from 10 a.m. to 1 p.m. Saturday and Sunday.

Each methadone treatment center is staffed by a director, psychiatrist, social worker, registered nurses, ex-addict counsellors, a rehabilitation counsellor, and supportive clerical staff.

When an individual comes to the center for the first time, he will be registered and given an appointment for a medical and psychological evaluation, prior to any methadone being prescribed. In addition to the methadone medication, Dr. Wieland stressed that treatment will involve group therapy, peer pressure groups, and marital and family counselling groups.

The methadone maintenance program located at Philadelphia General Hospital and operated by the West Philadelphia Mental Health Consortium is currently caring for 600 patients, most of whom live in West Philadelphia south of Market st. About 220 residents of West Philadelphia north of Market st. are being treated for addiction at the clinic located in District No. 4 Health Center, 4400 Haverford ave., operated by the Consortium on behalf of the Philadelphia Psychiatric Community Mental Health Center.

The Consortium also staffs the clinic presently located in the District No. 2 Health Center, Board and Morris sts., on behalf of the Jefferson Community Mental Health Center. Approximately 200 residents of the area south of Chestnut st. and west of Broad st. are enrolled in that clinic.

NATIONAL WEEK OF CONCERN FOR AMERICANS WHO ARE PRISONERS OF WAR OR MISSING IN ACTION

HON. QUENTIN N. BURDICK

OF NORTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Wednesday, April 5, 1972

Mr. BURDICK. Mr. President, although U.S. soldiers now held prisoners of war or missing in action in Southeast Asia are never far from the minds of our people, this country has just observed a National Week of Concern for these men and for their welfare.

I sponsored the resolutions creating this remembrance both this year and last. Last year, I had hoped that the observance would be the only one. I am saddened and disappointed that 1 year later we are still in the same situation, still paying tribute to the bravery of men locked up thousands of miles away.

We are still concerned about the same issues as we were last year, for the conditions of our POW's and MIA's have not improved. Although the North Vietnamese endorsed the Geneva Accords regarding the treatment of prisoners of war in 1957, they have ignored those humanitarian agreements.

The North Vietnamese and Vietcong have continually refused to give any information about their prisoners. We do not know whom they hold, who is missing, who is sick, or who has died. They refuse to exchange seriously ill prisoners or permit proper medical treatment. International organizations have been refused access to the prisoners, and the prisoners have been denied the right to correspond freely with their families.

This conduct is hardest on the families of those missing or held prisoner. The suffering they must feel is almost beyond comprehension. Still, they have maintained the courage to work for the freedom of their loved ones in every way, through every channel. Throughout it all, they have been brave, courageous, and dignified.

If I were a member of one of those families, I do not know that observing a National Week of Concern would bring me much peace of mind. The attention it focuses on the matter is important, but strong, positive action is needed. We must continue to work to better the conditions for our POW's and for the safe return of every one of our men.

The surest and quickest way to bring this about is to set a date for the withdrawal of all American troops, contingent only on the release of our prisoners. I have voted for such a provision over and over again. The majority of Senators have also done so. In spite of our actions and the feelings of hundreds of thousands of Americans, the war drags on. More American soldiers are killed. More are missing. More are taken prisoner.

The fixing of a definite date for withdrawal would give renewed hope to our prisoners and their families. I deeply and sincerely hope that the President will agree to this step. History has shown that the release of prisoners comes after, not before, a commitment to withdraw.

This National Week of Concern is a sad reminder to all Americans to rededicate their efforts to end U.S. involvement in Southeast Asia and bring our troops—all our troops—home safely and soon. I would hope that the people, the Congress, and the President will heed this reminder and work to insure that this will be the last Week of Concern we must proclaim.

The city of Fargo, N. Dak., has also declared this week as a Week of Concern. I ask unanimous consent that the proclamation be printed in the Extensions of Remarks.

There being no objection, the proclamation was ordered to be printed in the Record, as follows:

Proclamation

Whereas, over 1500 members of this nation's Armed Forces are currently held prisoner or declared missing in action in the conflict in Southeast Asia, and

Whereas, the government of North Vietnam has continuously refused all efforts by this nation and the International Red Cross to secure repatriation or humane treatment for these men, and

Whereas, never in this country's history have its fighting men been held for so long, with little hope for release and with severely limited contact with their families, and

Whereas, it is incumbent upon the citizens of this great country to support its fighting men held as prisoners of war or declared missing in action;

Now, therefore, I, Herschel Laskowitz, do hereby declare the period of March 26-April 1, 1972, as a "Week of Concern" for our POW/MIAs, and I call upon the citizens of this city in remembering these men through prayer and further through letters to our elected representatives, and I join with the families of these men when I ask of you:

Don't Let Them Be Forgotten.

AN INTERVIEW WITH GREEK AMBASSADOR BASIL VITSAXIS ON AMERICAN-GREEK RELATIONS—RARICK REPORTS TO HIS PEOPLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RARICK. Mr. Speaker. I recently reported to my people in an interview with the Honorable Basil Vitsaxis, Ambassador of Greece to the United States, on Greece and relations between Greece and the United States. I insert the report at this point:

Rarick Reports to His People in an Interview With Greek Ambassador Basil Vitsaxis on Greece and Greek-American Relations

Rarick. Americans have good cause to be concerned over the increasing domination of the Mediterranean by the Soviet Navy. From North African countries in the West to Turkey in the East, deep water ports, support facilities and air bases once available to the United States and to NATO have been closed. Anti-Americanism is increasing and American warships are no longer welcome to make good-will visits to many once friendly ports.

One of the very few exceptions to this unfriendly attitude toward the United States is the Kingdom of Greece. The history of Greece has been the story of a constant struggle to keep burning the flame of liberty. Greece stands today as the greatest bulwark against communist tyranny in all of Europe. Were it not for the present friendly Greek Government the U.S. Sixth Fleet might well have been excluded completely from the Mediterranean.

Today, we are very privileged to have as our guest to talk about Greece and Greek-American relations His Excellency Basil Vitsaxis, the Ambassador from Greece to the United States and a personal friend of mine during his assignment in Washington over the past two years. Welcome, Mr. Ambassador, into the homes of our TV viewers.

Mr. Ambassador, the Soviet Union just last month reportedly warned the United States that its plan to establish naval bases in Greece can only provide a corresponding reaction from the Soviets. A State Department spokesman rejected the Soviet allegation that the U.S. is setting up naval bases in Greece. What can you tell us without violating military security, of course, about the U.S. naval facilities in Greece and any arrangement between our two countries regarding the United States Navy.

Vitsaxis. Well, first of all let me thank you, my dear John, for allowing me to be on your program. Coming to your question, I believe it is only proper to first say a few words on the importance of this sea, in the framework of World Strategy.

The Mediterranean stretches from the southern flank of Europe to the northern shores of Africa and represents a shortcut for some very important nations, between the Indian Ocean and the Atlantic. Three watergates, i.e. Gibraltar in the West, the Bosporus and the Dardanelles in the North-East and Suez, in the South-East, render this waterway extremely vulnerable. Some of the richest oil producing countries are largely dependent for their communications on this sea and, it is needless to add that, one of the hottest spots of today's world, is the Middle East.

All this make the Mediterranean—the least one can say—a very important sea.

The Soviet military and, consequently, political presence in this area is a new phenomenon and is, naturally, watched with ever increasing concern by the Western powers. The Western presence in this sea is represented by the NATO Naval forces, the backbone of which is the 6th United States fleet.

Greece belongs to NATO and is wholeheartedly committed to the cause of common defense. It was then only natural for my Government to give its approval in principle to the request formulated by the friendly and allied United States Government to establish home port facilities in the Athens-Piraeus area for the 6th Fleet.

I wish to take this opportunity to stress the fact that home porting facilities are not *military bases*. They aim at facilitating the officers and the crews, serving in the 6th Fleet, to meet more often and easier with their families without having to sail back to the United States.

The Soviet Union, I know, has launched a protest alleging that the United States are building new military bases in Greece. This allegation, as I said, does not correspond to the facts; but I wish to underline in this respect that though no American military bases are built in Greece, Soviet military bases—in the true meaning of the term—are being sought in the area—mainly on the Northern shores of Africa. I really cannot see how one can protest for even imaginary intentions of somebody else, while he himself not only entertains such intentions but also puts them into action.

Rarick. I think that it is safe to say that in Greece your people still like America and Americans and anyone who loves freedom is still welcome.

Vitsaxis. The ties between the United States of America and Greece are long-standing bonds of warm mutual friendship. They were hammered since our war of Independence of 1821. At that time many Americans came and fought in Greece and, by the way, it is noteworthy that Americans "fighting abroad for the cause of freedom" are not a new phenomenon, since, as early as in the 19th century, these brave sons of the United States came as volunteers to my country, fought shoulder to shoulder with us and died on our battlefields for the cause of our independence.

The ties between Greece and the United States were eventually strengthened during the two World Wars, during the communist invasion of my country and during the Korean war. On the other hand, many Greeks have come and settled in the United States, thus representing a living bond between the two countries.

I am happy to state, my dear John, that the relations between the Governments of our countries, truly reflecting the relations between our peoples, are excellent.

Rarick. Mr. Ambassador, could you tell me what was the effect of the recent realignment of currencies on the drachma and perhaps, more generally, what is the present state of the economy of Greece?

Vitsaxis. Well, let me first start with the second part of your question. If one takes April 1967 as a starting point, the Greek economy completes five years of sustained and rapid economic development. This has been particularly true during the last three years, when the national income grew by over seven per cent on the average. Mind you, this rapid economic growth was accompanied by a high degree of price stability, in spite of steadily rising prices in foreign countries and world inflation. Economic growth and industrialization has been dependent on imports, as most capital equipment has to be imported. Thus, imports have been increasing with the widening trade gap reflecting the accelerating growth and the ensuing higher standards of living. However, the inflow of foreign credits and investments, as well as remittances from Greeks working abroad, earnings of the merchant marine and the unprecedented receipts from tourism, more than kept pace with Greece's external trade deficit. In other words, the current account deficit had been more than offset by capital inflows, especially in 1971 and during the first months of this year, leading to a substantial increase in the total reserves of our Central Bank.

Referring to the latest well-known realignment of currencies in the world, I wish to state that my country did not change the purity of the drachma vis-a-vis the dollar. By allowing our currency to follow the dollar, we have improved our competitive position with regard to other European countries and especially the major countries of Western Europe, which constitute our main export markets.

It is worth noting that at the present stage of our development there is a great need for capital imports and the mobilization of our internal resources. From that point of view, the fact that the influx of private savings, both in local and foreign currencies, into the Greek banking system is at an all time high, is most encouraging. May I add, in this respect, that the confidence shown to the Greek economy and to the stability in my country by the international capital, as evidenced by this influx, is a clear proof of the healthy situation in Greece. As is well known, international capital does not obey any laws other than those of cool, objective appraisal and reason.

If the past is to serve as a guide, the dynamism of the Greek economy in recent years and its highly development-oriented character cannot but lead to an optimistic prognosis of the future of our economy.

Let me also remind our viewers that, like the United States, Greece maintains an economic system that gives private initiative and enterprise full opportunities and our trade is fairly liberal and in accord with the rules of the General Agreement of Tariffs and Trade.

Rarick. Mr. Ambassador, our people hear from time to time conflicting reports about your country today. On several occasions I have referred to Greece to my people as the last remaining bastion of peace in the entire Mediterranean as being pro-American and anti-Communist. Then, of course, our people also hear the small but very vocal minority in our country who for some strange reason seem to get front-page and wide press coverage as they constantly refer to the government of Greece as some kind of dictatorship. I believe it'd help our viewers to have a correct understanding of Greece today if they knew the background of how the present Greek government came to power. Would you care to enlighten our viewers as the representative of your country?

Vitsaxis. Thank you for asking this question because it will allow me to shortly refer to what happens in my country.

Following the war, the communists tried to take over Greece . . .

Rarick. You are referring to World War II?

Vitsaxis. Yes, World War II.

They wanted to control the country because of its strategic importance in the eastern basin of the Mediterranean. The world was led to believe, that it was an internal upheaval. In reality, as proved by an on the spot investigation of a special United Nations Committee, it was a camouflaged invasion from the North (we had similar phenomena in Korea and in North Viet Nam). The Greek people vigorously fought the communists. Our American friends gave us material support and advice; but *we* alone provided the necessary blood . . . Rivers of blood.

For four long years we fought to stay out of the Iron Curtain. Four years which brought destruction and catastrophe to our country beyond any description. The communist invasion was eventually crushed and we hoped that a brighter tomorrow was to come. The communists, nevertheless, did not abandon their aims. They only changed their tactics. Since they had not succeeded in conquering Greece by the force of arms they tried other, more subtle, though equally dangerous ways. They started infiltrating into the public offices, into the various services, hoping to get control of our country. The situation worsened with every passing year so that in the years immediately preceding 1967 the country was plunged into chaos. Democracy had virtually ceased to function; the economy was paralyzed by continuous strikes; and disorders broke out in all major cities, causing a well understood anxiety to the people of my country.

Something had to be done if Greece, as a free country, was to be saved. The armed forces of Greece did it. They intervened on April 21st, 1967, and took complete control of the destinies of the country. Their intervention was motivated by the desire to save democracy, not to destroy it. Immediately after the new Government came to power, it proclaimed to the people that it did not intend to establish a new form of government, dictatorial or otherwise. What it promised and what it is step by step promoting is the establishment in Greece of a real democratic life under the guarantee of the Constitution. Among the first acts of the new Government was to establish a Committee of highly competent persons, Professors of Universities, Magistrates and so on, to draft a new Constitution. The Constitution was publicly debated and then put to a vote. The Greek people by an overwhelming majority accepted this Constitution at a national referendum which took place in 1968.

May I, my dear John, take this opportunity to stress the fact that the Constitution, which is actually the fundamental Charter under which political life in my country evolves, provides for elections by secret ballot and for multi-party representation of the people in the Parliament. It also provides for all checks and controls which are to be found in every Constitution of western type democracies. Let me quote from Article 2, which reads:

"All powers emanate from the people, exist in favor of the people and the nation and are exercised by the manner prescribed by the Constitution."

The same Constitution guarantees all human freedoms. In some instances it provides for even a greater protection of human rights than does the International Convention of Rome on Human Rights. In short, the political system which is prescribed by our Constitution is a western type democracy and I do not think that anybody who would examine it could come to a different conclusion. Many, for reasons which I do not want to discuss now, continue to label Greece as a "dictatorship". To them I should like to say that Greece is the country where democracy was born and Greece continues to be the home of democracy.

RARICK. In listening to your explanation, Basil, I think its interesting to note that the Communists who would seemingly try to call or smear Greece as a dictatorship certainly don't practice in their own country what they preach about Greece. In Russia, for example, elections are a farce. The people have a right to exercise the ballot but they can vote for no one except a Communist. There have been some charges made by this same vocal minority, probably friends of the Soviet Union, that the Greek government does not allow freedom of the press. Would you care to comment on this?

VITSAXIS. Well, this allegation is less and less put forward today even by the staunchest opponents of the Greek Government. The flow of foreign tourists in Greece has allowed many people to see for themselves that censorship does not exist in my country. Our newspapers and magazines are also read abroad and it is easy for everyone to see that the press is free in Greece. Our Constitution guarantees the freedom of the press and adds: *"Censorship and every other preventive measure is prohibited."*

Our newspapers express freely their opinion with regard to the Government and to the course followed by it. Some are favorable, some are critical, as is the case in any free country.

RARICK. We also hear, Mr. Ambassador, about Greece being under martial law and that your country has political prisoners today. Would you care to comment on that?

VITSAXIS. I think I should start by explaining what is meant by martial law and what is the situation in my country with regard to this.

Martial law is in any country a legislative measure applied whenever certain conditions of national emergency prevail, whereby all human rights, with very few exceptions, are suspended. This happened immediately after the revolution of the 21st of April 1967. Then, little by little, and as the situation in Greece became less dangerous, human rights, the one after the other, were re-established and guaranteed. The only provision of the all embracing martial law which remained in force during the last years was the provision according to which a very limited number of crimes—mostly those against national security—should be judged not by ordinary Courts—as the case would be under the Constitution—but by Court Martials. This only last remnant of martial law was also lifted a few months ago for the quasi-totality of the country. It remains in force in very small areas and I am confident that in those areas also it will soon be lifted.

From what precedes you can see, my dear John, that the so often repeated allegation that my country is living under martial law is totally unfounded.

RARICK. Are there any political prisoners in Greece today?

VITSAXIS. I am glad to tell you in the most categorical way that there is not a single political detainee in Greece today. In order to better understand the question of political detainees I wish to briefly refer to the history of the matter.

During the communist invasion and immediately after it, various Governments of Greece have applied a law, voted by the Greek Parliament, according to which persons who were considered dangerous for the national security—because of their past record or because of their activities—could be confined in certain places in order to prevent them from undermining the security of the country. Such political detainees existed in Greece in the 50's and in the 60's. Their number—quite substantial—was decreasing every year. It was substantially increased again immediately following the revolution of the 21st of April 1967. This was quite normal if one takes into account the fact that the revolution took place in order to stop the downhill course of the country.

At this point, two facts should be stressed:

(a) That political detainees existed in Greece long before the revolution of the 21st of April 1967,

(b) That their confinement was—before as well as after the revolution—in accordance to a long-standing Greek law voted by an elected Greek Parliament and applied by the Governments of Greece both before and after the revolution.

It should also be noted that in the years following the revolution of 1967 the decline in the numbers of political detainees was much faster than before, and finally all confinement places were completely dismantled and all political detainees set free.

This is the truth, dear John, about the so-called question of political detainees in Greece.

RARICK. Any tourist who would care to go to Europe this summer to visit Greece would be safe in their property and their protection? They'd have no threats against them?

VITSAXIS. My answer is yes. And may I add that Greece is expecting all her friends. They will find at her shores not only safety but also the traditional hospitality for which Greece is known all over the world.

RARICK. And they would be welcomed. Mr. Ambassador, it has indeed been a pleasure having you on our program. I only wish we had more time. I welcome you to visit Louisiana. As you know our ties are very close with your friendly people.

A NATIONAL COACHES DAY

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Wednesday, April 5, 1972

Mr. GRIFFIN. Mr. President, I am pleased to join the distinguished senior Senator from Texas (Mr. TOWER) in cosponsoring Senate Joint Resolution 213, authorizing the President of the United States to issue a proclamation which would designate a "National Coaches Day."

The great Knute Rockne once gave Frank Leahy this advice:

> Coaching is a life of heartaches, but it's the life for you and me.

Along with many heartaches every good coach carries with him the personal satisfaction and knowledge that, in a very special way, he is molding among his students the capable self-reliant, team-spirited, and mature young men and women who will be the future leaders of our Nation.

Participation in athletics not only develops the skills required for a particular sport, but it also builds respect for opponents as well as a sense of fairplay. Experience on an athletic team teaches not only that great effort is necessary to achieve victory in competition, but also that there is much to be gained even in defeat when one does his best.

From the early days of Greece and Rome, it has been noted that young people mature into stronger adults if they set high goals for themselves and work steadily toward them. In so doing, they overcome obstacles which add to their strength of character and to the development of their native and acquired abilities.

The coach is actively involved in molding the character of youth from the time preseason tryouts begin until the last play of the season's last game. He is a teacher; but he must also be a good student—a student of human nature; of the differences among individuals and the various ways in which they respond to direction and leadership.

A good coach is capable of welding together the personalities and abilities of a variety of individuals into a team that functions as a unit. Indeed, the greatest contribution to the Nation of a good coach is the development in youth of a sense of teamwork.

And, in the final analysis, it is teamwork that makes possible much of what we call civilization.

Mr. President, I believe the joint resolution I have cosponsored is worthy of favorable consideration by Congress. I believe that the coaches of our Nation merit and deserve this kind of recognition.

TORRANCE SCHOOL DISTRICT RECOGNITION BANQUET

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ANDERSON of California. Mr. Speaker, the hope of the future lies in our educational system, and the very heart of our educational system is the personnel who make an individual school a vibrant, living place of learning.

The teacher, the administrator, the secretaries, the custodians—all have an important role in educating the youth of today so that they will be prepared to meet the challenge which lies ahead. All must dedicate themselves to a cause which is above personal renown, a cause which does not bring riches or fame, but rather a cause which arouses the curiosity and results in a student's inspired feeling to make this earth a better place.

This is the reward of those who toil to educate our children. For, as the author Henry Brooks Adams said:

> A teacher affects eternity; he can never tell where his influence stops.

The reward is the future.

To express our appreciation to those dedicated people who have such a powerful influence in shaping the future, the Torrance, Calif., Unified School District has scheduled a recognition banquet to honor 29 persons who are retiring after years of service.

All of us owe a special debt of gratitude to the school personnel, and I would like to offer a word of thanks to all of those who have given so much of themselves to direct our children toward tomorrow with a spirit of helping their fellow man.

Those retiring are: Mrs. Mary Rutherford, Mrs. Florence Porter, Mrs. Emily Young, Mrs. Florence Pratt, Mrs. Rosa

Malott, Mrs. Helen Carpenter, Mr. George Marich, Mr. Raymond Collins, Mrs. Mary Miller, Mr. Gordon Williams, Mrs. Margaret Gaedke, Mrs. Virginia Bradshaw, Mrs. Virginia Booher, Mr. Richard Pueschel, Mrs. Merle Laskaris, Mr. Arie Blackman, Mrs. Velora Murphy, Mr. Jesse Gladgo, Mrs. Bernice McCoy, Mrs. Evelyn Brosius, Mr. Howard Bales, Mr. Jerome Peoviak, Mrs. Faye Hawks, Mr. Theodore Diamond, Mrs. Margaret Meyer, Mr. Charles Stimson, Mr. Roy Bravick, Mr. Vernon Briegel, and Mrs. Inez Thompson.

Mr. Speaker, their influence will never stop; it can be seen in future generations for eternity.

Because of the dedication of these individuals, and the philosophical tenets of the Torrance Unified School District which teach that "education is a dynamic, evolving relationship with subject matter the means, man the product, and society the result," we can look to the future with great optimism and hope.

For this, our entire community and country is eternally grateful.

JERUSALEM

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROSENTHAL. Mr. Speaker, in an age of brotherhood and enlightenment, it is all the more appalling to see the ugly head of bigotry raised in high places.

So it is that the Palm Sunday sermon of the Very Reverend Francis B. Sayre Jr., dean of the Washington Cathedral, is deeply disturbing and most out of place. His denunciation of Israel as an "oppressor" in Jerusalem was not only unfortunate but grossly inaccurate.

I would hope, for his sake, that Dean Sayre was speaking not so much out of prejudice as out of ignorance.

His allegations of mistreatment of Israeli Arabs is unjust and untrue. Since Israel assumed political control over both the old and new sections of Jerusalem, the Holy City has been open to persons of all lands and all religions. As the Washington Post points out in an editorial today:

> Freedom of religion and open access to the shrines in Jerusalem are better protected now, by the Israeli state, than at any time in memory.

Has Dean Sayre so conveniently forgotten that from 1948 to 1967 the Arab rulers of East Jerusalem denied Jews the right to visit the holy places of their religion and kept Moslems who were Israeli citizens from going to their own religious shrines?

Where was Dean Sayre during those years when the Jordanians destroyed all but one of the 35 snyagogues in the Old City, desecrated Jewish tombs, barred Jews from visiting the cemeteries of their friends and families, and evicted or killed the Jewish residents of East Jerusalem?

Why did his Palm Sunday sermon ignore these facts? Why did he fail to point out that Jerusalem today is a truly international city, open to all persons, regardless of their faith and their nationality?

I am inserting in the Record news reports of Dean Sayre's sermon plus editorial and reader reaction from two publications, the Washington Post and Jewish Week. I also am including a synopsis of a sermon by Rabbi Bernard H. Mehlman of Temple Micah in Washington, D.C.

[From the Washington Post, Mar. 27, 1972]

Israel Called Oppressor of Jerusalem

(By William R. MacKaye)

Once-oppressed Israelis have become the oppressors of Jerusalem, the Very Rev. Francis B. Sayre Jr. charged yesterday in a Palm Sunday sermon at Washington Cathedral.

Emphazing his conviction that contemporary events in Jerusalem are simply one of many examples of "the moral tragedy of mankind," the Cathedral dean exclaimed:

"What a mirror, then, is modern Israel of that fatal flaw in the human breast that forever leaps to the acclaim of God, only to turn the next instant to the suborning of his will for us."

Dean Sayre recalled that many people around the world cheered in 1967 when Israeli forces "surged across the open scar" that divided Arab Old Jerusalem from the Israeli sector.

"But now oppressed become oppressors," he declared. He asserted that Arab residents of Jerusalem are deported or deprived unjustly of their land and forbidden to bring their relatives to settle in Jerusalem.

Arabs "have neither voice nor happiness in the city that is the capital of their religious devotion, too."

The dean indicated that he was basing his position largely on the views of Israel Shahak, a Jew and professor at Hebrew University, who has lived in Jerusalem for 18 years. He is a survivor of the Bergen-Belsen concentration camp.

Dean Sayre quoted Shahak's assertion in the current issue of Christianity and Crisis, a bi-weekly journal of religious and social opinion, that Israel's annexation of East Jerusalem is "an immoral and unjust act."

Until the non-Jews of Jerusalem are given freedom, Shahak wrote in a passage quoted by the dean, "the present situation of one community oppressing the other will poison us all—and us Jews first of all."

Dean Sayre's comments on contemporary Jerusalem were contained within a longer reflection on the religious significance of the holy city, which forms a traditional topic for Palm Sunday. Palm Sunday recalls for Christians the day that Jesus entered Jerusalem and, only days before his crucifixion, was hailed by his followers as a king.

At the Episcopalian Cathedral a special procession including players of shofars, the rams' horns sounded by Jews on solemn occasions, wound through the gothic arches in a ritual re-enactment of Jesus' action.

"We are Jerusalem this morning," the dean declared to worshippers. And he warned them that this was an identity of sorrow as well as of joy.

"Jerusalem," he said, "in all the pain of her history, remains the sign of our utmost reproach: The zenith of our hope, undone by the wanton meanness of men who will not share it with their fellows, but choose to kill rather than to be overruled by God."

[From the Washington Post]

Dean Sayre on Jerusalem

If Dean Sayre's choice of words was unfortunate, in his Palm Sunday sermon at Washington Cathedral, his choice of a target was even more deplorable. He was on firm ground as long as he devoted himself to the moral shortcomings of mankind in general, as exemplified in the betrayal of Christ in Jerusalem. But when he turned the sermon into an intemperate denunciation of current Israeli policy in Jerusalem, and coupled it with a highly unjust allegation of mistreatment of Israeli Arabs, he committed an error of a particularly serious character.

The status of Jerusalem is neither less complex nor more easily soluble than any other point of contention between Israel and the neighboring Arab states. As a political issue it is open to vigorous debate, both in Israel and throughout the world. Here it suffices to say that the dean's description of the Israeli treatment of its Arab minority is not supported by most of the Christians who speak with authority on the subject. We print on the opposite page today a sample of the letters that we have received, and several of them address this point.

Dean Sayre's purpose was evidently to chide the Israelis for asserting political control over East as well as West Jerusalem, and its special meaning to three faiths, and to reproach the world's nations in general for their lack of support for the United Nations. But freedom of religion and open access to the shrines are better protected now, by the Israeli state, than at any time in memory.

But Dean Sayre was not delivering a political lecture. He is a high clergyman who, in a solemn celebation, denounced Israel as reenacting "the moral tragedy of mankind" in the city of Jerusalem: "Now the Jews have it all. But even as they praise their God for the smile of fortune, they begin almost simultaneously to put Him to death." The words run painfully close to a very old, very familiar line of the worst bigotry. Undoubtedly Dean Sayre did not intend to evoke this recollection. But it is profoundly dangerous all the same. The gun is loaded, whether the dean acknowledges it or not. As the letters published here today indicate, a number of prominent clergymen have publicly dissociated themselves from the sermon. Dean Sayre himself might usefully reconsider his words.

[From the Jewish Week]

Palm Sunday Sermon Stirs Protest Throughout Nation—Deicide Theme Used by Dean an Attack on Jews

A reference in a Palm Sunday sermon at the Washington Cathedral to Israel as an "oppressor" of Jerusalem who would prefer to "kill rather than to be overruled by God" has stirred a storm of indignation among Jews and friendly Christian church people throughout the country.

The sermon was delivered by The Very Rev. Francis B. Sayre, Jr., a grandson of President Woodrow Wilson and Dean of the Cathedral. Sayre cited events in Jerusalem as one of many examples of "the moral tragedy of mankind" and he added:

"What a mirror, then, is modern Israel of that fatal flaw in the human breast than forever leaps to the acclaim of God only to turn the next instant to the suborning of his will for us."

But what roused the greatest indignation in the sermon was the statement that "Jerusalem, in all the pain of her history remains in the sign of our utmost reproach. The zenith of our hope, undone by the wanton meanness of men who will not share it with their fellows, but choose to kill rather than to be overruled by God."

The clergyman said "the oppressed had become the oppressors" and that Arabs "have neither voice nor happiness in the city that is the capital of their religious devotion, too." He said he was basing his position largely on the views of Israel Shahak, a professor in chemistry at the Hebrew University of Jerusalem, who said he is a Jewish survivor of the Bergen-Belsen concentration camp and has lived in Jerusalem for 18 years. His opinions appear in the current issue of Christianity and Crisis, an organ of social and religious opinion. Shahak called Israel's unification of Jerusalem "an immoral and unjust act."

The ancient anti-Jewish deicide theme was also suggested in Dean Sayre's sermon when he said:

"Around the world, 'Hosannah' was echoed as Jewish armies surged across the open scar that used to divide Arab Jerusalem from the Israeli sector. Now the Jews have it all.

"But even as they praise God for the smile of the future upon them, they begin almost simultaneously to put Him to death—as if Jerusalem could ever be altogether theirs—or any one's."

Dean Sayre, according to Abe Foxman, mideast affairs chief of the Anti-Defamation League, organized a national prayer meeting at the Cathedral in January 1970 on behalf of the Palestinian Arabs which "all the pro-Arabs that exist" attended. Washingtonians who sought to deliver a contrary point of view were prevented from speaking.

National and Washington-area rabbinical and Jewish community organizations as well as leading non-Jewish clergymen have issued statements repudiating the sermon. A meeting of the Council of Churches of Greater Washington, a Protestant group, was called to discuss the implications of the incident.

A sampling of the statements issued on the sermon will appear in our next issue.

Arnold Forster, general counsel of the Anti-Defamation League of Bnai Brith, commented that "an attack from Dean Sayre on Israel comes as no surprise to us. His attitude has long been known. We read with dismay the inaccurate and unfair statement charging Israel as oppressing Jerusalem which he used to build his Palm Sunday sermon.

"His charge that Jewish rule of the Holy City is a 'moral tragedy' seems as far from the spirit of this holy season as it is from the fact."

Dean Sayre's Palm Sunday Sermon Recalls Tirades of Czarist Russia's Priests

The Very Rev. Francis B. Sayre Jr., Dean of Washington Cathedral and grandson of President Woodrow Wilson, observed Palm Sunday with a sermon that seemed singularly inappropriate to this presumably ecumenical age.

The harsh language was more reminiscent of anti-Jewish tirades in East Europe during the pre-Easter season. Denouncing Israel as an "oppressor" of Jerusalem, the Dean did not shrink from extreme invective. Referring to present-day Jerusalem, he said: "The zenith of our hope, undone by the wanton meanness of men who will not share it with their fellows, but choose to kill rather than to be over-ruled by God."

The same theme was echoed by a number of other Christian clergymen, all of them apparently inspired by a pro-Arab campaign.

We do not recall that the reverend gentleman or any of his like-minded colleagues ever denounced or even deplored the oppression of Jerusalem between the years 1948 and 1967, when Arabs ruled the city and would not permit a Jew to visit any of his holy places. Yet, now when the city is open to people of all races and religions, there are Christian clergymen who choose the Easter-Passover season to incite hatred against the only people who ever exalted Jerusalem as their national capital.

According to the daily press, the Dean indicated that he based his cruel judgment on Israel on a comment made by an Israeli, Israel Shahak, a new leftist chemistry professor at Hebrew University. The fact that one Jew has found Israel at fault is apparently conclusive proof to the Dean that all Israel is to be condemned. That the Israeli people are of many opinions and that they are completely free, even in time of crisis, to excoriate their government evidently gains Israel no points with this Christian Dean. He evidently prefers also to assume that Arab governments are rendered pure by the fact that no Arab dares to express a dissenting view.

Even if the Dean were innocently misled by the fact that an Israeli dissident has pleaded guilty for his country, there would still be no warrant for the Dean's reference to killing in Jerusalem. Israel's harshest critics have admitted that Israel has maintained the most liberal administration of the holy places in the city's modern history, and that its rule has been singularly mild in view of the tensions of war.

We are certain, nevertheless, that the Very Rev. Francis B. Sayre, Jr., did not consciously mean to emulate the traditional anti-Semitism of Czarist priests, who would make a practise of delivering blood-curdling indictments of Jews during their holy season. In singling out Jews for criticism that he withheld from Arab oppressors of Jerusalem, he may be betraying anti-Arabism more than anti-Semitism, since his only excuse for not having condemned the Arabs during their bigoted rule of Jerusalem would be that they are not criticism-worthy.

Grateful as we may be for being considered criticism-worthy by the Dean, we wonder whether Palm Sunday, which has long had fearsome connotations for the Jewish people, was an appropriate occasion for thus honoring us.

[From the Washington Post]

Letters To The Editor: Reaction to Dean Sayre's Palm Sunday Sermon on Jerusalem

On a fact-finding trip to Jerusalem a few weeks ago, both signatories of this letter failed to find any evidence of Israeli oppression in that city, of which Dean Francis B. Sayre Jr. spoke in his sermon in Washington Cathedral, as reported in The Washington Post (March 27). He named as his source of information Israel Shahak's letter in Christianity and Crisis, which we have read and found on the whole distorting and moreover, a singularly weak basis upon which to build a sermon in the Cathedral.

Shahak's technique of criticism is a familiar one. Every untoward action of the Israeli government of many months, and even years, is listed together in a way to convey the impression of an intense and ongoing oppression. The technique deceives no one at all familiar with the real conditions in the city.

Dean Sayre would have been better advised had he checked his information and his perspective with his co-churchman in Jerusalem. Anglican Archbishop George Appleton. One of us had the privilege of a long interview with him on the situation in Jerusalem, and we can assure the dean that the impression received from the archbishop was quite the contrary of that given by his remarks in Washington Cathedral.

Is there not something very wrong with Christians employing anti-Zionist Jews to witness for them against Israel? Is it not too close to the old anti-Semitic stratagem of using passages from the Hebrew prophets in order to scold Jews?

The Rev. Edward H. Flannery,
Executive Secretary, Secretariat for Catholic-Jewish Relations.
The Rev. Msgr. George G. Higgins,
Director, Division for Urban Life, United States Catholic Conference.
Washington.

Note.—The writer, a guest lecturer at the University of Maryland, is professor of English at Bar-Ilan University in Israel.)

If the Rev. Francis Sayre Jr. is indeed correctly quoted in your edition of March 27, I find it hard to credit that the Dean of the Washington Cathedral should have devoted his Palm Sunday address to an intemperate and entirely partisan attack upon Israel as "the oppressors of Jerusalem." When confronted with so clear an example of prejudice and distortion it seems pointless to offer a merely logical or statistical rejoinder. I shall therefore confine myself to one or two pertinent questions.

Who are the Arab residents who have been "unjustly deported" from that city? Has the Rev. Mr. Sayre acquainted himself with the files on the persons in question? Of what civil and religious liberties are the Arab residents of Jerusalem deprived? On what moral or legal grounds should Israel be required to permit the unrestricted immigration of additional Arabs into her territory? Is the Rev. Mr. Sayre aware that at the time of the foundation of the State of Israel in 1948 close to one million Jews were driven out of the Arab lands without the right of return? (Some 700,000 eventually found a haven in Israel). He raises his voice against the imaginary oppression of the Arabs in East Jerusalem. Did he, I wonder, raise his voice against the expulsion of the Jews from their homes in the Old City (East Jerusalem, note) in 1948 and the consequent deprivation of their rights by the Jordanian authorities for a period of 20 years? During that whole period Jews were not allowed access to their holy places including the Western Wall of the (Jewish) Temple. Did he, when the facts became known to him, similarly raise his voice against the destruction of the synagogues in the Jewish quarter of the Old City by the Arab Legion (after the fighting there was over) and the wanton desecration of Jewish tombs on the Mount of Olives? Or would these matters have been inappropriate for mention in a Palm Sunday sermon? I forbear to question the accuracy of Mr. Sayre's information regarding the primacy of Jerusalem in the faith of Islam (though I believe it is at least questionable). But surely Mr. Sayre can be in no doubt regarding the primacy of Jerusalem in the faith and history of the Jew.

I am not sure how to understand the last sentence of the Rev. Mr. Sayre's reported sermon, and indeed I imagine it must have puzzled many of your readers. He speaks of "the meanness of men who will not share it [i.e., Jerusalem?] with their fellows, but choose to kill rather than be overruled by God." Is this the theological language appropriate to a Christian living in the post-Auschwitz era? Is Israel indeed on trial at the bar of Christian truth, or is it not rather the Church of Christ which must search its conscience and question its conduct for standing by silently (as so many of its leaders did) whilst the Jewish people were being murdered and reviled? If now that people has regained its stature and dignity and has won a place for itself in one corner of the world, one might expect the leaders of the church if not to rejoice then at least to maintain a decent and humble silence before these mighty acts of the Lord of History—your history as well as ours.

Harold Fisch.

Washington.

Passing through on *my* way back to Jerusalem, my home town, I chanced upon your report of Dean Sayre's talk on Palm Sunday.

How can a high church official spout such non-factual garbage?

I don't know who this so-called professor Shahak is (since I am connected with the Hebrew University myself and have never heard of him, he may well be a figment of some Arab propaganda machine) but the facts are—and easily ascertainable—that the East Jerusalem Arabs can be Israeli citizens if they wish, with all the rights and privileges of such citizenship (although they do not have to serve in the Israeli Army) and unless there is a clear-cut security reason, Arab families have long been able to be reunited, not only in Jerusalem but in all of Israel and the administered territories.

Furthermore, all Christians and Moslems, as well as Jews, have unrestricted access to their holy places. The oppression of the Israelis is expressed in such things as the first free elections in the West Bank, greatly improved social, health, and educational services, and a much higher standard of living.

Where was the prelate during the Jordanian occupation of East Jerusalem (carried out by force of arms, incidentally) from 1948 to 1967, when Jews were thrown out or killed, the Jewish holy places destroyed or desecrated, and no Jews allowed access to their cemeteries, *yeshivot*, or holy places (including the Western Wall)?

This churchman illustrates well the typical liberal gentile bleeding-heart attitude to the Jews—we'll commiserate with you as long as you're dependent on our goodwill for your survival, and we'll weep for you when you are slaughtered every few years by our co-religionists—but Lordy, don't you start winning and controlling your own destiny!

The hell with them, I say. We don't exist to justify their emotional hangups. We validate our own existence.

A. GRONMAN.

Jerusalem.

Dean Francis Sayre to the contrary I do not believe it is possible or appropriate for any believer faithful to a *loving* God to look for spiritual fulfillment in an attitude of hatred toward one side or the other in the Near East tragedy. Dean Sayre's Palm Sunday remarks about Jerusalem are incredible to anyone sensitive to the whole situation. In fact, Israel Shahak's observations, which the dean quotes, reveal not a "wanton meanness of men who . . . choose to kill" but instead they indicate in Shahak himself a Jewish conscience astir *in* Jerusalem *about* Jerusalem. Please, in this season celebrated simultaneously by Christians and Jews, let us shore up the respect for one another, not the suspicions.

NANCY MCMURRAY,
Convert to Judaism.

Washington.

It was with dismay, but no surprise, that we noted the inaccurate and unfair statements upon which the Very Rev. Francis B. Sayre built his Palm Sunday sermon at the National Cathedral (Washington Post, March 27). His false assertions that Israelis are "oppressors" in Jerusalem and that Jewish rule of the city is a "moral tragedy" seem as far from the conciliatory spirit of this holy season as they are from the facts.

Dean Sayre's strange suggestion that Jewish rule of Jerusalem (which has had a predominantly Jewish population for well over a century) is somehow not in accord with God's "will for us," serves to explain why no ringing sermons of protest were heard from him during Jordan's 19-year illegal occupation of the Old City. From 1948 to 1967 all Jews, Christians and Moslems from Israel were forbidden access to their holy places and all but one of the old City's 35 synagogues were wantonly destroyed.

Nor during this entire period did we hear Rev. Sayre's voice raised for the Jews of the Arab countries, who are being persecuted and humiliated even to the present time. In contrast, Israel has provided religious freedom, access and a boost into the 20th century for its Arab citizens.

Another distinguished minister, the Rev. Dr. G. Douglas Young, president of Jerusalem's American Institute of Holy Land Studies, is much closer to the facts. He lives in Jerusalem, has for many years, and he reports that Palestinian Arabs living under Israeli rule "are not keen to go back under Egypt or Jordan" and are not afraid to say so.

The most disturbing aspect of Dean Sayre's sermon, however, involves his charge that Israel is a "mirror" of religious hypocrisy and that the people of the Jewish State "choose to kill rather than be overruled by God." This is a venomous sort of fantasy that hardly lends grace to a pulpit on the day marking the entry of the Prince of Peace into that holy city of three faiths.

Rabbi JUDAH A. CAHN,
Chairman, Middle Eastern Affairs Committee, Anti-Defamation League of B'nai B'rith.

NEW YORK.

This period of special religious significance for Christians and Jews is scarcely the time for churchmen to engage in public dispute. Neither is it a time to keep silent when one's brothers and sisters of another faith have suffered a hurt. Dean Francis Sayre Jr. apparently was preaching good theology last Sunday in the Washington Cathedral, but questionable history. I'm no Jerusalem expert who can pit his knowledge against the gracious and learned dean, but I recall official statements by reputable Christians that give quite a different picture of religious and civil liberties in Jerusalem today. For example, two groups of Christian churchmen issued statements last June on what they saw and studied in Israel, commending that nation for its care for human rights, its fairness in housing, its practices of religious liberty, and its respect for holy places. Only this week I checked this kind of assessment with an American Catholic specialist in this field, just returned from Jerusalem, and he substantiated their basic findings.

I'm no apologist for Israel and I've found things in her short history to criticize. But to term Israel the oppressor today in Jerusalem in any serious way is to ignore the history of Jerusalem with respect to the same issues from 1948 to 1967.

The Rev. GRAYDON E. MCCLELLAN,
Presbytery Executive, National Capital Union Presbytery.

Washington.

When I was a child I was hypnotized by tales of childhood for a Jewish lad in Russia before the turn of the century. I remember still vivid descriptions of frightened Jews locked in their homes to avoid pogroms as red-eyed Russian peasants left their church screaming for Jewish blood on Palm and Easter Sundays. How wonderful it was, I thought, to be in America where even the church was enlightened.

So I thought until I read of Dean Sayre's vicious attack on Israel from his pulpit last Sunday. His was one of many attacks from various pulpits in this city. He accuses Israel of being aggressive, engaging in genocide and brutalizing the Arabs of that city—all of which is directly contrary to every report from every church group to visit unified Jerusalem. How crudely he attempts to defend this anti-Jewish diatribe with his meager evidence. One can only wonder about the depth of the ecumenical spirit of which we hear so much, when viewing this appropriate heir to the worst there is in the Christian tradition.

SOLOMON L. MARGOLIS.

Washington.

SYNOPSIS OF SABBATH EVENING SERMON DELIVERED BY RABBI BERNARD H. MEHLMAN

This past weekend, the Jewish and Christian communities of Washington were preparing to celebrate their respective holidays. For the Jewish community, this year's Festival of Passover had a special significance as the Festival of Freedom.

Not only are we celebrating the liberation of our ancestors from Egyptian bondage thousands of years ago, but we were also mindful of the liberation of Jews and the historic center of their faith: Jerusalem. No longer are Jews denied access to the holy ground of Jerusalem. No longer were Jewish graves in East Jerusalem desecrated, their tombstones used to pave the streets.

No longer were Jews denied even a glimpse of their holiest site: The Western Wall.

Joining with us in this celebration of freedom and human justice were the voices of such church leaders as Mrs. Cynthia Wedel, President of the National Council of Churches; Monsignor John M. Oesterreicher, an acknowledged leader in Catholic-Jewish studies at Seton Hall; the World Council of Churches; the Armenian Patriarch of Jerusalem; and such lay opinion leaders as the Editors of Time magazine and the New York Times—all of whom do attest, affirm, and acclaim Israel's administration of the Holy City and its fair treatment of the populace of East Jerusalem, Jew and non-Jew alike.

But one voice was missing. Speaking alone, discordant, and with the chill of winter, Dean Francis B. Sayre, Jr., of the Washington National Cathedral rose to the pulpit on Palm Sunday morning to deliver a homily. His lonely teaching harkened back to the days of bloodshed, to the mentality of bondage and oppression, and was a stark note of religious division. He delivered his homily on Palm Sunday, a day revered by Christians—but in the past deeply feared by Jews, for it was frequently the signal day for the beginning of pogroms. Every good preacher knows the significance of timing; I must assume that Dean Sayre was aware of the timing of his homily of Palm Sunday.

Grave questions are raised as to the rationale, if not also the consequences of his statement. Clearly he chose to ignore the weight of reputable Christian opinion concerning Israel and the Jewish administration of Jerusalem and instead seized an isolated observation by one individual which appeared in Christianity and Crisis. That he chose this particular article to generalize—again, on this particular day, Palm Sunday—leads us to ask a series of painful questions: Could this be a re-surfacing of a vestigal type of anti-Semitism? Or could this be an anti-Jewish posture concerning the questions of Israel and the administration of a united Jerusalem? Or—the worst of all—did he mean to do both?

Dean Sayre must answer such questions not merely to satisfy Jewish opinion, which he might choose to ignore; but he must answer his Christian brethren and colleagues in the clergy, for whom such a homily would be totally out of the question and, indeed, anathema to their feeling of brotherhood, the one-ness of mankind, and their diligent efforts to make ecumenism a living reality.

For me personally and for us as a community, linked in one sanctuary with an Episcopal Communion, St. Augustine's Church, this sermon strikes exceedingly close to home. In an age of growing improved Christian-Jewish relations, to which our joint effort here in Washington is a rich witness, Dean Sayre's lonely stance of division cannot be lightly dismissed by men of good will of any faith.

Despite the shock we have all felt at his Palm Sunday homily, we are turning once again to the richnesses of this holiday season and now feel a lingering sense of deep regret. Those of us who still strive for justice and brotherhood in an imperfect world—and who would welcome his return and assistance—now await his answers to our painful questions.

BRIG. GEN. JAMES F. LAWRENCE, U.S. MARINE CORPS

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HÉBERT. Mr. Speaker, upon the occasion of his recent retirement from the Marine Corps, I include in the RECORD the biographical sketch of a truly dedicated and distinguished military officer, Brig. Gen. James F. Lawrence, USMC. Jim Lawrence has served his country with distinction for 30 years. And as most of you know, since 1967 he has served this body well as the Deputy Assistant to the Secretary of Defense for Legislative Affairs.

It is with deep regret that I see the general go into retirement, but it is a retirement richly deserved for a man who performed in the best traditions of the Marine Corps. I know my colleagues will join me in wishing the general the very best in the years ahead.

Also, Mr. Speaker, I insert in the RECORD a news release announcing the second award of the Distinguished Service Medal presented to General Lawrence by Defense Secretary Laird:

DISTINGUISHED SERVICE MEDAL

Secretary of Defense Melvin R. Laird will present the Distinguished Service Medal, Gold Star in lieu of second award, to Brigadier General James F. Lawrence, USMC, during a ceremony at 3 p.m. today in the Secretary's office, 3E880.

General Lawrence, who has served as Deputy Assistant to the Secretary of Defense for Legislative Affairs since 1967, will retire from active duty Saturday, April 1, resuming inactive status on the retired list of officers of the United States Marine Corps.

General Lawrence was born March 17, 1918, at Rutledge, Tennessee, and was graduated from high school at Asheville, North Carolina. He holds degrees from the University of North Carolina and George Washington University. He has served in the Marine Corps for 30 years.

In 1963, General Lawrence reported for duty as military assistant to the Assistant Secretary of Defense (Manpower); became Deputy Director in the Office of Legislative Liaison to the Secretary of Defense in 1965, and has held his present assignment since May 1, 1967.

Among General Lawrence's other awards is the Navy Cross received for gallantry in action in Korea in 1950.

He is married to Diana Harrison Foote. They have three children—Diana, James and Richard. They reside at 8720 Waterford Road, Alexandria, Virginia.

BRIG. GEN. JAMES F. LAWRENCE

James Fugate Lawrence was born March 17, 1918, in Rutledge, Tennessee, and graduated from Sand Hill High School, Candler, North Carolina, in 1936. He was graduated from the University of North Carolina, Chapel Hill, North Carolina, in 1941, receiving a Bachelor of Science Degree in Commerce. In 1953, he received an LLB degree from The George Washington University, Washington, D.C.

He attended the Platoon Leaders Course during the summers of 1938 and 1940 as a private first class in the Marine Corps Reserve, and was commissioned a Marine Reserve second lieutenant on July 1, 1941. Lieutenant Lawrence completed the Basic School, Marine Barracks, Naval Shipyard, Philadelphia, Pennsylvania, in April 1942.

During World War II, he served first as a platoon leader and then as a company executive officer with the 1st Battalion, 1st Marines, 1st Marine Division on Guadalcanal and New Britain. For his service during this period, he was awarded the Bronze Star Medal with Combat "V," the Purple Heart, and the Presidential Unit Citation. He was promoted to first lieutenant in December 1942 and to captain in September 1943.

Upon his return to the United States in August 1944, Captain Lawrence was assigned duty as Commanding Officer, Marine Detachment, Marine Barracks, Naval Base, Norfolk, Virginia, until September 1945. He completed the Japanese Language School, Yale University, New Haven, Connecticut, in December 1946. He accepted appointment in the regular Marine Corps in August 1946.

From December 1946 until May 1947, he served as Assistant Division Legal Officer with the 1st Marine Division. Ordered to the Marine Barracks, Yokosuka, Japan, he became Commanding Officer and Fleet Activities Provost Marshal, U.S. Fleet Activities until June 1949. While in Japan, he was promoted to major in August 1947. He completed the Amphibious Warfare School, Junior Course, Marine Corps Schools, Quantico, Virginia, in June 1950.

During the Korean conflict, Major Lawrence again served with the 1st Marine Division, this time as S-3 Officer; Battalion Executive Officer; and finally as Commanding Officer of the 2d Battalion, 7th Marines. He received the Navy Cross, a Gold Star in lieu of a second Bronze Star Medal with Combat "V," and the Presidential Unit Citation with two bronze stars for his Korean service.

Upon his return to the United States, Major Lawrence attended Law School at The George Washington University, completing the course in July 1953. He was promoted to lieutenant colonel in October 1952.

Lieutenant Colonel Lawrence reported to Headquarters Marine Corps where he served as Assistant Legislative Assistant to the Commandant of the Marine Corps from July 1953 until July 1956. He completed the Amphibious Warfare School, Senior Course, Marine Corps Schools, Quantico, Virginia, in June 1957. Colonel Lawrence was Staff Assistant for Doctrines and Development until November 1957, then served as a Member on the Marine Corps Board at Quantico until June 1959.

Assigned to Headquarters, Fleet Marine Force, Pacific, he saw duty in the G-1 Section until 1960; following this he served as the Force Legal Officer until July 1962. While serving as Force Legal Officer, he was promoted to colonel in April 1962. Assigned next to the 3d Marine Division on Okinawa, he served as Division Legal Officer until August 1963.

Returning to the United States later that month, he reported for duty as Military Assistant to the Assistant Secretary of Defense (Manpower), until October 1965, then became Deputy Director in the Office of the Legislative Liaison Office to the Secretary of Defense. He received a Letter of Commendation from the Honorable Norman S. Paul, Assistant Secretary of Defense (Manpower), and was awarded the Joint Service Commendation Medal for service as Military Assistant from September 1963 until October 1965. Advanced to the rank of brigadier general on May 1, 1967, he began his current assignment.

A complete list of his medals and decorations includes: the Navy Cross, the Bronze Star Medal with Combat "V" and Gold Star in lieu of a second Bronze Star Medal with Combat "V", the Joint Service Commendation Medal, the Purple Heart, the Presidential Unit Citation with two bronze stars, the Asiatic-Pacific Campaign Medal with four bronze stars, the American Campaign Medal, the World War II Victory Medal, the China Service Medal, the Navy Occupation Service Medal with Asia clasp, the National Defense Service Medal with one bronze star, the Korean Service Medal with one silver star in lieu of five bronze stars, the United Nations Service Medal, the Korean Presidential Unit Citation, Distinguished Service Medal, and a Gold Star in lieu of the second award in March 1972.

Brigadier General Lawrence is married to the former Diana Foote of Charlotte, North Carolina. They have three children: Diana H. James F., and Richard W. His parents are Mr. and Mrs. James F. Lawrence of Candler, North Carolina.

DRAFT RESISTERS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McKINNEY. Mr. Speaker, with the success of President Nixon's Vietnamization policy, the thoughts of many Americans have turned to the thousands of young men who resisted induction into the Army. Several hundred of these men had the courage of their convictions and went to jail rather than serve their country in what they believed to be an unjust war. The vast majority, however, decided to flee the United States and are now living in other countries.

What do we do with these young men? On the one hand, there are those who believe they should never be allowed to return to the United States or, if they do return, they should spend untold years wasting their lives in jail. On the other hand, there are many people, including some of the resisters themselves, who believe they should be invited back to the United States, saying it is we, not they, who have done wrong.

I cannot aline myself with either of these groups. No matter what their reasons, the 70,000 or so young men who refused to be drafted violated the law and, if we are to remain a nation of laws, they must accept the consequences of their acts. At the same time, I do not believe they should be subject to the ordinary criminal justice process with its consequent prison sentence. Requiring all of these men to go to trial would put an additional strain on prosecutors and courts which are already overburdened with work. More importantly, however, requiring these young men to go to prison would be counterproductive toward our goal of having them become responsible citizens.

Therefore, I have given my support to Senator TAFT's proposal which would permit draft resisters to return to the United States on the condition that they serve 3 years either in the Armed Forces or some form of alternate service. I believe this is a realistic approach to an extremely complex problem. Unfortunately, my views on this issue have been misinterpreted by many who believe I favor general amnesty, welcoming the draft resisters back and attaching no consequences to their acts. I have drafted a reply to the numerous constituents who have written to me on my position, and I want to take this opportunity to insert a copy of that letter in the RECORD:

LETTER TO CONSTITUENTS

DEAR SIR: I am disturbed that through what I hope is only a simple misunderstanding, my position on the approach the United States should take toward those who refused to serve their country during the Vietnamese conflict has been misinterpreted. I have never said, nor is it my intention, that they should be allowed to "saunter back, free and unhampered."

May I state the facts as they are. First, I am a veteran and a member of the American Legion who has for years worked for the cause of the veteran. As such, I would never attempt to take anything away from their honor or service. In fact, I am the sponsor of quite a few bills intended to give them the help and recognition they truly deserve.

Second, I do not intend that there should be any action or any vote on this issue until the war has ended and all of our prisoners of war and American soldiers have returned to the United States.

Third, I am in no way attempting to exonerate these young men who have violated the law of the land. We are a nation of laws, and those who disagree with those laws must change them, not put themselves above them. Even the highest moral beliefs cannot give a man the right to put himself ahead of his obligation to obey the law of the land, without being willing to accept the consequences for his act.

Finally, I would like to point out that many young men who fled this country in the early days of the war could possibly have obtained deferments as conscientious objectors later on. Prior to 1967, this deferment was based on the belief in a Supreme Being. The 1967 Selective Service Act, however, dropped this section from the legislation, and from that point on, a deeply held moral conviction has been enough to qualify for a deferment.

Senator Taft has proposed that draft resisters be permitted to return to the United States on the condition that they serve three years either in the Armed Forces or in some form of alternate service. By giving my support to this proposal, I am not denying the principles which have guided our nation for the last two hundred years. Rather, I am trying to offer a realistic alternative to prison which will avoid national chaos.

Anyone who has followed the recent news stories on American prisons knows that they have beeen dramatic failures. They were designed to punish a man for his wrongdoing, but most importantly, to rehabilitate him so he would not commit a crime again. Yet, after more than 100 years of following this policy, 80% of those who have been to prison return.

Prisons have been aptly described as schools for crime, and the director of the U.S. Bureau of Prisons, Norman Carlson, has observed that "anyone not a criminal will be when he gets out." I see no reason for sending a draft resistor to prison where the only trade he will learn may be burglary and his alienation toward his country will only increase. Instead, I believe these men should be permitted to pay their debt to society in a more constructive manner, namely some form of public service. Three years of public service will benefit the individual and society much more than three years in prison.

Finally, I would like to emphasize once again that amnesty is not a new idea. It has been granted in some form after every war since the days of George Washington. Yet, in spite of this, the nation has survived a civil war and two world wars. Therefore, I do not fear a chaotic social structure if we follow what we have always done in the past—offer every individual, no matter what his crime, a second chance to share both the responsibilities and privileges of living in the United States. The only difference with this war is that it has been more unpopular than others and has lasted longer than others. Therefore, talk of amnesty has perhaps been more prevalent than in other wars.

I suppose it would have been easier not to raise this issue until the war has ended. As I have repeatedly said, no action should be taken before that time anyway. In addition, the political controversy surrounding my statement could have been avoided. But I have always made it a policy to answer every question as directly as I can, and it would have been unfair to the student who asked me my views on this issue and to all of my constituents if, for the sake of political expediency, I gave only half an answer.

Sincerely,

Stewart B. McKinney,
Member of Congress.

WPLN–FM RADIO, NASHVILLE

HON. WILLIAM R. ANDERSON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ANDERSON of Tennessee. Mr. Speaker, as of February 21, WPLN–FM radio in Nashville was expanded to 100,000 watts stereo. This expansion of an outstanding station, which has listeners from Kentucky, middle Tennessee, and Alabama, was made possible through the grant program funded by the Public Broadcasting Act. The residents of the Sixth District of Tennessee and the Nashville area are much richer for this experience. WPLN programing is not strictly educational, or musical, but blends a fine array of programs to produce an excellent format. Listeners can appreciate fine classical music, have the opportunity to hear congressional hearings and major speeches live, can enjoy science lectures from the British Broadcasting Corporation, delight in a European music festival and be kept up to date by in-depth news coverage and recent happenings in Nashville.

The modern history of public radio began in 1967 with the enactment of the Public Broadcasting Act. The Corporation for Public Broadcasting was also created and set its goal at developing noncommercial radio and television. The CPB functions in a nonprofit, independent manner and is the main financial supporter for the National Public Radio network. WPLN, as one of the 500 public radio stations in the Nation, actually belongs to the community. The operation is financed through municipal appropriations, individual contributions, plus the Public Broadcasting grants.

In a day when the media is being attacked for peddling pablum to the public, WPLN and its sister stations stand out as an attractive alternative leading the way in entertaining, informative and educational programing.

I hope my colleagues are aware of the fruits of the Public Broadcasting Act such as WPLN, and will vote in favor of continued funding for the corporation.

SENATE—*Thursday, April 6, 1972*

The Senate met at 11 a.m., and was called to order by Hon. James B. Allen, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we lift our hearts to Thee in thanksgiving for many blessings, but especially for this good land which Thou hast given us for our heritage. Help us to prize highly and to conserve carefully the rich endowment of natural and human resources and to use both for the common welfare.

Look upon all who serve in the Government of this Nation, giving them wisdom and strength for public action, and spiritual renewal and inspiration in home and family life. Bind leaders and people together for united action in concerting those measures which shall best further the kingdom of righteousness and peace befitting a nation under God.

In Thy holy name we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Ellender).

The second assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., April 6, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. James B. Allen, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

Allen J. Ellender,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, April 5, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

KALISPELL, MONT., ROTARIANS CLEAN UP THEIR VALLEY

Mr. MANSFIELD. Mr. President, I am in receipt of an issue of the Rotarian, an international magazine, which published an article entitled "Kalispell Comes Clean."

Kalispell, Mont., is one of the most beautiful cities in the Nation. It nestles in one of the most beautiful areas of the Nation, in the Flatland Valley in the northwestern part of my State.

In recent months, the Kalispell Rotary Club, a subsidiary of the Planned Environment Committee, created in 1969 and headed—then and now—by an old friend of mine, Louis A. "Sam" Bibler, a geologist of renown and good repute, has undertaken to bring about a cleanup in the valley itself.

What the Rotarians have done in Kalispell, up in the Flatland country is, I think, worthy of commendation and a degree of publicity.

I wish to express my personal thanks to Mr. Bibler and the Rotarians for the job they have done in cleaning up their area, and to express the hope that the example set by the Kalispell Rotary Club will be followed by other civic organizations in other parts of the country, to the end that this Nation may become a better and a cleaner place in which to live.

Mr. President, I ask unanimous consent to have the article I referred to earlier printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KALISPELL COMES CLEAN

> Fired with concern about their environment, plus a large dose of aesthetic outrage, this alert Rotary Club conceived and carried out an imaginative plan to rid its community of a blighted landscape.
>
> Back in the Spring of 1892, some lumbermen and cherry growers up in the northwestern U.S. State of Montana proudly incorporated the little city of Kalispell, its musical name meaning "prairie above the lake" coming from the local Pend d'Orielle Indians. Located just a few miles from Glacier National Park and Hungry Horse Dam, today's Kalispell of some 10,000 people still lists its chief industries as lumbering and agriculture.
>
> Could such a sunny, fresh-air community suffer any kind of urban blight?
>
> Indeed it did—but no more, thanks to the energetic Rotary Club of Kalispell (80 members).
>
> Until less than a year ago, the main highway approach to the town was marred by a growing tract of land littered with ramshackle dwellings, outhouses, derelict autos and trucks, and heaps of other junk.
>
> Kalispell Rotarians decided to tackle the problem through their Club's Planned Environment Committee, created in 1969 and headed then and now by Rotarian Louis A. (Sam) Bibler, a geologist. The Committee, with the approval of the rest of the Rotary Club, formed a limited-partnership land improvement company and purchased 10½ ugly acres from eight different landowners and estates with $75,000 in investment funds provided by 57 of the Club's 80 members.
>
> Immediately upon purchase, things began to happen. Local men and youths, including Rotarians and their sons, cleared the land of tons of junked vehicles and other debris. Five area volunteer fire companies burned all the shacks to the ground in a joint fire-control exercise that was beneficial to firemen as well as the new property-holders. Then the land was graded, leaving only its tall, beautiful trees. Then it was sown with grass seed.
>
> Now what? Here is the long-range view of the Rotary Club in the words of the Planned Environment Committee: "Now that the property has been reclaimed and restored to its original beauty we plan to resell a major portion of it under restrictive covenants that would prevent any return to degradation. We also hope to develop one portion into a landscaped park."
>
> Chairman Sam adds that proceeds of the land sales will be invested in new improvement projects so that the original investment can be used as a rotating environmental fund.
>
> Enthusiastic coverage by local radio, television, and newspapers, Sam believes, helped inspire a concurrent junked-auto removal program spearheaded by the Chambers of Commerce throughout the Flatland Valley (the catch: 3,500 rusting hulks); and it also helped arouse a general community concern about environmental education and land use.
>
> Bold and imaginative as it is—since the Kalispell Rotarians do not yet know when and if they'll sell that land—the project is but one of countless good works by environmentally-conscious Rotarians and Rotary Clubs in many places.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished minority whip desire recognition at this time?

Mr. GRIFFIN. No, Mr. President.

The ACTING PRESIDENT pro tempore. Very well then, in accordance with the previous order, the Chair now recognizes the distinguished Senator from Maryland (Mr. BEALL) for not to exceed 15 minutes.

THE ITT CONTROVERSY

Mr. BEALL. Mr. President, it appears that some of our Democrat colleagues are guilty of gross hypocrisy in their handling of the current ITT hearings. They have condemned this Republican administration for the ITT settlement which forced the largest business divestiture in history, even though it was their own Democrat administrations which, by default, permitted ITT to become the giant conglomerate that it is today.

Our friends on the other side of the aisle conveniently ignore the fact that it was during the Kennedy administration that ITT first began to undertake sizable growth. During the inactive antitrust days of the Johnson administration—a period in which there was a Democrat appointed Assistant Attorney General, Donald F. Turner—ITT again showed remarkable and unchecked growth by acquisition. Other companies followed ITT's example.

At no time during this long period of conglomeration did either of the previous Democrat administrations take meaningful steps to halt the fantastic growth of ITT by vigorous antitrust legislation. The Democrat administrations failed to raise a finger in the direction of ITT, to warn that the Government would take action. There was an utter lack of will to take on the huge company during the Kennedy- or Johnson-dominated years, but my Democrat friends ignore this fact. Yet, they come forward, at a time when a Republican administration has taken action against ITT, to severely criticize what was achieved.

The previous administrations could have filed the ITT antitrust suits that this administration has, but they did not. They claimed that they had little chance of success or that the law was not broad enough to allow such suits.

But the Nixon administration believed it was worth the effort—that action had to be taken against the supercorporate threat to free enterprise. The Attorney General in a speech at the beginning of this administration in 1969, made his position clear:

> The danger that this super-concentration poses to our economic, political and social structure cannot be overestimated. Concentration of this magnitude is likely to eliminate existing and potential competition. It increases the possibility for reciprocity and other forms of unfair buyer-seller leverage . . .

To leave no doubt as to the action the Justice Department would take, Attorney General Mitchell gave the following warnings:

> The Department of Justice may very well oppose any merger among the top 200 manufacturing firms or firms of comparable size in other industries.
>
> The Department of Justice will probably oppose any merger by one of the top 200 manufacturing firms of any leading producer in any concentrated industry.
>
> And, of course, the Department will continue to challenge mergers which may substantially lessen potential competition or develop a substantial potential for reciprocity.

Consistent with that warning, the Nixon administration proceeded to bring key conglomerate antitrust suits, three of which were against the leader—ITT. The Antitrust Division went to court in each of the ITT cases, but was met by adverse decisions, in each, at the lower court level. At the time these three cases were settled, two had been lost in both preliminary and final orders, and the third had been lost at the preliminary stage and was awaiting trial. But at that point ITT realized that it stood to lose $1.2 billion for its shareholders if the Supreme Court overturned those lower court decisions—an unlikely eventuality according to the Solicitor General, yet still possible. This gave the Antitrust Division the leverage to dictate a tough settlement in those three cases.

That settlement, which my Democrat colleagues now denounce, was a substantial victory for the Government. A giant conglomerate was forced to divest itself of corporate holdings representing $1 billion in sales and, further, to refrain from additional substantial acquisitions for 10 years. The consent decree based on that settlement was a clear deterrent to other conglomerates which might otherwise have continued the merger trend. The settlement was harsh enough on ITT that its stock dropped drastically on the New York Stock Exchange on the day following the announcement and has yet to rebound completely. The business community complained bitterly of the settlement. Antitrust experts around the country applauded it, and still applaud it.

The Solicitor General of the United States, the esteemed Erwin Griswold, characterized the settlement as an "extremely favorable one." In his own words he states:

> This is a very substantial victory for the government, and the first one in the whole conglomerate field, probably setting a great precedent in the area, and it seems to me most misleading to keep telling the public that the government dropped three suits in the antitrust field, it didn't.

Despite all of this, some prominent Democrats have presented quite a different story to the American people.

This kind of political misrepresentation is tragic, particularly when those who continue to mislead the public have full knowledge of the true facts of the case.

So that I will not be misunderstood let me recount those facts:

First. ITT made its most substantial growth during the two Democrat administrations before the Republican President took office.

Second. ITT could not have grown to its present size—if it had not been for the acquiescence of these two previous Democrat administrations.

Third. The Nixon administration made clear its intention to take action against giant conglomerates when it took office.

Fourth. This administration filed antitrust actions against ITT where the Democrats chose to look in the other direction.

Fifth. The suits led to a settlement where for the first time in history a giant conglomerate was forced to divest itself of substantial corporate holdings—a settlement praised by the respected Erwin Griswold as "a substantial victory for the Government."

I believe these facts are most important and were well stated in an editorial in the Wall Street Journal on Tuesday of this week. I read from the editorial:

> The record, after all is this: The previous Democratic Administration did not believe the antitrust laws applied to conglomerate mergers and did almost nothing about them. Mr. McLaren started to test legal theories making the application and the results were not encouraging. In the lower courts he lost two of the ITT cases outright and suffered a sharp setback.
>
> Whereupon Mr. McLaren settled the ITT cases by consent decree. The net result is that while the previous administration's tactics would have won nothing, Mr. McLaren got the biggest divestiture in history, a promise to take ITT out of the acquisition business for ten years and an example that did help deter the conglomerate movement. This does not sound to us like the record of an administration that sold out.

Mr. President, it is clear that this administration has taken action against a huge business conglomerate and established a precedent that will benefit our free and competitive enterprise system. To try to confuse the American people on this point is reprehensible. This administration has walked where Democratic administrations feared to tread. It is time to stop the hypocritical statements to the contrary.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will be a period for the transaction of routine morning business not to exceed 30 minutes, with speeches by Senators therein limited to 3 minutes.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ITT AND THE KLEINDIENST NOMINATION

Mr. MANSFIELD. Mr. President, I have just listened to an excellent political speech about a matter which is of paramount importance to the American people. I hold no brief for what has been done under previous Democratic administrations. I hold no brief for what is being done under the present Republican administration. But I have noted from time to time what when the questions of the hearings now being held in the Judiciary Committee were being discussed, somehow or other it was always brought out that, "Well, it was worse under previous administrations, but no political connection was being inferred."

As a matter of fact, I think that the Judiciary Committee is doing the only thing it can do at this time in view of the publicity which has been created covering a situation which seems—and I use the word "seems" advisedly—to have had some connection with the nomination of the nominee for Attorney General of the United States, a man who, by the way, is, in fact, the Attorney General at this moment, even though he is only acting in that capacity. However, as acting Attorney General, he has all the prerequisites and the responsibilities which go with that job, excepting confirmation by the Senate.

I think that when it comes to politics, I have leaned just about as far backwards in this case as any Member on either side of the aisle. I except no one. I have been waiting for the facts to be brought forth so that evidence would be established before I am able to make a final judgment myself. It may be a little more difficult for a man who is not a lawyer to reach such a judgment. However, by the same token, because one is not a lawyer, it may be simpler also.

I have stated that as far as the hearings in the Judiciary Committee are concerned, they should be continued, but that only legitimate—and I emphasize the word "legitimate"—witnesses should be called in relation to the case as it affects the nomination of Mr. Richard Kleindienst.

I think that the American people demand that the legitimate witnesses be heard. And I think that if they are not heard, a cloud will be raised which will continue over Mr. Kleindienst's head. And may I recall to the Senate that these hearings were reopened at the express request of Mr. Kleindienst, who said that he wanted any cloud over his nomination removed. And I paraphrase his exact words a little freely but I believe, most accurately.

I do not want to see a witch hunt. But I do want to see the truth brought out. And Mr. Kleindienst himself, in asking that the case be reopened, wants the truth brought out. More questions are being raised than answers are being found.

There are other matters affecting this which are separate and apart from the nomination of Mr. Kleindienst, and they should be considered separate and apart.

The Foreign Relations Committee is going into the activities of multinational U.S. companies, many of them investing abroad at the express request of this Government. This is not something which was brought about because of ITT and the Chilean revelations, or the alleged revelations.

The inquiry—and I use the word "inquiry" advisedly—into the multinational corporations, has been discussed in the Committee on Foreign Relations for at least 6 months to my knowledge, but because of certain allegations raised publicly in a column, the matter has come to a head. And the committee has agreed unanimously to continue an inquiry in depth. It will take some time.

The committee has agreed also that it will not issue reports, if my recollection is correct, during the course of the hearings, so that politics will not be helped insofar as what the committee is endeavoring to do is concerned.

I understand—and I have not seen the stories as yet—that some new allegations, some new relevant questions were raised in the Baltimore Sun and the San Diego Union, I believe, in their issues of today.

Every legitimate question raised should be answered. Every legitimate witness should be called. This matter has got to be settled one way or the other. We have Mr. Kleindienst's nomination on the calendar. I am holding it here awaiting a judgment from the committee. I will seek its advice and its counsel as to what it thinks should be done. But I cannot do a thing about it until and unless such counsel and/or advice is forthcoming.

There are other matters, I understand, apart from the Chilean allegation, which have come to light which may well be considered by the Committee on the Judiciary, and if those allegations have any substance they should be and must be considered.

But I, for one, dislike very much to have the word politics involved in a matter which is of the highest importance. So may I say that I decry the politics involved. I am interested in the truth and the truth only. I would think all Senators seek that objective. I am interested in bringing these hearings to a conclusion one way or the other, but before that is done I want to see all the questions raised answered and I want to see all the legitimate witnesses called. In other words, I want to see Mr. Kleindienst getting a square deal because this is not helping him by having these hearings dragged out, it is not helping the Committee on the Judiciary, it is not helping the Senate, and it is not helping the country.

But questions have been raised and they must be answered, and the only way they can be answered is to call the appropriate witnesses, the appropriate legitimate witnesses, so that the questions can be asked and, if possible, the answers forthcoming.

So I would hope we would get away from the emotional aspects of this matter, and look at it as logically, and coldly, and impartially as we can. That is not too much to ask. It is not too much to ask the Committee on the Judiciary to meet more often, in the morning and in the afternoon, to bring this matter of the nomination, which is on the Senate Calendar, to a head so that on the basis of a thorough investigation and a calling of all the legitimate—and I emphasize the word again "legitimate"—witnesses the Senate can then be in a position to pass on the advice, counsel, or guidance of the Committee on the Judiciary as to what it should do in its wisdom in disposing of this nomination.

Again, may I say that I hope we do not get involved in politics, what previous Democratic administrations have done in comparison with what is being done now, because as a Democrat I am willing to admit we have made our share of mistakes, and more—maybe in this particular field. But going back into past history does not solve the problem which confronts us today, and I hope something definitive will be coming forth shortly based on the stipulations I made, based on the answers to allegations which have been made, and the hearing of all legitimate witnesses. As far as I am concerned, once a decision is reached, not in a political context, but in a fair and open minded context, then I am prepared to consider taking up the nomination of Richard Kleindienst to be Attorney General.

Until that time occurs I am doing my best, my very best, to try to keep an open mind until the evidence is in, all the questions pertinent to the nomination raised and answered, and all the legitimate witnesses heard.

Mr. GRIFFIN. Mr. President, the distinguished majority leader has reacted to a speech which he has characterized as political, and I can understand that. I think, however, that he would be the first to admit that if there have been political speeches on this subject, they did not start on this side of the aisle. There have been a good many coming from the other side of the aisle.

But I want to indicate that the distinguished majority leader has not himself addressed this subject in a political way, and for that I want to express my appreciation. He has said before he realizes many of the matters that have been raised in the press and which have taken the time of the Committee on the Judiciary, are not related to the nomination of Richard Kleindienst. It is quite obvious there has been very little evidence that bears on the fitness of Mr. Kleindienst to be Attorney General of the United States. I share the view the majority leader has expressed that while the Committee on the Judiciary should be encouraged to call such witnesses as may be necessary to answer legitimate questions as to the fitness of Mr. Kleindienst, that that should be done as expeditiously as possible.

If there are other questions relating to ITT, conglomerates, or whatever, that the committee or some other committee wants to investigate, that should be handled separately. I think the Senate owes it to Mr. Kleindienst, the administration, and the country to pass on this nomination on its merits as quickly as possible and with as little politics as possible.

While my colleague from Maryland has done a very effective job in pointing the finger at the other party, I would say frankly, that I believe a lot of the confusion in the country must be attributed to the way the press has reported this matter. In the evening news I have watched and listened to the newscasters say, in effect, that the Government gave a favorable settlement to ITT in exchange for a contribution to the Republican Party.

No matter how many times that statement is corrected it seems as if it continues to be said over and over again, even though whatever contribution involved was not to the Republican Party, but was to the San Diego Convention Bureau.

But more important, it was not a favorable settlement for ITT; it was a very unfavorable settlement for ITT and a victory for the Government, as far as antitrust was concerned.

The Senator from Maryland, I think, has documented that point very well in a very objective way. The day following the announcement of the settlement of the ITT case, ITT stocks dropped dramatically on the stock market. I do not know what other evidence we need in an objective way that it was an unfavorable settlement in the eyes of all investors around the country. Beyond that, the New York Times has reported, some of the highest officers in ITT sold large blocks of stock while the negotiations for settlement were going on. That buttresses the evidence that this was not a favorable settlement as far as ITT is concerned.

I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. BEALL. Mr. President, inasmuch as I started the discussion, I want to say a few words to terminate it. When I took the floor I did so hoping to clear the air, as I think the Senator from Michigan tried to point out in his remarks.

I have the greatest respect for the distinguished majority leader. I think his has been a voice of moderation and understanding, and one of reasonableness in this discussion. I feel that we are all anxious that the matter should be brought to a conclusion fairly.

I believe that as a result of discussions that have taken place to date Mr. Kleindienst still remains every bit qualified to be Attorney General of the United States, and I hope we can get his nomination ratified as soon as possible.

However, I think there is a responsibility on each Member of this body when he feels an injustice has been done to his leaders to see that the injustice is corrected.

I do not think it is fair to accuse this administration of bringing about an unfavorable settlement of a trust-busting case when the opposite is true.

All I was pointing out in my remarks had nothing to do with the nomination of Mr. Kleindeinst. It had nothing to do with the hearings going on in the Judiciary Committee or whether they should continue. It was just to point out that it was under the Nixon administration that the ITT conglomerate antitrust case was brought, and it was under the Nixon administration that this conglomerate was forced to divest itself of some of its holdings.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORTS OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, reports of the military construction projects which have been placed under contract in fiscal year 1971, in which the working estimate exceeded the amount authorized by the Congress by more than 25 percent; and reports of individual projects in which the project scope was reduced (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION AUTHORIZING VOLUNTARY ASSIGNMENT OF CERTAIN RESERVE MEMBERS

A letter from the General Counsel of the Department of Defense submitting proposed legislation to amend section 269(d) of title 10, United States Code, to authorize the voluntary assignment of certain Reserve members who are entitled to retired or retainer pay in the Ready Reserve, and for other purposes (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION TO EXTEND THE PROVISIONS OF THE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT OF 1964

A letter from the Secretary of Commerce submitting proposed legislation to extend the provisions of the Commercial Fisheries Research and Development Act of 1964, as amended (with accompanying papers); to the Committee on Commerce.

LIST OF REPORTS OF THE GENERAL ACCOUNTING OFFICE

A letter from the Comptroller General of the United States transmitting, pursuant to law, a list of reports of the General Accounting Office in March 1972 (with accompanying papers); to the Committee on Government Operations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A resolution of the House of Representatives of the State of Georgia; to the Committee on Armed Services:

"H.R. 984

"A resolution urging the U.S. Army to return "treasure trove" to Mr. Donald W. Morrison; and for other purposes

"Whereas, Mr. Donald W. Morrison of Homerville, Georgia, while serving on active duty in the defense of his country in Viet Nam, found a 'treasure trove' of $150,000.00; and

"Whereas, he is entitled thereto against all the world, including the U.S. Army, except the true owner thereof; and

"Whereas the true owner has not asserted a claim to the 'treasure trove' for over four years, but the U.S. Army has unlawfully confiscated the 'treasure trove' without any creditable evidence that the 'treasure trove' was enemy property and without attempting to prove the lawful owner of the 'treasure trove'; and

"Whereas, Mr. Donald W. Morrison is being unjustly forced, at a considerable financial loss, to pursue legal courses of action to compel the U.S. Army to return his 'treasure trove'; and

"Whereas, the injustice being accorded this veteran of Viet Nam is severely damaging the image of the U.S. Army during a time when the Army is attempting to attract young men into service.

"Now, therefore, be it resolved by the House of Representatives that this Body does hereby urge the U.S. Army to return to Mr. Donald W. Morrison his 'treasure trove' of $150,000.00 without further legal action and without further delay, with interest thereon from the date of confiscation to date of return at six percent per annum.

"Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to forward an appropriate copy of this Resolution to the President of the United States, the Secretary of Defense, the Secretary of the Army, the Chairmen of the Appropriations Committees of the United States Senate and House of Representatives, the Chairmen of the Armed Services Committees of the United States Senate and House of Representatives, the Governor of Georgia, and each member of the Georgia Congressional Delegation."

A joint memorial adopted by the Legislature of the State of Idaho; to the Committee on Foreign Relations:

"SENATE JOINT MEMORIAL 115

"A joint memorial to the President of the United States, the Secretary of State of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States in Congress assembled, the Senators and Representatives representing this State in Congress, the Governors of the fifty States, and the Basque Government in exile in France

"We, your Memorialists, the Senate and House of Representatives of the state of Idaho assembled in the Second Regular Session of the Forty-first Idaho Legislature, do hereby respectfully represent that:

"Whereas, the history and traditions of this nation rest upon the principles of freedom from oppression and the rights of all citizens to life, liberty and the pursuit of happiness; and

"Whereas, we believe that democracy and freedom, when denied in one country stand threatened everywhere; therefore, it is our responsibility to bring to the attention of the people of the United States, and, we hope, to the people of the entire world that these very freedoms of the Basque people are threatened under the Franco regime in Spain today; and

"Whereas, the Basque people have a long and glorious history of personal accomplishment and a devotion to the preservation of their national heritage; and

"Whereas, the sole aim of the Basques, since human time began, has been to bar the world's wars, tribal, racial, religious, imperialistic or civil, from the tiny green mountain land which was their own before history began; and

"Whereas, no other country in the world holds the traditions of its forefathers so sacred as Euzkadi, as the Basques call their homeland; and

"Whereas, the Basques have been denied the rights to learn their own language, have been jailed, and have been denied their human rights by the Franco regime and are virtually threatened in their continued existance; and

"Whereas, the state of Idaho is known as the North American center of the Basque population; and

"Whereas, the Basques of North America have carried the traditions of their forefathers as honest and self-reliant peoples, possessing the basic elements of democracy, humanity, charity and mercy; and

"Whereas, the Basques of North America feel first they are Americans, and as such they feel for America as the Basques of Euzkadi felt for their country, which is: Gu Amerikarentzat eta America, Jaungekoarentzat. Which means We are for America, and America is for God.

"Whereas, in World II thousands of American lives were lost in a war which was precipitated from the Spanish Civil War, a war of genocide of the Basques, by the three dictators, Franco, Mussolini and Hitler; and

"Whereas, the Basques, who once enjoyed the oldest democratic republic in Europe, fought for the allies in World War II; and

"Whereas, over 2.4 billion dollars in aid has been given to Franco Spain for economic and military assistance since 1946 by the government of the United States.

"Now, Therefore, Be It Resolved by the Legislature of the state of Idaho that we voice our strong belief that as a nation we should reward our friends and not our enemies, and we deplore any free and democratic nation providing assistance to a ruthless, totalitarian government, directly or indirectly.

"Be It Further Resolved that we urge all steps be taken to cause the Spanish government to cease and desist the denial of the Universal Declaration of Human Rights of Man and insist that total general amnesty for all Basques and Spaniards now imprisoned or exiled for their political and social activities be extended by the Franco government.

"Be It Further Resolved that if such steps are not carried out, the President of the United States, the Secretary of State, and the Congress of the United States take all necessary steps to withdraw all foreign aid or benefits to the Spanish dictatorship.

"Bt It Further Resolved that the Secretary of the Senate be, and he is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the Secretary of State of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, the Senators and Representatives representing the state of Idaho in the Congress of the United States, the Governors of the fifty states of the United States, and to the Basque government in exile in France."

A joint resolution of the Commonwealth of Virginia; to the Committee on Interior and Insular Affairs:

"HOUSE JOINT RESOLUTION NO. 69

"A joint resolution memorializing the Congress of the United States to authorize a tour of the Liberty Bell throughout the United States

"Whereas, the Liberty Bell has long stood as a symbol of the ideals upon which this nation was founded; and

"Whereas, many of our young people have never seen the Liberty Bell or been properly educated to its principles; and

"Whereas, a reaffirmation of our allegiance to these principles will be beneficial to our Commonwealth and nation; and

"Whereas, a movement is underway to place the Liberty Bell on tour of the fifty states; now, therefore, be it

Resolved by the House of Delegates, the Senate of Virginia concurring, That the Congress of the United States be memorialized to authorized to direct that the tour be by way of highway transport in order that it may have the best possible access to as many American citizens as possible.

"Resolved further, That the Congress be memorialized to utilize to the fullest possible extent the offers of assistance from firms and organizations so as to cause no financial burden to the public.

"Resolved finally, That the Clerk of the House of Delegates is hereby directed to transmit a copy of this Resolution to the clerks of the United States House of Representatives and the United States Senate."

Resolutions agreed to by the Senate of the Commonwealth of Massachusetts; to the Committee on the Judiciary:

"RESOLUTIONS URGING THE CONGRESS OF THE UNITED STATES TO ESTABLISH A NATIONAL HUNTING AND FISHING DAY

"Whereas, Efforts are presently underway by the Congress of the United States to establish a National Hunting and Fishing Day on the fourth Saturday of each year, the Massachusetts Senate hereby recognizes the efforts of its resident hunters and fishermen in establishing fish and wildlife conservation programs that benefit game and nongame species alike; and

"Whereas, The sports of fishing and hunting are recognized as vital tools in helping to maintain healthy wildlife populations in balance with their habitat and natural food supplies; and

"Whereas, These citizens have contributed greatly to our Commonwealth's outdoor welfare, the conservation of our natural resources and the maintenance of a viable environment; now, therefore, be it

"*Resolved,* That the Massachusetts Senate, assembled in formal meeting this twenty eight day of March, 1972 in Boston, Massachusetts, does hereby urge the Congress of the United States to establish on the fourth Saturday of each year a National Hunting and Fishing Day; and be it further

"*Resolved,* That the Massachusetts Senate reaffirms its great concern for the future of conservation and its unswerving support of Massachusetts sportsmen in their efforts to mainstay fish and wildlife conservation; and be it further

"*Resolved,* That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth."

A concurrent resolution of the Legislature of the State of Oklahoma; to the Committee on the Judiciary:

"H. CON. RES. 1074

"A concurrent resolution memorializing Congress to take appropriate measures to curb Federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance; and directing distribution

"Whereas, it was ordained and established in Article III of the Constitution of the United States of America that the Supreme Court's appellate jurisdiction shall be subject to such exceptions and under such regulations as Congress shall make; and

"Whereas, under the existing provision in the framework of governing law of the country, Congress can except from the jurisdiction of the Supreme Court such subjects as it sees fit; and

"Whereas, under the existing provision in the Constitution, Congress can surely take appropriate measures to curb federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance; and

"Whereas, the time has come when it should be called to the attention of Congress, the members of the House, the members of the Senate and the people of this country, that Congress can presently, without awaiting any amendment of the Constitution, except appeals of questions concerning a public school system of any state or public school system of any political subdivision of any state from the appellate jurisdiction of the Supreme Court.

"Now, therefore, be it resolved by the House of Representatives of the 2nd session of the 33rd Oklahoma Legislature, the Senate concurring therein:

"Section 1. That the Congress of the United States of America be memorialized to take appropriate measures to curb federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance.

"Section 2. That duly authenticated copies of this Resolution be distributed to members of the House of Representatives and Senate, including the Oklahoma Congressional Delegation, and the President of the United States."

A resolution adopted by the Board of Chosen Freeholders, Passaic County, N.J., praying for the enactment of legislation relating to the assumption of the cost of the welfare and relief programs presently administered by the counties and municipalities; to the Committee on Finance.

A resolution adopted by the Suffolk County, N.Y., county legislature, declaring moral support for the President of the United States to aid him in the achievement of an honorable and satisfactory conclusion of hostilities in Southeast Asia; to the Committee on Foreign Relations.

A resolution adopted by the Common Council of the City of Buffalo, N.Y., praying for the enactment of legislation relating to a busing moratorium; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARTKE, from the Committee on Veterans' Affairs, without amendment:

S. 2013. A bill to amend chapter 21 of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans (Rept. No. 92–730).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 74. A concurrent resolution authorizing the printing of additional copies of Senate Report 92–634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971" (Rept. No. 92–731).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with an amendment:

S. Res. 286. A resolution to provide additional funds for the Committee on the Judiciary for routine committee expenditures (Rept. No. 92–732).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S. 3323. A bill to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood, and for other purposes (Rept. No. 92–733).

EXECUTIVE REPORTS OF COMMITTEES

Mrs. SMITH. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably two nominations. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered placed on the Executive Calendar, are as follows:

Maj. Gen. Vernon Anthony Walters, U.S. Army, for appointment as Deputy Director, Central Intelligence Agency; to be lieutenant general; and Maj. Gen. George Edward Pickett, U.S. Army, to be assigned to a position of importance and responsibility designated by the President; to be lieutenant general.

Mrs. SMITH. Mr. President, I also report favorably sundry nominations, for appointment in the Marine Corps and Marine Corps Reserve. Since these names have already been printed in the RECORD, I ask unanimous consent that they lie on the Secretary's desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Jesse L. Altman, Jr., and sundry other officers, for promotion in the Marine Corps;

Kenneth R. Allen, and sundry other officers, for permanent appointment in the Marine Corps Reserve; and

Lynn Adams III, and sundry other officers, for temporary appointment in the Marine Corps.

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Walter Charles Howe, of Washington, to be Deputy Director of Action.

S. 3345—ORDER FOR STAR PRINT

Mr. HARTKE. Mr. President, it has been brought to my attention that when I introduced S. 3345 on March 14, 1972, a portion of a sentence was omitted from the bill due to a typographical error. I ask unanimous consent that a star print of S. 3345 with the necessary corrections be made.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BELLMON:

S. 3456. A bill to provide access to the health facilities of the Public Health Service and the Veterans' Administration, and for other purposes. Referred to the Committee on Interior and Insular Affairs, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BELLMON:

S. 3456. A bill to provide access to the health facilities of the Public Health Service and the Veterans' Administration, and for other purposes. Referred to the Committee on Interior and Insular Affairs, by unanimous consent.

MEDICAL FACILITIES ACCESS ACT OF 1972

Mr. BELLMON. Mr. President, Oklahoma, like other States, has certain citizens who are entitled to receive medical care at Federal expense. Primarily these include members of Indian tribal groups and veterans of the armed services.

The Federal Government has attempted to meet this responsibility through the establishment of various federally supported medical facilities.

For sometime, I have been concerned about the difficulties experienced, particularly by Indians in my State, in obtaining needed medical treatment. In order to reach facilities maintained for Indian citizens, it is often necessary for them to travel long distances at considerable expense and sometimes at great risk to the patient. This is especially true when hospitalization is required.

Our office files contain many examples of the inconvenience and the loss of time and money caused by the present system. One letter in particular illustrates the unfair situation which exists and how it can jeopardize a person's health.

Mr. President, I ask unanimous consent that this letter from State Senator Allen G. Nichols of Wewoka, Okla., be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OKLAHOMA STATE SENATE, 11TH
SENATORIAL DISTRICT, SEMINOLE
AND HUGHES COUNTIES,
August 28, 1971.

Senator HENRY BELLMON,
Washington, D.C.

MY DEAR SENATOR BELLMON: I am enclosing a letter as a basis for this letter. John Coley is a young full-blood Seminole Indian working his way through school and several of us are assisting him. He was advised after his wife became pregnant, to appear at Shawnee for assistance from the PHS Indian Health Center. They examined her and advised him that he could expect the baby around August 12, 1971 but that he would have to take her from Wewoka to Claremore, Oklahoma. Assuming the correctness of their diagnosis he made plans to take her to Claremore a day or so ahead of time.

However these so called experts mis-calculated the date. And about ten days before the appointed time, in the night time, the baby made its appearance. It was physically impossible for him to drive more than a hundred miles to Claremore. So the only thing he could do was to immediately rush her to the Wewoka Memorial Hospital and the baby was born in a few minutes. They kept her there for a week or more and they submitted the bill to this Benign Agency at Shawnee and as you can see they answered him in a very enlightening manner to wit: That he failed to comply with some rule and therefore they *declined* to pay the Hospital bill!

I explained to these Indians that we had one Senator in Washington who is not an Indian but that he is a great friend to all Indians and I am sure you will live up to my recommendations. I wish you would immediately turn the heat on that bunch of folks up there and let them know they ought to be penalized in mis-judging the arrival of this baby. In view of the fact that they fixed Hospital services more than a hundred miles away. There is no way this Indian boy can pay this bill except to quit school and get a job. I am counting on you in getting the job done.

Sincerely Your Friend,

ALLEN G. NICHOLS.

Mr. BELLMON. Mr. President, to some extent, the same problems faced by Indian families also exist for veterans.

The result is that under the present narrow methods of administering these special Government health facilities, an Indian living in a city where the Veterans' Administration has a hospital may not use that facility, but rather is required to travel to another locality where the Public Health Service operates a facility for Indians.

Conversely a veteran living in an area where an Indian hospital is located is denied services at that federally supported institution and is forced to travel, often long distances at great expense, to a veterans hospital.

Moreover, certain federally supported medical facilities are located in remote and thinly populated areas where private or municipally operated medical facilities are totally lacking. Under those circumstances it is not at all uncommon for an American citizen whose taxes are supporting a Federal medical facility in the area to be denied access and be forced to go elsewhere to obtain necessary medical treatment.

Mr. President, in an effort to correct these inequities, I am today introducing legislation to provide better access to health facilities for Indians and veterans and eliminate the necessity for using only certain designated facilities. It also would allow Indians and veterans to obtain medical care at non-Government facilities on a cost reimbursement basis, and would make it possible for citizens not entitled to Government medical care to obtain treatment at a Government facility at their own expense.

Mr. President, this bill will greatly improve health conditions for our Indian citizens and eliminate much of the frustration encountered by both Indians and veterans in obtaining the care to which they are entitled. It also will result in better utilization of our tax-supported hospitals and clinics and will help to solve the problem of providing adequate medical care for citizens who live in rural areas of the country.

This bill provides for a credit card system to simplify administration and it is not anticipated that it will cost the Treasury any additional funds because it will make use of existing facilities and will provide for reimbursement by private citizens who use Federal facilities.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD, and further that the bill be referred to the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medical Facilities Access Act of 1972".

SEC. 2. (a) Section 322(a) of the Public Health Service Act is amended by striking the period at the end of paragraph (8), and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(9) an Indian who is (A) an enrolled member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or an individual who is a descendant, in the first or second degree, of any such enrolled member; (B) an individual who is considered by the Secretary of the Interior to be an Indian for any purpose; (C) an individual who is an Eskimo or Aleut or other native of Alaska.

(b) Section 332(d) of such Act is amended to read as follows:

"(d) The Secretary, within the limits of the Service facilities shall furnish care and treatment to any person not otherwise entitled to such care and treatment if—

"(1) such person would be eligible for such care and treatment in a Veterans' Administration facility; and

"(2) lives in an area remote from or extremely inconvenient to a Veterans' Administration facility and a Service facility is closer or more convenient to the residence of such person."

(c) Section 322(e) of such Act is amended by inserting immediately after the word "under" the following: "paragraphs (1) through (8) of".

(d) Section 322 of such Act is amended by adding at the end thereof the following new subsections:

"(f) Persons entitled to care and treatment under paragraph (9) of subsection (a) shall be issued a medical care card by the Secretary. Such card shall contain such information as the Secretary deems appropriate to indicate that the person to whom it is issued is eligible to receive care and treatment at the expense of the Service in public or private medical or hospital facility if he would be eligible for such care and treatment in a Service facility and such facility, or a facility of the Veterans' Administration is not reasonably accessible to such person.

"(g) Persons not otherwise entitled to treatment and care at institutions, hospitals, stations, or other Service facilities may, in accordance with regulations promulgated by the Secretary, receive such treatment and care when such institution, hospital, station, or other facility is the only facility reasonably accessible to such persons. Persons receiving care and treatment under this subsection shall be charged at rates established to reflect the reasonable cost of providing such care and treatment.".

SEC. 3. Chapter 17 of title 38, United States Code, is amended by adding at the end of subchapter III the following new subsections:

"§ 628. Hospital care and medical services provided in areas remote from Veterans' Administration facilities; medical care cards; eligibility of Indians

"(a) Subject to such regulations as the Administrator shall prescribe, a veteran may obtain such hospital care and medical services as he needs at the expense of the Veterans' Administration from private facilities if he would be eligible for such care and services in a Veterans' Administration facility and (1) he lives in an area remote from or extremely inconvenient to a Veterans' Administration facility, or (2) such hospital care or medical service can be provided at a cost equal to or less than the cost at which such care or service could be provided at the nearest Veterans' Administration facility.

"(b)(1) The Administrator shall provide for the issuance of a medical care card to any veteran who makes application therefor and who is eligible for hospital care and medical services from the Veterans' Administration. Such card shall contain such information as the Administrator deems appropriate to indicate that the veteran to whom it is issued is eligible to obtain specified hospital care and medical services at the expense of the Veterans' Administration.

"(2) The Administrator shall make such arrangements as may be necessary to pay persons and facilities which furnish hospital care and medical services to veterans eligible to obtain such care and services from private facilities at the expense of the Veterans' Administration.

"(c) The Administrator, within the limits of Veterans' Administration facilities, shall furnish hospital care and medical services to any Indian in need thereof if such Indian (1) would be eligible for such care and services in a Public Health Service facility, and (2) lives in an area remote from or extremely inconvenient to a Public Health Service facility and a Veterans' Administration facility is closer or more convenient to the residence of such Indian. Hospital care and medical services shall be furnished Indians under this subsection in accordance with such rules and regulations as the Administrator shall prescribe but only to the extent that the furnishing of such care and services does not adversely interfere with the furnishing of such care and services to veterans.

"(d) Persons not otherwise entitled to hospital care and medical services from a Veterans' Administration facility, may (to the extent that the furnishing of such care and services does not adversely interfere with the furnishing of such care and services to veterans) in accordance with regulations promulgated by the Administrator, receive such care and services when such facility is the only facility reasonably accessible to such persons. Persons receiving care and services under this subsection shall be charged at rates established to reflect the reasonable cost of providing such care and treatment.".

MEDICAL FACILITIES ACCESS ACT OF 1972—SECTION-BY-SECTION ANALYSIS

1. Section 2(a) by amendment to the Public Health Service Act establishes for the first time the right of Indians to health care in *any* Public Health Service Facility, rather than just those facilities transferred to the Public Health Service from the Bureau of Indian Affairs (68 Stat. 674).

2. Section 2(b) provides for the care and treatment of veterans in Public Health Service facilities where such facilities are more accessible than a Veterans' Administration facility.

3. Section 2(d) provides that Indians shall be issued medical care cards which shall entitle the holder to receive care and treatment at the expense of the Public Health Service from public or private facilities if he would be eligible to receive such care and treatment from a Public Health Service facility or a Veterans' Administration facility but such facilities are not reasonably accessible to such Indian.

4. Section 2(d) also provides that persons not otherwise entitled to care or treatment at Public Health Service facilities may receive such care if such facility is the only facility reasonably accessible to such persons. Persons receiving such care shall have to pay a reasonable charge covering the cost of such care.

5. Section 3 amends title 38 of the United States Code to provide that—

(1) Veterans may obtain medical care at the expense of the Veterans' Administration from public or private facilities where a Veterans' Administration facility is not reasonably accessible to such veteran;

(2) Upon application therefore, veterans shall receive a medical care card which shall

entitle the holder to the private care described above;

(3) The Administrator of the Veterans' Administration is authorized to furnish medical care to Indians in a Veterans' Administration facility where such facility is more accessible than a Public Health Service facility. Such services shall not interfere with the furnishing of services to veterans.

(4) The Administrator is authorized to provide medical care in a Veterans' Administration facility to any person where such a facility is the only facility reasonably accessible to such person, to the extent such care does not interfere with the care of veterans. Persons receiving such care must pay reasonable charges covering the cost of such care.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2871

At the request of Mr. Williams, the Senator from Michigan (Mr. Griffin) was added as a cosponsor of S. 2871, the Marine Mammal Protection Act of 1971.

S. 3083

At the request of Mr. Hartke, the Senator from California (Mr. Tunney) was added as a cosponsor of S. 3083, the Truth-in-Food Labeling Act.

S. 3136

At the request of Mr. Schweiker, the Senator from Missouri (Mr. Eagleton), the Senator from Illinois (Mr. Stevenson), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) were added as cosponsors of S. 3136, a bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the amount of lead and cadmium which may be released from glazed, ceramic or enamel dinnerware.

S. 3139

At the request of Mr. Chiles, the Senator from Indiana (Mr. Hartke) was added as a cosponsor of S. 3139, a bill to authorize acquisition of the Big Cypress National Fresh Water Reserve in Florida.

S. 3302

At the request of Mr. Pearson, the Senator from Tennessee (Mr. Baker) and the Senator from Missouri (Mr. Eagleton) were added as cosponsors of S. 3302, a bill to amend the Airport and Airway Development Act of 1970 in order to make certain airports where the landing area is owned by the United States or an agency thereof eligible for assistance under such acts.

S. 3322

At the request of Mr. Hartke, the Senator from Oklahoma (Mr. Harris) was added as a cosponsor of S. 3322, a bill to amend the Internal Revenue Code of 1954 to encourage State and local governments to decrease their reliance on real property taxes as the principal means of funding expenditures for education by allowing a credit against Federal income tax for State and local income taxes imposed to fund such expenditures.

S. 3338

At the request of Mr. Talmadge, the Senator from Texas (Mr. Tower) and the Senator from North Carolina (Mr. Jordan) were added as cosponsors of S. 3338, to amend title 38, United States Code, to increase the rates of compensation for disabled veterans, and for other purposes.

S. 3357

At the request of Mr. Mondale, the Senator from North Dakota (Mr. Burdick), the Senator from Washington (Mr. Jackson), and the Senator from Maine (Mr. Muskie) were added as cosponsors of S. 3357, a bill to provide price support for milk at not less than 85 per centum of the parity price therefor.

S. 3382

At the request of Mr. Javits, the Senator from Colorado (Mr. Dominick) was added as a cosponsor of S. 3382, the Gifted and Talented Children's Education Assistance Act.

S. 3407

At the request of Mr. Williams, the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Humphrey), the Senator from Maine (Mr. Muskie), and the Senator from Hawaii (Mr. Inouye) were added as cosponsors of S. 3407, a bill to amend the Education of the Handicapped Act to provide for improved opportunities for handicapped persons, and for other purposes.

SENATE CONCURRENT RESOLUTION 75—SUBMISSION OF A CONCURRENT RESOLUTION TO URGE EACH AMERICAN FAMILY TO PLANT A VEGETABLE GARDEN

(Referred to the Committee on Agriculture and Forestry.)

Mr. ALLEN. Mr. President, our Nation is taking stern measures to fight inflation. We are making massive efforts to combat malnutrition and we are working steadily to promote physical fitness. We are using massive governmental machinery to achieve our aims. However, there is available to us a most effective means for achieving all these goals. We cannot afford to overlook it merely because of its simplicity. I refer to the family vegetable garden.

With a vegetable garden, the family can help fight inflation and outflank and roll back increasing food prices. At the same time the family can insure better nutrition and can enjoy the benefits of healthful fun and exercise together.

Mr. President, there is an honored and most successful precedent for encouraging the use of the family garden. During World War II, the President of the United States urged us to plant victory gardens to help win the war against fascism. Why not plant victory gardens to help win the war against inflation, malnutrition, and poor health?

Self-help is the American way, and vegetable gardens are just as important to Americans in the war against inflation as they were in the war against fascism. They will increase the food supply and reduce the cost of the family meal. They will increase the supply of vegetables and thus reduce the demand in the marketplace and thus help bring down prices which must be paid by those without space for a garden. They will provide natural vitamins for family nutrition, and they will provide wholesome exercise for members of the family. On top of that, working together in the garden will bring families together in a common cause in our war against inflation.

Mr. President, the American way is to take positive action, with every American pulling and working together. It is already recognized that self-help can be much more effective than just passing laws.

Mr. President, Reader's Digest has published a condensation of an article entitled "Backyard Gardens Are Back in Style," from Empire in which the distinguished Representative from South Carolina (Mr. Dorn) is cited for his great interest in gardening and for gardening's beneficial effects for him.

Mr. President, I commend the Reader's Digest condensation to the consideration of the Senate. It is timely and most interesting. I request unanimous consent that the article be printed in the Record.

I also send to the desk for appropriate reference a resolution urging the planting of gardens, and I ask unanimous consent that the resolution be printed in the Record.

There being no objection, the article and concurrent resolution were ordered to be printed in the Record, as follows:

Backyard Gardens Are Back in Style

Behind their duplex apartment in Watertown, Mass., John and Jane Nagy maintain a vegetable garden richly fertilized with leaves, plus vegetable and fruit parings. Their plot is postage-stamp size, but super productive.

Nearly every weekend, Rep. W. J. Bryan Dorn (D., S.C.) dashes out of the House Office Building in Washington to catch a plane to Columbia, then drives to his home outside Greenwood. Minutes later, he has changed clothes and is in his one-acre garden. "You'd be surprised," he says, "how quickly complicated questions of state straighten themselves out between rows of okra and corn."

The John Meekers of Gilroy, Calif., owned a strip of "useless" clay 18 inches wide by 42 feet long between their driveway and their neighbor's. It's useless no longer; the Meekers mixed in leaves, grass clippings and the end product of a small compost pile, and now have a "vertical garden" of artichokes, tomatoes, cucumbers and pole beans.

The Nagys, Congressman Dorn and the Meekers are representative of a rapidly growing tribe of home gardeners reviving the good old American custom of growing at least part of their food in their own backyards. In the process, they get needed excercise save money and have fun; *and* they enjoy the tender, tasty perfection of truly fresh vegetables—which no frozen, canned or store-bought variety can possibly approach. At a time when the number of commercial farms is declining toward a rock-bottom minimum, when the cost of eating has never been higher, sales of garden supplies, seeds and nursery stock are soaring. According to Burpee's, the leading seedsmen, there are today more home gardens than at the height of the World War II Victory Garden fever.

Part of the appeal of growing your own food comes directly from the feeling that you are working in harmony with the forces that underlie and sustain the universe. This spiritual dimension, once present in all agriculture, until recently seemed doomed by the whole concept of "agribusiness." Now, led by the home organic gardener, it is surging back—and is increasingly present even in the ranks of commercial farmers.

The organic approach—that everything comes from, and so should be returned to, the soil—is central in today's fight to protect our environment.[1] By recycling into backyard gardens grass clippings, leaves and the decomposable garbage every family produces, home gardeners appreciably relieve the burden on our nation's overburdened sanitary landfills and incinerators and, ultimately, on the atmosphere that surrounds us. At the same time, by utilizing nature's own pesticides, they are helping to reduce the tonnages of persistent chemicals that are poisoning our land and water, and endangering man and animal alike by entering the food chain.

If *you* want to discover the thrill of totally fresh produce, and the feeling that you're working with, rather than against, nature, it's easy to hop on the backyard-garden bandwagon. Here's how:

Soil. The successful growing of anything starts with proper soil preparation. Pick a sunny location, spade it thoroughly and then dig in all the undecomposed organic material—leaves, grass clippings, peat moss, straw or hay, etc.—you can beg, borrow or buy. (Presumably, as a beginning, you will not have any humus, the rich—and agriculturally desirable—end product of a compost pile.) Since this has a tendency to make the soil acid, a little groundup agricultural limestone will also be beneficial. Cultivated into the soil, the organic material attracts bacteria and tiny funguses which break down the cellulose and other fibers into constituent nutrients and thus feed the roots of your plants.

Unfortunately, these organisms themselves are heavy users of nitrogen, and while they're on the job they compete with your crops for nitrogen. To reduce this competition, many home gardeners add to their uncomposted material either a natural source of nitrogen, such as the bone meal or dried slaughterhouse blood preferred by organic purists, or a shovel or two of the least expensive 5–10–5 chemical fertilizer. (In two or three years, if proper soil practices are followed, a rich, humusy soil will result, and such "artificial" fertilizing can then be eliminated.)

The amount of space you have determines what you can grow. But remember this: a soil rich in the necessary nutrients will support an amazing number of plants crowded close together. A space no bigger than a pool table is still large enough for a salad garden of lettuce, radishes, onions or chives, plus a few staked-up tomato plants. As your space grows, so can your ambition.

Mulch. Whatever your garden size, you'll want to eliminate cultivating and weeding as much as possible. Even if you had the inclination, today's home gardener lacks the time for clean cultivation; often he has to leave for work before eight five mornings a week. So, as soon as his seedlings can be identified, he pulls out the weeds once and for all and fills in the space between his vegetable rows with a mulch. For this purpose, because it will eventually decay into humus, he uses a thick layer of undecomposed organic matter (again, such things as grass clippings, leaves, sawdust, wood chips, even three or four sheets of newspaper overlapped away from the prevailing wind and weighted down with a little earth).

The ultimate in mulching—and composting—is the permanent mulch system, wherein mulch is added at the top as fast as it decays below. Instead of annual plowing or spading to aerate the soil and work the humus in, you let earthworms do this for you on a continual basis. They burrow as much as six feet down, loosening and aerating the soil with their tunnels and fertilizing it with their castings. At planting time, under this system, the gardener simply pulls aside the undecomposed mulch and plants his seeds; when the seedlings come up, he returns the mulch.

Pests. Once your crops are in, your next concern is to keep them from being eaten by pests. Everything you have done so far has been conducive to pest control because healthy soil tends to produce disease- and pest-resistant plants. But you are still vulnerable.

The first thing is to encourage your natural allies, from songbirds and hoptoads to the predator insects—ladybugs, praying mantises, lacewing flies, tiny Trichogramma wasps, etc.—that neither bother people nor harm crops.

If natural predators aren't taking care of the problem, organic gardeners suggest trying some home remedies used by gardeners and farmers in previous centuries. These range from a strong solution of salt and water dashed on cabbage worms, to flour and water thrown on mites and other soft-bodied insects, to plain old water sprayed on aphids. For slugs, a bane in warm, wet weather, you can simply sink shallow pans of stale beer into the ground—the slugs will head for the bar, fall in and drown.

Other alternatives to insecticide spraying include: interplanting strong scented herbs, chives, onions, lavender, tansy, oregano—with food crops subject to infestation; companion planting of crops that repel each other's worst enemies—potatoes mixed with beans for example; or planting varieties of vegetables known to be immune or resistant (most seed catalogues call attention to such varieties).

All of these practices have the virtue of not poisoning the soil, pets or children. As a last resort, you may have to use such commercially available insecticides of vegetable origin as rotenone or the pyrethrins. These are potent killers, but at least they do not degrade the environment.

Even with the depredations of insects, chances are that your garden will produce more than your family can eat or, at times, even give away. And don't forget—gardening offers food for the soul as well as the body.

S. CON RES. 75

Whereas inflation, nutrition, physical fitness, and recreation are national concerns;

Whereas a family can save on food costs, fight inflation, improve nutrition, get healthful exercise, and have fun together by planting a vegetable garden;

Whereas many citizens of the nation have already realized the many advantages of planting a vegetable garden; and

Whereas the pleasure, profit and fulfillment of growing your own vegetables has been recognized by publications with worldwide circulation;

Whereas patriotic citizens planted victory gardens during World War II at the urging of the President of the United States for the purpose of conserving national resources and combating inflation;

Whereas our nation is currently engaged in battle against the ravages of inflation and malnutrition, and vegetable gardens are a potent weapon against both;

Whereas the American way of fighting a problem is not boycotts and is not mere passing of laws, but is self-help and unity in pulling and working together; and

Whereas the planting of vegetable gardens will provide more food for the family's budget and will increase the vegetable supply and bring food prices down for apartment dwellers without space for gardens: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That each American family is urged, where practicable, to plant a vegetable garden for the purpose of fighting inflation, saving money, getting exercise, and having the fun and pleasure of family vegetable growing.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 66

At the request of Mr. PEARSON, the Senator from Tennessee (Mr. BAKER) and the Senator from Oklahoma (Mr. HARRIS) were added as cosponsors of Senate Concurrent Resolution 66, expressing the sense of Congress that the United States should negotiate for the use of foreign currencies to pay Peace Corps expenses to countries where these currencies are held.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 232

At the request of Mr. CHILES, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of Senate Resolution 232, expressing the sense of the Senate that the remainder of the amount appropriated for the rural electrification program for fiscal 1972 be released immediately by the Office of Management and Budget.

WAR POWERS ACT—AMENDMENT

AMENDMENT NO. 1106

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 998 AND 999

At the request of Mr. CHURCH, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 998; and the Senator from Alaska (Mr. GRAVEL), the Senator from Nevada (Mr. CANNON), the Senator from Montana (Mr. METCALF), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 999, both amendments intended to be proposed to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

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[1] *An Agricultural Testament*, by famed British botanist Sir Albert Howard, is the Bible for all advocates of organic methods.

AMENDMENT NO. 1100

At the request of Mr. STEVENSON, the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of amendment No. 1100 intended to be proposed to the bill (S. 3193) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

AMENDMENTS NO. 410

Mr. KENNEDY. Mr. President, recently before the Senate Commerce Subcommittee on Environment, the Environmental Protection Agency disclosed that disease-producing viruses had been found in the drinking water of two Massachusetts cities—Lawrence and Billerica. While we have been assured that this discovery represents a scientific breakthrough in detection techniques as opposed to a cause for alarm, it seems clear that the isolation of virus in drinking water is a final warning signal that congressional action is imperative if the quality of our drinking water is to be improved to meet health and safety standards.

Senator HART has introduced amendment No. 410 to S. 1478, legislation calling for minimum national drinking water standards, a meaningful national research and development program, and financial and technical assistance to State and local governments for planning, training, and the development of new methods of water treatment. As a result of hearings in both the House and the Senate, I am hopeful that the legislation will be amended to include adequate, uniform, and timely publication of water quality information to the public. I am happy to cosponsor amendment 410, and I look forward to favorable action by the Senate and the House on this legislation crucial to our national health.

There are three prevalent misconceptions surrounding the history of water quality in the United States:

First, that we have adequate treatment methods and facilities and a resultant, clean, healthy water supply;

Second, that recent efforts to curb pollutants poured into our rivers and streams, raw water sources, means that the flood of chemicals, bacteria, and viruses will be sufficiently controlled and eliminated; and

Third, that preventive measures are somehow less important, or of less priority for our national health than curative methods.

The history of water quality control in this country indicates that our early, effective efforts to provide clean drinking water met with great success, and this in part accounts for the satisfied, unconcerned reaction of many of our citizens to the suggestion that the water they drink may be of inferior quality. Water treatment methods effectively wiped out typhoid and dysentery from waterborne sources as long ago as the 1930's. Since that time, research has been less than adequate on the disease-producing contaminants in our water supplies and the inadequacy of our water treatment facilities and methods. While our population has grown, our water sources have grown smaller and dirtier. While our technology has put us on the moon, no new, effective type of water facility, maintenance and operation has been developed. And while we have endlessly researched new and better televisions, and washing machines, and vacuum sweepers, no new method of treatment to eliminate viruses from drinking water has been advanced.

What little information is available on the quality of our drinking water has not been sufficiently disseminated, and I think most American citizens would be shocked at its implications. A Government study showed:

First, 5.4 percent of the national population are being delivered "potentially dangerous drinking water";

Second, 40 million persons are delivered water which exceeds recommended limits; and

Third, 274,000 persons of the 82 million served by interstate water supplies are consuming water now prohibited under interstate quarantine regulations.

Many water treatment facilities from coast to coast are understaffed, inadequately funded, poorly operated and maintained. Operation and maintenance personnel often lack sufficient training and expertise in the field of water quality control. In an EPA study, 77 percent of water facility operators involved in the study had been inadequately trained.

While we have seen the Federal Government role in the regulation of drugs, foods, air pollution, mine safety and solid waste management, Federal participation and direction in the area of drinking water has been limited by lack of funds and authority. EPA has been limited to the regulation of interstate water supplies. For example, on March 17, 1972, EPA issued a prohibition against the use of water from Cordova, Alaska, aboard interstate carriers—trains, planes, buses. But no authority exists for a Federal governmental role in water supplies within a community. The lack of public concern, the absence of citizen demand for pure drinking water supplies can be traced directly to the lack of information obtained or disseminated concerning the local supply.

The Community Water Supply Study of July 1970 showed that 79 percent of the 969 water systems studied had not been inspected by any State official in the year prior to the study. And 56 percent of those could not remember a State official ever visiting the water treatment facility. EPA estimates that the States should be spending at least $30 million a year on water supply systems, just to keep pace with increasing population and ever-increasing pollution. But the States are currently spending one-third of that.

Water pollution control efforts—that is the regulation of pollutants on raw, untreated water in our rivers and lakes—have amassed tremendous support and Federal funding. Over a billion dollars has been spent on these sources of about 50 percent of our drinking water. But last in this intensive effort to clean up our rivers and streams is the concern for the other half of the problem—supplying clean drinking water by effective treatment of this raw water supply before it reaches our taps. If all pollutants were stopped today from being dumped into our waters—the problems of water treatment would still be with us. It is not only the chemical components from industrial wastes that affect our drinking water, it is bacteriological and viral factors which must concern us as well.

In 1965 in Riverdale, Calif., 16,000 residents became ill and three died from salmonela in the drinking water. In 1969, 30 percent of the population in Angola, N.Y., contracted gastroenteritis from the drinking water supply. And in 1969 in my own State of Massachusetts, the football team from Holy Cross was downed with a 66-percent infectious hepatitis rate from a faulty water delivery system.

And chlorine which has been found effective as a disinfectant for bacteria is generally less effective on virus control. Current methods of water treatment appear to be insufficient based on the limited research on virus in drinking water to date. The waste treatment plants servicing Lawrence and Billerica, Mass., are considered of superior quality—yet initial testing found virus in both supplies. Only three systems in the United States have been tested and no technology yet exists for an efficient, noncumbersome, effective, and quick way to test for virus.

Perhaps even more shocking is the fact that 20 million Americans have no water in their homes. They must pay excessive amounts for water, sometimes haul it over long distances, sometimes from muddy and dirty sources.

I have long been involved in the effort to assure every citizen in the United States the delivery of adequate medical care, and I have worked to fund the research and development of curative treatments, especially in cancer and heart disease. But we must concern ourselves also with the prevention of disease. As Drs. Wilheim Huepr and W. D. Conway pointed out:

> The most common and often prolonged and therefore the most dangerous contact with carcinogenic cancer-producing pollutants occurs when water thus contaminated is used for drinking purposes and the preparation of food.

And EPA pointed out that the major cost of waterborne disease is probably not the cost of medical treatment or even time lost from work, but the 365 days spent each year in semiproductive work due to chronic illness.

Amendment 410 to S. 1478, which the Senate will hopefully consider soon, establishes minimum drinking water standards, provides research funding, gives grants to the States to develop effective water programs. I cannot think of a more basic right of American citizens than the right to safe, clean drinking water. And as public awareness grows on the current state of our drinking water supply, our constituents will demand immediate and effective participation by the Federal Government to assure this right. I am happy to join as a cosponsor of this legislation which may be the single most important step we take to insure our citizens that they have a right to this most basic of human needs—healthy drinking water.

ANNOUNCEMENT OF HEARINGS ON S. 1928

Mr. BURDICK. Mr. President, at the request of the Senator from Washington (Mr. JACKSON), I ask unanimous consent to have printed in the RECORD a statement by him announcing hearings on S. 1928.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR JACKSON

For the information of the Senate and the public I announce that the Public Lands Subcommittee of the Committee on Interior and Insular Affairs will conduct hearings on S. 1928, to amend the Wild and Scenic Rivers Act by designating a segment of the Saint Croix River, Minnesota and Wisconsin, as a component of the national wild and scenic rivers system.

The hearings will be held on April 14, commencing at 10 a.m. in Room 3110, New Senate Office Building.

Any person who wishes to testify should notify the Committee staff in order that arrangements can be made.

NOTICE OF HEARINGS BY THE SUBCOMMITTEE ON SECURITIES

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs will hold hearings on the bills, S. 1164 and S. 3347, to provide institutional access to national securities exchanges.

The hearings will be held for 4 days, April 18 through April 21, and will commence at 10 a.m. each day in room 5302, New Senate Office Building.

Persons wishing to testify or to submit written statements in connection with this legislation are requested to contact Mr. Stephen J. Paradise, Senate Committee on Banking, Housing and Urban Affairs, room 5300, New Senate Office Building, Washington, D.C. 20510; telephone 225-7391.

ADDITIONAL STATEMENTS

FAILURE OF PRIVATE PENSION PLANS TO PROVIDE RETIREMENT BENEFITS

Mr. WILLIAMS. Mr. President, on Sunday, March 19, 1972, the New York Times magazine published an article concerning the failure of many private pension plans to provide retirement benefits to those employees who had expected to receive them. This timely article coincides with the publication of a report by the Subcommittee on Labor's pension and welfare study, in which the subcommittee finds, among other things, that various deficiencies and hardships are inflicted upon working men and women as the result of the lack of mandatory requirements or controls in the operations of plans. I ask unanimous consent that "The Case of the Disappearing "Pension" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CASE OF THE DISAPPEARING PENSION

(By Fred J. Cook)

WASHINGTON, D.C.—Joseph Origlio, short, stocky, his English larded with a heavy accent, spent more than 40 years pursuing the American dream, and the failure of that dream has now driven him to seek refuge across the ocean in his native Italy. His story symbolizes the fate that has overtaken countless American workers who have faced old age and retirement confident that they would be well protected by pension plans in which they had participated most of their working lives—only to find at the last, irretrievable instant that their promised pensions were a mirage.

More than 30 million working men and women, about half the American labor force, now belong to private pension plans that have accumulated an enormous $135-billion in assets, roughly twice the amount of mutual-fund holdings and one of the largest reservoirs of unregulated wealth in the American economy. Probably in no other phase of American life has the fine print in infinitely complex and virtually incomprehensible contracts resulted in such widespread tragedy, and it is hardly any exaggeration to say, in paraphrase of Winston Churchill, that never has so much done so little for so few.

After an intensive, two-year study of American pension plans, a subcommittee of the U.S. Senate's Labor and Public Welfare Committee has prepared remedial legislation that will soon be sponsored by Senator Harrison A. Williams, Jr., the New Jersey Democrat who is chairman of the committee, and Senator Jacob Javits, the New York Republican and Williams' active partner in the pension study. In a joint statement at the end of February, the two Senators said the passage of their pension-reform bill was necessary during this session of Congress. Many private pension plans, they said, have been subject to financial abuse and as a result, "the just expectations . . . of many American workers have failed to materialize, and they are left with financial insecurity at that twilight stage of their lives."

A couple of studies made by the committee's staff show the dimensions of the problem. One analysis of 51 pension plans covering 6.9 million workers found that, since 1950, only 4 per cent received "any kind of normal, early or deferred" benefits. The second study of 36 better-structured plans covering 2.9 million workers concluded that, even here, only 8 per cent received normal, anticipated benefits.

Such figures indicate that 92 to 96 per cent of the 30 million "covered" American workers are not getting their retirement benefits (though it must be added that of those who forfeited their benefits, 85 per cent in one study and 80 per cent in the other had five years' service or less.) It has become common in negotiating labor contracts to accept a lower hourly wage increase in return for better "fringe" benefits, especially pension protection. But the files of Senator Williams' subcommittee and the public testimony it has taken are filled with pathetic stories of workers who had relied on the pension promise as a bedrock guarantee, then found that it was as evanescent as the proverbial pot of gold at the end of the rainbow.

How can this happen? The individual stories illuminate the virtually infinite ways it can happen and the many booby traps that exist in pension-plans fine print. This, for example, is the way it happened to Joseph Origlio:

Origlio was born in Messina, Sicily, in 1904. His wife comes from Palermo. In 1929 they emigrated to the United States, seeking the better life. Origlio was a skilled craftsman, a maker of fine shoes, and he worked steadily for shoe factories in New York City. He was a charter member and one of the founders of the United Shoe Workers of America. For 23 years he piled up pension credits, and he and his wife, who worked part of this time in dress factories in Brooklyn, began to make plans for their retirement.

They purchased about an acre of land on the outskirts of Lakewood, N.J., had a cellar dug and a foundation put in and roofed over. Then, on weekends, they worked to finish a basement apartment in which they could live. They expected to raise their retirement home above these basement quarters, finishing off the interior themselves.

But automation hit the shoe industry in 1959 and changed the life of Joseph Origlio. Along with many others, he was thrown out of work, and he was then 55, an age that made it almost impossible for him to catch on with a new employer in a labor-glutted market. For three years and 10 months—those 10 months were vital, as it turned out—Origlio was unemployed. Then the business agent of Local 60 of the United Shoe Workers found a job for him with the Evans Shoe Company in New York. During the jobless years, Origlio had found it impossible to keep up his union dues. Once he was working again, he offered to pay the back dues but he was told that all he need pay was a $15 reinstatement fee. Reassured, he worked from 1963 to 1970 and continued making retirement plans.

A one-and-a-half-story house was framed in above the basement apartment in Lakewood, and Origlio, his wife and friends finished off the interior. New furniture was purchased, and by 1970 the Origlios were ready for retirement. They knew that they could not live on their monthly Social Security payment of around $300; Origlio had a heart ailment, and medication was expensive. But, they thought, they did not have to worry. With the pension and Social Security they would be all right.

Then the pension vanished. The fine print in the union-administered pension plan called for 25 years of continuous service. Origlio had had only 23 when automation did him in. The pension plan, it was true permitted a break if a worker was unemployed—but only for three years, and Origlio had been out of work those extra 10 months. As a result, he forfeited everything.

An investigator for Senator Williams's committee went to Lakewood to interview Origlio and his wife "Their home was new and spotless," he says. "The furniture was all new and protected by plastic slip covers. They were a devoted couple; he wouldn't even think of leaving her for one day to come to Washington to testify. Besides, they had worked out a plan. Living costs are much lower in Italy. If they went there, they would still have their Social Security payments, they could rent their retirement home for a good price and the combined incomes would let them live comfortably. They had their passage to Italy already booked—and they sailed."

Joseph Origlio and his wife are still in Italy, and it seems unlikely they will ever return to America, the land of their youthful dreams.

Such individual tragedies happen—thousande of American workers are in situations far worse than Joseph Origlio's—because there is no regulatory legislation worthy of the name and because the chaotic pension-plan system, as it now exists, puts a premium on sharp practice. The only covering legislation was passed by Congress in 1959 in the Welfare and Pension Fund Disclosure Act. As the title implies, this act required merely that pension plans be registered with the U.S. Department of Labor as some 34,000 of them now are; but it established no rules and no checks on the operations of such plans, no provisions for the insurance and safety of the funds, no guarantees for the protection of workers.

The result has been widespread chicanery. Senator William's committee has carefully refrained from hurling sensational accusations, taking the attitude that it is merely hunting for the facts. But some of the facts it has uncovered are devastating.

In a report issued in November, committee investigators cited some typical examples. A joint union-employer pension plan in the transportation industry "has some $800,000 in loans outstanding for which there is no collateral"; a large data-processing manufacturing company has invested pension funds "in unsecured loans to the extent of $41,171,580." A major mining company has been operating since 1952 a pension plan that has $33.3-million in assets, but $107-million in pension liabilities; a major Southern utility company, after 26 years of pension-plan operation, has accumulated $66-million in fund assets, but is liable for $133.5-million in benefits. A couple of transit companies have hit upon a scheme under which each has used some $2-million in pension-fund moneys to underwrite its own mortgages or real-estate investments. A Midwest cable corporation has in the last five years charged off to "administrative costs" more than 33 per cent of the amount it has paid out in benefits. A Midwest utility company has reduced its pension-plan contributions by some $20,000 annually since 1962 as the result of "actuarial gains" made because workers who left the company and the plan retained no "vested interest" in their pension contributions.

This last angle is the crux of much pension-plan finagling. As many plans are operated—and it doesn't make much difference whether they are run by management or a union or by a joint union-management board—the self-serving interpretation of fine-print regulations can cost workers the protection they believed they had earned during years of service. The more pensions sacrificed in this fashion, the more money is left for fund managements to play with and the less the employer has to contribute to keep the fund solvent.

Two technical terms assume importance here. One is "vesting," the other "portability." Vesting means simply that a worker who has labored for a single company for years, participating in its pension plan, is guaranteed the benefits he has accumulated and the right to begin drawing them when he reaches retirement age. Many plans have no provisions for vesting; if one company is merged into another, if there is an economy cutback and a worker loses his job, if he has to move for health or family reasons, he loses all. Even plans that have so-called vesting privileges often hedge them with so many restrictions that they become worthless. A plan may provide, for instance, that a worker has a "vester" right to a pension when he has worked 15 years and is 55 years old; if he has worked 20 years but is only 45 when his job is terminated, he gets nothing. "Portability" assumes great importance in an increasingly mobile industrial society. It is highly unusual in today's economy for a person to work all his life for one company. In such fields as aerospace and electronics, mergers take place, contracts fluctuate, workers have to go where the jobs are. "Portability," then, is the means by which the pension rights a worker has accumulated can be credited to him when he changes jobs; as it is now, he generally loses everything.

The result of the chaos that reigns today is that the pension the American worker has been taught to consider a hard-and-fast guarantee all too often becomes a phantom. The guarantee is hedged with a forest of "ifs" that were described to the House Subcommittee on Labor by Assistant Secretary of Labor Thomas R. Donahue.

"In all too many cases the pension promise shrinks to this," Donahue said. "If you remain in good health and stay with the same company until you are 65 years old, and if the company is still in business, and if your department has not been abolished, and if you haven't been laid off for too long a period, and if there is enough money in the fund, and if that money has been prudently managed, you will get a pension."

One of the most impressive witnesses to appear before Senator Williams's subcommittee described graphically how he wandered into that jungle of "ifs" and became a victim of the hazards lurking there. The witness was Stephen H. Duane, 52, of Jersey City, a stocky man about 5 feet 11 with a rugged face and hands partially crippled by arthritis after years of work in the chill of a food warehouse.

Duane had gone to work for the Great Atlantic & Pacific Tea Company when he was 19. He worked for A. & P. for 32 years with just one break, the three years he spent in military service during World War II. He came out of the Army as a first sergeant and was offered a foreman's job with another company, but decided to stay with A. & P. He explained: ". . . I was a man who went through the Depression and the hard times, and what I was looking for in life was security. Security to bring my family into the world, educate them and in my old age to be secure. I believed that I had security with A. & P."

In time Duane became steward of the Teamsters local in the A. & P. Eastern Butter and Cheese Warehouse, and, he testified, "When the men asked for a big raise, I said, 'Take a little, and the rest goes in our pension or in our benefits.'" For 21 years contributions for Duane built up in the pension-benefit plan. Then, in April, 1970, the blow fell. An A. & P. representative notified Duane, representing the union, that the warehouse was being closed; A. & P. had signed a contract with Merchants Refrigeration in Secaucus, N.J., to handle the work.

"Now, I went back to the men and I told them that, and they were shocked with disbelief," Duane testified. "In fact, they told me that I was a liar."

It was difficult, Duane testified, to get an explanation from management on where the men stood with regard to their pensions. In September, five months after the announcement that the warehouse would be closed, the situation was finally spelled out. Men who had 15 years of service and had reached the age of 55 would get "vested" pension rights; the rest would get nothing. Duane, with 32 years of work behind him, was only 51. He was ineligible for a pension.

Some men who had less service than he got their pensions, Duane explained. "I did not begrudge them, because one workingman does not begrudge another workingman anything he gets. But it does not seem fair that I put in half of my life and get nothing for it."

Senator Javits said A. & P. had informed the committee "that it stopped making contributions in 1969 because the plan was then adequately funded, in their judgment. And it's very clear why the plan was so well funded—simply because people like Mr. Duane, who had worked for decades, were let go without any rights whatsoever." Senator Javits explained that A. & P.'s own figures showed that, out of an aggregate of 50,957 employees who had left the plan since 1950, 37,641 forfeited all pension rights. In just the last five years, he said, those who got nothing included 800 with more than 15 years' service, 2,000 with more than 10 years' service and 15,000 with more than 5 years'. At a subsequent hearing last October, A. & P. officials said these figures reflected withdrawals from the company-operated pension plan after union negotiators got the company to agree in 1968 to a new plan with joint Teamster-management control. They argued that Duane, as a member of the union committee, had negotiated himself out of his pension because the new plan hadn't been operating long enough to do him any good.

A. & P. officials said Duane had received $5,406.40 in severance pay and $882 in accumulated vacation pay. This contrasted, however, with an annual $3,200 pension that an A. & P. worker making an average $9,000 a year could expect on retirement. A. & P. representatives also conceded that, even under their original company plan, Duane could not have qualified for any vested rights because he was not 55 years old. They also acknowledged that the absence of any vesting provision was prboably one of the reasons that union negotiators like Duane had sought a better deal in joint union-company management of the pension fund.

"The way this country is set up today," said Duane, "when a man is 50 years old looking for a job, he might as well dig a hole and pull a sturdy knot in it. It is practically impossible." Duane himself was lucky. The man who had offered him a foreman's job right after World War II remembered him, so he got work and started all over at the age of 51, but with scant protection for his future.

Many older workers are not so fortunate. When the Studebaker Corporation closed its automobile plant in South Bend, Ind., in 1963, thousands of workers were jobless. Studebaker's pension plan had been in operation only since 1950, and it had only begun to accumulate sufficient assets to cover the rosy promises written into union contracts. Repercussions from this disaster have been largely responsible for stimulating Congressional interest in pension-plan reform. Lester Fox, a former vice president of Studebaker Local No. 5, United Automobile Workers, and a member of the union's bargaining committee, described what happened when Studebaker closed down in December, 1963. The pension fund amounted to $24-million, and $21.7-million was required to purchase annuities for workers who had retired or who qualified for a pension, men 60 years old with 10 years' service. This left more than 4,000 workers to divide up the remaining $2.3-million.

Fox himself had 20 years' service with Studebaker and had just turned 40. If he had been younger, he would have received nothing, as it was, he got a lump-sum settlement of $350. Such payments, he testified, ranged from a low of $197 to a high of $1,757, paltry sums for older workers who found the job market virtually closed to them.

"You may be aware," Fox testified, "that there was a concerted effort on the part of the Federal Government, in concert with the local community, to attack the problems that older workers faced and to assist them. . . . But despite all the best efforts, there were those who could not find a solution, nor could a solution be found. So they took the only way they could, and that was to end their lives. . . ."

Studebaker, Fox said, had turned a deaf ear to union pleas that the pension plan represented "a private promise by the Studebaker Corporation, which socially, morally and as a matter of equity they were obliged to keep." The union had asked that the corporation stand behind "the promises of security" it had given, or at least made these pension obligations "a first-priority claim on the assets of the corporation." But Studebaker adhered strictly to the legalistic fine print and the financial limitations of the pension fund; some suicides resulted.

Though the Studebaker case represents an extreme, the anguish and misery it demonstrated in such final form are common among workers who find themselves suddenly cut adrift. Much of this distress is caused by lack of vesting and portability rights. Two cases aired in public testimony before the Senate subcommittee illustrate how many solid, middle-class Americans are victimized by pension-plan provisions couched in such tortured, legalistic language that one witness testified: "I don't think there's a pension plan that I've looked at that two men can get the same answer out of, especially men that are not college men or lawyers."

Typical of what happens to many workers is the case of Mrs. Iris Kwek, who went to work for the Anaconda American Brass Company in Detroit when she was 18 and stayed with the company for 30 years. An intelligent, attractive woman with a ruddy complexion, Mrs. Kwek had attended college at night and in 1970 received a bachelor's degree in home economics from Wayne State University. She could probably have obtained a position that would pay more than she was earning at Anaconda, but she felt secure in her job after 30 years—and there was that promised pension. If she continued to work for the company until she was 65, she could count on a pension of about $100 a week, and she calculated that, with her husband's smaller pension from the city of Detroit and their Social Secruity payment, they could live well.

There was reason for her attitude. Anaconda, she testified, had billed its pension program as "our second paycheck." Anaconda's pension brochure, exhibited at the Senate hearings, shows a young-looking retired couple smiling happily as they examine a travel folder with the words "Italy" and "France" emblazoned on the cover. "With proper planning," Anaconda told its employes, "retirement can provide some of the most rewarding years of your life . . . Anaconda has a number of employee benefits to make your 'golden years' more enjoyable."

Iris Kwek will never sample the joys of those "golden years" on Anaconda's retirement plan. In 1971 some half-billion dollars' worth of Anaconda properties were expropriated by Chile; company earnings were affected, and a sweeping economy program was instituted. One of the savings devised was the elimination of Iris Kwek. She was informed that she was being discharged at the end of August. Since she was not protected by any vesting provisions, she was to lose 30 years of accumulated pension rights.

Mrs. Kwek explained that Anaconda had given hourly employes vested rights; its Canadina employes had vested rights. But salaried workers like herself did not. A friend of hers who had worked for the company for 28 years had left the year before, at 49 years of age, and "received nothing."

After Mrs. Kwek learned of her fate, she wrote Senator Williams, and committee investigators began looking into the case, both with her and with Anaconda. This led to what Senator Javits called "a little comic opera bit." Mrs. Kwek explained:

"For two months they literally ignored me, although I continued to go to work everyday and do my work. Many of the employes who were being severed were taking tremendous time off. But one afternoon they called me into the office, and the plant manager said, 'Mrs. Kwek, something has come up.' I said, 'Oh, would you like me to price or do something for you?' He said, 'No. We found a job, and we shall be able to retain you, I was amazed—after two months of literally ignoring me—he said, 'Yes. Would you want to consider taking a job?" I said, 'Certainly.' "

The manager explained it might not be quite as good a job; Mrs. Kwek didn't care, she wanted it. This conversation took place on a Friday—just one hour after a subcommittee staff member had questioned Anaconda officials in New York about Mrs. Kwek. In Detroit, Mrs. Kwek was told to come back the following week to learn the details of her new job. She went home relieved, and, she testified, "That whole weekend I was thinking that things were going to work out fine. I had a good night's sleep for the first time in a month, really."

She also came to a quick decision. She had been scheduled to testify in the pension inquiry; but now with Anaconda treating her so well, she felt she could not. "How could you testify against the company you were were working for?" she asked.

She went back to work Monday, but her boss was tied up in a meeting. On Tuesday, she saw him, and this is the way she described what happened:

"I went up to his office. And he looked at me as if to say, what did I want? I asked him if he had come to any conclusions on this job, what it would entail. He said, 'Oh, the whole thing has fallen through.' He made me feel as if the whole thing had just been sort of a hoax."

In subsequent testimony, Anaconda officials confirmed Iris Kwik's story. Unfortunately, they said, the company had had to economize; there were no provisions in the pension plan to justify giving Mrs. Kwek any vested rights for her 30 years of service. They were really sorry, they told the Senators, but there had just been nothing they could do for her.

A companion story to Mrs. Kwek's concerns Frank E. Hoddick, who discovered what is meant by "portability." Hoddick had been employed for 26 years by the Michigan Bell Telephone Company. In 1967 he decided he would like to transfer to California. There were compelling reasons. His son was in college there, and his daughter had an asthmatic condition for which a doctor had recommended a warmer, drier climate. But when Hoddick sought a transfer to Pacific Telephone, another part of far-flung American Telephone and Telegraph, he found that his years of service with Michigan Bell and his pension situation militated against the move.

On March 10, 1967, Pacific Telephone wrote to Michigan Bell, saying: "We are not in a position to make a job offer. This decision is based primarily on the fact that he does not have equivalent time left for us before retirement as he has already accrued with you. With this understanding we are closing our files on the case." Pacific Telephone would not employ Hoddick because he had worked for 26 years under Michigan Bell's pension plan and would have only 20 years to work before retirement if Pacific hired him. At the same time, Hoddick couldn't claim any vested rights under the Michigan plan because the plan stipulated that he would have to be 55—and he wasn't. Moreover, the Michigan Bell and Pacific Telephone pension plans were practically identical. Both companies paid into an over-all fund, established under the aegis of A.T.&T., in the Chase Manhattan Bank in New York. If ever there was a case in which it would seem that there should have been no question about the retention of pension credits, it was this. Pension payments from both Michigan and Pacific went into the same pot, yet a worker could be whipsawed between different companies in the system and lose everything. As Hoddick testified a worker could retain his pension rights "after 15 years, if you have attained the right age, 55, but it is at their discretion . . . Basically, if you live, work and die and stay in the same state with the same company, no problems."

Hoddick and his wife decided to move to California anyway, and he finally got a job there with General Telephone. In doing so, he sacrificed his 25 years of pension credits and had to start all over again. His experience was not unusual. Senator Javits introduced into the record A.T.&T.'s answer to a committee questionnaire. It showed that 188,453 workers had participated in the pension plan since 1950; 147,888 had left the plan before reaching early or normal retirement age. And, of this total, only 32 had been granted pension rights.

Not all great corporations have been so insensitive to the problems of long-time employees. The Senate subcommittee was especially impressed by the Bank of America's broad system of interlocking plans designed to protect its workers. In addition to a medical-dental health plan, a liberal sickness-benefit plan and a disability plan, Bank of America has a two-part program to protect its workers in those "golden years" of retirement. First is a family-estate plan, established by the bank through a profit-sharing program. Employes become eligible to participate after three years of service and begin to acquire vested rights after they have been in the program for two years. They obtain a 100 per cent vested right after 15 years of profit-sharing.

In addition, Bank of America has a regular retirement plan, which provides for full normal retirement benefits at age 65 if the worker has been in the plan for 10 years. The plan also contains a vesting provision, hedged with an age limitation, but a low one. Bank of America gives a worker a full vested right to his pension after he has been in the plan for 15 years and has reached the age of 40. Merle R. Fisher, a vice president of the bank, told the Senate subcommittee:

"There can be no doubt . . . that employes obtaining the age level where retirement security takes on a greater degree of importance should have some definite assurance that their continued service with a present or future employer for a reasonable period will entitle them to reasonable benefits at retirement."

Fisher felt that there had to be some limitations on vesting; the cost of vesting for less than 15 years' service and 40 years of age, he felt, might be so great that final retirement benefits would have to be reduced. But he explained that the bank thought a worker who met these provisions should not lose everything if he changed jobs, but should retain the pension rights he had earned and on which he could begin collecting when he reached retirement age—a viewpoint so unusual among the thousands of plans investigated that it greatly impressed the Senators.

There are, of course, some classes of workers who have no trouble collecting promised pensions. Members of the armed services, policemen and firemen are assured of pensions, usually after 20 years of service, because they are protected by governmental guarantees. Similarly secure are the inhabitants of the executive suites of big business. Special provisions are made for them, and they are in a different category. It is the millions of average American working men and women who get hurt.

Summing up his committee's findings, Williams said: "It is inevitable that there will be critics who will characterize these hearings and the unfortunate witnesses as 'horror stories' or 'sympathy cases.' These are critics who find no fault with our private pensions and who continue to assure us that time will cure the defects. If what comes from the personal accounts and misfortunes of these witnesses is sorrow, then let us not only be compassionate, but also resolve to find the ways to better the life of those who have yet to retire."

As Senator Williams's statement indicates, the stories of Joseph Origlio and Stephen Duane and Iris Kwek are not exceptions. They are typical, duplicated almost endlessly in the labor subcommittee's files. Williams and his aides feel that there is no justification for such failures to produce on apparent promises, and no reason to couch pension-plan provisions in such intricate and legalistic language that workers cannot understand them.

After all, the private pension system in America will celebrate its 100th anniversary in 1975. True, its major growth began during World War II, when wages were frozen and labor contracts were sweetened by provisions for pension systems. Pension-plan experience thus extends over several decades, even if one takes World War II as a starting point, and the labor subcommittee thinks the kind of injustices it has uncovered should no longer exist. In July subcommittee aides sat down with Secretary of Labor James Hodgson and detailed for him the mass confusion, lack of understanding and personal tragedy and disillusionment they had found. Perhaps as a result, Hodgson issued late last year a directive calling for revisions in pension-plan contracts. The Secretary demanded that contracts spell out in clear and simple English the rights and obligations of workers—just what they can expect to receive and exactly how they can lose out. It was an important first step.

Various other reforms are being proposed. The Nixon Administration advanced its own plan in Senate Bill 3012, introduced in December. The heart of this proposal is a do-it-yourself pension scheme that, critics assert, will mean more of a windfall to banks and other financial institutions than to workers. The Administration proposal is that workers be encouraged to set aside $1,500 a year or 20 per cent of their salaries, whichever is less, for retirement purposes. The money would be deposited in a trust fund in a bank or savings institution, and the amount contributed could be deducted from the worker's income tax. The savings plus interest would be returned to a worker when he reached retirement age. A similar tax write-off has been available to professional or self-employed persons for some years. The Administration proposal extends the same system to the working class, ignoring, critics say, the reality that few workers like Mrs. Kwek or Joseph Origlio can afford to set aside $1,500 a year or 20 per cent of their earnings. The Administration proposal would give workers already covered by pension plans a similar income-tax credit if their contributions came to $1,500 a year or 20 per cent of their salaries—a limitation that would leave most workers on the outside looking in.

In a recent speech before the American Bankers Association in New York, Williams said "the principal beneficiaries" of the Administration bill would be workers "not covered under any private pension plan." He further charged: "This inducement for self-imposed personal savings . . . encourages the establishment of a save-it-yourself pension plan. Historically, American labor and management have shared the responsibility to provide retirement security for workers. Contrary to this American tradition, the Administration now proposes to dissolve this partnership and relieve management of this responsibility."

The bill sponsored by Williams and Javits calls for the creation within the Department of Labor of a single regulatory bureau with jurisdiction over all private pension plans and with responsibility for their policies and operations. It is designed to bring under control a fragmented and unregulated system.

The bill also calls for vesting privileges. It provides for a graded system, depending upon individual industrial situations, but its effect would be to give workers having 10 to 15 years' service deferred pension rights on which they can draw when they reach retirement age; they would not lose all, as is now so frequently the case. Another provision would tackle the more difficult problem of portability by calling for the voluntary development of a system that would allow workers changing jobs, going sometimes into entirely different industries with different unions and pension setups, to be credited with at least some portion of their accumulated pension rights.

Two other compulsory features of the bill are designed to guarantee fiscal responsibility. One calls for the compulsory funding of assets. It would not be possible, as it is today, for a company to treat pension funds merely as a bookkeeping transaction on the assumption that it will still be in business and able to pay the pension when the time comes; there would have to be a separate, properly funded pension account. A companion provision calls for the compulsory insurance of pension assets to protect workers whose plans might be suddenly terminated if their employers go out of business or merge with others. A final provision calls for tighter standards for fiduciaries, trustees and plan administrators to make them more responsible to the workers and insure the proper handling of pension funds.

"The problems have been identified, and the need for reform—real reform—is urgent," Senator Williams said in his Bankers Association speech. "American workers from all occupations and places in our country demand reform. . . . The challenge of reform today must become the accomplished reform of tomorrow."

KANSAS LEGISLATURE OPPOSES INCREASED MEAT IMPORTS

Mr. PEARSON. Mr. President, there has been much misunderstanding among consumers with regard to current retail prices of beef. The fact is that on-the-hoof beef prices have barely recovered to the levels of 20 years ago, while in that period the cattlemen's costs have been more than doubled.

The people of Kansas recognize that livestock production is the backbone of the Kansas economy. The billion-dollar beef industry in Kansas represents our No. 1 source of new wealth, and must be protected from predatory practices of foreign competitors.

I urged Secretary Butz to "hold the line" on beef imports this year, while urban advisers to the administration urged a 12-percent increase in imports of foreign meat subject to the Meat Import Act. The Secretary's decision, ultimately, was something of a compromise—meat imports are authorized to increase 7 percent this year over last year's voluntary restraint level.

I have expressed my deep disappointment over this decision to the Secretary, and have urged USDA to insure that imports are monitored to avoid a "glut" of foreign beef in the market during any particular month or quarter of the year. In past years, foreign suppliers have concentrated shipments during selected months, thus driving prices down unreasonably, and on a seasonal basis.

Mr. President, there is no question as to how Kansas stands on the issue of meat imports. The Kansas Legislature adopted a concurrent resolution urging the President to "hold the line" on these imports during 1972. I ask unanimous consent that the resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Kansas House Concurrent Resolution

No. 1135

A concurrent resolution memorializing the President of the United States with regard to meat import quotas or rollback of beef prices

Whereas, Recent published statements concerning the high cost of beef prices are disturbing to members of the legislature. The backbone of Kansas economy is agriculture and the backbone of agriculture is livestock production. Beef cattle business is a billion dollar industry in Kansas, ranking first in all Kansas industries with meat packing second; and

Whereas, An increase in meat import quotas would have little effect on current retail prices and would have a detrimental effect on the American agricultural community and a serious adverse effect on the Kansas economy; and

Whereas, Disposable income spent for food by consumers is at an all-time low percentagewise and meat prices have not been a factor in the inflationary rise in cost of living; and

Whereas, An increase in meat price quotas or a rollback in live beef prices would have an adverse effect on rural development programs in Kansas; and

Whereas, Increase in beef production is extremely important to the economy of the state: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature of the state of Kansas respectfully urges the President of the United States to maintain the present meat import quotas, or in any event not to increase such quotas at this time; and the President is further urged not to provide for a rollback of live beef prices.

Be it further resolved, That the secretary of state be directed to transmit a copy of this resolution to the President of the United States and to each member of Congress from this state.

DENIAL OF FUNDAMENTAL HUMAN RIGHTS TO JEWS

Mr. CHILES. Mr. President, the most basic of human rights is the freedom to worship as one's conscience dictates. Equally important is the right of all people to emigrate to a country which offers religious freedom and a haven safe from persecution and discrimination.

Today, Soviet Jews are being denied these fundamental human rights. The State of Israel has openly and freely welcomed all Jews to seek refuge within that democratic state. People of conscience around the world have joined Israel in the ancient cry, "Let My People Go," addressed to the Soviet Government. This is done out of the deep conviction and recognition of the principle that the plight of the Jewish people and other religious minorities in Russia is of concern to all of us. As President Kennedy once said:

> The rights of all men are diminished when the rights of one man are threatened.

Last summer, the Senate adopted Senate Concurrent Resolution 33, which I cosponsored, expressing our will that determined steps be taken by our Government to call upon the Soviet Government to permit the free expression of religion by all its citizens, in accordance with the Soviet Constitution itself.

The citizens of my State of Florida, recognizing the right to emigrate, as affirmed by the United Nations Declaration of Human Rights, have expressed their anxieties and concern for the treatment of their fellow human beings in the U.S.S.R. by passing, at the current session of the Florida Legislature, a resolution of both Houses which appeals to the conscience of the Russian people.

I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

SENATE CONCURRENT RESOLUTION 689

A Senate Concurrent Resolution requesting the President of the United States to urge the Soviet Government to end discrimination against religious minorities; to permit Soviet citizens to emigrate to countries of their choice; and to allow free expression of ideas in the exercise of religion of all Soviet citizens

Whereas, the people of the state of Florida strongly believe in freedom of religion and other human rights for all people and are opposed to the denial of these freedoms anywhere in the world; and

Whereas, it has come to the attention of American citizens that Jews and other religious minorities living in the Soviet Union are being denied the means to exercise freely their religion and are not accorded the same privileges granted other citizens living in the Soviet Union; and

Whereas, the government of the Soviet Union in persecuting Jewish citizens by denying them the same rights and privileges accorded to other recognized religions and discriminating against Jews in cultural activities and in their access to higher education, and by imposing restrictions against Jews and members of other minority groups which deny them the freedom to emigrate and to travel abroad; and

Whereas, the right freely to emigrate is a right affirmed by the United Nations declaration of human rights adopted unanimously by the general assembly of the United Nations; and

Whereas, such declaration of human rights presents the development of better understanding and better relations between the people of the United States, the people of the state of Florida, and the people of the Soviet Union.

Now therefore, Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

Section 1. That the President of the United States urge upon the Soviet government to end discrimination against religious minorities.

Section 2. That the President of the United States urge the Soviet government to permit Soviet citizens to emigrate to the country of their choice.

Section 3. That all Soviet citizens be permitted the free expression of ideas and the exercise of religion."

NOMINATION OF RICHARD KLEINDIENST TO BE ATTORNEY GENERAL OF THE UNITED STATES

Mr. GOLDWATER. Mr. President, several days ago the distinguished majority leader, Senator MANSFIELD, made a very appropriate suggestion that it is now time for us to get on with the business of confirming the nomination of Mr. Richard Kleindienst as Attorney General of the United States.

To say the very least, the friends and supporters of Mr. Kleindienst have been more than patient with the ridiculous allegations raised by Columnist Jack Anderson. Mr. Anderson and those who would love to believe his charges were correct have had ample time to prove their charges. They have failed—and failed miserably to make out a case against Mr. Kleindienst in the question of the ITT controversy.

Accordingly, I ask unanimous consent to have printed in the RECORD a timely editorial entitled "Senate Should Act Now," published in the Arizona Republic of March 28, 1972.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, Mar. 28, 1972]

SENATE SHOULD ACT NOW

Before she collapsed under questioning by a committee of senators Sunday, Mrs. Dita D. Beard swore under oath that she had not written the memorandum attributed to her by Columnist Jack Anderson.

Publication of the memorandum led Dick Kleindienst to ask the Senate to reopen its hearings on his appointment as attorney general. With Mrs. Beard's testimony, the burden of proof shifts to Anderson.

Unless he can prove Mrs. Beard perjured herself, Anderson should withdraw his charge that Kleindienst helped negotiate a $200,000 political gift from International Telegraph and Telephone in return for dropping antitrust charges brought by the attorney general's office against ITT.

Regardless of what Anderson does—and his former flashes of arrogance offer slim hope that he will admit he went out on a limb in publishing the Beard memo—the Senate committee should reaffirm its approval of Kleindienst's appointment.

At stake here is the right of a president to appoint an attorney general of his own choosing, assuming only that the appointee is not guilty of any gross dereliction. And no one can say that such dereliction has been proved in the Kleindienst case.

What has been proved is that ITT, on its way to becoming the biggest conglomerate among American corporations, offered to contribute $200,000 toward the expense of holding the Republican national convention in San Diego next August. It did so because it owns the Sheraton Hotel Corp., which is building a fine new hotel in San Diego. ITT figured the hotel would receive more than $200,000 worth of publicity if it became, as it surely would, the convention headquarters.

If Jack Anderson and the liberal Democrats who have picked up his material want to put an end to all corporate gifts to party conventions, that is their privilege. But they'll hurt the Democrats far more than the Republicans. In fact, the Democratic Party is so far in debt that it might not be able to stage the usual national convention without substantial gifts from corporations.

The corollary charge, that the Republican administration wrongly dropped an antitrust suit against ITT, is equally invalid. The Nixon administration did drop charges against ITT, but only after the conglomerate had agreed to sell off some of the big companies it had acquired. The simple fact is that the price of ITT stock plunged after the consent decree was announced, conclusive proof that the decree did not favor ITT.

It should also be noted that conglomerates received their biggest boosts in the Kennedy and Nixon administrations, and only under President Nixon and Attorney General Mitchell were such corporate conglomerates as ITT brought to heel.

In summary, the liberal Democrats have had a field day opposing the appointment of a conservative attorney general. They have aired a lot of rumors and innuendoes and have proved nothing. Unless the Senate feels the President does not have the right to name his own lawyer, the Kleindienst appointment should be promptly approved.

REPRESENTATIVE HERMAN BADILLO

Mr. RIBICOFF. Mr. President, a profile of Representative HERMAN BADILLO, of New York, appeared recently in the Washington Report of the State University of New York. I have worked with Representative BADILLO on several occasions on legislation in which we were both interested. In addition to being a man of great character and integrity, Representative BADILLO has always impressed me with his unique ability to work with diverse groups to develop effective coalitions.

Representative BADILLO has played a major role in Congress in our efforts to improve education for all our citizens. While he has worked to solve the problems of the disadvantaged, he has never lost sight of the needs of all of his constituents whatever their race or economic status.

Representative BADILLO is young in service in Congress, but he has already made his mark, as his profile in the Washington Report makes clear. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From the Washington Report, March 15, 1972]

CONGRESSIONAL PROFILES . . . HERMAN BADILLO

This profile of Congressman Herman Badillo, whose district Hostos Community College, is the third in our series of sketches of members of the New York Congressional Delegation. Since comprehensive higher education amendments have been under consideration recently, we have begun with members who have played significant roles in these deliberations. Eventually, we will present profiles of all of the members of the delegation.

When you think of Congressman Herman Badillo, you think of "firsts," and of an original and perceptive thinker who rejects the shibboleths that float around Washington. The 43-year old Democrat is already a pioneer, as the first Puerto Rican-born voting member of the Congress. The question is asked, "What can a first-term Congressman accomplish?" Herman Badillo goes about setting up "firsts" in a way that should be the envy of all other Congressmen.

Central to all that Herman Badillo does in Washington, or rather Washington plus his own Congressional District, is based on his conception of service, which is central to his conception of the legislator's role. (Badillo's incredibly drawn 21st District, taking in large sections of "three different worlds"—the Bronx, Manhattan, and Queens—has been realigned by redistricting for 1973–74. More homogeneous, his new District appears to contain more voters of Puerto Rican descent.)

Congressman Badillo questions the traditional notion of a legislator as one who merely votes bills up or down. He understands the budgeting process, perhaps because of his training in economics and accounting (he is also a CPA). He knows that while authorizations are important, the actual appropriation is where "the action is," and he has insisted, with some success, that authorization bills "lock in" appropriations at certain levels to assure New York City of its fair share. For a freshman Congressman, he has been remarkably effective in his main areas of concern: bilingual education, aid to disadvantaged students, and school desegregation. Recently, he broke a deadlock over the $1.5 billion Nixon Administration school desegregation bill and succeeded in getting a 4 percent set aside for bilingual education written into the measure.

To improve his service to his constituents, and to make certain that New York residents get their share of the Federal dollar, Badillo has established several informal Federal-State-local structures within his District, another "first" as a Congressman. Badillo's availability is a far cry from the casual office hours many Congressmen maintain. He has opened separate Congressional offices for each county, as well as a unique committee of Federal, State, and local legislators who meet to discuss the problems of programs that cross jurisdictional lines. Congressional planning councils meet once a month in the Bronx, Manhattan, and Queens, and funnel applications to Federal programs. As Badillo has said, "the local offices in each of the three counties constitute different worlds and the problems must be considered in the local areas."

In Washington, Congressman Badillo has discovered that the current division of party membership within the House Education and Labor Committee means that a few members can make a big difference on key issues. He demonstrated this during consideration of higher education legislation recently when, under his leadership, a formula was accepted requiring that one third of the ultimate appropriation would be a percentage of the total Federal student aid money—a formula designed to benefit the disadvantaged.

In personal conversation, Congressman Badillo said that Congress had failed to change radically, and that "we need to go back to the City and come up with our own answers." He believes that too many pilot projects have been funded without any idea how they would be continued or given wider application later on, and that the State has not been aggressive enough in applying for funds for bilingual education. What really disturbs him, however, is that, despite the rhetoric of change, not enough Congressmen really believe in the equality of their fellow men and women. He feels strongly that too few political leaders "believe in equality now or in the basic principles of the Constitution," and says that if the Bill of Rights were submitted to a vote today, "it would probably be voted down." As one practical expression of his own principles, Badillo plans to submit legislation later in this session that would open the suburbs to low income housing and prevent suburban areas from using zoning to exclude low income families and racial minorities.

A native of Caguas, Puerto Rico, Badillo graduated from City College of New York as a Bachelor of Business Administration and later *cum laude* from Brooklyn Law School, where he was class valedictorian and on the staff of the *Law Review*. Former New York Mayor Robert F. Wagner appointed him Commissioner of the Department of Relocation in 1962 and his career has been remarkably successful ever since. Many feel that he could become Mayor of New York, and would be difficult to imagine a better prepared public official. It may be that only a person with his intuitive belief in the equality of all men and women, and conviction that this issue must be faced and solved, could govern a city like New York. Badillo knows that Mark Van Doren prophetically expressed in his poem, "Born Brothers:"

> Equality is absolute or no.
>
> Nothing between can stand. We are the sons
> of the same sire, or madness breaks and
> runs Through this rude world . . . .

Earlier in this century, Luis Munoz-Marin set in motion his famous "Operation Bootstrap" in Puerto Rico. Today, it may be that Herman Badillo—given a knowledge and experience of the City that few others possess—is the man to re-create a New York that is both manageable and liveable. There is no question in the minds of those who have watched him but that he has that "certain something" that cuts away from the deadening bureaucratic response and offers some hope based on substance to those who dwell in the City. That "certain something" has been demonstrated time and again during Badilo's short Congressional career. He means what he says, and what he is saying needs to be listened to, before it is too late.—*W. F. C.*

HOMEMAKER/HOME HEALTH AIDES TRAINING PROGRAM OF KANSAS STATE UNIVERSITY

Mr. PEARSON. Mr. President, much has been urged and advocated as necessary to provide proper treatment for our elderly and handicapped. Yet one very important program has suffered from lack of funds and priority treatment. I make particular reference to the homemaker/home health aides training program developed at Kansas State University.

Not only would this program provide improved care to great numbers of people, but it would bring into employment some substantial numbers of people, particularly women, who are not now in the labor force and whose talents have been untapped. It has been stated, and I think correctly, that the cost of this program, including the training and preparing of these personnel, will be repaid many times over through the services they render.

I ask unanimous consent to have printed in the Record a statement made at the National Conference on Social Welfare by Dr. Richard L. D. Morse, project director, homemaker/home health aide service training project, and Mrs. Mary Jo Harbour, program coordinator, homemaker/home health aide service, both of Kansas State University in Manhattan, Kans. I invite the attention of the Senate to their very thoughtful remarks.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Homemaker/Home Health Aide—A Natural Combination for Training

The work of a homemaker and the work of a home health aide are so closely intwined for in-home service that it is logical they should receive the same training. Even the employing agency with a specific focus, such as health care, can better serve the clients if their aides are able to recognize related problems so the family can be referred for guidance.

Coordinated homemaker/home health aide training has many benefits that are not readily apparent. If a woman is trained for a dual role, she will find more job opportunities than one trained for only a limited role. Most small counties find they cannot support two services, but if the services are combined the agency may better serve the public's needs.

But the most compelling reason for coordinated training is that "fractionated care" is disturbing to most families. They do not like the type of care that requires two people: a homemaker to do meal planning, shopping and light housekeeping; and a home health aide to give a bed bath and range of motion exercises. The elderly, especially, are likely to be confused and angered by this type of divided care.

Our realization of a coordinated homemaker/home health aide training program came as a result of a decade of development. Our interest in a homemaker/home health aide program dates back to recommendations made as Kansas prepared for the 1961 White House Conference on Aging. We observed the futile attempts to establish a volunteer homemaker service in our community, Manhattan, Kansas. In 1965, when the County Extension Home Economist began graduate study in Family Economics, we suggested she undertake a survey of Riley County to estimate the demand for homemaker service. She interviewed community leaders to learn if they knew of families who would have used the homemaker service had it been available. The estimate of need was low and reflected the leaders' lack of understanding of homemaker service. But because most of the cases the leaders did recall involved hospitalization, a second mail survey was conducted of 2,140 persons hospitalized the previous year. A postcard-size booklet with line drawings was designed to describe homemaker service. The result was a surprisingly high estimated need for forty full-time homemakers in Riley County. This rate of one homemaker for every 1,000 population, when projected for the State of Kansas, resulted in an estimated need of 2,000 full-time homemakers.

The results of this study were presented to the State Board of Social Welfare. Their response was to include homemaker service in the state plan and to develop civil service classifications for homemaker and household aide.

Having established authorization for the service by the largest potential empolyer, the next logical step in the development of service was establishment of a training program. The goal was to develop training that would insure performance by homemakers meeting high standards of reliable service. A proposed training program was presented to the Administration on Aging which referred our request for funding to the National Committee on Household Employment. The National Committee on Household Emlpoyment included the program as one of seven pilot projects. These experimental and demonstration pilot projects were funded under the Manpower Development and Training Act by the U.S. Departments of Labor and Health, Education and Welfare. The terms of our contract limited the project to the training of "homemakers". Nevertheless, graduates of the project often found work as home health aides, and the home health agencies were pleased with the attitude and performance of the graduates.

In recognition of this interest in integrated homemaker and home health aide service, and in planning for future training when the program would not be restricted by the funding agency, we initiated conversations with the state health education staff to explore possible integration of the training for homemakers and home health aides. The initial response was that the only accepted training for home health aides was the Colorado 180 hour program, regardless of any previous training. Fortunately, this discussion led to the appointment of an ad hoc committee to review the training needed by home health aides. The committee was composed of representatives from the State Department of Social Welfare, State Board of Health, State Board of Vocational Education, Visiting Nurses Association, public health nurses, homemaker supervisors and our training project staff.

A contributing factor to the outcome of the work of this committee was Public Health Service Publication No. 1891: Recommendations for Homemaker/Home Health Aide Training and Service. The publication's definition and description of home health aide underscored the "in-home" characteristic of the service. This helped indentify it as a health companion to homemaker service rather than a part of an institutional program of care such as hospitals or nursing homes. Home health agency supervisors who had employed project graduates told convincingly of the wisdom of combining the training. The committee recommended comparative analysis of the Colorado program with the homemaker curriculum. The two programs were found to have much in common with the exception of the institutional focus of the Colorado program. So with some additional emphasis on home health care in the homemaker curriculum, it was accepted as meeting the requirements for training homemaker/home health aides.

Since October 1, 1970, when Federal funding ceased, the project has been part of the State Cooperative Area Manpower Planning System. Under this system the project is funded to train homemaker/home health aides.

THE TRAINING PROGRAM

The Homemaker/Home Health Aide Service Training Project is a four-week in-residence training program. During the first, second and fourth weeks the women live at the training center which is a remodeled home management house on the campus of Kansas State University. The third week is field experience, and the women work with a homemaker/home health aide who is employed as a staff member in a welfare, public health or voluntary agency. Most of the classes involved two or more ethnic groups. The women work in teams to care for the training center, plan and prepare meals and do their own shopping. The program is geared to the mature woman who has had experience in her own home. There are no education or income entrance requirements, although the women should be able to read, write and follow simple instructions. Graduates have varied in educational attainment from 6th grade to some college experience.

Classes are informal and usually meet in the living room or dining room of the training center. Some classes are held in Justin Hall, the home economics building, and the women take pride in being part of a University program.

The training curriculum covers orientation to homemaker service, professional development, home management, food for families, family life, consumer education, personal care and home nursing. All classes are taught by specialists, with as many as twenty-five contributing to each session. Continuity is maintained by the project's Teaching Coordinator and Teaching Assistant. A three-step teaching procedure is used. Lecture, demonstration and practical application.

Trainees participate in field trips, discussions, role playing, reading reports and problem solving. Continuous evaluation is built into the program. Each trainee completes a daily written evaluation, on which she lists three main points from each lesson and tells which lessons were most and least valuable. Each week the staff and trainees meet for an informal, taped evaluation of the program. Through constant evaluation, the staff is able to clear up misunderstandings and adjust the program to better meet the needs of the individual trainees.

The in-residence program has proven especially advantageous. It involves the trainees in an intensive, 24-hour-a-day program that enables them to learn by doing. For example, time management, a very difficult subject to teach, is learned as they manage their time and plan meals that fit around a tight class schedule. Personal relationships are learned as they adjust to others in the group. Often this is the first time these women have associated with persons of a different racial, religious or economic background. Guidance, understanding and informal counseling by the staff make learning situations out of problem areas which arise as the women adjust to sharing facilities. None of these enriching, learning experiences would be possible without the in-residence feature; simulated laboratory experiences would be a poor substitute.

The in-residence program frees women from family responsibilities. Women who can make arrangements to be gone from home for four weeks are more likely to be successful in training and employment as homemaker/home health aides.

Another benefit from in-residence training is reflected in the outstanding attendance record and low dropout record. Out of the 167 women who started training, only 4 dropped out of training. Two of these were Manhattan women who had been permitted to live at home because they were unable to arrange care of their children.

The staff members have more opportunities to become better acquainted with trainees in an in-residence program. Although no staff member lives at the center, there is time before class, after class and during coffee breaks for discussions. One or more staff members eat lunch each day with the trainees. This is very successful and is appreciated by both staff and trainees.

The in-residence feature limits the class size to ten women. Although this is a smaller number than most training programs, it has many advantages. It allows closer contact with resource people and staff, giving opportunity for more individual work with each trainee. Also, each trainee gets to know every other trainee as a person, and this is very important for those who will be working as homemaker/home health aides. A homemaker must learn to respect people whose values and approach to life are different and learn to accent the positive strengths of people. With the dropout record, the cost per graduate is not excessive.

Each training session is climaxed by a graduation ceremony. Trainees invite family and friends to a tea prepared by the staff. Each graduate receives a diploma stating she has completed the program and a Red Cross Modified Home Nursing Certificate. Most graduates also complete a programmed home nursing course and receive a certificate for this. Graduates participate in this ceremony with pride and look upon their new career with dignity.

JOB DEVELOPMENT

We discovered early in the project it was not enough just to train women for jobs; follow-up supportive services for the graduates are needed. A Job Developer was added during the second year to work with agencies, employment services and individuals to improve the quality of the service, encourage development of new services and improve understanding of the role and position of the homemaker/home health aide.

In addition to training and job development there is also need for assistance to supervisors and agency staff. This has been approached through workshops. The objective of these workshops has been to give the supervisors insight into the work of homemakers, how homemakers feel about supervision, ways homemakers can be used, sources of funding, legislative requirements for agencies and future directions for the service.

Finally, to meet the needs expressed by graduates for in-depth training in particular areas, the project has included "refresher courses". These three-day programs concentrate on three or four areas suggested by graduates, such as a discussion of homemaker service in Kansas, buying and preparing low cost meals, working with the mentally retarded, motivating people to change, family planning, and helping the handicapped.

EMPLOYMENT RECORD

The employment record of the graduates indicates the need for and acceptance of the service across the state. From 75 to 85 percent of the graduates are employed. The figure varies somewhat because some graduates want only part-time work and others work only on short-term referral cases. The training project develops expectations for improved salaries, benefits and working conditions for graduates. Perhaps the most important thing the trainees gain from the program is the development of their self-confidence. They are proud of their work and expect to be paid a respectable wage. And they are successful, since more than two-thirds are receiving over the minimum wage when only one-fifth received this wage before training.

The employment record must be viewed in the context of what has been started earlier about the development of homemaker/home health aide service in Kansas. Since homemaker service was not recognized by the state until shortly before the training program began, training was done without the promise of jobs, and the program had to assume major responsibilities to encourage development of the service as it trained women. Promotion of training and homemaker service has involved use of all available media. One of the most effective promotion methods has been through the Advisory Board, which has representation from all related areas such as health, welfare, education, employment and voluntary groups. The Advisory Board has also provided an opportunity for agencies to work together for a common program. Agencies have been cooperative in providing field experience for trainees and most agencies participate in supervisors workshops. As a result there has developed in the state a common understanding of what constitutes good homemaker/home health aide service. Our goal is to have homemaker/home health aide service available to all citizens of Kansas regardless of race, income or age.

CONCLUSION

We have described the homemaker/home health aide training and service as we have come to know it through the development of our project and service in Kansas.

We wish to summarize some observations about homemaker/home health aide service that extend beyond (1) our strong belief in the value of in-residence training, and (2) our conviction of the wisdom of integrating homemaker and home health aide training and service.

In every community of America today there are two unsatisfied groups of people who have much to offer each other. Who are they? First, there are families and individuals suffering for lack of adequate care, but know not where to turn for assistance. The yellow pages in the phone book tell where to call to get a car radiator repaired, but not where to call if the family is suddenly in need of a trained and reliable person to assist the family with its multitude of tasks and management problems. The other group is the surplus of women who have years of service to offer. They are not only without challenging work, but are filled with remorse, feeling no longer needed.

This demand and supply potential can be brought together through homemaker/home health aide service with benefit to all. No community can afford to be wtihout organized homemaker/health aide service.

Those of us with community leadership responsibiilty must learn to be better missionaries and to develop hard sell campaign tactics so that homemaker/home health aide service is listed in the yellow pages of every phone book of this nation:

Sell it as an economy measure because it costs so much less than institutionalized care.

Sell it as an opportunity for employment at respectable wages with opportunity to work with and help people.

Sell it as a humanitarian cause, for it enables families to stay together at home.

Sell it as a new industry for community development, one which keeps all the money in the home community.

Sell it as a profession, with standards and training required.

In relation to this last point, I should mention that next week, the American Home Economics Association under sponsorship of the Women's Bureau will be holding a much needed Consultation on Career Ladders and Lattices as a follow-up of their successful Workshop on Utilization of Auxiliary Workers. We are pleased to be a part of this development for upgrading household employment, giving opportunity for professional recognition to the multitude of roles undertaken in the name of "domestic workers" or even a mother.

We have published our research findings and guides undertaken in conjunction with the project—on evaluation, curriculum, training, etc. We have also prepared a question and answer sheet describing the project. A publication list is available upon request from the project.

LARGE INCREASES IN THE PENTAGON'S BUDGET

Mr. HART. Mr. President, large increases in the Pentagon's budget do not arrive full blown.

Rather, they build slowly as weapons systems progress through research and development to the deployment stage.

Once the deployment stage is reached, a weapons system builds a momentum of its own which most often is sufficiently strong to overcome rational opposition to deployment.

That momentum is generated by persons and interests which have a stake in seeing the project through to completion—those who designed it, those who developed it, and those who will build it.

Unhappily—at least from the standpoint of holding down Pentagon spending—our weapons developers have reached the deployment stage on a number of systems which will prove very costly if fully deployed.

Included on the list are continued deployment of intercontinental ballistic missiles, deployment of MIRV's, construction of new submarine missiles system, deployment of Safeguard, and construction of new bombers.

Perhaps past experience indicates the futility of seeking a critical review of weapons systems so close to the deployment stage, but I suggest such a review, knowing that difficult as it may be to stop the momentum these systems have already generated, it is even more difficult to reverse a decision once deployment has started.

In a very real sense, then, whatever action Congress takes this year on authorizations for many Pentagon projects will determine to a large extent the level of Pentagon spending for the next 5 years.

It is with those thoughts in mind that I ask unanimous consent that the following articles be printed in the Record: "Setting the Tone and Pace for Higher Military Spending," written by Michael Getler in the Washington Post of March 19; and "Laird's Latest Alarms," written by Herbert Scoville, Jr., a former assistant director of the Arms Control and Disarmament Agency and former Deputy Director of the CIA. Mr. Scoville's article appeared in the New Republic of March 25.

There being no objection, the items were ordered to be printed in the Record, as follows:

The Rationale for a Number of New Weapons Projects: Setting the Tone and Pace for Higher Military Spending

(By Michael Getler)

As fast as the Nixon administration moves from its "era of confrontation to an era of negotiation," the Pentagon is moving to develop and publicize new rationales for going ahead with a number of new weapons projects.

Basically, the idea appears to be to come up with reasons why several prized, multibillion-dollar projects needs to go ahead even though a new era of more normal relations seems to be opening up with Communist China and an agreement with Russia limiting rival missile-defense networks and some offensive weapons appears to be close at hand.

The natural question some people might ask is why—under these conditions and with a $38 billion federal deficit forecast—do we need to increase the defense budget next year to $83.4 billion, up $6.3 billion from this year?

To be sure, some of the traditional reasons for substantial "peacetime" defense spending are still valid and will remain so. And, until agreements are actually locked up with the Soviets—hopefully at the May summit meeting in Moscow—the administration can make a strong case for keeping some new projects going as a hedge against breakdown at the Strategic Arms Limitation Talks (SALT) and a continuing Soviet weapons buildup.

In the past few weeks, however, what seems to be happening is that a number of new reasons—or old ones not emphasized before—are creeping into Pentagon public statements that seem aimed at keeping the defense budget high no matter what happens at SALT.

Some examples:

On the eve of the President's trip to Peking, the Chairman of the Joint Chiefs of Staff, Adm. Thomas H. Moorer, warned Congress about China's emergence as a nuclear power and that "regardless of how the relations among (the U.S., China and Russia) develop," the U.S. must always be able to cope with China and Russia simultaneously in a nuclear war.

The U.S., for years, has had Polaris missile-firing submarines prowling the Pacific and other weapons pointed toward China. So the question is whether the admiral was just restating the obvious, or was he laying the groundwork for further additions a few years hence to the already huge U.S. missile arsenal—or perhaps for a bigger ABM—based on the prospects that China—not covered by a SALT agreement—may have a few dozen long-range missiles late in this decade?

Chief of Naval Operations, Adm. Elmo R. Zumwalt, on Capitol Hill to defend another big increase in the Navy's shipbuilding program, warned the lawmakers that aside from the Navy's traditional role, he believed "a new one is emerging."

Zumwalt said that by 1985 the U.S. will be dependent for more than half its oil on foreign imports, and he believes the Navy may have to protect hundreds of foreign oil tankers on their way to the U.S. from "the potential for coercion" by Soviet warships.

The admiral, of course, may be right. But it is hard to find many veteran defense planners outside the Navy who have this particular fear on their list of worries.

For more than a year, the Pentagon has rattled the prospect of moving ahead with a vast new missile-firing submarine project known as ULMS to meet "a growing Soviet threat" and as a "signal" to the Russians that they better agree to halt their own missile-sub construction programs, presumably as part of a SALT agreement.

Last month, on the NBC–TV "Today" show, Defense Secretary Melvin R. Laird, made it clear that in his view there was no link between going ahead with ULMS—a potentially $30 billion project—and the SALT talks. "We are going to have a replacement submarine for the Polaris and Poseidon type sub which we have now, so this is not associated with the SALT talks at all."

Later that same day, Laird hedged his answer slightly, but his first remarks reflect the situation most accurately. The point is that it has always been privately assumed in the Pentagon that at some point the U.S.—and the Russians—might want to replace older submarines, but it was only a few weeks ago that Laird would clearly and publicly separate ULMS from SALT.

To buttress ULMS still further with arguments that don't have much to do with "the continued Soviet offensive force buildup," Laird has begun to put heavy emphasis on another argument: This program, he told a VFW convention in Washington last week, ". . . would give our Navy the operational capability of home-porting these particular submarines in the United States in solving some of the very important personnel problems we have . . ."

To support the Pentagon's urgent request for some $260 million this year and next to buy a fleet of new jetliners to serve as airborne command posts for the President and his staff in a nuclear emergency, Laird reached into the files for the type of information that might sic the FBI on a newspaper reporter. "Our current airborne command system is severely deficient in survivability and capacity and cannot fulfill our essential needs in the event of nuclear attack on our country," he told Congress in open session.

That is rather shocking news, and perhaps Congress ought to find out how such a situation was allowed to develop so fast while it is figuring out how much it wants to pay for the cure.

To ensure that ABM research and development goes on even though SALT may halt further deployment, the Army last month let a $10 million contract to begin development of a new ABM previously known as "Hardsite" and now known as "Site Defense for Minuteman."

The small start is in keeping with this year's plan to keep the deficit down, but the Secretary of the Army has made it clear that the total demonstration program will cost $700 million–$800 million.

While the Congress is pondering the new ABM project, it might ask why an ABM prototype that uses a modified version of the already developed Sprint missile and is based on cheaper, simpler and smaller radars than the Safeguard ABM should cost so much.

It might also be appropriate for Congress to at least ask whether it is worth that kind of money, just for openers, if the Minutemen missiles the ABM may be needed to defend in the 1980s are indeed becoming increasingly vulnerable to the big Soviet ICBMs which allegedly can someday carry scads of warheads each; and while the "invulnerable" ULMS is setting sail beneath the seas.

Also in the proposed new defense budget is a $400 million-plus down payment on a new fleet of radar planes. These are intended to warn against Soviet bomber attack, a threat which few defense planners outside the Air Force give much credibility.

To help explain why these AWACS planes are needed, the military is privately and publicly beginning to give more emphasis to the tactical air control aspects of the planes than to their role in Soviet bomber defense.

The new budget, in short, is a something for everybody budget. Nothing has been cut in this year of elections, negotiations and high unemployment.

In an attempt to avoid bloating the deficit still further, actual defense spending will be held down to $76.5 billion, just $700 million above this year. But it is in the authorization account of $83.4 billion that the seeds of future defense spending lie, and that is way up.

If the Nixon administration does achieve a sound and stabilizing agreement with the Russians at SALT, they will have made a major contribution to national security, and their tough stance and "bargaining chip" strategy will have been, in large measure, vindicated.

But the most important aspect of this year's budget is that it goes beyond SALT. It contains money for new weapons based on shifting rationales. If Congress chooses not to grapple with it in this election year, it will become the budget that rather casually sets the tone and pace for still higher military spending during the "generation of peace."

"SUFFICIENCY IS SUPERIORITY IN ANOTHER CLOAK"—LAIRD'S LATEST ALARMS

(By Herbert Scoville, Jr.)

"The Soviet Union is continuing to create strategic capabilities beyond a level which, by any reasonable standards, already seems sufficient." So said President Nixon in his State of the World message on February 9. The point can be conceded. The Soviets have strategic forces well beyond those needed to deter a U.S. attack, even if our strategic arsenals continue to increase at a high rate.

But what President Nixon's message did not say is that the U.S. is also building forces greater than needed to deter a Soviet attack and prevent us or our allies from being coerced. The administration policy of "sufficiency" is only superiority in another cloak.

We are now placing MIRV's (multiple warheads which can be aimed at individual targets) on a large fraction of our land- and sea-based ballistic missiles. Secretary Laird reports that during the past year we added warheads to our missile force at the rate of almost three a day. MIRV deployment as an alternative to building more missile launchers has long had strong support by the Joint Chiefs of Staff, and most of those who are now leading the hue and cry about Russian superiority in missile launchers are ignoring this warhead expansion. Our total offensive force loadings will, according to Secretary Laird, increase between mid-1971 and mid-1972 from 4700 to 5700 weapons while, during the same period, the Russians will only add 400 new weapons to their stockpile of 2100. At this rate, it will be a long time before they catch up.

All elements of our strategic forces are being improved far beyond the requirements of "sufficiency." We are deploying a new generation of missiles in both our land- and sea-based launchers when no current threat requires them. We are planning to build still more advanced missile submarines (ULMS) before there is any conceivable danger to the existing ones. We are building a new bomber, the B–1, years before the B–52's will become obsolete. We are deploying an ABM defense of Minuteman missiles which is not needed to preserve our deterrent, and is, moreover, inadequate and poorly designed to protect these missiles if the Soviets do develop a MIRVed ICBM force.

Over and over again, Secretary Laird and other Defense officials have stressed the *momentum* of the Soviet strategic build-up as justification for these additional weapons on the part of the U.S. On January 25, Laird prefaced his request for supplemental appropriations in this fiscal year with the statement: "These funds will be used for programs that we need to start now to meet defense requirements as a result of the Soviet weapons momentum."

What is this "momentum"? In his Annual Report of February 15, Laird described the Soviet strategic weapons developments which presumably worry him the most. The following item by item analysis of all of these leaves some doubt as to whether his concern is warranted.

CONTINUED DEPLOYMENT OF ICBM'S

The increase in Soviet landbased ICBMs has in the past always been cited as the dominating element in the threat. The Russians now have 1520 ICBM launchers as compared to 1054 US launchers. Though some 100 new Soviet silos have been identified for new or modified ICBM systems, the build-up has been slowing down. Indeed, Mr. Nixon in his State of the World message noted that the USSR added only 80 ICBMs last year, compared to 256 the previous year. Secretary Laird now projects an increase of only 30 between November 1, 1971 and mid-1972, and points out that the SS–9, SS–11 and SS–13 programs may be over. So the "momentum" in total numbers of Soviet ICBM launchers seems to be petering out.

What about the large ICBMs—the SS–9s which were most feared as potential first strike threats to our Minuteman deterrent? Here, the pace has slowed even more dramatically. In August, 1969, the Soviets were reported to have more than 275 SS–9s operational or under construction, and Secretary Laird predicted an increase of 50 or more per year in then justifying the need for the Safeguard ABM. Now, two-and-a-half years later, he reports that there are only about 300 of these large type ICBMs operational or under construction—hardly a cause for new alarm this year or requiring major increases in funds for new US strategic weapon systems. Included in this Soviet total are the same 30 new large launchers that were first reported under construction a year ago. No new Soviet missile has been tested for these launchers even a year later, and even if a new missile were to be deployed in them, it would not signify any increase in previously estimated threats we've always assumed. The SS–9 is capable of launching any MIRV system the Soviets chose to develop. If they need a different missile to have a MIRV to threaten Minuteman, then our previous worries were greatly exaggerated. It is rumored that the Russians may accept a ceiling on large missiles at SALT (Strategic Arms Limitations Talks). If so, that would publicly commit them to *halt a program they have almost stopped unilaterally.*

Secretary Laird also refers to extensive testing since 1965 of a modification of the SS–9 which would permit it to be fired on a depressed trajectory or used as a fractional orbit bombardment system (FOBS). This was mentioned years ago by Secretary McNamara and is not provocation for increased concern today. Such a system would be less effective than the basic SS–9 in destroying our Minuteman missiles.

MIRV'S

The Russian MIRV program is *now* behind where it was said to be in 1969 by the administration. At that time, Mr. Nixon and defense officials reported that the Soviets had been testing a multiple reentry vehicle system which had a "footprint" that appeared to threaten our Minuteman silos. Now Secretary Laird states that, "while the Soviets probably have not tested MIRV missiles thus far, they have conducted many tests of the SS–9 with multiple reentry vehicles (MRVs) since flight testing began in August 1968. The last MRV tests were in late 1970." What kind of "momentum" is this? The testing of a MRV on the small SS–11 ICBM, or even the deployment of MRVs as recently reported by Laird, subsequent to his report to Congress, calls for no panic. All authorities have conceded that MRVs, whether on the SS–9s or SS–11s, do not endanger our Minuteman. Cries of alarm for three years cannot alter the fact that there is no present evidence that the Soviets have started a MIRV program.

The President correctly states that the Russians have the basic technological ability to develop MIRVs, and this can be the only explanation for Secretary Laird's prediction that the "Soviet MIRV capability could be achieved next year." But there is no factual evidence to support such an estimate since testing has not begun. It would appear that Laird's prediction is even less valid and even more misleading than those made in 1969. For although the Soviets *could* begin testing at any time, it would almost certainly be more than three years before they could deploy any system that could even marginally threaten Minuteman. With the limited number of large missiles that will be available to the Soviets in the near future, such a MIRV system would have to disperse accurately six or more warheads per missile. This *is* within the payload capability of the SS–9, but a very long time would be required before it could be developed, tested, and deployed in significant quantities.

SUBMARINE MISSILES

The Soviets have during the last three years been building up their submarine ballistic missile force. They have 25 operational Y-class submarines, each with 16 missiles; they are turning out additional submarines at the rate of 9 to 10 a year as compared with the eight a year estimated earlier. When all those now under construction are completed, however, they will have only achieved approximate numerical parity with the US. They will still be below the total Western forces, since the French and the British also have small missile submarine fleets. More important, President Nixon recently said that "our missiles have longer range and are being equipped with multiple independently targetable warheads. Moreover, our submarines are now superior in quality." This year, as last year, authorities have referred to a new lang-range Soviet submarine missile, but it has been reported that this missile could not be fired from the Y-class submarines unless these are modified.

Since missile submarines are primarily deterrent weapons and cannot be used to attack either the Minuteman or Polaris portions of the US deterrent, it is hard to see how this Russian build-up would justify adding to US strategic forces. Our submarine strategic forces are "highly survivable," says Mr. Laird, and while there are indications that the Soviets are attempting to establish an area surveillance system and associated ASW (anti-submarine warfare) strike forces, they do not as yet have this capability. Other officials have testified that they have not been able to identify any development that indicates a Soviet threat to our seabased missile deterrent.

None of the reported Soviet weapons programs require the construction on a crash basis of a new submarine missile system (ULMS), which may cost tens of billions of dollars and may be designed to cope with the wrong threat. This is not security; it is insanity.

STRATEGIC BOMBERS

Both the President and Secretary Laird have warned of a new Soviet supersonic bomber. What they have in mind is a medium-range aircraft, probably primarily designed for use in Eurasian situations and of little direct threat to the continental US. Laird reports "a probability that it has a capability for inflight refueling. With refueling it could reach virtually all US targets." He does not say whether these bombers could ever get back to Russia, if they were used against such targets. Again, the development of this type of Soviet bomber, about which we have known for several years, does not require expanded US programs in response. We now have an overwhelming quantitative and qualitative lead in strategic bombers.

ABM'S

Laird also reports that "construction of the Moscow ABM system has resumed and testing of an improved ABM missile continues." He referred to this resumption last year and to the testing back in 1969. Nevertheless, Admiral Moorer, Chairman of the Joint Chiefs of Staff, has just said that the Moscow system, even with improved radars and more and better interceptors, could still be saturated by a very small part of our total missile force. It does not, therefore, endanger our deterrent. The U.S. has apparently been seeking at SALT, ABM limitations at levels *greater* than the present Moscow system, so it is hard to believe that the administration is really worried about the Moscow ABMs. Furthermore, the Soviets have been eager for an agreement to limit ABMs, and President Nixon has expressed optimism that this can be achieved at an early date, so the long-term danger from ABMs may never develop. If the SALT negotiations break down, the Soviet ABM program still does not warrant increases in U.S. strategic force levels for many years. We have ample lead time to put into effect any necessary countermeasures.

The deployment of a widespread space tracking system that would enable the Russians to predict the position of near-earth orbit satellites is described by Secretary Laird as a Soviet research and development effort worth mention. Presumably this system is composed of the same surveillance radars that a year ago he sought to associate with a Soviet ABM system. Apparently, the association is no longer considered quite so valid, and the fears generated in some quarters in past years are no longer as great. A space tracking system is not a major security threat; the U.S. has had one for more than 10 years.

In sum, in its current round of budget requests the administration has been crying wolf: it has not come forth with a single new development in the last year that in any way demonstrates a new threat to our strategic deterrent. The Soviet ICBM program is winding down and its MIRV program is many years behind original predictions. Only in the area of submarine missile deterrent systems has the Soviet program continued to roll forward, and here the U.S. is more than one generation ahead. The Russian strategic weapons programs are continuing, but their momentum is faltering.

In contrast, we have been moving forward with increasing speed on all fronts. We are deploying MIRVs rapidly so as to increase our force loadings at the rate of 1000 warheads per year. We are developing new guidance systems for these MIRVs. We are deploying a new model ICBM, Minuteman III, and modifying our submarines to fire the new Poseidon missile with a payload four times as large as the Polaris. We are not building any additional missile launchers, but no one has seriously advocated our increasing these for many years. We have a far more extensive anti-submarine warfare program both in terms of deployment and in terms of research and development than the Soviet Union. We are proposing to commit large sums to a new missile submarine (ULMS), though our present system is far superior to the Soviet Union's. We are building a new intercontinental bomber. We are proceeding with an expanded ABM deployment and carrying out extensive research and development on next generation systems. Restraint in U.S. weapons programs is hard to find. The administration ought to drop the double standard by which it evaluates U.S. and Soviet strategic weapons.

U.S. ARMY IN TRANSITION

Mr. GOLDWATER. Mr. President, it is no secret in this Chamber that the U.S. Army is today undergoing a drastic period of transition which will enable it to meet the complex challenges of the 1970's.

As many of you know, especially those of you who served with me on the Senate Armed Services Committee, the U.S. Army continues to decrease in size as the Vietnam war winds down.

Mr. President, right now the Army is experiencing its most rapid demobilization since the end of World War II. By the first of July of this year, the Army's strength will be at approximately 860,000 men—a reduction from over one and a half million men in 1968.

I am sure I do not have to stress the fact that a 44-percent reduction in Army strength in 4 years time presents our military leaders with some very acute problems. Because of their importance, I ask unanimous consent to have printed in the RECORD an address by Gen. W. C. Westmoreland, Chief of Staff, U.S. Army, before the Wilmington, Del., Kiwanis Club on March 20, 1972.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY GEN. W. C. WESTMORELAND

It is a personal pleasure to be here today. I certainly appreciate your warm reception for this is my first public appearance in the "First State." The historical and contemporary contributions of your great State to our Nation's welfare and progress certainly warrant the title of "Diamond State" because of Delaware's worth in relationship to her size. It is also a professional pleasure to visit a State where people take their citizenship responsibilities seriously. Delaware has always been distinguished by her many sons who have served our country so well.

I will complete my four-year statutory tour as Chief of Staff of the Army this July, after thirty-six years of service. As with most men, such an impending occasion leads me to reflect . . . not without some nostalgia . . . upon that old Army I discovered as a second lieutenant in 1936 and on the Army as I have known it through the years, as well as upon the Army we are now forging to meet the challenges of the future. In so doing, I find certain constants—values and traditions which have held firm throughout the proud history of the Army. I have also found marked evidence of change as the Army has responded over the years to the needs of our society and the challenges to our national security. The Army continues today to preserve the values and traditions which have made it great, while accepting the challenge to build an even better Army for the future. The truth of the matter is that the Army is more skilled and capable of dealing with change . . . while still preserving worthwhile traditional values . . . than most institutions.

Today, I want to discuss what the Army is doing during this present period of transition to meet the complex challenges of the 1970's.

As you know, the Army continues to decrease in size as the Vietnam War is concluded. Let me say that the Army's mission in Vietnam, although a complex one, has been virtually accomplished. Our Nation's objective in Vietnam was not to achieve a "military victory" in the classical sense. Our success in Vietnam cannot be measured in purely military terms. We have prevented the communist domination of South Vietnam. We have expanded the area controlled by the free world forces, denying resources and support to the Viet Cong and thus allowing a great deal more freedom for the people of South Vietnam—a freedom which provides the South Vietnamese with better local government, and improved commerce, transportation and way of life. For example, in South Vietnam the gross national product has increased 60 percent in 6 years, and the inflation rate has declined 60 percent in 5 years.

Since 1964—

Rice production has increased by 20 percent, and

Fish caught and processed have increased by 51 percent.

Since 1965—

Over 2,900 kilometers of hard surfaced roads and 728 bridges have been constructed.

The number of schools have increased by almost 50 percent with 91 percent of the Vietnamese children in the eligible age group attending school,

Over 80 percent increase has taken place in schoolteachers, and

Almost 350,000 acres of land have been placed under cultivation.

Additionally, a three-year-old land reform program called the "land-to-the-tiller program" has resulted in approximately 871,000 acres being distributed to peasant farmers. These are but a few of the significant statistics and indicators which show the progress made in South Vietnam in recent years.

Finally, we were directed to improve the capacity of the South Vietnamese to resist communist aggression, and it would seem that the South Vietnamese government now has in substantial measure achieved this capability . . . a capability that was developed behind the shield provided by U.S. forces.

One action which is unprecedented in scope and cost savings and yet has received very little notice is the current retrograde of supplies and equipment from Vietnam. The military services, mostly Army, now have shipped about 1.8 million tons of war materiel valued at approximately $4.5 billion out of Vietnam. Also, there remains approximately a million tons of materiel in Vietnam that either will be reclaimed or turned over to South Vietnam for nation building purposes. This tremendous savings of materiel and money is truly a remarkable achievement.

Ladies and gentlemen, I recently returned from a Far East trip. I visited numerous U.S. and allied units and installations in Vietnam and met with many civilian and military leaders. I found the confidence and professional competence of both American and allied forces in Vietnam to be high . . . despite the impression given by some observers. While our efforts in Vietnam have not completely ended, the overall performance of our Army there has most certainly been splendid. We can be justly proud of our efforts in Vietnam. I know that history will record that, under the most complicated and difficult of circumstances, the United States Army conducted itself in a manner characterized by honor, dedication to duty, and professionalism. Yes, there have been individual exceptions to such a performance, but these have indeed been few when one considers that over four million men have passed through our ranks since 1965.

Related to the conflict in Indochina, I want to comment on the plight of our captured and missing servicemen and their families. The first man reported missing in Indochina was Major Floyd Thompson, United States Army, who was lost while on patrol in March 1964. Since then, the military services have reported missing or captured a total of over 1,600 men . . . of which over 400 are Army. Our country and the families of these captured and missing have received very little information from the Viet Cong and the North Vietnamese even though our government continues to exert every effort for the release and accountability of captured and missing personnel in all Services, regardless of where they might be.

As you know, President Nixon has proclaimed the period of March 26 through April 1 as a National Week of Concern for American Prisoners of War and Missing in Action. The Presidential Proclamation accompanied the signing of the Joint House-Senate Resolution passed by Congress. All Americans should honor these gallant men and their families by participating in activities that demonstrate our support and concern for their continuing sacrifices.

Today, the Army is substantially reducing its size in order to come within lower budget ceilings and to cope with the effects of continuing inflation. The Army continues to experience its most rapid demobilization since the end of World War II. By the first of July of this year, the Army will be at an approximate strength of 860,000. This is a reduction from over one and a half million men in 1968 . . . or a 44 percent reduction in just four years . . . and is approximately 100,000 below the Army's strength at the beginning of the Vietnam War in 1965. During the next fiscal year the Army will reach a strength of 841,000 . . . the lowest since 1950. Certainly, there is a strength level below which the Army cannot be prudently reduced if we are to perform our mission in support of national commitments . . . even with selected Reserve Component units at an unprecedented state of readiness.

I believe any further reductions in the strength of the Army will entail risks in our search for peace. The Army . . . together with the other Services . . . is faced with maintaining national security and furthering national interests against threats that have not diminished, give no signs of decreasing in the near future, and in some cases are actually increasing.

Today, our Army has the highest level of combat experience of any army in the world. We are building on that experience to improve the Army for its future missions. A comprehensive series of programs are already in being—programs designed—

To better structure our forces in view of anticipated missions,

To update our operational concepts and battlefield control systems,

To modernize our equipment and facilities,

To improve our management practices,

To streamline our logistical procedures, and

To insure the continued vitality of our research, development and testing programs.

The Army is also involved in numerous programs—

To improve both individual and unit training,

To keep our vast educational system current and responsive to Army needs, and

To improve the professionalism and quality of our people.

Our numerous programs and actions to make the Army the finest one in the history of our great Nation are not being limited to the Active Army. As Secretary Laird has stated: "Our military planning takes the Reserve forces into account as an integral part of our defense." In this regard, substantial reduction in the size of our Active Army means a greater reliance on the National Guard and Army Reserve. Therefore, achievement of a high state of Reserve Force readiness is one of our top priorities. We know that many in our Reserve Components are motivated to enlist as as alternative to being inducted. With a reduction of the draft, this poses some problems for maintaining the strength of our Reserve Forces. In view of this, a significant part of our programs and actions is being directed toward supporting our Reserve Forces. The combat readiness of the Army Reserve and National Guard is being increased through the issue of more modern arms and equipment, improved facilities and training areas, new approaches to recruiting and retaining, and closer association of Reserve and Active Army units in training and operational readiness.

Certainly, your State's heritage in citizen-soldier service . . . which goes back to the early Swedish settlements . . . is a proud one. The recent contributions of several of your Reserve Force units have contributed to that heritage. Your 344th U.S. Army Reserve Data Processing Unit has distinguished itself in volunteer assistance to Delaware's civil defense program. The Delaware National Guard headquarters for the 261st U.S. Army Strategic Communications Command was one of the pioneer units in improving joint Active Army-Reserve Force operational readiness. This last summer, it performed admirably in a NATO readiness exercise in Western Europe.

Our task in strengthening the Reserves is an important one . . . and one to which all of us should give a great deal of attention.

As you know, the President has made an all volunteer military force a National goal. In the vanguard of our efforts to attract more volunteers and to reduce reliance on the draft is the United States Army Recruiting Command (USAREC). We are more than doubling the number of recruiters in this important command. By the 30th of June of this year, we will have increased our recruiting stations from 982 in early FY 71 to 1,628. We are providing emoluments to our recruiters in terms of cost-of-living allowances and governmental rented houses. We are improving the quality of the officers and men assigned to this command. Almost everywhere I travel, I try to see the local recruiters. They are an enthusiastic and dedicated lot.

Our recruiting efforts are beginning to pay dividends, particularly in terms of getting higher quality people to enlist in the Army. The number of high school graduates joining the Army has increased dramatically since we imposed tighter quality controls last fall. For example, the Army's average in recent years of high school graduates enlisting has been about 54 percent of all enlistments. Since October this rate has jumped significantly. In February, it was at 84 percent. This is above the rates of the other Services. But we still have some shortfall in combat arms enlistments. Right now the Department of Defense is looking at the effects of the new pay increase before authorizing us to initiate the combat enlistment bonus authorized by Congress.

Of all of the actions we are taking to improve the Army for future missions, our most important actions are people-oriented actions. The Army is people. To strengthen the Army, we must capitalize on the energies and talents of our people. The most important of these actions are those that are devoted to improving professionalism—the quality, the motivation and the skill—of our people. The achievement of professionalism is our highest concern. In all cases, standards will remain high. Discipline will not be sacrificed on the altar of permissiveness. Let there be no doubt about that.

Some of our people-oriented programs have attracted much attention in the press. Our Army programs, however, are far more substantive and fundamental than those few items that have received considerable publicity. For example, we are eliminating excessive instability within our ranks that developed as a result of Vietnam. We are eliminating those negative aspects of Army life that have irritated soldiers for years and have caused them to expend energy and efforts in nonsoldierly pursuits. Other actions taken include increased pay, improved barracks and living conditions, and improved facilities and services for both the soldier and his family. All of these actions will take money and time. Our efforts are improving the attitude of our soldiers and providing them with more time for important training. A soldier who can devote more time to his essential tasks is a better trained, more confident, happier, physically tougher, more professional soldier.

The key to achieving a more professional, modern Army is leadership—both officer and noncommissioned officer. We are fortunate to have within our ranks today an abundance of quality leadership. We are taking advantage of the present period of transition to refine this quality leadership through leadership boards and teams, leadership and group communications training and higher standards for promotion and schooling.

But internal efforts are not enough. Our need now is to match the substantial progress made in enhancing professionalism and improving Service life within the Army through achievement of better public understanding and support. This is imperative if we are to attract and retain quality people in the numbers required.

From my travels about the United States, I know that there is a tremendous amount of latent goodwill and admiration for the Army. This must be transformed into the active public support so greatly needed during this time of transition.

I can think of no better way to engender that type of support than through organizations such as yours here today. I solicit your support and best efforts in this regard as we strive to ensure this Nation a strong, ready and responsive, quality Army. Ladies and gentlemen, you can count on the Army, an organization that has fought for the country 13 wars involving 159 campaigns without a defeat. A country could ask for no more from its soldiers.

It has been a great personal pleasure to join you today as your guest. I am grateful for your kind attention and your warm hospitality.

A READING PROGRAM FOR CONNECTICUT

Mr. RIBICOFF. Mr. President, a new and significant citizen volunteer movement is now underway in the State of Connecticut to help our children develop competent reading skills.

In America today every State is facing a reading crisis. Throughout the Nation, some 15 million schoolchildren are deficient in reading.

Teachers estimate that 43 percent of the youngsters in elementary school desperately need help with their reading problems. School principals indicate that 15 to 20 percent of their children cannot keep up with their classmates without special help.

A recent survey, conducted for the National Reading Center, of Washington, D.C., by Louis Harris and Associates, revealed that 21 million adult Americans lack some or all of the basic functional reading skills necessary to deal with the simplest experiences of daily living and working.

Citizen volunteers in Connecticut are giving their time to help assure that the children of our State will grow up with the ability to read. More than 150 volunteer tutor-trainers and coordinators from across the State participated in a 2-day training workshop conducted in Hartford by the National Reading Center on March 23 and 24. Each of these trained volunteers will now return to his or her home community to teach other volunteers how to tutor children in reading.

Participating in the workshop, sponsored by the Connecticut State Department of Education, were the University of Connecticut, Southern Connecticut

College, and the following 37 school districts:

Bloomfield, Bridgeport, Bristol, Canaan, Cornwall, Danbury, East Hartford, Ellington, Fairfield, Griswold, Groton, Hamden, Hartford, Kent, Lebanon, Lakeville, Meriden, New Canaan, New Haven, Newington, New London, Norwalk, Norwich, Sharon, Southington, Stamford, Stonington, Stratford, Thomaston, Trumbull, Wallingford, Waterford, West Hartford, West Haven, Westport, Wethersfield, and Willimantic.

The National Reading Center is taking its tutor-trainer plan to 20 States this year, and seeks to create a corps of trained volunteer reading tutors in every State in the Nation by the end of 1973.

The Hartford Times published an article and an editorial on this fine endeavor. I ask unanimous consent that they be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Hartford (Conn.) Times, Mar. 15, 1972]

Workshop To Train Tutors for Reading

Thousands of additional volunteer reading tutors will be helping primary graders in Connecticut schools next year, the State Department of Education hopes.

The department is banking on all-day workshops being held March 23 and 24 at New Haven's Conte Community School for 100 reading consultants, reading specialists, and experienced classroom teachers of reading.

They'll get several hours of intensive training by a team from the National Reading Center, an arm of the U.S. Office of Education in its program to wipe out functional illiteracy by the end of the decade.

The school district reading specialists will apply their workshop skills in training volunteer tutors to work with children in the elementary schools in their communities.

Anthony T. Tedeschi, coordinator of the state program, said, "We hope that each workshop participant will train 10 volunteer tutors. This would give us a total of 1,000 on the first go-round. And, of course, the reading specialists would continue training new groups of volunteers as the year proceeds."

Tedeschi explained that the training of volunteers takes about 20 hours, including seven hours of practical experience in using materials with pupils or in simulated situations.

Most of the workshop participants, according to Tedeschi, will be from the districts, where the great majority of children needing extra help in reading are enrolled. Some of the bigger districts may have as many as six reading specialists in attendance. However, several workshop slots are being held open for smaller districts.

Dr. Olive S. Niles and Dr. Robert F. Kinder, state reading consultants, have reviewed the training program and made recommendations and are involved in its implementation.

Workshop participants will go back to their districts armed with a wide variety of National Reading Center materials.

[From the Hartford (Conn.) Times, Mar. 19, 1972]

Tutoring To Boost Reading

One hundred reading specialists, consultants and teachers of reading will meet in New Haven Thursday and Friday in workshops which may have major meaning for youngsters in the primary grades.

A team from the National Reading Center, which is part of the Office of Education, will unfold to the teachers its methods and objectives in a program to wipe out illiteracy by 1982.

After which the reading specialists will go back to their home schools and begin their own program to recruit and train volunteer tutors to work with children in the community.

The tutors could be retired persons, mothers whose children have finished school, or college students with time to spare.

If the program works out as officials hope it will, it could pour hundreds of tutors into the state school system on a year-in-and-year-out basis. This could be an invaluable help in boosting the reading competence of youngsters in the early grades to a level they otherwise might not attain. It is a commendable experiment. It will be up to the volunteers whether it works or not.

EVALUATION OF WATER RESOURCES PROJECTS

Mr. PEARSON. Mr. President, the Senate of the State of Kansas adopted on March 20 a resolution to memorialize the Water Resources Council, the Federal interagency body which has proposed far-reaching changes in the criteria for evaluating water resource projects. At the request of the President of the Kansas Senate, Reynolds Shultz, I submit for the attention of Senators the following document stating the concerns of members of that legislative body for the substantial reduction of flood control and water supply benefits which would result if the proposed criteria are adopted as written.

In particular, Mr. President, this document makes reference to the small watershed program authorized under Public Law 566, legislation originally proposed in the Congress by Representative Clifford Hope of Kansas. I want to give my support and endorsement to the request contained in this document.

In addition, Mr. President, I would like to submit for the attention of Senators a statement on the proposed new criteria which I have provided to the Water Resources Council for the record of its public hearings concluded March 22. This statement makes specific reference to provisions of the new criteria, including the 7-percent interest discount rate, its "grandfather" application to projects authorized, but not constructed after 5 years, and the treatment of regional development as an account for weighing the benefits from water resource projects.

I ask unanimous consent that these documents be printed in the Record.

There being no objection, the documents were ordered to be printed in the Record, as follows:

Senate Resolution No. 34

A resolution memorializing the federal water resources council of the office of management and budget to maintain or decrease the federal interest rate used in the formula for computing cost-benefit ratios for water resource development projects

Whereas, The state of Kansas has been recognized as one of the leading states in watershed development since the inception of public law 566; and

Whereas, Water resource development under this program has proved to be highly beneficial in reducing flood damage, enhancing wildlife habitat, improving environmental quality, providing needed recreational facilities, abating stream and river pollution, and improving the economic stability of the state; and

Whereas, The state of Kansas is presently actively pursuing rural development through resource conservation and development projects; and

Whereas, Any substantial increase in the interest or discount rate as used in determining economic feasibility would make structural works of improvement difficult or impossible to justify: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we hereby petition the federal water resources council of the office of management and budget to maintain or decrease the federal interest rate used in the formula for computing cost-benefit ratios for water resource development projects.

Be it further resolved: That planning assistance be continued or accelerated on all water resource development projects currently authorized for planning, and that no restrictions or time limits be established for completion of such planning operations; and

Be it further resolved: That the secretary of the senate be directed to send enrolled copies of this resolution to the Federal Water Resources Council, 2120 L Street Northwest, Washington, D.C., and to each member of the Congressional delegation from the State of Kansas.

Statement by Senator James B. Pearson

At the outset, I want to say my opposition to parts of the proposed new criteria for the evaluation of federal water resource programs stems from a desire to see the orderly development and conservation of our water resources move ahead. There is no thought here of holding the line against new and more credible methods by which the executive branch can weigh, and present to Congress, the benefits and costs of these projects. For years, those of us in the Senate who are committed to the development of water resources have sought a clearer and more understandable system for evaluating what we consider to be the considerable benefits of this process. Because the existing system lacks understanding, both within the Congress and with the public, the proposed *Principles and Standards* of the Water Resources Council provide some bases for improving the implementation of national policies in this area, and should be approached as a positive step in this direction.

DISCOUNT RATE

There are, however, several elements of the new criteria that should not, in my opinion, be allowed to become law. Primary among these is the 7 percent interest-discount rate, which would, according to preliminary assessments of the Kansas Water Resources Board, have the effect of removing from consideration the planning and construction of approximately 50 percent of the watershed projects approved by Congress for the state of Kansas, and every one of 10 major projects already approved for inclusion in the Kansas Water Plan.

There is no need to dwell on the impact this change would have upon the future economic development of Kansas, except to say it would be devastating. There are 14 important flood control projects in Kansas authorized by Congress but not yet constructed which would be jeopardized or simply eliminated by a 7 percent interest-discount rate. Should the rate later be increased to 10 percent, as the criteria provide, federal assistance for flood controls works would become unobtainable in the state of Kansas, where the nation in 1951 witnessed one of the most destructive floods on record.

The thrust of the increased interest-discount rate would be to leave the burden of further expenditures for flood control and water conservation works on the private sector and on state and local government. This is simply unrealistic. With profits measured in 50 year periods, private capital is not likely to flow into the construction of such projects, and yet the need for them continues as population patterns change and new areas of economic growth appear.

Can local and state government afford the outlays required for reservoir construction and maintenance? It hardly seems likely, considering the depth and breadth of the revolt against property taxes across the nation and the desperate condition of finance in priority areas such as public education. Nor should the primary responsibility for controlling and conserving the resources of our great systems of rivers and streams, which in many cases drain whole regions of the country, be allowed to fall on state and local government.

The interest-discount proposed by the Water Resources Council rests on a short-sighted concept and would have the effect of stifling federal water resource development in my own state and the nation. It would be uniquely applied to the field of water resources development, and it would lack specific authorization by the Congress. Several substitute methods for determining the cost of financing programs in this field have been suggested, and I strongly recommend that they be considered by the Council before it submits this document to the President for approval.

Let me add that it is just as important for small watershed programs and reclamation projects to continue to receive federal funds as it is for these funds to remain available for the planning and construction of larger flood control reservoirs and protection works. Small watershed constructions are not only the first line of upstream defense against major floods, but they are a valuable means of protecting from erosion the most essential possession of the American farmer—his land. It is my hope that the 7 percent interest-discount rate will not be visited on any of these types of water resource development programs.

GRANDFATHERING

A second part of the proposed criteria which lacks justification is the provision that projects already authorized by Congress but not constructed within five years would be reassessed using the 7 percent interest-discount rate. This would only serve to disrupt the process of orderly planning and construction schedules, by which state, local and regional bodies are seeking to carry out the job of applying federal water resource development funds with a minimum of duplication and inefficiency.

In most cases, planning on a federal water resource project takes three or four years itself, and the list of unbuilt projects over five years old is already too long. If we intend to observe the principles of our federal system and make a true partnership between government in Washington and government at state and local levels, then we should not allow these projects to be withdrawn from consideration for construction simply because federal agencies and the Office of Management and Budget have previously delayed them five years or more. The 7 percent interest-discount rate itself, if adopted, would disrupt present planning and construction schedules, and lend to increased planning costs at all levels. There is no justification for making matters worse by considering a reverse "grandfather clause" that would apply to specific projects authorized for construction by Congress five or more years ago.

REGIONAL DEVELOPMENT

With, I think, a large number of other members of the Senate, I regret that the Water Resources Council chose to ignore the purpose of Section 209 of the River and Harbor Act of 1970, which sets down a four-account system of water resources project evaluation. I supported this measure on the Senate floor and particularly regret the failure of the Council to give full weight to the regional development account.

Because future balanced economic growth in the nation depends on the development of job opportunities and the infrastructure for growth in rural America, it would seem imperative that regional development receive full consideration in these evaluations. Water resource projects are by their very nature regional and the problems they attack—floods, drought, water quality, transportation—are often regional as well. Few who have ever visited Kansas would deny that a barrel of fresh water there has far more value than it does, for instance, at Niagara Falls, or that soil erosion is not a more costly phenomenon for a Kansas farmer than it is for a lobsterman on the rock-bound coast of Maine. Yet the Council has reduced the import of regional development benefits and costs in its proposed criteria, and it has done so in contradiction of the expressed view of the Congress. Furthermore, it has done so in contradiction of the stated policy goal of this Administration to achieve a balanced pattern of economic growth in the nation. I believe the Council finds itself in the unfortunate position of the choir boy who sings his note both too soon and off key. It is a step which, fortunately, can be corrected before the final performance, and I would hope the steps necessary to do so will be taken without delay.

COST SHARING

The concept of cost sharing by "identifiable beneficiaries," which the new criteria seek to review and revise, is defined by previous legislation, namely P.L. 87–88. Any reconsideration of this concept should include discussion and debate in the Congress and a legislative effort made to reach consensus on its application before the Office of Management and Budget undertakes to use it in evaluating new projects. This would not be permitted if the new criteria are adopted as written, and we will, in my opinion, be engaged in creating an illegitimate bureaucratic step-child if this is allowed to happen.

CONCLUSION

These, then, are the four principal objections I would raise against the proposed new criteria: the 7 percent interest-discount rate, failure to adopt a regional development account as Congress mandated, the "grandfather clause," and the treatment of cost sharing. My reservations extend as well to the proliferation of bureaucratic red tape expected to accompany the criteria. A "cookbook" approach to federal program assistance, whether it be in the field of water resources in early childhood education, becomes a barrier to the efficient management of our natural resources. It suggests to those who seek leadership in the development of our nation's resources that government is unwilling to provide it. This is not the case, but should it ever become so, then national management and long-range planning for the benefit of future generations would disappear entirely.

New procedures for evaluating water resource programs are badly needed, and many of the proposals under consideration at this hearing are overdue. For instance, standards for weighing benefits and costs well recognized but not provided for by existing criteria are demanded, not only by those who would slow water resource programs, but by those who would accelerate them as well. The careful evaluation of environmental enhancement and damage in planning water resources programs is now required by law and as agencies engaged in this field seek to meet the law, new criteria must be agreed upon to guide them. Also, guidance must be provided for those outside government. Let us take a balanced approach to this problem and, with reason to guide determination, seek to correct the shortcomings of the proposed new criteria along the lines set down by the record of this series of public hearings.

THE GREAT PORPOISE MASSACRE

Mr. WILLIAMS. Mr. President, the New York Times of Sunday, March 19, contains a most interesting and enlightening article by Mr. Scott McVay, an administrator at Princeton University, concerning the plight of porpoises and dolphins, which are being killed in great numbers by the commercial fishing industry.

As most of us are now aware, porpoises and dolphins play an important role in assisting the commercial fisherman to locate tuna. They congregate around the tuna, whose feeding habits are similar, and act as a guidepost to fishermen, who are constantly on the lookout for them to point out the location of the fish. Unfortunately, over 200,000 of these playful and highly intelligent creatures are killed each year in the large purse seine nets used for catching the fish. These air-breathing animals drown because they become trapped in the nets or refuse to leave others of their group who are unable to escape.

The Senate will soon be called upon to consider legislation for the protection of all species of ocean mammals. Perhaps one of the most controversial aspects of this proposed legislation centers around the question of whether or not the commercial fishing industry should be permitted to continue the taking of porpoises and dolphins during their fishing operations. As evidenced by the tremendous amount of mail I have received on this subject, the majority of the American public feels the answer should be "No." However, there are those who disagree, citing their belief that the killing of these animals is accidental and cannot be prevented without causing irreparable damage to the fishing industry. I, of course, do not advocate the ruination of the fishing industry by forcing an immediate halt to this practice. In my statement before the Subcommittee on Oceans and Atmosphere of the Committee on Commerce, on behalf of my bill, S. 2871, the Marine Mammal Protection Act, I suggested the imposition of a time limit of 1 year following the effective date of the act after which no method of commercial fishing could be employed which could cause injury or death to porpoises and dolphins. This would allow 1 year for research on and development of new technological means of capturing the fish while preventing the entrapment of porpoises and dolphins in the nets. I made this suggestion because I do not feel that it is unrealistic to believe that the continued killing of porpoises and dolphins is unnecessary and can be prevented. It only requires a commitment on the part of the fishing industry and the Federal Government as well as a concentrated effort on the part of both to put an end to this needless slaughter. However, it is clear that it will be up to the Congress to provide the incentive for this needed research. I am hopeful that my colleagues in the Senate will bear this in mind when legislation for the protection of all ocean mammals comes before us.

Mr. President, I ask unanimous consent that Mr. McVay's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Great Porpoise Massacre

(By Scott McVay)

Princeton, N.J.—Many of the bounties of the sea have been tainted by man's profligate ways: mercury in swordfish, hepatitis virus in clams and shrimp. Our tables have long been graced with unblemished tuna, one of our children's favorites. Now we learn that our tuna is contaminated by the death of thousands of porpoises. How come? Since the late 1950's American tuna fishermen have been capturing tuna by setting their purse-seine nets on schools of porpoises.

Five major canneries and a number of independent companies operate 132 vessels from southern California in the tropical waters of the eastern Pacific—twelve more vessels are under construction. The fishermen first spot a cluster of birds winging in and out of an area of great activity. Drawing nearer, they sight the familiar porpoise or dolphin fins, usually of the spotted porpoise (*Stelella graffmani*) or the "spinner porpoise" (*Stenella longirostris*) which is known or its spectacular aerial gyrations. Upon closing in, the tuna can be seen as a great dark mass below the porpoises, where they are also feeding on the smaller fish. In high-powered skiffs the fishermen round up the porpoises, which may number up to 1,500, and attempt to drive them into a tight circling school. Then the half-mile long purse seine is set around the porpoises and the tuna below. The circle is constricted as the net is drawn together. Many of the porpoises panic, hit the net and drown.

In the early 1960's nearly all the porpoises entrapped with the tuna in the net died and were simply discarded to the sharks. The annual mortality is estimated to have run to many hundreds of thousands. For the last few years, a technique called backing down is permitting some three-quarters of the porpoises to escape, but the number that perish uselessly is still between two and three hundred thousand annually.

Three papers on this problem, written in 1968, 1969 and 1970 by William F. Perrin, a fishery biologist, caused a minor stir, but it was not until the public Congressional hearings last July on the proposed International Moratorium of Ten Years on the Killing of All Species of Whales that the problem began to reach a sizable segment of the public domain.

Porpoises are small members of the whale tribe. Thus, a revision in the bills working which now calls for a ban on the international killing of whales means that the passage of the legislation would exempt the American tuna fishery on the basis that the killing of porpoises in connection with catching tuna is accidental.

Also, one of the most troublesome problems facing the authors of the legislation now before Congress to ban the killing of all marine mammals is how to deal with the tuna fishery. Two of Mr. Perrin's conclusions illuminate the gravity of the problem: (1) the number of porpoises killed currently may exceed their reproductive capacity. How will fishermen catch tuna "if and when the porpoise disappear?" (2) the structure of the catch (number of males, females, juveniles) resembles the catch of the Soviet porpoise fishery in the Black Sea in 1963 and 1964—just before it collapsed.

Although various solutions have been proposed; using gates for releasing porpoises from the net, or using a small-mesh net that can supposedly be dropped to greater effect, these proposals have yet to be satisfactorily tested. Much still remains to be learned about the behavior of porpoises and tuna. Furthermore, the tuna industry—which grosses hundreds of millions of dollars annually—has responded sluggishly to Federal efforts to reduce or eliminate the porpoise mortality. Most of the tuna operators have answered requests for observers on their vessels grudgingly or by complete refusal.

One thing seems clear: efforts at research on, and regulation of the tuna industry are moving very slowly. Aroused and informed public opinion and Congressional reaction will not permit the wanton slaughter of porpoises and dolphins in the future as in the past. If the tuna industry is interested in retaining a prime place in the American home, it will have to pursue with openness, due speed, and determination the resolution of a problem that will require genuine cooperation between fishermen and scientists. Solutions must be found in a matter of months, not years.

SPENCER, CLAY COUNTY, IOWA

Mr. MILLER. Mr. President, Fortune magazine this month features an in-depth article on Spencer, Iowa, located in Clay County in northwest Iowa and one of my favorite smaller cities in the entire United States.

The writer, Rush Loving, Jr., has attempted to portray Spencer in a straightforward manner, setting out its good points as well as its problems, its openness as well as its biases. Above all, the writer concludes that, as long as progressive cities like Spencer continue to be concerned with their people, the smalltown way of life will continue to prosper.

I could not agree more. I ask unanimous consent that the article, entitled "Spencer, Iowa," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Spencer, Iowa

(By Rush Loving, Jr.)

There are times when the figures are gloomier than the facts, and such is the case with the current talk about the demise of America's small towns. The statistics do indeed look ominous. The Department of Agriculture reports that 52 percent of all communities with fewer than 500 people lost population during the 1960's. Among towns with a population of 500 to 1,000, 40 percent experienced declines. In crossroad villages all across the land, buildings stand abandoned, and streets lie empty. Interstate highways now divert traffic around the towns, and make it easy for farmers to take their business to larger centers that offer more choices for the shopper. In any case, there are fewer farmers, because mechanization has encouraged large-scale cultivation and thrown many farmers and workers off the land. So now, looking like tombstones for the villages themselves, boards cover the windows of the stores. Sidewalks crumble, weeds grow through the winding cracks in the streets, and the abandoned houses slowly disintegrate. The columned banks stand locked. Post offices are closed, wresting from these hamlets their last badges of identity. Not even freight trains stop anymore.

But the brighter side of the coin is that many small towns are still growing. More than a third of the towns with populations between 10,000 and 25,000 grew by 10 percent or more during the 1960's. That was less than their over-all rate of growth during the preceding decade, but more than the doomsayers would lead one to expect. A uniquely American life style still flourishes in thriving communities where people can settle and find jobs without adding to the populations and the problems of the already crowded cities. Industry is moving to these towns, drawn by their better living conditions and labor markets that promise lower operating costs. In a time when so-called "new towns" are getting lots of attention as a means for easing metropolitan congestion, we should not forget that some old towns with their established schools, streets, and homes hold promise as future growth centers. Among the prospering places are the industrial town of Opelika, Alabama (population: 19,027), the farming communities of Kearney, Nebraska (19,181) and Garden City, Kansas (14,708), and the petroleum town of Morgan City, Louisiana (16,586).

And then there is Spencer, the seat of Clay County, in the northwest corner of Iowa, where the gashed-out lake country of Minnesota meets the sweeping black prairie. Spencer's population climbed from 8,864 in 1960 to 10,276 in 1970, a 16 percent rise.

ON THE BANKS OF THE LITTLE SIOUX

One hundred years ago Spencer was a frontier settlement—a little wooden courthouse and a half dozen shacks—within sight of Horseshoe Bend, on the banks of the Little Sioux River. It was named for George E. Spencer, who had lived in Iowa before serving as U.S. Senator from Alabama from 1868 to 1879. Today Spencer is six square miles of stores, factories, warehouses, and homes. It has a prosperous central shopping district six blocks long and an enclosed-mall shopping center out on the edge of town, a new $650,000 waterworks, a well-kept riverside park, forty-eight miles of sanitary sewers, eight miles of storm sewers, and sixty-eight miles of streets, all paved.

Spencer owes its growth and its prosperity partly to its location, which makes it a natural marketing center. R. Paul Trinkle, Clay County director for Iowa State University's Cooperative Extension Service, cites surveys showing that the average Iowa farmer is willing to travel as far as sixty miles, or one hour's driving time, to do his major shopping. In other parts of Iowa all the farms are within fifty miles of good-sized cities, but that is not the case in the northwest. Spencer happens to sit in the middle of this vacuum. The two nearest cities, Sioux Falls (population: 72,488) and Sioux City (85,925), are each 100 miles away. It is 180 miles from Spencer to Des Moines, Omaha, or Minneapolis. Thus the farmers of northwest Iowa do much of their shopping in Spencer.

In Clay County and the eight counties that surround it, there are 10,111 farms, spread across 2,824,000 acres. They produce mainly corn, soybeans, hogs, and beef cattle. These nine counties raise more than 1,400,000 head of hogs a year and more than half a million head of beef. Clay County alone harvests more than 2,500,000 bushels of soybeans and nearly 9,500,000 bushels of corn. To produce all this, the county's farmers use 2,700 tractors, more than 600 grain combines, and 675 corn pickers—most of them purchased from Spencer's equipment dealers.

Two U.S. highways, 18 and 71, funnel the farmers into Spencer. They come to sell their corn and beef, to buy suits, get bank loans, have their golf clubs fixed (the farmers equal the businessmen in their zest for golf). They order new outbuildings and corn dryers, new tractors and combines—all from the showrooms of Spencer. On a typical Saturday morning, the cash registers jingle furiously in the Safeway supermarket at the shopping center, while downtown the floor planks creak comfortably in Bjornstad's Hardware Store as the shoppers come and take away everything from concrete nails to a child's red lunchbox with a train painted on the side. In the J. C. Penney store, down the street from Bjornstad's, women pick their way through racks of coats, talking and looking, yanking on the sleeves to read the price tags and trying on their selections, while their husbands wander through the men's department and tend the children. It all adds up to an annual retail sales volume for Spencer that has doubled from $21 million in 1960 to more than $42 million today.

"THE FITTEST SURVIVED"

Spencer is fortunate in having town leaders who have made the most of its location and rich trading area. They have succeeded in creating an aggressive yet friendly atmosphere that makes it an inviting place for shopping and pleasant to live in. There are no First-Families-of-Spencer types in charge here. No clique of dynastic businesses keeping out competitors and discouraging new industries.

The town's forward-looking stance owes something to the careless youngster who dropped a burning sparkler into a box of fireworks at a drugstore one July day in 1931. Most of the business district went up in flames, and for many of the entrenched families it was a fateful day. "They were wiped out in the fire," says Robert C. Porter, farm representative at the Farmers Trust & Savings Bank. "They had to take their guts in their hands and rebuild. The gutless ones were wiped out. The fittest survived. So now we have a bunch of promotion-minded businessmen." The town finished its rebuilding about the time the depression ended, and the momentum of rebuilding kept Spencer rolling ahead through World War II and into the postwar era.

One of those who found opportunity in Spencer is Harold H. Howe, sixty-two (see page 78), who was born there. After serving in the Navy during the war, he went to work for the Northwest Federal Savings & Loan Association, which had only $500,000 in assets and an office over Penney's. Soon Howe was placed in charge of the s. and l. He solicited customers so vigorously and successfully that he was able to get deposits even from the local bankers. Today Northwest Federal is the biggest financial institution in the area. It has assets of more than $30 million, making it nearly twice the size of any bank in Spencer.

A. M. Johnson, fifty-nine, who is known as Stub, is another of Spencer's successful businessmen. A natural-born promoter who was reared on a Clay County farm, Johnson opened a short-order place on Grand Avenue in 1947 and named it Stub's House of Plenty. And plenty it has made for Stub, for now he also has part interests in a truck stop in Minnesota and a supper club in Sioux Falls. Another of his ventures is Stub's Ranch Kitchen on Highway 71 outside of town, where 500 people a day from all over northwestern Iowa troop through the buffet line to get more home-cooked mashed potatoes and spareribs and watermelon pickles than they can put away—all for $2.75 a head. His Ranch Kitchen and House of Plenty could easily form the nucleus for a chain operation, but Stub is not interested. "I'm at an age where I don't want any more," he says.

WHEN CHET HUNTLEY WAS A TELLER

Robert L. Krzmarzick, thirty-eight, a banker raised in Sleepy Eye, Minnesota, was invited to town in 1963 by eight Spencer men who wanted to start a new bank. They opened Spencer National Bank in the shopping center. To attract business, Krzmarzick broke all the local traditions about banker's hours, even keeping Spencer National open in the evening. For the bank's first anniversary he hired Chet Huntley to be a teller for a day, and so many people came in to open accounts that the staff couldn't handle them all. Today Spencer National has $12 million in assets, and has had a definite impact on the way its two older and larger competitors—the Farmers Bank ($15 million in assets) and Clay County National ($18 million)—do business. "We used to pass up loans we should have been making," says Dwight Willard, president of Farmers. They don't pass them up anymore.

Another outsider, Gerald Pearson, invested $6,000 with six other Minnesota men to take over a failing packinghouse on the north side of town in 1952. That little business has become Spencer Foods Inc., with a local payroll of more than $5 million a year; with 1970 sales of $310 million, it ranked 328th in FORTUNE's directory of the 500 largest U.S. industrial corporations last year. Pearson, forty-six, now a millionaire, is president and chairman of Spencer Foods and takes an active role in the town's business life.

One of Spencer's strong points is the depth of civic leadership in its business community. For example, there is John Greer, fifty-one, a big garrulous lawyer who came to Spencer in 1947 with little more than a new law degree; he is now one of the most successful lawyers in all Iowa. Belle Trinkle, Paul Trinkle's wife, and the mother of two children, is executive vice president of the chamber of commerce. Spencer businessmen once thought the job was too much for a woman to handle; they now admit they were wrong. And R. James Halverson, fifty, originally from Mitchell, South Dakota, started a typewriter sales and repair business in the basement of his home in 1949. Today Halverson owns Modern Business Equipment Co., with sales of $500,000 a year.

These and other leaders have an instinct for promotion that helps Spencer attract both shoppers and new residents. The people get out and work for their town. When there's something going on, like the county fair or a community picnic and threshing bee at Stub Johnson's farm, everybody pitches in to help. "I never felt I had to get up on a soapbox very often and pound my fist and drive the people. They're willing to do what's needed. They just need a hand to get the job done," says G. H. (Jiggs) Sondergaard, forty-six, who was mayor for ten years. (He was defeated last November by C. Earl Page, a retired Congregationalist minister.) Spencer's businessmen are boosters with a sense of purpose. They fear that if they stop getting out and doing things for their town, Spencer will become like many of its smaller neighbors—drab and barren towns that lie indolent and sunbleached below, stark grain elevators.

In recent years, Spencer's leaders have enhanced the town's economy by luring in a whole colony of new and lucrative industries. One June day in 1964, Harold Howe and Julian C. Holiday, a real-estate dealer, called a meeting of about sixty interested businessmen at the Elks Club to set up Spencer Industries Foundation. They hired an industrial development director from Des Moines, Walter Williams, and gave him a $25,000 annual budget for promoting Spencer. No more than seven cities in Iowa have experts like Williams, and Spencer is by far the smallest of them.

Since that day the town has attracted twelve new manufacturing plants and two truck terminals. They represent a total capital investment of $2 million, employ 440 workers, and have annual payrolls of $1,500,000. That is only a partial measure, of course, of the economic benefits Spencer has realized from industrial development; the new payrolls mean more business for the merchants and more jobs in stores and supply companies. The new plants turn out such varied products as concrete blocks, grease guns, canned mushrooms, and reconditioned auto parts.

In 1966, Williams and the Industries Foundation outsold two other Iowa towns and persuaded Morton Buildings Inc., which also has production facilities in two other midwestern cities, to build a $240,000 branch plant just outside Spencer. Morton turns out about fifty precut farm and industrial buildings a week. The company has fifty-three employees and an annual payroll of $270,000. "We have no trouble getting good labor here," says Harry L. Hensley, the plant manager. Indeed, the Spencer operation has been so successful that Morton recently expanded its site by 50 percent, buying five adjoining acres for future expansion.

LADDERS TO A CLIMBING MARKET

Van Ladder Inc. was drawn to Spencer by a team effort that made available both capital and a plant site. It all started when Eugene W. Faulstich, forty, a radio repairman and cable TV operator in Algona, fifty miles east of Spencer, invented an aerial ladder that can be mounted on small trucks. Faulstich, who started producing the ladders in a tiny plant at Algona, tried to get his own bank to finance a larger facility, but was turned down. When he applied to Spencer National, he got the $35,000 he needed and Spencer Industries Foundation found him a site on which to erect a 10,000-square-foot steel building.

That was a year ago. Since then, Van Ladder has been attracting a widening array of customers—electricians and U.S. and Canadian telephone companies, as well as large cable TV operations like TelePrompTer. Faustich is now adding another 5,000 square feet to his plant, in order to keep up with a flood of orders that are flowing in for an improved version of his truck ladder and two other types of industrial ladders that he's developed. "We've reached a market that's exploding," say Faulstich happily. He attributes much of his success to Spencer's initial willingness to take a risk. "The whole atmosphere was much better here, much less conservative than in Algona," he says.

The town leaders offer no giveaways or tax incentives to new businesses. They simply sell several facts hard: that the local people are farm folk who don't mind work, that housing is relatively cheap ($23,000 and up for a three-bedroom home), and that taxes are low ($400 a year for an average house). And less than half of Spencer's employees are unionized—although the town's largest company, Spencer Foods, was struck last year for seven months by its workers, who belong to the Amalgamated Meat Cutters union.

Spencer's three banks often work together to arrange financing for newcomers. Sometimes a group of as many as 124 local businessmen will countersign notes when an otherwise worthy company can't raise enough money on its own credit. Usually no individual commits more than $2,000 for each company, which means that the total risk is extremely low in relation to the signer's total net worth.

LOOKING AT THE RACE PROBLEM—REMOTELY

This is a white, mostly Protestant, overwhelmingly Republican town, a community of people—many of them of German or Scandinavian descent—who share a high regard for learning and pay their weekly dues to God. There is only one black in Spencer—Leon Jones, thirty-one, an inhalation therapist at Spencer Municipal Hospital—and only three or four in all of Clay County.

The townspeople have received Jones, who came from Des Moines, very warmly, but many—perhaps most—Spencer residents have a distorted picture of blacks in general, because their only view of most Negroes has been in the press. They've also heard horror stories from friends in Des Moines about "coloreds" moving into white neighborhoods and lowering the property values. Thus they tend to blame race, rather than urban crowding and poverty, for these conditions, and they think that an influx of blacks would automatically bring crime and decay to Spencer. They worry that the new plants they are bringing to town will change the values, as well as the complexion, of Spencer's population.

It is understandable, of course, that they should oppose anything that they think might bring crime to Spencer, for the town's criminal life is negligible at best. In fact, the nearest thing to a crime wave that it has at present is blamed by the Spencer Police Department on a woman known to the cops as "the Queen." She drives around at night heaving rocks through plate-glass store windows. So far, in little over a year, she's broken $15,000 worth of glass.

"THEY'VE GOT THEIR WAY PAVED TO HEAVEN"

Spencer is a churchgoing town; the largest congregations are Lutheran, Methodist, and Roman Catholic. In the past twenty years, eight of the nine major congregations in town have tried to outdo each other by building themselves new churches, each rivaling the other in architectural grandeur and costing all together nearly $5 million. "They've got their way paved to heaven now," says Harold Howe.

This emphasis on buildings displeases some Spencer churchgoers, because a few thousand of those millions would have done much to relieve the plight of Spencer's poorer people. Down on Park Street, beside the river, there are two blocks of tiny frame houses and trailers. The yards are cluttered; the weatherboard sides of the houses are warped and unpainted; some homes do not have indoor plumbing. People in the town call Park Street their ghetto area, although there are no blacks living in it, and there is nothing like the crowding and the destitution of a Watts or Harlem; it is, however, the greatest concentration of poverty and blight in Spencer. "It concerns me that in a prosperous community like this that we would have anybody living without indoor plumbing," says one local businessman. "We have some desperately poor people. We have put millions and millions of dollars into church buildings. In my mind it's hard to justify this." Some ministers agree with this criticism. Says one: "You find a new church almost wherever you go, and not the least of all, us. This shouldn't be. I don't see where the Methodists need a $1-million structure."

Spencer spends a fair amount of money on its schools, too. Since 1960 its school budget has tripled, to more than $2,100,000 a year. In that same period its per-pupil costs have more than doubled—to about $850 a year—about the average for Iowa school systems like Spencer's. The pupil-teacher ratio is twenty-two to one; that, too, is average for a small-town school system in Iowa, but it is better than the ratio in Des Moines and far lower than the ratio in the big cities of the East.

There is no feeling in Spencer that any major improvements in the educational system might be needed. "They believe in going first-class here," says Charold T. Roberts, 54, a debonair man with a handsome gray mane who has been superintendent of schools for the past seven seasons. Three years ago the town's last school-bond issue—for $1 million—won approval by 92 percent of the vote. Roberts says he has no trouble getting and keeping good teachers, primarily because Spencer is a pleasant place to live—and because it can provide the teachers' own children with good schools.

PURE CORNBALL AND PARTICIPATION

There is no television station in Spencer (though residents can tune in several channels from other cities), and it is still a radio-oriented community. Radios play throughout the day in offices and kitchens. People in Spencer drive when they go about town, and virtually every car has a radio. The farmers have radios even on their tractors. What they listen to mostly is the local radio station, KICD, which is owned by Ben Sanders, sixty. A native of Brooklyn, he bought the faltering little station in 1945 for $18,000. It now has an annual gross of $389,000, and profits of about $50,000. Sanders has retired from day-to-day management (he lives in the mountains of North Carolina) but KICD still follows his successful programming formula of pure cornball and heavy community participation. It's mostly talk programs—including an hour-long reading from a novel every afternoon—interlaced with pop and show music and dance bands from the 1930's. No classics; they're too heavy. The station's public-service offerings run far beyond the range of most big-city broadcasters. During tornado time from May to September, when Clay County is frequently threatened but seldom hit, KICD will stay on the air all night, if necessary, to warn of approaching storm fronts. Along with all that, it broadcasts ads for virtually every Spencer merchant, beaming them over an eighty-mile market area.

Other than its radio station, Spencer has few cultural attractions. To be sure, this lack is characterisitc of most small towns, but Spencer offers fewer of the cultural amenities than even many communities its size. There is, for instance, no art museum; nor are there concerts by any visiting artists other than occasional college groups. There are annual offerings of travelogues but no other of the lecture series common to many such towns. There is good summer-stock theatre at the lake resorts just north of Spencer, but the rest of the year, the town makes do with amateur theatricals; there is only one movie house in town—and its bill is more family-oriented than avant-garde. Still, many Spencer residents don't feel deprived. "I can't believe culture is that important in either Chicago or New York," says Walter Williams, president of Spencer Industries Foundation. After all, says Williams, "you can drive to Sioux City in an hour and a half and see *Holiday on Ice.*"

But the young people of Spencer do feel deprived. As is the case with most small towns, the youngsters of Spencer who go off to college (and about 55 percent do) often stay away. "Most of the ones I know are not coming back," says Kirk Watson, twenty-two, a senior at Mankato State College in Minnesota and the son of a Spencer veterinarian. "They want to get out and do something else. Most of the Midwest, and especially this area, is pretty much stagnated as far as culture is concerned." Watson himself plans to live some where else when he finishes college. Because of this drain, there are relatively few people in their late twenties and early thirties in Spencer. Between 1960 and 1970, when its total population was growing, Clay County suffered an 11.4 percent decline in the number of residents between the ages of twenty-five and forty-four.

TICKETS FOR SCREECHING RUBBER

Spencer's population growth has come mainly from an influx of people in their forties and up. Some of them are doctors and businessmen who want what the youth value less: a place where the pressures aren't so great and the people are friendlier than in the big city. In Spencer, people care about one another. They greet each other on the street and help out when someone's sick. They dress casually and have time for their families. A clock in Spencer is a guide, not the master of one's fate.

It's a quiet town. The only sound on a side street is the shouting of children at play. Only rarely is the peace broken by the rumble of a truck on Grand Avenue, or the horn of a freight up at the Milwaukee crossing, or the squeal of racing tires on a sports car—a noise that will win the young man a ticket if a policeman hears him, and one often does. Most days the sky over Spencer is bright and blue, and the only smell in the air—unless you're within a block of Spencer Foods' slaughterhouse—is of trees and flowers and new-mown grass. And in contrast to their city cousins, people in Spencer leave their homes unlocked and walk the streets at night without fear of muggers.

So long as they offer such a striking contrast with the big cities, and economic opportunities as well, towns like Spencer should continue to grow. Says Jim Halverson, who owns the business-equipment company: "If you asked me why I'm sold on this town, it's because it's been real good to me. I came here twenty years ago with very little. The town has paid my debts and educated my kids. I owe a debt to this town." And so long as that is true for men like Halverson, the Spencers of the land will go on prospering.

NATIONAL ENDOWMENT FOR THE ARTS AND NATIONAL ENDOWMENT FOR THE HUMANITIES

Mr. PELL. Mr. President, in 1965 it was my honor to bring before the Senate legislation which led to the establishment of the National Endowment for the Arts and the National Endowment for the Humanities. Both organizations have been reauthorized twice and the funding for them has grown considerably. While the Endowment for the Arts has received great press and public notice, the Endowment for the Humanities has very quietly built up programs of excellence which, while of fine quality, have not been considered newsworthy. However, excellence does eventually receive due notice, I ask unanimous consent to have printed in the RECORD three articles published in the New York Times discussing some of the excellent programs which have been conducted by the Endowment for the Humanities under its first Chairman, Barnaby C. Kenney, and under its innovative new Chairman, Dr. Ronald S. Berman.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 30, 1972]

IN HUMANITIES PLAN: MIDDLE AMERICA

(By Howard Taubman)

WASHINGTON, March 29.—The National Endowment for the Humanities, which has received scant public attention compared with its sister agency, the National Endowment for the Arts, which deals with such glamorous matters as theater, opera, film, orchestras and museums, is setting its sights on Middle America.

Under the leadership of Dr. Ronald S. Berman, its new, dynamic chairman, the Humanities Endowment has decided to aim about a third of its budget of almost $30-million for the fiscal year ending June 30 at the great majority of Americans who presumably do not concern themselves with such matters as philosophy, languages, literature, philology, history and the other disciplines of scholars of the humanities.

[Meanwhile, in New York yesterday Dr. Berman announced an endowment matching grant of up to $500,000 for the New York Public Library.]

Dr. Berman, a scholar himself with a special background in Shakespears and Renaissance studies, believes that the humanities can and should be made accessible to ordinary people, and he intends to invoke television, films and other modern means of communication to reach the widest possible American constituency.

One of the first new programs on his agenda will be a television series devoted to the period of Shakespeare. The endowment, he said in a recent interview in his office here, is negotiating for the right to show the film versions of "Henry V," "Richard III" and "Hamlet" starring Laurence Olivier for this series:

"We won't simply show the films, though that won't be a bad start," Dr. Berman said. "We'll work in appearances by distinguished scholars. The aim will be to broaden the frame of reference, perhaps to bring Shakespeare and his time and people closer to ours."

Would the films be shown without cuts?

"I'm not against cutting a Shakespeare play," Dr. Berman replied. "Why should we make the going harder than necessary for a public accustomed to something less than a two- or three-hour drama?"

The Shakespearean project will be followed, Dr. Berman said, by a series of filmed versions of great novels.

"I know you can't encompass Tolstoy's 'War and Peace' in a short film version," he said, "but you should be able to manage something impressive with, say, Jane Austin. Dickens has been done extremely well, and we'll use some of those films."

Dr. Berman expects to make arrangements for the filming of a number of Restoration plays by such writers as Congreve and Wycherly for another series. He is negotiating with the British Broadcasting Corporation to film the series in England.

Even before Dr. Berman took over as chairman last December, the endowment had begun to back a series of filmed biographies, like one of the Wright brothers, which have been shown on the Public Broadcasting network. Dr. Berman said this series would continue.

The National Humanities Series, which has brought teams of humanist-lecturers and performers to remote places of the country, have dealt with such themes as "Justice—Trial and Error," "Face to Face," an inquiry into how and why men create, and "Stop, Look and Listen," a multimedia exploration of the humanities.

The endowment intends to expand its efforts to reach directly into the nation's communities. State-based groups have been established in Georgia, Maine, Missouri, Oregon, Oklahoma and Wyoming, and 10 more states are almost ready to launch grass-roots programs involving especially created councils, university extension divisions, public television and radio, public libraries and other organizaions. Each state is setting an over-all theme. In Oregon, for example, it is "Man and the Land."

The endowment will fund each state program at about $100,000. Dr. Berman insists that the lectures, panel discussions, film showings and multimedia productions must reach into the smaller towns and villages.

Dr. Berman and the Presidentially appointed National Council on the Humanities, which is composed of 26 men and women, intend to continue the endowment's support of scholarship and research. This commitment was reflected in the recent announcement of 84 senior fellowships to outstanding humanists, most of them on the faculties of colleges and universities, at a total cost of $1.4-million.

"We also want to do something about the colleges and universities," Dr. Berman said. "I don't mean innovate. Innovation generally leads to a narrowing of perspectives. I want to enlarge. W're going to try to encourage institutions to set up teams for teaching certain disciplines—using a charismatic lecturer, assistants for discussions of students in smaller groups and occasional contacts with outstanding teachers in the area.

"Eventually we might put as much as 25 percent to our budget into this program. We've already selected some universities. We're also arranging to help the University of Michigan establish a college devoted to medieval studies, the first of its kind in this country."

HELP FOR THE LIBRARY

The thousands of readers and researchers—New Yorkers and non-New Yorkers alike—who use the New York Public Library daily are well aware of the damaging impact the Library's financial difficulties are having on its operation, and on the availability of its rich resources to the public. Now a gleam of hope has appeared in the announcement by the National Endowment for the Humanities, acting with President Nixon's approval, that it plans to provide $500,000 in Federal funds by June 30 to help meet operating costs of the great research divisions of the Library.

The catch, however, is that the amount will be forthcoming only if an equal sum is provided by individual and corporate donations. It will not be easy to meet the challenge since the deadline is June 30, but the New York Public Library is of such extraordinary important to this city and its people that its current urgent needs deserve the utmost generosity possible from this metropolis and its citizens.

UNITED STATES OFFERS A GRANT TO PUBLIC LIBRARY

(By Laurie Johnston)

The deficit-plagued research libraries of the New York Public Library will receive up to $500,000 in Federal funds—if the same amount can be raised from contributions between now and June 30.

Dr. Ronald S. Berman, chairman of the National Endowment for the Humanities, announced the matching grant here yesterday. He said the endowment would consider an equal "challenge" gift in the next fiscal year.

The grant represents the first Federal contribution to the operating budget of the research libraries.

"This is a giant step in the recognition of our library for what it is—a truly national resource," said Richard W. Couper, president and chief executive officer of the New York Public Library.

He called the grant a patent recognition that neither public nor private dollars alone can sustain large cultural institutions."

Dr. Berman said the endowment had given grants for specific projects to libraries and museums, including the Library of Congress and the New York Public Library's Schomburg Collection of Negro Literature and History, but not for operating budgets.

He said the present matching grant with "within our mandate of support for the humanities."

The research libraries consist of 18 divisions including general humanities, science and technology, social sciences and the arts, occupying most of the main library at Fifth Avenue and 42d Street; a six-floor building with periodicals and patents at 521 West 43d Street, and the research collections in music, theater and dance at Lincoln Center.

Dr. Berman called them "one of the great resources of humanistic scholarship in the country." He noted that—unlike the 83 branch libraries—they were "public only in the sense" of being open to users without charge, since they had been founded and heavily supported by private giving.

With increased operating costs and a recession in contributions, the research libraries have been perennially threatened with complete closure to their users and have operated on drastically reduced schedules.

Private fund-raising, benefits and emergency transfusions of public funds have kept them alive, almost day to day.

Mr. Couper said that "valid pledges" as well as receipts in the library's own fund-raising would count in the total to be matched by the National Endowment for the humanities.

He said $600,000 had been raised toward this fiscal year's fund-raising drive for $1-million. The $600,000 does not count against the matching start. The library would now have to surpass its remaining goal by $100,000 to qualify for the $500,000 maximum in matching funds.

Mr. Couper reaffirmed his conviction that money to keep the research libraries open on a full schedule of hours should come from the City University, whose graduate students use them most heavily. But, he said, "April will tell" what budget settlement will be made between the city and the state.

He said that whatever funds were received from the National Endowment for the Humanities would be used to maintain and improve the quality of the research collections themselves.

"Eighty per cent of our costs are people," Mr. Couper said, "but we are also in the financial throes of a startup of automation projects, including cataloguing, and these costs will level out in three years' time.

Dr. Berman said he had discussed the matching grant with President Nixon and had been "cheered" by his enthusiasm for it. Leonard Garment, special assistant to the President for education and cultural affairs, was among those present for the announcement, made at a news conference at the main library.

August Heckscher, the city's Parks, Recreation and Cultural Affairs Administrator, said he was "very pleased" about the Federal support.

"It is an important breakthrough," he said, "because it recognizes the national character of the New York Public Library."

He expressed hope that the action would "signal more Federal aid" to museums and other cultural institutions here that, he said, are also in a "national" category.

ABSENCE OF A SENATOR

Mr. GRIFFIN. Mr. President, I wish to announce that the senior Senator from Tennessee (Mr. BAKER) is absent from the Senate today on official business.

FORMER SENATOR PAUL DOUGLAS

Mr. WILLIAMS. Mr. President, last week, one of America's outstanding men celebrated his 80th birthday—former Senator Paul Douglas.

A number of us were honored to serve with Senator Douglas; and, indeed, it was a most meaningful honor. I recall that when I was a new Member of this body, Senator Douglas always was a source of inspiration and admiration to me, and he always will remain that.

Senator Douglas was far in advance of most of this country in many of his ideas. Only in recent years has our Nation begun to catch up with his innovative thinking, particularly in the area of social justice.

He is a man of towering intellect and total commitment. But, even more, he is a man of outstanding fairness; a man more ready to see good than bad in any individual and a man always willing to listen to all sides of any argument.

Senator Douglas is a man of great courage; courage that he demonstrated on the battlefield at significant personal cost and in this Chamber where he stayed in the forefront of so many important and controversial issues.

Fortunately for the Nation, Senator Douglas continued to put his great talents to work after leaving the Senate.

He returned to perhaps his first love—teaching—and has been a great source of inspiration to all the young people with whom he came in contact.

That was not sufficient for his energies. He also performed yeoman service as head of the National Commission on Urban Problems.

Again, it is indeed the fortune of this Nation to have the benefit of a mind that remains eternally young and vital.

Mr. President, the Senate has been graced with many great men throughout history. Senator Douglas belongs in that category—a giant of a man.

I am sure that all Senators join with me in wishing him many, many more happy and fruitful years.

ANOTHER POLL OPPOSES GUARANTEED ANNUAL INCOME

Mr. CURTIS. Mr. President, I note that the voters of Kentucky's Fourth Congressional District have rejected the concept of a "guaranteed annual income" as a part of welfare reform.

In a questionnaire poll of his constituents, Congressman Gene Snyder found 87.5 percent of them felt welfare reform should not include a guaranteed annual income. Only 10.3 percent favored such a plan.

Recently, I have pointed out similar results in polls taken statewide in North Dakota and Oklahoma. These polls indicate there is only a small minority of the people in many areas of the country who find a guaranteed annual income acceptable. Even some, among the minority who do, may not understand its implications as contained in H.R. 1.

I challenge every Senator who feels favorably disposed toward such legislation to poll his constituency before he casts his vote. We are, after all, elected as representatives of the people. On many issues the popular will may not be clear. On this point, however, I believe it is unmistakably clear.

I compliment Representative Snyder and his constituents for their contributions in helping demonstrate the will of the people on this issue. The full results of the Congressman's poll appear at page 11288 of the Congressional Record for March 30.

MRS. PATRICK HART

Mr. MONDALE. Mr. President, recently I read an article in the Minnesota Association for Children with Learning Disabilities Newsletter concerning the outstanding work of a Minnesota volunteer named Polly Hart.

I think we all recognize the field of learning disabilities as very important and work in the area is desperately needed. Too often, tireless work of generous and dedicated volunteers goes unnoticed by the public and consequently is taken for granted.

Mr. President, I am so impressed with the energy and selflessness of this mother of five young boys that I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Our Volunteers

Polly Hart, mother of five young boys from 3 to 11, first learned about learning disabilities when her second son, Jim, was in the first grade at Schiller school in northeast Minneapolis. Jim's extreme quietness and slowness, his very low reading scores, and his tendency to read word's backwards prompted Polly and her husband Pat to seek help for him—first through the Minneapolis schools' psychological services, and then at the Psycho-Educational Center of the University of Minnesota. Jim's poor large-muscle control required special gymnastic exercises at both the University of Minnesota and at Larry Gleason's Gym.

After their experiences in helping Jim, the Harts were able, a year later, to respond to the different, but equally real, needs of their third son, Joey. The opposite of Jim, Joey was hyperactive and aggressive, with a short attention span and a poor attitude towards himself. Washburn Child Care Guidance Center was the place where the Harts got help for Joey.

Polly became active in the Minneapolis chapter of MACLD two years ago, and when the city was organized into units she became chairman of the Edison unit. With the excellent cooperation of the principal, social worker, teachers, staff and PTA at Schiller, Polly organized the first unit meeting in northeast Minneapolis in October, 1971. Those who have worked to set up a unit know the many chores and details involved. Polly made arrangements for the speaker and location, prepared and distributed flyers, arranged for publicity (an excellent article in the northeast newspaper, The Argus), and brought stacks of literature on learning disabilities to the meeting. Dr. Leo Hanvik, director of Washburn Clinic, spoke, and the meeting was impressive for its large turnout and the eager interest of the audience.

So far, this profile of a hard working MACLD parent volunteer is typical of many others. Polly's concern for her own children, which has included taking them week after week to special resource centers, has extended to the needs of others with similar problems. But Polly's experience is special and unique in that all the time she has been working to help her own and other children, she has also been fighting leukemia.

Several weeks ago, when the second unit meeting was held at Waite Park school, Polly was too sick to attend. However, with the generosity and courage that seem to be a family tradition, her husband and her mother, Mrs. Francis Guimond, continued the plans that Polly had begun and carried on with the meeting.

A few months ago, Polly wrote this poem on the subject of learning disabilities. Those who don't know her may be able to catch from the poem a hint of her special qualities—her sweetness, cheerfulness, optimism, goodness and courage—and will know why she means so much to us in MACLD.

Wanted: Action!

(By Polly Hart)

Another problem existing in our nation
  Is not widely understood as it should be;
It involves twenty percent of our children,
  And is called a special learning disability.

It is important to note that these children
  Have intelligence rated normal or more,
But cannot learn if their teachers apply
  The same methods they have used before.

Their hearing and vision are normal,
  But a learning channel is blocked.
They try so hard, but are defeated,
  If they are misunderstood and mocked.

In the effort to appropriate funds,
  One matter demands attention;
Much more is spent on drop-outs and delinquents,
  Than what is needed for early prevention.

There is hope that in the future,
  When parents and schools understand,
The supply of SLD teachers
  Will adequately meet the demand!

THE FARMER—MISUNDERSTOOD AND CRITICIZED

Mr. MILLER. Mr. President, one of America's least appreciated people is the farmer. He is not only misunderstood but is the first to be criticized if prices increase at the retail outlets, even though he has not been responsible for that rise. Yet studies will clearly show that the farmer is only slowly catching up—in some areas—to the prices which prevailed 20 years ago.

One of those who has been carrying the story of the American farmer throughout the Nation is John W. Megown, of Cedar Rapids, chairman of the Iowa Agriculture Promotion Board.

What he had to say, as reported in an article published recently in the financial section of the Denver Post, is well worth reading. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Denver Post, Feb. 27, 1972]

Role of the Farmer "Not" Appreciated

Colorado Springs.—Most Americans fail to recognize and appreciate the role of the farmer in their daily lives, says John W. Megown, chairman of the Iowa Agriculture Promotion Board.

Megown, Cedar Rapids, Iowa, is one of five men nominated for the new, unfilled post of White House farm adviser. He addressed the 47th annual meeting of the Colorado Grain and Feed Association (CGFA) at the Antlers Plaza Hotel here. About 250 attended.

PREMIX GRAINS

Megown is public relations vice president for Vigortone Products Co., a division of Beatrice Foods, Inc., and the nation's largest producer of premix grains.

Despite the fact that farmers and ranchers, representing only 4½ per cent of the U.S. population are able to produce food and fibers for the other 95½ per cent of the country, the importance of agri-business in this country isn't realized, Megown told the farmers and grain dealers.

He said agriculture is an annual $320 billion industry, equal to about two-thirds of the value of all corporations in the United States.

OWN LAND

"Yet, this farmer, in his own land, has always been treated as if he were not quite the equal of those whom he fed," Megown noted.

Part of the problem lies within the agriculture industry itself, he said, pointing out there is disunity in the agricultural field "that at times appears to be downright suicidal."

Megown is a member of an ad hoc committee headed by Sen. Carl T. Curtis, R-Neb., and Rep. George H. Mahon, D-Tex., that is attempting to "identify what is wrong with public opinion toward agriculture."

He said the committee hopes to be able to recommend ways in which "existing misconceptions can be corrected."

MANY JOBS

Megown pointed out that 6 million jobs in the supply industries depend on farming, and that another 14 to 16 million jobs are involved in processing and marketing farm products.

"Our opportunity to be a singular and persuasive force is at hand—and has been for years," Megown said. "The purpose of the Curtis and Mahon study committee is to identify our strengths and suggest the ways these strengths can best be promulgated in the economic, social and political marketplaces."

RETIREMENT OF JESS TAYLOR, TRIBUNE, KANS., FROM KANSAS HOUSE OF REPRESENTATIVES

Mr. PEARSON. Mr. President, I want to remark here on the retirement of Jess Taylor of Tribune, Kans., after 24 years of service in the Kansas House of Representatives.

Jess Taylor, who became 75 years old on February 1 of this year, was the first man ever to serve two terms as Speaker of the Kansas House. Only one other man, Representative Calvin Strowig of Abilene, who is the present Speaker, has held this position for more than one term.

Jess Taylor is a friend who was my colleague during the years when I served in the Kansas Senate. He is loved by the people of southwest Kansas and admired by leaders of both political parties for his dedication to the electoral process and his readiness to speak the language of the people in the halls of government. On his retirement, he was honored by the reading of a proclamation citing his patience, fairness, cooperation, and leadership on the floor of the Kansas House of Representatives. I can imagine this was a moving experience for Jess Taylor and consider it a proper expression of the good will of the people of Kansas for this lively veteran legislator.

I want to take this opportunity to add my own expression of high regard for Jess Taylor and his dedication to the work of legislative representation. He is vital proof that legislators who retain their sense of equality with the people also retain the right to make the people's laws.

CAUTION IN THE SITING AND REGULATION OF LARGE NUCLEAR POWERPLANTS

Mr. WILLIAMS. Mr. President, now pending before the Atomic Energy Commission is a request for a construction permit for two large nuclear power reactors at the Newbold Island Nuclear Generating Station near both Trenton and Philadelphia. Each unit would have an electrical output of more than 1,000 megawatts, making them among the largest of the nuclear power reactors being built today.

Additionally, the nuclear industry is now publicly talking about the idea of platform-mounted nuclear powerplants located off our coasts. This is proposed as a way of finding sites economically close to load centers and reducing the acceptable sites for large powerplants.

Both of these developments have substantial implications for the State of New Jersey. The Newbold Island plant, if completed on schedule, would mean that within 5 years New Jersey will have six large nuclear power reactors having a total generating capacity of 6,160 megawatts. Each plantsite inevitably subjects the surrounding population to some exposure to radioactive wastes from routine operation. And this raises the possibility of potentially dangerous exposure should an accident result in release of even a small part of the enormous quantities of the radioactive wastes contained within a large nuclear power reactor. Each site also subjects the surrounding environment to the effects of the large amount of waste heat from a steam-electric powerplant whether nuclear or conventional. Looking ahead, I can see that the promotion of offshore locations means that our coast and oceans as well as our interior will face this risk.

The problem is how to assure the safety of the public at a time when the utilities want to quickly build many nuclear plants.

It is clear that the pressures for more nuclear power as well as more conventional power will increase in New Jersey. I know that more electricity will be needed by our cities, our industry, our commerce and our people in their private lives, and I am not prepared to adopt the position that the best way to deal with the environmental and safety problems of large nuclear powerplants is to put a lid on the use of electricity. Electricity has become the lifeblood of our urban society and we will be using more of it. However, with current warnings of impending power shortages, I do endorse and support measures to increase the efficiency and reduce the wasteful usage of electricity.

WE MUST ACT VERY CAREFULLY IN LOCATING AND BUILDING LARGE NUCLEAR POWERPLANTS

The fact that we need an increasing supply of electricity does not mean that we must rush into the deployment of new technology whose safety is the subject of increasing questions. If we must consider turning to nuclear power, then let us move deliberately and cautiously in the decisions as to where these plants will go, how big they will be, what safety measures will be employed, and what other measures will be needed to keep environmental impacts within bounds. There are several facts which dictate caution.

First, there is controversy over the adequacy of certain safety measures. Beginning in January, the AEC has been holding a public, rulemaking hearing on the very technical but also very important issue of AEC's acceptance criteria for emergency core cooling systems for light water-cooled nuclear powerplants. We have learned that there are gaps in our understanding of what could happen within a large nuclear power reactor in certain accidental situations, and the adequacy of this particular measure to prevent literally disastrous results from such accidents has become a matter of controversy. The hearings indicate that some well qualified professional men in the nuclear field think there is a possibility of a kind of accident that would cause the intensely radioactive core of a nuclear power reactor to melt. Because of the enormous heat contained in the molten core, the core could literally melt its way out of the plant and into the environment. It is terrifying to think of this type accident occurring in a barge or platform-mounted powerplant off our coasts with huge amounts of radioactive material escaping into the waters.

The testimony at these hearings provided, for example, the materials that led Richard Lyons to write in the New York Times of March 12 that nuclear experts share doubts on nuclear powerplant safety. The accounts of these hearings in the nuclear press, particularly Nucleonics Week, Nuclear News, and Nuclear Industry indicate to me the possibility of substantial, unresolved issues of nuclear safety. These issues must be resolved before we as a Nation so commit ourselves to nuclear power that other alternatives are foreclosed and the public is subjected to an unreasonable risk.

Second, the validity of standards for release of radioactive wastes is also in question. Also in January, the AEC opened rulemaking hearings on standards for emission of radioactive wastes from the kinds of nuclear powerplants now being built in the United States. It is evident from reports on its proceedings that there are questions as to how much radioactive waste a nuclear powerplant should be permitted to routinely emit to the environment, and how the effects of the emissions from individual plants should be taken into account when these plants are located near each other. If one looks at the locations of the 23 operable nuclear power reactors, the 54 that are being built, and the 52 more that are on order, it is evident that these are concentrated in the northeastern United States. Forty-two of these 129 units are located in Virginia and northward into Maine. Almost a third of the Nation's nuclear capacity will be found in a small but congested part of its territories. Inevitably these plants will be located so close to one another that their effects cannot be considered in isolation.

How nuclear plants of the future will be sited, designed, built, and located will depend considerably upon the outcome of these hearings, so there is reason for great caution until this matter, too, is resolved.

Parenthetically, I note that results are not yet in on three fundamental reexaminations of the scientific basis for our exposure standards. These were begun several years ago by the now defunct Federal Radiation Council and are being continued by the Environmental Protection Agency. I do not believe that the AEC should make any judgment on its standards until these studies are completed.

Finally, the Comptroller General has found deficiencies in AEC regulation of nuclear power. Only a few weeks ago, on January 31, the Comptroller General reported on management improvements needed in AEC review and evaluation of applications for construction permits and operating licenses for nuclear powerplants. His findings suggest to me that AEC has diverted much of the manpower that was supposed to develop criteria and standards and codes for nuclear powerplants to the short-term demands for review of applications for individual plants. This to me is a distressing situation. If anything, AEC should be expediting the development of these essential features of its regulatory system. Without them the public lacks the protection that must come from a coherent, consistent set of guides and standards for the designers of nuclear powerplants. This leaves the way open for too much individual variation and for diverting the scarce professional manpower into wasteful analysis of minor variations and away from fundamental issues. Parkinson's law is very much at work here; the less consequential commands the attention that should go to the more consequential.

The Comptroller indicates the AEC's licensing system stands in need of standardized safety review and evaluation. While he reports that the AEC recognizes this, recognition is not the same as resolution. Here again is reason to move very deliberately and very cautiously.

THE SITING AND TRANSMISSION ISSUES

At present where nuclear powerplants are located is the result of private decisions made in the board rooms of individual electrical utilities, often operating independently of one another, in a splendid isolation. This decisionmaking process may have been fine for a pioneer era, but simply is not consonant with the demands of our urban era. Measures to create effective regional planning for generating electricity are sorely needed. This is particularly true of planning that could identify where generating sites will be needed, when they will be needed, and how large they should be so that the public may have an early and effective voice in decisions that can have so severe an impact upon them. Certainly we should be careful in approving future sites for nuclear powerplants until a national siting policy for large powerplants has come into being.

Then there is the problem of transmission of this electricity. That problem is inextricably intertwined with the siting of large nuclear powerplants. If we can bring about the formation of a truly national power grid within the next few years, we will probably have the option of placing large powerplants in remote parts of the country where the population density is low. With a truly national power grid we could generate electricity at a distance from where we intend to use it. But such a grid will not come into being without continued pressure.

THE POPULATION ISSUE

To illustrate the importance I attach to siting, consider the population close to the Newbold Island nuclear plant.

The station will be located on Newbold Island in the Delaware River about 4½ miles south of Trenton and its suburbs—with a population of over 200,000; and 11 miles northeast of Philadelphia, with a population of 2 million. Only 3.4 miles from the site is the Willingboro complex with its population of 72,000 residents. The AEC's own Advisory Committee on Reactor Safety as early as September 1969 pointed out that this represents a relatively high-population density to be near a large nuclear powerplant, and the ACRS reiterated its concern last August. I think the Advisory Committee's concern was well expressed, and I hope the AEC will very carefully and thoroughly examine the design measures that are proposed. This would provide some of the additional safety and control of radioactive effluents that location in a populated area certainly demands. There must be and can be no compromise between cost and safety. If it turns out that measures needed to safeguard the public are considered too costly by the utility, then that would be a clear signal that the decision to proceed should be reexamined very carefully indeed.

SUMMARY

In summary, I am expressing what I feel is a growing concern in Congress that there is too much of a rush to build new powerplants, and to quickly deploy nuclear power. This tendency creates the very real risk of regulatory decisions made without sufficient contemplative examination of nuclear powerplants. If nuclear power is to be used, the public must be assured that AEC licensing of construction and operation of large nuclear powerplants will not proceed until these major issues are resolved. This is why I ask the AEC to proceed with extreme caution and not to sacrifice the long term safety of the public to short term exigiencies.

CONCLUSION—THE NEED FOR A NATIONAL ENERGY POLICY

In conclusion, I believe that we need a coherent national energy policy. We hear that unless large nuclear powerplants are rushed into immediate use with unseemly haste—though yet untested and unproven in reliability—we risk imminent electric power shortages. Yet these warnings, these expressions of urgency are not accompanied by priority attention to the forming of a coherent, integrated, coordinated policy for the use of our national energy resources, particularly for the generation of electricity. While the President's energy message underscored the potential imbalance between demand and supply for energy, it stopped short of enunciating a national energy policy or of establishing the means to form one. Fortunately, the Congress is aware of the need to fill this policy vacuum which has been created by the expanding demand for electricity. The energy policy study of the Senate, pursuant to Senate Resolution 45, which was introduced by my distinguished colleague from the State of Washington, Senator JACKSON, and which I cosponsored, deserves our fullest attention. Our colleagues in the House are showing parallel interest. But if we are to achieve the needed policy, the administration and the Congress must give priority to an immediate, nonpartisan effort.

Lacking this, officers in the electricity industry as they choose between uranium or coal or oil for fuel, decide the location of huge new powerplants, work for or oppose adequate interconnection and coordination between fragmented utility transmission systems and elect to promote or to discourage efforts to tap supplementary energy sources, will work in a policy vacuum. Clearly we need immediate, strong, positive guidance. Otherwise the past trend toward fiercely independent, uncoordinated action by the companies in the electricity industry will be projected into the future with even more serious results. The planning which does exist today simply does not command the support and cooperation needed. Otherwise, we would not today be talking of an imminent energy shortage.

The time is past when the Nation could afford the luxury of parochialism, splendid isolation, and highly individualistic competition in the electricity industry and its supporting energy industries. Absent a national energy policy, we shall continue to see the building of ever larger powerplants with their ever-increasing assault upon the air, the water and the land at the places where they are built. We shall continue to see huge nuclear plants built close to large centers of urban population and industry despite warnings by eminent scientists that the design features required to prevent or control major nuclear accidents still rest upon unproven technology.

For these reasons I would conclude this appeal for caution and deliberation in the use of nuclear power with a plea to all concerned to get on with the forging of a viable, coherent national energy policy. If the electricity situation is as critical as the administration avers, then we must all set such policy. If the situation is not that critical, then we have good reason indeed to slow down the headlong rush towards huge, unproven nuclear powerplants.

Time is rapidly running out. We must decide now what our course will be. I am very afraid that we may find ourselves bound to a de facto energy policy that will result in a catastrophic future.

NINTH ANNUAL AIR FORCE BALL—ADDRESS BY COL. FRANK BORMAN

Mr. GOLDWATER. Mr. President, on March 24, in New York City, the Ninth Annual Air Force Ball was held under the auspices of the Iron Gate Squadron of the Air Force Association.

The Iron Gate Squadron is just one of many squadrons of the Air Force Association, all of which contribute to the selling of airpower and the helping of the Air Force, its men, women, veterans, and charities.

This year, Col. Frank Borman, one of our most famous and accomplished astronauts, served as vice chairman of the ball and delivered a short talk which I found to be extremely interesting, so much so that I believe Senators and other readers of the CONGRESSIONAL RECORD will find it equally interesting. I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I am delighted to have served as a Vice-Chairman for this ball and to be here tonight.

It is now my pleasure to introduce to you two of my "space" colleagues who are with us tonight.

First, I would like to introduce one of the last men who will go to the moon in the Apollo series. The Apollo 17's Command Module Pilot, Comdr. Ronald E. Evans.

And the first Air Force man to step foot on the moon. Former astronaut and retired Air Force Colonel, Edwin E. "Buz" Aldrin.

I'm among those who know how much blood, sweat, and tears have been shed to make this evening a great event.

Like Ray, and Gil, I am proud to be a member of the Iron Gate Chapter.

It gives me a wonderful feeling to be associated with men who not only have the sense of mission . . . but who also do their share in honoring those individuals and those organizations who have earned our wholehearted respect and admiration. This applies especially to this evening as we honor our Air Force.

We meet this evening . . . to celebrate an event that took place almost 25 years ago. On September 18, 1947, in our Nation's capital, a new vibrant force of freedom was born. The then one-year-old Air Force Association, in Air Force magazine, hailed the occassion as "The day Billy Mitchell dreamed of". I am talking about that eventful day on which Stuart Symington went to his office in the morning with the title of Assistant Secretary of War for Air and came home that night as the new Secretary of the Air Force.

This marked the official and formal recognition by the United States of what long ago had become an operational fact of life . . . that national defense is a three-dimensional structure . . . with aerospace the new and possibly most crucial medium of tactical, as well as strategic, warfare.

The road to co-equality had been long and arduous for our nation's air arm. It's start can be traced back all the way to the observation balloons of the Civil War. But it took the breakthrough of the Wright brothers at Kitty Hawk to provide the means that made aviation feasible. The genius of the Wrights offered the United States the lead in the field of flight . . . but our country dropped the ball . . . again . . . and again . . . and again.

It is fitting to refresh our memory of those early days for there seems to be a tendency for history to repeat itself. Perhaps one day—we will learn and we will remember.

The achievement of the Wright brothers was totally ignored by this country . . . and their efforts to interest the government in aeronautics remained unsuccessful for several years. The British and French governments, by contrast, were quick to realize the potential of the just invented airplane . . . and tried their best to persuade the Wrights to sell out to them.

But the two brothers refused on patriotic grounds. Finally, President Theodore Roosevelt heard about the government's apathy and decided that the War Department had better investigate the possibility of using airplanes for military purposes.

And so, in 1907, four years after Kitty Hawk, U.S. military aviation started. But the forerunner of today's powerful Air Force was nothing must to shout about. The Aeronautical Division of the Army's Signal Corps was launched with a staff of one officer and two enlisted men . . . and not a single airplane.

If you think that's under-staffed, listen to this: Shortly after the Division was formed, one of the two privates went over the hill, and the Army's new air arm lost half of its enlisted strength in the process. For the next forty years it was uphill all the way. The first aircraft turned over to the Army crashed during a test flight in 1908 . . . the next one met the initial test requirements but in a subsequent flight crashed with the only two military pilots of the United States aboard. While they weren't hurt, the Aeronautics Division lost them both through transfers . . . one of them because he apparently had the temerity to take a lady friend for a joy ride.

Things looked up some in the next round after the Army's only officer on flying duty, Lt. Benjamin Foulois, learned to fly through a correspondence course. There was a little incident, though, that I want to tell you about because it shows what good judgment our aviators have had right from the beginning. On one of those early training flights in the vicinity of San Antonio, Texas, Bennie Foulois was coming in for a landing when he discovered that his usual landing area was being used by Army troops.

Since he was already committed, he was confronted with a difficult choice . . . either crash into a tent or a horse. He chose the horse . . . and killed it. It turned out to be a very good choice, as the tent's occupant at that very moment was none other than General Douglas MacArthur.

1914 saw the outbreak of World War I in Europe. The air arm of the United States at that time consisted of 14. . . . I repeat 14 licensed military pilots . . . and eight of them were killed in training crashes. Military leaders gave very serious thought to abolishing aviation all together.

When the U.S. entered the war three years later, we, the nation that invented flying, ranked *seventh* in terms of air power among the nations of the world. And it is just as shocking to realize that when World War II broke out . . . 22 years later . . . we were *sixth* in terms of military airpower. Not much of a gain in more than two decades, I'd say. Of course, we rallied during the war . . . and the government-industry team . . . or in the jargon of today, the military-industrial complex . . . was able to forge the greatest air armada the world had ever seen in a few short years. This we were able to do in that pre-missile era because our fortunate geographic location shielded us from invasion.

After the war, however, we went right back to the old ways.

The mighty Army Air Forces that had ruled the skies over Europe and Asia was scrapped almost completely between the end of the war and the formation of our independent Air Force 18 months later. Manpower was cut some 86 percent; the drop in aircrew personnel was 84 percent. The number of combat groups nosedived by 96 percent.

Over the intervening quarter century, the autonomous United States Air Force developed into the Free World's most powerful deterrent force for peace . . . whose overriding task remains the prevention of global, nuclear war. At this task, the Air Force in concert with the other services, has been fully successful. Yet, in the 25 years since the United States Air Force was created from wartime Army Air Force, American fighting men in blue have been called into action 17 times in 17 different trouble spots around the world.

And from Greece in 1948 to Southeast Asia today . . . thousands of American airmen, along, of course, with the members of the other services, have given the last full measure of devotion to God and country. In addition, today some 1,600, almost all aviators, are either prisoners of war, or are missing in action in Southeast Asia. As we commemorate the 25th anniversary of the Air Force, we appeal to all Americans to leave no doubt that we, as a people, are committed in the fullest sense to taking every action, exploring every avenue, and proposing every possibility that can cast a ray of hope into the darkness of the prisons that hold these gallant fighting men.

Let there be no mistake about the American resolve on this point!

* * * * *

So far, we have looked back, have reminisced to put the significance of the United States Air Force's silver anniversary into proper historical perspective.

But where do we stand today? The answer, I am afraid, is that in the cyclical gymnastics to which we subject our national defense effort, we are once again caught *up* in a *down*trend. The Soviet ICBM strength, already eight times ours in terms of *deliverable* war heads, is well on its way toward doubling our *missile inventory*. In terms of tactical aircraft, the picture is equally grim . . . and perhaps more crucial, their research and development effort, the technological life line to the future, dwarfs ours.

So, as we commemorate the 25th anniversary of the Air Force, we do so in a somber mood . . . with the realization, that America's adversaries in the past could damage its structure, but could not destroy it as a nation, even after years of war. Soviet Russia could do it before lunch tomorrow, although they would be destroyed in return.

Ladies, and gentlemen, the American airman has always lived with risk, whether he mans an early warning post in the far north, a missile site in the western plains, a SAC plane on vigil, an air strip in Vietnam . . . or carries the flag of the United States into the vastness of space.

In add the changing, in all the adapting to new technological and political conditions, the one immutable constant is his vigilance, his willingness to sacrifice, and his devotion to duty. *He was . . . is . . . and always will be,* the reason we are celebrating the silver anniversary of the United States Air Force . . . and the reason we give emphasis to its birthday theme . . . Pride in the past . . . faith in the future.

* * * * *

Faith in the future was certainly exemplified this evening by the great performance of our own Air Force Academy's Chorale . . .

* * * * *

And as for the pride in the past and indeed the present . . . I want you to meet a few of the many distinguished Air Force leaders who are with us this evening.

Ladies and Gentlemen . . . the immediate past Chief of Staff of the United States Air Force, General John P. McConnell.

The Commander-in-Chief . . . North American Air Defense Command and Continental Air Defense Command . . . from Ent Air Force Base, Colorado, General Seth J. McKee.

The Commander, Military Airlift Command . . . From Scott Air Force Base, Illinois, General Jack J. Catton.

The Commander of the Air Force Systems Command . . . from Andrews Air Force Base, Maryland, General George S. Brown.

The Deputy Commander in Chief . . . United States European Command . . . From Stuttgart, Germany, General David A. Burchinal.

A top man who really keeps our Air Force moving along . . . The Chief Master Sergeant of the Air Force, Sgt. Richard D. Kisling.

Now . . . for the presentation of the Iron Gate Chapter's highest award, the famed Bronze Eagle, I call again upon Gil Nettleton and Ray Bell.

THE UPPER GREAT LAKES REGIONAL COMMISSION IS DOING ITS JOB

Mr. GRIFFIN. Mr. President, in 1965 the Congress passed the Public Works and Economic Development Act which paved the way for the several regional economic development commissions which have been authorized to help solve problems hindering economic growth in certain lagging regions of the country. The intent of Congress at that time was to create a Federal-State partnership that, on the one hand, could be responsive to regional economic problems but, on the other, would not become an additional layer of government. While I am not in a position to pass judgment on all of these commissions, I have been impressed by the effort of the Great Lakes Regional Commission to meet that mandate.

I should like to call the attention of Senators to an editorial published recently in the Escanaba, Mich., Daily Press regarding a demonstration project funded by the Upper Great Lakes Regional Commission. Called Timber, Inc., the program was designed to aid the many small timber harvesters and woodlot owners of the region. It has demonstrated profitable uses for local timber, economic marketing procedures, and advanced safety techniques for woods workers. New harvesting methods were demonstrated, and the economies of various harvesting techniques were carefully evaluated. The majority of the tasks which the project was aimed at have been accomplished; those functions of Timber, Inc., which merit continuation are being woven into other ongoing programs. The Upper Great Lakes Regional Commission is to be commended for this fine effort.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Timber, Inc. Life To End in 1972

You can scarcely pick up a daily newspaper these days without reading about the formation of some new organization or government agency. It seemed years ago that there was an organization to meet every public and private need or interest. Yet new organzations keep springing into existence in dizzying profusion.

In some cases, these organizations are created to carry out a specific mission, but the tendency is for their members, to perpetuate their organizations even after the mission has been fulfilled.

It was refreshing, then, to learn that an organization called Upper Great Lakes Timber Inc., will be dissolved at the end of this year after having been in operation three years.

Timber, Inc., was established to assist small lumber operators in Michigan. It is supported by public funds through the Upper Great Lakes Regional Commission. It was funded with $160,000 and has functioned under a board of 22 directors from all parts of Michigan. Most of its various projects have been confined to the Upper Peninsula, but the agency's work has been aimed at helping small loggers throughout Michigan and in parts of Wisconsin and Minnesota as well.

So how come Timber, Inc., has decided to close shop instead of applying for funds to extend its life after the initial three-year period ends?

Peter Grieves, Newberry, forester who is general manager of Timber, Inc., explains it this way: "Timber, Inc., has fulfilled its aims and destiny and will be laid to rest at the conclusion of the current funding program." He said operations are being terminated by Timber, Inc., directors at his recommendation because "further efforts is unnecessary and the organization has done what it can in the field of timber management."

Spoken like a man of the people.

Under the heading of unfinished business for Timber, Inc., are two major projects for 1972, its final year of operation.

One concerns plans to bring small wood producers of Michigan into closer relationship with the Timber Producers Association of Michigan and Wisconsin, giving them the benefits of trade association activity.

The other project is—would you believe—formation of a new organization. It would be called the Michigan Forestry Association and would be designed to encompass the needs of all forest-oriented organizations within the state.

Well, at least, it wouldn't be an organization financed with public funds.

PENSION REFORM

Mr. MONDALE. Mr. President, the distinguished chairman of the Committee on Labor and Public Welfare (Mr. Williams) has been conducting an intensive study of the private pension plan system in the United States, under the auspices of the Subcommittee on Labor. This study has had as its focal point the effects of private pensions on the more than 30 million workers who participate in such plans, and the millions more in their families who are also affected in a vital way.

On Monday, March 20, 1972, the Senator addressed the annual meeting of the Society of Actuaries in New Orleans. He spoke of the public policy issues which affect the development of pension legislation at this time, and the pressing social reasons for the equalization and strengthening of the laws which govern pension plans. He urges us to "improve our national commitment to the aging" and stresses that reform of the private pension plan system is one way to begin to honor that commitment.

Mr. President, I ask unanimous consent that the speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Remarks of U.S. Senator Harrison A. Williams, Jr., Before the Society of Actuaries, New Orleans, La., March 20, 1972

I am very pleased to have this opportunity of meeting with you.

And, I am also pleased to see that you have devoted this forum exclusively to the subject of private pension plans.

That indicates to me a recognition on your part of the broad and significant impact the private pension plan system has on our society.

There are other indications, also, of this new awareness.

For example, consider these words which were authored by one of your members and appeared recently in the "Institutional Investor."

"Our relationships with our clients are becoming more problem-centered, with less concern for traditional roles and more for good decisions.

"We see the need to 'sensitize' our clients to social needs . . . we are the only group equipped by training and experience to pull together all of the demographic, economic, financial, investment, and social pressures converging on pension funds."

I want you to know that I agree wholeheartedly with this assessment of the role which actuaries should play.

As a matter of fact, a pension reform bill which I will introduce soon requires that actuaries be included as permanent members of the Advisory Council which would oversee operations of private pension plans.

I'd like to discuss with you today some of the issues which have led me, and several other members of Congress, to seek reforms in pension plan regulation.

Our considerations include protection of the worker, the mobility of the labor force, and the protection of pension assets.

But clearly the primary issue is the fulfillment of the purpose of private pension plans: retirement security.

Demographic projections after the 1970 census indicate the population base of the United States will be experiencing an unexpected shift from young to old.

That means there will be more older people, with more leisure time, and more employment problems, in an economy which still favors the younger over the older worker.

Clearly we must improve our national commitment to the aging; reform of the private pension plans is one way to begin.

Although the idea of social responsibility for the aged is as old as the tribe, pension plans in America did not begin to grow until the tax benefits and wage and price controls of World War II facilitated their advance in size and stability.

This growth of private pensions closely followed the acceptance of Social Security in 1935.

Once the government had taken the initial step, and offered the hope that old age need not be a time of destitution, it was no longer possible to ignore the other two components of retirement income that were supposed to accompany Social Security.

For it is important to remember that Social Security was never intended to provide more than a floor of income support.

Retirement income was held to come from three sources: social security, private savings, and private pensions.

Studies by the Subcommittee on Labor have shown, however, that even a combination of the average Social Security monthly benefit with the average monthly private pension benefit is not sufficient to sustain an urban retired couple above the poverty line.

Now, private pension plans are matters of contractual relations between employers and employees.

But when the basic purposes of pension plans are frustrated, and participants do not receive the retirement security they had justly expected, then the government must step in to help pension plans fulfill their obligations.

Congress has begun to recognize its responsibility.

One sign of its concern has been the intensive study of private pension plans by the Senate Labor Subcommittee, which released its findings and recommendations on February 28.

The findings substantiated earlier charges of defects in the system.

Among them were the following:

First that private pension plans are an integral part of the working lives of Americans, and are intrinsically woven into our economic and social structure.

Furthermore, they represent the largest collection of virtually unregulated funds in the United States today, with assets of over $135 billion.

Second, that there is currently no one federal government agency with authority to exercise close supervisory controls over private pension plans in order to assure fulfillment of purpose and to protect the rights of those involved.

Even on the corporate level, insufficient professional attention is paid to the annual audits of plans.

Our Subcommittee survey shows that only 45% of all plans studied provided for annual audits by an independent professional accountant.

Third, that deficiencies in plans contribute to hardships suffered by participants.

These deficiencies are related to

a. inadequate or nonexisting vesting.

b. underfunding

c. lack of portability provisions

d. lack of reinsurance of unfunded liabilities, to protect employees in the event of plan termination.

e. lack of uniform fiduciary requirements.

f. poor communication among employees and plan administrators.

These deficiencies are real.

Our goals are also real, and attainable.

Simply stated, we want to guarantee that change or loss of a job shall not mean irrevocable loss of accrued pension benefits.

We want to protect the worker's right to employment mobility, without the sacrifice of his retirement security.

And, we want to keep the employee at all times clearly informed of his rights and obligations under his pension plan.

Means to these ends include minimum vesting standards, mandatory funding requirements, insurance of unfunded liabilities, the establishment of voluntary portability programs among employers, and improved communication between employee and employer, about the provisions of the pension plan.

The actuary assumes immeasurable importance in these reforms.

He is the architect of the plan which, if the assumptions are valid and realistic, will produce the promised pension.

Furthermore, he must so design the plans that costs will be kept low and businesses will not suffer.

In the course of the Subcommittee's pension study a certain mood of pessimism was detected.

There was some feeling that private pension plans are too big to handle, that costs are skyrocketing, and that the inevitable result would be government takeover of private pensions.

However, in my judgment, the need for government supervision of certain operations of private plans is not incompatible with the need for private enterprise to run its own affairs.

It is more than possible for pension legislation to be temperate, feasible, and effective, and not infringe upon the flexibility of the present system.

Proposed legislation, if it is to be at all meaningful, will increase the cost of private pensions.

Reform legislation will produce new responsibilities for the plans, such as increased benefits, and increased benefits are certain to increase costs.

But we must not overstate these costs.

Right now I see an immediate need for more intensive management of the investments of the pension plans in order to produce a higher rate of return.

Higher investment income, coupled with moderately higher contributions, will meet any liabilities incurred by new legislation.

With better management of assets, private pensions can survive, and be vastly improved by this legislation.

Among our goals is mandatory vesting—but at a reasonable rate, and within a reasonable period of time.

Another goal is compulsory funding—but with adequate protection for those who may find it difficult at first.

We also must compel insurance—but at a reasonable rate.

And, we must improve fiduciary standards to protect the assets of these funds and the rights of the people, to whom they belong.

We know it is possible to effect these improvements because so many of the better pension plans have already made them.

Part of our role as legislators will be to demonstrate to all companies and unions that it is in their best interest—because it is in the best interests of their loyal workers—to follow the lead already established.

Part of your role, as actuaries, will be to make the calculations that are the lifeline to pension reality.

For when all the speeches are finished, and both "sides" have had their say, there remains one question which should be carefully examined by all who have a stake in the private pension plan system: To whom do the pension benefits belong?

Are pensions a gratuity, a "gift" from the employer to his faithful employees?

Or, are they deferred wages, money the worker has earned, to be paid him at a later date?

The Subcommittee investigated this question thoroughly during its research of the past year.

Response on the part of the employees who testified at Subcommittee hearings in July was unanimous.

For one thing, the general feeling among these witnesses and among the thousands of people who wrote to tell of their losses of expected benefits, was that they had "worked all their lives" and "got nothing for it."

They were not referring to their yearly wages, but to their expectations of future security.

More specifically, one witness referred to her employers attitude:

"The company passed out a folder to the employees giving us a resume of the . . . pension plan . . . I think the company called it our second pay check"

This is especially true in collectively-bargained plans, when pension payments are often made in lieu of, or as a supplement to, wage increases.

And yet, we still find employers who maintain an essentially paternalistic view of the role of pensions in the life of the company.

These words from a witness at Subcommittee hearings in October attest to that:

"My father's philosophy and mine is that still the basic cell of civilization is the family, and our corporate people are part of our family . . . the basic philosophy was to provide additional money for those people that had given us long years of service."

I stated earlier in this talk that I believed the acceptance of Social Security by the nation at large signalled the beginning of the phenomenal growth of the private retirement system.

It is no longer logical to expect workers to experience filial gratitude for the pension benefit graciously tendered by a fatherly company president.

The pension is a right, not a gift.

Workers need to know what kind of retirement security they can plan on.

They will be living longer, in better health, frequently separated from other family members or a familiar community of friends.

They have a right to expect financial independence to save them from the cruel indignities of poverty and helplessness.

And we—you, the architects of the plans, and Congress, the architects of reform—have a duty to give our working people this security.

SUPREME COURT SAYS STATES CANNOT SET STRICTER ATOMIC POWERPLANT STANDARDS

Mr. **SCHWEIKER**. Mr. President, on Monday, April 3, the Supreme Court affirmed a ruling that individual States cannot set antipollution standards stricter than those required by the Federal Government.

The specific decision involved litigation initiated by the Northern States Power Co., regarding restrictions on the dumping of nuclear powerplant waste materials set by the State of Minnesota as a part of the process of granting a permit to build a nuclear plant on the Mississippi River. As this case wound its way through the lower courts to the Supreme Court, the position of the company that the State of Minnesota lacked the power to impose requirements stricter than those set by the Atomic Energy Commission was upheld.

Mr. President, this is the kind of situation I had in mind when I introduced S. 2050 on June 10, 1971. My bill would amend the Atomic Energy Act of 1954 to permit individual States to set their own standards for the regulation of radioactive discharges to the environment from nuclear powerplants, as long as the State's standards are more strict than the Federal standards. In other words, the Federal standards would set a minimum. If the States felt, as Minnesota did in this case, that tougher standards were necessary to protect its citizens, the States would have the authority to act.

I believe it is entirely appropriate to permit individual States to make their own judgments as to the safety of nuclear powerplants and the effect which radioactive emissions will have on the health and safety of the citizens. The Minnesota case graphically points out the need for my legislation.

We have established a clear precedent for this kind of legislation in section 109 of the Clean Air Act, which permits States to set standards that are tougher than the Federal standards. With the proliferation of nuclear powerplants around the country and the considerable dangers to the population which may result from nuclear accidents, it is even more important to permit States to set more restrictive environmental standards in the nuclear powerplant area than it is in air pollution.

I strongly urge my colleagues on the Joint Committee on Atomic Energy to act on this important measure.

Mr. President, I ask unanimous consent that an article describing the Supreme Court's opinion, published in the Washington Post, of April 4, 1972, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

AEC Preempts A-Controls

The Supreme Court affirmed yesterday a ruling that states may not demand more antipollution safeguards than the federal government requires in the realm of waste dumping from nuclear-powered generating plants.

Over the dissents of Justices William O. Douglas and Potter Steward, the court denied a full hearing to the state of Minnesota, which claimed that federal laws had not preempted the field of environmental protections against nuclear pollution.

The court's brief, unsigned order did not settle the issue of federal vs. state power in other contested areas such as automobile safety and pollution rules, drug and cosmetics regulation—where overlapping jurisdiction has brought confusion and litigation.

But the action did indicate that states may be obliged to yield when judges find that Congress has clearly signified its intention to set national standards in a field appropriate for uniform rules.

A somewhat trickier question of what federal courts should do when Congress has not yet fully implemented a regulatory scheme is still pending before the justices in a case from Michigan.

Neither Michigan, in its claim of jurisdiction over water cleanliness standards, nor Minnesota in its nuclear energy appeal, has contested the ultimate power of the federal government to displace state regulation. But they strongly argue that the federal government has not yet assumed such sweeping power.

Environmentalists have charged that certain industries have played one government regulator against another and have won less severe rules from Congres and federal regulators than is proper if states are given adequate leeway to protect their own citizens from pollution.

In yesterday's case, the Northern States Power Co. went to court over the restrictions on waste dumping demanded by Minnesota in granting permits to build a nuclear plant on the Mississippi River. Lower courts agreed with the company that the state lacked the power to impose requirements stricter than those imposed by the Atomic Energy Commission.

INDIAN SELF-DETERMINATION

Mr. MONDALE. Mr. President, the distinguished senior Senator from Massachusetts (Mr. KENNEDY) has long been a leader in the fight for Indian self-determination. As chairman of the Special Subcommittee on Indian Education and as chairman of the Administrative Practice and Procedure Subcommittee, he has time and again demonstrated his commitment to ending the tragic circumstances in which so many of our Native American citizens find themselves, and their powerlessness to influence programs presumably designed for their benefit.

Mr. President, I believe that Senator KENNEDY's recent testimony before the Committee on Appropriations regarding funding for the Bureau of Indian Affairs and the Indian Health Service will be of interest to all those who share his concerns. I ask unanimous consent that this testimony be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR EDWARD M. KENNEDY BEFORE THE INTERIOR SUBCOMMITTEE OF THE SENATE COMMITTEE ON APPROPRIATIONS, MARCH 16, 1972

Mr. Chairman, I appreciate this opportunity to testify before this Subcommittee concerning the budgets of the Bureau of Indian Affairs and the Indian Health Service for the fiscal year 1973.

This is my first appearance before this Subcommittee, although I have testified in the past before the Labor, Health and Welfare Subcommittee on the Appropriations Committee. I know that the members of this Subcommittee have great expertise and experience in matters relating to the federal Indian affairs budget, and that you, Mr. Chairman, and other members of this Subcommittee are also on the Interior and Insular Affairs Committee and have shown a special commitment to the Indian people.

Over the past few years my own activities in the Senate have brought me into close contact with many of the problems faced by Indians and Alaska Natives. In 1969 I chaired the Special Subcommittee on Indian Education, which travelled extensively and documented first-hand many of the educational needs of the first Americans. Last spring I participated in hearings of the Senate Education Subcommittee on Indian education legislation which I had introduced, and again heard testimony from numerous Indian leaders on the education needs of their communities. As Chairman of the Health Subcommittee I have had the chance to study many of the health problems of American Indians. And during the past 6 months my Subcommittee on Administrative Practice and Procedure has held 10 hearings, some in the West and Southwest, on issues relating to federal administrative protection of Indian natural resources.

During the past year many of the budgetary needs and priorities of Indian communities, primarily in the areas of education, natural resource protection and development, and health, have been brought to my attention by native Americans. I have gained some impressions and formulated some suggestions based upon this input from the Indian community, and I would like to share some of them with you.

I must acknowledge that I am here today with mixed feelings. I would like to think that at long last the Federal Government is beginning to take seriously its trust obligation to native Americans.

I would like to think that over a decade of rhetoric in support of Indian self-determination and development has real meaning.

I would like to think that federal funds appropriated in the name of Indians are directly benefiting Indians.

And I would like to think that the Bureau of Indian Affairs is the advocate of Indian rights and development, rather than a step-child dominated by non-Indians who view the expansion and the preservation of Indian rights as threats to their own interests.

This is what I would like to think. But it does not conform to the stark realities of the day. These realities are reflected in the frustration and anger of Indian people, whose hopes and aspirations have been raised by the rhetoric of self-determination, when the day-in, day-out operations of the BIA continue in the old pattern. They are reflected in a recent letter from Leon Cook, President of the National Congress of American Indians, to the Commissioner of Indian Affairs in January. With the Chairman's permission, I will not take time to read that letter but would like to have it included in the hearing record.

The BIA's Budget Memorandum this year says that in 1973 the BIA will "continue to place emphasis on assisting Indians to gain greater control over the educational, economic, and social development of their reservations" and will place "greater emphasis" for "Indian involvement, participation, and control in five specific areas." Mr. Chairman, since 1934 the Secretary of Interior has been required by Congress to consult with tribes on appropriations matters prior to budget submission to the Bureau of the Budget. (25 U.S.C. §476.) This mandate has not been followed in the past and, according to many tribal chairmen, is not essentially being followed today. It seems to me that if Indian self-determination is to become a reality, then tribal involvement in the setting of budget priorities and levels at the initial stages is a must. Let me now move on to some specific inadequacies in the present budget requests of the BIA and IHS.

NATURAL RESOURCE PROTECTION

Water Rights

Protection of natural resources is of fundamental importance to the future of Indian economic development. And inventories of water rights are prerequisites to protection. The hearings before the Administrative Practice and Procedure Subcommittee have clealy elicited these basic principles from Indians across our land. That water, especially in the West, is such a crucial and scarce resource, is attested to by the fact that the so-called "Westwide" water survey is presently underway. This study was directed by Congress and calls for presentation of a comprehensive water use survey and plan to Congress and the President no later than June 30, 1977.

Unfortunately the same sense of urgency is not reflected in the BIA budget where Indian water resources are concerned. The desperate need for water inventories on reservations has been thoroughly documented, and it is reflected in the establishment last fall of a Water Rights Office in the Bureau of Indian Affairs.

In testimony before the Administrative Practice Subcommittee in November 1971, Assistant Secretary of the Interior Harrison Loesch estimated that the total funds necessary to complete the required inventories of Indian water rights would be around $30 million, possibly more. Mr. Loesch testified forthrightly that he saw no reasons why the needed inventories could not be completed within five years.

And yet the BIA requests only $1.7 million for the coming fiscal year, much of which will be dissipated on administrative overhead. At that rate, it would take nearly two decades to complete the inventories. Mr. Chairman, if we use Mr. Loesch's estimates of money and time requirements, the BIA should be asking for $6 million for its Water Rights Office. If the deadlines were adjusted to coincide with the deadline for the "Westwide" survey, the requested figure would be $7.5 million. I urge the Committee at least to bring the funding of the Water Rights Office up to $6 million by adding $4.3 million to its budget.

In many cases Indians have superior, but as yet undefined, rights to water, so that inventories and even court adjudications of rights may be necessary before development based on water use can proceed. Even where Indian projects have been approved by Congress, however, budget requests are frequently far below program requirements.

For example, the Navajo Irrigation Project is far behind schedule, even though the Congress has usually appropriated the full amount requested by BIA, or even more. Generally the BIA's request to the Office of Management and Budget was at or above the original control schedule but was cut back drastically there. This year the request to OMB was reduced from $15 million to $10.5 million. This contrasts sharply with the experience of the corresponding non-Indian San Juan-Chama project, where each year OMB approved the Bureau of Reclamation's request according to the project schedule, and Congress appropriated those requests in turn. Two comparative tables make this clear and I would like to make them a part of the record. This Committee should take the initiative to raise the Navajo Project to at least the $15 million called for by the schedule.

In my recent travels to Indian country tribal leaders of reservation after reservation—for example, Colorado River, Gila River, Fort Mohave, and a number of pueblos—placed increased funding of irrigation projects at the head of their economic development priorities. Tribal leaders from the Northwest testifying in Washington displayed open anger and dismay at their inability to obtain approval for reclamation projects for their reservations.

I cannot begin to estimate the actual dollar amounts required to begin to meet the needs for water resource development on reservations. For that matter, the Bureau's budget memorandum fails to deal comprehensively with the overall economic development requirements of Indian reservations generally. I would thus urge this Committee to have this area surveyed completely by the BIA and to obtain a full report of those needs, so that Congress can place in proper perspective the actual requests of the bureau in this area.

BOUNDARY SURVEYS

On another vital matter concerning the protection and preservation of Indian resources, the Bureau's budget contains a request of $900,000 for long-overdue reservation boundary surveys. As often articulated by many of the tribal officials who testified before my Administrative Practice Subcommittee, unless boundaries are clearly defined and given the proper legal sanctity, reservation development is impeded or prevented. Furthermore, ambiguity over boundaries becomes an open invitation to squatters on disputed land and the consequent threat to Indian resources.

$700,000 of the Bureau's requests will be transferred to the Bureau of Land Management to conduct the boundary surveys. Although I realize that title 25 U.S. Code, section 176, provides that surveys of Indian land be ". . . under the direction and control" of the BLM, I am concerned that BLM may be surveying land which it claims belongs to the federal government and not to Indian tribes. These conflicts of interest appear clear at such reservations as Fort Mohave, Salt River, Colorado River, Fort Apache, Fort Yuma, and Chemehuevi, as explained to me by tribal chairmen in January.

In approving the funds for this important program, this Committee should be aware of the potentially conflicting interests here. I would suggest it appropriate that the scope and content of all surveys be jointly agreed upon among the BIA, the respective tribes, and the BLM, and that the BLM contract out the surveys where agreement cannot be reached.

EDUCATION

The largest single program administered by the Bureau of Indian Affairs is education. Education at first constituted the white man's primary tool to turn the Indian away from his traditional values and activities. While its objectives have theoretically changed, education has remained a central element of our federal Indian policy. Yet BIA education programs are inferior programs and are still unresponsive to the needs of the Indian people. Hearings before House and Senate Committees have highlighted what Indians believe to be the two basic elements needed to change this pattern: Indian control and adequate funding of schools.

Indians continuously ask for control of their own schools; official pronouncements support it; and the BIA says that local control will be a top priority. But progress has been suspiciously slow. To date, only eight schools are operating on BIA contracts, and plans call for an additional four in the coming year. This is out of over 200 schools presently run by the Bureau. Legislation currently pending before both the House and Senate and one bill in Conference strongly stress Indian control as a central element of Indian education. BIA actions, as well as pronouncements, should reflect this emphasis.

A GAO report on Indian education, due to be released next month, points out that the BIA has failed to develop a program of educational services to meet either the specific needs of Indian students or the Bureau's own declared goals in this area. It should be pointed out, however, that even if such programs had been planned and developed, there would not have been sufficient funds to implement them. Let me turn to three general areas for examples:

BOARDING SCHOOLS

It is well-recognized that the weakest aspects of Indian boarding schools—both off and on the reservation—are dormitory living and the quality of personnel and programs. The lack of trained personnel, career ladders, recreation programs, and other student-activities programs have significantly contributed to the high percentage of dropouts and to widespread lack of achievement. The BIA has asked Congress for a little over a million-dollar increase for boarding schools. To provide a significantly improved program of dormitory living, the Bureau should have an additional $4,800,000.

The model dormitory project at Toyei Boarding School on the Navajo Reservation illustrates that with dedicated administration and appropriate funding, extraordinary results can be achieved. According to a brief description of this project by its director, Dr. Robert Bergmen—which I would like to submit for the record—children in this program did better than those in a control comparison group at another boarding school in every behavioral variable measured, including academic achievement, psychological stability, and physical ability. Compare this, if you will, with the following cases suggesting the more usual boarding school experiences:

For almost a year the Intermountain School has been the focus of investigation relating to general low morale of the staff and mistreatment of students.

Several months ago a student was injured by a staff member at Chilocco School when the staff member became involved in a fight between several students. The dropout rate this year at Chilocco has been about 30 percent.

There have been repeated reports of corporal punishment at Pierre Boarding School, and late last month ten Indian girls attempted suicide by cutting their wrists.

The needs for additional funds for Indian boarding schools cannot be underestimated.

HIGHER EDUCATION

The Bureau of Indian Affairs makes scholarship grants to Indian students, based on financial need. These cover tuition, books, and minimum living expenses. During the present school year 10,500 students are receiving assistance from the Bureau under the higher education programs. The funds requested for the next fiscal year would likewise reach 10,500 students. I would like to point out, however, that the BIA estimates almost 14,500 qualified applicants for BIA assistance next September. Under the Bureau's present budget request, then, some 4,000 Indian students will probably have to end their education with high school. This seems to me to be inconsistent with not only our Indian policies, but also with our national priorities that are reflected in the $20 billion higher education bill presently being considered by House and Senate conferees.

Mr. Chairman, I have talked with Indian high school students in Alaska, in the Southwest, and in the Midwest over the past few years, and without exception they tell me of their desires to go on to college. Higher education is valued by Indian people as a key to full employment of both human and natural resources in their communities. An additional $7,000,000 would bring the funding level of the higher education programs of the Bureau up to its own projected needs for the next fiscal year, and I urge the Committee to add this amount to the $17.15 million presently requested for higher education assistance.

CONSTRUCTION

The final item in the education budget of the BIA that I would like to mention involves school construction. Under general building replacement and enrollment expansion principles, the Bureau estimates its annual construction needs at over $50 million. Yet for the next fiscal year the BIA is asking for approximately $31 million—almost $20 million short of its projected needs. I fully understand the fiscal restraints on the Executive Branch, imposed from within and by Congress. But I suggest that an additional $20 million on top of the Administration's request would not even meet minimal current growth and replacement needs for Indian school construction, much less start to meet the staggering backlog.

To give the Committee just a few examples: at least 10 schools have submitted applications for assistance in the design stage—the first stage—of construction. These total over $3.5 million; none of them are included in the Bureau's present budget. Improvements or additions costing over $50 million have been planned for construction this June at 14 schools; none will be funded this year. Haskell will be short a dormitory; Grey Hill will not be completed; Mt. Edgecumb will still have inadequate sewage treatment; Rough Rock will not expand to the high school level; and kindergarten facilities nation-wide will go unbuilt. We should try to fund school construction programs so as not to fall further behind. An additional $20 million would be a start.

INDIAN HEALTH

I would finally like to make a few suggestions with respect to some important program needs of the Indian Health Service which reflect the serious health needs of Indian communities.

Indian poverty and isolation have been both attendant to and reinforced by poor health. Improved health, both physical and mental, are essential to sound economic and social development on reservations. The Indian Health Service has requested program increases in only two important components of its operations: $756,000 for the upward mobility program which provides work-study training in medical disciplines for Indians beyond the professional assistant level, and $632,000 for Indian community health projects. I commend both increases to favorable consideration by this Committee.

Data from the recent census indicate that the Indian population is substantially larger than projected. Consequently, the service population of the IHS has been rising more rapidly than expected. Because of this, and because physical isolation often prevents the delivery of adequate health services, there are several other IHS program needs which I would like to discuss.

MENTAL HEALTH

The mental health program is a highly innovative and effective effort, based on using the strengths of the Indian people and their traditions to help solve current problems. This program has been developed in a form suited to each community it serves and is therefore able to reach people where a conventional psychiatric agency could not. Since this development has been recent and has proceeded community by community, there are still many areas and phases not covered. Indian people expect this progress to continue, but there is no provision for its expansion in the budget. I understand that the mental health program could make reasonable progress with an addition of $1.3 million, representing 70 new positions. The eventual goal is to place a mental health aide in each reservation community. There are now only 90 people serving in this capacity.

COMMUNITY HEALTH MEDICS

In the field of delivering care for physical illness, the Indian Health Service has also been innovative and effective, but past gains may be reversed if increased support is not forthcoming. For example, in the past year thirty community health medics have been trained. If no addition is made to the proposed budget, there will be no funding for their salaries or supplies or travel and their training may be lost to Indian communities. A budget increase of $600,000 dollars would provide salaries, transportation, equipment and support services for 30 health service medics.

AMBULATORY CARE CLINICS

Another IHS program in need of further support involves ambulatory care clinics. The Indian people now believe that the clinics can help them and they have learned to come to the doctor early enough to prevent severe illness. Since the service population is growing, the result is an over crowding in the clinics where there are not enough doctors, nurses, rooms, or equipment. Over the past 6 months there has been a seven percent increase in the use of these facilities. A budget increase of $4.5 million would make much-needed expansion available in this critically important area of Indian health care, and I strongly urge its consideration.

Before concluding my testimony I would like to point out to this Committee an extraordinary abuse of authority and flaunting of congressional will by the Bureau of Indian Affairs. It has come to my attention that the BIA has what it calls a "1299 fund". This fund is earmarked by the Support Service Section of the Bureau for general administrative expenses. Congress has apparently appropriated $6,057,000 for this purpose and has authorized the assessment of another $3,531,000 from the Bureau's operating programs, representing a total of $9,588,000. Yet last fall I learned that the BIA had a whopping $26,642,000 in the "1299 fund" from the fiscal 1972 budget. The over $17 million difference between what was authorized and what the fund contained was apparently taken from operating programs without the sanction or knowledge of this Committee.

Mr. Chairman, I have not studied the budget practices of the BIA which make this kind of sleight-of-hand possible. I do know, however, that Indian communities are in dire need of the funds that Congress provides for them, and I therefore must condemn any administrative looting of programs to support the pet projects of Bureau bureaucrats. When I was on the Navajo recently Chairman MacDonald referred to BIA officials as "range riders". From what I understand to be the Bureau's practice with regard to the "1299 fund", I would have to characterize them as rustlers. I think that this Committee might want to inquire about this matter of the Bureau directly. Two years ago this Committee chided the Bureau in its report for flagrantly ignoring the will of Congress through continued unapproved use of appropriations. Evidently the BIA has not yet read that report.

Mr. Chairman, I think that the pervasiveness of Indian needs is documented beyond dispute. We are only just beginning to deliver on the long-promised resources to help native Americans meet those needs.

The appropriations increases I have suggested this morning are relatively small, but crucially important to the strength of future Indian development—human as well as economic.

Thank you again for your consideration and for this opportunity to appear before your Subcommittee.

VOLUNTARY PRAYERS IN PUBLIC SCHOOLS

Mr. GOLDWATER. Mr. President, the Senate has heard much argument in recent years over the whole question of whether it should be permissible to offer voluntary prayers in our public schools. This problem runs very deep into the beliefs and the consciences of the American people. In acknowledgment of this, the House of Representatives of the State of Arizona recently adopted a house concurrent resolution urging Congress to call a Constitutional Convention to propose an amendment to the Constitution of the United States which would permit the offering of voluntary prayer in the public schools. I ask unanimous consent that House Concurrent Resolution 2009, 30th Legislature, State of Arizona be printed in the Record.

There being no objection, the concurrent resolution was ordered to be printed in the Record, as follows:

House Concurrent Resolution 2009

A concurrent resolution urging Congress to call a Constitutional Convention to propose an amendment to the Constitution of the United States to permit offering voluntary prayer in public schools

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. In accordance with the provisions of Article V of the Constiution of the United States of America, the Legislature of the State of Arizona hereby applies to the Congress of the United States to call a Constitutional convention for the purpose of proposing an amendment to the Constitution of the United States, which amendment shall permit the offering of voluntary prayer in public schools.

2. If Congress shall have proposed an amendment to the Constitution to the same effect as the foregoing prior to January 1, 1973, this application for a convention shall no longer be of any force or effect.

3. The Secretary of State of Arizona is directed to transmit authenticated copies of this Resolution to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation.

AIRLINE PILOTS VERSUS FAA

Mr. HARTKE. Mr. President, last week I introduced S. 3423 in an effort to prevent the Federal Aviation Agency from transferring the responsibility for the medical certification of airline pilots from authorized private medical examiners employed by the airlines themselves. For the past several months, the FAA has been soliciting comments on a proposal which would effect just such a transfer.

The FAA's proposal is unique in that the only argument which has been offered in its support is the claim by an official of the agency that a few of the authorized medical examiners have not been performing their function responsibly. The obvious answer to such a charge is to withdraw the authorization of any doctor who does not conduct a proper medical examination. Instead, the FAA has decided to give the airlines this responsibility—a responsibility the airlines do not want and, in many cases, could not handle without great expense.

Airline pilots have opposed this transfer because it places in the employer-airline a dangerous potential power to use a trumped-up medical problem as an excuse for firing a pilot who has been too outspoken. For this and other reasons, they have opposed the FAA's proposal and supported S. 3423 and a similar bill in the House (H.R. 13088).

Mr. President, I ask unanimous consent that an article published recently in the Air Line Pilot and an editorial which represents the views of the Air Line Pilots Association on this subject be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

An ALPA View: Should Airlines Give FAA Physicals?

Last October, a notice of proposed rulemaking appeared in the Federal Register that deserves the attention of every airline pilot. Written by Dr. Peter V. Siegel, the federal air surgeon, the proposed rule would require all airline companies to be responsible for all future FAA airline pilot physical examinations in place of the independent aviation medical examiners.

To the average man in the street, this may sound like a minor change in the medical certification process for airline pilots. It is far from being minor. It is a change that shakes the very foundation of the time-honored doctor-patient confidential relationship. It is a change that completely reverses the concept that doctors who give physical exams in the public interest should not be on the airline's payroll and, therefore, beholden to company management for their livelihood.

Ever since the proposed rule was published, ALPA's Aeronautical Committee, Captain Rod Gilstrap (UAL), chairman, has spent many hours studying its impact on both pilots and their companies. It has consulted with counterparts of the Air Transport Association, Allied Pilots Association, Flying Physicians Association, Civil Aviation Medical Association, other prominent members of the aerospace medical profession, association MECs and ALPA officers.

It has also studied the many responses that FAA has received concerning the proposal. As a result, one basic conclusion has been reached: The proposed rule is not in the public interest and should not be put into effect.

In their contacts with physicians, committee members found that there is overwhelming opposition to the rule or to any alteration of the present system that would eliminate the independent private practitioner of medicine from the certification process. It was the consensus that the private practitioner is the only medical authority whose position of independence assures his freedom to make pilot certification decisions on a purely medical basis, free of government and management control or other outside pressures.

Objectivity in conducing physical exams is vital to the professional pilot because medical certification is a legal requirement for the practice of his profession. It is essential, therefore, that this system be free of all nonmedical considerations.

When the Aeromedical Committee found solid opposition to the proposed rule (only four responses out of more than 100 supported the federal air surgeon), it felt that a meeting might be arranged to determine what reasons lay behind the rule. None had been expressed in the *Federal Register*. None have been given to members of Congress who have inquired as to why the rule is proposed.

No meeting between the committee and Dr. Siegel has been possible. Thus, it has remained a mystery why he considers so radical a change necessary after so many years of successful operation of the current system of exams by independent aviation medical examiners. The only conclusion that can be drawn is that the federal air surgeon is unable to administer his own program with the 2,000 medical examiners now licensed to give airline pilot physical exams.

Since it became evident that FAA was intent on putting the proposed rule into effect at the expense of the airline companies, over the protests of the medical community and to the complete disregard for the harm it could do to professional pilots, the only alternative was to seek the counsel and support of members of Congress.

The committee reports that its reception on Capitol Hill was "warm, sympathetic, understanding, and enthusiastic." The adverse impact that the proposed rule would have on the pilots' working environment and on air safety was immediately apparent to each representative and senator visited, and their staff members.

Proof of concern was manifested in H.R. 13088, a bill that was introduced in the House of Representatives by Representative Dan Kuykendall (R-Tenn.) on Feb. 9. The bill would amend the Federal Aviation Act of 1958 to specifically forbid FAA from designating certification authority to company doctors. Cosponsors immediately leaped forward. They were: Represenatives John Jarman (D-Okla.); John D. Dingell (D-Mich.); Ralph Metcalfe (D-Ill.); Brock Adams (D-Wash.); S. Fletcher Thompson (R-Ga.); Joe Skubitz (R-Kan.); and Bertram L. Podell (D.-N.Y.), all members of the House Committee on Interstate and Foreign Commerce. A similar bill is expected to be introduced in the Senate.

Airline management is not in favor of the rule, either. Representatives of the Air Transport Association, speaking for the airlines, say there is overwhelming opposition to the rule. Airlines do not want to shoulder the additional expense of setting up examining facilities or contracting for them. Neither do they believe that the government should pass the responsibility for pilot medical certification off on them when it rightfully should stay in an independent status free from any pressure or possibility of accusation of pressure.

Many physicians have also responded. One of them seemed to express the feelings of most when he wrote FAA: "As a practicing eye physician and surgeon, I am my own boss. I owe nothing to any airline executive. My duties as a senior aviation medical examiner are and can be accomplished strictly on a professional basis without regard to the wishes, desires or pressures of any company official."

After weighing the evidence, the ALPA Aeromedical Committee formulated the Association's reply strongly opposing the proposed rule. It was submitted to FAA on March 1. FAA medical staff members will now consider the replies and implement, discard or modify the proposed rule. But there is no obligation on FAA's part to do anything for an indefinite period of time. Years could pass without any action. Then, without further warning, the rule could be published and made binding upon pilots, their companies and medical examiners.

It is the opinion of those close to the matter that the best immediate course of action for ALPA members is strong support of the Kuykendall bill and a comparable bill that will soon be introduced in the Senate. The language of the House bill would amend the Federal Aviation Act of 1958 by specifying that the secretary of transportation "shall not delegate any part of his authority to an employe of any air carrier or to any person performing medical services on a contractual or regular consulting basis for any air carrier." It is only by this kind of legislative constraint that FAA will be prevented from issuing an arbitrary order that would work to the detriment of pilots, airlines and the flying public.

Background information on the proposed rule was mailed to all ALPA pilots in early March. All are urged to write to their respective U.S. representatives and senators to ask support for ALPA's position against changing the medical certification process and support for any and all legislation that would prevent FAA from making such a change.

A Leap Backwards

The Federal Aviation Administration is planning to make a radical and totally unnecessary change in the medical certification of airline pilots. It has proposed a rule that would require all airline pilots to have their FAA medical certificates issued by their company's "designated air carrier physician (DACP)." Each DACP would perform all required medical exams from initial employment to the close of a pilot's airline career. While others may be contracted to give the exams, only the DACP will be able to issue certificates or file required reports.

In addition, each DACP will be required to maintain a continual "health surveillance program" on his company's pilots. This means he could order a pilot to take a physical at any time he had reason to suspect "a disqualifying deficiency or increase thereof." Any pilot who had not flown for 20 or more consecutive days because of illness or injury would have to submit to his DACP's scrutiny.

To the layman, the idea may seem like a proper way to keep tabs on the state of a pilot's health. What may not be realized is that when management pays the physician's wages, management can expect the physician to follow its whims. And if those whims include trying to get rid of a pilot for other reasons, there is no quicker way than to have the DACP flunk him on his physical.

ALPA's Aeromedical Committee and Home Office staff have studied the proposed rule very carefully and submitted ALPA's official response to the docket on March 1. No public hearing is offered.

If the proposed rule is put on the books, FAA will truly have taken a giant leap—backwards.

BUSING IS A USEFUL TOOL

Mr. JAVITS. Mr. President, perhaps the most emotional issues before the American people in 1972 are school desegregation and busing to achieve it. Thousands of my constituents in New York State have written to me, expressing a wide variety of views on how we in the Congress should attempt to cope with problems of racial discrimination and unequal educational opportunities which too often are the plight of millions of American children.

The question of busing and the underlying educational questions with which it has been used to deal were the subject of an informal interview in which I participated with editors of the U.S. News & World Report. My considered judgments on this problem are expressed in that interview, and I would like to share them with the Senate. I ask unanimous consent that the interview entitled "Busing Is a Useful Tool," published in the U.S. News & World Report of April 3, 1972, be printed in the Record.

There being no objection, the interview was ordered to be printed in the Record, as follows:

Busing Is a Useful Tool

(Note.—Jacob K. Javits, a New York City lawyer, spent eight years in the House and is now serving his third term in the Senate. He is the ranking Republican member of the Senate Committee on Labor and Public Welfare.)

Q.—Senator Javits, what do you think of President Nixon's proposals to curb busing for school desegregation?

A.—I think that the President has sought a breather—a breathing space—and both the House and Senate had this in mind when they passed busing curbs in their higher-education bills.

But I do not believe that the President's permanent proposals—in addition to his proposed busing moratorium—for allegedly giving 2.5 billion dollars of aid to compensate those who have been left behind in education are any really new addition to the situation, nor do they represent a solution to the busing problem.

So I think the President's permanent proposals may have rough going. But I do believe that it's possible to work out, in the conference between the Senate and the House on the current education bills, not a moratorium, as the President asks, but rather some form of breather for the American people on the busing issue until July 1, 1973.

Q.—In what way would busing be restricted in that period?

A.—There are already restrictions in both bills—the one passed by the Senate and the one passed by the House—and we will find some compromise between them.

Now, the Senate bill would restrict busing that would damage the health of the child or impinge upon the child's educational opportunity—considering both the child that's being transported and the child in the school to which he is being transported.

The House bill would, for all practical purposes, seek much more extreme limitations on busing.

In addition, the Senate bill provides a moratorium, as it were, pending appeals from busing orders where local school districts are consolidated or where there is going to be busing from one school district to another.

Now, there are enough variables in that whole package to allow us to design, in my judgment, what will, for practical purposes, be a breathing spell in ordering any major new busing to aid desegregation until July 1, 1973. This would not eliminate busing entirely—and I doubt that you could do that constitutionally, or that you should.

Just to give you an example: Suppose the President asked for a moratorium that prevents a child from being bused to a different school from the one he is now attending. Well, suppose that child is in a segregated situation—and there are still many districts where he is—where he was bused way out of his way in the past to maintain segregation. Are we going to inhibit the courts from busing that child for desegregating him—and busing him less distance? Of course we're not.

That's why I say that an inflexible standard in this matter is impossible.

Q.—Senator, do you regard busing as a useful tool to desegregation?

A.—It is a tool. And, in my judgment, the whole busing issue has been very sharply overblown. The evidence is that all over the country there are only 3 per cent more children being bused today than have normally been bused in the past. Remember, 20 million American children are bused, and have been, every day, and that the leap forward—an enormous leap forward—in education was accomplished by the central school district, which bused children from all over a countryside to a central school instead of to a one-room school where they were way behind in education.

Q.—This 3 per cent increase in busing, however, is not scattered nationwide but is rather concentrated in a relatively few communities, is it not?

A.—I would think so, and that's where the clamor has often been greatest. There are other statistics that will interest you, which have been gathered officially.

Governor Wallace is making a big issue of busing. Yet, in Alabama, the facts are that busing has gone down, not up, since the drive to desegregate began about the middle 1960s. It's gone down a minor percentage.

Q.—Compared with the days of complete segregation——

A.—That's correct, because more kids were bused farther in aid of segregation. Nobody now thinks of the fact that black children were bused from their homes directly past the white school, which might have been across the street—bused for miles so that they could be segregated in the black school. Now the shoe is on the other foot.

I'm the first to agree that the American people are outraged by any oppressive busing, although a lot of wrong names are attached to it, like "involuntary busing" or "forced busing." After all, the school districts provide buses as a service to children assigned to schools beyond walking distance, as they always have. The child doesn't have to be bused.

But, be that as it may, the fact is that busing is a useful tool, a necessary tool, in desegregation. And desegregation is a necessary and essential tool—and the great majority of experts agree on this—in equal educational opportunity. That's not true in every case. It doesn't mean that you have to strain the child. It doesn't mean that you have to inhibit the opportunity to learn of the child being bused, or even the opportunity of the child in the school to which other children are being bused. But nonetheless, it is a tool.

Now, this tool should not be overused. But I believe the issue has become very emotional. Therefore, in order advance, not retard, the whole progress of better education and school desegregation, we have to define reasonable limits on busing.

"WE HAVE TO DEFINE LIMITS"

Q—Are there places where this tool of busing has been overused, in your estimation?

A—I would not wish to be critical of the courts. I'd rather put it this way—because I think the courts have really striven in good faith to redeem the promise of the Constitution, and I think they rendered an enormous service to American society—but I would rather put it this way:

There have been outraged feelings about busing in those areas where a large proportion of children were to be bused what the community considered to be an undue distance. For example, Richmond, Va., is a case in which busing was ordered across school-district lines. The original order in Los Angeles was another example of extensive, long-distance busing. That was subsequently modified.

Indeed, in most cases, where there have been the loudest screams, the appellate courts have corrected the district-court orders. The judicial process is such that you're bound to have some error in some cases. That's why we have appellate courts—the courts of appeal and the United States Supreme Court. And I think the courts have taken care of the oppressive situations.

Nonetheless, there has been the outcry, and we have to define limits to busing. And I believe that the Senate concept of how to define those limits is the most intelligent, because it is conditioned to the educational process rather than to the absolute idea of eliminating busing, which you can't do—and which even the President knows you can't do, and he shows that in his own message.

Q—Do you think the measures the President proposes would prevent effective desegregation?

A—I believe they would, because I believe that we have not ascertained—and this is a basic question in education—that money alone—even if the money that the President asks were adequate, and it's far from adequate—that money alone will correct educational opportunities soon enough. It takes years to develop a program even with the use of the money, with teachers and facilities and the tradition of a given school as to the excellence of its education and the conditioning of the child himself.

The basic, fundamental character of my philosophy that dictates the policy that I, therefore, adopt as a Senator and which I believe is best for the people of my State and the people of the country—my philosophy is that you need desegregated education to provide more-nearly-equal educational opportunity. I use the words "more nearly equal" because it isn't going to be truly equal for a long time.

Now, if you start with that proposition, then it inevitably leads to all of the things I have said. If you start, however, from the idea that if you simply load in more money, you are going to give children equal educational opportunity, then you can come to different conclusions from mine. I don't agree with that.

"LOTS, LOTS MORE MONEY IS NEEDED"—

Q—Do you think that most schools which blacks attend today are inferior to schools that most whites attend today?

A—Yes.

Q—In what way?

A—In the way of the morale of the student and the incentives to learn, which the society frequently withholds from him. Unhappily for all of us—and it's no credit to any of us—the schools most blacks attend are also inferior in facilities.

Lots, lots more money is needed. We need much more federal money for education than we're getting, much more than the President is asking for. But that is not the biggest answer to the unequal-education problem. It's the biggest answer to the problem of all children being under par in education.

For example, in reading skills, as compared, let us say, with children in the more-advanced countries of Europe, our kids are behind—very seriously behind—and this is wrong on grounds other than segregation.

Now, let me tell you about the money. The President is asking for 2.5 billion dollars—representing a billion out of the emergency school-aid fund, which is intended to facilitate desegregation, and 1.5 billion out of the money for poor children under the Elementary and Secondary Education Act.

Now, this emergency school-aid money is supposed to come forward anyhow. There is nothing more he's giving them in that than he's already promised them. The 1.5 billion dollars is the biggest deal of all, because we have only 1.6 billion for all poor children to facilitate compensatory education—not just the heavily impacted school where 30 per cent of the kids are poor. All we have is 1.6 billion for them all. So if you take 1.5 billion for this special purpose, you leave 100 million dollars.

We have already got a provision in the law that heavily impacted schools with poor kids, under a slightly different definition from the President's definition, get the special break. So of that 100 million dollars, more than one quarter is going to those children now. What have you got left for all of the other poor kids who don't happen to be in schools with 30 per cent poverty, let's say—20 per cent poverty, or 18 per cent poverty? So unless you come up with more monies—with another billion dollars added to it—you're not doing anything in a total approach to the problem even in compensatory education.

Q—Do you think busing as it's now done is improving equality of education for large numbers of children?

A—Let us separate the two issues:

First, let's take busing as it is now done for children generally, leaving out desegregation—and this represents the bulk of the children. The 20 million children bused for reasons other than desegregation certainly have a better education because of the busing.

Now, as to the busing for desegregation, I believe that there is material improvement in equalizing educational opportunity the soonest possible because of this busing. Here, as in any public matter, we must allow 10 per cent or so for error or for unwise decisions: pressing it too hard, moving in a way that many families consider too fast, and so on. But discounting that marginal percentage, the totality of the busing result is beneficial.

Q.—Do you think it is largely errors in application of busing that cause the public outcry?

A.—No question about it. And I agree there is an outcry. And I agree the President is right, and we were right in the Congress in trying to do something about this outcry. I would yield to no one in my liberalism and my passion for equal opportunity in education. But I realize we had to do something about this public outcry. Otherwise we would have had a reaction which could have killed all desegregation.

You really could have gotten a constitutional amendment that would be barbaric and reactionary.

Q.—Do you think the idea of a constitutional amendment to curb busing is now dead?

A.—I hope and pray so, because to distort the promise of America that way would really be a most regressive step in our history, let alone on this issue. You know, there is a saying in my faith: "This, too, shall pass away." This busing outcry, too, will pass. But we have to pay attention to it, and we have to make some concessions to it.

Q.—Senator, if racial integration is necessary to equal opportunity for blacks, does this mean that there will also have to be busing or some other mixing measure in cities in the North, where there is school segregation as a result of residential segregation? Will suburban and inner-city schools have to be mixed?

A.—I cannot say "Yes" to that, because that presents first a legal problem and then a factual problem. Let me explain:

The courts will be extending the concept of unconstitutional segregation to include much of the North. The reason is that they will find—as they have already found in such places as Pontiac, Detroit, Pasadena, Indianapolis, and New Rochelle, N.Y.—they will find that the drawing of lines for school districts, the pattern of school attendance, even what they have done about housing and zoning, will represent some contribution by the State to the resulting segregation in the schools. This will demand, therefore, State action or local action to correct unconstitutional segregation. Much of the segregation which is attributable to housing patterns will be found to be segregation just as unlawful as the dual-school systems of the South.

So this is going to be a big issue, and it is here that wisdom will have to temper the situation, because you simply cannot, wholesale, bus kids from Bedford-Stuyvesant to the outer reaches of Long Island, for example. It just can't be done.

So here is where you have to have an intelligent system. Some busing will be needed and desirable, also some redrawing of lines, some educational parks. The President's plan itself contemplates that idea. You will not be able to mix up the children completely. That isn't going to be your only solution. But you can't inhibit it, either. It must remain as an element of a solution.

WHAT TO EXPECT AFTER A "BREATHER"

Q.—Senator, you describe the pending congressional action as a "breather." After the breather, what will be "Phase 2?"

A.—"Phase 2" will be some form of greater regularization of the criteria for busing. That's where I part from the President. I don't think they can be the President's criteria, which are very questionable—both constitutionally and policywise. I think they will be more along the lines of the Senate's Scott-Mansfield proposals.

And I believe the courts will be aided, perhaps even directed, by the stand of the Congress.

UNEMPLOYMENT HIGH FOR COLLEGE GRADUATES

Mr. MONDALE. Mr. President, one of the gravest problems facing us today is that of the almost 6 percent of our work force who cannot find jobs. A paying job is essential in the pursuit of a happy, productive life. It is time the administration changed its attitude toward unemployment and implemented some realistic program for creating jobs.

I wish to call your attention to one segment of the unemployed: the recent college graduates who can find no employment in their chosen fields. It is paradoxical that society can provide so many a college education and then fail to provide jobs for those it has spent so much money to train. We are forcing such young people to go on welfare when they are willing and able to work.

I believe it is essential that the Government move decisively to combat the high rate of unemployment. Unfortunately, the administration seems to have no plans for doing so. In fact, the Chairman of the Council of Economic

Advisers has said that it would be difficult to reach a 5-percent level, and "dangerously inflationary" to achieve a 4-percent rate.

I recently received a letter from a college graduate struggling to find a worthwhile job. It is a moving letter and speaks for itself.

Mr. President, I ask unanimous consent that his letter and my reply be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Ely, Minnesota,
February 21, 1972.

Hon. Walter Mondale,
U.S. Senate,
Washington, D.C.

Dear Sir: Two years ago, as a college student, I wrote to you and asked for your help in ending the Viet Nam war. And last year I wrote to lend my support in legislation to save the environment. But today I write about a much more basic problem—I need a job to support myself and my family. Idealism rapidly disappears when one begins to wonder where his next meal will come from.

I graduated Cum Laude from the University of Minnesota, Duluth in June 1971 with a BA in biology and a minor in geology. All through school I was a good student, possibly a bit radical at times, but I always studied hard and found my earth studies interesting and stimulating. You might say I was a product of the Great Society, nurtured and funded through college as a poverty-stricken but intelligent student by annual grants and NSDL loans. These monies even helped support my wife and daughter as I completed my final two years at the University.

But there the dream ended. I graduated with a flood of mass-educated, idealistic young people who have already been forgotten by the very country that made a higher education so readily available to them. By some legislative and administrative lack of foresight, no one was prepared to employ these thousands of knowledgeable, but unneeded graduates of 1971. So, we swallow pride and put aside our training and tackle any job that will put food on the table. I worked as a laborer through June, traveled for six weeks to find work, found nothing and returned to the same labor job. It ended in November and I became a pulpcutter for three weeks. Then, that ended too. So, finally, in December, with somewhat dampened Christmas cheer, we approached St. Louis County Welfare for help. Luckily, we qualified for AFDC–UF and a monthy grant of $256.00 was made available to us. I also am enrolled in the WIN program and will probably be receiving an additional $70.00 per month as an incentive to seek employment. And, if I haven't found anything by June, we will receive, I think, an extra $24.00 per month after the birth of our second child. In March my NSDL loans become due; under this welfare program I have no way of paying them back.

I am, along with many others, in a very difficult position. Employers who need people to fill labor positions are suspicious because they feel we are over-qualified and will leave as soon as a better offer comes up. (True, but how do we live until that Golden Opportunity arrives, if ever?) We are considered fully trained, so we do not qualify for Manpower and other retraining programs which provide at least a temporary stipend while retraining. We are "college people" and therefore are suspiciously eyed by Welfare and those critical of welfare recipients. And everyone is out to "Hire the Vet" and "Hire the Handicapped" and increase their minority ratio. And we are somewhere in between. And, finally, if we are able to find a low-paying job, we are faced with the decision to work and live in poverty or remain on welfare and live more practically on a slightly higher, yet meager level.

In the past thirteen months I have made 86 applications for employment (90% had nothing to do with my training) and have endured twelve interviews in vain. My attendance at the Minn. Dept. of Manpower Services is probably the best on record and my college placement office has even agreed to reinstate my credentials without the traditional fee of $15. Besides that, I have taken every Civil Service test available. Minn. College Placement Exam: 86.61; FSEE: no results—taken Jan. 14; US Postal Exam: 80.5; 1 have also been rated without exams. Technical Assistant–US: 94; Biological Lab Assistant: rating upon open position; Biologist GS–5: no word; Wisconsin St. Civil Service: rated as Environmental Specialist, no offer in 13 months. I also was eligible for testing in New York and Michigan but could not afford to make the trips. I applied to the US government in Oceanography, Fishery Biology, Biology and to the Dept. of Agriculture, Interior and NOAA and have applied to similar agencies in several states. And the situation only worsens. I now face competition from the 254 men laid off at Reserve Mining and the 1200 or so who lost their jobs at the US Steel Plant in Duluth. And this does not take into account the people that are being let go by exploration firms in NE Minnesota as exploration of the Cu-Ni deposits ends.

I guess what I really want to say is that here I am, a young college-educated man who is eager to work—especially in my chosen fields—and there is no work. At one time I was idealistic, hopeful and proud of my goals and achievements. Now, each day I become more frustrated, bitter and defeated with an existence that was forced on me by circumstances that I could not foresee. And I feel sorry for the thousands of others, once hopeful, who are now without meaningful futures, either trained for nothing or losing their jobs because of a poorly planned, failing economy. What can we do?

Yours truly,

William A. Haapala.

P.S.—Please tell Mr. John Connally that the employment situation *is* critical.

U.S. Senate,
Washington, D.C., April 5, 1972.

Mr. William A. Haapala,
Ely, Minnesota.

Dear Mr. Haapala: Thank you very much for your moving letter of February 21.

It is very disheartening to see that the unemployment situation in this country is hurting so many and yet is not recognized by the Administration as a number one priority. The present unemployment rate of almost 6% is disastrous; even 4% should not be considered full employment. In spite of this, the Administration has no plan or program for a substantial reduction in unemployment.

Fortunately, the Congress has recognized the need for urgent legislation in this area. However, the President vetoed the first two bills we passed—the manpower bill in 1970 and the accelerated public works bill in 1971. Then we succeeded in enacting the Emergency Employment Act last August. It authorizes 150,000 public service jobs.

I have sponsored a bill to increase the jobs authorized under that program to at least 500,000. I have also co-sponsored a bill by Senator Cranston, to establish a permanent public service employment program, and a bill by Senator Kennedy to use unemployed scientists and engineers in solving the problems of our crowded cities. I think all of these proposals will help to reduce the distressing levels of unemployment.

I believe that you have expressed all too well the feeling of frustration and disillusionment of many college graduates and other young people who have been severely handicapped by the Administration's neglect of the economy. Therefore, I am taking the liberty of placing your letter in the Congressional Record with the hope that many will be brought to understand the critical situation that now confronts us. I have also sent a copy of your letter to Secretary Connally as you requested.

With warmest regards.

Sincerely,

Walter F. Mondale.

THE SPACE SHUTTLE

Mr. BROOKE. Mr. President, the Senate Aeronautics and Space Sciences Committee is currently conducting extensive hearings into the request of the National Aeronautics and Space Administration to authorize $227.9 million for development of the space shuttle.

I have continually believed that the United States can and should support a space program of moderate means and expectations. In retrospect, it may be argued that the decision to conduct an all-out effort to land a man on the moon by the end of the 1960's did not result in the most effective or economical use of our scientific resources. By contrast, it seems reasonable to suggest that the current NASA budget, which represents slightly more than 1 percent of our national budget as compared to more than 5 percent in the mid-1960's, is a realistic program.

The scientific research which results from the space program has a potential economic and social impact far exceeding the NASA expenditures. After careful study, I am convinced that the space shuttle represents the most efficient means of continuing the space program at minimum cost and maximum benefit.

In this respect an article in the April 1972 issue of Foreign Affairs provides an excellent analysis of the space shuttle program. Written by Robert Jastrow, Director of the Institute for Space Studies and Office of NASA Goddard Space Flight Center, and Homer E. Newell, Associate Administrator of NASA, and formerly Associate Administrator for Space Science and Applications, the article includes a short history of the American space program and comments in greater detail on the economic practicality and potential scientific benefits from the shuttle.

The authors conclude from their discussion of the economic benefits of the space program:

> The extensive use of space is becoming an economic necessity for every technologically advanced nation. The United States probably could not maintain a competitive position with other major powers in international commerce unless it made full use of the most advanced technologies available, including those of space—commerce-oriented satellites and the economics of the shuttle—in the conduct of its domestic and foreign affairs.

I ask unanimous consent that the article entitled "The Space Program and the National Interest" be printed in the Record.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

[From Foreign Affairs, April 1972]

THE SPACE PROGRAM AND THE NATIONAL INTEREST

(By Robert Jastrow and Homer E. Newell)

In 1900 the population of scientists and engineers in the United States numbered one in 2,000. Today the ratio is one in 120 and the figure is still mounting. Current federal expenditures for research and development are $15.7 billion. During the postwar era these appropriations built the American research establishment to a level of strength beyond that of any other nation. Throughout the 1950s and most of the 1960s the build-up continued without opposition. Recently the taxpayer has begun to regard the House of Science with a degree of concern, because the costs of technological programs have become staggering in the last few years. Painful choices are being forced on the Congress. Shall program A or program B be funded? Each is so expensive that it seems impossible to fund both. Which will advance the national interest more? The general value of research is also being subjected to a closer examination. At what level of support does science make its maximum contribution to society? If the science we have purchased so far has been beneficial, will twice as much science be twice as beneficial?

The space program is a case in point. On January 5, President Nixon announced that "the United States should proceed with the development of an entirely new space transport system . . . the space shuttle which gives us routine access to space by sharply reducing costs in dollars." The decision to proceed with the shuttle was based in part on the dollars-and-cents savings it would yield, which are estimated to run to more than $12 billion in the first decade of shuttle operations against shuttle costs of $8 billion for development and hardware. But a bargain in bananas only represents a savings if the customer needs bananas. Why does America need a space program? Why does she need a man-in-space capability? What is the relation of space to the national interest?

To some, space is, or should be, pure science; to others, it is prestige and the American image; to still others, space means national security. Most often space is identified with science, but when a comparison is made with funding levels in other branches of scientific research, it becomes clear that support given to the program involves other factors besides the public interest in pure science.

II

Initially, there was no doubt regarding the motivation for bringing the National Aeronautics and Space Administration (NASA) into being. The American space effort was conceived in a mood of national insecurity. It grew out of the paroxysm of humiliation and self-doubt experienced by the United States in the fall of 1957 when the first Sputnik went into successful orbit while shortly after, as the world watched, the first American Vanguard rocket collapsed on the pad in a sea of fire. Headlines shouted "Kaputnik" and "Flopnik." With the launching of Sputnik, the Soviet Union had entered a domain of the environment that seemed to be denied to the United States. In the years following, the Soviets rapidly expanded their control over the new region. Their efforts were climaxed in 1961 by the first orbital flight of a Russian cosmonaut. The position of the United States as a world power seemed threatened by this evidence of a major Soviet technical capability in being. World comment at the time suggested that on both sides of the Iron Curtain the two systems of government were being reevaluated on the basis of the Soviet achievement.

NASA was two years old at the time of the Gagarin flight, and the space budget had reached the substantial level of $900 million. In retrospect, it is clear now that a billion-dollar budget was merely the entry fee into the race the Russians were running. On that budget, the United States was no longer falling behind the Russians, but neither was it catching up. An all-out effort was necessary, and the moon beckoned.

A land on the moon seemed to have all the needed elements. It was a clearly defined goal and gripped the imagination; its achievement would recreate the image of U.S. technological leadership; it involved minimum danger of a military confrontation; and it would automatically give the United States a first-class man-in-space capability. At the same time, the lunar landing was so far beyond the abilities of either the United States or the Soviet Union in 1961 that the early lead taken by Russia in manned flight would not predetermine the outcome. The lunar landing project provided America with a chance to overtake the Soviet Union and brighten its tarnished image with a major first in space. All in all, a greatly strengthened man-in-space effort seemed the most efficient way of redressing the strategic imbalance created by Soviet mastery of the new technology.

These factors created Apollo. Its goal was not the landing on the moon per se, but the development of a U.S. capability to operate and maneuver in space with man, and to maintain our presence there in the face of vigorous activity on the part of another great power.

Throughout the 1960s the Soviet Union remained the main driving force behind NASA, but with the landing on the moon in 1969 the original Soviet threat seemed to fade. American interest diminished, and a phase-out of manned flight operations commenced. According to current congressional authorizations, the manned flight program comes to an end in 1973, after the second Skylab flight scheduled for that year.

The projected termination of manned flight in 1973 posed a major policy issue for the United States. A parallel can be drawn with the situation that faced the government in 1961. At that time, the United States was confronted with a major Soviet achievement—the first manned orbital flight—while its own program continued to lag far behind. In 1971 the United States was faced with the termination of its manned activities in space, while Russia gave every indication of driving ahead forcefully in this area. The Soviet Union launched twice as many satellites as the United States in 1971, put up the first space platform, and, while it suffered a serious reverse in the deaths of the Soyuz 11 cosmonauts, showed no signs of a slackening interest in manned space flight.

The presidential action must be viewed in this context. Concern with the general strategic posture of the United States would appear to have been the overriding consideration in the recent decision to proceed to the next stage in the development of manned space flight.

Once that decision was made, the space shuttle had to follow, for the shuttle represents the most economical means of continuing manned flight operations. It is a reusable rocket—in effect, a rocket-plane—which can be flown again and again, carrying scientists, engineers and satellites up into orbit and back down to conventionl jet landing—all at a substantial reduction in cost. The Saturn launches cost $55 million each, and the launch of the more advanced Titan 3C costs $24 million, whereas a shuttle flight will cost $8 million and deliver considerably more payload for the money. It makes no sense to continue to rely on the docket technology of the 1960s, when the experience gained in the Saturn-Apollo project and other U.S. space programs has shown the way to a much more efficient and lower-priced generation of space vehicles.

III

According to this analysis, a major force behind the space program as a whole is a concern for national security, and with the fact as well as the image of American technical and scientific strength vis-à-vis the Soviets. However, space is not the only government program important to the security and the technological strength of the United States. Can America afford the financial drain of matching the Soviet Union in every field of science and technology? Many Americans believe that this cannot be done without weakening other essential programs, such as urban reconstruction and education.

The question is one of values and priorities. From this point of view, is space a good place for the United States to put its money? What is the dollar return from the space program, relative to the potential return from the same amount of money invested in another sector of American society?

This question opens up an important avenue for discussion. Starting with the development of the Early Bird communications satellite in 1965, space technology has entered into the mainstream of the American economy with surprising rapidity. Today many observers predict that the U.S. investment in space will be repaid many times over. The list of promising space applications includes better weather forecasts, prospecting for minerals from space, better communications, satellites that monitor the atmosphere and lakes and rivers of the United States for pollution and are the only economically feasible means of doing so, and satellites that guide ships and planes to their destinations and provide traffic control over crowded air terminals.

IV

Better weather forecasting could yield several billion dollars a year as a result of increased productivity, mainly in the agricultural, transport and construction industries. Weather forecasting depends on the measurement of such atmospheric properties as pressure, temperature and the strength and direction of the winds throughout a large region. Currently this information is usually obtained by launching into the atmosphere small balloons containing weather instruments plus a radio to transmit results of the measurements to weather stations on the ground. In the future satellites will join the balloon network and expand weather coverage to a global scale.

At this point the reader may well register doubt. How can a satellite hurtling through space far above the atmosphere carry out measurements of such properties of the atmosphere as pressures and winds? Isn't it necessary to do the equivalent of raising a wet finger in the air itself to secure that information? Can the data really be acquired from a distance?

The answer depends on a little-known instrument called an infrared radiometer which is becoming a standard item of equipment on weather satellites. It is a well-known fact that satellites carry cameras to photograph the weather and provide early warnings of hurricanes and other disturbances. Less well known is the fact that the latest satellites also carry a delicate instrument which measures the intensity of the feeble emanation of heat which radiates to space from earth and its atmosphere. The sensitivity of these instruments is such that they could detect the heat from a flatiron at a distance of one mile. The heat radiated to space from the earth contains many different wavelengths, and each wavelength originates at different depths in the atmosphere as well as on the ground. My spreading out the measured radiation into its component wavelengths, the scientist on the ground is able, with the aid of a computer, to calculate the temperature of the air on the ground and at every level in the atmosphere.

Once the pattern of temperature variations is known over the entire globe, the scientist is in a position, again with the aid of a computer, to calculate the winds and the weather. The connection between temperature and winds is not obvious and requires some explanation. If the temperature of the ground were uniform all over the earth, there would be no winds and no weather. Winds arise because the sun's rays do not heat the ground uniformly. For example, the equator receives more sunlight than the poles. Where the ground is warmest, the air expands, rises and flows away. In this way temperature differences create winds. The actual situation in nature is considerably more complicated than this simple description suggests, but the basic theory is accurate. If the temperature pattern is known, the weather can be predicted.

In principle, the method can be applied without the aid of satellites. However, it would be prohibitively expensive to measure the temperature of the entire globe by ordinary methods. At present, extensive areas of the world are not covered by weather observations. Even in the United States the coverage is spotty, with only 70 ballon-launching stations for the collection of weather information. Large areas of the weather map are almost blank, including the polar regions and the oceans.

Unfortunately, much of the weather that blesses or afflicts the United States often originates in one of these blank regions on the weather map. The weather experienced by the West Coast generally comes from the Pacific Ocean, while the weather over the Midwest and the East Coast usually has originated some days earlier in central or western Canada. This fact prevents the meteorologist from making useful forecasts more than a day or so in advance, and even the one-day forecasts leave much to be desired.

Observations of the weather in the oceans and sparsely inhabited land areas surrounding the United States, impossible before the advent of weather satellites, should lead to a quantum jump in the accuracy and range of weather forecasts. Large savings through improved weather forecasting can be expected in the weather-sensitive sectors of the U.S. economy, because the volume of business in these industries is substantial. In agriculture, transportation, construction and roadbuilding, for example, the total annual volume in 1970 was about $270 billion, and estimated losses due to weather were in the neighborhood of $13 billion. A relatively modest reduction of 20 percent in these losses would correspond to a $2.6 billion savings. These circumstances lie behind the estimate of important gains to the U.S. economy from this single application of space technology.

V

Multibillion-dollar annual returns to the American economy from weather satellites may be matched by the yield from satellites employed in prospecting for valuable mineral deposits. The prospector and his burro are essential in the search for mineral deposits, but aircraft play an important supporting role, and so should satellite reconnaissance in years to come. In some cases geological faults—cracks in the earth's crust which are likely to be associated with ore deposits—can be seen in photographs taken from orbit. In other cases the presence of a buried ore deposit is signaled by a particular type of rock on the surface. Experience shows that an ore deposit is often surrounded by a special kind of rock, known as the "host rock" for that type of ore. Since different kinds of rock reflect sunlight in different ways, wide-area photographs of the region taken from a satellite can reveal the telltale host rock that indicates an ore deposit.

The stakes are high in this game. One estimate places the yield from potential satellite discoveries of mineral deposits in the United States at $2 billion a year in royalties alone. The total value of mineral deposits discovered each year by ordinary prospecting on the ground in the United States, Canada and Mexico amounts to roughly $10 billion. It is possible that several times this sum could be the global yield from major improvements in mineral prospecting. Here we reach the neighborhood of tens of billions of dollars in direct economic benefits from a single application of satellites. These gains would dwarf the investment in the underlying space technology.

Mining activities in northern Canada illustrate the economics of satellite prospecting versus ground prospecting. A single rock outcropping near Kitt Creek in Ontario led to the discovery of the famous Timmons deposit, one of the world's largest bodies of copper, zinc, gold and silver. This single find is estimated to have a value in the neighborhood of $10 billion. The find was made by a lucky fluke when a prospector stumbled across a small outcrop of ore that gave him a clue to the massive treasure-lode lying beneath the surface. Geologists believe that many deposits as rich as the Timmons find may exist in the area because it belongs to one of a number of belts of green schist—a type of rock deposit frequently associated with rich ore. The total area of the belts in this region is roughly 100,000 square miles. The terrain is too rough for jeeps or burros. Recovery of its mineral wealth requires systematic exploration of the entire region on foot, by prospectors stopping every hundred yards to collect soil samples for laboratory analysis. Tens of millions of dollars would be required to complete a survey of this one region. A complete exploration on foot is a workable approach in principle, but forbidding in practice because of the prohibitive cost.

The same analysis applies *a fortiori* to the still more difficult terrains of Brazil, equatorial Africa and Southeast Asia, in which a heavy cover of trees and vegetation makes ground exploration exceedingly difficult and expensive. The available evidence suggests the presence of large deposits of mineral wealth in these regions. Again it seems incredible that a satellite hurtling through space hundreds of miles above the surface of the earth should be able to detect mineral deposits concealed by a heavy tree-cover. But an example will indicate how this might work. Research has shown that trees growing in metal-rich soil absorb the metallic elements of the soil into the structure of their cells. As a consequence, the tree leaves reflect sunlight differently from leaves on the same type of tree growing nearby in ordinary, metal-poor soil. The rest of the story is clear: Measure the intensity of reflected sunlight over a continental expanse of forested regions by means of instruments mounted in a satellite, and look for the critical patterns that betray the presence of mineral deposits.

As a test of this method, measurements have been made at tree-top level at a site near Cooper Creek, Arizona. They show large differences in the reflected sunlight from two neighboring trees, one located in soil with a high abundance of copper and molybdenum, and the other growing nearby in ordinary soil. The tree growing in the metal-rich soil reflects twice as much yellow light as the tree growing in ordinary soil, but half as much blue light. This combination is an unmistakable sign of the presence of the metals. Such measurements obtained from a satellite can be used to guide the prospector to the mineral wealth of millions of square miles, with a great saving in time and money.

Aircraft can make the same measurement and are used for this purpose in surveys of small areas. Satellites acquire their unique value when a continent-sized area is to be surveyed. It is, of course, in these large-scale surveys that the greatest gains can be realized. The direct operating cost of an aircraft survey of the interesting areas of the earth, which total approximately 100 million square miles, would be about $300 million. The same survey could be carried out by a single satellite costing no more than $30 million. Additional savings result from the fact that each satellite photograph or radiation-scan covers thousands of square miles, revealing significant large-scale variations with unnecessary details suppressed. For many surveys the satellite detail is adequate, and consequently data-processing costs are far less than would be the case with the superflous detail furnished by aircraft surveys.

Apart from costs, satellites are superior to aircraft because of the large area covered in each photograph or scan. Such an area is typically several thousand square miles. Airplanes usually cover no more than 100 square miles per photograph. Because many photos are needed to survey a large area, aircraft require the better part of a day to cover the equivalent of one satellite photograph. Consequently, different regions are photographed at different times of the day, and under different lighting conditions. If the area is large, and the survey lasts many days, the condition of the ground will vary from day to day because of local rain or snow. The intensity of the light reflected from the ground depends on these lighting conditions and ground conditions to a very great extent. The critical changes in intensity from place to place, which would indicate the presence of mineral deposits, are apt to be marked by the changes that occur from hour to hour and day to day during the course of an extended aircraft survey. Such difficulties do not arise in satellite prospecting.

The ability of the satellite to photograph large areas quickly and repeatedly makes it a very promising tool in the survey of other natural resources, such as crops, timberland, water and snow cover, which frequently vary day by day and from season to season. Crops offer a particularly interesting example because of the large losses experienced each year as a result of plant diseases. Infrared photographs taken from satellites can reveal plant diseases before they can be detected by the farmer on the ground, because a diseased plant or tree radiates a different level of heat to space, just as a feverish person experiences a change in body temperature. An estimated $840 million annually can be saved in the United States through the use of satellites for the detection of plant diseases, according to an IBM report.

VI

Communications satellites offer another fruitful field for the space program. Communications was the first area to be invaded by the new technology, and, together with weather forecasting, it constitutes one of the two areas in which satellites have already become an operational reality. The dollars-and-cents return to the economy from communications satellites is difficult to measure, but most experts agree that the gains promise to be enormous, because improvements in communications exert an upward leverage on the entire gross national product (GNP) by accelerating the tempo of business life. The only question is, what will be the amount of the increase in productivity? Will it be as small as one percent? Translated into dollars in the GNP, that would mean a gain of $10 billion annually. The indirect financial gains from improved communications may exceed all other returns from space.

The relationship between efficient communications and satellites can be clearly seen in the recent history of transatlantic telephone charges. The table below shows the monthly rates for a leased telephone circuit between New York and Paris during the period 1959 to 1971. The rates remained unchanged for a number of years, but in 1966—immediately after the first communications satellite went into operation—monthly charges dropped sharply and have continued to drop since that time.

New York to Paris telephone rates: 1959–71

	Dollars per month
1959 through 1965	$10,000
1966	8,000
1967	6,500
1968	6,000
1969	6,000
1970	4,750
1971	4,625

Although expanded cable service also contributes to the reduction in transatlantic phone rates, the coincidence of the sharp decrease with the onset of satellite operations is striking.

Arthur C. Clarke, who invented the concept of the communications satellite in 1945, has maintained a high reputation as a seer of technological developments and their impact on mankind. His judgment probably can be relied upon when he predicts: "What we are building now is the nervous system of mankind. . . . The communications network, of which the satellites will be modal points, will enable the consciousness of our grandchildren to flicker like lightning back and forth across the face of this planet."

VII

The three cases of weather forecasting, mineral resources and communications illustrate the economic value of space. The space shuttle enters the picture at this point because it affords the most economical means of realizing the benefits of the space program in the economic sphere. The shuttle moves back and forth between the earth and space environments. It carries a dual propulsion system—rocket engines and liquid hydrogen fuel for space flight; jet engines, kerosene and wings for the return to earth. Space shuttles can carry passengers and freight into orbit and down again at a cost per pound far below today's cost for a satellite launching or a manned space flight mission. The cargo bay, probably about 15 ft. x 60 ft. in dimension, will accommodate satellites and space platforms weighing up to 65,000 pounds and will provide a low-cost method for placing commercial or scientific satellites in orbit. NASA estimates that in the first decade of shuttle operations $5 billion will be saved in launch costs through its use.

Additional savings are expected to result from the reduced cost of the satellites themselves. The cargo bay of the shuttle offers a considerably gentler and less rigorous environment for delicate scientific instruments than today's conventional launch rockets. Much of the cost of building a rugged design into the satellite can be bypassed as a consequence.

A space transport system based on the shuttle also provides a means for repairing satellites in orbit, thus increasing their lifetimes, again at large savings. The new commercial satellities are expensive, and becoming more so as their capabilities expand. The first communications satellite placed in operation over the Atlantic—the Early Bird—contained 240 voice circuits and cost $8.2 million. The recently launched Intelsat IV supplies up to 9,000 circuits and costs $26 million. The advanced communications satellites proposed for a U.S. domestic system will cost about $50 million each. It seems extravagant to contemplate throwing away one of these expensive devices after a failure, when it can be brought back to earth in the cargo bay of the shuttle for overhaul, or even repaired in orbit by a technical team transported to the scene. Round-trip airfare for the overhaul is estimated to be about $8 million, but for this price the crew can salvage a $50 million satellite. The total savings resulting from the repair operations, plus the reduction in the cost of the satellites, is estimated to be $7 billion.

Some 20 U.S. satellites, each worth $30 to $50 million, will probably be in orbit in the 1980s, and each will play a critical role in some sector of American business and personal life. The list will probably include eight to ten Comsats dedicated to domestic and international uses, four or more satellites dedicated to worldwide marine and air navigation and traffic control, two or more satellites devoted to surveillance of the earth's face for mineral resources, water, timber resources, forest and grazing lands, fishing, farmlands, and the monitoring of air and water pollution, and several satellites devoted to astronomy, geophysics, and other branches of pure science. Experience will tell whether to divide these functions among numerous separate satellites as they are today, or to combine them in a smaller number of large electronic complexes. In either case, a low-cost space transport system will be required to maintain and repair these satellites in orbit.

Replacement costs are not the only problem in satellite maintenance. When a space platform is responsible for air traffic control or for the communications traffic of a continent, it will not be possible to permit one of these critically important devices to go out of service for a day, an hour, or even a minute because a transistor has malfunctioned. If air traffic control over Kennedy, O'Hare and other major airports depends on satellites hovering overhead, interruption of service would require reverting for a time to the less efficient modes of control which even today are becoming inadequate, and which in tomorrow's world would be extremely expensive. In the 1980s it is likely that the U.S. satellite network will be constructed on the principle of a 100-percent guarantee of uninterrupted service.

Continuity of service could be ensured without manned flights by building spare circuits into each satellite, ready to take over when a failure occurs. The backup equipment might consist of duplicate electronics for all the parts of the satellite or it could consist of one or more duplicate satellites launched with the main satellite and available for service at any time. But when circuit A became defective and circuit B took over, it would still be necessary to repair circuit A promptly; otherwise the failure of the satellite would only be postponed. Of course, a three-fold or four-fold redundancy could be built-in, but that soon becomes a very expensive way of obtaining protection from interruption in service. The space shuttle system is likely to prove the cheapest way of keeping critical satellites in continuous operation.

Financial returns are not the principal criterion for judging the usefulness of the shuttle, for its prime importance lies in the fact that space is an arena in which several nations are, or soon will be, engaged. The United States must maintain a presence in that arena through a manned flight program to preserve its position as a world power. But the extensive use of space is becoming an economic necessity for every technologically advanced nation. The United States probably could not maintain a competitive position with other major powers in international commerce unless it made full use of the most advanced technologies available, including those of space—commerce-oriented satellites and the economics of the shuttle—in the conduct of its domestic and foreign affairs.

VIII

Some students of the space program have expressed the view that its impact will be felt in other respects than the cost-accounting of economic productivity versus technological investment. There has been much discussion of the influence of space exploration on the mind and spirit of man, as an extension of the revolution in thought that was initiated by Copernicus and continued by Newton and Darwin. A study of the history and pre-history of man suggests that the human drive is expressed through just such tentative movements out of the world of tried experience into a new world of untested promise.

Sputnik and the moon landing signaled the opening of a new frontier across which man can now travel into the endless reaches of outer space. The new frontier of space will not be closed quickly, for astronomical knowledge shows that billions of stars, some undoubtedly accompanied by earthlike planets, surround us in the galaxy. Space exploration has brought home to more people than ever before the reality of this vast complex of stars and planets. "Out there" is really there, a place that one can get to. Never again can we make the mistake of identifying our speck of planetary matter as the universe.

SOVIET PERSECUTION OF CATHOLICS

Mr. BUCKLEY. Mr. President, on a number of occasions in the past, I have spoken out against Soviet persecution of various minority groups within the Soviet Union, especially Soviet Jews. We know from their brutal record of suppression of dissent—Robert Conquest, author of the authoritative work, "The Great Terror," estimated that 20 million Soviet citizens were killed between 1929 and 1939 alone—that the Soviets will seek to destroy any individual or group which dare challenge the Communist ideology.

From the beginning, religious groups have been singled out for special treatment. The systematic persecution of Soviet Jews is already a well-known tragedy. Less well known, but being carried out with at least equal zeal by the Communist regime, is the brutal suppression of Catholics in the Soviet-conquered Baltic State of Lithuania.

The persecution became so intolerable that 17,000 Lithuanian Catholics submitted a petition to the U.N. seeking help to ease their plight. Merely signing this petition may invite more savage repression inasmuch as Soviet U.N. employees normally turn over such information to the Soviet intelligence services.

The details of the dramatic petition to the U.N. by Lithuanian Catholics was described in a Washington Post article of March 28, 1972. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OVER 17,000 BALTIC CATHOLICS CITE SOVIET PERSECUTION

MOSCOW, March 27.—More than 17,000 Roman Catholics from Lithuania have sent petitions to the United Nations, charging Soviet religious persecution. It was the largest open protest of its kind in the Soviet Union.

An inch-thick stack of petitions, bearing over 17,000 signatures of "believers," was sent to U.N. Secretary General Kurt Waldheim last month after Soviet officials in Moscow ignored their earlier protests, according to dissident Russian sources who made copies of the papers available to Western newsmen today.

Lithuania, a small republic on the Baltic Sea that was annexed by the Soviet Union in 1940, is known as an area where traditional religious beliefs persist despite official harassment by the Communist regime.

The petitions suggest continued strength of the Catholic Church in Lithuania despite steady anti-religious propaganda. It also seems to be a part of a growing effort by religious communities to induce the government to implement religious freedoms guaranteed by the Soviet constitution.

Last September, 2,000 persons from the town of Prenai, which has less than 10,000 population, signed an open letter to the Soviet leadership charging that freedom of religion was being curbed by local authorities in Lithuania.

Three other open letters with a total of 5,000 signatures were sent last fall to Party leader Leonid Brezhnev but police "using threats, arrests and handcuffs prevented the mass collection of signatures," the letter to Waldheim said.

"Such action by the authorities prompted the convention that the present conviction that the present memorandum, signed by 17,000 believers, will not attain its aim if it is sent by the same means as previous collective declarations," the letter said.

The Catholics were taking their complaints to the United Nations, the letter went on, because "believers in our republic cannot enjoy the rights set out in Article 18 of the Universal Declaration of Human Rights." The declaration, passed by the United Nations with the Soviet Union abstaining, calls for the recognition of religious freedom by all countries.

[At the United Nations, a spokesman had no comment on the petitions today.]

In their petition, the Lithuanians complained that Soviet officials limit the number of new priests to be trained and control the assignment of priests to parishes. They said no more than 10 youths a year can enter the seminary.

There are so few priests in Lithuania, the letter charged, that one must often serve two or three parishes and that "even invalid and aged priests must work."

The Lithuanian authorities do not enforce a law which would punish those who persecute church-goers, the petition claimed.

In addition, Catholics have not been allowed to rebuild churches destroyed during World War II and have difficulty in getting permission to hold services in private homes.

"At the same time, a dance hall was allowed to be built in the parish of Andreivas where the church stood," the petition said.

It repeated charges made last November that two parish priests were sent to labor camps for providing religious instructions to youngsters. Two bishops were also exiled without trial, it said.

More signatures would have been included in the 123 separate, identical typed petitions if the Soviet police had not reacted so strongly against the dissidents, the letter said.

"If in the future, the organs of the state take the same attitude toward believers' complaints as they have until now, we will be obliged to address ourselves to international bodies, the Pope, the head of our church, or the United Nations as an authoritative institution defending human rights."

In addition to repressing religion, the Catholics said, the "forcible atheistic upbringing" of Soviet society has also caused increases in juvenile crime, alcoholism, divorces, abortions and suicides.

The Lithuanians' protest comes at a time of improving relations between Moscow and the Vatican. Soviet President Nikolai Podgorny and Foreign Minister Andrei Gromyko have called on Pope Paul VI, and the Most Rev. Agotino Casaroli, who is tantamount to a Vatican foreign minister, visited Moscow last year.

There are an estimated 3.5 million Roman Catholics living in the Soviet Union, most of them Lithuanians and Poles. Catholics are situated in Lithuania, and in western parts of Byelorussia and the Ukraine.

Lithuania is the largest single Catholic area, with nearly 500 churches still operating there.

TRANSPORTATION STRIKES

Mr. TOWER. Mr. President, whenever a strike affects transportation or other key elements of the public sector, the average citizen is held hostage to a dispute not of his making. The recent west coast dock strike, which President Nixon described as imposing "a cruel and intolerable burden upon the American people," was a dramatic example of disruption caused by a strike. For 134 days, the west coast ports were shut down, causing an estimated $400 million business loss and massive inconvenience.

On Friday, March 31, the President acted to prevent a possible nationwide rail strike by signing Executive orders creating emergency boards to investigate labor disputes involving the Penn Central Transportation Co. These actions delay the threatened rail tieup for 60 days.

Meanwhile, just this past week in New York, a strike by 140,000 members of the Civil Service Employees Association threatened to bring chaos to State mental hospitals and institutions for mentally retarded children. Fortunately, the walkout ended before there was substantial impact on the helpless men, women, and children in these institutions.

These are but some of the recent examples of strike situations in which the public's rights are or may be subordinated to those of the labor disputants.

While the New York strike was regional in nature, the dock strike and the threatened rail strike are national in scope and I do not look forward with any enthusiasm to another repetition of a strike where the Government, after exhausting its emergency powers, stands paralyzed to end the dispute and halt the interruption of commerce, the rotting of crops and the waste which results from these conflicts.

In the middle sixties, Mr. President, Congress was called upon three times in 4 years to take emergency action to settle collective-bargaining disputes. Yet, despite that bleak record, we remain today without any effective permanent machinery, no formula, to resolve such strikes.

A bill similar to President Nixon's proposed "Crippling Strikes Prevention Act" failed passage by only three votes, despite the President's comment that the old ways have not worked and his plea to "tip the scales back in the direction of greater protection for the public." Senator PACKWOOD, 27 other Senators and I have reintroduced this bill as S. 3232.

The need for action in this field is made even more clear by the statements of labor leaders who display utter disregard for the consequences of their actions.

Harry Bridges, the president of the International Longshoremen's and Warehousemen's Union, is quoted in the March 15 issue of Forbes as stating:

> It's a myth that strikes hurt the general public. Strikes are good for the country because they raise the worker's purchasing power.

Mr. Bridges' own strikers lost $60 million in wages, according to Forbes, but Mr. Bridges is quoted as saying:

> What they did lose will be made up by our settlement.

Asked about business loss, he dismissed $400 million in losses by stating:

> There were some small business losses, but not much.

These are the comments of a man who says he wants to form one big superunion which could "make a strike extremely dangerous for business," or in other words—stop economy.

The same attitude was displayed in the New York strike when the union vowed to "tie the State up as tight as a whistle." In the New York case, the humanitarian aspects of a strike affecting mental patients and retarded children, moved both the New York Post and the New York Daily News—newspapers sometimes at opposite editorial poles—to decry the walkout.

Mr. President, I believe that strikes which adversely affect the public interest must be dealt with. I believe the rights of the public cannot be trampled on indefinitely because of collective bargaining disputes. And, I believe the time to act is now.

For that reason, I ask unanimous consent to insert in the body of the RECORD following my remarks, the articles previously referred to: Forbes' article of March 15, the New York Daily News editorial of April 3, and the New York Post editorial of April 3.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From Forbes, Mar. 15, 1972]

STOP THE ECONOMY!

One big union. One big union that could paralyze the nation. That has long been the dream of certain labor leaders, some of them confirmed leftists, some of them merely power-hungry. And now Harry Bridges, the aged (70), embittered long-time president of the International Longshoremen's and Warehousemen's Union is working on a plan to make that dream come true. He wants to form one big union of truckers, dockers, airline and railroad workers. If they were all to strike at the same time, they would bring the whole U.S. economy to a halt. Not a factory wheel would turn. The cities and suburbs would be without food.

A frightening prospect? Bridges' mouth is watering at it. Last year and this he kept West Coast ports closed for 134 days. "It's a myth that strikes hurt the general public," he says. "Strikes are good for the country because they raise the workers' purchasing power."

The West Coast port strike cost the 15,000 strikers an estimated $60 million in wages, but he dismisses that. "The workers were still buying with their savings," he says. "Besides the workers didn't lose that much, and what they did lose will be made up by our settlement."

The loss to business has been estimated at $400 million. Says Bridges airily: "There were some small business losses, but not much."

One might imagine that a union which could tie up West Coast shipping for 134 days is powerful enough. Not Bridges. He wants a union that could do what the British miners' union just did: stop the economy. "The coal strike in Great Britain was a unique situation," he says, almost enviously. "There a few miners have such power they were able to stop the economy. We could only get the same effect in the U.S. through the transportation business. If we combined truckers, dockers and other transportation workers, we would have the power to make a strike extremely dangerous for business. It wouldn't want to risk one."

Bridges is already getting close to a merger of his 65,000-member union with the International Brotherhood of Teamsters (membership: 2.2 million). He has talked with Frank Fitzsimmons, who succeeded Jimmy Hoffa as president of the Teamsters when Hoffa went to jail, and says top officers of both unions favor a merger. A formal agreement is yet to be drawn up, and the ILWU members must still vote on it. Most likely, the ILWU would end up becoming a division of the Teamsters.

HARRY'S FIRST STEP

Before the Teamsters talks, Bridges held several meetings with his eastern counterpart, Thomas W. (Teddy) Gleason, president of the International Longshoremen's Association, to discuss the possibility of a merger. "The ILA talks are temporarily suspended," Bridges says. "It's still possible we'll merge with them. The ideal situation would be for the ILA and the ILWU to merge, and then merge with the Teamsters." Why ideal? "Simple: economic power."

Actually, there are several barriers in the way to forming the one big union Bridges talks about. The ILA's Gleason is a strident anti-Communist, while Bridges has long been dogged by his left-wing reputation. (More than once in decades past, the Government tried to have him deported to his native Australia as a Communist, a charge he steadily and successfully denied.) Moreover, the ILWU and the Teamsters have yet to resolve their dispute over which union has jurisdiction over filling containers. Still, ideology plays a diminishing role in trade union politics these days, while power and money increasingly are the name of the game.

Would Congress stand by idly and let labor forge the weapon Bridges talks about? Congress was sufficiently moved by the West Coast dock strike to enact special legislation to force compulsory arbitration in the dispute. An even tougher bill, the Nixon-backed "Crippling Strikes Prevention Act," missed passage by a mere three votes a few weeks back.

But how could Congress stop a merger? The antitrust laws have never been applied to labor unions. Nor can many congressmen afford to oppose what major unions want—particularly in an election year. Then there is the now-shadowy figure of Jimmy Hoffa. He's free from jail and, rumors have it, has friends in the Nixon Administration. If there is a merger, Bridges is confident Congress would stay out of it. Says he: "There'll be no antitrust legislation against unions, and there'll be no compulsory arbitration bills, either."

That's power talking.

[From the New York Daily News, Apr. 3, 1972]

The Ultimate Outrage

In calling a strike of its 140,000 members, the Civil Service Employees Association not only defied the law and the courts, it violated every rule of human decency.

To gain its ends, the CSEA has shown that it does not scruple at using helpless men, women and children as hostages.

Its chosen pawns are the inmates of state mental hospitals and institutions for mentally retarded children. The strike, where it has been effective, has endangered the welfare of these helpless and pitiful unfortunates, and even their lives have been jeopardized.

The cruelty and indifference of the CSEA, under President Theodore Wenzl, has been redeemed in part only by the steadfastness of those union members who stayed at their posts rather than visit further suffering on their charges, and by the magnificent response of volunteers who rushed forward to ease the effects of the walkout.

As for the strikers and their chieftains, they are beneath contempt, and deserve nothing but the most drastic punishment permitted by the law.

[From the New York Post, Apr. 3, 1972]

Narrow Escape

The quick end of the illegal Civil Service Employees Assn. strike must have been as large—or larger—a relief to many of the strikers as it was to both the immediate victims of the walkout and the general public. Most people who work in hospitals and schools for the retarded do not walk off their jobs without an awareness of the peril they are creating; those who refused to do so will wear no badges of shame.

It was a ghastly episode that could have reached calamitous proportions; only a long inquest will reveal why it happened, and what can be done to prevent a recurrence. The important fact at this moment is that it is over, and a glimpse of the disaster that was in the making may be a greater inhibition than the Taylor law on any who are tempted to risk human life in what they may regard as a valid cause.

INEFFICIENCY AND MISMANAGEMENT IN C–5A PROGRAM

Mr. PROXMIRE. Mr. President, once again it is my sad duty to convey to the Senate a Government report further documenting inefficiency and mismanagement in the C–5A program.

The report, prepared by the General Accounting Office, is the second such study to disclose major aircraft deficiencies in the C–5A, in addition to cost overruns and delivery problems, since the Proxmire committee first investigated this program in 1968.

The GAO report demonstrates that the Air Force is the biggest satisfied consumer of lemons in the history of military procurement.

A year ago GAO disclosed that the Air Force was knowingly accepting delivery of C–5A aircraft with major performance deficiencies.

The new report shows that the Air Force is still accepting delivery of defective C–5A's.

The 15 C–5A cargo planes accepted by the Air Force during February through September 1971 had an average of 251 deficiencies per aircraft, many of which are considered major.

The most serious defects are in the wings, landing gear, and radar.

The landing gear system, according to GAO, continues to be the most troublesome system on the aircraft.

In one 6-month period last year 3,327 landing gear failures were reported in the C–5A fleet, requiring a total of 82,673 maintenance man-hours.

The structural defects in the wing and pylons, resulting in numerous wing cracks, and, on one occasion, the complete rip-off of an engine from its mount, are by now well known.

The full extent of these problems is still unknown because the wing fatigue tests will not be completed until September 1974. This represents a 2½-year slippage in the original fatigue test schedule.

It is not now known that the pylon problems were the result of improper design and poor quality control during production and assembly.

Deficiencies in the design of the radar will probably require a complete update of the equipment. This problem was brought to Lockheed's attention by the Air Force early in the program. As with so many other problems, no corrective action was taken.

We have long grown accustomed to the idea that Lockheed is one of the most inefficient, if not incompetent, defense contractors. The report tends to reinforce this fact.

What is perhaps more disturbing is how it reflects on the competence and the good faith of the Air Force.

When the C–5A contract was "restructured," that is, converted from fixed-price to cost-plus, Congress was assured that part of the agreement included acceptance of new Air Force intensified management participation and authority over Lockheed's activities in this program.

The results of the first full-scale review of the program since the Air Force first asserted its new role is not encouraging.

The Air Force now concedes that the cost of correcting the C–5A's deficiencies, excluding the wing and pylon problems will be about $164 million.

Under the terms of the restructured contract, the Air Force must pay Lockheed for the costs of correcting all defects.

Thus, the benefits obtained by Lockheed in terms of reimbursement for correcting its own deficiencies will probably exceed the amount of the so-called loss that Lockheed agreed to absorb under the restructured contract.

This report demonstrates that the Air Force has not been able to learn from its mistakes. It is failing to take necessary corrective action. It is allowing Lockheed to continue bilking the American taxpayer.

The problems in the C–5A program are growing worse instead of better.

I ask unanimous consent to have printed in the Record the complete GAO staff study of the C–5A aircraft, dated March 1972.

There being no objection, the study was ordered to be printed in the Record, as follows:

U.S. General Accounting Office Staff Study, C–5A Aircraft, Department of the Air Force

(Note.—Figures referred to are not printed in the Record.)

ABBREVIATIONS

ADI, Attitude Director Indicator.
ADS, Aerial Delivery System.
AF, Air Force.
AFCS, Atomatic Flight Control Command.
AFSC, Air Force System Command.
AHRU, Attitude and Heading Reference Unit.

ASPR, Armed Services Procurement Regulation.

ATM, Air Turbine Motors.

CARP, Computed Air Release Point.

CONUS, Continental United States.

CSAR, Cost Status Analysis Report.

DOD, Department of Defense.

ECP, Engineering Change Proposal.

GAO, General Accounting Office.

IDNE, Inertial Doppler Navigation Equipment.

LDCS, Lift Distribution Control System.

MAC, Military Airlift Command.

MADAR, Malfunction Detection Analysis and Recording System.

MMH/FH, Maintenance Man-Hours Per Flight Hour.

MMR, Multi-mode Radar.

MTBT, Mean Time Between Failures.

RDT&E, Research, Development, Test and Evaluation.

RFP, Request for Proposal.

SAAMA, San Antonio Air Material Area.

SAR, Selected Acquisition Report.

SHOVAR, Shortage and Variance Report.

SPO, System Program Office.

TCAN, Tactical Air Communication and Navigation System.

C–5A AIRCRAFT

Why the review was made

The General Accounting Office (GAO) examined into the status of selected major weapon systems because of the large acquisition costs involved, and the interest of the Congress in the acquisition of major defense weapon systems. This study on the C–5A is part of this effort.

In addition, in the House of Representatives, Committee on Appropriations, Report No. 92–666, dated November 11, 1971, the General Accounting Office was instructed:

> ". . . to make a thorough investigation of the defects in this aircraft and to assign a responsibility for the defects and establish the costs involved in correcting the deficiencies."

In view of the Committee's desire to have a report before additional funds are considered for this program, we are providing to the Congress without audit a summary of data given to GAO by the Air Force.

Where the system is

System description and status

The C–5A is a large jet aircraft designed to provide a long-range airlift capability at high subsonic speeds. The aircraft is to be capable of tranporting combat and support units, military supplies, and items of outsized equipment. The aircraft's major deficiencies in the landing gear, wing and avionics have not prevented the aircraft from performing its basic cargo mission, but has restricted performance of its tactical mission.

Of the 81 aircraft on contract, as of February 1972, 56 had been produced. The balance are currently in production. Two of the 81 aircraft were destroyed by fire in May and October of 1970. The operational aircraft are assigned to four Air Force bases—Charleston, Dover, Altus and Travis.

The C–5A has flown over 44,000 hours in test, training and cargo airlift missions. As of January 1972, the aircraft had flown 430 channel (regularly scheduled) cargo missions which involved 45,350 tons of cargo. These channel missions produced 245,172,000 ton miles of airlift.

Coming Events

In December 1971, an Air Force/industry engineering team was formed for the purpose of conducting an independent in-depth review of the aircraft's structural problems with particular emphasis on potential fatigue life. This study effort, which is expected to be completed in late 1972, will be conducted primarily at Lockheed-Georgia Company where the C–5A is being manufactured.

Relationship to Other Systems

The Air Force advised us that the acquisition of the C–5A has allowed the Air Force to phase out obsolete types of airlift aircraft from active and reserve forces and reduce the procurement of C–141 aircraft from 20 to 16 squadrons.

Studies conducted from 1961 to 1964 illustrated the cost effectiveness of the C–5A for all types of air cargo requirements.

What we found

(a) With respect to the Congressional request:

Deficiencies

A recently accepted C–5A aircraft had 196 major and minor deficiencies—47 major and 149 minor. Of the 47 major deficiencies, 14 impair the aircraft's capability to perform all or a portion of six missions. (See Chapter 2)

Responsibility

Under the June 1971 restructured contract, responsibility for correction of the deficiencies rests with Lockheed on a cost reimbursable basis without fee on the premise that the fixed loss of $200 million therein settled Lockheed's liability for these as well as other problems. (See Chapter 2)

Cost

Based on a cost study performed by the System Program Office (SPO) in July 1971, the cost to correct the deficiencies was estimated to be about $164 million. This Air Force estimate, which was based upon numerous assumptions and conditions, was scheduled to be updated in February 1972 due to events which occurred since July 1971.

(b) With respect to aircraft performance:

Operation of the aircraft was limited by the Air Force to 80 percent of design requirements, in accordance with normal procedures until completion of the 100 percent flight demonstration. (See Chapter 3)

Operation of the aircraft continues under the 80 percent limitation primarily due to major failures which occurred in the nonflying wing/fuselage test articles. (See Chapter 3)

Major technical problems have been encountered, particularly with the wing, pylon, landing gear and avionics. (See Chapters 2 and 3)

One group of 12 aircraft experienced 36.34 maintenance man-hours per flight hour, compared to the specification rate of 17.65. (See Chapter 3)

On the average, the above aircraft were operationally ready 47 percent of the time compared to the specification objective of 75 percent. (See Chapter 3)

A résumé of the State Strength Capability of the C–5A follows.

	Load factor	Payload	Gross weight
Original design requirements	2.5G	220,000	728,000
	2.25G	265,000	764,500
Current restrictions	2.0G	174,000	712,500
AF estimated capability [1]	2.5G	185,000	728,000
(As of February 1972)	2.25G	230,000	764,500

[1] The estimated capability is contingent upon incorporation of the Lift Distribution Control System (LDCS).

Final determination of aircraft's capability must await completion of system flight testing in 1973.

(c) With respect to program milestones:

Delivery of the first operational aircraft was in December 1969, six months after the originally scheduled date of June 1969. (See Chapter 3)

Initial Operational Capability occurred in September 1970, nine months after the originally scheduled date of December 1969. (See Chapter 3)

Delivery of the 81st (last) production aircraft is scheduled for May 1973, 10 months after the originally scheduled date of July 1972. This slippage was caused by a change in the production rate from 3 to 2 per month and a strike at a major subcontractor's plant. Initially, 120 aircraft were to be procured and delivered by April 1972. (See Chapter 3)

(d) With respect to cost:

Total estimated costs have increased from $3,423.0 million for 120 aircraft estimated in October 1964 to $4,455.2 million for 81 aircraft as of June 30, 1971. The June 30, 1971, SAR also identified additional procurement of $326.3 million for such items as modifications and replenishment spares. (See Chapter 3)

The estimated unit cost has increased from the October 1964 estimate of $28.0 million to the June 30, 1971, estimate of $55.0 million. (See Chapter 3)

The foregoing cost estimates do not include the $200 million loss to be absorbed by the Lockheed Corporation.

(e) With respect to the SAR:

The SAR for the C–5A continues to be deficient by not including data on system reliability, cost per ton mile and productivity indexes based on speed, cargo carrying capability and utilization. We also reported on this matter in our previous C–5A staff studies dated February 1970 and March 1971. (See Chapter 3)

Our review of the C–5A SAR disclosed that it does not reflect an accurate picture of the C–5A performance status, in that:

(1) stated performance which is not based on actual hardware demonstration is not so noted;

(2) deficiencies in the landing gear and wing are not discussed; and

(3) continuation of the 80 percent operational restriction is not noted. (See Chapter 3)

(f) With respect to testing:

The acquisition strategy employed by the Air Force for the C–5A called for concurrency of development and production. Therefore; deficiencies properly discovered through testing are now being discovered while the aircraft is in full-scale production. Correction of such deficiencies are resulting in costly modifications or fixes. (See Chapter 4)

(g) With respect to progress payments:

The subject of progress payments is still under review.

Agency review

A draft of this staff study was reviewed by Air Force Officials associated with management of this program and comments were coordinated at the Headquarters level. The Air Force's comments are incorporated as appropriate. As far as we know, there are no residual differences in fact.

Matters for consideration

Close surveillance should continue over the C–5A program, particularly in the area of technical deficiencies that, if not corrected, may impair the operating mission capabilities of the aircraft.

There are also indications that aircraft reliability and maintainability may emerge as major problem areas.

The Congress may wish to inquire into the validity and status of the aircraft's mission requirements, with particular emphasis on the landing and taking off from unprepared surfaces and contour terrain following requirements.

CHAPTER 1: INTRODUCTION

The Lockheed-Georgia Company, a division of the Lockheed Aircraft Corporation, is located at Marietta, Georgia, and is responsible under its contract for building the C–5A airframe and managing the overall system. The General Electric Company, Evendale, Ohio, under a separate contract, is responsible for manufacturing the engines.

Since the Secretary of Defense committed the C–5A system to development and production in 1965, the Air Force Systems Command (AFSC), through the C–5A Systems Program

Office (SPO), has had primary responsibility for management of the system acquisition.

Effective June 1971, the contract for the system acquisition was converted from fixed-price-incentive to cost-reimbursable. With the conversion, Lockheed agreed to accept a loss of $200 million under the contract.

Since our last staff study of the C–5A aircraft, which was issued in March 1971, (B–163058), the General Accounting Office has released the following reports pertaining to the C–5A program.

Financial capability of Lockheed Aircraft Corporation to produce M–5A Aircraft, B–169300, dated April 12, 1971.

Audit of payments from Special Fund to Lockheed Aircraft Corporation for C–5A Aircraft Program during period ending June 30, 1971, B–162578, dated August 9, 1971.

Audit of payments from Special Fund to Lockheed Aircraft Corporation for C–5A Aircraft Program during the quarter ended September 30, 1971, B–162578, dated November 17, 1971.

Audit of payments from Special Bank Account to Lockheed Aircraft Corporation for the C–5A Aircraft Program during the quarter ended December 31, 1971, B–162578, dated February 18, 1972.

The above reports relate to Lockheed's financial problems with the C–5A program; a special contingency fund and fiscal constraints imposed by Public Law 91–441; and the results of our audit of payments from the fund.

Scope of review

To provide the Congress with information on the current condition of the C–5A aircraft, we reviewed the status of 15 operational aircraft accepted during the time period of February through August 1971 from Lockheed from the standpoint of deficiencies that would impair operating effectiveness.

We determined the status of the testing program for the C–5A by comparing test plans with reports of actual tests conducted. We also examine selected test reports where major failures occurred.

For the third year we reviewed the program's June 30 SAR to determine improvements made and to identify remaining shortcomings in its preparation. We also examined the reasons for major changes in C–5A cost, schedule, or performance since the June 30, 1970, SAR.

Information on the C–5A was obtained by reviewing plans, reports, correspondence and other records, and by interviewing officials at the Lockheed-Georgia Company plant located in Marietta, Georgia, the SPO, intermediate and higher commands of the Department of the Air Force and the Office of the Secretary of Defense.

We evaluated management policies and the procedures and controls related to the decisionmaking process, but we did not make detailed analyses or audits of the basic data supporting program documents. We made no attempt to assess military threat or technology, develop technological approaches, or involve ourselves in decisions while they were being made. We also did not review the C–5A engine program because of audit time constraints.

To provide the House Committee on Appropriations with information on the aircraft's deficiencies, responsibility for the deficiencies, and the costs involved in correcting the deficiencies, we made an analysis of the deficiencies reported by the Air Force on aircraft number 53. In view of the Committee's desire to have a report before additional funds are considered for this program, we are providing to the Congress without audit a summary of data given to GAO by the Air Force. This data is discussed in the following chapter.

CHAPTER 2: DEFICIENCIES IN ACCEPTED AIRCRAFT

In our March 1971 staff study, we reported on our review of the first 15 operational C–5A aircraft accepted by the Air Force. Our review disclosed that the aircraft had been accepted with an average of 130 agreed-upon and 127 unresolved deficiencies per aircraft. The aircraft's major deficiencies in the landing gear, wing and avionics did not prevent the aircraft from performing its basic cargo mission but restricted performance of the aircraft's tactical mission. These deficiencies were attributed to incomplete development and testing.

Our current review of the condition of 15 aircraft accepted by the Air Force during February through September 1971 disclosed that the aircraft are still being accepted with a number of deficiencies. These aircraft were accepted with an average of 251 deficiencies per aircraft—some major and some minor.

Since our March 1971 staff study, the following aircraft components have been corrected.

Air Turbine Motors

Air turbine motors (ATM's) drive two pumps incorporated in the C–5A hydraulic system. These pumps provide auxiliary power for hydraulic subsystems which are primarily used for operation of systems while the aircraft is on the ground.

At the time of our last report, the operation of the ATM was prohibited pending its relocation to a more accessible area of the ship due to a fire in aircraft number 11. The unit has been moved to the area of the auxiliary power unit, a more accessible and safer location. Operating restrictions no longer are imposed on the use of the ATM.

Radar Altimeter

The C–5A is equipped with two low altitude radar altimeter systems intended to provide an accurate indication of airplane altitude above the ground. They provide the primary sensing signals to the all-weather landing system which automatically flares the aircraft—changes its attitude—during an automatic landing. They are also important when used in conjunction with the terrain-following mode of the multi-mode radar for low-level missions.

In last year's staff study, we reported that this component could not be used with the all-weather landing system or the terrain-following mode of the multi-mode radar because they did not possess the required accuracy below 100 feet. Air Force officials advised us that no problems are currently being encountered with this component.

Crash Data Position Indicator Recording System

The crash data position indicator recording system records data and crew member conversations which are used in location and investigation of a crash.

At the time of our last report, this system was undergoing reliability testing following modifications designed to correct air foil, corrosion, tape jamming and water seepage problems.

Air Force officials advised us that the modifications have corrected the problem areas and the component currently is fully operational.

Special congressional request

In the House of Representatives Appropriations Committee Report No. 92–666, dated November 11, 1971, the General Accounting Office was instructed:

> ". . . to make a thorough investigation of the defects in this aircraft and to assign a responsibility for the defects and establish the costs involved in correcting the deficiencies."

In view of the Committee's desire to have a report before additional funds are considered for this program, we are providing to the Congress without audit the following data given to GAO by the Air Force.

Responsibility

Since the contract was restructured in June 1971, the subject of responsibility for the cause or cost of the defects is no longer an open issue. Under the restructured contract the defective items are to be corrected by Lockheed on a cost basis without fee on the premise that the fixed loss established therein settled Lockheed's liability for these as well as other problems. We therefore did not attempt to determine the responsibility for the causes of the defects.

Estimated Cost to Correct Defects

The latest information available regarding the cost of correcting deficiencies is a SPO cost study on the update requirements for the C–5A performed in July 1971. This study concluded that the total program to correct the deficiencies would cost approximately $164 million excluding the wing and pylon problems which had not yet been discovered. This estimate was based on the following assumptions:

1. The changes would be incorporated at Lockheed and at San Antonio Air Material Area (SAAMA). The work done at Lockheed would not be fee bearing. The work at SAAMA would be done in conjunction with a Depot Level Maintenance program to recognize economies in aircraft downtime and processing costs. There would be approximately equal work at both locations.

2. The changes involved were only those requiring depot incorporation. They included a known category, i.e., those which had been approved or identified but not yet approved as of June 1971, and an unknown group; i.e., a projection of additional changes which would be approved through September 1973.

3. It was assumed that there would be no additional major structural failures in the test programs.

4. It was assumed that all changes would be incorporated by late 1974.

This cost estimate covered all of the costs associated with these changes except the engineering design necessary to define the corrective action, which is part of the basic contract cost. Examples of the costs included in the study are installation of the change, fabrication of retrofit kits, planning, material, and subcontractor costs. The July 1971 study concluded that the total program to update the C–5A would cost $164 million. This was made up of $90.5 million for those known changes identified through June 1971 and $73.5 million for additional unknown changes which might be identified by September 1973. The expenditures for these changes were projected to occur in the following time-frame.

	Millions
Fiscal year 1973 and prior	$96.6
Fiscal year 1974	52.5
Fiscal year 1975	14.9
Total	164.0

Since July 1971, events have occurred which will affect this estimate. The structural test failures, the pylon failure, the forming of an Independent Structural Review Team, the extension of the incorporation schedule to late 1975 and a different mix of incorporations between Lockheed and SAAMA are the most significant changes to the assumptions made in July 1971. A cost for these has not yet been determined.

A special cost study is now being undertaken by C–5A SPO personnel for the purpose of updating the July 1971 cost study. This effort was planned to be completed in late February 1972.

Deficiencies

As mentioned earlier in this staff study, our review of the condition of 15 recently accepted C–5A's (February through August 1971) disclosed that the aircraft were accepted with an average of 251 deficiencies per aircraft—some major and some minor.

To answer the House Appropriations Committee's request, we analyzed the Shortage and Variance Report (SHOVAR) dated November 24, 1971, on aircraft number 53. The SHOVAR is used by the Air Force to track deficiencies on the C–5A and is compiled at the time of delivery of a given aircraft. It represents a list of all items which are not on the aircraft but should be, and all items which do not meet contractual specifications. Prior to the restructure of the C–5A contract, this report was used to document the Air Force position on Lockheed's responsibility under the Correction of Deficiency clause; i.e., any item appearing on the list would be replaced or updated to specification under the contract cost-sharing arrangement or in the event of an overceiling condition the cost would be absorbed by Lockheed. Since the C–5A contract was restructured, these items are corrected by Lockheed on a cost basis without fee on the premise that the fixed loss established therein settled Lockheed's liability for these as well as other problems.

Our review of the SHOVAR for aircraft number 53 disclosed 196 deficiencies of which 47 were considered to be major defects based on the following criteria:

a. Any deficiency which precludes aircraft from fully meeting the specified mission capability for which it was procured.

b. Any deficiency which may endanger life or limb of C–5A air or ground crews or valuable property. There are no deficiencies in this category that currently result in a safety problem to the crew.

c. Any other deficiency for which the fix will increase the total estimated program cost over $1 million as agreed to by GAO and SPO officials.

The 149 minor deficiencies were not reviewed because of the low cost and lack of mission impact. However, costs for these changes are included in the July 1971 cost estimate of $164 million.

Of the major deficiencies, 14 negatively impact the C–5A's capability to perform its full mission. These deficiencies affect nine mission parameters (see Appendix II) as follows:

1. The Operations Annex (but not the basic Specific Operational Requirement) calls out a mission of 1 hour at 300 feet at between 300 and 350 knots. Aircraft which have not been updated cannot meet low level terrain following specifications for two reasons:

a. Static and fatigue test failures in the aft fuselage dictated beef-up of structure to withstand turbulence and high airspeed maneuvering loads. This applied to airspeeds above 250 knots.

b. The Multi-Mode Radar has been tested and proved at a nominal 1000 feet, with tolerances approximately 800 to 1100 feet. The requirement for an absolute 300 feet is currently under review for analysis of real worth to the mission. If the requirement is raised to about 1000 feet, the updating Multi-Mode Radar Engineering Change Proposals (ECP's) will correct all of the avionic deficiencies and permit safe terrain following.

2. The C–5A cannot currently meet maximum design payload requirements. Continuation of the 80 percent restriction limits the payload to 174,000 pounds. With the incorporation of the proposed Lift Distribution Control System, the payload limit will be increased to 185,000 pounds at 2.5 G's.

3. When the C–5 is landing on substandard runways, loose material is thrown up into the hydraulic and electrical lines running underneath the main landing gear. This has resulted in an inability to meet substandard runway requirements. A relocation of the hydraulic and electrical lines was made on test aircraft number 3 with satisfactory results. Implementation of the ECP for relocation of the lines is being deferred until the exact criteria for non-standard runway usage of the C–5A is clarified.

4. The minimum ceiling requirements of the C–5 is 250 feet. The C–5 is currently cleared to 300 feet. Tests are in progress on improved Attitude Heading Reference Units to provide confidence in lowering the minimum ceiling.

5. The turn around time requirement is directly related to the time necessary to kneel and unkneel the aircraft. The original allocation was 2 minutes each for kneel and unkneel, which left 11 minutes for unloading operations. In adverse conditions about 5 to 6 minutes were required for kneel or unkneel operations. Present consideration to go to hydraulic drives on the system reduces kneel and unkneel to approximately 3 minutes each and a requirements study to modify total time and kneeling operations times is underway.

6. The doppler radars currently do not fully meet the specification requirements of velocity and drift angle. ECPs are now being incorporated which will permit C–5's to meet specification requirements at the lowest and highest speeds attainable.

7. The Terminal Area Navigation problems have been resolved. Instructions for correction were issued January 27, 1972, and all aircraft have been updated. This correction involved tape changes to the Inertial Doppler Navigation Equipment computer which now permits the computer to properly accept data inputs from the various fixed navigational stations such as Tactical Air Communication and Navigation System (TACAN), loran, and terminal area navigation.

8. The Internal Doppler Navigation Equipment cannot meet vertical channel requirements in Terminal Area Operations. The corrective action discussed in 6 and 7 above also solve this problem.

9. The Aerial Delivery System cannot meet all aerial drop requirements. A group of changes has been developed to incorporate fixes for malfunctions found during category II drop tests.

The following sections discuss (1) those major deficiencies which affect the aircraft's mission, (2) those major deficiencies which do not affect the aircraft's mission, and (3) those minor deficiencies not affecting mission—those deficiencies identified in last year's staff study which have not been resolved.

Major deficiencies affecting mission

Landing Gear

The C–5A is equipped with a highly complex tricycle-type landing gear which was designed to operate on unimproved as well as conventional runways; take off and land in crosswinds by changing the position of the gear; and kneel in three modes to accommodate various types of cargo operations.

The landing gear system continues to be the most troublesome system on the aircraft. For the six month period ending August 31, 1971, there were 3,327 reported landing gear failures[1] in the C–5A fleet. A total of 82,673 maintenance man-hours were required, resulting in a maintenance man-hour per flight hour (MMH/FH) of 6.19. The meantime between failure (MTBF) was four hours.

Lockheed is still testing various subsystems of the landing gear system. There have been several major changes proposed for correction of the problems; some of the most important ones are concerned with the extension/retraction function of the gear and with specific areas such as the door lock, kneel door and relay logic.

A change has been proposed to change the driving power of the kneeling system from pneumatic to hydraulic. It is anticipated that this change will solve most of the recurring problems which have been experienced with the kneeling system.

Malfunctions in extension/retraction functions of the landing gear kept performance of this system below acceptable levels. Significant engineering changes were developed to solve these problems. Simplification of functions and substitution of relay logic circuitry in place of sophisticated electronic integrated circuits in the extension/retraction function shows major improvement in performance.

The original main landing gear kneeling pins would bend under certain kneeling conditions. The pins now have been redesigned and the new ones are expected to be less susceptible to bending.

The anti-rotation braking system has been modified. The modification consisted of the replacement of a rather sophisticated electronic braking system with a relatively simple wiring system tied directly into the landing gear handle. While it is slower than the electronic system, the modified system is expected to be more trouble free, easier to maintain, and much more reliable.

Air Force officials stated that the system for rotating the landing gear could not accomplish its task because of an undersized cylinder. Air Force personnel stated that this situation now has been corrected through the use of a larger cylinder.

The operation of the cross-wind landing system no longer is restricted. A new and different computer now is utilized and the system is used for take-offs and landings with essentially full capability.

Results of these improvements will not be felt in definite reliability improvement until the majority of the aircraft are retrofitted. As of the end of 1971, 22 aircraft were retrofitted with relay logic fixes and production incorporation was made on aircraft number 58 and up. Hydraulic kneeling work is still in the test stage and no aircraft have been modified. An extensive door lock redesign, to prevent inadvertent door gapping from structural deflections at higher airspeeds and altitudes and to provide longer life of the locking system will be effective in production on aircraft number 67. Retrofit is scheduled to start in March 1972.

Landings are restricted to hard surfaces; landing on unprepared surfaces, although still included in performance specifications, are not permitted because the aircraft has not been fully tested.

Wing Problems

The wing continues to be one of the major problem areas on the C–5A. Lockheed has two articles that test the fatigue strength of the wing. The test articles had incurred 21 failures as of October 1971, while completing only 15,000 and 30,000 hours respectively of the 120,000 test hours scheduled for each. The primary fatigue test article was down for repairs 285 days during fiscal year 1971. The wing fatigue tests are scheduled to be completed in September 1974, about 2½ years behind the original schedule.

Between March 15, 1971, and October 31, 1971, Lockheed proposed over $8 million in engineering changes to the wing. This amount excludes the complete redesign of an area specified as the 120 rear and mid beam joint, as recommended by the Air Force Special Study Group. The area in question incurred a major failure during fatigue testing in November 1970.

Air Force reports show that even after the necessary repairs are incorporated in the wings, in service repair probably will be required to attain 30,000 hours service life.

The static test article incurred a major wing failure in September 1971. The failure occurred during testing of the 150 percent design load limit requirement, which was the last scheduled major test for the static article.

Air Force officials stated that the failure occurred at about 126 percent of the design load limit. Subsequently, the Air Force and contractor studied the problem concerning the cracked wing, and the Air Force decided to incorporate a Lift Distribution Control System (LDCS) in all C–5A's. The Air Force estimated the cost associated with the development, testing and incorporation of LDCS at $3.0 million.

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[1] Failures represent all types of mulfunctions reported in the landing gear by the Military Airlift Command.

Pylon Problems

In September and October 1971, cracks were discovered in the pylons of delivered aircraft. Air Force officials stated that the cracks were the result of two different problems, one design and the other quality control.

The first problem was discovered when an engine and pylon separated from aircraft number 13 as it was preparing for take-off. Subsequent investigation disclosed a break in a mount within the pylon caused the engine to separate from the aircraft. Air Force officials stated that improper design caused the break and that all of the pylons will have to be rebuilt in the area where the break occurred.

Air Force officials stated that this area of the pylon had not been tested for fatigue weakness because it had passed the static tests with no problems.

The Air Force required an inspection of all C–5A pylons as a result of the above incident. During the subsequent inspections another break was found in an area of the pylon. This break occurred in a triangular shaped fitting of the pylon. Air Force officials stated that the break was caused by stress corrosion brought on by a missing shim. The officials attributed the missing shim to poor quality control at the subcontractor's plant. As a result of this break in the pylon, all C–5A's were grounded by the Air Force until inspections could be completed of the pylon area.

The Air Force advised us that a comprehensive program of providing safe pylons through fatigue life tracking of installed pylons and replacing pylons with beefed-up pylons is in progress under top priority actions.

Multi-Mode Radar

The multi-mode radar consisted of two separate and independent radars which are used to perform several different functions on modes. The modes are weather mapping, ground mapping, contour mapping, terrain following/terrain avoidance, beacon identification and radar approach for landing with and without ground-based aids.

At the time of our review, the most current C–5A operating limitations published by the Air Force listed the terrain following/terrain avoidance, contour mapping, and radar approach modes as being not operational on aircraft in the field.

Air Force officials stated that Lockheed has completed flight tests on MMR in a more up-to-date configuration and all modes are operational and meet specifications with the exception of the terrain-following mode. Updating the system started in January 1972 and after test of updated systems, production articles are scheduled to be retrofitted beginning in November 1972. Even with updated radar equipment, however, the terrain following mode is not expected to be fully operational at the 300 foot level required by the specifications. Presently, it is being operated at a minimum level of 1,000 feet.

Air Force officials stated that a design deficiency in the radar will probably require a complete update of the equipment. They also stated that early in the program they brought this design deficiency to Lockheed's attention but no corrective action was taken. Even though other modes of the MMR are operational and are operating within specifications, the overall reliability is considered by the Air Force to be poor.

The planned update of the MMR will incorporate a number of changes, not only to the terrain-following mode, but to other operations of the radar as well. The rough estimate of costs for the equipment update currently is $13 million.

The MMR equipment discussed here, and the radar altimeter, Inertial Doppler Navigation Equipment, and Station Keeping Equipment discussed elsewhere in this study, are components of the aircraft's radar system. For the C–5A force for the six month period ending August 31, 1971, there had been 749 failures recorded for the system; the MTBF rate was 18 hours.

A total of 23,760 hours was expended in maintenance man-hours, resulting in a MMH/FH of 1.78 hours.

As of February 1972, the Air Force provided an estimated completion date of October 1974 for updating the entire C–5A force.

Inertial Doppler Navigation Equipment

The inertial doppler navigation equipment (IDNE) consists of an inertial naviation and a doppler radar system which is capable of performing its navigational role without dependence on ground aids. It provides position information by sensing the motions of the airplane and computing the changes of positions. The system combines basic navigational capability with additional computer services for processing data from and to other airplane systems equipment to assist in guidance and control functions.

In our 1971 staff study, we reported that limitations had been placed on its use until completion of flight tests by Lockheed. Our current review revealed that on operational units, IDNE computer software has been and continues to be a problem. All flight testing is complete and the accuracy of the equipment has been verified. A number of changes have been proposed and approved with delivery of revised units starting in January 1972.

Air Force officials stated that the operational specifications for the ground tracking function of the IDNE system has been relaxed somewhat, but this relaxation, or restriction, will be lifted when all proposed changes are incorporated into the system. The officials stated that the overall accuracy of the system is good, but the reliability is less than desirable. A critical shortage of doppler spares resulted in 60 percent of the 174 missions flown in August and September 1971 without an operational doppler.

As of February 1972, the Air Force advised us that updating of two of the system's major deficiencies had been completed. Updating of the remaining four major deficiencies is expected to be completed by May 1975.

Attitude and Heading Reference Unit

The C–5A aircraft is equipped with two attitude and heading reference units (AHRU's) capable of furnishing both heading and attitude information to the horizontal situation indicator, the bearing-distance-heading indicator, and attitude director indicator (ADI). Pilots rely heavily on the ADI when flying in bad weather because it indicates the attitude of the aircraft in relation to the ground.

In our March 1971 staff study, we reported that a restriction had been placed on take-offs and landings when the ceiling is less than 500 feet and one mile visibility. This restriction was due to low system reliability and malfunctioning gyros and electronic circuits.

During our current review, Lockheed officials stated that flight tests of the AHRU have been completed and it is now functioning properly. Limited modification of AHRU's in the field has resulted in improved operation and reliability. However, until all ships undergo complete modification, use of the equipment is still restricted on landings and take-offs when the ceiling is less than 500 feet and visibility is less than one mile.

For aircraft equipped with modified units, the C–5A SPO has recommended that the ceiling and visibility be changed to 300 feet and ¾ mile respectively.

As of February 1972, the Air Force had not updated any aircraft and estimated complete update of the entire C–5A force would be completed in September 1972.

Aerial Delivery System (ADS)

This system is essentially qualified. The test program in 1971 at Pope AFB, North Carolina, demonstrated the capability of the system. A few minor corrections to equipment are necessary to fully meet specified performance. A correction to the end fitting of the anchor cable to prevent chafing and failure after repeated usage is the type of fix encountered in this system.

As of February 1972, the Air Force was unable to provide an estimate as to when updating was scheduled to be initiated and completed.

Major deficiencies not affecting mission

Automatic flight control system

The automatic flight control system (AFCS) consists of four subsystems which provide automatic throttle control, assistance in moving the aileron and elevator flight control cables, stability augmentation (yaw-lateral-pitch) and automatic flight path control (autopilot). Flight path control functions, utilized by the AFCS, are displayed to the pilot for monitoring.

Our 1971 review disclosed that this component's subsystems were not operational or in the final and optimum configuration. Our current review showed that although Lockheed officials stated that developmental testing of the flight control system is complete, Air Force officials stated only a portion of the several components making up the system are actually operational.

In the operational modes of the AFCS, two problems impairing the full use of these modes were discovered and resolved. The first problem was binding in the autopilot servo which, under certain conditions, resulted in servo seizure and applied loads that would exceed the 80% operating limits. A safety supplement was issued to preclude this situation from occurring. Field and production installation of the required fix have been accomplished and the problem has been eliminated. The second problem involved altitude fluctuating and disconnects. Corrective action involved modification of electronic circuitry in the pitch computer. Production incorporation begins with aircraft number 59 and retrofit starts approximately February 1972.

The autopilot modes which had not completed development test were completed in 1971. A firm configuration has been determined and final updated production hardware delivery will begin in November 1972. A full update of this system is not anticipated until about January 1974.

Minor deficiencies not affecting mission

Malfunction detection analysis and recording system

The malfunction detection analysis and recording system (MADAR) was designed to assist flight crews and maintenance personnel in the detection and isolation of malfunctions in the aircraft. It also furnishes trend data related to subsystem degradation for use in prediction of impending failures.

Our 1971 review disclosed that the MADAR was not considered reliable and its potential had not yet been achieved. Our current review indicated that the MADAR continues to perform poorly but current tests have shown some improvement in the reliability of this equipment. After modification the equipment MTBF rate in laboratory tests increased from 87 hours to about 100 hours. However, for the six month period May through October 1971, the MTBF rate for operational aircraft in the C–5A fleet averaged only about 23 hours per ship for the MADAR system. Additional changes will be incorporated in an on-site update program beginning after December 1971.

The specifications call for a 300-hour MTBF rate for the system. Even after the total equipment update is accomplished, the best rate expected by the Air Force is 150 to 200 hours. Despite this anticipated failure to meet specifications, the specifications have not been revised to reflect the lower MTBF.

Stallimeter Subsystem

The stallimeter is used to warn the pilot of an approaching stall condition of the aircraft.

Our March 1971 staff study reported that the component was unreliable and was not being used because of computer problems. Our current review disclosed that use of the stallimeter is still restricted on operational C–5A aircraft. Lockheed flight testing of this item is complete, and operation of the test version is satisfactory. However, since this item is a part of the AFCS, its use is limited due to the overall problems experienced by that major system.

Station Keeping Equipment

The station keeping equipment is intended to allow a large number of aircraft to maintain desired separation from each other while in formation. It operates as a simultaneous range tracking and 360-degree screen display system. Time-sharing methods are utilized on a single transmitting frequency and permit as many as 59 aircraft, within range of each other, to fly in a single formation.

In our March 1971 staff study, we reported that while this component was operable, its use was limited to visual flight use. Our current review disclosed that the system is still restricted to daylight visual flight conditions. A number of proposals have been made for changes to this system. After the changes have been incorporated, the Air Force expects the system to function normally, even though it is anticipated that operational specifications will not be met. For example, on the search mode, instead of the 20 miles called for in the specifications, the equipment will operate at only 14 miles. The system in use in the Air Force has not been operated or tested with a group of C–5A's because of the cost involved in such a test. Testing by Lockheed has been largely in a laboratory environment but the results indicate that the system's operation is satisfactory.

Aerial Refueling System

An aerial refueling system has been installed on the C–5 aircraft. Use by MAC has been prohibited pending incorporations of engineering changes. Changes to the aerial refueling system will be made as programmed and full operation of the system is expected by the Air Force following correction of the deficiencies. As of the close of our review, the Air Force was unable to provide a date for completion of the corrective action.

For illustrative purposes, the following minor deficiencies were selected for the purpose of illustrating the insignificance of a large number of the 196 deficiencies reported on aircraft number 53.

1. The interphone cord length is not sufficient to allow unrestricted movement of crew members in performance of their normal duties.
2. The aircraft's lavatory doorways have a 5⅜ inch high step. Proposed corrective action is to make sills removable or markedly reduce step height.
3. The two covers for the troop compartment auxiliary refuse containers are not self-supporting in the open position.
4. Currently approved refuse containers (one 60 gallon plus two auxiliary containers) do not provide adequate capacity. Proposed corrective action is the addition of a second 60 gallon container.

CHAPTER 3: SYSTEM ACQUISITION REPORT

System cost experience

Our field work consisted of a review of the cost data shown on the June 30, 1971, Selected Acquisition Report (SAR). Therefore, the following discussion pertains to data in that report. While the total estimated cost does not include a complete estimate to correct the aircraft's deficiencies, a portion thereof is included in the current estimate.

The total estimated program cost as of the June 30, 1971, SAR was $4,455.2 million (Development $1,029.2 million. Procurement $3,608.4 million, Construction $17.6 million less Lockheed's loss of $200 million)—an acquisition unit cost of approximately $55.0 million. The agreed to loss by Lockheed Corporation is $200 million—$100 million investment loss and $100 million to be repaid to the Government in the future according to the terms of the June 1971 reconstructed contract. The SAR also identified logistic support/additional procurement costs of $326.3 million for such items as modifications and replenishment spares.

The $4,781.5 million total cost estimate for 81 aircraft as of June 30, 1971, was approximately $1359.0 million and $187.2 million higher than the October 1964 and June 30, 1970, estimates respectively. The October 1964 planning estimate (which did not include an estimate for additional procurement costs) for the total program was $3,422.5 million for 120 aircraft or about $28 million each. The June 30, 1970, SAR showed estimated costs of $4,308.6 million for 81 aircraft or a unit acquisition cost of about $53.2 million. The June 30, 1970, SAR also included logistic support/additional procurement costs of $285.7 million.

The difference of approximately $18.2 million between the June 1970 and June 1971 estimates was primarily the result of the following: $75 million due to the agreed to change in the proposed production rate from three to two aircraft per month; $47.8 million due to final negotiation of the Lockheed loss; $25.5 million due to an increase in additional procurement costs; $21.9 million due to implementation of Scientific Advisory Board recommendations; the balance of $17.0 million is due primarily to other adjustments in such areas as estimating and test support and add-ons.

Beginning with the initial SAR (March 31, 1969), the total estimated cost included $410 million for economic inflation expected to be incurred during the development/production phase (1965–1973). The $410 million is in addition to amounts included for inflation in the original contract estimates (see Appendix I). SPO officials stated that the original planning estimate was in constant 1964 dollars with no allowance included for inflation.

Air Force officials stated that the matter of inflation has been difficult to deal with and all estimates pertaining to inflation are questionable. With respect to C–5A expenditures, it is noteworthy that Air Force officials also point out that actual and projected expenditures adjusted by the OSD published rates of inflation and converted to 1964 constant dollars show that inflation could account for $692 million of the increase in program cost over the estimate made in 1964.

Subsequent to the issuance of the June 30, 1971, SAR, a strike at one of the major subcontractor plants forced the closing of the C–5A production line on September 18, 1971, for three weeks. The additional procurement cost associated with this strike is estimated by the C–5A SPO to be $6.4 million.

Funds were appropriated in the amount of $3,927.8 million for Research, Development, Test and Evaluation (RDT&E), Procurement, and Military Construction during fiscal years 1964 through 1971. During this same period the Air Force programmed $4,011.2 million for RDT&E, Procurement and Military Construction. Figure I shows the amount of funds appropriated, obligated and expended together with the current program by fiscal year. Figures II and III respectively show the RDT&E and Procurement appropriated and current program by fiscal year.

Figures IV and V show that the Air Force cost estimates for the C–5 program have increased from the $3,422.5 million (excluding additional procurement costs) planning estimate of October 1964 to the June 30, 1971, total program estimate of $4,455.2 million. The June 30, 1971, estimate also includes $326.3 million for logistic support/additional procurement costs.

The conversion of the Lockheed contract from fixed price incentive to cost reimbursement resulted in the continuing flow of payments to the contractor without which the continuation of the program by Lockheed would have been impossible. The conversion also resulted in Lockheed accepting new Air Force intensified management participation and authority over the contractor's activities in the performance of the contract. Representative areas and probable controls include, but are not limited to:

Plant activities
Program plans and status
Personnel resources
Engineering activities and
Facility resources

As of December 31, 1971, the total estimated program cost was $4,439.9 million taking into account Lockheed's loss of $200 million. The reported logistic support/additional procurement costs as of December 31, 1971, were $388.1 million.

SYSTEM SCHEDULE EXPERIENCE

The SAR's show that from June 30, 1970, to June 30, 1971, the projected delivery of the last production aircraft slipped 7 months from July 1972 to February 1973. This slip was caused by the change in the scheduled production rate from three to two aircraft a month. As of June 30, 1971, delivery of the last aircraft (81st) was estimated to be about 22 months later than originally planned. The original planning and development estimates for the C–5A, as charted on Figure VI, provided for the 81st aircraft to be delivered in July 1971 and the 120th aircraft to be delivered in April 1972.

A strike at one of Lockheed's major subcontractor plants in September and October 1971 caused a shutdown of the C–5A production line. The Air Force estimates that the 10-week subcontractor strike caused a rescheduling of aircraft production and now the last aircraft is scheduled for delivery in May 1973—a slip of two additional months.

System performance experience

Operation of the aircraft was limited by the Air Force to 80 percent of design requirement, in accordance with normal procedures until completion of the 100 percent flight demonstration. These flights tests were originally due to be completed in November 1969. However, this limitation has continued in effect primarily due to major failures which occurred in the non-flying wing/fuselage test articles which have delayed the 100 percent flight demonstration. Other major technical problems have also been encountered in the landing gear and avionics which are discussed elsewhere in this staff study.

We noted that reporting of the specification compliance for landing distance in a support area was not based on actual hardware demonstration. The original specification for C–5A landing distance was 4,000 feet in a support area on an unprepared surface. However, difficulty was encountered in controlling test conditions in such an environment. Therefore, the specification was adjusted by the Air Force to an equivalent requirement for dry concrete runways—3,125—and tests were conducted and performance measured on that basis. That raises the question as to whether the requirement for landing and taking off from an unprepared surface is still a valid requirement.

Our review disclosed that for the 8-month period ending August 31, 1971, 12 aircraft (average) assigned to the Charleston Air Force Base, experienced a total of 36.34 maintenance man-hours per flight hour which is in excess of the specification rate of 17.65.

Our review also disclosed that for the 9-month period ending September 30, 1971, the average operationally ready rate for the same aircraft was approximately 47 percent as compared to the specification objectives of 75 percent.

The monthly maintenance man-hours and operationally ready rates for C–5A's at Charleston are shown on Figures VII and VIII respectively. Figures IX and X show the maintainability and reliability rates for the entire C–5A fleet during the 6-month period ending August 31, 1971.

Selected acquisition reporting

The SAR is intended to be an accurate presentation of the status of the weapon system being reported using common baselines, technical data, schedule, and cost information. In our previous staff studies to the Congress dated February 1970 and March 1971, we stated that we believed the SAR's usefulness for this system is severely limited without disclosure of complete mission profile data and the aircraft's technical problems. The data provided in the C–5A SAR is in accordance with the DOD Instruction.

The June 30, 1971, SAR for this program still does not reflect the major operational and technical characteristics, i.e., range at specific payloads, germane to a cargo-type aircraft. While a considerable amount of detailed information on the program may be provided to Congressional members periodically through briefings, we believe that information pertaining to the aircraft's logistic capability should be addressed in the SAR.

Although we do not agree with the selection of the performance characteristics stub items cited in the SAR, we believe that the SAR should reflect a clear and precise status of the system's capability to fulfill those performance characteristics. For example, the C–5A SAR does not include any data on system reliability, cost per ton mile, and productivity index based on speed, cargo carrying capability and utilization. We found further, that the reported performance was not actually accomplished in compliance with the specification performance (mission guarantees). The reported performance was based on a combination of actual flight test data and extrapolations thereof, in accordance with Air Force procedure, rather than actual hardware demonstration flights.

We believe that when reported performance is not based on actual hardware demonstration, the basis used should be clearly noted for each characteristic.

We also believe that the technical section of the SAR should disclose the impact of the aircraft's deficiencies (such as the landing gear and wing deficiencies and the 80 percent limitations) on its ability to perform its basic missions.

CHAPTER 4: TESTING

Introduction

The successful fielding of any weapon system requires an orderly, phased progression of test and evaluation. The three basic types of testing—engineering, acceptance and operational suitability—can provide management with the necessary vital information needed to ensure the successful evaluation and subsequent fielding of the system.

Incorporated in any comprehensive test program is the need to follow a sequential testing program. In this process, the following steps must be performed:

1. Formulate test objectives to satisfy the mission objectives of the weapon.
2. Develop test plans to accomplish the test objectives.
3. Implement testing based on test plans.
4. Evaluate test results and prepare test reports.
5. Use test results when making key management decisions.

The real pay-off in a testing program is the proper assessment of the risk and delivery of the test results to the decision-maker at decision points in the acquisition process.

The acquisition strategy employed by the AF at the time that the test plan was established called for concurrency of development and production. Therefore, engineering testing (static and fatigue) would be conducted during production. Acceptance and operational suitability testing could not be performed prior to full-scale production. Under this type of strategy test results and reports thereof could not possibly be made available to program managers prior to key decision points.

In addition, test schedules have slipped to the point where all 81 aircraft will be completed or in production assembly before completion of the testing program. The delays in identifying deficiencies through the testing program has resulted in the production of aircraft with faults such as structural defects, and inoperable and unreliable subsystems.

A discussion of objectives one through three follows.

Development of test objectives

The establishment of testing objectives early in the acquisition program is an important aspect of testing in that it provides the framework to measure a system's capability to meet its mission requirements.

The C–5A Specific Operational Requirement initially provided two missions. The basic mission was to carry 100,000 pounds for 5,500 nautical miles while the alternate mission was to carry 265,000 pounds for 2,500 nautical miles. After completion of the aircraft's parametric studies, the number of missions was increased to five which were included in the original Request for Proposal (RFP).

By September 1965, the five missions defined in the RFP were further defined into 15 mission profiles (see Appendix II) in the specifications as the basis for structural life design based upon anticipated usage.

Development of test plans and means of assuring they would accomplish test objectives

Lockheed, as the system contractor, was required to prepare and submit to the Air Force for approval plans and procedures by which it would demonstrate the capability of the C–5A to accomplish the operational requirements. The contractor's original test plans were dated April 1965 and revised September 9, 1965, prior to contract award on October 1, 1965.

As a means of assuring the contractor would accomplish the test objectives, the Request for Proposal required the contractor to establish and explain the standards, tests, associated analyses, and other means that would constitute adequate proof, on completion of the development phase, that an acceptable level of performance, including all military effectiveness factors, could be achieved by the system in operational use. The request for proposal also specified that the types of tests would include but not be limited to the following:

Wind tunnel
Static
Fatigue
Drop
Design and development
Integration
Qualification
Reliability and safety
Maintainability
Flight

Lockheed's test plan showed that many of the tests to be performed on the C–5A were based on those made on the C–141, and that the nucleus of the management personnel assigned had extensive experience in testing cargo-type aircraft.

One major deficiency in the contractor's test plans was an inadequate allowance for contingencies to provide for failures which experience on other aircraft had shown were bound to occur. The test schedules were predicated on minimal problems during testing. This was recognized early in the program, but it was questionable as to whether the test schedules and test periods were enforceable because of the disengagement concept stressed under the TPP concept.

As late as February 1970, the contractor's test schedules showed completion of required static tests by August 1970. At that time the aircraft was to be released for 100 percent flight demonstration, however, test schedules still did not adequately allow for unexpected delays and possible failures. Program status charts as of February 1971, showed the 100 percent flight demonstration release date as being about August 1971. A major test failure in September 1971 has further delayed the 100 percent flight demonstration. As of January 18, 1972, the scheduled period for that testing had been set for March 10 to April 14, 1972.

However, at the completion of this test period, three components will not have been completely tested because the respective update production hardware is not available for testing. The three components are as follows:

Automatic flight control system
Multimode radar
Flight director

Air Force officials stated that production hardware should be available during 1972 and testing should be completed in June 1972. In addition, the wing and pylons have not been fully tested due to recent problems experienced by these systems.

Air Force officials also stated no further testing will be made of the aircraft's support area landing and take off capabilities—although the tests had not been completed. Some prior support area landing tests had caused damage to the test aircraft. Therefore, the Air Force has suspended the conduct of this type of testing.

Air Force officials stated that the aircraft will not be restricted from using unprepared surfaces, but that the lack of full and complete quantitative data for flight operations in such circumstances will tend to discourage its use.

Tests not accomplished in the time frame prescribed in test plans

Test plans and schedules stressed early disclosure of operational and engineering deficiencies in order that changes could be incorporated before significant production buildup. However, there have been significant schedule slippages in the test program and the testing has not been completed as originally anticipated.

Our comparison of the test schedules in effect at the date of contract award, October 1965, with the most recent (December 1971) projected completion dates for these tests disclosed the following:

Tests	Original test completion date	Current test completion date	Months slippage
Aerodynamic model tests	Nov. 1967	Oct. 1968	1
Category I:			
Static tests	Mar. 1970	Mar. 1972	24
Fatigue tests	Feb. 1972	Oct. 1975	43
Flight tests	July 1970	Apr. 1972	21
Category II: Flight tests	do	do	21
Category III: Flight tests (user tests)	Nov. 1971	Mar. 1973	16

Under the original test and production schedules, the first 67 of the original 120 aircraft were to be placed in production prior to completion of Category I and II testing (excluding fatigue testing) and any additional aircraft were to have been placed in production assembly after completion of testing. However, since test completion dates have slipped from 12 to 43 months, all 81 C–5A's will be in production assembly and about 55 will be completed by the time all tests (except fatigue) are completed. Thus, final test results will not be available before completion of production line aircraft, and resultant changes will have to be incorporated after production is completed.

As a result of testing delays, delivered aircraft are required to return to Lockheed for incorporation of engineering changes, as early as 3 months from the original acceptance date. Air Force officials stated that the updating of aircraft probably will continue for 3 to 5 years, with each aircraft requiring four or five updates. Air Force officials estimated the total cost of correcting those deficiencies, which are estimated to be identified through 1973, would be $164 million as discussed in Chapter 2 of this study. However, a total estimate to complete the update program has not been made.

APPENDIX I

ALLOWANCES FOR INFLATION IN PROGRAM ACQUISITION COST ESTIMATES

Planning estimate	Development estimate	Cost changes due to		Current estimate
		Quantity	Other	
$0 [1]	$? [2]	$? [3]	$? [3]	$410,500,000.[4]
$0 [1] percent.	? [2]	? [3]	? percent.[3]	9.8 percent.[5]

[1] Planning estimate was in constant 1964 dollars with no allowance included for inflation.

[2] Development estimate included amounts for inflation. However, the methods used to calculate the percentage and dollars were of a nature that the figures were not readily identifiable.

[3] Cost changes due to quantity or other changes have never been computed and, in our opinion, a reasonable assessment of these changes could not be made.

[4] The Air Force estimated inflation for 81 aircraft ($410,500,000) by reducing its estimate of inflation for 120 aircraft ($500,000,000) based on a percentage factor.

[5] Inflationary allowance percentage of current program acquisition cost estimate.

APPENDIX II. RÉSUMÉ OF AIRCRAFT'S 15 FATIGUE SPECTRUM MISSIONS

In order to provide the reader with an idea of some of the missions for this aircraft, the following fatigue spectrum missions (15) are discussed below together with the impact of the appropriate deficiencies. The 15 missions do not necessarily include all those missions which the aircraft may be required to meet—for example, wartime emergency requirement to carry a payload of up to 265,000 pounds.

Figures indicate areas of mission deficiencies [1]

1. Local training flights, None.
Range: 868 nautical miles.
Fuel Wt.: 128,000 lbs.
Cargo Wt.: None.
Speed: Traffic pattern to M 0.625.
Altitudes: 0 to 35,000 ft.
Runway: Standard.
Other: 10 touch and go landings, 2 full stops, no turn around (In remaining missions, assume 1 full stop landing unless otherwise specified).

2. Joint and Single Service Airborne Training; 1, 6, 7, 8, 9.
Range: 405 nautical miles.
Fuel Wt.: 85,000 lbs.
Cargo Wt.: 20,000 lbs., airdropped by air delivery system.
Speed: 0 to M 0.531.
Altitudes: 0 to 1,000 ft. (low level).
Runways: Standard.
Other: Requires computed approach to dropzone—Computed Air Release Point (CARP) and terrain following. One touch and go, one full stop landing.

3. Low level and Formation Training: 1, 6, 7, 8.
Range: 624 nautical miles.
Fuel Wt.: 98,000 lbs.
Cargo Wt.: 0.
Speed: 0 to M 0.531.
Altitudes: 0 to 1,000 ft. (low level).
Runways: Standard.
Other: CARP, Station Keeping Equipment and terrain following.

4. Route Familiarization, None.
Range: 2,352 nautical miles
Fuel Wt.: 207,700 lbs.
Cargo Wt.: 50,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,900 ft.
Runways: Standard
Other: Three low approaches, 5 touch and go, 1 full stop landing

5. Functional Flight Test, None.
Range: 344 nautical miles
Fuel Wt.: 52,500 lbs.
Cargo Wt.: 0
Speed: 0 to M 0.767
Altitudes: 0 to 44,800 ft.
Runways: Standard
Other: Speed and altitude maximums varied as to type of functional test being made

6. Long Range Logistics, None.
Range: 4,618 nautical miles
Fuel Wt.: 286,700 lbs.
Cargo Wt.: 90,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,500 ft.
Runways: Standard

7. Short Range Logistics, 2.
Range: 2,362 nautical miles
Fuel Wt.: 194,600 lbs.
Cargo Wt.: 190,000 lbs.
Speed: 0 to M 0.761
Altitudes: 0 to 34,100 ft.
Runways: Standard

8. Special Assignment Airlift Mission, 2. (Short Range)
Range: 924 nautical miles
Fuel Wt.: 96,800 lbs.
Cargo Wt.: 200,000 lbs.
Speed: 0 to M 0.762
Altitudes: 0 to 34,500 ft.
Runways: Standard

9. Special Assignment Airlift Mission, None. (Medium Range)
Range: 1,499 nautical miles
Fuel Wt.: 108,000 lbs.
Cargo Wt.: 100,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 39,600 ft.
Runways: Standard

10. Special Assignment Airlift Mission, None.
(Long Range)
Range: 3,431 nautical miles
Fuel Wt.: 288,100 lbs.
Cargo Wt.: 25,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,000 ft.
Runways: Standard

11. Special Assignment Airlift Mission, None.
(Long Range)
Range: 3,431 nautical miles
Fuel Wt.: 223,100 lbs.
Cargo Wt.: 90,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,000 ft.
Runways: Standard

12. Special Assignment Airlift Mission, None.
(Long Range)
Range: 3,431 nautical miles
Fuel Wt.: 213,100 lbs.
Cargo Wt.: 100,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,000 ft.
Runways: Standard

13. Joint Exercise (Overseas) consists of 1, 3, 4, 5, 6, 7, 8, 4 legs totaling 41.3 hours flying time
LEG 1—Deployment
Range: 4,912 nautical miles
Fuel Wt.: 282,600 lbs.
Cargo Wt.: 95,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,400 ft.
Runways: Take-off standard, landing substandard
Other: Short turn around required
LEG 2.—In-Theatre Support
Range: 2,788 nautical miles
Fuel Wt.: 73,700 lbs. at take-off, air fuel to 149,300 lbs.
Cargo Wt.: 95,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 39,800 ft. (low level 500 ft. approach 250 ft.)
Runways: Take-off and landing—substandard
Other: Low level cruise, terrain following, aerial refueling, rapid turn around
LEG 3.—In-Theatre Support (Recovery)
Range: 2,731 nautical miles
Fuel Wt.: 64,900 lbs. at take-off, air refuel to 107,300 lbs.
Cargo Wt.: 0
Speed: 0 to M 0.767
Altitudes: 0 to 45,300 ft. (low level, 48 min. at 500 ft.)
Runways: Take-off substandard, landing standard
Other: Terrain following
LEG 4.—Redeployment—Return to Continental United States (CONUS)
Range: 7,159 nautical miles
Fuel Wt.: 67,000 lbs. take-off, 2 air refueling to 251,400 lbs.
Cargo Wt.: 0
Speed: 0 to M 0.767
Altitudes: 0 to 44,800 ft.
Runways: Standard

14.—Joint exercise (CONUS), 1, 3, 5, 6, 7, 8
Range: 2,445 nautical miles
Fuel Wt.: 173,600 lbs.
Cargo Wt.: 95,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 2/3,900 (low level, 34 min. at 500 ft.)
Runways: Take-off standard, landing and 1 take-off substandard, final landing standard
Other: Rapid turn around, terrain following, Station Keeping Equipment

15.—Miscellaneous, None
Range: 628 nautical miles
Fuel Wt.: 80,000 lbs.
Cargo Wt.: 0
Speed: 0 to M 0.767
Altitudes: 0 to 43,800 ft.
Runways: Standard

APPENDIX II.—DESCRIPTION OF MISSION IMPACT OF MAJOR DEFICIENCIES

1. Cannot currently meet contour flying requirements.
2. Cannot currently meet maximum payload requirements. Limited to 174,000 lbs. With incorporation of LDCS, payload limit will be 190,000 lbs.
3. Cannot currently meet substandard runway requirements.
4. Cannot currently meet minimum altitude requirements. Cleared to 300 feet. Mission requires 250 feet.
5. Cannot currently meet 15 minute turn around time required.
6. Doppler cannot currently meet specification requirements in terminal areas.
7. IDNE cannot currently meet terminal navigation requirements.
8. IDNE cannot meet vertical channel requirements in terminal area operations.
9. Aerial delivery system cannot meet all aerial drop requirements.

Mach number is defined as the ratio of the speed of the aircraft to the speed of sound.

Mach 1 under standard conditions, at sea level, is 760 miles per hour.

The speed of sound changes with altitude so Mach 1 at 36,000 ft. is equivalent to 660 miles per hour.

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[1] Description of mission deficiencies are found on page 5 of Appendix II.

EVALUATION OF WATER RESOURCE PROJECTS

Mr. PEARSON. Mr. President, the senate of the State of Kansas adopted on March 20 a resolution to memorialize the Water Resources Council, the Federal interagency body which has proposed far-reaching changes in the criteria for evaluating water resource projects.

At the request of the president of the Kansas Senate, I submit for the attention of the Senate the following document stating the concerns of that body for the substantial reduction of flood control and water supply benefits which would result if the proposed criteria are adopted as written. In particular, Mr. President, this document makes reference to the small watershed program authorized under Public Law 566, legislation adopted by Congress when Representative Clifford Hope of Kansas served as chairman of the House Agriculture Committee.

I would like to give my support to the request contained in this resolution. And I would like to call to the attention of the Senate the fact that small watersheds remain a key to the control of soil erosion and flooding of agricultural lands. The intent of Congress is that these watersheds should be constructed as a benefit to the agricultural sector of our economy, and their funding requirements should be weighed with this intent well in mind. This is the thrust of the resolution, and I commend it to the Senate.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION NO. 1083

A Resolution memorializing the federal water resources council of the office of management and budget to maintain or decrease the federal interest rate used in the formula for computing cost-benefit ratios for water resource development projects

Whereas, The state of Kansas has been recognized as one of the leading states in watershed development since the inception of public law 566; and

Whereas, Water resource development under this program has proved to be highly beneficial in reducing flood damage, enhancing wildlife habitat, improving environmental quality, providing needed recreational facilities, abating stream and river pollution, and improving the economic stability of the state; and

Whereas, The state of Kansas is presently actively pursuing rural development through resource conservation and development projects; and

Whereas, Any substantial increase in the interest or discount rate as used in determining economic feasibility would make structural works of improvement difficult or impossible to justify: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we hereby petition the federal water resources council of the office of management and budget to maintain or decrease the federal interest rate used in the formula for computing cost-benefit ratios for water resource development projects.

Be it further resolved: That planning assistance be continued or accelerated on all water resource development projects currently authorized for planning, and that no restrictions or time limits be established for completion of such planning operations; and

Be it further resolved: That the chief clerk of the house be directed to send enrolled copies of this resolution to the Federal Water Resources Council, 2120 L Street Northwest, Washington, D.C. and to each member of the Congressional delegation from the State of Kansas.

ADAM CLAYTON POWELL, JR.

Mr. BROOKE. Mr. President, it was with deep regret that I learned of the death of former Representative Adam Clayton Powell, Jr., of New York.

I believe that Adam Clayton Powell should be recognized for the positive impact he made upon the Nation.

For 26 years, Adam Clayton Powell, Jr., served in the Congress of the United States. In his prime he was the outstanding black political leader in the Nation. During the 1940's and into the 1950's his was one of the few voices heard from the black community in behalf of equal rights for all Americans. As a member, and later chairman of the House Education and Labor Committee, he fought for civil liberties, for education, and for job opportunities. He was a major contributor to the passage of the war on poverty legislation, to the adoption of manpower training programs and aid to colleges and libraries.

Adam Clayton Powell made a rich contribution to the welfare of the American people and the advancement of human rights. It is fitting that the Nation recognize these contributions and express our appreciation for them.

IDAHO SENATE URGES HUMAN RIGHTS FOR BASQUES AND SPANIARDS IN SPAIN

Mr. CHURCH. Mr. President, during the second regular session of the 41st Legislature of the State of Idaho, a Senate joint memorial was passed urging the Government of Spain to extend the principles of the universal declaration of human rights of man, as recognized by the United Nations, to all Basques and Spaniards and to allow general amnesty for all Basques and Spaniards now imprisoned or exiled for reasons of their political and social activities. I wholeheartedly support this statement, and am pleased to share it with the Senate. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

SENATE JOINT MEMORIAL NO. 115

A joint memorial to the President of the United States, the Secretary of State of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States in Congress assembled, the Senators and Representatives representing this State in Congress, the Governors of the fifty States, and the Basque Government in exile in France.

We, your Memorialists, the Senate and House of Representatives of the state of Idaho assembled in the Second Regular Session of the Forty-first Idaho Legislature, do hereby respectfully represent that:

Whereas, the history and traditions of this nation rest upon the principles of freedom from oppression and the rights of all citizens to life, liberty and the pursuit of happiness; and

Whereas, we believe that democracy and freedom, when denied in one country stand threatened everywhere; therefore, it is our responsibility to bring to the attention of the people of the United States, and, we hope, to the people of the entire world that these very freedoms of the Basque people are threatened under the Franco regime in Spain today; and

Whereas, the Basque people have a long and glorious history of personal accomplishment and a devotion to the preservation of their national heritage; and

Whereas, the sole aim of the Basques, since human time began, has been to bar the world's wars, tribal, racial, religious, imperialistic or civil, from the tiny green mountain land which was their own before history began; and

Whereas, no other country in the world holds the traditions of its forefathers so sacred as Euzkadi, as the Basques call their homeland; and

Whereas, the Basques have been denied the right to learn their own language, have been jailed, and have been denied their human rights by the Franco regime and are virtually threatened in their continued existence; and

Whereas, the state of Idaho is known as the North American center of the Basque population; and

Whereas, the Basques of North America have carried the traditions of their forefathers as honest and self-reliant peoples, possessing the basic elements of democracy, humanity, charity and mercy; and

Whereas, the Basques of North America feel first they are Americans, and as such they feel for America as the Basques of Euzkadi felt for their country, which is: Gu Amerikarentzat eta America, Jaungeikoarentzat, which means: We are for America, and America is for God.

Whereas, in World War II thousands of American lives were lost in a war which was precipitated from the Spanish Civil War, a war of genocide of the Basques, by the three dictators, Franco, Mussolini and Hitler; and

Whereas, the Basques, who once enjoyed the oldest democratic republic in Europe, fought for the allies in World War II; and

Whereas, over 2.4 billion dollars in aid has been given to Franco Spain for economic and military assistance since 1946 by the government of the United States.

Now, Therefore, Be It Resolved by the Legislature of the state of Idaho that we voice our strong belief that as a nation we should reward our friends and not our enemies, and we deplore any free and democratic nation providing assistance to a ruthless, totalitarian government, directly or indirectly.

Be It Further Resolved that we urge all steps be taken to cause the Spanish government to cease and desist the denial of the Universal Declaration of Human Rights of Man and insist that total general amnesty for all Basques and Spaniards now imprisoned or exiled for their political and social activities be extended by the Franco government.

Be It Further Resolved that if such steps are not carried out, the President of the United States, the Secretary of State, and the Congress of the United States take all necessary steps to withdraw all foreign aid or benefits to the Spanish dictatorship.

Be It Further Resolved that the Secretary of the Senate be, and he is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the Secretary of State of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, the Senators and Representatives representing the state of Idaho in the Congress of the United States, the Governors of the fifty states of the United States, and to the Basque government in exile in France.

SPECIALLY ADAPTED HOUSING FOR TOTALLY DISABLED VETERANS

Mr. TOWER. Mr. President, I am pleased to join with the Senator from South Carolina (Mr. THURMOND) as a cosponsor of S. 3343. This legislation would increase the maximum grant level payable to certain totally disabled veterans for specially adapted housing.

The grant program for specially adapted housing was created to assist totally disabled veterans obtain a suitable housing unit. Suitable housing, for these individuals, means a housing unit with special fixtures and facilities to accommodate the veteran's disabilities. Most of us bound up and down stairs, pausing occasionally to catch our breath. A totally disabled veterans finds stairs a physical impossibility. He needs ramps for his wheelchair. Most of us pass through a door without a thought as to whether or not we will fit. A disabled veteran, however, is all too keenly aware that there are many doors that his wheelchair will not fit through. These are but some of the architectural considerations that emphasize the need for specially adapted housing.

In fiscal year 1970, some 600 housing grants were awarded to totally disabled veterans. Many veterans, although eligible for the program, were not able to participate. When the entire Nation is facing a shortage of adequate housing, the handicapped veteran finds it even more difficult to find builders willing to construct a housing unit with special adaptations.

Furthermore, the housing industry, in order to alleviate the Nation's housing shortage, has increasingly utilized prefabricated units and fixtures. The needs of the disabled veteran vary from the standard, and custom homes are costly. Finally, the disabled veteran is acutely aware of the inflation of the land and housing markets.

The present maximum limit for grants to the veteran is $12,500 and the grant cannot be more than 50 percent of the total cost. Because the size of the grant is not adequate to meet the costs of specially adapted housing, the program has been severely restricted. By raising the maximum limit to $20,000, as S. 3343 would authorize, the grant program becomes a more realistic means of assisting the disabled veteran to obtain adapted housing. I urge the Senate Committee on Veterans' Affairs to give this legislation immediate consideration.

GENOCIDE: CLOSE AT HAND

Mr. PROXMIRE. Mr. President, my position in favor of ratification of the treaty for the prevention and punishment of genocide is well known. Since that treaty was penned nearly a quarter of a century ago, some critics feel that it has become an anachronism in the 1970's. In their view, genocide is a nightmare of the past, and with the defeat of Nazi Germany our fears should be assuaged.

I wish that this were true. All civilized men fervently hope that mankind has outgrown a violent adolescence and passed into a more mature and rationale period where dialog and reason prevail. But even the optimist must face reality. It does not take profound thought nor careful study to perceive that men throughout the world are skittering along the precipice of violence. A quick glance at press headlines for any day of the week brings bold announcements of bloodshed in Ireland, the Middle East, and the Asian subcontinent. In these struggles for religious and national survival, violence and brutality have become unwanted companions in the crusade.

This recognition is not the result of fatalism but, rather, realism. The wars that pitted Protestant against Catholic, Jew against Arab, Moslem against Hindu in the year 972 are no less real 1,000 years later. Ours is still a violent world. To ignore that fact, or to hide in fear of it, serves less than no purpose at all. Today, more than ever before, we must search for common ground to build a peaceful world community upon the foundation of international understanding. Creation of the United Nations was a beginning, but our news journals make clear that the task is far from completed. The ratification of the genocide treaty is an important building block in structuring world order.

RESIDENCY REQUIREMENTS FOR RECIPIENTS OF PUBLIC WELFARE

Mr. GOLDWATER. Mr. President, President Nixon has recently referred to the Nation's public welfare program as a mess and proposed legislation to do something about it.

Without going into detail on the administration's proposals I should like to point out that one of the large problems confronting the Nation's 50 States is the whole question of residency requirements for recipients of public welfare benefits. Recently, the Arizona State Legislature in a senate concurrent resolution urged Congress to adopt an amendment to the Constitution of the United States which would permit each State to establish its own residency requirements for public welfare assistance. Therefore, I ask unanimous consent that Arizona Senate Concurrent Resolution 1002 be printed in the RECORD.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

SENATE CONCURRENT RESOLUTION 1002

A concurrent resolution urging an amendment to the Constitution of the United States permitting each State to establish residency requirements for public welfare assistance

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

Whereas, the Legislature of the State of Arizona many years ago enacted into law a residency requirement for receipt of public welfare benefits; and

Whereas, the Supreme Court of the United States has declared similar laws unconstitutional on the grounds in part that they violate the constitutional right of free travel; and

Whereas, there are presently many laws which condition entitlement upon residency, that is, the right to use the courts of this state, for example, divorce proceedings require residency; driver's licenses and other licenses, such as the practice of law, medicine, and other professions; voting rights are conditioned on residency, and yet the judiciary has not declared such residency requirements unconstitutional; and

Whereas, it would appear that in order to constitutionally establish a residency law for public welfare assistance, it is necessary that an amendment to the United States Constitution be enacted; and

Whereas, the Legislature of the State of Arizona believes it to be for the best interest of the people of the United States that there be an amendment to the Constitution of the United States permitting each of the states to enact a residency law for public welfare assistance; and

Whereas, the state of the economy in Arizona and elsewhere is one of severe stringency and the challenges facing state and local governments in these times of inflation and high unemployment are such as to sap the ability of governments at all levels to deal effectively with the myriad social problems which face our urban areas; and

Whereas, our great metropolitan areas are faced in particular with problems of housing shortages, rising numbers of those addicted to narcotics, rapid rises in crime rates, air and water pollution, costs of fire and police protection, overburdened schools and many others and the provision of essential public services has become increasingly more financially difficult; and

Whereas, the continual spiral upwards of welfare costs increases these problems both by increasing the demand for other essential services and by necessitating a diversion of limited funds from them; and

Whereas, the greatest public good and least public harm will come from the maintenance of the levels of public assistance rather than from the stretching of limited state and local funds of any state to cover persons who have not yet established dependence upon them, those who are the most recent arrivals in the state.

Therefore, be it resolved by the Legislature of the State of Arizona:

1. That the Congress of the United States of America is requested to propose an amendment to the Constitution of the United States permitting each state to enact a residency law relating to public welfare assistance.

2. That the Secretary of State of the State of Arizona is requested to transmit a copy of this resolution to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Congress from the State of Arizona.

RETIREMENT OF WILTON E. HALL AS PUBLISHER OF THE ANDERSON, S.C., INDEPENDENT

Mr. TALMADGE. Mr. President, my good friend, Wilton E. Hall, of Anderson, S.C., recently retired as publisher of the Anderson Independent newspaper. This is a very fine newspaper, which has wide circulation throughout the northeast portion of the State of Georgia, and we regret very much Mr. Hall's retirement.

Mr. Hall received words of tribute from many friends and associates all over the Nation commending him for his outstanding service to journalism over 52 years, and as the distinguished founder and publisher of the Anderson Independent for 47 years.

There was published in the Anderson Independent an excellent letter from the eminent clergyman, Dr. Norman Vincent Peale, saluting Wilton Hall. It is a well-deserved tribute for many years of faithful service to Mr. Hall's State and Nation.

I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Dr. Peale Says Hall Has Made Fine Contribution

Mr. Editor: As one who has worked for a number of years in cooperation with Mr. Wilton E. Hall and The Anderson Independent and Daily Mail, I was sorry to hear that Mr. Hall has sold these newspapers for health reasons.

This is a matter of great regret to me, as I have always felt that Mr. Hall was one of the most creative and dynamic newspaper publishers in our country. He is a man of extraordinarily high ideals and vision for the community and for our nation, and he has made a magnificent contribution to our society.

I hold Mr. Hall in affectionate regard as a friend, and it has been my pleasure over many years to have my messages published through his newspapers and carried over his radio stations. I am very grateful for the opportunity that he has given me to reach the people of your area with a message of faith and hope. These broadcasts will be continued on his stations (WAIM–TV and radio); also we will continue to be with you each week in the Sunday Independent.

Please extend my very best wishes to Mr. Hall and tell him that I pray that the Lord will continue to give him health and strength to carry on his great witness in ways other than through the publishing business.

We all wish for Mr. Hall improved health and all of God's blessings in the days that lie ahead.

Cordially yours,

Norman Vincent Peale.

New York, *February 17, 1972.*

NATIONAL HOUSING CONFERENCE ACCORDS AND RESOLUTIONS

Mr. MONDALE. Mr. President, for over 40 years the National Housing Conference has been a major force representing the public interest in the advancement of decent housing for all people and in the revitalization of our cities and rural areas. For many years I have worked with the leaders and members of the conference on housing and community development legislation. Their assistance has been invaluable.

This year I had the privilege of addressing the 41st annual meeting of the National Housing Conference. It is always a pleasure to speak before a group that is so well informed and so dedicated to the elimination of substandard housing.

One of the major accomplishments of the annual meeting was the adoption of the National Housing Conference resolutions. I know from personal experience the value of these resolutions and that is why I am asking that they be printed in the Congressional Record. The resolutions provide an excellent summary of existing housing and urban development programs, current funding levels and recommendations for changing and improving the programs. These recommendations have often inspired and contributed to the development of major new programs. This year is no exception. Many of NHC's resolutions have been incorporated into the Housing and Urban Development Act of 1972, which passed the Senate on March 2, 1972.

I also want to call attention to the recognition paid to the distinguished senior Senator from Louisiana (Mr. Ellender) by the National Housing Conference at its 41st annual banquet held here in Washington on March 6, 1972. NHC also recognized the many accomplishments of the chairman of the Housing Subcommittee of the House of Representatives Banking and Currency Committee at this banquet. These two fine legislators certainly deserved this honor for their many contributions in the area of housing and urban development legislation.

I ask unanimous consent that these accords be printed in the Record preceding the National Housing Conference resolutions.

There being no objection, the material was ordered to be printed in the Record, as follows:

The 1972 National Housing Conference Resolutions Adopted by the Membership of the National Housing Conference at Its Annual Meeting, March 5, 1972, Washington, D.C.

Nathaniel S. Keith, President.

David L. Krooth, Chairman, Legislative Policy and Resolutions Committee.

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Tribute.

SUMMARY OF MAJOR POLICIES AND PROGRAMS RECOMMENDED IN RESOLUTIONS OF NATIONAL HOUSING CONFERENCE

We present the following summary of some of the major policies and programs which we recommend. These recommendations are covered in greater detail in this report as recommendations under the appropriate chapter headings listed in the index.

Full funding and use of all authorizations

1. We urge the Administration to request appropriations for housing and related urban development programs for the Federal Fiscal Year 1973 beginning July 1, 1972 which will meet the demonstrated needs and backlog requirements of communities and the people. Such request should call for full funding and use of all authorizations, and should provide for sufficient HUD staff and administrative services. To this end, we call upon the Administration to release immediately the following funds already made available by Congress but continued to be impounded:

A. Release of $130 million for Public Housing Development for some 80,000 units.

B. Release of the balance of $370,000,000 of the $500,000,000 appropriated for Water and Sewer Facilities Grants. Only $130,000,000 has been released to date. (Table 8 of HUD Budget Summary.)

C. Release of balance of $40 million of the $90,000,000 made available for the Rehabilitation Loan Fund. Only $50,000,000 has been released to date. (Table 2 of HUD Budget Summary.)

D. Release of $5,000,000 for Special Planning and Assistance Grants. This item is still under discussion with the Office of Management and Budget.

E. Release of $1,000,000 of Section 106(a), Low and Moderate Income Sponsor Funds which is being withheld pending submission and approval of operating plans by OMB.

F. Release of $3.3 million for Section 237, Counseling Services which is also being withheld pending submission and approval of operating plans by OMB.

G. Release of $2.9 million of Section 516 funds for Farm Labor Housing Grants which are available from previous year's carryover.

2. Even though the Administration has recently released much of the funds originally impounded (except those listed above), the initial Budget actions taken in freezing or cutting HUD funds for various programs demonstrate the need to grant a higher priority in the allocation of national resources to the solution of the problem of housing and community development. In view of the current critical housing needs and the financial crises in the cities, NHC urges action by the Congress and the Administration to assure that the full amount of funds authorized by legislation or appropriations will be released promptly and spent for housing and community development programs. Therefore, NHC supports pending Congressional proposals which would require the President to spend appropriated funds for housing and urban renewal.

Housing program to meet all needs and achieve economic integration

3. NHC reaffirms its support for a uniform and flexible housing assistance formula to serve all families who cannot afford the cost of housing on the private market. NHC believes that such a consolidated program for assisted housing is necessary: to eliminate the gaps in coverage created by the separate income limits, construction and design standards, income definitions, and rent requirements; to reduce the administrative workload and encourage wide participation of housing sponsors and developers; and to promote a policy of economic integration in assisted housing which will eliminate the segregation of low income families in housing for the poor.

4. The housing assistance program should be based on a variable subsidy formula which would cover the total deficits representing the difference between (i) full operating costs and debt service and (ii) the ability-to-pay of each family living in the housing up to the maximum established charge.

5. There should be a uniform definition of income with deductions of the types previously allowable, along with a reasonable ratio between income and required housing payments.

6. As a matter of principle, NHC recommends that there be no income limits for admission to assisted housing. NHC believes that the most desirable and workable criteria for the determination of income eligibility for such federal housing assistance is the ability of a family in a local area to pay the total cost of well-designed—but not luxurious—housing developed in that area, under an appropriate income definition and a reasonable ratio between income and required housing payments. A family should receive housing assistance to the extent that it cannot afford the full cost of such housing.

7. If the Congress decides that it is necessary to include an income limit on legislative authorizations and funding for subsidies to assist housing, we recommend the following program relating to income limits (instead of the one described in the preceding paragraph). The following program also includes a subsidy formula which is necessary to achieve economic integration and fill present gaps and areas of unmet need.

a. The income limit for 80% of the dwelling units should be the median income in the area, with authority in the Secretary to exceed the median by the amount required in order to meet the housing needs of the locality based on its income and cost factors. There would be no income limit for 20% of the units in order to achieve economic integration and enable housing developments to serve a cross-section of income groups.

b. There would be a flexible subsidy formula which would eliminate gaps in our housing program and assure that there is sufficient subsidy available to meet the housing needs of people at different income levels.

In the terms of the ratio of income to housing payment, we recommend that no family be required to pay more than 25% of his income for housing payment. Schedules would be established by a sponsor or local housing agency, but ratios of housing charges to income in a project (or local program) should average at least 20%. The amount of subsidy would be the amount required to meet the housing expenses remaining after the occupant made his housing payments. The amount of subsidy allocated for an assisted housing development should be based upon making dwelling units available to a cross-section of income groups, as follows:

(i) Up to 20% for occupancy by families or persons whose incomes are much below the maximum income limits and who require subsidies at or above the amounts which have been available for rent supplements and public housing. Based on their locally established payment of income for housing, this group would be eligible for a subsidy in the amount required to meet the remaining amount of housing expenses. To the extent needed, this would cover the principal and interest payments on the mortgages and a part of the operating expenses.

(ii) Up to 20% for occupancy by families or persons who would not be subject to an income limit. We propose to provide a subsidy incentive for such families to live in an assisted housing development with families of lower incomes. For this group, there would be a subsidy of 2%. At today's market interest rate, these people would pay an effective interest rate of 5% plus the ½ of 1% FHA premium. People in this group would make the locally established housing payment up to a "maximum established charge" which would reflect the 2% subsidy.

(iii) The remainder for occupancy by families or persons who are at or below the median or higher income limit established by the Secretary and who require subsidies in the form of interest assistance. Based on the locally established payment of income for housing, this group would be eligible for a subsidy in the amount required to meet the remaining amount of housing expenses. To the extent needed, this could cover all of their interest and the FHA insurance premium. According to their varying needs, these people would pay a monthly charge ranging from 0% interest (with no FHA insurance premium) up to the maximum established charge which would reflect a 2% subsidy.

8. There would be a periodic reexamination of income only for occupants who are paying less than the maximum established charge. If their income increased, they would make housing payments on the larger income, but not more than the maximum established charge. With such a charge which reflects a 2% subsidy and an effective current interest rate of 5%, there would be an incentive for residents to remain in the housing community even though their incomes increase. As a matter of public policy, this is vitally important in order to achieve greater stability in housing communities and to maintain their economic integration. If people feel that they are permanent residents of a housing development, they will take better care of it.

9. By serving a broader segment of the market through economic integration, a housing development will be better able to achieve racial integration.

10. The past practice of committing maximum subsidies has resulted in unused contract authority because the commitment was based upon the maximum amount needed for everyone. The Senate Committee recognized the undesirability of pursuing this practice. Under our proposed program, the commitment of contract authority would be based on the estimated need based on serving a cross section of income groups. There

should be a national reserve of a reasonable amount of contract authority for commitment to meet over-runs in subsidies above the estimates. This reserve would be only a fraction of the amount of unused authority under the present system where all commitments anticipate a maximum subsidy for everyone.

11. Eligible sponsors should be broadened to include local housing authorities, regional or state agencies, in addition to those now eligible; also local housing authorities should be permitted to act as mortgagees, as is now done by an increasing number of state agencies.

12. NHC supports the principles and objectives of the Administration's proposals for simplification of the many federal housing programs, but only if the legislation includes the recommendations for a new flexible formula for subsidies, better income-to-rent ratios, achievement of economic integration, and all of the other amendments described in these resolutions.

13. If there is new legislation for the consolidation of housing programs and new formulas as to income limits, subsidies, cost limits and other matters, we emphasize the urgent need to continue operations and housing production under the existing laws. During the tooling-up period under the new legislation, and until the new programs become fully effective and operational, all existing programs should continue so that there will be no interruption in HUD operations in view of the need for a higher level of operation during the coming years.

14. We concur that the identity of low-rent public housing and Sections 235 and 236 be maintained (or their proposed substitutes in the Administration's Consolidation and Simplification Act) in accordance with the objectives established by Congress in the previous major housing and urban development acts, within the overall national housing goals established by those acts. We also point out that the expanding production capacity for low and moderate income housing—represented by local housing authorities, private turnkey developers, private developers of Section 235 and Section 236, cooperative groups and nonprofit corporations—is geared to the availability of specific national funding for each of these programs.

15. NHC encourages programs of home ownership. This includes cooperative ownership of multifamily housing which produces better communities, since the control and responsibility rests with people who have a stake and pride in their own housing development.

16. The program recommended in these resolutions would make housing available to families of all incomes. There would be no gaps or areas of unmet needs in our housing programs. Each family whose income is too low to obtain decent housing would receive the amount of assistance it needs to get such housing. We must reach the unserved income group below the level now eligible for public housing or rent supplements. Likewise, we must avoid a gap or area of unmet need above the level now eligible for moderate income private housing assisted with federal interest subsidies or below-market interest rates. To achieve these objectives we urge the adoption of this program.

17. NHC recommends, in view of the fact that HUD has just recently activated an experimental housing allowance program, that no further expansion of this program take place until we have had experience with this program and learn the results of the experiment, particularly concerning any adverse impact on stimulating new construction of housing to meet national goals.

Equal housing opportunity and freedom of choice

18. We should provide an opportunity for freedom of choice in our housing programs. The choice of individual or cooperative homeownership or rental housing and the choice of city, suburban, new town or country living must not be limited by race, color, religion or national origin. With housing in each development available for a cross-section of income groups and a broader market, we can provide freedom of choice to people of all incomes to select where they want to live.

19. Community discrimination against subsidized housing should be removed as it is a most serious constraint on the availability of building sites for low and moderate income housing. We recommend legislation which would prohibit States and local public bodies from discriminating against housing subsidized by the Federal Government, whether through legislative or administrative action. The legislation should authorize suits by interested parties, as well as the Attorney General, to enjoin such discriminating action. The legislation should be strengthened by providing for federal preemption of local zoning upon an appropriate finding by the Secretary of HUD, so as to require opponents rather than proponents to initiate legislation.

20. We disagree with the President's statement that government encouragement of racial integration in the suburbs is not in the national interest. We believe such encouragement *is* in the national interest. We urge the Administration to take affirmative action to assure the availability of decent housing for all Americans, regardless of race, color, religion or national origin.

21. The Federal Government should be authorized to undertake housing developments as a last resort where no other agency or developer is meeting the need in an area for low and moderate income housing.

22. In addition to NHC's strong opposition to community discrimination against housing for minority groups and low income citizens, NHC opposes community discrimination against all multifamily housing. No community should be allowed to exclude multifamily housing. As land and resources grow more scarce, multifamily housing, whether subsidized or unsubsidized, makes the most efficient use of our limited land and resources for housing. Current studies indicate that even among families who do not need subsidies, many prefer to live in large planned developments of townhouses which offer amenities and services that would otherwise be beyond their reach.

23. NHC endorses in principle the bill introduced by Senator Ribicoff which would require that any new industry moving into suburban communities must first show that adequate housing and equal opportunities exist in that new community before approval of such move is given.

Community development program

24. NHC supports S. 2333, the Community Development Assistance Act of 1971, as introduced by Senator Sparkman. This plan would consolidate five categorical grant programs into one block grant. In addition, it would require a declaration of goals and a performance report. There would be continuity of financing and funds.

25. In the Community Development Assistance proposal, prior declaration of the community development goals is required. Likewise, a specific acknowledgment of how Federal funds are to be spent and a yearly performance statement as a prerequisite for the grant are required.

26. The Community Development Assistance Act would provide for a $8.8 billion three year program starting July 1, 1971 while the Administration's Special Revenue Sharing Plan proposes an initial $2.1 billion program starting January 1, 1972. There would be a limitation in spending in the Sparkman supplemental bill of $2.5 billion the first year, $2.9 billion the second year and $3.4 billion the third year.

Urban growth and new communities

27. NHC urges the full utilization of the Urban Growth and New Communities Development Act (Title VII of the Housing and Urban Development Act of 1970) to help take care of the increased urban population, relieve city congestion and provide building sites at reasonable prices. There is an urgent need for new communities which are carefully planned with housing, shopping, industry, transportation, schools, hospitals, open spaces, recreational and cultural facilities. Adequate federal grants should be authorized and made available to public and nonprofit agencies to assist all necessary new community projects and programs. Such federal grants should be made for water and sewer facilities; waste disposal; hospitals and health centers and services; mass transportation; airport development; open space, parks and beautification; recreational and cultural facilities; libraries; public buildings and public works; neighborhood facilities; environmental protection; planning; technological advances; and other essential public services and facilities.

28. Federal grants should be made to municipalities, public and nonprofit agencies to cover impact costs of providing educational, health and other services which result from the location of housing developments in an area. The Federal grant should cover the additional costs involved which cannot be met from collections of full taxes or their equivalents on the project. We recommend payment of full taxes or their equivalents on public and other assisted housing.

General revenue sharing

29. NHC recommends against any use of the new General Revenue Sharing Plan to reduce Federal grant funds which are urgently needed—and should be increased—for existing programs including: urban renewal; model cities; mass transportation; water and sewer facilities; new communities; neighborhood facilities; open space, urban parks, and urban beautification; health; education; training; or other vital needs. In short, the General Revenue Sharing Plan should represent additional funds and there should be necessary increases and full funding for all existing Federal grant programs to meet housing and urban needs.

30. NHC favors the President's proposal for a $5 billion initial appropriation for the General Revenue Sharing Plan in order to meet the urgent needs of States and cities, many of which are facing financial crises. As to increases above $5 billion in later years for General Revenue Sharing, NHC recommends a formula in distributing these additional funds which would encourage and reward states and local governments that meet the national objective of providing housing for the low and moderate income groups.

Special revenue sharing and support of the Community Development Assistance Act of 1971—S. 2333

31. NHC opposes the Special Revenue Sharing proposal in that it does not require adequate control of Federal distribution of funds to local communities in order to promote national programs and objectives. In contrast, these incentives and objectives are assured under S. 2333 introduced by Senator Sparkman, on which hearings have been concluded by the Senate Banking and Currency Committee.

32. S. 2333 requires that the application for Federal assistance include a summary plan for community development outlining major goals and particular objectives. Moreover, that Bill requires an accounting of how the Federal funds are spent and a yearly performance statement, all of which will assure accomplishment of the national goals and programs covered by the Community Development Assistance Act. The authorizations in S. 2333 are more adequate than the amounts proposed under the Administra-

tion's bill. Also, S. 2333 contains a better yardstick to measure the Federal Government's assistance to community development and requires a community program to meet housing needs of low and moderate income families.

33. NHC believes that Federal grants should provide incentives to promote national programs and objectives relating to housing and community development. The adoption of the model cities program by almost 150 cities was largely attributable to the Federal program of planning grants and supplemental grants for model cities. Likewise, the participation of over 1200 cities in the urban renewal program is largely attributable to the Federal program of planning grants and program grants for urban renewal.

METROPOLITAN HOUSING AUTHORITIES

34. Three Panels comprised of members of the Housing Subcommittee of the House Banking and Currency Committee, proposed in H.R. 9688 a far reaching bill which would provide for state and metropolitan housing agencies, community development block grants and improvement of existing programs. In addition, the bill would require more emphasis on management, tenant relations, broader housing allowance tests, aid to state and metropolitan development agencies and an urban development bank.

35. Title V of H.R. 9688 provides housing block grants to state and metropolitan housing agencies and embodies far reaching proposals designed to stimulate the establishment of such agencies and to restructure the entire system of allocating Federal subsidies to assist in the development of private and public housing for low and moderate income families and individuals.

36. The National Housing Conference has long supported the principle of more effective state and metropolitan housing programs. We have supported this principle as a major means of relieving the pressures on central cities, lessening the segregation of low-income households predominantly in the deteriorated or blighted sections of central cities, stimulating the development of housing for low and moderate income families nearer to new employment centers and achieving greater economic integration in suburban housing development.

37. We have, however, serious concerns as to the basic allocation machinery proposed in Title V and particularly as to its impact on the momentum finally achieved in the production of housing for low and moderate income families under established programs and the evident need for continuing expansion in such production to meet critical shortages. We are concerned with the time factors involved in establishing and perfecting complex new machinery in States and metropolitan areas to make decisions as to the housing needs for low and moderate income families in each locality, to determine the types and general locations of housing to be assisted and the income groups to be served. In addition, NHC shares the view of the National League of Cities and the U.S. Conference of Mayors that the allocation machinery of Title V may well discriminate against the central cities. NHC agrees that Title V could put control of HUD subsidy programs into the hands of many suburban officials who are now using zoning land use controls and other devices to defeat the production of low and moderate income housing in the suburbs.

38. We agree with the assessment in the panel report that several years will be required for the formation of such agencies in many states and metropolitan areas. We are also impressed by the complex state and local political factors involved in reaching a consensus on these matters without prejudice to the continued momentum of housing production.

39. We would recommend that an affirmative plan be incorporated in Title V assuring the continued flow of Federal subsidy funds for low and moderate income housing under the established programs and through the established channels.

CHAPTER A. GENERAL STATEMENT OF PROBLEMS AND OBJECTIVES

1. We are faced with an anomalous situation. There has been an increase in the Federal Government's contribution to housing and an increase in assisted housing's proportion of housing production, but at the same time we have failed to meet the housing production goals prescribed by law. These Resolutions are addressed to identifying once again our continuing housing crisis, reviewing our efforts to ameliorate that crisis and suggesting improvements of existing programs. This Report recommends programs especially designed to:

a. Provide good homes for people of all incomes in wholesome living environments which are in keeping with our Nation's standards and aspirations;

b. Take action to revitalize our cities and rural areas and save them from blight and obsolescence; and

c. Expand social programs, services and job opportunities to improve the quality of American life.

2. America's cities are in a struggle for survival. The decay of decades and the failure to take action which will improve the quality of American life have taken their toll. While the percentage of inner-city people who are ill-housed and live in despair and disillusionment increases, the suburbs gain in affluence. The need for decent housing and community services continues to be at the heart of our urban crisis. We must take vigorous and immediate action toward achieving our goal of providing good homes and good neighborhoods for all who are ill-housed. It is not enough to build new housing or rehabilitate existing housing. We must also assure that the housing is in a suitable living environment. At the same time, there must be an expansion of educational and social programs and other community services for the people to eliminate the causes of inner-city decay and decadence.

3. We must avoid increases in interest rates and housing costs which exclude people from the housing market who need homes but cannot afford them. The situation reached crisis proportions by the increase in interest rates to 8½% on loans under the FHA and VA programs in January of 1971. During the past year, there have been improvements in the money market and reductions in interest rates. The present interest rate on FHA and VA mortgages is 7%. The prime rate of major banking institutions is now 4¾%.

4. NHC applauds the recent actions by the Administration in expanding the Tandem Program in order to support and continue the 7% FHA–VA interest rate. We urge that the Administration continue, from time to time, to make further reductions in this maximum interest rate as promptly as possible. With the measures recommended in this report to help achieve further reductions in interest rates, particularly in housing for those of middle and lower incomes, we hopefully look forward to the time when we can return to a maximum rate on FHA–VA mortgages of from 6% to 5% which we had for many years. As interest rates are reduced, it is necessary to take measures to minimize or eliminate discounts as recommended elsewhere in this report.

5. While the law approves an average national goal of 2,600,000 units annually during a 10-year period, NHC urges that the average national goal should be 3,000,000 units a year. The increase in the rates of housing production during 1971 demonstrates that this goal of 3,000,000 units a year is possible through a continued acceleration in our housing production. NHC agrees an average of 2,000,000 units should be built annually for those above the low and moderate income groups who normally do not need federal assistance. However, instead of an average of 600,000 units annually for low and moderate income housing, NHC recommends a goal of at least 1,000,000 units annually for these income groups—of which half would be for the low income group. Due to the continued high housing costs, many families need some form of housing assistance even though they could have afforded housing without such assistance in the past when interest rates were lower. Accordingly, this report recommends several measures which are required now to enable such families to obtain adequate housing at monthly charges which they can afford.

6. In these times when there are so many competing demands for the use of federal funds and national resources, it is most significant that Congress in the 1968 Act declared that these programs should have the highest priority. This Congressional determination is so important that we quote it in full as a necessary introduction to these recommendations:

"The Congress declares that in the administration of those housing programs authorized by this Act which are designed to assist families with incomes so low that they could not otherwise decently house themselves, and of other Government programs designed to assist in the provision of housing for such families, *the highest priority and emphasis should be given to meeting the housing needs of those families for which the national goal has not become a reality;* and in the carrying out of such programs there should be the fullest practicable utilization of the resources and capabilities of private enterprise and of individual self-help techniques." (Emphasis added.)

For those families for whom the national housing goal has not become a reality, their housing needs should be met by providing them the opportunity to live in housing developments where economic integration is being achieved under the program recommended elsewhere in this report.

7. This declaration by the Congress recognized the need for a drastic realignment of past priorities in our federal budget and expenditures, since these housing programs were given a lower priority than other less urgent programs. Now that Congress has declared that these programs should be given the highest priority, there is a federal commitment to take all action necessary to achieve the goal of providing decent housing for families with incomes so low that they could not otherwise decently house themselves. To translate this highest priority into reality takes firm and courageous action—both by Congress and the President. NHC urges that action be taken to carry out this mandate.

Outline and explanation of succeeding chapters of report

8. In succeeding chapters of this report, we discuss legislation and necessary amendments, appropriations and administrative actions. First, we summarize the existing legislation under each program and the authorizations in legislation and appropriation acts; second, we present our recommendations for legislative amendments and additional authorizations in legislation and appropriations; and third, we present our recommendations for administrative actions.

Sometimes the same subject matter is covered twice under different headings and in different chapters. Thus, even though some subject matter is covered in Chapter E relating to the Administration's Housing Bill and our proposed amendments thereto, we felt it necessary to cover the same subjects separately with respect to each of the existing legislative programs, such as: public housing; interest assistance under Section 235 and 236; rent supplements; and urban renewal.

We cannot forecast whether Congress will accept the Administration's recommendation to consolidate a number of programs as proposed in the Administration's bill. Therefore, in order to make this report meaningful and helpful in the legislative process, it is necessary for us to separately identify our recommendations:

a. As we have done in Chapter E if the Congress accepts the Administration's proposal to consolidate and simplify programs; and

b. As we have done in the succeeding Chapters F and EE if the Congress does not accept the Administration's proposal to consolidate and simplify programs.

CHAPTER B. ACTIONS NECESSARY TO ACHIEVE OUR GOALS

1. *Third Annual Presidential Report.* The Housing and Urban Development Act of 1968 requires an annual Presidential Report to Congress prior to February 15, of each year on progress toward meeting housing goals. Each year, the Report is filed later in the year. NHC recommends that the Report be filed on time in future years. Some of the highlights of the Report included:

a. HUD predicted that total loan amounts on one to four family homes will increase from $35.3 billion in 1970 to $44 billion in 1971 and to $47 billion in 1972. For multifamily properties, the total activity was $7.3 billion in 1970, $10.9 billion in 1971 and $11.7 billion predicted in 1972.

b. For new construction, HUD predicts long-term mortgage requirements will be $17.5 billion in 1971 for 1-4 family homes, and $20.5 billion in 1972; for multifamily HUD predicts the requirement is $6 billion in 1971 and $7.8 billion for 1972.

While the Report contained much informative data concerning the amount of money and materials available for housing, NHC believes that the Report failed to propose solutions for some of the basic problems which must be resolved if our national goals are to be achieved.

First, the assurance of adequate financing, at reasonable cost for the necessary expansion of total housing production, particularly for the production of low and moderate income housing;

Second, the provision of adequate sites at reasonable prices to accommodate this unprecedented production growth of housing on a well-planned and economic basis; and

Third, the adoption of the additional measures recommended in this report.

NHC again deplores President Nixon's decision to include *all* mobile homes in production which is counted toward meeting our housing goals. As stated in Chapter CC on Mobile Homes, NHC believes that the only mobile homes that should be counted toward our housing goals are those determined by HUD to meet all design, construction and durability standards so that they become eligible for long-term mortgage financing of 30 years on homes and 40 years on multifamily housing.

2. NHC believes that the President's Annual Report on Housing Goals should be enlarged to report the progress that has been made each year towards achieving equal opportunity and fair housing goals. Not only is HUD charged with housing production, but it is also accountable for equal opportunity and fair housing policies. Therefore, it is appropriate that the President's Annual Report state the progress toward achieving this important goal.

3. *Full Funding and Increases for All Programs.* The first imperative for meeting our housing goals is full funding and full use of all authorizations contained in the housing laws. We urge that President Nixon request full funding and advance authority for the interest assistance programs under Sections 235 and 236 and Rent Supplement Program for Fiscal Year 1973. NHC applauds Congress for its quick action on HUD appropriation requests for Fiscal Year 1972. For the first time in many years, HUD appropriations were made soon after the beginning of the Fiscal Year. In these unprecedented times of housing shortages, NHC strongly urges supplemental appropriations of all monies authorized for all programs but not yet appropriated. However, full funding of existing authorizations will not result in producing the intended volume of housing because of increases in housing costs. We recommend that the assistance authorization for all housing programs be increased: (a) to offset the advances in housing costs; (b) to achieve not only the goals established by law, but NHC's higher production goals; and (c) to make up for deficiencies in past production.

4. *Programs to Assure Adequate Financing for Major Increases in Housing Production.* The record of the past two decades makes it clear that the flow of funds for residential mortgage financing has been and continues to be determined by federal monetary and fiscal policies. The principal sources of funds for residential financing are derived from net consumer savings which are deposited in the institutions which make long-term mortgage investments at a fixed rate of return. This flow of savings under existing institutional arrangements is subject to sharp fluctuations based on competitive rates of return on other investment outlets. The total annual mortgage financing requirements involved in meeting the housing production goals by 1978 will be approximately $53 billion at current price levels, but this understates the actual prospective requirements. Even on the assumption of continued growth in gross national product and in consumer savings, this indicated expansion of more than twice the present new-housing finance requirements indicates that a broadened base for residential financing investment must be developed. The studies of this problem made by the National Housing Conference have led to the following recommendations in order to step up housing production to a rate necessary to meet our needs and goals including the housing required for those of low and moderate incomes:

a. *Full Use of Emergency Home Finance Act of 1970.* We urge the full use of all authorizations in the Emergency Home Finance Act of 1970. This includes the $250 million authorization for an appropriation of subsidies to reduce interest rates on advances made by the Federal Home Loan Banks to their members. We also urge that once these funds are appropriated, they remain available until expended. Our recommendation also includes, for each of the fiscal years 1973 and 1974, a $105 million authorization of contracts for subsidies under the new section 243 program which is intended to reduce interest rates for home ownership by moderate income families; however, the law should be amended to provide for a subsidy which would reduce the interest rate by 2% under the current FHA-VA interest rate of 7%.

b. *Reduction in FHA-VA Interest Rate.* We urge the Administration to take the lead in making cuts in the current FHA-VA interest rate of 7% as promptly as possible. We further urge the use and liberalization of the authorizations in the Emergency Home Finance Act of 1970, in order to achieve the *lower* interest rates which are necessary to serve those who cannot afford a 7% rate.

c. *Purchase of Mortgages on Moderate Income Housing.* NHC applauds the extension of GNMA purchase under the Tandem Plans 21 and 22 to many unsubsidized programs. Several months ago, GNMA began this program to purchase most FHA unsubsidized multifamily mortgages at a price of 96. This covered the following programs: Sections 207, 213, 220 and 221(d)(4). Recently, GNMA added Sections 221(d)(3), 234, 232, 222, 235 (existing housing) 223, 231, 233, and 237 to the original program.

Under this program, GNMA will commit to buy mortgages up to a ceiling of $22,000 per unit, except that the limit is $24,500 for four bedrooms or more. The price is 96% of value for new construction and 95% on existing mortgages. In addition, GNMA also established a program for GNMA purchase of Section 221(d)(3) market rate mortgages having 10% or more rent supplement assistance. The price of such mortgages will be 97—1 point higher than the price where no rent supplement assistance is involved—but we recommend a par price on these.

NHC also urges that the new programs be modified to provide par purchases for nonprofit and cooperative mortgages under the Section 221(d)(3) market rate program. This program provides 100% mortgages at market rates for moderately designed projects. Four points are too many for nonprofits and cooperatives to absorb.

NHC endorses the original Tandem Program No. 17, under which GNMA purchases at par Section 236 motrgages and market-rate rent supplement mortgages under Section 221(d)(3) for nonprofit and cooperative mortgators. NHC urges that this invaluable program be continued.

d. *Construction Financing.* GNMA and FNMA should continue and extend their participation in construction financing on moderate income housing. NHC applauds the action of FNMA in taking a 95% participation in the construction financing, with another mortgage institution taking the remaining 5% participation and handling the processing involved in construction loans; such FNMA participations are available in cases where either FNMA or GNMA issues a take-out commitment. This program for FNMA participation in construction assistance should be extended to cover all projects eligible by law for special assistance, instead of being limited in projects involving mortgages under Section 236 and Section 221(d)(3) rent supplements.

NHC also applauds the policy of the Federal Home Loan Bank Board in making special advances available to member savings and loan associations for both construction and permanent financing to produce housing for low and moderate income families.

e. *Assurance of Continued FNMA and GNMA Participation in Low and Moderate Income Housing.* We urge that FNMA and GNMA be provided with whatever additional authorizations are needed to continue their indispensable programs in providing a market for Federally-insured or guaranteed mortgages. FNMA and GNMA have done outstanding jobs in providing the financing for mortgages under Section 236 and rent supplements.

If the Administration takes the lead in making future reductions in interest rates as we recommend, the price may fall below par as it did after recent decreases in interest rates. Fortunately, we have the Tandem Program to assure par purchases of these mortgages by GNMA when FNMA does not take them at par, as described above.

f. *Full Implementation of the Housing Assistance and Interest Control Act.* NHC applauds the passage of the Housing Assistance and Interest Control Act of 1969. This Act increases from $1 billion to $4 billion the authority of the Federal Home Loan Bank System to borrow from the Treasury. The Act requires the Secretary of the Treasury to use the authority, when alternative means cannot effectively be employed, to permit members of the Home Loan Bank System to continue to supply reasonable amounts of funds to the mortgage market whenever the ability to supply such funds is substantially impaired during periods of monetary stringency and rapidly rising interest rates. The Act contains the following provisions:

(1) Regulation Q authority is given to the Federal Reserve Board and the Federal Home Loan Bank Board to establish flexible interest rate ceilings. We recommend the full use of this authority.

(2) The President is given authority to establish credit controls both on a voluntary and mandatory basis. We endorse the full use of this authority as a means of channeling additional funds into housing production.

g. *Investment of Governmental Trust Funds in Mortgages for Low and Moderate Income Housing.* We suggest legislation requiring governmental trust funds to invest a portion of their loanable funds to finance housing, particularly for low and moderate income families. These investments would include mortgages insured by FHA or VA or bonds guaranteed by GNMA or HUD under the 1968 Housing Act. The GNMA guaranteed bonds relieve the investors of the burdens or costs of servicing the pooled-insured mortgages securing the bonds and assure a full recovery of the funds invested. Among the public trust funds to be so invested would be Social Security Trust Funds and Veterans Administration Funds which are available for investment. NHC supports legislation authorizing the use of VA funds for investment in VA-guaranteed mortgages.

h. *Investment of Private Financial Institutions in Mortgages for Low and Moderate Income Housing.* Private financial institutions should also be induced to invest a portion of their loanable funds in mortgages insured by FHA or VA or bonds guaranteed by GNMA or HUD to finance housing or new communities, with emphasis on projects which serve moderate and lower income persons and families. This would include private pension funds, insurance company funds and funds of financial institutions which benefit from federal support or assistance. These institutions should be induced to make such investments. In the case of institutions which obtain federal support or assistance, it would be appropriate to enact legislation imposing as a condition to such federal support and assistance, the requirement that the institutions invest a certain proportion of their funds in new housing. This requirement can be imposed in a manner which would not work a hardship on the foregoing funds because the housing securities would yield an attractive return and assure a full recovery. Therefore, NHC again endorses Chairman Patman's effort to establish a Development Bank funded by pension fund contributions to make mortgage loans available for housing at reasonable interest rates.

i. *Investments by Universities to Up-Grade and Improve the General Area of Their Location.* Major institutions such as universities should be induced to invest portions of their endowment or other funds to improve the general area in which they are located. These institutions should recognize their responsibility to assist in upgrading the housing and environment of such areas in order to develop sound and attractive local communities.

j. *Mandatory Purchase by the Federal Reserve System of Securities Guaranteed by FHLBB, FNMA and GNMA.* We endorse any legislative attempt to require the Federal Reserve System to purchase securities guaranteed by the Federal Home Loan Bank Board, FNMA or GNMA and utilized for new residential mortgage financing. This would be an addition to the Federal Reserve's present authority to make purchases on the open market. Since Federal Reserve's purchase of obligations would be directly from FNMA, GNMA and the Federal Home Loan Bank Board, this would assure that the funds would be channeled directly into the mortgage market when needed during periods when we have monetary stringency and rising interest rates. These obligations would include securities issued against the pool of mortgages, debentures or other obligations.

NHC is encouraged that the Federal Reserve System did make three direct purchases involving the Federal Home Loan Bank Board, FNMA and GNMA guaranteed securities during 1971. We now urge the Federal Reserve System expand this program and establish adequate levels of such purchases.

k. *Continued support for a National Development Bank.* NHC applauds the introduction of identical bills by Chairman John Sparkman and Chairman Wright Patman (S. 580 and H.R. 3550) to establish a $20 billion "National Development Bank" to finance public works and to provide loans for businesses and industries and for low and moderate income housing projects. Interest charges on the Development Bank's loans would be tied to the Federal Reserve System's discount rate. The Bank would be capitalized by an appropriation of $1 billion and could borrow up to twenty times the amount of capital or $20 billion.

l. *Continued Support for Home Owners Mortgage Loan Corporation.* We continue to support H.R. 4176, introduced by Chairman Barrett and Congresswoman Sullivan. This bill would create a Home Owners Mortgage Loan Corporation (HOMLC) which would administer a revolving fund captialized at $10 billion through appropriations of $2 billion a year for 5 years. It would make 30-year direct loans with a maximum of $24,000 bearing interest at not more than 6½%. We recommend a reduction in that interest rate to 5%. Those eligible for loans would be:

(1) "Credit worthy" moderate income families unable to obtain mortgages at reasonable rates of interest; and

(2) Families with incomes not exceeding $12,000, except that HOMLC would have power to vary the income limit.

Existing FHA insuring offices would process loan applications and existing lending institutions would service the mortgages for no more than ½ of 1%. This bill—and other housing legislation with income limits—should be amended to provide for appropriate deductions in determining family incomes.

m. Mortgage-Backed Securities—GNMA. NHC applauds the fact that more than billions of dollars of mortgage-backed securities have been sold during the operation of this GNMA program to attract new sources of investment capital into housing by GNMA guaranteeing privately-issued securities on home mortgage pools. NHC applauds GNMA for developing guidelines to permit the pooling of multi-family mortgages as backing for the securities and for developing procedures to "pass-through" construction interest to the investors. Initially only single-family FHA and VA mortgages had been accepted for pooling and investors received no interest until the project was completed.

n. *Immediate Action to Utilize All Existing Legislation.* We urge immediate administrative action and implementation to utilize *all* existing legislation—as described above—in order to assure an adequate flow of funds into residential mortgage financing and to reduce interest rates and eliminate discounts on such financing. The Administration should take such measures as are necessary to shelter housing from the impact of restraints or economic forces which preclude an adequate flow of funds into residential financing at reasonable interest rates. These actions are required to implement the national housing policy and goals authorized by law.

o. *Site Availability in Metropolitan and Other Areas.* We agree with the analysis in the President's Second Annual Report on National Housing Goals that community discrimination against subsidized housing is one of the most serious constraints on the availability of building sites for low- and moderate-income housing. We believe that there has been little or no improvement since that Report. We continue to support the Second Report's recommendation of legislation which would prohibit States and local public bodies from discriminating against housing subsidized by the Federal Government, whether through legislative or administrative action. We regret that the Administration did not implement this recommendation. We urge that the Administration propose and the Congress enact legislation which would achieve this objective. Sponsors of subsidized housing need the assurance that the Federal Government's resources and power will clear away the constraints which are imposed on their proposed projects simply because they are intended for low- and moderate-income families. They are usually unable to pay for protracted litigation which is now the only way to overcome this problem. NHC strongly endorses the recommendation of the National Committee Against Discrimination in Housing adopted December 8, 1970.

After the submission of the Administration's proposed consolidation bill in 1970, Secretary Romney recommended a further provision which would have prohibited discrimination against subsidized housing through local land use and development controls in areas that lie in the path of urban development. The legislation would have authorized suits by interested parties, as well as the Attorney General, to enjoin such exclusion where such local action was inconsistent with local plans. Subsequently HUD withdrew this proposal and began work on Project Selection Criteria. While HUD's Project Selection Criteria would require "spreading" of assisted programs throughout areas without such programs, these areas frequently have excessive land costs, restrictive zoning practices or lack adequate water and sewer facilities to serve additional housing. Accordingly, we question whether the program will achieve its purpose in many areas.

We believe the original Romney proposal should be resubmitted, strengthened and enacted. It should be strengthened by providing for federal pre-emption of local zoning upon an appropriate finding by the Secretary so as to require opponents rather than proponents to initiate litigation. It should be applied to all local areas that do not take affirmative action to resolve their housing problems. Moreover, it should not be dependent on local plans—which may be silent with respect to local housing needs—in order for the legislation to be effective.

In addition to NHC's objections concerning Secretary Romney's announcement about drastic cuts in the overall HUD staff, NHC is opposed to any reduction in the staff charged with administering equal opportunity requests and procedures. We recommend that the current level of employees administering this program be set as the absolute minimum and that no reductions be made below that level.

The National Housing Conference agrees in principle with the adoption by HUD of a model lease and grievance procedure stating minimum standards to protect the mutual rights and obligations of housing authorities and tenants. We believe that the manner in which the Department adopted these standards, after extensive consultation with the National Tenants Organization and the National Association of Housing and Redevelopment Officials, represents a method of policy-making which should be emulated by the Department in the future. Minimum standards for management-tenant relations in public housing are an appropriate subject for national policy, with due recognition for the responsibilities of local housing authorities and resident groups—who may exercise creative local leadership to negotiate their mutual rights and obligations in an established framework.

In addition to the actions recommended

above, NHC reaffirms its prior recommendation that HUD be given authority to withhold all HUD funds from those communities which do not provide housing on a nondiscriminatory basis.

p. *Measures to Insure Full Utilization and Preservation of Existing Housing Stock.*

Throughout this Report, we cite the importance of preserving existing housing resources. To this end, NHC recommends that programs be carried out to improve basic community facilities and tenant services that are needed to insure neighborhood preservation along with comprehensive programs of rehabilitation. It is equally important to avoid building additional housing of the types which are now experiencing grave difficulties. Under our proposals for economic integration, we would discourage construction of new subsidized housing projects which would exclusively serve low income families as a means of avoiding further large concentrations and segregation of low income families.

CHAPTER C. EMERGENCY HOME FINANCE ACT OF 1970

1. *Purpose.* Because of the severe housing shortage and sharp drop in housing starts in 1969 and the continued low level during early 1970, Congress passed the Emergency Home Finance Act of 1970 as an immediate response to the crisis. The Act was primarily aimed at relieving the middle income home and cooperative buyer.

2. *Authorizations in the Emergency Home Finance Act of 1970.*

a. *Subsidies to reduce interest rates (Housing Opportunity Assistance Program).* A $250 million appropriation of subsidies is authorized to reduce interest rates on advances by Federal Home Loan Banks to members for their use in purchasing housing mortgages, primarily on new housing but also on existing housing. The Board will allocate funds and regulate their use.

b. *Federal Home Loan Mortgage Corporation.* The Federal Home Loan Mortgage Corporation ("FHLMC") was created with power to purchase and make commitments to purchase residential mortgages from any Federal Home Loan Bank, the Federal Savings and Loan Insurance Corporation, any member of a Federal Home Loan Bank, or any other financial institution whose deposits or accounts are insured by an agency of the United States. The Corporation can purchase eligible conventional mortgages and single-family and multi-family mortgages insured by FHA. The Corporation is authorized to issue notes, debentures, bonds, or other obligations and mortgage-backed securities guaranteed by GNMA.

c. *FNMA Conventional Mortgage Market.* FNMA was authorized to establish a conventional secondary mortgage market. Mortgages are limited to a 75% loan to value ratio, unless (1) seller keeps a 10% participation, or (2) the excess is privately insured, or (3) seller agrees to rebuy or replace the mortgage on default, as FNMA may require. A House provision barring financing when this might inhibit HUD assisted programs was replaced by language to the same effect in the conference committee report.

d. *Home Ownership for Middle Income Families—Section 243.* The Act established a new Section 243 to provide interest reduction payments on behalf of middle-income purchasers of homes or memberships in Section 213 cooperatives. Interests subsidy payments will be on mortgages on which the mortgagor makes monthly payments towards principal and interest equal to an amount which would be required if the mortgage bore an effective interest rate of 7 per centum which the mortgagor could pay by applying at least 20 per centum of his income towards homeownership expenses. Monthly homeownership expenses include the monthly payment for principal, interest, mortgage insurance premium, insurance, and taxes due under the mortgage.

The aggregate amount of contracts to make payments cannot exceed amounts approved in appropriation acts and contracts for such payments are authorized for $105,000,000 during the period prior to July 1, 1971, which amount is increased by an additional $105,000,000 for additional contracts prior to July 1, 1972.

e. *Increased Special Assistance.* GNMA Special Assistance Funds were increased from $2 billion to $2.75 billion, plus $750 million of additional authority which is transferred from program 14 which involved mortgages on new homes. This total increase of $1.5 billion is available for *any* tandem plan use.

f. *Program 14 For New Homes.* The par purchase requirement was removed for the funds left in Program 14, thus opening that program for wider use in the purchase of mortgages on single-family homes. The program's mortgage ceiling was increased to Section 235 levels.

g. *GNMA Purchase of 236 Mortgages.* GNMA may buy Section 236 multifamily mortgages above its $22,000 unit limit ($24,500 for 4 bedrooms or more) where projects have the benefit of a local tax abatement program.*

3. *Authorization in Appropriation Act.* Of the $250 million authorized under Title 1 to reduce interest charges for members of the Federal Home Loan Bank System, $85 million was included in the appropriation act authorization for fiscal year 1971 and $62.5 million was included in the appropriation act authorization for fiscal year 1972.

While $210 million of contracts were authorized for the first two years under the new Section 243 program, there has been no request to embody this authorization in any appropriation acts. No regulations have been issued.

4. *Recommendations.*

a. *Legislative Amendments.* NHC recommends an amendment to Section 243 which would provide for the use of the subsidy in order to achieve an effective interest rate of 5% instead of 7% for those people who need this larger subsidy to meet their remaining housing expenses after spending 20% of their income for home ownership expenses, utilities and maintenance. To provide an incentive which would help achieve economic integration, the amendment should provide a preference for people who will buy in a subdivision or housing development serving moderate and lower income families who receive the benefit of larger interest assistance or other subsidies. This program is needed for FHA-insured mortgages since the $250 million FHL Bank program reduces interest rates only on conventional loans made through saving and loan associations.

b. *Additional Authorizations in Appropriation Acts.* After adoption of our proposed amendment to provide 243 subsidies to reduce the effective interest rate from the current 7% to 5%, NHC urges the passage of a supplemental appropriation act which would include the $105 million contract authorization for Section 243 for fiscal year 1973 and an authorization of $105 million of additional contracts for fiscal year 1974—with funds to continue available until used. NHC also urges the appropriation of the $125 million balance of the subsidy authorization to reduce interest rates on advances by the FHL Bank to its members for use in purchasing housing mortgages.

c. *Administrative Actions.*

(i) Even though the current FHA–VA interest rate is 7%, NHC urges HUD to establish rules and regulations pursuant to Section 243. This program should be ready for immediate implementation if needed; also if our proposed amendment is adopted to achieve an effective interest rate of 5%. NHC urges that the Secretary set no income limit for eligibility for assistance under Section 243.

(ii) NHC urges that the Federal Home Loan Bank Board modify its rules so its members can purchase a larger percentage of mortgages on multi-family housing. Such housing has become increasingly important in meeting the needs of the middle-income group.

(iii) While regulations have been issued to implement the FHL Bank's Housing Opportunity Assistance Program ("HOAP") of subsidies which reduce housing costs by $20 monthly for five years, these regulations restrict the program to single-family houses. NHC urges that the FHL Bank Board promptly adopt the pending regulations which would make such assistance available to families living in cooperatives.

(iv) Under the current "HOAP" regulations, the income limits are 150% of the regular Section 235 limits. The income limits should be at least 150% above the median income in the area. The regular Section 235 income limits are too restrictive; also, they are tied to local public housing limits which have a wider variation from place to place than median incomes.

CHAPTER D. HOUSING AND URBAN DEVELOPMENT LEGISLATION, 1971

While no omnibus housing bill was passed in 1971, housing and urban development legislation of a limited nature was enacted. The following are the provisions contained in SJ Res. 176:

1. Flood Insurance—Church Properties. Sections 1305(a) and 1306(b)(1)(c) of the Housing and Urban Development Act of 1968 were amended to include church properties under the National Flood Insurance Program.

2. Temporary Waiver of Mortgage Limitations—GNMA. Section 302(b)(1) of the National Housing Act was amended to permit the Secretary to waive GNMA mortgage limitations up to 150% of the present limits until June 30, 1972. This would raise the limits to $33,000 per unit and $35,000 for units with four or more bedrooms.

3. Water Sewer Planning Requirements. Section 702(c) of the Housing and Urban Development Act of 1965 was amended to extend it until June 30, 1972, the period in which communities may complete planning requirements for water and sewer grants.

4. State Taxation of National Banks. The Bill would delay for one year, to January 1, 1973, the termination of interim provisions governing state authority to tax national banks.

5. New Communities—Supplemental Grant Assistance. Section 718(a) of the Housing and Urban Development Act of 1970 was amended to include private nonprofit organizations as eligible recipients of supplemental grants to assist construction of public facilities in new communities.

6. Public Housing Rent Reductions. Section 2 of the United States Housing Act of 1937 was amended to prohibit the reduction of welfare assistance payments to public housing residents benefiting from required reductions in rents resulting from the 25 percent rent-income limitation.

7. Authorizations for Comprehensive Planning and Open Space Programs. Sections 701(b) of the Housing Act of 1954 and 708 of the Housing Act of 1961 were amended to increase authorization for comprehensive planning program by $50 million and for open space program by $100 million.

8. Small Business Investment Companies. Section 303(b) of the Small Business Investment Act of 1958 was amended to clarify SBA authority to guarantee debentures is-

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* See Chapter D for amendment permitting the Secretary to increase this limit to $33,000 until June 30, 1972.

sued by small business investment companies.

CHAPTER E. ADMINISTRATION'S PROPOSED HOUSING CONSOLIDATION AND SIMPLIFICATION BILL; AND SENATE BILL S. 3248, INTRODUCED BY SENATOR SPARKMAN AND PASSED BY THE SENATE ON MARCH 2, 1972

I. Introductory statement

In the succeeding chapters we will discuss existing housing programs as authorized by different sections of the National Housing Act. The multiplicity of statutory section numbers evidences the variety of programs which were enacted in past years. It is evident from the history of the federal housing programs that no comprehensive plan or design was employed in the development of these programs and that each legislative program was enacted to meet a particular need that appeared urgent at a particular time. Consequently, there are gaps and areas of unmet housing needs due to the deficiencies in our housing legislation.

Last year the Administration proposed legislation to consolidate and simplify existing programs. This legislation was widely studied but was not enacted. This year the Administration has proposed another similar housing bill.

NHC, as in the case of the proposed Housing and Urban Development Act of 1970, again supports in principle the objectives of the proposed Housing Consolidation and Simplification Act of 1971 (Administration's Bill). As before, this Bill contains many worthwhile provisions for simplification of the many Federal housing programs and for uniformity in basic provisions. While the Conference believes that this Bill represents a significant improvement over last year's Bill and includes many of the amendments suggested to HUD by NHC, we believe that the Bill could produce some inequities and, inadvertently, present road blocks to the effective implementation of our housing programs.

The Senate Committee on Banking, Housing, and Urban Affairs reported an omnibus Housing Bill on February 28, 1972 (Senate Committee Bill) which was introduced by Senator Sparkman as S. 3248. Chapters 1 and 2 of this Bill generally follow the Administration's proposed Housing Consolidation and Simplification Act with a number of amendments which are described below. On March 2, 1972, S. 3248 was passed by the Senate with some amendments (the Senate Enacted Bill) by a vote of 80 to 1.

The Housing Subcommittee of the House Banking and Currency Committee will begin Executive markup sessions on housing and urban development legislation early in March. The House Subcommittee is expected to consider the Administration's Bill, the Subcommittee Panels' Bill and the Senate Enacted Bill.

Below, we first summarize each major provision in the Administration's Bill relating to housing consolidation and simplification and then we describe what the Senate Committee Bill provides as compared with the Administration's Bill. After these summaries, we list some of the major amendments which are necessary to remove undesirable features and otherwise improve the Administration's Bill. Finally, we identify the extent to which these matters have been included in the Senate Committee Bill. To the extent that the Senate Enacted Bill does not contain our legislative proposals, we continue to recommend our proposals for inclusion in the Senate Enacted Bill so that, as finally passed, the law will conform to our recommendations.

II. General purpose and summary

1. *Purpose and Goals:* According to Secretary Romney, the Administration's proposed bill is "an effort to deal with the overall housing picture" and seeks to achieve the following goals:

(a) To consolidate existing HUD programs for low, moderate, and middle income families.

(b) To eliminate unnecessary bureaucratic requirements and establish uniform criteria for subsidized housing programs.

(c) To base eligibility limits and construction requirements on income and cost factors prevalent in the community.

The *Senate Enacted Bill* continues these purposes and goals.

2. *Consolidation and Simplification:* The Administration states that its housing proposals would (a) consolidate authorities throughout existing law into a number of broad programs, (b) eliminate duplicate authorities, and (c) improve existing operations and subsidy programs. The number of existing FHA programs is reduced from approximately 50 to 8. Replacing some 40 existing authorities dealing with home, cooperative and rental housing are one new program to cover all unassisted home mortgages and one new program to cover all subsidized home mortgages; and one program each for the unsubsidized and subsidized rental and cooperative projects.

The *Senate Enacted Bill* provides for the above described consolidation and simplification but added several amendments that the Committee felt were necessary to retain provisions in existing law which were found necessary as a result of past experience. The Committee Bill recognizes that there are real distinctions between some existing programs which result from their essential differences and which need to be continued.

3. *Senate Committee's General Explanation of its Bill:* The Senate Committee Report gives the following brief explanatory statements to the Senate Bill:

The Committee on Banking, Housing and Urban Affairs, having considered the same, reports favorably a committee bill (S. 3248) to consolidate, simplify and improve laws relative to housing and housing assistance, to provide Federal assistance to local governments in support of community development activities, and for other purposes, and recommends that the bill do pass.

Introduction

The Committee bill reported herewith is an omnibus bill of 7 chapters covering a broad range of Federal housing and urban development programs. Although the main thrust of the proposed legislation is to consolidate and simplify existing housing programs it contains authority for the development of several new programs, the most important of which is a new and far-reaching block grant community development program.

The consolidation provisions of the bill involve a complete overhaul of legislation involving the FHA mortgage insurance program and the low-rent public housing program. The former program goes back to 1934 when the National Housing Act authorized the Federal government insurance of mortgages, and the latter goes back to the Housing Act of 1937 which provided the authority for the low-rent public housing program. The basis for the consolidation provision in the committee bill is the Administration-sponsored "Housing Consolidation and Simplification Act of 1971"—S. 2049. The committee bill made several changes in S. 2049 particularly with reference to the FHA-insured interest subsidy program of benefit to lower income families and the elderly.

III. Major Substantive Changes and NHC Recommendations on Private Housing Programs; Also on Matters Applicable to Both Private and Public Housing Programs

(a) *Senate Committee's General Explanation on Provisions Relating to Mortgage Financing:* The Senate Committee Report gives the following general explanation on the provisions of the Senate Bill relating to mortgage financing:

The bill would recast the mortgage insurance programs contained in the National Housing Act into a completely new statutory framework—the Revised National Housing Act. The new authorization would reflect the experience gained over the past three decades with the mortgage insurance operations and would provide a statutory framework appropriate to the present orientation of these operations.

This consolidation and revision of the mortgage insurance programs was first submitted as part of the Administration's 1970 legislative program. Extensive hearings on the program were conducted by the Committee but because of the magnitude of the proposal and the need to evaluate carefully its impact, the Committee deferred action on the proposal. The Administration then resubmitted its proposal in 1971 with numerous changes reflecting many of the legitimate concerns raised during the Committee's hearings. Additional hearings were held during 1971.

The proposed Revised National Housing Act would consolidate the array of existing insurance programs into eight basic authorities, with relatively simple and flexible terms. Some obsolete and overlapping provisions of existing law would be eliminated and the many provisions now scattered throughout the National Housing Act relating to similar subject matters would be brought together under appropriate headings. The Committee feels that the consolidation will facilitate (1) public understanding and utilization of the mortgage insurance programs, (2) effective, prompt, and flexible administration of these programs by the Department of Housing and Urban Development, and (3) Congressional evaluation of the programs and decisions with respect to statutory amendments.

(b) *Financing Off-Site Components:* The Secretary would be authorized to insure advances of mortgage funds during construction or rehabilitation to cover the cost of materials and components which are assembled or stored away from the construction site. This extension of insurance authority is expected to facilitate the financing of Operation Breakthrough type projects which require substantial off-site assembly of component units.

The *Senate Enacted Bill* would modify this Section by requiring that adequate security be provided for materials assembled away from the construction site and that title to such components must pass to the purchaser before insured advances could be made.

(c) *Flexible Maximum Mortgage Amounts:* The various statutory dollar limitations on maximum mortgage amounts would be replaced by a uniform formula applicable to all home and multifamily mortgages. The Secretary would determine the development cost of a prototype unit of modest design in each housing market area. The maximum insurable mortgage amount for an assisted dwelling unit could not exceed 110 per cent of the development cost in each housing market area. For unassisted housing the maximum insurable mortgage could not exceed 200 per cent of the development cost of the prototype unit. For a multifamily project the maximum insurable mortgage amount would be equal to the maximum insurable ortgage amount of each individual unit multipled by the number of units in the project.

The Senate Bill would modify the above provision by providing that the maximum insurable mortgage amount for an assisted dwelling unit could not exceed 120% of the development cost in each housing market area. It would retain the provision for unassisted housing that the maximum insurable mortgage could not exceed 200% of the development cost of the prototype unit.

(d) *Interest Rates:* The Secretary would have permanent authority to prescribe maximum interest rates for insured mortgages and loans based on his determination of the needs of the mortgage or loan market. These rates could differ for each of the different types of mortgages or loans which would be insured under the various sections of the Act and could further differ to take into account differences between mortgages or loans within each provision. In addition, under an experimental dual interest rate system, the Secretary could insure mortgages under such sections as he deemed appropriate of the Revised National Housing Act at whatever interest rate was negotiated by the mortgagor and mortgagee, provided no discounts were collected. This authority would expire on July 1, 1973, and would provide an alternative to the interest rate administratively established by the Secretary.

The *Senate Enacted Bill* would delete the provision which allows interest rates to differ for each of the different types of mortgages or loans which would be insured under the various sections of the Act. Likewise, the provision was deleted which allowed the Secretary to vary the interest rates between mortgages or loans within each provision. The *Senate Enacted Bill* includes the experimental dual interest rate provision.

(e) *Minimum Down Payment:* The minimum down payment for unassisted home mortgages would be an amount equal to closing costs. The minimum down payment for all assisted mortgages would be $200.

The *Senate Enacted Bill* would require—for all unassisted home mortgages—the minimum downpayment to be at least an amount equivalent to closing costs (exclusive of prepaid expenses) or 3% of the Secretary's estimate of the cost of acquisition, whichever is greater.

The *Senate Enacted Bill* would likewise require a minimum downpayment of $200 for all assisted home mortgages.

(f) *Builders Warranty:* Builders of homes approved prior to construction would continue to be required to warrant homes against substantial deviations from approved plans. In addition, builders of homes which are not approved prior to construction would be required to give homeowners a one year warranty against all structural defects.

The *Senate Enacted Bill* would not change these provisions.

(g) *Cost Certification:* The existing requirements for cost certification would be substantially simplified. The Secretary would be given authority to exempt residential multifamily projects designed for occupancy by less than 12 families or insured for less than $250,000 from the cost certification process.

The *Senate Enacted Bill* would retain most provisions of existing law regarding cost certification. The Committee felt that these provisions have been successful and effective for many years and that they should be continued to avoid uncertainties regarding the manner in which cost certification is handled.

(h) *Uniform Treatment of Major Components of Subsidized Housing Programs:*

(i) *Eligibility Limits*—The income limits would be standardized. Eligible families would be required to have incomes which do not exceed the median incomes for the area as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary could establish income ceilings higher or lower than the median in any area where a variation was necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

The *Senate Enacted Bill* sets 90 percent of the median as the standardized income. It retains the provision in the Administration's Bill authorizing the Secretary to adjust the limit higher or lower as necessary.

(ii) *Construction Cost Limits*—Specific statutory dollar limitations on the amount of the maximum insurable mortgage amount would be removed. The development cost of a prototype unit priced out in each housing market area would be the new basic criteria for maximum mortgage amount for both single family homes and multi-family units. Development cost would be equal to construction costs plus an amount attributable to land costs.

The *Senate Enacted Bill* provides substantially the same construction cost limits.

(iii) *Definition of Income*—For purposes of eligibility and the determination of the subsidy amount under the private programs, income would be defined to include income from all sources of all family members except that the Secretary would have authority to exclude income earned by minors and non-recurring income. For the purpose of determining the amount of the subsidy, $300 per minor could be excluded from income for each minor. For public housing receiving operating subsidies or under the new Homeownership Section similar definitions to the private programs would be used. However, under the regular Public Housing Program, income would be defined to exclude nonrecurring income and income of full-time students and to deduct $300 for each dependent and for each secondary wage earner, 5 percent of gross family income or 10 percent in the case of the elderly, and extraordinary medical expenses. This section is substantially the same as the present definition for the regular Public Housing Program which was included in the 1970 Housing Act.

The *Senate Enacted Bill* provides for complete uniformity in the definition of income for all subsidy programs whether private or public. The Bill would require that, in defining income, the Secretary shall consider income from all sources from each family member residing in the household with the following deductions:

(A) Income for any family member below the age of eighteen, nonrecurring income, as determined by the Secretary and the income of full-time students living with their parents;

(B) An amount equal to the sum of (i) $300 for each dependent, (ii) $300 for each secondary wage earner, (iii) five percentum of the family's gross income (ten percentum in the case of elderly families) and (iv) those medical expenses of the family properly considered extraordinary shall be deducted; and,

(C) Such further deductions as the Secretary determines in recognition of unusual circumstances.

(iv) *The Rent to Income Ratio*—All participants in the subsidized programs would be required to contribute 20 percent of their income to mortgage payments under the homeownership program and 25 per cent of income for rental and occupancy charges on multifamily housing for rental or cooperative operations. There would be a "basic rental" for each unit in an assisted rental or cooperative project determined on the basis of operating the project with the benefit of the assistance payments. The occupant would pay the basic rental or charge for his unit or such greater amount, not exceeding the fair market charge for such unit (the rental or charge without subsidy), as represents 25 per centum of his income.

The *Senate Enacted Bill* does not modify the above described rent-to-income ratios, except that an operating subsidy would be authorized on multi-family projects under 502 experiencing increases in operating costs as explained under subparagraph (j) below. In such cases, when an operating subsidy is paid in later years if operating expenses increase, the Bill (as clarified by the Senate Committee Report) provides that families: (A) in the low-income group, who receive deeper subsidies (comparable to rent supplements), would not pay more than 25 percent of their income for rent and (B) other families would not pay more than 30 percent of their income for rent.

(i) *The Subsidized Homeownership Program:* The assistance payment on behalf of any homeowner could not exceed the lesser of (i) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income, or (ii) the difference between the monthly payment for principal, interest, and mortgage insurance premium due under the mortgage and the monthly payment for principal and interest due under a 1% mortgage. However, the amount of this difference could be increased by up to one-fourth in cases (not exceeding 20 percent of the total amount of contract funds authorized by appropriation Acts) where the Secretary determined an increase was necessary to further the purposes of the section.

The *Senate Enacted Bill* would provide substantially the same formula.

The *Senate Enacted Bill* would add a new subsection to 402 which would provide that not less than 10 percent of that program would be available for use with respect to dwellings which require substantial rehabilitation.

(j) *The Subsidized Rental or Cooperative Program:* The assistance payment on behalf of a project owner could not exceed the difference between the monthly payment for principal, interest and mortgage insurance premium (or other comparable charges approved by the Secretary) on a market rate mortgage and the monthly payment for principal and interest that would be due on a mortgage at 1%. With respect to up to 20 percent of the dwelling units in any project, the Secretary could contract to make assistance payments to a project owner on behalf of tenants or cooperative members whose incomes are too low to afford the basic rentals. These payments, with respect to any unit, could not exceed the lesser of (i) the amount required to reduce the basic rental or occupancy charge to an amount equal to 25 percent of the family's income or (ii) the maximum payment which would be made with respect to the dwelling unit under the rent supplement program.

The *Senate Enacted Bill* is substantially different and provides the following new formula:

(A) As to 20 percent of the units in a subsidized multi-family project under 502, a deeper subsidy would be available which would pay the difference between the basic rent and 25 percent of a family's income. (The family would have to pay the cost of utilities as a minimum unless the Secretary determines that this requirement would result in undue hardship in an area because of its unusually high utility costs). At least half of this 20 percent are to have incomes of 50 percent or less of the median income in the area where the housing is located—these are called very low-income families. Likewise, the Secretary could decrease the deep subsidy coverage to 10 percent of the units if the project would not be viable with a deep subsidy coverage of 20 percent of the units. The Secretary could increase the deep subsidy to 40 percent of the units when needed—and up to 60 percent in projects for the elderly.

(B) During the rent-up period, the project's rent would be predicated on everyone paying at least 25 percent of the family's income. If paying the basic rent would require more than 25 percent of a family's income, it is possible that such a family could pay a higher percentage of its income for the housing *if* the Secretary did not provide additional assistance (deeper subsidy) to cover all the units to be occupied by such families.

(C) If the project were faced with increased operating costs which required that people had to pay more than 30 percent of their income, then a new HUD operating subsidy would become available to meet those increased costs rather than increasing rents to over 30 percent of a family's income or 25 percent in the case of families occupying units covered by the deeper subsidy. This is a compromise from the Brooke-Mondale Amendments which would have authorized HUD to pay an operating subsidy whenever expenses increased so that no one would have to pay more than 25 percent of his income for housing. For each 502 project, the Senate Committee Bill provides that there is to be established an initial operating expense level at the time the Secretary determines that the property is "fully" occupied after allowing for customary vacancy rates. At any time subsequent to the establishment of this initial operating expense level, the Secretary may contract to make additional assistance payments to meet increases in operating expenses above the initial level. These contracts may be amended periodically to provide for appropriate adjustments. The additional assistance payments are to be made if the Secretary finds that the operating-expense increases are reasonable and comparable to cost increases affecting other rental projects in the community. The additional assistance payments will be in an amount not to exceed either (i) the amount by which the sum of the cost of utilities, maintenance and local property taxes exceeds the initial operating expense level or (ii) the amount required to maintain the basic rentals of any units at levels not in excess of 30 percentum of the income of tenants occuping such units, except with respect to tenants occupying dwelling units on which the Secretary has contracted to make deeper subsidy payments who would not be required to pay a rental of more than 25 percent of their income.

B. *Recommendations:* NHC supports the principles and objectives of the Administration's proposals for simplification of the many federal housing programs, but only if the legislation includes the recommendations for a new flexible formula for subsidies, better income-to-rent ratios, achievement of economic integration, and all of the other amendments described in these resolutions. However, last year's bill would have produced inequities and presented serious roadblocks to the effective functioning of these programs. While many of these objectionable features were eliminated from this year's bill, there are still some provisions that would produce inequities and inadvertently block effective implementation of our housing programs. Therefore, we are listing below some of the features which we recommend be removed from this year's Bill. This includes amendments to the proposed Administration bill and other new legislation which are necessary: (a) to eliminate gaps and deficiencies in our existing legislation; (b) to assure the availability of housing to meet the needs of people at all income levels with monthly charges that they can afford; and (c) to achieve economic integration of assisted housing with a freedom of choice for people of all incomes to select where they want to live.

(1) *Rent Increases for Existing Tenants:* The most controversial part of last year's Bill was the effort to impose new requirements on existing projects resulting in substantial increases in rents or tenant contributions for present occupants under several programs. The Bill now requires rent increases for families now living in those public housing projects which will be assisted with annual contributions for operating subsidies. There would be a minimum rental payment of 20% of income (with a maximum of 25%) from families living in such projects. Many such families have been paying less pursuant to the income-to-rent ratios established by local housing authorities under previous legislation. The Administration proposes to make such rent increases effective in two increments—one-half after the first year's review of family income and the other one-half after the second year's review of family income.

People living in public housing projects already built should not be required to pay higher rents than those established under earlier laws and regulations; otherwise, there will be serious hardships for them. Such rent increase for these people will adversely affect their cost of living and reduce the amount they have for necessary food, clothing, and other living requirements. Therefore, NHC opposes any attempt to increase rents of *existing* tenants in public housing projects.

The *Senate Enacted Bill* would continue the same plans for rent increases for existing tenants as the Administration's Bill. This is more fully explained under Part IV of this Chapter.

(2) *Determination of Income and Eligible Deductions:* The Administration's Bill retains the allowable deductions for assisted private housing, namely, $300 for each minor child. In the 1970 Housing Act, Congress reaffirmed and codified for the regular public housing the type of deductions that had been typically available in such (a) an amount equal to $300 for each dependent and $300 for each secondary wage earner; (b) 5% of gross family income or 10% in the case of the elderly; (c) nonrecurring income and income of full time students; (d) medical expenses of the family which are extraordinary; and (e) such further deductions as the Secretary allows in recognition of unusual circumstances.

We recommend that these same criteria be adopted for assisted private housing programs—and for public housing receiving operating subsidies or under the new Homeownership Section—so that there are uniform criteria for both private and public housing receiving subsidy assistance. It is necessary to have fair standards of this character for determining deductions in computing family income in order to avoid an unreasonable and unfair burden on low income families who pay too much for housing. Such a burden will result unless there are exclusions from income which result in a realistic determination of the amount of income actually available to the family for its housing and other living expenses.

The *Senate Enacted Bill* adopts the NHC recommendations in their entirety.

(3) *Percentage of Income Required Under Assisted Housing Programs:* The Administration's Bill would retain the provisions requiring that 20 percent be spent for housing under the homeownership program (Section 235, which would become Section 402). In the case of the homeownership program, the housing expenses should be broadened to include utility costs, repairs and maintenance. This would establish a uniform criterion as to all housing which is assisted by interest subsidies. In the case of the assisted multi-family program, we recommend that locally etablished rent-to-income schedules be established and that no family be required to pay more than 25 percent of its income for housing. The housing-payment-to-income ratios in a local project (or local program) must average at least 20 percent.

In the case of multi-family housing, there should be both a minimum percentage of income paid for housing (up to the maximum established charge) and a maximum percentage of family income to be spent for housing. The establishment of a maximum would apply the same criterion to assisted private housing that has been adopted in the Housing and Urban Development Act of 1970 for public housing, known as the Brooke Amendment. This provides that tenants in public housing are not to pay more than 25 percent of their income for housing and that adequate subsidies are to be provided to achieve this objective. We recommend that a like percentage be established as a maximum in privately assisted housing. This is a sound principle which should be uniformly applied to all housing receiving subsidy assistance. It avoids the undue hardship that has resulted under existing programs where some families are paying too high a proportion of income for housing expense.

The *Senate Enacted Bill* would continue the same housing-payment-to-income ratios as the Administration's Bill.

As to the maximum percentage of income to be spent for housing, the *Senate Enacted Bill* would adopt the NHC recommendations in part as explained under subparagraph (1) above.

(4) *Realistic Income Limits:* As a matter of principle we would recommend that there be no income limits for admission to assisted housing but that each family or person be required to pay a locally established ratio of income for total housing expense. If, as a pragmatic matter, it is necessary to include an income limit in order to obtain legislative authorizations and funding for subsidies to assist housing, we recommend a formula for income limits which will eliminate gaps in our present housing programs. The present maximum income limits leave areas of unmet needs for the income limits are unrealistic. They fail to reach many who cannot afford adequate housing without the aid of some subsidy. We recommend the following program relating to realistic income limits and the achievement of economic integration:

(a) There would be an income limit, for 80% of the dwelling units, which would be both realistic and simple. It would be the median income in the area, with authority in the Secretary to exceed the median by the amount required in order to meet the housing needs of the locality based on its income and cost factors.

(b) There would be no income limit for 20% of the units, in order to achieve economic integration and enable the housing developments to serve a cross-section of income groups.

(c) Instead of the present subsidy formulae which result in gaps and areas of unmet need and which preclude achieving economic integration, we recommend the subsidy formula described in the next paragraph.

The *Senate Enacted Bill* would eliminate many of the gaps which currently exist in the subsidy program and which would be continued under the Administration's Bill. However, under the Senate Committee Bill, a gap would still exist as no interest assistance can be paid for any family with an income above 90% of the median, even though 25% of its income did not equal the market rent. Such families cannot afford housing at an unsubsidized rent, so their housing needs would not be met under the Senate Committee Bill.

(5) *Adequate and Flexible Subsidy Formula to Meet All Needs and Achieve Economic Integration.* There would be a flexible subsidy formula which would eliminate gaps in our housing program and assure that there is sufficient subsidy available to meet the housing needs of people at different income levels. Also, it would achieve economic integration. The amount of subsidy would be the amount required to meet the housing expenses remaining after the occupant pays a local established proportion of his income for the housing. The amount of subsidy allocated for an assisted housing development should be based upon making dwelling units available to a cross section of income groups, as follows:

(a) Up to 20% for occupancy by families or persons whose incomes are much the maximum income limits and who require subsidies at or above the amounts which have been available for rent supplements and public housing. Based on their locally established rent-to-income payments for housing, this group would be eligible for a subsidy in the amount required to meet the remaining amount of housing expenses. To the extent needed, this would cover the principal and interest payments on the mortgage and a part of the operating expenses.

(b) Up to 20% for occupancy by families or persons whose incomes are above the maximum income limit. We propose a subsidy incentive for such families to live in an assisted housing development with families of lower incomes. For this group, there would be a subsidy of 2%. At today's market interest rate, these people would pay an effective interest rate of 5%, plus the ½ of 1% FHA premium. People in this group would make the locally established housing payment up to a "maximum established charge" which would reflect the subsidy of 2%.

(c) The remainder for occupancy by families or persons who are at or below the median or high income limit established by the Secretary and who require subsidies in the form of interest assistance. Based on the locally established rent-to-income payment for housing, this group would be eligible for a subsidy in the amount required to meet the remaining amount of housing expenses. To the extent needed, this would cover all of their interest and the FHA insurance premium. According to their varying needs, these people would pay a monthly charge ranging from 0% interest (with no FHA insurance premium) up to the maximum established charge which would reflect a 2% subsidy.

There would be a periodic re-examination of income only for occupants who are paying less than the maximum established charge. If their income increased, they would make housing payments on the larger income but not more than the maximum established charge. With such a charge which reflects a 2% subsidy and an effective current interest rate of 5%, there would be an incentive for residents to remain in the housing community even though their incomes increased. As a matter of public policy, this is vitally important in order to achieve greater stability in housing communities and to maintain their economic integration. If people feel that they are permanent residents of a housing development, they will take better care of it.

The foregoing program would achieve economic integration and more wholesome housing communities. In each housing development or subdivision there would be a cross-section of families at different income levels because income limits would not apply to those who are not receiving assistance. This would avoid the past undesirable condition where families were segregated within narrow income segment. In such cases there was a predominance of lower income and excessively depressed people living in a housing development which was stigmatized and isolated from the community. Through the achievement of a balanced population in a community—including middle income people with those of moderate and low incomes—we can achieve more wholesome and stable communities. By serving a broader segment of the market through economic integration a housing development will be better able to achieve racial integration. Middle and moderate income families will help to provide leadership and status for the community. With housing in each development available for a cross-section of income groups and a broader market, we can offer freedom of choice to people of all incomes to select where they want to live.

In prescribing requirements with respect to tenant eligibility and rents under 502, the *Senate Enacted Bill* specifically provides that the Secretary shall seek to assure, insofar as practical, that in each assisted project, there is a reasonable range in the income limits of tenants. (Section 502(e)). The following provisions are included in that Bill to implement this economic integration objective:

(a) The *Senate Enacted Bill* makes it clear that the Secretary is authorized to insure a mortgage under Section 502 which is to be occupied *primarily* by those who are tenants of low-income at the time of initial occupancy (Section 502(1)). This clearly recognizes the eligibility for occupancy of people above the income limits applicable to those who are to receive assistance. This will help to achieve the NHC objective that 20 percent of the units should be occupied by people above the income limits applicable to those who receive assistance.

(b) The *Senate Enacted Bill* authorizes interest assistance in an amount sufficient to reduce the basic rental charge to the level that would be applicable under a mortgage with an interest rate of 1% per annum. This is the income group which would occupy 60 percent of the units under the economic integration program NHC recommends.

(c) With respect to 20 percent of the units in any project, the *Senate Enacted Bill* authorizes the Secretary to contract to make additional assistance payments for tenants whose incomes are too low for them to afford the basic rentals with 25 percent of their incomes. This additional assistance payment would be the amount required to reduce the rental payment by such tenants to 25 percent of their income (in no case is their rental payment to be reduced below an amount equal to the utility cost attributable to the unit occupied by such tenants).

(Note: The existing rent supplement program requires that tenants pay at least 30% of the basic rental charge regardless of their income. Therefore, NHC is pleased that the Senate enacted bill would lower this requirement to the cost of utilities unless the Secretary determines that the cost of utilities would result in undue hardship because of unusually high utility costs.)

However, the Secretary has authority to either reduce or increase the requirement that 20 percent of the units be occupied by such lower income families if he determines that such action is feasible to achieve the economic viability of the project and the economic integration objective stated in the Bill. There is a further proviso that no less than one half of the units with respect to which such additional assistance payments are made shall be occupied by very low income tenants—they are defined as those whose incomes do not exceed 50 percent of the median income for the area.

(6) *Contract Commitments and Reserves for Subsidy.* The federal government should make an overall dollar commitment of contract authority for subsidy which would take into account the anticipated need based on a project with a cross-section of income groups ranging from the low to those who pay the maximum established charge. By serving a broader segment of the market, housing developments should be programmed with subsidies to serve the anticipated income distribution within a housing development. In most cases, the actual dollar amount of subsidies to be committed to a particular project may be less than the amounts committed under present programs. The past practice of committing maximum subsidies has resulted in unused contract authority because the commitment was based upon the maximum amount needed for everyone. Last year, the Senate Committee recognized the undesirability of pursuing this practice. Under the proposed program, the commitment of contract authority would be based on the estimated need based on serving a cross section of income groups. There should be a national reserve of a reasonable amount of contract authority for commitment to meet over-runs in subsidies above the estimates. This reserve would be only a fraction of the amount of unused authority under the present system where all commitments anticipate a maximum subsidy for everyone.

The *Senate Enacted Bill* does not adopt this NHC recommendation. However, it does provide for an operating subsidy if needed to meet future increases in the operating expenses of multifamily housing assisted under Section 502.

(7) *Realistic Mortgage and Construction Limits.* We recommend the elimination of dollar limits on mortgages and construction costs, by establishing a flexible formula for the Secretary to determine such limits based on cost factors prevalent in the community. The 1970 Housing Act provided this amendment in the public housing program. It provided that prototype costs should be determined by the Secretary on the basis of his estimate of construction and equipment costs of new dwelling units in the area. The law provided that the prototype costs should take into account the extra durability required for economical maintenance of housing and the provision of amenities designed to guarantee safe and healthy family life and neighborhood environment. Further, it provided that in developing such prototypes, emphasis should be given to encouraging good design as an essential component of such housing and to provide housing which will be of such quality as to reflect the architectural standards of the neighborhood and community. We recommend this program for private and public housing but with the mortgage amount to be increased to 125% (instead of the 110% proposed by the Administration) of dwelling construction costs on assisted housing—or 200% of dwelling construction costs for unassisted housing—plus nondwelling construction items and the full market price for sites which are zoned and suitable for such housing.

The *Senate Enacted Bill* would provide a satisfactory definition of the required prototype quality. While NHC recommended an increase from the 110% of prototype limits (which is the limit in the Administration's Bill) to 125%, the Senate Enacted Bill provides for an increase in the mortgage amount to 120 percent of the prototype for assisted housing.

(8) *Orderly Transition To New Programs.* With the consolidation of housing programs and new formulas as to income limits, subsidies, cost limits and other matters, we emphasize the urgent need to continue operations and housing production under the existing laws. During the tooling up period under the new legislation, and until the new programs become fully effective and operational, all existing programs should continue so that there will be no interruption in HUD operations in view of the need for a higher level of production during the coming years. The *Senate Enacted Bill* adopts this NHC recommendation. It provides that the revised National Housing Act shall be effective in whole or in part at such times as the Secretary shall prescribe. Moreover, the Secretary is to establish procedures for the orderly transfer of mortgage insurance operations from the authority of the present National Housing Act to the Revised National Housing Act, in order to assure continuity of program activity and provide an opportunity for necessary administrative or legislative revisions.

(9) *Disposition of Low Rent Public Housing and Secretary-Held Projects to Its Residents.* We support the proposed legislation authorizing the disposition of low-rent public housing for ownership by the residents and other low-income families. An amendment is necessary to provide for necessary repairs and improvements in public housing before its disposition. Low income families should not take over housing which needs such repairs and improvements to make it suitable for their ownership. Supplemental loans should be available to provide for this additional work, together with prepaid expenses and the costs involved in achieving homeownership by low income families; also, supplemental annual contributions should

be authorized to cover the debt service on such supplemental loans from the Secretary or others. Without the recommended changes, the proposed provisions in the Act would not achieve the contemplated objective of cooperative and other homeownership by residents of public housing and other low income families.

We recommend a clarifying amendment to continue the annual contributions and the outstanding local authority bonds—which generally bear very low interest rates—upon disposition of public housing for cooperative ownership in order to permit the achievement of monthly charges which the low income residents can afford. The proposed legislation should be amended to provide that the interest rate on the purchase money mortgage of the cooperative should be the rate on the public housing agency's bonds on the project which will continue to be outstanding, with a continued pledge of the Federal annual contributions to maintain the low-income character of the project—including a program to encourage its economic integration. With low income families and fixed annual contributions, it is not feasible for the cooperative purchaser of public housing to pay the higher interest rate which would be applicable under the formula in the Administration's Bill. In sales to nonprofit cooperatives, the mortgage should be in a principal sum equal to the unpaid balance on the public housing agency's principal debt on the project, together with the amount of the supplemental loan for necessary repairs and improvements, prepaid expenses and costs involved in achieving cooperative ownership. Also, supplemental annual contributions should be authorized to cover the debt service on such supplemental loans.

The *Senate Enacted Bill* provides for disposition of public housing projects to residents in accordance with the NHC recommendations as described above. The Bill does not, however, provide for disposition of Secretary-held property to cooperative ownership by its residents.

An additional amendment similar to the amendment described above for disposition of public housing projects is needed to continue the Secretary's authority to dispose of Secretary-held projects for cooperative ownership. There has been an increasing number of rental projects acquired by the Secretary as a result of defaults. Experience shows that these projects, when properly rehabilitated, can be made successful under cooperative ownership, since the residents then have a stake in the community which they own. The Secretary's most recent disposition of a project for cooperative ownership involved a formula and procedure similar to what we are recommending, namely that the cooperative would give a purchase money mortgage to the Secretary in a principal amount equal to the appraised value of the property, as rehabilitated, for continued use as a cooperative (as defined in the *Senate Enacted Bill*) plus the costs involved in achieving cooperative ownership and the amount of prepaid expenses.

(10) *Necessary Continuance of Existing Laws and Equal Treatment for Cooperatives.* There are several amendments required to retain provisions in existing laws which were found necessary as a result of past experience. There are real distinctions between programs, which result from their essential differences and needs. Where existing laws recognize the need for special provisions adapted to the special requirements of a program, these provisions should be continued. The following examples are cited in the field of cooperatives:

(a) The proposed legislation should clarify the two types of cooperatives which have always existed under the cooperative program: namely, one which is a management-type project where permanent occupancy is restricted to members of the cooperative; and the second which is a sales-type cooperative where the individual units are to be sold to purchasers eligible for mortgage insurance and assistance. However, in the latter case, certain special safeguards should be provided, including the requirement for consumer-oriented sponsorship of the cooperative and for community facilities which the cooperative would continue to provide for the owners of the individual dwelling units.

(b) The provisions of existing law should be retained which allow a project to be initiated by an investor-sponsor for sale to a cooperative pursuant to a dual commitment which provides for a 90% mortgage to the investor-sponsor and the higher allowable mortgage to the cooperative upon its acquisition of title. The Secretary should impose such requirements on investor-sponsors as are necessary to assure that the consumer interest is protected.

(c) Likewise, in the proposed legislation, it is necessary to assure that there is at least equal treatment for cooperative homeownership as compared with individual ownership. Thus, in the case of single family homes there can be 100% mortgages when the amount does not exceed $20,000.00 per unit. The same privilege should be accorded to cooperatives when the average housing cost does not exceed $20,000.00 per unit. As to the replacement cost in excess of $20,000.00, the mortgage amount would be limited to 97 per centum of such excess. This amendment would continue to meet the recognized need for these percentages on cooperative mortgages and would retain similar long-standing provisions of existing law.

In addition to the above, an amendment is needed to assure that unsubsidized projects built under Section 501, with mortgage limits that conform to the lower amounts applicable to subsidized projects, will have 100% mortgages. This will allow the continuation of the Section 221(d)(3) market rate program.

(d) For more than 10 years—and again in the 1969 Act—Congress has recognized that while the normal formula of appraised value is appropriate on existing properties operated as profit-making rental projects, it is entirely inappropriate and unworkable for existing projects which are to be owned and operated on a nonprofit basis. In the case of a profit making rental project, it is feasible to have an appraisal formula which includes a capitalization of net income. However, there is no net income on a nonprofit or cooperative ownership project where the charges reflect the nonprofit objective. Congress recognized this and other differences in the factors involved in nonprofit projects and cooperatives, so it prescribed a workable appraisal formula for existing projects being acquired for cooperative or other nonprofit ownership. This formula has been tried and tested, and it should be retained.

(e) The 1968 Housing and Urban Development Act included cooperatives under *both* Sections 236 for rental and cooperative housing *and* Section 235 for homeownership for lower income families; also, Section 213 covers both management-type and sales-type cooperatives. However, in last year's Administration bill, cooperatives were limited to the management-type. It is important for cooperatives to continue to have statutory authorizations which cover both types of cooperative programs. In the case of condominiums, a project would obtain mortgage insurance under Section 501, with purchasers of the housing obtaining mortgage insurance and assistance under Sections 401 and 402. We recommend the same program for sales-type cooperatives where the individual dwellings sold to purchasers would get mortgage insurance under Section 401 when unassisted and under 402 when assisted, based upon individual mortgages which do not exceed the unpaid balance of the blanket mortgage applicable to the individual dwelling.

(f) In the 1968 Housing Act, Congress specifically recognized the desirability of permitting the conversion of assisted rental projects to resident owned cooperatives. Thus, Sections 221(j) and 236(j)(3) permit such a conversion. In further recognition of this concept, Congress provided in the Tax Reform Act of 1969 (Section 1039 of the Code) for deferral of gain upon the sale by a limited distribution project financed under Sections 221(d)(3) or 236 to a cooperative or other nonprofit corporation. Because many owners of Sections 221(d)(3) and 236 projects have been expecting to sell their rental projects to cooperative or other nonprofit corporations, provisions must be made to continue these existing laws providing for such sales.

The *Senate Enacted Bill* adopts the above NHC recommendations with some modifications and omissions.

(11) *Necessity of Retaining Profit and Risk Allowances (BSPRA).* While the proposed Bill provides BSPRA for Section 502 projects, it should be amended to continue this profit and risk allowance (BSPRA) of 10% of estimated project costs. Since 1956, the housing laws have directed that FHA include such an allowance in its estimate of replacement cost on certain multi-family projects. This policy is necessary to attract developers of multi-family housing; also to achieve the objectives of the National Housing Partnerships.

There is a proviso in existing legislation that HUD could adopt a regulation prescribing a lesser percentage if it determined and certified that this 10% allowance was unreasonable. However, no such determination has been made during the past 14 years. Moreover, Congress has five times re-enacted and extended the 1956 provisions to cover other multifamily housing programs where the mortgage amounts are based on replacement cost. Thus, there has been a continuing Congressional recognition of the need for such a uniform allowance in these multi-family housing programs. This profit and risk allowance should be retained.

It is especially important that cooperatives and other non-profit mortgagors receive BSPRA as this is necessary to avoid discouraging or discriminating against the construction of cooperative and other non-profit projects. In the case of the consumer cooperatives where there is no identity of interest with the developers, the proposed profit and risk allowance in the replacement cost becomes a part of the lump-sum construction price or payment to the sponsor and covers risks imposed on the developer and sponsor to protect the purchasing-cooperative members, including protection against any increase that occurs in development costs after members have purchased their units.

The *Senate Enacted Bill* adopts the above NHC recommendation with some modification.

(12) *Cost Certification and Industralized Housing.* An amendment is necessary in the cost certification provisions to cover cases where factory-manufactured houses or major housing components are furnished by a subcontractor or supplier having an identity of interest with the mortgagor or builder. In such cases, it is not feasible to have a certification covering the costs involved in the factory production of such houses or housing components. Accordingly, the cost certification should provide for an allowance representing the Secretary's estimate—at the time of the issuance of the commitment—of the value of such manufactured housing or major housing components. We recommend such an amendment, which will help achieve the objectives of Operation Breakthrough.

The *Senate Enacted Bill* would provide for such an allowance as recommended by NHC.

We also recommend amendments to retain provisions of existing law regarding cost certification. There have been successful experience and effective administration under these provisions for many years. It is necessary to continue these provisions and avoid uncertainties regarding the manner in which cost certification is handled. We are opposed to repealing well-established statutory rules and granting broad administrative discretion which will create doubts and uncertainties that could adversely affect housing production.

The *Senate Enacted Bill* would retain provisions in existing law regarding cost certification as recommended by NHC, with some modifications.

(13) *Continuity of Programs Under State and Federal Laws.*—Many state laws provide for higher ratio loans by banks and financial institutions when a mortgage is insured by FHA under the National Housing Act. We recommend an amendment which would assure that loans insured under the proposed Act would be regarded as loans insured by FHA under the National Housing Act so they will continue to be eligible for the higher ratio loan under state law.

The Tax Reform Act of 1969 provides certain tax incentives relating to the construction and sale of limited-distribution projects under Section 221(d)(3) and 236. We recommend an amendment which would assure that comparable projects under the proposed Act would be eligible for these tax incentives.

We recommend another amendment which would make other changes in federal statutory references which identify FHA programs by numbers which will no longer be a part of the proposed Act.

The *Senate Enacted Bill* does not specifically provide for the above three NHC recommendations.

(14) *Amendment to Avoid Over-Utilization of Contract Authority for Assistance Under Section 502.* The House and Senate Committees have previously questioned the manner in which HUD determines the amount to be charged against contract authority for assisted projects because this has resulted in an over-utilization of contract authority and, therefore, a decrease in the number of families that can be assisted. With a program like the one in the Senate Committee Bill to provide necessary additional assistance to cover future increases in taxes or other operating expenses, this problem becomes more critical, as it is desirable to avoid a set-aside of contract authority for this purpose—which would reduce the number of units to be assisted.

NHC recommends an amendment which would accomplish both of these objectives. At the time of the establishment of the initial expense level and the range in income levels of tenants, the Secretary would be authorized to reduce the amount contracted for assistance payments to what was needed to assure the economic viability of the project. However, the contract would provide that when additional assistance payments are needed for the project subsequently—due to an increase in operating expenses or a change in the income levels of tenants—the Secretary may amend the contract to provide for the additional assistance payments. These amendments to contracts would be made from the amounts of contract authority released through the reductions in contract authority after the initial expense level and tenant income range are established.

All reductions in contract authority would be set aside in a national reserve for later use on amendatory contracts when needed on any projects to cover increased operating expenses or reduced income due to a change in the income levels of tenants. Tenants, project owners and mortgagees would not suffer from the proposed reduction in the amount contracted for assistance payments, because these reductions in the outstanding contract commitments would be set aside to insure that the assistance funds would be returned later for future use if needed.

(15) *Housing For Elderly.* There are special provisions in the *Senate Enacted Bill* relating to assistance payments on units occupied by the elderly including the following:

(A) Not less than 15% nor more than 25% of the total amount of contracts for assistance payments authorized to be made after June 30, 1973, shall be available for use only with respect to projects which are planned in whole or in part for occupancy by the elderly.

(B) of the amount stated in the preceding clause (A), not less than 30% (which may be reduced by the Secretary to 15% if necessary to assure the viability of the elderly housing program) shall be available for use only with respect to integrated projects. As applied to an elderly project, this term means a project in which not less than 10% nor more than 50% of the dwellings are planned for occupancy by the elderly. (Section 502 (h)(2)).

(C) Additional assistance payments (deeper subsidy) may be made with respect to no more than 60% of the units in any project in which all or substantially all of the dwellings are occupied by the elderly.

(D) There is to be an Assistant Secretary for Housing for the Elderly who will be responsible for administering assistance in behalf of the elderly. (This amendment was adopted by the Senate).

NHC supports these additional provisions to improve housing for the elderly. However, NHC questions the need for the mandatory requirement in clause (B). While we agree that law should permit buildings for the elderly to be located in the same neighborhood with younger people, we question the wisdom of intermingling the elderly in the same building with families who have young children.

NHC recommends the same definition of the "elderly" in the assisted private housing as the *Senate Enacted Bill* provides for public housing namely, families whose heads (or their spouses) or whose sole members are at least fifty years of age.

(16) *Counseling and Tenant Services.* The Senate Committee Report explains the provisions on counseling and tenant services as follows:

Counseling

The Committee provides that homeownership counseling and tenant services will be funded only from Section 106 (of the 1968 Act) appropriations. In the past some of these programs have been funded under other sections of the National Housing Act, but now it appears that all of the funding will come from this one section. Because of increased reliance on this program and the increased activity and emphasis on counseling and tenant services, it is necessary to sharply increase the amount of money for the 106 program. The Committee has accordingly increased the authorization from $5 million to $60 million by fiscal 1974.

There is no intention of limiting the use of such funds to homeownership counseling or tenant services functions, and the Department is expected to continue to use this authority to stimulate housing production in the areas of greatest need and to stimulate creation and continued viability of self-help groups capable of producing housing.

The *Senate Enacted Bill* adopts NHC recommendations. We are gratified that the Committee has increased the authorization to $60 Million for fiscal 1974 and broadened the scope of counseling and tenant services in order to cover all assisted programs.

IV. A. *Major substantive changes and NHC recommendations on public housing programs*

(a) The Administration's Bill contained the following provisions:

(i) *Flexible Development Costs*—The 1970 Housing Act provided a flexible development cost formula to determine maximum costs of public housing, which would be continued.

The *Senate Enacted Bill* would provide for similar flexible development costs.

(ii) *Federal Annual Contributions*—There would be a separation between the authorization to provide annual contributions for debt service requirements and the authorization to provide an operating subsidy. The maximum annual contributions for debt service requirements would be the annual amount of principal and interest payable on obligations issued by a public housing agency to finance the development or acquisition of the project involved. The present maximum limit on the rate of annual contributions for both debt service and operating subsidy requirements—the going Federal rate plus two percent times the capital cost of the project involved—would be eliminated. Also eliminated would be the authorization to pay an additional annual subsidy of up to $120 per dwelling unit occupied by an elderly or handicapped family, a displaced family, a very large family, or a family of unusually low income. The Administration states that these special category subsidies are no longer required in view of the new operating subsidy provisions.

There would be a separate authorization for the Secretary to make annual contributions to public housing agencies for the operation of low-income housing projects (including low income housing in private accommodations which would include an operating subsidy). The contribution payable annually under this section could not exceed amounts which the Secretary determines are required (a) to assure the low income character of the projects involved and (b) to achieve adequate operating services. The Secretary would be authorized to embody the provisions for annual contributions for operating subsidy in a contract guaranteeing their payments.

The *Senate Enacted Bill* contains substantially the same annual contributions provisions.

The *Senate Enacted Bill* added a provision which would allow public housing projects to pay the equivalent of full property taxes. Full property tax payments for existing projects would be phased over a ten year period. HUD has the right to reduce the payment of the equivalent of a full local property tax if it is considered unreasonably high.

The *Senate Enacted Bill* would increase the maximum authorization of contracts for operating subsidies (as described above) from $200,000,000 per annum as provided by the Administration's Bill to $335,000,000 per annum. These amounts are included in the total authorization for annual contribution contracts.

(iii) *Tenant Contributions*—The bill would establish rental requirements for families occupying dwelling units in a low income housing project assisted with operating subsidies. Subject to the existing law requirement that a family's rental charge could not exceed one-fourth of income, the family would be required to pay a rental of not less than one-fifth of the family's income, but not to exceed a fair market rental charge determined on the basis of operating the project with payments of principal and interest which the public housing agency is obligated to pay on the capital cost of the project. In the case of low-income housing in private accommodations, the fair market rental charge would be the rental which the owner receives for the dwelling unit plus the cost of utilities and necessary services not included in such rental. As to other tenants in public housing, they would not be required to pay more than 25% of their income under the Brooke Amendment.

The *Senate Enacted Bill* would provide substantially the same rental requirements.

(iv) *The Public Housing Homeownership Program:* Individual families or an association formed by them for their benefit would be permitted to purchase newly developed housing as well as existing projects. A conveyance of the property to the prospective homeowner would be made as soon as a mortgage with the public housing agency had been arranged. The maximum subsidy would be the same as the debt service subsidy that is provided for public housing rental projects which are not aided by an operating subsidy—the amount of principal and interest paid by the public housing agencies on the mortgaged property. The purchaser's contribution toward homeownership would be based on the same income formula as rental housing and would have to be sufficient to cover utilities, taxes and insurance.

The *Senate Enacted Bill* would provide substantially the same public housing homeownership program, but adopts NHC's recommendations relating to the disposition of projects to cooperatives as described in subparagraph 9 of our recommendations under Part III of this Chapter.

(b) The Senate Bill contains the provisions on Public Housing described below. Under each provision, we state the extent to which NHC recommendations have been adopted and our further recommendations.

The Senate Committee Report explains the provisions on public housing in the Senate Enacted Bill as follows:

Introduction

Chapter II of the bill would amend the United States Housing Act of 1937 to make needed improvements in the public housing program. The bill would modify the subsidy provisions so as to establish separate statutory limitations on the annual subsidy amounts which may be paid for capital and operating costs. The bill would also create a workable homeownership program for low-income families who reside in public housing or are eligible for such housing. The legislation also includes a number of other changes designed to make the public housing program more effective and would authorize additional funds for fiscal years 1973 and 1974.

Income limits and rents would continue as under existing law to be fixed by the public housing agency pursuant to State law, except as otherwise provided in the case of public housing agencies which contract to receive operating subsidies under section 9 of the revised Act. The rent fixed by a public housing agency could not exceed one-fourth of the low-income family's income, as under existing law. Income would be defined on the basis of a uniform definition of income applicable to all housing programs. In order to assure that all families with gross incomes pay at least some rent, the minimum rent would be at least equal to the cost of utilities for the dwelling unit. Occupancy would be limited to families who at time of entry are low income families. However, occupancy should, to the maximum extent possible, include a cross-section of families having incomes within the low-income range. At least 20 percent of all new housing development would be occupied by very low income families, as defined by the Secretary. The new occupancy requirements will provide an opportunity for public housing agencies to regain a cross-section of low income occupancy within their housing developments which prevailed in the early history of the program, but which is gradually being lost particularly in the largest communities. While it is expected that public housing will continue to give particular attention and priority to very low income families, the Committee expects that in the long run we would have more housing developments which are not occupied solely by the very poor, but by a cross section of lower income households, representing a variety of household types. Experience has demonstrated that a cross-section of occupancy is an essential ingredient in creating economically viable housing as well as a sound social environment.

It is recognized by the Committee that existing public housing in many of our largest cities has become a concentration of very poor families and often predominately of families receiving public assistance. The provisions of this Act make it possible to develop new public housing with a cross section of low income families. At the same time, it is clear that steps must also be taken to alter the occupancy in existing public housing to achieve a similar cross-section of occupancy. It is the intent of the Committee that the Secretary of HUD take appropriate steps to assist public housing agencies to achieve this cross-section of occupancy in existing public housing within a reasonable time period.

Public Housing Subsidy Structure

The subsidy structure for the public housing program would be revised so as to provide a more effective statutory framework for the new operating subsidy authorizations enacted by Congress in 1969 and 1970. The Committee bill proposes to separate the debt service and operating subsidy authorizations and to establish separate statutory limitations applicable to each category of assistance. Existing law provides for a single statutory limitation for both debt service and operating subsidy, with a maximum limit on annual contributions based on the going Federal rate plus two percent times the capital cost of the project involved. Operating subsidy is therefore available to a project only to the extent, and only in amounts, that the debt service requirements of a project are less than the statutory maximum. This means that the amount available for operating subsidy is dependent upon the financing terms for development of a project—the locality which happens to finance the development of its projects at a time when more favorable terms are available becomes eligible for the greater operating subsidy. This is undesirable from the standpoint of achieving uniformity and equity in operating subsidy treatment and could result in the distortion of financing procedures.

Under the Committee's proposal, the limitation on the maximum amount of annual contributions for debt service is the amount needed for this purpose—*i.e.*, the annual amount of principal and interest payable on obligations issued by a public housing agency to finance the project involved. Consistent with the amendments enacted in the 1970 Act, the maximum amount of annual contributions for operating subsidy would be the annual amount needed to assure the low-income character of the project and to achieve and maintain adequate operating and maintenance services and reserves. With this change, the present authorization to pay an additional annual subsidy of up to $120 per dwelling unit occupied by a special category family would no longer be required and would be eliminated.

To assure that operating subsidy funds are allocated fairly and equitably, the bill would require any locality which receives such funds to establish minimum rental requirements. Action on this matter was deferred in connection with the 1970 legislation to permit further consideration as to what the income contribution ratio should be. The Committee took into consideration the prevailing practices in the public housing program, resulting from the strong local autonomy in the establishment of rental schedules, of varying rent-to-income ratios depending on local conditions and family characteristics. Accordingly, the bill provides for a certain minimum rental income calculated not on an individual unit basis but on the basis of the total number of units under a public agency's administration. The total rentals collected for all units would be required to be at least equal to 20 percent of the total incomes of all families in these units. The particular rent for each unit could be determined by the local agency subject only to the maximum rent of one-fourth of family incomes and the minimum rent of the cost of utilities.

Under the bill, any increases in rentals would be implemented in two stages: after the legislation has been operative for one year, one-half of the total amount of the required increase would be imposed when the first biennial review of income takes place; the full rental charge would be effective as of the next review of family income.

Localities which do not receive operating subsidy funds would not be subject to this income contribution requirement and would continue to fix their own rents, subject to HUD's approval. All localities would continue to be subject to the requirement that rents may not exceed 25 percent of family income—or be less than the cost of utilities.

The *Senate Enacted Bill* has adopted most of NHC's recommendations concerning the public housing formula, including the following:

1. To separate the debt service and operating subsidy authorizations and establish separate limitations applicable to each.

2. To eliminate the present maximum limit on annual contributions based on the going Federal rate plus two percent times the capital cost of the project. Instead.

(a) the limitation on the maximum amount of annual contributions for debt service is the amount needed to pay the principal and interest on the obligations issued by a public agency to finance the project involved; and

(b) the limitation on the annual contributions for operating subsidy is the annual amount needed to achieve and maintain adequate operating and maintenance services and reserves.

3. To improve the provisions in last year's Bill—which required any locality that received operating subsidies to establish minimum rental requirements—that NHC felt were overly burdensome. This has been corrected in this year's Bill to take into account the prevailing practices in the public housing program resulting from local autonomy in the establishment of rental schedules and varying rent-to-income ratios depending on local conditions. The Senate Committee Bill now provides for a minimum rental calculation which is not based on each individual unit, but is based on the total number of units under a public agency's administration. The total rentals collected from all the units are required to be at least equal to 20 percent of the total income of all the families in those units. The local agency can determine the particular rent for each unit, subject to the requirement that there is to be a maximum rent of 25 percent of family income and a minimum rent representing the cost of the utilities. (Unless the requirement to pay the utilities cost would result in undue hardship in an area because of its unusually high utility costs.) Note: Under current law, it is possible for some families to pay nothing.

4. To provide—as to localities which do not receive operating subsidies—that they would not be subject to the income-contribution requirement described in the preceding paragraph. In such cases, the local public agencies could continue to fix their own rents subject to HUD's approval. However, these localities would continue to be subject to the requirement that rents may not exceed 25 percent of family income or be less than the cost of utilities. (Unless the requirement to pay the utilities cost would result in undue hardship in an area because of its unusually high utility costs).

NHC recommends an amendment to the *Senate Enacted Bill* which would carry out the recommendation in the Senate Committee Report:

"That in the future public assistance authorities would provide that in those cases where 25 percent of a public assistance tenant's income does not cover operating costs of a public housing unit, that payments to cover such a difference can be made by a public welfare agency directly to a local housing authority."

We believe that this matter is of such major importance that it ought to be included as part of the law, in order to induce public welfare agencies to take the necessary measure to implement the program. Accordingly, the Senate Enacted Bill should be amended specifically to provide that in those cases where 25 percent of a public assistance tenant's income does not cover operating costs, the public welfare agency will make a payment directly to the public housing agency to cover the difference between the amount paid by the tenant and the operating costs of the housing unit involved.

The *Senate Enacted Bill* did not accept NHC's recommendation that there be no increases in rental of tenants now living in public housing. Instead, it provides that in cases where a public agency receives operating subsidies and is required to meet the new income-contribution requirement (described in 3 above), the increases in rental would be implemented in two stages: one-half at the time when the first biennial review of income takes place after the passage of the new law; and the second one-half when the next review of family income takes place.

Income limits for eligibility

As under existing law, income limits for admission to public housing would be fixed by public housing agencies, subject to HUD approval. However, the proposed bill would delete the existing requirement that a public housing family must move if its income increases beyond the income limits for continued occupancy established by a public housing agency. This requirement has proved to be undesirable from the standpoint of achieving an economic mix of families in housing developments and has contributed to family insecurity and instability. * * * The new law would remove the 20 percent gap requirement which, under existing law, requires that there be a 20 percent gap between upper rental limits for admission into a project and the lowest rentals for standard private housing in this area.

This provision of the *Senate Enacted Bill* adopts NHC's recommendation and helps to contribute to NHC's objective to achieve more economic integration in public housing. This Senate Committee Bill provision adopts the NHC recommendation to eliminate the 20% gap.

Authorization

Authorizations would be increased by $300 million on July 1, 1972 and by $300 million on July 1, 1973.

The authorization for annual contributions provided for fiscal year 1973 includes an additional $150 million, as requested by the Administration, and an additional $150 million in new contract authority for operating subsidies. An annual ceiling of 335 million dollars has been set on contributions for operations of public housing agencies. Within this total figure, contributions may be provided by the Secretary of HUD to enable local public housing agencies to achieve and maintain adequate operating and maintenance services and reserve funds, while maintaining the low-income character of their development, as provided in the 1969 and 1970 Housing and Urban Development Acts. This latter authorization covers several matters. First, the "welfare rent amendment" of the 1971 Housing Emergency Act has resulted in income losses for public housing agencies of about $60 million, not anticipated in earlier authorizations. In addition, this present Act consolidates all previous contributions for operations, including special subsidies for elderly, large and very low income families, into one authorization. The new authorization of contract authority for fiscal year 1974 of $300 million is intended for new contracts for public housing.

It is recognized that the reduction of rents for families in public housing receiving public assistance to 25 percent of their incomes, as required by the 1971 Emergency Housing Act, means that additional housing subsidies will be utilized to offset inadequate welfare subsistence budgets provided in many States. There is continuing inequity in many respects relating to the way in which housing assistance relates to welfare assistance. It is the opinion of the Committee that housing subsidy should only have to be utilized to cover the capital cost of public housing development for families receiving public assistance; and that public welfare assistance should cover the operating expenses for a housing unit. Therefore, it is the hope of the Committee that in the future public assistance authorities would provide that in those cases where 25 percent of a public assistance tenant's income does not cover operating costs of a public housing unit, that payments to cover, such a difference can be made by a public welfare agency directly to a local housing authority.

These provisions of the *Senate Enacted Bill* adopt the following recommendations:

1. To increase to $335 million the annual ceiling set on contributions for operating subsidies for public housing.

2. To provide sufficient operating subsidies within this total figure to achieve and maintain adequate operating and maintenance subsidies and reserve funds, while maintaining the low rent character of public housing developments. The effect of this is to consolidate all previous contributions for operating subsidies including various special subsidies.

3. To include specific authorizations for an increase in the contract authority for annual contributions. The $300 million increase on July 1, 1972 (for fiscal 1973) includes $150 million which is intended for new contracts for public housing and $150 million for subsidies for new contracts for public housing. The new $300 million authorization for fiscal 1974 is all intended for new contracts for public housing. NHC continues to recommend that the authorization for fiscal 1973 should be $50 million more than the amount in the Senate Committee Bill and $100 million more for fiscal 1974.

Cost Limits for Public Housing Dwelling Units

The Housing and Urban Development Act of 1970 established flexible cost ceilings for public housing dwelling units, replacing the statutory dollar limits on construction costs per room. Under existing law, dwelling unit construction costs for the public housing program, excluding the cost of land, site improvements, and nondwelling facilities, cannot exceed by more than 10 percent the appropriate prototype construction cost in the same housing cost area, as determined by the Secretary, taking several factors into account. These procedures have worked well and the Committee has retained them.

Where low-income housing is provided in private accommodations under the leasing program, certain changes are necessary to make this program workable in some areas of the country. The Senate Enacted Bill contains the provision that such accommodations must not cost more than housing projects assisted under other public housing programs. In some areas the allowable costs are too low when determined on the basis of 110 percent of prototype construction costs plus the amount HUD allows for land, site improvements and non-dwelling facilities. Yet, in those same areas, the costs would be adequate if computed under the prototype formula applicable to assisted private housing under Section 502. In such cases, NHC recommends that new public housing provided in private accommodations should be permitted at costs comparable to those for assisted private housing.

It should be noted that the public housing limitation differs from the prototype mortgage limit applicable to assisted private housing because that formula is based upon 120% of prototype costs but it includes land, site improvements and nondwelling facilities. These are excluded from the public housing formula which is based on 110% of the prototype for only the construction costs.

Homeownership for Low-Income Families

The proposed public housing homeownership program would permit public housing tenants and low-income families eligible for public housing, including cooperative or nonprofit associations formed by or for the benefit of such tenants or families, to purchase low-income housing. With the aid of this new program, an individual family would be able to own its own home or a dwelling unit within a multifamily structure. An eligible cooperative or nonprofit entity could own entire projects. Newly developed or acquired housing, as well as existing authority-owned or leased housing now operated as rental units could be purchased. This would replace the program authorized by the Congress in 1965 under section 15(9) of the U.S. Housing Act which has not been workable because the required monthly payments are beyond the financial means of families of low income—in order to purchase public housing units the purchaser's payment must be sufficient to cover principal and interest, in addition to utilities, taxes, insurance, and maintenance.

The proposed homeownership legislation would provide subsidy assistance up to the full amount of the principal and interest payable by the local housing agency on the debt it has incurred in constructing or acquiring the property. The purchasing family would be required to contribute 20 percent of its income to "monthly homeownership expenses" (monthly amounts for principal and interest, insurance, taxes, and utilities), but in no case could the purchaser's income contribution be less than the full cost of operating the unit—the cost of insurance, taxes, and utilities. The program provides for the conveyance of the property as soon as the low-income family undertakes the obligation to purchase the property by executing a mortgage to the local housing authority. Thus, the family would enjoy all the benefits of homeownership immediately.

The potential for a successful public housing ownership program has been demonstrated under several homebuyers' programs developed through administrative action—such as Turnkey III. These programs have served and will continue to serve a valuable function for families which do not have sufficient income to bear the minimum homeownership expenses required under the proposed new program. The proposed new program would facilitate the objectives of these homebuyer programs by permitting the low-income family to acquire full homeownership status at a much earlier date.

The Committee recognizes that the provision providing that full real estate taxes be paid in public housing could adversely affect the ability of some low income families to become home purchasers under the Turnkey III program. It is the intent of the Committee that the Secretary use his resources to insure that no families previously eligible to participate in this program will be denied such participation because of the new full tax payment requirement.

* * * * *

Section 10 provides that in the case of sale of a project to a nonprofit cooperative which restricts occupancy to members, the mortgage may be in a principal amount equal to the sum of the unpaid balance of the housing agency's outstanding obligations, including obligations pursuant to the modernization program, and the prepaid expenses and costs involved in achieving cooperative ownership. After the sale of the project the annual contributions paid to the housing agency would continue to be used to assist in maintaining the low-income character of the project.

The *Senate Enacted Bill* adopts the NHC recommendations concerning the achievement of homeownership on public housing including cooperative ownership.

Definition of "elderly family"

The definition of "elderly family" would be modified to make eligible for public housing a single person who is at least 50 years of age. Under existing law, such persons must be at least 62 years of age to be eligible for public housing. * * * "Elderly families" means those whose heads or their spouses or whose sole members are at least 50 years of age, under a disability or handicapped."

NHC supports the foregoing amendments in the *Senate Enacted Bill.*

Financing provisions

Several amendments are proposed to facilitate the financing of project capital costs by permitting local housing agencies to issue obligations which are more acceptable to private investors. To permit bond issues with flexible maturity schedules, the bill would delete the present requirement that annual contributions be fixed in uniform amounts and paid over a fixed period of years. The bill would also provide for the issuance of obligations with balloon payments at the end of the term, by authorizing a combined pledge of both the Federal annual contributions and loan commitments. The National Bank Act would be amended so as to permit investment in such obligations.

NHC supports the foregoing amendments in the *Senate Enacted Bill.*

Full Property Taxes

The bill would provide for full tax payments to local communities for public housing projects placed under annual contribution contract after the effective date of this Act, providing uniformity in this respect between public housing and other federally-assisted housing programs. Such full tax payments also reflect the increased burden on local community services related to assisted housing, particularly the costs related to schools. A major purpose of the full tax provision to make it possible for new public housing to have access to a broader range of site locations, by assuring that a locality accepting such housing will not suffer a tax disadvantage. The section also authorizes the gradual increase in tax payments with respect to existing public housing projects, so that full tax payments will be achieved at the end of a 20 year period.

Recent changes involving reductions in tax payments to localities since such payments are based on 10 percent of shelter rents in public housing. This section is also designed to correct these inequities in current tax payments by public housing.

The foregoing provisions in the *Senate Enacted Bill* adopt the NHC recomendation for the payment of the equivalent of full taxes for public housing propects placed under annual contribution contract after the effective date of the new law. This will eliminate a discrimination that has existed against conventional public housing as compared with other Federally-assisted housing programs. As to existing public housing projects, the *Senate Enacted Bill* would authorize a gradual increase in tax payments so that the equivalent of full taxes will be achieved at the end of a twenty year period.

Leased Housing

The existing law requires that at least 30% of funds for public housing be reserved for leased units.

Between 1969 and the date when this provision became effective (June 30, 1971), the number of leased housing units placed under annual contributions contracts became a smaller and smaller percentage of the total number of units placed under these contracts. In 1969, this percentage was 36.8%; in 1970, 13.3%; in the first half of 1971, 11.4%. The percentage has been approximately 40% since the requirement became effective; nevertheless, the demand for leased housing still greatly exceeds the supply.

The Committee finds that leased housing has distinct advantages over the large public housing complex. With leased housing, the units remain on the tax rolls and pay their proper share for the support of schools and community services. Most importantly, leased housing eliminates the social and psychological stigma of coming from the "project". Leased housing is generally dispersed throughout the community. The children are not known as residents of public housing and the economic and social differences are less obvious to the public.

The 30% requirement has been changed to apply to units rather than annual contributions to ease the burden of administering the requirement.

With respect to new construction under the leased housing program, authorized in the 1970 Act, the Committee has received alarming reports of shoddy construction and exorbitant profits. The Committee expects HUD to immediately institute tighter inspection and appraisal procedures.

NHC supports the foregoing provisions in the *Senate Enacted Bill.* They adopt the NHC recommendation to modify the 30% requirement so that it does not apply to the total annual contribution funds available for public housing—which includes the operating subsidies. Instead, the requirement has been clarified so it will apply only to the number of public housing units.

Training in Housing Management

The Committee strongly supports the initiation of housing management programs designed to provide training in managerial techniques and to promote social responsiveness on the part of housing management staffs to the values of tenants of both public housing and Federally-assisted housing projects. In this connection, the Committee wishes to commend the recent actions on the part of the Secretary of HUD to encourage basic improvement in public housing management operations, including steps to develop a comprehensive public housing system which would provide increased tenant services.

The Committee is also aware of a recommendation presently under consideration by the Secretary of HUD to establish a Center for Housing Management with an Institute for Housing Management Training as a key component. The Committee endorses this type of approach as one potential method for meeting the national need for well-trained management personnel in assisted housing programs and encourages the development and implementation of training programs on a nationwide basis.

NHC supports the foregoing provisions in the *Senate Enacted Bill.*

Child-Care Facilities

Existing law provides Federal subsidy assistance for the provision and maintenance of child-care facilities in connection with the development and operation of low-rent public housing.

The Committee is concerned that child-care facilities have not been provided on a wider scale, and thus urges that HUD give immediate increased emphasis to such services. In this regard it is further recommended that the Secretary of HUD align his efforts with those of the Director of the Office of Economic Opportunity, the Secretary of HEW, and the Secretary of Labor to insure coordination within the Federal government in providing for adequate child-care programs and facilities.

This provision of the *Senate Enacted Bill* helps to carry out the NHC recommendation that adequate tenant and social services be included in public housing projects.

B. Other NHC recommendations

Repeal of Local Approval Requirement in Leasing Program. NHC recommends that the proposed Public Housing Program under Section 8 be amended to delete the requirement of local approval of each leasing project. This housing is located in private accommodations and pays full taxes. It should not be treated differently from other assisted housing programs.

The *Senate Enacted Bill* would not provide for a repeal of the local approval requirements for the leasing program.

Full Utilization of the Brooke Amendment. The Brooke Amendment in the housing and Urban Development Act of 1969 provides that the rent in public housing projects may not exceed 25% of the family's income; also, it authorizes additional assistance payments through annual contributions in order to achieve this objective and serve persons of very low income. To fully implement and extend the purposes of this legislation, the 1970 Housing Act (a) clarifies the use of annual contributions to pay the excess of operating and maintenance expenses over rental income and (b) increases the contract authority for annual contributions to enable the Brooke Amendment to be fully effectuated. We urge the release and full use of this contract authority for the purposes intended.

V. Provisions on urban renewal in Senate enacted bill and NHC recommendations on them

The Senate Committee Report Explains the Provisions on Urban Renewal:

Urban Renewal

The bill would amend Title I of the Housing Act of 1949 in order to assist certain small communities whose population has declined during the past decade in carrying out renewal projects. This section would specifically permit a small number of cities whose population has declined to below 50,000 (according to the most recent Bureau of Census date), after signing contracts to carry out urban renewal activities under a two-thirds federal—one-third local share arrangement, to convert remaining projects at any time prior to payment of the final grant, to a three-fourths federal—one-fourth local share program, as presently communities of under 50,000 by section 103 of the Housing Act of 1919. In adopting this provision the Committee recommends that such conversion only be permitted when there has been a significant—at least five percent—decline in population.

The bill would amend Section 103(b) of the Housing Act of 1949 to increase authorization for Urban Renewal Programs by $950 million for FY 1973 and by $300 million in FY 1974. In approving these additional authorizations the Committee took note of the fact that the Community Development Program provided for under this bill would replace the urban renewal program beginning in FY 1974. Urban renewal projects already in execution would be continued until completed. The Committee specifically provided for increased authorization under Title I in order to permit completion of projects already in execution through amendments to the existing contracts.

The Senate Enacted Bill provides specific increases in authorization for Urban Renewal of $650 million on July 1, 1972 (for fiscal 1973) and $300 million on July 1, 1973 (for fiscal 1974). These reduced amounts for urban Renewal authorizations are intended to cover the transitional period since there is a separate authorization for the Community Development Assistance Program prior to July 1, 1974 (for fiscal 1974) into which the Urban Renewal Program would be merged. It would be noted that the President has requested a billion dollar appropriation for Urban Renweal for fiscal 1973. NHC recommends an authorization of $3.5 billion in Urban Renewal Grants for fiscal 1973 in order to overcome the backlog of unfunded Urban Renewal applications and to restore momentum to this critically needed Urban Program.

VI. Provisions on model cities and NHC recommendations

The Senate Committee Report explains the provisions on Model Cities as follows:

Model Cities Program

The bill would amend the model cities statute so as to delete an unnecessary provision which places a special limitation on the amount of grants which may be made to a city demonstration agency. Under this provision the grant made for approved model cities activities is subject to an additional ceiling based on the aggregate amount of non-Federal contributions required for Federally assisted projects carried out as part of the local model cities program. The original purpose of this provision, to provide an incentive to cities to concentrate Federal resources in selected neighborhoods of great need, is accomplished under basic policies applicable to the model cities program. The special limitation serves no useful purpose and its deletion would eliminate burdensome administrative requirements at the Federal and local levels.

The bill would also provide an additional authorization of $400 million for model cities grants for fiscal year 1974 in order to complete the current five-year programs.

NHC supports this provision of the *Senate Enacted Bill*. We are gratified that the adoption of the Community Development Assistance Program will not cause any interruption in the completion of the current five-year programs for Model Cities. NHC continues to recommend a $1.5 Billion additional authorization for Model Cities instead of the lower amount contained in the Senate Committee Bill.

With respect to the Community Development Assistance Act Bill, the Report states that "The Model Cities Program was not included in the consolidation because it was enacted as a five year demonstration which has not yet been completed."

VIII. Program levels

Instead of the provisions of the Administration's Bill of open authorizations for all housing, urban renewal and model city programs, we recommend an additional authorization for each program for a five year period at the following levels:

(a) *Public Housing Program:*

On July 1, 1972 (for fiscal 1973) an additional authorization of $350 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $400 million.

On July 1, 1974 (for fiscal 1975) an additional authorization of $450 million.

On July 1, 1975 (for fiscal 1976) an additional authorization of $500 million.

On July 1, 1976 (for fiscal 1977) an additional authorization of $500 million.

Unlike the Administration's Bill, the *Senate Enacted Bill* provides the following specific increases in authorizations for the public housing program:

On July 1, 1972 (for fiscal 1973) an additional authorization of $300,000,000. Note: An unused authorization of $130,000,000 of annual contribution contract authority which will carry over from previous fiscal years will be available.

On July 1, 1973 (for fiscal 1974) an additional authorization of $300,000,000.

There are no additional authorizations for fiscal 1975, 1976, and 1977.

(b) *Public Housing Program Set-Asides For Modernization and For Operating Subsidies:* For annual contributions for improvements in existing projects, an increase in the set-aside of contract authorization to an aggregate of not more than $100 Million.

For annual contributions for operating subsidies in existing projects, an increase in the set-aside of contract authorization to an aggregate of not more than $335 Million.

These are set-aside authorizations out of the total contract authorization for annual contributions for public housing.

The *Senate Committee Bill* adopted the foregoing recommendations concerning the aggregate amounts of contract authorization which would be available for moderization and operating subsidies respectively.

(c) *Urban Renewal:*

On July 1, 1972 (for fiscal 1973) an additional authorization of $3.25 billion.

On July 1, 1973 (for fiscal 1974) an additional authorization of $3.5 billion.

On July 1, 1974 (for fiscal 1975) an additional authorization of $4.0 billion.

On July 1, 1975 (for fiscal 1976) an additional authorization of $4.5 billion.

On July 1, 1976 (for fiscal 1977) an additional authorization of $4.5 billion.

Unlike the Administration's Bill, the *Senate Enacted Bill* provides the following specific increases in authorizations for Urban Renewal:

On July 1, 1972 (for fiscal 1973) an additional authorization of $650 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $650 million.

These reduced amounts for the Urban Renewal authorization are intended to cover the transitional period since there is a separate authorization for the Community Development Assistance Program prior to July 1, 1974 (for fiscal 1974) into which the Urban Renewal Program would be merged. Note: The President has requested $1 Billion for Urban Renewal for fiscal 1973.

(d) *Model Cities:*

On July 1, 1972 (for fiscal 1973) on additional authorization of $1.5 billion.

On July 1, 1973 (for fiscal 1974) an additional authorization of $1.5 billion.

On July 1, 1974 (for fiscal 1975) an additional authorization of $1.5 billion.

On July 1, 1975 (for fiscal 1976) an additional authorization of $1.7 billion.

On July 1, 1976 (for fiscal 1977) an additional authorization of $1.7 billion.

Unlike the Administration's Bill, the *Senate Enacted Bill* provides the following specific increase in authorization for Model Cities:

On July 1, 1973 (for fiscal 1974) an additional authorization of $400 Million.

There is no additional authorization for Model Cities on July 1, 1972 (for fiscal 1973), but the President's Budget Message requested an appropriation of $515 Million for fiscal 1973.

(e) *Home Ownership Program Under Section 402:*

On July 1, 1972 (for fiscal 1973) an additional authorization of $250 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $300 million.

On July 1, 1974 (for fiscal 1975) an additional authorization of $325 million.

On July 1, 1975 (for fiscal 1976) an additional authorization of $350 million.

On July 1, 1976 (for fiscal 1977) an additional authorization of $350 million.

Unlike the Administration's Bill, the *Senate Enacted Bill* provides the following specific increases in authorizations for the home ownership program under Section 402:

On July 1, 1972 (for fiscal 1973) an additional authorization of $115,000,000. Note: There is an unused authorization of $55 Million of contract authority which will carry over from previous fiscal years.

On July 1, 1973 (for fiscal 1974) an additional authorization of $170,000,000. There are no additional authorizations for fiscal 1975, 1976, 1977.

(f) *Rental and Cooperative Housing Program Under Section 502:*

On July 1, 1972 (for fiscal 1973) an additional authorization of $350 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $400 million.

On July 1, 1974 (for fiscal 1975) an additional authorization of $450 million.

On July 1, 1975 (for fiscal 1976) an additional authorization of $500 million.

On July 1, 1976 (for fiscal 1977) an additional authorization of $500 million.

Unlike the Administration's Bill, the *Senate Enacted Bill* provides the following specific increases in authorizations for the rental and cooperative housing program under Section 502:

On July 1, 1972 (for fiscal 1973) an additional authorization of $225,000,000. Note: There are unused authorizations of contract authority of $98 Million for rent supplements and $25 Million for interest assistance under Section 236. These will carry over from previous fiscal years.

On July 1, 1973 (for fiscal 1974) an additional authorization of $300,000,000.

(f) *Interest Assistance For Projects Assisted By State Agencies:* In addition to the foregoing authorizations in (e) and (f), NHC recommends a separate and additional authorization of $50 million for each of the five fiscal years beginning with 1972 to provide interest assistance for projects financed or assisted by state agencies. The *Senate Enacted Bill* does not adopt this NHC recommendation.

VIII. Program objectives and conclusion

(a) *Program Objectives:* The program recommended in these resolutions would make housing available to families of all incomes and achieve economic integration. There would be no gaps or areas of unmet needs in our housing programs. Each family whose income is too low to obtain decent housing would receive the amount of assistance it needs to get such housing. We must reach the unserved income group below the level now eligible for public housing or rent supplements. Likewise, we must avoid a gap or area of unmet need above the level not eligible for moderate income private housing assisted with federal interest subsidies or below-market interest rates. To achieve these objectives we urge the adoption of the foregoing amendments.

(b) *Conclusion:* NHC supports and urges enactment of the *Senate Enacted Bill* which embodies programs that will greatly assist in meeting the housing and urban needs of the country. Among its major new features is a program to help achieve economic integration in Federally-assisted housing developments. The Senate Committee Bill includes many necessary amendments to the Administration's Bill in consolidating, simplifying and improving laws relative to housing and housing assistance.

NHC is gratified that the Senate Committee Bill includes many of the legislative proposals recommended by us. We appreciate the support of the Administration on a number of these amendments. These include some of the major amendments which this chapter describes as necessary to remove undesirable features and otherwise improve the Administration's Bill. In this chapter we have identified the extent to which these matters have been included in the Senate Committee Bill.

To the extent that the Senate Committee Bill does not contain all of our legislative proposals, we continue to recommend our proposals for inclusion in that Bill so that it will fully conform to our recommendations. Moreover, we recommend all of our legislative proposals to the House Banking & Currency Committee and its Housing Subcommittee and to the Congress and the Administration.

CHAPTER F. ADMINISTRATION'S PROPOSED DEPARTMENT OF COMMUNITY DEVELOPMENT AND PROPOSED REVENUE-SHARING PROGRAMS—OTHER PENDING BILLS

1. *New Department of Community Development:* In his State of the Union Message, the President proposed "a sweeping reorganization of the Executive Branch" which included a proposed Department of Community Development, described as:

"A department concerned with the community—rural communities and urban—and with all that it takes to make a community function as a community."

In the past, we have always supported the consolidation within one department of all the functions that relate to housing, urban development, model cities, new communities, planning, and other programs relating to communities.

The Department of Community Development (DCD) proposed by H.R. 6962 would consist of existing HUD programs and would also draw major programs from the Agriculture, Commerce and Transportation Departments and several agencies. Included in the proposed DCD would be all programs of HUD (except for college housing); Department of Transportation programs for highway construction and mass transit, and safety grant programs dealing with highway design and construction; Department of Agriculture programs of rural electrification, public facilities and housing (including Farmers Home Administration); programs of the Department of Commerce Economic Development Administration for financial and planning assistance for public works and development facilities (except business development) and that Department's Regional Action Planning Commisison; and the Office of Economic Opportunity programs of Community Action and "special impact."

Secretary Romney, in his testimony before the House Subcommittee stated:

"A single Federal department would thus administer the major Federal programs of assistance for the physical and institutional development of our communities. That is, a single Federal department would administer assistance for the planning and building of houses and supporting public facilities and highways; for strengthening State and local governmental processes; and for involving all interested public and private organizations and citizens in this endeavor.

"By bringing together programs concerned with community development, the new Department would move beyond fragmented Federal program administration. Equally important, it could move toward a community-oriented approach to problems. For the first time, there would be a Federal department having the ability to respond—in a coordinated manner—to local comprehensive community improvement programs. This means participation in articulating goals, setting priorities, and devising the best ways and means of improving not only the physical but also the economic and social environment of all our communities from the smallest village to the largest metropolis."

DCD would have three major general purpose administrations:

First, the Urban and Rural Development Administration would have the programs designed to assist the physical and institutional development of urban and rural communities, including the present HUD programs relating to new communities and community planning. This Administration would also include the Community Action and "special impact" programs of OEO; HUD's Urban Renewal, Model Cities, Open Space and Neighborhood Facilities Programs; the Water and Sewer programs of HUD, the Farmer's Home Administration and Economic Development Administration; the Public Facilities Programs of EDA and the Economic Rural Commissions and the Rural Electrification Program of the Department of Agriculture.

Second, the Community Transportation Administration would be built around Federal Highway Administration and the Urban Mass Transportation Administration.

Third, the Housing Administration would be built around housing production and management functions now in HUD and the rural housing programs of the Farmers Home Administration.

The new Department would also include the Federal Insurance Administration as it now exists in HUD.

Recommendations: NHC supports the proposed new Department of Community Development subject to the following changes and amendments in the proposal as submitted:

(a) We oppose the transfer to the new Department of the Rural Electrification Program, and the Farmer's Home and other rural housing programs.

(b) We oppose the transfer away from the new Department of the college housing programs.

2. *General Revenue Sharing:* NHC recommends against any use of the new General Revenue Sharing Plan to reduce Federal grant funds which are urgently needed—and should be increased—for existing programs including: urban renewal; model cities; mass transportation; water and sewer facilities; new communities; neighborhood facilities; open space; urban parks and urban beautification; health; education; training; or other vital needs. In short, the General Revenue Sharing Plan should represent *additional* funds and there should be necessary increases and full funding for all existing Federal grant programs to meet housing and urban needs.

As stated by the President in the State of the Union Message, his proposals include "a plan of revenue sharing historic in scope and bold in concept." Under this proposal the Congress would:

" . . . make a $16 billion investment in renewing state and local government. $5 billion of this will be in new and unrestricted funds, to be used as the state and localities see fit."

NHC favors the President's proposal for a $5 billion initial appropriation for the General Revenue Sharing Plan in order to meet the urgent needs of States and cities, many of which are facing financial crises. As to the Federal Government's assuming additional burdens and costs of the welfare system, we believe that this is a matter that should be separately considered on its own merits.

Under the proposed General Revenue Sharing, there will be increases in later years in the annual appropriation for the Program. With respect to annual increments above $5 billion for General Revenue Sharing, NHC recommends a formula in distributing these additional funds which would encourage and reward state and local governments that meet the national objectives of providing housing for the low and moderate income groups. Thus, if the local government issued certificates of occupancy for such housing funded by any federal, state or local subsidy program, that government should be entitled to an additional distribution under the General Revenue Sharing Plan as to the annual appropriation in excess of $5 billion. This will in no way restrict the use of the funds by the States and localities, but will merely affect the amount they will receive under the distribution formula.

3. *Special Revenue Sharing*—Community Development Assistance Bill, Chapter III, S. 3248 Introduced By Senator Sparkman And Passed by the Senate on March 2, 1972.

(a) *President's Recommendations.* In the State of the Union Message, the President proposed that Congress make a $5 billion annual investment in general revenue sharing as part of a total $16 billion investment in renewing state and local government. He then stated:

"The other $11 billion will be provided by allocating $1 billion of new funds and converting one-third of the money going to the present narrow-purpose aid programs into federal revenue sharing funds for six broad purposes—urban development, rural development, education, transportation, job training and law enforcement—but with the states and localities making their own local decisions on how it should be spent within each category. . . . The revenue sharing proposals will include the safeguards against discrimination that accompany all other federal funds allocated to the States."

In his Special Message to the Congress on March 5, the President recommended his Special Revenue Sharing proposal for Urban Community Development. We quote from his message some of the main features of the program:

"I recommend that four categorical grant programs now administered by the Department of Housing and Urban Development be consolidated into a single fund. The size of this fund in the first full year of operation would be $2 billion. Cities would be able to spend their money as they see fit, provided only that they used it for community development purposes.

"The four elements which would be combined to form this new fund would be the current programs for urban renewal, Model Cities, water and sewer grants, and loans for the rehabilitation of existing structures. The urban renewal program now contains several sub-categories the funds of which will become part of the new fund, including so-called "conventional" urban renewal, the Neighborhood Development Program, assistance for concentrated local code enforcement, interim assistance for blighted neighborhoods, demolition grants and rehabilitation grants. I am proposing that this new program begin or January 1, 1972. In its second year of operation, I would add to this fund by including the money which the Office of Economic Opportunity now spends on some of the elements of its Community Action Programs."

(b) *NHC's Recommendation on Special Revenue Sharing Plan and Support of The Community Development Assistance Bill of 1972 (Chapter III of the Senate Enacted Bill).* NHC believes that Federal grants should provide incentives to promote national programs and objectives relating to housing and community development. The adoption of the model cities program by almost 150 cities was largely attributable to the Federal program of planning grants and supplemental grants for model cities. Likewise, the participation of over 1,200 cities in the urban renewal program is largely attributable to the Federal program of planning grants and program grants for urban renewal.

We do not recommend the Administration's Special Revenue Plan in the form proposed in H.R. 8853, Community Development Bill of 1971. We believe the Administration's Community Development Bill fails to provide adequate incentives which assure the achievement of national goals and programs contemplated by the purposes of the categorical grants which would be consolidated. In contrast, these incentives and objectives are assured under the Community Development Assistance Bill of 1972—Chapter III of the Senate Enacted Bill, S. 3248 introduced by Senator Sparkman and passed by the Senate on March 2, 1972. The *Senate Enacted Bill* requires that the application for Federal assistance include a summary plan for community development outlining major goals and particular objectives. Moreover, that Bill requires an accounting of how the Federal funds are spent and a yearly performance statement, all of which will assure accomplishment of the national goals and programs covered by the Community Development Assistance. Accordingly, we support Chapter III of the Senate Committee Bill which embodies a special revenue plan of the type which NHC has previously recommended. Chapter III of the Senate Enacted Bill is entitled the Community Development Assistance Act of 1972. As such, the Bill primarily embraces Senator Sparkman's earlier Community Development Bill, S. 2333, as modified by the Committee. The Bill also includes certain provisions of the Administration's Community Development Bill.

(c) Senate Committee's Central Explanation of Chapter III, Relating to Community Development Assistance: The Senate Committee Report gives the following general explanation of the provisions of the Senate Bill relating to Community Development Assistance:

The most significant feature of the bill is the new block grant program to provide Federal assistance to localities for community development. This is brought about by consolidating and simplifying 5 major categorical urban development grant programs and replacing them with a single, more comprehensive, flexible and soundly-financed community development block grant program. The new program finally approved by the committee is basically the product of S. 2333, the Community Development Assistance Act of 1971 introduced by Senator Sparkman and the Administration's Urban Community Development Special Revenue Sharing bill, S. 1618. The committee adopted the block grant approach primarily to insure the priority use of Federal funds to eliminate slums and blight and to upgrade and make the nation's cities more livable, attractive and viable places in which to live. One of the most important provisions of the committee bill is the development of a 2-year Federal funding cycle at an assured and adequate level so that localities are always working with a known level of Federal grants for the next year as well as the current year subject only to meeting of minimum Federal performance standards.

In approving alternative provisions to the Administration-supported special revenue sharing proposals, the committee followed the Administration's plan calling for an overhaul and consolidation of existing urban renewal and related programs, but disagreed with the proposed plan for distributing Federal funds automatically to the nation's cities without proper regard to the use of such funds in carrying out the purpose of the program. The committee bill outlines specific objectives of the program and contains procedures to insure that the Federal funds are used to meet these objectives to the maximum extent feasible. This is done through four requirements.

(1) a pre-application needs analysis; (2) an application outlining the proposed use of funds, including a strategy and commitment on the part of the locality to meet its housing needs to eliminate its slums and blight, and to meet social needs of residents affected by community development activities; (3) a certification that the locality has met certain requirements with respect to planning and community participation; and (4) an annual performance statement. Continued federal funding would be contingent upon satisfactory compliance of these requirements.

The only exception to the application process would be for smaller cities of under 25,000 population which would be applying for Federal assistance for a single activity, other than an urban renewal activity, such as the financing of water and sewer facilities or open spaces. The committee believes such an exception should be used sparingly, on an interim basis. Eventually all localities requesting Federal funds for significant local development should be required to fulfill certain minimum standards relative to providing decent housing and eliminating slums and blight.

The Senate Committee Report explains the programs consolidated in the Community Development Assistance Act, as follows: "To carry out the purposes of the Act, the Bill would consolidate the following existing development program into a single community development program: Urban Renewal, Neighborhood Development, Water and Sewer, Neighborhood Facilities, Open Space, Public Works Planning Advances, Public Facility Loans and Advanced Land Acquisition.

"The Model Cities Program was not included in the consolidation because it was enacted as a five year demonstration which has not yet been completed. The Section 312 Rehabilitation Program was not included because it appeared likely that a number of communities might be prohibited by State and local laws from undertaking rehabilitation efforts under the Act. The Bill would, however, link the Community Development and existing rehabilitation loan program."

(d) *Summary of Senate Bill on Community Development Assistance and NHC Recommendations:* A summary of the provisions of the Senate Development Assistance Bill and NHC recommendations on them is as follows:

(A) *Effective Date of Program.* While Chapter III of the Senate Committee Bill would take effect on the date of its enactment, it does not contemplate that funds would be available until prior to July 1, 1974. Thus, the first $2.7 billion of grant authorization is to be appropriated for the period prior to July 1, 1974, which evidently contemplates its commitment during fiscal 1974. Accordingly, the Bill provides that no new grants or loans under the categorical programs (which are being consolidated under Community Development Assistance) are to be made after June 30, 1973, except with respect to projects or programs for which funds have been committed on or before that date.

(B) *Block Grants.* The purpose of Chapter III is to attack urban problems by "improving the present system of Federal assistance for community development." Chapter III encourages physical development and preservation of urban communities by consolidating the following categorical grant programs under one block grant called Community Development Assistance: development of community facilities including land acquisition; water and sewer grants; and neighborhood facilities; urban renewal; public facilities loans; open space land grants; and public works planning advances and loans. Provision is made for transitional termination of the existing categorical grant programs.

(C) *Authorization.* The Senate Committee Bill authorizes $5.9 billion over a two-year period. This is a change from S. 2333 which authorized $8.8 billion over a three-year period. Under the Senate Committee Bill, $2.7 billion is authorized to be appropriated prior to July 1, 1974, and the balance of the $5.9 billion prior to July 1, 1975.

Although the authorizations in the Senate Enacted Bill are less than the amounts which NHC recommends, they are more adequate than the amounts proposed under the Administration's program. While the Administration's Community Development Bill contains no specific dollar authorization, last year President Nixon pledged $2.1 billion for the first full year of the program. In his Budget for fiscal year 1973 (commencing July 1, 1972) the President has now requested more funding—in the amount of $2.3 billion—for urban community development revenue sharing. In HUD's Table 3 explaining this request, HUD shows a supplemental appropriation of $490 million for this special revenue sharing under proposed legislation above the amounts of funding contemplated for the categorical programs under existing legislation.

NHC recommends that these authorizations be increased by a total of $3 billion for the two years, with $1.5 billion added for the first year and a like amount added for the second year.

In addition to our recommendations above concerning authorizations for the proposed community development assistance program, NHC recommends an additional authorization of $3.25 billion in urban renewal grants in order to overcome the backlog of unfunded urban renewal grants in order to overcome the backlog of unfunded urban renewal applications and to restore momentum to this critically needed urban program.

(D) *Water and Sewer Grant Program.* NHC questions the feasibility of incorporating the entire water and sewer grant program within the community development program although NHC is in agreement that such facilities should represent eligible expenditures of grant funds for communities participating fully in the over-all program. However, the constituency for this popular and urgently needed program is so much boarder and contains so many governmental units which would be unlikely to participate fully in community development that NHC is fearful that the demands for water and sewer grants from such sources would seriously dilute the availability of community development grants for localities participating fully in the program. NHC therefore recommends that a separate water and sewer grant fund be maintained for use by local governmental units not wishing to undertake full community development programs. For this purpose, we recommend that an additional $500 million (above the amount in the Senate Enacted Bill) be authorized for each of the periods prior to July 1, 1974 and 1975 to provide a separate water and sewer grant fund for those applicants who do not wish to undertake the full community development programs. In this connection, we note that the Senate Enacted Bill authorizes the Secretary to waive the requirements for the full application process (which would otherwise be applicable to those seeking full community development assistance) in the case of localities which are (i) outside the standard metropolitan statistical area and have a population of less than 25,000 or (ii) those inside such an area but which are outside an "urbanized area" surrounding a central city with a population up to 50,000. Such a waiver is permitted only with respect to the first application filed by any public agency.

(E) *Allocation.* NHC does not concur in the Administration's proposed "outlay total" as the appropriate yardstick to measure the Federal Government's assistance to community development. Such outlays record the amounts paid on commitments during the previous and current fiscal years. We believe the outlays for these years were below the level which should be used as a test for allocations. Instead, we prefer the provisions of the *Senate Enacted Bill* which establish a "basic grant entitlement" for each community. This is to take into account not only past program-experience over a five-year period, but also other factors such as population, extent of housing, overcrowding and poverty.

Under the *Senate Enacted Bill* at least 75 percent of available funds shall be reserved for metropolitan areas. Allocation to an individual metropolitan area shall be determined by the ratio between that metropolitan area and all metropolitan areas in respect to the following: population, extent of housing overcrowding, poverty (weighted double), and extent of "program-experience", i.e., loans, advances, and grants for the programs in question during the five years prior to enactment. From the funds allocated to a metropolitan area, amounts shall be allocated to each metropolitan city, proportionately, on the basis of the above factors. The "program-experience" amount for each metropolitan city is the sum of the average, during the five years preceding the date of enactment, of loans, grants, and advances in these fields. An adjustment is provided where a metropolitan city would otherwise be entitled in its first year to more than 135 percent of the "program-experience" amount.

The remainder of the allocation for each metropolitan area shall be allocated to community development agencies based on such factors as population, extent of poverty, extent of overcrowding, and extent of program-experience. Any unit of local government which is not a metropolitan city will be eligible for annual grants equal to the program-experience amount for that locality, if any urban renewal program was carried out in the five years prior to enactment.

The foregoing allocation provisions differ substantially from Senator Sparkman's earlier Community Assistance Bill, S. 2333. That Bill provided a basic grant entitlement for each locality which was determined by the three years—during the five-year period preceding the date of application—in which the amount of such assistance was the greatest. Also omitted is the provision in S. 2333 for a built-in 15 percent increase annually for grant entitlement to community development agencies.

NHC recommends an amendment to the basic grant entitlement formula to meet the needs of new communities who will not have received many grants in the past and do not have much population or otherwise meet the criteria in S. 3248. Accordingly, an amount computed on its grant program experience or other criteria in S. 3248 would not be appropriate. Such new communities require a formula which takes into account future needs based upon the new population they will attract and all of the public facilities and services they will require

(F) *Grants.* Grants to community development agencies shall not exceed 90 percent of total net program cost. The limit is increased to 100 percent to cover housing relocation payments (not to exceed $25,000 for any displaced person) and for rehabilitation grants (a grant of not more than $4,000 to a low-income family). NHC supports these increases in the percentages of project costs to be covered by Federal grants.

The 10 percent local share could continue to be met by non-cash credits. However, the criteria for these non-cash credits are more stringent than currently permitted under existing practices in the Urban Renewal Program. NHC recommends that the 10 percent local share should allow non-cash credits of the same types and in the same manner as is now allowed under existing rules and practices in the urban renewal program.

(G) *Relocation Payments.* NHC strongly supports the provision in the Senate Bill for 100 percent Federal grants for relocation payments. This is particularly necessary because there is a serious problem arising under the Uniform Relocation Act as a result of legislation which imposes a requirement of a local contribution of one-third toward the relocation payments. This provision is completely unworkable so far as Urban Renewal Agencies and others involved in housing and redevelopment activities are concerned. There has been an Administration ruling that these provisions will not apply to Urban Renewal contracts executed before January 1, 1971. However, it is important to remove this requirement in the new legislation.

(H) *Loans.* The Secretary may make loans to community development agencies to provide short-term financing for planning and operating activities pending the receipt of grant assistance. Loans will be secured and will bear interest at not less than the going federal rate. To obtain loans, the Secretary may issue notes for purchase by the Secretary of the Treasury in the amount of $1.5 billion. The terms of the notes shall be prescribed by the Secretary of HUD with the approval of the Secretary of the Treasury. The Secretary of the Treasury is "authorized and directed" to purchase such notes.

(I) *Procedure.* Each annual application for financial assistance by a community development agency must include an outline of community development needs and objectives, and also programs for the next three-year period to meet housing and replacement needs, to eliminate slums and blight and to improve and upgrade community services and facilities. The application must also describe activities for the next two-year period designed to meet community development objectives and their estimated costs, the general location, and requirements for federally assisted housing and rehabilitation. The applicant must certify that the community development program is consistent with area-wide development plans, that public hearings will be afforded prior to acquisition of private land, and that adequate opportunity has been afforded for citizen participation and meaningful involvement of area residents.

The Secretary must make his determination with respect to any application within 90 days. No application shall be approved unless the Secretary finds that the community has carried out its contractual commitments pursuant to any previous application.

(J) *Priority of Funding and Processing Applications.* HUD has recently issued a proposed project selection system for certain community development programs. HUD claims this selection system would assist in the selection of project applications for funding under the Neighborhood Development Program, the Open Space Program (Legacy of Parks), the Neighborhood Facilities Program and the Public Facility Loans Program. Project applications will be reviewed in the HUD Area Office by a team consisting of Community Development staff. Funding will be made available only after three distinct review activities occur:

First, the application will be judged against statutory related prerequisites to eliminate inappropriate proposals or clearly ineligible projects;

Second, the application, if it meets the prerequisite test, will be evaluated against certain numerically rated criteria; and,

Third, those applications ranked high enough to justify further processing in accordance with established procedures will then be reviewed for technical compliance with all relevant statutory requirements including those for which a preliminary judgment was made as to apparent eligibility in the prerequisite review.

No funding commitments will be made until after all three of these technical compliance reviews are completed.

NHC recommends against the use of this project selection system as this system completely ignores the basis upon which most pending applications were predicated. We recommend that HUD follow the mandate in the 1959 Housing Act which requires that applications be processed and funded in the order of submission and that approval or disapproval be based on the need and feasibility of such applications. The 1959 Housing Act contained a provision requiring the Administrator of Urban Renewal to consider urban renewal applications on a first-come, first-served basis except for projects that were urgent or extremely desirable. NHC recommends that this former congressional mandate be re-enacted as part of Chapter III of the *Senate Enacted Bill.*

(K) *Assurance That Assistance Accomplished National Goals and Programs.* Thus, the Senate Enacted Bill would require a prior statement summarizing community goals for a three-year period, giving a detailed program and budget for the first two years for which assistance is requested. Not only must the community development agency make a prior declaration of its goals and particular objectives, but it is subject to specific accounting of how the Federal funds are spent; also, it must submit an annual performance statement. All of these are intended to assure that the grant funds are utilized to accomplish the national goals and programs covered by the Community Development Assistance. In addition, the Senate Enacted Bill would require a community program to meet housing needs of low and moderate income families and to carry out systematic enforcement. Once the application is approved, the Secretary of HUD, to the extent he deems it feasible, shall reserve funds for the Federal assistance required for these housing programs.

(L) *Conclusion.* NHC urges the passage of Chapter III of the Senate Enacted Bill as it provides an excellent system of Federal assistance for community development. As set forth above, we recommend several amendments to the Bill, including increases and additions to the authorizations. NHC believes that any plan of Federal distribution of funds to local communities should include provisions of the type contained in this Bill which require the local agency's plan and particular objectives for community development, together with adequate provisions to account for the funds spent and to make a performance report.

CHAPTER G. LOW RENT PUBLIC HOUSING

I. Summary of existing legislation

1. *Need.* There is a tremendous unmet need for additional housing to serve the low-income group who cannot be decently housed without the aid of Federal subsidies. Many of the ill-housed in this income group are living in the slum and ghetto areas of our cities. Their unmet need for adequate housing has contributed to the crisis in our cities. Cities throughout the country have recognized the urgency of building additional public housing. Applications for additional public housing units are now being submitted to HUD at an annual rate of about 140,000 units.

2. *Authorizations in 1968 and 1969 Housing Acts.*

(a) *Authorizations for Annual Contribution Contracts.* The 1968 Act provided an increase in the contract authorization for annual contributions of $100 million upon its passage and an additional $150 million on July 1, 1969, and July 1, 1970. The 1969 Housing Act increased the authorization for annual contribution contracts by $75 million as of July 1, 1969, and by $20 million on July 1, 1970. It was hoped that these increased authorizations would provide about 375,000 low-rent dwelling units over the 3-year period for the public housing program.

(b) *Tenant Services.* The 1968 Act authorized HUD to make grants to local housing authorities to assist in financing tenant services for tenants of public housing. $15 million in appropriations for grants were authorized for fiscal year 1969 and $30 million for fiscal 1970. The 1969 Act extended these authorizations through fiscal year 1971. The tenant services include: counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services.

(c) *Limit on High-rise Projects.* High-rise public housing projects for families with children are prohibited except where HUD determines that there is no practical alternative.

(d) *Leasing Program.* HUD was prohibited from prescribing limitations on the types or categories of structures or dwelling units (other than those provided in the law) which can be leased under the public housing Section 23 leasing program.

(e) *Additional Subsidy for Certain Families.* An additional annual subsidy of $120 was authorized for public housing units occupied by large families or families with very low incomes. In the past a like subsidy has been limited to the elderly and displaced families.

(f) *Loans for Public Housing Projects.* The 1969 Act increased from 90 to 100 percent the maximum amount of Federal loans or loan commitments authorized for financing the acquisition or development of a low rent housing project with respect to which annual contributions are to be made. Section 9 is used primarily to enable local housing authorities to obtain temporary financing for the acquisition or construction of a project by the sale of short-term notes backed by a Federal loan commitment. With a loan commitment of 100 percent of a project's acquisition or development cost, a local housing authority would be able to schedule the issuance of long-term bonds for permanent financing when most advantageous to itself and the Federal Government rather than just prior to acquisition or when development costs reach the 90-percent level.

(g) *Public Housing Annual Contributions.* Section 10(b) of the USH Act was amended to clarify existing authority to fix the amount of the annual contributions to public housing projects at an amount in excess of the debt service requirements of the projects so long as the fixed contribution does not exceed the maximum annual contribution authorized in that section.

(h) *Notifications to Applicants for Admission to Public Housing Projects.* The 1969 Act amended Section 10(g) of the USH Act by adding a new paragraph requiring every contract for annual contributions for a low-rent housing project to provide that the public housing agency shall notify promptly any applicant determined to be ineligible for admission to a project of the reason for such determination and provide the applicant, within a reasonable time after the determination is made, with an opportunity for a hearing on the determination. Applicants who are determined to be eligible for admission to a project must be notified promptly of the approximate date of occupancy insofar as this can be reasonably determined.

(i) *Elimination of Workable Program Requirement With Respect to Low-Rent Projects.* The 1969 Act amended Section 101(c) of the Housing Act of 1949 and Sections 10(e) and 23(f) of the USH Act to eliminate the workable program requirement for low-rent public housing and Section 221(d)(3) projects.

(j) *Reduced Rentals for Very Low Income Tenants of Public Housing Projects—Brooke Amendment.* The 1969 Act amended Section 2(d) of the USH Act to provide that rent in public housing projects may not exceed one-fourth of the family's income, defined by the Secretary of HUD. To make it possible to serve very low income persons in public housing, additional assistance payments were authorized within the existing annual contributions framework. To provide necessary funds for this purpose, $75 million was added to the authorization for annual contributions contracts under Section 10(e) of the USH Act.

The requirement that rents fixed by public housing agencies may not exceed one-fourth of the low-rent housing tenant's income does not apply in any case in which the Secretary determines that by limiting the rent of a tenant there will result a reduction in the amount of welfare assistance which would otherwise be provided to the tenant by a public agency.

(k) *Applicable Going Federal Rate.* The 1969 Act amended Section 14 of the USH Act to provide that any contract for annual contributions, loans, or both, may be amended or superseded for the purpose of insuring the low-rent character of the project involved so that the going federal rate on the basis of which such annual contributions or interest rate on the loans, or both, are fixed shall mean the going federal rate of the amending or superseding contract.

3. *Amendments in the Housing and Urban Development Act of 1970.*

(a) *Public Housing Annual Contributions.* The 1970 Act amends section 10(e) of the United States Housing Act of 1937 to increase the contract authority by $150 million, and by $225 million on July 1, 1971, for the public housing program.

(b) *Public Housing Rent Requirements.* The 1970 Act amends section 2(1) of the Housing Act of 1937 to provide more specific guidelines with respect to the maximum rental permitted to be charged tenants in public housing projects by providing a statutory definition of income for purposes of establishing maximum rentals at one-fourth the tenant's income. Family income includes income from all sources of each member of the family residing in the household who is at least eighteen years of age, but excluded are (1) nonrecurring income, as determined by the Secretary, (2) an amount equal to the sum of (A) $300 for each person in the household under eighteen years of age, and (B) 5 per centum of the family's gross income (10 per centum in the case of elderly families), (3) $300 for each secondary wage earner, (4) medical expenses of the family properly considered extraordinary; finally, (5) the Secretary may allow further deductions in recognition of unusual circumstances.

(c) *Public Housing Cost Limits.* The 1970 Act substitutes a new formula for establishing limits on the construction costs applicable to public housing projects which would be based on cost factors prevailing in each area rather than on national standards. Under the proposed formula, the Secretary of HUD would periodically "cost out" prototypes of various types of projects in each area suitable for occupancy by public housing tenants. These various types could include high-rise elevator structures, walk-up projects, detached or row houses, projects designed for the elderly and handicapped, and congregate and dormitory-type housing, and others as necessary. Prototype cost would be determined on the basis of complete plans and specifications for the particular type of project. These plans and specifications could vary from one part of the country to another to reflect differences in climate, design standards and specifications.

(d) *Amendment of Contracts to Assure Low-Rent Character of Projects.* The 1970 Act clarifies the use of annual contributions to pay the excess of operating and maintenance expenses over rental income incurred by public housing agencies.

(e) *Low-Rent Housing in Private Accommodations.* The 1970 Act amends section 10 (e) of the United States Housing Act of 1937 to require that at least 30 percent of the dwelling units for which contracts for annual contributions are entered into pursuant to the new authority granted under section 202 of the Housing and Urban Development Act of 1970 or under any law subsequently enacted shall be units in private accommodations provided pursuant to section 23 of the United States Housing Act of 1937.

(f) *Funding of Tenant Services.* The 1970 Act repeals the grant program for tenant services in public housing projects and authorizes such services to be financed out of project income and annual contribution payments.

(g) *Congregate Housing for the Elderly, Displaced and Handicapped.* The 1970 Act amends section 15 of the United States Housing Act of 1937 by adding a new paragraph (12) which would direct the Secretary to encourage local public housing agencies to develop congregate housing for the displaced, elderly and handicapped. Congregate housing is defined to mean projects with central dining facilities where some or all of the units do not have kitchen facilities. The dining facility would be required to be operated on a self-supporting basis; however, any expenditures, other than for food or services, could be considered a cost of the administration of the project. The section also provides that not more than 10 percent of the total amount of contracts for annual contributions entered into in any fiscal year pursuant to the new authority granted under the Housing and Urban Development Act of 1970 or under any law subsequently enacted shall be entered into with respect to units in congregate housing.

(h) *Policy Statement.* Section 211 of the 1970 Act amends section 1 of the United States Housing Act of 1937 to state, as the policy of Congress, that public housing tenants should not be barred from serving on the board of directors or other governing body of a local public housing agency.

II. Recommendations

1. *Urgent Need to Make Authorizations Available for Commitment.* The Budget Request dealing with Fiscal Year 1973 contains cut-backs in the public housing program. The Administration requests only $183 million of new contract authority to be added to a carry-over of $130 million in unused contract authority. Thus, the Administration intends to commit only about 75,000 new units in fiscal 1973. This will continue the serious difficulties already facing the public housing program. The new starts for fiscal 1973 should be 90,000 units which is less than one-half of the annual number of units we need to meet our goals. Reducing the new commitments for fiscal 1973 to 75,000 units will only put us further behind in meeting our goals. Moreover, many public housing authorities are facing large operating deficits which are due to inflation; also, the additional funds are needed to implement the Brooke Amendment so that low income tenants do not pay an excessive proportion of their income for rent. While HUD has released $60 million of the $75 million currently available for these subsidies, NHC urges that all available authorizations be released immediately to meet this critical condition as contemplated by the 1970 Housing Act.

2. *Necessary Authorization.* NHC recommands the following schedule of authorizations for the Public Housing Program for new units to be developed:

On July 1, 1972 (for fiscal 1973) an additional authorization of $350 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $400 million.

On July 1, 1974 (for fiscal 1975) an additional authorization of $450 million.

On July 1, 1975 (for fiscal 1976) an additional authorization of $500 million.

On July 1, 1976 (for fiscal 1977) an additional authorization of $500 million.

3. *Increases in Legislative Authorizations.* There is a need to increase the authorizations as outlined in paragraph 1, above, for public housing to an average annual rate of 200,000 units for a 5-year period. Initially, the annual rate should be 150,000 units, but it should be accelerated each year until it reaches 250,000 units in the fourth and fifth years. This should include public housing of the conventional type, along with turnkey housing and leasing programs.

4. *Immediate Release of All Available Funds.* NHC deplores the action by the Bureau of Budget and Management that froze the $150 million of supplemental authorizations for Fiscal Year 1971 for many months and delayed meeting urgent needs.

5. *Continuation of Established Appropriation Procedures.* During the floor debate on the 1970 Housing Act, Congressman Davis offered an amendment to subject authorizations for annual contributions to approval in appropriation acts. NHC deplores and strongly opposes the intent of this amendment. There is no justification to change the long-established and satisfactory practice covering authorizations for annual contribution contracts. It has been in successful operation for 35 years since the 1937 law was enacted. NHC urges that the Housing Subcommittee reject this proposal.

6. *Other Legislative Amendments.* We should perfect the existing public housing programs in light of our experience. In the conventional public housing programs, this requires the following new federal aids to meet conditions that have been too long neglected:

(a) NHC approves the objective in the 1969 Housing Act, as reaffirmed in the 1970 Act, to establish a maximum percentage of a tenant's income which is required to be paid as rent by public housing tenants. However, NHC recommends that 20% instead of 25% of a tenant's income should be the maximum rent. The 25%-of-income requirement is too high for low income families to pay for housing in view of their need to use income for other essential living expenses.

(b) We recommend an amendment which would make subsidies available without reference to maximum income limits. The subsidies would be the amount needed after the occupant pays the required percentage of his income.

(c) Neither the program to lease privately-owned housing for public housing purposes, nor the rent-supplement program for those of public-housing incomes requires a local financial contribution in the form of exemption from local real estate taxes. Conventional public housing projects are therefore at a disadvantage in gaining acceptance by local governments, since these projects require tax exemption and pay only 10% of shelter rents in lieu of taxes. To eliminate this disadvantage, NHC recommends that local housing authorities be permitted to make payments in lieu of taxes equal to full taxes. Federal annual contributions should be increased to cover the payment of a full tax equivalent.

(d) Special federal grants should be authorized to offset the impact of locating low and moderate income housing in suburban and other areas where costs must be incurred for education, health or other services to the extent they cannot be met from collections of full taxes on the property. Such federal grants would provide an incentive and inducement to suburban and other communities to accept low and moderate income housing since it would not impose an additional financial burden on the community.

(e) Until such time as a full tax equivalent is paid on public housing as recommended above, there should be a federal payment to cover costs of sending public housing children to local schools; accordingly, NHC deplores the fact that the language of the Elementary and Secondary Education Bill which provided for such payments was deleted.

(f) There should be a HUD authorization to make federal capital grants to cover the full amount of land and site development costs in excess of the reuse value of the improved land for new low-rent public housing projects which are not located in urban renewal areas; also HUD should have authority to make such federal grants for a write-down on buildings acquired for rehabilitation.

(g) The present law provides for disposition of public housing to residents when the housing is sufficiently separable for ownership by the residents. We recommend an amendment to authorize sale of an entire project—including turnkey housing—to a cooperative with a membership limited to those who will reside in the project which will maintain its low-income character. The sale should be made subject to the continuance of the outstanding bonds of the local housing authority and the pledge of federal annual contributions as security therefor, including the additional bonds (and annual contributions pledged therefor) issued to finance necessary rehabilitation, costs of achieving home ownership and prepaid expenses. The proposed NHC amendment would make it possible for residents of public housing to achieve cooperative home ownership and to produce better and more stable communities. Further, instead of requiring over-income families to move out, they should be allowed to acquire cooperative home ownership by paying a higher monthly charge which they can afford, based upon a percentage of their increased earnings. This amendment will give public housing tenants an incentive to better themselves. As to public housing tenants whose incomes have not increased, they should be permitted to remain in the project as members of the cooperative—receiving the benefit of annual contributions so long as they qualify as low income families. The price and mortgage on the sale of a public housing project for cooperative ownership should be the outstanding principal balance on the outstanding bonds on the project including those issued for necessary rehabilitation and other costs.

(h) Repeal the provision in the U.S. Housing Act of 1937, as amended, which requires a 20% gap between the lowest private and the upper public housing income limits for admission.

(i) Permit low-income individuals—in addition to low-income families—to be eligible for occupancy in low rent public housing. NHC recommends the removal of the 10% limit on the number of units in a project which may be occupied by low income individuals as distinguished from low income families.

(j) Make the necessary changes to permit construction in a municipality of low-rent public housing for those of low income who will later migrate to the municipality for employment in industries located there or in service activities. This would include new communities or municipalities outside of central cities. It would facilitate dispersal of population and reduction of the concentration of low-income families in central cities.

(k) In new and existing low-rent housing projects, there is a great opportunity to provide social impetus and vitality not only to those living in the development, but also the neighborhood. The need is both for physical community facilities on a large scale and for skilled and dedicated personnel to operate them imaginatively. A program was authorized by the 1965 Act for two-thirds federal grants to assist communities in developing neighborhood facilities of all types, with preference to those in neighborhoods involving the anti-poverty program. While this affords a new opportunity to obtain needed physical facilities, the law should be amended to provide for necessary social and counseling services in such neighborhood facilities. Where funds or services cannot otherwise be obtained, local authorities should be permitted to use project funds for this purpose. Adequate funds for social and counseling services should be included in the project budget. We believe the 1970 Housing Act permits this under the amendment allowing project income and annual contributions to be used for tenant services. If any clarification is required to cover all of the foregoing services and facilities, we recommend a further amendment which would accomplish this.

(l) There should be an amendment authorizing the leasing of available private housing outside central cities for low-rent housing purposes. Such leasing should not require approval by the governing body of the municipality involved. Parenthetically, state laws should likewise be amended to enable local authorities to lease such housing outside central cities.

(m) The Section 23 leasing program should be amended to permit longer term leases as this will encourage more private owners to participate in the program. The leasing program should be available for use in connection with any FHA-insured housing so as to help achieve economic integration. It should also be available for use in connection with FHA-insured nursing homes.

(n) The 1965 Act repealed as to future projects the requirement of Section 10(c) of the United States Housing Act of 1937 that annual contributions to a public housing agency be reduced by any amounts by which the receipts of the agency exceed its expenditures. As a matter of fairness and to meet the needs of public housing agencies, NHC recommends that this repeal should also apply to public housing projects existing at the time of the 1965 Act, as well as future projects.

(o) There should be no income limits for continued occupancy in public housing. Instead, people should be permitted to stay in public housing if they wish upon paying the prescribed percentage of their income—where permitted under state law—but not in excess of the economic rent.

(p) NHC recommends the deletion of the amendment in the 1970 Housing Act requiring that at least 30% of the contract authority for annual contributions be used for the leasing program. This is particularly important because HUD is interpreting this requirement as applying to the contract authority for operating subsidies, which has the effect of increasing the total required percentage of the contract authority available exclusively for new construction for leasing.

7. *Administrative Actions.* NHC recommends and approves the following administrative actions by HUD:

(a) As permitted by the 1970 Housing Act, additional annual contributions should be made to meet all costs except those which low income families can afford in rentals. This should include not only the debt service, but also adequate maintenance, security, conservation and operation of public housing, and additional services. It should also cover the cost of work required to comply with anti-pollution legislation. The present needs and costs are higher than those which prevailed when the original annual contribution contracts were signed. If the annual contributions are not raised, local housing authorities will be forced to increase rents and income limits. This would jeopardize the continued achievement of the purpose of this program to serve low income families. Also, it will cause the deferment of necessary maintenance and repairs, thereby jeopardizing the physical condition and long-term life of the property. Most of the present annual contributions were computed to assure their adequacy to meet debt service, but without provision for the increased later costs of maintenance and operation, or the need for additional services. There has been criticism of conventional public housing because of its failure to provide necessary services and because of its failure to carry out adequate renovation. Correction of these conditions (with additional annual contributions for this purpose) should remove the cause of this criticism and produce a better living environment in public housing.

(b) The annual subsidy formula should be revised to permit the payment of the maximum annual contributions authorized by law, with residual receipts being used either for project rehabilitation or improvement. At any time after completion of a public housing project, provision should be made for reopening development cost, if necessary, to make additional loans for needed rehabilitation improvements, or other purposes, with annual contributions correspondingly increased.

(c) While we believe the proposal for private management of turnkey housing is of dubious merit, we favor testing this new approach to determine whether it will produce benefits or improve techniques in the management of public housing and the achievement of the program's social objectives. The proposal should be recognized as a pilot and experimental program to be determined by local housing authorities. Meanwhile, NHC reaffirms the wisdom of continuing the present tested management operations through local authorities. They have long experience in handling the operations and problems and social aspects of public housing management. Moreover, they are clearly motivated by the public interest in managing public housing to serve low-income families. Local housing authorities should be allowed the same budgets for their operations and management services on turnkey housing as are proposed for private management. NHC also recommends approval of experimental programs of local housing authorities for management of public housing by nonprofit organizations, since they likewise have motivations of public interest and social welfare.

(d) We again commend HUD for its flexibility in using existing legislative tools to develop a program which will enable low-income families to live in the same projects as families of moderate incomes instead of isolating families of each income group. Under this program, the low-income family can continue in occupancy when its income increases, but will no longer receive public housing subsidies; instead, it will get the benefit of a below-market interest rate. When the family becomes self-supporting, it will pay the full market rate of interest.

(e) The special subsidy for housing elderly and displaced persons is now available only in the event of a deficit operation. NHC recommends that this subsidy be made available generally in an amount equal to the difference between the rent paid per month and the average cost of operation.

(f) The 1968 Housing Act emphasizes the importance of good public housing design to the low-income family and to the local community. The Nation is concerned not only with the quantity of new public housing, but also with its quality. He urge HUD to take all actions necessary to achieve higher design standards for public housing developments.

(g) NHC recommends necessary adjustments in public housing income limits in those localities which have failed to keep pace with the increases in costs and incomes; also, there should be a recognition of the larger income which larger families require. Thus, there is no justification for a public housing limit for a larger family which would make a welfare recipient ineligible for occupancy.

(h) NHC recommends a revision in the letters of intent used by HUD in its turnkey housing program, in order to make it mandatory for housing authorities to purchase the land and plans from the developer if—for any reason—the local housing authority and the developer fail to execute a contract to purchase.

(i) NHC suggests that local housing authorities draw down the purchase price of the completed improvements at the time of signing the turnkey contract of sale. This sum would then be deposited to the credit of the local housing authority with a banking institution in the community in which the project is being built and a Certificate of Deposit would be issued to the local housing authority bearing interest at the highest going rate. In consideration of the deposit, the banking institution would agree to make the construction loan to the turnkey developer at an interest rate not more than 2 percentage points higher than the interest paid by the banking institution to the local housing authority on the Certificate of Deposit, plus normal operation and service charges and fees.

(j) HUD is currently working on the final version of new regulations for the Turnkey III and IV Programs. The Turnkey III Program will provide home ownership opportunities for low income families in projects which are initially owned by public housing authorities. Turnkey IV will provide similar home ownership opportunities in projects that are privately owned. The Turnkey IV Program has the advantage of paying full taxes and requires no local approval. Cooperative, nonprofit and profit motivated sponsors are eligible to initiate Turnkey IV Programs. NHC urges HUD to issue and implement Turnkey III and IV regulations which will enable achievement of home ownership status in a reasonable length of time. To insure that these programs receive a fair chance to succeed, HUD should earmark an adequate amount of the annual contribution contract authority for such programs. For turnkey projects financed under FHA programs, NHC recommends the use of FHA practices such as negotiated contracts with those who initiate these programs. Competitive bidding is not consistent with FHA practices and procedures. Moreover, negotiated contracts would provide a better opportunity for minority contractors to initiate such programs.

(k) The Section 23 leasing program should be administered in a manner which will permit longer term leases as this will expand the program including the encouragement of more new construction and rehabilitation.

(l) NHC recommends that the documentation required to qualify initially for the leasing program eliminate the unnecessary requirement for development of detailed hypothetical data as to the extent of the potential supply of units.

(m) We urge HUD to restore the availability of consolidated annual contribution contracts and operating budgets for use by local housing authorities. This mechanism has been essential to enable most local programs involving more than one project to serve adequately a cross section of needs in the low income group. Also, this procedure has been necessary for the proper operation of projects with substantially different sizes, ages, neighborhoods, and design characteristics. Insistence by HUD on a separate annual contributions contract for each new project will exclude many development opportunities and impair sound and flexible management operations.

(n) When the local housing authority renews leases under the leasing program, there should be a price adjustment in the lease that takes into account price level changes.

(o) Late in the spring of 1971, HUD officials instituted a program of utilizing prototype cost limits for public housing as provided in the 1970 Housing Act. The schedule provides for four types of buildings: detached and semi-detached; row houses; walk-ups; and elevator buildings. Prototype cost limits have been published for almost all areas of the country. NHC recommends that all programs initiated under the old statutory maximums continue with the rules applicable to them when they were initiated. In addition, NHC recommends that HUD constantly review the prototypes as to their reasonableness. NHC has received many reports concerning the unrealistically low levels of the limits established under the prototype program.

(p) Late in the summer HUD announced a system for consolidating public housing subsidies and for advance funding to enable housing authorities to know what their funding will be for the year ahead NHC applauds such a concept.

(q) In mid-September HUD announced the delegation of more authority to local housing authorities for the modernization program including formulating its operating budget. The new HUD area offices can approve such modernization plans within HUD-approved budget amounts. Under this proposal a local housing authority can submit its proposed budget to the local governing body for approval without further Federal review. NHC applauds this delegation of authority to local agencies.

(r) NHC urges that HUD amend its site selection criteria which make it impossible for a new housing authority to receive a superior rating if it does not have past experience. In addition, they often preclude building housing projects already programed in urban renewal areas. Finally, they often make it impossible to comply with the one-for-one replacement requirement for housing under urban renewal. The site selection criteria also fail to give any weight to ownership and resident control of housing. NHC seriously questions the present site selection criteria and urges their amendment to meet the foregoing objections.

CHAPTER H. URBAN RENEWAL PROGRAM

I. Summary of existing legislation

1. *Objectives.* Urban renewal is a major instrument of reform which deals primarily with the physical side of removing blight. Its objective is to eliminate slum, blighted or deteriorating areas and provide for the use and disposition of land in accordance with comprehensive urban renewal plans that meet community needs. Over 1,000 cities are reclaiming such blighted areas for redevelopment or rehabilitation under urban renewal programs. The backlog of urban-renewal-grant applications was in excess of $3 billion at the beginning of the fiscal year and new applications averaged over $200 million per month, despite HUD actions to discourage applications by the imposition of more stringent requirements concerning program objectives and priority criteria. Each year about 60 additional communities are joining in the participation of the urban renewal program, after adopting workable programs for community improvement. There is a tremendous need for increased urban renewal authorizations and appropriations to meet the requests of cities who are seeking to stop the insidious blight which is overwhelming their older neighborhoods.

2. *Authorizations and Limitations in the 1968 and 1969 Housing Acts:*

(a) *Increased Authorizations in 1968 Act.* An additional $1.4 billion of urban renewal grants was authorized by the Act for fiscal year 1970. In addition, there was an authorization of $350 million for urban renewal grants for projects in model city areas, which supplements the previous authorization of $250 million for this purpose.

(b) *Neighborhood Development Program (NDP).* The 1968 Act provides for a new approach to urban renewal which is intended to facilitate more rapid rehabilitation and redevelopment of blighted areas on an effective scale. Financial assistance would be provided for a neighborhood development program which consists of urban renewal undertakings and activities in one or more areas that are planned and carried out on the basis of annual increments. Financing is based on the amount of funds needed to carry out the activities planned during a 12-month period in each of the urban renewal areas in the community's program. As to subsequent annual increments of the program, the community would receive financial assistance to the extent that funds are then available and the community's program is acceptable to HUD. This will permit the undertaking of urban-renewal-execution activities, land acquisitions and public improvements simultaneously with planning. By administrative action, HUD is now limiting new urban renewal activities exclusively to NDP proposals and will not accept any new applications for conventional urban renewal projects.

(c) *Low and Moderate Income Housing.* The 1968 Act requires that a majority of the total number of housing units in a community's residential urban renewal project which receives Federal recognition after August 1, 1968, must be for low and moderate income families or individuals. As to housing units in urban renewal areas, at least 20% of the total must house low-income families or individuals, but HUD may waive this 20% requirement to the extent that these units are not needed in the community.

(d) *Increased Authorizations in 1969 Act.* The 1969 Act amends the first sentence of Section 103(b) of the 1949 Act to increase the aggregate amount of capital grants which may be made under the urban renewal program by $1.7 billion on July 1, 1970, and reserves 35 percent of available funds for fiscal year 1970 and fiscal year 1971 for neighborhood development programs.

(e) *Extension of Urban Renewal Assistance to Trust Territories.* The 1969 Act makes the Trust Territory of the Pacific Islands and the Indian tribes, bands, groups, and nations (including Alaskan Indians, Aleuts, and Eskimos) of the United States eligible for:

(1) urban renewal loans and grants for rehabilitation;

(2) demolition grants;

(3) code enforcement grants; and

(4) interim assistance grants.

(f) *Extension of Period of Eligibility of Local Grants-in-Aid.* The 1969 Act amends Section 110(d) of the 1949 Act to permit, in the case of any urban renewal program for which an application is filed but not approved on or before the date of enactment of the 1969 Act, credit for local grants-in-aid if construction of the public improvement or facility was commenced not more than 4 years prior to authorization by the Secretary of a contract for a loan or capital grant for the project. The period of eligibility otherwise applicable is 3 years. There are also other extensions of the period of eligibility of local grants-in-aid for certain projects.

(g) *Inclusion of Enclosed Pedestrian Malls as Eligible.* The 1969 Act amends Section 110 (c) of the 1949 Act to include covered pedestrian malls and walkways (with related facilities) among the types of undertakings eligible for inclusion in urban renewal project costs.

(h) *Rehabilitation Grants.* The 1969 Act amends Section 115 of the 1949 Act to increase the maximum rehabilitation grant authorized under that section from $3,000 to $3,500.

(i) *Local Grant-in-Aid Credit for Certain University Facilities.* The 1969 Act amends Section 110(d) of the 1949 Act to make clear that medical facilities otherwise eligible for non-cash grant-in-aid credit may receive such credit if built on behalf (as well as if built by) a public university.

(j) *Replacement of Housing Units Where Project Involved Removal of Residential Structures.* The 1969 Act amends Section 105 of the 1949 Act to provide that if any urban renewal project which receives Federal recognition after the date of enactment of this Act includes the demolition or removal of any residential structures, there must be provided in the area within which the local public agency has jurisdiction by construction or rehabilitation standard housing units for occupancy by low and moderate income families at least equal in number to the number of units demolished or removed that were occupied by such families prior to demolition or removal. Replacement housing may be provided under Federal or State-assisted housing programs and may include units for low-rent housing in private accommodations assisted under Section 23 of the United States Housing Act of 1937. Where the Secretary of Housing and Urban Development deems it appropriate, he may take into account suitable housing outside the area within the jurisdiction of the local public agency for purposes of meeting this requirement. If the Secretary finds that the percentage of vacancies for all existing housing units in the area within which the local public agency has jurisdiction is 5 per centum or greater, he may waive this requirement to the extent that he determines that there are existing standard housing units available for occupancy by displaced low and moderate income families.

3. *Amendments in Housing and Urban Development Act of 1970:*

(a) *Urban Renewal Grant Authority.* The 1970 Act amends Section 103(b) of the Housing Act of 1949 to increase the aggregate amount of capital grants which may be made under the urban renewal program by $1.5 billion on July 1, 1971, and requires that not less than 35 percent of available funds during the fiscal years of 1970 through 1974 be made available for neighborhood development programs.

(b) *Relocation Payments.* The 1970 Act amends Section 114(b)(1) of the Housing Act of 1949 to provide that the Secretary of Housing and Urban Development may authorize the payment to displaced business concerns of fixed amounts in lieu of their total certified actual moving expenses where he determines that it is impractical for a displaced business concern to calculate the amount of such expenses.

(c) *Expenses in Connection with the Sale of Surplus Federal Lands to Local Urban Renewal Agencies.* The 1970 Act amends Section 108 of the Housing Act of 1949 to permit the Secretary to charge against the gross proceeds realized any property management or other expenses he incurs when Federal surplus real property is transferred to him for sale to a local urban renewal agency. Under existing law all the proceeds from such a transfer and sale must be deposited into the Treasury.

(d) *Early Closeout of Urban Renewal Projects.* The 1970 Act amends Section 106(i) of the Housing Act of 1949 to authorize the Secretary, in cases where the local public agency does not expect to be able in the reasonably near future, due to circumstances beyond its control, to dispose of remaining urban renewal project land, and the Secretary determines an early close-out of the project would be in the financial interest of the Government, to compute the net project cost and close out the project at no additonal cost to the locality. The locality would receive an additional grant equal to one-third (or one-fourth) of the estimated dispositon proceeds from the undisposed land. When such land was subsequently disposed of in accordance with the urban renewal plan the net proceeds realized would be paid to the Secretary. Under previous existing law early project closeout was only permitted where 5 percent or less of project land remains unsold.

(e) *Inner City Development.* Part D of Title VII of the 1970 Act (establishing the National Urban Growth Program) amends Section 110 of the 1949 Act to make inner-city developments eligible for urban renewal aid without regard to requirements as to substandard or deteriorated physical condition provided the existing uses are obsolete, under-utilized or otherwise inappropriate non-residential facilities or consist of vacant land. New uses in such inner-city developments must be housing, essential public facilities or employment producing facilities.

4. *Authorizations in Appropriation Acts.* For fiscal 1969, $750 million was authorized and appropriated for urban renewal grants. In addition, an advance appropriation was made of $750 million of the $1.4 billion authorized for fiscal 1970 in order to give communities more lead time for planning their urban renewal program. For urban renewal projects in model city areas, $312.5 million was appropriated for fiscal 1969, as compared with the $350 million authorized. Of the $250 million authorized for grants on urban renewal projects in model city areas for the preceding fiscal year, $150 million was appropriated. For fiscal year 1970, $750 million previously appropriated was available plus $250 million of new appropriations. $1.35 billion was included in the appropriation act for fiscal year 1971 which was vetoed by President Nixon. Then, Congress passed another appropriation act for fiscal 1971 with a reduced total of $1.2 billion for urban renewal which was signed by the President. $1.25 billion was contained in the Appropriation Act for Fiscal Year 1972.

II. Recommendations

1. *Urgent Need to Continue Program.* President Nixon's 1972 Budget Message requested only $600 million for urban renewal funds for the first half of fiscal year 1972, plus a $200 million carry-over from this year. In addition, the Budget Message contemplated phasing out the rehabilitation grant program and consolidating it with three other categorical grant programs into a new community development grant program under special revenue sharing. Because the prospects of adoption of the special revenue sharing proposal, especially by the end of the first half of fiscal year 1972, were dim, Congress appropriated $1.25 billion for all of fiscal year 1972.

NHC continues to oppose the wiping out by the special revenue sharing program of authorizations not yet appropriated for urban renewal of $1.31 billion. Finally, NHC deplores the action by the Bureau of Budget and Management that froze $200 million of the $1.2 billion appropriated for fiscal year 1971 for many months. In view of the tremendous backlog, this money should have been made available immediately.

In his Budget Message for fiscal 1973, the President has requested an appropriation of $1,000,000,000 for urban renewal. In the event that his proposed new legislation is enacted for an urban community development revenue sharing program, the President proposed that there would be a supplemental appropriation of $490,000,000 in addition to the requested appropriations for the individual categorical programs. In that event, the President's Budget contemplated a total program for urban community development revenue sharing of $2.3 billion for fiscal 1973, which would include the amounts for the categorical programs plus the proposed supplemental appropriation for urban community development revenue sharing.

When there are additional legislative authorizations as recommended below, there should be additional appropriations for each fiscal year and an advance appropriation for the succeeding fiscal year. This will give communities more lead time for planning their urban renewal programs.

2. *Increase in Legislative Authorizations.* NHC recommends an increase in the authorizations for appropriations for a 5-year period at the following levels:

On July 1, 1971 (for fiscal year 1972) an additional authorization of $3.0 billion.

On July 1, 1972 (for fiscal year 1973) an additional authorization of $3.25 billion.

On July 1, 1973 (for fiscal year 1974) an additional authorization of $3.5 billion.

On July 1, 1974 (for fiscal year 1975) an additional authorization of $4.0 billion.

On July 1, 1975 (for fiscal year 1976) an additional authorization of $4.5 billion.

As public agencies elect to utilize the alternative Community Development Program under our proposed amendment to Part C of

Title I, the foregoing appropriations would be utilized to provide funds to carry out the new Community Development Program which would gradually replace the other program.

3. *Legislative Amendments Relating to Parts A and B of Title I of the Urban Renewal Act.* NHC recommends the following amendments to urban renewal laws:

(a) On capital grants for urban renewal, code enforcement and other comparable programs, there would be an increase in the federal grant to ¾ from the present ⅔ which is paid to larger cities. For smaller cities, the ¾ grants should be increased to ⅚. Further, where the community elects to finance survey and planning costs at its own expense, the project capital funds for larger cities should be increased from ⅚ to ¾. Pooling all of such grants should be permitted for all urban renewal projects in the city. Where the urban renewal is located in a distressed area, the present subsidy of ¾ should be increased to ⅚.

(b) NHC recommends that action be taken to simplify both the legislative and administrative provisions relating to local non-cash grants-in-aid; also to embrace all types of such aids as being eligible for credits against the local contribution. The objective should be to eliminate most of the complexities of the rule, reviews and approvals of local non-cash credits and to extend benefits of this means of financing the local share of urban renewal projects costs.

(c) A new program of loan and grant contracts should be authorized for the purpose of assisting the acquisition and rehabilitation of scattered properties in residential neighborhoods designated for conservation, rehabilitation, or intensive code enforcement by an approved community renewal program. The cost of any new public improvements serving the rehabilitation properties should be recognized for appropriate grant-in-aid credits.

(d) Local public agencies should be authorized to make sales of industrial and commercial land for later development by nonprofit industrial development corporations or properly constituted public bodies on the same basis as is now authorized under economic development laws.

(e) There should be a broadening of the existing statutory provisions for recognition of real property tax losses—on the land as improved before the demolition occurred—by the locality in an urban renewal area as a local grant-in-aid credit. Such losses should be computed from the date of acquisition of the property to the date of transfer of title.

(f) Where a project is in execution, tax abatement should count as a non-cash local grant-in-aid to the project when such tax abatement is granted to federally-assisted housing for the purpose of achieving lower rents and facilitating relocation unless there is a federal grant to reimburse the state and local taxing authorities for their tax losses.

(g) NHC supports special urban renewal provisions for central business districts which would clearly recognize that commercial and business obsolescence comes within the definition of blight whose removal is eligible under Title I. NHC supports special urban renewal provisions for central business districts which would permit the renewal of such districts and recognize that employment, commercial, industrial, and cultural functions of central business districts are of vital importance to community growth and revitalization.

(h) There should be an amendment to the urban renewal law allowing any public facility to be eligible for non-cash grant-in-aid credit covering the full cost of the facility if its development was occasioned by the urban renewal program as certified by the urban renewal agency.

(i) Section 314 should be amended to provide that the Federal Government in special cases could pay up to 100% of the cost of the demonstration program.

(j) Non-cash grant-in-aid credits should be extended to cover air rights involved in the development costs for 221(d)(3) or 236 projects for low and moderate income families.

(k) Title I funds should be available for the reclamation of otherwise unbuildable land in urban areas on the same financial formulas now controlling other activities.

(l) Where state or local law requires abutting property owners to pay a portion of the cost of street repairs, federal urban renewal grants should be made to cover the owner's share when there is a showing of need.

(m) Under the Neighborhood Development Program, non-cash grants-in-aid—otherwise meeting time requirements—should become eligible as soon as HUD accepts an application for review.

(n) Costs of development of the initial application should be an allowable project cost.

(o) NHC urges legislation that would allow the owner of property in blighted areas which is either underdeveloped or contains a structure which is fully depreciated to be given the same tax allowances permitted under an involuntary conversion as through eminent domain, if he were to dispose of his property to a private developer and to include in the conveyance the appropriate restrictions and requirements of the urban renewal plan. Such a procedure would result in the achievement of the public purpose without the necessity of having the land pass through public ownership. Appropriate certification by the local public agency could afford necessary safeguards. This could result in a considerable savings in public funds and savings in time which would otherwise be lost in the process of acquisition and subsequent disposition by the local public agency.

4. *Legislative Amendments Relating to Community Development Program (CDP).* NHC endorses and recommends an alternative Part C program under Title I which would provide for a total Community Development Program (CDP)—a comprehensive communitywide program, prepared by the local community, including all physical development, rebuilding and rehabilitation activity, and eligible for federal funding on an annual basis. Most of the elements which NHC favors in such a program are contained in S. 2333, the proposed Community Development Assistance Act pending in the Senate Subcommittee on Housing and Urban Affairs. Many of them are also contained in Title VI of the proposed Housing and Urban Development Act pending in the Housing Subcommittee of the House Committee on Banking and Currency. The key element in the program is the preparation by the locality of a Community Development Plan. In drafting it, the locality would have to take stock of its physical inventory, set priorities, and relate each component in the plan to the specific public need it seeks to meet. The plan, if approved, would receive federal funding on a yearly increment basis, similar to that in the NDP program. The locality's application to HUD would contain a three-year forecast of financial assistance needed, including a one-year budget and program, and a request for a second-year reservation of funds. The proposal calls for a three-year Federal authorization, with one year contract, a second year advance reservation, and a third year forecast. They would be updated annually. The activities proposed for inclusion in a Community Development Plan extend greatly beyond those now eligible under traditional urban renewal or NDP. Specifically, the CDP would include:

(a) The Program would involve modifications in existing legislation relating to renewal, codes, rehabilitation, and other aspects as described in the proposed new Part C of Title I. In addition to these items which would be funded out of CDP monies, the estimated cost of the following additional activities would be identified in the Program and there should be set aside the necessary Federal funds (which would not be CDP funds, except for rehabilitation grants) to assure their timely completion: (i) proposed housing and rehabilitation; (ii) water and sewer; (iii) neighborhood facilities; (iv) open space, urban parks, and urban beautification.

(b) The Title I program would continue, but the new CDP Program is designed gradually to replace it.

(c) The Program would cover the entire community in both public and private developments. The Federal funding proposed for public improvements and facilities under the CDP would be available on a city-wide basis but only in locations designated in the CDP's budget.

(d) When a Community Development Program is approved for a city, there would be a reservation of funds for all of the following activities relating to it: (i) proposed housing and rehabilitations; (ii) water and sewer; (iii) neighborhood facilities; (iv) open space, urban parks, and urban beautification. The estimated cost of these additional activities would be identified but would not be funded out of the CDP monies (except rehabilitation grants), but there would be set-asides of necessary Federal funds for each of these programs.

(e) Rehabilitation grants would be funded out of the CDP monies. Temporary loans could also be made from CDP funds for rehabilitation activities.

(f) Any activity contained in the operating budget of a Community Development Program would be eligible as a local contribution under the formula for a 90% Federal grant. The participating community should continue to have the option of providing its local share in public improvements as well as in cash. The budget would also include funds for the design and construction of facilities to the extent that such funds are not otherwise available. This proposal for CDP design and construction financing for supporting facilities when permanent financing is contemplated from other sources is to take the city's place when the city is slow in budgeting for the services or supporting facilities.

(g) While the CDP grant could not normally provide financing for the "supporting facilities" (schools, hospitals, etc.) it could provide, in addition to interim financing for design and construction, a five percent override incentive grant to certain Federal grants-in-aid; and, where necessary, definitive loans for permanent financing secured by a lease agreement.

(h) There would be a 20% supplementary grant for unrestricted purposes relating to programmed activities.

(i) The standards that would be applied for property acquisitions such as conditions, location and present use would be the same as currently set forth in Title I, as amended and in Title VII of the 1970 Housing Act.

(j) A local development corporation would be an eligible agency to undertake federally-assisted community development program activities, and could be so utilized by a locality. To be eligible to contract for such activity under a local CDP, a local development corporation should be able to: accept grants, gifts, and donations; make loans; issue stock; borrow funds; donate and dedicate land and improvements for public purposes; acquire property for development, redevelopment, rehabilitation, preservation, and conservation in accordance with a publicly-adopted plan; construct, repair or improve public facilities and improvements; construct or improve for industrial, commercial, or residential purposes and hold or sell same for public or private use.

(k) The provision of supplementary services and functions are necessary to successful operation of the CDP, such as health, education and training activities and day care centers for which there are no Federal programs available.

(l) Direct loans and grants are necessary for the conservation, preservation, and rehabilitation of other properties, as in the present 312 and 115 programs.

5. *Administrative Action:*

NHC opposes the administrative action by HUD in terminating approvals of any new urban renewal projects and requiring all new urban renewal activity to be under the Neighborhood Development Program. This action was taken without any legislative mandate. Pending the enactment of proposed community development block grant legislation, NHC believes local governments and local renewal agencies should continue to have the option of proceeding either through new renewal projects or electing to proceed under NDP, as provided for in existing law.

(a) However, with respect to the NDP Program, NHC recommends the following administrative actions:

(1) It should be flexibly administered, particularly as regards the requirements for actions on plans for areas larger than those proposed for the action year.

(2) The localities should have the option (without such action being prejudicial to their present or future programs) to employ the Neighborhood Development Program as the means of carrying out Title I activities, including the conversion of conventional Title I projects to the Neighborhood Development Program.

(b) NHC recommends, in those cases of condemnation of real property and when a deterioration has taken place through no fault of the owner, that an effort be made to predicate the compensation of the property on the fair market value before the deterioration. If legislation is needed to insure that equitable compensation is made in such cases, NHC recommends that appropriate legislative measures be taken.

(c) Cities whose population dropped below 50,000 in the 1970 census should be eligible for federal grants of ¾, rather than being limited to the ⅔ grant which was previously applicable to them based on the 1960 census. We believe this can be done through administrative action, but NHC recommends legislation if it is necessary.

(d) HUD has recently issued a proposed project selection system for certain community development programs. This selection system would assist in the selection of project applications for funding under the Neighborhood Development Program, the Open Space Program (Legacy of Parks), the Neighborhood Facilities Program and the Public Facility Loans Program. Project applications will be reviewed in the HUD Area Office by a team consisting of Community Development staff and technical experts. Funding will be made available only after three distinct review activities occur. First, the application will be judged against statutory related prerequisites to eliminate clearly inappropriate proposals or clearly ineligible projects; second, the application, if it meets the prerequisite test, will be evaluated against certain numerically rated criteria; third, those applications ranked high enough to justify further processing in accordance with established procedures will then be reviewed for technical compliance with all relevant statutory requirements including those for which a preliminary judgment was made as to apparent eligibility in the prerequisite review. No funding commitments will be made until after all three of these technical compliance reviews are completed. NHC recommends against the use of this project selection system. We recommend that HUD follow the mandate in the 1959 housing act which required that applications be processed and funded in the order of submission and that approval or disapproval be based on the need and feasibility of such applications.

(e) NHC urges that HUD recognize that there are over 550,000 units of new construction of public housing requested annually. Both for public housing and privately assisted housing, the use of the site selection criteria should not be conducted in such a manner as to reject projects and thus make it appear that there is not a strong demand for additional projects and funding.

CHAPTER I. MODEL CITIES

I. *Summary of existing legislation*

1. *Objectives.* NHC reaffirms its endorsement of the model cities program to launch local programs for the upgrading of entire neighborhoods. This is done through the concentrated and coordinated use of all available Federal aids and local private and governmental resources, including the supplementary Federal grants for such model cities. We urge acceleration in the disbursement and release of funds under the present program.

2. *Authorizations in the 1968 and 1969 Housing Acts.*

(a) The Housing Act of 1968 provided for (1) an increased authorization of $1 billion for the fiscal year 1970 for supplemental grants and (2) $12 million for fiscal year 1969 for grants to plan model cities programs. Any amounts authorized, but not appropriated, could be used for any succeeding fiscal year commencing prior to July 1, 1971.

(b) The 1969 Act amended Section 111(b) of the Demonstration Cities and Metropolitan Development Act of 1966 (with a conforming amendment in Section 111(c)) to authorize an additional $600 million in grant authority for model cities for the fiscal year 1971.

(c) The 1969 Act amended Section 111(b) of the 1966 Act to require that (for the fiscal year 1970 and thereafter) 10 percent of any appropriations for Model Cities supplemental grants be used in cities of less than 100,000 population and to permit such use without regard to the statutory formula fixing the maximum Federal amount payable to any city at 80% of the aggregate required non-Federal contributions in connection with all Federal grant-in-aid programs which are carried out as part of the Model Cities program.

(d) The 1969 Act amended Section 111(c) of the 1966 Act to provide that amounts authorized but not appropriated for any fiscal year could be appropriated for any succeeding fiscal year commencing prior to July 1, 1971.

3. *Authorizations in Appropriation Acts.*

(a) Of the $400 million authorized for supplemental grants to model cities for fiscal year 1968, $200 million was appropriated. For fiscal year 1969, there was an authorization of $500 million for supplemental grants but the amount appropriated was $312.5 million. For fiscal year 1970, $575 million has been appropriated instead of the $1 billion authorized by the 1968 Act. Of the $600 million authorized by the 1969 Act for fiscal 1971, the President requested $575 million, which was included in the appropriation act for fiscal 1971. $150 million was included in the appropriation act for fiscal 1972.

(b) Of the $12 million authorized for fiscal year 1967 for grants to plan model cities programs, there was an appropriation of $11 million. For fiscal year 1968 there was an appropriation of the $12 million which was authorized for such planning grants. No appropriation has been made of the $12 million of planning grants authorized for fiscal year 1969 or 1970.

4. *Amendments in Housing and Urban Development Act of 1970.*

(a) *Authorization for Model Cities Programs.*

The 1970 Act amends Section 111 of the Demonstration Cities and Metropolitan Development Act of 1966 to authorize new appropriations of $200 million during fiscal year 1972 for the Model Cities Program; extends the availability period for unexpended funds to July 1, 1972; and eliminates administrative expenses from the appropriations authorized under Section 111 of the Act.

5. *President's Budget Request for Fiscal Year 1973.* In his Budget Message for fiscal 1973, the President has requested an appropriation of $515,000,000 for model cities. In the event that his proposed new legislation is enacted for an urban community development revenue sharing program, the President proposed that there would be a supplemental appropriation of $490,000,000 in addition to the requested appropriations for the individual categorical programs. In that event, the President's Budget contemplated a total program for urban community development revenue sharing of $2.3 billion for fiscal 1973, which would include the amounts for the categorical programs plus the proposed supplemental appropriation for urban community development revenue sharing.

II. *Recommendations*

1. *Increase in Legislative Authorizations.* NHC recommends a legislative increase in the appropriations for the model cities program for a 5-year period as follows: (a) additional supplemental grants at the rate of $1.5 billion a year; and (b) additional model cities planning funds at the rate of $50 million a year. We further recommend that there be advance appropriations for each fiscal year, besides the current one, to give cities more lead time for their planning and development of model city programs. While we are pleased to note the significant increase in cities now participating in the model cities program, we urge that the foregoing recommendation be adopted to enable participation by all qualified cities and counties which apply; also, to enable participating cities and counties to obtain the additional funds which they require.

2. *Other Legislative Amendments.* The model cities program cannot achieve its goals and provide necessary housing unless there are increased authorizations and programs—as recommended elsewhere in this report—as follows:

(a) To expand urban renewal activities.

(b) To increase the supply of adequate low and moderate income housing in the model cities. Such housing should not be limited to what will be developed in the model neighborhood area or the city itself. New housing and related community facilities should be developed extensively on vacant land or other sites not involving substantial residential displacement.

(c) To increase Federal grant funds for water, sewer, and neighborhood facilities, and for open-space and urban beautification.

(d) To increase Federal grant funds for all other programs involved in model city areas, including those dealing with health, education, welfare, mass transportation, training and other purposes relating to urban affairs; also, to specifically designate such categorical funds for these purposes to be available for model cities.

3. *Other recommendations.* To achieve the objectives of this program, full coordination is required between HUD—and all of its participating constituents—and all of the other Departments of the Federal Government who participate in the model cities program; also between the Federal Government and local governments. Each must effectively use all of its powers and available funds in doing its share of the total job. NHC recommends Presidential action and direction to assure that all participating Departments of the Federal Government fulfill their responsibilities under the programs for model cities and urban affairs, including (a) effective coordi-

nation and cooperation between them and (b) the priority handling of applications for assistance filed with the various Federal Departments by model cities.

In late July, the Administration provided additional funds to 20 model cities in a test of "planned variations." This purported test in revenue sharing is apparently designed to allow greater freedom by local governments to solve problems with a minimum of Federal supervision.

CHAPTER J. HOMEOWNERSHIP PROGRAM UNDER SECTION 235

I. *Summary of existing legislation*

1. *Objectives.* Section 235 provides financial assistance to enable lower income families to acquire individual or cooperative homeownership. This law responds to the urgent desire for homeownership among lower income families who want the pride of owning their own home and the greater sense of security and dignity which it affords. Individual and cooperative ownership provides benefits not only to the owner, but to the community as well. Such owners take responsibility for maintaining and improving their homes. They acquire a stake in the community and participate in its affairs. The result is a more stable and wholesome living environment in which to rear children.

2. *Authorizations in the Housing Acts of 1968 and 1969.*

(a) HUD is authorized to enter into contracts to make periodic payments to lenders who make FHA-insured home mortgage loans to lower income families. The payments will be in an amount necessary to make up the difference between 20 percent of the family's monthly income and the required monthly payment under the mortgage for principal, interest, taxes, insurance, and mortgage insurance premium. In no case, however, can payment under the mortgage exceed the difference between (i) the required payment under the mortgage for principal, interest, and mortgage insurance premium and (ii) the payment that would be required for principal and interest if the mortgage bore an interest rate of 1 percent. The amount of the payment on each mortgage will vary according to the income of the homeowner. The family's income is required to be recertified at least every 2 years and appropriate adjustments made in the assistance payment to reflect any changes.

(b) The assistance payment is available for a purchaser having an income at the time of his initial occupancy, not in excess of 135% of the maximum income limits that can be established in the area for initial occupancy in public housing. However, up to 20 percent of the funds authorized in appropriation acts for the program can be used to assist families with incomes above these limits but which are not in excess of 90 percent of the income limits for occupancy in a section 221(d)(3) below-market interest rate housing project.

(c) In calculating the income of the homeowner for the purpose of determining eligibility as well as the amount on which the 20 percent computation will be made, there will be deducted $300 for each minor child who is a member of the homeowner's immediate family and living with him. Also, income of minors will not be included in the homeowner's income for this computation. By administrative action pursuant to recommendations in the Senate Committee Report, there is a deduction of 5% of gross income to cover payroll deductions for social security taxes and compulsory pension funds.

(d) The amount of a home mortgage cannot exceed $18,000 ($21,000 in high cost areas). These limits are increased to $21,000 (except that it may be $24,000 in high cost areas) for families with five or more members. The same limits apply as an average to the blanket mortgage of a cooperative.[1]

(e) On individual ownership of single family homes, the maximum downpayment is $200 for families with incomes up to 135 percent of the maximum income limits that can be established in the area for initial occupancy in public housing and 3 percent of appraisal value in other cases.

(f) HUD is authorized to provide budget, debt management, and related counseling services to homeowners who purchase homes under the program.

(g) The housing, with a few limited exceptions, must be new or substantially rehabilitated housing, except that up to 30 percent of the amount of contracts authorized to be made before July 1, 1971 can apply to existing housing.[2][3]

(h) The aggregate amount of contracts to make payments cannot exceed amounts approved in appropriation acts. The payments pursuant to the contracts cannot exceed $75 million per annum prior to July 1, 1969. This amount was increased by $125 million on July 1, 1969,[2] $125 million on July 1, 1970, and by $170 million on July 1, 1971.[2][4]

(i) The 221(h) program—with a new limit of $50 million—is changed to allow the Secretary to reduce the interest rate on a home purchaser's mortgage under the program to as low as 1 percent where the purchaser's income justifies, with periodic adjustments between 1 and 3 percent to reflect changes in the homeowner's income. Under this program nonprofit mortgages purchase and rehabilitate housing with financing under FHA insured mortgages and resell it to low-income families.

(j) Section 235(c) of the National Housing Act now authorizes homeownership assistance payments for home purchasers who assume mortgages and who are otherwise eligible.[2] Section 235(b)(2) of the act now allows subsequent eligible purchasers of cooperative units to get the benefit of homeownership assistance payments which were previously limited to the initial two purchasers of a cooperative unit.[2]

3. *Authorization in Appropriation Acts.* Of the $75 million authorized under Section 235 for interest-assistance contracts prior to July 1, 1969, $70 million of the contract authority has been embodied in appropriation acts. Of the $100 million authorized in the 1968 Act—this authorization was increased to $125 million in the 1969 Housing Act—for fiscal 1970, $90 million was appropriated. The supplemental appropriation Act of 1970 contained $35 million of contract authority. The appropriation act for fiscal year 1971 contains $130 million of contract authority and the appropriation act for fiscal year 1972 contained $170 million of contract authority.

4. *Amendments in Housing and Urban Development Bill of 1970.*

(a) *Extension of Programs.* The 1970 Housing Act extends 235 program authority until October 1, 1972.

(b) The 1970 Housing Act authorizes the Secretary to compensate the lower income purchasers of existing homes under Section 235 for serious structural or latent defects in the homes which the FHA appraiser should have recognized if properly performing his duties. The defects must be reported within one year of the sale.

(c) *Interest Subsidy Authorization.* The 1970 Act amends section 235(h)(1) of the National Housing Act to increase, from $125 million to $150 million as of July 1, 1970 and from $170 million to $200 million on July 1, 1971, the aggregate amount of the contracts which may be entered into by the Secretary to make periodic homeownership assistance payments. It also clarifies the authority of the Secretary of Housing and Urban Development to enter into contracts for assistance payments in an outstanding amount at any one time not in excess of the amount approved in appropriation acts.

(d) *Assistance Payments with Respect to Existing Dwellings under Section 235.* The 1970 Act amends section 235(h) of the National Housing Act to provide that up to 30 percent of the total amount of contracts of homeownership assistance payments authorized to be made by appropriation Acts through fiscal year 1972 may be made with respect to non-rehabilitated existing dwellings or dwelling units in existing projects. It also provides that at least ten percent of the total amount of contracts for assistance payments authorized to be made by appropriation Acts after June 30, 1971 shall be available for use only with respect to rehabilitated dwellings.

(e) The Senate and House Committee reports contain language which supports a change in the administration of contract authority under Section 235. NHC agrees with the Committees that the manner in which HUD determines the amount to be charged against the contract authority when a contract is made has resulted in an over-utilization of this contract authority and, therefore, a decrease in the number of families that can be assisted. This is caused by charging against the authorizations for each assisted home owner an amount equal to the full statutory subsidy necessary for the mortgage, even though the assisted family at the time it purchases the home will not receive the full subsidy. This has the effect of decreasing significantly the number of units for lower income families that can be financed under the program.

(f) *Assistance under Section 235 Program for Cooperative Projects Financed Under Certain State or Local Programs.* The 1970 Act amends section 235(b) of the National Housing Act to permit homeownership assistance payments to be made on behalf of lower income members of cooperative housing projects financed with aid under a State or local program which are approved by the Secretary prior to the completion of construction or substantial rehabilitation; this authority is comparable to similar authority contained in section 236 with respect to rental projects financed under State or local programs.

II. *Recommendations relating to present 235 program*

1. *Additional Authorizations in Appropriation Acts.* President Nixon's budget message for fiscal year 1972 did not request full funding for the Section 235 program, in spite of the tremendous backlog of applications. The budget requested $175 million of contract authority for fiscal year 1972 against Congressional authorizations of $200 million. In addition there was no request for $25 million of supplemental authorization for fiscal year 1971. $170 million was included for fiscal year 1972 in the appropriation act.

In his Budget Message for fiscal 1973, the President has requested that the Appropriation Act include authority for $170,000,000 of annual interest assistance contracts for the Section 235 program. The only substantive legislation now enacted is a carry-over of $55,000,000 of unused contract authority from previous fiscal years. Accordingly, there is an urgent need to assure the passage of a housing law prior to July 1, 1972, in order to provide necessary legislative authorization under Section 235 for the additional contract authority for fiscal 1973 and succeeding years. NHC recommends that the authorization in the Appropriation Act should be $250,000,000. in contract authority for Section 235, in accordance with the increase which we are recommending below in the legislative authorization.

We further recommend advance authorizations in appropriation acts to cover each succeeding fiscal year, besides the current one, to allow more lead time for the planning and initiation of homeownership programs for lower income families.

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[1] Amended in 1969 Housing Act.

[2] Amended in 1969 Housing Act.

[3] Amended in 1970 Housing Act as described in paragraph 4(d) below.

[4] Amended in 1970 Housing Act as described in paragraph 4(c) below.

2. *Increase in Legislative Authorizations.* Currently there are no authorizations beyond fiscal year 1972 for Section 235. Therefore NHC recommends increasing the legislative authorizations for interest assistance contracts under Section 235 to the following:

On July 1, 1972 (for fiscal 1973) an additional authorization of $250 million;

On July 1, 1973 (for fiscal 1974) an additional authorization of $300 million;

On July 1, 1974 (for fiscal 1975) an additional authorization of $325 million;

On July 1, 1975 (for fiscal 1976) an additional authorization of $350 million;

On July 1, 1976 (for fiscal 1977) an additional authorization of $350 million.

In addition to the foregoing authorizations, NHC recommends a separate and additional authorization of $50 million for each of the five fiscal years beginning with 1973 to provide interest assistance for projects financed or assisted by state agencies.

3. *Other Legislative Amendments.* NHC makes the following recommendations for other legislative amendments:

(a) Under Chapter E, we recommend a number of amendments to the proposed new Section 402 which would replace Section 235 if the Administration's Housing Bill is enacted. If that bill is not enacted and Section 235 continues, we recommend the following amendments to Section 235 which appear in Chapter E:

(1) Substitute the new proposal formula in subparagraph (2) of Chapter E–III with respect to eligible deductions in computing family income, so that the criteria under Section 235 would be the same as those established for public housing under the 1970 Housing Act.

(2) Substitute the new proposed formula in subparagraph (3) of Chapter E–III, so that the homeowner would be required to spend 20% of his income for housing expenses including mortgage payments, utilities, maintenance and repairs.

(3) Substitute the new proposed formula in subparagraph (4) of Chapter E–III with respect to income limits.

(4) Substitute the new proposed formula in subparagraph (5) of Chapter E–III which would provide varying amounts of subsidies for different income groups and which would achieve economic integration in a subdivision containing housing assisted under Section 235.

(b) The widely recognized increases in the costs of housing make it increasingly difficult—and in some areas impossible—to provide housing for the lower income group intended to be served under Section 235. To enable the program to reach this lower income group, NHC recommends that interest assistance be increased for those families who need it by reducing the payment of such families to the amount that covers only the principal payments on the mortgage without any interest. For those who can afford to pay interest, they would pay at a rate which they could afford ranging from 0% to the market rate.

(c) As a result of increases in housing construction and operating costs, there are more people who are now unable to obtain decent housing without Federal assistance. To enable the 235 program to reach these families and to achieve economic integration, it is necessary to eliminate income limits and thus avoid creating gaps and areas of unmet need in the housing program. Housing assistance subsidies should be based on the amount needed after the occupant pays the required percentage of his income. If Congress decides that income limits are necessary to continue this program and obtain funding for it, we recommend the revised income limit formula described in subparagraph 3(a)(3) above.

(d) Special federal grants should be authorized to offset the impact of locating low and moderate income housing in suburban and other areas where costs must be incurred for education, health or other services to the extent they cannot be met from collections of full taxes on the property. Such federal grants would provide an incentive and inducement to suburban and other communities to accept low and moderate income housing since it would not impose an additional burden on the community. Section 503 of H.R. 9866 would accomplish this.

(e) As stated above, NHC recommends a separate and additional authorization for state agencies administering housing programs using Section 235 funds in the amount of $50 million for each of the next five fiscal years. This authorization should be in addition to the authorizations recommended below. To meet the accumulated backlog of applications for such 235 assistance filed in the HUD offices, the full amount of regular authorizations of 235 funds should be promptly allocated to HUD offices and there should be no withholdings in Washington for programs of State agencies. These should be covered by the special additional authorization of 235 funds which we recommend for use on projects financed or assisted through state and other public agencies.

4. *Administrative Actions.*

(a) In early spring, HUD implemented Section 518 of the 1970 Housing Act authorizing the compensation of owners of Section 235 homes for major defects. HUD likewise established procedures for the imposition of responsibility for repairs to the seller. To qualify:

(1) The defect must have existed on the date of the commitment to insure the mortgage;

(2) The property must have been more than a year old on that date;

(3) Proper inspection by FHA should reasonably have been expected to disclose the defect;

(4) Requests for assistance must be within one year after the insurance of the mortgage.

Sellers will be required to execute a statement that no serious defects exist which affect the livability of the dwelling and that they will compensate HUD for any expenses involved in the correction of such defects. NHC supports this program to protect consumers and urges its vigorous enforcement.

(b) Because of the flexibility of the interest assistance programs, not all recipients use the full amount of assistance. This money should be made available to promote additional housing. However, HUD's policy is to place these unused moneys in a reserve fund for the entire mortgage term for use in the event that the income of residents living in Section 235 housing falls. The 1970 Senate report instructed HUD to estimate a "reasonable" amount for reserve to cover the contingency of demands for additional payment and to utilize the balance of the unused subsidy money for new construction. HUD should adopt this program as quickly as possible.

CHAPTER K. RENTAL AND COOPERATIVE PROGRAM UNDER SECTION 236

I. Summary of existing legislation

1. *Objectives.* Section 236 provides financial assistance to enable lower income families to get rental housing or cooperative homeownership. This program is providing housing for families with income too high to qualify for public housing but too low to afford decent housing that could be produced in the private market. A tremendous unmet need exists for housing to serve moderate income families who cannot afford standard private housing without federal assistance. There is a long accumulated backlog of unfilled requests to serve this income group. Unlike Section 221(d)(3), the capital financing under Section 236—as well as Section 235—is shifted to the private market, including mortgage purchases by FNMA and GNMA under the tandem program involving special assistance. Federal assistance payments make up the difference between the market rate of interest and 1% depending upon income.

Because the successful Section 221(d)(3) BMIR program has been phased out, HUD should administer the Section 236 program with sufficient flexibility so as to serve as many families as possible who would be eligible for Section 221(d)(3) housing. These families will use substantially less subsidy money and will provide economic integration within Section 236 projects.

2. *Authorizations in the Housing Acts of 1968 and 1969.*

(a) Section 236 assistance is in the form of periodic payments to the mortgage financing the housing to reduce the mortgagor's interest costs on a market rate FHA-insured project mortgage.

(b) The interest assistance payments reduce payments on the project mortgage from that required for principal, interest, and mortgage insurance premium on a market rate mortgage—which is currently 7 percent—to that required for principal and interest on a mortgage bearing an interest rate of 1 percent.

(c) The interest assistance payments reduce rental or occupancy charges to a basic charge. A tenant or cooperative member will either pay (1) the basic charge or (2) such greater amount as represents 25 percent of income for total housing expense, but not in excess of the charges which would be necessary without any interest assistance payments. Incomes of tenants or cooperative members will be reexamined at least every 2 years for the purpose of adjusting charges. Rental or occupancy charges collected in excess of the basic charges are to be returned to HUD for deposit in a revolving fund for the purpose of making other interest assistance payments.

(d) Tenants or cooperative members of these projects who pay less than the fair market rental charge for their units will generally have incomes, at the time of their initial occupancy, not in excess of 135 percent of the maximum income limits that can be established in the area for initial occupancy in public housing dwellings. However, up to 20 percent of the contract funds authorized in appropriation acts may be made available for projects in which some or all of the units will be occupied, at the time of the initial occupancy, by tenants or cooperative members whose incomes exceed the above limit but do not exceed 90 percent of the income limits for occupancy of Section 221(d)(3) below-market-interest-rate housing.

(e) In determining income for the purpose of eligibility as well as the amount of rent or occupancy charges to be paid, a $300 deduction is permitted for each minor person in the family and any income of such minor is not counted. By administrative action pursuant to recommendations in the Senate Committee Report, there is a deduction of 5% of gross income to cover payroll deductions for social security taxes and compulsory pension funds.

(f) To qualify for mortgage insurance under the new program, a mortgagor must be a nonprofit organization, a cooperative, or a limited dividend entity of the types permitted under the section 221(d)(3) housing program. The mortgage limitations with respect to maximum mortgage amount are the same as for mortgages insured under the 221(d)(3) program. Interest assistance payments can also be made with respect to State-aided housing projects approved for receiving the benefits of the program prior to completion of construction or rehabilitation of the projects.

(g) Contracts for assistance payments are authorized, subject to approval in appropriation acts, in the amount of $75 million annually prior to July 1, 1969. This amount is increased by $125 million on July 1, 1969,* by $125 million on July 1, 1970, and by $170 million on July 1, 1971.* *

(h) A project financed under the new program can include such nondwelling facilities as HUD deems adequate and appropriate to serve the occupants of the project and the surrounding neighborhood, as long as the project is predominantly residential and any nondwelling facilities contribute to the economic feasibility of the project. Where a project is designed primarily for occupancy by the elderly or handicapped it can include related facilities for their use, such as dining, work, recreation, and health facilities.

(i) A cooperative or private nonprofit corporation or association can purchase a project from a limited dividend mortgagor and finance the purchase with a mortgage insured under the program.

(j) Rent Supplement payments may be provided for tenants in projects financed under Section 236, but no more than 20 percent of the units in any one project can receive rent supplement assistance.***

(k) Section 236(b) of the National Housing Act now authorizes interest reduction payments with respect to part of a mortgage on a rental or cooperative housing project financed under a State or local program.*

(l) The dollar limits for mortgages on multifamily housing insured under Section 236 and 221(d)(3) have been increased by 15 percent.*

3. *Authorization in Appropriation Acts.* Of the $75 million authorized under Section 236 for interest-assistance contracts prior to July 1, 1969, $70 million of the contract authority has been embodied in appropriation acts. Of the $100 million authorized in the 1968 Act—this authorization was increased to $125 million in the 1969 Housing Act—for fiscal year 1970, $85 million was appropriated. The supplemental appropriation Act of 1970 contained $35 million of contract authority. The appropriation act for fiscal year 1971 contained $135 million of contract authority and the appropriation act for fiscal year 1972 contains $200 million of contract authority of which $35 million million is reserved for elderly housing.

4. *Amendments in the Housing and Urban Development Act of 1970.*

(a) *Extension of program.* The 1970 Act extends 236 program authority until October 1, 1972.

(b) *Interest Subsidy Authorization.* The 1970 Act amends Section 236(i) of the National Housing Act to increase, from $125 million to $150 million as of July 1, 1970 and from $170 million to $200 million on July 1, 1971, the aggregate amount of the contracts which may be entered into by the Secretary to make periodic interest reduction payments on behalf of owners of rental housing projects designed for occupancy by lower income families. It also clarifies the authority of the Secretary of Housing and Urban Development to enter into contracts for assistance payments in an outstanding amount at any one time not in excess of the amount approved in appropriation acts.

(c) *Inclusion of Certain Costs in Section 236 Projects.* The 1970 Act amends section 236(b) of the National Housing Act to authorize the Secretary, in computing the amount of rental assistance payments, to treat fees and charges imposed on mortgagors participating in State or locally financed mortgage lending programs in the same manner as FHA charged mortgage insurance premiums.

(d) *Use of Certain Housing Facilities Under Section 221 and Section 236 for Classroom Purposes.* The 1970 Act amends sections 221 and 236 of the National Housing Act to authorize the use of available facilities in existing sections 221 and 236 rental or cooperative housing projects for classroom purposes where public schools are overcrowded due in part to the project.

(e) *Congregate Housing for the Displaced, Elderly and Handicapped.* The 1970 Act amends section 221 of the National Housing Act to authorize the Secretary to insure mortgages covering rental projects to be occupied by displaced, elderly, or handicapped persons, which may contain community kitchens, common dining areas, and other shared facilities. The Act also amends section 236 of the National Housing Act to authorize the insurance of mortgages under that section covering rental projects to be occupied by displaced, elderly or handicapped persons which need not, with the approval of the Secretary, contain kitchen facilities. Up to 10 percent of the total amount of interest reduction payments contracted to be made pursuant to appropriation acts after the date of the enactment of the Housing and Urban Development Act of 1970 may be made with respect to such projects.

II. RECOMMENDATIONS

1. *Additional Authorizations in Appropriations Acts.* President Nixon's Budget Message for fiscal 1972 did not request full funding for the Section 236 program, in spite of the tremendous backlog of applications. The budget requested $175 million of contract authority for fiscal year 1972 against congressional authorizations of $200 million. In addition there was no request for $25 million of supplemental authorizations for fiscal year 1971. $200 million was included for fiscal year 1972 in the Appropriation Act.

In his Budget Message for fiscal 1973, the President has requested that the Appropriation Act include authority for $150,000,000 of annual interest assistance contracts for the Section 236 program. The only substantive legislation now enacted is a carry-over of $25,000,000 of unused contract authority from previous fiscal years. Accordingly, there is an urgent need to assure the passage of a housing law prior to July 1, 1972, in order to provide necessary legislative authorization under section 236 for the additional contract authority for fiscal 1973 and succeeding years. NHC recommends that the authorization in the Appropriation Act should be $275,000,000 in contract authority for Section 236, in accordance with the increase which we are recommending below in the legislative authorization.

We further recommend advance authorizations in appropriation acts to cover each succeeding fiscal year, besides the current one, to allow more lead time for the planning and initiation of homeownership programs for lower income families. Currently there are no authorizations beyond fiscal year 1972 for Section 236. Therefore NHC recommends the additional legislation authorization below.

2. *Increase in Legislative Authorizations.* NHC recommends increasing the legislative authorizations for interest assistance contracts under Section 236 to the following:

On July 1, 1972 (for fiscal 1973) an additional authorization of $275 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $300 million.

On July 1, 1974 (for fiscal 1975) an additional authorization of $350 million.

On July 1, 1975 (for fiscal 1976) an additional authorization of $400 million.

On July 1, 1976 (for fiscal 1977) an additional authorization of $400 million.

In addition to the foregoing authorizations, NHC recommends a separate and additional authorization of $50 million for each of the five fiscal years beginning with 1972 to provide interest assistance for projects financed or assisted by state agencies.

3. *Other Legislative Amendments.* NHC makes the following recommendations for other legislative amendments:

(a) Under Chapter E, we recommend a number of amendments to the proposed new Section 502 which would replace Section 236 if the Administration's Housing Bill is enacted. If that bill is not enacted and Section 236 continues, we recommend the following amendments to Section 236 which appear in Chapter E:

(1) Substitute the new proposed formula in subparagraph (2) of Chapter E-III with respect to eligible deductions in computing family income, so that the criteria under Section 236 would be the same as those established for public housing under the 1970 Housing Act.

(2) Substitute the new proposed formula in subparagraph (3) of Chapter E-III so that the occupant in multifamily housing under Section 236 would be required to spend 20% of his income for total housing expenses.

(3) Substitute the new proposed formula in subparagraph (4) of Chapter E-III with respect to income limits.

(4) Substitute the new proposed formula in subparagraph (5) of Chapter E-III which would provide varying amounts of subsidies for different income groups and which would achieve economic integration in a housing development so assisted under Section 236.

(b) NHC recommends that Section 236 and Section 221(d)(3) should be amended to remove the 10% limit on the number of units in a project which may be occupied by moderate-income individuals as distinguished from families. All moderate-income individuals would then be treated in the same manner as those who are elderly or handicapped.

(c) Currently there are almost twenty states that have legislative authority to operate agencies to finance low and moderate income housing through the sales of short-term notes and long-term bonds. Many states have such proposals in some stage of development. These agencies have been encouraged by HUD because they can provide lower cost mortgage money which is obtained because the interest on a public agency bond is tax-exempt. However, NHC believes that the operation of these state agencies should adhere to uniform standards and forms of the type prescribed by FHA if we are to encourage national builders in the subsidized programs. For builders currently doing business in several states, the proliferation of different housing rules and regulations will be an impediment to production of low and moderate income housing. Therefore, NHC suggests an amendment which would require stage agencies in the administration of Section 236 funds to continue using FHA forms and standards which now include necessary protections for the consumer.

(d) As stated above, NHC recommends a separate and additional authorization for state agencies administering housing programs using Section 236 funds in the amount of $50 million for each of the next five fiscal years. This authorization should be in addition to the authorizations recommended above. To meet the accumulated backlog of applications for such 236 assistance filed in the HUD officers, the full amount of regular authorizations of 236 funds should be promptly allocated to HUD offices and there should be no withholdings in Washington for special programs. These should be covered by the special additional authorization of 236 funds which we recommended for use on projects financed or assisted through state and other public agencies.

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*Amended in the 1969 Act.

**Amended in the 1970 Act as described in paragraph 4(b) below.

***Amended in the 1969 Act to allow up to 40 percent in cases where the Secretary determines that there is a need for additional rent supplement units.

(e) NHC recommends that under the GNMA Special Assistance functions public agencies be allowed to sell section 236 mortgages to GNMA.

(f) There has been a tremendous increase in expenses due to higher payments for local taxes, operating costs and tenant services in Section 221(d)(3) and Section 236 projects. These projects are finding it increasingly difficult to pay these higher expenses and continue to serve lower income families. Therefore, NHC recommends that $50 million be authorized which would be available for operating subsidies for these projects and those hereafter built under the new Section 502 program if enacted.

4. *Administrative Actions.* NHC makes the following recommendations for administrative actions:

(a) FHA should establish cost limits which will be realistic and workable in high cost areas, including both high and low rise buildings. This is necessary to assure that housing under 236 can be constructed within the cities in closer proximity to places with employment and public transportation.

(b) As to the cost of periodic income recertifications of occupants, FHA should pay these costs from the surcharges collected from over-income families. At present, these costs are treated as a project expense which results in an additional charge to occupants.

(c) From the beginning, Congress contemplated that 20% of the Section 236 funds would be available for "exception income limit" families. The Committee reports express the desire that HUD administer the 236 program in a manner which will achieve the Congressional mandate of economic integration. However, HUD has not fully utilized its exception limit authority. Less than half of the authorization for exception-limit families has been used. This denies the opportunity to achieve economic integration and defeats the intention of the law. The Administration should fully utilize its authorization and allow families to be accepted at exception limits in all geographic areas to facilitate the general achievement of economic integration in projects.

(d) While the Senate and House Committee Reports contained language directing HUD to more fully utilize contract authority *only* in Section 235 cases, NHC believes that HUD should take similar steps in the administration of Section 236 funds. There should be a periodic reevaluation of the policy of charging an amount equal to the full subsidy against the authorizations for each project. If it is found that certain projects have not fully utilized this subsidy and that payments are being made to HUD, some of this money should be reallocated to generate new construction.

CHAPTER L. SPECIAL MORTGAGE INSURANCE ASSISTANCE UNDER SECTION 237

I. Summary of existing legislation

1. *Objectives.* Section 237 can provide help to assure adequate housing for families of low and moderate income who—because of poor credit records, irregular income or seasonal employment—are unable to meet the credit requirements for purchasing single-family homes financed by a mortgage insured under Sections 203, 220, 221, 234, or 235 (j)(4). This help is to be extended to those who appear able to achieve homeownership through counseling assistance.

2. *Authorizations in the Housing Acts of 1968 and 1969.*

(a) HUD is authorized to insure mortgages under the above-mentioned programs in an amount not to exceed $15,000 with increases not to exceed $17,500 in high-cost areas.

(b) Monthly payments, in combination with local real estate taxes on the property, must total 25% of the applicant's monthly income during the year prior to his application or the average monthly income during the three years prior to his application, whichever is higher.

(c) The Secretary is authorized to provide—or contract with public or private organizations to provide—budget, debt management and related counseling services to those obtaining housing under Section 237.

(d) The aggregate principal balance of all mortgages insured under Section 237 and outstanding at one time may not exceed $200 million.

(e) Authorizations are made in such sums as necessary to carry out the provisions of Section 237.

(f) The 1969 Housing Act amends Section 237(d) to include families who are applying for Section 235 homeownership assistance among the applicants under Section 237 who are to be given a preference for mortgage insurance and counseling services. Prior to this amendment, preference for Section 237 mortgage insurance—which is available to applicants who do not meet normal FHA credit standards—was limited to families living in public housing units (especially over-income families required to vacate public housing) and families eligible for public housing who have been displaced from federally assisted urban renewal areas.

3. *Authorizations in Appropriations Acts.* For the first time since its inception, funds were made available for Section 237. While the Administration did not request any funds, Congress made $3.25 million available for Fiscal Year 1972.

II. Recommendations

NHC recommends additional appropriation of funds to enable FHA to provide budget, debt management, and related counseling services to those obtaining housing under Section 237. In addition to assistance under Section 237, NHC urges that FHA make payments available under Section 235(e) to mortgagees to reimburse the mortgagee for its expense in handling the mortgage. This should include assistance to mortgagors in their budgeting to assure ability to meet mortgage payments.

CHAPTER M. THE RENT SUPPLEMENT PROGRAM

I. Summary of existing legislation

1. *Objectives.* The Rent Supplement Program was an innovative approach to low income housing. It utilizes the free enterprise system and has been strongly endorsed by the home-building, real estate, and insurance industries. It provides incentives for people to escape from poverty, and for the building of decent housing for those who need it most.

2. *Authorizations in the Housing Acts of 1968 and 1969.* The 1968 Housing Act made all previous authorizations for rent supplement contracts aggregating $150 million available for contract prior to July 1, 1969, but only to the extent that these contract authorizations were contained in appropriation acts. The Act provided for an additional $40 million in contract authority for rent supplements in fiscal year 1970 and an additional $100 million in contract authority for fiscal year 1971. The 1968 Housing Act provided that state aided projects are eligible for rent supplements if the projects are approved for such assistance prior to completion of construction or rehabilitation. The 1969 Housing Act authorized the Secretary of HUD to increase, where he deems it desirable, the maximum percentage of rent supplement units in 236 projects from 20% to 40%.

3. *Authorization in Appropriation Acts.* Of the $150 million authorized for rent-supplement contracts prior to July 1, 1969 only $72 million of the contract authority has been embodied in appropriation acts. Of the $100 million authorized for rent-supplement contracts for fiscal 1970, the appropriation act for fiscal year 1970 provided for only $50 million in rent-supplement contract authority. The appropriation act for fiscal year 1971 contained $55 million and the appropriation act for fiscal year 1972 contained $55 million.

4. *Housing and Urban Development Act of 1970.*

Rent Supplement Payments. The 1970 Act amends section 101(a) of the Housing and Urban Development Act of 1965 to increase, by $40 million on July 1, 1971, the aggregate amount of contracts that the Secretary of Housing and Urban Development may enter into to make rent supplement payments.

II. Recommendations

1. *Additional Authorization in Appropriation Acts.* In his Budget Message for fiscal 1973, the President has recommended that the Appropriation Act include a rent supplement contract authorization of $48,000,000 for fiscal 1973. NHC recommends that the Appropriation Act include the full unused rent supplement contract authorization of $98,000,000 which is a carry-over from previous years. In making these recommendations, we again urge the need for advance authorizations in appropriation acts for each succeeding fiscal year, besides the current one, to allow more lead time for the planning and initiation of rent supplement programs.

2. *Increase in Legislative Authorizations.* There is an urgent need to assure the passage of a housing law in order to provide the necessary legislative authorizations for additional rent supplement contracts for fiscal 1973 and succeeding years. NHC recommends increasing the legislative authorizations for rent-supplement contracts as follows:

On July 1, 1972 (for fiscal 1973) an additional authorization of $90 million;

On July 1, 1973 (for fiscal 1974) an additional authorization of $100 million;

On July 1, 1974 (for fiscal 1975) an additional authorization of $100 million;

On July 1, 1975 (for fiscal 1976) an additional authorization of $100 million;

On July 1, 1976 (for fiscal 1977) an additional authorization of $100 million.

3. *Other Legislative Amendments.* NHC makes the following recommendations for other legislative amendments:

(a) The rent supplement legislation imposes too great a burden on low income families by requiring them to pay rents equal to 25% of their annual income, since rent supplements will pay only the difference between such a rental payment and the fair market rental. To eliminate this hardship, NHC recommends that this rent paying requirement be reduced to 20% of family income. A similar recommendation has been made elsewhere in these recommendations relating to the present requirement that too high a percentage of family income be spent for housing under the interest assistance programs of Sections 235 and 236, and (in Chapter E) under the new proposed consolidation of these programs.

(b) There should be an increase in the statutory ceiling on the amount which can be paid as rent supplements on a project in order to reach families of very low incomes whose needs cannot be met now. There should be no areas of unmet need in our housing program.

(c) Counseling and social services should be made available to residents of housing aided by rent supplements. Such services should be allowable housing costs in computing rent supplement payments.

(d) The present law limits rent supplements to lower income families who are living in substandard housing. NHC recommends that the law be amended to include overcrowded conditions—properly defined as to appropriate occupancy limits—as a substandard housing condition; also to permit any low income family to be eligible for housing aided by rent supplements so long as the family qualifies as to low income, even though the family does not live in physically substandard housing. This would meet the needs of newly formed families and those who are spending too much of their low income for housing.

(e) There should be a repeal of the requirement in appropriation acts for a workable program or local government approval before rent supplements can be used in a locality.

(f) NHC urges the establishment of an additional rent supplement program for nonprofit or limited-profit mortgagors who own buildings which are not financed under Sections 221(d)(3) or 236. When the buildings meet code standards—or are rehabilitated to meet such standards—rent supplements should be made available so that the housing can serve low-income families. Present rent supplement requirements for rehabilitation are often unworkable because they cost too much. Rehabilitation to meet code requirements should be acceptable. This will stimulate rehabilitation and provide standard housing quickly and reasonably for many low and moderate income families.

4. *Administration Actions.*

(a) Construction cost limitations were initially established in the rent supplement program which were unworkable in many high-cost cities that faced the greatest need for this program. HUD has approved some increases in these cost limits. However, these increases are insufficient due to cost increases, so NHC recommends further increases in the cost limitations to keep pace with the increases in construction costs. Only through adequate construction cost allowances can the rent supplement program fulfill its purpose of serving low income families in these cities near the places of employment and public transportation.

(b) FHA has established lower limits as to the amount of rent supplements available for families in a project than the amount permitted by the statute. NHC recommends the repeal of these lower administrative limits which limit the subsidy to 70% of economic rent. HUD should be prepared in appropriate cases to contract to pay the full amount of rent supplements on a project up to the statutory ceiling. Only in this way can the needs of many low income families be met, particularly in high cost areas.

(c) The standards under the rent supplement program should be upgraded to produce better-designed housing which will more adequately meet the needs of families, with attention to their comfort and convenience. Thus, the limit of one bathroom per dwelling unit should be removed, as this denies adequate sanitary facilities for larger families.

CHAPTER N. HOUSING FOR FAMILIES RECEIVING PUBLIC ASSISTANCE; EXPERIMENTAL HOUSING ALLOWANCE PROGRAM

1. Four million American families are receiving all or part of their income from public assistance programs. Many of these families are ill-housed, primarily because welfare grants in most cities are inadequate to pay the cost of standard housing. NHC urges the enactment of legislation which would establish and enforce minimum standards for housing occupied by recipients of public assistance. In addition, such legislation should provide that the Federal Government bear the entire cost for decent housing above the present inadequate public assistance allowances for shelter. Thus, families on public assistance would receive a federal housing allowance to supplement the local public assistance shelter allowance in order to cover the full charge for decent housing. Such federal housing allowances should be made in a manner (i) which will encourage rather than discourage ownership and (ii) which will provide security for the recipient against being subjected to the liens that are sometimes involved in local public assistance programs.

2. Even if programs are undertaken at the scale proposed elsewhere in these Resolutions, it will be years before many of the low income families will be able to obtain decent housing within their means. Therefore, NHC supports an experimental program of federal housing allowances for low income families. Besides the initial program for federal housing allowances—described in the preceding paragraph—to supplement local allowances for welfare families, we approve of the experimental program which has been initiated in several selected cities. However, we urge that this program involve explorations and demonstrations concerning the following:

(a) The type of families which should be eligible for a federal housing allowance, including criteria that they live in substandard housing and pay a disproportionate amount of their income for housing; or that they are being displaced from adequate housing and are unable to obtain other suitable housing at charges they can afford.

(b) The amount to be paid as a federal housing allowance. We recommend the difference between (i) 20% of the family's income and (ii) the monthly cost of adequate housing available in the community.

(c) Adequate consumer protections to assure that federal housing allowances will not inflate housing charges, by limiting the use of existing structures—which meet the foregoing standards—to cases where there are sufficient vacancies to avoid such increases in housing charges.

(d) Adequate measures to assure that housing allowances will be used solely to pay for housing costs, rather than being diverted for other purposes.

(e) Safeguards to assure that the federal housing allowance will result in adding to the supply of decent housing in the community through new construction or rehabilitation, except to the extent that decent vacant housing is available in a suitable neighborhood.

3. Because HUD has just recently activated the experimental program for housing allowances, NHC recommends that no further expansion of the housing allowance program take place until we have had experience with the housing allowance program and learned the results of the experiment, particularly concerning any adverse impact on stimulating new construction of housing to meet national goals.

4. The 1970 Act authorized the Secretary to conduct research programs to demonstrate the feasibility of providing low income families (those families eligible for occupancy in public housing projects in an area) with housing allowances to assist them in obtaining existing standard rental housing of their choice. The housing allowance may not exceed the difference between 25 percent of the family's income and the fair market rental of similar sized units or projects receiving rent supplement benefits. The Act also authorized the Secretary to contract with public or private organizations to help select eligible families. The Secretary is authorized to contract to make annual housing allowance payments of $10 million for each of fiscal years 1972 and 1973. The program would be terminated as of June 30, 1973.

(5) Provisions in *Senate Enacted Bill* relating to Experimental Housing Allowance Program.

The Bill would amend the Experimental Housing Allowance program established by the 1970 Housing and Urban Development Act to provide greater scope for experimentation and to increase the funding authorization for each of the next three fiscal years from the $15 million contained in last year's Act to $25 million annually. Under terms of the Bill, the Secretary of HUD would be directed to develop and utilize different types of housing allowances and different techniques for implementation.

This provision of the *Senate Enacted Bill* adopts the NHC recommendation that the Housing Allowance Program is to be continued as an experimental program—except that the Bill would increase the authorization by $10 million annually for the next three years—until its results are tested and evaluated.

CHAPTER O. REHABILITATION OF HOUSING AND CODE ENFORCEMENT

I. Summary of existing legislation

1. *Need.* NHC again reaffirms the importance of saving existing neighborhoods through rehabilitation and other conservation measures. It is sound policy to improve our present housing supply and conserve neighborhoods rather than allow them to deteriorate until they require greater costs in demolition and reconstruction.

2. *Authorizations in 1968 and 1969 Housing Acts.*

(a) *Dwellings Eligible for Rehabilitation Grants and Loans.* The 1968 Act broadens the program of rehabilitation loans under Section 312 for repairs and improvements of dwellings. Instead of limiting the program to dwellings located in urban renewal and code enforcement areas, owners and tenants of dwellings are eligible for loans in the dwelling if located in an area certified by the public governing body as containing a substantial number of structures in need of rehabilitation, and

(1) If the locality has a workable program; and

(2) If the area is definitely planned for rehabilitation or code enforcement within a reasonable time, and the repairs to be assisted are consistent with the plan for rehabilitation or code enforcement.

The 1968 Act authorizes rehabilitation grants under Section 115 to low income homeowners whose properties are located in an area of the character described above, instead of limiting such grants to dwellings in urban renewal and code enforcement areas. The Act also authorizes the Secretary of HUD to make rehabilitation grants and loans to low income homeowners whose property has been determined to be uninsurable because of physical hazards. Such grants or loans may be made only to rehabilitate the property to the extent necessary to make it insurable under a statewide plan.

(b) *Increase in Rehabilitation Loan Authorizations.* The 1968 Act increases the amount authorized to be appropriated for rehabilitation loans. The increase for each fiscal year is from $100 million to $150 million; also, the program is extended to June 30, 1973. The 1968 Act limited eligibility for residential rehabilitation loans to persons whose annual income meets the locally applicable income limits for the Section 221(d)(3) below-market-interest-rate program. The 1969 Act amended Section 312(a) of the Housing Act of 1964 to remove the requirement limiting eligibility for residential rehabilitation loans to persons whose annual income is within locally applicable income limits for the Section 221(d)(3) below-market-interest-rate program. However, priority will be given to applicants whose incomes are within those limits.

(c) *Increase in Rehabilitation Grants.* The Housing Act of 1968 increased the limit on the amount of a rehabilitation grant to a low income homeowner from $1,500 to $3,000. The 1969 Act increased this limit to $3,500.

(d) *Repeal of Urban Renewal Limit on Acquisition and Rehabilitation.* The Act removes the previous limits on the acquisition and rehabilitation of residential properties by local renewal agencies. Under prior law, such agencies could acquire and rehabilitate for demonstration purposes no more than 100 units or 5% of the total residential units suitable for rehabilitation in an urban renewal area, whichever was the lesser. This limit has been repealed.

3. *Authorization in Appropriation Acts.* Nothing was appropriated in Fiscal Year 1969; $45 million was appropriated for Fis-

cal Year 1970; $35 million was appropriated for Fiscal Year 1971; and $90 million was appropriated for Fiscal Year 1972.

4. *Amendments in the Tax Reform Act of 1969 Relevant to Rehabilitation.* A special 5-year amortization deduction is now allowed for expenditures made on or after July 25, 1969, and before December 31, 1974, for the rehabilitation of buildings for low-cost rental housing. This rapid amortization is available only where the property is held for occupancy by families and individuals of low or moderate income determined in a manner consistent with the policies of the 1968 Housing Act. The aggregate rehabilitation may not exceed $15,000 per dwelling unit and the sum of the rehabilitation expenditures (over a 2-year period) must exceed $3,000 per dwelling unit.

5. *Amendments in Housing and Urban Development Act of 1970. FHA Rehabilitation Standards for Housing in Urban Renewal Areas.* The 1970 Act adds a new section 524 to the National Housing Act which requires the Secretary of HUD, with respect to properties approved for mortgage insurance prior to rehabilitation, to apply uniform property standards as between properties located within urban renewal areas and those located outside such areas.

6. *Project Rehabilitation.* This new program will attempt to help cities undertake large-scale, low-cost rebuilding of rundown low-cost housing. Estimates are that a major rehabilitation effort will involve nearly 22,000 housing units in ten cities. The rehabilitation units are primarily in absentee-owned slum buildings.

The first cities getting HUD approval of plans, technical assistance and program funds are Cincinnati, Detroit, El Paso, Hartford, Indianapolis, Memphis, New York, Philadelphia, Pittsburgh, and Seattle. HUD fund assistance includes financing under the public housing program, rent supplements, and mortgage assistance interest subsidies for both rental projects, cooperatives, and homes bought by lower income families. Project rehabilitation is directed by a team of officials from such HUD areas as FHA, Renewal and Housing Management, Model Cities, Equal Opportunity, and Research and Technology Six criteria determine selection of cities by project teams which visit localities seeking HUD assistance. These are suitable rental properties, skilled contractors, capable sponsors, job and enterprise opportunities for neighborhood residents, neighborhood acceptance, and assistance for displaced families.

II. Recommendations

1. To provide additional tools that are needed to achieve substantial progress through rehabilitation, NHC recommends the following:

(a) Section 312 should be amended to increase to $500 million the annual appropriations in each fiscal year to carry out the program. Section 312 should broaden the category of eligible borrowers to include public bodies, cooperatives, nonprofit corporations and limited dividend companies in addition to owners or tenants who are now eligible.

(b) While the 1969 Housing Act increases to $3,500 the federal rehabilitation grants to eligible occupants who own their own homes in the rehabilitation neighborhoods, NHC recommends an increase to $5,000.

(c) Where state or local governments allow tax abatement to encourage rehabilitation, there should be an annual Federal grant to reimburse them for the tax losses.

(d) Relocation assistance and payments should be available to anyone displaced as a result of a rehabilitation program.

(e) More realistic financing should be made available under FHA programs, particularly to serve those people of low and moderate incomes. This requires more practical and workable financing terms and allowances as follows:

(1) The formulas for determining mortgage amounts must recognize the actual cost of acquiring and rehabilitating properties that are structurally sound.

(2) There should be a contingency allowance built into the mortgage financing, which has now been done by FHA. In rehabilitation, the contractor is often not aware of potential problems until he opens the walls and ascertains actual conditions.

(3) The FHA requirements for rehabilitation should not require a specified percentage of mortgage proceeds to be used for rehabilitation, so long as property is brought up to code standards.

(4) In projects where the property is owned or controlled by the proposed mortgagor, cost savings may be achieved by stripping down the building and tearing out the interior walls before making estimates or getting bids for the rehabilitation work. In such cases, FHA should recognize the cost of gutting the building since this increases the value of the property for rehabilitation because conditions are known and unforeseen contingencies are minimized.

(5) To reduce the monthly charges to the level which moderate-income families can afford, it is necessary to eliminate present requirements for short amortization periods on rehabilitation projects. Where the rehabilitation property is in a central city, there is likely to be an increment in land value from which to repay the loan, even though demolition occurs well in advance of the remaining estimated life of the improvements. Thus, the property may later become part of a model city neighborhood or urban redevelopment area. At present, the statute limits the mortgages to a maturity not exceeding three-quarters of the remaining economic life of the building improvements. This limitation should be repealed. FHA should be authorized to permit up to 40-year maturities where appropriate.

2. There should be Federal grants to a local agency designated by the city government for a total coordinated plan for rehabilitation of the neighborhood and for carrying out the rehabilitation program contemplated by the plan. The local agency should enlist the participation of cooperative and nonprofit organizations and local housing authorities. The local agency would also act on behalf of eligible homeowners and tenants in the area in obtaining:

(a) Rehabilitation grants, interest assistance or rent supplements for them;

(b) Below-market-interest-rate loans or market-interest-rate loans for their rehabilitation work; and

(c) Contracts to perform the rehabilitation work, subject to supervision by the local agency.

3. HUD should fully utilize the authorizations in the 1968 Housing Act providing for the acquisition of property for rehabilitation and its disposition with appropriate write-downs which reflect the proposed use of the property. A similar program is necessary outside of urban renewal areas.

4. The authorizations in Sections 236 and 221(h) should be fully funded and utilized to facilitate and accelerate the rehabilitation program.

5. NHC recommends Federal grants to housing authorities or other public agencies—as described elsewhere in these recommendations—to bring housing up to minimum code standards and to make it available for families of low income, including those who are receiving public assistance.

6. NHC urges an acceleration of concentrated code enforcement in deteriorating areas, together with necessary public improvements to halt their decline. The costs of code enforcement programs—both for determining Federal grants and local grant-in-aid credits—should include all costs incurred for repair or installation of streets, sidewalks, streetlighting, trees, parks, open areas, recreational facilities, and other necessary improvements.

CHAPTER P. HOUSING FOR THE ELDERLY

I. Summary of existing legislation

1. *Authorizations in 1968 and 1969 Housing Acts.* The 1968 Housing Act did not provide for any increase in the authorization in the 202 program of direct loans at 3% interest to provide housing for the elderly. Instead, the new 236 program of interest assistance was intended to make FHA-insured financing available for this program. Under 236 there is interest assistance to reduce monthly housing payments to the level achievable with an interest rate of 1% and without any FHA mortgage insurance premium. Under 236, projects can now be undertaken which will provide housing exclusively for the elderly. Such projects may include related facilities, such as dining, work, recreation and health facilities. The Act authorized refinancing of certain 202 projects in order to achieve the lower monthly charges resulting from refinancing with interest assistance.

2. *Amendments in Housing and Urban Development Act of 1970.* The 1970 Act amends section 15 of the United States Housing Act of 1937 by adding a new paragraph (12) which would direct the Secretary to encourage local public housing agencies to develop congregate housing for the displaced, elderly and handicapped. Congregate housing would be defined to mean projects with central dining facilities, where some or all of the units do not have kitchen facilities. The dining facility would be required to be operated on a self-supporting basis; however, any expenditures, other than for food or services, could be considered a cost of the administration of the project. The section also provides that not more than 10 percent of the total amount of contracts for annual contributions entered into in any fiscal year pursuant to the new authority granted under the Housing and Urban Development Act of 1970 or under any law subsequently enacted shall be entered into with respect to units in congregate housing.

3. *Authorizations in Appropriation Acts.* The contract authority in appropriation acts for 236 should now be fully utilized to finance housing for the elderly. For a description of the 236 authorizations in appropriation acts, see Chapter K which covers that program. The Conference Report requires that $35 million of the $200 million available for fiscal year 1972 be made available for elderly housing under Section 236.

II. Recommendations

1. *Additional Legislative Authorizations.*

(a) NHC urges that an average of 50,000 housing units for the elderly be provided each year for the next five years.

(b) NHC recommends that the authorizations under Section 236 should be available to acquire existing housing for the elderly, including projects developed with FHA insurance under Section 231.

2. *Other Legislative Amendments.*

(a) There is a need for special programs to provide federal grants for the following purposes in housing for the elderly:

(1) to assist in training professional personnel to manage programs for the elderly; and

(2) to provide working capital and seed capital to states and localities and to nonprofit organizations such as church groups, labor unions, fraternal and cooperative-servicing organizations.

(b) NHC recommends adoption in the next Housing Act of a provision that was passed by the House but not adopted by the Conference on the 1969 Housing Act which requires (1) that projects for the elderly or handicapped be administered, to the maximum extent possible, under the same terms as the Section 202 program, (2) that the requirement for computations of rents based on income will not apply to handicapped families, (3) that income verification for tenants in such projects shall be every five years and (4) that "Exception Income Limits" for the elderly or handicapped shall be $5,500 for individuals and $6,600 for couples, in lieu of 90% of 221 (d)(3) BMIR limit otherwise applicable.

3. *Administrative Action.*

(a) The 236 cost limits should be increased to permit housing to be built within the cities where they are needed to serve the elderly. In view of high land costs, this should include high-rise buildings. The program should include rehabilitation as well as new construction.

(b) In accordance with the statutory authority for loans equal to the total development costs, HUD should not require an approved sponsor to make an investment to cover the cost of preliminary expenses, facilities, furnishings, equipment, and working capital. Such costs should be included in the loan. It should not be necessary for a nonprofit sponsor to make a monetary contribution. Its contribution consists of its devotion of time, ingenuity, and energy in initiating and developing projects—all without compensation and motivated by public service.

(c) HUD should take all action necessary to allocate promptly the $35 million interest-assistance contract authority which the Congressional Conference Report requires be used for elderly housing.

CHAPTER Q. FINANCING NURSING HOMES, FACILITIES FOR GROUP MEDICAL PRACTICE AND NONPROFIT HOSPITALS

I. Summary of existing legislation

1. *Objectives.* NHC again recognizes that a continuing desperate need exists for hundreds of thousands of nursing home beds, especially among the low-income elderly. This need has increased by demands generated through Medicare. Since local housing authorities have long experience in building low-rent housing for the elderly, they are well qualified to develop nursing homes for low-income persons. They should be authorized to coordinate programs of housing and nursing home facilities for the low-income group. This can be done effectively by amending the USH Act of 1937, to authorize annual contribution contracts with local housing authorities for nursing home facilities. In addition to these needs, many communities are facing serious shortages in full hospital facilities. Existing hospitals are unable to undertake needed expansion because of their inability to finance such costly additions.

2. Authorizations in 1968 and 1969 Housing Acts. The 1968 Housing Act amended Section 232 of the National Housing Act to permit the cost of major items of equipment used in operating nursing homes to be included in the FHA-insured mortgage; also, to permit supplementary loans for the installation of such equipment in nursing homes previously constructed.

The 1968 Housing Act added Section 242 to the National Housing Act which establishes a FHA program under which the Secretary of HUD will insure mortgages covering new or rehabilitated hospitals (including initial equipment). To be eligible for such insurance, the mortgage cannot exceed $25 million or 90 percent of replacement cost, and the hospital must be owned and operated by one or more nonprofit organizations. A certification is required from the State health agency that the hospital is need and that State or local laws providing for minimum standards will be applied and enforced.*

The 1969 Act amended Section 232 of the National Housing Act to authorize insurance of mortgages financing new or rehabilitated intermediate care facilities or combined nursing homes and intermediate care facilities. The purpose of this program is to assist in the provision of facilities for persons who, because of incapacitating infirmities, require minimum and continuous care of the type provided by licensed or trained personnel but who do not need full nursing home care.

Under the 1969 Act an intermediate care facilities project or a combined nursing home and intermediate care facilities project can be financed under the same terms and conditions as provided for a nursing home under the present authority. The mortgage is limited to a principal obligation not exceeding $12,500,000 or 90% of the estimated value of the property or project including equipment. The Secretary must require certification by the State agency designated by the Public Health Service Act as to the need for such facilities and appropriate standards for their operation. The Secretary must also consult with the Department of Health, Education and Welfare as to the health and medical aspects of such facilities and as to the need and availability of such facilities in the area.

3. *Amendments in the Housing and Urban Development Act of 1970.*

(a) *Maximum Amount of FHA-Insured Hospital Mortgage.* The 1970 Act amends Section 242 of the National Housing Act to increase from $25 million to $50 million the maximum insurable mortgage amount covering a hospital.

(b) *Mortgage Insurance for Proprietary Hospitals.* The 1970 Act makes profit-making entities eligible to finance hospital construction or rehabilitation with FHA-insured mortgages. Previously, only nonprofit organizations were eligible to develop FHA-financed hospitals.

II. *Recommendations*

1. NHC recommends that Section 202 and Section 236 be amended to permit the inclusion of nursing facilities in housing projects for the elderly. In this way, elderly persons who need nursing facilities would not have to leave the community in which they are living. In public housing for the elderly, nursing facilities should likewise be included.

2. NHC further recommends that financing be available to nonprofit and cooperative sponsors under Section 236 which will cover the full cost of construction of nursing homes; also, that such projects should get the benefit of below-market-interest rates of subsidies. As stated above, we recommend a statutory increase in subsidy to permit a reduction in this interest rate to 0% for those who need it.

3. The 1966 Act included a program of FHA insurance for facilities used for group medical practice. NHC reaffirms its support of this program and urges its use to encourage the development of nonprofit cooperatives whose members will obtain the benefits of bona fide group medical practice at a reasonable cost. The program should operate in both urban and rural areas. NHC continues to recommend that mortgage amortization be permitted to commence after completion of construction of group practice facilities rather than at the time the mortgage is executed.

4. NHC continues to support the basic concept of the prior Patman Bill, H.R. 10188, which would remove obstacles that impede the broader development of group health plans and which would make financing available for group health programs providing hospitalization, out-patient and preventive care.

CHAPTER R. COLLEGE HOUSING

I. Summary of existing legislation

1. *Objective and Need.* Our Nation has increasingly recognized its dependence upon higher education for its security, welfare, and continued prosperity. To meet the demands made by the expanding number of students and by required increases in faculties, additional housing must be provided for students and faculty. Congress recognized the appropriateness of meeting these needs for college housing twenty years ago. In the Housing Act of 1950, it initiated low-interest loans for housing and educational facilities for students and faculties. Since 1961 there have been authorizations for loan increases at the rate of $300 million each year. Such increases are wholly inadequate to meet current needs. The study conducted under the auspices of the American Council on Education has indicated that approximately $1.5 billion per year of college housing will be needed for the next ten years. Recognizing that a portion of this amount may be derived from non-federal sources, the Council recommended that Congress authorize assistance which will provide a minimum of $1 billion of college housing a year for the next ten years.

2. *Authorizations in the 1968 and 1969 Housing Acts.* Instead of expanding the direct loan program for college housing, the 1968 Act contemplated financing in the private market, but it authorizes financial assistance to colleges by means of annual debt service grants. This grant program is to be used to reduce the borrowers' annual debt service payments on private market loans to the average annual debt service that would have been required if the loan were based on the rate charged on loans under the direct loan program. Annual grants can be made over a fixed period up to 40 years. The total amount of annual grant contracts is subject to approval in appropriation acts. The total amount cannot exceed $10 million, with this limit increased by $10 million on July 1, 1969. The new grant program is made available for loans involving the purchase of existing properties which are in need of little or no rehabilitation.

The 1969 Act amends Section 401(f)(2) of the Housing Act of 1950 to increase, by $4,200,000 on July 1, 1970, the aggregate amount of contracts which may be entered into to make annual debt service grants to help finance college housing facilities.

3. *Authorizations in Appropriation Acts.* There was an authorization of $5.5 million of annual grant contracts for college housing instead of the $10 million authorized in the 1968 Housing Act. For fiscal 1970, $6.5 million was appropriated. For fiscal 1971, $9.3 million of annual grant contracts was appropriated. This appropriation required an increase of $2.6 million in the legislative authorization. For fiscal 1972, $9.3 million was appropriated.

4. *Amendments in the Housing and Urban Development Act of 1970.*

Authorization for College Housing Debt Service Grants. The 1970 Act amends Section 401(f)(2) of the Housing Act of 1950 to increase by $12 million on July 1, 1971, the aggregate amount of contracts which may be entered into to make annual debt service grants to help finance college housing facilities.

II. Recommendations

Increase in Legislative Authorizations. NHC recommends a 5-year authorization of contracts for annual debt service grants which would be sufficient for $1 billion of private financing annually for college housing.

CHAPTER S. COOPERATIVE HOUSING

1. In urban areas where multi family housing predominates, cooperatives provide an important means of achieving homeownership. This produces better communities where the control and responsibility rests with the people who have a stake and pride in their own housing development.

2. NHC approves the use for cooperatives of the 221(d)(3) below-market-interest-rate (BMIR), 221(d)(3) market rate program, 235 and 236 interest assistance, the new Section 243 program providing interest assistance for middle income families, and rent supplement programs. Such cooperatives will make it possible to reach lower income groups

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* Amended in 1970 Housing Act to increase mortgage limit to $50 million as described in paragraphs 3(a) and (b) below.

because of the economic savings and advantages of cooperatives. These are illustrated by the following savings:

(a) Lower closing costs with one closing—including one mortgage, one title policy, one insurance policy and one title transfer—on an entire project of many dwellings, rather than one for each dwelling.

(b) Lower transfer costs since it is unnecessary on a cooperative sale to incur the costs of title examinations and transfers, brokers' fees, refinancing and other charges.

(c) Lower construction costs which cooperatives have achieved through the economies of large scale building when many housing units are presold before construction starts.

The cooperative program has been successful for low and moderate income families assisted under programs with below-market interest rates. NHC concurs in the Congressional mandates to encourage such cooperative housing under Sections 213, 221(a) (3) ments by HUD and FHA encouraging cooperative housing under Section 213, 221(d) (3) and 236, such as the notice to FHA Insuring Office Directors and Assistant Regional Administrators which stated:

"In discussions with builders and lenders, the insuring office should encourage their participation in the above cooperative programs, not only because of the excellent experience which has been achieved from the FHA fiscal standpoint, but also because of the benefits both financial and sociological which flow to the users of this type of housing."

3. The need and demand for cooperative housing under Section 236 greatly exceeds the amount of funds available. In many HUD offices, cooperative housing represents a substantial part of the accumulated backlog of projects awaiting funds under the 236 program. This backlog of need should be met by the release of funds already available and increased authorizations recommended for the 236 program.

4. We recommend that FHA recognize the presently uncompensated costs to cooperative projects resulting from the requirement of recertifying incomes. The cooperative should be reimbursed by retaining the costs of recertifications from "over-income" surcharges that are ultimately returned to HUD. In addition, FHA should allow portions of the over-income surcharges to be used by the cooperative for improvements that FHA may consider advisable and justifiable during the life of the project.

5. Twelve years ago Congress established a revolving fund of $225 million—which is now administered by GNMA—for the purchase, at par, of cooperative mortgages insured by FHA under Section 213. While there have been extensive mortgage purchases from the cooperative revolving fund, much of the money has been returned, so it now has an uncommitted balance of about $100 million. In 1968, the Administration impounded the fund and no further GNMA commitments can now be issued. NHC recommends that the balance in the cooperative revolving fund be made immediately available for the purchase of mortgages on cooperative projects. The 213 program fills an unmet need among those middle-income families and individuals who can only afford the lower monthly charges achievable through cooperative economies and financing. To lessen the budget impact and induce the Administration to utilize these GNMA funds for the purchase of Section 213 mortgages, we recommend that these funds be used under the Tandem Program. In this manner, the budget will reflect only the difference between GNMA's par purchase of the mortgage and the market price at which GNMA later sells the mortgage.

6. (a) NHC applauds the HUD action in releasing millions of dollars for dividend payments to over 400 Section 213 management-type housing cooperatives who are covered by a mutual insurance fund. NHC agrees with HUD's statement that the dividend distribution was "persuasive evidence of the success of these housing cooperatives during the years that the Section 213 program has been in effect."

(b) The Cooperative Management Housing Insurance Fund (CMHI Fund") not only receives payment on mortgage insurance premiums but the CMHI Fund also receives payments from interest on invested reserves. Current law limits the yearly dividend distribution to excess collections (above anticipated needs) of mortgage insurance premiums. NHC recommends that participating housing cooperatives should also receive dividends which include their share of other income to the CMHI Fund. Accordingly, we recommend that Section 213 be amended to remove the above-described limitation on dividend distributions.

(c) Because many housing cooperatives are faced with large expenditures for capital improvements to comply with local environmental protection laws and changes in housing codes, we recommend that the reserves of the CMHI Fund should be made available for loans to finance such improvements. We recommend an amendment to Section 213 which would allow up to one-third of the CMHI Fund to be available for loans to participating housing cooperatives required to make such improvements. The loans should cover 75% of the improvement cost and be repaid over a ten-year period, but in no event beyond the maturity of the cooperative's mortgage. The loan should bear interest at a rate approved by the Secretary but not less than the rate being earned by CMHI Fund investments.

7. (a) As recommended elsewhere in this report, NHC urges the disposition of public housing and Federally-owned housing to cooperatives whose members will reside in such housing and enjoy the benefits of mutual ownership.

(b) In the disposition of property by urban renewal agencies, there should be a recognition in the disposition plan that it is important to achieve cooperative ownership of multifamily housing in urban renewal areas. Accordingly, part of these areas should be considered for the development of housing to be so owned by the people. In making a disposition for this purpose, there should be a disposition condition that those who acquire the property agree to develop it for housing that will involve cooperative ownership.

(c) The FHA insurance program for supplemental loans should be revised, implemented and administered in a realistic manner which would achieve its objectives. Many cooperative projects are faced by the necessity of making large expenditures to meet requirements of new laws enacted as part of anti-pollution and other health programs; moreover, many projects require rehabilitation and up-grading. Supplemental loans are also authorized to provide funds for necessary refinancing of membership resales which involve increases in equity. To facilitate administration of such supplementary loans to finance resales of cooperative memberships, such supplemental loans should be available not only to individual cooperatives but to a group or association of cooperatives or a non-profit financing institution to serve cooperatives. Supplemental loans should be made for a period and at an interest rate to permit their amortization without an undue burden on the projects. GNMA should be authorized to use special assistance funds for the purchase of such supplemental loans at par. The supplemental loan provisions in 213(j) should be extended to include housing projects covered by mortgages insured under Sections 221(d) (3) or 236. NHC recommends amendatory legislation to implement the recommendations in this paragraph to the extent that they cannot be effectuated through administrative action.

(d) The Special Assistant for Cooperative Housing at FHA should be provided with adequate staff and funds to undertake a broad program for the encouragement and development of cooperative housing, including necessary training of cooperative leaders and managers. The Special Assistant and his staff should have responsibility for both the assisted and unassisted cooperative housing in carrying out the functions prescribed in the laws establishing this position, which should be amended to cover cooperatives under all programs.

8. The Tax Reform Act of 1969 contains the following provisions of special interest to the operation of a cooperative housing project:

(a) Section 216(b) of the Code is amended to provide that, in determining whether a corporation is a cooperative housing corporation, no account is to be taken of stock owned and apartments leased by governmental entities empowered to acquire shares in a cooperative housing corporation for the purpose of providing housing facilities. The effect of the amendment is to allow individual tenant-stockholders to deduct their proportionate share of interest and taxes even though more than 20 percent of the cooperative's income is derived from a governmental entity. This amendment applies to taxable years beginning after December 31, 1969.

(b) Section 1039 is added to the Code to provide for deferral of gain upon the sale of a limited distribution project financed under Sections 221(d) (3) and 236 to a cooperative or other nonprofit corporation. This important incentive is more fully described in paragraph 4 of Chapter DD.

9. NHC recommends that the Rent Supplement Program be extended to cover the Section 213 Program. In central city apartments which are converted to cooperative ownership, this would enable them to serve inner city residents who need rent supplements to afford the monthly charges.

10. Since there is substantial interest on college campuses in the use of cooperative housing programs to serve college students, NHC recommends amendments in appropriate housing programs to enable the use of cooperatives for the housing of college students.

11. NHC applauds the U.N. General Assembly vote to encourage a program of social housing that includes cooperatives.

12. The law provides for conversion of existing rental projects financed under Sections 221(d) (3) and 236 to cooperative ownership under those same sections. However, there have been no conversions because HUD is reserving subsidy money exclusively for new construction. NHC urges that HUD reexamine this position and make monies available for this conversion program. As explained in Chapter DD, there is a tax program allowing for deferral of gain on rental projects converted to cooperatives if that gain is invested in the development of a new Section 221(d) (3) or 236 project. This program has yet to become operational because of the failure to release authorized funds.

13. Some existing Section 221(d) (3) cooperative projects are experiencing vacancies due to lack of qualified applicants; yet they are rejecting applicants who are over-income families who would pay the full market charges for their units. NHC recommends that HUD permit membership by these applicants for such existing Section 221(d) (3) cooperatives.

14. NHC recommends that a cooperative housing bank be established and capitalized by the Federal Government. There is a long history of successful operations of cooperative banks for agricultural endeavors. Through financing cooperative housing such a bank would facilitate the production of cooperative housing. It should be operated in a manner which will provide for the retirement of the Government-subscribed capital, so that the bank would become wholly owned by the housing cooperatives.

CHAPTER T. NONPROFIT HOUSING SPONSORS

1. Besides the cooperative non-profit projects discussed in the preceding chapter, the nonprofit sponsors described in this chapter are expected to have an increasing role in meeting the housing needs of low and moderate income groups with the assistance recommended below.

2. NHC believes that there is an urgent need for nonprofit housing sponsors for low and moderate income housing assistance programs. Nonprofit housing sponsors may be either: (a) broadly-based housing development corporations which aid a number of housing projects in the community; or (b) individual project sponsors, such as churches, charitable foundations, settlement houses, labor unions, fraternal organizations and other civic-minded groups.

3. NHC approves the use of Sections 221 (d)(3), 235(j), and rent supplement programs in nonprofit sponsored projects. This sponsorship makes it possible to reach lower income groups because of the absence of profit in the operation of such projects.

4. NHC is pleased that its recommendation was accepted for the use of the Tandem Plan for nonprofit sponsored housing. Without the Tandem Plan, it would be virtually impossible for nonprofit sponsored projects to go forward when mortgages are not selling at par.

5. NHC fully concurs in the report of the Senate Housing Subcommittee that nonprofit housing sponsors have contributed greatly to our housing production. The Committee Report stated: "among these institutions, the not-for-profit organizations involved in housing development have made substantial progress in the construction of low and moderate income housing in a relatively brief period of time. Today they account for a large portion of the housing development activity carried out under the several assistance programs authorized by the Congress. This is fulfilling the intention of the Congress and we are desirous to see not-for-profit sponsors and developers play an increasing role in meeting the nation's critical housing shortage especially for low and moderate income families and individuals."

6. NHC recommends that HUD provide the following financial and technical assistance to nonprofit (including cooperative) sponsors and organizations.

(a) Seed money loans to cover initial costs, such as preliminary architectural fees, engineering fees, site options, tenant surveys, market analyses, and legal and organizational expenses during the project development stage. These would be recoverable from the proceeds of the FHA-insured mortgage.

(b) Grants for administrative costs, social services and other necessary expenses which are important to the success of projects for low and moderate income families and persons.

(c) Technical assistance for expert aid needed to train personnel, develop projects, secure project approval and oversee construction.

(d) Assistance to nonprofit housing sponsors in the conduct of self-help and mutual self-help programs.

7. $1 million was appropriated for fiscal year 1972 under the Low and Moderate Income Sponsor Fund for use by the Secretary in providing a more adequate level of technical assistance. NHC urges that the balance of the $5 million that was authorized in the 1970 Act be appropriated, $3 million was appropriated for fiscal year 1972 for loans under the Low and Moderate Income Sponsor Fund. Likewise NHC urges that any remaining authorized funds be included in future appropriation acts.

8. The 1970 Housing Act provides for a Special Assistant to the Secretary who will be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by HUD. NHC is pleased that a Special Assistant has been named. It urges that he be given adequate staff and funds to undertake a broad program for the encouragement and development of nonprofit sponsored housing.

CHAPTER U. NATIONAL HOMEOWNERSHIP FOUNDATION; NATIONAL ADVISORY COMMISSION ON LOW-INCOME HOUSING; NATIONAL HOUSING PARTNERSHIPS; AND ASSISTANCE TO NONPROFIT SPONSORS OF LOW AND MODERATE INCOME HOUSING

National homeownership foundation

I. *Summary of Existing Legislation.*

1. *Objectives.* The 1968 Housing Act created the National Homeownership Foundation to carry out a continuing program of encouraging private and public organizations to provide increased homeownership and housing opportunities in urban and rural areas for lower income families.

2. *Authorizations in 1968 Housing Act.* The Act authorized the Foundation to make grants and loans (not otherwise available from Federal sources) to such organizations to help defray organizational and administrative expenses, necessary preconstruction costs, and the cost of counseling or similar services to lower income families for whom housing is being provided. The Foundation would also provide technical assistance to the organizations. The Foundation would be administered by an 18-member Board of Directors. Fifteen members would be appointed by the President. The Secretary of HUD, the Secretary of Agriculture and the Director of OEO would be the other three members. The board would appoint an executive director as its executive officer.

3. *Authorizations in Appropriation Acts.* Appropriations up to $10 million are authorized. The Foundation can also use donated funds. Nothing has been appropriated for fiscal year 1970. The Administration requested $250,000 for fiscal years 1971 and 1972 but nothing was included in the appropriation act for these years.

II. *Recommendations.* NHC urges that the Foundation be fully funded so that the Foundation can begin its vital assignment.

National advisory commission on low-income housing

1. *Objectives.* The 1968 Housing Act established a National Advisory Commission on Low-Income Housing to undertake a comprehensive study and investigate the resources and capabilities in the public and private sectors of the economy which may be used to fulfill more completely the objectives of the national goal of "a decent home and a suitable living environment for every American family".

2. *Assignment.* The Act directs the Commission to submit to the President and the Congress an interim report with respect to its findings and recommendations not later than July 1, 1969, and a final report not later than July 1, 1970. Neither report has been filed.

National housing partnerships

I. *Summary of Existing Legislation.*

1. *Objectives.* The 1968 Housing Act created a national housing partnership for the purpose of securing the participation of private investors in programs and projects to provide housing for low and moderate income families. The Act provides for a federally chartered, privately funded corporation under the District of Columbia Business Corporation Act; also, for a National Partnership organized by the corporation under the D.C. Uniform Limited Partnership Act. The Corporation serves as the general partner and managing agent of the National Partnership and each of its stockholders can be a limited partner. It provides the staff and expertise for the Partnership in organizing and planning project undertakings in which the Partnership has an interest, and receives a fee for such services.

2. *Authority.* Both the Corporation and the National Partnership are authorized to engage in a broad range of activities appropriate to the provision of housing and related facilities primarily for low or moderate income families, with or without the use of Federal programs, and may enter into and participate in all forms of partnerships and associations. The National Partnership forms partnership ventures with local investors for the purpose of building low and moderate income housing projects throughout the nation. Normally, it will be a limited partner in such undertakings, with an interest of not more than 25% of the aggregate initial equity investment for the project. Sales have been made of the requisite shares of stock in the Corporation and interests in the National Partnership. It began full operation in 1970. The President is authorized to create additional partnerships when he determines it to be in the national interest. National banks are authorized to invest in a corporation and other entities formed under this title.

II. *Recommendations.* NHC recommends that the following actions be taken:

1. To encourage widespread participation and private investment in the National Housing Partnerships, tax incentives must be continued for undertaking housing developments to serve low and moderate income persons. In Chapter FF, we describe the favorable action taken in the Tax Reform Act of 1969 to provide such incentives.

2. To enable the sale of projects undertaken by the National Housing Partnership to cooperatives or other nonprofit corporations, there should be an implementation of the provisions of Section 236(j)(3) of the National Housing Act as described under the separate 236 heading. An important tax incentive providing for deferral of gain upon a 236(j)(3) sale to a cooperative or other nonprofit corporation was added by the Tax Reform Act of 1969. It is more fully discussed in Chapter FF.

Assistance to nonprofit sponsors of low- and moderate-income housing

I. *Summary of Existing Legislation:*

1. *Objectives.* The 1968 Housing Act has provisions to assist nonprofit sponsors of low and moderate income housing.

2. *Authorization in the 1968 and 1969 Housing Acts:*

(a) The Secretary of HUD is authorized to provide technical assistance, with respect to the construction, rehabilitation, and operation of low and moderate income housing to nonprofit organizations.

(b) The Secretary can also make 80-percent, interest-free loans to non-profit sponsors of such housing to cover certain preconstruction costs under Federally-assisted programs.

(c) The Low and Moderate Income Sponsor Fund is established for the purpose of making the loans with an authorization of appropriations of $7.5 million for fiscal year 1969 and $10 million for fiscal year 1970. The Fund will be a revolving fund and repayment of loans will be deposited in the Fund.

3. *Authorization in Appropriation Acts.* $500,000 was appropriated in the Supplemental Appropriations for fiscal 1969, $2 million was appropriated for fiscal 1970, $3 million was included in the appropriation act for fiscal 1971, and $4 million was included in the appropriation act for fiscal 1972.

4. *Amendments in the Housing and Urban Development Act for 1970.*

(a) *Advice and Assistance with Respect to Housing for Low and Moderate Income Families.* The 1970 Act amends Section 106(a) of the Housing and Urban Development Act of 1968 to authorize technical assistance and advice with respect to individual tenants and homeowners assisted under HUD programs in addition to nonprofit sponsors of multifamily housing. The section also repeals the grant program for tenant services in public housing projects and authorizes such services to be financed out of project income and annual contribution payments.

(b) *Information and Advice to Nonprofit Project Sponsors.* The 1970 Act creates in the Department of Housing and Urban Development a new position of Assistant to the Secretary, responsible for assisting nonprofit organizations in complying with HUD requirements in applying for sponsorship of housing projects under the subsidized multifamily programs administered by the Department.

NHC urges that the full authorizations be appropriated and utilized for this program as more fully discussed in Chapter T.

CHAPTER V. RURAL HOUSING, RENEWAL AND PLANNING FOR MULTI-COUNTY AREAS

I. Summary of existing legislation

1. *Objectives.* There is increasing national concern to make rural America more attractive and livable for all. To achieve this goal, programs must be initiated to encourage the young and better educated to continue living in rural America. Programs which provide the same kinds of financial assistance as are provided for urban housing and renewal should be available to rural areas for rural housing and renewal. We endorse those provisions of the 1968 Housing Act which make certain housing assistance equally available to rural areas, but other legislation is required as described below.

2. *Authorizations in the 1968 and 1969 Housing Acts.*

(a) Under Sections 235 and 236, the Secretary was authorized to transfer to the Secretary of Agriculture a reasonable portion of the total authority to contract to make periodic interest reduction payments for use in rural areas and small towns. By agreement, the Secretary of Agriculture was delegated $2 million in contract authority under Section 235(k). However, projects under Section 236 will be processed by FHA. As of July 1, 1971, FHA exhausted its 235(k) contract authority and no new contract authority is anticipated.

(b) The 1969 Act extends for a 4-year period ending October 1, 1973, the various rural housing authorizations which were scheduled to expire on October 1, 1969.

(c) The 1969 Act amended Section 517(c) of the Housing Act of 1949 as follows:

(1) To remove the present $100 million limitation on the amount of new loan paper which may be held in the Rural Housing Insurance Fund at any one time;

(2) To authorize the Secretary of Agriculture to sell insured housing loans out of the Rural Housing Insurance Fund in blocks and to treat such transactions as a sale of assets for budgetary purposes; and

(3) To make clear that the Secretary of Agriculture may issue commitments to make or insure rural housing loans on one or more properties upon application by the lender, or seller and upon compliance with such requirements as he may specify.

(d) The 1969 Act amended Section 517 of the 1949 Act (with conforming amendments to Sections 518 and 519 of that Act) to abolish the existing Rural Housing Direct Loan Account and transfer all of its assets, liabilities, and authorizations to the Rural Housing Insurance Fund. It is the purpose of these amendments simply to consolidate the direct loan programs of the Farmers Home Administration in a single Fund, without changing the nature or coverage of those programs; all of the funds, claims, notes, mortgages, contracts, property, collections, proceeds, and unexpected balances which were held in or applicable to the Account will as a result of the transfer be held in or applicable to the Fund, and any authorizations for the appropriation of funds, the availability of funds for direct loans and related advances, or the issuance of notes which were applicable to the Account will become applicable to the Fund.

(e) The 1969 Act adds a new Section 524 to the 1949 Act to authorize financial assistance to nonprofit organizations to provide sites for rural housing for low and moderate income families.

3. *Amendments in the Housing and Urban Development Act of 1970*

(a) Sections 514 and 516 of the Housing Act of 1949 were amended to broaden the farm labor housing program by:

(1) Authorizing financial assistance to nonprofit organizations of farmworkers for the construction of farm labor housing;

(2) Authorizing financial assistance to broad based public or nonprofit organizations for the construction of farm labor housing any place within the State where the need exists.

(3) Lowering the interest rate on farm labor housing loans from 5 to 1 percent.

(4) Authorizing the financing of household furnishings in farm labor housing units.

(5) Raising the maximum grant from two-thirds to 90 percent of the development cost of a project.

(6) Requiring the construction of farm labor housing suitable for year-round use except where the Secretary finds that year-round housing is not needed.

(b) Sections 502 and 504 of the Housing Act of 1949 were amended to permit loans to people who lease a home site.

(c) Section 504 was amended by raising the ceiling on loans and grants for home repair from $1,500 to $2,500 and to $3,500 if necessary to provide water and sanitation facilities.

(d) The Secretary of Agriculture was given discretionary authority in the use of Farmers Home Administration county committees in the determination of the eligibility of loan applicants.

(e) Section 515(b)(1) was amended to raise the ceiling on loans for the construction of rental housing projects from $300,000 to $750,000.

(f) Section 520 of the Housing Act of 1949 was amended to raise the size of communities Farmers Home Administration can serve from 5,500 to 10,000.

(g) Both the Senate and House Committee Reports strongly recommend that 1968 report language be rescinded thus making it clear that both urban and rural residents should be eligible for Title V housing regardless of whether they work in a rural area.

4. *Authorizations in Appropriation Acts.* Elsewhere we have described the authorizations of interest assistance contracts under Section 235 and 236 which are now available for housing in rural areas. In addition, the rural housing program of the Department of Agriculture was authorized to maintain a $5 million program of 3%, 50-year loans.

II. Recommendations

1. *Additional Authorizations in Appropriations Acts.* NHC make the following recommendations:

(a) That authorization be increased for the following programs: Section 504 loans and grants from $50,000,000 to $100,000,000; Section 516 grants from $50,000,000 to $200,000,000; Section 506 research and study from $250,000 per year to $5,000,000 per year; and Section 523 technical assistance from $5,000,000 to $10,000,000.

(b) That the housing repair grant provisions of Section 504(a) be funded at a level of $25 million for fiscal 1972. Since 1964 there have been no grant funds available for housing repair.

(c) That the housing loan provisions of Section 504(a) be funded at a level of $25 million for fiscal 1973.

(d) That the farm labor housing grant provisions of Section 516(b) be funded at a level of $50 million for fiscal 1973.

(e) That the self-help housing technical assistance grants authorized by Section 523 (b)(1)(A) be funded at the full limit of $5 million for fiscal 1973.

(f) That the self-help loan funds authorized by Section 523(b)(1)(B) be funded at the full limit of $1 million for fiscal 1973.

(g) That the full amount authorized by law, be appropriated for development and planning grants, for rural water and sewer systems for fiscal 1973.

(h) That $150 million be appropriated for FmHA administrative expenses in fiscal 1973 to enable the agency to handle the vastly increased workload particularly in housing and in community affairs.

2. *Legislative Amendments Relating to Rural Housing.* NHC recommends the following legislation relating to rural housing programs:

(a) The 3%, 50-year loan program to supplement the new authority granted under the 1968 Housing Act should not only be continued but increased. The Secretary of Agriculture should be authorized to contract to maintain the interest rate throughout the duration of the loan. Also the Secretary should be granted the power to reduce the interest rate to as low as 1% under this program.

(b) Enact legislation creating the position of Special Assistant for Cooperative Housing in the Farmers Home Administration (FmHA) of the Department of Agriculture (a similar position to that created in the Housing Amendments of 1955 for urban cooperative housing) with similar powers, duties and adequate staff and budget; and the additional responsibility of mobilizing the support of rural area cooperatives of all types for the creation and continued successful operation of rural cooperative housing projects.

(c) Give the Secretary of HUD authority to waive rules and regulations of HUD programs so small cities and towns can get an equitable share of HUD programs.

(d) That the population ceiling on FmHA loans be raised from towns of 10,000 to maximum 25,000 population, except in areas outside of SMSA's where no population limit should apply with commensurate adjustments in administrative funds.

(e) That the Rent Supplement Program be extended to programs which are financed directly by FmHA, such as the Section 515 Rural Rental Program.

(f) The authority given to the Secretary of Agriculture to use county committees as a means of determining the eligibility of applicants for FmHA housing loans should be completely rescinded.

(g) The authorization for annual appropriations for development and planning grants for rural water and sewer systems should be raised from $115 million to $230 million.

(h) A legislative goal of at least 500,000 housing units per year for FmHA financing should be established. This is the level which will be needed to achieve the rural part of NHC's national housing goal which calls for 10,000,000 federally assisted housing units to be constructed or rehabilitated in ten years.

(i) FmHA should be provided with funds for research geared to solve problems which often hamper or restrict housing developments in rural areas. An example is lack of waste disposal facilities. Research needs to be undertaken to develop a waste disposal system which could serve an individual home or a number of homes at a modest initial investment and low maintenance.

(j) Congress should establish a $6 billion level for FmHA insured housing loans in fiscal 1973. This would permit FmHA to finance at a level of about 500,000 housing units a year. Because these funds are raised through the sale of notes on the private market, the funding does not require appropriations from the Treasury. Therefore there is little impact on the Federal budget.

(k) That the FmHA staff be expanded to enable the agency to actively promote rental and cooperative housing to aid in meeting rural needs.

(l) The amendment of the FmHA Act to enable the agency to promote and finance nonprofit housing development corporations as housing delivery systems to small towns and rural people.

(m) That legislation be enacted to assure that the American Indian—on and off reservations—is given the opportunity and choice to participate in all Federal housing programs.

(n) The establishment of a Rural Development Bank as provided in H.R. 15402 introduced by Congressman Patman.

(o) That the FmHA legislation be amended to authorize loans requiring principal and interest payments on as little as 50 percent of the principal, for Section 502 and 515 and as little as 10 percent of the principal on Section 504 loans, with the remainder covered by a second trust which would not bear interest or fall due for repayment until the first mortgage was paid off or the property changed hands.

(p) The creation of a Department of Rural Affairs, which would include those housing and community development functions currently administered by the Department of Agriculture, and which would receive its appropriations through new subcommittees of the House and Senate Appropriations Committees. In the absence of such an executive reorganization, NHC recommends that all appropriations for housing and community facilities programs be made through the same Appropriations subcommittees, whether the programs are administered by HUD or USDA.

(q) Enactment of any necessary legislation to authorize and direct FmHA to establish escrow accounts on behalf of its housing borrowers for the payment of taxes and insurance.

(r) Enactment of any necessary legislation to replace the present bonding requirements of FmHA County Offices with a fidelity bonding arrangement which would protect the government against fraud without making County Office staff financially liable for non-fraudulent administrative errors.

(s) Legislation authorizing FmHA to take all actions necessary to permit the use and compensation of housing consultants and specialists in preparing, processing or otherwise assisting in the undertaking of housing financed or aided by FmHA.

(t) Enactment of any necessary legislation to authorize and direct FmHA to refinance indebtedness when failure to refinance would likely result in the applicant's loss of his necessary dwelling or, if a loan for improvement were made, failure to refinance would cause a hardship for the applicant.

(u) Enactment of legislation authorizing the use of all Title V programs on leasehold interests in land.

(v) Enactment of any necessary legislation to authorize and direct FmHA to establish a system of orderly appeals whereby an applicant denied assistance would be afforded a due process hearing.

(w) Enactment of any necessary legislation that would preclude FmHA from discriminating against an applicant on grounds of the source of his income and to eliminate the practice of viewing housing needs as a residuum of other basic needs.

(x) Enactment of any necessary legislation to authorize and direct FmHA to take whatever security that is available, if any, for all loans made under Title V to members or organizations of an Indian Tribe or Nation living on reservation land or similar land which is otherwise restricted.

(y) Enactment of any necessary legislation to authorize and direct FmHA to make Section 504 home repair loans for amounts of up to $4,000 and for a period not to exceed 20 years and that any loan for less than $2,500 need be evidenced by only a promissory note.

(z) Enactment of any necessary legislation to authorize and direct FmHA to contract with private and public organizations for the purpose of conducting research and study programs.

(aa) Enactment of any necessary legislation to authorize and direct FmHA to allow any licensed attorney regularly practicing law in the state where a loan or grant is made to act as legal counsel for the recipient of such loan or grant.

(bb) Enactment of any necessary legislation to authorize and direct FmHA as a part of a grant for Section 523 technical assistance, to make a land development loan which will be repaid upon the expiration of the grant period unless extended and which shall bear no interest.

(cc) Enactment of any necessary legislation to authorize and direct FmHA to insure title to land which because of a remote cloud thereon is otherwise uninsurable.

(dd) Creation of an Emergency Rural Housing Administration as provided in the McGovern Bill (S. 2897).

(ee) FmHA should be authorized to make loans for the purchase of furniture to recipients of housing loans when they are unable to afford to purchase adequate furnishings at the time of moving into a FmHA-financed home.

(ff) Legislation authorizing FmHA to extend its housing programs to Guam and the trust territories.

3. *Recommendations for Administrative Actions.*

(a) The national office of FmHA should take steps immediately to improve the delivery system so that housing loans can be processed at a greatly accelerated rate. The first quarter of fiscal 1972 indicates that Farmers Home is not processing loans rapidly enough to deliver the $1.6 billion authorized this year which may well result in a cutback next year if steps are not taken to correct the situation.

(b) FmHA should provide counseling service to purchasers of FmHA-financed homes to acquaint them with the use of appliances and the up-keep of their homes, as well as their rights and responsibilities as homeowners. If FmHA does not have sufficient personnel for this, it should explore arranging for Extension Service home economists to perform this function or to contract with outside organizations to furnish the service.

(c) Besides Congressional actions, there is a need for more effective executive actions and better coordination of Agriculture and HUD, and for consultations with industry and public interest groups. Such actions should be taken to assure that federal housing, community facility and planning aids for rural areas are equivalent to those available in cities and metropolitan areas.

(d) The Secretary of Agriculture is urged to stimulate and encourage programs under new and existing cooperative housing provisions to alleviate the housing ills in rural areas.

(e) The Federal Housing Administration and the Farmers Home Administration (FmHA) are urged to work out a plan for making housing credit available in small towns that are too large for FmHA to service (over 10,000), but not practical for FHA to service because of remoteness or other reasons. A serious credit shortage exists in many of these areas.

(f) There should be standardization of FmHA regulations and procedures which presently often vary from county to county and from state to state, making it difficult and sometimes impossible for outside groups to work effectively with FmHA. In this respect, the staff of the National FmHA should be expanded. Also, in many areas where the demand for housing is substantial, FmHA should assign housing specialists. Presently, county supervisors are responsible not only for housing but for many other FmHA program as well. If FmHA is to achieve the potential which its housing program possesses, it must develop new administrative techniques to handle the greatly increased volume of housing applications.

(g) FmHA should reorganize its staff and further streamline its activities to speed up the making and servicing of loans.

(h) FmHA should increase its administrative limit of $100,000 for rural housing site loans to $500,000. The present limit, in view of escalating land costs and costs of developing rural land, is too low. As a result, the tremendous potential of this valuable new authority which FmHA received in the 1969 housing legislation is severely restricted.

(i) FmHA should strengthen its advance commitments to builders so as to encourage larger scale builders to operate in rural areas. This is essential to producing the volume of housing required to solve the critical shortage in rural communities. FmHA's administrative regulations prevent advance commitments from having the impact which Congress intended.

(j) FmHA should encourage broader use of programs for which nonprofit organizations are eligible, such as Section 515 rental housing, Section 514–516 labor housing, Section 523 technical assistance; and Section 524 site development, by eliminating the requirement that organization be made up of and controlled by persons from the community in which the housing is to be located. In rural areas non-profit housing organizations often consist of persons from several communities and even several counties. These organizations should be allowed to participate in the programs without the need for extensive reorganization. It is believed that the FmHA programs would benefit from the economies of scale and the need for better project management if this recommendation is followed.

III. Provisions on rural housing and renewal in Chapter V of S. 3248 and NHC's recommendations

The Senate Committee Report explains the provisions of Rural Housing:

Assistance Authorization

The bill would amend section 513 of the Housing Act of 1949 by increasing authorizations available for Section 516 Labor Housing grants to $150,000,000 through June 30, 1974. These increased amounts recognize the desperate need for decent housing for those who earn a substantial portion of the income from farm wage work and who historically have been one of the most indecently housed people in this county. Prior to 1970, there existed no effective program which could meet the needs of farm workers in rural areas. The 1970 Housing Act amended section 516 to enable public bodies and nonprofit sponsors to receive grants of up to 90 percent of the capital costs of a rental project for farm workers, thus for the first time making most projects economically feasible. As a result, there has been a large increase in demand for program funds. The committee was informed that, after the first six months of operation with the new authority, a backlog of over $18 million in requests had accumulated at the National Farmers Home Administration office with only $3.7 million to fund them. As a result, FmHA requested that no more new applications be proposed. It is estimated that the funds authorized here would provide decent housing and related facilities for about 10,000 families. It is estimated that some 250,000 farm worker families are in need of housing but it is anticipated that some will be served by other federally subsidized programs as amended by this Act.

Mobile Homes

The bill would amend title V of the Housing Act of 1949 to add a new section 525 to authorize rural housing loans to finance mobile homes, as well as individual sites, under provisions regarding interest, maximum amounts, maximum maturities, and standards applicable to HUD-insured loans for the same purposes. In other respects, e.g. the requirement that the applicant be unable to obtain a loan elsewhere, rural housing loans for mobile homes would be subject to the provisions of title V of the Housing Act of 1949.

Assistance Payments for Low-Income Tenants

The bill would amend section 521 of the Housing Act of 1949 to authorize the Secretary of Agriculture to make and insure rural housing loans on terms and conditions, and make assistance payments as necessary, to achieve the same results for lower income and very low income occupants of rental or cooperative housing as could be achieved under the provisions of the bill applicable to the insurances of loans and the making of assistance payments by HUD for the same purpose.

The bill would also amend sections 517 and 521 of the Housing Act of 1949 (1) to authorize the Rural Housing Insurance Fund to be used for the purpose of making the assistance payments and other relief available, (2) to require annual appropriations to reimburse the fund therefor, and (3) to authorize interim borrowings from the Treasury as necessary in anticipation of such reimbursement.

Nonprofit Organizations

The committee is aware of and acknowledges the tremendous effort made by many nonprofit organizations in rural areas in bringing the benefits of Title V of the 1949 Act to low income families. It has also been made aware, through testimony, of the fact that many nonprofit organizations are ineligible to participate in the various programs because the make-up of their boards of directors and the jurisdictions of their memberships is different from the regulations established by the Farmers Home Administration. Because of the tremendous need for rental housing which could be provided through the rural rental program and the labor housing programs, the need for self-help technical assistance through section 523 and the need for land development through sections 523 and 524, the committee believes it to be essential that more nonprofit organizations be encouraged to participate in these programs.

The committee is of the opinion that it is desirable to promote the use of nonprofit organizations who can, as time passes, demonstrate that, through the economies of scale and through enlightened management, housing for low-income people can be delivered efficiently and effectively in the widespread market of rural areas.

NHC supports the foregoing provisions of the *Senate Enacted Bill* which carry out many NHC recommendations. We continue our recommendations of additional authorizations and improvements in legislation relating to rural housing and renewal.

CHAPTER W. INTERIM ASSISTANCE AND INTERIM REHABILITATION PROGRAMS IN SLUM AND BLIGHTED AREAS

I. *Summary of Existing Legislation*

1. *Interim Assistance for Blighted Areas as Provided for in the 1968 Housing Act.* The 1968 Housing Act authorizes the Secretary of HUD to contract to make grants aggregating up to $15 million in any fiscal year to cities or counties to assist them in taking interim steps to alleviate harmful condition in slum or blighted areas of communities. To qualify, these areas must be planned for substantial clearance, rehabilitation, or federally-assisted code enforcement in the near future, and must need some immediate public action until permanent action can be taken. Grants may not exceed two-thirds of the cost of planning and carrying out an interim assistance program, except that three-fourths grants can be made to any community with a population of 50,000 or less. A community has to have an approved workable program to qualify for assistance.

2. *Need for Interim Rehabilitation Program.* In slum and blighted areas, there should be a program of rapid interim rehabilitation to correct those housing conditions which directly affect health and safety. The people now living in substandard housing should not be expected to wait until permanent neighborhood improvement programs are developed. We need a program which will provide grants and loans which can be rapidly disbursed to eliminate health and safety hazards, without regard to the useful life of the buildings. The objective is to provide whatever assistance is needed to achieve monthly charges, after interim rehabilitation, which will be within the financial reach of the low income and moderate income residents. The emergency upgrading of structures should not involve increases in rents beyond the reach of the present tenants.

3. *Funds for Interim Assistance.* There have been no appropriation authorizations to implement the 1968 Act providing interim assistance to alleviate harmful conditions in slum or blighted areas. However, $15 million of urban renewal funds have been allocated for this purpose.

II. *Recommendations*

1. *Authorizations in Appropriation Acts.* NHC recommends expansion of the program through appropriate authorizations and additional urban renewal allocations for the interim assistance program in slum areas. This should include an advance appropriation and allocation for the next additional fiscal year to give cities and counties more lead time in planning interim steps to alleviate harmful conditions in slum or blighted areas. NHC further recommends that the amount of the appropriations—and legislative authorizations therefor—should be increased in response to the increasing needs evidenced by the appropriation requests which will be filed for interim assistance.

2. *Legislative Amendments on Interim Assistance.* All cities should be eligible for a three-quarters grant for the cost of planning and carrying out the interim program. Instead of limiting the larger grants to the smaller cities, the large cities should get such a grant and not be limited to a two-thirds grant.

3. *Legislation for Interim Rehabilitation Program.* NHC recommends legislation to provide for the above described program of interim rehabilitation to correct housing conditions which directly affect health and safety, without regard to the useful life of the buildings. The legislation should include the following:

(a) Amendments to broaden the interim assistance law to include such interim rehabilitation of housing as is necessary to protect the health and safety of residents. This would make grants available to cities and counties which are undertaking such a program.

(b) With respect to interim rehabilitation to correct conditions which directly affect health and safety in homes located in slum and blighted areas, the following financial assistance should be extended to owners of homes who have low and moderate incomes: (i) rehabilitation grants under Section 115 in an amount not to exceed $3,500; and (ii) rehabilitation loans under Section 312.

(c) Federal code enforcement grants for interim rehabilitation of housing.

(d) Federal grants to urban renewal agencies to acquire slum buildings which are in violation of housing codes, and for interim rehabilitation to eliminate hazards. Public acquisition of properties for interim rehabilitation may be an early acquisition of part of the property that would later be involved in a permanent renewal program for the neighborhood.

(e) Section 312 should be further amended to provide loans to public bodies or agencies which take possession or control of any property—through receivership or otherwise—which violates code requirements or local laws concerning health or safety. This would cover property where the owner has failed to correct such violations within a period prescribed by local law. The loan should be made on the condition that it will be repaid from the income derived from the rehabilitated property, with appropriate liens or other rights that will be enforceable against the property.

Pursuant to the foregoing legislation, the assistance should be sufficient to achieve monthly charges, after interim rehabilitation, which will be within the financial reach of the present occupants or of others of low or moderate incomes.

CHAPTER X. NEW TOWNS AND NEW COMMUNITIES

I. *Summary of existing legislation*

1. *Need.* Since 40,000,000 additional people will be living in cities during the next decade, we need new towns and new communities to help take care of this increased urban population, to provide for an orderly dispersal of population and relieve further city congestion. These new towns would be carefully planned as balanced communities. They would be largely self-contained with homes, apartments, schools, jobs, hospitals, recreational facilities and open spaces. They should be planned to minimize transportation needs by assuring employment for residents within or near the community. They should provide housing for all income groups, including those of low and moderate incomes. These new communities can provide a new kind of urban living which can offer an alternative to the sprawling growth that threatens to overwhelm our metropolitan regions with costly and inefficient development.

There is an urgent need for Federal guaranties to overcome major obstacles which have prevented greater efforts in this field, namely: (1) the large capital investments to acquire large land areas and install the basic facilities needed to prepare the land for development; and (2) the extended period for the planning and installation of site improvements, during which large expenditures must be made for debt service, taxes and overhead.

There is an even more urgent need for Federal grants to public and nonprofit agencies for all new community assistance projects and services, which term (as used below) includes the following: water and sewer facilities; water conservation and pollution control; waste disposal; hospitals, health centers and services; mass transportation; open space, parks and beautification; public facilities and buildings; recreational and cultural facilities; libraries; neighborhood facilities and services; environmental protection; planning; technological advances; and essential public services.

2. *Authorizations in 1968 and 1969 Housing Acts.* The 1968 Act authorized HUD to guarantee obligations issued by new community developers to help finance approved new community developments. These guaranties were intended to overcome the major obstacles which have prevented greater accomplishments in this field. With the security of Federal guaranties, investors have been willing to provide financing geared to the realities of internal cash flow in new community development projects. To encourage localities to use Federal aid programs in support of new communities, the Act includes a program of incentive grants. When Federally-assisted facilities are being constructed to serve a new community, the public agency will be eligible—in addition to the basic Federal grants—for a supplementary grant covering an additional 20% of construction costs. However, the total federal contribution to the cost of community facilities cannot exceed 80% of the cost of the facility. This would include facilities such as water, sewer and the open-space land. Appropriations for supplemental grants were author-

ized in the amount of $5 million for fiscal year 1969 and $25 million for fiscal year 1970.

The 1969 Act amended Section 412(d) of the 1968 Act to authorize appropriations for new community assistance grants through the fiscal year 1971.

3. *Authorizations in Appropriation Acts.* For fiscal year 1970, $2,500,000 has been appropriated for supplemental grants to public agencies which install federally-assisted facilities to serve new communities. $5 million was included in the appropriation act for fiscal year 1971. For fiscal year 1972, $5 million was appropriated for supplementary grants and $5 million for special planning assistance.

4. *Amendments in Housing and Urban Development Act of 1970.* Title VII of the 1970 Housing Act—called the Urban Growth and New Community Development Act of 1970—created broad new urban growth concepts and programs. This legislation provides a package of Federal financial aids to new community developers, both private and public, to assist in the provision of newly built communities and major additions to existing communities, including:

(a) Guarantees of the bonds or other obligations of new community developers issued to finance land acquisition, land development, and construction of public and utility facilities; the outstanding amount that can be guaranteed with respect to all new community developments cannot exceed $500 million and with respect to each development, $50 million; the amount guaranteed cannot exceed the sum of 80 percent of the value of the property before development and 90 percent of the actual cost of the development, except that for public developers the guaranteed amount could be 100 percent of the above cost items.

(b) Loans to pay interest on bonds of new community developers, repayable on deferred basis as long as 15 years; loans to bear interest at similar rate to outstanding U.S. obligations of comparable maturities; the outstanding amount of loans cannot exceed $240 million for all developments and $20 million for one development.

(c) Special planning assistance grants to new community developers to pay up to two-thirds the cost of various planning for new community development; $10 million authorized over two years.

(d) Supplementary grants to states or localities for facilities to increase the Federal share under numerous public facility grant programs by up to 20 percent of the cost of such facilities, provided the total Federal share does not exceed 80 percent; $168 million authorized over 3 years.

(e) Public service grants to help defray the initial costs of essential public services (including schools) with respect to new communities; open-end authorization.

(f) Comprehensive planning grants to public bodies or organizations or public officials to finance planning for urban growth and the provision of new communities.

(g) Open space grants, up to 75 percent, to public bodies to finance acquisition of undeveloped land which can be used in connection with the growth of new communities including the expansion or revitalization of existing communities.

Other parts of this title would authorize new community demonstration projects by the Federal government on Federal land; require urban growth reports from the President through an identified unit of the Domestic Council every two years; and authorize urban renewal grants to finance the acquisition of vacant or inappropriately used land or space which could be developed for housing and related uses, the development of new communities in town, or other undertakings related to inner city needs.

New Community Land Development

The 1970 Act amends title IV of the Housing and Urban Development Act of 1968 to authorize an increase in the Guarantee Fund for new Communities Land Development from $250 million to $500 million; extend the availability period of unexpended funds to July 1, 1974; and clarifies the conditions under which guaranty payments are to be made to bond holders.

II. Recommendations

1. *Appropriations.*

(a) We recommend the full appropriation of all amounts authorized for grants under the Urban Growth and New Community Act of 1970 which have not been included in appropriation acts; also, an advance appropriation of similar grants for the next year, besides the current one, in order to give more lead time for initiating and planning new communities. All future authorizations should be fully funded by appropriations.

(b) An appropriation of $5 million was made for special planning assistance grants to new community developers but these funds were transferred for use as supplementary grants in fiscal 1973. NHC deplores the failure to utilize the $5 million for special planning assistance to developers as contemplated by Title VII of the 1970 Housing Act.

2. *Requested Appropriation.* In his Budget Message for fiscal 1973, the President has requested an appropriation of $5 million for supplementary grants for new community assistance projects. While this is $5 million less than the amount appropriated in fiscal 1972, there will be a carry-over to fiscal 1973 of unused supplementary grant authorizations so that the total amount available in that year will be $10 million.

3. *Increase in Legislation Authorizations and Appropriations.*

(a) We recommend that the aggregate limit on outstanding guaranties be increased by $1 billion above the present limit of $500 million. We further recommend an increase in the authorization of appropriations for supplemental grants to $100 million a year for a 5-year period.

(b) There is an urgent need for special planning assistance to developers. NHC recommends the full appropriation of the $10 million authorized for this purpose over a 2-year period and an additional authorization at the same annual rate for 3 more years.

(c) We recommend an appropriation of $10 million for fiscal 1973—and a like amount as an advance appropriation for fiscal 1974—to fund public service grants (as authorized by Title VII) to help defray the initial cost of essential public services (including schools) with respect to new communities. We further recommend a legislative authorization of appropriations for this purpose at the same annual rate for a 5-year period.

(d) All of the foregoing authorizations should remain available until committed.

4. *Other Legislative Amendments.*

(a) With respect to the Community Development Assistance Bill reported by the Senate Committee on Banking, Housing and Urban Affairs on February 28, 1972 (introduced by Senator Sparkman as S. 3248), NHC recommends an amendment to the basic grant formula to meet the needs of new communities. The present formula in that bill is not suitable or workable for new communities as it is based on past grant program experience, existing population, housing overcrowding and poverty—of which new communities have little or none. New communities require a formula which is based upon *future* needs, including the new population they will attract and the new community assistance projects and services they will require, instead of being based on *past or existing* conditions.

(b) The community development grants under S. 3248 would equal 90 percent of project cost. With respect to the 20 percent supplementary grant for new community assistance projects, an amendment is necessary to repeal the 80 percent limitation on the total Federal share of grants and to provide that the total Federal grant is not to exceed the cost of the new community assistance project.

(c) There should be an earmarking of Federal grants and assistance for all new community assistance projects and services to assure the availability of sufficient Federal grant funds to meet the needs of new communities.

(d) Nonprofit organizations should be made eligible for regular and supplementary grants for new community assistance projects and services—just as they are now eligible for such grants under the Hill-Burton program concerning hospital and health services.

(e) The Bureau of Public Roads should be authorized to purchase excess land beyond the amount needed for the roads themselves. This would include land suitable for residential development which the Bureau should make available to rehouse displaced families. At large road interchanges, the Bureau should be authorized to acquire additional land for the development of new communities which can meet the needs of our growing population, including displaced families. Such land can generally be acquired by the Bureau at low cost at the time that land is being acquired for new road systems.

5. *Recommendations for Administrative Action.*

(a) In view of the critical need for this program to help take care of population increases, relieve city congestion and provide building sites, NHC urges HUD (i) to utilize and effectuate fully the Urban Growth and New Community Development Act of 1970; (ii) to act promptly on guaranties required by developers to enable them to get financing for these new communities—including new towns in town—which are urgently needed; and (iii) to establish a sufficient earmarking of HUD grant funds to provide for new community assistance projects and services.

(b) To achieve the objectives of the new communities legislation, full coordination is required between HUD—and all of its participating constituents—and all of the other Departments of the Federal Government who participate in grant and other assistance programs; also between the Federal Government and local governments. Each must effectively use all of its powers and available funds in doing its share of the total job. NHC recommends Presidential action and direction to assure that all participating Departments of the Federal Government fulfill their responsibilities under their programs, including (i) effective coordination and cooperation between them, and (ii) priority in handling of applications and earmarking of sufficient funds for grants and assistance from the various Federal Departments to public and nonprofit agencies engaged in undertaking new community assistance projects and services.

CHAPTER V. ADEQUATE SITES FOR EXPANDED HOUSING PROGRAM

I. *Summary of existing legislation*

1. *Objectives.* One of the most serious impediments to achieving our housing goals is the lack of adequate building sites at reasonable prices. It will be impossible to provide the necessary additional supply of housing unless suitable improved sites are available, which include all of the public services and facilities necessary for a suitable living environment. There is a special and critical problem relating to the availability of improved land for low and moderate income housing; such housing is least able to compete for land because it cannot pay as high a price. In addition, restrictive zoning and other practices have precluded many suitable building sites from being utilized to house these income groups. To meet these problems and facilitate achievement of the

necessary expansion of total housing production on a well-planned basis, the National Housing Conference recommends the legislative and administrative measures described below.

2. *Authorizations in Existing Legislation.* The following is a summary of some of the major provisions in existing legislation which can effectively be utilized to make improved land available for expanded housing production, particularly for those of low and moderate incomes:

(a) The urban renewal legislation authorizes the acquisition of land and its disposition, with appropriate write-downs based on the planned use of the land. The legislation recognizes the special needs for rehousing families who are displaced and those of low and moderate incomes. The urban renewal laws are important tools which can be used to help provide an adequate supply of improved building sites at reasonable prices for housing, with emphasis on meeting the needs of persons of low and moderate incomes. (See paragraph 4(g) of Chapter T for an explanation of the provision in the 1969 Housing Act requiring a "one for one" replacement of housing demolished within the jurisdiction of the Urban Renewal Agency.)

(b) The 1968 and 1970 Housing Acts authorize programs for new communities and urban growth—as described in the preceding chapter—which should produce improved building sites for homes and apartments in carefully planned communities, including all necessary public and community facilities. The law requires that low and moderate income housing be included in these new towns as a prerequisite for supplemental grants to public agencies in providing water, sewer and other public facilities and services.

(c) Under existing law, federal grants are available to public agencies for water and sewer facilities, neighborhood facilities, open space and programs for advance acquisitions of land as described below. When adequately funded—as recommended elsewhere in this report—this legislation should enable public agencies to provide the water, sewer and other public facilities required for the improvement of land, so that it will become suitable and available for residential construction.

3. *Amendments in Housing and Urban Development Act of 1969.*

Sale of Land for Housing. It permits real property which is surplus within the meaning of the Federal Property and Administrative Services Act to be transferred to the Secretary of Housing and Urban Development at his request for sale or lease by him at its fair value for use in the provision of rental or cooperative housing to be occupied by families or individuals of low or moderate income. Surplus real property can be sold on such terms by the Secretary if it is sold to (1) a public body which will use the property in connection with the development of a low-rent housing project assisted under the United States Housing Act of 1937, or under a state or local program found by the Secretary to have the same general purposes as the federal program under such act, or (2) a purchaser who will use the property in connection with the development of (i) rent supplement units, (ii) below-market-interest-rate moderate income housing or (iii) rental housing on behalf of which interest reduction payments are made under Section 236 of the National Housing Act. Prior to any sale or lease to a purchaser other than a public body the Secretary must notify the governing body of the locality where the property is located and no sale or lease may be made if, within 90 days, the local governing body formally notifies the Secretary that it objects to the proposed sale or lease.

As a condition to any sale or lease of surplus real property, the Secretary of Housing and Urban Development is required to obtain such undertakings as he may consider appropriate to assure that the property will be used in the provision of rental or cooperative housing to be occupied by families or individuals of low or moderate income for a period of not less than 40 years. If during such period the property is used for any purpose other than the purpose for which it was sold or leased, it will revert to the United States (or, in the case of leased property, the lease will terminate) unless the Secretary, after the expiration of the first twenty years of such period, has approved the use of the property for such other purpose. The Secretary must notify the Senate and House Committees on Banking and Currency whenever any surplus real property is sold or leased pursuant to this section.

4. *Disposition of Surplus Land for Low and Moderate Income Housing and Related Facilities.* The 1970 Act amends Section 414 of the Housing and Urban Development Act of 1969 to authorize the Administrator of General Services to dispose of Federal surplus land to the Secretary of HUD for the construction of low and moderate income sales housing and related public commercial and industrial facilities. Existing law authorizes such disposal only for low and moderate income rental or cooperative housing.

II. Recommendations

1. NHC recommends full funding and full use of all of the authorizations in existing legislation for the purpose of assuring that there will be an adequate supply of improved building sites available at reasonable prices to meet our housing goals, with special emphasis on the needs for such land at prices which would permit its use for housing persons of low and moderate incomes. The amount of the appropriations and authorizations for these programs (including urban renewal) should be increased commensurate with the tremendous need to increase the supply of improved building sites to enable the contemplated expansion of housing production.

2. NHC recommends necessary increases in the authorizations and appropriations for all the programs which provide Federal assistance for public services and facilities in the new areas where improved land is to be made available for housing including: water and sewer systems; neighborhood facilities; open space; the new communities program; mass transportation; health, education and welfare.

3. The additional improved building sites should be made available both within the cities and outside of the cities. We must make available for housing development extensive areas of vacant land or other sites which do not involve substantial residential displacement; such land must be provided with necessary public and community facilities and services. Existing legislation should be amended to the extent necessary to enable the write-down of improved sites in such new areas of vacant land so the improved land will be at a price which enables its use for housing, particularly for those of low and moderate incomes.

4. To help provide the measures necessary to accomplish the foregoing objectives, NHC supports and urges the passages of S. 609, the "Urban Planning and Housing Assistance Act of 1971," introduced by Senator Javits. This bill contains the following provisions to encourage improved land utilization and expanded housing programs:

(a) It would deny assistance under programs of the Department of Housing and Urban Development to cities which employ restrictive land use practices to exclude publicly-assisted housing for low and moderate income families.

(b) It would provide 50 percent grants to pay for local services, such as transportation or water and sewers, which would be affected by more intensive land utilization and expanded housing.

5. To help provide sites for low and moderate income housing, NHC believes that nonprofit and profit-motivated sponsors need assistance from the Federal Government to overcome local restrictive zoning and other discriminatory practices which exclude Federally assisted housing. We strongly recommend the legislation described in paragraph 3(o) of Chapter B.

6. Federal grants should be made to municipalities and public agencies to cover impact costs of providing educational, health and other services which result from the location of housing developments in an area. The Federal grant should cover the additional costs involved which cannot be met from collections of full taxes or their equivalents on the project. We recommend payment of full taxes or their equivalents on public and other assisted housing.

CHAPTER Z. PUBLIC AND COMMUNITY FACILITIES INCLUDING WATER, SEWER, NEIGHBORHOOD FACILITIES AND OPEN-SPACE LAND PROGRAMS

I. Summary of existing legislation

1. *Need.* There is a great and continuing need for Federal public facilities grants to assist in overcoming serious backlogs in replacing substandard or obsolete facilities—especially in the central cities—and eliminating water pollution and meeting the unprecedented demands for additional facilities and services generated by population expansion. These needs cut across whole metropolitan areas and involve central cities, new suburbs and the new communities still to come. This essential expansion in Federal aid could be a potent influence in resolving the present chaotic conditions created by the multiplicity of local governmental jurisdictions in most metropolitan areas. This multiplicity has led to suburban sprawl, land misuse, land speculation, and frequent failure of an effective tool for the control of new developments. Such a program could provide metropolitan area and regional planning as important leverage to establish coordinated local governmental approaches to control programs of area and region-wide significance. At the same time it could foster decentralization of local governmental functions of strictly local application.

2. *Authorizations in 1968 and 1969 Housing Acts.*

(a) The 1968 Act authorized funds to be appropriated for water and sewer facilities and the open-space land program. For water and sewer facilities an additional $150 million was authorized for fiscal year 1969 and $115 million for fiscal 1970. For the open-space land program, the 1968 Act authorized to be appropriated for the purpose of making grants an additional $150 million (for a total ceiling of $460 million) prior to July 1, 1970. The limit on the amount of funds the Secretary of HUD is authorized to use for grants for technical assistance on open space was raised by $75,000. The Act provided that any appropriations made for water and sewer facilities, neighborhood facilities, and advance acquisitions of land programs not already appropriated my be appropriated for fiscal 1970. The Act extended the interim planning requirements under the basic water and sewer facilities grant program to October 1, 1969.

(b) The 1969 Act authorized funds for Open Space, Urban Beautification, and Historic Preservation Grants. Section 702(b) of the Housing Act of 1961 was amended to extend the availability of approximately $84 million in unused authorization for open space, urban beautification, and historic preservation programs through the fiscal year 1971. Prior to this amendment the authorization would have expired at the end of fiscal year 1970.

(c) The 1969 Act authorized funds for Community Facilities Grants. Section 702(c) of the Housing and Urban Development Act of 1965 was amended to extend for one year (until October 1, 1970) the time within which a community may qualify for a basic water and sewer facilities grant even though its program for an area-wide system (though under preparation) has not been completed.

(d) The 1969 Act amends Section 708(b) of the 1965 Act to authorize appropriations for grants for basic water and sewer facilities neighborhood facilities, and advance acquisition of land through the fiscal year 1971. Prior to this amendment, these appropriations were authorized to be made only through fiscal year 1970.

(e) The 1969 Act amends Section 708(a) of the 1965 Act to authorize the appropriations of an additional $100 million for basic water and sewer grants for fiscal year 1971.

3. *Authorizations in Appropriation Acts.* For fiscal year 1969 there was an appropriation of $165 million for water and sewer grants, an appropriation of $75 million for open-space land grants, and an appropriation of $35 million for neighborhood facilities grants. For fiscal year 1970, there was an appropriation of $135 million for water and sewer—plus $15 million carryover—$75 million for open space and $40 million for neighborhood facilities. The following was appropriated for fiscal year 1971: $350 million for water and sewer facilities grants, $75 million for open space land programs and $40 million for neighborhood facilities grants. For fiscal year 1972, the following was appropriated: $500 million for water and sewer facilities grants, $100 million for open space land programs ($75% grants allowed for Section 706) and $40 million for neighborhood facilities grants.

4. *Amendments in the Housing and Urban Development Act of 1970.*

Consolidation of Open-Space Land Programs—The 1970 Law amends title VII of the Housing Act of 1961 (grants for open-space land, urban beautification and historic preservation) to authorize a single program of grants for (1) acquisition of title to, or other interests in, open-space land in urban areas, and (2) the development of open-space or other land in urban areas for open-space uses (including historic preservation).

5. *Other 1970 Legislation.* In addition to the regular water and sewer appropriation, Congress passed a $1 billion authorization for basic water and sewer facilities. When President Nixon signed the bill, he commented that he would not spend the money if it were appropriated. To this date there has been no appropriation.

6. *Legacy of Parks Program.* In September, 1971, HUD issued guidelines for the "legacy of parks" program. This plan provides for matching grants to local public agencies for up to 50% of the cost of land acquisition, land development, environmental improvements and the preservation of historic sites. Additional grants for up to 75% of the cost of acquiring land is available for parks to be used in urban areas.

II. Recommendations

1. *Urgent Need to Continue Water and Sewer Grant Program.* In his Budget Message for fiscal 1973, the President has requested an appropriation of $200 million for water and sewer facilities. Senator Sparkman's Bill, S. 3248 (as reported by the Senate Committee on Banking, Housing and Urban Affairs), provides for community development assistance which would combine several categorical assistance programs—including water and sewer grants—into one block grant program. Chapter F, Part 3 contains a description of the proposed program.

For the reasons set forth elsewhere in these Resolutions we recommend that a separate water and sewer grant fund be maintained for use by local governmental units not wishing to undertake full community development programs.

There should also be advance appropriations for each succeeding fiscal year, besides the current one, to give public agencies more lead time for their planning and development of these community development assistance programs, including sewers and water facilities. When the additional legislative authorization recommended below is made—if the water and sewer and public facility assistance continue as separate categorical grant programs—we recommend an increase in the rate of appropriations to $2 billion annually for water and sewer grants, and for other public and community facilities as described below.

2. *Increase in Legislative Authorization.* NHC recommends a 5-year authorization of $2 billion annually for grants to local governments for basic water and sewer facilities and other types of public improvements and community facilities. Of the $2 billion, $250 million should be made available annually for the open space land program. The public improvements and community facilities should include those authorized by the 1965 Act such as neighborhood and public facilities, particularly in slum and ghetto areas. It should also include the acquisition of land to provide parks and recreational facilities in urban areas, so that they are closely accessible to the people who need them most.

3. *Other Legislative Amendments.*

(a) As recommended in these Resolutions on other comparable programs, Federal grants to both smaller and larger cities for public and community facilities should be increased to 90%. Participating communities should have the option to provide the 10% local share in public improvements or other non-cash credits as well as in cash. For neighborhood centers, parks and recreational facilities in slum and ghetto areas, the Federal grant should be 100%. Moreover, there should be annual Federal grants to provide for the staff and operating expenses of such facilities. The neighborhood facilities centers in such areas should be permitted to include swimming pools—either indoor or outdoor—and gymnasiums.

(b) We believe that the foregoing grants should be generally restricted to communities that are simultaneously providing adequate housing for low and moderate income families, where the need for such housing exists.

CHAPTER AA. FEDERAL PROGRAM FOR PLANNING AND MANAGEMENT ASSISTANCE TO STATES, TO AREAWIDE AGENCIES AND TO LOCALITIES

I. Summary of existing legislation

1. *Need.* With increased concentration of population in and around metropolitan areas, there is an urgent need for a coordinated development of resources and services for urban and rural areas and a need to facilitate comprehensive planning for these areas. Because of the problem of multiplicity of political jurisdictions and agencies involved with this planning, and because of the inadequacy of the operational and administrative arrangements available for cooperation among them, NHC believes that Federal programs are badly needed to achieve the additional participation and cooperation from the states and localities. The 1968 Housing Act contains the following provisions to meet this need:

(a) The Section 701 planning assistance grant program is extensively revised. The Secretary of HUD is now authorized to make comprehensive planning grants to State planning agencies for assistance to "district" planning agencies for any nonmetropolitan areas. Consultation with the Secretary of Agriculture is required prior to approval of any distict planning grants The Secretary of Agriculture and, when appropriate, the Secretary of Commerce, may provide technical assistance in connection with the establishment of districts and the carrying out of planning by them

(b) Other new provisions authorize direct planning grants to Indian tribal planning councils or other bodies for planning on Indian reservations; to regional and district councils of government as well as those organized on a metropolitan basis; to regional commissions and economic development districts established under the Public Works and Economic Development Act of 1965; to cities, without regard to population, within metropolitan areas for planning which is part of metropolitan planning; and to official Government planning agencies for areas where rapid urbanization is expected as a result of a new community development assisted under Title IV of the Act. The Secretary is required to consult with the Secretary of Commerce before making any planning grant which includes any part of an economic development district.

(c) The definition of comprehensive planning is broadened to include planning for the provision of governmental services and for the development and utilization of human and natural resources. The inclusion of a housing element is required as part of the preparation of comprehensive land use plans. The use of private consultants, where their professional services are deemed appropriate by the assisted governments, is added to the stated purposes of the program.

2. *Authorizations in the 1968 and 1969 Housing Acts.*

(a) *Comprehensive Planning.* The Act increased the amounts authorized to be appropriated for the purposes of comprehensive planning by $35 million making a total not to exceed $265 million prior to July 1, 1969 and authorized to be appropriated an additional $125 million for a total not to exceed $390 million prior to July 1, 1970. Of the amount available prior to July 1, 1969, $20 million may be used only for district planning grants and that amount shall be increased by $10 million on July 1, 1969. All amounts appropriated must remain available until expended except that any funds so appropriated, not to exceed an aggregate of $10 million plus 5 percentum of the funds so appropriated, may be used by the Secretary for studies and research in comprehensive planning.

(b) *Planned Area-Wide Development.* Supplementary grants (designed to encourage areawide planning) are authorized for Federally-assisted projects in all multijurisdictional areas (not just metropolitan areas as previously provided) such as the rural planning districts proposed to be assisted with comprehensive planning grants under the comprehensive planning provisions of the law. Unused authorizations for appropriations for supplementary grants for fiscal year 1967 and 1968 are made available through fiscal year 1970.

(c) The 1969 Housing Act amends Sec. 701(a) of the 1954 Housing Act to extend availability of approximately $100 million in unused authorization for comprehensive planning grants through the fiscal year 1971. Under existing law this authorization will expire at the end of the fiscal year 1970.

3. *Amendments in Housing and Urban Development Act of 1970.* The 1970 Act amends Section 701(b) of the Housing Act of 1954 to extend for 1 year (through fiscal year 1972) authority to appropriate unused authorizations for comprehensive planning grants. The Act also authorizes an additional $30 million for comprehensive planning grants to be appropriated prior to July 1, 1972.

4. *Authorizations in Appropriation Acts.* The Budget authorizations or requests for Comprehensive Planning Grants were $50 million for fiscal 1971, $100 million for fiscal 1972 and $100 million for fiscal 1973.

II. Recommendations

Additional Authorization in Appropriation Acts. NHC urges that full amounts be appropriated for supplemental grants for the orderly growth of our urban areas. These are needed to achieve more effective coordinated metropolitan area planning and program development. In addition, NHC urges that the amounts authorized for a program of area-wide incentive grants be appropriated.

President's New Planning and Management Program. In his Message on March 5, 1971, dealing with special revenue sharing on urban community development, the President recommended federal grants for a new Planning and Management Program. We quote from his Message:

"To strengthen State and local capacities even further, I am presenting a second proposal today, one that would do a great deal to help *all* of our revenue sharing proposals work even better. I am asking the Congress to authorize a new program of Planning and Management Assistance to States, to areawide agencies and to localities. Under this program, $100 million would be available for these purposes.

"The new program would involve more money, and would provide recipient governments with broader and more flexible support for building up their capacity to govern effectively. . . . It will place new emphasis on the creation of a comprehensive management process, one that ties together planning and action, not just in the community development field, but in fields such as transportation, education, law enforcement and all other fields of local and areawide governmental endeavor. . . ."

Until we know more about the proposed operation and specifics of this new program, NHC is not able to take a position on it. However, we are favorably disposed to it: (i) if it will result in an increase in the total amount of aid available to States, area-wide agencies and localities for the important purposes contemplated by the program; (ii) if the new program will not adversely affect any present programs; and (iii) if there is no interruption or withholding of funds for present programs during the transitional period until the new program is enacted and becomes fully operational.

NHC emphasizes the importance of continuing the requirement for a housing element in the Section 701 program. This is important if we are to make adequate sites available for a well balanced housing program.

III. Provisions on Comprehensive Planning and Related Programs in Chapter IV of S. 3248 and NHC Recommendations

The Senate Committee Report explains the provisions on Comprehensive Planning as follows:

Comprehensive Planning

The bill expands the purposes of the comprehensive planning program to include assistance to state and local governments and regional combinations thereof for implementing plans and for increasing the policy-planning-evaluation capacity of the chief executive as well as for engaging in a comprehensive planning process.

The section of the bill also amends Section 701(a) of the Housing Act of 1954 by simplifying and consolidating the eligible recipients categories. Eligible recipients would fall into six categories instead of the present 11. The four basic primary categories are: states for distribution to small communities and counties, states for their own use, municipalities over 50,000, and areawide organizations. The other two secondary categories—Indian tribes and other governmental units or agencies having special planning needs—include other eligible recipients previously listed in subsection (a). The Committee does not expect these last two categories to receive more than a small share of total grants.

The consolidation and simplification of eligible recipients also involved some substantive changes. At the present time, municipalities over 50,000 may receive funds only for planning which is part of metropolitan planning. The Committee wishes to retain, and, indeed, strengthen planning on a metropolitan-wide basis and it has taken several actions to accomplish those objectives. However, it believes that cities should not be prevented from using 701 funds to engage in their own local comprehensive planning and to help implement those plans.

Grants, in the case of both municipalities and states, will be made to general purpose units of government rather than directly to planning agencies. The recipient may, of course, allocate a portion or all of its funds, as it sees fit, to planning agencies, in order to carry out the recipient's activities.

The present law also specifies metropolitan, regional, and district planning agencies as eligible recipients for comprehensive planning funds. Section 401(a) specifies that the eligible recipient within a metropolitan area, region or district shall be the A-95 metropolitan clearinghouse (as specified by Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Section 401 of the Intergovernmental Cooperation Act of 1968) for that area.

The Committee sees no reason for the federal government to encourage several competing organizations undertaking planning within the same geographical area. However, separate authority for Councils of Governments in Section 701(g) is retained, so that even where COGs are not A-95 agencies, they will nonetheless still be eligible for funding. The emphasis on COGs—areawide bodies whose members are composed of elected officials, or their representatives, of jurisdictions within the area—is consistent with the Committee's desire to foster a planning system around elected officials at all levels of government.

Finally this section retains language mandating the Secretary to encourage co-operation among the various units of government in preparing and carrying out plans and adds a provision to ensure that local, areawide and state plans and activities are consistent with one another.

In addition this section changes the present federal matching grant from 66⅔ per centum (or 75 per centum in certain specified cases) to 80 per centum for all recipients. The Committee raised the Federal share in order to emphasize the degree of federal interest in encouraging comprehensive planning. However, it resisted efforts to increase the federal share to 100 per centum because it felt serious planning requires a strong commitment by the recipient, including a willingness to invest some of the recipient's own funds.

The section also extends the program by making available authorizations of $150 million for FY 1973 and $200 million for FY 1974. The increased authorization will be necessary to meet, in an orderly fashion, the expected increase in program applications resulting from the expansion of eligible activities provided for in this bill.

The Committee also mandated a specific set-aside for areawide agencies. The set-aside equals 30 per cent of the first $125,000,000 appropriated annually and 25 per cent of any funds appropriated annually in excess of $125,000,000. The Committee felt the set-aside was necessary because areawides, unlike other primary recipients, have no independent fund-raising capability. Furthermore, despite the emphasis on areawide planning in present legislation (an emphasis which is retained), funding for areawide has fallen as a percent of total grants, even though the number of areawides receiving funds has greatly increased. In fact, the average 701 grant for an areawide has actually decreased from $72,843 in 1970 to $70,731 in 1972, at the same time the average grants to state for state planning has increased from $185,417 in 1970 to the $430,000 in 1972.

This Section also clarifies and expands the list of eligible activities a recipient may undertake. Eligible activities would include, in addition to comprehensive planning, activities necessary to develop and improve the management capability directly necessary to implement comprehensive planning and activities necessary to develop a policy-planning-evaluation capacity.

By policy-planning-evaluation capacity, the Committee has in mind the development on the part of a recipient of the analytical ability more rationally to identify its problems and needs, set long term policy goals and short term policy objectives for meeting its needs, devise programs and activities to meet those policy goals and objectives, and evaluate its progress towards meeting these goals and objectives.

The two new activities would allow recipients to spend 701 funds, for example, to undertake studies to identify problems in one or more policy areas, to strengthen their budgeting systems, to improve their ability to gather, process and analyze data necessary for rational decisionmaking, to devise programs and to reorganize governmental structures, and to strengthen the capacity of the recipient to analyze the impact of its programs in meeting its policy objectives. The Committee particularly wishes to stress the importance of increased efforts at self-evaluation. The 701 funds would not be available, however, for direct program administration.

In order to prevent possible abuses of 701 funds, the Committee added a provision specifying that activities assisted under 701 grants shall be carried out by professionally competent persons. However, the term professionally competent should not be interpreted in a narrow sense—i.e., it is not the Committee's intention to view a formal professional degree as a necessary precondition for professional competence. Rather the term implies persons should have an appropriately related background or experience.

Section 401(b) also changes the required activities, all recipients must undertake. Under present law, all recipients must prepare a housing element as part of a comprehensive land use plan. Section 401(b) requires all recipients to carry out an ongoing comprehensive planning process which shall include, as a minimum, a housing element, a land use element, and a five-year capital programing element. The five year capital programing element is added as a required element because the Committee feels that rational planning for urban growth must include major capital investments such as highways, transit lines, and sewers, whose placement will determine the future shape of urbanization.

The Secretary is mandated to make no grants to recipients which, three years after enactment of Section 401(b) are not engaged in comprehensive planning which includes at least the three required elements. The secondary recipients and municipalities under 50,000 as well as counties under 50,000 are exempt from this provision.

The Committee wishes to emphasize that it conceives of comprehensive planning as a continuing process in which goals, objectives, and activities change over time. Nonetheless, at any point in time, the present status of comprehensive planning (including long term goals and short term objectives, activities being undertaken to accomplish goals and objectives, and an evaluation of previous efforts) should be able to be set forth in concise written form. In short, the mere statement that a recipient is engaging in comprehensive planning in the three required areas shall not, in itself, suffice as satisfactory evidence that the required planning elements are being carried out.

This section also enjoins the Secretary from making grants to applicants which have not made a good faith effort to implement their comprehensive plan. The Committee has no desire to encourage planning as an academic exercise or to subsidize the production of "paper plans" which merely sit on library shelves. It recognizes that planning must be flexible and goals and objectives will change over time. It also recognizes that structural, political, or other obstacles may prevent plans from being successfully implemented. But at the same time, it expects recipients to utilize planning as guidance for public action. Indeed, the prime rationale for extending the provisions of the 701 legislation to cover management and policy-planning activities is to increase the ability of a recipient to implement its comprehensive planning and its likelihood of doing so.

The bill also amends Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 by adding comprehensive planning and community development activities undertaken pursuant to Title II of this bill, to the list of activities for which Federal grant applications must be submitted to an areawide agency for review. If state law permits, the areawide agency must be predominantly—rather than "to the greatest extent practicable" as the present law provides—composed of or responsible to the elected officials of the jurisdictions for which the agency is authorized to engage in planning. Predominantly means, at a minimum, a majority, but the Committee wishes to make known its desire that if possible, a much greater portion of the areawide agency's membership be composed of or responsible to the elected officials of these jurisdictions.

The Committee wishes to emphasize that Section 204 remains the operative legislative provision with respect to the A–95 review in metropolitan areas. The Committee is concerned that some federal agencies and departments may not be fully discharging their responsibilities under Section 204 and particularly the requirement that applications not be approved unless the provisions of Section 204 are met by the applicant. Section 204 includes a provision that, if the application is accompanied by comments from the areawide agency rather than by certification that the areawide agency has made no comments, the comments "shall include information concerning the extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area . . ." In order to ensure that legislative requirements such as this are being carried out and to evaluate the impact of these requirements, Section 402(b) requires each federal agency administering program pursuant to the provisions of Section 204 and Section 401 of the Intergovernmental Co-operation Act of 1968 to submit a report to Congress by July 1, 1973 on the manner in which they are implementing OMB circular A–95 (which sets forth rules and regulations for implementing the provisions of Section 204 and Section 401 of the Intergovernmental cooperation Act).

NHC supports the foregoing provisions of the *Senate Enacted Bill* which carry out many NHC recommendations.

Training and Fellowship Program

The bill also amends Title VIII of the Housing and Urban Development Act of 1964 (training and fellowship programs) by providing the Secretary with the authority to make grants to or contracts with higher education institutions to assist them in planning, developing, strengthening, and improving programs in courses of study for which the Secretary has the authority to provide fellowships.

NHC supports the provision of the *Senate Enacted Bill*, except that NHC recommends an amendment to authorize the grants to other training institutes of a nonprofit character which are approved by the Secretary.

CHAPTER BB. URBAN MASS TRANSPORTATION

I. *Summary of Existing Legislation*

1. *Objective.* There is an urgent need to modernize, expand and reorganize the urban transportation systems. Adequate Federal grants are necessary to achieve this objective.

2. *Authorizations in the 1968 and 1969 Housing Acts.*

(a) The 1968 Act increased authorized appropriations for grants and other assistance to urban mass transportation by $190 million for fiscal year 1970. The amount of funds which can be used for research, development, and demonstration projects was increased by $6 million, commencing July 1, 1968; also the statutory limit on the funds available for this purpose is removed, commencing July 1, 1969. The definition of "mass transportation" was broadened to allow greater flexibility and opportunity for application of new concepts and systems.

(b) The 1969 Act amended Section 4(b) of the Urban Mass Transportation Act of 1964 to authorize appropriation of $300 million for fiscal year 1971 for grants under that Act.

3. *Authorizations in Appropriation Acts.* For the fiscal years 1969 and 1970 there were appropriations of $175 million each year. Of the total amount in legislative authorizations for mass transit grants, $70 million has not been appropriated. Section 5 of the 1964 Act is amended to extend until July 1, 1971, the interim program there authorized of 50 percent grants for mass transportation facilities and equipment in urban areas not yet able to meet full area-wide comprehensive planning and programing requirements. These emergency grants are in place of the two-thirds federal grants available when all comprehensive planning requirements are met.

II. *Recommendations*

1. *Additional Authorizations in Appropriation Acts.* NHC recommends an appropriation of the $70 million authorized by law for mass transit grants, but not yet appropriated. When the additional legislative authorization recommended below is made, we urge an increase in the rate of appropriations to $750 million annually for mass transportation grants. No funds were requested by HUD for fiscal year 1971 because under an agreement between HUD and the Department of Transportation (DOT), the administration of HUD's residual functions in mass transportation will be transferred to DOT, as will unobligated balances.*

2. *Increase in Legislative Authorizations.* NHC recommends that authorization of appropriations for mass transit grants be increased to $750 million per year for the next five years. The expansion of the program is necessary to achieve the housing and urban development goals recommended in this report. We also urge an advance appropriation for each succeeding fiscal year, besides the current one, in order to give cities more lead time for planning their mass transit programs.

III. *Provisions on urban mass transportation in chapter VI of S. 3248 and NHC's recommendations*

The Senate Committee Report explains the provisions on Mass Transportation as follows:

Assistance for Operating Expenses

Chapter VI of the bill would amend Sec. 3 of the Urban Mass Transportation Act of 1964 to prevent reduction of essential transportation services in the Nation's urban centers by authorizing assistance to defray operating expenses. Grants or loans, requiring at least one-third local contribution, would be provided to State or local public bodies in order to assist any mass transportation system which maintains mass transportation service in an urban area to pay operating expenses incurred as a result of providing such service. Included within the terms of such assistance are grants to State and local public bodies for debt servicing for mass transit investments.

The Committee, in reporting Chapter VI, specifically calls attention to the critical need for increasing and improving the Nation's public transportation systems and for providing necessary Federal assistance to permit local communities to plan and implement the mix of transportation services most responsive to their own goals and to orderly community growth and development.

The 1970 Housing and Urban Development Act, as reported by the Committee and passed by the Senate, contained a provision for operating assistance for urban mass transportation. A similar provision was not contained in the House Bill and the House-Senate Conference deleted the provision. A substitute provision calling for the Department of Transportation to conduct a study of the feasibility of operating subsidies and to report back to the Congress within a year was inserted in place of the initial operating assistance program.

The Department of Transportation submitted its study of the "Feasibility of Federal Assistance for Urban Mass Transportation" in November 1971. The report contains extensive documentation of the critical state of the transit industry; detailed review of State and local actions to aid transit operations; and an Administration proposal for additional study and consideration of the operating subsidy issue.

The Committee rejected the Arministration's suggestion for further study. Accordingly, hearings on "Emergency Urban Mass Transit Legislation," were conducted January 31–February 2, 1972.

While the passage of the Urban Mass Transportation Act of 1970 was a significant advance in Federal assistance for mass transportation, the Committee had reservations that a program of capital grants could, by itself, alleviate the financial distress of the transit industry and the increasing number of municipalities which own and operate transit systems. Information received by the Committee indicated that in the decade from 1961–1971, the number of municipalities which were forced to initiate programs of operating assistance to transit systems increased by nearly 400%. Deficits are currently running at the rate of $360 million a year and, as set forth in the following table from the Department of Transportation's November 1971 Report, are nationwide in effect.

The Committee has been apprised of the fact that the revenue/expense situation of mass transit is likely to deteriorate still further given present patterns of assistance and that the general picture of the transit industry will remain one of rising fares, increasing operating expenses, and declining ridership. In the absence of Federal support, States, cities and municipalities will continue to be forced to carry the burden of transit's financial decline. As developed in testimony during the 1972 hearings, the 108 systems which are currently subsidized will almost certainly increase to the point where every large city transit system will be public owned and heavily subsidized. At the present time 35 cities are facing the issue of initiating local subsidies for transit operations.

On the basis of such evidence, reports and testimony, it has become evident to the Committee that increasingly passenger revenues cannot meet the operating expenses; that the problem is national in its dimensions; and that if mass transit is to perform an essential public service, federal support for operating expenses is a prerequisite.

Accordingly, the Committee is recommending that mass transit legislation be amended to authorize grants under Sec. 3 of the Urban Mass Transportation Act of 1964 for operating expenses as well as for capital costs. The major purpose is to assist in revitalizing the Nation's mass transportation systems by allowing States and localities to determine which systems in their jurisdiction are in need of operating assistance and, on this basis, to submit to the Secretary of Transportation a comprehensive mass transportation service improvement

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*Under the proposed Department of Community Development, mass transit would become *its* responsibility along with most of HUD's functions: See Chapter F.

program to improve such service and to place mass transportation operations on a sound financial basis.

Section 601 directs the Secretary of Transportation to issue such regulations as he deems necessary to administer the operating subsidy program in an equitable manner and to include in the regulations appropriate definitions of (a) operating expenses and (b) the sources of State or local financial assistance which may be considered in computing the maximum allowable Federal grant. It is expected that criteria established by the Secretary of Transportation for evaluating applications for operating assistance would be comparable to criteria employed under the existing capital grant program.

Further, in view of the critical conditions of the Nation's mass transportation systems today, the Committee strongly believes that funds duly authorized and appropriated by the Congress for the capital grant program which have been withheld from obligation in FY 1971 ($200 million) and in FY 1972 ($300 million) should be immediately available upon enactment of the bill to assist in defraying operating expenses of mass transit systems.

The Committee desires to emphasize that its action to amend Sec. 3 of the Urban Mass Transportation Act of 1964 to permit grants for operating expenses should in no way be construed as reducing the funds that would otherwise be authorized for the capital grant program. There is no intent to make operating subsidy requirements compete with requirements for equipment and facilities to the detriment of the existing capital grant program. Accordingly, during review of the Administration's request for mass transportation contract authority for fiscal years 1976 and 1977, the Committee proposes to recommend and appropriate increases in the total authority and to earmark amounts for the express purpose of operating subsidy grants.

Assistance for Capital Expenses

The bill would also amend the Urban Mass Transportation Act of 1964 by providing that Federal grants for capital assistance shall not exceed 90% of Sec. 4(a). Also, grants for technical studies under Section 9 would be authorized at a level not to exceed 90%.

The Committee feels strongly that funding for mass transit capital facilities and equipment at a 90/10 ratio is essential if the Nation's transit investment is to become an attractive alternative to highway programs, which have long been funded on a 90/10 basis for interstate construction.

Additional Amendments

The bill would provide additional amendments to the Urban Mass Transportation Act of 1964 including (1) to clarify the term mass transportation system; and (2) to make explicit the applicability of Sec. 4(a) to grants for facilities and equipment as distinguished from grants for operating expenses.

Planning Certification for Capital Grants

Testimony was received by the Committee pertaining to the effect of planning requirements on the administration of the capital grant program under the Urban Mass Transportation Act of 1964. While no legislative revision is recommended, the Committee emphasizes that in devising Section 4(a) of the 1964 Act it was not intended that it be administered in such a manner as to result in inordinate delay in the provision of Federal financial assistance to localities for transit facilities and equipment.

The Committee feels strongly that in determining whether applications comply with the Sec. 4(a) comprehensive planning requirements, it is appropriate for the Secretary of Transportation to follow certification procedures comparable to those required under the Federal aid highway program. The Committee is aware of initial action on the part of the Secretary of Transportation to standardize and streamline the planning certification process for various related transportation grant programs and commends this effort. In this connection, the Committee requests the Secretary of Transportation to report to the Committee on the status of such planning consolidation activities and associated action to expedite determinations required under Sec. 4(a) at the earliest practicable date but in no event later than 6 months after the date of enactment of the bill.

For the purposes of financing grants and loans under the mass transportation program, an amendment was adopted by the Senate authorizing an appropriation of $400 million prior to July 1, 1973, which amount may be increased to $800 million prior to July 1, 1974.

NHC supports the foregoing provisions of the Senate Enacted Bill which carry out many NHC recommendations. We are particularly gratified with a program that recognizes the need for operating subsidies for urban mass transportation; also, the need to increase Federal grants for capital assistance to a 90 percent ratio similar to that which is available under the highway program. We continue our recommendations of additional authorizations and improvements in legislation relating to urban mass transportation.

CHAPTER CC. RESEARCH, TECHNOLOGY, TRAINING AND TECHNICAL ASSISTANCE

I. Summary of existing legislation

1. *Need for Basic Research and Training.*

(a) The housing industry has neither the organization nor the resources to support substantial research in the area of housing technology and research. Existing research is almost exclusively in the hands of material and large equipment suppliers and reflects the particular interests of these groups. It is necessary that federal financial support be given toward the development of new systems and overall construction techniques. The technological advances necessary to reduce housing costs must be accompanied by more uniform building codes in all areas of the nation. This will make it more feasible for developers and manufacturers to produce housing and materials for a national market.

(b) There is a shortage of trained professional and sub-professional personnel in the broad field of community development. This presents a serious problem in achieving effective action programs.

2. *Authorizations in 1968 and 1969 Housing Acts.* The 1968 Act recognizes the need for urban technical assistance, research, and training and provides assistance in the following areas:

(a) *Advances in Technology in Housing and Urban Development.* The Act authorizes such sums as may be necessary to be appropriated, commencing with fiscal year 1969, for studies of new and improved techniques and methods of applying advances in technology to housing construction and rehabilitation, and to urban development. Four-year contracts are authorized for such studies rather than two-year contracts as heretofore authorized.

(b) *Housing for Lower Income Families Through New Technologies.* The Act directs the Secretary of HUD to institute a program under which qualified public and private organizations will submit plans for the development of housing for lower income families, using new and advanced technologies, on Federal land which has been made available for that purpose or on other suitable land. The Secretary is to approve five plans, each of which shall have a technology and organization with a potential to produce at least 1,000 dwelling units a year. The Secretary is to seek the construction of that number of dwelling units a year over a five-year period for each of the various types of technologies proposed in approved plans. Mortgages financing the projects are authorized to be insured under the FHA experimental housing program.

(c) *Authorization for Urban Information and Technical Assistance Service Program.* The Act increases the authorization for grants to states to assist in the provision of urban information and technical assistance by $5 million for fiscal year 1969, and by $15 million for fiscal year 1970. Amounts authorized for these grants, but not appropriated, are authorized to be appropriated for any succeeding fiscal year commencing prior to July 1, 1970. In the Administration's budget requests for fiscal year 1971, the Urban Information and Technical Assistance programs were combined with the Comprehensive Planning Assistance (701) program described in Chapter Y.

(d) *Federal-State Training Programs.* The Act broadens the Federal-State training program to permit grants to states for the training of subprofessional—in addition to professional—persons who will be employed in the field of housing or community development. The trainees may be trained for employment by private nonprofit organizations or public organizations which have responsibility for housing and community development programs.

(e) *1969 Act Amended Training and Fellowship Programs as follows:*

Title VIII of the Housing Act of 1964 was revised to consolidate, under one authorization, that title's program of fellowships for city planning and urban studies and the community development training program. Specifically, the title:

(1) Consolidates the title by striking the headings which divide it into two separate parts:

(2) Amends Section 801(b) by including, as a purpose of the consolidated title, the provision of "fellowships for the graduate training of professional city planning and urban and housing technicians and specialists";

(3) Amends Section 810 by striking the first sentence (which authorizes appropriations for urban fellowships) and substituting a general authority for the Secretary to provide such fellowships;

(4) Substitutes for Section 802(d), which authorizes without fiscal year limitations $30 million in appropriations for community development training programs, a new section numbered 806 authorizing appropriations, without fiscal year limitation, of up to $30 million for the consolidated Title VIII program; and

(5) Amends appropriate sections of the title to strike inapplicable reference to its several "parts" and substitute appropriate reference to the "title" or to the various "sections" thereof.

(f) *Extension of Urban Information and Technical Assistance Services Authorization.* The 1969 Act amended Section 906 of the Demonstration Cities and Metropolitan Development Act of 1966 to authorize appropriations for grants to help finance programs of urban information and technical assistance services through fiscal year 1971. Prior to this amendment, appropriations were authorized to be made only through fiscal year 1970.

3. *Authorizations for Urban Research and Technology in Appropriation Acts.* There was an appropriation of $11 million for fiscal year 1969 for urban research and technology and an appropriation of $12 million for the low income demonstrations program for fiscal year 1969. There was an appropriation of $500,000 for urban fellowships. There was no appropriation for the urban information and technical assistance service programs. For fiscal year 1970, $2.5 million was appropriated for urban fellowships. For fiscal year 1971, $30 million was appropriated for urban research and technology; $3.5 million was appropriated for community development training and urban fellowships. For fiscal year 1972, $45 million was appropriated

for urban research and technology; $3.5 million was appropriated for community development training and urban fellowships.

4. *Additional Authorizations for Training and Fellowships in Appropriation Acts.* NHC recommends necessary appropriation authorizations to carry out all of the authorizations in the laws for training and fellowship programs. In addition, NHC recommends that $1 million a year be appropriated for training under a 5-year program; and that the fellowships be increased to $2 million a year under a 5-year program.

5. *Amendments in Housing and Urban Development Act of 1970.*

(a) *Research and Demonstrations.* The 1970 Act authorizes and directs the Secretary of Housing and Urban Development to undertake such programs of research, studies, testing, and demonstration relating to the mission and programs of the Department as he determines to be necessary and appropriate. To carry out activities under this section there would be authorized to be appropriated such sums as may be necessary. All funds so appropriated would remain available until expended unless specifically limited.

(b) *General Provisions*—The 1970 Act brings together under one heading a series of administrative and other provisions which are applicable to activities under section 501 as follows:

(1) A new section, which is based on section 1010 of the Demonstration Cities and Metropolitan Development Act of 1966 and section 417 of the Housing and Urban Development Act of 1969, directs the Secretary, to the greatest extent feasible, to require the use of advanced technology under housing programs administered by him, and to encourage and promote the acceptance and application of such advanced technology by all segments of the housing industry, communities, and the general public.

(2) A new section is based on section 108 of the Housing and Urban Development Act of 1968. It provides that in order to encourage large-scale experimentation in the use of new technology with a view toward the ultimate mass production of housing and related facilities, the Secretary shall, wherever feasible, conduct programs under section 601 in which qualified organizations, public and private, will submit plans for development and production of housing and related facilities using such new advances on Federal land where local building regulations or variances from them permit such experimental construction.

(3) A new section is based on provisions in section 1010 of the Demonstration Cities and Metropolitan Development Act of 1966 and section 108 of the Housing and Urban Development Act of 1968. The Secretary would be authorized, in connection with projects under this title, to acquire and dispose of land and other property required for the project as he deems necessary.

(4) A new section which is based on section 314 of the Housing Act of 1954, section 301 of the Housing Act of 1943, section 602 of the Housing Act of 1956, and section 1011 of the Demonstration Cities and Metropolitan Development Act of 1966, authorizes the Secretary to pay for the cost of writing and publishing reports on activities financed under section 501, and similar activities not so financed which are of significant value in furthering the purposes of that section.

(5) A new section is based on provisions in section 301 of the Housing Act of 1948, section 314 of the Housing Act of 1954, section 207 of the Housing Act of 1961, and sections 1010 and 1011 of the Demonstration Cities and Metropolitan Development Act of 1966. It authorizes the Secretary to carry out his functions under section 601 either directly or by contract or grant.

(6) A new section is based on title III of the Housing Act of 1948, section 602 of the Housing Act of 1956 and section 601 of the Economy Act of 1932 (31 U.S.C. 686). It requires the Secretary to utilize facilities of other Federal departments and agencies, and to consult with and make recommendations to such agencies; and authorizes him to enter into working agreements with them.

(7) A new section is based on provisions in section 602 of the Housing Act of 1956 and provides that the Secretary is authorized to obtain information from private and public sources.

(c) *Repeal of Existing Research Authorizations.* The 1970 law repeals, effective July 1, 1971 (except for contracts, commitments, reservations, or other obligations entered into prior to that date) title III of the Housing Act of 1948, section 314 of the Housing Act of 1954, section 602 of the Housing Act of 1956, section 207 of the Housing Act of 1961, section 301 of the Housing and Urban Development Act of 1965, sections 101 and 1011 of the Demonstration Cities and Metropolitan Development Act of 1966, and subsection 1714(b) of the Housing and Urban Development Act of 1968.

6. *Recommendations on Research and Technological Development.*

(a) NHC supports an increase of $75 million in the appropriation for research and development over the $45 million contained in the Appropriation Act for fiscal year 1972.

(b) NHC supports legislation authorizing FHA insurance of the cost of plant production facilities for approved industrialized housing systems. This can be done through an amendment of the experimental housing provisions under Section 233 of the National Housing Act.

(c) NHC recommends administrative action or legislation, if necessary, to permit—in the case of FHA-insured rental or cooperative projects involving use of factory-produced components—the making of progress payments by the developer to the housing manufacturers based upon certified invoices of receipts and expenditures for materials and labor by the manufacturer, such progress payments to be covered by the FHA insurance of construction advances to the developer.

(d) NHC deplores the HUD reductions in training and intern programs as part of its staff reduction program. These programs are vitally important to develop the additional trained personnel required and they afford an opportunity for greater minority participation in housing and urban development programs.

CHAPTER DD. OPERATION BREAKTHROUGH

I. Summary of existing legislation

1. About two years ago, Secretary Romney initiated the Operation Breakthrough Program. It is designed to achieve advances in design and planning of housing and to use modern techniques of production, marketing and management. Its purpose is to increase greatly the supply of quality housing, particularly for those of low and moderate incomes.

2. To initiate Operation Breakthrough, HUD solicited requests for proposals for several types of contracts: Type A for design, testing and evaluation, and prototype construction of complete housing systems which can lead to volume production. The program is planned in three phases: Phase I, Design and Planning; Phase II, Prototype Construction, and Phase III, Volume Production. HUD has made awards to 22 bidders for Type A contracts.

3. Type B contracts were solicited for research, development and design of innovative concepts for any individual or group of primary elements of building systems, materials and techniques, land use concepts and business considerations—including legal, financing, processing and management techniques.

4. HUD sought and has awarded contracts for eight prototype sites (from 5 to 30 acres each) to be brought under Government control and used to erect and display the prototypes which HUD selects. HUD intends that the sites will be an effective marketing device to spur demand for projects using the prototype dwellings.

5. Volume production is to be achieved with the aid of one or more of the HUD programs, including Sections 235 and 236. HUD intends to give priority in allocation of funds—under Sections 235, 236 and other programs—to projects using the prototype dwellings.

6. The 1969 Housing Act amended Section 1010(a) of the Demonstration Cities and Metropolitan Development Act to direct the Secretary of Housing and Urban Development to assure—to the extent feasible, in connection with the construction, major rehabilitation, or maintenance of any housing assisted under that section—that there is no restraint by contract, building codes, zoning ordinances or practice against the employment of new or improved technologies, techniques, materials, and methods or of preassembled products which may reduce the cost or improve the quality of such construction, rehabilitation, and maintenance. The purpose is to stimulate expanded production of housing under such programs, except where the foregoing restraints are necessary to insure safe and healthful working and living conditions.

II. Recommendations

1. NHC favors Operation Breakthrough and the programs of technological development in housing with their objectives to add to the production resources necessary for the achievement of our housing goals also, to help offset the inflationary rise in housing costs. Inflationary increases in housing and financing costs have adversely affected the consumer and made it impossible for many people who need homes to get them at prices or rents which they can afford.

2. NHC has always urged the prompt and full use of all funds authorized by the Congress for housing production rather than withholding funds for uses that will not materialize during the ensuing year. Accordingly, NHC urges that HUD take no action at this time which would withhold funds from use except for specific projects which will use Operation Breakthrough housing that can be promptly delivered and involves a system which has been approved by HUD.

CHAPTER EE. LOAN INSURANCE FOR MOBILE HOMES

I. Summary of existing legislation

1. *Need.* During the past few years, there has been a great increase of interest in mobile homes as a source of lower cost housing. Sales of mobile homes have increased substantially, from about 235,000 in 1967, to over 450,000 units in 1971.

A survey conducted by the Bureau of the Census for HUD revealed that mobile homes contribute significantly to housing supply. However, while the production and sale of mobile homes have expanded greatly in recent years, so that an estimated six million people live in about 2,200,000 mobile homes in the United States, the number and quality of mobile home parks have not kept pace. There is a great deficiency of suitable mobile home park spaces, and generally the ones that exist are improperly designed and provide inadequate community facilities.

2. *Amendments in the Housing and Urban Development Act of 1969.* Section 207 of the National Housing Act is amended to increase the maximum amount of a mortgage which may be insured for a mobile home court from $1,800 to $2,500 per space and from $500,000 to $1,000,000 per project mortgage. The section also redesignates, for greater accuracy, the mortgage insurance program for "trailer courts or parks" as a program for "mobile home courts or parks."

Title I of the National Housing Act is amended to authorize the establishment of a new FHA program financing the purchase of a mobile home to be used by the owner as his principal place of residence. Under this program, a purchaser can obtain an FHA-insured loan in an amount not exceeding $10,000 which must be repaid over a maximum term of 12 years. The financing charge to the purchaser is to be prescribed by the Secretary of Housing and Urban Development and may vary depending on the amount and term of the loan. In addition, the Secretary is required (1) to prescribe minimum property standards to assure the livability and durability of the mobile home and the suitability of the site on which the mobile home is to be located, and (2) to obtain assurances from the borrower that the mobile home will be placed on a site which complies with the standards prescribed by the Secretary and with local zoning and other applicable local requirements.

3. *Amendments in the Housing and Urban Development Act of 1970—Mobile Home Loans Under Title I.* The 1970 Act amends section 2(b) of the National Housing Act (home improvement and mobile home loan insurance) to provide that when a mobile unit is composed of two or more modules, the maximum insurable mobile home loan shall be $15,000 (instead of $10,000) and the maximum term shall be 15 years 32 days (instead of 12 years 32 days).

4. In March of 1971, the Veterans' Administration announced new standards for mobile home guarantees. These guarantees cover a portion of the principal amount, up to 30%, and a maximum of $10,000 for mobile homes or up to $17,500 if the loan also includes a fully developed lot. Minimum standards require a mobile home to be at least 40 feet long and 10 feet wide, with a minimum of 400 square feet. Pursuant to its flexible authority, the Veterans' Administration has set an interest rate of 10.75% on loans for purchase of the mobile homes and 7% on the part of the loan used to purchase a lot and make improvements.

II. Recommendations

1. NHC recommends that necessary safeguards be established for mobile home parks which will assure that the mobile homes are located in an area that has adequate sanitary and community facilities; also, to assure that the mobile home parks are planned in a manner which is not inconsistent with sound urban development of metropolitan areas. In many cases, mobile home courts are built just outside the cities and just beyond the reach of present zoning and building code authorities. Yet, population growth will result in the expansion of metropolitan areas to embrace the areas covered by the mobile home parks. Accordingly, it is necessary that the mobile home parks conform to the long-range plans of metropolitan areas. Likewise, it is necessary to assure that the mobile homes meet appropriate quality and space standards.

2. NHC recognizes wider and larger mobile homes can be built with substantially the same quality as other homes which qualify for FHA insurance. NHC recommends that such mobile home units be eligible for 40-year mortgage financing under Sections 213, 207, and 221(d)(3) if such projects (a) meet FHA design, construction and durability standards and (b) conform to site planning and engineering criteria that make such projects comparable to other developments which qualify under Sections 213, 207 and 221(d)(3).

CHAPTER FF. EFFECT OF TAX REFORM ACT ON HOUSING

On December 30, 1969, President Nixon signed the Tax Reform Act of 1969 into law. There are several provisions in the Act that drastically altered current tax consequences associated with housing and real estate development; also, the Act adds an important incentive for the production of low and moderate income housing and its sale to the occupants. A summary of these provisions follows:

1. Accelerated depreciation—i e., 200 percent of the straight line rate—will only be permitted for new residential rental housing. However, there are recapture provisions which offset the tax benefits upon a sale to the extent described below.

2. Any excess of accelerated depreciation over straight line depreciation will be subject to recapture for approximately 16 years 8 months instead of the present 10 years. These new recapture rules do not apply, however, to the Section 221(d)(3) and 236 limited distribution programs to serve low and moderate income groups. For these programs, the recapture rules of existing law are retained without change—namely there is no recapture if the project is held for ten years. Thus, the new tax law retains the existing tax incentives for such housing constructed to serve those of low and moderate incomes.

3. Subsequent owners of new residential rental property are divided into two categories: those who acquired used residential property with a useful life of less than 20 years and those who acquired used residential property with a useful life of 20 years or more. Those in the first category are limited to straight line depreciation while those in the second category may depreciate the property at a rate not to exceed 125 percent of the straight line rate.

4. The new tax law provides for deferral of gain upon certain prescribed sales of Section 221(d)(3) and 236 limited distribution projects. On these federally-assisted projects serving those of lower incomes where the investor's return on his investment is limited, the Government will now encourage the sale of these housing projects to the lower income occupants, a cooperative or other organization which will operate the property for their benefit. To qualify for the deferral of a taxable gain upon such a sale of a housing project, the owner is required to reinvest the proceeds in another lower income housing project. The taxpayer's basis from the old property, to the extent of the reinvestment, becomes part of his basis for the new property. This provision provides a necessary tax incentive for the production of low and moderate income housing and for its sale to or for the benefit of the lower income occupants.

5. NHC reaffirms its support for the current tax incentives afforded new and rehabilitated housing for low and moderate income families as provided by the Tax Reform Act of 1969.

6. NHC urges that the present special recapture rules for section 221(d)(3) and 236 limited distribution projects be extended beyond the present end of the experimental program in 1974.

CHAPTER GG. CREATION OF HEALTHY ENVIRONMENTAL CONDITIONS

Housing must be in a suitable environment. We now suffer from the tragic and dangerous effects of air and water pollution and unsafe and inadequate waste disposal. Likewise, recent studies reveal that the high noise level of our cities may prove as deleterious as other forms of pollution. Yet, little has been done to alleviate these pollution conditions which are growing worse.

I. Summary of existing legislation

Before the overt public concern with our environment, Congress passed several significant pieces of legislation aimed at controlling the environment. A summary of the more important laws follows:

1. *Clean Air Act of 1963.* This Act provided for an expanded and strengthened program. It authorized legal actions to stop air pollution. It also authorized matching grants to state, local and interstate agencies for programs of air pollution prevention and control.

2. *Motor Vehicle Air Pollution Control Act—1963.* This Act directed the Secretary of HEW to establish standards on the emission of substances from new motor vehicles or engines which contribute to air pollution. The Act prohibited the sale, manufacture for domestic sale, or importation of any vehicle or engine not in conformity with the regulations and provided fines of up to $1,000 for each new vehicle or engine manufactured or sold in violation of the regulations.

3. *Water Quality Act of 1965.* This Act requires the states to establish and enforce water quality standards for all interstate waters within their boundaries. If a state fails to take necessary action by June 30, 1967, HEW can act and set federal standards. The establishment of water quality standards is designed to prevent pollution before it occurs, since it is now possible to determine whether discharges of wastes and sewage cause unacceptable pollution in an interstate body of water.

4. *Clean Waters Restoration Act of 1966.* This Act provides that a Federal grant could pay from 30 to 50 percent of the construction costs of a sewage treatment plant. The higher grants are conditional on state participation in the financing of treatment plants and the establishment by the state of quality standards for non-interstate bodies of water within its boundaries.

5. *Air Quality Act of 1967.* This Act enlarged the existing federal responsibility for air pollution control. In most cases the Federal Government will not step in unless the states fail to act. The HEW Secretary is authorized in time of "imminent and substantial" danger to public health from air pollution, to seek a court injunction to halt further emissions into the atmosphere.

HEW is also authorized to designate air quality control regions throughout the nation. It can provide full federal financing for regional control commissions to be established by state governors. HEW can enforce air quality standards in the control regions, if the regional commissions fail to enforce an air pollution plan that complies with guidelines for air purity prescribed by HEW.

The Act further requires the registration of all fuel additives with HEW. Fuel manufacturers are required to notify HEW of the type, concentration and purpose of all additives used in their fuels.

The Act provides that automobile exhaust standards can be issued only by the Federal Government, except for California, which is permitted to enforce its own more stringent standards.

II. Recent Legislation

Clean Air Bill of 1970. (a) The Act contains the following deadlines for a 90% reduction of specified automobile emissions:

(1) a 1975 deadline for carbon monoxide and hydrocarbons,

(2) a 1976 deadline for nitrogen oxides.

(b) The Act allows the Administrator of the Environmental Protection Agency (EPA) to control or prohibit fuels or fuel additives which he deems harmful to public health or welfare or which impair a device or system to control emissions.

(c) The Act allows the Federal Government to set "primary" quality standards with the states having control over "secondary" air standards.

(d) The Act includes authorizations of $1.1 billion over three fiscal years. This includes $350 million for research on fuels and low-emission engines; $15 million for long-term research grants; $650 million for state grants and other programs; $55 million for a Federal low-pollution car program; and $30 million for a new noise pollution program.

Recent Actions. (a) This year the Environmental Protection Agency assumed the functions of air and water quality control previously exercised by the Departments of the Interior and HUD.

(b) This year the Council on Environmental Quality was established as an advisory group to formulate broad policies regarding parkland, land use and population growth.

(c) This year the Cabinet Committee on the Environment and the Citizens' Advisory Committee on Environmental Quality were established to make recommendations to the President concerning the development, restoration, and preservation of the beauty of the countryside, urban and suburban areas and water resources.

III. Recommendations

1. NHC concurs with the past pronouncements of President Nixon that:

"It is literally now or never . . . A major goal for the next ten years must be to restore the cleanliness of the air, the water, the broader problem of population congestion, transportation and the like."

2. NHC believes that we should have a ten-year goal to end air, water and other pollution and create healthy environmental living conditions. However, it is imperative that we should not let our concern for environment replace our priority concern to fulfill our housing goals. We must avoid the tendency to replace priorities instead of fulfilling them. We must not be diverted from our commitment to meet the need to provide decent housing for all Americans.

3. NHC suggests that HUD and DOT jointly study the impact of airports on housing in close proximity thereto or within flight patterns including:

(a) noise, air or other pollution;

(b) the distance required or other measures needed to assure healthy environmental conditions for such housing; and

(c) the actions required to resettle people displaced from airport impact areas suffering from unhealthy environmental conditions and the utilization of land in such airport impact areas for appropriate purposes other than housing.

CHAPTER HH. RELOCATION

I. Summary of existing legislation

1. *Objectives.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 recognizes the needs of persons who are displaced or have their property taken for Federal and federally assisted programs. This legislation establishes a uniform policy for the fair treatment of such persons and requires the heads of Federal agencies causing the displacement to provide relocation payments and assistance to those persons affected by such programs. The policy of the Act is to allow the activities essential to various Federal and federally assisted programs to continue, but not at the expense, inconvenience or hardship of individuals.

2. *Authorization in the Relocation Act of 1970.*

(a) The heads of Federal agencies are authorized to make the following types of relocation payments:

(1) Payment to families and individuals for the actual reasonable moving expenses or a fixed moving expense allowance not to exceed $300 and a dislocation allowance of $200.

(2) Payment to assist in obtaining a replacement housing unit which may be a payment to a displaced homeowner, who has owned and occupied the dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of the property, not exceeding $15,000 and covering the difference, if any, between the acquisition payment made by the local agency and the cost of a comparable suitable replacement housing unit. Such payment may include an amount to compensate the displaced homeowner for the present worth of any loss of favorable financing and an amount to compensate the displaced homeowner for reasonable closing costs incident to the purchase of a replacement housing unit. Payments may also be made to a displaced tenant who has occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling, to assist the displaced person in making a downpayment toward the purchase of a replacement housing unit or to assist the displaced person in the rental of a replacement housing unit, for a period not to exceed 4 years.

(3) Payments for the displacement of business concerns which may cover, within certain limitations, actual reasonable moving expenses, actual direct loss of tangible personal property and actual reasonable expenses in searching for a replacement business *or* such payments may be a fixed payment equal to the business concern' average annual net earnings, but not less than $2,500 nor more than $10,000, if it is determined that the business cannot be relocated without a substantial loss of its existing patronage and it is not a part of a chain operation.

(b) Each Federal agency whose actions result in displacement must establish a relocation assistance advisory program to determine the relocation needs of displaced persons and businesses, to provide information on the availability of relocation resources, to assure the availability of replacement housing prior to displacement, to assist in the re-establishment of displaced businesses and to supply information to those displaced concerning Federal and State programs which may be of use to them. Persons and business concerns adjacent to the area where the project or program activities are being carried out may also be entitled to relocation assistance.

(c) Project or program funds may be used for replacement housing when it is determined that the required housing cannot otherwise be made available.

(d) The costs involved in providing payments and assistance for displaced persons and business concerns are considered as part of the costs of a program or project for which Federal financing is available. For displacements occurring prior to July 1, 1972, where the Federal assistance is by grant or contribution, the Federal agency will pay a maximum of $25,000 per person. After July 1, 1972, the same requirements for agency matching apply to costs of relocation and other assistance to a displaced person, whatever the amount, as apply to other program or project costs.

(e) Before approving any grant to, or agreement with a State agency under which Federal financial assistance will supply all or part of the cost of the displacing project, there must be satisfactory assurances from the State agency respecting compliance with the Act.

(f) While the heads of Federal agencies are to consult together on the establishment of regulations for the implementation of the Act, the head of each agency is authorized to establish regulations and procedures for the fair and proper provision of the payments and assistance authorized under this Act. The following Federal agencies have issued regulations pursuant to this Act: Department of Agriculture; Department of Housing and Urban Development; Department of Transportation; Federal Highway Administration; Department of Interior; Economic Development Administration; Fish and Wildlife Service; Department of Health, Education and Welfare; Tennessee Valley Authority; Environmental Protection Agency; Department of Labor.

(g) The Act provides for seed money loans for planning and obtaining federally insured mortgage financing to stimulate the construction and rehabilitation of sale and rental housing to meet the needs of displaced families and individuals. The loans may be made to nonprofit, limited dividend, or cooperative organizations, and to public bodies.

(h) Relocation payments are not to be considered as income for Federal income tax purposes or for determining eligibility or extent of eligibility of a person under the Social Security Act or any other Federal law.

(i) To facilitate, encourage, and standardize the acquisition of real property by Federal agencies, the Act establishes the following guidelines for heads of Federal agencies:

(1) The Federal agency shall make every reasonable effort to acquire property by negotiation.

(2) Real property shall be appraised before negotiations and the owner may accompany the appraiser during his inspection.

(3) Before negotiations, the Federal agency shall establish a just amount of payment and offer to acquire the property for that amount. Such amount shall not be less than the approved appraisal of fair market values.

(4) No owner is required to relinquish possession of his property before the Federal agency pays the agreed purchase price, or deposits in court an amount equal to the approval appraisal of fair market value.

(5) Construction shall be so scheduled that a lawful occupant has 90 days written notice before he is required to move.

(6) If the Federal agency permits an owner or tenant to rent the real property for a short term, the rental cannot exceed the fair rental value of the property for such a term.

(7) A Federal agency cannot take coercive action to compel an agreement on the price to be paid.

(8) If eminent domain is to be used, the Federal agency shall institute formal condemnation procedures.

(9) If acquisition of only part of a property would leave the owner with an uneconomical remnant, the Federal agency shall offer to acquire the entire property.

(j) When a Federal agency acquires any interest in real property, it should acquire at least an equal interest in the buildings, structures and improvements. Where the buildings, structures or improvements are the property of a tenant or other person holding legal possession, the head of the Federal agency should pay the tenant the fair value of the property.

(k) The Federal agency shall promptly reimburse the owner for reasonable expenses, including recording fees, mortgage penalty costs for prepayment, and pro rata portion of property taxes.

(l) If the Federal court rules that the agency cannot acquire the property by condemnation, or if the agency abandons the proceeding, the court shall make an award to the owner for reasonable attorney, appraisal and engineering expenses.

(m) As a condition of Federal assistance, state agencies must be guided to the greatest extent practicable under state law, by the land acquisition policies of the Act, and property owners must be paid or reimbursed for transfer of title and litigation expenses.

II. Recommendations

1. Now that we have finally achieved our long-sought objective of uniform relocation assistance, NHC urges its full use and implementation, including the measures required to assure the availability of replacement housing prior to development.

2. NHC recommends legislation to eliminate the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 which requires a local share contribution for relocation costs. Currently this provision is scheduled to become effective on July 1, 1972. It should be repealed before then.

3. NHC recommends an increase in the dislocation allowance from $200 to $500 as part of the relocation payment to families and individuals.

CHAPTER II. PROGRAMS AND POLICIES FOR GENERAL APPLICATION TO HOUSING

1. *Equal Opportunity for Housing.*

(a) Throughout its entire life NHC has been committed to equal opportunity for all American families to secure good housing in good neighborhoods. It again reaffirms this position. Equal opportunity in housing is now the law of the land—both by statute and by court decree. Yet this opportunity is still denied to millions of American families throughout every section of the land because of their race, color, creed, or national origin, or because of the myth which exists as to their desire, or ability to pay for and maintain good homes. To overcome this denial of opportunity and to dissipate these myths, an urgent task is facing the nation.

(b) NHC has long supported the principle of a competitive housing market open to free bargaining by all American families without regard to racial or ethnic background. Many localities have been limited in achieving this objective, however, because of inadequate supplies of low and moderate cost living accommodations and by the congestion of many minority group families in limited sections of the community. To provide an adequate supply of housing, it is necessary to raise production to a minimum of 3,000,000 dwelling units per year.

(c) We urge the President and the Congress of the U.S. to take all steps toward providing an equal opportunity for housing. This includes full and adequate appropriations for the administration of the fair housing program under Title VIII of the Civil Rights Act of 1968. Of the $9.25 million requested by the President for fiscal year 1972, Congress appropriated $8.25 million for such expenses of administration for Fair Housing and Equal Opportunity. We strongly urge the larger appropriations required for achieving equal opportunity for all American families to secure good housing in good neighborhoods. We urge the Administration to take all necessary additional actions to achieve this equal opportunity objective. Strong affirmative measures should be taken to enforce the fair housing rights contained in Title VIII.

(d) We should provide an opportunity for freedom of choice in our housing programs. The choice of individual or cooperative homeownership or rental housing and the choice of city, suburban, new town or country living must not be limited by race, color, or religion.

(e) The Assistant Secretary for Equal Housing Opportunities announced the result of a concentrated radio and television campaign which encouraged people to report alleged discrimination in obtaining housing. The results of this campaign, which covered several Mid-Atlantic states, indicated that with proper information, many families will seek HUD's assistance in obtaining housing. NHC urges that this campaign be broadened to cover larger sections of the country and that HUD continue to institute such innovations.

2. *Relocation.*

(a) NHC is gratified that we have finally achieved our long-sought objective of uniform relocation assistance through the passage of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970. NHC urges its full use and implementation including the measures required to assure the availability of replacement housing prior to its development.

(b) When homeowners or tenants are being displaced for urban renewal or other government action, there should be a Federal grant to provide adequate payments as equitable compensation not only to pay their moving expenses, but also to help them obtain decent homes elsewhere.

(c) When a small business is being displaced through urban renewal or other governmental action, affirmative action should be taken to assist its relocation either within the urban renewal area or elsewhere. If it is to be relocated within the urban renewal area, there should be a policy to establish a rental for the small business which it can afford. In order to achieve this, an appropriate write-down should be made in the disposition of property under the urban renewal program. While it is recognized that there are allowances under the present legislation to cover the cost of relocation by a business which is displaced through urban renewal, we recommend this additional action to better assure the continuance of a small business that is being displaced. NHC also recommends the full implementation and use of the 1965 amendments to the Small Business Act for businesses which are being displaced by urban renewal or other governmental actions.

(d) NHC applauds Secretary of Transportation Volpe's declaration that no Federal aid will be approved for construction of highway, airport or mass transit projects until adequate replacement housing is provided for all families to be dislocated. This Replacement Housing Policy contains the following provisions:

(1) Specific written assurance that adequate replacement housing will be available (built, if necessary) before the initial approval or endorsement of any project.

(2) Construction will be authorized only upon verification that replacement housing is in place and has been made available to all affected persons.

(3) All replacement housing must be fair housing—open to all persons regardless of race, color, religion, sex or national origin. In addition, all replacement housing must be offered all affected persons regardless of their race, color, religion, sex or national origin.

NHC also commends the General Services Administration for its announcement of a similar policy requiring assurances of the availability of adequate housing before new Federal buildings are located in any area.

(e) NHC deplores the recent HUD discrimination against relocation payments to displaced persons who seek new homes in cooperatives. Neither Section 516 of the Housing Act of 1968 nor the regulations promulgated preclude replacement housing payments to those seeking replacement housing in cooperatives. However, in a Circular, HUD states that such payments may not be made to a displaced person moving into a cooperative. This discriminatory action should be stopped. NHC recommends that HUD should make replacement housing payments to displaced homeowners who seek to purchase a home in a cooperative.

(f) NHC applauds the passage of Section 510 of the Highway Act of 1970 which allows the Secretary of DOT to include in the cost of a highway project expenses for providing new housing or used or rehabilitated housing for those persons displaced by that highway project. We urge that DOT carry out this mandate and allow adequate amounts for such housing as part of the costs and expenses of all future highway projects. Such housing should conform to sound standards and should have prices and monthly charges within the reach of the displaced persons.

3. *Uniform System for Computation of Incomes by HUD.*

(a) HUD should have a uniform system for computing incomes which could be used by all constituent agencies administering housing programs which involve income limits. To be equitable, income limits should allow appropriate deductions and exemptions like those long recognized and utilized in the public housing program. The Senate Committee on Banking and Currency recognized the appropriateness of such uniformity in its Report on the 1968 Housing Act:

"Although the statute is silent on defining income, the committee is aware of the necessity for the Secretary to establish procedures to assure that fair standards and rules are followed within HUD for determining income (after allowable deductions) for eligibility of low or moderate income families or mortgagors under HUD's various programs. These procedures would apply to those who receive the benefit of subsidies or below-market interest rates to enable them to obtain occupancy, homeownership, or cooperative housing membership."

(b) At the present time, the methods of computing income differ in HUD, although the constituent agencies are administering comparable housing programs involving income limits. Under the 1970 Housing Act, public housing has allowed appropriate deductions of exemptions in computing the family income as follows:

(1) income for any family member below the age of eighteen, nonrecurring income, as determined by the Secretary, and the income of full-time students, living with their parents;

(2) an amount equal to the sum of (a) $300 for each dependent, (b) $300 for each secondary wage earner, (c) 5 percentum of the family's gross income (10 percentum in the case of elderly families), and (d) those medical expenses of the family properly considered extraordinary shall be deducted; and

(3) the Secretary may allow further deductions in recognition of unusual circumstances.

(c) Although these deductions or exemptions are now allowed in the public housing program, they are not recognized uniformly in the FHA program involving rent supplements or below-market interest rates under Section 221(d)(3) or interest assistance payments under Sections 235 and 236. In the interest assistance programs the 1968 Housing Act provides for the deduction from family income of $300 for each minor child and the elimination of the earnings of all minor children. Pursuant to the Congressional intent as evidenced by the foregoing quotation from the Senate Committee Report, HUD has allowed a further deduction of 5% of gross income to cover payroll deductions for social security and compulsory pension funds. However, HUD has not allowed other deductions of the type which have been long recognized in public housing and are now specifically authorized in the 1970 Act. Such deductions should be uniformly allowed in all HUD programs which involve income limits.

(d) NHC is gratified that S. 3248 (introduced by Senator Sparkman after favorable action by the Senate Committee on Banking, Housing and Urban Affairs) contains a provision which would carry out the foregoing recommendation of NHC concerning a uniform system of computation of income by HUD.

4. *Rehabilitation in Slum Areas Not Intended as Containment Program.* Rehabilitation programs for slum areas are not intended to be containment programs which would restrict present residents so that they must continue to live there. They should have an opportunity to move into other areas. The NHC goals contemplate development of new and rehabilitated housing in other areas which would be available for the low and moderate income families now living in slum and ghetto areas. To help assure achievement of this objective, we recommend enactment of legislation providing that no program of subsidy, aid, or assistance by any agency of HUD—including sewer and water facility grants, open space grants, community facilities grants, urban renewal programs, model cities programs, mass transit grants, and FHA insurance—may be carried on within any jurisdiction if a reasonable share of housing will not be available for low and moderate income families. Such legislation would help assure the development of balanced programs of housing in new areas into which the residents of slum and ghetto areas could move.

5. *Adequacy of Housing and Neighborhood for Low and Moderate Income Families.* Federally-assisted housing should provide adequate space and facilities and meet proper standards for comfortable living. The housing should be in a suitable neighborhood. In this way, we can improve the quality of life in Federally-assisted housing as prescribed in the 1968 Housing Act. The following are

among the measures necessary to achieve these objectives:

(a) Better design standards in housing developments.

(b) Dwelling units which provide adequate space and amenities rather than minimum space and facilities.

(c) More housing units of larger size, with more bedrooms and bathrooms, in order to meet the needs of larger families.

(d) Adequate recreational and community facilities with swimming pools, day-care and pre-school centers, all designed to create good neighborhoods.

(e) Air conditioning whenever appropriate, which will encourage families and their children to remain in their dwellings and off the streets during hot summers.

(f) Designs which encourage homeownership such as detached, semi-detached and townhouses.

Housing communities should be pleasant places to live. They should respond to the needs of the residents, with attention to their comfort, convenience, and recreation. By providing children and adults with good homes and with opportunities to engage in wholesome and constructive activities, we can create better communities and reduce juvenile delinquency and crime. With Federally-assisted housing that conforms to the foregoing criteria, we can achieve economic integration, both through initial occupancy and through the upward mobility and continued occupancy of families whose incomes increase.

6. *Uniform System of Tax Exemption and Tax Abatement.*

(a) In some HUD programs there is no requirement for real estate tax exemption or tax abatement. This is true in the new leasing program for the use of privately-owned housing for public housing purposes. It is also true in the rent supplement program for those of public housing incomes. Yet, conventional public housing projects are required to have tax exemptions and they pay only 10% of shelter rent in lieu of taxes. We previously recommended that conventional public housing projects conform with those other publicly-assisted programs which serve low-income families. This would be accomplished by permitting their payment in lieu of taxes to be equivalent to full taxes. NHC is gratified that S. 3248 (introduced by Senator Sparkman after favorable action by the Senate Committee on Banking, Housing and Urban Affairs) contains a provision which would gradually implement and carry out this NHC recommendation over a 10-year period during which payments would be increased annually until they reached the equivalent of full taxes.

(b) There should be a more practical and consistent policy concerning the requirement for tax abatement on privately-owned projects which are federally-assisted either with (i) below-market interest rates, (ii) interest assistance, (iii) rent supplements, or (iv) leasing programs under public housing. Tax abatement should not be required on these projects, even as a means of offsetting the higher costs that prevail in some cities. Such tax abatement is often unavailable because of restrictions in state and local laws; moreover, the cities often face serious problems of inadequate tax revenues and are unwilling to grant tax abatement. Cost limits should be made realistic so that these private housing programs can function in high cost areas without requiring tax abatement.

(c) Where state and local governments grant tax abatements on housing projects which are federally-assisted in the manner described above, there should be an annual Federal grant to reimburse them for their tax losses.

7. *Disposition of Federally-Owned Housing Projects.*

(a) FHA has acquired ownership of rental housing projects upon which defaults have occurred. When requested, FHA should either lease these projects to local housing authorities for public housing or make negotiated sales of these projects for cooperative ownership by low income or moderate income families. Also, sales may be made to public agencies or nonprofit or other properly motivated organizations which will use them to provide housing for low or moderate income groups. The housing should be sold at a price and with a mortgage term and interest rate—on the purchase money mortgage accepted by FHA—which would enable the property to serve these income groups at monthly charges which they can afford. Financing should be made available to rehabilitate these properties. Such properties should be eligible for rent supplements and interest assistance payments. These recommendations also apply to other federally-owned housing.

(b) FHA has also acquired ownership of single-family homes on which defaults have occurred. In the disposition of this housing, FHA should meet the needs of those of low and moderate incomes. The housing should be sold to them at a price and with a mortgage term and interest rate—on the purchase-money mortgage accepted by FHA—which would be within the financial reach of the low and moderate income purchasers. Priorities should be established for sales which would accomplish this purpose, rather than granting priority to cash sales or sales involving conventional loans, as these generally involve purchasers with incomes above those at the low and moderate level. Legislation should be enacted if it is necessary to establish disposition policies in accordance with the foregoing principles.

8. *Acceptance and Accumulation of Applications for Programs.*

HUD has often discouraged the submission of new applications in programs where a backlog of unsatisfied applications exists. NHC is strongly opposed to this discouragement of applications for HUD assistance. Even when there is an unsatisfied backlog of applications, HUD should continue to accept applications. There is no better way by which HUD can learn the needs and demands for programs which it administers, so that it can document and support requests for necessary Congressional authorizations and appropriations.

9. *Construction Work and Employment in Ghetto Areas.* Increased construction volume will require substantial increases in the work force. The large pool of untrained unemployed or under-employed within the ghetto is a large source of additional manpower. There should, therefore, be an effective program to accelerate the training of unskilled groups and to broaden their opportunities for employment in the construction industry. NHC recommends an adequate expansion of the training program of the Manpower and Training Administration of the Department of Labor, together with the full amounts needed as appropriations. We commend the Outreach Program of the building and construction trade unions which has enlisted thousands of disadvantaged and minority workers in skill training in their trades. We urge further extension of these training opportunities for such workers to advance toward skilled employment.

NHC endorses the provisions in the 1968 Housing Act which direct the Secretary of HUD to require:

(a) That opportunities for training and employment arising in connection with the planning, construction, rehabilitation, and operation of housing be given to lower income persons residing in the area of the housing; and

(b) That to the greatest feasible extent contracts for work pursuant to the housing programs shall, where appropriate be, awarded to business concerns located in or owned in substantial part by persons residing in the area of the housing. If bonding is not available to such contractors or subcontractors, HUD should take necessary actions to enable them to obtain adequate bonds. HUD should initiate a program which would assure the availability of bonds to such contractors, with necessary underwritings of reinsurance as is now authorized to enable persons to get other types of insurance in high-risk areas where such insurance would otherwise be unavailable.

In the foregoing programs, we recommend that bids be invited from local contractors which have the participation of minority groups either in an ownership, executive management or direction capacity. In housing construction where the contractor or sponsor incurs additional costs because of utilization of untrained workers from ghetto areas, the additional cost should be recognized as a public cost, with reimbursement therefor by the Manpower and Training Administration.

"In addition in housing construction where additional costs were incurred (particularly when this resulted in increasing the costs above the statutory limits on the mortgage involved) because of the utilization of minority contractors, sub-contractors and the training of minority workers, the additional costs should be recognized as eligible for a grant from HUD or for long-term financing from HUD on a basis where payments are deferred until after the retirement of the HUD-insured mortgage."

In the 1969 Housing Act, there is an extension of these requirements to cover all HUD programs providing financial assistance in aid of housing, urban planning, development, redevelopment, public or community facilities and new community development. Section 3 of the Housing and Urban Development Act of 1968 is amended to require the Secretary of Housing and Urban Development, in the administration of programs providing direct financial assistance in aid of housing, urban planning, development, redevelopment, public or community facilities, and new community development to require (1) that to the greatest feasible extent opportunities for training and employment arising in connection with the planning and carrying out of projects assisted under such programs be given to lower income persons residing in the project area, and (2) that to the extent feasible, contracts for work to be performed in connection with any such projects be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project. Prior to this amendment, these employment and work opportunity requirements were only applicable to the administration of the Section 235 homeownership program, the Section 236 rental assistance program, the Section 221(d)(3) below-market-interest-rate program, public housing, and the rent supplement program. NHC recommends administrative or legislative action to define the "project area" as the metropolitan area in which the project is located.

10. *Surety Bond Guarantees.* The Housing and Urban Development Act of 1970 amends Title IV of the Small Business Investment Act of 1958 by increasing the revolving fund of Title IV from $5 million to $10 million and adds a new provision establishing a program whereby SBA and HUD can guarantee any surety up to 90% of its loss as a result of the breach of the terms of a bid bond, payment bond, or performance bond on account of a contract up to $500,000. NHC urges that the Secretary of HUD and the Administrator of SBA carry out the full intent of this provision and take all steps necessary to provide technical assistance to any contractor or subcontractor for whom a bond is guaranteed under this provision. However, NHC recommends that the law be amended to remove the $500,000 limit on bonds and to allow a bond to be in such amount as HUD requires on the project involved. We further recommend the establishment of an adequate fund in HUD which

can be used to guarantee sureties on bonds for minority contractors and can provide necessary technical assistance to such contractors and training by such contractors.

11. *Support for International Programs for Housing.*

(a) NHC is aware of the critical housing problems elsewhere in the world, particularly in the developing countries. We urge continuation and expansion of our Government's foreign aid programs for housing in the developing countries, particularly cooperative housing to provide ownership by moderate income families as contemplated by the Foreign Assistance Act.

(b) Further, we urge our Government to support effort: (i) to elevate the importance of housing in the economic development process by supporting efforts to establish, within the framework of the United Nations, a specialized international agency dedicated to solving the housing problems of the developing countries; (ii) to increase U.S. financial support to U.S. universities and other institutions for research and training programs to help solve these housing problems and supply the trained personnel so badly needed.

(c) NHC recommends enlargement of the investment guaranty program for housing by increasing the available guaranty authority and by extending the 100% guaranties to other appropriate areas besides Latin America. We recommend legislation providing for the encouragement of cooperative and other homeownership by low and moderate income families in the cooperating countries and for the utilization of financing assistance of the types which have been proven effective in our domestic programs, particularly the establishment of national savings and credit systems specializing in housing and related fields.

(d) NHC supports the proposal for the creation of an International Housing Finance Corporation, which would be associated with the World Bank or the United Nations Development Program, to facilitate the mobilization of capital and the development of housing programs, particularly in the newly developing countries.

12. *Appropriation Authorizations.*

(a) NHC strongly recommends Congressional appropriations of adequate amounts for the administration of all HUD programs, including the additional funds which are required for additional staff to administer the many new programs contained in our Housing Acts. These funds are urgently needed to meet the critical problems of our urban areas and the shortage of adequate housing for persons of low and moderate incomes. We further recommend all of the additional appropriations described elsewhere in this report.

(b) NHC deplores the further staff reductions being made in HUD, in the face of critical deficiencies in the quality of services in the field to communities and the deterioration of technical information and guidance services being supplied in Washington. In addition to NHC's objections concerning Secretary Romney's announcement about drastic cuts in the overall HUD staff, NHC is opposed to any reduction in the staff charged with administering equal opportunity requests and procedures. We recommend that the current level of employees administering this program be set as the absolute minimum and that no reductions be made below this level.

(c) Advance appropriations provide lead time for initiating and planning programs in all authorizations in appropriation bills providing contract authority or funds. The authorizations should cover the succeeding fiscal year in addition to the fiscal year involved in the appropriation act. Appropriation acts have previously adopted this practice for the urban renewal and mass transit programs. We deplore the action taken by the President in discontinuing requests for advance appropriations for the succeeding fiscal year on programs where this practice was previously established, such as urban renewal. It is equally necessary that this practice be resumed and extended to all other programs involving private enterprises as well as public agencies, and we are pleased that President Nixon once made such a recommendation for advance authorizations on the Section 235, 236 and rent supplement programs. The same practice should be followed in all other housing and urban development programs. This will give more lead time for the planning and initiation of programs. Such a practice in the housing program will help avoid the past difficulties experienced as a result of uncertainties and delays in providing funds and commitments. Through advance authorizations for two fiscal years, there will be an uninterrupted flow of funds and commitments at an early enough time to permit advance planning and work in the initiation of housing programs.

13. *Workable Program and Local Approval.* In order to remove impediments to construction of low and moderate income housing, NHC recommends repeal of the requirement for a workable program or local government approval of projects receiving Federal assistance. However, in localities without a workable program, the Secretary of HUD must first be satisfied that: (i) there is a need for the project; and (ii) its location will provide a satisfactory residential environment. The 1969 Act accepts this recommendation on several programs. Likewise the requirement for a workable program or local approval for rent supplement and Section 23 leasing program should be dropped. These programs pay their full share of local taxes and should not be discriminated against.

14. *Recommended Change in Budget Concepts Concerning Mortgage Purchases.*

(a) NHC does not believe in the new concept of the Federal Budget (which was initiated several years ago) that initially reflects expenditures for mortgage purchases in the same way as it reflects expenditures for grants, even though collections on mortgages are later credited as offsetting income. If several billion dollars of mortgages are purchased and retained by a government agency, all of this initially appears as an expenditure in the Budget during the fiscal year when the mortgages are purchased. This has an adverse effect on many public interest and social programs which are dependent upon the steady flow of mortgage financing at reasonable interest rates. The Budget should reflect only the actual cost to the Government of purchasing and holding these mortgages—this would be the differential in interest between the rate of the mortgages held by the Government and the rate on Government borrowings.

(b) *If* the present Budget concepts are retained which initially treat mortgage purchases as an expenditure in its entirety, NHC believes that there should be active encouragement of the sale to private investors or FNMA of mortgages (or participations therein) held by GNMA or other government agencies. Upon such sales, the funds realized can and should be offset against the expenditures for the purchase of the mortgages.

15. *Availability of Land and Support of S. 609.* NHC recommends such measure as are necessary to help assure the availability of enough land, at reasonable cost, to achieve our housing goals. These should include the establishment of appropriate reserves of land for future use to provide the housing, public facilities and recreational areas required to meet these goals. To this end, NHC urges passage of S. 609, the Urban Planning and Housing Assistance Act of 1971, introduced by Senator Javits.

16. *Increases in Housing Costs.* We deplore the inflationary rise in housing costs, particularly the increases in interest rates (which have declined somewhat from their earlier higher levels) and prices of building materials such as lumber. It is urgent that action be taken to achieve a reasonable and stable level of interest rates and housing costs. When interest rates and housing costs increase, many people who need homes can no longer afford them—even though they could have afforded them previously when the interest rates and housing costs were at more reasonable levels. NHC strongly recommends that necessary measures—which are recommended elsewhere in this report—be taken to stop inflationary increases in interest rates and housing costs which adverely affect the consumer and jeopardize achievement of the housing goals established by Congress and the higher goals recommended in this report.

17. *Insurance for Ghetto Areas.* NHC recommends that when a home is purchased in a ghetto area and the mortgage is FHA-insured, necessary federal action should be taken to assure that the home owner obtains all hazard insurance required for his protection. Likewise, on cooperative housing in ghetto or central city areas, federal action is needed to assure the availability of hazard insurance at reasonable costs which reflect the lower losses and risks on such cooperative housing.

18. *Private Investment in Lower Income Housing.* NHC urges the participation of private investors in programs to provide housing for low and moderate income families. NHC recognizes that the tax savings which result from current rules of accelerated depreciation on improved real property are essential to insure the continued flow of such equity funds into investment in low and moderate income housing. NHC opposes any change in such rules which would reduce the already too-low return from investments in housing for families of low and moderate income.

19. *Reduction of Monthly Mortgage Payments.* With past increases in interest rates, people have been excluded from the housing market who needed dwellings but could no longer afford them at the higher interest rates. Elsewhere in this report, NHC recommends measures to increase the flow of funds into the housing mortgage market and to make mortgage financing available at more reasonable interest rates. We are pleased that HUD has taken action to reduce the interest rates (although further measures are needed to achieve a more reasonable rate); also to reduce the monthly debt service on mortgages by providing for level amortization payments instead of the higher initial curtailments of principal which were applicable to certain mortgage insurance programs—e.g., those under Sections 220, 221(d)(4) and 207. By reducing the debt service payments, the level amortization plan will reduce the monthly charges to the consumer and help offset the current high interest rates.

20. *Housing for Indians.* (a) Low and moderate income Indian families living on Reservations have long been denied the benefits of FHA-insured homeownership. Such Indian families have not been able to obtain FHA-insured financing on individual homes. Also, it is difficult for them to obtain FHA-insured mulitfamily housing, such as nonprofit rental housing and cooperative housing under Section 221(d)(3) or Section 236.

(b) There is a great need and market for FHA-insured homes on the Reservations. Many Reservations are now undergoing economic improvement, through increased mineral development and the location there of factories and other sources of employment. Special efforts are needed to bring to the Indians the benefits of programs intended to serve people of low and moderate incomes.

(c) NHC supports legislation to extend housing assistance available through the Farmers Home Administration to Indians who lease rural non-farm land from their tribe for use only as a homesite. Similar authority now exists where fram land is leased.

(d) NHC recommends that the rehabilitation grant program under Section 115 be extended to include Indian Reservations; and that grant procedures be revised to make the program available to low income rural families of Indians so they can renovate and repair existing housing.

21. *Payment of Prevailing Wages.* In programs involving FHA mortgage insurance on multifamily housing where payment of prevailing wages is now required by law, such prevailing wages shall be established and paid based upon the requirements of the Davis-Bacon Act relating to such housing construction in the the area.

22. *Study of New Type of Mortgage Security to Attract Investments.* (a) Some financial experts have proposed the creation of a new type of mortgage or investment security which would better attract money for fixed long-term investments in housing. They point out that many lenders have withdrawn from the residential mortgage market because:

(1) They anticipate that the dollars repaid on the loan will have a substantially lower value and purchasing power than the dollars loaned initially; and

(2) The amount of return is not attractive as compared with other rates of return available in the current market.

(b) We propose that a study be made of this problem so that recommendations can be made at a later date concerning the advisability of including provisions in mortgages or other housing securities which would meet this problem and attract necessary funds for investments in housing production. Among the measures to be explored are the following:

(1) A clause in the mortgage providing for adjustments yearly on the amount of only the principal which is to be repaid, so that it reflects reductions in the value and purchasing power of the dollar as shown by the Department of Labor price index; or

(2) A clause in the mortgage providing for adjustments yearly in the amount of the monthly payments for both principal and interest based upon changes in the price index; or

(3) A clause in the mortgage providing for adjustments yearly in only the rate of interest which is to be paid on the unpaid balance of principal, so that it reflects changes in the prevailing interest rates or price levels from year to year.

Any adjustment clauses must take into account the ability to pay of the occupants of the housing. While most people will enjoy an increase in their income to reflect increases in the price indexes so that they can afford to pay adjusted amounts on their mortgages, there will be people who have fixed incomes. In their cases, special provisions must be developed to assure that they can afford to make the adjusted payments, such as through an extension of the mortgage term.

(c) In Latin American countries, some systems have been devised for adjustments in mortgage payments which have worked satisfactorily. However, inflationary conditions have been so great in those countries that mortgage adjustments were essential to obtain long-term loans to finance housing production. The proposed study should ascertain whether we need a system of adjustments in mortgage payments in this country, taking into account present and future anticipated changes in the value of the dollar and its purchasing power.

CHAPTER JJ. NEED FOR EFFECTIVE INSTITUTIONS, ADMINISTRATION AND FEDERAL-LOCAL RELATIONS

In itself, the enactment of adequate legislation will not achieve the goals set forth in these recommendations; nor will it meet the needs of the American people or the crisis in our cities. Laws are *not* self-executing. It is necessary to assure the establishment of effective institutions, administration, and federal-local relations. NHC recommends that HUD take the following actions to assure the effective execution of laws relating to the programs under HUD's jurisdiction:

1. HUD should redefine its role to concentrate on major policies and on constructive leadership in executing federal laws and to grant greater local autonomy to local governments and agencies in undertaking and operating projects involving HUD aid. NHC believes this HUD role would constitute creative federalism. The expenditure of federal monies should be subject to broad federal guidelines. Through the years, there has been a continuing increase in the burden and detail of HUD controls over local operations in the conduct of HUD-aided programs. All HUD controls should be eliminated which are not required by federal law. We will never achieve the volume and expedition required in programs authorized by the Congress unless there is a decentralization of responsibility to the local agencies involved. The local agencies can properly be held to account for their responsibilities under programs. There is no reason to assume that there is any less integrity and competence in local officials than in federal officials.

2. As to matters involving public agencies or others which now require prior HUD administrative approval, HUD should expedite programs by waiving such prior approval in cases where the public agencies or others will certify and proclaim that they have complied with all of the enumerated administrative requirements of HUD. Upon such certification covering all applicable administrative requirements, the public agencies or others should be allowed to proceed with their programs, subject to post audit by HUD that the public agencies or others have conformed with their certifications.

3. HUD should accelerate processing, production and decision-making by federal and local officials and by participants in *all* HUD programs, including the establishment of time schedules for all actions required. There should be a time limit for submissions of applications. However, qualified applications should not be rejected because of technical or insubstantial reasons, lack of money or lack of a priority status according to a schedule established by HUD; likewise, applications should not be rejected in order to remove them from the pending work load.

4. After applications have been approved and allocations made, there shall be a time limit for contracting and execution. With respect to requirements for HUD approval after a contract or commitment is issued, there should be a recognition that HUD has a certain period within which to act; and, failing such action on matters requiring HUDs' approval, the proposal to HUD shall thereby be accepted and considered approved.

5. HUD should act promptly in making allocations and commitments of all authorizations and funds made available by Congress. Such allocations and commitments should be based upon:

(a) The requests that are received within a designated time which meet the applicable statutory requirements; and

(b) The respective needs for the communities involved. There should be no impounding or holdback of funds. The money should be allocated and committed as quickly as possible. All monies should be made available based upon the qualified requests that are received within a prescribed time limit. The guideline should be the need for the program in the community involved.

6. HUD should simplify its regulations and conditions attached to HUD aid and eliminate the detailed controls over project development and operations. Such controls are overly burdensome, costly, and time-consuming. They discourage initiative and innovation. They are inconsistent with the achievement of the goals established by law and the larger goals recommended in this report.

7. HUD should eliminate conflicting policies and requirements among its different units, as applied to comparable programs. For example, the methods of determining incomes under the public housing program are different from those under the rent supplement, interest assistance and below-market-interest-rate programs.

8. Civic organizations and citizens' councils have an appropriate role in furnishing advice and recommendations. Where a municipal government has been established whose officials are elected by the voters, the elected officials should give full consideration to the advice and recommendations of such citizens organizations; however, the final responsibility for decisions should properly reside in the elected officials on such programs as urban renewal, model cities, and neighborhood rehabilitation. Otherwise, there will be a division of responsibility which will seriously impede the progress of these programs that are vitally important to the community.

9. To help achieve the housing goals and enlist all available resources, HUD should encourage full participation in its programs by cooperatives and other nonprofit organizations and local public agencies, in addition to limited-dividend sponsors and builders.

10. HUD should consult with representative groups of local public agencies and private participants in each of its programs to identify problems which impede their progress and to develop workable solutions. For this purpose HUD should establish:

(a) A federal-local committee on public housing and urban renewal; such a committee functioned effectively for years until it was discontinued.

(b) A federal-city committee on the model cities program.

(c) Like committees of representatives from the participants in each program; thus, there should be a restoration of the committee of representatives of cooperatives participating in FHA programs.

Each such committee would meet periodically to give HUD first-hand experience concerning the operations of the HUD-aided program involved. Such consultation should result in quick and realistic action in eliminating obstacles and solving problems. Otherwise, such obstacles and problems are long neglected, often because they are not known or because HUD does not get proposals for solutions from those directly engaged in the program.

TRIBUTE

The following was adopted by the membership of the National Housing Conference at its 41st Annual Meeting on March 5, 1971:

IN TRIBUTE TO REPRESENTATIVE WILLIAM A. BARRETT

The National Housing Conference honors Congressman William A. Barrett for his 26 years of vigorous and able representation of the first congressional district of Pennsylvania and Philadelphia in the House of Representatives, and for his foresight and leadership in providing effective housing and community development legislation.

As one of the original members of the Housing Subcommittee of the Committee on Banking and Currency, Congressman Barrett has provided leadership and initiative in all the legislation the Housing Subcommittee has handled in its history.

As Chairman of the Housing Subcommittee since 1965, Congressman Barrett has demonstrated the high qualities of leadership so necessary in the field of housing and community development legislation. Major legislation enacted under his chairmanship includes the Housing and Urban Development Act of 1965, the Model Cities Housing Act of 1966, the Housing and Urban Development Act of 1968, urban mass transportation legislation, and most recently the Housing and Urban Development Act of 1970.

In honoring Congressman Barrett for his distinguished career, we look forward to his continuing leadership in the years ahead.

IN RECOGNITION OF SENATOR ALLEN J. ELLENDER

The National Housing Conference honors Senator Allen J. Ellender of Louisiana for his 35 years of dedicated service in the United States Senate and for his long-term unswerving support for the cause of decent housing for all Americans.

In 1945, Senator Ellender joined with the late Senator Robert Wagner and the late Senator Robert Taft in sponsoring the Wagner-Ellender-Taft Bill. After many vicissitudes this pioneering legislation emerged as the Housing Act of 1949, still the magna charta of the movement for good housing and community development and notable for its first enunciation of the national goal of a decent home in a suitable living environment for every American family.

During the ensuing years, Senator Ellender has maintained his support for this goal. In his present role as President protempore of the United States Senate and Chairman of the Senate Committee on Appropriations, Senator Ellender will be a powerful voice in support of our objectives.

The National Housing Conference applauds his distinguished career and looks forward to his continued leadership.

OBITUARIES—1972

Members of the National Housing Conference, assembled for their 41st annual meeting on March 5, 1972, adopted the statements that follow, honoring members whose careers in housing, urban renewal and related fields were ended by death during the year just passed:

JOHN W. EDELMAN

A charter member of the National Housing Conference, pioneer labor organizer, consumer advocate, and president emeritus of the National Council of Senior Citizens which he helped to found, John W. Edelman died last December 28 at his home in Arlington, Virginia.

John Edelman was a true activist. Born in New Jersey but raised in England, he began his public service at 14 as a local secretary for Britain's Independent Labor Party. At 16 he joined his first labor union, and spent the next 62 years of his life organizing in the public interest. He returned to the United States in 1916, and for the next 20 years he held newspaper, teaching, trade union and research posts.

He was the leading spirit in the creation of Carl Mackley Homes in East Philadelphia 36 years ago, a low-cost cooperative housing project financed with federal and private funds, a pioneer effort to create housing for low-income families. From that effort the Labor Housing Conference evolved, which was later absorbed by the National Public Housing Conference, now the National Housing Conference. He was equally persuasive in union halls, before committees of the Congress, or as an advisor to Presidents. John Edelman gave generously of his talents and his spirit to the National Housing Conference whose members dedicate themselves to helping keep that spirit alive.

JOHN BENNET BLANDFORD, JR.

John B. Blandford, Jr., first administrator of the National Housing Agency, died in Virginia following a heart attack. President Franklin D. Roosevelt, impressed by the administrative competence of John Blandford, as the first general manager of the Tennessee Valley Authority, called him to Washington in 1942 to head the National Housing Agency, which he had created by executive order to coordinate the massive housing effort of World War II. Without statutory powers, he coordinated the efforts of 16 agencies involved in housing financing, slum clearance, low-rent housing, and successfully carried out the gigantic war housing effort which to this day has received little criticism and much praise. It was under his administration that plans were perfected for the conversion of Federal housing efforts to peacetime purposes.

Because of his proven administrative skills, President Truman assigned John Blandford to serve as American Advisor to the Government of China in 1946, a job that even his rare talents could not master at that time. While he never returned as an active participant in housing "Jack" Blandford kept in touch, and his qualities of leadership are sorely missed.

LIONEL F. ARTIS

One of the first low-rent public housing project managers in the nation. Lionel F. Artis of Indianapolis died on September 1. For 31 years he served as housing manager of Lockfield Gardens, built by the Public Works Administration in 1937 and transferred as an operating project to the United States Housing Authority. On his retirement in 1968 Mr. Artis became a visiting lecturer for the graduate school of the Indiana University school of social service, lecturing on community organization. In a television editorial the day followingg his death, an Indianapolis station WFBM reporter said, ". . . he was considered an expert on housing matters. But people were his main interest. Particularly black people and poor people. And to them, he really devoted his life."

C. J. HAGGERTY

The death in 1971 of C. J. Haggerty, President of the Building and Construction Trades Department, AFL–CIO was a tragic loss to Organized Labor and to the Nation. Born in Boston in 1894, Mr. Haggerty spent his adult life in California. When he was rising through the ranks of labor in Los Angeles, California, he was an effective champion of decent housing for families of low and moderate income. He brought informed, articulate support to housing programs at every level of government, national, state, and local.

Mr. Haggerty was a member of the Board of Directors of the National Housing Conference for 20 years, where his counsel was invaluable. His ability to communicate with persons in every walk of life, contributed to his effectiveness as an outstanding leader in the public interest.

M. JUSTIN HERMAN

M. Justin Herman, Executive Director of the San Francisco Redevelopment Agency, died at his home of a heart attack on August 30 at the age of 62. For nearly a quarter of a century Justin Herman served the federal government in various capacities as statistician, economist, community relations specialist, and from 1951 to 1959 as the Housing and Home Finance Agency's regional director in San Francisco. From there he moved into the city redevelopment agency's top spot. From his work in San Francisco he gained national and international recognition. Because he was a doer, a practical dreamer who made great dreams come true, he was often the center of controversy, from which he never backed away.

Mayor Joseph L. Alioto of San Francisco made the following statement as his personal tribute to Justin Herman: "Without exaggeration, Justin Herman was the best public servant I have ever known and probably the best in the country. He added great beauty and greater strength to the city he loved. In his case it is literally true that he is irreplaceable. He set for himself and for San Francisco a standard of excellence from which no human force, virtuous or vicious, could deflect him." His thousands of friends and fellow members in the National Housing Conference, say "amen", and that he did the same for his country.

CHARLES J. HORAN

Charles J. Horan, who served the Department of Housing and Urban Development and its precedessor agencies for 31 years, died on March 25, 1971 at the age of 59. At his death, Mr. Horan was assistant regional administrator for renewal assistance for HUD's Region II office in New York. He entered government service as an economist with the Federal Housing Administration. From 1943 to 1945 he was deputy regional representative in San Francisco of the National Housing Agency, and served the same agency in Chicago from 1945 to 1948. After a brief period in the building business Mr. Horan returned to federal service an area supervisor for the west and southwest of the division of slum clearance of the Housing and Home Finance Agency. In 1955, he became regional director of urban renewal in the New York regional office, and when HUD was organized in 1966 he assumed the assistant regional administrator's post.

Charles Horan was known from one coast to the other as the dean of regional renewal directors who could listen to, communicate with and learn from local officials who were making the program work on the front lines where the action is. His sense of humor, his knowledge of the program, his ability to cut red tape and make decisions brought officials from all levels to his door for guidance. They left his office with a good feeling that the role of the federal government is to help, not hinder. Members of the National Housing Conference are grateful for Charles Horan's 31 years of leadership.

CARL J. MAYERHOEFER

Carl J. Mayerhoefer, an active NHC member for more than 20 years, and executive director of the Cincinnati Metropolitan Housing Authority since 1966, died August 8 of a heart attack. Mr. Mayerhoefer began his long housing career in 1935 with the housing division of the Public Works Administration. In 1938 he was transferred to Washington, D.C. as project auditor of the United States Housing Authority and worked in Cleveland and Chicago as supervising auditor for several states during the next decade. As a traveling auditor Carl Mayerhoefer became vitally concerned with legislative and administrative policies, and how and why they were conceived. He become active in the councils of the National Housing Conference to which he brought a wide variety of local experience.

Carl Mayerhoefer joined the Cincinnati Metropolitan Housing Authority in 1949 as comptroller, becoming assistant director for finance and development before assuming the directorship in 1966. He was also active in local, regional and national activities of NAHRO.

MRS. ANNE MASON ROBERTS

One of the most beautiful people in housing, Mrs. Anne Mason Roberts died October 17 in New York City at the age of 61. She was deputy administrator of the New York region of the Department of Housing and Urban Development at the time of her death.

Mrs. Roberts' first identification with the National Housing Conference came as a representative of the National Council of Negro Women, in helping to plan post-World War II housing strategy and programs. She began her career as a teacher in Cincinnati, and later shifted to federal service as consumer relations officer for the Office of Price Administration. In 1950 she became a racial relations officer under Dr. Frank Horne in the Housing and Home Finance Agency. In HHFA she moved through a series of assignments as housing economist, relocation specialist and deputy regional director of HHFA's New York renewal office. Mrs. Roberts was a former executive director of New York City's anti-poverty program and a member of the national advisory committee on international housing for the Agency for International Development. She was the recipient of the highest award a government employee can received—the Distinguished Service Award.

President Nixon, in eulogy at the time of her death, said of Mrs. Roberts: "She translated her boundless and untiring concern for our less fortunate citizens, and produced enduring benefits in the lives of those to whom she was committed."

At the funeral services for Mrs. Roberts, eulogies were delivered by former HUD Secretary Robert C. Weaver; HUD Under-Secretary Richard Van Dusen; New York City Housing Authority Chairman Simeon Golar; and former executive director of the United Neighborhood Houses, Helen Harris. Her greatest tribute came from the silent tears from countless nameless people whose lives were better because she has passed their way.

JULIUS "JULES" SEAMAN

Julius Seaman, chief of the Bureau of Housing of New Jersey's Department of Community Affairs, died on May 3, 1971, bringing to a close a distinguished career in housing at the level of state government, which had few parallels in the nation. Beginning as an assistant to the late Joseph Nevin, they created a state agency in post World War II years that produced homes for families of low and moderate income, in cooperation with, and not in competition to, local housing agencies.

"Jules" Seaman helped coordinate housing and renewal activities throughout New Jersey in a manner that increased the strength and credibility of the housing program at every level of government, national, state, and local. His counsel was greatly valued by the National Housing Conference.

Members of the National Housing Conference assembled for their 1972 Annual Meeting pause in their deliberations for a moments of silent tribute to their departed members, and direct that their families be advised of our gratitude for having been permitted to share their lives of those they loved.

IN RECOGNITION OF SENATOR ALLEN J. ELLENDER

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By Resolution of the Membership of The National Housing Conference, Washington, D.C., March 5, 1972.

IN TRIBUTE TO REPRESENTATIVE WILLIAM A. BARRETT

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In honoring Congressman Barrett for his distinguished career, we look forward to his continuing leadership in the years ahead.

By Resolution of the Membership of The National Housing Conference, Washington, D.C., March 5, 1972.

EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON COMMERCE

Mr. ELLENDER. Mr. President, in accordance with the Mutual Security Act of 1954, as amended, I ask unanimous consent to have printed in the RECORD the report of the Committee on Commerce of the Senate concerning the foreign currencies and U.S. dollars utilized by it in calendar year 1971 in connection with foreign travel.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON COMMERCE, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

		Lodging		Meals		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency
Richard J. Daschbach:											
Finland	Markkas	320.00	76.51	299.00	71.50	238.42	57.19	112.80	26.98	970.22	232.18
Germany	D. marks	390.00	110.69	292.30	82.93	158.00	44.78	217.20	61.60	1,057.50	300.00
Sweden	Kroner	1,116.00	215.81	1,185.60	231.24	564.00	108.85	530.40	102.32	3,396.00	658.22
Netherlands	Guilders					3,927.76	1,094.08			3,927.76	1,094.08
Subtotal			403.01		385.67		1,304.90		190.90		2,284.48
Jacob J. Dykstra:											
Switzerland	S. franc	1,038.50	254.53	1,935.00	474.26	733.00	179.66	972.00	238.24	4,678.50	1,146.69
Netherlands	Guilders					3,106.15	873.00			3,106.15	873.00
Subtotal			254.53		474.26		1,052.66		238.24		2,019.69
Robert E. Ginther:											
Denmark	Kroner	262.50	35.00	337.50	45.00	150.00	20.00	375.00	50.00	1,125.00	150.00
France	F. franc	1,104.00	200.00	717.60	130.00	567.02	102.57	165.00	30.00	2,553.62	462.57
Spain	Pesetas	2,088.00	30.00	2,088.00	30.00	1,392.00	20.00	1,392.00	20.00	6,960.00	100.00
England	Pounds	14.40	45.00	20.50	50.00	25.48	61.48	12.34	30.00	72.72	186.48
Germany	D. marks	14.00	4.00	248.50	71.00	2,309.30	659.80	140.00	40.00	2,711.80	774.80
Subtotal			314.00		326.00		863.85		170.00		1,673.85
Vance Hartke:											
France	F. franc	220.94	40.00	607.06	110.00	1,429.54	258.37			2,257.54	408.37
Germany	D. marks	103.40	30.00	248.60	70.00					352.00	100.00
Sweden	Kroner	144.28	28.00	371.32	72.00	451.40	87.52			967.00	187.52
England	Pounds	44.92	109.00	16.93	41.00	50.20	121.70			112.05	271.70
Belgium	Francs	2,450.38	49.00	2,549.62	51.00	7,400.00	149.10	1,800.00	36.27	14,200.00	285.37
Tunisia	Dinars					402.417	766.51			402.417	766.51
Subtotal			256.00		344.00		1,383.20		36.27		2,019.47
Kwan Sai Kheong:											
Singapore	M. dollars					6,288.00	2,082.12			6,288.00	2,082.12
United States	U.S. dollars								150.00		150.00
Subtotal							2,082.12		150.00		2,232.12
Joseph H. Kimmitt:											
Finland	F. marks	259.23	62.62	151.32	36.55	319	77.01	3.45	.83	733.00	177.01
Sweden	S. kroner	390.00	76.85	103.28	20.35	448.67	88.92	14.22	2.80	956.17	188.92
Norway	N. kroner	462.28	67.29	230.96	33.62	588.99	83.18	288.81	42.04	1,571.04	226.13
Denmark	D. kroner	570.00	77.55	150.01	20.41			14.99	2.04	735.00	100.00
Italy	Lire	93,163.00	151.24	30,037.00	48.76	542.10	87.15			123,742.10	287.15

Footnotes at end of table.

Name and country	Name of currency	Lodging		Meals		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency
France	F. franc	664.70	120.85	160.30	29.15					825.00	150.00
Morocco	Dirhan	156.67	31.21	72.84	14.51	121.89	24.08			351.40	69.80
Subtotal			587.61		203.35		360.34		47.71		1,199.01
Frederick Lordan:											
Australia	A. dollars	85.10	74.00	41.17	35.80			17.19	14.95	143.46	124.75
Hong Kong	H.K. dollars	765.60	132.00	562.60	96.90			223.30	38.50	1,551.50	267.40
Japan	Yen	22,686.51	69.00	12,033.71	36.60			8,680.06	26.40	43,400.28	132.00
Germany	D. marks					7,452.90	2,286.17			7,452.90	2,286.17
Subtotal			275.00		169.30		2,286.17		79.85		2,810.32
Frank E. Moss:											
Nigeria	Pound					95.67	268.04	4.94	14.00	100.61	282.04
Nigeria	U.S. dollar		14.30						2.40		16.70
Congo	Zaire	13.83	27.67	11.95	23.90	134.13	408.82	71.07	142.17	230.98	602.56
Zambia	Kwacha	27.85	39.00	17.21	24.10	78.52	11.09	26.35	36.90	149.93	111.09
Tanzania	Shilling	547.19	78.17	41.37	5.91	2,827.44	396.77	756.96	107.99	4,172.96	588.84
Kenya	Shilling	707.00	101.00	132.72	18.96	693.33	97.19	560.28	80.04	2,093.33	297.19
Burundi	Francs					138.88	1.61			138.88	1.61
Burundi	U.S. dollar		20.00		4.40				75.60		100.00
Ethiopia	E. dollar	98.57	39.43	21.91	8.77	386.66	155.85	386.11	154.84	893.25	358.89
Egypt	Pound	15.55	28.00	2.22	4.01	8.85	15.93	38.88	69.99	65.50	117.93
Israel	Pound	175.00	50.00	57.12	16.32	274.65	78.47	292.88	83.68	799.65	228.47
Tunisia	Dinar							52.10	100.00	52.10	100.00
Tunisia	U.S. dollar		60.00		10.42						70.42
England	Pounds	61.98	150.00	24.79	60.00	42.23	102.20	16.53	40.00	145.53	352.20
Hungary	Froints	1,800.00	60.00	1,080.00	36.00			920.10	30.67	3,800.10	126.67
Czechoslovakia	Crowns	861.00	60.00	344.40	24.00			229.60	16.00	1,435.00	100.00
Austria	Schillings	2,930.40	120.00	1,172.16	48.00	8,517.94	348.81	781.44	32.00	13,401.94	548.81
Germany	D. marks	608.58	180.00	243.43	72.00	3,460.69	1,023.57	162.29	48.00	4,474.99	1,323.57
Subtotal			1,027.57		356.79		2,908.35		1,034.28		5,326.99
Karl O'Lessker:											
France	F. franc	1,656	300.00	745	135.00			83	15.00	2,484	450.00
Germany	D. mark	140.8	40.00	140.8	40.00			70.4	20.00	352	100.00
Belgium	B. franc	3,000	60.00	1,500	30.00			500	10.00	5,000	100.00
Sweden	Kroner	154.80	30.00	77.40	15.00			25.80	5.00	258	50.00
England	Pound	89.60	219.00	52.50	126.00	12.90	31.00	2.20	5.00	157.20	381.00
Netherlands	Guilders					2,844.85	799.56			2,844.85	799.56
Subtotal			649.00		346.00		830.56		55.00		1,880.56
A. Daniel O'Neal:											
Denmark	Kroner	262.50	35.00	337.50	45.00	150.00	20.00	375.00	50.00	1,125.00	150.00
France	F. franc	1,140.00	200.00	717.60	130.00	567.02	102.57	165.60	30.00	2,554.22	462.57
Spain	Pesetas	2,088.00	30.00	2,088.00	30.00	1,392.00	20.00	1,392.00	20.00	6,960.00	100.00
England	Pounds	14.40	45.00	20.50	50.00	25.48	61.48	12.34	30.00	72.72	186.48
Germany	D. marks	14.00	4.00	248.50	71.00	2,309 30	659.80	140.00	40.00	2,711.80	774.80
Subtotal			314.00		326.00		863.85		170.00		1,673.85
Michael Pertschuk:											
England	Pounds	48	116.17	50	121.01	3	7.26	19.85	48.04	120.85	292.48
Emanuel Rouvelas:											
Japan	Yen	99,000	275.00	36,000	100.00	7,200	20.00	37,800	105.00	180,000	500.00
Germany	D. mark					5,913.75	1,615.78			5,913.75	1,615.78
Subtotal Seschachar:											
Subtotal			275.00		100.00		1,635.78		105.00		2,115.78
Seschachar:											
B.R. Seschachar:											
India	Rupees					15,478.50	2,037.83			15,487.50	2,037.83
United States	U.S. dollars								135.00		135.00
Subtotal							2,037.83		135.00		2,172.83
S. Lynn Sutcliffe:											
Germany	D. mark	720	247.00	297	89.00	3,847.45	1,137.96	303	14.00	5,167.45	1,487.96
France	F. franc	425	77.00	290	52.50			114	20.50	829.00	150.00
Subtotal			324.00		141.50		1,137.96		34.50		1,637.96
Leonard Bickwit Jr.:											
Norway	Kroner	525	75.00	420	60.00	175	25.00	257	37.00	1,377	197.00
Germany	D. mark					3070.22	869.75			3070,.22	869.75
Subtotal			75.00		60.00		894.75		37.00		1,066.75
Michael B. Brownlee:											
Norway	Kroner	530	74.87	283	39.97	212	29.94	58.87	8.32	1,083.87	153.10
Germany	D. mark					1,659.10	470.00			1,659.10	470.00
Subtotal			74.87		39.97		499.94		8.32		623.10
H. Crane Miller:											
Germany	D. mark	600	150.00	200	50.00	2,061.84	568.00	400	100.00	3,261.84	868.00
Total			5,095.76		3,443.85		20,717.52		2,640.11		31,897.24

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used ,enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent)	$31,425.12
Appropriated funds:	
S. Res. 25	285.00
Government Department: State Department	187.12
Total	31,897.24

Mar. 30, 1972.

WARREN G. MAGNUSON, Committee on Commerce.

A MODERATE APPROACH TO WILDERNESS AREAS

Mr. HATFIELD. Mr. President, in Oregon, much heated comment has been generated by the recent hearings of the Forest Service regarding proposals to increase wilderness areas in Oregon. Both wilderness supporters and opponents unfortunately resorted, in some cases, to exaggeration, overstatement, and emotionalism in stating their beliefs. Those of us in public service have wrestled with this problem for many years and I believe that such emotional approaches hinder, rather than help, public understanding of the issue.

Recently, the Daily Courier, in Grants Pass, Oreg., carried an extremely thoughtful editorial on this issue. Mr. Harry Elliott, the paper's editor, offered a reasoned voice concentrating on the need to modify differences and avoid extremes of either side. Because of its tome, I believe the editorial is worthy of the review of all of us. I ask unanimous consent that Mr. Elliott's editorial, published in the Daily Courier of Tuesday, March 28, 1972, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WILDERNESS: BE REASONABLE

Living, as we do, in a timber-producing region, it is easy to see why many people are violently opposed to the concept of wilderness areas, which lock up land from development as a multiple use resource.

Living, as we do, in a society rapidly running out of places unspoiled by the hand of slovenly and destructive man, we can understand why many people are violently opposed to further multiple use of some forests, and want them held inviolate in perpetuity for the nation to use as a quiet and peaceful refuge.

And we can understand, to a degree that the timber producers apparently cannot, that the pro-wilderness forces outnumber the pro-timber cutting factions, and the majority's hopes and aspirations will ultimately, if not immediately, win the wilderness war.

There are many valid, sane, rational and economically sound reasons why most of our forests should not be locked up into wilderness regions.

They include the fact that timber is our only renewable resource. It is the cheapest and in most ways still the best way to build the necessary homes we must have to live.

It also is only fair to the people who live in proximity to the forests and rely on them for jobs that the forests be kept at least partially open for cutting, so that the economic base can be maintained. And this isn't so easy to do when more than half the available land is held in federal ownership.

It also is fair that much of the forest be open to recreation of the type that is required by many people: Developed, that is, to a degree where society and wilderness can meet on neutral ground, with running water, sewage facilities, roads and the like.

But it is not fair to take all forests and put them into the multiple use concept, any more than it would be to close all forests to any productive cutting or management.

This is a point that should be clearly and quickly digested by those who currently are fighting all wilderness, whether they say that is what they are doing or not.

At recent hearings on the question of studying possible new areas for inclusion in wilderness classifications, the timber-oriented people oppose the very concept. What they should be doing is admitting, loudly, that wildernesses are not all bad, and that some areas are better suited than others for such a use. They should push for the nonproductive land to be included in wildernesses, not just try to block any more wilderness at all.

And they should change their advertising tactics, too. A full-page advertisement in last Friday's Courier probably made more friends for wildernesses than it did enemies.

By implication the ad made us believe that only through wildernesses could we find peace and quiet in the woods—although it was the intention to make wildernesses look bad. And by implication, the ad led us to believe that forests are for local jobs, not for "the needs of the American people," although it quoted the law that establishes need as the rule that governs forests.

There's the key: The forests are held nationally, for all American people, and to guard the local, obviously selfish need for forest jobs, the approach to wildernesses had better change drastically.

We're going to have more wilderness—the New Yorker, the Nebraskan, the Houston dweller are going to demand it. We'd best approach the question in a manner that will help us, not just bray pettily, "no more wilderness." That's self-defeating. H.L.E.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

WAR POWERS ACT

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair lays before the Senate the unfinished business, S. 2956, which the clerk will read by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. SPONG. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHILES. Mr. President, in the past year, during the debates over the Hatfield-McGovern amendment and the Mansfield amendments, I thought back to 2 years ago when I was campaigning for the Senate. The people of Florida were telling me everywhere I went that we should get out of the war in Vietnam. I came to Washington apprehensive about being caught in the middle of the crushing issue of the war in Southeast Asia, because I knew that once I took office I would have to share the responsibility for the lives of the men we were sending to Southeast Asia. That is an awesome responsibility to bear, but it is one that each Member of Congress must and rightfully should bear. The men who wrote our Constitution clearly understood the need for Congress, as the direct representative voice of the people and the arm of our Government most easily held accountable, to bear the burden of declaring war.

A man needs to be apprehensive about sending another man to war and that is the way I have felt since taking office, and I would not change it.

As others have pointed out, President Lincoln clearly set forth the reasons why the Constitution was written this way when he said:

> The provisions of the Constitution giving the war-making power to Congress, was dictated as I understand it, by the following reasons: Kings have always been involving and impoverishing their people in wars, pretending generally if not always that the good of the people was the object. This the convention understood to be the most oppressive of all Kingly oppressions; and they resolved to frame the Constitution so that no man should hold the power of bringing oppression upon us.

Since World War II, Congress has been coaxed to release some of its constitutional war powers by the argument that the demands of the nuclear age are such that the Constitution is obsolete in this regard and that problems of foreign affairs and warmaking must necessarily be left to the President. The results of such a false wisdom can be clearly seen in the frustrating struggling to withdraw from Southeast Asia.

Our form of government is based on the separation of powers between the three branches and a balance of authority and responsibility between them. Certainly, over a period of time, roles may shift, but that is because the system we operate under is flexible but only to the extent allowed by the Constitution. This is insured by the fact that the Members of Congress must frequently stand for reelection and must be held accountable for their actions and decisions.

One of our most serious mistakes concerning the Vietnam situation was allowing one man to bear the burden for policymaking and control. The inaction of Congress, the failure of Congress, in this area left it in a situation where responsibility for military commitment was not shared between Congress and President; where no opportunity for national debate or public forum existed; where four individual men and their administrations decided a foreign involvement policy, instead of the President with the deliberative will of the people expressed through Congress.

Though our involvement in Southeast Asia is not yet over, our efforts must be directed to the problem of more specifically defining the President's warmaking powers, in an effort to avoid another similar tragedy.

The Constitution granted Congress the power of initiating war; the President was given no power to initiate war, but was limited to exercising his veto power in a congressional declaration of war, to conducting a war legally begun, and to repelling sudden attacks. President Thomas Jefferson interpreted the document as follows:

> Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their au-

thority for using force in any degree which could be avoided. *Message to Congress*, Dec. 6, 1805.

It is over the war powers and specifically the question of "undeclared" war that the area of conflict between Congress and President is centered. What we are discussing here is not solely legislation seeking to limit the President's power, but the setting of guideposts for Congress' reassertion of its own rightful, constitutional powers as well. Congress has learned, I believe, from the Korean and Southeast Asian experiences that it must design a new means to insure its own exercise of the war powers reserved to it in article I, section 8 of the Constitution. No one man can be expected to bear the burden of committing this Nation to war with only tacit authorization of the legislature. No Congress can constitutionally allow one man to determine war or not. Such powers were given to Congress in the Constitution. What is needed is shared responsibility, the shared responsibility of the President and Congress using their balanced constitutional powers.

A reaffirmation of faith in the separation of powers and the shared responsibilities between the separate branches of Government are also a reaffirmation of faith in the basic belief of our Constitution that the people shall govern.

The Constitution is not obsolete. The provisions it contains to prevent tyranny are as important today as they were 200 years ago. The conditions of our world at this time are not so great or so different that we must throw out a form of government that has guided us through 200 years. But the conditions of the world are such that we should seek a reassertion and a reaffirmation of congressional responsibility.

Mr. Justice Jackson once pointed out that—

> With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the executive be under the law, and that the law be made by parliamentary deliberations.

Because the voice and will of the people were provided with a channel for expression through representative government in the Congress, we have the duty to be responsive to that voice and will, a duty to make those decisions for which we have been given the power and the responsibility.

The proposed legislation sponsored by the Senator from Mississippi (Mr. STENNIS), the Senator from New York (Mr. JAVITS), the Senator from Virginia (Mr. SPONG), and others, including the junior Senator from Florida, provides a reaffirmation in the constitutional faith in the people; and it provides a reassertion of Congress authority and responsibility in the war-making powers of our Government.

Mr. SPONG. Mr. President, will the Senator from Florida yield?

Mr. CHILES. I am happy to yield to the Senator from Virginia.

Mr. SPONG. First, I want to commend the Senator from Florida for his remarks here this morning. He appeared before the Committee on Foreign Relations when the various proposals dealing with war powers were before that committee for consideration, and he gave us the benefit of his views. On that occasion, as he has done this morning, he spoke of the necessity for the popular will to be represented in the war-making process through those who are the elected representatives of the people. The Senator from Florida comes to this body fresher from the hustings than some of us. He had the opportunity, during his campaigns, to get as close to the people in his State as perhaps any candidate in modern times running for high public office.

Consequently, I would ask the Senator from Florida if he believes that until very recently the public generally had been under the impression that Congress had participated in the making of use of force decisions by the President—any President of the United States?

Mr. CHILES. I think, in reply to the question from the Senator from Virginia, that the people did feel Congress had participated in the making of those decisions and that Congress had been included. In the deliberations that led up to the making of those decisions, there were certain erroneous reports that led to that feeling on the part of the people. It has been mentioned on this floor during this debate that pictures have been taken showing congressional leaders leaving the White House after consultation. They would show, after a reading, that that was always after the fact.

I can say that the junior Senator from Florida, prior to coming to this body and beginning to participate in this debate and to learn about it, also felt that Congress had been included in the deliberations in the Korean conflict and in the conflict in Vietnam.

Mr. SPONG. Would the Senator from Florida agree that the hearings on the war powers measures and the debate on this bill are just beginning to bring the attention of the American people that it has been a rare instance, indeed, in the past quarter century, when Congress has been consulted at all before troops have been committed?

Mr. CHILES. I think that the Senator from Virginia is eminently correct, that it is new only beginning to seep through to the people that Congress was not consulted prior to these involvements. The people have not been able to understand though, why war was never declared both in the Korean conflict and in the conflict in Southeast Asia.

I remember well the term "police action" from the Korean war. Having been in service at that time, as a young second lieutenant, I remember how most of us in the service, including myself, bristled a little bit to think that we were only in a "police action," when we were actually engaged in a real war that took thousands and thousands of American lives and was a tremendous conflict; and then to have it called President Truman's police action, to fail to recognize that it was a war. The public did not understand that, and I do not understand the Vietnam situation.

Again, just looking at the historical significance of the Vietnam situation, we can talk—and I guess we have and we will continue to talk for years—as to what step actually caused our total commitment. What was the actual step that caused us to become enmeshed in Vietnam? Which President made the decision? What step was it that put us there?

I think that will continue to happen, because at no time did Congress declare war. Had that been done, or had we properly done that, if we were going to engage in that kind of hostility, then, one, we could say that as of such and such a time debate was held, the people spoke through their elected representatives, and this country decided on a course of action in a constitutional way. I think we would have had the country behind such a decision that would have been made, and the country could say that when it happened, debate had taken place and the voices of the people were heard at that time.

As it was, many people said—I continue to hear it, as I know the Senator from Virginia does—"I warned about this." "No one will listen to me." But when do we pick the time? When do we pick the event?

Now we are talking about history. I believe that the concern of those in this Chamber concerned with this piece of legislation is that we are not going to do this in the future, that we are going to insure that we do follow the constitutional way, to see that there is an opportunity for national debate, that the people do have an opportunity to have their voices heard by way of national debate and that, henceforth—God forbid that it will happen again—if we enter into such a conflict or such a war, we will have a united country at the time we do it.

Mr. SPONG. Would the Senator from Florida agree that this legislation seeks to set up a procedural system whereby responsibilities would be imposed upon Congress to share in the making of the decisions which affect the making of war and peace?

Mr. CHILES. I think it certainly does that. I think it does set up a procedure whereby we could be assured that Congress would be consulted and would share in the deliberations.

Mr. SPONG. Would the Senator agree that Congress has in many ways, especially during the past quarter-century, been the instrument of the erosion of the constitutional powers—that Congress has often preferred to second guess rather than to participate early in use of force decisions when the burden should be shared with the President of the United States?

Mr. CHILES. I think that it is the inaction of Congress and the failure of Congress in being able to say later, "We did not have to make that decision." Which is certainly one of the major reasons for this legislation. I do not think that we can point the finger at a Chief Executive and say that it is the Chief Executive's fault.

I think that Congress feels it did fail for over a quarter-century to do anything to reassert its powers, to say that it did follow its constitutional duty and responsibility to share in the deliberations and to be actually the body that declared war.

Mr. SPONG. Some of our colleagues who have spoken on this legislation seem to have the opinion that the legislation seeks to amend the Constitution in some way. Does the Senator from Florida share that view?

Mr. CHILES. No. The junior Senator from Florida does not share that view. It is my feeling that the legislation simply spells out what is very clearly in the Constitution. But because we have failed to carry out our duty under the Constitution, in effect we are now instructing ourselves under the pending bill that henceforth we shall carry out our duties and responsibilities and set forth in perhaps a little clearer way the procedure by which it will be done. So we chart a course of action that we must follow. But in no way do I see that this limits the power of the Chief Executive. In no way do I see that it adds to the power of the Congress in what is actually spelled out, a grant or a limit in the Constitution itself.

Mr. SPONG. Mr. President, I have one other question. There have been indirect suggestions that although the proponents of the pending legislation are well meaning, they inevitably may be impairing the security needs of the United States.

The Senator from Florida and I come from a part of the country that has very proud military traditions, although we have not won every war we participated. However, our part of the country has never been regarded by anyone as lacking in patriotism or determination to see that this country is well-defended.

Does the Senator from Florida feel that the pending legislation in any way impairs the security needs of the United States?

Mr. CHILES. No. The junior Senator from Florida feels that nothing in this legislation would impair the security of the United States. And in no way would it limit the authority of the Chief Executive in carrying out his responsibility to provide for the security of the United States. In no way would it limit his immediate response to carry out the protection of the United States. Rather, I think that what it does do is to give the President of the United States the assistance of the wisdom of the Congress. Aside from both the junior Senator from Florida and the junior Senator from Virginia, Congress is that body which the Constitution provides and allows to provide continuity to the Government.

The Chief Executive comes into office, and he is going to serve 4 years, and perhaps 8 years. He is limited by the Constitution itself from serving a term longer than that. His experience, in many cases, certainly is not equal to the experience of the Congress.

In Congress, by the way it is provided in the Constitution, there is always a great body of experience, men who have witnessed World War I, World War II, the Korean war, and the war in Southeast Asia, some of whom have been in this body for almost most of that time.

They can see the mistakes and the failings. They can see the advantages of the policy. Certainly the Constitution was set forth to provide the Chief Executive with the ability to take advantage of that experience and also to provide the temperament in the Chief Executive with that experience.

I think what the pending legislation seeks to do is to reassert the wisdom of the Founding Fathers when they provided in the document that the President should seek the experience of the Congress, which certainly has a much vaster and greater storehouse of knowledge and experience than the Chief Executive is going to bring to the office at any particular time.

Mr. SPONG. Mr. President, I am glad that the Senator from Florida referred to the wisdom of collective judgment. I might call to his attention the fact that no two Senators have been more supportive of the unfortunate effort in South Vietnam than the late Senator Richard Russell, of Georgia, and the Senator from Mississippi (Mr. STENNIS), who is a cosponsor of the pending legislation. I think the record is fairly clear that on occasion they counseled against involvement at very sensitive times prior to the time, our country became so involved that it became difficult to extricate itself.

Mr. CHILES. I think they certainly did. And had we had a debate at that time, perhaps the tragic events that have followed would never really have occurred, because once we were there in a total commitment, then a voice could not rise for a long period of time for fear of sounding unpatriotic or un-American or unsupportive of the efforts of our country because we had men in arms who were giving up their lives.

Over a period of time, I think this was the dilemma that the country was in. To begin with, people did show support for the conflict. It was only after an agonizing period of time and after thousands and thousands of lives were lost, that finally the country and the Members of this body reached the point of saying, "We should not be there. We should not have been there, and we should not be there now."

If that debate could have taken place prior to the time that we had a total commitment, and if we could have heard the voice of experience from many of the Members of this body who could have counseled and pointed out the dilemma that we were getting ready to involve ourselves in, perhaps this would have been averted.

I want to say one other thing in answer to the Senator's question about whether this would limit our involvement. I remember very well many years ago, as a small boy, when this country was attacked on December 7. Congress on December 8, at the request of the President of the United States, declared war—1 day after that attack.

I just have enough confidence in the wisdom of the people in electing their representatives in Congress to believe that the people are going to be responsive to the security needs of this country.

Mr. SPONG. Mr. President, I again thank the Senator for his statement here this morning and his response to my questions.

Mr. CHILES. I thank the Senator from Virginia. And I am delighted to have had this opportunity to participate with the Senator from Virginia.

I think the Senator from Virginia has added much to the debate on the pending bill. I think his writings and the speeches he has made on this subject have added much to the illumination not only of this body, but also of the people in the country regarding the measure pending before the Senate.

Mr. SPONG. I thank the Senator from Florida.

Mr. President, I suggest the absence of a quorum.

Mr. GOLDWATER. Mr. President, would the Senator withhold that request?

Mr. SPONG. I withhold my request.

Mr. GOLDWATER. Mr. President, I would like to comment very briefly on the colloquy which has just taken place. It does not have any particular impact upon the pending bill. During the course of the discussion it was brought out that the American people never were fully behind the war in Vietnam, but they responded overwhelmingly when the Japanese attacked us at Pearl Harbor. I think the very fact that this has not been a slogan war is one of the major reasons the American people have not responded to it or understood it; nor have the leaders of this country gone to any great extent to try to explain why we were in Vietnam.

Had this been done, I think this would have had a good impact on the American people, but it was not done and it has not been done yet.

We think of slogan wars—"Remember the Maine," "Make the world safe for democracy," and "Remember Pearl Harbor"—and these slogan wars united the American people. I dare say that in the course of the 192 conflicts this country has been engaged in, all but four or five would have been very, very unpopular wars, and they were.

The Mexican War was a very unpopular war and, as we look back on it, it was a very unjust war. We have had many conflicts that had they occurred in this time and age they would have been unpopular.

There are other reasons though that the war in Vietnam has not gone well with the American people, and lest I sound political on this I must admit that the troubles in Vietnam started when President Eisenhower, a Republican, sent advisers there. The biggest fault with the war in Vietnam is that we have never allowed those men who have spent a lifetime learning warfare to practice their art in that area. I have said for years and years and years that if we were allowed to use our conventional weapons in the way they were designed and for what they were designed, if we had been allowed to attack strategic targets, this war would not have lasted more than a month. In my estimation, if we had done so, and properly, when President Kennedy felt it wise to send troops over there, I think the very exhibit of our air power might have caused the North Vietnamese to decide war would be fruitless with us. If they had not, the strategic bombing of the North, which is our enemy, would have resulted in a quick capitulation.

But we had men go to Vietnam and come back and say that the war would be over in 2 weeks. Those statements made headlines and came from the lips of commentators every evening, and the American people began to think they were being fooled. People with authority who traveled over there would come back and say that the war would be over in 2 or 3 months, but now it has been going on for over 10 years.

So I do not like to let this debate go along with the insinuation that anything we might do in this bill could forestall future Vietnams.

The thing that can forestall future Vietnams, and the disasters that can be and have been worse, is the very fact of our historic division between civilian and military. It has been so exercised in this case that military decisions and desires have been overruled by civilians who frankly knew nothing about the concept of strategic warfare, ground warfare, or anything about tactical warfare. I do not think there is any group of people in this country that hold in higher regard the separation of the civilian and the military than the man in uniform.

I think it is wrong, and I think it has been shown to be wrong when the civilian tries to make strategic and tactical decisions which result in the chaos we are witnessing over there today, the chaos which I believe caused President Thieu to express properly yesterday could result in collapse of the Government of South Vietnam. We hope and pray that is not true.

I merely wanted to make this observation on the floor of the Senate when we had a little time and not too much is going on, because I do not want the American people to feel that this war has been fought properly. It has been fought wrongly, and I do not care what kind of war powers bill we write, if we allow a President who knows nothing about war and a Secretary of Defense who knows nothing about war to make these decisions, then we are going to have future Vietnams, and I do not care what Congress does.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield to the Senator from Florida.

Mr. CHILES. I think I understand the point the Senator from Arizona is making in regard to the fact that the war powers bill could not do anything to forestall a future Vietnam. I understood the distinction between allowing the military to run the war as opposed to having the civilians run the war, once the war started.

But what we are attempting to do in this bill is to provide that before the military is called upon to have to run a war, we are going to see that a little more deliberation goes into whether it would be wise for this country to involve itself in a war, whether we are fighting from the high ground and protecting our country from the best place, and that always would be the decision of the civilians. The military does not decide when we fight or whether we are going to fight a war, but they conduct a war after that.

Mr. GOLDWATER. I hope it was clear that what I said today, in the context of how a war is conducted, rather than how it is initiated, had no particular bearing on the subject we are discussing here. When I say we could not forestall another Vietnam, I use "another Vietnam" merely to characterize a war that we never should have fought in the way we fought it. What I was trying to get across, again not in relation to the bill, is that even if Congress approved future action of the President, such as Vietnam, or a small war far away, that if we allow the civilian to have complete control I say we cannot avoid the mistakes we made because we will make them in the future.

Now, to get back to this bill, although I have no fear at all about this bill doing anything like this, because it does not—it has no language with respect thereto—what I am fearful of is that in the future we might have amendments or other legislation that would not only give Congress the power of determination whether we should go or not go to war but also the power of strategic and tactical decisions. We have, for example, an amendment to be offered by the Senator from Arkansas (Mr. FULBRIGHT), that I understand the committee heard fully and rejected—and I think rejected wisely—that would turn over to Congress determination of the use of nuclear power. This is the kind of long-range danger I see, not in this bill, but in what might come up in the future.

Mr. SPONG. I would like to say to the Senator from Arizona that I think this legislation is consistent with positions taken during the very lengthy debate on the Cooper-Church amendment. I think the collective judgment of this body was made very clear then that we had no authority to tell the President as Commander in Chief how to conduct a war.

But we did have a power and a responsibility under the Constitution to determine whether or not an existing war could be expanded or a new war created.

I would now like to read to the Senator from Arizona what I said yesterday as far as this legislation and Vietnam is concerned:

> I do not believe the legislation will of itself prevent future Vietnams or whatever situation will arise next. But, it will establish procedure and methods whereby the Congress can know about and review use of force decisions and whereby the Congress can participate in those decisions which might involve our Nation in war, and thereby, hopefully, help preclude unwanted involvements.

I think the principal distinction between what the Senator from Arizona has been saying in his appearance before the committee and the remarks he has made on the floor here is that he views this legislation as somehow changing or reducing the constitutional powers of the President of the United States as Commander in Chief. I do not share that view. I think this legislation—and it has been very well stated by the Senator from New York, the principal patron—delineates a methodology whereby, hopefully, there will be consultation, but in emergency situations the President is empowered to act and then consult.

I am not at such divergence with some of the views the Senator has expressed. I do not participate in this in any way to represent it as a cure-all for mistakes made in Southeast Asia. I do believe, as I believe the Senator from Arizona believes, that if we cannot find a way—and that is what we are endeavoring to do here, that is to see that the Constitution is carried out properly—then we may have to amend the Constitution.

Mr. GOLDWATER. I can certainly understand the Senator's position. I have to say that I agree with a lot of his thoughts. I think any President would be wise to keep the Congress informed of what is going on. I do not think it should be necessary, for example, for the Foreign Relations Committee, as it will this afternoon, to be briefed on what is going on in North Vietnam. I think some committee—whether it is the Armed Services Committee or a foreign policy or a special committee formed during the course of a war—could be briefed daily and the President tell this body daily just what is going on.

The thing that worries me about the approach taken by the bill, which lays down policy rules for the future, is that if that is to occur, I think it should occur through a constitutional amendment. As I said before the committee, I would be glad to join in offering such a constitutional amendment, but I would probably vote against it.

As I will say later today, probably one of the greatest hurdles the Founding Fathers had in framing a constitution was to decide who was going to have the responsibility of making war. As Senators will recall, it rested for a while with the Continental Congress, and then the framers seemed to lose faith in the collective judgment of so many people, and the Constitutional Convention gave the new Congress the power to declare war and the President the power to make war.

I am in accord with the feeling that the Congress should know more about what is going on. I am not in accord with the method that we are trying to use in this bill. I would hope that out of all this would come a better method that is not going to leave in the minds of foreign nations any idea that we are backing off of our world responsibilities and our commitments to, I think it is, some 57 different nations, treaties that go all the way from promising a pat on the back to treaties which, in my estimation, promise war.

I do not think at this precarious time in history, where we now find five super powers either existing or coming into being, that we can indicate—and I think this is an indication—that we no longer want to shoulder our responsibilities in the world.

I can say to the Senator from Virginia, who I think is doing an excellent job in leading this battle, that he might think it strange that I ever got so interested in this subject. I would remind the Senator, because he has probably forgotten it, that I once sought the Presidency of the United States. When I began to realize the awesome responsibilities that went with that job, I started to study this subject. And when I studied the reasoning of the Founding Fathers and I studied the nearly 200 years of constant efforts to change the intent of the Founding Fathers in many different fields—not drastically, but to change them—I felt more and more that even though those powers were awesome, I would rather put my faith in one man, in the field of national defense, whose whole life would hang on it, than I would in the hands of some 500 people in Congress, many of whom would have no particular interest in it, and some of whom might have an interest in it only because of political pressures that could be brought by minority groups whose countries would be interested in our getting into some war.

I do not find any fault with the efforts to do this. I just hope that out of this we will find a way to accomplish what I think we all want without trying to, in effect, amend the Constitution, in my belief, by legislation. That is my whole feeling in it.

I shall discuss that a little later, when we get into the constitutional aspects.

Mr. SPONG. I shall look forward to joining in at that time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Burdick). Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I rise in support of the war powers bill offered by the distinguished Senator from New York (Mr. Javits) and other Senators. I should like to commend the Senator from New York for focusing on one of the great issues confronting this Nation today.

It would be much easier and maybe politically smarter, for men like the Senator from New York to allow a crisis to occur and then come rushing in with a remedy. That is the usual political modus operandi in the United States.

It is much more difficult to anticipate a crisis and make provision for it. It is also duller and not so sensational; but, for the future of this country, it is important that such be the character of our work product here in the Senate.

Accordingly, I commend the Senator from New York for his anticipation of what could happen and in trying to avert a crisis. The essence of what the Senator from New York is doing; he is trying to make sure that we do not slide into another war—another Vietnam.

It is important to recognize the concurrent framework of this bill. As I recall, this matter was first raised at a time when we had before us bills and resolutions calling for the withdrawal from Vietnam by a date certain. We were trying to remedy the immediate situation in which we found ourselves. I had occasion at that time to talk to many people as to what their stand was on the issues raised by Vietnam. Many were against a withdrawal resolution—and I was among those. They then pointed to the war powers bill as evidence of their desire to see that we did not get into another situation like Vietnam. They said that they would go ahead and support such legislation when it came to the floor of the Senate. Many that were for the withdrawal resolutions were too preoccupied with putting their names to such resolutions to be concerned with what the future might hold.

A year or so ago, I talked to the protesters who came to Washington to visit with their Representatives and Senators on the subject of the Vietnam war.

I turned to them and said, "The crucial issue before this Nation today is not withdrawal by a date certain from Vietnam, because we are getting out of Vietnam. The real issue is to set up the laws of this Nation in such fashion so that we do not repeat such a commitment the second time around."

I further said to them, "Unless we go ahead in Congress to enact this legislation now, in this session of Congress, it will never be enacted."

I think the Senator from New York and the Senator from Virginia and others will agree with me on this point. That unless this legislation is passed and now, it will never be passed until we come face to face with the next emergency. A next "Vietnam," and then we will start to talk about war powers legislation all over again.

Mr. JAVITS. Mr. President, will the Senator from Connecticut yield?

Mr. WEICKER. I yield.

Mr. JAVITS. I do not like to hinge this legislation on an emergency. The Senator was gracious enough to say that we were trying to anticipate an emergency and the Senator was kind enough to mention me; but, as a matter of fact, this measure is the composite work of half a dozen Senators including those who principally worked on it; namely, the Senator from Mississippi (Mr. Stennis), the Senator from Virginia (Mr. Spong), the Senator from Missouri (Mr. Eagleton), the Senator from Ohio (Mr. Taft), the Senator from Texas (Mr. Bentsen), myself and others; and then it was all fashioned actually in the Foreign Relations Committee.

But I do agree that while our memory is still very fresh and aware of the kind of crises we can face in this country when we do not use everything that we have in the way of governmental machinery to bring about concurrence of the will on a question so serious as war, that when the incident becomes a war, if we lose that moment, then another moment like it will only be brought against the cost of the terrible suffering.

No one knows, I must say to the Senator, whether the Senate and the House would have come to a different decision than President Johnson did or whether it would have gone on and developed the Tonkin incident and developed the incident into a war.

However, this is the best we can do, considering the awful cost to our people in blood and treasure. We have no right to do less. Hence, we have the right and the need for this bill.

Finally, I say to the Senator from Connecticut, who is very graciously supporting this effort with respect to this measure, that I believe that rather than weaken our credibility, it will strengthen the credibility of the United States in the world and among other nations who could easily be shaken in terms of whether we honor our commitments, a matter which caused the divisiveness to which the Senator has referred that was apparent in 1970 and even in 1972 as to the question of whether we should support an ongoing war. It was almost unheard of in this country.

I believe that the Senator, as he speaks, should be aware of our deep feelings on the subject, that when an incident becomes a war—which is what we are talking about—the greatest responsibility requires the maximum concurrence of the people, through their governmental organ, the House and the Senate.

I point out also to the Senator that one of the important points the Senator from Virginia (Mr. Spong) and I have especially emphasized is the importance of having the concurrence of the House. Just because the Senate can approve treaties, that does not mean that we can do this. So we want a bill that definitely calls for joint action of the House and the Senate and for the concurrence of the President in making this a regular law in order to authorize us to ask the people to undertake these unbelievable sacrifices which are involved, not in an incident, but in a war.

Mr. WEICKER. Mr. President, I thank the Senator from New York. I repeat, not so much for the benefit of my colleagues in the Senate, as for the people of this Nation, that it is essential to the Nation to understand the crucial nature of this legislation. The legislation, it seems to me, does not seem to invoke the same emotions as other resolutions before the Senate have invoked. The fact is that we are well on our way out of Vietnam. That issue has been resolved. What has not been resolved is whether we will get ourselves into other situations such as Vietnam. That is what the legislation is directed at.

Mr. President, I have listened to the debate over the past several days. And I commend the Senator from New York and the Senator from Virginia for being very gracious in the debate that has taken place on this floor. However, I think I can enjoy the freedom of bluntness, because it is not I who will probably have to achieve the necessary compromise to get the measure through.

The President is limited to the role of Commander in Chief, of carrying out the orders and the wishes of the Congress of the United States, and therefore the people of the United States.

In no wise do I interpret his power under the Constitution as a power to determine the commitment of American troops and American lives in pursuance of a policy of war.

The war powers of the Congress are set out in article I, section 8 of the Constitution. It is provided in that section that Congress has the power:

> To provide for the common Defense and General Welfare of the United States; to define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations; To declare war; To raise and support armies . . .

There are the powers of the Congress of the United States. Congress has the power:

> To make Rules for the Government and Regulation of the land and naval Forces; To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States . . .

I will bet that my children do not even realize that this power exists in the hands of the Congress of the United States, because they have grown up during a time when these powers have been usurped by Presidents of the United States.

These are the powers of the Congress of the United States. The Constitution is very specific.

The Constitution sets forth the powers of the President of the United States. The President shall be the Commander in Chief of the Army and the Navy of the United States and the militia of the several States when called into actual service of the United States.

I was interested in that piece of legislative history which the Senator from New York pointed out in his statement wherein be described the history of our country, the drafting of the Constitution, and the selection of George Washington initially as our Commander in Chief. He pointed out that Washington was given a commission by the Continental Congress which commission stated:

> . . . and you are to regulate your conduct in every respect by the rules and discipline of war (as herewith given you) and punctually to observe and follow such orders and directions from time to time as you shall receive from this or a future Congress of the said United Colonies or a committee of Congress for that purpose appointed.

It is very clear as to who was giving the orders. Of course, that is a situation that has been reversed over the years and it is a situation which we are attempting to bring back into focus today.

I need no tortured reasoning to explain where this power is vested. I have read articles by individuals who try to justify their past actions by a present twisting of the Constitution.

The language of the Constitution is simple. The part that I have just read, states the situation concisely.

During the course of the debate I have heard those who oppose this measure give the impression that those of us who support it seem to be impervious to the security needs of the Nation. From time to time they indicate that we are willing to play politics with the safety of the Nation. The safety of the Nation, quite frankly, is the job of the Congress along with the President of the United States.

The difficulty that arises is because we have made the assumption that the safety of the Nation is solely the function of the President of the United States. It is because of that fact that the necessity for today's legislation arises. We should all be in the business of protecting the Nation. We are all involved with the safety of the Nation.

But safety implies many things. It is not a question of whether a man has a hand on the nuclear button. It is the state of mind of an entire people. The people are not only strong because of the arsenal we possess. They are strong because of their state of mind and the state of life within the Nation itself. That is as much a part of the armament of any Nation as the metal and powder of which it is possessed.

I come, of course, from a section of the country which has long believed, for many years, that people should run their communities. In New England, we ran our communities by town meetings. Anyone in a town could participate in the government. Then someone said, "You know, this is not very efficient. Maybe we ought to break it down a little." Then there was a representative town meeting in which they had one individual representing x number of persons.

Then, somebody said, "Even that does not work too well; cut it down more." So then we went to the mayor and council form of government. Somebody said, "That takes too long; let us just have the mayor." Lately we have come full circle when various community organizations began to spring up and they want community representation. We are back where we started, and the point that should not have been left in the first place. It is clear that the more people who participate in government the better off that government will be, and it is why in the conduct of our affairs at home and abroad there must be a partnership of the legislative branch and the executive branch.

I do not buy that belief that one man can do the job more efficiently. I think we all understand the logical ramifications of the statement that one man can do the job more efficiently or one woman can do the job more efficiently. Maybe in a time sense faster, but the real question is whether it can be done better. That is the issue. The safety of the Nation will be enhanced by the Nation participating. It will mean the people of the United States have shared in making the decision to send their sons and daughters on a mission that risks life.

I think clearly the President has a major role to play in the area of foreign policy, but does he have the right to declare war? No! I think we have gone beyond that point. The people want to be told the reasons for war. The old arguments of security no longer dominate in the decisionmaking process though being a part of the entire puzzle. It is far better that the people of the United States know exactly the reasons behind the actions of their elected officials and then go ahead and participate in the actual decision itself.

Mr. President, prior to concluding I again repeat the urgency of the resolution before us. It is not something to be referred back to the committee. It is not something we can postpone until the next session of Congress. This legislation has to be enacted now. It is simple. It states that in the business of declaring war, Congress, the House and the Senate, shall participate in such decisions and that there will be no more one-man decisions to commit this Nation to the travails we have experienced over the years just past.

I hope we understand that in taking this kind of step we do not change the Constitution; we bring it back to its original purposes and intentions. We strengthen our Nation because the people of the country, not just one man, will be making the decisions of life and death.

That may be unspectacular. I do not know where the next Vietnam will occur. No one has a son or daughter committed to the next Vietnam. But the situations that gave rise to Vietnam are still with us, and they will remain so unless this bill, the war powers bill, is passed.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. JAVITS. Mr. President, I am very grateful to the Senator for the things he said about this measure, and I think the Senator was very perspicacious to have pinpointed the time element, that is, this is the time to act. If the Senate for any reason is dissuaded from acting now, it is going to be difficult to recreate a frame of reference in which memories are vivid enough to induce us to act. I think that is very important for a substantive reason.

It is very clear that the opponents of this measure are not pressing the opposition with any degree of alacrity. They think we are going to carry it. I do not know why. If they have amendments they should produce them; if they have motions to refer the matter to another committee, they should be made. We are quite ready to make our arguments and leave the matter to the judgment of the Senate. So I think the Senator put his finger on a critically important point. We are ready. I am ready. As a matter of fact, I have to be excused from the Senate one of these days for a critically important purpose abroad of very long standing, but the Senator from Virginia (Mr. SPONG) and others will be here and we are ready to act.

I think it is very important to underline the point the Senator from Connecticut has made that we will not be dissuaded. This is the time. There seems to be a very mature development of opinion within the Senate as to its attitude or the attitude of individual Senators on this issue; so this is the time to act. Whatever may be the requirements under the rules on closing debate or whatever else is required, we are trying to give the Senate an opportunity to act on this measure now. The Senate will then have the opportunity to work its will, but I do not feel we have any right to forgo our duty, the matter having been dealt with and brought up on the floor, and to amble along with it because those who oppose it are not ready to come to issue in respect to it.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. SPONG. I commend the Senator from Connecticut for his contribution to the debate. He is correct that this measure is not being acted upon with an air of emotion similar to others we have seen in past years which touched on the war powers.

It is also clear that there is an urgency about this matter. There is no urgency about this debate as far as the Senator from New York and I are concerned. If anyone has anything to say about this legislation, we want to hear it. We are somewhat in the position of lawyers who have led off. We have tried to spend the last few days in making our case. We now await whatever motions may be forthcoming whatever amendments may be brought forward.

We have said from the beginning of this debate that we did not come to the floor convinced that we had the panacea to a very grave constitutional problem, a problem that is also a political problem. We made it clear that we would welcome comments and suggestions from any Member of this body. We think the war powers dilemma is a serious matter which should be discussed seriously.

We thank the Senator from Connecticut for his contribution. We await what might be forthcoming.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. SPONG. I yield.

Mr. WEICKER. The burden is also on the Senate of the United States to act. There is going to be no initiative from the executive branch of Government. This has nothing to do with President Nixon. Those of us who have been in State legislatures know that the Governor likes the State legislators to go home as soon as possible so he does not have to deal with them. There is the same situation with the council of the city. The mayor likes them to close up shop and go away so he can deal with problems in his own way. The same holds true of the executive branch of the Federal Government as compared with the legislative branch.

If we are going to enact this legislation, we are going to do the pushing. It is not going to be pushed at the executive level, whether by a Democrat or Republican. But is there one man who can stand on the floor of the Senate and look at the powers given to the Senate of the United States under the Constitution and say that we have been exercising those powers over the past several decades? The answer is clearly "No." Is there one man who can dispute the fact that these powers have drifted into the hands of the President, Republican or Democratic? The answer is "No."

The system has been criticized over the past several years. There is not a thing wrong with the system—if we follow the system. The only time we get into trouble is when we deviate from it.

There is nothing magical or spectacular about the proposal of the Senator from Virginia and the Senator from New York. As a matter of fact, it should have the support of the strict constructionists of the Constitution. It should have the support of the conservatives, because, in effect, it enunciates the Constitution as originally written. What it argues against is the practice of the past several decades, where slowly and gradually, we drifted further and further away from the provisions of the Constitution.

What I am saying and what the Senator from New York and the Senator from Virginia are saying, is that national opposition is not to the system as written by the founders of this country, but to the system as followed by the practice of the Congress and the Executive.

I definitely fear for this legislation. As I said when it was originally introduced months ago, there was great enthusiasm for it, but my predictions made then are coming to pass.

If this legislation is not passed in this session of Congress, there is no one standing on the floor here who will see this legislation pass until and unless—God forbid—we get into trouble with another situation like Vietnam. Then there will be a great hoopla for it. As soon as it subsidies, we will get back to business as usual.

I hope this legislation will be moved forward in this session.

Mr. JAVITS. Mr. President, I assure the Senator that, if I can help it and if the Senator from Virginia (Mr. SPONG) can help it, we will.

The PRESIDING OFFICER. The question is on the committee amendment, as amended.

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1105

Mr. McGEE. Mr. President, this afternoon I am submitting an amendment to the pending legislation, and I do not intend to call it up until late in the procedures in our dialog on this question.

I have made my position clear, I think. I do not believe the right way is to go about it as we are doing now, addressing ourselves to as momentous a possible change in the process as this portends. Nor do I think we are wise, given the changing times of which we are very much a part at the present moment, to apply band-aid to an instrument nearly 200 years old in the hope that, somehow, the wounds caused by our changing times will, in the minds of many, heal itself, and not leave a wound even more serious.

I intend to oppose the pending Javits measure. I think we ought to go about it in a different way. But likewise, Mr. President, I am a realist, and I understand and appreciate, though I do not agree with it, the feeling of a great many of our colleagues here, that somehow we have got to go on record with something in order to quiet the comments back on the homefront and in order to quiet our own apprehensions about what might happen tomorrow, next Tuesday, or a year from now—that somehow we have got to make an effort to get somewhere.

Mr. President, again and again I have spelled out my position on that. I think we are long overdue for a restructuring of the whole allocation of responsibility, and the process of exercising that responsibility in decisionmaking in this Government of ours, in a world that is so radically different—and I mean radical in the generic sense of that term—from anything the Founding Fathers ever dreamed of or could have imagined, and certainly so much more complex than they could have addressed themselves to in all their wisdom, including the Constitution that has survived rather nobly over these many years.

So the amendment I am sending to the desk, Mr. President, is one that I propose to hold until we are near the end of our deliberations. Should it be the judgment of this body—which I would respect very much—that we should adopt the Javits amendment, which I shall continue to oppose, but should we adopt it, my amendment would propose a supplement as a working part of the amendment that would require, through the authorization of this body, the creation of a Presidential commission to have a cold, hard look at this whole question on the highest possible level. We should have done it years ago.

Such a commission, Mr. President, might well come out with the view that the way we have it now is the best way we can hope for under the requirements that we lay down in our present Government. Or it may decide that we ought to scratch the whole thing and start over again. I do not wish to circumscribe the latitude of such a commission's deliberations nor, certainly, to prejudge the question. I do not know, myself. I wish I did.

What I am saying is that the difference between now, 1972, and Philadelphia in 1787, is so great that we are kidding each other if we think that, by putting another band-aid on a 200-year-old instrument, somehow we are going to avoid another crisis a year from now or a week from now, or go at meeting it in the proper way, because I think the record is fairly clear that we have gone at meeting these crises in irrelevant ways. Obviously, the reason why the problem has all surfaced so quickly is that the solution did not turn out as everyone had voted for and hoped it would. So therefore, in hindsight, we have all kinds of motivations, a sense of pique, a sense of frustration, a soul-searching, and a sense of guilt in some instances, I suppose, that motivate us to apply another patch; and I suppose in another crisis we would try another one, and wonder why we had not really come to grips with the question.

This amendment, through a Presidential commission, would require the President to appoint 12 public members to a commission, naming one of them as chairman, reserving to the President of the Senate and the Speaker of the House of Representatives six members each, to be divided equally between the two parties, as a core group to address themselves to this matter for 2 years.

It is easy for some of us to say in hindsight that we should have done this many years ago, but the fact is that when World War II came to an end, we found our own country in a new role, thrust right into the center of the stage of the world by the forces of history—not by the forces of American aggrandizement, nor by a sense of the arrogance of power, but largely by the thrust of history itself. At that moment, had we been as wise as we are now in hindsight, we ought to have been addressing ourselves in some such way as I propose, by a 24-man commission, to an examination of this whole question of war powers, decisionmaking in the foreign policy field, the responsibility, and the mechanism for preserving and establishing that responsibility. For without any intention, Mr. President, of derogating anyone, anything, or any task in our country's rich history, I would say that someone ought to sit down, unencumbered by the Philadelphia Convention of 1787, unencumbered by what the Founding Fathers may or may not have intended in that exciting day, unencumbered by the traditions or the development of court decisions in the nearly 200 years since that momentous time in our country's rich history, and address himself to the central question.

That question is, What ought we to have a right to expect, in fact to demand, as a mechanism, as a formula, as a distribution of powers and responsibilities, in the world of 1972, one that we would have a chance to survive, one that we can deliver ourselves of with the deepest sense of history as well as of responsibility to our own time and our own generation?

It is with only this in mind that I submit this amendment, Mr. President, as a supplement to the pending legislation. However we choose to handle the war powers bill that the distinguished Senator from Virginia has had a great hand in helping us to influence and to shape as it proceeded on its course to the floor of this Chamber—I repeat once more, I think that the bill now pending comes much closer than any of the other bills we had before the Committee on Foreign Relations, and would be less disastrous or more responsible in approaching this question—I still oppose it because I think it fails to come to grips with the real central issue, and that is that gap between 1972 and Philadelphia in 1787. Because, let us face it, Mr. President: In the Constitution, the Founding Fathers were thinking specifically and brilliantly in terms of the good old days when wars were declared and waged as wars, and won or lost as wars. They could not have envisioned a nuclear age. They could not have envisioned a time in our history when it might be necessary to risk war and wage war, but not declare it. That is why a good bit of the static has surfaced in regard to who has done violence to whom in the crises that we have faced in these last 25 years.

In my judgment, I think that the proponents of the pending legislation on this floor have overdrawn, have multiplied those fears. I think we have proceeded in an orderly way, but many disagree on that, and I respect that disagreement. What I am saying here this afternoon is, if the Javits bill passes—and it well may, I gather from the mood of the Members of this body—that we dare not stop there. We dare not stop there, and if it turns out, as its proponents argue, that this at least does something now, to hold the line for the moment, I say it behooves us all the more to get busy with a searching examination of all that is at stake in the question of war powers and responsibility and the distribution of responsibility among the various bodies involved in policymaking in this country.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. GOLDWATER. Mr. President, I want to congratulate the Senator from Wyoming for having said some things that I think need emphasis on this floor.

I do not think that any of us have too much quarrel with the overall purposes of the proposed legislation as stated. I think that those of us who are opposing the measure oppose it because we think that it tampers with the Constitution; and we feel that when the Constitution is tampered with, it should only be tampered with by the American people in their State legislatures and not by 500 people in Washington.

I have said time and again that I have to speak as a layman, but I think that anyone who reads the Constitution, particularly article I, section 8, the powers of Congress in the event of war or hostilities and our responsibilities thereto, can be confused. I find that many of my friends believe that the power to declare war means that Congress can make war. We cannot. I am going to discuss in a speech later today or tomorrow the fact that the Founding Fathers discussed this one point as much as they discussed any other point in the Federalist Papers.

Making war is one thing—this is the power the President has. Declaring war is another thing. Yet, I can understand how my colleagues can believe that to declare war would give us the power of going to war. As I can understand trouble in construing the power to raise and support armies. I can understand a misinterpretation of that, just as others can accuse me of a misinterpretation of it. It means exactly what it says, which is what we do every year, which we are going to do within a few months—authorize money to raise and support armies and, in doing so, to make policy decisions about what our dangers are and our commitments should be. Congress also has the power "to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces." Some might try to construe this latter clause as the power to make strategic and tactical decisions in the use of our forces, but it actually relates to things such as courts-martial.

I rose to compliment the Senator from Wyoming because we already have an amendment before us that would do in some ways what the Senator from Wyoming is suggesting. I feel that because there is such a wide difference between those of us who oppose the measure and those who propose it—not in what they want to do but in the method by which it is to be done—that the wisest thing we can do, if we decide that this measure is proper, is to submit it to some commission or committee that would study it more fully.

I became interested in this subject 8 years ago, and I have had what I consider to be very learned people in law trying to decide what the Founding Fathers meant, trying to decide what the Constitution meant. There is no clear-cut decision.

I can think of only two members of the Supreme Court who have ever spoken out on it. I think Charles Evans Hughes was one, but I know that William Howard Taft was another who completely opposed the idea that is suggested in the proposed legislation.

I suggest that when learned men in this country cannot agree on the rightness or wrongness of what we are doing, I think we are treading on some mighty thin ice—and dangerous ice—if we go ahead and assume that we can conquer all the ills that have existed for 200 years between the executive and the legislative branches vis-a-vis war.

Even before we had a Constitution, the Western World had some 107 conflicts, and I believe that only 10 carried any type of declaration. Mind you, this was in the 18th century. So this is nothing new. My research shows that this argument has been going on, literally, every year for the entire history of this country. I think it is time that we give it some real, academic, judicial study, although it might be wise, I suppose, to pass this measure and let the Supreme Court decide upon its constitutionality. I think, however, as does the Senator from Wyoming, who is a distinguished member of the Committee on Foreign Relations, that this day and age is no time to be tinkering in this field.

As I have said repeatedly on this floor, I am very fearful of what our allies are thinking at this moment and what our enemies are thinking at this moment, as we go through, in all appearances, an effort to isolate this country—although I know that will be resisted—an effort to change the powers of the President, even though it would not destroy his power to go to war. I think an enemy would be delighted to know that his adversary would fight for only 30 days or that there is a very good chance that he would fight for only 30 days. The enemy would be most happy.

So I congratulate the Senator from Wyoming on offering this amendment. I hope that either his amendment or the Taft amendment will be a part of this measure if it is passed, because I do not believe that it has had enough study. In fact, yesterday, after we were told that this matter had received months, even years, of diligent study, the authors of the bill made three changes. If three changes are necessary in 2 days of debate, Lord knows what is going to turn up if we continue this debate at any length. I certainly have no desire to do that, nor do I even threaten to do it. I think we are doing this in a slipshod, hurried way, and I agree with the Senator that this is dangerous. I commend him for his action.

Mr. McGEE. I thank the Senator for his generous comments.

I would hasten to add that I have no fixations with respect to this matter; that, in fact, this is part of the problem that I feel in regard to the question—that is, a conspicuous absence of certainty as to what is the wisest approach here. I have certain misgivings about what we are debating here at this time as one of the approaches. I wish I had something wiser to offer. But we find our great scholars in the land, our deepest students on constitutional principles, or those with experience in government, also divided on this matter. It is the fact of their division that ought to be saying something to us; and that something is that we are not going to bail ourselves out of the present situation with the simple resolve of the Senate, in a statutory way, to take the step that is advocated in the proposed legislation.

But I also understand how important it is that we at least take some kind of step soon. I think a great deal of psychology is hanging over the country in this regard, and certainly over many of our colleagues. But I want to make certain that we do not fall into the habit that this may tempt us to fall into, and that is the habit of patching and then patching and then patching, hoping that we can patch our way out of crisis. The time has long since come when we really ought to put our best effort, our maximum intellectual capabilities, and our practical political good sense to searching out the possible new answers to the constantly frustrating problem of the division of responsibility and of decision-making in times of crisis.

Such a commission, I think, ought to be totally free, no holds barred, unencumbered by the past, literally. For the moment at least, such a commission ought to be able to start in the vacuum of a theoretical moment that you are putting together a new government, a new responsibility that addresses itself to a great nation, bearing the responsibility for world leadership in a positive and constructive way, and see what they come up with. Then we here in this body and in the other body can weigh it alongside the traditional and constitutional past and present, and where we are, and all the other matters that properly concern people.

Suppose we were the Founding Fathers today, and we were asked to structure a mechanism in foreign policy that would be realistic in the kind of world we know today, not the world of 1787?

What would we put together without the past to color our judgments or our "druthers"?

We should start with a theoretical ultimate and them examine at the next stage how that should be implemented in realistic ways in regard to the great traditions of our land.

Such speculating might lead a commission to suggest that the Senate should not have a role in it, or that the House of Representatives should not have a role in it, but that there should be some other kind of body created to make the decision. I do not know. Perhaps it will decide that the President should be cut out, leaving everything to committees of the Senate. I cannot imagine that, but that has to be one of the theories that would be carefully explored; or they might decide that the way we have it now can be spelled out more carefully and made to work. I do not know. What I am saying is, it is time we search out the answers to those questions and weigh the options in realistic terms.

It is incumbent upon us, regardless of what we do with this measure. If this measure is defeated today, we should still create a commission, not as a substitute, because it does not substitute for anything but as a basic step forward to bring us to grips with the question which we have ducked too long, hoping that someone would come up with the right answers in decision-making that would bail us all out. We may not have time for such a luxury or a choice another time.

We have already had a searing experience, public opinionwise, and with divisiveness in our own body here in the Senate, during this most important crisis.

Surely, we can learn from that experience at least how not to do it from here on. How not to do it is to put it off, hoping that we do not have to face up to something at a later time. So all I am saying here is that if this measure passes, we should attach to the measure an amendment providing for the creation of a commission of 24 members, such as I am describing in my amendment here, to be appointed by the President, made up of 12 public members, with the chairman of the commission from that public group and designated by the President, with six members appointed by the House, and six members appointed by the Senate, by the Vice President and the Speaker of the House, respectively. They would explore all the ramifications of this subject.

I am suggesting in the amendment that this be confined to a 2-year interval. That is arbitrary judgment in itself. It may not be possible in that interval of time. But at least it will be notice to our people that we are not trying to put things off or to procrastinate. If the Javits measure passes, we will be taking an expeditious step, as the proponents of the pending legislation contend, but we will have followed it up with more than a piece of adhesive tape—something just to hold a 200-year-old structure together in the desperate expectation that it might continue to hold through another test in another crisis.

I think we should have the courage and that we owe it to our people to have a searching examination of this subject made, and not to expect through habits of thinking that they will come up with something convenient to accept. We should challenge them to address themselves to an ideal structure in a world of 135 sovereign nation states, in a world of governments which are mostly monolithic, and in a real world which still knows no law internationally but only knows an association of sovereignties to whom the law itself is so carefully independent.

I think that world security, not alone of our own country, depends upon this. The chance for some reasonable stability in the world hangs in the balance.

I would hope that my colleagues in this body would give a closer look at the proposal of a supplement to and with the Javits amendment, to create such a commission at the very highest level, to which the President of the United States could address himself and, thus, a commission given to the members of such a proposed Presidential panel.

I believe that we, in this way, would have a better chance, whenever a crisis hits us the next time, to be closer to a procedure and an operation that would equip this country to face its sometimes unpleasant and often costly but nonetheless continuing and real responsibilities in a world of great trouble.

Mr. President, today I am introducing an amendment to the War Powers Act—the proposal which is currently the subject of considerable debate on the part of this body.

My amendment would in no way alter or change the content or thrust of S. 2956. It would serve only as a supplement to the bill. My amendment calls on the President and Congress to commission a high-level panel comprised of our best minds of diverse background and philosophy to undertake an intensive and in-depth study of the decision-making processes of our Government as they relate to the formulation of foreign policy, national commitments, and the war powers.

I would again like to emphasize that my amendment in no way affects or alters the substance of S. 2956. This is not to say that I still do not have misgivings about the War Powers Act. I believe that although this proposal comes closer to anything else we did in the Foreign Relations Committee to realistically and constructively come to grips with one facet of governmental decisionmaking, it still does not go far enough.

My amendment calls for the establishment of a 24-member commission. In addition, the President of the Senate and the Speaker of the House would each appoint six members to the Commission from their respective chambers—three from the majority party and three from the minority party.

My colleagues may note that my amendment does not limit the scope of the proposed Commission's study to just the war powers issue. The study would also encompass the decisionmaking processes involved in the formulation of our foreign policy and national commitments. This is what I feel we should really be addressing ourselves to right now—the updating of our mechanisms for responsible policymaking in our system of representative government. We should do this armed with all of the wisest judgments this country can command.

The proponents of S. 2956 have maintained that this piece of legislation does nothing more than to restore the constitutional balance between the executive branch and legislative branch of our Government. And although S. 2956 is not being offered as a constitutional amendment, its purported thrust is to correct what proponents feel have been significant constitutional abuses on the part of the executive branch of Government, particularly since World War II.

Much has been said during the debate on this bill regarding the intent of our Founding Fathers as they sat down to draft the Constitution in Philadelphia in 1787—their intent in framing a workable relationship between the executive and legislative branches of Government in the area of war powers.

However, the world that our Founding Fathers confronted as they drafted the Constitution is not the world that Members of this body are compelled to face in 1972 and succeeding years.

The Founding Fathers provided a specific mechanism for declaring war—article 1, section 8—leaving the initiatives of the event which preceded war clearly to the President. They provided that only the Congress finally could declare war. This was framed in a period of time when nations dared to, and could afford to, consider declared wars as an instrument of national policy. However, many students of government feel that we have long since passed the time when we can afford to declare war without running the risk of an ultimate nuclear holocaust. Therefore, one of the issues raised centers around the phenomena of undeclared wars and the question regarding the role of the executive and legislative branches of Government in this critical area of policy responsibility. I do not feel that we have found a solution to that problem, although we are heading in that direction with S. 2956.

What my amendment seeks, hopefully, is to arrive at the answer to the question of what a nation like the United States, with all its dedications and responsibilities, should have in its mechanisms for policymaking that would be realistic in the world as it is in 1972 and as it will be in the future.

Rather than attempting to patch up the Constitution because of past events, as I believe S. 2956 attempts to do, we really should be inquiring into what the Constitution should say in 1972. A band-aid approach to a constitutional structure put together nearly 200 years ago is not enough; indeed, it could be a costly ploy delaying a long overdue reexamination of our policymaking mechanisms.

We have put off far too long the process of updating our Constitution and updating the mechanisms of a representative republic in the field of foreign policy. We owe the country an honest attempt at arriving a some workable solution. I am not saying that I have the answers to these questions. I do not. It may well be that this Commission would conclude that the present mechanisms are satisfactory and do not need to be changed or altered in any way. I would be the first to accept that conclusion. On the other hand, if there is even the slighted possibility that we need to refine or change our decisionmaking processes in order to enable us to more effectively function in the world as it is, we owe it to ourselves and the nation to pursue an in-depth study utilizing the best minds we have in the country.

My proposal provides that a high-level panel be commissioned to make the kind of searching inquiry, hopefully, as to what a great nation conceived in 1972 should do with the awesome power and responsibility it has in the world that we have today, and what kind of mechanism may be written into the theoretical constitution for that kind of new republic.

Once a conclusion is reached by the panel, it will then be up to Congress to accept or reject its findings. If the findings are accepted and if they recommend constitutional changes, then it would be up to Congress to measure the recommendations and determine how they can best be fitted into our Constitution and our tradition.

The times have changed the relevance of what our Founding Fathers said or did in Philadelphia. We have not yet honestly assessed if the times have changed to the extent that we might also need to change, in any way, our Constitution. There is really no way of answering that question at this point in our history. However, no one is really measuring the role of the various branches of Government and sorting out the respective roles in light of the new events and the new responsibilities that we did not seek, but nevertheless have, in trying to make it possible for our system to survive the impact of change and the demands of the modern world.

We have continually put this modernizing process off again and again, apparently in the hope that we will come to grips with it once more when we have another crisis. But our experience with this indulgence should compel us to take positive action in establishing a mechanism that would prevent future crises or at least confront them in a more effective manner, rather than addressing ourselves to crises of the past.

The question before this body is the operability of our Government during a crisis in the 1970's and future years, and not our Founding Fathers understanding of, and experience with, world events and relations between nations in 1787.

When I first raised the issue of commissioning a study of this nature, it was stated in this body that we did not have the time to await the report of this proposed panel. It was said that we have to do something now. This might well be the case, but I am as yet not convinced that it is. However, if we do have to do something now, and that something is S. 2956, then I think this legislation should contain my proviso creating a Presidential Commission to examine the larger questions of constitutional structures and procedural processes in the national security and foreign policy fields.

Mr. President, I send to the desk a copy of the proposed amendment with its ramifications.

The PRESIDING OFFICER (Mr. FANNIN). The amendment will be received and printed and will lie on the table.

Mr. WEICKER. Mr. President, I rise to comment on some of the remarks made by both my colleagues from Wyoming and Arizona.

First of all, with his usual firm belief in this Nation and his moderate and sensible approach, I cannot disagree with any of the comments made by my colleague from Wyoming. But I can answer one question: What would the Founding Fathers do if they were confronted today with today's circumstances?

The fact is that today's circumstances are almost identical with the circumstances with which they were confronted, because they had come over from Europe and they had seen wars waged by themselves and their people, which wars were decided by one man, specifically Kings.

That is why, when they wrote the Constitution, they made it specific as to who has the power to go ahead and declare war. They had a fresh memory of what it meant not to have citizen participation in the declarations of war, when they wrote the Constitution. The circumstances into which we have drifted today are almost identical.

I do not see, in response to my colleague from Arizona, what is so complicated about the powers of Congress as written in the Constitution. Congress shall have the power to declare war. Let me read further from article I, section 8 of the Constitution:

> To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;
>
> To declare War, grant Letters of Merque and Reprisal and make Rules concerning Captures on Land and Water;
>
> To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;
>
> To provide and maintain a Navy;
>
> To make Rules for the Government and Regulation of the land and naval Forces;
>
> To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;
>
> To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

That is very clear. It needs no contorting to make it understandable to my mind as to what the war powers of Congress are.

When the statement is made that we are about to tamper with the Constitution, let me say that it has been tampered with silently for some decades now. That is why we are on this floor now, trying to rectify it.

Mr. GOLDWATER. Mr. President, as I indicated, the great division here is among those who feel that the Constitution says one thing and those who feel that it says another.

I would ask the Senator if he feels that the powers which he has read from article I, section 8, of the Constitution gives this body the power to go to war.

Mr. WEICKER. The Senator reads exactly what it says; the Congress shall have the power to declare war.

Mr. GOLDWATER. That is my question. In the mind of the Senator, the declaration of war means that this body, or the whole body, controls the power to send troops wherever they care to.

Mr. WEICKER. It is definitely in my mind that it gives to the Congress of the United States the responsibility of determining whether the United States of America will commit troops into any area of the world.

Mr. GOLDWATER. I do not see anything that says that.

Mr. WEICKER. Once that decision has been made, it is then the Commander in Chief who directs its implementation. But the initial power to declare war and to commit those troops lies in the hands of the Congress. What does it say as to the power of the executive branch

Mr. GOLDWATER. It says that the President is the Commander in Chief of the forces. And the interpretation has always been placed on that, that the Commander in Chief is the only person that can commit our troops to war in the national defense or the only person that can bring peace, on the other side of the coin.

As I say, this is a big argument. In fact, it was the big argument over the articles of the Confederation that passed on whether Congress should have the power to make or to declare war. As I recall, it was mostly because of the difficulties Washington had with his legislature in getting support. It was mostly out of that experience, as I understand it, that they changed it. Originally the language was "make war" and they changed it "declare war."

We have only had five declarations of war. There is nothing new about that. It has been going on, as I mentioned earlier, since before we had the Constitution. Since we have had the Constitution, we have had 192 cases of involvement, and only 5 declarations of war.

There is nothing to prevent us from declaring war.

I note an amendment from the Senator from Alaska that would attach to the pending legislation a declaration of war against Vietnam. There is no reason that we cannot do that. That power has never been taken from us.

In fact, in the Gulf of Tonkin resolution, we in effect declared war, or gave all of the powers of a declaration of war—at least, President Johnson thought so.

I do not disagree with the language here at all. I just do not feel that the language gives us the power to make war. To declare war, yes.

Mr. WEICKER. Let me ask the Senator from Arizona what he thinks the statement "declare war" means.

Mr. GOLDWATER. Just precisely that. I was going to discuss it later. I looked this up in the Samuel Johnson's Dictionary of English, which was in use when the Constitution was written. It says that the word "declare" is understood to mean "make known, or to proclaim." The term "make" was considered to make or bring into any state or condition."

When we declare war, I think it is exactly what is understood. We make known to the world that the Congress of the United States stands with the President, at the request of the President usually, in dedicating this Nation's purposes to war.

Mr. WEICKER. Mr. President, I cannot agree with the Senator. I think the Constitution is very clear. It is the decision of the Congress of the United States to commit this Nation to war. Once that commitment has been made, the conduct of the war rests in the hands of the President of the United States.

Mr. GOLDWATER. Let me ask the Senator a question.

Mr. WEICKER. If I might continue for a moment first.

In the remarks of the Senator from Arizona, some comment was made yesterday and today that those who support this legislation are somehow giving some sort of comfort or glee to our enemies and discomfort to our allies. I would like the Senator to clarify that for me.

Mr. GOLDWATER. It is very difficult for me to make that statement in a way that is not offensive. I merely state, as a student of this particular subject for a long time, that if I knew any action that my enemy was going to make, or would have to make, fighting my war would be made a lot easier. For example, if some nation chose to provoke us to the point that the President would go to war or move troops or forces, and if that enemy knew that it was fairly safe in doing this, because at the end of 30 days, during which 30 days the subject would be debated by the American Congress, the chances are good that he would have to discontinue the war and thereby the enemy would be victorious.

I know that is not the intention of the framers of this legislation and has nothing in the world to do with it. However, I am merely stating an old exiom of warfare, that one does not want to let his enemy know what he will do or will probably do. And we are giving the enemy a partial answer in this legislation.

Mr. WEICKER. Mr. President, of course there is no question in my mind that it is always difficult for a democracy to wage war, and it always will be. The most efficient war that can be waged is one that is declared, directed, and ended by one man. In my mind, that is the reason the Constitution was drafted in the manner in which it was. It was drafted by men who came from Europe where such wars were declared, directed, and ended by one man. They sought to end that situation and to give the people a voice in whether they should have such conduct continued.

That is my understanding. This reinforces my interpretation of the Constitution.

Yes, it is going to be more difficult from a security point of view for this Nation to engage in armed conflict. On the other hand, when it does not have the participation of citizens, then we arrive at the point which has been the case in our Nation during the past several years. We have a nation that disintegrates.

I would ask the Senator from Arizona, at exactly what point in time would the people of the United States share in the process of whether we should be in conflict?

Mr. GOLDWATER. I think we have had a good example of that throughout the last 4 or 5 years of the Vietnam war. The American people have become divided. I do not think a division was necessary. I do not think this legislation is going to help a division such as that which might occur in any war in the future unless it be in what we call a slogan war or a war of national interest. This war has certainly not been that.

Commenting briefly on the remarks of the Senator concerning the Founding Fathers, I would say that the fact that they were engaged in war is probably the last of the reasons why they ever did this. Our people came to these shores to get away from a bureaucracy, or let me say from a monolithic government. And the whole structure of the Constitution was to prevent the gathering of power in any one place, be it the executive branch, the judicial branch, or the legislative branch.

Mr. WEICKER. I agree with the Senator.

Mr. GOLDWATER. I want to point out here that I am very concerned about a transfer of power from this body to the executive branch. And I would stand shoulder to shoulder with anyone who would want to return the power that we have given to HEW, for example, to run our schools, or the many other domestic powers we have taken from the legislative branch and given to the administrative branch. That has destroyed the real strength of our Constitution, which has been the division of power.

Now we get back to this particular point. I know that the Senator believes the danger of war was not one of the major points of discussion; but who would make war was, and it was one of the major reasons the articles collapsed and it was one of the big stumbling blocks in the writing of the Constitution.

As I will point out later, there was probably as many papers among the Federalist Papers on declaring and making war and defending the safety of the Nation as any other subject, and as a result of debate they decided the Commander in Chief would be the only person who would commit troops in defense of the Nation.

I would hate to think, and I know the Senator agrees, that this body could by resolution control war. I think it would be a total disaster.

Mr. WEICKER. No, I do not agree with the Senator. I think that is the function of this body; that is, the determination of whether or not the United States of America is going to be committed to a course of action, which course of action is war.

Referring to the comments of the Senator, he is correct when he refers to the monolithic type society which was built up in Europe at the time of the founding of this Nation.

He knows as well as I know that every

single country there was under a form of monarchy with one man making the decisions. It was a key part of the thinking in this country at that time that such decisions as involved the destruction of human life would no longer be placed in the hands of one man but rather in the representatives of the people.

I point out to my colleague from Arizona the commission which was given to George Washington by the Continental Congress:

> And you are to regulate your conduct in every respect by the rules and discipline of war (as herewith given you) and punctually to observe and follow such orders and directions from time to time as you shall receive from this or a future Congress of the said United Colonies or a committee of Congress for that purpose appointed.

So actually there was the intimation that Congress was going to direct the conduct of the war. I do not go that far. That is the job of the Commander in Chief, but the determination of whether we are going to go to war is the job of this Congress. I grant it is not a duty we have taken on with eagerness; we have let it slip into the hands of the executive branch and the State Department, and, in fact, participated very little in that essential determination. But certainly the times have taught us that this much the people of the country expect. They have confidence in their military forces once the decision is made the country should go to war, but the restlessness and division we have seen from the Vietnam war are due to the fact that the essential decision had no broad based support and was essentially made by one man.

Mr. GOLDWATER. I find myself in complete agreement with the desires of thew riters of this bill to be kept better informed on the progress of war. We have not given up one power that is contained in the powers of the President. In fact, if we want to make a confession, we have not used those powers.

We go through the process of raising and supporting armies every year. We did not have to do that. We could have said to the President at any time during the Vietnam war, "We are not going to provide nearly so much money to support the Army or the Navy." That is one way we could have handled it. I doubt Congress would ever do that. I certainly would not advocate it, but, nevertheless, that is in the power.

If we are guilty of anything, and we are guilty of it, we have not paid enough attention to this subject. It is not new. A study of this subject will show that back to the days of Washington the declaration clause has been a subject of dispute. We have never been able to get the Supreme Court to rule on it definitely. I can think of only two Justices who ever declared on it squarely, both in favor of the situation as it now operates and both in law review articles, not court decisions. There has been no change in the last 10 or 20 years. This has been going in since we have been a republic. At one time President Lincoln decided he might be a better field commander than the one he had and he almost assumed command of the Armed Forces, which the Commander in Chief can do. He can put stars on his shoulders and sally forth.

To get back to the comment on George Washington, it is true he was charged with this commission, but Congress gave him such a bad time when he was trying to win the war that this experience turned the entire thinking of the Constitutional Convention about retaining in any other legislative body, whether it be called the Congress or whatever, the right to make war because Washington had this terrible lack of support by Congress.

I do not advocate returning to that. I would not even consider voting for it, once the President committed this country to war. We can declare war and pass on treaties and do many other things. We have not done them. I think any Senator can keep himself abreast of the conduct of the war by asking for a briefing from the Pentagon. I do that weekly and I find it beneficial.

So we are not basically in a lot of difference. We are in different positions when we assume, one, that this situation is something new, because it has been going on since we have had a Republic; and, two, that by passing legislation it will change things.

As I have asked the sponsors of this bill, let us say after 30 days Congress says this war is wrong; we are going to continue it. How are we going to stop the President from using force? We can say, "We will not give you additional money," and he would have only enough left to use for a year or so until that was exhausted.

Mr. WEICKER. I could not imagine the President disregarding being told by Congress that the war is wrong. If that directive comes from Congress I suggest the war would end in fast fashion.

Mr. GOLDWATER. I suggest Presidents have come pretty close to this. I remember Franklin Roosevelt saying at the time of the passage of the draft that no American boys would be sent from the Western Hemisphere and all of a sudden we found Iceland in the Western Hemisphere.

Mr. WEICKER. I do not deny the situation has been going on. I agree it has been going on and that is why we are debating the matter here today and trying to bring it to a halt.

The Senator from Arizona made an interesting statement, and I think I noted it correctly, when he said, "Once the President committed the country to war."

Does the Senator believe that is the right of the President?

Mr. GOLDWATER. I think it is the only way the country can be committed to war.

Let me make clear we can declare war, but there is only one man that can move troops, the Air Force, the Navy, or the Marines around the globe, around this country, or around any place, and that is the President. I do not think the framers of the bill have any quarrel with that.

Mr. WEICKER. I have a great deal of quarrel with it. There is no question in my mind that once war is declared the President must make the necessary commitments.

But do I understand correctly the Senator when he said the determination of the war is first that of the President of the United States?

Mr. GOLDWATER. I do when it is in the national defense and this is historically so. I have never seen this questioned seriously by any legislative act. I know it has been tried before. It has never been successful.

The only way we can move forces in this country or in this world is by order of the Commander in Chief, the President.

Now we may, as a body, declare war and visit the President and try to convince him that we really think we should go to war and he might concur with us.

On the other hand, the President's major responsibilities today are, as I think they have always been, one, the protection of our country; and in the protection of the country and its people and its freedoms, this one man has the decision of what forces to use and where to use them.

I would not like to see this changed so that the Congress would interpret the power of declaring war to be the power of making war. I think the Senator from Connecticut would be as violently opposed to that as he seems to be against the present situation.

Mr. WEICKER. Well, the Senator from Connecticut and the Senator from Arizona I think are in basic disagreement here, because I think the commitment of this country to war is one that should be made by the Congress of the United States, obviously working in conjunction with the President, but certainly not to the point that now exists, where, in fact, the commitment is made, we are asked for a rubberstamp decision, and then he gets on to his next duty, that of Commander in Chief. That is why we have this separation.

For example, I have voted against every single one of the withdrawal-by-a-certain date proposals, because that is not our function. It is that of the President as Commander in Chief. To me it would be breaching security when we start laying our cards on the table to show where we are going to move.

We are talking here about a situation that would avoid another one like Vietnam, and to avoid the situation referred to by the Senator from Arizona, created by President Roosevelt. The determination, the commitment, belongs to the people of the United States. It belongs to the people of the United States through their Congressmen and Senators, acting jointly with the President. This is not something that can be held to be the decision of the President of the United States alone. That is the reason why we are in trouble. I do not believe Vietnam is singular. It was just the last straw. We have slowly been going in the direction of getting further and further away from the will of the people. Believe me, one more decision such as Vietnam without the support of the people and without the support of Congress and perhaps we will have people leaving our Nation to set up a new nation with a new constitution. Such was the case at the time of the founding of our Constitution, where the job of commitment was determined to be the job of Congress, and the job of prosecuting war was the job of the President.

Mr. GOLDWATER. What disturbs me is that if we were to follow the Senator's reasoning in this field, we find we have no treaty to go to the aid of Israel should she be attacked. Now, let us assume that the President does not have the power of committing forces in the usual Middle East crisis, which is what the bill now provides, as I read it. Let us assume that the Soviets, together with the Arabs, attack Israel, and the Congress, in an indignant way, would have a declaration of war resolution introduced. The resolution would be debated, in all probability, because there are people in the Congress who feel that we should support Israel and there are others who feel we should not support Israel. If the Senator wants to see real division in the country, I cannot think of a better way it would be created than to have this condition of Congress, supposedly representing the people, being divided. Let us say that debate goes on for 2 or 3 weeks. The war could well be over and Israel could be wiped off the face of the globe.

I am afraid that the reasoning of the Senator, if applied to situations around this world where we feel we have an interest, even though we do not have treaties, or other specific legislative authority, would create all manner of havoc.

Mr. WEICKER. May I respond?

Mr. GOLDWATER. One moment. The Congress is constantly exercising a voice in this field. We ratify treaties. We have ratified 57 treaties since I have been here. I think that is the approximate number. 17 of them have been with NATO countries that I feel take us to war. We did that, I think, without a dissenting vote.

We also pass appropriations. We do not have to do that. We can reduce them to force a change in policy. We enact area resolutions, which we did in the case of the Gulf of Tonkin. We also have a very important hold on the operation of the military by being responsible for the initial size of the military. We took that power away from the executive branch just a few years ago.

I outlined this one hypothetical situation because this could happen, and happen in a disastrous way, if we were to let 500 people in Congress decide whether we were going to defend Israel.

Mr. WEICKER. I would like to respond to the Senator from Arizona. First, suppose we do not have a treaty with Israel. Unfortunately, the Senator directed that question to the wrong Senator, because I have advocated that we ought to have some specific agreement, because we are going to drift into a situation like Vietnam——

Mr. GOLDWATER. I agree with the Senator.

Mr. WEICKER. Now, in the name of efficiency, can we afford to have debate on the floor in order to determine whether we should participate? I assure the Senator, in the name of efficiency, is not a sufficient reason to turn over a concept embedded in our Constitution to one man to engage in hostilities. We had better devise better procedures than giving such power to the President. We should not say that, in the name of efficiency, we had better leave it in the decision of one man rather than that of the representatives of the people.

So my response to the Senator from Arizona is "Yes." If we have a treaty, do I think we should sit here and debate the commitment of this Nation anywhere in the world? My answer is "Yes." I am not willing to leave that in the hands of one man. I do not think the writers of the Constitution were, either.

Mr. GOLDWATER. To get back to it, of course this is the basic disagreeemnt between those who, as the Senator from Connecticut, feel that the Congress must have the power of making war and those of us who feel the power of making war should stay with the President. If I understand the debate correctly, the framers of the bill do not take away any powers of the President; they merely say at the end of 30 days Congress should be called upon. I think the Senator from Virginia would agree with that.

Mr. SPONG. Mr. President, I will ask the Senator from Connecticut if he will yield to me.

Mr. WEICKER. I yield.

Mr. SPONG. I would like to amend what the Senator from Arizona has said. The proposed legislation does not take away any constitutional powers that the President already has. I want to make that very clear. We have been talking in terms of the President's powers as granted by the Constitution. The bill does not remove any Constitutional powers given to him.

I do not want to argue with the Senator from Arizona, but he has taken the alternative words "declare" and "make" and concluded that because the word "declare" was substituted for "make" during the Constitutional Convention that the President as Commander in Chief acquired all the power suggested by "make."

To understand the meaning of the change, all we have to do is refer to the Founding Fathers' debate. It is very clear in Madison's notes what took place. Mr. Elbridge Gerry of Massachusetts moved to insert "declare" in the place of "make," war . . . "leaving to the executive the power to repel sudden attacks." I repeat—". . . leaving to the executive the power to repel sudden attacks." That is a direct quote from Madison's notes. The change of words did not mean that the making of offensive wars was thus conferred upon the President of the United States. And, that is a major point of this whole legislation.

I did want to remind the Senator from Arizona that we are not taking away any powers granted to the President as Commander in Chief by the Constitution. We are quarreling in retrospect with powers which Presidents, going back to President Truman——

Mr. GOLDWATER. Oh, past that.

Mr. SPONG. Well, in terms of actions, I would go back to President Roosevelt and his unilateral exchange of 50 destroyers for bases with Great Britain, but I think for the purposes of this argument the first President who claimed inherent power to act in these matters was President Truman.

What the sponsors of this legislation are saying is that the Constitution calls for the sharing of the "power to make." Constitutionally, we are not taking anything away from the President.

And, if I may nit-pick one more time here, the Senator from Arizona has on two or three occasions today said that only two Supreme Court Justices have spoken out on this issue. Let me begin by saying that the Senator from Arizona is quite right in implying that the Supreme Court has had very little to say on this subject, because they have generally not addressed themselves to it; they have regarded it, on most occasions, as a political question. But the fact of the matter is that in the Eliza appeal alone, three Justices addressed themselves to the question. I quoted, in remarks made earlier, from Justice Story's decision in Martin against Mott and referred to several other cases. Justices have implied that the President does not have reserved to himself all of the war powers.

As I noted before, however, the courts have not addressed themselves to this subject generally; they have shed very little light on it in the past 25 years. But there have been, particularly in the earlier years of the Republic, more than two justices who addressed themselves to the problem.

Mr. GOLDWATER. I will admit that the Senator is correct. I thought I said there were at least two that I could remember.

I would also agree that the Court has consistently refused to review this question during an ongoing foreign hostility, for the reason that they think it is political and does not come under their jurisdiction.

I said earlier that if a bill like this is passed, the only benefit I could see is to have the Court determine whether or not it is constitutional, and then we could go to work and correct it.

Mr. SPONG. Perhaps I misunderstood the Senator. I thought he said only two. But the main point that I want to interpose—and I thank the Senator from Connecticut for yielding to me—is that we are not taking away from the President the powers conferred upon him by the Constitution. We may not be condoning actions of past Presidents—actions which that some of us here might agree or disagree with—but constitutionally, we take nothing away from the President as Commander in Chief.

Mr. WEICKER. Mr. President, I concur with the Senator from Virginia, but the question which I asked the Senator from Arizona then comes back into play: At what point in time, according to his reasoning, should Congress participate in this decision? That is exactly what this resolution does; it sets a point in time when we share in the determination of commitments to war.

That is the question, I repeat: At what point in time should Congress share in this decisionmaking?

Mr. GOLDWATER. I could have answered that before. We can go into it at any time, under the many powers that we have under the Constitution.

For example, we did not have to pass the Gulf of Tonkin resolution or the SEATO treaty. We did not have to continue to support the war in Vietnam with appropriations. But we did. In fact, the majority of the people who are the authors of this bill have repeatedly supported the President in Vietnam. I think this is the way that Congress can say yes or no to the President.

The thing that troubles me about a time certainly is, first, it is going to be the wrong indication to our allies, and second, it would give an enemy a great advantage over us, depending upon the type of war we became involved in. If we got into another Pearl Harbor type of war, I do not think there would be any question of it. If we got into a Vietnam type of war, or a Dominican Republic type of thing, or any of the dozens and dozens of small conflicts we have had—I put a list of them in the Record yesterday—then I could expect Congress to be very divided.

I do not think, for example, that Congress would have been divided at the outset of President Kennedy's sending troops into South Vietnam. I do not think it would have been divided even at the time that President Johnson increased the troop strength over there. But the country did become divided, and as a result, reflecting the country's feelings, Congress became divided.

I do not believe the 30-day limitation provision is correct, and to get back—I do not want to delay this—I think it is perfectly obvious that the big argument between those of us who believe that the President has the only power to go to war and those who do not is in the interpretation of the language "to declare war"; and I think any reading of the Federalist Papers or any reading of the rather scant debates on this subject will indicate that there was great argument about these words "declare" or "make."

They are entirely different. The American people do not understand that, and I do not think the majority of the Members of Congress do. To declare war, yes, we have that power. To go to war, we do not have that power. I think this is a great difference, and I think there is no clearer reason of why this thing should not go through the legislative branch, but should first be studied at great length by academicians, by professionals, and by members of the legislature, in an effort to really come up with an answer that, if we feel an answer is needed, will provide a solution for today; because, as the Senator from Connecticut has suggested, I think that this debate has been going on for nearly 200 years, and it would be interesting to see how much difference there is between the debate today and the debate nearly 200 years ago.

I appreciate the Senator's yielding to me. I thank him very much for it. Later on today, I shall present a short discussion of the constitutional aspects of this matter from my own position.

Mr. WEICKER. Mr. President, in response to the statement of the Senator from Arizona, when he says that at any time the Congress of the United States can interject itself, the Senator knows as well as I do the difficulty of such action. Once the initial decision has been made, from there on it becomes a bootstrap operation; one act justifies another.

We make the commitment to war. Then, having made the commitment to war, we have to make sure those we have sent over there are adequately protected; so we send more. Then we make other decisions, one always depending upon the other. It is very difficult to get into the act.

That is the very reason why the Senator from Connecticut has refused at all times to do anything other than support the President of the United States in his conduct of the withdrawal from Vietnam, because this is no time to interject ourselves into the conduct of the war. There is no question about that.

The time for the minds of Senators to be utilized to maximum effectivness on behalf of their constituencies is not when we are in the middle of a war, but at the time the decision is being made as to whether we are going to go to war at all.

For that reason, it is clear that we cannot interject ourselves at any time. That has been proved here on the floor of the Senate time and time again, ever since the outset of the Vietnam war.

I ask the Senator from Arizona one question: Does the Senator from Arizona have any difficulty with this legislation because he feels that the timing of the legislation might be embarrassing in international circles at this moment in our history?

Mr. GOLDWATER. I think I would have to say yes, but that would not be my major objection.

Mr. WEICKER. Does the Senator put this on the same level as the resolutions for withdrawal at a time certain that have come before this body?

Mr. GOLDWATER. Yes, I would have to say that I do, because if we are going to debate it publicly, or even in executive sessions—which do not exist any more—it gives our enemy, whoever he might be, an excellent opportunity to understand why we want to go to war or why we do not want to go to war. And, as I have said—and I do not infer anything by this—if I were an enemy commander, I cannot think of anything better that I would want than to have the Congress of the United States become embroiled in whether or not the United States is going to react to any overt action that a country, whatever country it might be, might take. That is a greater fear in my heart than what our allies or potential enemies might feel or how they might be affected by this. It gets down to the disagreement of "declaration" and "make."

For example, the Senator and I might disagree as to the necessity of going to war. I happen to feel that we should have a treaty with Israel. I think the American people would back our supporting those people. But if we had to stand here and debate it for 4, 5, or 6 days, there would not be any Israel left.

The same would apply to any small country that might get into trouble, and if we went to help it, the people might not understand it and might object to it.

I would much rather rely upon the judgment of one man, but I will add this: I think the President makes a big mistake when he forgets to discuss these things with the leadership of Congress.

I recall that during my campaign I repeatedly said that any decisions such as this would be made in full discussion with the leaders of Congress.

I can recall another incident—the Cuban missile crisis. I think most Members of this body knew about the massing of Russian missiles in Cuba for a month before that action was taken. I cannot say what might have happened had the President conferred with our leadership and said, "Look, we have to erase this menace, but I have to have your approval." If we went through a long debate, even if the debate lasted only one day, we would undoubtedly show a division as to what we should do or when we should do it and how we should do it.

So I say that I think we are much safer in having this power of defensive war remain with the President, as it always has been; but I would advocate, as I have discussed with presidents, that they should take the leadership of Congress into their considerations—not that they necessarily would be affected by doing so. But the President confers with the Joint Chiefs of Staff, with the Security Council, with the Department of State. I would see only sense in enlarging that to include Members of Congress—not all Members of Congress. But I think to allow Congress the opportunity to debate it would work great havoc to our country.

Mr. WEICKER. In response to those matters, of course, we go back to the Israel situation. What I am saying—perhaps we are not so far apart in this—is that the debate should take place right now, while there is time to decide.

Mr. GOLDWATER. I agree with the Senator.

Mr. WEICKER. Then there will not be any problem in case an emergency arises. This is the purpose of taking our treaties out into the open for close examination by this body, so that we can hear from our constituencies and so we know exactly what this Nation is committed to, rather than have Presidents run around and declare emergencies and buffalo everybody into committing this Nation to war.

Mr. GOLDWATER. I tell the Senator that I have suggested that so many times that I cannot remember how many. I have asked the Chairmen of the Committee on Foreign Relations to bring into light all the treaties we have and to what we are really committed. I do not think the average American has any idea of the commitments we have made.

As I understand this bill, even though we have a treaty with a NATO country that, in my opinion, calls upon us to go to their defense—some will argue that—and the President executes our obligations to a treaty, within 30 days Congress has to say, "You are right" or, "You are wrong."

I would agree with the Senator that if there were some way in which we could review these treaties—remember, it takes two to dance and it takes two to change a treaty, and once we begin reviewing treaties, we are going to lose friends all over the world—but at least review them to the extent that the American people know that if X country is invaded, our chances of going to war are excellent; that if Y country in invaded, our chances of going to war are practically nonexistent.

I think this is a duty that the Committee on Foreign Relations should discuss in the open, at great legnth. What are the areas of the world about which we are really serious?

Are we going to go to war again in some small part of the world because a treaty indicates that we could go to war by stretching the imagination as to our responsibilities; or would we not be better off if we knew, for example, in the case of Israel—which I think all Americans would back—that, yes, we execute a treaty with Israel, and it says, "We will come to your defense the minute you ask for it." Then the President goes to the defense of Israel, and in 30 days Congress has to say he is right or wrong. I do not think that in his case they would say he is wrong; but there could be other cases in which this would be true, and this lack of firm decision would not be beneficial to our cause.

Mr. WEICKER. I gather from the Senator's comments that he is reinforcing the point I am trying to make, which is that he recognizes full well the responsibilities upon this body to share in such commitments as could lead this country into war.

Mr. GOLDWATER. We have, in one sense, under our powers of advice and consent, that direct charge.

I would say, frankly, that we have ratified a great many treaties here in a rather unintelligent way. I think we have ratified treaties, in the 18 years or so that I have been in the Senate, on which 20/20 hindsight probably would cause me to change my vote. I do not think that, as a body, we pay as much attention to the seriousness of treaties or their implications as we should. Once we sign the treaty, this is a solemn obligation on the part of the United States to perform the treaty; and if we do not, the rest of our treaties become valueless, as does the so-called friendship we have created through these treaties which we feel will help us and the world if we are called upon to go to war.

Mr. WEICKER. If we are supposed to share in commitments that could possibly lead us into war, why should not this body share in the actual commitment to war?

Mr. GOLDWATER. I think we are talking about two different subjects.

Mr. WEICKER. We end up at the same place.

Mr. GOLDWATER. The Senator probably is right as to that. But if the decision to go to war is left to 500 people, I can see some wonderful opportunities for politicking that could go on forever.

Mr. WEICKER. By that reasoning, then, the fastest decision could be made by one person.

Mr. GOLDWATER. That is a pretty difficult point to argue, because one could respond that a dictatorship, therefore, is the best and most efficient government, as Winston Churchill observed in the time of World War II. That was his thought. We do not agree with that.

My feeling is this, and I think that any student of war has to come up with this conclusion: Regardless of who decides to go to war, whether it be Congress or the President, the quicker we get that war over, the better off we are going to be. If it can be ended in one day by the massive use of our weapons, it should be fought that way. It never should be fought as we fought in Vietnam, by saying that we have a limited war and cannot attack certain targets because this might be offensive to potential enemies. That is wrong. Whether the President makes his mind up to go to war, or we do, the rules must apply. I would rather have one man making that decision which requires speed and decisiveness than a Congress that can dilly-dally.

I think, for example, of Korea when Harry Truman took us to war there. I think he was right. Had he asked Congress to consider that emergency situation, we could have gone on forever because not many people in this country even knew where Korea was, or even how to spell it. There are many cases like that where decisions have to be made and they have to be made quickly.

I can think, for example, under this bill, that if we are engaged in a war, let us say, with North Korea and we have approved the war, and all of a sudden Red China shows up, so we have a whole new war, and Congress decides that taking on Red China would not be wise, so they say we will confine ourselves to Korea, with Red Chinese help to the North Koreans, we could possibly be defeated in Korea.

Thus, the bill, to me, is dangerous, in that it tampers with a system which has historically worked in this country. We might not agree with it and we might not like some of the things done.

I have always thought that the war with Mexico was a mistake, even though I live in a part of the country that came about partially as a result of that war. Many people question the wisdom of the war with Spain. We can always argue about these things. But I think the necessary ingredient in a successful war is a quick decision, whether to do so or not to do so, and then to make the decision to get it over with as fast as we can. In that process, I think we can envision amendments being offered to a resolution on war in which they may say, "Fine, we are going to go to protect X country but you cannot use the air force, you cannot use the navy. You can only use 50,000 troops"—and so forth.

Those are some of the things I see as being wrong with this approach.

Mr. WEICKER. Well, to the Senator from Arizona I would say this, that ours is a small country, small in population compared with many other areas of the world. That is true today, and has been the case throughout our history, where we have been confronted with enemies of far greater size than ourselves and with far greater power, yet we have prevailed with our strength way beyond our numbers because the people of this country believed in what they were doing, and they fought beyond their actual members or armaments or money. Why? Because they made the decision to offer their lives on behalf of their Nation.

The difficulty now is that when we take away participation in that decision and, for the sake of efficiency, leave it to one man, we again become only so big as our actual numbers or our actual stockpile.

When we arrive at that day, we will no longer be the leader of the world.

So there is a basic disagreement here. I appreciate our colloquy. I know the commitment that the Senator from Arizona has, to the Constitution and maintaining the strength of the Nation and the voice of each person in it.

But, Mr. President, I stand here this afternoon very clearly setting forth what my beliefs are, insofar as our future course of action is concerned, and not insofar as just Vietnam is concerned.

We are all of one mind when we say that 435 members of the House and 100 Senators can't run a war.

But, do I think the initial decision to go to war should be made by those 535 members of Congress? Do I believe that Congress should debate the matter? Do I believe that we should amend?

Yes, I do.

Because, when those representatives chosen by the people speak and when they debate and when they argue, then in fact, all 200-million-odd people in the United States are also speaking and deciding.

So far as the resolution of the Senators from New York and Virginia are concerned, believe me, it in nowise inhibits the security of this Nation or the ability of the President to respond to an emergency situation. It is all there. He is given such powers under this resolution. But it does set a point in time very close to such a decision when Congress has to examine and pass upon a President's commitment to destruction. If not done at that point, it becomes a bootstrap operation. Because we have A, send B. Because we have A and B over there, we have to send C and D, and on and on it goes.

I can only repeat, speaking on behalf of myself, and, I hope, of my constituents, that I want as many camel noses in the tent as possible when we make such a commitment of human lives, be it here or anywhere else in the world. Once that commitment has been made, then the elements of security and efficiency enter the picture; that is the point, the commander in chief comes into play under the Constitution.

Mr. GOLDWATER. Well, that is our basic disagreement. I would like to clarify here that the President is an elected official. He is not a dictator, although I have to say, as I did in some of my comments earlier, that the powers we have turned over to him every time we voted for a Federal aid project of any nature, from my studies of the powers of the President, leads me to conclude that with the wrong person in the White House we would have the makings of a dictator. The power is there. Let me add also, that the President is always open to criticism from a free press, which a dictator never is.

Also, I remind the Senator, who served so well in the other body, that every 2 years the House stands for reelection. That is one of the great accomplishments of the Constitution, in that every 2 years the people of the country can say to the President, "We like what you are doing," or "We do not like what you are doing," by whether they return a man to Congress or send him back home.

I wish there was an easy way to settle this matter. There is a grave question in my mind as to what this would do to any joint forces under the United Nations if we were asked to participate, as other countries have participated in helping us. It would require debate by Congress. If we tried to mount another rescue mission into the heart of Africa to relieve a situation affecting American lives, that also would require approval by Congress. There are many of these actions I can see the President can take today in the defense of Americans, wherever they may be, or in defense of this country and its freedom, which would be jeopardized by this action.

I am fully aware of the desire to bring about a closer rapport between the executive and the legislative branches. I would lend every moment of my life to bringing that about. I just do not agree that this is the way to do it.

I have said that this is of such vast import, the American people should be allowed to vote on it as a constitutional amendment. I think that I would vote against such an amendment, but I also think that the American people should certainly have an opportunity to say whether they believe the interpretation of the Constitution is as we see it, or as you see it. Then we will all live with their decision. I do not think that a legislative approach will solve anything.

I can remember, before we ever got into World War II, when we supplied destroyers to Great Britain and we supplied troops overseas with materiel. We did the same thing in World War I. In fact, the last debate on the authorization bill before the Senate in 1917 was when President Wilson wanted to arm the Merchant Marine and the Senate said no. So we armed them anyway. That is pretty much, I think, what will happen in any case, should this bill pass.

I do want to thank the Senator for allowing me to discuss this matter with him. I am sure that the discussion has added something to an understanding of our beliefs, and we will have to see what happens.

Mr. WEICKER. Mr. President, I commend the Senator from Arizona for standing here and coming to grips with the essentials of the problem. As a result there will be a fuller understanding of the different points of view.

I commend the Senator for an excellent presentation of his speech, even though we do not agree. I only hope that I can rise to his persuasive ability in presenting my case.

The PRESIDING OFFICER (Mr. GRIFFIN). What is the will of the Senate?

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

(The remarks that Mr. BELLMON made at this point on the introduction of S. 3456 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

CALL OF THE ROLL

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 133 Leg.]

Allen
Bellmon
Boggs
Buckley
Cotton
Ellender
Fannin
Goldwater
Griffin
Javits
Jordan, Idaho
Mansfield
McGee
Miller
Mondale
Ribicoff
Spong
Talmadge
Weicker
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion is agreed to, and the Sergeant at Arms is directed to execute the order of the Senate.

After some delay the following Senators entered the Chamber and answered to their names:

Aiken
Allott
Beall
Bennett
Bentsen
Bible
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cook
Cooper
Cranston
Curtis
Dole
Eagleton
Eastland
Ervin
Fulbright
Gurney
Hansen
Hart
Hartke
Hatfield
Hruska
Hughes
Inouye
Jackson
Jordan, N.C.
Kennedy
Long
Mathias
Montoya
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Schweiker
Scott
Smith
Stennis
Stevens
Stevenson
Symington
Thurmond
Tower
Tunney
Williams

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH), and the Senator from South Carolina (Mr. HOLLINGS) are absent on official business.

Mr. GRIFFIN. I announce that the Senators from Tennessee (Mr. BAKER and Mr. BROCK) are absent to attend the funeral of a friend.

The Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG) and the Senators from Ohio (Mr. SAXBE and Mr. TAFT), are necessarily absent.

The Senator from Delaware (Mr. ROTH) and the Senator from Vermont (Mr. STAFFORD) are absent on official business while attending an interparliamentary meeting in Tokyo.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER. A quorum is present.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. MANSFIELD. Mr. President, just as a point of information, with such a good attendance in being at this time, does any Senators have an amendment or a motion or speech to make on the pending business?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. JAVITS. As far as the sponsors of the bill are concerned, I think I can say authoritatively that we have made our case, and as far as we know those who wish to speak have spoken. We have profited from the debate, in the sense that we have perfected the bill in matters that we believed the bill spelled out, but others did not; so, under the guidance of Senators STENNIS, SPONG, and EAGLETON, we amended the bill to say it in words instead of leaving it to discussion.

Now we find the following situation: We were told by a letter from the Senator from North Carolina (Mr. ERVIN) and the Senator from Nebraska (Mr. HRUSKA) that there would be a motion to send this bill to the Committee on the Judiciary. We are ready, willing, and waiting for such a motion. It has not occurred. There are four Senators who have introduced amendments: the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Wyoming (Mr. MCGEE), and the Senator from Maryland (Mr. BEALL). I gather that Senators GRAVEL and FULBRIGHT feel they cannot, or they choose not to, whatever may be the situation, call up their amendments until next week. I gather that Senator MCGEE has substantially the same view. Senator BEALL has already announced that he cannot bring up his amendment until after the motion to refer is voted on.

Mr. President, I would say to the majority leader that I can understand the reluctance of Senators to bring up substantive amendments until the Senate decides whether it wishes to be seized of this issue here and decide it here. In all fairness, the Senate should not be debating the language of a bill which it may decide to refer to another committee. So I think for all of us the first proper motion is to refer the measure to another committee, and once the Senate has expressed its will on that, we will then, I believe, move forward with action on these amendments, and when that it cleared up, if Senators still wish to debate, we will know what we are up against.

So I think the question very clearly is, when will this motion to refer be made? We have no indication of that whatever.

I wish to state that on Tuesday it was suggested to me that we consent to a vote today at 3:30. I said I had to consult my colleagues who are joined with me in the handling of the bill. I did consult them, and I advised those who have asked me that we were ready to vote today at 3:30, provided no impediment was thrown in our path in connection with the perfecting amendments which we put in yesterday.

We have done that, and we are through. We are entirely agreeable to any reasonable time to vote on the motion to refer. We have no desire to engage in maneuvers to marshal or not to marshal our forces. We are completely ready at any time from now on, and we feel, in fairness to all Members of the Senate, that we should have some idea as to when that matter will be called up and voted on. I do not think anyone around here would want to be moved by surprise.

That, I think, is our situation. The Senator from Vermont (Mr. AIKEN) says, "Make the motion." I suppose I could do it myself. But again, we are not given to tricks around here, or to doing things which are insincere. I do not believe this matter should be referred, and it would be insincere for me to make it, although I could make it, and thus pose the issue and abort the mission. But that is not the way we work here.

On the other hand, it is true we are entitled to some consideration, too, if we are going to play the game fairly, the way we all wish it.

With that, I lay the situation before the majority leader.

Mr. MANSFIELD. Mr. President, may I say that the Senate is entitled to some consideration, and should not be guided or judged by the whims of individual Senators who are either for or against the pending legislation. Too often in this body, the whims of individual Senators take precedence over the welfare, the well-being, and the continuity of the Senate.

There is nothing much that can be done about that, unfortunately, because each Senator, if he so desires, is, to put it bluntly, a little king in his own right, and sometimes Senators seem to exercise a prerogative of that sort. I have no one in mind, may I say to my distinguished friend from Arizona, who has been most considerate and tolerant, nor do I have anyone in mind at this moment outside the Chamber.

What I have in mind is that we have been wasting a lot of time through quorum calls. We have also had a good deal of spirited and worthwhile debate, and I would hope that in the interests of the Senate, primarily, we would come to some sort of an arrangement whereby individuals who lay down amendments and say they are going to call them up the next day will be here the next day to call them up.

The important thing is the Senate as an institution, not the whims, the wills, or the wishes of individual Senators, because, unfortunately, that is what on too many occasions tends to hinder the legitimate consideration of debate.

I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I just wanted to explain the position in which those of us who are opposed to this bill find ourselves.

Only two amendments have been offered, one by the Senator from Wyoming and one by the Senator from Maryland, that would receive favorable attention from the opponents of the bill.

Senator HRUSKA, who has been absent this week, I believe, on Senate business, has indicated that he and Senator ERVIN will move to refer this bill to the Committee on the Judiciary. It is true that anyone can make that motion. I feel that it would be very inappropriate for me to do it, because I am not a member of the Judiciary Committee, although I would vote to refer the bill to that committee.

Senator HRUSKA and Senator ERVIN, who thought they would be here by now, are tied up in an effort to accomplish just what the majority leader stated the other day he felt should be accomplished—namely, to vote on the nomination of Richard Kleindienst to be Attorney General. They are at a meeting; they have been there all day. They both said they thought they would be here by the middle of the afternoon. My latest check indicates that they are still in session.

I can assure the majority leader that I, who stand in opposition to this measure, have no desire to continue debate on it. We have no desire to filibuster it. I have one or two short speeches to deliver on the subject which I want to do after the motion has been made to refer the bill to the Judiciary Committee. I know of no organized attempt on our side to slow down this matter.

As to the amendments that are at the desk, I understand that Senator FULBRIGHT has reconsidered the one on which I told the majority leader I would oppose controlled time. If the Senator wants to call up his other amendment, on which I understand there is disagreement between the authors of the bill and the Senator, he can do so at any time.

The majority leader, in his wisdom, has conducted this body in as good a way as he can, with most of the membership out seeking another job, and I have sympathy for him. But might it not be possible to take up some other business we have while we are waiting for something to happen on this measure? I would hope to get a vote this afternoon, if we could.

Mr. MANSFIELD. Do I correctly understand the distinguished Senator from Arizona to say that there is a possibility that the Senators from North Carolina and Nebraska may at least start this afternoon on the motion to refer the pending business to the Judiciary Committee?

Mr. GOLDWATER. Senator HRUSKA told me at lunch today that he would be on the floor as soon as the Committee on the Judiciary ended its hearings today. As the Senator from Montana knows, they are trying to decide whether or not to continue the hearings in the ITT case and enlarge it into other areas.

If we are still in session—I have not checked lately, and I do not know whether anyone else in the Chamber has—there is every possibility that these two Senators will be here and will make the motion.

I would imagine that if this came late today, we could expect a vote tomorrow. I have not heard anyone express a desire to object to a specified time or hours of voting. I certainly would not oppose it.

Mr. MANSFIELD. The Senator is not known and never has been known for his dilatory tactics. He always has been most cooperative and understanding of the problems which confront the leadership. I am delighted by what he has just said. I am hopeful that when the Committee on the Judiciary completes its meeting this afternoon, the two Senators mentioned will come to the Chamber and at least make their motion to refer the measure to the Judiciary Committee; and at that time we can get on with the work at hand.

There are other measures, but unfortunately there are inhibitions inherent in almost every one of them. Some Senators do not want them brought up until a day certain, which I think is a most unfortunate occurrence in this Chamber. Others have various reasons why the measures should not be considered now. But it would be nice if the Senate could come to a conclusion on this most important measure, which I think has been very thoroughly debated, and in good spirit.

Mr. GOLDWATER. If the Senator will yield, I have asked the Secretary on our side to inquire of the Judiciary Committee as to when we might expect adjournment; and as soon as he brings that information to me, I will impart it to the leader.

Mr. MANSFIELD. I would appreciate the courtesy.

Mr. GRIFFIN. If the Senator will yield for an observation, I think it would be unfortunate if this colloquy left the impression that there was some blame being directed at the Senator from North Carolina or the Senator from Nebraska because they happen to be tied up in a meeting of the Committee on the Judiciary.

Mr. MANSFIELD. Before the Senator goes further, nothing was further from the thoughts of the Senator from Montana, who is well aware of the fact that all day both Senators have been in committee, understandably so, dealing with a difficult subject, and hoping to be able to help in arriving at a reasonable conclusion of this long, drawn out set of hearings.

Mr. GRIFFIN. The observation I want to add is that the committee is meeting by reason of the fact that unanimous consent has been given for the committee to sit while the Senate is in session. We do this quite routinely. Yet, I think we ought to realize that Senators cannot be both in committee and on the floor at the same time, and they are going to be absent in one place or the other. All of us are faced with this dilemma day after day, because we often come in at 10 o'clock in the morning and committees are meeting; yet, we are expected to be on the floor. I think this is a very good example of the situation.

Mr. MANSFIELD. The Senator from Arkansas is in a very important committee meeting. I do not know where the other Senators are. The Senator from Wyoming was here this afternoon, but I understand that he does not want to call up his amendment seeking to create a commission until the question of referral has been disposed of; and I would assume that the distinguished Senator from Maryland (Mr. BEALL) is in somewhat the same position.

Mr. BEALL. If the Senator will yield, I am in that position. My amendment would create a commission, and I thought it was a logical order of events that we first dispose of the matter of whether the referral should be to the Committee on the Judiciary. I was waiting until that matter was disposed of before calling up my amendment.

One of the reasons why I proposed this amendment is that, for myself, I am not opposed to the idea of having a war powers resolution. I just thought that adequate discussion had not taken place as yet, and this discussion has been taking place all this week. I am not satisfied yet as to all the reservations I have, but I think it still is in order to consider the Hruska-Ervin point before we get down to amendments such as mine.

Mr. MANSFIELD. I understand, also, that the Senator from Alaska has two amendments and that just lately the Senator from New York (Mr. BUCKLEY) has offered another amendment. Surely, some of these amendments could be taken up now, in the interim, even though seeking to create a commission. I see no reason why we should wait to see what happens to the pending business before we call up an amendment of that nature which would be in order at any time. I certainly do not see any need for two amendments seeking to accomplish the same objective. Thus, I would hope that the Senators from Maryland and Wyoming would consider the possibility of offering their amendments before the referral motion is made.

Mr. GOLDWATER. Mr. President, I have been informed, in conversation with the distinguished Senator from Nebraska (Mr. HRUSKA), that there is no time certain when he feels they might get out of the committee meeting which is still in session, but that he will lay down his motion this afternoon if the Senate is still in session. He does not want to vote on it tomorrow. He wants to talk on it then. That is the extent of the information that I have been able to get from the Judiciary Committee, so I cannot go much past that.

Mr. MANSFIELD. The Senator from Arizona has been most generous, most considerate, and most thoughtful in giving the Senate that much information, which we did not have before.

It is true that the joint leadership has been most considerate to allow committees to meet during sessions of the Senate. There is only one exception to that which I can recall in this session, and that applied to only one committee; but if it means that in order to get enough Senators into the Chamber and enough business underway it will be necessary to foreclose meetings in the afternoons, then that will be given every consideration, because the main job of Senators while the Senate is in session is not in committees but, rather, on the floor of the Senate.

I would say, however, that the meeting in the Judiciary Committee is of a special nature, and I would exclude that meeting because of its importance at the moment from the general category of objections which may be raised if the Senate does not take it upon itself to act as it should in the consideration of legislation.

Mr. McGEE. Mr. President, the sponsors of S. 2956 have gone to great pains to reassure the Senate that the passage of the war powers bill would not affect the President's ability to respond quickly, effectively, and decisively to a future crisis in the Middle East, in the heart of Europe or elsewhere.

In his initial presentation last week discussing this bill the distinguished senior Senator from New York explained—March 29, S. 5155–56—that—

> The intent of the final clause of subsection (4) is to uphold the validity of the three area resolutions currently on the statute books. These are: the Formosa Resolution—House Joint Resolution 159 of January 29, 1955; the Middle East Resolution—House Joint Resolution 117 of March 9, 1957, as amended; and the Cuban Resolution—Senate Joint Resolution 320 of October 3, 1962.

The sponsors say that these resolutions are preserved and that their preservation accords to the President the necessary specific authority to commit Armed Forces to hostilities in those areas.

A brief examination of the resolutions involved, and their history, raise the question as to whether they are of any utility in this area.

The War Powers Act clearly provides, in section 3, subsection (4), the last phrase, that—

> No provision of law in force at the time of the enactment of this act shall be so construed (as specific statutory authorization for, or a specific exemption permitting, the introduction of the armed forces of the United States in hostilities) unless such provision specifically authorizes the introduction of such armed forces in hostilities or any such situation.

The question, therefore, is whether any of the existing area resolutions in fact grants the specific authorization required by the war powers bill for the President to introduce the Armed Forces into future hostilities in those areas.

It must first be remembered that all of these resolutions are more than 10 years old and were addressed to particular circumstances which no longer exist in the same framework.

The Middle East resolution, for example, was introduced March 9, 1957, though amended September 4, 1961. On March 12, 1970, the administration, in a letter from Acting Assistant Secretary of State for Congressional Relations, Mr. H. G. Torbert, Jr., to the chairman of the Senate Foreign Relations Committee, referred to section 2 of the resolution, which provides that—

> The United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international Communism.

And stated that—

> The Administration would not construe it as a source of authority for any decision which might involve the United States in a conflict in that area.

In any event, as a reading of the resolution indicates, even when it was effective, its authorization was limited to cases involving "armed aggression from any country controlled by international communism," a limitation obviously excluding many potential situations.

Insofar as the Cuban resolution is concerned, which was approved October 3, 1962, the only apparent authorization contained therein which could be of relevance here is the operative phrase that the United States is determined:

> To prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or threat of force, its aggressive or subversive activities to any part of this hemisphere.

Even this limited authorization of nearly a decade ago did not and does not today have the effect that the distinguished senior Senator from New York has indicated it possesses. As stated by the administration in the letter of Acting Assistant Secretary Torbert that I alluded to previously:

> The Cuban Resolution of October 3, 1962, was above all a statement of U.S. policy toward Cuba. It was not intended to add to the President's powers or to authorize any particular action he might take in the future. Consequently, we do not consider that the Cuban Resolution in any way affects the powers of the executive and legislative branches. It has never been relied upon by the executive as the legal basis for any action. President Kennedy's 1962 order for the interdiction of the delivery of offensive missiles to Cuba cited as atuhority only the Constitution and statutes of the United States, while adding that the President was acting "in accordance" with the Cuban Resolution as well as the resolutions of the Organization of American States on the subject.

The Formosa resolution, approved more than 17 years ago, provided, insofar as it is relevant here:

> That the President of the United States be and he is hereby authorized to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and protection of such related positions and territories of that area now in friendly hands and the

taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores.

I think it reasonable that one might have difficulty in relying on a 17-year-old resolution, addressed to a set of circumstances then existing but no longer pertinent, to act in an undefined future crisis. Therefore, the administration has stated, and I think quite reasonably, again in the letter of Acting Assistant Secretary Torbert that—

> In the event of a new crisis in the Formosa Strait, this Administration would not view the continued existence of the Formosa Resolution as a source of Congressional authority.

Finally, while the distinguished Senator has not specifically mentioned Berlin, I think it is worthy of brief discussion since recurring crises involving Berlin have presented one of the most serious security problems in Western Europe. The Berlin resolution, which likewise is nearly 10 years old, is a concurrent resolution expressing only the sense of Congress and therefore would in any event not constitute the "specific statutory authorization" required by the bill now before the Senate. Thus, one of the historical crisis situations which could arise in the North Atlantic Treaty Alliance area would not be covered by an existing specific authorization at all.

I think the enactment of this war powers bill would have disquieting effects in the North Atlantic area and in other areas where our interests are engaged. Otherwise, I assume the senior Senator from New York (Mr. JAVITS) would not have felt it necessary to offer reassurance in this regard. I respectfully suggest, however, the reassurances are illusory in that they are premised on outdated resolutions a decade or more old which the administration has stated it cannot and will not be regarded as constituting congressional authority for the use of U.S. Armed Forces in any given future situation.

That being so, we must face the possibility that if this bill were to become law the President would not have the requisite specific authority to react in situations which concern us most.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FANNIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AIKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AIKEN. Mr. President, I believe that the Senate has been acting irresponsibly during the past few days. To find out where we stand, I make the motion—which I shall vote against—and that motion is to lay the pending business on the table; and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the bill (S. 2956).

Mr. GOLDWATER. Mr. President, a parliamentary inquiry. Would the Chair please restate the question?

Mr. AIKEN. My motion was to lay the entire subject matter on the table.

Mr. GOLDWATER. I thank the Senator from Vermont.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Vermont to lay the bill (S. 2956) on the table.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from South Carolina (Mr. HOLLINGS) are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Iowa (Mr. HUGHES) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Tennessee (Mr. BAKER and Mr. BROCK) are absent to attend the funeral of a friend.

The Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), and the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

The Senator from Delaware (Mr. ROTH) and the Senator from Vermont (Mr. STAFFORD) are absent on official business while attending an interparliamentary meeting in Tokyo.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from Colorado (Mr. DOMINICK) is paired with the Senator from Ohio (Mr. TAFT). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Ohio would vote "nay."

The result was announced—yeas 13, nays 58, as follows:

[No. 134 Leg.]

YEAS—13

Bellmon
Bennett
Buckley
Cotton
Curtis
Dole
Goldwater
Gurney
Hansen
Hruska
McGee
Thurmond
Tower

NAYS—58

Aiken
Allen
Allott
Beall
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cook
Cooper
Cranston
Eastland
Ellender
Ervin
Fannin
Fulbright
Griffin
Hart
Hartke
Hatfield
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Mansfield
Mathias
Miller
Mondale
Montoya
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott
Smith
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Tunney
Weicker
Williams
Young

NOT VOTING—29

Anderson
Baker
Bayh
Brock
Cannon
Dominick
Eagleton
Fong
Gambrell
Gravel
Harris
Hollings
Hughes
Humphrey
Magnuson
McClellan
McGovern
McIntyre
Metcalf
Moss
Mundt
Muskie
Pastore
Randolph
Roth
Saxbe
Sparkman
Stafford
Taft

So the motion to lay the pending business on the table was rejected.

Mr. AIKEN. Mr. President, I acknowledge defeat for my motion, and I move to reconsider the vote by which the motion was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HRUSKA. Mr. President, I move that the pending business, S. 2956, be referred to the Committee on the Judiciary.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. JAVITS. Yeas and nays.

Mr. MANSFIELD. What is the motion?

The PRESIDING OFFICER. The motion is to refer the pending business to the Committee on the Judiciary.

Mr. JAVITS. Yeas and nays.

ORDER FOR RECOGNITION OF SENATOR HRUSKA TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Nebraska, who is the sponsor of the motion now pending, be recognized immediately after the conclusion of the morning business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 9:45 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PACKWOOD TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leaders have been recognized tomorrow the distinguished Senator from Oregon

(Mr. PACKWOOD) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SPONG TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the recognition of the distinguished Senator from Oregon tomorrow the distinguished Senator from Virginia (Mr. SPONG) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HRUSKA. I yield.

Mr. JAVITS. I am in the dark at the moment as to the intentions of the Senator from Nebraska, not that he need disclose them to me. But I asked for the yeas and nays and I gather that the distinguished majority leader did not want that.

Mr. MANSFIELD. No, I wanted to get the other business taken care of.

Mr. JAVITS. Could the Senator enlighten us as to when he will seek a vote?

Mr. HRUSKA. I understand no votes would be contemplated for tomorrow, inasmuch as there will be debate at length on my motion. It is not contemplated we will reach a vote tomorrow or even on Monday. From there on we will see what develops.

Mr. MANSFIELD. I express the hope that tomorrow or Monday there might be votes on other amendments because, as everyone knows, a motion to refer is a simple motion. There is considerable debate. I hope at this time the Senator from Wyoming (Mr. McGEE), the distinguished Senator from Maryland (Mr. BEALL), the distinguished Senator from New York (Mr. BUCKLEY), the distinguished Senator from Arkansas (Mr. FULBRIGHT), the distinguished Senator from Alaska (Mr. GRAVEL), and others would be prepared if there is a lapse or gap to offer their amendments so that the Senate can keep busy and dispose of amendments after opportunity for debate in reasonably good order.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MANSFIELD. I yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Are amendments in order under the existing order of business before the Senate?

The PRESIDING OFFICER. Amendments would only be permitted by unanimous consent.

Mr. JAVITS. Amendments would not be in order unless there is unanimous consent?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, will the Senator yield so I may get the yeas and nays on the motion?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, I demand the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are ordered.

Mr. JAVITS. Mr. President, would the Senator from Nebraska in any way be prepared to agree upon any time, say Tuesday, when he would wish to vote? Maybe that would facilitate business for everyone.

Mr. HRUSKA. I would be happy to consider that tomorrow after consultation with my colleagues.

S. 3323—UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I understand S. 3323, concerning a major heart and lung program, has been reported unanimously by the Committee on Labor and Public Welfare. This is a very large authorization bill, well over a billion dollars. Tomorrow is World Heart Day.

I ask unanimous consent that during the conduct of morning business tomorrow it be in order to take up S. 3323, either at that time or tomorrow at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 20 minutes, the time to be equally divided 10 minutes to a side, the time to be under the control of the distinguished Senator from Massachusetts (Mr. KENNEDY) and the majority leader, or whomever he may designate.

The PRESIDING OFFICER. Does the Senator desire to waive rule XII?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Could we designate the ranking member of the Subcommittee on Health?

Mr. MANSFIELD. It would be up to the minority leader to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN subsequently said: Mr. President, I would like to state that the time which has been allocated to the minority leader with regard to the bill about which unanimous consent was requested is designated or allocated to the ranking member of the Subcommittee on Health.

Mr. JAVITS. That is correct. I will supply that for the record.

Mr. President, I ask unanimous consent that Members who wish to file statements on the bill do so and have them as part of the record in the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on S. 3323.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. I thank everybody.

LEAVE OF ABSENCE

Mr. JAVITS. Mr. President, I ask unanimous consent that I may be absent on official business dealing with NATO tomorrow, from my duties in the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the distinguished Senator from Virginia (Mr. SPONG) has completed his remarks tomorrow, there be a time period of not to exceed 45 minutes for the conduct of morning business, with a time limitation of 3 minutes on speeches attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER HEART AND LUNG BILL, S. 3323, TOMORROW

Mr. MANSFIELD. Also, Mr. President, I ask unanimous consent that during that 45-minute period it be in order to bring up the heart and lung bill, S. 3323.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO LAY UNFINISHED BUSINESS BEFORE THE SENATE AT CONCLUSION OF MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of morning business tomorrow, the unfinished business be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:45 a.m. After the two leaders have been recognized under the standing order, the distinguished junior Senator from Oregon (Mr. PACKWOOD) will be recognized for not to exceed 15 minutes, and he will be followed by the distinguished junior Senator from Virginia (Mr. SPONG), who will be recognized for not to exceed 15 minutes, after which there will be a period for transaction of routine morning business for not to exceed 45 minutes, with a limitation of 3 minutes on statements therein. During the period for transaction of routine morning business, the Senate will proceed to consideration of S. 3323, the National Heart, Blood Vessel, Lung and Blood Act of 1972. There is a time limitation of 20 minutes on that bill, and a rollcall vote will occur on passage of the bill.

At the conclusion of routine morning business, the Senate will resume its consideration of the unfinished business, S. 2956, the war powers bill. The pending question at that time will be the motion by the distinguished Senator from Nebraska (Mr. HRUSKA) to refer the bill to the Judiciary Committee.

Senators are alerted to the fact, therefore, that at least one rollcall vote will occur tomorrow, that being on the heart and lung disease authorization bill. It is possible that other rollcall votes could occur with respect to tabling motions or amendments connected with the war powers bill.

ADJOURNMENT UNTIL 9:45 A.M.

Mr. MANSFIELD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until tomorrow at 9:45 a.m.

The motion was agreed to; and at 4:34 p.m. the Senate adjourned until tomorrow, Friday, April 7, 1972, at 9:45 a.m.

EXTENSIONS OF REMARKS

DISTINGUISHED SERVICE AWARD PRESENTED TO JACK HALEY FOR PRINTING ACCOMPLISHMENTS WITH U.S. GOVERNMENT IN 1971–72

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. O'NEILL. Mr. Speaker, in reading the February issue of the Mid-Atlantic Graphic Arts Review, it gave me a great deal of pleasure to see on the cover the photograph of Jack Haley, the staff director of the Joint Committee on Printing. It points out that he is to receive that excellent printing publication's distinguished service award at the Joint International In-Plant Printing Management Association Convention and seventh Mid-Atlantic Litho Club clinic and exhibits, April 5, at the Sheraton Park Hotel, in Washington, D.C.

The magazine is nationally famous and the 3-day annual convention in Washington is one of the largest printing exhibitions of its kind in the country. I mention that simply to show that this special honor, as extended to our good friend, Jack Haley, is one that is highly prized. It has also given great pleasure to the very many people who are friends of Jack's. I know they will enjoy reading the excellent biographical account which it is my intention to insert as part of these remarks.

The account is clearly a success story of an unusual type depicting the career of a man in a skilled trade and chosen profession—a printer and administrator. His success is singular because his progress has been steady and constant—and from all accounts—provenly well deserved. He is popular with Members and staffers throughout the Halls of Congress, and especially the House of Representatives where he worked for so many years. He is recognized as an able and cooperative associate with all printing and publication specialists of Government and industry. In a letter of recommendation to Chairman Carl Hayden of the Joint Committee on Printing, House Leader John McCormack, writing for himself and Speaker Rayburn, told the eminent Senator Hayden in 1961 that the House leadership was mutually endorsing one of the most capable and popular employees in the House of Representatives.

I once represented the congressional district wherein he resides and have been friendly with him since I came to Congress. I know firsthand of his great popularity and influence in his hometown of Brookline. He often states:

> I never really moved from my hometown, and I have not missed voting in 35 years.

I have been with him at many Greater Boston functions which were widely attended by hundreds of Jack's friends and neighbors. I will always remember the support and encouragement they extended to me. With all that in mind, it now gives me extreme pleasure to insert the biographical account of a "printer's printer" who has done so much for the U.S. Government printing programs, and pursued his own successful and accomplished career in honor and pride:

JACK HALEY

Named to receive the 1972 Mid-Atlantic Graphic Arts Review's Distinguished Service Award is John F. Haley, Staff Director of the Joint Committee on Printing of the United States Congress.

Presented annually to a member of the graphic arts community who has contributed significantly to the industry's success, the award is a tribute, this year, to a man who has played a tremendously important role in opening up new business opportunities to the entire industry, and particularly to printers and typesetters in the Mid-Atlantic region.

Mr. Haley's role as Staff Director of the Joint Committee on Printing is a highly important and responsible position that requires him to manage and coordinate the operations and activities of the Joint Committee. Under his guidance and leadership with the closely coordinated support of his staff colleagues, the Government Printing Office officials and officers of the Federal department printing operations, the total printing program of the Federal Government has seen the introduction of more significant projects than has been experienced in the past half century.

Mr. Haley's long association with the printing industry began in 1926 when he became a printer with the composing division of the Boston News Bureau, an affiliate of the Wall Street Journal. He had attended school in his native Brookline, Mass., and, later, studied business administration so that he could soon operate his own job shop at night.

In 1937, he accepted an appointment with the Composing Division of the Government Printing Office, working on the Congressional Record and other publications of the Congress. He was appointed to the staff of the Daily Digest of the Congressional Record ten years later. This was a new improvement in presenting accounts of the legislative procedures.

An important appointment in his career occurred in 1954 when he became staff director of the House Select Subcommittee to Study Federal Printing and Binding. The reports and findings of that group resulted in sweeping changes in the Federal Depository Library law and other areas of publication and printing where needed reforms were revealed.

In 1958, he became printing and library clerk to the main committee on House Administration. Two years later, in April, 1961, Mr. Haley was elected to his present position—Staff Director of the Joint Committee on Printing.

Under the guidance of this committee, Mr. Haley has skillfully utilized his staff ability and authority to guide the entire Federal printing program. In what has been called "a quiet revolution," Mr. Haley has moved Government printing operations into the area of electronic composition and research which has culminated in the creation of a highly successful program in high-speed quality using the latest available equipment. It is significant that Jack Haley is now recognized as having put the Federal Government in the forefront of this electronic printing endeavor.

Another of Mr. Haley's accomplishments in the Federal Printing program has been the creation of stronger and more effective technological and administrative ties between the Government and the printing paper industry. Reforms made under his direction have been designed to update the Government's position with a large, cooperative paper manufacturing and distributing industry. Certainly, the procurement of paper for the Federal printing program is one of the major responsibilities of the entire operation.

However, the one advance that has given Jack Haley the greatest acclaim in the graphic arts industry has been the establishment of much of the National Printing Procurement Program, which has been called the most forward-looking step taken in Federal printing purchase philosophy in many decades. Its success is best demonstrated by the cooperative efforts of the commercial printing sector in developing a working relationship to bring Jack Haley's dream into a real concept of Government-Industry cooperation for a truly Golden Age of Printing in the 1970's.

Commenting a few years ago on this endeavor, Congressman Omar Burleson, the former Vice Chairman of the Joint Committee on Printing noted, "Mr. Haley has developed a pragmatic and commendable blueprint." He added that the regional programs of printing procurement do much to convince the commercial printers everywhere that it is good business to do business with the Federal Government.

OCEANIC STUDIES

HON. WILLIAM R. ANDERSON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ANDERSON of Tennessee. Mr. Speaker, last year, the University of Virginia offered a pilot course entitled "Humanities of the Seas." So successful was the project that the university has decided to pursue a program of oceanic studies.

I commend the university and its trustees for this important move. Credit is also due to the Oceanic Educational Foundation and board members Palen Flagler, Edgar Shannon, Gilven Slonim, and S. E. Freund for encouraging a full program of oceanic studies on every level of education.

I insert in the RECORD an editorial of January 17, 1972 from the Lynchburg News on this excellent program:

OCEANIC STUDIES

Announcement from the University of Virginia of oceanic studies following success of a pilot course carries a significance of wide importance. The announced program also reveals how much progress already has been made, and that this is a pioneer effort in this country.

Its importance lies in the fact that there is a great lag in studies relating to all aspects of the ocean, and by ocean we mean the ecompassment of all of the connecting salt water oceans and seas of this planet.

There are many aspects of the oceans that have become critically important. For a major one, perhaps the most important, is as a food source. This includes plankton, as well as fish and oysters and other shellfish. It means seaweed of several kinds, and the prospect of both conservation and expansion in such resources is immense and not to be delayed.

Allied with this is removing and preventing pollution. And, in broad effect, farming the sea as well.

Utilization of sea water is of rapidly increasing importance, in processing it into fresh water, in utilizing mineral content, in exploration for oil and gas and other riches known to exist but not yet easily accessible.

As the news release puts it: "The University already offers masters and doctoral degrees in marine science through its department of marine science in association with the Virginia Institute of Marine Science at Gloucester Point." This is followed by "Certainly there is a need for a Maritime Industrial Park that could very well be established in Virginia."

Virginians who know their state, inclusive of a real knowledge of its ocean and bay frontage, are aware of what oceanic studies means and it is clearly made manifest in the last few decades that such studies occupy a prime role in the present and future for the people of the world.

A brief exploration of what is encompassed in such studies also reveals the career opportunities, that will ever be expanding, in this study exploring such areas as conservation, pollution, intelligent exploitation both for science and industry, for food and water, for preventing extermination of many forms of life and in very broad terms utilization of vast resources which man has been too slow in recognizing and acting upon.

The challenges here for those planning their advanced education is a matter of both practical and intellectual excitement and opportunity. Certainly it is a challenge that will be accepted by many as such studies as the University of Virginia is offering under a growing program in depth and extent.

For most people this is something new in its presentation of opportunity, an exciting challenge, and there are many at least incipiently prepared to take advantage of something calling for vision, for intellectual adventure.

BUSING OF SCHOOLCHILDREN ACROSS COMMUNITY LINES

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 29, 1972

Mr. HARRY F. BYRD, JR. Mr. President, the Richmond Times-Dispatch of March 30 contains an excellent editorial on the two Federal district court decisions which have ordered the busing of schoolchildren across community lines.

The first such decision affected the city of Richmond and two neighboring counties. Now a similar ruling has been handed down in the Detroit area.

Busing to achieve an artificial racial balance is an ill-advised policy in any case, and is particularly objectionable when it involves sending pupils from one school district to another.

I ask unanimous consent that the editorial, entitled "The Plague Spreads," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PLAGUE SPREADS

Courts tend to worship precedents, for a precedent can cloak almost any judicial decision, no matter how asinine, with respectability. A judge in Virginia can justify his ruling that red is blue by citing an earlier decision by a judge in Texas who had reached the same warped conclusion.

In this manner, the sociological mishmash that served as the foundation for the school consolidation decision of U.S. District Judge Robert R. Merhige Jr. of Richmond has become an important legal precedent. Lacking precise legal authority for ordering a consolidation of the educational systems of the city, Henrico and Chesterfield Counties to achieve racial balance in public schools, Merhige relied primarily upon the theories of social scientists more interested in engineering human attitudes than in improving education. Now these theories have been accepted as sound legal guides by a Detroit federal judge who has ordered a metropolitan integration plan for that area's schools.

As Merhige would do in the Richmond area, Judge Stephen J. Roth would ignore district boundaries in the Detroit area. No matter where they live, children would go to whatever school Roth decided they should attend. According to news reports, Roth sought to justify his ruling, in part, by quoting "extensively from the ruling of U.S. District Judge Robert Merhige."

So the plague spreads. Madness in Richmond is used to justify madness in Detroit. Soon madness in Detroit will be used to justify madness in some other community. And until either Congress or the Supreme Court provides an antidote, the pernicious Merhige doctrine will continue to infect court after court and ruin school system after school system throughout the land.

IT IS OUR TASK NOW

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RODINO. Mr. Speaker, each of us possesses ideas. Each of us holds dreams. The ideals of brotherhood, justice, human dignity, and the desire to resolve human conflict dwell in each man's heart. Dr. King and Crispus Attucks, however, took hold of their dreams and hopes and convictions and guided themselves by the emergency of now. They refused to turn their backs on the unfair practices of their day. They believed, with a steadfast and unbending strength, that injustice anywhere is a threat to justice everywhere, that whatever affects one man directly, affects us all.

Dr. Martin Luther King and Crispus Attucks refused to remain passive, to keep silent while their hearts beckoned them to act. Each of these men, in his own way, seemed to feel he had chosen, set aside, to take part in the struggle for freedom. They were men whose moral conscience and whose desire to see right exist prevented them from discouragement and from compromising with their principles and hopes. Who does not recall Crispus Attucks' courage and his commitment to the cause of liberty? Who will ever forget the freedom rides, the songs of faith, the marches to Salem or the speeches at the foot of the Lincoln Memorial?

Attucks gave his life for the freedom of our new Nation. King was not afraid to die; he had reached the mountaintop; he had seen the promised land. It is our responsibility and our task to not merely stand in the light of King's vision or to live in the land which Attucks fought so bravely to secure. For the task is not yet complete and King's dream has yet been attained. As we justly honor these men today, let us once again listen to their message and let us continue to pursue their quest for the dignity, equality and the right of self fulfillment for every man.

SENATE—*Friday, April 7, 1972*

The Senate met at 9:45 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, we commend to Thee all who are engaged in the Government of this Nation. Grant to them special gifts of wisdom and understanding, of counsel and strength, that upholding what is right and following what is true they may enact and execute such measures as may be for the common welfare at home and peace abroad. May the whole world be filled with the knowledge of Thy truth and righteousness until war shall be no more and the way of peace and brotherhood is established in all men's hearts.

In Thy holy name we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 7, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, April 6, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 700 and 701.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR PRINTING ADDITIONAL COPIES OF "INTERIM REPORT OF ACTIVITIES OF THE PRIVATE WELFARE AND PENSION PLAN STUDY 1971"

The concurrent resolution (S. Con. Res. 74) authorizing the printing of additional copies of Senate Report No. 92–634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971," was considered and agreed to, as follows:

S. CON. RES. 74

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Labor and Public Welfare two thousand additional copies of Senate Report 92–634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971", a report by its Subcommittee on Labor pursuant to section 4 of Senate Resolution 35, Ninety-second Congress.

AUTHORIZATION FOR ADDITIONAL EXPENDITURES FOR THE COMMITTEE ON THE JUDICIARY FOR ROUTINE PURPOSES

The Senate proceeded to consider the resolution (S. Res. 286) to provide additional funds for the Committee on the Judiciary for routine committee expenditures, which had been reported from the Committee on Rules and Administration with an amendment, in line 5, after the word "of", where it appears the second time, to strike out "1946." and insert "1946, and in Senate Resolution 255, agreed to March 6, 1972."; so as to make the resolution read:

Resolved, That the Committee on the Judiciary is authorized to expend from the contingent fund of the Senate, during the Ninety-second Congress, $40,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in Senate Resolution 255, agreed to March 6, 1972.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the distinguished Senator from Virginia (Mr. SPONG), Calendar No. 702, S. 3323, in accordance with the agreement of yesterday, be laid before the Senate and made the pending business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Does the distinguished Senator from Oregon desire recognition as acting assistant minority leader?

Mr. PACKWOOD. I do not, Mr. President.

Mr. MANSFIELD. Mr. President, will the Senator yield briefly, without losing any time?

Mr. PACKWOOD. I yield.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. ON MONDAY, APRIL 10, 1972

Mr. MANSFIELD. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock on Monday morning next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the Senator from Oregon (Mr. PACKWOOD) for not to exceed 15 minutes.

THE PRESIDENTIAL REGIONAL PRIMARIES ACT

Mr. PACKWOOD. Mr. President, today I am circulating for cosponsorship and later will introduce legislation establishing five regional presidential preference primaries. This legislation is designed to replace the present mishmash of presidential extravaganzas. These extravaganzas take the form of citrus circuses in Florida and winter carnivals in Wisconsin. They leave the candidates tired and broke. They leave the public bored or bewildered and—far too often—disgusted. Voters understandably ask, "When is this nonsense coming to an end?" In the process, the candidates lose their credibility and the office loses its dignity.

Credibility must be restored to the candidates because, without it, dignity cannot be restored to the most important office in the world. A plan must be devised that somehow, some way dramatically improves the "Barnum & Bailey traveling sideshow" that is in New Hampshire one week, Florida the next, and does not end until the curtain has come down a total of 24 times.

Congress must meet its responsibility of providing a vehicle for the American people to select the nominee of their party from a wide range of candidates.

I have a plan to effect this change. At the outset, however, let me emphasize that my proposal is not a panacea to cure all the ills which plague our system. It does, however, provide a change in direction which is essential if we are to restore credibility to the candidates and dignity to the office they seek.

My bill would establish a Federal Primary Elections Commission of five members appointed by the President, with the advice and consent of the Senate. The Commission would provide general administrative supervision over the regional primaries established in this bill.

My proposal establishes a system of five regional primaries throughout the Nation. Every State is included in one of the following five regions.

First. Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

Second. Illinois, Indiana, Kentucky, Michigan, Ohio, and West Virginia.

Third. Alabama, the Canal Zone, District of Columbia, Florida, Georgia, Maryland, Mississippi, North Carolina, the Commonwealth of Puerto Rico, South Carolina, Tennessee, the Virgin Islands, and Virginia.

Fourth. Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin.

Fifth. Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

The first regional primary would be held on the second Tuesday in March, with another primary to be held on the second Tuesday in each of the succeeding 4 months.

The Commission would be directed to meet 70 days prior to the March primary and determine by lot the region in which the first primary would be held. This process would be repeated for each of the remaining regions. In this way, the order of the primaries would not be known in advance.

Under the current system, some candidates begin their campaigns for nomination almost 2 years prior to the Presidential election. They are able to do this because certain States have set primary dates and all of the candidate's money, energy, and talent are focused on those particular States. A national primary would not change this, the date would still be known and candidates could still begin their campaigns far in advance.

Under my proposal, however, candidates would not know where the first regional primary would be held until 70 days prior to it. All candidates would be forced to shepherd their limited financial resources until they knew which regional primary would be first.

Practical politics would dictate that a candidate spend most of his available time in the region holding the next primary. In a national primary, by contrast, a candidate would be in Los Angeles today, New York tomorrow, and Florida a day later. The Boise, Idahos, and the Keokuk, Iowas, would never see the candidate. This whirlwind approach would fatigue the candidates, sour the voters, and badly erode confidence in Government.

In order to qualify for the ballot under my plan, a Presidential aspirant must be "generally recognized in national media throughout the United States" as a candidate, whether a candidate were so "recognized" would be determined by a majority of the Commission. If he were not so "recognized," his name could still be added if he either, first, filed a petition signed by 1 percent of the registered voters of the region or, second, paid a filing fee of $10,000 which would be refunded if he received 5 percent of the vote in the region. A candidate could have his name removed from the ballot if he stated unequivocally in writing that he was not and did not intend to become a candidate for President.

A further weakness of the present primary system is the hit-and-miss method of selecting delegates to national conventions. About one-third of the States select delegates by direct election sometime between March and July. In the remainder of the States, delegates are selected through internal party processes. There is no guarantee that delegates will represent the proportional strength of the various candidates in each State. An unjustifiable amount of time, talent, money, and energy is spent by Presidential aspirants in electing delegates, rather than discussing the issues. Organizers are sent to primary States months in advance. Delegates are interviewed and selected. Slates are formed. A principal campaign organizer for one of this year's major Democratic aspirants has said, "the name of the game is delegates." The name of the game should be issues and philosophy. And all of this hocus-pocus delegate selection process is usually removed from and misunderstood by the people.

My proposal would change that. Delegates would not be elected to the national convention. Instead, any presidential candidate who received 5 percent of the votes cast in a regional primary would be able to appoint delegates to the national convention according to the percentage of the vote which he received in each State. If a candidate received 40 percent of the vote in a particular State, he would appoint 40 percent of the State's delegates to the national convention. This would enable the candidate to concentrate on issues during the campaign and would insure that the delegates represented the candidate's proportional strength in that State, and were dedicated to the candidate's ideals and philosophies. The delegates would be required by law to support their candidate at the national convention until:

First, the candidate releases them; or

Second, the candidate receives less than 20 percent of the vote; or

Third, two ballots have been taken.

Mr. President, I ask unanimous consent that the Presidential Regional Primaries Act be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. —

A bill to provide for the regulation of the process by which the people of the United States select the President and Vice President by establishing a series of 5 regional primary elections at which the people may express their preference for the nomination of an individual for election to the office of President

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Regional Primaries Act".

FINDINGS

Sec. 2. The Congress finds that—

(1) the proliferation of elections held by States for the expression of a preference for the nomination of individuals for election to the office of President subjects candidates for nomination for election to such office to physical exhaustion, danger, and inordinate expense;

(2) there is no uniformity among State laws with respect to the effect of such elections on delegates to the nominating conventions held by political parties;

(3) the confusion caused by this lack of uniformity in State laws gives rise to cynicism, frustration, and distrust of the nomination process;

(4) the national nominating conventions held by political parties constitute an integral part of the process by which the President is chosen by the people of the United States; and

(5) in order to protect the integrity of the presidential election process and provide for the general welfare of the Nation, it is necessary to regulate the part of the process relating to the nomination of candidates for election to the office of President.

ESTABLISHMENT OF REGIONAL PRIMARIES

Sec. 3. (a) No State shall conduct an election for expression of a preference for the nomination of individuals for election to the office of President except in accordance with the provisions of this Act.

(b) Five regional primaries shall be held during each presidential election year. The first regional primary shall be held on the second Tuesday of March, and an additional regional primary shall be held on the second Tuesday of each of the 4 succeeding months. Seventy days before the date of the first regional primary, the Commission shall determine by lot the region in which that primary is to be held. The Commission then shall determine by separate lot, conducted 70 days before the date of each subsequent regional primary except the last, the region in which each subsequent regional primary is to be held.

(c)(1) At each such regional primary, there shall appear on the ballot, together with the name of the political party with which he is affiliated, the name of each individual who is generally recognized in national news media throughout the United States as a candidate for nomination by a national political party for election to such office, as determined by a majority of the members of the Commission.

(2) An individual whose name is not placed on a regional primary ballot by the Commission under paragraph (1) may have his name and the name of the political party with which he is affiliated appear on the ballot, if he is eligible for election to the office of President, by notifying the Commission in writing that he is a candidate for nomination by a political party (specifying which political party) for election to the office of President, and—

(A) presenting the Commission with a petition supporting his candidacy for such nomination, signed by 1 percent of the registered voters in the region in which he wishes to appear on the primary ballot (not more than 25 percent of the signatures necessary shall come from any State within that region); or

(B) paying a filing fee of $10,000 which shall be refunded if he receives 5 percent or more of the total number of votes cast by members of his political party in the regional primary. The notification and presentation of payment shall be made to the Commission by such date before the primary as the Commission may prescribe but not earlier than 45 days or later than 35 days prior to the date on which the primary is to be held in that region.

(3) The Commission shall announce—

(A) a tentative list of individuals for whom votes may be cast at a regional primary 70 days before the date of that primary; and

(B) a final list of individuals for whom votes may be cast at a regional primary 30 days before the date of that primary.

(d) The Commission shall not include on the ballot of any regional primary the name of any individual who executes and files with the Commission the following affadavit, executed under oath:

I, ——— ———, being first duly sworn, do depose and say that I am not, and do not intend to become, a candidate for nomination for election, or for election, to the office of President of the United States.

State of ———.
County or city of ———.
Subscribed and sworn to before me this — day of ———, 19—.

——— ———,
———.

SEAL.
My commission expires ———, 19—.

(e) Subject to such guidelines as the Commission may promulgate, the regional primary shall be conducted in each State by officials of that State charged with conducting elections. Voters in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. Each voter shall be eligible to vote only for a candidate for nomination by the party of that voter's registered affiliation. If the law of any State makes no provision for the registration of voters by party affiliation, voters in that State shall register their party affiliation in accordance with procedures promulgated by the Commission.

(f) The chief executive officer of each State shall certify the results of the regional primary held in his State to the Commission within a period of time after such date, not exceeding 15 days, prescribed by the Commission.

APPOINTMENT OF CONVENTION DELEGATES

SEC. 4. (a) A candidate who receives 5 percent or more of the votes cast by members of his political party in a regional primary shall appoint delegates from States within the region within which the primary was held to the national nominating convention held by the political party whose nomination he seeks.

(b) The number of delegates which a candidate shall appoint in any State within that region is a number which is a percentage of the total number of delegates from that State to his party's national nominating convention equal to the percentage of the votes cast by members of his party in that State received by him in the primary.

(c) If a candidate receives less than 5 percent of the votes cast by members of his political party in a regional primary, he may not appoint a delegate from any State within that region. The percentage of the votes cast for such a candidate by members of his political party in any State within that region shall be (1) apportioned among the other candidates of the same political party who received votes in that State on the basis of the number of votes received by each of such other candidates and (2) added to the percentage of the votes received by each of such other candidates in that State for the purposes of determining the number of delegates they may each appoint under subsection (b).

(d) If a candidate fails or refuses to appoint delegates to which he is entitled in any State within a reasonable time, as prescribed by the Commission, the Commission shall appoint delegates pledged to support such candidate at the national nominating convention held by his party. Such delegates shall be bound to support such candidate at the convention to the same extent as if they had been appointed by that candidate.

CONVENTION BALLOTING

SEC. (a) A delegate to a convention held by a political party for the nomination of a candidate for election to the office of President shall vote for the nomination of the candidate who appointed him or for whom he was appointed until—

(1) 2 ballots have been taken; or

(2) such candidate receives less than 20 percent of the vote on a ballot; or

(3) such candidate releases him.

(b) If an individual receives a majority of the votes cast on a ballot, he shall be the nominee of that party for election to the office of President. A subsequent ballot may be taken to reflect the support of the entire convention for such candidate, but the result of the subsequent ballot shall not, in such case, result in the nomination of a different individual for election to such office.

(c) The individual who will be the candidate of a political party for election to the office of Vice President shall be selected by the convention held by that party in accordance with such procedures as it may adopt.

REIMBURSEMENT OF STATES FOR COSTS OF PRIMARY

SEC. 6. Upon application therefor, the Commission shall reimburse each State for the costs it incurs in conducting a regional primary held in accordance with the provisions of this Act. Such applications shall be submitted at such times and in such form, and shall contain such information, as the Commission shall require.

ESTABLISHMENT OF FEDERAL PRIMARY ELECTIONS COMMISSION

SEC. 7. (a) There is hereby established a bipartisan Commission to be known as the Federal Primary Elections Commission.

(b) The Commission shall be composed of five Commissioners not otherwise employed by the Federal Government appointed by the President, by and with the advice and consent of the Senate. Each Commissioner shall be a member of a political party which polled not less than ten million votes in the presidential election immediately preceding his appointment. Not more than three Commissioners may be members of the same political party.

(c) The Commission shall select a chairman from among its members. Three Commissioners shall constitute a quorum.

(d) The term of office of each Commissioner shall be five years, except that—

(1) the terms of office of the Commissioners first taking office shall expire, as designated by the President at the time of appointment, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years, after the date of the first presidential election which occurs after the date of enactment of this Act;

(2) any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(3) upon the expiration of his term of office a Commissioner shall continue to serve until his successor is appointed and has qualified.

(e) The Commissioners shall have an official seal which shall be judicially noticed.

(f) The Commissioners shall serve without compensation; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(g) The Commission is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, an administrative officer, and to fix his compensation, without regard to the provisions of chapter 51 and subchapter 53 of such title relating to classification and General Schedule pay rates, at an annual rate not to exceed the annual rate prescribed by section 5315 of title 5, United States Code, for level IV of the Executive Schedule.

(h) The Commission is authorized to appoint and fix the compensation of such other personnel as it deems advisable.

DUTIES OF THE COMMISSION

SEC. 8(a) The Commission shall meet prior to each regional primary and at such other times as it deems necessary, and shall—

(1) publish tentative and final lists of the individuals for whom votes may be cast in each regional primary ballot and furnish a certified final list of such individuals to the appropriate officials of each State 30 days before a regional primary is to be held in that State;

(2) determine the sufficiency of any petition presented to the Commission under section 3(c);

(3) prescribe the date, after the date of a regional primary, on which the chief executive officer of each State shall certify the results of the regional primary held in his State to the Commission;

(4) promulgate guidelines and procedures to be followed by the States in conducting regional primaries;

(5) review applications for reimbursement submitted under section 6, prescribe the time of submission form, and information content of such applications, and determine and pay, the amount to be reimbursed to each State under such section;

(6) consult and cooperate with State officials in order to assist them in conducting regional primaries;

(7) determine by lot in accordance with section 3(b) the order in which the regional primaries are to be held;

(8) receive and hold any filing fee paid under section 3(c)(2)(B) and—

(A) refund that fee to the candidate who paid it if he receives a number of votes in the regional primary with respect to which he paid it equal to 5 percent or more of the total number of votes cast by members of his political party in that primary; or

(B) pay the fee into the general fund of the Treasury if it is not refundable under clause (A) of this paragraph.

(9) appoint delegates when necessary under section 4 (d); and

(10) take such other actions as may be necessary to carry out the provisions of this Act.

(b) The Commission shall report to the Congress and the President not later than 180 days prior to the date of the first regional primary to be held under this Act on the steps it has taken to implement the provisions of this Act, together with recommendations for additional legislation, if any, which may be necessary in order to carry out the regional primary system established under this Act.

DEFINITIONS

SEC. 9. As used in this Act, the term—

(1) "Commission" means the Federal Primary Elections Commission established under section 7;

(2) "region" means any of the following five regions:

(A) Region 1 comprises Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Connecticut, New York, Pennsylvania, New Jersey, and Delaware.

(B) Region 2 comprises Michigan, Illinois, Indiana, Ohio, West Virginia, and Kentucky.

(C) Region 3 comprises the District of Columbia, Maryland, Virginia, North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida, the Commonwealth of Puerto Rico, th Virgin Islands, and the Canal Zone.

(D) Region 4 comprises North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, Nebraska, Kansas, Oklahoma, Arkansas, Texas, and Louisiana.

(E) Region 5 comprises Washington, Oregon, Montana, Idaho, Wyoming, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, Hawaii, and Guam.

(3) "regional primary" means an election held in accordance with the provisions of

this Act for the expression of a preference for the nomination of individuals for election to the office of President;

(4) "national political party" means a political party whose presidential electors received in excess of 35 percent of the total number of votes cast for all presidential electors in the most recently held presidential election;

(5) "candidate" means an individual who is a candidate for nomination by a political party as its candidate for election to the office of President;

(6) "national nominating convention" means a convention held by a political party for the nomination of candidates for election as President and Vice President; and

(7) "State" means the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, and each of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. PACKWOOD. Mr. President, that, in brief, is my plan. In many ways, it is a reflection of Oregon's primary law. Oregon, as Senators know, was the first State to adopt a presidential primary statute in 1911, and its primary has become one of the Nation's most prestigious. It is the only State which requires all "nationally recognized" presidential candidates to participate.

Mr. President, there certainly existed valid reasons during the first two decades of this century to change our nominating process. Party bosses were guilty of devious maneuvers. Political meetings were held in saloons or behind closed doors. Conventions took place hours earlier than scheduled. These were clearly the days of the backroom boys and the smoke-filled rooms.

Reformers hoped that by democratizing the nominating process, the Presidency could be returned to the people. This was the noble goal of those progressives who hoped to wrest the control of American politics from the ruling factions.

The system worked well, however, only so long as the Nation had less than a dozen significant primaries scattered throughout the country. With the proliferation of such primaries, this noble dream has become a nightmare. This innovative reform, conceived in logic, has been tarnished in practice.

Proposals to alter the process of selecting party nominees have been considered since the beginning of the Republic. Senator James Hillhouse, for example, suggested in 1808 that we might be protected from the dangers of partisan conflict if retiring Senators would simply meet annually and draw lots for a 1-year presidential term.

The current presidential primary system has been under fire since primaries were first used extensively in 1912. At that time, Oklahoma Senator Robert L. Owen introduced legislation calling for the direct nomination of presidential candidates. More recently, the distinguished senior Senator from Montana (Mr. Mansfield) and the distingushed senior Senator from Vermont (Mr. Aiken) have proposed a constitutional amendment establishing a national primary for the selection of party nominees.

While I share the dismay of Senators Mansfield and Aiken, I do not believe that a national primary provides the best alternative.

A national primary has certain inherent disadvantages that are eliminated by a series of regional primaries. A national primary would favor two types of candidates:

First. Those with access to the national news media center in Washington, D.C., and

Second. Those candidates with easy access to enormous sums of money.

Under a national primary, those candidates outside Washington are placed at a distinct disadvantage. The principal wire services, the three national television networks, and most of the Nation's larger metropolitan newspapers and magazines have reporters in Washington. The media can readily receive the reaction of a U.S. Senator to a major national or international event. A Governor, however, is less likely to appear on the evening television newscasts or have his thoughts published.

To understand this situation, it is necessary to recall the change which took place in the 1950's, leaving an indelible imprint on American presidential politics. That change involved a concentration of the media in Washington. More stories about government and politics emanated from Washington and fewer stories were filed from other sections of the Nation.

Governors of large States joined Governors of small States in obscurity. True, the change was gradual, but it was inevitable as the 1960's came into focus that Governors, mayors, and less prominent public officials outside Washington played a smaller role in presidential politics. The big leagues of politics switched almost solely to Washington and the limelight focused on the U.S. Senate.

As a result, both major party nominees in 1960, 1964, and 1968 had previously served in the Senate. And in 1972, there remains not a single serious candidate for either party's nomination who does not fall into the category of being a present or former U.S. Senator.

With a single national primary, this trend would undoubtedly continue. Under a regional primary plan, however, a relatively unknown candidate with leadership potential would have an infinitely better chance of securing the party nomination.

In a national primary, an unknown, competent candidate could not defeat a better-known opponent without enormous sums of money. It can be argued, of course, that the cost of campaigning nationwide would be no more than the cost of competing in five regional primaries. This may be true, but if the only primary is a national primary, an unknown candidate could not contemplate participating unless he could raise enough money in advance to guarantee that his name would become a household word. It would be a very unusual candidate who could raise that much money "on the come."

This is not to say, Mr. President, that there are not great minds or excellent leaders in the Senate today. There are. Nor is it to say that the rich cannot be competen Prtesidents. They can. I do not believe, however, that it would be in the national interest to limit candidates for President to Senators or the wealthy.

Regardless of the candidates, a national primary would work to the detriment of the electorate. Voters would be forced to make their choice on the basis of slick television commercials or elaborately staged rallies in densely populated areas.

A regional primary would allow a candidate to spend a relatively small amount of time and money in order to determine whether he had widespread support. If he did well in the first primary, he would be off and running. If he did poorly, he could avoid the embarrassment and expense of hopelessly campaigning nationwide. It would also give his supporters and contributors a chance to become involved with a more viable candidate.

He could enter the first primary and, if he did well, could marshal the organizational and financial backing necessary to garner additional support. His candidacy would have the chance to catch fire and gather momentum.

Most objective observers agree that Jack Kennedy would not have been the Democratic nominee in 1960 had he not entered the significant primaries and won them all. The primaries were the only way he could show his support among rank-and-file Democrats to the party leaders, who generally opposed his nomination. Kennedy had to prove that a Catholic could be elected President.

In short, regional primaries would allow a candidate to gracefully withdraw if his campaign failed to catch fire. They would also allow a smoldering ember to be built into a blazing bonfire.

Under my measure, moreover, the voters would have a better chance to judge a candidate's true qualifications. "Madison Avenue" would be shelved. A more personal and direct approach would result.

The trademarks of a national primary would be "image" and "style." Neither has substance.

The trademarks of a regional primary would be "issues" and "answers." Both have meaning.

If we are to restore "faith" and "hope" to our system of government, the last thing we can afford is the "impersonal" approach that is bound to result from a national primary.

If we are to return "government to the people" and restore their confidence in that government, we have an infinitely better opportunity through the regional primary concept.

Mr. President, with the conclusion of the Wisconsin primary just 3 days ago, we have observed the results of four State presidential primaries. What, if anything, do these primaries tell us? What do they say about Hubert Humphrey, who lost in Florida without really losing? What about Ed Muskie, who won in New Hampshire without really winning? Or how about TED KENNEDY, who did not participate at all?

The most important lesson to be learned is the folly of the current method of selecting party nominees.

We must return credibility to the candidates and dignity to the Presidency. The regional presidential primary offers the best hope of attaining that admirable goal.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Virginia (Mr. SPONG) for not to exceed 15 minutes.

THE FAA MANAGEMENT OF NATIONAL AND DULLES AIRPORTS

Mr. SPONG. Mr. President, I am deeply concerned over the Federal Aviation Administration's continuing disregard of the public and the public interest in its management of National and Dulles Airports.

These are the only two federally owned and operated airports in the country and one might hope that they would be made models for others to follow in making efficient use of available resources and dealing with the environmental impact on the community. Quite the opposite is true, however. Under FAA management, the overriding guide to policy seems to be, "What do the airlines want?"

It was perhaps that attitude that the Office of Management and Budget had in mind when it wrote to me last year explaining why it was proposing sale of the airports. Among the reasons cited was the following:

> There are elements of a "conflict of interest" in FAA's handling of Dulles and National Airports because of other FAA responsibilities in the area of airport certification, allocation of airport grants, and concern with airline industry finances.

Mr. President, a case in point would seem to be the FAA's policy with regard to the leasing of Federal land at National Airport for airline use and improvement. A General Accounting Office study into the legal status of the new American Airline and TWA–Northwest terminal facilities at National turned up the interesting fact that the FAA has been leasing the approximately 100,000 square feet to the airlines at 15 cents a square foot. This despite Office of Management and Budget general guidelines that Federal land be leased at fair market value. This despite the fact that just to recover Federal overhead costs at the facilities would require a fee of about $1.76 a square foot. And this despite the extremely valuable commercial use that is made of the land.

One reason for this cutrate charge is that the FAA permitted the air carriers to construct facilities on Federal land without first having a negotiated agreement in hand. Only after the buildings were completed and in operation were these matters discussed and by then, of course, all bargaining leverage had passed to the air carriers' side of the table.

The GAO report, which I ask unanimous consent to have printed at the conclusion of my remarks, is critical of this FAA contracting procedure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPONG. Mr. President, the report states:

> The apparent flaw in the adequacy of FAA's contracting procedures, as demonstrated in the Northwest, Trans World and American Airlines situation is that of permitting air carriers to construct facilities in the absence of previously executed agreements. The agreements that finally may be negotiated with the three air carriers may reflect pressure to include provisions, covering such matters as amortization of carrier investments, which may not be in the best interests of the Government. Also, the agreements may set the pattern for the renewal agreements with the other air carriers.
>
> For the protection of all parties concerned, agreements for any additional construction should be executed prior to the commencement of construction.

Mr. President, since that GAO report in September 1971, the FAA has negotiated a new contract with American, TWA, and Northwest increasing the leasing fee to what amounts to the cost-recovery charge of $1.76 a square foot. Apparently, there is no charge at all being made for use of the Federal land itself. What is more, nine other air carriers which have leased land for expanded facilities continue to pay 15 cents a square foot.

Over the period between April 1970 when all of the new facilities were open and the end of September 1971 when an adjustment in the lease fee was negotiated with three of the airlines, the FAA apparently has absorbed the difference between 15 cents a square foot and the $1.76 break-even figure. I have asked the GAO to calculate what that alone would cost the taxpayer and, in addition, what might have been realized to the taxpayers' benefit if something approaching market value had been charged.

Mr. President, while the air carriers are leasing Federal property at 15 cents a square foot and making huge profits while doing it, the average air traveler who tries to park at the airport is paying what amounts to $22.70 a square foot. This is based on the minimum all-day parking fee of $2.50 and assuming 40 square feet for a parking space. Now, if the FAA wants to give somebody a break in the use of Federal land, I think that break ought to go to the public that uses National Airport. It seems to me there is a greater need for parking down there than anything else.

Mr. President, it is true that the administration is given broad discretion to lease facilities at the airports he manages upon such terms as he may deem proper and appropriate. There is serious question in my mind, however, whether a charge which is below the cost to the Federal Government is appropriate and can be justified. I question, too, the apparent exception to the Federal guidelines claimed by the FAA. As previously mentioned, OMB guidelines call for a fair market return. In addition, the Economy Act of June 30, 1932, specifically prohibits special considerations in setting of lease fees. I quote from section 321 of the act:

> Except as otherwise provided by law, the leasing of buildings and properties of the United States shall be for a money consideration only, and there shall not be included in the lease any provision for the alteration, repair, or improvement of such buildings or properties as a part of the consideration for the rental to be paid for the use and occupation of same. The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts.

There is good reason for such a law. The funds collected from lease of Federal land is tax money. If an agency were allowed to reduce lease charges below market value and even below cost in consideration of some private interest's investment, then the taxpayers of this country would, in fact, be paying for all or part of that investment, and it would have been accomplished outside the regular appropriations process. This is not even backdoor financing; it is trapdoor financing.

The FAA argues that the bargain-basement rates it is giving the air carriers at National is justified because the title to the facilities has or will pass to the Federal Government, and the FAA, as a result, feels it should help the air carriers amortize their investment. As a practical matter, however, the title transfer means very little to the airlines since they are assured by lease long-term, exclusive use of the premises. Also, written into their agreements is a provision allowing the airlines to claim full tax depreciation on those investments, in addition to which there are the handsome profits they will make from operations at those facilities. Why then should the FAA allow the air carriers to cover their investment yet again through discounted lease charges?

Again, it may be that the FAA is somehow not bound by the letter of the Economy Act, but I would think it has some responsibilities to the spirit of the law. Certainly, the taxpayers ought to know that they are helping to finance new terminal facilities at National and ought to have the opportunity to decide whether they would not prefer to have the facilities which they pay for at Dulles airport used first. I claim to expertise in contract matters but I think I know a poor deal when I see one.

Mr. President, beyond the dollar question involved here is a more far-reaching issue of the FAA's responsibility to promote greater use of Dulles, which was built at a cost of $110 million and which has operated in the red since it was opened 10 years ago. Even without the special considerations referred to earlier, the average terminal rental fee at National is $7 a square foot while at Dulles the fee ranges from $9 to $11 a square foot.

One might reasonably expect that in a situation where one airport is strained far beyond its planned capability and the source of growing community complaint while the other is starving for business, the fees would be such as to promote more balanced use. In fact, the Department of Transportation in its Congressional Air Transportation Congestion differential pricing on other airports. Let me read from that report:

> An alternative solution which is more desirable from the standpoint of the efficient allocation of resources is to set landing fees proportionate to costs. This would imply that operations at peak periods pay higher fees than at non-peak periods. DOT has concluded on the basis of studies which it carried out in this area, that such differential pricing is in the public interest.

The particular focus in this study was on ways to even out peak-hour loads at a single airport; but clearly the recommendations would apply as well to balancing traffic at two airports serving the same region. Unfortunately, DOT has not seen fit to apply the pricing policy it recommends at the two airports which its own agency—the FAA—operates. Indeed, the opposite is true. A discount prevails at the most congested of its two facilities.

Mr. President, a related aspect of the FAA's management of these two airports is the failure to give the communities involved any voice in policies which affect their environment. A few weeks ago, for example, the FAA decided to experiment with new takeoff procedures which allow jets to proceed under full power to an altitude of 3,000 feet rather than cutting back to half power at 1,500 feet as has been the case for some time. The first notice residents of the area had of the change was when they were suddenly bombarded with greatly increased noise one morning.

The FAA for some time has been talking informally about the possibility of requiring developers and real estate agents to notify their customers of the existence of an airport noise problem. But the FAA apparently feels no compulsion to give public notice when it creates a noise problem. I know of at least one family that purchased a home in Virginia on the assurance that it was a quiet neighborhood only to wake up a few mornings later to the booming noise of jets over their house.

Public notice is the very least that one might ask. At a time when environmental considerations are of such importance and concern, one might hope also there would be public hearings, an environmental impact study, and an investigation of alternative ways of accommodating air traffic. There has been none of that.

Fortunately, Mr. President, the residents of this area may be able to look to another Federal agency to defend their interests. For the first time in my experience with this issue, the Environmental Protection Agency is expressing some concern about policies at the two airports. In reference to the FAA's plans to seek appropriations for a major expansion and modernization of National, EPA told GAO it would require an environmental impact statement and, further, that—

> We anticipate significant difficulty in any expansion of that airport, due mainly to increased congestion, noise and its location in an urban environment. Alternate means of meeting air transportation needs, such as use of other available facilities would have to be discussed, as required in the Council of Environmental Quality Guidelines.

Mr. President, I welcome EPA's interest in this matter and I think the Interior Department, out of concern for beautification of the Potomac if nothing else, should also get involved. But the better answer lies, in my view, in the sale of these airports to a responsible regional or local authority which will operate them in the true interest of the public.

Mr. President, I ask that the second GAO report which I referred to be printed at this point.

EXHIBIT 1

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., September 10, 1971.

Hon. WILLIAM B. SPONG, Jr.,
U.S. Senator.

DEAR SENATOR SPONG: In our report to you entitled "Growth And Use of Washington Area Airports" (B–159719, dated August 18, 1971), we stated that we planned to furnish you a report at a later date in response to your questions concerning the legal status and jurisdiction over improvements made by the air carriers at Washington National Airport (National) in the event the airport is sold. Information on this matter follows.

In January 1966, the Federal Aviation Administration (FAA) issued a statement to representatives of air carriers serving the Washington area explaining that some of the air carriers operating at National had approached FAA with requests to improve or construct certain facilities at National for their exclusive use and occupancy. According to FAA's statement, the air carriers' requests contemplated the leasing of land area and unoccupied space in the main terminal, and undertaking improvements and construction at their own expense.

In its statement, FAA advised the carriers that (1) the Government would entertain requests from any scheduled air carrier operating at National for improvement of existing facilities, rental of unused facilities, or rental of land area; (2) any agreement with an air carrier must commence on a mutually agreeable date and expire on or before September 30, 1971; and (3) an air carrier's rights under such an agreement would not be permitted to interfere with the Government's plans or preparations for any improvement it might decide to make in the airport areas in which the carrier's facilities were located.

As shown in the following listing of information furnished by FAA, 12 air carriers have improved and constructed facilities at National since 1965.

Air carrier and estimated cost

United Air Lines: Ticketing and hold rooms, and in-flight food kitchen	$900,000
Eastern Airlines: Ticketing and hold rooms	1,500,000
American Airlines: Ticketing and passenger facilities	3,200,000
Northwest/Trans World Airlines: Ticketing and passenger facilities	6,500,000
National Airlines: Ticketing and passenger facilities	470,000
Northeast Airlines: Operations and hold room facilities	200,000
Piedmont Airlines: Ticketing and hold rooms	50,000
Braniff International: Ticketing and hold room	85,000
Delta Air Lines: Hold room	109,000
Lake Central Airlines: Ticketing and hold room	$25,000
Allegheny Airlines: Ticketing and hold room	250,000
Total estimated cost of new facilities and improvements	13,289,000

All of the above listed improvements and new construction had been completed by April 1970. FAA considered that the air carriers' improvements to existing facilities at National were covered by the use agreements in effect and made no additional charges as a result of such improvements. Nine of the 12 air carriers, who have made improvements and constructed new facilities involving the use of additional land area at an estimated cost of about $3.6 million, have entered into agreements with FAA for the use and disposition of new facilities. The remaining three air carriers—Northwest Airlines, Trans World Airlines, and American Airlines—have constructed new facilities at an estimated cost of about $9.7 million but had not, at the time of our inquiry, entered into agreements with FAA for their use and disposition. An FAA official advised us that a meeting with the three air carriers was scheduled for September 8, 1971, at which time he expected the carriers to sign agreements with FAA.

FAA agreements with the nine air carriers—applicable to their new facilities—provide for an annual charge of $.15 a square foot for the ground space occupied at National. The same charge has been imposed on, and paid by, Northwest, Trans World, and American Airlines even though these air carriers had not entered into agreements with FAA covering their facilities.

Eight of the nine agreements covering new facilities expire on September 30, 1971, and one expired on July 31, 1971. In the case of the expired agreement, FAA officials advised us that, until a new agreement could be consummated, they were continuing to charge the air carrier for ground space at the rate prescribed in the expired agreement.

Under the terms of each of the nine agreements, legal title to the facilities constructed by the air carriers passes to the Government upon the expiration of the period fixed in the agreements. Since one agreement has expired, title to the applicable facilities has passed to the Government.

If National is sold prior to the expiration of FAA's agreements with the eight air carriers, the purchaser of National would acquire the rights of the Government to the transfer of title in accordance with the provisions of the agreements. After expiration of the agreements (September 30, 1971), the Government would acquire title to the air carrier-constructed facilities and the purchaser would acquire title to the facilities upon consummation of the sale. In the latter situation, however, there could be new FAA agreements with the air carriers, and the purchaser ordinarily would take title subject to the leasehold interests of each of the air carriers pursuant to such agreements.

The draft of the agreement being negotiated by FAA with Northwest Airlines and Trans World Airlines for the new joint facilities constructed includes provisions for the passage of title to the facilities to the Government and for lease charges similar to those in the nine executed agreements, and for the re-leasing of the facilities to the two carriers after September 30, 1971. The agreement being negotiated with American Airlines contains similar provisions.

We were advised by an FAA official that the entering into agreements with Northwest and Trans World Airlines and with American Airlines has been delayed because of difficulty in reaching accord on terms relating to the leasing fees to be charged these air carriers for use of the new facilities after September 30, 1971. He advised us also that the fees to be charged these air carriers after September 30, 1971, will include an offsetting factor to reflect the substantial investments made by the three air carriers in new terminal facilities at National.

The FAA official also indicated that the agreements with the other nine air carriers covering their new facilities at National do not prescribe the fees to be charged after the termination dates of those agreements. He stated that this would not be a critical factor in the negotiations with these nine air carriers because their investments in terminal facilities were substantially smaller than those of Northwest, Trans World, and American Airlines.

The Government's general policy regarding charges and fees for the leasing of Federal property is contained in Office of Management and Budget (formerly Bureau of the Budget) Circular No. A-25. Paragraph 3b of this Circular provides as follows:

"Where federally owned resources or property are leased or sold, a fair market value should be obtained. Charges are to be determined by the application of sound business management principles, and so far as practicable and feasible in accordance with comparable commercial practices. Charges need not be limited to the recovery of costs; they may produce net revenues to the Government."

The apparent flaw in the adequacy of FAA's contracting procedures, as demonstrated in the Northwest, Trans World, and American Airlines situations is that of permitting air carriers to construct facilities in the absence of previously executed agreements. The agreements that finally may be negotiated with the three air carriers may reflect pressure to include provisions, covering such matters as amortization of carrier investments, which may not be in the best interests of the Government. Also, the agreements may set the pattern for the renewal agreements with the other nine air carriers.

For the protection of all parties concerned, agreements for any additional construction should be executed prior to the commencement of construction.

We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report. We did not obtain comments from the Department of Transportation on this report; this fact should be taken into consideration in any use made of the information presented.

We trust the information furnished will serve your purposes.

Sincerely yours,

B. M. KILLER,
Acting Comptroller General of the United States.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C., March 30, 1972.
Hon. WILLIAM B. SPONG, JR.,
U.S. Senate.

DEAR SENATOR SPONG: Further reference is made to your letter of August 25, 1971, concerning the construction of facilities at Washington National Airport under a modernization plan calling for the expenditure of $157 million. Of this amount, it is anticipated that the air carriers and concessionaires would provide $79 million and $52 million, respectively, and the Government's share would be $26 million. The plan includes expanding the main terminal, expanding the north terminal area, and adding passenger loading fingers and passenger waiting rooms.

With regard to such plan you asked five questions. As previously stated in our letter to you of September 7, 1971, since those questions involved matters concerning the functions of several agencies we requested the views of the agencies involved. Those questions, pertinent agency comments, and our discussion of them, where appropriate, are set forth below as follows:

"1. Does the FAA have the authority to allow air carriers and concessionaires to construct facilities at National without prior congressional approval of the project and/or of any contractual obligations that may go along with it."

In commenting on this matter the Administrator, Federal Aviation Administration, stated, in part, that—

"This practice is authorized by the laws under which we operate the two national capital airports. (The Act of 29 June 1940 for Washington National Airport, and the Act of 7 September 1950 for Dulles International Airport.) Both Acts empower the Secretary of the Department of Transportation '. . . to lease under such conditions as he may deem proper . . . space or property within or upon the airport for purposes essential or appropriate to the operation of the airport.' Authority to enter into leases of property consistent with sound airport commercial practice is essential to proper and efficient operation of any airport. There is little doubt that the Congress intended to grant to the Secretary that degree of authority necessary or essential to effective and efficient operation of the two airports. This intent on the part of the Congress is apparent from a reading of Section 6 of the Act authorizing construction and operation of Dulles International Airport which provides that '. . . concession contracts involving construction of permanent buildings or facilities . . .' may be let for longer than five-year terms; and in the House Committee section-by-section analysis of the bill that became this law (hearings on H.R. 7241 May 18, etc., 1950, p. 8) it was stated that '. . . contracts by private enterprise to erect permanent structures at substantial values . . .' were clearly authorized, and that the added term was for the purpose of permitting the investor to 'write off' the capital investment.

* * * * *

"The rates, fees, and charges under our tenant concessionaire contracts are negotiated taking into consideration the alterations, repairs, and improvements made by the lessees and concessionaires. The Congress has been aware of this for many years as the hearings on the Act of 7 September 1950 (Second Washington Act) indicate, particularly in the deliberations of Section 6 referenced above."

In view of the above explanation it seemed clear that the Congress intended to authorize the construction of facilities by concessionaires at Dulles International Airport but it was not so clear that the same authority was intended at Washington National Airport.

Accordingly, and as reported to you by letter of November 19, 1971, we requested additional comments from the Federal Aviation Administration (FAA) concerning the question whether the contracting authority of Washington National Airport was coextensive with that of Dulles International Airport. In their reply of February 20, 1972, it was pointed out that when S. 456 (which bill subsequently was enacted into law and provided for the construction of the Dulles International Airport (IAD)) was being considered on the floor of the Senate there were approved a number of committee amendments and an amendment offered by Senator Schoeppel. The discussion of those amendments indicates that the purpose of such amendments was to put the operation of the proposed new airport on the same footing as that of the Washington National Airport.

The discussion of those amendments is set out on pages 5391–5394 of the Congressional Record of April 19, 1950, and copies of such pages are enclosed herewith.

Further indications that the Congress intended that FAA have authority to enter into lease or concession agreements which called for the construction of improvements by lessees and concessionaires are set forth in FAA's reply as follows:

"1. First Supplemental Civil Functions Appropriations Act for Fiscal Year 1941 (Act of 9 October 1940), (P.L. 76–812, 54 Stat. 1030, 1039). This act authorized a longer lease for the restaurant concession at DCA because the magnitude of expenditures by the concessionaire for necessary facilities and improvements precluded their amortization over a short-lease period. (See Hearings on H.R. 10539, the First Supplemental Civil Functions Appropriations Bill for 1941, Senate Appropriations Subcommittee, page 331, testimony of Colonel Sumpter Smith, Chairman, Interdepartmental Engineering Commission in charge of the Development and Construction of DCA).

"2. Supplemental Appropriations Bills, 85th Congress, Second Session. Hearings on H.R. 2221, page 7, Construction and Development, Additional Washington Airport, 18 July 1958.

" 'Hangars and shops will be built on a self-amortizing basis under agreement with individual airlines.'

"3. FAA Budget Estimates—Submission to Congress 1962, Volume II, page 1513.

" 'The original construction program did not include funds for the Government's development of the hangar and industrial area where private capital is expected to finance the construction of buildings they will occupy.'

"4. Independent Offices Appropriations, 1963 Senate Subcommittee on Appropriations, pages 510–511.

" '*Mr. Hobbs.* (Referring to Dulles) "We have not provided a hangar, based on past administrative philosophy, that the airlines would build their own hangars." '

" '*Mr. Halaby.* "This Committee, last year had before it a request for a four-bay hangar, I believe, at $6 million. The House approved that hangar, and this Committee knocked it out and admonished me to press the airlines to build their own hangars. We have done that." '

"5. Senate Report No. 1270, 81st Congress, 2nd Session, Calendar No. 1278 on S. 456, at page 6, which states:

" 'The provisions of Section 5 and 6, limiting the length of contracts made thereunder to 10 years is, generally speaking desirable. However, if the lease involved construction of a permanent building, such as an office building, hotel, or similar facility by the lessee, the limitation of 10 years would prohibit and probably defeat successful negotiations in this connection * * *. To avoid these difficulties, we recommend that the last sentence of Section 6 be stricken and the following substituted therefor: "No such contract, except contracts involving the construction of permanent buildings or facilities, shall extend for a period of longer than 10 years * * *." ' "

"6. Statement of G. Ward Hobbs relating to H.R. 3126 and 3127 dealing with airport contracts, before the House Committee on Interstate and Foreign Commerce, Subcommittee on Transportation and Aeronautics, 29 October 1963.

" 'It seems to us that Congress meant to authorize the Agency to permit tenants to construct improvements at Dulles International Airport. And, at Washington National Airport, Congress specifically authorized such an agreement between the Agency and a restaurant concessionaire who wanted a long-term lease to amortize a substantial investment in improvements to Government property. On these bases we think there is not much question that we have this authority.' "

In connection with your first question there has not been overlooked the provisions of section 321 of the Economy Act of June 30, 1932, 47 Stat. 412, 40 U.S.C. 303(b) which are as follows:

"Except as otherwise specifically provided by law, the leasing of buildings and properties of the United States shall be for a money consideration only, and there shall not be included in the lease any provision for the alteration, repair, or improvement of such buildings or properties as a part of the consideration for the rental to be paid for the use and occupation of the same. The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts."

While the act of June 29, 1940, 54 Stat. 686, which provided for the administration of the Washington National Airport, does not specifically provide that leases at the airport may be made for other than a money consideration, section 3 of that act, as indicated in the above comments of the Administrator, authorizes the Administrator to lease, upon such terms as he may deem proper, space or property within or upon the airport for purposes essential or appropriate to the operation of the airport.

In view of such provisions of section 3, together with the matters pointed out by the Administrator which indicate that the Congress has been aware of such leasing practices by FAA and its predecessor agency, we see no basis to now question the authority of FAA to permit air carriers and concessionaires to construct facilities at Washington National Airport.

"2. The proposed modernization plan calls for the expenditure of $157 million, of which $26 million is to be contributed by the federal government. That federal share will be spent for construction of new roadways and improvement of utilities necessary to sustain the expanded terminal complex.

"By permitting the terminal improvements to take place first (at private expense), is the FAA not creating a *fait accompli* and more or less obligating Congress to later appropriate funds for essential, supporting facilities?"

Concerning this matter, the Administrator has advised us that—

"We are presently planning to ask Congress for the Government's share of these construction funds. The airline/concessionaire development phase is not anticipated to begin until after the funding of the Government's share since they would be investing at their own risk."

"3. Would the proposed project require approval of the Environmental Protection Agency?"

In response to this question, the Environmental Protection Agency has advised us as follows:

"The proposed project will require the preparation of a draft environmental impact statement for compliance with the *National Environmental Policy Act* of 1969. The requirement to develop an impact statement is based on the involvement of Federal agencies in the proposed modernization plan which could have significant effects on the quality of the human environment. The Environmental Protection Agency's role is to review and comment on the environmental aspects of the statement, particularly on those matters relating to air pollution, water pollution, solid waste management, radiation, pesticides and noise. We anticipate significant difficulty in any expansion of that airport, due mainly to increased congestion, noise and its location in an urban environment. Alternate means of meeting air transportation needs, such as use of other available facilities would have to be discussed, as required in the Council of Environmental Quality Guidelines.

"To answer your specific question, EPA has no authority to approve or disapprove proposed actions of another Federal agency. However, EPA comments are given considerable weight by the agency proposing the action. Should adverse comments by EPA fail to result in appropriate corrective action, the matter can be referred to the Council on Environmental Quality for resolution. In addition, the airport facilities are required to meet applicable air and water quality standards established under the *Clean Air Act and Federal Water Pollution Control Act*, respectively."

Also, the Administrator, Federal Aviation Administration, reported in this regard that the National Environmental Policy Act, Office of Management and Budget Circular A–95, and other pertinent requirements, will be observed.

"4. Does the National Capital Planning Commission have to approve the project?"

In their reply concerning this question the Executive Director of the Commission advised us that—

"Since Washington National Airport is outside of the District of Columbia, the Commission's General Counsel advises that the applicable provision of law is Section 5(a) of the National Capital Planning Act of 1952, as amended (40 U.S.C. 71d(a)) which provides in part:

" 'In order to insure the comprehensive planning and orderly development of the National Capital, each Federal and District of Columbia agency prior to the preparation of construction plans originated by such agency for proposed developments and projects . . . to be paid for in whole or in part from Federal or District funds, shall advise and consult with the Commission in the preparation by the agency of plans and programs in preliminary and successive stages which affect the plan and development of the National Capital . . . After receipt of such plans, maps, and data, it shall be the duty of the Commission to make promptly a preliminary report and recommendations to the agency or agencies concerned.'

"The Commission has defined 'preliminary and successive stages' to include budget proposals, location proposals, master plans for large installations, and preliminary and final site and building plans for individual construction projects.

"Therefore, although approval by the Commission of the modernization plan for construction of additional facilities at the Washington National Airport is not required, FAA is required to submit the plan to the Commission for review and recommendations. No such submission has been received to date."

Also, concerning this matter, the Administrator, Federal Aviation Administration, agreed that while the National Capital Planning Commission is not required to approve the project, the Administration is required to consult with the Commission and he stated that they have consulted with the Commission and will continue to work closely with the Commission throughout the project.

"5. Are there any other legal constraints on the FAA's freedom to proceed with this project?"

We are not aware of any other legal constraints concerning the modernization plan.

Sincerely yours,

Elmer B. Staats,
Comptroller General of the United States.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. Bentsen). Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 45 minutes, with Senators recognized for not to exceed 3 minutes.

NATIONAL HEART, BLOOD VESSEL, LUNG, AND BLOOD ACT OF 1972

The PRESIDING OFFICER. Under the previous agreement the Senate will now proceed to the consideration of S. 3323, the heart and lung program, and debate is limited to 20 minutes, to be equally divided between the Senator from Massachusetts (Mr. Kennedy) and the minority leader or his designee, the Senator from Maryland (Mr. Beall). The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 3323, to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs and blood, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

SHORT TITLE

Section 1. This Act may be cited as the "National Heart, Blood Vessel, Lung, and Blood Act of 1972".

FINDINGS AND DECLARATION OF PURPOSE

Sec. 2. (a) Congress finds and declares that—

(1) diseases of the heart and blood vessels collectively cause more than half of all the deaths each year in the United States and the combined effect of the disabilities and deaths from such diseases is having a major social and economic impact on the Nation;

(2) elimination of such cardiovascular diseases as significant causes of disability and death could increase the average American's life expectancy by about eleven years and could provide for annual savings to the economy in lost wages, productivity, and costs of medical care of more than $30,000,000,000 per year;

(3) chronic lung diseases have been gaining steadily in recent years as important causes of disability and death, with emphysema alone being the fastest rising cause of death in the United States;

(4) chronic respiratory diseases affect an estimated ten million Americans, emphysema an estimated one million, chronic bronchitis an estimated four million, and asthma an estimated five million;

(5) thrombosis (the formation of blood clots in the vessels) may cause, directly or in combination with other problems, many deaths and disabilities from heart disease and stroke which can now be prevented;

(6) blood and blood products are essential human resources whose value in saving life and promoting health cannot be assessed in terms of dollars;

(7) the provision of prompt and effective emergency medical services utilizing to the fullest extent possible, advances in transportation and communications and other electronic systems and specially trained professional and paraprofessional health care personnel can reduce substantially the number of fatalities and severe disabilities due

to critical illnesses in connection with heart, blood vessel, lung, and blood diseases; and

(8) the greatest potential for advancement against diseases of the heart and blood vessels, the lungs, and blood lies in the National Heart and Lung Institute of the National Institutes of Health whose research institutes have brought into being the most productive scientific community centered upon health and disease that the world has ever known.

(b) It is the purpose of this Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack upon the diseases of the heart and blood vessels, the lungs, and blood.

HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASES PROGRAMS

SEC. 3. Part B of title IV of the Public Health Service Act is amended (1) by redesignating section 413 as section 419A, (2) by redesignating section 414 as section 418, and (3) by adding after section 412 the following new sections:

"NATIONAL HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASE PROGRAM

"SEC. 413. (a) The Director of the Institute, with the advice of the Council, shall within one hundred and eighty days after the effective date of this section, develop a plan for a heart, blood vessel, lung, and blood disease program (hereafter in this part referred to as the 'program') to expand, intensify, and coordinate the activities of the Institute respecting such diseases (including its activities under section 412). The program shall provide for—

"(1) Investigation into the epidemiology, etiology, and prevention of all forms and aspects of cardiovascular, lung, and blood diseases, including investigations into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, and prevention of such diseases;

"(2) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal cardiovascular, pulmonary, and blood phenomena;

"(3) research into the development, trial, and evaluation of techniques, drugs, and devices used in, and approaches to, the diagnosis, prevention, and treatment (including emergency medical service) of cardiovascular and pulmonary diseases and the rehabilitation of patients suffering from such diseases;

"(4) establishment of programs that will focus and apply scientific and technological efforts involving biological, physical, and engineering sciences to all facets of cardiovascular, pulmonary, and other related diseases with emphasis on refinement, development, and evaluation of technological devices that will assist, replace or monitor vital organs and improve instrumentation for detection, diagnosis, and treatment of these diseases;

"(5) establishment of programs and centers for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive, diagnostic, therapeutic, and rehabilitative approaches (including emergency medical services) to cardiovascular and pulmonary diseases;

"(6) studies and research into blood diseases (such as sickle cell anemia and hemophilia) and blood, its uses for clinical purposes and all aspects of the management of its resources in this country, including the collection, preservation, fractionalization, and distribution of it and its products;

"(7) the education and training of scientists, clinicians, and educators in fields and specialties requisite to the conduct of programs respecting cardiovascular, pulmonary, and blood diseases;

"(8) public and professional education relating to all aspects of cardiovascular, pulmonary, and blood diseases and the use of blood and blood products and the management of blood resources;

"(9) establishment of programs and centers for study and research into cardiovascular, pulmonary, and blood diseases of children (including cystic fibrosis, hyalin membrane, and hemolytic and hemophilic diseases) and for the development and demonstration of diagnostic, treatment, and preventive approaches to these diseases; and

"(10) establishment of programs or study, research, development, demonstrations, and evaluation of emergency medical services for people who sustain critical illnesses in connection with heart, blood vessel, lung or blood diseases which programs shall include the training of paraprofessionals in emergency treatment procedures, and in the utilization and operation of emergency medical equipment, the development and operation of mobile critical care units (including helicopters and other airborne units where appropriate), and radio and telecommunications, other communications and electronic monitoring systems, the coordination with other community services and agencies in the joint use of all forms of emergency vehicles, communications systems, and other appropriate services.

"(b)(1) The plan required by subsection (a) of this section shall be transmitted to the Congress and shall set out the Institute's staff requirements to carry out the program and recommendations for appropriations for the program.

"(2) The Director of the Institute shall, as soon as practicable after the end of each calendar year, prepare in consultation with the Council and submit to the President for transmittal to the Congress a report on the activities, progress, and accomplishments under the program during the preceding calendar year and a plan for the program during the next five years.

"(c) In carrying out the program, the Director of the Institute, after consultation with the Council and without regard to any other provisions of this Act, may—

"(1) if authorized by the Council, obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than fifty experts or consultants who have scientific or professional qualifications;

"(2) acquire, construct, improve, repair, operate, and maintain cardiovascular and pulmonary disease centers, laboratories, research, training, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; and acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years; and

"(3) enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution.

"HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASE PREVENTION AND CONTROL PROGRAMS

"SEC. 414. (a) The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council, shall establish programs as necessary for cooperation with other Federal health agencies, State, local, and regional public health agencies, and nonprofit private health agencies in the diagnosis, prevention, and treatment (including emergency medical services) of heart, blood vessel, lung, and blood diseases, appropriately emphasizing the prevention, diagnosis, and treatment of heart, blood vessel, lung, and blood diseases of children.

"(b)(1) The Director of the Heart and Lung Institute is authorized to establish ten model cardiovascular disease prevention clinics throughout the United States within the framework of existing programs. The purpose of such clinics shall be—

"(A) to develop improved methods of detecting high risk individuals;

"(B) to develop improved methods of intervention against high risk factors;

"(C) to develop highly skilled manpower in cardiovascular disease prevention; and

"(D) to develop improved methods of providing emergency medical services."

"(2) Such clinics shall be served by a central coordinating unit that shall be responsible for the development of standardized procedures for diagnosis, treatment, and data collection in relation to cardiovascular disease.

"(c) There are authorized to be appropriated to carry out this section $30,000,000 for the fiscal year ending June 30, 1973, $40,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975.

"NATIONAL BASIC AND CLINICAL RESEARCH AND DEMONSTRATION CENTERS FOR CARDIOVASCULAR AND PULMONARY DISEASES

"SEC. 415. (a) The Director of the Institute may provide for the development of—

"(1) fifteen new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic and treatment methods (including emergency medical services) for cardiovascular diseases; and

"(2) fifteen new centers for basic and clinical research into, training in, and demonstration of advanced diagnostic and treatment methods (including emergency medical services) for chronic pulmonary diseases of adults and children (including but not limited to bronchitis, emphysema, asthma, and cystic fibrosis and other pulmonary diseases of children).

Centers developed under this subsection may be supported under subsection (b) or under any other applicable provision of law.

"(b) The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council, may enter into cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for, existing or new centers (including centers established under subsection (a)) for clinical research into, training in, and demonstration of advanced diagnostic and treatment methods for cardiovascular and chronic pulmonary diseases. Funds paid to centers under cooperative agreements under this subsection may be used for—

"(1) construction, notwithstanding section 405,

"(2) staffing and other basic operating costs, including such patient care costs as are required for research,

"(3) training, including training for allied health professions personnel, and

"(4) demonstration purposes.

The aggregate of payments (other than payments for construction) made to any center under such an agreement may not exceed $5,000,000 in any year. Support of a center under this subsection may be for a period of not to exceed five years and may be extended by the Director of the Institute for additional periods of not more than five years each, after review of the operations of such center by an appropriate scientific review group established by the Director.

"INTERAGENCY TECHNICAL COMMITTEE AND OFFICE OF HEART AND LUNG HEALTH EDUCATION

"SEC. 416. (a) The Secretary shall establish an Interagency Technical Committee on Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources which shall be responsible for coordinating those aspects of all Federal health programs and activities relating to diseases of the heart, blood vessels, the lung, and blood and to blood resources to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

"(b) The Director of the Institute shall serve as Chairman of the Committee and the Committee shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities as determined by the Secretary.

"(c) There is hereby established within the Department of Health, Education, and Welfare an Office of Heart and Lung Health Education which shall provide a program of heart and lung health education for public, medical, and allied health professions. Special emphasis shall be placed upon dissemination of information regarding diet, hypertension, cigarette smoking, weight control, and other factors in the prevention of arteriosclerosis, cardiovascular disease, and lung disease.

"NATIONAL HEART AND LUNG ADVISORY COUNCIL

"SEC. 417. (a) There is established in the Institute a National Heart and Lung Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology, the chief medical officer of the Veterans' Administration (or his designee), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary. Each of the appointed members of the Council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs. Not more than twelve of the appointed members of the Council shall be leading medical or scientific authorities who are skilled in the sciences relating to disease of the heart, blood vessels, lungs, and blood, and not more than eight of the appointed members shall be representatives of the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such terms; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) The Council shall supersede the existing National Advisory Heart Council appointed under section 217, and the appointed members of the National Advisory Heart Council serving on the effective date of this section shall serve as additional members of the National Heart and Lung Advisory Council for the duration of their terms then existing, or for such shorter time as the Secretary may prescribe.

"(4) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses; including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Chairman of the Council shall be appointed by the Secretary from among the members of the Council and shall serve as Chairman for a term of two years.

"(d) The Director of the Institute shall (1) designate a member of the staff of the Institute to act as executive secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

"(e) The Council shall meet at the call of the Director of the Institute or of the Chairman, but not less often than four times a year."

AUTHORIZATION OF APPROPRIATIONS FOR PART B OF TITLE IV OF THE PUBLIC HEALTH SERVICE ACT

SEC. 4. Part B of title IV of the Public Health Service Act is amended by adding at the end thereof the following new sections:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 419B. For the purpose of carrying out this part (other than section 414), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1973, $450,000,000 for the fiscal year ending June 30, 1974, and $500,000,000 for the fiscal year ending June 30, 1975, of which not less than 20 per centum of the funds appropriated under this section in each such year shall be reserved for programs in connection with diseases of the lung and not less than 20 per centum of the funds appropriated under this section in each fiscal year shall be reserved for programs in connection with diseases of blood.

"SEC. 419C. Notwithstanding any limitation on appropriations for any program or activity under section 419B of this Act or any Act authorizing appropriations for such program or activity, not to exceed 10 per centum of the amount appropriated or allocated for each fiscal year from any appropriation for the purpose of allowing the Secretary to carry out any such program or activity under section 419B of this Act may be transferred and used by the Secretary for the purpose of carrying out any other such program or activity under this part."

DIRECTOR'S AUTHORITY TO APPROVE GRANTS

SEC. 5. Section 419A of the Public Health Service Act (as so redesignated by section 3 of this Act) is amended—

(1) by striking out "grants-in-aid" in subsection (a) and inserting in lieu thereof "except as provided in subsection (c), grants-in-aid"; and

(2) by adding after subsection (b) the following new subsection:

"(c) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Heart and Lung Institute may approve grants under this Act for research and training in heart, blood vessel, lung, and blood diseases—

"(1) in amounts not to exceed $35,000 after appropriate review for scientific merit but without review and recommendation by the Council, and

"(2) in amounts exceeding $35,000 after appropriate review for scientific merit and recommendation for approval by the Council."

CONFORMING AMENDMENTS TO PART B OF TITLE IV OF THE PUBLIC SERVICE ACT

SEC. 6 (a) Section 411 of the Public Health Service Act is amended by striking out "National Heart Institute" and inserting in lieu thereof "National Heart and Lung Institute".

(b) Section 412 of such Act is amended—

(1) by striking out "heart" each place it occurs (except in the headings) and inserting in lieu thereof "heart, blood vessel, lung, and blood";

(2) by striking out "Surgeon General" and inserting in lieu thereof "Secretary";

(3) by striking out "National Advisory Heart Council" and inserting in lieu thereof "National Heart and Lung Advisory Council";

(4) by redesignating paragraphs (a), (b), (c), (d), (e), (f), and (g) as paragraphs (1), (2), (3), (4), (5), (6), and (7), respectively; and

(5) by amending the section heading to read as follows:

"RESEARCH AND TRAINING IN DISEASES OF THE HEART, BLOOD VESSELS, LUNG, AND BLOOD"

(c) Section 418 of such Act (as so redesignated by section 3 of this Act) is amended—

(1) by inserting "(a)" immediately after "SEC. 418." and by adding at the end thereof the following new subsection:

"(b)(1) The Council shall advise and assist the Director of the Institute with respect to the program established under section 413. The Council may hold such hearings, take such testimony, and sit and act at such times and places, as the Council deems advisable to investigate programs and activities of the program.

"(2) The Council shall submit a report to the President for transmittal to the Congress not later than January 31 of each year on the progress of the program toward the accomplishment of its objectives."

(2) by striking out "Surgeon General" each place it occurs (except paragraph (f)) and inserting in lieu thereof "Secretary";

(3) by striking out 'heart" each place it occurs and inserting in lieu thereof "heart, blood vessel, lung, and blood";

(4) by striking out "Surgeon General" in paragraph (f) and inserting in lieu thereof "Secretary, the Director of the National Institutes of Health, and the Director of the National Heart and Lung"; and

(5) by redesignating paragraphs (a), (b), (c), (d), (e), and (f) as paragraphs (1), (2), (3), (4), (5), and (6), respectively.

(d) Section 419A of such Act (as so redesignated by section 3 of this Act) is amended—

(1) in subsection (a), by (A) striking out "Surgeon General" and inserting in lieu thereof "Secretary", and (B) striking out "heart" and inserting in lieu thereof "heart, blood vessel, lung, and blood"; and

(2) in subsection (b), by (A) striking out "The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501," and inserting in lieu thereof "The Secretary may, in accordance with section 501, accept conditional gifts", and (B) striking out "heart" and inserting in lieu thereof "heart, blood vessel, lung, and blood".

(e) The heading for part B of such Act is amended to read as follows:

"PART B—NATIONAL HEART AND LUNG INSTITUTES"

CONFORMING AMENDMENTS TO OTHER PROVISIONS OF THE PUBLIC HEALTH SERVICE ACT

SEC. 7. (a) Section 217 of such Act is amended—

(1) by striking out "the National Advisory

Heart Council," each place it occurs in subsection (a);

(2) by striking out "heart diseases," in subsection (a) and by striking out "heart," in subsection (b).

(b) Sections 301(d) and 301(i) of such Act are each amended by striking out "National Advisory Heart Council" and inserting in lieu thereof "National Heart and Lung Advisory Council".

REPORT TO CONGRESS

SEC. 8. The Secretary of Health, Education, and Welfare shall carry out a review of all administrative processes under which the national heart, blood vessel, lung, and blood disease program, established under part B of title IV of the Public Health Service Act, will operate, including the processes of advisory council and peer group reviews, in order to assure the most expeditious accomplishment of the objectives of the program. Within one year of the date of enactment of this Act, the Secretary shall submit a report to the Congress of the findings of such review and the actions taken to facilitate the conduct of the program, together with recommendations for any needed legislative changes.

EFFECTIVE DATE

SEC. 9. This Act and the amendments made by this Act shall take effect sixty days after the date of enactment of this Act or on such prior date after the date of enactment of this Act as the President shall prescribe and publish in the Federal Register.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, it is a distinct pleasure and privilege for me, as chairman of the Subcommittee on Health, to bring before the Senate this morning S. 3323, the National Heart, Blood Vessel, Lung, and Blood Act of 1972.

Today is a special day, Mr. President. This is World Heart Day. At this very moment in the auditorium of the Smithsonian Institution, a major press conference is being held at which the latest advances in respect to heart disease are being discussed. At that press conference, Harriet P. Dustan, M.D., vice chairman of the research division of the Cleveland Clinic, is discussing the latest advances in hypertension or high blood pressure. Also, Dr. Forrest Adams, past president of the American College of Cardiology, is discussing the latest advances in pediatric cardiology. Dr. Theodore Cooper, the Director of the National Heart and Lung Institute, is giving a report on the latest findings regarding hardening of the arteries, or arteriosclerosis. And Michael Debakey, M.D., the president of the Baylor College of Medicine in Houston, is reporting on the latest advances in cardiovascular surgery. The swift passage of this legislation, Mr. President, will assist all of those in this Nation who are devoting their lives to combating these dread diseases.

Mr. President, diseases of the heart and blood vessels collectively cause more than half of all the deaths each year in the United States. If these diseases could be eliminated, the average American's life expectancy would be increased by about 11 years. The savings to the country in terms of lost wages and economic productivity would amount to more than $30 billion each year. Chronic lung diseases have been rising in America at an alarmingly rapid rate. In point of fact, emphysema is the fastest rising cause of death in the United States today. Three types of cardiovascular disease—heart attacks, strokes, and peripheral vascular disease—have reached epidemic proportions in this country. Approximately 1.2 million Americans suffer heart attacks each year. Of these heart attack victims, over 500,000 die, and half of those die before they can be reached by medical assistance. If this rate continues, more than 12 million Americans will have a heart attack within the next 10 years. Stroke, another of the cardiovascular diseases, kills more than 200,000 Americans each year. More than 150,000 Americans are afflicted each year by peripheral vascular disease, which disables its victims and causes much human suffering.

Mr. President, the committee's bill is intended to launch a massive program to combat these diseases and others. The committee's report which accompanies the bill describes the program authorized by the bill in great detail. I commend it to my colleagues. However, Mr. President, I would like to take this opportunity to describe briefly the major aspects covered by the bill.

The heart of this bill, Mr. President, is a 10-point program to be carried out by the National Heart and Lung Institute at the National Institutes of Health. That 10-point program includes: First. Research into the causes and methods for prevention of all forms of heart, lung, and blood diseases. Second. Studies and research into basic biological processes involved in understanding how the heart and the lungs function. Third. Research into the development, trial and evaluation of drugs for use in the diagnosis, treatment and prevention of these diseases. Fourth. Establishment of programs centers for the conduct of field studies and large-scale testing and evaluation of diagnostic and treatment techniques for these diseases. Fifth. Establishment of programs to develop new and innovative technological devices for the monitoring of the body's vital organs. Sixth. Studies and research into blood diseases such as sickle cell anemia and hemophilia. Seventh. Programs for the education and training of scientists, clinicians and educators to assure the Nation of a continuing supply of highly trained manpower. Eighth. Establishment of public and professional educational programs relating to all aspects of heart and lung and blood diseases, focusing on such things as diet and smoking. Ninth. Establishment of programs and centers for study and research into these diseases as they affect children, including particularly studies centering on cystic fibrosis, hyaline membrane, and hemolytic disease, with a view toward the development of preventive approaches to these diseases. Tenth. Establishment of programs to provide emergency medical assistance for persons who are stricken by any of these diseases.

Mr. President, the bill also authorizes heart, blood vessel, lung, and blood disease prevention and control programs. These prevention and control programs will focus on applying as rapidly as possible new knowledge as it is developed in respect to combating diseases. In that regard, the bill authorizes the establishment of 10 model heart disease prevention clinics throughout the United States. In order to carry out these prevention and control programs, the bill authorizes $120 million to be expended over a 3-year period.

The bill also authorizes the establishment of 30 new centers for basic and clinical research into these diseases—15 of which are to be focused on heart disease and 15 of which are to be focused on diseases of the lungs.

The bill also establishes within the Department of Health, Education, and Welfare an Office of Heart and Lung Health Education. It will be the responsibility of that Office, Mr. President, to work with other governmental and nongovernmental organizations, such as the American Heart Association, to assure that the American people are fully informed regarding the best ways to minimize the risk of contracting one of these diseases. For example, it is quite clear that individuals who watch their weight, engage in moderate physical exercise, and do not smoke excessively have a much lower risk of being struck down by heart attack.

In order to assure that the program authorized by the bill will be of the highest scientific quality, the bill authorizes the establishment of a 23-member National Heart and Lung Advisory Council. It will be the duty of this council to oversee the operation of the program and to recommend approval in respect to major requests for funds under the program.

Finally, Mr. President, the bill authorizes, in addition to the funds specifically reserved for the prevention and control programs, $1,350 million over a 3-year period in order to carry out the purposes of the bill. In addition, at least 20 percent of the funds appropriated in each year are reserved for programs to combat lung disease and an additional 20 percent of the funds are reserved for programs to combat diseases of the blood.

Mr. President, it would not have been possible for the Senate to have an opportunity to vote on this bill today. Less than 1 month after its introduction into the Senate, had it not been for the magnificent cooperation all Members of the committee have shown during the consideration of this legislation. I specifically want to call to my colleagues' attention that the bill S. 3046, introduced by Senator MONDALE, a distinguished member of the committee, has also been considered. Senator MONDALE wanted to be here today. However, he is out of town on official business of the Senate. Several of the key features of the Mondale bill are included in the legislation now pending before the Senate. Additionally, the bill S. 3201, introduced by Senator SCHWEIKER, the distinguished ranking minority member of the Health Subcommittee, was also considered. The key features of that bill are also included in the bill now before the Senate I particularly appreciate the willingness of Senators MONDALE and SCHWEIKER to assist us in bringing this legislation to the floor so expeditiously.

Mr. President, the passage of this legislation will set in motion a series of events which ultimately will substantially reduce the great burden of suffering and death which these dread diseases exact on the American people.

Finally, Mr. President, I want to express my thanks to the staff of the Senate Labor Committee who worked so diligently on this legislation—Mr. Jay Cutler, the minority counsel of the committee, and Mr. LeRoy Goldman, the staff director of the Senate Health Suboomittee.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. KENNEDY. Mr. President, there has been extraordinary progress, as we will see, as a result of the World Health Organization Conference being held today to make some extremely important and significant gains in the entire area of heart disease.

I commend the members of the Subcommittee on Health and the organizations that have been so helpful and useful in the development of this legislation. I think it is a sound piece of legislation that can move this country down the road a long way to meeting the problems of heart and lung disease in this country.

Mr. President, I reserve the remainder of my time.

Mr. BEALL. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 5 minutes.

Mr. BEALL. Mr. President, as a cosponsor of this legislation I rise to support this important bill.

At the outset I wish to congratulate the chairman of the Subcommittee on Health of the Committee on Labor and Public Welfare, the Senator from Massachusetts (Mr. KENNEDY) for providing the leadership necessary in order to get this very important bill out of committee and onto the floor of the Senate for what surely will be favorable action this morning. He has relentlessly pursued this matter and because of his efforts we are able to vote on the bill today.

I am happy to note that the bill comes to the floor today with the unanimous recommendation of the Committee on Labor and Public Welfare, and it has the support of the administration. On January 20, 1972, and March 2, 1972, the President proposed that we should proceed to create panels to examine causes of heart disease. Mr. Merlin Duval, who is Assistant Secretary for Health and Scientific Affairs of HEW, testified that we should move ahead with this particular bill. It is most appropriate that this measure be before the Senate on World Heart Day.

Mr. President, S. 3323, if enacted, will mark the second year in a row that the Congress has decided to target a research area. Last year, the focus was cancer. I believe the following statistics dramatize the need for an expanded national attack on the diseases of the heart, blood vessels and lungs:

Heart and blood diseases, the major cause of death in the Nation, kill more than 1 million people each year. Cardiovascular diseases are responsible for 54.1 percent of all deaths in the United States; 600,000 Americans are killed annually by heart attacks and it is estimated that 12 million Americans will be claimed by such attacks over the next decade unless something is done about it.

Lung diseases are also an important cause of death and disability among the American citizens: 10 million Americans are estimated to be effected by chronic respiratory diseases, and emphysema is the fastest rising cause of death in the Nation.

Thrombosis, or the formation of blood clots, takes an enormous toll. These strokes hit 200,000 Americans each year often resulting in death or disability.

Thus, Mr. President the above grim statistics reveal that these diseases cost the Nation dearly in terms of premature death and disability. It has been estimated that if we could eliminate cardiovascular diseases as a significant cause of death and disability, the average American's lifespan would be increased by 11 years and some $30 billion would be saved to the economy in terms of wages lost, productivity, and medical costs.

S. 3323 would:

First, authorizes $1.47 billion over a 3-year period to the National Heart and Lung Institute in order to advance a national attack on the diseases of the heart and blood vessels, lungs, and the blood;

Second, requires the Director of the Institute within 180 days after enactment to develop a program to expand, intensify and coordinate the Institute's activities respecting such diseases;

Third, authorizes 10 model cardiovascular disease prevention clinics to improve detection and provide better means of intervention among high risk individuals and would foster the development of needed skilled manpower in this area;

Fourth, authorizes 30 basic and clinical research and demonstration centers for cardiovascular and pulmonary diseases.

Fifth, provides for an interagency technical committee to coordinate all aspects of the Federal health programs related to these diseases;

Sixth, establishes within the Department of Health, Education, and Welfare an Office of Heart and Lung Education to provide for a heart and pulmonary health education program;

Seventh, creates an advisory committee; and

Eighth, gives special emphasis to emergency care and services.

Mr. President, I am particularly pleased that the bill will place emphasis on emergency care services. We simply have the technology to do much better in this area than we are doing today. I previously spoke when I introduced S. 3329, a bill to establish a National Institute of Health Care Delivery of the outstanding trauma center at the University of Maryland. Maryland already has three helicopters, and with four or five more, the State could be a model for the country. Incidentally, these Maryland helicopters have landed even in citizens' backyards to pick up and rush heart attack victims to the appropriate treatment centers.

Also, Montgomery County in my State has had outstanding success with their heartmobile. Using rescue squad personnel closely tied by radio communiciation to physicians, have been able to respond to citizens' calls who, in the words of Dr. Samuel Fox, president of the American College of Cardiology and professor of medicine at George Washington University before the Health Subcommittee, "having essentially died at their homes, at their offices or on the streets, and then resuscitated, transported to coronary care units in." Many citizens saved by the heartmobile, now in their second year, following their attack, are living productive and useful lives. Despite the program's success, funds to support and train the necessary personnel have been hard to come by.

I ask unanimous consent that the language from the Senate report dealing with emergency services be printed at this point in the RECORD.

There being no objection, the extract was ordered to be printed in the RECORD, as follows:

6. The Committee considers the adequate provision of emergency medical services of primary importance in any program established to develop methods of diagnosis. The bill as reported amends the provision requiring the Institute Director to develop a plan for heart, blood vessel, lung and blood disease programs to include the development of emergency medical services both in the programs for research and in the establishment of programs in centers for the demonstration of preventive, diagnostic, therapeutic, and rehabilitative approaches to cardiovascular and pulmonary diseases. Similarly, the provisions establishing the preventive and control program are amended to stress coordination of emergency medical services programs. While specific language including related research in emergency medical services was not included in the sections of the bill requiring research into medical devices, the Committee believes that much potential exists in the field of biomedical engineering for the development of devices which can be utilized at the scene of an emergency and in transport vehicles. The Committee also believes that consideration of emergency medical services is an appropriate subject for study by the Interagency Technical Committee established by the proposed new section 416 of the Public Health Service Act. Already effective pilot programs have been established through the joint efforts of the Department of Health, Education and Welfare, the Department of Transportation, and the Department of Defense in the development of emergency medical services. This mode of emergency transport has proven particularly effective in remote areas where distance from adequate acute care treatment has been a major obstacle to the provision of effective emergency medical care. The Committee urges that in the planning and development of transportation services and systems for the provision of emergency medical services, that this be done in coordination with the Department of Transportation and other appropriate Federal, State and local governmental agencies.

Mr. BEALL. Mr. President, it would be great if we could say that our actions last year in enacting the cancer bill and our actions today on S. 3323, a bill to accelerate our battle against heart, blood, and pulmonary diseases, will be the one-two punch that will KO America's No. 1 and No. 2 health enemies. We know that we cannot make such a promise, for the pursuit of these diseases will take time, dedicated men and women, and adequate resources. The action by the Congress today will help provide the needed resources. The National Institutes of Health, which I am pleased is located in Maryland, has made biomedical research in the Nation preeminent in the world, and I am sure that its dedicated men and women as well as their scientific colleagues at other distinguished State and national institutions and industries, will relentlessly search for clues and answers for these diseases.

Again, I am pleased to strongly support this legislation and I hope that the House will take early and favorable action so that we may reverse these staggering and sad statistics.

While, Mr. President, the legislation cannot offer instant success, hopefully it will hasten the day when these diseases will no longer occupy their position of public health enemies Nos. 1 and 2. For this, millions of Americans would be grateful, many lives will be extended, and much pain and suffering will be alleviated.

Mr. President, I ask unanimous consent that the remarks of the Senator from New York (Mr. JAVITS), who is the ranking Republican member of the Committee on Labor and Public Welfare, and who is absent today on business, be inserted at this point in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR JAVITS

As one who has been referred to as the father of the National Heart Institute—having introduced on June 9, 1947, H.R. 3762, joined by then Senator, now Representative Pepper of Florida, which provided for the establishment of the Heart Institute within NIH—I am particularly pleased to strongly endorse and encourage the prompt passage of S. 3323, "The National Heart, Blood Vessel, Lung and Blood Act of 1972", which I cosponsored with Senator Kennedy.

Today, April 7, 1972, has been designated by the World Health Organization as World Heart Day, and I believe it would be a most fitting tribute for the Senate to pass on this day the significant legislation now before us.

Heart, blood vessels, lung and blood diseases are major national health problems which the President himself has characterized as "deeply disturbing" when in his state of the Union address of this year he said "It is deeply disturbing to realize that, largely because of heart disease, the mortality rate for men under the age of 55 is about twice as great in the United States as it is, for example, in some Scandinavian countries."

The President also stated his intention, which he reaffirmed in his health message of March 2, "to assign a panel of distinguished professional experts to guide us in determining why heart disease is so prevalent and what we should be doing to combat it." In testifying before the Senate, Dr. Merlin K. Duval, Assistant Secretary for Health and Scientific Affairs, Department of Health, Education and Welfare, said: "The President, in both his state of the Union message to Congress on Health this year, has stressed his commitment. One of the bills you have before you, S. 3323, captures the concerns we have and, as we understand them, the concerns of the scientific community outside the Government. This Committee has highlighted most of the important matters that need resolution."

I believe this bill will now permit us to launch a more effective effort against heart, blood vessel, lung and blood diseases in accordance with the President's commitment to give, and I quote his State of the Union Address: "increased attention to the fight against diseases of the heart, blood vessels and lungs, which presently account for more than half of all the deaths in this country."

The legislation which we are considering today is extremely important because the heart, blood vessel, lung, and blood diseases certainly have reached epidemic proportions in this country.

Heart and blood vessel diseases are the major causes of death in the United States. They kill more than 1 million people each year. Cardiovascular disease is responsible for 54.1 percent of all deaths in the United States, killing old and young alike.

We must recognize the serious proportion of cardiovascular and pulmonary diseases, and their threatening effect on the health and well-being of the American people—the victims who are directly afflicted by these diseases and their families. It is imperative that we broaden the scope of the present National Heart and Lung Institute to include the related diseases of the heart, blood vessels, lung and blood.

Mr. President, when I testified in support of my bill, H.R. 3762, before the Committee on Labor and Public Welfare on April 8, 1948, almost 24 years ago to the day, I cited a statistic which regrettably is as true now as it was then about heart disease: "It is the number 1 killer."

Since I have been concerned actively with the role of the National Heart Institute and I believe that with the expanded authorization that this bill provides, the Institute could become an even more effective means of combating this number 1 killer of the American people.

Mr. SCHWEIKER. Mr. President, the bill before the Senate today provides a legislative foundation for an effective, expanded program to deal with the Nation's No. 1 health problem, cardiovascular disease. The President of the United States in his state of the Union address this year stated:

> We will be giving increased attention to the fight against diseases of the heart, blood vessels and lungs, which presently account for more than half of all the deaths in this country. It is deeply disturbing to realize that, largely because of heart disease, the mortality rate for men under the age of 55 is about twice as great in the United States as it is, for example, in some Scandinavian countries.

In addition, I would point out another statistic that is both depressing and yet promising. Six times more people per unit of population are killed in this country by heart disease than in Japan. Our mortality rate for heart disease is six times higher than the rate for Japan. This should alarm us to the danger and yet point out, perhaps, that we can change the rather sad statistic.

In his testimony before the Health Subcommittee of the Senate Committee on Labor and Public Welfare Dr. Merlin K. Duval, Assistant Secretary for Health and Scientific Affairs, Department of Health, Education, and Welfare said:

> The Administration agrees with the essential goals contained in a number of bills before the Committee. The President, in both his state of the Union message and Message to Congress on Health this year, has stressed his commitment.

Thus, the Congress and the President have joined in a commitment to expand and accelerate the national effort to attack cardiovascular disease.

Mr. President, I want to commend the chairman of the Senate Health Subcommittee, the distinguished Senator from Massachusetts (Mr. KENNEDY) for his leadership in bringing this legislation to the Senate today. This bill represents a combination of the best features of his own bill, which I was pleased to cosponsor with a number of our Senate colleagues, a bill which I was pleased to introduce, and legislation proposed by the distinguished Senator from Minnesota (Mr. MONDALE). Also, the staff of the Senate Health Subcommittee should be commended for its effort and skill in preparing the legislation and the report for the committee in what may be record time inasmuch as the hearing on the legislation was conducted only 2 weeks ago.

Less than 1 year ago the National Heart and Lung Institute Task Force on Arteriosclerosis published its recommendations as a result of a 15-month study to develop a long-range plan to combat heart disease. Its primary recommendations had to do with developing new national resources to combat the killer. They recognized that over the past 20 years the American public invested $2 billion to study this problem and that a lot of new information had been found with this research. It was now timely to bring this information to the public in a way that could be practically introduced into the American practice of medicine and into the American way of life. Therefore, their recommendations were to develop a new program of public education to make the public aware of what they could do for themselves; to make a new program of prevention which would center around new clinics to show the people how they could use this information and then develop a new series of national centers for research in which we could begin to bring together more efficiently some of the expertise for studying the total problem, which is fragmented in our national system today.

Mr. President, I feel it should be made clear that the American public should not expect, as a result of this legislation, that we will have an instant cure or end to cardiovascular diseases and deaths. Congress certainly cannot legislate remedies. However, the American public can expect some practical payoffs to the moneys we are investing in heart and lung research. The state of the art today is such we can utilize existing knowledge and help a vast number of people. I think it is very important that we emphasize programs where the most people can be helped in the shortest amount of time. Although much new and important information is being developed in the Nation's research laboratories, it is time to reduce the period of time it takes to transform a research development into a productive test and subsequently into practical clinical use for the people who need it, the growing number of victims of cardiovascular disease. We should bring our resources to bear first where we know we can save lives. We continually have a problem of spending priorities. Obviously, we must expand the research effort but our focus should remain first on the practical application of existing technology.

Mr. President, the pending bill in its charge to the Federal Government to prepare a plan to expand, intensify, and coordinate the Nation's program against cardiovascular disease provides the necessary balance between research and application and establishes realistic priorities. I urge its passage so that the Congress and the President can reaffirm its commitment to deal with America's No. 1 killer.

TO HALT THE EPIDEMIC OF HEART, BLOOD, AND LUNG DISEASES

Mr. HUMPHREY. Mr. President, I strongly support the National Heart, Blood Vessel, Lung, and Blood Act of 1972, S. 3323, and urge its adoption today by the Senate. As a joint sponsor of original legislation to launch a national program on the prevention and cure of critical and pervasive cardiovascular and pulmonary diseases and other heart and blood disorders, I am determined that an intensive research and education effort, through the National Heart and Lung Institute, be directed toward ending the nightmare of crippled lives and sudden death brought by these diseases to millions of American families.

Every year about a million persons in the United States experience either a myocardial infarction or sudden coronary heart disease death. For middle-aged men, the United States has one of the highest CHD death rates in the world. Those middle-aged persons fortunate enough to recover are five times as likely to die within the next 5 years as those without a history of previous coronary disease.

Arteriosclerosis accounts for almost one-half of all deaths from all causes in the United States each year. There has been a marked increase in blood diseases—thrombosis, a substantial factor in heart attacks; sickle cell anemia, afflicting millions of black Americans; and the rising incidence of disease associated with blood transfusions in the absence of adequate precautions.

But national concern is also being focused on the increase in lung diseases, with emphysema now afflicting almost 1 million people. There are about 10 million persons in America affected by chronic respiratory conditions, causing the death of some 36,000 people each year, apart from deaths due to cancer of the lung or respiratory infections such as pneumonia or tuberculosis.

I find it greatly encouraging that $80 million are earmarked under this act in fiscal 1973 for research on diseases of the lung. In addition to the diseases already cited, I would remind the Senate of the serious incidence of pneumoconiosis, or black lung disease, among the Nation's coal miners, that was brought sharply to public attention in the course of congressional action on the Federal Coal Mine Health and Safety Act. To date, some 375,000 benefit claims have been filed under title IV of this law by miners afflicted with this life-crippling disease, or their survivors.

As in earlier legislation which I had sponsored, the Coal Mine Health and Safety Act was focused on the establishment of effective standards for miner protection from health and safety hazards. The time has come to add to these prevention measures an intensive program of research on the treatment and cure of black lung disease and associated diseases on which increased medical knowledge is now available.

But we need to get the benefits of this knowledge and of the national medical research program down to the people threatened or afflicted with this disease. It is for this reason that I strongly support legislation introduced by Senator RANDOLPH and shortly to be reported to the Senate: The Black Lung Benefits Act of 1972. This bill amends title IV of the Federal Coal Mine Health and Safety Act, to authorize $10 million for the provision of fixed and mobile clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in active and inactive coal miners.

It is my strong hope that in addition to approving the National Heart, Blood Vessel, Lung, and Blood Act today, the Senate will take immediate and favorable action on the Black Lung Benefits Act. For too long the desperate health care needs of America's coal miners have been ignored, despite the fact that our economy depends heavily on their labor. Their equal right to the prevention and treatment of disease can and must now be guaranteed.

A FITTING TRIBUTE FOR WORLD HEART DAY

Mr. CRANSTON. Mr. President, testimony offered the Subcommittee on Health in its hearings on S. 3323, the proposed National Heart, Blood Vessel, Lung and Blood Act of 1972, was virtually unanimous in support of the need for increased emphasis on the critical diseases covered by this legislation, which I am proud to cosponsor.

There is probably not a family in this country which has not had a close association with the tragedies involved in these diseases. Together these diseases account for approximately one and a half million deaths each year. Over 37 million individuals suffer from either cardiovascular disease or chronic respiratory conditions.

The bill the subcommittee has developed will provide our medical community with the necessary tools to mount an effective campaign against these widely prevalent diseases. This bill will require the development of a plan by the Director of the National Heart and Lung Institute for an expanded and intensified heart, blood vessel, lung, and blood disease program; it would authorize the establishment of prevention and control programs and the establishment of 15 new centers for clinical research into cardiovascular diseases and 15 new centers for clinical research into chronic pulmonary diseases; it would expand the existing advisory council to include students of the health professions and representatives of the general public; and it would provide for the first time a separate authorization for appropriations for the National Heart and Lung Institute.

In committee, a number of amendments were adopted which I believe strengthen the provisions of the bill as introduced.

An important new mission was added to the National Heart and Lung Institute's programs as a result of an amendment offered by myself and the Senator from Vermont (Mr. STAFFORD) which amendment was further perfected in committee with the help of the ranking minority member of the Subcommittee on Health, the Senator from Pennsylvania (Mr. SCHWEIKER). This amendment would require the Institute Director to establish programs for study, research, development, demonstrations and evaluation of emergency medical services in connection with heart, blood vessel, lung or blood diseases. Many of the deaths or disabilities resulting from sudden onslaughts of these diseases can be prevented through the provision of adequate medical treatment at the time of the initial attack. I believe this is an area with a potential for alleviating many of the tragic consequences of these diseases and one which should be given major emphasis in any program to treat victims of these diseases.

Procedures must be developed to bring medical care to the victim as quickly as possible and to provide treatment immediately. The provisions included in the bill as a result of my amendment would require: First, that in the development of these programs special emphasis be placed on the training of paraprofessionals in the provision of necessary emergency treatment; second, the development of mobile critical care units; third, the development of new devices for the emergency treatment of critically ill individuals including the development of radio and telecommunications, as well as electronic monitoring systems to be utilized in transmitting patient data and other necessary information to and from the critical care unit; and fourth, the coordination of such programs with other community services and agencies in the joint use of all forms of emergency vehicles, communications systems, and additional appropriate services.

I feel one of the basic components of any program for emergency medical services is adequate training of the paraprofessional. An outstanding program has been implemented in Los Angeles County through the joint efforts of the Los Angeles Heart Association, Daniel Freeman Hospital, Centinella Valley Community Hospital, Hawthorne Community Hospital, the county of Los Angeles, and the area regional medical program.

This project focuses on prehospital care of persons with suspected heart attacks, utilizing firemen with comprehensive training as paramedics to provide the emergency care. The program has developed a training curriculum which is probably one of the most comprehensive in the Nation. California law permits a fairly wide range of medical procedures for the paramedic to administer in the appropriate care of the patient with an acute heart attack. As a result, his preparation must be comprehensive and intensive. The course developed in Los Angeles by the paramedic committee appointed by the county board of supervisors consists of 290 hours, half of it in supervised clinical experience in the hospital coronary care unit, followed by regularly scheduled continuing medical education programs of up to 4 hours a month.

The chairman of the committee, Dr. Walter S. Graf, has listed the following 13 areas the paramedic must master:

A sufficient medical vocabulary to discuss a wide range of medical emergencies with a physician or nurse.

A knowledge of cardiac anatomy, physiology, and pathophysiology.

A knowledge of the clinical features of myocardial infarctions and their complications, as well as the understanding of those other disease states which may mimic the above.

A knowledge of the electrophysiology of the heart as a basis for understanding the electrocardiogram.

Arrhythmia identification and treatment.

Cardiopulmonary resuscitation.

Problems in ventilation and their management.

Indications for and techniques of defibrillation.

Facility in starting an intravenous pathway.

The use of drugs permitted by law.

The use of telemetry.

Maintenance and troubleshooting of the electronic equipment.

Techniques of history taking and physical examinations, as well as appropriate skill for reporting such data on the radio or on the proper forms.

That is a very impressive list. Besides these, experience in Los Angeles has shown that instruction in such areas as treatment for diabetic coma, insulin shock, and drug overdose as well as other critical conditions must also be provided the paramedic.

Programs such as these should be given greater emphasis if an intensified attack on the critical diseases in the jurisdiction of the new National Heart and Lung Institute is to be established. They are an integral part of any treatment program.

An additional amendment to S. 3323 which I strongly supported based on Senator MONDALE's bill (S. 3046) and which I believe will strengthen the ability of the Institute to carry out effective programs is the earmarking of no less than 20 percent of the amounts appropriated to programs in connection with diseases of the lung and no less than 20 percent to programs in connection with diseases of the blood. This budgetary procedure will insure that grants for these programs are judged on their own merits and will be given the priority consideration necessary to effect a concerted attack against lung and blood diseases.

In addition, an Office of Heart and Lung Health Education is established which will bring to the attention of the public and the health community information regarding preventive measures in the control of arteriosclerosis, cardiovascular disease, and lung disease. Much of the incidence of these diseases can be controlled through proper diet, weight control, rest, and the discouraging of cigarette smoking.

I believe this bill with the strong emphasis it places upon prevention as well as treatment will encourage the development of an effective comprehensive program for the control of heart, blood vessel, lung and blood diseases. I would like to congratulate the chairman of the subcommittee, the Senator from Massachusetts (Mr. KENNEDY) and the chairman of the full committee, the Senator from New Jersey (Mr. WILLIAMS) as well as the ranking minority member of the full committee and subcommittee (Mr. JAVITS and Mr. SCHWEIKER) respectively for the leadership they have offered in developing this important legislation.

I think it is particularly appropriate that we should adopt this bill today, which has been designated World Heart Day by the World Heart Organization and urge full support of its provisions by the Members of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I rise to express my strong support for S. 3323, to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood.

Diseases of the heart, blood vessels, lungs, and blood rank among the most dreaded diseases in the United States. At the present time, cardiovascular diseases account for 54.1 percent of all deaths in the United Staes, killing more than 1 million people each year. The major types of cardiovascular diseases—heart attacks, strokes, and peripheral vascular diseases—strike down 1,240,000 persons annually. When we analyze that figure, we realize that diseases in this category have reached epidemic proportions.

Chronic lung diseases are also one of the major causes of disability and death in this country. A common cause of death among newborn infants is respiratory diseases syndrome—RDS—affecting 50,000 to 100,000 babies annually in the United States, and over half of those afflicted with RDS die.

Cardiovascular and pulmonary diseases can strike any of us without any advance notice. These are not only diseases of the aged; they strike both young and old alike.; In addition to the tremendous toll in human life and suffering, these diseases create a tremendous drain on our national resources. They are responsible for over half the deaths of Americans in their prime productive years of 35 to 64, and for over two-thirds of the deaths among Americans over 65. Victims who are stricken with these diseases pay out over $4 billion annually for hospital and medical expenses, while lost wages and productivity eliminated by premature cardiovascular death are estimated to exceed $40 billion per year.

I do not believe that a country with the available resources of the United States should continue to tolerate this human suffering and spiraling death toll without attempting to fight back. S. 3323 is the battle plan for mounting the attack against those diseases.

This bill requires the Director of the National Heart and Lung Institute, with the advice of the National Heart and Lung Council, to develop a plan for a comprehensive attack on all phases of these diseases. Toward this objective, it authorizes the creation of 15 centers for research, advanced diagnosis, treatment, and training in cardiovascular diseases and 15 centers for similar research on pulmonary diseases. This bill also authorizes expenditures of $430,000,000 for fiscal year 1973, $490,000,000 for fiscal year 1974, and $550,000,000 for fiscal year 1975.

As a member of the Senate Appropriations Subcommittee on Labor-HEW, I have consistently fought to secure additional funding for research on heart, lung, and stroke diseases. If this bill achieves enactment into law, I shall do my utmost to see that adequate funds to implement S. 3323 are appropriated.

Mr. BEALL. Mr. President, I yield such time as he may require to the Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, I thank my colleague.

I would like to say first that I believe it is a very auspicious occasion for the Senate of the United States to be acting on the National Heart, Blood Vessel, Lung, and Blood Act of 1972 on World Heart Day.

I have been a very proud cosponsor of this bill. I think all of us in the Senate would want to commend the Senator from Massachusetts (Mr. KENNEDY) for his fine leadership on this outstanding piece of legislation.

I am pleased, indeed, that this administration has supported the bill and that the bill has had the solid support of such Republican Senators as the Senator from New York (Mr. JAVITS), the Senator from Colorado (Mr. DOMINICK), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Maryland (Mr. BEALL), and the Senator from Vermont (Mr. STAFFORD).

I think it is quite important that, in the relatively few years that I have been in the Senate, this body and the Congress of the United States have moved forward in a major way in efforts to eradicate dread diseases. I have been a strong supporter of the conquest of cancer bill and cosponsor of the national sickle cell prevention bill, both of which I think have been extremely important measures.

I think it should be pointed out that volunteer associations and organizations have done a great deal to assist Congress in finding the best way to use this country's funds and resources. It has been hard to single out any one individual, but if I were to mention one individual who has done more than anyone else in the health field, I would name

Mrs. Mary Lasker as one who has contributed more experience, energy, thought, and effort to the Senate and the House of Representatives than any other individual.

Certainly, the American Heart Association should also be commended for its outstanding leadership on this occasion.

There is only one aspect of the present bill on which I would like further clarification from our distinguished colleague from Massachusetts (Mr. KENNEDY).

On page 31 of the committee report it is pointed out that no witness who came before the committee during the hearings testified on behalf of the provisions of S. 2909. S. 2909, the National Blood Bank Act, introduced in the Senate by myself and the Senator from Indiana (Mr. HARTKE) is a companion bill to H.R. 11828, introduced in the House, with 80 cosponsors, by the very distinguished Representative from California (VICTOR V. VEYSEY), who has been a leader in this field.

I wish to point out that I did not appear personally before the Senate Health Subcommittee because I was not notified until the close of business on March 23 that hearings would be held the next morning, and I was simply unable to be there that morning because of an unavoidable conflict in scheduling. However, I did submit a prepared statement, and I think it is very important to note that we have a grave blood problem in this country.

I was pleased that the committee report on S. 3323 clearly pointed out that there should be additional hearings and testimony from expert witnesses on the provisions of S. 2909, the National Blood Bank Act.

I merely need to point to the following figures to show the critical nature of this country's blood problem. According to Dr. J. Garrott Allen of Stanford University, whom many health specialists regard as the Nation's leading expert on blood problems, blood transfusions now kill at least 3,500 Americans and medically injure another 50,000 each year. He further estimates that of every 150 patients over 40 years of age who receive blood transfusions, one dies.

It has been shown that the risk of hepatitis from commercial blood runs from 11 to 70 times greater than the risk from voluntarily donated blood. The Government's Center for Disease Control in Atlanta reports that no one knows exactly how high the transfusion hepatitis rate is because physicians often fail to report serum-hepatitis cases. The CDC estimates that the real serum-hepatitis rate could be two to 10 times Dr. Allen's estimates or 35,000 deaths and 500,000 illnesses each year. Whether it is 3,500 or 35,000 that die each year, the fact is that no one should have to die. Even one death is too many.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PERCY. Mr. President, will the Senator yield me some time?

Mr. KENNEDY. Mr. President, do I have 2 minutes remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. I yield to the Senator from Illinois.

Mr. PERCY. Could the distinguished Senator enlighten the sponsors of this particular bill as to whether hearings of adequate scope and depth will be held in the reasonably near future so that we can tell the full story of this country's blood problem to the people and take the necessary action on this urgent national health problem?

Mr. KENNEDY. Let me give assurance to the Senator from Illinois that the measure which he has introduced is a matter of great importance. It is of great importance to the members of our committee. For the reasons he has outlined here, blood should be available on a voluntary basis. There should be quality standards so that persons who need blood can be assured of its quality and purity.

There are compelling reasons for legislation like that introduced by the Senator from Illinois. The Senator is correct that we have not had hearings on it up to this time. But we will have hearings, though. It is difficult for me to set a time certain for them. We now have before the committee the administration's health maintenance organization bill upon which we must act. We also have the communicable diseases bill and the product safety bill, which has been referred to our committee from the Commerce Committee with the requirement that we report back to the Senate by May 23, 1972. Also, I along with Senator RIBICOFF have introduced a bill to create a Department of Health. So we have an extremely busy agenda.

I wish I could be more specific in terms of time, but I will say to my friend from Illinois that the Hartke-Percy bill is a matter of urgency and a matter of importance. I commend the Senator for bringing it to our attention, and I give him the assurance that we will move on it just as quickly as we possibly can.

Mr. PERCY. If hearings can be held at the earliest possible and practicable time, I will certainly appreciate it. I do not quarrel at all with the subcommittee giving No. 1 priority to the No. 1 cause of death—cardiovascular diseases—and I again commend the Senator and the subcommittee for their prompt action in dealing with the National Heart, Blood Vessel, Lung and Blood Act of 1972 today.

Mr. KENNEDY. Mr. President, before yielding, I note the presence in the Chamber of my good friend and distinguished colleague, the Senator from New Hampshire (Mr. COTTON), the ranking Republican member on the Appropriations Subcommittee which deals with HEW appropriations and one of the great leaders in the Senate. He is steadfast in his support of all health programs; and in acknowledging his presence, I want to assure him that we will be knocking on his door in respect to the implementation of this legislation. And I am sure he will respond as he does in all health matters.

The PRESIDING OFFICER. All time has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended for 1 additional minute, for the Senator from New Hampshire to respond.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. Mr. President, I thank the distinguished Senator from Massachusetts for his generous words. I commend him for his constant and persistent efforts in expanding our medical research programs. This is one subject upon which the Senator from Massachusetts and I are in complete agreement, and I think I can assure him that after this authorization bill is passed, our subcommittee will be unanimous in striving to make adequate appropriations to carry out the purposes of the Senator's bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended an additional minute, and yield to the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I commend the distinguished Senator from Massachusetts (Mr. KENNEDY) for his leadership in bringing this bill to the Senate floor, and compliment him on his very able managership of the bill. I extend compliments likewise to the ranking minority member.

I ask the distinguished Senator from Massachusetts as to whether or not additional cosponsors are now being accepted.

Mr. KENNEDY. They will be very much welcomed.

Mr. ROBERT C. BYRD. I thank the Senator. Mr. President, I ask unanimous consent that the names of the Senator from Alabama (Mr. ALLEN), the Senator from Virginia (Mr. SPONG), the junior Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Indiana (Mr. HARTKE), and the Senator from Minnesota (Mr. HUMPHREY) be added as cosponsors of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HARTKE. Mr. President, I would just like to associate myself with the Senator from Illinois (Mr. PERCY) in regard to S. 2909, the National Blood Bank Act. I thank the Senator from Massachusetts for giving his attention to this matter. I know that he agrees with us that clean blood bank blood is a matter of extreme importance.

The PRESIDING OFFICER (Mr. BENTSEN). All time having expired, the question is on agreeing to the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr.

Anderson), the Senator from Nevada (Mr. Cannon), the Senator from Georgia (Mr. Gambrell) the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Iowa (Mr. Hughes), the Senator from Washington (Mr. Jackson), the Senator from Washington (Mr. Magnuson), the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from West Virginia (Mr. Randolph), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I also announce that the Senator from South Carolina (Mr. Hollings), the Senator from Minnestoa (Mr. Mondale), and the Senator from Indiana (Mr. Bayh) are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. Gambrell), the Senator from Alaska (Mr. Gravel), the Senator from Iowa (Mr. Hughes), the Senator from Washington (Mr. Jackson), the Senator from Washington (Mr. Magnuson), the Senator from New Hampshire (Mr. McIntyre), the Senator from Rhode Island (Mr. Pastore), the Senator from West Virginia (Mr. Randolph), and the Senator from Indiana (Mr. Bayh) would each vote "yea."

Mr. COTTON. I announce that the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Colorado (Mr. Dominick), the Senator from Hawaii (Mr. Fong), the Senator from Michigan (Mr. Griffin), the Senator from Maryland (Mr. Mathias), the Senators from Ohio (Mr. Saxbe and Mr. Taft), the Senator from Pennsylvania (Mr. Scott), the Senator from Texas (Mr. Tower), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The Senator from New York (Mr. Javits) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from South Carolina (Mr. Thurmond) is absent on official business.

The Senator from Delaware (Mr. Roth) and the Senator from Vermont (Mr. Stafford) are absent on official business while attending an interparliamentary meeting in Tokyo.

If present and voting, the Senator from Kentucky (Mr. Cook), the Senator from Colorado (Mr. Dominick), the Senator from Hawaii (Mr. Fong), the Senator from Michigan (Mr. Griffin), the Senator from New York (Mr. Javits), the Senator from Maryland (Mr. Mathias), the Senator from Pennsylvania (Mr. Scott), the Senator from Vermont (Mr. Stafford), the Senator from Ohio (Mr. Taft), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 62, nays 0 as follows:

[No. 135 Leg.]

YEAS—62

Aiken
Allen
Allott
Baker
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cooper
Cotton
Cranston
Curtis
Dole
Eagleton
Eastland
Ellender
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Hart
Hartke
Hatfield
Hruska
Humphrey
Inouye
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Mansfield
McGee
Miller
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Smith
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Tunney
Williams
Young

NAYS—0

NOT VOTING—38

Anderson
Bayh
Brock
Buckley
Cannon
Cook
Dominick
Fong
Gambrell
Gravel
Griffin
Harris
Hollings
Hughes
Jackson
Javits
Magnuson
Mathias
McClellan
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Mundt
Muskie
Pastore
Randolph
Roth
Saxbe
Scott
Sparkman
Stafford
Taft
Thurmond
Tower
Weicker

So the bill (S. 3323) was passed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. Mr. President. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, in view of the fact that the Judiciary Committee is now about to undertake another meeting on the Kleindienst-ITT affair, and in further view of the fact that it is my understanding some sort of decision will be reached around 12 noon today, I ask unanimous consent that the period for the transaction of routine morning business, under the same stipulations, be continued until the hour of 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIETNAM

Mr. KENNEDY. Mr. President, my outrage over the present murderous offensive in Vietnam is matched only by my outrage over the cruel and senseless view at large in the Nation today that the proper present policy for the United States is to let the slaughter proceed. How can this Nation possibly wash its hands of the blood that is being shed today in North and South Vietnam?

It is a tragic sign of how far we have lost our way in Indochina that the only real debate now underway in the mind of the Nation is a debate on the question of whether and to what extent American land, sea, and air forces should be engaged in this incredible new bloodbath. That is not the only question, and if that is the only question we ask ourselves, then we shall never find an answer that can satisfy our conscience.

The simple truth is that this test of Vietnamization, with or without American support, is a wholly immoral and unjustifiable test, because it is a test that is being carried out with the lives of men and women and children. Those dead and dying bodies stretched out beside the road across our television screens last night are the bodies of human beings. We do not have the right, no one has the right, to demand a test like that.

What possible justification can there be for a policy that asks such a terrible sacrifice in human life? The conscience of America ought to be demanding a cease-fire, not simply asking our people to accept a ringside seat to watch the slaughter.

Does anyone really doubt, if the current offensive from the North is somehow blunted or turned back, that a year or two from now there will be another new offensive, and another deadly round of the killing and destruction that have robbed us of our spirit for a decade?

It does not have to be this way. The option that President Nixon forgets is the only hopeful option we really have—the option of peace at the conference table in Paris. The question we ought to ask ourselves is whether we can be bold enough to go back to Paris now, and try again for peace. How can we possibly justify a situation in which the only empty seat at the peace table is the American seat?

In fact, the circumstances of the current offensive offer us a fertile and realistic opportunity for immediate progress in the Paris talks. Both sides have much to lose in lives and national prestige if the present fighting is allowed to run its course. Before the direction of the battle is clear, therefore, let us sit down again at the peace table. Let us demand a ceasefire by both sides. Let us explore every possible avenue for compromise and negotiated settlement.

The reason for the current impasse in Paris is clear. The talks have broken down because neither side is willing to make any substantial compromise for the purpose of securing peace. President Nixon insists that we will never surrender to the enemy, and the enemy insists that they will never surrender to Saigon. But that is simply posturing for domestic political gain. No one is asking for surrender by either side.

For some inexplicable reason, President Nixon insists on showing more respect for President Thieu of South Vietnam than Prime Minister Heath was willing to show last month for Prime Minister Faulkner of Northern Ireland. Surely, if Britain has the courage to take a new initiative for peace in Ulster, then we can do no less in Vietnam.

What is asked by those of us who oppose this war is a genuine attempt at compromise—a compromise fairly reflecting the central years-old fact that the war is a stalemate on the battlefield, and that the best hope for peace in the foreseeable future is a settlement at the conference table.

President Eisenhower knew about these things. He came to office in 1952 on a pledge of peace, and in 2 years, he had ended the Korean War. Later, he told us, in words so plain that no one can mistake them:

> People want peace so much that governments had better get out of their way and let them have it.

That is the policy we ought to follow now. Perhaps there is no way that the senseless new killing that is taking place today can be avoided. But we shall never know unless we try. We need a test of negotiations, not a test of Vietnamization. In sum, the issue comes down to whether the political life of President Thieu is worth the death of thousands of South and North Vietnamese soldiers and civilians. I do not believe it is, and I hope that America will not turn its back on Paris in the hours and days to come.

Mr. HUMPHREY. Mr. President, I want to commend the distinguished Senator from Massachusetts on his sensible and constructive message today. It is one that should be heeded. It was given in the spirit of tolerance and temperance. It is a message to all of us, not merely to the administration. It states what we should do; namely, reopen the peace negotiations in Paris. There we want to have the same kind of courage we are exemplifying on the battlefield, a willingness to find the solutions and a willingness to recognize that this war has gone on too long, that it is too costly and too brutal for its continuation. I join the Senator from Massachusetts in his comments.

Mr. President, this is one of the most unhappy periods in our national life. We have spent the last 10 years in the lives of so many young Americans in the struggle. There is not a single thing to be gained by its continuation. There is everything to be gained by its solution and its ending.

The only answer is a negotiated political settlement.

It is perfectly obvious that we are not going to have an all-out victory, as some have asked for.

It is equally obvious that neither are the North Vietnamese going to obtain an all-out military victory.

It is quite obvious that the blood bath will continue, with civilians being the victims as well as the military.

I would therefore hope and pray that the Senate, in a most respectful yet firm way, will send a message to the President, to our Government, to reopen the negotiations and to reopen them on the basis of trying to find a political solution and calling for a cease-fire.

In fact, I would urge that we invoke the good offices of the United Nations to seek a cease-fire. In the previous administration, there was a hesitancy to do this. That is the past. The fact is, the United Nations has a role to play. It should play it. We should seek outside good offices and get their views, and then have the courage to seek a political settlement. We owe nothing to President Thieu. Nothing. He owes everything to the United States of America. The last election there was not a true democratic election.

I do not want to say that President Thieu has not tried to do his job as President of his country, but we do not have an obligation to him. We have an obligation to the American people. It is in our national interest and in the interest of international peace and goodwill to end the killing and to do it promptly.

There is no way to do it except through a negotiated political settlement.

I compliment the distinguished Senator from Massachusetts on what I consider to be a succinct, thoughtful, and constructive proposal, given without political acrimony and in the spirit of peace that he talks of.

Mr. KENNEDY. I thank the distinguished Senator from Minnesota for this comments.

Mr. PELL. Mr. President, I, too, would like to commend the distinguished Senator from Massachusetts for his thoughtful observations and would hope that they would be taken up.

Mr. President, it would seem that we in the United States are in a particular state, in that we think of the war as winding down. It is winding down from the viewpoint of the number of Americans now involved, but from the viewpoint of the level of deaths in Indochina, the number of people being killed on the average each month remains the same.

Thank God Americans are not being killed in as great a number as they were. But their places are now being taken up by the Laotians and the Cambodians, by the Vietnamese, North and South. They are being killed in greater numbers by our planes as our casualties decline in number. We have an odd view that, if we do not see the people when they are killed, because we do it from the air, then those deaths do not count. The level of deaths, however, is just the same. And now the level of deaths is going up much higher.

I would hope the American people would realize that even though far fewer American young men have been killed in this last year, others have been killed, not just young men, but old men, and the women and children of Indochina. We should move at this time to make a renewed effort to try to secure a political settlement that will represent the forces in being in that unhappy land of Vietnam. And I would urge that the White House and those in the administration listen to those of us on the Hill who have been pressing in this direction now for many years.

Mr. GOLDWATER. Mr. President, I think the time has come for all patriotic, well-meaning Americans to recognize that what is now taking place in South Vietnam is more than an episode in the Indochina hostilities, more than an item for partisan debate in American political circles—it is a question of crisis proportions involving American lives, American prestige, American honor, American commitments, and the lives of our South Vietnamese allies.

This is a question of intensive warfare. It is a problem which is above politics. It is a set of disagreeable and dangerous circumstances which were thrust on President Nixon as a result of a war in which he had no part, either in beginning or in escalating.

Mr. President, I believe it is time for all Americans—Democrat and Republican, candidate and noncandidate, liberal and conservative—to join ranks and support the Chief Executive of the United States in any actions which he feels must be taken to counter the all-out, well-organized, Moscow-directed offensive being waged against the South Vietnamese.

I call upon my conservative friends in particular to stop their nit-picking criticism of the President and get behind his administration and support it in every way possible in this present military operation.

Mr. President, I do not think there is any point today in debating what should have been done in the past or what should be done right now. The situation is serious. It has been dumped squarely in the lap of our President, and he is responding in a way I am sure all patriotic Americans would approve.

I believe, Mr. President, we should show the enemy in Vietnam precisely how we stand by bombing every conceivable target in the North which might supply the men and equipment to kill American boys and to slaughter our ally.

Mr. President, I have heard the suggestion that we should negotiate. I suggest that we have been negotiating and negotiating and negotiating. We have never gained 1 inch by negotiating. We kept our word with respect to the DMZ. The North Vietnamese did not. They were violating their own words and they have called this upon themselves.

I think that our withdrawal at this point would be disastrous. If I felt for one moment that the North Vietnamese, whose sole objective is the capture of South Vietnam, would sit down and talk, I would be in favor of it. But there was no indication of this before. There is no indication now that the North Vietnamese want to do anything but have the United States withdraw their support of the Government of South Vietnam, whatever that government might be.

I think the President is absolutely right in what he is doing from a military standpoint and from the standpoint of protecting the lives of our men and the lives of our allies. As I have said in my few remarks here and as I have said for 8 or 10 years now, I would hope that the military equipment in North Vietnam, which we have allowed to be built up by reason of keeping our word, would be destroyed before it can be used to kill our boys and our friends and allies in South Vietnam.

Mr. SPONG. Mr. President, I yield my 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER (Mr. CHILES). The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, I would like to ask a question of my friend, the Senator from Arizona. As I understand the situation in Paris today, it is that the North Vietnamese are at the peace table and that the empty seat is the seat of the United States.

This administration has always been committed to a cease-fire in conflicts in other parts of the world, like the conflict in the Middle East and the India-Pakistan war. Why is it so reluctant to seek a cease-fire now in Vietnam? Why are we so reluctant to go back again to the Paris negotiations and say that what we are really interested in is an end to the killing? Why do we not demand an immediate cease-fire?

We know for sure that we cannot get it if we do not go to Paris and try. The North Vietnamese are there already. The empty seat at the peace table is the seat of the United States. Why are we not prepared at least to explore this avenue?

I would be interested in the time we have remaining in hearing from the Senator from Arizona on that question.

Mr. GOLDWATER. Mr. President, I believe I have a minute or two left. I would say that on six different occasions we have made flat proposals to the North Vietnamese and have not received an answer to any one of them. We have made proposals for a cease-fire six different times under conditions that certainly the North Vietnamese could understand.

Frankly, I do not think we have any business sitting down at a table when the other side is represented by people who have only one desire, and that desire is not for a cease-fire. It is to take over the Government of the South Vietnamese. They have openly said that. We have transcriptions of their language which show that that is what they want and nothing else.

So, until we can get them to agree to talk to us about a cease-fire and really go to work on that proposal and not cheat and lie and crawl around as they did on their agreement with respect to the 1968 bombing halt, I do not think the United States should pay any attention to the negotiating table.

Mr. KENNEDY. Mr. President, with respect to the argument that we have no obligation to go back to the Paris peace talks while people are being killed, I cannot understand the arrogance of that position. We have a special obligation to go back there, at a time when thousands of men, women, and children are being killed on the battlefield.

Are we going to say that we have no obligation because it is only the South Vietnamese and the North Vietnamese who are being killed? We say we have no obligation to go back to the conference table. Why can we not go back to the peace talks and say, "Our desire is for peace."

The Senator from Arizona is quoting the old shibboleth that the North Vietnamese are not going to be satisfied until the South Vietnamese surrender. And the administration is saying that we will never negotiate if it means the surrender of the South Vietnamese.

Those are bargaining positions that are used when trying to reach some settlement.

If we persist in refusing to go to the negotiating table, we ought to remind ourselves that thousands of soldiers and innocent people are being caught in the crossfire in this war and are being killed.

This is the tragedy of testing our policy of Vietnamization. We are all standing back like citizens of ancient Rome, watching the gladiators fight and die in the arena.

Mr. GOLDWATER. Mr. President, when we went into this war, we knew there would be killing, because that is what happens in war. If we did not want killing, we should have never sent troops to South Vietnam in the early 1960's. We should have never engaged our ground forces there. We should have allowed our Army and Navy and Air Force to be operated as they should have been operated without being hamstrung by civilians back in Washington.

This is a war. We do not like war. No one likes war. However, we are engaged in a war with an enemy that wants to take all of Southeast Asia. There is no secret about that. For us to give in and go back to the negotiating table that they themselves have desecrated time after time would not be honorable on our part. We should get this war over with. And we should have done it 8 or 9 years ago.

Mr. KENNEDY. The administration was quick to criticize Mr. George Meany for walking off the job on the Pay Board in the war against inflation. Yet the very same day the President made that accusation, he ordered Ambassador Porter to walk off the job at the peace negotiations in Paris. I think it is important that the American people keep in mind that comparison.

Mr. GOLDWATER. Mr. President, I might say that there is no comparison between Mr. Meany walking out of the negotiations, as I heard the Senator say, and the North Vietnamese. As much as I disagree with Mr. Meany, I would not compare him to the North Vietnamese. But Mr. Meany has never tried to help America in its endeavor to stabilize wages and prices. And I think it is nice to have him off of that Board. I am glad that he quit.

Mr. HUMPHREY. Mr. President, I rise only to make a brief comment in respect to the discussion taking place on the floor. It is most difficult since I served as a member of the administration that was involved in the escalation of this war in Southeast Asia. I heard every argument that has been said here today, every one. I want to tell you something, Mr. President: They did not work. I heard it said that we had to do more; I heard that they would not negotiate; I heard we ought not to seek a cease-fire because it was not the right time. Let me tell you, Mr. President, I heard it often, and I believed it. And quite frankly, in retrospect, what I heard did not make much sense, and in retrospect what I believed did not make much sense.

If there is a lesson to be learned from this struggle it is that we should disengage and do it as rapidly as we possibly can, and to remember that in so doing we may, indeed, have our pride hurt and we may, indeed, have much to regret.

We have given billions of dollars to South Vietnam and thousands of lives. They are not helpless. Possibly history will record that much of what we did there was to help much of Southeast Asia. I hope so.

But there is no substitute for having the courage to stay at a conference table even if it does not produce results, if you have the courage to stay on the battlefield. We cannot say there will be no results from Paris, but there will be none if you are away. There is no doubt it is a propaganda tool for North Vietnam, but so what; it is the only place you have to talk to them.

Mr. President, if you had a half million troops there, as we had, and all the power of the American Air Force there, as we had, and we did not stop them, what makes anyone think we can do it now with less than 100,000 troops?

I think the Senator from Massachusetts was restrained in his comments. I have on other occasions taken issue with him, but I believe now it is imperative that we seek the good offices of every country in the world to get a cease-fire, that we take this case to the United Nations to seek a cease-fire, that we reevaluate the standards we put on the table for political settlement and that we ask ourselves whether we want to be there for another 3, 4, or 5 years because unless some settlement is brought about, that is what will happen. I do not want that to happen. I do not think it is a matter of our winning the war; it will not be won unless this Nation is willing to go all out and precipitate the possibility of a third world war.

We know that we can make another choice and that other choice, that is so discouraging at times and distasteful, is to find some kind of compromise political settlement. I have come to this belief over the last 3 or 4 years. I came to that point of view in 1968. I had to break with my own administration and my President, and I want to say to you, Mr. President, I am sorry I did not come to that point of view sooner. I think it is imperative we do what needs to be done and that is to walk the extra mile for peace.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I have been listening to this debate and the colloquy. I have had my mind on the situation in Vietnam, Southeast Asia, and Indochina, especially, for a good many weeks, months, and years.

In my opinion we have never had any business in Southeast Asia. It was not and is not vital to the security of this country. We are engaged in an immoral, an utterly immoral, and a degrading war. We have paid a price for which there can never be any compensation and, especially so, have our servicemen.

A statement has been made to the effect that troops were first sent there in the 1960's. As a matter of fact, the first military mission was sent into Saigon after the Geneva Accords of 1954. With the passage of time that number gradually increased to about 16,000 under the Kennedy administration and to around 549,000 under the Johnson administration. Under this administration it has been decreased now to about 95,000. The first of next month it will drop to 69,000 and the trend seems to be down and out.

So, Mr. President, blame must be placed where the blame lies and credit must be given where the credit is due. But this war is, to use a phrase used this morning, more than an episode. It is, I repeat, a tragedy which has been responsible for the devastation of the Indo-Chinese societies, for the ruination of cultures, for the creation of at least 700,000 orphans, for the creation and the accumulation of millions of refugees, peaceful people, especially in Laos and Cambodia, who sought nothing but peace and wanted nothing but to stay out of the war.

We do bear a great share of the responsibility for the burden for that which has happened in that particular part of the world.

It is my understanding that our Government may have been, in part at least, and unwittingly perhaps, responsible for the assassination of President Ngo dien Diem an act I deplored at the time and have deplored ever since. I may be in the minority, but Ngo dien Diem was the one man in all South Vietnam who brought a degree of stability and unity to that country and who, had he lived, might have achieved the objectives he had laid out as his goal.

There have been suggestions made that we should bomb every conceivable part of North Vietnam in return for what the North Vietnamese are doing in and below the DMZ.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PELL. Mr. President, I yield to the Senator whatever time remains to me.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MANSFIELD. Even the words "Hanoi and Haiphong" have been heard again—that they should be bombed. I thought we had learned our lesson years ago. The use of air power is being emphasized, and we are told that we should use it more and more; and that negotiations should be shunted aside because nothing is being accomplished. But I believe in the old Churchillian concept that it is better to "jaw, jaw" than to "fight, fight," and I believe in it because of the casualties which this Nation has suffered up to this time.

Through March 25, 45,669 Americans were killed in combat, 302,787 Americans were wounded in combat, and 10,119 Americans were killed in noncombat activities.

On the other side we find that they have lost—killed, not wounded—803,145 through March 25 of this year.

Among our allies the dead number 4,870. For South Vietnam the total dead is 147,305.

Well over 1 million in casualties, and no end in sight.

The latest figures indicate that 10 Americans were killed last week, and 33 wounded, as I recall, not including the 14 shot down in a helicopter gunship during the same period.

There have been some allegations about a violation of an understanding because the DMZ has been crossed by the North Vietnamese. Mr. President, if there ever was such an understanding, it has been violated by both sides. The supplies down through the trails over the years have not been decreasing, but increasing in tonnage despite the use of air power. What we are up against now is more in the way of sophisticated weaponry than at any time since this war got underway.

At present we have four aircraft carriers, with a total complement of planes of somewhere around 350. We have planes flying from the fields in South Vietnam and Thailand as well.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BIBLE. Mr. President, I ask unanimous consent that I may yield my 3 minutes to the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, may I say that the war in Vietnam is not one of our finest moments. May I say that in my opinion it is an immoral war. May I say that it is a tragedy of the gravest consequences. And I have just touched the highlights when I have indicated what the figures and the facts are.

I would hope that we do everything in our power to bring about an end to this struggle, which has cost us so much in the field, which has helped—I repeat—to destroy societies, cultures, and lands occupied by other people, which has created a refugee class in the millions, an orphan class running in the hundreds of thousands, and which has left its scars on our own society. Vietnam is in part responsible for much of the difficulties which confront this Nation today socially, economically, and financially.

It would be my hope that we would do what we could to bring about not only an alleviation of the conflict, but also an ending of the conflict. I do not care what any Member in this body says or what his position is on this war. It is my considered opinion that all 100 Members of the Senate want to bring this war to a close, as does the President of the United States. Now we are faced with a grave situation in which Vietnamization is being put to the test, and because of what has happened the number of POW's is increasing, and the war, both on the ground as far as the South Vietnamese are concerned, and in the air as far as we are concerned, is increasing in intensity. As it increases in intensity, it means that the numbers of POW's are not being decreased, but increased in number, and so are the dead and the maimed.

Mr. President, as far as I am concerned, as a Senator from the State of Montana, if it is a choice between Saigon and the U.S. prisoners of war, my choice, without question, is on the side of the POW's and the recoverable MIA's, the missing in action.

So I would hope that a means, a way, a solution could be found to resume negotiations and to arrive at an accommodation which would bring this tragedy to a close.

No great nation has ever made a mistake by admitting it has made a mistake, and this country has made a mistake in becoming involved in Southeast Asia.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

KATHERINE KASAFTES SCHNEIDER

(Mr. BAKER earlier today introduced S. 3457 for the relief of Katherine Kasaftes Schneider, which was read twice and referred to the Committee on the Judiciary. Subsequently, Mr. EASTLAND, from the Committee on the Judiciary, reported the bill to the Senate without amendment.)

Mr. BAKER. Mr. President, I ask unanimous consent that I may call up S. 3457 for immediate consideration. The bill has been reported to the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 3457) for the relief of Katherine Kasaftes Schneider.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, this is a bill that has been introduced and referred to the Committee on the Judiciary and reported for action by the committee. I have cleared its consideration with both sides. It is a matter that I know of firsthand and know to be meritorious.

It has to do with the naturalization of a distinguished lady of Memphis, Tenn., who was under the impression that she was a citizen of the United States by derivative right. However, it appears that the naturalization documents pertaining to her father have not been located in the Immigration and Naturalization Service, notwithstanding the fact that she has lived in the United States all her life except for a brief period when her parents were in Greece, where she was born, and notwithstanding that she has been connected with the Memphis Press-Scimitar for many years.

The purpose of this bill is to provide legal clarification of the fact of Mrs. Charles Schneider's derivative American citizenship under the provisions of section 321 of the Immigration and Nationality Act.

Mrs. Schneider and her husband are among the leading citizens of Memphis, Tenn., and I have known them for many years. Mrs. Schneider was born in Greece, and her parents were Greek citizens. She came to this country with her mother as a young girl and has lived in Memphis since that time. In 1946 Mrs. Schneider's mother became a naturalized citizen of the United States, and it was assumed by all concerned at that time that Mrs. Schneider simultaneously became an American citizen by derivation.

Earlier this week, in planning for a trip abroad, Mrs. Schneider was astonished to learn, as were all of us who know her, that some legal questions remained as to the certainty of her citizenship. The purpose of the bill I have introduced today is to clarify once and for all the fact of Mrs. Schneider's American citizenship.

As I said earlier, I have known Charles and Kay Schneider for many years. I have the highest respect and admiration for both of them, and I earnestly hope that both Houses of the Congress will act with the utmost expedition to remove any doubt that might remain with respect to her status as a citizen of the United States.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. MANSFIELD. Mr. President, this is a most meritorious case and I am happy to say, speaking for this side, that we recommend the unanimous approval of the bill.

Mr. BAKER. I thank the majority leader.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Katherine Kasaftes Schneider, shall be held and considered to have been lawfully admitted to the United States as of October 6, 1919, and to have acquired United States citizenship under the provisions of Section 321 of the said Act as of December 20, 1946, the date on which her mother was naturalized as a citizen of the United States.

AUTHORIZATION FOR COMMITTEE ON AGRICULTURE AND FORESTRY TO FILE REPORTS UNTIL 5 P.M. TODAY FOLLOWING ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Agriculture and Forestry have until 5 p.m. today to file reports following the adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Has an order been entered that when the Senate adjourn today—late this afternoon, I hope—it convene at 11 o'clock on Monday morning?

The PRESIDING OFFICER. Such an order has been entered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRINTING OF ADDITIONAL COPIES OF SENATE REPORT ON THE RURAL DEVELOPMENT ACT OF 1972

Mr. TALMADGE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution.

The legislative clerk read the resolution (S. Res. 291) as follows:

Resolved, That there be printed for the use of the Committee on Agriculture and Forestry three thousand five hundred additional copies of its report to accompany the Rural Development Act of 1972, (S. Rept. 92–734).

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. TALMADGE. Mr. President, the Committee on Agriculture and Forestry will report to the Senate today a very comprehensive rural development bill. There has been tremendous interest in the bill among Senators and the public generally. There have been an unusual number of requests for copies of the committee report, both from Senators and from the public.

This additional printing will cost some $1,200. It has been cleared with the ranking minority member of the Committee on Agriculture and Forestry, the distinguished Senator from Iowa (Mr. MILLER), with the chairman of the Rules Committee, the distinguished Senator from North Carolina (Mr. JORDAN), and with the distinguished ranking minority member of the Rules Committee, the Senator from Kentucky (Mr. COOK), as well as with the leadership on both sides of the aisle, all of whom, in view of the urgency and the need for additional copies, have agreed to pose no objection.

The printing of the needed additional copies at the same time as the regular number will, of course, result in a certain saving to the taxpayers.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was considered and agreed to.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MANSFIELD). Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture and Forestry, together with individual and additional views.

S. 3462. An original bill to provide for the development of rural areas (Rept. No. 92–734).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 210. A joint resolution to authorize the President to issue a proclamation designating the last full calendar week in May of 1972 as "Clean Waters for American Week" (Rept. No. 92–735);

H.J. Res. 563. A joint resolution to authorize the President to proclaim the last Friday of April 1972 as "Nationl Arbor Day" (Rept. No. 92–736);

H.J. Res. 687. A joint resolution to authorize the President to designate the third Sunday in June of each year as "Father's Day" (Rept. No. 92–737); and

H.J. Res. 1095. A joint resolution authorizing and requesting the President to proclaim April 1972 as "National Check Your Vehicle Emissions Month" (Rept. No. 92–738).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PERCY (for himself and Mr. HUMPHREY):

S. 3458. A bill to amend the Civil Rights Act of 1964 in order to make discrimination because of physical or mental handicap in employment an unlawful employment practice, unless there is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise. Referred to the Committee on the Judiciary.

By Mr. MILLER:

S. 3459. A bill to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. PEARSON:

S. 3460. A bill to authorize the Civil Aeronautics Board to enter into contracts, on an experimental basis, with air carriers to provide air service to small communities, and for other purposes. Referred to the Committee on Commerce.

By Mr. STEVENS:

S. 3461. A bill to authorize the Secretary of Commerce to purchase in certain cases the catches of commercial fishermen which are prohibited from sale by restrictions imposed on domestic commercial fishing by a State or the Federal Government. Referred to the Committee on Commerce.

By Mr. TALMADGE, from the Committee on Agriculture and Forestry:

S. 3462. An original bill to provide for the development of rural areas. Ordered to be placed on the calendar.

By Mr. JORDAN of North Carolina:

S. 3463. A bill to amend section 906 of title 44, United States Code, to provide copies of the daily and semimonthly CONGRESSIONAL RECORD to libraries of certain U.S. Courts. Referred to the Committee on Rules and Administration.

By Mr. HUMPHREY:

S. 3464. A bill to establish an executive department to be known as the Department of

Education, and for other purposes. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (for himself and Mr. Humphrey):

S. 3458. A bill to amend the Civil Rights Act of 1964 in order to make discrimination because of physical or mental handicap in employment an unlawful employment practice, unless there is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise. Referred to the Committee on the Judiciary.

Mr. PERCY. Mr. President, on November 19, 1971, I introduced with Senator Cook a concurrent resolution calling for a declaration of rights for the mentally and physically handicapped. While that resolution was not meant to solve the problems that plague our handicapped citizens, it was an attempt to draw attention to their plight and to encourage the solution of their problems.

Since the introduction of that resolution, I have committed myself to finding for our handicapped citizens a legislative solution to equal educational opportunity, equal job opportunity, and equal treatment before the law. As a part of that commitment, I introduced with Senator Humphrey on January 20, 1972, a bill to amend the Civil Rights Act of 1964 to prohibit discrimination against the mentally and physically handicapped in programs which receive Federal aid. I also cosponsored two measures recently introduced by Senator Williams, one calling for a White House Conference on the Handicapped, and the other calling for the establishment of an Office for the Handicapped within HEW to coordinate programs for the handicapped.

Today, to further that commitment I am introducing on behalf of myself and Senator Humphrey, a bill in the nature of another amendment to the Civil Rights Act of 1964. This bill, introduced in the House by Representative Vanik, would make discrimination in employment because of physical or mental handicap an unlawful practice.

The civil rights amendment introduced on January 20, 1972 would provide equal treatment of the handicapped in all programs which receive Federal assistance. The bill I am introducing today would open for the handicapped many more doors to employment. Employment is the key to self-sufficiency and independence. Without it, equal educational opportunity or social acceptance would be meaningless.

Yet, millions of our handicapped Americans are barred from work because of society's prejudices. According to the best statistics that the Senate Subcommittee on Handicapped Workers could find, there are more than 22 million adults in this country with physical handicaps and 5.6 million persons of all ages with mental handicaps severe enough to limit in some way their ability to work. Of the 22 million with physical disabilities, an estimated 14 million could work if given the opportunity. And of the 5.6 million who are mentally retarded, 9 out of 10 could work if given training and rehabilitation.

Actual employment now, however, accounts only for a little over 800,000 of the 27.6 million adults with physical and mental handicaps:

Of about 150,000 blind persons of working age in this country, about 50,000 of them are employed.

Of the 60,000 paraplegics of working age, 47 percent are employed.

Of the 400,000 epileptics of working age, the employment rate, according to best estimates, is between 15 percent and 25 percent.

Of the 200,000 persons of working age with cerebral palsy, only a handful are employed.

And of the 5.6 million who are mentally retarded, 5,000 are employed by the Federal Government.

What is the cost effectiveness or the sense of banishing our handicapped Americans to life on welfare or to "terminal care" in an institution? There is ample proof that adding the handicapped to our work force can benefit not only our national economy but also the investment returns of our income tax revenues. In fiscal 1966, for example, the Federal Government spent $3.5 billion on the handicapped. Of this money, $2.65 billion went for income maintenance. And HEW's Bureau of Education for the Handicapped reports that more than 30 percent of the 2.5 million handicapped children expected to leave school during the next 5 years may need either partial or full public support in the form of institutionalization or welfare. Lifetime institutionalization or welfare costs about $250,000 per person. But with proper training, at least 90 percent of those handicapped children are potentially employable.

According to the President's Committee on Employment of the Handicapped, the number of handicapped persons rehabilitated and placed in employment is increasing each year. Businesses and industries have discovered that there are many jobs that the handicapped can do well—often better than nonhandicapped workers.

Cerebral palsy victims are being trained to use precision tools.

Paraplegics are working productively on assembly lines.

Deaf mutes make better than average file clerks.

Deaf persons do well as linotype operators and keypunch tabulators.

Blind workers have made superior assemblers, inspectors, and sorters in such industries as electronics, aircraft and missile production.

Absenteeism and recidivism among the 5,000 mentally retarded workers employed by the Federal Government in over 100 different wage board classifications is lower than nonhandicapped workers. Also, their job performance is excellent.

The handicapped are not asking for special privileges—just a chance to learn a trade, work and live like any other American. Can any one of us, in good conscience, deny them this?

I ask unanimous consent that the full text of the bill be printed at this point in the Record.

S. 3458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Sections 703(a)(1), 703(a)(2), 703(b), 703(c)(1), 703(c)(2), and 703(d) of the Civil Rights Act of 1964 are each amended by inserting after "sex", the following: "physical or mental handicap,".

Sec. 2. Section 703(e)(1) of the Civil Rights Act of 1964 is amended by inserting after "national origin" the first time it appears the following: ", or because of the presence of a physical or mental handicap," and by inserting after "national origin" the second time it appears the following: ", or the absence of a physical or mental handicap,".

Sec. 3. Section 103(h) of the Civil Rights Act of 1964 is amended by inserting after "national origin," the following: "or because of the presence of a physical or mental handicap,", and by inserting after "national origin" the following: ", or because of the presence of a physical or mental handicap".

Sec. 4. Section 703(j) of the Civil Rights Act of 1964 is amended by inserting after "or group" the following: ", or because such individual or the members of the group are physically or mentally handicapped,", and by inserting after "national origin" the second and third times it appears the following: ", or having a physical or mental handicap,".

Sec. 5. Section 704(b) of the Civil Rights Act of 1964 is amended by inserting after "national origin," the following: "or absence of a physical or mental handicap,", by inserting after "national origin" the second time it appears the following: ", or presence of a physical or mental handicap,", and by inserting after "national origin" the third time it appears the following: ", or absence of a physical or mental handicap.".

Sec. 6. Section 706(g) of the Civil Rights Act of 1964 amended by inserting after "national origin" the following: ", or because of the presence of a physical or mental handicap,".

Sec. 7. The center heading of section 703 of the Civil Rights Act of 1964 is amended by inserting after "sex," the following: "PHYSICAL OR MENTAL HANDICAP,".

Sec. 8. Title VII of the Civil Rights Act of 1964 is amended by inserting at the end thereof the following new section:

"DEFINITION OF PHYSICAL OR MENTAL HANDICAP

"Sec. 717. For the purposes of this title, the term 'physical or mental handicap' includes mental retardation, hardness of hearing, deafness, speech impairment, visual handicap, serious emotional disturbances, being crippled, or any other health impairment which requires special education and related services."

There being no objection, the bill was ordered to be printed in the Record, as follows:

EMPLOYMENT RIGHTS OF THE HANDICAPPED

Mr. HUMPHREY. Mr. President, it is with great pleasure that I join Senator Percy in introducing legislation to make discrimination because of physical or mental handicap in employment an unlawful employment practice, under the Civil Rights Act of 1964.

This legislation supplements S. 3044, which I introduced and Senator Percy jointly sponsored on January 20, 1972, providing for the protection of the rights of the handicapped by prohibiting needless discrimination in programs receiving Federal financial assistance. It has become apparent that further specific protections must be afforded to millions of

Americans with mental and physical handicaps denied equal job opportunities and fair wages in the absence of a bona fide occupational qualification requirement.

As the President's Committees on Mental Retardation and on Employment of the Handicapped have documented time and again, there are thousands of jobs that the handicapped can do, and do well. Of 22 million Americans with physical disabilities, 14 million can and want to work. But only one-third of blind persons of working age are employed, and less than half of the Nation's paraplegics have found work. Currently available statistics, whose general inadequacy sharply underscores the extent to which those with mental and physical disabilities are denied dignity as persons and are forgotten by society, indicate that only a minority of these people have found employment.

Yet we know how invaluable the discovery of useful capabilities is in rehabilitation. We know the damage done to any person's sense of dignity and security when he is denied the opportunity to work and earn his own way in society. And we know that the cost of educating an educable handicapped or retarded child is less than one-tenth the cost to society of lifetime institutionalization; and moreover, that training and rehabilitation costs are repaid many times over in taxes on earned income.

Shall we condemn 2,100 paralyzed Vietnam veterans simply to exist in isolation? Should a wheelchair automatically disqualify 250,000 Americans for jobs? Should tens of thousands of unskilled and semiskilled jobs, including service occupations which are increasing faster than any other job category in the Nation, go begging, when many of them are well suited for the retarded when appropriate adjustment assistance is provided?

These are harsh questions, but they are questions that must now be forced upon the conscience of America. There can be no further delay in affirming the civil rights of 28 million Americans.

These rights were clearly and forcefully spelled out in Senate Concurrent Resolution 52, introduced by Senator Cook, and which I was privileged to cosponsor. They are rights that must now be given the force of law, and I would urge that in addition to the passage of this resolution, the Senate include on its agenda for action this year S. 3044 and the legislation introduced today to amend, respectively, titles VI and VII of the Civil Rights Act. I would also expect that action can be completed in the present Congress on the legislative program introduced by Senator Williams, which I have been pleased to join in sponsoring and which is important in backing up legal rights with effective programs of Federal assistance: Senate Joint Resolution 202, authorizing funds for a White House Conference on the Handicapped; S. 3158, to establish an Office of the Handicapped in the Office of the Secretary of Health, Education, and Welfare; and S. 3407, the Supplementary Education Services for the Handicapped Act.

The time has come to fulfill promises made to millions of Americans with physical and mental handicaps. In guaranteeing their right to equal opportunity and dignity, we shall take a major step forward in establishing a better and more creative society for all.

By Mr. MILLER:

S. 3459. A bill to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. MILLER. Mr. President, I introduce, for printing and appropriate reference, a bill to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation.

All of us are aware of the importance of forest resources to our Nation. Our forests provide us with many different benefits, ranging from purely esthetic values to recreational and economic uses.

While there are vast acreages of private, nonindustrial forest lands and productive units in the Nation, the public resource lands today contain most of the old growth saw timber, and it is the public lands which receive the pressures for preservation on the one hand and multiple use on the other.

One thing is certain. If we are to have a sustained yield for harvest and an adequate resource for other purposes, we must replenish the forests. Although the accuracy of the statistic may be debatable, it is estimated that we are today about 5 million acres behind in reforestation. Even in that phase of forest management which finds natural regeneration the most feasible operation, there are techniques through which man can help nature produce more desirable stands of better trees.

The bill I am introducing today—which was introduced in the House by my colleague from Iowa, Representative John Kyl—would be a big step toward improving long-range forest management and assuring the adequate financing. It would transfer section 32 funds derived from customs duties on wood and paper products to a supplemental national forest reforestation fund. This money would be available to the Secretary of Agriculture for the purposes of supplementing programs of tree planting and seeding of national forest lands which need reforestation.

It is my understanding that the House Committee on Agriculture has ordered this bill favorably reported. I believe it would meet a pressing national need, and I urge favorable action by the Senate.

By Mr. PEARSON:

S. 3460. A bill to authorize the Civil Aeronautics Board to enter into contracts, on an experimental basis, with air carriers to provide air service to small communities, and for other purposes. Referred to the Committee on Commerce.

Mr. PEARSON. Mr. President, I am introducing today for appropriate reference a bill to authorize the Civil Aeronautics Board to enter into contracts, on an experimental basis, with air carriers to provide air service to small communities.

The concept embodied in this legislation was first advanced by the Honorable Secor Browne, Chairman of the Civil Aeronautics Board, in a speech in Wichita, Kans., on January 28, 1972. I feel the proposal has merit, and deserves the close scrutiny of the Congress.

The Aviation Subcommittee of the Senate Commerce Committee will commence oversight hearings April 10, 1972, on local air service to small communities. The subcommittee specifically will consider the Limited Air Carrier Act, which I introduced February 17, 1971, to provide for the certification of commuter air carriers presently serving the air transportation needs of small communities.

Because the proposal advanced by Chairman Browne is designed to promote a better system of air service to small communities, I believe it should be before the Aviation Subcommittee when hearings commence on the Limited Air Carrier Act on April 10. Therefore, I am offering legislation to implement the Browne proposal at this time, in advance of the hearing date.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill and the text of the bill, be printed in the Record immediately following my remarks.

There being no objection, the analysis and bill were ordered to be printed in the Record, as follows:

Section-by-Section Analysis

SECTION 1

This section declares it to be the intent of the Congress to authorize the Civil Aeronautics Board to conduct an experimental program which will enable the Congress to evaluate the advantages and disadvantages of a contract method of providing air service to small communities.

SECTION 2

This section defines certain terms used in the bill.

(1) "Air carrier" is defined as any citizen of the United States who engages directly in, or proposes to engage directly in, air service. Third-level carriers and persons proposing to provide air service, even though not yet equipped to do so, would meet this definition, as would all certificated air carriers. However, in order to be awarded a contract under the Act, under section 3(c) the Board would have to ascertain that the proposed contractor was capable of conducting safe, reliable operations.

(2) "Air service" means the carriage by aircraft, on a regularly scheduled basis, of persons or property as a common carrier for compensation or hire. This definition differs from the analogous one under the Federal Aviation Act since it encompasses both intrastate as well as interstate operations. This definition is adopted only to facilitate the conduct of the experimental program by obviating difficult jurisdictional problems, and is not intended as a precedent for any purpose. The Board will work closely with the appropriate State authorities in the planning and conduct of the program. Indeed one benefit of the program is that it will permit an evaluation of how Federal and State can most effectively work together in the provision of air service to small communities.

(3) "Board" means the Civil Aeronautics Board.

(4) "Citizen of the United States," as used in the definition of "air carrier," means

(a) an individual who is a citizen of the United States or one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or one of its possessions. The definition is identical to that used in the Federal Aviation Act.

(5) "Small community" is defined as a village, town, city or other locality in the United States not receiving unsubsidized air service on a daily, scheduled basis by a certified air carrier. Thus, for instance, any town whose only air service is third-level service and subsidy eligible service by a local service carrier would be a "small community" for purposes of the proposed legislation. As such it would be eligible for selection under section 5 as a recipient of contract air services.

SECTION 3

Section 3(a) authorizes the Board to enter into contracts with air carriers for air service between small communities selected by the Board under the procedures specified in the Act.

Section 3(b) provides that contracts awarded by the Board shall be subject to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except where the Board determined that a provision of that Act was inconsistent with the purposes of the experimental program. The Federal Property and Administrative Services Act, and the Federal Procurement Regulations issued thereunder by the General Services Administration, regulate in detailed fashion the procurement of goods and services by most Federal agencies. In general, that Act and the Federal Procurement Regulations provide that contracts must be awarded by a process of formal advertising by the procuring agency, and bidding by would-be contractors. With only limited exception, the Board contemplates using that procedure in the award of air service contracts since it appears that that would best assure air service of maximum quality and minimum cost to the Government.

Section 3(c) requires the Board, prior to the award of a contract, to ascertain that the proposed contractor is capable of meeting all Board and Federal Aviation Administration requirements for safety and reliability of operation.

Section 3(d) limits contracts under the Act to terms of up to three years, and prohibits contract renewals. The same carrier may provide air service to the same small community under several successive contracts, but that would be a result of the carrier's favorable offers, not because of any preferential rights. Contract prices may not be increased except to take account of increases in costs attributable to Governmental actions.

SECTION 4

In view of the experimental nature of the Act, this section requires the Board to designate geographical areas in the United States within which small communities will be selected for contracts for air service. In designating these areas, the Board must consider a number of factors (such as travel patterns of the population; the nature of flying conditions; population density; and the nature of the air service that otherwise would be provided) in order that the various selected areas, when considered together, may afford a basis for the evaluation of the contract method of providing air service to small communities.

SECTION 5

This section requires the Board, in selecting small communities located in the areas designated pursuant to Section 4, to take into consideration a number of specified factors, including, among others, the availability of alternative means of transportation; the views of the small communities; the views of the air carriers, if any, providing service to points in the selected geographical areas; and the effect of the selection of such communities on the development of the nation's air transportation system. Further, much as in the case of the selection of geographical areas, the Board's selection would be based in part on the need for sufficient diversity among the various communities to afford a basis for evaluating the contract method of providing air service.

SECTION 6

This section provides that a contract with an air carrier for air service shall include certain provisions, such as the minimum number of frequencies to be operated; the maximum rates and fares to be charged by the carrier; the minimum passenger requirements in respect to the aircraft to be operated; and such arrangements as may be required by the Board to permit reasonable assurance of reimbursement to the Government in the event of default by the air carrier. Under this provision, for instance, a contract might require the contractor to provide a surety bond so that in the event of default, the Board would receive sufficient reimbursement to procure replacement services at no aditional cost to the Government.

SECTION 7

Section 7(a) authorizes the Board to suspend the certificate of an air carrier to provide air transportation on a subsidy eligible basis to and from any small community in respect to which air service is to be provided under the bill. Such a suspension may not exceed the period of the contract under which air service is to be provided. The Board expects that no certificated carrier will be required, against its wishes, to cease service at a point that is to be served by a carrier receiving payments under the proposed legislation. The purpose of the suspension authority in section 7(a) is to shorten the suspension process provided for in the Federal Aviation Act. The procedures in the Federal Aviation Act would be inappropriate for such purposes in view of the experimental nature of the program authorized by the Act, the short period the program will be in effect, and the fact that the certificated carrier's service would be suspended only in conjunction with the provision of contract air service under the Act.

Section 7(b) authorizes the Board to relieve an air carrier from any provisions of Title IV of the Federal Aviation Act (other than certain labor provisions) with respect to air service to small communities if the Board finds such action to be in the public interest. All of the provisions of Title IV relate to economic regulation (as opposed to safety regulation). Under Title IV and related Board rules, a person seeking to provide air service in aircraft in excess of 12,500 pounds must first obtain a certificate of public convenience and necessity, file tariffs, submit a variety of periodic reports, and so on, unless specifically exempted under standards specified therein. The application of some of such requirements to contract air service provided under the proposed legislation would be inconsistent with the legislation's purposes, and thus the Board is authorized to relieve air carriers from any provision of Title IV, except section 401(k). (Section 401(k) sets forth certain basic obligations as between air carriers and their employees.)

Section 7(c) provides that the administrative procedure provisions of title 5 of the United States Code shall not be applicable to Board actions under the bill, and that such actions may be taken without notice and hearing. The main thrust of this section is to make clear that Board action under the proposed legislation is to be governed by procedures relating to the procurement process, rather than by the various requirements typically involved in licensing.

SECTION 8

This section authorizes the Board to prescribe such regulations and issue such orders as may be necessary to carry out the provisions of the bill.

SECTION 9

Section 9(a) requires the Board, prior to initiation of the first procurement process, to report to the Congress the geographical areas which are designated and the small communities which are selected.

Section 9(b) requires the Board to report to the Congress, within one year after enactment of the bill and annually thereafter so long as a contract is outstanding, the progress of the experimental program. The Board's final report, which must be submitted to the Congress within ninety days after termination of the last outstanding contract, must include, among other things, the quality and extent of air service provided pursuant to the bill, the cost to the Government, and the Board's evaluation of the contract method of providing subsidized air service.

As section 1 explicitly provides the purpose of the legislation is to authorize an experimental program by which the Congress would be enabled to evaluate the advantages and disadvantages of the contract method of providing small community air service. The purpose of section 9 is to ensure that the intended Congressional evaluation can be readily made by establishing procedures by which, without further Congressional action, the Congress will be kept informed of the progress and results of the program.

SECTION 10

This section authorizes such sums to be appropriated as may be necessary to carry out the provisions of the bill. Not more than $2 million may be appropriated in any fiscal year. Appropriated funds would remain available until expended.

SECTION 11

This section provides that the provisions of the bill shall terminate three years from the date of enactment of the bill. The disbursement of funds under, or the carrying out of, a contract entered into prior to the termination date is not affected by termination.

S. 3460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the intent of the Congress in enacting this legislation to authorize the conduct of an experimental program by the Civil Aeronautics Board which would enable the Congress to evaluate the advantages and disadvantages of a contract method of providing air service to small communities.

SEC. 2. As used in this Act—

(1) "Air carrier" means any citizen of the United States who engages directly in, or proposes to engage directly in, air service.

(2) "Air service" means the carriage by aircraft, on a regularly scheduled basis, of persons or property as a common carrier for compensation or hire.

(3) "Board" means the Civil Aeronautics Board.

(4) "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or

association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(5) "Small community" means a village, town, city or other locality in the United States not receiving unsubsidized air service on a daily, scheduled basis by a certificated air carrier.

SEC. 3. (a) The Board is hereby authorized to enter into contracts with air carriers by which such carriers undertake to provide air service to and from small communities selected by the Board pursuant to the provisions of section 5 of this Act.

(b) The Board shall award contracts hereunder in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except that provisions of such Act which are determined by the Board to be inconsistent with the purposes of the experimental program shall be inapplicable to such contracts.

(c) Prior to the award of a contract under this Act, the Board shall ascertain that the proposed contractor is capable of meeting, during the contract period, all requirements of the Board and of the Federal Aviation Administration for safety and reliability of operation.

(d) No contract under this Act may exceed three years in duration or be renewed. No increase in contract price may be made for the benefit of an air carrier after the contract has been entered into, except for increases in costs attributable to Governmental actions.

SEC. 4. In exercising the authority granted in section 3 of this Act, the Board shall designate the geographical areas in the United States within which small communities will be selected for the award of contracts for the provision of air service. In designating such areas, the Board shall consider, among other things, the need to assure sufficient diversity among the several geographical areas, in regard to such factors as travel patterns of the population, the nature of flying conditions, population density, and the nature of the air service, if any, that would be provided other than pursuant to this Act, in order that the areas considered together may afford a basis for the evaluation of the method of providing air service authorized by this Act.

SEC. 5. In selecting small communities located in the areas designated pursuant to section 4 of this Act, the Board shall consider, among other things, the following factors:

(1) The need for sufficient diversity among the various small communities selected, so that the communities considered together may afford a basis for the evaluation of the method of providing air service authorized by this Act;

(2) The availability and practicability of alternative means of transportation to and from the various small communities;

(3) The views of the small communities located within the geographical areas designated pursuant to section 4, and of the appropriate agencies of the government of each State lying partially or wholly within such geographical areas;

(4) The views of air carriers, if any, currently providing air service to, from or between any point or points in any geographical area designated pursuant to section 4; and

(5) The effect of such selection on the development of the nation's air transportation system.

SEC. 6. A contract between the Board and an air carrier for the provision of air service to a small community or communities shall include—

(1) The minimum number of frequencies the air carrier shall be required to operate to and from the small community or communities;

(2) The maximum rates and fares the air carrier may charge, subject to revision for such reasons and by such procedures as the Board may provide;

(3) Minimum passenger capacity requirements in respect to the aircraft to be operated by the air carrier; and

(4) Such arrangements as the Board may require by which the Government may be reasonably assured of reimbursement in the event of default by the air carrier, including reimbursement for the cost of obtaining another air carrier to provide the air service which the defaulting carrier undertook to provide.

SEC. 7. (a) The Board may suspend the certificate of any air carrier to provide air transportation on a subsidy-eligible basis to and from any small community in respect to which air service is to be provided under this Act. Any suspension pursuant to this section shall be for no greater period than the term of the contract under which such air service is to be provided.

(b) The Board may relieve any air carrier from any provision of Title IV of the Federal Aviation Act (except subsection (k) of section 401 thereof) in respect to air service to small communities pursuant to this Act if it finds that such action would be in the public interest.

(c) The provisions of sections 551–559 of title 5 of the United States Code shall not be applicable to actions of the Board under this Act. Such actions may be taken without notice and hearing.

SEC. 8. The Board may prescribe such regulations and issue such orders as may be necessary to carry out the provisions of this Act.

SEC. 9. (a) The Board shall, thirty days prior to the initiation of the first procurement process authorized herein, report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate the geographical areas designated pursuant to section 4 of this Act and the small communities selected pursuant to section 5.

(b) The Board shall, no later than one year from the date of enactment of this Act and annually thereafter so long as a contract entered into hereunder remains outstanding, report to the Congress on the progress of the experimental program authorized hereby. The Board's final report, which shall be submitted to the Congress within ninety days after termination of the last outstanding contract, shall include, among other things, the following: (1) the quality and extent of air service provided to small communities pursuant to this Act, (2) the cost to the Government of such service, and (3) the Board's evaluation of the relative advantages and disadvantages of the contract method of providing air service to small communities.

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act, but not more than $2,000,000 shall be appropriated in any fiscal year. Such sums shall remain available until expended.

SEC. 11. This Act shall terminate three years from the date of its enactment. The termination of this Act shall not affect the disbursement of funds under, or the carrying out of, any contract commitment, or other obligation entered into pursuant to this Act prior to the date of termination.

By Mr. STEVENS:

S. 3461. A bill to authorize the Secretary of Commerce to purchase in certain cases the catches of commercial fishermen which are prohibited from sale by restrictions imposed on domestic commercial fishing by a State or the Federal Government. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, today I am introducing a bill and submitting an amendment to another bill designed to assist Alaska fishermen who are faced with economic ruin as the result of restrictions imposed upon them in their domestic commercial fishing by prohibitive Federal or State restrictions.

The bill I am introducing today authorizes the Secretary of Commerce to purchase these fish from any legal entity which first, owns fishing equipment; and second, engages in domestic fishing as its usual occupation. The catches of fish which may be purchased are those which the owner is prevented from selling by restrictions related to a deterioration in the quality of the aquatic environment which were imposed on or after January 1, 1971 by any State or Federal agency and which, in the judgment of the Secretary, impair the economic feasibility of any type of domestic fishing.

The Secretary is authorized to buy such fish at the fair market price in the area at the time of purchase. The "fair market price" is a term of art widely used in the law and easily determinable. Such fair market price must be evaluated in the specific locality, that is the specific town or city at which the catch is sold. The price must be determined as of the specific date of sale. Thus defined, these terms will provide the Secretary with practical guidelines for enforcement.

The total amount of such purchases in any calendar year from any one eligible owner may not exceed 50 percent of its gross earnings from domestic fishing operations. The Secretary is then authorized to dispose of these fish in any legal manner he deems appropriate. Any such purchase must be subject to the condition that the eligible owner assign to the Secretary any right he may have to recover damages for the act or omission resulting in the imposition of such Federal or State restrictions. The Secretary is also empowered to prescribe rules and regulations necessary to carry out the provisions of the act.

Finally, amounts not to exceed $4,000,000 for fiscal year 1973 and $5,000,000 for fiscal year 1974 are authorized.

Mr. President, this bill is specifically designed to alleviate a problem facing many small fishermen in southeast Alaska. It is the result of mercury pollution levels found in halibut by the Food and Drug Administration. This finding has resulted in a determination that halibut above a certain size may be dangerous and unfit for human consumption. Because of this finding, the industry has been unable to sell halibut over a certain size, such size varying depending upon the area of the ocean in which the halibut was caught. This problem has had devastating economic effects throughout southeast Alaska.

On October 8, 1971, the Subcommittee on Oceans and Atmosphere of the Senate Commerce Committee held hearings in Petersburg, Alaska, on this subject. At these hearings, the chairman of the subcommittee, the distinguished Senator from South Carolina (Mr. HOLLINGS) and I were present. A large number of representatives from various fishing groups and governmental agencies were also present and testified before us. A report of these hearings is contained in report No. 92–41, which has just recently been printed. I believe that the need for this legislation is amply demonstrated by the testimony of the many witnesses who appeared and described in detail their personal accounts of the economic devastation they face as a result of this FDA determination.

For example, the situation facing the Petersburg Cold Storage Co. is typical. The Petersburg Cold Storage Co. is owned by 170 individual shareholders. It serves one of the small southeast Alaska towns which is directly affected. It was founded in 1926 by a local group of fishermen and merchants handling fish products, primarily halibut. It has operated successfully and has produced roughly 125,000,000 pounds of halibut, a yearly average of 3,000,000 pounds. Yearly ranges have been from 1 to 5 million pounds. The replacement value of the plant alone is $1,500,000 and it has an insurable depreciated value of $1,029,000. It employs 20 to 60 people per season. The average employment for a 12-month period is 28. The annual payroll runs about $400,000. Normally, they would have 20 to 30 halibut vessels outfitting in Petersburg at times other than the normal seining season. However, as a result of the mercury pollution level, last year only two vessels fished for halibut in the area immediately surrounding Petersburg. In a poll of 13 fishermen in nearby Kake, Alaska, in 1971 not a single fisherman indicated he felt he could economically fish for halibut, given the present restrictions. The same fishermen indicated that they felt that they did not believe that they would be able to fish in 1972 either.

Of course, solutions other than this bill are also being sought. However, even though it is not at all certain that a level as low as 0.5 part per million is necessary or even practical, I believe that one solution that must be considered is embodied in this bill. I urge that my colleagues give it their most serious attention.

Mr. President, the amendment I am introducing today attempts yet another soution to this problem. This amendment is identical to S. 875, a bill I introduced a little over a year ago. This amendment would provide partial reimbursement for losses incurred by commercial fishermen as the result of prohibitive Federal or State restrictions imposed on domestic commercial fishing. It would also authorize grants from the Secretary of Commerce to enable any eligible owner to meet the usual business expenses he was prevented from meeting as a result of these restrictions. Under the bill, if a fisherman accepts reimbursement, he automatically authorizes the Federal Government to file suit in his behalf against those who polluted the waters. Any amount collected in excess of the initial reimbursement and court costs would be turned over to the aggrieved fisherman by the Government which initiated the suit. Although it is reasonable to expect this method of reimbursement will ultimately be self-supporting, such a status will probably not be achieved for several years. Accordingly, my amendment appropriates $4 million for operation of the program during the first year and $5 million for each of the 4 succeeding years.

I request unanimous consent that the bill and amendment be printed in the CONGRESIONAL RECORD.

There being no objection, the bill and amendment were ordered to be printed in the RECORD, as follows:

S. 3461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Domestic Fishermen's Emergency Fish Purchase Act of 1972".

SEC. 2. As used in this Act—

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "domestic fishing" means commercial fishing which is subject to regulation or restriction under the laws of any State.

(3) The term "prohibitive Federal or State restrictions" means restrictions related to a deterioration in the quality of the aquatic environment and imposed on or after January 1, 1971, by any State or by any department or agency of the Federal Government which, in the judgment of the Secretary, impair the economic feasibility of any type of domestic fishing.

(4) The term "eligible owner" means any legal entity which—

(A) is the owner of fishing equipment, and

(B) is engaged in domestic fishing as its usual occupation.

SEC. 3. (a) The Secretary is authorized to purchase from any eligible owner, at the fair market price in the area at the time of purchase, any catch of fish which such owner is prevented from selling by prohibitive Federal or State restrictions.

(b) Any such purchase shall be subject to the condition that the eligible owner assign to the Secretary any rights he may have to recover damages for the commission of or failure to commit acts which resulted in the imposition of such prohibitive Federal or State restrictions.

(c) The total amount of purchases in any calendar year pursuant to this Act from any eligible owner shall not exceed an amount equal to 50 per centum of such owner's gross earnings from domestic fishing operations.

SEC. 4. The Secretary is authorized to dispose of fish purchased pursuant to this Act in such manner as he may prescribe.

SEC. 5. The Secretary shall prescribe such rules and regulations as are necessary to carry out the provisions of this Act.

SEC. 6. There is authorized to be appropriated to carry out the provisions of this Act an amount not to exceed $4,000,000 for the fiscal year ending June 30, 1973, and an amount not to exceed $5,000,000 for the fiscal year ending June 30, 1974.

AMENDMENT No. 1107

At the end of the bill insert a new section as follows:

"a. As used in this Section—

"(1) The term 'Secretary' means the Secretary of Commerce.

"(2) The term 'domestic fishing' means commercial fishing which is subject to regulation or restriction under the laws of any State.

"(3) The term 'fishing equipment' includes nets, equipment, and vessels used in domestic fishing.

"(4) the term 'prohibitive Federal or State restrictions' means restrictions related to a deterioration in the quality of the aquatic environment and imposed on or after January 1, 1971, by any State or by any department or agency of the Federal Government which, in the judgment of the Secretary, impair the economic feasibility of any type of domestic fishing to such an extent as to reduce (1) by 50 per centum or more the fair market value, in the affected area, of fishing equipment principally useful for that type of fishing, or (2) by 20 per centum or more the market value of the commercial catch in the affected area which would have been realized in the calendar year concerned but for the imposition of such restrictions.

"(5) The term 'eligible owner' means any legal entity which—

"(A) is the owner of fishing equipment, and

"(B) was engaged in domestic fishing as his usual occupation for one month or more prior to the imposition of prohibitive Federal or State restrictions thereon.

"b. (1) Any eligible owner adversely affected by the imposition of prohibitive Federal and State restrictions in any calendar year may apply to the Secretary for a grant under this section for the purpose of enabling such owner to meet the usual business expenses which, but for the economic loss caused him by the imposition of such restrictions, such owner would ordinarily be able to meet.

"(2) (A) In any case in which paragraph (2) does not apply, a grant made by the Secretary under this section may not exceed an amount equal to 70 per centum of the yearly gross earnings from domestic fishing operations which the eligible owner lost in the calendar year as a result of the imposition of such Federal or State restrictions. In determining lost gross earnings from domestic fishing operations for an eligible owner under this paragraph, the Secretary shall subtract the amount of actual or estimated gross earnings from such operations in the year in which such Federal or State restrictions were imposed from the yearly gross earnings from domestic fishing operations made by such eligible owner in the last calendar year in which no prohibitive Federal or State restrictions affected such owners' operations.

"(3) In the case of an eligible owner who substantially increased his investment in fishing equipment for use in the calendar year in which such restrictions are imposed, as compared with his investment in fishing equipment in the calendar year immediately preceding such calendar year, a grant made under this section may not exceed an amount equal to 70 per centum of the estimated yearly gross earnings from domestic fishing operations which the eligible owner lost in the calendar year as a result of the imposition of such Federal or State restrictions. In estimating lost gross earnings under this paragraph, the Secretary shall take into account the size, type, and number of fishnets owned by the eligible owner and in use by him at the time of, or intended to be so used by him before, such Federal or State restrictions were imposed and the expected income per fishnet for that calendar year.

"(3) No grant may be made under this section unless application therefor is made before the close of the calendar year after the calendar year in which the prohibitive Federal or State restrictions concerned are imposed.

"Sec. 4. The Secretary shall attach such conditions and limitations with respect to a grant made under section 3 of this Act as he deems necessary or appropriate to protect the interests of the United States. The acceptance of a grant made under section 3 of this Act shall operate as an assignment to the Secretary of all rights of the eligible person receiving the grant to recover damages against any party for committing or failing to commit acts which resulted in the imposition of the prohibitive Federal or State restrictions on the basis of which the eligible person obtained such grant. If the Secretary recovers damages by exercising any right assigned to him under this section, any amount so recovered in excess of the amount of the grant made under this Act and the administrative expenses incurred in exercising such right shall be paid to the eligible person concerned.

"d. There is authorized to be appropriated to carry out the purposes of this Act not to exceed $4,000,000 for the fiscal year ending June 30, 1972, and not to exceed $5,000,000 for each of the four succeeding fiscal years."

By Mr. HUMPHREY:

S. 3464. A bill to establish an executive department to be known as the Department of Education, and for other purposes. Referred to the Committee on Government Operations.

TO BUILD AMERICA'S EDUCATION RESOURCES

Mr. HUMPHREY. Mr. President, a central factor to be recognized in national policy planning for the decade of the 1970's must be the emergence of knowledge as the crucial resource of society. The highest national priority must now be given to policies and programs to assure the protection and development of America's human resources through education. To assure that this priority is effectively implemented, it must be given sharp visibility in the structure of the Federal Government itself. This demands the establishment of a Cabinet-level Department of Education.

The creation of a Department of Education is a vital component of the program to establish full educational opportunity in America, which I presented in the Senate on March 1, 1972. That program responds to the immediate issue of school transportation and assignment problems in our communities, by calling for a substantial and comprehensive Federal investment to guarantee to every American child an equal opportunity to obtain a quality education. It addresses the critical problem of rising education costs confronting all our school districts, as well as the serious imbalances between these districts in financing these costs, that leave the child of the urban ghetto and the poverty-stricken rural county to be condemned to an inferior education by the circumstance of residence, family income level, or race.

I have spelled out the new directions that must be taken toward establishing a comprehensive education program for America, to reverse the policies of the present administration that too often are characterized by confusion and last-minute response to crisis. We have a national responsibility to seize hold of and support the ongoing knowledge explosion as well as rapid and extensive developments in the broad field of learning processes. We must replace administration policies of vetoes and cutbacks of vitally needed funds for Federal educational assistance programs over the past 3 years, with a major financial commitment to provide the opportunity for a quality education from the preschool to the adult level, as a national investment that will be fully repaid.

Can we, by accepting a presidential veto, continue to ignore the serious need of 6.5 million preschool children for comprehensive early childhood development programs, during the period when over 50 percent of their intellectual growth occurs, and at a time when existing day care services across America are critically deficient, both quantitatively and qualitatively?

Will we do nothing to assist local school districts forced to cut back 15,700 positions for beginning teachers between 1970 and 1971, when the National Education Association has estimated that 565,000 additional teaching positions are needed to provide quality education programs for all children?

Are we content to overlook the right of several million handicapped children to special education services, or must the doors of our public school systems remain closed to them?

Can this administration expect parents of 6.2 million children, bearing the cultural and educational handicaps of segregated education and racial and economic isolation, and who are in critical need of compensatory aid and remedial skills program, to behave there is anything significant in the President's recently proposed Equal Educational Opportunities Act?

Let it be clear that this legislation proposes school desegregation criteria and remedies that, in effect, maintain existing school segregation. Let it be stated bluntly that this bill directs no substantial new Federal funds toward meeting the costs of improving educational opportunities for children in impoverished areas. Instead, it simply transfers $2.5 billion for this purpose already authorized or awaiting final enactment by Congress.

In October 1969, the President's Urban Education Task Force recommended a $5 to $7 billion a year increase in Federal funds for city schools. The White House response was the appointment of a panel to study title I of the Elementary and Secondary Education Act, enacted under the previous administration to target funds to improve educational opportunities for disadvantaged children. That panel duly reported that funds were misused and said it found little concrete evidence of improved schooling for children. And this theme has been repeatedly reiterated by the administration in justifying Federal budget requests for elementary and secondary education aid far below the level of congressional authorizations, and in vetoing additional appropriations enacted by Congress.

The administration record clearly demonstrating a low-priority concern for education includes:

The veto of fiscal 1970 appropriations for the Departments of Labor and Health, Education, and Welfare, including an additional $1.1 billion for education;

The veto of a $4.4 billion appropriation for Office of Education programs for the next fiscal year, subsequently overridden by Congress;

A cutback of $50 million in the fiscal 1972 budget for elementary and secondary education, followed by a decision to hold the line in funds for the educationally deprived in Fiscal 1973, at $1.6 billion;

A repeated effort by the administration to cut back aid to federally impacted areas—by $110 million in fiscal 1972, and by $177.5 million in the next fiscal year—where Federal installations and large numbers of employees place an especially heavy burden on local services such as education, and at a time when no school or community can afford a reduction in Federal aid;

And an administration budget for fiscal 1973 that, despite an extensive reshuffling of funds into new categories, fails to disguise a drop of $138 million from funding approved for the current fiscal year for existing Office of Education programs.

Now, however, there has been a major change of position by the administration regarding programs enacted several years ago and progressively strengthened by Congress to aid educationally deprived children and to address the problems of juvenile delinquency, handicapped children, migrant children, children trapped in poverty, and children whose language is other than English and who have a serious need for bilingual-bicultural programs. Now the President would affirm, as in his recent message to Congress, that where Elementary and Secondary Education Act, title I funds "have been concentrated, the results have been frequently encouraging and sometimes dramatic."

I have welcomed the President's recent commitment to the position I have argued for several years, that these funds much reach impoverished areas in sufficient amounts to have a real impact. I would point out, however, that were the President to assert leadership through a decision to request funds for the ESEA title I programs at the full level of congressional authorizations under the current aid formula, more than $6 billion could be immediately channeled to launch comprehensive education and development services for children in impoverished areas of our cities and rural areas. This would constitute a decisive advance by the Federal Government toward providing genuine help for these children, as contrasted with the President's proposed legislation which would merely amount to placing a White House label on congressional efforts to at least maintain a Federal commitment to these children in the absence of any clearly discernible presidential position.

I am deeply concerned that we may see a repeat of an administration stance taken again and again in numerous areas over the past 3 years—a contingency plan that corresponds to placing a contract with a construction firm to build a bridge across a river, but then making a downpayment that amounts to only one-third of the minimum bid accepted as essential in getting the job done, and then castigating the firm for its failure to reach the other shore.

Repeatedly, this administration has engaged in false economies in defending vetoes and cutbacks of funds enacted by Congress to meet critical human needs across America—the need for jobs, for better health care at reasonable cost, and for educational opportunities, to cite only a few examples—with the argument that the development of America's human resources must be set aside in the interest of controlling inflation. With respect to education, the President commented in one veto message that: "Schools have as much at stake as anyone in our efforts to curb inflation."

I am encouraged that 1972 may witness a change in this administration position, however uncertain the duration of this change. I note, for example, the President's recognition, in his recent message, that there are human investments that are vital to America's strength and promise—that without additional funding for title I education aid to deprived children, "there is little chance of breaking the cycle of deprivation"; and that "making up for the years of past discrimination is not simply something that white Americans owe to black Americans—it is something the entire Nation owes to itself."

But I am seriously disturbed by indications that this administration's commitment to help America's educationally disadvantaged children may be limited and may continue to be undercut by a pervasive penny-pinching viewpoint. I note, for example, the President's view that compensatory aid grants under his proposed Equal Educational Opportunities Act would be limited primarily to basic instructional programs for language skills and mathematics. Mention is made of including supportive services such as health and nutrition, but the emphasis is lacking on these services and further comprehensive programs as being equally important in helping a child crippled by the ravages of poverty, the ignominy of racial discrimination, and the pervasive social atmosphere of hopelessness and despair.

It would appear that the President, to the contrary, has chosen to reject these components of a genuine and total education, in stating categorically that "schools exist to serve the children, not to bear the burden of social change." I submit that this statement sets up a false issue, and avoids the central question of what constitutes a genuine equal opportunity for a quality education for the child handicapped by barriers of racial and economic isolation.

Further indicators of limited administration commitment to establishing this equal opportunity, are found in the fiscal 1973 budget which proposes no new funds for assistance to the educationally deprived—a hold-the-line decision that amounts to a 10-percent cut in either children served or services given, due to increased costs of providing and concentrating compensatory education services.

Again, while the President in his message speaks of establishing an "educational bill of rights for Mexican-Americans, Puerto Ricans, Indians, and others who start under language handicaps," it should be clearly noted that it has been precisely bilingual-bicultural education that would be subsumed under a program consolidation proposed in the fiscal 1973 budget in a new education renewal site program. This is not the first time that an administration-proposed executive reorganization would necessarily entail a reduced priority for specific programs—in this instance, seriously affecting a program which needs increased visibility, not sublimation. As a result of insistent efforts by Senator CRANSTON and Senator PELL, the Office of Education has deferred further action to include the bilingual-bicultural education program in its education renewal site plan.

However, education itself would suffer a sharply reduced priority under the President's reorganization plan to create a Department of Human Resources—being placed in a "section" status three levels below the office of the Secretary of this new department.

THE KEY TO EFFECTIVE ACTION: A DEPARTMENT OF EDUCATION

I have discussed at length the serious implications of all this evidence to explain not only my opposition to the President's proposed Equal Educational Opportunities Act, but also my determination that policies reflecting a declining priority for education should be totally reversed.

I strongly believe that America's educational priorities, its investment in the development of our human resources, must be sharply focused and given an advocate at the highest level of Government. It is to this end, that I am today introducing legislation to establish a Department of Education.

We need this new Department to consolidate Federal programs and effectively marshall national resources to meet the critical education needs of children, youth, and adults across America. Last year it was estimated that 29 Federal agencies were spending over $12 billion on education—a 500-percent increase over 1962. But the central fact is that much of the impact of this investment is being dissipated, with little or no coordination of these programs being undertaken.

It is now clear that the Federal investment in public education must be substantially increased, to a level of at least one-third of total public resources—rather than the present level of less than 7 percent, representing a decline since 1968. Across the Nation, local school districts are exhausting their financial resources as expenses continue to mount. And recent court decisions, holding that disparities in local property-tax financing of education constitute a denial of the equal protection of the laws, present a further argument for sharply increased State and Federal assistance to equalize educational opportunity.

Within the present decade, the number of high school graduates each year will increase by 80,000, to a level of 3.8 million; while our colleges are faced with a projected rise of 3.8 million degree-credit enrolled students by 1979, to a level of 11.1 million.

By 1979, the costs of public and private colleges will soar to almost twice the present level of $25 billion. But there is also an increasing demand for widening the spectrum of educational opportunity—for providing comprehensive child development programs for the millions of preschool children of poor families and of mothers who want and need to work; and for opening a new range of opportunities to working youth and adults to continue their education.

All these facts point to the necessity for establishing a high-level authority and responsibility within the Federal Government for the development of a new educational policy for America. It is time to put the full educational resources of the Federal Government at the disposal of the American people.

I believe that my bill to establish a Department of Education offers the essential administrative framework for drafting that policy by which we can at last assure excellence, imagination, and full and equal opportunity in American education.

The legislation which I am introducing represents a consolidation and revision if important bills introduced last year by Senator RIBICOFF and Representative PERKINS. My bill proposes the consolidation of those Federal programs having a predominant education component, to greatly expedite the implementation of this reorganization. It also takes account of new education agencies to be established under the education amendments of 1972, current awaiting final conference action.

In addition to the reorganization and transfer of educational functions of Federal agencies, my bill provides for the establishment of a Federal Interagency Committee on Education to assure the effective coordination of all Federal programs affecting education. Moreover, there would be established a National Advisory Commission on Education, appointed by the President by and with the advice and consent of the Senate, to bring competent public participation to bear in the review of the administration of Federal education programs and in providing valuable counsel on the educational needs and goals of the Nation.

There must be no further delay in addressing the critical education needs of America. I believe there is an overwhelming national consensus that the time has come to establish a Department of Education to guarantee that these needs will now be met with the full resources of the Federal Government.

Mr. President, I ask unanimous consent that the full text of my bill to establish a Department of Education be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, There is hereby established an executive department which shall be known as the Department of Education (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of Education (hereinafter referred to as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for level I of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964. The Department shall be administered under the supervision and direction of the Secretary.

FUNCTION AND PURPOSE

SEC. 2. The function and purpose of the Department shall be to promote the cause and advancement of education throughout the Nation. To that end the Secretary shall, among his responsibilities, (1) advise the Persident with respect to the progress of education; (2) develop and recommend to the President appropriate policies and programs to foster the orderly growth and development of the Nation's educational facilities and resources; (3) exercise leadership at the direction of the President in coordinating Federal activities affecting education; (4) conduct continuing comprehensive surveys, collect data, and make available, findings, on the progress of education; (5) provide information and such other assistance as may be authorized by the Congress to aid in the maintenance of efficient school systems; and (6) encourage comprehensive planning by the State and local governments with a view to coordinating Federal, State, and community educational activities at the local level.

UNDER SECRETARY AND OTHER OFFICERS

SEC. 3. There shall be in the Department an Under Secretary, four Assistant Secretaries, and a General Counsel each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such functions and duties as the Secretary may prescribe. The Under Secretary shall receive compensation at the rate prescribed for level III of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964, and the Assistant Secretaries and General Counsel shall receive compensation at the rate prescribed for level IV of such Schedule. The Under Secretary (or during the absence or disability of the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

PROVISIONS OF LAW APPLICABLE TO THE DEPARTMENT

SEC. 4. Except to the extent inconsistent with this title, all provisions of law applicable to the executive departments generally shall apply to the Department.

SEAL

SEC. 5. The Secretary shall cause a seal of office to be made for the Department, of such design as the President shall approve, and judicial notice shall be taken thereof.

DELEGATION OF AUTHORITY

SEC. 6. The Secretary may, without being relieved of his responsibility therefor, and unless prohibited by some specific provision of law, perform any function vested in him through or with the aid of such officials or organizational entities of the Department as he may designate.

TRANSFERS TO DEPARTMENT

SEC. 7. (a) The United States Office of Education, together with all of its functions, personnel, property, records, obligations, commitments, and unexpected balances of appropriations, allocations and other funds is hereby transferred to the Department, and all functions of the Secretary of Health, Education, and Welfare being administered through such Office, and all functions of the Secretary of Health, Education, and Welfare with respect to such Office, are transferred to the Secretary.

(b) The following additional functions of the Secretary of Health, Education, and Welfare are hereby transferred to the Secretary:

(1) With respect to and being administered by the Secretary of Health, Education, and Welfare through the Office of Child Development;

(2) With respect to all laws dealing with the relationship between Gallaudet College, Howard University, and American Printing House for the Blind, and the Department of Health, Education, and Welfare.

(3) Under section 394 of the Communications Act of 1934, relating to Federal grants for the construction of television broadcasting facilities to be used for educational purposes; and

(4) Under the Drug Abuse Education Act of 1970.

(c) There are hereby transferred to the Secretary all functions of the Director of the Office of Economic Opportunity under sections 222(a) (1) and (2) of the Economic Opportunity Act of 1964 relating to the Project Headstart and Follow Through programs.

(d) There are hereby transferred to the Secretary all functions of the Secretary of Defense with respect to the operation of schools for dependents of members of the Armed Forces.

(e) There are hereby transferred to the Secretary all functions of the Secretary of Agriculture with respect to the operation of the Graduate School, United States Department of Agriculture.

(f) There are hereby transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing.

(g) There are hereby transferred to the Secretary all functions of the National Science Foundation which the Director of the Office of Management and Budget determines relate to instructional personnel development programs, instructional program development, and programs in computer innovations designed for use in education.

(h) The Bureau of Occupational, Career and Adult Education, the National Foundation for Post Secondary Education, the National Institute of Education, and the Bureau of Indian Education established under the provisions of the Educational Amendments of 1972, and all functions of the Secretary of Health, Education, and Welfare, and all functions of the Commissioner of Education being administered through each such Bureau or Foundation, are transferred to the Secretary of Education.

(i) All personnel, property, leases, obligations and commitments and expended balances of appropriations, allocations, and other funds which the Director of the Office of Management and Budget determines are to be used with respect to any office, agency, bureau, foundation, or function transferred under the provisions of this section, are transferred to the Department of Education.

ADDITIONAL TRANSFERS

SEC. 8. The President is authorized to transfer to the Department of Education, any other agency or instrumentality of the Federal Government which he determines has functions relating to education and should be transferred to the Department of Education to promote efficiency in Government and to carry out the purposes of this Act. Such transfers shall be completed within 180 days after the date of enactment of this Act, and a report describing such transfers shall be submitted to the Congress not later than 30 days thereafter.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 9. (a) There is hereby established a Federal Interagency Committee on Education (hereafter referred to as the "Committee.")

(b) The Committee shall study and recommend such actions as may be necessary to assure effective coordination of Federal programs affecting education, including—

(1) development of Federal programs in accordance with the educational goals and policies of the Nation;

(2) consistent administration of policies and practices among Federal agencies in the conduct of similar programs;

(3) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(4) adequate procedures for the availability of information on educational matters requested by the Secretary; and

(5) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act.

(c) The Committee shall, within 90 days of the enactment of this Act, advise the President with respect to his responsibilities under section 8 of this Act.

(d) The Committee shall be composed of the Secretary, who shall be the Chairman, and one appropriate representative of each of the following: The Department of State, the Department of Defense, the Department of Agriculture, the Department of Labor, the Department of Health and Welfare, the Department of Housing and Urban Development, the National Science Foundation, the Atomic Energy Commission, the National Aeronautics and Space Administration, the National Endowments for the Arts and the Humanities, and the Office of Economic Opportunity. Other members may be added by Executive Order of the President as he determines may be necessary.

(e) The Chairman may invite Federal agencies in addition to those which are represented on the Committee under the provisions of subsection (d) of this section to designate representatives to participate in meetings of the Committee on matters of substantial interest to such agencies which are to be considered by the Committee.

(f) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Executive Director of the Domestic Council, and the Director of the Office of Science and Technology may each designate a member of his staff to attend meetings of the Committee as observers.

(g) Each Federal agency which is represented on the Committee under the provisions of subsection (d) of this section, shall furnish necessary assistance to the Committee in accordance with section 214 of the Act of May 3, 1945 (31 U.S.C. 691).

NATIONAL ADVISORY COMMISSION ON EDUCATION

SEC. 10. (a) There is hereby established a National Advisory Commission on Education (hereafter referred to as the "National Commission") composed of fifteen members appointed by the President, by and with the advice and consent of the Senate from among individuals—

(1) who are familiar with the educational needs and goals of the United States,

(2) who have competence in assessing the progress of educational agencies, institutions, and organizations in meeting those needs and achieving those goals,

(3) who are familiar with the administration of State and local educational agencies and of institutions of higher education, and

(4) who are representative of the mass media, industry and the general public.

Members shall be appointed for terms of three years, except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one-year each and one-third of the members shall be appointed for terms of two-years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only.

(b) The National Commission shall—

(1) review the administration of, general regulations for, and operation of Federal education programs;

(2) advise the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of appropriate agencies, institutions, organizations of the Nation in order to meet those needs and achieve those goals;

(3) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such

programs and projects in achieving the purpose for which they are intended;

(4) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of Federal education programs;

(5) consult with Federal, State, and local and other educating agencies, institutions, and organizations with respect to assessing education in the United States and the improvement of the quality of education, including—

(A) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

(B) determination of priorities among unmet needs and national goals; and

(C) specific means of improving the quality and effectiveness of teaching, curricula, and educational media and of raising standards of scholarship and levels of achievement;

(6) conduct national conferences on the assessment, improvement, and renewal of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other education related organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education; and

(7) conduct, and report on, comparative studies and evaluations of education systems in foreign countries.

(8) advise and assist in the coordination of all the advisory bodies to Federal education programs.

(c) The National Commission shall make an annual report, and such other reports as it deems appropriate, concerning its findings, recommendations, and activities to the President for submission to the Congress once each year.

(d) In carrying out its responsibilities under this section, the National Commission shall take, together with the Secretary, whatever action is necessary to carry out section 438 of the General Education Provisions Act, to devise a manageable and effective advisory structure for the Department. The National Commission shall advise the Secretary on the number of advisory bodies that are necessary and the manner in which such bodies relate to one another. The National Commission shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Supplementary Centers and Services, the National Advisory Council on Education Professions Development, the National Advisory Council on Educational Research and Development and such other advisory councils and committees as may be appropriate to carry out its functions under this subsection. All Federal agencies are directed to cooperate with the National Commission in carrying out its function under this subsection.

The National Commission is authorized to engage such technical assistance as may be required to carry out its functions and the Secretary shall, in addition, make available to the National Commission such secretarial, clerical, and other assistance and such pertinent data prepared by the Department as the National Commission may require to carry out its functions.

(f) Members of the National Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the National Commission or while otherwise engaged in the business of the National Commission, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for grade GS-18 under section 5332 of title 5, United States Code, including travel time, and while so serving on the business of the National Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for purposes employed intermittently in the Government service.

(g) The President shall appoint the National Commission not later than thirty days after the date of enactment of this Act.

TRANSFER MATTERS

SEC. 11. All laws relating to any agency or function transferred under this Act shall, insofar as such laws are not inapplicable, remain in full force and effect. Any transfer of personnel pursuant to this title shall be without change in classification or compensation, except that this requirement shall not operate to prevent the adjustment of classification or compensation to conform to the duties to which such transferred personnel may be assigned. All orders, rules, regulations, permits, or other privileges made, issued, or granted by any agency or in connection with any functions transferred by this title, and in effect at the time of the transfer, shall continue in effect to the same extent as if such transfer had not occurred, until modified, superseded, or repealed. No suit, action, or other proceeding lawfully commenced by or against any agency or any officer of the United States acting in his official capacity shall abate by reason of any transfer made pursuant to this title, but the court, on motion or supplemental petition filed at any time within twelve months after such transfer takes effect, showing a necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the appropriate agency or officer of the United States.

ANNUAL REPORT

SEC. 12. The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for the submission to the Congress on the activities of the department during the preceding calendar year. Such report shall also contain objective data on enrollments, expenditures, numbers of teachers, administrative, supervisory and auxiliary personnel, numbers of professionals who lack full qualifications, needs for classroom and other construction, special needs of critical areas such as urban and rural areas, and similar data.

CONFORMING AMENDMENTS

SEC. 13. (a) Section 19(d)(1) of the Act of June 25, 1958, is hereby amended by striking out "Secretary of Health, Education, and Welfare" at the end thereof and inserting the following: "Secretary of Health and Welfare, Secretary of Education."

(b) Section 158 of the Revised Statutes (5 U.S.C. 1) is amended by adding at the end thereof: "Eleventh. The Department of Education." and by striking out "Health, Education, and Welfare" and inserting "Health and Welfare."

(c) Any reference to the Office of Education or the Commissioner of Education, in any other law, rule, regulation, certification, directive, instruction, license, or other official paper in force on the effective date of this title shall be deemed to refer and apply to the Department of Education or the Secretary of Education, as may be appropriate.

(d) Any reference to the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare in any other law, rule, regulation, certificate, directive, instruction, license, or other official paper in force on the effective date of this title shall be deemed to refer and apply to the Department of Health and Welfare and the Secretary of Health and Welfare, respectively.

EXPENDITURES AUTHORIZED

SEC. 14. The Secretary is authorized to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for lawbooks, books of reference and periodicals, and for printing and binding) as may be necessary to carry out the provisions of this Act, and as may be provided for by the Congress from time to time.

APPROPRIATIONS AUTHORIZED

SEC. 15. There are authorized to be appropriated such sums as may be necessary to enable the Department to carry out the provisions of this title and to perform any other duties which may be imposed upon it by law.

EFFECTIVE DATE

SEC. 16. The provisions of this Act shall be effective on its date of enactment, except that section 7 shall be effective within ninety days following such date.

ANNUAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S 2504

At the request of Mr. HUMPHREY, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2504, a bill to amend title XVIII of the Social Security Act to include, among the home health services covered under the insurance program established by part B of such title, nutrition services provided by or under the supervision of a registered dietitian.

S. 3044

At the request of Mr. HUMPHREY, the Senator from Hawaii (Mr. INOUYE), the Senator from Tennessee (Mr. BROCK), the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 3044, a bill to amend the Civil Rights Act of 1964 in order to prohibit discrimination on the basis of physical or mental handicap in federally assisted programs.

S. 3415

At the request of Mr. HRUSKA, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3415, a bill to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes.

SENATE JOINT RESOLUTION 67

At the request of Mr. HART, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Joint Resolution 67, authorizing the President to issue a proclamation designating the last full calendar week in April of each year as "National Secretaries Week."

SENATE RESOLUTION 292—SUBMISSION OF A RESOLUTION RELATING TO THE 88TH BIRTHDAY OF HARRY S. TRUMAN

(Referred to the Committee on the Judiciary.)

Mr. HUMPHREY. Mr. President, I send to the desk for appropriate reference a resolution to honor the 88th birthday of a great American, Harry S. Truman, in the hope that the committee will, within the time frame between now and May 8, be able to consider the resolution and report it back to us.

The PRESIDING OFFICER (Mr. NELSON). The resolution will be received and appropriately referred.

Mr. GOLDWATER. Mr. President, will the Senator permit my name to be added as a consponsor of the resolution?

Mr. HUMPHREY. I ask unanimous consent that the name of the Senator from Arizona (Mr. Goldwater) be added as a consponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution reads as follows:

S. Res. 292

Whereas on May 8, 1972 Harry S. Truman will celebrate his 88th birthday;

Whereas Harry S. Truman has devoted his entire life to the service of his Nation, as a Major in the first World War, as a distinguished Senator from the great state of Missouri, as a Vice President under Franklin Delano Roosevelt, as President of the United States;

Whereas Harry S. Truman has guided our Nation through some of its most difficult periods, in times of war and peace, always demonstrating compassion, understanding and qualities of leadership which are unexcelled in our Nation's great history;

Whereas this man is considered to be one of America's greatest Presidents and citizens;

Whereas he has continued to serve his country as a counselor to Presidents; now, therefore, be it

Resolved, That the Senate of the United States salutes this great American for his extraordinary and extensive service to his Nation, and extend its heartiest congratulations to him on his 88th birthday, and wishes him and his wonderful wife, Bess, continued good health and happiness in the years ahead.

FISHERMEN'S PROTECTIVE ACT AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1107

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill (H.R. 7117) to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of U.S. vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts to be reimbursed, and for certain other amounts, and for other purposes.

Mr. Stevens' remarks when he submitted the amendment appear under "Statements on Introduced Bills and Joint Resolutions."

PROPOSED DEPARTMENT OF HEALTH—AMENDMENT

AMENDMENT NO. 1108

(Ordered to be printed and referred to the Committee on Government Operations and the Committee on Labor and Public Welfare.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (S. 3432) to establish a Department of Health.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 895

Mr. PEARSON. Mr. President, I ask unanimous consent that at the next printing of the bill, Senators Baker, Beall, Bentsen, Bible, Cook, Cotton, Cranston, Humphrey, Inouye, Magnuson, Metcalf, Pastore, and Stevens be added as cosponsors of amendment No. 895 to H.R. 1. This amendment would provide persons 65 or older a phased annual tax credit of up to $300 for property taxes or rent paid on their residence.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 989

At the request of Mr. Gurney, the Senator from California (Mr. Cranston) was added as a cosponsor of amendment No. 989, intended to be offered to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 1100

At the request of Mr. Stevenson, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of amendment No. 1100, intended to be proposed to the bill (S. 3193) the Economic Opportunity Amendments of 1972.

ANNOUNCEMENT OF THE CONTINUATION OF HEARINGS ON S. 3140, THE INTERGOVERNMENTAL COOPERATION ACT OF 1972

Mr. CHILES. Mr. President, on behalf of the distinguished chairman of the Subcommittee on Intergovernmental Relations, Mr. Muskie, I should like to announce that on April 17, the subcommittee—of the Committee on Government Operations—will resume consideration of S. 3140, the Intergovernmental Cooperation Act of 1972.

S. 3140 is directed to strengthening the management of our categorical grant-in-aid system, the chief means by which the Federal Government helps the States and localities solve national problems. It is a necessary supplement to the Intergovernmental Cooperation Act of 1968—Public Law 90–577—the first major piece of legislation to improve administrative relationships between the Federal, State, and local levels of government.

The hearing will be held in room 3302 of the New Senate Office Building, beginning at 10 a.m.

Anyone wishing to file a statement with respect to the proposed legislation should notify the chief clerk of the subcommittee, Mrs. Lucinda Dennis. She can be reached by calling 225–4718.

NOTICE OF HEARING ON S. 3419

Mr. RIBICOFF. Mr. President, pursuant to the action of the Senate referring S. 3419 to the Committee on Government Operations for consideration of titles I and II of that bill, the Subcommittee on Executive Reorganization will hold hearings on those parts of the legislation on April 20 and 21, 1972. The hearings will be in room 3302 of the New Senate Office Building and will begin at 10 a.m.

ANNOUNCEMENT OF HEARINGS ON AMENDMENTS TO THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from New Jersey (Mr. Williams), I ask unanimous consent to have printed in the Record an announcement of hearings on amendments to the Longshoremen's and Harbor Workers' Compensation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR WILLIAMS

The Subcommittee on Labor will hold hearings on S. 2318, S. 525, and S. 1547, bills to amend the Longshoremen's and Harbor Workers' Compensation Act, on Wednesday, May 3, and Thursday, May 4, in room 4232, New Senate Office Building, at 10 a.m. Interested parties desiring to present testimony concerning this legislation are requested to contact the Labor Subcommittee in room G–237, New Senate Office Building. I anticipate that two additional days of hearings will be scheduled in the near future.

I have asked the distinguished Senator from Missouri (Mr. Eagleton) to preside at the hearings of the subcommittee on these bills.

ADDITIONAL STATEMENTS

GIANT FOOD STORES MISLEADING ADVERTISING

Mr. CURTIS. Mr. President, it is time that Congress look for the facts. Giant Food Stores were paying less for their beef at wholesale when they ran their Esther Peterson ads in the Washington papers on March 21 than they were paying at the time of the wage-price freeze last August 15.

This is borne out by figures kept by the Livestock Market News Service at the Department of Agriculture.

On Friday, August 13, 1971, the last market day before the wage-price freeze was declared by President Nixon, the average price of Midwest choice beef carcasses, 500 to 800 pounds, was $54 per hundredweight.

On Tuesday, March 21, 1972, when Mrs. Peterson advised consumers to boycott beef, the average price of the same type and grade carcasses was $53.25, down 75 cents a hundred from the prefreeze price.

Giant buys most of its beef carcasses through Midwest markets.

I understand that Assistant Secretary of Agriculture Dick Lyng confronted Mrs. Peterson and the president of the Giant Food chain, Mr. Joseph B. Danzansky, with this information.

When they told Mr. Lyng that they did not believe his information was correct, he suggested that Mr. Danzansky call in the company's beef buyer and ask him. I understand that Mr. Danzansky did this, and Giant's buyer confirmed this information in the presence of Mr. Lyng, Mrs. Peterson, and Mr. Danzansky.

Now the Giant Food Stores and Mrs. Peterson are taking credit publicly for driving the prices of beef down.

This type of phony consumerism must be investigated and exposed. It is not only misleading to consumers, but in this instance it has cost farmers and ranchers thousands of dollars, and perhaps ultimately it will cost them millions. Yesterday's carcass price for Midwest choice beef was down to an average of $51.75, or $2.25 below the level at the time of the August 15 freeze. Hog prices also are dropping dangerously. Farmers and ranchers, whose prices already were below those not only at the time of the August 15 wage-price freeze but also below those of 20 years ago, are being forced to bear the brunt of still lower prices to make up for higher costs and profits of other segments of industry. This is wrong, and must be fully investigated by appropriate Government agencies and committees of Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement made by the Giant Food Stores to their stockholders which clearly shows that it was not the price of cattle and hogs that caused the Giant to raise their retail prices.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TO OUR SHAREHOLDERS

Our thirty-fifth year of business was a year of challenge, action, and excitement on many fronts.

Financially, Giant achieved record sales in fiscal 1971 of $476.9 million. Costs, however, continued to rise sharply as a result of inflation as evidenced by a labor contract settlement which boosted wages 13 per cent. As anticipated, net earnings for the quarter in which we went discount and settled the labor contract showed a deficit which adversely affected earnings for the year. As indicated in the chart on the left, profits again began a steady upturn during the third quarter and continued through the balance of the fiscal year. At years' end we had matched the earnings of the last 16 weeks of the previous fiscal year. Net earnings for the year were $4.2 million.

Net earnings per share were $1.44 for 1971 based on the average number of shares outstanding, compared to $2.15 for fiscal 1970.

In operations, we converted to a chain-wide discount price program in August. As we predicted at the time, a sharp drop in protfis followed the reduction of our margins. Discount start-up costs were coupled with a record labor increase of $7.5 million shortly thereafter. In order to offset the cost of the wage settlement, maintain the lower profit margins inherent to a discount policy, and in anticipation of an additional $8 million wage increase during fiscal 1972, we made the difficult decision to discontinue our successful Top Value trading stamp promotion at the end of October.

We have received much attention and many accolades for our consumer program, detailed in this report. The decade of the '70's has been called the decade of consumerism and ecology. We have been most active in these important areas.

During the past year, Giant has told the public that "Action Speaks Louder Than Words." Looking ahead, we believe that our present and planned actions—including discount pricing and the innovative consumer programs described in this report—will assure healthy and sustained growth for Giant in the coming years.

TAX REFORM AND REDISTRIBUTION OF INCOME—PROPOSALS BY SENATOR GEORGE McGOVERN

Mr. PROXMIRE. Mr. President, income tax day is 10 days away. On that day most of us will turn over a substantial portion of our incomes to the Commissioner of Internal Revenue.

Paying income taxes is not a pleasant chore. But it is made much less pleasant by the knowledge that all Americans do not suffer equally. A number of Americans pay no taxes at all. And some of these are among the wealthiest people in the country.

The Senator from South Dakota (Mr. MCGOVERN) has pointed out that in 1969, the latest year for which figures are available, 21,317 people earned more than $20,000 a year but paid no tax. Fifty-six people who had incomes in excess of $1 million paid no tax.

That comes as quite a blow to the average wage earner who each year forks over $1,000 of his $10,000 salary to Uncle Sam.

Mr. President, Senator MCGOVERN sets out a number of proposals in the areas of corporate taxes, estate and gift taxes, and State and local taxes. I think these proposals deserve the careful consideration of every Senator.

I ask unanimous consent that Senator MCGOVERN's program be printed in the RECORD.

There being no objection, the program was ordered to be printed in the RECORD, as follows:

TAX REFORM AND REDISTRIBUTION OF INCOME—PROPOSALS BY SENATOR GEORGE MCGOVERN

INTRODUCTION

Many Americans feel themselves the victims of economic discrimination at the hands of the Federal tax system. Although that system is, in many respects, one of the most enlightened in the world, it is an undeniable fact that millions of ordinary, working middle income families pay their taxes as required by law, while many of the wealthy use a variety of devices to escape their rightful tax burden. At the same time, the man in the middle sees billions of dollars going into welfare programs that don't work. In short, many Americans pay their taxes dutifully and feel that others are exploiting the tax and welfare systems.

The most urgently needed change in our systems of taxation and public assistance is to place far greater emphasis on fairness. Each American should feel that he is getting his money's worth and that he is being treated exactly like every other American. Each American should pay his fair share and each American should receive his fair share. That is clearly not the case now.

TAX REFORM

The purpose of taxation

In the United States, taxes pay for those activities which we wish to have carried out by government rather than by the private sector. The costs are supposed to be carried by each income group paying its share and by those within each income group paying a similar amount. The progressive tax system asks those who are better off to bear a greater share of the load than those who have less ability to pay. In general, the progressive system is one of the most positive elements of our tax system.

Individual income taxes

Previous efforts at tax reform have failed to bring our system closer to a truly progressive one. Every effort at reform shows that the cloth of our tax codes is so worn that every patch rips another hole somewhere else. Even more importantly, efforts to promote fairness by giving everyone his own loophole are slowly dismantling the progressive federal income tax.

The actual tax system is just about half as progressive as it is supposed to be, according to the tax rates adopted by Congress. While nominal rates range from 0.1 percent at low incomes to 69.2 percent for those with incomes over $1 million per year, actual rates on average range from 0.7 percent to 34 percent.

Two taxpayers with the same annual income pay quite different taxes. A factory worker or a school teacher whose taxes are withheld from his wages cannot take advantage of loopholes. They may expect to pay almost $1,000 in taxes on earnings of $10,000. A wealthy person who receives $10,000 income from state and local bonds will pay no Federal taxes at all. Clearly this system is unfair.

And these inequities are not theoretical. On the basis of 1969 tax returns, the last year for which figures are available, some 21,317 people earning more than $20,000 paid no Federal taxes whatsoever. That includes 56 people with incomes in a single year of $1,000,000 or more.

Because the effort to close one loophole at a time has been a failure and because to do so would still leave a great number of inequities until all were closed, we should shift to a really effective minimum tax. While a minimum tax was created in 1969 tax legislation, it is actually windowdressing and is not effective. Recent reports indicate that some who earn over $1 million still pay no taxes.

I propose a minimum income tax so that the rich could not avoid their share of the tax burden no matter what loopholes they used. One possible formula would be a minimum income tax to apply to all those with total incomes in excess of $50,000. The entire income of any person in this range would be subject to payment of taxes at a rate of 75 percent of the current statutory rates at the rate that they would have to pay if there were no loopholes. All income regardless of source would be included. (Of course, if the computed tax exceeds the minimum tax, it would be payable.)

If this minimum income tax were now in effect it would bring in approximately $5 billion during the present fiscal year and $6 billion in fiscal 1973. That would amount to about a 7 percent increase in receipts from the individual income tax. This increase would be paid by the wealthiest 411,000 out of the 76 million Federal taxpayers.

This basic tax reform would not unfairly penalize the wealthy just because they were well off. It would simply insure that they could not dump their tax load onto the backs of already hard-pressed middle income taxpayers.

Corporate taxes

The strength of the American economy is due mainly to the dynamic growth of the private sector led by corporations and other businesses. It is sound public policy to create the conditions for business to function effectively.

The Federal tax system has been used to help the corporations. As Joseph Pechman, one of the leading tax experts in the United States points out: "A special tax on the corporate form of doing business is considered appropriate because corporations enjoy special privileges and benefits." In order to stimulate corporate economic activity, the Federal government can and does alter tax rates. That is the principal form of assistance that has recently been given.

The present corporate tax rate is 48 percent of the taxable base defined by law. (Of this 22 percent is the normal tax which applies, without the 26 percent surtax, to the first $25,000 of corporate net income. This feature is of special benefit to small businesses—some 77 percent of the taxpaying corporations. It should be maintained.)

In each post-war recession, demands have arisen to stimulate the economy through corporate tax reductions. These have taken the form, not of overt rate reductions, but of covert rate reductions in the form of increased depreciation allowances and special devices such as the investment tax credit. Such devices transfer profits from the taxable category to the untaxable category. In the process, the corporate income tax is gradually being abolished.

Because of steady reductions in the taxable base over the past twenty years, the effective corporation income tax rate has been cut in half. There is a real question about how much farther we can go.

The time has come to end the dismantling of the corporation income tax and to reestablish a fair balance between personal and corporate income tax collections. As a result, I have opposed the new depreciation guidelines and the investment tax credit. Special loopholes, such as percentage depletion, need to be phased out, but a broad balance also needs to be established between taxable and untaxable earnings of corporations. As it is, we have tipped that balance too far in the direction of untaxable earnings.

I propose that the actual corporation income tax be returned to its 1960 level by the elimination of the special loopholes that have been opened since then. (About two-thirds of the gap between the present level and the 1960 level results from Nixon Administration cuts in the last year.)

This reform of the corporation income tax would raise approximately $9 billion in the current fiscal year and about $17 billion in fiscal 1973 (based on Administration estimates of increased corporate activity.)

This proposal for increasing the corporation income tax rate does not mean reduced government assistance to business. If the entire McGovern economic program were to be applied, there would be more stimulus to business than is available from the tax privileges now in effect. This program includes an immediate $10 billion fiscal stimulus to create new jobs and use underutilized capacity, economic conversion from a war to a peace economy with the extensive use of government contracting for specific purposes and the Minimum Income Grant, discussed below, which would greatly stimulate consumer purchases. Nothing spurs profits like a strong full employment economy, which has the highest priority in my economy program.

In short, our corporations must be healthy and growing if our economy is to prosper. But we have a wider range of tools at our disposal than perpetual reductions in the corporation income tax.

Estate and gift taxation

Most Americans subscribe to a fundamental belief of our Founding Fathers that we should be allowed to keep a fair proportion of what we earn but should not be allowed to inherit great wealth. Yet, in practice, the loopholes in our gift and inheritance taxes are much greater than those in our income taxes. Just 9 percent of all families own 50 percent of all private assets. More than a quarter of all private assets are owned by less than 1 percent of the population. Although some of these fortunes are based on earned income, most are based on inherited wealth.

Estate and gift tax rates are high. But actual rates are a tiny fraction of the theoretical rates.

Estate and gift taxation should be reformed in the same manner as the income tax. Instead of proceeding to close loopholes, one by one, a whole new system needs to be constructed.

Gift and inheritance taxes should shift from a tax on the estate or giver to a lifetime cumulative tax on the recipient. This shift would make it possible to prevent tax avoidance and would be more fair, because it would regard the money received as income to the recipient, which it is.

The cumulative lifetime tax on recipients should take the following form: A base amount would be exempt from taxation—an amount now set by the government at $60,000. Then a progressive tax, reaching an upper limit of 77 percent, the current statutory ceiling, would be levied on an estate worth, say, $500,000 or more. The base exemption should be increased when the estate contains a wholly-owned proprietorship.

While it is impossible to calculate the exact amount of new revenues resulting from this proposal, a conservative estimate would indicate the doubling of present tax receipts from estate and gift taxes. That would mean additional tax revenues of $4 billion in the present fiscal year and $5 billion in fiscal 1973.

State and local taxes

While the Federal tax system is generally progressive, with room for improvement, the state and local tax systems are far less progressive and do not respond as directly to changes of income of taxpayers. It is well known that there has been excessive reliance on the property tax.

The property tax revolt may be a major issue in the coming months. The Federal government may have to step in to allow for a reduction of property taxes used to support education—perhaps their complete removal. As I indicated in July 1971 in my proposals on revenue sharing, the states should be given the incentive to raise more of their revenues from progressive income taxe. In addition, the Federal government should take over at least a third of the total bill for primary and secondary education. Funds should be distributed to school districts in line with an equalization formula as is outlined in my revenue sharing proposals.

It has been suggested that a value added tax, which in effect is a national sales tax, should be used either as a method of increasing Federal tax revenues or as a method of reducing or eliminating the property tax or both. I disagree. In the first case, we should increase individual and corporation taxation, as indicated, rather than resort to the national sales tax. In the second case, a shift to the value added tax would represent a retreat from the far sounder revenue sharing approach. In addition, while the Federal government should assume a greater share of the cost of education, certain local services are associated with the ownership of property, and there is thus a justification for some property taxation. Also, as mentioned above, the property tax can be cut by a shift to more progressive forms of taxation by the states.

In any case, the value added tax or national sales tax is against the interest of middle and low income people. It is a regressive tax on consumption, which cannot, of course, be reduced beyond a certain point necessary to insure a decent life. And it represents a backdoor method of increasing individual taxes just after a reduction in taxation on individual incomes has been enacted.

Conclusion

The Federal tax system is basically sound, although it has been riddled with special privileges for the rich. We should move now to establish a fair tax system for all Americans.

The reforms of the Federal tax system relating to individual and corporation income taxes and to estate and gift taxes would result in additional revenues of about $18 billion this fiscal year and $28 billion in fiscal 1973. This amounts to an additional $140 in Federal income for every man, woman and child in the United States. Depending on how these additional revenues were applied they could bring about the reduction or elimination of the local property tax for education; spent on other urgent national needs such as rebuilding our cities, pollution control, adequate nutrition for all; or could go a long way toward financing the Minimum Income Grant program, discussed below.

REDISTRIBUTION OF INCOME

The need for redistribution

The present tax system contains inequities because it does not levy a correspondingly fair burden on all taxpayers. While the rich benefit from the tax system, middle income groups and low income groups including the poor do not receive such benefits. Those with medium incomes find they are paying their taxes but not receiving either the kind of tax breaks given to the wealthy or the kind of public assistance payments made to the poor. The poor find that, as soon as they go to work, they are subject to extremely high rates of income taxation because of their sudden sharp reduction of public aid when they earn their first dollar. The net result is mounting frustration for those in the middle and a future of poverty for those who are heavily penalized when they seek to work their way out of welfare dependence.

There are other weaknesses of the public assistance or welfare program. Many people in need are not covered; family groups are penalized; benefits are insufficient; migration from one state to another is encouraged; extensive controls are applied; and it is possible for taxpayers to be worse off than those receiving public assistance.

A number of welfare proposals are now pending before the Congress. I sponsored the proposals of the National Welfare Rights Organization in an effort to insure that benefits will take into account real needs. Naturally these proposals deal only with those on public assistance—not medium income taxpayers. Some of them represent major improvements in the present system. But none of them offers the broad application of the Minimum Income Grant described below. Even the negative income tax proposal has the defect of creating or, more properly, maintaining a two-class society—those who pay and those who receive.

The minimum income grant

I propose that every man, woman and child receive from the Federal government an annual payment. This payment would not vary in accordance with the wealth of the recipient. For those on public assistance, this income grant would replace the welfare system. It has also been suggested that the national income grant could replace certain social security benefits.

There are a number of methods by which this proposal could be implemented. Some are discussed here. These methods require full examination by the best economic talent available, and the plan chosen must have the support of the President, if it is to have any chance of adoption, for those reasons, the present proposal is not designed for immediate legislative action. Instead, it represents a pledge that, if elected, I would prepare a detailed plan and submit it to the Congress.

One proposal calls for the same payment to be made to all Americans. This is the credit income tax idea, proposed by Professor Earl Rolph, and more recently associated with the name of Professor James Tobin of Yale, immediate past President of the American Economic Association, former member of the Council of Economic Advisors and a member of the National Economic Advisory Group of the McGovern Campaign. Using a 1966 base, Professor Tobin suggests a payment of $750 per person. At the present time, a payment of almost $1,000 per person would be required. This would amount to $4,000 for a family of four—just about the official poverty level boundary.

Another formula has been suggested by Leonard Greene, President of the Safelight Instrument Corporation of New York. Under his "Fair Share" plan, each adult would receive $900 a year and each child would receive $400. This would amout to $2,600 for a family of four.

It should be stressed that neither of these proposals relates to the size of the family unit; the payments are made on an individual basis. Thus, there would be no incentive for a family to break up in order to receive higher total benefits.

A third formula would involve payments according to the family group. Joseph Pechman of the Brookings Institution has shown that: "The relative incomes that would provide roughly equivalent standards of living appear to be in the ratio of 75:100:25 for single, married, and dependent persons, respectively." The payment of the Minimum Income Grant could be made according to such a formula. In this case, adequate account would be taken of those who receive welfare and who live alone.

Financing the minimum income grant

As redistribution of income, the Minimum Income Grant would represent no additional cost to the Treasury. Funds to finance the grant would be expected to come from those above a designated break-even income and would take the form of additional taxes. If the break-even income for a family of four were set at $12,000, about 20 percent of Federal taxpayers would experience a tax increase, while about 80 percent would be able to keep all or part of the grant. It is expected that those below the poverty line would keep all of the Grant, while those between the poverty line and the break-even point would keep a gradually decreasing amount as their incomes rose. The loss of Grant benefits would thus be sufficiently gradual as not to discourage those on welfare from seeking a job (in fact, it would encourage them to seek work) and would provide a significant income supplement to the millions of Americans in the medium income range. Thus, for example, a family of four with its own income of $8,000 would be able to retain an additional $2,000 of the Minimum Income Grant.

Professor Tobin's explanation of the credit income tax suggests that the grant would be tax-free but that each person would be required to pay a uniform income tax to the Federal Treasury (a 33.3 percent tax is suggested with the $750 payment). Although this might seem to be a regressive tax, the tax credit resulting from the Grant would cause it to have a progressive effect. While taxes would be much higher for the wealthy, others would receive significant tax relief. Professor Tobin uses the example of a family of four with an income of less than $9,000 that would pay no taxes at all.

This credit income tax proposal would imply a redistribution of income of some $14.1 billion for those above the poverty line to those below it. The redistribution from those above the break-even income line to those below it but still above the poverty line would amount to $29 billion. These figures demonstrate that while the Minimum Income Grant would represent a total reform of the present welfare system, it would actually provide more money to medium income taxpayers than it would to the poor.

Leonard Greene's Fair Share would be financed by the present progressive tax system plus a 20 percent tax surcharge on all taxpayers. The Minimum Income Grant, according to Mr. Greene, would not be tax exempt. This proposal distributes the cost over a greater number of taxpayers but the burden on any one of them is lower than under the credit income tax formula.

It would not be necessary to finance all of the Minimum Income Grant by tax increases. The billions of dollars saved in welfare benefits and the cumbersome administration of the welfare system—a total since it began of $9.6 billion or $1.4 billion in fiscal 1970—could be allocated to the Grant It should be noted that this procedure would represent a major saving for states and localities which would not be required to finance the welfare system and could use the resulting funds—an estimated $5 billion—to lower property taxes. This step would represent additional income assistance to medium income taxpayers. (To the extent that social security payments were replaced by the Grant, social security funds could be used to finance the system.)

In addition, the revenues resulting from the kind of tax reform proposed earlier ($28 billion in fiscal 1973) could be applied to the Grant.

Finally, the justification for the personal exemption on individual tax returns would be removed by the adoption of the Minimum Income Grant. If the person exemption were removed, the Federal Government would receive $63.6 billion in additional tax revenues. These funds could also be applied to the Grant.

THE PROBLEM OF POLLUTION

Mr. FANNIN. Mr. President, our Nation and the world must come to grips with the problem of pollution. There is no disputing this fact.

There is a major disagreement, however, over just how to go about providing environmental protection.

There is strong pressure for a crash program which calls for drastic means to cut pollution. Such a crash program would not take into account economic or social costs and casualties.

I do not believe that the majority of Americans want such a program, especially when they are aware of the high cost and the likelihood of economic disaster.

What we need is a steady, reasonable approach to environmental protection. It is my belief that we can have a healthy economy and a healthy people—it is not a case of having one or the other.

Our laws and regulations must give industries the opportunity to continue providing jobs, and the opportunity to expand as long as they are making good faith efforts to minimize pollution.

Mr. President, recently a number of articles and editorials have been published which I believe provide worthwhile analyses of our problem of controlling pollution. I ask unanimous consent to have these interesting and informative articles printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, Mar. 19, 1972]

LET'S SAVE THE MINERS AND THEIR JOBS

A month ago Governor Williams told The Arizona Republic he would not sit still as governor and see the copper smelter at Douglas closed because of Arizona's high anti-pollution standards.

We agree with the governor. This state cannot afford to lose several thousand jobs and over a million dollars in taxes because its air standards are higher than its neighbors' or the nation as a whole.

Phelps-Dodge, which operates three smelters in Arizona, has said it will close the Douglas smelter—which alone supports 1,730 jobs—if the state will not compromise on anti-pollution rules which are substantially higher than federal requirements.

The copper corporation already has announced a new $100 million smelter will be built just outside Arizona in New Mexico, in part because of Arizona's higher anti-pollution barriers, thus costing us more employment and tax dollars.

Certainly the copper industry is in part responsible for our air pollution problem. But an even greater responsibility must be borne by our growing swarm of motor vehicles spewing out almost uncontrolled poisons.

If the automobile needs extra time to end its pollution, certainly one of Arizona's top employers and taxpayers, the copper industry, should receive as much or perhaps more consideration.

We suggest Governor Williams find compromises which will force all copper plants in the state to reach at least federal limits of air control and at the same time push for much-needed barriers to vehicular pollution of the atmosphere.

We need controls. But people are not dying in the streets today from the effects of smelter emissions as some environmentalists would have us believe. Dr. George Spikes, chief of staff of the Cochise County hospital almost in the shadow of the Douglas smelter, testified recently he had practiced medicine there for 13 years and never treated a patient with a condition aggravated by smelter smoke.

This does not mean the smoke from either smelters or automobiles is not harmful. What it does mean is that a longer time plan could be granted if required without harming the healh of Arizona's people.

Arizonans are entitled to clean air. They must have it. But, as President Nixon warned last August in a White House statement, "It is simplistic to seek ecological perfection at the cost of bankruptcy the very enterprises which must pay for the social advances the nation seeks."

[From the Arizona Republic, Mar. 30, 1972]

WHO ARE THE POLLUTERS?

If an automobile really stinks up the air as the antipollution buffs say, who is the guilty party? The guy who builds it? Or the guy who drives it?

To hear some of the environmentalists talk, you'd think a devilish clique called the auto industry deliberately went out of its way to design and build a polluting machine which it then put into the hands of the innocent—and presumably ignorant—public for the nefarious purpose of fouling up the atmosphere.

What the auto industry did, of course, was provide the public with a mighty convenient means of getting around. So convenient did it prove, in fact, that the public—barring a handful of rugged individualists—became pretty well dependent on it for its comings and goings.

Then, long after the nation had gotten addicted to powered wheels, someone started to yell that all those tailpipes were puffing out gases—products of combustion of gasoline—which could become a significant fraction of the earth's atmosphere.

So, at that point, did people throw up their hands in horror, start taking the pledge they'd never, never use those "nasty" automobiles again?

Absolutely not. Most of them kept right on buying and using them to go to work, to the grocery, the club or the movies, to go on business trips, to take the family on holiday, to go house hunting, to go bowling, golfing, swimming, fishing or to the ball game, to lunch, to dinner, to a party, to take a drive in the country or to do any of the 1,001 other things people use their cars for.

What, then, are the rights and wrongs of the situation?

Is it reasonable for people to insist they can't get along without their wheels, yet at the same time claim that somehow someone did them wrong by supplying them with wheels that pollute?

Not really.

Or can they reasonably demand they be able to keep on driving just as conveniently as before yet, presto, with no more pollution?

Hardly. Unless they're smart enough to figure out how.

Sure, nobody wants tailpipe smog. But let's be sensible about getting rid of it. If we can't figure out how, let's give those who can a chance to do it—at reasonable cost.

And let's stop pointing the finger at the other guy for something we're at least as guilty of as he is.

[From the Arizona Republic, Mar. 16, 1972]

Realistic Anti-Smog Standards

Phelps Dodge, a giant in the mining business, has announced it will build a $100 million copper smelter in southwestern New Mexico. The new smelter will be used for concentrates from a PD mine at Tyrone, N.M. Those concentrates are now shipped to Morenci, Ariz.

The Morenci smelter will be used for concentrates from the Metcalf copper mine in Arizona on which Phelps Dodge expects to spend another $100 million in development costs. While it's good to know that the Morenci smelter will stay open, it would be even better for Arizona if PD had decided to put its new smelter near Morenci instead of going to New Mexico for a site.

A grimmer future is faced by a PD smelter in the Bisbee-Douglas area. As the two PD mines there are mined out, the company hopes to rent the smelter to new mines projected for the Tucson area. As of right now, the chances are that the smelter will go the way of two mines. Bisbee and Douglas may join Jerome on the depressing list of Arizona ghost towns.

There is a lesson here for those who are hell-bent on pushing state smog laws. The copper smelters usually are blamed—although they were here before the autos—for air pollution, and the public frequently is urged to support measures that will drive the mines out of business if they are ever applied.

In December the state board of health held hearings regarding a request to bring Arizona anti-smog laws into conformity with the lower national standards. The request was refused. You would have to be pretty naive to believe this action had nothing to do with the Phelps Dodge decision to erect its new smelter in neighboring New Mexico.

While we are completely in accord with current programs to reduce air pollution—and other sorts of pollution as well—we don't believe there is anything magic about the target dates that have been set.

Whether 90 per cent of sulfur dioxide is removed from smelter smoke by 1975 or by 1976 doesn't seem as important as keeping the mines open and the smelters working.

We also think the emission standards promulgated by the federal government are stringent enough for Arizona. If we keep step with the rest of the nation, we'll be doing all that can be expected

In a free economy businesses are free to pursue opportunities as they present themselves. For the most part Arizona can hold up its end in a contest with any other state. But we will all regret it if we drive away industries through an overzealous determination to set standards that are completely unrealistic.

[From the Arizona Republic, Apr. 2, 1972]

Will Environmentalists Destroy Arizona's Economy?

It is becoming increasingly evident that the environmentalists, carried away by sheer emotion, are proposing anti-pollution measures that the economy of Arizona simply cannot afford.

God Almighty, in His infinite wisdom, could not comply with the demands of the far-out environmentalists to clean up the state's air, water, and earth in from two to four years.

There is no machinery available anywhere that will allow the utility companies to provide the electricity that the people demand and need while they are also eliminating all pollution from the exhaust stacks of generator plants.

For several weeks the mining companies have been asking for additional time to meet the antipollution standards. While they have agreed to meet the federal requirements, which are somewhat more reasonable than the state requirements, there has not been the slightest inclination on any level to help the mines survive by spreading out their costs over a number of years.

Sometimes one solution of a pollution problem results in an even bigger problem. For instance, when the sulfur is taken out of the smoke from the smelters, the mines will have more sulfuric acid than they can possibly dispose of. But they are told to solve the problems all at once, regardless of cost, and not to lay off any workers in the process.

There are no incidents of sickness from pollution in the mining towns. People are not falling over from inhaling the smelter fumes. There is pollution in the cities where thousands of high powered autos carry one man to work and back home again every day. Obviously every driver cannot be arrested, so the authorities turn on the mines. The real solution is for the people to demand a pollution-free gasoline, which the oil companies have the know-how to produce.

Last week the heads of Arizona's three major power companies called a press conference in Phoenix to indicate the extent of their own problems in meeting anti-pollution deadlines. While deliberately pitching their remarks in low key, the presidents of Arizona Public Service, the Salt River Project and the Tucson Gas and Electric Company conceded the possibility that Arizona will be faced with power shortages this summer.

The extent of the ecological demands made on the power companies is best illustrated by the scrubbers Arizona Public Service has installed in its Four Corners plants to meet the state's pure air requirements. Because the devices are new, mechanical malfunctions have kept the generators out of operation for substantial periods of time.

The spokesmen for the utilities refused to speculate on what steps they will take if a power shortage develops this summer. But the average citizen will pay a big price if brownouts or blackouts force factories to close down. They will throw people out of work and reduce payrolls.

If there isn't enough electricity for street lights, crime will increase and the city streets will be even more unsafe after dark.

Power shortages will close down air conditioning in countless Arizona homes, subjecting residents in the desert areas to the intolerable heat of July and August.

These things don't have to happen. Air pollution has been building for years. It's foolish, yes impossible, to try to return the air to its pristine purity in a year, or two, or three. But great strides are being made, and the job will be done without undue hardship if the environmentalists don't push us all into bankruptcy.

It is past time that common sense took possession of legislators and state officials who, by their capitulation to excessive demands that Arizona mines and utilities far surpass reasonable federal clean-air standards, are threatening the state's economic future. Thousands of families that can little afford job losses that mine closures will produce and economic losses to small businesses from power shortages, will be the primary victims of their short-sightedness.

The mines and utilities have shown by word and deed that they can adequately satisfy federal standards. And insolent demands from those who lack the pragmatic capacity to foresee the disastrous economic consequences of forcing industry to do the impossible must be strongly resisted.

[From the Newsletter of the Colorado Plateau, February 1972]

Environmental Advisory Council: Hopi Tribal Chairman Defends Coal Mining on Reservation

The following is a statement about the controversial mining of coal from the Black Mesa area of the Hopi Indian Reservation in Arizona, by Clarence Hamilton, Chairman of the Hopi Tribal Council:

Let me preface my statement by saying that I do not pretend to represent every single Hopi Indian, just as Governor Jack Williams does not always express the opinion of all Arizonans. But he is the elected Governor of Arizona and as such represents the state in many of the things that he says. In that same sense, I represent the people of the Hopi Tribe as Chairman of the Tribal Council. And I do speak for the Tribal Council itself.

Many of the local, regional and national news media have devoted considerable time and space to the views of some of our tribal members to the effect that they are not in favor of the mining of coal from our tribal lands. It is right that every minority be heard and that their views receive good exposure.

Unfortunately, however, these views often are given broad coverage while the less exciting views of the "establishment" (if I may call myself that) are not given equal coverage. In addition, there are some well meaning national columnists who give their opinion, I am certain, thinking that they are doing the Indians a favor.

Let me give you a couple of examples.

During the fall of last year, one of the well known editorial cartoonists did a cartoon that was widely printed. The picture showed two large tractors tearing up land and knocking down a sign which read, "Private Indian land." In the background, the picture showed giant power plants with smoke puffing out. The tractors each had a sign on them which said, "Plowbody Strip Mining, Inc.". The caption on the cartoon showed one of the tractor operators talking to the other saying, "Amazing what you can still buy with a handful of glass beads."

The implication is clear that the Navajo and Hopi Indians are a bunch of uneducated savages who have sold their "Manhattan Island" of coal for $24 worth of beads. Frankly, we resent that implication.

Another example: In September of last year, a major Los Angeles television station became concerned about what they called "an environmental disaster". This news organization sent a reporter and camera team to spend two weeks in the Four Corners area to film a five-part report on this subject. It is interesting to note that not once during the study did they get a statement from me or any of the elected officials of the Hopi Tribe, nor when they were making their five-part report did they make it clear that the Tribal Council and the United States Department of the Interior had studied this proposal for many months—even for several years—and had entered into a contract with the operators of the mine and that the Tribal Council had repeatedly, in subsequent years, confirmed their position on the value of the contract.

In this TV series, they did, however, quote liberally from one radical activist who claimed to speak for the Hopi and for the Navajo. They quoted a few other Hopi people who give their views, but not one elected official of the Tribe. In short, they spent five television shows making it appear that the coal mining operations on the Hopi and Navajo Reservations are completely bad and with no redeeming facts about them. This is just not true!

Another quick example: I am not in favor of just leaving the coal in the ground where it is of no value to anyone. This brings out another important point. Before I get into this subject, however, let me make certain that no one misunderstands my position. I am definitely in favor of protecting all aspects of the environment and particularly the environment of our Hopi lands. I am also very much in favor of conserving our natural resources and utilizing them wisely.

This very moment, on the other side of Phoenix there is a meeting of the Colorado Plateau Environmental Advisory Council. The goal of this organization to preserve the environment of the Colorado Plateau is an excellent one. And many fine and dedicated people are involved in this program. However, the November issue of their newsletter carried on its first two pages what was called a "Statement of Hopi Religious Leaders". This statement says in part, "The Great Spirit has told the Hopi leaders that the great wealth and resources beneath the lands at Black Mesa must not be disturbed or taken out until after purification when mankind will know how to live in harmony among themselves and with nature."

This statement was said to be signed by seven people who claim that they are Hopi Religious leaders. The route that must be followed to become a Hopi Religious leader is a very formal and specific one. It is not sufficient just to decide that you are a Hopi Religious leader. And these people just do not represent the mainstream of Hopi Religious thought.

As a matter of fact, our Elders have told us that the Creator has placed valuable resources for us in the ground and that it is our obligation to discover the resources and use them for the benefit of man. And this is exactly what we are doing. Yet we realize the importance of assuring that our lands are not destroyed in the process.

From as early as 1960 to 1966, the Hopi people and our attorneys and the United States Government who are the trustees of our land, studied this situation very carefully. We negotiated prices to be paid. We obtained agreement on the restoration of the Black Mesa land to its original characteristics. The Peabody Coal Company has started some test plots, but so far Mother Nature has refused to cooperate. Their seeding along the roadcuts were made successfully but the Navajo sheepherder also refused to cooperate.

Just recently the Arizona Forest Service and the Bureau of Indian Affairs spent $3,000,000 reseeding the area that was destroyed by fire near White River. Land can be improved and the Peabody Coal Company is bound by our contract to restore the reservation land. Of the 40,000 acres leased to Peabody, only about eight or ten thousand acres will be mined. Actually this land has very little grass on it right now due to overgrazing.

The land restoration is, of course, not our only concern. We are concerned about the possible depletion of our valuable water resources. We have taken extensive precautions to make sure the water table is not adversely affected by the mining of coal. More than $160,000 has been spent by the Indian Tribes involved, the Peabody Coal Company, and the U.S. Geological Survey, to install water level monitoring devices. If the water would drop below a certain level, Peabody would have to find other water sources. Peabody draws its water from the deeper wells, far deeper than the local wells go.

We are also concerned about the potential of serious, long-range pollution of the atmosphere. The pollution of the air is a problem which is not now serious in the Black Mesa area. After living on the reservation continuously and working with the operators of the power plants, we have seen their willingness to go to almost any expense to make certain that the power plant emissions do not harm the atmosphere of this four-corner area. All things considered, we are glad they are there.

In a real sense, we consider ourselves fortunate to have these power plants developed in the area around our reservation. Income from the sale to these plants can be of great benefit in improving the economy of my people. Without the power plants, we would have no market for the coal and our economy would suffer.

We are not a self-sufficient island set out here in the great southwestern desert. We need cars from Detroit and manufactured goods from Southern California. We must have something to sell them in exchange. While our silver overlay jewelry, our kachina and our pottery and our scenery are the finest in the world, we cannot hope that we can produce and sell these in sufficient quantities to exchange them for the products that we need from the outside. Like any other community, we need to produce and sell something which the outside world wants to buy. Electric power is one such thing.

A number of years ago we leased some oil rights and made what we thought was a good settlement. This turned out well for us. Now we have made this agreement for the sale of our coal and we are convinced that the moneys that are coming from that agreement give our people the first real hope of developing our industry and people in a way that will allow us to become self-sufficient as we were a thousand years ago. Already many of our people are finding well-paying jobs. We have built a Tribal Administration Center, paid 25 percent toward the new Cultural Center and built a number of homes for our people. We believe that much of our future hope is in the proper development of our young people. Right now there are 160 young Hopi in universities that are being educated by scholarships made available from these funds. With the completion of the Navajo Power Plant at Page, the demands for coal will increase and our income will similarly increase and then we will be able to send more of our young people to the colleges and universities.

The education of our youth is not the only thing we plan to do with our money. We hope to attract industry with jobs for our people just like we did with BVD. That plant cost the Hopi a lot of money from the oil lease sales and in return we will ultimately get back what we spent. We could have left it in the bank to draw interest but that would not have helped the hundreds of families that work there. This is what we plan to do for our people. Again, let me thank you for the opportunity of discussing these ideas with you.

[From the Barron's, Feb. 28, 1972]

ANTI-POLLUTION COSTS: NOBODY SEEMS TO APPRAISE OR FINANCE THEM

(By Shirley Scheibla)

WASHINGTON.—A debate now is raging within the Administration over how to finance the costs of cleaning up pollution, and the outcome may influence the economic health of many major industries for years to come. It is bound to affect their ability to attract investment capital. If a happy solution is not found, some high pollution industries, like copper, simply may move some of their plants abroad.

Anti-pollution equipment won't boost profits since it won't increase production. Thus, it must be paid for out of lower profits, higher prices, federal subsidies or tax incentives and joint ventures, with special exemptions from anti-trust laws. For each alternative, there's an array of arguments, depending largely upon the point of view of the agency involved.

VANTAGE POINT

From its vantage point of looking at the entire business scene, the Council of Economic Advisers (CEA) hoped the difference could be resolved on the basis of solid facts on environmental costs. But the trouble is that the latter are hard to come by. All that can be said with certainty at this point is that the costs will run into many billions of dollars. For one thing, the technology does not yet exist to comply with some of the laws now on the books, several of which are scheduled to go into effect a few years hence to allow time for science to catch up.

In an attempt to get some answers on costs, the CEA turned to an inter-agency task force composed of the Council on Environmental Quality, the Environmental Protection Administration, Office of Science and Technology, the Office of Management and the Budget and the Commerce Department with the National Industrial Pollution Control Council (NIPCC) serving as an advisory group to the Department. NIPCC is made up of leading corporate executives, including the president of General Motors and the chairman of U.S. Steel. This task force decided upon the appropriate areas for scrutiny, and the Council on Environmental Quality then contracted out studies covering 11 industries.

The reports were not ready by the end of November as scheduled. Early in January, William D. Ruckelshaus, EPA Administrator, told Barron's he expected that within 30 days the studies would make some tentative conclusions possible regarding which classes of industry are likely to require subsidy to assure their survival. Likely prospects, according to Mr. Ruckelshaus, include copper, iron and steel, paper and pulp and chemicals.

HAVE TO BE REDONE

However, Walter Hamilton, executive director of NIPCC and also deputy assistant secretary of Commerce, now says that the studies on autos, petroleum and iron and steel will have to be re-done. He told Barron's that while the copper study is completed, "we have not released it because we don't know what to make of it." But he later disclosed that a decision has just been made to release summaries of what has been done in all the studies early in March "with the proper caveats regarding their limitations." They cover baking operations, capital and maintenance costs of auto emission control systems, petroleum refineries, generating stations in electric utilities, cement kilms and klinker coolers in the manufacture of cement, sulfur emissions of non-ferrous metals (separate reports cover copper, aluminum reduction plants, lead and zinc), water problems in leather tanning, iron foundry cupolas, steel, pulp and paper and the canning and freezing of fruits and vegetables.

According to Mr. Hamilton, "No decision has been made on whether the task force will continue the cost studies. I suspect the next round of contracts to be let by EPA in collaboration with other agencies." He pointed out that EPA already has gone to a different contractor for new non-ferrous metals reports which are expected to be completed by the end of March.

Mr. Hamilton put it very bluntly: "Part of our problem is to know what we're doing. No one has been able to develop econometric tables, input-output tables or tell how people will react to various restrictions and requirements."

In copper, Mr. Hamilton said, environmental controls are likely to require an investment of between $300 million and $500 million over the next four or five years. That amounts to 30% or more of the cash flow of domestic producers. "The investment is massive enough for the copper companies to re-examine how to ease pollution. . . . The array of options is very complex, as Dave Swan, the president of Kennecott, has said. For instance, what is done about pollution could change the life expectancy of an ore body."

Mr. Ruckelshaus predicted that higher prices for a product like copper might switch some demand to less polluting products. But where there is no substitute for some applications, he suggested encouraging reuse through freight rates and taxes.

Mr. Hamilton, however, thinks it might be more practical to set tighter standards for other sources of pollution where copper smelters, or other polluting plants, are essential, or to reduce the number of them in a concentrated area. One possibility, for example, would be to restrict vehicular traffic.

LOW RETURN ON STEEL

Messrs. Hamilton and Ruckelshaus agree that the government will have to do something if the steel industry is to stay economically sound. Mr. Hamilton explained that steel's low return on equity means it would take too long to repay the private capital required for environmental costs.

As for petroleum, Mr. Hamilton said: "The question is whether what we gave the contractor encompassed enough of the real world to achieve an acceptable result." On the other hand, he considers the pulp and paper study very good and said it is clear that "a fairly large number of smaller and older mills will have to be phased out. It may be necessary for distressed area assistance (by the federal government) to help the industry make the adjustment. This would be one-shot assistance to ease the transition."

But what if a company must close, say, five out of eight plants? "Then we might have to call in a marriage broker," says Mr. Hamilton.

PARTS OF INDUSTRIES

As for the cost studies cited above, NIPCC Director Hamilton said it is important to realize that they only cover parts of industries. In baking, for instance, they have looked only at the mixing and baking, not at such matters as transportation and the grinding of grain. In autos they didn't consider the costs of safety, changes in transportation requirements and cleaning up manufacturing plants inside, or the increased environmental costs of materials needed to make autos, like steel, plastics and glass.

A monumental problem is that no one can be sure precisely what water pollution standards will be, since the House has not yet acted on S 2770, the bill passed by the Senate. It calls for the "best practicable" control of water pollution by 1976 and cessation of all industrial water, pollution discharges by 1981. In other words, how can industry judge anti-pollution costs when it doesn't know all it will have to do?

In addition, state regulatory commissions impose their own environmental controls, often more rigorous than the federal ones, as for example, in the case of sulfur emission controls by Arizona and Montana.

LAW ON THE BOOKS

Nevertheless, one Administration official scoffed at the idea that the executive branch should not request, and Congress should not enact legislation when the technology does not exist for compliance. Industry, he maintained, has been benefiting for so many years from the free use of natural resources like air and water, that it is not likely to develop the technology without a law on the books.

While some in the Administration hold the view that tax incentives should be used sparingly because they would further complicate tax law which already is too complex, Under Secretary of the Treasury Charls E. Walker told Barron's, "If it can be clearly demonstrated that tax incentives are the best way to meet environmental costs, then we will be willing to go along." He added: "The situation conceivably might require tax credits in some area and subsidies (cash grants) in others. It also might call for other tax disincentives like the one we just called for on sulfur. . . . At this point we have not reached any major conclusions."

Mr. Ruckelshaus said, "I don't have any bias in the direction of tax incentives or direct subsidies, but philosophically I favor tax incentives."

Back in 1969, Congress approved rapid amortization for anti-pollution equipment for plants built before that year. But the authority expires in 1974. According to Joel E. Segall, deputy assistant secretary of the Treasury and director of its Office of Tax Analysis, there has been no decision on whether to ask for an extension. He pointed out, however, that tax incentives work only when there is taxable income, and added that no decision is imminent on tax incentives, "or anything else involving financing of environmental costs."

One Justice Department official suggested that subsidies might be the answer for financing unusually high environmental costs. But that possibility doesn't loom as trouble-free, either. Under the General Agreement on Trades and Tariffs, the U.S. is bound not to subsidize exports, and many products which might qualify for subsidies are exported. Now, however, the member countries are trying to develop criteria for dealing with hardship cases involving environmental costs.

Hendrik S. Houthakker was the CEA member responsible for environmental matters until he resigned last year to return to Harvard. He told Barron's that some industries, particularly the non-ferrous metal smelters, might leave the country.

With all the excitement over pollution, a basic law of physics seems to have been forgotten: matter can neither be created nor destroyed. At this point some of the staunchest bureaucrats are beginning to think it will take the know-how of American business to provide the best ways of handling matter with the least damage to the environment. The problem is how to keep industry economically strong while it comes up with the answers.

CITY OF OMAHA "GET IT TOGETHER" CONFERENCE ON DRUG ABUSE PREVENTION

Mr. HRUSKA. Mr President, all of us have a vital interest in the monumental drug problem we are presently facing throughout the country. Similarly, we can all take pride in the effective work which is being done by the Department of Justice to reverse the upward spiral of this fearsome problem and to come to grips with it in a variety of ways.

It is good for us to take note of the accomplishments of the Federal agencies involved in enforcement of our narcotics laws. When a major breakthrough is achieved—and thanks to the Department's hard work and more effective legislation, we are seeing a gratifying number of breakthroughs—we find it headlined in bold black letters in the press.

We do not too often take proper note of other attacks on the problem which may be less spectacular but no less effective, attacks which continue day after day to make effective inroads into all types of drug abuse.

One such innovative and vital service was brought to my attention last spring when I participated in a community drug abuse prevention organizational program in Omaha. The program was a joint effort of the city of Omaha together with a little-heralded division of the Justice Department's Bureau of Narcotics and Dangerous Drugs, a unit called the community organizational programs branch.

This branch grew out of the increasing pressure for expert guidance in putting together effective community prevention efforts throughout the country. If its experience with respect to Omaha is any criterion, it is doing excellent work.

Since Omaha's problems were typical problems, it was choosen as one of the pilot projects conducted by the branch during 1971. Omaha had a serious drug problem. The citizens and the city officials were concerned but professionally unprepared to meet the crisis. There were dozens of well-intentioned groups trying to do something, but in many cases they were operating independently of one another. In fact they sometimes found themselves in competition with one another.

Today Omaha has a well organized and coordinated community program which is responsive to all aspects of the drug abuse problem. The leaders associated with its program attribute much of their success to the assistance provided by the Bureau of Narcotics and Dangerous Drugs. The excellent work of all concerned is pointed up in a comprehensive report which the city has now released on the seminar last year. Appropriately, it was called "A Get It Together Seminar."

Program specialists under the direction of Mr. Hiram R. Haggett, chief of the community organizational programs branch, provided guidance and assistance to Omaha at every critical level leading to the establishment of a responsive program. This involved assistance with an indepth study of the community drug situation. Following the community evaluation, a special 2-day seminar was provided by the Bureau of Narcotics and Dangerous Drugs for some 300 representatives of community leadership who had a personal or professional commitment to an active prevention effort in Omaha.

This seminar brought together recognized experts in all of the fields of major concern in drug abuse. This Senator had the pleasure of making the keynote address at the opening of the conference. I can personally attest to the enthusiastic response of the audience to the wide range of government resources made available to them by the Bureau.

The assistance went beyond this. And it continues today as the need for technical assistance grows out of an on-going and vital program.

John Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, has said repeatedly that prevention is an integral part of enforcement. The Omaha program is one impressive example of the kind of behind-the-scenes effort which forms a base for the more common concept of enforcement. Omaha is a vital city with vital leadership. It is gratifying that when the need for expert technical assistance was recognized by Omaha, that assistance was readily available from the Federal level.

VIETNAM AND AMERICAN POW/MIA'S

Mr. HUMPHREY. Mr. President, we have just finished a week set aside for our expression of concern for American prisoners of war. However noble our expressions of concern, they offer little consolation to the wives and families of those men who have been kept hostages all the while that American involvement in the war in Vietnam grinds on, and all the while that diplomatic negotiations grind to a halt.

Many of us in Congress urged the President to take a different approach in the hope of ending our involvement rapidly and in obtaining the release of American POW/MIA's, but this fact is hardly any more consoling to any of us. If we are to spend a week of concern for American prisoners, why should it not be a month, several months, any amount of time necessary to secure the safety and quick return of these prisoners? How much is anything we are now doing in Vietnam enhancing their quick return? Just where is our Government's concern?

Mr. President, I had occassion to reply to a most interesting questionnaire submitted by the National League of Families of American Prisoners and Missing in Southeast Asia. The league has done a most commendable job to focus attention on the prisoner issue and how it relates to the entire Vietnam question. It was, therefore, an honor for me to share with them some of my own ideas on the questions of immediate concern to us all. Mr. President, I ask unanimous consent that the questionnaire and the answers which I submitted to the league be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

1. Would you ask for a negotiated settlement or would you announce a withdrawal of U.S. troops?

2. What steps do you plan to take to secure the release of prisoners and an accounting of the missing of those in Laos and Cambodia?

3. What steps would you take if they do not release the prisoners?

4. Is there any condition in which you could envision the U.S. taking military action, once having withdrawn.

5. What future role do you see the U.S. playing re the Vietnamese government? Supervise elections? Help set up a government? None? To continue aid?

6. Do you favor withdrawal of U.S. weapons from South Vietnam and dismantling of bases?

7. Would you dismantle airbases in Thailand and remove carrier support?

8. What requirements, if any, would you put on the North Vietnam, Viet Cong, Pathet Lao and Khmer Rouge?

9. What is your position on a ceasefire?

10. What other measures would you propose?

11. How would you plan to get the North Vietnamese, Pathet Lao, Viet Cong and Khmer Rouge to permit inspection and abide by the Geneva Conventions since all measures tried for five years or more have failed?

ANSWERS TO QUESTIONS

1. While seeking a negotiated settlement throughout and after the period of our withdrawal, the only items of immediate concern for negotiations which should affect the rapid end to our military operations would be the safety of American troops during their withdrawal and an agreement to obtain the release of American prisoners of war. The United States can continue to have a diplomatic role in the course of negotiations, but this should in no way affect our intent to withdraw.

2. Our troops and vast stores of military equipment still remain in Vietnam. The other side is most interested in seeing our men and equipment removed. Unfortunately, our prisoners have become hostages. I firmly believe they will be released once American involvement in the war is ended. As to the problem of identifying the MIA's in Laos and Cambodia, I think that any prisoner exchange arranged between the United States, South Vietnam, North Vietnam and the NLF must ease the MIA situation. Beginning now and increasing as we reach the prisoner release stage, we should be using additional diplomatic channels to exert pressures on the local insurgents in Cambodia and Laos. What now seems unnegotiable could be turned, if the U.S. quickly withdrew, ending all its military operations in Indochina. We must use our imagination, our influence and our power constructively.

3. I prefer not to answer this question in a public statement because my evaluation of the present situation is based on the assumption that the other side will respond positively and humanely to the steps we take. It should be noted that the other side suffers from constraints not so dissimilar to our own. Pressure from the allies of North Vietnam, the war weariness of its own population and the NLF, the promise of economic assistance all weigh heavily on its own thinking. Military threats have not proven successful as a means of settling our differences in Southeast Asia. A new approach is needed; a diplomatic foray may be more effective than a pointed bayonet.

4. For the same reasons as indicated in question No. 3, I do not think this question can or should be answered publicly at this point, although it would be difficult to envision such action under most conceivable circumstances.

5. I think that the United States has no special obligation to the Government of President Thieu. It is a government, elected by standards which directly violate our declared intentions for our supportive role in South Vietnam. We have supposedly not been fighting to prop up any particular government, but to prove that military aggression is not profitable and to protect the legitimate right of the people of South Vietnam to express their own will. The United States can, of course, offer its assistance in an attempt to achieve a negotiated political settlement which would involve the participation of all political forces in South Vietnam. This assistance must be limited from now on to negotiations and not to military operations.

6. Yes. In fact, I have introduced a bill in the Senate called the War Surplus bill (S. 2985) which sets up machinery to return our excess military equipment for use here at home.

7. When all military operations in Indochina are terminated, I would then reevaluate the use of our basis in Southeast Asia and in other parts of the world, and phase out those which were of no military or strategic value.

8. This question is not clear, but in terms of prisoners of war and MIA's, I would require that arrangements be worked out in their behalf.

9. I have favored a cease-fire since 1968 and again urged the President on December 21, 1971, to halt the bombings as part of a general or partial cease-fire. I do not, however, think that a general cease-fire throughout Indochina must be a requirement as the President has stated for our complete withdrawal. The North Vietnamese and NLF have shown a willingness to arrange a partial cease-fire with American troops during withdrawal and I think this is a constructive offer.

10. Again, the exact meaning of this question is not clear, but I would suggest that more emphasis can be given than apparently has been thus far to private negotiations to obtain the release of our POW's. In addition, the latest announcement of our government's unilateral suspension of the Paris Peace Talks is particularly regrettable. We may be on the verge of some solid negotiations, and I do not want the United States to dampen the chances for progress. Certainly the other side has used the talks for propaganda purposes, but our cutting off the talks will not shut the propaganda machine off. It is better to bear with it in an effort to settle some of the issue which could possibly be negotiated at this time.

11. I would urge an intensification of private diplomatic efforts, as well as those of such international organizations as the Red Cross and International Amnesty. South Vietnam should also accept a parallel inspection of all their prisons. At the same time we should take advantage of Peking's special relationship with Hanoi to communicate our intentions not only as it concerns the welfare of American POW/MIA's, but also as it affects our plans for withdrawal.

PUBLICATIONS BY ALASKA DEPARTMENT OF ECONOMIC DEVELOPMENT

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the RECORD a news release from Irene E. Ryan, Commissioner of Economic Development of the State of Alaska. The news release concerns two publications, "Pacific Rim Trade Opportunities" and "The Promise of Power," which I believe are of significant interest to many people throughout the country.

These publications may be ordered from the Industrial Development Division, Alaska Department of Economic Development, Pouch EE, Juneau, Alaska 99801, telephone 907–586–3460.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

Commissioner Irene E. Ryan announced today the release of two new publications by the Department of Economic Development.

One publication, "Pacific Rim Trade Opportunities," is a summary and analysis of Alaska's real and potential trade. The booklet contains statistical information on Alaska's trade with each of the Pacific Rim Nations. An Alaskan trade directory is also included. Commissioner Ryan stated, "Alaska's international trade is undergoing spectacular growth. This growth will continue as we develop the potential of our immense resources," "Alaska's foreign trade is increasing daily," Commissioner Ryan said, "as foreign nations become more aware that Alaska is the air crossroads of the East and the West. There is the increasing realization that Alaska offers new opportunity for tourist exchange and an air freight service's industry."

The second publication release, "The Promise of Power." "This publication," Commissioner Ryan said, "is a description analysis and review of the potential for Southeast Alaska's water power and mineral resource development. The publication was prepared in cooperation with the Alaska State Yukon-Taiya Commission."

"Copies of the publications may be obtained by request to the Industrial Development Division," Commissioner Ryan concluded.

EQUAL AND FAIR TREATMENT FOR JUDGE ADVOCATES AND LAW SPECIALISTS FOR THE ARMED FORCES

Mr. HRUSKA. Mr. President, I was pleased to join on April 4 in cosponsoring S. 704, a bill which would provide much needed incentives for the retention of military lawyers.

Over the past several years the quality of military justice has steadily improved. A good deal of credit for this progress lies with the efforts of our lawyers in uniform, whose dedication to justice has brought about greater efficiency in trials, outstanding representation of defendants, and more rigorous adherence to law and regulations by military commanders. There has also been an increasing involvement of military lawyers in the administrative processes of the Armed Forces, providing further assurance that individual rights will be properly protected in quasi-judicial proceedings and other personnel actions. And the personal legal services provided to our men in uniform and their families by judge advocates and legal officers has become an indispensable part of the military benefits which motivate individuals toward military careers.

If we are to sustain and improve upon this admirable record, we must not overlook the essential factor of the military lawyer himself. Unfortunately, the retention rates for judge advocates and law specialists in the Armed Forces continue to become dangerously low. It is for this reason that I commend the Senator from Hawaii for introducing S. 704, and join him in urging its swift approval by this body.

S. 704 would provide incentive pay for military lawyers which would increase as the individual is promoted to higher grades. This is not unlike the present situation pertaining to military physicians, dentists, and others who have been receiving various forms of incentive pay for years. In addition, this bill would provide continuation pay for judge advocates who extend on active duty for from 3 to 6 years, at the rate of 2 months pay for each additional year of active duty. This bonus-type payment would be received upon the completion of 4 years active duty.

When he introduced S. 704 a year ago, the Senator from Hawaii presented some alarming statistics indicating quite plainly that something must be done to attract and retain the best young legal talent available. Matters have not improved since then, and the situation grows more desperate as the threat of induction diminishes. The following figures as of September 30, 1971, show the disparity between the authorized and actual strengths of military lawyers throughout the Defense Department at the higher career grades:

	Authorized	Actual
Colonel/Captain	366	339
Lieutenant Colonel/Commander	634	326
Major/Lieutenant Commander	956	512
Captain/Lieutenant	2,016	2,748

Each branch of the military was asked last September to indicate what percentage of its lawyer strength it needed to be filled by career officers, and what percentage was actually being occupied by career officers. The following figures describe most eloquently how deficient the military is becoming in career attorneys, and how much reliance must be placed on those who are only temporarily in the military:

[In percent]

	Needed	Actual, Sept. 1971
Army	47	26
Navy	63	38
Marines	63	22
Air Force	58	41

Mr. President, last July 19 the House of Representatives passed H.R. 4606, the House version of the bill I joined in cosponsoring on April 4. The House passed a similar measure during the last Congress, but the Senate was given no opportunity to express its will on this measure. I am most hopeful that the same situation will not occur again, and urge the Armed Services Committee to take speedy action in reporting this important legislation to the Senate floor for a vote.

HAS THE F-14 BAILOUT NOW BEGUN?

Mr. PROXMIRE. Mr. President, the Navy's failure to pay Grumman Aircraft Corp. $4.1 million in advance production funds due April 1 on the F-14 jet fighter could lead to a backdoor bailout of the company costing taxpayers hundreds of millions of dollars.

I have asked the General Accounting Office to investigate what could be a deliberate attempt by the Navy to undermine the present F-14 contract and to set the stage for another Lockheed-style bailout.

The Navy claims that it is holding Grumman's feet to the fire on the existing contract, but the bankrupt nature of this claim is apparent from two recent actions revealed last week in Navy testimony to the Congress.

First, the Navy is negotiating with Grumman for Government payment of roughly $40 million in above contract costs incurred to date as a result of a 6-month slippage in the delivery schedule for the 86 F-14 aircraft now on order, despite the fact that it is far from clear that the Navy is liable for all these costs.

Second, the Navy deliberately chose not to make a payment of $4.1 million in advance procurement funds clearly due Grumman on April 1 in conjunction with the 48 additional F-14's budgeted for fiscal 1973, an omission which expressly opens the existing contract to later modifications.

I have written today to the General Accounting Office to request an analysis of the propriety and likely consequences of these two Navy actions.

It is my belief that unless corrective steps are taken soon their net effect may be to sabotage the present contract and to make a bailout of the F-14, not a decision for the Congress to weigh, but a simple fait accompli.

FORTY MILLION DOLLARS IN ABOVE-CONTRACT COSTS

The Navy claims that the $40 million in above-contract costs is owed Grumman because the schedule slippage which has occurred is due to the crash of the first F-14 prototype in December 1970.

The Government may be responsible for the $8.7 million loss caused by the loss of the prototype itself, but the costs of the schedule slippage would appear to be Grumman's responsibility.

The Navy's interpretation puts the entire cost burden of a contractor's technical failure squarely on the Government's shoulders.

It also implies Government responsibility for increased costs due to schedule slippage not only on the 86 aircraft purchased to date, but also on the 227 additional F-14's which the Navy hopes to buy.

The end result could be a back-door bailout of hundreds of millions of dollars, especially since the causal relationship between the prototype crash, schedule slippage, and increased costs would be almost impossible to track.

I am, therefore, asking the General Accounting Office for its interpretation of the Government's liability for above-contract costs on planes delivered late by Grumman, and I call upon the Navy to suspend its negotiations and to withhold any payments to Grumman for this purpose until the GAO's interpretation has been made.

In addition, I sincerely question whether such payments to Grumman would be consistent with the ceiling on fiscal 1972 F-14 costs imposed by Congress in the military procurement bill last year.

LONG-LEAD PAYMENT SLIPPED

The Navy's eagerness to hand Grumman up to $40 million in funds it may not owe stands in marked contrast to its refusal to pay the company $4.1 million in long-lead funds which clearly came due last Saturday.

The existing contract expressly provides for the payment of such funds on April 1 and July 15 of each year. It also states that Grumman is entitled to a modification of contract terms if payments are not made and if problems arise as a result.

Two years ago the Navy sought and received congressional approval to reprogram funds from other programs in order to meet these dates and protect the Government's interest.

Last year an admiral flew up to New York on one of the dates in question to hand deliver the required payment.

But this year April 1 has been allowed to pass without any payment being made.

The rationale for the omission was stated by Admiral Zumwalt last week:

> The more money we withhold until we get resolution of the differences of opinion, the more powerful pressure we will bring to bear to protect the government interest.

In light of the specific contract terms, in light of past Navy efforts to make these payments on the dates required, and in light of the $40 million it is trying to give Grumman at this time, this rationale has a hollow ring indeed.

The Navy's payment omission would appear to be part of a conscious attempt to turn the existing F-14 contract into an increasingly hollow shell. I call upon the Navy to show any real interest it may have in protecting the Government's interest by making the omitted payment as soon as it possibly can, in order to reduce any relief to which Grumman may be entitled due to its omission.

Duplicity, it would seem, has become a way of life in Navy management of this program. It cannot be tolerated much longer by a Congress sworn to uphold the public trust.

Mr. President, I ask unanimous consent to have printed in the RECORD, letters I have sent today to Comptroller General of the United States, Elmer B. Staats, and Navy Secretary John Chafee on this matter.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
April 7, 1972.

Hon. ELMER B. STAATS,
Comptroller General of the U.S., General Accounting Office, Washington, D.C.

DEAR ELMER: For more than a year now it has been clear that serious cost problems have been developing in the Navy's F-14 jet fighter program. The Navy has sought to dispel Congressional concern about the seriousness of these problems by arguing that existing contracts adequately protect the Government's interest and that these valid contracts will be enforced. I sincerely question, in light of several Navy actions taken during the past year, whether the Navy has lived up to this pledge. My purpose in writing is to request a brief GAO investigation as to the propriety and likely consequences of three Navy contract management actions concerning the F-14 program.

1) Above contract costs due to the crash of the first F-14 prototype and subsequent schedule slippage in aircraft deliveries. In testimony last week to the Tactical Air Power Subcommittee of Senate Armed Services, Navy witnesses stated that they were negotiating with Grumman Aircraft Corporation for government payment of roughly $40 million in above contract costs incurred as the result of a six month slippage in the delivery schedule for the production aircraft now on order. Navy witnesses stated that the Government was responsible for these costs because they stemmed from the crash of the first F-14 prototype in December, 1970, and because the Government is obligated under the Armed Services Procurement Regulations (ASPR) to bear the cost both of the lost plane itself and any subsequent expenses (such as schedule slippage) occasioned by its loss. This Navy position gives rise to several specific questions in my mind:

a) Is the Navy correct in suggesting that the Government is responsible, under the F-14 contract or the ASPR, for the $8.7 million loss identified in Navy testimony as directly attributable to the crash itself? Does this responsibility exist regardless of the cause of the crash?

b) Is the Government responsible also for the cost impact of any schedule slippage occasioned by the crash? If so, what legal principle is used to define the extent of government responsibility? Has this principle been applied properly by the Navy in its negotiations to date with Grumman?

c) If the Government is responsible for the cost impact of any schedule slippage occasioned by the crash with respect to the aircraft ordered by the Navy to date, will it be responsible also for the cost impact of late delivery of all subsequent F-14 purchases as well? If so, what procedures should be followed by the Navy to ensure that the Government will pay only for cost increases clearly attributable to schedule slippage and only when the schedule slippage itself is the unavoidable result of the crash? Assuming that these procedures are applied, what is the likely extent of the total above contract costs which the Government will have to absorb as a result of the prototype crash?

d) What precedents exist for and against the proposed Navy treatment of this matter, especially with respect to problems which have arisen under other aircraft contracts? Is precedent, in fact, unclear, and is it possible that the extent of government liability, initially on the F-14 program and precedentially on later programs also, might be reduced if the Government litigated the issues presented in this matter instead of following the proposed course of action?

I would appreciate it if you would analyze the propriety and likely consequences of the proposed Navy action with these specific questions in mind. Please feel free in the process to comment on other relevant issues and to deal with the specific points raised in whatever order or format seems most desirable.

2) *Non-payment of long lead funding due Grumman on April 1st.* The F-14 contract specifically provides for Navy payment of long lead funding to Grumman on April 1st and July 15th of each year. It also provides that if a required payment is not made, "delivery schedules and other terms and conditions" of the contract shall "be modified to the extent it can be demonstrated by the Contractor as directly resulting from the failure of the Government to provide such funds . . ." Two years ago the Navy sought and received Congressional approval to reprogram funds from other programs in order to meet these dates and protect the Government's interest. Last year an Admiral flew up to New York on one of the dates in question to hand deliver the required payment. But this year April 1st has been allowed to pass without any payment being made.

Admiral Zumwalt explained the reason for the omission as follows in testimony last week to the Tactical Air Power Subcommittee: "The more money we withhold until we get resolution of the differences of opinion, the more powerful pressure we will bring to bear to protect the Government interest." This action also gives rise to specific questions:

a) How does the ommission of this payment in any way strengthen the Government's position?

b) Is it not true that omission of the payment runs the risk of an otherwise easily avoidable contract dispute between Grumman and the Government?

c) Is it not true, also, that this risk could still be mitigated by prompt payment of the $4.1 million due originally on April 1st?

d) If prompt payment is not made in the near future, what relief might Grumman hope to obtain? Might Grumman not argue in that event that nonpayment of these funds indicated uncertainty as to Navy intentions regarding a possible Lot V purchase, making company preparation for such a purchase impossible, with the ultimate result being government responsibility for all increased costs associated with the resultant delays both in advanced production work on Lot V and in the actual production and delivery of Lot V and subsequent lots as well? Is it not possible that these increased costs could run to many times the $4.1 million due April 1st? Might Grumman not argue, in fact, that nonpayment of these funds so seriously affected company planning regarding remaining lot orders as to make the existing contract unenforceable as to future lots and to justify a general renegotiation of the contract's terms?

e) On balance, would it not have been much more consistent with sound contract management designed to protect the Government's interest for the Navy to have paid Grumman $4.1 million before April 1st?

3) *Termination by the Navy of the Pratt & Whitney engine contract for the F-15 and F-14B.* A year ago a valid contract existed between the Navy, the Air Force, and Pratt & Whitney for the production of engines for the F-15 and the F-14B. This contract was terminated by the Navy for the convenience of the Government in June of last year. As a result, the Air Force has been forced to renegotiate prices for F-15 engines at a cost per engine roughly $350,000 higher than the cost provided for in the contract. The long-term burden to the taxpayers is already estimated at more than $300 million in F-15 engine costs alone. It could rise higher if the F-14B program is resurrected in the future. I find it quite difficult to justify the Navy's termination of the contract for the convenience of the Government. It would appreciate it if you would review this action with the following specific questions in mind:

a) Since the cost growth and schedule slippage problems encountered in the F-14B engine program were the responsibility of Pratt & Whitney rather than the Government, would not the Navy have protected the Government's and the taxpayers' interest far better had it exercised its option for the purchase of 58 production engines when that option came due last September, forcing Pratt & Whitney itself to terminate the contract for default?

b) Instead the Navy terminated the contract for the convenience of the Government on July 23rd. Regardless of the merits of the decision itself, was there any need to make any decision at that early date, since there was no need under the contract either to terminate or to exercise the option until September 1st? Would it not have been better contract management for the Navy to wait until just before September 1st before making any decision?

c) If the Navy itself did not want the 58 engines for which the option came due last September, could it not have bought these engines *for the Air Force,* thereby preventing any termination of the F-15 engine contract and increased F-15 costs?

d) Do you not agree with me that the actual course of action followed represented collusion between the Navy and a contractor to let Pratt & Whitney out of a firm contract?

I would appreciate it if I could have a report on your investigation into these matters no later than one month from today, on Monday, May 8th. The first two matters have a significant impact on the likely long-term cost to the taxpayers of the F-14 program, floor debate on which is likely to resume in the Senate when the Military Procurement Authorization bill is reported out in early May. In addition, I have written to Secretary of the Navy Chafee, urging him to make payment of the $4.1 million due Grumman on April 1st as soon as possible and to withhold payment of the $40 million in above contract costs until your investigation of its propriety is concluded. An early report on these two matters might aid the Navy in deciding whether to follow these requests. Since the two matters involve questions of contract interpretation more than detailed factual investigations, it should not be difficult to complete your analysis of them before the suggested date. In the event that an investigation of the engine contract issue might be more time consuming, I would be willing to accept a separate report on it at a slightly later date. To further reduce time pressures, it would be acceptable to me to receive your report in the form of a personal letter rather than a published document. I also see no need to obtain formal comments on the report in advance of its submission from any interested parties; I trust that you will be in contact with all parties involved in gathering information for the report and that this contact will provide ample opportunity for all of them to express their views.

Thank you very much for your assistance on these requests. If you have any questions with respect to them, please feel free to contact me at any time. Mr. Ross Hamachek of the Joint Economic Committee staff will also be available to assist your staff in any way he can.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

WASHINGTON, D.C.,
April 7, 1972.

Hon. JOHN CHAFEE,
Secretary of the Navy,
The Pentagon,
Washington, D.C.

DEAR JOHN: I am deeply troubled by two recent actions taken by the Navy in its management of the F–14 program. According to Navy testimony to the Senate Armed Services Committee, the Navy (1) did not pay Grumman the $4.1 million in long lead funding for Lot V which came due April 1st, and (2) is negotiating with Grumman for the payment of roughly $40 million in above contract costs on aircraft now on order which have been incurred as a result of the crash of the first F–14 prototype in December, 1970, and subsequent schedule slippage.

My own feelings about these two actions are set forth in the enclosed press release dated today, April 7th. As noted in that release I have called upon the General Accounting Office to investigate the propriety and likely consequences of these two Navy actions. A copy of my letter to the Comptroller General is also enclosed. (I have also asked the GAO to examine the circumstances surrounding termination last summer of the F–15 and F–14B engine contracts with Pratt & Whitney.)

I deeply fear that the consequences of the two Navy actions announced last week will run counter to the Navy's professed purpose of holding Grumman's feet to the fire on the F–14 airframe contract. Accordingly, I call on you at this time to withhold payment of the $40 million in above contract costs due to the prototype crash until the GAO has evaluated the government's responsibility for these costs. In addition, I urge you to pay Grumman immediately the much smaller amount of $4.1 million in long lead-time funding which came due on the contract April 1st.

Your careful consideration of the merits of my requests will be appreciated.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

OCCUPATIONAL SAFETY AND HEALTH ACT

Mr. YOUNG. Mr. President, we are all aware of the need to provide a safe and clean working environment for the workers of this country. Our dedication to this effort has been seen time and time again at both the State and Federal level with the enactment of legislation aimed at improving working conditions for workers in every industry.

The Occupational Safety and Health Act of 1970 was a far-reaching piece of legislation that extends its application to virtually every retail, service, manufacturing, and farm business in the country that employs nonfamily help.

There is much in this act that provides needed assurance that the American workmen and women will have safe, healthful working conditions. At the same time, it has given a Government agency the power to literally put these people out of business without any notice and without any particular proof that their establishments are unsafe to their employees.

As the distinguished Senator from Nebraska (Mr. CURTIS) stated in his remarks when he introduced S. 3262, which is designed to correct problems created by this program, the so-called national consensus standards designated by this act have been put into effect without following the normal and necessary administrative procedure.

These are standards that have been adopted by a number of private organizations as guidelines or recommendations and, as such, could serve a useful purpose. To make them literally the law of the land means that businessmen from the operator of the corner grocery to the giant chain stores and from the local machine shop to United States Steel will be treated alike in the requirement to meet these standards.

One of the greatest weaknesses of the act is the authority it gives for the adoption of these "national consensus standards" as temporary standards without any requirement that those affected by them even be notified of their existence. In other words, a North Dakota farm operator today could be told to halt his operations or that portion of it involving the one or two seasonal employees he may have because he was in violation of a standard he did not even know existed.

To make matters worse, these so-called "national consensus standards" are only temporary. Permanent standards are to be adopted as soon as possible. The permanent standards could well be vastly different. This means that costly changes already made to meet the temporary standards would be disallowed and further changes required.

I have, in recent weeks, received a great many requests for information on this law and many letters detailing the problems it presents small businessmen and farmers. The publisher of a rural weekly newspaper recognizes the need for safe working conditions, but points out that meeting the requirements of the act could cost him $100,000 which is more than his business can afford. He adds, that in 23 years of operations, there have only been two minor claims for workman's compensation in his plant. This could hardly be described as a hazardous or unsafe operation.

One of the leading contractors in my State raises questions concerning the requirements for the testing of materials. He points out that there are no testing facilities available in our region at the present time and, therefore, no way the requirement can be met. He adds, and I agree, that—

> They are going out with clubs to enforce the regulations when what they really should do is to take us all by the hand and give us direction.

It would seem that this would be the only way in which any degree of compliance can be obtained.

A farm implement dealer in western North Dakota writes that in the 26 years he has been in business he has never had an accident in his shop. This has been accomplished by using good tools and equipment and personally supervising the operations. Nonetheless, he doubts that it will be possible to meet the requirements under this law. Scratch one rural small business.

A farm couple who has made a pretty thorough study of the regulations indicates that some of the devices recommended are not even available for purchase at the present time. Despite this they and their neighbors are subject to the penalties imposed under the act if an inspector should drop in on them.

A widow operating a corner grocery store points out that she has only very limited space for display and stocking of her business and no way to expand it. She does not feel that she will be in business any longer if the act is not amended.

This is but a small sampling of the comments I have received. It does, however, reflect the tremendous impact this act is having on small businessmen and agriculture all across North Dakota and the Nation.

The bill, S. 3262, introduced by Senator CURTIS and other Senators offers a reasonable and workable alternative. I know that there are those who say that no exemptions should be granted. But I point out that in the case of the small business and farm operations that would be included in such an exemption, the owners of the firm are working right alongside the employees. They are on the scene to observe the need for improvements in working conditions and to see that they are made. It is their health and well-being that are directly involved in such cases, and I feel very strongly that they are in a better position to judge both the need for the effectiveness of a safety measure than a Government inspector armed with a set of regulations that apply uniformly to businesses all across the Nation.

Mr. President, I commend Senator CURTIS for the leadership he has exercised in introducing a bill to correct this grave problem. I am hopeful that the bill will receive prompt and favorable action. This is needed to prevent irreparable damage to agriculture and small business throughout the Nation.

There is an urgent need for approval of this legislation by Congress in order to make it possible for small businessmen and farmers across the country to live with this program. This legislation must have top priority with Congress. Action is needed now to prevent untold damage to the small businesses and farms that are the backbone of our Nation's economy.

PROTECTING DIPLOMATS

Mr. HRUSKA. Mr. President, last August 5 I introduced a bill, S. 2436, at the request of the Departments of State and Justice, to provide expanded protection of public and foreign officials under title 18, United States Code.

In brief, the bill would enable Federal authorities to move against persons who utter express or implied threats to commit acts of physical violence or who commit assaults or murder against members of the diplomatic corps, other foreign officials, and officials of the United States. In the past the Government has had to rely on local authorities for redress of instances of this type with no guarantee that sufficient resources were available to discharge the responsibility appropriately. This has proved particularly embarrassing in view of our international obligations as a host nation.

Changes in Federal kidnaping law are also contained in this bill. These include the reinstitution of the death penalty for cases where the victim dies as a consequence of the crime. This provision is aimed at correcting the defect in the law struck down by the Supreme Court in *United States* v. *Jackson,* 390 U.S. 570 (1968). Federal jurisdiction in kidnaping cases would also be extended to cases arising within the special maritime and aircraft jurisdiction of the United States. This provision is aimed at insuring adequate punishment and extradition of hijackers.

Recurring incidents regarding diplomatic personnel point up the need for legislation of this type. A week ago, following an incident in which blood was poured on a Soviet diplomat, the New York Times indicated that action on legislation such as this is imperative. I urge the Senate to heed this call for action. I ask unanimous consent that the Times editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Protecting Diplomats

On the morning after a Soviet diplomat was showered with blood by a young Jewish Defense League militant at a Washington reception recently, Ambassador George Bush went before a Congressional committee to plead for legislation making it a Federal crime to harass or attack foreign diplomats in this country. Some such action is imperative.

Last October, shots were fired through the window of an apartment at the Soviet Mission where four children were sleeping. Though no one was injured, the incident sparked an angry uproar in the General Assembly and anguish in Washington. Such acts of violence by impassioned and irresponsible citizens sully the reputation of the United States, compromise American diplomacy, impede the work of the U.N. and are totally counterproductive.

The proposed legislation should act both as deterrent and as aid in apprehension. Additional action is needed, however, to extend direct Federal protection to U.N. diplomats; such protection is already provided for foreign missions in Washington. Providing it for delegates to the United Nations is obviously beyond the capacity of New York City's hard-pressed police force; it is a clear and necessary responsibility of the Federal Government.

GENOCIDE: PRESIDENT TRUMAN'S ADDRESS TO THE SENATE

Mr. PROXMIRE. Mr. President, almost 23 years ago President Truman transmitted the United Nation's Genocide Convention to the Senate for advice and consent. In his message, he urged the Senate to act quickly to approve the Convention:

> By the leading part the United States has taken in the United Nations in producing an effective international legal instrument outlawing the world-shocking crime of genocide, we have established before the world our firm and clear policy toward that crime. By giving its advice and consent to my ratification of this convention, which I urge, the Senate of the United States will demonstrate that the United States is prepared to take effective action on its part to contribute to the establishment of principles of law and justice.

Twenty-three years ago, President Truman believed, as I am sure every Senator and, indeed, every American still believes, that the United States is the leader in the world in promoting international peace and justice. With this belief so much a part of our American tradition, why is it then that this Genocide Convention has not been even voted upon?

The primary reason is that the American Bar Association, among other groups, has presented legal and constitutional objections to the treaty. These objections have been shown to be invalid. Every committee of the American Bar Association that has worked directly on the Genocide Convention, has approved of it and the Senate Foreign Relations Committee acted upon it favorably.

For these reasons, I see no justification for further delay. If we are to live up to our beliefs and ideals, we must act immediately to ratify the Genocide Convention.

FAYETTEVILLE STATE ATHLETIC ACHIEVEMENTS

Mr. JORDAN of North Carolina. Mr. President, it has come to my attention that Fayetteville State University, the second oldest publicly supported institution of higher learning in North Carolina, is enjoying one of its most successful athletic years.

The school's most significant achievement was qualification for the annual Central Intercollegiate Athletic Association—CIAA—basketball tournament February 24–26 in Greensboro, N.C. for the first time in 15 years.

The CIAA is composed of 12 member schools in North Carolina and Virginia and the tournament is the largest in the country for black colleges.

To qualify, a team had to finish among the top four in the northern or southern division.

The Fayetteville State Bronchos, with a 16–10 season's record, went all the way to the tournament finals before losing to Norfolk State College.

In addition to that second-place finish, the team's All-American forward, Mike Sneed, was named most valuable player. Coach Thomas L. Reeves was picked as the tournament's outstanding coach, and both Sneed and Earl McNeill were picked on the all-tournament team.

The following week the Bronchos took part in the district No. 29 tournament of the National Association of Intercollegiate Athletics—NAIA—and again went to the finals. Sneed was picked on the all-district team.

The school's football team had its first winning season since 1956 and placed four players—Tackle Sylvester Ritter, End Blenda Gay and Backs Curtis Leak and Frank Bohannon—on the all-district No. 29 team.

The girls' basketball team finished third in the Elizabeth Dowdy Invitational Basketball Tournament and placed one member, Angier Martin, on the all-tournament team.

The Fayetteville State baseball team is presently undefeated in CIAA play.

The record of this fine school for the year is certainly an outstanding one which I am pleased to call to the Senate's attention.

EXTENSION OF U.S. CONTIGUOUS FISHING ZONE TO 200 MILES

Mr. STEVENS. Mr. President, our country's marine resources are a valuable asset which we must conserve and protect if we are to reap their bounty in the future. Many Americans, therefore, have been deeply concerned and anxious about threats to our fisheries from foreign nations which have often ignored international conservation agreements. I believe that through more well-considered international accords and our own Nation's stricter enforcement efforts, we can protect our fishing resources.

I have recently received the results of the poll taken by "The Advocates" television show following its program on the proposal to extend the United States contiguous fishery zone to 200 miles. A decisive majority of the viewers responding by mail to the February 15 debate favored the extension of American fishing jurisdiction; 80.4 percent or 1,823 of the 2,268 replies agreed with the proposal to establish a 200-mile contiguous fishery zone.

Mr. President, these results convince me again that the American public is strongly committed to the protection of American fishermen and the strict enforcement of our international fishing agreements.

Mr. President, I ask unanimous consent that the news release be printed in the Record at the conclusion of my remarks.

Mr. President, the other approach for properly protecting our fishing resources is to design and establish more scientific and well-considered international fishing agreements. The "species" concept of fish conservation is one which I believe will accomplish this purpose. I have been advised by the Conference of the National Federation of Fishermen that the "species" concept is the policy that it recommends for adoption by this country in its fishing agreements with foreign nations. The fishing industry is indeed diverse, involving the harvesting of fish in three widely different geographical areas. Consequently, an international treaty provision which may solve the problems of the coastal species sector of the industry may only exacerbate the problem of the high seas species sector. A flexible approach differentiating between the different species of fish, therefore, offers a worthwhile alternative for protection and wise conservation.

Mr. President, I ask unanimous consent that the recommendations adopted at the July 1971 Conference of the National Federation of Fishermen also be printed in the Record at the conclusion of my remarks.

I reiterate again that the American public clearly understands the present dangers and threats to our fishing resources. Rigid enforcement of our fishing treaties and carefully drawn international fishing agreements can reverse the present trend toward depletion of our fishing bounty.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE NATION RESPONDS TO THE ADVOCATES—VIEWERS STRONGLY FAVOR FISHING RIGHTS EXTENSION TO 200 MILES OFF U.S. COAST

Should the U.S. Claim Jurisdiction Over Fishing to a Limit of 200 Miles From Its Shores?

An emphatic majority of Advocates viewers responded in favor of a proposal, debated on the Public Broadcasting Service (PBS) February 15, which would extend United States jurisdiction over fishing rights to 200 miles from its shores.

By a ratio of over four-to-one, 80.4 per cent of the 2,268 votes agreed with former Secretary of the Interior Walter J. Hickel that foreign fishing fleets should be kept outside waters up to 200 miles off the U.S. coast. The proposal was also supported by Joseph S. Gaziano, president of the Prelude Lobster Corp., in Westport, Mass., the world's largest lobster fishing company.

Approximately one-fifth of the total vote came from organized group responses in the states of Massachusetts, New Jersey, Oregon, Pennsylvania and New York.

STATE BREAKDOWN OF MAIL RESPONSE

State	Pro	Con	Other
Alabama	6	1	0
Alaska	57	2	1
Arizona	14	5	1
Arkansas	1	3	0
California	225	111	8
Colorado	18	5	0
Connecticut	23	4	0
Delaware	4	1	0
District of Columbia	5	11	0
Florida	65	18	1
Georgia	6	2	0
Hawaii	1	3	1
Idaho	2	0	0
Illinois	31	8	1
Indiana	8	3	0
Iowa	7	1	0
Kansas	4	6	0
Kentucky	0	3	0
Louisiana	13	5	0
Maine	28	1	2
Maryland	8	4	0
Massachusetts	302	20	1
Michigan	16	8	0
Minnesota	17	5	0
Mississippi	5	2	0
Missouri	2	2	0
Montana	2	1	0
Nebraska	6	2	0
Nevada	0	0	0
New Hampshire	10	1	1
New Jersey	215	19	3
New Mexico	13	6	1
New York	177	33	0
North Carolina	19	7	1
North Dakota	0	0	0
Ohio	59	3	0
Oklahoma	12	5	0
Oregon	41	7	4
Pennsylvania	111	18	0
Rhode Island	73	3	0
South Carolina	5	1	0
South Dakota	0	0	0
Tennessee	5	1	1
Texas	25	16	0
Utah	3	0	0
Vermont	6	5	0
Virginia	9	8	0
Washington	98	23	3
West Virginia	2	1	0
Wisconsin	17	6	2
Wyoming	1	0	1
Unknown	42	12	0
Foreign	4	0	0

LAW OF SEA FISHERY POLICY ADOPTED AT NATIONAL FEDERATION OF FISHERMEN CONFERENCE

I. COASTAL SPECIES

Coastal nations shall have the ownership of all the fish and shellfish resources which live on or above, or are dependent upon the Continental Shelf and slope adjacent to the coastal nation and/or the waters above the shelf and slope for reproduction and/or survival during the major part of their life.

When stocks of fish are underharvested by a coastal nation to which they belong, provisions shall be made for harvesting by other nations subject to licensing and control by the coastal nation.

II. ANADROMOUS SPECIES

Anadromous fish shall be the property of the coastal nation of origin. No nation shall harvest anadromous species of fish without express consent and approval of country of origin. Where anadromous fish is habitating and is harvestable in territorial waters of a country other than the country of origin, it shall be mandatory upon the nations involved to work out harvesting rules consistent with conservation with due regard to the rights of each nation to its proper share of the allowable catch.

III. HIGH SEAS SPECIES

All species of fish not included in paragraphs I and II, and in particular, fish of oceanic origin and habitat, shall not be subject to ownership and control by the coastal nation. The conservation and management of such species shall be the responsibility of multinational control to be exercised jointly by the harvesting countries and by countries whose coast borders the distribution of such fish stocks.

MIRV AND THE ARMS RACE

Mr. HUMPHREY. Mr. President, in July of last year I submitted an amendment to the military procurement authorization bill which would have halted the further deployment of MIRV, with the proviso that the Soviet Union exercize comparable self-restraint. At the time of the debate on this amendment, administration officials and several Senators made claims about the imminent Soviet MIRV threat. This year we discover that what was imminent in 1969, was imminent in 1970 and 1971, and yet the Soviet Union still does not appear to have developed a MIRV warhead. Secretary Laird has said as much in his latest Defense posture statement. In other words our whole MIRV program was based on an "imminent" threat which has not yet become a real one. And now we have a full-fledged MIRV program which the Soviet Union will undoubtedly be striving to match, if the history of the development of MIRV is anything like the postwar history of the arms race between the United States and the Soviet Union.

Everyone says the cat is out of the bag with respect to MIRV. It is too late to convince the Soviets to negotiate. I am reluctantly inclined to think that is true, but I do not think it has to be true anymore, not if we really intend to put a stop to the arms race. What we need to prevent this kind of cycle beginning again is a meaningful agreement at SALT, and a commitment to negotiate other agreed formula for the limitation and eventual reduction of armaments.

I think that we should all be cautious not to lull ourselves into thinking that a SALT agreement is the end of the arms race line. From all the reports we have as to the nature of the agreement which the President is likely to sign in Moscow, it will be a very limited agreement. However limited, it will be welcome and should serve as a catalyst for further arms control agreements, not only with the Soviet Union, but with other nuclear and nonnuclear weapons.

Just one example of taking up where we left off is in negotiating a Comprehensive Test Ban Treaty, a logical and timely extension of the Limited Test Ban Treaty in which I was privileged to play an important part. As a cosponsor of the two resolutions now before the Senate on the comprehensive test ban, and as one who has continually spoken out in support of the CTB, I urge the President to move ahead in this area. This treaty would serve to reinforce our pledge in the Nonproliferation Treaty, and it would build the kind of confidence among nuclear and nonnuclear countries that we are moving out of the arms race.

There are other areas where we should be placing our undivided attention: Antisubmarine warfare, ceilings on land-based and sea-based missile systems, prohibition of chemical as well as biological warfare, to name but a few. It is regrettable to think how much time and effort will have to be spent in curtailing what we spent so much time in producing. At least the last effort will be far more constructive.

Mr. President, some of the issues I have been discussing are touched on in an interesting article written by Herbert Scoville and published in the April issue of Foreign Affairs. I ask unanimous consent that this article and another by the same author, published in the New Republic, which discusses the evolution of MIRV, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BEYOND SALT ONE

(By Herbert Scoville, Jr.)

Although President Nixon's goal of achieving an initial agreement at the Strategic Arms Limitation Talks (SALT) before the end of 1971 failed to be realized, it still appears likely that at least some limitations will be negotiated by the time that he and Premier Kosygin meet in Moscow in May. After SALT recessed in Vienna the President reported in his state of the world message on February ninth that a consensus is developing that there should be a treaty setting comprehensive limitations on anti-ballistic missiles (ABMs) and an interim agreement to freeze certain offensive arms.

The primary objective of an ABM limitation is to foreclose the acquisition of missile defense with nationwide coverage, which might raise fears about the continued viability of a mutual deterrent posture. The treaty will probably be constructed along the following lines. The number of ABM interceptor missiles will be restricted to between 100 and 300. The lower value would be more satisfactory from security, arms control and economic points of view, but even the higher value would prevent the acquisition of ABM systems which could threaten either nation's deterrent. The argument about whether to retain 100 or 300 interceptors is spurious, since neither level will provide any realistic protection. More important would be limits on the location and perhaps also the number of large, high-performance ABM radars, which are most critical for a nationwide defense because of their size, time for construction, and expense. They would be almost impossible to deploy secretly. Under a treaty, their locations would probably have to be restricted to the Moscow area for the Soviet

Union and the neighborhood of Minuteman sites for the United States; otherwise fears could be generated over a possible clandestine deployment of a nationwide ABM system.

The nature of a possible agreement on offensive weapons is much less clear, and the details may even be left for further negotiation. Former Deputy Secretary of Defense David Packard, in a press conference on October 21, 1971, said that an agreement on ABMs by themselves might be acceptable if it were a useful step toward the longer-term objective of containing the offensive buildup. This would then become a high priority follow-up action to the first stage of SALT. It is more likely, however, that there will be some agreed limitation on the total numbers of ICBMs (intercontinental ballistic missiles based on land). This could be in the form of a numerical ceiling or a freeze at existing levels. From the American point of view, it would be extremely useful to include in this numerical limit a sub-ceiling on the very large Soviet SS-9 type ICBMs. The new, very large launchers, about 30 of which have been reported to be under construction in the last year would fall within this category. Such a sub-ceiling may present certain difficulties for the Soviets unless the United States is willing to accept some similar restraint, but they may be satisfied with their present force level of slightly more than 300 operational or under construction.

The United States also is reported to be seeking a halt on Russian submarine construction even though they still lag considerably behind the United States both quantitatively and qualitatively in operational submarine-launched ballistic missiles. Since the United States is unlikely to be willing to forgo its conversion of the Polaris to the Poseidon missile, which has four times the payload and ten to 14 MIRVs (multiple warheads each capable of being aimed at a separate target), the chances of agreement in this area do not appear very promising. However, they would be somewhat improved if the Russians were allowed to complete those submarines now only in the early stages of construction, since they would then have numerical but not qualitative parity with the United States. A failure to limit submarine missiles is not serious since these are considered as primarily deterrent weapons because they are invulnerable and would be difficult to use in a coordinated and accurate first strike against the opposing deterrent. The complete destruction of the other side's strategic forces by the nearly simultaneous launchings from about 30 submarines and follow-up firings to correct for initial failures presents extraordinary operational difficulties.

It is most improbable that the first stage of SALT will place any qualitative restrictions on offensive missile systems, apart from a possible limit on the number of large SS-9 type missiles. The replacement of existing weapons by new models will be permitted and, if the experience of the Limited Test Ban Treaty is representative, will be encouraged as a safeguard against possible violations. Certainly there will be no restrictions on MIRVs. The United States will be free to continue its Poseidon submarine missile and Minuteman III ICBM deployments with MIRVs, and the Soviets to begin testing and deploying MIRVs as well.

Even with an agreement of this limited nature, SALT will have made important strides toward slowing the arms race and stabilizing the present state of mutual U.S.-U.S.S.R. deterrence. The ABM limitation by itself will guarantee a continued secure deterrent posture on both sides regardless of what type of offensive programs are allowed to continue. MIRVs can threaten only the fixed land-based force and not the mobile submarine missiles which, by themselves, are more than adequate to provide an assured retaliatory capability as long as ABMs are kept small. There are no technological advances in anti-submarine warfare (ASW) which could provide in the foreseeable future a capability of destroying almost simultaneously an entire missile submarine fleet.

However, since there will be no controls on MIRVs, in time the ICBM and bomber parts of the deterrent force may come to be considered vulnerable. While at the moment there do not appear to be any reasonable methods by which both these weapons systems can be destroyed in a surprise attack—a Russian strike against our bomber force would alert the Minuteman ICBMs, or vice versa—nevertheless, some authorities have suggested that so-called "pin-down" tactics might be used to accomplish this objective. These tactics involve the maintenance of a continuous barrage of submarine-launched warheads exploding above our Minuteman fields, not to destroy but only to prevent the launching of the ICBMs. These explosions would have to be timed to coincide with a submarine missile attack on our bombers and continue for a minimum of 30 minutes until their ICBMs could destroy our Minuteman silos. While such an attack would involve immense and extremely wasteful expenditures of weapons and require extraordinary coordination, planners using worst-case assumptions may come to take it as more than a fantasy when, and if, the force levels become very large. In sum, even though a first-stage SALT agreement would be a major milestone, many additional actions will be required to permit it to endure and expand.

If the preceding picture of the strategic situation following an initial SALT agreement is generally correct, there should be two main follow-through objectives for our unilateral defense planning and future arms-control negotiations. First, we should make every effort to assure that neither side takes any actions which could erode the mutual deterrent posture established by SALT. In fact, every effort should be made to strengthen it still further. Areas of potential concern should be narrowed or eliminated wherever possible either by unilateral decisions on weapons programs, further arms limitations, or even by exchanges of information. For example, the construction of a large space radar might be misconstrued as part of an ABM system unless this was carefully explained to the other side.

This objective, however, may not always be very easy to achieve since SALT will probably not limit the qualitative arms race in any significant way. Unless care is exercised by each side in its weapons programs, actions that might appear to the other side as threatening its deterrent could be taken in the name of protecting against possible treaty abrogation or violations. Thus, development of a new MIRV guidance system might be construed, perhaps incorrectly, as an attempt to obtain a first-strike capability. Similarly, new sophisticated radars for anti-aircraft defense might appear to be ABMs in disguise. Soviet replacement of their present ICBMs by new hardened launchers could be misinterpreted as an attempt to circumvent a ceiling on large missile launchers. President Nixon's reference, in his state of the world message of February 1971, to a hoped-for alternative to a retaliatory attack against Russian cities could also be misconstrued as an attempt to erode the deterrent posture by providing a nuclear-war fighting capability.

Since most of these troubles will result from the failure of SALT to place any restrictions on qualitative improvements, a second major objective would be to move on to arms-control measures directed at rectifying this omission. This presents many difficulties in view of scientists' innate desire always to seek technological innovation. Research and development will be justified as a possible hedge against breakthroughs or cheating by the other side. After the Limited Test Ban Treaty in 1963, expanded programs were even demanded in order to maintain the viability of the weapons laboratories in the event the Treaty was abrogated.

Limits on qualitative improvements present particularly difficult problems in the area of verification. Many important modifications of weapons systems result in no observable changes in the characteristics of a weapons system. For example, a missile guidance system can be made more accurate by substitution of a better computer inside the missile. Furthermore, research and development in the laboratory phases are difficult to monitor and easy to conceal or screen under the guise of legitimate activities. No amount of even intrusive inspection appears practical to provide assurance that secret research and development programs are not under way. One cannot station an inspector at every research facility; even if there, he could easily be misled. Only when a weapon or a component reaches the stage of field or flight testing does it become visible and even then not always adequately verifiable. However, limitations on field tests offer a good place to start in curbing the seemingly endless desire to make technological improvements.

ANTISUBMARINE WARFARE

Under a SALT agreement as visualized above, the submarine missile systems become, even more than at the present time, the primary component of the deterrent force. Therefore, every effort should be made by both unilateral decisions and multilateral arms-control actions to maintain and, where necessary, strengthen it. As long as ABMs are severely limited, the only threat to this weapons system can come from antisubmarine warfare. At the present time there is no technology which can in the foreseeable future place in jeopardy simultaneously a submarine force of 30 to 40 vessels, even if they did not employ countermeasures. However, in time, with concentrated effort, new developments might give rise to fears on this score, and efforts should be made to foreclose such an eventuality. Therefore, restrictions on antisubmarine warfare capabilities should be sought in much the same way they have been sought on ABMs. To date, very little attention has been paid to this area of arms control.

By comparison with ABMs, however, controls on antisubmarine warfare will be very much more difficult to achieve. In the first place, extensive, albeit strategically ineffective, antisubmarine systems are already available to both the United States and the Soviet Union as well as many other countries, and secondly, antisubmarine defenses have tactical as well as strategic military applications. For example, they are a key element in the protection of surface shipping, both naval and merchant, in a protracted warfare situation such as in World War II or even in more limited conflicts as might occur in the Mediterranean. Despite these drawbacks, there are a number of arms-control measures which can guarantee still further the indefinite viability of the submarine missile deterrent force. Fortunately, any antisubmarine warfare system, if it were to have dangerous capabilities, would have to be very extensive, would take a long time to build and would be obvious to all concerned. A clandestine antisubmarine warfare program to negate the Polaris deterrent would be impossible.

One control measure would be a limitation on the number of so-called hunter-killer submarines, *i.e.*, submarines designed to follow and destroy other submarines. A large number of such ships would be needed in order to have a reliable capability to eliminate almost simultaneously 30 or more missile submarines. The continuous tracking of ballistic missile submarines, either by other submarines or surface vessels, might be forbidden in an arms-control agreement. Another approach might be to designate certain ocean areas that did not include the sea lanes normally traveled by merchant and naval vessels as regions within which anti-submarine operations would be banned. The stationing of acoustic detection systems and submarine tracking ships and aircraft would not be allowed in these areas, which could then be used for the invulnerable deployment of the submarine missile deterrent forces.

Parallel to these measures, research and development could be continued on advanced submarine missile systems which would decrease their vulnerability to possible future anti-submarine measures. The American Underwater Long Range Missile System (ULMS) programs are examples of this. The most useful advance in this field would be the development of a new missile (originally nicknamed EXPO, now called ULMS I) with a longer range than Poseidon in order to permit the submarine to launch its missiles from larger ocean areas less subject to anti-submarine attack. This missile should be designed with a capability of being launched from existing Polaris submarines to avoid the very expensive requirements of replacing the existing fleet. In the longer term, if a threat to submarines should develop, quieter and less vulnerable, or smaller but more numerous, submarines might be other approaches. However, the present threat from anti-submarine warfare is not sufficiently near or even well defined to require construction and deployment decisions on these new weapons in the near future. Ship construction now would be a waste of scarce funds and might result in building weapons designed against the wrong threat. There is not even a requirement for a new missile at this time, and it is hoped that a race in this area can be avoided.

RESTRICTIONS ON IMPROVEMENT IN EXISTING SYSTEMS

With ABMs frozen at low levels, the need to improve further existing offensive strategic weapons systems may be largely eliminated. More advanced weapons would be required only if one were seeking to acquire a first-strike or nuclear-war fighting capability. And this would merely serve to increase the risk that a nuclear disaster might occur. Therefore, it is incumbent on both the United States and the Soviet Union to take such actions as possible to halt the qualitative arms race either by agreed measures or, more practically, by reciprocal unilateral actions.

An agreement that no missile system could be upgraded by any change in its external configuration would be very useful, although it would not halt many improvements. Such a restriction would apply not only to the missile itself, but also to the characteristics of the launch site. Since only those changes that could be observed from the outside would be banned, such an agreement could be verified adequately by national or unilateral means. It would prevent the replacement of existing systems by those with radically new characteristics such as the substitution of much larger missiles for the present models.

Thus, the Soviets could not supersede their obsolescent early ICBMs with the newer SS-11s and SS-13s or even their SS-9s with still larger missiles (a possibility that has caused so much concern in some circles during the past year). The United States, however, would not be permitted to convert any more Polaris missiles to Poseidons. This would not, of course, prevent replacement of single warheads by MIRVs or improvements in accuracy, but these changes would be restricted within the envelope of the presently deployed models.

A still further and more useful step toward qualitative restrictions would be to place limits on the number of missile test firings that either the United States or the Soviets could conduct in any one year. A complete ban on test firings would probably not be feasible because of the necessity to conduct a number of tests in order to assure the reliability of deployed systems and to train crews. However, if the quota on allowed firings was kept reasonably low, to perhaps ten or even 20 per year, this would certainly place restrictions on development programs for new systems. Such an understanding could be monitored by our existing unilateral capabilities, and it could be reinforced by an understanding that the firings would be announced in advance and occur only on specific test ranges. An agreement of this type would strongly inhibit the development of MIRV systems, particularly those with high accuracy. A specific ban on MIRV testing would be highly desirable, but the overwhelming American lead in this area and our previous reluctance to negotiate seriously on such a ban do not allow much optimism for its success.

REDUCTIONS IN NUMBER OF WEAPONS

Once an agreement has been reached to limit ABMs, it will become apparent that the present number of offensive launchers, presumably the ceiling agreed to in SALT One, would be more than adequate to provide a deterrent force. This would be even more obvious if MIRVs were allowed. In time, it might be hoped that either by agreement or by gradual, reciprocal, unilateral phase-downs, the number of these launchers could start being reduced. Since fixed land-based ICBMs will eventually come to be believed vulnerable, they should be the first candidates for elimination. Cutbacks would have not only security value, but also important international political implications. They would show that at least the nuclear powers were willing to take steps to decrease the very large size of their present arsenals. This would be extremely valuable in promoting our policies on the nonproliferation of nuclear weapons.

Of course, if the reduction reached a point where the number of land-based ICBMs became very small, then the vulnerability of this part of the deterrent to a first strike would be quite great; however, this would not be serious as long as the submarine deterrent remained secure. For this reason, it would not be wise to reduce the submarine missiles until a very much later period at which time all five nuclear weapons countries might be party to the discussions. Reduction in the size of the ABM systems even further than promised in the first stage of SALT would also be a very useful factor in strengthening the deterrent. Intercontinental bombers could also be decreased, and new aircraft for replacement could be dispensed with, saving large sums of money.

FORWARD BASED SYSTEMS

The Soviets originally sought to include in SALT limitations on Forward Based Systems (FBS), *i.e.* those shorter-range nuclear delivery systems based in forward areas which have, nevertheless, the capability of striking the Soviet Union. However, they have apparently dropped this requirement, postponing negotiations on such systems to a later date. The fact that only the United States has such systems presents a serious problem in negotiating their control, and they should probably be tackled not in SALT, but as a part of agreements on European security and mutual and balanced force reductions.

However, their consideration cannot be indefinitely neglected since, to the Soviets, they must always be seen as a threat to their national survival, and they are unlikely to agree to any further significant reductions in strategic forces until they are dealt with. A first step might be a U.S. undertaking not to enlarge these forces. The phased redeployment of such aircraft back to the United States in exchange for Russian withdrawal of both nuclear and conventional forces in Eastern Europe would appear another useful approach to this problem. Reduction in their numbers could be traded off against reduction in Soviet shorter-range missiles which threaten European centers. The British and French nuclear forces would also have to be taken into account. The negotiation of limitations on armaments stationed in Europe has extraordinarily difficult and complicated political ramifications and cannot be expected to produce early results. However, the time has come to make serious moves in this direction.

COMPREHENSIVE NUCLEAR TEST BAN TREATY

An arms-control measure which would have beneficial effects far beyond the U.S.-U.S.S.R. strategic balance would be achievement of a complete ban on nuclear weapons tests. The achievement of qualitative restrictions on delivery systems has proven extremely difficult, but a comprehensive nuclear test ban would be a step to limit improvements on many of these. While both countries undoubtedly have warheads which are satisfactory for their first-generation MIRVs and ABMs, a test ban would inhibit the development of many second-generation systems. This could be particularly helpful to U.S. security. The Russians may not yet have developed warheads for a MIRV system that could threaten the Minuteman deterrent, since they have not yet had the first test of such a delivery system. A nuclear test ban in the near future would probably prevent the Russians from having warheads with the necessary yield, weight and dimension to be used in a missile which dispersed more than three accurate MIRVs.

It is also unlikely that the Soviets would have already developed a warhead for an advanced ABM system which might be clandestinely deployed under the guise of an air-defense weapon, since prior to an initial ABM agreement at SALT they would have had no requirement to do so. Thus, a comprehensive test ban treaty would provide increased confidence that the ABM limitations at SALT were being honored. Fears have also been expressed that, without testing, our stockpiled nuclear weapons would become unreliable. However, in the past, deterioration due to aging has been checked by dismantling weapons; never have we conducted nuclear tests solely for the purpose. If a complete ban on testing were, over a period of years, to decrease confidence in the reliability of offensive warheads, this would only enhance the existing state of mutual deterrence, since it would reduce confidence in an ability to carry out a first strike.

In addition to such effects on the U.S.-U.S.S.R. strategic balance, a comprehensive test ban treaty would be an important factor in reinforcing U.S. nonproliferation policies. It would make much more difficult the acquisition of a reliable nuclear force by a non-nuclear nation. Continued nuclear testing by the United States and the Soviet Union will inevitably mean that advanced weapons technology, which may be of marginal value to them, will eventually be available to many countries and to many people. Furthermore, restraint on the part of nuclear powers would provide additional inducement for the non-nuclear nations to accede to the nonproliferations treaty (NPT). A country such as India, which has refused to sign the NPT, might find it extremely difficult politically to refuse to adhere to a comprehensive test ban treaty since it has been a key element in its past disarmament policies.

Neither France nor China is likely to adhere initially to any test ban treaty, the former primarily for political reasons and the latter because it still requires considerably more development to acquire a varied nuclear arsenal. While unfortunate, this still does not significantly reduce the value of the treaty, which would once and for all end the continuing attempts of the United States and the Soviet Union to advance nuclear weapons technology. China is still so far behind both the United States and Russia that it is inconceivable that any unilateral nuclear testing on her part could require additional tests by either of the other two nations within the next ten to 20 years. Our more than 500 tests over 25 years have provided us with a large stockpile of weapons-design information. Nuclear weapons to deal with the U.S.-U.S.S.R. confrontation are more than adequate to handle the slowly emerging Chinese nuclear capability—or in the case of Russia with that of France as well.

In the unlikely event that this were no longer true in the distant future, any treaty would undoubtedly have an escape clause similar to that in the Limited Test Ban Treaty which would provide the right to withdraw if extraordinary events related to the subject matter of the Treaty jeopardized our supreme interest. The unlikely occurrence of a Chinese or French nuclear breakthrough would certainly fall into this category.

Finally, the negotiation of a comprehensive test ban treaty is not only militarily and politically opportune, but it is also timely from a technological viewpoint. The results of U.S. research and development programs have now demonstrated major improvements in seismic capabilities to detect and identify nuclear tests. The value of onsite inspections, and the risks from clandestine testing, have now been very greatly reduced. While there will always be some threshold below which an occasional secret test might be conducted, the risks from a violation of this type would be more than overbalanced by the gains from halting all tests of high yields.

An important outgrowth of SALT can be the continued exchange of views on strategic policies in order to reduce misunderstandings. This might be maintained by the continuation of SALT negotiations or by some newly established mechanisms. Even with the best of intentions on both sides, many legitimate unilateral actions may be taken which could look threatening to the other side or seem to be violations unless explanations can be provided. This will be particularly significant since continued qualitative improvements will probably not be forbidden in the first stage of SALT.

For example, the Soviet Union might choose to begin deployment of mobile ICBMs in order to decrease the vulnerability of their land-based missiles to American MIRVs. To the United States this might look like a Russian attempt to increase secretly the size of their force since it is more difficult to count the number of mobile missiles deployed at any one time. It is not practicable to have simultaneous observation of the entire Soviet Union. Conceivably, the Russians might be able to reassure American authorities by providing information to reduce uncertainties on the total number of missiles deployed. Similarly, the U.S. development of new methods for penetrating an ABM could look to the Russians like a system for attacking Soviet ICBMs. An American explanation of the purpose might reassure the Russians, who in turn might be able to provide information which could alleviate our concerns about their air defenses.

With or without an arms-limitation agreement, the most important element in keeping the strategic arms race from getting completely out of hand has been the ability of both nations to have accurate information on the deployed weapons of the other side. For years now our Secretaries of Defense have been reporting with little argument the number of Soviet ICBMs and missile submarines deployed and under construction. Only on future programs or intentions have there been differing opinions. Without this information it would have been impossible even to have contemplated the type of agreement being discussed for the first phase of SALT. If for any reason these capabilities were lost, then any SALT agreement would be in serious jeopardy.

It has been reported by some sources, but never confirmed, that the Soviets have tested a space vehicle which might be capable of intercepting a satellite. Any such system would be susceptible to countermeasures. However, if either nation were to interfere with the other's systems for gathering information, this would be a very serious act, perhaps only just short of war.

Certainly, satisfactory reassurances against any recurrence would have to be provided or the entire SALT agreement would soon break down. Since it would be at least several years before such loss of information could provide an opportunity to obtain a meaningful strategic advantage, there would be ample time to take countermeasures. Perhaps one of the outcomes of the first phase of SALT, or of the next, could be an understanding that neither side would take any steps to negate unilateral information-gathering systems that do not infringe on national sovereignty.

Even if the first phase of SALT succeeds only in holding ABMs to a low level, it will have a major effect in slowing the strategic arms race and ensuring the continuation of a mutual deterrent posture. However, since at best the restrictions on offensive weapons will be quite limited in scope and probably place little or no controls on qualitative improvements, further steps will be needed to strengthen and broaden the agreement. Decisions on unilateral weapons programs as well as further arms limitations must be made with an eye toward ensuring that the application of new technologies does not weaken deterrence. Actions justified as safeguarding against abrogation or violation of a treaty must not be allowed to destroy the original purpose of the agreement. Continued bilateral consultations will be required to clear away misunderstandings.

An initial agreement at SALT, even if limited in scope, can mark the beginning of a new era in the nuclear weapons age. Opportunities will be opened up not only for halting the upward march of the arms race, but also for redirecting it downward so that the risks of a nuclear conflagration are reduced and the economic burdens of weapons programs lightened. Many of the new measures proposed will not be arrived at easily. Strong pressures for new weapons programs as hedges against possible treaty violations will have to be resisted vigorously. Complacency after an initial agreement must not be allowed to slow the drive toward further limitations.

More, More, More Weapons

(By Herbert Scoville, Jr.)

Admiral Thomas H. Moorer, chairman of the Joint Chiefs of Staff, warned Congress on February 16 that unless an "effective" US-USSR agreement limiting the nuclear weapons build-up is reached soon, the US must get new weapons quickly or risk the "possibility" of losing "overall strategic superiority . . . within this decade." The "mere appearance of Soviet strategic superiority could have a debilitating effect," he said, "even if that superiority would have no practical effect on the outcome of an all-out nuclear exchange"—The Editors

In 1971 the Institute for Strategic Studies estimated that the US had 6000 nuclear warheads fitted to delivery vehicles that could reach the USSR, and that 2000 Soviet warheads could strike at the continental United States. In the United States, there are 150 population centers with more than a hundred thousand persons each. In the USSR, there are about 175. The United States could overkill the population-industrial centers of the Soviet Union, 34 times, and the Soviets could easily destroy comparable centers in the United States 13 times over. So, who is ahead, the Soviet Union or the United States, with repsect to nuclear military power? If the US and the USSR were to exchange their strategic forces, would it make any military difference?"—Seymour Melman

In his State of the World message, February 9, the President defended our Safeguard ABM program by saying: "The Soviet strategic forces, even at current levels, have the potential of threatening our land-based ICBMs if the Soviets choose to make certain qualitative improvements. They have the necessary technological base." What Mr. Nixon and Secretary of Defense Laird mean is that present Soviet ICBM force, about 300 of the large SS–9 type missiles, would be capable, when equipped with sufficient, accurate MIRV's (multiple warheads capable of being aimed at separate targets) of destroying a large fraction of our Minuteman ICBMs. While the Russians have not yet tested a true MIRV system, there is no doubt that they have the technological ability to do so at any time, and could begin deploying such weapons a few years later. Each SS–9 can deliver six or more MIRVs, the number required if 300 SS–9s are to be considered a threat to the Minuteman force. About these facts there is little argument. But why has the administration ignored them until now? Why has it instead concentrated its entire attention not on a large Soviet MIRV capability but on the number of large SS–9 type missile launchers?

In 1969, when President Nixon first made the decision to go ahead with the Safeguard ABM, Secretary Laird used as a primary justification the rapid buildup of the Soviet SS–9 force, which he believed was evidence of Soviet desire to acquire a "first strike" capability. He postulated that with a continuing construction rate of about 50 missiles a year, the Russians could have about 450 SS–9s operational before 1975, and that with each equipped with three MIRV's, they would be able to knock out in a first strike 95 percent of our Minuteman force. This calculation of three MIRVs per missile was selected because since 1968 the Soviets had been testing SS–9 missiles with three reentry vehicles and Mr. Nixon and the Defense Department, despite reservations by many intelligence analysts, chose to describe this system having a "footprint" or impact pattern which could threaten our Minuteman. Had they selected an as yet untested MIRV system, the timing of the Russian threat would have been delayed several years and the Safeguard ABM would have been harder to justify. Now Secretary Laird in his 1973 Annual Defense Dept. Report states that "with significant qualitative improvements [MIRVs] in Soviet ICBMs *even without increases* in the number of Soviet ICBMs, the postulated threat to Minuteman in the last half of the 1970s could grow to a level beyond the capabilities of the four site Safeguard defense of Minuteman. Therefore we propose a FY1973 Hardsite [ABM] program. . . ."

As the ABM debate intensified, the preoccupation with the number of Soviet SS–9 launchers became a key factor in all US strategic planning. The projected SS–9 buildup has profoundly influenced the US position at the Strategic Arms Limitation Talks (SALT). A halt to the Soviet SS–9 launcher program became the cardinal objective of our negotiators. Since the Safeguard ABM had been justified as a counter to the Soviet SS–9 threat, the US could not agree to limiting ABMs without at the same time stopping the SS–9 program. In fact, for the past two years, the Safeguard ABM has been and is still defended in Congress primarily as a bargaining chip in the SALT negotiations. In December 1970 when the Soviets proposed an ABM limitation as a first step, President Nixon said no, insisting that limits must be placed on both offensive and defensive weapons in order to preserve stability. Progress in this area was thus delayed for more than a year. In the meantime, both the Russians and the Americans increased the size of their strategic forces.

While all attention was focused on the number of SS–9 launchers, the administration during the entire three years of SALT made no serious attempt to limit MIRVs. Although Senator Brooke in 1969 urged a moratorium on MIRV testing and deployment on both sides, this idea was discouraged by the executive branch. A year later, the Senate passed by 72 to 6 a somewhat watered-down version of the Brooke resolution (S–211) which, nevertheless, had the clear intent of urging restraint on MIRVs. This, too, was ignored, instead the US went rushing ahead with the initial deployment of MIRVs on both the Minuteman and Poseidon missiles, long before security required them.

The only concession to Congress was an undertaking by Secretary Laird to halt a program to improve the *accuracy* of US MIRV's. Even the sincerity of this action has come into question as the administration, each year, has sought more than $100 million for the development of improved missile guidance systems.

At SALT, the United States made one attempt for the record to interest the Russians in MIRV controls, but this was coupled with a requirement for onsite inspection that was obviously unacceptable and provided little increased protection against possible violations. This position was put forth despite reported contrary recommendations by the President's prestigious Arms Control General Advisory Committee.

Meanwhile, what happened to the threat which Secretary Laird postulated as evidence of Soviet intentions to acquire a capability to launch a first strike against the US? The Soviet SS–9 construction program slowed markedly. From August 1969 to May 1970 no construction of new launchers was observed. Then in the spring of 1970, just when the administration was arguing most vociferously for its Safeguard ABM as a SALT bargaining chip, the construction of a small number of new Soviet launchers was observed. Even this was cut back until the winter of 1971, when construction of a new type of large launcher was spotted. Despite initial panic, only about 30 of these were started during the past year, so that the number of large Soviet ICBM launchers operational and under construction is now little more than 300, a small increase above the "over 275" reported as of August 1969. This increase of about 30 in more than two-and-a-half years should be compared to 50 per year predicted in justifying the Safeguard ABM. It is clear that the predicted 450 large Soviet missile launchers will not be operational until long after 1975 and probably never. It is rumored that the Soviets have agreed to place a ceiling on such large launchers as part of a Phase I SALT agreement to be announced in May.

The Soviet MIRV program has also not come to pass. The administration fear, that the missile tested with three reentry vehicles could threaten Minuteman, proved to be only another false alarm. The Russians now have tested systems for dispersing three warheads from both the SS–9 and more recently the SS–11, but neither is believed capable of attacking Minuteman. Secretary Laird himself notes that "the Soviets probably have not tested MIRVed missiles thus far. The last multiple reentry vehicle [not MIRV] tests were in late 1970." General Ryan, chief of staff of the air force, testified a year ago that the Russians would have to develop an entirely new reentry vehicle and guidance system before they could achieve such a capability. Rather than expending their technological efforts on a system for dispersing three MIRV's, it is most likely that the Soviets will, when they move into this area, go directly to one which will disperse six or more. It was such a system that the opponents of the Safeguard ABM and the proponents of a MIRV moratorium always argued was the real threat to our Minuteman force. It is to such a system that Mr. Nixon referred in his State of the World message.

Thus, we have come full circle in our strategic policies. By this May, a limitation on the number of large Soviet launchers will probably have been achieved at SALT, in exchange for foregoing the Safeguard ABM. But it is apparent that we have been aiming at the wrong target, for President Nixon and Secretary Laird now admit that Soviet strategic forces, *even at current levels,* can threaten our landbased ICBMs. We have been trapped in a blind alley. The problem today, as it always has been, is to stop MIRVs so that these potentially destabilizing weapons do not become a part of the Soviet nuclear arsenal.

Unfortunately, time has moved on and it is probably too late to achieve the desired controls. Technically, it would still be possible to verify a MIRV test and deployment ban, since the Russians have not yet developed and tested a true MIRV system. Such testing would be readily apparent to US information gathering systems without requiring any onsite inspections. The US, however, has developed, tested and deployed two MIRV systems, and it is most improbable that the Russians will agree to forego the MIRV option completely and leave the US so far in the lead. The administration, which has disregarded all attempts to exercise restraint in this area, is unlikely to cut-back or even stop our MIRV programs.

President Nixon has recognized the consequences, He announces: "We are also initiating a program at a time of increasing threat to our landbased missiles." With these words and with the request for nearly $1 billion for a new generation submarine missile system—ULMS—he and Secretary Laird are starting us off on a new lap in the arms race. Is it really necessary? True, the Soviets are building up their submarine missile forces to a point where, within a few years, they will have achieved numerical parity. But their submarine systems are at least one generation behind ours, so that even if it were a question of maintaining US superiority, a posture which the President professes to have eschewed in favor of sufficiency, there would be no need for this new program.

More importantly, our present Polaris-Poseidon system is faced with no threat that requires the replacement or the addition of more submarines. When the Poseidon conversion is completed in the mid–'70s, the US will have a submarine fleet of 31 ships, each capable of firing 160 warheads at the Soviet Union, in addition to 10 of the older Polaris submarines which are about on a par with the present Soviet Y-class vessels. All defense authorities agree that there is no anti-submarine threat that could in the foreseeable future negate this deterrent. Surely the 5000 warheads, each of which is several times greater than the Hiroshima bomb, should be sufficient to deter a Soviet first strike, even if our Minuteman force became vulnerable. With an ABM treaty, which President Nixon states may soon be completed, virtually all of these warheads should be able to penetrate to Russian targets.

We will have made major progress if we get an ABM treaty. Let us build on that to obtain additional limitations rather than trigger a race in a new direction. Even if the Soviets continue to expand their submarine force beyond our levels, we should not allow this to panic us into deploying a new system. There is no reason why we have to be two laps ahead of the Soviet Union. Better to maintain flexibility by continuing research and development on a broad range of possible systems in order to be in the best position to cope with a threat, if it should arise in the long-range future. We have wasted three years tilting with the SS–9 launcher windmill. It is time that we realistically evaluate our security requirements and ask ourselves whether still more strategic nuclear weapons, of still greater sophistication, are needed to deter a nuclear attack or to prevent us and our allies from being blackmailed.

WHOSE CENTURY?

Mr. HUMPHREY. Mr. President, I invite the attention of the Senate to an article by Mr. Thomas L. Hughes, president of the Carnegie Endowment for International Peace, published in the April issue of Foreign Affairs. It is a thought-provoking article about change and what it portends for our future?

What I think is most valuable about the article is that it provides the kind of dramatic assessment some may need to prepare for what lies ahead, to realize that the wine has changed and so has the bottle.

Mr. President, I ask unanimous consent that this interesting article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHOSE CENTURY?

(By Thomas L. Hughes)

"The world of the 20th century, if it is to come to life in health and vigor, must be an American Century . . . our Century."—Henry Luce, "The American Century," *Life,* February 17, 1941.

Despite many qualifications, there are several senses in which Mr. Luce was right—senses in which this has turned out to be the American Century, far beyond anyone's poor power to add or detract. In all the unfolding indices of quantitative preeminence, the United States is indeed a new kind of power in the world. Our gross national product, our massive output of the food the world needs, the unequaled scale of our technology, the burgeoning talents that still pour by the millions from our troubled educational system, the qualitative skills of our manpower, the seed money with which for years we have capitalized the new world bank of the social sciences, the manifold horizons of the computerized century—all these and more testify to the steady pulsations from contemporary America which circle and recircle the globe. They evoke demands and cravings for things American, often precisely among those very people and governments most vitriolic about official American policy. America's great twentieth-century technological revolution sweeps across sovereignties, beats against Walls, and eats away at Iron Curtains. The full implications of this peaceful, pulsating phenomenon for those whose lives and livelihoods have hitherto been at the whim of managed societies—as well as for interests and ambitions of those in charge of such societies—remain to be fully tested.

But there is much more to the century than that. Centuries have many dimensions. If the world's prominent men of a century ago were to rise today from their graves and look around them, who would be the most surprised? Who among them, politicians all, would be most transfixed by the ironies of history and the vagaries of circumstance? Where today would they find their lineal descendants? How far would they have to travel to feel at home again? Who continues their tradition? Across what cross-cultural leaps?

There is the assassinated Tsar Alexander II, interred in St. Petersburg, awakening in Leningrad. How much of the surroundings are Lenin's? And how much are Peter the Great's?

There is Cecil Rhodes, the impatient imperialist, in his tomb in Bulawayo. What sanctions, if any, would he employ against the cowboy champions of white supremacy who have taken over his Rhodesian patrimony and broken with his Queen?

There is Lincoln in Springfield, perplexed about another North-South war 10,000 miles away in Vietnam. Is his first groping reaction really a misconception that America has been committed to a secessionist cause?

There is Bolivar in his pantheon in Caracas. Like many others he discovered that life was unfair. Would he still be sure, as he once was, that to "serve a revolution is to plow the sea?"

There is Bismarck at Friedrichsruh. He is entitled to smile with self-satisfaction over the continuing triumph of blood and iron, but the pursuit of his prophetic principle devoured Prussia in the process and cut his capital city in two.

There is Hung Hsiu-ch'uan, leader of the Taiping Rebellion, whose peasant revolt once swept 11 provinces of China. He was ruling in Nanking in the 1860s. If he had waked in that city during the Cultural Revolution a hundred years later, he would have found a familiar fratricide.

They were among the leaders of the age a century ago. They all tried "to make history, not write it"—in Bismarck's words—"to set the clock of evolution at the right hour." But since then many clocks have struck, turning success into failure for some, defeat into victory for others. For still others slumber remains simply slumber. They and their work testify to the uniqueness of history, to the great moments which never recur, to the fate which each man has at the ends of his successors, to the tricks and the toll of the centuries.

Here, in microcosm, lie some large questions: *Whose* century has it been? *Whose* century will it be? But behind these questions lie the other ones: *Which* century was it then? *Which* century is it now?

I. WHICH CENTURY

In 1900 there was a great argument over whether that year marked the first year of the twentieth century or the last year of the nineteenth. But beyond the artificial dates which the calendar sets, there are many ways to think about a century. Thus we now know that the nineteenth century began in 1815 and that it actually ended in 1914, not 1900. It is plausible that the twentieth century is already over—that the problems of the 1930s, forties, fifties and sixties have more to do with one another than with a new century which has already arrived. In a world of agitation, it is hard to tell when, if ever, a new century is far enough advanced to be irreversible—when the turbulence has jelled sufficiently for characterization. Centuries overlap and phase into one another.

Even worse, a century, like beauty, shifts with the eye of the beholder. Thus Victor Hugo aspired to live for a *future* century. He represented "a party which does not yet exist," civilization. "This party will make the 20th Century," he said, "and from it will issue first the United States of Europe and then the United States of the World." More often, however, people have preferred to live in *past* centuries, like those described by Gilbert in "The Mikado":

"The idiot who praises, with enthusiastic
 tone,
All centuries but this, and every country
 but his own."

Some things are immune through centuries of change. For instance, there exists a papyrus dating from the Ptolemaic era, second century BC, with the following instructions warning the ancient Egyptian bureaucracy, as it were, against writing 47 volumes of putative Pentagon Papers. "To the King one should not write long reports nor deal with all kinds of problems. Instead one should report only what is necessary and urgent in as concise a form as possible." For bureaucrats, such testimony to the enduring dilemmas of the bureaucracy through the centuries may be reassuring.

In the field of actual warfare, a new century has often conquered not only through unconventional weapons but also through organizational innovations. In ancient Greece and at the end of the Middle Ages the knights were vanquished by the phalanx, which in later days succumbed to more mobile units, even simple guerrillas. By contrast, in the political and economic fields, innovations often succumb to inertia. How many other revolutionaries and reactionaries alike have come to appreciate the poignancy of Andres Bello's summary of the Latin American wars of independence: "In the wars of independence against Spain, there were no victors and no vanquished. The Spanish constancy defeated itself."

Twentieth-century politics and economics are a mosaic of all the centuries when it comes to motivation, organization, attitudinal affinities and capacity for cooperation. One may ask of a foreign head of state, of a diplomatic colleague passing in the hall, or of their wives at the dinner table: Which century are you in? Whether we and our contemporaries are actually living in the same century, are willing to work in the same century, and are coming to grips with the same century, will largely determine whose century our successors will say this has been. Yet often, these days, only a wizard can conjure up what is present, what future, what past, and what is merely daubed here and there with a twentieth century brush.

Today, for example, if we ask what most of the world's three and one-half billion people are doing, it would be true to say: Most of them live in Asia, are poor, are ill-fed, are sick, are illiterate, lack freedom, are proud, fear war, and feel neutral in many contests which others think vital. But most people in the world could have been described that way a century ago or ten centuries ago. In a sense, the century never belongs to the people who live in it. The City of the Rich and the City of the Poor was an Aristotelian distinction, not an invention of the hapless Lin Piao.

The receptivities and tolerations of both governments and people have to be mutually calculated and recalculated, never in entirely satisfactory ways. The rates and magnitudes of current United States assistance to Latin America, for instance, run head-long into nineteenth-century banking systems, eighteenth-century commercial codes, corporate arrangements based on familial patterns of ownership, and investment attitudes of a low-risk, high-yield, short-term nature like mercantilist seventeenth-century England. Sometimes we find ourselves trying to infuse contemporary notions of credit, fertilizers, cooperatives and storage systems into an ancient Indian culture predating the arrival of Columbus in America.

The conflicting elements of many centuries bounce off the politics and economics of the present. Thus we have all had lessons in accommodating ourselves to certain unwelcome facts of life. What looks like leadership to some may look like exploitation to others; what here looks like help, may there be seen as interference; what to the provider is assistance, may to the receiver be intervention. On the Texas border, we may call it the Rio Grande, they the Rio Bravo. We may consider ourselves a Good Neighbor, they may think of us as the "Colossus of the North." As the Dictator Porfirio Diaz used to say, "Poor Mexico! So far from God, so close to the United States."

The culture problem is a human problem, not a scientific one, and it is the child and victim of many centuries. Hence, half-seriously, one can say that the twentieth century is currently made up of fourteenth-century farmers, fifteenth-century theologians, sixteenth-century politicians, seventeeth-century economists, eighteenth-century bureaucrats, nineteenth century generals and twenty-first-century scientists.

Some people—perhaps some centuries—have a much greater facility than others for self-deception, wishful thinking and false expectations. Thus one has to consider whether a strenuous effort to clarify every element in the picture really helps or hinders mutual objectives. One may legitimately ask which combination of the centuries in which societies provides the most forward motion on basic problems at a given time. Therefore it is also true that many of those most vociferous in laying claim to the century operate on a base which is only faintly in touch with the verbal gloss they employ. In a sense, every would-be claimant presses his claims to the century under false pretensions.

Many of the world's contemporary politicians do so doubly, for neither their cause nor they themselves are clearly contemporary. Just as the current century contains residual elements of all preceding centuries rolled into it, so we may also consider, as John Morley did in his "Life of Gladstone," that "Every man of us has all the centuries in *him*." Many of the leaders are born in the wrong century, serve the wrong governments and talk the wrong tongues. Many are perhaps only dimly aware of how much more at home they would have been abroad at some earlier point of history. Some of them, in unexpected places far beyond Europe, are perfectly cast for leading roles in latter-day analogues to the seizure of Silesia or the partitions of Poland. Others would gladly proclaim some new Pragmatic Sanctions of their own. Still others would happily grace a new Congress of Vienna, yearning even this late in history for another world restored.

But if the question—Which Century?—still vexes analysts and actors alike, how much more insidious, elusive and provocative is the question evolving from it: Whose Century will it—should it—be?

II. A CENTURY OF GOVERNMENTS?

Whose century? Three and one-half billion people implicitly ask that question. Suspended over them all, asking the same question, are some 145 governments. These governments provide many contrasts in the manner of their arrival and their prospects for stability.

They vary widely in their approaches to poverty, pollution and the population explosion; in their reaction to prejudice, racism and crime; in their efforts for more health, housing and human dignity.

They differ dramatically in their commitment to democracy, social justice, nonviolence, economic growth, law and order, and peace.

They show marked contrasts in their enthusiasm for, or resistance to, demands for equal access to wealth—or even to the propriety of asking how 100 percent of the world's people can get at 100 percent of the world's resources.

These governments have varying stakes in East-West tensions; in the Sino-Soviet rift; in the United Nations; in NATO and the Warsaw Pact; in the OAS and OAU; in SALT and disarmament; in trade and aid; in frequency allocation and weather modification.

They differ in their dependence on, or independence from, the United States and the Soviet Union, although most are deeply affected by what the superpowers do or fail to do.

They form shifting constellations of agreement and disagreement on issues full of consequences for others. They all want to change the policies of others toward themselves, often in different and inconsistent ways.

Each government is nervous about the absence of fixed points in the world horizon to which many of them were formerly accustomed. Each worries about a possible decline in the interest and attention of others. Each differs from the others in the degree to which it desires to be respected, feared or admired. Each probably overestimates its own role. Each government, even the autocracies, is concerned with domestic demands, and each wants to interest others in its domestic survivability. Each must consider how to mesh domestic requirements with the fast pace of world affairs. Each must grapple with priorities. Each must decide whether to go for long-term or short-term results. Who will initiate what? Who will gamble between the penalties and rewards of inaction? Each is in a box, but some are in bigger boxes than others.

Many governments are uncertain representatives of the viewpoints their people hold. Many of their people are increasingly uncertain about what their governments really think. Many governments include bureaucracies which are privately anxious about the reliability of their political leaders. Many of the leaders lack admiration for the bureaucracies which they theoretically control. Many fail to distinguish between declaratory policies and actual policies. Many are tempted toward claims and commitments beyond their capacity. Many fail to recognize the policy points of no return.

Some governments are in doubt which rift to heal, or which détente to encourage. Some are engaged in making progress through sham. Some are adept at the techniques of divesting responsibilities. Some will find the complexities so overwhelming that they will simply be overcome with indecision. Some will be the century's "laughing heirs."

Most governments will pursue several policies at once. Most will be looking for points of identification, appeal, connection and mutually acceptable involvement. Most will consider that they have a mandate for change, but they are increasingly aware that patterns are different, and that the world is moving Left and Right at the same time. Most will crave frequent consultation and the reassurance that comes from easy access.

All governments govern countries where certain important public questions have traditionally been badly posed. All are worried about the East-West division between the communist and noncommunist worlds. All are caught up in the North-South racial division between the colored and the less-colored people of the world. All must grapple with the North-South economic division between the low-income nations and the so-called developed ones. All would prefer to line up with the ascending rather than the descending forces in history. Yet all, whatever their doctrines, probably believe that nothing in history is really inevitable until after it has happened.

All are betting on different answers to the question: Whose Century?

The answer to the question remains elusive, whether viewed from the perspective of peoples or governments. Thus governments may think of themselves as sovereign and equal, but each government has long understood that some governments are more sovereign and equal than others. Governments exert disproportionate claims to the century. They also enhance or frustrate their people's claims to the century in disproportionate ways. This much has always been true. But I should like to suggest that we are now witnessing another, more grossly disproportionate, development which will have profound and unpredictable consequences for the character of the century. I have in mind the steady reduction of the old-style role of government in the Western world without a symmetrical or compensatory development elsewhere.

III. A LESS GOVERNMENTAL WEST AND THE REST

When Adam and Eve left the Garden, Eve reportedly turned to her husband and said, "Adam, we live in an age of transition." Today in the West we may be leaving the familiar garden of intergovernmental relations where by definition only a hundred-or-so flowers can bloom. It would be too much to call this familiar intergovernmental world a paradise like Eden, for diplomats or for anyone else. But for over a hundred years we in the West have used its forms, imposed them on others, organized the world's commerce and investment around them, and built our international institutions of war and peace upon them.

Today this familiar intergovernmental world is crumbling, beginning in the West where it itself began. Here, breaking through the intergovernmental crust of what we used to call international relations are pluralist manifestations of many assertive kinds. Together they are reducing, relatively speaking, the roles of Western governments. And they are also making life more difficult for many international institutions whose organization and well-being have, until now, been predicated on the reliability of certain Western governmental roles. These new degovernmentalizing manifestations are by no means coherent or consistent. They often appear Janus-faced, hydra-headed or omnidirectional. They themselves are engulfed in adversary cultures. They involve differentiating and integrating tendencies alike.

Thus the contemporary flight from foreign policy may take on various forms of rejection and reassertion, and become neo-isolationist and neo-transnational as well. For example, the significant domestic opposition to unpopular foreign policies that has been occurring in Britain over entry into the Common Market and in the United States over our fiasco in Vietnam can spill over into either a frustrated, localized retrenchment or into a new frontier-crossing politics of the Left. The *Weltschmerz* of the intellectual insurrection and the exuberance of the youth revolt can too. At another level, the growth of the multinational corporation can evoke a transnational economics on the Right, as well as provoke a reaction opposing it on both the Right and the Left.

The governments of Western democracies are discovering that their people are deficient in the deference that governments used to think was their due. Governments devoid of credibility confront citizens devoid of patriotism. Patriotism! It is not only not enough any more. It is not only the last refuge of scoundrels. To today's avant-garde, scoundrels are the only patriots around—surely a thin base of reliable support for Western governments cumulatively under siege. These governments preside with deteriorating effectiveness over societies which at one and the same time threaten to become too proud to fight, too sophisticated to agree, too democratic to be directed, too assertive to acquiesce, too liberal to be led, too complicated to be consistent, and too élitist to accept majority rule.

Democratic societies can, of course, burst their own societal bounds of toleration. Deeply felt oppositionist tendencies, for instance, while less than sufficient to capture the state, may prove more than sufficient to immobilize it. *E pluribus unum*—one out of many—can depreciate at least as fast as the American penny which carries that maxim on its reverse face. At minimum, today's democratic, affluent societies in the West face explosive new struggles for identity and coherence as the individuals and groups within and between them sort out their contemporary purposes and priorities. Their diverse publics are diversely interested. Old forms have become demonstrably less useful as practical guides for significant personal behavior. Old forums may likewise become perceptibly less useful as the relevant terrain for future decision-making.

The most striking fact about the resulting new relationships is that they are less and less international in the old intergovernmental sense. Western governments and the intergovernmental institutions extrapolated from them are by no means the exclusive or even the centrally active elements. Instead, as often as not, these elements are extranational and nongovernmental in character. Compared to what has gone on before, the new forces now sweeping across Western life are marked by the bypassing of government by ever larger portions of the population, and by the explicit rejection of government by many. Whether governments—including some governmentally based international organizations—are ostracized or simply ignored, the feeling is inescapable that the proportionate importance of governments in the daily life of the West is dwindling. Nationally and transnationally, their pivotal position is eroding. Certainly Western governments do in fact preside less and less effectively over the burgeoning pluralisms emitted by Western societies.

In a sense, of course, the depolarization of world politics has been occurring simultaneously with the polarization of domestic politics in the West. The latter process, often indistinguishable from the degovernmentalizing phenomenon previously mentioned, is bound to cut unevenly across the competitive claims to the century, be they popular or governmental or both. For the time being basic forces are loose in the West which are precipitating a new asymmetry in world affairs. Western societies are internalizing much of their combative energy and disputatiousness, nongovernmental and antigovernmental sentiments are popular, and the Western governmental component itself is diminishing in the totality of transnational relationships.

The world of formal intergovernmental relations will continue, of course, even among Western capitals, if only because no one can think what ceremonial life would be like without it. Yet the result of all this internal combustion will be a less governmental West. The affluent democracies will be living in a halfway house to transnationalism.

But it will be a transnationalism putting the West out of phase with the rest. No comparable degovernmentalizing tendencies will have taken hold in the authoritarian governments of the ideological East or the nation-building governments of the developing South. Metternich, a European from the Rhineland, felt that the Hapsburg Empire did not belong to Europe. "Asia," he said, "begins at the Landstrasse," the road out of Vienna to the East. Today, in a notably different setting and with momentous new forces at work, one can visualize a future where the residual Metternichian world of intergovernmental relations will itself begin at the Landstrasse, with networks of governmental and bureaucratic traditionalism spreading out from it for hundreds and thousands of miles over the lands to the East and the South.

Peoples and states in the East and South may indeed have little else in common except for the vital similarity that their governments still remain their ultimate representatives externally. In dealing with Western governments, however, they will be dealing with only one of the components in the Western picture, by no means the exclusive or even "responsible" agent for the society they are said to represent.

For in the West the virtues and defects of pluralist democracy will be thriving in unpredictable profusion, puncturing pretentiousness and splintering sovereignties. An old contrast is likely to spring up again between that part of the world where, in certain fundamentals, governments immobilize their people, and that part of the world where, in certain fundamentals, the people immobilize their governments.

Eventually, of course, the decline of governments in the West may erode the stability and effect the continuity of government roles in the East and South. But in the period just ahead, these phenomena will continue historically out of phase. The unevenness of the change will amplify the contrasting vibrations from and between the new-style transnational relations in the West and the older-style intergovernmental relations of the East and South.

For the time being these tendencies will remain asymmetrical and will introduce unbalancing, even destabilizing, elements in world economics and politics. The strategic implications could be unsettling if this dichotomy applies, as it would seem to do, to America in her declining superpower role on the one side, and to the rising or remaining power roles of China, Japan and the Soviet Union on the other.

On a more universal scale, the totality of international relations will also partake of this house-divided phenomenon. The old mythologies of state sovereignty will be less convincing than ever before. International institutions, already suffering from severe constituency imbalances of sovereign size, wealth, power and weight, will have to begin to come to terms with the newly destabilizing effects of factions flourishing in the West.

Whatever else it may signify, the transnational phenomenon in the West, simply by deemphasizing governments, will be pioneering and evocative. It will carry large and unpredictable implications for the whole world: for politics and personalities, for economics and cultures, for war and peace. It adds new and disturbing dimensions to the unanswered question: Whose Century?

When Metternich confronted his imperial master with a troublesome proposition, Francis I would postpone a decision by responding: "Darüber muss man schlafen." Indeed, "Let's sleep on it" eventually became the Emperor's motto for all questions of state. Whose Century was difficult enough to discern when we were on the threshold of transnational politics. Today with its arrival, we have an occasion portentous enough to require deep and serious thought. We too will have to sleep on it before coming to any hasty conclusions. Diplomats and other officials in the West, however, will find when they awake that the forms no longer fit, that the rules no longer work, that the old government-to-government cake of custom has been broken, and that earlier notions of how societies are represented—central questions of Who, Whom?—must be fundamentally revised.

THE FEDERAL ELECTION CAMPAIGN ACT

Mr. FANNIN. Mr. President, one of the worst laws enacted by this Congress becomes effective today: the Federal Election Campaign Act.

This was advertised as legislation to clean up some questionable practices in campaign finance. Instead of meeting the needs of campaign reform, this legislation simply creates even more problems.

It certainly does nothing to halt the most flagrant campaign abuse in America today, the illegal use of union dues and resources in election campaigns.

Mr. President, I was criticized for voting against this bill, but there is growing recognition of the fact that this legislation has serious deficiencies. In addition to the failure to control massive union contributions, the bill raises some serious constitutional questions regarding freedom of speech and freedom of political activity. It is my opinion that this bill may well be unenforceable. Too many questions are left unanswered.

One perceptive article on this bill appeared this week in the Wall Street Journal. It was written by Michael Gartner, a lawyer who is an editor of the newspaper.

Mr. President, I ask unanimous consent that this article be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAMPAIGN FINANCING: A DUBIOUS LAW

(By Michael Gartner)

Assume you have amassed a modest fortune and you now want to try something new. You decide to run for Congress. You and your family agree to spend $50,000 of that fortune to finance your campaign.

As of Friday, that expenditure will be illegal.

Assume you firmly believe in a candidate or a cause, so much so that you would like to buy a full-page ad in The Los Angeles Times to support that candidate or that cause.

As of Friday, that will be sometimes impossible, always difficult.

Assume you are a professor who has built up a rapport with your liberal young students. Really, though, you are a closet conservative, and you would like to give a quiet $100 to the committee to re-elect Richard Nixon. You don't want the students to find out, of course.

As of Friday, that will be impossible.

Assume, finally, that you own a newspaper or a television station and you're looking forward to the quadrennial windfall from political advertisers. Demand is high this year—after all, there are more Democratic candidates than you can count on your fingers—so you jack up the rates a little.

As of Friday, you can't.

On Friday, the Federal Election Campaign Act goes into effect. It is known more widely as the campaign spending bill, or S. 382, and it restricts all of the activities listed above. It is a widely praised law designed to prevent people from buying elections, to put the spotlight on "fat cats" and to ensure that in the future a man needn't be rich to run for office.

It is also a law that is dubious both logically and legally, a law that will work to keep in office the people who wrote it and to penalize the very people it alleges to protect.

THE LAW'S LOGIC

Consider first the logic. The bill was proposed because there has been a great hue and cry about the millions of dollars that are spent each election year. There has been increasing alarm especially about the millions that have been poured into television advertising by the so-called media candidates. Such broadcast expenditures in federal elections rose to more than $50 million in 1970 from just under $10 million in 1956.

And so the new law limits each candidate to spending 10 cents per potential voter in each election "for the use of communications media." No more than six of those cents can be spent on television.

That might be noble, except for one fact. "Money . . . cannot assure electoral victory," Howard R. Penniman, a professor of government at Georgetown University and an authority on political parties and elections, writes in "Campaign Finances," an 83-page paper issued recently by the American Enterprise Institute for Public Policy Research in Washington. "The many studies of television and campaigns provide little evidence of its great impact on the outcome of general elections."

"We find campaign broadcast expenditures to be only moderately significant in determining election outcomes," Paul A. Dawson and James E. Zinser, assistant professors at Oberlin College, wrote in the Fall 1971 issue of Public Opinion Quarterly.

Some recent data: In the Florida primary, Mayor John V. Lindsay of New York is said to have spent about $170,000 for broadcast time; he received 7% of the vote. Sen. Edmund S. Muskie of Maine is said to have spent about $160,000; he received 9% of the vote. Sen. Hubert H. Humphrey of Minnesota is believed to have spent about $60,000 on television time and $15,000 on radio; his share of the vote was 18%. And Gov. George C. Wallace of Alabama is said to have spent about the same amount as Mr. Humphrey. Gov. Wallace got 42% of the vote.

Gov. Wallace and Sen. Humphrey between them received 60% of the vote—and spent 20% of the money.

In New Hampshire, Sen. Muskie spent about $65,000 in the media and garnered 47.8% of the vote. Sen. George McGovern of South Dakota spent about the same and finished second with 37.6%. But a committee working on behalf of Rep. Wilbur D. Mills of Arkansas spent more than $80,000 on media advertising, mostly on television, and the Congressman received only 4.1% of the vote. Mayor Sam Yorty of Los Angeles spent only $15,000—yet received 6.1% of the vote, some 1,700 more votes than Mr. Mills tallied.

So the Federal Election Campaign Act appears to be an unneeded law. It is also a bad law, in the view of legal scholars. "The final bill is flatly unconstitutional," asserts Ralph K. Winter, Jr., a professor of law at Yale who is a specialist in constitutional law. And Yale Professor Thomas I. Emerson, an authority on the First Amendment, says several aspects of the law "raise serious constitutional questions and probably violate the First Amendment."

Both men complain that the law, in effect, requires a person to register his political activity with the government. Which it does. It requires that each candidate disclose the source of all his funds. It might be nice to know who those fat cats are—though Georgetown's Prof. Penniman says that "fat cats are less important in affecting the outcomes of elections than is sometimes assumed by proponents of more regulation"—but is it right that every man should know if his neighbor gives $100 to Gov. Wallace or to Sen. Eugene McCarthy?

This is "clearly a deterrent to political activity," argues Prof. Winter. "It raises precisely the same issue as the press not wanting to reveal news sources." (But Fred W. Friendly, the former head of CBS News who now is at the Columbia University journalism school, sees no problem in the disclosure requirements. "I'd rather know what the AFL–CIO and the big defense contractors are giving than I would like to protect the small giver. For every college professor you protect, you protect in a much more serious way a union or defense contractor that shouldn't have that protection."

Besides requiring financial disclosure, the law also limits personal expression by decreeing that a citizen cannot buy an ad to support a candidate unless that candidate approves of the ad. Since the cost of the ad is counted in that 10-cents-per-voter calculation, legislators reasoned that the candidate should have a veto power over such advertising. But what if New York philanthropist Stewart Mott, say, wants to take out an ad supporting Sen. McGovern? And what if Sen. McGovern, for some reason, doesn't want Stewart Mott's support? He can veto the ad, thus silencing Mr. Mott's political views.

"This gives a candidate veto over an individual's political activity," says Prof. Winter, "and that strikes me as flatly unconstitutional." "It does," says the more cautious Prof. Emerson, "raise very serious constitutional questions."

("Damn straight it's a restraint on my freedom of expression," says young Mr. Mott. And he raises an interesting question. "If I want to say nasty things about a given candidate in an ad, and there are four in the race, do I have to seek permission from the other three? Do they have to divide up my cost of the ad in their spending limits?")

The new law also limits the freedom of expression of the candidates themselves. It decrees: "No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with nomination for election, or election, to federal office in excess of $50,000 in the case of a candidate for . . . President or Vice President, $35,000 in the case of a candidate for the office of Senator, or $25,000 in the case of a candidate for the office of Representative to the Congress."

"There are First Amendment doubts about that, also," says Mr. Emerson. "It is unconstitutional," says Mr. Winter.

Constitutional authorities are troubled less—and newspapermen are troubled more—by a provision in the new law that rules that broadcasters and newspapers and magazines may charge political advertisers no more than the lowest charges made to other advertisers for comparable time or space.

Governmental infringement on broadcasters' First Amendment rights has become routine by now—the banning of cigaret ads, the attempt to subpoena unused film clips, the pressure to let government men grind their axes on the air—but newspapers had pretty much avoided such harassment. But no longer.

CONTROLLING NEWSPAPERS

"There has never been anything approaching the control of the newspapers" that is written into the new act, Prof. Emerson states. He believes that it presents no First Amendment problems, however, because it is addressed to the commercial aspects of newspapers—like antitrust laws. He concedes, however, that "I can see how you could work up an argument to the contrary."

Indeed you can, says Norman E. Isaacs, editor in residence at the Columbia journalism school, former executive editor of the Louisville Courier-Journal and former president of the American Society of Newspaper Editors. "I wince over the government getting into the business of stipulating what a newspaper shall charge," he says. "The next step could be that the government will make you give space away. I always worry about the government. I suspect it is a violation of the First Amendment." Mr. Isaacs says he believes in the principle that newspapers should not gouge politicians on ad rates, but he doesn't believe the principle should be enforced by law.

(If the bill is unconstitutional as related to newspapers and broadcasters, so too, is it economically damaging. "This will put several broadcasters in Alaska in the red," says an aide to Sen. Ted Stevens, who was a lawyer for broadcasters before Alaskans sent him to the Senate.)

So in attempting to enforce that 10-cents-per-voter limit, the act is made up of several seemingly unconstitutional provisos. But is the limit on campaign expenditures in itself unconstitutional? Prof. Winter, writing in the American Enterprise Institute's paper, declares:

"A limit on what a candidate may spend is a limit on his political speech as well as on the political speech of those who can no longer effectively contribute money to his campaign. In all of the debate surrounding the First Amendment, one point is agreed upon by everyone: No matter what else the rights of free speech and association do, they protect explicitly political activity. But limitations on campaign spending and contributing expressly set a maximum on the political activity in which persons may engage."

He goes on: "A law forbidding someone from contributing to a candidate's campaign or restricting the use to which the candidate may put the money cannot be distinguished from a law forbidding speeches of over 10 minutes in public parks. . . . The First Amendment prohibits the setting of a legal maximum on the political activity in which an individual may engage . . . . Sound trucks which keep people awake at 4 a.m. by broadcasting political messages can be stopped, not because of a governmental interest in preventing the message but because of the public's interest in sleeping. No such nonpolitical or nonspeech interest exists in the case of legislation regulating campaign expenditures or contributions."

And two Harvard law students, writing in the January 1972 issue of the "Harvard Civil Rights Civil Liberties Law Review," conclude: "A ceiling on individual political spending is a serious infringement upon traditional concepts of free expression. Individual spending should be curtailed only if it poses a direct and substantial danger to the political process which cannot be effectively controlled by alternative measures."

SOME "REDEEMING VIRTUES"

But this seemingly unconstitutional law does have some redeeming virtues—if you're an incumbent legislator. By putting all kinds of restrictions on candidates, the law clearly works to the advantage of people who already are in office. Says Prof. Penniman of Georgetown:

"The setting of uniform limits on campaign expenditures for incumbents and challengers fails to take into account the subsidization of the incumbent (the franking privilege, free phone calls, etc.), and the more severe the limit, the greater the handicap placed on the challenger. Money for campaigning does not ensure a real contest, but tight limitations on funds may distort the democratic process by reducing the opportunity for a serious challenge of the entrenched officeholder."

Prof. Penniman makes one other point worth noting. "The best estimates tell us that campaign spending for all the thousands of offices up for decision in 1970 was perhaps $300 million," he says. "It was not much more than the $275 million that Procter & Gamble spent to advertise its products that year."

PRICKING THOSE ECONOMIC MYTHS

Mr. BENNETT. Mr. President, several economic myths are currently being floated by the flock of Democratic presidential hopefuls and others which I believe deserve to be pricked by the sharp point of facts.

Myth No. 1: Farmers are responsible for the recent rise in food prices. Not true. Retail food prices rose 43 percent during the past two decades, but farm prices rose only 6 percent.

The Giant Food chain received much publicity recently when its consumer adviser, Esther Peterson, took full-page ads urging housewives not to buy meat and implying that the strengthening of farm beef prices was to blame for higher over-the-counter prices. Mrs. Peterson, who formerly was consumer adviser to President Johnson, neglected to point out that Giant Food and other retailers could actually purchase beef carcasses cheaper in March of this year than in August of last year, when the price freeze was imposed. Thus, farmers are wrongly being blamed for the high prices charged by the food chains.

Myth No. 2: Current economic indicators show that the Nixon administration's program is in trouble. Not true at all. Although other evidence could be presented to illustrate that the Nation's economy is responding very favorably to the controls now in force, one of the best evidences is that even neutral observers agree that things look good, indeed. Columnist Joseph Kraft, for example, who is hardly known as a White House yesman, wrote in a recent article that "most of the usual indicators are positive."

Kraft noted:

> Gross National Product and business investment are both up as predicted in the Administration's forecasts. Housing starts, at an annual average of 2.6 million are running way ahead of the projected figure of 2.2 million starts.

Myth No. 3: The revamped Pay Board will be a tool of business, since most of its labor members took a walk. Mr. Kraft again answers this notion best:

> That (the restructuring of the board) leaves the Pay Board to a small core of public members who are dedicated hardliners when it comes to holding the line against inflation. Far from being a self-destruct mechanism, the Pay Board has now become an instrument with staying power.

Myth No. 4: The Nation's economy will be the Democrats' best weapon in November. Do not bet on it.

Mr. President, I ask unanimous consent that Mr. Kraft's column entitled "Economy on Target," published in the Washington Post of March 30, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Economy on Target

(By Joseph Kraft)

You can now add Ingrid Bergman to the list of economic indicators pointing toward good times for President Nixon. She has been playing in Washington, and was invited by George Shultz, the director of the Office of Management and Budget, to visit the White House.

When the plan fell through, Mr. Shultz registered mild disappointment. And when Mr. Shultz frets about Ingrid Bergman that means he feels free to look up a little from the black pit of worry about inflation and unemployment.

On the inflationary side, the latest development—the withdrawal of the labor members from the Pay Board—is in fact a blessing in disguise. In the past, the Pay Board has been lamentably weak because the labor and business members acted in covert alliance to jack up wages and prices.

With the withdrawal of AFL–CIO President George Meany and three other labor members, President Nixon has also been able to sack their hidden partners among the business members. That leaves the Pay Board to a small core of public members who are dedicated hardliners when it comes to holding the line against inflation. Far from being a self-destruct mechanism, the Pay Board has now become an instrument with staying power.

One other recent difficulty seems also to have been exaggerated. Consumer prices did rise by an annual average of 6 per cent last month the highest increase since the jump last June which was a central factor in forcing the administration to adopt its new economic policy.

But the cause of the rise was a 24 per cent rise in food prices. The non-food price index actually declined somewhat. And, as it happens, food is one of the items most subject to control.

Tough talk about higher prices, for one thing, can put the grocery chains and processors on the defensive. The President has opened the way with the attack he made on the "middlemen" in the food business at his last news conference. Now Secretary of the Treasury John Connally has jumped into the battle with all his formidable energies and powers of persuasion.

Moreover, the administration disposes of indirect means for forcing down food prices. The import quotas which hold up prices of meat, sugar and dairy products could be relaxed.

Lastly, there is the possibility of direct controls. As Secretary Connally has indicated, a flexible system linking higher retail prices directly with the far more modest increases being paid to the farmer could be instituted. If necessary, a total freeze on food prices could be applied.

As to economic recovery, most of the usual indicators are positive. Gross National Product and business investment are both up as predicted in the administration's forecasts. Housing starts, at an annual average of 2.6 million, are running way ahead of the projected figure of 2.2 million starts.

It is true that there was a record trade deficit for the first quarter. But the dock strike figured importantly in that showing, and some of the deficit will be offset by returns on investment and other so-called invisible earnings. Moreover, since payment of gold against dollars was suspended when the New Economic Policy was announced, this country is now powerfully insulated against the claims of foreign creditors.

It is also true that retail sales have not done well and that money being pumped into the economy through government purchase is slightly behind schedule. But an off-set to these short-falls is emerging.

Poor understanding of the latest regulations has caused tax-payers to overwithhold at a terrific rate—$8 billion annually, according to the Treasury. Administration officials are now considering a variety of means for inducing the taxpayers to withhold at a more moderate rate. So if necessary, the Administration has available an easy way for giving the economy a big shot in the arm.

What all this means is that the President is in good position to meet the economic targets for this year. These targets are modest and include acceptance of at least 5 per cent unemployment. Still, the economy will probably not be in dire straits at election time, and this time the Democrats will almost certainly be denied what is usually their best weapon against a Republic President.

HELLER PUSHES FOR REUSS HALF MILLION JOB PLAN

Mr. PROXMIRE. Mr. President, today's New York Times contains an excellent letter by Walter Heller, former Chairman of the Council of Economic Advisers, calling on Congress to enact the Reuss jobs-now bill.

Mr. Heller makes a devastating case for getting on with the job of providing more jobs and now.

Few write with Mr. Heller's eloquence, and few of us in Congress have the imagination and drive of Henry Reuss, who incidentally is the able Representative from the Fifth Congressional District of my own State of Wisconsin.

Mr. President, I cannot resist, in this great political body, quoting the last—and most appropriate—paragraph of the Heller article:

> But education and training—as well as unemployment compensation, income maintenance, and work incentives for the unemployed—all lose their point unless there are decent jobs for them at the end of the line. It was Calvin Coolidge who made the profound observation that "for a man to have a job, someone has to hire him." He had something there. And "Jobs Now" has something here.

I ask unanimous consent that the Heller article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Needed Now: "Jobs Now"

(By Walter W. Heller)

Minneapolis.—Given the continued intolerably high unemployment and slack in the economy under Mr. Nixon's policies, the need for the "Jobs Now" program—Congressman Reuss' proposal for 500,000 public service jobs—becomes more urgent with each passing day. That need has at least five facets.

First, the need for greater economic stimulus: The economy is running $80-billion below its full-employment potential. So even if the Nixon forecast of a 1972 G.N.P. of $1,145 billion were realized, output would still fall $60 billion short of our productive capacity. Under these circumstances, the increased authorization proposed by the "Jobs Now" bill (H.R. 12011)—to $2 billion for fiscal 1972 and $4 billion for fiscal 1973 (from the $1 billion for 1972 and $1.25 billion for 1973 now authorized under the Emergency Employment Act of 1971)—would be a modest but welcome tonic for an economy that still has tired blood.

Second, the need to meet our biggest single economic problem, unemployment, head-on: The public-service jobs bill recognizes that the shortest distance between two economic points is a straight line, that if we want to use Federal money to create jobs, the quickest and least expensive way to do it is to fund and fill jobs that are waiting to be done. Funding and filling 500,000 public service jobs goes straight to the heart of the unemployment problem.

Third, the need to tailor jobs to the changing structure of the jobless: The "Jobs Now" program zeroes in on the less skilled, less experienced jobless—the teen-aged, female, growing proportion of the unemployed. Viewing the rising tide of youth and women in the labor force, some observers (including high officials of the Nixon Administration) have concluded that the 4 per cent unemployment goal is "a myth," that "6 per cent is not critical" because unemployment of teen-agers and women does not have a high hardship quotient anyway and that we have to settle for a more modest unemployment target like 5 per cent in order to contain inflation.

Granted, it's tougher to get to 4 per cent than it used to be. But that's no excuse for ignoring the social costs and tensions that go with 10 per cent unemployment rates for blacks, 17 per cent for teen-agers, and over 30 per cent for black teen-agers. Tossing in the sponge and taking a "you-can't-get-there-from-here" attitude, as the White House seems to be doing, is precisely the wrong response.

Fourth, the associated need to do a better job of reconciling full employment with reasonable price stability: If we try to solve the unemployment problem solely through general fiscal and monetary stimulus, the resulting demand pressure will create shortages of skilled workers, generate bottlenecks, and boost prices long before its blessings reach the less skilled and least experienced members of the labor force. To employ them without creating new demand-pull pressures calls for carefully targeted measures like "Job Now" that require, not $2 or $3 of spending, but only $1 (plus administrative expenses) to create $1 of unskilled job opportunity.

Fifth, the need to create productive, not make-work jobs: Myriad public service jobs—in health care, education, public safety, pollution control, recreation, sanitation, urban maintenance and renewal—are crying to be done. But hard-pressed state-local treasuries—depleted by recession—simply cannot cope. These service jobs, being neither supported by expanding revenue sources like the Federal income tax or ear-marked taxes like payroll and gas taxes, nor saleable in the market place like private goods, bring up the rear of the budgetary queue.

The Nixon Administration is fond of scornful references to "dead-end W.P.A. jobs." This reflects not only a woeful ignorance of history but a distressing lack of understanding of the nature and needs of the unemployed. For although youth, women, and minorities do make up a larger part of the jobless today than ten or fifteen years ago, their average level of education and training is significantly higher. As Otto Eckstein has shown, the proportion of the 18–64 age group with education of twelve years or more rose from 48 per cent in 1957 to 57 per cent in 1964 and 68 per cent in 1971. The number of individuals in work and training programs rose from 135,000 in 1964 to over a million in 1969.

But education and training—as well as unemployment compensation, income maintenance, and work incentives for the unemployed—all lose their point unless there are decent jobs for them at the end of the line. It was Calvin Coolidge who made the profound observation that "for a man to have a job, someone has to hire him." He had something there. And "Jobs Now" has something here.

DEATH OF SALVATORE CAMELIO

Mr. BROOKE. Mr. President, last week the Commonwealth of Massachusetts suffered a great loss in the death of Salvatore Camelio, president of the Massachusetts State Labor Council, AFL–CIO.

I had the privilege of knowing the highly respected Salvatore Camelio and his wonderful family for many years. His distinguished son, Augustus Camelio, was an assistant attorney general when I served as Massachusetts Attorney General.

Sal Camelio, as he was affectionately known, immigrated from his native Italy as a child. He began his career as a rubber worker, and served as first president of the Boston Local 25 of the United Rubber Workers. He was active in the founding of the CIO, served on the Wage-Labor Board in World War II, and contributed to the merger of the AFL and CIO in 1958. He later served as State president of the AFL–CIO from 1964 until his death on Thursday of last week.

Sal had many interests. While most of his effort was devoted to improved labor conditions and benefits for the workers of Massachusetts, he was also concerned with health, education, urban problems, and pollution control. He was active for many years in raising funds for the Muscular Distrophy Foundation, and received several awards from the association for his services. He served on the Massachusetts Rate Setting Commission which investigated hospital charges and made recommendations for lower hospital costs. And he spent many active years in programs designed to benefit the elderly.

It is typical of Sal Camelio that on the last day of his life he was at the State House in Boston, fighting against a measure which he felt would be detrimental to unemployed workers in Massachusetts.

Mr. President, Salvatore Camelio devoted 40 years of his life to the labor movement. His work, and his enthusiasm for it, never ended. He left a lasting and creating mark on the labor movement. Millions of men and women benefited greatly from his tireless efforts.

To his courageous wife and family, and his multitude of friends, I extend my deepest sympathy.

INVASION OF SOUTH VIETNAM

Mr. FANNIN. Mr. President, the invasion of South Vietnam by Hanoi at last destroys any pretense that the war in Southeast Asia is anything more than a naked attempt by a Communist power to destroy a free nation.

In 1968, understandings were reached which led to a cessation of the bombing of the North in return for North Vietnam's recognition of, and respect for, the demilitarized zone provided by the Geneva Conference of 1954. Hanoi has broken its agreement in the effort to break South Vietnam's growing ability to defend its own freedom. In order to help nurture and protect South Vietnam's strength, and in order to protect the withdrawal of American forces from Vietnam, President Nixon has resumed the bombing of the North. Our planes are attacking those elements which directly support the invasion. I believe the bombing will continue as long as the invasion continues. All the North has to do to end the bombing is to leave her neighbor alone. That seems fairly elementary to me.

It seems quite unreasonable to some of the Democratic candidates. Some of the same people first involved in placing South Vietnam's freedom in jeopardy when their party was in power back in the early 1960's, now want to sacrifice that freedom entirely in their efforts to get back in power in the 1970's.

Let it be clear that the issue is not whether to end this war. The President did not start it, and he certainly has worked successfully to end it. The issue is how to end it—in honor or in shame. When we are so close to leaving the people of South Vietnam with the chance to survive, I do not think we need Democratic candidates going about trying to destroy that chance.

PROPERTY TAX—WHAT TO DO?

Mr. GURNEY. Mr. President, over the years, the senior Senator from Kansas (Mr. Pearson) has worked diligently to provide a retirement of dignity and purpose to the Nation's older Americans. Recognition of his achievement in this area is becoming increasingly apparent, exemplified by his participation in last December's White House Conference on Aging.

Of great concern to Senator Pearson and me is the heavy financial burden under which increasing numbers of senior citizens are being forced to live. Caught in this unfortunate situation are those older Americans who, having saved all their lives for a leisurely and rewarding retirement, must now spend their savings at a much faster rate than previously anticipated.

The result for these individuals is a far cry from the life they had every right to expect. The result is too often a nightmare of disillusionment and despair.

Unfortunately, increasing taxes, particularly property taxes, is in many cases the chief source of an elderly citizen's financial dilemma. Senator Pearson has recognized the immediate need for relief of this burden in a perceptive article published in the American Association of Retired Persons' magazine, Modern Maturity.

Mr. President, I ask unanimous consent that the article, entitled "Property Taxes—What To Do?" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Property Taxes—What To Do

(By Senator James B. Pearson of Kansas)

Of the many burdens older Americans must bear, one of the heaviest is a tax on their homes. In the United States, about 70 per cent of all persons over 65 own their homes, yet the 40 per cent increase in property taxes since 1963 is forcing too many of these 14 million senior citizens to sell the homes which they have worked so long and hard to purchase. This burden must be eased and eased promptly.

This country owes its older citizens a retirement of dignity and purpose, including an active involvement in the mainstream of American life they helped create. Yet, too often, older Americans—particularly those living on fixed incomes such as Social Security, pensions or annuities—have been sent to the sidelines to exist on the edge of an inflation-produced poverty.

The cruel dilemma of the property tax is that it most directly affects the old and the young, for it is the old who have to pay high taxes on low incomes and the young whose education is currently dependent on property taxes. In the United States, 55 per cent of the costs of public education are financed by property taxes. Our reliance on a 19th century tax system to finance a 20th century education places us in the unacceptable position of bankrupting our schools or our homeowners.

We must find a better way to pay for the education of our youth. Decisions in courts and ballot boxes across the country have clearly marked the beginning of the end in our use of property taxes for education. Furthermore, in school districts throughout the nation, voters have been rejecting bond issues for public education. Schools in several states have closed after voters turned down school levies. Many more school systems, some in our largest cities, may have to close during this school year.

In some of the most far-reaching court decisions since the 1954 case of *Brown vs. Board of Education*, state and Federal courts have found that the property tax system of school finance is in violation of the equal protection clause of the Fourteenth Amendment. A California court ruled that taxation of local property to finance schools "invidiously discriminates" against the poor because the quality of the district's schools is dependent on its wealth. In the opinion of the court, a child living in a school district in which property values are low will not have access to educational resources equal to those of children living in wealthier districts. Federal courts in Texas and Minnesota have rendered similar opinions.

I do not believe that we can afford to wait for courts to reform our school finance system. If we do, we may end up with the financial equivalent of forced busing. State legislatures and the Congress of the United States must act promptly to assure adequate financing for public schools and to relieve the unfair school tax burdens placed on some of our people.

Relief can come in several forms. I have proposed legislation to provide a Federal tax credit to all citizens over 65 who pay real or property taxes. This bill is still pending and I am optimistic that it will pass during the second session of the 92nd Congress.

In his State of the Union address, President Nixon promised that he would make "revoluntionary recommendations" concerning school finance and property taxes. He has directed the President's Commission on School Finance, the United States Treasury and the Advisory Commission on Intergovernmental Relations to devise new methods for financing public education.

While it is too early to speculate on possible recommendations, I am confident that the Administration will offer a sound and equitable alternative to our current system of educational finance. The President and the Congress working together must devise a financially sound and equitable method of paying for schools. They must provide adequate revenue for education and relief for hard-pressed taxpayers.

Among the hardest pressed American taxpayers are elderly homeowners who have few opportunities to ease their tax burdens with writeoffs and tax credits. They pay, and pay in full, for education and other public services. We must heed their clear signal of distress. We must act now to provide an alternate system for financing education—on the state and, most importantly, on the national level.

Reduced property taxes would most certainly ease the financial strain on older Americans, while increased Federal aid could help provide a quality education for all children of our country. Clearly, we owe this to our old as well as our young.

THE NORTH VIETNAMESE INVASION OF SOUTH VIETNAM

Mr. McGEE. Mr. President, the current North Vietnamese offensive, which is not limited to just South Vietnam alone but also includes Cambodia and Laos, has long been predicted.

It was felt by many that the North Vietnamese would launch a massive offensive during this election year in an effort to embarrass the administration or promote domestic pressure on the President no matter how small a success the enemy forces experienced.

I think it is appropriate, at this point, to note that the North Vietnamese construction of a major infiltration route across the DMZ is in violation of the 1954 Geneva accords providing for a demilitarized buffer between North and South Vietnam and the 1968 understandings which led to the cessation of U.S. bombardments against North Vietnam, provided that respect for the status of the DMZ was maintained.

There are many in this country who may be tempted to criticize what they envisage as an escalation of the air war on our part. But I hasten to point out that we made clear in negotiations leading to this bombing halt that we considered respect for the DMZ as a situation in which there would be no firing of artillery, rockets, or mortars from, across, or within the DMZ and there would be no movement across or within the DMZ.

Hanoi's latest invasion across the DMZ is a clear and blatant violation of the 1968 understandings. It is also important to note that throughout the period of buildup for the anticipated offensive the United States showed great restraint.

We tabled a comprehensive eight-point peace proposal with sweeping provisions for a settlement fair to both sides even as we knew that these offensive preparations were underway. We leaned over backward to show our will for peace and genuine desire to bring the conflict to an honorable end. The invasion across the DMZ has been Hanoi's response. Under these circumstances the United States must respond with its air and naval power in support of the South Vietnamese.

I think all of us should be in agreement that so long as Hanoi persists in this invasion, in violation of the 1954 Geneva accords and the 1968 understandings, we must support the Saigon forces with our air and naval power.

To those who would say that the current invasion spells the doom of the Vietnamization program, I would warn all to await the outcome of the battle. The occupation of territory in South Vietnam by a massive North Vietnamese invasion force for a limited duration of time does not dispel administration claims that Vietnamization has taken hold in South Vietnam. On the contrary, the real test of Vietnamization will rest with the question of whether the invasion can be repelled or not.

ALASKA FISHING INDUSTRY

Mr. STEVENS. Mr. President, I have received some facts and figures which I believe will be of interest to the Senate and to the general public. They indicate the number of people in Alaska directly concerned with the fishing industry, particularly salmon fishermen. The statistics appeared in the Anchorage Daily Times of March 20, in the column "Tell It to Bud."

There are 14,370 Alaska residents who are commercial fishermen and 7,718 nonresident commercial fishermen. Approximately 11,718 of these 17,088 fishermen fish for salmon.

Although it is impossible to determine from what area outside of Alaska the nonresident commercial fishermen come, according to Mr. Roy Rickey, director of the division of commercial fisheries, a considerable number of the Bristol Bay gillnet fishermen come from California. He also indicates that a sizable number of halibut fishermen, shellfish fishermen, and gillnetters come from the Puget Sound area.

These facts and figures indicate the sizable number of fishermen employed in the Alaska fishing industry. They also indicate how many of these fishermen come from other areas of the United States. All these people have a distinct economic stake in the fisheries of Alaska. They are all directly concerned with the size of the fish runs available to them.

Therefore, I do not exaggerate when I indicate that this valuable resource is immensely important, not only to the people of Alaska, but to fishermen and their families from throughout the entire Western United States. In fact, not only the fishermen themselves, but also their families, and the merchants and townspeople who directly depend upon them for their business, have substantial interests in the well-being of our fishing industry.

Many Senators and Representatives have introduced legislation to solve the numerous problems facing the fishing industry. I myself have done so. I have mentioned these facts and figures to indicate that the problems of the fishing industry in Alaska affect not only Alaskans, but people throughout the entire United States who must depend, directly or indirectly, upon the Alaska fishing industry for their livelihood.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

WAR POWERS ACT

The PRESIDING OFFICER (Mr. MANSFIELD). In accordance with the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senator from Virginia is recognized.

Mr. SPONG. Mr. President, I would like to take this opportunity to summarize some of the points which have been made during this debate. I believe that it is important to summarize these points at this time, because all Members of the Senate should be aware of them as they vote on various motions and amendments, a number of which are designed to weaken or defeat this bill.

First, the sponsors of this legislation believe the war power is a shared power: That responsibility for making war was granted by the framers of the Constitution to both Congress and the President. I discussed this in detail in a Senate floor statement on March 29 and referred to certain aspects of the shared responsibility on yesterday. Briefly, I and the other sponsors of this legislation believe the framers of the Constitution intended for Congress to declare war, that is, to determine when our troops should initiate hostilities abroad, when U.S. Armed Forces should be involved in offensive actions, and that the President should serve as Commander in Chief, conducting the war.

During this debate, we have said that there are certain constitutional authorities which the President has: To repel attacks on the United States and its troops or the threats of imminent attacks on either, to rescue U.S. nationals abroad who are endangered and to act pursuant to congressional authorization. We do not believe these prerogatives can be modified by legislation and we do not seek to do so. In fact, we seek to reaffirm them.

Likewise, however, we also seek to reaffirm the right of Congress to declare war. Such declarations—or at least the effectiveness of such declarations—are closely related to the deployment of troops and the committing of troops to hostilities. Thus, we who support this bill believe the Congress must have a role in the committing of U.S. soldiers and sailors to hostilities in order to render effective the power to declare war.

We are aware of the fact that Congress has tended not to act in the past, that Congress itself has created a void into which a number of Presidents have stepped. But we do not believe that the situation which has resulted—basically one of presidential hegemony—is what the framers of the Constitution intended or what is in the best interests of preserving the balance of powers in our Government.

Because this balance should be preserved, the pending legislation has been offered. It is designed to permit the President to take those actions necessary to defend our Nation, our troops, and our citizens, but to give Congress a voice in changing our Nation's status from peace to war.

Furthermore, we believe we have the authority to reaffirm the powers and to establish a means of carrying out these powers through the necessary and proper clause which permits us in Congress both to make the rules and regulations necessary for carrying into effect our own powers and to make the rules and regulations necessary for the carrying into effect "all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

We who support this legislation do not believe that it is, in and of itself, a panacea for all our problems. We do not suggest that we have thought of all particular contingencies which may arise in the future. But, what we have provided in this bill is a set of procedures, a methodology which will facilitate both the Congress and the President in the exercise of the war powers which were granted to each by the Constitution. I believe this is a particularly important point and I wish to reemphasize it. We are not in this legislation praising or condemning any policy. We are not attempting to foresee every situation which may occur in the future. But, we are seeking to delineate a process for dealing with those situations.

And, we believe that having such a process is not only preferable to the situation we have today, but also in line with the intent of the framers of the Constitution and necessary to the balance of powers which is an inalienable part of our governmental tradition.

Turning from the constitutional aspect of the problem to the practical aspect, I would like to call the attention of my colleagues to several points.

One is that a disagreement over the committing of our Armed Forces to hostilities can be a deeply divisive issue in our Nation. It seems to me that both for the stability of our country and in order to reassure our allies of our determination to maintain positions, it is far more sensible to have a commitment based on both congressional and executive consultation than one which creates tension among our branches of Government and between our Government and our people.

From the very thorough study undertaken by the Subcommittee on Security Agreements and Commitments Abroad, chaired by the distinguished Senator from Missouri (Mr. SYMINGTON) we know that our Nation has extensive treaty commitments and a multitude of major—375—and minor—3,000—military installations abroad, which make it very possible that U.S. forces could become involved in some type of hostilities in the future. What we who support this bill are seeking is a means for dealing with those possible situations, should they arise—a means which will involve both Congress and the President.

A second matter involves whether the judgment of one man, the President, and his advisers, is preferable to the judgment of many men including the President and the Congress. I do not believe that either the President or the Congress possesses a monopoly of wisdom or perfection. And, I believe the chances of our making grim mistakes, of venturing unwittingly into undesirable situations, of acting in a manner we will later regret, are far less likely when we have had the benefit of debate and the consideration of many men.

As I indicated earlier, this does not mean that the President should not be permitted to act quickly in emergency situations, that he should be precluded from acting in a crisis as the situation requires. Indeed, that is not only permitted, but expected under the bill.

But, we also expect, and believe on a practical basis, as well as the constitutional one discussed earlier, that it is far better for us as a people and for our Nation as allied with many other governments to have a decision resulting from deliberations and consultations of both Congress and the executive branch.

Mr. McGEE. Mr. President, yesterday I submitted an amendment to the War Powers Act which would establish a National Commission on U.S. Foreign Policy, National Commitments, and War Powers.

The main reason for submitting my amendment is that I sincerely feel that the War Powers Act does not go far enough in arriving at a workable mechanism for decisionmaking in the world of 1972 as it attempts to redress what the proponents of S. 2956 feel has been an abuse of the legislative branch's war powers role by the Executive.

As I emphasized yesterday, my amendment in no way alters the substance of S. 2956, the Javits bill, but is rather a supplement or addition to the bill.

I shall outline briefly what my amendment entails. It would establish a 24-member commission, 12 members to be appointed by the President from private life. In addition, the President of the Senate and the Speaker of the House would each appoint six Members from their respective Chambers, three from the majority party and three from the minority party.

The President shall select a Chairman of the Commission from among the public appointees.

The Commission would submit a report on its review not later than 2 years after funds are first appropriated to carry out this section.

Since the world situation and relations among nations have vastly changed since our Founding Fathers drafted the Constitution in 1787, and since questions have arisen as to the respective constitutional powers of the executive and legislative branches of our Government, with respect to the formulation of U.S. foreign policy, national commitments, and war powers, I believe that it is essential that a comprehensive review of these questions be conducted by our best minds of diverse backgrounds and philosophies.

It would be up to the Commission to determine whether, and to what extent, if any, revisions are necessary in the Constitution, laws, and decisionmaking processes of the United States as they relate to the formulation of our foreign policy, national commitments, and the war powers. Their recommendations would then be submitted by the President to Congress for its consideration and such action as was deemed necessary.

In other words, my proposed amendment would commission a study which would go far beyond the issue of war powers, now being debated by the Senate.

CHECKING AND BALANCING OUR SYSTEM OF GOVERNMENT—EXECUTIVE AND CONGRESS

Mr. HUMPHREY. Mr. President, I rise to register my support for the war powers legislation sponsored by Senators JAVITS, EAGLETON, SPONG, and STENNIS. They are to be commended for laying before this body a proposal which represents a profound and fundamental contribution to our system of Government.

This legislation is in keeping with Congress' constitutional authority and responsibility. In fact, it restores the spirit and the letter of the Constitution to our system of Government. Article I, section 8, compels the Congress to make all laws necessary and proper for the carrying into execution of the executive power of the President. The war powers bill of 1971 is an attempt to do just that—to regulate by statute for the first time in the constitutional history of the United States, the conduct of the shared executive and congressional power with respect to war and the entry into war. The bill takes into account the types of hostilities which have occurred in the history of contemporary warfare. Through shared power between the executive and legislative branches of Government, this legislation now before us would enable our Government to react responsibly and democratically in times of crisis.

It is astonishing when one considers the fact that with a few technical minor exceptions, no President has ever proposed, and no Congress has ever yet legislated, on this vital subject. We are finally coming to grips with a responsibility which the Constitution has laid at our doorstep, but which we, as legislators, have ben too timid and too preoccupied to carry out. It is a matter of profound regret that we should do this only, because of the insistent demands of the Vietnam war and the sharp realization now of the need to do what we should have done long ago.

At least we now have the opportunity to implement appropriate reforms. S. 2956 attends to the sharing of constitutional authority for the use of our Armed Forces in specifically defined circumstances. Last July 1971, I introduced legislation to establish a Joint Committee on National Security (S. 2290) which would have the overall responsibility of studying and planning for appropriate policies affecting our national security. It would permit Congress to have the direct input which is necessary for it to exercise its constitutional role of approving measures undertaken by the President in such national security related areas as national defense, treaties, foreign policy, foreign assistance, and CIA activities. These two bills complement one another in an effort to make necessary adjustments in our system of Government which our contemporary society requires.

Aside from the inherent legal justifications for the war powers bill of 1971, there are the urgent demands of the time which necessitate its enactment. There is national disappointment and dismay over Vietnam. The people of this country have a deep sense of guilt, and a conviction that we have compounded a gross national error. I agree.

The temptation in this body may have been strong to search for scapegoats for those errors. It may still exist in certain quarters of our Government, but most of us have rejected any attempt to impugn the motives of American leaders or the American public. We did this once before, in the McCarthy era, when the Senate of the United States demeaned itself by providing a favorable climate for the most irresponsible demagogic effort to expunge a sense of national guilt by pushing the label of traitor on those who were responsible for the Communist victory in the Chinese civil war.

Now, however, this body is taking much more responsible action. Instead of looking to the past, it is examining the future. Instead of searching for victims, it is attempting to construct a machinery for the proper sharing of war powers if the need should arise. I applaud this measure. I am gratified that this Nation is turning the lessons of Vietnam into positive guidelines and is avoiding the kind of recrimination and sickness which marked our disappointment over the failure of earlier policies in the Far East in the 1940's and 1950's.

The bill before us establishes rules of practice. There is no intent here to alter constitutional allocations of power. There never was any question in my mind that the original version of S. 2956 allowed for continued U.S. participation in NATO, the United Nations Command in Korea, and the North American Air Defense Command. There was never any doubt in my mind that the President would not be impeded from exercizing his power as Commander in Chief. To clarify whatever doubts some Members of this body may have had in this regard, Senator JAVITS introduced and the Senate unanimously accepted three amendments which should serve to remove any shadow of a doubt.

Some critics, nevertheless, still contend that this catalog of unimpaired Presidential authority is too restrictive. They have warned us that history provides an amazing variety of unexpected events, and chains of circumstances, and that for Congress to lay down a set of conditions under which the President can act on his own is to exclude unilateral Presidential authority on all other occasions.

Of course it is. And this is among the most significant purposes of the legislation. It states that a President may act under certain conditions on his own, but that in all other circumstances he must have the authority of the Congress. In short, he may defend the territory of the United States and its Armed Forces and its citizens. But in all other situations, he must act in conjunction with the Congress.

In my judgment, the Constitution goes no further. The President has the authority as Commander in Chief to repel attacks against the United States. He does not have unilateral authority, occasionally in the past asserted for him, of going beyond this. The President is inhibited by the Constitution of launching an attack on the armed forces or territory of another country in defense of America.

It may be granted that there will be circumstances beyond the three conditions set forth in section 3, where the country ought to move, and to engage in hostilities. S. 2956 merely provides that to do so, the Congress' responsibility must also be engaged. The choice will not and should not be for the President alone.

Some say that the Congress cannot adequately discharge this responsibility. They have noted the general movement toward increasing executive responsibility, and constantly reduced congressional involvement in the war/peace choices, and have concluded that this is an inevitable consequence of the ponderous nature of the parliamentary machinery. Congress, they say, is inadequately equipped to hurdle the challenges of war and peace in this country. The President, so this reasoning goes, must have unilateral authority, because Congress cannot move.

In my judgment, this conclusion is grossly unfair and incorrect. Congress can move and act responsibly when it is consulted, when it is given a chance. History shows this to be true, even though the record may not be flawless. The flaws are as much due to executive mishandling and misrepresentation as to congressional inepititude. The Tonkin Gulf resolution is a case in point where Congress was asked to approve action already initiated by the executive branch. It was asked to accept information which the Pentagon papers discredit.

The Tonkin Gulf resolution brought us massive American military involvement in Indochina. Its repeal has served to expedite withdrawals. Congress can better seek to avoid this kind of action which announced Vietnam in the future if it has the legal and institutional machinery to prepare for crises and avert them with caution. The war powers bill provides the legal framework. Other legislation, such as the bill to establish a Joint Committee on National Security, which I introduced, would provide the operational framework. I intend to introduce additional legislation to provide for an independent informational arm of the Congress, supplying the kind of nonexecutive branch resource input Congress needs to make decisions based on an in-depth analysis.

In Congress and throughout the Nation there is a receptiveness and even a demand for a change in our institutions of Government. We all recognize this mood and many of us welcome it as an enlightened epoch in American history. An indication of congressional preparedness for the acceptance of an evolving world is in the debate now underway to restore the balance of responsibility between our executive and legislative branches of Government. The war powers bill would move dramatically in that direction.

To those who say Congress is not ready to be trusted with more responsibility, I say it never was more ready. This is not a time to wipe out Congress' engagement with constitutional authority, but a time to implement it fully.

There are others who say that Congress is not equal to the task because it lacks essential information on which to base sound judgments involving the Nation's commitment to emergencies, hostilities, and war. But the fact that Congress has been denied information is in part the responsibility and fault of the executive itself. We have all seen the increasing jealousy of the executive department over information pertaining to our national security. The knot is growing tighter and tighter. It is increasingly difficult to get the facts from the White House and from the Departments of State and Defense.

An increased flow of information and vastly expanded body of knowledge to the Congress are essential along the lines I have already suggested. In more immediate terms, the executive branch could provide more information with very little difficulty. To start with, classification procedures in the executive have isolated Congress, the public, and even our own Government officials from each other. They have resulted in the rarification of our decision process at a time when it should be simplified and open. Were the Joint Committee on National Security established, it would immediately address itself to this problem and make recommendations to be implemented without delay.

Moreover, the war powers bill would serve to correct the sporadic flow of information between the Executive and Congress once an outbreak in hostilities involving American Armed Forces was underway. Section 4 of the bill requires the President to report promptly to Congress and give a full accounting of the circumstances surrounding the hostilities. Thereafter, the President would be required to report periodically to Congress. Were such a measure in effect during our involvement in Vietnam, there would likely have been a greater spirit of trust and confidence between the President, his officers, and the Congress than there is today. The only way to restore the confidence which has been lost is through the kind of regulated communication set out in S. 2956.

There is no argument, therefore, for opponents of the war powers bill to say, on the one hand, that Congress cannot discharge its warmaking responsibilities under the Constitution, because it lacks information, and at the same time refuse to produce that information.

I have no doubt that Congress needs to be better informed. For this purpose we will, I hope, shortly enact House Joint Resolution 1 and S. 2290, essential companion measures to S. 2956. House Joint Resolution 1 will lay the basis for an expanded flow of information as to the disposition of the U.S. Armed Forces abroad and other commitments which could lead toward the hostilities with which S. 2956 deals. House Joint Resolution 1 is an essential complement and companion measure to S. 2956, as is the Humphrey bill to establish a Joint Committee on National Security, S. 2290.

The purpose of the war powers bill is to arrest the trend toward absolute Presidential authority in war decisions, and to make those decisions once again a matter of shared responsibility. It is essentially to change the nature of the Presidency, and to steer the Nation away from dangers and difficulties toward which we have been heading.

The Presidency in the last 10 years has tended increasingly toward an ever more-dominant role. Presidents have increasingly sat at the apex of executive authority. They have, as I have indicated, increasingly monopolized and restrained the flow of information vitally affecting and describing the disposition of our Armed Forces and commitments in war matters. And they have increasingly relied on White House staffs, immune from congressional interception, for decisions affecting whether this Nation engages in hostilities of such consequence as Vietnam.

These trends have had serious consequences. In the first place, the entire responsibility for the success or failure of our military efforts abroad has in effect been transferred to a single person. The monopolization by the President of war decisions also tends to politicize them. The Presidency, by definition, is an institution of one party. The Congress represents both. To engage the Congress in the warmaking decisions is to involve both parties and to create a true bipartisanship.

I have witnessed the exercise of warmaking authority at both ends of Pennsylvania Avenue for several long and difficult years. They have been trying years, both personally and for the entire country. I have been privileged to sit in this Chamber, and watch the Congress of the United States, on occasion, deliberate with great wisdom and perception the most serious questions of disarmament, NATO, and weapons appropriations. I have seen this body enact other legislation funding this country's involvement in foreign adventures, ignoring its constitutional responsibilities by convincing itself that it was merely funding the executive's programs. In fact, this results in underwriting those programs and making them its own.

We have seen Presidents, impelled by overwhelming political demands on that office in these times, gather unto themselves the control of information, monopolize the decisionmaking within the executive branch, concentrate that process increasingly in the inner recesses of the White House.

Now that we have the wisdom and luxury of hindsight, let us stop and restore what is missing in our Government—congressional participation. The time has come for this legislation.

The time has come for Congress to exercise its responsibilities to make laws necessary and proper for the conduct of the authority of the President under the Constitution, as well as the duty of the Congress to declare war and make rules and regulations for the governance of the Armed Forces. The time has come for us to face up to the lessons of Vietnam, to legislate, as well as foresight can allow us to legislate.

It is said that to inject the Congress into the great decisions of our foreign affairs is a mistake. It is said that the Congress cannot handle such matters. It is said that history reveals that Congress' involvement is in most instances unfortunate and does not help the cause of peace and international order—witness, some critics say, Congress' crabbing attitude toward the League of Nations, the neutrality acts of the 1930's and its enactment of the first World War II draft law by a single vote.

My answer to this is that the record of the Executive, if one is prepared to be honest about it and examine all the pages of our history, is very little better. The Mexican War, the Spanish-American War, and now Vietnam demonstrate that the White House does not have all the wisdom of this Nation in warmaking decisions. And by the same token, Congress' contribution to a constructive foreign policy has not been trivial. SALT, the Peace Corps, or Arms Control and Disarmament Agency, Public Law 480, all originated with my close association in the Congress.

I grant that our procedures are inadequate. I grant that our information is shockingly limited. I grant that our ways of doing business are outmoded. We must change. We must organize ourselves effectively to discharge the responsibilities which the Constitution has laid out for us for almost 200 years.

I am convinced we can. And I have no doubt that, once the new relationship for the discharge of warmaking responsibilities provided by S. 2956 are established, the United States will be better equipped to meet the awesome challenges of the world community than it is now. It will be better prepared to meet the needs of its own people.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

ORDER FOR LAYING BEFORE THE SENATE THE UNFINISHED BUSINESS ON MONDAY, APRIL 10, 1972

Mr. ROBERT C. BYRD. Mr. President, with the concurrence of the distinguished Senator from Nebraska (Mr. HRUSKA) and the distinguished Senator from Virginia (Mr. SPONG), and by authorization of the distinguished majority leader, I ask unanimous consent that, on Monday next, April 10, 1972, immediately following the period for the transaction of routine morning business, the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS ACT—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, April 10, 1972, with the laying before the Senate of the unfinished business, the time on the pending motion by the distinguished Senator from Nebraska (Mr. HRUSKA), to refer the bill to the Committee on the Judiciary, begin running and be equally divided between and controlled throughout Monday and until adjournment on Monday by the distinguished Senator from Nebraska (Mr. HRUSKA) and the distinguished Senator from Virginia (Mr. SPONG); provided, further, that a vote occur on the motion by the distinguished Senator from Nebraska at the hour of 2 p.m. on Tuesday next, April 11, 1972.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, this agreement is with the understanding, of course, that the pending motion to refer may be set aside by unanimous consent at any time prior to the hour of 2 p.m. on Tuesday next, for the purpose of debating and/or acting upon other amendments to the pending unfinished business or for the transaction of other business.

Mr. HRUSKA. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HRUSKA. Under the proposed unanimous-consent agreement, this Senator would be concerned as of now only with such unknown requests for time for the purpose of debate and discussion under the terms that would be accommodated by agreement between the Senator from Virginia and this Senator; is that correct?

Mr. ROBERT C. BYRD. Yes, that is correct. The agreement with respect to the control of time pertains only to Monday next. There is no control of time today. There is no control of time on Tuesday next. Of course, the motion which is pending is the motion of the Senator from Nebraska. To set that aside temporarily would require unanimous consent, and in accordance with the agreement now agreed to, the vote on the pending motion will occur on Tuesday next at 2 p.m. The agreement also precludes any motion to table the pending motion to refer.

Mr. SPONG. May I ask a question of the distinguished Senator from West Virginia?

Mr. ROBERT C. BYRD. Yes; certainly.

Mr. SPONG. I think he was clear on this point, but all the time on Monday next, in the absence of a unanimous-consent agreement, will be controlled by the Senator from Nebraska and the floor managers of the bill, is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. HRUSKA. Mr. President, may substitutes be designated for the Senator from Virginia (Mr. SPONG) and the Senator from Nebraska in the event the presence of either of us is required away from the Chamber?

Mr. ROBERT C. BYRD. Mr. President, I modify my unanimous-consent request so as to provide that the time be controlled by the Senators named or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the two Senators.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, immediately following the recognition of the two leaders under the standing order, there be a period for the transaction of routine business for not to exceed 30 minutes, with statements therein limited to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. HRUSKA. Mr. President, on behalf of the distinguished senior Senator from North Carolina and myself, I have moved that the proposed "War Powers Act," S. 2956, which is now the pending business of the Senate, be referred under rule 26.1 to the Committee on the Judiciary for further study and subsequent reporting of the committee's views on the bill to the Senate.

To begin with, Mr. President, I wish to clear up any question about this motion being an effort to kill this bill. It is no such thing. Regardless of the suggestions made to the contrary, Senators should not base their votes on the assumption that a vote in favor of this motion is a vote to kill S. 2956. Such a vote is instead a vote to see that a bill raising far-reaching constitutional issues receives the fullest consideration in the proper forum before its fate is finally decided.

Mr. President, a number of points have been made on both sides of this motion prior to today. This continuing debate has been most useful. I wish today to speak further on several of these points, and to respond to some of the statements made by opponents of this motion.

The very extensive consideration given this bill by the Foreign Relations Committee is both recognized and appreciated. But does this mean that further consideration is not in order? On the contrary, the floor debate on this bill thus far makes it plain that the version produced by the Foreign Relations Committee is far from satisfactory to a number of Senators, and with good reason. The proponents of this bill say, however, that further committee study is not necessary. It has been maintained that just because a bill raises constitutional issues does not mean that the Judiciary Committee should thereby have cause to examine it. A "Dear Colleague" letter has been circulated which quotes the majority leader and the chairman of the Armed Services Committee to the effect that under no circumstances should S. 2956 be referred to the Judiciary Committee.

Mr. President, what are the supporters of this bill afraid of? If it is as sound as they claim, it will certainly survive additional scrutiny by the Judiciary Committee. And if it is not, should we not do everything possible to improve the bill before it faces a final Senate vote?

This bill deals with a most fundamental question, one of the cornerstones of the U.S. Constitution. Its proponents describe S. 2956 as an effort to restore the balance of power between the executive and legislative branches on the use of armed force by this country. Viewed in their words alone, this is more than just a bill "which deals with constitutional questions," to use the words of one of the bill's chief sponsors. This proposal goes to the very heart of the doctrine of the separation of powers. There is, therefore, no doubt of the desirability and propriety of having this bill studied by the Judiciary Committee. This bill is a prime example of why the Senate has created the Subcommittee on Separation of Powers which, under the leadership of the distinguished Senator from North Carolina, has performed outstanding services in analyzing proposals dealing with this fundamental constitutional principle.

Mr. President, I have no desire to prejudge this bill without a fuller examination into the constitutional questions it raises. Referral to the Judiciary Committee will provide such an examination. But certain difficulties with S. 2956 and the arguments urged in its support are already obvious. To begin with, those who favor this proposal would have us believe that some form of legislation is needed to preserve for the Congress its rightful role in warmaking decisions. This is a premise which can be seriously contested.

Under the Constitution the power to declare war, to raise and support the military, and related powers, are vested in the Congress. The power to command and to deploy the Armed Forces is vested in the President as Commander in Chief. As Prof. Eugene Rostow pointed out in a debate with Prof. Alexander Bickel at Yale Law School last October, this is a typical example under our Constitution of divided power which is also shared. There are many other examples as well.

There are numerous instances in our history in which Presidents have deployed American Armed Forces outside of the United States in a way which invited hostile retaliation from a foreign power. Congress has on some of these occasions acquiesced in the President's action without formal ratification; on others it has ratified the President's actions; and on still others it has taken no action at all. On several of the occasions, individual Members of Congress, and, at the close of the Mexican War, one House of Congress, on a preliminary vote, have protested Executive use of the Armed Forces. While a particular course of Executive conduct cannot conclusively establish a constitutional precedent in the same manner as it would be accomplished by an authoritative judicial decision, a long-continued practice on the part of the Executive, acquiesced in by the Congress, is itself some evidence of the existence of the constitutional authority necessary to support the practice. As stated by Justice Frankfurter in his concurring opinion in *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 610:

> The Constitution is a framework for government. Therefore the way the framework is consistently operated fairly establishes that it has operated according to its true nature. Deeply embedded traditional ways of conducting government cannot supplant the Constitution or legislative, but they give meaning to the words of the text or supply them. 348 U.S. at 610.

The historical examples have been marshalled in numerous recent studies of the President's power, and I will but summarize some of them briefly.

President Jefferson, in 1801, sent a small squadron of American naval vessels into the Mediterranean to protect U.S. commerce against the Barbary pirates. He was of the view that for these ships to take offensive, as opposed to defensive, action, congressional action would be necessary. Yet it is worth noting that by dispatching these warships to the Barbary Coast to protect U.S. commerce from piracy, Jefferson invited retaliation.

In 1845 President Polk ordered military forces to the coast of Mexico and to the western frontier of Texas in order to prevent any interference by Mexico with the proposed annexation of Texas to the United States. Following annexation in 1846, Polk ordered Gen. Zachary Taylor to march from the Nueces River which Mexico claimed as the southern border of Texas, to the Rio Grande, which Texas claimed as her southern boundary, and beyond. While so engaged, Taylor's forces encountered Mexican troops, and hostilities between the two nations commenced on April 25, 1846.

There had been no prior authorization by Congress for Taylor's march south of the Nueces. Justice Grier, in his opinion in the Prize cases, commented on this fact, stating:

> The battles of Palo Alto and Resaca de la Palma had been fought before the passage of the act of Congress of May 13, 1846, which recognized "a state of war as existing by the act of the Republic of Mexico." 2 Black 634.

In 1854, President Pierce approved the action of the naval officer who bombarded Greytown, Nicaragua, in retaliation against a revolutionary government that refused to make reparations for damage and violence to U.S. citizens. This action was upheld by Justice Samuel Nelson, a Justice of the Supreme Court of the United States, sitting as a Circuit Justice in *Durand* v. *Hollis*, 4 Blatch, 451 (1860). In his opinion in that case, Justice Nelson said:

> The question whether it was the duty of the President to interpose for the protection of the citizens at Greytown against an irresponsible and marauding community that had established itself there, was a public political question, in which the government, as well as the citizens whose interests were involved, was concerned, *and which belong to the Executive to determine;* and his decision is final and conclusive, and justified the defendant in the execution of his orders as Secretary of the Navy. 4 Blatch. 454–455 (emphasis supplied).

In April, 1861, President Lincoln called for 75,000 volunteers to suppress the rebellion by the Southern States, and proclaimed a blockade of the Confederacy. These actions were taken prior to their later ratification by Congress in July 1861. The Supreme Court upheld the validity of the President's action in proclaiming a blockade in the Prize Cases.

In 1900, President McKinley sent an expedition of 5,000 U.S. troops as a component of an international force during the Boxer Rebellion in China. While Congress recognized the existence of the conflict by providing combat pay, it neither declared war nor formally ratified the President's action.

Similar incidents in Central America took place under the administrations of Presidents Theodore Roosevelt, Taft, and Wilson. Naval or Armed Forces were sent to Panama, Nicaragua, and twice to Mexico in the first two decades of the 20th century. On none of these occasions was there prior congressional authorization.

Prior to the Vietnam conflict, the most recent example of Presidential combat use of American forces without congressional declaration of war was President Truman's intervention in the Korean conflict. In many senses, this is undoubtedly the high-water mark of Executive exercise of the power of Commander in Chief to commit American forces to hostilities.

Following the invasion of South Korea by the North Koreans in June 1950, and a request for aid by the United Nations Security Council, President Truman ordered air and sea forces to give South Korean troops cover and support and ordered the Seventh Fleet to guard Formosa. Ultimately 250,000 troops were engaged in the Korean war which lasted for more than 3 years.

President Truman relied upon the United Nations Charter as a basis for his action, as well as his power as Commander in Chief. The fact that his actions were authorized by the United Nations Charter, however, does not reduce the value of the incident as a precedent for Executive action in committing U.S. Armed Forces to extensive hostilities without a formal declaration of war by Congress. The United Nations Charter was ratified by the Senate and has the status of a treaty, but it does not by virtue of this fact override any constitutional provision. *Geofroy* v. *Riggs*, 133 U.S. 258; *Reid* v. *Covert*, 354 U.S. 1. If a congressional declaration of war would be required in other circumstances to commit U.S. forces to hostilities to the extent and nature of those undertaken in Korea, the ratification of the United Nations Charter would not obviate a like requirement in the case of the Korean conflict.

Presidents have likewise used their authority as Commander in Chief to deploy U.S. forces throughout the world. Critics of President Wilson claimed that his action in arming American merchant vessels in early 1917 precipitated our entry into the First World War.

Similarly, President Roosevelt's critics have asserted that various actions he took to aid the allies in the year 1941 played a part in our involvement in the Second World War. Whatever substance there may be to these criticisms, the Presidential actions do stand as the constructions placed by those two Presidents on their power as Commander in Chief of the Armed Forces.

I do not contend that these historical precedents establish the principle that the President alone has authority to deploy and commit American Armed Forces abroad. I mention them for the purpose of demonstrating that throughout our history our Presidents have, on occasion, deployed American forces without first obtaining congressional authorization. To be sure, our recent Presidents have engaged in the same practice, but in view of the similarity between the practices followed this century and last it cannot be validly contended that congressional authority has eroded in recent years. Far from demonstrating any weakness in our system, the events of the last 200 years confirm the wisdom of the flexible design set out in the Constitution.

Obviously this is an area in which cooperation between the President and Congress is vitally important. The suggestion that the power of Congress has somehow "atrophied" is untenable. If Congress had occasion to complain of President Truman in 1950, it had equal occasion to complain of President Polk in 1846.

The framers did not set up a checkerboard of rigidly marked alternately colored squares with one color assigned to the President and the other to Congress. They designed a more flexible plan for joint responsibility which left room for "play at the joints." Indisputably belonging to Congress alone is the decision as to how much money shall be appropriated to the raising and supporting of U.S. military forces. Indisputably belonging to the President alone is the power to repel sudden attacks, the power to determine how hostilities lawfully in progress shall be conducted, and the power to protect the lives and safety of U.S. forces in the field. The middle ground is understandably less clearly delineated, but there are guideposts based both on historic usage and the language of the Constitution which shed light on the proper allocation of responsibility in particular cases. More than this the framers wisely did not attempt; and I seriously question whether their decision on this point should, even if it could, be reversed by enactment of legislation now pending before the Senate.

The enactment of legislation which would lay down specific guidelines as to the respective constitutional roles of the President and Congress runs counter to each of these principles, and it is because of this that I am most concerned about the pending measure.

Before us now is this bill designed to define the limits of the President's authority in this area. This is, so it is claimed, a restorative measure, offered to insure that Congress may freely exercise those powers the Constitution and the courts have said it already has. But in attempting to make specific what the Constitution has left general, and in trying to define in advance the outer limits of the President's authority to act in the interest of national security, S. 2956 charts a precarious constitutional course.

Congress cannot by legislation draw to itself power meant to be shared at the least, and at the most to be exercised by a coequal branch of Government. If S. 2956 does this, it is unconstitutional. If it does not, it amounts to a useless surplusage which could easily lead to misunderstanding both within and outside this country.

Does the power of Congress to participate in the warmaking process need to be restored? I think history argues to the contrary. There have been close to 200 instances in which this country has employed military force. There have been but five formal declarations of war during this period, with perhaps six additional congressional authorizations. This Senator is compelled to agree with Professor Rostow, who asserted during the previously mentioned debate with Professor Bickel at Yale that there has been no substantial change in recent years in the pattern of constitutional usage regarding the division of the war powers between Congress and the Presidency.

Mr. President, only yesterday an article appeared in the New York Times by Eugene V. Rostow, who, as we all know, is professor of law at Yale and author of the forthcoming book "Peace in the Balance: The Future of American Foreign Policy." I read from the article:

> The Javits war-powers bill confirms Oliver Wendell Holmes' quip that "great cases like hard cases make bad law" more vividly than any proposal since that of the Bricker Amendment. Responding to Vietnam, the Javits bill would radically change the constitutional relationship between Congress and the Presidency in making foreign policy. Ignoring their own repeated votes for Vietnam, the sponsors contend that the cause of the Vietnam tragedy is a modern usurpation of the war power by the President. As Senator Cooper points out, this claim rewrites history.
>
> The Javits bill would annul the military provisions of all outstanding treaties and Congressional resolutions authorizing the use of force by the President, including NATO and the Middle East Resolution, as well as all Presidential commitments.
>
> The bill is full of paradox. While it purports to assure the nation that a pacific Congress will keep jingoistic Presidents from engaging in limited wars like Korea or Vietnam, the bill would not have prevented Vietnam, which was authorized by Congress through the very procedures proposed in the bill as constitutionally proper. In Korea, the Javits bill would have required President Truman to obtain a Congressional resolution within thirty days—which would surely have been voted at the time, although Truman and the Congressional leaders thought it unwise to do so under the circumstances.
>
> But if the Javits bill had been on the books, it would have prevented President Kennedy from handling the Cuban missile crisis as he did. There was no claim on that occasion that we were acting to forestall an imminent threat of armed attack. Under the Javits bill, Mr. Johnson could not have moved the fleet to keep the Soviet Union out of the Six-Day War in 1967. Mr. Nixon could not have used the same method to avert general war in the Middle East in 1970, or to confine the India-Pakistan War of 1972. Nor could earlier Presidents have used force or the threat of force to induce France to leave Mexico in 1865–66, to avoid war with Britain and Spain over Florida, or to send Commodore Perry to Japan.
>
> The Javits bill would deprive the Presidency of powers which were used by George Washington and by nearly every President since—the powers of credible deterrent diplomacy the nation needs most if there is to be any hope of avoiding nuclear war.
>
> With admirable candor, Senator Javits has said that the purpose of his bill is to reduce the elective Presidency, which the Founding Fathers were at pains to establish as an equal branch of the tripartite government, to the humble posture of George Washington during the Revolution, when he functioned as Commander in Chief, appointed by the Congress, and its creature in every respect.
>
> Congress has made no bid for supremacy so bold, and so foreign to the Constitution, since the impeachment of Andrew Johnson. The legal theory of the bill would permit a plenipotentiary Congress to dominate the Presidency (and the courts) more completely than the House of Commons governs in Great Britain.
>
> I do not favor increased Presidential power. But I do defend the constitutional pat-

> tern of enforced cooperation between Congress and President we have inherited. Its corollary, however, is democratic responsibility. It is unseemly for astute and worldly men who spoke and voted for SEATO, the Tonkin Gulf Resolution, and other legislative steps into the Vietnam War now to claim that they were brainwashed, and therefore that we—and the world—should treat public acts of the United States as if they never happened. These men were not brainwashed. They knew everything the executive knew. But even if they had been brainwashed, their votes stand. The Fourteenth Amendment is not a nullity because it was ratified by many legislatures which voted under circumstances of fraud, or the coercion of military occupation.
>
> Korea and Vietnam did not come about because the Presidency abrogated Congress' powers over foreign policy. The Congress fully supported those efforts when they were undertaken. The country is in a foreign policy crisis, however—not a constitutional crises, but an intellectual and emotional crisis caused by growing tension between what we do and what we think. The ideas which guided our response to Korea and Vietnam have suddenly lost their power to command. Those who now believe Korea and Vietnam were errors should recall the prudent wisdom of an earlier time, when the powers of the Supreme Court were left untouched even after the catastrophic error of Dred Scott. We have never needed the strong Presidency we have developed in nearly 200 years of intense experience more than we need it today. The Javits bill would turn the clock back to the Articles of Confederation, and emasculate the independent Presidency, it was one of the chief aims of the men of Annapolis and Philadelphia to create.

Mr. President, with that characterization of the pending measure, as currently made by a renowned scholar of the law, and particularly international law, there can be no doubt that there should be a referral of this measure to the Judiciary Committee for a greater exploration of its constitutional aspects. Certainly, if the bill would turn the clock back "to the Articles of Confederation and emasculate the independent presidency" in the fashion described and characterized by Professor Rostow, grave constitutional questions do persist. They permeate the legislation and this entire debate. There has not been that degree of inquiry into the constitutional aspects to which the subject is entitled.

Mr. President, the hearings in this instance are quite extensive. It had been represented to this Senator that the constitutional aspects were gone into with great care and in some depth. There were six members of the academic community who testified in favor of the bill and of its constitutionality, whereas only one such member of the scholastic world—to wit, John Norton Moore, professor of law at the University of Virginia—testified against it. He was joined, to be sure, by George Ball, who is an eminent authority but, nevertheless, not considered in this field as a member of the scholastic fraternity or of the university community.

While I single out these six authorities as being for the bill and one as being against it, I do not mean to derogate in any degree the excellence of the testimony of the other witnesses who testified either for or against the bill, and particularly the rather imposing list of our colleagues in the Senate and in the other body who testified on it.

But, Mr. President, I repeat, testifying for this bill from the professorial field were: Henry Steele Commager, professor of history at Amherst College; Alfred H. Kelly, professor of history at Wayne State University; Alpheus T. Mason, professor of political science at Princeton University; Alexander Bickel, professor of law at Yale University; and Arthur J. Goldberg, former Ambassador to the United Nations.

So there are six very eminent authorities in this field at least, except for the Honorable Arthur Goldberg, who are from collegiate circles, and from the circles of the universities and colleges, having professorial rank.

On the opposition, in addition to the Secretary of State and George Ball, there is only the name of John Norton Moore, professor of law at the University of Virginia.

Mr. President, I would not consider this—nor would any other reasonably minded—and intended individual—a fair balance in the effort to try to canvas in depth the constitutionality of the measure toward which their testimony was directed.

As a matter of fact, if a census were taken—if we want to depend on numbers—the work of those eminent scholars of international law and of the Constitution would very likely dominate the negative of the proposition on which evidence was adduced before the Foreign Relations Committee.

Certainly Prof. Eugene Rostow, whom I have already quoted at some length; Dean Erwin Griswold, currently the Solicitor General of the United States and at one time dean of the Harvard Law School; Eberhard Deutsch, of Louisiana; the works of Dean Acheson, the works and the testimony of Dean Rusk, of James McCracken Burns, and others that could be added to the list, would testify to that conclusion.

The names I have mentioned, I mention pretty much from memory and as a quick reference to that part of the file now at my podium here in this Chamber. I would like to add to this list of scholars, the names of Prof. Bernard Schwartz, Prof. Abram Chayes, and Prof. Quincy Wright.

Mr. President, I am most fearful that what we have in S. 2956 is not an effort to restore atrophied authority—an authority which is as alive and viable now as it was when the Constitution was framed—but is instead an attempt to amend the Constitution by a simple legislative act. I do not speak to the wisdom or the method by which S. 2956 would do this—others have already addressed this issue and will continue to do so. Perhaps I shall join them at a later time. In connection with the pending motion, however, the Senator from North Carolina and I are chiefly concerned with the legality of this proposal. As I have already stated, this issue demands further exploration by the Judiciary Committee, an exploration which is found sadly and grossly wanting in the record.

On April 4 the distinguished Senator from Arizona pointed out on the Senate floor that the committee which reported S. 2956 heard from but two professors of law on this proposal. With due deference to the distinguished figures from whom the Foreign Relations Committee did hear, I urge the Senate most strongly not to allow this measure to move further toward final passage without the benefit of additional comment from more of the many law professors who have made the Constitution their life's work.

Cases have been put forward in support of this legislation which, in the opinion of this Senator, represent extremely dubious legal precedent. A prime example is the case of *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952). This decision related to a purely domestic effort to take over the major steel mills of this country. If the case stands for anything at all, it is the reaffirmation of the President's authority to act as Commander in Chief in response to external threats as expressed in the following language from the opinion by Justice Jackson:

> We should not use this occasion to "circumscribe," much less to contract, the lawful role of the President as Commander-in-Chief. I should indulge the widest latitude of interpretation to sustain his exclusive function to command the instruments of national force, at least when turned against the outside world for the security of our society.

Other cases such as *United States* v. *Midwestern Oil Company*, 236 U.S. 459 (1915), are not only of questionable support for the limitations drawn in S. 2956, but may actually provide precedent for the opposite point of view.

These cases and all other relevant decisions need to be analyzed and placed in their proper perspective by recognized constitutional scholars. Existing bodies of opinion need to be gathered within a logical framework of study. The Judiciary Committee is the place to do this, Mr. President, not the Senate floor.

I note with appreciation that the proponents of S. 2956 are not unwilling to amend their bill themselves in an effort to improve it. In spite of their earlier protestations to the contrary in response to defects described on the floor by opponents of the bill, yesterday the chief sponsors of this measure agreed to change it in several important particulars. As a further manifestation of their desire to produce the most effective and constitutionally compatible legislation possible, I would hope that the supporters of S. 2956 will join in this motion to refer the pending measure to the Committee on the Judiciary. This will guarantee that the bill will receive the benefit of the best available thinking on this subject, which the evidence and the record plainly indicate that it has not yet had.

Mr. President, I understand 2 months elapsed between the time this bill was ordered reported and the time a report was actually agreed upon. It seems to me that this fact reflects only in part the complexity and far-reaching nature of this legislation. And yet, after all this deliberation and study which was preceded by a volume of testimony as extensive as we have here, the bill has been amended by its sponsors with a few days of floor debate under the Senate's belt. Some may call such an act a concession—others might call it an admission. Whatever it is called, it appears clear that the consideration of this bill within the Foreign Relations Committee did not resolve all the questions which are raised by this legislation.

Mr. President, in all fairness it should be said that there never is a time when all questions that are raised on any major piece of legislation can be solved or thoroughly canvassed. But with the lack of resolution of many major fundamental principles which are very close to the continued functioning and existence of the Constitution as it has been applied and developed over the years and when those principles are not followed and when those questions are not resolved, then in that case I think the Senate should in all due conscience vote to refer the bill to the Committee on the Judiciary so that fuller inquiry and analysis can be achieved.

Reasonable men often differ on questions of great moment. During the hearings on S. 2956 and other bills, the approach taken in this legislation was generally supported by Professor Bickel of Yale, and opposed by Professor Moore of the University of Virginia—both men distinguished legal scholars. This type of disagreement is not new. But the fact that there is some basic disagreement on what Congress can do under the Constitution by attempting to legislate in this area only underscores the fact that we must proceed with great caution.

Mr. President, a little bit ago reference was made to the fact that there were some seven figures from the professional world who testified. Six of them testified in favor of the bill and one testified against it. I made the statement following that reference that there were only two professors of law, and so there were. And those two professors of law who testified on the bill before the Senate Foreign Relations Committee were the professors I have just named, Professor Bickel of Yale Law School, and Professor Moore of the University of Virginia.

Certainly it cannot be considered that the testimony of only two law professors, two authorities who have devoted their lives to the law and who have made the continual study of law their life work, is a representative or a wide enough discussion of the legal issues involved in this very complex problem.

When reference to the Committee on the Judiciary is accomplished, that list can be expanded and an analysis made of the testimony that will be given on the proposition of the legality of the proposal before us in its impact upon the Constitution and its very likely infringement upon it and violation of it.

We will soon celebrate our 200th year as a Republic. The basic war powers provisions in the first two articles of our Constitution have remained as the guiding principles throughout our history, throughout the almost 200 incidents where armed force was employed by this country outside its borders. It is late in the day for us now to proclaim that we must have legislation now to improve this balance of power, to somehow make it balance better. Mr. President, either something balances or it does not balance. And as I read the Constitution, the balance is there—and has been all along. The Congress has been playing its role all along, through the use of the pursestrings, regulation of the size of the military, and expressions of viewpoints either in accord with or in opposition to policies taken by the executive branch. If the results have not always turned out to our liking, this does not mean that the Constitution is at fault. It could be ourselves, acting through our duly constituted representatives either in Congress or in the executive branch.

If it is felt that the provisions of the Constitution dealing with war powers are, indeed, in need of revision, let us then approach this subject in the proper fashion. We have amended the Constitution from time to time. It can be done again, if need be. But I do not believe bills like S. 2956 can legally be utilized to do this. In all frankness, I do not expect my opinion on this subject to be taken as the last word. But there are several scholars in the law who have already expressed similar concern, and undoubtedly others exist who would join them if given the opportunity to do so.

Mr. President, it is imperative that the Senate learn where the true weight of opinion lies on this critical question. Referral to the Judiciary Committee provides the ideal and proper means of accomplishing this purpose. It is for this reason that I urge the adoption of the motion offered today by this Senator on behalf of himself and the Senator from North Carolina.

Mr. GURNEY. Mr. President, although the proponents of this war powers bill claim that it is not their intention "to alter, amend, or adjust—the intent of the framers of the U.S. Constitution," this piece of legislation obviously tries to enumerate what the Founding Fathers deliberately left vague—the respective warmaking powers of the executive and legislative branches of our Government. The implications of such legislation go far beyond the realm of foreign policy; ultimately they touch upon the question of separation of powers as provided in article I, section 8 and article II, sections 1 and 2 of the U.S. Constitution. Since this is the case, I think that not only should the Foreign Relations Committee study the bill, but also the Senate Judiciary Committee which normally studies such matters. I, therefore, support the motion to refer this bill to the Judiciary Committee.

The Foreign Relations Committee report we have before us presents a picture of a clear and "explicit" constitutional delineation between the powers of the President and of Congress in the matter of declaring war. But, to take the point of view—as the committee report does—that Congress has the power to initiate war while the President simply is limited to having the responsibility for conducting the war once it has been declared, is both narrow and simplistic. Such an interpretation tries to eliminate the constitutional questions involved by not taking into account the fact that there are many situations in which the use of Armed Forces—or strategic movement of them—may be both essential and helpful to the conduct of foreign relations by the President. For instance, the Founding Fathers certainly did not intend that the right of the President to deploy troops to act as a deterrent to aggression or to be used in the exercise of diplomacy, be curtailed. Yet, this would be the net effect of this bill. Moreover, it was not the intention of the Founding Fathers to restrict the executive power of the President to conduct foreign relations or to protect U.S. citizens and interests, in situations not serious enough to require a declaration of war.

In addition, the 30-day time limit, in and of itself, raises questions of constitutionality. The Constitution has no such time limit, and as the distinguished Senator from Kentucky (Senator Cooper) has pointed out, if the President's power as Commander in Chief is constitutional, then how can an act of Congress constitutionally curtail it. Conversely, if the President does not have this authority, then Congress cannot delegate to him powers he does not possess. Congress already has, as Senator Cooper has pointed out and as a recent court decision—Orlando against Laird—has implied, the power of the purse available, should it wish to circumscribe presidential actions in this area. To expand this power by statute is, therefore, a constitutional as well as a foreign policy matter, and it should be considered in this light.

Those who favor this bill should recognize the appropriateness of referral to the Judiciary Committee. Practically everyone agrees that the purpose of this bill is to enhance the warmaking powers of Congress with respect to the President. Certainly the report of the Foreign Relations Committee reflects this opinion. And the principal sponsor of this bill, the distinguished senior Senator from New York, Senator Javits, clearly indicated that separation of powers was the issue here when he stated in a speech to the American Bar Association last February 5:

> Congress has learned from experience that it must devise practical new means for exercising in relation to "limited" and "undeclared" wars, the war powers reserved to it in article I, section 8 of the Constitution.

To the extent that these "practical new means" come into conflict with prerogatives that have been exercised by the President, we have—as I think everyone will agree—proposals that affect the separation of powers between the executive and legislative branches of our Government. This being the case, there is no reason for the Judiciary Committee not to examine the constitutional implications now that the Foreign Relations Committee has had a chance to look at it from a foreign policy standpoint. The fact that separation of powers questions have traditionally been of great concern to the Congress makes such an examination all the more appropriate.

As the distinguished Senator from Arizona, Senator Goldwater has brought to light with some diligent research, the United States has used its military forces almost 200 times, five declared wars and 192 undeclared—eight of which involved actual fighting and 45 of which might be classified as major conflicts. These involvements have received the support of Congress and in a number of instances over the last 25 years Congress has given the President authority to use Armed Forces in a specific area by enacting a series of so-called area resolutions. The best known of these was the Gulf of Tonkin resolution, but there are others covering the Taiwan Straits, Cuba, Latin America, and the Middle East. Therefore, it cannot be said that Congress has not participated in, and been an integral part of, our recent military involvements.

This point is important to any discussion of the executive powers of the President which, of course, are the crux of the question here. In a 1952 case—Youngstown Co., against Sawyer—the Supreme Court had to rule on the extent of the President's powers as Commander in Chief. And, while the Court ruled that the President could not exercise that power to nationalize the steel industry, Justice Felix Frankfurter did point out, in a concurring opinion that:

> A systematic, unbroken, practice, long pursued to the knowledge of Congress and never before questioned, engaged in by Presidents who have also sworn to uphold the constitution, making as it were such exercise of power part of the structure of our government, may be treated as a gloss on "executive power" vested in the President by section I of article II.

Certainly, the warmaking practices of the Executive have been "systematic" and "long pursued to the knowledge of Congress" without much question until just recently. Therefore, it would seem that the legislation contemplated here raises serious constitutional questions that should be considered by the Judiciary Committee as well as the Foreign Relations Committee.

For a little over a year now, I have been a member of the Judiciary Committee. During that time, I have seen that committee spend a good deal of time on questions involving separation of powers; in fact, the subcommittee on separation of powers held hearings on four major topics of that type last year alone.

For instance, in January 1971 the subcommittee took testimony on a bill, S. 1642, which, by defining adjournment, spells out the pocket veto power of the President as set forth in article I, section 7 of the Constitution. If that misuse of the adjournment procedure could violate the separation of powers provided for in the Constitution, detailed study of its possible impact certainly was, and is, appropriate.

In March 1971 another bill, S. 2581, came before the Separation of Powers Subcommittee. This bill concerned Presidential impoundment of funds and the possibility that such impoundment might erode the powers of Congress as set forth in article I, section 7 on which the argument for such Presidential power is based. The goal of these hearings was to determine the extent of impounding, the reasons for it, and the constitutionality of it.

In July and August of last year the question of executive privilege came up again before the Separation of Powers Subcommittee. The bill in question this time was S. 1125, which provides that executive privilege may be invoked only if the President signs a statement approving it and giving the reasons for it. The bill reflects a deep concern that the powers of the President under article II, section 3 of the Constitution are being used in such a way as to erode the principle of the separation of powers. Specifically at issue is: the power of the President to withhold information that otherwise might interfere with the performance of his duties, the power of Congress to obtain information in order to legislate effectively and, the public's right to be informed.

Finally, the practice of issuing Executive orders came in for closer scrutiny. In question were two bills that would have prevented the implementation of Executive Order 11605 which gives the SACB the power to hold hearings to determine whether or not organizations are subversive. The constitutional questions involved are whether such Executive orders usurp the legislative power of Congress as set forth in article I, section 7 and 8 and possibly abridge the first amendment right to freedom of speech.

If we are going to be consistent in holding hearings on questions involving separation of powers, keeping in mind the upcoming hearings on treatymaking powers, it would seem only appropriate that this war powers bill, which is just as much, if not more, a separation of powers issue than the five just mentioned, be referred to the Judiciary Committee in order that its constitutional implications might be fully considered.

Now I am aware, of course, that the sponsors of this bill are opposed to committing it to the Judiciary Committee. As a member of the Judiciary Committee and the Subcommittee on Separation of Powers, this opposition is incredible to me.

Whether one favors or opposes the concept of war powers legislation, everyone here must agree that this legislation presents major constitutional separation of powers questions, more so than any legislation this Congress has or will consider. It is deserving of the closest examination by a number of constitutional scholars and by the Committee on the Judiciary. Indeed, the foreign policy implications of this legislation are no more important than the question of the power of the Congress vis-a-vis the President.

If this legislation is as legally practical as its sponsors contend, then why their haste to make changes on the floor? If this legislation is legally sound, then what is there to fear from a careful examination of its constitutional implications? Nor need such a review represent an untoward delay in a final vote on this measure. I am sure that the committee will hold prompt hearings and move the legislation along most expeditiously.

It would seem to me that debate here on the floor of the Senate can only be improved were we to have the benefit of such an examination of the constitutional aspects of this bill.

I support the motion of the distinguished gentleman from Nebraska (Mr. Hruska) in his motion to commit this legislation to the Judiciary Committee.

Mr. EAGLETON. Mr. President, yesterday's Kansas City Star contained an editorial in support of the War Powers Act. The editorial is entitled "To Assure a Role for Congress in War-Making Powers."

The Star correctly describes the War Powers Act as legislation which would assure the role of Congress in the decision to go to war and not restrict the President in his use of power to repel attack on our Nation or our citizens abroad.

This editorial recognizes the serious imbalance that has developed in our governmental system in the field of warmaking. It correctly states that this legislation would "provide the American people a clear voice on whether our manpower and other national resources shall be invested in future combat ventures."

Mr. President, I ask unanimous consent that this editorial be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

To Assure a Role for Congress in War-Making Powers

Should the President be able to commit the United States to war without specific boundaries on his powers to do so? The question has become increasingly important during the undeclared war in Vietnam. Many members of Congress have come to see a need to define this aspect of presidential authority. Yesterday the Senate began considering legislation which has that purpose.

The bill is a compromise of proposals by a Republican, Sen. Jacob Javits of New York, and two Democrats, Sen. John Stennis of Mississippi and Sen. Thomas Eagleton of Missouri. It has a strong chance of being approved despite the objections of President Nixon. He has termed the idea "a very great mistake . . . when situations can change so fast internationally that to wait until the Senate acts before the President can act might be . . . too late."

But the proposal in its present form would not bind the President all that tightly. True, the measure would require specific congressional authorization before the President could send American forces into hostilities. But it is a flexible requirement in that there are three situations which would not need prior authorization from Congress. The chief executive could act to repel attack on U.S. territory and armed forces, forestall threat of attack, and to retaliate. Congress then would have 30 days in which to endorse the President's action. If it declined to do so, he would have to recall the troops. One of three amendments adopted by the Senate yesterday would permit committed forces to keep fighting beyond 30 days if the President certified a necessity to protect troops during efforts for prompt disengagement.

This procedure would not take effect if Congress used its constitutional power to declare war. But Congress has declared war only five times: The War of 1812, The Mexican War, the Spanish-American War, World War I and World War II. Yet, between 1789 and 1971, U.S. forces went into military action overseas on more than 150 occasions. Of these, the Korean War from 1959 to 1963 and the Vietnam intervention from 1966 to the present were by far the most important.

The current move in Congress to define the war-making authority of the President stems directly from the Vietnam experience. That fact caused Senator Stennis to observe:

"The last decade has taught us, if it has taught us anything, that this country must never again go to war without the full sanction of the American people. The only practical way for all parts of the nation to participate in such legislation is through the Congress."

This view is valid. Senator Stennis, who is chairman of the Armed Services Committee, has in mind situations in which the United States has a choice of going to war. There would be no application in the event of an attack on this country. Then the President would use his power to order defensive and retaliatory measures in the assurance that Congress would support his actions. That would be no real limitation on the constitutional authority of the President as commander-in-chief.

Still, the Nixon Administration views the Senate bill as overly restrictive. If legislation of this nature is to be enacted, the White House would prefer something along the line of a war powers resolution already voted by the House. The resolution calls for the President to consult Congress before sending Americans into armed conflict abroad but recognizes his authority to defend the nation and its citizens without specific legislative approval in extraordinary and emergency circumstances. These circumstances are not spelled out in the resolution.

For Congress to declare itself on war powers is in order. An imbalance has developed in the American federal system in the field of warmaking. The legislation being considered would tend to correct this imbalance. For it would provide the American people a clear voice on whether our manpower and other national resources shall be invested in future combat ventures. It can provide a restraint against being precipitated into other Vietnam-type situations without real public understanding of what is involved.

QUORUM CALL

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, as the time for the Senate to make its decision on S. 2596, known as the war powers bill, draws near I feel obligated to make my position perfectly clear.

First of all, it should be understood that I favor war powers legislation in principle. Indeed, even the executive branch has repeatedly stated its position that it does not oppose certain war powers legislation which has already passed the House of Representatives by a substantial majority, House Joint Resolution 1. There is, therefore, a general consciousness of the need for some legislation in regard to war powers. The administration does, however, oppose S. 2956. I join in that opposition.

My feeling on war powers legislation grew out of experiences I had while serving as Governor of my State between 1963 and 1967. On at least three occasions during that period President Johnson called various Governors from across the country to the White House to be briefed on events occurring in Vietnam and the facts back of his decision to involve this country in that conflict. It became obvious as I listened to the President on these occasions that here was a man who made a difficult decision, a decision that caused him great personal agony, and a decision he felt needed as broad understanding and support as could possibly be generated.

On numerous occasions, during and after the briefings that the President accorded the Governors, he made it possible for, and in fact I think in ways encouraged, Governors to make statements supporting his position in Vietnam and more or less urged us to do all we could to unify our States behind this national effort.

It became clear to me during that period that the present system, which had been used in bringing about our involvement in Vietnam, was clearly unsatisfactory to the President and was clearly unsatisfactory to the country, because the country had not unified behind the President, and it was clearly not adequate for the Congress, because very little opportunity for debate had been accorded that body. The passage of the Gulf of Tonkin resolution had been accomplished in such a short span of time that the reasons back of it were never understood.

As a result, also, the Congress continued to be divided. There were many Members of both the House and the Senate who repeatedly spoke out against our involvement in Vietnam, and, as a result, a very serious division grew up inside the country, which, in the opinion of many, including myself, finally caused the end of the President's political career.

So it was obvious to me at that time, and it is still obvious, that there is a need for a better system of obtaining national understanding of decisions that lead to the involvement of American Armed Forces in combat, and also a better need for an orderly procedure for Congress to unify behind the President or to refuse to do so. That is the reason I have favored the war powers legislation principle, but I find many deficiencies in this bill which caused me to decide to vote against it.

Many months ago, on May 14, 1971, the Secretary of State testified before the Senate's Committee on Foreign Relations with respect to war powers, and particularly with respect to the specific proposals which have resulted in S. 2956. He said then, that this particular bill is unconstitutional and unwise. It is worth bearing in mind that the Secretary of State is a distinguished lawyer, and a former Attorney General of the United States.

I am not a lawyer, but I have great respect for the opinions of the Secretary of State and others who have addressed themselves to the question of the constitutionality of this legislation.

From my study of those opinions with respect to the bill's constitutionality, it appears to me that the bill provides that the President may not even defend the territory of the United States itself for longer than 30 days, unless Congress expressly authorizes a continuation beyond that period. The Constitution, on the other hand, clearly contemplates that the President may take all necessary action to defend the territory of the United States with every available resource, and so long as necessary, without requiring special congressional authority.

The Founding Fathers could hardly have contemplated anything else. The only professor of constitutional law who testified for the bill in the committee hearings himself raised doubts that the President could be limited in this regard. Senator COOPER of Kentucky, a member of the Committee on Foreign Relations who recorded his individual views in the committee's report on S. 2956, also has pointed out that Congress lacks authority to restrict the exercise of presidential authority in this regard.

I sincerely believe that any attempt so to alter our constitutional system, which has long withstood the test of time, should not be undertaken without the most careful study. The issue goes to the heart of our constitutional system. A resolution of the issue requires—and indeed commands, that we bring to bear upon it the full intellectual resources of our society. I believe it is folly indeed for us to believe that we can today spell out in precise words all of the crises and emergencies which might arise in the future which would necessitate quick military action by the President. Indeed, the sponsors of S. 2956 themselves have proven the unworkability of the concept on which it is based. Having studied the matter for a year, and having had many days of hearings before the Committee on Foreign Relations, they were compelled this week to offer three separate amendments to cure obvious defects in the bill which even their learned and attentive study had failed to correct previously. And it is clear that these amendments still leave substantial gaps, and raise further questions. If all of this effort and study has produced a bill which fails to cover even those crises and emergency situations with which we are historically familiar, how can we be confident that the bill will be adequate to provide for future crises as yet unimagined. And on the issue of survival, we need more than confidence. We need certainty, or as close to it as human ingenuity and wisdom can bring us.

To be specific in only a couple of instances, I should like to call the attention of the Senate to line 25 on page 7 of the bill, which reads, in part, just preceding that:

> or in situations where imminent involvement in hostilities is clearly indicated by the circumstances—

And then the word "only" is added.

To me that so restricts the President's powers to use the Armed Forces of the United States as to seriously jeopardize our national security and independence.

Also, there is language in line 17 on page 8 which reads:

> but the President shall make every effort to terminate such a threat without using the Armed Forces of the United States, and shall, where possible, obtain the consent of the government of such country before using the Armed Forces of the United States to protect citizens and nationals of the United States being evacuated from such country . . .

To me those are restraints that would so limit and could so weaken any action the President might wish to take that they are an obvious invasion of the powers of his Office, and I seriously doubt that the Congress would be wise in undertaking any such course of action.

Apart from being unconstitutional and unwise in concept, the bill has very substantial practical defects. Serious questions have been raised as to whether the bill would permit the President to make military deployments in furtherance of our diplomatic and foreign policy interests without specific congressional authorization. A number of Senators have concluded, as I have concluded, that it does appear to restrict the President's power in this regard. As a result, enactment of this bill would raise serious questions as to our ability to act as required in any future crisis situation in the North Atlantic Treaty area, particularly one involving Berlin, or in an emergency in the Eastern Mediterranean.

The sponsors of the bill have sought to give reassurance in this regard, relying on the continued existence of the resolutions on Formosa, the Middle East, Cuba, and, presumably, Berlin. It is stated by the sponsors of the bill that these resolutions constitute the necessary express authority of Congress permitting the President to use Armed Forces in emergencies in those areas. A quick review of those resolutions proves that such reliance would be incorrect. The Middle East resolution, for example, which incidentally is 15 years old, specifies that:

> The United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism.

One can readily envision various crises which could arise to which this resolution clearly would not be applicable. The other resolutions are likewise considerably narrower than claimed by the sponsors of S. 2956. The legislative history of the Cuban resolution shows that it was not intended to authorize any particular future action; the Formosa resolution is 17 years old and addressed to a set of circumstances no longer fully pertinent; and the Berlin resolution, also 10 years old, simply expresses the sense of Congress and does not embody any specific statutory authorization. In light of the history, limitations, and age of these resolutions, the administration as much as 2 years ago officially stated its position that it would not rely on any of these resolutions as a source of authority for any decision in those areas in the future. Thus, contrary to the statements of the sponsors of S. 2956, the enactment of that bill would effectively impair the President's ability to act responsibly and effectively in those areas.

It is incumbent upon us to recognize that the question of war powers is a grave matter. It is not to be treated lightly. The administration is not alone in feeling that it is a subject worthy of the most considered study. The assembly of the American Bar Association on July 7, 1971, ordered a study and the preparation of a report as to the respective powers under the Constitution of the United States and the President and Congress to conduct and enter into war. That study is now in progress. Senators BEALL and MCGEE have both proposed during the current debate the establishment of a Presidential commission to study thoroughly the question of the allocation and exercise of constitutional war powers. I believe all thoughtful citizens must feel that this subject is one with respect to which action should be taken only after the most careful study and searching analysis.

I sincerely hope that the Senate will not act precipitously in the war powers field by passing S. 2956. The Senate has before it a substantial war powers bill already passed by the House of Representatives which, were it to be adopted by the Senate, could become law very quickly. I am persuaded that no other course is prudent, I am convinced that no other course would effectively serve and protect the interests of the American people. That is why I will support the motion to send this measure to the Judiciary Committee for its consideration.

Mr. President, there is no question that the decision to commit or not to commit American troops to combat is one of the greatest burdens that the President of our country ever faces. Undoubtedly, this was in the minds of our predecessors who drafted the Constitution, and who required that Congress share in bearing this burden and in making this decision. Clearly, events since our Nation was formed have shown that we need a new system, a new set of procedures for making the decision as to whether or not to enter combat, because the formal declaration of war, under modern conditions, may or may not be feasible.

But, as I have said earlier, I feel that the legislation we have before us is deficient in so many regards, and I feel that the consideration which it has been given has been so limited, that we would be acting in haste if we were to act affirmatively on this matter at the present time, and therefore I shall cast my vote to send this measure to the Committee on the Judiciary for its consideration.

Mr. President, I yield the floor.

ORDER OF BUSINESS

Mr. GOLDWATER. Mr. President, I yield to the Senator from Minnesota.

(The remarks Mr. HUMPHREY made at this point on the submission of Senate Resolution 292 and on the introduction of S. 3464 are printed in the RECORD, respectively, under Submission of a Resolution and Statements on Introduced Bills and Joint Resolutions.)

Mr. HUMPHREY. I thank the Senator from Arizona for his unfailing courtesy and cooperation.

Mr. GOLDWATER. Mr. President, it is always a pleasure to cooperate with one of my favorite candidates. [Laughter.]

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

WHAT THE FOUNDING FATHERS THOUGHT ABOUT THE WAR POWERS

Mr. GOLDWATER. Mr. President, we will be asked to consider today the question of whether or not the war powers bill is so immersed with constitutional problems that it should be referred for a reasonable period of time to the Senate Judiciary Committee, which is assigned the responsibility of handling changes that require a constitutional amendment. Now, I am not a lawyer, but I believe that one can examine the major constitutional issues present here from the standpoint of history, something that anyone who cherishes the Constitution can read whether or not he has a law degree. For this reason, Mr. President, I plan to devote my remarks on this occasion to a review of what the framers of the Constitution had to say about its purpose when they were developing this Republic and what the experience of almost 200 years of practice and tradition under the Constitution has taught us.

I might start, Mr. President, by recalling that the Constitutional Convention rejected a clause giving Congress the power "to make war" and substituted for it only the power "to declare war." From brief records of the debate, it is quite clear that the framers at least had a purpose of "leaving to the Executive the power to repel sudden attacks." How much else the Founding Fathers meant to leave with the President is not specified in the debate, but it is significant that they had a difference in mind between the two terms and left the making of war with the President.

Mr. President, I believe we can gain some insight into what the framers of the Constitution meant by this change by learning what meaning these separate terms held for them in the 18th century. It does not take a lawyer to know that Samuel Johnson's Dictionary of the English Language was the one word reference then in use by educated people in America. I have obtained an edition of this dictionary which was current at the time of the Constitutional Convention and it is interesting to learn what the meaning of these words was at that time.

The term "to declare" was understood as meaning "to make known" or "to proclaim." The term "to make" was then defined as meaning "to create" or "to bring into any state or condition." This would indicate, Mr. President, that the words "to declare war" were meant to convey a kind of formal notice to the world that would initiate all the attributes of international law which arise with a declaration of war. The power "to make war," which was left with the President, meant that he could bring the Nation into a state of war if that was necessary in the national defense.

My impression is supported, Mr. President, by the fact that Hamilton writes in the Federalist No. 25 that declarations of war, even in the 18th century, were unusual compared with the number of nondeclared hostilities in which nations were then engaged. In his testimony before the Senate Committee on Foreign Relations, Professor of Law John Moore confirmed this fact. He mentioned that one study of the years from 1700 to 1870 showed that less than 10 declarations of war were issued during this period, while 107 cases are reported in which hostilities were commenced without a declaration of war. Accordingly, it is quite clear that the framers were aware of a distinction between declared war and undeclared war and yet they chose to confer upon Congress only the limited, specific power "to declare war," not to "make" or "commence" it.

Next, Mr. President, I believe we should review the many passages of the Federalist Papers, where Madison, Jay, and Hamilton focus on the safety of the people as the first objective of Government. I repeat, the safety of the people as the first objective of Government. For example, Jay wrote in the Federalist No. 3 that:

> Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be the first.

That the ultimate decision over when to act for the safety of the Nation was left with the President, rather than Congress, is apparent from the writing by Madison and Hamilton in the Federalist No. 19. Here they state that the Constitutional Convention expressly rejected as being too weak the then current political model of the Germanic Empire in which the diet, or legislative body, was vested with the sole power to commence war. In any emergency, they wrote:

> Military preparation must be preceded by so many tedious discussions . . . that before the Diet can settle the arrangements the enemy are in the field.

While the focus of these writings was on the purpose of protecting the national safety, it is also important to consider Madison's instruction in the Federalist No. 37 that the framers intentionally had removed the direction of the military forces from Congress, where it had been deposited under the Articles of Confederation because it is "particularly dangerous to give the keys of the Treasury and the command of the Army into the same hands." Thus, Mr. President, we should observe that the Founding Fathers were concerned not only about depositing too much power with the Executive office, but were also watchful that they did not enable congressional usurpation to occur.

Moreover, Mr. President, we must remember the setting of the times in which the framers ratified the Constitution. We have heard much reference to the experience of the Founding Fathers with the commission given to Gen. George Washington when the Continental Congress appointed him to head the Colonial Forces. Yet, it was this very experience which the Founding Fathers wanted to prevent from ever occurring again under the new Constitution. Prof. David Watson, who wrote a two-volume textbook on the Constitution, found that of all the explanations of why the Constitution should make its President Commander in Chief:

> . . . none seems more reasonable than the fact that during the Revolution, Washington experienced great trouble and embarrassment resulting from the failure of Congress to support him with firmness and dispatch. There was a want of directness in the management of affairs during that period which was attributable to the absence of centralized authority to command. The members of the Convention knew this and probably thought they could prevent its recurrence by making the President Commander-in-Chief of the Army and Navy.

We might also review the words of J. H. McIlvaine, writing in the Princeton Review for October 1861, who is quoted by Dean Pomeroy in his great work on constitutional law. According to McIlvaine:

> It was the extreme weakness of the Confederation which caused the war of independence to drag its slow length along through seven dreary years . . . The treaties which the Confederation had made with foreign powers, it was forced to see violated and treated with contempt by its members; which brought upon it distrust from its friends, and scorn from its enemies. It had no standing among the nations of the world, because it had no power to secure the faith of its national obligations.

These historical references give us some understanding of why Professor Moore testified that he believes "reliance on the experience under the Articles of Confederation seems a frail reed for interpreting a Constitution promulgated in large measure as a result of dissatisfaction with the experience under the Articles." Contrary to the position taken by the authors of the bill, the Constitutional Convention was undoubtedly appalled at the difficulties Washington had encountered at the hands of the Continental Congress. Rather than wishing to perpetuate the experience of weakness and division which the country had suffered under the articles, I believe the framers intended to infuse national strength through the new office of the President.

Hamilton bears out this view in the Federalist No. 73, where he writes:

> Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of executive authority.

Nor does the presidential power of direction over the military forces conflict in any way with the purpose of the Founding Fathers to avoid establishing a monarchy. Charles Evans Hughes, one of our great Supreme Court Justices, wrote in 1917:

> The prosecution of war demands in the highest degree the promptness, directness and unity of action in military operations which alone can proceed from the executive. This exclusive power to command the army and navy and thus direct and control campaigns exhibits not autocracy but democracy fighting effectively through its chosen instruments and in accordance with the established organic law.

Mr. President, the power of the Chief Executive as Commander in Chief has long been interpreted by constitutional authorities as being free of the policy directives of Congress. As early as 1836, John Quincy Adams stated:

> However, startled we may be at the idea that the Executive Chief Magistrate has the power of involving the nation in war, even without consulting Congress, an experience of fifty years has proved that in numberless cases he has and must have exercised the power.

In 1862, William Whiting wrote a book on war powers in which he declared that—

> For the military movements and measures essential to overcome the enemy—for the general conduct of the war—the President is responsible to and controlled by no other department of Government.

Whiting added that the Constitution "does not prescribe any territorial limits within the United States, to which his military operations shall be restricted."

Numerous constitutional writers have shared the same conclusion. Voluminous citations on this subject can be found in two law review articles which I have inserted in the RECORD, one on February 9 and the other on February 15 of this year. I will repeat only two of these now. One is a short quote by Professor Willoughby, who wrote a three-volume work on constitutional law. He observes that the President's power to send troops outside the country "as a means of preserving or advancing the foreign interests or relations of the United States" is a "discretionary right constitutionally vested in him, and, therefore, not subject to congressional control."

The other is a reference to the statement by William Howard Taft, father of the former Senator Robert Taft and grandfather of the present Senator ROBERT TAFT, who wrote in the Yale Law Journal that—

> It is clear that Congress may not usurp the functions of the Executive . . . by forbidding or directing the movements of the Army and Navy.

That was from a statement by Justice Taft.

Mr. President, these citations should be sufficient to show a very grave question of whether or not Congress can set up a mechanism which restrains the situations in which the President can act to protect America's freedoms and the length of time which he will have to do it in. But added to these writings is a remarkable chain of precedents which Presidents have forged over the years. As I mentioned yesterday, there have been at least 197 hostilities in America's history, and only five of them have been declared. It is amazing how little the American people know about this. I have asked the question time and again in various parts of this country: "How many undeclared wars have we had?" I get figures all the way from 15 to 50; and even when I ask rather learned military men, they are always shocked when I suggest that the number is more than 190.

Almost 50 percent of these military actions lasted more than a month and well over one-half took place outside the Western Hemisphere. Though these undertakings have been questioned as precedents for full-scale, modern warfare overseas, they have in fact always involved whatever amount of force Presidents have deemed necessary to accomplish their national defense objectives. The military activities of the past 25 years cannot be omitted from this list simply because it would suit the purposes of those who challenge Presidential power. When these recent incidents, such as the Korean war and the Cuban naval quarantine, are fitted in which the military actions that preceded them, we can notice the development of a consistent line of precedents in which Presidents have always adapted the degree of their military actions to accord with the military technology and capabilities of the times. As the world we live in grew closer together and as scientific know-how multiplied, Presidents have acted in more distant places and with more effective weapons than they did before our Nation was so closely touched by foreign events or before nations possessed such advanced military hardware.

Another point about these 192 Presidentially authorized hostilities that we should notice is the fact that Congress has never once passed a law blocking or ordering a halt to one of them. The question has come up many times and Congress has taken many votes on the issue since the birth of the Nation. The fact that Congress has never before prohibited any Presidential hostility should be given heavy weight in reading the construction which history itself has put on the constitutional allotment of the war powers. For anyone to say that this long-continued arrangement may now be overturned by a sudden reversal of interpretation, demands that they should bear the burden of proving their case by far more extensive evidence than has been offered to date. Indeed, I believe the proponents of the pending bill have an obligation toward the country to open additional hearings on the subject so that a large number of the best constitutional and legal scholars can refine the record on this issue.

Mr. President, I know the sponsors of the war powers bill believe that the declaration of war clause, together with the necessary and proper clause, entitles Congress to set any rules it chooses in the war making field. But, as I have attempted to outline earlier, there are several eminent legal authorities who reject this view. No matter how often the sponsors repeat their claim that the power "to declare war" means the same thing as giving Congress the sole power "to commence war," this does not make it so. And, as for the power of Congress to act under the necessary and proper clause, I have just been given a report by the Library of Congress which concludes that this power has never been and cannot validly be used to limit the war powers of the President. Where the reliance of Congress upon the necessary and proper clause would help the President in carrying out his functions, the Library finds that Congress may act. But where the clause is relied on to restrict a constitutional prerogative of the President, the Library of Congress believes the action is unconstitutional.

Mr. President, I ask unanimous consent to have this report printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BEALL). Without objection, it is so ordered.

(See exhibit 1.)

Mr. GOLDWATER. Mr. President, an identical position was taken by Dean Pomeroy in his commentary on the Constitution. He writes that any measures passed by Congress under the necessary and proper clause—

> Must be supplementary to, and in aid of, the separate and independent functions of the President as Commander-in-Chief; they cannot interfere with, much less limit his discretion in the exercise of those functions.

Thus, Mr. President, while I hear the assurances given by some of my colleagues that the pending bill does not interfere in any way with the President's powers, I must respectfully suggest that this is a self-serving analysis that is contradicted by the pertinent writings of many academic authorities on the Constitution. I believe the only safe and proper way we can resolve the issue is to refer the bill to a committee which is long experienced in treating deep constitutional issues of this kind, the Committee on the Judiciary. I shall certainly vote to help bring that about.

Mr. President, I do not intend to be interpreted as being highly critical of the Foreign Relations Committee for having voted this bill out. Earlier, I said that possibly the Armed Services Committee had an equal right to vote it out. I felt all along, and have so stated, that the Judiciary Committee is the only committee in this body that should hear and pass on any constitutional issue so important to our Nation and our Nation's position in the world at this present time.

I certainly hope that we can muster the votes in the Senate to do that.

The Committee on Foreign Relations heard testimony from only one professor who was critical of the bill, which is a grossly unbalanced list. The Judiciary Committee can redress that mistake.

There are at least nine, not one, academic leaders who have recently written against the restrictions on the President's war powers.

They are:

First. Prof. Bernard Schwartz.

Second. Prof. Dean Rusk, with whom I have conferred at great length on this matter, who has served as Secretary of State, who understands this problem thoroughly, and is completely opposed to the way we are going about this.

Third. Prof. Quincy Wright.

Fourth. Prof. Abram Chayes.

Fifth. Dr. James McGregor Burns.

Sixth. Prof. John Norton Moore, who had appeared before the committee. I heard this great international lawyer's interpretation of the high seas and insular seas questioned in the committee. The committee did not agree with him. I suggest that, in all deference to the lawyers on the Committee on Foreign Relations, that a lot more respect should have been paid to his opinions than just to brush them aside and say they did not agree with him.

Seventh. Prof. Henry M. Pachter.

Eighth. Prof. Henry Monaghan.

Ninth. Former dean of Harvard Law School, and now Solicitor General, Erwin Griswold.

Mr. President, this is a very important question, but I have received very little mail on it, frankly. I have queried around among my colleagues, and I find few Senators receiving any mail on the subject, which rather upsets the idea that the Nation is clamoring for this legislation.

Certainly, I believe that the Nation would like to hear and probably will benefit from this debate. It has been carried on in a proper manner. But before we decide that we are going to change the constitutional intent, before we decide that we are going to hamstring the President in his performance of carrying out foreign policy and in the protection of the American people, which is the No. 1 thing, I believe that this matter should receive far, far greater study and consideration in hearings than it has.

In closing, to point up the need for this, within 2 days' debate, the framers of this measure admitted there were three different areas in which they were mistaken, and they made corrections so that it might be a little more palatable to some of us who called their attention to the errors.

Thus, Mr. President, I shall join in voting to send this bill back to the Committee on the Judiciary.

EXHIBIT 1

THE LIBRARY OF CONGRESS
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., March 13, 1972.

To: Honorable BARRY GOLDWATER,
From: American Law Division.
Subject: Necessary and Proper Clause and Presidential Powers.

This is in response to your request for an analysis of the cases which might indicate whether Congress' power under the necessary and proper clause of the Constitution, Article I, § 8, cl. 18, extends to the degree that Congress might restrict and control the powers vested in the President. The necessary and proper clause, of course, has two aspects in that it authorizes Congress to pass laws to carry out the powers conferred in the previous seventeen clauses of § 8 and in that it further authorizes Congress "[t]o make all laws which shall be necessary and proper for carrying into Execution . . . all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

Thus, with regard to such proposals as the "war powers" bill, S. 2956, 92nd Congress, Congress could base its powers on both prongs of the clause. Its own war powers are conferred in clauses 11–16 and it may make a host of regulations governing the disposition of the military forces of the United States, such as the territorial restrictions on deployment of troops contained in the 1940 Selective Training and Service Act of 1940. 54 Stat. 885, 886. That this power could not be extended to infringe on the President's constitutional prerogatives would appear to be obvious. Cf. *Ex parte Milligan*, 4 Wall, (71 U.S.) 2, 139 (1866) (Chief Justice Chase). Line drawing here must, of course, proceed from an assessment of the division of the powers conferred exclusively and those jointly on the Congress and the President.

With regard, however, to the second prong, the Supreme Court has never had occasion to address itself specifically to the powers conferred on Congress by the second part of this clause. It has numerous times noted that the clause does not confer any additional powers on Congress but simply makes express what would otherwise be implied, that Congress has discretion to execute the powers conferred. But these decisions have always been in the context of the clause as it relates to the "foregoing Powers." That the clause does confer additional powers on Congress is recognized in such cases as *Neely* v. *Henkel,* 180 U.S. 109, 121 (1901), and *Missouri* v. *Holland,* 252 U.S. 416, 432 (1920), both relating to the power to legislate to carry out treaty provisions, the power to enter into being conferred on the President and the Senate. In the former case, the Court said: "The power of Congress to make all laws necessary and proper for carrying into execution as well the powers enumerated in section 8 of article I of the Constitution, as all others vested in the Government of the United States, or in any Department or the officers thereof, includes the power to enact such legislation as is appropriate to give efficacy to any stipulations which it is competent for the President by and with the advice and consent of the Senate to insert in a treaty with a foreign power." Similarly, congressional authorization for extradition of persons to foreign countries has been based on its power to effectuate treaty provisions. *Valentine* v. *United States ex rel. Neidecker,* 299 U.S. 5, 9 (1936).

It seems clear that this second prong of the necessary and proper clause could not be relied on to invade a constitutional prerogative of the President. *Myers* v. *United States,* 272 U.S. 52 (1926), would seem to be the closest case in point. There, the Court was concerned with a congressional limitation on the removal of persons holding office in the executive branch, an office which Congress had created. Article II, § 2, cl. 2, authorizes the President to appoint "all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: . . ." Here is an express authorization for Congress to make laws to carry into execution powers vested in another department and Congress has exercised it from the first, not only creating offices, but determining the qualifications and the terms of the officeholders and prescribing other standards and restrictions. *Myers* v. *United States,* supra, 264–274 (Justice Brandeis dissenting). Nonethless, in *Myers* the Court held that the removal of such officers from office was inherently an independent executive power lodged in the President and not subject to limitation by Congress. *Myers* has been limited and much of its dicta restricted by subsequent cases, *Humphrey's Executor* v. *United States,* 295 U.S. 602 (1935); *Wiener* v. *United States,* 357 U.S. 349 (1958), but this core concept remains viable.

It must be said that determination of power in this area—what is an independent executive power and what is concurrent—requires close analysis of the Constitution and of precedents. For example, in *Little* v. *Barreme,* 2 Cr. (6 U.S.) 169 (1804), the issue was the lawfulness of a seizure of a vessel bound *from* a French port under a presidential proclamation which authorized such a seizure and under a congressional enactment which provided for seizure only of such vessels bound *to* a French port. Holding the seizure invalid, Chief Justice Marshall said: "It is by no means clear that the President of the United States, whose high duty it is to 'take care that the laws be faithfully executed,' and who is commander in chief of the armies and navies of the United States, might not, without any special authority for that purpose, in the then existing state of things, have empowered the officers commanding the armed vessels of the United States, to seize and send into port for adjudication, American vessels which were forfeited by being engaged in this illicit commerce." But when it was noted "that the 5th section [of the Act of Congress] gives a special authority to seize on the high seas, and limits that authority to the seizure of vessels bound, or sailing to, a French port, the legislature seems to have prescribed that the manner in which this law shall be carried into execution, was to exclude a seizure of any vessel not bound to a French port." Id., 177–178. The seizure was, therefore, invalid. Here, the President was executing his foreign relations powers, which underlay and supported his neutrality proclamation and Congress was executing its power to "make rules concerning captures on land and water." Article I, § 8, cl. 11. A similar conflict apparently explains the result in *Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579 (1952). Although Justice Black in the opinion of the Court explained that the power to authorize seizures lay with Congress and could not be exercised with authorization, at least four of the six Justices in the majority seemed more interested in the fact that previously the President had seized industrial property under the war powers but that now Congress in the Taft-Hartley Act had specified a procedure of settlement which impliedly negatived seizure as an alternative.

In short, the Court has not spoken much on the second provision of the necessary and proper clause. *Myers* indicates that there is an area of presidential power Congress cannot restrict under that clause, but the contours and boundaries of that area are unclear.

JOHNNY H. KILLIAN,
Legislative Attorney.

Mr. HRUSKA. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I am happy to yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, first of all, I want to commend the distinguished Senator from Arizona for the splendid statement he has made. I also want to thank him for his expression in support of the motion which was made to commit this measure to the Committee on the Judiciary, a motion which I made in conjunction with the senior Senator from North Carolina (Mr. ERVIN).

I was especially attracted, during the course of the Senator's remarks, to his reference to the number of scholars who are available, as well as writers and outstanding authorities on the Constitution and on international law, who have not had an opportunity to testify on the bill. The Senator is right. There were only two professors of law who were called upon to testify during the hearings on S. 2956. One of them was professor of law, Alexander M. Bickel, of Yale, who testified for the bill, and the other was Prof. John Norton Moore, professor of law at the University of Virginia.

Now then, when as eminent an authority as Prof. Eugene V. Rostow writes as recently as only yesterday in the New York Times as follows:

> Congress has made no bid for supremacy so bold, and so foreign to the Constitution, since the impeachment of Andrew Johnson. The legal theory of the bill would permit a plenipotentiary Congress to dominate the Presidency (and the courts) more completely than the House of Commons governs in Great Britain.

And in the concluding paragraph of this article, he says:

> The Javits bill would turn the clock back to the Articles of Confederation and, emasculate the independent Presidency it was one of the chief aims of the men of Annapolis and Philadelphia to create.

Does it not impress the Senator from Arizona anew with the scarcity of legal authority on that subject, having had only two professors of law testify out of that list of great and eminent scholars in this field enumerated by the Senator?

Mr. GOLDWATER. Mr. President, I could not agree more with the Senator from Nebraska. In fact, looking at the list of witnesses who testified in the hearings, there are nearly three pages of people who testified or submitted statements. I have not counted them. However, the list includes Senators who are lawyers, Senators who are not lawyers, some academicians, and some lawyers from outside Congress; and I must say the list is not fairly reflective of the actual division among scholars in this field.

This is one of the things that disturbs me. I might add that in studying the history of this whole problem, one comes back to the early days of our Republic. In fact, I doubt if we have ever spent a year without having the problem.

I have been impressed with the outstanding scholars, outstanding lawyers, and outstanding academicians who have always said, "Let us leave it alone."

When I first got interested in this, I wrote a large number of people—former Secretaries of State, former Attorneys General, and deans of law schools. Most of these people would never agree with Senator GOLDWATER in his philosophy. Yet I did not receive a single letter from any of these people that did not say, "Don't take the legislative route. In fact, don't take any route."

I asked in my letters whether we should amend the Constitution in order to do this. Not one of them said to do it that way. It was unanimous. They said, "Leave it alone." That was the unanimous reply from Democrats, Republicans, liberals, and conservatives.

I think that we would be making a dreadful mistake not to make available to ourselves a far greater source of expertise than we have so far.

I repeat that the very fact that the sponsors of the measure, within 2 major days of debate and after only two of us had spoken, had to come forth with perfecting amendments.

If this legislation had been prepared in such depth as the authors would have us believe, I would suggest that there would be no need for perfecting amendments. As I said when I spoke before, they could amend the hide off this thing and it would not be palatable to me. The only thing that would make it palatable to me would be to send it back to the Senate Judiciary Committee where we could hear some indepth and balanced intelligence on the subject.

Mr. HRUSKA. Mr. President, the Senator agrees with such eminent scholars as Charles Evan Hughes, one of the great Supreme Court Justices, when he said in 1917:

> The prosecution of war demands in the highest degree the promptness, directness and unity of action in military operations which alone can proceed from the executive. This exclusive power to command the army and navy and thus direct and control campaigns exhibits not autocracy but democracy

> fighting effectively through its chosen instruments and in accordance with the established organic law.

Then there is the commentary by Dean Pomeroy when he writes that any measures passed by Congress under the necessary and proper clause "must be supplementary to, and in aid of, the separate and independent functions of the President as Commander in Chief; they cannot interfere with, much less limit his discretion in the exercise of those functions."

Is that not a sufficient red flag of danger and a significant kind of signal to warn of danger by way of impairment or violation of the Constitution which should lead reasonable men to say, "Let's explore these statements in the light of the best legal talent, in the light of lawyers instead of in the light of testimony of political science professors, as talented and as fine as they are, not just in the light of the testimony of historians, as fine as they are, but in the light of legal scholars who are available for testimony in a public forum." It is my contention that the appropriate public forum is the Senate Committee on the Judiciary. That is its assigned duty. That is the proper committee established for this purpose.

Mr. GOLDWATER. Mr. President, I would agree with the Senator. I might pursue his argument a little further. We have been reminded and have been told constantly on the floor that to allow Congress to make war is a democratic process. I suggest that the Founding Fathers very early gave up that basic concept of pure democracy where everyone met in a room and the fellows who walked out alive had won the argument.

We have a democratic-republican form of government, small "d" and small "r." It just happened that the parties eventually came up with those names.

Now under the republican-democratic form of government, we have the men who have been chosen by the people to represent them. They did not choose us because we were particularly adept at determining what war should or should not be waged. They did not choose us because we had any military expertise. I do not think there has ever been a man run for Congress, at least in my time, that ever campaigned on the idea that, "I can fight a war better than the other fellow can fight a war."

We have always recognized that the President has this power to decide on the national defense. And I maintain that he still has the only power to go to war in protection of American liberties. And if the people do not like it, then let us give the people of the United States a chance to amend the Constitution. But let us not try in this body of some 500 people to take over the chores of going to war. Any delay in action when action is apparent is certain defeat.

We are losing the war in Vietnam because we dilly dallied and could never make up our minds whether to act like an army, a navy, or an air force or whether we were going to satisfy the voters in Los Angeles, Chicago, or Timbuktu.

As a result, we are faced with a debacle in a war directed by civilians who know nothing about the operation of an army, navy, or air force.

What would happen to our country if we were forced to put the question to Congress as to whether we should attack? I have often said publicly that one of the chief troubles with South Vietnam is that we do not have enough South Vietnamese living in America.

I can see this becoming a hot political issue. Are we going to war to save the Italians? I would say that we would. Are we going to war to save Israel? I would say that we would, whether we had to or not, because of the political pressures put on this body.

I have often said that I would much rather leave the judgment in running a war to one man who has to live with it than to leave it in the hands of 500 or more men who have to do something about it in order to get reelected.

I want to read one further thing on this. The Senator has mentioned Dean Pomeroy. I would add that Dean Pomeroy also wrote in his textbook on constitutional law that—

> The President may make all dispositions of troops and officers, stationing them now at this post, now at that; he may send out naval vessels to such parts of the world as he pleases; he may distribute the arms, ammunition, and supplies in such quantities and at such arsenals and depositories as he deems best. . . .

Pomeroy continued:

> [A]ll direct management of warlike operations, all planning and organizing of campaigns, all establishing of blockades, all direction of marches, sieges, battles, and the like, are as much beyond the jurisdiction of the legislature, as they are beyond that of any assemblage of private citizens.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. GOLDWATER. I am happy to yield to the Senator from Kentucky.

Mr. COOPER. I hope the Senator will agree to the statement I am going to make. I believe we are talking about two things, two courses of action. One is the conduct of the war after the war is commenced. The other proposition relates to our entrance into hostilities.

I would agree with the Senator that once our country has entered the war that it is the constitutional function of the President of the United States as Commander in Chief to conduct the war. I know of no constitutional way by which Congress could direct or control war after it has commenced except by denying the funds to support the war.

This bill deals with the other subject, not the conduct of the war after it has been commenced, but with entrance into war.

The bill lays out that in certain cases the President, without question, has the authority under the Constitution to enter into hostilities to protect our troops against a sudden attack, or to protect our country, or its possessions against a sudden attack, and, if necessary, to be determined by the judgment and discretion of the President, to enter into hostilities in order to forestall an attack which to him appears imminent, again, to protect our country, its people, and its security.

I think there is no doubt about these considerations. I believe the Senator agrees with me on that. But, when we try to evaluate what would happen when there is no attack upon our troops, when there is no attack upon the soil of our country or its possessions, and when there is no attack on our troops even though they are in a foreign land or on the seas, I contend that the decision to enter hostilities lies with the President and the approval of the Congress.

Would the Senator say, in these circumstances the President should have the authority to engage us in war without the approval of Congress?

Mr. GOLDWATER. In answer to the Senator's question, I would say yes. He not only has it; he has had it without any question for nearly 200 years when it is exercised for the defense of national interests, whether the threat is tomorrow or is one that may be more distant. I do not believe an attack necessarily has to be made upon the Continental United States to put us in a predicament of war. In fact, the United States has not been attacked since 1812, except for Hawaii in 1941.

We have gotten into wars all over the world, not necessarily by Presidential desire but because it became obvious that if we did not go to the aid of our allies, our country's freedom and its people would be threatened.

In cases like the world war there is no argument. We talk about sending troops, let us say, to Guatemala. The Senator might say, "What effect does Guatemala have on the United States?" This is a decision the President has to make. I do not think we are equipped to make it.

Then, we would tie the President's hands by saying, "Fine. You have the power to direct troop movements, but after 30 days Congress is going to take a look at this and say whether or not you are right."

My basic argument against that is that we are going back to the days of Washington and the Confederacy when the Revolution was actually prolonged because of bickering in Congress, just as I feel the war in Vietnam has been prolonged by the confusing statements that come from this entire Congress, prowar and antiwar. I think it leaves our enemies in a situation questioning whether or not we are sincere, questioning whether or not we are ready to give up, and whether or not we are going to fight.

I keep remembering the classic remarks after Dienbienphu fell. The remark was that Dienbienphu did not fall to the enemy; it fell at Paris. This is what I am afraid of.

The President could go to war in defense of the Nation against a direct and imminent threat or an actual attack at least, we are not changing that in this language. I agree with that. But a political situation could develop in this country that could be developed by the press, which I have to say is becoming increasingly the creator of issues.

I do not think that Representatives and Senators create issues. It is what Walter Cronkite wants the people to believe or what Eric Sevareid wants the people to believe. How long would it take to stir up an "anti" feeling in this country to a war the President felt he was right going into, to the point where Congress would say, "We do not need this war, and let us stop it." This is what the bill provides for. We will begin to lose allies and friends all over the world.

I get back to the Senator's question. I agree that the basic problem we are faced with in the Chamber is two words: One is "make" and the other is "declare."

Those of us who hold the contention that Congress has the right to declare war but only the President has the right to make war are confronted with those who say that declare and make are the the same thing.

In studying the Constitution it becomes obvious to me as a student of history that Congress knew exactly what it was doing when they changed the word "make" to the word "declare." It is for this basic reason I think we are treading on dangerous ground. With all due respect to the legal minds in the Chamber and in the Committee on Foreign Relations, their major job is not in this type legislation, where the major job is more appropriately one for the Commitee on the Judiciary to be thoroughly studying all the constitutional and separation-of-powers ramifications of this matter which the Foreign Relations Committee has not done.

The American Bar Association has begun studying this matter, and we understand that in about a year that leading group of lawyers will come out with an opinion, and it makes us in comparison look foolish trying to decide in 1 week that for 200 years we have been interpreting the Constitution wrong. I hope that answers the Senator's question.

Mr. COOPER. I have listened to a great part of the Senator's speech and it was a scholarly speech. He has made a great contribution to this debate.

Following World War II the debate began on this issue. Our country was very much united and there was little disagreement about what the President could or could not do. But I recall that during the Korean war questions arose about its legality. President Eisenhower, as a candidate said that he would attempt to bring that war to an end, and he had a great deal to do with its ending.

I recall the post-World War II treaties on the floor of the Senate. Many Senators raised the question as to whether the President could go into war as a party to the treaties, without coming to Congress. Curiously enough, some of our citizens who support this bill so strenuously argued the very opposite in those days, saying we should not interfere with the President.

My position is the same as the one I held in 1954, when we argued the question of the meaning of the term "constitutional processes" under the United States-Korea bilateral treaty. Senator Watson of Utah, Senator STENNIS of Mississippi, and I argued that it meant the President should come before the Congress.

I will summarize. I think it is clear that once we are engaged in war, only the President as Commander in Chief can command our forces and direct them.

I did not agree with the 30-day period in the pending bill. In writing my individual views, I said I did not think it was constitutional. But an amendment has been approved by the Senate which has changed that section. It provides that the President, can be relieved of the 30-day restraint if he reports that military necessity requires continued action.

One of the important reasons for our entrance into the Revolutionary War was the challenge to the authority of George III to decide when the Colonies could be used in war. Other monarchs have done the same. Napoleon, time and time again, bled France white, until he was defeated at Waterloo.

The purpose of this bill—the President can assert his own constitutional right—is to limit the possibility of war, and I see nothing wrong with that. I say this with due regard to my friend from Arizona. I know he was involved in this question in a very—I will not say bitter, but in a very tough way in 1964. I recall that campaign, in which he made statements which later proved to be true.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. GOLDWATER. I shall yield to the Senator from Wyoming in a moment. First let me say I believe everything we are saying here on the floor today indicates more and more the need for a real, deep study in this field. I know what the authors of the bill want to accomplish. I have to say I am in accord with those purposes. I am in argument with the method. But it is certainly becoming more and more obvious that when a man on this side, who is an expert lawyer, who is supposed to know the Constitution, will argue with a man on the other side, who has equal respect in the law—I do not expect lawyers to agree any more than laymen agree, but this is on a constitutional matter—I think we are getting into a grave problem. Certainly, it should be considered with more attention to legal issues.

I yield now to the Senator from Wyoming.

Mr. McGEE. Mr. President, first I want to say that my colleague from Arizona has contributed a great deal to the thoughtfulness of our approach to this question. He has been involved in this question very deeply now, almost from the beginning, starting with the committee hearings, and even before, in some cases; but I think it is important that we continue to spell out for the record the history that shows the doubts people are raising. They are not people who are united by a common ideology in the political sense or by a common philosophy in the conservative-liberal sense. They are people who are genuinely concerned about what is happening in the world, what can happen in the world, and what all of this has done to our constitutional structures that go back almost 200 years.

I would like to put in a plug, however, for the political scientists, the constitutional historians, lest the remarks of the distinguished Senator from Nebraska be lifted out of context by some casual reader and misconstrued. I think I should make the point that the constitutional historians—the people in my profession before I came to the U.S. Senate—are split wide open on this matter. They are astute. They understand the Constitution. They understand the constitutional principles, but their arguments differ at this stage as to what we ought to do.

The same thing with the political scientists. There is a tendency to believe that scientists are more definite about matters than others, but their own ranks show that they are less scientific on this question than they could be. They are divided.

Many of the people with no flag that one could attach to them, or perhaps even a red flag—perhaps we should not use the term "red flag" as a warning because of some other connotations that may be applied to it—but some of those professors have something to say about it. A few have spoken out—very few—but the voices that have been heard are divided voices even now.

This all comes back to my point. I think there is merit in the proposal we are being asked to take, namely, to refer this measure to the Judiciary Committee. Now, I do not happen to think that the Judiciary Committee is any wiser than any other committee of this body, but it has something to say from time to time in these matters. However, I do think the constitutional issue that lurks in the question of the pending legislation does warrant an assessment of this issue through that committee process. I would agree that we do not have to assign it to the committee. We can refer it to the committee, as the Senator from Nebraska proposes, with a time certain to report back.

I think all of us in this body would look better if we had gone through that process, because here is a group which, while no brighter than anybody else, has the assignment to spend more time sorting this question out than the others of us have time to do.

For that, reason, there is real merit in the proposal. and I think Members of this body would do better, to have that group take an individual position on this matter, because this is a Senate process and we have a group here who has a responsibility to go into this question in great depth. And we need the benefit of their judgment.

We do not need to delay action. This has been going on a long time now. I think a reasonable opportunity for that group to go into the matter would be in order so it would give us a positive conclusion. We would still have a chance to read it and then judge whether the Judiciary Committee made a contribution or not. I think we are entitled to have it, look into it, and give us that judgment and then see where we ought to proceed further.

What I wanted to say to the Senate was that what we are coming down to more and more on this whole question is the diversity of judgment, and most of all the doubts that this procedure is wise. It is not a certainty, because in these times the luxury of certainty has been dispelled for almost all of us. There are a few who are very certain in these days, but not very many. Certainly is one of the luxuries of the dark ages that we can no longer indulge in. By "dark ages" I mean in my youth, in the 1930's, when I was sure of a great many things that I have had to change my judgment on. That lack of certainty, the margin of sincere, honest doubts, ought to be saying to everyone here on this question, whatever else, we ought to make haste slowly. We ought to do it the right way the first time, if we can.

That something ought to be done is likely the case, and that is why my proposal, no matter what we decide here, whether we pass the Javits' proposal or we do not, we ought to create a full presidential commission to reexamine the relevance of these anxieties in relation to the Constitution and our presently accepted processes in decisionmaking.

So I want to commend the Senator for having spelled this out with great care and thoughtfulness.

Mr. GOLDWATER. I thank the Senator, and reiterate what I have told him, that I feel, regardless of what happens, whether we refer the matter to the Committee on the Judiciary or not, but particularly if not, something like the Senator's amendment should prevail, which would set up a board of expertise, out of politics, to really look into this question.

The distinguished Senator from Wyoming mentioned that this debate knows no political sections. Let us examine that point. The author of the bill, the Senator from New York (Mr. JAVITS), is a liberal Republican. The Senator from Texas (Mr. BENTSEN) is a conservative Democrat. The Senator from Missouri (Mr. EAGLETON) is a moderate, in my judgment. The Senator from North Carolina (Mr. JORDAN) is a conservative. The Senator from Virginia (Mr. SPONG) is a former lecturer at a law school, and a very noted authority in his own right. The Senator from Mississippi (Mr. STENNIS)—I guess I stand to the left of JOHN STENNIS; at least some people think I do.

Then there is the Senator from Ohio (Mr. TAFT), whose father, God rest his soul, was Mr. Republican.

So, indeed, this debate knows no political bounds, but it does demonstrate a great deal of confusion. When you can have a former professor of law disagreeing with a present professor of law in Georgia, Dean Rusk, I think something has got to be done, not to bring them together, but to find out where we are going wrong. I honestly feel that the passage of this legislation could bring nothing but chaos to this country—not internally at the moment, but in our external relations. I think we would disrupt them completely with one single blow.

Mr. HRUSKA. Mr. President, if the Senator will yield——

Mr. GOLDWATER. I yield to my friend from Nebraska.

Mr. HRUSKA. Are there not really two propositions involved in the consideration of this measure? One could be said to be in the field of the political scientist and the professor of history, who would look at the situation from the standpoint of the desirability of having this power vested in the President to be in command of and to deploy troops, and to engage in the location of those troops in various places in the world—as I say, the desirability of it.

The other question would have to do with how that desire, as embodied in the pending measure, to reduce the chance of war, to reduce the chance of escalation of war, which is supposed to be the objective of the bill, can lawfully be attained.

There is no question but that the President has the power. The Constitution itself is very clear. Beyond that, we have had almost a 200-year history, in which some 192 examples of the allocation and deployment of troops have occurred; and while that does not prove the constitutionality, it has a great bearing, as I pointed out in my principal remarks earlier today. The practice under the Constitution for more than 200 years pretty well entrenches that power.

Then the question arises, that power being in existence, how can it be changed? How can it be denied? How can it be restricted? How can it be limited?

It is our way of thinking in this country that to change a constitutional power will require a change in the Constitution; but I believe that this body, if it approves this bill, is going to say, 'No longer is that true; these are enlightened ages, and we are going to have the voice of democracy, through a legislative act, modify that Constitution."

Mr. President, that cannot be done under our present system of government. There is no question but that this power exists. It has existed and has been exercised ever since George Washington's time. If we are going to make a change in that, let not Congress have the effrontery and the arrogance to say, "You can use that power, but not for more than 30 days without consulting with us and getting our blessing and approval."

That would amount to an amendment of the Constitution; and there are only two ways the Constitution can be amended, one by State conventions, and the other by action of Congress and referral to the States.

That linkage is not here. And I do believe that if this bill is referred to the Committee on the Judiciary, this point of how a power conferred by the Constitution can be changed or limited will be properly set up in focus, so that it can be understood for what it really is. That cannot be achieved by the type of testimony we have here, notwithstanding the hopeful desires of many sincere people that this bill is designed to lessen the risk of war, that it is designed to prevent the escalation of situations into war, or whatever else the objectives may be. That is not the point. The point is, how can it be done?

Mr. GOLDWATER. I could not agree more with what the Senator from Nebraska is proposing.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. GOLDWATER. I have finished; I shall be happy to yield the floor.

Mr. McGEE. I do not want the floor. I have no desire to make a speech. I just wish to comment on the relevancy of what the Senator has been saying, because the Senator from Arizona raised a point, in his colloquy with the Senator from Kentucky, that I think ought to warn us in another way, when he referred to the misgivings that emerged among many of our countrymen at the time of the Korean conflict, and that those misgivings were expressed very loudly.

That is understandable, for the reason that times had changed once more; it was a new circumstance. We found ourselves in a position we had never anticipated being in, and that ought to have said to us, even then, "Let us get busy and reexamine this whole process, and see if we are really out of date, or if we are up to date but ought to do it differently under the present structure."

But we did not do that. It is easy to say now, with hindsight, that we should have.

I have read with great satisfaction several times over the past few years a very brilliant exposition on this very question, "The Powers of the President in Foreign Policy," which appeared in the Cornell Law Review of October 1960. It is a brilliant piece, written by a real scholar and expert in the field.

What it said was that if we are worrying about making foreign policy, we ought to go slowly about dumping that function in the laps of the Senate of the United States. The author said he hated to say that, because he was a Senator and did not want to impugn the Senate, but he said that most Senators do not have time to devote full attention to these problems that require a decision, and that while he did not like to give power to one man, his conclusion was that, reluctantly, he had decided we were going to have to give the President of the United States more power in foreign policy decisionmaking, crisis decisions, and so on, if our form of representative government was to survive.

The author of that article was the present chairman of the Committee on Foreign Relations, the Senator from Arkansas (Mr. FULBRIGHT). As I say, it was written at a cooler moment, at a calmer time, before all the emotions of the last decade had muddied all our waters, involving every one of us.

But, having been written when it was, I think it ought to be required reading for every Member of this body before he makes up his mind on this question. It was written at a time before personalities and personal pique had taken over, before so many of us who are here right now had tuned out on meaningful dialog, which I hope we have now begun to tune back into, because of this question.

Now the distinguished chairman of the Foreign Relations Committee has changed his mind. I respect a man who has changed his mind, because he has the courage to say he thinks he was wrong back in 1960, and thinks he is right now. That is very important, because a man who cannot change his mind is in a rut, and may be guilty of having chained himself to an irrelevant past.

But I do not think that ought to close out the relevance of what was developed in that excellent article in the Cornell Law Review, which simply said that this is a complex, difficult, and sometimes ugly question that we are going to have to resolve more wisely than we have until now; and I think that it should be must reading for all of the Members of this body.

It is that that makes the point; namely, that here, again, there is a change of mind, there is a divided judgment, there is an uncertainty as to what ought to be done, even by some of those who support the pending amendment. Certainly, there are misgivings and yet there is some inclination on the part of people such as the Senator from Wyoming who think that this, at least, is the better of the proposals that were made before the committee, that it comes closest to trying to do something realistic without getting too far off a reasonable path in seeking some wiser solution than we have at the present time. But I think that these misgivings on both sides—on all sides—ought to warn us to go slowly, ought to say to us, "Let us take the time to make the next step a telling one, as well as a wise one."

I do not think that anyone here today or who has been here in the course of the debates can stand here with confidence to say that this is the step that will hold in balance the wise course of American foreign policy into the crisis fields of the future. In fact, I think they lean over backward, in due humility, in saying that they do not know, that they are not sure, that they would not make that contention; and that is the reason why we ought to pursue more cautiously the whole question.

Mr. GOLDWATER. The Senator has pointed out one thing about the weakness of our system in the Senate—the committee system. We are living in a world today in which in most cases the expertise on foreign relations goes back hundreds of years, and in some cases thousands of years, where men are literally born into the profession, educated in the profession; and here we have a committee system that gets its members from the standpoint of seniority.

I look at the register of the Committee on Foreign Relations—I may be wrong—and I see the Honorable JOHN SHERMAN COOPER as the only man who ever has served in any capacity that could make him, in my opinion, an expert in foreign policy. He served as an Ambassador. I do not negate the expertise of the others. I do not think the chairman ever has been to Vietnam. I do not say that he should go to Vietnam. But we are handicapped in this body by the seniority system.

Let us say we had a former Ambassador to any court in the world. It would take him at least one full term to get on the Committee on Foreign Relations, and that is where he could do his best job.

Mr. McGEE. I hope the Senator would be more modest about the seniority system. I was one of the first critics of it. But I think the longer one is around, he tends to get more mature judgment in regard to it.

Mr. GOLDWATER. I am the oldest freshman Senator on the floor. I have come up the hard way twice and have gone down the hard way once. [Laughter.] And I do not intend to do it again.

I am not criticizing the Foreign Relations Committee. I am trying to point out what I think is a weakness in our system.

With respect to the Committee on the Judiciary, we are not saying that these men are expert in foreign policy; but they are dedicated lawyers whose sole interest in life has been the law. Perhaps Jefferson was right when he said there were too many lawyers in Congress. I have not made a judgment yet. But certainly the Judiciary Committee is where this matter should be heard by men whose lives have been spent in the study of law and the interpretation of it.

Mr. President, I yield the floor.

Mr. COOPER. Mr. President, before I make a short statement on another matter, I rise to say that I believe the Committee on Foreign Relations is well constituted for the study of the question of war powers. The work of the committee primarily deals with our relations with other countries, and for several years it has been examining hearings and from testimony, reports and briefings by the Executive, and by legislation it has reported to the Senate, the exercise of war powers by the Congress and the Executive. I must say that I believe that Senator JAVITS, his cosponsors and the Committee on Foreign Relations made a thorough study before reporting the pending bill.

Mr. President, I understand there was a short discussion on the floor today concerning the recent movement of North Vietnamese forces into South Vietnam, and that there was criticism of the President of the United States.

It has been said that perhaps the stimulus for the invasion arose, because some days ago the President of the United States, through his representative in Paris, Ambassador Porter, notified the North Vietnamese negotiators and those representing the Vietcong that the United States would not engage in further negotiations unless the North Vietnamese and the Vietcong showed willingness to negotiatie substantively. I must say that I do not think that the argument has any substance at all.

Some Senators may recall that for a period of 3 or 4 years—I would say 3 years—I spoke again and again on the floor of the Senate urging the United States to cease the bombing of North Vietnam. The purpose of the speeches I made was that I believed at the time that if the bombing would cease, the United States could enter into fruitful negotiations with the North Vietnamese and the Vietcong and reach a peaceful settlement of the war in Vietnam and Indochina. That is still my hope. The representatives did meet after President Johnson announced that the bombing of North Vietnam would stop. They met formally, but I do not believe any substantive negotiations ever took place, except those in which Dr. Kissinger engaged privately, at the direction of the President of the United States.

I visited our chief negotiators in Paris several times. I recall talking with former Ambassador Harriman and his associate, Ambassador Vance, and both told me there never had been any substantive negotiations at the time of their service.

I visited Ambassador Lodge when he was the head of our negotiators, and he told me that there never had been the slightest semblance of any negotiation by the North Vietnamese.

I visited Ambassador Bruce and he told me the same: That the meetings were useless; there never had been the slightest evidence on the part of the North Vietnamese and the Vietcong of a willingness to negotiate.

I talked many times with Ambassador Habib, who served under all these Ambassadors. He said there never had been a semblance of any evidence on the part of the North Vietnamese to negotiate with our representative in Paris.

I asked him about the American visitors who traveled often from the United States to Paris, some from our body and some from the other body, who had returned to report that the North Vietnamese were ready to negotiate. He told me that it was a tactic of the North Vietnamese—to give such information to those they talked with from the United States—but when the negotiators went back to the negotiating table, there was nothing—agreement at all on the part of the North Vietnamese.

I believe the statement that the offensive is related to the President's statement has no basis.

In fact, information indicates that for several months the North Vietnamese have been building up their forces in North Vietnam, above the DMZ, with large concentrations of infantry, supported by the most modern weapons, moving over roads which have been constructed over a period of months, to facilitate an offensive into South Vietnam. The fact that three separate entries were made, one over the DMZ, one from Laos into South Vietnam, and one from Cambodia into South Vietnam, engaging between 75,000 and 100,000 men, indicates, of course, that this offensive was planned for some time and that it was a coordinated and skillful military initiative.

Now, Mr. President, I have spoken of the efforts that the President made to negotiate through Dr. Kissinger. When the President was attacked over a period of months by those who said he was not attempting to negotiate, then the President felt that he had a duty to say publicly that there had been private negotiations and to disclose the points which had been made.

After that was done, a barrage of criticism was unleashed upon the President by some of those who had been calling for negotiation, and by others who had developed the policies which led us into this war.

Mr. President, my views on this war have not changed. As I said a few moments ago, I have probably spoken more than any other Senator in this body, constantly, over a period of years, advocating the cessation of bombing. I have offered, along with others, several amendments in the Senate to attempt to control the war or to prevent its expansion. Some were enacted and some were defeated. I have said, under all of the circumstances we have faced, that I thought the best policy for our country was to withdraw.

But I do want to make the point today, that we have to address ourselves to reality; namely, that it is the North Vietnamese who again have thrust a powerful force into South Vietnam. It has been said that there was an understanding they would not do this, and I believe it; but I will not argue it further. The point remains that they have thrust strong military forces into South Vietnam through three avenues within a week.

Mr. President, I do not like to dwell upon the past, for this war began a long time ago, 10 years ago, and was escalated steadily, but President Nixon has reversed the policies of the past administrations. There are those who oppose his program—and I have disagreed with it on some points; but the chief point is, that President Nixon has reversed the policies of past administrations and the Congress—policies which engaged us in hostilities and which escalated the war.

The issue today is that North Vietnamese military forces, perhaps 75,000 to 100,000 men, armed with modern tanks, with the latest modern self-propelling artillery and protected by Soviet surface-to-air missiles, trained by the Soviets and the Chinese, have invaded South Vietnam. It is a very serious situation, not only for South Vietnam, but for the safety of U.S. forces.

Most of us have served in the Armed Forces in various capacities, but with less modern equipment than is used today.

The Battle of the Bulge in World War II, in 1944, was not unlike what we are witnessing in South Vietnam today. It comes to my memory, although I was not in the battle. I was on its flank when a German force attempted to break through the Allied lines. If the North Vietnamese assault is not halted, it could move deeply south and endanger the American forces that remain in Vietnam.

So, for the protection of our forces—and I am not one who wants to see the bombing extended—but for the protection of our forces because a few weeks extension of the North Vietnam offensive could mean bringing them into grave danger. I believe that the President is authorized to do what he is doing.

I know that it is difficult in this political year to be calm, but I do believe that we can show restraint, that in the next 3 or 4 weeks, which may be the critical weeks, not alone for South Vietnam which has been attacked, but also for the safety of our own forces, I would hope that we would be very responsible in what we have to say, until we will know whether the assault will be wholly successful, and thus endanger our American forces, or will have been turned back.

Mr. McGEE. Mr. President, would the distinguished Senator from Kentucky care to yield?

Mr. COOPER. Yes, I am happy to yield to the Senator from Wyoming.

Mr. McGEE. Mr. President, the distinguished Senator from Kentucky is in a superb position to paint for us the needed reminder of the big picture that is present here, rather than the headline events from day to day. The Senator has ably reminded us that this North Vietnamese offensive did not happen this week or the week before, but that it was a cumulative sort of thing which we have to judge in much larger terms than the convenience of the day's excitement. The Senator has made a significant contribution by injecting this sense of perspective about the President's decision right now.

I would want to say, as a member of the opposition party from the administration, that I support the President in this move. I believe that it is very likely a necessary move on his part. But what is more important, I think, is that more and more of us should drop out of the business of trying to play Secretary of State or President of the United States.

One of the things our Founding Fathers learned the hard way, during the colonial period of our history, was the folly of having too many heads thinking they were running the show. It had nearly destroyed the 13 colonies by the time the Founding Fathers got together in convention and decided to draft a form of government that they hoped would guide the young new Nation for many years to come.

The one thing they stressed was the need for speaking with one voice in foreign affairs. Therefore, they reposed with the President of the United States that awesome responsibility. That is the way it was structured into the Constitution.

Again, I would wish that more of our people would review a little of our country's history. They do not have to listen to the rhetoric of Senators here, but let them read their own history and remind each other once again of the kind of reckless games we play every time some newly, self-appointed "Secretary of State" wants to run to Paris or to Hanoi to tell us how we should be doing things.

There are many ways in which it would be possible to do these things, but we cannot do them all at the same time without destroying ourselves.

That is why the President has that responsibility and that is why I think we should slow down.

Even though this is a political year—in fact, perhaps, because it is a political year—we should take this latest move by the North Veitnamese in much lower key than we are taking it at the present time.

I would have to say, on behalf of the President, that I cannot imagine a President up for reelection wanting to continue a war.

I cannot imagine a President who is contending for another term wanting somehow to play some Mickey Mouse game in which he might succeed in keeping the country involved in war. Before he is a candidate for reelection, he is the President of the United States of America. And he has to respond as President regardless of the consequences for his candidacy.

I would hope that this President, or any President who followed him, would continue to respond to that kind of demand. With this crisis we are going through in Vietnam, President Nixon has taken on grave risks in one political sense of the word. But I think it is the kind of risk that a man in the White House has to take as President.

I think the record is absolutely clear. I am wondering a little about so many of our own people who beat so hard over the head the many facets of the doubtful things that have to go into decisionmaking on Southeast Asia. None of it is easy. Most of it is 50–50. But no President has the luxury of saying, "We will do it half and half." It is either "yes or no; do it."

We ought to be more understanding and more sophisticated and a bit more restrained as individual constituents in this great country of ours toward this heavy, burdensome responsibility of a President of the United States.

Surely all of our recent history ought to give pause to those who are otherwise quick to condemn and criticize. I suppose that with regard to the Tet offensive many historians have already begun to write very eloquently—and indeed they have—and will submit for the history books that the Tet offensive was a very substantial military turnaround and that the other side, the North, Hanoi, was fractured almost irretrievably in that conflict, although one would never get that impression from our dialog here at home, because we had a lot of Monday morning quarterbacks and Saturday night presidents. Every man is his own president. That is a great luxury in a presidential year, because one does not have to take the consequences for what he says. But there is one man who has to.

It was Harry Truman who reminded us that "The buck stops here," at the desk of the President.

The President does not have the luxury of saying one thing one day and chaging it another day when circumstances change.

That is the reason that I want to echo what the distinguished Senator from Kentucky (Mr. COOPER) has said with regard to this matter. The very least we should do is to suspend our judgment, hold our reaction, and see how this is coming along.

We know a great deal about the events concerning the last year or the last several years of negotiations. We know that not only have we gone the last mile, but that we have also gone many miles and have attempted to lean over to try to find a basis for at least a detente, if not a peaceful settlement. And each time it has produced nothing.

It is so conspicuous now that the time is low profile. The last 3 or 4 or 5 months have been utilized by the other side to marshal new forces for another significant strike. Whether that strike is a tactical maneuver or a strategic one remains to be seen. However, I do not think that we have any reason or right to jump off halfcocked this week or the week ahead over what it means for sure.

I think that all we would do if we were to choose that kind of reckless conduct would be to jeopardize the chances of any meaningful American policy and leadership to try to effect a peaceful settlement somewhere along the line. We have almost, in a sense, become our worst enemy. And I think that it ill behooves us to aid and abet those who would hope that we might fail.

So, as a member of the other party, I submit my position for more restraint and for more understanding. And whatever happens with the 60-second popoffs about every new line that comes across the ticker tape in the cloakroom, that is not the way to run the store. And it sure as the devil is not the way to pilot a ship of state.

We ought to be more responsible.

Mr. GOLDWATER. Mr. President, will the Senator from Kentucky yield?

Mr. COOPER. Mr. President, I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I want to take this opportunity to express my great admiration for the Senator from Kentucky. We do not agree on a lot of things. We have disagreed on this war. He has spoken more often and longer on his personal belief that the war should end than has any other Member of this body.

I have expressed my belief. Our beliefs run contrary in that regard. However, a characteristic of the Senator from Kentucky has just emerged once again, a characteristic that I have known for all of the years that I have known him.

When it comes to the good of his country, his own personal feelings are submerged. I wish that we had more of the men on the floor right now who have spoken in a critical way of President Nixon so that they might have heard the eloquence with which the Senator from Kentucky expressed his hope and desire that we would reserve our judgment until the President has had an opportunity to exercise the full responsiiblity that is his by virtue of his being the President.

I congratulate the Senator from Kentucky and I tell him that his action is something to be proud of.

I would like to extend the same general feelings to my friend, the Senator from Wyoming, a Democrat. I am a Republican. I guess that the only thing we have in common is that we are from the West.

The Senator from Wyoming is a great student of history and a great student of war. He has expressed exactly what I tried to express on the floor this morning. Probably I used more violent language. However, I have been known to do that.

I was appalled when the Senator from Massachusetts spoke critically of the President's action. I can recall when his brother mounted the Cuban episode. I happened to be called back to duty at that time. There was not a single Member of this body that stood up to be critical of President Kennedy. Congress was united behind him. The country was behind him, even though there might have been some areas in which he could have been criticized.

I would hope that the admonitions of the Senator from Kentucky and the Senator from Wyoming will be paid heed by those colleagues of ours who are tempted to feel, as the Senator from Wyoming has said, that they are Monday morning quarterbacks or Saturday night Presidents. There is a great temptation to criticize the President. However, I see no other course he could have taken. He could have, of course, done as some people have advocated, and come home.

I suggest that that would have been the end of the United States as a world power. Had he not been willing to live up to the word of an agreement made by President Johnson in 1968 to stop the bombing above the DMZ, we probably would not be faced with this dilemma tonight. But we would be faced with the certain knowledge that our country's leaders had acted in a rather dishonest way.

As the Senator from Kentucky has stated, we have known of this buildup for months, and months, and months. It is not a small buildup. It is a buildup involving thousands and thousands of vehicles, the movement of many, many surface-to-air missiles down into the South, in complete violation of the word of the leaders of North Vietnam. Yet it was suggested this morning by the Senator from Massachusetts that we sit down to play poker with the bunch that probably has 60 cards in its deck and stole 15 of ours, and probably they have an ace up every sleeve and in every shoe; crooked dishonest people who have one desire, and that is to prevent freedom from being accomplished anyplace in Asia.

I hope we can be restrained, watch what goes on, and not be too critical of a President who is faced with a choice in a matter he had no part in making, but has a supreme part in solving.

WAR POWERS LEGISLATION—IN THE BEST INTERESTS OF THE NATION

Mr. SYMINGTON. Mr. President, no more solemn responsibility is given to the Congress than the constitutional duty to exercise its judgment in deciding whether or not this Nation is to engage in war.

We know also, however, that the Constitution invests the President, as Commander in Chief of the Armed Forces, with awesome responsibilities including the equally solemn task to take immediate action when the United States has been attacked, or the Armed Forces of the United States are threatened with an imminent threat of attack.

In recent times the procedures employed for the exercise of these responsibilities have become clouded to the point where many Americans, as well as Members of Congress, question whether the legislative branch of Government does in actuality function constitutionally in the exercise of the Nation's warmaking powers.

Regardless of whether the cause of the weakening of congressional authority in warmaking decisions has stemmed from an over-reaching of the executive branch or a failure of Congress to exercise its constitutional authority, my years in Government convince me that the tragic involvement of U.S. forces in Southeast Asia has in itself demonstrated the clear need to achieve greater clarity of the constitutional responsibilities of the President and the Congress.

To fulfill the intent of the framers of the Constitution and insure that the collective judgment of both the Congress and the President will apply in the exercise of the war powers is the worthy and well-stated purpose of this war powers legislation.

Speaking broadly, the bill sets out circumstances under which our Armed Forces, in the absence of a declaration of war, may be introduced in hostilities, or in situations where there is a threat of imminent hostilities.

The circumstances for such use include at least all of the following: First, to repeal an armed attack or to forestall an imminent threat of attack on the United States, and also on our Armed Forces located outside the country.

Second, to protect while evacuating U.S. citizens and nationals, either in foreign countries or on the high seas.

Third, in the absence of a declaration of war, utilization of the Armed Forces pursuant to specific statutory authorization.

When our military is employed under any of the foregoing circumstances, the procedures thereupon call on the President to inform the Congress promptly of what has occurred and what is anticipated.

The heart of the bill, however, could lie in those provisions which would require the Congress to exercise its judgment for the continued engagement of our Armed Forces within 30 days from the time those forces have been utilized without a declaration of war.

This legislation, drafted with care, is the product of not only thoughtful Members of the Senate. It also bears the imprint of the thinking of outstanding legal, constitutional, and historical scholars.

It would seek to achieve that desirable objective of meeting the need for all Americans to participate through their representatives in the making of that most vital of all governmental decisions while at the same time preserving the constitutional powers of the Chief Executive.

I believe this legislation to be in the best interests of the executive branch, the legislative branch and the people of this country; and therefore urge its passage by the Congress.

QUORUM CALL

Mr. McGEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. McGEE. Mr. President, I thought it appropriate to observe here this afternoon at this late hour on Friday, at the end of the week, that the State of Wyoming is well represented on the floor of the Senate, with both of its Senators being at the moment the only Members of this body present, and that the opportunity is a very tempting one to proceed with unanimous-consent legislation involving the West and the State of Wyoming. I am open to any suggestions, if they are in order, on how the Senate might proceed.

I would like to ask a parliamentary question. Is it possible to proceed without a written bill pending before this body?

The PRESIDING OFFICER (Mr. HANSEN). The Chair regrets to have to advise its distinguished colleague that legislation must be presented in writing.

Mr. McGEE. In that case I will withdraw my proposal and yield the floor to the distinguished majority whip of the Senate, the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the distinguished senior Senator from Wyoming.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Mississippi (Mr. EASTLAND), chairman of the Committee on the Judiciary, I make the following statement.

The following nomination has been referred to and is now pending before the Committee on the Judiciary:

Thomas A. Grace, Jr., of Louisiana, to be U.S. Marshal, Middle District of Louisiana, for the term of 4 years; new position created by Public Law 92-208, approved December 18, 1971.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, April 14, 1972, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOMINATION OF RICHARD KLEINDIENST TO BE ATTORNEY GENERAL

Mr. ROBERT C. BYRD. Mr. President, earlier today the Committee on the Judiciary adopted a motion which I made before that committee. I ask unanimous consent that the motion be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion, ordered to be printed in the RECORD, is as follows:

That, confining itself to the confirmation of Mr. Kleindienst and matters bearing directly thereon, the Committee continue its consideration thereon, not past Thursday, April 20, during which time specific witnesses called by the Committee, having testimony pertinent thereto, be heard; provided further that not later than Thursday, April 27, the Committee submit to the Majority Leader its written advisory report concerning the nomination.

Mr. ROBERT C. BYRD. Mr. President, my motion speaks for itself. It was adopted by a vote of 8 to 7, with one Member being absent. May I state for the record that with respect to the nomination of Mr. Kleindienst, I supported the reporting of that nomination originally by the committee to the Senate. I am, at this time, with an open mind on the nomination. I do feel, however, that the nominee deserves to have his day in court, so to speak, which he requested. He requested that the committee conduct further hearings on his nomination with respect to certain questions which had publicly arisen. He is also entitled to a final verdict. By the same token, I think that those Senators who wish still to hear legitimate witnesses with testimony pertinent to, and bearing upon, the nomination of Mr. Kleindienst, should be given a further opportunity within a reasonable period of time, to have such witnesses appear before the committee.

I believe that a reasonable amount of additional time should be allowed for the hearing of such further testimony as is germane to the nomination, but, beyond that, once such testimony has been heard, I think, as I have said, that the nominee is justified in expecting, and is entitled to, a verdict rendered by the full Senate, the nomination having already been reported to the Senate.

It is for these reasons that I offered the motion yesterday which was adopted by the Judiciary Committee today. Additional witnesses with pertinent testimony to the nomination should be heard, but, at the same time, there should be a cutoff date at some point and the hearings brought to an end. The committee should then, after a reasonable time, submit an advisory report to the majority leader so that the majority leader could be guided thereby, and if, in his judgment, the time had then come to call up the nomination for full Senate debate, he could do so.

I want to reiterate that I have an open mind on the nomination. I do not know today how I will vote on the nomination when it comes to a vote before the Senate. Incidentally, I am also of the opinion that those matters which do not have a bearing on the confirmation of the nominee should not be delved into at this particular point, but, without prejudice to the future consideration of such matters, I think that the committee certainly may want to go into them once the nomination has been disposed of one way or another. I am not suggesting that the committee close the door, once and for all, on any further examination of activities involving the ITT or other companies. I am saying that it ought to separate those matters—except where they are pertinent to the pending nomination—and come back to them after the nomination is disposed of.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows: The Senate will convene at 11 o'clock a.m. Immediately following the recognition of the two leaders under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business, the so-called war powers bill.

On Monday there is a time limitation on the pending motion by the distinguished Senator from Nebraska (Mr. HRUSKA)—the motion to refer the war powers bill to the Committee on the Judiciary. By unanimous consent, that motion can be set aside temporarily for the purpose of calling up amendments to the war powers bill, or it can be set aside temporarily by unanimous consent for consideration of other business. So rollcall votes on Monday are not ruled out.

On Tuesday a rollcall vote will occur at 2 p.m. on the motion by the distinguished Senator from Nebraska (Mr. HRUSKA) to refer the bill to the Judiciary Committee.

ADJOURNMENT UNTIL MONDAY, APRIL 10, 1972, AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 o'clock a.m. on Monday next.

The motion was agreed to; and at 3:31 p.m. the Senate adjourned until Monday, April 10, 1972, at 11 a.m.

EXTENSIONS OF REMARKS

DRUG HEARINGS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EILBERG. Mr. Speaker, I recently held a full-day public hearing in the Fourth Congressional District of Pennsylvania, which I represent, on the problem of drug abuse.

The hearing was held to determine the scope of the problem in the district and what is being done to combat it.

A transcript of the hearing and my recommendations for action will be presented to subcommittee four of the Judiciary Committee, which is currently investigating the drug problem on a national basis.

Mr. Speaker, before I held the hearing it would have been easy to believe that my district did not have a serious drug problem. The area which I represent is semisuburban although it is wholly within the boundaries of the city of Philadelphia. It consists mainly of single-family homes; there are a great many active civic organizations; citizen participation in government is above average; and the children of the area constantly lead the city in scholastic achievement.

Unfortunately, there is a serious drug problem in the area. The 41 witnesses who testified or presented written statements made it very clear that drug abuse is rapidly increasing among our young people.

The former addicts who testified along with police and spokesmen for drug treatment facilities and other agencies stated that almost every kind of drug is easily available to anyone willing to pay the price.

The 41 persons who testified also made it very clear that drug addicts in my district and the city in general have a much harder time trying to get off drugs than getting started or continuing their habits.

The witnesses painted a tragic picture of inadequate facilities for all types of treatment, from initial detoxification through psychiatric counseling and job placement.

What programs there are available are generally considered to be excellent, but even the administrators and directors of these facilities admit that they cannot even come close to meeting the demand for services.

In the area of prevention the same bleak story was told. Until now most drug education programs in the schools have been woefully simplistic and naive. In many cases the students have known more than the teachers.

We also learned that most of the adults in the district do not understand that there is a problem or they close their eyes to it, until, tragically, it comes right into their homes.

There must be an effort, Mr. Speaker, aimed at the adults in this country, to open their eyes to the fact that drug addiction is a threat to every family, no matter where they live or their level of income.

One of the positive facts that we learned, however, also has to do with family life. All of the young people who testified, including the former addicts and those currently under treatment, stated without qualification that if they had had a strong sympathetic family relationship they would not have become dependent on drugs.

They all said that parents who showed real active interest in their children—by this I do not mean giving them money and cars and other material things—and gave them love and respect were putting up the best defense against drug abuse.

Youngsters who can go to their parents with a problem and talk frankly to them and get understanding and help in return have no need to bury their troubles with a needle or a pill.

The record of this hearing speaks for itself. I believe it is an accurate picture of almost every community in this country and at this time I enter it into the RECORD.

DRUG HEARINGS HELD JANUARY 22, 1972, AT HOLY FAMILY COLLEGE, PHILADELPHIA, PA.

Present: Joshua Eilberg, Esq., Member Judiciary Committee, U.S. House of Representatives, Chairman.

Berle Schiller, Esq., Lila Stunder, Rev. Peter Quinn, and Dr. Ellis Lindenbaum, members.

Mr. EILBERG. Good morning. My thanks to the Northeast Philadelphia Chamber of Commerce and the Northeast Health and Welfare Council for their help in organizing and publicizing this hearing.

Drug addiction is perhaps the number one domestic problem facing this country today. It is destroying the social fabric of the nation, especially in the big cities.

The number of burglaries, robberies, muggings, and other crimes of violence have been rising at an ever increasing rate.

Most authorities blame this increase on the rising number of persons who must steal to support their needs for drugs.

As we all know, many areas of our cities are becoming uninhabitable. Houses and apartments are being converted into fortresses to keep out the thieves.

Here in the Northeast the problem is not as bad as it is in other areas of the city but it is obviously getting worse.

Stories and rumors are constantly circulating about the availability and use of drugs in the schools and on the streets.

These stories and rumors are part of the problem.

Some are exaggerated far beyond reality by persons who have no idea of the true picture.

Others minimize the problem or simply ignore it. Unfortunately, these statements are often made by officials who are trying to hide the truth.

For these reasons it has become very difficult to get factual information about the size and scope of the problem here in Northeast Philadelphia, the city in general, the state or even from the whole country.

A Congressional committee, sub-committee number four of the House Judiciary Committee—I am a member of the House Judiciary Committee—is now trying to get accurate figures about drugs on a national level.

These statistics are needed so adequate amounts of money can be appropriate to pay for the facilities needed to fight this menace.

The information we get here today at Holy Family College will be turned over to the committee.

The Committee is fully aware of what we are doing here today. The Committee also needs to know how many treatment and rehabilitation facilities are available for those persons who want and need help.

The facts are also needed about the capacity of the centers, their methods and effectiveness.

This past summer I visited some drug treatment facilities in Europe, including a London clinic where heroin is dispensed upon request of addicts without charge.

My report to the Committee showed what is happening elsewhere in Europe.

Now we are finding out what we are doing here and how much more needs to be done.

We are here to get information from you about the problem in Northeast Philadelphia.

Most of you live or work in the area or nearby and you are here because you care about what is happening in your neighborhood. Hopefully in a short time I will be able to report back to you that meaningful legislation has been passed by Congress and implemented by the administration.

Now, I would like to introduce the other members of the panel. Three of them represent treatment and rehabilitation centers in the Northeast, and it is Reverend Peter Quinn of "The Bridge", Mrs. Lila Stunder of "The Road", Doctor Ellis Lindenbaum of "RAID", Paul Schiller, director of the State Narcotics Strike Force and a resident of the Northeast.

There are a few rules I would like the speakers to follow so the hearing can move as smoothly as possible. When your name is called please come to the podium over here where the microphone is or to the front row of seats which has been reserved for those persons waiting to speak.

Before you speak, please give us your full name, address and group affiliation so the record will be complete.

Because we have a long list of persons who wish to speak, we have limited the speaking time to five minutes.

If you wish to enter a longer statement, please give a copy to the stenographer and it will be entered in the record.

After each five minute statement I will invite the panel members to ask any pertinent questions that they think appropriate and hopefully we will try to keep the time down so that we give a maximum number of people an opportunity to speak.

I am sure that there will be people coming all day. We have several coming in the afternoon who could not come in the morning.

Now, at this time just for a few words from our panel members with respect to the extent of the problem in the Northeast and any ideas in particular that they might have with regard to programs or facilities that are present or are needed and with some reference, I hope eventually, as far as the entire program is concernd as to what we might do better in Washington and I would like to present, just in the order that they are sitting here, first, the representative of Governor Shapp, Berle Schiller.

Mr. SCHILLER. Thank you, Congressman. While I am mainly concerned with the problem of law enforcement, the Strike Force on Narcotics since July has arrested one hundred and fifty major wholesalers and dealers in the Commonwealth.

I come here to say that law enforcement is not the answer to the drug problem and I have accepted the invitation to participate in this panel because it is my feeling that while law enforcement can stem the supply of heroin and hard narcotics into the Northeast and other parts of the state, the real answer will have to come from education and rehabilitation services and I hope to that end this panel and this committee that the Congressman is working on will be successful.

Mr. EILBERG. Thank you, Berle. Secondly one of the hardest working laymen in the field is the young lady to my left who has been most active with "The Road," Mrs. Lila Stunder.

Mrs. STUNDER. Thank you very much. "The Road" has been in existence I guess about two years now and our main objective is to educate the community as to what is going on and I don't know really how successful we have been because it seems that we go from month to month financially.

We are begging constantly. We also have treatment facilities there for what I would call the pre-drug abuser if I could use the term, anyone who is really hard core has to be referred out.

We cannot handle anyone like that and I am delighted to see so many interested people here today to see what we can do up here, because I feel it is getting completely out of hand and I am very disturbed about it as a mother of grown boys.

Mr. EILBERG. Thank you, Lila, and next is a young man who has certainly captured the imagination of the Northeast and is paving new ways and has worked very hard in connection with the program that he is spending all his time with.

From "The Bridge," Reverend Peter Quinn.

Reverend QUINN. Thank you, Congressman. I am privileged to participate in this panel this morning.

I would like to address myself very briefly to three specific areas, areas of current need in answering the problem.

This is in terms of professional treatment services available and let us, if you will, go from the last need in point of time for the individual and for the addicted or drug dependent individual, to the first need in terms of time.

The last need before long term resocialization or rehabilitation is detoxification.

Detoxification services are wanting in great amounts in the Northeast and in the City of Philadelphia.

Everyone in treatment is so deeply aware of this and I would like to speak to this and propose regional detoxification centers for the City of Philadelphia and the second level, if you will, in order of time, I would like to speak about treatment itself and methods of treatment.

I am involved in a rehumanizing community called The Bridge.

It is a personal human answer to what I consider a personal human problem. If we continue to treat drug abuse as a physical health problem only and do not treat drug abuse as a mental health problem combined with a physical health problem, I think we will miss helping the real person, the addicted or drug addicted person.

Therefore, programs should reflect the real human problem of drug abuse and encompass the entire person in the treatment of that person.

Thirdly, I do believe that the City of Philadelphia has within its power the force to make a significant reapproach and, if you will, to change the tide in the amount of drug abuse deaths and drug related deaths, in the city.

I think we have it in our power, the people of Philadelphia, to do this.

How, therefore, can we, if we are convinced we have an epidemic on our hands, do something significant about the problem?

I would like to propose a program which would go to the heart of the matter. The heart of the matter is disintegrated family life, family problems, personal problems, alcoholism and other things that are affecting parent-child relationships.

In this city we have nine health centers.

We have twelve community mental health catchment areas all of which have more than base service unit services.

If these services are utilized and there is no law preventing utilization of mental health workers from actually working in community health offices and community health centers, with very little additional money, very little additional money, a program can be implemented in the streets of Philadelphia which will perhaps provide a real if partial answer to the needs of the people.

The people themselves, all of us, have within our power the resources to do something significant about this problem. By grouping it the way we did for so many others to meet the needs of so many other problem areas, by grouping by block and by area what is to prevent us therefore from utilizing the staff workers of mental health and community centers in a well publicized streeet program of walk in, family response, to the needs of the family.

Church and synagogue should be involved by providing the halls, the assembly halls and the local and regional areas for people of good will to meet.

They have the space and can operate. It should be and has to be a bipartisan approach and, if you will, ward leaders themselves, Republican and Democratic, walking hand in hand, can do significant things to help solve the need by themselves publicizing and acting as the leaders to the people in their blocks and areas.

It is a program that doesn't cost an awful lot of money because it is utilizing the resources we already have, but it is a program that puts the onus on people to share their real self, and I really believe that this is the only way we really can put a significant dent in our drug abuse problem in Philadelphia.

Mr. EILBERG. Thank you, Father Quinn. Our next person is one that many of us have heard about who is the director of clinic located in the Lower Northeast and I am sure that all of us will be looking forward with considerable interest to what Doctor Ellis Lindenbaum has to say.

Dr. LINDENBAUM. I represent a clinical organization known as Raid. This is a methadone program. There has been a lot of criticism about methadone, all of which is not valid but I will not defend it, other than to say until we have a better tool to put the hard core addict on his feet we have to use it.

Until such time as we can get the hard core addict off the street and treated we will have addiction problems in this city and all the cities in this country.

A hard core addict must sell other drugs to younger non-addicted individuals to support his own habit and the habits are getting more expensive because of the shortage of drugs.

Therefore the sales must increase. New drugs are being introduced to the young in increasing quantities. Barbiturates which were formerly a minor problem are to become a major problem.

This is a subtle, slow, change taking place right now and inside of one year this has gone from a minor problem to a moderate problem and as the shortage increases in heroin it is going to become a major problem.

Treatment of barbiturates addiction is more difficult in the long run than the heroin addiction, the only difference being that the present barbiturates are cheaper. Our job is to get off the street the man who has to steal or push or sell or wholesale or deal to other people and to "give wings"—that is the expression they use, to "give wings" to new addicts to support their habit.

Until you get the hard core element treated and off the street, you are going to have your basic problem in areas where you cannot reach the younger person in education.

Basically, Father Quinn's concept in reaching the young and the family problem through education is the most valid prevention of this problem.

But, again, for the time being the estimates in this city have run between ten and twenty thousand hard core addicts.

These people are a menace and we must treat them and treat them vigorously and must get their habits supported free. No matter what the cost to the state the amount of money being spent for enforcement and things other than treatment cost us more than what the addicts steal and cost us each day in insurance costs, law enforcement costs and other costs which are not involved in treatment:

Treatment is the cheapest thing our government can buy for the addict. Enforcement, punishment and research are expensive. Treatment and prevention are cheap.

Mr. EILBERG. Thank you very much, Doctor Lindenbaum.

Our first presentation today will be made by a co-sponsor of this all day hearing.

We have noticed in the newspapers that the Northeast Health and Welfare Council has been continuously out front in trying to educate the public and reach the public and I think part of the problem is unless we are personally and directly involved we tend to turn our backs on this epidemic problem.

It is my pleasure to introduce the director of the Northeast Health and Welfare Council and in so doing I wish to thank him and the organization for its cooperation.

Mr. Bernard Plawsky.

Mr. PLAWSKY. It is our pleasure to be able to co-sponsor this hearing and to get something moving into our community.

Congressman, members of the panel, a report by the Medical Examiner's office indicates ten deaths from drug use in the Northeast community in 1971. How many more, possibly, went unreported?

A survey indicates that twenty-one percent of young people in grade twelve throughout the Commonwealth are using drugs. What implication for our community?

The young people in our community, it is reported, are making greater use of heroin and have gone from "uppers" to "downers". What are the reasons for the change?

What is implied here, and not really new to us, is the need for basic information. We do not possess the body of knowledge necessary to plan future courses of action. What is the picture in terms of youngsters using drugs? What kinds of drugs are being used? How are these drugs secured? Where do drug users go for treatment? What resources exist for preventive programs? Who are the pushers, et cetera?

The study must be undertaken now. It needs to be completed within the next three to five months. We must immediately convert this information into a plan for the community.

We must implement the plan as soon as it is off the drawing board.

To achieve this, it will call for flexibility on the part of governmental agencies so that routine bureaucratic procedures are bypassed and a meaningful, "now," approach can be instituted.

It will also call for greater involvement from the local community to set the machinery in motion.

Monies are available for securing information. The Northeast Health and Welfare Council stands ready to assume the responsibility.

You, as our representative, Mr. Eilberg, can help speed the process.

The very next step is this community's acceptance of the problem and not close its eyes to the presence of drugs in the area.

If this community of five hundred thousand can accept the truth, we can move to correct the situation to a much larger extent than is possible today.

I might add I think this represents not condemning the community in terms of their interest, but the fact that they are not motivated to move out, to come out, to take part, to really give of themselves. This is a side comment.

It means for us an honest and open appraisal on the part of the schools, police, agencies, elected officials, families and individuals who, unfortunately, get bogged down with images rather than rally around the ways in which help can be provided.

Accepting the truth will also make us aware of the fact that drug usage is a symptom of deeper problems in our society.

We tend to speak glibly of drugs being the result of poverty and racism.

We have discovered that this is no longer the case as drugs have infiltrated the more affluent communities.

We will need to be open to a more intensive look at our society and the ways in which people are impacted.

For example, does a young boy at the age of seven or eight have to be worried about dying in war when he reaches the age of eighteen or nineteen.

Beyond poverty and discrimination, what is happening to the family, the basic core structure of our society and particularly the relationships between parent and child?

What of the uncertainties about employment? Do people have to be dependent on benevolent government and as a result, perhaps, dependent upon other forms for satisfaction?

What of the pressures to live with an inadequate income? Do people have to struggle to keep up with a life-style perpetrated upon them by the daily pronouncements to possess more and more?

What of the instability of the times? Can we end the industrial slave system which tears families apart and has made us civilized nomads?

How do we feel with the stresses on achieving? How is it possible that a city of this size can contribute no more than a penny to educating our young? Our way of life needs to be thoroughly investigated.

We need to look at a variety of practices and interests. The tendency of the medical profession to prescribe for immediate relief, the practices of the drug industry to serve profit motives, the agents who benefit most from the sale of drugs.

Last, but far from least, we need to look to see how we can prevent use of drugs and how existing services might best serve to achieve this without being placed in the position of constantly having to compete for funds or for people to be uncertain as to whether or not help exists.

We submit the following recommendations as only first-aid treatment: 1. Establish a single unit to coordinate the activities of all those involved in the drug problem, schools, police, courts, agencies and institutions. To coordinate and direct activity.

2. Provide funding for existing groups such as The Bridge, The Road, et cetera, who are now doing a job in this area.

Let us help them provide service rather than spend precious time in seeking funds to continue being operational.

3. Develop a centralized data bank of those individuals requiring help and the resources available for help.

4. Remove the pushers from the community through a faster judicial process with mandatory sentences where guilt has been determined, recognizing that a more equitable judicial system needs to be developed and greater rehabilitative services provided.

5. Place pressure on the sources from which drugs are secured be they of foreign or local origin.

In all candor, we submit that we do not have the problem fully in focus. We do not possess the solutions. We know we have an awesome task before us.

The Northeast Health and Welfare Council is ready at this moment to set the day, time and place to meet with you and set in motion the job of securing the information, developing the plan and implementing the program.

I would just like to make one personal comment which does not reflect the Health and Welfare Council, that unless we really undertake to take a look at our society, to deal with the real issues and problems, I would suggest then that Congress recommend funds for the purpose of studying and researching a drug society which may become our new life style. Thank you.

Mr. EILBERG. Thank you. Are there any questions from the panel?

Mrs. STUNDER. I would just like to add a little something to Bernie's statement. I want to thank you for the group you started up on drug use and also there is no one in the Northeast or almost in the City of Philadelphia where you can get immediate treatment when someone has a problem.

I have first-hand knowledge of this. Usually when a kid runs into a problem it is 12:00 and 1:00 o'clock at night and most often on a Friday, Saturday night, you know, and this is the big night.

I have sat in hospitals and made phone calls and have had no help at all here in the community or anywhere in the City of Philadelphia, so we say why are kids abusing drugs, but I think they are turning around and saying: "We are human. We need you in this grown up community in the great, big City of Philadelphia."

Now, he has a real problem at hand and the mind is shattered at this point and there is no place, and I tell you no place to go to get this help.

You can sit there six, seven and eight hours and I have done that and made a hundred phone calls on one Saturday night and have had no help at all.

That is the situation today.

Mr. PLAWSKY. Yes, Lila, and we have to look at the fact that many of our agencies and institutions operate on a 9:00 to 5:00 basis and come the week end everybody is away. Yes, absolutely.

Mr. EILBERG. Thank you very much. Certainly one of the best established institutions and an institution that has survived and has done a good job over the years is the Northeast Philadelphia Chamber of Commerce and we were very fortunate to have them as a co-sponsor of this public hearing and I would like to introduce for a bow the new president of the Northeast Chamber and wish him luck and offer our cooperation, Mr. Charles Yust. Will you stand up, please?

(Mr. Yust rises.)

Mr. EILBERG. The immediate past president and member of the board is with us and I am going to ask him to step up to the microphone for a few words. Our good friend, Mr. Robert McNulty.

Mr. MCNULTY. Thank you, Josh. It is a pleasure for the Northeast Chamber of Commerce to once again join with you on this particular seminar or hearing because we know it will be successful with you in charge of it.

We, of the Northeast Chamber, have been with the Congressman on other seminars and I know whereof I speak, because they have all been successful.

The business community is very much interested in the drug problem and its various facets.

1. Quite a few of our businessmen do live in the area and they are concerned about their children, especially in the primary grades. Some of the businessmen have told me of youngsters in the sixth, seventh, eighth grades, who are now on drugs.

They are very much interested in their employees and particularly their businesses.

Their businesses, because many businesses are subject to thefts.

They are scared in certain areas of stealing. This is something I hope we can eliminate because if business should die, then where are you going to get the money for your drug treatment programs.

Anything we can do to help this program we have a magazine which we can use. Once again we will be happy to do anything we can.

Mr. EILBERG. Thank you. Are there any comments from the panel?

(No answer.)

Mr. EILBERG. Thank you, Bob.

In the Northeast we have the major institution having to do with the mentally ill. For many years I have been very much interested in its activities. I remember when Byberry was regarded as a snake pit and hell hole. Well, a lot of things happened, among them we secured the services of a wonderful psychiatrist, an international figure, Doctor Daniel Blain, who helped move along and helped eradicate that image.

He had a very bright and able assistant and when it came time for Doctor Blain to retire or to go into a modified role, it was only natural that his assistant should step into his shoes and continue the very fine work which Doctor Blain worked on and our next speaker is Doctor Franklin Clark.

Dr. Clark.

Dr. CLARK. I want to thank you all very much and I think we here in the Northeast ought to thank you for your concern and your consideration and your interest in this problem, Congressman Eilberg.

We are deeply appreciative of this. I should state, I guess, for the record that I am currently superintendent of the Philadelphia State Hospital.

I do not have a formal presentation at this point and would welcome questions. I would consider myself probably an unexpert expert.

I am not intimately involved in the drug problem as such and because of this this presents both advantages and disadvantages.

I have perhaps an unique perspective. I might state that the Philadelphia State Hospital has surprisingly little call from the community for help with drugs.

I can recall from personal knowledge one girl's high school calling and perhaps two or three individuals.

We also have surprisingly few patients coming in with a major drug problem. I am not certain of all the reasons for this, whether the community mental health centers are doing at least an adequate job, that people with drug problems do not come to us, or perhaps that the community is sufficiently sophisticated enough that they are not falling back on the State Hospital to provide answers to a major problem today.

I think we at the hospital have many questions and many mixed feelings about our role in the drug situation.

I am terribly frightened of society setting up a warehousing operation for drug addicts as it has in the past for the mentally ill.

We have up until recently done an extremely poor job in treatment.

In fact, I think the State Hospitals were essentially set up not to treat the patients who came in, but to treat the anxiety of the community in which the patient originally resided.

When that patient was removed the anxiety subsided and once again the State Hospital had been successful.

We have many, many mixed feelings. I also have many questions and doubts about a major leadership role for psychiatrists in the drug program.

I have many thoughts that perhaps this ought to be taken pretty much out of our hands entirely. Whether this is not much more of a social problem as some of our previous speakers have mentioned, rather than determining the mental illness.

We as psychiatrists are generally disease oriented, our sickness models, our training basically is in one to one therapy. It is perhaps very short in our basic training with groups, group dynamics, society, cultures and so forth.

What I am saying in effect is that we have a limited role.

I find all too often both public and governmental agencies ready to put problems that they don't know what else to do with into the hands of psychiatrists.

Perhaps we are the twentieth century witches. We still do not have this kind of magical power.

I would perhaps much rather see leadership in the hands of sociologists, cultural anthropologists, economists, Madison Avenue types and educators than I would in the hands of psychiatrists.

I think if I stimulated questions that I will stop here.

Mr. EILBERG. Doctor, one question comes to mind as a result of Mrs. Stunder's comment a few moments ago. She is in a walk in facility and not scientifically trained although absolutely dedicated to the subject and cause we are here about today and she reported and she has reported to me that sometimes there is just no place to call with an urgent problem.

I was wondering whether the Philadelphia State Hospital has a telephone number that is available or anyone on duty that might be available.

That would be one question that I would have.

Dr. CLARK. If I may answer that, in essence we do not provide emergency service deliberately so.

As a result of the new Mental Health, Mental Retardation Act that came out in 1966, the thrust of treatment moved from the State Hospital which often times was the only treatment available, into the community, with Federal, local, State and community funding for the community activity.

We have moved from State Hospitals into communities, I think, very deliberately.

Part of this was as a result of our experiences in World War II where we found the further behind the front lines we moved our psychiatric battle casualties the less chance we ever had of returning them to battle.

In essence, if we moved that casualty back to the United States for treatment, this far from the lines, he never returned to battle again.

I see the State Hospital system as back to the United States. I firmly believe in the community mental health movement. I think the treatment ought to be where it is at, out in the community, readily available, near the home.

Our concern is in the past that if we begin this kind of service, the community does that much less.

We have seen this repeated, shall we say, in the care of the aged.

The problem was not dealt with so long as there was a State Hospital in the vicinity to place the aged.

I do not want to see this kind of repetition. I strongly support the community mental health centers, we'll work with them, but I really feel it ought to start there.

Mr. EILBERG. Another question, Doctor, and then I will turn it over to other members of the panel.

Looking around the Northeast and this is my primary concern, looking at programs, looking at facilities, how would you assess them and when I say that, I am thinking in terms of drug abuse educational programs at the high school, maybe facilities like The Bridge and The Road and Doctor Lindenbaum's clinic and would you give your objective view or assessment so that we may be guided further?

Dr. CLARK. I am afraid that I have more questions than I have answers.

I think there is no question but a sheer dearth of facilities in this area. These are of concern to all of us but again we must get to the question of what kind of facilities.

Are we talking about facilities for prevention or are we talking about detoxification centers or are we talking about emergency facilities? Are we talking about long term rehabilitation facilities?

I don't think we have enough of any of these.

Your mention of the self help groups brings to mind my own personal feeling.

I have seen nothing really, any orthodox medicine that has been successful. The methadone program, I think, has been successful within the limited goals but this does not reduce an addict away from his habit.

My own feeling would be to put my money with those groups who have been most successful to date and this is not an organized orthodox medicine but it is in the self help groups. I concede that should the situation arrive that we get into this problem of drugs at the State Hospital my initial thrust very likely would be in the direction of supporting a self help group to run its own program on our grounds.

Mr. EILBERG. Thank you, Doctor. Are there any other questions?

Mr. SCHILLER. Doctor Clark, you indicated that we ought to move away from the psychiatrist as being the person in charge of these programs.

In all cases I wonder whether that is a good idea since the latest statistics from Doctor Chambers in New York was that there was a significant proportion of women who are on amphetamine type pills and barbiturates and I wonder whether in that type of context these type of women who are married and for all reason of frustration, loneliness, et cetera—maybe the psysiciatrist has a role in that kind of context.

Dr. CLARK. Yes. I did not mean to imply that psychiatry does not have a role at all in this.

On the other hand an unhappy woman is not necessarily a sick woman.

Most of us have periods of time of unhappiness. It is reality oriented. It is an appropriate motion, perhaps, for the time and setting in which we find ourselves, but another sad fact is that these women are not going to reach out for care and psychiatry generally has not been successful with those individuals who do not wish or will not participate in their own treatment program.

Unfortunate as this may be it is a sad fact of life.

My thrust, perhaps my over statement has been to the effect that throwing this problem to a group of psychiatrists is a cruel hoax and delusion.

It is offering kind of a false hope that I don't think we have been able to come up with yet.

I think some other disciplines, perhaps, would probably provide more relevant and pertinent answers than we have to the present time, but I think it unduly raises the kind of hope for which we do not have answers.

Mr. EILBERG. Any other questions?

Dr. LINDENBAUM. Yes. Would you agree, Doctor, that a certain number of addicts are psychotic, a large number?

Dr. CLARK. No, I would not agree that a large number of them are psychotic.

I think there are some. I do not know the figures on this.

I do feel that their psychosis requires treatment. I see many of these individuals using drugs, and before drug became popular they used alcohol, and they were known as the town drunk until five or ten years later they had a psychotic breakdown and then they were called alcoholic hallucinosis or paranoic.

Today we know this individual was spending all those years on his way to becoming psychotic and perhaps even successfully warded off the psychosis with the tranquilizer of that time, alcohol.

I do not see this as a drug problem. I see this as a psychiatric problem of which the drugs are simply a symptom.

Dr. LINDENBAUM. That is what I am getting to now. The problem arises at times in the methadone program when you have a crisis and you have a true psychotic, an addict who breaks through to the point where he becomes suicidal and he has done one, two, three, any number of over doses already and your psychiatric personnel in your clinic, psychologists and psychiatrists find that he is about to do it again.

At this point, I feel he should be institutionalized with therapy and sentenced with the state.

Dr. CLARK. I think absolutely not institutionalization. We know institutionalization sets up its own additional dependencies and breeds further illness and dependency.

I believe that if he needs bed care it should be provided in short term situations to meet the crisis in the community. We have study after study which tell that anybody who comes into an institution such as the State Hospital greatly enhances his chances of again having to return and not because of his illness, but because of the fact that he was there once.

I would wish to exclude this possibility.

Reverend QUINN. In the situation where there is perhaps a methadrine or some other form of drug induced psychosis and something other than minimal day care in terms—minimal in residence care would be indicated, something less—something more than sixty days, I have had experience with methadrine induced psychosis and the young lady in question was hospitalized for seven months in a private psychiatric institution at a cost of one hundred and two dollars a day.

I don't think—we have a real problem and the problem is both economic and medical and I don't think that the average American can withstand that kind of expensive care.

There aren't any programs, that is insurance programs, that I am aware of that will carry you for that amount of time.

In addition there is a reality situation and my question is what do you do for the client who is in that situation?

Can we provide some sort of interim, something between the mental health unit sixty day care and long term kind of semi-permanent institutionalization?

Dr. CLARK. Yes. I am not familiar with the metabolic life of methadrine. I do not know how long this stays in the body and how long the methadrine itself persists in aggravating the psychosis. If methadrine is relatively quickly metabolized, I don't know of anyone who ought to be sufficient psychotic for seven months to need this kind of care.

Again there are many economics and psychosis in many ways is an economic kind of illness. I don't want to go into detail as to that, but I don't know of anyone who needs seven months of care in an institution.

A great deal of this depends on, I feel, the psychiatrist, the expectation, the kind of treatment given in the institution, the degree of return to normalcy that he demands before he releases the patient and so forth.

It is simply not my experience today at the State Hospital that anyone need to retain this degree of illness, to demand institutionalization.

Mr. EILBERG. Thank you very much, Doctor.

Dr. CLARK. You are quite welcome.

Mr. EILBERG. Ladies and gentlemen, I personally do not know certainly everyone in the audience, everyone equally well, among the speakers today, and if I don't provide complete introductions I hope the speakers will understand.

The next speaker is the Eastern Pennsylvania Psychiatric Institute, Doctor John C. Ball.

Dr. BALL. I am John Ball from the Addiction Sciences Center at Temple University and I would like to speak briefly on the present drug abuse problem in Philadelphia with recommendations for 1972.

The present drug problem in Philadelphia: Though not unique among United States cities in the extent or growth of its drug problem, Philadelphia has the dubious distinction of being numbered among those urban areas in which the problem is greatest in the United States.

In 1970, the Federal Bureau of Narcotics and Dangerous Drugs ranked Philadelphia eighth among United States cities in the number of known drug addicts, mostly heroin addicts.

Philadelphia has less than one-fifth of Pennsylvania's total population but more more than half of the state's addicts.

In 1969 the Philadelphia Police made nearly three thousand nine hundred drug arrests and in 1970 that figure was over sixty-six hundred. There were two hundred and seventy drug related deaths in Philadelphia last year, 1971, and that was an increase of forty-five percent over the previous year.

But these figures only hint at the scope of the problem.

The figures based on medical or police reports are inadequate because they don't include non-arrested, untreated addicts and they refer primarily to heroin addicts, thus grossly underestimating persons dependent upon non-narcotic drugs such as barbiturates and amphetamines.

Of the two million people in Philadelphia approximately fifteen to twenty thousand are heroin addicts and thirty to forty thousand are frequent abusers of other dangerous drugs.

In 1970, the Pennsylvania Health Department conducted a study of seven thousand junior and senior high school students in nine counties of the Commonwealth and found that eleven percent of these students are regular drug users. This means that one hundred and twenty-three thousand youngsters in the state are using illicit drugs and all socioeconomics groups are represented.

What is being done? Drug abuse education as it currently exists is notably ineffective. Frequently the students know more about drugs than the teacher does. The very fact that drug abuse is most common among physicians and medical students, more than the general population clearly indicates that technical knowledge does not preclude drug use and may in fact predispose an individual toward it.

The Pennsylvania Health Department's study found that the longer students are in school the more positive their attitudes toward drugs become.

Part two, and this is just a brief over view of our studies in Philadelphia and in the State of Pennsylvania.

Treatment programs in Philadelphia at the present time: Though Philadelphia has a variety of treatment programs it lacks a comprehensive citywide approach to the problem. There are fourteen specialized drug treatment facilities currently treating over two thousand addicts but only one program is in the Northeast and you may add to this on the basis of what is down here today.

In addition to an imbalance and geographic distribution, there are enormous gaps in the pattern of services. There is a disproportionate lack of detoxification facilities in comparison with programs for treatment after detoxification and you have already referred to this, Reverend Quinn.

To our knowledge there are only nineteen beds in all of Philadelphia specifically allocated for this purpose of detoxification. All these are for males, while in our State survey and we are visiting every treatment facility in the Commonwealth of Pennsylvania on a State contract, while a short distance from Philadelphia there is a well staffed, well equipped detoxification unit of nine beds which at the time I visited it had only one patient, so we have in Philadelphia itself a need for detoxification beds.

And certain significant groups of drug abusers such as speed freaks, methamphetamine abusers and barbiturate addicts are not being treated at all.

Some promising modalities of treatment are not being provided in this city, for example, the use of narcotic antagonists such as cyclazocine and naloxone. And there are no multi-modality programs here in Philadelphia such as one in which the use of methadone is followed by treatment in a drug free therapeutic community or methadone is used in conjunction with a therapeutic community.

Most treatment personnel and we see this today in this hearing are deeply committed to their work, a necessary commitment in helping an extremely difficult type of patient. But, this often takes the form of adherence to an ideology, and such ideological bias not only precludes cross referrals for the programs and prevents an objective evaluation of of the given program.

Systematic follow ups of discharged patients are seldom if ever undertaken in programs in Philadelphia or throughout the United States.

Unless some unprecedented and virgorous action is taken, the response to our mounting drug problems will continue to be sporadic, crisis-oriented and inadequate.

Part three, and the last part. Recommendations from the Addiction Sciences Center of Temple University based on our study in Philadelphia and throughout the Commonwealth of Pennsylvania. There are three recommendations:

1. That drug treatment facilities be expanded in Philadelphia so that every addict can obtain treatment. At the present time we have one facility in Philadelphia where there are over one thousand patients on the waiting list, so we have a real need to expand treatment throughout the City of Philadelphia.

Our second recommendation; that a city wide comprehensive plan and program be developed in order to coordinate existing facilities and establish new multi-modality programs. Doctor William Wieland has already begun the planning stage of this.

That a scientific evaluation of drug treatment programs be undertaken in order to ascertain what type of treatment is most appropriate for specific types of drug abusers.

Mr. EILBERG. Thank you very much, Doctor Ball. Doctor Ball, this perphaps is not within your jurisdiction, but I don't know that we have anyone here who may be more knowledgeable as to the problem of drugs, drug addiction among returning Vietnam veterans and I wonder if you could just give us a brief outline of the problem in Philadelphia, the studies in Philadelphia, if you have done that.

Dr. BALL. The Federal government—we are consultants to the federal government in this area—and we are just now mounting studies with regard to what happens to the returning veterans and what actions might be taken. The Veterans Administration is also in the process of mounting a program to provide treatment for returning veterans.

Mr. EILBERG. You are not able to furnish us with numbers or the extent of the problem among Vietnam veterans in Philadelphia?

Dr. BALL. The only way we could provide that kind of information is after our national study involving Vietnam veterans is completed.

In order to answer this question, Congressman, we have to conduct a follow up study and we have to actually interview the veterans and get urine specimens from them and get their opinions as to what their problems are and what drugs they are using and so forth, so this is a high priority study that is now in the final stages.

Mr. EILBERG. Fine. Are there any other questions?

Mr. SCHILLER. What is your feeling of Doctor Laverne's CCT method of treating the heroin addict?

Dr. BALL. I think this has yet to be established as a recognized procedure.

Mr. EILBERG. Any other questions?

Dr. LINDENBAUM. There was a study done by Doctor Gaffee. I am talking about programs where we have social workers and doctors with medical experience, psychiatrists, a complete gamut of which you speak and we are getting three hundred people a day.

We do not dispense drugs to the patient except what they use in the clinic. We don't want people selling packages on the street.

Dr. BALL. Yes, we have looked at this question quite extensively, and, of course, the question involved is what is your outcome criteria, that is, what are you trying to accomplish, by a drug treatment program.

Are you trying to rehabilitate the individual in terms of employment and family life and community orientation or are you talking about relapse to drug use or criminal history?

Let's be realistic. I think the drug problem, particularly if we are talking about the opium addict, is a very serious one and I can make this factual statement to indicate how difficult the problem is in this. There is no program in the United States at the present time or anywhere else in the world that has been able to get opium addicts off opiates.

When we go to Britain and talk with the British they have a much more realistic attitude. They say:

"We may be able to make some progress," and they speak in kind of reasonable, calm ways about it, but our American way is, of course, we want instant solution and we want to think that the problem can be quickly resolved.

I think by now most of the people in the field realize that the drug problem is not going to be solved this year or next year but it is something we are going to have to learn to grapple with over a long period of time.

Mr. EILBERG. I had occasion to visit a clinic in London in August and participated while the psychiatrists were interviewing and treating patients and I was surprised. One reason why I am strongly opposed to the British system, there is no initiative by the psychiatrist in the direction of trying to have the addict kick the habit or cure him of his problem.

It is entirely a philosophy of containing the habit and keeping the individual happy and maybe this is our American instinct but personally I don't go along with that concept.

Dr. BALL. Well, I would agree with you and it is quite different if you are talking about three thousand addicts as opposed to three hundred thousand addicts.

That is the basic difference.

Mr. EILBERG. Thank you so much. Our next speaker is from Philadelphia City Council, and representing the Tenth District and as an expression of his interest and his work and a member of the next city administration, we have the chairman on the new Committee on Treatment of Drug Addiction.

Councilman from the Tenth District, a very close personal friend, Honorable Melvin Greenberg.

Mr. GREENBERG. Thank you, Congressman Eilberg and members of the panel.

It is with special delight that I received your invitation to appear at today's hearing.

As you know, I assumed a seat in City Council, representing the people of the Tenth Councilmanic District which is the Far Northeast section of Philadelphia about twenty days ago.

For the past several years I have been alarmed by the growing menace of drug addiction in the City of Philadelphia.

However, with you, I share the view that it is not enough for those of us who have been elected by the people to register alarm.

We have a responsibility to the people to fully identify the problem and to do everything within our power to solve it.

Therefore, rather than recite those facts that we do know about drug addiction in this area, with your permission I have chosen to address myself to a very recent development in city council in the war against drugs.

Effective immediately City Council has created a new Standing Committee on Control of Narcotics and Drugs and I have this week been appointed chairman of that committee.

The purpose of the committee is to deal with all matters relating to the illegal use and possession of narcotics and drugs.

Cooperation with law enforcement agencies, State and Federal agencies, the Department of Public Health, the Department of Public Welfare, educational and research organizations to control and prevent the illegal trafficking and uses of narcotics and drugs, as well as rehabilitation and treatment of narcotic and drug addicts.

We have not yet fully developed a program for the committee. However, I would like to share with you my present thinking on what part the committee will play.

It will be a committee of inquiry with the prime objective of determining what facilities, planning and local legislation are needed to have a maximum impact on Philadelphia's drug problem.

We believe it to be presumptive to expect the Federal government alone to solve the problem which may have characteristics peculiar to a certain geographic area, such as Philadelphia, although without Federal action we cannot succeed.

Funding is in the hands of the Federal government but the investigation, planning and proposals should be activated by the hands of the community.

The community must act responsively to identify and clarify its own problems. Our new committee will take on that job.

Accordingly, we expect to convene public hearings to inquire and to investigate.

The people of the City of Philadelphia have given us the responsibility of starting to determine whether local legislation is necessary and to advise what local legislation it should be, what it should contain.

The Standing Committee on the Control of Narcotics and Drugs intends to accept the challenge and within plain view of all the people of our city, intensify the fight to cure this cancer by probing the causes of the problem, by evaluating the effectiveness of the facilities that presently exist and by determining who is involved in the illegal sales of narcotics and how we can bankrupt that business.

I have asked John R. Padova, Esquire, a highly regarded member of the Philadelphia Bar to serve as special counsel to this committee, hoping that his commitments will allow him to accept this position.

In addition to my prepared statement there are a couple of observations that I would like to make, first as a member of the community of the Far Northwest and what I observed during eight or nine months when I was campaigning and meeting with community groups and talking to parents and there are a couple of things that I would like to comment on.

1. I found to my surprise a total lack of understanding by the parents in our community as to what the symptoms and problems are of children and young adults involved in narcotics.

They just do not know what the symptoms are. They just cannot recognize when their children are involved and something has to be done about this.

Coupled with this problem is the fact that in the school system the teachers cannot recognize the problem.

They also are not aware of how to identify someone involved in the early stages of drug abuse.

Another observation which I would like to make is why there is a much higher incidence of drug abuse in the public schools than in the parochial schools.

I think this is an area that we have to investigate and find out what makes their system somewhat better than the public school system.

These are observations that I have made in the eight or nine months that I have traveled throughout the district.

In summary, I have indicated to you this morning that a new standing committee of City Council has been formed with me as chairman which will work in cooperation with both the Federal and State bodies that are presently active in this area to focus a spotlight on the problem of drugs in the City of Philadelphia.

I can assure you that the committee's work will be accomplished with vigor and directness. The people of the City of Philadelphia are entitled to this commitment from their local representatives and I would ask you please at the termination of this hearing, when the notes are transcribed, if you would please make them available to me and my committee.

Mr. EILBERG. I will be glad to do so, Councilman Greenberg. You are welcome to have a transcript of the notes from our good friend, the stenographer, Adam Winterstein, in case I overlook that detail.

Councilman GREENBERG. Thank you very much.

Mr. EILBERG. I will probably be testifying before your committee and I am at your service subject to my Washington commitments.

I hope that we will be able to cooperate on this problem. Are there any questions?

(No answer.)

Mr. EILBERG. Thank you, Mel. Ladies and gentlemen, we have with us a legislator from the Far Northeast, the area of the Sixty-sixth and Fifty-seventh wards, who has been doing a great job as a legislator. A distinguished trial attorney who has concerned himself with, among other things, the problems of the poor and the handling of the welfare problems. It is my pleasure to introduce at this time State Representative Stephen Wojdak.

Mr. WOJDAK. Thank you, Congressman. Congressman Eilberg, members of the committee, I am Stephen R. Wojdak, a resident of Northeast Philadelphia, and, for the past four years, a member of the State House of Representatives from the One Hundred and Sixty-ninth Legislative District.

It is a privilege to appear before this committee today to present information which I hope will be of help in creating programs to deal with the problem of drug addiction.

The misuse of drugs used to be a problem of the ghetto kid in the big city slum. As you all know, it isn't anymore.

Today it is a problem of not only the ghettos, but also the middle class suburbs and the wealthy mainline neighborhoods. It is a problem of the rich as well as the poor, of the working class as well as the families of industrial executives today.

Nowhere is this more evident than in Northeast Philadelphia.

This committee has asked specifically for information about the extent of the drug problem in our area and what treatment and rehabilitation facilities are available to our residents.

There are few valid statistics on the actual extent of the drug problem in any area. According to the report of a special state house committee on narcotics and I quote: "There are no really reliable statistics on the misuse of drugs."

The Federal Bureau of Narcotics and Dangerous Drugs ranks Philadelphia as eighth in the nation with respect to known addicts. In fact, over half of Pennsylvania's addicts are residents of Philadelphia, and this is based on known addicts only, those who have been arrested or have voluntarily entered treatment programs.

Perhaps the most significant statement that can be made on the extent of the drug problem in the Northeast is that contained in a recent report of the Northeast Citizens Health Committee, and I quote: "Thirty-five percent of the Northeast population is under twenty. Without exaggeration we could lose a generation if we don't provide services in this area."

According to a public survey they conducted, in which they received over eighteen hundred responses, drug treatment was a major request of the residents of the Northeast.

The problems of drug abuse and drug addiction and the need for drug treatment facilities are well known to those whose lives it touches, but we have little to offer our residents in the way of programs to fight this problem.

And this is true of the entire City of Philadelphia as well as the Northeast. For the entire City of Philadelphia, there are currently nineteen beds specifically set aside for drug detoxification, and these are for male addicts only. There are no facilities at all for female addicts.

These nineteen beds for a city of a population of approaching two million and an addiction problem which ranks eighth in the entire nation, are located in South Philadelphia, in Saint Luke's Hospital, and although available to all city residents, are used mainly by South Philadelphians.

All other drug treatment in Philadelphia is done on a voluntary outpatient basis. The largest outpatient clinic, and the only non-methadone clinic, is run by the Philadelphia Institute for Alcoholism and Narcotic Addiction.

This clinic treats over half of the addicts who receive treatment in Philadelphia.

The treatment, on a voluntary basis, is usually referred to as "cold turkey" which means that the only help given an addict during withdrawal consists of tranquilizers and psychotherapy.

Needless to say, many addicts do not follow through with the treatment and if they drop out the case is not followed up.

In addition, there are a number of methadone clinics throughout the city, the largest of which is at Philadelphia General Hospital.

The methadone treatment has raised some problems of its own, however. In fact, according to the special advisor to the secretary of health, there is a large black market in methadone, which is also growing at an alarming rate.

The treatment and rehabilitation facilities available to the residents of the Northeast, as well as the entire City of Philadelphia, are best summed up by the report of the special house committee cited previously.

They concluded, and I quote: "We have no rehabilitation program."

Current Pennsylvania law has failed to deter drug users, unjustly penalizes the victims of the drug traffic who are the users, and fails to recognize the differences in the variety and types of drugs that are now blanketed under the general provisions of our laws.

Until now we have relied solely on law enforcement efforts to control the narcotics and related crime problems, despite incontrovertible evidence that both a law enforcement and treatment approach is needed.

As a result of the work of the special committee and its report, the State House has two bills which emphasize prevention and treatment of drug addiction.

These bills are now lodged in the State Senate.

Under this new legislation, narcotic law enforcement will stress the fight against the pushers, the wholesalers and retailers who supply users with drugs.

The first of the bills, the Pennsylvania Drug, Narcotic and Alcohol Abuse Control Act, will create a Governor's Council to administer, direct and coordinate a comprehensive drug and control program, including specific programs in the prevention of drug abuse, the treatment and rehabilitation of drug abusers and the enforcement of the drug laws.

The council will be given the responsibility of developing a detailed master state plan for the control, prevention, treatment, rehabilitation, research, training, coordination and law enforcement aspects of drug abuse problems.

The second bill, known as the Drug, Device and Cosmetics Act, spells out the classification of various types of drugs according to their likelihood for abuse, potential for psychic and physical dependence and known medical use.

It also requires the annual registration and licensing of legitimate manufacturers, distributors, wholesalers or retailers of drugs, spells out the penalties for violation of the narcotics laws, creates a drugs, device and cosmetics board and generally regulates the legitimate distribution of drugs.

This much needed legislation will emphasize the fight against the wholesalers and retailers who supply users with drugs. The bill will make the price of trafficking in drugs in this Commonwealth prohibitive, even for organized crime syndicates.

Under this legislation, any person who is convicted of the wholesale distribution of drugs can be sentenced to life in prison, even on a first offense, and fined an amount large enough to wipe out any profits made from the drug business, including any investments made with those profits.

In other words, if an underworld figure purchased a legitimate business with the proceeds from illicit drug sales, the Court would have to fine him the total value of that company.

Furthermore, the courts will be given greater flexibility which they do not presently have, in dealing with drug offenders.

The treatment program will be a comprehensive one and will include a diversified system designed to meet the varying needs of drug addicts.

It would include detoxification centers, treatment and rehabilitation centers, retraining and after care programs.

A major emphasis is also placed on the prevention of drug addiction. A comprehensive educational program, designed to reach every section of society, will be authorized.

Schools will be encouraged to offer drug danger curricula as early as the fourth grade and teacher training schools and colleges will be required to offer a course in drug recognition for all future teachers.

This comprehensive drug control program will be a significant step toward correcting drug abuse in the Northeast, in the entire city and throughout the entire state, and this is what is necessary if we are to truly solve the problem, because it is a communicable problem.

It can no longer be isolated to one community or solved in one community or possibly even solved in one state.

The problems involved in foreign sources of narcotics also complicate the solutions, and these must be treated on the national level.

It will take a cooperative effort on the part of local communities, the State and the Federal government to develop the programs which are necessary to not only treat the problem but to actually prevent its continuance.

Gentlemen, I thank you for the opportunity to appear here.

Mr. EILBERG. Representative Wojdak, we are grateful to you for a very searching review and comment of what is happening at the State level, and it provides me with the opportunity of saying that not only will this information be transcribed and be available to our House Judiciary Committee, but it will also appear in Congressional Record so that all of our colleagues in the country at large may have the benefit of the remarks here today.

Are there any comments or questions by the panel?

(No answer.)

Mr. EILBERG. Thank you. I would like to give recognition to a gentleman in the audience who has cooperated so fully in making this hearing and seminar possible. He is the executive director of the Northeast Chamber of Commerce, our good friend John Lang.

John, would you just please stand up there?

(A person in the audience rises.)

Mr. EILBERG. Thank you, John. Our next speaker comes from the office of the U.S. District Attorney. A few days ago the U.S. District Attorney, Mr. Louis Bechtle, recently designated by President Nixon to become a Federal District Court Judge, was kind enough to invite me to come down and inspect the facilities of the office and we had a very good walk through and good description of the activities there.

Of course, I could not resist telling Mr. Bechtle of this upcoming hearing and we promptly reviewed some of the problems of the office. He was kind enough to offer to share the information which has been gathered by his office. So it is my pleasure to introduce Richard Galli, Esquire, Assistant U. S. District Attorney.

Mr. GALLI. Thank you, Congressman Eilberg and members of the committee. Mr. Bechte asked to participate at this hearing this morning because in my two years at the U.S. Attorney's Office I have had the task of supervising the United States Attorney's Office of processing of narcotics addicts who have applied for treatment pursuant to the Narcotic Addict Rehabilitation Act of 1966.

By this Federal legislation the narcotic addict can apply for civil commitment for treatment and supervision for narcotic addiction.

Generally this program consists of forty-two months of supervision by the surgeon general, the six month period of confinement at the clinical research center in Lexington, Kentucky.

Our office does not have any particular figures as to the number of residents of the Northeast over the last two years who applied or made inquiries for entrance under this program, however it is my personal experience that over the past, I would say nine months, the number of people from the Northeast has increased tremendously, the number of young men and young women inquiring as to admission under the Narcotic Addict Rehabilitation Act.

The Act provides that a person upon making application to a U.S. Attorney's office in any particular district, is to be taken in front of the Federal District Court. At that time the Federal Judge explains to the narcotic addict his rights under the program. These rights are that if a person voluntarily commits himself in a civil commitment without any criminal implications he can be placed in the care of the surgeon general for forty-two months.

The first six months are spent at the clinical research center at Lexington, Kentucky, which is staffed by doctors of the Public Health Service experienced in the area of drug treatment.

After this six month period of confinement is completed the addict is then placed in what is called the post hospitalization program and he is returned to his community for supervision by an agency in the community.

In Philadelphia this agency is Jewish Employment Vocational Services which is located at 1913 Walnut Street.

This agency also performs the task of screening applicants before they are sent to Lexington.

Upon the addict's initial admission into the program he is examined by psychiatrists, doctors, as well as staff workers, under contract with the Jewish Employment Vocational Services. They make the determination whether the particular individual is first of all an addict and secondly whether he is likely to be rehabilitated by treatment.

This latter determination consists generally of interviews and background information on the person to determine whether in fact they are seriously motivated and whether they really and truly desire treatment.

After this screening process the agency makes a recommendation. Pursuant to that recommendation the Court would then admit the addict for a six month period of time at Lexington.

The facility at Lexington has been praised by a wide number of authorities for a number of reasons.

1. The doctors there are skilled in this area of treatment, the drug problem and treatment.

2. And secondly, the fact that the facility is far removed from the area of the person's involvement in the drug traffic, has been cited as the further source of some method of bringing the addict away from the problem and giving him a chance to, in fact, turn over a new leaf.

The other beneficial aspects of the treatment program at Lexington at the present time is that the entire program is designed to give the addict himself a chance to really conduct his own rehabilitation program. By that I mean the center itself is designed so that the various roommates and various groups are designated into what is termed alleys.

An alley consists of perhaps twenty or thirty different people who are rooming together, rooming in the same area of the building and this alley elects a group leader and various administration people in a group and these people determine the type of work that the group will perform and the type of recreation facilities and also the type of treatment programs that each member must undertake.

In addition to that the alley and the members themselves determine the types of punishment and sanctions to be imposed on members for failure to perform their various tasks at Lexington.

Now, having gone over the procedures for admission and the general aspects of life at Lexington, I think it is noteworthy to add that while the drug problem has by all indications over the past three or four years increased enormously, the statistics of our office in Philadelphia indicate that over these past three years anyway, the past three fiscal years, the number of people who applied in Court for treatment at Lexington has not increased.

Now, I find this somewhat puzzling. Perhaps the reason for this is perhaps the lack of general information with regard to treatment at Lexington.

However, the other factor accounting for this constant number of admissions through our office is, I think, the fact that the Lexington facility is a very hard sacrifice for any individual to make.

It is perhaps eight hundred miles away from an individual's home and by signing up for treatment at this facility the person in effect signs his life away for six months.

He is signing up to be confined on a six month period of his life and I think only those people who are so afflicted with drugs that they are really at the end of the line are those who are being taken into this program at this time.

The bad aspect of this program is the fact that it is the only one facility for the entire country, east of the Mississippi River.

There have been some efforts recently to try to have a Federal facility supervised by the Jewish Employment Vocational Services in Philadelphia so the treatment would be more on a local level.

The reason for this is that the figures at Lexington, that is the follow up figures from the detoxification program, have indicated that while the treatment at Lexington might be excellent and the person leaves there with a clean record and a clean body, that once they are in the environment of their community again with the same acquaintances and the same problems the same drug addiction again arises.

It is hoped that with a facility in this area treatment and detoxification would be on a more realistic and more permanent level. The addict himself would be faced with those things around him and he would have to deal with them in order to overcome the problem.

However, the implementation of any federal facility in any of the local catchment areas has to my knowledge to this point been just not effective and it just hasn't been done.

I feel that this is the one area in which the federal government particularly should certainly inquire and make efforts to provide for.

The most depressing thing for the people in our offices to whom these addicts speak—and we must interview them—is to tell these young men and young ladies that there are just no facilities in this area, that it is either six months at Lexington followed by three years of supervision or nothing at all as far as the Federal Government is concerned.

The really frightening thing is that there are just no facilities in this area and to hear these people come in to tell of their problems and to say there is nothing we can do for you short of this program at Lexington is to myself personally and I know for the other attorneys in our office, a really heartrending and a tremendous fact. Thank you.

Mr. EILBERG. Thank you. Just a couple of questions. You have been kind enough to come here and describe the operation of the Narcotic Rehabilitation Act of 1966, and among other things you said we needed a facility like Lexington in the Philadelphia area and it is a worthwhile suggestion that will be looked into.

Are there any other ideas based upon your experience whereby the NARA Act may require amendment, or if you don't have any now, perhaps you can think about it.

Mr. GALLI. Well, I think the Act as designed is very fine. The problem really is just the implementation.

As it is now in Philadelphia, there have been certain changes as far as the processing is concerned.

Originally when anyone applied the initial evaluation and examination by the doctors and psychiatrists was done at Lexington, so a person would apply and he would be admitted by the District Court into the program. He would be sent to Lexington for a six week period of time during which the examination and evaluation was made.

The results of that processing showed that a large number of people came in with no serious thoughts of motivation. They were really looking for a free vacation for a few weeks during the examination period. The rejection rate was enormous. There was a great expense involved in transportation as well as the maintenance of these people during this examination and evaluation period.

Approximately fourteen months ago this process was changed so that the examination and evaluation would be done strictly on an outpatient basis in Philadelphia by the people under contract to the agency in Philadelphia. The individual would be required to report four or five times a week to an agency that designated hours of an examination as well as evaluation.

While this has been beneficial in a sense, it screened out a lot of unserious applicants, the drawback is that in one month's period of time we have the fact that the individuals in the community who are really hard core addicts at this point are just left hanging without any treatment.

The facilities do not permit treatment and the Act does not permit any treatment during the thirty day period of examination and evaluation.

The result has been that a good number of applicants have during this thirty day period either dropped out because they just couldn't afford to or on many occasions were arrested for shoplifting and larceny during the interim period of time in which case they become ineligible for the program because they have an outstanding criminal charge against them. There are no means the Federal government has to support these people during the thirty day period of time.

There are people who are left very much on their own devices during this time and the people ask me: "What do I do because I don't have any money and they are addicted to drugs?" "Shall I go out and rob and steal?" We are left without an answer to that.

Mr. EILBERG. It is precisely that point that concerns me here. In order to sustain the habit so many addicts do have to rob and steal and commit other crimes.

I can't resist, since you are in the courts, to ask what are the judges doing when they have convicted a drug addict and what sentences are being imposed?

Mr. GALLI. Well, as to that, you know, Congressman Eilberg, the judges—I believe there are twenty some District Judges now and their sentences are absolutely unpredictable, I would say, with regard to each different person.

Under the NARA Act a person who is a narcotic addict can be sentenced for a particular type of drug treatment. I don't have any experience in this area but it is my understanding that the Bureau of Prisons administers this program and not the Institute of Mental Health of the Federal government.

There is one further alternative which I didn't mention under the Act which provides for deferred prosecution by the Federal government of the person who qualifies and is charged with a Federal crime who is a narcotic addict and is given the availability of going for thirty-six months of treatment under the NARA Act as opposed to prosecution by the Federal government.

In the past two years we have had no cases under this situation however, and Mr. Bechtle and I have conferred on this recently and are designing procedures whereby the district judges will be made aware of these provisions and would be able to dispose of cases in this area.

Mr. SCHILLER. In response to what some of the judges are doing on a State level; of the over eighty people that we arrested this summer for pushing narcotics in the Philadelphia area, whose cases are now coming to trial even though we get guilty pleas and convictions, we find that the sentences vary from judge to judge.

Some the judges would just give suspended sentences and there is no uniformity at all in the way judges in a certain county will hand down sentences.

As to those who are addicts, who are also convicted of pushing or dealing in narcotics, there is legislation now going to be proposed in the State Legislature to deal with detoxification of the addicts while they are confined because obviously we realize it doesn't make much sense to put someone in jail because he is an addict, and then he goes out and still has his addiction.

I suggest among the judges there is no uniformity at all.

Mr. EILBERG. Any other comments?

Rev. QUINN. Mr. Galli, I would just want to make explicit two things that you seem to be saying and saying rather well.

Would you infer then that the addict is a member of society and as a full member of our society deserves treatment within our society?

Mr. GALLI. I think absolutely, Father. I don't think there is any question of that at this point.

Rev. QUINN. I think we may have hit upon something here that is very important. It says an awful lot about the community response to the addict and I think that when we are willing then to move from treatment within the community confines that the community itself is bettered by providing the immediacy of care for these addicts.

Would you infer secondly that we simply cannot hang the addict out there for thirty days?

Mr. GALLI. I think that is very true, Father. I think as Mr. Schiller has also pointed out, there is a great problem with the number of people who are arrested and who are confined who are in fact narcotic addicts. During the period of confinement they may not be receiving drugs to support their addiction, and, they may be confined for years and come out still mentally and psychologically addicted and the physical use resumes immediately.

Rev. QUINN. Your message is that we in Philadelphia better go about the task of providing community care?

Mr. GALLI. I think it would be most advisable, Father.

Rev. QUINN. Thank you.

Mr. EILBERG. Thank you. I would like to introduce a gentleman who has a very difficult job. He was and is a very effective police officer. I think perhaps some of you may have seen the movie "The French Connection," and he is not like that chief of the narcotic squad but he is our own good Philadelphian doing a tremendous job. I would like to introduce Peter Noga.

Mr. NOGA. Thank you, Congressman, and members of the panel: I welcome the opportunity to appear before your panel this morning, not just as a police officer, but also as a concerned member of this community. I am a resident of this community and I have a daughter who attends one of our local high schools.

I have heard several comments here this morning that I was glad to hear. I reassumed command of the narcotic squad in 1969 and I am glad that the community is finally realizing that drug addiction and the drug problem is strictly not a police problem.

There have been too many times in the past when certain newspaper articles came out, stating, that the police department was put to task to account for the drug problems.

This problem is a total community problem. In the past two or three years I have spoken at many hearings and to community groups and looking around the area today, you can see why we are experiencing difficulties.

We seem to be able to draw out the concerned persons of the community but not the persons that are directly involved with the drug problem.

Through our records I know for the past year in the Northeast section of the city, there have been over five hundred and forty-four arrests, and looking around the auditorium today I don't see nearly that number of parents or individuals directly associated with the individuals who were arrested, who are here today to find out the scope of the problem.

The only way that I can gauge the problem as it appears in the city today is by our arrest statistics, and it has grown since 1965.

In 1965 we had a total of nine hundred and twenty-six persons arrested in the City of Philadelphia. It jumped in the year 1969, we went to thirty-eight hundred individuals arrested for this.

For the year 1970, seventy-two hundred and eighteen. In 1971 I saw the trend in June—it finally started to slack off and for the total year of 1971—we had seventy-two hundred and thirty-five people arrested which is only a slight increase over the period 1970.

For this particular division which bounds Frankford Creek and North of the Boulevard which is referred to as the Northeast Police Division, we had a total in 1968 of ninety-three persons arrested.

For the total year of 1971 we jumped to five hundred and forty-four so we are experiencing a problem up here but not as great as many other sectors of the city.

Our average police division, we have seven in the City of Philadelphia, averages between eight hundred and twelve hundred arrests.

I hear many things said of the methadone programs that are going on today and with any treatment program I am sure the police commissioner will go along. We feel that we need more outside help from the community, but one comment on methadone programs.

I think there should be more control especially a central registry set up and maintained constantly under control of the AMA (American Medical Association).

There are too many times when a police officer speaks of something like this that they think the police want control of it to know how many addicts are in the city.

We don't feel that way but we feel it should be under the AMA.

A person could be under treatment on one methadone program, go to another methadone program and receive medication possibly at three or four different programs in the city.

Furthermore, I think this would give us a more accurate scope of what the problem is in the country.

Statistics today which are mostly taken from police arrests indicate that in the United States there are between three hundred thousand and three hundred thirty thousand addicts in the United States.

For the State of Pennsylvania statistics vary, thirty to sixty thousand, and I have heard numerous statistics for the Philadelphia area varying anywhere from ten to sixteen thousand.

Do you gentlemen have any questions?

Mrs. Stunder. When you asked for a control of the methadone, how can an addict get methadone in three or four places?

Mr. Noga. There are no communications between the various methadone agencies. He could possibly be treated in West Philadelphia, go to another program and also register under that.

There is nothing to say that he is being treated under another program.

There is no communication between the various agencies. If there was a central registry, and if an individual applied to a specific program this specific program could contact the registry and find out if this individual is being treated by any other methadone program.

Presently in the city today there is no such set up.

Mrs. Stunder. Well, isn't there available a kind of analysis that would indicate how much methadone is used?

Mr. Noga. Since the methadone program started, methadone is being used on the street today and I think we had twelve deaths in the city last year.

Also, since the methadone program started they have individual dealings on the street today of what they call "dollies," which is dolophine and it is a tablet. It is a narcotic and the individuals that are given these to take the edge off while they are on the street.

When this product first hit the street it was selling for a dollar a tablet. There are numerous dolophine tablets on the street today and the street price is running now twenty-five cents a tablet.

Dr. Lindenbaum. I would like to answer you about the control. There is a weekly list published which is mailed to the clinic.

In our program, as many as three or four identities, identification cards, driver's licenses and so forth are used.

We have control of the quality of the addict's urine and every week every addict must have it tested and it tells what is in the urine, sixteen different drugs. The amount which is there we could tell by a method which we hope is being installed by the state.

We hope then that each addict will have a card and this card will have his picture and identification data and other data when he enters a facility that card will be put into a computer hooked up to a central statewide computer.

If he has received methadone at any time that day in another center it will flash back. The card will be almost impossible to duplicate because it will be specially coated. This would also allow an addict to float through the State and he will not have to worry about being in Philadelphia.

He could be in Pittsburgh and receive treatment by the use of that card because the Pittsburgh computer will pick up his traits, his characteristics and so on and print out, what he is getting.

This is proposed and we hope to see it by June. It will cost one point seven million dollars we are told. We have heard no more about it in the last month or so but we hope by June this equipment will be used by the State. This will be the ultimate in controls and if they buy it on the street it will be picked up.

Mr. Schiller. On behalf of the narcotic strike force I would like to thank Lieutenant Noga for his cooperation with his narcotics group here in Philadelphia. The cooperation between different law enforcement agencies is very essential in controlling the supply of narcotics and as he said, and I quite agree, that a control alone through law enforcement agencies is not the answer.

Mr. Eilberg. We hear different statistics on drug abuse among actual students. Very often it is a matter of whom you talk with as to how extensive the use of drugs is among high school kids.

From your situation how would you characterize the situation in northeast area high schools today?

Mr. Noga. I think the high school situations, Congressman, are far exaggerated. The drug abuse does not take place in schools.

It takes place in the area of the schools. I believe in the year 1970 we had a total of seven hundred juveniles arrested and that's under the age of eighteen years old. Out of that number eighteen were arrested in the school system.

Most drug abuse takes place outside the school system, generally in the family environment, where the family is going to be away from home and there is a party set up and there is no control at home.

The parents might be down the shore for the week end and the word gets around that there is a party set up.

I believe at a particular high school in the Northeast in the year 1970, we had one incident where a youngster had stolen a bag full of barbiturates and distributed them in the lunch room.

Approximately twenty-five to thirty youngsters took the sleeping pills and started falling asleep in the principal's office.

As a result of this it was said there was a high rate of drug addiction at that high school.

Yet that same high school six months prior to that, the reporter on one of your local newspapers, was put into the high school system for a two week period and had not seen one transaction with drugs or had not heard any conversation about drug abuse, other than hearsay.

Mr. Eilberg. I am wondering if you have enough men and personnel, whether you are able to do the things you want to do.

Can you give us some idea about that? There are programs under LEAA and others that may provide monies for new programs.

Mr. Noga. I feel the Police Department has far exceeded the community in the fight against drug addiction.

I started with the narcotics squad in 1956, in an eight man squad and I resumed command of it in 1969, and I had twenty-nine men at that time.

I presently have eighty men assigned to the unit and all police personnel are going to a program set up at Saint Luke's Hospital, and recognize the various aspects of drug addiction.

The Federal government is presently conducting schools in the area for members of my whole squad.

Mr. Eilberg. Thank you, Lieutenant Noga.

Lieutenant Noga. You are welcome.

Mr. Eilberg. Our next speaker is a young lady who has been most active in the community in so many, many different ways.

We have been working, for example, on a District Tenth Health Center and hopefully we will have the groundbreaking some time this summer.

It is my pleasure to introduce a real community servant, Mrs. Sue Rosenthal.

Mrs. Rosenthal. Thank you, Congressman. My name is Sue Rosenthal. I live at 1343 Ascot Place. I am chairman of the Northeast Citizens Health Committee, a citizen's group working to obtain a public health center for this area of over half million people.

The center, scheduled for September, 1973 completion, will hopefully provide drug health care but there is much we want to see done right now.

There is less information available about the extent and types of drug use in the Northeast than in any area of the city.

We advocate the collection of data to determine how many and what kind of users exist so a sufficient number and variety of treatment centers can be established.

At present we have no way of gathering this information, of setting up effective education and counseling programs for adults and students, of funding rehabilitation centers, of evaluating the effectiveness of various treatments or of selecting those most practical and successful for rehabilitation.

When our health center is built, we will be able to offer a drug referral service, aiding the drug user and his family in finding the proper type of therapy facilities.

But the best referral service in the world is futile if there are no places to which we can refer, and that would be the case if we were open for business today.

Limited detoxification facilities, a couple of volunteer-led rap session places, the drug programs of the Northeast Mental Health Center for residents of the Lower Northeast, Friends Hospital, The Bridge for the maximum of fifty teenagers, some beginning drug education in the schools, one methadone clinic—this is all we have been able to find to serve a community of over half a million.

At the same time the easy accessibility of drugs is an accepted part of the teen-age and young adults subculture in the Northeast.

The closest health center to this area until recently provided space intake interviews for The Bridge.

The health department still provides general care, medical care and vaccines for immunization to residents.

In addition we hope our new health center will have:

1. An outreach program whose nonjudgmental confidential approach will encourage drug users to enter freely.
2. Physical and psychiatric diagnoses so appropriate referral can be made for detoxification and residential or outpatient rehabilitation.
3. An outpatient group therapy unit for users and their families.
4. A social worker to arrange for the supportive social services required by the user and his family with follow up by community health workers.
5. Educational programs in the center, in schools, with families, physicians and community groups.
6. Coordination with other community drug services.
7. Making space, health workers and visiting nurses available to the community.

We recognize our suggestions are bandaid treatment for a major epidemic. We realize that our government must commit itself to shutting off drug sources.

We know that a real end to drug use will happen only when there is no longer a need for drugs.

Perhaps in the future this committee could address itself to the changes required in our society to stop the drug rise before it starts, by removing the causes of drug use, then commit itself to the Herculean task of effecting those changes.

In the present context of these committee hearings, however, we need the following tools:

1. Data—who uses drugs, what kind, to what extent, so we will know what and how much is needed.
2. Facilities staffed by professionals and peers for rehabilitation.
3. Different kinds of programs because people don't all respond to the same techniques and because we don't know enough yet to know what is best.

4. Evaluation to find out which programs are best.

Many thanks to the committee for inviting our testimony and we await the results of these hearings with anticipation and optimism. Thank you.

Mr. EILBERG. Mrs. Rosenthal, so much of what you say applies to the district . . .

Mrs. ROSENTHAL (interposing). Yes. We hope that these things will happen but they will have virtually no effect unless the other things that we support happen also.

Mr. EILBERG. We are working in Congress on legislation which has to do with facilities now.

For example, we have put out a bill for the establishment of methadone clinics and are waiting to have it brought to the floor.

Hopefully we can do something this year so that we don't have to wait until the end of next year.

Mrs. ROSENTHAL. I hope so too. We will have a unit which will be available for methadone treatment, if you should have it.

I might add two years ago we put a questionnaire into the community and I think you are familiar with it.

We got a fifteen percent return on the ten thousand questionnaires that we put out in the community.

On the open ended answers that we got we did get a call for drug education and got some call for drug treatment and at the time we put the questionnaire out it was not a very popular thing but we got a tremendous call for what Father Quinn asked for, that was family counseling, some kind of method to bridge the generation gap and this is without any stimulus on our part, an open ended thing: "What else do you think is needed?"

This was asked for very frequently.

Mr. EILBERG. Thank you. Are there any questions from the panel?

(No answer.)

Mr. EILBERG. Thank you. Ladies and gentlemen, I would like to introduce a young lady who is very anxious to do her part and help—help other kids and I am very grateful for the fact that she is willing to come here and give us her point of view. Julia Murphy.

Mrs. STUNDER. She has been with our program since it started as a drug abuser and has done an awful lot for The Road. Julie has been there from the beginning.

By Mrs. STUNDER (addressing Julia Murphy):

Q. Julie, as I understand if you hadn't come to The Road when you did, would you have gone much further with drugs?

A. Yes, I would have kept on.

Q. So a place such as The Road did help you?

A. Yes.

Q. And could you kind of let the people know how it helped you, whether it was by keeping you busy or . . .

A. (interposing) Well, I really don't think it was keeping me busy. I think it was really because there people were concerned.

Q. That somebody cared?

A. That somebody care, you know, that I didn't feel, you know, with my family.

Q. And you did have a problem there which you felt couldn't be handled at home and those of us who took the time out did at least alleviate this a little bit. Is that what you are trying to tell us?

A. Yes.

Q. Would you object to anyone asking you questions?

A. No.

Q. I notice you are looking around. I don't think you have to be concerned about anything that is said here. I think we have the Congressman's endorsement on that.

Mr. EILBERG. Julie, we want your help and we need your help. We are looking desperately for answers and you are so well equipped to help us find solutions.

I am just so grateful on the part of the United States Government that you have the courage to stand there and tell us what you think.

By Father QUINN:

Julie, what kind of drugs were you using and for how long?

A. Well, I started drugs when I was thirteen, puffing glue and I went from glue all the way up to heroin. I did everything in between.

Q. Are you a resident of the Northeast?

A. Yes.

Q. Did you have any difficulty in procuring the drugs that you referred to at any given time?

A. No. I never had any problem. If I wanted it it was always there.

Q. And you were able to get these drugs in the Northeast?

A. Uh-huh.

Q. Would you say there were significant numbers of your friends or others, other residents of the Northeast, who are abusing drugs at the same time you were?

A. Yes, I would, like out of all my friends that I know, there's maybe five straight people and the rest are, you know, still doing the drugs.

Q. They are still doing drugs?

A. Uh-huh.

Q. Before you got help at The Road, did you ever overdose or had you had any opportunity or need for care?

A. Well, I never had a physical addiction. I had a mental addiction and I came close to having a "physical" by barbiturates and two or three times there was friends there that just beat me up and stripped me and threw me in the shower until I came around.

Q. Would you as a person who has gone through the long process of drug abuse and out of it again, would you have any recommendations to us in relation to the kind of things necessary to help the kid on the street who really needs help?

A. Well, like the one thing is like, you know, I guess being more aware of the symptoms, like I see here there's not really a lot of people.

It just doesn't seem to me that there's enough people that care.

Q. Do you feel that caring then is going to make a difference?

A. I think it is. If someone is an addict, you know, and they feel that someone is concerned and out to help them, that does a lot.

Q. How would you want the community to show it is caring for the kids who are addicted?

A. By getting a program together, you know, because there really isn't one at least not in the Northeast, and I know a heck of a lot of people who could use one.

Father QUINN. For my part, thank you, Julie. I really respect your coming here.

By Dr. LINDENBAUM.

Q. Julie, when did you first start on drugs?

A. At thirteen.

Q. And your initial drug was what?

A. Glue.

Q. Did you ever drink before that, alcohol?

A. Yes.

Q. Did you use grass before that?

A. No, it was later on.

Q. It was later on?

A. Right.

Q. So therefore there was some problem in your life which arose before the age of thirteen?

A. Oh, yes.

Q. And you say you could have used help earlier than that in your family life, is that right?

A. Yes.

By Mr. SCHILLER:

Q. Julie, do you feel that parents who know that their children are abusing drugs of one kind or another ought to sit back and hope that it goes away or contact a rehabilitation facility such as those that you know of, such as The Road?

A. Oh, yes, I think they should contact someone, you know, because a lot of parents think the answer is kicking him out of the house because he is a no good drug addict or, you know, instead of trying to understand it, they just jump to their own conclusions and turn their own kid away from them.

Q. So that you feel that parents who have a child who is an addict or is abusing drugs, the worst thing they can do is shut them off?

A. Right.

Q. Do you feel that parents ought to—I hate to make it sound like you are turning your children in, because I don't want it to sound like you are putting your children in jail . . .

A. (interposing) When I say they should do something, I don't really think of contacting the police. I guess that's just maybe the way I feel, you know, maybe. I don't think it would be a good idea but I'm not, you know—I just wouldn't like the police.

Like I would tell, you know, maybe, if I found my kid was on drugs, like I would maybe contact the drug center or find out more information and find out what I can do to help, and if my kid wants help, but as far as calling the police and saying: "Hey, my kid is on drugs, lock him up," I wouldn't do that.

Q. How do you feel about the persons who first introduced you to drugs? Were they just your friends or was it someone from outside?

A. It was just my friends, you know. How do I feel toward them? I don't feel anything.

I don't feel love. I don't feel dislike. They were once my friends.

Mr. SCHILLER. Thank you.

By Mr. EILBERG:

Q. Julia, you are nineteen?

A. Twenty.

Q. And you mentioned before that we need a program and I would like to know a little more, if you can tell us, about what you think is most important for a program. You talked about the necessity of having someone to talk to. What other kind of things?

A. Well, I guess it would depend like on what kind of drug problem the person has, like, you know, if it is just like speed I think they need a different type of therapy than, you know, a heroin addict.

A speed freak, you know, is superparanoid of everybody and a heroin addict, you know, might not just give a darn, you know, if a cop came in and he—and he was getting off right there. I think it depends on the person.

I can't say like "This is the kind of help you should give a drug addict," because I really don't know.

I think it depends on the person. Everyone needs, you know, a different kind of help for their problem.

By Mrs. STUNDER:

Q. I have a question I would like to ask. What would your feelings be on a parent who has a kid sixteen, seventeen, eighteen and has finally made themselves aware that the kid is really addicted? How would you feel about a commitment by the parents to the kid on the drug problem? Today I think the reason we have so few drug programs is, and I think you have seen and I have seen so many times, a kid doesn't want help until he is so desperate that we can't get him any place. How do you feel about parents saying to somebody seventeen or eighteen: "You have to go. I am going to sign you in."

A. How do I feel towards it?

Q. Yes.

A. Well, I'm against it really because like I know for a fact like when my mother found out I was on drugs—I was down the shore and I came back and I had tracks all over my arm.

I got committed into a mental institution. I got out but the point is my mom thought she was helping me and she wasn't helping me.

Those people there have a real problem, like it's not a joke problem, like I felt like if I had stayed there much longer I was going to go crazy.

Q. I think you are a little aware of what The Bridge is like. Suppose I as a parent found that my kid sixteen or seventeen years old truly needed help and most of them at that point don't want it, and I would be able to commit my son or daughter to that program, what would your feelings be about something like that. I am not talking about PGH.

A. I really don't think it would do any good because if you don't want help, as soon as you get out you are going to go out and do it again.

You have to reach a certain point, like you just go down so far and finally you want to knock off.

By Father QUINN:

Q. May I just respond that I agree with you that maybe we have got to do something more about the area of motivation. In our experience in interviewing potential persons for The Bridge we feel that a lot of our job is to help motivate the individual, the person to want help and part of that motivation is in terms of giving the right kind of help, terms of letting the person know they are not going to be assaulted neither physically, emotionally nor psychiatrically, that they are going to receive real care and real and warm help. I think this is perhaps most important.

The question I do want to ask you is was there ever a day when you would have sat down with your parents with some outside agent who let's say had some training and experience himself in a family group sitting to work out your problems and their problems?

A. I don't know. I really don't know, because like I really care about my mom and everything. I have tried to confide in her a while ago, you know, when I did have a drug problem and I was still in skag and I told them that I had just gotten off and her reply to me was: "You make me sick."

Q. I want to go a little further on what abused drugs and you say that is when you were twelve and eleven, and if there were available to you, let's say your parents had problems, problems of communicating with you or with each other, do you think it would have benefited you at that time to have available to you family counsel if they would have accepted it?

A. It might have. I really don't know because it didn't happen, you know.

Father QUINN. Thank you.

By Mr. EILBERG:

Q. Julia, it is entirely up to yourself and you decide this. Your testimony—obviously you are one of the most important witnesses, someone who has been through it, and it impresses me very much. Would you mind having your picture taken?

A. No.

Mr. EILBERG. Then the photographers are free to take pictures if they wish to. If any of the other persons involved in this way, don't mind or if they do mind let us know so that we don't do anything that you don't want us to do.

By Mrs. STUNDER:

Q. I want to go a little further on what Father Quinn asked you. I think probably at the age of ten, eleven and twelve the problems that you were experiencing were very evident, your parents were ignorant of that fact and do you feel that a school teacher, your school teacher should have recognized this and called it to their attention and then the need of family counseling would arise?

I know that we talked about certain instances where you were disturbed. Can you stress that a little more as to what Father Quinn was trying to tell you, if a teacher had recognized you had a problem at that age?

A. No teacher did. When I went to school, the teachers, you know, like they will teach and if you want to listen, listen, and if you don't, well, that is your problem, and, you know, that's about as far as it goes.

They just don't seem concerned about that. They got their own life and their own problems and they don't want to get involved.

There are some teachers, I imagine, but, you know, they are pretty spread out.

Q. At this time if this had been done and called to your mom's attention, do you think that maybe this would have stopped you from going to the drug scene?

A. Maybe. Really I don't know. I couldn't answer that. As I said, it didn't happen that way.

Mr. EILBERG. Thank you very much. The next speaker is Pastor Richard Fierstern, pastor of the Lower Dublin Baptist Church.

Pastor FIERSTERN. I have been in the Home and School Association at the George Washington High School a little over two years, and on investigation we found that there was a drug problem at the school.

There were two groups that began nearly simultaneously. One was a peer group under one of the teachers and at the same time we began a group in the community whose members had privileged information, doctors, lawyers and clergy formed a committee. That program we thought was very, very fine and workable until we found that we ran into a decided difficulty with authorities. We need to decide between the State and Federal authorities what is the answer to the difficulty.

Up until two months ago methadone was dispensed by doctors and they would have to be here to tell you how it happens but in any case, that was stopped some two months ago and we also had the services of a psychiatrist and various clergy who worked on the program.

Unfortunately the program was in the process of dying because of the lack of funds and this seems to be the history right along.

We found that we were in a bind, we had the approval of the District Attorney's office but the State didn't say so.

They were against us at this point and the Federal government said they were concerned about the situation but didn't want to get involved and consequently we have had this great problem with the various law enforcement agencies.

There are active individuals in the Northeast who will give help but from my own experience I went to these as has already been mentioned to try to find help and it is exceedingly difficult to find someone to back us up.

There are plenty of interested citizens in the Northeast who still are trying to help, but the resulting program that we have to offer, is simply a makeshift thing until something comes along that is better.

Our doctors are willing to treat as best they can, but just this morning one of the doctors said that there are no less than one hundred and twenty names that he could give to someone so that these young people could be institutionalized.

He feels that the hard core addict needs to be institutionalized. We can treat those who are borderline cases but we need a terrible lot of help. I might add that we need some kind of flexibility in the law enforcement agencies so that we can treat to the best of our ability those who need the help.

We find that the individual counseling session is the one that works best with us so we work with the counselors in the high school and teachers and so forth.

Mr. EILBERG. I was called away for a moment and I wonder if you have any particular reference to the Federal jurisdiction.

Pastor FIERSTERN. Yes. Doctors told me just this morning that there are some youngsters waiting to go into Lexington.

We referred to them for methadone treatment but this was rejected by the State and one of the doctors just this morning said they had the approval of the District Attorney's office and the State was against them and the Federal government simply said that something needed to be done but they were not going to get involved.

Mr. EILBERG. Are there any other questions?

Mrs. STUNDER. Reverend Fierstern, how do you feel about a parent committing a child to a program?

Pastor FIERSTERN. Well, it depends on what the problem of the individual child is.

Most parents are not aware of the problem.

Mrs. STUNDER. I think once a young man or lady is really hooked there seems to be no way a parent can really stop their son or daughter from actually committing suicide and I think in this instance we had one case this week where I felt the parent should be able to commit the young man to a program and they weren't able to do it.

Pastor FIERSTERN. Well, the only place we found with an open door was Eugenia Hospital at Lafayette Hills.

Mrs. STUNDER. And that's a methadone program?

Pastor FIERSTERN. And then where do you get the funds?

Mrs. STUNDER. Yes, because when a family gets to this point they have exhausted everything they have.

Pastor FIERSTERN. There is no medical insurance that I know of that provides for this type of thing.

We thought that we had the funds from one organization but because we were sort of a makeshift operation and only in a local high school they decided to go to an organization that was a little bit broader in the community and give their funds to them which is fine.

We are not in competition, but the problem is funds and we need a program. Granted, we all said that, but I think the individual doctor who is willing to treat the addict needs a little bit more sympathy because there are many fine medical men who have the willingness and concern and they put their head on the block time and time again.

Mr. SCHILLER. You talked about law enforcement people. Could you be more specific about that because I quite agree with you and I would like to know what programs or suggestions you might have in that area.

Pastor FIERSTERN. Well, our doctors—we were able to set up a twenty-four hour a-day telephone service. They were willing to give methadone if under complete physical examination, under guarded conditions, they felt that this was possible.

We saw a heroin addict within three weeks be put on methadone and taken off methadone and now she is engaged in a certain profession and doing an excellent job although she was a dropout.

Now they are not permitted to do this any more and where do these young people go? That is the problem.

Mr. SCHILLER. In other words you would like, instead of having methadone given, given out specifically at certain centers, individual practitioners, doctors, would be able to have methadone dispensing themselves.

Pastor FIERSTERN. With the complete approval of the enforcement law agencies and complete awareness.

Mrs. STUNDER. Going a little further on this, could we interpret this to mean that certain physicians would be licensed to dispense methadone, physicians that we know are truly concerned and would stay on top of this?

Pastor FIERSTERN. I believe if that same doctor has either the services of qualified clergy, of phychologists, of psychiatrists, sociologists, yes.

Mrs. STUNDER. You don't want to see a general dispensing of methadone?

Pastor FIERSTERN. Absolutely not.

Mr. EILBERG. Thank you. Certainly one of the subjects that has been in the news steadily, the drug situation over in Vietnam, where so many of our boys are utterly bored and frustrated and there is a great deal of monotony and drugs are readily available. Unfortunately many of them get hooked and come over here and their problems really begin. To address ourselves to this problem we have someone from the VA Hospital, Coatsville, Pennsylvania, Mr. Jessie Durkin. Would you give your full name and address for the record?

Mrs. DURKIN. Yes. My name is Mrs. Jessie Durkin and I live at the Hill Creek Housing Project at 530 West Hill Creek Drive and my son is an addict and he came back from Vietnam last January and I had gotten him to go over to your program in Frankford and he was just simply going down the drain with methadone.

He was getting continually worse, so I agree with the girl who said, you can't go here or I'll put you here. I told him about going to the Veterans and he finally came to me and asked me for help, to take him out to the Veterans Hospital at Thirty-ninth and Powelton Street.

I didn't intend to speak at all today. There were three senior veterans of the Veterans Hospital coming down here to speak but they are from Allentown and I understand there was a lot of ice on the Northeast Extension so they didn't make it or they did get lost but the question was brought up on veterans returning from Vietnam and I would just like to give the information I know.

I have been going up there since my son was at the Veterans Hospital and they do have a program.

All they have to do is go out to Thirty-ninth and Powelton, sign up, and they have an outpatient clinic.

Now there is an eight month waiting list, so my son had either his choice of being an outpatient or an inpatient.

The decision was left solely up to him.

He was left alone in a room and he chose to sign himself as an inpatient which today I am very glad because he has been up there since then and they have a program that is just for detoxification and it is what they call a "lock in detoxification."

They are not allowed out of the building, off the ground anywhere. They are locked in and they go to chow hall.

The whole hospital has underground tunnels which they use to go to chow hall and so forth, but until they are through this complete detoxification it is a lock in, unless they themselves choose to leave the hospital and the door is unlocked and they can leave at any time if they want to leave this hospital.

If they get over their detoxification they are then put through a screening by the doctors and psychiatrists and the senior residents at the Veterans Hospital.

If they feel these fellows are sincere they go on to another building and they are then given psychotherapy.

On Thursday evenings they have a family night and each and every boy's family there comes up and you have a rap session which is like a group therapy and it is very interesting.

Doctor Cooley is the acting psychiatrist up there and he has asked me to represent the Northeast, because they have gotten more fellows up there lately from AID and the Northeast here than any other part of the city.

I also wanted to say why I am here. These veteran fellows up there want to go out and speak to any interested or sincere groups or organizations. They want to come and speak to them. The senior residents, when they are discharged, they will come back three times a week for group therapy and there are two of them that I know personally have just gotten jobs with the Veterans Administration as drug counselors.

They do give them vocational guidance and now my son is going to school in Coatsville in the evening and he comes home week ends and it is just a shame that this city doesn't have an institution like this.

They are not in with the insane people which the fellows up there call "moats," and they are with their own kind.

They are all "junkies," as they call them, and they are all with one another and they are a family. I also wanted to say that actually it is run on the same principle as Lexington with the exception that I wanted to say that even if these junkies have a drug charge against them of any kind they are still accepted by the Veterans Administration.

In fact there is a fellow up there right now from Atlantic City that will go to prison because he killed someone, but the Veterans will accept him even with that charge and I thought this was important to talk about, that they will be accepted.

Mr. EILBERG. Mrs. Durkin, I had occasion to visit the VA Hospital and you know, of course, they are converting the laundry building up there . . .

Mrs. DURKIN (interposing). Yes, I know that. I was up there last night and they have opened a building and they have their first female.

They opened a building for the females and she is up there alone and I give her a lot of credit because she came up all alone by herself and from talking to her I learned she hitchhiked up there alone to sign herself into this program, and it is a shame that the city can't get something like this together for the fellows and the girls here.

Mr. EILBERG. Are there any questions?

(No answer.)

Mr. EILBERG. If not, thank you very much.

Mrs. DURKIN. You are welcome.

Mr. EILBERG. I would like to call next upon a gentleman who came from an army reserve unit which has been most attentive to community needs. I remember some time ago having helped with this group in the cleanup of Pennypack Creek.

I would like to present Lieutenant Howard Sherman. Would you give us your full name and organization?

Lieutenant SHERMAN. My name is Howard Sherman, 304th Civil Affairs Group and I am here representing the group.

They asked me to come down here and offer their services and our facilities and interest in whatever is to be done in the community in outlying areas.

I was selected to come down due to the fact that I was executive officer of the company that build the first drug rehabilitation center in Vietnam.

Prior to that time we had been in a combat zone and prior to the proper installations of such a unit, any of my men who had problems along these lines, which was mainly heroin, would receive the Commander's and my own personal attention through cold turkey and various other tried methods.

With the institution of the drug center things were starting to be done for the returning soldiers especially and I understand that there have been other centers instituted over there for the returning veteran and for the veteran who is home.

As I say, I am here representing the group and any contributions that we can make to any programs that might arise; we more than want to help out.

Mr. EILBERG. Thank you very much and I know you mean that and I appreciate that and at the same time if you develop any ideas you can let us know and we can work together.

Are there any questions?

Dr. LINDENBAUM. We have heard from various sources various statistics on what the extent of the drug problem is. What is your own observation as to the number of people involved, in your own estimate, people in your outfit?

Lieutenant SHERMAN. As my personal observation, aside from anything that might be published through army channels, I would say probably no more than ten percent of my own outfit and that is maximum.

However, the severity of the ones that had it drew attention to it.

Mr. EILBERG. Thank you, Lieutenant. Next we would like to hear from the representative of the Northeast Philadelphia Branch, Women's International League for Peace and Freedom, Mrs. Doris Peltan.

Mrs. PELTAN. Congressman Eilberg, members of the panel; thank you for the invitation to be here today. I am Doris Peltan, co-chairman of the Northeast Philadelphia Branch of the Women's International League for Peace and Freedom.

Drug abuse is not a new problem. It has plagued our society for many years. Its victims have been crying out for help but their pleas have not been heard.

Today there is a difference. There are those who see the need to begin listening.

This is so because the location and color of the problem has changed. It is no longer confined to the ghetto or the non-white population.

Today no community is immune and so we are beginning to take a hard look at the problem.

We believe drug abuse is just one more symptom of our diseased society.

When a society is governed by laws that make it a criminal offense to take a life, while training its youth to kill and be killed, as in the war in Vietnam, it is a sick society.

When we allow hunger, starvation, poverty, ignorance and prejudice to be prevalent in a land of plenty, it is a sick society.

When citizens are subjected to a "double standard" in the workings of the judiciary, we have a sick society.

We have the wealth and the technology to build a healthy society. What is needed is for those of us and those of you who are responsible for the problems we face today to attack these problems.

Yes, we need rehabilitation centers. But these centers, we must recognize, are simple "bandaids." And we all know that "bandaids" do not cure cancer.

Rehabilitation centers are necessary and they are life preservers designed to save those who are drowning. Life preservers do not prevent shipwrecks and we must learn to prevent the shipwrecks.

We, therefore, respectfully urge revamping our national priorities so that our energies and resources can be utilized toward creating a more humane society—a society where the human needs are the first priority and funds go first for human needs.

We respectfully urge the recognition of the consequences of contesting international disputes by war.

When governments refuse to find peaceful solutions to their problems, individuals tend to be similarly intemperate in their dealings with each other.

A society of such individuals in a worldwide climate of strife breeds the problems we are discussing today.

Only by ending the war can we hope to make a beginning at a real solution for the ills of our society, including the drug abuse problem.

Thank you again for the privilege of presenting our testimony.

Mr. EILBERG. I quite agree with you. This Congressman is doing all he can to rearrange those priorities and I want to congratulate your organization for not only addressing itself to the end of the conflict but all the related problems and that is what you hear about today.

Mrs. PELTAN. We try to do it. There has been much talk to have programs and all of you know about the lagging because of no funds, and there are some good programs available but there are no funds available, so for those who say they can't see where the war is related, I think that is one of the reasons we wanted to present our viewpoint here.

There are programs available.

Mr. EILBERG. Are there any questions?

(Not answered.)

Mr. EILBERG. Thank you very much.

DRUG HEARINGS HELD JANUARY 22, 1972, AT HOLY FAMILY COLLEGE, PHILADELPHIA, PA.—VOLUME II

Hearing held at the Holy Family College, Grant Avenue and Frankford Avenue, Philadelphia, Pennsylvania, on Saturday, January 22, 1972, beginning at 10:00 o'clock a.m., until 4:00 o'clock p.m., Eastern Standard Time, to investigate extent of drug problem in Northeast Philadelphia and to explore what programs and facilities are needed regarding this matter.

Present: Joshua Eilberg, Esq., Member Judiciary Committee, U.S. House of Representatives, Chairman.

Berle Schiller, Esq., Lila Stunder, Rev. Peter Quinn, and Dr. Ellis Lindenbaum, Members.

Mr. EILBERG. I would like to introduce next a gentleman who has done an excellent job as executive director of the Philadelphia Association of Retail Druggists and he for example has been very anxious in the public interest to have prescription drugs included in Medicare. Raymond D. Fleisher.

Mr. FLEISHER. Thank you, Congressman and members of the panel. I am also on the Board of the Greater Philadelphia Council of Narcotics and Drug Abuse.

I think I will speak about both just briefly. As far as the pharmacists of the City of Philadelphia are concerned you probably have read that the State Board of Pharmacy has recently undergone changes in its rules and regulations. There were public hearings on those last week in Harrisburg, where some of the more emotional regulations regarding mail order and advertising were discussed rather fully, but it didn't really take into effect the problems of drug abuse insofar as illegal, forged or stolen prescriptions that were sent in by mail to pharmacies and were filled without any contacting being made to the patient or to the pharmacists. There were many drug abuse products involved in these prescriptions.

We have documented evidence whereby prescriptions were just mailed out with no contact being made as long as the prescription was received and the money was received. It was filled and no questions were asked.

There was another regulation which involved the exempt cough preparations. The State Board of Pharmacy would like to have the exempt cough preparations filled on prescription only.

There are certain areas of the State that say that it would be a hardship on the public.

We find that is not true in the metropolitan areas and we doubt very much whether it would be a hardship on the general public in other parts of the State inasmuch as there are so many preparations on the market today which have a substitute for the codeine that is just as effective as the codeine and we find there is no reason not to have the products containing codeine or any other kind of narcotic put on prescription only. We look for it especially here in the Northeast.

I get reports in the office every day of parents calling and telling me of pharmacies that are selling cough preparations to their childern and it is sold legally.

The State law in Pennsylvania is that codeine may be sold to any person over eighteen years of age—four ounces of cough preparation within a seventy-two hour period—and it is not too hard to have a student, especially a student in the senior high school who might look eighteen or have a friend of his go into the drug store and buy it for him and they may go from store to store to store and in that way be able to pick up a dozen bottles, because the drug stores are pretty well congested in the Philadelphia area.

We still have plenty of drug stores around and a person can go around and get bottle after bottle, so, the Philadelphia Association of Retail Druggists want to go on record as backing the State Board on this particular recommendation in that exempt cough preparations should be put on prescription only.

We also back the State Board of Pharmacy insofar as we are against mail orders.

We don't go for the emotionalism involved when they bring in the retired person saying they can't afford it and we have found that people who present the problem and have a bona fide request so far as financial hardship is concerned, that the neighborhood pharmacist will take that into consideration when pricing the prescription.

Now, if I may take just a few more minutes, for the Greater Philadelphia Council of Narcotics and Dangerous Drug Abuse. We are at this time, in conjunction with the Philadelphia School District, running a six-week program here in the Northeast.

We have just completed our third session this morning at Lincoln High School. The sessions run from 9:00 a.m. to 12:00 noon and we have with us in our audience today some of the participants who were in that program.

They are two faculty members, one at Central High School, who you will hear from later, that is Dave Heit and also Mr. Belford of George Washington High School and Kathy Martin who is a student at Washington.

I believe they are scheduled to speak later.

They are very much interested in the peer influence program. They were pioneers in this program which started about three years ago. The students in the school get together with faculty members who are interested and with other students who have a drug problem. I just won't go into that too far. They will talk about it.

We are speaking at this particular six week session. It is really a communication set up, two way communication and we have experts on communication.

You have to talk, talk, talk, talk. When you have a person with a drug problem you have to keep talking to them, and we are looking for suggested community programs through the school system, rehabilitation programs.

There is not too much that the faculty members in the schools can do. Their hands are tied. They can just speak about prevention. They can try to help but it is important that something be done to alleviate this hand tying of the faculty members insofar as where they are breaking a bond of confidentiality with the student. I don't want to get into that but it is hard to stay away from the subject. A student, once he or she comes to a faculty member and the faculty member gets the confidence of the student and they don't want their parents to know about it.

No kid wants his parents to know. I know when I was nine years old I didn't want my parents to know I was smoking a pipe but it is the same thing today.

They don't want their parents to know that and these faculty members—we have quite a few in the school system that have gained the confidence of the students—can help and want to help, and they give up their time. They are here today and they stay up all night with kids.

Well, as I say we are in our third week of this program and we are going to tell just what laws do apply, how far they can go and I repeat again I can't emphasize too much, they just can't go far enough in helping students. They are bound by the rules and regulations and guidelines set down by the Board.

I think Mr. Belford will explain it more fully.

I say give them as much support as possible. Don't say: "No, my kid is not on drugs," when they say: "Your kid is on drugs."

If the kid were not on drugs he wouldn't have been there in the first place seeing the faculty advisors.

It can happen here. It is happening here. Don't believe that it doesn't happen.

Thank you very much.

Mr. EILBERG. Thank you. Are there any questions?

(Not answered.)

Mr. EILBERG. Mr. Nelson Belford from Washington High School.

Mr. BELFORD. My name is Nelson Roy Belford. I am a teacher at George Washington High School and have been a sponsor for a peer influence program for the past two to three years.

My program at this present moment is closed down because of the legality aspects and confidentiality.

It really bugs me that when a person is dedicated in the school system and wants to give of their time, that the different legality aspects stop you; in other words, the program is closed down because people are afraid to put their necks out.

Again, many people have told me I was a fool to put my neck out, that there was some possibility of some parent trying to sue me, that "You are going to lose your job."

I don't care because this concerns the young people in the school and the problem there. The kids like me, trust me, and we had a good thing going at the school.

Now, I wasn't aware that Reverend Fierstern was coming here today and he worked in conjunction with the program and the doctors he spoke about also worked in the program.

These doctors gave their time free to any student in the school which I find utterly amazing today. They gave of their time and gave the methadone that he talked about.

I know specifically the case he is talking about because I contacted this girl first myself and the methadone did take her off of the heroin and she is a productive person today.

Federal monies—why can't we get some Federal funds to relieve teachers of other duties who have rapport with the students in the schools to be able to work at this thing full time and try to turn kids around.

It is just very frustrating when you build something up and it is closed down on you because of the different legal aspects, because they say we can only go so far in the school system in dealing with minors.

It is true that we do have a lot of problems with fourteen, fifteen, sixteen, seventeen year old students and we do owe a moral obligation to the parents of the community but again, we do need confidentiality. Without this there is no way I can run an effective program in any school. Unless the kids trust me and know that I am not a phoney, I'm not going to drop a dime and I am not going to bust them.

Mr. EILBERG. I don't want to be overly difficult but I happen to be a lawyer and when you speak of confidentiality I think you are talking about the kind of relationship that exists between a doctor and patient or lawyer and client where if a client were to tell me something as a lawyer I would not be compelled in a courtroom to say what this was with regard to the problem of that person. Is that what you are talking about? The teacher is not so protected by the law and are you saying that?

Mr. BELFORD. Yes, a guideline or policy should be set up in school in Philadelphia or in any school district as far as that goes where a teacher is allowed to have this type of information without having to pick up the phone and calling a parent and tell the parent well, your son or daughter came to me today and they are shooting Speed and I must warn you because it is my moral obligation.

You just cannot keep a program going if you are going to start relaying this information to parents.

Of course, my main objective in the program was to involve parents. There is no way I can give help to a young person without many different ways of communication. I need that with doctors, psychiatrists and clergy as well as the parents and I want to involve everyone, but I cannot go to a parent the first time a young person comes to me because I would lose that person.

Mr. EILBERG. And just another question, with regard to the release of teachers' time in drugs programs and Federal government's providing money for that purpose, I do not know what the status of that is. I would recommend if you haven't already done so, that you contact Mr. Tom Rosica down at the school board. He is in charge of federal programs. This would be the proper channel.

Mr. BELFORD. Well, I have gone to Dan Falco who is actually running the sessions that are now taking place. I am a consultant on this program at the present moment and yet I see a lot of problems arising from it. There is no way to evaluate it after the program is started, no team to go out and make sure the programs are going to be put in the schools and that they will formulate some kind of program and take action.

There is just no money available in the system. What good is having six sessions or fifteen sessions and trying to get people some knowledge on narcotic drugs and how to help young people if we can't follow through and give them guidance and make sure a job is being done?

Father QUINN. You are stating at present the guidelines of the board indicate that such confidentiality is not indicated?

Mr. BELFORD. Right.

Father QUINN. Has a formal representation been made to the board to change the guidelines?

Mr. BELFORD. I understand that Daniel Falco is trying to write a proposal on this at the present time. It seems as though every time he tries to get information on this he is always pushed back.

In other words you really can't seem to buck the establishment. You are quietly put aside and if you are going to stir too much trouble you may not even have a job.

Father QUINN. Then would you concur with me in recommending that a formal representation be made to the board, that counselors who are trained and have been approved be given this confidential area as their rightful source and that something significant be done so that actual work can be done. I applaud your human risk taking. I applaud it and I think there are people in the system who are like you and that the system survives because of those people. I would infer that with all the legal amenities that have to be taken into consideration that the guidelines can be changed and perhaps recommendations for a formal change can be made.

Mr. BELFORD. Yes, and protect the administration at school as well because the principal has to be protected, otherwise the principal would not put his neck out at the same time because indirectly if I could possibly be sued because I had knowledge of a young person using drugs the principal could also be sued.

It goes around in a vicious circle.

Mrs. STUNDER. At this time if your program is closed down I would like to invite you to help us at The Road and maybe bring some of your kids there. What is the legality problem?

Mr. EILBERG. Well, it would be whether the teachers are immune from having to tell the police or other authorities about it.

Mr. BELFORD. And it would be on the outside of having to tell the police. The narcotic squad was notified that I had a program running in school and I can't think of his name right now but one of the members, the acting sergeant, came to the school quite often and really didn't give me any direct problems but, of course, he had the attitude that I should inform him of anyone that I knew who was using drugs and again this is not my job.

Mr. EILBERG. What is required is a law which does not require you to be subject to that kind of pressure.

This, of course, is at the State level unfortunately and it is not within my sphere.

Mr. BELFORD. It is frustrating when you give time and dedication and you are really put down for it.

Not many people are going to give their time and get involved in drug problems and you must give a lot of time, day and night. It is not a night-free job. It is very frustrating and not many people will do this.

Mr. EILBERG. Thank you, Mr. Belford.

Mr. BELFORD. Thank you.

Mr. EILBERG. We will go to a student now from Little Flower High School, Miss Kim Krause.

KIM KRAUSE. I am Kim Krause. I am an eleventh grade high school student in the Little Flower Catholic High School and my address is 2028 Wilmat Street.

I worked with the drug abuse committee which is in its infancy right now and it is not really underway.

I would hesitate to give any percentages with regard to a drug addict or a drug user because in my questioning of the faculty, with the faculty and students, I found that it is not necessarily representative of my school as a whole.

Now, through questioning freshmen and sophomores I have learned that the alcohol problem is most prevalent and I think we have to, you know, think about it because alcohol is also a drug.

In questioning juniors and seniors there is a great amount of alcohol along with such drugs as marijuana, Speed and barbiturates.

We found in our school particularly that there is not so much of the hard core addict. Now, I am also involved in a six week seminar and I really think it will be profitable to have the faculty and students working together toward the one problem.

Now, this program will set up and organize some kind of drug abuse program that is applicable to their own school and as yet Little Flower has been interested in creating an atmosphere of trust between faculty and students and secondly the establishment of a separate peer group room for discussions and thirdly, to know that the faculty and students are interested in the problem.

I would like to thank you and it is nice to know that somebody cares and somebody will get some action.

Mr. EILBERG. There is one question that I have. Reference has been made—and I was unaware of this until this morning that there is a little better control in the Catholic schools as opposed to the public schools. Do you know anything about that?

KIM KRAUSE. Yes, Mr. Greenberg, I think, mentioned that and I agree with it most heartily.

Most of my friends outside of my school go to Frankford and other high schools and I know there is much more going on in Frankford than there is in Little Flower.

Like Mr. Greenberg said, maybe there is something that the parochial schools have that they are not aware of, that the public schools are not aware of or are lacking.

Mr. EILBERG. Is it possible it may be discipline?

KIM KRAUSE. It may be discipline.

Mr. EILBERG. Are there any other questions from the panel?

(Not answered.)

Mr. EILBERG. Thank you very much. Now, we have a great many speakers that want to testify and we have been keeping some waiting too long, perhaps, but we hope you will understand.

I want to introduce next and I may not have the spelling correctly, Sister M. Charity Kohl.

M. CHARITY KOHL. Members of the committee, ladies and gentlemen. My name is M. Charity Kohl. I am administrator of the CORA, Counseling and Referral Center, Sisters of Good Shepherd, located at 733 Susquehanna Road. CORA is an L E A A funded short term non-residential counseling center designed to deal with youths who are either pre-delinquent or incipiently delinquent, but who can benefit from interventive, short term family centered therapy.

Our contacts with hard core users have been somewhat limited and because perhaps because of the very recent initiation of our services.

However, we have become aware both from our clients, their parents and some individuals whom we have had to refer to other agencies for more intensive treatment, that the use of drugs has become quite prevalent among youths in this geographical area and opportunities to obtain the same have become even more prevalent.

Through our own experience we have become aware of the great lack of in-patient detoxification facilities available to the person who has become addicted and wishes to obtain medical treatment.

Not only is there a most drastic shortage of beds for detoxification, and it sounds a little trite after the rest of the testimony, but also many of the detoxification programs are too short, secondly exclusive economically and thirdly geographically exclusive.

In light of the above our recommendations would be the following:

1. An intensive drug education program in both the public and parochial schools down through the middle grades of elementary schools.

2. The ready availability of both psychological counseling and legal advice to young people with drug problems.

3. A dramatic, drastic increase in inpatient intensive detoxification programs where medical treatment can be combined with psychological counseling, vocational counseling and legal advice.

Thank you.

Mr. EILBERG. Thank you very much. I am glad to hear you are funded by LEAA. Are they doing enough for you? Do you have any other ideas that you would like to see done?

M. CHARITY KOHL. We really have been most appreciative of the support that we have been given.

There are a few interesting things that have developed, one, for instance, we are dealing with a much younger population than we had anticipated and some of the materials that were presented this morning seemed quite pertinent in that most of the youngsters who are coming to us who are referred from schools and local agencies, as well as their families, are really between the ten and fifteen year old age bracket, and we have a number who are younger than that even.

Mr. EILBERG. Do you agree with the testimony of the young lady who testified before that so much depends on proper home life?

M. CHARITY KOHL. Yes, I believe it has to be dealt with by dealing with the family situation. I really feel that any other approach outside of involving the familly initially is not going to work.

Most of what we do is family therapy.

We do not work with the child unless we have the parents.

Mr. EILBERG. Are you able to in many cases have the parents come along? Are you helping the parents?

M. CHARITY KOHL. We are very pleased with the cooperation that we have been given. We are awfully young, only three months old, but all we can document is very positive at this point.

Father QUINN. Sister, your services are available to the large Northeast community, is that correct?

M. CHARITY KOHL. Yes, we are funded particularly for the servicing of the Greater Northeast. We are court sponsored and linked therefore to the CRS Referral Agency in the city, that is part of the Court Division at Twenty-second and Arch.

We function as a Northeast extension.

Father QUINN. Would other agencies have the opportunity to refer directly to you other than the Court system?

M. CHARITY KOHL. Yes, most of our referrals right now are from the public and parochial schools. We have some JAD referrals and we have a number of referrals from private physicians and a number of families who have themselves self-initiated the requests for help.

Father QUINN. I notice there are a number of agency people and school people here and I wonder if you could give us your phone number?

M. CHARITY KOHL. Helen Strauss is our director of personnel and counseling and is on our board and has communicated our services free to public schools.

We haven't been so fortunate with the Catholic schools and I must admit that. We have had to try a hit or miss method. Our phone number is F12 0800.

Father QUINN. Thank you very much, Sister.

Mr. EILBERG. Thank you very much. Our next speaker is Mollie Spector, district director of the Jewish Family Services of Philadelphia.

MOLLIE SPECTOR. I have a story to tell. Several months ago a rabbi in the community called to ask our help.

He had officiated at a funeral of a young adult who died from an overdose of drugs. This was not the first such experience.

Attending the funeral was a large number of young friends of the deceased. The majority of them openly acknowledged the use of a host of drugs.

About sixty of these young adults and teen-agers accepted the rabbi's challenge and turned up for a rap session with him at which time he offered the services of a specially trained discussion leader.

Roughly half, or thirty-two fellows and girls turned out for that first session.

Their ages ranged from twenty-two to fifteen years of age, sophomores in high school to sophomores and juniors in college.

While the turnout was both terrifying and gratifying, I could not help but be haunted by the question of what happened to the remaining thirty. Where did they go, if indeed they went any place.

What happened to them. The resources here in this community are extremely limited and though some of us either in agency settings or some other service type facility are dedicated to trying to provide services on a shoestring, we all know too well that the large numbers who do not come to our door steps are perhaps in even greater need of our help than the more motivated ones who do.

Each youngster who seeks help can readily mention many others who are in the grips of the same dilemma as they, in terms of drug use, predelinquent and delinquent behavior.

There is an understandable reluctance to get beneath the tip of the iceberg.

Some agencies are already burdened with waiting lists for treatment and the prospect of reaching out to persons very much needing service and perhaps responding to the reaching out, evokes questions about absorbing more cases with existing personnel.

My agency, the Jewish Family Service, has a geographically based office in the Northeast. Ours is a private, sectarian agency.

A number of our clients have either used or currently are using drugs. More are in the younger, adolescent group, but many are college students.

Because we are not a medical facility we restrict ourselves to the so-called soft drug users, and attempt to secure a resource with medical help available for the hard drug user.

In the Northeast, this is a heartache. The number of places to which a responsible referral can be made can be counted on a few fingers.

Limitations exist in the cost of private care, prohibitive for most, restrictments of catchment areas when they exist and almost total lack of services in the huge community of the far and farther Northeast.

So, what will we do with the thirty and more who got away, given the existing resources, and what will be done for the many more than thirty who are out there, desperately needing help but with no place to go.

The Jewish Family Service has a special project for youth in a suburb on the other end of the city. It is proving to be a successful one and it is limited to youth, the majority of whom are drug users.

The funding is from private sources and the numbers involved are small.

No private agency could ever hope to have sufficient funds to begin to cope with a problem of this magnitude.

It seems to me that since the use of drugs is so widespread, reaching across all segments of the community, that a larger source of funding for treatment programs must be activated, and quickly, to begin to do some very significant intervention on behalf of our alienated youth.

Mr. EILBERG. Thank you very much.

Are there any questions from the panel?

(No answer)

Mr. EILBERG. Thank you very much. Our next speaker is Mrs. Harriet Goldstein, Assistant Executive Director, Association for Jewish Children. Mrs. Goldstein.

HARRIET GOLDSTEIN. The Association for Jewish Children is a child welfare agency responsible for placement of children requiring separation from their parents and for an intensive preventive program for families designed to avoid separation when possible.

Of the approximately five hundred children served by the agency within the past year, about sixty percent are from the Northeast and over one-third of them are adolescent.

Essentially, all our children are from families with limited income of six thousand dollars or less, socially isolated, and beset by personal, marital, educational and social problems.

Within the past several years a repetitive thread has appeared in the presenting problems of some children and some parents.

Twenty-four out of thirty-eight adolescent children, ages fourteen to seventeen, referred in a six month period in the last year, were making heavy use of drugs, some to the point of requiring immediate hospitalization.

An increasing trend was noted of married couples in their early teens and early twenties who had turned to drugs to solve their marital and personal difficulties and who placed their very young children, all under the ages of five, into foster care with little apparent capacity to resume parenting.

For example, in one of our foster homes, is a youngster placed at the age of two who had been locked in a room with his mother without food or other care while she was on an LSD flashback for three days.

Repeatedly, it was evident that young people and adults used drugs and alcohol to make them feel good, to help them overcome depression, and to solve many problems they felt within themselves.

In most instances treatment facilities for those already deep in drugs was non-existent or difficult to find, especially for children under the age of sixteen.

Attempts to secure service from existing mental health resources for less distressed persons resulted in being placed on a waiting list.

Examination of existing drug education programs indicated that they were conceived for upper age adolescents, already under the heavy influence and pressure of the peer group.

A program directed to younger children, eighth graders, designed not only to drug education but towards examinations of themselves as individuals and in relationship to their parents and community, appeared to offer a more preventive approach.

With the complete cooperation of the Board of Education, the Association for Jewish Children has instituted a demonstration project since September, 1971, of a group counseling program in all school districts of the city with a plan to reach over eight thousand children by the end of the school year.

Funds of one hundred thousand dollars for one year were secured from the Haas Community Fund—fifty thousand dollars—other private foundation, Rosenwald and Rosenthal, and other conrtibutions to the agency.

So far five hundred and twenty-five children have been served in District 8 and one thousand will be handled by completion of the project.

Our work is not only with children, but with parents as well, to teach about drugs, to provide a means for improving parent-child communications and to strengthen concepts about human relationships.

Our work with young people indicates that they have many concerns around drugs, home, school and community.

Children have been ready to explore racial tensions, graffiti, overcrowding, the need for programs that are more relevant to preparation for living, need for sex education, improved communication between parents and children, improved law enforcement on local, State and Federal levels, gang problems and inadequate recreational facilities.

Many young children have indicated, and this has been verified by comments from their parents, that sessions such as these have dissuaded them from using drugs, have given them insights into themselves and have strengthened positive feelings to adults.

From our perspective it appears that the following services are needed in the Northeast:

1. Sustained educational forums aimed at preventing drug use.
2. Additional mental health resources for individual treatment of parent-child relationship problems.
3. Specific drug treatment programs both on outpatient and inpatient basis.
4. Increased financial support for already existing drug related treatment centers.
5. A coordination and a creative expansion of the efforts that already exist in this area via umbrella community planning.

Thank you.

Mr. EILBERG. Miss Goldstein, with reference to treatment programs, particularly because that is before our House Judiciary Committee, can you be a little more specific. How do you react to programs. How could we or should we extend them?

HARRIET GOLDSTEIN. Some first have to be created.

In our experience if we had a youngster who needs inpatient hospitalization, unless the family can afford it it is simply impossible to achieve it, and obviously, we don't have families who can afford it so it has to be created for them.

First of all there are some programs that exist and they could be expanded, for instance the Friends could be helped to expand and programs like The Bridge or programs like The Road and they can be given additional funds or others created for this.

It seems to me that the need is there. The resources simply are not.

We have to search and scrounge to plead for any hospitals to take a child to treat who is actively on the drug scene.

Mr. EILBERG. How do you feel about the availability of help, emergency health?

HARRIET GOLDSTEIN. In center city?

Mr. EILBERG. Anywhere. Mrs. Stunder made an impassioned plea at the outset, as to what do you do and who do you talk to.

HARRIET GOLDSTEIN. I heard Mrs. Stunder and support her point of view. I haven't heard her today but we have been in the same position.

It is almost impossible if a child is really hooked and really needs immediate care and we fortunately have at our agency a good relationship with Philadelphia Psychiatric Center and we are perhaps in somewhat of a better position but that is a sheer working relationship that our agency has, but it is very tough, because most places don't want to begin to handle this type of youngster or this kind of adult.

Mr. EILBERG. Are there any questions?

(Not answered.)

Mr. EILBERG. Thank you so much, Mrs. Goldstein. Our next speaker is Carol Wacker, vice-principal, the Lincoln High School.

CAROL WACKER. I am Carol Wacker, vice-principal at Lincoln High School. I have two students with me.

I have a statement and one student has a statement and the other one is available for questions.

CAROL WACKER. Last year was our worst year with problems associated with drug abuse.

A brief summary of our problems is as follows; we had four emergency cases of overdosage which we had to rush to the hospital and it was a touch and go type of emergency.

We had several other cases where we had to call parents in to take us to the home to seek help, medical help.

We had a theft of forty thousand phenobarbital pills from our civil defense closet and eventually ten thousand of those pills were recovered and there were eight arrests of students connected with this.

Last year we had numerous contacts with the principal, vice-principal, counselors, nurses, teachers of students seeking help or students apparently under the influence of drugs.

We had a boy arrested in our parking lot with a large number, about a thousand pills in the trunk of his car.

He was arrested by a stakeout team that was operating and they had him under surveillance.

Most tragic of all we had two students die out in the community from drug related causes.

Educationally we have made efforts to have our staff given up to date information in many areas.

First we had a new service course that helped teachers, nurses and counselors and last year we alloted funds to purchase up-to-date films, books, pamplets and records and other types of resources.

Several of our staff members were involved privately in rehabilitation centers, working with the mental health programs or taking courses on their own at several universities.

Our principal, Mr. Bernard Rafferty held a seminar or had a speech before the Home and School in regards to the drug problem.

We have on-going health education in the junior high—they have one unit about health, about drug abuses and one in senior high, so every boy and girl at Lincoln gets at least one complete unit in health education.

We are right now involved in a drug abuse team that we just came from which meets in Lincoln High School every Saturday morning for six Saturdays in a row to formulate some kind of program of prevention.

This year at school the picture is much brighter insofar as the number of contacts made in the school.

I would like to be very clear about that. We have only had five contacts and very briefly we had one trespasser, on the school grounds with marijuana and he was arrested under the new trespassing law that was passed by City Council last year.

We had a mother bring her son in and she wanted a contact with the narcotics authorities and didn't know how to go about it and asked the school authorities to make that interview with her. He was in possession of narcotics and had no other place to turn.

Our nurse alerted me to the fact that she had a fourteen year old girl in the infirmary with what appeared to be track marks on her arm.

We interviewed her and she told us that she was experimenting with heroin over the week end.

We brought the mother in and the mother made a contact at Nazareth Hospital Mental Health Program.

We had another parent come in with information that her son was in possession of drugs and possibly selling.

She wanted him arrested and also we urged her to talk to her priest and her priest put her in contact with The Bridge.

We received a couple of complaints about alleged pushers coming onto the school grounds and in every case we alerted the narcotics division and our school police to apprehend them when it happened and we have not made any arrests in that connection.

We have a list of thirty-one names at this point of students who have either been suspected or selling or using drugs at the school. I said I wanted to be very plain about the contacts in school.

We are not having the hectic type of existence that we had before, almost every other day I would be called into the infirmary last year, and it is very quiet in school this year, but by no stretch of the imagination do I think that the drug problem is any less.

I think it has gone underground and there is considerable activity on the weekend and at night.

We still occasionally get students in the infirmary on Monday who have some kind of "drug hangover letdown" after the weekend. Where the students don't confide in us it is kind of the end of the line for us. I have these recommendations that I would like the panel and the Congressman to consider.

1. We need a full service mental health facility in the Northeast with additional funds for family counseling, marriage counseling, drug and other problems and psychiatric services at a low cost or reasonable cost.

We need this desperately.

2. It might be beneficial to investigate a law that New York has that possession of a large amount of drugs is tantamount to sale;

3. We in the school needed a clear statement regarding the use of undercover police and stakeout teams to investigate pushers and the role the school should play with the police on this particular item.

4. We need an alternative to regular high schools for those students who are arrested and convicted of drug pushing.

The only alternative we have right now is to transfer them to another public school and thereby infecting it.

We get rid of our problem to another school.

5. I guess you heard this all day—the School District of Philadelphia needs more money to operate the basic programs and restore some of the high interest activities that we have had to curtail due to the budget problems.

We met today and we discussed it in our committee, alternatives to drug abuse and the type of high interest activities that would attract young people today that are drying out and we can't run them without money.

We can't even run a dance at Lincoln without paying one hundred to one hundred and fifty dollars for opening the building and paying for the heat and so on so any Federal funds that would be put into Philadelphia to help out our financial situation would help us in any extra program that we could formulate for drug abuse.

This is a very big problem;

6. We need to look into the type of law that five states have, Michigan, Nebraska, Iowa, Indiana and Connecticut which includes school counselors within the scope of privileged communications.

As it is now it is a serious point, the school counselor must share the information with the school authorities and the vice-principal and principal and they must go to the family.

I am not sure what the consequences are when they don't, but it is rather clear that we stopped communications with our students when they know they have to communicate with other people.

7. We would like or we need the school to have a complete list of all of the services available in the Northeast that will help all problems, especially students with drug abuse problems.

We know of a few places. We know of The Bridge and Gaudenzia House and a lot of referrals to Nazareth Hospital, but in some cases—well, we would just like a complete list where we could get help.

Do you have any questions from me?

Mr. EILBERG. You have given one of the most detailed accounts we have had and I want to express gratitude. You have been very specific and very candid. We will have a brief statement from your student and please stand by.

CAROL WACKER. Yes.

(Name of student not given.)

STUDENT. I am a student at Lincoln High School and I would like to say something about the six week seminar that is being funded by the Pennsylvania Crime Commission. It is going to try to bring about a drug education and prevention program throughout the whole Northeast. Other high schools in the city and we started two weeks ago with the third session.

It was from 9:00 to 12:00 in the morning at Lincoln High School and around 11:00 o'clock each school which meets at Lincoln breaks up into separate classrooms and they have a workshop there.

I brought the question whether or not anyone in the faculty of Lincoln High School has any association with the Road at Frankford and Welsh and nobody knew anything about it. The purpose of the seminars at Lincoln is to try to set up a drug abuse and drug education program to try to help kids with whatever their problem is and no one knew anything about The Road. I went there last night and I was talking to Lila on the phone and what I would like to see get started at Lincoln—the only thing that I think could get started at Lincoln—would be a referral service. I think they could use all the help that they could get. Like last week we were talking about the lack of communication between student and faculty and I think there is a lack of communication between the school and the community because the faculty didn't know what was going on at The Road and last night I asked two directors of The Road who are here now whether they knew of the program that was going on at Lincoln and they didn't know anything about it.

Now, The Road said they would be more than willing to bring films and slides and lectures to the school to try to get any work shop started there. I think this could be the start of something pretty good.

Mr. Eilberg. Thank you very much.

Mrs. Stunder. At this point I won't get blamed for lack of communication because I don't know how many letters have been addressed to Lincoln School from The Road and apparently they got into the wrong hands. I thank you very much.

Dr. Lindenbaum (addressing Carol Wacker). You spoke about a workshop for people problems?

Carol Wacker. No, this is for prevention and help for the student and today we examined for fifteen or twenty minutes alternatives for the students who are bored and don't have places to go and what the school can do to open up its doors at night to take care of the students.

That is one direction in which we are going. The other is for a referral service.

Dr. Lindenbaum. What kind of education would you think is mandatory from the school?

Carol Wacker. Receive a full unit in eighth grade and a full unit in eleventh grade. It is mandatory by law in Pennsylvania that all schools should teach drug abuse.

Mr. Eilberg. Thank you. And what about your second student?

Carol Wacker. Our second student does not have a statement to make but knows something of the availability of drugs in the Northeast and will respond to questions.

Mr. Schiller. I would like to know whether the students, knowing that drugs are not good for their fellow students and themselves will be willing to inform on those who are pushing rather than those who are using?

Student. I think that the majority of students would not.

Mr. Schiller. Would you tell us why?

Student. It is like people don't want to blab on other people. They wouldn't like to tell.

I don't think it would be out of fear or anything like that.

Mr. Eilberg. About the availability, can you give us some ideas about how available drugs are?

Student. Well, in the surrounding community drugs are very, very available, especially narcotics.

Mr. Eilberg. Can you tell us which kind of drugs?

Student. I would say a great deal of heroin. In the last few weeks cheap bags have come back in circulation.

You have probably read that there has been a shortage in the city and they have bags coming back in the area for five or six dollars. There are some barbiturates around, methadone, acid.

Mr. Eilberg. Cocaine?

Student. Cocaine, not really, acid. In school, I know in my school drugs aren't circulating really that much.

I would say that the only thing that has been going around was a few barbiturates.

Mr. Eilberg. Are any kids pushing?

Student. Not really.

Mr. Eilberg. Is the pushing done from outside in the community?

Student. Yes.

Mr. Eilberg. Is it getting worse? Are drugs more available than they have been say a year ago?

Student. Yes, they are.

Mr. Eilberg. Do you have any ideas what should be done or what we should be doing about it?

Student. I would say the only way to cut down the drug abuse would really be to give some true information to people who experiment.

I think you really can't stop the flow of drugs except you might be able to cut down the amount of people using them.

Dr. Lindenbaum. Do you have courses in high school in drug abuse?

Student. Yes. I was going to the sessions on Saturday mornings.

Dr. Lindenbaum. What is your opinion of the sessions?

Student. I think they are very, very informal and they give general knowledge.

Dr. Lindenbaum. They don't give you medical information?

Student. No.

Dr. Lindenbaum. What would happen to your body?

Student. No.

Mr. Eilberg. Are kids paying attention to these sessions?

Student. No, they are not.

Rev. Quinn. What we have found with the adolescent addicts is that although most of them have been exposed to biology courses and what have you designed to implant sufficient information, they literally had no conception of the damage that was being done to their bodies when they used these drugs.

We had a pharmacologist from Philadelphia Pharmacy School come over to talk to former drug abusers, and we got tremendous results. There must be something about the quality of information that we are imparting in all of our sessions that sounds good.

Mr. Eilberg. What do you think of the role of parents and child guidance? You heard other witnesses. In other words, if you have parents that care, that you can talk to, does that make a difference?

Student. Yes, it does.

Mr. Eilberg. In every case?

Student. I would say in most cases it does.

Dr. Lindenbaum. I have talked in a few schools at the request of individual teachers.

The children are actually hungry for knowledge as to what narcotics are and what they can do to you, starting from the bottom up, including alcohol.

I feel it is actually dereliction on the part of the medical profession not to become interested in making sure that the child population and youth population is informed properly.

We have doctors in the City of Philadelphia who could impart this information.

The doctors could go to schools, bi-monthly or whatever, and have sessions with the students in various groups to impart this information. There is no coordination with the health department either.

Mrs. Stunder. At what age should children be educated in drug abuse?

Student. I would say beginning junior high. As soon as a child enters high school if they don't have the information they will be subject to drugs.

Mrs. Stunder. And you feel it has to be taught to them down on their level, not in medical terms or technical terms?

Student. I would say it should be basically their level, a little higher so we can look up and listen.

Mr. Eilberg. I want to thank you. What you have said here goes to the Congress of the United States and goes in the Congressional Record.

(First unidentified student comes back.)

Student. There's something I would like to say is that I would like to see a little more of the school getting into the community like the school working with The Road.

I think that would be the start of, like I said before, the start of something really big in this.

Mr. Eilberg. Thank you very much. Joseph Ruggiero of the Self Help Movement.

Mr. Ruggiero. I am Joseph F. Ruggiero, director of the Self Help Movement, narcotic rehabilitation program, probation department.

Mr. Eilberg. Is that the Philadelphia Court System?

Mr. Ruggiero. That is correct, Congressman, Common Pleas Court.

Drug addiction, as we know it, is a cancer throughout our city and throughout our nation.

However, the big thing is that nine out of ten people that use drugs do not only use them because they want to use them or get kicks out of it, I feel that nine out of ten are using them because they are pretty sick individuals.

They are individuals who are emotionally upset and individuals who do not know how to deal with their feelings and the feelings of other people.

Now, nine out of ten of them also would not go for treatment if they weren't motivated to do so. So it is necessary for us to have some type of control over these people in order to try to help them.

If we do not have any type of control we are fighting a losing battle.

I know a lot of people say jail is not the answer and I agree. It is not the answer, but it may be an instrument of help.

In the self help movement our record in the past two and a half years, I would say the last year at least, our attendance has been ninety-five percent and one of the reasons for that is because those people who are on probation and assigned to the self help movement, if they miss a meeting without a valid reason, then we will press the judge to incarcerate them for a period of four days and then release them without a hearing.

That has brought up our attendance to ninety-five percent and we are dealing with some pretty sick individuals.

Of course, it has to be up to the individual judge to approve this action.

Also I would say the self help movement is not seeking a grant. For the past two and a half years it has grown without the help of a grant and will continue to do so.

What we need mostly is inpatient programs. We also need a therapeutic community on the street and unless we get that we are fighting a useless battle.

What I mean by therapeutic community on the street is at present we have four buildings and we are going to grow even longer, without any funds from the Federal government.

We are raising our own money through our own banquets and affairs and the individuals themselves who are on probation are paying a dollar a week and we have the help of the YMCA and up here in the Northeast the YWCA.

At Leiper and Arrot we started a program three months ago and we hope soon to be starting a program on Holmes Avenue at the YWCA.

The program offers confronting therapy. It is one that demands change. It is one that demands the individual who is on DPA to get off and go to work.

It is one that demands certain individuals to go back to high school and it is one that demands the individuals get a bank account and produce.

Out of thirty active cases so far and we hope to raise that to a hundred within the next few months there are about ten boys over a year's period of time, and I am not saying they are cured, we don't perform miracles but ten boys have been functioning better than ever before. They have been under psychiatric care, have jobs and some of them even have their own business and some have gone back to high school and training schools.

We have approximately five boys who have been with us two years functioning well and we have at least two boys that next month will be almost off drugs completely for one year.

We are showing some type of control. We have boys, of course, who aren't doing too well and we have some boys that it is too early to tell, but at least we are very hopeful with the results we can see.

Now, I feel our program is open to non-probation cases and I do feel that probation is part of the answer, that we have an obligation to motivate the individual that wants help and the individual that doesn't know whether he wants help.

These boys wouldn't come to us at first because the program was too hard. It demanded too much and these boys did not want to change.

They are con artists. That is part of the personality but they need help and are crying for it. Therefore, we have an obligation to motivate them.

Another thing I would like to stress before I am done here is that our programs should start workng together instead of worrying about how many cures one could have over another one because the individuals are the ones who are important.

The one here in the Northeast is probably an evaluation unit, designed to find out what programs are best for the individual because there is no one program for every individual and coordinating office. With that I will end my statement.

STUDENT. I would like to know where we could contact you.

Mr. RUGGIERO. I am from the probation department at 716 Market Street and my phone number is MU6 2989 and of course I work up in the Northeast. You can contact the YWCA and our main center is 714 Lee Street the YMCA.

I did fail to mention that we have been going into schools and starting various programs with the schools in South Philadelphia and we hope to do this in the Northeast.

Father QUINN. You are now a probation officer?

Mr. RUGGIERO. Yes. I am the director of the movement and I do have probation cases, yes.

Father QUINN. Would you have an average amount of probation cases in addition to your work with the Self Help Movement?

Mr. RUGGIERO. No, fortunately with the coming of another narcotic unit into the program, into the department, an evaluation unit, this has given me the opportunity to spend all my time with the self help movement.

We are not asking for funds. What the court is doing is supporting the movement by having me work at it daily and this is what I am doing.

Father QUINN. Can you give us any information about the number of clients or the case load the average P O in Philadelphia would have?

Mr. RUGGIERO. I would say that it is entirely too much, over one hundred and thirty cases.

Father QUINN. Per man?

Mr. RUGGIERO. I would say in some cases maybe up to two hundred per man, this is correct.

It is very seldom where you see a man with seventy or eighty cases, very seldom.

Father QUINN. Is there any way physically or emotionally that a probation officer could fill that kind of load?

Mr. RUGGIERO. I feel it is impossible. I feel through the self help movement that is a good opportunity because I have something that a lot of other programs don't have.

I have a good voluntary staff. We have a staff of over five people at present and have applications for fifteen more.

Father QUINN. Have you worked as a probation officer outside of the self help movement?

Mr. RUGGIERO. Yes, I worked in the ghetto area for a period of three years at Broad and Columbia, Broad and Montgomery, and I have also worked as a liaison officer for narcotics.

Father QUINN. What is the maximum number of clients that you feel a probation officer can work significantly with?

Mr. RUGGIERO. I feel in order to do a good substantial job that fifty cases should be the limit, if possible.

Father QUINN. Do you feel that the probation officer can be a significant influence on the life of an adolescent drug abuser?

Mr. RUGGIERO. Definitely. Again it depends on what the probation officer has to offer, too.

In some case maybe private counseling will help but I feel that we just have to expand these therapeutic communities on the street and not only give them private counseling but very close supervision along with the therapy and other types of programs that we have available in the self help movement.

Father QUINN. Thank you very much.

Mr. EILBERG. Thank you. Our next speaker is Doctor Carl Hoffman, Nazareth Hospital.

Dr. HOFFMAN. Thank you very much for inviting me here today. It is awfully hard to know how to approach a topic of this kind. I have worked with it now for many years, originally in the Federal penitentiaries system and I find that there always will be a certain percentage of individuals who must have recourse to some type of outlet, whether it is alcohol or drugs.

This, of course, is a minor problem except in situations of stress, which I consider to be prisons, service, ghetto areas, stress areas of any sort of this kind.

Initially we deal with this from a medical aspect. We used to treat it, the bad effects of those who were involved with drugs of all kinds, drugs that at times could have a legitimate medical use as well as those that had no known medical use and such things as alcohol in addition.

We have come to realize that there are certainly many instances of very bad effects and yet we would find in many instances that after they have been used regardless of the compound that to varying degrees the individual would recover without ill effects.

This has often raised a question for us because as we treat it we treated effects, we never treated the person.

We never come to understand the matters involved in those elements that give rise to use of compounds that would change the psychic state.

It has only been in the last five years that we have taken a hard look at this.

After you see individuals come back you begin to wonder how you can prevent this. In this modern day of medicine which includes all aspects, even the sociological aspect of medicine, you begin to wonder how you can approach the problem in a preventive way.

To do this appropriately requires a deep searching analysis of the community.

Like many of you I have heard that we are rampant with drug abuse.

I am limiting it from this point on to the drugs of all kinds.

Yet I find it is difficult to get precise figures, precise involvement; for example we have requested, from nurses and counselors at school, requests from them for help but I find that many times in following up on these things or my staff follows up on them, that what we are really dealing with is not so much the drug problem but indirection problems of the youngster with his family and his community.

I am not for a moment suggesting that family or community is to blame or that the youngster is to blame. I am simply pointing out that there are factors involved that we haven't yet begun to analyze simply because we do not have precise figures. It is my feeling that there should be an in depth study of the entire community as to how much is involved.

I am not too sure you will ever get an accurate figure although I believe we will get a reasonable kind of response.

If you talk to parents they, of course, will be concerned after the problem has hit, as a rule.

They are concerned: "What will you do?" It is less often "What can I do?"

With a youngster, he is imbedded and enmeshed in the problems of his family and community and he is troubled only when he has hit medical, psychological problems.

So where do we turn? Where do we go? We at Nazareth have tried to cooperate with just about any group who has come forth and said: "We will treat, we will try to prevent."

We will provide beds, for example, for detoxification but it is frustrating to know of the large percentage who go back to the same ways of doing things and the same ways of living that led to drug abuse.

Some of the ideas that I have are that the individuals and usually it is the youngster, the high school, grade school young adult who is involved, who is looking for not so much involvement any more as a relief from whatever he is doing in life, a relief from responsibility, a relief from pursuit of goals or establishing goals, lack of motivation and my emphasis has gradually shifted but not neglecting care, but the emphasis has shifted to trying to understand what we as human beings can do in a community to make it less desirable for any individual to get involved with drugs that take away from the individual not only his right to be an individual but his ability to be an individual.

Mr. SCHILLER. Thank you. Are there any questions?

Dr. LINDENBAUM. Do you actually treat your people on a one time basis or counseling session?

Dr. HOFFMAN. Initially keeping in mind that we at the hospital as physicians start out on a one to one relationship because the initial contact is a medical crisis and it is so vital not only to treat the individual medically but to let the individual know that we give a damn.

Then we look for the practical aspect in trying to find some way to treat in groups, because this seems to be the most practical way to treat this.

Dr. LINDENBAUM. How long are the follow ups?

Dr. HOFFMAN. Some of my own personal follow ups will go on for ten years and it is hard to say what is statistically significant.

Those that come back, are they having problems or have they simply themselves into a relationship, dependency relationship, and those who do not come back, are they well or are they mature or have they just drifted into other areas.

Mrs. STUNDER. Doctor Hoffman, I am aware there are problems at Nazareth but how many people would you say have been detoxified in Nazareth? We are concerned about the number of beds in the City of Philadelphia and in the Northeast for detoxification.

Dr. HOFFMAN. I would say that we average about one case a week. I have set aside several beds, a minimum of two, but more if a crisis would arise on detoxification problems. There are twenty-five psychiatric beds at Nazareth and the department of psychiatry is supposed to cover the whole community for all kinds of emotional and mental problems. So from the aspect of the bed situation it is horrible.

Mr. SCHILLER. Are there any other questions?

(Not answered)

Mr. SCHILLER. Thank you. Mr. Bruce Bell.

Mr. BELL. My name is Bruce Bell and I am administrative assistant to Mrs. Beatrice Roeser, Superintendent of District 8 which serves in Norheast Philadelphia.

Today you have heard many things about the schools and I am not up here to defend what is going on or discuss policy.

What I wanted to do today is not give

a prepared speech but just give an idea of some of the things we are doing in the schools.

We start at the elementary school level and we have programs from kindergarten through twelfth grade and I have some documentation on that.

We work closely with our nurses in the schools, on various school programs with both parochial and public schools.

Our schools have submitted some programs and we have such things as assembly programs, films, special assemblies and special speakers from the various hospitals.

We have some of our members of our schools who are members of the various community agencies.

For example one of our principals is a member of the Northeast Drug Counsel. We also worked very closely with the World Affairs counsel and they have a program coming up very soon on the drug spectrum and the senior high schools participate in this.

We have television programs that the school participated in and we have one that was just held recently called "Drugs."

One of our junior high schools recently showed a film and part of that film was to show what it is really all about.

They really showed the gruesome aspects of drugs and I have a newspaper article with that which I will leave and that describes how the children really reacted to it.

This was the thing they wanted. I agree with the young man who came up earlier.

We heard about the program at Washington High School. This program is being led by the Association for Jewish Children and Mrs. Goldstein spoke about it earlier. This program started with the cooperation of this agency and high school and has been running very successfully. There was an evening program where we had students and had parents at the Washington High School. It was a most successful program and it has been accepted by the community.

I have reports that I will leave with you about that.

As far as The Bridge is concerned we have been authorized a teacher at the facility and I would like to make that a part of the record.

We heard about the special program at Lincoln High School. Two hundred and twelve thousand dollars have been allocated for that program. This program is for students, counselors and teachers, nurses, school community coordinators, principal or vice-principal and members of the various schools.

At our educational service center we have a resource center and in this resource center we have many, many materials for teachers and community to come in and peruse and make available to the school.

We work very closely as a team with the school psychologist and counseling service and as a matter of fact we have our attendance supervisor here today. We work as a total team to work with the drug problem.

As far as Federal funds are concerned I would like to acquaint the people with what is going on.

We do have Federal funds. We have twenty thousand dollars and we are planning programs right now in three high schools in the Northeast. I thought you would like to know that.

Some of the publications that we use in our schools are distributed by the nurses' office regarding drugs, drug abuse, dropouts and we have other publications and publications from The Bridge which we use in our schools.

We have other sorts of publications and I have copies here and something was discussed about curriculum.

I thought you should know we do have curriculum planned because we know there is a need for it and this is the latest copy of the teachers guide (indicating).

This concludes my remarks. Now, I am not here to defend the policy.

Mr. EILBERG. I just want to make an observation and ask you a question which apparently is a difficult one.

Apparently we are in a period of permissiveness in schools. There is a lack of respect for the teachers, indifference, perhaps. It may have something to do with the national situation. There seems to be an indifference or inattentiveness. I am not making this charge but are kids in Catholic schools getting more attention?

Mr. BELL. I had varying degrees of feeling when I heard all of this because another one of my responsibilities is discipline for the district.

I can say this, with the new Board of Education and having discussed this with one of the board members who resides in the Northeast, there is going to be or there is in effect a tightening up of discipline within the schools.

I think the students themselves want it, the teachers want it, and I think we feel that more learning can take place when we have it.

I met with the secondary school counselors two days ago and we were working on the same kind of thing. We felt we needed more communication with students and more clerical work and more time devoted to this.

I heard Doctor Hoffman who was just up and we met just yesterday to develop better communications with the Home and School Counsel, the Home and School people of District 8 and Nazareth Hospital for the mental health center that we know we really need.

I think that perhaps there might have been some laxity but I think there will be tightening up.

I think everybody is asking for it.

Father QUINN. I would just like to make my own comments for the record and I want to thank Mrs. Roeser for aiding us in being able to provide the program for the kids, that we have at The Bridge.

Mr. EILBERG. Next I would like to introduce Mr. Martin, Ken Martin.

Mr. MARTIN. My name is Ken Martin and I live in Buckingham, Pennsylvania.

I would like to state first of all today that we are opening a drug and alcohol rehabilitation center within about five blocks of here for inpatient treatment. It should be opened within the next ninety days.

I have a couple of moments and I will tell you a little more about that.

I have been to about thirty or forty of these affairs, steering committees and you get the professionals, the drug addicts or alcoholics and you get two or three interested parents.

But, as we all find out this is a subject that everybody likes to talk about but nobody likes to do anything about.

There is House Bill 850 which will appropriate approximately ten million dollars for the first time specifically for the treatment of children, drug addicts and is still tied up in committees.

This is the first time in Pennsylvania where money has specifically been earmarked for this purpose and it should be very helpful.

Now, as I said before we are going to open up and we are located at Milner Street and Grant Avenue. We entered into an agreement very recently to purchase this property from these people. It will be staffed with professionals and we will treat alcoholics and to a lesser degree drug addicts and beds will be available on an open bed basis.

Anyone, regardless of race, creed or color will be taken in and we will try to work out something after that as to continuing therapy. I agree that education on drug abuse should take place at about the junior high school level.

We had a patient at one time who was shooting fifteen bags of heroin a day and he had a headache and somebody said: "Why don't you take a couple of aspirin," and he said: "I took a couple a couple of hours ago. I don't want to kill myself."

I think you have to educate people, educate children on drugs, about the symptoms and you tell them the dangers and what not.

Thank you very much.

Mr. EILBERG. Have you operated in the city before?

Mr. MARTIN. No, up in Pennsylvania.

Mr. EILBERG. And this is not a nonprofit corporation. It is private enterprise?

Mr. MARTIN. Yes.

Dr. LINDENBAUM. Do you mix the alcoholic and drug users?

Mr. MARTIN. Yes.

Dr. LINDENBAUM. And therapy?

Mr. MARTIN. Yes.

Dr. LINDENBAUM. Will they be residing in the same units?

Mr. MARTIN. Yes, not properly in the same rooms together.

(at this point it was necessary for the reporter to change paper during which time a small portion of the testimony was not taken)

Mr. ROCCO. I have somebody with me and she wants to make a statement.

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. How old are you?

UNIDENTIFIED PERSON. Twenty.

Mr. EILBERG. Do you live in Philadelphia?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. Tell us about yourself?

UNIDENTIFIED PERSON. I had a problem and I wanted to get off drugs and like there wasn't any place I could go to get off them. I realized I needed help and I know people on drugs and they wanted to get off and there was no place they could go.

Mr. EILBERG. How did you get on drugs?

UNIDENTIFIED PERSON. Through my family. I had problems at home.

Mr. EILBERG. What drugs were you on?

UNIDENTIFIED PERSON. I used a lot of them.

Mr. EILBERG. Do you want to tell us what you used?

UNIDENTIFIED PERSON. I smoke grass, hash, shot speed and then went to heroin.

Dr. LINDENBAUM. How much heroin did you use?

UNIDENTIFIED PERSON. About two bags a day.

Dr. LINDENBAUM. What happened then?

UNIDENTIFIED PERSON. I wanted to get off.

Dr. LINDENBAUM. You decided you wanted to get off drugs?

UNIDENTIFIED PERSON. Yes.

Dr. LINDENBAUM. What did you do?

UNIDENTIFIED PERSON. I went to The Road and they helped me a lot but they didn't give me the help I really felt I needed.

Mr. EILBERG. What did you think you needed?

UNIDENTIFIED PERSON. I needed to go in some place to get off them completely.

Mr. EILBERG. You mean as an inpatient?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. Did you?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. Is Mr. Rocco treating you now?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. And you have been getting hypnosis treatments?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. Are you still taking drugs?

UNIDENTIFIED PERSON. No.

Mr. EILBERG. Are you living at home?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. Are there any questions?

Mrs. STUNDER. I attempted to get this young lady into a hospital. This is one of the crying needs I was talking about before and it's just impossible.

In fact we spent one whole night on the telephone talking, I think, to protect her sanity that night, and I am glad to see you here today and you are looking wonderful.

Mr. SCHILLER. You indicated that you had trouble at home and that is why you started taking drugs, is that right?

Unidentified Person. That is one of the reasons and the other reason was: "It's all over," and I figured why not, I would try it.

Mr. Schiller. You are living at home?

Unidentified Person. Yes.

Mr. Schiller. Is this problem that existed at home still there?

Unidentified Person. No.

Mr. Schiller. It was a problem that related to your relationship with your parents, is that correct?

Unidentified Person. Yes.

Mr. Schiller. And have they gone to any counseling services while you were receiving treatment?

Unidentified Person. No.

Mr. Schiller. How do you explain the change of the conditions at home?

Unidentified Person. Well, like my father realized—like it took him a long time to realize that I was really getting messed up and we just sat down and talked.

It wasn't really bad with him.

Mr. Schiller. Do you feel as though if you really sat down and talked some years ago it might have avoided some of the problems you had later on?

Unidentified Person. Maybe.

Mr. Eilberg. Mr. Rocco, do you want to present the other youngster?

Mr. Rocco. Yes.

Unidentified Boy. You can find it almost on every corner and it goes around, like you can buy it out of vending machines.

It is all over high school.

Mr. Eilberg. How do you know?

Unidentified Boy. I went to Lincoln and I could walk through the hallway and someone would buy dope and I don't have the habit, I just tried it and I found I could be happy without dope, so you like walk anywhere around the city and somebody will say: "Do you want dope?" and usually I turn them down.

Mr. Eilberg. How old are you?

Unidentified Boy. Sixteen.

Mr. Eilberg. Do you still go to Lincoln?

Unidentified Boy. No.

Mr. Eilberg. Are you working?

Unidentified Boy. No, not at the moment.

Mr. Eilberg. What kind of dope is available?

Unidentified Boy. There is marijuana and skag and everything.

Whenever you go where there are large gangs of people you'll find dope.

Mr. Eilberg. What can we do about it?

Unidentified Boy. We need help. The Road is very effective and Mr. Rocco is doing as much as he possibly can.

If there were more places where the kid could go to get help and felt they were needed I am sure there would be a cutdown.

Mr. Eilberg. We need more places like the Road, is that what you are saying?

Unidentified Boy. Yes.

Another Unidentified Boy. I would appreciate it if you wouldn't ask me questions. I ain't talking about myself. I have a few friends and I don't know where they are now. They might be laying in the gutter. I'll tell you, I could take a walk and come back in a half hour with anything on me.

It's really bad. You know, just take it from me, it's all over.

Mr. Eilberg. Do you go to school?

Unidentified Boy. I am hanging in there getting my diploma through night school.

Mr. Eilberg. You are not attending day school?

Unidentified Boy. I just don't bother with it.

Mr. Eilberg. I wondered what school you attended and what the drug scene was there?

Unidentified Boy. I went to Father Judge three years and that's high school and I got kicked out because I was a clown and I went to Lincoln for one and plus a couple of summers and didn't make out there and I'm going to night school now.

Mr. Eilberg. Was there anything going on at Father Judge when you were there?

Unidentified Boy. No, not so much, not in the school, it's like meet me outside after school.

In school they ask somebody if they want it and say meet me outside. I'll tell you something, when I was younger I played all kind of sports at the Boys' Club and these people were outside doing the same thing and you have to have something else beside that and that's all I want to say here.

It's just a question of what is taking place and where we might go. It takes a lot of thought. All I can say you have to help people.

You go to a hospital, all right, and somebody might talk to the parents and then the parents find it is going to cost a hell of a lot of money and that's all that I can tell you.

Mr. Eilberg. Thank you. Next we will hear from Ray Perry, a probation officer.

Mr. Perry. I am a probation officer in the Court of Common Pleas. I think methadone is probably, if you are hooked on it, a worse problem, more dangerous than heroin and there is no place in the City of Philadelphia that will detoxify a methadone user.

I know a fellow actually hooked on methadone. I attempted to get him in different facilities in the City of Philadelphia and I was unsuccessful.

No one would handle him because of the time factor involved.

Of course, he is not the richest man in the world and in fact he is on assistance. This is a problem and people don't know what to do with this young fellow.

This is something the panel can tell me. Where we are going or what we are going to do about methadone using. I think it is being abused and we have cases where they place an individual on medical probation for drugs and where am I going to send them and who am I going to send them to. They have to get up in the morning and get it in order to work for the day.

I think this is a serious problem and should be looked into.

Mr. Eilberg. Thank you very much. Our next speaker is Jerome Libby, assistant director for program development, Northeast Community Mental Health Center.

Mr. Libby. Speaking for the Northeast Community Mental Heatlh Center, we wish to thank you for the opportunity to make a statement at this public hearing.

We would hope that the information provided by this hearing would serve several purposes. These would include, first, assisting the Congress in i's effort to deal meaningfully with a major problem; second, making the community more aware of the realities of the drug abuse situation in Northeast Philadelphia and finally, supplying the service agencies in the community, including Northeast Community Mental Health Center, with additional information they can use in developing more effective approaches and programs for dealing with problems of drug abuse and addiction.

This statement should be taken as a preliminary statement. Our intention is to respond more definitively in a written statement which we will submit at a later date.

The Northeast Community Mental Health Center has been providing services to individuals with drug abuse and addiction problems from the time it became comprehensive community mental health center in the spring of 1970.

A significant percentage of the center's services are provided to individuals with drug problems.

The number of individuals with drug problems that the center has been serving has been increasing steadily and now constitutes almost twenty percent of the center's service effort.

Drug abuse problems are handled within the context of the regular community mental health center program. We are not presently able to offer specialized drug abuse services.

The range of drug problems that we are serving is broad, including individuals using barbiturates, amphetamines and hallucinogens.

Two very necessary kinds of service that we are not able to provide at this time are detoxification in cases of heroin addiction and methadone maintenance of heroin addicts.

The demands for the entire spectrum of clinical services of the center are constantly increasing and unless the center is able to obtain funds to develop specialized drug abuse programs it may soon have to seriously reconsider how much of its resources it can devote to drug problems in relation to all of the other mental health problems which the center is required to serve.

Our community consultation and education service has been able to provide a number of kinds of service related to drug problems to agencies, individuals and groups in the community.

In addition to the more usual kinds of drug education activities such as speeches, lectures and panel discussions to organizations and agencies, a number of perhaps more meaningful activities have been developed.

These include a parent education group, rap groups with young people, leadership planning groups for community people and continuing consultation to schools and other agencies.

The center has also provided consultations to several grass roots, self-help organizations and agencies that have developed within the community in an effort to combat the drug problem.

This consultation has included training for volunteers, organizational consultation, assistance in obtaining government grants, development of procedures for determining effectiveness and staff development activities.

It is our feeling that the usual form of drug abuse education is not tremendously effective as a prevention activity.

In attempting to arrive at some conclusions about the extent of the problem in our catchment area, we have had considerable difficulty in obtaining consistent, reliable data.

There is considerable inconsistency in estimates of kinds and prevalence of drug usage within particular neighborhoods, schools or groups.

As a result of a series of group neighborhood meetings which Northeast Community Mental Health Center has sponsored in the past several weeks to obtain community input as to the community's mental health and mental retardation needs and priorities, our experience has been that the community seems to be somewhat less vocal about the drug issue than they were a year ago.

On the other hand, there seems to be more willingness to openly accept the existence of drug problems and to recognize the problem from a more appropriate perspective.

There also seems to be some greater understanding of drug addiction and abuse as a complex social, family and community problem.

The center is presently attempting to more clearly define the needs for more specialized services in its catchment area.

We intend to apply for funds to develop programs to meet the specialized needs which the center is not now able to satisfy.

We recognize the need for an extensive systematic research effort in the entire Northeast to develop definitive data about the extent of the problem and its relationship to and interaction with other problems in the community.

However, the need for additional data should not impede the community from moving ahead to develop the additional services that are needed now.

Mr. EILBERG. Thank you very much. Are there any questions?

(Not answered.)

Mr. EILBERG. We now have Mr. David Heydt of Central High School.

Mr. HEYDT. I am David Heydt and I am at Central High School and am a consultant to the current school board and have been running a peer group at the high school for the last three years.

As far as what has been happening in the school, I have to agree with the statements made earlier by Mr. Belford.

We need a clarification, a legal clarification and have to know where we stand.

Mr. Belford is at Washington High School and carrying on his work. I would like to talk a little bit about why is there a drug problem.

I have talked to various people in various schools and found that a lot of schools are not open at night. They don't have any lights in the gym and there is no place for the young people to go and the young people who are much more aware and are smarter are left out in the cold.

Had I been left out in the cold at their age and if drugs were available as they are now I would probably be a junkie.

That is all I have to say.

Mr. EILBERG. Thank you very much. Are there any questions?

(not answered)

Mr. EILBERG. Next we have Kathy Martin of Washington High School.

Miss MARTIN. My name is Kathy Martin and I am a student at Washington High School.

I have been working with some teachers because I do have a year and a half in the peer group activity.

What we have done is really get up and give them some kind of information and what to do and not to do.

They have been coming up against like a brick wall. It is incredible and you have to help them.

I don't see a program in Philadelphia for rehabilitation and this is a real problem. I have heard an awful lot of talking at my school about heroin and it is easy to say things but when it comes down to doing them, that's different.

Now it has come to the point where the principal does not want us to stick our necks out so that nobody backs us up.

Mr. EILBERG. What do you do in the peer group?

Miss MARTIN. I was involved in all kinds of things, talking to the people and you have to have an open heart. That's what it pretty much comes down to Like, the problem is a very bad problem and I think you have to protect the teachers so that they can't get in trouble for trying to help people.

When you come down to it you are working with drug addicts and that is anybody that dabbled in drugs and to help them the teachers need to be protected so that they can go on with their work.

Do you have any questions you want to ask me?

Mr. EILBERG. Are drugs getting better or worse?

Miss MARTIN. Worse.

Mr. EILBERG. Are there any questions?

(Not answered.)

Mr. EILBERG. Thank you very much.

Mr. KORBY. My name is Mr. Korby and I am a member of the board of directors of The Road. I missed about half of what was going on here today but I was probably going to say the same thing as a lot of other people, about the drug problem.

I don't agree with the people who say you can get it on any corner. That's not true, but if you know what corner in the Northeast to go to you can get it.

I don't use drugs but plenty of people I know use them. They can go out of the house and probably go a block or two and they can find somebody that will sell them drugs.

People offer people drugs just to get them off because they don't want to "get off" alone. I have talked to some of the people myself for as high as eight hours and they were taking LSD and needed somebody to talk to.

I really don't know what to say. We need programs up here. As far as talking goes, I am not really much for talking but I have been with this program about a year and a half now and I have seen all the struggles we had and when The Bridge first started I was up to that and somebody else I talked to was helping The Bridge.

You know, I have seen all the problems and I can't see why people would be so against people on drugs.

It's ridiculous.

Mr. EILBERG. Thank you very much. Mrs. Ferreira.

Mrs. FERREIRA. One of the most frightening problems of drug abuse is the severe and in some cases complete lack of knowledge on the part of parents. The abuse of drugs is rationalized, theorized, encouraged and ignored.

Since we live in a society that is deluged with television and other media advertising the glory of drug use, it is only natural that abuse of these same drugs becomes acceptable.

We are the only nation in the world that feels the need to invent a new sickness called "the blahs."

Various officials of the many Federal, State and city agencies have found it convenient to play "Ostrich" when it comes to taking an objective look at the problem that is seriously affecting the health and life of this country.

When it came time to show some interest in the alarming increase in drug related crimes and deaths, hearings were held. Who testified?

Some very knowledgable people with good background in this field. Who made the press? The so-called "beautiful people" or the "avante-garde" gadflies who in order to maintain or perpetuate their image before the public proposed the legalization of marijuana or heroin.

The arguments went something like this—if you cannot enforce the law, then it follows that it is a bad law and should be abolished.

The same argument could be presented for robbery and murder; but would we be foolish enough to believe it?

Why not more verbiage on funding on complete and thorough studies of the effects of all drugs, long and short range?

What about complete educational programs for the people who need it most, the parents?

Why not sufficient funding for the counseling of entire families who have the misfortune of having a single member using drugs?

We recognize that a junkie has a life of hell; let me assure you that the same kind of life awaits the family unit of the drug abuser.

We talk of drug addicts, drug problems in number of known or estimated users, and all the while we are ignoring vast numbers of relatives emotionally torn and sometimes permanently scarred by a single abuser.

Some of the facts of drug abuse in the Northeast are:

1. Some school officials are naive to say the least. One principal had the audacity to proudly wave the figure of one and a half percent usage in his school—this represented a real figure of two hundred plus students.

2. Drug addicts are recognized by their long hair and sandals. This eliminated the need to worry about short haired children being users or sellers.

3. Too many parents know more about "As The World Turns" and the "76ERS" than they do about their children. Drugs are not the only means of escape.

4. No thought or very little concern is given to the number of children who are "huffing." This has been overshadowed by the publicity given hard drugs.

5. More Northeast residents are willing to protest the rezoning for a drug rehabilitation house than are willing to protest apartment complexes and air pollution, a fact of life being that every neighborhood has its junkies and pushers at the present time, only they are protected by a single house or apartment status.

6. Very little is presently available in the way of treatment facilities for the children and adults of the Northeast. Every facility is presently overworked and understaffed and the waiting list is beginning to look like a telephone number.

7. Funding is inadequate and the wait from time of presentation of a request for funding to the actual funding is extremely long. To start now is what is necessary, expansion of existing facilities and creation of new ones.

I would like to suggest that you, Congressman Eilberg, use your good office to inform the school officials that it is wise to be innovative in instituting new programs for education such as Lincoln High is attempting to do.

I pretend no area of expertise in the drug field. I do not even pretend expertise in the area of parenthood.

I only wish to impress you with my sincerity and concern over the tremendous problem parents face in raising children in today's world.

We need all the help we can get.

We must secure the interest and concern of Congress. We must have made available to us all the tools necessary to prepare our children who are under the age of eight to be able to grow and flourish in this city without the tremendous pressures to experiment, turn on, join the crowd, that their older brothers and sisters are facing right now.

We need to know that when we say, "Don't do as I do, do as I say," it will not work.

And in this respect our children are smarter than we are. We also need the assurance that when we realize that we need counseling, something will be available for us and we will not be told that "You cannot be serviced here because you do not live within the area we serve."

Hopefully the Northeast will have all the needed facilities and Mr. and Mrs. Smith will not become number 952 on the waiting list.

At the present time John Smith has a greater chance that his draft lottery number will come first.

We also need to know that someone is acting on the request that buildings at Byberry be made available for treatment centers. We also need to know that the people here today are considered a formidable "lobby group," since we probably never have the funds available to hire a lobbyist, and it is up to us to continue to appear at public hearings at every possible opportunity to champion our cause.

I mentioned my lack of expertise so I cannot give you figures, but I can vouch for the number of parents with tears streaming down their faces that I have sat with until 3:00 or 4:00 a.m. because there was no expertise available.

I can vouch for the frustration of trying to get a parent help and being frustrated beyond belief after twenty plus calls and getting nowhere.

I can tell you how it feels when help is sought and the end result is being given a pamphlet to read. Did you ever try to read a pamphlet when your son is retching and sweating and crying?

Have you ever tried to remain calm, understanding and confident when your child reeks with solvents and can't see or hear you through his red-eyed stupor?

What parent is equipped to completely be objective about their child? How do you tell a parent not to panic when he is afraid his son will die before he gets the help he needs?

I realize that these are questions and not testimony in the form of solutions, however, solutions must come not from an individual but the Congress, the State and the city, with the help of the informed community.

I have seen many good changes since I started green and scared to death of Home and School audiences and this is good.

However, the changes have been slow. Some parents can't wait. Perhaps I can pretend to speak for parental contingents that are not here today because they did not know of the hearing.

Some are not here because they are so frustrated at this point that they could not hack one more hearing and end up disappointed.

Help us get the buildings at Byberry, help us make the community understand that rehabilitation houses are respectable, help us get the necessary funding for research, education and programs.

If you can help us with the above we can turn our frustration into profitable energy toward the children we love and don't know how to help.

Thank you.

Mr. EILBERG. Thank you very much. Next we have Mr. Braverman from Northeast High School.

Mr. BRAVERMAN. I didn't come to speak. I was asked to come here if any questions came up about Northeast High School.

We are a little upset about the drug problem in the Northeast and I am here to mention a few things about our experiences at Northeast High School.

One of the questions I am constantly asked is what is the extent of the problem at Northeast and I must say it is pretty hard to tell. I really don't know. I know that we have high school age boys and girls at the school who are helping in this work and all that I can say is we are having a hard time trying to discover the extent of the problem. The young lady from Washington spoke and I can understand her feelings because we experienced the same thing.

If we as teachers would counsel a child to come to us and say, "Look, I'm on heroin and I need help. Can I get help and not tell my parents?"

If you tell the parents you break the communication and if you don't tell the parents and send the child for help the parents can find out about it in a roundabout way and you find yourself in a legal situation perhaps and the Board of Education cannot help you. You are on your own.

This is all I have to say.

Mr. EILBERG. Thank you. Our last speaker is Mr. Kent Saldan, executive vice-president of the Great Northeast Unity Congress.

Mr. SALDAN. The Greater Northeast Unity Congress comprising of over forty civic groups and organizations from throughout the Greater Northeast and representing over three hundred thousand residents, join the many other groups and organizations in supporting and working towards the continuation and development of strong drug programs and facilities in the Northeast.

Both community leaders and legislatures must meet and pool their ideas and resources to develop new programs and solutions to the serious problems and drug abuse in this section of the city.

We must establish drug centers, mobile information centers and clinics so as to enable drug abusers easy accessibility to help. These centers should be geographically located to enable all residents to reach out and come in contact guidance and service.

We need strong education and drug programs in our school systems, community organizations and religious affiliations.

The Greater Northeast Unity Congress is indebted to The Bridge and The Road for their outstanding drug programs in the Northeast. Additional assistance and funds should be made available to these existent programs.

If each parent would take a personal interest in his offspring, fifty percent of the drug problems in the city would be eliminated.

The figures could be even higher.

The section of the Northeast north of Cottman Avenue, because of a population of over three hundred thousand residents, the present 7B catchment area cannot properly service all these people at the Nazareth MH/MR base service unit.

Restrictions stipulate a limitation of two hundred thousand people to a catchment area.

Therefore 7B catchment area must be split, creating a new 7C catchment area.

Allocations for drug programs should be instituted with Nazareth MH/MR base service unit prepares their next budget request, and that 7C prepares similar provisions.

These are concrete programs we can institute immediately.

There is not one cure-all for these complex problems. Our children have grown up under the influence of television advertising that whatever may upset or bother us, to pop a pill into our mouths.

Gentlemen, that is exactly what our generation is doing today. I understand you can't stop progress nor hurt the economy. If there are restraints on the hazards of cigarettes, we should look into the constant bombardment of television advertising of wholesale drug use.

The Greater Northeast Unity Congress is very proud that Congressman Joshua Eilberg has taken such an interest in drug abuse in the Greater Northeast and is prepared to do something about it.

Mr. EILBERG. Thank you very much and let me conclude by saying that we will have all the testimony transcribed and will boil it down and we will examine the information we have gathered today in an effort to better the conditions that exist.

I want to thank the Holy Family College for making its facilities available and thank the Northeast Philadelphia Health and Welfare Council for its worthwhile efforts in this matter and I think the community will be the richer because of what has been developed here today and ladies and gentlemen, I hope this will not just be a talk session but that something can be accomplished and I want to thank everyone for participating.

Thank you very much.

CONGREGATION SHAARE, SHAMAYIM,
GNJC,
Philadelphia, Pa., January 4, 1972.

Congressman JOSHUA EILBERG,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN EILBERG: Thank you for your letter of December 16, 1971 inviting me to participate in the hearing which you will be holding on Saturday, January 22, 1972 on the Drug Addiction Problem in Northeast Philadelphia. I appreciate your compliment in referring to me "as a person with expert knowledge." I would be more than happy to appear excepting that the hearing is being held on Saturday morning which is our Sabbath and therefore I shall be at Religious Services.

I feel that I have no special expertise, not because I am not working with the problem, but because there are no experts in the area of drug addiction. There are many approaches for alleviating the problem which has now become endemic in our community. That which was formerly thought as a simple solution is but one of many approaches that must be employed. I'm sure you know that drug abuse in Northeast Philadelphia has reached down into every strata of society and every age group. Experimentation with marijuana begins as early as fifth and sixth grades, and I have found through my own experience that it reaches epidemic proportions in the ninth and tenth grades. Fortunately, I have noted that by the time students reach the twelfth grade, graduation from high school, they have made up their minds whether they're going the way of the drug addict or have kicked the habit and maintain the straight life.

I believe that the program that has been instituted in the schools, that of drug education, is a good one and must be continued for all age groups. I would like to comment on another approach that seems not to have taken hold and yet appears to me as one of the most appropriate approaches that should be developed with the assistance of the youth organizations in the entire community.

This is the program of REACH as proposed by the Boy Scouts of America. I believe that Drug Abuse is a sociological problem more than it is a psychologic or psychiatric malediction and therefore what we must do is create a tenor of opinion and feeling in the youth community that one can be straight and still be part of the world. If we can raise and build the position of the straight kid within his own peer group then we have achieved a great deal. The concept underlying this approach is that we develop group workers and youth workers who go out into the street and have kids proclaim loudly and clearly to all that will hear them that they are straight and not on drugs, that they're getting their "high" from those things that we consider socially acceptable forms of behavior. If and when we do these things, then we will find that others will join the cause. What we create is group opinion marching forward. Others will join the group and they will not feel socially ostracized and outside of the normal course of events.

The second approach that must be employed to try to stem the tide of that which we think is uncontrollable is the small rehabilitation resident community such as is in existence at "The Bridge." These will take the children and young people out of the homes in which they cannot live because they cannot find happiness there and give them a locale where they can relate to themselves as well as the community which surrounds them.

Lastly, I believe that the clinics that are already in existence must be doubled in number and that every approach, psychiatric, psychological, sociological, and medical be employed to ameliorate the problem. General education has been fairly good and this information service must be continued but I do not think that this necessarily need be the concern of the Federal Government. I believe that far more effective are the small residential communities and an outreach activity that can create a new climate of youth opinion.

I thank you for your interest in this problem and the concern that you have exhibited for every issue that affects our lives. I am sorry that I cannot be present to make a statement to your group. Please feel free to call upon me whenever I may be of service.

Sincerely,

ARNOLD H. FELDMAN,
Rabbi.

WILLIAM C. LEINHAUSER,
Philadelphia 2, Pa.

A DRUG ADDICT

The reaction and feelings of the drug addict are misunderstood and difficult to explain.

The true drug addict gets no ecstatic or exhilarating feeling from taking his drug. He must merely take it in order to feel normal and well: he simply maintains a condition of euphoria or well being; he is a harmless person with his drug but dangerous needing it.

However. without his drug he suffers a torment and illness that is the worst known to human suffering. At the prospect of being without his drug and before the physical symptoms are manifest he is terrified for the future of cessation and is ruthless and miserably unhappy.

Then he begins to sweat, is nervous and grows weaker and weaker rapidly.

Finally in his lowest state he has excruciating abdominal pains, nausea, and extreme sensitivity of skin and the pupils of his eyes dilate to such an extent that he can hardly see and shuns the light.

But the complete unhappiness of mind is the worst phase and he is so weak he can hardly raise a hand not to speak of standing.

The fact is he is deprived of that with which to combat his illness.

This article was written for me by a man who used narcotic drugs for years, but never had the experience of being without funds to purchase his drugs.

I have found after many years of experience that drug addicts must continuously use their keen minds to get money with which to purchase their drugs and resort to crime to meet that end.

FATHER JUDGE HIGH SCHOOL,
Philadelphia, Pa., January 20, 1972.
Representative JOSHUA EILBERG,
First Federal Building,
Philadelphia, Pa.

DEAR REPRESENTATIVE EILBERG: Thank you for the opportunity to submit this statement to your sub-committee hearings on drug abuse. I sincerely regret the conflict that keeps us from participating in person.

The faculty, student body and parents of Father Judge High School are deeply concerned with the problem of drug abuse and availability in this particular area but also throughout our society. I hope the data provided will assist your committee in understanding our concern and in evaluating our area drug situation.

At the present time we have formed a twenty member committee (ten faculty members and ten student members) to foster a drug education program. I might mention that similar groups have been formed in other local high schools both public and parochial. (Northeast, Lincoln, Frankford, Washington, North Catholic, St. Hubert's and Archbishop Ryan). These committees are currently involved in a federally funded six weeks program held on Saturdays at Lincoln High School.

This program consists of talks by professionals and small group discussions of local problems of drug abuse. These meetings have helped us develop the following procedure:

(1) We must establish a student directed program. It may be regrettable, but it seems certain that previous programs and approaches failed, to a great degree, because teenagers seem to lack trust in completely adult operated activities.

(2) Some office facilities are to be provided within the schools.

(3) Identification of the problem must be a key ability of the members. Obviously the approach to the occasional Marijuana user is to be different than the method of handling heroin addicts or methadrine users.

(4) Attempts to correct the problem can include counseling medical assistance, encouragement to join voluntary centers such as "The Bridge". I admit some of this may sound uncertain but the record of real rehabilitation of drug abusers is difficult to ascertain. If we have one such certain program or center I'm sure we would all flock to its doors.

(5) A strong effort at prevention is being developed by our students. We presently hope to form a knowledgeable cadre of teen-age speakers in order to reach into the seventh and eighth grades of schools that are in our area—our "feeder" parish grammar schools. We are hopeful that this approach may far exceed the proverbial "ounce of prevention".

(6) On the parent level we hope to establish an extensive self-education procedure that will give the adult community a greater awareness of pre-drug use conditions as well as danger signs of actual use. With all the information on drugs that seems to be available, we still find a large area of adult ignorance.

(7) We also believe that, in some way, we must honestly examine alcohol usage in both the adult and youth segments of this community.

How successful we will be in this endeavor is hard to predict. We have tried numerous steps in the past but we sincerely believe that this joint approach of private and public schools, the common effort of adults and teenagers, the cooperation of local and federal agencies are definite harbingers of progress toward a successful program.

I would like to wish you well in this hearing and am sure all of the schools in the area are interested in obtaining any information your committee may collect that may help us in our efforts in this area.

Thank you again for the opportunity to explain our efforts to you.

Sincerely yours,
(Rev.) WILLIAM F. DAVIS, OSFS,
Principal.

LOWER KENSINGTON
ENVIRONMENTAL CENTER, INC.,
Philadelphia, Pa., January 14, 1972.
Hon. JOSHUA EILBERG,
First Federal Building,
Philadelphia, Pa.

DEAR CONGRESSMAN EILBERG: The problem of drug addiction in the Northeast has been on a steady climb since I was eleven years old.

The steady increase has not only involved a great number of young adults, but also tends to involve youngsters at a younger and younger age. Not only is the addict supplied by the illegal market but very often, the medical as well as the adult community, supply legitimate drugs to the community. There is a desperate need for residential rehabilitation centers, under the therapeutic model of Lower Kensington Rehabilitation Center, to be established throughout the general community.

I wish to thank you for both your concern and efforts to help not only those of us who have been addicted but those of us who are no longer addicted and may I personally offer my assistance to you.

Sincerely yours,
EDWARD LENTZ.

NEIGHBORHOOD CENTER BRANCH,
Philadelphia, Pa., January 18, 1972.
Re: Drug Hearing—January 22, 1972, Holy Family College, Grant and Franklin Ave.
Congressman JOSHUA EIEBERG,
Longworth Building,
Washington, D.C.

DEAR CONG. EILBERG: It is the feeling of the staff at the Neighborhood Centre Branch of JYC that the northeast is in urgent need of treatment centers to deal with the drug problem. Most crucial is the problem of providing immediate and emergency help when the situation arises. We feel a beginning step has been made with such agencies as The Bridge and The Road which reflects a grass-roots attempt to deal with the problem. We understand that such efforts are in great need of financial resources. This is most certainly a priority in terms of making funds available.

With regard to long-range plans around prevention and education, there seems to be a need for greater effort to coordinate and intensify these kinds of programs. At this point, most programs seem fragmented with little impact. My agency is especially concerned about the area of drug education, since we feel that our particular expertise can have its greatest effect in this area. As social workers in this agency, we are extremely attuned to the function of preventive socialization breakdown and feel that our competence can be useful in this area.

I hope these observations are helpful as you begin to develop your plans for dealing with this urgent problem.

Sincerely,
SIDNEY M. MELNIK, ACSW,
Director.

GEORGE WASHINGTON HIGH SCHOOL,
Philadelphia, Pa., January 20, 1972.
Congressman JOSHUA EILBERG,
Federal Bank Building,
Philadelphia, Pa.

DEAR MR. EILBERG: I regret very much that something has come up which will prevent me from attending the meeting on Saturday at Holy Family, I am, however, sending you information which you may find helpful to your investigation.

First of all, may I say that none of us in this school feel we can estimate the amount of drug usage in our community. We do realize that a problem exists but it is very difficult to discover its extent.

You are also interested in programs being conducted on drug abuse education and prevention at George Washington High School. Following is a list of our programs:

1) Peer influence education project—a group of students and one staff member were trained over a period of seven weeks in the spring of 1970 and worked within the school to help educate and listen to students who had questions or problems which were drug related. This original group helped to train others in the school to listen to and help students through difficult situations.

2) Assembly programs by a leading drug-educator presented to all grade levels.

3) A leading physician and educator spoke to our faculty meeting on drug use and abuse and what the staff could do to alleviate the growing menace of drugs in schools.

4) Several talks given by members of the peer influence group—students and staff before other school groups as well as community groups.

5) An evening program presented by the Home and School Association for Community discussion and reaction on drugs, home problems, sex, etc.

6) An emergency "Hot-Line" phone number for critical situations that needed immediate attention. This involved a physician, a lawyer and a minister.

7) The present program of six Saturday mornings with the major thrust on drug prevention and an enlarged team of teachers from the English, Social Studies, Science and Health Education disciplines, Nurse, and an Administrator, together with as many as 30 students from the 10th and 11th grades.

Sincerely yours,
LENORA S. YOUNG,
Principal.

HOUSE OF REPRESENTATIVES—*Monday, April 10, 1972*

The House met at 12 o'clock noon.

Rev. Jack P. Lowndes, president, Home Mission Board, Southern Baptist Convention, and pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

The earth is the Lord's and the fullness thereof, the world and those who dwell therein.—Psalms 24: 1.

Thank you, Father, for "America the Beautiful." We are grateful for our great land and our wonderful people. Forgive us that we have sinned against both and against Thee by our misuse of our resources, both human and natural. Help us to use both for the common welfare of our world.

We pray for those who serve in this body and in other places of service and responsibility in our Nation. Give to them, we pray, the wisdom, courage, and strength they need. Help them to come to the end of this day having made no mistakes and with no regrets.

Give us something of the wisdom that is in Thy Word, something of the love that is in Thy heart, and something of the help that is in Thy hands. In Thy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 12749. An act to authorize appropriations for the saline water conversion program for fiscal year 1973.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8140. An act to promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1681) entitled "An act to liberalize eligibility for cost-of-living increases in civil service retirement annuities," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McGee, Mr. Randolph, Mr. Burdick, Mr. Fong, and Mr. Boggs to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 50. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Brantley project, Pecos River Basin, N. Mex., and for other purposes;

S. 2684. An act to amend section 509 of the Merchant Marine Act, 1936, as amended;

S. 3284. An act to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior;

S. 3323. An act to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood, and for other purposes;

S. 3457. An act for the relief of Katherine Kasaftes Schneider;

S.J. Res. 218. Joint resolution to extend the authority conferred by the Export Administration Act of 1969; and

S. Con. Res. 74. Concurrent resolution authorizing the printing of additional copies of Senate Report 92–634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971."

The message also announced that the Vice President, pursuant to Senate Concurrent Resolution 63, 92d Congress, appointed Mr. Jordan of North Carolina, Mr. Mansfield, and Mr. Cook as members, on the part of the Senate, of the Joint Committee on Inaugural Ceremonies of 1973.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Wednesday, March 29, 1972, he did on March 30, 1972, sign an enrolled bill of the Senate as follows:

S. 2601—An act to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

THE HONORABLE MRS. GEORGE ANDREWS

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
April 10, 1972.

Hon. Carl Albert,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Please be advised that the Clerk of the House has received the official certification of election issued by the Secretary of State of the State of Alabama, showing that Mrs. George Andrews was elected Member of Congress from the Old Third Congressional District at the Special Election held in the State of Alabama on Tuesday the 4th day of April, 1972 for the unexpired term, ending on the 3d day of January 1973.

The above certification of election is on file in the Clerk's Office.

With kind regards, I am,

Sincerely,

W. Pat Jennings,
Clerk, House of Representatives.

The SPEAKER. Will the Member-elect present herself in the well of the House to take the oath of office.

Mrs. GEORGE ANDREWS appeared at the bar of the House and took the oath of office.

THE LATE HONORABLE JAMES F. BYRNES

The SPEAKER. The Chair recognizes the gentleman from South Carolina (Mr. McMillan).

Mr. McMILLAN. Mr. Speaker, I regretfully announce the passing of our former colleague, the Honorable James F. Byrnes. The late Congressman, Senator, Secretary of State, U.S. Supreme Court Justice, assistant to the President of the United States during World War II, and Governor of South Carolina, passed away yesterday in his South Carolina home. We have always considered the late Justice Byrnes one of South Carolina's greatest statemen, next in fact, to John C. Calhoun, due to his service and leadership, our Nation and the world are better places to live.

Mrs. McMillan joins me in expressing our heartfelt sympathy to his wonderful wife who has been the late Justice's right arm during the years he was so active in our Government, and during the years of his illness in his South Carolina home.

Mr. DORN. Mr. Speaker, James Francis Byrnes served in this House for 14 years, coming to the Congress in 1911 at the age of 32. During this time he lived in the beautiful city of Aiken. My people are proud of the fact that both Jimmy Byrnes and John C. Calhoun represented in Congress a large portion of the present South Carolina Third Congressional District, which it is now my privilege to represent. In the history of this Republic we have had only 55 Secretaries of State. Two of these, Jimmy Byrnes and John C. Calhoun, were from the Third Congressional District and a third, Hugh S. Legare, like Calhoun attended Reverend Waddell's famous academy at Abbeville.

Without question, James F. Byrnes is South Carolina's greatest statesman since Calhoun. He served with distinction at every level of government. His father died shortly before Byrnes was born, and at an early age it was his responsibility to help support his widowed mother. At age 14 he left school to work as a clerk in Judge Benjamin Rutledge's law office. Like his great friend of later years, Barney Baruch, Byrnes early in life recognized the value of shorthand.

He studied shorthand while working at the law firm and then won a competitive exam for a position as court stenographer. It was then that he moved to Aiken, where he studied law in his spare time and passed the South Carolina bar exam. This skill at shorthand was to serve him well years later, as he took shorthand notes of the Yalta Big Three meetings that were of great value to President Truman after the death of President Roosevelt. After practicing law and editing the Aiken Journal and Review for several years, Byrnes was elected solicitor of the Second Judicial Circuit. In 1910 he was elected to the House of Representatives, where he was one of the creators of the Federal aid highway program. Later he was appointed to the Appropriations Committee. While serving in the House, Byrnes won the friendship and respect of then Assistant Secretary of the Navy Franklin D. Roosevelt.

After Roosevelt became President and Byrnes had been elected to the Senate, Byrnes became Roosevelt's chief legislative spokesmen. He was a master of the legislative process and knew exactly when to stand firm and when to compromise. He was largely responsible for passage of the Lend-Lease Act that was so crucial to final victory in World War II. Byrnes was a loyal, stanch Democrat and was really the Senate floor leader responsible for passage of the New Deal domestic legislation. He was extremely active in National Democratic Party politics and played an important role in the national conventions. Because of his loyalty to the Democratic Party and to President Roosevelt it was widely felt that he had been assured the Vice Presidential nomination in 1944. He went to the convention expecting the nomination, but encountered unforeseen obstacles. It should be noted, Mr. Speaker, that the man who was then nominated for Vice President and who later became President, Harry S. Truman, thought so highly of Byrnes that he appointed him Secretary of State. And as Truman's Secretary of State, Byrnes was next in line for the Presidency. In 1941 Byrnes became the fourth South Carolinian to be appointed to the U.S. Supreme Court. We had the privilege of calling on Mr. Justice Byrnes and having a long conversation with him during his service at the Court, and realized then how he enjoyed his service there. However he answered the President's call and stepped down to become Director of the Office of Economic Stabilization. Later he also was assigned the position of Director of War Mobilization. He operated from the White House and was referred to by President Roosevelt as the "Assistant President." He was in fact in charge of the entire domestic war mobilization. The fact our free and democratic Nation could reach a higher state of war production and efficiency than any of our totalitarian enemies is itself a magnificent tribute to the leadership ability of James Byrnes.

James Byrnes was also a world figure who moved with the giants of that period. He attended the Yalta meetings between Roosevelt, Churchill, and Stalin. And after becoming President Truman's Secretary of State, he accompanied the President to the Potsdam Conference, and later was the senior American delegate to the first meeting of the United Nations General Assembly in London. Byrnes understood the realities of world power. He was the one to initiate a "get tough" policy with the Soviets, for through his dealings with them he realized their aggressive policies. He had not been deceived by Potsdam and Yalta. His strong stand then prevented further aggression. It was Byrnes who played a crucial role in the decisions leading up to the first use of the atomic bomb. Along with Roosevelt, Truman, Churchill, Marshall, and MacArthur he was one of the giants of the World War II era.

As a newly elected Congressman I visited with Prime Minister Churchill after the war and upon learning that I was a South Carolinian he asked that I convey his best wishes to his good friend Jimmy Byrnes. Yes, Mr. Speaker, Byrnes was one of the architects of the destruction of fascism, nazism, and imperialism, and history will rank him with the all time great leaders of Western civilization.

As Governor of our State, Jimmy Byrnes was greatly interested in improving educational facilities for all students. Although he had no children, he personally established a fund that has enabled hundreds of young people to attain higher education.

He earned the high honor of being named a life trustee of Clemson University, located on the site of the Calhoun Plantation in our congressional district. He was devoted to Clemson, and that university now has the official collection of the Byrnes papers that are indispensable to serious students of world history.

Mr. Speaker, during his illustrious career James F. Byrnes presented a magnificent image for the South and for all Americans. During an era of demagogs he stayed in the mainstream of moderation. In any definitive history of the era of the great depression, the dynamic first 100 days of the FDR administration, the New Deal, and final victory in World War II, James F. Byrnes must be given a superior place.

Byrnes and his wife, the former Maude Perkins Busche of Aiken, were married for 66 years. Throughout his career she has been at his side. Mrs. Byrnes has a keen appreciation of the world of public service and politics and has been of tremendous help to Mr. Byrnes throughout his career. She is today in the hearts of all South Carolinians.

Mrs. Dorn, my family, and my constituents join me in conveying to Mrs. Byrnes and to his loved ones our deepest sympathy and respect.

GENERAL LEAVE

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to extend their remarks in the RECORD on the life, character, and service of the late Honorable James F. Byrnes.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

THE LATE HONORABLE ADAM CLAYTON POWELL

(Mr. CAREY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAREY of New York. Mr. Speaker, on behalf of the members of the New York delegation, it is my responsibility to report the sad news to the House of the death of our former colleague and past chairman of the Education and Labor Committee, the Honorable Adam Clayton Powell, of New York.

I am certain when history makes its judgment on Dr. Powell, he will fare most favorably. Nearly 50 programs of major degree in education, better labor standards, and aid to the poor and elderly became law as a result of his efforts and leadership.

As one who worked with Adam Powell, I learned in the committee and on the floor of his gifts as well as his problems, but particularly of his overriding love and devotion to the work of Congress.

He valued his friendship in this body and respected his colleagues to a high degree. It was because of that that he labored with such determination to regain his seat and was eventually upheld in that determination and perseverance by the highest court in this land.

Now he has gone before the Creator of us all in the highest tribunal which he faces, and that judgment, of course, is the one which will override all others. I trust and I hope that the God he loved and served will remember his zeal for the poor, for children, for equality, and against injustice. Whether you were one who agreed with Adam and admired him, as I did, or one who opposed him on matters when you felt he had to be opposed, I think we can all agree on this: For the life he led and the work he did and the way he served Harlem and New York I think he deserves the respect of our colleagues all over the land at this time. But over all I think he said it best himself when he evaluated his own contribution to his work in public service by saying, "No matter how you look at what I did, I paid my dues."

Mr. Speaker, the members of the New York delegation invite all Members who wish to do so to join in a special order which will be requested by our colleague from New York, Representative RANGEL, on Wednesday of this week, in order that we may pay our dues as Members of this body in terms of the respect we owe him for the service in which he participated for so many years.

Mr. KOCH. Mr. Speaker, will the gentleman yield?

Mr. CAREY of New York. Mr. Speaker, I am delighted to yield to my colleague from New York.

Mr. KOCH. I thank the gentleman for yielding.

Mr. Speaker, I attended the funeral of Adam Clayton Powell yesterday. I know that on Wednesday we of New York will be holding a special order to talk more on Adam Clayton Powell's contribution to our country. But I want to say at this time that when I was first elected and took my seat in January of 1969, one of the first votes I cast was that to seat Adam Clayton Powell in this Congress. I am proud of that vote.

PRAISE AND THANKS TO OUR NAVY, AIR FORCE, MARINE AND ARMY UNITS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I take this opportunity to give praise and thanks to our Navy, Air Force, Marine, and Army air units for the outstanding job they have done to blunt the North Vietnamese invasion of South Vietnam.

I think this is the time for everyone in the Congress and Nation to give the Commander in Chief our support and prayers to make the right decisions to protect the some 90,000 Americans remaining in South Vietnam.

We must be honest about the situation and admit that it is very serious. If the South Vietnamese do not stand and fight and/or if the weather turns bad to restrict air strikes, then all Americans in South Vietnam will be in extreme danger. In these critical days, we need to eliminate criticism and do all we can to support our forces in South Vietnam.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I would like to commend the gentleman for bringing up this timely subject.

There can be no doubt in anyone's mind that the North Vietnamese and Vietcong have invaded South Vietnam. This places our South Vietnamese allies and our brave fighting men still left in Vietnam in grave danger. Indeed, their very lives are threatened.

While I do not advocate resuming American ground action, it is our duty to protect our American fighting men with an all-out air attack. Only in this way can we assure their safety, and at the same time force the North Vietnamese to negotiate a just and lasting peace in Southeast Asia on our terms.

We must unite behind our services and protect them from this Communist menace in South Vietnam. These brave Americans have too long carried the cause of freedom alone. There have been too many casualties in this war for us to relent at this late date and allow the North Vietnamese and Vietcong to invade South Vietnam and destroy everything these heroic Americans have fought and died for.

Mr. Speaker, we are getting out of Vietnam, but we cannot allow the North Vietnamese and Vietcong to slaughter our remaining forces and our South Vietnamese allies simply because we took no action to protect them. We must hit the enemy daily with all the air power we can muster and bring this war in Southeast Asia to an honorable end.

AMERICAN LEGION PREAMBLE

(Mr. MADDEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MADDEN. Mr. Speaker, the American Legion Post No. 17, Gary, Ind., last Saturday evening held its annual initiation ceremony and also a banquet honoring veterans of World War I who were the original organizers of post No. 17. Past Commander Donald W. Hynes, of Whiting Post No. 70, Department of Indiana, was the speaker of the evening. Commander Hynes delivered a remarkable summary of the great accomplishments, not only of the local legion posts of the Calumet region of Indiana, but also the great cooperation the American Legion has extended to our country's great civic and economic progress during the last half century.

Commander Hynes also eulogized the principles and declarations set out in the original preamble which has been the foundation for all Legion activities in furthering the cause of patriotism and Americanism in this great land of ours.

Mr. Speaker, I incorporate with my remarks excerpts from the speech of Commander Hynes on this patriotic occasion sponsored by post No. 17, Gary, Ind.

OUR PREAMBLE

Like the Ten Commandments, the ten principles of the Preamble to the Constitution of The American Legion are as good today as when they were first enunciated. Time can never erode them. They are ageless.

The American Legion Preamble has taken its place with other great and lofty expressions of human thought which have been the guides and the compasses by which we steer our aims and aspirations.

The Preamble is a literary and ideological classic. It sparkles with the purest of gems of patriotic thought. It reflects all the spiritual glory of Divine precepts. It is remarkable for the simple brevity into which has been compacted an inspiring pattern for all the future of a free and decent way of life. It has impact as a tenet of faith in God.

The finest gems come in small sizes. The Ten Commandments contain 297 words; the Declaration of Independence has 300 words; Lincoln's Gettysburg speech numbers 266 words. The American Legion's Preamble embracing all the noble concepts of the Ten Commandments, the Declaration of Independence and Lincoln's Gettysburg address, distilled to their simplest essence, is only 117 words long!

Compare that to the government order regulating the price of cabbage under the late and lamented OPS which mustered 26,911 words!

"For God and country, we associate ourselves together for the following purposes:

"To uphold and defend the Constitution of the United States of America; To maintain law and order; to foster and perpetuate a 100-percent Americanism; to preserve the memories and incidents of our associations in the great wars; to inculcate a sense of individual obligation to the community, State and Nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and good will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness."

LABOR LOSES A LEADER

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, I know I speak for the entire Massachusetts delegation and the working people of Massachusetts in expressing my deep feelings of regret and keen sense of personal loss over the passing last week of Salvatore Camelio, president of the Massachusetts AFL–CIO. The loss was also the keener because it was so totally unexpected, at least for those of us who were working closely with Salvatore up until just a few weeks ago. Because of my position on the Ways and Means Committee I probably had opportunity to work more closely with Salvatore than would be the case with most Members of the serious economic problems facing this Nation and the State of Massachusetts in particular. It was always a comfort to have the unswerving support of such a longtime crusader for industrial and economic justice as Salvatore Camelio in your corner. If the effectiveness of the head of the most important organization representing a key sector of the economy such as labor is measured at least in part, by the degree of rapport such a leader has with leaders in other segments of society, such as the political field, then Salvatore Camelio has to be ranked as one of the most effective spokesmen and leaders of organized labor we have had in Massachusetts. In a real sense, both the body politic and the economic life in Massachusetts will be that much poorer without the active participation of this great man. Mrs. Burke joins me in extending every sympathy and prayer to Salvatore's bereaved family. I can only hope that the knowledge that others share deeply in their great personal loss make that loss just a little bit easier to bear. I am also including at this point in the RECORD three articles, one from the AFL–CIO News from Washington, D.C., one from the Post-Gazette of Boston, and the other from the Boston Herald Traveler:

[From the AFL–CIO News, Washington, D.C., Apr. 8, 1972]

MASSACHUSETTS UNIONS MOURN SAL CAMELIO

BOSTON.—Salvatore Camelio, president of the Massachusetts AFL–CIO since 1964, died unexpectedly at his home in Belmont, Mass., Mar. 30. He was 66.

Camelio, who also was president of the Middlesex Labor Council since 1959, was a veteran member of the Rubber Workers. He was elected the first president of URW Local 25 in Boston in 1933 and had served as New England director for the URW for a number of years until his retirement in 1970.

He was the secretary-treasurer of the Massachusetts CIO Council from 1946 until merger with the AFL state federation in 1958. Camelio was executive vice president of the State AFL–CIO before he was elected to the top office in 1964.

During World War II, Camelio served on the War Labor Board and the Manpower Advisory Board. He also has served on the boards of Massachusetts Bay United Fund, Governor's Economic Advisory Task Force, Histadrut Council, and was active in a number of community and service organizations.

Camelio was born in Geata, Italy, and came to the United States as a child. He is survived by his wife Angela, five children and three grandchildren.

The executive council of the State AFL–CIO is expected to select a successor to his office shortly. Camelio had one and one-half years remaining in his term.

[From the Boston Herald Traveler, Apr. 1, 1972]

SALVATORE CAMELIO, CHIEF OF STATE LABOR COUNCIL

Salvatore Camelio, 66, of 227 Brighton St., Belmont, president of the Massachusetts State Labor Council, AFL–CIO, since 1964, died suddenly at his home late Thursday.

Camelio, whose career in the labor movement spanned 40 years, devoted a good part of the day he died at the State House arguing against a legislative proposal that he believed would be detrimental to unemployed workers in Massachusetts.

Messages of condolence were issued by Gov. Sargent and other state officials to his family. His career also included serving in many capacities in civic and governmental activities.

A spokesman for the 500,000-member State Labor Council said, "Organized labor in Massachusetts is stunned by the sudden death of Salvatore Camelio."

Camelio was born in Geata, Italy, April 29, 1906. He came to this country as a child and attended elementary scools and Rindge High in Cambridge.

His first job was at the Boston Woven Hose and Rubber Co., where he was elected the first president of Local 25 of the United Rubber, Cork, Linoleum and Plastic Workers of America in 1933. He held that post to 1936.

He was active in the historical events that paved the way for the birth of the Congress of Industrial Organizations (CIO).

In other official capacities in labor he was New England director of the United Rubber Workers, CIO, and secretary treasurer of the former Massachusetts CIO Council, a post he held from 1946 to 1958 when the AFL and CIO merged.

In 1959, he was elected executive vice president of the Massachusetts State Labor Council AFL–CIO. About the same time he also was elected president of the Middlesex Labor Council in Cambridge, an office he held at his death.

In other activities, he served on the Wage Labor Board during World War II and on the Manpower Advisory Board. He was labor's member on the Board of Education Assistance and he served on the Advisory Board on Transportation, the Mass. Bay United Fund, the Histadrut Council and the state Rate Setting Commission.

He fought for legislative proposals to solve urban problems including air and water pollution, to combat rising hospital costs and to implement rehabilitation programs for juvenile delinquents.

Gov. Sargent said, "The people of the Commonwealth have lost a vigorous leader who devoted his entire life to the development of the labor movement."

Lt. Gov. Donald R. Dwight said Camelio's death "is a grievous loss" to the state. He called him "a great advocate" of the working man and woman and 'gave unstintingly of his time and leadership abilities to public service causes, as well."

Atty. Gen. Robert H. Quinn said, "I was very saddened to hear of the death of Salvatore Camelio, a man whose vigor and commitment to public service was an inspiration to all of us in government."

He leaves his wife, Angela (Fabrigio); two sons, Augustus of Weymouth, a labor attorney, and Dennis of the home address, and three daughters, Mrs. Anne-Marie Dell'Anno of Arlington; Mrs. Carolyn DeMarco of Belmont and Mrs. Corrinne Shanahan of Lowell.

Visiting hours at the DeVito Funeral Home, Mt. Auburn St., Watertown, will be today and tomorrow from 2–4 p.m. and 7–9 p.m.

A funeral Mass will be celebrated in St. Camillus Church, Arlington, Monday, at 10 a.m. Burial will be in Belmont Cemetery, Belmont.

[From the Boston Post-Gazette, Apr. 7, 1972]

SALVATORE CAMELIO, A LABOR LEADER

Salvatore Camelio, 66, of Belmont, died suddenly on Thursday, March 30, 1972, at his home. He was President of the Massachusetts State Labor Council, AFL–CIO, since 1964.

He was born in Gaeta, Italy, and came to this country as a child. He attended the elementary schools and Rindge High in Cambridge.

He was elected first president of Local 25 of the United Rubber Cork, Linoleum and Plastic Workers of America while on his first job, at the Boston Woven Hose, following graduation. This was the start of his career in the labor movement.

He was a highly respected and well loved individual because of his unselfish and generous nature.

Besides a host of friends and relatives, he leaves mourning his loss, his wife Angela (nee Fabrigio), two sons, Augustus of Weymouth and Dennis of Belmont; three daughters, Mrs. Anne-Marie Dell'Anno of Arlington, Mrs. Carolyn DeMarco of Belmont, and Mrs. Corrinne Shanahan of Lowell.

A funeral Mass was celebrated at 10 o'clock on Monday, April 3, at St. Camillus Church in Arlington and interment followed in the Belmont Cemetery in Belmont.

GOVERNMENT INSURANCE, ITT, AND THE AVERAGE TAXPAYER

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, when the Congress considered the increase in the public debt ceiling this winter, I warned about the staggering size of the Federal Government's "contingent debt"—the wide range of insurance and guarantee programs which could be included in the debt if "something went wrong." At the present time, that contingent debt is approaching $1 trillion.

This morning's newspapers reported that part of that contingent debt is coming due.

In particular, ITT is in the process of claiming $108.5 million from a Government insurance agency, the Overseas Private Investment Corp., because of the possible nationalization of ITT's investment in Chile. ITT has paid only about $5 million in premiums in the last 7 years to obtain this insurance.

It appears that the taxpayers of America will soon be called upon to pay for this investment loss.

There is another issue at stake here, however. How is ITT treating its possible losses in Chile with respect to its Federal tax liability? An examination of ITT's 1971 Corporate Annual Report raises some serious questions in this area.

ITT states that its investment in the Chile Telephone Co., is worth $153 million. While this corporation has filed for OPIC insurance worth $108.5 million, its corporate report lists $89,568,000 receivable from OPIC as an asset. Further, ITT's corporate report lists as a one-time writeoff $70 million for uninsured losses in Chilean companies.

These figures do not add up. Since the question of ITT's loss in Chile has a major impact on the corporation's Federal tax situation, and the value of its investments in Chile has been seriously questioned, I am today asking the Internal Revenue Service to take necessary steps to insure an accurate and truthful accounting of ITT's overseas operations.

Following is the entire statement of ITT on income taxes as stated on page 26 of its 1971 annual report:

INCOME TAXES

The effective income tax rates differ from statutory rates principally as a result of (1) inclusion of equity in earnings of Hartford, the finance subsidiaries, and Chilean operations on an after-tax basis, (2) lower tax rates applicable to certain foreign income and capital gains, and (3) "flow-through" of investment credits allowed by United States and foreign governments amounting to $9,200,000 and $3,100,000 in 1971 and 1970, respectively.

Deferred income taxes arise principally from the use of accelerated depreciation for income tax purposes and straight-line depreciation for financial reporting purposes, and from the reflection of other expenditures in differing periods for financial reporting and income tax purposes. Provisions for deferred income taxes of $64,400,000 and $60,400,000 have been charged against 1971 and 1970 consolidated income, respectively, although such taxes will not be payable until future years.

This gives an interesting picture of conglomerate corporate taxation. As far as corporate taxation is concerned, the Treasury is a sieve—very little tax is retained; a great part of the taxpayers' obligation is deferred.

As far as the U.S. Treasury is concerned, income taxes deferred are taxes interred.

THE TORCH WE PASS

(Mr. SYMINGTON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SYMINGTON. Mr. Speaker, America's position in the world as an invulnerable, stable, and justifiably confident power can be enhanced by a number of provisions, but guaranteed by only one, the superior education of our people. Appropriate diplomatic and military precautions will always be vital to our safety and welfare in a world riven by ancient feuds, and still threatened and shaken by aggressive expressions of territorial demand, and ideological fervor. But the serene society in the nuclear age is the one which works its purposes in the main with secondary and not primary reliance on diplomatic sleight-of-hand and gunboat capability. Primary reliance must be placed on the explosive and compelling force of its citizen imagination projected across the spectrum of healthy national development, human fulfillment, world trade, and cultural and artistic expression, the main concerns of a peaceful world, and the principal business of man at his best. The inner strength and outward credibility of such an effort will depend in large measure upon the degree to which its spirit is shared, and its form fashioned by all Americans—which would include the hitherto untapped resources of women, the elderly, the young, and the racial minorities.

A nation at peace with itself is a credible nation. The reverse, as we have seen, to our dismay, is also true.

National security, then, in its larger sense presupposes the realities that make for inner peace as well as the appearances of external readiness. Foremost among such realities would be a clear commitment to educational excellence capable of producing vibrant, self-confident and energetic citizens from every walk of life and every part of the Nation, not as the exception, but as the rule.

The cornerstone of such a structure of excellence will be the investment we make, not in money alone, but in the vitality and intuitive approaches of our elementary and secondary school systems. All too many twigs have been bent beyond hope of becoming the tall trees we would like to think America grows. Does this mean "improving neighborhood schools?" Of course it does. The neighborhood school has been the school of first and best resort since we had to walk to it. Even today with the spread of our people across the land, it is generally agreed that if we must ride at all, the shorter the ride the better. The school close to home, if a good school, is still the preference of most Americans. Many work and plan to live in certain communities because of the schools that serve them.

Naturally they will reject the notion that a just law could require attendance at more distant schools. This is particularly so when the distant schools are easily recognized as inferior schools. School busing has long been acceptable to the American family where it demonstrably enhances the educational opportunities of its children. It will never be acceptable where it is not convinced that it does so. Experience, as Justice Holmes said, is the life of the law. Much of the experience of court-ordered busing has been unsatisfactory. Some school districts, supported by the parents concerned, have concluded that the children have benefited from such plans. Where successful, they should not be disrupted.

But for the most part the busing experience in question, plus the threat of further requirements of this kind, have brought the country to the realization that a new course must be charted which will preserve the integrity of the neighborhood school concept without renewing or ratifying ancient segregation policies and patterns. Certainly the courts have been saddled with more than their rightful share of the responsibility for solving socioeconomic problems that vastly transcend school attendance arrangements. And they have been allowed by default, one inadequate and inappropriate tool for the purpose, schoolbusing. That is a distortion, both of the problem and of the solution. It came about due to a vacuum of leadership from the executive and legislative branches of the Federal Government, from their counterparts at the State and local level, and from the preeminent forces in the private sector. All these must be marshaled now in a new coalition of enterprise, not alone for the schools, but for the preservation of neighborhoods capable of sustaining first rate schools, for the maintenance of housing standards appropriate to such neighborhoods, and for the job training and work opportunities essential to the creation of life styles and expectations that make for upward mobility in every community.

We were once a dynamic society. We have become somewhat static. That is not our nature. We must make the new starts, the judgments and the sacrifices necessary to get on the move again. It is perhaps a paradox, but domestic tranquility is the produce not of repose in collective indifference, but of activity in shared purposes. We in the St. Louis area have just been reminded of that by HUD Secretary George Romney. Secretary Romney chose St. Louis as one of five cities to be "saved," as it were, not alone by the intervening Federal hand, but by a handclasp between Federal resources and local commitments without which the Federal hand is more clumsy than healing.

What about the Federal commitment to better schools? Today the Federal Government is far deeper into school policy than school support. Less than 8 percent of the Nation's educational costs are borne by the Federal Government. Its money, it can be said, is not yet where its mouth is. In the meantime, property taxes have had to carry a burden made heavier in many instances by Federal requirements. I intend to support the proposal now before Congress that the level of Federal investment in education be raised to 25 percent. Is this prohibitively high? Remember, it is the security of the Nation we are addressing. If we do not want to be a nation on dole, we must be a nation at work. A nation to be at work, must consist of a people capable of understanding and managing the challenges and requirements of modern technology as well as those of an increasingly service-oriented economy. That understanding and confidence must come early. And the schools must provide it. Nor may they be expected to provide it with inadequate materials, crumbling facilities, and underpaid teachers and counselors in slum environments. Education neither begins nor ends at the school gate.

If the matter were to be examined in the light of priorities for the Federal tax dollar, we could reflect on the estimate that some 4,000 such dollars have been spent on ammunition alone to account for each enemy soldier killed in the Indochina war, while some 40 of such dollars are annually invested in the education of each American child.

We have never been a nation paralyzed by alternatives. We have shown frequently in the past that we can rise to the challenge of the times. Today we have a balance-of-payments problem, a trade deficit, an environmental problem, and an energy crisis, to name a few. We must surmount these problems of peace if we would avoid the problem of war. And we have a people eager to solve them. But they will be solved by refined intellect, not raw passion. The conditioning of the intellect and attitudes of young Americans in a decent and moral environment is our first order of national business.

We would have the family of nations believe that the new generation to which we pass the torch, can "truly light the world." It is more likely to believe that, and so are we, when we have fully illuminated the American spirit here at home. And this we will, by the light that comes to us in an unbroken beam of two centuries, the light of reason and commonsense.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *April 4, 1972.*

The Honorable the SPEAKER,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's office at 12:07 p.m. on Tuesday, April 4, 1972, and said to contain a message from the President wherein he transmits the 1971 report on the International Coffee Agreement.

With kind regards, I am.

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.
By W. RAYMOND COLLEY.

THE 1971 REPORT ON INTERNATIONAL COFFEE AGREEMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means:

To the Congress of the United States:

I transmit herewith my report on the operations of the International Coffee Agreement during 1971.

Last year the International Coffee Agreement proved its continuing value as an instrument of international economic cooperation. The 62 members of the International Coffee Organization worked together effectively to stabilize world coffee trade.

This stability serves the interests of the United States in two important respects.

First, it benefits the American consumer by helping to prevent the recurrence of the extremely high coffee prices recorded in the years prior to the Agreement. In 1971, for example, the International Coffee Organization successfully dealt with the supply crisis of the previous years and served to bring down the price of our imported green coffee by eight cents per pound between January and December.

Secondly, the International Coffee Organization reduces the fluctuation in the foreign exchange earnings of coffee producers. It thereby supports the development efforts of over 40 nations in Latin America, Africa, and Asia and supports our own aid objectives.

The recent passage by the Congress of enabling legislation permits us to fulfill certain of our obligations under the Agreement. Approval of this important legislation constitutes an important reaffirmation of our determination to cooperate with the developing countries.

RICHARD NIXON.

THE WHITE HOUSE, *April 4, 1972.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The **SPEAKER** laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
April 5, 1972.

The Honorable the SPEAKER,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 11:40 a.m. on Wednesday, April 5, 1972, and said to contain a message from the President wherein he transmits the 1971 report on activities and accomplishments during 1971 under the Communications Satellite Act of 1962.

With kind regards, I am,

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.
By W. RAYMOND COLLEY.

REPORT ON ACTIVITIES AND ACCOMPLISHMENTS DURING 1971 UNDER THE COMMUNICATIONS SATELLITE ACT OF 1962—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92-279)

The **SPEAKER** laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

To the Congress of the United States:

In the relatively short span of seven years, communications by satellite has changed the world forever. We now live in one very real sense, much closer to other peoples and to faraway events.

The fast-developing science of satellite communications must rate as one of the true marvels of the 20th century—a technological triumph that is bringing greater understanding to a world badly in need of closer ties and deeper insights.

As one might expect, the seven years since the launching of the first communications satellite, Early Bird, have been filled with important developments in this new field. The year 1971 was one of particular accomplishment, since it marked the completion of two years of multilateral negotiations which produced the governing instruments for the International Telecommunications Satellite Consortium. When the resulting Definitive Agreements come into force, possibly in 1972, that will signal the start of a new era for this highly successful organization.

It is my pleasure to report to the Congress on our activities and accomplishments in 1971 under the Communications Satellite Act of 1962. I am certain the Congress will share my fascination and satisfaction with the speed in which participation in satellite communications is spreading across the world as a new and constructive force among nations and peoples.

RICHARD NIXON.

THE WHITE HOUSE, *April 5, 1972.*

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On March 30, 1972:

H.R. 10390. An act to extend the life of the Indian Claims Commission, and for other purposes.

On April 6, 1972:

H.R. 9526. An act to authorize certain naval vessel loans, and for other purposes.

ANNUAL REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING, FISCAL YEAR 1971—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The **SPEAKER** laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

In accordance with section 396(i) of the Public Broadcasting Act of 1967, as amended, I hereby transmit the Annual Report of the Corporation for Public Broadcasting covering the fiscal year July 1, 1970 to June 30, 1971.

RICHARD NIXON.

THE WHITE HOUSE, *April 10, 1972.*

ROBERT E. WOOD, GREAT MERCHANT: PROPOSAL FOR MEMORIALIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in a statement in the Appendix of the CONGRESSIONAL RECORD of February 16, 1972 on "Gen. Robert E. Wood: Soldier, Panama Canal Builder, and Great Merchant Prince, 1879–1969," I quoted a splendid biographical sketch of him by Gen. William H. Wilbur and a fine tribute in verse by former Congressman Maurice H. Thatcher, both of whom were longtime friends of General Wood.

In response, I received an especially fine letter from George J. Burger, vice president of the National Federation of Independent Business, also a friend of General Wood, who, in addition to supplying additional information, made the suggestion that the Sears, Roebuck Co., so long headed by the general, should erect a memorial to him in that company's headquarters.

Mr. Burger's suggestion was so appropriate that I wrote him concurring with it and recommending that he follow through on the idea.

The exchange of letters follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
February 23, 1972.

Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

Subject: General Robert E. Wood: Soldier, Panama Canal Builder, and great Merchant Prince, 1879–1969

MY DEAR CONGRESSMAN FLOOD: I refer to your Extension of Remarks in the Appendix of the Congressional Record, February 16, 1972, page 4268 and I fully concur with your splendid tribute to the above, a great man and I don't mean maybe. He called a spade a spade and I am not unmindful, if my memory serves me right, of the position he took prior to our official entry into World War II when I believe he headed the organization, "America First."

In the business world, he established a record second to none as an outstanding retailer. Sears Roebuck and Company should erect a memorial to him in their headquarters as it was due to his leadership and action that took Sears out of the catalog business and made them one of the leading retailers in the nation. This was brought about through his leadership when he effected that contract relationship for their own tire (Allstate) between Goodyear Tire and Rubber Company and Sears. It existed between 1925 and 1936. It had been stated by a competent authority in the tire industry that from that contract relationship, Sears became the largest retailer of tires in the United States (either first or second in that category).

I had the pleasure (which I shall never forget) of meeting with the General in his Sears office in Chicago shortly after the cancellation of that contract (found in violation of the Clayton Act by the Federal Trade Commission). I was then Secretary-General Manager of the National Association of Independent Tire Dealers. I will never forget, in my visits with the General, he minced no words that they would hold their position in the retailing of tires (in spite of the cancellation of the contract by Goodyear). He was very definite on that. It goes without saying that that contract (their own tires) brought about a vote of confidence in their product by the buying public which is still maintained today.

I will never forget that during that conference, the General remarked to me: "Burger, I had the damndest time with Mrs. Woods. She will not buy in any chain store."

Congressman, through no fault of the General, that contract between 1925 and 1936 created cancers in the rubber tire industry which eventually led to the destruction of many small producers and, more serious, thousands upon thousands of independent tire dealers nationwide. Due to that contract, manufacturers' retail stores for the first time were established nationwide (still continues and are increasing) and the pattern is being utilized by many industries throughout the nation. One often wonders what's happening to the enforcement of the Robinson-Patman Act.

Finally, Congressman, in the summer of 1936, or thereabouts, when Goodyear announced the cancellation of the contract (they could not justify the price under the Robinson-Patman Act, the Federal Trade Commission did not accept their action and still held them to the violation of the Clayton Act. Court procedure took place between the government and Goodyear, ending in the U.S. Circuit Court in Cincinnati, in around 1938. In a 2-to-1 decision, the Court sustained Goodyear's action on the contract re the Robinson-Patman Act. The big question in the minds of many of us in the rubber tire industry: What happened within the Federal Trade Commission when an appeal was not made by them to the U.S. Supreme Court?

In conclusion, again a well-deserved tribute to the late General Woods—and I don't mean maybe.

Sincerely yours,
George J. Burger,
Vice President.

March 3, 1972.

Mr. George J. Burger,
Vice President, National Federation of Independent Business, San Mateo, Calif.

Dear Mr. Burger: Many thanks for your letter of February 23 telling the story of your connection with General Wood.

I like particularly your idea for a memorial to him and suggest that it be a statue.

I trust that you will follow through on the idea because we ought to keep alive the memory of the leaders who have made our country great.

Sincerely yours,
Daniel J. Flood,
Member of Congress.

SIXTY-TWO DAYS, AND STILL NO WORD FROM PRESIDENT NIXON ON TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, it has now been 62 days since House Ways and Means Committee Chairman Wilbur Mills wrote President Nixon asking for the tax reform proposals the President promised last September. In his February 7 letter, Chairman Mills pointed out that such proposals should be submitted by March 15 in order for Congress to have time to act on them in this session. That deadline has long since passed, and there has been no response from the President.

In the meantime, a $7.25 billion quick-yield tax reform package, limited enough to be acted on in this session, has been introduced by 59 House Democrats—H.R. 13877. A comprehensive $16 billion tax reform bill has been introduced in the Senate by Senator Gaylord Nelson and 11 other Democratic Senators—S. 3378. There is thus no dearth of proposals. What is lacking is a commitment from the President, without which it will be difficult, if not impossible, to get meaningful tax reform legislation through the Congress.

An article last week in the Wall Street Journal reported some ferment within the administration, noting that—

> The whole field of estate and gift taxes is one in which the Treasury has been abrim with ideas during Mr. Nixon's time, and officials indicate they're prepared to trot out almost anything the President might order on the income tax front.

It is time for the President to unleash his Treasury Department. If he does so, I am sure he can count on the support of those of us who have been urging tax reform upon him so long and thus far so fruitlessly.

I have been gratified by the great support building up for tax reform around the country, and I hope the President will take note of it. I received an especially good letter today from Jerry Wurf, international president of the American Federation of State, County, and Municipal Employees, and I include it in the Record at this point:

American Federation of State,
County, and Municipal Employees, AFL-CIO,
Washington, D.C., April 5, 1972.

Hon. Henry S. Reuss,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Reuss: The American Federation of State, County and Municipal Employees fully supports your efforts at achieving meaningful tax reform through H.R. 13877. The Federal income tax as presently structured has a severe negative impact on our economy. Your legislative proposals go a long way in correcting this. This legislation would not only close several blatant tax loopholes and make the tax structure more equitable, but also address itself to the critical problem of achieving a full employment economy—a highly desirable and necessary goal which the Nixon Administration seems to have lost sight of.

Your proposal is particularly appropriate as it adds a measure of progressivity to the overall tax structure. Currently, much needed public services must rely too heavily on property and sales tax revenues. Your plan stands in stark contrast to President Nixon's value-added proposal which further exacerbates the regressivity of the entire tax structure.

Tax reform is the most reasonable and economically feasible method of dealing with a series of economic problems that confront us. With regard to some of the particulars of your plan, we support the thrust of your major revenue-generating provisions; namely, your treatment of capital gains, the repeal of the Asset Depreciation Range System of accelerated depreciation allowances, and the tightening of the Minimum Tax on "tax preference" income.

You have shown a recognition that attempts at correcting any inequities that may exist in the tax exempt status of state and local bonds must be handled delicately. We agree that any tampering with the tax exempt status of these securities must not impair state and local governments' ability to float debt.

Most importantly, your proposal to tax the income of foreign subsidiaries of American corporations is a vital step in arresting the deterioration in the value of the dollar abroad and in halting the senseless subsidization of a practice which exports American jobs at a time of high unemployment.

We are currently giving the matter of tax reform a rather detailed, in-depth review. In addition to the elements in your bill, we are also studying certain other items which concern us. For example, we are strongly opposed to the current inordinately high levels of depletion allowances for an entire range of minerals.

We actively support the broad thrust of your proposal. If we can be of any assistance in this area of tax reform, please do not hesitate to contact us.

Sincerely,
Jerry Wurf,
International President.

COMPENSATION FOR VICTIMS OF VIOLENT CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Ryan) is recognized for 5 minutes.

Mr. RYAN. Mr. Speaker, 4,000 years ago a great lawgiver, the Babylonian Emperor Hammurabi, promulgated an eminently enlightened regulation:

> If the brigand be not captured, the man who has been robbed shall, in the presence of God, make an itemized statement of his loss, and the city and the Governor shall compensate him.

Four thousand years later, the victim of violent crime remains not only at the physical mercy of his attacker, but at the mercy of his own economic situation as well.

I am introducing legislation—the Violent Crime Victims Compensation Act of 1972—to compensate the victims of violent crime. If we have the persistence to enact this bill into law, we can begin to meet the simple, yet so reasonable, standard set by that long-dead Babylonian ruler.

The need to do so is clear. If an elderly widow attacked on a dark street is lucky enough to recover from a vicious assault, she then must face staggering hospital and medical bills.

The working man or woman hospitalized by a sudden criminal attack not only must scrape together funds to pay the bills, but must do so while recuperating and therefore unable to work.

The tragic victim of crime who is permanently crippled may never work again, becoming dependent upon the meager government payments which are now available.

There is a horrible irony in all this. We help drive people to crime by depriving them of the education, housing, job training, and employment they need. We starve the criminal justice system of funds, so that our prisons do not correct, but mainly serve to confirm the criminality of the men and women we confine in them. Meanwhile, we stand aside and let the victim of crime struggle alone to absorb the tremendous financial burden his victimization places upon him. Even if his attacker is caught, rarely will the offender have the resources to provide monetary restitution to his victim.

The Violent Crime Victims Compensation Act of 1972 is a direct response to one aspect of this dreadful situation. My introduction of it certainly is not meant in any way to imply that the other aspects must not equally be attacked. As a member of the Judiciary Committee's Subcommittee on Prison Reform—Subcommittee No. 3—I can well attest to the enormous reforms needed in our entire criminal justice system. But my bill is an assertion that that Government, which has a duty to assist all citizens, owes an obligation to those whom it has failed.

The British Criminal Injuries Compensation Board has stated the point well:

> No one who is called to deal with those cases in which a blameless victim has been seriously disabled, sometimes for life, or with those cases in which the elderly and infirm have suffered injury and shock, can fail to feel deeply what a worthwhile part is played in the full administration of justice by the power to award compensation.

The issue is one of moral obligation.

Briefly, what does the Violent Crime Victim Compensation Act of 1972 do?

First, it establishes a Federal program to meet the financial needs of the innocent victims of violent crime. A Federal Compensation Board is established within the Department of Justice, authorized to make awards to or on behalf of innocent victims of violent crime. This Board's jurisdiction would be limited to areas chiefly under the jurisdiction of the Federal Government, such as the District of Columbia.

Second, the bill establishes a Federal grant program, to be administered by the Law Enforcement Assistance Administration, a branch of the Justice Department. To receive such a grant, the State would have to establish an agency having the authority to compensate victims of violent crime. The Federal Government would provide up to 75 percent of the costs of the State program.

As to what the State agency shall pay, it must establish a program of compensation equal to that set by the Federal Board. This would mean that 100 percent of all hospital and medical bills would be compensated, as well as 100 percent of any other pecuniary loss or expense—such as funeral expenses—directly related to the criminal's attack on the victim.

In addition, loss of earning power would be compensated; the limit on this would simply be that the compensation could not exceed twice the average weekly salary in the field in which the victim had worked. Compensation for lost earnings would continue until the injured man or woman resumed gainful employment at a rate no less than what he or she earned prior to his injury. Thus, if by some awful tragedy, a person were permanently crippled and could never work again, he or she would always be assured of receiving no less than the income earned before the tragedy. Similarly, dependents of the victim would receive compensation, if the victim were killed. Finally, the victim could also be compensated for pain and suffering for as much as $10,000.

By necessity, I have only very sketchily outlined the Violent Crime Victims Compensation Act of 1972. Thus, I have not detailed the protections against abuse which it contains, or such elements as the ability to require the offender to provide restitution to his victim in certain circumstances. However, I do believe the bill a reasoned, enlightened approach to a devastating problem.

I also want to briefly highlight some of the elements which distinguish my bill from other legislation which has been introduced in this area. My bill, for example, takes account of the possible recalcitrant State which refuses to establish a State compensation agency. Certainly, there is some reason to believe this may happen in light of the failings of numerous State governments to care for the poor and the disadvantaged, who, in inordinate numbers, are the victims of crime. The Violent Crime Victims Compensation Act of 1972 gives the States 3 years to implement State compensation programs. If a State fails to do so, the Federal program will be extended to its citizens. Since this will reduce the amounts of law enforcement assistance funds the State receives for other purposes—such as private State trooper cadres for the Governor—there will be no incentive for the State to stand aside and ignore its responsibility.

Second, my bill authorizes compensation for those injured as a result of the flight or pursuit of a criminal or suspect. All of us have heard of the tragic case of an innocent bystander shot or hurt in the course of attempted arrest. This innocent bystander should not be ignored, and my bill assures that he or she is not, just as it also covers the good Samaritan who intervenes to assist and is hurt.

Third, my bill provides compensation for pain and suffering. While recoveries for these 'intangible' injuries are sometimes abused, it is clear that the victim who rightfully deserves compensation should receive it.

Fourth, my bill imposes no "needs" test. Whether a person earns $5,000 annually or $50,000, his being victimized constitutes a failure of society, and society owes that person the obligation to restore him to his financial position before the crime.

I want to stress several points in closing. Crime is going to persist for a long time in this country. It is going to persist because we as a nation support, either directly or indirectly, violence. Certainly, a country engaged in an immoral conflict in Southeast Asia for so many years cannot be shocked when violence spreads across our own land, in a sense reflecting the violence we perpetrate in Asia. Nor should we be surprised that crime persists and grows so long as powerful lobbies succeed in preventing the passage of potent gun control legislation. Recollection of how Lee Harvey Oswald came to have the gun which he used to assassinate John Kennedy should suffice to tragically make that point. Finally, so long as we deprive the poor, so long as we starve our cities of funds, so long as we continue to perpetrate educational and racial and employment and housing discrimination upon millions of Americans, we must expect that those with whom we as a society deal immorally are going to bridle at the arrogant "law and order" vituperation which spews out of so many public figures' mouths. Law for the rich, and order for the poor, is a prescription for disaster.

I am introducing the Violent Crime Victims Compensation Act of 1972 not as an answer to these vices of our society. I offer it because, so long as this Nation and this Congress allow these vices to persist and to fester, we will have crime. I, for one, would not have society visit upon the victims of crime the deprivation which in such large measure lies at the source of crime. This bill begins the task of change. But, I want to make clear, there are many other tasks yet to be done.

TAX EQUITY FOR SINGLE TAXPAYERS AND WORKING COUPLES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, this week millions of Americans will be preparing their tax returns for 1971. Appropriately, today the House Ways and Means Committee is holding hearings on the tax inequities that have long existed for unmarried taxpayers and those that have recently evolved for married persons where both the husband and wife work. I have introduced the principal legislation, H.R. 850 as amended, to remove these inequities by establishing a uniform rate structure for married and unmarried taxpayers.

The Tax Reform Act of 1969 brought some equity—effective taxable year 1971—to the country's 29 million unmarried taxpayers, but concurrently made the tax burden for a working couple comparatively higher. My own position is that these inequities will never be resolved until we establish a uniform rate structure for all taxpayers, whether they be married, widowed, divorced, or single. This means that after the allowable deductions and exemptions are taken, the same graduated tax rate would be applied to an individual's taxable income, regardless of one's marital status.

My bill, H.R. 850, introduced on the first day of this Congress has received wide House support. It is now cosponsored by 135 of our colleagues and it has been introduced in the Senate by Senator ABRAHAM RIBICOFF. On March 29 I made some technical changes in this bill to take care of the problem of higher taxes that working husbands and wives are now confronting in paying their 1971 tax bill. These changes are found in H.R. 14193.

With the new tax schedules established by the 1969 Tax Reform Act becoming effective in taxable year 1971, the tax penalty for unmarried taxpayers was reduced; even so, the single taxpayer still pays up to 20 percent more in taxes than a taxpayer filing a joint return; and a head of household pays up to 10 percent more. The actual cost to a taxpayer can best be illustrated by a few examples. A single taxpayer whose taxable income is $12,000 pays $2,630 in taxes; if he were married and filing a joint return, he would pay $2,260—a difference of $370. And of course the rate on any income in excess of $12,000, and before the $14,000 level is higher: 29 percent for the single return and 25 percent for the joint return. The tax penalty for being single at $16,000 is $570; at $20,000, $850; at $50,000, $3,130.

I believe that taxes should reflect differences in a taxpayer's responsibilities for dependent support, but the way to do this is through exemptions for dependents, not through different tax schedules. Requiring as we do today that single persons pay at a higher rate is simply arbitrary. The joint tax return rate for married taxpayers does not reflect the different financial responsibilities in supporting six dependents as opposed to say, one dependent. Furthermore, under the present rate structure a divorcee or widow with three dependents, using the head of household schedule, pays taxes at a higher rate than a married couple with no children. Family responsibilities can most effectively be reflected through an adequate dependent exemption. I have introduced legislation to increase the personal exemption and the exemptions for dependents to $1,200.

Unfortunately, the pinch of having a proliferation of tax schedules for different categories of taxpayers is now being felt not only by unmarried persons, but also by married couples, both of whom work and are presently preparing their tax returns for 1971. Because of the lower rates given to single taxpayers by the 1969 act, some 18 million working couples are finding they would be paying less money in taxes if they were single. This too is an inequity. Acceptance of this inequity is perhaps a result of the belief that salaried work by a wife is a luxury. While it may be true that a wife's income may put some families in the higher income brackets, in most cases, working women come from lower and middle income families, and they are working, often at personal sacrifices to their families, to meet today's high cost of living. The Labor Department has reported that almost half—46 percent—of the women married to men with incomes between $5,000 and $6,999 work. Furthermore, women's median earnings are only about three-fifths of those of men. Women are already victimized by a labor market that underpays them; they should not be further penalized by a tax structure that extracts higher taxes from them.

Let us look for a minute at what the penalty is for the woman who goes to work to supplement her husband's $6,000 income. If her income is also $6,000, the couple will pay $156 more in taxes—using the standard deduction—than if they were two single people filing their individual returns. Effectively, this is a 10-percent surtax on the amount they would be paying if single. Ironically, the surtax is even greater if each earns $4,000 annually: 26.6 percent. Take another example: Should the husband earn $20,000 and the wife $10,000, the couple will pay $467 extra in tax, or a 12-percent surtax. Or in the case of each earning $30,000, the difference is $3,970 or a surtax of 28 percent.

The following is a table prepared by Anita Murray of New York City providing a computation of the penalties for working couples:

1971 FEDERAL INCOME TAX PENALTIES FOR MARRIAGE

	Wife's income										
	$2,000	$4,000	$6,000	$8,000	$10,000	$12,000	$14,000	$16,000	$18,000	$20,000	$30,000
Husband's income:											
$2,000	−$154	−$149	−$136	−$68	−$3	+$21	+$74	+$153	+$233	+$350	+$901
$4,000	−149	−195	−170	−113	−87	−127	−98	−55	+2	+69	+448
$6,000	−136	−170	−156	−138	−176	−240	−247	−227	−220	−178	+21
$8,000	−68	−113	−138	−184	−246	−346	−376	−406	−424	−442	−391
$10,000	−3	−87	−176	−246	−344	−467	−547	−602	−680	−725	−828
$12,000	+21	−127	−240	−346	−467	−640	−745	−860	−965	−1,045	−1,296
$14,000	+74	−98	−247	−376	−547	−745	−910	−1,052	−1,192	−1,297	−1,700
$16,000	+153	−55	−227	−406	−602	−860	−1,052	−1,229	−1,394	−1,532	−2,080
$18,000	+233	+2	−220	−424	−680	−965	−1,192	−1,394	−1,592	−1,758	−2,445
$20,000	+350	+69	−178	−442	−725	−1,045	−1,297	−1,532	−1,758	−1,957	−2,775
$30,000	+901	+448	+21	−391	−828	−1,296	−1,700	−2,080	−2,445	−2,775	−3,970

Note: The standard deduction is assumed in all cases. A negative amount in the chart indicates that the tax as a married couple is higher than for 2 single persons. A positive amount indicates that the tax is lower if the couple is married. The chart was compiled by figuring the Federal income tax for the incomes shown both ways, as a married couple and as two single persons, and subtracting to find the difference.

Our tax code contains a number of tax preferences. What we are asking for here, is not another preference, but simple equity for the unmarried taxpayer and the working couple.

Wherever taxpayer is described as he, replace he with she. Taxes know no sex.

Mr. Speaker, at this time I would like to insert in the CONGRESSIONAL RECORD some of the remarks presented by the witnesses appearing before the Ways and Means Committee. Unfortunately, the lead witness, Miss Vivien Kellums of Connecticut who has worked so long and effectively in pursuit of tax equity for single taxpayers, did not have a prepared statement and so I am not able to include her remarks here.

The list of witnesses and some of the prepared statements available to me follows:

LIST OF WITNESSES SCHEDULED TO APPEAR BEFORE THE COMMITTEE ON WAYS AND MEANS ON THE TAX TREATMENT OF SINGLE PERSONS AND MARRIED PERSONS WHERE BOTH HUSBAND AND WIFE ARE EMPLOYED

MONDAY, APRIL 10, 1972

1. Coordinated testimony presented on behalf of a number of different organizations:

Vivien Kellems, East Haddam, Conn.

Gloria Swanson, New York, N.Y.

Henry Couture, President, Single People United.

Paul Keane, Kent State University graduate student.

Mary E. Frisina, president, Taxpayers' Crusade.

Polly K. Ruhtenberg, Colorado Springs, Colo.

Adrienne N. Neuman, Denver Supporters of Vivien Kellems.

2. Shirley M. Corrigan, Single Persons for Tax Equality Assn.

3. Committee of Single Taxpayers: Patty Cavin, Hon. George L. Murphy, Hon. Robert K. Gray.

4. Hon. Eugene J. McCarthy.

5. Osta Underwood, President, National Federation of Business and Professional Women's Clubs.

6. Christine Beshar, on behalf of the Association of the Bar of the City of New York.

7. Kelly Rueck, Vice President, Air Line Pilots Association.

8. Florence B. Donohue, Chairman, Committee on Taxation and the Working Woman, New York Women's Bar Association.

9. Albert H. Turkus, on behalf of the Tax Reform Research Group.

10. Hon. Robert Cline, State Assemblyman, California.

11. James T. Kelly, Ridgewood, New York.

STATEMENT OF GLORIA SWANSON

Mr. Chairman and Members of the Committee, I am here to speak for Representative Koch's bill H.R. 850 as amended.

I am Gloria Swanson of New York City—mother of three—grandmother of seven—and hopefully a "great grandmother" somewhere just around the corner—and for the curious—yes, my age is 73, which allows me to remember well the cries of indignation during the first World War, when in 1916 the tax was raised from 1% to 2%!! However, the cries very quickly abated when the citizenry were led to believe it was only for the duration of the war.

Nobody likes to be lied to, least of all the government (re taxes). If, however a citizen should lie, even inadvertently, it is called perjury and punishable by law. It must be wonderful to have privileged advantages.

We talk of the importance of parents setting a good example for their children. What about our government's obligation to its citizen's, from whom the employees of the government derive their salaries, to set an example of honesty and justice. Is it any wonder that the young generation is against "the establishments"—? (plural).

My reason for being here today is to add my name to the list of "Georges" who are trying to do something about the outrageous inequities in our tax laws rather than merely complaining.

My prime concern is for the widows because they, I feel sure, have few spokesmen against their cruel taxes.

Just imagine, if you can, what it must mean to lose your spouse after 20—30—40—maybe even 50 years of building a life together. The tragedy of the death is followed by an inheritance tax. Isn't that triple tax? It usually means one thing for the bewildered widow—she must be uprooted from the nest she and her husband built—move to smaller quarters, reorient herself, discard so many memories because there is no longer room for them. Her whole mode of living must be downgraded. Why? How can any government with any sense of justice dole out this kind of treatment? I know of many such cases. She has been robbed of the few comforts and dignity left for her few remaining years. I resent this. Perhaps, because most men do depart first—(yes—even the ones making these outrageous tax laws) they have failed to give this problem enough thought. Remember, I do not fall into this category, but I do have a heart for the defenseless, who in most cases have paid a lion's share of taxes over many, many years.

I feel sure there are many here who will speak on behalf of the married couples who both work—not because they want to but because of sheer necessity—and who messed up their economy? Did they? So I shall confine my remarks to the singles tax. Most of my life I have been in the single bracket. I started working when 14½ years of age. So these United States have received a goodly share of my earnings. During most of these 60 years of taxes there was no consideration given to the plight of the artist in the performing arts. I fell under two categories—married—but mostly single. During the last thirty years I have made but three pictures so I suffered unfair taxes because taxation did not take into consideration the lean years of an artist's career. Now, at least, the artist has a five year period in which to average his income for tax purposes. But only the experts can figure out this one. And what of the estimated tax? No one in the performing arts can possibly know what his earnings will be next year any more than next month—or tomorrow—yet they are penalized 6% if they are off by a large margin. In place of a five year average why not a tax deferrable certificate?

I do not believe the salaried middle bracket working American minds paying *fair* taxes—but what I do believe he minds and resents paying more taxes than some oil men—some millionaires—some large corporations and crooks. This is an evil!

As Edmund Burke said, "All that is necessary for the triumph of evil is that good men do nothing". May I look forward to you good men and good women to do something to correct these evils. Thank you.

Statement of Taxpayers' Crusade of Los Angeles County

Mr. Chairman, and members of this Committee, I am Mrs. Mary Frisina, 4581 Ambrose Avenue, Los Angeles, California, 90027. I'm here in support of H.R. 850 as amended. As President of the Taxpayer's Crusade of Los Angeles County I want to speak for thousands of single men and women and thousands more married couples both of whom work, who are wage earners, small home owners, and pensioners trying not to lose their homes, as taxes and prices continue to rise. Also single men and women and married couples in small businesses who are battling inflation, higher taxes, precarious and unexpected situations, while there seems to be no end to government demands, and no end to government spending.

I shall confine myself today to the plight of the unskilled, the uneducated and the uninformed.

Take the working mother, victim of a husband not paying child support. She has two choices—keep working, or go on welfare. The day she goes to work, her income tax deductions under Head of Household gives her a little break, not much. To begin with, her salary is in the lower income bracket. She must turn to welfare for supplemental aid—remember the husband is not paying child support. After working awhile, she finds it is not profitable for her to work. She quits her job, is no longer receiving supplemental aid but is now a full fledged recipient of the Aid to Families with Needy Children. As a full fledged receipient she receives more fringe benefits—Medical, dental care, you name it she gets it.

Now, let's take single people men or women, with no children. They are not heads of household as far as the Internal Revenue Service is concerned. They are ones who cannot apply for supplemental aid from the welfare, they cannot receive Medical. The day they become unmarried individuals either by divorce or death their withholding deductions sky rocket, other expenses are higher, food costs go up. And in almost all instances, it is the single person of the family who is looked upon to take care of the elderly parents, for which deductions are not allowed.

It's almost always the single member who has to dole out assistance—money or otherwise—to needy relatives. Because we are crusaders many taxpayers come to our organization for assistance. I want to cite two of numerous cases called to our attention (Proof Attached). Here is an unmarried man with responsibilities who was not being allowed, by the Internal Revenue Service, to fulfill his obligations to his family. At the time of the divorce, the wife was awarded the furniture and the custody of the children; he was awarded the Community Bills and her Attorney Fees. The world falls apart around him—no home, no family, but he still must pay the bills. ($90 month on the furniture bill; $60 month on a loan; $27.00 on the TV, $110 month child support and $120.00 rent). His take home pay is $580 monthly. After expenses (rent, transportation, utilities, union dues) he has approx $102 a month to live on.

Then he was served a Notice of Levy by the Internal Revenue Service. They were garnishing his wages for $593.30.

He was not aware that he could not take the regular exemptions inasmuch as he had all the community obligations, and his ex-spouse became a full fledge welfare recipient. He was uninformed and uneducated. However, he still worked to pay his bills. Since his ex-wife was on welfare, receiving all the benefits, the child support payment was dropped temporarily in order to pay the Internal Revenue Service.

Another case—similar circumstances—received a Notice of Levy from the IRS for $517.53. He was making payments to the IRS, and once sent in a payment $5 short. The next week the IRS advised him they would take his complete check on 6/21/71. The amount of his check for two weeks' work totaled $138.32. IRS kept its word—they took his complete check for $138.32. This garnishment produced a chain of reaction. He had absolutely no funds to take care of his obligations or to live on.

Members of this Committee, we ask you to approve H.R. 850 as amended to give tax equity to single unmarried taxpayers and working married couples.

If you recommend passage of HR 850 as amended I can promise you all of our California Congressmen will support it.

Thank you.

Respectfully submitted,

Mrs. Mary E. Frisina.

Statement of Single Persons for Tax Equality Association

Mr. Chairman, members of the committee, my name is Dr. Shirley Corrigan, and I represent the Single Persons for Tax Equality Association, a nonprofit organization incorporated under the laws of the state of Minnesota which favors passage of H.R. 850 as amended.

This association came into being more than three years ago in the Minneapolis-St. Paul metropolitan area and now has members throughout the state of Minnesota, throughout the country and in three overseas areas.

SPTEA adheres to the traditional method of redressing grievances within our democratic society—the organization of an interest group, the awakening of other members of the minority to their plight and the education of the electorate—culminating in the passage of remedial legislation.

I am pleased to report that SPTEA, of which I am a past president, has met with continued success in advancing toward its initial goal—the inclusion of single taxpayers within the split-income provision of the Internal Revenue Code.

Through talks to groups of single people, through information booths in public places, through radio and TV appearances and newspaper articles, and through our April 15th protest marches we have taken our message to the taxpayers.

The results have been both startling and reassuring. Startling because of the large number of people, married and single, who were found to be unaware of the existence or the magnitude of the financial discrimination against single people wrought by the split-income provision as it now stands, and reassuring because of the quick acknowledgment by the great majority of the married of the inequity of the situation once they were made aware of it.

Encouraged by our initial experiences and by our growing strength, we moved into the political arena at the state and national levels. This activity has been conducted on a strictly nonpartisan basis, for this is not a partisan issue. Our governor and all of our state constitutional officers have expressed approval of our goal. During the last session, the Minnesota legislature passed, with only one dissenting vote, a Memorial to Congress urging enactment of the remedial Bills you have before you, which are cosponsored by the entire Minnesota congressional delegation.

The speed with which this political support was obtained confirmd our earlier judgment that the principal obstacle we face in achieving our goal is the lack of general awareness of the problem.

We have had messages of support from all Minnesota congressmen after we had presented our case to them:

With the active support of such able and influential advocates as these, can passage of this legislation be long delayed?

Single people are a minority in comparison with the total population. Yet, in absolute numbers, they represent a sizeable group—approximately 37.5 million people, age 18 and over, including 11.5 million widows and widowers and 4.25 million divorced.

Despite the fact that we generally demand fewer services from our government than our married friends, the government does not reciprocate this lower demand.

These single people are required to pay considerable higher Federal income taxes on the same taxable income, and that same government prefers them for such dangerous tasks as fighting wars, taking them rather than marrieds when it can.

Together with some other minorities, single taxpayers are the victims of segregation. Single taxpayers must use a tax table "separate and unequal" to the one used by the married folk.

There they find rates which, even after enactment of the Tax Reform Act of 1969, impose a tax obligation as much as 20 percent higher than that of married people with the same taxable income.

Single taxpayers who are aware of the story behind this separate table find their annual task especially galling, for they know—

(1) that it is the result of an historical accident,

(2) that contrived justifications for it are extremely weak and

(3) that its constitutionality is being challenged.

All attempted evaluations of the various schemes to match taxes with ability to pay become mired in controversy, but one thing is clear. We have not arrived at the present apportionment by a careful balancing of means, needs and obligations!

The disparity didn't happen because the electorate and the Congress decided that single people should pay more, but because of the working of our Federal system in a way surely not envisioned by our founding fathers.

We all know how it came about, but in their haste, the Congressmen overlooked the unmarried. The unhappy consequences were set forth by Mr. Philip Stern in his book, "The Great Treasury Raid":

"And so, Congress proceeded to act, but with great illogic. It ended one discrimination, but created another. The very distinction that had been considered so unfair to the married persons of forty states was picked up bodily and imposed on the single people of all states."

Family tax expert Harold M. Groves, in his study, "Federal Tax Treatment of the Family," stated:

"It is probably fair to say that the income tax, estate and gift-tax amendments of 1948 were a political compromise dictated by a high-pressure historical situation and that they were hardly a deliberate choice, made after all equities and other consequences were weighed."

It is as simple as this: If all states had been common-law states, the problem would not have arisen and a single tax table would be used by all taxpayers.

Two factors act to increase the impact of the split-income provision on single taxpayers—the steep progression of the income tax rates in the early part of the rate table and the impact of inflation.

In the basic table from which the split-income table is derived and which was applicable to the incomes of single people before 1971, half of the rise in tax-rate progression is imposed on the first 1/6 of the income subject to it. Splitting provides the greatest percentage of savings to those with incomes in the $20,000 to $50,000 range. Members of the Committee, you will recognize these as your own income brackets.

Added to this has been the impact of inflation. This has propelled more and more people into even higher brackets in terms of money income (which does not represent a real income). Inflationary government policies have, therefore, produced an effective tax increase on real income, which has to some extent been mitigated for married people by the income-splitting provision, but not for single people.

The Tax Reform Act of 1969 has reduced the gap to some extent, but it has provided no relief at all for taxable incomes of $4,000.00 or less and at $24,000 single taxpayers still pay 20 percent more than marrieds.

After the 1948 law, when it was pointed out that single individuals were the only ones still at a disadvantage, recourse was made to the arguments used to justify the advantages already given to married taxpayers by means of personal exemptions and itemized deductions.

In essence, these arguments are based on the proposition that the financial burdens of marriage reduce the ability of married people to pay and, therefore, people who are single, whether by choice or by chance, should pay part of the share of the marrieds. This position gives no recognition to the lesser demand for government services attributable to singles. If *all* taxpayers were married, the revenues would be lowered and the demands for government services would be increased.

Whatever the merits of these arguments, the split-income provision would appear to be a poor vehicle to balance taxes with ability to pay. The major burdens of family life are associated with the raising of children. Yet the benefits of this provision accrue to all couples, childless or otherwise, and whether or not they maintain a household.

Furthermore, the need for extra funds is felt most heavily in the lower income brackets, but the law bestowed its greatest advantage on the middle and upper income groups. It must also be noted that the advantage is given principally to one-income families and not to those in which the wife's income is a significant supplement.

Even if the income-splitting provision were better suited to the aims professed for it, it would not be just in the eyes of single taxpayers. A generalization that single people have greater ability to pay does not stand examination. Singles are not a homogeneous group of carefree swingers. Rather, they exhibit a great diversity, with millions of divorced, widows and widowers in their ranks. Some have family responsibilities and expenses far greater than those of many marrieds—especially those marrieds without children in the home.

Persons living alone pay disproportionately for food, lodging and transportation. Those that never marry must look to their own resources in time of need and at retirement. Here there is further discrimination, for singles get fewer social security benefits than marrieds, but pay the same taxes. Indeed, the discriminations continue even after death in the form of higher taxes on the estates of single people.

One of the results of the Tax Reform Act of 1969, which will be exacerbated by extension of the full income-splitting privilege to single taxpayers, has produced some opposition. This is the apparent "marriage penalty" which affects two-income couples.

SPETA favors tax equality for everyone. We insist, however, that our tax relief should not be delayed or denied because of any difficulties in arriving at this settlement.

A final point I wish to cover is the relationship of this legislation to the overall fiscal policy. While these Bills need not be considered as a tax-cutting measure or evaluated on the basis of their effect on the economy and the revenue needs of the government, passage would provide additional stimulus to our lagging economy.

During the last session, you considered legislation proposed by the President to provide such a stimulus. We asked that our Bills be taken up at the same time, but you did not heed us. Now, tax reform measures have been proposed to eliminate some of the loopholes in the tax laws. We all know these deficiencies exist, but we must also recognize that there are excesses as well, one of which is the "singles' surcharge." Any equitable tax reform must include tax reductions where they are proper, as well as provisions which will produce revenue.

Of the roughly 30 million returns filed by single persons and heads of household in 1969, almost 22 million reported adjusted gross incomes of under $5,000 and more than 28.5 million reported adjusted gross incomes of under $10,000. Monies restored to this underprivileged caste will obviously not end up in socks or under mattresses, but will be quickly spent in day-to-day living, providing a fiscal stimulus for the economy.

Principally, this legislation *must be looked upon as a long-delayed rectification of an injustice. The demands of justice must not be postponed to a time when they can be met conveniently.*

By the bloated standards of today's budget, the cost will not be large—perhaps a billion or two. Such amounts cannot be crucial to a nation which spends 230 billion annually, or to fiscal planners who miscalculate the balance of income and expenditures by more than 20 billion in a single year.

References to higher priorities and claims of revenue shortages are not valid excuses for continued inaction. The tax laws, supposedly reformed in 1969, still shower benefits on favored groups. The taxes collected are squandered in ways which draw groans from taxpayers with each revelation. The Treasury writes off as "uncollectible" several hundreds of millions of tax dollars each year. The Justice Department fails to collect additional millions in fines imposed by the courts.

The money can be found. Our government can afford to be just! I ask you to establish justice by approving H.R. 850 in this committee and by securing its enactment.

Thank you!

Statement by Patty Cavin, of the Committee of Single Taxpayers

Mr. Chairman, I am Patty Cavin, a past president of the Women's National Press Club, widow of F. Edward Cavin, and mother of two young sons. I am here as the Executive Director of CO$T, the Committee of Single Taxpayers, which is a nonprofit, nonpartisan national citizens action group. CO$T was formed last June in the District of Columbia as the full time voice in Washington of the nation's over 30 million individual taxpayers. Our Committee is headed by the Honorable Robert Keith Gray, former Secretary of the Cabinet during the Eisenhower Administration. Our Advisory Co-Chairmen are the Honorable Eugene McCarthy and the Honorable George Murphy, former United States Senators.

In addition to myself, our professional staff consists of one secretary and several hundred volunteers who work in Washington, and with our volunteer CO$T Chairman in major cities and key congressional districts from coast to coast. In addition to mobilizing the individual taxpayer for group action, our goal is effective legislation to establish an equal tax base for all individuals.

I assisted Mr. Gray and Senators Murphy and McCarthy in organizing the Committee last spring, and have directed our Washington headquarters since last September. Out of deference for time, and since our three main principals are present, and prepared to testify, I should like to leave the details of the CO$T Crusade to Bob, Gene and the proverbial George.

Attached are some editorial and newspaper articles about CO$T to illustrate the broad base of interest generated by our Committee in all parts of the country.

Following are a series of quotes from a random sampling of the more than 50,000 letters received by CO$T to date. They illustrate the strong feelings of a representative cross-section of America's 30 million individual taxpayers who cannot understand why they should be singled out for more than their fair share of our country's national tax burden.

Frome Mrs. M. A., Sedro Wooley, Washington:

"My husband passed away in December of 1971. I stood shocked and stunned when I realized there had been $20.13 more taken from my pay check for withholding. Yet I am faced with the very same bills as when my husband was living. My take home pay is $292, thus the $20 is considerable."

From a single in San Mateo, California:

"At the present time, the alternatives facing a single person are grim . . . support another "Boston Tea Party," have four illegitimate children and go on the welfare rolls, or highjack a plane to Outer Mongolia." Does your organization have a more cogent plan of attack so that single people may eventually expect an equitable tax?"

From a recent widow in Lexington, Kentucky:

"I am glad to have the opportunity to join CO$T to fight the unfairness of the tax discrimination of widows and single people. I am a widow as my husband died two years ago. We bought a home on a GI Loan. I have almost 8 years more to pay before it will be mine. I am trying to keep it, but my bills are the same as when he was here, except for the medicine. But he did get social security disability, and a little veteran's bonus, which helped. I am 56 and all I can get now is what I have earned. So I sure could benefit by lower taxes."

From a spinster in Berkeley, California:

"I am single and highly indignant of our government's punitive treatment because I have chosen my way of life. Nowhere in the United States Constitution can I find any words or phrases saying single people must pay higher taxes than other groups of citizens. Why are we being punished? This is also true of California's new withholding tax."

From a bachelor in Lewiston, Idaho:

"It has always been unfair to us who live alone, mainly because we also have to pay for a place to live, pay for a car, and most of the other things that married or "head of household" persons have to do. I consider myself head of my household and all its expenses, and would like to be heard on this issue. It has a very strong smell of discrimination."

From another spinster in Long Beach, California:

"You bet the taxes for single people are unfair! Out of the raise for federal employees in '72, my first check shows a grand total of $1.01 increase, balance paid to taxes. Heads of household and marrieds are averaging $10 to $12 clear. I hate being punished for being single, or not getting pregnant just for another exemption. There must be an easier way . . ."

From a lady in Lakewood, Ohio:

"Thank goodness someone has decided to move in the direction of the over-taxed single taxpayers. Matter of fact, the time is long overdue for taxing the head of a household EXTRA for every child over two. We are no longer an agricultural economy in which the old man planned to put every child to work the minute he could stumble to the hen house."

From Annabel W. in Fremont, California:

"I am 71, widowed, living alone and am not given the privilege of Head of Household, although I maintain my own home. Property tax this year—$1,702.00; Federal Income Tax last year $924.00; California State Income Tax—$127.00. Living on a pension leaves little for myself."

From Pam D. in Clarkston, Washington:

"I am 21, living alone and I have to watch my funds closely. I would like to go to college but because of bills and the high rate of taxes, I am unable to. Any help I receive will be much appreciated."

Statement by the Honorable George Murphy, Former Senator From California

Mr. Chairman, the Internal Revenue Commission estimates that there are approximately 30 million bachelors, spinsters, widows, widowers, divorced and married taxpayers who file individual tax returns in the United States today. I am happy to appear before the Ways and Means Committee today as a spokesman for a sizeable portion of these individuals, plus a growing number of married couples with double incomes, who are members of CO$T. Our Committee is obviously nonpartisan!

CO$T was formed in the District of Columbia last June as a national citizens action group to speak and act from Washington for America's previously unorganized minority—the individual taxpayer. Our immediate goal is to end the current tax discrimination and to work for equal and fair tax treatment of ALL individuals.

Gene McCarthy and I may disagree on many things, but we agree on this goal—an equal tax base for all individuals.

CO$T recognizes that laws are changed by organized support. Our Committee is active in all 50 States and Puerto Rico, and has volunteer CO$T Chairmen in Oakland, Los Angeles, San Francisco, Portland, Tacoma, Seattle, Denver, Dallas, Huntsville, St. Louis, Chicago, Boston, Rochester, New York, Pittsburgh, Newark, Tulsa, Chattanooga and Lexington.

Our Committee members come from all categories including single secretaries, tax-accountants, newspaper reporters, lawyers, doctors, nurses, college professors, airline stewardesses, publishers, many senior citizens, retired servicemen, a state commissioner of internal revenue, an American Ambassador, and even a dozer operator from Peck, Idaho!

CO$T also has sizeable membership support from "Parents Without Partners," the national organization of those widowed and divorced; the American Newspaper Women's Club; the National Secretaries Association; the National Association of Retired Federal Employees; and NAST, the National Association of Single Taxpayers which merged with CO$T last August.

One thing has been clear from the start of our Committee, and reflected in the thousands of letters which continue to pour into our P.O. Box 1789 here in Washington, D.C.: the individual taxpayer who has been footing up to 40% more tax burden than his married counterpart, may have suffered in silence since 1948 when Congress legislated the split income provision for marrieds . . . but no longer.

With the cost of living index rising, our members are critically hurt on the national tax front. They consider the 1969 Tax Reorganization Act which lowered their burden to a maximum 20% a mere token—and at best, *conscience legislation.*

The fact that Congress has finally granted to individual taxpayers the right to file as unmarried heads of households, is viewed by CO$T as recognition that Congress has finally realized in part the heavy inequity which exists.

Even *with* head of household status, horrible inequities persist. Take the ridiculous situation whereby a divorced or widowed taxpayer with say three children, using the head of household schedule, pays taxes at a higher rate than a married couple with no children.

The 1969 Tax Act was a step in the right direction, but certainly not the solution.

Out of 74 million 286 thousand tax returns filed in 1970, nearly half were filed by single taxpayers. Why should over 30 million bachelors, widows, divorced and spinsters be *singled out by IRS,* and forced to pay a 20% heavier burden than their married friends?

The Scripps-Howard Daily News headline of last Saturday, "40% of U.S. firms escape all income taxes," reads like a battle cry if you are single and socked with the same expenses as that married coupled next door.

The Committee of Single Taxpayers is not against married, however, and has many married members like the former Director of USIA who joined because he and his wife feel that "taxation must be fair if it is to be borne, if not willingly, at least without resentment."

CO$T sympathizes with the large group of double income married persons. They too were discriminated against by the 1969 Tax Reform. They must now pay up to 40% more than the one income family who files jointly.

While the actual number affected by this '69 "Mistake" is yet to be determined by the Census, a good yardstick is provided by the Bureau of Labor Statistics which reports, as of March, 1971, that there are 17 million couples in the American work force today. This figure is bound to grow as equal rights for women are exercised on the U.S. labor front.

Further proof that the time is right for an equal tax for all individuals is found in simple mathematics. Seventeen million American couples amount to 34 million double income taxpayers. Add this number to the over 30 million individual taxpayers who have, since 1948, been forced to pay an unfair burden for their single status. 64 plus million out of the 74.3 million American taxpayers cannot be wronged indefinitely!

The Committee of Single Taxpayers supports the original Koch Bill H.R. 850 and its amended version, H.R. 14193, that would provide tax equity for single taxpayers and married persons filing separately. As a group, we are in favor of any legislation that would bring about immediate tax equality for all our citizens.

In a period when our government is working wholeheartedly to end discrimination in all its ugly forms, no one can deny we are discriminating unfairly against those, who through circumstances beyond their control or choice, are taxed at a rate that imposes an unfair burden on them.

Testimony Presented on the Part of the National Federation of Business and Professional Women's Clubs, Inc. By Osta Underwood, National President, Before the House Committee on Ways and Means

Mr. Chairman, I am Osta Underwood. It is my honor and privilege to address this Committee concerning H.R. 850 and H.R. 14193, legislation which will extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns, and which will remove rate inequities for married persons where both are employed.

As President of The National Federation of Business and Profesional Women's Clubs, Inc., I represent working women in all of the fifty states, the District of Columbia, Puerto Rico and the Virgin Islands, who are vitally interested in the future of these bills. Our members are lawyers, clerks, saleswomen, secretaries, teachers, managers, and Ph. D.'s. They sufffer the inequities of current tax laws in all income brackets. Among our members are women who are married, single, divorced, and widowed; women who are mothers and grandmothers; women who have in the past and are now, even after their unswerving efforts at tax reform, paying inequitable amounts of income tax vis-a-vis each other and vis-a-vis the rest of the taxpaying public.

We approach you now to urge your prompt approval of the legislation before you which will deal with us uniformly and fairly and will eliminate the inequities I will describe.

Across the nation our membership has come into contact with individuals uniting to defeat the continuation of the unreasonable tax classifications reflected in the rate schedules. From Minnesota, where the State Legislature adopted a Resolution urging the Congress to pass legislation comparable to that presently before you,[1] to Connecticut, where Vivian Kellems' long-suffering efforts against the "penalty" tax for unmarried individuals began,[2] to here in the metropolitan Washington area where the Committee of Single Taxpayers (CO$T), sponsored by former Senators McCarthy and Murphy among others, is flourishing,[3] our membership has seen the attention of the nation turn to the cause we have long supported.

Consider the history upon which we base our position here today.

As you know, the income splitting procedure may be thought of as a product of historical accident. Before World War II, eight states had community property laws which treated income as divided equally between husband and wife. The U.S. Supreme Court ruled that married couples in these states could divide their income and file separate U.S. tax returns.[4] With this in mind, several other states soon passed laws giving their citizens similar tax advantages. In an effort to restore tax equality and to prevent wholesale disruption of local tax and property laws, Congress in 1948 made income splitting a national procedure. While solving the problem for married couples, this legislation increased the relative tax burden on single citizens. Attention was given to this inequity when, in 1951, the heads-of-households provision was enacted giving one-half of the income splitting benefits of married couples to widows, widowers, and certain other single persons with dependents in their households. In 1954 surviving spouses with dependent children were permitted to use the joint return tax rates with full income splitting for two years following the death of the husband or wife.

Prior to the 1969 Tax Reform Act, a single person's tax bill could have been as much as 40.9 percent higher than the tax bill due on a joint return with the same amount of income. The 1969 Act provided a new rate schedule for single taxpayers which reduced this gap to a still staggering 20 percent. The schedule is designed to provide tax liability for single persons which is 17 to 20 percent above that of married couples for taxable incomes between $14,000 and $100,000, with the maximum differential of 20 percent being reached at $20,000. Below $14,000, where income splitting is less beneficial, the excess of the single person's rates over those of married couples gradually decreases. This is also true above $100,000, again where the benefits of income splitting become less significant.[5]

The Tax Reform Act of 1969 also set up a new head-of-household tax rate schedule conveying tax benefits half way between the schedule applicable to joint returns and the new schedule applicable to single persons, and extended the head-of-household tax rates to certain married individuals living apart from their spouses.[6]

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[1] Congressional Record, vol. 117, pt. 32, p. 42193.

[2] Congressional Record, vol. 117, pt. 3, pp. 3037–3038 and pt. 6, pp. 6884–6887; Grider, "Miss Kellems Bugs IRS Again," The *Washington Post*, October 19, 1971, at A6, col. 1.

[3] The *Washington Daily News*, August 7, 1971, "Potomac Patter," col. 1.

[4] Poe v. Seaborn, 282 U.S. 101 (1930).

[5] Senate Committee on Finance, Tax Reform Act of 1969, S. Rep. No. 91–552, 91st Congress, 1st Sess., 260–261 (1969).

That is the history which has given birth to the two inequities which we seek to rectify today:

1. A single person making $8,000 a year pays $210 more in Federal income taxes than a married person making the same salary. A single person making $12,000 annually pays $370 more than a married person making the same salary. The penalties for being unmarried range from a difference of $10 yearly (with an income of $1,500) to $12,110 (with an income of $200,000).[7]

2. A married person making $14,000 a year, whose spouse also earns $14,000 a year, pays $680 more in Federal income taxes, if both spouses file jointly, than two singles who each earn $14,000 a year and file separate returns using the unmarried individual's tax schedule.[8]

To deal with the inequity perpetrated upon the single individual by the current law, H.R. 850 and H.R. 14193 would establish a uniform rate structure for *all* taxpayers and end the tax penalty imposed on the unmarried taxpayer.

As to the inequity perpetrated upon married individuals filing jointly, the establishment, under H.R. 850 and H.R. 14193, of a uniform rate structure for *all* taxpayers would end the tax penalties imposed on married persons where both are employed.

Because of its effectiveness in remedying two problems we set forth earlier, and in establishing an equitable system of income taxation for *all* citizens, we strongly urge your support of this legislation.

We feel it our duty to deal with those criticisms of the legislation of which we are aware.

In support of leaving a 20 percent gap between the tax paid by singles and that paid by marrieds filing jointly, the Report of the Senate Finance Committee on the 1969 Tax Reform Act says:

". . . some difference between the rate of tax paid by single persons and joint returns is appropriate to reflect the additional living expenses of married taxpayers . . ."[9]

and, in support of leaving a 10 percent gap between singles and heads-of-households, the Report says:

". . . there is good reason for maintaining a tax differential between single persons and heads-of-household who in fact maintain a household for a dependent."[10]

To these statements we offer, first, the words of Senator Ribicoff:

"The income tax should reflect differences in condition and responsibilities by allowing reasonable deductions. However, once the taxable income is determined the same rate should apply to all who have the same income, regardless of whether they are married or single.

"Many people attempt to explain the present system by saying that single persons do not bear the costs and responsibilities of raising children. But income splitting under present law does not differentiate among (married) taxpayers in this respect, since the benefit is the same whether or not they have children."[11]

It cannot be stressed too strongly that differences in the responsibilities of individuals should not, and cannot continue to be reflected in the *rate* of tax they pay on their base income after deductions and exemptions. These responsibilities, which surely must be recognized from an income tax standpoint, should be brought home to those who have them in the form of beneficial deductions and exemptions. (To the end that this may be a meaningful benefit, we support legislation to increase the exemption for dependents.)

If this policy change does not take place, the misplaced good intentions of prior Congresses will cause the anomalous situation to persist in which widows and divorcees supporting one or more children will pay a higher tax based on their adjusted income than that of a married couple which is childless.

Although the Senate Report does not explain why it chose the rate adjustment route instead of the deduction and exemption method of reflecting the peculiar responsibilities of taxpayers, *if* that choice is based on *any* statistical data intended to be reflected in the rate differentials set, surely *that* data can be converted into a system of deduction and exemptions, just as fairly reflecting the differing costs of the responsibilities involved, and allowing adjusted incomes to be taxed at a uniform rate.

If the rate differentials set are *not* based on such data, they represent an arbitrary method of taxation, inherently inequitable, and surely deserving of re-examination.

In support of allowing marrieds filing jointly to pay a greater tax than two singles filing separately, the Staff of the Joint Committee on Internal Revenue Taxation explains:

"This is a necessary result of changing the income splitting relationship between single and joint returns. Moreover, it is justified on the grounds that although a married couple has greater living expenses than a single person and hence should pay less tax, the couple's living expenses are likely to be less than those of two single persons, and therefore the couple's tax should be higher than that of two single persons."[12]

This, of course, would be the case only if the two single persons were not living together. Without seriously believing that the legislation was intended to encourage the promiscuity, contrary to our public policy, which it seems to reward, we think it too is susceptible to the argument that any provable relationship between costs of living as a married couple and tax benefits conferred to offset these expenses can be more equitably translated into deductions and exemptions than they can into rate differentials on adjusted income.

Therefore, based on the sincerely held belief that incomes should be taxed at an equal rate, allowing each citizen tax benefit for the responsibilities he or she assumes in our society before adjusted income is determined, The National Federation of Business and Professional Women's Clubs, Inc. strongly urges you to report favorably on H.R. 850 and H.R. 14193.

Thank you.

Statement by Christine Beshar on Behalf of the Committee on Sex and Law, Orville Schell, Chairman, the Association of the Bar of the City of New York

The 1969 Tax Reform Act reduced the tax rates for Unmarried Individuals and Heads of Households [Internal Revenue Code Section 1 (b) and (c)]. A probably unintended result is that the tax liability of two income-earning taxpayers is now higher if they are married than if they are not. This result is inequitable and socially undesirable. It appears to induce tax conscious young people to live together without marriage or in some cases even to get a divorce. The increased tax comes about because, while married taxpayers may elect to file either a joint return or two separate returns, they must, if they file separate returns, use the table for "Married Individuals Filling Separate Returns" [Section 1(d)] which was not amended when those for Unmarried Individuals were amended in 1969.

The attached table illustrates the "penalty for marriage" on the basis of 1971 tax rates.

Congress should cure the obvious inequity which crept into the tables with the 1969 Tax Reform Act and results in discrimination against a *married couple* with two incomes by imposing a greater tax on a married couple than on two unmarried individuals with the same income.

The change can be accomplished by allowing each taxpayer, whether he be married or not, to file a separate return in respect of his income and to use the rates in Section 1(b) which are now applicable only to unmarried individuals.

If such an amendment is made, it becomes necessary (1) to make sure that the income earned by one spouse in a community property state is taxed to him alone and (2) to amend the child care provisions which presently require a married individual to file a joint return in order to claim the child care deduction.

1971 FEDERAL INCOME TAX PENALTIES FOR MARRIAGE

	Wife's income										
	$2,000	$4,000	$6,000	$8,000	$10,000	$12,000	$14,000	$16,000	$18,000	$20,000	$30,000
Husband's income:											
$2,000	−$154	−$149	−$136	−$68	−$3	+$21	+$74	+$153	+$233	+$350	+$901
$4,000	−149	−195	−170	−113	−87	−127	−98	−55	+2	+69	+448
$6,000	−136	−170	−156	−138	−176	−240	−247	−227	−220	−178	+21
$8,000	−68	−113	−138	−184	−246	−346	−376	−406	−424	−442	−391
$10,000	−3	−87	−176	−246	−344	−467	−547	−602	−680	−725	−828
$12,000	+21	−127	−240	−346	−467	−640	−745	−860	−965	−1,045	−1,296
$14,000	+74	−98	−247	−376	−547	−745	−910	−1,052	−1,192	−1,297	−1,700
$16,000	+153	−55	−227	−406	−602	−860	−1,052	−1,229	−1,394	−1,532	−2,080
$18,000	+233	+2	−220	−424	−680	−965	−1,192	−1,394	−1,592	−1,758	−2,445
$20,000	+350	+69	−178	−442	−725	−1,045	−1,297	−1,532	−1,758	−1,957	−2,775
$30,000	+901	+448	+21	−391	−828	−1,296	−1,700	−2,080	−2,445	−2,775	−3,970

Note: The standard deduction is assumed in all cases. A negative amount in the chart indicates that the tax for a married couple is higher than for 2 single persons. A positive amount indicates that the tax is lower if the couple is married.

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[6] *Id.*

[7] Int. Rev. Code of 1954, (a) and (c).

[8] *Id.*

[9] *Supra,* note 5, at 260.

[10] *Supra,* note 5, at 262.

[11] CONGRESSIONAL RECORD, vol. 117, pt. 3, pp. 3037–3038.

[12] Staff of The Joint Committee on Internal Revenue Taxation, 91st Congress, 1st Sess., General Explanation of the Tax Reform Act of 1969 (December 3, 1970).

Statement Prepared for Hearings on Tax Treatment of Single Persons and Married Persons Both Working, Before the House Ways and Means Committee

My name is Florence Donohue. I am an attorney admitted in New York. I am the Chairman of the Committee on Taxation and the Working Woman of the New York Women's Bar Association. I speak for the organization in urging a law change that would permit married couples both working to file returns as though they were unmarried individuals.

I am employed as an Executive Editor with Prentice-Hall, Inc., the publishing firm.

Married taxpayers have discovered with some shock in 1972, as they file their 1971 returns, that many of them are paying more tax just because they are married. The result flows from two factors: lower rates now applicable to unmarried individuals and heads-of-household, and the increase in the standard deduction.

There is no question that Congress meant only to ease the situation for single taxpayers when it changed the rates for them in 1969. Nevertheless, the end result has been to place a "tax on marriage" when both spouses are earning income. The examples that follow show just how much tax penalty may be involved:

Example 1. Bill and Mary are married and have two children. They are unskilled workers and each makes $4,000 a year. If they file a joint return, they will pay a tax of $672. On separate returns, they would each pay a tax of $339, for a total of $678, if each claims one child. If they were not married, each would pay a tax of $246, for a total of $492, This low income family would pay a marriage penalty of $180. If one qualified as head of household, there would be an additional $6 saving if they were not married.

Example 2. Bert is a young accountant and makes $12,000 a year. His wife Susan teaches school; her salary is $10,000. Assuming they have no children and use the standard deduction for 1971, their tax on a joint return is $4,142. If they file separate returns, because they are married, their tax would be $4,165. But if they weren't married at all, the combined tax Bert and Susan would pay would be $3,642.50. So they are paying between $499.50 and $522.50 more taxes because they are married.

Example 3. John and Julia are both attorneys. They are in partnership together, and each partner's share of the partnership income is $20,000. If they are single, they will each pay a tax of $4,450.50, for a total tax of $8,901. If they got married in 1971, their total tax bill went up to $10,857.50. Their tax loss for getting married: $1,956.

Example 3 above assumes the standard deduction of $1,500 available for 1971. The 1972 maximum standard deduction of $2,000 will increase the tax penalty even more.

Example 4. Jim is a young widower with two children aged 8 and 10 who live with him in his household and are his dependents. He makes $20,000 a year and itemizes deductions of $4,000. He contemplates marrying a young woman who is an accountant and makes $13,000 a year. She presently takes the standard deduction and intends to go on working. If they do not marry in 1972, Jim's tax bill will be $2,912.50, and the girl's will be $2,171, for a total of $5,083.50. If they do marry, their tax on a joint return, assuming the total itemized deductions remain $4,000 will be $6,380. The difference—the penalty for getting married—is $1,296.50.

The New York Women's Bar Association recommends that this unconscionable result be avoided by permitting married persons an election to be taxed as though they were not married. To avoid providing an additional loop-hole for the well-to-do, the election should be limited to spouses who both have substantial amounts of earned income. The attached proposed bill sets the rule at 80%. So that spouses on pensions could have the same benefits as working spouses, pensions flowing out of an employment would also qualify the spouses to make the election.

The proposal would also provide that only one of two electing spouses could claim head-of-household status, and that only the spouse electing head-of-household status could deduct child and household care expenses of up to $4,800 a year under the newly liberalized Sec. 214.

Withholding. Withholding tables now in effect take into account that married persons both working owe more taxes than if they were single. The proposal would permit married persons who make the election in one year to qualify for reduced withholding in the following year.

It is intended that the election should be effective for all purposes of the income tax subtitle of the Internal Revenue Code. Thus electing spouses would both be eligible for the $1,300 low income allowance, and for a maximum standard deduction of up to $2,000 each. They would also each be entitled to deduct up to $1,000 under Sec. 1211(b) (limitation on capital losses). There are several other situations under the income tax law where husband and wife are treated as one taxpayer. The general reason for these provisions was the tax benefit that flowed to married persons through the use of the joint return rates. Once it is recognized that working spouses do not enjoy any such benefit, and they elect to be treated as unmarried, then the provisions of present law related to married persons filing separate returns should not apply to them. For instance, it would be quite proper for one spouse to itemize deductions, and the other to claim the standard deduction. Only one personal exemption would be available for each child, of course, and parents would have to decide which of them would take each child's exemption, in the light of such factors as eligibility for head of household status and the child care expense deduction. Neither spouse of an electing childless couple would qualify for head of household status unless a disabled dependent lived in the household.

Effective date. It would be highly desirable to have this change effective retroactively for the 1971 taxable year, the first year in which rate differentials applied to unmarried individuals.

Proposed legislation approved by the New York Women's Bar Association to meet the objectives outlined in the above statement follows. The legislative proposal was approved at the meeting of the Association on February 24, 1972.

H.R. —

A bill to permit married individuals to elect to pay tax as though they were unmarried individuals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6103 of the Internal Revenue Code of 1954 (relating to joint returns of income tax by husband and wife) be amended by adding at the end thereof the following new subsection:

"(f) Election to File as an Unmarried Individual or Head of Household.—

(1) If both spouses so elect, married persons eligible to file a joint return may each file separate returns as though they were unmarried individuals, if they satisfy the conditions set forth in paragraph (3).

(2) Only one of such electing spouses may claim head of household status under section 1(b) (as defined in section 2(b)).

(3) The election permitted under paragraph (1) shall only be available to spouses if at least 80% of their combined adjusted gross income is composed of:

(A) wages as defined in section 3401(a); or

(B) earned income as defined in section 911(b). For purposes of this election only, any pension or annuity received by reason of an employment relation shall be considered earned income.

(4) The election shall apply for all purposes of this subtitle."

Sec. 2. Section 2 (relating to definitions and special rules) is amended by renumbering subsection (e) as subsection (f), and by adding after subsection (d) the following new subsection:

"(e) Married Persons Electing to File as Unmarried Individuals.—Married persons who elect under section 6013(f) to file as unmarried individuals shall be treated as unmarried at the close of the taxable year, for purposes of subsection (b) (1). Only one such electing spouse may qualify as head of household under section 1(b)."

Sec. 3. Paragraph (1) of section 214(e) is amended to read as follows:

"(1) Married couples eligible to file joint returns. If the taxpayer is married at the close of the taxable year, the deduction provided by subsection (a) shall be allowed only if the taxpayer and his spouse file a single return jointly for the taxable year, unless both spouses elect to file as unmarried individuals under section 6013(f). If the latter election is in effect, only the spouse eligible to claim head of household status under section 1(b) may claim the deduction allowed by subsection (a)."

Sec. 4. Subparagraph (A) of section 3402 (1) (3) is amended to read as follows:

"(A) as not married, if (i) he is legally separated from his spouse under a decree of divorce or separate maintenance, or (ii) either he or his spouse is, or on any preceding day within the calendar year was, a nonresident alien, or (iii) the spouses elect for the preceding taxable year to file returns as unmarried individuals under section 6013(f)."

Sec. 5. The amendments made by this Act shall apply to taxable years ending after December 31, 1970.

Statement by Albert H. Turkus Before the Committee on Ways and Means

Mr. Chairman and distinguished members of the Committee on Ways and Means, I am Albert H. Turkus, an attorney-at-law and an associate of the Tax Reform Research Group. With me is Thomas H. Stanton, Director of the group. The Tax Reform Research Group is an organization concentrating on matters of legislation, regulation, and enforcement in the fields of federal, state, and local taxation. It is funded by Ralph Nader's Public Citizen, Inc., a broad-based group of citizens throughout the country who are concerned about consumer and tax issues.

At the outset I must commend this Committee for its responsiveness to the public in holding these hearings. In the last six months many people have begun to express concern about the relative tax burdens of single people versus married people, especially in families where both husband and wife are working.

The great bulk of public outcry concerning this issue has focused on the argument that it is cheaper in terms of tax liability for two wage earners to "live together in sin" than it is if they get married.[1] While this kind of discussion has real emotional appeal, it tends to obscure the complicated questions of economics and the difficult value judgments which must be faced by the Congress in setting the relative tax burdens of our various taxpaying units.

HISTORICAL PERSPECTIVE

In 1948, the Congress adopted the income splitting provisions of the Internal Revenue Code in order to achieve geographical tax equity between those states which had common law rules of property and the community property states. The Supreme Court had determined in 1930 that under existing law

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Footnotes at end of article.

a family in a community property state was entitled to split its income in two for purposes of filing federal tax returns.[2] In part to achieve tax equity between a couple living in a community property state and a couple living in a common law state, and also to avoid a "mad rush" by states to adopt community property laws, Congress enacted a provision in the Revenue Act of 1948 which allowed all couples to split their income for federal tax purposes.[3]

The income splitting provisions in effect since 1948 essentially allow a family to divide its income in half and pay twice the tax on one half its income. Under a progressive rate structure this represents a substantial tax savings for the family. Economists Joseph A. Pechman and Benjamin A. Okner of the Brookings Institution recently estimated that income splitting reduces federal tax revenues by over $21 billion per year.[4]

But the Congress decided that the family was the proper unit for purposes of taxation and that a single taxpayer should be taxed more heavily than a married couple earning the same total amount. And income splitting was one way to achieve these goals.

In 1951, however, in order to mitigate the resulting heavy tax burden on some of the single people, the Congress established a third rate structure for the category it called "Head of a Household." Under the '51 provisions a single person supporting a "qualifying" dependent was taxed according to a rate schedule with half the advantages of income splitting. The economic justification for this halfway treatment has never been convincingly articulated.

In any case, the tax incentives favoring marriage continued virtually intact until the Tax Reform Act of 1969. The '69 Act substantially changed the relative tax treatment of single and married people, especially with respect to single people living together versus married couples with two wage earners. By lowering the tax rates for single people and by raising the low income allowance and the upper limits of the percentage standard deduction, the Congress created what some have called a "marriage penalty" for two wage-earner families.

THE ECONOMICS OF THE TAX TREATMENT OF THE FAMILY—IN BRIEF

Before examining the economic justifications for differing tax treatment of various economic units, there are two points which deserve special emphasis. First, it is difficult to design a system which will equitably distribute the tax burden among all the various economic units in our society and which will, at the same time, be reasonably easy to administer and enforce. And, second, the ultimate decisions which must be made in resolving this problem are based primarily on value judgments rather than on obvious principles of equity.

Let us concentrate for a moment on the relative tax treatment of four different economic units: (1) a single person living alone and earning "X" dollars, (2) a married couple with one wage earner earning "X" dollars, (3) a married couple with two wage earners earning a total of "X" dollars, and (4) two single working people living together and earning a total of "X" dollars (the "single couple").[5]

Economically the following relative tax burdens would appear to be the most equitable. The single taxpayer should pay the heaviest tax because he (or she) has less expenses and, therefore, more "clear income."[6] The married couple with one wage earner should be next in line; although married couples with one wage earner and those with two wage earners may appear to be in similar circumstances, the couple with only one wage earner has more "real" income because of the imputed value of the services performed by the member of the family who is not working. The married couple with two wage earners and the single couple should pay essentially the same tax; there may be some cost savings to the married couple which are not available to (or are not generally engaged in by) two single wage earners living together—to this extent the single couple might pay a slightly lower tax.

How does this economic analysis compare to the situation which exists under present tax law? Today the married couple with one wage earner pays substantially less than the single taxpayer due to an additional exemption (or exemptions) as well as to the advantages of income splitting. The married couple with two wage earners pays the same tax as the married couple with one wage earner; and, the single couple—depending on the split of income between the two wage earners—will pay the least.

It is the disparity between married couples with two wage earners and single couples which seems to have generated the most public interest. In my opinion this problem has been greatly exaggerated. Only those families with two more-or-less-equal wage earners suffer today vis-a-vis the single couple.[7]

TAX EQUITY FOR THE MARRIED COUPLE WITH TWO WAGE EARNERS

There is, however, a more general problem for all families with two wage earners which does deserve serious consideration. A married couple with both members of the family working suffers a real economic loss by virtue of the loss of services normally performed by a family member in the home. They are forced to purchase these services on the general market, much as the single person does.

For this reason, we suggest that the Committee consider the possibility of establishing a special credit or exemption for the family with two wage earners. Such an exemption could be equal to a percentage of the lower income in the family, with a maximum upper limit or a phase-out at higher family income levels. (A credit could be devised to achieve similar results.)

An exemption of this kind has a number of features to commend it. First, it would lighten the tax burden of the married couple with two wage earners vis-a-vis the married couple with only one income producer. This would recognize the difference in economic circumstances between the two families set out above. At the same time, it would act to decrease the "marriage penalty" or the incentive to "live in sin" which currently exists between married couples with two wage earners and two single wage earners living together, as the latter couple would not be eligible for the special exemption (or credit).

While we recommend this proposal for Committee consideration, we would note that it will not solve all of the problems which might concern the Committee. For example, it does not recognize the economic savings of the single taxpayer who lives with his parents or those of two single taxpayers who live together as roommates (whether they are of the same or opposite sexes). We would suggest, however, that there are just too many economic factors for all to be recognized in the Revenue Code without developing a tax system which is virtually impossible to administer or enforce.

This proposal would seem desirable both to cure a serious inequity and also to assuage the present public outcry. However, we urge this Committee to carefully consider the possible revenue effects of this or any similar measure before enactment. At the present time, with budget deficits totaling nearly $87 billion for three years, new revenue-losing measures—even those which are desirable because of the equities involved—should be carefully weighed before passage.

GENERAL REFORM OF THE TAX TREATMENT OF THE FAMILY

Instead of merely grafting the proposal set out above onto the currently inequitable tax structure, we urge this Committee to consider more comprehensive reform of the tax treatment of the family.

The Committee should consider the advisability of eliminating income splitting. This provision alone costs the federal government over $21 billion each year. I would suggest the Committee consider the alternative of a single rate structure with mandatory joint returns. Such a structure could include a system of exemptions (preferably vanishing at higher income levels) or credits related to the size of the taxpaying unit. It would be possible to tailor the exemptions or credits[8] to both the size of the taxpaying unit, its income level, and, at the same time, the relative economic status of the taxpaying unit to other units at the same income level.[9]

Such a system could eliminate entirely the need for a multiple rate structure; not only could the second rate schedule for married couples be eliminated, but also the separate schedule for "Heads of Households" could be done away with. There seems to be no legitimate reason for denying those who presently qualify for this schedule the full benefits available to married taxpayers with similar dependency circumstances.

Economists Pechman and Okner propose a somewhat different system which would achieve similar results.[10] They suggest a dual rate structure with brackets half as wide for married couples as those for single taxpayers. We respectfully urge this Committee to consider such comprehensive reform of the tax treatment of the family. We have only proposed the exemption or credit for two-wage-earner families described above in case the Committee should be unwilling to act now on comprehensive reform.

THOROUGH TAX REFORM OF THE ENTIRE REVENUE CODE

The kind of comprehensive reform we are urging should not be limited to the tax treatment of the family. The need for thorough reform of our entire tax code is becoming a major issue of public concern in this election year. Recent news articles suggest that many taxpayers may favor revolt against the tax system if reform is not forthcoming.[11] Even the *Wall Street Journal* suggested in a recent editorial that it might be time to replace exemptions with tax credits.[12] And one popular magazine recently published an article telling taxpayers how they could cheat on their returns,[13] describing this as a "penny ante strategy"[14] compared to the loopholes available to the rich.

The Committee should recognize the urgency of this situation and begin now with hearings on comprehensive reform of the kind embodied in three important reform bills presently pending before this Committee: HR 11058, introduced by Congressman Corman; HR 13877, introduced by Congressman Reuss; and HR 13601, introduced by Congressman Aspin. The first two contain proposals to close various loopholes and tax preferences. Some of the most notable reform proposals include the following: (1) changing exemptions to credits, (2) repealing the $100 dividend exclusion, (3) taxing capital gains at death or upon transfer by gift, (4) repealing the ADR accelerated depreciation system, (5) eliminating the tax exemption on income from state and local bond issues, (6) eliminating or lowering the percentage depletion allowance, (7) repealing the DISC tax exemption, (8) requiring capitalization of intangible drilling and development costs, (9) expanding the list of items covered by the minimum tax on tax preferences, and (10) removing or reducing the $30,000 exemption in the minimum tax provisions. All of these and other proposals—such as those for a more simplified tax code—should be carefully studied by the Committee now before the average citizen, and not just the fringe, begins to turn towards tax evasion or revolt.

Footnotes at end of article.

The Corman bill would bring in approximately $11 billion in additional revenues; the Reuss bill would increase revenues by approximately $7¼ billion each year. Either of these measures would go a long way toward reducing current budget deficits and providing the funds for needed government programs.

The Nixon Administration is presently considering a proposal to impose a regressive national sales tax—the value-added tax—on the nation's consumers. Prompt action by this Committee on reform proposals could forestall this regressive measure—which, by the way, will hit large families the hardest—and, at the same time, restore equity to our tax system.

The bill sponsored by Congressman Aspin is a different kind of reform measure. It calls for the termination of all presently existing tax subsidies [15] on January 1, 1974, with the provision that all subsidies enacted in the future would be of only a two-year duration. Such a proposal would return tax subsidies to the public spotlight periodically for review and reconsideration much as appropriations measures are now treated.

These bills and other proposals for tax reform [16] deserve hearings now. The public's concern with tax inequity has surfaced in these hearings today. We urge this Committee to immediately undertake hearings and thorough study of comprehensive tax reform.

THE NEED FOR POLITICAL PROCEDURAL REFORMS

The kind of serious tax reform we are suggesting and, in fact, even a minor reform relating to the tax treatment of the family, will require important value judgments by members of Congress as to the proper relative tax burdens of various kinds of taxpayers.

The Committee should not only focus on the substantive tax reforms this nation needs; we urge it also to consider the following possible reforms of the process by which tax bills are enacted:

(1) This Committee should offer its bills to the House under an "open" or "modified open" rule rather than under a "closed" rule. Under the present procedure less than 12 million of the nation's 200 million citizens have a meaningful voice in the tax laws that are passed.

(2) The present members' bill procedure should be scrapped. The reaction of Representatives Patman and Aspin and others on February 29th of this year shows what at least some of our Representatives think of the present procedure. Bills of that nature should be considered only after public hearings have been held by the Committee. In order to make such public participation meaningful, the Committee should have its staff prepare reports for public distribution at least six weeks before Committee consideration. These reports should fully explain in lay language the purpose, revenue effect, and historical perspective of the proposed legislation along with a full discussion of possible alternative measures.

(3) The Committee should adopt a procedure which allows 25% of its members to call for public hearings on proposed legislation. As of March 1, there were 1140 bills pending before the Committee; present procedures have held too many of these bills from proper public consideration. The proposed tax reform bills discussed above are obvious examples. Alternatively, the Committee could establish permanent subcommittees which would be able to hear testimony on many more bills than the full Committee can now schedule.

(4) The Committee should allow its members to bring staff assistants with them to Executive Session. Currently members must rely on the Committee staff, the staff of the Joint Committee, members of the Executive Branch, and their own expertise. There seems little reason to deny them the additional support of their personal staff with whom they work on a day-to-day basis.

(5) And, finally, the Democratic members of this Committee should consider divesting themselves of the power they hold as the Democratic Committee on Committees. This power may cause undue deference to Committee decisions by a large portion of the House—such deference, even if only a potential problem, would seem an undesirable warping of the legislative process.

Mr. Chairman, members of the Committee. I am sure that to some of you some of these remarks appear at first glance to be far afield. But it must be recognized that the inequities in our tax law today cannot be fully separated from the process by which they were enacted. Nor can the inequities suffered by one taxpaying group be fully understood without a look at our entire tax structure.

It is certainly possible to do something for married couples with two wage earners which will ease their tax burden. But such minor relief will not long assuage the growing dissatisfaction with our tax laws which is sweeping the country.

You distinguished gentlemen and women have an opportunity to accomplish truly meaningful tax reform and, through reforms in the legislative process, you can involve the entire House of Representatives in such an effort. We respectfully urge you to take the first step in this direction by holding hearings on those tax reform bills presently pending before this Committee.

FOOTNOTES

[1] See, for example, Milton Friedman, "A Family Matter," *Newsweek*, April 10, 1972, at 74.

[2] *Poe* v. *Seaborn*, 282 U.S. 101 (1930).

[3] At least one scholar has suggested that this provision was motivated in part by Congressional desire to pass a tax cut which would not be vetoed by the President. Boris I. Bittker, *Federal Income Estate and Gift Taxation*, at 335 (3 ed 1964).

[4] Joseph A. Pechman and Benjamin A. Okner, "Individual Income Tax Erosion by Income Classes," at 40, prepared for the U.S. Joint Economic Committee Compendium of Papers on the Economics of Federal Subsidy Programs (January 14, 1972).

[5] The following discussion focuses on all units earning "X" dollars for purposes of simplicity. The equity of relative tax burdens must, of course, be considered at various levels of income for each of the units. This can best be done with the aid of modern computer equipment which was unavailable during the preparation of this testimony.

[6] Clear income "consists of net income (adjusted gross income on the tax forms) minus an uncertain allowance to the taxpayer of personal expense money deemed sufficient to maintain himself and his dependents according to some biological or conventional standard." Harold M. Groves, *Federal Tax Treatment of the Family*, at 10 (1963).

[7] Ideally the tax code should be as neutral as possible with regard to incentives or disincentives towards marriage. For many years the tax incentives towards marriage were ignored—they still exist as some income levels today—even though some would argue that the societal costs of tax-induced marriages are greater than those from tax-foregone marriages. It is our view that this problem could be best solved as part of a comprehensive reform of the tax treatment of the family, as discussed below.

[8] These would replace the current system of personal exemptions plus standard deductions.

[9] Professor Groves discusses various budget studies on the relative cost of living by families of different sizes pointing out, for example, that it costs a married couple approximately 1.4 times as much to live as it costs a single person. Groves, *supra* note 6, at 28.

[10] Pechman and Okner, *supra* note 4, at 17.

[11] Gould Lincoln, "The 1972 Taxpayers Revolt," The Evening Star (Washington), April 1, 1972, at A–4, col. 3.

Richard L. Stout, "Taxtime struggle, populists vs. loopholes," The Christian Science Monitor, April 1, 1972, at 1, col. 4.

[12] The Wall Street Journal, April 7, 1972, at 8, col. 1.

[13] Bob Cratchit (pseudonym), "How to Cheat on Your Income Tax: A Guide," *Ramparts*, April, 1972, at 32.

[14] *Id.*, at 38.

[15] The list of presently existing tax subsidies is taken from "The Economics of Federal Subsidy Programs," A Staff Study prepared for the use of the Joint Economic Committee of the Congress of the United Sttaes (January 11, 1972).

[16] See especially Pechman and Okner, *supra* note 4. That study proposes a more comprehensive tax base and revisions of the rate structure that could generate an additional $77 billion in federal revenues. The authors also set out in detail alternative rate schedules which could be used after their reforms in lieu of increasing the federal revenues. Under their proposals tax rates could be cut by an average of 43% without a decrease in federal revenues. Pechman and Okner, *supra* note 4, at 29.

TESTIMONY BY CALIFORNIA ASSEMBLYMAN ROBERT C. CLINE BEFORE THE WAYS AND MEANS COMMITTEE

Chairman Mills and Members of the Committee, it is a distinct pleasure for me to join with the many members of your distinguished House who have called for revision of the personal income tax law to remove the outright discrimination against single taxpayers. I wish to publicly commend Miss Vivien Kellems for her fight at the national level and thank her again for testifying for my California legislation to accomplish equitable taxation for single persons and unmarried heads of household.

There is a wide misconception held in many quarters of government and the public in general that income taxes are based on "ability to pay".

I would suggest, on the other hand, that alternative phrasing is more appropriate and that income taxation is based on a person's "ability to earn". If we are to adopt the philosophy of a person's "ability to pay" as a criterion for taxation, that "ability to pay" would be translated into taxation at the sales and use tax level and not at the income level, for the "ability to pay" is based not just on an individual's ability to earn income, but also his ability to borrow in a society which is increasingly running on credit.

The personal income tax revenue collected by the federal government has grown from $45.6 billion in 1962 to $93.7 billion in 1972.

Table #4 (attached) outlines this growth, and when social insurance taxes paid by *individuals* (the other half is paid by employers) are added to the personal income tax, these figures would show 1962 income related tax revenues of $54.1 billion and in 1972 of $122.5 billion.

I have prepared for your committee Table #1 to which you may refer in comparing personal income taxation imposed by the federal law at varying levels of income from the lowest level to $20,000 for classes of taxpayers. If deductions are itemized, taxable income is computed after itemized deductions and personal exemptions. The discrimination against the single person and the unmarried person who qualified as head of household becomes apparent after the $500 level of taxable income.

For example, at the $6,000 level, the head of household pays $40 more taxes than the married couple, and the single pays $110 more than the married couple.

I need not dwell on the amount of publicity which has been circulated widely about the discrimination against the single person, but I feel, too, that the widow or divorcee with dependent children has received less than her share of attention.

If you will refer to Tables #2 and #3, you will note that using the tax table (for those individuals not itemizing deductions and meeting the minimum qualifications to file in their respective category) that the unmarried head of household is paying higher taxes than a married couple.

If you will now refer to Table #3, you will note that the head of household with two children pays significantly more in federal income tax than a married couple with two children even though the married couple may have only one wage earner.

The single taxpayer, by comparison, pays exorbitantly high taxes.

I would like to re-state my opening remarks that the income taxation of individuals should be based on their ability to earn—and I emphasize *their ability to earn*, and not necessarily their marital status.

There has been a great deal of concern voiced at all levels of government for the individual at the poverty level, but I feel the time is here that the middle income taxpayers and the single taxpayer who is supporting the majority of the cost of government be given a higher degree of consideration and that we should trend away from taxation of income towards a higher reliance on sales and use taxes.

I would urge this committee to act favorably on this series of bills which would eliminate the discrimination against single individuals in the federal income tax structure.

TABLE 1.—WHEN DEDUCTIONS ARE ITEMIZED

Taxable income[1]	Joint Married	Head of household	Single
$500	$70	$70	$70
$1,000	140	140	145
$2,000	290	300	310
$4,000	620	660	690
$6,000	1,000	1,040	1,110
$8,000	1,380	1,480	1,590
$10,000	1,820	1,940	2,090
$12,000	2,260	2,440	2,630
$16,000	3,260	3,540	3,830
$20,000	4,380	4,800	5,230

[1] After deductions and exemptions.

TABLE 2.—MEETING MINIMUM QUALIFICATIONS TO FILE AS:

Adjusted gross income	Joint married	Head of household	Single
$500	$0	$0	$0
$1,000	0	0	0
$2,000	0	0	40
$4,000	234	240	367
$6,000	556	593	753
$8,000	929	969	1,182
$10,000	1,252	1,332	1,591

TABLE 3.—USING TAX TABLES

	2 children		
Adjusted gross income	Joint married	Head of household	Single
$500	$0	$0	$0
$1,000	0	0	0
$2,000	0	0	0
$4,000	39	133	367
$6,000	334	471	753
$8,000	672	841	1,182
$10,000	996	1,184	1,591

TABLE 4

[Dollar amounts in billions]

Revenue sources	1962	Percent	1972	Percent
PIT	$45.6	45.8	$93.7	43.2
Corporation	20.5	20.6	36.7	16.4
Social insurance	17.1	17.1	57.6	26.5
Excise	12.5	12.5	17.5	8.1
Estimate and gift	2.1	2.1	5.3	2.5
Customs	1.1	1.1	2.7	1.6
Miscellaneous	.8	.8	4.1	1.9
Total	99.7	100.0	217.6	100.0

INDIANA CALUMET REGION WINS VICTORY ON AMENDMENT TO DAYLIGHT SAVING TIME ACT

(Mr. MADDEN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MADDEN. Mr. Speaker, when I was home during the Easter recess I was amazed at the gratitude expressed by so many citizens in the Calumet region of Indiana that our area will be on the identical daylight time schedule with Illinois and the Chicagoland area this summer.

We were unable last year to have the House Interstate and Foreign Commerce Committee report favorably on this legislation. Unfortunately the bill was tabled by the committee, but through the aid of Chairman Staggers and the chairman of the subcommittee, Congressman Moss, it was reinstated 2 months ago and came to the floor of the House under the suspension of rules procedure which required a two-thirds vote for passage and without the privilege of amendments on the legislation. Last year we were in violation of the Federal law, but through the good graces of Secretary of Transportation Volpe we were allowed exemptions pending the consideration of this legislation.

Six counties in the Evansville area of Congressman Roger Zion were affected similar to six counties in northwest Indiana, including my district and parts of Congressman Landgrebe's district. Both Congressman Zion and Congressman Landgrebe, along with Congressman Roush and the other members of the Indiana delegation collaborated in winning this great victory for our affected areas caused by the split time zone in the State of Indiana.

I incorporate with my remarks a Chicago Tribune news item of Tuesday, March 21, 1972, pertaining to the passage of the first major amendment to the Federal Uniform Time Act of 1966:

House OK's Uniform Time for Split States

Washington.—Rep. Ray Madden [D., Ind.] today won his fight to put Gary, Lake County, and Northwest Indiana on Chicago time this summer.

By a vote of 332 to 7 [Madden had to get the affirmative support of two-thirds of those present and voting], the House approved an amendment to the Uniform Time Act of 1966. The legislation now goes back to the Senate to correct a technical error.

GOVERNOR VETOED 1971 BILL

The amendment provides specifically that the 12 Western Indiana counties nearest Chicago and Louisville may turn their clocks to central daylight time this year.

Last year, Gov. Edgar D. Whitcomb vetoed a bill which would have made central daylight saving time in Western Indiana legal. Gary, Lake County, and Evansville risked federal action to use the time of their own choosing, Madden said.

MICHIGAN ALSO AFFECTED

The Uniform Time Act, enacted to take some of the confusion out of airline, bus and railroad timetables, attempted to get states to decide on one time zone for the entire state. Prior to the enactment of the 1966 act, Indiana counties were on Eastern Standard time and Central Daylight Saving time, depending on the choice of authorities in each county.

Michigan also has time confusion. So have Arizona and Hawaii.

The amendment, pushed by Madden and Rep. Roger Zion [R., Ind.], permits any state divided by a time zone boundary to exempt all of the state lying within one time zone fromt he observance of advanced, or daylight saving time.

PREVENTING DRUG ABUSE

(Mr. SYMINGTON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SYMINGTON. Mr. Speaker, as one of the conferees on the drug abuse legislation which is now Public Law 92–255, I am well aware of Federal efforts in this area. Manufacturers. doctors, and the public must do their part to prevent drug abuse. I would call to the attention of my colleagues three articles on amphetamines. The first appeared in the St. Louis Globe-Democrat of March 9, 1972; the second item appeared in FDC Reports of February 7, 1972. The last appeared in the Washington Post of December 3, 1971. At this point I insert the articles in the Record:

[From the St. Louis (Mo.) Globe-Democrat, Mar. 9, 1972]

Physicians Are Urged to Sharply Reduce Use of Amphetamines

The presidents of seven doctors' organizations in the St. Louis area called Wednesday for physicians to stop prescribing amphetamines except in cases in which it is absolutely necessary.

Dr. Robert Dietchman, a Clayton psychiatrist, said the group's statement is an attack on the abuse of amphetamines—commonly known as "speed" or "uppers."

Speaking at a news conference at the Mental Health Association of St. Louis, Dietchman said studies have shown that legally produced amphetamines are the source of much of the drug used illegally.

The statement, part of a growing national effort by physicians to curb amphetamine prescription, said amphetamines should be prescribed only for persons with narcolepsy (an uncontrolled desire to sleep,) hyperactive children, and in "those specific areas where the physician feels it is imperative for the welfare of the patient."

Deitchman questioned the use of amphetamines for weight control, a common practice he termed "of questionable value."

The pills are often obtained through forged prescriptions, written on pads stolen from doctors' offices, or through prescriptions sought from more than one physician.

Deitchman, chairman of the Drug and Substance Abuse Council's amphetamine abuse subcommittee, criticized the pharmaceutical firms of providing physicians with complimentary, pre-printed prescriptions for dangerous drugs, which often fall into the hands of abusers.

Humans also occasionally use "animal amphetamines" from veterinarians, he said.

The statement on controlling amphetamine use was signed by Dr. F. Eugene Pennington of the St. Louis Medical Society; Dr. Louis Hetlage of the Lincoln-St. Charles County Medical Society; Dr. James Mayfield of the Jefferson County Medical Society.

Dr. Jack Eidleman of the St. Louis County Medical Society; Dr. John Burroughs of the St. Louis Osteopathic Association; Dr. Parker Word of the Mound City Medical Forum; and Dr. Julian Buser of the St. Clair County, Illinois, Medical Society.

[From FDC Reports, Feb. 7, 1972]

PENNWALT ASSAILED BY HOUSE HEALTH SUBCOMMITTEE MEMBERS FOR FAILURE TO CONTROL AMPHETAMINE DISTRIBUTION; SYMINGTON RAISES QUESTIONS ABOUT MANUFACTURER'S PRICES

House Health Subcommittee members assailed Pennwalt Feb. 2 for inadequate control over distribution of amphetamine-containing products by its Strasenburgh of Mexico subsidiary, and questioned the company's markup on the products.

Pennwalt was invited to testify before Rep. Rogers' (D-Fla.) subcommittee after BNDD announced Jan. 18 that large quantities of Bifetamina (Spanish labeling) caps produced by the mfr.'s Mexican subsidiary had found their way into illicit U.S. markets. William Head, VP-technical operations, testified that Pennwalt had no hint of diversion of the drug until informed of the BNDD's charges by reporters ("The Pink Sheet" Jan. 24. p. 23).

Head said that while domestic Bifetamine sales slipped from $7.7 mil. in 1969 to $6.7 mil. in 1971, Strasenburgh's Mexican sales jumped from $354,000 to $1.2 mil. in the same period. Shipments of raw material to the subsidiary were sufficient to make 6 mil. caps in 1969, 10 mil. in 1970 and 14 mil. in 1971, he added, but Pennwalt saw nothing alarming in these growth statistics.

Rep. Carter (R-Ky.) asked if Pennwalt had noticed it "had a booming business going there in amphetamines," with sales "quadrupling in only three years." Head responded that company officials did not realize the magnitude of the sales growth until 1971 figures became available in Jan. 1972. "Do you mean to say," queried Rep. Symington (D-Mo.), "that the fellow responsible for the fast-growing div. never wrote home about how well he was doing?"

In his prepared statement, Head said "as we review this history in our current internal analysis, it seems evident to us that the rate of growth was sufficiently fraught with risk so that it might well have raised questions of qualitative analysis for our personnel to consider."

Symington grilled Head for nearly 30 minutes on Strasenburgh's prices for encapsulated Bifetamina, asking repeatedly how a $12,700 shipment of bulk material to Mexico became $350,000 in finished caps in 1969, while $14,700 worth of the bulk was turned into $1.2 mil. of caps in 1971.

Head said he could not explain the pricing formula, indicating it had something to do with "labor costs." Symington asked whether "$12,000 to $350,000 is a normal markup in the industry," and Head responded that he did not know.

Symington continued his line of questioning, asking why raw materials whose unit costs were declining still produced sharply rising unit revenues from the finished goods. Head agreed to give the subcommittee an analysis of the Mexican company's production costs, asking that portions of it be kept confidential. The congressman agreed to the confidentiality request and asked for a breakdown of Bifetamina promotional expenditures, which Head promised to supply.

Head attributed part of the growth of bulk biphetamine shipments to Mexico to stockpiling of materials for the start of export operations by the Strasenburgh subsidiary there in 1971. He said 2.1 mil. Bifetamina caps were exported from Mexico to Uruguay and Colombia during that year.

In response to questions from Rogers, Head could not recall whether Pennwalt had exported any amphetamine products directly to Uruguay or Colombia from the U.S.; what Mexican Strasenburgh's total sales were in 1969, 1970 or 1971; what other products it sold; or which division was Pennwalt's fastest-growing.

Head did respond that Pennwalt's amphetamine exports, excluding those to Mexico, were $236,000 in 1969, equivalent to 20 mil. caps; $191,000 in 1970, yielding 30.1 mil. caps; and $219,000 in 1971, equivalent to 27.4 mil. caps.

Rogers pressed the matter of total amphetamine sales by Pennwalt and its subsidiaries, pointing out that while they were 2% of the company's total 1971 volume, they represented 40% of its drug sales. Under questioning by Rogers, Head stated that Pennwalt had applied for an amphetamine quota of 650 kilos for 1972—enough to make 230 mil. caps.

Referring to the Bifetamina that BNDD asserted had reached black markets in the U.S., Symington said "this proportion of the overall business of Pennwalt is very small, and yet it's clear that the consequences of the thing are quite serious for the international community. You closed your statement by saying 'we hope and trust we've learned that this entire experience has to teach us.' What does it have to teach?" Head responded: "Well, despite the small size (of the company's business involved), we still are deeply concerned." He added that he thought "more care has to be taken."

Symington fired back: "I see that your products include many chemicals such as ammonium chloride, caustic soda, all kinds of fungicides, herbicides, insecticides, things like that, any one of which could do serious harm if improperly marketed." He added that, in his opinion, the lesson to be learned by Pennwalt was to more carefully monitor even the smallest components of its business.

[From the Washington (D.C.) Post, Dec. 3, 1971]

QUOTAS SET ON MAKERS OF TWO DRUGS

The Justice Department, acting to prevent massive diversion of two classes of stimulant drugs into the illict market, yesterday ordered a 40 per cent slash in production.

Imposing quotas for the first time, the department's Bureau of Narcotics and Dangerous Drugs said it will allow 5,870 kilograms of amphetamines to be produced in 1972, compared with 9,356 kgs. manufactured this year.

For amphetamines the 1972 quota will be 2,782 kgs., as against 4,926 produced in 1971.

The quotas in both cases are 70 per cent below the requests made—without back-up explanations—by manufacturers.

The order, signed by acting bureau director John Finlator, was issued under the Comprehensive Drug Abuse Prevention and Control Act, which became effective May 1. Manufacturers and others have 30 days in which to file comments and request a hearing.

The bureau said the quotas are designed to permit production of the stimulants in amounts sufficient to meet needs deemed by authorities to be legitimate; for the treatment of hyperactive children, of narcolepsy (a deep sleep incited by epilepsy or a brain inflammation) and as a temporary adjunct to a weight-reduction regimen.

IN MEMORIAM TO THE HONORABLE JAMES F. BYRNES

(Mr. MANN asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. MANN. Mr. Speaker, today, the flag flies over the White House at half-staff in tribute and in honor to the late Hon. James Francis Byrnes, of the State of South Carolina. The lowered flag of State will be flown at half-mast until interment of our native son who gave a long life of service to all America.

James F. Byrnes was of that genre of men who never forget the political and personal axiom that: "A quitter never wins—And a winner, never quits." And so it is that as we consider the career of this political statesman we recognize and appreciate that in service to his fellow man and to his Nation few, if any, careers parallel that of this American citizen. He was one of the most effective men of his time who projected his thoughts to the problems of these days in which we live.

And while today on this sad occasion we see such news headlines as "James Byrnes dies at 92, was 'Assistant President'," or "Jimmy Byrnes, Holder of High Offices," to mark his passing; to seek a more definitive measure of the man, or to fully understand his full value of service to this Nation and the world, one must research the RECORD for the legislation that bears his name. James Byrnes was one of the giants in the art of legislation, and in the area of executive decision.

It is meet that this land should lower its flag and mourn his passing; and while the people of his home State continued to pay tribute and honor to him on so many special occasions during his lifetime, his death prohibits his seeing the statue of his likeness which is to be unveiled in May on the capitol grounds in Columbia, S.C.

To say that James F. Byrnes was "Assistant President" is not enough, for indeed, he was more. He was Byrnes of South Carolina—he was Byrnes of the House—and of the Senate—he was Byrnes of the Supreme Court, and of the Department of State—he was the negotiator and master of the art of conciliation of the differences among men, and he was the voice of loyalty to his land and the causes he served.

James F. Byrnes was America's great champion at its moment of greatest need. During World War II, as Director of Defense Mobilization, he answered the call of his President to leave the Supreme Court for the purpose of dedicating the total resources of this Nation toward the will and purpose of winning the war in which we were engaged. And he did devote the total resources of his brilliant mind and body toward that purpose with a single minded devotion. In later years my dear friend said:

> I would not have left the Supreme Court if Mr. Roosevelt had not assured me he would never hear an appeal from my decisions as Director of Economic Stabilization and War Mobilizer. He kept faith with his promise to me.

As Economic Stabilizer, Mr. Byrnes regulated prices, wages, and rents and supervised, as well, rationing of food, fuel and some wearing apparel. He froze men in their jobs and moved others into work directly related to war production. It was second nature to James F. Byrnes to be a winner, and he wished no less for his Nation in any effort in which it might be engaged.

And when the great battle was won, with his Nation as the foremost power, he set in motion the plans for an orderly reconversion of the American economy to peacetime levels; and there was again peace and dignity and respect for freedom in the land he loved. And the love in his heart for his fellow man was big enough to encompass a love for the peoples of all lands—including the defeated enemies.

He was a prime mover in the adoption by the Congress of the Marshall plan that was chiefly instrumental in the rehabilitation of fallen nations ravaged by war and pestilence and famine so that they might regain their status as nations in a world of order.

My time allotment is up Mr. Speaker, but I hope to again have the opportunity of speaking to my colleagues about the life of this illustrious citizen.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. MACDONALD of Massachusetts (at the request of Mr. CASEY of Texas), for the next 2 weeks, on account of illness in family.

To Mr. ESHLEMAN (at the request of Mr. KEMP), for this week, on account of medical reasons.

To Mr. BLACKBURN (at the request of Mr. GERALD R. FORD), for April 18, 1972, through April 25, 1972, on account of official business.

To Mr. RAILSBACK (at the request of Mr. GERALD R. FORD), for the week of April 10, 1972, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCFALL) and to revise and extend their remarks and include extraneous matter:)

Mr. FLOOD, for 5 minutes, today.
Mr. REUSS, for 10 minutes, today.
Mr. HELSTOSKI, for 60 minutes, today.
Mr. GONZALEZ, for 10 minutes, today.
Mr. RYAN, for 15 minutes, today.
Mrs. ABZUG, for 5 minutes, on April 11.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MADDEN and to include extraneous matter.

Mr. BURKE of Massachusetts and to include extraneous matter.

(The following Members (at the request of Mr. KEMP) and to include extraneous material:)

Mr. GUBSER.
Mr. DUNCAN in three instances.
Mr. SCHMITZ.
Mr. SCHERLE in 10 instances.
Mr. FINDLEY.
Mr. CONABLE.
Mr. CHAMBERLAIN in two instances.
Mr. KEMP.
Mr. ZWACH.
Mr. HILLIS.
Mr. GERALD R. FORD.

(The following Members (at the request of Mr. MCFALL) and to include extraneous matter:)

Mrs. ABZUG in five instances.
Mr. FLOOD.
Mr. CONYERS in 10 instances.
Mr. EILBERG.
Mr. ROONEY of Pennsylvania in two instances.
Mr. HAGAN in three instances.
Mr. ROGERS in five instances.
Mr. GONZALEZ in three instances.
Mr. FOUNTAIN in three instances.
Mr. KLUCZYNSKI in two instances.
Mr. DONOHUE.
Mr. SARBANES in 10 instances.
Mr. MAHON.
Mr. RYAN in three instances.
Mr. JACOBS in three instances.
Mr. MANN in three instances.
Mr. METCALFE.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 50. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Brantley project, Pecos River Basin, N. Mex., and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2684. An act to amend section 509 of the Merchant Marine Act, 1936, as amended; to the Committee on Merchant Marine and Fisheries.

S. 3284. An act to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

S. 3323. An act to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 3457. An act for the relief of Katherine Kasaftes Schneider; to the Committee on the Judiciary.

S. Con. Res. 74. Concurrent resolution authorizing the printing of additional copies of Senate Report 92-634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971"; to the Committee on House Administration.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 12749. An act to authorize appropriations for the saline water conversion program for fiscal year 1973.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2601. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On March 29, 1972:

H.R. 9526. An act to authorize certain naval vessel loans, and for other purposes.

On March 30, 1972:

H.R. 8787. An act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

ADJOURNMENT

Mr. McFALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 21 minutes p.m.), the House adjourned until tomorrow, Tuesday, April 11, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1807. A communication from the President of the United States transmitting supplemental requests for appropriations for fiscal year 1972 for the legislative branch and the judiciary (H. Doc. No. 92-274); to the Committee on Appropriations and order to be printed.

1808. A communication from the President of the United States, transmitting amendments to the request for appropriations for fiscal year 1973 for various departments and agencies (H. Doc. No. 92-275); to the Committee on Appropriations and order to be printed.

1809. A communication from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1972 to enable the United States to maintain the value in terms of gold of the holdings of U.S. dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, and the Asian Development Bank (H. Doc. No. 92-276); to the Committee on Appropriations and ordered to be printed.

1810. A communication from the President of the United States, transmitting an amendmen to the request for appropriations in the budget for fiscal year 1973 for the Department of Health, Education, and Welfare (H. Doc. No. 92-277); to the Committee on Appropriations and ordered to be printed.

1811. A communication from the President of the United States, transmitting amendments to the request for appropriations for fiscal year 1973 for the legislative branch (H. Doc. No. 92-278); to the Committee on Appropriations and ordered to be printed.

1812. A letter from the Secretary of Transportation, transmitting part II of the 1972 National Highway Needs Report, pursuant to section 3, Public Law 89–139, section 17, Public Law 90–495, and sections 105(b)(2) and 121, Public Law 91–605 (H. Doc. No. 92–266 (Pt. II)); to the Committee on Public Works and ordered to be printed with illustrations.

1813. A letter from the Acting Secretary of the Army, transmitting a report of Department of the Army contracts for military construction awarded without formal advertisement, covering the period July 1 through December 31, 1971, pursuant to section 704 of Public Law 92–145; to the Committee on Armed Services.

1814. A letter from the General Counsel of the Department of Defense, transmitting a draft to proposed legislation to amend section 269(d) of title 10, United States Code, to authorize the voluntary assignment of certain Reserve members who are entitled to retired or retainer pay to the Ready Reserve, and for other purposes; to the Committee on Armed Services.

1815. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of certain facilities projects proposed to be undertaken for the Army National Guard, pursuant to 10 U.S.C. 2233(a)(1); to the Committee on Armed Services.

1816. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting reports of military construction projects placed under contract in fiscal year 1971 in which the current working estimate exceeded the amount authorized by Congress for that project by more than 25 percent, and reports of individual projects in which the project scope was reduced in order to permit contract award within the authorization amount, both reports pursuant to section 603(d) of Public Law 91–511; to the Committee on Armed Services.

1817. A letter from the Secretary of Labor, transmitting the 10th annual report on the administration of the Welfare and Pension Plans Disclosure Act, for the year 1971, pursuant to section 14(b) of the act; to the Committee on Education and Labor.

1818. A letter from the Commissioner of Education, Department of Health, Education, and Welfare, transmitting his second annual report on the condition of education in the United States and the activities of the Office of Education, covering fiscal year 1971, pursuant to section 412 of Public Law 90–247, as amended, including his report on advisory councils and a catalog of Federal education assistance programs, pursuant to sections 438 and 413 of the same act, respectively; to the Committee on Education and Labor.

1819. A letter from the Chairman, National Advisory Council on Education Professions Development, transmitting a report of the Council entitled "People for the People's College—Community-Junior College Staff Development Priorities for the '70's", pursuant to Public Law 90–35; to the Committee on Education and Labor.

1820. A letter from the Chairman, National Advisory Council on the Education of Disadvantaged Children, transmitting the eighth annual report of the Council, for the year 1972; to the Committee on Education and Labor.

1821. A letter from the Administrator, Agency for International Development, Department of State, transmitting a report of allocations by country and international organization for programs administered by AID during fiscal year 1972, pursuant to section 653 of the Foreign Assistance Act; to the Committee on Foreign Affairs.

1822. A letter from the Secretary, Export-Import Bank of the United States transmitting a report on the amount of Export-Import Bank loans, insurance, and guarantees issued in November 1971, through January 31, 1972, in connection with U.S. exports to Yugoslavia, pursuant to the Export-Import Bank Act of 1945, as amended; to the Committee on Foreign Affairs.

1823. A letter from the Assistant Secretary of the Interior, transmitting a proposed grant agreement with the regents of the University of Wisconsin for a research project entitled "Effects of Alterations and Joint Fillings on the Mechanical Behavior of Rocks," pursuant to Public Law 89–672; to the Committee on Interior and Insular Affairs.

1824. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Public Health Service Act to increase the fiscal year 1973 authorizations for project grants for health services development and for project grants and contracts for family planning services; to the Committee on Interstate and Foreign Commerce.

1825. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to provide certain benefits for American civilian prisoners of war in Southeast Asia, for Federal employees in a missing status, and for other purposes; to the Committee on Interstate and Foreign Commerce.

1826. A letter from the General Counsel, Department of Transportation, transmitting an environmental impact statement on the previously transmitted draft of proposed legislation to amend the Interstate Commerce Act, as amended, and acts amendatory and supplemental thereto to provide for increased reliance on competition in the establishment of carrier rates, charges, and practices, to liberalize entry and exit in the several modes of surface transportation, and for other purposes, pursuant to section 102 (2)(C) of the National Environmental Policy Act; to the Committee on Interstate and Foreign Commerce.

1827. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled "The Gas Supplies of Interstate Natural Gas Pipeline Companies, 1970"; to the Committee on Interstate and Foreign Commerce.

1828. A letter from the Director, Administrative Office of the U.S. Courts, transmitting his annual report for fiscal year 1971, pursuant to 28 U.S.C. 604(a)(4), together with reports of the proceedings of the meetings of the Judicial Conference of the United States held during 1971; to the Committee on the Judiciary.

1829. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification,.pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1830. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

1831. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of Immigration and Nationality Act was exercised in behalf of certain aliens, together with a list of the persons involved, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

1832. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1833. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a)(2) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1834. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 7 of the Fishermen's Protective Act of 1967; to the Committee on Merchant Marine and Fisheries.

1835. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to extend the provisions of the Commercial Fisheries Research and Development Act of 1964, as amended; to the Committee on Merchant Marine and Fisheries.

1836. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated January 26, 1972, submitting a report, together with accompanying papers and an illustration, on Manitowoc Harbor, Wis., requested by resolutions of the Committees on Public Works, U.S. Senate and House of Representatives, adopted January 7 and 19 June 1963. No authorization by Congress is recommended as the desired improvement has been approved for accomplishment by the Chief of Engineers under the provisions of section 107 of the River and Harbor Act of 1960; to the Committee on Public Works.

1837. A letter from the Chairman, U.S. Tariff Commission, transmitting the 21st report of the Commission on the operation of the trade agreements program, pursuant to section 402(b) of the Trade Expansion Act of 1962; to the Committee on Ways and Means.

Received from the Comptroller General

1838. A letter from the Comptroller General of the United States, transmitting a report on an inquiry into conditions and need for improvements at the Arctic Test Center, Fort Greely, Alaska, Department of the Army; to the Committee on Government Operations.

1839. A letter from the Comptroller General of the United States, transmitting a report that the determination of nonprofit organizations' eligibility for reduced postage rates should be improved; to the Committee on Government Operations.

1840. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during March 1972, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CELLER: Committee on the Judiciary. H.R. 7378. A bill to establish a Commission on Revision of the Judicial Circuits of the United States; with an amendment (Rept. No. 92–967). Referred to the Committee of the Whole House on the State of the Union.

Mr. ICHORD: Committee on Internal Security. Annual report of the Committee on Internal Security for the Year 1971 (Rept. No. 92–968). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CORMAN (for himself and Mr. CONABLE):

H.R. 14254. A bill to amend the Internal Revenue Code of 1954 to repeal the capital gain throwback rules applicable to trusts; to the Committee on Ways and Means.

By Mr. GARMATZ:

H.R. 14255. A bill to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. GRIFFITHS:

H.R. 14256. A bill to amend the Social Security Act to provide that every citizen and resident of the United States shall have a social security number; to the Committee on Ways and Means.

By Mr. HARVEY:

H.R. 14257. A bill to provide price support for milk at not less than 85 percent of the parity price therefor; to the Committee on Agriculture.

By Mr. JACOBS:

H.R. 14258. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHNSON of California:

H.R. 14259. A bill to designate the Emigrant Wilderness, Stanislaus National Forest, in the State of California; to the Committee on Interior and Insular Affairs.

By Mr. SYMINGTON:

H.R. 14260. A bill to amend the Public Health Service Act to provide the public with an adequate quantity of safe water for drinking, recreation, and other human uses, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CONABLE (for himself and Mr. HORTON):

H.J. Res. 1148. Joint resolution to provide for the designation of the week which begins on September 24, 1972 as "National Microfilm Week"; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

349. By the SPEAKER: Memorial of the Legislature of the State of Oklahoma, relative to the pay of retired members of the Armed Forces; to the Committee on Armed Services.

350. Also, memorial of the House of Representatives of the State of Georgia, relative to returning certain moneys to Donald W. Morrision of Homerville, Ga.; to the Committee on Armed Services.

351. Also, memorial of the Legislature of the State of Colorado, relative to farm labor housing; to the Committee on Education and Labor.

352. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to unemployment in Massachusetts; to the Committee on Education and Labor.

353. Also, memorial of the Legislature of the State of Idaho, relative to the treatment of Basques by the Spanish Government; to the Committee on Foreign Affairs.

354. Also, memorial of the Legislature of the State of South Carolina, relative the United Nations Convention on Genocide; to the Committee on Foreign Affairs.

355. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to authorizing a tour of the Liberty Bell throughout the United States; to the Committee on Interior and Insular Affairs.

356. Also, memorial of the First Constitutional Convention of the Territory of Guam, transmitting its final report; to the Committee on Interior and Insular Affairs.

357. Also, memorial of the Legislature of the State of California, relative to the protection of children from the harmful effects of dangerous toys; to the Committee on Interstate and Foreign Commerce.

358. Also, memorial of the Legislature of the State of Nebraska, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

359. Also, memorial of the Legislature of the State of New Hamphire, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

360. Also, memorial of the Legislature of the State of Arizona, requesting the Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States to permit offering voluntary prayer in public schools; to the Committee on the Judiciary.

361. Also, memorial of the Legislature of the State of Florida, requesting Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States relating to the choosing of a Presiding Officer of the U.S. Senate; to the Committee on the Judiciary.

362. Also, memorial of the Legislature of the State of Arizona, requesting the Congress to propose an amendment to the Constitution of the United States permitting each State to enact a residency law relating to public welfare assistance; to the Committee on the Judiciary.

363. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to the establishment of a "National Hunting and Fishing Day"; to the Committee on the Judiciary.

364. Also, memorial of the Legislature of the State of Oklahoma, relative to Federal judicial power in regard to transportation of students; to the Committee on the Judiciary.

365. Also, memorial of the Legislature of the State of Hawaii, relative to reform of public welfare financial assistance programs; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

206. By the SPEAKER: Petition of the Council of the City of New York, N.Y., relative to reimbursement to the city of New York for the cost of police protection at the United Nations; to the Committee on Foreign Affairs.

207. Also, petition of the County Legislature, Suffolk County, N.Y., relative to support of the President's efforts to achieve an honorable and satisfactory conclusion of hostilities in Southeast Asia; to the Committee on Foreign Affairs.

208. Also, petition of the annual adjourned meeting, North Andover, Mass., relative to the war in Southeast Asia; to the Committee on Foreign Affairs.

209. Also, petition of Rev. James Lloyd Smith, New York, N.Y., relative to the late Adam Clayton Powell, Jr.; to the Committee on House Administration.

210. Also, petition of the Board of Commissioners, Salt Lake City, Utah, relative to the acquisition of certain lands in the Wasatch National Forest; to the Committee on Interior and Insular Affairs.

211. Also, petition of the Common Council, Buffalo, N.Y., relative to support of a busing moratorium and of the Equal Educational Opportunities Act of 1972; to the Committee on the Judiciary.

212. Also, petition of the City Council, Bremerton, Wash., relative to Federal-State revenue sharing; to the Committee on Ways and Means.

SENATE—*Monday, April 10, 1972*

The Senate met at 11 a.m. and was called to order by Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, who by Thy spirit dost lead men to desire a better world, to seek for truth, to rejoice in beauty, and to long for perfection, illuminate and inspire all thinkers, all statesmen, and all leaders, that in all their labors they may be guided by whatsoever is true and pure and lovely that Thy kingdom may come on earth.

Direct us, O Lord, in this Chamber in all our doings with Thy gracious favor, and further us with Thy continual help; that in all our work begun, continued, and ended in Thee, we may advance the welfare of all the people and glorify Thy holy name.

In the Redeemer's name, we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The second assistant legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 10, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. GAMBRELL thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, April 7, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, beginning with the Central Intelligence Agency.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

CENTRAL INTELLIGENCE AGENCY

The second assistant legislative clerk read the nomination of Maj. Gen. Vernon Anthony Walters, to be Deputy Director, Central Intelligence Agency.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. ARMY

The second assistant legislative clerk read the nomination of Maj. Gen. George Edward Pickett, U.S. Army, to be lieutenant general.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

ACTION

The second assistant legislative clerk read the nomination of Walter Charles Howe, of Washington, to be Deputy Director of ACTION.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the Marine Corps, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and resumed the consideration of legislative business.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT OF THE AGRICULTURAL ADJUSTMENT ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Agriculture and Forestry be discharged from its further consideration of H.R. 13361, the House companion bill to S. 3068, that the Senate proceed to its consideration; that all after the enacting clause of H.R. 13361 be stricken, and the text of S. 3068 substituted therefor.

The ACTING PRESIDENT pro tempore. Without objection, the committee is discharged from the further consideration of the House bill. It will be stated by title for the information of the Senate.

The second assistant legislative clerk read as follows:

H.R. 13361. A bill to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of H.R. 13361?

There being no objection, the Senate proceeded to consider the bill.

Mr. COOPER. Mr. President, the Senate bill, S. 3068, was introduced by the distinguished Senator from North Carolina (Mr. JORDAN) with whom I have worked on tobacco problems on many occasions and who has been most faithful in promoting the well-being of the farmers of his State—and of farm families who depend on tobacco for their livelihood wherever they live. The bill was considered by the committee together with a similar bill which had passed the House of Representatives, H.R. 13361, and the Senate bill has now been substituted for the House language.

I would simply point out that at the time the House Committee on Agriculture was holding hearings on this subject, I did go over and testify, on February 8, because I was concerned that one of the bills before that committee included burley tobacco. That bill, which was not approved, would have permitted leasing of quotas across county lines, and would even have permitted the sale of tobacco allotments—which I have consistently opposed. I was assured at that time by the distinguished chairman of the Tobacco Subcommittee, Congressman WAT ABBITT, that the committee did not intend to change the burley program in any way, and would not approve the sale of tobacco allotments or transfers across county lines.

Since that time, Congressman WATKINS ABBITT, chairman of the House Subcommittee on Tobacco, has announced that he would not be a candidate for reelection. He will be greatly missed, for no Member of the other body has been more stalwart in representing the interests of rural areas and tobacco producers; his knowledge and long experience have been valuable to all of us.

The bill before the Senate today permits the leasing of Flue-cured tobacco quotas throughout the marketing year, rather than requiring that any leasing be made before planting time. In this respect the bill extends to Flue-cured tobacco the same procedure already being followed in burley tobacco, under the poundage program enacted last year. I have no objection to the bill and am glad to support its passage.

The ACTING PRESIDENT pro tempore. Without objection, all after the enacting clause in H.R. 13361 is stricken and the text of S. 3068 as reported by the Committee on Agriculture and Forestry is substituted therefor.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 13361) was read the third time and passed.

Mr. MANSFIELD. I ask unanimous consent that S. 3068 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished minority leader desire to be recognized at this time?

Mr. SCOTT. Mr. President, I yield my time to the distinguished senior Senator from South Carolina (Mr. THURMOND).

Mr. MANSFIELD. Mr. President, I also yield my time to the distinguished Senator from South Carolina.

DEATH OF JAMES F. BYRNES, DISTINGUISHED SOUTH CAROLINIAN

Mr. THURMOND. Mr. President, it is with deep regret that I now announce the death of James F. Byrnes, a great South Carolinian and a great American, who died yesterday in Columbia, S.C. He was a Member of this body for 11 years, having served from 1930 to 1941 as part of a long and distinguished career in public service. It is an honor for me to speak today in praise of him.

His service to the Nation and to the State of South Carolina are hallmarks of great distinction. The scope of his long public career was broad, and he was recognized around the world for his great achievements. Nowhere, however, was James Byrnes' greatness recognized more than in his native State. He had served as a Congressman in South Carolina from 1910 to 1925, before coming to the U.S. Senate. Then following his successive service as an Associate Justice of the U.S. Supreme Court, Director of Economic Stabilization, Director of War Mobilization, and U.S. Secretary of State, he was elected Governor of South Carolina. The products of his public career touched all of our lives, and we have reaped the benefits.

Governor Byrnes was a loyal friend. He was a man of great independence. He was guided by his conscience. His key role in the administration during World War II led him to be known as the Assistant President. It was during his service as Secretary of State that he first gave the warning that the Communist world posed a threat to world peace, and that this Nation must face that challenge from a position of strength. His term as Governor was one of enlightenment and pointed the way for continuing progress in our State.

I feel a great personal loss in the death of Governor Byrnes. All of us are saddened on this occasion. We will miss him, and I hope that our words will be of comfort to Mrs. Byrnes and all those close to them.

Mr. President, the wife of the President, Mrs. Richard Nixon, plans to attend the funeral of Governor Byrnes and to represent the President at the funeral on Wednesday next.

I am informed that General Clay will deliver a tribute to Governor Byrnes in front of the State House in Columbia. Following that, the funeral will be held at the Trinity Episcopal Church which is across the street from the State House.

Any Senators who wish to attend the funeral can contact my office today and arrangements will be made for them to ride down on Air Force Jet No. 1 that will be carrying Mrs. Nixon and the South Carolina congressional delegation to the funeral.

Mr. President, editorials and articles about the life and death of Governor Byrnes have appeared in newspapers all over South Carolina and the Nation. Mr. President, I ask unanimous consent that these tributes to Governor Byrnes be printed in the Record.

There being no objection, the tributes were ordered to be printed in the Record, as follows:

[From the Columbia (S.C.) State, Apr. 10, 1972]

Byrnes, Brown, Old Allies, Old Foes

(By Kent Krell)

The first week of May three years ago was a special one for the late James F. Byrnes.

He celebrated his 90th birthday, 63rd wedding anniversary, received a personal visit from President Nixon and held an unheralded reunion with another famous South Carolinian.

Nixon appeared with a frail-looking Byrnes on the porch of the latter's home on May 3, 1969, one day after his birthday and wedding anniversary.

"You couldn't come to us, so we came to you," the President told Byrnes. The former South Carolina governor had intended to visit with Nixon in Washington but ill health made that impossible.

"Never in history," added the President, "has one man held more top offices with more distinction than Gov. Byrnes."

The porch appearance was Byrnes' last one in public.

Generally unnoticed at that time three years ago was a visit made to the Byrnes home in Columbia by State Sen. Edgar A. Brown, patriarch of the South Carolina Legislature.

Once close personal friends and political allies, Byrnes and Brown had had a falling out. The May, 1962 meeting brought them back together.

Brown, then 80, and the 93-year-old Byrnes reportedly had a great time swapping old political stories from their long careers in public service.

The early careers of Byrnes and Brown closely paralleled each other. Both began their legal careers in Aiken County. Both knew shorthand. Byrnes was a court stenographer. Brown was a stenographer for a law firm.

When Byrnes ran successfully for solicitor in 1908, Browns succeeded him as court stenographer.

In 1913, Brown got married and Byrnes, then a congressman, was his best man.

There was a strong bond between Byrnes and Brown for the next 40 years. But coolness between the two men developed with the 1952 presidential race.

Brown said Byrnes' endorsement of Republican Dwight D. Eisenhower led to their parting of the ways. Byrnes was governor of South Carolina at the time.

And two years later when U.S. Sen. Burnet R. Maybank died, the rift between Brown and Byrnes widened. The Democratic state committee, contending there wasn't time to hold a primary, nominated Brown. Gov. Byrnes, irked over that procedure, called a special primary. Byrnes then endorsed Strom Thurmond who waged a successful write-in campaign against Brown.

Brown was particularly hurt by those events and said so. While the bitterness lingered on, Byrnes always denied there was any personal ill-feeling on his part.

And it wasn't until early May of 1968 that the two elderly statesmen met at Byrnes' home and, in effect, said to each other: "Let's let bygones be bygones."

[From the Columbia (S.C.) State, Apr. 10, 1972]

Byrnes Was "Pop" to More Than 300

(By Ginny Carroll)

To more than 300 men and women throughout the United States, he was "Pop Byrnes," the man who gave them the money to go to college and then backed up the dollars with parent-like inspiration and guidance.

Almost all of them were at loose ends, finishing high school, wanting an education that seemed almost impossible to get when James F. Byrnes entered their lives.

The Rev. Hal Norton of Marion lost his father at 16. One of nine children, he didn't know where to turn. But in 1949 he became one of the first Byrnes Scholars.

"I used to tell Mrs. Byrnes he was the man who opened the door into a big world for me," he said in an interview Sunday, hours after Byrnes died at his Columbia home.

"I don't know how I could have gone to college without his scholarship, but he gave much more important things than what he gave in dollars.

"In the 23 years I have known him, I never wrote that what he didn't write back on any matter. His great words of wisdom and the companionship he shared through the years were far more enriching than any money he could have spent. Any problem was his problem," Norton said.

Byrnes set up the Byrnes Foundation in 1949, primarily to help young people who had lost one or both parents and who demonstrated financial need.

Mrs. Carol Sandifer of West Columbia, recalls that Byrnes once told "his children" that he initiated the scholarships because "He didn't want a memory in brick or stone. He wanted a memory that would live after he was gone."

Mrs. Sandifer said Byrnes attached no conditions to the money except that "we never do anything to give the Byrnes Scholars a bad name.

"He held a dear place in each of our hearts," she said. "He had us in his home to chat, even to check our report cards. He had the time and energy to take a personal interest in us."

Ralph Gregory, Columbia advertising executive, received a scholarship in 1950. "It was the only way I could have gone to college," he said. "It changed my whole life."

Now, Gregory is president of the Byrnes Scholars, an organization founded a few years ago to hold an annual reunion in tribute to the man who helped them when they had to have help.

In the early days, when the scholars were a small group, they gathered every year at Byrnes' beach home near Charleston.

Those getting-acquainted evenings always brought singing, remembers Mrs. Ames Wells of Columbia, a 1951 Byrnes scholar and secretary of the foundation.

"Every time we got together, we always sang 'Carolina Moon' she said. 'It was his favorite—I'm sure because of his great love for South Carolina."

Byrnes loved to sing and always joined in, she said.

He told us "Be firm but patient," Mrs. Wells said. In farewell, he always told them "Love to you."

Jake Salley of Columbia who works with the State Committee for Technical Education, was living in the small Orangeburg County town of Springfield when he was made a scholar in 1949.

"Being from a small town, I hadn't really been associated with up-in-the-world people," Salley said. "Then all of a sudden I was knocking on his front door."

When the scholars went to the beach, Salley said, Byrnes would arrange a boat tour around the harbor or other sightseeing, but the times that left the most memories were the warm evenings when the young people perched on the front porch and listened to their mentor's reminiscenses.

"Just sitting and listening to him talk about his days in Washington, about his meetings with the great men of the world was a revelation," Salley said.

In that brush with the world they had never seen, the scholars "got to know him as a person, and he got to know us," Salley said.

Dr. Wellbourne White, Columbia ophthalmologist, said one of the best feelings is getting a Brynes scholarship was knowing the money didn't have to be repaid by a certain time.

"It was freely given," he said. "He wanted to help people who needed help without giving them a financial burden to worry about."

As a result, many of the people who received the money have returned it to the foundation several times over.

Marshall Plyler, 1961 scholar, now in public information with the State Board of Health in Columbia, recalls that when he was president of the Brynes Scholars, he dropped by Byrnes' office frequently.

When he graduated from college, he wanted to get a military deferment and teach school, he said, but Brynes convinced him it was important to get his obligation out of the way.

Robert R. Mallard, associate judge of the Family Court in Charleston, got his scholarship in different circumstances. He had graduated from The Citadel but wanted to go to law school.

Both his parents were dead, and he went through the first four years on the GI Bill. Recently married, he lacked money for law school.

At first Byrnes turned him down. After repeated discussions, he was called one day to the Byrnes home on Isle of Palms.

"He called me over to tell me no," Mallard recalls, "but I won the argument before I left his home. I guess that was my first argument as a lawyer."

While a student at the University of South Carolina, Mallard dropped by Byrnes' Columbia office almost every day. Byrnes got him a job as a law clerk.

"I had no parents. I used to talk with him about whatever came up—little old piddling things to big things. I'll never forget the things he taught me."

Many of the Byrnes Scholars are expected in Columbia for the Byrnes funeral, at least one from as far away as Indiana.

Ervin Faulkenbury, now a captain of the Episcopal Church Army in Indiana, was 10 years old when his mother died in 1941. He was a student at the Episcopal Church Home for Children in York when the scholarships were offered in 1949.

He used the money to go to Clemson. "I would have gone anyway," he said Sunday. "I might have made it for one semester before the funds gave out."

How does he feel about Byrnes?

"They became Mom and Pop Byrnes, he and Miss Maude. That sums it up for me."

Dr. William E. Rowe said he is coming from Chattanooga, Tenn., for the rites. Now a prominent general surgeon, he received his scholarship through Byrnes and Bernard Barouch who knew him in Georgetown.

He has returned to almost all the reunions of the Byrnes Scholars.

"Over the years, he has been a guiding light to all of us," Rowe said, "an inspiration to do better. The only thing he ever asked us was to do the best we could."

[From the Columbia (S.C.) State, Apr. 10, 1972]

BYRNES CAME CLOSE TO PRESIDENCY DURING HIS 45 YEARS OF SERVICE

James F. Byrnes, who died Sunday less than a month away from his 93rd birthday, made a deep mark in world, national and South Carolina affairs during nearly half a century of public service.

Byrnes served in all three branches of the federal government—the legislative, executive and judicial—as well as the top executive position in his beloved South Carolina.

He was believed to be the only man in the history of this country to have ever served as representative, senator, and governor of his state and also as a justice in the Supreme Court of the United States and Secretary of State.

In addition to this, the tremendously energetic public servant spent most of World War II years as Director of the Office of Economic Mobilization and later became Director of the Office of War Mobilization. In the latter capacity he was generally called the "Assistant President."

FIRST IN LINE

As Secretary of State under Harry S. Truman after the death of Franklin D. Roosevelt, the South Carolinian was first in line to succeed Truman to the presidency should the Missourian have died.

The last elective office held by Byrnes was that of Governor. He was nominated in the Democratic primary of June 1950, polling over 71 per cent of all the votes. He was opposed by three other candidates.

During the campaign he pledged to work for improvement of the state's public school system, and to provide more adequate facilities for mental patients in the State Hospital.

His recommendations to the 1951 General Assembly resulted in enactment of a vast school improvement program designed to furnish equal facilities for all children. The following year the program was expanded to include improvement of the state colleges and universities.

Byrnes was born May 2, 1879, in a galleried frame house on King Street, in Charleston, a son of Irish immigrants. His parents had come to the United States after the Irish famine of 1840. His father had died a few months before he was born.

EDUCATION

Young James Byrnes received a public school education, and studied shorthand at home. He helped support his family by delivering dresses turned out by his seamstress mother.

In 1900 Byrnes took a competitive examination for court stenographer for the Second Judicial District of South Carolina. Although the youngest contestant he won, and then moved with his mother to Aiken.

While a court stenographer, he worked one of the most famous trials in South Carolina history—the trial, in Lexington county, of Lieutenant Governor James H. Tillman for the killing of N. G. Gonzales.

Incidentally, Gov. Byrnes never forgot his Court reporting skill. At his final press conference as Governor he told of having a collection of "scraps of paper" on which were scribbled shorthand notes of personal and telephone conversations with important state and national officials and diplomats.

From these notes he was able to reconstruct verbatim conversations with such people as former President Harry S. Truman and other high government officials.

During the time he served as a court stenographer, Byrnes studied law, being admitted to the bar in 1903. This period of Byrnes' life was spent in Aiken.

ACQUIRED NEWSPAPER

The energetic young man acquired the Journal and Review, a weekly paper in Aiken, the same year he was admitted to the bar, and edited the weekly until 1907. In the meantime, he and Maude Perkins Busch of Aiken married.

At this point he sold part ownership in the paper, and was elected solicitor of the Second Judicial District, serving from 1908 to 1910.

His next venture in politics was to run for Congress against a veteran member of the House. He surprised everyone, including himself, by garnering 57 more votes than his opponent.

The South Carolina statesman served continuously in the House from 1910 until 1924, when he made the race for Senator. He was defeated, and for the next several years devoted his energies to building up a highly successful law practice in Spartanburg.

In 1930 he again made the race for United States senator, and this time was successful. The 1924 defeat was his first and only loss.

While serving in Congress during World War I, the agile, energetic representative of South Carolina formed a fast friendship with the then Assistant Secretary of the Navy, Franklin Delano Roosevelt.

When 1932 rolled around, James F. Byrnes was in the Roosevelt corner and persuaded the South Carolina delegation to swing behind the New Yorker. He became in a short time one of the most trusted and able of the tacticians for the Roosevelt program.

By 1936, he was frequently called the "White House Messenger Boy" because of his close association with the president. His technique in handling the most difficult legislative programs of the President became legend. Whenever questions arose as to the administration attitude on any matter, "Jimmy," as his colleagues called him always had the answer.

DISAGREEMENTS

In the later years of his second term, Byrnes sometimes disagreed with the president over domestic policies. These differences arose during a period when a split was developing between conservative and liberal elements of the party.

Nevertheless, during the third term for FDR, Byrnes carried the administration ball on all the prime wartime issues. Perhaps the most spectacular achievement of the "party whip" was Byrnes' strategy in winning approval of the bitterly debated Lend-Lease program.

A Supreme Court vacancy occurred in January, 1941, and it was an open secret in Washington that the appointment would go to Senator Byrnes. However, he was badly needed in the Senate on the Lend-Lease program; and his appointment did not come until July.

Associate Justice Byrnes stayed on the bench only a short time—from July, 1941 until October, 1942. At this point Roosevelt asked Byrnes to resign and accept appointment as Director of Economic Stabilization. He resigned this post and was appointed Director of War Mobilization in 1943.

[From the Columbia (S.C.) State, Apr. 10, 1972]

BYRNES FOUNDATION OFFERS SCHOLARSHIP FOR ORPHANS

Following publication of his book, "Speaking Frankly" in 1948, Byrnes established the James F. Byrnes Foundation to provide college educations for South Carolina orphans.

To finance the foundation, Byrnes consolidated the $50,000 he received from the now-defunct New York Herald Tribune for newspaper rights, about $40,000 in book royalties, and monies from other writings, along with his federal retirement income.

The foundation provides four-year college scholarships in the amount of $500 per year to worthy, needy students who have lost one or both parents. It helps an average of 25 students each year.

In 1964, Byrnes made it known that he and Mrs. Byrnes had written wills leaving their estates to increase the Foundation.

That year, also, the late Miss Cassie Connor, Byrnes' secretary for more than 35 years, revealed that Byrnes "even sold his summer home at the Isle of Palms one year for $32,000 to raise money for the Foundation."

Under the management of the late Miss Connor, the foundation has paid out more than $900,000 in scholarships for "Byrnes Scholars." In September 1953, there were some 51 students scheduled to attend college on Foundation scholarships.

On the wall of his office-den, next to the proclamation of his Distinguished Service Medal, hangs a simple bronze plaque inscribed: "To mom and pop Byrnes from your foundation children." It is engraved with the names of fatherless boys and girls whom Byrnes helped through college.

Over the years, scholarship recipients and their families have gathered in Columbia for an annual convention in honor of the South Carolina statesman. More than 350 students have been helped by his Foundation.

But much more than money was involved in Byrnes' efforts for his young friends. "In addition to the money you've got to give yourself," he said. "You've got to take the place of the father these children have lost, as best you can. Money isn't. . . ."

[From the Columbia (S.C.) State, Apr. 10, 1972]

JAMES FRANCIS BYRNES: A MAN OF HISTORY

History hangs in South Carolina as does the moss on live oak and cypress in the Lowcountry. And yet, as a man who loved it said, history can be as timely as the events occurring in the wake of the sweep second hand on your watch.

South Carolina's history stretches back over three eventful centuries. If history is the collective biography of great men, then South Carolina is historically rich because of the lives of such giants as Moultrie, Rutledge, Marion, Sumter, Pickens, the Pinckneys, the Hamptons, Calhoun and all of its other sons whose greatness is etched not only into the history of their state but of these United States.

But their stories are the remembrances of things past. To all but the very young, the story of James Francis Byrnes is of the present; at least, it's in the wake of that second hand.

What a span of time that was; and what a man of his time was this man Byrnes:

The World War I congressman, even then making his mark.

The lawyer, who served with brilliance with one of the state's most celebrated and colorful firms.

The senator, who both supported and opposed Franklin D. Roosevelt's New Deal as his conscience guided him.

The Supreme Court Justice, who couldn't continue to mediate on the niceties of the law when his country needed him elsewhere.

The ranking home-front mobilizer during the critical days of World War II when all of America gathered behind the concept of victory.

The Secretary of State, who first crossed swords with Communist Russia and warned the world that here was an intractable foe that must be dealt with in terms of strength.

The governor, who began to lead his state out of the abyss of prejudice "because it is right."

His service did not end when he retired from his last public office as governor of South Carolina in 1955. Through his books, his scholarship program and his wise counsel, "Jimmy" Byrnes continued for years to influence those who came after him.

There were those—and President Harry S Truman was among them—who felt that Byrnes deserted the principles of the New Deal and turned reactionary. Others felt he was merely applying his extraordinary political intellect to the changes of his time.

Jimmy Byrnes was a product as well as a practitioner of American politics. He and the system both complemented and complimented one another, as attested to by his rise from an humble Irish Catholic background in Charleston to become a man of state, national, and international influence.

It also is a tribute to the American system that an individual with limited formal education could, by determination and ambition and diligence, enter the highest councils of the world.

His career, adorned by his gracious wife Maude and aided by his long-time secretary, the late Miss Cassie Connor, was the stuff of which history is made. And yet, as those who knew him at all can testify, he was every bit the lively human being, a man who never lost his zest for living.

Rutledge, Calhoun, and even the Wade Hampton of the Confederacy are pictures in history books for persons now living in the Palmetto state. Jimmy Byrnes was living history only yesterday. But the second hand, after almost 93 years, has ticked away his final hour.

Today, he has taken his deserved place among South Carolina's immortals.

[From the Columbia (S.C.) State,
April 10, 1972]

Roosevelt Urged Byrnes To Seek Veep Nomination

As head of the OWN, Byrnes was referred to as "Assistant President"—a term coined by Roosevelt himself. He had supervision over about everything except military and diplomatic matters.

EMERGENCY MEASURES

To speed the war effort on the home front, Byrnes declared a series of emergency measures. These included restrictions on travel and on national conventions, a ban on horse and dog racing, a lights out and a midnight curfew on most night life. All of these he deplored as "irritants to a war-weary public."

After the war Byrnes received a Distinguished Service Medal from President Truman in acknowledgment of his "major contribution to the war effort. The citation said:

"His sympathetic consideration of both military and civilian needs struck a delicate balance that insured the armed forces sufficient manpower and material for a maximum effort in a global war while maintaining civilian economy at the highest level of any belligerent in World War II."

Special mention was made of his services in accompanying Roosevelt to the conference at Yalta in the Crimea with Premier Joseph Stalin and Prime Minister Winston Churchill shortly before Germany's surrender. He later went to Potsdam with President Truman—after the victory over Germany.

When the nation, anticipating Germany's defeat, began to plan for demobilization and restoration of industry to peacetime status, Byrnes was appointed director of the Office of War Mobilization and Reconversion.

TEMPORARY ASSIGNMENT

The South Carolinian agreed to take the job, embracing his former duties and added ones, on a temporary basis. A little later, when he again sought to return to private life, President Roosevelt prevailed on him to stay on until victory over Germany.

A few weeks before Germany's capitulation, when victory was assured, Byrnes resigned and returned to his native state, President Roosevelt expressed regret as the severance of a relationship "as delightful to me personally as it has been of advantage to the national interest."

In the meantime, Byrnes had missed, by virtue of the famous "check it with Sidney" incident, becoming the president of the United States.

Supposedly the South Carolinian could have had the vice presidential nomination by simply agreeing to accept the nomination in 1940. In 1944 he was the leading contender for the vice presidency, and had the promise of the support of Roosevelt.

Actually only a week before the convention Roosevelt had passed the word to Mayor Edward J. Kelly of Chicago, a party leader and National Democratic Chairman Robert E. Hannegan to go ahead with Byrnes' nomination. Roosevelt requested that his "assistant President" go to Chicago and actively seek the vice presidency.

Friends quickly lined up a substantial block of votes for Byrnes—there is one story that Harry S. Truman left Kansas City in possession of a speech nominating James F. Byrnes for the office—but opposition developed.

HILLMAN OPPOSITION

Sidney Hillman, chairman of the Congress of Industrial Organizations Political Action Committee, was opposed to the South Carolinian, as was National Committeeman Edward J. Flynn of New York. Flynn allegedly convinced Roosevelt to dump Byrnes in favor of someone more acceptable to such organizations as the CIO. Byrnes withdrew, and Harry Truman was picked for the number two spot.

Roosevelt died less than a year later, and Truman became president.

Regarding his withdrawal from the vice presidential race, Byrnes said:

"I took the position that having resigned from the Supreme Court to help in the prosecution of the war, with offices in the White House, I could not oppose the President's request and continue in the contest for the vice presidency."

Byrnes had scarcely had time to shake the Washington dust after resigning as "assistant President" before he was called back to the capital city.

On the second day of the Truman administration, former War Mobilizer Byrnes was conferring with the new chief executive. In the summer of 1945 he was named Secretary of State, succeeding Edward R. Stettinius Jr., who had been appointed American delegate to the Preparatory Commission of the United Nations.

When the Byrnes nomination reached the Senate, that body adopted the unusual procedure of unanimously approving without traditional reference to a committee.

UNITED NATIONS ROLE

As Secretary of State Byrnes signed the protocol formally attesting that the charter of the U.N. has come into force. This was in the fall of 1945, when the Soviet Union deposited its instrument of ratification—the 29th such document deposited and the last one needed to put the charter into effect.

Secretary Byrnes, in signing the protocol, said the charter had become a "part of the law of nations" and was "a memorable day for the peace-loving peoples of all nation."

As Secretary of State Mr. Byrnes developed a policy toward Russia which he described as "patient firmness." Our war-time allies became increasingly cantankerous during this period, and were continually stirring up trouble in neighboring countries, and literally stripping some of the conquered nations of all assets.

Secretary Byrnes described the Russians as a neighbor "who deliberately makes himself unpleasant." However, he did not advocate going to war with the Soviet Union.

In connection with his resignation, Byrnes tendered his resignation in April of 1946, but at Truman's request agreed to remain on until the satellite treaties were signed. Byrnes asked in December of 1946 that his resignation be accepted as of January, 1947, and this was agreeable with Truman.

Truman thanked Byrnes for his services to the nation and lauded his long public service in accepting the resignation. Later the two had bitter disagreements.

A 1952 book, "Mr. President," written by radio commentator William Hillman with Truman's full cooperation reported that Truman scolded Byrnes severely upon the Secretary's return from a three-power conference in Moscow in 1945.

TRUMAN SQUABBLE

Byrnes called the statement "absolutely untrue," saying that if the President had done so, he would have resigned immediately. He stayed on as Secretary of State more than a year after this alleged scolding.

The book reported that Truman upbraided his Secretary of State for not keeping him (Truman) informed of what Byrnes was doing at the conference. It also quoted Truman as saying he was tired of babying the Soviets, and "do not think we should play compromise any longer."

Byrnes replied with a blistering attack on Truman in a Collier's magazine article. He accused Truman of writing history to suit himself, and denied again that the President had criticized him.

Actually, said Byrnes, his relations with Truman were friendly while he was Secretary of State. The break with Truman did not come until June, 1949, declared Byrnes, when he made a speech criticizing parts of Truman's domestic program.

"After that," wrote Byrnes, "Truman appeared determined to construct a record against me without regard for the facts."

Byrnes wrote that the President's memorandum implied Byrnes was easy on Russia, but cited statements by John Foster Dulles as proof to the contrary.

Byrnes recalled that Dulles stated the U.S. policy of "no appeasement" had been created by Byrnes in a meeting at London in the fall of 1945. Then Byrnes refused various concessions the Russians were demanding in post-war settlements.

Dulles served as Republican foreign affairs advisor to the Truman administration at various times.

DULLES REPORT

Dulles had said after the London conference the Soviet delegation "wanted to find out how much of our principle" the United States was willing to sacrifice and continued:

"They did find out. They found out that the United States was not willing to sacrifice its principles . . ."

He added that Secretary of State Byrnes was entitled to the "support of the American people without regard to party, in standing for principle rather than expediency, in keeping with the best American tradition."

When Secretary Byrnes was at the Paris Peace Conference in 1946, Henry A. Wallace, then Secretary of Commerce, attacked the United States foreign policy in a speech at New York's Madison Square Garden.

Wallace declared that in dealing with the Soviet Union, this nation was reckoning with a force which could not be handled successfully by a "get-tough-with-Russia" policy.

Byrnes protested to President Truman, who announced he had silenced Wallace for the duration of the Peace Conference. Byrnes insisted however, that his fellow cabinet member be hushed up for as long as he remained in the cabinet or he (Byrnes) would resign forthwith as Secretary.

The next day President Truman fired Wallace. Wallace attributed his dismissal to his own bow and arrow."

In 1949, Byrnes criticized what he called the Truman Administration's socialistic trend, and as time went on, Byrnes became increasingly critical of Truman policies.

In 1952, Byrnes supported and voted for Eisenhower, the Republican candidate for president.

"If you want more of the Truman Administration," he said in a statement announcing for his support of Eisenhower, you should vote for Gov. Stevenson. If you have had enough, you should vote for Gen. Eisenhower.

During the campaign, Byrnes said "Carpetbaggers" controlled the national Democratic party, and that the national party had deserted the fundamental principles of the party. South Carolina almost ended up in the Eisenhower column, the Republican losing the state by only a few votes.

In 1953, President Eisenhower appointed Byrnes, then governor of South Carolina, a delegate to the United Nations General Assembly, top committee posts. This, incidentally, was the last "assignment" as an official representative of the federal government.

SCHOOL PROGRAM

Meantime, as governor of South Carolina, Byrnes had set in motion a huge school expansion program concentrating on equalization of school for white and Negro children.

"We should do it because it is right," he explained. "For me that is sufficient reason." He allotted two-thirds of a 100-million dollar fund to Negro schools.

When the Supreme Court in 1954 ruled that states do not have the right to deny admission to a public school because of race, it struck down a long-standing "separate but equal" doctrine which had been the law of the land since 1896.

Byrnes, a former justice of the Supreme Court, criticized the court for reversing itself. He has since addressed bar associations in several northern states in which he expounded his reasons for saying the Court erred in ruling as it did in 1954.

In the 1956 presidential election, Gov. Byrnes found it impossible to support either President Eisenhower or Adlai Stevenson, and supported the Independent movement in the state. He had earlier declined to let himself be considered as a possible delegate to the national convention.

SEEKS COURT CURB

When Gov. and Mrs. Byrnes celebrated their Golden Wedding anniversary on May 2, 1956, he received greetings from President Eisenhower, and from many other public figures. That same month Gov. Byrnes wrote an article which appeared in U.S. News and World Report in which he called for a curb on the power of the federal courts.

In January of 1957 he was named to the Board of Trustees of Converse College. A month earlier he was re-elected honorary president of the Alfalfa Club, a famed dining organization in Washington, D.C.

Senators and representatives from other states who knew Byrnes in Washington, D.C., always had words of praise for the South Carolinian. They frequently compared Byrnes with John C. Calhoun, one of five senators nominated for the Congressional Hall of Fame.

[From the State, Apr. 10, 1972]

South Carolina Officials Mourn Death of Byrnes

South Carolina officials mourned the death of former Gov. James F. Byrnes Sunday with lavish praise for his statesmanship and political acumen.

Gov. John C. West, visiting Japan with several other governors, said South Carolina "has lost its most honored citizen; the nation has lost a dedicated servant; and the world has lost a great leader."

West announced through his Columbia office that flags on all state buildings would be flown at half-staff until the day after the funeral.

". . . No one served his fellow man with more distinction than did this gentleman," said West. "As citizen Byrnes in his latter years, he never retired from the job of serving the public with the type of guidance, moral strength and love of mankind which made his life an example for all of us to follow.

"Gov. Byrnes was a man born to the moments of challenge. In days of economic need and depression, he was a man of strength and compassion. In days of war, he was a man of peace who steered the world out of the chaos of oppression and tyranny. In days of uncertainty and turmoil in the wake of war, he was a man of deep understanding and devotion of the cause of peaceful harmony to the cause of peaceful harmony among all men," said West.

"He was one of the greatest statesmen of our time," said Sen. Strom Thurmond, R-S.C., who said some time ago he felt a close philosophical kinship with Byrnes.

"South Carolina and our nation have lost one of their most distinguished citizens," said Thurmond. "He was a devoted friend of mine and I feel a deep personal loss in his passing."

Sen. Edgar Brown of Barnwell, the 83-year-old dean of the State Senate, was saddened by the news of Byrnes' death.

"We have lost a fine American political leader," Brown said in a statement from the Barnwell home.

"Although we differed on politics in later years our personal relationship never changed.

House Speaker Solomon Blatt, 75, called Byrnes "A great statesman" and one of the country's most outstanding citizens.

"We have lost a statesman who was interested in the welfare of all mankind," Blatt said from Barnwell. "His objective was to bring peace to all the nations of the world. In his death I have lost a great friend and the state has lost its most outstanding citizen. I express my deepest sympathy to Mrs. Byrnes."

U.S. Circuit Judge Donald S. Russell, who worked closely with Byrnes as a law partner and in various federal jobs, said Byrnes was "one of the really distinguished men of his age."

"I personally am deeply distressed," said Judge Russell. "It is very sad—I grieve for his wife who in her way was equal to him in his greatness. She is a wonderful lady.

"The two of them," added the one-time governor and U.S. senator, "were one of the really distinguished couples of political life."

Former Gov. Robert E. McNair said Byrnes was "an inspiration to all of us in politics and government and earned his place in the history of his state and nation."

"Mr. Byrnes," McNair went on, "was one of the truly great leaders of this nation and South Carolina's foremost statesman . . . all of us join his many friends in mourning his passing."

Sen. Marion Gressette of St. Matthews said South Carolina "has certainly sustained one of the greatest losses in our generation.

"He was in every way an outstanding man and all the important positions he held he did so with distinction," said Gressette. "It is a personal great loss to me."

Sen. Ernest Hollings was out of the country, but issued a statement through his office.

Hollings said he was "deeply moved by the death of Jimmy Byrnes."

The senator said he had a deep personal respect for Byrnes and recognized him "as one of those rare individuals, who during his lifetime, participated in all three branches of government."

Hollings is headed back to the United States and plans to attend the funeral.

U.S. Rep. James Mann remembered Byrnes as one who helped him start on his career.

Mann said, "He contributed substantially to my career by appointing me solicitor of the 13th circuit in 1953.

"His contributions to the state and nation are of lasting impact. We will miss his leadership, but South Carolina will record him as one of its greatest citizens."

Byrnes also served as a Life Trustee of Clemson University since 1941, Clemson President Robert Edwards said. "This nation and this state will always remember Gov. Byrnes for his unique and life-long career in public service and all branches of government.

"Clemson will cherish his memory because he served as a Life Trustee and because he placed the records and souvenirs of his remarkable life in the Clemson Library.

"We have lost one of the greatest and most beloved members of the Clemson University family."

Gen. William C. Westmoreland, Army Chief of Staff, said at his Ft. Myer, Va., headquarters, "It was with great sorrow that I learned today of the passing of my close personal friend of many years.

"One of the most distinguished Americans of this century, he served his country faithfully in many critical posts in each branch of the federal government as well as performing distinguished service to his home state," said Westmoreland, a native Columbian.

"I will miss his advice and assistance as will the many others who profited from his wise counsel," he said.

[From the State, Apr. 10, 1972]

Nearly 50 Years of Public Service

(By Robert G. Liming)

James Francis Byrnes, who rose from messenger boy to Supreme Court justice, secretary of state, "assistant President," and capped his amazing public career as governor of South Carolina, died Sunday at the age of 92 in his Columbia home.

Byrnes, a leader in mobilizing the country for World War II and negotiating post-war treaties, died less than a month before his 93rd birthday after a lengthy illness.

A spokesman at the comfortable Byrnes home in the Heathwood section of Columbia said the former governor, who had been hospitalized three times in recent years for heart ailment, died at 1:30 p.m.

Late Sunday night it was announced that Byrnes' body would be taken to the State House sometime Tuesday and lie in state in the rotunda from Tuesday afternoon until Wednesday morning.

Retired Gen. Lucius Clay, a longtime friend of Byrnes, is scheduled to deliver the eulogy during the State House services at noon Wednesday.

Another service at Trinity Episcopal Church, across the street from the State House, has been scheduled to follow the public service with burial in Trinity Churchyard.

Dr. James Stirling, pastor of Trinity Episcopal Church, Bishop John Pinckney and Bishop Gray Temple were tentatively scheduled to conduct the funeral services.

A spokesman for the family said Mrs. Byrnes and Byrnes' private nurse were at his bedside when the statesman died.

Byrnes, a virtual invalid in recent months, had been scheduled to attend a massive public ceremony on May 2, his birthday, to unveil a statue of him on the State House grounds.

His remarkable lifetime of public service spanned nearly half a century in which he served seven terms in the U.S. House of Representatives and 11 years in the U.S. Senate before his June 1941 appointment as an associate justice of the Supreme Court.

The statesman resigned from the high court in 1942 to head the Office of Economic Stabilization and in 1943 he took over the vital job as director of the War Mobilization Office.

In his inspiring lifetime, Byrnes was a lawyer, editor of The Aiken Journal and Review, circuit solicitor, author, benefactor and world leader.

Byrnes spent his last years in the quiet surroundings of his home with his wife, the former Manda Perkins Busch of Aiken, whom he married on his 27th birthday in 1906.

The childless couple might have lived in a wealthy style, but he chose to donate the profits from his books to the education of orphans and needy children.

He formed the James F. Byrnes Foundation in 1948 to give needy young people the formal education he was never afforded the luxury of having.

Since the establishment of the scholarship more than 500 youngsters, who are either orphans or without a father or mother, have received over half a million dollars to further their education.

A plaque on the wall in his study reads, "To Mom and Pop Byrnes from your Foundation children," and Byrnes said of the program open to blacks and whites, "It is the most rewarding thing I ever did in my life."

Born in 1879 in the port city of Charleston, the son of Irish immigrant parents, Byrnes' father died a few months before he was born.

His widowed mother, who lived until 1931, kept the family together with "Jimmy's" help by working as a dressmaker and a choir leader.

Byrnes, through hard work and dedication, took his first job as a messenger boy in a law office at $2 a week and continued to climb up the political ladder from court reporter to a career capped by his election as governor of the Palmetto State.

He became a close friend of President Franklin D. Roosevelt, then governor of New York, after his 1930 election to the U.S. Senate.

Roosevelt described Byrnes as "assistant president for the home front," but passed him over in 1944 to select Harry S. Truman as his vice presidential running mate. Byrnes willingly stepped aside at Roosevelt's request in what some historians say was a sectional fight.

Shortly after Roosevelt died in 1945, President Truman appointed Byrnes secretary of state, a post he held until 1947.

During his tenure as secretary of state, Byrnes took part in 10 international conferences and numerous meetings with the Russians at peace treaty negotiations.

He was secretary of state when the Americans dropped the first atomic bomb on Japan and took part in the Potsdam Conference with Truman.

Byrnes quit as secretary of state in 1947, on what he said were doctors orders to slow down. He later broke with Truman over United States policy with the Soviet Union.

He was named a United Nations delegate in 1953 by President Dwight D. Eisenhower, who he backed for election over Democrat Adlai E. Stevenson.

The world-renowned statesman culminated his extraordinary political career by serving his beloved South Carolina as governor from 1951 to 1955.

After leaving the governor's office he spent much of his time administering the special scholarship fund he had set up to help needy children receive an education.

Byrnes made a brief public appearance in May of 1959 to receive President Nixon and a group of other dignitaries on the front porch of his home for a birthday celebration.

"Never in American history has one man held more high offices with distinction than has Gov. Byrnes," Nixon said as he stood by the frail Byrnes and his wife Maude.

Nixon, spending the weekend at Key Biscayne, Fla., when informed of Byrnes death ordered the White House flag to be flown at half-staff in honor of the statesman.

In an official statement Sunday the President said, "No man in American history has held so many positions of responsibility in all branches of our government with distinction.

"He was a great patriot, who always put his country ahead of his party. Mrs. Nixon joins me in expressing deepest sympathy," he added.

Nixon said he had contacted Mrs. Byrnes to offer assistance and express his sympathy. He assured Mrs. Byrnes that Mrs. Nixon would attend the funeral services as his representative.

Gov. John C. West, who is in Japan on an industry finding trip, issued a statement declaring the day of Byrnes' funeral a day of mourning and ordering all flags on state buildings to be flown at half-staff until the day following the funeral.

West said, "The state of South Carolina has lost its most honored citizen; the nation has lost a dedicated servant; and the world has lost a great leader."

The governor added, "We join men everywhere on this occasion in mourning a loss which is truly shared by all, and honoring the memory of a man who truly served all."

[From the State, Apr. 10, 1972]

"ASSISTANT PRESIDENT"—BYRNES HELD VARIETY OF POSTS

Former U.S. Secretary of State James F. Byrnes, dubbed—"Assistant President" by Franklin Roosevelt during the years of World War II, attained almost every political distinction in his long career in public service.

The 92-year-old South Carolinian entered politics in 1908 as solicitor for a judicial circuit.

On his way to becoming President Harry S Truman's Secretary of State in 1945, Byrnes served as a member of both Houses of Congress and Associate Justice of the U.S. Supreme Court.

During the Roosevelt Administration in the early 1940's, Byrnes was director of Economic Stabilization and head of the Office of War Mobilization.

So sweeping were his powers that Roosevelt called him his "Assistant President."

After two years as Secretary of State, at an age when most men retired, the then 71-year-old politician became governor of South Carolina.

During his retirement years following his governorship, Byrnes was a familiar figure in downtown Columbia. He visited his office almost daily for many years, walking briskly and wearing his hat at a jaunty—almost rakish—angle to match the quizzical slant of his brows.

Byrnes' declining health forced him to stay close to home recently. He made few public appearances.

One of his last outings was last October in Greenville, where a documentary film of his life was shown to a private audience at the exclusive Poinsett Club.

President Richard M. Nixon, at that time campaigning in the upper section of South Carolina, stopped in Greenville for a chat with Byrnes.

Although a Democrat, Byrnes chose to support Republican President Dwight Eisenhower in 1952 and Nixon in 1968.

Byrnes was born May 2, 1879, in Charleston, the son of James Francis and Elizabeth E. Byrnes. His father died shortly after the young Byrnes' birth.

The boy helped support his widowed mother by selling newspapers and doing odd jobs. High school was beyond his meager means.

Mastery of a short-hand course led to a post as official court reporter in Aiken County in 1900. Meanwhile, the bright, slightly built youngster read law and was admitted to the Bar in 1903 at the age of 24.

For the next four years, Byrnes edited and published the Aiken Journal and Review. When he was 29, the hard-working lawyer-editor became solicitor for the judical circuit—his first elective office.

To Byrnes' admitted surprise, shared by many others, he eked out a 57-vote victory over a veteran congressman in 1910. He later said he ran "on nerve and nerve alone." Byrnes served in the House for 14 years, losing a Senate race in 1924. After the defeat, he retired to Spartanburg to practice law but came back to political arena in 1930, this time to win over the man who defeated him six years before—Cole L. Blease.

Roosevelt appointed Byrnes to the U.S. Supreme Court in June, 1941. One year later he was asked to take over the Economic Stabilization directorship and gave up his lifetime seat on the nation's highest court.

Only a few months after he took command of rationing and other wartime measures on the home front, Byrnes was made head of The Office of War Mobilization—a post which carried virtual command of the entire home front.

He would have become President in 1944 when Roosevelt died. But Roosevelt, fearful that a Southern running mate would hurt his chances for re-election, had made a last-minute choice of Harry Truman as vice presidential candidate on the Democratic ticket.

Just before the German surrender, Byrnes retired but was called back to government service in the summer of 1945 as Secretary of State.

He resigned again in 1947, but accepted appointment from Eisenhower to the United Nations General Assembly while serving as governor of South Carolina from 1951 to 1955.

Byrnes undertook the race for governor largely to put through a $75 million bond issue and a three per cent sales tax so that white and Negro schools could be equalized.

"It is our duty to provide for the races substantial equality in school facilities," he said at the time.

To the end, Byrnes remained firmly opposed to the Supreme Court's decision calling for integration of public schools.

"The court did not interpret the Constitution—the court amended it," he declared.

Byrnes' views on integration caused him to break with the Democratic Party because of its hospitality to integration of the races in schools and other developments he felt were "inimical to the South."

At the National Democratic Convention in 1952, he fought the party's loyalty oath, and turned to support Eisenhower instead of the Democratic presidential nominee—Adlai E. Stevenson.

His efforts to carry South Carolina for the Republican's contender in 1952 missed in the traditionally Democratic state by the narrowest of margins.

Byrnes dropped Eisenhower in 1956 to back the late Sen. Harry F. Byrd, D-Va., for President. He took this stand he said because Eisenhower's views on integration had not been explained fully in 1952.

As a politician, Byrnes was a Capitol Hill legend. He said his most difficult duties were guiding the peace-time draft and the lend-lease measures of Roosevelt through Congress.

Signing the protocol attesting that the U.N. charter was formally in force, Byrnes remarked:

"This is a memorable day for peace-loving peoples of all nations."

Byrnes' break with his Party because "Carpetbaggers . . . in control have caused the Party to desert its fundamental principles," had an aside in a personal split with Truman.

He declared a Truman account of dressing Byrnes down was "absolutely untrue."

Byrnes lived in a fashionable, but unpretentious home in Columbia with his wife of 52 years, the former Maude Perkins Busch of Aiken. They had no children.

Byrnes had been extremely saddened by the death of his long-time secretary, Miss Cassie Connor, who passed away in Columbia several weeks ago.

Miss Connor had served with Byrnes during his years in Washington and had helped manage his business affairs since his retirement.

Rep. Solomon Blatt, speaker of the state House of Representatives, introduced a bill recently to erect a statute of Byrnes on the grounds of the State Capitol.

Blatt, a close friend of Byrnes, called him the "nation's greatest living American."

However, Blatt withdrew the bill at the request of Byrnes, who said he would rather see the state money used for "more worthwhile purposes."

[From the Charleston (S.C.) News and Courier, Apr. 10, 1972]

BYRNES DIES AT 92 IN COLUMBIA

COLUMBIA.—James F. Byrnes, former secretary of state and the man Franklin D. Roosevelt called his "assistant president," died Sunday at his home after a long illness. He was 92.

Byrnes held posts in almost every field of government. He was an associate justice of the U.S. Supreme Court, secretary of state, U.S. representative, U.S. senator, director of economic stabilization and war mobilization during World War II, a delegate to the U.N. General Assembly and governor of South Carolina.

In Key Biscayne, Fla., President Nixon ordered the flag over the White House flown at half-staff in Byrnes honor.

"He was a great patriot, who always put his country ahead of his party," the President said in a statement. "Mrs. Nixon joins me in expressing deepest sympathy to Mrs. Byrnes."

A White House spokesman said President Nixon assured Mrs. Byrnes that Mrs. Nixon would attend the funeral services as his representative.

The funeral for Byrnes will be held Wednesday at Trinity Episcopal Church in Columbia.

Byrnes' body will lie in state in the Rotunda of the South Carolina Statehouse from Tuesday afternoon until Wednesday morning.

A spokesman for the family said a memorial service would be held for Byrnes in the State House with the eulogy given by Gen. Lucius Clay.

The details of the service will be announced later.

Byrnes, who broke with the Democrats in 1952 and supported Nixon for election in 1958, received the President and a group of other dignitaries at his home for a birthday celebration in 1969. Byrnes had been hospitalized during the year, once for a mild stroke.

At the birthday celebration, Nixon said, "Never in American history has one man held more offices with distinction than Gov. Byrnes."

Born May 2, 1879 in Charleston, James Francis Byrnes went to work at an early age to help out his widowed mother. His first job was as a messenger boy in a law office at $2 a week. He also sold newspapers and did odd jobs.

In his spare time he studied shorthand and became official court reporter in Aiken County, S.C., in 1900. He was admitted to the bar in 1903 and the same year became editor and publisher of the Aiken Journal and Review, a post he held for four years. In 1906, he married Maude Perkins Busch of Aiken. They had no children.

The political career that spanned almost half a century began for Byrnes in 1910 when he scored a 57-vote upset victory over a veteran congressman. He later said he ran "on nerve and nerve alone."

Looking back over his public service career, he said in later years: "There are two happy days in the life of a man in public office—the day he is elected and the day he steps out."

Byrnes served in the House of Representatives until 1924 when he ran for senator and was defeated. He went back to practicing law, but ran again for the Senate in 1930. This time he won.

President Roosevelt appointed Byrnes to the U.S. Supreme Court in 1941, but the South Carolina native held the post for only one year.

Roosevelt asked him to take over as the first economic stabilization director, a post the president said was essential to the war effort.

Byrnes resigned the court post and took the administrative job on Oct. 8, 1942. Seven months later he was named director of the Office of War Mobilization, giving him virtual command over the home front since he had supervision over just about everything but military and diplomatic matters.

Byrnes was over-all regular of such things as wages, prices and rents. He also declared a series of emergency measures, including restrictions on travel and on national conventions and a ban on horse and dog racing.

Byrnes went to the Democratic National Convention in 1944 as a candidate for the vice presidential nomination. But Roosevelt, advised that a Southern running mate would hurt his chances for reelection, asked him to step aside. Byrnes did, and Harry S Truman was nominated.

Byrnes remained in public service almost continuously, however. He was with Roosevelt at Yalta and Truman at Potsdam.

He returned to private life just before the German surrender, but was recalled to public service by Truman who, in this, named him secretary of state to replace Edward R. Stettinius Jr.

As secretary of state, he signed the protocol formally attesting that the charter of the United Nations had come into being. He called the day "memorable . . . for all the peace-loving peoples of all nations," but cautioned that peace depended on the will of the peoples rather than on documents

Byrnes quit as secretary of state in 1947, saying he was following doctors' orders to slow down.

He broke with Truman several years later. A 1952 book, "Mr. President," written by William Hillman with Truman's cooperation, reported that Truman scolded Byrnes on the latter's return from a 1945 Moscow conference.

Truman was quoted as saying he was "tired of babying the Soviets" and did "not think we should play compromise any longer."

Byrnes denied that Truman had scolded him. He said the break with Truman did not come until he made a 1949 speech criticizing some of the president's domestic programs.

Byrnes said a Truman memorandum implied that he, Byrnes, was "easy on Russia," but he cited statements by John Foster Dulles that the U.S. policy of no appeasement had been created by Byrnes at a London meeting in 1945.

Later, discussing Russia, Byrnes likened the Soviet Union to a neighbor "who deliberately makes himself unpleasant."

"You don't get a gun and declare war on your neighbor," Byrnes said. "You finally take him to court and you continue to pray that he will mend his ways. We must follow the same course with the Soviets."

From 1951 to 1955 Byrnes was governor of South Carolina. He was named to the U.N. post in 1953. As governor, he set in motion a huge expansion program designed to equalize Negro and white schools. "It is our duty to provide for the races substantial equality in school facilities," he said.

Byrnes opposed the 1954 Supreme Court decision calling for an end to separate but equal schools. "The court did not interpret the Constitution," he said, "the court amended it."

In an 85th birthday interview he again criticized the court for overstepping what he felt were its bounds.

Asked in the same interview whether there ever would be complete integration in the South, Byrnes said: "People of the South, black and white, have made great progress. I believe that in time there will be a correction . . . of many of the things about which the civil rights leaders complain. But whether there will be complete integration is something that I would not want to make a statement about. I do not believe in it."

[From the News Courier, Apr. 10, 1972]

"GREAT STATESMAN" RECEIVES TRIBUTE FROM SOUTH CAROLINA LEADERS

(By Stewart R. King)

"South Carolina has lost its most honored citizen; the nation has lost a dedicated servant, and the world has lost a great leader."

The sentiments are those of Gov. John C. West on learning of the death Sunday of former governor and statesman James F. Byrnes.

West is in Japan attending the National Governors' Conference, but he had a statement issued through his Columbia office to say of Byrnes:

"No one served his fellow man with more distinction. . . . In his latter years he never retired from the job of serving the public with a type of guidance, moral strength and love of mankind which made his life an example for all of us to follow."

West directed all flags on state buildings to be flown half-staff until the day after his funeral.

Many other tributes were paid Byrnes Sunday.

Former Gov. Robert E. McNair described him as "truly South Carolina's outstanding statesman" who had "earned his place in the history of the nation and this state."

Sen. Strom Thurmond, who had declared a "close philosophical kinship" with Byrnes, said the nation had lost "one of the greatest statesmen of our time."

"He was a devoted friend of mine and I feel a deep personal loss at his passing," Thurmond said.

Sen. Edgar Brown of Barnwell, the 80-year-old dean of the State Senate who served as best man at Byrnes' wedding, said: "We have lost a fine American political leader.

"Although we differed on politics in later years our personal relationship never changed," Brown said.

House Speaker Solomon Blatt, 76, said of Byrnes: "His objective was to bring peace to all nations of the world. In his death I have lost a great friend and the state has lost its most outstanding citizen."

Gen. Mark W. Clark recalled he was U.N. commander in the Korean War when Byrnes, then governor, approached him and asked him to accept the position of president of The Citadel.

"I told him I could not accept then, but I'd be happy to consider the offer when the war was over," Gen. Clark said.

Clark had close links wth Byrnes when the statesman was serving as Secretary of State. He was High Commissioner of Austria and also represented Byrnes at the Council of Foreign Ministers shortly after World War II.

"I admired him deeply and his death is a great loss," the retired general said.

Clark was president of The Citadel from 1954–1965.

Cotesworth P. Means, 82, former chairman of the State Ports Authority, was a close friend of Byrnes.

"He was one of the most prominent men of the century . . . a genius for public service," Means said.

Means recalled another side to Byrnes' character.

"He loved music," he said, "and on visits to the Isle of Palms we'd join up with two other friends to form a quartet."

Sen. Robert B. Scarborough, leader of Charleston's State Legislature Delegation, said "Byrnes was the greatest statesman in our lifetime in South Carolina. The state and nation will miss him tremendously."

[From the Greenville News, April 10, 1972]

STATE'S POLITICAL LEADERS MOURN DEATH OF BYRNES

Third District Congressman W. J. Bryan Dorn of Greenwood called James F. Byrnes "the greatest statesman this state has produced since John C. Calhoun."

"He was a national and world statesman who brought a good image to South Carolina," Dorn said. "He was in the main stream of American politics—not too far to the right of left—and was Roosevelt's right hand man."

Dorn noted that Byrnes was "the first to recognize the danger of Russia."

U.S. Circuit Judge Donald Russell, who worked with Byrnes as a law partner, called Byrnes "one of the really distinguished men of his age."

Russell said, "I grieve for his wife, who in her life was equal to his greatness. The two of them were one of the really distinguished couples of political life."

U.S. Army Chief of Staff Gen. William Westmoreland said, "It was with great sorrow that I learned today of the passing of my close, personal friend of many years, Gov. Byrnes. One of the most distinguished Americans of this century, he served his country faithfully in many critical posts in each branch of the federal government, as well as performing distinguished service to his home state. I will miss his advice and assistance as will the many others who profited from his wise council."

Sen. Edgar Brown of Barnwell, the 80-year-old dean of the state Senate, said he was saddened by the death of Byrnes, who served as best man in Brown's wedding.

"We have lost a fine American political leader," Brown said in a statement from his Barnwell home.

"Although we differed on politics in later years our personal relationship never changed."

House Speaker Solomon Blatt, 76, called Byrnes "a great statesman" and one of the country's most outstanding citizens.

Former Gov. Robert F. McNair said Byrnes was "truly South Carolina's outstanding statesman and earned his place in the history of this nation and state."

"He was an inspiration to all of us in politics and government and we join his millions of friends in mourning his passing," said McNair.

Sen. Marion Gressette of St. Matthews said South Carolina "has certainly sustained one of the greatest losses in our generation.

"He was in every way an outstanding man and all the important positions held he did so with distinction," said Gressett. "It is a personal great loss to me."

Clemson University president Robert C. Edwards said, "This nation and this state will always remember Gov. Byrnes for his unique, life-long career of public service in all branches of government.

"Clemson University will cherish his memory because he served Clemson with wise counsel as a life trustee and because he placed his records and souvenirs in the Clemson library.

"We have lost one of the greatest and most beloved members of the Clemson University family."

Mayor Richard C. Otter of Anderson said, "Unfortunately for me, I didn't know Gov. Byrnes until after he had retired, but I had a great respect for him from everything I have read about him, and considered him one of South Carolina's most outstanding statesmen. I was still in grade school when he stepped down from the Supreme Court to become the "assistant president" but reading about that certainly makes one aware of his great patriotism and service to his country.

William C. Johnston, former Anderson mayor and brother of the late U.S. Sen. Olin D. Johnston, said, "Jimmy Byrnes was a great leader. He has meant much to South Carolina, the nation and the world. His passing will be grieved by many.

State. Sen. M. E. McDonald of Iva said, "Jimmy Byrnes was one of the finest statesmen in South Carolina—in fact, in the nation. He never sought personal publicity, but when the President of the United States asks a Supreme Court justice to lay that aside to assist the President and the country, that has to be the height of a man's career. His death will be a great loss, but his influence will live on.

[From the Greenville News, Greenville, S.C., Apr. 10, 1972]

SOUTH CAROLINA STATESMAN JAMES F. BYRNES DIES: NOTED LEADER WAS 92

COLUMBIA, S.C. (UPI).—Former Supreme Court Justice James Francis Byrnes, secretary of state under President Harry S Truman and close adviser to President Franklin D. Roosevelt, died Sunday at the age of 92.

Byrnes, a key figure in mobilizing the nation for World War II and negotiating postwar treaties, died at his home here after an extended illness.

The short dapper Byrnes who also served in both the U.S. Senate and House of Representatives and was governor of South Carolina, had been hospitalized on two different occasions in recent years after heart trouble.

A spokesman at the Byrnes home said he died at 1:30 p.m.

Byrnes made one of his last public appearances in March 1969, when thousands gathered around his modest suburban home as President Nixon and many of the nation's top legislative leaders paid him a call.

"Never in American history has one man held more high offices with distinction than has Governor Byrnes," Nixon said as he stood by the frail Byrnes and his wife Maude on their front porch.

Byrnes remained in declining health in recent months and had not been able to leave his home. He had been scheduled to attend a public ceremony May 2 to unveil a statute of him on the statehouse grounds.

Byrnes was born May 2, 1879, in Charleston, S.C., just after his mother had been widowed. He dropped out of school at the age of 14 to support her, and read law books and began his public career as a small-town prosecutor.

He was first elected a Congressman in 1910 and served 14 years in the House. In 1930 he won election to the Senate and became a fast friend of Roosevelt, then governor of New York.

Roosevelt named him to the Supreme Court in 1941, and a year later at the President's request he became head of the Office of Economic Stabilization. In 1943, he shifted to head the War Mobilization Office.

Roosevelt described Byrnes as "assistant president for the home front," but passed him over to choose Truman as his new running mate. Some historians said the reason was sectionalism, and Byrnes resigned in 1945.

He returned shortly after Roosevelt's death to become secretary of state, a post he held for 567 days filled with travel to 10 international conferences, numerous confrontations with the Russians and tough peace treaty negotiations.

He was secretary of state when the first atomic bomb was dropped on Japan and attended the Potsdam Conference with President Truman.

He came away from negotiations with the Soviets highly distrustful of them, and said, "You cannot rely on the Soviet Union keeping any obligation that was not in its interest."

Byrnes was known as a "compromiser" in international negotiations and was often controversial.

Former Gen. Lucius D. Clay later credited a speech Byrnes made in 1945 in Stuttgart, Germany, as largely responsible for the failure of Communism to take root in Western Europe after World War II.

Byrnes assured Western Europe that U.S. military forces would remain as long as there was a Soviet threat. Clay said later this was Byrnes' "most significant contribution" in a lifetime of service.

Relations between Byrnes and Truman later worsened and Byrnes resigned to return to South Carolina in 1947. He wrote, set up a foundation to give scholarships to orphans, and returned to public life in 1951 after his election as governor, serving until 1955.

As governor, Byrnes launched a massive program for construction of schools for blacks in a last ditch effort to avoid desegregation.

As the nation's Democratic politics became more and more liberal, he rebelled and supported Harry Byrd of Virginia for president in 1956. He never again backed a Democratic presidential candidate. He was a key southern backer of Barry Goldwater in 1964 and told Nixon in 1968 he hoped Nixon won.

[From the Greenville News, Apr. 10, 1972]

JAMES FRANCIS BYRNES

When a great and noble man dies, he leaves behind an inevitable void in the society in which he lived.

So it is that a deep sense of sadness and deprivation pervades South Carolina and extends throughout the nation and the free world because James Francis Byrnes died yesterday at the age of 92. The loss is especially keen to those many thousands who had some sort of personal relationship with the remarkable "Jimmie" Byrnes.

A half-orphan who dropped out of school in order to support his mother, he rose to the heights in the councils of the nation and the world, yet never lost touch with the people he served and represented. At the time of his death South Carolinians were planning to honor Mr. Byrnes by erecting a bronze bust of him on the State House grounds on his birthday next month.

As long as a quarter century ago, Mr. Byrnes had built for himself a secure, high place in the history of his state and nation. He may have been unique in American history, having served at every level of government from court reporter to the General Assembly of the United Nations, and in all three branches of government—legislative, executive and judicial.

News stories throughout the world today are recounting his remarkable career in Congress, on the Supreme Court, as "assistant president" during World War II, as secretary of state in the crucial post-war period and as governor of South Carolina. The story is familiar to South Carolinians and is well known far outside this state.

By chance, a group of out-of-state college students was in Greenville yesterday when word of his death was received. These young people, who never knew the man, still were able to discuss his great career because they had studied him in history courses.

The hallmark of Mr. Byrnes' career was service. After a brilliant career in Congress, he was appointed to the Supreme Court. But he left that secure post in order to serve as President Roosevelt's home-front assistant in World War II. Although disappointed because sectionalism prevented his nomination for the vice presidency, Mr. Byrnes gave the nation his services as secretary of state in the Truman administration and participated unselfishly and brilliantly in the negotiation of vital post-war treaties, which bolstered the free world.

He capped his career by returning to South Carolina to be the governor who put over the vast school reorganization and school financing program which greatly expanded educational opportunity in this state. Only James F. Byrnes could have persuaded South Carolina to accept the tax program upon which public education now rests.

Mr. Byrnes served for a time as a delegate to the United Nations, whose charter he had signed as secretary of state. That was the final step on the long journey of public service which started in the Aiken County courthouse in 1900. It was indicative of his keen insight that he chose to retire gracefully, rather than "go to the well once too often" as so many people in public life are prone to do.

In retirement he continued to take an active interest in public affairs, speaking out on occasion and giving his support to people he trusted for public office. President Nixon received his support in 1968 and publicly acknowledged his and the nation's debt to Mr. Byrnes when he visited the South Carolinian on his birthday in 1969.

One of Mr. Byrne's proudest achievements was creation of the Byrnes Foundation to give college scholarships to orphans. This continuing organization was financed by sales from two books which he wrote on the basis of his remarkable experiences. The numerous Byrnes scholars of today and yesterday are especially saddened at the passing of a man they came to know as their "Dad." Many others will benefit from the Byrnes Foundation in the years ahead.

Mr. Byrnes was no "stuffed shirt." One humorous episode late in his career tells much about the man.

Not overly fond of the nickname, he nevertheless was proud that most people referred to him as "Jimmy" Byrnes (close friends called him "Jim".) Once while he was campaigning for governor, someone asked if he considered it disrespectful for young boys and girls to call him "Jimmy" as they shook hands with him.

"Certainly not," was Mr. Byrnes' mirthful reply. "When a youngster calls me 'Jimmy,' I know I've got his daddy's support."

That is only an example of the delightful wit which brightened Mr. Byrnes' deep wisdom and knowledge and endeared him to all who came into his almost boundless circle of friendship.

"Often it is said at a time like this, "a mighty oak has fallen." That sentence is inadequate for Mr. Byrnes. Physically small, he was a giant in the forest of men of his time, and he was the tallest tree that ever stood in South Carolina.

[From the Greenville News, April 10, 1972]

MANY PEOPLE VISIT JAMES BYRNES ROOM

(By Walt Belcher)

CLEMSON.—To the young student at Clemson who know the name James F. Byrnes, it was like something already a part of history.

At Clemson University's library is the James F. Byrnes room. It is something similar to a small museum. The young lady at the desk is just 19 years old, but she knows about Byrnes and says that many people come to the room, especially during football season when there are a lot of visitors on campus.

To most of the students the room is another part of campus. In it one can see pictures of a dashing young Byrnes, a more recent portrait and a bust, a sword given to Byrnes by Gen. George Patton and another sword from Gen. Douglas McArthur.

There are documents and pictures of Byrnes with former President Franklin Roosevelt and a huge robe given Byrnes by former ambassador to Moscow Joseph E. Davis. The robe was once worn by a underground Russian priest.

Many other items in the room tell of the life of Byrnes. It was dedicated in 1966 and in one of his last public appearances Byrnes came to Clemson and told the audience that when he stepped down as governor of South Carolina the National Archives in Washington, the Roosevelt Library at Hyde Park and the congressional library had each asked for a collection of his papers and memorabilia.

He turned them all down so that the people of South Carolina, who put him in office, could have a recorded history of his colorful life.

In a room adjacent to the Byrnes room is a collection of his memos, letters, books, and correspondence for his years in Washington. The file does not contain much of the recorded work of his 14 years in the House nor his ten years in the U.S. Senate.

It does contain files of personal memoranda between him and President Roosevelt during the war period. Byrnes had said that he served as Director of War Mobilization, and Roosevelt called him "the assistant president".

In his collection also are recorded press conferences and minutes of international meetings at the close of World War II. Byrnes said during the dedication that he saw "no reason why these conversations should not be made public." At the time the conferences were going on, however, the Soviets had tried to muzzle most of the proceedings from the public.

Also in the collection are the drafts of opinions he handed down while on the Supreme Court and the original manuscripts of two books he wrote: "Speaking Frankly" and "All in One Lifetime."

In his closing remarks on that day when the room first opened he said, "It has always been my intention to censor my files to make sure that no friend would be embarrassed by some statement made to me but I find that at my age I have neither the inclination nor the time to undertake such a task."

"After World War II when I visited battlefields and hospitals in Germany, France and Russia, I thought the people of all nations would hate the suffering and devastation of war that we could look forward to at least a half century of peace, but soon after we began drafting peace terms, it was evident that Soviet leaders had different objectives: they wanted to dominate the world. Then I announced that our policy should emphasize firmness more than patience and urged military strength be increased.

After twenty years I have not changed my views. My hope is that as people of inquiring minds read these papers, they will be inspired to take a greater interest in world affairs and realize the United States must remain strong if our people are to remain free."

[From the Greenville News, Apr. 10, 1972]

BYRNES EULOGIZED BY MANY LEADERS

The death Sunday of South Carolina's elder statesman, James F. Byrnes, has brought reactions from around the nation and especially from throughout South Carolina.

Just about everybody has one teacher he remembers clearly from school days. Five brothers and sisters from the Bootle family have a special place in their memories for Mrs. Thomas V. Farrow of Greenville, who taught from 1909 to 1913 at the Hendersonville school they attended.

[From the Greenville News, Apr. 10, 1972]

BYRNES RITES SET WEDNESDAY

COLUMBIA (AP).—Funeral services for James F. Byrnes, who died Sunday, will be held Wednesday at the Trinity Episcopal Church in Columbia.

Byrnes' body will lie in state in the Rotunda of the South Carolina State House from Tuesday afternoon until Wednesday morning.

A spokesman for the family said a memorial service would be held for Byrnes in the State House with the eulogy given by Gen. Lucius Clay.

[From the Greenville News, April 10, 1972]

PEOPLE OF UPSTATE SADDENED BY DEATH OF JAMES F. BYRNES

The death of James F. Byrnes touched a great spectrum of people in the upstate, from those who knew him personally to those who knew him only as an historic figure.

Thomas H. Pope, long-time Democratic party chairman in Newberry County who ran against James F. Byrnes in the race for governor in 1950, said that Byrnes' death is a "great loss to the nation."

Pope, an attorney and a former speaker of the House, remembers that he and Byrnes were "always on very friendly terms. We saw each other over the years and I enjoyed talking with him. He was a good conversationalist," Pope said.

Others in the upstate voiced similar sentiments about Byrnes. Rep. Butler C. Derrick Jr., of Edgefield said, "Byrnes was without question the greatest statesman South Carolina has produced since John C. Calhoun. He served the state and nation and in later years continued to do so through the Byrnes scholarship program," Derrick said.

He added, "I think that South Carolina has suffered a tremendous loss."

Sen. John Drummond of Greenwood: "He was always a perfect gentleman and well versed in every subject. Byrnes started the movement to get South Carolina as one of the leaders in the New South."

Charles Sanders, public relations director for Greenwood Mills, and a former Columbia newspaperman: "Byrnes was a great American who meant a great deal to his state and country."

Norman Younts, an Aiken real estate man: "Byrnes death is a tremendous loss to South Carolina and the nation, because of his impact for the past 40 years on industrial and economic growth of South Carolina areas."

Younts said he met Byrnes on several occasions and was very impressed by his "very noticeable humility toward people." He said that Byrnes never let his extreme prominence overshadow his ability to communicate with people at all levels.

Mrs. George R. Summer, wife of the Newberry County coroner: "I think he was just a fine fellow and did a good job in office."

[From the Greenville News, Apr. 10, 1972]

HE SELECTED CLEMSON UNIVERSITY: RECORDS OF HALF CENTURY OF SERVICE LEFT BY BYRNES

CLEMSON.—James F. Byrnes left records of a half century of public service with the people that launched him into history beside many of the most powerful men of the 20th century.

Details of his rise from court reporter in South Carolina to Franklin D. Roosevelt's "assistant president" through his stormy term as Harry S Truman's secretary of state are preserved in the Clemson University Library.

His vast collection of papers, documents and souvenirs were requested by the Congressional Library, the Roosevelt Library and the National Archives.

"However, I preferred that whatever I might have that was deemed worthy of preservation should be placed in South Carolina whose people had given me the opportunity to render public service," he said when the collection was donated to the school in 1966.

Byrnes said he selected Clemson because trustees of the University had requested his files in a unanimous resolution. He was a lifetime trustee of the land-grant college.

His souvenirs, including a copy of the Japanese surrender and the United Nations Charter which he signed as secretary of state, are encased in glass in the Byrnes Room.

The chair, now cracked, he used in the U.S. Senate from 1931–41, sits behind the desk he used as governor of South Carolina from 1951–55 during the waning years of his public career. The room also contains a small desk he sat in from 1911–25 as a member of the U.S. House of Representatives.

The imposing black robe he wore as an associate U.S. Supreme Court justice in 1941–42 hangs empty across the room from the personal flag he used as secretary of state from 1945–47.

His personal letters include correspondence with Presidents Woodrow Wilson, Harry Truman and Dwight D. Eisenhower.

Large, bulky scrapbooks hold the news accounts and pictures of Byrnes and other international leaders during conferences which shaped world history.

His papers contain correspondence between Franklin D. Roosevelt and Josef Stalin. Some are sharply worded, some informal and controversial.

Included in the collection is an extensive file of personal letters between Byrnes and Roosevelt when the South Carolinian was director of war mobilization during World War II.

There are records of international conferences during the war which had been kept confidential because the Russians objected to publicity.

In donating the papers in 1966 Byrnes said, "Now, 20 years later, I see no good reason why these conversations should not be made available to the public. The people who fought the war should know all about our efforts for peace."

He dedicated the collection in the hope that "as inquiring minds read these papers, they will be inspired to take a greater interest in world affairs and realize that the United States must remain strong if our people are to remain free."

[From the Greenville News, Apr. 10, 1972]

AMERICA IS INDEBTED TO JAMES BYRNES

Local businessmen, civil leaders and Greenville city and county officials joined others from throughout South Carolina Sunday in expressing their sadness at the death of James F. Byrnes.

U.S. Rep. James R. Mann, Fourth District congressman, echoed the sentiment of the entire county by saying, "The nation has lost a great statesman. His life of service to country places every American in his debt.

"It was my great privilege to be closely associated with him, when, after his remarkable service in the nation's government, he returned to serve South Carolina as governor," the congressman said.

"I was a member of the state legislature which followed his leadership in the initiation of programs leading to greater educational opportunity for all the children of South Carolina. He honored me by appointing me in 1953 as solicitor of the 13th Judicial Circuit," Mann said.

"His life of public service leaves many monuments of progress, of justice and of increased opportunities for his fellowman.

"We will miss him, but he leaves much for us to cherish, to enjoy and to emulate."

Robert T. Ashmore, former Fourth District congressman, said of Byrnes:

"He is one of the greatest South Carolinians of all time, and he will be missed by a multitude of friends not only in this state but throughout the country."

Ashmore noted that during Byrnes' term as South Carolina governor he was a proponent of the statewide sales tax with all the money to go for educational purposes.

"He did a wonderful job in improving our educational standards in the state," Ashmore said.

Ashmore said he first met Byrnes when Byrnes was campaigning in Greenville County during the late 1920s in his first race for the U.S. Senate.

"He was a most impressive man with a fine personality. You couldn't help being impressed by both his sincerity and his ability even in those early days," Ashmore said.

Dr. L. P. Hollis of Greenville, who served as vice-chairman of the South Carolina Educational Finance Commission which Byrnes organized shortly after becoming governor in 1951, had these comments on Byrnes' impact on the state's educational programs.

"Byrnes was chairman. He attended practically all the meetings of the commission. This was his baby—he thought he'd give a boost to education and he realized the need we in this state had for the boost.

"He thought the state could go ahead and give Negroes good facilities if he could get a three per cent sales tax passed, and he thought this would satisfy them.

"He had no trouble having the legislature to go along with his tax with which to build better schools and the first couple of years nearly all money went to new schools for Negroes. It enabled us to get some badly needed good school buildings.

"Now the bringing of the three per cent tax was the easiest thing under his direction, and this master stroke showed his ability to get things done and to lead people. I don't think anyone else in South Carolina could have gotten the sales tax passed."

Hollis served on the S.C. Education Finance Commission while Byrnes was governor, 1951–54. Hollis had just retired after serving 28 years as superintendent of the Paker District Schools.

C. D. Wyche, Greenville attorney, who first met Byrnes when Wyche was serving as secretary to U.S. Sen. Benjamin Ryan Tillman in the period between 1912–16 during which Byrnes was congressman from the district, and knew him well for 50 years said:

"Jim was one of the greatest men South Carolina has produced.

"He had as little concern about money and material things as any man in public life that I have known.

"He was devoted to the public service and the ambition of his life was to render the best public service. No offer or temptation for monied salary or compensation was sufficient to lure him away from public service."

Wyche said it was this feeling of wishing only to serve the public good that made him able to step down gracefully as U.S. Supreme Court Justice at President Franklin D. Roosevelt's request to become his director of the Office of Economic Stabilization and then director of War Mobilization during World War II.

It also allowed him to support Dwight Eisenhower and Richard Nixon for presidents although Byrnes was a Democrat Wyche said.

"He certainly got no personal reward for supporting these men. He did what he thought was in the best interest of his country," he said.

Wyche said he never knew a man in public life who had more personal intimate friends.

"He was very cordial and pleasant to everybody. He never felt himself above or below anybody. He thought of everybody as being equal," Wyche said.

Senator Charles G. Garrett, Greenville, said: "South Carolina has lost one of our most illustrious sons. His life shall truly serve as an inspiration for any person who serves his fellowman in government.

"From an orphan boy, he rose to great heights in the various facets of national and international government. If there ever was a self-made man, James F. Byrnes filled that category.

"Even though he associated with the various rulers of the world, he never lost his humility. I particularly admire this trait that he always possessed.

"I am proud to have served with him in the legislative branch of government during his term as governor. I have lost a highly respected friend."

Former mayor Cooper White said: "I think this is a loss not only to every South Carolinian, but to the nation as a whole.

"His was a record of unparalleled service and he will always be remembered with deep respect and admiration as one of the greatest Americans of all time.

"Would that we could be blessed with statesmen of his caliber during these trying times in which we live."

Former Greenville mayor David G. Traxler expressed his grief upon hearing of the death of Byrnes: "I certainly am saddened by the loss of such a great statesman. He probably was the greatest statesman the state has ever produced, having been a congressman, senator, governor, associate justice of the U.S. Supreme Court, secretary of state and advisor to President Roosevelt. Fact is, he was often referred to as the 'second president.'

He certainly brought credit to the state of South Carolina and his loss will not only be felt by the citizens of South Carolina, but the nation as a whole," Traxler said.

"It is a sad day for the United States.

"Also, on a personal note, he was a close lifelong friend of Roger C. Peace. And my father, David B. Traxler, was a close friend of Byrnes when he was in the Senate."

Sen. Harry A. Chapman Jr., Greenville, said: "Mr. Byrnes had the most illustrious career of any modern-day South Carolinian. He served in more important positions than any man in the history of the state and, in my opinion, served his state and nation most capably.

"During his term as governor, he did much to improve our public education system. I think that was one of the things his term was marked for, his dedication to a quality education system."

Rep. Nick A. Theodore, Greenville, said: "There was a dedication planned for him in the near future, and I am very sorry it will have to be done posthumously. I'm sure he would have appreciated this gesture on the part of the General Assembly and the people of South Carolina in recognition of his contributions to the * * *

"His death, of course, will certainly be felt by all citizens of our state. Even though he was not quite as active in his retiring years, all the leaders of the state had the opportunity and benefit of his advice and counsel.

"I know all of South Carolina, along with the rest of the nation, certainly will mourn his death and the loss of a true statesman."

Rep. Rex Carter, D-Greenville, Speaker Pro Tem of the State House of Representatives, said: "I think South Carolina and the nation has lost one of its greatest statesmen. He probably more than any one person gave constructive contributions to the progress of this state and nation."

Rep. Carolyn E. Frederick of Greenville said: "The life and achievements of James F. Byrnes have already emerged as another rich heritage for South Carolinians. He will be remembered as a great statesman, governor, U.S. Senator, Secretary of State, Supreme Court Justice.

"But perhaps he will know greater immortality through the lives he helped mold through his wonderfully personal Byrnes Scholarship programs.

"I am saddened for South Carolinians not to have the privilege of honoring him personally as planned on May 2, when his statue was to be unveiled on the statehouse grounds. The date was chosen as the anniversary date of his birthday and wedding.

"As we mourn his passing, we give thanks for his life of service."

Dr. F. W. Loggins, a longtime superintendent of Greenville city schools served on the S.C. Board of Education while Byrnes was governor.

"I thought very highly of his abilities and his passing is a great loss to the state," Loggins said.

Thomas A. Wofford, Greenville attorney and former legislator, said of Byrnes' passing:

"Even though it has been expected it still comes as a shock.

"He was a great South Carolinian and held more high offices with greater distinction than any American I have known."

"I had the pleasure of meeting him only once," Greenville Mayor Max M. Heller said. "But he was without a doubt one of the greatest American figures that ever lived. The thing that impressed me when I met him was that he was so humble."

Heller said he met Byrnes "seven or eight years ago," after the statesman had retired from public service.

Byrnes was governor of South Carolina during four years of J. Kenneth Cass' tenure as mayor of Greenville.

Case, who headed city government from 1947 to 1961, said, "It was my privilege as mayor here to become associated with Mr. Byrnes on numerous occasions. He was one of our greatest statesmen and I know all of South Carolina will regret hearing of his passing . . . We're all going to miss him."

County leaders of both major political parties had praise for Byrnes.

"He was one of the really great Americans, and the very great South Carolinian. He made an indelible impression, I think, on the history of our state and nation," said Ralph W. Drake, county probate court judge and chairman of county Democrats.

GOP chairman Raymond B. Smith said Byrnes was such a great leader he was "beloved by everyone."

"The world, we can say, has lost a great leader, and South Carolina has lost a beloved statesman, humanitarian, and friend.

"He lived such a full life, he's left a path that we can all try to follow," Smith said.

The president of Furman University, Gordon W. Blackwell, said: "James F. Byrnes was a great South Carolinian, a renowned statesman who was always an enthusiastic supporter of higher education.

"With his own resources he made it possible for many young people to attend college. He will be surely missed in our state."

Bob Royner, a Greenville clothing store owner and a state resident for 30 years, said, "There is no doubt that he was one of the greats of South Carolina and he will be missed."

[From the Greenville News, Apr. 10, 1972]

MAJOR MILESTONES IN THE LIFE OF JIMMY BYRNES

These were the major milestone years in the many-officed life and career of James F. Byrnes.

1879—Born in Charleston May 2, son of James Francis Byrnes, who died shortly before his son's birth, and Mrs. Elizabeth McSweeney Byrnes.

1893—Left school at 14 to help support his mother. Using shorthand he had studied to fill a job with a Charleston law office.

1900—Appointed official court stenographer for the Second Judicial Circuit and moved to Aiken.

1903—Admitted to the bar after studying law while working as a court stenographer. Became part owner in a credit purchase of the Aiken Journal, which he served as editor while he began a private law practice.

1906—Married the former Maude Perkins Busch on his 27th birthday.

1907—Severed his connection with Aiken newspaper to enter politics without conflict of interest.

1908—Elected solicitor (prosecuting attorney for the Second Judicial Circuit).

1910—Elected to the U.S. House of Representatives from South Carolina's Second Congressional District to begin a tenure of 14 years.

1925—Resumed his private law practice, this time in Spartanburg, after a close but unsuccessful bid for the U.S. Senate.

1930—Elected to the U.S. Senate.

1936—Reelected to the Senate by overwhelming majority.

1941—Appointed, in June to the U.S. Supreme Court by President Franklin D. Roosevelt.

1942—Declined "leave of absence" and resigned from the Supreme Court to serve as Roosevelt's "assistant president," officially director of the Office of Economic Stabilization, an appointment he accepted only for the duration of its need.

1943—Named director of the Office of War Mobilization, broadening scope of his "assistant president" responsibility.

1943—Resigned his government position March 21 because he considered need of his services fulfilled, particularly in wake of the Yalta conference and his role there as a key foreign policy adviser. Appointed secretary of state by President Harry S Truman July 3 after the April 12 death of President Roosevelt. Awarded, in August, the Distinguished Service Medal, 14th civilian ever to receive the high decoration, for his World War II service to the nation.

1947—Resigned, Jan. 20, as secretary of state, after signing post-World War II treaties with five nations, long in negotiation. Retired in Spartanburg from public life. His first book, "Speaking Frankly," was published. The proceeds went to create the Byrnes Foundation, designed to help orphans further their education.

1950—Elected governor of South Carolina, a candidate by persuasion of friends in the state.

1953—While governor, was appointed by President Dwight D. Eisenhower, when he had endorsed via an independent state of electors in South Carolina, to serve as a representative to a session of the General Assembly of the United Nations. ("It was difficult to believe that it was 1953 and not 1946, when I had spent most of the year negotiating with the Soviets . . . We had the same frustrating methods employed by the Soviet Union and the satellites.")

1958—His second book, "All in One Lifetime," was published.

1966—The Byrnes papers, files, historic memoranda were presented for permanent preservation to Clemson University.

AT AGE 14 HE LEFT SCHOOL TO HELP HIS MOTHER

James F. Byrnes left school at 14 to help support his widowed mother—but his education never ended.

He was fond of quipping in the years of his greatest prominence that he was "being educated by degrees."

He was awarded honorary doctorate degrees over the years—the first was from the College in Charleston in 1935—by Presbyterian College, John Marshall College of Jersey City, N.J., the University of North Carolina, The Citadel, the University of South Carolina, Columbia University, Furman University, Wolford College, Washington and Lee University, Clemson University, Yale and the University of Pennsylvania.

But his true education was self acquired. Childhood mastery of shorthand got him his first job in a Charleston law office, where he began methodically reading through libraries toward eventual admission to the bar.

His avid reading habits continued throughout his lifetime while he became expert in world affairs during half a century of personal involvement.

HIS SHORTHAND "UNDID" EDITOR

Shorthand was a more than casual factor in the career of James F. Byrnes.

Under urging and influence of his mother, he learned formal shorthand as a child, then used it when he went to work at 14 in a Charleston law office.

He used it as a prosecuting attorney, in his private law practice, in the Congress, in the Senate and it served him to take almost verbatim notes of conference highlights while he was "assistant president" during World War II, then when he was secretary of state.

He used it, in fact, so regularly that only a tape recorder could have served him better.

And he took it so for granted in his later years that it produced an antedote which still wrinkles the brow of Greenville News editor.

The editor asked Byrnes for a copy of a certain statement so it could be used for verbatim accuracy. Byrnes handed him graciously a folded sheet of paper and only later did the editor discover it was in shorthand—and until he had it transcribed, of no more value to him than Sanskrit.

[From the Columbia Record, Apr. 10, 1972]

LEADERS MOURN SOUTH CAROLINA STATESMAN

The death of South Carolina statesman James K. "Jimmy" Byrnes brought comments of grief and respect from both national and state leaders.

President Nixon ordered all flags flown at half-staff until the day after Byrnes' funeral.

Nixon paid a special visit to Byrnes in 1969 to congratulate the former Governor on his 90th birthday.

Standing on the porch of Byrnes' home Nixon said, "You couldn't come to us, so we came to you."

The President spoke of Byrnes' career then saying, "Never in history has one man held more top offices with more distinction than Governor Byrnes."

The office of South Carolina Governor West, who is in Japan, issued a statement declaring the day of Byrnes' funeral a day of mourning throughout the state.

West's statement said, "The world is saddened at the death of its distinguished citizen, James F. Byrnes. The State of South Carolina has lost its most honored citizen; the nation has lost a dedicated servant; and the world has lost a great leader.

"Beyond the span of his 92 years, Governor Byrnes' contributions to mankind will live as a permanent monument to his courage and wisdom."

Sen. Strom Thurmond, R-S.C., said, "I feel a deep personal loss at the death of Gov. Byrnes. He was a man who served his state and nation with great distinction for many years. He was recognized the world over for his great achievements but nowhere more so than in South Carolina which elected him its governor after he had served as Congressman, Senator, Supreme Court Justice, 'assistant President'. and Secretary of State.

"He was a loyal friend and an inspiring leader and all of us are saddened at his death.

West said he received the nwes of the death of Byrnes from the U.S. Embassy in Toyko.

"Governor Byrnes was a man born to the moments of challenge," said West. "In days of economic need and depression he was a man of strength and compassion. In days of war, he was a man of peace who steered the world out of chaos of oppression and tyranny. In days of uncertainty and turmoil in the wake of war, he was a man of deep understanding and devotion to the cause of peaceful harmony among all men."

"I sent a cable of condolence to Mrs. Byrnes," West said. "In my telegram to Mrs. Byrnes I said he will be recorded as one of the nation's and the world's truly great statesmen of our time."

Former Gov. Robert McNair said, "Byrnes wrote a place in history for himself and South Carolina. He followed the great traditions of Rutledge and Calhoun.

"He was one of our nation's truly great statesmen. He had a place in the hearts of all South Carolinians. We will all miss him very much."

Byrnes' former law partner, U.S. Circuit Judge Donald Russell, called Byrnes "one of the really distinguished men of his age."

Russell said, "I grieve for his wife, who in her way was equal to him in his greatness. The two of them were one of the really distinguished couples of political life."

Solomon Blatt, Speaker of the South Carolina House of Representatives, was Byrnes' personal friend for more than 60 years.

Blatt said, "I knew him well and watched his career with a great deal of interest. "He was the greatest American in the 77 years that I've lived. He served his circuit, congressional district, state and nation, as well as all the world, with great ability and distinction."

The Speaker said Byrnes "was actually President, although not in name, during the serious times of the Roosevelt Administration. In his death I've lost a real friend."

President Pro-Tempore of the South Carolina Senate Edgar A. Brown had his differences with Byrnes, but he speaks of him as "a life-long friend."

Brown said, "He was one of the great American statesmen of his time and one of the most acute political leaders this state has ever produced."

Brown concluded, "He will be missed by us all."

Sen. Ernest Hollings was out of the country, but issued a statement through his office.

Hollings said he was "deeply moved by the death of Jimmy Byrnes."

The Senator said he had a deep personal respect for Byrnes and recognized him "as one of those rare individuals, who during his lifetime, participated in all three branches of government."

Hollings headed back to the United States and plans to attend the funeral.

Gen. William Westmoreland, a native South Carolinian and a friend of Byrnes, spoke of him from his headquarters in Fort Myer, Va.

Westmoreland, whose West Point appointment was obtained by Byrnes, said, "It was with great sorrow that I learned today of the passing of my close personal friend for many years.

"One of the most distinguished Americans of this century, he served his country faithfully in many critical posts in each branch of the federal government as well as performing distinguished service to his home state.

"I will miss his advice and assistance, as will many others who profited from his wise counsel."

Byrnes helped many people start political careers during his lifetime, and one of them was U.S. Rep. James Mann, D-S.C.

Mann said, "He contributed substantially to my career by appointing me solicitor of the 13th circuit in 1953.

"His contributions to the state and nation are of lasting impact. We will miss his leadership, but South Carolina will record him as one of its greatest citizens."

Byrnes was appointed a Life Trustee of Clemson University in 1941. Clemson President Robert Edwards said, "This nation and this state will always remember Governor Byrnes for his unique and life-long career in public service and all branches of government.

"Clemson will cherish his memory because he served as a Life Trustee and because he placed the records and souvenirs of his remarkable life in the Clemson Library.

"We have lost one of the greatest and most beloved members of the Clemson University family."

Perhaps those who remember Byrnes best are more than 300 Byrnes Scholars who knew him simply as "Pop."

One of those scholars is the Rev. Mr. Hal Norton of Marion, one of the first Byrnes Scholars.

Mr. Norton said, "I don't know how I could have gone to college without his scholarship, but he gave much more important things than what he gave in dollars. In the 23 years I have known him, I never wrote that he didn't write back on any matter. His words of wisdom and the companionship he shared through the years were far more enriching than any money he could have spent. Any problem was his problem."

[From the Columbia Record, Apr. 10, 1972]

JAMES FRANCIS BYRNES

South Carolina is a small state. What it lacks in numerical and geographical size it must make up in leadership. It has a history of outstanding leaders, but none has exceeded in national or worldwide impact the role of James F. Byrnes.

When the United States was enthralled in the global depression of the early 1930s and Franklin D. Roosevelt came to the White House to give hope to the nation, the man he chose to steer his legislative program through the Congress was the South Carolinian who had proved his powers of leadership on the floor and in the cloakrooms of the Senate.

His leadership was rewarded by appointment to the Supreme Court, but he forsook this lifetime honor when the crisis of World War Two called for his great talents in assignments that designated him as "Assistant President of the United States." While President Roosevelt concentrated his attention on the fighting of the war, Mr. Byrnes headed the vast effort on the home front.

When Mr. Roosevelt died in the climactic last days of the war, Vice President Harry S. Truman was vaulted into the position of Chief Executive without sufficient knowledge or preparation for the complexities thrust upon him. One of his first acts was to enlist the man who had the experience and background to serve as his right arm. He appointed Mr. Byrnes as his Secretary of State, where he rounded out his career of higher service in all three branches of the federal government than any other American.

History probably will record that his greatest contribution to world affairs lay in his performance as the architect of American foreign policy. Mr. Byrnes reversed the plans for a permanent prostrate, agrarian Germany into a design for a country that would be accepted back into the community of nations, assume the lead in the revival of Western Europe, and become one of the United States most valuable and loyal friends in the international community.

He was also one of the organizers of the United Nations, which, like the Roosevelt New Deal, started as an ideal vehicle for progress and confidence and continued in that role until it departed from the policies of its charter.

After completing his career of outstanding national service, Mr. Byrnes returned to his native South Carolina and became its Governor. His State House administration was marked by his programs for education and mental health. That was in the days before the 1954 Supreme Court decision for the desegregation of schools became effective and Mr. Byrnes made his greatest effort to equalize the educational opportunities of the Negro children of the state. Sales tax enactment was primarily for that purpose. South Carolina's leadership in the mental health field is due largely to the thrust that Mr. Byrnes gave it as Governor.

After retiring from elective service, Mr. Byrnes and his wife, the former Maude Busch, moved into a home in Columbia, where he continued to maintain his interest in public affairs, even through his terminal illness. Mr. and Mrs. Byrnes had an exemplary marriage of cooperation and devotion. They had no children of their own, but through the Byrnes scholarship program, directed primarily toward boys and girls who, like himself, were orphans, the Byrneses had a parent-like relationship with 200 young people.

When Mr. Byrnes died Sunday, work was already under way for the erection of a statue in a corner of the State House grounds as the tribute of a proud and grateful state. It will be dedicated on May 2, which would have been his 93rd birthday, as a lasting memorial to one of the greatest men of one of the greatest eras in world history.

[From the Washington (D.C.) Post, Washington, April 10, 1972]

JAMES F. BYRNES: A LIFE OF DISTINCTION

James F. Byrnes, 92, former senator, Secretary of State and Supreme Court Justice who played a major role in American public life from the New Deal through the Cold War, died yesterday in Columbia, S.C., after a long illness.

Mr. Byrnes was hospitalized several times in 1969, once for a mild stroke.

During World War II he oversaw the nation's economy, holding powers so broad he was regarded by some as the "assistant president."

A courtly native of Charleston, S.C., where he left school at 14 to clerk in a law office, Mr. Byrnes had a career in public service that spanned 47 years, from 1908 when he became circuit solicitor, to 1955 when he stepped down as governor of his state. His career also included seven terms as a congressman.

"Never in American history has one man held more offices with distinction," President Nixon said in a 1969 tribute. The White House flag was ordered down at half-staff yesterday.

[From the Washington Post, Apr. 10, 1972]

JIMMY BYRNES, HOLDER OF HIGHEST OFFICES

(By Bernard D. Nossiter)

James Francis Byrnes was a Charleston lawyer, Congressman, Senator, Supreme

Court Justice, wartime czar of the economy, Secretary of State, governor, and, in the end, a courtly man of resistance to a changing world.

He was something else. In a very real sense, his life bridged a 19th century America where a poor boy learned law clerking for his elders and the 20th century of superpower America whose cold war role he first defined.

Byrnes fit no simple label.

A convinced believer in segregating black from white, he was the first district attorney in South Carolina's Second Judicial District to accept Negro testimony and prosecute as a crime the assault of one black on another.

A powerful foe of Franklin Roosevelt's second term social measures, he was the unofficial Senate whip who successfully steered to passage the early New Deal legislation.

A state's rights, free enterpriser, who denounced Truman's "statism," he presided in World War II over the most elaborate economic controls the country ever saw.

A party regular who scorned Dixiecrat defections, he gave his support to Republicans Eisenhower, Nixon and Goldwater.

One of those Republicans, Richard Nixon, went to Columbia in May, 1969, to pay tribute to Mr. Byrnes on his 90th birthday. "Never in American history has one man held more high offices with more distinction than has Gov. Byrnes," said the President.

CLOAKROOM DEALER

Slim, elegant, a gracious compromiser, Mr. Byrnes was a Senate man as the term is understood in the South. He rarely spoke on the floor. But in the cloakroom and in his office, over bourbon and branch water, he wheedled and bargained with a flair that another Senator from Texas was later to make famous.

In his first House term, he noticed that 23 other Congressmen also had bills to build Federal roads in their districts. So he quietly brought them together and formed a caucus that led to the creation of a new House committee.

His skill as a negotiator, as a Senate man, led Harry Truman to turn to him as his chief diplomat when President Roosevelt died. But in the long negotiations with the Russians after the war, Mr. Byrnes stood rocklike—too inflexible in the eyes of some—against what he considered the Soviet Union's bid for expanding power.

GRANDSON OF IMMIGRANTS

Of medium height, with piercing gray eyes, he adopted the charming and easy aristocratic manners of the older and better born lawyers who made him their protege.

The grandson of Irish immigrants who had struggled unsuccessfully on the land, Mr. Byrnes was born in Charleston on May 2, 1879. His father had died a few months before and his widowed mother turned to making dresses to support her Jimmy and his older sister. He sold pies in the Fifth Ward, learned shorthand from his mother and attended St. James Parochial School. (He hadn't met Maude Busch then and was still a Catholic.)

At 14, he left school to clerk in Judge Benjamin Rutledge's firm and the judge looked after his learning. At 21, his shorthand won Mr. Byrnes a competition for court stenographer. He rode the circuit with Judge James H. Aldrich, read more law and remembered the names of hundreds of jurors.

In 1903, he was admitted to the bar and three years later, on his 27th birthday, he married Miss Busch and converted to her Episcopalian faith. The spiteful said he did it less to please his belle than the Populist voters of South Carolina.

He bought the Aiken *Journal and Review*, got himself elected solicitor, or district attorney, and came to Washington in 1911, winning his House seat by 57 votes.

As a Congressman, he kept his mouth shut and his eyes open. He stayed close to powerhouses like Speaker Champ Clark and John Nance Garner, was rewarded with a place on the Appropriations Committee and helped a young assistant secretary of the Navy named Franklin Delano Roosevelt get the money he wanted for ships.

By 1924, he was ready to spread his wings and try for the Senate. But Coley Blease knew some things about the South Carolina voters and damned Mr. Byrnes up country as a Catholic "altar boy" and in the low country as a renegade to his faith.

So Mr. Byrnes went back to the law for six years, then made it to the Senate in 1930. Once again, he won the confidence of the establishment, of Pat Harrison from Mississippi, of Joe Robinson from Arkansas. Mr. Byrnes worked hard at the Senate's business, so the new Democratic President, the former assistant secretary of the Navy, turned to him to round up the votes.

By 1937, he was turning against President Roosevelt. He didn't like the Court-packing bill; he wanted to outlaw sitdown strikes; he couldn't see why the Federal Government should put a floor under wages and a ceiling over hours.

With war in Europe, he was back on the reservation. He was pushing the money bills to rearm, lifting the ban against the sale of weapons to belligerents, helping sell weapons to allies on long credit terms.

President Roosevelt gave him a seat on the Supreme Court in 1941, but that was too quiet a life for an activist politician, even one who still counseled the President from his chambers.

A year later, Roosevelt took him off the Court and put him in charge of holding the dike against wartime inflation. First he was director of economic stabilization, but there were too many other agencies with a finger in the economic pie. So, his authority was enlarged and he was made head of the War Mobilization Board, the "assistant President," looking after production, procurement, manpower mobilization, just about everything except diplomatic and military affairs.

He almost became President. Powerful Democrats wanted him on the ticket in 1944 to replace Henry Wallace, about whom doubts had arisen. But the CIO would have none of Mr. Byrnes and neither would some of the city bosses who feared his apostacy would hurt with Catholics.

So Harry Truman was chosen, and almost the day he took office as President, he asked Mr. Byrnes to be his Secretary of State.

"The State Department fiddles while Byrnes roams," the tag ran—he was out of the country so much. At Potsdam, at Paris at first, he was "patient and firm" with Molotov, then it was just "firm." At Stuttgart, in September, 1945, Mr. Byrnes made what was probably the first announcement of the new American policy in Europe, one based on a revived Germany. He didn't say, but some must have guessed, that this new Germany was to be the outer bastion in Center Europe against the Communists.

Henry Wallace, then Secretary of Commerce, publicly denounced the Administration's new, "get-tough-with-Russia" line. Mr. Byrnes gave Truman the choice, Henry or Jimmy, and Wallace was fired to lead his Gideon's Army to disaster in the 1948 campaign.

Mr. Byrnes was now souring on his old Senate friends, too, but from another point on the political spectrum. He resigned in 1947 and went back to South Carolina to denounce the "welfare state."

"You get drunk on power," he told his people, "you never get over it. The power to spend $47 billion is a terrible power. I doubt if God ever made any man with enough wisdom or virtue to sit in Washington and be given the power to spend $47 billion."

He ran for governor of his state at 71, perhaps with the idea of remaking the Democratic Party in the image of himself and his friends. In the Palmetto State, that was perfectly all right and he crushed three cruder competitors.

He promised to tame the Klan and got an antimask law through his legislature. He promised to keep the schools separate, but equal, and got more funds for Negro schools.

SHOCKED AT COURT DECISION

The Republicans picked Gen. Dwight D. Eisenhower so Mr. Byrnes felt no need to turn his attention to the "statist" Democratic Party. He was shocked at the Supreme Court's decision that separate was not equal and was still complaining about it on his 85th birthday.

He left the governor's mansion after one term and lived quietly with his wife, appearing in the public prints only at election time to announce his support for the Republican running that year.

He thought the people of the South "black and white, have made great progress." But whether the two races will ever integrate completely "is something I would not want to make a statement about," he said. "I do not believe in it.'

After his retirement from public office in 1955, Mr. Byrnes continued to make his name heard in politics. But as the Democratic Party continued to become more liberal, he diverted.

BACKED BYRD IN 1956

He had backed the late Harry Byrd Sr. of Virginia as a Democratic Party candidate for president in 1956, but Mr. Byrd didn't make it and that was the end of Mr. Byrnes' backing of Democratic presidential candidates.

In 1964, Mr. Byrnes was a key Southern backer of Sen. Barry Goldwater, a Republican candidate for the office of chief executive. And, in 1968, he told President Richard M. Nixon that he hoped Mr. Nixon would win.

In his later years, Mr. Byrnes said he was proudest of his war mobilization service. He boasted of the accomplishments of a South Carolina boy for whom he had gained a West Point appointment, Gen. William C. Westmoreland.

In declining health recently, Mr. Byrnes had been confined for the most part to his home. He had been sheduled, however, to attend a public ceremony May 2 to unveil a statue of himself on the grounds of the state house in Columbia.

[From the Evening Star, April 10, 1972]

JAMES F. BYRNES, POLITICAL LEADER, DIES AT 92

(By William Delaney)

COLUMBIA, S.C.—James F. Byrnes, who quite school at the age of 14 to help support his widowed mother and later became a congressman, a U.S. Supreme Court justice, U.S. Secretary of State, and governor of South Carolina, died yesterday after a long illness.

Byrnes, who reportedly had been in a coma for the past few days, died at his home here. He was 92.

His body will lie in state in the rotunda of the Statehouse tomorrow and Wednesday. The funeral will be Wednesday at Trinity Episcopal Church.

President Nixon, describing Byrnes as "a great patriot who always put his country ahead of his party," ordered the flag flown at half staff on all federal buildings and U.S. naval vessels until Byrnes is buried.

James Francis Byrnes once defined his basic needs as "two tailor-made suits a year, three meals a day and a reasonable amount of good liquor."

But the wiry little Irishman from South Carolina needed one thing more—the discordant sounds of the political arena, sounds which he orchestrated quietly and with considerable skill.

It was this need that drove Byrnes from the ownership of a small-town newspaper into a public-office career spanning 47 years and reaching to the very pinnacle of American power in all three branches of government.

His top-level branch-swinging between 1941 and 1945—from the Senate to the Supreme Court to the White House directorate, and finally to the top Cabinet post under Harry S. Truman—was based largely on his ability to legislate the "New Deal" programs of a World War I era friend, Franklin D. Roosevelt.

MISSED NO. 2 SPOT

So high was Roosevelt's regard for Byrnes' political horse-trading skill that he made him "Assistant President" during the World War II mobilization effort, and toyed with selecting him for the fateful No. 2 spot on the 1944 re-election ticket.

But he didn't.

Truman, keenly aware of Byrnes' deep disappointment over the 1944 decision, felt obliged a year later to appoint the self-trained lawyer to one of the greatest horse-trading tasks the nation ever faced.

As Secretary of State from July 3, 1945, to Jan. 10, 1947, Byrnes accompanied the new President to the Potsdam conference and represented the nation at numerous other postwar negotiations. After the 1944 election, he had accompanied FDR to the Yalta conference, at Roosevelt's request.

Six months after he joined the Truman administration, however, Byrnes was privately accused of "babying the Soviets" by none other than his new boss—or so Truman said in later years.

CRITICIZES TRUMAN

The bitter conflict between the President and the almost-president did not surface publicly until 1949 when Byrnes, who had retired, made a speech in which he criticized Truman's domestic program as "the road to ruin."

Though Byrnes had played a major role on Capitol Hill, enacting Roosevelt's "New Deal" as an antidote to the Depression, his 1949 speech marked a turning point in his political stance.

The longtime Democrat's increasingly outspoken conservative views won wide approval in his home state, which elected him governor in 1950 with a record 85 percent plurality.

Fed up with "Trumanism," he endorsed Republican Dwight D. Eisenhower for president in 1952, and was pleasantly surprised that almost a majority of the voters in that previously "safe" Democratic state agreed with him.

Never again did he support the national Democratic ticket, endorsing Nixon in 1960 and 1968, and Goldwater in 1964.

President Nixon, who stopped by Byrnes' Columbia, S.C., home in May 1969 to congratulate him on his 90th birthday and 63rd wedding anniversary, summed up the Byrnes story this way:

"Never in American history has one man held more high offices with more distinction than has Gov. Byrnes."

Nixon and the other guests in the unpretentious white brick home then sang "Happy Birthday" to "Jimmy" as the ailing, old man managed a big smile.

The Byrnes story, which rivals the Horatio Alger legend, began amid the magnolias and wharfs of Charleston on May 2, 1879.

His mother, widowed just before his birth, took up dressmaking to support him, his elder sister, and their invalid grandmother. A widowed sister and her son, Frank Hogan (later to become president of the American Bar Association), shared Mrs. Byrnes' home.

LEFT SCHOOL AT 14

At 14, young Jim left school and became a legal firm's office boy to help support his family.

One of the members of the firm, Judge Benjamin J. Rutledge, obtained a card for him in the Charleston Library, guided his interest in law and in court stenography, and, as the youth entered his 20s, allowed Byrnes to accompany him on circuit-riding trips through the state. Byrnes passed the bar examination in 1903.

For the next four years he tried his hand at editing a weekly newspaper in Aiken, S.C., which he bought with $500 in cash and $4,500 in borrowed funds.

Newly married to the former Maude Busch—they were to remain childless—he made his first bid for office in 1908, winning the post of prosecutor for the state's Second Judicial Circuit. In this post, he won distinction of sorts by persuading juries to regard assaults on Negroes as crimes and to accept testimony from Negroes, both actions unprecedented in South Carolina.

In 1911 Byrnes came to Washington as a congressman, elected by a 57-vote margin.

During his seven terms in the House he served on a House Appropriations subcommittee during World War I, where military budget discussions brought him in contact with the assistant secretary of the Navy, Franklin D. Roosevelt. They became fast friends.

LOSES SENATE RACE

But Byrnes' role in an investigation into the Morgan financial empire, and his sponsorship of such bills as one providing the first federal aid to highways were not much help when he tackled former Gov. Cole L. Blease for a Senate seat in 1924. Neither did his status as a Catholic who forsook the Church for his wife's Episcopal faith. He lost by 2,200 votes.

He returned to Spartanburg, S.C., to practice law and prepare for his relatively easy 1930 victory over the demagogic Blease.

Back in Washington as a senator, Byrnes' power was soon on the rise after his aristocratic New York friend entered the White House.

Though an unofficial member of the New Deal "brain trust," the slight, authoritative Southerner had by 1936 moved over to the Senate "moderates," opposing increased relief appropriations, sit-down strikes, the Roosevelt congressional "purge" of 1938, and the wages and hours law. He also opposed an anti-lynching bill.

STEERED FDR PROGRAMS

His disenchantment with some of the New Deal measures, however, never led him to an open break with the President.

As Democratic whip, he loyally steered Roosevelt's programs through the Senate and, after 1939, supported with vigor such preparedness programs as Lend-Lease.

Rarely did he make a speech or show the slightest yen for publicity. ("I only went to two cocktail parties all the time I was in Washington," he said later, "and I didn't hear anything worth remembering.")

His arena was the cloakroom, and his weapons were personal charm and a blunt, tit-for-tat honesty that Republicans trusted.

His reward for producing votes came in June, 1941, when Roosevelt named him to a Supreme Court vacancy.

Byrnes' Senate colleagues endorsed him unanimously without even sending the nomination to committee.

In the ensuing 14 months, he wrote decisions limiting the right to strike abroad ships, nullifying a California anti-migrant statute, exempting a New York Teamsters' strike from provisions of the anti-racketeering law, and easing the repayment conditions of Georgia sharecropper loans.

FELT UNEASY

But Byrnes was reported to have felt somewhat uneasy in the solitude of his new post.

With the nation at war, the action he thrived on was now beyond the Court and the Capitol, at the other end of Pennsylvania Avenue, where "Jimmy" and his penchant for quiet, detailed administration were fondly remembered.

In October 1942, Roosevelt asked Byrnes to take leave from his lifetime post and head the powerful new Economic Stabilization Board, battling inflation through wage and price controls.

Byrnes immediately scrawled out his resignation, said it was permanent, and moved into an office in the East Wing of the White House.

Seven months later, Byrnes was named to head the new Office of War Mobilization. As such, he was invested with powers greater than any other American except for the President.

He was, as the press and even FDR called him, the "Assistant President" in charge of the home front, coordinating the production, procurement, distribution and transportation of all military and civilian goods.

Then, in the summer of 1944, he suffered his greatest political blow.

According to his later accounts, Byrnes said Roosevelt had led him to believe he was the White House choice to succeed Vice President Henry Wallace, who was being unceremoniously dumped from the 1944 ticket.

But the nod went to Truman, who did not appear to be seeking the nomination, and had even reportedly offered to make a speech nominating Byrnes at the convention.

Byrnes stoically concealed his hurt pride and later said he never blamed Roosevelt, only the party's big city power brokers, like New York's Ed Flynn.

Even though the President added the task of post-war planning to Byrnes' duties, and took him to the Yalta Conference, where his court stenography came in handy, the 65-year-old "Assistant President" had had enough.

In cordial circumstances two weeks before FDR's death, he resigned to return to South Carolina's lazy, fish-filled rivers, to sip bourbon and branch with friends, to practice law, to write. . . .

Suddenly Truman—not Byrnes—was thrust into the presidency, and the summons from Washington came.

Byrnes was now off to Potsdam with Truman, planning for the Japanese surrender.

The next month he led the U.S. delegation to the four-power London conference, the first in a long series in which details of the Allied peace plans were hammered out. There were also the initial United Nations meeting.

Byrnes' policy of "patience and firmness" toward the Soviets began to lean more in the direction of firmness in early 1946.

This was just after Byrnes returned from the Moscow Conference to hear Truman read him the "riot act" letter, published with Truman's blessing in 1952.

REPRIMANDED BY TRUMAN

In it, Truman reprimanded Byrnes for not communicating with him from Moscow, and expressed displeasure wtih negotiations there toward recognition of Soviet-dominated Rumania and Bulgaria. Truman also indicated he felt Byrnes had not dealt adequately with Russia's designs in Iran.

Byrnes in later years denied any knowledge of the "Dear Jim" letter and maintained he would have immediately resigned had he known of it.

Rumors of bitterness between him and Truman persisted, however, despite their outward pleasantness.

GIVES ULTIMATUM

Henry Wallace, who had been appeased after 1944 with the post of Commerce secretary, was fired by Truman after the criticized Byrnes for being too tough with the Russians at Paris. (Byrnes later said he had given Truman a "Wallace-or-me" ultimatum.)

Back in private life again, Byrnes briefly worked for the Washington law firm of Hogan & Hartson, and served as general counsel for the Association of Motion Picture Producers.

He stayed aloof from the 1948 presidential campaign, but after his turning-point speech in 1949, began criticizing Truman programs in almost every field except foreign policy. (Truman wrote Brynes: "Since your Washington & Lee speech, I know how Caesar felt when he said, 'Et tu, Brute.'").

Byrnes, who replied "I am no Brutus . . . You are no Caesar," said Truman then began consistently making "absolutely untrue" statements to discredit Byrnes' work as secretary of State.

BACKS SEGREGATION

During his four-year term as South Carolina governor, Byrnes attempted to carry out a campaign pledge to maintain racial segregation through a $66-million program to "equalize" Negro schools. The Supreme Court's integration decision in 1954 "shocked" him.

His support for Eisenhower was rewarded with a 1953 appointment as a delegate to the U.N. General Assembly.

When he left the Governor's Mansion in 1955 at the age of 75, the "elder statesman" at last got to do some fishing, usually accompanied by his wife and their chauffeur, Willie Byrd.

He also completed an autobiography, "All in a Lifetime"—he had published "Speaking Frankly" in 1947—and used the proceeds to start college scholarships for orphans of both races.

Without children or grandchildren, he called this work "the most rewarding thing I ever did in my life."

Mr. MANSFIELD. Mr. President, will the distinguished Senator from South Carolina yield?

Mr. THURMOND. I would be very pleased to yield to the dinstiguished majority leader.

Mr. MANSFIELD. Mr. President, I wish to join in the remarks just made by the distinguished senior Senator from South Carolina at the passing of an old friend, a former Senator, a former Justice of the U.S. Supreme Court, and "Assistant President" during the course of World War II, a man of many accomplishments, in addition to being Governor of his State, who has passed on to his reward.

Anyone who knew Governor Byrnes knew him as a man of integrity, patriotism, and deep understanding.

Those of us who had the pleasure and the privilege of knowing him will miss him, and miss his greatly.

Mr. THURMOND. I wish to thank the distinguished majority leader for those kind words about Governor Byrnes.

Mr. SCOTT. Mr. President, James F. Byrnes was an American's American. His distinguished career spanned five decades, it was capped off by unselfish service to the United Nations, and subsequently to his fellow men throughout the world. Historians have placed the great accomplishments of James F. Byrnes high on their list of those who have labored to insure a world of peace.

America and the free world will share the memory of James F. Byrnes and his outstanding accomplishments. We all are in his debt. Our sympathies are extended to his family.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 12 O'CLOCK NOON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 noon.

There being no objection, at 11:30 a.m. the Senate took a recess until 12 noon; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. GAMBRELL).

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 12 noon tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND LAYING BEFORE THE SENATE OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the recognition of the two leaders under the standing order tomorrow, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which, the Chair lay before the Senate the unfinished business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. GAMBRELL) laid before the Senate the following letters, which were referred as indicated:

REPORT ON FACILITIES PROJECTS PROPOSED TO BE UNDERTAKEN FOR THE ARMY NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on facilities projects proposed to be undertaken for the Army National Guard (with an accompanying report); to the Committee on Armed Services.

REPORT OF THE DIRECTOR OF SELECTIVE SERVICE

A letter from the Director, Selective Service System, transmitting, pursuant to law, his report, for the 6-month period ended December 31, 1971 (with an accompanying report); to the Committee on Armed Services.

PROPOSED AMENDMENT OF FISHERMEN'S PROTECTIVE ACT OF 1967

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 7 of the Fishermen's Protective Act of 1967 (with accompanying papers); to the Committee on Commerce.

PROPOSED AMENDMENT OF PUBLIC HEALTH SERVICE ACT

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Public Health Service Act to increase the fiscal year 1973 authorizations for project grants for health services development and for project grants and contracts for family planning services (with an accompanying paper); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. GAMBRELL):

A concurrent resolution of the Legislature of the State of New Hampshire; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION NO. 1

"Ratifying the proposed amendment to the Constitution of the United States extending equal rights to women

"Whereas, the Ninety-second Congress of the United States of America at its Second Session, in both houses, by a constitutional majority of two-thirds thereof, has made the following proposition to amend the Constitution of the United States in the following words, to wit:

"'*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislature of three-fourths of the several States within seven years from the date of its submission by the Congress:

"'ARTICLE

"'SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

"'SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this Article.

"'SEC. 3. This amendment shall take effect two years after the date of ratification.'

"Be it resolved by the House of Representatives of the General Court of the State of New Hampshire, the Senate concurring:

"That, the proposed amendment to the Constitution of the United States extending equal rights to women be and the same is hereby ratified; and

"Be it further resolved,

"That certified copies of this resolution, signed by the Speaker of the House and the President of the Senate, be by them forwarded to the President of the United States, the President Pro Tempore of the Senate of the United States, the Speaker of the House of Representatives of the United States and the Administrator of General Services of the United States.

"Passed March 23, 1972."

A joint resolution of the Legislature of the State of California; to the Committee on Public Works:

"ASSEMBLY JOINT RESOLUTION No. 12

"Relative to Federal maintenance dredging of small craft harbors

"Whereas, The State of California has an active program for harbors of refuge and assistance to local entities for the construction of small craft harbors; and

"Whereas, The state also has a vital interest in the preservation of these harbors upon their completion and continual operation; and

"Whereas, The federal government, through the Corps of Engineers, plays a vital role in maintaining these harbor entrances and navigable waterways; and

"Whereas, These dredging projects funded by the federal government are of paramount importance in the continuation of the financial feasibility of maintaining small craft harbors in the State of California; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to continue to provide funds for maintenance dredging of small craft harbor entrances and navigable waterways in the State of California; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Resolutions of the Commonwealth of Massachusetts; ordered to lie on the table:

"RESOLUTIONS ON THE UNEMPLOYMENT CRISIS IN THE COMMONWEALTH

"Whereas, There is an unemployment crisis in this Commonwealth; and

"Whereas, There is grave danger of the consequences that might follow if work is not provided; and

"Whereas, There is presently over 200,000 people unemployed in these stricken areas; and

"Whereas, The Congress of the United States must provide federal aid to help those caught in these stricken depressed areas; now, therefore, be it

"Resolved, That the members of the Congress of the United States from the Commonwealth and the Legislative and Executive leaders of the state make arrangements to communicate and hold meetings with each other in an attempt to alleviate and eventually remove the critical unemployment situation which now exists in this Commonwealth; and be it further

"Resolved, That the President of the United States prepare a special message to the United States Congress to enact such legislation for a period sufficient to enable the federal government to develop effective alternative methods of aiding the stricken depressed areas which would stimulate business and the economy by providing government work; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, to the Secretary of Commerce, to the presiding officers to each branch of Congress and to the members thereof from the Commonwealth of Massachusetts.

"Senate adopted, April 3, 1972."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Committee on the District of Columbia, without amendment:

S. 1338. A bill to authorize the government of the District of Columbia to fix certain fees (Rept. No. 92–739).

By Mr. STEVENSON, from the Committee on the District of Columbia, with an amendment:

S. 1363. A bill to revise and modernize procedures relating to licensing by the District of Columbia of persons engaged in certain occupations, professions, businesses, trades, and callings, and for other purposes (Rept. No. 92–740).

By Mr. STEVENSON, from the Committee on the District of Columbia, with amendments:

S. 2209. A bill relating to crime and law enforcement in the District of Columbia (Rept. No. 92–741).

By Mr. RANDOLPH, from the Committee on Labor and Public Welfare, with amendments:

H.R. 9212. An act to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes (Rept. No. 92–743).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 208. A joint resolution authorizing the President to proclaim the first Sunday in June of each year as "National Shut-in Day" (Rept. No. 92–742).

Mr. HRUSKA. Mr. President, this joint resolution was introduced by the distinguished Senator from West Virginia (ROBERT C. BYRD). It is upon the testimony of the Senator from West Virginia. and the data he provided the committee. that this favorable report is based.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GRIFFIN:

S. 3465. A bill for the relief of Jack Bradshaw, Jr. Referred to the Committee on the Judiciary.

By Mr. MOSS:

S. 3466. A bill to establish the Lone Peak Wilderness Area in the State of Utah; and

S. 3467. A bill to authorize the Secretary of the Interior to convey certain property to John S. Boyden, of Salt Lake City and County, Utah. Referred to the Committee on Interior and Insular Affairs.

By Mr. HATFIELD:

S. 3468. A bill to increase the rate of duty on shelled filberts imported into the United States. Referred to the Committee on Finance.

By Mr. TAFT:

S. 3469. A bill to amend title 5, United States Code, to provide for withholding city income taxes from compensation paid Federal employees. Referred to the Committee on Finance.

By Mr. HRUSKA (by request):

S. 3470. A bill to remove the limitation on payments for consultant services in the Community Relations Service. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOSS:

S. 3466. A bill to establish the Lone Peak Wilderness Area in the State of Utah. Referred to the Committee on Interior and Insular Affairs.

LONE PEAK WILDERNESS

Mr. MOSS. Mr. President, I am today introducing a bill to designate 13,000 totally undeveloped and roadless areas in the Wasatch and Uinta National Forests within a few minutes drive of Salt Lake City as the Lone Peak Wilderness Area.

I am acting at the request of the Salt Lake County Commission which on March 13, approved the "concept" of establishing this wilderness area.

The boundary proposed in my bill generally would include the land surrounding Lone Peak southeast of Salt Lake City in the Wasatch range. The line would run along the south slope of Little Cottonwood Canyon and continue southward to the slopes draining into the Dry Creek. It is a beautiful wild area and is adjacent to the heavily populated towns and cities of the Wasatch Front where 70 percent of Utah's population resides. It is so close to city dwellers that it is within reach of everyone seeking a wilderness experience.

There is considerable interest in Utah in the establishment of the Lone Peak Wilderness Area. Some conservation groups in the State want a much larger area set aside. My purpose in introducing the bill is to have a vehicle for hearings in Salt Lake City where various interests can be heard and all aspects of the proposal examined carefully.

I understand that there are no working mines in the area, but there are some abandoned shafts. Mining interests in the State must have an opportunity to be heard, as well as all other groups with views to express.

The land involved is all public land—no private lands are involved.

By Mr. TAFT:

S. 3469. A bill to amend title 5, United States Code, to provide for withholding city income taxes from compensation paid Federal employees. Referred to the Committee on Finance.

Mr. TAFT. Mr. President, today I am introducing legislation which would require the Federal Government to withhold city income taxes from its employees. This legislation would benefit directly hundreds of thousands of Federal workers.

Because local income taxes are not withheld from the wages of Federal employees, these workers are forced to pay the taxes in lump sums on a quarterly or annual basis. The obligation to pay a substantial amount in local taxes at one time presents a serious hardship to many Federal workers. One third of Cleveland's postal workers have not been able to meet this obligation, and now owe the city hundreds of dollars per person in back taxes.

This legislation would allow Federal workers to pay their city taxes in the same convenient manner as other workers, by making the payments in even installments throughout the year.

The legislation would also provide some extra money for the cities. Because the cities' tax collection departments will no longer have to devote extra attention to Federal workers, administrative costs will decrease. In my own State of Ohio, the cities of Akron, Columbus, and Toledo expect that they could each save $20,000 to $35,000 in this manner. The major new source of income, however, would occur as a result of a reduction in tax delinquencies and an increase in the cities' ability to collect delinquent taxes. Cleveland's tax department estimates that because of fewer losses in uncollected taxes, the city's income could be increased by $300,000 to $400,000. The city of Cincinnati expects the enactment of this bill to save its taxpayers about $100,000. Similar savings would be realized by cities in other States.

The measure would apply to cities which have 200 or more Federal employees. In addition, the Secretary of the Treasury would have the discretion to apply it to other cities where he feels that its potential benefits outweigh the expenses to be incurred by the Federal Government.

By Mr. HRUSKA (by request):

S. 3470. A bill to remove the limitation on payments for consultant services in the Community Relations Service. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, I send to the desk a bill to remove the limitation on payments for consultant services by the Community Relations Service of the Department of Justice. I introduce the bill at the request of the Acting Attorney General and ask unanimous consent that the text of the bill and of Mr. Kleindienst's transmittal letter be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. HRUSKA. Mr. President, this is a simple proposal which would insure that consultants for the Community Relations Service are treated equally with those hired by other Federal agencies. The Civil Rights Act of 1964 specifically provides (42 U.S.C. 2000g) that consultants for the Service be limited to a per diem of $74.11, which was the rate prevailing at the time of the adoption of the act. Since 1964 the rate has increased to $127.92 and most agencies have authority to pay this figure. The bill submitted by the Department of Justice would delete the specific figure now applicable to the Community Relations Service with the result that the general statute (5 U.S.C. 3109) would become operative thus bringing the Service into parity with other agencies.

It is my hope that this bill can be promptly considered and approved so that the competitive disadvantage suffered by the Community Relations Service in seeking consultants can be ended. I send the bill to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER. Without objection, the bill will be received and appropriately referred.

Exhibit 1

S. 3470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 1001(a) of the Civil Rights Act of 1964, 78 Stat. 267, 42 U.S.C. 2000g, is deleted.

Exhibit 2

Office of the Attorney General,
Washington, D.C., March 29, 1972.

The Vice President,
U.S. Senate,
Washington, D.C.

Dear Mr. Vice President: Enclosed for your consideration and appropriate reference is a legislative proposal to remove the limitation on payments for consultant services in the Community Relations Service.

The Civil Rights Act of 1964 established the Community Relations Service to provide assistance to communities in resolving disputes, disagreements, or difficulties relating to racial discrimination. At that time the Congress placed a $75.00 per diem limitation on the Commission's authority to pay experts and consultants.

When this legislation was being considered by the Congress most executive agencies were limited to $74.11 per diem for these services. Today, most are authorized to pay $127.92 per diem. The result is that the Community Relations Service is at a competitive disadvantage when seeking the assistance of highly qualified people. This was clearly not the intent of Congress since the limitation was set at a level comparable to other agencies.

This legislative proposal would delete the limitation provision with the effect of authorizing the Service to pay per diem rates not in excess of the maximum authorized by section 3109 of title 5, United States Code, presently $127.92.

Since our continued effectiveness in this important area of concern will be jeopardized unless adequate professional resources are available, we urge the early enactment of this measure.

The Office of Management and Budget has advised that there is no objection to the submission of this proposal from the standpoint of the Administration's program.

Sincerely,

Richard G. Kleindienst,
Acting Attorney General.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3199

At the request of Mr. Hatfield, the Senator from Michigan (Mr. Griffin) was added as a cosponsor of S. 3199, a bill to provide for the conservation, protection and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes.

S. 3351

At the request of Mr. Brock, the Senator from Tennessee (Mr. Baker) and the Senator from Pennsylvania (Mr. Schweiker) were added as cosponsors of S. 3351, a bill to the establish a Council on International Economy Policy.

S. 3380

At the request of Mr. Moss, the Senator from Oklahoma (Mr. Harris), the Senator from Minnesota (Mr. Mondale), and the Senator from West Virginia (Mr. Randolph) were added as cosponsors of S. 3380, a bill to permit immediate retirement of certain Federal employees.

WAR POWERS ACT—AMENDMENTS

AMENDMENTS NOS. 1109 THROUGH 1114

(Ordered to be printed and to lie on the table.)

Mr. DOMINICK submitted six amendments intended to be proposed by him to the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1115

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 914

At the request of Mr. Hatfield, the Senator from California (Mr. Cranston), the Senator from Alaska (Mr. Gravel), the Senator from Illinois (Mr. Stevenson), and the Senator from Idaho (Mr. Church) were added as cosponsors of amendment No. 914, intended to be proposed to the bill (S. 3108), to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

ADDITIONAL STATEMENTS

ANNUAL BEWILDERMENT OF THE INCOME TAX

Mr. TAFT. Mr. President, with the approach of April 17, millions of Americans once again face the annual bewilderment of the income tax. The extent to which even relatively simple tax problems can confuse and confound the average American, and indeed even tax experts, was recently illustrated by an article entitled "Need Help on Your Income Tax?" written by John Fialka, and published in the Washington Sunday Star of April 9, 1972.

The Sunday Star created a fictitious taxpayer with a relatively simple tax situation and had tax returns prepared by seven Washington area income tax services. Incredible as it may seem, each of these tax services reached a different result. Even more distressing is the fact that three offices of the Internal Revenue Service reached different results with this same tax situation.

I believe that this amply demonstrates the need to simplify and clarify our income tax laws and regulations. When tax consultants and the Internal Revenue Service are confused and bewildered by a simple tax problem, the plight of the average taxpayer attempting to do his own return is made evident.

I would hope that Congress can address itself to the problem of streamlining and simplifying our tax laws so that the average American will not be so confused. Our tax system should be a source of revenue and not a test of legal and mathematical gymnastics.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Need Help On Your Income Tax?

(By John Fialka)

A fictitious resident of the Washington area, usually using the name "Median R. Fairfax," had his federal income tax returns prepared by seven different "tax experts" this year.

None of them got it quite right.

For a fee, ranging from $15 to $39.50, he obtained returns calling for refunds from $570 to $801.

His tax problem, which was stated exactly the same way in each case, was concocted as part of a study by The Star of the area's booming tax preparation industry.

In every case, according to an IRS accountant who checked the problem, the hired preparers made errors running in both directions, allowing prohibited deductions and ignoring legitimate ones.

Allowable charitable deductions ranged from a low of $92 to a high of $729.

Allowable expenses for an office in the taxpayer's home were estimated between $109 and $716.

In three cases, tax preparers, struggling to provide the customer with a "good refund," actually exposed between $250 and $350 worth of additional, exempt income to taxes by failing to handle stock dividends properly.

Median R. Fairfax was created to fall somewhere in the middle of the estimated 500,000 area residents who file federal income tax returns.

His total income and even his name were inspired by a recent study which placed the median family income in Fairfax County at $15,933.

Like many area residents, Fairfax was able to itemize his deductions, primarily because he had just purchased a $32,000 home and paid $1,842 in interest charges last year on his mortgage.

He had a wife and one child. Included in the family income was $750 earned by his wife last year, working in an office at home as a free-lance writer.

Outside of his salary, $14,683, earned working as a writer for an obscure trade publication firm, Fairfax's only remaining income consisted of $500 worth of dividends from two blocks of stock owned by him and his wife.

Like many taxpayers, Fairfax was plagued with expenses, many of which he hoped to deduct from his taxes. Included in a fact sheet given to each tax preparer were a dozen items culled from a list of nondeductible expenses found in a $1.95 tax guide for laymen purchased at a news stand.

They ranged from a desire to deduct a diaper service as a medical expense to a hope that a $213 contribution to the Committee on Political Education, (COPE) the political arm of the AFL–CIO, could be taken as a charitable contribution.

There were two other factors: Fairfax wanted to find some way to write off expenses involved in his wife's office. He also pointed out that $250 worth of his dividends were issued in common stock, a fact that would tell a tax expert that they were not taxable.

Fairfax's tax problem was taken to seven different tax preparation firms, ranging from the largest to among the smallest in the area. In each case a reporter, posing as a friend of the taxpayer, gave them the fact sheet. (Matters, such as how to depreciate a house, over which tax experts might legitimately differ, were stipulated at an exact figure and method previously used if such questions arose.)

The majorty of tax experts consulted said at the outset that the problem was "fairly simple."

John Morrison, an employe of Liberty Loan Corporation's Lee Highway office in Arlington, glanced down the list and said there would be "no problem."

"We'll have this for you in a couple of days. It's all done by computers in New York," he told the customer.

A couple of days later, Morrison called the customer and said he had some doubts about several of the items on the list. "You're the expert," he was told.

"Listen," he replied. "There are no experts in this business. You just look at what's down there and then you take your best shot."

Later the same day, Morrison called again and said Liberty was unable to prepare the return properly and offered the customer his money back. "We decided the computer would just screw it up," he said.

At the Beneficial Finance Company's Rockville office, a woman took the fact sheet and a check for $15 and indicated that Beneficial, which also prepares tax returns by machine, would have the returns shortly.

Later, an office manager called the customer. There were several questions, he said, that would require the customer to return to the office and would necessitate raising the fee to $30.

The customer refused and, after an exchange of calls during which Beneficial reached the newsroom operator of The Star, the company suddenly agreed to prepare the return for $15 and to have Perry M. Stufflebeam, an accountant, do the job by hand.

"Frankly, this looks like some kind of a ringer," Stufflebeam said at one point.

Stufflebeam correctly cut the taxable dividend income to $50 by taking out the $250 in common stock and inquiring whether the stocks were held jointly. They were, so he applied the $200 exclusion of the husband and wife to the remaining $250.

In the area of charitable contributions, however, Stufflebeam threw in the contribution to COPE along with donations to a neighborhood civic league, a fraternal bar association and a church in Brazil, all of which according to the tax guide and the IRS, are forbidden.

He did weed out several other prohibited items, including the diaper service and a deduction for snow tires, which the customer insisted were needed to get to and from work.

Combining the thumping $565 worth of charitable contributions with a total of $613 worth of expenses connected with the home office, Stufflebeam produced a refund of $721.

"Snow tires, that's cute," said Joe Berube, an income tax preparer in H&R Block's Washington Avenue office in Arlington.

In a somewhat grueling, hour-long interview, he crossed out several items on Fairfax's list. "Snow tires, I can't get over that," he repeated several times.

He was especially hard on the charitable contributions, paring the list down to an allowable $52 contribution to a McLean church and a non-allowable item for raffle tickets from a church automobile drawing.

At first, Berube was reluctant to declare the expenses involved in Mrs. Fairfax's office. "That's just peanuts," he said, looking over household expenses.

He made a stab at it, at the urging of the customer, and seemed pleased with a total of $572 worth of expenses that he had calculated. The total included one non-allowable item, a charge for a sewer hookup fee, which Berube entered next to "repairs and maintenance" on the special, H&R Block form.

Finally, he came up with a $627 refund, but seemed apologetic about cutting out so many items from the fact sheet.

"Well, you're the expert," the customer said.

"There are no experts in the tax business," said Berube.

Mrs. A. Jackson, the preparer who greeted the customer at H&R Block's office at 1601 Rhode Island Ave. NE., was able to come up with only $218 worth of office expenses.

She also put down $400 of the $500 dividend income as taxable income. She worked hard on the contributions, however, quickly striking out the snow tires ("They'll never allow that"), the diaper service and the contribution to COPE.

When she finished, the only nonallowable item remaining was the contribution to a Brazilian church, which she listed as "church (Peru)." Her refund was the lowest of the seven, $570.

Rarely did any of the seven tax preparers who agreed to take on the problem look up a question in a tax guide or a reference book.

For instance, Mrs. Lucille Smith, a preparer for "Pro-Tax," or the Professional Tax Service, labors over her forms in a sparsely furnished storefront on Arlington's Washington Boulevard.

Her customer, noting the absence of bookshelves, or, for that matter, books, asked: "Don't you have any books to look things up in?"

"Well," she replied, "to be truthful, I usually don't use any. Over the years, you know, you sort of begin to feel what's right."

"Pro-Tax" has a sign in its window that says "$5 and Up." "Up," in the case of Median R. Fairfax, amounted to a fee of $49.50. Mrs. Smith, however, after checking with her home office, agreed to subtract $10 from the bill because Mrs. Fairfax's office expenses were easy to handle.

Her instinct, however, failed her when it came to the dividends. Again, Fairfax had to pay taxes on $400 worth of the $500. She also failed to put down two other legitimate deductions, $78 worth of interest on an installment loan, and a $75 payment to a medical clinic.

She worked up a total of $518 worth of office expenses, including the sewer hookup fee and $45 worth of office supplies which did not appear on Fairfax's fact sheet.

Mrs. Smith had some funny feelings, however, about some of the contributions. "This Committee on Political Education, uh, is that a recognized thing?" she asked in a telephone conversation several days after she had begun work on the return.

"I don't know," said the customer. "All I know is that it exists."

"And this raffle ticket. What is a raffle ticket?" she wanted to know.

"It's a chance on a car," she was told.

'Well, I guess that's all right. I'll abbreviate some of these things," she said.

The raffle ticket, sold by a church, was listed on her return as "St. Marys." The Brazilian church was listed as "St. Peters." She apparently had second thoughts about the donation to COPE, however, which did not appear.

"Now, about those snow tires, I know they won't go," she added.

The refund on the return prepared by "Pro-Tax" came to $586.

Perhaps the most gracious tax preparer was J. C. Willard, who works in Woodward & Lothrop's downtown store, in a little house constructed for tax preparers near the toy department.

Willard threw in almost everything, except the snow tires. Among the nonallowable items in the return prepared by Woodward & Lothrop's tax service were disability insurance premiums; diaper service charges; church raffle tickets; donations to COPE, a neighborhood civic league, a fraternal bar association and the Brazilian church; dues to a veterans' organization, and interest on a bank loan owed by a neighbor.

He handled the dividends properly, putting down only $50 worth of income, but was unable to find more than $254 in office expenses.

The completed return called for a refund of $801, the highest amount among the seven prepared returns.

Mrs. J. G. Senseman, who works for King Tax Service in Alexandria, seemed worried about some of the contributions, but she took a more creative approach to the problem.

On her return the diaper service fee was shown as "nurse and nursing" expenses. The dues to a veterans' oragnization was listed under "Disabled American Veterans." The interest on a loan owed by a friend was tagged "credit union." Several other non-allowable items may have been included in an entry marked "various $250," and the Brazilian church was listed, simply, as "St. Peters."

Non-allowable disability insurance premiums were lumped together with allowable health insurance premiums. A strange, $108.40 item, an amount not specified in the tax problem, was listed under "sales tax, major purchases."

By including a portion of the sewer hookup fee, Mrs. Senseman came up with a huge, $716 deduction for office expenses.

However, she failed to notice the fact that $250 worth of dividends were issued in common stock and missed the opportunity to exclude that amount.

When the customer arrived to pick up his completed forms, Mrs. Senseman called his attention to the $766.12 refund. "I hope your friend appreciates the work we've done for him and comes to us next year," she said.

The seventh tax preparer sampled was Robert A. Jungmann, whose office was located behind a partition in Sears' tire department in its Wilson Boulevard Store in Arlington.

Jungmann, who was moonlighting from his regular job as a statistical analyst, uses a formidable looking, solid state adding machine. He is also a former IRS collection agent and some of his old instincts came out as his fingers raced over the machine, toting up the contributions.

"Sorry there, Median old boy," he said, throwing out the COPE deduction. After consulting a $1.95 tax guide for laymen, he also threw out the Brazilian church donation.

Remaining, however, were the bar association and civic league, along with the veterans' group dues.

Jungmann managed to find only $109 worth of office expenses, but handled the dividend income well, reporting only $50. His refund was $606.

What is the right answer to Median R. Fairfax's tax problems? Leon Levine, a certified public accountant who works for the Internal Revenue Service, agreed to find out.

Every one of the 12 non-allowable items worked into Fairfax's tax sheet were thrown out. The only charitable contribution allowed was a $52 donation to a McLean church.

By carefully searching for items that could be taken as office expenses, however, including the depreciation of a portion of the house, Levine came up with $680 worth of office expenses. Dividends were treated properly, exposing only $50 to taxes.

"That is the way we want people to do it," he said, showing a $613 refund. "Work hard to figure out your legitimate deductions, you're entitled to them."

Mr. Fairfax's problem, he concluded, had been "fairly simple."

Although it has no way of estimating how much money has been drained from—or perhaps added to—government coffers by the mass production of poorly trained and, sometimes, incompetent "tax experts," the IRS has been aware of the problem for years.

This year, it has been involved in a small-scale, experimental crackdown on preparers in the southeastern region of the country.

Last month, five tax preparers from southern Virginia were indicted for filing faulty tax returns to gain unusually large refunds for their customers.

Last Thursday, the IRS announced that it has also been monitoring tax preparers in Northern California. Agents posing as clients took the same tax problem to 318 preparers.

Of these, 159 filled out returns that the IRS considered fraudulent, 20 did work that was labeled questionable and 17 handed back forms that were incomplete. The remaining 122 preparers got the right answer.

Alarmed at the fact that a major percentage of taxpayers now have their returns prepared by third parties, the IRS set out to convince taxpayers this year that at least 30 million of them were smart enough to work out their own returns.

Writing in the preface to this year's income tax mailing, IRA Commissioner Johnnie M. Walters noted that even if a preparer is hired, it is the taxpayer who must answer for any errors on his return.

There are no standards, no regulations, that govern the great majority of the nation's tax preparers—excluding accountants, attorneys and a small group of enrolled tax agents which can be regulated by professional groups or the IRS.

According to the IRS, they are not liable to the taxpayer or the government for their errors, as long as there is no proof of conspiracy to defraud.

If and when an audit occurs, unless he has received an express guarantee from his preparer, it is the taxpayer who must defend the return and pay the fines and extra taxes that may be necessary.

It would appear that those who are least protected under the present system are like Median R. Fairfax, people who are baffled by their own tax problems, but don't feel the need or want to face the expense of hiring a lawyer or an accountant.

How does one choose among the estimated 200,000 companies, persons and franchises that are now in operation in loan companies, department stores, shopping centers and storefronts as "expert" tax preparers?

The IRS dodges the question. "You should choose your income tax man with the same concern you would use in selecting a brain surgeon," said one spokesman.

There are signs that Capitol Hill is also becoming restless over the proliferation of the tax preparation industry and its impact on the nation's revenues.

On Thursday, a subcommittee of the House Government Operations Committee, headed by Rep. John S. Monagan, D-Conn., will open hearings on a bill to regulate income tax preparers.

According to Monagan, 78 million taxpayers used preparation services last year. Of these, 28.4 million were people who had incomes of less than $5,000 a year.

"Apart from the unscrupulous actions of certain return preparers and the detrimental impact that their practices have on the U.S. Treasury, the subcommittee is also concerned with the financial impact on the treasury that results from the deduction of fees paid to return preparers," Monagan stated, in announcing the hearings.

"If one assumes that the average fee is $13, the tax return preparation industry grossed more than half a billion dollars in 1970."

And Sen. Abraham A. Ribicoff, D-Conn., has suggested that the government hold tests for tax preparers and license those who pass. The testing and regulation of license holders, he believes, might help the preparation industry by giving the public more confidence in it.

Some experts, including Singleton B. Wolfe, head of the IRS's audit division, don't believe the Ribicoff idea is workable. "We are short staffed now and this business is so huge we'd never have enough manpower to police it," he said.

The size of the preparation industry in the Washington area is demonstrated by the fact that one company, H&R Block, has 80 offices here. According to Ed Morgan, a regional executive for H&R Block, it prepares one out of every five returns filed in the area.

The average return the company handles, he added, is an itemized 1040 that is accompanied with at least one of a number of special tax schedules, such as schedule C, which Fairfax needed for his home office expenses, or schedule D, required for the income for sale of property.

Morgan pointed out that Block attempts to assure the expertise of its preparers by holding its own tax courses each fall. Those interested in becoming preparers the following spring must pay $60 for the course. Block hires from those who pass.

Block also is one of the few companies which guarantees its returns, promising that an employe will accompany the taxpayer to an audit and will pay any fines involved, but not additional taxes that may be due.

According to Morgan, H&R Block returns are checked at least three times before they are delivered to the customer. "We are trying every way that we can to maintain the quality of our service," he said.

Asked about the two tax returns prepared for Median R. Fairfax, Morgan replied, simply, "That was not our best work."

THE FINAL RESULTS

Preparer	Contributions claimed	Office expenses claimed	Dividend income subjected to tax	Preparation fee (including State forms)	U.S. refund due
Internal Revenue Service	$52	$680	$50	None	$613
H. & R. Block (D.C.)	150	218	400	$17.50	570
Professional Tax Service	202	518	400	39.50	586
Sears	366	109	50	27.50	606
H. & R. Block (Va.)	92	572	50	17.50	627
Beneficial Finance	565	613	50	15.00	721
King Tax Service	516	716	300	20.00	766
Woodward & Lothrop	729	254	50	32.50	801

THE IRS GOOFED, TOO

A reporter, posing as "Median R. Fairfax," visited three of the area's walk-in information offices operated by the Internal Revenue Service. Two of the three government experts fared as badly as the private preparers.

After several people with rumpled papers and troubled faces had spoken to James D. Land, an employe standing behind a counter in the IRS downtown information office at 12th and E Streets NW, Fairfax presented him with his tax problem, which included twelve prohibited deductions in a list of income and expenses.

Land, a breezy, confident man, read through the list, checking off two items with a pencil. "Where did you get the idea you could deduct snow tires?" he asked, checking off that item and a diaper service fee included under medical expenses.

As the taxpayer studied the items he checked off, Land added reasuringly, "Don't worry, I only checked off two of them."

At the IRS office at Baileys Crossroads in Fairfax County, Harold Chusid confidently disallowed 7 of the 12 items. However, his pencil paused over a $213 contribution the taxpayer had made to the Committee on Political Education, the political arm of the AFL–CIO.

"I just don't know about this one," he said.

"Don't you have some book you could look it up in?" asked the taxpayer.

Chusid frowned, then shook his head. "You know when it gets into the political area, it's hard to tell," he said.

The third IRS expert consulted was sitting in an office in the Longworth House Office Building. It is one of two information offices the IRS maintains on Capitol Hill.

Perhaps because he is used to dealing with the people who get and eventually spend the money, a young man quickly went down the list, answering "No sir," or "Yes Sir," after each item. All twelve items were disallowed.

PROBLEMS OF OLD AGE

Mr. EAGLETON. Mr. President, Mr. Gil Murphy, of St. Louis, Mo., believes that our citizenry over age 65 comprise the most abandoned group in America. Many knowledgeable people involved with the problems of our older citizens would certainly agree with him.

What Mr. Murphy has done is to organize 207 clubs and organizations representing the elderly into a committee called OASIS, Older Adults Special Issues Society. OASIS serves as a coordinating agency and acts as a focal point through which elderly citizens can express their needs and problems.

As head of OASIS, Mr. Murphy has become an informed and vocal advocate for that portion of the 22 million elderly and often forgotten Americans who live in the St. Louis area.

As chairman of the Subcommittee on Aging, I commend to the Senate an article regarding the activities of Mr. Murphy and OASIS, published in the St. Louis Post-Dispatch of March 21, 1972.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN OASIS IN DESERT OF OLD AGE

(By Jake McCarthy)

Gil Murphy thinks our citizenry over age 65 is the most abandoned group in America, and he wants to set up a "crisis intervention agency" to cope with the problems here of the old and lonely.

Disturbingly enough, he believes also that the problem of aging in today's conglomerate society begins much earlier than the once-traditional retirement age. It begins for many when they find themselves unemployed at age 45 to 50.

Murphy, a 45-year-old Presbyterian minister, brings a special authority to his view of the situation. He ended a 20-year stint in the pulpit in 1968 for what he calls his "tent-maker ministry" among the senior citizens of our community. Not only are the elderly ignored, he says. So are most efforts to help them.

His own efforts are channeled through Older Adults Special Issues Society, (OASIS), which grew out of early efforts to secure reduced transit fares for people over 65. But OASIS hasn't turned the desert green yet. As a matter of fact, what little green it has had, in terms of financial support, is withering and may dry up by April 1.

OASIS represents 207 elderly and retiree clubs in the St. Louis area and has an active membership of 4900 families, including 1641 families classified as low-income, and a black membership of 38 per cent.

Although OASIS serves as the co-ordinating agency for the 207 clubs and provides crisis services and a focal point through which the elderly can express their problems and needs, Murphy says "we don't have the support of the Establishment." He points out that United Fund has declined to support the Older Adults Special Issues Society for three consecutive years.

"They said our program must become self-sustaining," he says, "but the people we are trying to help have to struggle themselves just to survive."

Murphy has been operating on a grant of $16,000 under Title III of the Older American Act, plus free space amounting to the same value donated by Christ Church Cathedral downtown. But the money runs out March 31.

Ten per cent of our national population, or 22,000,000 people, are over age 65, he points out. There are about 580,000 persons over 65 in Missouri, or about 11.5 per cent. Some 17 per cent of the city's population, or 91,000 persons, fall into that category, compared to 7 per cent in St. Louis County.

The obvious long-term problem of the elderly, Murphy says, is to find adequate income. "But let's face it," he says, "they're not going to get it." Thus he sees an urgent need for a crisis intervention agency to meet their immediate problems, and is preparing applications to foundations for support.

"If older people get sick, we know how to get them into a hospital. Or get their heat or electricity turned back on, or get food into their house, and then work out a long-term plan through some long-term agency," he explains.

"We want to see if we can keep them out of institutions and in their own places of residence."

But he points out that "we have many misconceptions about the plight of the elderly. We assume that if they have paid off their home during their working years, they'll always have a place to stay. But they soon find out they can't keep up with their property taxes if their only income is social security. Then they have to sell that house or lose it."

Murphy charges that Union Electric Co. is discriminatory in its rate structure, under which the cost of electricity decreases with increased usage. "So the little old lady who burns a single 50-watt bulb in her kitchen to save money pays more per kilowatt than the family in an eight-room house that keeps the lights on all night.

"There aren't any social workers assigned to the elderly because they are on Social Security, not welfare. There isn't anybody looking in on them except, maybe, a helpful neighbor. Sometimes they're not so helpful. If the old person has to go to the hospital, he may come home and find out that what some neighbor was keeping his eye on was the old person's television set.

"If the aged person is deemed incompetent, his social security checks might be 'held' by some institution and the person never sees it. He or she doesn't even have enough money to buy a Coke or a bag of potato chips.

"And even if the older couple has a social security income as high as $300 a month, and tries to maintain a home, you've got the figure maybe $50 or goes to property taxes, another $50 or more for utilities, maybe something for a car. Then what's left for food and other necessities?

"But I would guess the average social security income is far less than that—maybe as low as $100 per month on the average. Who's kidding whom that elderly people can survive on that?"

Murphy declares: "Because we don't want to face the problem, we segregate our elderly. We tend to put them into enclaves in the city where we don't have to see them all the time. Or else we tell them they ought to move to some 'retirement village' in Florida or Arizona, if they can afford it, and they have to spend their remaining years with a bunch of strangers."

The problem is getting worse, he believes, because of what is happening to the person over 45. Part of the difficulty, he says, is the private pension system. "Many corporations have a plan in which the middle management guy comes under it after 20 years. So, suddenly, after 19 years and six months, the guy in his 40s finds his services aren't needed anymore.

"Maybe he has worked up to an income of $20,000 or $30,000 a year and he's 45 years old. He thinks he's qualified and assumes he'll connect right away, but he soon finds out that companies aren't 'hiring laterally.'

"He finally offers to work for $10,000 or $15,000, but they tell him he wouldn't be happy at it, that he's overqualified. So he has to go into sales and become like the fictional salesman Willie Loman the rest of his life. Of if he's saved some money, he might buy some franchise operation. His own busness. But unless he's lucky, he loses his shirt.

In any case, by the time he's 65 he's probably flat broke. He doesn't have a pension. His reduced earnings for the last 20 years has reduced his social security payments, and he finds himself trying to survive on a pittance. He never thought it would come to this."

Murphy says a bill now before the Missouri Legislature, House Bill 1933, would give relief on property taxes to the elderly on a sliding scale, depending upon old age income, "and that would be a help if it passes. But it's relatively little help in terms of the needs of the aging."

Murphy is a consultant to St. Louis's new Office of Aging, which recently received a grant of $25,000 to plan a $200,000 program of improved social services for the aged. Murphy became active in the question of aging in 1965, when he began to take part in the Home and Family Nurture Program of the U.S. Presbyterian Church.

Born Gilbert C. Murphy in Galesburg, Ill., on May 26, 1927, he was graduated from Westminster College at Fulton in 1948 and went on to the McCormick Theological Seminary in Chicago, where he was ordained in 1951.

He held three pastorates in Kansas City, and was a community organizer there. Then he moved to Webster Groves in 1963 to become pastor of South Webster Presbyterian Church.

In 1968 he decided to "go into the tent-maker ministry" under which a minister makes his own economic way in the world. He still serves as a loaned pastor at Mizpah Presbyterian Church in Bridgeton, although his official assignment from Presbytery of

Southeast Missouri is his work with the Older Adults Special Issues Society.

He has had a number of setbacks in his three years with OASIS. Plans to utilize the Lenox Hotel for a wide range of elderly activities fell through for lack of economic support, and last August OASIS was offered quarters at Christ Church Cathedral.

In addition to a lunchtime soap program for the destitute elderly and a series of crafts and activities "to integrate the elderly into interpersonal relationships," OASIS keeps itself busy in interrelating the meetings of its 207 associated clubs and serving as a central voice. Its board of directors is made up entirely of the elderly, although there is an advisory committee of prominent citizens. "But our decisions are made by the elderly," he says.

"Most of the money allocated to meet the needs of our older citizens goes to those who are institutionalized. But only about 5 per cent of our elderly are institutions. What are we going to do about the rest?" Murphy asks. "Keep on sweeping them out of sight and out of mind?"

SOLID WASTE DISPOSAL PROBLEMS—ADDRESS BY DAVID D. DOMINICK

Mr. MOSS. Mr. President, the National Association of Secondary Materials Industries held their annual convention in March of this year. One of the important addresses given at their convention was a thoughtful address given by David D. Dominick, Assistant Administrator, Office of Categorical Programs, Environmental Protection Agency.

His comments reflect the kind of direction this country must go if it is to solve its solid waste disposal problems, and it indicates that the Environmental Protection Agency is investigating the problem and taking action in some of the needed areas. The examination of freight rate discrimination, use of user deposits, taxes on certain items, technological invocations, and other tax problems being carried out by EPA under the Resource Recovery Act of 1970 should lead to necessary changes.

I ask unanimous consent that Mr. Dominick's speech be printed in the RECORD so that others might see the kind of directions that must be taken in this field.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

RECLAIMING OUR NATURAL RESOURCES

Nearly 60 years ago, when this National Association of Secondary Material Industries was formed, few people would have understood the meaning of the word "recycling."

Now, in this era of environment, the terms recycling, reclaiming, and reusing, are catchwords of the ecological movement.

Across the country citizen action groups have voluntarily created recycling centers in order to reclaim valuable natural resources so that they may be used again.

As an example of business interest, the aluminum industry has recognized the value of reclaiming aluminum products. This past year alone the Aluminum Association reports that more than three-quarters of a billion cans were recycled, eliminating litter while conserving natural resources.

Citizen action, coupled with the efforts of the secondary materials industry and other business concerns, has shown that significant amounts of our resources can be saved and reutilized.

We know, for example, that about 45% of this country's total available copper is recovered from scrap, that about 10% of our total raw paper needs are filled by recycled paper, that about 30% of all aluminum is reclaimed and that over 50% of our lead needs come from scrap.

While these results are good, I believe that we must do a better job of reclaiming the natural resources of this country and seeing that they are reused when practicable.

The Council on Environmental Quality reports that industrial solid wastes alone generate 110 million tons of waste per year; 15 million tons of metal; 30 million tons of paper and paper products; with the rest consisting of waste plastics, textiles and assorted materials.

The industrial wastes are expected to double to more than 200 million tons per day by 1980. And residential, institutional, and commercial solid wastes, now piling up at a rate of 250 million tons per year, are also expected to double by 1980. Clearly, great efforts will be needed to solve the growing solid waste problem.

The Environmental Protection Agency has been given the primary Federal role in examining the problems associated with recycling of solid waste materials. We are concerned with the economics of resource recovery. We are concerned about the present legal discrimination on secondary materials imposed by freight rates. We are helping to develop new technology that will increase the opportunity for resource recovery, and we are demonstrating the practical application of such technology.

EPA is aware of the many economic factors that impact the secondary materials area. We know that virgin raw materials costs have in many cases been as low as the cost of secondary materials. We know too that natural resources are concentrated and tend to be more homogeneous in composition than waste materials.

In addition to the economic factors that have worked against recycling, the public attitude, in the past, has been negative when faced with the decision to purchase products containing material made from scrap. But the public attitude is changing to one of acceptance of products made from nonvirgin material, provided that the product meets performance requirements. This change in attitude was recognized recently by William Ruckelshaus, Administrator of the Environmental Protection Agency, when he suggested that aluminum companies might well advertise their products as containing recycled material.

With a view toward the marketing problems of secondary materials, the Agency has identified and is analyzing a number of economic incentives and disincentives which would be applied to increase the recycling of solid waste material. It must be noted here that we do not yet have the answers on the best mix of these measures. Thus, we cannot establish a public policy at this time that will commit us nationally to an incentive-disincentive course with confidence. But, some of the measures we are studying might allow:

1. Lowering depletion allowances on virgin materials or giving allowances in the form of direct subsidies including price supports on secondary materials.

2. Reduction of freight rates for shipping secondary materials. While it will be some time yet before we have our final figures in this area, we do generally support the arguments advanced by the NASMI with respect to ocean and surface freight rates. And, we will work closely with NASMI in making our views known to the Congress, the ICC, the Maritime Commission, and others.

3. Imposition of a direct tax on disposable items that enter the solid waste stream, the size of the tax set to reflect the disposal costs of the various material. Or, conversely, a tax credit could be given for those products which utilize secondary materials and which are readily recyclable.

4. A user deposit could be placed on nonreturnable bottles and other approaches, primarily the tax approach, could be applied to the problem in general.

5. Government purchasing, at all levels and wherever applicable, could specify recycled materials. At President Nixon's request last year, the General Service Administration changed specifications on a number of paper grades to require the use of recycled paper by the government. It should be noted too, that we are exploring with the GSA and the National Bureau of Standards the broader issues of Federal standards that apply not just to government purchasing, but for example, to NBS material standards that could impact on the building industry.

6. Investment tax credits and accelerated amortization for industry-purchased recycling equipment could be provided.

7. Various forms of restrictive legislation could be enacted to inhibit or halt the flow of specific items in to the solid waste stream.

Indicative of the importance that the Administration is placing on recycling is the statement by President Nixon in his Environmental Message of February 8. The President said, ". . . Federal tax policy should also offer recycling incentives, (and) the Treasury Department is clarifying the availability of tax exempt treatment industrial revenue bond financing for the construction of recycling facilities built by private concerns to recycle their own wastes."

Surely these measures that we are reviewing could have significant impact on the proposition of resource recovery, if properly mixed and implemented. Many of the possibilities I have mentioned would be favorably received by this association, for many of them were suggested to the Joint Economic Committee in testimony last November by the vice president of NASMI, Mr. Mighdoll.

Certainly, working to solve the economic difficulties that beset the recycling industry will be occupying a good portion of our time. But, we are also moving ahead in the area of technology innovation—seeking to spur on the development of more efficient and economically viable reclamation methods.

In this respect we are funding a refuse milling demonstration project in Madison, Wisconsin. The purpose of this project is to centrifugally separate metal such as gears and engine blocks which have damaged shredders and rendered bulk milling impractical. All the answers on this project are not available as yet, but if successful some of our solid waste disposal and reclamation problems could be solved.

A second project which is receiving considerable attention is an EPA funded project in Franklin, Ohio. This plant is designed for resource recovery, to recycle municipal solid waste, and to reduce the unwanted waste residues to one-twentieth of their original volume.

This plant is now separating paper from metal and turning the paper into cellulose fibers. The ferrous metals are segregated from the non-ferrous metals. The recycled products—paper, steel, aluminum and glass—can be sold, with favorable market conditions, for nearly $100,000 per year.

An additional phase of the Franklin operation will provide a system to screen, wash and sort bottles. This will begin some time this year. Further, the plant will be integrated with a sewage treatment plant so that water used in separating actions can be reused for the slurry lines. Industrial waste will be burned in a reactor where the heat will dehydrate sewage sludge.

A third project in which we have great interest is a cooperative venture between EPA, the City of St. Louis, and the Union Electric Company. In this project municipal wastes will be shredded to a small particle size. When the ferrous metals have been magnetically extracted, the other waste material will be mixed with pulverized coal to fire a power plant boiler and generate electricity. The fuel value of municipal solid waste is about half that of coal. So, if the St. Louis project proves to be a success it could help solve the waste disposal problems of many of the country's large cities.

These three projects in Madison, Franklin, and St. Louis hold great potential in terms of resource recovery and reuse of energy that was previously wasted. But, at this particular point in time the word "potential" must be emphasized. Some years will pass before the plants that I have described today will be found operating in many cities and towns.

I have spoken of the market problems involved in resource recovery and told you of some of the potential solutions we have under review. I have also mentioned the demonstration projects that are being developed and put into operation to reclaim resources and use previously wasted sources of energy.

Having told you about some of the steps the government is taking, I would urge the members of this association, and other industries that collect or process secondary materials to continue the work of resource recovery and to continue to lead the effort to channel valuable products back into the market for reuse.

I believe that the future will see new industries develop from the manufacture and sale of materials made from recycled goods. The innovation to come in this area will, in turn, provide you with new and profitable opportunities.

And, most importantly of all, we will solve a significant portion of the nation's solid waste problem while conserving and reusing great quantities of our national resources.

HEALTH CARE FACILITIES—STATEMENT BY DR. ROGER D. MASON

Mr. CURTIS. Mr. President, many rural communities are concerned about their health care facilities and the availability of doctors. Sometimes the notion prevails that only Washington is concerned. That certainly is not true. In fact, much is being accomplished by the citizens themselves in dealing with this problem.

In September 1971, the Subcommittee on Rural Development of the Committee on Agriculture and Forestry of the Senate held several field hearings. Among other places where hearings were held was Nebraska. At that time Dr. Roger D. Mason, a practicing physician of McCook, Nebr., and president of the Nebraska Medical Association, made a very fine statement. I think it merits a place in the CONGRESSIONAL RECORD. Mr. President, I ask unanimous consent that Dr. Mason's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

HEALTH CARE FACILITIES

Mr. Chairman and members of the Subcommittee: I am Roger D. Mason a physician in the private general practice of medicine here in McCook. In addition I am presently serving as president of the Nebraska State Medical Association. I am very pleased for this opportunity to respond to your inquiry into rural America, its problems, and possible solutions to these problems.

There can be no doubt that Nebraska shares with the rest of the rural United States a need for an improved economic base. This should include not only an expansion of agriculture, but also diversification with location of appropriate other industry in America's more sparsely populated areas. However, my purpose in being here this evening is to stress the importance of community services in general and health needs in particular if we are to stem the tide of migration from rural to urban areas.

I am sure you will recognize the parallels between my comments on medical and health needs, and other areas such as education, transportation, communication, church facilities, and general commerce.

First, let me say that Nebraska is much like the rest of the United States in that the problems of health care delivery are quite variable in different sections. Providing for the care of the sick, injured or aged in eastern Nebraska, in relatively close proximity to Omaha or Lincoln, is quite different from providing that same service in the sandhills or here in Southwest Nebraska. Outstate Nebraska, that area outside metropolitan Omaha and Lincoln, is made up of about fifteen minor population centers each serving a relatively large surrounding agricultural territory. In eastern Nebraska we have two Indian reservations presenting their unique problems and along the North Platte River through the Panhandle there is a concentration of transient Mexican-American population. Many of the service communities in Nebraska are close to bordering states—such as McCook, Scottsbluff, Hastings and Beatrice—which creates some problems in programs such as Medicaid.

While discussing Nebraska's problems, medical manpower and manpower distribution must be considered. In this regard, I would like to present a few figures which will illustrate my point, I think. On a state-wide basis in 1940, the physician population ratio was 1:940 and in 1970 this ratio had dropped to 1:925. However, in the same thirty years, the area outside Omaha and Lincoln went from a ratio of 1:1149 to a physician population ratio of 1:1405. What I'm saying is that state-wide we have done a good job in retaining physicians in Nebraska but the rural areas have lost ground.

In considering these figures I believe they should be tempered with consideration of improved medical facilities, better transportation, etc which has increased the productivity of our physicians.

Nebraska medical manpower discussions in the past have usually come around to mention of the fact that thirteen of our ninety three counties have no physicians. It should also be indicated I believe, that nine of these thirteen counties have a 1970 census of 1,054 or less. With fairly adequate roads and transportation most of these areas are reasonably close in time to surrounding medical facilities.

Throughout rural Nebraska, we have some difficulty in providing allied health services, notably in the fields of social workers, physical therapy, and neurology. At present, these services are available, but primarily only with considerable expenditure for travel.

After mentioning some of the problems in health care in rural Nebraska, I would like to briefly mention some of the existing programs aimed at solution of these problems. In order to reduce the time involved in giving my oral remarks I have here some material prepared by the University of Nebraska College of Medicine and the Nebraska Regional Medical Program. I would like to ask that these reports be added as an appendix to my remarks.

To first mention some of the programs which we in Nebraska feel are of proven value, I would like to discuss the preceptorship portion of the University of Nebraska curriculum. This is a four week required exposure of senior medical students to rural practice. The student may select any of fifty practicing physicians in outstate Nebraska to spend this period of time with. We feel this program has been instrumental in locating younger physicians in rural Nebraska.

Rural Health Day is held once a year in Omaha as a cooperative effort between the University of Nebraska, Creighton University, The Academy of Family Practice, and the Nebraska State Medical Association. Every town in our state is invited to send representatives to discuss possible future location with the medical students. This program too has been effective in securing physicians for rural Nebraska. One important ancillary benefit has been that the students have educated the communities as to factors important in attracting today's young physician.

The new Action Agency program recently inaugurated as a consolidation of Vista and the Peace Corps is being promoted at the University of Nebraska College of Medicine. In our state, this is known as NOVA (Nebraska Opportunity for Volunteers in Action). The target date for these students to begin service is September 26, just 17 days from now.

There are two unique programs in Nebraska aimed at improving medical services in rural Nebraska which I would like to mention. Creighton University has recently begun teaching some of their medical students to fly. The purpose behind this is to increase the rural physicians access to surrounding medical centers for referral as well as postgraduate education.

In addition, and under the sponsorship of the Nebraska Regional Medical Program, a 12 foot by 60 foot mobile trailer unit is operational in Nebraska. This is a cancer screening unit aimed at the most common cancer sites. This unit is programmed to supplement the care of patients in areas of low medical manpower as well as the Indian reservations. It will also supplement service to the migrant worker population.

One additional program deserves mention since it is aimed at improving the quality of care as opposed to programs aimed at the quantity of health services. This is the Coronary Care Training Program again under the sponsorship of the Nebraska Regional Medical Program. To date 806 nurses and 55 physicians have been trained in the newest techniques of caring for the patient with coronary occlusion.

Mr. Chairman, I can sum up my remarks by saying that the provision of services and improvement of the socio-economic status of out-state Nebraska is a pre-requisite for preventing the loss of population in our rural communities. These problems are complex to identify as well as to solve.

Thank you for the opportunity to present this statement on behalf of the Nebraska State Medical Association and the people of Southwest Nebraska.

ANTHONY LEWIS ON THE VIETNAM OFFENSIVE—"IN THE NAME OF GOD, GO"

Mr. KENNEDY. Mr. President, the columns by Mr. Anthony Lewis, published in the New York Times last Saturday and today, provide an eloquent denunciation of the appalling new escalation of the war in Vietnam, and the fresh agony it brings to the families of our prisoners. As Mr. Lewis states, the U.S. policy of Vietnamizing the war is a policy of perpetual war and perpetual American involvement in the killing and destruction in Indochina. So long as the war goes on, so long as American planes are bombing Indochina, there is no chance whatever that we shall get our prisoners back.

The American people want the war to end. Quoting the words of Cromwell in dismissing the Long Parliament, Mr. Lewis applies that exhortation to the position of the United States in Vietnam—"In the name of God, go."

Mr. President, I share the views of Mr. Lewis, and I believe that millions of Americans share them also. I ask unanimous consent that his columns be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 8, 1972]

IN THE NAME OF GOD, GO

(By Anthony Lewis)

Richard Nixon, December, 1971: "Vietnam will not be an issue in the campaign as far as this Administration is concerned, because we will have brought the American involvement to an end."

LONDON, April 7.—The Nixon withdrawal from Vietnam has always had something of an illusory character. While American ground troops left, other military involvement continued or intensified. From carriers and from enlarged bases in Thailand, American bombers attacked Laos and both parts of Vietnam. American planes and supplies supported a larger war effort in Cambodia. The phantom C.I.A. army fought in Laos.

Many Americans nevertheless believed—because their President said so and they wanted to believe—that their part in the Indochina war would soon be over. Now that belief must be dead—gone the way of all the other officially propagated illusions about Vietnam.

The South Vietnamese, we had been told, were making remarkable progress, their million-man army confident, their political situation stable. The Communists had never rebuilt their southern infrastructure after the losses of Tet 1968. The war was going better than we had hoped.

It took less than a week for the new Communist offensive to shatter that picture and to send President Thieu of South Vietnam crying for help. Of course he cried to Richard Nixon. The response was the familiar one: more B–52's, more destroyers, more carriers, more close air support, more bombing of the North, more U.S. involvement.

Surely now there cannot be any informed person on earth who fails to understand what is the result of the Nixon-Kissinger formula for "peace" and "stability" in Indochina: perpetual war and perpetual American involvement. Unless the war ends on our terms, with Communist acceptance of the Thieu Government, we shall keep killing the inhabitants of Indochina—from a distance.

The Communist offensive did put Mr. Nixon in a difficult position. No American President wants to be seen abandoning a policy under duress, this one least of all. But it was Mr. Nixon and Henry Kissinger themselves who painted themselves into the corner where they have no options except more of the destruction that everyone knows is morally outrageous and politically useless.

When Mr. Nixon took office three years ago, he could have recognized the political realities of Vietnam and left the internal forces there to work out their own balance. Instead he has continued to make the attempt to impose our solution.

He did so, according to report, on the advice of Henry Kissinger that the other side could not indefinitely withstand our superior force and would have to agree to terms. In short, we could bomb them into settling.

But that was the oldest, most tattered official illusion of them all. From Lyndon Johnson's tragedy came the lesson that in a limited war the United States has limited power to impose its terms. If Henry Kissinger did indeed ignore that lesson, he will have a heavy reckoning to pay in history for three more years of pointless death in Indochina—or four or five or ten. For on the present policy, how can anyone pick a date when the war will end?

The Kissinger-Nixon justification for going on in Vietnam is that we must preserve our credibility as a world power. But a great country can justify such relentless destruction of another only if its own safety, its vital strategic interest, is urgently at stake. And virtually no one believes that about Vietnam any more.

A leading British student of international security and war, Michael Howard, has some apt comments in the April issue of Encounter. It is a tough-minded article, cautioning idealists that world stability will always require "the acceptance of necessary injustice"—for example, dealing with the Greek military regime.

But as a realist, Mr. Howard says of Vietnam: The evils that would result from Communist domination there are "purely notional and arguable," while "the evils which are perpetuated in preventing it appear so actual and so evident that the 'order' in whose name they are carried out stands . . . condemned." He concludes:

"Whatever the arguments may be about regional or global stability, about dominoes or deterrence, what the United States has been doing in Vietnam is wrong and ought to be stopped."

The American people have evidently believed for some time that President Nixon's objective—preserving Nguyen Van Thieu—is not worth what we are doing to Indochina and to ourselves. They want an end to American involvement, with its corrupting effects on our reputation abroad and our peace at home. They would say what Cromwell said in dismissing the Long Parliament: "In the name of God, go."

[From the New York Times, Apr. 10, 1972]

THE FORGOTTEN VICTIMS

(By Anthony Lewis)

LONDON, April 9.—President Nixon's response to the Communist offensive in Vietnam, his escalation of air and naval bombardment, has special and agonizing meaning for one group of people: the wives and families of American prisoners.

More than anyone else, they must realize that the Nixon policy now offers no realistic hope of an end to American military involvement in Indochina. And in all likelihood that means no end to the captivity of their husbands, sons, brothers and fathers.

The feelings of the wives and families are likely to have political significance as the year 1972 goes on. Mr. Nixon, recognizing their potential as a focus of antiwar emotions, has taken great care with the families: his aides have cultivated them, and he himself made a surprise appearance at the last meeting of their organization. But resentment of the President—a feeling that he has defaulted on a pledge to get the men out—is now growing.

The President's credibility among the prisoners' families was falling before the latest military turn in Vietnam. An example of that trend can be seen in Mrs. Audrey Craner, whose husband, Lieut. Col. Robert Roger Craner, was shot down over North Vietnam on Dec. 20, 1967. She has had one brief letter from him since then, and she does not know whether any of her letters to him has got through.

Mrs. Craner is English-born, and she struggles in a very English way to contain her anguish. She has not wanted her husband's plight to be caught up in politics; she has resisted those among the families who favor politicizing the prisoner issue. But now, painfully, her words are changing.

"Mr. Nixon keeps saying the war will not be an issue in the election," Mrs. Craner said a while ago, "but I can't believe that. He came in on a promise to end the war. He made clear in his last [January] speech how difficult that is, but he made the promise.

"I assume that Mr. Nixon means what he says when he says he will be responsible for the prisoners, so he must expect us to hold him responsible. If he gets those men out, I'll be glad to back him in the election. I'm sorry to be so selfish, but . . ."

Mrs. Craner appreciates the argument for continuing American effort to keep the Government of Nguyen Van Thieu in power in Saigon. She says that her husband is a career officer who understood the risk of war and would have thought his captivity a burden to be borne for the sake of American political objectives. But then she says: "That's what I believe he would have said five years ago, but now I don't know."

Others among the prisoners' families are much less cautious than Mrs. Craner, much more politically committed. An example in Washington, D. C., is Sheila Cronin, whose brother was shot down on Jan. 13, 1967. He is Navy Lieut. Comdr. Michael P. Cronin.

Miss Cronin and others are working in their spare time to put pressure on President Nixon by supporting candidates who would end the war and get the prisoners home. They expect to go to both national conventions.

"When the President spoke in January about the secret peace talks," Miss Cronin said, "we didn't understand a lot of things. We went to the White House and spoke with a staff man from the National Security Council. I asked him a lot of questions, and I didn't get a straight answer to a single one. At the end he told me that I should give their peace plan ten months—which would keep us quiet long enough to get Nixon re-elected."

One episode played a significant part in the politicizing of Sheila Cronin. That was what she calls the President's "misrepresentation of the facts" in his television interview with Dan Rather of C.B.S. last Jan. 2.

In that interview the President said flatly that the United States had offered the North Vietnamese "the deal of saying if we set a deadline" for total withdrawal, 'then they will give us back our P.O.W.'s." The North Vietnamese, he said, had 'totally rejected" this proposal—"a very cruel action on their part."

But that was fiction. The United States has never disclosed having made any such proposal for an even exchange—total withdrawal in return for the prisoners—even in the secret talks.

There is certainly no assurance that the other side would have accepted the idea. They might have last summer, before General Thieu's reelection; they might not. But there has never been any sign of willingness on Mr. Nixon's part to make such a deal, at least to date.

Even by our degraded standards of political truthfulness, such a calculated misrepresentation was, and is, staggering. The wives and families are not likely to forget it—or, if they have any access to the public conscience, to let the rest of us forget it.

PROXMIRE WARNING ON NUCLEAR DISASTER

Mr. PROXMIRE. Mr. President, this morning the Military Spending Committee of Members of Congress for Peace

Through Law held a news conference on the wisdom of proceeding with the ULMS program on a crash basis proposed by the President. I ask unanimous consent to have printed in the Record the statement I made at that conference.

Mr. President, I worked long and hard in the preparation of this statement. I think it has very great significance, and I hope that Members of Congress and as many as possible of the national readers of the Congressional Record will read the statement thoroughly.

I also ask unanimous consent to place in the Record the report compiled by the staff of the Members of Congress for Peace Through Law.

Much of the work on this effort was done by Ross Hamachek, an extraordinarily gifted young man whose contribution to this report is in my view very great indeed.

There being no objection, the statement was ordered to be printed in the Record, as follows:

ULMS Press Conference

This is the first press conference of this committee of the Members of Congress for Peace Through Law in a long time.

Before I get into a substantive discussion of ULMS—which of course is the purpose of this meeting—I stress that this committee and this senator are both determined to do all we can to strengthen our military forces. I believe firmly in the scroll I have just framed and put on the wall in my office. It reads: "Defense is our national insurance policy. We must (I repeat) must be number one."

And how do we stay number one?

How do we know? How are we qualified to speak out with authority on a subject on which life and freedom depend and depend on the right answer?

How we wish we could say with Vince Lombardi: "Winning isn't the best thing; it's the only thing." Lombardi was a good—in fact a wonderful man; but on this statement it's hard to resist marveling at his arrogance.

In the same way it's hard to resist marveling at the arrogance of those who are sure that there's only one answer on the nuclear confrontation and that they alone have the answer.

The best claim to consideration any of us can have in this life-and-death debate is that we suffer good, common wholesome self-doubt.

To put it another way. No man is God. None of us is infallible. We all make mistakes including bloopers of monumental dimensions in fields where we have devoted our lives, where we have had the best training.

This is not to say that Ignoramuses know more. It is simply to say that we should be cautious about all conclusions, no matter how divinely inspired they may seem, or how expert they may in fact be, including our own and including the ones that I will suggest today in connection with ULMS.

This morning I am specially conscious of the fact that I am dealing with a weapons system that could make the difference in preserving this country's freedom against all-out nuclear attack. I also realize that any time both this country and the Soviet Union make any advance in nuclear power, then the crushing catastrophe that could end most life on earth and end civilization comes closer.

Let's also acknowledge that this committee has singled out ULMS in the past as a weapons system we could and did enthusiastically support. Last year I contended that the Defense Department was going too slow on it, and it was. I said DOD ought to shove ULMS along faster. Everyone knew that the Committee said we should be spending less on weapons that couldn't do the job and God knows I supported that position. But there was little recognition of my own enthusiastic support of ULMS. *Was* I right then? *Were* we spending too little on ULMS? What do you think?

And now, the committee and I of course feel we should push this program ahead just as fast as we can justify doing so. We need it. If I could wave a magic wand, and have ULMS all in place right now—complete and ready to do the job, I would wave it. Why wouldn't I want instant, devastating power for my country?

But of course there is no magic wand. There is no sure, quick way. In fact there is no quick way; and there is no sure way. There is just the plodding, agonizingly, slow progress of fallible human beings—little better or worse than any of us—human beings who make mistakes—made them in the past—will make them in the future and make them now.

So with full determination to achieve an ULMS that will do the job and will do it as fast as good sense indicates is possible, we strongly oppose this year's Defense Department's decision to throw everything including the kitchen sink into the program with an incredible one thousand percent single year increase in funding. That is far too fast to make anything except big mistakes.

Now am I not being inconsistent?

Well, how about it? I'm not asking you to take the word of any group of Senators or Congressmen for this. I'm asking you to take the implications of this year's DOD decision to smash ahead full tilt on ULMS as compared with its decision last year to go slower than Senator Proxmire wanted to go.

If I'm a naive ULMS dove this year, I was a bloodthirsty ULMS hawk last year. Which was it? The answer of course has to be: Neither!

Gentlemen what I have just read—is a statement I prepared and wrote last night at my home. During the past week the staff of MCPL prepared another statement which of course is available to you. I'm very proud of our staff. I prepared this statement I have just read before I read theirs.

Before I call on Congressman Don Fraser who worked with the staff and me on the report, I will summarize the points made by the staff in its prepared statement. And after Congressman Fraser's statement we will be ready for your questions.

The points are these:

1. MCPL has decided to concentrate on four major weapon systems this year: ULMS, the new Aircraft carrier, the F–14, and the WACS bomber defense system.

2. The Request for ULMS this year is $977 million. $330 million of this is earmarked for a new long range missile system the ULMS 1, the balance for development and long lead production work on the new ULMS submarine itself.

We support the $330 million in missile related funds—we do so with enthusiasm.

But we believe the develop work should be funded in fiscal 1973 at no higher than a $50 million level.

We naive doves would increase this devastating military program over last year—not by 50%—not just double—or triple. We'd increase it F-O-U-R TIMES?

It is true we would cut $600 million below the DOD request.

The report has our other conclusions and recommendations.

Here are the highlights.

3. We remain convinced that our sea-based deterrent has the best prospects of all our strategic systems for long-term survivability, and we fully support all steps necessary to preserve its strength and invulnerability. Our recommendations are quite consistent with this objective. They call for ULMS funding almost four times larger this year than last and a major new missile development program to improve the capabilities of our fleet. The ULMS 1 missile will make our Polaris submarines much more difficult to detect, will expand their time on station, and will give them improved target coverage. If introduction of the ULMS 1 is accompanied by quieting improvements on which the Navy is already working, our current submarines can be given virtually all the new capabilities which the Navy is projecting for ULMS.

Our Polaris submarines are not suffering from the ravages of age. They will need replacements in the 1985-1990 time period, but there is no need for crash development and deployment of their successors ten years before that time.

4. The American taxpayer cannot afford the conspicuous consumption of new weapon systems which has become the military way of life. This is especially true when the long-term nature of the ASW threat is so unclear that any new submarines we build today could be rendered obsolete in much the same way and at much the same time as the submarines we now have.

5. A new submarine construction program is not needed now to match a Soviet submarine buildup. We do not know what plans the Soviets have for expansion of their submarine fleet, but we do know that our submarines are much harder to find and have ten times more warheads per ship. Under these circumstances, we should not allow Soviet expenditure of $100 million on a 42nd ballistic missile submarine to propel us into a $30 billion investment on ULMS and the world into a new sea-based arms race.

We should instead proceed with the ULMS 1 missile, but defer any major submarine construction program for at least one year and look to the SALT negotiations for limitations on both the Soviet and United States submarine fleets. If these negotiations succeed, major development work on a new submarine system should not be necessary until after 1975. If no agreement is reached, Soviet actions should be monitored closely and careful consideration given to alternative United States responses. Additional submarine construction may become necessary, but there is much to be said for a smaller, less detectable, and less expensive ship than the present high-speed ULMS design.

Report on ULMS

(A research paper for consideration by the Military Spending Committee)

SUMMARY AND CONCLUSIONS

The Navy's Undersea Long-Range Missile System (ULMS) has been in the study and design phase since its inception in 1969. We have supported the ULMS program in the past as a long-range hedge against threats to and as an eventual replacement for our Polaris and Poseidon missile-firing submarines. We agree with the Administration that our sea-based deterrent has the best prospects of all our strategic offensive systems for long-term survivability, and we fully support all efforts necessary to preserve its strength and survivability.

The ULMS program was funded last year at a level of $104.8 million. This year's request—including $35 million in presently deferred supplemental fiscal 1972 funding—is $977 million. Approximately $330 million of the pending request is earmarked for work on a new long-range missile system (ULMS 1) and the balance for new submarine development and production work. It is the Navy's present intention to be able to deploy the new missile in our current submarines in 1977 and the first new ULMS submarine in late 1978.

There are two possible justifications for the almost 10-fold increase in fiscal 1973 ULMS funding. It can be viewed, first, as a response to Soviet submarine fleet expansion, and second, as a modernization and replacement program for our Polaris and Poseidon submarines. We do not believe that large-scale funding for a new submarine system as opposed to funding for a new long-range missile system can be adequately justified on either of these grounds at this time.

Soviet Submarine Expansion. It is true that the Soviets have already deployed 25 Yankee class ballistic missile submarines and that another 17 are now under construction. It is true, also that deployment of all those submarines by the end of calendar year 1973 would give the Soviets one more modern ballistic missile submarine with sixteen more sea-based missiles than the United States. While this Soviet buildup is grounds for serious concern, it does not justify an accelerated new submarine construction program at the present time.

For one thing, numbers of submarines and sea-based missiles are only two indicators of a nation's sea-based deterrent strength. Such factors as numbers of warheads, submarine detectability, missile range, and geographical considerations also play an important role. And in each of these areas the United States has and will enjoy for some time to come significant advantages over the Soviets.

Second, it is impossible to predict what additional improvements in their sea-based deterrent the Soviets may undertake or what success they will enjoy in their endeavors. They may seek to deploy considerably more than 42 ballistic missile submarines, or they may stop at or near that number. They may or may not seek to put in their present submarines longer range missiles with independently targetable weapons to match the Poseidon program. It is true that the Soviets have developed a new SLBM with a range equal to that of Poseidon; but it is also true that they have yet to conduct one successful MIRV flight test of either a land-based or sea-based missile.

Third, an accelerated new submarine construction program is not needed now to protect United States interests against this ill-defined Soviet threat. Even under scenarios much worse than might be expected, we could defer such action for one or two years yet still respond in plenty of time to prevent the Soviets from gaining any significant advantages in sea-based deterrent strength.

Fourth, an accelerated new submarine construction program now could jeopardize SALT negotiations for numerical limitations on the size of sea-based deterrent forces. The Administration has increased this prospect by its implication that work on ULMS might proceed with little change in the current timetable even if such limitations were achieved, as a replacement rather than a supplement to our Polaris submarines. If ULMS, in fact, is not negotiable, it is difficult to see how it could provide the Soviets with incentive to accept such limitations.

We could have a much better bargaining position at SALT if we proceeded now with work on a new long-range missile system only. Initiations of such work would serve as ample evidence of our determination to protect our sea-based deterrent. A new submarine construction program would be the logical *next* step if sea-based force limitations are not achieved.

For all these reasons, we should not allow Soviet expenditure of $100 million on a 42d ballistic missile submarine to propel us into a $30 billion investment on ULMS and the world into a new sea-based arms race. As President Nixon noted in his recent foreign policy message to the Congress: "The capabilities of both the United States and the USSR have reached a point where our programs need not be driven by fear of minor quantitative imbalances."

There are other positive risks, too, inherent in the present accelerated program for ULMS development—risks of cost growth and schedule slippage and risks of premature commitment to an ill-advised design.

Modernization and Replacement. An accelerated new submarine construction program cannot be justified any time in the near future simply as a necessary modification and replacement of our Polaris and Poseidon submarines.

First, *none* of our current submarines will reach the end of their projected 25–30 year service lives until the 1985–1990 time period. The prospect of physical obsolescence cannot be used to justify anything like a 1978 initial deployment date for a new replacement submarine.

Second, all foreseeable prospects for technological obsolescence can be countered just as effectively by appropriate modifications to current submarines as by the development of replacements for them. Incorporation of a new longer range missile system, such as the ULMS 1, would increase their survivability, improve target coverage, and increase their time on station. It is also probable that putative ULMS advantages such as quietness of operation and reduced maintenance times could also be reduced by a gradual modification program. Under these circumstances, we believe that money spent for new submarine replacements would be money wasted at the present time.

Third, money spent now might be money wasted for another reason as well. While our current submarines are secure today from Soviet ASW techniques—and while they could be made more so by an appropriate modernization program—we know very little about the long-term nature of the ASW threat. What form the threat will take, and what steps will be required to counter it, it is impossible to predict at the present time. There is a danger, therefore, that any new submarines we build today could be rendered obsolete in much the same way and at much the same time as the submarines we now have.

We do not believe that the ULMS program, as presently structured, can be justified. Accordingly, we oppose that program and make the following recommendations for an alternative course of action. The fiscal year 1973 impact of these recommendations would be to reduce the Administration's budget request for ULMS from $977 million to $380 million. This amount would still permit a major initiative in fiscal year 1973 to increase the survivability of our sea-based nuclear deterrent.

RECOMMENDATIONS

(1) We call upon the President to express the willingness of the United States to defer for one year the accelerated development of a new submarine system, in return only for Soviet agreement to serious negotiations at SALT on the subject of sea-based force limitations. It is our belief that the President should be able to obtain such a commitment from the Soviets during his Moscow trip in May, at which time an interim SALT agreement restricting ABMS and land-based missiles is now expected to be signed.

(2) If such a commitment is obtained, the United States should make clear that its continued restraint during subsequent negotiations will be directly dependent on the restraint exercised by the Soviets themselves. In our view, such restraint will be shown if both sides forgo major additional ballistic missile submarine construction activities and confine their efforts to improving the capabilities of their current submarine fleets. If such restraint is exercised—and there are no developments threatening the survivability of existing sea-based forces—there should be ample time for negotiations to proceed without simultaneous submarine buildups on either side.

(3) Approximately $650 million of the $977 million fiscal year 1973 ULMS request now pending is earmarked for work on a new submarine and its non-missile subsystems. If a Soviet commitment to negotiations is obtained, we believe that $600 million of this amount should be disallowed. Such action would provide for a slight increase over fiscal year 1972 ULMS funding of roughly $40 million for non-missile work. We believe that $50 million should be more than adequate in fiscal year 1973 to continue Navy submarine design studies and preliminary development work.

(4) In allocating this $50 million to specific uses, the Navy should be guided by two objectives. First, it should seek to reduce to the greatest extent possible the risk of cost growth and schedule slippage which would be inherent in a decision to greatly accelerate the pace of ULMS development in fiscal year 1974. Second, it should minimize as much as possible the risk of premature commitment to a particular submarine design. Major development expenditures on a new propulsion plant, especially, should be avoided at this time.

(5) During the next year both the Department of Defense and the Congress should conduct an in-depth review of alternative new submarine designs. Special attention should be focused on the Navy's present plan to build new submarines which would be faster and much larger than our Polaris and Poseidon fleet. It should be clearly demonstrated that all costly design requirements are justified by a clear-cut military need.

(6) Approximately $330 million of the pending ULMS request is earmarked for work on the new ULMS 1 missile system. This funding should be fully approved. Development of a long-range missile system—together with other modifications to our current submarines on which the Navy is now working—will significantly enhance the survivability of our present fleet against all foreseeable threats. If development of this new missile system proceeds at the presently projected rate, it should be available for initial deployment in 1977. In the absence of any major change in the ASW threat, both the new missile and our current submarines should remain an integral part of our sea-based deterrent well into the 1990s.

(7) The Navy should accord high priority to its current "SSBN Defense" program, the purpose of which is to identify and develop suitable counters to new ASW techniques which could jeopardize our Polaris and Poseidon fleet. The knowledge gained from this program should be used to make future reductions in the detectability of that fleet and as a continuing source of ideas for new submarine designs.

(8) If SALT negotiations proceed well, the Navy timetable for a new submarine construction program should be determined both by changes in the ASW threat and the eventual need to replace our current submarines. Such a program should be undertaken in sufficient time to meet any changes in the ASW threat which have been identified and which cannot be countered by modifications to our Polaris and Poseidon fleet. Unless such threat changes have been identified, it should not be necessary to move beyond the study and design phase of a new submarine construction program until fiscal 1976 or later. That starting date would provide ample time for the leisurely development of a new submarine system. Even if development times were stretched from the roughly six years implicit in the Administration's present timetable to as much as 10 years, the first new submarine would still be available in 1985, at which time the oldest of our current submarines would be only 25 years of age. It would then be possible—with a construction rate as low as two or three submarines per year thereafter—to replace all our current

submarines inside their projected 30 year lives. We believe that this timetable, either the development or production phases of which could be compressed if the threat required, makes much more sense than the commitment now of vast sums to a new submarine system of unknown long-term value.

(9) As soon as possible, the issue of restrictions on strategic ASW operations should be placed high on the SALT agenda. Our sea-based missile submarines are now secure for the foreseeable future, but the possibility of a new ASW breakthrough—one which cannot be countered by any new submarine design—cannot be dismissed out of hand. We recognize that restrictions on ASW research are not now feasible, since compliance with them could not be verified. It should not be impossible, however, to work out verifiable restrictions on the actual deployment of strategic ASW systems or on the use of such systems when deployed.

A detailed analysis of the reasons for our conclusions and recommendations follows.

BACKGROUND

The Navy's ULMS program was initiated in 1969 to provide a long-term hedge against threats to our Polaris and Poseidon submarines and an eventual replacement for them. The program has been in the study and design phase since that time. Funding requests have been small, but growing, and the parameters of the new program have been rather ill-defined until recent months.

Three factors have recently combined, however, to make fiscal year 1973 a year of decision for ULMS within the Executive branch and to influence the decision finally made.

First, prior year funding had taken the program to a possible jumping off point. A choice had to be made for the first time between keeping the program in the preliminary development stage and moving forward in a major way.

Second, the need for such a choice had given rise to a dispute within the Defense Department and the Navy itself over the most appropriate course for ULMS development. In very simple terms, some experts believed that the time had come to develop and build a new submarine for deployment in the early 1980s, while others argued that a new submarine system was not yet needed, since all foreseeable near-term threats could be countered instead by incorporating a new long-range missile system in the present Polaris and Poseidon fleet.

Such was the substance of the ULMS–EXPO controversy which surfaced briefly in the press last summer. Development of the EXPO (for Extended Range Poseidon) missile, its supporters argued, would enable us to defer major development expenditures on ULMS until at least the mid-1970s, with no risk to the long-term survivability of our sea-based nuclear deterrent.

This ULMS–EXPO controversy was fudged over, rather than resolved, in the Defense Department's decision-making process. Symbolic of this fact was a change in name for EXPO. To minimize its apparent "threat" to the ULMS submarine system, it was renamed the ULMS 1 missile and made an integral part of the ULMS development program.

The scope of the new program was first defined in a September, 1971 Development Concept Paper (DCP) on ULMS. The paper called for the phased development of both a new long-range missile system for our Polaris and Poseidon submarines and a new submarine system. Fiscal year 1973 funding was tentatively established at the time in the $400 million area, with the major part of the total earmarked for work on the new missile. At the same time, sufficient funds for submarine development work were provided to support a 1981 initial deployment date.

Only thereafter did a third factor come into play, in the form of a faster than expected Soviet submarine buildup. Secretary of Defense Laird commented on the point in his recent posture statement to the Congress:

"The Y-Class ballistic missile submarine force of the Soviet Union could be as large as our POLARIS/POSEIDON force by the end of next year, rather than in 1974 as I predicted last year."

A decision was therefore made in January to accelerate development and construction work on the new ULMS submarine system. Fiscal year 1973 funding for ULMS was set at $942 million and an additional $35 million in fiscal year 1972 supplemental funding was also requested. The Senate Armed Service Committee decided to defer action on the supplemental request and to consider it in conjunction with its fiscal year 1973 authorization hearings.

As presently constituted, the ULMS program calls for the development of a new submarine system and two associated missile systems. The submarine itself would be more than twice the size of our Polaris and Poseidon submarines. It would be able to carry more missiles (20 to 24 per boat, compared to 16 for Polaris and Poseidon), at a faster maximum speed, and it would incorporate the latest available quieting techniques. The proposed fiscal year 1973 funding of about $650 million for submarine work would support deployment of the new submarine as early as 1978. Approval of this funding by Congress would probably commit us to that course. As Assistant Secretary of Defense Moot noted earlier this year: "You do not move this fast unless you intend to build submarines and new missiles."

The 4,500 mile ULMS 1 missile is still funded in the new program at essentially the same amount. This funding is designed to support a calendar year 1977 deployment of the new missile in our current ballistic missile submarines. Work on the 6,000 mile ULMS 2, which would fit only in the new ULMS submarine, is scheduled to begin at a later date.

The Navy has said little for the public record about the likely long-term cost of the ULMS program. Estimates from other sources, however, have ranged to $30 billion for a 30 submarine program, an average of $1 billion per ship through the first ten years of operation. The following table, based on known information about ULMS and comparisons with the Polaris and Poseidon programs, shows that these estimates are by no means unrealistic: in fact, they may be low:

ULMS PROGRAM 10-YEAR SYSTEMS COST PROJECTIONS

Research, development, test, and evaluation

Submarine costs, including all non-missile subsystems and integration work, $800 million.

*Maneuvering re-entry vehicle (MARV) development for new missile systems, $600 million.

*Development of the ULMS 1 missile, $2,100 million.

Development of the ULMS 2 missile, $1,500 million.

Procurement

Submarine costs (30 submarines at an average ship construction (SCN) cost of $400 million), $12,000 million.

*ULMS 1 missile (supply for 500 launchers at an average cost of $8 million each, including spares, integration, etc., sufficient for 31 Poseidon submarines or a somewhat smaller mix of Poseidon & ULMS submarines), $4,000 million.

ULMS 2 missile (supply for 600 launchers at an average cost of $11 million each, including spares, integration, etc., sufficient for 30 ULMS submarines with 20 tubes each), $6,600 million.

Operation and maintenance

30 ships at an average of $30 million per year for 10 years, including all costs of crews, $9,000 million.

Dedicated ULMS refit facilities

One facility per 15 ships, first at cost of $1.8 billion, second at cost of $1.2 billion: $3,300 million: $39,500 million.

Further appreciation of the extremely high long-term costs inplicit in the Navy's present plans can be seen also by comparing the costs shown in the table above with the costs of alternative action.

An ULMS 1 missile program, by itself, would include only the starred items and might come to $6.7 billion.

It would also be possible, if limited new submarine construction were deemed necessary to match a continued Soviet buildup, to build new submarines of the same general size as our existing submarines, but to put in them all available improvements consistent with such size constraints.

In essence, this approach would limit the speed of the new submarines to the speed of our current submarines and the range of its missiles to the 4,500 mile range of the ULMS 1. At the same time, however, it would enable us to respond more quickly to a continuing Soviet buildup. The first new submarine could be constructed in 1–2 years less time and the construction rate thereafter could be twice as fast using the same facilities—perhaps 5 or 6 submarines per year, compared to 2 or 3. A program of this kind would also be easier to "turn off" after the number of ships needed to match Soviet construction had been built, since it would involve far lower start-up expenditures.

This alternative would involve ship development costs no larger than $100 million, average SCN costs per ship of $225 million, O&M costs of $20 million per ship per year, and no new refit facilities. On these assumptions, a 10 submarine construction program, not including missiles, would come to $4.35 billion, compared to $9.6 billion for 10 ULMS submarines (which would require one new refit facility).

AN ANALYSIS OF THE PENDING ULMS REQUEST

I. The Sea-based Deterrent in Perspective

For the past three years Congressional critics of our defense policies have called repeatedly for increased United States reliance on sea-based strategic systems. This call has been a persistent theme in the opposition of many of us to programs like the Safeguard ABM, the new bomber defense system, the B–1 bomber, and the Minuteman III MIRV program.

A casual observer might be tempted to conclude that the tables have suddenly been turned. Just as the Administration appears to have heeded our call—by seeking acceleration of the ULMS development program—we seem to have changed our tune as well—by raising objections to the program.

Distorted as such an interpretation would be, our own critics may well espouse it. For that reason, and to lay the groundwork for our specific objections to the ULMS program as presently structured, a brief statement of our views on the role of sea-based systems in our strategic arsenal seems very much in order at this point.

Strategic Offensive Force Requirements. We believe that a stable mutual deterrence with the Soviet Union should be the basic goal of our strategic defense policy. We also agree with the Administration's statement of the three requirements of strategic sufficiency which must be met if we are to achieve that goal, in determining the size and composition of our strategic offensive forces.

First, they must be of sufficient size to give us a second strike capability adequate to deter an all-our surprise attack by the Soviet Union. That is, they must be able to absorb a surprise first strike yet still inflict on the Soviet Union a level of retaliatory damage sufficiently large to deter such a surprise attack from taking place.

Second, they must be sufficiently large that the Soviet Union cannot cause considerably greater urban/industrial destruction than the United States could inflict on the Soviets in a nuclear war. Parity is implicit in the concept of a stable mutual deterrent. Moreover, the level of damage needed to achieve deterrence is an inherently subjective judgment, which can best be given an objective status through shared perceptions on both sides.

Third, our strategic offensive forces must be composed of stabilizing systems, systems which provide the Soviet Union with no incentive for striking first in the heat of a crisis in order to mitigate the damage it would otherwise absorb.

The Primacy of Sea-based Systems. Measured against these criteria, sea-based strategic systems have significant advantages over their land-based counterparts, advantages which stem from their highly survivable and less provocative nature.

Both land-based missiles and bombers are fast becoming potentially vulnerable to preemptive enemy attack. In fact, if multiple warheads with improved accuracies are introduced, it will be easier and easier for one strategic booster to destroy more than one land-based counterpart on the other side.

Because land-based systems are becoming increasingly vulnerable, it is difficult to determine the reliance which should be placed on them in sizing one's forces for an adequate second strike capability. One effect is to drive the definition of such a capability ever higher and to encourage a build-up on both sides. The existence of these vulnerable forces also provides a destabilizing incentive for a damage mitigating strike in time of crisis.

The vulnerability problem is more severe with respect to land-based missiles than bombers, since the latter can be safely launched subject to recall, while adoption of a launch on warning policy for land-based missiles—or the construction of an extensive ABM defense—would itself have destabilizing effects. And land-based missiles are doubly dangerous because of their own provocative nature. They provide a destabilizing incentive to strike first not only in the hope of mitigating population damage, but also for the purpose of forestalling such a damage mitigating strike against oneself.

While bombers are not provocative because of their long flight times and while they can be launched subject to recall, they do have less warning time of an attack than missiles—so little, in fact, that one cannot place high confidence in their ability successfully to escape.

Sea-based strategic systems do not suffer from these defects. They are not vulnerable because they can hide in the ocean and not be found. They are also inherently less provocative. Even if accuracies are eventually developed which would permit the use of sea-based missiles against land-based missile silos, the destabilizing effect will be small if few such silos exist and if both sides have moved the bulk of their deterernt forces to sea.

The Policy Implications. In our view, the foregoing considerations have clear-cut policy implications. They dictate, in simplest terms, that both the United States and the Soviet Union should place increasing reliance on sea-based missiles as their primary deterrent force. This, we believe, is the best path to a stable mutual deterrence, in which both sides have credible and stabilizing deterrent forces and in which parity is achieved at reasonable total force levels.

A policy of increased reliance on sea-based missile forces does not imply that all land-based systems should be phased out completely on both sides. The United States and the Soviet Union have invested large sums in existing land-based systems. The potential vulnerability of these systems is growing, but it is not yet severe. And even when it reaches greater proportions, the timing required for a coordinated attack on land-based missiles and bombers simmultaneously will be very difficult to achieve.

These considerations suggest the wisdom of retaining existing land-based missiles and bombers in our strategic force structure for the foreseeable future, as relatively inexpensive but very useful insurance against technological breakthroughs which could threaten our sea-based missiles. At the same time, the dim future prospects of all land-based systems argue against major reliance on or large-scale commitments to new replacements for existing systems.

Emphasis should be placed instead on insuring the viability of our sea-based missile forces. These forces should be sized so that they themselves will provide a credible second strike capability. We should also take all steps necessary to insure their continued survivability against technological breakthroughs of the future.

Such is the perspective in which we view the role of sea-based missile systems. It has been our perspective in the past and it will remain so as we proceed to evaluate the need to accelerate work on ULMS.

II. The condition of existing sea-based forces

Our sea-based deterrent is presently comprised of 41 nuclear-powered ballistic missile submarines, developed in the late-1950s and deployed over the seven-year period between 1960 and 1967. Since each of these boats carries 16 missile tubes, they provide us with a total force of 656 sea-based missile launchers.

Three different types of missiles are presently carried by these submarines. Some of the ten oldest submarines still carry the Polaris A–2 missile, which has a range of 1,750 miles and a single nuclear warhead. Most of the 31 remaining submarines still carry the Polaris A–3, which can hurl three MRV warheads over a 2,880 mile range.

These 31 boats are now being converted, however, to carry the new Poseidon missile. The Poseidon is comparable in range to the Polaris A–3, but each Poseidon missile will carry an average of ten and up to fourteen independently targetable MIRV warheads. About ten submarines have already completed the Poseidon conversion process, and the remainder will have done so by 1976.

The Poseidon conversion program will produce a massive increase in the number of individual targets which our ballistic missile submarines can strike, a much bigger increase than could ever have been achieved by building additional submarines and fitting them with existing missiles. The targeting capacity of the 31 converted submarines themselves will expand ten-fold, from 496 to 4,960. The total expansion, of the ten oldest submarines are included, will be from 656 individual targets to 5,120.

The awesome size of this post-conversion force can best be gauged by contrasting it with the spectrum of high priority targets available in the Soviet Union. We could destroy 25 percent of the Soviet Union's population and 50 percent of its industrial capacity by targeting only its 100 largest cities. If the secondary effects of such a strike were considered, the damaged would be much higher still.

This destruction level—25 percent of population and 50 percent of industry—was long regarded by the previous Administration as the level needed for an adequate second strike, or assured destruction capability. Assuming two MIRVed warheads per city, ten such warheads per missile, and sixteen missiles per submarine, this level of damage could be achieved—with 12 missiles and 120 warheads left over—by only *two* ballistic missile submarines on station. This is a primitive calculation, but makes the point quite fairly. Even if necessary allowance is made for additional redundancy, other targets, missile reliability and the fact that existing ballistic missile submarines are on station less than 60 percent of the time, the massive size of our already programmed post-1976 sea-based missile forces is readily apparent. One could reasonably regard it as more than adequate to deter an attack on the United States.

These calculations assume, of course, that our submarines are and will continue to remain invulnerable and that no effective defenses will be erected against their missiles after they have been launched. The validity of these assumptions deserves exploration, since they are obviously critical in gauging the adequacy of our already programmed sea-based forces.

Future risks—ASW. Everyone agrees that Soviet ASW techniques pose little threat to our ballistic missile submarines at the present time. The reasons can be stated very simply.

First, ASW operations have to be carried out in sea water, an environment which reduces the detectable rang of all electromagnetic radiation far below that available in the atmosphere. Accordingly, traditional duces the detectable range of all electromagnetic radiation—methods such as radar and infra-red detection—are rendered ineffective, and the only sensing device of practical utility today in detecting nuclear submarines is sonar.

Second, sonar itself is subject to a variety of problems and cannot effectively locate submarines except at relatively short range.

There are two kinds of sonar detection methods, passive and active. Passive sonar entails no more than listening for the sound radiated by a submarine. Active sonar entails transmitting pulses of sound and detecting the echoes reflected from a submarine.

Passive sonar has a current operational range of about 100 miles and can be used over a wide range of frequencies. In both these respects, it has some advantage over active sonar. Its greatest advantage, however, it that the submarine remains unaware of its operation, whereas active sonar transmissions can be heard by a submarine well beyond the sonar's own detection range. Against this, passive sonar has no significant ranging or locating capabilities. The location of a submarine with passive sonar depends upon comparing signals from a number of different sonar installations, and even then, is relatively imprecise. Passive sonar is also dependent for its effectiveness on a high level of radiated noise from the submarines it is seeking. Quiet submarines, operating at low speeds, are indistinguishable from the normal background noise of the ocean, except at extremely short ranges.

Active sonar is not dependent for its effectiveness on noisy submarine targets and cannot be defeated by submarine quieting improvements. It also has much better ranging and locating capabilities. At the same time, active sonar has a direct range in current operations of only 10–15 miles, and as noted earlier, its use can be detected well beyond that range. This latter difficulty will continue to exist even if several promising prospects for a moderate extension of range bear fruit.

In addition, both kinds of sonar are affected by other problems. Range and accuracy can be degraded significantly by adverse sea conditions. More importantly, sonar capability is seriously affected by the irregular temperature characteristics of the ocean. The differential refraction of sound waves at the boundaries between water layers of different temperatures creates blind spots. In particular, the sharp change of temperature at the bottom of the layer of mixed surface water, which will commonly occur at a depth of 100-700 feet, has the effect of creating a substantial sonar 'shadow' immediately below that boundary within which a submarine may be virtually undetectable from the surface.

A third point to note is that these characteristics of sonar detection methods make it much tougher to locate enemy ballistic missile submarines than to protect one's sea lanes against enemy attack submarines. To be successful in its mission, the antishipping submarine has to seek out enemy convoys and destroy them. In order to do this, it has to come well within range of the sonar equipment saturating the area around a convoy for the purpose of protecting it. The attack submarine may also have to expose some portion of itself above the waves or proceed at high speed in order to get into a suitable attack position, actions which would facilitate its detection. By contrast, the ballistic missile submarine needs only to hide itself in the ocean depths. Such a submarine might in principle be detected from time to time leaving its port or transiting narrow waters if concentrated enemy forces are employed. Even then, evasive tactics and 'assistance from general purpose forces would be available to prevent continued tracking unless several attack submarines were employed for each ballistic missile submarine followed.

Finally, far more than an ability to locate and track continuously a small number of ballistic missile submarines would be needed to seriously threaten our existing sea-based force. Unless almost all submarines could be tracked continuously and destroyed simultaneously, a preemptive strike attempt would invite unacceptable retaliation from the remaining missile submarines. The counter-force by attrition scenario, in which a Soviet attack submarine force would concentrate on a handful of ballistic missile submarines at a time, silently destroying them, makes no sense at all. Any unaccounted for submarines would immediately arouse suspicions of Soviet foul play, and general purpose forces assistance could be provided as to many of our remaining submarines as we saw fit, to protect them from attack until Soviet culpability had been confirmed. There is also a high probability that any Soviet attack upon our submarines could be detected when it was made, even if conventional rather than nuclear weapons were used.

For all these reasons, our existing sea-based missile force is secure today and likely to remain so for some time. It is universally agreed that we are ahead of the Soviets in acoustic submarine detection techniques and that neither we nor the Soviets are anywhere near the verge of a breakthrough in other detection methods. The only foreseeable threat to our submarines today is concentrated Soviet deployment of advanced sonar equipment in the still limited on-target areas in which our submarines now operate. The answer to this danger, it will be argued later, is not a new submarine system, but a longer range missile system for our current submarines.

Future Risks—ABM. Our deterrent is not seriously threatened, either, by anti-ballistic missile systems designed to shoot down incoming missiles after they have been launched. Again the reasons are quite straightforward.

First, we have already taken steps designed to counter possible Soviet construction of a large-scale ABM system. That has been the announced purpose of the Poseidon conversion program, which, as noted earlier, will provide a ten-fold increase in the number of independently targetable warheads which the 31 converted submarines can fire, from 496 to 4,960. Thus, even if a Soviet ABM system were 90 percent effective—a very generous assumption in itself—we would still be able to put as many warheads on target as we could before the threat of a Soviet ABM system first arose. And these remaining warheads would still be several times the number needed to achieve the level of damage long regarded as necessary for an assured destruction capability.

Even more important, it now appears likely that the Soviets will never build the large-scale ABM system which Poseidon was originally designed to counter. The prospects are good that we and the Soviets will sign by May an interim SALT agreement significantly restricting the number of ABM launchers permitted to both sides. Under these circumstances, Poseidon will provide us with even more warheads than our immediate needs require, thereby adding to the lead-time we would have available to respond to later Soviet initiatives in both the ABM and ASW fields.

Future Risks—Obsolescence by age. Nor is there any danger that our existing force will have to be replaced soon because of advanced physical age. As noted earlier, our present submarines were all deployed in the seven-year period between 1960 and 1967. They were expected then to have the same 25–30 year life as other large naval vessels, and there has been no evidence uncovered since to challenge that original projection.

In fact, what new evidence there is directly supports that projection. For one thing, some of our older attack submarines, first deployed in the 1940's, have themselves attained a 25–30 year age. In addition, no signs of unexpected wear have yet been detected on the oldest Polaris submarines now entering the second decade of their lives.

Finally, there are good reasons why ballistic missile submarines should have even longer lives than attack submarines and other naval ships. The nature of their mission is such that rigorous demands are seldom made upon them. Instead, they are driven quietly at slow speeds, and at relatively shallow depths. They have also been subject to extensive refit operations between each patrol and rigorous overhauls every five or six years to ensure that they remain in peak operating condition. Their crews are extensively trained and qualified and must meet the highest standards of any group in the Navy. The record of high Polaris reliability is well known.

Accordingly, we have every reason to believe that our existing submarines will attain the 25–30 year life predicted when they were first deployed. To the extent age is a factor, replacements will eventually be needed in the 1985–1990 time frame, but not until that time.

Administration Comments. The Administration, however, does not really base its case for ULMS on the existence of new ASW or ABM threats or on the age of existing submarines.

It makes no reference at all to an ABM threat, recognizing no doubt that even the threat used to justify Poseidon has never come to pass.

It does talk about ASW, but its comments are deservedly guarded. The Director of Defense Research and Engineering, Dr. John S. Foster, Jr., did note in testimony to the Senate Armed Services Committee, that "the Soviets have *expressed interest* (emphasis added) in developing a strategic ASW force that can effectively locate, identify, and destroy our Polaris force." And Admiral Moorer, Chairman of the Joint Chiefs of Staff, pointed out in his testimony to the Committee that "the Soviets *are believed* (emphasis added) to be working on a number of new ASW developments which could significantly improve their anti-submarine warfare capability." These are unusually weak statements for a threat analysis. And they are undercut further by Dr. Foster's direct admission to the Committee that "we cannot identify today any developments that indicate a Soviet threat to our sea-based missile deterrent."

Nor is the Administration arguing that our present submarines are on the verge of wearing out. It notes that they are getting older and that they will *eventually* have to be replaced. But nowhere is this eventual replacement need directly tied to the 1978 deployment date implicit in the accelerated ULMS development program.

In short, the Administration turns elsewhere to find its rationale for a major acceleration of ULMS.

III. The official rationale of ULMS: Soviet submarine expansion

Secretary of Defense Laird was quite candid about the main reason for an accelerated ULMS program in his recent posture statement to the Congress. Acceleration was required, he argued, not because of any inherent deficiencies in *our* existing sea-based forces, but in response to Soviet expansion of *their own* forces:

"The continuing Soviet strategic offensive force buildup, with its long term implications, convinced us that we need to undertake a major new strategic initiative. This step must signal to the Soviets and our allies that we have the will and the resources to maintain sufficient strategic forces in the face of a growing Soviet threat. It would be diplomatically and politically unacceptable for the U.S. to allow the Soviets to achieve a large numerical superiority in both land-based and sea-based strategic missiles . . . I have carefully reviewed all alternatives for newstrategic initatives and have decided that acceleration of the ULMS program is the most appropriate alternative, since the at sea portion of our sea-based strategic forces has the best long term prospect for high pre-launch survivability."

Laird noted in his posture statement that the Soviets have been expanding their own ballistic missile submarine fleet so rapidly that they may soon have more such submarines and more sea-based missiles than we do. He pointed out that they have already deployed 25 Yankee class submarines—rough equivalents to our own Polaris—and that another 17 are now under construction. By the end of calendar year 1973, he argued, the Soviets could have 42 Yankee submarines at sea, compared to a United States fleet of 41 ballistic missile submarines. And since Soviet submarines, like ours, carry sixteen missiles each, the Soviets would then lead, too, in numbers of sea-based missiles deployed, 672–656.

The purpose of ULMS acceleration was therefore two-fold; to dissuade the Soviets from continuing their buildup and to match it in the event it proceded. Our purpose is to examine in detail the wisdom of this rationale.

The Concept of Parity Is Important. We have no quarrel with the suggestion that the size of Soviet forces is a matter of legitimate concern to the United States. In fact, we noted earlier our belief that a stable nuclear deterrence requires that neither side gain the ability to inflict considerably greater urban/industrial damage on the other. The reason is that the level of retaliatory damage needed to achieve deterrence is an inherently *subjective* judgment, which can best be given objective status through shared perceptions on both sides.

It is no doubt true that we and the Soviets already have more than enough weaponry to virtually obliterate each other. But as long as influential policy makers on both sides *believe* that additional buildups can produce military and diplomatic advantages, it would not be conducive to a stable mutual deterrence if one side were to let go unchallenged a major buildup by the other. A stable mutual deterrence—and an arms accord looking to parity at reduced force levels—will not be achieved until the goal of superiority has been firmly rejected by both sides.

Parity, However, Can be a Two-edged Sword. While mutual acceptance of parity is essential if the arms race is to be controlled, parity is also a difficult concept to define, and too zealous a pursuit of all its indicia could easily fuel the arms race.

It is clear, for example, that not one factor, but many factors jointly, determine the ability of one country's strategic forces to inflict damage on another country. Considering only sea-based forces for a moment, numbers of submarines and missiles are important, but so are many other factors—missile range and accuracy, numbers and size of warheads, submarine survivability, the status of ABM defenses, and geographical considerations.

Absolute parity in all these regards cannot possibly be achieved. Even close approximations are made difficult by such factors as different historical starting points, lack of knowledge about each other's intentions, and the momentum of programs once begun.

Accordingly, there is grave danger that action taken in one country to maintain parity will be perceived elsewhere as evidence of other motives, and that the action taken in response will be similarly misperceived. Too zealous a pursuit of parity, in other words, can easily trigger a long series of actions and reactions which serve only to fuel the arms race.

The Administration and its spokesmen have recognized this danger, and they have sought to defuse it with their words. First, they have defined parity in terms of general damage level equivalence, not in terms of other narrower indicia. They have also stated that only a Soviet capability to cause *"considerably greater* urban/industrial destruction than the United States could inflict on the Soviets" is reasonable ground for concern.

We accept this formulation. We agree with the words of President Nixon in his recent foreign policy message to the Congress: "The capabilities of both the U.S. and USSR have reached a point where our programs need not be driven by fear of minor quantitative imbalances." Whether these precepts have been reasonably applied in the decision to accelerate ULMS development is the question to which we now turn.

The U.S.-Soviet Sea-based Balance. We believe that these precepts cannot be used to justify the Administration's accelerated ULMS program. In our view, ULMS acceleration seems "driven" by precisely that "fear of minor quantitative imbalances" which the Administration has rejected as a suitable basis for United States strategic defense policy.

To begin with, the present balance in land-based systems is not unfavorable to the United States. The Soviet lead in numbers of land-based missiles deployed—1,520 to 1,054 according to Secretary Laird's recent posture statement—is greatly offset by our own lead in numbers of strategic bombers—565 to 140 according to the same source. In addition, the United States has a significant lead at the present time in numbers of independently targetable land-based warheads due to the Minuteman III MIRV program and development of the SRAM missile for our bomber force. The Soviets, as Secretary Laird has noted, have not yet even tested a MIRV warhead, and they have no air-to-surface missiles with the capabilities of SRAM. Accordingly, an unfavorable balance in land-based systems cannot reasonably be cited to justify undue concern about the status of the sea-based balance.

As far as sea-based forces are concerned, it is true that the Soviets 18 months from now may have one more modern ballistic missile submarine with 16 more missiles deployed than we do. But this *very* "minor quantitative imbalance" will be more than offset by continued United States advantages of other kinds.

One such advantage will be the huge United States lead in independently targetable warhead numbers, an outgrowth of the Poseidon program. Since each Poseidon submarine will carry 160 independently targetable warheads, compared to 16 on each Yankee class submarine, it will take only five Poseidon submarines to more than match in warheads the total Yankee fleet. Yet we will have approximately 20 Poseidon submarines deployed 18 months from now at the end of 1973, together with about an equal number of uncovered Polaris submarines.

For a number of reasons, our submarines will also be significantly more secure than their Soviet counterparts from ASW techniques. First, our submarines themselves are of better quality; they have better sonar and more sophisticated navigational equipment and, above all, are significantly quieter. Second, the already longer range of our submarines' missiles—about 2,880 miles for the Polaris A-3 and Poseidon, compared to about 1,750 miles for the current Soviet Sawfly missile—will enable them to hide within range of their targets in a broader expanse of ocean area. In addition, geographical considerations will remain unfavorable to Soviet submarines; when leaving port, they will have to transit for much longer distances through narrow waters in which ASW equipment can be concentrated. Finally, they will be faced with the superior ASW techniques which the United States has developed and deployed.

It seems clear, then, that nothing will occur in the next 18 months to give the Soviet Union the capability to inflict "considerably greater" damage on the United States than it could inflict in return. Whatever net advantage there may be will continue to lie with the United States.

As far as longer term developments are concerned, two things should be said.

First, it is impossible to predict what additional improvements in their sea-based forces the Soviets may undertake or what success they will enjoy in their endeavors. They may seek to deploy considerably more than 42 ballistic missile submarines, or they may stop at or near that number. They may or may not seek to put in their submarines longer range missiles with independently targetable warheads to match the Poseidon program. The Administration has noted that the Soviets have been testing a new submarine-launched ballistic missile—the SS-NX-8—with an estimated range roughly equivalent to that of Poseidon. But the Administration, quite deservedly, has made no claims as to the capabilities of or Soviet hopes for that missile. To date no MIRV or MRV tests have been conducted with that missile, and doubts must remain both as to its compatibility with existing Soviet submarines and its long range potential as a Poseidon equivalent. Finally, the Soviets may attempt to supplement their Yankee fleet with submarines of a newer class, but there is as yet no evidence that they plan to do so.

Second, an accelerated ULMS program is clearly not required to protect long-term United States interests against this vague Soviet threat, as the examination of a worst-case analysis—which no one has even suggested to date—will show. Even if Soviet submarine construction continues, even if a successful MIRV test of the SS-NX-8 is conducted tomorrow, and even if action is then taken to put the SS-NX-8 in all Soviet ballistic missile submarines as a Poseidon equivalent, the United States lead in sea-based warheads will remain secure until 1980 at the very least. We already plan to have 5,120 warheads at sea by the end of 1976 when the Poseidon program is completed. The Soviets might be able to match this figure by 1980, but only if they proceeded more quickly than we did from the first successful test of their new missile to its deployment or if they converted their submarines at a more rapid pace than ours. If initial deployment occurred in late-1974 and six submarines were converted each year thereafter, it would not be until 1980 that the Soviets would have on station more than our 31 converted submarines. In the meantime, we could prolong our warhead lead simply by converting to a new missile system the 10 oldest Polaris boats not now programmed for Poseidon.

Under these circumstances, there is little danger of a serious tilt in the sea-based balance of strategic forces if we wait to see whether anything like this worst-case scenario materializes. If we do wait, we will be able to monitor all new Soviet ship construction 18-30 months before deployment. We will also be able to monitor any tests of MIRV technology on the SS-NX-8. And even if we moved forward *two years from now* on the accelerated ULMS time-table presently proposed, we could still look to ULMS deployment as early as 1980. It should not be forgotten in considering our option, that what the present Administration program entails is a *three-year* step-up in the earliest ULMS deployment previously considered, from 1981 to 1978. We could wait a good while yet and still beat the old timetable.

The Bargaining Chip Implications of ULMS. It is far from clear that an accelerated ULMS program at this time would have the effect the Administration hopes. The Soviets to date have shown little interest in the negotiation at SALT of sea-based force limitations. An accelerated ULMS program might facilitate such negotiations, but it much more likely would not.

The history of the SALT talks to date shows that both sides have proceeded cautiously, protecting their national interest and avoiding any steps that might lock them into even a short-term disadvantage. The Soviets have continued a numerical buildup in both their land-based and sea-based missile forces, and the United States has moved forward with its Safeguard ABM system and the introduction of MIRVed warheads to its existing missile force. If the Soviets perceived an accelerated ULMS proposal as a threat to their own chances of attaining parity with the United States in sea-based forces, it is unlikely that they would respond by foregoing programs already planned.

And an accelerated ULMS program might well be perceived as such a threat by the Soviets. Look at the situation for a moment from a possible Soviet perspective. The Soviets have been responding in recent years to a series of earlier United States initiatives. They are fast pulling even with the United States in numbers of submarines and missiles deployed, yet they are still far behind in other areas—in numbers of warheads, in submarine quietness, in missile range, etc. The ULMS initiative at this juncture could have several implications.

First, it could pose a threat over the longer term to the Soviets' almost acquired parity in numbers of submarines and missiles. It is doubtful, however, that this would be the Soviets' main concern, since this threat could be easily offset by a continuation of their present buildup or eliminated altogether by agreeing to the kind of numerical limitations on submarines and missiles which have been discussed at SALT.

But an accelerated ULMS program would pose more than a simple numerical threat to the Soviet Union. If pursued, it could lead to greater United States advantages than now exist in other areas. Some of our submarines, for example, would have more missiles and warheads each than could *ever* be placed in the Soviets' Yankee class submarines. And these advantages would be gained if the program were pursued now at a time when the Soviets had not yet demonstrated through successful MIRV tests an ability to match demonstrated through successful MIRV tests an ability to match existing United States capabilities.

These Soviet concerns would not necessarily be eliminated by the negotiation of numerical limitations on submarine and sea-based missile forces, since these limitations would not by themselves preclude the accelerated development of ULMS. Unless arrangements to the contrary were made, an accelerated ULMS program could easily proceed under the context of these limitations, as a replacement rather than a supplement to the existing Poseidon force.

The Administration has been less than candid as to its own intentions in this regard. On the one hand, it has justified accelerated ULMS development as a needed signal to the Soviets of United States concern over the Soviet submarine buildup, thus implying that ULMS is somehow bargainable. On the other hand, it has stressed the fact that ULMS will eventually be needed anyhow, thus implying that little change in the present timetable might follow from progress at SALT.

Under these circumstances, the Soviets might reasonably look askance at United States calls for numerical limitations at SALT. They might well question the wisdom of agreeing to restraint in the one area where they can begin to match the United States, while simultaneously allowing the United States to proceed in other areas where it already enjoyed advantages.

We are deeply concerned by the likelihood of this development. In our view, an accelerated ULMS program is not required at this time to protect our national interest. And if pursued, we believe it would be as likely to stimulate as to curb the arms race.

A Sensible Position on ULMS for SALT. We believe that a responsible United States bargaining position on ULMS must meet three objectives. First, it must clearly protect the security interests of the United States in the event negotiations fail. Second, it must be reasonably calculated to assure the Soviet Union that its own security objectives can be attained through successful negotiations. And third, it must be designed to provide sufficient time for fruitful negotiations to take place. These objectives would be met, in our view, if the following steps are taken.

First, we should proceed now with development of a new long-range missile system. Such development work would provide ample evidence to the Soviets of our determination to protect our sea-based nuclear deterrent.

Second, the President should make clear the willingness of the United States to forego during fiscal year 1973 any major increase in expenditures for the development or production of a new submarine system, in return only for Soviet agreement to serious negotiations at SALT on the subject of sea-based force limitations. It is our belief that the President should be able to obtain such a commitment from the Soviets during his Moscow trip in May, at which time an interim SALT agreement—restricting ABMs and land-based missiles only—is widely expected to be signed.

Third, the United States should make clear that its continued restraint during subsequent negotiations will be directly dependent on the restraint exercised by the Soviets themselves. In our opinion, such restraint will be shown if both sides forego major additional ballistic missile submarine construction activities and confine their efforts to improvements in the capabilities of their existing submarine fleets. If such restraint is exercized—and there are no developments threatening the survivability of existing sea-based forces—there should be ample time for negotiations to proceed without simultaneous submarine buildups on either side.

Such an approach, we feel, would fully protect *all* our interests at SALT. We should not allow Soviet expenditure of $100 million on a 42nd ballistic missile submarine to propel us into a $30 billion investment on ULMS and the world into a new sea-based arms race.

IV. *Additional reasons for going slow on ULMS*

An accelerated ULMS program is not required to protect our interests while the SALT talks continue and indeed could jeopardize those talks. But there are other reasons, too, why we should proceed slowly with ULMS at this time.

The Proposed Accelerated Program is Inconsistent with Sound Procurement Policy. Recent aircraft programs such as the C–5A and the F–14 have shown the dangers involved in overly ambitious development and production schedules. There are differences, to be sure, between aircraft and submarine development programs. Prototype submarines are not developed and tested first, after which they are turned out in large quantities on an assembly line basis. Instead, each submarine is very much a unique creation, and each is earmarked for production. There are several respects, however, in which the same kind of program management considerations which apply to aircraft programs apply to submarines as well.

First, many submarine subsystems are subject to the typical development-production cycle normally associated with aircraft programs. The missile subsystems are an obvious case in point, and the same considerations apply to navigational equipment, launch systems, and flight control systems as well. An accelerated schedule for ULMS would increase the risk of otherwise avoidable concurrency in the development and production of these subsystems.

Second, an accelerated schedule for ULMS would also necessitate illogical phasing between work on these subsystems and work on the submarine itself. To cite just one example, work on the submarine is now programmed to proceed so rapidly that we will be locked into specific size constraints for the second generation ULMS 2 missile before the first generation ULMS 1 missile has even flown for the first time.

Perhaps most important, any compressed development schedule means that more work has to be done in a shorter period of time. This increases the danger of mistakes being made and makes corrective action more difficult without disrupting the overall program timetable. Accordingly, a choice has to be made at the outset between running these risks or eliminating certain programmed work from the project. Often an attempt is made to retain all design objectives for awhile, but some later drop by the wayside. Such could be the fate, for example, of several improvements now counted on to reduce ULMS's detectability.

The history of overly ambitious development programs has a clear lesson to tell. Almost invariably such programs lead to higher than anticipated modification costs before new systems are debugged. They also lead to schedule slippages, such that a program's accelerated features evaporate before its completion.

There is no reason to believe that ULMS would not be subject to similar pitfalls if pursued on an accelerated schedule. The major distinction to be expected is that our mistakes would cost us more because of the overall magnitude of the program. Since there is no need to accelerate work on ULMS, it makes no sense to run this risk.

More Time is Needed to Review the Merits of Alternative ULMS Designs. Even if developments at SALT are such that we feel compelled to move ahead with a new submarine construction program one year from now, there is much to be gained by having that much additional time to review the merits of alternative submarine designs. While alternatives have been explored ever since the inception of the ULMS program in 1969, no final decisions were made by the Navy until ULMS acceleration was ordered in January, and many important details are still being worked out. Accordingly, neither the Defense Department nor the Congress have had much opportunity to exercise design review. Such review, however, may be very badly needed.

It seems clear, for example, that the Navy is designing ULMS to have a top speed several knots faster than our existing Polaris submarines. The case for a higher speed has not been made, and any attempt to attain it is certain to have some adverse side effects.

The Navy will no doubt argue that increased speed is necessary, since increased speed will always make it easier to break contact with trailing Soviet attack submarines, many of which are already faster than our Polaris submarines. This argument, however, deserves further examination.

It should be noted, first, that speed is much more central to the mission of an attack submarine than it is to the mission of a ballistic missile submarine. The primary objective of the latter is to avoid detection in the first place, not to break trail after detection has occurred. Accordingly, we have always placed more emphasis in our ballistic missile submarine programs on quietness than we have on speed. Soviet Yankee class submarines, by contrast, have been faster but much noisier than Polaris (especially when driven at their faster speeds) and considerably more easy to detect. Only in our attack submarine programs has speed to date been made a key objective. Since the purpose of attack submarines is to seek out enemy shipping and destroy it, there is arguably some need to give them speeds as fast as most surface ships. Many experts have argued, however, that our attack submarines themselves should rely more on stealth and less on speed.

It should also be remembered that there are simple technical reasons why it will always be possible to build attack submarines faster than any ballistic missile submarines afloat. In a gross sense, the most important difference between the two kinds of submarines lies in the fact that the ballistic missile submarine has a middle section, which the attack submarine lacks, in which its missiles are stored. The presence of this missile section increases submarine size and in turn imposes an obvious restraint on speeds which could otherwise be achieved. In fact, event if ULMS is given the increased speed which the Navy seeks, it will still be substantially slower than existing and projected Soviet attack submarines.

Accordingly, the Navy should logically be required to demonstrate two things to justify its increased speed requirement. First, it should be required to show that the marginal reduction in the still remaining speed advantage of Soviet attack submarines has a clear-cut military significance. And second, it should be required to show that the original advantage could not be regained in a new Soviet attack submarine program. The first point has not yet been demonstrated, and the second cannot be shown.

The merits of increased speed would be a much less important issue of increased speed could be obtained without adverse side effects. Unfortunately, the speed now sought will necessitate a much larger submarine than would otherwise be required.

Several factors have had a major influence on the size of alternative ULMS designs, but the two most important have been the proposed length of the missiles to be carried and the proposed size of the new submarine's nuclear propulsion system. (Both factors have an obvious effect on the needed hull diameter, since both have to fit inside, and the hull diameter in turn drives the overall size of the vessel at a rate proportionate to the size of the hull radius squared). Missile range is the main determinant of missile length, and the speed desired determines power plant size.

A submarine slightly larger in hull diameter than our current Polaris submarines would be required simply to accommodate the 6,000 mile range ULMS 2 missile. The increased size required would be much less, however, if this were its main determinant, a point attested to in part by Navy plans to incorporate the 4,500 mile range ULMS 1 missile in our existing submarines. In fact, the size of an ULMS submarine which could carry 20 to 24 missiles of 6,000 miles range would probably be 13,000 to 14,000 tons, compared to 8,000 tons for the largest of our current submarines. The Navy's present speed objective, however, and the size of the power plant needed to attain it have now pushed the size of the proposed ULMS design into the 17,000 to 18,000 ton range, more than twice the size of current submarines.

Several consequences would follow from any attempt to build a submarine that size.

One such consequence would be a notable increase in a whole range of program costs—propulsion costs, submarine construction costs, operating costs, and costs of new port facilities. According to some informed sources, the net effect could be at least 20 percent higher 10-year systems costs than those which might be incurred in building a new submarine with more and larger missiles, but no faster speed, than our present submarines.

A second consequence would be increased time per ship and slower construction rates. These factors—and the high costs per ship—could have an obvious impact on our ability to match the pace of new Soviet submarine construction.

Finally, such a larger submarine would be more susceptible than a smaller one to some ASW techniques. Active sonar equipment, for example, is more effective the larger the target, and the same may be true for new nonacoustic detection techniques, which we and presumably the Soviets are now trying to develop. High costs could further compound the ASW risks by limiting the total size of our fleet.

For all these reasons, a hard look at the Navy's present speed objective seems very much in order. Other design objectives, too, should be very carefully checked. A 6,000 mile range ULMS 2 missile would offer definite advantages over the 4,500 mile ULMS 1, but their precise significance should be pinned down. As noted earlier, every dramatic cost savings might be achieved if both speed *and* missile range could be scaled down. A design review might show that any new submarine construction we undertake in the near future should be based on a design much more similar than the present ULMS to the design of our present fleet. But unless we go slow with ULMS this year, we may find ourselves wholly committed to the existing design before a review can be made.

The Funding Implications. For all these reasons, we believe that the ULMS program should not be accelerated at the present time. Approximately $650 million of this year's request for $977 million (including the fiscal year 1972 supplemental) is earmarked for work on the new submarine itself and its non-missile subsystems. We believe that $600 million of this amount should be disallowed and that fiscal year 1973 funding for non-missile-related work should be held at the $50 million level. Such actions would provide for a slight increase from the roughly $40 million available for non-missile-related work in fiscal year 1972 ULMS funding. This amount should be more than adequate to continue Navy design studies and preliminary development work.

In allocating these funds to specific uses, the Navy, in our view, should be guided by two objectives. First, it should seek to reduce to the greatest extent possible the risk of cost growth and schedule slippage which would be inherent in a decision to greatly accelerate the pace of ULMS development in fiscal year 1974. Second, it should minimize the greatest extent possible the risk of premature commitment to a particular ULMS design. Major development expenditures on a new propulsion plant, especially, should be avoided at this time.

V. The modernization and replacement problem: the role of a long-range missile

Even if negotiations proceed well at SALT and no new submarine construction is needed to match a continued Soviet submarine buildup, it will still be necessary to modernize and eventually replace our present sea-based missile force.

The Navy will no doubt seek to meet this need by pushing for development of a new ULMS submarine system as fast as the Defense Department and the Congress will allow.

Admittedly, a new submarine system would offer more in the way of prestige than continued improvements in our present fleet. It cannot be justified, however, in terms of the advanced physical age of that fleet. As noted earlier, *none* of our current ballistic missile submarines will reach 25–30 years of age until 1985–1990 time period. Moreover, we believe that a new submarine system would not offer significantly greater operational capabilities than those which could be obtained for some time to come by appropriate modifications to our present fleet.

ULMS Would Have Advantages. There is no doubt that a new submarine system such as ULMS could be superior in several ways to our present sea-based missile force.

First, the new submarines could be significantly more survivable than our present Polaris submarines. It could be designed for quieter operation, and it could be given a new long-range missile system which would greatly expand the ocean area in which it could hide while remaining in range of its targets. These two steps would greatly complicate the ASW problem facing the Soviets. They would reduce detectability by acoustic sensors and make much more difficult the concentrated deployment of such sensors in all submarine operating areas.

Second, the new submarine could present a tougher ABM problem for the Soviet Union. Its missiles could be given new maneuvering re-entry which (MARVs) designed to dodge Soviet defensive missiles. In addition, its longer range missiles would enable it to provide deterrent coverage over the entire defense perimeter of the Soviet Union. By contrast, our present submarines are much more limited in the geographical areas from which they can obtain effective target coverage.

Finally, the new submarine could provide better on-station availability. Due to the limited range missiles in our current submarines, a significant portion of their time at sea must be spent in transit to their patrol areas, and they must depend heavily on overseas basing. The on-station availability of a new submarine could be enhanced, moreover, not only by its longer range missiles but also by the lower maintenance times which its modular construction and integrated systems design would permit.

That a new submarine system could provide significant improvements in the capabilities of our current fleet is not disputed. But it is not enough for the Navy to cite these possible improvements as reasons for building ULMS. The Navy must show also that the same improvements cannot be obtained through modifications to the existing fleet. And this the Navy has not yet done.

The Fleet Modernization Alternative. Many of the improvements just referred to are dependent not on the construction of a new submarine, but on the capabilities which new long-range missiles themselves would provide. In fact, new long-range missiles would provide improvements in each of the areas mentioned. They would increase submarine survivability, compound the problems of ABM defense, and increase submarine time on-station. This fact has been well attested to in testimony of Defense Department spokesmen to Congress earlier this year. Dr. Foster noted as much in speaking to the Senate Armed Services Committee about the capabilities of the Navy's proposed ULMS 1 missile:

"When our current SSBNs are armed with this more capable missile, the ocean area from which they can launch their missiles will be significantly increased, with no sacrifice in payload. This enlargement of an area in which the Soviets must expand their strategic ASW efforts degrades the effectiveness of any ASW of the kind they now appear to engage in. Consequently, we expect that, with this new missile, the current submarine missile system will remain invulnerable. Moreover, the longer range ULMS–1 missile will offer the option of CONUS basing with minimum sacrifice in deterrent posture."

Modifications of our present submarines themselves could also proceed concurrent with work on a new long-range missile system. We have been making such improvements ever since these submarines were introduced. As Admiral Zumwalt noted in his recent testimony to the Senate Armed Services Committee:

"Concurrent submarine improvements have included reduction of detectable noise levels, better passive and active sonars, and improved navigational equipment. This orderly, upgrading process has paid off and the logic for it remains valid today."

We wholeheartedly agree. As far as detectable noise is concerned, our current submarines are already 5–10 decibels (db's) quieter than when they were introduced, and there is no reason why a gradual quieting program should not continue to be successful. It is true that the natural circulation reactor now programmed for ULMS cannot be incorporated in our current submarines, but similar noise reduction could be obtained by incorporating equipment such as the variable speed pumps and multi-vein impellers which the Navy is now developing.

It should also be possible to reduce maintenance requirements affecting the on-station availability of our current submarines. The Navy is now installing in those submarines new long-life reactor cores. While older cores have had to be replaced every 5–6 years—thus setting a clear outside limit on the time between submarine overhauls—the new cores will have a 10 year service life. The Navy is now investigating several promising ways to extend the time between overhauls to take advantage of these long-life cores. Our current submarines are now on station 55–60 percent of the time. With long-range missiles aboard and increased time between overhauls, they should be able to come much closer to the 65–70 percent on-station availability rate which a new ULMS submarine realistically might provide.

Modifications to our existing sea-based missile force should be able, then, to provide almost the same improved capabilities as brand new submarines would provide. Under these circumstances, we believe that money spent for new submarine replacements would be money wasted at the present time.

The Unpredictable Nature of the Future ASW Threat. Money spent now might be money wasted for another reason as well. While our current submarines are secure today from Soviet ASW techniques—and while they could be made more so by an appropriate modernization program—we know very little about the long-term nature of the ASW threat.

We do know that a submarine moving through the ocean environment leaves various indicators of its presence. Sound is only one of these indicators. The presence of a mass of metal, such as a submarine, distorts the earth's magnetic field. The temperature of a submarine, especially a nuclear submarine with its hot nuclear reactor discharge, differs from the temperature of the surrounding water. And the passage of a submarine through water creates hydrodynamic pressure.

Until now, only acoustic techniques have been of major utility in submarine detection. But other signals are also there. What is needed is now technology to dig them out and process them. What form this technology will take—and what steps will be required to counter it—is not known at the present time.

There is a danger, therefore, that any new submarines we build today could be rendered obsolete in much the same way and at much the same time as the submarines we now have. It is quite possible that we could invest $30 billion in the ULMS program over the next 10–15 years, expecting it to protect us until the year 2000, only to find that it might be rendered obsolete by 1990 and that a new submarine development program was needed in the early 1980s to offset this possibility, almost as soon as ULMS was sent to sea.

A Well-Phased Replacement Program. This does not mean that we should simply sit back, wait for a new ASW threat to develop, and then counter it when it does. We have no guarantee that it will burst upon us in a dramatic breakthrough or that such a breakthrough, if it occurs, will coincide with the physical obsolescence of our current submarines.

We should be able, however, to devise a well-phased modernization and replacement program which will minimize potentially wasteful expenditures yet keep us equipped at all times with a highly secure sea-based deterrent. We believe that the following course of action would provide us with such a program.

First, Congress should approve the Navy's request for approximately $330 million in fiscal year 1973 ULMS 1 missile development funds. Development of the ULMS 1 missile—together with other modifications to our current submarines on which the Navy is working—will significantly enhance the survivability of our present fleet against all forseeable threats. If development of this new missile proceeds at the presently projected rate, it should be available for initial deployment by 1976. In the absence of any major change in the ASW threat, it should remain an integral part of our sea-based deterrent well into the 1990s.

Second, the Navy should accord high priority to its current "SSBN Defense" program. This program, the funding for which is projected to increase from $12.2 to $20.4 million in fiscal year 1973, is designed to identify and develop suitable counters to new ASW techniques which could jeopardize our Polaris fleet. The knowledge gained from this program should be used to make future reductions in the detectability of that fleet. It should also be used as a source of ideas for new submarine designs.

Third, the Navy timetable for a new submarine contruction program should be determined both by changes in the ASW threat and the eventual need to replace our current submarines. Such a program should be undertaken in sufficient time to meet any changes in the ASW threat which have been identified and which cannot be countered by modifications to our Polaris fleet. Unless such threat changes have been identified, it should not be necessary to move beyond the study and design phase of the ULMS program until fiscal year 1976 or later. That starting date would provide ample time for the gradual development of a new submarine system. Even if development time were stretched from the roughly six years implicit in the Administration's present timetable to as much as 10 years, the first new submarine would still be available for deployment in 1985, at which time the oldest of our current submarines would be 25 years of age. It would then be possible—with a construction rate as low as two or three submarines per year thereafter—to replace all our current submarines inside their projected 30 year lives.

We believe that this timetable, either the development or production phases of which could be speeded up if the threat required, makes much more sense than the commitment now of vast sums to a new submarine system of unknown long-term value.

ASW Talks at SALT. The most pressing need at SALT right now is the negotiation of restrictions on ABM systems and the size of strategic offensive forces. These issues themselves have caused difficulties enough, and a continued failure to resolve them—coupled with a continued Soviet submarine buildup—could force us much sooner than would otherwise be desirable into a new submarine construction program.

As soon as possible, however, the issue of restrictions on strategic ASW operations should be placed high on the SALT agenda. Our sea-based missile submarines are secure today, and it should be possible to keep them so well into the future. At the same time, the possibility of a new ASW breakthrough—one which cannot be countered by any new submarine design—cannot be dismissed out of hand. The occurrence of such a breakthrough coupled with the already increasing vulnerability of all land-based systems, would dramatically undermine the present stability of the nuclear balance.

We recognize that restrictions on ASW research itself may not be feasible, since there may be no way that compliance could be verified. Neither we nor the Soviets have much choice, therefore but to pursue strategic ASW research—with the purpose of ensuring the survivability of our own sea-based deterrent, but with the danger that the knowledge gained could be used for counter-force purposes.

It should not be impossible, however, to work out verifiable restrictions on the actual deployment of new ASW systems or even on the use of such systems when deployed. A numerical limitation on attack submarine force levels and the establishment of trailing norms are two promising possibilities.

The long-range prospects for a stable mutual deterrence may well depend on the continued survivability of sea-based deterrent forces. Accordingly, much more attention should be directed in the future to this ASW problem.

THIRD PART OF REPORT OF COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

Mr. PACKWOOD. Mr. President, on March 23, I placed in the RECORD a detailed summary of the first two parts of the report of the Commission on Population Growth and the American Future and a statement by the Commission's distinguished Chairman, John D. Rockefeller III.

The third part has now also been released, containing additional commentary and recommendations. I ask unanimous consent that a similar summary be printed in the RECORD for this part, along with the Chairman's statement.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THIRD PART OF REPORT OF COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

WASHINGTON.—The Commission on Population Growth and the American Future today submitted to President Nixon and Congress Part III of its Final Report, containing recommendations on immigration, internal migration and urban development and research on population.

The recommendations are designed to "facilitate and guide the process of population movement, to further the development of knowledge about population dynamics, and to assist in the development and implementation of policy," the Commission said.

The 24-member panel headed by John D. Rockefeller 3rd completed a two-year Presidential and Congressional assignment with the submission of Part III. Parts I and II were released earlier in March.

The Commission was established to conduct an inquiry into the probable course of population growth and internal migration, to assess the problems this will pose, and to make recommendations on how the nation can best resolve those problems.

Part I focused on the consequences of growth and distribution for government services, the economy, the environment and natural resources.

Part II contained policy recommendations on childcare, contraceptive information and services, fertility-related services and educational programs.

The Commission also released separately a 16-page booklet containing themes and highlights of the entire report, as well as a summary of all the major policy recommendations.

The Population Commission was proposed by President Nixon in a special message to Congress in July, 1969, when he said that "One of the most serious challenges to human destiny in the last third of this century will be the growth of the population."

The President added that, "Whether man's response to that challenge will be a cause for pride or for despair in the year 2000 will depend very much on what we do today."

Congress subsequently established the Commission in March, 1970, and assigned it to examine:

The probable course of population growth, internal migration and related demographic developments between now and the year 2000.

The resources in the public sector of the economy that will be required to deal with anticipated population growth.

Ways in which population growth may affect the activities of Federal, State and local government.

The impact of population growth on environmental pollution and on the depletion of natural resources.

The various means appropriate to the ethical values and principles of this society by which our Nation can achieve a population level properly suited for its environmental, natural resources, and other needs.

Membership of the Commission included Congressmen, Senators, civic, business and labor leaders, physicians, scientists students and housewives.

More than 100 experts on economic, environmental governmental and social problems participated in the Commission's research program, and an additional 100 witnesses submitted testimony at public hearings in Washington, D.C., Los Angeles, Little Rock, Chicago and New York.

Highlights of the recommendations in Part III follow:

HIGHLIGHTS

Population stabilization

Stabilization of our population would contribute significantly to the nation's ability to solve its problems. Moving toward stabilization would provide an opportunity to devote resources to problems and needs relating to the quality of life rather than its quantity. Stabilization would "buy time" by slowing the pace at which growth-related problems for the orderly and democratic working out of solutions.

The Commission recognizes that the demographic implications of most of our recommended policies concerning child-bearing are quite consistent with a goal of population stabilization. In this sense, achievement of population stabilization would be primarily the result of measures aimed at creating conditions in which individuals, regardless of sex, age, or minority status, can exercise genuine free choice. This means that we must strive to eliminate those social barriers, laws, and cultural pressures that interfere with the exercise of free choice and that governmental programs in the future must be sensitized to demographic effects.

Recognizing that our population cannot grow indefinitely, and appreciating the advantages of moving now toward the stabilization of population, the Commission recommends that the nation welcome and plan for a stabilization population.

Immigration

Immigrants are now entering the United States at a rate of almost 400,000 per year. The relative importance of immigration as a component of population growth has increased significantly as declining birthrates diminish the level of natural increase. Between 1960 and 1970, about 16 percent of the total population growth was due to net immigration (the difference between the number of people entering the country and the number leaving). However, the increasing relative significance of immigration can be misleading for, if native births and deaths were balanced, immigration would account for 100 percent of population growth.

If net immigration were to remain at about 400,000 per year and all families were to have an average of two children, then immigrants arriving between 1970 and the year 2000, plus their descendants born here, would account for almost a quarter of the total population increase during that period.

If immigration were to continue at the rate of about 400,000 per year, a rate of 2.0 rather than 2.1 children per woman would eventually stabilize the population, though at a later date. And the size of the population would ultimately be about eight percent larger than if there were no international migration whatsoever.

A major and growing problem associated with immigration is that of illegal immigrants. It is impossible to estimate precisely how many escape detection; but, during 1971, over 420,000 deportable aliens were located. This figure is larger than the number of immigrants who entered legally during the same period. Estimates place the number of illegal aliens currently in the United States between one and two million. Most are men seeking employment. Because the number of illegal aliens apprehended has risen dramatically (from less than 71,000 in 1960 to over 400,000 in 1971), the number of aliens in illegal status has probably been increasing significantly.

The economic problems exacerbated by illegal aliens are manifold and affect the labor market and social services. It is often profitable for employers to hire illegal aliens for low wages and under poor working conditions; these workers will not risk discovery of their unlawful status by complaining or organizing. Thus, illegal aliens (who usually take unskilled or low-skilled positions) not only deprive citizens and permanent resident aliens of jobs, but also depress the wage scale and working conditions in areas where they are heavily concentrated. Because of the illegal and precarious nature of their status, these aliens are ready prey for unscrupulous lawyers, landlords, and employers.

Eight out of 10 illegal aliens found are Mexicans. Most of the others are Canadians and West Indians, although there are also sizeable groups of Portuguese, Greeks, Italians, Chinese, and Filipinos. Their countries were affected by immigration policy changes in the 1965 Act, and there is considerable demand and pressure for immigrant visas. The flow of illegal immigrants could probably be reduced if the numbers of permanent residence visas were increased, the economic incentives for hiring illegal aliens were eliminated, and/or the economic advantages of obtaining a job in this country were reduced. In any case, an aggressive enforcement program must be developed along all borders and ports of entry. Any enforcement programs against illegal entry and possible laws against employment of illegal aliens must take special care not to infringe upon the civil rights of Mexicans, Mexican-Americans, and others who are legally residing here and working or seeking work.

In addition to the adverse economic pressures caused by illegal aliens, it is possible that legal immigration could have a negative impact if not regulated carefully.

A flow of highly trained immigrants can mask the need for developing and promoting domestic talents—for example, in the medical field. Although medical schools have recently been expanding enrollments, a significant proportion of the demand for doctors is being met by immigrants trained abroad. It appears that, without the availability of these foreign doctors, the medical schools would be under greater pressure to increase their enrollment and to provide more educational opportunities for all Americans—particularly minorities and women. The fact that there are more registered Filipino doctors (over 7,000) than black doctors (about 6,000) practicing in the United States shows the inequities that can arise.

It is imperative for this country to address itself, first, to the problems of its own disadvantaged and poor. The flow of immigrants should be closely regulated until this country can provide adequate social and economic opportunities for all its present members, particularly those traditionally discriminated against because of race, ethnicity, or sex.

In order for Congress and immigration officials to consider these economic problems, apply appropriate regulations, and expect the economic conflicts to be alleviated, they must also eliminate the flow of illegal immigrants.

The Commission recommends that Congress immediately consider the serious situation of illegal immigration and pass legislation which will impose civil and criminal sanctions on employers of illegal border-crossers or aliens in an immigration status in which employment is not authorized.

Because the immigration issue involves complex moral, economic, and political considerations, as well as demographic concerns, there was a division of opinion within the Commission about policies regarding the number of immigrants. Some Commissioners felt that the number of immigrants should be gradually decreased, about 10 percent a year for five years. This group was concerned with the inconsistency of planning for population stabilization for our country and at the same time accepting large numbers of immigrants each year. They were concerned that the filling of many jobs in this country each year by immigrants would have an increasingly unfavorable impact on our own disadvantaged, particularly when unemployment is substantial. Finally, they were concerned because they believe that immigration does have a considerable impact on United States population growth, thus making the stabilization objective much more difficult.

The majority felt that the present level of immigration should be maintained because of humanitarian aspects mentioned previously; because of the contribution which immigrants have made and continue to make to our society; and because of the importance of the role of the United States in international migration.

The Commission recommends that immigration levels not be increased and that immigration policy be reviewed periodically to reflect demographic conditions and considerations.

The meaning of a metropolitan future

The United States today is experiencing three important shifts in population: (1) migration from low-income, rural, and economically depressed areas toward metropolitan areas; (2) a movement of metropolitan population from older, and often somewhat climatically less hospitable centers in the northeast and midwest, toward the newer climatically favored centers of the south and west; and (3) an outward dispersion of residents from the cores to the peripheries of the metropolitan areas. The combination of these population movements and the continuing increase in our total population has resulted in the development of large metropolitan areas and urban regions—indeed, the emergence of an almost totally urban society.

The Commission recommends that:

The federal government develop a set of national population distribution guidelines to serve as a framework for regional, state, and local plans and development.

Regional, state, and metropolitan-wide governmental authorities, to conduct needed comprehensive planning and action programs to achieve a higher quality of urban development.

The process of population movement be eased and guided in order to improve access to opportunities now restricted by physical remoteness, immobility, and inadequate skills, information, and experience.

Action be taken to increase freedom of choice of residential location through the elimination of current patterns of racial and economic segregation and their attendant injustices.

Accommodating future national growth, then, is primarily a job of accommodating future suburban growth and of sensibly guiding the transformation of currently rural territory to urban uses as metropolitan areas physically expand. How the character and form of the next generation of suburbs develops will play a large role in determining the quality of life of the vast numbers of Americans living in these areas across the country. The territory of urban regions is expected to double between 1960 and 1980, and to grow at a slower rate after that. This means that the land we occupy in the year 2000 is largely being settled now. If we settle it badly now, we shall endure the consequences then.

Local governments should broaden their interests and responsibilities beyond local parochial concerns and be responsive to metropolitan and regional objectives. Where necessary, the power of planning and implementation will have to be transferred to a regional or metropolitan-wide authority or government. The logical level from which to guide urban growth is the regional or metropolitan scale.

The increased complexity and scale make the continued fragmentary approaches to metropolitan planning and development progressively more costly and wasteful. This suggests that the basic responsibilities for planning settlement patterns, new public facilities, and public services should be at the metropolitan level. To encourage this comprehensive approach and local cooperation, the major portion of federal funds to support planning activities in metropolitan areas should go to the appropriate multi-purpose area-wide planning agency. These agencies, in turn, can support planning efforts for individual jurisdictions within the metropolitan area.

To anticipate and guide future urban growth, the Commission recommends comprehensive land-use and public-facility planning on an overall metropolitan and regional scale.

The quality of life in an urban area depends largely on how its land is used—the location and character of housing, the amount and accessibility of open space, the compatibility of adjacent land uses, the transportation system. Land-use regulations, principally zoning and subdivision regulations, are the chief government tools to influence local land-use patterns and the character of development.

The Commission recommends that governments exercise greater control over land-use planning and development.

This could be achieved through: (1) early public acquisition of land in the path of future development to be used subsequently as part of a transportation system or for open space; (2) establishment of taxes and easements to influence the use of land and timing of development; (3) establishment of a state zoning function to oversee the use of the land; (4) establishment of special zoning to control the development of land bordering public facilities such as highways and airports.

Four years ago the Commission on Civil Disorders said: "Our nation is moving toward two societies, one black, one white—separate and unequal." It added that "white society is deeply implicated in the ghetto." In the intervening years, little if any progress has been made to diminish the isolation of the disadvantaged.

To help dissolve the territorial basis of racial polarization, the Commission recommends vigorous and concerted steps to promote free choice of housing within metropolitan areas.

Even without further legislation, federal agencies could do much to promote housing integration simply by changing administrative practices. This would require that the federal government become more alert to local housing practices and establish an active program to guarantee local compliance with housing laws. An additional means for pursuing these objectives might be the establishment of institutions which could buy housing in white suburbs and subsequently rent or sell them to ethnic and racial minorities.

To reduce restrictions on the entry of low and moderate-income people to the suburbs, the Commission recommends that federal and state governments ensure provision of more suburban housing of low- and moderate-income families.

We must distinguish sharply the long-run national policy of eliminating the ghetto from a short-run need to make the ghetto a more satisfactory place to live. Improving conditions in the ghetto does not constitute an acceptable long-run solution to the racial discrimination which created the ghetto. But if we wait for the long-run solution, we shall bypass the present need for better schools, housing, public transportation, recreational facilities, parks and shopping facilities.

These needs are partly a function of fragmentation of local government within metropolitan areas which produces serious imbalances between the demands on government and the resources available to meet them. These imbalances arise in large part because local public services depend so heavily on locally raised revenues produced by locally applied taxes (principally, of course, the property tax). The present situation invites, in fact encourages, racial and income segregation between local communities—the flight of the well-to-do from high-cost, poor-service cities to enclaves of affluence guarded by exclusionary zoning.

To promote a more racially and economically integrated society, the Commission recommends that actions be taken to reduce the dependence of local jurisdictions, on locally collected property taxes.

Redistribution has left behind under-educated, under-skilled persons in locales that have fallen into economic and social decline. This is not to suggest that all rural places are suffering from population decline and economic obsolescence. On the contrary, many small communities are viable and prosperous. But the economic development of the United States can be traced through the impact it has had on the distribution of population in this country.

In chronically depressed areas, it may sometimes be true that the prudent course is to make the process of decline more orderly and less costly—for those who decide to remain in such areas as well as for those who leave. This would hold true if economic analysis discloses that no reasonable amount of future investment could forestall the necessity for population decline as an adjustment to the decline in job opportunities. In that event, the purpose of future investment in such areas should be to make the decline easier to bear rather than to reverse it.

To improve the quality and mobility potential of individuals, the Commission recommends that future programs for declining and chronically depressed rural areas emphasize human resource development.

To enhance the effectiveness of migration, the Commission recommends that programs be developed to provide worker-relocation counseling and assistance to enable an individual to relocate with a minimum of risk and disruption.

To promote the expansion of job opportunities in urban places located within or near declining areas and having a demonstrated potential for future growth, the Commission recommends the development of a growth center strategy.

This strategy could be reinforced by assisted migration programs that would encourage relocation to growth centers as an alternative to the traditional paths to big cities. Growth centers could also provide many of those who are unemployed and underemployed in declining areas with an opportunity to commute to new or better jobs. In such circumstances, more effective employment could be achieved without altering the living environment. Equally important, such growth centers would provide alternative destinations for urban migrants preferring small town or city living.

The types of growth centers envisioned are expanding cities in the 25,000 to 350,000 population range whose anticipated growth may bring them to 50,000 to 500,000. Somewhat lower and higher limits should be considered for the sake of flexibility. Not every rapidly-growing city within this range should be eligible. Only those cities that could be expected to benefit a significant number of persons from declining regions, as well as the unemployed within the center, should be eligible.

A difficult problem will be to avoid unnecessary subsidies for places whose future growth requires no additional stimulus. Moreover, the policy must avoid catering to the industries and interests that profit from growth per se, as distinct from the region-wide interest in building a sound and diversified urban economy. Care must also be taken to avoid simply relocating industries from one area to another, and thereby possibly aggravating the problems of some areas while mitigating those of others. A growth center policy, misdirected, could inadvertently produce overurbanization, or merely represent a transfer, not a reduction, of national problems.

Statistics and research

At present, there is a minimum two-year delay in the publication of final and detailed data on births and deaths. In spring 1972, the most recent detailed vital statistics available were for 1968. This delay has done much to reduce the value of the information collected because all major analyses of trends in fertility and mortality at the national and local, socioeconomic and racial levels are dependent on those detailed tabulations. Moreover, the detailed tabulations furnish indispensable raw materials for the construction of intercensal estimates of the changing population of regions and localities.

The Commission recommends that the National Center for Health Statistics improve the timeliness and the quality of data collected with respect to birth, death, marriage, and divorce.

Our decennial censuses, together with our vital and migration statistics, provide the materials for developing quite accurate annual estimates of the nation's total population classified by age, sex, and race. They are wholly inadequate, however, to permit the construction of annual estimates for regions, states, and local areas, or to portray the intercensal social-economic status of the nation's constituent populations. The interval of 10 years between censuses—a leisurely pace established in the 18th century—is simply too long in view of the high mobility of our people.

The Commission recommends that the decennial census be supplemented by a mid-decade census of the population.

Organizational Changes

The primary focus of the federal population research program is the Center for Population Research—an operating unit of the National Institute of Child Health and Human Development. The Center supports research in the development of new contraceptives, the medical effects of existing methods of fertility control, and the social and behavioral aspects of population change. Although creation of the Center was a worthwhile development in 1968 when the government was first beginning to acknowledge the need for population research, the program has now outgrown this organizational arrangement.

A greatly expanded and more focused population research effort is needed. In addition to strengthening programs in basic and applied reproductive research and evaluation of contraceptives, the behavioral research program must be significantly enlarged.

Creation of a separate institute should provide a stronger base from which this increased effort can be directed. It would facilitate acquisition of qualified personnel, laboratory and clinical space, and other resources necessary for a diversified research program. It would increase the visibility of the population research program, signal to the world that it ranks high among our research priorities, and should help in commanding the level of funding that we believe is necessary but which has not been forthcoming.

We therefore recommend the establishment, within the National Institutes of Health, of a National Institute of Population Sciences to provide an adequate institutional framework for implementing a greatly expanded program of population research.

Programs affecting population distribution are scattered throughout the government. For example, the problems of growth and development of urban, suburban, and rural communities are closely related but, depending on their size, communities that seek help for planning and constructing public facilities must deal with one or more of three different departments that support these activities.

It is necessary to make organizational

changes to coordinate and, in some cases, consolidate existing urban and rural development programs and provide a locus for the studies of population growth and distribution necessary for policy development and program implementation in the areas of housing, economic development, transportation, and other related fields.

Congress is currently considering legislation that would establish a new Department of Community Development. Under this proposed reorganization, a single federal department would administer the major programs of assistance for the physical and institutional development of communities—for physical and institutional development of communities—for planning and building houses, for supporting public facilities and highways, and for strengthening state and local governmental processes.

This proposal is one of four submitted by President Nixon for reorganization of the federal departments. Each of them raises a great number of issues that are not our concern and on which we are not qualified to comment. However, from the perspective of better facilitating and guiding population distribution, coordination and consolidation of urban and rural development programs is essential.

We therefore recommend that Congress adopt legislation to establish a Department of Community Development and that this Department undertake a program of research on the interactions of population growth and distribution and the programs it administers.

Office of Population Growth and Distribution

Our government has no explicit population policy. Federal programs generally operate without regard to their effects upon population growth and distribution or how shifts in population pattern affect programs. What is needed is an organizational unit with the ability to take the broadest possible view of population issues, to transcend individual departmental points of view, and to develop and formulate coherent population policies. This can be done most effectively from the Executive Office of the President which is able to coordinate the activities of all departments. This new office should:

Establish objectives and criteria for shaping national growth and distribution policies.

Monitor, anticipate, and appraise the effects on population of all governmental activities—including health, education, and welfare programs; defense procurement policies; and tax laws—and the effect that population growth and distribution will have on the implementation of all governmental programs.

Provide for the review, integration, and coordination of population programs, giving consideration to the role played by nongovernmental resources and institutions.

Assume responsibility for preparation and submission of the biennial Report on Urban Growth required by the Housing Act of 1970.

Assist state and other units of government concerned about population matters in dealing with their problems.

We therefore recommend the creation of an Office of Population Growth and Distribution with the Executive Office of the President.

Two years of study and deliberation have demonstrated to us that that population is initimately tied to numerous social issues. Yet, innumerable social programs are undertaken by the government each year without having any of the overall direction that we have imposed upon our economic and environmental activities. The Council of Economic Advisers and the Council on Environmental Quality keep the President and the public informed of the effects of public needs and policies with regard to the economy and the environment and recommend programs to assist economic growth and stability and to preserve the environment. Population and related social matters require the same level of attention.

We therefore recommend that Congress approve pending legislation establishing a Council of Social Advisers and that this Council have as one of its main functions the monitoring of demographic variables.

If this legislation is passed, if the Council is adequately funded and staffed, and if it shows that it will give proper consideration to population problems, then it could and should take over the functions and role of the Office of Population Growth and Distribution.

Congress has been the arm of government most interested in population problems. However, jurisdiction over population-related programs is scattered among many committees of Congress. If congressional review of population matters is to be most effective, some focal point within Congress is necessary. One committee should have responsibility for studying issues from the perspective of their effect upon population growth and distribution, for spotlighting problems, and for reviewing the implementation of federal programs in these areas.

In order to provide improved legislative oversight of population issues, the Commission recommends that Congress assign to a joint committee responsibility for specific review of this area.

STATEMENT OF JOHN D. ROCKEFELLER III, CHAIRMAN, COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE ON PART II OF THE FINAL REPORT

In this second section of the Commission's report we set forth our recommendations in regard to education, childbearing and childrearing. They represent two years of intensive deliberations by the Commission and its able staff, based on extensive research under contract to others.

These brief introductory comments of mine I offer as background in your consideration of our recommendations:

1. From the beginning, the overriding goal of the Commission has been the enrichment of human life not its restriction. In advocating a national population policy we seek to assure greater opportunity for all Americans so that each may have a better chance of attaining his full potential with respect and dignity.

2. The Commission recognizes and would stress that many of its recommendations seek to achieve social goals desirable and important in their own right—for example, greater opportunities for women and children, and freedom of choice in reproduction. These recommendations, are, of course, also relevant to population growth.

3. There has been much talk and concern about controls and coercion in the population field. The whole thrust of the Commission's effort has been the attainment of social goals through voluntary action, to be determined by the individual in his own best interest.

4. We recognize that such voluntary action will only be meaningful if we have true freedom of choice. This will require changes in some of our attitudes, patterns of behavior, laws and governmental programs. Only in this way will all people have access to the full range of our society's opportunities and services—particularly we have in mind women, minorities and the young.

5. Underlying all its deliberations, the Commission has sought to strengthen the bonds of family life by enabling parents and prospective parents to plan their childbearing and child-rearing so that every newborn infant will be a wanted child, raised in an atmosphere of love, respect and responsibility, because his or her mother and father have chosen to become parents.

We of the Commission recognize that not everyone will agree with all of the statements and recommendations in our report. We ask you to think of the report as a whole and to remember the breadth and the importance of the subject with which we are dealing. We ask you to remember that the report represents the best thinking of 24 individuals from a cross section of our society in terms of race, religion, age, occupation, geography, and beliefs. More particularly we ask you to remember, as I have already indicated, that the overriding goal of the Commission is to raise the quality of life for all Americans.

LAWSUIT AGAINST WAR

Mr. FULBRIGHT. Mr. President, on March 28, the Honorable Joseph S. Lord III, chief judge of the U.S. District Court for the Eastern District of Pennsylvania, filed what I believe to be an extremely significant opinion in the case of John S. Atlee and others against Melvin Laird, individually, and so forth. Judge Lord's opinion is particularly relevant to the present business of the Senate—the proposed war-powers legislation. I therefore ask unanimous consent that the opinion and an article entitled "Suit Against War Goes to Three Judges," by Donald Janson, published in the New York Times of Sunday, April 2, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[In the U.S District Court for the Eastern District of Pennsylvania—No. 71-2324]

OPINION—JOSEPH S. LORD III, CHIEF JUDGE, MARCH 28, 1972

(John S. Atlee, Henry Braun, Rev. David Gracie, John Malinowski, Joseph Miller, Helen K. Schotz, Seymour Schotz, and all other persons similarly situated, v. Melvin Laird, individually and as Secretary of the Department of Defense, Civil Action)

The plaintiffs in this suit allege that the prosecution of the war in Southeast Asia by this government violates various provisions of the United States Constitution, Treaties of the United States, and doctrines of international law. They seek a permanent injunction against the expenditure of funds for this war which have been authorized and appropriated by Acts of Congress. The defendant in this case is Melvin Laird, Secretary of the United States Department of Defense. The United States government, through the office of the United States Attorney for the Eastern District of Pennsylvania, has been granted leave to intervene. Originally, Richard M. Nixon, President of the United States, was a defendant, but on January 20, 1972, the government's motion to dismiss him as a party defendant was granted. The court has jurisdiction of the case under 28 U.S.C. 1331.

Plaintiffs have asked that a three-judge court be convened to hear this action. Since the plaintiffs seek an injunction restraining the expenditure of funds authorized and appropriated by Acts of Congress on the ground that such expenditures are repugnant to the United States Constitution, this is clearly a case which requires a three-judge district court under the terms of 28 U.S.C. 2282. See Flast v. Cohen, 392 U.S. 83 (1968).

The government, however, has filed a motion to dismiss the suit with this court, offering several separate grounds in support of its motion. My initial determination must be whether I, as a single district judge, have the power to dismiss this suit on the grounds alleged by the government, rather than request the convening of a three-judge district court.

In Ex Parte Poresky, 290 U.S. 30 (1933) (per curiam), the Court held that a single judge could dismiss the action rather than request that a three-judge court be convened where there was neither diversity jurisdiction, nor federal question jurisdiction because the federal question involved was clearly insubstantial. "* * * [T]he provision requiring the presence of a court of three judges necessarily assumes that the District Court has jurisdiction." Poresky, *supra*, 290 U.S. at 31.

The three-judge statute was later amended, and 28 U.S.C. 2284(5) now provides that "[a] single judge shall not * * * dismiss the action, or enter a summary and final judgment." Despite the language of this provision, the decision in Ex Parte Poresky is still good law. The provision has been interpreted to be a limitation on a single district judge's power only after a three-judge court has been properly called. The decisions have uniformly held that the single district judge to whom an action is originally presented may refuse to request a three-judge court and dismiss the action if he concludes that the general requisites of federal jurisdiction are not present. *E.g.*, Port of New York Authority v. United States, 451 F.2d 783 (C.A. 2, 1971); Eastern States Petroleum Corporation v. Rogers, 280 F.2d 611 (D.C. Cir. 1960); Jacobs v. Tawes, 250 F.2d 611 (C.A. 4, 1957); Hickmann v. Wujick, 333 F.Supp. 1221 (E.D.N.Y. 1971); Suskin v. Nixon, 304 F.Supp. 71 (N.D. Ill. 1969).

It is equally clear that a single judge must request the convening of a three-judge court if jurisdiction is present. A single judge may not decide that abstention is proper while a state court passes on the constitutional issue involved, and on that basis refuse to convene a three-judge district court. Idlewild Liquor Corp v. Epstein, 370 U.S. 713 (1962) (per curiam); Abele v. Markle, 452 F. 2d 1121 (C.A. 2, 1971); Landry v. Daley, 280 F. Supp. 929 (N.D. Ill. 1967).

"When an application for a statutory three-judge court is addressed to a district court, the court's inquiry is appropriately limited to determining whether the constitutional question raised is substantial, whether the complaint at least formally alleges a basis for equitable relief, and whether the case presented otherwise comes within the requirements of the three-judge statute." Idlewild, *supra*, 370 U.S. at 715.

Just as abstention is not proper, the single district judge may not refuse to request a three-judge court because he concludes that the case is better suited for declaratory relief rather than the injunctive relief which was also requested by the plaintiff. National Mobilization Committee To End War in Viet Nam v. Foran, 411 F. 2d 934 (C.A. 7, 1969).

It thus becomes necessary for me to determine which of the government's proposed grounds for dismissal of this suit involve jurisdictional questions which this court may consider.[1] The government has advanced four reasons for dismissal: (1) the suit is identical to other cases filed against the same defendants in other federal courts; (2) the complaint presents to nonjusticiable political question; (3) the action in effect is an unconsented suit against the United States; and (4) the plaintiffs lack standing to maintain this action. I have concluded that my power to rule on the government's motion extends only to the latter two grounds urged for dismissal.

It is first argued that this suit should be dismissed because numerous similar actions with sometimes identical complaints have been filed against the same defendants in various federal courts across the country. The government contends that a dismissal here would foster judicial economy and avoid the vexatious results of permitting multiple lawsuits. We note that the government has failed to show a single other suit challenging expenditures for the war which has been brought by the plaintiffs in this suit. The fact that counsel representing the plaintiffs in these various anti-war actions are the same would not seem to permit the inference that the plaintiffs in this suit are only "nominal," and that behind them lurk the same "real parties in interest" who have actually brought this and all the other similar actions. In any event, I will not rule on this ground for dismissal because it does not present a jurisdictional issue, but one which is addressed to a court's discretion. See Eastern States Petroleum & Chemical Corporation v. Walker, 177 F. Supp. 328, 334 (S.D. Tex. 1959). Of course, if a three-judge court is convened, the government may renew its motion, directing it to that court's power to dismiss for any proper reason, jurisdictional or otherwise.

As an alternative basis for dismissal, the government takes the position that the conduct of foreign policy, and particularly the manner and extent of financial assistance to foreign nations is committed to the discretion of Congress and lies outside the power and competency of the judiciary. It is contended that what the plaintiffs seek to litigate here is a nonjusticiable political question and therefore the court lacks jurisdiction over the subject matter.

Actually, this argument confuses two separate grounds for denying relief. Bell v. Hood, 327 U.S. 678 (1946), made clear that a court must entertain a suit where the complaint is so drawn as to seek recovery directly under the Constitution or the laws of the United States. Such a suit may be dismissed for want of jurisdiction only if the alleged claim under the Constitution or federal statute is sham, made solely for the purpose of obtaining jurisdiction, or is insubstantial and frivolous. "Jurisdiction * * * is not defeated * * * by the possibility that the averments might fail to state a cause of action on which petitioners could actually recover." Bell v. Hood, *supra*, 327 U.S. at 682.

At the heart of plaintiffs' constitutional claims is the contention that the war in Southeast Asia is being waged in violation of Art. I, Sec. 8, Cl. 11 which provides that "[t]he Congress shall have Power * * * To declare War * * *." The plaintiffs allege that the Constitution requires a Congressional declaration of war or an equivalent act of Congressional authorization for the military activities being waged in Southeast Asia, and that in fact Congressional action which has been taken[2] does not fulfill this requirement. This claim is not so insubstantial and devoid of merit as to warrant dismissal on the ground of lack of jurisdiction of the subject matter. Commonwealth of Massachusetts v. Laird, 451 F. 2d 26, 29 (C.A. 1, 1971).

In Baker v. Carr, 369 U.S. 186 (1962), the Court emphasized that the question of subject matter jurisdiction should not be confused with the problem of whether a suit presents a nonjusticiable political question.

"The distinction between the two grounds is significant. In the instance of nonjusticiability, consideration of the cause is not wholly and immediately foreclosed; rather, the Court's inquiry necessarily proceeds to the point of deciding whether the duty asserted can be judicially identified and its breach judicially determined, and whether protection for the right asserted can be judicially molded. In the instance of lack of jurisdiction the cause either does not 'arise under' the Federal Constitution, laws or treaties (or fall within one of the other enumerated categories of Art. 3 § 2), or is not a 'case or controversy' within the meaning of that section; or the cause is not one described by any jurisdictional statute." Baker v. Carr, *supra*, 369 U.S. at 198.

In an action which on its face invokes the three-judge court statute, it is clear that a single judge is prohibited from any ruling on the merits of the action.[3] *E.g.*, Stratton v. St. Louis Southwestern R. Co., 282 U.S. 10 (1930). As the political question doctrine has developed, the inquiry into justiciability must necessarily proceed to a point which becomes entangled with the merits of the action.

In Powell v. McCormack, 395 U.S. 486 (1969), Adam Clayton Powell, Jr. alleged that the United States House of Representatives unconstitutionally excluded him from a seat in the 90th Congress. In considering whether the political question doctrine rendered the suit non-justiciable, the Court considered many factors, but the main focus of its inquiry was whether there has been a textually demonstrable constitutional commitment of the issue to another coordinate branch. The defendants argued that the House, and the House alone, has the power to determine who is qualified to be a member.

"In order to determine whether there has been a textual commitment to a co-ordinate department of the Government, we must interpret the Constitution. In other words, we must first determine what power the Constitution confers upon the House through Art. I, § 5, before we can determine to what extent, if any, the exercise of that power is subject to judicial review," Powell v. McCormack, *supra*, 395 U.S. at 519.

In deciding whether this suit presents a non-justiciable political question, an interpretation would have to be made by this court of the very clause of the Constitution, Art. I, Sec. 8, Cl. 11, which plaintiffs rely on on the merits. The First Circuit recognized this unavoidable entanglement in a recent decision which held that the war in Southeast Asia presented a nonjusticiable political question.

"In arriving at this conclusion we are aware that while we have addressed the problem of justiciability in the light of the textural commitment criterion, we have also addressed the merits of the constitutional issue. We think, however, that this is inherent when the constitutional issue is posed in terms of scope of authority." Commonwealth of Massachusetts v. Laird, 451 F.2d 26, 33–34 (C.A. 1, 1971).

Thus, I conclude that as single district judge I lack the power to rule on the government's motion to dismiss on the ground that the suit presents a nonjusticiable political question. *See* Abele v. Markle, 452 F.2d 1121, 1125 (C.A. 2, 1971); *see generally* Scharpf, *Judicial Review And The Political Question: A Functional Analysis,* 75 Yale L.J. 517 (1966).

The government also argues that this suit should be dismissed because while nominally against officers of the United States, it is in reality against the government itself. If its contention is correct that this is actually a suit against the United States, then a court would be without jurisdiction to hear the suit since there is no applicable statute waiving sovereign immunity. See Larsen v. Domestic and Foreign Commerce Corp., 337 U.S. 682, (1949). Since it is a jurisdictional issue, this court could dismiss the suit if it is barred by sovereign immunity. Osage Tribe of Indians v. Ickes, 45 F.Supp. 179 (D.D.C. 1942).

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[1] This admittedly is no easy task. In fact, the test has been strongly criticized as unworkable. "It is fruitless to pick nits over what is 'really' a matter of jurisdiction. 'Jurisdiction' is but a handy name with which to describe a collection of legal consequences." Currie, *The Three-Judge District Court In Constitutional Litigation,* 32 U. Chi. L. Rev. 1, 25 (1964).

[2] E.g., Acts of appropriation for war activities and extensions of the Selective Service Act.

[3] Except, as it may be determined, that the act attacked is without a doubt constitutional or unconstitutional. *Ex Parte Poresky,* 290 U.S. 30 (1933) (per curiam); *Bailey* v. *Patterson,* 369 U.S. 31 (1962) (per curiam).

Dugan v. Rank, 372 U.S. 609 (1963), provides the guidelines for the law of sovereign immunity. A suit is against the sovereign and barred if the judgment sought would expend itself on the public treasury or interfere with the public administration. It is also barred if the effect of the judgment would be to compel the government to act or restrain it from acting. However, two exceptions are recognized to this rule. A suit is not barred by the doctrine of sovereign immunity if it is alleged that the actions of the officers challenged are beyond their statutory authority or, though authorized by statute, the powers exercised or the manner in which they are exercised are in violation of the Constitution.

This suit clearly comes within the second exception to the rule of sovereign immunity. The expenditure of funds by the defendant to further the prosecution of the war in Southeast Asia is alleged to be in direct conflict with the requirements of Art. I, Sec. 8, Cl. 11 of the Constitution. Sovereign immunity is no bar to this action challenging the financing of the war in Southeast Asia. Berk v. Laird, 429 F.2d 302 (C.A. 2, 1970); Mottola v. Nixon, 318 F. Supp. 538 (N.D. Cal. 1970). *See also* Youngstown Sheet & Tube Co. v. Sawyers, 343 U.S. 579 (1952). *Contra* Luftig v. McNamara, 373 F.2d 664 (D.C. Cir. 1967) (per curiam).

The final ground urged for dismissal before this court is that the plaintiffs lack standing to maintain this action. Decisions denying standing have sometimes been based on a rule of self-restraint which the Court has developed, rather than a jurisdictional reason. Barrows v. Jackson, 346 U.S. 249, 255 (1953). The doctrine is somewhat complicated, as it "has become a blend of constitutional requirements and policy considerations." Flast v. Cohen, 392 U.S. 83, 97 (1968). For whatever reasons a court may deny standing, the Court's decisions indicate that standing may not be conferred unless consistent with jurisdictional limitations which are embodied in Article III.

"Generalizations about standing to sue are largely worthless as such. One generalization is, however, necessary and that is that the question of standing in the federal courts is to be considered in the framework of Article III which restricts judicial power to 'cases' and 'controversies'." Data Processing Service v. Camp, 397 U.S. 150, 151 (1970).

Therefore, I will rule on the government's motion to dismiss on the ground of lack of standing in light of the case or controversy requirement of Article III. Abele v. Markle, 452 F. 2d 1121 (C.A. 2, 1971). Plaintiffs have asserted standing as taxpayers, citizens, and voters. Each status must be scrutinized separately to determine whether any one of them is sufficient to confer standing to maintain this action. *See e.g.* Reservists' Committee To Stop War v. Laird, 323 F. Supp. 833 (D.D.C. 1971).

In Flast v. Cohen, 392 U.S. 83 (1968), the Court distinguished an earlier decision, Frothingham v. Mellon, 262 U.S. 447 (1923), which had denied standing to a federal taxpayer. In holding that a federal taxpayer had standing to challenge the allegedly unconstitutional expenditure of funds by Congress for aid to religious schools, the Court developed a two-part test for establishing standing as a federal taxpayer. First, the expenditure must be an exercise of congressional power under the taxing and spending clause of Art. 1, Sec. 8 of the Constitution. Secondly, the taxpayer must show that the challenged enactment exceeds specific constitutional limitations upon the congressional taxing and spending power.

In Flast, the Court found that the expenditure by Congress was made pursuant to its Art. 1, Sec. 8, Cl. 1 power to spend for the general welfare, so that the first part of the test was satisfied. The Tenth Circuit has concluded that expenditures for the war have not been made under the taxing and spending clause but under the power to raise and support an Army and maintain a Navy, Art. 1, Sec. 8, Cl. 12 and 13. Velvel v. Nixon, 415 F.2d 236 (C.A. 10, 1969). However, the matter is not at all clear. "[T]he government probably uses its spending power whenever it spends, even if the disbursement is also supported by some other granted power. Furthermore, many activities are neither primarily spending nor primarily regulatory—the Vietnam war, for instance." Davis, *Standing: Taxpayers and Others*, 35 U.Chi.L.Rev. 601,663 (1968).

However, even if the first part of the Flast test is considered fulfilled, the plaintiffs here stil lack standing as taxpayers because of their failure to demonstrate that Congressional appropriations for the war violate specific constitutional limitations upon the taxing and spending power. In Flast, the First Amendment's Establishment Clause was alleged to be violated by the expenditures involved there, and the Court found that our history discloses that a specific evil feared by the drafters of the Establishment Clause was that the taxing and spending power would be used to favor one religion over another, or to support religion in general. The plaintiffs here have not been able to offer sufficient support, historical or otherwise, for an interpretation of the war-making clause as having an implied purpose to act as a specific limitation on the manner in which Congress could make expenditures. Pietch v. President of United States, 434 F. 2d 861 (C.A. 2, 1970); Velvel v. Nixon, *supra*.

Our inquiry concerning standing is not ended, however, because the only question involved in Flast was whether "* * * standing can be conferred on the taxpayer qua taxpayer consistent with the constitutional limitations of Article III." Flast, 392 U.S. at 101. "* * * [O]ur point of reference in this case is the standing of individuals who assert only the status of federal taxpayers. * * *" Flast, 392 U.S. at 102. The concurring opinion of Justice Fortas pointed to the issue now at hand.

"In terms of the structure and basic philosophy of our constitutional government, it would be difficult to point to any issue that has a more intimate, pervasive, and fundamental impact upon the life of the taxpayer—and upon the life of all citizens.

"Perhaps the vital interest of a citizen in the establishment issue without reference to his taxpayer's status, would be acceptable as a basis for this challenge. We need not decide this." Flast, 392 U.S. at 115–116.

Plaintiffs' possible standing as citizens must be analyzed in terms of the general criteria which have been developed by the Court.

"Have the appellants alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions? This is the gist of the question of standing." Baker v. Carr, 369 U.S. 186, 204 (1962).

The "personal stake" need not of course be one that is unique to that individual, but may be shared by millions of others with a similar status, as the federal taxpayers in Flast.[4] The nature of the personal stake and interest necessary under Article III for standing was explained most fully by the Court in a recent decision where the requirements for standing to seek judicial review of administrative action were relaxed. Data Processing Service v. Camp, 397 U.S. 150 (1970), and see the companion case of Barlow v. Collins, 397 U.S. 159 (1970). "The first question is whether the plaintiff alleges that the challenged action has caused him injury in fact, economic or otherwise." Data Processing, *supra*, 397 U.S. at 152. "That interest, at times, may reflect 'aesthetic, conservational, and recreational' as well as economic values." *Id.*, at 154. In Data Processing the injury involved was an alleged economic one, a potential loss of business to the petitioners as competitors of the national banks to which the administrative ruling was directed. Barlow, *supra*, also involved an economic injury. The Court in its interpretation of Article III requirements explained that it had mentioned non-economic values so that it could "emphasize that standing may stem from them as well as from the economic injury on which petitioners rely here." Data Processing, 397 U.S. at 154.

For an economic injury to qualify as a sufficient personal stake, it need not be of any particular magnitude. *See* Harper v. Virginia Board of Elections, 383 U.S. 663 (1966) ($1.50 poll tax). It has been estimated that the economic injury to the average federal taxpayer caused by the Congressional expenditure attacked in Flast amounted to all of 12 cents ($.12). Davis, *Standing: Taxpayers and Others*, 35 U.Chi.L.Rev. 601, 611 (1968).

In this case plaintiffs allege that many billions of dollars have been spent in prosecution of the war in Southeast Asia, at the rate of approximately two billion dollars every month. They have alleged that this federal spending has in large part caused a rapidly increasing inflation from which all citizens suffer. War induced inflation-recess is alleged to have decreased the actual purchasing power of the dollar.[5] The government has not offered any evidence rebutting these allegations of economic injury, and since this is a motion to dismiss, all well pleaded facts are admitted. Therefore, I find that this alleged economic injury caused by the prosecution of the war is sufficient to confer standing.

Perhaps more fundamentally, plaintiffs have standing here as citizens to challenge the war because of its non-economic impact as well. As Data Processing pointed out, the interests to be protected may at times reflect other values. Conservationist groups, for instance, have been granted standing to challenge agency action which would affect natural resources such as our rivers and forests. Scenic Hudson Preservation Conference v. Federal Power Commission, 354 F.2d 608 (C.A. 2, 1965) Sierra Club v. Hardin, 325 F.Supp. 99 (D. Alaska 1971).[6]

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[4] It seems a misnomer to speak of "personal stake" when plaintiff's interest is no different than millions of others, and the action seems primarily concerned with vindicating a public interest in an important national issue rather than a private wrong. Perhaps, such actions should more properly be designated "public actions" and be measured by different criteria for standing than "private actions" involving a distinct and discriminating injury. In any event, plaintiffs in this case will have to establish standing within the framework of Article III requirements now recognized by the Court. *See Flast*, 397 U.S. 83, 116–133 (dissent of Harlan, J.; Jaffe, *The Citizen As Litigant In Public Actions: The Non-Hofheldian or Ideological Plaintiff*, 116 U.Pa.L.Rev. 1033 (1968); Jaffe, *Judicial Control Of Administrative Action*, 459–500 (1965).

[5] Inflation is recognized as a time-honored device for financing wars. For an interesting discussion of means to finance World War II see the position papers of the Tax Institute Symposium of 1942. *Financing The War* 9 (Warren), 28–33 (Jones) (1942). The court, of course, does not venture an opinion as to whether the prosecution of the war in Southeast Asia has induced inflation.

[6] While these cases as well as *Data Processing* concerned whether standing to challenge administrative action had been conferred by Congress, they are applicable to the instant determination of whether plaintiffs have fulfilled the requirements of Article III, since Article III limitations on standing must always be observed. "Congress can, of course, resolve the question one way or another, save as the requirements of Article III dictate otherwise." *Data Processing*, 397 U.S. at 154.

There are few citizens who could be so callous as to be unmoved by the almost daily reports in the media of the death and destruction being caused by this war. The loss in human resources has been, and continues to be, staggering. In terms of American lives alone, there have been the deaths of over forty-five thousand soldiers, with injuries to hundreds of thousands more. The blood of these men provides a sufficient "conservational" interest on the part of every citizen in saving the human resources of this nation.

The fact that our nation is at war also necessarily causes some threat to the personal safety and security of all the citizens, given the complexity of international relations and the advanced means of war that have been developed through technology. Finally, plaintiffs have alleged that the expenditures of billions of dollars on the war has resulted in there being less funds available to be expended on urgent domestic needs, such as the housing, health and education needs of citizens. Considering the huge expenditures on the war this cannot be dismissed as idle speculation. Plaintiffs' interests as citizens are clearly more compelling than any aesthetic or recreation interests which Data Processing said may confer standing.

In terms of Article III requirements for standing, besides demonstrating that a sufficient personal stake or interest is present, it must appear that "the interest sought to be protected by the complainant is arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question." Data Processing, 397 U.S. at 153. Art. I, Sec. 8, Cl. 11, which plaintiffs have alleged has been violated, provides that "[t]he Congress shall have Power * * * To declare War * * *." The words themselves don't contain any intention to protect the citizenry, but the history of our Constitution reveals that this assignment of power to Congress was not a mere happenstance without purpose. It was the intention of the framers of the Constitution to make it more difficult for the nation to engage itself in war with all the sufferings which this entails for its citizens, by lodging the power in a body of men, rather than allow one man to make such a vital decision. The British monarch was not considered a proper guide for defining the executive powers of the president in this country when it came to the matter of war. Madison, *The Debates of the Federal Convention of 1787*, 140–141, 438–39 (Elliott ed. 1845); *see* Pusey, *The Way We go To War*, 41–48 (1969).

The citizen's interest in having his nation free of war was the very one being considered when the Constitution was written vesting the power to authorize war with the Congress, rather than the President. Thus, the plaintiffs in this case have standing as citizens to challenge the constitutionality of expenditures for the war.[7]

By holding that plaintiffs here have standing as citizens, the decision in Flast establishing criteria for federal taxpayer standing is not rendered a nullity. In fact, most challenges to Congressional expenditures would not involve issues of paramount national importance which have an impact on every citizen's life, such as a war.[8] Thus, there would be no citizen standing, and the litigant would have to establish standing as a federal taxpayer within the test developed by Flast.[9]

Recognizing standing in this case does not create a forum for "generalized grievances about the conduct of government or the allocation of power in the Federal System." FLAST, 392 U.S. at 106. The complaint in this action presents not an airing of a "generalized grievance" about the government, but an attack against a particular war, alleging that the prosecution of this war has not and does not conform to the requirements of law. Rather than being a complaint about the allocation of power in the Federal System, it is essentially a claim that the President and the Congress have not acted in accordance with the allocation of power as it is provided in the Constitution with regard to war.

For the reasons indicated, I conclude that neither sovereign immunity nor Article III limitations on standing are a bar to maintenance of this suit. The government's motion to dismiss on these grounds is denied, and the court is without power to rule on the government's other grounds for dismissal which are non-jurisdictional. Consonant with the conclusions expressed in this opinion and simultaneously with its filing, I am requesting the Chief Judge of the Circuit to convene a three-judge court to hear this action.

ORDER

And now, this 28th day of March 1972, it is ordered that the defendant's motion to dismiss be and it hereby is denied.

By the court:

JOSEPH S. LORD III, *Ch. J.*

[From the New York Times, Apr. 2, 1972]

SUIT AGAINST WAR GOES TO THREE JUDGES—U.S. COURT IN PHILADELPHIA REJECTS PLEA TO DISMISS IT

(By Donald Janson)

PHILADELPHIA, April 1.—After setbacks in numerous court cases around the country, antiwar activists scored a preliminary victory this week in challenging the legality of the Vietnam war.

With some strong language questioning the constitutionality of undeclared wars, Federal District Judge Joseph S. Lord 3d denied a Government plea to dismiss a suit by six challengers Tuesday and turned the case over to a three-judge panel to be constituted by the Chief Judge of the United States Court of Appeals for the Third Circuit here. It is the first war challenge to go to a special panel here.

The plaintiffs seek a judgment that the Vietnam action is unconstitutional because it has been pursued by President Johnson and President Nixon without a declaration of war by Congress. They want an injunction to bar Secretary of Defense Melvin R. Laird, the defendant, from spending taxpayer funds on the war.

Judge Lord noted in his opinion, the day before the Senate began debate on a broadly supported bill to deny a President the power to pursue war for more than 30 days without the specific consent of Congress, that the Constitution provides "the Congress shall have power . . . to declare war."

"It was the intention of the framers of the Constitution," he said, "to make it more difficult for the nation to engage itself in war, with all the sufferings which this entails for its citizens, by lodging the power in a body of men, rather than allow one man to make such a vital decision.

"The British monarch was not considered a proper guide for defining the executive powers of the President in this country when it came to the matter of war. The citizen's interest in having his nation free of war was the very one being considered when the Constitution was written vesting the power to authorize war with the Congress, rather than the President.

"Thus, the plaintiffs in this case have standing as citizens to challenge the constitutionality of expenditures for the war."

STANDING IS ISSUE

The Government had contended they lack standing.

The plaintiffs, in a suit sponsored by the National Civil Liberties Committee, cited the Pentagon papers—revealed last summer following unsuccessful Government court action to halt publication—as corroboration for their contention that President Johnson misled Congress and was planning a much wider war than he sought authorization for from Congress in the Tonkin Gulf resolution of 1964. In any case, they contend, the resolution and later defense appropriations were not the required declaration of war.

In seeking dismissal of the complaint, the Government also contended the financing of foreign policy was a political matter to be left to the discretion of Congress and not a question for court jurisdiction.

Judge Lord declined to rule on that, saying it involved the merits of the constitutional challenge and would have to come before the three-judge panel.

Last year the United States Court of Appeals for the Second Circuit in New York found the issue of the war's legality was not a political one beyond the jurisdiction of the courts, but held that Congress through the Tonkin Gulf resolution, appropriations and draft legislation was providing implicit sanction for the war.

David Rudovsky, counsel for the plaintiffs here, said the Constitution required explicit Congressional approval.

The Supreme Court has declined to hear appeals from past dismissals of cases brought on this issue by protesting draftees or antiwar activists. Mr. Rudovsky said a favorable decision by a three-judge panel here probably would—result in a Government appeal and the first Supreme Court review.

JUDGE MAY JOIN PANEL

Judge Lord, who might be a member of the three-judge panel, said the Government had offered no rebuttal to the plaintiffs' allegations that war-induced inflation had reduced the purchasing power of their dollars.

Further, he said, allegations of diversion of funds from urgent housing, health and education needs "cannot be dismissed as idle speculation."

Beyond that, he said, the "staggering" loss in human resources merits challenge.

"In terms of American lives alone," Judge Lord said, "there have been the deaths of over 45,000 soldiers, with injuries to hundreds of thousands more. The blood of these men provides a sufficient conservational interest on the part of every citizen in saving the human resources of this nation."

AMERICA'S PENSION SYSTEM: A $135 BILLION QUESTION

Mr. EAGLETON. Mr. President, private pension plans are an important factor in the economic security of millions of workers and their dependents. The

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[7] Having found that plaintiffs have standing as citizens, it is unnecessary to pass on their claim of standing as voters. Past decisions of the Court seem to recognize such a basis for standing only when the integrity of the vote itself, or the election process has been the interest sought to be protected. *See, e.g., Baker* v. *Carr*, 369 U.S. at 206–208.

[8] Thus, I disagree with the Tenth Circuit view that if a court recognized citizen standing to challenge the constitutionality of the war, "then obviously standing to sue can be found in every citizen to contest every Congressional or executive action of general import and the doctrine of standing will have lost all meaning." *Velvel v. Nixon*, 415 F. 2d 236, 238 (C.A. 10, 1969). Judge Gesell, in a recent decision recognizing citizen standing to challenge the constitutionality of members of Congress holding commissions in the Armed Forces Reserve, observed that there would be very few instances where a plaintiff could establish standing as a United States citizen. *Reservists Committee To Stop War v. Laird*, 323 F. Supp. 833 (D.D.C. 1971).

[9] Unless, of course, the plaintiff had some other status which conferred standing.

30 million employees covered by such plans—and there will be 45 million by 1980—have every reason to expect that their deplorably inadequate social security benefits will be substantially supplemented by their private pensions. Their private pensions hold the promise of a better, more secure retirement than they could ever hope to enjoy if they were dependent solely on benefits paid under public retirement systems.

But far too many retirees have found this promise to be illusory. The Labor Subcommittee of the Committee on Labor and Public Welfare has documented case after case of workers who discovered after many years of service that the pensions on which they were relying will never be paid. Perhaps as many as 95 percent of those who have left jobs in the last 20 years where they worked under a pension plan will never receive any benefits under the plan, according to subcommittee findings.

The subcommittee's investigations have been conducted under the leadership of the chairman, the junior Senator from New Jersey (Mr. WILLIAMS), and the ranking minority member, the senior Senator from New York (Mr. JAVITS). The findings that have been made through the subcommittee's activities and the legislation that is being developed result directly from the dedication and the commitment displayed by Senators WILLIAMS and JAVITS.

An article by Michael C. Jensen, published in the April 8, 1972, issue of the Saturday Review, provides an excellent discussion of the private pension problem and the outstanding work in this field by Senator WILLIAMS and Senator JAVITS. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICA'S PENSION SYSTEM: A $135 BILLION QUESTION

(By Michael C. Jensen)

"We can never insure one hundred per cent . . . against the vicissitudes of life, but we have tried to frame a law which will give some measure of protection . . . against poverty-ridden old age."—Franklin D. Roosevelt, Signing of the Social Security Act, 1935.

Nearly forty years have passed since this nation formally committed itself to security in old age. Today, however, Social Security is hardly enough to support the aged even at poverty levels, and the elderly's own savings, invested and tucked away over a lifetime, manage to provide only about 15 per cent of what the retired live on each year. The result is that in the precarious bookkeeping of old age the private pension—once regarded as a simple "fringe benefit"—has beome for many a bedrock necessity.

In 1940 pensions covered only 4.1 million people. Since then they have mushroomed to the point where no fewer than thirty million Americans now belong to plans. Some are run by corporations, some by unions (primarily in trades where there are many small employers). But no matter who shuffles the papers, an overwhelming amount of the money—some 75 percent—is chipped in by the company boss, whether he is the Bank of America or the local contractor. Taken together, what has been piled up over the years is a formidable treasury rivaling the federal budget. Pensions have on hand some $135-billion in assets as of this year and are expected to have $250-billion by 1980. But as pension plans have burgeoned and reliance on pensions has increased, so, unhappily, has the realization that all too often this reliance is misplaced.

One Department of Labor official admits that one-third to one-half of those who think they will be covered by pensions will eventually find out they are not. Reformers who are now calling attention to the shortcomings of the system set out even more startling figures. Of all those who have worked at and then left jobs with pension plans over the last twenty years, according to a special U.S. Senate labor subcommittee report, only about 5 per cent will ever see their sliver of the multibillion-dollar pie.

Legislation to increase the reliability of pensions has been languishing in Congress for several years. But to date, pension reform, arcane and numerical in its details, has seemed designed more to send voters off to sleep than off to the polls to support an overhaul of the system. In this intensely political year, however, reform may well make some headway. Both Congress and the administration are paying more attention to the elderly as their ranks grow. Already a number of congressmen have adopted pension reform as a major bipartisan cause, including Democratic Representative John Dent of Pennsylvania, Republican Senator Jacob Javits of New York, and Democratic Senator Harrison Williams, Jr., of New Jersey. Their $135-billion question: How does so much money, which has no trouble finding its way around Wall Street, have so much trouble finding its way to retiring workers?

Just before last Thanksgiving, the labor subcommittee that is chaired by Senator Williams held hearings to get a few answers. A parade of elderly men and women filed into the hearing room. They sat at a big wooden table and, in turn, cleared their throats and began to tell their stories. Some of them were nervous and wary of the television lights, others angry, a few disheartened, but all had the same message. One way or another, they had lost out on a lot of money.

In his thirty-two years with A&P, Stephen Duane had worked his way up from stock clerk to assistant warehouse foreman. A&P then closed the warehouse, and though some fellow workers (those over fifty-five) got their pensions, Duane, at only fifty-one, turned out to be underage in A&P's plan. No pension. Edmund McCarthy, the father of a severely retarded child in a special school, could not move out of state when Mallinckrodt Chemical Works shifted its plant to a new site. At forty-seven, he lost all claim to the monies Mallinckrodt had put aside for him during his thirty years of driving the company's trucks. After lengthy employment with the Anaconda Company from age eighteen, Iris Kwek got caught in a company cutback. She was forty-eight, and even after three decades with the company she was still more than ten years away from the right to any pension.

What the hearings quite intentionally made clear was that "coming of age" in the pension game—that is, reaching the point at which the pension promise becomes a live claim that a worker who leaves or gets fired can take with him from the pension fund—is an arbitrary business. Though no law demands it, many plans do give workers some right to future pension before they actually retire, but this is usually at ages late in the working life—at fifty-five or sixty. If anything happens before the magic birthday, the whole pension can be lost. Frank Cummings, minority counsel for the Senate labor subcommittee, describes the situation of all too many workers. "Forty-nine years on the job. One day you get sick. You get fired. And you don't get a damned dime."

While arbitrary age rules are generally seen as the pension's greatest specific defect, this arbitrariness is viewed as part of a more pervasive shortcoming: an overall absence of laws to make those who control the mounting billions accountable to those who should eventually get a share of the money. Even reformers agree that most funds are run honestly and cautiously. But if those who hold sway over the money should have self-profit in view, there are few rules to limit what they can do. "Hardly anyone just walks off with the money," says one of the harshest critics of flimsy regulation. "There are so many things you can get away with legally, no one really has to steal."

Those who control the money have the power to direct millions into investments. In 1965 Senator John McClellan's investigating subcommittee uncovered the activities of one New York labor leader. Over the years he had helped found several union locals that subsequently established welfare and pension funds of which he was an officer. Eventually, he also helped set up several research foundations, of which he was also an officer, in such exotic places as Liberia and the Caribbean. Had any of the foundations been dissolved, he would have received a substantial share of the assets. Nearly $5-million from the union pension funds wound up invested and waiting in the far-flung foundations by the time the McClellan investigation came along. But the appalling note, the subcommittee concluded, was that nothing he had done was illegal.

Recently, the Securities and Exchange Commission charged officials of three related companies with using the pension fund of the Sharon Steel Corporation to buy stock in new subsidiaries and to lend them working capital. Nonethless, one defendant told *The Wall Street Journal* that every move was aboveboard. Talks with the SEC are now under way for a settlement of the case in which the defendants would give up control of the pension money. But, although the SEC suit is still pending, no criminal charges are involved.

That few criminal charges can now be brought against those who invest in their own instead of workers' interests is, of course, only half the problem. If money is badly invested, it is simply not around when the fund has to begin paying it out. Scandalous as this seems, however, it is not so startling to those who have been looking closely into pensions. At any point in time, few funds, even the most upright, have accumulated enough money to cover all claims against them. This widespread undernourishment of funds is clearly far more inimical to the interests of expectant pensioners than incidents of deliberate abuse.

There is nothing illegal about falling short in the ability to cover all claims, and it happens to the best of funds. In theory, a company sets aside money for a worker over the forty or so years of his working life, then eventually uses that money plus interest to give the worker his $78 (or whatever) a month. In practice, things don't work that way. Inevitably, the day after a plan takes effect, someone passes sixty-five and becomes eligible for his $78. Although little or no money was put in for him over a period of years, money must be paid out anyway. Many plans never make up for these "unfunded" claims that they carry from Day One.

Situations such as that of Western Union Telegraph Company may result. With employee claims of $365-million against its funds, Western Union has only $50-million in fund assets. Western Union (and most companies in the same bind) argues that the only time such an unbalanced ratio would matter would be if the company were to go out of business—and Western Union does not think it is about to do so.

No corporation, however, is immune to financial failure—witness Penn Central. Or the Studebaker Division of Studebaker Packard, the classic in-company collapse for anyone concerned with pensions. More than 4,000 Studebaker workers aged forty to sixty got only 15 percent of what the company owed them. Many got absolutely nothing. And with pensions, unlike money in the bank, there is no Federal Deposit Insurance Corporation to cover the shortfall.

In good part, the failure of pensions to serve as a sure financial mainstay for the retired comes from their growth for practical, not socially motivated, reasons. Historically, pensions have been less a commitment to those too old to work than an inducement to hold on to those who might go and work elsewhere. The funds' biggest growth surge came during World War II, a time when wages were frozen, and the plans became a way to lure scarce labor from competitors. With wage gains restricted, the new multimillion dollar funds struck union leaders as an impressive bundle to carry away from the bargaining table. Today companies still tend to regard pensions as "their" competitive tool—an extra gratuity for workers dispensed, like the gold watch, in return for long-term loyalty. And most union workers still see the pension promise as a trade off for money in-pocket now.

The use of pensions as a negotiated "fringe" of free enterprise also suggests why there has been so little outside review of their operations. The Treasury looks at the plans only to see if they merit and can maintain a tax-exempt status. The Department of Labor registers and files away the annual reports of some 34,000 funds, but, prevented by law from "interfering in the management of any welfare or pension benefit plan," the department rarely takes more than a cursory look at the numbers inside the reports. When the New York labor leader sent millions of dollars off to Liberia and the Caribbean, details were duly recorded in filed reports. "If you don't file," said a Senate aide, "you break the law. And there is no point in breaking the law since no one is going to read what you file anyway."

It is no wonder that pension funds have been lauded in the money markets as the most massive pool of unregulated money in the country.

If the reformers have their way, that free-wheeling definition will change. In fact, the least controversial change proposed—one that unions, cooperations, and politicians can all agree on—is for a clear law on the rights and wrongs of managing the billions. Conflicts of interest would be spelled out. Federal tabs would be kept on investments either at the Treasury, in the Labor Department, or in a big, new, wholly separate agency—which would certainly be justified in view of the amount of money involved. But while there is no longer much doubt that some part of the government will soon be routinely on the prowl for fraud, what reformers fear is that enacting a few laws to curb the most visible problems will let the pension industry glide right by the more profound questions that the whole present system poses: At what age should workers get their rights to pensions? Should they be able to build credits as they move from job to job over a whole working lifetime? What if the company or its plan is no longer around when the worker hits sixty-five? And if they are not, how can someone get the pension he has earned?

Proposed answers to these questions include the suggestion for a Federal Insurance Corporation to cover failed pension funds as the FDIC now covers failed banks. Funds would have to pay the government a premium for the insurance. To prevent the collapse of plans, if not companies, both Representative Dent and Senator Javits—but not the administration—have also called for beefing up the monies on hand in the funds over the next twenty to forty years so the funds can, in fact, cover all obligations. The reformers' most immediate concern, however, is to give workers an early and clear-cut claim to their future benefits.

The administration has a proposal that would ensure that workers begin to get credits toward pensions whenever their age plus number of years in a company tallies fifty. Representative Dent has proposed that credits go to workers after a flat ten years on the job. In the Javits plan, after six years a worker would begin to have claim to a percentage of what the company is putting by for him, with a full claim guaranteed by the tenth year. Javits would also set up a federal clearinghouse for pensions. As workers change jobs, carrying with them a bit of pension credit from here and a bit from there, the centralized service would keep track of all money ultimately due.

Giving credits toward pensions early in life and letting them build from job to job recognizes what most present plans fail to—that our economy is one of high mobility and fast technological obsolescence of jobs as well as goods. Present rules that honor longevity on the job were fine, says a counsel from the hearings, "when people stayed put in the same small towns and factories all their lives. But take the aerospace people. They move with the defense contracts."

Remedies for pension defects have been around Washington since a presidential commission's report on the system came out in 1965. Not surprisingly, the objections to that report filed by many of its corporate and union advisers are the same criticisms leveled at the reform bills now in Congress. Companies object to the bureaucracy of possible federal regulation with its promise of tie-ups and paper work. And they are critical, with some reason, of having to drop large sums into their funds to make sure there is enough on hand in case of corporate crack-up. As Western Union has said, it would rather pump the $3.8-million a year that such a buildup would require back into the company itself to ensure that the company *will* in fact survive.

As for the unions the auto- and steel-workers support change. But many others, such as the garment workers, see the reforms as costly items that could drive their often marginal bosses out of business. Nor are the unions and employers even allied in their opposition. For if more costly pension security does come along as law, companies say the only way they could meet requirements would be by cutting benefits, or the number of people covered, or workers' paychecks—not a set of solutions the unions will stand for.

Despite these widespread objections there lurks in the background a prod to accepting the beginnings of real reform. Radical critics of the system talk of folding pensions into Social Security or making them mandatory instead of voluntary; the talk may soon be taken more seriously if milder reform does not come about. Few want to see pensions engulfed in Social Security, which would result in the loss of flexibility in benefit arrangements and the loss to the economy of those investable billions. Mandatory plans seem equally threatening, although Finland, which legislated a mandatory system over the protests of businessmen in 1962, has managed to make its aging workers self-sustaining without causing hardship to the economy. In Finland each worker chalks up credits toward a pension from age twenty-three on. When he moves out of the work force, he can expect from the cumulative contributions of all his past employers about 40 per cent of his final salary as retirement income.

Whether or not such a system would work here is, of course, open to question. Finland has only two million workers. We have eighty million in the work force. But the increased complexities that size poses here are not the only difference. Our country was one of the last industrialized nations to accept the need for Social Security. The Scandinavian nations were among the first. Overcoming complexities may be less important than developing this nation's ability to care about the needs of the ever growing group of older people in its midst.

At base, that problem of attitude may be *the* problem of pensions. One union leader talks of how tough it has been to persuade workers of the significance of pensions, of what life over sixty-five on a bone-bare income might mean. He shakes his head: "You just can't sell the young on the idea they will ever be old." But fortunately, these days it looks as if those who do know what it means, by virtue of their sheer, growing numbers, are at last beginning to sell some understanding on their own.

SOIL CONSERVATION SERVICE ASSISTANCE TO OREGON FARMERS AND RANCHERS

Mr. PACKWOOD. Mr. President, the Soil Conservation Service has consistently provided outstanding technical assistance to Oregon farmers and ranchers in their efforts to preserve and protect our irreplaceable natural resources. I had the opportunity today to testify in behalf of increased funding for the SCS programs.

Mr. President, I ask unanimous consent that my statement before the Agriculture, Environmental, and Consumer Protection Subcommittee of the Committee on Appropriations be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Soil Conservation Service Applications

(Statement of Senator Bob Packwood, April 10, 1972)

Mr. Chairman, and members of the subcommittee, I would like to thank you for this opportunity to appear before you today, and for holding hearings on appropriations for the Soil Conservation Service.

Oregon's rapid population growth has placed new pressures on our natural resources. The concentration of 60 percent of our population in the Willamette Valley has created new environmental problems and has aggravated old ones. It is projected that by 1985, Oregon's population will increase approximately 25 percent to more than 2.5 million. If Oregon is to continue to improve and preserve its environmental quality, we will need additional Federal funding for projects similar to those sponsored by the Soil Conservation Service.

I have received many letters and telegrams from Oregonians urging me to speak to this subcommittee in their behalf. I have visited many Oregon farmers and ranchers and have personally observed their conservation practices. Many of these efforts, however, would be impossible were it not for the technical assistance provided by the Soil Conservation Service.

The SCS currently provides assistance to nearly 21,000 landowners and operators in Oregon. This assistance covers the 59 locally organized soil and water conservation districts, which comprise 86 percent of the state's total land area.

My testimony today is principally concerned with four phases of the soil and water conservation program; (1) federal assistance to conservation districts, (2) the snow survey program, (3) the small watershed program, and (4) resource, conservation, and development projects

ASSISTANCE TO CONSERVATION DISTRICTS

During the past five years, the corps of technical conservationists employed by the SCS in Oregon has declined over 20 percent. It is indeed unfortunate that at a time when increasing emphasis is being placed on the preservation of our environment, fewer people are provided for this highly successful conservation program.

Congress must also recognize the needs of new conservation districts. Two districts in Oregon's Crook and Harney Counties are now in the process of organization. Funds for staffing these new districts are essential.

SNOW SURVEY PROGRAM

Much of Oregon's water supply comes in the form of snow which is stored as snowpack in the winter and early spring. The SCS is responsible for measuring snow in order to forecast water supplies, streamflows, and flooding.

The Service receives repeated requests from irrigation districts, hydro-electric power producers, and flood forecasters for appraisals of snow and precipitation in the mountains, snow melt rates, and more accurate peak and volume streamflow forecasts. This is now possible using modern techniques of radio telemetry systems, which monitor a variety of parameters affecting the mountain snowpack. Oregon urgently needs a proposed automatic telemetry system which would consist of 47 telemetered data sites to be installed over the next five-year period.

SMALL WATERSHED PROGRAM

Since 1954, 57 groups throughout the State of Oregon have submitted applications for planning assistance under the provisions of PL–566, the Watershed Protection and Flood Prevention Act. Although 21 watershed projects have been authorized for planning assistance, the remaining 36 have been placed in a growing backlog, with priorities determined by the State Engineer. Our watershed applications have far exceeded the financial capacity of the Soil Conservation Service. Oregon is not unique in this regard. Funding for the small watershed program must be increased if the needs of Oregon and the nation are to be met.

RESOURCE, CONSERVATION AND DEVELOPMENT

Resource, conservation and development projects have been extremely successful in Oregon. The Upper-Willamette Resource, Conservation and Development Project was one of the first in the nation. Its 226 active resource project measures have increased Oregon's gross income by $5 million. The Columbia-Blue Mountain RC&D Project was approved for operations just one year ago.

One other project, the Grant-Wheeler RC&D, has had an application submitted since 1968, and many Oregonians are hopeful that it will soon be authorized. With other Resource, Conservation and Development applications currently being prepared, it is obvious that additional strains will be made on SCS RC&D funds. I strongly urge an increase in the appropriations for RC&D programs.

Last year, in his "Salute to Agriculture," President Nixon requested that Congress increase funds for the Soil Conservation Service. Congress responded favorably, but, as we all know, the Office of Management and Budget impounded a large portion of those funds. Oregon farmers and ranchers find it doubly discouraging that in this, the third year of "The Environmental Decade," the President has proposed a $23 million cutback in SCS funding.

There are few Federal programs from which Americans are able to see such a large return to their tax dollar. We cannot afford to ignore the importance of such programs. They have contributed greatly to our goal of preserving and protecting our irreplaceable natural resources.

NEW YORK CHAPTER OF THE UNITED NATIONS ASSOCIATION SUPPORTS GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, recently I received a copy of the statement made by the New York chapter of the United Nations Association. The association, organized to support U.N. activities within this country, reaffirmed its faith in the Genocide Convention of 1948. The New York chapter unanimously called upon this distinguished Chamber to move swiftly toward ratification of this humanitarian treaty.

Mr. President, I ask unanimous consent that the New York resolution be printed in the Record so the Senate might note the chapter's strength of conviction in favor of the convention.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

United Nations Association of New York, N.Y., Statement on Genocide Convention

The United Nations Convention on "Prevention and Punishment of the Crime of Genocide" was adopted by the General Assembly in 1948 and has been ratified by 75 member nations, but no ratification has yet been completed by the United States, although such approval has been strongly supported by every American President holding office since the Genocide Convention was first offered for signature.

We commend President Nixon for recently resubmitting this Convention to the Senate. We note with satisfaction the action of the Senate Foreign Relations Committee in recommending its ratification.

The United Nations Association of New York, N.Y., noting that its Annual Meeting is being held on the date which has been designated as an International Day to Combat Racism and Racial Discrimination, believes that the most important step which it can take on this significant occasion is to reaffirm our support for the Genocide Convention. We, therefore, urge that prompt action be taken to bring about its ratification.

THE BOWIE KNIFE

Mr. FULBRIGHT. Mr. President, the Bowie knife has a famous place in American history. Many are acquainted with the stories and legends about the life of Jim Bowie and the Bowie knife. However, relatively little is known about the man generally credited with inventing the Bowie knife, James Black.

Mr. Black was an accomplished blacksmith and metallurgist who spent most of his life at Washington in Hempstead County, Ark.

In the unique village of Washington, Ark., the blacksmith shop of James Black has been reconstructed, and the tavern where Black probably ate in his early days at Washington and where Sam Houston, Stephen Austin, and Bowie lived while in Arkansas, has been restored. In addition to the blacksmith shop and the tavern, the Pioneer Washington Foundation has restored and opened to the public a number of historic homes, including the home of Augustus Garland, the Attorney General of the United States in the Cabinet of President Grover Cleveland.

Mr. President, John Fleming recently wrote an article for the Arkansas Gazette about the man who invented the Bowie knife. It is an interesting, well-documented account of the life of James Black.

Mr. Fleming also writes about the picturesque little town of Washington and says:

> Probably nowhere in the Southwest is there a better collection of pioneer antiques than in this multi-building museum complex.

Mr. President, I ask unanimous consent that the article of historical interest be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Tale of the Man who Invented the Bowie Knife

(By John Fleming)

Most school children of the Southwest are acquainted with at least one of the several dozen versions of the life of James Bowie, who died at the Alamo after a stormy career as a man-about-town, a sharp land promoter and a knife-fighter supreme. But few know anything about the man whose skills as a blacksmith and metallurgist contributed mightily to the Bowie legend.

The life account of James Black, who spent most of his 72 years at Washington in Hempstead County; Arkansas, has more pathos than a Victorian novel, more climaxes than a modern soap opera and surpasses any tales of courage ever set down by Horatio Alger. Black and "Little Washington" have been relegated to the back pew in the modern tourist assembly, mostly because the picturesque, little town lost its place many years ago as the crossroads of traffic in Southwestern Arkansas. It is only nine miles from Hope off Interstate 30 and two billboards, one south of Hope on I–30 and one to the north, would probably send streams of tourists into the historic village. So far this obvious gimmick has been overlooked.

James Black fits the typical prototype of the Alger hero. He was born May 1, 1800 in New Jersey. His mother died when he was a small boy and his father married again. He disliked his stepmother, so at the age of eight, he ran away to Philadelphia, passed himself off as being 11 and became an apprentice to a silversmith. Later, when his father died, he went home, looked in the family Bible, found out his true age but neglected to tell his employer. Thus, at the age of 18 (instead of the traditional 21) he became a journeyman.

This is Black's own account of his early years as he told it to Daniel W. Jones, governor of Arkansas from 1896 to 1900. Jones, who had befriended the aging and blind Black as Jones' father had before him, wrote the account of Black's life and it was contained in the papers of the well known Arkansas historian, the late Charlean Moss Williams.

British competition had made the silversmith trade almost nonexistent at the time the young apprentice became a journeyman so he headed for the wilderness. Black traveled by way of the Ohio River, down the Mississippi and to Bayou Sara in Louisiana where he found work as a helper on a ferryboat. Later, he hired out as a deckhand on a boat going up the Red River and came to Fulton, then a river port of more than a little importance.

The word "later" is important here because, if Black arrived in Louisiana in 1818, he would have had to wait at least six years before making his appearance at Washington because the town wasn't founded until 1824. However, the town grew rapidly since it was the junction point for the Fort Towson Trail, running east and west, and the Chihuahua Trail (later the Southwest Trail) running from the northeast to the southwest. At one time Washington had as many as 2,000 residents. Governor Jones' letter credits Black with helping build the town so it is likely that he was among the first to arrive.

In fact, he almost had to be among the first settlers. The Jones letter gives no definite dates but it is possible to figure out a reasonably chronology as his biography reveals itself.

When he arrived at Washington, Black went to work for a blacksmith who had already set up shop. In pioneer days the blacksmith was a community's most important citizen because he also served as gunsmith, armorer, maker of plows and other garden implements and general fixer. The young Yankee quickly picked up this trade and became very valuable to the man who had hired him.

The next chapter could challenge an old-fashioned melodrama. The blacksmith had a son Black's age and they became fast friends. He also had a daughter a few years younger than Black and, naturally, Black fell in love with this beautiful girl and she returned his affection. Her father had planned better things for his pretty daughter. He forbade her to marry the young upstart—but continue to employ the suitor because he was afraid of competition.

All this must have transpired in about a year because, probably in late 1825, Black dropped his job and headed west, intent on making his fortune and coming back to claim his sweetheart who had promised to wait for him. Black went northwest less than 50 miles (a good distance in those days) and settled on Rolling Creek in what is now Sevier County. All alone, he began cutting a home out of the wilderness. The Jones letter says he stayed here "five or six years" but it couldn't have been much more than five or he could not have gotten back to Washington in time for his date with Jim Bowie and destiny.

Black was an ambitious man. Neighbors began arriving on this fertile land and, with their help, he built a dam on the stream intending to erect a grist mill. Now came the first of a long series of tragic reverses that turn Black's life into something that wouldn't even be believable on modern television soap operas. Just as he was about to finish the dam, a sheriff showed up with a proclamation announcing that the land had been ceded to the Indians and the "homesteaders" would have to leave.

Black went back to Washington and married his beloved Anne who had, true to her promise, waited for him. His father-in-law, however, did not forgive and forget but vowed eternal vengance on this man who compounded his alleged crime of marriage by opening an opposition blacksmith shop—and a thriving one at that.

In the early 1800s, a knife was as much a part of the well dressed man as his shoes. No citizen in his right mind would venture out of the house without his knife and James Black gained a reputation as the best knife maker in the territory. Black's knife was forged from a secret process that was similar to the famous steel of Damascus.

No one ever discovered how he came across the formula but it played a dramatic role in his life until two years before his death. His custom-made knives sold for from $5 to $50 depending on the plating. Being a journeyman silversmith, Black understood these processes and would plate the blade with either gold or silver.

The preponderance of evidence points to Black as the inventor of the Bowie knife. Most historians accept the Black legend as fact and at least two of America's best known knifesmiths credit him unequivocally—lending additional support to Arkansas' claim.

Bowie very probably arrived at Washington in December of 1830. The Louisiana knife fighter was in Arkansas attending court, and he and his brothers were interested in several land deals involving thousands of acres of Arkansas property. He asked Black to make him a knife according to his specifications, so the smith made two knives, one the way Bowie wanted it made and another model of his own. Bowie, allegedly, bought the Black version without hesitation. Delivery was probably made in January of 1831.

Bowie's success as a knife fighter and the praise he had for the knife made by James Black brought customers to Black's shop asking for a knife "like Bowie's." In short order this phrase was dropped and the customers simply asked for a Bowie knife.

It must be noted that early in this century J. Frank Dobie, the Texas historian, made an effort to research the origin of the Bowie knife. He finally wrote:

"Bowie's knife has become nothing less than the American counterpart of King Arthur's Excalibur or Sigmund's great sword Gram. It's origin is wrapped in multiple legends as conflicting and fantastic as those that glorify the master weapons of the Old World." But it is not known whether or not Dobie had access to Governor Jones' letter.

The original Bowie knife was lost at the Alamo. Legend has it that Bowie's body was found surrounded by dead Mexicans who had been slashed to death by it. This version is seriously doubted by historians because it is known that Bowie was desperately ill at the time of the attack and it is unlikely that he was able to put up much of a fight.

Black's wife bore him four children—three boys and a girl—but she died six or seven years after the marriage. (History doesn't record what happened to the children.) The death of his daughter further incensed the older blacksmith. During the summer of 1839, says the Jones letter, Black was taken down with a protracted fever and was bedfast in a weakened condition. His father-in-law reportedly came to Black's home and attacked the ill man with a heavy stick, and only the appearance of Black's dog saved his life. The dog drove the intruder off—but the attack affected Black's eyes and he was blinded.

Black started for Philadelphia to have his damaged eyes treated, but somewhere along the way someone sent him to an eye doctor in Cincinnati who was reputed to be phenomenal in his cures. The Cincinnati doctor turned out to be a quack who finished the damage allegedly done by the father-in-law. On his way back from the East, Black stopped in New Orleans to consult another eye doctor who told him flatly that his eyesight was gone forever.

The Washington smith had been gone from home about a year, and on his return he found out that his father-in-law had administered his estate as though he were dead and he was peniless. The law was clearly on Black's side but he had no money to hire lawyers and his former employer had the best legal counsel available.

At what is now Buzzard's Bluff in Miller County on the Red River, there lived two brothers, John and Jacob Buzzard. These men invited Black to come live with them. This he did and stayed for two years. Never despairing for his eyesight, Black heard that Dr. Issac N. Jones had moved from Bowie County, Texas, and had begun practicing medicine at Washington. He asked the Buzzards to take him to Washington so he could consult the new doctor who was rapidly gaining a reputation as an excellent physician and surgeon.

Dr. Jones took the ailing man into his home but he was unable to do anything to improve his eyesight. There were four Jones boys, so the country doctor made a deal with Black: He gave him room and board plus medical care in return for Black's looking after the boys while he, the doctor, was out on his many rural calls.

The Jones letter reports that "Black came to my father's and lived with us as a member of our family until his death on June 22, 1872, some thirty years. My father used his best skill to restore his eyesight, but without success, and finally told him it would be useless to torture him when there was no hope, but that he would be an inmate of the home while he lived, and that he (Dr. Jones) would be sufficiently compensated if he would look after and advise his young boys—there were four of us—while he was away from home attending to his patients, of whom there were many.

"My father died in 1858—killed by the explosion of a steam boiler on his plantation—but Black, by consent of the family remained with us. After the death of my mother, I took him to my home in Washington, where he lived until his death."

James Black possessed an extraordinary memory and he became the arbiter for arguments about the early days in Washington and the surrounding area. He told fascinating accounts of pioneer times to the Jones boys and often kept them up until midnight with his tales.

The tragic climax to the life of James Black is told best in Governor Jones' words:

"On May 1, 1870, his 70th birthday, he said to me that he was getting old, and in the ordinary course of nature could not expect to live a great while longer; that I was 30 years old, with a wife and growing family, and sufficiently acquainted with the affairs of the world to properly utilize the secret which he had so often promised to give me; and that if I would get pen, ink and paper he would communicate with me, and I could write it down.

"I brought them and told him I was ready. He said, 'In the first place'—and then stopped suddenly and commenced rubbing his brow with the fingers of his right hand. He continued this for some minutes and then said, 'Go away and come back in an hour,' while he still rubbed his brow I went out of the room but remained where I could see him, and not for one moment did he take his fingers from his brow or change his position.

"At the expiration of an hour, I went in and spoke to him. Without changing his position or any movement he said, 'go out again and come back in another hour.' I went out and watched another hour, his conduct being the same. Upon speaking to him at the expiration of the second hour he again said, and without altering his movements, 'go out and come back in another hour.' Again I went out and watched, the same thing continuing.

"When I came in and spoke to him at the end of the third hour, he burst into a flood of tears and said, 'My God! My God! it has all gone from me! All these years I have accepted the kindness of these people in the belief that I could repay it all with this legacy, and now when I attempt it I cannot! Daniel, there were twelve processes through which I put my knives, but I cannot remember even one of them. When I told you to get the pen, ink and paper, they were all fresh in my mind, but now they are all gone. My God! My God! I have put it off too long.'

"I looked at him in awe and wonder, the skin from his forehead having been completely rubbed away by his fingers. His sightless eyes full of tears and his whole face the very picture of grief and despair. I could only say, 'Never mind, never mind, Mr. Black, it is all in the wisdom of God. He knows best. Don't worry.'

"For a little over two years, he lived on, but he was ever after an imbecile. He lies buried in the old graveyard of Washington, and with him lies buried the wonderful secret which God gave to him and was unwilling for him to impart it to others."

In fiction, the life of James Black would never be believed. In fact, it has never been accorded the recognition it deserves.

Washington, a forgotten crossroads, is nine miles from Hope on state Highway 4 and 18 miles from Nashville, also on Highway 4. The blacksmith shop of James Black has been restored, and the tavern where Black probably ate in his early days at Washington and where Sam Houston, Stephen Austin and Bowie lived while in Arkansas, has been reconstructed. There is the old courthouse that served as the state capital during the Civil War and old homes lend a touch of grandeur to the scene. Probably nowhere in the Southwest is there a better collection of pioneer antiques than in this multi-building museum complex.

And, of all the wraiths that spur one's sense of history at this picturesque Arkansas village, the ghost of James Black is the most dramatic.

CHILDREN ORPHANED AND WOUNDED IN VIETNAM WAR

Mr. HATFIELD. Mr. President, I am deeply grateful to the Senator from Arkansas (Mr. FULBRIGHT), chairman of the Foreign Relations Committee, for holding a 1-day hearing April 15, 1972—during a very busy week for him and for the committee, because of the simultaneous Senate floor action on the war powers bill. The committee heard several fine witnesses testify on S. 2497, the Vietnam Children's Care Agency, which coauthors Senators HARRISON WILLIAMS, HAROLD HUGHES, and I propose to have set up to provide many self-help care programs for the mothers and families with children who have been abandoned by their American fathers, been orphaned or otherwise physically or emotionally wounded by the war in Vietnam.

The primary thrust of the legislation is to aid the children themselves by providing any number of special services for them—for instance, day care centers to help their mothers or foster family to hold down a job and care for them as well, or hostels for the homeless children and food feeding programs, to name just a few of the possibilities for use of Federal money which could be used by private, nonprofit organizations in Vietnam. There are many such organizations now at work in Vietnam who are trying to provide for an overwhelming need with too meager funds.

As our American soldiers leave Vietnam, we are leaving behind thousands of Amer-Asian children. Our Government has a moral responsibility to help to care for these children and for the other abandoned children who have been wounded, orphaned or more homeless, because of the war. The Vietnamese Government simply does not have the financial resources to handle the task alone, nor the trained personnel to cope with the numbers of children. We could, under our bill, help train Vietnamese for the work, as well, because of the flexibility of the legislation.

It has been estimated by the Agency for International Development that there are 700,000 orphaned children in Vietnam—400,000 orphaned or half-orphaned as a direct result of the war, and another 300,000 who have been orphaned as an indirect consequence. The Vietnamese Government makes support payments to the children of 400,000 servicemen who were killed in action.

I was pleased to note that several months ago, AID, in conjunction with the Government of South Vietnam, has belatedly undertaken a program which is similar in scope to the one proposed by S. 2497. They propose to provide a multifaceted program to aid the children.

It is expected that AID will spend $1.2 million this year to aid these children, however, there is no assurance whatever that the work will continue once all our troops have been withdrawn from that country. We are told that AID personnel are leaving at the rate of 15 to 20 percent of their total personnel each year. They have also reduced their medical aid program from a total of $10 million spent in 1967 to $2.7 million in 1971.

There are at least 60 nonprofit, private relief agencies at work in Vietnam, but I am told by those returning from there who have worked in these agencies—Don Luce, who was with the International Volunteer Services and who now heads the Indochina mobile education project and Louis Kubicka, who was with the American Friends Service Committee as a volunteer worker at their Quang Ngai Refugee Center for 4 years—that the private agencies cannot begin to meet the need of the suffering children who have been abandoned or made orphans by the war.

Most of those with whom I have talked have given tentative approval to S. 2497, because they see within the bill the beginning of a moral commitment of our Government to begin to rebuild what we have torn apart. It is most unfortunate that the administration has chosen not to endorse this work, for the job now being done in Vietnam to aid the children just is not being done.

The Vietnam Children's Care Agency could provide the vehicle to channel public moneys through some of these private groups. I might suggest a few. The Holt Children's Agency. This Oregon-based group is presently negotiating with the South Vietnamese Government to provide emergency rescue service to help save the many children who are being placed in the orphanages of Vietnam. The mortality rate is very high—estimates are that 50 to 80 percent of those who are admitted later die. The conditions of these orphanges beg description. The Holt Agency is proposing to help save the lives of these children before they are admitted to the orphanages and later they will work on providing adoption services for some of the children.

The late Harry Holt organized the Holt Adoption Program, Inc., after the Korean war, and he set up orphanages and the group has since placed over 8,000 children in American homes through adoption. His work continues, but the new directors wish to broaden the service, learning from the mistakes of the past work in Korea. Many children, they found, were deliberately abandoned by the mothers, because of the availability of the orphanages and also because they themselves—and their babies—were outcasts in their society because of the pregnancy. This is a major reason why in S. 2497 we deemphasize orphanages and stress other services which will keep children with their mothers if possible, and with foster parents or in hotels if this is not possible.

Our bill could also prove helpful to such organizations as Foster Parents, Inc., which presently cares for over 5,000 abandoned Vietnamese children and those living at home; the Christian Children's Fund; the American Friends Service Committee; Church World Service; Catholic Relief Services; the Committee of Responsibility or even the shoe shine boys of Richard Hughes.

Dick Hughes, whom I met last year when he returned briefly to this country from Vietnam to raise money, is a young newspaperman who, because of his shock at seeing the homeless boys adrift on the streets of Saigon, left his profession to help care for over 200 boys in five youth hostels he started, one at a time. He did this with the help and cooperation of the Vietnamese who contribute their time, equipment, money and, most important, their services, such as tutoring, doctoring, nursing and so forth. Most important, the abandoned boys who were roaming the streets of Saigon and other cities—20 of them at least—are now being given a home and care. But much more is needed.

We expect that there will be a certain fear on the part of those who will oppose spending the $5 million which we propose in this bill, because they will ask "Why send more money into Vietnam, because of the corruption of the present government?" There will be opposition, as well, to setting up yet another agency, which they fear will prolong our involvement in that country. This is why the coauthors have sought to focus on eventual turnover to the United Nations, so that we may receive the support of other governments of the world.

All of our sources from Vietnam tell us that more dollars—much more—will be needed in Vietnam to relieve the human misery caused by the war, especially now as the daily news reports are coming in of the refugees fleeing from the attacks of the North Vietnamese across the DMZ.

We need to begin now and not wait until all our troops are withdrawn from Vietnam. We cannot wait, although I agree with Don Luce and Lou Kubicka that, as Luce said:

> I believe, however, that it is only a partial solution and may ease the conscience of some towards the continued destruction in Vietnam. The real problem is the continuation of the war which creates more orphans and economically and culturally weakens the Vietnamese family structure and its ability to cope with the problem.

Mr. President, I ask unanimous consent to have printed in the RECORD the testimony of Mr. Jack Adams, of the Holt Adoption Program, Inc.; the testimony of Mr. Don Luce, of the Indochina mobile education project; and Mr. Louis Kubicka, speaking for the Friends Committee on National Legislation. I should also like to include in the RECORD a short description of S. 2497.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

TESTIMONY OF DON LUCE

I support the concern that bill number S. 2497 represents. I believe, however, that it is only a partial solution and may ease the conscience of some towards the continued destruction in Viet Nam. The real problem is the continuation of the war which creates more orphans and economically and culturally weakens the Vietnamese family structure and its ability to cope with the problem.

I believe that there have been at least 200,000 Amer-Asian children born and probably twice that number. As a researcher for the World Council of Churches, I studied the problems of post-war reconstruction and the rehabilitation of women who have worked as bar-girls, prostitutes or temporary wives.

I obtained the number of bars in different cities, from the tax collection offices, visited a sample of the bars and found out how many women worked in each bar. I estimated that there were between 100,000 and 300,000 bar girls, prostitutes, and temporary wives in Viet Nam in late 1969. Almost all of these women had at least one Amer-Asian child. Just about every bar had at least one woman pregnant by an American soldier.

Most of the bar girls, prostitutes and temporary wives were once farm girls. They have been forced from their rural villages by the war (usually by U.S. leaflets telling them that they are going to be bombed or by our firepower itself). After they are crowded into the refugee camps, an older woman comes into the camp and offers them lots of money to work in the bars. They need money for their families so they go to work in a bar or brothel.

Soon they become temporary wives. It is more permanent and they are less apt to catch venereal disease. They usually have a child by their American "husband." They want to have children because the Vietnamese feel that a child is the most precious possession a man can have. If they have a child, they feel, their soldier will not leave them.

But it is extremely difficult for an American soldier to marry a Vietnamese girl. It takes months of paperwork. Sometimes they get married and things usually work out fine. But, more often, the soldier just passes his wife on to a buddy or tells his wife that he'll be back in a few days (to keep her from being so upset when he leaves). He never returns and his wife returns to the bar to find another husband.

Usually the women send their children home to their parents and provide money each month to their families to take care of the children. Sending the child to an orphanage is the last resort. They know that sending their child to an orphanage will probably result in his death. The women are caught: they must continue to sell themselves in order to have money to send home—in doing this, they have more children.

The French provided good education to the French Eurasian children. Their children are now doctors, lawyers, teachers, etc. and there has been almost no discrimination against them. At the same time, no aid was given to the children of the North African Legionnaires. The Afro-Asian boys grew up to become front-line cannon fodder and the girls have become bar-girls and prostitutes in the bars for American black soldiers. Because of this and because some Vietnamese are prejudiced against people of darker skin, there has been more discrimination against the half-black children.

The United States has provided no assistance for any of the Amer-Asian children. I believe there will be increasing discrimination against these children. As the U.S. continues the bombing of all Viet Nam, increases aid to the corrupt police force, and keeps the unpopular Thieu regime in power, there is more and more anti-Americanism.

The problem of orphans and Amer-Asian children exists because the United States continues to bomb the countryside, tear apart the economy, and intensify the breakdown of the family structure. If the U.S. withdrew its troops, ended the bombing and withdrew its military and paramilitary support from the Thieu regime, then the Vietnamese would have peace. At that time, the Vietnamese could begin to repair the damage done to their society and adequately care for the orphans and Amer-Asian children.

I believe that it is important for this committee to consider the following points:

I. The present Saigon regime is not concerned about the welfare of the orphans, Amer-Asian children, or other war victims. Only about one-half of one percent of the national budget goes into welfare. Only $1.45 per child per month is allotted to orphanages to care for the children. A Vietnamese, or American, couple that want to adopt a child in an orphanage must have been married ten years, have no natural children of their own, and one of them be at least 30 years of age or else get special permission of the president of the country. This leads to many forms of bribery and the cost of adopting a Vietnamese child may run as high as $2500.

Bill S. 2497 proposes that the program "be administered only with the consent of the Government of South Viet Nam and in accordance with such arrangements as may be mutually agreed upon by the Agency and that Government."

In essence, Bill S. 2497 puts the funds into the hands of a few individuals in the Saigon government that have already shown little concern in the past for the welfare of the children.

II. Bill S. 2497 proposes to help care for the orphans and Amer-Asian children but does not deal with the causes of the problem. One-third of the peoples of Cambodia, Laos and the southern half of Viet Nam are refugees. The bombing of all Indochina continues and the problems are further intensified.

Many people will use Bill S. 2497 to ease their consciences—"But look at all the good we're doing. We're helping all those orphans," some will say.

III. Vietnamization has intensified the problems. Budgets for civilian humanitarian aid such as health care have decreased, while para-military aid has increased.

IV. Assistance to the mothers and towards strengthening the family structure must be the emphasis of Bill 2497. For example, there are almost no free clinics for the treatment of venereal disease. U.S. soldiers have caused a terrific increase in the venereal disease rate, yet we have done little to control it. I would like to propose that funds be included for venereal disease control centers throughout the country.

I would like to commend the writers of this bill for including Section 7. I believe that encouragement of United Nations and other multilateral and nonprofit organizations is extremely important.

I am opposed to establishing separate orphanages for Amer-Asian children. Such isolation would cause extreme psychological adjustments when they were "released." In a case where either parent can care for the child or Vietnamese parents are available I am opposed to adoptions here in the U.S. I support the concept of foster parents (e.g. through Foster Parents Plan).

There are thousands of children being inadequately cared for in the orphanages. I have visted many of these orphanages and seen the results of too many children and too few people to care for them (e.g. at Go Vap orphanage there are 1213 orphans for 16 nuns—a ratio of 76 children to each adult). The children are starving for affection. The result of this is described in a letter that I recently received from Tom Fox who has lived and worked in Viet Nam for five years as a social worker and journalist:

"Apparently, the bill to help Vietnamese orphans comes up next month . . . I am aware that men of good intentions have mixed feelings on what should be done for the orphans. But one fact should be beyond any dispute and that is that the children should be gotten out of the orphanages of Viet Nam.

"I visited the Go Vap orphanage yesterday. They have taken in about one hundred of the Long Thanh orphans, as if they did not have enough infants already. Most of the children were four years or younger. They all seemed to be the same height, about two and a half feet tall. They came running up to me, their thin arms outstretched, looking up, begging to be picked up and held. Their little fingers kept moving, grabbing upwards into the air. I was surrounded by the children and could not hold them all. Those that I did not pick up held onto my legs fulfilling their instincts to be near an adult. The children, unlike other Vietnamese of the same age, did not fear me. Nothing was familiar enough to them to be strange, and hence they did not fear. When I lifted them they screamed out with joy almost like a lover would meeting a lover after long separation. That deep hallow feeling grew in my stomach. It was an emptiness stemming from a knowledge that I could not deliver the love so desperately needed.

"The youngest infants upstairs sat up and laid in cribs. Many were only a few weeks old. They are still coming in. Many were Americans. Many showed compulsive anxiety, knocking their little foreheads against their mattresses, continually swatting at their cheeks, eyes rolling back and forth, dazed, not seeing, scared. They were dying in front of me for lack of affection, needing so much to be held. Six nuns worked continuously to assist the children but, alas, all they could do was feed and clean up after them.

"One three year old black American, stomach distended, had rubbery legs. The nun said she has never shown a desire to walk. Another two year old white American in diapers looked emaciated, seeming to be a third of his real age. I doubt if he can live another month.

A nun told me that American soldiers used to come in to play with the children but they no longer come. Vietnamese families, she explained, face the explosive, depressing inflation, and can barely find the energy to care for their own young. . . .

"Rosemary Taylor, a living saint I am convinced, has many more applicants for children than she has children (from orphanages) available for adoption. Why? Because the orphanages, both Catholic and Buddhist alike, are afraid to give up their children to foreigners. Catholic orphanages insist the parents must be Catholic and most Buddhist orphanages do not give up the children to anyone. . .

"I write this to you now because the problem of orphans in Viet Nam is continually growing. The problem is not "winding down." Parents are not coming back to life. I have a feeling people in the U.S. want to do something but do not know what to do.

"I suggest that the bill now in Congress be encouraged to pass. I suggest that the GVN be encouraged by all possible American means to modify its adoption policies. I suggest that immediate priority be given to making money available for orphanages in Viet Nam that are willing to increase the quantity and quality of their staffs. I am aware that many orphanages abuse funds given to them so there must be some controls.

But it is important that an American-Vietnamese organization be founded to care for the paperwork allowing the children to get out of the country. Ideally, as you (Don Luce) have long suggested, this should be an international organization, hopefully under the United Nations. But the need to act to help the orphans is desperate and immediate."

In closing I urge this committee to take action as rapidly as possible on passing this bill. It will not solve the problem, but perhaps it will provide some help for a few individuals.

Secondly, I repeat, that the real problem is the presence of U.S. troops, planes and materials. When we leave, the Vietnamese can solve their own problems. These hearings, the necessity of these hearings, is sad testimony to the fact the U.S. Congress has not yet been able to control the U.S. military and stop the destruction brought on by our massive military power.

Statement by John E. Adams

Those aged one to fourteen make up over one-half the uprooted refugee population, and it is estimated that between 200,000 and 320,000 children have lost one or both parents. By any count, the children of Vietnam have suffered heavily in the fighting that has taken place.

On the basis of our recent study of the situation, those children who are left in orphanages are increasing in number with a growth rate of about 7% per year. This is in spite of the fact that the mortality rate of infants abandoned is extremely high in the orphanages. The need is acute, and unless some minimal constructive measures are taken at this point, there is a danger that there will be a repetition of the Korea experience, when the orphanage population more than tripled following the fighting.

We would argue that we as Americans have a moral responsibility to these children. It is not enough to wage a war and lay down the lives of many men to protect the right of self-determination and of political freedom, however this may be defined. The violence has not been limited to either side, and the plight of many of these children is the direct result of American fighting.

The Administration admits that it is concerned about this problem and is trying to do something about it. It also says that it is doing what is needed but our observations would indicate the contrary. What good does it do to allocate 2½ million dollars for projects in child welfare for one calendar year, with no assurance of funds to be available for the succeeding year. This 2½ million dollars was not even guaranteed to child welfare. It was only made available providing it could be justified against other priority needs. We observed at firsthand the struggle of those responsible for attempting to put together a responsible program. How does one plan meaningful programs using this amount of money, get them authorized, enlist the necessary personnel, of sufficient quality, and execute the programs all within the space of a few months. This is a patently self-frustrating approach to the program and the Administration position only underlines the necessity for legislation setting up an ongoing program with adequate funding, long range planning, and continuity. We also observed that the number of mixed race children in orphanages at present appears to be over twice as high as the figures reported by the Vietnamese government.

We urge the passage of S. 2497 on the basis of our personal observations in Vietnam during January and February of this year (1972). We (I) append the complete report of our survey trip for your information.

Testimony of Louis P. Kubicka

My name is Louis Kubicka. I am 30 years of age. I worked in South Vietnam with the American Friends Service Committee (Quakers) for four years, returning to the United States in July 1971. Three of those years I worked in general administration, while the fourth I worked as Director of Quaker work in South Vietnam. I speak Vietnamese. Today I am speaking for the Friends Committee on National Legislation which represents 22 of 28 Friends Yearly Meetings and 10 Friends organizations in the United States, but does not purport to speak for all Friends.

The Quaker program in South Vietnam was begun in 1966 in an attempt to aid Vietnamese refugees and war injured civilians. For a period of five years we operated a child day-care center in Quang Ngai City which is now continuing under the direction of the Ministry of Social Welfare. Presently we are continuing, in Quang Ngai, a rehabilitation program for war injured civilians which was begun in 1967. This program includes production and fitting of artificial limbs, physical therapy, and reconstructive surgical services and social rehabilitation services; and the training of Vietnamese personnel in all these areas. We have served thousands of these injured people in the last five years. Approximately one-third of our patients have been children, and therefore I feel qualified to speak on the problem of the war in Vietnam as it affects children, and the problems of trying to alleviate the suffering caused by the war.

We deeply appreciate the concern to help the children in Vietnam which motivates the sponsors of this legislation, Senators Williams, Hughes and Hatfield. They have shown by their votes on amendments to end the war that they, like we, believe the first and most helpful way to help the children of Vietnam and all Indochinese people is to end the war immediately. We believe it is the failure of our Government—and, in a real sense, the American people—to put human values above ideology and dubious geopolitical power struggles that brings us here today.

Our basic view of S. 2497 is this: We believe the most important part of the bill is Section 1. There it is recognized that the United States has a moral responsibility for the children of Vietnam. The children of Vietnam have been some of the chief victims of this war, and the size of the problem is immense. Meeting the needs of Vietnamese children is beyond the capabilities of the present South Vietnam Government and beyond the provisions of this bill. A lasting solution can only come with a complete end of the war and the installation of a popular government in Saigon which is dedicated to the welfare of the people. Until then, programs such as those proposed here provide only marginal benefit. Ideally, the bill's scope should be broadened to include all the children of Indochina.

BASIC PROBLEMS

Here are the problems that we see confronting the children of Vietnam. We believe that we must try to take a broader perspective than is usually taken by Americans if we are to accept our moral responsibilities to the children of Vietnam.

1. Children are being killed in large numbers by bombing, artillery fire, mines, napalm, rockets, the cross fire of contending forces, accidents caused by unexploded munitions, and in trying to collect the reward offered by Americans for turning in dangerous mines and booby traps. The Senate Judiciary Subcommittee on Refugees estimates 325,000 civilians killed in South Vietnam alone in the period of 1965–71, of which 30%, about 100,000, were children under 13 years of age. While the war continues in Vietnam, Cambodia and Laos children will be among its principal victims. Responsibility for their deaths is a central issue with respect to the immorality of our government's policy.

2. Children are being injured by these weapons, including anti-personnel weapons designed to maim rather than kill. Three-quarters of a million civilians in South Vietnam have been injured by the war. Perhaps a quarter of a million have been children. South Vietnamese crippled children receive virtually no education or training that might prepare them to make the most of what remains of their abilities. They will be almost totally unable to make an economic contribution to their own support except through begging.

3. Children have been orphaned in huge numbers. One estimate is 700,000. Pressure from a deteriorating economic situation has forced families to abandon their children to orphanages. The death toll in orphanages, sometimes estimated as high as 80%, means that Vietnamese and American fathered children are dying at a shocking rate.

4. Children are commonly held in political prisons along with their parents. In Quang Ngai prison across the street from our residence there were customarily 40 children present, including new-born babies. We ran a program for pregnant women in prison and several of the children were picked up by our small school bus in the morning and taken to the Quaker day-care center.

5. Child labor is extremely common of necessity. In addition to the millions of children forced to labor to continue to their own or their families' survival, we find that families are often forced to give up their children to work as servants, often virtually as slaves. This sort of thing is very common in South Vietnam. I would guess that over a hundred thousand children who should be in school in preparation for a future are laboring as household servants. From my experience, I know that it is not that Vietnamese love their children less than we do but mainly because of war-caused economic pressures. Children are also forced into prostitution and such degrading tasks as leading the crippled and blind and maimed through the streets of South Vietnam's cities on begging excursions. Children are also involved in "pimping" and handling heroin transactions. Large numbers of children are full time scavengers in the dumps and refuse heaps of every major U.S. base in South Vietnam.

6. We also have good reason to suspect that there is a serious pressure for pregnant women in dire circumstances to abort their unborn children. This, too, is a moral problem for which we are in some measure responsible. Of course the extent of such a problem would be most difficult to ascertain accurately.

SOME SPECIFIC CASES

Our consideration so far of the problems of children has been in the abstract. But in order to see what these problems mean concretely we have drawn a few case histories from our files at the rehabilitation center in Quang Ngai.

1. Dung, aged 8, who lost both legs in a mine injury, was evacuated to Chu Lai by U.S. army. His mother lost touch with him, as she was refused entry to Chu Lai to see him. The child did not know where he came from and as a result was sent to the wrong Province Hospital. From there he was sent to the Invalid Childrens Orphanage, and from there to the Quaker rehabilitation center for fitting of artificial legs. He claimed his parents were dead, but a few days later his mother found him; she had been coming to the hospital every day to see if he was there, and by chance came to ask at the Rehabilitation Centre.

2. Tao, 12 years. His mother is paralyzed from the chest down. Father dead or away as soldier. Live in An Sen, and as result of war have lost their land. The boy therefore has to assume total health care for the mother, which includes washing her and cleaning her as she has no control over body functions. Two younger siblings aged 6 and 4. He also has to support the family which he does by working as a day laborer in the fields.

3. Phuong, 16 years, is paralyzed below the waist. She lives in Phu Quy, is totally dependent on father and younger sister for her care. Previous to the mine injury that killed her mother, her sister and injured her, she was working full time in the fields for the family and caring for her younger brothers and sisters. Now she is totally dependent on them. Her father begged us to take care of her since he has very little work and can barely support the rest of the family. But at 16 there are few orphanages willing to undertake the care that a para-

plegic requires and certainly nowhere that she can learn to take full care of herself and be able to earn a living. So she stays in her village, with no medical facilities, lying in a refugee hut; twice she has had to come back to the hospital for treatment of an infection and malaria. Her prospects are dim, and yet such a child in the U.S.A. would expect to live a full and independent existence.

4. Lieu, 6 years, stepped on mine and lost both legs. Now walks with difficulty although has severe muscle contractures requiring years of careful supervision by rehabilitation staff. Mother supports family financially and cannot stay with him in the center for the long periods required. He will probably go home and sit in a chair for the rest of his life. He is young and people feel sorry for him, but when his parents are too old to care for him, he will have no training and no livelihood except by begging.

5. Quy lost both hands to a booby trap. Now 13 years old, could read and write. Fitted with artificial hooks which he became adept with. However VN is hot and the plastic limbs are heavy, so he rarely wore them, as he could do most things with his stumps. Had a special spoon and cuff for eating. Bright alert boy who loved to try to type, desperately needs training if he is to be financially independent.

THE PENDING BILL

We have difficulty in offering constructive comment on S. 2497 because, in our view, it attempts to deal with a situation involving inherent contradictions. We don't believe it is possible to take effective steps to substantially alleviate the suffering of Vietnamese children while the war continues. Hence our comments must of necessity be focused on some of the problems we see in the bill, without being able to offer constructive alternatives.

We do believe, however, that it is important in Section 1 to have a public acknowledgement of the moral responsibility of the United States for Vietnamese children.

In addition, the bill helpfully encourages adoption of American-fathered Vietnamese children who are not living with their Vietnamese families. While this is not an area where I have expertise, I have seen enough to lead me to believe that for such children a life with a loving American family would be far preferable to the situation confronting abandoned children in Vietnamese orphanages or on the street.

With regard to the provisions for a child care program, I have many more questions.

Money is not the main problem. We see three major impediments to effective help to children through the legislation before you.

1. Ending the war, and not just American involvement in the war, is the primary requirement for helping the children. All other help to children pales in comparison to what this would mean. Until the war is over we will generate more problems than solutions.

2. The bill channels U.S. aid, necessarily, through the existing inadequate government.

My experience leads me to believe that the Saigon government, because it has not identified with the interests of the common people, does not command the allegiance and commitment of the sort of dedicated workers who could carry out effective child welfare programs. There are some capable and dedicated Vietnamese now working in government child welfare programs. But the magnitude of the need is so great, as a result of this disastrous war, that only a large scale community-based education and welfare program with wide popular support could hope to mobilize sufficient human resources to do an adequate job.

Perhaps one of the reasons for the lack of success of the government's social welfare efforts has been the ill-concealed and short-sighted use of welfare aid as a carrot or stick to achieve political support for or submission to the GVN. Concerned Vietnamese hesitate to commit themselves to a program which has tended to be used to buttress the government in power rather than help needy people.

The provision in the bill for direct assistance to private non-profit organizations is especially commendable. There are some capable and highly motivated persons in some of the nongovernmental agencies. The problem once again is that any such assistance would be under direction and control of the Government of South Vietnam in accordance with Section 2(a): "The program shall be administered only with the consent of the Government of South Vietnam and in accordance with such arrangements as may be mutually agreed upon by the Agency and that Government." Thus the private non-profit agencies would tend to be at the mercy of the South Vietnamese Government since the Government control of funds would work to increase control over the policies of these organizations. If private agencies become closely allied with the Government their problems of recruiting dedicated workers, especially at the local level, would be greatly increased.

A leading Buddhist monk once told me, "We do not like the Communist establishment, but we like those people who have committed themselves to that side because of their dedicated will to serve the people. Our dilemma is that we like the form of government in South Vietnam but we do not like the people who remain in control—the same people who were in control under the French and who do not care about the common people of Vietnam."

3. The bill is too narrow in scope. The United States has a moral responsibility to alleviate the war-caused suffering of all of the children of Indochina, not just children in government-controlled areas of South Vietnam. Fully interpreted this would mean help to children in Provisional Revolutionary Government controlled areas of South Vietnam, in the Democratic Republic of Vietnam, in Laos and Cambodia. Realistically, at the present time this responsibility should be expanded from South Vietnam to Laos and Cambodia, where massive and indiscriminate bombing of civilian populated areas is continuing to kill and wound children and make them refugees and orphans.

As a nation we are continuing to divide Vietnam by war, in the name of our national security, and in order to keep ill-conceived promises that were made to a minority in South Vietnam. After 25 years of war the first need of Vietnam is for peace with justice to all parties to the conflict, insofar as that can be achieved. Vietnam urgently cries out for healing and this can only come through a settlement of the war.

Every year the war continues, in addition to the killing and maiming, the social and economic fabric of Vietnam and Cambodia and Laos become weaker. Not surprisingly, those who bear the brunt of suffering are the weakest, the little people, the peasants who have left their land, the ordinary people, the hundreds of thousands of invalids and the children.

It is a hard thing to have to say, but we believe the truth to be that social rehabilitation while the war continues is first aid salve on a wound that hasn't been washed.

S. 2497

A bill to authorize the President, through the temporary Vietnam Children's Care Agency, to enter into arrangements with the Government of South Vietnam to provide assistance in improving the welfare of children in South Vietnam and to facilitate the adoption of orphaned or abandoned Vietnamese children, particularly children of United States fathers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress declares that—

(1) the United States has a moral responsibility to assist the Government of South Vietnam in the care and protection of all South Vietnamese children, particularly those orphaned or abandoned, and

(2) the United States has a special responsibility to assist in facilitating the care or adoption of children in Vietnam whose fathers are United States citizens and who are not living with their Vietnamese families.

CHILD CARE PROGRAM

SEC. 2. (a) The President, through the Vietnam Children's Care Agency established under section 4 of this Act (hereinafter referred to as the "Agency"), shall establish and administer a program for all children living in South Vietnam who are, as determined by the Agency, (1) 16 years of age or younger, and (2) orphaned, abandoned, or living in poverty as a direct result of the hostilities in Vietnam or conditions related to such hostilities. The program shall be administered only with the consent of the Government of South Vietnam and in accordance with such arrangements as may be mutually agreed upon by the Agency and that Government.

(b) In carrying out the program established under this section, the Agency may provide—

(1) assistance to aid such children described in subsection (a) of this section in growing up in their own or foster families through the establishment, expansion, and improvement of day care centers and the improvement of school feeding programs.

(2) assistance to orphanages in which children described in subsection (a) of this section are living, including food and clothing assistance and assistance for the improvement of the physical facilities of such orphanages;

(3) for the training of persons employed in day care centers and orphanages in Vietnam;

(4) for the training of persons on matters relating to child health care and pre-natal and post-natal care; and

(5) assistance for the improvement and expansion of the existing hostel program which provides housing for children described in subsection (a) of this section who do not live with their families.

(c) The Agency is authorized to provide, on such terms and conditions as it considers appropriate, direct assistance to public or private non-profit organizations which provide any of the types of assistance referred to in subsection (b) of this section, and to assist in coordinating the activities, services, and programs of such organizations.

(d) Not less than 60 per centum of the funds appropriated to carry out the provisions of this Act shall be used for the purposes specified in clause (1) of subsection (b) of this section.

ADOPTION OF SOUTH VIETNAMESE CHILDREN

SEC. 3. (a) The President, through the Agency, shall enter into negotiations with the Government of South Vietnam to facilitate the adoption by United States citizens of children in South Vietnam who are ten years of age or younger. Adoption procedure shall be carried out strictly on a case-by-case basis, but the President shall attempt through such negotiations with the Government of South Vietnam to obtain a standardization of forms and procedures in South Vietnam and the United States which would significantly improve and hasten the entire adoption process and shall seek to obtain an easing of the South Vietnamese requirements for the issuance of exit permits for adopted children.

(b) The Agency is authorized to enter into agreements and to make grants, on such terms and conditions as it considers appropriate, to State and local governmental agencies and private non-profit organizations to assist in arranging for the adoption by United States citizens of children in South Vietnam who are ten years of age or younger.

(c) In conducting the negotiations referred to in subsection (b) of this section, the Agency shall be primarily concerned with, and shall facilitate, to the maximum extent practicable, the adoption of children in South Vietnam—

(1) whose fathers are determined by the Agency and the Government of South Vietnam to be United States citizens, such determination to be made on the basis of a statement by the father, mother, or relative, or on the appearance of the child, and,

(2) (A) whose mothers are deceased, (B) whose mothers, have irrevocably relinquished all parental rights, or (C) who have been abandoned and are living in orphanages in which no family has assumed responsibility for their upbringing and the whereabouts of the mothers are unknown.

(d) Not more than 10 per centum of the funds appropriated to carry out the provisions of this Act may be expanded in carrying out this section.

VIETNAM CHILDREN'S CARE AGENCY

Sec. 4. (a) There is established in the executive branch of the Government a temporary independent establishment to be known as the Vietnam Children's Care Agency. The Agency shall be responsible, under the direction of the President, for carrying out the provisions of this Act.

(b) The Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. There shall also be in the Agency a Deputy Director appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall act as, and exercise the powers of, the Director during his absence or disability. The Director shall prescribe the regular duties to be performed by the Deputy Director.

(c) (1) The Director is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the provisions of this Act.

(2) The Director may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(2) Section 5314 of title 5, United States Code, as amended by adding at the end thereof the following:

"(58) Director, Vietnam Children's Care Agency."

(4) Section 5315 of such title is amended by adding at the end thereof the following:

"(95) Deputy Director, Vietnam Children's Care Agency."

(5) The Director may delegate any of his functions for such officers and employees of the Agency as he may designate, and may make such rules and regulations as may be necessary to carry out his functions.

(6) The Director is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such advisory committees as may be appropriate for the purpose of consultation with and advice to the Agency in the performance of its functions. Members of such committees, other than these regularly employed by the United States Government, while attending meetings of such committees or otherwise serving at the reqeust of the Director, may be paid compensation at rates not exceeding those authorized to be paid experts and consultants under section 3109 of such title, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of assistance, as authorized by section 5703 of such title, for persons in the Government service employed intermittently.

(d) In order to carry out the provisions of this Act, the Agency is authorized—

(1) to adopt, alter, and use a seal

(2) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel, and the performance of the powers and duties granted to or imposed upon it by law

(3) to acquire by purchase, lease, condemnation, or in any other lawful manner, any real or personal property, tangible or intangible, use, and operate the same to provide services in connection therewith, and to charge therefor and to sell, lease, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary or appropriate;

(4) to construct, operate, lease, and maintain buildings, facilities, and other improvements as may be necessary;

(5) to accept gifts or donations of services, money, or property, real personal, or mixed tangible or intangible;

(6) to enter into contracts or other arrangements or modifications thereof, with any government, any agency or department of the United States, or within any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(7) to make advance, progress, and other payments which the Director deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(8) to take such other action as may be necessary to carry out the provisions of this Act.

(e) The Director shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Agency during the preceding fiscal year.

IMPLEMENTATION OF THIS ACT

Sec. 5. Within ninety days after the date of enactment of this Act, the President shall take such steps as may be necessary to carry out the provisions of section 4 of this Act and to initiate the program under sections 2 and 3 of this Act.

Sec. 6 (a) As soon as practicable, the President is requested to undertake negotiations with the United Nations, or such other multilateral organizations as the President considers appropriate, to have such organization agree to perform the functions described in section 2 of this Act. Any funds made available for the purposes of section 2 of this Act may be made available, as the President deems appropriate, to such organization to carry out such purposes.

(b) At such time as the President determines that the functions described in section 2 of this Act are being satisfactorily performed by the United Nations, other multilateral organizations, or nonprofit organization, the authority and responsibility of the Agency with respect to such functions shall cease to exist.

AUTHORIZATION OF APPROPRIATIONS

Sec. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. In addition there are authorized to be appropriated such sums as may be necessary to assist the United Nations or any other multilateral or nonprofit organization to perform functions which would otherwise be performed by the Agency under this Act.

LIMITATION OF ADMINISTRATIVE EXPENSES

Sec. 8. Not more than 10 per centum of the funds appropriated to carry out this Act may be used by the Agency for administrative expenses.

NEW AID TO BANGLADESH

Mr. KENNEDY. Mr. President, after weeks of unconscionable delay, the administration announced over the weekend that it is finally prepared to commit the remainder of the Humanitarian Relief Funds for Bangladesh voted last session by Congress.

For those of us in Congress concerned that each day of delay in expending already available relief funds caused an unnecessary day of human suffering in Bangladesh, the administration's announcement comes as welcome news. Today I should like to commend the Agency for International Development in now pledging to move forward promptly in implementing American aid commitments. For too long our lack of recognition of Bangladesh—our national leadership's rationalizing of its foreign policy tilt in South Asia—was allowed to impede America's role in contributing to the massive, emergency relief needs of the Bengali people. No further such delays should now be expected or countenanced.

I know I speak for many Senators in commending the administration for committing $130 million in relief assistance to Bangladesh—the remaining portion of the $200 million appropriated by Congress last year. I hope we in Congress will be prepared to allocate whatever additional funds may be necessary to enable the United States to fulfill its humanitarian obligations toward those men, women, and children suffering disease and hunger in Bangladesh.

Mr. President, I ask unanimous consent that the press announcement of the $130 million grant to Bangladesh and three related editorial articles be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the New York Times, Apr. 9, 1972]

U.S. Plans To Give Dacca $130 Million More in Aid

(By Benjamin Welles)

Washington, April 8.—The United States is planning to commit $130 million in relief assistance to Bangladesh before the end of the current fiscal year on June 30, senior Administration officials have said.

Meanwhile, there were indications from reliable sources that a joint World Bank-United Nations survey of urgent reconstruction needs in Bangladesh might lead to a call on the United States and other international donors for an additional $600 million for the coming year.

The United States formally recognized Bangladesh on Tuesday. Secretary of State William P. Rogers, in a statement distributed to the press, said that the United States intended to be "helpful" as the new nation of 70 million Bengals "face its immense task of relief and reconstruction."

Maurice J. Williams, Deputy Administrator of the Agency for International Development, which is coordinating American relief efforts, said in an interview that the $130 million still to be committed represented the remainder of the $200 million appropriated for Bangladesh relief by Congress on March 8.

BREAKDOWN OF $70 MILLION

The $70 million already committed, he said, included $31 million recently given to the United Nations in cash for immediate needs in the area; $4 million being used to buy United States trucks requested by the United Nations and $7 million granted to various private American voluntary agencies operating in Bangladesh. In addition, Mr. Williams said, $27 million had previously been provided for Bengali refugees in India.

Mr. Williams said that aid officials would confer here on Tuesday with Russell P. O'Quinn, a former Douglas aircraft test pilot who flew relief supplies from São Tomé Island into Biafra during the 1967–70 Nigerian civil war.

Mr. O'Quinn, who heads the Foundation for Airborne Relief, a non-profit organization based in Long Beach, Calif., recently visited Bangladesh.

Aid officials said that they were preparing to grant Mr. O'Quinn $1.5-million to launch an emergency food-dropping program in Bangladesh using two Boeing C–97 cargo planes, two Bell helicopters and two Cessna–185 amphibians with pontoons. Mr. O'Quinn said in an interview that his pilots would use a "double-bag" food-dropping technique devised in Laos by Air America, a Central Intelligence Agency unit.

The inner bag, packed with 70 pounds of rice or other food grains, bursts on impact, but 90 per cent of the food is retained by the outer looser bag of tough plastic, he explained.

Since the United Nations issued a world appeal Feb. 18 for $440-million for urgent relief needs in Bangladesh, more than $400-million has been donated. About $115-million of this has been pledged by the United States in food grains and other forms, aid officials reported.

[From the Baltimore Sun, Apr. 10, 1972]

Some South Asian Facts Acknowledged

It has been obvious for many weeks that the first act in this country's necessary readjustment of its policy toward South Asia had to be a formal diplomatic recognition of the new country of Bangladesh. Now, at length, that move has been taken, leaving China the only major nation not to have extended recognition.

The administration, we have been told, delayed the decision to establish an embassy in Dacca while it conducted a review of the South Asian situation in the aftermath of the December war for which Bangladesh emerged independent. We may trust that the review was thorough, and that it took full account of the realities of the subcontinent—as American policy before and during the war did not take account.

The fact is that even before the war any notion of a balance of power in South Asia was out of the question. In terms of human and material resources, stability, administrative organization and political purpose India was simply South Asia's dominant nation, nor could American and Chinese support for Pakistan suffice to make it otherwise: the inevitable outcome of the war demonstrated that.

Now India is not merely dominant but overwhelmingly, unarguably so, and besides that there is the new Bangladesh, closely allied with India though proclaiming independence in its own right. Bangladesh is a nation of many troubles, but it is a nation, and deserves international acknowledgement as such. American recognition would have come better earlier, but still its coming now will help by a bit to ease the tensions and difficulties in a region where they urgently need to be eased.

[From the Washington Post, Apr. 8, 1972]

The Asian Subcontinent: What's Next?

American recognition of Bangladesh, though tardy, should improve the prospects both for a quick generous flow of relief and for progress toward a political settlement on the subcontinent.

Relief needs of Bangladesh are staggering. In the best of earlier times, its condition was desperate; Pakistani misrule and the ravages of war left the land, economy and bureaucracy in shambles. Prime Minister Mujibur Rahman's exertions and international alms have had some effect, but much more must be done at once. Of $200 million appropriated by Congress for Bangladesh in 1972 aid, some $130 million remains unspent. It took the administration a full six weeks to answer the United Nations' emergency appeal of Feb. 16; with recognition of Bangladesh, no further such delays can be countenanced. Fortunately, the World Bank is expediting plans by which American and other contributions can be put to effective use. News accounts which detail Bangladesh's real and large difficulties should not be allowed to obscure the degree of recovery it has already attained or to induce a general spirit of despair.

As a multiple loser in the war—it lost East Pakistan, it lost fragments of territory in West Pakistan and Kashmir, and it lost its national rationale as a *Moslem* state—Pakistan faces difficult (and different) political problems in dealing with India and Bangladesh. India first:

Having won the war, India wants to settle finally the question of Kashmir, which is the Moslem region divided and disputed with Pakistan since 1948 and the issue which has sustained their antagonism all that time. If Pakistan were now to accept (and later to recognize) largely Moslem Bangladesh, India figures, then Pakistan would in effect yield its religious claim to all of Kashmir. In return, Delhi hints, it would abandon *its* long-held legal claim to all of Kashmir. The pre-December cease-fire line, "rectified" in some measure, would then become the international border, in India's view, and peace would reign. To induce Pakistan to agree to this plan in the summit talks Mrs. Gandhi has now indicated she seeks, India is holding both the territory it took in December and 93,000 Pakistani soldiers it captured in now-Bangladesh. Whether Pakistan's President Bhutto has the will to consider such a plan, or the strength to accept it, is crucial and unclear.

For the moment he is agitating for the return of the POWs on "humanitarian" and atmospheric grounds, and he is attempting something of an end run around India to Bangladesh. He offers (1) an immediate grant of 100,000 tons of rice (Mujib rejected it); (2) resumption of trade especially in Bengali jute and tea and Pakistani rice; (3) the possible return of some 28,000 Bengali soldiers, plus countless other skilled Bengali civilians, who happened to be in West Pakistan when the December war broke out; (4) a potential haven for the threatened Bihari minority in Bangladesh; and (5) the prospect of a relationship which Bangladesh could use to ease India's warm but tight embrace. In any bargaining that might develop with India, moreover, Pakistan also has some Indian territory (taken in December) and, of course, its claim on Kashmir to play.

Outsiders are hard put to grasp these issues, let alone solve them. What is essential, and not easy either, is for the United States to avoid moves that might be seized on by one party or another as an unwarranted intervention in the subcontinent's own tortuous political processes. The time for "tilt" and balance-of-power activism is past. This is a moment for Washington, in international company, to get cracking on relief and on resumed development efforts, and to ensure on the political side that its hand is as light and deft as can be.

[From the New York Times, Apr. 9, 1972]

Bangladesh—We'll Give Them Some Time But Not Much

(By Sidney H. Schanberg)

New Delhi.—It was a deliberately low-key affair. Within the State Department edifice in Washington last Tuesday Secretary of State William P. Rogers left it to an aide to announce United States recognition of the new nation of Bangladesh, formerly the eastern wing of Pakistan. Mr. Rogers was himself upstairs having lunch with the Pakistani Ambassador—apparently to sweeten the medicine.

The ambivalence of the episode reflects the seeming ambivalence of the Nixon Administration's attitude as it steers its way out of the wreckage of the pro-Pakistan policy it followd in the Indo-Pakistan conflict last year—a policy that left the 550 million people of India angered and the 75 million people of Bangladesh puzzled.

With Washington having waited nearly four months to recognize Bangladesh, after 56 other nations had done so, it was to be expected that the reaction on the subcontinent would be something less than handsprings. Indian officials called it welcome, though belated. The Bengalis were somewhat more enthusiastic, and the Bangladesh Foreign Minister, Abdus Samad, said he hoped that with recognition the United States would make "some contribution to the maintenance of peace in the region."

Most Bengalis—a romantic race whose history books on America talk glowingly of George Washington's fight for independence and Abraham Lincoln's struggle for Negro rights—were pleased and relieved by the American recognition move. Though grateful for the support they have received from India and the Soviet Union during their year-long struggle and afterward, they were getting a little nervous about the possibility of becoming too dependent on these two powers. "This will help us to reassert ourselves," said one official. Despite this hope, it does not appear that President Nixon is making a turnabout in his pro-Pakistan policy or is about to launch a big campaign to counter the growing Soviet influence in India and Bangladesh. He still has not resumed economic aid to India, cut off during the December war. Many Indians interpret this as an attempt to punish Prime Minister Indira Gandhi for not behaving toward Pakistan as Washington told her to. In contrast, Washington has signed several new aid commitments to Pakistan since the war.

American humanitarian aid to Bangladesh has exceeded $100-million so far, second only to India's contribution—but since it has all been channeled through the United Nations relief program, it has had no political impact as American aid. A hint that this might change came as the State Department spokesman was elaborating on the recognition announcement. He said: "We will be looking at ways we can continue to assist, through the United Nations and otherwise."

Some American diplomats suggest that the best course in Bangladesh is to be generous with humanitarian aid but not to become too involved politically—in short, let the Russians bear the onus for any inadequacies in foreign aid and any political unrest that follows.

Unrest is already stirring in Bangladesh, stemming in large part from the expectation of many Bengalis that with independence, their lives would suddenly and dramatically improve. Instead with the economy flattened by the guerrilla struggle and the war, they find that there are fewer jobs than before, less food, higher prices and no government relief program big enough to tide them over.

The government is disorganized. Some politicians are taking advantage of the disarray to grab off lucrative contracts, occupy businesses vacated by West Pakistani owners and profiteer in food and other relief goods. Lawlessness is growing, as hoodlum and warlord elements with guns left over from the guerrilla struggle operate openly in some areas.

The overburdened and exhausted Prime Minister, Sheikh Mujibur Rahman, desperately needs the experienced Bengali technocrats, civil servants and soldiers who were among the several hundred thousand Bengalis caught in West Pakistan at the time of the war. The Pakistan Government, however, apparently wants to hold them for negotiating leverage at eventual peace talks.

Such talks moved closer last week as India and Pakistan, with the Russians apparently acting as a catalyst, indicated they were making arrangements for pre-summit negotiations. But repatriation of the Bengalis could be a long way off, and the meantime, Sheikh Mujib continues as a virtual one-man government—partly out of choice and partly because of abdication of responsibility by other government officials.

Still, Bangladesh is not the "international basket-case" it has been called by some distant observers such as Henry Kissinger, President Nixon's chief foreign policy adviser. The technology exists to produce three big crops a year instead of only one, which could make the country self-sufficient in food. The area's natural resources have never been adequately explored and its fishing industry never developed. With a massive infusion of foreign aid and reasonably effective use of it, Bangladesh might be able to throw away the crutches it now needs.

But this is a tall order, and while the new nation struggles for some semblance of order and stability, its people become impatient with the government. There is already talk in some intellectual circles—so far, only talk—of a "second revolution."

"We will give them some time," said one student, "but not much more time."

[From the Evening Star, Apr. 6, 1972]

RELIEF FOR BANGLADESH

American recognition of the new state of Bangladesh (formerly East Pakistan) should mark the beginning of a major relief effort for that impoverished and endangered nation of 75 million. The long overdue decision of the Nixon administration to establish diplomatic relations at the embassy level should also be followed up by efforts to reestablish friendlier relations with India in recognition of the new situation created in South Asia by the birth of Bangladesh.

Too much time has already been lost and the country is on the verge of economic and political chaos. Although Congress has appropriated $200 million in relief funds, only a fraction of that amount has actually been spent. Less than 100,000 tons of food have reached Bangladesh so far through the United Nations program. The projected food shortage this year is estimated at more than two million tons.

The political situation is growing more precarious every day. Sheik Mujibur Rahman, the nationalist Bengali leader who was thrust into power in the wake of the savage war for independence, is showing little talent in establishing order and setting up an effective government. The administration of the country is a shambles. Police are powerless in the face of bands of heavily armed former guerrillas and the political unity of the ruling Awami League is showing signs of disintegration.

Most serious of all, perhaps, is the danger of a new bloodbath between the Bengali majority and some 1.5 million Urdu-speaking Biharis, many of whom sided with West Pakistan during the recent fighting. Already, despite Sheik Mujib's call for tolerance, there have been ugly incidents in which hundreds if not thousands of Biharis have been slaughtered. Any incident, it is feared, could set off widespread rioting between the two communities.

Quite obviously, nothing that the United States can do in the way of relief supplies and diplomatic recognition will provide any guarantee against impending disaster in Bangladesh. It is, however, the only nation besides India with the resources to make a significant contribution. And a start should be made without further, needless delay.

IMPROVING SCHOOLS

Mr. ALLOTT. Mr. President, the New Republic for April 1 contains an article which packs more truth—some of it unpleasant—into brief compass than anything I have recently read on the subject of education policy.

The title of the article is "Improving Schools," and the author is Martin Mayer, a widely respected writer on education policy.

I commend the article to the attention of every Senator and ask that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New Republic, Apr. 1, 1972]

THE SHAM OF INSTANT EQUALITY—IMPROVING SCHOOLS

(By Martin Mayer)

NOTE.—Mr. Mayer is the author of The Schools and Where, When and Why, Social Studies in American Schools.

When I was chairman of a New York City local school board a few years ago, our district had a busing project that brought children in the lower grades from their East Harlem homes to the greater achievements of Yorkville. It was a small, complicated project, involving joint PTA's for the sending and receiving schools, new academic programs to short-circuit teachers' beliefs about what children should be able to do at this level, a little rigging of the test scores reported to the teachers, etc. The project did some good—not much, but some—and except for a handful of sophisticated Puerto Rican parents who hated to see the best black pupils go out of their schools (the Puerto Ricans wouldn't bus) it was popular in East Harlem.

Nevertheless, after one board meeting I was approached by a politically oriented caucus, not so much angry as nasty, demanding an end to asymmetry. Fortunately, they phrased their position in a way that invited a snappy answer: "Why," they demanded, "is it always our children that ride the bus?" I said, "because they're disadvantaged. One of their disadvantages is that they ride the bus." I report as a matter of fact that in my remaining two years as a local board chairman neither the argument nor the demand was heard again. Truth hurts; but it answers real questions.

The case for busing children to schools that their parents and the world at large believe to be better schools is an overwhelmingly strong case. The case for busing children to schools that their parents and the world at large believe to be poorer schools is an extremely weak case. There is some reason to believe, on the basis of the Coleman Report, that the children of low-income, ill-educated parents will on the average do somewhat better in school if they are exposed to the more invigorating air of classrooms dominated by the children of higher-income, better-educated parents. The same report gives evidence (much less frequently cited) that children from more fortunate homes will on the average do worse in school if they are a minority group in classrooms where the air is that of the slums.

Justice Holmes once observed that the reward of military rank is not a bigger tent, but command. The rewards of a better income and better education are a wider range of options. Even elected legislatures cannot change this fundament of social existence—and do not try, because in the process of writing law legislators typically look forward to the probable effects of what they do. The notion that courts can write such laws and make them stick should not be entertained for a minute by anyone seriously interested in improving society. Judges have neither the resources nor the habits of mind to predict intelligently the results of their decisions; they are hired and trained to look backward, toward the facts of a given case. Whether they are sentencing convicted felons or assessing damages for liability, their capacity to find proper remedies is notoriously slight. And even the most book-bound lawyer cannot really believe, if he thinks about it, that a society is defenseless against its courts.

A recent issue of the OEO magazine *Opportunity* featured an article on the legal service office that fought and won the case of *Serrano v. Priest*, which held that the financing of schools by local property taxes was unconstitutional because it deprived residents of poorer districts of equal educational opportunities. The lawyer in charge of the case speculated that it might turn the whole country around—if parents could not hope that by working hard and making money and moving to the suburbs they could do something special for the future of their children, then they might stay in the cities and stop being racists. But the difference between successful and unsuccessful schools is not usually money—in fact, the equalization of educational expenditures throughout New York State would *reduce* the per-pupil budget in New York City. And even if *Serrano v. Priest* were responsive to the real problems, the idea that so fundamental a drive as the desire to give one's children a better break can be frustrated by a court decision—or, indeed, *should* be frustrated in a healthy society—is ultimately not only preposterous but (if I may say so without offense) childish.

We have lived through an evtraordinarily dispiriting decade in education. A great deal that in the Kennedy days we had believed could be done quickly now seems long, dreary years away. The failure of university administrations to think through the nature and extent of their resources has loaded higher education with a burden of transparent fakery that has made at least secret Jensenists of most faculty and of more students than anybody cares to admit. Of the remedies proposed in the early 1960s, only two remain plausible: full-time institutional control of students from educationally hostile neighborhoods (*i.e.*, boarding school; or, in later life, the army: Project 100,000, little noticed, has educated more dropouts than all the school systems put together); and tutorial assistance (by nonprofessionals, paraprofessionals or older students: each-one-teach-one produces better measurable results than group instruction in the hands of any but the best teachers).

The educational impact of Head Start has been invisible; the educational impact of community control, bilingualism and race pride, has been fairly consistently negative; the educational impact of integration has been fairly consistently positive, but minor. Even in the best integrated situations, the difference in academic achievement between the middle-class white eighth-grader and the black welfare eighth-grader is likely to be three years, and such gaps cannot be concealed. The brief period in which blacks felt themselves honestly equal to whites is coming to an end all over the country, in self-resegregation and despair, largely because of the stress placed on education. The horror is perceived by radicals, who seek to exorcise it by abandoning schools altogether. The educators themselves, reviving their Uriah Heep attitudes of 20 years ago, ask again whether it's really so important that all children learn to read.

Much of this seems to me genuinely tragic. There is no reason to believe that we cannot, in segregated or integrated situations, bring much more of the low-income population to a level of reasonable competence in reading—if we remember that competence is our target. And there is every reason to believe that the slum child who does not go to school, or does not have demands made upon him there, will be doomed to a disastrous life in this or any other society. It is the tone of the school, not the simple physical presence of middle-class children, that must be credited with the gains Coleman found from integration. Since the late 1960s, we have been sacrificing that tone everywhere, with appalling results.

We need ways to keep schools from dominating the future chances of students (I would like to see a return of professional licensing through apprenticeship, and a law requiring large businesses to hold, say, ten percent of the places in management training programs for applicants who never went to college). We need tests that measure more aspects of human ability than are now measured by our intelligence, aptitude and achievement tests. On the social front, we need ways to insure that middle-class blacks get the rewards of having made it, and we need maximum feasible opportunity for upward mobility in occupation, residence and education.

But the best that can be given is opportunity; the burden will continue to rest on the Negro community, because there is no way to transfer it. Governments cannot legislate and courts cannot mandate results. It may well be, as I had occasion to observe a decade ago, that the benefits of major educational effort can be gathered only by the children of those who participate in the effort; even so, the effort is worth making. The lawsuits and committee reports and books calling for instant equality must be seen for what they are: attempts to avoid making the effort. To the extent that they also seek to punish society for not doing what cannot be done even with effort—and there is a great deal of purely punitive purpose behind much of what the activist lawyers are attempting—they will be fearfully counterproductive. They already are.

STATEMENT BY CYRUS S. EATON ON RADIO LIBERTY AND RADIO FREE EUROPE

Mr. FULBRIGHT. Mr. President, Mr. Cyrus S. Eaton, one of the best informed men in our country on the affairs of Russia and Europe, and one of our most successful industrialists, has recently made a statement regarding the continuation of Radio Free Europe and Radio Liberty. Because I think the statement is well worth the attention of Senators I ask unanimous consent that it be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Cyrus Eaton

The appeal to President Nixon by eight members of the West German government underlines the desirability of closing down Radio Free Europe and Radio Liberty. Location of these sources of American propaganda in West Germany constitutes a considerable source of embarrassment to Chancellor Brandt, and impedes his efforts to establish friendship with the countries of eastern Europe.

In my frequent visits to these communist nations, I have made a special study of the effect of broadcasts from the two stations. As could naturally be expected, the statesmen, press and radio are offended, because their unreliability is strongly implied by the broadcasts. The vast majority of the people themselves are similarly affected. Since the regular broadcasts of BBC and French stations are readily available, it is not as if they had no contact with the outside world.

The origin of the broadcasts in Germany, moreover, serves as a constant and unfortunate reminder to eastern Europeans of Hitler and his savage campaigns against their countries. Instead of making converts, therefore, the broadcasts stir up anger and bitterness toward the United States, which finances them, and resentment toward West Germany, where the stations are located.

Let us ask ourselves how we would feel if the Soviets set up a special station in one of our neighboring countries in an attempt to arouse the American citizenry, or some racial or ethnic segment of it, against its government and media. Not only would the politicians and the press and radio of the United States be deeply resentful of the implication of their unreliability, but the American public itself would also be in an uproar of protest against such obvious propaganda. The American people would certainly not for one instant put up with being told what to do and how to do it by an outside power of opposing ideology.

The proponents of our propaganda stations go after Senator Fulbright hammer and tongs, on the grounds that he is trying to deny the people of eastern Europe access to the truth. Actually, he is completely right in his recognition that these radio programs are unwise and counterproductive and, in addition, place a further burden on the American dollar, already in serious trouble.

The flight from the dollar continues on an alarming scale. America must give up the luxury of overseas spending to tell the rest of the world what to do and how to do it. A good place to start is by terminating the folly and expense of Radio Free Europe and Radio Liberty.

IMPACT OF RADIO LIBERTY ON RUSSIAN SOCIETY

Mr. McGEE. Mr. President, the Washington Post of Sunday, April 9, 1972, contains an interesting analysis of Radio Liberty and its impact on Russian society. The article was written by Susan Jacoby, a former reporter for the Post, who returned to this country in 1971 after a 2-year stay in the Soviet Union.

The important aspect of the column is that the author is presenting a perspective of Radio Liberty based upon her personal experiences in Russia and the value the broadcasts of this station have for the people of that country.

I believe it worthwhile to read this excellent presentation of Radio Liberty because it comes from an individual who was in a position to rationally and realistically analyze the impact of the station on Soviet society—a person whose observations are not tied to personal prejudices.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Apr. 9, 1972]

Radio Liberty and The Russians

(By Susan Jacoby)

On a snowy day during the winter of 1971, an unidentified young man from a small village arrived at the Moscow apartment of Andrei Amalrik, author of "Will the Soviet Union Survive Until 1984?" and "Involuntary Journey to Siberia." The young man had heard on the radio that Amalrik had been sentenced to three years in a labor camp, and he wanted to do something to help.

Because Amalrik wanted comments from readers, his home address had been broadcast several months earlier when his books were read over Radio Liberty. The young man knocked on the door and presented a sticky honeycomb to Amalrik's wife, Gyusel. He told her she must take it to her husband in camp, since honey would help a prisoner keep up his strength. Then he disappeared, leaving no name or address.

The young stranger is one of the many Russians who listen to Radio Liberty. (It is impossible to determine how many listen, although millions of short-wave sets can receive the broadcasts despite intensive jamming.) What these Russians hear and how they react are questions that Sen. J. William Fulbright (D-Ark.) has never answered in his fight to close down both Radio Liberty and Radio Free Europe as "Cold War relics." Nor have supporters of the two stations shown much awareness of what the broadcasts really mean to people in the Soviet Union and Eastern Europe.

Radio Liberty means different things to different Russian listeners, depending on their interests and political orientation. Alexandria I. Solzhenitsyn, Russia's greatest living writer, said recently, "If we ever hear anything about events in this country, it's through them." Solzhenitsyn, who made the statement in an interview with Moscow Correspondents of The Washington Post and The New York Times, had just heard a Radio Liberty report of an attack on him by Yaroslav V. Smelyakov, an official of the writers union which expelled the Nobel Prize-winning novelist in 1969.

The Smelyakov letter was an indirect official response to a sad and stinging lament Solzhenitsyn had written in memory of his friend and former editor, Alexander Tvardovsky. It was published in the West and broadcast back to the Soviet Union by Radio Liberty. The exchange, a minor literary quarrel from the vantage point of an American audience, is highly significant to Russians who care about literature—and most of the people who listen to foreign radio stations care a great deal. Smelyakov implied that Solzhenitsyn, as a writer proscribed by the authorities, had no right to eulogize Tvardovsky, who received many official honors during his lifetime. The attack neglected to mention that Tvardovsky was forced out of his job as editor of the magazine Novy Mir primarily because he championed Solzhenitsyn so steadfastly.

LETTER FROM A LISTENER

To many Soviet listeners, Radio Liberty is simply a source of outside information with which they may or may not agree. One man wrote Radio Liberty a letter vigorously disputing the station's assertions that collective farm workers have a low standard of living in the Soviet Union.

"My brother works on a *kolkhoz* as a machine operator," explained the letter, which was addressed in a chatty tone to a female broadcaster. "He receives 120 rubles, his wife 80 rubles and his mother a pension of 30 rubles. He personally owns a large garden, two cows, two piglets, some birds, chickens, ducks, geese and 15 bee-hives." (One ruble equals approximately $1.11 at the official exchange rate.)

While Radio Liberty seldom receives letters praising Soviet life, its audience does not consist entirely of people who are deeply dissatisfied with their country. A professor of French literature at a Moscow university once told me, "I don't always agree with these broadcasts, but I do believe it's important to hear other views of the world and of life. I think it is sad that we don't have these different views in our own newspapers, because I believe this kind of discussion would strengthen rather than hurt our society."

Radio Liberty attempts to provide a wide variety of news about the Soviet Union and the outside world that is not available in the Soviet press. However, broadcasts of clandestinely published *Samizdat* literature anger the authorities more than news broadcasts. Lengthy novels are read in half-hour installments over a period of several weeks: The radio thus enables a widespread audience to hear literary works it cannot read because of Soviet censorship.

All of the best Russian novels and nonfiction works of the 1960s have been read or discussed extensively on Radio Liberty. They include all of the Solzhenitsyn novels banned by Soviet authorities since 1964: "Cancer Ward," "The First Circle" and "August 1914." Other major works read over the air have included Nadezhda Mandelstam's "Hope Against Hope," which describes her life with the poet Osip Mandelstam until his death in a prison camp in 1938; Vasily Grossman's "Forever Flowing," which deals with the feelings of a camp supervisor who returns to the outside world; both Amalrik books, and the uncensored version of Anatoly Kuznetsov's "Babi Yar."

"Babi Yar" was originally published by the Soviets in censored form in 1966. The uncensored version became available only after Kuznetsov defected in London in 1969. Russians who listened to the broadcasts of "Babi Yar" say they were particularly dramatic because the originally published portions were read in a flat announcer's voice and the parts cut by the censor were read by Kuznetsov himself. The censored paragraphs, which make up at least a third of the present book, dealt with subjects ranging from Ukrainian collaboration with Nazi occupiers during World War II to continuing anti-Semitism in the Soviet Union.

ARGUMENTS WITH THE PRESS

Radio Liberty also broadcasts many *Samizdat* works by Ukrainian writers in the Ukrainian language. They are not as well known in the West as Russian *Samizdat* writers but are even more important to the 49 million Ukrainians who make up the second largest ethnic group (after Russians) in the Soviet Union.

The station broadcasts 24 hours a day in Russian and intermittently in 18 other languages spoken by different nationality groups within the Soviet Union. Radio Free Europe broadcasts to Bulgaria, Czechoslovakia, Hungary, Poland and Rumania. Radio Liberty now has a yearly budget of $12 million and 920 employees; Radio Free Europe has a $21 million budget and approximately 1,600 employees.

Radio Free Europe is better known in the United States than Radio Liberty because it still commands political loyalty and some financial support from Americans of East European ethnic origins. The two stations have completely separate business and editorial operations, through their funding is a single issue in Congress. Differences between their programming are substantial, and they reflect different political conditions in the Soviet Union and Eastern Europe.

Radio Free Europe tends to engage in running arguments with the official press in countries like Hungary and Poland, and the official newspapers often answer the broadcasts. Such dialogue is possible because the press in Eastern Europe is censored with a much lighter hand than the Soviet press. Russian newspapers and radio stations sometimes attack Radio Liberty, but they do not mention specific broadcasts: Any discussion of specifics would help spread news the Soviets want to keep quiet.

Radio Liberty devotes about a third of its coverage to international affairs and two-thirds to Soviet domestic issues. There is some overlap in international coverage, since the station often broadcasts Western wire service accounts or its own analyses of events that have been reported by official Soviet papers or the news agency Tass.

A DAY IN MARCH

On March 1, an ordinary news day, both Radio Liberty and Pravda covered the arrival of Sheikh Mujibur Rahman in Moscow to seek aid for the new state of Bangladesh. Another event reported by both sources was the killing of two Ulster defense regiment soldiers in Belfast. Radio Liberty generally devotes only brief commentary to news stories that are non-controversial enough in the Soviet Union to be reported in straightforward fashion by the official press.

On the same day, Pravda ran a Tass story from Washington reporting President Nixon's return from Peking; it was based mainly on American press commentaries. Radio Liberty aired a nine-minute world press review of the Nixon trip, giving more prominence to Western European press reactions. Another world press roundup dealt with new developments in the Middle East: Radio Liberty generally attempts to offset the Soviet position that Israel is the only aggressor.

News items reported by Radio Liberty that were not covered in the March 1 Pravda included:

Announcement of new exchange of scientist-lecturers between the Soviet Union and the United States.

Reaction by black Rhodesians to the proposed agreement between Great Britain and Rhodesia.

Introduction of food rationing in Chile.

Authorization of Soviet border guards to detain people in border regions for up to 10 days without giving official cause. The move was seen as an effort to stop border traffic in Soviet Central Asia, where the frontier is less closely guarded than the Soviet Union's western borders.

The showing of a Romanian film in Bucharest about life during the Stalin era.

A scheduled meeting between British Prime Minister Edward Heath and French President Georges Pompidou.

The forthcoming trial of a writer named Vladmir Maksimov, who is being held accountable for Western publication several years ago of his *Samizdat* novel, "The Seven Days of Creation." The broadcast suggested that Maksimov, who was officially published during the Khrushchev era, was really being punished because he had defended his former secretary, Vladimir Bukovsky. Bukovsky was recently sentenced to seven years in prison and five years in exile for his outspoken political dissent—especially his criticism of the use of psychiatric commitment against political dissidents.

THE PROBLEMS OF CENSORS

The importance of Radio Liberty can only be understood in light of the reasons for Soviet publication or suppression of individual news items.

The Maksimov news will probably never appear in the Soviet press, since it deals with political dissent. Accounts of political trials occasionally appear if the dissenter is important enough and a high-level political decision is made to portray his alleged offenses against the state.

The item about the Romanian film would also receive a virtually automatic veto, both because it deals with life in the Stalin era and because the Soviet government takes a less-than-enthusiastic view of Romanian President Nicolai Ceausescu's independent foreign policy.

News of an American-Soviet scientific exchange may have eventually appeared when it cleared the censor. The timing of Soviet news stories has no necessary relationship to when the event actually happens.

A meeting between President Pompidou and Prime Minister Heath is another "sensitive" topic because Moscow has opposed British entry into the Common Market. Fearing that a strong, united Western Europe might have undesirable influences on relations with the Warsaw Pact nations, the United States and even China, the Soviets tend to underplay news related to the Common Market.

Also on March 1, Radio Liberty carried news of a bill introduced by Sen. Hubert H. Humphrey (D-Minn.) to provide continued financing for Radio Liberty. The station has carried a running account of both sides of the controversy over financing for its own operations and Radio Free Europe.

Both stations immediately reported Fulbright's Feb. 17 Senate speech in which he said the administration wants to keep "this Cold War program on the books despite the fact that neither the American public nor the governments of Western Europe are willing to support such a continuation."

Tass did not report the Fulbright speech until three days later—a delay which caused guffaws among Radio Liberty and Radio Free Europe staff members. Delays in handling "sensitive" news are common because the Soviet censors must decide exactly how the stories are to be written. American criticism of U.S. government policy poses a particularly difficult problem for censors. since Russian readers might wonder how such public criticism could have been permitted.

THE LEGISLATIVE BATTLE

The stations have broadcast a complete history of their financing difficulties, beginning with the disclosure by Sen. Clifford Case (R-N.J.) that they had been covertly funded by the CIA since their establishment in the early 1950s. In the past year, the stations were financed under a continuing resolution that expired Feb. 22. The Nixon administration had sought to set up a nonprofit corporation that would administer the stations when the resolution expired.

Stymied by Fulbright's opposition as chairman of the Senate Foreign Relations Committee, the administration was forced to accept a compromise funding the stations only until June 30. The stations have considerable bipartisan support, and new legislation is expected to be introduced this spring. Radio Liberty noted in one of its broadcasts that only six senators voted against the present funding resolution.

Says one Radio Liberty staff member: "To be honest, I'd estimate our chances of getting continued financing at about 60–40. It's difficult to explain in our broadcasts that the Senate works in such a way that one man can use his position as chairman of a powerful committee to thwart the will of the majority."

Supporters of the two stations are even more worried about the administration's inclinations than about Fulbright's position. They feel the administration has not applied any muscle in Congress despite President Nixon's stated support for the stations. And they are afraid the President might regard ending the broadcasts as a convenient, politically unimportant goodwill gesture to make when he visits Moscow.

Francis S. Ronalds Jr., deputy director of Radio Liberty in Munich, home base for both stations, says the budget threat is "especially ironic at this time because we have an unparalleled opportunity to improve our programming in areas other than literature and political dissent." Ronalds was alluding to the Jewish emigration from the Soviet Union, which could make it possible for the stations to hire more native Russian-speakers with technical and scientific training.

"We have been weak on scientific issues that are of special concern to many members of the Soviet intelligentsia," Ronalds says. "Many of the more recent emigres are still interested in the Soviet Union, not in the old Cold War sense but in the sense that they believe in a free flow of ideas. We don't want people who hate the Soviet Union, because most of our listeners love their country and

many are committed Communists or socialists of one kind or another."

A DIFFERENT TONE

Samizdat is by no means the only source of Radio Liberty broadcasts. Researchers pore over little-known Soviet magazines for topics that would interest a wider Russian audience. Many of these topics are connected with science and economics. A new journal on ecology, for example, has an officially permitted circulation, of only 1,225; Radio Liberty is planning several programs on the more significant issues discussed in the magazine.

During my two years in the Soviet Union, I never met a Russian—including some party members—who felt that Radio Liberty was trying to overthrow or attack the Soviet government in the manner of the early Cold War years. The Library of Congress report on Radio Liberty and Radio Free Europe quoted Soviet specialists whose own analyses contradicted Fulbright's views. In the Soviet book "U.S. Radio in Psychological Warfare," published in 1967, Artem R. Panfiov wrote:

"In practice, propaganda for the overthrow of the Communist regime has almost disappeared from all American broadcasts to the socialist countries of Europe. Even Radio Free Europe no longer broadcasts such propaganda . . . The tone of the radio broadcasts has changed significantly . . . Direct interference in the internal affairs of one country or another in the form of all sorts of advice to radio listeners has almost ceased, and undercover propaganda has left the scene."

Conservative Soviet citizens often oppose Radio Liberty's contention that complete freedom of information should prevail in their country, but they, too, want to hear ideas that do not necessarily fit into the official Soviet version of reality. "After all," says one Soviet journalist, "you can always turn off the radio if you don't want to hear something."

PRESIDENT'S MESSAGE ON AGING: A DISAPPOINTMENT FOR OLDER AMERICANS

Mr. CHURCH. Mr. President, a few days ago, the President issued a long overdue message on aging, outlining this administration's "comprehensive strategy" for older Americans.

But for the 20 million persons now past 65 and the millions more nearing this age, his message can only be regarded as a distinct disappointment. His proposals fall far short of the stirring call for action at the recent White House Conference on Aging; and they can only serve to induce further frustration, despair, and outright cynicism.

As chairman of the Committee on Aging, I can only say that the President is fumbling away a historic opportunity to make 1972 a year of landmark achievements for all older Americans.

The year 1972 could be the year in which we eliminated poverty once and for all among the aged. It could be the year in which we fulfilled our commitment to provide genuine economic security for the later years of life.

It could also be the year in which we made serious inroads in solving the everyday problems of the elderly—in the fields of nutrition, housing, health care, transportation, and many others.

Or it could be the year in which the momentum generated at that Conference was squandered.

It could be the year in which we responded with "tokenism" to problems which cry out for far-reaching and comprehensive action.

Unless reversed, the latter appears to be the course the administration has chosen.

Nowhere is this more evident than in the area of economic security. Quite frankly, this is the fundamental and underlying strategy for coming to grips with the worsening retirement income crisis which now affects millions of older Americans. Unless major policy changes are instituted this deepening retirement income gap is likely to deteriorate even further.

This administration is willing to settle for a meager 5-percent boost in social security benefits, an increase which will not even keep pace with the rise in the cost of living. This is a far cry from the 25-percent boost recommended by the White House Conference. Even more disturbing, the administration's approach totally ignores some very real and basic facts of life:

More than 4.7 million older Americans fall below the poverty line.

If the hidden poor are counted, the poverty numbers for persons 65 and older swell to 6.3 million, or almost one out of every three senior citizens in the United States.

Poverty among the aged is on the rise for the first time in our history. From 1968 to 1970, the number of elderly poor persons increased by 100,000.

Social security benefits for the typical retired worker now amount to $1,596 a year, about $250 below the existing poverty threshold.

It was for these compelling reasons that I recently introduced an amendment to H.R. 1 to authorize a 20-percent increase in social security benefits. Already 29 Members of the Senate have joined me in sponsoring this badly needed proposal. And several others have indicated their strong support for an increase far beyond 5 percent.

With poverty on the rise for the elderly, a 20-percent social security increase is absolutely essential. Adding a few dollars every couple of years to the elderly's monthly social security check will simply not get the job done. A much more sizable boost is urgently needed if we are really serious about developing a sound and sensible income strategy for older Americans.

However, adequate retirement income is just one of many key needs in which the President's message on aging fails to respond to the White House Conference.

In the field of housing, his proposals offer no realistic hope for meeting the conference objective for 120,000 units per year. For 6 million older Americans who now live in dilapidated, substandard or deteriorating housing, the goal for a decent living environment will continue to be an impossible dream.

What is needed now is a genuine commitment to implement the White House Conference's national housing policy for older Americans. But the administration has failed to provide this leadership. Instead, it has openly opposed some of the very proposals—such as the establishment of an Assistant Secretary for Housing for the Elderly—sought by the White House Conference.

Additionally, it has exhibited a half-hearted commitment to the serious health care problems which continue to pose an intolerable drain upon the aged's limited pocketbooks. Quite clearly, our Nation can never assure true economic security in retirement until the threat of costly and catastrophic illness is resolved.

In response to this challenge, the White House Conference recommended that medicare should be broadened to include out-of-hospital prescription drugs, eyeglasses, hearing aides, dentures, and foot care. Yet, the administration has chosen to ignore every one of these suggestions.

In some cases, it has even turned the clock back—by proposing shortsighted cutbacks which can limit the quality and availability of care for the aged. One such example is the $7.50 daily copayment charge for elderly patients who are hospitalized from 31 to 60 days. This provision alone could conceivably add $225 to the health care bill of an aged person. Fortunately, however, the Finance Committee has decided to remove this provision from H.R. 1.

Finally, the administration has rejected the White House Conference proposals for a streamlined Federal apparatus to represent the elderly in the highest councils of government. Instead, it has presided over the dismantling of the Administration on Aging. Today AOA is a crippled and fragmented agency with few clearcut goals and little overall direction. And the net impact is that Federal commitment in the field of aging has been severely diluted.

Even a substantial increase in the funding levels for the Older Americans Act—welcome as it may be—will not solve these serious problems, as long as AOA's mission continues to remain murky and ill-defined. What is needed is a strengthened Federal structure which is effective, action-oriented, and responsive to the challenges of older Americans.

To meet this challenge, the delegates called for the adoption of a four-point plan:

First, establishment of an independent Office on Aging at the White House level to formulate policy and coordinate programs in the field of aging.

Second, creation of an Advisory Council to assist the independent office in a wide variety of capacities.

Third, elevation of AOA by placing it under the direction of an Assistant Secretary for Aging.

Fourth, establishment of the position of Assistant Secretary for Aging, or its equivalent, in all departments and agencies conducting operating programs for the elderly.

Yet, the administration simply proposes mild cosmetic treatment for AOA with increased funding levels.

The President's own Special Consultant on Aging, Dr. Arthur Flemming—who has fought over the years on behalf of older Americans—concedes that the administration's program for the elderly falls short of the recommendations of the White House Conference. This assessment is discussed in an article published recently in the Washington Post. Mr. President, I ask unanimous consent that the article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 29, 1972]

Nixon Plan on Elderly Falls Short, Aide Says

(By Stuart Auerbach)

The White House's special adviser on aging, Dr. Arthur S. Fleming, acknowledged yesterday that President Nixon's program for the elderly falls short of the recommendations of a White House conference last year.

But, Fleming told a press conference, "The message indicates a continuous process is under way that will lead to more and more action as the weeks and months go by."

He said Mr. Nixon's special message Thursday "is definitely moving us in the direction set by the delegates" to last November's White House Conference on Aging.

Fleming said the delegates' recommendations identify "the cutting edge" of the issues facing the elderly. The President's message, Fleming said, shows motion in that direction.

The feelings of the 20 million Americans who are more than 65 years old are exceptionally important in 1972—an election year. They are among the nation's heaviest voters: 84 per cent of them are registered and 74 per cent of them voted in the 1970 off-year elections.

Fleming, Secretary of Health, Education, and Welfare in the Eisenhower administration, was chairman of the 1971 White House Conference on Aging.

He said its many recommendations—which are being released a little bit at a time—are under study in the White House by a special cabinet-level committee.

In two areas—nutrition and the construction of senior citizen centers—Fleming said President Nixon has come close to the objectives of the 3,500 delegates to the White House conference.

In other areas—especially increases in Social Security payments and the coverage of out-patient drugs under Medicare—the President and the delegates to the conference on aging are further apart.

Mr. CHURCH. Mr. President, disappointed as I am in the President's message on aging, I am still hopeful that the administration will change its present narrow position for older Americans. I am encouraged that this is possible because the administration has already reversed itself several times on many key issues in the field of aging—largely as a result of bipartisan congressional efforts. A good example is the recent enactment of the Nutrition Program for the Elderly Act, which the administration had steadfastly opposed for nearly 2 years.

Nevertheless, I am hopeful that the administration will yet be willing to work, in a spirit of bipartisan cooperation with Congress, to reshape and improve present policies for older Americans.

REFORM NEEDED IN CRIMINAL JUSTICE SYSTEM

Mr. HUGHES. Mr. President, the American system of criminal justice is conceded to have lost most of its effectiveness in a mire of administrative delay and archaic notions of how to deal with the criminal.

A system that does so little to enhance respect for the rule of law or to salvage the lives that are broken by crime is in critical condition—in need of emergency resuscitation, intensive care, and long-term provisions for recovery.

Last Saturday, a planning group of the National Democratic Policy Council released its report on the need for reform of the criminal justice system in this country. The report is one of several prepared for consideration of the platform committee of the Democratic National Convention, and is the product of the work of 37 citizens whose combined knowledge of the forces at work on our courts and prisons, and in the lives of those who resort to crime, is very extensive.

Because I believe the report contains some vital insight that I am sure will be of interest to Senators, I ask unanimous consent that it be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Reform of the Criminal Justice System

The planning group on reform of the criminal justice system held a public hearing on October 26 and 27, 1971 in Washington, D.C. The two-day session brought together an unusual panel of experts—lawyers, recovered addicts, law enforcement officers, physicians, current and former prison inmates, a former U. S. attorney general, psychiatrists, a mayor of a major metropolitan city, prison wardens, and U. S. Congressmen—to face the issue of long-overdue fundamental reforms in the American criminal justice system.

In his opening remarks, Senator Harold Hughes (D-Iowa) called for an end to "temporizing, tinkering and face-lifting" efforts to reform the criminal justice system. Hughes asked:

"To what extent do the notions of retribution that have conditioned our system of crime and punishment since the Hammurabi Code, remain justifiable in light of our present understanding of human behavior? Will we ever make significant progress on the drug front as long as people equate drug abuse with moral weakness and criminal inclination?

"Thoughtful citizens throughout the land recognize the imperative need for major change and reform in the various categories of our system of law, order, and justice. Innumerable studies have been commissioned, reports have been filed, and recommendations have been made. Yet reforms in this top priority area continue to lag.

"It is no secret to any of us that reform in these areas has been generally half-hearted and piecemeal because of fear of political reprisal. In view of the tragic failures of the past, it is my conviction that the hour of truth has arrived when an honest exposition of the realities will not be a political liability."

Former U. S. Attorney General Ramsey Clark spoke of the future without change in attitudes toward crime:

"I think we can reduce crime. Society has no more important challenge because crime is human conduct and more than any other activity of people it reflects the moral character of a nation. It is not a question of police forces against criminal forces; it's a question of people. When you phrase it in terms of police forces against criminal forces, you are emotionalizing and dividing and feeding the fear. There are causes of crime and unless we address ourselves to the causes and seek to reduce them then we cannot hope to substantially and permanently prevent or reduce the incidence of crime in America."

PERSPECTIVE

The problem of crime in America is real, immediate and fundamental. Its costs to the nation—direct and indirect, tangible and intangible—are staggering. Nearly three quarters of a million victims of violent crime in 1970. More than 15,000 murders. Billions of dollars of property loss.

The indirect, intangible costs are even more ominous. A frightened nation is not a free nation. Its citizens are prisoners, suspicious of the people they meet, restricted in when they go out and when they return, threatened even in their own homes. Unless government at all levels can restore a sense of confidence and security to its people, there is the ever-present danger that alarm will turn to panic, triggering short-cut remedies that jeopardize hard-won liberties.

Several general observations are appropriate at the outset:

First, the impact of crime in America cuts across racial, geographic and economic lines. The highest rates of assault and robbery are found in the inner cities. The chief victims of crimes of violence in America are the poor—black and white. But if the slums of America have the highest concentration of crime, there is no escape in the suburbs or rural areas of the nation. White crime increased by 9.2% in our cities in 1970, by more than 12% in our suburban and rural areas.

Second, hard-line rhetoric, pandering to the emotionalism of the moment is as futile as it is insidious. There has been too much rhetoric, threats and intimidation and too little commitment to reform. There are no simple solutions to problems as intractable as crime, drugs and prisons. A thorough and total revamping of our criminal justice system is necessary to reverse the present conditions.

Third, solutions must be sought that protect our people without undermining fundamental liberties. Stop-gap measures such as preventive detention and "no-knock" entry only serve to aggravate the problems of crime and drug abuse. The fact that they have been little used is evidence of their superficial quality as law enforcement tools The ultimate objective of a free, less threatening society is not advanced by police-state measures that substitute one form of tyranny for another.

Fourth, the problems of crime and drug abuse cannot be isolated from the social and economic conditions that give rise to them. Although this summary deals primarily with the steps that must be taken to alleviate the costly results of crime and drug abuse, the planning group recognized that any lasting solution to these problems must first deal with the fundamental causes of such behavior: poverty, discrimination, inadequate housing, insufficient jobs, unlivable cities and depressed rural areas, social and political institutions in upheaval.

LAW ENFORCEMENT

The planning group recognized and commended the dedication of the men and women law enforcement officers who, day in and day out, respond to the words, "call the cops" and deal firsthand with the human realities of the victim and the perpetrator of the street crime, the family fight, the drug overdose victim, the runaway child, the traffic jam and the bar room brawl. The complexity—and the danger—of police work requires a combination of brains, skill, education, human understanding, courage and commitment that no other profession demands.

The difficulty and challenge of the police job requires that citizens and police work together to make the police service as effective as possible, not only to better deal with the critical national problem of crime, but also to deal with the complex of other peacekeeping and public service tasks that we call upon our police to perform.

Faced with the problems presented by the rapidly growing amount of crime in America, it is easy simply to cry out for more police. While in many jurisdictions more police are desperately needed, we recognize that more police alone cannot deal with the problem of crime in its totality. Court delay, the ineffectiveness of our jails and prisons, the epidemic spread of narcotic addiction, the frequent unwillingness of citizens to cooperate with the police and the quality of the police service itself are each important considerations in developing more effective efforts to reduce crime.

Recommendations

The recommendations that follow concern those actions that should be taken to improve the effectiveness of the police.

Most importantly we must foster those efforts that actively involve the citizens with the police in a joint effort to control crime. There should be more programs in which police and citizens join together to combat crime. We need more than "community relations" in a public relations sense. We need to engage the citizens in cooperation actively with the police, in helping the police in auxiliary roles, in taking those simple preventive measures that discourage crime and in active support of the police men and women and their leadership.

The upgrading of the police requires that we pay police salaries that match the difficulty of their jobs and that will attract highly qualified people into the police service. Educational standards for police must be raised. As police salaries are raised and citizen support increases, these standards can be raised and over time can vastly improve the image and quality of policing in America.

The police can only be fully effective when they genuinely represent the communities they serve. This means that more minority group members should be encouraged to enter the police service, that the police take the initiative in more effectively using women in a variety of law enforcement roles, that the technical skills of the computer scientist, the communications expert, the community relations expert, the training specialist, the lawyer, the personnel manager and many more be recruited into the police forces.

We must select as our police leaders those persons who fully understand the complex job of policing and who are sensitive to the changing social demands in our communities. Such persons can do much to lead the police in becoming more responsive to the needs of minority groups, of young people and of others, without whose support the police will not be fully effective in controlling crime. This same kind of strong police leadership is needed if we are to assure that high level of integrity that this important public trust requires.

We must provide the police with the technological resources to do the job. Effective policing requires advanced communications systems, computers and other facilities, and a system for regional coordination of law enforcement efforts.

The federal government can play a vital role in assisting state and local jurisdictions in upgrading police and improving police effectiveness in controlling crime. Federal funds should be used, not merely to buy police equipment, but to support police efforts to involve the citizenry in controlling crime, to bring into the police service new kinds of people and skills, to support those educational and training efforts that develop greater technical police skills, greater police management skills and greater skills in dealing with the human dimension of crime, conflict and disorder.

The police are in fact the "front line" in combating crime. The Democratic Party must firmly commit itself to supporting all efforts that will strengthen the capacity of the police to do their job and that will bring to the police the respect demanded by the importance of their job. We must continue to work at the local, state and federal levels to translate that support into dollars and other assistance. Such efforts will result in more effective crime control in America and in that quality of police service truly reflective of our basic democratic values.

JUVENILE DELINQUENCY

Juvenile delinquency statistics, according to former Attorney General Ramsey Clark, point out where crime first starts and where crime must first be stopped:

"Nearly the entire increase in arrests for the commission of serious crimes during the 1960's is accounted for by minors. Youngsters between eleven and seventeen composing 13 percent of the population are convicted in over 50 percent of all prosecutions for burglary, larceny and car theft. Half of all property crime is committed by people under twenty-one. Of all ages sixteen-year-olds are arrested most frequently.

"Youth is the time in life when those who live lives of crime take the road. Four out of five of all felonies are committed by repeaters—80 percent of all serious crime is committed by people convicted of crime before. The first crime was committed nearly always as a teenager. In federal youth centers nearly all prisoners were convicted of crimes that occurred after the offender dropped out of high school. Three-fourths came from broken homes.

"Professionals could find 90 percent of the children likely to become delinquent: those children who have no parents, have been beaten and abused, are not sent to school regularly, cannot read, or share a room with four people. We may have to live with the rest; we do not have to live with most. That we do tells us much about our character. It means that, knowing we are the ones who create criminals, we continue. Later, frightened, we seek to control them by force."

Recommendations

Prevention. The schools must undertake a new, vital and creative role in the vanguard of crime prevention in diagnosing behavioral problems and taking remedial action to insure that children headed for trouble are not forced out of school, onto the streets and into a life of crime.

Treatment. Juveniles who merely run away, play truant, or disobey a parent must not be relegated to large impersonalized isolated training schools to learn how to commit more serious and more violent crimes. Institutionalization makes more criminals out of juveniles than it unmakes. The premium on federal funds to states and localities must be on creating genuine community alternatives to sterile incarceration; juvenile service bureaus, special remedial education and job training, foster and group homes, counselling programs run by former juvenile and adult offenders.

Incarceration. There will always remain a small minority of youthful offenders who are, at the time of adjudication, so dangerous to themselves and others that they must be institutionalized. However, it is too often the case that society equates keeping juveniles out of sight until the age of majority with solving their problems. These youths are the most in need of concentrated services to change the attitudes and behavior that are the source of their problems.

Juvenile institutions should never house more than 100 children, should be built around an individualized treatment plan for each child, and the course of treatment should be enforceable by law. Today, the understaffed, brutalizing "holes," "youth centers," and "training schools," into which our children are now herded for everything from profanity to murder, commit offenses against these children for which a parent would be prosecuted; locking them in terrifying isolation; beating them; forcing them into situations where homosexuality is predictable; crowding them into unsafe, unsanitary and inhuman facilities; forcing them to associate with older, more experienced, offenders.

It should be recognized that anti-delinquency programs can never take the place of good prenatal care and birth control instruction, decent housing, medical care, a public education system that seeks to retain and help its children rather than to evict and forget its "deviant offenders," as well as a healthy job market providing an economic standard of living that makes life possible without drugs or crime.

DRUGS

A national commitment must be made to deal with the problem of drugs as it *exists*. Commenting on alcoholism and drug addiction, former Attorney General Clark said:

"You cannot beat heroin out of the bloodstream of an addict and you cannot cure alcoholism by picking guys up out of the gutter with broken wine bottles near them and throwing them in a tank, letting them go through a period, releasing them and then doing the same thing all over again."

Recommendations

Definition. The drug problem must be more carefully and clearly defined. Heroin addiction, barbiturate and amphetamine abuse, marihuana use and alcoholism are each different problems and their treatment has been developed and refined to varying degrees.

Treatment. The failure of this country to respond to the needs of those persons seeking specific kinds of help—help already proven to be efficacious—is tragic. For example, in New York City there are about 10,000 heroin addicts on a waiting list to enter the city's methadone program. A waiting list for an addict who wants to enter treatment now is not only an injustice to him but to his community as well. Property stolen by a single addict in one week may have a value of up to $1,000—an amount that would pay for his treatment with methadone for an entire year.

Rehabilitation. To understand what it is that a drug abuser or drug dependent individual seeks through treatment, we must first learn that such an individual is a sick person who should be dealt with as a whole person. To treat the whole person we must deal with his social needs as well as his drug dependency. In addition to dispensing medication and thereby eliminating the immediate needs for drugs, assistance must be provided to develop alternative life styles so that treatment eliminates the problem, instead of becoming a part of it.

Law enforcement. While developing new avenues to deal with drug addiction such as seeking out and closing off sources of abused drugs, we must not neglect to investigate the potentially new and more dangerous problems that may be created in the name of a "solution." When law enforcement efforts increase in areas where there are inadequate facilities to treat addicts seeking help, the net effect is to increase the price of drugs. The addict who might have entered treatment must now commit more crimes and possibly more violent crimes to support the new increase in cost of his habit.

Military drug abuse. Special attention must be paid to the extensive drug abuse within the Armed Services. The full ramifications of this involvement in terms of local communities previously relatively free of serious drug abuse will be increasingly felt as the level of American involvement in Southeast Asia returns more and more young men to the United States with unknown and unchecked levels of addiction. No careful follow-up has yet been undertaken. If we are to maintain any credibility in the eyes of our own nation as well as the world, a serious commitment must be made to care for returning servicemen addicted to drugs.

CORRECTIONS

Few institutions in America are as uniformly condemned and as consistently ignored as our existing prison system. Prisons represent a failure of philosophy, theory, concept, technique and execution. Individuals who commit crimes on the outside become criminals on the inside. Indeed, even the term "corrections" is a misnomer, recidivism rates run as high as 70 percent.

The impulse to reform must be stimulated not only by the most elemental principles of humanitarianism but also calculated self-interest. "The degree of civilization in a society can be judged by entering its prisons," noted Dostoyevsky. Ours are overcrowded, understaffed, and run-down human warehouses that embitter rather than rehabilitate, alienate rather than reintegrate, highten tensions rather than ease them.

Only when we as a nation recognize that our existing system *contributes* to escalating crime, will we be able to sustain the massive support necessary to achieve fundamental restructuring. Thus, the first priority of political parties and candidates for the leadership of this nation must be to undertake the public education necessary to change prevailing attitudes about our prisons and the human beings within their walls.

Alternatives to the present correctional policies discussed by the planning group and witnesses are summarized here briefly.

Sentencing

Pre-sentencing investigative procedures should incorporate increased probationary services, allowing offenders to remain in the community: finding and keeping employment, making restitution, supporting their families. Such an approach would break the patterns for many habitual offenders who seek refuge behind walls to avoid the responsibilities of daily living.

Mandatory minimum sentences should be abolished to allow the system sufficient flexibility and intelligence to release a man or woman at the psychologically proper moment.

Maximum sentences should be standardized and made consistent in order to reduce a major source of unfairness and bitterness.

Except where absolutely necessary, efforts should be made to *reduce sentence length* thus facilitating the supervised release of offenders before any benefits of incarceration are offset by overly-long imprisonment, with the accompanying danger of institutional dependency and total alienation from society as well as identification with the inmate subculture.

Incarceration

Greater efforts should be made in *classifying prisoners for maximum security prisons.* Such facilities should be restricted to those who are truly dangerous—estimated at 15–20% of all adult offenders—and not those who are merely outspoken.

The "big house" should be eliminated as we move to a system predicated on community-based correctional facilities. To the extent that higher security facilities are required, they should be limited to populations of no more than 100.

The *constitutional and human rights of offenders should be recognized:* the right to uncensored outgoing mail; the rights of due process for in-prison disciplinary actions; the right to decent meals, adequate sanitary and health facilities; the right to decent wages for in-prison work. To strip a man of his freedom does not require that we strip him of his dignity.

Realistic *therapeutic, education, alcoholism and drug treatment, vocational and wage-earning programs should be provided* in all correctional facilities, and, wherever possible, outside of them.

Emergency, educational and work-release furlough programs should be standard practice with eligibility for such programs based upon prison conduct and treatment needs.

The greatest emphasis and *encouragement should be given to support of "self-help" programs*—convicts, ex-convicts and the community each helping the other.

Correctional personnel must be upgraded with higher wages, more minority group employees in both custodial and rehabilitative jobs, and increased numbers of psychologists, educators, counsellors, diagnosticians and ex-convict paraprofessionals.

Post-incarceration

Massive *after-care services must be provided* so that the released offender is not "pushed out" and dumped on the street without any support.

Present civil disabilities for ex-convicts that erect barriers to their reintegration into society should be removed. These include automatic restoration of the right to vote, to hold public office, to obtain drivers' licenses as well as professional licenses, and to public and private employment. All registration of ex-offenders shoud be eliminated.

Every stage of the parole process—the granting of parole, the period of supervision, and the conditions governing that period, and the termination of parole—*should be opened to public scrutiny and thoroughly re-examined* with a view toward facilitating rather than frustrating re-entry into society.

SUMMARY

The focus of the planning group on reform of the criminal justice system was on the fundamental causes of street crime, drug addiction, and prisons. Although the planning group recognized that the courts are a major element of the criminal justice system in addition to law enforcement and corrections, the reform of the courts at all levels of government is of such a specialized nature that it would require the complete attention of another planning group to produce authoritative recommendations on court reform.

In addition, the American Bar Association established a task force to study in depth the specific steps that could be taken to bring order out of the chaos currently characterizing many courts. The report of the Special Committee on Crime Prevention and Control has been released and the planning group recommends to the members of the Platform Committee that they give the most serious attention to the findings of this American Bar Association study.

REFORM OF THE CRIMINAL JUSTICE SYSTEM—HEARING PARTICIPANTS AND PLANNING GROUP MEMBERS

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SOME FACTS ABOUT MEAT PRICES

Mr. HANSEN. Mr. President, during recent discussions about current meat prices, the full story often has not been told, and one supermarket chain even has deliberately attempted to mislead the public in its advertising by implying that cattlemen are responsible for meat prices at the counter.

There are a number of organizations and individuals attempting to get the truth to the public—among them the Laramie County Stock Growers Association by my State. This organization and its women's auxiliary, the Cowbelles, are buying advertising space in the daily newspapers of Wyoming to state the facts about meat prices, income to producers, and wages to other industries.

Many Members of Congress also have tried to get the truth across, and my friend the distinguished Senator from Nebraska (Mr. CURTIS) has done an outstanding job of refuting wild claims by supermarket officials and of pointing out other relevant facts which cannot be ignored if one is to have any kind of understanding of meat prices and how they are developed.

Mr. President, I commend Senator CURTIS and members of the Stock Growers Association in my State for making the efforts to set forth facts to answer half-truths and innuendo.

I ask unanimous consent that an advertisement sponsored by the Laramie County Stock Growers, an April 8, 1972, Washington Post article about Senator CURTIS' comments, and an April 3, 1972, article from the Republican Congressional Committee Newsletter, entitled "Who Gets the Money When Beef Goes Up?" be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DO BEEF PRICES BUG YOU?—O.K.—LET'S EXPLORE SOME REVEALING COMPARISONS!

MEAT PRICES

March, 1952—March, 1972

69¢ lb. U.S. Choice Chuck Roast, 69¢ lb., Up—00.0%

63¢ U.S. Choice Ground Beef, 73¢ lb., Up—14.9%.

95¢ lb. U.S. Choice Sirloin Steak, $1.57 lb., Up—65.3%.

95¢ lb. U.S. Choice Round Steak, $1.35 lb., Up—42.1%.

64¢ lb. All Meat Franks, 85¢ lb., Up—32.8%.

CATTLE PRICES

Choice fed steers

March 26, 1952—$34.50 Per Cwt.

March 24, 1972—$35.00 Per Cwt., Up Only One Percent.

WAGES AND SALARIES

In 1952—$2,400 Teachers (No Experience, School District Number 1—B.A. Degree), in 1972 $6,800, up—183.3%.

In 1952—$12,500 U.S. Senators and Congressmen, in 1972 $42,500, up—240.0%.

In 1952—$65.00 Meat Cutter (48 Hour Week), in 1972 $185.00 (40 Hour Week) up—166.0%.

In 1952—$2.50 per hr. Unskilled Laborer, Bldg. Trade, in 1972 $4.12 per hr., up—64.8%.

In 1952—$4,506.69 Average Employee Wage, Entire Union Pacific Line, 1971, in 1972 $10,432.92, up—131.0%.

In 1950, One Hour's Labor Bought 1.7 Pounds of Beef—Today It Can Purchase 3.3 Pounds of Beef.

100 pounds of beef costs:

1951—$35.14, on the ranch, 1971—$32.35.

1951—$56.88, at the packing plant, 1971—$53.64.

1951—$78.50, at the super market, 1971—$104.32.

"Thank you for considering these facts."

Laramie County Stock Growers and Laramie County Cowbelles.

MEAT SELLER DENIES "DECEPTION" ON PRICE

(By Abbott Combes)

Sen. Carl T. Curtis (R-Neb.) yesterday criticized Giant Food, Inc. for what he called "a deceptive crusade" in its current advertisements of meat prices.

Curtis asserted that the Washington supermarket paid less for choice beef on March 21 than it did before last August's wage-price freeze. On March 21, a Giant advertisement appeared in Washington newspapers suggesting that consumers might purchase alternative foods because of increasing meat prices. The ad was signed by Esther Peterson, former consumer adviser to President Lyndon B. Johnson who now advises Giant.

In a related development yesterday, Richard E. Lyng, assistant secretary of agriculture for marketing and consumer services, said that a Giant advertisement in Thursday's editions of the Washington Post was "quite misleading." This ad reprinted a Post editorial favorable to Giant's meat policy, and then asked: "Aren't you glad we started it all? We are."

Actually, said Lyng, "all during March the wholesale price was going down, at the same time the retail prices were going up."

Joseph B. Danzansky, president of Giant, denied the allegations. The prices that Curtis quoted, Danzansky said, were for choice beef, but Giant buys the more expensive "top choice" beef. "Even in choice, there is a bottom, a middle and a top," he added.

Danzansky cited prices that, he said, the chain actually paid for its top choice beef: $56 per 100 pounds on August 13, 1971; $57.10 on March 21, and $54.75 currently.

He also cited comparable retail prices, in Giant stores, for three beef products. On Aug. 13, 1971, ground beef sold for 69 cents per pound; on March 21, 1972, it sold for 75 cents per pound and it is currently selling for 65 cents per pound, he said.

Sirloin steak sold for $1.45 per pound last Aug. 13, for the identical price on March 21 and now sells for $1.29. Boneless chuck sold for 95 cents before the freeze, 99 cents on March 21 and 89 cents at present, the Giant president said.

Even if Danzansky's figures are accurate, Curtis then charged, they still indicate that increases in retail prices have been greater than increases in wholesale costs.

"Now the Giant stores and Mrs. Peterson are taking credit publicly for driving the price of beef down. This type of phony consumerism must be investigated and exposed," said Curtis, who made the charge after seeking out reporters in the Senate press gallery yesterday. Curtis' state is a major producer of meat.

"If Mr. Danzansky's own figures are accepted, the price he paid for beef on March 21 was 1.1 cents per pound more than he paid last Aug. 13, yet his firm, again by his own figures, raised the price of hamburger 6 cents per pound, from 69 cents to 75 cents, during the same period," Curtis said.

"What did he do with the other 4.9 cents per pound that he charged the people of Washington who cannot afford anything but hamburger? And the other 2.9 cents per pound for boneless chuck?" asked Curtis.

"He's giving a cavalier response to a complicated problem," replied Danzansky, who said that it was "not fair" to relate the cost of several cuts of meat to the price of the whole carcass.

Noting that the cost of sirloin steak did not change over the same period, Danzansky tied the price of hamburger to the price of frozen boneless cow meat which makes up to 20 per cent of hamburger. The cost of this rose from 67 cents a pound last Aug. 13 to 73 cents a pound on March 21, he said.

Furthermore, Danzansky added, Giant made 2 per cent less in gross profits last month than it had the year before.

Curtis also said that during a luncheon conversation on March 22 Lyng had discussed the Aug. 13-March 21 price difference with Danzansky, but the Giant president yesterday asserted that he had not discussed the matter with the federal official.

Lyng disagreed, and said in an interview that he had mentioned the discrepancy.

"It was my impression that Mr. Danzansky and Mrs. Peterson were surprised that they were buying choice beef for a little less," Lyng said.

Curtis directed most of his criticism at Mrs. Peterson, who could not be reached for comment.

"It is one of the meanest actions against a segment of our economy that I've ever seen," the Republican senator said in an interview.

"It is not only misleading to consumers but in this instance it has cost farmers and ranchers thousands of dollars, and perhaps ultimately it will cost them millions. Thursday's price for Midwestern beef was down to an average of $51.75 or $2.25 below the level at the time of the Aug. 15, freeze," he said.

WHO GETS THE MONEY WHEN BEEF GOES UP?

Is the American farmer responsible for inflated food prices?

Not so, say President Nixon and his Secretary of Agriculture, Earl Butz, who have urged hearings by the Price Commission to determine whether or not profit margins of the so-called middleman food handler have gone beyond the guidelines laid down by the commission.

"It is a mistake and totally unfair to make the farmer the scapegoat for the high meat prices and the high food prices," said the President last week noting that only one-third of the price the consumer pays for food results from what the farmer gets for his effort. The other two-thirds goes to the middleman.

"The spread between what the farmer receives and what the consumer pays in the grocery store and the supermarket has widened," said Mr. Nixon. "It is too great."

Meanwhile, Secretary Butz has come up with statistics which show that the middleman is chiefly responsible for upping the cost of feeding American families.

Take bread, for instance. The statistics reveal that the U.S. wheat grower got 3 cents for the wheat in a loaf of bread in 1957. In 1971, he was still getting 3 cents for the wheat in a loaf of bread—but the retail price had climbed from 18 cents to 25 cents per loaf.

The recent hassle over beef prices is another example. Two leading grocery chains took out after the beef producers. One of them, Giant Foods, has as its consumer adviser Esther Peterson, who held similar jobs in the Kennedy and Johnson Administrations. She has urged a buyer's boycott of beef.

The Giant Food chain ran a full-page ad in newspapers—castigating the high price of meat and urging housewives to buy substitutes. The ads cited price increases in meat products and implied that recent strengthening of farm beef prices were to blame.

The Agriculture Department pointed out that prices per hundredweight on March 24, 1972 for beef carcasses were $53.25. On August 13, 1971—at the time of the wage-price freeze—beef carcasses were selling in Omaha for $54.

Thus, Giant Food and other retailers could get beef carcasses cheaper in March of 1972 than they could before the freeze. Yet they launched an attack on the farmer—attempting to blame their own high prices on the basic producer.

Rep. Robert Price (R., Tex.) demanded an apology from the retail firms on behalf of the Nation's beef producers, charging that the food chains were "self-serving, flying in the face of the facts."

Is the farmer getting more and the consumer less? This is the impression that the labor unions and some business interests are carefully cultivating. What are the facts?

In 1952, farmers got 49 cents out of every dollar spent for food in the U.S.; in 1971, they got only 38 cents, Department of Agriculture figures show. Disposable income for farmers is only 75 percent of the average of non-rural incomes.

Secretary Butz points out that beef prices now are just getting back to the level of 20 years ago, yet average wage levels in food-marketing employment are 2.5 times the level of 20 years ago. Retail food prices are up 43 percent over the past two decades, but farm prices only 6 percent.

In 1951, one farmer grew food for 16 people. Today, one farmer produces enough for 51 people. Farm-machinery prices meantime have doubled. Farm debt is up five times. Wage levels on the farm are up 2.3 times and production costs have nearly doubled.

ADMINISTRATIVE OBSTACLES TO VOTING—REPORT OF LEAGUE OF WOMEN VOTERS

Mr. KENNEDY. Mr. President, once again, the League of Women Voters has performed a valuable and extraordinary service to the Nation. Over the weekend, the League's Education Fund made public a remarkable document entitled "Administrative Obstacles to Voting." The report emphasizes, in unmistakable terms, the enormous burden that our present system of registration and voting imposes on citizens throughout the Nation.

Nothing better illustrates the problem than the cover of the League's report, which depicts a complicated maze as a symbol of the average citizen's frustration in attempting to register and vote.

Now, at last, we have an excellent and informative survey of the problem, based on studies of election practices in hundreds of communities across the Nation during the fall elections of 1971. Armed with this new information, I hope that Congress will make the strongest possible effort to deal with the problem as quickly and as effectively as possible. It is not too late to remedy some of the worst abuses now.

Mr. President, I commend the League of Women Voters for the important new facts and insights it has brought to the present national debate over our shameful registration and election procedures. Lucy Wilson Benson of Massachusetts, the chairman of the League's Education Fund, and Fay Williams of Indianapolis, a trustee of the fund, under whose direction the study was carried out, deserve the gratitude of the Nation for helping us to see these deep and persistent problems more clearly.

Mr. President, I ask unanimous consent that the report and a news release describing the principal conclusions of the report be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

NEWS RELEASE, LEAGUE OF WOMEN VOTERS EDUCATION FUND, APRIL 10, 1972

WASHINGTON, D.C.—The League of Women Voters Education Fund charged today that millions of Americans will be denied the right to vote in the 1972 Presidential election.

A nationwide survey by League members reveals the existence of fundamental obstacles to voting and registration which point to the need for a major administrative overhaul of the American election system.

The report of the Education Fund's election systems project states:

"In the Presidential election of 1968, 73 million Americans or approximately 60% of the total population of voting age actually voted; while 47 million or about 40%, did not cast a ballot. Millions of citizens fail to vote not because they are disinterested, but because they are disenfranchised by the present election system. In the case of minorities, the poor, the uneducated and the aged, the system imposes complicated requirements which excludes them from the electoral process. Ironically, millions of other Americans lose their right to vote not because they are part of a minority or because they are poor, but because they are part of the mainstream of American society. Moving to a new neighborhood, accepting a company transfer, going to college, getting married, serving their country or exercising other rights, freedoms and obligations all too often has the effect of denying citizens their right to vote."

More than 3,000 members of the League of Women Voters conducted the study of election officials and practices in 251 communities in all 50 states during the fall election period of 1971. Their findings document the need for widespread administrative changes and pinpoint specific election practices which deter citizens from either registering or voting.

League Education Fund Chairman Lucy Wilson Benson commented, "In a democratic society, no right is more fundamental than the right to vote. Regrettably, our election system is not working well. This study illustrates the many ways in which the election system discourages and denies the right of hundreds of thousands of Americans to vote in local, state and federal elections. This massive disenfranchisement will continue unless improvements are made at both the administrative and legislative levels."

The data clearly suggest that local officials have in many instances failed to use the tools allowed by law to make registration and voting easier and more accessible for all citizens. For example, 52% of the 458 registration places observed were not clearly identified and 38% of the communities had no additional registration hours available 30 days prior to the closing of registration.

By observing citizen experiences at registration and polling places League volunteers also identified such problems as long waiting lines; short office hours; inconveniently located registration and polling places; and the frustration of registration periods ending many weeks before election day. However, significantly less than one-fourth of the local officials interviewed held that these or other concerns were problems in their community.

The study also shows that the behavior of registration staff was not helpful 52% of the time and became significantly less helpful when citizens were from lower income, working class, or minority groups.

Other figures revealed: 77% of the communities studied had no Saturday registration in non-election months and 75% had no evening registration; in 29% of communities registration closed more than 30 days prior to an election; 55% of the communities charged a fee for registration lists and authorization for access to the lists was required in 38% of the cases.

Twenty-eight percent of communities surveyed gave poll workers no training and in an additional 60 percent, the training was 5 hours or less; 38 percent of all polling places observed were not clearly marked as places to vote; 89 percent of local officials do not publish a voter information guide; 85 percent of the communities reported election officials do not publish a sample ballot; 58 percent of polling places lacked convenient public transportation; 7 percent of the polling places opened late; in 29 percent of the polling precincts voting machines were out of order for periods ranging from 30 minutes to two hours.

Thirty-two experts in the voting rights and election law fields served as an advisory committee to the League Education Fund study. Based on the survey data, they developed a series of recommendations directed to state and local officials as well as to community citizen groups.

Their recommendations include:

1. That the chief election official in each community use his broad discretionary powers under current law to expand citizen opportunities to register and vote.

2. That the chief state election official ensure uniform interpretation and administration of state law by requiring local officials to comply with statewide standards.

3. That identified voter needs be met through localized special services such as: the use of temporary and mobile registration units; expanded registration and polling hours; bilingual materials; mandatory training sessions for poll workers and maximum use of qualified deputy registrars.

4. That citizen groups participate in selection of local election officials, monitor their decisions and actions and work for the specific administration reforms required in their communities.

The study also recommends that political parties, the mass media and educational institutions use their influence to create and maintain a responsive and responsible election system as well as provide and encourage the flow of information to the public on registration, voting and elections.

Alternative strategies for implementing these recommendations will be considered at a special meeting in Washington, D.C., of more than 60 citizen organizations April 20th at the Sheraton-Park Hotel.

The study which covered approximately one-fifth of the U.S. population was conducted under a grant from the Ford Foundation.

Data were collected through three methods: (1) recording official registration and voting procedures, (2) interviewing government and election board personnel, and (3) observing citizen experiences.

Of the 251 communities studied: 58 percent were cities; 13 percent were suburbs and 29 percent were small towns or rural areas. The sample included: 8 percent with a population over 500,000; 26 percent with 100,000 to 500,000; 33 percent with 25,000 to 100,000 and 33 percent with less than 25,000 population.

Analysis of the survey data was done by Battelle's Columbus Laboratories, Columbus, Ohio. League trustee Mrs. Frank Williams, an Indianapolis lawyer, is chairman of the Election Systems Project.

ADMINISTRATIVE OBSTACLES TO VOTING

(A report of the League of Women Voters Education Fund)

This publication has been made possible by funds granted to the League of Women Voters Education Fund by the Ford Foundation of New York.

PREFACE

The need for election reform through *federal legislation* has been documented and endorsed by several committees of national prominence. Most notable is the report of the President's Commission on Registration and Voting Participation [1] and the reports of the Freedom to Vote Task Force.[2] A forthcoming report of the National Municipal League will focus on the need for *legislatively enacted election reform.* A model state election code also is being developed by the National Municipal League and will be available to state legislatures for their consideration.[3]

In addition to changes in election laws, there is a need for changes in *administrative practices* of local and state election officials. (For the purposes of this study administrative practices refers to the standards, procedures and structures set up to implement state election laws.) The main purpose of this report then is to document the need for administrative changes and to draw attention to the numerous administrative obstacles which confront all Americans as they seek to implement their right to vote.

The basis for this report is a study undertaken by the League of Women Voters Education Fund (LWVEF) with the assistance of a grant from the Ford Foundation. The administrative practices of election officials in 251 communities were documented through the efforts of over 3,000 League volunteers during the fall election period of 1971.[4]

All types of communities were included in this study; those where problems of registration and voting were likely to be found in the extreme as well as those where the problems were less visible. In general, the information was collected from at least one large city, a suburb, an independent small town, and a rural area in every state. To supplement the League effort, information from some areas of the rural South was collected by local organizations associated with the Voter Education Project. This sample of communities encompassed approximately 40 million people or one-fifth of the total population of the United States.

Data were collected through three methods: (1) recording official registration and voting procedures, (2) interviewing government and election board personnel to determine attitudes and practices, and (3) observing citizen experiences at both registration and polling places. Information also was collected on state administrative practices with regard to elections by some state Leagues of Women Voters.

It should be noted that observations of registration and polling places were made during the period of the 1971 fall elections. This means that administrative behavior was observed in a non-presidential election year in which various types of contests, some considerably more important and appealing

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Footnotes at end of article.

than others, were at stake. This factor tends to mute the findings and conclusions drawn from this study. It is reasonable to conclude then that the findings contained in this report might be an understatement of the problems citizens experience when participating in presidential elections.

It is also important to review the findings within the framework of the Constitutionally-guaranteed right to vote of every eligible citizen. This means that although some figures pertaining to a given administrative obstacle to voting may be less than 50%, the finding may nevertheless be highly significant to the extent that it indicates that thousands or hundreds of thousands of citizens are possibly being disenfranchised.

Within this context, then, *the study documents the fact that the current system of registration and voting functions inefficiently for citizens throughout the United States*. Both supportive evidence and specific recommendations for administrative changes are included in this report.

A LOOK AT THE PRESENT SYSTEM

During the next six months, much public attention will focus on the principal conditions and issues of the November presidential election. It is doubtful, however, that very much concern will be given to the electoral process itself—that system of registration and voting procedures Americans must use in order to express their choice of the candidates.

Most citizens show little interest in the process not because they dismiss its importance but simply because they do not recognize the extent to which the current election system impairs the right of all Americans to engage in self-government. The public generally believes that the system has worked well for them in the past and that it will work well for the 140 million Americans of voting age in 1972.

Regrettably, the present election system has not worked well. It still bars the mark of forces which originally gave it birth at the turn of the century: fear of the then-widespread corruption and fraud at the polls and a desire to control the voting participation of millions of European immigrants who threatened the political status quo. Although these particular forces have largely ceased to exist, the system remains saddled with many unnecessarily restrictive laws and exclusionary procedures. It has become an administrative maze in which many of the abuses it was designed to prevent can, in fact, be more easily hidden and through which the average citizen must painstakingly grope in order to exercise his fundamental right to the franchise.

Fear of fraud is often advanced in opposition to proposed reforms of the present election system. It could be argued, however, that such abuses are a function of community mores and will exists in some communities no matter what election procedures are established. More noteworthy, it would seem, is the fraud perpetuated on the American people by a system which excludes millions of eligible voters from the electoral process in the name of preventing a few dishonestly-cast votes.

Indeed, the system works poorly for *all* Americans. In the case of minorities, the poor, the uneducated and the aged, who are unable to meet its complicated requirements easily, the system naturally imposes more heavily than it does on the average mainstream American. These groups can be even further excluded from the electoral process by the arbitrary and uneven application of administrative procedures which, while legal, can be manipulated to serve the political advantage or philosophy of those who control them.

Such misuse of administrative practices is not new to the institutional life of our society. What is notable about the established election system is the extent to which, barring misuse of any kind, it denies the rights and infringes on the convenience of hundreds of thousands of Americans regardless of their racial or economic background.

In the presidential election of 1968, 73 million Americans or approximately 60% of the total population of voting age actually voted for a candidate of their choice; 47 million or approximately 40% *did not* cast a ballot. Compared with other democratic countries, this voting rate of American citizens is embarrassingly low. For example, the rate at which voters in Italy have participated in elections in the last 10 years has regularly approached 90%. Canada records a voting rate of approximately 75% to 80%, and in the last 25 years, West German citizens have voted at rates which range between 78% and 87%.

It is the contention of this report that millions of American citizens fail to vote not because they are disinterested but because they are disenfranchised by the present election system. Ironically moreover, many of them lose their right to vote not because they are poor, black, uneducated or uninterested, but because they are part of the mainstream of American society. Moving to a better neighborhood, accepting a company transfer, going to college, getting married, serving their country and exercising other rights, freedoms and obligations to their country too often has had the effect of denying citizens their right to vote.

Undoubtedly, the present election system will continue to disenfranchise millions of Americans of every economic and social background unless improvements are made at both the administrative and legislative levels.

THE POWER OF THE LOCAL OFFICIAL UNDER CURRENT ELECTION LAWS

To what extent can electoral reform occur within the context of existing law? To what degree do current state election laws affect the administrative behavior of election officials?

In a few areas of registration and voting, the law is specific. Residency requirements and closing dates for registration are examples. Although the capacity of administrators and local officials to act independently is considerably limited in these instances, they *can* determine the impact of these laws by the vigor with which they make these requirements known and encourage citizens to meet them.

Most of the laws concerning registration and voting, however, are not specific. In many cases, the law only establishes broad minimum requirements, thereby leaving a great deal of discretion to local officials. For instance, the law may require that a central registration office be located in each city of the state but not specify how clearly that office shall be identified. In fact, 52% of approximately 300 registration places observed in this study were *not* clearly identified. Again, the law may state that registration lists must be available to the public but it often does not stipulate the mechanisms for making the lists available. For instance, there was a financial charge for the registration list in 55% of the communities and authorization for access to the list was required in 38% of the cases.

Local officials may be even more powerful where the law is merely permissive. State statutes frequently allow, but do not require, the following: precinct registration, Saturday and/or evening registration hours, and the authorization of deputy registrars. Date from the community study show that in these areas local officials frequently do not use these statutory powers to reach citizens.

In 29% of the communities where deputy registrars were allowed, election officials failed to use this method to reach citizens. While only 10 states[5] expressly forbid evening and Saturday registration, 77% of the communities studied had *no* Saturday registration and 75% had *no* evening registration in non-election months.[6] Even during the heat of an election period, i.e. the 30 days prior to the closing of registration, 38% of the communities provided *no additional hours* for registration. The data clearly suggest, then, that local officials have in many cases failed to use the tools allowed but not mandated by law to make registration and voting easier and more accessible for all citizens.

In addition to their influence in areas where the law is stated in broad or permissive terms local officials are able to influence the electoral process in matters where the law is silent. Although the law may neither require, suggest nor forbid it, an election official might provide information to citizens concerning the election, might conduct extensive training programs for all poll workers, and might provide bilingual clerks where needed. While such initiative would remove many obstacles to voting, local officials have seldom acted in their areas: only 11% of the local officials included in this study published a voter information guide; 28% provided no training for poll workers; and in approximately 30% of the registration places where bilingual assistance was needed, local officials failed to provide this service. Election officials clearly have the power to make registration and voting procedures easier for citizens but this study has found that, by and large, they don't use it.

To a large extent, local officials retain their discretionary powers by default. The community study found that the state authority charged with responsibility for administering the state election code most often counted it as one of several other major functions of his or her office. In most states, reports from local officials to the state authority are generally required just after elections and contain little else than the total number of people registered and voting in a given jurisdiction and the results of the latest election. Though many states issue guidelines to local election officials, few state administrative mechanisms have been set up to monitor or enforce compliance with the guidelines. In short, state election administrators have little knowledge or control and exert practically no leadership over local election officials and the manner in which they administer the state election code. It is little wonder then that the local election official can, and often does, become the chief policy-maker for all local, state and national elections held within his jurisdiction.

FOOTNOTES

[1] Report published in 1963.

[2] Two reports issued in 1971 by this commission of the Democratic National Committee; "Report of the Freedom to Vote Task Force of the Democratic National Committee" and "That All May Vote".

[3] Developed under a two year grant from the Ford Foundation, the model state election codes will be published in the spring of 1973.

[4] A modified version of the comprehensive survey on which this report is based was conducted by League volunteers in an additional 600 communities. The purpose of this Mini-Survey was to verify the validity of the comprehensive surevy sample.

[5] Includes North Dakota with no statewide registration and New Hampshire and Vermont where a checklist system is used.

[6] For the purposes of this study "evening hours" pertain to the hours after 5: 00 p.m.

TABLE A.—DISTRIBUTION OF RESEARCH COMMUNITIES ACCORDING TO POPULATION SIZE BY ADDITIONAL TIME AVAILABLE FOR REGISTRATION DURING AN ELECTION MONTH (—MONTH PRIOR TO CLOSING OF REGISTRATION)

	Total communities		Additional hours election month			Additional Saturdays [1]			Additional evenings [1]			Additional evening hours [2]		
		Percent	Percent	Yes	No	Percent	Yes	No	Percent	Yes	No	Percent	<10 hours	>10 hours
Population size	N=200	100	100	62	38	100	70	30	100	83	17	100	52	49
Greater than 1,000,000	4	2	100	[3] (1)	(3)	100	(4)	(—)	100	(2)	(2)	100	(4)	(—)
500,000 to 1,000,000	13	6	100	62	38	100	63	37	100	89	11	100	57	42
250,000 to 500,000	21	10	100	41	59	100	75	25	100	77	23	100	--------	100
100,000 to 250,000	33	16	100	68	32	100	90	10	100	70	30	100	36	64
50,000 to 100,000	27	13	100	73	27	100	55	45	100	86	14	100	44	57
25,000 to 50,000	42	20	100	66	34	100	75	25	100	90	10	100	56	44
10,000 to 25,000	46	22	100	60	40	100	67	33	100	93	7	100	61	39
Less than 10,000	22	11	100	56	44	100	44	56	100	60	40	100	83	17

[1] Refers only to those places reporting some additional hours of registration during an election month.

[2] Refers only to those places reporting some additional evening hours of registration during an election month.

[3] Refers to actual number rather than percentages.

TABLE B.—DISTRIBUTION OF RESEARCH COMMUNITIES ACCORDING TO POPULATION SIZE BY AVAILABILITY OF REGISTRATION BY DEPUTY REGISTRARS

	Total communities		Deputy registrars allowed			Deputy registrars used [1]			Limits to number of— Deputy registrars			Limits to number of— Forms		
		Percent	Percent	Yes	No	Percent	Yes	No	Percent	Yes	No	Percent	Yes	No
Population size	N=208	100	100	73	27	100	71	29	100	38	62	100	13	87
Greater than 1,000,000	4	2	100	[2] (4)	(—)	100	(2)	(2)	100	(2)	(2)	100	(2)	(2)
500,000 to 1,000,000	13	6	100	85	15	100	100	--------	100	20	80	100	--------	100
250,000 to 500,000	21	10	100	71	29	100	64	36	100	40	60	100	10	90
100,000 to 250,000	33	16	100	73	27	100	63	37	100	40	60	100	31	69
50,000 to 100,000	27	13	100	70	30	100	82	18	100	44	56	100	27	73
25,000 to 50,000	42	20	100	83	17	100	80	20	100	46	54	100	7	93
10,000 to 25,000	46	22	100	72	28	100	76	24	100	40	60	100	8	92
Less than 10,000	22	11	100	46	54	100	56	44	100	33	67	100	--------	100

[1] Includes only those communities where deputy registrars are allowed.

[2] Refers to actual number rather than percentages.

PERCEPTIONS AND ATTITUDES OF LOCAL OFFICIALS AND CITIZEN GROUP REPRESENTATIVES

The perceptions and attitudes of officials and community leaders are important to an examination of election systems for several reasons. First, they are frequently reflected in administrative behavior and in evaluations of that behavior. In many cases, they also indicate the willingness or unwillingness of community leadership to undertake needed administrative and legislative reform. Where opinions are backed by the power of an office or the resources of an organization, they take on added importance. Finally, such attitudinal data often show how different groups perceive community problems and the extent to which they are sensitive to citizen needs.

PERCEPTION OF REGISTRATION AND VOTING NEEDS

Long lines, short office hours, inaccessible registration and polling places, and registration periods remote from the date of election are common experiences to many Americans.

Interviews with local officials who hold the authority, responsibility and power to alleviate these problems show that they are generally insensitive to them. For instance, less than one-fourth of election officials held that the following were problems in their communities:

Residency requirements

Complex registration procedures

Complex absentee voting procedures

Inconvenient registration hours

Distant and inconvenient places of registration

Complicated voting procedures, i.e. use of voting machines and paper ballots

Inconvenient hours of polling

Positioning candidate names on the ballot, and

Insuring the proper functioning of voting machines

On the other hand, most persons representing voting rights groups viewed all of these as serious problems in their communities.

ATTITUDES TOWARD LEGISLATIVE AND ADMINISTRATIVE REFORMS

Although the need for legislative action to reform the electoral process has been documented and endorsed by several committees of national prominence (see page 1), the League of Women Voters Education Fund community study shows that local election officials are reluctant to support many legislative changes and to assume the responsibility for administering reforms. For instance, support by local election officials dipped to less than a majority in regard to the following:

Carrying out door-to-door registration by government officials.

Updating registration lists monthly for public review.

Requiring at least 16 hours of training for election officials.

Extending voting hours from 7 a.m. to 9 p.m.

Conducting elections on a non-work day.

Publishing voter education materials at least 30 days prior to an election.

Placing local election officials under state merit systems.

In short, election officials seem to view the government as a passive participant in the electoral process with no responsibility for reaching out to citizens. They apparently believe that the initiative lies entirely with the citizen. This would seem to suggest at least one reason why 47 million Americans didn't vote in 1968. The issue clearly goes beyond the generally accepted explanation of voter apathy. Viewed from another perspective, the question arises that if the government can find a citizen to tax him or draft him into military service, is it not reasonable to assume that the government can find that same citizen to enroll him as an eligible voter and include him in the active electorate?

TABLE C.—NUMBER AND PERCENT OF ORGANIZATIONAL REPRESENTATIVES BY POSITION WHO AGREE THAT SELECTED REGISTRATION AND ELECTION PRACTICES ARE BASICALLY GOOD IDEAS [1]

[In percent]

Statement	Elected officials		Voluntary organization							Range	
	CCoEO N [2]=158	CCiEO 86	LWV 220	NAACP 120	LCP 166	YG 62	PCC 206	CAL 150	MG 62	Low	High
A. Door-to-door registration should be carried out by local government officials in order to get all eligible citizens on the voter registration lists	31	23	50	69	58	82	25	47	60	23	82
B. Voter registration should not be closed sooner than 30 days before any election	76	73	92	88	89	87	87	83	91	73	92
C. Residency requirements for voting in local elections should not exceed 60 days	61	49	74	81	77	84	65	53	73	49	84
D. Each county should require at least 16 hours of instruction for election officials	46	47	64	.83	72	85	48	70	85	46	85
E. On election day, polling places should open from at least 7 a.m. to 9 p.m.	25	34	77	77	69	92	63	60	94	25	94
F. All elections should be held on a nonwork day	29	20	35	41	33	46	18	18	47	18	47
G. 30 days before each election, election officials should send each registered voter a voter information guide	23	24	62	66	46	65	32	44	75	23	75

[1] Not all data from the original interviews are included in this table.

[2] N refers to the number of respondeints for the 1st statement. All percents computed on actual N's but sample sizes not reported in this table.

Note: Positions are identified as follows: CCoEO=Chief County Election Official; CCiEO=Chief City Election Official; LWV=League of Women Voters; NAACP=National Association for Advancement of Colored People; LCP=Labor Council President; YG=Youth Groups; PCC=Chamber of Commerce President; CAL=American Legion Commander; MG=Nonblack Minority Groups.

TABLE D.—NUMBER AND PERCENT OF ORGANIZATIONAL REPRESENTATIVES BY POSITION WHO BELIEVE THAT SELECTED REGISTRATION AND ELECTION CONDITIONS EXIST IN THEIR COMMUNITY[1]

[In percent]

Statement	Election officials		Voluntary organization							Range	
	CCoEO N[2]=158	CCiEO 86	LWV 220	NAACP 122	LCP 161	YG 61	PCC 203	CAL 150	MG 61	Low	High
A. Many nonvoters would vote if registration procedures were less complex	11	9	60	57	42	74	22	13	69	9	74
B. Many potential voters become "nonvoters" because absentee voting procedures are too complex	20	16	69	61	41	76	27	16	67	16	76
C. Tne hours of registration set by the election officials are inconvenient, and many potential voters find it difficult or impossible to register	9	8	59	51	46	64	20	14	70	8	70
D. The polls close so early in the day that many potential voters find it difficult or impossible to get to the polls on time	8	6	39	47	31	54	20	11	64	6	64
E. Places of registration are inconveniently located, and many potential voters find it difficult or impossible to register	9	7	60	53	43	73	22	15	64	7	73
F. Many nonvoters are simply frightened by the complicated procedures of voting	20	12	67	65	48	68	25	17	75	12	75

[1] Not all data from the original interviews are included in this table.

[2] N refers to the number of respondents for the 1st statement. All percents computed on actual N's but sample sizes not reported in this table.

Note: Positions are identified as follows: CCoEO=Chief County Election Official; CCiEO=Chief City Election Official; LWV=League of Women Voters; NAACP=National Association for Advancement of Colored People; LCP=Labor Council President; YG=Youth Groups; PCC=Chamber of Commerce President; CAL=American Legion Commander; MG=Nonblack Minority Groups.

OBSTACLES TO ORGANIZED CITIZEN INITIATIVE

Since election officials have so often been unwilling to support outreach efforts, citizen groups have for many years attempted to fill this void through a variety of activities such as: conducting voter registration drives, sponsoring get-out-the-vote campaigns, publishing voter education materials, and providing volunteer staff for mobile registration units. These efforts, however, have all too often been frustrated by the inefficiencies and restrictive practices of the system as indicated by interviews with 584 citizen group representatives.

Approximately 50% of the organizations using registration lists to be inaccurate, and in half those cases the inaccuracy was reported to be greater than 10%. Lists were available to the public in 96% of the communities, but there was a financial charge for the list in 55% of the communities and authorization was required to use the list in 38% of the cases.

Groups were also frustrated when they attempted to have members deputized to register voters. Approximately one-fourth of the organizations seeking to have members deputized were refused the authorization they requested. Of those organizations which succeeded, 31% reported a limit to the number of deputy registrars allowed and 10% reported a limit to the number of forms a deputy registrar could obtain at any one time, an effective way of limiting the number of citizens registered.

These examples once again illustrate an attitude on the part of many election officials which tends to obstruct rather than encourage the efforts of citizen groups to expand the electorate. The instances cited strongly suggest the need for administrative reforms which would place more responsibility for outreach programs with election officials themselves and which would simplify administrative procedures pertaining to outreach efforts by citizens.

SEEKING TO REGISTER AND VOTE: EXPERIENCES OF THE VOTER

Under the system of voter enrollment and participation currently used in the United States, the individual citizen must take the initiative in order to qualify himself as a voter. The preceding discussion has indicated that the law does not require local election officials to take the initiative and that many are unwilling to employ their numerous powers or fully utilize the efforts of citizen volunteers to reach potential voters.

In this context, the experiences of the individual citizen as he seeks to register and vote are extremely important. If the cost in terms of time, energy, inconvenience or personal pride is too high, the individual may choose not to vote. Considering the all too frequent occurrence of complex forms, unhelpful and poorly trained staff, machine breakdowns, and inconveniently located registration and polling places, it is surprising that so many citizens do vote. That the system functions at all is a tribute to the sheer determination of citizens to overcome these inconveniences and obstacles.

Registration is the first step in the voting process and the most crucial. When people register, they usually vote. In the presidential election of 1968, 89% of those persons who were registered actually voted. Observations of registration places and examination of formally stated registration practices provide some dramatic examples of the problems citizens encounter in trying to register.

The first problem that the citizen is likely to encounter will be finding the registration office. He may well have to travel a considerable distance from his home to a central registration office (except perhaps during the last month of registration for a particular election when he is more likely to find facilities in his neighborhood). In 40% of the communities studied, however, no additional registration places were opened even during these rush months. Since 54% of the registration places were not accessible by convenient public transportation, 24% lacked convenient parking, and 52% were not clearly identified as a registration or elections office, the prospective registrant may well be frustrated before he arrives.

TABLE E.—DISTRIBUTION OF REGISTRATION STAFF BEHAVIOR ACCORDING TO SOCIAL CHARACTERISTICS OF REGISTRANTS

Variables	Total samples observed		Registration staff behavior			Registration staff behavior		
	Percent	Percent	Helpful	Not helpful	Percent	Courteous		Discourteous
Social class [1]	N=209	100	100	48	52	100	62	38
Middle	125	60	100	54	46	100	68	32
Working	53	25	100	42	58	100	58	42
Composite	31	15	100	33	67	100	44	56
Race [1]	N=213	100	100	49	51	100	63	37
White	147	69	100	52	48	100	67	33
Primarily white	46	22	100	52	48	100	61	39
Composite	13	6	100	17	83	100	50	50
Primarily nonwhite	7	3	100	[2] (1)	(6)	100	12	88

[1] These classifications are based upon the judgment of registration observers.

[2] Refers to actual number rather than percentages.

Once he has located the registration office, the prospective registrant may find that it is not open for registration. In 29% of the communities, registration closes more than 30 days prior to an election. Even if he arrives before the registration deadline, the office may be closed since 77% of the communities studied had *no* Saturday registration and 75% of the communities had *no* evening registration during non-election months. While 52% of the communities did have additional registration hours during election months, 30% of these still had no additional Saturday hours and 17% had no additional evening hours.

The persistent citizen who anticipates and copes with the numerous obstacles already mentioned will next find himself confronted with a registration form. If the form is confusing or questions arise concerning his eligibility, he may not find the staff very helpful. Fifty-two percent (52%) of the observers at registration places classified staff as not helpful. Furthermore, in 30% of the places where bilingual staff was needed, it was not found.

There is no way to measure the number of citizens who are discouraged from registering even before they get to the registration office, but observations of 5,750 people attempting to register at approximately 300 registration places showed that 3 out of every 100 qualified people who made the effort and found the registration place still left without being registered.

Casting a ballot at a polling place is the ultimate event in the electoral process for the citizen. Although he has been successfully registered, the potential voter may be frustrated in his attempts to vote. Polling places, though usually located in his precinct, may be poorly marked (as were 38% of the polling places observed) and public transportation and convenient parking may be lacking. Fifty-eight percent (58%) of the places observed lacked convenient public transportation and 11% lacked convenient parking. Since polling places are not opened in the evenings in many states, the potential voter may need to take time from work or rush to the polling place before or after work. If he goes early he may not be able to vote because many polls open later than the hour prescribed by law as happened in 7% of the 484 polls observed. If he goes to the polls following work, he may find that he is refused the right to vote even though he is standing in line at closing time. Such refusals occurred at 19 of the polls observed.

The prospective voter who gets into the polling place will probably confront a poorly trained staff usually selected on the basis of their partisanship. If there are voting machines at his polling place, he may well be delayed in casting a ballot by a machine breakdown since this occurred in one out of every ten places having voting machines. His right to vote may be challenged as where the rights of 419 persons at the observed polls. In the event that he successfully casts a ballot, it must be attributed at least partially to his perseverance.

SUMMARY

In a democratic society, no right is more fundamental than the right of every citizen to vote. Indeed, the vote is the very symbol of democracy. It is the basic unit of our representative form of government; the major vehicle through which the consent of the governed is offered or withheld—the prime means by which the American people can express and effect their will. The right to vote, therefore, necessarily carries with it the right of equal access for every eligible citizen to the formal system of regulations and procedures through which the vote is cast.

In studying the way our current election system is administered, the League of Women Voters Education Fund found that the administrative practices of local election officials and therefore citizens' access to the election system vary greatly from place to place, that many state election officials have not established structures and procedures which would insure uniform interpretation and administration of state election codes throughout each state and that the discretion which most state laws give to local election officials is often exercised in a manner which impedes rather than enhances the citizen's right to vote.

There is an urgent need for administrative reform of our present election system. Citizens must no longer be forced to earn the "privilege" but rather must be insured the *right* to vote. They must demand that the discretion granted to local officials by current state laws be used for the purpose for which it was originally intended; to give election administrators the margin of flexibility they need to assure the access of all citizens to the vote under the varying social, economic and geographic conditions which exist within states.

RECOMMENDATIONS OF THE ELECTIONS SYSTEMS PROJECT COMMITTEE

An advisory Committee consisting of nationally prominent authorities and experienced practitioners in the fields of voting rights, citizen participation, and elections was convened by the League of Women Voters Education Fund and the National Municipal League to assist them in designing the Election Systems Project. Upon completion of the LWVEF survey, the Committee reviewed its findings and developed the following recommendations regarding elections administration as a practical means of removing unnecessary obstacles to voting. (See p. 3/NML).

Some of the measures recommended may require changes in some state election codes. The purpose of this report, however, has been to identify administrative obstacles and to document the need for eliminating them. It is now up to local and state officials and citizens throughout each state to decide which reforms their own election system requires and to employ whatever means would most effectively achieve them.

FINDINGS: CHIEF LOCAL ELECTION OFFICIALS

The administrative practices of local election officials were found to be diverse throughout the states. Data on their attitudes toward reforms that would extend the franchise as well as their perceptions of the problems citizens might encounter under the present system reflect a tendency to conceive of the vote as a privilege rather than as a right. These findings imply serious discrepancies between the citizens' Constitutional right to the vote and the actual practices which govern its implementation.

Therefore, the Election Systems Project Committee recommends: That the chief election official of every community comprehensively analyze community conditions and citizen needs by examining the registration rates of every precinct in his jurisdiction and by talking to representatives of various citizen organizations interested and active in issues of registration and voting participation;

That the chief election official of every community go the full limit of his legal powers in order to aggressively extend the right to vote to every eligible citizen. Such a program could include 1) maximum use of out-of-office registration techniques, e.g., use of mobile and other temporary registration units; 2) maximum authorization of qualified deputy registrars on a paid or volunteer basis; 3) the provision of bilingual staff where needed; 4) the publication and widespread dissemination of voter information guides; 5) the expansion of registration and polling place hours; and finally, 6) the use of all these techniques on the basis of voter need as revealed by his precinct analysis and information obtained through his community contacts:

That the chief election official of every community recruit, appoint, and train registration and polling place staff capable of and willing to respond to diverse citizen needs; that he or she further promote the highest standards of professional conduct by providing at least the federal minimum hours wage to all registration and polling place staff and by selecting staff based on qualifications above and beyond traditional partisanship.

FINDINGS: CHIEF STATE ELECTION OFFICIAL

The LWVEF study found that although the Secretary of State or State Attorney General is usually charged with general responsibility for administering the state election code, in fact, it is one of many duties of his or her office and therefore its implementation is, with few exceptions, decentralized to the local level. Where regular reports are made to a central state authority, moreover, the survey revealed that they generally contain no more than facts and figures regarding registration and voting rates and occasionally information on the kind of voting system used (automatic voting machines, paper ballots, etc.). Furthermore, where the state authority issues guidelines to local officials it usually provides no mechanism for monitoring or enforcing them.

The community study also found that, in the event that local officials are confused about how to interpret any part of the state election code, they must take the initiative in seeking state counsel. Except when their intervention is specifically requested, state authorities generally take little action to insure uniform and liberal interpretations of state election laws at the local level. Finally, state authorities generally do not monitor the way local officals use the extensive discretionary provided by most state election codes.

Therefore, the election systems project committee recommends: That each state locate responsibility for the implementation of state election laws in a single state official or office and that the uniform interpretation and administration of the election code throughout the state be the sole responsibility of that official or office;

That the state election official establish and issue to every local election official minimum standards and performance guidelines; that the state official also establish a supervisory structure within which he or she can evaluate the performance of local officials under the guidelines and take corrective action where the standards are not being met;

That the state authority conduct mandatory training sessions for local officials which cover both the technical aspects of efficiently managing an election system as well as the local officials' legal obligations to aggressively extend the franchise and protect the voting rights of all citizens;

That both the guidelines and the training sessions be developed within the philosophical context of the vote as a right rather than a privilege;

That the chief state election official through an established supervisory structure and regular training sessions keep local election officials abreast of the most current legal opinions on voting rights and establish reporting procedures that will assure local officials' compliance with the most recent court decisions.

FINDINGS: ORGANIZED CITIZEN INITIATIVE IN REGISTRATION AND VOTING

Since election officials have so often been unwilling to support outreach efforts, citizen groups have for many years tried to fill the void by initiating registration and voting services which would meet citizens' needs. The data show, however, that their efforts have often been impeded by the inefficient and restrictive practices of local election officials. Interviews with their representatives also show that citizen organizations recognize problems in the current election system that the officials tend to overlook.

Therefore, the election systems project committee recommends: That citizen organizations add to their present outreach programs an aggressive effort to scrutinize the policies and actions of local election officials during both election and non-election periods;

That citizen organizations demand not only a role in the selection process of the chief local election official in their communities but also adequate representation of their constituencies on local and state boards of election where they exist. Where they do not exist, an effort should be made to create them.

THE ROLE OF POLITICAL PARTIES, MASS MEDIA AND EDUCATIONAL INSTITUTIONS

Although the LWVEF study did not specifically examine the current role these institutions play in our election system, based on the overall findings and the experiences of Committee members, the following recommendations are offered.

Political parties, because of their vital role in a democratic society have a responsibility to see that responsive and responsible election officials are appointed and elected. They must use their considerable influence to insure that election officials use their discretionary power to aggressively recruit voters and to allocate available resources in an manner that expands the electorate. Political parties should further support all efforts to provide adequate funding for local election officials.

Mass media should direct its enormous capabilities toward both informing the public of its voting rights and increasing the visibility and therefore the public's awareness of the system and administrators through which that right must be exercised. Such efforts might include a regular newspaper column devoted to registration and voting information, e.g., the requirements of the law, location and office hours of local registration and polling places, announcement of deadlines, etc. Reporters should cover not just the election but also the operation of local election systems on election day. Officials should allow reporters access to the polls at any time during the polling process.

High schools and colleges, through their curricular or extracurricular programs, should provide information on the legal and administrative requirements pertaining to the franchise. By this means, not only can the crucial facts be made known, but a new regard for the vote as an undeniable right rather than a privilege might be fostered within every American citizen.

MEMBERS OF THE ELECTION SYSTEMS PROJECT ADVISORY COMMITTEE, LEAGUE OF WOMEN VOTERS EDUCATION FUND

COCHAIRMEN

Mrs. Fay Williams, Trustee, League of Women Voters Education Fund.

Hon. Wilson W. Wyatt, Regional Vice President, National Municipal League.

Monsignor Geno Baroni, Director, Center for Urban Ethnic Affairs.

Charles A. Barr, Director, Political and Economic Education, Standard Oil Company.

Robert L. Bennett, Director, American Indian Law Center, University of New Mexico.

Mrs. Lucy Wilson Benson, Chairman, League of Women Voters Education Fund.

Col. C. K. Blum, Chief, Federal Voting Assistance Task Force.

Earl Blumenauer, Assistant to the President for Student Affairs, Portland State University.

Mrs. Willie Campbell, Chairman, Special Research and Projects, League of Women Voters Education Fund.

Michael Cole, Executive Director, Youth Citizenship Fund, Inc.

Steven Galpin, Manager, Community and Government Relations, General Electric Company.

Donald G. Herzberg, Executive Director, Eagleton Institute of Politics, Rutgers University.

Benjamin S. Hite, Formerly Director of Elections, Los Angeles County.

Mrs. Delores C. Huerto, Vice President, United Farm Organization Committee, AFL–CIO.

Mrs. Barbara Jordan, Member, Texas Senate.

Mrs. Charlotte Kemble, Executive Director, Front Lash, Inc.

Dr. Penn Kimball, Graduate School of Journalism, Columbia University.

John Lewis, Executive Director, Voter Education Project, Inc.

John Perkins, Assistant Director, Committee on Political Education, AFL–CIO.

Dr. William J. Pierce, Professor of Law, School of Law, University of Michigan.

Matthew A. Reese, President, Matt Reese & Associates.

John Sayre, Director, Precinct Voting, Republican National Committee (Formerly Chief of the Federal Voting Assistance Task Force).

Richard Scammon, Director, Elections Research Center.

Governor William Scranton, President, National Municipal League.

Mrs. Althea Simmons, Director for Training Programs, NAACP.

Mrs. Albert Sims, Former President, League of Women Voters of Connecticut.

Dr. Richard Smolka, Editor, *Election News*, The American University, Institute of Election Administration.

Mrs. Julia Stuart, Member, National Municipal League Council, Former President, League of Women Voters of the U.S.

Miss Amalia M. Toro, Election Attorney, Office of the Secretary of State, Connecticut.

Richard F. Treadway, Director, U.S. Department of Commerce, Boston Business Services Field Office.

Gus Tyler, Director, Politics, Education & Training, International Ladies Garment Workers Union.

Mrs. Ann Wexler, Director of Voting Rights Activities, Common Cause.

PARTICIPANTS IN COMMUNITY SURVEY: APPENDIX A

(City and State)

ALABAMA

Birmingham
Auburn
*Montgomery
Tuscaloosa
Mobile

ALASKA

Anchorage
Ketchikan-Gateway
Kodiak
North-Star Borough (Fairbanks)

ARIZONA

*Gila River Indian Reservation
Phoenix
Tucson
Yuma

ARKANSAS

Pine Bluff
*Pulaski County (Little Rock)
Voter Education Project Texarkana, Texas

CALIFORNIA

Union City Alameda County
Berkeley
Sacramento
Eureka
Los Angeles
North San Mateo County
Los Gatos
Fresno
Redding
*San Diego
San Francisco
Tulare County

COLORADO

Arapahoe County
Boulder
Craig & Moffat County
Denver
Ft. Collins
Jefferson County
Durango

CONNECTICUT

Branford
Bridgeport Area
Greenwich
*New Haven
West Hartford
Wilton

DELAWARE

Laurel, Greater
Wilmington, Greater

FLORIDA

Clearwater Area
Dade County
Hillsborough County
Sarasota County
Tallahassee

GEORGIA

Atlanta-Fulton County
Augusta
Macon
Savannah

HAWAII

Honolulu
Hawaii County

IDAHO

*Boise
Idaho Falls
Lewiston
Pocatello

ILLINOIS

*Chicago
Highland Park
Hinsdale-Clarendon Hills-Oak Brook
Morgan County
Peoria
Springfield
Edwardsville

INDIANA

Bloomington
Gary
Indianapolis
South Bend
Fort Wayne-Allen County
Lafayette, Greater
Porter County
Seymour

IOWA

Algona
Des Moines
Keokuk
Mt. Pleasant
Scott County (Davenport)
Sioux City
Waterloo-Cedar Falls

KANSAS

Emporia
Hays
Parsons
Shawnee-Mission
Wichita

KENTUCKY

Boone, Campbell, Kenton Counties
Lexington
Louisville and Jefferson County
Richmond

LOUISIANA

Baton Rouge
Jefferson Parish
New Orleans

MAINE

Bangor
*Lewiston-Auburn
Orono
Portland

MARYLAND

Baltimore City
Baltimore County
Dorchester County
Garrett County
Montgomery County
Prince Georges County

MASSACHUSETTS

Arlington
Boston
*Fall River
*Framingham
New Bedford
Northampton
Plymouth-Kingston
Southbridge-Sturbridge

MICHIGAN

Allen Park
Alpena County
Copper County: Houghton & Ontonag
Jackson County
Flint
Grand Traverse
Kalamazoo Area
*Mt. Pleasant

MINNESOTA

Austin
Roseville
Duluth
Hibbing
Minneapolis
Bloomington

MISSISSIPPI

Jackson
Oxford
Vicksburg-Warren County

MISSOURI

Kansas City
Cape Girardeau County
*Jefferson City-Cole County
Rolla-Phelps County
Springfield
St. Louis

MONTANA

Billings
Helena
Missoula
Ravalli County

Footnote at end of list.

NEBRASKA

Kearney
Lincoln
Omaha

NEVADA

Carson City
Reno

NEW HAMPSHIRE

Concord
Keene
Littleton
Peterborough

NEW JERSEY

Camden County
Cumberland County
Franklin Township
Ridgewood
Morristown Area
Newark
Cranford

NEW MEXICO

Albuquerque
Las Cruces
Santa Fe

NEW YORK

Buffalo
Canton & Potsdam
New Rochelle
New York City
Oyster Bay (L.I.)
Rochester (Monroe County)
Syracuse, Metro Area
Utica
New Platz

NORTH CAROLINA

Charlotte-Mechlenburg
Durham
Raleigh-Wake County
Tryon
Watauga County
Winston-Salem & Forsyth County
Eden-Rockingham County

NORTH DAKOTA

Fargo Area
Grand Forks

OHIO

Bowling Green
Cincinnati Area
Cleveland
Columbus, Metropolitan
Dayton Area, Greater
Kent

OKLAHOMA

Bartlesville
Chickasha
Stillwater
Tulsa

OREGON

Medford; Jackson County
Central Lane County
Deschutes County
East Washington County
Lake Oswego
Portland

PENNSYLVANIA

Clarion County
Erie County
Lancaster County
Pittsburgh Area
Radnor Township
*Scranton

RHODE ISLAND

*Barrington
North Providence

SOUTH CAROLINA

*Charleston
Clemson
Columbia Area
Greenville

SOUTH DAKOTA

Brookings City and County
Rapid City
Vermillion
Yankton County

TENNESSEE

Knoxville and Knox City
*Memphis-Shelby County
Murfreesboro
Nashville

TEXAS

Brazos County
Corpus Christi
Dallas
El Paso
Lubbock
San Antonio Area
Tarrant County
Houston

UTAH

Cedar City
Ogder County
Salt Lake City

VERMONT

Champlain Valley (Burlington)
Montpelier
Woodstock

VIRGINIA

Fairfax Area
Lynchburg
Norfolk-Virginia Beach
Richmond Area

WASHINGTON

*Port Angeles
Seattle
Spokane
Thurston County
Yakima

WEST VIRGINIA

Charleston Area
Huntington Area
Logan Area
Morgantown
Wood County
*Wheeling

WISCONSIN

Dane County
La Crosse
Milwaukee, Creater
Neenah-Menasha
Racine
Stevens Point
Superior
Wisconsin Rapids

WYOMING

Laramee County
Casper
Powell Area

WASHINGTON, D.C.

VIRGIN ISLANDS

St. Thomas

FOOTNOTE

* For purposes of this report, data from these communities are not included in the analysis.

PARTICIPANTS IN THE STATE SURVEY (N=47): APPENDIX B

Alabama
Alaska
Arizona
California
Colorado
Connecticut
Delaware
Florida
Georgia
Hawaii
Idaho *
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey *
New Mexico
New York
North Carolina
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming *

FOOTNOTE

* Data from these states were not available for this analysis.

INTERVIEWS COMPLETED: APPENDIX C

	No. of Interviews
Government Officials:	
Chief elections officer of city	86
Chief elections officer of county	158
Mayor	193
City manager	111
President of City Council	99
Chairman of County Commissioners	175
Party Officials:	
Democratic Party chairman	203
Republican Party chairman	200
Third Party chairman	41
Representatives of Citizen Groups:	
League of Women Voters	219
NAACP	118
Labor Council	160
Youth Group	61
Chamber of Commerce	203
American Legion	144
Non-Black Minority Group	63
Total	2,234

APPENDIX D

Number of registration observations:	
Observations at permanent places	299
Observations at temporary places	94
Observations at mobile units	9
Observations at unclassified places	56
Total	458

APPENDIX E

Polling places observed:	
Ethnic white—under $5,000	37
Ethnic white—$5,000 to $10,000	60
Ethnic white—over $10,000	47
Nonethnic white—under $5,000	57
Nonethnic white—$5,000 to $10,000	67
Nonethnic white—over $10,000	70
Spanish speaking—under $5,000	22
Spanish speaking—$5,000 to $10,000	15
Spanish speaking—over $10,000	3
Black—under $5,000	51
Black—$5,000 to $10,000	43
Black—over $10,000	13
Total	484

NIXON ADMINISTRATION ATTEMPT TO EXPLAIN UNEMPLOYMENT BOTH WAYS WON'T WASH

Mr. PROXMIRE. Mr. President, on Friday, the Joint Economic Committee conducted its 13th consecutive hearing on unemployment statistics. This was the 13th time Commissioner Moore has come before the committee to explain the significance of the single statistics that probably has more impact than any other.

Presidents can and often do rise and fall on this statistic. What makes our hearings especially significant is that during virtually the entire year while we have been having these hearings—a year categorized by the administration and others as a recovery period—unemployment has stayed close to the same dismal 6-percent level. Some recovery.

I ask unanimous consent that excerpts from the hearing of last Friday, April 7, be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPT FROM HEARING BEFORE THE JOINT ECONOMIC COMMITTEE, APRIL 7, 1972

Chairman PROXMIRE. The new economic program of President Nixon seems to be working, on the inflation side. This surprises me a little. As a Democrat I have been critical.

You point out that prices have not gone up quite as much since the new economic program went into effect. And you point out that wages have gone up not quite as much, is that correct?

Mr. Moore. Not quite as much as they did before.

Chairman Proxmire. That is my point.

Mr. Moore. Right.

Chairman Proxmire. And, of course, that was the purpose of the freeze, the purpose of the inflation aspect of an economic program. So, that is mighty encouraging.

Represenative Conable. Real wages have gone up more, haven't they?

Mr. Moore. I would say they have been increasing at about the same rate on an hourly basis, but they have gone up more on a weekly basis—because of the increase in the length of the work week, they are taking home more pay because of longer hours.

Chairman Proxmire. On the other hand, would it be fair to say that the unemployment level still remains around 6 percent, where it has been since November of 1968, and has been for about 17 months.

Mr. Moore. Well, there are various ways of saying the same thing. I think the quarterly figures probably give a fair picture of the general levels and trends over a period of time. And the first quarter figure is just slightly lower in terms of the percentage rate on unemployment than it was during last year. But it is only a very slight decline.

Chairman Proxmire. So it is working on the inflation end, the new economic program of the President. It is failing, I think dramatically, on the employment end, inasmuch as you have had no improvement, and it has been at a very high level in terms of the experience over the last five or six years. Is that a fair conclusion?

Mr. Moore. Well, I continue to stress the employment as well as the unemployment side.

Chairman Proxmire. Good. And I think this is a very propitious time to do it because of the nature of the statistics during the past months.

Tell me now if this is a fair summary of the situation.

Unemployment for teen-agers is down this month, but it was close to an all-time high a month ago, it is down a little.

Blacks, whose unemployment has been very high, is the same.

Everybody else is worse off, apparently, white males, adult women, the 20 to 24 age group—I am not sure about the latter, but everybody else seems to be worse off this month, is that right?

Mr. Moore. Well, I will have to point to the married males. They are about the same, 2.8 percent.

Chairman Proxmire. What is fascinating about this is that it is kind of a reversal in many of those areas from what we have had before this month. Congressman Conable was pointing that out to me on the price thing, and I think it is true on the employment side, too. In the recent past we have had bad news in some of the areas where we have good news this month, and vice versa. And I think that applies to the interpretation which you gave us of the overall figure to a considerable extent.

Unemployment went up——

Representative Conable. About 160,000.

Chairman Proxmire. Unemployment went up—you point out that there was nonetheless a big increase in the number of jobs, the job seekers pouring into the market were so great that unemployment rose, is that correct?

Mr. Moore. Well, again, I think you can always look at the employment and the unemployment side separately, if you add them together, you get the total labor force. But it seems to me it is simplest to think of the number of people who have good jobs increased very substantially over the months, and the number of people seeking jobs without jobs also increased, but relatively modestly. Adding the two together, you get a big increase in the total number in the labor market that are either at work or seeking work. And that was a very substantial increase, better than 750,000.

Chairman Proxmire. Is the big difference simply seasonal adjustment?

Mr. Moore. Well, it may have something to do with the change between February and March. But we regard the March adjustment as reasonably secure.

Chairman Proxmire. I am really puzzled, you know. It is hard to understand this kind of a situation. It is worse and it is better, much worse and much better, the same month, the same time. It seems to me that—I am baffled, I have been chairing these hearings and listening to this kind of testimony now, fine testimony, from you, for more than a year. And if I am puzzled, think what the typical citizen who doesn't follow this very closely must be.

Mr. Moore. I think the only answer I would have to that is that it is simply very important to look at more than just one month. Those figures, because of sampling variations, because of problems with seasonal adjustment, and other things that happen to affect one particular month, vary from month to month quite sharply. But if you look at the trend over a longer period, I think you get a more reliable picture of what is going on in the economy.

And I think, too, you have to look at a variety of other figures which we have as well that have a bearing on the total situation. And doing that, as I said, I think I would characterize the situation as showing a continued rapid rise in employment that we have had at least since last summer, and a fairly steady level with some decline, but not marked, in the volume of unemployment.

Chairman Proxmire. Let's square that observation with what your superior in the Labor Department has said. Last month the unemployment dropped to 5.7 percent. Secretary Hodgson said what appeared to be the opposite. I quote from his statement: "As we observed, an extraordinary number of job seekers, especially Vietnam veterans, have been pouring into the labor market, straining the market capacity to absorb them all. As expected, when the inflow of job seekers eased off, the unemployment rate retreated. The 5.7 figure for February released today confirms what we have been saying, and strengthens our faith in President Nixon's economic program."

That was last month, when we had the reverse kind of situation. That was Secretary Hodgson's explanation.

Now which is it, Mr. Moore, this month's explanation or last month's explanation?

Mr. Moore. Well, again I would like to stick to my view that you have to look at those figures over a longer period than a month.

Chairman Proxmire. Last month you could agree with the Secretary of Labor, who is the President's principal political appointment in this area and who is also your boss. This month the statistics are different, and you have to disagree with his last month's interpretation, is that right?

Mr. Moore. No. I think the basic trend of employment is favorable. It is at a very rapid pace. It is bound, if it keeps up at that pace, to reduce unemployment. Now, it won't reduce unemployment every month, because these numbers just don't behave that way. But I think it is a very strong trend on the unemployment side. And it is also true that it has not so far had very much effect on the unemployment rate.

Chairman Proxmire. Well, if faith in the President's economic program was strengthened last month, why isn't it weakened this month.

Mr. Moore. Well, one of the objectives, it seems to me, that we all want is an increase in the number of people at work, the number of jobs that has occurred. So, I don't see any reason for failing to consider that aspect of the matter.

Chairman Proxmire. My time is up.

Mr. Conable.

Representative Conable. Dr. Moore, how many people are working now compared to a year ago? That takes up the seasonal adjustment factor, does it not?

Mr. Moore. Yes. The number employed a year ago was 77.5 million.

Representative Conable. Is that total employment or non-agricultural?

Mr. Moore. That is total employment, 77.5 million in March of 1971. And it is 80.2 million in March of 1972. But I must point out that between December and January we made an adjustment in the estimation procedure which added about 300,000 to the employment total.

Representative Conable. That would be 2.7 you had made no adjustment?

Mr. Moore. It would be 2.4 if you allow for that adjustment, and 2.7 if you don't. And I think you ought to allow for it.

Representative Conable. So, employment has risen by at least 2.4 million since a year ago?

Mr. Moore. Yes, sir.

Representative Conable. Now, what has happened to the total number of unemployed people in that same period of time?

Mr. Moore. Well, it was 5.2 million in March of 1971, and 5.2 million March of 1972. And there the adjustment for the population shift is virtually negligible, so I think we can ignore it.

Representative Conable. So, in effect our labor market has grown by 2.4 million during that period of time, taking out the adjustment change in the last month?

Mr. Moore. That is correct.

Representative Conable. What growth rate do we have to have from now on? Can we assume a constant increase in the labor market? What growth rate do we have to have to cut into it roughly 6 percent unemployment that we have got? I have heard it said previously that roughly 4½ percent real growth rate was necessary to absorb the number of people coming into the job market in employment.

Does that figure still hold?

Mr. Moore. Well, Mr Conable, I am going to stick to my last and avoid forecasts. I do know that the rate of increase in the labor force of 2.4 million is an unusually rapid rate. And we don't expect that over the long run, and we haven't had it in the past over the long run. So, that if the increase in employment of 2.4 million over the past year continues, it seems to me inevitable that it will reduce unemployment.

Representative Conable. Our labor force, in other words, has been increasing faster than our population during the same period, is that accurate?

Mr. Moore. Yes.

Representative Conable. What you are saying in effect, then, is that if we maintain this rate of increase in employment, we should see a percentage statistical improvement also?

Mr. Moore. Yes. But everything depends on what happens to the labor force. And just looking at the past experience, that would seem to be a reasonable prospect. But as I say, I am not able to forecast either the labor force or employment or unemployment.

Representative Conable. Now, looking at these statistics that you brought in for this month, do you have any change in your attitude as to what the soft spots in the economy are? Do you see any statistics that are to you as a statistician considerably more significant than the statistics you brought to us last month, or do you consider the trends to simply have maintained themselves during this period of time? Do you find any areas of change that are significant to you as a statistician, that is what I am saying.

Mr. Moore. Well, I think the one thing that I have learned in the last months is, I have been studying what has happened in the manufacturing sector. And that is what I mentioned earlier in my statement. That has been, as I say, a sluggish sector in terms of total unemployment.

Representative Conable. In terms of something that I think needs some emphasis, the situation in manufacturing seems to me to be undergoing change. And what I see is that with increases in the hiring rates, reductions in the layoff rates, the net accession rate, which is the difference between the hirings and the separations, has gone up to about the level that it had in 1968, which is just about a complete recovery in that rate of accession to manufacturing payrolls. And unless you study those particular statistics which we issued, you are very likely not to observe them in the total employment figures. And that is one of the things that I would say in expressing this point.

Representative Conable. Let me ask you if you feel any concern about the rise in the wholesale price index for industrial commodities of .3 percent. That is somewhat higher than it has been, is it not? And this, of course, tends to translate into even greater retail price increase, where this is largely negated in this month's statistics by the decline in the cost of farm products and processed foods. It seems to me that last month we had somewhat the reverse of that, with food prices going up quite sharply, and industrial commodities going up only modestly. At that time, as I recall, you told us that food prices had wide short range swings, and that the significant factor was the industrial commodities. Do you see any concern about the increase to .3 percent? Is that likely to translate itself into a rising spiral of inflation on the CPI ultimately?

Mr. Moore. Well, the rate of increase in the industrial commodities component of the wholesale price index has been between .3 and .4 ever since December. And it is .3 this month, last month it was .4, and the month before it was .4, and the month before that it was .3. So, it has been in that range.

Now, that is a rate of increase that I think is higher than most of us want to see.

Representative Conable. Is that what you call a bulge still, a bulge, following phase 2?

Mr. Moore. It certainly could be that. We don't really know that until you see the bulge disappear. It is hard to see a bulge while it is still on you, or see whether it is a bulge.

Chairman Proxmire. This is about the best meeting that we have had. I am enjoying this a great deal.

I don't mean to interrupt your train of thought, but it looks like it is a good idea to have the same witness back over and over again, because after rehearsal you seem to be in great shape now. It is like having a play on Broadway for seven years, 2,000 performances, by the last performance they are doing pretty well.

Representative Conable. Speaking for myself, I can see my bulge. I can't see beyond it.

Mr. Cates. Senator, this is our first anniversary.

Chairman Proxmire. You have been here every single month explaining the labor statistics since a year ago. This is literally the 13th time.

I am sorry to interrupt. Go ahead.

Mr. Moore. Perhaps Mr. Popkin, who is our expert on prices, can offer some further observations on this whole situation.

Mr. Popkin. I think there are a couple of points here. One of them, which can be seen from the table that Commissioner Moore asked to be placed in the record, is the fact that with respect to the industrials component of the WPI, if you look at its performance during the entire stabilization period from August through March, the increase is at an annual rate of 1.8 percent.

Now, if you break that down—let's say compare phase 2 to the six months before the stabilization policy—you see that these three-tenths and four-tenths monthly changes which Commissioner Moore just cited translate to an annual rate during phase 2 of 4.2 percent, which is 1.5 percentage points below the 5.7 rate that obtained in the six-month just immediately preceding the initiation of the stabilization program.

With respect to the question of the transmission of wholesale price changes, say, for industrials into retail price changes, I think that it has got to be looked at at several levels. The industrial commodities components included crude materials, intermediate materials, and consumer finished goods.

Now, in this particular month, for example, lumber and metals and metal products were very important factors in that three-tenths rise. You see, you have got to go from that stage to their translation into consumer finished goods, and then from there to the CPI. So, the effect of any particular rise in the industrial component really depends on where it is taking place, and what the speed of transmission and the amount of transmission is. By that I mean, let's say, if steel goes up by "X" percent, but steel is 5 percent of the cost of the finished goods that the consumer buys, you don't assume that that "X" percent is passed through.

Representative Conable. My time is up, Mr. Chairman.

Thank you.

Chairman Proxmire. Dr. Moore, you declined to give Mr. Conable—I thought it was a very significant question and discourse—you declined to give him what the rate of growth was that was necessary to cut into employment, as I understand it, is that correct?

Mr. Moore. The rate of growth——

Chairman Proxmire. The rate of growth of the economy necessary to reduce unemployment.

Mr. Moore. Yes, sir.

Chairman Proxmire. That is such a significant question that I don't know how we can adopt the right kind of policies or indeed appraise the integrity or honesty of President Nixon's 5% unemployment by end of 1972 predicted unless we have some information on prospective economic growth, some way to get an answer to it.

I know you don't like to make predictions. But from what you know from the past, would you be willing to say, then, that a 5 percent level of unemployment by November is a reasonable possibility?

Mr. Moore. I just don't want to say anything on that.

Chairman Proxmire. You can't tell us whether President Nixon is being responsible or not, even in your position.

Mr. Moore. I believe my position is to present the statistical facts to the——

Chairman Proxmire. I have no question about you, your reputation and background, what I am trying to find out is whether the President could have any basis for this, or whether it is just a political statement. You are in the Administration now. You are his principal professional authority. From what you are saying it looks as if the President's statement is just based on politics and not based on any kind of sound economic analysis that is possible, is that right?

Mr. Moore. No, I don't think that is right.

Chairman Proxmire. Why isn't it right? I don't want to be unfair. Why isn't it right?

Mr. Moore. It is not based on my own economic analysis. He has his own economic advisers, and they provide him with——

Chairman Proxmire. You are too modest. Are you telling me that if you had more ability that you would be able to make this kind of conclusion? I won't accept that.

Mr. Moore. I don't want to be that modest.

Chairman Proxmire. You are coming right out of Dickens, you are really humble.

Mr. Moore. My point is simply that I think the Bureau of Labor Statistics that I represent today should present the facts and should avoid speculation as to what the facts may be six or twelve months in the future.

Chairman Proxmire. To get into industrial prices, they rose at a .2 percent rate in March.

Mr. Moore. .3 percent.

Chairman Proxmire. I stand correct, .3 percent. This was almost as great as in the early part of last year.

Now, I indicated that overall there may be some progress, slight progress in the President's inflation fight. Do you think this bears that out? Do you think this month is encouraging in that regard, too?

Mr. Moore. Well, I think I can only point to this table that shows the rate of increase in industrial——

Chairman Proxmire. It looks like I am too biased on the side of the President. I am helping him too much.

Mr. Moore. There has been a reduction in the rate of increase of industrials, the prices, from 5.7 percent prior to the freeze to 4.2 percent since the freeze was ended. And that is a reduction.

Chairman Proxmire. Your employment release states that total employment has risen by 2.4 million since March of 1971, that is, in the last year the total employment has been very encouraging. Can you and your staff tell us how much of this increase has been in full time employment and how much in part time?

Mr. Moore. Mr. Cates tells me that the increase in full time employment over the year ending in March was 2.1 million, and in part time it was 600,000. Now, each of those figures includes this upward adjustment because of the change in the method of estimation in January.

Chairman Proxmire. Would you repeat that?

Mr. Moore. The two figures?

Chairman Proxmire. Yes.

Mr. Moore. For the full time it is an increase of 2.1 million, and for the part time an increase of 600,000. But both of those figures include the upward adjustment that we made in January for the change in the population base. And I don't have, unless Mr. Cates has it here, if broken down separately for the part time and the full time. Overall it was an upward adjustment of 300,000. So, both of those figures, the 2.1 and the .6, need to be adjusted downward for that factor.

Senator Proxmire. The encouraging aspect of this is that most of us rather look at part-time employment when we analyze unemployment. And the fact is that if a person works one hour as I understand it, one hour at any time during a week, he is considered employed.

So that the part-time element does tend to distort the picture pretty badly, unless people understand that.

Mr. Moore. Oh, yes. But though there is a large number of people employed part time and, the number of people who work only one hour is certainly very small. That has been increasing, though not as rapidly as I indicated the full-time employment is increasing.

Senator Proxmire. Dr. Moore, the increase in the labor force is very very large, as you pointed out, over the past year. Have you made any analysis of the factors involved in the increase? What has happened to the number of discouraged workers?

Mr. Moore. Well, we have figures quarterly on the number of discouraged workers, that is, those who are not in the labor force and who would like to have a job, but who think there are no jobs available. And those numbers were higher in 1971 and the first quarter of 1972 than they were during 1970, by about 150,000.

And the figure for the first quarter of 1972 is 800,000 in that group. So I think that during the year, that is, during the year, during 1971 as a whole, there has not been any particular trend one way or the other. The figure for the first quarter of 1971 was just about 800,000 also. But there has not been any upward trend in the number of discouraged workers.

Senator Proxmire. We have been interested, as you know, in this committee more than the Administration has been, because they have done very little in it, and we have done a lot. And maybe we have exaggerated it, but we have been interested in the effects of the military program on employment and unemployment.

There was almost nothing in the President's economic report until this year, when they had, I think, one or two pages out of one hundred and sixty, and those pages were very skimpy. And we had a very substantial part of our report dealing with that. What proportion of unemployment can be charged to defense cutbacks? Can you give me a number? I have seen a number as low as .1 of 1-percent, although the Administration, without much analysis, has indicated that this is one of the principal reasons for the difficulty in improving the unemployment picture.

Mr. Moore. I don't have a figure in my head, sir, on that.

Senator Proxmire. Would you say that .1 of 1 percent sounds out of line? Would you dispute it?

Mr. Moore. I would say it sounds low to me, but I just don't have the numbers in mind.

Senator Proxmire. It sounds low, but it is possible?

The best our staff can come to is .1 of 1 percent.

Let me proceed a little further. Actual total outlays for defense have not been reduced at all. There has been a shift in the amounts being proposed to be spent up $6 billion in the coming year. And it is true there had previously been a sharp cut in real terms because of inflation, of course. And there had been a reduction, an enormous reduction in the number of people in the Armed Services from 3.5 million to 2.4 million. Also, because of pay increases there has been no substantial change in the gross amount of pay. Is it right or wrong to attribute unemployment to these military decisions when virtually no dollar cut has been made in defense, and we can anticipate an increase?

Mr. Moore. I would make this observation, that in any period when substantial shifts are occurring in the direction of the economy away from defense spending and toward the other spending, and out of the Armed Forces and into the labor force, those shifts require adjustments. And they usually take some time to make. And one of the results of them is that people are looking for jobs for longer periods of time, and they are more likely to end up in the unemployment count that we make than in times when everything is going along more or less smoothly.

So I think a period of shifting priorities is one in which more people will be looking for other types of work than what they have had. And certainly in the aerospace industry that has been a big factor.

Senator Proxmire. You know how much I respect you as an economist. And what you say is certainly the conventional wisdom. But how do you account for what happened right after World War II? At that time we cut about $70 billion from the defense budget. And it was a far smaller economy, about a quarter of the size of what the economy is now in dollar terms.

We reduced the military by 10 to 12 million, not one and a half million. But unemployment went down, not up. So why is it that with virtually no dollar cut in defense and only one million men out from the Armed Forces in two or more years, why is there any unemployment due to this fact?

Mr. Moore. Well, I think one great difference between World War II, or the post-World War II, immediately after the war, and now is that then there had been a long period of several years of suppressed demand. There were cutbacks of all sorts in consumer goods production, and demands on the part of consumers were building up. And the consumers went into the market to get goods immediately after the war, that had been controlled prior to that. And that stimulated the market for private production and stimulated the employment in those industries very rapidly.

Now, herein recent years there has been no such cutting back on the demand side that accompanied the war period, the building up of the Vietnam period. And consequently I don't believe there is anything like the amount of pent-up demand that there was during and immediately after World War II.

Senator Proxmire. I think you have made the best possible case for a very impossible position. It is a fine defense, but my common sense doesn't let me accept it, that you could have a situation in one case where you had an enormous and dramatic sudden reduction of military spending from 50 percent of our gross national product to almost zero with, as I say, no increase in unemployment, and in this case very little change.

And the Administration was saying that the reason that unemployment is so bad is because the war, the Vietnam war.

But I have detained you a long time. I have just a couple more questions I would like to ask about wholesale prices.

With the decline in wholesale prices for farm products—from 120.2 to 118.6 seasonally adjusted in one month—and the decline of 119.6 to 119.1 in over-all farm products, processed food and feed category, how do you explain the continued rise in wholesale prices?

Mr. Moore. You mean the wholesale prices of farm products?

Senator Proxmire. No, the overall rise in wholesale prices. Everybody is saying, the Administration is saying, well, prices have gone up because of the food prices, until recently they were saying that that was the explanation. Now we have a different situation, that our explanation just doesn't apply now.

Mr. Moore. I think that non-food prices, the prices of goods other than foods, did continue to go up. It is only the farm products and the foods that declined. And all I can say is that one declined and the other went up.

Senator Proxmire. We know that. But you tell us why.

Mr. Moore. Well, I really don't understand your question. Are you asking why farm products prices went down and other prices continued to go up?

Senator Proxmire. I am asking you to explain what actually happened.

Mr. Moore. This is what actually happened. The farm prices in March went down at the wholesale level, and the prices of non-farm products continued to rise.

Senator Proxmire. Are you telling me that there is no explanation? And if there isn't what is the Congress and the public going to do? If anybody in the country can explain it, you can. And I don't mean that as sarcasm, at all. You are the man that the President has picked, and he has wisely picked. And if you can't explain it, it is inexplicable. It is like even God doesn't have an answer.

Mr. Moore. Let me make an attempt and maybe Mr. Popkin can help me out.

Senator Proxmire. Call on the Angel Gabriel.

Mr. Moore. In the case of non-farm products I think there has been a continued increase in the money volume of demand. Incomes have continued to rise, they haven't been dropping, at all.

And with that demand, the prices have tended to keep on going up. And that is despite the controls that have been put on prices, they haven't stopped the rise completely.

On the other hand——

Senator Proxmire. Are you saying that in a situation in which we have 25 percent of our capacity idle, that there has been a demand that is driving up prices?

Mr. Moore. The money volume of demand has continued to go up all through this two or three year period quarter by quarter. So I think that has been a factor.

Personal incomes have continued to go up all through the period, and they are still rising relatively rapidly.

So that is the background of the demand side.

Now, with reference to farm products, why did they go down this month? I guess all I can say—and maybe Mr. Popkin can amplify it—is that farm product prices fluctuate, they go up rapidly in one month, and stop going up or decline in another month. And they have been doing that all during the past year. And they have kept on doing it this month. That is, there was a very rapid rise in February, and there was a small decline in March.

Now, what explains the fluctuations in farm prices, and why they fluctuate more than industrial commodity prices, is a very big subject. It has to do with the shifts in the supply of farm products from month to month. But in general, I think the supply situation changes much more rapidly in the farm sector than it does in the industrial sector.

Senator Proxmire. Does Mr. Popkin want to add to that?

Mr. Popkin. I think it does get back to supply and demand. But the supply curve is usually defined to include costs of products. And the shifts in the farm area are much greater, and seem to have a lot to do with the large fluctuations that we observe in the farm product prices. But nonetheless there are shifts in demand and supply curves in the industrial area. I think, for example, that within the industrials group there were declines from February to March for two major groups, rubber and plastic products, and chemicals and allied products. And I guess you would ask, why did those products go down and the rest of the industrials go up? And I think it does get back to supply and demand.

Again the supply curve is defined as including returns to all factors of production.

Senator Proxmire. I think that is a good answer. But we have to terminate this. Let me just ask the final question.

Dr. Moore, an article appeared in the Wall Street Journal on March 31, and I am going to quote it to you and ask your response:

"Specialty steelmakers, eager to cash in on an upturn in demand, are pushing through across-the-board price boosts of one of their highest volume products, stainless steel sheet. As is typical in the industry. . . . increases don't result from higher list prices but a reduction in discounts."

The article goes on to say that discounts are being reduced by 5 percent, which is effectively a 5 percent price increase to users of stainless steel. I intend to question Mr. Grayson next week when we are having our hearings on the Prseident's program on inflation—and we will have Mr. Meany later, of course—I intend to question Mr. Grayson next week on the Price Commission's role in this increase.

However, I would like to know from you,

Dr. Moore, how this 5 percent increase in stainless steel prices will be reflected in the wholesale price index. How does BLS collect price information, from the seller at list discount prices or from the buyer?

If fluctuations and discounts are not taken into account, how can the Wholesale or Consumer Price Indexes accurately reflect actual prices being paid? How can the WPI or CPI possibly measure the success or failure of a wage-price control program?

Mr. Moore. Well, I can only give you a general answer to that question. We can supply more details for the record, if you wish. The Wholesale Price Index is based in part on list prices. But it is a relatively small part. And over-all—

Mr. Popkin. When you say "based on list prices" that statement reflects the fact that for some commodities we have to rely on prices published in trade journals. And we don't go directly to sellers in those areas.

In other areas were we do go to sellers, we may in fact get a list price.

But I would like to point out that the questionnaire that is used in collecting wholesale prices asks for all discounts and changes in them. So it isn't that we go out to collect list prices, we go out to collect transaction prices. We don't always get them.

And our guess is that the portion of the wholesale price index for which we either have to rely on trade publications or for which sellers do not, and for which we feel, report transactions prices, but in fact report list prices, that portion we would estimate to be 20 percent of the weight of the index. But it is by no means a pervasive problem. We know the sectors where we have some problems, and we are working on them.

In the January Wholesale Price Index, for example, we are making a transition to a new series of transaction prices for aluminum ingots collected from buyers because we knew we had some trouble on the sellers' side. So it is not a pervasive problem as it affects about 20 percent of the index, but the Bureau of Labor Statistics does always seek to get the transactions price.

Mr. Moore. I think we should supply an answer to your question about steel sheets. We will do that for the record. I don't have that information.

Senator Proxmire. Yes, I would like to get that. That would be very helpful, for the record.

You say you think this may be the exception?

Mr. Moore. Well, as Mr. Popkin said, about 20 percent of the wholesale price index is based on list prices. And the other 20 percent is, we think, a good approximation to the actual transaction price. And we are working on the 20 percent. But it is not 100 percent by any means.

Senator Proxmire. I said that was the last question. But let me just observe that I am amazed and astounded, Dr. Moore, that you would attribute the continued increase in industrial prices to an excess of demand when a million people are unemployed and industry is operating at 75 percent of capacity. It is just very, very hard for me to understand that. And I would challenge any economist to support that.

Mr. Moore. If I may remind you, I said money demand, not physical demand.

Senator Proxmire. Demand is demand is demand, as Gertrude Stein might say.

Mr. Moore. I think that is right. But if you think of the amount of money that people have at their disposal to spend, that has increased continuously for months and years. And there has been no reduction in that money demand in that sense.

Senator Proxmire. But that increased from '62 to '63 without this kind of consequence, and we were in a situation in which there was about the same amount of employment, but more capacity utilization, and prices were relative stable.

Mr. Moore. Well, it increased very much more rapidly after '65, the money demand.

Senator Proxmire. Mr. Moore, thank you very much. I think this has been an excellent hearing, a most interesting and useful hearing, and a very appropriate one for our first anniversary.

Mr. Moore. Thank you very much.

Senator Proxmire. The committee will stand adjourned until next month. And we will be delighted to have you back.

(Thereupon, at 12:05 p.m., the committee adjourned, subject to the call of the Chair.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore (Mr. Gambrell). Is there further morning business? If not, morning business is concluded.

WAR POWERS ACT

The ACTING PRESIDENT pro tempore (Mr. Gambrell). Under the previous order, the Chair now lays before the Senate the unfinished business, S. 2956, which the clerk will state.

The assistant legislative clerk read as follows:

S. 2956, to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is the motion by the Senator from Nebraska (Mr. Hruska) to refer the bill to the Committee on the Judiciary.

Time for the remainder of the day will be equally divided and controlled by the Senator from Nebraska (Mr. Hruska) and the Senator from Virginia (Mr. Spong).

Who yields time?

CALL OF THE ROLL

Mr. SPONG. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time for the quorum call be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 136 Leg.]

Aiken
Allen
Bellmon
Boggs
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cook
Cooper
Cotton
Dominick
Gambrell
Griffin
Gurney
Hatfield
Hruska
Javits
Mansfield
McGee
Metcalf
Ribicoff
Spong
Stennis
Talmadge
Young

The PRESIDING OFFICER (Mr. Allen). A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Allott
Beall
Bennett
Bentsen
Bible
Brock
Burdick
Cannon
Case
Chiles
Church
Curtis
Eagleton
Eastland
Ellender
Ervin
Fong
Fulbright
Goldwater
Hansen
Harris
Hart
Hughes
Inouye
Jordan, Idaho
Kennedy
Magnuson
McGovern
Montoya
Moss
Nelson
Packwood
Pearson
Pell
Proxmire
Randolph
Schweiker
Scott
Smith
Stafford
Stevens
Stevenson
Symington
Taft
Thurmond
Tunney

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from California (Mr. Cranston), the Senator from Alaska (Mr. Gravel), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from North Carolina (Mr. Jordan), the Senator from Arkansas (Mr. McClellan), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Alabama (Mr. Sparkman), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. Long), the Senator from Indiana (Mr. Hartke), the Senator from Indiana (Mr. Bayh), and the Senator from South Carolina (Mr. Hollings) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Fannin), the Senator from Maryland (Mr. Mathias), the Senator from Iowa (Mr. Miller), the Senator from Illinois (Mr. Percy), the Senator from Delaware (Mr. Roth), the Senator from Ohio (Mr. Saxbe), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Connecticut (Mr. Weicker) is detained on official business.

The PRESIDING OFFICER (Mr. Hughes). A quorum is present.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. Hughes). The Chair, on behalf of the Vice President, pursuant to Public Law 91-129, appoints the distinguished Senator from Florida (Mr. Chiles) to the Commission on Government Procurement, vice the distinguished Senator from Washington (Mr. Jackson), resigned.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on April 6, 1972, the President had approved and signed the act (S. 1975) to change the minimum age qualification for serving as a juror in Federal courts from 21 years of age to 18 years of age.

REPORT OF CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. Hughes) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with Section 396(i) of the Public Broadcasting Act of 1967, as amended, I hereby transmit the Annual Report of the Corporation for Public Broadcasting covering the fiscal year July 1, 1970 to June 30, 1971.

Richard Nixon.

The White House, *April 10, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. Hughes) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 12749) to authorize appropriations for the saline water conversion program for fiscal year 1973.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. SPONG. Mr. President, I shall have to leave the Senate floor later this afternoon to attend the funeral of former Governor of Virginia, John S. Battle.

In my absence, I should like to designate the Senator from New York (Mr. Javits) or the Senator from Mississippi (Mr. Stennis) to control the time on behalf of the proponents and floor managers of the bill.

Mr. President, I now yield to the Senator from Mississippi (Mr. Stennis) for such time as he may wish to take on the bill.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

Mr. JAVITS. Mr. President, I ask unanimous consent that the time for the quorum be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, it has already been my privilege several times, beginning last year, I believe in May, when I introduced a similar resolution to the one now being debated, to have addressed the Senate on almost all phases of the question. But it is so important, I wanted some more time to discuss various points, especially in light of the debate we have had, and also to say something special with respect to the matter of referring it now, after all this time, to another committee of the Senate.

I emphasize that I have great regard for the membership of the Committee on the Judiciary. Its chairman is my colleague from my State. He and I have worked together on many matters, as is true with reference to many of the committee's members; but I do not think, at this time, on this subject, that there is enough reason for it to be referred to the Committee on the Judiciary.

Mr. President, before proceeding any further I want to mention again for the record my own background with reference to the subject of this bill and my legislative record over the years.

Long before I became chairman of the Armed Services Committee—and I have been here during two wars and got here soon after World War II—I very strongly and vigorously backed and supported the executive head of the Government with reference to our military program. Once we got into the war in Korea and once we got into the war in Vietnam, I felt that we were committed and that we had joined the issue. Men had been sent forth to battle, and some had died. As I saw it, we could not afford to be forced out.

So I have consistently, all the way through, backed all wars, including the war that we are in now, and the actions of President Nixon and those of his predecessors.

I have handled for several years the procurement bills for all of the military items, planes, tanks, guns, missiles, ammunition, and everything else that goes to make up the instruments of war.

So, all of my leaning, my background, and my history in the Senate has been on that basis. As I say, it is consistent. It has always leaned that way with the exception of one thing—that I have just never believed that this Nation's manpower and all of its resources ought to be committed to war—and when I say committed to war, I mean to put at stake the life and the blood and the resources of the country as a whole—unless there has been an authorization therefor by the Congress of the United States. And that is the way I feel now.

Of course, we have to make exceptions for things that are of a real and genuine emergency nature. And I make those exceptions in this bill. The bill attempts to spell them out. We cannot have a President that is a mere figurehead, and we cannot have a President that is different from those others in the world in which we live. We have got to have a man of courage and action, a man who is willing to exercise power. He has got to be a man that is not timid in exercising the power that may be a little in the gray area.

I think that the pending resolution fully recognizes those facts. However, after all emergency has been allowed for and after all of the matters of giving meaning to our policy have been allowed for, I still believe it is just human nature to believe that the resources of our Nation, including manpower, ought not to be committed to war so that the President would have to follow through whether he wants to or not, until after the Nation and the people of the Nation have had the benefit of the judgment and the exercise of responsibility of Congress.

I think that latter point is highly important. I think the people should have the benefit of the judgment and the exercise of responsibility of the duly elected representatives of the people in Congress, both the Members of the House of Representatives and the Members of the Senate. The people are entitled to the benefit of that judgment. The Members of the House and the Members of the Senate are the ones that the people know personally, that a great many of them know personally. The people know their records rather intimately.

The representatives of the people are the ones who have gone out before the people and have made promises and assured them as to what they would do under certain circumstances and what their philosophy of government is. The people learn to know what is in the minds of their representatives, their integrity, their purposes, and at least something about them. They have a better opportunity to feel that closeness and responsibility than they have in the case of a President, although they are entitled to the judgment and the responsibility of the President, also.

Under our system of Government, the plain mandates of the Constitution say that the Congress shall have the power to declare war. It is the mandate of the Constitution, and it is commonsense. It is of practical value to provide that before the Nation and its resources are committed to war, the people will have the benefit of the judgment and the responsibility of the ones they have chosen to office under the Constitution, and under that provision that I have just quoted. The people have not had the benefit of that since World War II started.

I have a feeling I know how it happened and why we got off the track. I will just review it briefly now to have it in the Record for the benefit of any Members who have not been here during these periods, so that they may read my remarks.

Soon after World War II, we well know that with the advent of the atomic bomb and other nuclear weapons, it was thought that there would not be time for Congress to act and that everything was canceled out with respect to that matter. I have heard it more or less ridiculed here on the floor of the Senate. I have heard it said that talk about Congress having to declare war was totally unrealistic in view of the missile age.

We have found that these missiles are still very much a part of our life and a part of our defense and a part of our deterrence. But we are spending billions of dollars every year preparing conventional power, military power, for possible conventional wars fought with the older style of weapons which are far less powerful than nuclear weapons or atomic bombs.

After all, there was plenty of time to declare war in this war that we are now engaged in. It was not a matter of haste. I am not trying to blame anyone. I would not put my name on a resolution at this time unless it excepted the present war from its terms. I am not trying to lay the blame. But certainly we cannot fail to see that the present war shows the need for the application of a sound rule.

I come to the argument that, "Well, you should not try to limit the President's power." We cannot limit the powers of the President that have been granted to him by the Constitution. I would not hear of that or try. Many Senators have heard me urge in this Chamber many times to keep the responsibility regarding the conduct of this war in the President of the United States; he is Commander in Chief in combat, and in conduct of the war, the war plans, and everything that goes with it rests on him. I would not detract one bit from that, but he does not have the sole power under all the circumstances to commit us to war, never has had, and we would have to amend the Constitution before we could give him any such sole power.

We have to yield to the facts, but the facts of life do not in all cases follow cases like Pearl Harbor. In most cases, Congress would still have the responsibility.

In the exercise of that responsibility on this resolution I do not think that we have to refer or should now refer this resolution that is well understood to the Committee on the Judiciary. After all, that argument swings for the most part on the argument that the Judiciary Committee under rule XXV has jurisdiction over "constitutional amendments." That is very proper. But this is by no means a constitutional amendment. It has some constitutional issues in it, but most bills which come here for consideration have constitutional issues in them.

Over and over again we have matters that come up that have constitutional issues, sometimes in seven or eight different fields, and if we had to refer every bill in which there is a constitutional question to the Committee on the Judiciary, most of the major bills at least would have to go to that committee. We have bills here every day involving interstate commerce, and that certainly is clearly a constitutional matter and those bills are not referred to the Committee on the Judiciary.

I think the history that will be developed by other proponents of this resolution about what happened over a period of decades, for many years, with reference to bills of this kind, shows that they go to the Committee on Foreign Relations which is the committee to which this resolution was sent.

Mr. President, over a year ago I introduced the resolution that I proposed. I think that was in May of 1971, and I think I had spoken on it once before and made the point in January 1971 that we ought not to try hastily to pass this measure, but give it time to sink into the minds, the thinking channels of the Nation. I proposed that we delay it for a year. It was not altogether my suggestion, but it was delayed. It required some time and there have been some exhausting hearings conducted in connection with that measure. The scholars of this country have been attracted to it, Members of this body have been attracted to it and the press has been attracted to it.

The resolution has been written and rewritten several times, as it should have been in keeping with the developing thought on the subject, and it has been molded by the Committee on Foreign Relations into composite language and principles with definite meanings. It has been analyzed and reanalyzed, and now it is being debated in full and at length in this body. We cannot close our eyes to that fact, and we should not close our eyes to the further fact, that if this goes to the Committee on the Judiciary now and there are hearings again on both sides of it; with all deference, it would be largely a rerun of what has been said. There would be some differences of opinion, and it will not dry up those differences, and there will be differences of opinion on the floor, and those differences will not be dried up, nor will they be changed substantially, so we will be right back where we started.

Again, with all deference to the Committee on the Judiciary, I do not think this is a legal question anyway, not primarily a legal question. Now we will find all kinds of cases. I have read many of them in the books when matters came before the Court concerning various wars, and some things that happened prior to the war, some during the war, and some after it. Some questions involved the legality of the war and involved Presidential power. Often they were adjudicated after the fact, and, naturally, in our contests with other nations, the courts tend to decide cases in our favor. That is no reflection on the courts.

My point is that this is not primarily a legal question. One can find authorities both ways. This is primarily a practical matter, not limiting the President, but a practical matter of getting machinery on the books about what Congress is going to do to fulfill its responsibility, and that is what it comes down to. The question is whether Congress is going to take care of its own responsibilities, and that would bring the matter to a head.

If we can get on the books as to how far the words go—and I do not think it is controlling because there still will be some ground where the President would have to act, and I am willing for him to do so—but if we can get on the books the principle that Congress has to act before this Nation is really committed to a war, then we have made a long step forward, we are filling our responsibilities, and we are making it more likely that these judgments will be sound.

Mr. President, if you leave to one man all these decisions he will find himself day by day inching toward the final conclusion that he cannot turn back. Events push him along and a lot of his advisers push him along, and the first thing you know there is no way for him to turn back. That is the way I see it. We are not taking this responsibility from the President. Let us not be too technical and academic. There is not going to be any declaration by Congress unless the President asks for it. He is No. 1, he is the leader, and he is the Executive head of the Nation. He is the head of the foreign policy and there will not be, never has been, and never will be under our system a declaration of war by Congress unless the President is sharing that responsibility and recommending it and giving the reason.

Sometimes, as in Pearl Harbor, I think that decision was automatic.

But I remember when I was just a boy a decision that was not automatic. In World War I President Wilson had just been up for reelection in 1916 and his critics called him a war President then and said that while he proclaimed being for peace, he prepared for war. They showed that he wanted to build some ships and make other preparations. But when the showdown came, he took a lead. However, it was a debatable question. It had been a debatable question. They tried to defeat him, because he had been urging preparedness—although he was a man of peace—and then the climax came in 1917 when he said he could no longer be true to his trust unless he asked for a declaration of war. Well, by then, the sentiment had worked up tremendously, and when he took the lead, that made a great difference.

As I remember, there were only six in this body who voted against that declaration of war, and some of them were defeated for reelection, because of that vote. It shows how strong the sentiment became, but it was the leadership of President Wilson that laid the groundwork for the sentiment.

That will be true in all cases. No President can avoid being in on that decision, and I think that is right. It is the joint responsibility of the Executive and the Congress that the people are entitled to, and the people are entitled to the exercise by both those branches of Government before they are committed, because they do not have a direct vote. They do not have a direct say-so. They have an indirect one later, but many times it is too late. They do not have it until the election comes up.

So I think we are dealing with a very delicate matter here. We are dealing with a highly important matter.

I said this in a previous speech. The question came up when we were going into the so-called mutual defense agreements. I say so called because some of them involved countries that would have very little ability to defend us, but we had others where there was tremendous power to help defend us, and where we felt a need—I am thinking of NATO now—of having our allies bound in an agreement that we felt was necessary for the peace of the world and for our protection and theirs. I am very strongly for NATO, and have always been. I have taken that position here when attempts were made to put a limitation on our support.

But when the provisions for those defense treaties and mutual assistance agreements came up, they always had the clause in them that we would respond under our constitutional processes. The question was asked on the floor: What did that clause mean? I read that on the floor at length the last time I spoke. The answer was that "constitutional processes" included the idea of a declaration of war. So we are standing on sound ground here historically by what has happened and by what has been the understanding—a declaration of war by the Congress, making allowances, as we always have, for emergency matters that can come up in a hundred different ways, and the President just has to be the judge of what is an emergency matter.

Moving on now to the motion to refer to a committee that has been made, this bill is not a constitutional amendment. It is just a proposed statute. It has not followed any of the amendment procedures of article V of the Constitution, but is explicitly intended to be a statute pursuant to Congress power under the necessary and proper clause of article I, section 8. This purpose and authority is explicitly recognized in section 2 of the bill itself. If all bills which, under the necessary and proper clauses, attempted to provide a gloss to the Constitution were referred to the Judiciary Committee, then its jurisdiction would encompass practically the entire business of the Senate.

I know some of the opponents of the bill will, of course, argue that the bill is actually a constitutional amendment in sheep's clothing, but to refer the bill to the Judiciary Committee merely on these grounds is an attempt to elevate a technical argument to a jurisdictional principle.

Under all the precedents that I understand can be found—I have not personally looked at all those procedents—this bill has already followed the course that the Senate has always used under its written rules, and is back here for consideration on the merits, for the consideration of such amendments as may be offered, and for disposition by this body on the question of final passage.

I respectfully submit to those who would defer things here, delay them by referring to another committee, that the argument is without substance, that it is outside the boundaries of the rules of the Senate, and is beyond the logic and meaning and substance of the bill itself. So I hope now we are not going to decide anything by referring to committee. That will not decide a thing in the world. It will just bring us up to the decision point where we now are, and then back off.

I tell you, Mr. President, I believe the people of this Nation are listening. I believe they are expecting an answer of some kind. If this bill is defeated, I will not have any complaint. I will not have an ill feeling toward anyone. But I believe we owe the people a judgment on this matter, and particularly since the issue has been raised, since the authors and the committee have raised the issue, brought the matter to the floor, and the leadership has set it up for debate, and the Senate has agreed to that debate. We are having that debate. Now to follow the course in the proposal made here would take out the horses, hang up the harness. I do not think there is common sense and reason behind it, and I think it will be misunderstood.

The present war is by no means over. I am not trying to make the bill apply to the present war. I would not sign a resolution until it was conclusive and clear cut on the point that we are not to pass on the beginning of the war, or blaming anyone, or arguing what should be done now. That is not in this bill. It is being excepted. This is an effort not to get into such a predicament again, but primarily it is something we owe to the people of this country.

To send it off to a committee now, assuming we are to have hearings and everything else, and then bring it back—and we would not know when and the people would not know when—would mean it would probably happen right in the middle of the argument about the military procurement bill, right in the middle of the SALT talks, and right in the middle of many other matters that involve decisions and far-reaching policies.

If we are going to decide this matter, I think we ought to decide it right now. We have the facts.

We have the provisions of the resolution here. If they are not acceptable to the Senate, let us amend it. But let us pass on these matters here while we have a chance to, and tell the American people that we are willing to pass on them. And I hope, in the process of passing on them, we will pass the bill itself. Then I believe we will be standing—in fact, I am certain we will be standing—on sounder ground. We will have corrected the matter to the degree that, having gone to war without having gone through this process—and I blame myself only for not having gone through it—we will let the people know that that is not going to happen again; and I believe that would do more than anything else we can do now, this summer, to bring the people back together with a better understanding of the situation we have, and will help us to cope better with the situation with reference to this present war. The present war is exempted, but we have to cope with it nevertheless in the form of public opinion. And we are not anywhere near out of this war yet, in my judgment.

So, Mr. President, this is no routine matter, and I hope it will not be considered as such. I hope that we will not, in a careless moment, so to speak, refer the matter to another committee and cause delay and the disjoining of the thought and decisionmaking processes. I hope we will face up to the matter now.

We are not trying to detract one bit from the President's responsibility wherein he has sole authority to meet emergencies. I do not want to detract from that, and I do not think this resolution does so. It does seek to draw the line between the area of his sole powers and the area where he shares responsibility with Congress. Whenever it becomes the case that the Nation may actually become committed to war, the President has joint responsibilities with Congress; and those words "actually become committed to war," as I use them and as they were used by the committee, mean this: An act of war and the committing of the manpower of this Nation to go to war; an act calling on the resources of this Nation and committing them to war—in other words, an act putting in issue the manpower and the resources of this Nation.

Certainly this is a matter about which the people of this Nation are entitled to the judgment and the exercise of responsibility of their elected and chosen officials here, in whom they have put their trust and confidence; and I believe in the end that is exactly what will happen if this bill is passed.

Mr. JAVITS. Mr. President, I wish to comment in some detail about the splendid position of the Senator from Mississippi and his argument, because they have inspired some thoughts in me, but at the moment I would just like to thank the Senator, not only for his statement and his support, but for the very high patriotism he has just evidenced, and comment further a little while later.

Mr. STENNIS. I thank the Senator very much for his comments, and for his fine work in connection with this matter. As he always does, he has shown his splendid ability and capability and his diligence and thoroughness in connection with this measure, and I commend him very highly.

Mr. SPONG. Mr. President, I should like to join the Senator from New York in his commendation and thanks for the remarks of the Senator from Mississippi this morning. The Senator from Mississippi has again contributed immeasurably to this debate. As is his custom, he has cut to the heart of the motion that is before us, the question of whether this measure should or should not be referred to the Committee on the Judiciary. He has said that referral would be converting a tactical position into a jurisdictional question. I agree with that.

Furthermore, I believe that we would be going against precedent in the reference, of the legislation to the Committee on the Judiciary.

I wish I could comment further upon what the Senator from Mississippi has said, but I must leave the floor at 2 o'clock. Again, however, I thank the Senator for going to the heart of the reference question.

Mr. STENNIS. I thank the Senator very much. I am sorry I kept the floor as long as I did, and ran so far into his time.

Mr. SPONG. The Senator from Mississippi did not trespass at all upon my time.

Mr. President, I would like to comment briefly on some matters that were discussed last week.

Implicit in much of the debate was the idea that because the President had acted to commit U.S. troops to hostilities without a declaration of war almost 200 times, a precedent has been established, a precedent which should stand.

I believe this is a fallacious argument.

First of all, just because something has happened does not mean that it is right or good.

Second, in a number of those cases in which the President committed troops to hostilities without a declaration of war, there was disapproval and dissention over the actions. For example, President Wilson was criticized in Congress for waging war in both North Russia and Siberia after allied expeditions were sent to Murmansk and Archangel in 1918–20. Resolutions were introduced in Congress requesting immediate withdrawal of forces from Nicaragua after the United States employed military occupation to end the civil war there in 1926–33. In order to preclude divisiveness over such military moves abroad, I believe we should pass this bill.

Third, the need for action on war powers legislation is greater today than it has ever been. We have more commitments in more parts of the world than at any time in our history. The Symington Subcommittee on National Commitments Abroad documenteod these in detail. With these many commitments the likelihood of additional situations arising in which the President will have to commit U.S. forces to hostilities is enhanced. Consequently, we should be prepared with a procedure for dealing with these situations.

Also, I believe that the situations arising today are of a different magnitude than most of the situations of earlier days. Moves against pirates are, for example, quite different from Korea, from Vietnam. As Prof. Alfred Kelly of Wayne State University noted during hearings, the sending of troops to Korea and the stationing of seven divisions in Germany marked quite a departure from previous activities. He said:

> "I would contend that from a constitutional point of view this move (stationing troops in Germany) was entirely unprecedented. Seen from our vantage point now, it constituted a dangerous break in constitutional continuity. For never before had a President moved armed forces of such force, number and charcater as to imply total national military commitment outside confines of the United States or its territorial environs and possessions, let alone overseas to the ancient cockpit of European wars. To compare this situation with President Wilson's landing of Marines at Vera Cruz in 1914, or the first Roosevelt's intervention in Santo Domingo in 1904 is to ignore power relations, war potential, commitment, and geography. Again, the Executive's decision cannot be condemned merely as an act of irresponsible Presidential despotism. The decision, with all its tragic potential, was in a sense necessary. It was in support of the North Atlantic Alliance, for one thing. Furthermore, there was not technically a state of peace in Germany as yet. But it exposed a certain tragic inconsistency between the ancient peace-war balance between Congress and the Executive in the American constitutional system and the exigencies of the decisionmaking process in the marginal area between diplomacy and war inherent in the defense of the new American power system

For these reasons, I do not believe that past practices either can or should provide a precedent for maintaining the status quo as far as the exercise of war powers by the President and Congress is concerned.

Furthermore, I do not believe that this bill should be referred to the Senate Judiciary Committee.

First, the bill is not a constitutional amendment. It is instead a statute pursuant to Congress' power under the necessary and proper clause of the Constitution.

Second, the standing rules of the Senate suggest no reason why the legislation should be referred to that committee. The Judiciary Committee has jurisdiction over judicial proceedings, civil and criminal generally; constitutional amendments; Federal courts and judges; local courts in the territories and possessions; revision and codification of the statutes of the United States; national penitentiaries; protection of trade and commerce against unlawful restraints and monopolies; holidays and celebrations; bankruptcy, mutiny, espionage, and counterfeiting; State and territorial boundary lines; meetings of Congress, attendance of Members and their acceptance of incompatible offices; civil liberties; patents, copyrights, and trademarks; patent office; immigration and naturalization; apportionment of Representatives; measures relating to claims against the United States and interstate compacts generally.

On the other hand, the Committee on Foreign Relations has jurisdiction over relations of the United States with foreign nations generally; treaties; establishment of boundary lines between the United States and foreign nations; protection of American citizens abroad and expatriation; neutrality; international conferences and congresses; the American Red Cross; interventions abroad and declarations of war—I repeat, interventions abroad and declarations of war—measures relating to the diplomatic service; acquisition of land and buildings for embassies and legations abroad; measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad; United Nations Organization and international financial and monetary organizations; foreign loans.

Furthermore, a review of the actual legislation involving war powers which has been referred to the Foreign Relations Committee and the Judiciary Committee sustains the argument that the pending legislation comes under the jurisdiction of the Foreign Relations Committee.

Mr. President, I ask unanimous consent to have printed at this point in the Record a list of legislation related to war powers which has been submitted to the Foreign Relations Committee and to the Judiciary Committee.

There being no objection, the list was ordered to be printed in the Record, as follows:

Legislation Relating to War Powers Referred to the Senate Foreign Relations Committee

1. All Declarations of War.

2. All Area Resolutions:

Cuba PL87-733 (also Fulbright-Church Resolution, S.J. Res. 146, to terminate the Cuba Resolution).

Formosa PL84-4 (also Church-Mathias Resolution to terminate the Formosa Resolution, S.J. Res. 48).

Middle East PL85-7.

Berlin H. Con. Res. 570, 87th Congress.

Tonkin Gulf PL88-408 (also repeal of Tonkin Gulf, S. Con. Res. 40, 91st Congress).

3. All multilateral Alliances: NATO, SEATO, ANZUS.

4. All Bilateral Mutual Defense Treaties: China (Taiwan), Japan, Korea, Philippines.

5. All International Organizations: United Nations, Organization of American States.

6. Mathias Resolution, S. Con. Res. 27 to establish a commission to study termination of the State of National Emergency declared by President Truman during Korean War.

7. Case Legislation of Referring Executive Agreements to the Senate:

S. 596, passed Senate 81–0, February 16, 1972.

S. 3447, pending for hearings, Senate Foreign Relations Committee.

8. The National Commitments Resolution, S. Res. 85: passed the Senate June 25, 1969, 70–16.

9. All War Powers Legislation:

S. 3964—Javits—91st Congress.

S. 731—Javits—92nd Congress.

S. 2956—Javits, Stennis, Eagleton—92nd Congress.

S.J. Res. 95—Stennis—92nd Congress.

S. 1880—Bensten—92nd Congress.

S.J. Res. 59—Eagleton—92nd Congress.

S.J. Res. 18—Taft—92nd Congress.

Legislation Relating to War Powers Referred to the Senate Judiciary Committee

(But only on the basis that they were submitted as proposed amendments to the Constitution)

1. The Ludlow Resolution, S.J. Res. 84, 76th Congress (1935, reintroduced 1937, hearings printed May, 1939). The legislation called for a national referendum before going to war.

2. The Bricker Amendment, 1950's, that no treaty or executive agreement would be in effect or self-executing unless passed by the Senate.

Mr. SPONG. One who studies this information that I am placing in the Record will see that only two measures have been referred to the Judiciary Committee, the Ludlow resolution of 1935, and the Bricker amendment of the 1950's. Both of these were, of course, constitutional amendments, and were introduced as constitutional amendments.

Certainly, this bill relates to the Constitution, but it does not amend the Constitution and most legislation coming before this body relates to the Constitution. We who are sponsoring the bill are aware of the constitutional aspects. We have had both legal scholars and lawyers testify on the bill. We are aware of the historical aspects of the bill. We have had professors of history testify. We are aware of the practical aspects. We have had former officials from Government testify.

Additionally, I think it is important to note that about 75 percent of the sponsors of this legislation are themselves lawyers. I find it somewhat incredible that anyone would suggest that that number of lawyers, with differing political philosophies and from various parts of our Nation, would support a bill which was unconstitutional or would seek to amend the Constitution through legislation, when they know fully well that such a move is impossible.

Mr. President, I yield such time as he may need to the Senator from New York.

Mr. JAVITS. Mr. President, in commenting upon the very splendid speech of the Senator from Mississippi and now of the Senator from Virginia as well, one idea has broken through to me which I would greatly appreciate their attention upon, as it may explain something which has puzzled me.

The members of the Judiciary Committee who are moving to refer the bill know as well as we do that we have all jurisdiction respecting foreign interventions and the declaration of war. They know as well as we do that they have the jurisdiction over constitutional amendments. Unless it were simply a matter of killing the bill, which Senator HRUSKA has said is not his motive, there must have been some reason we have not perceived. I begin to perceive it now, and I should like to submit it to my colleagues.

The reason is that they believe that what we are doing is amending the Constitution. They do not believe what we believe—that we are simply implementing by law, under the "necessary and proper" clause, what is meant by the constitutional processes in treaties and in executive agreements; not what is meant, in our view, by the words given in the Constitution—to wit, the Congress shall "declare war" and the President is "Commander in Chief." Nor do they subscribe to our proposition that at a given point, when the President has to "repel a sudden attack," at a point that action becomes "war" and requires the action of Congress.

Our colleagues believe, therefore, that we are seeking to make a fundamental change in the Constitution, that this is tantamount to a constitutional amendment. That is the issue. That is the issue the Senate is going to decide. Surely, this is not a procedural motion. This is a substantive motion. So the Senate is going to decide on this motion a substantive question. Is the War Powers Act, in effect, a constitutional amendment?

I was put in mind of it by the excellent analysis made by Senator STENNIS. The substantive proposition will be that they think this is a change in the Constitution. If the Senate decides that it is not a change in the Constitution, there is no reason for reference. This is the substantive question, and I hope very much that we will make the Senate aware of that, because it is a very critical point.

Another thing interests me greatly. My office came into possession of what were the State Department's "talking points" against this bill. One part of it is so interesting that I think it deserves to go into the RECORD today, so that Senators may have a chance to read about it and think about it.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. SPONG. I do not want to interrupt the Senator from New York, but he did solicit some comment and I want to agree with him.

I think that the debate on this motion has now narrowed to one between those who believe that the proposed legislation represents an amendment to the Constitution of the United States and those—the proponents and others who are supportive—who recognize that what this bill represents is merely the delineation of a methodology whereby coordination and consultation can be assured, consistent with what the Founding Fathers intended when they wrote the Constitution.

We, who support this bill do not believe that we are amending the Constitution in any way. On every day that this debate has taken place, the principal advocates of the proposed legislation have said over and over that we cannot do that. We have no desire at all to diminish the Commander in Chief powers which are given to the President of the United States under the Constitution. In fact, section 3 of the bill recognizes and reaffirms those powers.

At the same time, we are not trying to increase the powers which Congress has. What we are seeking to do, as has been pointed out time and time again, is to put into effect a procedure which will permit the President and the Congress to exercise the war powers granted to each by the Constitution.

I think, however, that the Senator from New York has very rightly put his finger on the question which the pending motion has come to pose: Would this legislation amend the Constitution of the United States or would it simply delineate means of carrying out powers already granted under the Constitution? I quite agree with him and with the remarks of the Senator from Mississippi that the war powers bill would not amend the Constitution and does not seek to amend it.

I thank the Senator from New York.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. STENNIS. Mr. President, I heartily agree with the Senator from Virginia. I think the Senator from New York has raised the point in a proper way and has stated it clearly. I agree wholeheartedly. The vote on this matter does give substance, as he has said. We tried to draw it as outlined by the Senator from Virginia and by the Senator from New York. We have done that.

I thank the Senator, and I commend him for the fine point he has made.

Mr. JAVITS. I thank the Senator.

I hope that even more than the mere res gestae, as we say in the law, when we are actually going to decide this matter tomorrow, this point may be brought home to as many Senators as possible.

Mr. President, I will speak again later. Senator EAGLETON, and perhaps others, will speak in the meantime.

Mr. ALLOTT. Mr. President, having read the testimony on the war powers bill, S. 2956, and listened to the arguments of my colleagues here on the floor, I am increasingly convinced of the complexity of the proposed legislation and of the many implications of the measure in its present form. The bill addresses one of the basic areas of the Constitution, the relationship between the President and the Congress. It is not only a question of their relative powers, as defined by the Constitution and as developed over the years in the political interplay between the executive and legislative branches of Government, but it specifically focuses on the area of war powers one of the most important of all the powers, which the American people entrust to their Government.

From the very beginning of the Republic, the question of how to assign and divide the war powers of the Nation has been the subject of great and continuing debate. As the sponsors of the proposed war power bill have pointed out, it received long and careful attention during the Constitutional Convention and in the ensuing debates over ratification of the Constitution. And in the nearly two centuries that have followed those dramatic beginnings, the argument between executive and legislature, in the political arena, and in the courts, in the Halls of Congress and in the public press, has continued nearly unabated.

When the danger of war has been slight, the debate has waned. But always it has been present in the consciousness of the Nation. In the 20th century, especially in the most recent decades, as the United States adjusted to its role as the leading world power, the question has once again drawn our attention. The introduction of the proposed war powers bill is another episode in this long debate and believe me, Mr. President, it is certainly not yet the end.

There are numerous differences of opinion about what the Constitution requires. The sponsors of the proposed legislation seem to think that their bill will help us understand the constitutional definitions. Many others, however, believe that the work of the Founding Fathers will not benefit from this legislative attempt at bringing a supposed "precision" which is alleged to be lacking in the work of the founders.

Whichever interpretation one agrees with, it is clear that a basic constitutional question is at issue. Before even discussing the proposed legislation, it may be well to take another look at this question and try to understand better just what the Constitution says about the war powers, and to determine just how far beyond that document we want to go here and now to define these powers.

Once we have completed these initial steps, we can then take a closer look at the proposed legislation with a greater understanding of what it is that we think it should accomplish.

Should the bill simply mirror the Constitution—in which case, do we need it at all? Should it attempt to define in practical terms the exact meaning of the Constitution? Or should it go beyond the Constitution, and attempt to spell out detailed limitations on the President's power, in excess of the restraints implied by the Constitution?

It seems to me that the proposed legislation deserves additional analysis. This analysis should take place in a committee where the main thrust would be an analysis of the Constitution and the relation of the bill to the Constitution and not, as it has mainly, I am sure, in the Foreign Relations Committee—but not exclusively—been to the problem of foreign relations of the Government of this country. The place to give it the required study, I think, is not on the floor of the

Senate, although I think the debate here during the past few days has been helpful.

I, therefore, urge that we do refer this measure to the Judiciary Committee for a specified period, where it can receive the careful examination it deserves on the basis of its constitutionality and its influence on the Constitution, rather than on foreign policy decisions which, I fear, the present bill is mainly based upon.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER (Mr. Brock). Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I yield such time to the Senator from Alabama as he may desire.

Mr. ALLEN. I thank the distinguished Senator from Colorado for yielding time to me so that I might discuss this most important question now pending before the Senate.

Mr. President, on April 6 in the New York Times there appeared an excellent article by Eugene V. Rostow, professor of law at Yale University, entitled "Who's Got the Power?" This article deals directly with the Javits' amendment which is under consideration by the Senate. I wish to read from the article:

> The Javits bill would annul the military provisions of all outstanding treaties and Congressional resolutions authorizing the use of force by the President, including NATO and the Middle East Resolution, as well as all Presidential commitments.
>
> The bill is full of paradox. While it purports to assure the nation that a pacific Congress will keep jingoistic Presidents from engaging in limited wars like Korea or Vietnam, the bill would not have prevented Vietnam, which was authorized by Congress through the very procedures proposed in the bill as constitutionally proper. In Korea, the Javits bill would have required President Truman to obtain a Congressional resolution within thirty days—which would surely have been voted at the time, although Truman and the Congressional leaders thought it unwise to do so under the circumstances.
>
> But if the Javits bill had been on the books, it would have prevented President Kennedy from handling the Cuban missile crisis as he did. There was no claim on that occasion that we were acting to forestall an imminent threat of armed attack. Under the Javits bill, Mr. Johnson could not have moved the fleet to keep the Soviet Union out of the Six-Day War in 1967. Mr. Nixon could not have used the same method to avert general war in the Middle East in 1970, or to confine the India-Pakistan War of 1972. Nor could earlier Presidents have used force or the threat of force to induce France to leave Mexico in 1865–66, to avoid war with Britain and Spain over Florida, or to send Commodore Perry to Japan.
>
> The Javits bill would deprive the Presidency of powers which were used by George Washington and by nearly every President since—the powers of credible deterrent diplomacy the nation needs most if there is to be any hope of avoiding nuclear war.
>
> Korea and Vietnam did not come about because the Presidency arrogated Congress' powers over foreign policy. The Congress fully supported those efforts when they were undertaken. The country is in a foreign policy crisis, however—not a constitutional crisis, but an intellectual and emotional crisis caused by growing tension between what we do and what we think. The ideas which guided our response to Korea and Vietnam have suddenly lost their power to command. Those who now believe Korea and Vietnam were errors should recall the prudent wisdom of an earlier time, when the powers of the Supreme Court were left untouched even after the catastrophic error of Dred Scott. We have never needed the strong Presidency we have developed in nearly 200 years of intense experience more than we need it today. The Javits bill would turn the clock back to the Articles of Confederation, and emasculate the independent Presidency it was one of the chief aims of the men of Annapolis and Philadelphia to create.

Mr. President, I ask unanimous consent to have the entire article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Who's Got the Power?

(By Eugene V. Rostow)

New Haven, Conn.—The Javits war-powers bill confirms Oliver Wendell Holmes' quip that "great cases like hard cases make bad law" more vividly than any proposal since that of the Bricker Amendment. Responding to Vietnam, the Javits bill would radically change the constitutional relationship between Congress and the Presidency in making foreign policy. Ignoring their own repeated votes for Vietnam, the sponsors contend that the cause of the Vietnam tragedy is a modern usurpation of the war power by the President. As Senator Cooper points out, this claim rewrites history.

The Javits bill would annul the military provisions of all outstanding treaties and Congressional resolutions authorizing the use of force by the President, including NATO and the Middle East Resolution, as well as all Presidential commitments.

The bill is full of paradox. While it purports to assure the nation that a pacific Congress will keep jingoistic Presidents from engaging in limited wars like Korea or Vietnam, the bill would not have prevented Vietnam, which was authorized by Congress through the very procedures proposed in the bill as constitutionally proper. In Korea, the Javits bill would have required President Truman to obtain a Congressional resolution within thirty days—which would surely have been voted at the time, although Truman and the Congressional leaders thought it unwise to do so under the circumstances.

But if the Javits bill had been on the books, it would have prevented President Kennedy from handling the Cuban missile crisis as he did. There was no claim on that occasion that we were acting to forestall an imminent threat of armed attack. Under the Javits bill, Mr. Johnson could not have moved the fleet to keep the Soviet Union out of the Six-Day War in 1967. Mr. Nixon could not have used the same method to avert general war in the Middle East in 1970, or to confine the India-Pakistan War of 1972. Nor could earlier Presidents have used force or the threat of force to induce France to leave Mexico in 1865–66, to avoid war with Britain and Spain over Florida, or to send Commodore Perry to Japan.

The Javits bill would deprive the Presidency of powers which were used by George Washington and by nearly every President since—the powers of credible deterrent diplomacy the nation needs most if there is to be any hope of avoiding nuclear war.

With admirable candor, Senator Javits has said that the purpose of his bill is to reduce the elective Presidency, which the Founding Fathers were at pains to establish as an equal branch of the tripartite government, to the humble posture of George Washington during the Revolution, when he functioned as Commander in Chief, appointed by the Congress, and its creature in every respect.

Congress has made no bid for supremacy so bold, and so foreign to the Constitution, since the impeachment of Andrew Johnson. The legal theory of the bill would permit a plenipotentiary Congress to dominate the Presidency (and the courts) more completely than the House of Commons governs in Great Britain.

I do not favor increased Presidential power. But I do defend the constitutional pattern of enforced cooperation between Congress and President we have inherited. Its corollary, however, is democratic responsibility. It is unseemly for astute and worldly men who spoke and voted for SEATO, the Tonkin Gulf Resolution, and other legislative steps into the Vietnam War now to claim that they were brainwashed, and therefore that we—and the world—should treat public acts of the United States as if they never happened. These men were not brainwashed. They know everything the executive knew. But even if they had been brainwashed, their votes stand. The Fourteenth Amendment is not a nullity because it was ratified by many legislatures which voted under circumstances of fraud, or the coercion of military occupation.

Korea and Vietnam did not come about because the Presidency arrogated Congress' powers over foreign policy. The Congress fully supported those efforts when they were undertaken. The country is in a foreign policy crisis, however—not a constitutional crisis, but an intellectual and emotional crisis caused by growing tension between what we do and what we think. The ideas which guided our response to Korea and Vietnam have suddenly lost their power to command. Those who now believe Korea and Vietnam were errors should recall the prudent wisdom of an earlier time, when the powers of the Supreme Court were left untouched even after the catastrophic error of Dred Scott. We have never needed the strong Presidency we have developed in nearly 200 years of intense experience more than we need it today. The Javits bill would turn the clock back to the Articles of Confederation, and emasulate the independent Presidency it was one of the chief aims of the men of Annapolis and Philadelphia to create.

Mr. ALLEN. Mr. President, I support the motion by the distinguished Senator from Nebraska (Mr. Hruska) to commit this bill to the Committee on the Judiciary for further study. Already sponsors of the bill themselves have proposed three amendments to the bill, indicating it must not have been letter perfect at the time it was filed in the Senate. A matter involving such a great and important constitutional question as the power of the President to use the Armed Forces of the United States in the absence of a declaration of war is so important, it is so complex that it deserves all of the study that can be given to it. What committee better than the Committee on the Judiciary of the Senate should study constitutional questions? This bill should go to the Committee on the Judiciary.

Mr. President, if the bill does go to the Committee on the Judiciary I hope that the committee will give serious consideration to substituting the provisions of House Joint Resolution 1 for the provisions of S. 2956. This bill is on the same general subject, but it does not usurp the powers of the President, and it does not seek to specify the particular instances in which the President can act and then proceed to limit the President to a 30-day period for acting in those areas.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the provisions of House Joint Resolution 1.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress reaffirms its powers under the Constitution to declare war. The Congress recognizes that the President in certain extraordinary and emergency circumstances has the authority to defend the United States and its citizens without specific prior authorization by the Congress.

SEC. 2. It is the sense of Congress that the President should seek appropriate consultation with the Congress before involving the Armed Forces of the United States in armed conflict, and should continue such consultation periodically during such armed conflict.

SEC. 3. In any case in which the President without specific prior authorization by the Congress—

(1) commits United States military forces to armed conflict;

(2) commits military forces equipped for combat to the territory, airspace, or waters of a foreign nation, except for deployments which relate solely to supply, repair, or training of United States forces, or for humanitarian or other peaceful purposes; or

(3) substantially enlarges military forces already located in a foreign nation;

the President shall submit promptly to the Speaker of the House of Representatives and to the President of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating his action;

(B) the constitutional, legislative, and treaty provisions under the authority of which he took such action, together with his reasons for not seeking specific prior congressional authorization;

(C) the estimated scope of activities; and

(D) such other information as the President may deem useful to the Congress in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

SEC. 4. Nothing in this joint resolution is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties.

Mr. ALLEN. Mr. President, if the bill does not go to the Committee on the Judiciary then I hope that the Senate itself here on the floor will substitute the provisions of House Joint Resolution 1.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. DOMINICK. Mr. President, I wish to say to the Senator that with a few minor variations I have today introduced for printing the so-called Zablocki sense of Congress resolution in connection with this particular issue. Most certainly, if we ever get to that point, I shall solicit his support and the support of any other Senators I can for the favorable consideration of that amendment.

Mr. ALLEN. I thank the distinguished Senator from Colorado for giving me that information. As the Senator knows, I have on more than one occasion supported efforts by the distinguished Senator from Colorado to make more meaningful, more exact, more relevant, some of the legislation pending before the U.S. Senate; and I shall study with great interest the amendment that has been presented by the distinguished Senator from Colorado.

Mr. President, I do believe that the provisions of House Joint Resolution No. 1 or the provisions of the amendment of the distinguished Senator from Colorado, if agreed to here in the U.S. Senate, would remove many of my objections to the pending legislation.

Mr. Rostow has portrayed only one side of this issue, but has spelled out cogently and concisely some of the hazards involved in rushing to judgment on a question of such fundamental importance to our political system, and to our national security.

We must look at this critical topic from three perspectives—the executive-legislative relationship, the constitutional question, and the national security. Over the years there have been many disagreements between the executive and legislative branches over the conduct of our foreign relations, and the question of war or peace. Each branch has won and lost its share of battles. I am not convinced that we in the legislative branch have in recent years utilized as effectively as possible the powers explicitly provided to us by the Constitution.

The climate of opinion fostered by a growing weariness of war has led some to criticize the Executive for usurping the powers of the legislative branch. To cite the Vietnam conflict as a concrete example, one can argue that the Tonkin Gulf resolution and acceptance of the Executive's funding requests demonstrate legislative acceptance of, and acquiescence in, the policy followed in Southeast Asia. I do not wish to obscure the basic issue by focusing on specific and controversial events of the past. The question before us is this—the proposed legislation would dictate a profound change in the relationship between the two branches, one that I am not convinced is necessary, and one which raises serious constitutional questions.

One of our most important national assets, one which has enabled those chosen by the American people over two centuries to meet the challenges imposed by changes in domestic values and perspectives and in the international power structure, is the flexibility of the Constitution.

The legislation under consideration would attempt, by statute, to say what the Constitution provides. That is patently an abuse of our legislative authority. By that I mean, Mr. President, it goes beyond what we are empowered to do under the Constitution, because we have no power under the Constitution to state by statute what the Constitution means.

The Constitution means what it says, or, as what our late great Chief Justice Charles Evans Hughes said, the Constitution means what the judges say it means. While the late great Chief Justice tried to explain away that statement later, I believe that he was exactly right in making that statement—not that it is correct for the Constitution to mean what the judges say it means, but, from a practical standpoint, the Constitution means what the judges—and by judges I mean the Supreme Court of the United States—say it means, because how can we appeal from the Supreme Court? They are the final arbiters of what they say the Constitution means.

So how can we, by statute, codify—and I understand that is what the proponents of the legislation are seeking to do—areas in which the President can act under the Constitution? It just cannot be done in the absence of a constitutional amendment.

So the Constitution, irrespective of what the Congress says it means, means what it says, and, in the final analysis, means what the courts say it means.

The Founding Fathers, in their wisdom, foresaw that the system of checks and balances which they established would prevent the domination of the system by any one branch.

Yet this ingenious system was not to depend for its operation on a complex enumeration of specific details.

Mr. President, this legislation would depart from the wisdom of the Constitution, which is general, which is flexible, and would seek to enumerate a number of specific instances, specific areas, in which the President can act, and then limit his power to act in those areas to 30 days.

Mr. President, to the junior Senator from Alabama this seems to be something we patently could not do. And even if we could do that, a specific enumeration of the areas in which the President could act of necessity would leave out many areas in which it would be desirable for the President to act and in which he would have no authority to act under the terms of this legislation.

We all know from our own experience that if we try to limit ourselves to an enumeration of what we want to do or what is desirable to do in our everyday efforts, we would leave out something that is desirable. So by seeking to enumerate areas in which the President can act, we lose the benefit of the use of broad, general areas of power in which the President woud be empowered to act.

Yet this ingenious system was not to depend for its operation on a complex enumeration of specific details, but on broadly defined powers and responsibilities which would maximize the ability of the Government as a whole to respond to unforeseen and unforeseeable future developments, and maximize the interchange and, yes, the friction, between the three branches. I would like to see a more careful and considered evaluation by those who are best qualified to help in exposing its full implications—the leading practitioners and scholars of our legal system and its application throughout our history.

Last, but not least, the proposed legislation raises serious questions, which have not been answered to my satisfaction, on the effect it might have on our ability to respond to threats to our national security. This is not a question of whether or not the United States will attempt to be the world's policeman.

Mr. President, I believe that the force of public opinion is going to prevent any President, present or future, from involving this country in another Vietnam—from gradually allowing our country to become involved in a no-win war such as we are involved in in Vietnam.

So what is the hurry about this bill, Mr. President? It is not contended, I assume, that it would end the war in Vietnam 1 day sooner. If it were, that would be more reason for pushing the bill through without its going to the Judiciary Committee, if possible. But it is not even contended, Mr. President, that this proposed statute would stop the war in Vietnam, or bring it to a close 1 single day earlier than it is going to end without the legislation. So what is the big rush? Why not let the bill go to the Judiciary Committee?

I feel that it would meet pretty general acceptance if a method could be hit upon under the Constitution that would accomplish the purposes sought to be accomplished by this legislation. But there is no danger of our getting involved in another Vietnam, and this bill will not end the war any quicker, so why rush it through? Why not let it go to the Judiciary Committee, as the motion before the Senate would provide?

In this nuclear age we must exercise the utmost care in placing restrictions upon the Commander in Chief of our Armed Forces. I realize that some of my honorable colleagues may argue that, indeed, it is because of the fact we are in a nuclear age that restrictions should be imposed. But, Mr. President, in this nuclear age, with a 30-day period within which the President can act in certain specified instances, is there not a danger that the President might overact or overreact, if he knew that his power would last for only 30 days? Would he not want to get the job accomplished in that 30-day period and not risk calling on Congress for its approval?

It occurs to the junior Senator from Alabama, Mr. President, that there are dangers inherent in this bill, and that it would in fact create more dangers than it would offer solutions to the problems and the doubts and fears that might beset us.

Then, too, Mr. President, this thought occurs to me: If we specify, as we would under this legislation, that the President can act for a period of 30 days in this instance, in that instance, and in another instance, would not our potential enemies—and we have them, Mr. President, as we well know—study the legislation just as carefully as would those of us in Congress who enact the legislation, to see just how far they could go in prodding here and prodding there, in taunting us here and taunting us there, in invading here and invading there, to go just as far as they could without running the risk of having the President use the retaliatory powers that he has at present?

Might they not see that they could move in this direction or that direction, and find the President powerless to act against them?

Mr. President, it occurs to me that this legislation is indeed dearly priced. It accomplishes little of a constructive nature, if anything. It places dubious limits on the President—that is, limits of dubious constitutional merit or worth. But it does lay our country open to having a President incapable of acting speedily in an emergency situation.

I submit only that we must take every precaution to avoid superficial treatment of a measure of such importance—and I cannot agree that we have done so to date. We must avoid an emotional response to such a fundamental issue.

For these reasons, Mr. President, and for the reason that there is no hurry, there is no occasion for haste, for the reason that even if the aims are constructive—and I certainly do not intend to suggest that the aims sought to be achieved are not constructive—and even if it possible to codify the power of the President to act as Commander in Chief of the Armed Forces of this country, in the face of his constitutional powers, I say that we ought to come up with the best possible bill, a bill that would not be subject to constitutional objections, a bill that would have serious and thoughtful study by the eminent members of the Committee on the Judiciary, who would be empowered to study it, hold hearings on the subject, and call in the best legal minds of the country to advise the committee.

I urge for all these reasons that the Judiciary Committee be given the opportunity to review S. 2956 carefully and thoroughly in the light of testimony by legal authorities before we are asked to make a judgment on this bill.

Mr. President, I ask unanimous consent to have printed in the Record a letter to the editor of the Washington Star on this subject, written by Walter Sterling Surrey, and published on Sunday, April 9, 1972.

There being no objection, the letter was ordered to be printed in the Record, as follows:

War Powers Bill

Sir.—As one who for many years has practiced and taught in the field of international law, I can only view the Javits War Powers Bill as raising most serious constitutional law issues and as substituting for presidential flexibility in the conduct of our foreign policy an inflexible limitation on the president's power and capacities to act as the principal spokesman for the United States in the field of foreign relations and as the commander-in-chief of the armed forces of the United States.

One can identify, as a citizen, with the frustrations of many congressmen and senators on the position in which we find ourselves in Vietnam; one can, as a citizen, identify with the frustrations of a congressman or senator who today seeks assurances of better, more complete and prompter communications on significant foreign policy matters by the executive to the responsible committees of Congress; one can share with the congressmen and senators—and a large section of the American public—the concern with the changes in the fabric of our society which Vietnam has caused, and abhor the unknowns that could be brought about in our society and on our form of government by another Vietnam.

However, these frustrations and deep concerns cannot serve as justifications by Congress to seek through legislation, rather than by constitutional amendment, a drastic rearrangement of the constitutional relationships in the conduct of foreign policy between the Congress and the president, arrangements which will seriously affect our capabilities and flexibilities in our conduct of international relations.

Others have documented the specifics that may be made against the bill—its annulment of the Middle East Resolution and of our commitments to NATO, its limitations on the powers of the president as commander in chief, which were used so effectively by President Eisenhower in the Lebanese intervention, by President Kennedy in the Cuban missile crisis, by constant presidential actions with respect to Berlin, by President Johnson in the use of the fleet to deter Soviet intervention in the six-day war in 1967, by President Nixon's comparable action in the same Middle East area for the same purpose—to identify only a sampling.

However, at this stage of the legislative history of the Javits bill, it is important that the Congress focus on its course of conduct in order that it may provide full consideration to the terms and consequences of the proposed legislation. The Senate is scheduled to act on the legislation this week.

One can only hope that the leadership of both parties will recognize the full consequences of what the legislation seeks to do and at the very least will want to assure the fullest consideration in both houses of the constitutional implications of the legislation. This could be accomplished in part by the Senate referring the bill to the Senate Judiciary Committee with a 60-day time limit to examine and report to the full Senate the committee's views on the constitutional questions raised by the bill.

In addition, it is important that the House recognize that the Javits bill is very different from the Zablocki bill passed in August 1970. The Zablocki bill provided that wherever feasible the President should seek appropriate consideration by the Congress before involving the United States in armed conflict, and it required the president, in the event of his use of armed forces, to report to the Congress fully on such use.

It is important that the House recognize the grave differences between the two bills and that whether on the floor of the House, in considering the Javits bill, or in a House-Senate conference committee, in the event the Javits bill is handled as an amendment to the Zablocki bill, that these differences be given serious consideration by the House members or the House conferees. It is not enough to say, as has been stated on the Senate floor, that we are dealing with a political and not a legal issue. We are dealing in effect with an amendment to the Constitution and with a radical change in the historical relationship between the President and Congress in relation to foreign policy which will have widespread effects on the whole pattern of the conduct of our international relations.

Walter Sterling Surrey.

Mr. ALLEN. Mr. President, I yield the floor.

Mr. DOMINICK. Mr. President, I rise to compliment my friend from Alabama for what I think is an extremely thoughtful speech, and to make some additional comments of my own.

As can be seen by the rather limited number of Senators in the Chamber, this debate, as important as it is, has not really gripped the imagination of the Senate, nor has it yet gripped the imagination of the American people. Both these circumstances, I think, are regrettable. I say this because I feel that the debate on this bill may be as important for the future history of this country—and perhaps for the free world—as any that we have had since I have been in the Senate, since 1962.

Mr. President, we have here an interesting bill, in that it says, in section 2:

> This Act is not intended to encroach upon the recognized powers of the President, as Commander in Chief and Chief Executive, to conduct hostilities authorized by the Congress, to respond to attacks or the imminent threat of attacks upon the United States, including its territories and possessions, to repel attacks or forestall the imminent threat of attacks against the Armed Forces of the United States, and, under proper circumstances, to rescue endangered citizens and nationals of the United States located in foreign countries.

Note that it specifically says that the act "is not intended to encroach upon the recognized powers of the President, as Commander in Chief." That is a very nice statement. But then we come over to section 5, which says that these hostilities cannot be conducted for more than 30 days unless Congress approves it and that Congress can cut it off in less than 30 days, under section 6, by the simple passage of an act or a joint resolution.

I cannot think of any more direct way of encroaching upon the powers of a President who has engaged troops under what we say are recognized powers in section 2. The two provisions simply do not go together, either constitutionally or legally. You cannot, on the one hand, pass an act which recognizes certain powers as belonging to the President and then, in another provision of the same act, say, "But Congress is not going to give him those powers." It is really a pretty extraordinary piece of legislation from that point of view—and from many others besides.

Mr. President, reference has been made to Prof. Eugene Rostow of Yale University. Professor Rostow happens to be a longtime friend of mine, a person with whom I have been in touch on several occasions, a person who acted as dean of Yale Law School for a number of years, a man who served in high positions during the 1960's in the State Department, and who is now back at Yale University as a professor of law.

I have been in touch with him directly and by mail, and he has submitted to me the text of an article on the so-called war powers bill which he has sent to a law journal. The article, in the form I received it, is 75 pages long, with appropriate footnotes encompassing an additional 13 pages. I am not going to ask that the entire article be printed in the RECORD, although I think it would be helpful if at a later date we could secure reprints of his printed article and supply a copy to each Member of the Senate; but I think it is worthwhile to read a few excerpts from the article, since we are dealing now with the question of whether or not this bill should be sent to the Judiciary Committee, a proposition which I firmly support. As a matter of fact, I would not object in the slightest if it got to the Committee on Armed Services, and we could get some input from our own committee—on which I serve—as to what the effect of this might be with respect to our mutual defense alliances throughout the world.

At the moment, since we are dealing only with the question of submitting it to the Judiciary Committee on an agreed time limit when it would be reported, I will try today to stick to some of the constitutional arguments which I think are important. Professor Rostow says:

> The Javits Bill rests on a premise of constitutional law and constitutional history which is in error, and that its passage would be a constitutional disaster, depriving the government of the powers it needs most to safeguard the nation in a dangerous and unstable world. Even if a President were to ignore such a statute, assuming that it passed over his veto, on the ground that it is unconstitutional, the passage of the Bill would create uncertainties, and envenom politics, in ways which would themselves be dangerous, both at home and abroad. It would tend to convert every crisis of foreign policy into a crisis of will, of pride, and of precedence between Congress and the President, making the policy process even more athletic than it is today.
>
> The Javits Bill is a more serious attack on the Constitution, and the security of the nation, than one or another of the Bricker Amendments which were nearly recommended by the Congress in the middle fifties. Those Amendments dealt only with the legal effect of treaties as internal law. They would have required affirmative action by Congress before treaties became operative as the supreme law of the land.
>
> The Javits Bill is more ambitious.

I find it somewhat ironic that the proponents of this bill were the opponents of the Bricker amendment. They were called liberals then, and they are called liberals now. That is an ideological distinction which I find very difficult to follow.

This is a serious situation, it seems to me, when we have some of the very distinguished minds in the Senate supporting this type of provision largely, as I understand it, because of a reaction against the Vietnam war—an overreaction, to say the very least.

I read another section from the article of Professor Rostow, on page 6. I brought up this point in passing the other day, and I say it again.

> Under the Javits Bill, no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations. And, on those occasions when the Bill would authorize the President to move quickly, the reporting requirements could well of themselves blow every secret diplomatic brush into a major crisis.
>
> The Javits Bill is full of paradox. While its nominal motivation is to assure the nation that a pacific Congress will staunchly keep future Presidents from engaging in limited wars like that in Vietnam, the Bill would not have prevented the campaign in Vietnam if it had been enacted thirty years ago. Our participation in Vietnam was specifically authorized by President Eisenhower's SEATO Treaty, and by several pieces of legislation, including the Tonkin Gulf Resolution, enacted for the purpose of approving the use of armed force to uphold the commitment of that Treaty.

The point I am making here is that if the bill is designed to preserve the constitutional powers of the President to engage the Armed Forces of the United States in defense of our country, how then can we say by legislation that we are going to limit the Constitution by saying Congress could cut it off within 1, 2, or 3 days after the President has taken action?

It would seem to me that this would be particularly unconstitutional. This is over and beyond the question of whether the law is wise from a judgment point of view. Is it wise, for example, to take away from the President in consultation with the National Security Council, the State Department, and the Defense Department, the power to move, to move forces into obviously dangerous situations, the reason for moving them being to prevent a more major crisis from occurring, a crisis which could have broken out in 1967 and 1970 in the Mediterranean area relative to the Arab-Israel situation?

Professor Rostow, as I said, has written an extremely detailed, thoughtful, and carefully worded paper for printing. It is my wish that we all have had the opportunity to read this full article prior to this debate having come about. But some of the excerpts I have already read are of importance.

Here is another one which I think is important. We have had considerable discussion about Professor Bickel, also from Yale University, and his position on the ground that this is a good method of going.

Professor Rostow says:

> The delegation theory of Professors Velvel, Wormuth and Bickel would deny the President and the Congress the most ordinary and elementary tools for protecting the nation in a time of international turbulence. Under their rule, we should be the only nation on earth incapable of making a credible military treaty. For their rule would make it impossible firmly to delineate American interests in advance, and thus to deter and contain processes of expansion which Congress and the President deem threatening to national security. It would emasculate both Congress and the Presidency, and deprive even treaties like NATO of their weight and credibility.
>
> While the Javits Bill does not fully embrace this extraordinary doctrine about the non-delegability of Congress' power with respect to the use of armed forces, it would annul the military provisions of all existing treaties and probably those of outstanding congressional commitments as well, and completely annul all presidential commitments not embodied in treaties. There would be a difficult and dangerous period of hiatus, maximizing uncertainty, until new legislation could be considered and passed.

Mr. TAFT. Mr. President, will the Senator from Colorado yield at that point?

Mr. DOMINICK. I yield.

Mr. TAFT. I read that particular passage with some interest early today. I wondered whether the Senator could give some explanation as to Professor Rostow's meaning in that regard and the generally adopted theory that our treaties are not self-executing; indeed, that there must be some further action taken in order, under our constitutional processes, to authorize the use of our Armed Forces.

Mr. DOMINICK. Yes. I think he is talking not only about treaties but also about executive agreements which may not be in the form of a question, where we need additional action of one sort or another, referred to commonly as constitutional processes. I believe all our treaties do contain words "within constitutional processes" or "in accordance with constitutional processes." That includes NATO. But the fact is that in almost every one of the mutual defense treaties we have, we have provisions in them for joint action in case the territory or the forces of any of the nations involved are attacked by hostile forces.

It is assumed in all of these that almost immediately, by a message or by a request, or information simply from the President to Congress, that action can come practically simultaneously, without having to have specific authorization going through both Houses of Congress. I believe that this is what he is talking about.

Now, let me go on with this. I read it—as I am sure the Senator from Ohio has—rather carefully, and the next provision he makes is:

> The Constitution, Justice Goldberg once said, is not "a suicide pact." The war power, the Supreme Court has remarked, is the power to wage war successfully. So, too, the power of the President and of the Congress over foreign relations is the power to wage peace successfully. There is nothing in the history of the war power and the foreign relations power, since President Washington's first term, to suggest that the United States may not seek to avert the danger of war by giving potential enemies of the nation a credible and effective warning in advance. Those who oppose the presumptive constitutional validity of the means Congress and the President together select as appropriate to protect the security of the nation, *McCulloch* v. *Maryland* teaches, face a nearly insuperable burden of proof.

So I think what he is saying is that, once we attack the credibility of a mutual defense treaty, we discredit it and therefore we do not have any credible advance warning.

Mr. TAFT. I fail to see how that differs with the treaty status with regard to NATO, SEATO, and the other major defense treaties, so that it is clear, as the Senator has indicated, further action or authority does have to be given under those treaties in the use of our Armed Forces, even to the problem of attack upon one of the members, as provided for in the terms of the treaty itself. I am not reassured by the Senator's statement that he believes Professor Rostow is referring to Executive orders because——

Mr. DOMINICK. I said in part.

Mr. TAFT. Well, my question is whether Professor Rostow really was referring to Executive orders. But, if he was, it seems to me that the danger is clear and the need for this legislation is more clear than the case for existing treaties.

Mr. DOMINICK. Well, I can understand the Senator's concern. I have great respect for his judgment and backing and opinions. But let me say this, we have gone into this debate on what the constitutional processes are, and the question of the use of Armed Forces which, as the Senator well knows, has been debated for a considerable period of time both on this floor today and in the past. There are considerable degrees of pattern and practice that would indicate we do not need an act of Congress in order to have constitutional processes to back the action of the President.

Mr. TAFT. I would agree with that, that it is within the war powers or transcends the war powers. If that is the case, I have never understood, and the Senator seems to be advocating the theory that, somehow, the war-powers provision of the Constitution can be abrogated by a treaty, which would be news to me. If that is the case, and there is some general belief that there is, too; it would be important to go into the definition of what the war powers are and what the authorities are in general for the Department of the Armed Forces in hostilities, or in a situation in which hostilities are imminent, as this legislation does.

Mr. DOMINICK. This is another reason why I think the question the Senator has raised here in this colloquy should be sent to the Judiciary Committee, where the resolution can be far more thoroughly considered than it has been up to date.

I think it is apparent, from some of the points we have brought out before, that the sponsors have already amended it in three places to take care of some of the postulates we have posed to them. Under this situation, what we are talking about here is whether we are in fact not just trying to reexercise the powers given to us as Members of Congress under the Constitution, but also whether we are trying to curtail the powers which have, both by the Constitution and by practice—patterns of practice—over a long period of time been left in the hands of the President as Commander in Chief.

Mr. TAFT. I thank the Senator for his comments. I have not committed myself, I might say, as to my position to refer it to the committee. However, the Senator is certainly a distinguished member of the bar. The Senator from New York has been a distinguished member of the bar and has made legal interpretations. I think that is also true of many other members of the committee which has already had the legislation under consideration.

I think it is also pretty evident that we have taken a lot of time on the floor to consider the measure. So, anyone could get into the legal ramifications that might be covered in the matter, and all have had an opportunity to do so.

I would welcome hearing from the Senator as to what further information might come from a referral to the Committee on the Judiciary.

Mr. DOMINICK. Mr. President, I will attempt again to be as brief as I can be. I do not think the Senator from Ohio or the Senator from New York were present when I started. I pointed out that in section 2 of this bill, if it were passed, we would be specifically saying that we did not intend to encroach on the recognized powers of the President to conduct hostilities, to respond to attacks or the imminent threats of attacks. This is contained on page 7 of the bill. Yet, we go into sections 5 and 6 of the bill, and it is my understanding that we say there that although we do not intend to encroach upon his powers, we can cut him off after 1 day or he can be permitted to continue for 30 days, but no longer than that.

It seems to me that it is difficult to say that we are going to do this on the one hand and on the other hand say that we are going to cut off his right to do it. I do not understand that situation at all.

It seems to me that if the power contained in title II is designed to restrict the constitutional power, then by limiting it under sections 5 and 6, we are indeed doing as Professor Rostow said, trying to amend the Constitution by statute. I do not think that we should attempt to do that. And I do not think it is proper.

I could go on at some length. These are points that have been brought up before. However, I will repeat them.

As I understand it, there were only two professors of law who were witnesses in the hearing before the Foreign Relations Committee—one being Professor Bickel, who testified in favor of the bill, and the other being Professor Moore, of the University of Virginia, who testified against it.

There are obviously going to be differences among all lawyers as to what any particular bill means. However, when we are dealing with something which could have the potential significance to the history of this country as this bill does, if passed, it seems to me that we ought to get as many minds, and good minds, on the exact wording of it and the exact meaning of it, as we can. And we ought to do that prior to the time we take final action on the bill.

As I believe the Senator recognizes, the motion of the Senator from Nebraska to refer this matter to the Judiciary Committee will be for a limited period of time. So the bill will be reported again. It will not be stuffed in a cubbyhole where it may die. The purpose is to get the hearings finished and be able to come forward with some further evidence.

I strongly support the motion. I think it is well worthwhile doing. I certainly am—and I think many of the Members of the Senate also are—far from satisfied with the constitutionality of the bill or its workability in terms of the world as we see it today.

I ask unanimous consent that a letter to the editor of the Washington Star, written by Mr. Walter Sterling Surrey, a very prominent lawyer in town and a former member of the State Department, and published in yesterday's Star, be printed in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

WAR POWERS BILL

SIR: As one who for many years has practiced and taught in the field of international law, I can only view the Javits War Powers bill as raising most serious constitutional law issues and as substituting for presidential flexibility in the conduct of our foreign policy an inflexible limitation on the President's power and capacities to act as the principal spokesman for the United States in the field of foreign relations and as the commander-in-chief of the armed forces of the United States.

One can identify, as a citizen, with the frustrations of many congressmen and senators on the position in which we find ourselves in Vietnam; one can, as a citizen, identify with the frustrations of a congressman or senator who today seeks assurances of better, more complete and prompter communications on significant foreign policy matters by the executive to the responsible committees of Congress; one can share with the congressmen and senators—and a large section of the American public—the concerns with changes in the fabric of our society which Vietnam has caused, and abhor the unknowns that could be brought about in our society and on our form of government by another Vietnam.

However, these frustrations and deep concerns cannot serve as justifications by Congress to seek through legislation, rather than by constitutional amendment, a drastic rearrangement of the constitutional relationships in the conduct of foreign policy between the Congress and the president, arrangements which will seriously affect our capabilities and flexibilities in our conduct of international relations.

Others have documented the specifics that may be made against the bill—its annulment of the Middle East Resolution and of our commitments to NATO, its limitations on the powers of the president as commander-in-chief, which were used so effectively by President Eisenhower in the Lebanese intervention, by President Kennedy in the Cuban missile crisis, by constant presidential actions with respect to Berlin, by President Johnson in the use of the fleet to deter Soviet intervention in the six-day war in 1967, by President Nixon's comparable action in the same Middle East area for the same purpose—to identify only a sampling.

However, at this stage of the legislative history of the Javits bill, it is important that the Congress focus on its course of conduct in order that it may provide full consideration to the terms and consequences of the proposed legislation. The Senate is scheduled to act on the legislation this week.

One can only hope that the leadership of both parties will recognize the full consequences of what the legislation seeks to do and at the very least will want to assure the fullest consideration in both houses of the constitutional implications of the legislation. This could be accomplished in part by the Senate referring the bill to the Senate Judiciary Committee with a 60-day time limit to examine and report to the full Senate the committee's views on the constitutional questions raised by the bill.

In addition, it is important that the House recognize that the Javits bill is very different from the Zablocki bill passed in August 1970. The Zablocki bill provided that wherever feasible the President should seek appropriate consideration by the Congress before involving the United States in armed conflict, and it required the president, in the event of his use of armed forces, to report to the Congress fully on such use.

It is important that the House recognize the grave differences between the two bills and that whether on the floor of the House, in considering the Javits bill, or in the House-Senate conference committee, in the event the Javits bill is handled as an amendment to the Zablocki bill, that these differences be given serious consideration by the House members or the House conferees. It is not enough to say, as has been stated on the Senate floor, that we are dealing with a political and not a legal issue. We are dealing in effect with an amendment to the Constitution and with a radical change in the historical relationship between the president and Congress in relation to foreign policy which will have widespread effects on the whole pattern of the conduct of our international relations.

Mr. EAGLETON. Mr. President, I rise to speak in opposition to the Hruska motion to refer S. 2956 to the Committee on the Judiciary.

The remarks of the Senator from Colorado (Mr. Dominick) and the Senator from Alabama (Mr. Allen) placed considerable emphasis on the absence of noted legal scholars in support of the proposed Javits bill. The Senator from Colorado read excerpts from a law review article by Professor Rostow. However, the Senator from Colorado failed to mention two law review articles already in the Record written by retired professors of law. One is in the Record of Wednesday, March 29, by former Prof. William Spong, now a Senator from the State of Virginia. That is an article that was published in the University of Richmond Law Review. It was introduced into the Record by the Senator from Missouri.

On the following day, on the basis of reciprocity, the Senator from Virginia (Mr. Spong) requested that an article by retired professor of law Eagleton of the University of Michigan be printed in the Record. Both law review articles pertain to the War Powers Act.

So two ex-law professors have given their opinions as to the constitutionality of this legislation.

Mr. President, I have in my hand a brief entitled "Indochina: The Constitutional Crisis." This brief also relates to this matter. It has been prepared by several eminent legal scholars and practitioners of the law, including: Alexander M. Bickel, professor of law, Yale Law School; Bruce Bromley, attorney, New York City; former judge, New York Court of Appeals; Elias Clark, professor of law, Yale Law School; Ramsey Clark, former Attorney General; William T. Coleman, attorney, Philadelphia, Pa.; John W. Douglas, former Assistant Attorney General; George N. Lindsay, attorney, New York City; Burke Marshall, professor of law, Yale Law School; former Assistant Attorney General; Louis F. Oberdorfer, former Assistant Attorney General; Stephen J. Pollak, former Assistant Attorney General; Paul C. Warnke, former Assistant Secretary of Defense; and Edwin M. Zimmerman, former Assistant Attorney General.

Mr. President, I ask unanimous consent that the brief to which I have referred be printed at this point in the Record.

There being no objection, the brief was ordered to be printed in the Record, as follows:

Indochina: The Constitutional Crisis

The dispatch of American troops into Cambodia by the President, without specific authorization by Congress, raises serious questions about the constitutional allocation of power between the legislative and executive branches. The most significant factor in the resolution of such questions is the presence or absence of action by each branch.

The power to commit American forces to combat was originally entrusted to Congress, which retained it almost unchallenged for over a century. But in the twentieth century, Congress has passively allowed the effective ability to engage the United States in hostile actions abroad to be assumed almost entirely by the Presidency.

Proposals now before Congress invoke the money power as a means of asserting control over the Indochinese War. If Congress exercises its money power to prohibit specific uses of the armed forces, it will reassert its long dormant capacity firmly and constitutionally to limit the President's ability to use the armed forces for purposes which Congress does not approve.

I. THE LANGUAGE OF THE CONSTITUTION

The power to commit American troops to battle was allocated by the Constitution between the President and Congress. (The relevant clauses of the Constitution are quoted in the Appendix.) The President is entrusted with the executive power,[1] made Commander in Chief of the Army and Navy,[2] and, with the advice and consent of the Senate, empowered to make treaties and appoint ambassadors.[3] The Congress is empowered to lay taxes to provide for the common defense,[4] to define and punish offenses against the law of nations,[5] to declare war,[6] to raise and support armies (but not to finance them for more than two years at a time),[7] to provide and maintain a navy,[8] to make rules for the land and naval forces,[9] and to provide for calling up and organizing the militia.[10]

II. THE ORIGINAL UNDERSTANDING

The Constitution does not say explicitly whether the army may be sent into battle when Congress has not declared war, or, if it may, under what circumstances and by whose decision. In interpreting the Constitution on this point, it is helpful to look at the intent of the Framers and to the understanding of the men who first put the Constitution into practice.[11]

The Constitutional Convention debated the clause giving Congress the power to declare war on August 17, 1787.[12] The clause originally empowered Congress "to make war."[13] Some delegates objected that the power should lie with the executive, as it did in England.[14] Most of the Convention seemed firmly of the opinion that the power should lie with Congress, but that the President should have the power to defend against a sudden attack. The Convention decided to "insert 'declare,' striking out 'make' war, leaving to the executive the power to repel sudden attacks."[15] The Framers had in mind a division of functions. The President, as Commander in Chief, was charged with the conduct of hostilities after they are legally begun. He was also expected to take measures to repel any actual attack upon the United States, as an incident of his executive power. But the power to initiate hostilities was clearly meant to be reserved to the Congress, with the President participating in that initiative only so far as his signature was necessary to complete an act of Congress. Thus, the President, unless his veto is overridden, may prevent war, but he cannot constitutionally act alone to begin a war.

The Judicial branch was also quick to conclude that Congress alone can declare war. Delivering the opinion of the Supreme Court in an 1801 prize case, Chief Justice John Marshall concluded that the "whole powers of war" were "vested in Congress."[16]

There may, however, be hostilities which fall short of requiring an actual declaration of war. Ten years after the adoption of the Constitution, the naval trouble between the United States and France which had begun under Washington became so acute that American shipping was greatly endangered.[17] President Adams had to decide what to do. Alexander Hamilton advised the administration against action without Congressional authority:

> In so delicate a case, in one which involves so important a consequence as that of war,

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Footnotes at end of article.

my opinion is that no doubtful authority ought to be exercised by the President.[18]

Adams decided to wait for Congress to act, and it passed laws authorizing him to protect American commerce.[19] Similarly in 1801, President Jefferson was faced with hostilities on the Barbary Coast, but felt that he could order only defensive measures until Congress authorized him to commit forces to offensive action.[20]

In the first two limited wars in which the United States found itself, both Adams and Jefferson had the means to order retaliatory action immediately. Perhaps some lives and property would have been saved had they done so. But both clearly felt that the decision to commit American forces was not constitutionally theirs to make, and preferred the preservation of the Constitutional process to the pursuit of a temporary military advantage.

III. HISTORICAL DEVELOPMENT OF THE WAR POWER

A. Wars and Limited Wars in the Nineteenth Century:

If the President's power to engage American forces in hostilities on his own initiative is limited to defensive action by a strict construction of the Constitution, the question of the proper role of Congress arises. Congress clearly has the power to engage the United States in formal war, as it did in 1812 with the President reluctantly assenting.[21] It may declare war at the request of the President.[22] And Congress may also ratify after the fact hostilities begun by the President.[23]

The executive branch very early recognized the exclusive power of Congress to declare war. In the course of a dispute with Spain in 1805, President Jefferson told Congress:

> Considering that Congress alone is constitutionally invested with the power of changing our position from peace to war, I have thought it my duty to await their authority before using force in any degree which could be avoided.[24]

Similar deference to the sole power of Congress to make any decision to commit the United States to war was voiced by President James Monroe,[25] Secretary of State John Quincy Adams,[26] and Secretary of State Daniel Webster.[27]

The Congress itself was jealously aware of its war power, and on one occasion nearly censured the President for invading it. In 1846 it had declared, after the fact, that a state of war existed with Mexico. But the debate was bitter and the war unpopular. At the end of the war, the House of Representatives voted its thanks to General Taylor, but amended its resolution to note that he had won

> A war unnecessarily and unconstitutionally begun by the President of the United States.[28]

Among the Congressmen supporting the amendment were former President John Quincy Adams and future President Abraham Lincoln.

Congress also has considerable power, short of a declaration of war, to authorize and regulate limited hostilities, as it has done on a number of occasions, with and without executive approval, since 1798.[29]

During the nineteenth century, the executive branch frequently recognized the need for congressional authorization even for limited military actions. In 1857 the Secretary of State refused to send ships to help a British expedition in China, because he lacked congressional authority to do so.[30] The next year President Buchanan pleaded with Congress for authority to protect transit across the isthmus of Panama, but refused to act without it.[31] Nor in 1876 would the State Department use force to help Americans in Mexico, because it felt that it lacked the power to do so.[32] As late as 1911 President William Howard Taft felt that he had enough power to move troops to the Mexican border, to be ready in case Congress told him to protect American lives and property endangered by the revolution there, but refused to send them in on his own authority.[33]

B. Erosion of the Congressional War-Making Power in the Twentieth Century:

In the early part of the twentieth century, the executive began to exercise greater discretion in the use of American armed forces abroad. For instance, without specific congressional approval, President Theodore Roosevelt sent American troops into Panama in 1903 and President Wilson sent troops into Mexico in 1916 in pursuit of the Pancho Villa bandits.[34]

Since 1945, the executive has regularly used military force abroad as a tool of diplomacy. Aside from Indochina, the greatest use of American force was in Korea, where several hundred thousand troops were committed to combat and major casualties were incurred. There was neither a formal declaration of war, nor any other specific congressional sanction for the Korean conflict.[35] American forces were sent into the Formosan Strait in 1955, into Lebanon in 1958, and into the Dominican Republic in 1965. The Navy was used to blockade Cuba during the missile crisis in 1962. And, most recently, naval vessels were dispatched to the vicinity of Haiti and Trinidad in response to internal conflicts in those countries. Prior congressional resolutions were obtained by the President for the Formosan and Lebanese actions, but both the validity of those resolutions and the degree to which President Eisenhower relied on them has been questioned.[36]

The application of prior historical precedents to unilateral executive use of armed force abroad in the mid-twentieth century can, however, be misleading. For instance, as precedents for the Vietnam War, a State Department Memorandum cites a long series of military actions ordered by the President alone.[37] The majority of the cited military actions undertaken by the executive without congressional approval took place in the nineteenth century. Most of them were not actions that involved conflicts with foreign states; rather, the bulk of them involved the protections of individuals, police actions against pirates or actions against primitive peoples. Furthermore, the United States did not have a significant standing army during peacetime until after 1945, and the President was limited in the military actions that he could take by the need to approach Congress to ask for any increase in the size of the armed forces. Today, with a tremendous military machine and modern transport at his immediate disposal, the President is under little practical pressure to seek congressional authorization for his actions, and therefore he is unlikely to seek it unless Congress insist that he do so.[38]

IV. THE THEORETICAL BASES FOR UNILATERAL PRESIDENTIAL ACTION

The theories on which various Presidents have relied for the use of military force abroad without congressional approval may be divided into three general categories: (1) the sudden attack theory; (2) the neutrality theory; and (3) the collective security theory.[39]

(1) *The Sudden Attack Theory*—The President as the Chief Executive has the inherent power to defend the sovereignty and integrity of the nation itself and to respond to an armed attack on the territory of the United States without requesting congressional approval. For example, we do not question the constitutional authority of the President to order a retaliatory strike in the event of an atomic attack on the territory of the United States. In the absence of an armed attack on American territory, the power of the President is more closely circumscribed.[40]

(2) *The Neutrality Theory*—Also known as "interposition," the neutrality theory was developed during the nineteenth century as a justification for American military involvement abroad to protect American citizens and property. When American armed forces were sent into a foreign nation, their presence was supposed to be "neutral" with respect to any conflicts there. *The executive, in taking such action, was not necessarily "making war" but merely dispatching troops to act as security guards for American citizens and their property. The real difficulty, clearly, was in remaining neutral and avoiding conflict.*[41]

(3) *The Collective Security Theory*—Since 1945, the United States has entered into many security treaties with foreign nations. Many of these agreements have clauses which indicate that the security of each signatory is vital to the security of each other signatory. Unilateral presidential action under these agreements may be justified as necessary for the protection of American security even though the conflict may arise thousands of miles from American shores, but, *carried to its extreme, the collective security theory would justify almost any "unilateral" presidential use of armed force abroad,*[42] *a result contrary to Constitutional standards.*

V. THE JUSTIFICATIONS FOR UNILATERAL EXECUTIVE ACTION IN INDOCHINA

The involvement of the United States in Vietnam, the commencement of an air war in Laos, and the expansion of the ground war into Cambodia have resulted almost entirely from executive decisions and actions. The executive branch of the government has justified its action primarily on the grounds of: (1) the presidential prerogative to protect American security interests abroad by whatever means necessary; (2) the SEATO treaty; and (3) the Gulf of Tonkin Resolution.[43] It cannot be said that the recent actions by the executive in Cambodia or the earlier actions in both Vietnam and Laos are clearly contrary to the Constitution. However, the expansion of the war into Cambodia is the latest in a long series of acts which, taken together, have nearly stripped Congress of its war power.

(1) The Presidential Prerogative—Undoubtedly, the speed with which crises develop in the modern world necessitates a strong executive who can respond quickly to such crises. The need for a speedy response, the need for secrecy, the need to protect American citizens and property abroad, and the need to protect American security interests in the balance of power are all used to legitimize the use by the executive, without congressional approval, of American armed forces abroad. Recent United States actions, especially in Korea and Indochina, are cited to support great executive discretion in the use of American military force abroad. The recent invasion of Cambodia without prior congressional approval or even notice is not without historical precedent and not without justification under a broad interpretation of the collective security theory.[44]

However, the real question is whether the balance has shifted too far in favor of the executive.[45] A war, such as the one in Indochina, requires great sacrifices on the part of great numbers of the American people. It is difficult, if not impossible, to predict the ultimate outcome of any American intervention. Consequently, when there is a possibility of large scale American involvement and even a limited risk of war, Congress should pass on the desirability of American military action.[46]

The executive has also placed reliance on the power of the President as chief formulator of foreign policy and as Commander in Chief of the armed forces. Granted that the President does have primary responsibility in the modern world for the handling of foreign policy, he should not have the discretion to initiate war as an instrument of foreign policy.

Finally, the Commander in Chief pro-

Footnotes at end of article.

vision of the Constitution is an expression of civilian control over the military; it does not give the war power to the President.[47]

(2) The SEATO Treaty—The Southeast Asia Treaty Organization is one of the many multilateral collective security treaties which the United States has signed. Neither South Vietnam nor Cambodia is a signatory, but both countries are within "protocol areas" which the signatories consider to be vital to their security interests.[48] The terms of the treaty are ambiguous, and it is at least questionable whether the United States was obligated by the terms of the treaty to come to the aid of South Vietnam.[49]

THE CONSTITUTION OF THE UNITED STATES

(Clauses related to war)

Article I

Section 1. All legislative power herein granted shall be vested in a Congress of the United States . . .

Section 8. The Congress shall have Power to lay and collect Taxes, Duties, Imposts, and Excises, to . . . provide for the common Defence . . .

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant letters of Marque and Reprisal, and make rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of money to that Use shall be for a longer term than Two years;

To provide and maintain a Navy;

To make rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia . . .

To provide for organizing, arming, and disciplining the Militia . . .

To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers . . .

Article II

Section 1. The executive Power shall be vested in a President of the United States of America . . .

Section 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States when called into the actual service of the United States; . . . He shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors . . . and all other Officers of the United States . . .

(The appropriations clause)

Article I

Section 9. No money shall be drawn from the Treasury, but in consequence of Appropriations made by law; . . .

THE DEBATE ON THE WAR POWER IN THE CONSTITUTIONAL CONVENTION

(From Madison's notes)

Friday August 17th in convention, "To make war":

Mr. **Pinkney** opposed the vesting this power in the Legislature. Its proceedings were too slow. It would meet but once a year. The House of Representatives would be too numerous for such deliberations. The Senate would be the best depository, being more acquainted with foreign affairs, and most capable of proper resolutions. If the States are equally represented in the Senate, so as to give no advantage to large States, the power will notwithstanding be safe, as the small have their all at stake in such cases as well as the large States. It would be singular for one authority to make war, and another peace.

Mr. **Butler**. The objections against the Legislature lie in great degree against the Senate. He was for vesting the power in the President, who will have all the requisite qualities, and will not make war but when the Nation will support it.

Mr. **Madison** and Mr. **Gerry** moved to insert "declare," striking out "make" war; leaving to the Executive the power to repel sudden attacks.

Mr. **Sharman** thought it stood very well. The Executive should be able to repel and not to commence war. "Make" better than "declare" the latter narrowing the power too much.

Mr. **Gerry** never expected to hear in a republic a motion to empower the Executive alone to declare war.

Mr. **Ellsworth**. There is a material difference between the cases of making *war* and making *peace*. It should be more easy to get out of war than into it. War also is a simple and overt declaration, peace attended with intricate and secret negotiations.

Mr. **Mason** was against giving the power of war to the Executive, because not safety to be trusted with it; or to the Senate, because not so constructed as to be entitled to it. He was for clogging rather than facilitating war; but for facilitating peace. He preferred "declare" to "make."

On the motion to insert *declare*—in place of *make*, it was agreed to.

N.H. No.

Mass. absent.

Conn. no (On the remark by Mr. King that "make" war might be understood to "conduct" it which was an Executive function, Mr. Ellsworth gave up his objection, and the vote of Connecticut was changed to—ay).

Pa. ay.

Del. ay.

Md. ay.

Va. ay.

N.C. ay.

S.C. ay.

Geo. ay.

Mr. Pinkney's motion to strike out the whole clause, disregard to without call of States.

COMMENTS ON THE ROLE OF CONGRESS AND THE PRESIDENT IN MILITARY AND FOREIGN AFFAIRS

James Madison. "The management of foreign relations appears to be the most susceptible of abuse of all the trusts committed to government, because they can be concealed or disclosed in such parts and at such times as will best suit particular views; and because the body of the people are less capable of judging, and are more under the influence of prejudices, on that branch of their affairs, than of any other. Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad. "Letter to Jefferson, May 13, 1798.

Thomas Jefferson. "Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided." Message to Congress, December 6, 1805.

John Marshall. "The whole powers of war being, by the Constitution, vested in Congress, the acts of that body alone can be resorted to as our guides in this inquiry." Opinion in *The Amelia*, 1801.

Justice **Samuel P. Chase**. "Congress is empowered to declare a general war, or Congress may wage a limited war; limited in place, in object, in time. If a general war is declared, its extent and operations are only restricted and regulated by the *jus belli*, forming a part of the law of nations; but if a partial war is waged, its extent and operation depend on our municipal laws. Opinion in *Bas v. Tingey* 1800.

Daniel Webster. "In the first place, I have to say that the war-making power in this Government rests entirely with Congress; and that the President can authorize belligerent operations only in the cases expressly provided for by the Constitution and the laws. By these no power is given to the Executive to oppose an attack by one independent nation on the possessions of another. We are bound to regard both France and Hawaii as independent states, and equally independent, and though the general policy of the Government might lead it to take part with either in a controversy with the other, still, if this interference be an act of hostile force, it is not within the constitutional power of the President; and still less is it within the power of any subordinated agent of government, civil or military." Statement while Secretary of State 1851.

James Buchanan. "The executive government of this country in its intercourse with foreign nations is limited to the employment of diplomacy alone. When this fails it can proceed no further. It cannot legitimately resort to force without the direct authority of Congress, except in resisting and repelling hostile attacks. It would have no authority to enter the territories of Nicaragua even to prevent the destruction of the transit and to protect the lives and property of our own citizens on their passage. It is true that on a sudden emergency of this character the President would direct any armed force in the vicinity to march to their relief, but in doing this he would act upon his own responsibility." Message to Congress December 6, 1858.

Abraham Lincoln. "Let me first state what I understand to be your position. It is that if it shall become necessary to repel invasion, the President may, without violation of the Constitution, cross the line and invade the territory of another country, and that whether such necessity exists in any given case the President is the sole judge. . . .

"Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so whenever he may choose to say he deems it necessary for such a purpose, and you allow him to make war at his pleasure. Study to see if you can fix any limit to his power in this respect, after having given him so much power as you propose. . . .

"The provision of the Constitution giving the war-making power to Congress was dictated, as I understand it, by the following reasons: Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This our convention understood to be the most oppressive of all kingly oppressions, and they resolved to so frame the Constitution that no one man should hold the power of bringing oppression upon us. But your view destroys the whole matter, and places our President where kings have always stood." Letter to Herndon while in Congress.

FOOTNOTES

[1] Constitution of the United States of America, Article 2, §1.

[2] *Ibid*. Article 2, §2, cl. 1

[3] *Ibid*. Article 2, §2, cl. 2

[4] *Ibid*. Article 1, §8, cl. 1

[5] *Ibid*. Article 1, §8, cl. 10

[6] *Ibid*. Article 1, §8, cl. 11

[7] *Ibid*. Article 1, §8, cl. 12

[8] *Ibid*. Article 8, §8, cl. 13

[9] *Ibid*. Article 1, §8, cl. 14

[10] *Ibid*. Article 1, §8, cl. 15 and cl. 16

[11] For an exhaustive analysis of the historical development of the war power see the article by Francis D. Wormuth, "The Vietnam War: The President versus the Constitution," on which this paper draws heavily. It is reprinted in Falk, ed., *The Vietnam War and International Law*, Princeton University Press, 1969.

[12] James Madison, *Notes of Debates in the Federal Convention*, Ohio University Press edition, 1966.

A transcript of Madison's notes on the debate on the war power is included in the appendix to this paper.

[13] *Ibid.*, debate of August 17, 1787 (Ohio Edition page 476).

[14] *Ibid.*, remarks of Mr. Butler (see appendix). For a discussion of the English allocation of power, still accurate when the Constitution was written, see John Locke, *Second Treatise on Government* (1960), chapters 12 and 13, §145.

Mr. Gerry remarked that he "never expected to hear in a republic a motion to empower the Executive alone to declare war."

[15] *Ibid.*, the motion passed eight states to one, Massachusetts absent. (see appendix).

[16] *The Amelia*, 1 Cranch (5 U.S.) 1 (1801). Chief Justice Marshall wrote: The whole powers of war being, by the Constitution, vested in Congress, the acts of that body alone can be resorted to as our guides in this inquiry.

The case involved a ship whose seizure would have been legal under the President's privateering proclamation, but whose seizure the Court held was illegal under the terms of the Act of Congress which authorized the proclamation. The privateer was made to pay damages to the ship's owner.

[17] After the outbreak of the war between France and England in 1792, American shipping was molested by the blockades of both nations. President Washington met the challenge with his famous Neutrality Proclamation, which kept the United States out of the conflict. By 1798, however, French depredations on American commerce had become so menacing that action was needed to protect it. The question was whether President Adams could do so on his own authority or whether he needed the authority of Congress.

[18] Alexander Hamilton to James McHenry, the Secretary of War, May 17, 1798 (quoted in Wormuth, *op. cit.*)

[19] Congress suspended commercial intercourse with France in the Act of June 13, 1798, augmented by the Act of February 9, 1799. (1 Stat. 565, 1 Stat. 613). It denounced the treaty with France in the Act of July 7, 1798 (1 Stat. 578). It created the Department of the Navy by the Act of April 27, 1798 (1 Stat. 553). And it established the Marine Corps by the Act of July 11, 1798 (1 Stat. 594). The controversy with France is described in note 17, above.

[20] The Barbary States, particularly Tripoli, had been marauding American shipping, in an attempt to exact a payment of tribute from the United States. When the promised tribute was not paid, Tripoli declared war on the United States. President Jefferson sent ships to the Mediterranean, but authorized them only to defend themselves and other American ships. The Navy captured a Tripolitan ship, but released it after disarming it, as the President told Congress:

"Unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense, the vessel, being disabled from committing further hostilities, was liberated with its crew. The Legislature will doubtless consider whether, by authorizing measures of offense also, they will place our force on an equal footing with that of its adversaries."

Thomas Jefferson, First Annual Message, December 8, 1801, *Messages and Papers of the Presidents* (1908) vol. I, p. 326.

[21] Act of June 18, 1812 (2 Stat. 155).

[22] Act of April 20, 1898 (30 Stat. 738), containing the ultimatum to Spain, and the Act of April 25, 1898 (30 Stat. 364), declaring that a state of war had existed since April 21.

[23] Act of May 13, 1846 (Stat.), and Act of August 6, 1861 (12 Stat. 326).

[24] *Messages and Papers of the Presidents*, vol. I, p. 389.

[25] In 1824 Colombia notified the United States that it was threatened by France, and asked for protection. The Monroe Doctrine had been announced the year before, but the administration would not commit itself to defend Colombia. President Monroe wrote to Former President Madison that:

"The Executive has no right to commit the nation in any question of war."

Letter of August 2, 1824, quoted in Wormuth *op. cit.*

[26] Three days after Monroe's letter to Madison, Secretary of State Adams formally wrote to the Minister of Colombia to the United States:

"By the Constitution of the United States, the ultimate decision of this question belongs to the Legislative Department of the Government."

John Quincy Adams to Jose Maria Salazar, August 6, 1824.

[27] In 1851 Hawaii asked the United States for protection from France. Secretary of State Daniel Webster refused to help:

"I have to say that the war-making power rests entirely with Congress and that the President can authorize belligerent operations only in the case expressly provided for by the Constitution and the laws. By these no power is given to the Executive to oppose an attack by one independent nation on the possessions of another."

J.B. Moore, *Digest of International Law*, Washington, G.P.O. vol. 7, p. 163.

[28] *Congressional Globe*, 30th Congress, 1st Session, page 95, January 3, 1848:

"The Mexican War had been precipitated in 1846 by President Polk's dispatch of American troops into a territory whose possession was disputed with Mexico. After hostilities erupted, Congress reluctantly declared that a state of war existed between the United States and Mexico."

The resolution referred to was a vote of thanks to General Zachary Taylor, the Commander of the successful American forces. The clause censuring the President was moved as an amendment to that resolution. The amendment was adopted on January 3, but was dropped when the resolution came up for a final vote.

[29] For the 1798 legislation, see note 19, above.

Congress authorized the President to act against Tripoli in the Act of February 6, 1802 (2 Stat. 129).

In 1839, in the course of a dispute over the boundary of Maine, Congress authorized the use of force against England in the Act of March 3, 1839 (5 Stat. 355). Force was never needed.

In 1890 the Congress passed an act, which became law without the President's signature, authorizing the use of force to extract an indemnity for the seizure of American ships off Venezuela. Act of June 17, 1890 (26 Stat. 674). The indemnity was secured by arbitration.

[30] Secretary of State Lewis Cass wrote the British Government that:

"Under the Constitution of the United States, the executive branch of this Government is not the war-making power. The exercise of that great attribute of sovereignty is vested in Congress, and the President has no authority to order aggressive hostilities to be undertaken . . . Military expeditions into the Chinese territory cannot be undertaken without the authority of the National Legislature."

Moore, *op. cit.* vol. 7, p. 164.

[31] President Buchanan told Congress that: "The executive government of this country in its intercourse with foreign nations is limited to diplomacy alone. When this fails it can go no further. It cannot legitimately resort to force without authority of Congress, except in resisting and repelling hostile attacks."

Messages and Papers of the Presidents, vol. 5, p. 616: Message of December 6, 1858.

[32] Acting Secretary of State Hunter wrote: "The President is not authorized to order or approve an act of war in a country with which we are at peace, except in self-defense. This is a peculiarity of our form of government, which at times may be inconvenient, but which is believed to have proved and will in the future be found in the long run to be wise and essential to the public welfare."

Moore, *op. cit.* vol. 7, p. 167.

[33] In his Third Annual Message, President Taft told Congress:

"The assumption by the press that I contemplate intervention on Mexican Soil to protect American lives or property is of course gratuitous, because I seriously doubt whether I have such authority under any circumstances, and if I had I would not exercise it without express Congressional approval."

Despite presidential protestations to the contrary, a diluted but similar recognition of the need for Congressional approval of limited hostilities lay behind the requests for the Formosa Resolution of 1954, the Middle East Resolution of 1957, and the Gulf of Tonkin Resolution of 1964.

[34] See generally, Reveley, "Presidential War Making: Constitutional Prerogative or Usurpation?" 55 Va. L. Rev. 1243, 1257–63 (1969):

President Wilson sent American troops into Vera Cruz in 1914 on his own authority, but he had asked Congress for an enabling act the day before the troops were used, and the day after the landing Congress ratified his actions.

[35] See, "Congress, The President and the Power to Commit Forces to Combat," in *The Vietnam War and International Law*, v. 2 (Falk. ed. 1969), at 616, 636–37. This article originally appeared as a Note in the Harvard Law Review, 81 Harv. L. Rev. 1771 (1968). Much of the content and many of the arguments in this memorandum have been drawn from this Note. Hereinafter it will be cited as the "Harv. Note" with page citations to the Falk collection.

[36] See, Moore, "The National Executive and the Use of Armed Forces Abroad," in Falk, supra (n. 35) at 809, 817. This was originally an address given by Professor Moore at the Naval War College on Oct. 11, 1968. (Hereinafter cited as "Moore Address" with page citations to the Falk Collection); see Harv. Note at 637.

[37] Department of State, "The Legality of United States Participation in the Defense of Viet-Nam," 54 Department of State Bulletin 474 (1966), reprinted in "Symposium-Legality of United States Participation in the Defense in the Viet Nam Conflict." 75 Yale L.J. 1084 (1966). (Hereinafter cited as State Department Memo)

[38] "As precedent for Vietnam, however, the majority of the nineteenth century uses of force do not survive close scrutiny. Most were minor undertakings, designed to protect American citizens or property, or to revenge a slight to national honor, and most involved no combat, or even its likelihood, with forces of another state. To use force abroad on a notable scale, the President would of necessity have had to request Congress to augment the standing army and navy. Reveley, supra, n.8 at 1258."

[39] See generally, Harv. Note.

[40] See generally Harv. Note at 624, 631:

In the event of an armed attack on the territory of the United States proper, there is little question that the executive possesses the power to respond with all means at his disposal. Congressional approval of such action would probably be immediate. When, on the other hand, an attack is made on American persons or property abroad then the response should generally be proportional to the attack. The recent "Pueblo Incident" is a striking example of the fact that not every use of force against the United States is an act which places the country at war and that a variety of factors should enter into the development of an appropriate response. Short of an attack which threatens the life of the country, therefore, it seems that the President's power under the sudden attack theory is fairly limited.

There is also the danger of provocation, either planned or accidental. The mere presence of American forces near a hostile nation may provoke a "sudden attack". Consider, for instance, the U-2 incident in 1960, the various RB-47 incidents, the "Pueblo Incident". If the response to such attacks is not limited, then the country may become involved in a much larger conflict with little or no executive-legislative collaboration.

[41] See generally, Harv. Note at 364; Reveley, supra (n. 34) at 1257 et seq.; and Velvel. "The War in Viet Nam: Unconstitutional, Justiciable and Jurisdictionally Attackable," 16 Kan. L. Rev. 449 (1968). (Caveat: Prof. Velvel's article is highly one-sided).

Modern analoguses of the "neutrality theory" were the landing of troops in the Dominican Republic in 1965 and the recent dispatch of American naval vessels to the area around Haiti and Trinidad.

The real problem with the neutrality theory is remaining neutral. "Interposition" may easily lead to "intervention" and the Congress may be faced with a *fait accompli*. President Roosevelt accomplished an actual "intervention" in Panama in 1903 by "interposing" American troops there under an executive order, ostensibly to protect American property and citizens, but actually to support a friendly government.

However, American citizens who live or own property abroad probably should be able to expect some degree of aid from their government in time of conflict. But if the President has an unfettered right to employ the American military anywhere at anytime to protect American property, Congress may be left without an opportunity to assert its views. And, in many cases, the risks of deployment may be greater than the risks of restraint.

[42] See generally, State Department Memo; Alford, "The Legality of American Military Involvement in Viet Nam: A Broader Perspective," 75 Yale L.J. 1109 (1966); Harv. Note at 627 et seq.; cf., Memorandum of Lawyers Committee on American Policy toward Viet Nam, 112 Cong. Rec. 2552–59 (daily edn. Feb. 9, 1966).

Almost every national in the world has become classified as friendly, hostile, or neutral, and conflicts which might have seemed minor fifty or a hundred years ago are now often viewed as dangerous because they tend to upset the precarious world order and balance of power. Consequently, the idea of American security has expanded greatly so that an armed conflict in a far part of the world may appear to be a threat to the security of the United States itself. Unilateral Presidential employment of armed forces abroad, under the collective security theory has, therefore, been justified on much the same grounds as unilateral executive action under the sudden attack theory. The physical territory of the United States may be in no immediate, or even distant, danger. There may be no immediate threat to American forces, citizens, or property, but a conflict may seem to endanger the worldwide security system of the United States. The argument for Presidential action under the collective security theory is that the executive must have the power to respond quickly and forcefully to attacks which are considered important, for a variety of reasons, to the maintenance of the balance of power.

The executive action in Indochina has been premised largely on the collective security theory. The Indochinese War and other recent American military actions serve to indicate that the neutrality theory is no longer viable. In a world divided into friendly, hostile, and neutral countries, most armed conflicts will probably affect the existing order. It is difficult, if not impossible, therefore, for American intervention in such conflicts to remain wholly neutral.

The notion that the United States possesses extraterritorial security interests is not novel. The Monroe Doctrine of 1823 is a clear example. But the proliferation of bilateral and multilateral security agreements since the end of World War II has widened American security interests to include most of the world.

Accepting the general premise of the collective security theory, the question is: who determines when the security interest of the United States is threatened, the President or Congress? And who determines what response is to be taken to protect that interest?

[43] See generally, State Department Memo.

[44] See Text and notes, supra.

[45] If the balance has shifted too far in favor of the executive, then Congress must share the blame for its failure to act in the past. Is there any real concern or is it acceptable for the President to have primary responsibility for the use of American force abroad?

There is certainly a strong argument in favor of giving the executive the ability to respond with speed and force to crises which constitute a *direct* threat to the security of the United States. (See Harv. Note at 640.) But, there are equally strong, if not stronger, arguments in favor of increased congressional control over executive actions which may involve the United States in lengthy conflicts that are costly both in terms of lives and economic resources.

[46] See generally, Moore address.

[47] Velvel, supra (n. 41) at 457.

[48] The full text of the SEATO Treaty may be found in 6 U.S. Treaties 81; T.I.A.S., No. 3170; 209 U.N. Treaty Series 28; and Falk, supra (n. 35) at 561 and seq. The signatories were: Australia, France, New Zealand, Pakistan, Philippines, Thailand, the United States, and the United Kingdom. The Protocol to the SEATO Treaty provides in pertinent part that:

The parties to the Southeast Asia Collective Defense Treaty unanimously designate for the purposes of Article IV of the Treaty the states of Cambodia and Laos and the free territory under the jurisdiction of the state of Vietnam." 6 U.S. Treaties 87; T.I.A.S., No. 3170; 209 U.S. Treaty Series 36; Falk supra, (n. 35) at 568.

Laos was removed from the "protocol area" by the Geneva Accords of 1962. See: Protocol to the Declaration on the Neutrality of Laos, T.I.A.S. 5410; Falk, supra (no. 35) at 568.

Article IV goes to the core of the collective security agreement:

1. Each party recognizes that aggression by means of armed attack in the treaty area against any of the parties or against any state or territory which the parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

2. If, in the opinion of any of the parties, the inviolability or the integrity of the territory or the sovereignty or political independence of any party in the treaty area or of any other state or territory to which the provisions of paragraph 1 of this article from time to time apply . . . the Parties shall consult immediately to agree on measures which should be taken for the common defense.

[49] See generally, Falk* (supra).

[50] Art. IV. ¶1 of SEATO Treaty, supra (n. 48).

[51] Constitution, Art. 2 § 2, cl. 2.

[52] Id., Art. 2, § 3.

However, the treaty is rendered of no effect if it conflicts with subsequent legislation, since the lawmaking power of Congress is equally as potent as the treaty power.

A treaty may supersede a prior act of Congress, and an act of Congress may supersede a prior treaty. *The Cherokee Tobacco*, 78 U.S. (11 Wall.) 616, 621 (1870); accord, *Pigeon River Co. v. Cox Co.*, 291 U.S. 138, 160 (1934); *Moser v. United States*, 341 U.S. 41, 45 (1951).

[53] See Harv. Note at 642–46.

The possibility of giving the war power to the Senate alone was specifically considered and rejected by the Framers. See, Appendix on the debate in the Constitutional Convention.

[54] Southeast Asia Resolution, Aug. 10, 1964, Public Law 88–408 (H.J. Res. 1145); 78 Stat. 384. The Resolution is also reprinted in Falk, supra (n. 35) at 579.

[55] See e.g. opinion of Chief Justice Marshall in *Talbot v. Seeman*, 5 U.S. (1 Cr.) 1, 25 (1801). And, as former Secretary of Defense McNamara has said, "There has not been a formal declaration of war—anywhere in the world since World War II." Address to American Society of Newspaper Editors May 18, 1966, *New York Times*, May 19, 1966, p. C–11, col. 1 (city edn.) at col 2.

[56] See generally, Moore Address; Alford, supra, (n. 42); Moore and Falk articles, supra (n. 49).

Whether the Tonkin Resolution is sufficient authority for the Cambodian invasion and the air action in Laos has not been considered by the legal commentators thus far, but the language of the Resolution is so broad that it could, arguably, authorize almost any American action in the Western Pacific area. See, remarks of Senators Fulbright and Cooper during the debate on the Resolution, 11 Cong. Rec. 18409–410 (1964).

[57] One commentator, however, does argue that Congress had sufficient information to form a reasonable opinion about the possible consequences of the Resolution, and that it was perhaps an unfortunate, but not unconstitutional adbication of responsibility. See, Moore Address at 821, and see generally Moore and Underwood, "The Lawfulness of United States Assistance to the Republic of Viet Nam," 112 Cong. Rec. 14943, 14960–67, 14983–89 (daily edn., July 14, 1966).

[58] It is at least questionable whether a resolution passed in response to a relatively minor attack on American warships was sufficient authorization for a war which has resulted in more American casualties than any war except the Civil War and World Wars I and II.

It has also been argued that Congress has given its implied approval to the Indochinese War because it has passed military authorization bills for the area. The argument based on enactment of military appropriations legislation is specious. The authorization of expenditures for the support of the soldiers in Southeast Asia War necessitated by the executive fait accomple in dispatching forces there. And, if the Framers had thought that the money power by itself gave Congress sufficient control over the military, there would have been no need to grant Congress the explicit war power.

See generally, Harv. Note at 646.

[59] Harv. Note at 646.

[60] The English Parliament used the purse power to counter Charles I and James II despotic powers. The Framers were well aware of its use as a guarantee of the powers and privileges of the legislature.

[60a] The resolution now before Congress, though carrying important political impact, would affect the constitutionality of subsequent executive action. If a resolution were made before the initiation of hostilities, Presidential commitment of American forces or significant expansion of the war would be precluded because the resolution would be a clear assertion of the primacy of Congress in the making of war. See, *Youngstown Sheet and Tube Co. v. Sawyer*, 343 U.S. 579 (1952) (Jackson, J., concurring). Once forces were involved in combat the resolution would prohibit expansion of hostilities.

[61] Such restrictions would be distinguished from the so-called "legislative veto," which reserves to Congress or one of its components the right to determine the actual

effect of the restriction by subsequent action falling short of actual legislation, such as disapproval by committee action or a resolution of one or both houses.

It is arguable that the inclusion of specific dates on which these restrictions take effect is an invasion of the inherent powers of the President as Commander in Chief. According to a strict construction of the Constitution, the President's inherent power may be limited to the power to repel sudden attacks only by immediate and temporary action. The expansion of his power through its unopposed exercise may be determinative of its constitutionality when Congress does not act, but it may be limited by Congressional action. The important question is whether the proposed limitation is reasonable. Since there is no indication that compliance with these restrictions is not fully feasible, there is no reason why the will of Congress should not be respected on this issue. The authors thus reject the argument.

[61a] Harris, *Congressional Control of Administration*, 213–215 (1964); Huzar, The Purse and the Sword, 211, 220, 240 (1950).

[62] 83 Stat. 469 (1969).

The inclusion of the phrase "in line with the expressed intention of the President of the United States" whatever its value as a face-saving device for the President, detracts not at all from the force of this proviso. The full text of the amendment reads:

"In line with the expressed intention of the President of the United States, none of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand."

[63] Act of September 16, 1940 (54 Stat. 885).

[64] In 1955, for instance, Congress attached a rider, § 638, to the Defense Appropriation Act prohibiting use of funds appropriated therein "for the disposal or transfer by contract or otherwise of work that has been . . . performed by civilian personnel of the Department of Defense unless justified to the Appropriations Committee(s) . . ." 69 Stat. 321 (1955). A threat to Congress' constitutional powers arose when, in a message to Congress, the President stated that § 638 was unconstitutional and declared that "to the extent that this section seeks to give to the Appropriations Committees of the Senate and the House of Representatives authority to veto or prevent executive action, such section will be regarded as invalid by the executive branch of the government . . . unless otherwise determined by a court of competent jurisdiction." 101 Cong. Rec. 10459–60, 10416, 84th Cong., 1st Session (July 13, 1955).

But despite this threat, the Defense Department complied in full with the provisions of Section 638. The Department reported, as required by the Act, and agreed to delay action to accommodate Congress. And after the Armed Services Subcommittee of the House Appropriations Committee formally denied permission to dispose of several operations employing civilians, the President and the Defense Department followed its directions during the time that §638 remained law. Carper, *The Defense Appropriation Rider* (1960).

The response of the Comptroller General to this crisis adds further support to the position of Congress. A month after the President had made his threat, the Comptroller General informed Congress that on the fundamental basis that it is for Congress to say how and on what conditions public monies should be spent, the position of the GAO, as the agent of Congress, must be, in this case and always, to accord full effect to the clear meaning of an enactment by the Congress so long as it remains unchanged by legislative action and unimpaired by judicial interpretation. Id. Id. Therefore, he concluded, where a violation were found he would exercise his power as Comptroller General to disallow credits in the agencies accounts and hood the officers personally liable for the cost of the illegal activity. Id. Although #638 was an example of exceptable executive response to an unequivocal as a valid indication of expectable response to an unequivocal restrictions, particularly since the legislative veto is open to possible attack as a circumvention of the constitutionally required lawmaking process.

[65] U.S. Constitution, Art. I. #1.

[66] U.S. Constitution, Art. II, #3

[67] U.S. Constitution, Art. I, #8, 9.

[68] Even if the President acts beyond the constitutional limits of his powers, "Congress has not thereby lost its exclusive constitutional authority to make laws necessary and proper to carry out the powers vested by the Constitution in the Government of the United States, or any Department or officer thereof." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 588–89 (1952).

Whatever the merits of the arguments about the President's power to impound funds, such practices under which the executive exercises discretion within the limits set by Congress in appropriations acts can be clearly distinguished from a more clearly unconstitutional breach by the executive of restrictions on positive action. See, e.g., Fisher, "Presidential Impoundment of Funds," 38 Geo. Wash. L. Rev. 124, 130 (1969); Davis, "Constitutional Power to Require Defense Expenditures," 33 Fordham L. Rev. 39, 40–41, 55 (1964).

[69] In the words of Justice Black:

"The Constitution is neither silent nor equivocal about who shall make laws which the President is to execute. . . . The Constitution does not subject this lawmaking power of Congress to presidential or military supervision or control. . . . The Foundations of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times."

Youngstown Sheet & Tube Co. v. *Sawyer*, 343 U.S. 579, 587–89 (1952).

Other judicial pronouncements on the "raise and support" and appropriations clauses have construed them to give Congress power to control the creation of military forces. One early opinion stated the argument succinctly:

"The power of congress to raise and support armies . . . is clear and undisputable. The language used in the constitution in making this grant of power is so plain, precise and comprehensive, as to leave no room for doubt or controversy, as to where the supreme control over the military force of the country resides."

In re Griver, 16 Wisc. 423, 431 (1863).

Another court has stated the conclusion more forcefully:

"The purpose of the appropriations, the terms and conditions under which said appropriations were made, is a matter in the hands of Congress and it is the plain and explicit duty of the executive branch of the government to comply with the same."

Spaulding v. *Douglas Aircraft Co.* 60 F. Supp. 985, 988 (S.C. Cal. 1945), affirmed 154 F. 2d 419 (9th Cir. 1946).

[70] U.S. Constitution, Art. I, § 8.

[71] *The Federalist.*

[72] *Youngstown Sheet and Tube* v. *Sawyer*, 343 U.S. 579 (1952).

[73] For instance, Justice Frankfurter felt that the absence of Presidential power would have been beyond contention "had Congress explicitly negated such authority in formal legislation." *Id.* at 602.

Rejecting the view that the Commander in Chief clause supports "any Presidential action, internal or external, involving the use of force," Justice Jackson concluded that "Congress alone controls the raising of revenues and their appropriation and may determine in what manner and by what means they shall be open for military and naval procurement." *Id.* at 643.

[74] The much-noted concurring opinion of Justice Jackson stated the proposition in more detail:

"Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress. . . . When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb . . . Courts can sustain exclusive presidential control in such a case only by disabling the Congress from acting on the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for, what is at stake is the equilibrium established by our constitutional system." *Id.* at 635–638.

[75] Exceptions broader than these are not required by the Constitution, since Congress could authorize at any time military action beyond immediate self-defense.

[76] *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579, 654 (1952).

Mr. EAGLETON. Mr. President, I think that ample legal authority has been summoned by the sponsors of this bill and an ample amount of material is available in support of S. 2956.

There should be no question that the Foreign Relations Committee is the appropriate forum to consider legislation which would establish, within the limits of the Constitution, a procedure to assure that Congress is involved in the decision to introduce the Armed Forces of this Nation in hostilities. The decision to take this action is, after all, the ultimate alternative and some say failure, of foreign policy.

Mr. President, I refer my colleagues to the Senate Manual and the Standing Rules of the Senate. On pages 32 and 33 it is stated that the Committee on Foreign Relations shall consider legislation pertaining to, among other things, relations of the United States with foreign nations, treaties, protection of American citizens abroad and intervention abroad, and declarations of war. All of these subjects pertain in some way to this legislation but the last one I have mentioned—intervention abroad and declaration of war—is the central issue confronted by this bill.

The Ervin-Hruska amendment would refer the War Powers Act to the Judiciary Committee to "consider the constitutional questions involved." The Standing Rules, however, grant Judiciary the authority to consider "constitutional amendments." If the proponents of this amendment are interpreting that very specific grant to mean that they have a mandate to consider "constitutional questions," we can only deduce that they would propose to have all legislation pass through Judiciary. I do not believe that that is the intention of the Standing Rules of the Senate.

If this body were to define committee jurisdictions as broadly as this amendment would appear to require, we would be constantly hamstrung with inconsequential bickering by our standing committees.

We owe it to our constituents to avoid that state of intransigence.

The purpose of the War Powers Act is not to amend the Constitution but to fulfill it.

The sponsors of S. 2956 believe that the

Founding Fathers were correct in their intention that the collective judgment of both Congress and the President would be applied to the decision to go to war. We do not seek to amend that principle, we seek to fulfill it.

The growth of the Presidential war power and the corresponding abdication of responsibility by the Congress has necessitated this legislation. This shift of power and responsibility is unfortunate but temporary imbalances are part of our adversary system. The Founding Fathers understood this and left with Congress the authority in the "necessary and proper" clause to make laws to perpetuate and give relevancy to our tricameral form of Government.

I have the utmost respect for the distinguished Senator from North Carolina. As chairman of the Judiciary Subcommittee on the Separation of Powers he has been extremely effective in protecting the civil liberties of those who have been subjected to the heavy hand of the executive bureaucracy. He has also been a consistent advocate of a stronger role for Congress and has concerned himself with the growth of executive power in all legislative areas.

The Senator from Nebraska has been a consistent and honest advocate of the positions he espouses.

In this matter I regretfully disagree with the distinguished proponents of this amendment.

The sponsors of the war powers bill are also concerned with the growth of the executive and the effect of this growth on a specific policy decision—the decision to go to war. The Foreign Relations Committee quite properly considers matters of this nature and, unless a constitutional amendment is involved, always has.

The public record of hearings conducted on war powers legislation are extensive and represent the most thorough study on this subject available. Some of the best foreign policy experts and constitutional lawyers in the country have given testimony before the committee.

In addition to the Foreign Relations Committee hearings, this legislation has been subjected to a thorough and penetrating debate in the public sector. The pros and cons of the war powers bill have been argued in every university in the country, and especially at Yale, where everybody but Eugene Rostow is in favor of the war powers bill. The Nation's press has also given express coverage to all sides of this question in the highest journalistic tradition.

Mr. President, this body in modern times has been remiss by its failure to assert its constitutional prerogatives to decide when this country will go to war. We do not need further study to show us that. We are ready to act now to reestablish the proper role of Congress under our Constitution.

Mr. JAVITS. Mr. President, I am sorry the Senator from Ohio is not here because I would like to comment on the question which he has posed in response to the arguments made by the Senator from Colorado (Mr. DOMINICK).

The key to the motion which is going to be voted on tomorrow is assumed by the question, rather than answered.

The key to the motion tomorrow is whether or not we are trying to change the Constitution. We could not if we tried. But are we trying? The answers, say the proponents of this motion, is yes. That would be the only substantive excuse for reference to the Committee on the Judiciary, which otherwise has no jurisdiction, let alone does delaying this matter for whatever number of days the Senator from Nebraska (Mr. HRUSKA) finally chooses, which I understand to be 45 days, and then simply turning the matter back to us in a month and a half when we will be so loaded with so many things it will suffer seriously as a result.

Mr. President, if you couple the fact that the Committee on the Judiciary has no jurisdiction with the fact that this is a tactic of delay as best, I really see no justification whatever for the reference. This is no guarantee that the Senate will approve this measure.

Many amendments are pending and all of them will be acted on. Some of them are substantive. That is a far cry from shunting the matter off to another committee.

In other words, the hearing record itself discloses very thorough consideration, and the year for debate and discussion which Senator STENNIS, whose support is so critical on this matter because he is so allied with the question of defense in this country, upon which the whole argument in the bill is based has passed and there has been very serious debate and discussion.

Now, the question still is full of thorny situations, very serious ones, and the old addage that those who do not profit from experience are condemned to repeat it, is very apposite in this situation.

So I see no substitute for the Senate dealing with this issue and I hope very much that the Senate will not simply shunt it off when the vote comes tomorrow for the two reasons stated: One, there is no jurisdiction, and two, there is no benefit to be gained but rather loss suffered from the time which is sought to be taken.

I alluded earlier today to the fact that we, and others, I am sure, have received the arguments of the State Department of talking points, as they call it, on the war powers bill. I was deeply interested in one of them because it so clearly indicates where we think the State Department is completely wrong in the points of difference which exist between the opponents and proponents of this measure.

The State Department stated in its memorandum on page 4:

> c. The history of the drafting of the Constitution shows that the Founding Fathers did not so clearly demarcate the respective powers of the President and the Congress in the use of the armed forces as the Senate Foreign Relations Committee report indicates. The Committee Report states that:
>
> "The framers vested the authority to initiate war in the legislature, and in the legislature alone. . . . The division of authority intended by the framers was explicit: the Congress was to 'declare'—that is to authorize the initiation of—war. The President, as Commander in Chief, was to respond to sudden attacks and to conduct a war once it had started and command the armed forces once they were committed to act."
>
> This formulation of the issue really begs the question, for no one argues that the power to declare war resides anywhere other than in the Congress. But the other side of the question is to what extent the President has the power to use the armed forces by virtue of his role as Chief Executive, as Commander in Chief, and in the conduct of foreign relations.

Then, the State Department goes on to develop the following. This is the show of force argument, which is the only argument made against this measure. It goes on to say:

> There are a number of conceivable situations in which military forces might be used to demonstrate a United States willingness to protect United States nationals, territories, facilities, and other interests, which the Framers presumably would not have regarded as involving "war" and thus requiring Congressional action, even in the absence of a sudden attack.

Mr. President, the point is that we are talking about apples and the State Department is talking about oranges. There is no question about the one central point which they absolutely omit, and that is that the show of force involves the decision of the President. A great nation cannot bluff. We cannot. The Russians cannot. So if the President feels, when he commits troops to a show of force, that involves imminent involvement in hostilities, all the bill says is that if there is an imminent danger of war, he should come to the Congress; but if he commits troops to a show of force which risks hostilities—they are the State Department's words; the bill does not say it—he has got to come to Congress.

The Senator from Virginia (Mr. SPONG), the Senator from Mississippi (Mr. STENNIS), I, and other sponsors of the legislation have said it is the President's judgment whether there is or is not imminent threat of hostilities; but in the face of that judgment, if he makes that judgment affirmatively, then he has to come to the Congress, because great nations cannot bluff, and then we must be able to go through the war if one starts.

Then we have the dilemma that, once it starts without Congress' consent, the interposition of the appropriation power is not adequate to give Congress authority to deal with that war which only it should have had the authority to start. But because of modern situations—which is exactly what happened in the Gulf of Tonkin situation—it was never stated better than by Professor Bickel, who pointed out that at a given point an incident or an action to repel attack—even granted that there had been an attack on American destroyers in the Gulf of Tonkin—becomes a war.

How much evidence do you need, Mr. President, with 100,000 dead and 300,000 wounded and $100 billion of treasure and 8 years of time? What else do you need, Mr. President, in order to prove to you that it is a war?

So that is the essential point we are making. We are making the point that we are seeking, not to change the Constitution; we are simply seeking to insert a methodology—very well put by the Senator from Virginia (Mr. SPONG)—in respect of the Constitution to deal with a situation which otherwise escapes definition, but which, in terms of actual conduct of government, puts us in war.

I have said, and others have said, that the 30-day period is only to arrive at a time. It is quantitative rather than qualitative. Incidentally, if it turns to war, we say Congress can set a lesser time. In given cases that may prove to be a lesser time. But we cannot and we do not deprive the President of any power by making those definitions. The President still has to make the ultimate decision when he engages in a show of force that puts us in imminent danger of hostilities. If in his judgment it does, he should come to Congress. If in his judgment it does not, he does not have to come to Congress. That is exactly what the language means.

Mr. DOMINICK. Mr. President, will the Senator yield for a clarification?

Mr. JAVITS. Not yet.

So it does not inhibit any action which the President constitutionally may take on his own, except when there are hostilities or, in his judgment, the imminent threat of hostilities.

Now I yield.

Mr. DOMINICK. The Senator, as I understand it, is maintaining that we are not really attempting to limit the President's authority in those instances, at least, where he has been authorized under section 3. But suppose the President, pursuant to one of those sections, uses our Armed Forces and is engaged in conflict which he thinks is in the interest of the United States, and Congress acts to cut that off under section 6. What happens to his authority then? Does he still retain that? Can he ignore Congress?

Mr. JAVITS. Congress has the authority, in my judgment, to define what it considers a reasonable time within which an incident—what the Founding Fathers called the repelling of sudden attacks—becomes a war. That is our implementation of that concept. But we could not—and we do not want to—deprive the President of his constitutional power.

The President can, in pursuance of his constitutional powers, go ahead and do what those constitutional powers permit him to do, but we lay down a quantitative definition as to when we consider the exercise of those powers to put us into war, and then he must obtain the authority to proceed, as the decision to take the Nation to "war," under the Constitution, requires action by the Congress.

Incidentally, the point made by the Senator from Ohio (Mr. TAFT) dealt with a "show of force" question, but I am willing to deal with this point. In other words, the President may repel a sudden attack even after Congress has passed a resolution, if that would be another situation, under which he could use his power to repel an attack.

I repeat, we do not abrogate his constitutional authority to repel an attack. But we certainly can say to the President, "Look, Mr. President, if you get into a situation which is transforming from emergency defensive action into imminent threat of war, we must be brought in." That is all we say in this language.

Mr. DOMINICK. Mr. President, will the Senator yield for another supposition, I suppose it might be called?

Mr. JAVITS. I yield.

Mr. DOMINICK. Suppose under section 3, at the top of page 8, subsection (1), Puerto Rico is under attack and the President had put our troops into action and had taken whatever he considered appropriate retaliatory actions following that attack.

Mr. JAVITS. Very well.

Mr. DOMINICK. For some reason we cannot now foresee, Congress says, "No, you cannot do that," after 3 days, while Puerto Rico was still under attack. What effect would that have?

Mr. JAVITS. The Senator says while we are under attack. We have actually amended the bill to take in the situation of disengagement while under attack. We have dealt with the subject and have defined it specifically. In other words, his purpose, and his intentions are that the operations must be to disengage, but he can remain engaged so long as it is necessary to protect our troops. We have answered that, ourselves. It is not necessary to answer it by implication from the bill. We have answered that in terms of an amendment.

Mr. DOMINICK. The amendment was to section 6.

Mr JAVITS. As a matter of fact, it went to sections 5 and 6.

Mr. DOMINICK. Let me ask one more question on imminent threat. Let us suppose we have a situation such as took place in 1970 or 1967 in the Middle East, and the President orders the 6th Fleet to proceed close to the shore, with orders to put it on the alert in the event of any Russian engagement, and 2 days later Congress says, "You cannot do that. You have to get out of there." What is the President going to do there?

Mr. JAVITS. Congress is not self-operative here. The President acts, under the bill, and must report everything in detail to Congress. The bill applies to "hostilities" or situations where hostilities are clearly indicated by the circumstances. The President must decide under the law whether the circumstances are governed by the bill. He has to make the finding. If he did not make the finding——

Mr. DOMINICK. Let us suppose he did.

Mr. JAVITS. If he did make the finding, then he gives us notice that we must share in the responsibility for what may be war.

The Senator seems to be assuming the infallibility of the presidency and the fallibility of Congress. There is no evidence for that. On the contrary, that is what we are contending; we are contending in this case that when we are going to expose the people's bodies and property, the people are entitled to have involved, as an element of the process of decision, their directly elected representatives by State and district.

Mr. DOMINICK. So if the United States should, then, withdraw because of the act of Congress, despite the fact that the President has certified that this is an area of extreme danger and crucial importance, and if Israel, for example, gets overrun by the Russians, and the Greeks get overrun by somebody else, are we to do nothing?

Mr. JAVITS. Let me ask the Senator a question in return, because it is an answer rather than a question. Because a country may be overrun, that does not mean the United States is committed to intervene or should intervene. We say a commitment to intervene must be "pursuant to specific statutory authorization"—a decision not just of the President, but also of the Congress.

Suppose, heaven forfend, that South Vietnam is overrun. Does the Senator believe the United States ought to send its ground forces back, as it did in 1964, in order to defend South Vietnam?

Mr. DOMINICK. No; I said at the very beginning that I did not think that was proper.

Mr. JAVITS. Of course not. But that is a part of the issue. So we would be saying to the President that the overall interest of the United States and everything it represents, and that of the people, dictate that we have to stay out of such a situation.

Mr. DOMINICK. I did not say that.

Mr. JAVITS. No; I am not talking about Vietnam now. I am talking about the question propounded by the Senator. I mentioned Vietnam because it was illustrative.

Mr. DOMINICK. Mr. President, if I may say so, I do not happen to agree with the Senator from New York, because I think it is unconstitutional, which is another reason why I think it ought to go before the Judiciary Committee for further hearings, regardless of the wisdom of it.

Mr. JAVITS. I realize that that is how the Senator feels, and that is why I pointed out that the vote tomorrow will be a substantive vote, not a procedural vote. The Senators who feel that this is either unconstitutional or will be an effort to change the Constitution undoubtedly will vote for the reference. On the other hand, those of us who believe that the war power of Congress is something that has been undermined, which has resulted untold impairment of the national interest, particularly circa 1962 to 1968, will vote against the motion.

Mr. President, there is no doubt about the fact that the issue is a substantive one. Men of the greatest sense of honor, "President's men," some of whom have testified before us, feel that they have to sustain, just as the State Department thinks it has to sustain, the outermost reaches of the President's power with respect to war.

That is what this is all about. We would not be arguing about the question if experience had not shown the present situation to be highly improper, and experience has shown that. We have a right to consult experience. As the Senator from Mississippi (Mr. STENNIS) has said very truly and accurately, this is not just a legal question, it is a political question; and as with any political question, we have a right to consult experience. And experience deeply, profoundly, and in my judgment implacably dictates that we have to act in this situation, and not just nebulously, but decisively.

Mr. President, it is high time to act, because otherwise improvidence could really engulf this Nation, as it threatens to do in respect of the Vietnam war. I am not one who agrees at all that the Vietnam war is not to be consulted. I think the Vietnam war has to be consulted. That is experience. We have had 8 years of experience with Vietnam, and have learned a thing or two.

Mr. President, we are trying to stabilize our national situation and enhance the credibility of the American commitments to the world by passing a law such as this. If we find that the law is inadvisable, then we can change it, because it is a law and is not a constitutional amendment. I would be against a constitutional amendment. That would be unwise and necessary. But in order not to have a breakdown in the backing of the people for our Government, we need to have some safeguard, which we do not now have, and that is the reason for this bill.

Mr. President, there has been a good deal of discussion about constitutionality in connection with this matter, and the intention of the Founding Fathers, and so forth. One of the leading experts in this country on this subject is Irving Brant, the definitive biographer of James Madison.

Mr. Brant has just written me a most interesting and comprehensive letter, relating the debates of the Founding Fathers as to the constitutional authority which the President has and that which Congress has, directly to this bill. He comes out strongly and decidedly in favor of this measure.

Because I feel the letter should be available to all Senators, and because it is not unduly long, I ask unanimous consent that it be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record. as follows:

Eugene, Oreg.,
April 3, 1972.

Senator Jacob K. Javits,
Senate Office Building,
Washington, D.C.

Dear Senator Javits: I have received the Hearings and Committee Report on Senate Bill 731, re-introduced as S. 2956, and with them your covering letter containing the following paragraph:

"Any comments you might wish to make—public or private—will, I am sure, be of value to Senators and to public understanding of the issues, as the Senate approaches its debate on this vital issue."

My article on the President's War Powers, published in the Washington Post of July 4, 1971, and placed by you in the Congressional Record and the Hearings on S. 731, was confined to an analysis of the testimony of Secretary of State Rogers concerning this bill, before the Senate Committee on Foreign Relations. Since the hearings closed the Nixon Administration has continued its opposition to your War Powers Bill. The printed Hearings reveal that administration spokesmen opposing the bill throw much heat and little light upon the constitutional question involved. Their opposing arguments are hardly more than repetitious assertions that the President possesses inherent power as Chief Executive, and constitutional power as Commander in Chief, to conduct almost any sort of undeclared war; subject to no constitutional control by Congress except, perhaps, through its power to withhold appropriations for support of military operations.

What is the fundamental lesson taught by the 873-page record of the Senate's hearings on war-power legislation? It is, I think, that the security of the United States against both external aggression and internal disturbance is menaced infinitely more by the uncontrolled exercise of executive power than by congressional resistance to its uncontrolled exercise. Overwhelming proof of this is found in the Hearings, both in the extraordinary theoretical claims of power by administration witnesses and supporters, and by the detailed analyses of past and current exercise of the war power by the Executive

All of this indicates that opposition to the War Powers Bill will follow the same pattern in Senate debate. To cope with that, I believe there is need of a more extensive survey of the views on this subject held by early American statesmen, before war powers were engrafted on the Constitution by mere Executive seizure. Whatever competence I possess in that field is a by-product of twenty-three years devoted to writing the life of James Madison, chief architect of the Constitution and a leading expounder of its meaning.

Madison worded the war-power clause and in doing so stated its meaning. For the next twenty-five years he was the most authoritative, most persistent and most widely accepted definer of the division of the war power between Congress and the President. He began that course in Congress and continued it through sixteen years as Secretary of State and President of the United States. Those sixteen years saw Europe completely engulfed in the Napoleonic Wars, and included our own War of 1812 with England.

Contrary to the notion fostered in his day by Federalist politicians (when they were not calling him a war mad dictator) and unthinkingly accepted by many historians, Madison was not a timorous pacifist. He was an activist President, a nationalist, almost a chauvinist. Again and again, in diplomacy, he used the threat of war to gain national objectives; but in every instance it was the threat of congressional action uninfluenced by executive pressure. At every contact with this issue, in the framing of the Constitution, in Congress, and in the executive branch of government, he denied the constitutional right of the President to take such steps as have been taken by Lyndon Johnson, Richard Nixon and various earlier Presidents.

The Federal Convention of 1787 took final action on the war power on August 17. The clause as it had come from the Committee of Detail gave Congress power "To make a war." As described in Madison's semi-official *Notes of Debates,* Charles Pinckney of South Carolina thought the proceedings of Congress too slow and suggested the Senate as a proper body to exercise this power. His state colleague Pierce Butler "was for vesting the power in the President, who will have all the requisite qualities, and will not make war but when the Nation will support it."

Thereupon Madison, seconded by Elbridge Gerry of Massachusetts, "moved to insert 'declare,' striking out 'make' war, leaving to the Executive the power to repel sudden attacks."

Roger Sherman of Connecticut agreed that "The Executive should be able to repel and not to commence war," but he thought " 'Make' better than 'declare' the latter narrowing the power [of Congress] too much."

Oliver Ellsworth of Connecticut also preferred "make," saying that there was a material difference between making war and making peace: "It should be more easy to get out of war, than into it."

Elbridge Gerry, evidently harking back to Butler's proposal, said he "never expected to hear in a republic a motion to empower the Executive alone to declare war."

George Mason of Virginia felt the same way. He protested "against giving the power of war to the Executive, because not safely to be trusted with it; or to the Senate, because not so constructed as to be entitled to it. He was for clogging rather than facilitating war; but for facilitating peace. He preferred 'declared' to 'make.' "

On the vote as first taken, "declare war" was approved by all states except New Hampshire and Connecticut, but Madison entered the following footnote:

"On the remark by Mr. King (of Massachusetts) that 'make' war might be understood to 'conduct' it which was an Executive function, Mr. Ellsworth gave up his objection, and the vote of Connecticut was changed to—ay."

Thus only one delegate—Butler—regarded the initiation of war as a natural or desirable presidential function. All others treated the initiation of war as legislative in character, the conduct of war as executive, synonymous with "making" war. Two delegates—both opposed to presidential power to initiate war—reversed their position when this was pointed out. So, instead of the power given Congress to "declare" war being an exception from a general executive war power, the latitude thus given to the President "to repel sudden attacks" was intended as an exception—the sole exception—from the exclusive power of Congress to initiate war.

The power "to repel sudden attacks" can reasonably be understood, as it is in the Javits Bill, to include emergency measures to protect the lives and property of American nationals. But the ultimate conclusion is inescapable: the power given Congress to "declare war" debars the President from initiating hostilities except for the limited and temporary objective set forth in the constitutional debates, and inherent in the natural and constitutional division of authority between the two branches of Government.

The issue of executive war power first presented itself in 1793, when the French Revolution precipitated twenty years of warfare between France and England. On April 22 of that year President Washington issued a proclamation of neutrality, announcing and calling on the American people to support "a conflict friendly and impartial towards the belligerent powers." The proclamation was actually strongly anti-French, because the Franco-American Treaty of 1778, still on the books, bound the United States and France to defend each other's territories on the North American continent against all other powers, "mutually from the present time and forever."

Secretary of the Treasury Hamilton argued, in a cabinet meeting, that the change of government in France absolved the United States from any obligation to uphold the treaty. This brought the comment from Madison that if a change of government absolved a country from public engagements, it would apply equally to domestic affairs; that would involve "a destruction of the social pact, an annihilation of property, and a complete establishment of the state of Nature." Even without Hamilton's contention concerning the treaty, Madison thought, the executive policy bore an "Anglified complexion." Peace, he wrote to Secretary of State Jefferson, no doubt ought to be preserved at any price that honor and good faith would permit, but did the President have constitutional power to decide what policy ought to be pursued? He thought not:

"The right to decide the question whether the duty and interest of the U.S. require war or peace under any given circumstances, and whether their disposition be towards the one or the other, seems to be essentially and exclusively involved in the right vested in the Legislature, of declaring war in time of peace; and the President and Senate of making peace in time of war. . . . [A]n assumption of prerogatives not clearly found in the Constitution and having the appearance of being copied from a Monarchical model, will beget animadversion equally mortifying to him and disadvantageous to the Government."

Six days later (June 19, 1793) Madison returned to the theme. The President's proclamation, he wrote to Jefferson, "wounds the national honor, by seeming to disregard the stipulated duties to France." It showed indifference to the cause of liberty:

"And it seems to violate the forms and spirit of the Constitution by making the Executive Magistrate the organ of the disposition, the duty and the interest of the nation in relation to war and peace—subjects appropriated to other departments of the government."

Such infractions of the Constitution under the high auspices of Washington, Madison remarked in one of these letters, "may consecrate the evil till it be incurable." The remark about "auspices" implied, correctly, that although the President was pronouncing national policy, Hamilton was formulating it. The roles of Hamilton and Madison became clear to the public when they engaged in a running newspaper battle under pseudonyms. Hamilton as "Pacificus" defended the proclamation; Madison as "Helvidius" attacked the constitutionality of Hamilton's construction of it. Everybody in the country knew who was which.

Hamilton declared that the clause in the Franco-American treaty of 1778, requiring the United States to protect France's American possessions from attack, ran counter to the President's proclamation of neutrality. That, in his opinion, did not invalidate the proclamation. To the contrary, it was "virtually a manifestation of the sense of government that the United States are, *under the circumstances of the case, not bound* to execute the clause of guaranty."

It was the President's duty, Hamilton argued, to preserve peace until Congress declared war. In fulfilling this duty he "must necessarily possess a right of judging what is the nature of the obligations which the treaties of the country impose on the government." In this field the powers of the President were broad, that of Congress narrow, because the powers of war and peace were by nature executive; the power of Congress to declare war was merely an exception from the executive power.

It was true, Hamilton admitted, that the power to judge the need of war was part of the power to declare it. But, he contended, this lesser power was concurrent in Congress and the President, not being excepted from the general executive power.

Madison in reply assailed Hamilton's central proposition—"the extraordinary doctrine that the powers of making war and treaties are in their nature executive." That was a fallacy, he said, growing out of the fact that making war and peace are high acts of sovereignty, and in European monarchies sovereignty resides in the prince. There was no logic in such an assignment:

"If we consult, for a moment, the nature and operation of the two powers to declare war and to make treaties, it will be impossible not to see, that they can never fall within a proper definition of executive powers. The natural province of the executive magistrate is to execute laws, as that of the legislative is to make laws. All his acts, therefore, properly executive, must presuppose the existence of the laws to be executed. A treaty is not an execution of laws; it does not presuppose the existence of laws. It is, on the contrary, to have itself the force of a *law*, and to be carried into *execution*, like all *other laws*, by the *executive magistrate*."

Madison then turned to the war power:

"The power to declare war is subject to similar reasoning. A declaration that there shall be war, is not an execution of laws; it does not suppose pre-existing laws to be executed: it is not, in any regard, an act merely executive. It is, on the contrary, one of the most deliberative acts that can be performed; and when performed, has the effect of *repealing* all the *laws* operative in a state of peace, so far as they are inconsistent with a state of war; and of *enacting*, as a *rule for the executive, a new code* adapted to the relation between the society and its foreign enemy."

Madison declared the Constitution to be in full harmony with his analysis:

"In the general distribution of powers, we find that of declaring war expressly vested in the congress, where every other legislative power is declared to be vested; and without any other qualification than what is common to every other legislative act. The constitutional idea of this power would seem then to be, that it is of a legislative and not an executive nature."

He assailed Hamilton's effort to find a choice of "war or peace" in the President's position as commander in chief of the armed forces. The bearing of this power on making treaties of peace, said Madison, was not even worth discussing. And instead of being analogous to the power of declaring war, his post as commander in Chief "affords a striking illustration of the incompatibility of the two powers in the same hands. Those who are to *conduct* a war cannot in the nature of things, be proper or safe judges whether *a war ought* to be *commenced, continued, or concluded*. They are barred from the latter function by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws."

Madison challenged the claim of concurrent power in the President and Congress to pass on the desirability of going to war or remaining at peace:

"The declaring of war is expressly made a legislative function. The judging of the obligation to make war, is admitted [by Hamilton] to be included as a legislative function. Whenever, then, a question occurs, whether war shall be declared, or whether public stipulations require it, the question necessarily belongs to the department to which those functions belong—and no other department can be in the *execution of its proper function*, if it should undertake to decide such a question."

Madison carried on with a conjectural case that had no bearing on the dispute over Washington's neutrality proclamation, but which, by singular chance, fits perfectly the present disagreement between the President and Congress over the undeclared war in Indo-China:

"If the legislature and the executive have both a right to judge of the obligations to make war or not, it must sometimes happen, though not at present, that they will judge differently. . . . In what light does this present the constitution to the people who establish it? In what light would it present to the world a nation thus speaking, through two different organs, equally constitutional and authentic, two opposite languages, on the same subject, and under the same existing circumstances?"

If, said Madison, the power to judge the need of war or peace is concurrent, the power of which it is a part must also be concurrent; but the Constitution conferred that exclusively on Congress. Where did "Pacificus" get his doctrine, vicious in theory and dangerous in practice, of implied executive participation in a power exclusively assigned to Congress? From but one possible source. Treaty and war powers "are *royal prerogatives* in the *British Government*, and are accordingly treated as *executive prerogatives* by *British commentators*."

Hamilton, his main position riddled, made slashing attacks on the "French faction" in American politics, but offered no rebuttal of Madison's constitutional arguments. President Washington's next address to Congress, in passages written by Jefferson, construed the neutrality proclamation as Madison did—as a mere warning to Americans to avoid acts of hostility; a meaning impliedly perverted by Hamilton. Madison himself, chosen to write the customary reply of the House to the President, gave the proclamation the same narrow and harmless construction.

The conflict in its true essentials, as fought by Madison and Hamilton, bears an extraordinary resemblance to the current clash between the Nixon Administration and the Senate Committee on Foreign Relations over the Javits Bill to regulate the war powers of the President. George Washington, who was dragged into the melee by surprise, quietly went over to the other side. President Nixon has not yet done so.

The eighteenth century conflict came to life once more in 1797, after Jay's Treaty drew the United States into a wartime commercial alliance with Great Britain. This led to French attacks on American shipping, met by American counter-measures. President Adams sent a negotiating team to Paris and issued an order forbidding the arming of American merchant vessels. In the spring of 1798, the American peace envoys reported solicitation of a bribe by Talleyrand—the "XYZ Affair." President Adams sent the dispatches to the Senate and joined with that body in ordering their publication. He also revoked his order forbidding the arming of merchant vessels.

Madison was greatly disturbed, he wrote, at the way President Adams was cracking the constitutional barriers against executive war power. By *withdrawing* the order against the arming of merchantmen, he indirectly *authorized* that course—something Congress alone had the power to do. To Jefferson, on April 2, 1808, he wrote:

"The first instructions [forbidding arming] were no otherwise legal than as they were in pursuance of the law of Nations, and consequently in execution of the law of the land. The revocation of the instructions is a virtual change of the law, and consequently a usurpation by the Executive of a legislative power . . . the regulation . . . comes expressly within the power, 'to define the law of Nations,' given to Congress by the Constitution."

The whole course pursued by President Adams disturbed him:

"The Constitution supposes, what the history of all governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it. It has accordingly with studied care, vested the question of war in the Legislature. But the doctrines lately advanced strike at the root of all these provisions, and will deposit the peace of the country in that department which the Constitution distrusts as most ready without cause to renounce it."

Ultimately, to the country's amazement, President John Adams turned "dove." Partly, this was a return to common sense; partly a reaction against the discovery that Hamilton (a private person) was secretly running the President's cabinet while striving to provoke a declaration of war against France. Adams fired the France-haters from the cabinet, sent a genuine peace mission to France, and brought an end to the undeclared naval war which he himself had brought on.

Looking at the whole record, President Adams did not grossly exceed his constitutional powers. Although Jay's Treaty provoked France to attack American commerce, the protective measures taken by the President might be construed at the outset as a repelling of sudden aggression. Adams transgressed the spirit of the Constitution more sharply than he did its letter. The criticisms of him by Madison amounted to a ban of all presidential war initiatives except the one Madison himself implanted in the Constitution by the change of wording which permitted the President to "repel sudden attacks." His principal sins, as Madison saw them, were his efforts to formulate a war policy (later abandoned) and his assumption of authority to authorize the arming of the merchant marine.

From 1801 to 1817 the Presidency was held by two strict construers of presidential war powers, Thomas Jefferson and James Madison; and Madison for the first half of this period was Jefferson's Secretary of State. Except for the brief Peace of Amiens (1802–1803) the Napoleonic War raged until 1814 and the United States constantly faced the menace of war with one power or the other—ultimately engaging in the War of 1812 with England. How did the practices of these two leaders compare with their principles?

President Jefferson broke away from the European practice of paying tribute to the "Barbary pirate" nations of North Africa. Tripoli declared war on the United States. Jefferson sent a naval squadron to the Mediterranean with orders to protect American commerce by defensive measures only. Reporting to Congress (December 4, 1801) on the capture of a Tripolitan ship of war, he said:

"Unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense, the vessel, being disabled from committing further hostilities, was liberated with its crews."

Jefferson suggested that Congress authorize "measures of offence also." He was communicating all material information to Congress, in order "that, in the exercise of this important function, confided by the Constitution to the Legislature exclusively, their judgment may form itself on a knowledge and consideration of every circumstance of weight."

Alexander Hamilton assailed this, with good reason, as too restrictive. It was, said he, "the peculiar and exclusive province of Congress, *when the nation is at peace* to change that into a state of war . . . But when a foreign nation declares, or openly and avowedly makes war upon the United States, they are then by the very fact *already at war*, and any declaration on the part of Congress is nugatory; it is at least unnecssary."

Hamilton's argument harmonized with Madison's 1787 avowal of a power in the President "to repel sudden attacks" without a declaration of war by Congress. A deliberate, government-authorized, unprovoked attack on an American warship anywhere in the world is an attack on the United States. That does not mean that the President can constitutionally weasel the United States into an undeclared war, to retaliate an alleged but unproved "Gulf of Tonkin incident," for which, if it occurred at all, the American warship offered provocation.

From 1801 through 1803 the United States negotiated the Louisiana Purchase, with Jefferson and Madison putting constant pressure on France. The French, Jefferson told French Chargé Pichon, would remain in Louisiana "no longer than it pleases the United States." Custom, language and geography, Secretary Madison said to Pichon, drew East and West together, and with all America united, "France cannot long preserve Louisiana against the United States." The warnings were climaxed in 1803 by words of Madison at a dinner party, spoken so loudly, Pichon reported, that many heard them:

"He told me that it was true the nation was in a ferment, especially in the West; that it felt its strength, and that it needed all the confidence it had in the government to prevent it from acting. That this circumstance had made the United States itself examine the national disposition, and to conclude that it held the balance in the new world and could decide it at any moment: there was one power [England] which realized this perfectly, and it was to be hoped that all would realize it."

Here was power politics at its peak, pointing toward undeclared war, initiated not by the President but by uncontrollable hordes of westward migrants. To these forces, reinforced by the need of war funds, Napoleon capitulated and sold Louisiana.

As trouble mounted at sea, President Jefferson vainly sought, by means of the unenforceable Embargo Act of 1807, to induce England and France to repeal their confiscatory edicts, through which both countries were seizing or sinking American ships trading with the belligerents. Three weeks before Madison became President, he entered upon a far different course. It should be presumed, he wrote to Minister William Pinkney in London, that if the belligerents resumed the oppression of American commerce (after repeal of the embargo), "the next resort on the part of the United States will be, to an assertion of those rights by force of arms."

No *authoritative avowal* of such an intention, he said, could be made except by Congress. However, should "an expression of the Executive branch of our government be deemed a ground for revoking the British Orders, you will be free to declare that opinion to be, that in case these orders should be revoked, and the decrees of France continue in force, hostilities on the part of the United States will ensue against the latter."

Be careful, he added, "not to attach to the opinion of the Executive any weight inconsistent with the constitutional limits of his authority." A corresponding proposition was made to France.

On March 15, 1809, two weeks after he took office, President Madison instructed the American ministers at London and Paris to give notice that if one belligerent revoked its edicts and the other did not, "it is the opinion of the Executive, that Congress will, at the ensuing special session, authorize acts of hostility on the part of the United States against the other."

In 1810 Congress by the Macon Act made repeal by one belligerent, and non-repeal by the other, ground for a presidential proclamation of non-intercourse with the offending nation. France formally revoked her decrees; England did not, and on November 2, 1810, the President proclaimed nonintercourse with England, to be effective in three months. On that same day Madison sent the following message to the French Government:

"The Executive thinks that the measures he will take in case England continues to interfere with our communications with Europe will necessarily lead to war."

The measures, which did lead to war, were those authorized by the Macon Act. At no time did President Madison encroach upon the war powers of Congress. At no time did he make any statement, public or private, that would tend to control the action of the legislature.

Also in 1810, President Madison sent the United States Army into the Spanish province of West Florida, in support of an independence uprising by American and Spanish settlers who, by pre-arrangement of their leaders with the President, seized power and promptly applied for incorporation of the territory in the United States. The action was taken during the recess of Congress and was unknown to the public until Congress reconvened two months later. The territory thus occupied was held by the United States until formally ceded by Spain in 1819.

Rumors about this coup were flying but actual events were undisclosed when Madison commented to Jefferson about presumably *prospective* actions *already* taken. Following publication by a Georgetown newspaper of a rumor "that our cabinet is seriously engaged in discussing the propriety of taking possession of West Florida," Madison wrote that the crisis in that province had "come home" to American feelings and interests:

"It presents at the same time serious questions as to the authority of the Executive, and the adequacy of the existing laws of the United States for territorial administration. And the near approach of Congress might subject any intermediate interposition of the Executive to the charge of being premature and disrespectful, if not of being illegal. Still there is great weight in the considerations that the country to the Perdido, being our own, may be fairly taken possession of, if it can be done without violence; above all, if there be danger of its passing into the hands of a third and dangerous party."

The words *"being our own"* reflected the claim by the United States that the Louisiana Purchase extended east of New Orleans to the Perdido River. The military move could be (and was) executed "without violence" because no Spanish troops were within reach. The seizure had a measure of congressional authority: Congress in 1804 passed an act adding this part of West Florida to the New Orleans custom district, although that action had never been implemented. "Passing into the hands of a third and dangerous party" referred to the fact that Spain was an Anglo-French battleground on which England and France maintained rival puppet kings.

The action taken was saved from being imperialist aggression, in American eyes, only by the fact that the area involved was regarded (with good reason) to be included in the "Louisiana" retroceded by Spain to France in 1800 and ceded by France to the United States in 1803. The absence of violence prevented infringement of the war powers of Congress. That condition was fortuitous, but Madison's citation of it was meaningful. He disavowed presidential power to take possession of territory claimed as American, by acts of violence, without congressional authorization.

As British domination over Spain increased, apprehension increased that England would occupy East Florida. On January 3, 1811, President Madison sent a secret mesage to Congress asking for authority to take temporary possession of East Florida by military force, provided such occupation had the sanction of the local authority or to forestall a foreign seizure. Congress passed the measure, minus the word "temporary."

The President gave General George Mathews, former governor of Georgia, authority to accept possession of East Florida if it should be amicably offered by the Spanish governor or "the existing local authority." Not content with soliciting such an offer, Mathews organized an invasion force of two hundred Georgia militiamen and adventurers, obtained American naval support by misstating his instructions, over-awed a Spanish garrison and took armed possession as far as the St. John's River.

President Madison repudiated Mathews' action and removed him from office. Under no circumstances, the general was told, "was it the policy of the law, or purpose of the Executive, to wrest the province forcibly from Spain." However, Spain's governmental collapse and the menace of British occupation during the War of 1812 kept the territory in American possession until both Floridas were ceded by Spain as compensation for commercial depredations at sea.

Madison's repudiation of the Mathews adventure eliminated any suggestion of executive intrusion into the war-making powers of Congress. So did the history of West Florida as a territory to which the United States claimed title by purchase from France and was so treated by act of Congress in 1804.

Far from usurping the war powers of Congress, President Madison denied the constitutional power of Congress to delegate war-making decisions to the Executive. This was attempted in 1810, as a means of combating depredations of the British and French navies on American commerce.

In April, 1810, the House of Representatives had before it a bill, favored by Madison, to levy an additional 50 per cent duty on all

British and French goods, to be suspended in favor of either country that would repeal its hostile edicts. However, the House struck out the tax clause and took up a resolution already approved by the Senate:

"That the President of the United States be and hereby is, authorized to employ the public armed vessels in protecting the commerce of the U.S., and to issue instructions which shall be conformable to the laws and usages of nations, for the government of the ships which may be employed in that service."

President Madison regarded that resolution as unconstitutional. Approval of it by the Senate, he commented to Jefferson, marked the "unhinged state" of things in that body, whose future course was "rendered utterly uncertain by the policy which seems to prevail in that branch." (It was ruled by a bi-partisan alliance of Federalists and dissident Republicans.) In the House, the fight against it was taken up by Representative John G. Jackson, Dolley Madison's brother-in-law and recognized spokesman of the President, lately recovered from an almost fatal wound incurred in a duel precipitated by his ardent devotion to Madison. The whole House knew that although the words were Jackson's, the thoughts came from the President. As recorded in the *Annals*, April 30, 1810:

"Mr. J. G. Jackson said it appeared to him that no proposition had ever been submitted by one branch of the Legislature to the other similar to the one now before the House. It contains two propositions, neither of which could be supported.

"The first, said Mr. J., is that the President shall be authorized, when he may deem it expedient, to employ the armed vessels of the U.S. in the protection of commerce. If it be expedient to protect commerce, let Congress say so; let them declare it expedient and then devolve on the President power to carry their acts into execution. It seems to me with equal constitutionality we might refer to the President the authority of declaring war, levying taxes, or of doing everything which the Constitution points out as the duty of Congress.

"All legislative power is by the Constitution vested in Congress. They cannot transfer it. I admit, that the President is a component part of the Legislative; but you can no more transfer to him the power belonging to us, than you can transfer your power to the other branch of the Legislature, and permit them to sit during the recess."

The mind of Madison was equally evident when Jackson turned to the other feature of the resolution, requiring that actions by the President to protect Congress be in accord with international law:

"But this power thus given, is to be exercised according to the law of nations. It is a very important power, in the exercise of which we may and most probably shall come in collision with the definition of other nations and thus be brought into war—and I ask, sir, are you willing to confine this definition to any department of the government? It is a legislative power, which we cannot transfer; and if we could, it would be inexpedient to do so. Why are we assembled here, if, when it becomes our duty to decide on our great relations with foreign nations, we shrink from the task and throw the responsibility of measures on other departments of the Government?"

Madison had expressed the same thought about the law of nations, to Jefferson, on April 1, 1798. Six other congressmen made unrecorded speeches against the resolution. Not a voice was raised in support of it or against the Madison–Jackson reasoning. The measure was defeated 17 to 70.

Both in precept and practice James Madison, the man who divided the warmaking power by giving the President authority to repel sudden attacks, consistently denied executive power to carry the country into any other form of undeclared war. He denied the power of Congress to authorize the President to initiate such hostilities at his discretion. He denied that, either historically or constitutionally, decisions of war or peace were even partly executive in nature. He denied the constitutional power of the Executive, by words or actions, to reduce the freedom of Congress to choose between war and peace. Speaking through Representative Jackson, he disclaimed the constitutional power of Congress to invest the President with discretionary authority to employ the armed forces in hostile activities. And Congress, in his opinion, had exclusive power to define international law, in all situations where the use of armed force was potentially involved.

These positions taken by "the father of the Constitution" were uniformly upheld at the time by Congress and public opinion. In 1793 he overwhelmed the contrary position of Alexander Hamilton, who fled the field without replying to Madison's constitutional arguments. President Washington sustained Madison's view and the House of Representatives ratified it in words written by Madison. In 1810 the House lopsidedly supported the contention, emanating from Madison, that Congress had no power to confer discretionary authority on the President to defend commerce by armed force. The resolution thus treated as unconstitutional was a precise counterpart of the once-famous, later-infamous, Gulf of Tonkin Resolution.

But what a vast spread has since developed between the congressional attitudes and even the constitutional issues in the two instances! In 1810 the prevailing view was that Congress had no constitutional power to invest the President with war-making authority. In the Johnson-Nixon era, the dispute has centered on the question, did Congress intend to confer such power, or have two Presidents seized more power than Congress thought it was conveying? And both of these Presidents have claimed inherent power to conduct an undeclared war of unlimited magnitude, titanic cost and hundreds of thousands of casualties, without any congressional authorization whatsoever.

In the last twenty-two years, under three Presidents, more than 100,000 American boys have been killed in two undeclared wars which, by the prevailing views of Congress and Presidents in the first twenty-two years under the Constitution, the President had no lawful power to commence or conduct. The second and worse of these wars—a political and moral national monstrosity—is still in progress, four years after Richard Nixon said he had a secret plan to end it.

How much longer will this insanity continue? What is needed to end it and prevent its repetition? Nothing except simple obedience to the Constitution by the President and the Congress of the United States. The Javits Bill, S. 2956, is a mighty step in that direction.

Yours sincerely,

IRVING BRANT.

Mr. BROCK. Mr. President, I have long been a proponent of the concept embodied in this proposed legislation. We need a war powers bill because we clearly need today a specifically detailed understanding of the respective responsibilities of Congress and the Executive when American fighting men are committed to action. The objective—to prevent us from ever again slipping into a war without national debate and congressional action.

This is a meritorious goal, one worthy of such study and debate as may be necessary to guarantee that it meets its stated objectives without jeopardizing a constitutionally defined fulcrum between the executive and congressional branches.

Two decades ago, there was another bill of similar constitutional importance—the Bricker amendment. I will not debate the merits of that legislation, but I will say that the legislators had time to assess fully the constitutional and strategic implications of the bill. The pros and cons of the Bricker amendment were debated in forums across the entire Nation. It became the leading issue before the American Bar Associations. Resolutions for and against were voted by national organizations. It was a formal debate topic on college campuses. Every eminent international lawyer or constitutional professor submitted his opinion. Have we done as well on the war powers bill?

It is true that I find the amended version now before us appealing. Yet while I could support it, I find no crisis so compelling that I cannot wait 6 weeks to be sure all sides have adequate opportunity to be heard.

Here, when the issues raised broadly affect our national security, there are those who act as if passage of this legislation is so pressing that we should dispense with hearing the opinions of the leading lawyers of this Nation. While agreeing with the need for passage of language to clarify war powers authority, I am not so arrogant of my own wisdom as to deny the need of the best advice I can find on this matter.

Mr. President, here is a list of many eminent lawyers who wish to give their views on this war powers bill—they include statesmen of both Democratic and Republican persuasion, international lawyers as well as constitutional authorities, leaders of the organized bar as well as academic spokesmen. I am referring to former Attorney General Herbert Brownell, and former Under Secretary of State, George Ball; two former Presidents of the American Bar Association, David F. Maxwell and Bernard G. Segal; international lawyers of renown such as Arthur H. Dean, and Eberhard P. Deutsch, distinguished professors, such as, Gordon Baldwin of the University of Wisconsin Law School, John N. Moore of the University of Virginia Law School, Carl Christol, of University of Southern California Law School, Louis Sohn of the Harvard Law School, and in addition Prof. Arthur Schlesinger.

I could go on and list many more distinguished leaders of the law profession, such as Monroe Leigh here in Washington; Herman Phleger, in San Francisco; and Edward J. Lawler, of my own State of Tennessee.

All of these experts have expressed concerns about the constitutional implications of this war powers bill. All want to clarify the effect of legislation changing the constitutional relationships between Congress and the President. None, I am sure, seek to thwart the here stated objective of definition of constitutional responsibility.

Mr. President, this Chamber is a deliberative body, proud of its heritage of considering legislation in an educational instead of emotional atmosphere, with the objectivity of facts instead of the subjectivity of feeling.

If a majority today refuses to hear the counsel of these experts in constitutional law, we run a high risk of placing some future President in a situation where he is unable to respond for the protection of the Nation. Mr. President, I will support the move to return S. 2956 to the Judiciary Committee for a specific and short time only, so that we may have the benefit of the important testimony of the best and most experienced legal minds available. To the extent that their advice can further refine and improve our efforts, it should be allowed to do so. At that time, I will actively support this much needed resolution.

Mr. JAVITS. Mr. President, unless some other Senator wishes to be recognized, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BUCKLEY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately after the two leaders have been recognized under the standing order, the distinguished Senator from New York (Mr. Buckley) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE COMMITTEE ON LABOR AND PUBLIC WELFARE TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare may have until midnight tonight to file committee reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR MINORITY MEMBERS OF THE COMMITTEE ON COMMERCE TO HAVE UNTIL MIDNIGHT ON WEDNESDAY NEXT TO FILE THEIR VIEWS ON S. 3419

Mr. DOMINICK. Mr. President, at the request of the Senator from New Hampshire (Mr. Cotton), I ask unanimous consent that the minority members of the Committee on Commerce be given until midnight on Wednesday next to file their views on S. 3419. This is merely an extension of time from midnight tonight until Wednesday night, April 12.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

QUORUM CALL

Mr. DOMINICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Brock). Without objection, it is so ordered.

(The remarks of Mr. Hruska made at this point on the introduction of S. 3470 are printed in the Record under Statements on Introduced Bills and Joint Resolutions.)

GUILTY UNLESS PROVEN INNOCENT?

Mr. HRUSKA. Mr. President, for the past 6 weeks, this Nation's newspapers have been filled with news stories and editorials critical of the administration, and in particular the Department of Justice, for its settlement of the three ITT antitrust suits. Allegations have been made concerning a "deal" involving ITT's contribution to the San Diego Tourist and Convention Bureau. All of this has taken place in the context of the Senate Judiciary Committee's hearings on the nomination of Richard Kleindienst to be Attorney General.

This trial by publicity has altered the fundamental American jurisprudential precept that a man should be regarded as innocent until proved guilty. Rather Mr. Kleindienst has been portrayed to the public as a man guilty of some unspecified charge based on no creditable evidence whatsoever.

Some Democratic members of the committee have continued to deal in innuendo and suspicion notwithstanding the fact that their efforts have proved entirely unrewarding. Indeed, as time has passed, the name of Mr. Kleindienst has been making less and less frequent appearances in the transcript as the inquisition has ranged far afield. The distinguished Senate majority reader (Mr. Mansfield) indicated last week that he felt that Mr. Kleindienst's opponents had failed to make a case against him. This Senator can but echo that sentiment.

Recently, as with all excesses, a turning back to reality and sound judgment has been shown by some editorial writers. Last week the Wall Street Journal published two excellent editorials which put the hearings and the issues in appropriate perspective. In addition Mr. David Lawrence in U.S. News and World Report has perceptively examined the perversion of legal principle I mentioned earlier.

Mr. President, I ask unanimous consent that these three articles be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. Mr. President, the time has come for the Senate to be given the opportunity to vote on the President's choice to be Attorney General. If there is any evidence to impugn Mr. Kleindienst's record it should be brought forth now. If there is no such evidence, and I am confident this is the case, we should be permitted to bring this matter to the floor promptly.

Now the committee has agreed to hold 2 additional weeks of hearings on this nomination. This is altogether too long a time to hold Mr. Kleindienst hostage while Democratic Senators conduct their lengthy and unproductive fishing expedition. For 6 weeks the Democratic nets have been cast wide in hopes of catching some evidence of wrongdoing in order to defeat this nomination and embarrass the administration; for 6 weeks those nets have been hauled in empty. This charade should have been stopped long ago.

There are, however, two important and useful benefits in the agreement reached by the committee last Friday. First, at long last there is a cutoff date agreed upon for these hearings, April 20 is the final day on which hearings can be held; April 27 is the deadline for the majority leader to be informed of the decision of the committee on this nomination. Second, the agreement specifies that the witnesses to come before the committee during these final 2 weeks are to limit their testimony to matters relevant to the nomination. After all, Mr. President, it is Mr. Kleindienst who as been nominated by the President to be Attorney General, not ITT. This Senator intends to make every effort to see that this newly found rule of relevance is strictly observed.

Exhibit 1

[From the Wall Street Journal, Apr. 4, 1972]

Where Next on ITT?—I

On Thursday the Senate Judiciary Committee will vote on whether to continue its hearings into the ITT affair. We are not at all sure matters ought to be dropped as they stand, but if the hearings are to continue the Committee will have to find some track to get them on.

Presently the hearings' remaining function in life seems to be providing a field day for partisan Democrats anxious to embarrass a Republican administration, and for editorial cartoonists anxious to expand public understanding of complex issues by drawing pictures of dragons and garbage piles. The partisans, at least, are a normal and useful part of the political system. The Republicans would do the same thing if the tables were reversed, and it helps keep everyone reasonably honest.

Still, the day when this justification wears thin comes fairly quickly. It's time to ask what has or has not been proved, and what, specifically, there is left to investigate.

We think certain minimum conclusions are by now evident. The Republican Party ought not to have accepted a $200,000 convention-financing pledge from International Telephone & Telegraph Corp. while it was party to an important antitrust suit. In financing matters neither party is above suspicion, as the Democrats' still-unpaid 1968 bills testify. If the ITT affair warns both parties to look more closely at their contributors, it will have served good purpose. If it warns the next President of either party of the potential damage in the recent tradition of staffing the Justice Department with campaign managers and other highly partisan types, it will have served doubly well.

Further investigation is scarcely needed to establish that much, however, so the Committee will still be left searching for a purpose. Ostensibly, of course, it is inquiring into the qualifications of Attorney General-designate Richard G. Kleindienst. Little in the hearings reflects personally on Mr. Kleindienst beyond some not especially earth-shaking dicrepancies between his present account and what he'd said previously responding to a letter from the Democratic National Committee.

It is of course also true that Mr. Kleindienst set up and attended meetings between ITT officials and former antitrust chief Richard W. McLaren. Similar meetings have been standard practice in antitrust cases in previous administrations; in fact something like 80% of all antitrust cases are settled by negotiation rather than trial. The Judiciary Committee might want to invesigate whether such practices should continue, but the case against them will be hard to make, and so far as we know no one has volunteered for that task.

It would of course bear on Mr. Kleindienst's qualifications if a link could be demonstrated between the convention contribution and the antitrust settlement. In all of the hearings, though, the only suggestion of a link has been in the disputed memorandum by ITT lobbyist Dita D. Beard.

The facts behind the memorandum are far from established, but as a practical matter we see no promising path for investigating it further. Additional questioning of Mrs. Beard does not seem especially promising, even laying aside her health problems. Columnist Jack Anderson, who first revealed the disputed memo, naturally refuses to reveal his source. While we fully support his refusal, it obviously does block an alternate path for investigating the memo.

As against the memo, you have the explanation of the antitrust settlement by Mr. McLaren and Solicitor General Erwin Griswold. The record, after all, is this: The previous Democratic administration did not believe the antitrust laws applied to conglomerate mergers, and did almost nothing about them. Mr. McLaren started to test legal theories making the application, and the results were not encouraging. In the lower courts he lost two of the ITT cases outright and suffered a sharp setback in the third.

Whereupon Mr. McLaren settled the ITT cases by consent decree. The net result is that while the previous administration's tactics would have won nothing, Mr. McLaren got the biggest divestiture in history, a promise to take ITT out of the acquisition business for 10 years and an example that did help deter the conglomerate movement. This does not sound to us like the record of an administration that sold out, and it will take rather more than the Beard-Anderson memo to persuade us otherwise.

A number of other questionable aspects of the case come quickly to mind, of course, but each of them reflects not on the government but on ITT. Here may be a promising track for further investigation, provided the Committee can frame its work not as a random assault on one company but in terms of broader social purpose. We intend to return to this point later.

But unless there are further disclosures to connect the contribution pledge to the antitrust settlement, it seems to us the Committee ought to wind up the Kleindienst phase of its hearings, continuing them, if at all, in some clearer context.

[From the Wall Street Journal, April 5, 1972]

WHERE NEXT ON ITT?—II

We've said the investigation into the ITT affairs leaves us reasonably satisfied with the integrity of the antitrust division. But definite clouds still hang over the integrity of International Telephone & Telegraph Corp., and it seems to us there is a question about what kind of corporation our economic system ought to encourage.

The episode seems to have established a number of things about ITT. It employed a lobbyist up to things like rushing off to the Kentucky Derby simply to corner the Attorney General. Its crisis reaction was to shred papers.

The reports of stock trading by its insiders show a pattern of buying broken by sales starting the day after the government offered terms for settling its antitrust suits by divestitures. A prospectus it issued a few days before settling the suits makes no mention of the ongoing negotiation. While its tender offer for Hartford Fire Insurance Co. was outstanding, it held a private meeting with selected Wall Street types. Its chief executive now says a previous company statement listing some 20 government officials with whom he had discussed antitrust policy was wrong in including two who are highly pertinent to the present controversy.

Now, we would scarcely charge that any of this was illegal, and ITT has variously plausible explanations for each of its actions. Its pledge to help finance the Republican convention was intended to promote its hotel properties, for example, and the timing of the stock sales was a coincidence. But the accumulation of questions and explanations has piled pretty high. Which is why the chief effect of the latest go-round on ITT, in our minds at least, has been to underline long-standing questions about conglomerate companies as they grew during the last decade.

Here a bit of background is necessary. The gaudy per-share performances that made conglomerates the darling of Wall Street during the 60s market boom were in important respects the result of imaginative, though perfectly legal, accounting practices.

One of the less arcane examples concerned "pooling of interest" accounting for acquisitions. This technique was not used merely by conglomerates but by many companies, and it was and remains a perfectly valid practice in many instances. Indeed, some types of business suffer hardships from the more recent restrictions on the practice.

One of its effects, though, is that an acquiring company can take credit for its acquisition's full-year earnings simply by owning it on the last day of the year. Thus by buying new earnings every year, a conglomerate could show consistent per-share growth even if the performance of its established divisions was mediocre.

The Accounting Principles Board, which sets the rules for the accounting profession, remarked on "instant earnings" and on "companies that have been able to show rising profits year after year by a series of mergers." In 1970, after considerable controversy, the Board changed its rules to discourage "pooling of interest" and otherwise tightened the practices from which conglomerates had benefited. Along with the market decline and the administration's antitrust suits, this has taken the steam out of the conglomerate movement, at least for the time being.

Unlike most conglomerates, ITT has been able to continue its earnings growth even after the acquisition pace slowed, and thus has avoided many of the doubts that have enveloped the movement in general. Yet there is little question it profited from the accounting game. Indeed, an academic study placed it among the six Big Board companies that profited most from pooling-of-interest accounting during 1967. Its controller, Herbert C. Knortz, was one of the most outspoken opponents of the changes the Accounting Principles Board enacted.

So the latest disclosures seem once again to raise questions about the methods of the type of corporate management attracted into the conglomerate game. Are they the type of men we want controlling an increasing share of American business, or would we prefer business leaders of a more conservative character?

The question may be academic, since the conglomerate movement is no longer sweeping American business. And we certainly do not need antitrust laws that bar all acquisitions or diversification, which make sound business sense in many cases. Our antitrust enforcers still have to learn, in fact, that bigness is not in itself a sin, or even a drag on competition.

Even so, we would like to be sure that conglomerates as we knew them in the 60s do not take off again the next time the stock market booms. So if the Senate Judiciary Committee wants to continue its investigations, it would do worse than to take some time to make sure there's nothing artificial in the laws or the economy to promote acquisition for the sake of acquisition, let alone for the sake of fancy accounting.

[From the U.S. News & World Report, Apr. 10, 1972]

GUILTY UNLESS PROVED INNOCENT?

(By David Lawrence)

Under English and American common law as well as centuries of legal reasoning, the principle has been recognized that a person accused of crime is presumed to be innocent until he is found guilty "beyond a reasonable doubt." The Supreme Court has ruled that the "due process" clause of our Constitution requires this standard to be observed.

Today in America the newspapers are filled with muckraking stories about the alleged wrongdoings of individuals or companies. The innuendoes are constantly repeated in the press and on radio and television so that citizens become convinced that the accused are guilty. Many of those who are the victims of attack are prominent in public life. The charges made against them are not necessarily removable by denials. Thus, the insinuations continue to be spread and are especially harmful during political campaigns when accusations are directed against candidates for office.

The idea of making sensational charges is defended as a way of attracting readers or listeners and as a custom that has been carried on over the years. Protection for the individual whose reputation is damaged lies in the use of libel laws. But by the time a controversy has been given the headlines and an aspirant to public office has been hurt in his chances for election, not much help can come from a subsequent suit for damages. Also, court decisions have put limits on situations in which such claims can be sustained.

Government officials have been astonished in recent years by the theft of papers not only from public but from private files and the distribution of their contents to newspapers. Efforts to prevent publication have been turned down by the courts under the doctrine of "freedom of the press."

The public, of course, often gets a one-sided story because the stolen documents do not cover the entire history of an event or series of events which are the subject of the exposure. Congressional committees can make thorough inquiries in cases involving public officials, but it isn't always possible to get all the facts or all the evidence necessary for a fair conclusion to be reached.

Under the circumstances, therefore, will individuals who are being accused of impropriety be regarded as guilty just because there is not available immediately a means of proving their innocence? The rule of law says they are innocent until proved guilty. But nowadays it is the other way around. They are thought of as guilty because they have not been proved innocent.

Many controversies arise over political contributions. The law is specific in stating that neither corporations nor labor unions can contribute from their own funds to a political party or candidate for federal office, but money is nevertheless supplied by them indirectly. One method is to organize separate committees which canvass the personnel of companies or labor unions and raise considerable amounts. The net result is that huge sums are collected from persons actively engaged in business or identified with national unions.

There has been much talk in Congress about modifying the laws so that these devices for collecting campaign funds would not be permitted, but nothing has been done about it. As a matter of fact, both political parties benefit by the flow of money from all kinds of groups during a presidential campaign. The contributions vary in size, but each of the major parties amasses millions of dollars to pay expenses of the contest. If the laws were literally interpreted, there might be some question about circumvention of statutes. Since both parties are involved in soliciting money from private sources, however, no real effort has been made to prevent the gathering of large amounts from individuals in both labor and management categories.

During the coming campaign, there will be plenty of charges and countercharges. Lots of this will be done on television, and people will hear allegations about different events in which candidates have participated or with which they have been associated. Those accused will not be present to make a rebuttal, and hence an incorrect impression can be given the public.

The most conspicuous example of failure to apply the simple rule of justice to the many controversies in politics is in the charges often made against the candidates of an incumbent Administration. Because it is involved in a wide range of governmental services, its leaders are particularly vulnerable.

The assumption is that an accusation which implies wrongdoing is permissible whether or not all the facts are revealed. As long as the innuendoes are spread, the purpose is served. This is the polemics of politics.

So we come back to the simple rule of justice. Shouldn't a person be considered innocent until he is proved guilty "beyond a reasonable doubt"? Or is he going to be regarded as guilty because of reports in the press or on the air raising suspicions related to activities in which he may or may not have played a part?

The view currently prevalent seems to be: Guilty Unless Proved Innocent.

UNANIMOUS-CONSENT AGREEMENT

Mr. HRUSKA. Mr. President, I have a unanimous-consent request to make with reference to the pending motion to refer the pending measure, S. 2956, the proposed War Powers Act, to the Committee on the Judiciary.

I am prompted somewhat by the suggestion that a reference to that committee might be consigning the bill to the graveyard. If all the allegations having to do with the graveyard regarding a referral to the Committee on the Judiciary were true, that graveyard would not have any room for another grave. At any rate, there have been assurances by this Senator that the measure would not be referred to the Committee on the Judiciary for the purpose of burying it. In order to make that assurance complete, tangible, and irrevocable, my unanimous-consent request is that the reference to the Committee on the Judiciary of S. 2956 be for a period of not to exceed 45 days.

That may seem to be a little long. However, I just finished detailing to the Senate that the next 2 weeks will be occupied with an ongoing issue which is already washed out and somewhat outworn. Nevertheless, additional hearings on the nomination of Mr. Kleindeinst will be held. That would mean a residual period of 30 days for the purpose of canvassing the constitutional features of S. 2956 and hopefully to obtain some of the leading constitutional lawyers to testify on this bill and its proposals.

It must be said again that only two constitutional lawyers have testified so far in these hearings. One was Professor Bickel of Yale Law School. The other was Prof. John Norton Moore, of the University of Virginia Law School. It is imperative that we have more constitutional lawyers, not professors of history, not professors of political science, but constitutional lawyers testify.

In our colloquy on Friday the Senator from Arizona and I listed a number of them. To that list I would like to add the name of Myres S. McDougal.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a biographical sketch of Prof. Myres S. McDougal.

There being no objection, the biographical sketch was ordered to be printed in the RECORD, as follows:

MYRES S. McDOUGAL

Born November 23, 1906 Mississippi.

A.B., A.M., LL.B., University of Miss. 1927.

B.A., B.C.L., Oxford, England, 1930.

J.S.D., Yale, 1931.

Honorary Doctor of Humane Letters, Columbia, 1954.

Honorary Doctor of Laws, Northwestern, 1956.

Assistant Professor Law, Univ. of Illinois, 1931–34.

Associate Professor of Law, Yale, 1934–39.

Professor of Law, Yale, 1939–

Currently Sterling Professor of Law, Yale, 1958–present.

Visiting Professor, Cairo Univ., U.A.R., 1959–60.

Lecturer, Fulbright Conference on American Studies, Cambridge Univ., England, 1952.

1942 Attorney and Assistant General Counsel, Lend Lease Administration.

1943 General Counsel, Office of Foreign Relief and Rehabilitation Operations, Dept. of State.

Since 1963 member, U.S. Panel, Permanent Court of Arbitration, The Hague.

1966 President, Association of American Law Schools.

1958 President, American Society of International Law.

Many publications in field of congressional-executive powers under constitution.

Mr. HRUSKA. Mr. President, Professor McDougal in a conversation over the phone with my legislative assistant, Stanley Ebner, authorized him to make a statement on his behalf which will be verified in writing.

In that statement Professor McDougal takes a position against the pending bill.

Here is the substance of his statement as taken over the phone by Mr. Ebner:

> The report of the Foreign Relations Committee on S. 2956 is hopelessly inadequate regarding the grave constitutional questions raised by this bill.
>
> Under the power to declare war the Congress has no more competence to restrict the President's power as Commander in Chief than the President has as Commander in Chief to limit the Congress' authority under the declaration of war clause.
>
> The President's competency in relation to foreign affairs, his ability regarding the making of agreements and the use of force, is of critical importance here.
>
> With this bill the Congress would be telling the President what he can do in areas where he either may act alone, or act together with Congress. S. 2956 is a real threat to the security of Freedom under the established separation of powers. It threatens the Presidency as a co-equal branch.
>
> Professor Rostow is 100% correct in his view on the bill—he should be supported.

Mr. President, the reference to Professor Rostow was twofold. One was his participation in the debate last October at the Yale University with Prof. Alex Bickel. That was the subject of a Yale Law Report article which is to be found earlier in the record of this debate.

The second reference to Professor Rostow had to do with the article he had in the New York Times of Thursday, last.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. HRUSKA. I yield.

Mr. JAVITS. Mr. President, I did not hear the Chair rule on the unanimous-consent request.

Mr. HRUSKA. I have not quite finished my statement.

Mr. JAVITS. I am sorry. I wanted to be sure that I was not pre-empted.

Mr. HRUSKA. Mr. President, when I finish, I will give the Senator an opportunity to respond.

I detailed the matter dealing with Professor McDougal because it is in addition to the list of names given to the Senate in the colloquy between the Senator from Arizona and this Senator.

I want to finish that before I repeat my unanimous-consent request and ask for a ruling on it.

Professor McDougal authorized Mr. Ebner to say that if the hearings are held, or if they are not, and there are any other occasions on which he can submit his testimony either orally or in writing, we should let him know and he would do his best to oblige.

Mr. President, I ask unanimous consent that permission be given me to modify my motion to refer this bill S. 2956, to the Committee on the Judiciary with the addition of this language—"for a period not to exceed 45 days from the date of adoption."

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, I do wish to make an observation and I wish to suggest an amendment to the way in which the unanimous-consent request is put.

Mr. President, as to the latter, it is procedural. I am sure that the Senator has no objection to it. It seems to me that the unanimous-consent request should provide that the bill shall then be deemed reported by the Judiciary Committee to the Senate at the end of that 45-day period. Otherwise other proceedings might have to ensue, and I do not think the Senator has that intention.

Mr. HRUSKA. Mr. President, I have no wish to that. I have no objection. Does the Senator suggest that this be added?

Mr. JAVITS. I do.

Mr. HRUSKA. I would be happy to agree to the addition of such language. There is no objection to that at all.

Mr. JAVITS. I did not think the Senator had.

Mr. President, reserving the right to object further, and again I repeat that I shall not object, I wish to make an observation.

Mr. President. I do not think the sponsors of this bill desire in any way to deal with the question of referral to the Judiciary Committee except substantively. So, it is not material if the reference is for 1½ months, although we will reserve the right to argue as to the state of the calendar and the situation in Congress at the end of that time. However, we will base our main objection to the reference on the substantive ground that first, there is no question which is of a nature that gives the Judiciary Committee jurisdiction; and second, the delay in time which is inherent in the motion is not warranted.

I did wish, because of the Senator's statement, to couple our major points of opposition with his unanimous-consent request.

I do not have any objection. I have consulted with the Senator from Mississippi (Mr. STENNIS), the Senator from Virginia (Mr. SPONG), and other Senators concerned. There is no objection.

Mr. HRUSKA. I am thankful for the last suggestion of the Senator from New York. This Senator, before he decided to make this unanimous-consent request, did canvass the leadership on both sides and those Senators most active in the debate on this bill.

Mr. ROBERT C. BYRD. I was going to inquire whether or not the matter had been cleared with the distinguished Senator from Virginia (Mr. SPONG), the manager of the bill on this side of the aisle, and the Senator from Mississippi (Mr. STENNIS). I understand now, based on the statements by the Senator from New York and the Senator from Nebraska, that that matter has been clarified. I have no objection.

Mr. HRUSKA. Mr. President, I would like to add that I discussed the request with the Senator from Arizona (Mr. GOLDWATER), the two Senators from Colorado, and other interested Senators on our side of the aisle.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, earlier in this debate I have stated that the proposed War Powers Act has grave constitutional implications. While the Judiciary Committee should be given the fullest opportunity to examine and study these issues, mention of a few of them at this time may perhaps provide further impetus in support of the motion to refer the bill to committee.

The proponents of this bill have asserted time and again that S. 2956 takes nothing away from the constitutional authority of the President regarding his ability to commit military forces around the globe. This is merely stating a conclusion, however, which naturally depends on what powers one believes are provided the President by the Constitution in the first instance.

Let us look at the sections containing the 30-day limitations, sections 5 and 6 of the bill. These sections provided, in the version reported by the Foreign Relations Committee, that Congress must approve the use of American Armed Forces for more than 30 days in any situation where the President commits them on his own—under those circumstances allowed by the bill, of course. These sections also authorized Congress to terminate such use sooner than 30 days through legislation.

Since the debate on this bill has commenced on the Senate floor, the sponsors of S. 2956 have introduced so-called "perfecting amendments" which were adopted by the Senate on April 5. As amended, sections 5 and 6 now ostensibly permit the President to go beyond the 30-day limit without congressional intervention if he certifies to Congress in writing that troops must continue to be used to bring about a prompt disengagement from hostilities. This authority is limited to situations tied to the safety of our Armed Forces, and then only when they have been committed in cases involving attacks on the United States or on our Armed Forces outside the United States.

Prof. Quincy Wright, who has been a foremost scholar of international law for many years, had the following to say as long ago as 1920:

> The powers of the Commander in Chief extend to the conduct of all military operations in time of peace and of war, thus embracing control of the disposition of troops, the direction of vessels of war and the planning and execution of campaigns, and are exclusive and independent of Congressional power.

After the opportunity to further study and to reflect on this issue for almost 50 years, the same Professor Wright wrote in 1969:

> I conclude that the Constitution and practice under it have given the President, as Commander-in-Chief and conductor of foreign policy, legal authority to send the armed forces abroad; to recognize foreign states, governments, belligerency, and aggression against the United States or a foreign state; to conduct foreign policy in a way to invite foreign hostilities; and even to make commitments which may require the future use of force. By the exercise of these powers he may nullify the theoretically, exclusive power of Congress to declare war.

Mr. President, this is not the view of an immoderate man who does not know whereof he speaks. Neither is it a lone voice in the wilderness. There are other distinguished scholars who share this view—just how many and to what extent we cannot be sure until they have an opportunity to present their arguments before the Judiciary Committee, if the pending motion is approved.

The Senator from Arizona and this Senator have already listed a number of such experts earlier in this debate.

This position, of course, argues most strongly against the provisions of sections 5 and 6 of S. 2956—and against those who claim this bill does not impinge upon the constitutional powers of the President. How can it be argued seriously that the President must bow to the will of Congress according to the time sequences spelled out in the bill if he has the power to commit the troops in the first instance?

If this power derives direct from the Constitution, to attempt to do it in the manner of S. 2956 would be an attempt to modify and amend the Constitution by statute. We have not reached that point. Hopefully we never will.

I am well aware that some supporters of this proposal theorize that a brief hostility does not amount to a "war" within the meaning of article I, section 8 of the Constitution—but that a lengthy conflict does come within this definition. Precedent at least does not bear out this theory. This Senator has already mentioned that there have been 192 instances in our history when American military forces have been involved in hostilities abroad without a declaration of war. Of particular significance to the legality of sections 5 and 6, however, is the fact that there have been 93 of these military actions lasting more than 30 days.

Examined in this light, Mr. President, the floor amendments to sections 5 and 6 of the bill are little more than cosmetic. They do not alter the basic flaws in any scheme, pattern, or device which would attempt to place time limits, conditions, reporting requirements, and the like on the constitutional powers of the President as Commander in Chief and principal exponent of American foreign policy. They merely appear to make the bill more palatable to those who have legitimate objections to S. 2956 on policy grounds.

In a previous statement this Senator mentioned the case of *United States* v. *Midwest Oil Co.*, 236 U.S. 459 (1915), as one cited by this bill's proponents to support the authority of Congress to provide statutory limitations on the President's ability to commit troops overseas. This case is indeed worth examining closely, but not for the purpose suggested by those who wish to see the enactment of S. 2956.

In writing for the majority, Justice Lamar stated:

> It may be argued that while these facts and rulings prove a usage they do not establish its validity. But government is a practical affair intended for practical men. Both officers, law-makers and citizens naturally adjust themselves to any long-continued action of the Executive Department—on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice. That presumption is not reasoning in a circle but the basis of a wise and quieting rule that in determining the meaning of a statute or the existence of a power, weight shall be given to the usage itself—even when the validity of the practice is the subject of investigation.

Mr. President. it would be tragic if S. 2956, which represents such a serious departure from accepted separation of powers principles in this area, should be allowed to slip through the fingers of the Senate without additional exploration on constitutional grounds. The brooding presence of the Vietnam conflict must not be permitted to obscure either our past legal tradition or our future dependence on the Constitution as the single most powerful force in preserving the American system of government. Additional consideration of S. 2956 before the Judiciary Committee is urgently needed if the Senate is to have the best possible examination made of a measure which flies in the face of nearly 200 years of practice and thinking under the Constitution.

Mr. President, there will be a vote on the motion to refer S. 2956 to the Judiciary Committee at 2 p.m., on tomorrow. I hope that all Senators will examine the debate record of the past few days and consider carefully the unresolved and most serious questions contained in this bill before casting their votes on the motion.

I yield the floor.

Mr. JAVITS. Mr. President, the debate today has dealt so extensively, almost exclusively, with the question of reference to the Judiciary Committee, I would like to reinforce an argument made earlier in the day.

The argument is based upon the fine statement, the vigorous statement, of the Senator from Mississippi (Mr. STENNIS) and the immediately subsequent statement of the Senator from Virginia (Mr. SPONG). It led me to identify the motion with the proposition that we were going to vote tomorrow, not on an adjective question of procedure but on a substantive question, and on this substantive question the Senate should be decidedly and decisively against the motion.

The substantive question is this: As the jurisdiction of the Judiciary Committee extends to amendments to the Constitution, the motion to refer to the Judiciary Committee by the makers of the motion is made on the ground that it presents a constitutional question. As has been properly stated time and time again, we have constitutional questions involved in a water pollution bill or in an air pollution bill or in a civil rights bill, or in the question of equal opportunity under the 14th amendment, or taking property without due process of law, and many other constitutional questions. We would never think of referring such legislation to the Judiciary Committee. If we did, that committee would have referred to it every bill in the place. Everything we do here flows from the powers given to the Congress under the Constitution.

So we expressly rebut the contention of the movants of the motion that what is presented is a constitutional amendment and that what is sought to be achieved is a constitutional change. We believe the total evidence and the total history before the Senate rejects that. It is not a question of changing the Constitution.

The question is that of adopting a methodology under which the constitutional powers of the Congress and of the President may be exercised in view of historical developments. The reaction of the President to a sudden attack in the exercise of his power as Commander in Chief, may very speedily become war.

We do not want these questions fuzzed up with the question of appropriations for operations and men in the field, with all the questions that entails, and the responsibility for our Armed Forces, which naturally Congress is very reluctant to do, and which, if one House decides to do, the other House would not, just as we have experienced before.

Those who believe we are really legislating a constitutional amendment will vote with those who are seeking to send the bill to the Judiciary Committee, but those who feel that we are endeavoring to apply, under the necessary and proper clause, a methodology will vote against it. I hope very much that will be the decisive action of this body.

We will argue tomorrow the fact that referral would bring us right into the middle of the busiest part of the legislative session. The matter has been given broad consideration in the public and private forum, including testimony, for 1 year, with Members of Congress and experts giving full consideration to it, with people at the highest levels, those representing presidents, having testified on both sides of the issue. Those who have served presidents do not agree with some of those views. We have had all the testimony.

We finally come to JOHN STENNIS' proposition, that this is a political issue. Since it involves the lives and fortunes of our people, do we have any less right to seek the concurrence of the Congress with the President when war is involved—not an incident or a repelling of sudden attack, but war on a massive scale we are talking about, shown by the experience we have just gone through?

So I hope Members of the Senate will consider the record. It is very important. My own opinion is that tomorrow's vote is the decisive vote on the whole issue of whether we will or will not have congressional action in this field, and I hope very much the motion will be rejected.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock meridian. After the two leaders have been recognized under the standing order, the distinguished junior Senator from New York (Mr. BUCKLEY) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, or not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of the period for the transaction of routine morning business, the Chair will lay before the Senate the unfinished business, S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

At 2 p.m. tomorrow, the Senate will vote by rollcall on a motion by the distinguished Senator from Nebraska (Mr. HRUSKA) to refer the bill to the Judiciary Committee. Following that yea-and-nay vote, in the event the motion to refer is rejected, amendments will be called up, and rollcall votes thereon are expected.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I can assure the Senator, because we already have been asked—and I say this only so that Senators or members of their staffs who read the RECORD may be informed—that there will be amendments. From the nature of the amendments, I believe that decisions will be taken on those amendments. Whether or not they will be yea and nay votes, obviously I cannot tell, but I believe so.

So all Senators should be alerted to the fact that not only will there be voting at 2 o'clock, but also that thereafter, for the remainder of the afternoon, it is most likely that a number of amendments will be called up, considered, and acted on.

Mr. ROBERT C. BYRD. I thank the Senator.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and at 4:35 p.m. the Senate adjourned until tomorrow, Tuesday, April 11, 1972, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate, April 10, 1972:

DEPARTMENT OF DEFENSE

John W. Warner, of Virginia, to be Secretary of the Navy, vice John H. Chafee, resigned.

Frank P. Sanders, of Maryland, to be Under Secretary of the Navy, vice John W. Warner, elevated.

PRICE COMMISSION

Mary Hamilton, of Illinois, to be a Member of the Price Commission, vice Marina von Neumann Whitman.

NATIONAL COMMISSION ON MATERIALS POLICY

Peter G. Peterson, of Illinois, to be a Member of the National Commission on Materials Policy, vice Maurice H. Stans.

IN THE ARMY

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be captain

Boohar, Charles W., Jr., [redacted].
Carpenter, Bernard R., [redacted].
Craig, David B., [redacted].
Gamboa Anthony H., [redacted].
Gideon, Wendell R., [redacted].
Lehman, William J., [redacted].
Plaut, Peter K., [redacted].
Simmons, Timothy J., [redacted].

To be first lieutenant

Besozzi, Paul C., [redacted].
Bishop, Burk E., [redacted].
Borgen, Mack W., [redacted].
Borek, Theodore B., [redacted].
Carter, Victor S., [redacted].
Caryl, Michael R., [redacted].
Donnelly, Terrence M., [redacted].
Dowell, David R., [redacted].
Eisenberg, Stephen A., [redacted].
Grandison, Wilfred G., [redacted].
Hargus, Patrick K., [redacted].
Hoskins, Harry D., III, [redacted].
House, George W., [redacted].
Knight, Sammys, [redacted].
MacPherson, John R., [redacted].
Miller, Ralph I., [redacted].
Reynolds, George D., [redacted].
Robblee, Paul A., [redacted].
Sauer, John G., [redacted].
Smith, Brian K., [redacted].
Taylor, Vaughn E., [redacted].
Trainor, Charles W., [redacted].
Tucker, Harry A., Jr., [redacted].
Vickery, Arnold A., [redacted].
Williams, Herbert D., III, [redacted].
Wonnell, Donn T., [redacted].
Wzorek, Lawrence E., [redacted].

To be second lieutenant

Lewis, John W., [redacted].
Rovak, Stephen H., [redacted].

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Davis, Alice M., [redacted].
Rohr, Robert E., [redacted].
Shrout, Roy B., Jr., [redacted].

To be captain

Adams, Peggy T., [redacted].
Badgley, Eddie D., [redacted].

Berk, Clarence G., [redacted].
Breland, Marshall W. Jr., [redacted].
Brown, Allen W., Jr., [redacted].
Ceria, Paul K., [redacted].
Cornine, Lance R., [redacted].
Cuartas, Francisco I., [redacted].
Fayard, Marshall J., [redacted].
Feight, James W., [redacted].
Foore, Larry L., [redacted].
Fredrick, Bruce L., [redacted].
Frierson, George W., [redacted].
Glick, David D., [redacted].
Hahn, Robert L., [redacted].
Hamlette, John J., Jr., [redacted].
Harvey, Floyd D., [redacted].
Huston, Mary H., [redacted].
Johnson, Lewis, [redacted].
Lindsay, Lawrence F., [redacted].
Livingstone, Bruce L., [redacted].
Machado, Joseph A., [redacted].
McCombs, Willis C., [redacted].
McLemore, Melvin J., [redacted].
Miller, Sharon L., [redacted].
Neiman, Kenneth G., [redacted].
Onne, Joseph, [redacted].
Rook, Joseph J., Jr., [redacted].
Stein, Walter J., Jr., [redacted].
Tapscott, Donald A., [redacted].
Wood, William M., [redacted].

To be first lieutenant

Allen, Richard G., [redacted].
Angus, James W., Jr., [redacted].
Auerbach, Steven L., [redacted].
Bandel, Raymond L., [redacted].
Barrett, Daniel L., [redacted].
Bearce, Gerald R., [redacted].
Bent, Gary D., [redacted].
Black, John H., [redacted].
Branch, Gerald D., [redacted].
Brown, Eric B., [redacted].
Brown, Thomas P., Jr., [redacted].
Bunch, Ronald C., [redacted].
Burrell, Ralph, [redacted].
Bushong, Richard H., [redacted].
Butler, William W., [redacted].
Childs, Edward M., [redacted].
Clemens, Judd L., [redacted].
Conway, Jack D., [redacted].
Cook, James T., [redacted].
Collins, William P., [redacted].
Costello, Joseph A., Jr., [redacted].
Cox, Everett F., [redacted].
Craig, Larry B., [redacted].
Cronin, Daniel F., [redacted].
Culley, William F., Jr., [redacted].
Cummings, Charles G., [redacted].
Daniels, Jerry W., [redacted].
Deery, Patrick D., [redacted].
Densberger, William J., [redacted].
Devine, Frank E., [redacted].
Dingbaum, Herbert H., [redacted].
Elders, James F., [redacted].
Engel, Joseph J., [redacted].
Esposito, Anthony L., [redacted].
Ford, Carl W., Jr., [redacted].
Fortenberry, Cleveland, [redacted].
Fouts, Leroy K., Jr., [redacted].
Franson, David C., [redacted].
Fusco, Robert A., [redacted].
Gardner, Mary K., [redacted].
Gattis, Thomas T., [redacted].
Gehm, Laverne J., [redacted].
Geloso, Peter J., [redacted].
Gooding, Thomas L., [redacted].
Gordon, William N., [redacted].
Grimm, Michael C., [redacted].
Hall, William K., [redacted].
Hamre, Larry H., [redacted].
Hancock, Dexter V., [redacted].
Hart, Louis H., [redacted].
Hawks, Steve E., [redacted].
Higgins, John A., [redacted].
Howes, Alfred Jr., [redacted].
Ireland, James W., Jr., [redacted].
James, Kenneth D., [redacted].
Johnson, Nicki L., [redacted].
Jordan, Samuel Jr., [redacted].
Kawakami, Clyde K., [redacted].
Kernodle, Joseph W., [redacted].
Kirk, Johnny L., [redacted].
Koehler, Walter L., [redacted].
Langone, William J., [redacted].
Lawson, Marvin A., [redacted].
Lynch, Harold F., [redacted].
Marks, Virginia L., [redacted].
McCoy, James P., [redacted].
McIntyre, Kendall K., [redacted].
Merritt, William L., [redacted].
Morgan, David R., [redacted].
Murnane, Michael J., [redacted].
Nichols, Dean H., [redacted].
North, Kenneth T., [redacted].
Pearson, David W., [redacted].
Pettit, Ronald B., [redacted].
Pierce, John W., [redacted].
Pistana, Robert R., [redacted].
Pugh, Homer H., Jr., [redacted].
Quinn, Dennis F., [redacted].
Ramick, Thomas E., [redacted].
Raschke, Phillip E., [redacted].
Renn, Gregory A., [redacted].
Rexford, Joel E., [redacted].
Richey, David L., [redacted].
Roles, Lewis L., [redacted].
Ross, Glenn S., [redacted].
Ross, Robert G., Jr., [redacted].
Shanahan, Michael K., [redacted].
Small, Robert J. H., [redacted].
Smith, Edward S., [redacted].
Snider, William M. II, [redacted].
Sowa, Alexander P., [redacted].
Stubbs, Fred J., [redacted].
Tanaka, Robert Y., [redacted].
Turman, William E., [redacted].
Umble, Robert G., [redacted].
Vanzant, James W., [redacted].
Vogt, Robert V., [redacted].
Voris, Stephen M., [redacted].
Watt, Donald H. Jr., [redacted].
West, Robert M. Jr., [redacted].
Willer, Clinton W., [redacted].
Wion, Edward J., [redacted].
Witte, James E., [redacted].
Wright, James M., [redacted].

To be second lieutenant

Anderson, John E., [redacted].
Ariail, Julius F., [redacted].
Batcheller, James, [redacted].
Beaty, Helen C., [redacted].
Billings, Joseph G., [redacted].
Brown, James A., [redacted].
Bryan, William H. Jr., [redacted].
Buckley, Robert P., [redacted].
Chavers, Stephen R., [redacted].
Cooksey, Daniel P., [redacted].
Dandridge, Wayne L., [redacted].
Day, Charles E., III, [redacted].
De Haan, Peter, [redacted].
Dent, James H., [redacted].
Devine, John F. [redacted].
Donald, James E., [redacted].
Dorr, Kevin L., [redacted].
Edwards, John R. [redacted].
Ermold, John D., [redacted].
Evans, Joseph W., [redacted].
Ewing, Mark W., [redacted].
Ezell, Robert B., [redacted].
Ferguson, Warner T. Jr., [redacted].
Gossom, Woodrow W. Jr., [redacted].
Hennings, Richard W., [redacted].
Kealey, James F., [redacted].
Kerrigan, John R., [redacted].
Kling, David M., [redacted].
Lawson, Harlan A., [redacted].
Lenz, John W., [redacted].
Lilly, Albert J., II, [redacted].
Long, Scott C., [redacted].
Lord, Harold W. Jr., [redacted].
Lynskey, Gary L., [redacted].
McCarron, Francis P., [redacted].
O'Brien, John C., Jr., [redacted].
Ortman, Gregory P., [redacted].
Pekny, William M., [redacted].
Rosenblatt, Simon J., [redacted].
Rowley, Cleveland M., [redacted].
Stewart, Walter L., [redacted].

The following-named distinguished military student for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Vaupel, Lawrence E., [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate April 10, 1972:

CENTRAL INTELLIGENCE AGENCY

The following-named officer, under the provisions of title 50, United States Code section 403, for appointment as Deputy Director, Central Intelligence Agency, a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, subsection (a) of section 3066, in grade of lieutenant general:

Maj. Gen. Vernon Anthony Walters, [redacted], U.S. Army.

U.S. ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade of lieutenant general:

Maj. Gen. George Edward Pickett, [redacted], U.S. Army.

ACTION

Walter Charles Howe, of Washington, to be Deputy Director of Action.

IN THE MARINE CORPS

The nominations beginning Jesse L. Altman, Jr., to be lieutenant colonel, and ending William E. Zales, Jr., to be 1st lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on Mar. 28, 1972.

EXTENSIONS OF REMARKS

EMBARGO LIFTED ON IMPORTATION OF RHODESIAN CHROME ORE

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, April 10, 1972

Mr. HARRY F. BYRD, JR. Mr. President, the Wall Street Journal of March 27 contains an excellent editorial on the lifting of the embargo on importation of Rhodesian chrome and the reaction to this change in policy.

The editorial rightly points out that the chief beneficiary of the embargo was the Soviet Union, which became the primary supplier of chrome ore to the United States. It was to end our dependence upon Russia for this strategic material that I sponsored the legislation which resulted in the resumption of chrome imports from Rhodesia.

I ask unanimous consent that the editorial, entitled "Fun and Games," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FUN AND GAMES

It is not quite accurate to say, as some do, that nations that trade commercial products are unlikely to trade insults and blows. History can point to aggressive trading nations that were aggressor nations also.

Nevertheless, as the world slowly emerged from isolationism, it was generally acknowledged that the lowering of trade barriers represented a move toward economic liberalism and away from suspicion and mistrust. And it is also generally agreed that boycotts and trade embargoes are largely ineffective.

Somehow, though, we get the feeling that those same explanations aren't supposed to apply to Rhodesia. Listening to the outcry in certain circles when the administration agreed to allow Rhodesian chrome into the U.S., after Congress enacted legislation last year authorizing such a move despite United Nations trade sanctions against Rhodesia, one would have thought either that Rhodesia was not of Planet Earth or that all the weighty arguments on behalf of broadened trade were now invalid.

And now that the ore is landing in the U.S., there are a number of signs to indicate that the Cause Crowd, which is ever alert to the latest political fashion, has singled out Rhodesian chrome for the usual demonstrations, protests and agitation that we have all come to know if not love.

Far be it for us to try to put a damper on this kind of fun and games. Still, it seems to us that this is a perfect example of George Santayana's description of fanaticism—described as redoubling your effort when you have forgotten your aim. The aim of the UN boycott, as far as it's possible to tell, was to help Rhodesia's blacks by showing disapproval of Rhodesia's white supremacist government. But all available evidence indicates that it was precisely Rhodesia's blacks who suffered most from even the limited effects of the boycott.

About all that sanctions really did was aid the Soviet Union at our expense, since soon after we barred Rhodesian chrome, Russia—the only other major producer of the vital ore—virtually doubled its price. Furthermore, there is evidence that the chrome we imported from the USSR actually originated in Rhodesia. In which case Moscow was not only surreptitiously defying the UN ban even as it piously demanded that everyone else observe it, but its managers adopted the free market strategy of pricing the supply to meet demand.

So while the U.S. decision to allow Rhodesian chrome to be imported into the U.S. is causing cluck-clucking among the Cause Crowd. In fact it is saving Americans money and helping to insure an alternative supply of a strategic metal. Furthermore, the decision represents one small step in the direction of freer international trade. All in all, it strikes us as a pretty good deal all around.

HUCK FINN—HERE AND ABROAD

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. DUNCAN. Mr. Speaker, great works of literature are often the most accurate reflection of what is good and bad about a society. The destruction or burial of such literature denies our young the opportunity to discover the good and evil which has shaped our society.

I am enclosing an editorial from the March 4, 1972, edition of the Knoxville News-Sentinel. It sounds a word of warning to people of all races that attempts to hide a portion of the evil from our past will only result in a loss of appreciation for the many more good deeds which have made a more lasting impression on our country. The editorial follows:

HUCK FINN—HERE AND ABROAD

All modern American literature comes from one book by Mark Twain called Huckleberry Finn.—ERNEST HEMINGWAY.

The public school system in Indianapolis, Ind., has quietly dropped "Huckleberry Finn" from its recommended reading lists. An act of such timidity would be easier to understand if it were done because the book advances the radical proposition that perhaps a man has a higher duty to his private conscience and his fellow man than he owes to either the laws of the land or the laws of the church.

But it's more likely the book has been ostracized in Indianapolis for some stupid reason—its use of the word "nigger," for instance, in much the same way as one hears it used in affectionate banter on the streets today.

Last week, Gene Shalit, book editor for NBC-TV's "Today Show" asked a number of prominent authors and politicians which three books they would send to China to give the Chinese people the kind of picture of America they would like the Chinese to have. It's not at all surprising that "Huckleberry Finn" was mentioned most.

There are many reasons to like Huck Finn—his warm and open heart, his decency, the blazing honesty on which, for the best of reasons, he built the most outrageous lies. It's too bad that Indianapolis children, who some day will have to make the awesome moral decisions demanded by so much of American life—the war being only one—may not be acquainted with Huck's private Gethsemane in the matter of the slave, Jim, whom he has tried his best to help to run away.

For this act of compassion Huck is convinced he will be consigned to hell's "everlasting fires." Slavery was, after all, then the law of the land and his friend Jim, with whom he had sailed the river, was property whose theft God and "good" people surely would punish.

"I was a-trembling, because I'd got to decide, forever, betwixt two things, and I knowed it. I studied a minute, sort of holding my breath, and then say to myself:

"All right, then I'll go to hell . . .

"It was awful thoughts and awful words, but they was said. And I let them stay said; and never thought no more about reforming. I shoved the whole thing out of my head, and said I would take up wickedness again, which was in my line, being brung up to it, and the other warn't. And for a starter I would go to work and steal Jim out of slavery again; and if I could think up anything worse, I would do that, too; because I might as well go the whole hog."

The children in Indianapolis could do worse than get to know this boy. The same with the Chinese.

JOE T. NELSON, M.D.

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. TEAGUE of Texas. Mr. Speaker, the West Texas Chamber of Commerce publication "This Is West Texas" in their most recent issue profiled a very good friend of mine, Dr. Joe T. Nelson of Weatherford.

Dr. Nelson has been a most active citizen and has given tirelessly of his time in conjunction with civic undertakings as well as political. I think it only fitting that the West Texas Chamber of Commerce should recognize him and I am pleased to include Dr. Nelson's profile:

WEST TEXAS PROFILES

As a general practitioner in Weatherford, Dr. Joe T. Nelson is a very busy man, but always finds time to have an active part in the professional, civic and governmental affairs of his city, state and nation.

Dr. Nelson has been an active member of the West Texas Chamber of Commerce for many years and is now Chairman of the WTCC National Affairs Committee and a member of the Board of Directors. He has served on the National Affairs and State Affairs Committees for 12 years, as well as serving three terms as vice president and two terms as a member of the Executive Committee-at-Large.

Born in Munday, Texas, in 1923, Dr. Nelson attended North Texas State University in Denton and received his B. S. degree in 1948. He graduated from Baylor University College of Medicine in Houston in 1951.

Active in both state and national medical associations, Dr. Nelson is currently serving as Chairman of the Council on Medical Jurisprudence of the Texas Medical Association; a member of the Executive Board, and is Vice Chairman of the Texas Delegation to the American Medical Association. He is a director and chairman of the Insurance Committee of the Southern Medical Association in which he holds a lifetime membership; and in 1970, he received the Distinguished Service Award from the association.

He is a charter member of the Board of Directors and Past Chairman of the Texas Political Action Committee, TEXPAC cochairman of the 17th U.S. Congressional District, and Chairman of the Candidate Evaluation Committee. He is also a member of the Board of Directors of the American Medical Political Action Committee.

Dr. Nelson was named the Outstanding Citizen of Weatherford in 1963; and received the WTCC Award for Leadership in 1966.

He is a director of the Citizens National Bank in Weatherford. and a director of the Mutual Building & Loan Association of Weatherford. He has served for 11 years as a member of North Texas State University Board of Regents, and is currently a member of the Board of Regents of the University of Texas System.

Dr. Nelson is listed in Who's Who in the South and Southwest.

Mrs. Nelson is the former Varina LeBeau of Denton, and was married to Dr. Nelson in 1947. They are the parents of one daughter, Renee, who is a student in Texas Christian University in Fort Worth. They are members of Episcopal Church.

AN EPIC HUMAN TRAGEDY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. ROSENTHAL. Mr. Speaker, today is the official day of mourning the 6 million victims of the Nazi holocaust. This was not just a Jewish tragedy, it was an epic human tragedy. It is a blemish on all mankind that it could have happened at all, regardless of the victims.

Today, as we memorialize those who died, we should commit ourselves to seeing that this never happens again, to Jew or non-Jew.

It is appropriate at this time that we turn our attention to several million Jews being held virtual prisoners in the lands of their birth, many being actively and officially discriminated against for their beliefs, some even subjected to torture and death.

I am speaking about the Jews in such lands as Syria, Iraq, other Arab States and, of course, the Soviet Union. The latter is the most important because it involves some 3 million Jews.

I have today written to a young Jewish activist in Moscow who has recently been released from jail, where he was sent as a result of his efforts to emigrate legally to Israel. I sent him a book, a collection of Shalom Aleichem short stories as a reminder that he is not alone and that we in America are aware of the efforts of Soviet Jewry to obtain basic human rights.

We have no way of knowing how many Soviet Jews wish to emigrate to Israel or to the United States and elsewhere. But we do know the number is great and that as it grows, as more and more Soviet Jews seek emigration visas, more and more find themselves in Soviet jails. And those not thrown in jail are prosecuted and persecuted in other ways. They may find themselves out of a job or demoted or subjected to other forms of retaliation.

In the Soviet Union and elsewhere today Jews are unable to practice their religion, read their literature, observe their ancient traditions, and know the richness of their cultural heritage. The pogroms of the czars have been replaced by the assimilation programs of the Soviets. The purpose is the same: To eliminate the Jews.

Six million were slaughtered because they were Jews. The only crime of the Soviet Jews is the faith of their fathers.

On this day of mourning for the victims of the holocaust, let us not look back in anger but look ahead toward freedom for all peoples from the yokes of the oppressors. Let us make it a day of dedication for helping bring about an end to all persecution.

THE WAGE-PRICE FREEZE OF 1351

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. JACOBS. Mr. Speaker, it is said that those who do not learn from history are condemned to repeat it; and, conversely, all we learn from history is that we do not learn from history.

The sad wisdom of these observations is illuminated by Prof. Robert N. Schoeplein's recounting of the wage-price freeze of 1351, which appears in the current issue of the Progressive:

THE WAGE-PRICE FREEZE OF 1351

(By Robert N. Schoeplein)

(NOTE.—Robert N. Schoeplein is associate professor of economics in the Institute of Government and Public Affairs at the University of Illinois).

Lo, a Black Plague descended on England during 1348–49, ravishing the population and casting a pall across the land. Surviving ploughmen and artisans found their services in increased demand, and wages rose accordingly. This sudden turn in events alarmed both lords and merchants, who feared the specter of shrinking rents and profits in the face of uncertain markets. King Edward III shared concerns of producers over rising costs of labour and the "unnatural state of affairs." The bulk of revenues for the Royal coffers was generated by levies on the sales of staples. The King promptly issued a proclamation freezing wages and prices. This was followed by the Statute of Labourers of 1351 which detailed the new economic program. Wages were to remain at their previous levels. Merchants were to market their goods at reasonable prices and content themselves wtih moderate gains. A new Royal office was instituted and "justices of labourers" (later merged into justices of the peace) were appointed by the Crown to regulate wages and prices throughout the realm.

Initially the freeze on wages enjoyed modest success but prices moved upward, as the term "reasonable" in the guidelines was found to be so elastic as to be variously interpreted. The inflation was aggravated further by coinage depreciation undertaken by the Treasury, to continue supporting the One hundred Years' War on the Continent. Wages rose in spite of the new economic program. Enforcement was arbitrary, and labourers took liberties to circumvent the law. The government was forced to further action to keep the lid on wages. A second Act was passed prescribing branding for all workingmen who left their native towns to seek higher wages. In time business conditions improved, but the moderate economic recovery only aggravated domestic tensions because the stringent restrictions on labour contrasted with the increased wealth of lords and merchants.

King Richard II ascended the throne in 1377. The foreign war, which dragged on interminably, had drained the Treasury. Counselors to the young king advised him to promote trade, and accordingly he enacted the second phase of the new economic program. The renewed Statute of Labourers (1378) concentrated on wages. The Crown deemed the new terms more reasonable, as the Statute would permit "merited" increases in wages. In this phase the Statute was to be enforced without exception. Moreover, King Richard imposed a poll tax of one shilling a head, authorized for defense expenditures.

This new package simply was too much. Yeomen, labourers, and artisans united and marched across the countryside toward London. This Peasants' Revolt of 1381 caught the complacent government by surprise. King Richard sought the wisdom of counsel, as the people stormed the city and sacked public buildings. King Richard was advised to meet with spokesmen from the movement at Mile End, a field outside the city. The negotiations are recorded: King Richard made it clear that his concerns were for the welfare of the common man. He agreed to permit more liberal working arrangements between labourers and their masters, and more flexible markets for labourers' services. The new tax would go. Curiously, the negotiations ended on a morbid note: Wat Tyler, the movement spokesman, was slain by a blow from a sword.

Other dissidents remaining in London had seized the Tower. The King's Chancellor and the Royal Treasurer were taken into custody and promptly beheaded, this act described as a gesture reflecting the intensity of feeling over the new economic program. King Richard was shaken. The Royal Army moved to restore order. Two days later King Richard issued a proclamation forbidding unauthorized gatherings of people. This was followed by a second proclamation rescinding the King's previously negotiated guarantees.

The second phase of the new economic plan was never the same, however, for marked changes began to take place in social institutions. Workers saw themselves in a new relationship with their employers and toward the authority of government. Agricultural unions were formed, and collective bargaining was strengthened by a new spirit of solidarity. The King's councils began deciding labour disputes on the individual merits of each case. Wage settlements reflected the particular circumstances of each trade. Both wages and prices continued to rise moderately until the inflation eventually had run its course.

NOTE.—The balance of King Richard's reign was characterized by political reverses, culminating in his dethronement in 1399. It is recorded that King Richard II came to an obscure end at Pontefract Castle.

BUSING AND QUALITY EDUCATION—RARICK REPORTS TO HIS PEOPLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. RARICK. Mr. Speaker, I recently reported to my people on the latest developments regarding busing and quality education. I insert the report at this point:

RARICK REPORTS TO HIS PEOPLE ON BUSING AND QUALITY EDUCATION

The forced busing of school children has emerged as a key issue in this year's Presidential campaign. In the recent Florida preferential election, most of the Presidential aspirants attempted to soft-pedal the busing issue, asserting that quality education, not busing was the key issue. The majority of Presidential candidates, contrary to the majority of the people, contend with Federal Judge Merhige, who ordered cross-county busing in Virginia, that quality education can take place only within a setting where there is an unnatural mixture of white and black students by percentages determined by the whim of a federal judge or an unelected HEW bureaucrat.

The Florida electorate, described as representative of the country as a whole in that people from all over the U.S. have settled in Florida, indicated overwhelmingly their opposition to forced busing to achieve racial balance. And three days following the Florida referendum, President Nixon announced to Congress that he approved of limited busing only as a last resort as a means of race mixing for quality education in the schools. Somehow racial mixing by percentages remains a top national goal of the leaders of both national parties, even though repudiated by the majority of the American people.

So, I thought today we'd comment on the latest developments in the fiasco of busing for quality education—the new, more polite expression to play down the racial overtones

At first, busing to achieve racial percentages was by raw power of the Federal courts and enforced by the Secretary of HEW almost exclusively in the South. The stated purpose was to provide guaranteed equal educational opportunity for all by converting from a dual system of "separate but equal facilities" into a unitary or one school system with race mixing by the numbers. Federal funds were threatened to be withheld from any school system which balked at implementing court orders and HEW edicts to bus students in order to accomplish the arbitrary racial mixture. The withholding of funds to local schools for non-compliance with federal controls substantiates the proven rule that federal controls always follow federal aid.

Voices are still heard advocating the view that racially integrated schools are superior schools, but the voices of the American majority and some responsible social experts, neither of whom receive wide publicity, suggest otherwise.

The National Black Political Convention, which met in Gary, Indiana, in March, condemned busing plans to achieve school desegregation as "racist, suicidal" methods that are based on the "false notion that black children are unable to learn unless they are in the same setting as white children". Reportedly at the urging of the segregationist oriented Congress of Racial Equality, the convention adopted a resolution that more money should be spent on schools in Negro areas to achieve quality education.

And while the National Black Political Convention apparently believes that the mixing of races is not necessary to quality education, but that the money mixing is more important than race mixing, a recently released report of a study by Harvard researchers reveals that neither racial integration nor increased spending on schools has much effect on the education performance of school children. Massive outlays of tax dollars prove more profitable to contractors and sellers of educational equipment than to the education of children.

The Harvard study, headed by Frederick Mosteller, a mathematical statistician, and Daniel P. Moynihan, a former aid to President Nixon, reaffirmed an earlier report that academic achievement depends far more on family background than what happens in the classroom. The study also found that the social class of a child's fellow students had more impact on individual achievement than any other factor within the school, including equipment, class size or teacher preparation.

According to the Harvard report, we have been pursuing since the 1954 court decision out of Kansas the wrong kind of mixing in our schools. We are now in need of socioeconomic class mixing by the numbers. This new kind of class mixing would no doubt require busing. But this alone, we are told, will not guarantee quality education. We must "alter the way in which parents deal with their children at home" in order to boost educational achievement. Such a proposal seems to tie in with the providing by taxpayers of income maintenance, family allowance and guaranteed annual incomes to those families in the low income bracket and also with the legislative proposals for comprehensive child development plans in which federal agents known as child advocates might intervene with parents to alter child rearing practices at home to conform to HEW standards.

Another fact revealed by the Harvard study is that achievement tests showed whites in the 12th grade of high school to be 4.1 grade levels ahead of blacks. Whites also excelled blacks by about 3 grade levels when compared as to socioeconomic status.

These comparisons of the relative educational achievement of blacks and whites as revealed by the Harvard report appear to substantiate the view of Dr. William Shockley, Nobel Prize Winner in Physics.

Dr. Shockley was immediately denounced as a racist, but his statistics may explain the reason for failure of the guaranteed equal education theories.

Dr. Shockley, whose findings show that the difference in intelligence between whites and blacks is due primarily to heredity and not environment, has been unable to get either the academic community to give him a fair hearing or the National Academy of Sciences to test his theory. In fact his professorship at Stanford University is now threatened because he would dare use experience statistics to seek truths on which to base solutions. I mention this only because in an effort to arrive at quality education—which is seeking the truth—the truth should be used not suppressed. With billions of taxpayers' dollars being spent on busing of school children, an equal employment opportunity bureaucracy, urban renewal, model cities, and myriad social experiments, all based on the fallacious assumption that a change or an improvement in the environment will raise the level of intelligence, there is an imperative need for more research to test the role of heredity in the improvement of educational achievement and to develop solutions to educational problems based on facts and truth—not fantasy, emotion, and mathematical theories of absolutes.

Notwithstanding the facts showing that race mixing in schools fails to enhance educational achievement and the fact that few from President Nixon to the Chinese parents in San Francisco seem to want it, busing continues as if actuated by some unseen power. Hearings on a proposed Constitutional amendment which would prohibit forced busing were conducted recently in Washington. Opposing forced busing are the vast majority of American people. The Louisiana School Boards Association has gone on record supporting an amendment to the Constitution or an effective statute which would prohibit busing of public school students only to achieve a predetermined racial ratio. In favor of busing to achieve race mixing are the NAACP, NCC, and the NEA, whose president said recently that the only way "quality education" can be brought about is through mixing of the races in the classroom. According to this view, quality education was nonexistent prior to 1954.

President Nixon entered the forced busing furor with a public statement on national TV followed by a message on busing to Congress.

Few have seen, let alone read or studied the President's 17-page report to Congress, yet almost everyone seems to have concluded that the President after 3 years as the world's foremost buser is going to stop busing, thus removing it as a political issue.

The President's busing statement is reminiscent of the politician who finds he has to move to keep from being run over by the people. Control politics, should never be equated to leadership. When the people get out of hand and challenge the politicians, the smart politician never meets the stampede head on but while acting as if meeting the issue, diverts the thrust to take the steam out of the popular uprising.

President Nixon's main concern was in hiding his power to stop the whole busing mess, which is already against the law of the land. During his 3 years in office, President Nixon, while speaking as if opposed to forced busing, has appointed to key positions in the Department of HEW men who were known advocates of forced busing. His administration has promoted more harmful busing to achieve race mixing than all previous administrations since 1954 and he so reported to Congress in his busing message.

The President concealed his own failure to take constructive measures to execute the law of the land and stop forced busing by pointing his finger back to Congress. The President's message to Congress is so long, ambiguous, and without direction that few Members of Congress can decide what the President proposed, let alone enact his vacillation as legislation. Perhaps this is the President's goal—to confuse and delay until after the November elections, when he can again forget busing by blaming Congress for doing nothing.

Contrary to reports that President Nixon proposes to stop forced busing, his statement would apply only to contemplated new busing and not to old busing orders already in effect. So, the dual system of laws—one for the North and a separate one for the South—would continue.

Mr. Nixon campaigning for President in 1968 promised:

"I would enforce Title VI of the Civil Rights Act of 1964. I oppose any action by the Office of Education that goes beyond a mandate of Congress; a case in point is the busing of students to achieve racial balance in the school. The law clearly states that '. . . desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance.' "

Yet, in his busing message to Congress, the President proposed that only as a last resort should busing be required as a means of desegregating schools. This proposal of the President remains contrary to the law he is sworn to uphold.

The real issue seems to be not forced busing but federalized control of public education. Are public schools to be operated and controlled by local school boards responsive to the wishes of the local citizenry in accordance with certain regulations prescribed by the sovereign States or are the public schools to be nationalized? The move toward abolishing local property taxes as a source of revenue for public education and the proposal of the Nixon Administration for a value-added tax or national sales tax to finance education are indicative of a push for a national public school system.

It is a fact of life that "he who pays the piper, calls the tune." While paying lip service to local control of schools, the President and his administration have acted to increase and tighten federal control over public schools. And there is ample evidence to support the fact that this move toward federalization of schools is part of a long-range plan to bring the education of our children and youth under international control to condition them to become docile wards of a one-world socialistic controlled society.

To halt forced busing, we must seek its origin. And its origin is United Nations General Assembly Resolution 1904, "The United Nations Declaration of the Elimination of All Forms of Racial Discrimination". This resolution, which is binding on the once sovereign United States, states:

"All effective steps shall be taken immediately in the fields of teaching, education, and information, with a view to eliminating racial discrimination and prejudice and promoting understanding, tolerance, and friendship . . . among racial groups."

In the absence of strong national leadership, an amendment to the Constitution is necessary to take the busing toy away from the federal judges and bureaucrats. A permanent solution to the busing threat as well as other efforts to remake the human race is the withdrawal of the United States from the United Nations.

COALITION TO AID PRIVATE AND PAROCHIAL SCHOOLS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. ROONEY of New York. Mr. Speaker, our private and parochial elementary and secondary schools are on the verge of extinction due to financial pressures. At the same time parents with children in these schools are being burdened with tax and tuition bills that are unbearable. The costs of education are soaring, bringing a financial squeeze on both the schools and the parents. Yet if we allow the private schools to go out of business the resulting transfer of almost 5 million students to the public school system will in many areas bring complete havoc to the public school system. In New York State alone the increase in costs to the public school system to absorb private school students would be almost three quarters of a billion dollars a year. New York State and New York City residents are already overwhelmed in taxes and the resulting increase would be a disaster. In short, Mr. Speaker, this is why I introduced H.R. 14150 to allow a tax credit to parents with children in private, nonprofit schools of up to 50 percent of the tuition or $500 maximum per child per annum. Recently, an organization called Citizens Relief for Education by Income Tax—CREDIT—has been formed. It is composed of nonpublic school leaders of all faiths and seeks the enactment of legislation such as I have recently introduced.

Under the permission heretofore unanimously granted me I include with these remarks the announcement of the formation of the group:

CITIZENS COALITION FORMED TO SEEK ENACTMENT OF TAX CREDITS LEGISLATION

WASHINGTON.—A coalition of nonpublic school leaders of all faiths has been formed to seek the enactment of federal tax credit legislation for parents of children in nonpublic schools.

Establishment of the organization—*Citizens Relief for Education by Income Tax* (C.R.ED.I.T.) was announced by its officers: Rabbi Morris Sherer, Agudath Israel of America, Chairman; Dr. Al Senske, Lutheran Church—Missouri-Synod, Vice Chairman; Mr. Cary Potter, National Association of Independent Schools, Vice Chairman; Reverend C. Albert Koob, National Catholic Education Association, Vice Chairman; Dr. Edward R. D'Alessio, United States Catholic Conference, Treasurer; Mr. Ivan Zylstra, National Union of Christian Schools, Secretary.

The organization represented by the officers of C.R.ED.I.T. have a deep commitment to nonpublic education. Their combined constituencies total approximately 5 000,000 children in schools operated under Protestants, Catholic, Jewish and private auspices.

The chief objective of C.R.ED.I.T. is to seek enactment of legislation at the earliest possible date which will provide a federal income tax credit for a part of the nonpublic school tuition assumed by parents of children in such schools. Numerous bills for this purpose are now pending in Congress.

All Americans have ample reason to be "proud of the contribution which nonpublic education has made to our Nation," Rabbi Sherer stated. "Financial inequities have interfered with the rights of parents to educate children in schools of their choice".

"As a matter of justice and fairness to all", he said, "it is time that the government lived up to its responsibility to grant financial assistance to realistically allow parents freedom of choice in education. At the same time C.R.ED.I.T. will embark on an educational campaign to demonstrate that federal income tax credits are a constitutional means of correcting the inequities suffered by nonpublic school parents", he stated.

Rabbi Sherer said the C.R.ED.I.T. program "will strive to reaffirm the value of nonpublic schools in a pluralistic society and to stress all pertinent concepts of parental rights in education".

CHINESE DELEGATION AT UNITED NATIONS

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. DUNCAN. Mr. Speaker, since the highly controversial approval of Chinese membership into the United Nations, many of us have been looking for signs which indicate Chinese willingness to abide by the United Nations philosophy of shared responsibility and impartiality toward the problems of the world. Recent actions by the Chinese delegation at the United Nations show the entire world their participation will not measure up to the philosophy of this organization.

I am enclosing an editorial from the March 15, 1972 edition of the Knoxville Journal which cites numerous instances where the Chinese have demonstrated once again that there is often little relation between their words and their actions:

[From the Knoxville Journal, Mar. 15, 1972]

FAVORED DELEGATION

It has not taken the Red Chinese long to learn their way around the United Nations.

From the day they assumed their seat and announced they had no intention of asserting undue influence in the world organization they have been exerting undue influence.

The Peking delegation has ample precedent. Russia, France and others long ago decided what assessments they would pay and they have been getting away with it for many years.

So it was playing follow-the-leader when Peking paid its initial $3 million partial payment. It has no intention of paying its share of certain special assessments, it said. These include debts left over from the peace-keeping operations in the Congo and Middle East.

The Chinese also refuse to pay their share of the costs of the U.N. Commission for the Unification and Rehabilitation of Korea. Long ago it was established that there is no penalty for refusal to pay special assessments. Members lose their voting privileges only for failure to pay their regular dues.

It is a rule at the United Nations that employes of the organization leave their national inclinations at the door and serve all members impartially. One of the first acts of the Peking delegation was a violation of this rule, but it went unchallenged. The Peking delegation called Chinese interpreters on the U.N. payroll together to inform them their loyalties belonged solely to Peking.

Then, of course, there was the case of the Nationalist Chinese newsmen Peking insisted be relieved of their credentials. This was accomplished to the loud but so far ineffective objection of free newsmen from the United States and elsewhere.

The precedents the Chinese delegation already has wrung from the United Nations give it something of favored delegation status. With these successes behind it, further precedent-shattering demands can be expected.

This is a far different performance from the meek entrance which received so much attention only a few months ago.

One of the major problems inherent in the United Nations structure is that it invites all members on an equal footing but accepts from them widely different roles of responsibility.

One place to stop such foolishness is to reject the notion a new member can decide for itself how much of its assigned expenses it will accept.

NATIONAL DEFENSE—THREE YEARS LATER

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. SCHMITZ. Mr. Speaker, Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff, said on February 15, 1972:

> The relative military power of the United States in the world has clearly peaked and is now declining. We will no longer have that substantial strategic superiority which in the past provided us with such a generous margin of overall military power that we could, *with confidence*, "protect our own interests and those of our allies worldwide."

Three years after an administration pledged to regaining "clearcut military superiority" over the Soviet Union took office, the Nation's top military man informs us that our power has fallen to the point where we can no longer defend our vital national and international interests "with confidence." Further, he projects that this decline will continue.

To understand where a further erosion of our military power will put us, we have to know where we stand today. The following chart shows at a glance what has happened to relative United States-Soviet strategic missile forces during the last 3 years.

	Operational January 1969	Operational January 1972	Under construction	Operational and under construction 1972
U.S. ICBM's	1,054	1,054	0	1,054
Soviet ICBM's	950	1,520	100	1,620
U.S. SLBM's	656	656	0	656
Soviet SLBM's	65	500	272	772
U.S. total	1,710	1,710	0	1,710
Soviet total	1,015	2,010	532	2,392

In the last 36 months the Soviet Union has almost doubled its inventory of land-based and submarine-launched ballistic missiles. The comparative U.S. forces remain at exactly the same level where they were frozen in 1967 by former Secretary of Defense McNamara. The present administration has no plans to add one additional land- or sea-based missile to our forces for at least 5 more years.

Our aging strategic bomber force has continued its decline to a present level of 463 heavy and medium bombers. The Soviet Union currently has about 900 heavy and medium bombers capable of attacking the United States. The Soviets are now actively test-flying a new supersonic bomber which could be operational in the next 2 to 3 years while our new bomber, the B-1, will not be joining our strategic air arm in any number until the 1980's.

To complement their offensive striking power the Soviets have deployed the most extensive integrated air defense network in the history of the world. Today the Soviet Union has six times as many fighter-interceptors as the United States—including the world's fastest interceptor, the Mig-23 Foxbat—20 times as many surface-to-air missiles, and 25 times as many radars, to protect a land mass only three times the size of ours. They possess the world's only operational anti-ballistic missile systems. While these formidable Soviet strategic defenses raise increasing doubts about the effective retaliatory capability of whatever forces we might retain after a surprise attack, our own air defenses have been termed "virtually useless" by the House Armed Services Committee—see Newsletter 72-7.

Almost 1 year ago I reported on the sobering findings contained in the supplemental report of the Blue Ribbon Defense Panel, submitted to the President in October of 1970, and then hushed up—see Newsletter 71-18, 19, 20. Panel members concluded:

> If observable trends continue . . . the U.S. will become a second rate power incapable of assuring the future securtiy and freedom of its people.

Since this warning was issued, the Soviet had added 270 additional ICBM's to their forces and more than doubled their number of submarine launched ballistic missiles, while our strategic forces have remained clamped in what Secretary of Defense Laird has rightly characterized as a state of "virtual moratorium." In short, the trends identified by the Panel members as jeopardizing the security and freedom of the American people have continued unabated.

Those of us who know these facts can only ask, with increasing urgency, why it is that, with all this information available, nothing is being done about it here in Washington. Is it because the American people will never accept merger in a world super-state so long as we remain militarily capable of maintaining our national independence—and that some, therefore, are more than willing to see that capability lost?

FEDERAL CIVILIAN EMPLOYMENT, FEBRUARY 1972

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. MAHON. Mr. Speaker, I submit a release highlighting the February 1972 civilian personnel report of the Joint Committee on Reduction of Federal Expenditures:

FEDERAL CIVILIAN EMPLOYMENT, FEBRUARY 1972

Total civilian employment in the Executive, Legislative and Judicial Branches of the Federal Government in the month of February was 2,868,086 as compared with 2,864,952 in the preceding month of January. This was a net increase of 3,134.

These figures are from reports certified by the agencies as compiled by the Joint Committee on Reduction of Federal Expenditures.

EXECUTIVE BRANCH

Civilian employment in the Executive Branch in the month of February totaled 2,828,232. This was a net increase of 3,227 as compared with employment reported in the preceding month of January. Employment by months in fiscal 1972 follows:

Month	Full-time employees in permanent positions	Change from previous month	Temporary, part-time, etc.	Change from previous month	Total employment	Change from previous month
July 1971	2,521,703	+1,391	381,448	+18,755	2,903,151	+20,146
August	2,524,098	+2,395	366,062	−15,386	2,890,160	−12,991
September	2,527,518	+3,420	317,021	−49,041	2,844,539	−45,621
October	2,529,832	+2,314	303,236	−13,785	2,833,068	−11,471
November	2,528,233	−1,599	300,254	−2,982	2,828,487	−4,581
December	2,525,858	−2,375	300,665	+411	2,826,523	−1,964
January 1972	2,5[illegible]2,081	+26,223	272,924	−27,741	2,825,005	−1,518
February	2,550,982	−1,099	277,250	+4,326	2,828,232	+3,227

Administration orders announced last August were directed at reductions in the category of full-time permanent employment, but little significant change has been apparent in this regard in the overall totals until recent months. It is noted that net reductions have been reported for the past four months, totaling about 9,000, including a reduction of 1,099 reported in the month of February. This would indicate that there may be some trend toward the projected June 1972 level of 2,531,500.

The civilian agencies of the Executive Branch reporting the largest increases in February were Treasury with 6,063, Environmental Protection Agency with 607 and Veterans Administration with 422. The largest decreases during the month were reported by Postal Service with 1,240 and Agriculture with 1,176.

Changes in total employment in January in Civilian Agencies of the Executive Branch as compared with civilian employment in Military Agencies were as follows:

	February	January	Change
Civilian agencies	1,703,412	1,698,647	+4,765
Military agencies	1,124,820	1,126,358	−1,538
Total, civilian employment	2,828,232	2,825,005	+3,227

In the Department of Defense the largest decrease in civilian employment was reported by Air Force with 1,052.

Total Executive Branch employment inside the United States in February was 2,642,682 an increase of 3,194 as compared with January. Total employment outside the United States in February was 185,550, an increase of 33 as compared with January.

LEGISLATIVE AND JUDICIAL BRANCHES

Employment in the Legislative Branch in February totaled 31,606, a decrease of 146 as compared with the preceding month of January. Employment in the Judicial Branch in February totaled 8,248, an increase of 53 as compared with January.

In addition, Mr. Speaker, I would like to include a tabulation, excerpted from the Joint Committee report, on personnel employed full time in permanent positions by executive branch agencies during February 1972, showing comparisons with June 1970, June 1971, and the Budget estimates for June 1972:

FULL-TIME PERMANENT EMPLOYMENT

Major agencies	June 1970	June 1971	February 1972	Estimated June 30, 1972[1]
Agriculture	82,912	84,252	83,315	83,000
Commerce	25,427	28,435	27,796	28,500
Defense:				
Civil functions	30,297	30,063	30,169	30,600
Military functions	1,129,642	1,062,741	1,060,001	1,011,000
Health, Education, and Welfare	102,297	104,283	106,265	102,000
Housing and Urban Development	14,661	16,030	15,801	15,200
Interior	59,349	57,570	56,881	56,900
Justice	38,013	42,662	42,913	45,100
Labor	10,217	11,352	11,948	11,800
State	23,618	23,398	22,815	22,700
Agency for International Development	14,486	13,477	12,729	12,400
Transportation	63,879	68,482	67,977	66,400
Treasury	86,020	90,135	94,949	98,500
Atomic Energy Commission	7,033	6,920	6,820	6,700
Civil Service Commission	5,214	5,324	5,159	5,600
Environmental Protection Agency[2]		5,959	7,662	8,000
General Services Administration	36,400	38,076	35,977	39,400
National Aeronautics and Space Administration	31,223	29,478	28,254	27,500
Panama Canal	14,695	13,967	13,859	14,200
Selective Service System	6,665	5,569	5,813	6,200
Small Business Administration	4,015	4,004	4,006	4,000
Tennessee Valley Authority	12,697	13,612	13,786	14,000
U.S. Information Agency	9,989	9,773	9,581	9,400
U.S. Postal Service	565,618	564,782	593,489	[3]613,400
Veterans' Administration	148,497	158,635	161,278	162,700
All other agencies	29,807	31,333	32,139	34,300
Contingencies				2,000
Total[4]	2,552,571	2,520,312	2,550,982	2,531,500

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[1] Source: As projected in 1973 budget document; figures rounded to nearest hundred.

[2] Established as of Dec. 2, 1970, by transfer of functions and personnel from Interior, HEW, Agriculture, Federal Radiation Council and Atomic Energy Commission.

[3] Includes approximately 30,000 postal employees subject to reclassification by June 30, 1972, under a labor-management agreement. Such reclassification was reported to the committee in January 1972.

[4] February figure excludes 2,950 disadvantaged persons in public service careers programs as compared with 2,844 in January.

NATIONAL MICROFILM WEEK

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. CONABLE. Mr. Speaker, I am introducing today a resolution calling upon the President to proclaim the week of September 24 as National Microfilm Week. In proposing this resolution I am hopeful that such a proclamation will appropriately recognize the accomplishments of an industry and technological system which has revolutionized information gathering and dissemination in a way that has affected everyone's life.

Government, industry, commerce, schools, and universities and many other institutions utilize microfilm extensively. It has made possible economical and convenient preservation of our history and opened the portals of knowledge for all who desire it. The resolution takes note of all these facts, as well as the role of microfilm in preserving the Nation's historical records at the National Archives and of its use to provide V-mail to servicemen in war zones. Congressman FRANK HORTON, who also represents the Rochester, N.Y., area, is a cosponsor of this resolution. The Rochester area is one of the major centers of the microfilm industry.

Government is the largest single user of microfilm. Every social security record is microfilmed, kept up to date, and made accessible at over 800 locations to facilitate the handling of individual files. Technical reports of the Nation's defense agencies account for a large part of the Federal Government's involvement in this medium. The National Archives and Records Services, and the Library of Congress preserve the Nation's history and provide basic documentation for research in many fields by microfilming.

Microfilm's commercial applications began with checks in a bank, and today's financial institutions account for a substantial percentage of microfilm's use. Most larger department stores and the Nation's credit card companies use microfilm to record purchase records before returning them to customers with monthly statements. Hospital microfilm patient records, radiographs, and other vital records that make up their permanent files. Newspapers are on microfilm, as are most periodicals, books, and even unpublished manuscripts. In wartime, it was used for the V-mail program and in peace, it has made possible the miniaturization of messages left on the moon.

Mr. Speaker, microfilm has played a significant role in American society and its importance continues to expand as demands for information continue to grow. In recognition of these applications, Congressman HORTON and I are introducing this resolution and we are hopeful that it will receive congressional approval in the near future.

LOW-RENT HOUSING FOR RICH MAN'S PROFIT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. RARICK. Mr. Speaker, evidence continues to appear to indicate the truth of that old saw "the rich get richer and the poor get poorer." Unfortunately, too often the rich get richer as they supposedly "help" the poor.

An example of how the rich profit from helping the poor appeared locally in the news recently in the stories detailing the cost of low-income housing in the District. These stories reveal that:

> Construction is scheduled to start this week on 54 modest, low-income town houses in Washington that will end up costing a minimum of $52,500 each.
>
> These houses will have no air-conditioning, washers or dryers, and 34 of them are only 16-feet wide and 29-feet deep, reduced in comforts because of inflation and in size because of Federal limits on public housing.

This is certainly absurd compared to the fact that:

> New upper-income town houses, with air-conditioning, dishwashers and laundry facilities, sell for $50,000 to $65,000 in the redeveloped Southwest and $45,000 to $50,000 on Capitol Hill.

The $52,500 for low-income homes without conveniences is even more ridiculous when we consider that a certain profit is definitely included in the earlier figures quoted for upper-income town houses in the redeveloped Southwest and on Capitol Hill.

Yet, where is all this money going, except from the paycheck deductions of workers and taxpayers, into the pockets of the rich and super-rich. Consider the fact that the same news article reveals one firm who benefited greatly:

> Westminster Investment Corp., was paid $755,000 for 1.2 acres in 1969. The tract, at 14th and S Streets NW., had been purchased 6 years earlier by Westminster for $398,260.

An even more revealing fact is that—

> Westminster is a New York corporation dealing almost exclusively in commercial properties. Its president, Instone Bloomfield, lives in London.

The point is, Mr. Speaker, the rich corporations, some seemingly with international interests, are those profiting most by the grandiose schemes to "help the poor and raise their standard of living." All of course, at the expense of the overburdened American taxpayer. The paper of the same day carried an article that indicated these 54 low-income town houses would actually cost the American taxpayer $76,000. HUD Secretary George M. Romney is quoted as saying:

> We have made mistakes in the design and administration of the programs that were supposed to alleviate human suffering. I acknowledge with regret the things that have gone wrong with our subsidized housing programs.

A third article relevant to this issue appeared in today's morning paper with the following lead—

> Last week, 61 black families moved into new, $15,000 homes near Smithfield, Va., the first of more than 1,000 houses a year that a Rockefeller-controlled international development corporation plans to build for rural blacks in Southside and Tidewater, Va.

The article continues and points out—

> Full mortgage financing for the ranch-style, prefabricated houses is being made available by the Federal Farmers Home Administration. The financing enables families with incomes as low as $3,500 a year to purchase the three and four-bedroom houses without down payment.

Once again, Mr. Speaker, the point is that the rich are getting richer while hiding behind the smokescreen of helping the poor. Figuring an output of 1,000 homes a year, the "Rockefeller-controlled international development fund" can expect to realize a gross of $15 million from the poor, and the American taxpayer by guaranteeing the mortgage, will, in fact, guarantee to these poor a right that he himself does not have—the right to buy a comfortable home with no downpayment and no worry about obtaining the financing.

Mr. Speaker, this is a disgusting situation that threatens to repeat itself across the Nation unless appropriate action is taken. The administration offers excuses; what this country needs is direct action to correct this wrong done the American taxpayer.

It is little wonder that the rich are always so eager to "help" the poor.

I include related news articles at this point:

The articles follow:

[From the Sunday Post, April 9, 1972]

LOW-INCOME HOUSING: $52,200 EACH

(By Eugene L. Meyer)

Construction is scheduled to start this week on 54 modest, low-income town houses in Washington that will end up costing a minimum of $52,500 each.

The houses will have no air-conditioning, washers or dryers, and 34 of them are only 16 feet wide and 29 feet deep, reduced in comforts because of inflation and in size because of federal limits on public housing.

Accounting for more than half the cost is a payment by the city's urban renewal agency of $1.5 million for a total of 2.33 acres of land in Shaw, one of the city's poorest neighborhoods.

This is more than $640,000 an acre.

One firm, Westminster Investment Corp., was paid $755,000 for 1.2 acres in 1969. The tract, at 14th and S Streets NW, had been purchased six years earlier by Westminster for $398,260.

Westminster is a New York corporation dealing almost exclusively in commercial properties. Its president, Instone Bloomfield, lives in London. Its office here is at 1511 K St. NW. The firm owns 21 Washington properties scattered across the city, according to District records.

The renewal authority, the Redevelopment Land Agency, also paid $495,000 for two parcels on a half-acre tract at 11th and M Streets NW.

The owner of both was the United Community Services of Washington, landlord for the United Givers Fund and the Health and Welfare Council. The property was headquarters for UGF and its forerunners for 30 years until UGF moved in 1966 to a $1.1 million building at 75 M St. SW, paid for in part with the sale proceeds.

These parcels, and seven smaller homes acquired for much less, were bought by the RLA with federal urban renewal grants. In negotiations in 1970 and 1971, three property owners challenged RLA's original offering price and subsequently won higher out-of-court settlements.

One of the three was United Community Services, which rejected a $400,000 offer for four-tenths of an acre, the larger of its two parcels. RLA then paid $50,000 more for it.

Rufus Lusk Jr., president of Rufus S. Lusk & Son, Inc., a firm that has published real estate directories here since 1930, said in an interview that the RLA paid far too much for the Westminster property.

"I think they were taken brutally," Lusk said. "I don't think any investor would buy the property. For 97 per cent of investors in the country, this property is worthless."

Lusk said the Westminster property might conceivably be worth "perhaps $200,000," if an investor were interested. A block from the site is 14th and T Streets NW, "a very tough corner," Lusk noted, with trafficking in drugs and prostitution.

"Maybe (RLA) discovered an oil well" at 14th and S Streets NW, he said.

The site formerly contained three furniture stores and a bowling alley in one building that was razed in 1963. The site has since been used as a parking lot and zoned for light industrial use.

Ralph Werner, RLA's general counsel, defended the price the agency paid for the 2.33 acres. He said: "We pay fair value. I'm sure we don't pay more than fair value."

Melvin Mister, RLA executive director, said the agency could have reduced its land cost by reselling the 2.33 acres for more than it did to the nonprofit sponsor that is building the low-income housing. But charging the redeveloper more, he said, would have precluded low-income housing.

The sponsor, D.C. Frontiers, a spinoff of a black fraternal group, is paying RLA $56,700 for all the tracts.

"We could have resold it for more for commercial use," Mister said. "It's clear, if we weren't trying to build for poor people, we could get a lot more housing built."

The U.S. Department of Housing and Urban Development had to approve both the RLA's $1.5 million land acquisition cost and the construction costs, which total $1.3 million. However, one division of HUD governs land acquisition costs, and another actual building costs. So there is no single office that would necessarily consider or even know that the average cost of the 54 homes is more than $52,000.

Mary A. McGrade, Westminister's secretary-treasurer, was asked about the land sale to RLA, "Let me put it this way," she said, "we didn't lose any money on it."

Mrs. McGrade added, "We would have redeveloped it ourselves with stores on the first floor, two or three floors of office space and apartments above. We had talked to the city about redeveloping it back in 1964 or 1965, but, with the indecision that exists in government, it never got done."

Low-income town houses, she continued, are "not the best use of the property."

The low-income housing plan was approved by RLA, the National Capital Planning Commission, the City Council, HUD and the Model Inner City Community Organization (MICCO), the Shaw community planning group.

"If you're really going to save the inner city," said Terry C. Chisholm, director of HUD's D.C. area office, "there's a price tag attached to it and it's enormous. There's no question that in order to deliver these 54 units of public housing, if you take into consideration the urban renewal process, you're talking about a hell of a lot of money. But there ain't anything unique about it."

Under urban renewal RLA has the right to condemn property but must pay the owner "fair market value." That value is established by two independent appraisals and is based on how the land is zoned and not on what the renewal plan calls for. RLA officials have said that the appraisals are not public record.

A property zoned commercial is considered to have a higher "fair market value" than one zoned residential. But if the urban renewal plan calls for housing, the redeveloper pays RLA substantially less than the agency paid to acquire the land. The difference is paid with federal grants.

RLA's acquisition costs, in this instance, were "more than it's going to cost to develop the land," observed Monteria Ivey, deputy director of the National Capital Housing Authority. NCHA, the city's public housing authority, approved and worked with the redeveloper, D.C. Frontiers.

Last week Ivey said the price RLA paid is "kind of high, isn't it? We don't usually spend that much."

When NCHA does the land buying, it rarely spends more than $2,500 per unit, compared to $28,000 a unit with this RLA purchase, according to Joseph Minor, NCHA deputy director for project development.

The 54 town houses comprise the only public housing planned so far in Washington's inner-city riot corridors, where low-income housing is in short supply for those who will be displaced by urban renewal.

Ultimately, these town houses will be owned by families with incomes low enough to qualify for public housing—$4,500 for one person to $9,800 for a family of 10 or more. The families will pay up to about $100 a month but no more than 25 per cent of their income. Their payments will go for utilities, insurance, taxes and property maintenance. The federal government will pay debt service.

First proposed in May, 1969, the project didn't receive final RLA approval until last July. In November, HUD approved construction prices submitted last May. But costs, meanwhile, had escalated and HUD would not allow an additional $200 a unit sought by the builder.

After six months, a new builder was found—the project's fourth—who promised to pare the cost without altering the houses.

When first designed, the houses included such amenities as air-conditioning and washer-dryers. To meet HUD cost constraints as inflation spiraled at 10 per cent to 15 per cent a year in construction, these features were dropped.

The size of the Shaw units was reduced by four feet in depth because of federal space limits on public housnig. Thirty-four of the houses are now 16 feet wide and 29 feet deep. Twenty are 20 feet wide and 30 feet deep.

New upper-income town houses, with air-conditioning, dishwashers and laundry facilities, sell for $50,000 to $65,000 in the redeveloped Southwest and $45,000 to $50,000 on Capitol Hill.

The total $1.3 million construction cost for the Shaw units averages $24,145 for each house. The total cost breaks down this way: $56,700 that D.C. Frontiers paid RLA for the land; $1,090,989 for actual construction; $48,000 for architecture and engineering; and $112,631 for overhead and planning.

According to architect Charles I. Bryant, "To lose six months time was to eat up any savings. The biggest problem was getting decisions rapidly so we would benefit from the time aspect of construction. We have less house today for $25,000 than we indicated we were going to give back in 1970 for $23,000."

As for the architect's fee, Bryant said, "We're losing money on this project. We literally designed this project three times." Wesley W. Williams, lawyer for the project, said, "I doubt if I'll get over $5,000 out of this thing.

"I'm quite pleased with what we're trying to do, giving an opportunity for home ownership and getting away from high-rise," Williams said. But, recalling the time and headaches involved, he added, "I'll never get stuck with anything like this again."

Government housing programs have come under mounting criticism from citizens, politicians and even housing officials. The programs, they charge, instead of helping the poor, are benefiting land speculators, investors, lenders, lawyers, consultants and other groups.

The results, the Senator has complained, is that Americans are "getting Chevrolet houses at Cadillac prices."

HUD Secretary George M. Romney, who runs the programs, said in Detroit last month, "We have made mistakes in the design and administration of the programs that were supposed to alleviate human suffering. I acknowledge with regret the things that have gone wrong with our subsidized housing program."

As a result of the failures, HUD has been considering giving families a flat housing allowance to rent on the private market instead of subsidizing construction of units.

The overall cost of the project, HUD's Chisholm acknowledges, is more than the controversial $45,000 "luxury" townhouses that HUD first approved, then disapproved after a community furor in Montgomery County last year.

Last April, Secretary Romney rescinded HUD's approval of 52 town houses in Watkins Glen that were to be bought for public housing near Rockville. He acted after residents of the affluent area picketed and went to court. These houses had such amenities as air-conditioning that the more expensive Shaw houses will lack.

A year ago, Romney declared the Watkins Glen proposal "not economically feasible." He added, "(It) causes people to think, why should they subsidize people and put them in units that are that costly."

[From the Sunday Post, April 9, 1972]

Total Cost to Public Is $76,000 Per House

The $52,200 price tag on the low-income town houses that will be built in Shaw is a bare minimum.

The figure includes only site acquisition and construction. It does not include up to $100,000 that the Redevelopment Land Agency plans to spend for site improvements, such as street trees and new sidewalks.

Nor does it include an estimated $1,236,989 in tax-free interest on the construction loan that will be paid by the public to bondholders over 30 years, as computed by a Housing and Urban Development official.

When those items are added, the cost per house becomes $76,000 in public monies.

Other items, on which there were no immediately available prices, include administrative costs to the RLA and the publicly supported relocation of five households and on business to make way for the houses.

According to Joseph Minor, deputy director for development for the National Capital Housing Authority, if Congress voted to make direct cash grants for housing construction instead of paying for financing costs over a period of years, "possibly four times as much housing with out-of-pocket cash" could be built.

"It would change the whole system," he said. "People don't usually look at it this way."

[From the Washington Post, Apr. 10, 1972]

First 61 Families Join New Community

(By Carl Bernstein)

Last week, 61 black families moved into new, $15,000 homes near Smithfield, Va., the first of more than 1,000 houses a year that a Rockefeller-controlled international development corporation plans to build for rural blacks in Southside and Tidewater Virginia.

Many of the new homeowners in the Sandy Mount Manor development near Smithfield are families who for years have rented dilapidated wooden houses without central heating or plumbing.

Full mortgage financing for the ranch-style, prefabricated houses is being made available by the Federal Farmers Home Administration. The financing enables families with incomes of as low as $3,500 a year to purchase the three- and four-bedroom houses without down payments.

By also building a factory in Virginia to mass produce the modular homes, their manufacturer claims that the cost-per-house is reduced by several thousand dollars.

Sandy Mount Manor, 140 mile south of Washington in Isle of Wight County, is the first of 17 planned communities that the International Basic Economy Corp. says it will build in Virginia before 1974. The corporation, founded in 1946 by New York Gov. Nelson Rockefeller, is now headed by his son, Rodman C. Rockefeller.

Almost all of the Virginia developments planned by IBEC—to include community swimming pools, playgrounds, picnic areas, activity centers and stocked fishing lakes—will be located in counties where blacks outnumber whites or represent a substantial portion of the population.

"We are hoping white families will buy our houses too, but obviously we are seeking the black market," said IBEC vice president Harvey L. Schwartz.

IBEC's decision to build low-cost housing on a large scale in Southside and Tidewater "could mean a huge difference in terms of providing adequate housing for blacks and other low-income people," according to Ruth Harvey Charity, chairwoman of the Virginia Council on Human Relations. "If the plans go through as they are projected," she said, "they will meet a great need."

In recent years, there has been relatively little construction of new homes in rural Southside and Tidewater—those sections of the state south and southeast of Richmond—partly because of a declining white population combined with the inability of many of the area's blacks to afford conventionally financed new houses.

Under the federal financing arranged by the Farmers Home Administration, families with annual incomes between $3,500 and $8,000, will be eligible for full mortgage loans on the IBEC houses at prevailing interest rates. Conventional financing through private lending institutions is usually impossible for people of low income.

The subdivisions IBEC is planning for Virginia are similar to communities that the corporation has built on a smaller scale for American Indians in the Southwest, blacks in South Carolina and low-income families in Puerto Rico, the Virgin Islands, Jamaica, Peru and Mexico.

IBEC's plans in Virginia are being coordinated with the State Division of Industrial Development, which has helped the corporation choose the 17 sites for its first 1,500 homes in the Commonwealth.

The areas selected for these initial developments, to be completed by 1974, are among the poorest in the state. In many of the counties—including Surry, Brunswick, Lunenburg, Prince Edward and Richmond—median family income is between $5,820 and $6,843, compared to a statewide median of $9,049. (The median is the point where 50 per cent of the incomes are higher and 50 per cent lower.)

More than 20 per cent of the total population of the counties chosen for development earn less than the sliding federal poverty standard, compared to 12.3 per cent of the statewide population.

Both Southside and the sections of Tidewater where the IBEC communities will be located are agricultural areas where blacks have long worked as sharecroppers, farm laborers, in meat packing plants, lumber mills, peanut processing plants and other local industries.

Physically, some of the Southside towns could serve as the location for a stereotype novel of the rural South: the white and black sections separated by railroad tracks, gray shacks of tinder-dry wood on one side, some white clapboard houses on the other. Trees may shade the paved streets of white neighborhoods, but long dirt roads lead through fields to the jerry-built shelters across the tracks.

Although such scenes are becoming much less commonplace in Virginia, planned neighborhoods in which blacks live are virtually nonexistent in both Tidewater and Southside, and good housing available to them is at a premium.

In this environment, "We don't see any limit to the market," according to Charles Campbell, manufacturing manager for IBEC in Lawrenceville, Va.

Inside the corporation's 1½-acre factory in Lawrenceville, 90 employees build a whole house in two completely assembled sections. Each half of the house is then trucked to the homesite, set on a conventional foundation and joined together in less than three man-days installation time.

By the end of this year, according to Campbell, "we will be turning out three houses a day. Whatever the market's upper limit is, we can expand to meet it. We're planning 1,000 units a year but it could go higher if the demand is there."

IBEC and its Lawrenceville subsidiary, Planned Neighborhoods, Inc., will make a profit of 5 to 10 per cent on each house built, depending on production levels, said Campbell.

IBEC stock, according to stockholders' report, is held by some 1,450 persons; a company spokesman said about 60 per cent of the stock is owned by members of the Rockefeller family.

QUESTIONNAIRE RESULTS

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. CHAMBERLAIN. Mr. Speaker, beginning in early March, I distributed an 18-part questionnaire to residents of Michigan's Sixth Congressional District. More than 17,000 responses have been received so far and to me this broad concern in our current national problems is most encouraging. A computerized tabulation of the returns has now been made and particularly noteworthy, I believe, is the strong opposition to busing—82 percent—as well as the substantial segment—70 percent—that favor replacing the property tax as a basic source for public school funds.

In addition, the opinion poll provided a special 11-part question allowing respondents to rate what the priorities should be for Federal spending. The strongest indications here are decidedly toward greater efforts to control pollution, drug abuse and crime and for less spending for foreign aid, space exploration and defense. These priorities are basically reflected, I believe, in the President's proposed budget which devotes more money to human resource programs—45 per cent—than to defense—32 percent.

With regard to revenue sharing, the results show that some 59 percent agree that such a new approach in Federal-State relations is needed. It is my hope that this pioneering effort which will soon be before the House will tend to check the growing centralization of power in Washington.

Also of importance, I feel, is the fact that 70 percent said they opposed allowing taxpayers to earmark $1 of their tax payments to finance partisan Presidential election campaigns. This suggests to me that before this provision goes into effect for the 1976 Presidential campaign, the Congress should thoroughly reexamine it.

In addition to the districtwide tabulation, a special summary was made of some 1,500 questionnaires returned by Michigan State University students. Not surprisingly, perhaps the strongest support indicated was for increased Federal efforts to clean up the environment. Some 92 percent favor more Federal spending in this area while 87 percent approve setting a clean water goal of no polluting discharges by 1985. While this job is an enormous one, the House action March 29 in passing a recordbreaking $24 billion pollution control program is a major step which is urgently needed and the bill had my support.

In many respects the pattern of student opinion follows pretty closely that found in the Sixth District as a whole. For example, student and general public responses were in basic agreement on 29 of the 33 questions with both favoring increasing the minimum wage, no-fault insurance, replacing the property tax, expanding East-West trade, clean water action, a national presidential primary and revenue sharing. At the same time, both oppose granting the right to strike to Government employees, earmarking Federal tax money for partisan presidential campaigns, and Federal aid to private and parochial schools, and a single 6-year presidential term. The students opposed busing 53 percent to 34 percent while the general public opposition was much stronger, 82 percent to 12 percent.

In many of these areas the main difference between the two responses is the degree of approval or disapproval. This is particularly evident as well on the question of support for the President's efforts to end the war in Vietnam, which 48 percent of the students answered in the affirmative as compared to 66 percent districtwide. Considering the intensity of student concern over Vietnam in recent years, I believe the substantial backing given the President's policies confirms that we have come a long way in a relatively short time.

The student and general responses disagreed on only four to 33 separate questionnaire items. Two of these four items concerned increased Federal spending for education, which college students supported, while the general public was about evenly divided. Likewise the general public was only mildly favorable toward Federal spending for mass transportation, while the East Lansing students strongly favored—71 percent—increased spending.

Copies of the districtwide summary and the students' results follow:

CONGRESSMAN CHAMBERLAIN'S 1972 QUESTIONNAIRE

[in percent]

SHOULD WE—	Yes	No	Not sure
1. Increase the Federal minimum wage from $1.60 to $2 per hour?	50	38	12
2. Legislate the no-fault automboile insurance on the Federal level?	50	29	21
3. Grant Federal and public employees the right to strike?	22	65	13
4. Approve in the area of national health insurance (check one or more):			
27 percent—a new program of health care for the poor to replace medicaid.			
33 percent—additional tax credits for premiums for private insurance.			
42 percent—a program to help meet costs of catastrophic illness.			
34 percent—require employers to provide health insurance for employees.			
26 percent—complete nationalization of health insurance.			
15 percent—no new legislation.			
5. Replace the property tax as the basic source of public school funds?	70	17	13
6. Expand agricultural and nonstrategic trade with Communist nations?	60	24	16
7. Exempt those working after 65 from paying social security taxes?	63	29	8
8. Set a long-range clean water program goal of no polluting discharges by 1985 with an estimated Federal cost of $14 to $20,000,000,000 for 1st 5 years?	67	12	21
9. Provide with regard to Federal spending in these areas—			

	More	Less	Same	Not sure
Crime control	66	5	23	6
Consumer protection	50	11	33	6
Defense	20	43	31	6
Drug abuse	56	10	27	7
Elementary and secondary schools	40	14	39	7
Colleges and universities	25	27	41	7
Environmental protection	57	9	25	9
Foreign aid	5	77	13	5
Job training	43	17	34	6
Mass transportation	39	27	25	9
Space program	14	51	29	6

DO YOU FAVOR—	Yes	No	Not sure
10. Establishing a single 6-year term for the Presidency?	27	61	12
11. A national primary election to select presidential candidates?	58	27	15
12. Earmarking $1 of your Federal income tax for partisan presidential campaigns?	21	70	9
13. Federal revenue sharing to aid State and local governments?	59	24	17
14. Busing to obtain racial balance in our schools?	12	82	6
15. Federal aid to private and parochial schools?	21	71	8
IN GENERAL—			
16. Do you feel that existing laws discriminate unfairly against women?	21	68	11
17. How do you feel about the way price-wage controls are working? 26 percent—satisfied; 57 percent—dissatisfied; 17 percent—no opinion.			
18. Do you approve the President's efforts to end the war in Vietnam?	66	22	12

CONGRESSMAN CHAMBERLAIN'S 1972 QUESTIONNAIRE—STUDENT RESPONSES

[In percent]

SHOULD WE—	Yes	No	Not sure
1. Increase the Federal minimum wage from $1.60 $2 per hour	52	34	14
2. Legislate the no-fault automobile insurance on the Federal level?	60	15	25
3. Grant Federal and public employees the right to strike?	37	40	23
4. Approve in the area of national health insurance (check one or more):			
29 percent—a new program of health care for the poor to replace Medicaid.			
23 percent—additional tax credits for premiums for private insurance.			
47 percent—a program to help meet costs of catastrophic illness.			
36 percent—require employers to provide health insurance for employees.			
40 percent—complete nationalization of health insurance.			
7 percent—no new legislation.			
5. Replace the property tax as the basic source of public school funds?	69	14	17
6. Expand agricultural and nonstrategic trade with communist nations?	84	7	9
7. Exempt those working after 65 from paying social security taxes?	64	22	14
8. Set a long-range clean water program goal of no polluting discharged by 1985 with an estimated Federal cost of $14 to $20,000,000 for 1st 5 years?	87	5	8
9. Provide with regard to Federal spending in these areas—			

	More	Less	Same	Not sure
Crime control	57	7	32	4
Consumer protection	67	4	27	2
Defense	7	76	16	1
Drug abuse	57	12	27	4
Elementary and secondary schools	70	4	24	2
Colleges and universities	67	5	26	2
Environmental protection	92	2	5	1
Foreign aid	7	69	22	2
Job training	57	8	33	2
Mass transportation	71	9	17	3
Space program	20	46	32	2

DO YOU FAVOR—	Yes	No	Not sure
10. Establishing a single 6-year term for the Presidency?	25	64	11
11. A national primary election to select presidential candidates?	62	22	16
12. Earmarking $1 of your Federal Income tax for partisan presidential campaigns?	28	59	13
13. Federal revenue sharing to aid State and local governments?	65	14	21
14. Busing to obtain racial balance in our schools?	34	53	13
15. Federal aid to private and parochial schools?	27	63	10
IN GENERAL—			
16. Do you feel that existing laws discriminate unfairly against women?	50	36	14
17. How do you feel about the way price-wage controls are working? 24 percent—satisfied; 55 percent—dissatisfied; 21 percent—No opinion.			
18. Do you approve the President's efforts to end the war in Vietnam?	48	38	14

SMALL COMMUNITIES HAVE GREAT APPEAL

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. ZWACH. Mr. Speaker, as I read the newspapers from our Minnesota Sixth Congressional District, I find increasing evidence of a beginning of the reversal of the migration from the countryside to the cities.

People from the cities are becoming weary of the rush and press of city life and are yearning for the quiet tranquillity of the countryside.

Mrs. Madonna Kellar of the Heron Lake News recently wrote an editorial on this subject which I insert into the CONGRESSIONAL RECORD where it can be read by my colleagues and the thousands of others who read this publication:

SMALL COMMUNITIES HAVE GREAT APPEAL

All small towns need to blow their own horns and the only way they can do that is by making their potential known to the largest amount of interested people.

When a prospective business seeker is looking for a location, there are many things he looks for as he attempts to choose his site of operations. First and foremost he will take a good long look at the main street of the town to see how well preserved it is. Next he will observe very carefully the amount of traffic in the stores. He then will delve deeply into the educational aspects of the town where his children will be educated. Housing is his next concern. If he is to choose a location for the rest of his life, he naturally is looking for adequate living accommodations for his family.

Religious potential will be another concern. He will be looking for a church of his own denomination. A community of various faiths has a great deal to offer to anyone seeking a new location.

If a community has a demand for the services he has to offer and it can meet the above specifications, then a new business can be added to the town's roster. Unless the prospect can receive the assurance that he can find the facilities he and his family need, he will look elsewhere for a spot in which to start his business and another chance to advance the town has been lost.

Small towns need not become depleted as the trend to move to the rural areas advances. People are becoming very weary of the rush of city life and are looking for more tranquil areas to raise their families and to develop interests and hobbies. If the town is made attractive enough, there will be no problem in getting business and new residents. So it is up to us to take whatever strides are necessary to make our town acceptable to the folks who are looking for new locations. We cannot afford to wait for someone else to make the first move. If we do, that time might never come and we could be left in the lurch as the march of progress leaves us behind.

"THE COMING STORM"—A RESOLUTION

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. LANDGREBE. Mr. Speaker, Dr. N. Burnett Magruder of Louisville, Ky., the executive vice president of Christian Heritage Center, sent me a copy of a resolution that was passed by the Kentucky Legislature recently. I think that this recognition of the providence of God is most fitting in our trying times. For this reason, I insert the resolution into the CONGRESSIONAL RECORD:

THE COMING STORM—A RESOLUTION TO RECOGNIZE THE PROVIDENCE OF ALMIGHTY GOD IN THE COMMONWEALTH OF KENTUCKY AND THE SCHOOLS

Whereas, the Preamble to the Constitution of the Commonwealth of Kentucky expresses gratitude to Almighty God for civil, political and religious liberties we enjoy; and

Whereas, we teach our children in the Pledge of Allegiance to the Flag, that this is "one nation under God"; and

Whereas, we date all transactions according to the birth of Jesus Christ, A.D.—"in the year of our Lord"; and

Whereas, we recognize as did President Lincoln, the word of the Psalmist, that a nation is blessed "whose God is the Lord;" and

Whereas, it is evident with each passing day that our schools and our system of government will surely fail without God;

Whereas, public polls now show an overwhelming majority of the American people favor the historic recognition of Almighty God in the public schools; and

Whereas, this issue of the Rule of God in America transcends all partisan and sectarian divisions;

Therefore, be it resolved; that the Senate of the General Assembly of the Commonwealth of Kentucky:

1. Hereby requests the Honorable Governor of Kentucky to call the attention of our citizens to the truth of Holy Scripture quoted by the late President John F. Kennedy in a final speech never delivered, "Except the Lord build the house, they labor in vain that build it."

2. Hereby declares that it is in keeping with our national heritage that the Providence of Almighty God be recognized in every appropriate way in our public schools, and that voluntary, non-compulsory prayer and Bible reading and the Pledge of Allegiance to our Flag be encouraged in our schools and commended as a way of life for the children of the Commonwealth.

CITIZENS SPEAK OUT FOR BUSING

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. CLAY. Mr. Speaker, much furor has been raised since the President's announcement calling for an end to the busing of students. In fact, my office has been flooded with mail from constituents opposing the President's stand. Many of those who have written me see that the busing issue is being used as a smokescreen to conceal the real underlying objective—that is, perpetuating racial injustice.

I want to share with my colleagues some of the views which are now coming out of my district. The first of these is a letter which I received from Mrs. Maureen Berle, president of a St. Louis organization called Action Against Apathy. The second is an editorial address delivered by Dr. Lawrence Nicholson, professor of psychology at Harris Teachers College, on KMOX radio in St. Louis. The last one is an editorial comment which appeared in a recent edition of the St. Louis Post-Dispatch. Hopefully, these comments will serve as enlightenment to those who purport that an antibusing amendment will solve today's educational problems; in reality, it can only create additional havoc:

MARCH 28, 1972.

DEAR MR. CLAY: We, the members of Action Against Apathy, a St. Louis based organization comprised primarily of white suburban residents concerned with racial injustice, are extremely dismayed with President Nixon's position statement on "busing" of 16 March 1972. The President's promise to deal with providing equal educational opportunity while desegregating without further busing did not materialize in his message to Congress 17 March. We urge you to consider in depth the matter of school desegregation and initiate meaningful legislation which will confront and resolve the true issues before us—racial prejudice, discrimination and continued suppression of minority group people—within the context of equal educational opportunity.

The moral and legal principles set forth in the Declaration of Independence and the Constitution of the United States assert the fundamental rights of equal opportunity, freedom of choice, and pursuit of a dignified and fulfilling life. The facts are, however, that through active and passive co-operation, white Americans have historically denied these rights to minority Ameircans and have excluded them from full participation in society. Anti-busing statements, please for "local control," and cries of "Federal intervention" are only diversions and camouflage tactics which avoid confronting these facts.

The result of America's pervasive racist attitude is readily apparent. Isolated, impoverished ghettos and the delineation and financing of school districts along racial, ethnic and economic boundaries, with limited and unequal taxable resources are two primary examples. Neither equal educational opportunity nor quality education for all can be achieved within the limitations of these realities. The mere appropriation of monies for improving the quality of poorer school districts is utterly meaningless without a comprehensive plan for substantial racial integration. At this time in history, the neighborhood school concept along with segregated housing and inequitable funding, will surely perpetuate unequal educational opportunity. White Americans must realize the serious consequences to the nation of continuing segregated and unequal education.

We strongly recommend that vigorous legislation be enacted and enforced which will create an integrated school environment where students of all racial, ethnic and economic backgrounds can learn to live in a pluralistic society. Realistically, under today's conditions, this can only come about through equitably taxation and redistribution of funds over relatively large geographical areas and a workable plan for student exchange. The public school system of America, because of its unique and far-reaching social influence, must become one of the primary institutions to assume an active role in changing attitudes of racial prejudice which result in racial discrimination and suppression of minority citizens.

Please examine this matter carefully and initiate decisive unprejudicial action which will truly affirm the great principles upon which this nation was founded—equality, liberty and justice for all. We would appreciate prompt notification informing us of your plan of action.

Sincerely yours,

MAUREEN BERLE,
President, Action Against Apathy.

BUSING—WHO NEEDS IT

(Recently, KMOX Radio broadcast an editorial opposing busing of school children to achieve racial balance. The following is a statement opposing the Station's editorial stand by Dr. Lawrence E. Nicholson, Professor of Psychology at Harris Teachers College.)

Most Americans don't like the idea of busing school children to achieve racial balance. When tested against Gallup's nose-counting standard, the idea of busing indeed goes against the "American grain."

But when measured against our 200 year-old remarkable experiment in men governing themselves and searching for the guidelines—the means by which people of different racial, ethnic and economic backgrounds can learn how to live harmoniously together—the deception that draws our attention to busing as an end, rather than as a means, is exposed as a racial polarizer.

The real issue, as Senator Mondale has pointed out, is our willingness to accept integrated schools.

KMOX Radio stated busing just does not work. The editorial fails to point out that we've only minimally, and half-heartedly tried busing—that the media reports these half-hearted trials in an adversary and conflictive manner!

In metropolitan St. Louis the community for too long has permitted its public schools to reinforce social class and racial divisiveness. The Mallinckrodt School fiasco of a few years ago; the Yeatman Froebel busing confrontations at the beginning of the school year illustrate my point.

St. Louis' long period of official busing, prior to 1954, was designed to isolate white children from black. The bitter fruits from that policy is our present day adult racial suspicions, fears and hates. Since 1954, we've had a splendid opportunity to test the several hypotheses that would help us to predict the factors that could enable busing to succeed. The official policy remains one of busing for expediency. Major institutional decision-makers—industry, religion, education, civil rights leaders—have been non-responsive to this travesty.

Will we continue to exalt the angry response by the middle-class? The ideological segregationist response by black separatists? Or will we get on with the business of testing the means—including busing—by which our children and youth can come together in a natural setting and under desirable guidance learn the behaviors essential to harmonious living together in metropolitan St. Louis?

[From the St. Louis Post Dispatch, Mar. 27, 1972]

BUSING ISSUE MISSES THE POINT

(By Jake McCarthy)

President Nixon said at the outset of his term that he wanted to bring us all together. But obviously not on the same bus.

As with most issues that are fanned into raging controversies in election years, the question of school busing, which Mr. Nixon and George Wallace both claim as their own, misses the real point.

But both candidates—and others who are falling over each other in imitation—realize it is a hot issue even if it appeals to the worst instincts of a nation that has historically professed to be a place for everybody. Except, of course, niggers and greasers and injuns and Bohunks and Polacks and Dagos and Chinks and Micks.

So now, despite the slick veneer of innocence, we face the most blatantly racist presidential campaign since Reconstruction. Surely since the opponents of Al Smith in 1928 brought racial, ethnic and religious fears to the fore.

The busing issue is so inflamatory because it involves children—still our most precious commodity in a cynical world. But for every white parent tormented by the question, a black parent is even more agonized over the issue.

The 1954 Supreme Court decision on school desegregation overturned a lot of history but it didn't originate busing. Every black high school student in St. Louis County used to be bused miles to Summer High School in St. Louis and back.

Vernon E. Jordan, Jr., executive director of the National Urban League, pointed out recently that "about 40 per cent of all students are bused to school for reasons that have nothing at all to do with desegregation . . . and many white parents today put their children on school buses that drive past integrated public schools and stop at all-white segregated private schools." The real issue isn't busing as such. It is the meeting of the races.

The dilemma of the black community comes from its commitment to black identity in the aftermath of school integration—The realization that little black children ought not be forced to become just like little white children.

The split was highlighted last week in Congressional hearings when Roy Wilkins of NAACP opposed Mr. Nixon's proposed ban on further busing while Victor Solomon of CORE went so far as to propose separate black school districts.

But to Lawrence E. Nicholson of Harris Teachers College in St. Louis, the real issue comes down to whether we have—or should have— a separatist or a pluralistic society in America.

Nicholson says the problem is that we have never made a true commitment within our educational system to test whether we can really build a pluralistic society.

"The deception that draws our attention to busing as an end, rather than as a means, is a racial polarizer," he says. "The real issue is our willingness to accept integrated schools.

"The bitter fruits from past policies of segregation is our present day adult racial suspicions, fears and hates."

A measure of the racism involved in the busing controversy is that many people opposed to busing would be even more opposed to integrated neighborhoods where every kids, of whatever race, could walk to the school on the corner. It's pretty evident that neither Mr. Nixon nor Mr. Wallace is calling for alternate forms of integration. Or talking about a pluralistic society.

Sammy Davis Jr., after his conversion to Judaism, used to tell a joke that Americans could laugh at. "I got on a bus in Miami and the driver said, 'Go to the back of the bus.' I told him, 'I'm not a Negro. I'm a Jew.' He said, 'Get off the bus.' "

That may not tickle minorities quite so much as the campaign trail winds on toward November, and as "white supremacy" breaths its deep new breath in the land.

PENSIONS: A CRUEL MIRAGE FOR MANY

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. HILLIS. Mr. Speaker, there has been a great deal of conversation during this session of Congress on pension protection legislation.

It appears to me that there has been enough conversation; now is the time for action. There are several bills before the House Committee on Education and Labor which would protect the pension plans for our Nation's workers.

It is my hope that one of these measures will be brought before the House for debate and vote.

Thousands of workers are paying into pension plans expected to reap the benefits. Unfortunately, unless some legislations is enacted, many of these men will not receive these benefits.

I recently came across an interesting article in the Chicago Tribune. I hope that each Member of the House of Representatives and each Member of the Senate will take the time to read this:

PENSIONS: A CRUEL MIRAGE FOR MANY

(By Fred J. Cook)

Joseph Origiol, short, stocky, his English larded with a heavy accent, spent more than 40 years pursuing the American dream, and the failure of that dream has now driven him to seek refuge across the ocean in his native Italy.

His story symbolizes the fate that has overtaken countless American workers who have faced old age and retirement confident that they would be well protected by pension plans in which they had participated most of their working lives—only to find that their promised pensions were a mirage.

More than 30 million working men and women, about half the American labor force, now belong to private pension plans that have accumulated an enormous $135 billion in assets, roughly twice the amount of mutual-fund holdings and one of the largest reservoirs of unregulated wealth in the American economy.

Probably in no other phase of American life has fine print resulted in such widespread tragedy, and it is hardly any exaggeration to say, in paraphrase of Winston Churchill, that never has so much done so little for so few.

SUBCOMMITTEE STUDIES PLANS

A subcommittee of the Senate's Labor and Public Welfare Committee, under the chairmanship of Sen. Harrison A. Williams, Jr. [D., N.J.], has been engaged for nearly two years in an intensive study of American pension plans, preliminary to the introduction of remedial legislation.

Studies made by the committee's staff show the dimensions of the problem. One analysis of 51 pension plans covering 6.9 million workers found that, since 1950, only 4 per cent received "any kind of normal, early, or deferred" benefits. Another study of 36 better-structured plans covering 2.9 million workers concluded only 8 per cent received normal, anticipated benefits.

Such figures indicate that 92 to 96 per cent of those 34 million "covered" American workers are not getting their retirement benefits [though it must be added that of those who forfeited their benefits, 85 per cent in one study and 80 per cent in the other had five years service or less].

It has become common in negotiating labor contracts to accept a lower hourly wage increase in return for better fringe benefits, especially pension protection. But the files of Williams' subcommittee and the public testimony it has taken are filled with pathetic stories of workers who had relied on the pension promise as a bedrock guarantee, then found that it was as evanescent as the proverbial pot of gold at the end of the rainbow.

Individual stories illuminate the virtually infinite ways a pension can be lost and the many booby traps that exist in pension-plan fine print. This is the way it happened to Joseph Origlio.

Origlio was born in Messina, Sicily, in 1904. His wife comes from Palermo. In 1929 they emigrated to the United States, seeking the better life. Origlio was a skilled craftsman, a maker of fine shoes, and he worked steadily for shoe factories in New York City. He was a charter member and one of the founders of the United Shoe Workers of America. For 23 years he piled up pension credits, and he and his wife, who worked part of this time in dress factories in Brooklyn, began to make plans for their retirement.

PURCHASED ACRE OF LAND

They purchased an acre of land on the outskirts of Lakewood, N.J., had a cellar dug and a foundation put in and roofed over. Then, on weekends, they worked to finish a basement apartment in which they could live. They expected to raise their retirement home above these basement quarters, finishing off the interior themselves.

But automation hit the shoe industry in 1959 and changed the life of Joseph Origlio. Along with many others, he was thrown out of work, and he was then 55, an age that made it almost impossible for him to catch on with a new employer in a labor-glutted market. For three years and 10 months—those 10 months were vital, as it turned out—Origlio was unemployed. Then the business agent of Local 60 of the United Shoe Workers found a job for him with the Evans Shoe Company in New York. During the jobless years, Origlio had found it impossible to keep up his union dues. Once he was working again, he offered to pay the back dues, but he was told that all he need pay was a $15 reinstatement fee. Reassured, he worked from 1963 to 1970 and continued making retirement plans.

A one-and-a-half story house was framed in above the basement apartment in Lakewood, and Origlio, his wife, and friends finished off the interior. New furniture was purchased, and by 1970 the Origlios were ready for retirement. They knew that they could not live on their monthly Social Security payment of around $300; Origlio had a heart ailment, and medication was expensive. But, they thought, they did not have to worry. With the pension and Social Security, they would be all right.

Then the pension vanished. The fine print in the union-administered pension plan called for 25 years of continuous service. Origlio had had only 23 when automation did him in. The pension plan, it was true, permitted a break if a worker was unemployed—but only for three years, and Origlio had been out of work those extra 10 months. As a result, he forfeited everything.

An investigator for Williams' committee went to Lakewood to interview Origlio and his wife.

THEY WERE DEVOTED

"They were a devoted couple; he wouldn't even think of leaving her for one day to come to Washington to testify. Besides, they had worked out a plan. Living costs are much lower in Italy. If they went there, they would still have their Social Security payments, they would rent their retirement home for a good price and the combined incomes would let them live comfortably. They had their passage to Italy already booked—and they sailed," the investigator reported.

Joseph Origlio and his wife are still in Italy, and it seems unlikely they will ever return to America, the land of their youthful dreams.

Such individual tragedies happen—thousands of American workers who are in situations far worse than Joseph Origlio's—because there is no regulator legislation worthy of the name and because the chaotic pension-plan system, as it now exists, puts a premium on sharp practice.

The only legislation was passed by Congress in 1959 in the Welfare and Pension Fund Disclosure Act. This act required merely that pension plans be registered with the Department of Labor, as 34,000 now are; but it established no rules and no checks on the operations of such plans, no provisions for the insurance and safety of the funds, no guarantee for the protection of workers.

The result has been wide-spread chicanery. Williams' committee has carefully refrained from hurling sensational accusations, taking the attitude that it is merely hunting for the facts. But some of the facts it has uncovered are devastating.

In a report issued in November, committee investigators cited typical examples:

A joint union-employer pension plan in the transportation industry "has some $800,000 in loans outstanding for which there is no collateral;" a large data-processing manufacturing company has invested pension funds "in unsecured loans to the extent of $41,171,580."

A major mining company since 1952 has been operating a pension plan that has $33.3 million in assets, but $107 million in pension liabilities; a major Southern utilitv company, after 26 years of pension-plan operation, has accumulated $66 million in fund assets, but is liable for $135.5 million in benefits.

A couple of transit companies have hit upon a scheme under which each has used $2 million in pension-fund moneys to underwrite its own mortgages or real-estate investments.

A Midwest cable corporation has in the last five years charged off to "administrative costs" more than 33 per cent of the amount it has paid out in benefits. A Midwest utility company has reduced its pension-plan contributions by $20,000 annually since 1962 as the result of "actuarial gains" made because workers who left the company and the plan retained no "invested interest" in their pension contributions.

CRUX OF FINAGLING

This last angle is the crux of much pension-plan finagling. As many plans are operated—and it doesn't make much difference whether they are run by management or a union or by a joint union-management board—the self-serving interpretation of fine-print regulations can cost workers the protection they believed they had earned during years of service.

The more pensions sacrificed in this fashion, the more money is left for fund managements to play with and the less its employer has to contribute to keep the fund solvent.

The technical terms are important. One is "vesting," the other "portability." Vesting means that a worker who has labored for a single company for years, participating in its pension plan, is guaranteed the benefits he has accumulated and the right to begin drawing them when he reaches retirement age.

Many plans have no provisions for vesting. If one company is merged into another, if there is an economy cutback and a worker loses his job, if he has to move for health or family reasons, he loses all. Even plans that have so-called vesting privileges often hedge them with so many restrictions that they become worthless.

A plan may provide, for instance, that a worker has a vested right to a pension when he has worked 15 years and is 55 years old; if he has worked 20 years but is only 45 when his job is terminated, he gets nothing.

"Portability" assumes great importance in an increasingly mobile industrial society It is highly unusual in today's economy for a person to work all his life for one company. In such fields as aerospace and electronics, mergers take place, contracts fluctuate, work opportunities change, and workers have to go where the jobs are.

Portability, then, is the means by which the pension rights a worker has accumulated can be credited to him when he changes jobs; as it is now, he generally loses everything.

CHAOS REIGNS TODAY

The result of the chaos that reigns today is that the pension the American worker has been taught to consider a hard-and-fast guarantee all too often becomes a phantom. The guarantee is hedged with a forest of "ifs" that were described to the House subcommittee on labor by Thomas R. Donahue, assistant secretary of labor.

"In all too many cases the pension promise shrinks to this," Donahue said. "If you remain in good health and stay with the same company until you are 65 years old, and if the company is still in business, and if your department has not been abolished, and if you haven't been laid off for too long a period, and if there is enough money in the fund, and if that money has been prudently managed, you will get a pension."

When the Studebaker Corporation closed its automobile plant in South Bend, Ind., in 1963, thousands of workers were jobless. Studebaker's pension plan had been in operation only since 1950, and it had not begun to accumulate sufficient assets to cover all the rosy promises written into union contracts.

Repercussions from this disaster have been largely responsible for stimulating congressional interest in pension-plan reform.

Lester Fox, a former vice president of Studebaker Local No. 5, United Automobile Workers, and a member of the union's bargaining committee, described what happened when Studebaker closed down in December, 1963.

The pension fund amounted to $24 million, and $21 million was required to purchase annuities for workers who had retired or who qualified for a pension, men 60 years old with 10 years' service. This left more than 4,000 workers to divide up the remaining $2.3 million.

Fox himself had 20 years' service with Studebaker and had just turned 40. If he had been younger, he would have received nothing; as it was, he got a lump-sum settlement of $350. Such payments, he testified, ranged from a low of $197 to a high of $1,757, paltry sums for older workers who found the job market virtually closed to them.

Tho the Studebaker case represents an extreme, the anguish and misery it demonstrated in such final form is common among workers who find themselves suddenly cut adrift. Much of this distress is caused by the lack of vesting and portability rights.

SOME SENSITIVE CORPORATIONS

Not all great corporations have been insensitive to the problems of long-time employes. The Senate subcommittee was especially impressed by the Bank of America's broad system of interlocking plans designed to protect is workers.

In addition to a medical-dental health plan, a liberal sickness-benefit plan, and a disability plan, Bank of America has a two-part program to protect its workers in those "golden years" of retirement.

First is a family-estate plan, established by the bank through a profit-sharing program. Employes become eligible to participate after three years of service and begin to acquire vested rights after they have been in the program for two years. They obtain a 100 per cent vested right after 15 years of profit-sharing.

In addition, Bank of America has a regular retirement plan, which provides for full normal retirement benefits at age 65 if the workers has been in the plan for 10 years. The plan also contains a vesting provision, hedged with an age limitation, but a low one.

Bank of America gives a worker a full vested right to his pension after he has been in the plan for 15 years and has reached the age of 40.

There are, of course, some classes of workers who have no trouble collecting promised pensions. Members of the armed services, policemen, and firemen are assured of pensions, usually after 20 years of service, because they are protected by governmental guarantees.

Similarly secure are the inhabitants of the executive suites of big business. Special provisions are made for them.

Summing up his committee's findings, Williams said: "It is inevitable that there will be critics who will characterize these hearings and the unfortunate witnesses as 'horror stories' or 'sympathy cases.' These are critics who find no fault with our private pensions and who continue to assure us that time will cure the defects. If what comes from the personal accounts and misfortunes of these witnesses is sorrow, then let us not only be compassionate, but also resolve to find the way to better the life of those who have yet to retire."

Williams and his aides feel that there is no justification for failures to produce on apparent promises, and no reason to couch pension-plan provisions in intricate and legalistic language.

SYSTEM CELEBRATES ANNIVERSARY

After all, the private pension system in America will celebrate its 100th anniversary in 1975. True, its major growth began during World War II, when wages were frozen and labor contracts were sweetened by provisions for pension systems.

Pension-plan experience thus extends over several decades, even if one takes World War II as a starting point, and the labor subcommittee thinks the kind of injustices it has uncovered should no longer exist.

In July, subcommittee aides sat down with the secretary of labor, James Hodgson, and detailed for him the mass confusion, lack of understanding, and personal tragedy and disillusionment they had found. Perhaps as a result, Hodgson issued a directive calling for revisions in pension-plan contracts.

The secretary demanded that contracts spell out in clear and simple English the rights and obligations of workers—just what they can expect to receive and exactly how they can lose out. It was an important first step.

In a recent speech before the American Bankers Association in New York, Williams said, "The problems have been identified, and the need for reform—real reform—is urgent. American workers from all occupations and places in our country demand reform . . . The challenge of reform today must become the accomplished reform of tomorrow."

After 30 Years, All Mrs. Kwek Got Was Sympathy

Typical of what happens to many workers who lose their pensions is the case of Mrs. Iris Kwek, who went to work for the Anaconda American Brass Company in Detroit when she was 18 and stayed for 30 years.

An intelligent, attractive woman, Mr. Kwek had attended college at night and in 1970 received a bachelor's degree in home economics from Wayne State University. She could probably have obtained a position that would pay more than she was earning at Anaconda, but she felt secure in her job—and there was that promised pension.

If she continued to work for the company until she was 65, she could count on a pension of $100 a week, and she calculated that, with her husband's smaller pension from the city of Detroit and their Social Security payments they could live well.

There was reason for her attitude. Anaconda, she testified, at Senate hearings, had billed its pension program as "our second pay check." Anaconda's pension brochure, exhibited at the hearings, shows a young-looking retired couple smiling happily as they examine a travel folder with the words "Italy" and "France" emblazoned on the cover.

Iris Kwek will never sample such joys on Anaconda's retirement plan. In 1971 some half-billion dollars worth of Anaconda properties were expropriated by Chile; company earnings were affected, and a sweeping economy program was instituted.

One of the savings devised to help succor mighty Anaconda was the elimination of Iris Kwek. She was informed that she was being discharged at the end of August. Since she was not protected by any vesting provisions, she was to lose 30 years of accumulated pension rights.

Mrs. Kwek explained that Anaconda had given hourly employes vested rights; its Canadian employes had vested rights. But salaried workers like herself did not.

After Mrs. Kwek learned of her fate, she wrote Sen. Williams, and committee investigators began looking into the case, both with her and with Anaconda. This led to what Sen. Jacob Javits [R., N.Y.] called "a little comic opera bit.' Mrs. Kwek explained:

"For two months they literally ignored me, although I continued to go to work every day and do my work. Many of the employes who were being severed were taking tremendous time off. But one afternoon they called me into the office, and the plant manager said, 'Mrs. Kwek, something has come up.' I said, 'Oh, would you like me to price or do something for you?' He said, 'No. We found a job, and we shall be able to retain you.' I was amazed—after two months of literally ignoring me—he said, 'Yes. Would you consider taking a job?' I said, 'Certainly.' "

The manager explained it might not be quite as good a job; Mrs. Kwek didn't care, she wanted it. This conversation took place on a Friday—just one hour after a subcommittee staff member had questioned Anaconda officials in New York.

In Detroit, Mrs. Kwek was told to come back the following week to learn the details. She went home relieved, and, she testified, "The whole weekend I was thinking that things were going to work out fine. I had a good night's sleep for the first time in a month, really."

She also came to a quick decision. She had been scheduled to testify in the pension inquiry; but now, with Anaconda treating her so well, she felt she could not. "How could you testify against the company you were working for?" she asked.

She went back to work Monday, but her boss was tied up in a meeting. On Tuesday she saw him, and this is the way she described what happened:

". . . I went up to his office And he looked up at me as if to say, what did I want? I asked him if he had come to any conclusions, on this job, what it would entail. He said, 'Oh, the whole thing has fallen through.' He made me feel as if the whole thing had just been some sort of a hoax."

In subsequent testimony, Anaconda officials confirmed Iris Kwek's story. Unfortunately, they said, the company had had to economize; there were no provisions in the pension plan to justify giving Mrs. Kwek any vested rights for 30 years of service. They were really sorry, they told the senators, but there had been just nothing they could do for her.

LOYALTY DAY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. KEMP. Mr. Speaker, this year the 23d Annual Loyalty Day Parade sponsored by the Erie County Council, Veterans of Foreign Wars will be held on Sunday, April 30 in Tonawanda.

I am looking forward to being a guest on the reviewing stand at the invitation of general chairman John M. Dzialoski and cochairman Glenn J. Cooper. Certainly the timing of this year's parade could not be better.

As we see the daily results of Communist aggression in Southeast Asia, our loyalty is continually put to the test. It would be so easy to walk away and as I said last October 5—

> Without the American effort in Vietnam, the non-Communist Asian world might not exist; there would be no peace or freedom in Southeast Asia, and no hopeful era of negotiations with Peking.

Mr. Speaker, I hope the members of this House are not so naive as to believe that eventual rapprochement with China is a one-way street. Let us make plain to the enemy and the world that we believe the President has been totally committed in his efforts to achieve a lasting peace and that he, at least in this crucible, has the backing and loyalty of a unified American people. By so doing, we can help bring that peace we all desire as well as the return of our never to be forgotten POW's and MIA's.

At this point, I again congratulate the Erie County VFW and include their statement on loyalty:

Loyalty Day

Dear Fellow American: The definition of loyalty is quite clear and simple. It becomes complicated only when someone tries to distort it with anti-American propaganda. Loyalty means the individual's fidelity and tenacious adherence to government, principle, custom and practice. It is the absence of any subversive thought or action, such as that displayed by Communist Party members and fellow travelers, who glorify the Red philosophy, and advocate treason, sedition, and even the violent over-throw of our government.

We who would choose to call ourselves Americans must remain loyal to the four basic freedoms guaranteed by our Constitution—freedom of speech, religion, press and assembly, along with the myriad other God-given blessings we take for granted in this great land. To do less would be breaking faith with the countless thousands of those who have made the supreme sacrifice throughout our country's history, in defending these precious ideals.

The first day of May each year has been set aside by Presidential Proclamation, to be known as Loyalty Day, to enable us to pause and reflect on our great heritage of freedom and to renew our faith in, and loyalty to, the great ideals upon which this nation was founded.

In celebration of this great day, the Erie County Council of the Veterans of Foreign Wars is sonsoring its 23rd Annual Loyalty Day Parade in Tonawanda, N.Y. on Sunday, April 30, 1972 at 2 P. M. Parade forming on South Niagara and terminating at the Frontiersmen Post 7545 Veterans of Foreign Wars, 110 Elgins Street, Tonawanda, N. Y.

Knowing full well the interest our organization has displayed in this program in the past, we extend to you a most cordial invitaton to again participate. You may return the enclosed blank at your convenience or no later than Saturday, April 15, 1972.

Thank you, and thank God for America!

Sincerely,

Chairman John M. Dzialoski.

Co-Chairman Glenn J. Cooper.

THE FEDERAL WATER POLLUTION CONTROL ACT

HON. W. S. (BILL) STUCKEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. STUCKEY. Mr. Speaker, on March 28 and 29, I was on the floor of the House almost constantly because of my sincere interest in H.R. 11896, amendment of the Federal Water Pollution Act. I have supported projects, both State and Federal, to help combat pollution of our air, land, and water resources and helped pass this bill through the House Interstate and Foreign Commerce Committee. I realize the great need for a pollution abatement bill to protect our environment which would require Federal standards and enforcement and also allow industry reasonable time to conform.

I voted on all of the amendments in such a way that would keep this bill intact as reported from the Committee on Public Works. It was necessary for me to leave the floor to talk with some constituents and when I returned after hearing the two bells I did not realize that the vote had already closed and, therefore, missed the opportunity to vote for this very important piece of legislation. Although after checking with fellow colleagues, I was not concerned about its chance of passage, I just want to be on record as one of those that has supported this legislation both in committee and on the floor of the House.

A NEW FARM FABLE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. FINDLEY. Mr. Speaker, as the author of the book, "Federal Farm Fable," I have a special interest in fables that relate to agriculture. Here is a new one that deserves wide attention. It is based on the Bureau of Labor Statistics' Consumer Price Index for February 1972, and the Budget for the United States. The Index has as its base 1967 prices equaling 100. In each instance in the fable the bracketed number is the current index for the immediate aforementioned item.

CHARLEY CONSUMER AND THE CONSUMER PRICE INDEX: A FABLE FOR PHASE II

One bright morning last week, Charley Consumer was awakened by his Japanese clock radio (98.4). The first thing he heard was the news that food prices had reached 122.2 on the Consumer Price Index. Hearing this, Christine Consumer turned over and said, "That's outrageous. I'm going to write my Congressman (141.6)." While she was talking she didn't hear the newscaster report that the overall index was 123.8—less food, 124.2.

Charley pulled on his shoes (119.9) and put on his suit (125.6) and went out to the kitchen. He checked the new sink installed yesterday (144.2) and remembered he had to call the furnace repairman (151.2) when he got to the office. He went to the refrigerator (108.3), took out some milk (116.4), poured himself a bowl of cornflakes (102.2) and put some bacon (114.0) and eggs (102.2) on to fry.

Having done this, he went through the living room he had painted last week (155.1) to the front door where he picked up his morning paper (130.8). The headlines talked of an investigation of drug industry pricing for prescription drugs (101.2). Charley muttered to himself, "What they'd ought to check are the hospitals, many built with taxpayers' money (171.1), or the doctors (133.5) or the dentists (130.6)." He skimmed over an item showing average weekly earnings in manufacturing (131.8) and then saw an ad urging him to buy fish (145.0) and dry beans (135.4) instead of beef (136.1) or pork chops (124.2).

While eating his breakfast, the postman (146.6) rang and when he went to the door he found his property tax bill (141.8) and his city sewer and water bill (136.4). As he opened his gas and electric bill (119.4) he wondered if the utility company shouldn't take over his sewer and water system. In disgust, Charley walked out to his new car (111.9) and drove to the bus stop. He rode the public bus line (150.3) because downtown parking (138.0) was too high. While riding along he reminded himself that he needed to fill his car with gas (105.7) that night and that he needed to make an appointment for a tune-up (133.6).

Meanwhile at home, Christine had started her day's activities. She picked up the phone (113.5) and called the maid (136.4) to come in on Saturday. She then dialed a babysitter (133.8) to come that night so she and Charley could go to the theater (137.1) or a drive-in movie (143.5). After that she called the washing machine repairman (138.4). With this done she poured herself a cup of instant coffee (125.5), lit up a cigarette (133.2) and looked through the latest issue of her favorite magazine (124.9). It contained an interesting article comparing CAB regulated airline fares (129.6) with the ICC regulated bus fares (136.1). Laying the magazine down, she went into the bedroom and put on her new dress (143.8) and picked up her new handbag (140.2) and went out to do her shopping.

Christine was a careful grocery shopper. She bought flour (100.9), rice (110.3), cookies (109.7), steak (123.1), liver (118.3), ham (111.4) and chicken (110.1). She picked up ice cream (106.1) and butter (105.8). She bought apples (109.9) and onions (108.6). She hesitated at the lettuce (152.1), but then recalled that weather had been bad in California's lettuce farming country.

To this she added canned pears (117.3), canned peas (108.5), and frozen broccoli (118.5). A bag of sugar (114.3) and a couple of cans of chicken souup (106.9) rounded out her food purchases. From this point on, Christine was not the wisest shopper.

She bought napkins (128.4) and toilet paper (124.8). She picked up a cola drink (127.8) and a chocolate bar (130.7). Dungarees for Junior (126.1) and slacks for Sis (131.1) brought her trip to the supermarket to an end.

Downtown, Charley had just finished lunch in a restaurant (128.9). Heading back to the office he stopped off at the tailor shop to have his slacks (137.1) hemmed (131.8).

On his way home later that afternoon, Charley stopped at his favorite bar for a drink (129.0). He missed his bus, so he had to take a cab (132.8). Upon arriving home, Charley found that Christine had decided they should stay home and watch TV (99.7). After dinner, they settled down to watch a news special on the federal government. They learned about projected 1973 spending by the U.S. government (160.7), about the 1973 federal debt (148.3), the 1973 interest on the debt (201.9) and about the income taxes (152.7) they and their neighbors would pay. Of course, the blame for this was laid on the Defense Department (112.2) and nothing was said about the Departmentof Health, Education and Welfare (197.9).

With that, Charley and Christine went to bed and ended up discussing some of the day's events. After awhile they decided maybe at 122.2 food wasn't a bad bargain after all. It sure fit into their budget better than their local government, the federal government or the new kitchen sink. Before falling asleep they wondered together whether or not they could ever save up enough money to leave any to the kids. Charley doubted it, but just in case, he said he'd stop by and see his attorney tomorrow about making out a will (141.8).

CARDINAL MINDSZENTY

HON. GERALD R. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. GERALD R. FORD. Mr. Speaker, Cardinal Mindszenty recently celebrated his 80th birthday in the Pazmaneum in Vienna. Fortunately he is still in good health. He is busy writing a book on Hungarian history and is making the final revisions on his memoirs.

This courageous prelate aptly characterizes the indomitable spirit of freedom in Hungary that defies all forms of totalitarianism. He still feels supported by the moral conscience of the world in his uncompromising stand for human dignity and individual and church rights, and for the national independence of his country.

Proof of the respect the Hungarian Cardinal enjoys in his exile is reflected in a telegram sent him by President Nixon which read:

> It is a pleasure for me to extend to you congratulations and best wishes on the occasion of your eightieth birthday. May your celebration of this significant anniversary find you in good health.

LA CAUSA AND AGRIBIZ: BLATANT INJUSTICE

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. RYAN. Mr. Speaker, on March 9 in Fresno, Calif., the National Labor Relations Board filed an injunction against the United Farm Workers, seeking to enjoin their secondary boycotting of retail stores, and in so doing, seeking to prohibit their use of the one effective tool for improving their desperate condition. It is not often that a labor dispute assumes such a gross proportion of immorality.

The NLRB's action runs contrary to a 37-year-old policy which explicitly acknowledged the exemption of the United Farm Workers from the National Labor Relations Act. When the NLRB filed its injunction it contended that its investigations had uncovered a handful of nonagricultural workers employed in commercial packing sheds and represented by the UFW. This evidence, it claimed, should bring the whole union under section 8(b) (4) of the NLRA that deals with strikes and boycotts, and of which paragraph (B) prohibits secondary boycotting.

As I said in my March 29 statement:

> The NLRB's evidence is an awkward juxtaposition of facts and figures.

Local, nonagricultural winery employees have often sought the UFW to represent them. In each and every case the union has refused in order to preserve its status.

For example, in 1968 it was alleged that the UFW represented a contingent of peanut workers who are statutory employees under the NLRA. Injunctions were threatened by the NLRB due to the fact that the UFW would have then been under the jurisdiction of section 8(b) (4) (B) of the NLRA. Subseqently the UFW—to protect their status of exemption from the NLRA's proscription of secondary boycotts in section 8(b) (4) (B)—dissociated the handful of peanut workers. The peanut workers then formed a directly affiliated local of the AFL–CIO which dissolved within a year.

The significance of this incident is that it shows the UFW's desire to take any necessary measures to maintain its independence from section 8(b) (4) (B). In previous instances the UFW has proven that they would not nothing, absolutely nothing, that might endanger their exemption from the NLRA's secondary boycott provision.

Another argument of the NLRB and the Free Marketing Council—a consortium of agribusinesses—is that the UFW is acting as an agent of the AFL-CIO, which represents statutory workers as defined in the NLRA. However, in Di Giorgio against NLRB the U.S. court of appeals ruled on June 21, 1951, that:

> The Board found nothing in the record to indicate that the Farm Union was acting as an agent of the National Union within the meaning of the statute.

In addition, in filing such an injunction against the UFW, the NLRB is violating Public Law 92-80 which stipulates that the NLRB is restricted from expending their own funds to file suit against an agricultural labor union.

The purpose of the NLRB is to provide for the fair and equal treatment of management and labor. By suddenly subjecting the UFW to only the punitive aspects of the NLRA, by having never allowed the UFW to obtain any of the protections or benefits of the act, the NLRB is being patently subjective in its motives and unfortunately so in its actions. Evidently there are those in the administration who would sacrifice justice and the humble aspirations of 60,000 farm laborers for the price of political victory.

At this point I include in the RECORD a column by Jack Newfield which appeared in the Village Voice on March 30. It sheds more light on the purpose and predicament of the United Farm Workers and I commend it to my colleagues:

[From the Village Voice, Mar. 30, 1972]

LA CAUSA & AGRIBIZ—TO BREAK THE BEST UNION IN THE COUNTRY

(By Jack Newfield)

Out of the ruin of the 1960's, one remarkable new institution and one remarkable new leader survived. Martin King and Malcolm X and Robert Kennedy were murdered. SNCC and SDS and the Beatles fell apart. But the United Farm Workers Union and Cesar Chavez endured, and grew, and became the one tangible thing we could point to and say, this is good, this works, this is an example of the world we want to create.

But now the life of the union—La Causa—is in sudden danger. Peter Nash, the new General Counsel of the National Labor Relations Board (NLRB), has gone into federal court in Fresno, California, to seek a nationwide injunction against the union's right to organize consumer boycotts. The boycott has been the union's source of strength, its mass, non-violent support tactic for the powerless and vulnerable workers in the fields. Without the boycott, the union could never have won its grape strike.

Nash, who was appointed by President Nixon last August, has close ties to agribusiness; he once served as counsel to food and wine conglomerates Del Monte and Brown-Forman. The farm workers have never enjoyed the protection of the Labor Relations Act. But now they are being punished under one part of the law—the restriction against secondary boycotts of supermarkets—after years of being excluded from all its protections and benefits.

That is the narrow legalism of the situation. The politics and finances of it are that Richard Nixon, has packed the NLRB with pro-business appointees, and now the agribusiness tycoons are trying to break the best union in the country. And by agribiz I mean the banks and conglomerates which actually own the fertile land of California—Tenneco, the Bank of America, the Pacific Gas and Electric Company, Purex, and United Fruit. These giant corporations receive millions of dollars each year in subsidies from the government for not growing crops, and then make large contributions to the Republican Party in a rural replay of the ITT-Justice Department arrangement.

An example of the concentrated economic power the union has challenged is J. G. Boswell, who owns over 100,000 acres in the San Joaquin Valley. Boswell is also on the board of directors of Safeway stores, which has opposed the boycott. In 1969 Boswell received $4 million from the Department of Agriculture for not growing cotton.

Also, the Farm Workers have begun to organize with unexpected success in the South. They recently won a good contract from Coca Cola, Minute Maid. The blacks of the South, politicized by the civil rights movement, are responding to the union even more emotionally than the Chicanos and Filipinos of the San Joaquin Valley.

The union is now striking a 120,000-acre farm in Belglade, Florida, owned By W. D. Polly, the former Ambassador to Brazil, who contributed $26,000 to Nixon's 1968 campaign. Other rich Republican growers in the South fear that the union will organize the men and women and children they have exploited for generations. So the attempt to break the union fits in with Nixon's resurrected Southern strategy of antibusing and keeping George Wallace out of the November election. The attack on the union is also consistent with Nixon's quiet policy of having the Pentagon buy large quantities of grapes from any California grower hurt by the strike. The Pentagon has increased its purchases of grapes, and now lettuce, by almost 200 per cent under Nixon. The grapes they bought were shipped to Vietnam, where most of them rotted in the sun on the docks at Cam Ranh Bay. But the policy protected the growers, who reciprocated by making contributions to the Republican Party.

There are between two million and five million farm workers in the United States. Their average income is $1,300 a year. Their life expectancy is 49 years. Infant mortality among migrant families is 125 percent higher than the national average. Death from influenza and pneumonia is 200 percent above the national rate. Death from accidents on the job is 300 percent above the national average. Over 95 percent of farm workers live in housing—often buses, tents, or, in the South, ancient slave shacks—that have no toilets or showers. And most migrant children start work in the fields at age nine or 10, grow up uneducated, destined to become the next generation of dispossessed.

Ten years ago, Cesar Chavez began to organize farm workers in central California. The grape strike started in 1965. In August of 1970, after jailings and beatings, the union finally signed contracts with the major grape growers near Delano—La Huelga had finally won.

Today the United Farm Workers holds about 200 contracts covering 40,000 farm workers, and has 350 organizers working for $5 a week, plus food and housing, in the fields of Florida, California, Texas, Arizona, and Louisiana. A boycott of non-union lettuce is now in effect across the country.

In addition, the union has begun the Robert F. Kennedy Medical Plan to insure its members, a credit union, two health clinics, an Economic Development Fund to build low-income housing for retired farm workers, and recently opened La Paz, a retreat, organizers' school and education center located in the hills east of Bakersfield.

And perhaps most importantly, the union has brought a feeling of dignity and pride to the poorest of the poor.

The union leadership has dropped everything else to fight the NLRB's injunction. Delores Huerta and Richard Chavez have gone to Washington to lobby and untangle the politics behind the NLRB's decision. Andy Imutan has gone to Baltimore and Gil Padilla to Philadelphia to mobilize unions. And Reverend Jim Drake has come to New York.

Drake, who has been with Chavez since 1962, believes it is a Republican Party decision "made in the White House," to destroy the union. And so his strategy is to pressure the GOP to back down.

"We don't have as much power or as much money as the growers," Drake says. "It's hard for us to find any pressure point on Nixon. He doesn't care about the blacks. He's written off the unions, except for the Teamsters. All we have are the Chicanos, whose votes Nixon still thinks he can get. And our best hope is to convince some liberal Republicans to put pressure on the White House."

Presidential counsel Robert Finch promised the union last Tuesday he would "fix everything in three days." Three days later he called the union and said he was powerless to do anything. Drake spoke to Senator Javits, but couldn't get a firm commitment of support. Other union leaders have talked to Senators Brooke and Case, without receiving much encouragement. Chavez, meanwhile, has promised a march of 25,000 workers on the Republican national convention at San Diego. Also, the union is distributing thousands of bumper stickers that say, "The Republican Party Hates Farm Workers."

Another major effort by the union has been to flood GOP National Chairman Robert Dole with letters of protest. The goal is 250,000 letters; the address is the Republican National Committee, 310 First Street, S.E., Washington, D.C. 20003.

The workings of the NLRB in the case are interesting. Up until two weeks ago, the Board has always ruled that the union did have the right to boycott since it was not covered by existing labor legislation. As late as March 1971 the union received written confirmation of this policy in a letter from the previous General Counsel of the Board. Legally nothing has changed since then, the union has the same contracts, the same federal labor laws are on the books. The only thing that changed were Nixon's appointment of Peter Nash, the union's lettuce boycott, and its new organizing drive in the South, culminating in its contract with Coca Cola, signed on February 8.

On March 9 Nash went into court to take away the union's right to boycott. Federal District Judge M. D. Crocker has scheduled a hearing on the NLRB's petition for April 6 in Fresno. Reverend Drake thinks the court process can take many months, but if the NLRB wins, damage suits by growers would bankrupt the union.

The union's case is summed up in a memo from its lawyers, Jerry Cohen: "Morally, the board's decision to move against the farmworkers is indefensible because farmworkers have no rights under the National Labor Relations Act. What the Republican Board is saying now is that even though farmworkers do not have any rights under the Act, farmworkers will now be inhibited by the restrictions of the Act, and specifically denied the use of our only effective non-violent tool, the boycott. This of course is the only substitute we have for the rights granted to all other workers, which will still be denied to us.

"Legally, the Board's action denies farmworkers the equal protection of the law guaranteed by the Fifth and 14th Amendments to the Constitution. This is also an illegal attempt by the Board to abuse its equitable powers to issue cease and desist orders against alleged Taft-Hartley violations. Finally, the Board is violating its statutory mandate not to spend any taxpayer money on agricultural labor disputes."

THE SAM ERVIN SHOW

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. JACOBS. Mr. Speaker, I insert in the Record the following items, "The Sam Ervin Show," by Laurence Leamer, and published by Harper's magazine's March 1972 edition together with a letter to the Honorable Sam J. Ervin, Jr., U.S. Senator, written by my father, Hon. Andrew Jacobs, Sr., a former Member of Congress invited by one Mr. William Pursley but not accorded the opportunity to appear as a witness at the "Freedom of the Press" hearings before the Senate Constitutional Rights Subcommittee in February 1972.

The material follows:

February 17, 1972.

Hon. Sam J. Ervin, Jr.,
Chairman, Subcommittee, Committee on the Judiciary, Old Senate Office Building, Washington, D.C.

Subject: United States Senate Committee on the Judiciary, Hearing on Press Freedom.

Dear Senator Ervin: "Media" reports indicate you heard little beyond their professionals. Your Mr. William Pursley told me the "media" did not report the testimony from the other side. As I said to him, "Surely the 'media' wouldn't deprive us of the 'right to know'?"

Undoubtedly had the following views been presented, some "medium" imbued with "spiritual values" would have "pointed out" the aberrations of the witness.

I have handled a few libel cases for both plaintiff and publisher, the only one now open being defense of a daily newspaper. None has been very profitable, but always interesting, hence my intrigue with the subject. The remedy I have advocated would rectify defamatory wrongs in all but the most vile cases, without suit or damages.

Since your Subcommittee was apparently indifferent to these views, I now present them "ex parte," with no apology for the length of this letter. Opposing views had much better opportunity to be heard.

Vocal segments of most callings equate their interests with that of the public. Hence, they postulate that the public interest demands their freedom from most, if not all, legal restraint. Generally they recognize that vis a vis other callings, one man's freedom to act is balanced by other people's right to be free from wrongful acts.

The organized press is not exempt from this occupational hazard. Its ability to publicize its views generally, without fear of equal or effective response (even before legislative committees), has tended to silence, and in some cases enlist, officialdom to the point where the public interest, and even the best interest of the press, suffer.

As examples of these enormous claims for legal immunity, note this publisher's views:

"When these two amendments clash—and it seems they clash only when publicity-seeking lawyers stage the collision—the First Amendment must take precedence over the Sixth Amendment, because without the First Amendment the Sixth Amendment would become a mockery of justice." (Emphasis added). (Eugene C. Pulliam, Publisher of Indiana and Arizona newspapers, quoted in his Indianapolis Star January 9, 1966).

One would suppose that in this context (trial by press) it would be publicity-evading, not publicity-seeking lawyers. Since no one has an opportunity to respond, publishers are sometimes careless regarding contradictions.

All of us think well of heady products and this publisher is no exception. I'm reminded of Omar Khayam's line:

"I wonder what the vinters buy, one-half so precious as the stuff they sell?"

Note also this statement:

"Almost any responsible newsman, with adequate experience, is a better judge as to what is irreparably damaging to the country than any public official, including the President." (Max Frankel, New York Times correspondent, speaking of The Pentagon Papers, as quoted November 12, 1971, p. 7c, St. Louis Post-Dispatch)

Granted, arguendo, but President Nixon was chosen to make these decisions, just as Harry Truman was our President when Alger Hiss also unilaterally made certain decisions for all of us.

I am a Democrat and for 25 years I have openly opposed our military involvement in Asia. But neither Presidents Johnson or Nixon is untruthful. I understood what they were doing and opposed it (ask Senator Mansfield).

The Pentagon Papers will go down as history's greatest political "alibi." Apart from publishing raw documents calculated to betray agents, and diplomatic notes calculated to embarrass our government, there was nothing new bearing upon either the pragmatic or moral justification of our military intervention.

I prefer that President Nixon, not Max Frankel, make these decisions, and I am distressed to hear high officials abuse him and praise the thief and the fences in this case.

Another of many, many examples:

"Some, indeed, find it incomprehensible, if not unpardonable, that these newspapers themselves accepted prior restraint on their freedom to publish under order of the lower courts." (Report of Sigma Delta Chi's freedom of Information Committee, as reported November 13, 1971, in the Indianapolis News)

Some find it incredible that any district judge would deem himself competent to interpose his judgment for the President's. I shudder to think of some judges I know being so empowered.

Some also think that all men, including journalists, should obey the law. This view is held by eminent journalists. (Ask Martin Hayden, Detroit News).

These quotes tend to prove that the vocal segment of the press perceives itself above the law.

So did the mob which proclaimed its intent to shut down the United States Government.

Both denounced those who invoked the law.

I believe this vocal segment of the press constitutes a small minority.

The keystone in the arch of justice is compulsory process. But lately we are told that compulsory process, as applied to journalists, is a violation of the First Amendment. And we find Judges and legislators dancing attendance to this specious tune.

Of course subpoenas may be oppressive, to anyone. Ancient rules provide relief from such abuses for everyone, including journalists, as every lawyer and most other educated people know.

In recent years our jurisprudence has been enormously improved by expanding the rights of discovery, and forcing lawyers to use this simple pre-trial search for truth.

If we still litigated under the old "surprise witness" legal culture, where any resemblance to a search for truth was coincidental (as we still largely do in criminal cases), our courts would be so cluttered that any justice would be a happenstance.

But lately the vocal journalists are proclaiming their immunity, from discovery.

Again ancient rules protect all people, including journalists, from irrelevent and oppressive discovery.

Still the press professionals postulate that their work papers are exempt from discovery. The real test of deceit is found in work papers. Take an actual case. The reporter's notes, *and his manuscript,* were the opposite of what was published. Other real examples can be furnished.

The press claims privilege as to sources to which its publications are attribued, claiming a parallel to doctors, lawyers, ministers and spouses. If it is published and it is material in a legitimate tribunal, the asserter should not be kept secret. I base this upon the time-honored concept of one's right to face his accusers, not the "public's right to know," which the professionals here ignore. Besides doctors, lawyers, ministers and spouses receive communications in confidence. If the press receives a tip in confidence, let it be so. If it wishes to publish accusations, let it seek prior confirming sources ready to so say in court, or else drop the case just as the government must when so confronted.

The organized, or commercial press is no exception to other callings, e.g., law and medicine, in rejecting legal restraint. This proves journalists are human. And this is sufficient reason for withholding all their quests for immunity. The quest of the press is ancient. John Peter Zenger asserted it in 1735 (American Heritage, December, 1971, p. 37).

The ancient claim is further evidenced by Benjamin Franklin's denunciation of it in 1789. But the press has, and duly employs, the best instrumentality for propagandizing such claims. There is no adequate instrumentality to counteract its demands save courageously clear thinking legislative and judicial officials. And their performance is not quite perfect.

While the entire subject intrigues me, I especially wish to present another view regarding defamation law.

However, with only brief references to earlier years, I will discuss only the two formulae employed in defamation cases during the last 25 years. The first was the Specious Per Quod Rule (1944–1959), now dead. The second is the 1964 New York Times Rule, still alive and moving rapidly toward de facto press immunity.

The Specious Per Quod Rule, being dead. needs no extensive discussion. A brief description will illustrate how the law can be distorted to placate powerful interests in legislation and litigation.

The Rule prescribed that if the accusation was couched in language requiring provincial or other explanation, the only special, not general, damages could be recovered. This would, in a practical sense, eliminate almost all defamation cases. As an example, in *Peabody v. Barham 52 Cal. A. (2d) 581; 126 P. (2d) 668,* the publication asserted Peabody married his aunt. The court stated she could have been the widow of a deceased uncle, hence no blood kin, which would have eliminated the incestuous character of the union; hence, it was necessary to negative such possibility in the complaint. Since this was explanatory matter only special damages were recoverable. Some 15 years later this, and other such decisions, were expressly overruled, by name.

The Specious Per Quod rule first gained wide acceptance in the mid-1940's. At its inception Professor Charles Carpenter referred to it as:

". . . a new creature . . . ugly and illegitimate and ought promptly to be strangled." (*Southern California Law Review, Vol. 17, p. 347.*)

"In agreement were almost all objective legal scholars." (*40 Harvard Law Review 323, 3* and *35 Yale Law Review 1022.*)

Nevertheless the Specious Rule held for 15 years, before the courts recognized its ugly illegitimacy and strangled it. (*McLeod v. Tribune Pub. Co. (1959) (Cal.) 343 P. (2d) 36); Hermann v. Newark Morning Ledger Co. (1958) (N.J.) 40 N.J. Sup. 420; 138 A. (2d) 61, 74*).

The last time I heard of this rule's being urged (unsuccessfully) was in 1961, just 3 years before the New York Times rules were promulgated.

The Specious Per Quod Rule was more immunizing than the New York Times defamation rules, soon to follow its demise. However, the constant expansion of the New York Times rules is tending to make it as immunizing.

The United States Supreme Court admits its modified rules in New York Times will result in:

"Occasional injury to reputations . . . (which) must yield to the public welfare although at times such injury may be great." (*N.Y. Times v. Sullivan (1964) 376 U.S. 254, 281; 11 L.ed (2d) 686, 707*).

The court's further postulation that such injuries are infrequent betrays an innocence of life in the "hinterland," and our concept of individual justice, as contrasted with that of totalitarianism.

Since the court chose to legislate, it should have prescribed rectification procedures by retraction of false accusations, instead of encouraging unredressed defamation.

Such procedure would afford fair-minded journalists, a majority I think, even greater protection than these new rules. It would also provide a rectification for those suffering cruel wrongs, some of whom even the Justices admitted they consciously left hostage to the court's concept of public welfare. The Congress, constitutionally commissioned to legislate, might conclude, as did the Founding Fathers, that "public welfare" is not served by destroying the reputations of innocent people. At least Congress should consider the question.

These new rules are so unnecessary, because those who can defame effectively. To so prescribe would only require indecent publishers to do what decent publishers do anyway. The indecent ones would only lose face, not money, unless they refused to retract, in which case, why all the sympathy for them instead of an innocent person whose reputation was shredded?

Even if, as the court asserted, such wrongs are infrequent, our concept of justice and the dignity and worth of the individual, makes the court's decree abhorrent to all decent people.

Certainly those with national constituencies will seldom be so sacrificed. Their public defense is inevitable in the multitude of publications across the land.

The case is different for the more obscure, especially those residing in the numerous one-newspaper communities. These include large metropolitan areas, with multitudes the aggrieved cannot reach. To speak of solving these cases in *"the market place of Ideas"* is pure sophistry. Accusations, not ideas, constitute defamation. Ideas, even weak and impractical ones, attract many advocates. A shredded reputation is a helpless soul in the preoccupied and lonely crowd.

As Mr. Justice Harland wisely said:

"The dangers of unchallengable untruths are to well documented to be summarily dismissed." (*Time, Inc. vs. Hill (1967) 385 US 374, 408; 17 L.ed. (2d) 456, 478*).

The doctrine of qualified privilege prescribed exemptions from damages for one who, *with probable cause*, believed an untrue accusation, made only to those having a legitimate interest in the premises.

As examples, good faith, but untrue, accusations to Lodge members regarding Lodge affairs, or to the public regarding conduct to public officials.

The qualified privilege test, *of probable cause*, was embraced by the United States Supreme Court as early as 1842. *White v. Nichols (1842) 44 US 266, 291*. It was the law in every state; it so remained until *New York Times* in 1964.

Probable cause is still the fulcrum of defense in all other accusatory wrongs, such as abuse of process and malicious prosecution, wrongs which, coincidentally, are generally committed by individuals, not the press.

In *"Times"* the court laid the burden upon a public official to prove not only falsity, but *that the publisher knew the accusation was false or recklessly disregarded whether it was false or not*. (*11 L.ed (2d) 706*).

In the ensuing 8 years the court has made that rule applicable to virtually everyone, however private and obscure his role in life, providing the press dubs him newsworthy.

Having thus set up much higher defense breastworks for the publisher, the court went farther. It rejected the "preponderance of evidence" rule (only in defamation cases) for a new rule of "convincing clarity." (*11 L.ed (2d) 710*).

Thus it not only raised the height of the breastworks, it required the aggrieved to clear its top course without profaning it by so much as a swipe of a toe nail.

It also unconstitutionally prescribed its own authority to "review the evidence" and judge the case under its new quantum rule. (*11 L.ed (2d) 709*).

So it spurned the constitutional prohibition against courts overruling jury findings, and downgraded God's commandment against bearing false witness, a precept embraced by all cultures of all times and in all places, from the lowest aborigines to the highest civilizations.

Most disturbing was that one-third of the Justices held that there should be no remedy whatever for defamation, however vile, even when published with full knowledge of falsity and with none but the most depraved motive.

In effect these three Justices proposed to grant immunity to the most vicious defamation. They would permit a large newspaper to accuse a local tax official of crimes until he lowers its assessment and thereafter pay him, as its puppet, with a good press. Or to influence a criminal to falsely accuse his jailer of crimes in return for influencing a judge to release the criminal, all because the jailer refused to violate decent police practices as a favor to the publisher.

These examples are not fictions. They occurred.

It is folly for a civilized society to forget that power may be used for evil as well as good, or to be gulled into believing that any calling precludes such abuse.

Presently, under discussion of First Amendment meaning, we shall see how one of these three Justices misquoted honored and learned authority.

Thus, for the defamed, was wrought, not the de jure immunity these three Justices advocated, but nevertheless a narrow entrance and a high hurdle into the Temple of Justice, a semi-de facto immunity for the publisher of libel.

Perhaps piety impelled the use of the Biblical "eye of the needle," as the model for entrance into the Temple of Justice.

Yet when one observes the concentration, and the consequential affluence and influence of the press, he is tempted to the impious conclusion that the court snatched David's slingshot and gave it to Goliath.

In *Times* the court hinted, without clearly holding, that a newspaper was under no obligation to investigate before publishing defamatory matter. (*11 L. ed. (2d) 710, 711*).

By 1968 we find the court saying:

"Reckless conduct is not measured by whether a reasonably prudent man would have published or would have investigated This was in 1964.

before publishing." (*St. Amant v. Thompson, 20 L. ed (2d) 262, 267.*)

In 1967 the court inferentially struck down the time honored rule of Respondent Superior. This was General Edwin Walker's case. Associated Press' own correspondent filed the story which AP modified in a substantial respect. The opinion does not disclose which version was the correspondent's and which the re-writer's. Since both the correspondent and re-writer were AP servants, AP had knowledge of the falsity. But the court held there was no evidence of "malice," which it legally defined in *Times* as knowledge of falsity, or reckless disregard. Apparently conscious of this obvious insufficiency in its argument, the court added that there was no evidence of "personal prejudice" against General Walker. (*338 US 130, 141 18 L. ed (2d) 1094, 1103*).

Under *Times* "knowledge," not ill will, was the requisite element.

General Walker's several cases against AP's subscriber newspapers could not succeed under the *Times* rule. The court decided against him in the AP case on the "no personal prejudice" doctrine, expressly rejected in *Times*, and *Garrison* (1964) (*379 US 64: 13 L. ed (2d) 125*) and *Collins (1965) 380 US 365; 13 L. ed (2d) 892.*)

General Walker was not a public official, but was held to be a public figure and hence his case was governed by the *Times* rule.

The Columbia Journalism Review (Sept.–Oct. issue) proclaims the *Times* case led

". . . to a near demise of libel laws."

"Near demise" is a rather precise appraisal. Later decisions virtually administered the coup de grace. Not quite, but almost.

The Hill family was thrust into the limelight when abused by desperadoes. Time, Inc. published, regarding the incident, falsehoods embarrassing to the family, especially to the young daughter. The Hills had shunned publicity. The father obtained a judgment, which the Supreme Court reversed, holding that the *New York Times* rule applied to these obscure people just as it did to public officials, because they were newsworthy, even years later, after they had fled their Pennsylvania home to New York. (*Time, Inc. vs Hill 385 US 374; 17 L. ed (2d) 456*).

In 1971 the rule was applied again. This prompted James J. Kilpatrick to say, in the Washington Evening Star (June 20, 1971), that he didn't think the "old self censorship" so bad a thing, because

". . . false statements can damage individual reputations and we know it."

Many expressions of this kind demonstrate that journalism, like other callings, is, for the most part, made up of decent people.

The First Amendment prohibited

". . . any law abridging the freedom of speech or of the press."

Our Founding Fathers were erudite and capable of prescribing the same absolute immunity for the press as they prescribed for religion, and in fewer words, which they never wasted.

Every scholar knows "freedom of speech and press" was, and is, a legal term of Art. It did, and does, not free one to defame another, nor to steal commercial formulae, literary works, nor even security materials—at least before the Supreme Court again extended immunity to the New York Times, et al.

Benjamin Franklin denounced such a concept, and with biting sarcasm suggested as a balancing freedom "the liberty of the cudgel." He denounced the claim that the press was privileged to conceal its source for defamatory matter. (*Biglow, Works of Franklin, Vol Xii, pp. 129–134*).

"If by the liberty of the press it was understood merely the liberty of discussing the propriety of public measures and political opinions, let us have as much of it as you please; but if it means liberty of affronting, calumniating, and defaming another, I, for my part, own myself willing to part with my share of it whenever our legislators shall please to so alter the law, and cheerfully consent to exchange my liberty of abusing others for the privilege of not being abused myself."

Thus wrote America's most honored publisher and the Grand Old Man of our Constitutional Fathers, just 12 days before Congress approved our Bill of Rights. (*Federal Gazette, September 12, 1789*).

One of the Justices, advocating absolute immunity, quoted Judge St. George Tucker's Commentaries (1803), as follows:

"For a representative democracy ceases to exist the moment that the public functionaries are by any means absolved from their responsibility to their constituents; and this happens whenever the constituent can be restrained in any manner from speaking, writing or publishing his opinions *upon any public measure or upon the conduct of those who may advise or execute it.*" (p. 297) (Emphasis added). (*11 L.ed (2d) 718*).

Of course everyone may criticize anyone's conduct but the court approves immunity, ofttimes, for falsely accusing one of bad conduct.

Had the Justice turned the page he could have read Judge Tucker's views upon defamation.

". . . the farmer, and the man in authority, stand upon the same ground; both are equally entitled to redress for any false aspersions on their respective characters, nor is there any thing in our laws or constitution which abridges this right. But the genius of our government will not permit the federal legislature to interfere with the subject; and the federal court are, I presume, equally restrained by the principles of the constitution, and the amendments which have since been adopted." (*pp. 298–9, Appendix, Tucker's Commentaries*).

Both Franklin and Judge Tucker saw the plain distinction between opinion, criticism or comment upon one's true conduct, and criticism based upon false accusation.

All legal scholars agreed that one may, without let or hinderance, criticize another's conduct; but all agreed one is liable if he falsely accused another of evil and depraved conduct. Is this too subtle for United States Supreme Court Judges, Senators and Congressmen to comprehend?

If not, why the concern for powerful publications and the unconcern for individual victims?

The Justice mentioned approved "criticism" thirteen times in his two and one-half page opinion, always without betraying the slightest recognition of this distinction between comment upon the true conduct of a person and false accusation of bad conduct.

Such near de facto immunity as the Court has decreed is suitable only in a society of saints where no evil existed, nor evil men to falsely so publish; or a nation of knaves where defamation would be complimentary or, finally, under anarchy, where each is entitled to devise and execute his own remedy.

The rationale of these immunizing rules is akin to the old vulture laws. Buzzards cleaned carrion from the countryside, hence we were forbidden to shoot them. Ergo, publishers clean carrion from officialdom (expanded now to include obscure people like the Hills), hence they must be protected like the buzzards.

This logic has one fault. Buzzards are reliable and stick to carrion. Some publishers don't.

The Court postulates that we need free, wide open and robust (obviously uninhibited) debate. As though it wasn't under the old rules!

We know that almost without exception vile words are harbingers of violence. The press is not alone in authoring billingsgate, but it is often the leader. What have been the fruits of our slander toward our leaders? One of every three men we have elected President since Buchanan (112 years) has been the immediate target of an assassin—two misses, one wounded and four killed, being one in every five President since 1860, murdered in office.

How thoughtful of the Court to encourage more calumny. And how thoughtful of those holding hearings upon "freedom of the Press" to ignore the question.

Of course, those hurling hate at public officials don't urge assassination. They set the tone for accusations vile enough to make a guttersnipe blush. The relationship between harsh language and harsh acts is too real to be ignored.

Rudyard Kipling understood:

"They never told the ramping crowd to
card a woman's hide,
They never marked a man for death,
what fault of theirs they died.
They only said, intimidate, and talked,
then went away,
By God, the boys who did the work
were braver men than they!"

Respectfully,

/s/ANDREW JACOBS, Sr.

THE SAM ERVIN SHOW

(By Laurence Leamer)

(NOTE: Laurence Leamer testified before Sam Ervin's Constitutional Rights Subcommittee about the underground press. His testimony was based on his forthcoming book, "The Paper Revolutionaries.")

Senator Sam Ervin, Jr., always gets good and wound up talking about the dangers that computers pose to personal liberty, and so, last May, he'd been glad enough to come down to Atlantic City to address the farewell luncheon of the Joint Computer Conference. He inclines to think of computer technicians as men employed at dark sorceries, arranging data on coded tapes and thus threatening ordinary citizens with a web of secret information. Mindful of the insidious technology available to the members of his audience, the Senator gave them one of his best speeches. He offered Biblical quotations and some of his best down-home North Carolina stories, but none of it took too well. The Senator is not a sophisticated raconteur, and anyway, everybody was in a hurry to leave.

No one really should have expected the computer experts to take to Ervin, for the North Carolina Senator is just too confounded old-fashioned. He is a lover of good food, of bourbon and ginger, and hard work; and now, in his seventy-fifth year, the food and liquor, if not the work, show in his face. He has jowls deep as a goiter, a nose that glows red on color television, age lines running down the sides of his nose and along his chin much as they do on a ventriloquist's dummy, heavy eyebrows that angle almost rakishly down toward his nose, and a thick mane of white hair that appears not the absence of color but its quintessence. In a word, his face is a perfect caricature of the old-time Southern Senator, and when cartoonists draw his face, often they will soften his features, not exaggerate them.

Driving back to Washington in a spring drizzle with three of his subcommittee aides, Senator Ervin wasn't worrying about the reception the computer experts had accorded him. He was rambling on with Rufus Edmisten, a North Carolinian and a pretty decent yarn-teller himself, reminiscing about some old boy they had known back in the mountains. Then, out of the blue, Ervin turned to Lawrence Baskir, chief counsel and staff director of the Constitutional Rights Subcommittee: "You know, Larry, I think we better have hearings on the First Amendment and freedom of the press. Why, I think we should come right out and say that television should be as free as newspapers. If it's not a question of freedom of the press, then it's a question of freedom of speech."

Thus the provenience of the hearings held last November by Ervin's Constitutional Rights Subcommittee, hearings that were later scheduled to resume in February. The Senator didn't need to explain anything to Baskir. The staff members are very much his people, and Ervin knew they would set up a free-press hearing that would do him proud and conform to his vision of what freedom of the press is all about.

LEARNING OF LIBERTY

Sam Ervin's notion of liberty has evolved from his life in Morganton, North Carolina (population 10,000). Morganton sits on the western edge of the Piedmont Plateau. It's still the kind of place where a man can go up to his neighbor and speak his mind; a man can even start his own newspaper if he pleases, and if he wants to write that the moon is made of blue cheese, that's fine too, and anyone who agrees with him can buy the paper.

As a boy Sam Ervin was addicted to learning and toy soldiers, his face full of twitches, his arms full of books. His father taught him that the worst threat to liberty comes from government, and he helped to instill in the boy a sense of independence and individuality as fierce as his own, a sense that tangled with his son's shyness and reserve, and that he wore camouflaged, cloaked in the mores and language of the town.

When he returned to Morganton in 1922, Harvard law degree in hand, Ervin still had those simple country ways. He still had eyebrows that jittered up and down when he got nervous, and an occasional stutter, and in court he depended on his wits and his stories, and not on any sort of thundering oratory.

In those years when Sinclair Lewis was writing of Babbitt and Main Street, Ervin was a town booster, a patriot, a joiner, commander of the local National Guard unit, a member of the Masons, the Knights of Pythias, the Junior Order, the Sons of the American Revolution, the Society of the Cincinnati. His was a patriotism and a boosterism that so far transcended the puerile, self-serving ideals of the emerging industrial and commercial order that they scarcely should be spoken of in the same language. He could almost always be found with a book in his hand, learning of his country, his county, or his people. He traced his people back to their Scotch-Irish origins and their arrival in the colonies in 1732, and he traced back the genealogies of his uncles, aunts, even distant relatives—all tap-roots to his past. He was not searching out nobles, notables, the making of a family crest, but a deepening of his sense of the uniqueness and richness of the American experience.

Ervin's vision of a free press is both simple and profound; simple because his ideas do not venture far from the world of the Founding Fathers and the early printing presses, profound because no matter how the media might defame his beliefs, his region, his very being, his struggle to maintain a free press continues with unabated zeal.

His particular interest in the present hearings was also encouraged by Walter Cronkite, who, at about the same time the Senator spoke to the computer technicians, came to the Old Senate Office to expound the troubles of television news broadcasting. It was natural that Cronkite should come to Ervin, for the Senator and his staff already had conducted hearings on the threats to freedom implied by computers, government dossiers, and the Army's surveillance of civilians.

What Cronkite came to tell Ervin the Senator already believed: television should be as free as possible from governmental control. In his earlier hearings, as in almost every speech, the Senator had described the modern battle between freedom and slavery as one being fought in a thousand government offices—with newfangled legislation, bureaucratic initiatives, and computer printouts as the weapons of tyranny, and the Constitution as the last, best, and only defense of liberty.

In the Pentagon Papers case, for the first time in the history of the Republic, the government had sought, prior to publication, to restrain a newspaper from printing critical documents. Police were posing as newsmen, and the courts themselves had been subpoenaing the notes of professional journalists. Television had endured similar harassments.

A Jeffersonian liberal to the very marrow of his bones, Ervin *knew* that as long as government kept even one small finger on freedom of the press, the day might well come when government would reach out and crush that freedom in its fist. The Senator is given to hyperbole, and he believes the nation to be in the midst of a grave Constitutional crisis. To Ervin the Constitution is the most precious of American possessions, and he speaks of it with language and emotion that are rarely heard these days even on the Fourth of July.*

Cronkite's lament thus was heard by a man who believed that television had to be a free marketplace for ideas as well as products. Liberal meddlers had already ended tobacco advertising on television. Since tobacco itself wasn't illegal, Ervin believed the action to be unconstitutional, and many legal scholars agreed with him. Then there was the fairness doctrine that said if you aired one side of an issue, you had to give somebody a chance to air the other side. One U.S. Court of Appeals had gone so far as to rule that consumer groups had to be given air time to run ads countering commercials for high-powered autos and leaded gas. Now Women's Lib groups, ladies from Boston upset about children's television, New Leftists, kooks, pressure groups of all kinds were lining up to get on the air. Conservatives, for their part, were talking about laws to make sure television acted "responsibly." They were all good-minded people out to improve society, but Ervin know they would end up destroying the very freedom they were tinkering with.

LOST IRONY

When Bill Pursley, a dedicated young lawyer on the Constitutional Rights Subcommittee staff, began putting together a list of witnesses for the hearings, he took account of the Senator's opinions. The list of witnesses practically wrote itself. He couldn't have just one network president, although he felt one would be sufficient; he had to ask all three. It wouldn't be right to invite just Walter Cronkite, so he asked all the network anchormen. Then, let's see, there were the press associations, certain prominent Constitutional scholars, and by the time he'd gotten through there just wasn't that much time for anyone who might be critical of the networks.

With this remnant of time, Pursley had to be especially careful. Ervin was seeking to educate the Senate, and nothing could be worse than having some freaky radical jump up and down in front of the television cameras making the Senator out as the guardian of the underground press, the Daniel Ellsbergs, the Jerry Rubins of the world.

The hearings would be, then, as Lawrence Baskir, the chief counsel, said, "a version of freedom of the press cleaned up for the Establishment." They would proceed as ritual drama, in which, to a large extent, reality is predetermined. (There is nothing devious about this. Senator Ervin runs as fair and open a hearing as is found in Congress, but all hearings develop a kind of legal brief intended to convince Congress and the American people of whatever it is the committee wants to announce.)

Because the mass media accept the *reality* of Congressional hearings, in much the same way shopgirls once accepted the reality of professional wrestling, Ervin and his subcommittee entered into the customary collusion between press and government. The hearings that were to have raised the most profound questions of press freedom became a convenient pseudo-event that various commentators, journalists, and politicians could exploit for their own purposes.

The irony was lost on Ervin. He distrusts the modern theories of the press advanced by people such as Walter Lippmann and Nicholas Johnson, the outspoken commissioner on the Federal Communications Commission. Lippmann once observed that the television networks are so powerful that it is as if there were only three printing presses in the entire country, a situation the Founding Fathers hardly could have envisioned. The Johnson argument holds that the networks constitute an information oligarchy (60 percent of the American people say they get most of their news from television) and that instead of a free marketplace of ideas the networks operate a closed shop, run by people to whom controversy is anathema because it interferes with the business of selling things. "You simply have to make a distinction between government controls designed to enhance freedom and to restrain it," Johnson has said in response to the Ervin argument against government intervention. "The antitrust laws are regulations that allow free enterprise to function. That's the kind of regulation we're talking about."

The law appears to support Johnson. In the 1934 Communications Act, Congress decided that the best way to apportion the public airwaves was to have the FCC make private licensees the temporary custodians of particular frequencies. The licensees would be free to make a profit, but in exchange the public interest had to be served.

It is the FCC's mandated duty, then, to see that this greatest of communications media does not become, or indeed remain, merely a conduit for selling soap and razor blades. "It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount," wrote Justice Byron White in expressing the Supreme Court's opinion in the 1969 Red Lion decision, the most important and eloquent expression of this modern free-press theory. "It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the government itself or a private licensee. It is the right of the public to receive suitable access to social, political, esthetic, moral and other ideas and experiences which is crucial here. That right may not constitutionally be abridged either by Congress or by the FCC."

FOOLING WITH REALITIES

Perhaps the most revealing encounter of the hearings took place on the third day. Several hundred spectators, half a dozen television cameras, and more than a score of reporters crowded the Senate caucus room. Senator Ervin hardly noticed. Innocent of the ways of the media, Ervin never realized that his staff had scheduled the committee witnesses to obtain maximum publicity. On the third day the witness would be Walter Cronkite.

In their approach to the television cameras, no two men could offer a more perverse contrast than Ervin and Cronkite. Ervin's deep, lumbering mind would have served him well over a century ago alongside a Webster or a Calhoun on a Senate floor where debate was charged with vitality and importance. He believes that the reality of a political event is conveyed by the vigor of the ideas and the truth of the arguments, not by the presence of the media. In this he is almost an anomaly, not only in the Senate but among Americans generally. Even so conservative a man as Robert Byrd of West Virginia will play to the television cameras, having several paragraphs of sharp, graphic prose stitched into his usually florid speeches, an addition that reads like a television commercial—which, in a sense, is what it is. Ervin will have none of that. With his long, rambling stories and broad forensic gestures, he is an unmitigated disaster on television.

He hurried into the caucus room just after 10:00 A.M., taking his place at the enormous felt-covered committee table that extended through half the length of the room. He was the only member of the subcommittee who bothered to appear on time. Sitting alone at the vast table, he began in a voice that seemed hesitant, an old man's voice. He welcomed Cronkite with his customary stateliness of phrase.

Cronkite read from a prepared statement his text as lean and crisp as that of the *CBS Evening News*. A man thoroughly familiar with the medium of television, he did not raise his voice. He pumped his every sentence full of spontaneity and earnestness. His caressed the medium, playing with it; and the lights stayed on him, the cameras gorging themselves with good film.

"There are things we are not doing that we ought to do," Cronkite began. "There are challenges we have not fully met."

Cronkite had little choice but to read his testimony. The etiquette of Congressional hearings requires that witnesses provide neatly mimeographed statements to pass out to committee members, staff and particularly the press. The Washington press corps feeds off press releases, news briefs, PR handouts, and prepared statements, and some reporters turn surly if a witness should dare speak extemporaneously.

Americans seem unable to give to another man's ideas and feelings anything that borders on complete attention, and practically everyone in the room was zooming in on Cronkite, then Ervin or a cameraman, a face somewhere, a moment or so scanning the room, back to Cronkite, fooling with the realities of the hearing much the way one fools with a home movie camera. Probably no one in the room was listening to the testimony with quite Ervin's intensity. Many Senators will sign letters, catch up on minor paper work, even daydream at hearings, but when Ervin is truly involved with a hearing he has an intensity of concentration that is awesome. They are no ritual to him. He learns from his witnesses; and in other hearings on other days, he has learned things that have led directly to legislation.

In the past few years, almost despite himself, Ervin has become something of a minor hero to the national press. The issues he speaks to are of such importance that he just can't be ignored. For the most part Ervin is pictured as an eighteenth-century libertarian, an absolutist on questions of civil liberties, and an avowed opponent of strong government. This is as much a caricature of Ervin as was the earlier view that he was simply a racist. Ervin's libertarianism is, in fact, both constrained and subtle; his struggle to preserve the meaning of the Constitution in a century rapidly approaching 1984 is both magnificent and rather limited.

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*In this perspective, it is no irony that Sam Ervin, adamant defender of the First Amendment, is also the Senate's most brilliantly effective opponent of civil-rights legislation. He takes as his dictum Justice Brandeis' statement that "the greatest dangers to liberty lurk in this insidious encroachment by men of zeal, well-meaning, but without understanding." In his tenacious defense of State's Rights, Ervin is the best that Southern conservatism has to offer; his tragedy is the tragedy of his age and his class and the ideas they lived by. His hometown has passed him by now; his grandson attends an integrated school; and the people there, black and white alike, are proud that the racial situation has worked out as well as it has.

It was perhaps inevitable that the media would stereotype Ervin anew since in recent years he has made his national reputation through his subcommittees, the committee system being in large measure a client of the media. In the post two decades, primarily by exploiting the media, Congressional committees have achieved unprecedented and often nonlegislative power. They have come to serve as a surrogate press, but they are rarely neutral or benign in their interest.

By merely reporting what committees do—not what they don't do—the national media caricatures the whole governmental process. Ervin's hearings on the Army's surveillance of civilians, for instance, appeared to be a frontal attack on the forces of illiberalism and the developing tyranny by dossier. That it was Sam Ervin, a hawk, a proponent of big military spending, a Southern conservative, in a word a patriot, who was leading the attack gave the hearings an unimpeachable credibility. In articles and editorials the press heralded their newfound champion of civil liberties, but the press did not know or care to know that Senator Ervin had placed clear limits on just what his subcommittee was to delve into.

THEY HELP US FIND OUR WAY

How could we be improved by outside monitors without destroying the independence which is essential for a free press?" Cronkite asked. "Vice-President Agnew was right in asserting that a handful of us determine what will be on the evening news broadcast, or for that matter, which he didn't specify, in the *New York Times*, or *the Christian Science Monitor*, or the *Wall Street Journal*, or anywhere else. Indeed, it is a handful of us with this immense power, power that not one of us underestimates or takes lightly."

Cronkite is the great switchman shuttling the truth on and along his track at CBS as best he can, a noble, good, and modest man, as impartial and fair as can be, or so his testimony implied. He danced through the pages, in turn concerned, worried, earnest; and he called for an end to the fairness doctrine.

Ervin's questioning, a colloquy really, seemed to meander on all around the issues but, when transcribed and placed in the written record, it would serve to deepen Cronkite's and Ervin's view of press freedom. Ervin never even hinted that the scarcity of network news and information programs, which during the last fiscal year took up 2 per cent of total broadcast time, might have helped prevent a full and frank discussion of public issues. Nor did he ask questions that would have led one to realize that Cronkite had been less than candid. The CBS newscaster's performance had been masterly, but at times he had ridden that well-traveled border between deviousness and truth where public-relations men make their living. He said there was far more diversity in radio and television than in print; however, as Fred Friendly, once Cronkite's superior as president of CBS News and now the Ford Foundation's television consultant, suggested in testimony two weeks later, such assumptions were "suspect." Cronkite talked of "the wired cities of tomorrow" when with cable television we "will have an almost unlimited number of channels available," but he did not mention that the networks are fighting to cripple cable television.

While Ervin and Cronkite were having their discussion, Senators Roman L. Hruska of Nebraska; Hugh Scott of Pennsylvania, the Senate minority leader; and Ted Kennedy of Massachusetts came into the room and sat down at the committee table. At least one or two of the Senators may have been attracted to the hearings solely by the scent of the media. Scott, it turned out, had never attended a Constitutional Rights Subcommittee session before, and he would not appear again at these free-press hearings. Kennedy, who had spent something less than an hour at the previous day's session, would not return either. Hruska was making his first appearance also.*

After Hruska asked several questions, Ervin called on Senator Scott. Unfortunately, several of the television cameramen were changing film reels.

"Thank you, Mr. Chairman," Scott said. "I will try not to say anything important, Walter, until the cameras come back on."

"I was wondering how you fellows stand these lights," Cronkite said over the laughter of the audience.

"We can stand the lights in view of what they connote because they help us find our way," Scott said.

"Maybe we are like our old partner, a Reconstruction lawyer in North Carolina," said Senator Ervin. "A lawyer lost a point of law arguing before him and he said that the more lights you shed upon him the louder he got. Maybe that is our condition."

"I think that when I attend some of the executive sessions of the Judiciary Committee," the minority leader said, and asked several questions.

Senator Kennedy came next. "I want to extend a warm welcome to Mr. Cronkite as well," he said, "and apologize that I was unable to be here for your statements and for your comments." The Massachusetts Senator began by asking Cronkite whether the networks had been intimidated by the Vice-President's attacks and by other harassments—the same question, as he pointed out, that he had asked Dr. Frank Stanton, the president of CBS, the day before. Next Kennedy asked a question that had been handed him by a subcommittee staff member. After receiving an answer he thanked Cronkite once again.

None of the Senators asked Cronkite the questions that would have prevented his testimony from becoming solely a platform for the networks' view of freedom. They did not seem to know that this should have been a debate of historic proportion, that there was a decision known as Red Lion, that this was the first opportunity Congress and the American public had had truly to grapple with these monumental issues.

The Senators could have had an opportunity to learn someting of the other major First Amendment theory, since the morning's second witness was Jerome Barron, professor of law at George Washington University. Professor Barron's theory of public access to the media has made him the best-known scholarly proponent of this contemporary free-press theory. The subcommittee staff had only called Barron the previous afternoon, and he had not had time to prepare a formal statement: "I was lucky that I was able to hear most of Mr. Cronkite's testimony this morning, and I think the best way for me to start is perhaps to give my reaction to it. I might borrow something from you, Senator Ervin, to frame that reaction. You said the First Amendment was drafted not only for the brave but for the timid, and I would like to put an addendum to that. The First Amendment was not drafted for the broadcast networks, and yet I think really that is a conclusion which we got from Mr. Cronkite's testimony."

Even before Barron began talking, Senators Scott, Hruska, and Kennedy left the room. While he was talking the television cameramen were gathering up their equipment, slamming film cameras into boxes. At least half the reporters had left or were leaving, and most of the audience was slowly shuffling out of the room.

"I have said before in print," Barron continued, "that I think it is one of the great public relations triumphs of the twentieth century over the eighteenth that the broadcasters have managed to identify themselves so completely with the First Amendment. I think the problem comes because we are groping for a Constitutional theory which will somehow be adequate to the communication problem of the twentieth century. I think all of our difficulties stem from a rather myopic view of what freedom of speech means in broadcasting. I think the conventional view has been that freedom of speech in broadcasting is exhaustive when the freedom of speech of the communicator is protected. In other words, if Dr. Stanton, Mr. Cronkite, Mr. Reasoner, Mr. Brinkley had their say, then freedom of speech in America is safe; but they are three or four people out of 200 million. I don't think it is conspiratorial or anything like that; it is a combination of the marriage of technology and the pressure of the concentration of the economic system, which has given them this enormous power. I don't accuse them of seeking it, I realize in many ways they just find themselves at the throttle, but our problem is, what are we going to do about it. . . . And it is nothing short of amazing to me for a representative of broadcasting to contend that now they should be free all regulations and yet they don't suggest everybody should be licensed anew as an original proposition. To that extent they are not willing to abdicate or abandon government aid."

Barron is a man full of all that confounded liberal smartness, a man who, as the Senator might put it, believes that all the wisdom in God's creation is found on the banks of the Potomac, and Ervin had no use for his ideas. Yet he questioned him with just the same civility and purpose that he had shown to Walter Cronkite. The Senator hadn't noticed the cameras before when they were grinding away, and he didn't notice them now when they were quiet, and he spent a good half hour drawing Barron out, giving the man a chance to develop his case as fully and as profoundly as he could. He didn't quit until one o'clock or so when he called a lunch break so he could go over to the Capitol barbershop for his daily shave.

A COMMERCIAL FOR THE NETWORKS

There had been something so admirable, so likable, about Senator Ervin and the manner in which he conducted the hearings. Even those mountain stories, he couldn't resist telling them but then he would hurry through, the words spilling down his chest so that much of the time it was impossible to understand, but everyone would laugh anyway. When he talked of the meaning of a free press—unaware of reporters or cameras or anything but his ideas, as if his very words might reaffirm belief in liberty—he was truly inspiring. He believed that the ideas of a Jerome Barron or a Nicholas Johnson had a brilliance to them that had not worn into wisdom, and that there was a danger to liberty in their solutions, but he did not see that they had come far closer than he to understanding why freedom of the press in America is so often such a sham.

He did not see that in this anonymous, urban society the mass media are the vocal chords of free speech. One hundred thousand demonstrators can march in Washington against the Vietnam war, but unless their protests make the evening news they have no reality. Ervin believed that in the long run broadcasters would be fair. He did not see that television is so powerful, and the diversity of ideas in America so wide, that no man or small group of men can be given total control. He just did not see this, and he did not see that in his free-press hearings Professor Barron and his ideas had been denied their freedom of speech.

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* Senator Hruska did appear regularly from that day on and from his conservative perspective made as large a contribution to the hearings as anyone other than Ervin. Strom Thurmond (S.C.) was the only other Senator ever to attend. The other subcommittee members are: Birth Bayh (Ind.), Robert Byrd (W. Va.), Hiram Fong (Hawaii), John McClellan (Ark.), and John Tunney (Calif.).

That evening on the network news programs, the TV reporters merely introduced their films of Walter Cronkite and his reasoned appeal for freedom of the press, followed by what appeared to be probing questions from Senators who, in fact, had not even heard Cronkite's full testimony. Ervin's hearings had been turned into a commercial for the networks, and by the end of the first week he began receiving letters from people back home asking why he was supporting the liberal networks. He wrote back saying that he was only supporting freedom of the press; he did not understand how his very lineup of witnesses had made it easy for the networks to use him and his beliefs.

NBC covered the hearings for seven of the eight days and ran testimony from seven witnesses who in a broad sense could be considered pro-industry as against two who were not. Christie Basham, Washington producer of the *NBC Nightly News*, was trying to do what in the network's sense of the word was a fair and responsible job, but once she accepted the reality of the hearings she just could not. "We tried to cover different points," she says. "We had a long cut of Cronkite partially because he was animated. By watching Cronkite's testimony you wouldn't have gotten the story of the hearings but you would have learned something. You would have learned what Cronkite feels about television. That's more valuable than what an outsider feels. Of course, it's an interesting question whether we should be covering such hearings at all." In fact, if NBC, CBS, or ABC really had cared to define the free-press issue by doing their own reporting, they could have done so in less than half the total time they spent on the hearings. The same could be said for the print media since its coverage of the hearings was by no means superior to television's.

During the hearings the public learned almost nothing about this historic debate over the nature of the First Amendment; and Sam Ervin, a man for whom ideas and beliefs are almost tangible, helped to foist clichés and half-truths on the nation. For years the integrity of his beliefs and of his earnest struggle to protect the Constitution had prevented him from becoming one of the manipulators or the manipulated. But with his new fame and the urgency of his struggle, he, too, was now part of the media apparatus.

Once Ervin and his subcommittee grew dependent on "news," they were living in a world where there were few boundaries between reality and unreality, and truth has the consistency of cotton candy.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

RAYMOND PACE ALEXANDER

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. EILBERG. Mr. Speaker, one of my most rewarding experiences in 24 years as a member of the Bar of the Commonwealth of Pennsylvania has been my relationship with the Honorable Raymond Pace Alexander of the Court of Common Pleas of Philadelphia. Judge Alexander is well noted as a man of profound scholarship devotion to the law, and dedicated activism in the pursuit of justice. A black American, Raymond Pace Alexander was struggling to assure realization of our national ideal of equality of opportunity long before our present civil rights movement had a name. His wealth of knowledge, his character, his integrity—indeed his whole life from the Harvard of 1917 to the Philadelphia of 1972—have been inspirational to all who have known him. Be they his brothers at the bar who have been touched by his wisdom, or the "little people" of this world whose lives are better for having been touched by the kindness and common decency of the man, his legion of friends combine in paying tribute.

Some of those friends requested that Judge Alexander set to paper his story. This he did, and Verdict, the monthly publication of the Philadelphia Trial Lawyers Association, has published his "A View from the Bench." It is with pleasure that I insert this memorable article in the RECORD of the House. I am sure that my colleagues will be amazed at the scope of this man's endeavors and singularly impressed with his wisdom, dedication, and abiding humility. You will see, I feel, why Raymond Pace Alexander means so much to us in the "City of Brotherly Love."

The article follows:

A VIEW FROM THE BENCH—BLACKS AND THE LAW

(By Hon. Raymond Pace Alexander)

The black law student and the black lawyer have come a long way towards being accepted as able, better than average and, in many instances truly brilliant performers in their respective fields since the cruel and forbidding days of the 1920's, 1930's and early 1940's. I speak from bitter experience. If perchance I become slightly auto-biographical, you will, I trust, forgive me. Your editor suggested that I write from "personal experience . . . how have you been affected by discrimination . . . what have you done . . . to alleviate this . . . (for) other blacks?" Additionally, "can one be an activist within the . . . law?" Let me tell you like it was, and is, today.

I am a native of Philadelphia, one of 5 children in a poor family whose mother died at my age of five. My father was unskilled, uneducated and with the help of an aunt kept the family together. My work days began at age 12, but, at age 17, I graduated from the famous Central High School top of my class. As Commencement Orator, my address was ironically, "Future of the American Negro" whose future then (1917) was dark and dismal. I won a scholarship to Harvard but was too poor to pay for room and board and accepted the alternate, the University of Pennsylvania. I finished the four-year-course in three years with highest honors but was denied membership in any honorary society for stated reason." No Negro ever elected to membership." Two of the most esteemed professors resigned from membership giving my rejection as the cause of their action. While a student at Penn, I met my wife, the then Sadie Tanner Mossell, a senior then who also was graduated in 1919 after 3 years study with the highest honors. Thereafter Miss Mossell (now Mrs. Alexander) was named to the Frances Sarjeant Pepper Fellow in Economics and in 1922 received her Ph.D. in Economics (M.A. in Educ. 1920), the first black woman in America to receive the coveted Ph.D. degree.

I wanted to study law and my heart had long been set on Harvard. My Dean, always my friend, who warmly supported my election to honors on my commencement day at Penn, was surprised, when three days later, I, as a Red Cap (baggage porter) in the famed Grand Central Station, New York, again warmly greeted him as he stepped from the Philadelphia Express. I escorted him and carried his 2 golf bags and 3 suit cases to the famous Bar Harbor Main Express for his vacation. I told him of my plans for Harvard. No scholarships to that renowned law school in those days. He knew my financial problems and arranged with the then Chairman of Harvard's Dept. of Economics, Professor Edmund B. Day, to give me employment as his and Professor Burbank's Assistant. (Professor Day later became President of Cornell.) Thus, I was able to study law with no financial worries but my work in the college took many hours which I would have much preferred to devote to my law studies. However, all went well and I graduated with my class in 1923.

There were 8 blacks in my first year at law school. Six were returning World War I veterans and all from Negro colleges, not too well prepared. I was the only one that graduated, I regret to say.

Social life between the white law student body and the blacks was totally nonexistent. In fact, there were no social contacts whatever between the black and white law students. I learned when the student's registry was published that at least one-half of the first year class of 400 were from the South. They never spoke to the black students and even the pleasant and courteous Northern and Western students merely said a quiet "hello" and no more. Except for a miniscule number who might engage in a few words of conversation, my list of white friends were almost exclusively the liberal Jewish students who were our sincere good friends. Law clubs denied Negro membership. We started a new black one (with a few friendly Northern Jews as members) which only partially filled this vacuum. It did not do well because of the paucity of black students. My beginning class had the largest black entrants in history because 6 were War veterans, all on Veterans Allowances. The second year had 3, all Vets and one, the late, lamented and brilliant Charles Hamilton Houston, father of civil rights law and cases in America, Phi Beta Kappa (Amherst 1917), Law Review, Harvard (1921), former Dean, Howard University Law School, was the first Black to make Harvard Law Honors.

I spent practically all of my time, when not assisting my economics professors in preparing for their college exams and, more time consuming, reading and grading scores of examination papers weekly, in the Harvard Law Library. A warm friendship developed with several Professors, particularly Dean Roscoe Pound and Professor Samuel Williston. They inquired of me my future plans. I replied that I wanted to return to my home (Philadelphia) to practice law. Answering their inquiry that I knew no lawyers in Philadelphia and had no contacts they, to my surprise, offered to arrange such for me and, quite co-incidental, they wrote letters to the identical law firm, the most prestigious in Philadelphia and sent copies to me for my use when I returned home. Of course, to such highly regarded and eminent legal scholars, the question of color or race was of no significance in such matters, hence, to the addressees I was, assumedly, a "white Anglo-Saxon Protestant of scholarship and character." Copies of their letters to the Philadelphia law firm and the latter's very generous thanks for such a reference were given to me with every assurance that "from now on—all is well." I harbored serious doubts. And I was not mistaken. My last summer's "upper-level" work, summer of 1923, I was now up-graded from running as a Red Cap to running on the train, the New Haven, as a Pullman Porter (and working sparetime "at the yards" helping A. Philip Randolph organize those poor $30.00 a month Pullman Porters) was now completed. In between I took my Pennsylvania Bar Exams (July 2, 3, 1923) and received word of my successful passage of the same in August and returned to my birthplace of "Freedom in America"s to begin my practice.

I wanted to be certain the addressee of the letters was in the city so I telephoned my arrival and desire to see Mr. X. I was put through to a lovely-voiced secretary who assured me that Mr. X was expecting me and hoped that 11:00 a.m. would be convenient for me. It certainly was! Armed with my letters, and in a nice blue serge suit, conservative cut and all, I nervously went to this great office in the then tallest office building in Philadelphia where, as one alights from the elevator one is right in the huge waiting room. I would be untruthful, if I said I expected a "Welcome Brother" greeting. The receptionist doubted I had a personal appointment with "Big Mr. A." "Oh" said I, "I do and here are my letters from Mr. X." So she went back to a room to consult, with my letters. I, by intuition or suspicion followed the lovely lady out of the corner of my eye. I was never asked to "have a seat" when a dozen chairs were vacant. And, moments later a second lady opened the private door for only a moment and closed it. I still stood in the middle of the floor. Suddenly Mr. X came out of the private office and greeted me by "So, you are Alexander, are you? How nice to know you." Then a long pause. Then, reading the letters silently and remarking "How nice of your Professors to speak so well of you. But, I am afraid there has been a mistake. I'm very sorry. We can't use you." Courteously, he returned my letter, took me by the arm, slowly walked me to the elevator, pushed the button and bade me "good bye." I was alone in the elevator with the Operator and walked to the rear. Suddenly, impulsively, I burst out in a flush of tears . . . something I don't think I had done since my mother was laid in her grave at age 5. The Operator stopped the car and asked "Did something happen to you? Can I do anything for you?" That morning, that meeting with Mr. X, that elevator ride down . . . the operator's remark . . . will live with me, as it has, all my life.

Yes, something did happen to me! I was always one who believed the best of things could, with dedication and determination, result from hardship and disappointment. I decided then and there to go out on my own without a single contact in law, black or white. I soon found not one office building, new or old, in the central city or court house area or otherwise would rent to Negroes. To the Negro section I went and rented a third floor bedroom on Philadelphia's famous "Negro" Lombard Street. I began by taking the "lost cause" criminal cases, particularly Negroes charged with serious crimes with predictably guilty verdicts. Many resulted in very unexpected acquittals . . . and most in just causes. I soon became one of the most active and ardent trial lawyers at our bar. I was not satisfied with purely personal success and accolades and witness at the same time, the treatment of my fellow blacks being denied access to all public places such as restaurants, even the great Horn & Hardart and Linton chains, lunch counters, hotels and theatres, motion picture and legitimate, where segregated galleries were the rule and this in "the cradle of liberty!!" I resorted to the only way to stop these cruel practices. We had a pitifully weak civil rights law in Pennsylvania enacted in the 1880's. Criminal arrests were made time and again from 1924 until we were able, with the help for the first time of a Democrat legislature during the Roosevelt sweep in 1939, to pass a bill with teeth and brains in it.

Eight black legislators, all democrats, met in my law office in 1939 for this purpose. A tough "no nonsense" bill was prepared and each pledged its full support. I went to Harrisburg and lobbied every member, even the hard shell ones from Pennsylvania's bible belt. We succeeded. The bill passed by a comfortable margin. But in the very year of its passage a central city theatre denied entrance to two of our most prominent physicians and their wives. One doctor (Dr. F. D. Stubbs) was a Phi Beta Kappa from Dartmouth and M.D. from Harvard, first Negro certified general surgeon. His wife was a University of Pennsylvania graduate, concert pianist and daughter of Philadelphia's first Negro Police Surgeon and the first Negro member of our Board of Education. The second physician (Dr. W. H. Strickland) was the son of one of Philadelphia's oldest Negro physicians, Chief of Staff of the Frederick Douglass Hospital and his wife a graduate of Pembroke. We arrested the theatre (Earle) owners and won a consent decree, the last of some 20 much meaningless decrees. Under the old bill such decrees carried no damages. However, those continuous and annoying arrests and in some cases convictions did have the effect of gradually weakening this ugly and offensive conduct so that early in the 1940's all such public places were officially declared open to all people regardless of race or color.

I must not fail to mention an episode of my life that followed soon after the rejection by Philadelphia's most prestigious law office that had much to do with my future in the field of law. After this experience I phoned my then fiancee, now Mrs. Alexander, who was working in Durham, N.C. as an Actuary for the North Carolina Mutual Life Lnsurance Company. (She was under contract at Durham.) She decided that she would return to Philadelphia the next year and study law. We decided to marry in the fall of 1923. I was earning enough in my practice, I felt sure, to support her, a home and send her to law school. She then entered the U of P Law School in the fall of 1924. Mrs. Alexander maintained honor grades throughout and was elected to the U of P Law Review. But the then Dean would have none of it. However, a brilliant Jewish student whose father was a Professor of Law rebelled and made it an issue. He won. My wife was elected to the Review and graduated in 1924 as the first black woman graduate from Penn Law School and upon passing her bar exams a few months later was the first black woman admitted to the Pennsylvania Bar.

We have fought side by side the oppressive practices in force against the blacks in Pennsylvania since my and her admission to our bar. And, unfortunately, we were alone. There was no ACLU in those days. The white establishment were totally deaf to our pleas. Most of the few Negroes lawyers that we had were on the payroll of the Republican bosses and held political jobs and were mum. Others had a hard enough time making a living. Pennsylvania was well known as a tough state to pass its bar exams and few Negroes took our bar and fewer passed. We had no support from the white press and while our churches supported all our cases, their leaders could not move the white establishment. Our highly regarded "Philadelphia Tribune" edited by the forceful and courageous attorney, E. Washington Rhodes, and the liberal "Philadelphia Courier and Independent" edited by an equally able lawyer, Augustin Norris, through their columns widely circulated the ugly practices of the establishment and helped us to get the legislature to pass the bill that ended this disgraceful conduct.

Success in these cases against the establishment and, rather unusual success in the trials of both criminal and civil cases over the years (1924–1945) brought angry and repressive treatment against me by some of Philadelphia's leading defense trial firms, many members of the District Attorney's Office and indeed, I say with profound regret, some members of our judiciary, now long since deceased. They just could not stand seeing a well trained, well groomed, courteous and, if I must say, well mannered but strong willed black lawyer appearing before, as was the custom in those days, all white juries and winning his cases. And, more to their chagrin, representing a large percentage of white clients, men and women, in their courts.

This story is much too long and too detailed to discuss fully in this paper. But let it be known that during all that time I was fighting a political issue as well. Philadelphia was and had been Republican for 67 years until a few strong willed able Negro leaders, mostly lawyers, I among them, joined hands years before (in the 1930's) with a growing number of liberal white Democrats. Ex-United States Senator Joseph S. Clark and Ex-Mayor Richardson Dilworth, were the leaders when, in 1948, 1950 and 1952, we finally broke the back of the corrupt Vare Republican Machine and put in a new liberal reform team. I was elected to the first new Home Rule City Council in 1952, re-elected in 1956 and helped elect a Democratic Governor, who in reward appointed me to this historic bench in 1959. We sent the first Negro from Pennsylvania to Congress, elected State Senators, 8 to 10 members of the State House and changed our City Hall Court House in Philadelphia from lily-white to nearly one half black—and we love it!

I have tried cases in many parts of the country against the greatest odds, handicaps and embarrassments. First, my own state must be exposed. The famous Berwyn School Case (Main Line, Pa.) was a deliberate attempt of Philadelphia's famous Main Line to segregate its public schools (including such beautiful areas as Ardmore, Bryn Mawr, Haverford, Berwyn, Paoli, etc.) . . . names to conjure with. This was in 1933. The families of all the children in that wide area (Chester & Montgomery County) came to me in Philadelphia. There was not a Negro at those two bars. At that time no Philadelphian could practice in any other county unless he was admitted on motion of an attorney in that particular county. The Consolidated School in September 1933 barred Negro children from entering and sent them to an old, dilapidated, fire-trap that had been abandoned when the new school was opened with money from the sale of County School Bonds for which black families also had to pay taxes. What to do? Those fine people, many mothers and fathers working in the homes of the wealthy families of the Main

Line, some of those wealthy sitting on the School Board, wouldn't take that. I prepared suitable Bills in Equity asking for a restraining-preliminary injunction and carried the bills and copies to the Court House. I knew the law and I knew Chester County to be the most racist county adjoining Phila. The Clerk of the Court refused to accept the writs because I was not a member of that Bar. I tried to get several members of the Bar to move my admission. They all refused. I took it to the press. They publicized this inglorious treatment of a Negro lawyer who had a just and proper complaint who was denied, because of rank prejudice his basic right to have his case even filed in court. Do you think that I was flooded with volunteers? Not at all. But one single solitary gentleman of the bar, a former then retired District Attorney of Chester County, came to my support. Thank God for him! Then for two long years, battling in Chester County, rebuffed, then to Harrisburg to the Attorney General of Pennsylvania for state supported mandamus, then returning to Chester County, back to Harrisburg and innumerable trips—all at night—at least 50 in all—to take testimony in various churches and after dozens of parents had been arrested and fined for keeping their children out of school. Yes, after 2 years of effort (1933–35) we won and there was never again any effort to force little black boys and girls, at the tender ages of 6, 8, 10 on through high school into second class, abandoned segregated schools anywhere in this state!!

Yes, something happened to me way back in that beautiful office in 1923 which caused me to burst out in tears in that elevator and that "happening" still carries me "right on" to this day.

I can never tell you the amount of man and woman hours (as my wife "kept the store" at the office all that time) that case cost me—nor the nerve and physical energy expended. I can tell you that the gross dollar receipt during that two year ordeal did not amount to more than $500.00. No, we were never paid in our long list of civil rights cases, not even court costs. We never asked nor would we accept money for such services. We felt a total commitment from the time we suffered the personal sting of denial and rejection when my wife and I entered restaurants and theatres, only to be refused, to do all in our power to destroy such practices from our community so that other Blacks would not face such obstacles in their path and hope for advancement for themselves and their children in the future.

Time and space prevent the enumeration of many exciting and interesting events that occurred during the long years of my trial and appellate practice here and in other states. Mention of a few should be made to indicate how the passage of time and the events of intervening years have produced meaningful social changes. First, a few things on the minus side. Very frequently I was called to Southern states on civil rights cases as well as to represent my people in both the criminal and civil courts. It was necessary to have a local lawyer move your admission. Invariably, before going South, I would consult my Harvard Law Directory to find a Harvard Lawyer to make this motion. In the 1920's and 30's and 40's there were no black attorneys in any of the small Southern cities and very few in the larger ones. I usually could find a Harvard lawyer. They are all through the South. A very important criminal case involved a Philadelphia Negro of good repute and employment who drove to his home in South Carolina on a visit in the late 40's. While driving his car in a little country town, he struck a little girl, who was playfully chasing another girl across the road. The child died as a result. He was arrested and, scared to death, called his family in Philadelphia. Thereafter they called me to represent him. I consulted my Harvard Directory. Time was important in such a case, so I decided to telephone this lawyer. I told him that we were fellow Harvard men and I wanted him to move my admission. The greeting was extremely cordial. He knew of the case because the little country paper had made it a big news story, a black man from the North driving, of all things, a big Cadillac causing the death of a little white girl. He said he would meet me at the airport but I told him I would not cause him this trouble and we decided to meet at his office. From his voice I knew he was a "deep down Southerner" and I did not want him to know who I was until I could see him face to face and talk to him.

His office was, as expected in this little town, a one story affair with a large front room and an office in the rear to which I was never invited to enter. There was a young lady at the desk when I entered. She went to the rear and took my card. The lawyer came to the front room and said, "Oh yes, so you're Alexander" (no "Mr." very reminiscent of Mr. X in Phila. in 1923). "Oh, yes" (again). "Well, the court doesn't open til 10:30 a.m. It is now 9:30. The Court House is just 2 blocks down the street (pointing to it). I'll meet you there and introduce you to the Judge." To bring this all too sad experience to an end, let me say that when I entered court I, a lawyer, was compelled to sit in the segregated "colored" section of the court. My lawyer friend never asked me to sit in the lawyers' section. I was hastily moved for admission in almost inaudible tones. The court only nodded and said, "Take a seat next to the prisoner." My kind "friend from Harvard" left the court room without more and that was the last I saw of him. The case lasted three days with interminable intermissions for the Judge to speak to any number of assorted people in his chambers. At lunch hour I went with the assembled blacks, mostly country folk, to eat at a Fish Fry stand down the street from the Court House. I shared a bedroom with the teenage son of the local Baptist Minister, of course, Black! The defendant was totally blameless. He was guilty of nothing at all, save the fact that he was black, from the North, and caused the death of a little white child and perhaps his worst guilt was that he drove a "brand new cream colored Cadillac car." How the prosecution pounded on that to the Jury! The poor fellow had to stay in jail until his insurance company's agent, whom I knew, took the policy to prove its limits and the full amount in a certified check in settlement.

An experience on the humorous—deplorable side.

During and after my years as President of the National Bar Association I would, in my effort to organize the black lawyers throughout the entire country in a well-knit organization for their own uplift as well as to make them available for service to Negroes, travel throughout the country, especially the South. On a trip to Miami, in the middle thirties, our plane ran into a severe thunder storm over the Carolinas. Even on that prime route, New York to Miami, in those days the trip was a two motor propeller-driven aircraft, making several stops en route, and it took many hours. No fine two hour, non stop jets in those days. I was a curiosity—a black man riding an airplane!! We had a two hour lay-over and an almost entire change of passengers at Columbia, South Carolina. During the lay-over a white newspaper correspondent wanted an interview. I was surprised he knew me. It turned out he didn't! He just found out, according to the airport authorities, that I was the first "Negra" that ever came into that airport as a passenger. Great news! And, he wanted a story. "Sure 'nuf" as the Southerners would say, he gave it a "big play" and when I returned home there I was, picture and all and the story. But when we were airborne we ran into turbulence. You never saw how quickly those stony, sallow-faced passengers, with rain and lightning blazing in the sky, suddenly got warm and friendly and so very conversant with this black—total stranger. They even commented "Suh, you shore are calm through all this. You must have great faith in this plane or the Lord." (I didn't show it, but I, too, was scared to death.) Then at least a half dozen of the men opened their brief cases and took out some good old Southern Bourbon and passed it all around. I passed it up. They even began calling me "Brother." Draw your own conclusions. An old Southern myth is "It's always good in time of trouble or danger to have a black man in your company." Ask any World War I, World War II or Vietnam Veteran.

Finally, the pathos and horror of it all. When we arrived in Miami, three hours late, my lawyer friend had left, thinking perhaps I had alighted at one of the stops. The cheerful passengers, knowing the airport, teamed up and took the few taxis that had waited. They never thought of this black "Brother" then. It was about 1:00 a.m. and very dark. I realized in the 30's no white taxi would take me. There I was all alone. I saw what appeared to be a cab about a block away. I walked down and true enough it was a cab, lights out and the driver curled up sound asleep. I didn't say a word, opened the rear door and quickly jumped in, closed the door to put the light out. The driver, half asleep, only half turned around and said . . . "where to?" I mumbled some address which I am sure he didn't get (and I didn't want him to get). He drove on and on and on. (If you know that old airport you drove miles and miles along a causeway before you come to civilization). Then a few miles out he apparently gained his senses and said, half turning "Where to Mister, I didn't get it?" I thought it better to give the correct address, hopefully to get to my destination. So I gave the address of and name of Mr. T, the leading black lawyer in Miami, now deceased. The driver suddenly stopped, pulled over to the curb, threw on his lights and said, "I can't take you there, that's Nigger Town and we're not allowed to drive niggers anyway". I pled and pled with him but to no avail. I begged him at least to take me to the next overhead light about a mile distant, which he did and, out I was put. It had begun to rain again, not a store or person in sight. About an hour later there came around the corner at that light a taxi going to the airport, driven and, I learned, owned by a Black Taxi Company. He took me to my destination, with pleasure and profit. I learned from him that a black taxi driver could take a white passenger but never—no never, the reverse.

There is so, so very much more to tell you of personal experiences much of which will shock you, much will awe you and yet much will inspire you and fill your heart as mine has been filled over the last 15 years with the feeling that America has grown in its realization that it has wilfully and deliberately denied its most faithful and loyal citizens, their fellow Black Americans, their right to an equal opportunity in the fundamental requirements such as education and training in all the skills necessary to become first class citizens—free of segregation and discrimination. And now they must do something about correcting those wrongs.

America and the American Bar has made great, and in some instances rapid strides to correct their sins of omission and commission during the 20th Century began now 70 years ago. The Philadelphia Bar Association has been the leader of all American Associations in this respect. Being the oldest association of lawyers in the English speaking world, I take great pleasure in stating this as a fact. But it took a new type of leadership and a vigorous and active membership to reach this goal. Men of the quality and determination to realize that lawyers must become leaders in helping to solve the social-racial economic and employment problems and the legal implication of those problems became the leaders of our Bar Association beginning in the early 1950's. Before that date, I must frankly say our association failed to grasp such meaning. The present President of the American Bar Association, the Honorable Bernard G. Segal, was the first of our Chancellors to realize the responsibility of the lawyers as suggested above. I was then, for the first time, Negro lawyers in Philadelphia began to attend the meetings and gained membership in more than a token way, on all of the Bar Committees. Today one serves on the highly prestigious Board of Governors, another is Secretary of the Philadelphia Bar Foundation and I modestly say she is Mrs. Alexander. Black lawyers have for nearly 15 years been members of such committees as the Board of Censors, Judiciary, Junior Bar, Legal Aid, Criminal and Civil Law, Civil Rights, Corporation Law, in fact all of the committees on our calendar. I cannot speak too highly of and must acclaim the tremendous advance of our bar under the powerful leadership and commitment to racial and social reforms instituted by such men as Robert L. Trescher, Arlin Adams, Marvin Comisky, Lewis H. Van Dusen, Jr., Louis J. Goffman and the dynamic, brilliant, totally dedicated and devoted, indeed consecrated present Chancellor Robert M. Landis. As a result of the reforms just mentioned a new spirit of commitment to social and racial reforms pervades our entire Bar. Of the top 10 law firms with a lawyer personnel of from 40 to 80 in our city 8 of these have a black lawyer on their staff. Included in this list is the same "lily-white totally WASP" firm that excluded the author of this article back in 1923. The writer has been importuned during the last 10 years by at least 50 of our top lawyers, Jew and Gentile alike, to find for them top flight or even "high grade, not necessarily Law Review Negroes" for their firms. The very day that I am writing this my phone rang for such a person, from one of our most prestigious law firms.

As I mentioned above this all began some 15 years ago and I am delighted to acknowledge some part in it. The story is very interesting but much too long to relate for this article. But I should mention the first man to "integrate" our law firms. It also has a political significance and due credit should be given to a very dynamic, nationally known liberal Democratic leader, Honorable Richardson Dilworth. He was Mayor of Philadelphia at the time and I was one of his strongest "right arms" in our new Reform City Council. He wanted a black man in his law firm and I could think of no better person than the now Honorable William T. Coleman, Jr. The latter is so well known now that only a word about him is necessary. Mr. Coleman was magna cum laude and Law Review at Harvard. He was the first black law clerk for our United States Supreme Court, serving with Mr. Justice Frankfurter. He was appointed counsel to the Warren Commission and most recently the United States Representative to the United Nations. However, most important of all, he was my most valuable and ardent associate counsel in the famous Girard College Case which we won after two years litigation via a U.S. Supreme Court decision in 1958 but as the result of a very unexpected removal of the "Public Trustees" of this vast hundred million dollar estate of the great Stephen Girard (who once traded in slaves) black boys were still denied entrance to this school. However, under Mr. Coleman's continuous dedicated fight to break this tradition, after my appointment to this court, and with Mr. Dilworth's full support, the court once again established the right of black boys to education in what was undeniably a school for the entire citizenry. Mr. Coleman is considered one of the most highly regarded, respected and able members of our great Bar.

The famous Girard College Case is in the judgment of legal scholars one of the most interesting, complex and intriguing cases at the Bar of America and indeed, in world law history.

I must close this long, but I hope you will find, interesting legal—social—political history of Philadelphia from 1923 to 1970, with the statement that the great, indeed tremendous changes that have taken place in the social and legal fields have been due to the total commitment of devotion and dedication to these goals by so few blacks in these fields. This is not to say that our church and fraternal leaders were not interested. Indeed they were and they supported us every inch of the way. So did the overwhelming number of the poor and untrained, the denied and oppressed. But how much better would it have been if the knowledgeable whites, the well to do middle and wealthy whites who knew how we blacks were oppressed, denied, deprived and what the end result must necessarily be—what it is today.

And today—we must pay and pay and pay for the sins of malign neglect of the past or there shall be no America for us to sing its praises.

THE DELIBERATE DISCRIMINATION AMONG AMERICAN TROOPS IN EUROPE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. RARICK. Mr. Speaker, according to published reports in the Stars and Stripes, publication for the U.S. Armed Forces in Europe, our military mission there at this time is deliberate discrimination against the white soldiers.

According to Maj. Gen. Frederic Davison, the reverse discrimination program of Commander in Chief Gen. Michael Davison—discriminating in favor of blacks—is paying off.

While there is some doubt as to the military efficiency of the American forces in Europe, the taxpayers and parents of our servicemen can be assured that these same forces will be in proper racial proportions. "By the numbers" has a new connotation in the military today.

Related stories about the two generals named follow:

[From the Stars and Stripes, Mar. 31, 1972]

DISCRIMINATION WORKS—TO LET MORE BLACKS IN KEY STAFF AND COMMAND JOBS, THE SYSTEM OBVIOUSLY HAD TO BE TAMPERED WITH

(By Ed Reavis)

HEIDELBERG, GERMANY. — Discrimination works.

The stated policy of USAREUR Commander-in-Chief Gen. Michael S. Davison—discriminating in favor of blacks—is paying off, according to the man Davidson put in charge of the program, Maj. Gen. Frederic E. Davison.

"We don't like the idea of setting goals or quotas," said Maj. Gen. Davison, "but we don't have the time or luxury to let this occur in an evolutionary manner."

The goal, says Davison, is to put minority members, blacks specifically, in key positions in proportion to their content in USAREUR.

"The decision was made here," Davison said, "to get more blacks in key staff and command positions. The question was how to get people out of a machine that is impartial."

Davison explained that since the Army's machine or machine-assisted system of making assignments is blind, USAREUR could expect no more than its normal share of the Army's black officers, despite the fact that USAREUR had been given priority by the Department of the Army.

Since only slightly over 3 per cent of the Army's officer corps is black and USAREUR was shooting for something like 10 per cent black officer strength in Europe, obviously the system had to be tampered with.

Seeking out black officers and getting them assigned to Europe is still in process, Davison said, because of the necessity for them to complete schooling and other overseas tours.

"We really won't see the impact of our efforts on blacks until these commanders are on the ground," Davison said.

Not only does USAREUR expect to increase its percentage of black officers, Davison said, "but we have tried to draw an assignment blueprint of Europe that would give optimal distribution to these positions. In Europe we would attempt to have in every battalion or equivalent-type unit at least one black battalion commander, executive officer or company commander. We also want black NCOs in some key spots in the battalion such as sergeant major or first sergeant."

Davison cited some figures to show the increase of black content: "As of July 1, 1971, we had the following statistics on officers: six colonels, 23 lieutenant colonels, no figure on majors and 103 captains. But more critical there were only three colonels in command positions, five lieutenant colonels in command of battalions or battalion equivalents and 39 captains in command of companies."

"Today we have," Davison continued, "two general officers in the command—and it's a sad thing to say that is 50 per cent of the Army's inventory of active-duty general officers—eight colonels, 66 lieutenant colonels, 107 majors, 141 captains and 102 lieutenants. In command slots we've got one general officer (an assistant division commander), four colonels, 18 lieutenant colonels (one is in an executive officer's slot), 16 majors—14 in executive officers' slots—and 41 captains commanding companies."

Davison then added that there were two colonels arriving in late July, one of whom is slated to command the Berlin brigade.

Davison went on to explain: "Right now we're running about 13 per cent plus in black enlisted men with a high concentration in the lower ranks; only about 4 percent in the top grades of E9. That would be 23 black command sergeants-major and 127 E8s in first sergeants' slots."

Touching on the area of civilian employ, Davison said as of November 1971, there were 4,200 GS-appropriated fund employees of whom 200 were blacks. One month later that number jumped to 260.

In the nonappropriated fund area, 420 or 13 per cent of the employes were minority members. In December 1971 it rose to 16.2 per cent, Davison said.

"One point to be noted here is where we

only had 19 people in the GS7 to GS11 category in November 1970, we had 30 in December 1971," Davison added.

"Our goal here is the same as with the offices and we are determined that we will meet our target but we will not do so at the cost of quality," Davison said.

In education, Davison said, there is now a drive under way to find more minority educators. And he predicted that next fall would see the number of black school principals boosted from two to five or six.

Five percent of the teachers in USARUER are minority members, Davison pointed out. "We want to reach 10 per cent by next fall," he said, "assuming that we can get the quality replacements."

Davison stressed that the examination for teaching positions will be centralized in USAREUR because of some charges of inequity under the old decentralized system.

"Last year in the States there was a split in responsibility between the Department of Defense and the Department of Army. We think that much of the effort fell between the cracks because of this split. This is now clearly a Department of Army effort," Davison said.

As far as administrators are concerned, Davison said that the goal is again to equate the 10 to 15 per cent minority content of the command.

Davison also said that progress in minority participation in civilian employment will be slower in coming due to the slower turnover.

The first effort of the Department of the Army in giving a fair chance to minority soldiers to get into the entire spectrum of higher skills was made in the military police field, Davison said.

"This resulted from the riots or disturbances at Camp Lejeune, Ft. Bragg and various other places. Investigators from the Pentagon found that almost without exception the real problem was that there was not sufficient black content among the MPs," Davison said.

"The point in getting more black content in the MPs," Davison continued, "is that it not only gives the black or minority soldier a chance to function in MP skill but to prevent the black soldier from getting the idea of a white police state."

At present, one of every six or 15 per cent of the MPs in USAREUR are black, Davison said. Eighteen per cent of the confinement specialists working on the stockades are black, relating to the higher rate of black content in the stockade.

Speaking on crime Davison said, "We know that our crime rate and the number of racial confrontations is down. We peaked in July."

On the subject of pretrial confinement—a particularly sore point with blacks who maintain they are confined unnecessarily—Davison said the figures for blacks declined from 140 (52 per cent of the total) in September to 109 (42 per cent) for February of this year.

Davison then addressed the matter of courtesy: "One of the allegations that has frequently been made and all too often substantiated is the matter of discourtesy of the support people, people in the exchange and finance offices, some civilians, some military. We have initiated a courtesy campaign to combat this.

On the matter of adult education Davison said, "We calculate an excess of 40,000 military men do not have a high school education. Our goal here is to get 25 per cent of those men, white and black, into one of our adult-training programs."

"We believe if a man is given a chance for upward mobility not only do we have a better soldier, but we are turning back to the community a better citizen, a man who will help strengthen the nation. Further, we are turning back to the country a man who doesn't feel that his tour of service was wasted," Davison said.

Speaking on long term plans, Davison said that plans are being initiated with the EES to establish training positions in the managerial area. At the moment there is only one black manager of an exchange and it's not a major store.

"We are also pushing for more supervisors, and club-manager jobs," Davison said.

On the USAREUR equal opportunity program Davison spoke of the several sensitivity shows and workshops that are being performed in the command.

He also spoke of the difficulty of the equal opportunity officer's job: "One of the problems the equal opportunity officer is going to face is going into his commanding officer and telling him that he (the officer) is way off base."

"Now, it takes a big man to accept that," Davison continued. "We have some commanding officers who are dedicated to doing what is right but are so convinced that their way is right that they are not always willing to listen. But they are becoming fewer."

"But, it's a two way street, Davison said. "We cannot fall into the trap of allowing two standards of conduct to exist under the guise of equal opportunity. This is one United States Army, Europe, and there has to be one set of standards and everybody has got to hack it under those standards."

USAREUR LEADER OPENS DRIVE TO EXTERMINATE OFF-POST BIAS

HEIDELBERG.—Gen. Michael S. Davison, USAREUR commander-in-chief, has opened a new drive to wipe out off-post discrimination in Army military communities.

In the latest Davison move, he has called on his commanders and community leaders to meet with the owners of German entertainment and business establishments permitting racial discrimination in a further effort to "lift any remaining bans on U.S. soldiers of minority races," a Heidelberg announcement said.

"The objective of this program is to insure that no member of this command is denied opportunities because of race or color," the commander-in-chief said. "Preventive rather than corrective actions are desired."

"It is my policy that racial discrimination under any guise will not be condoned," he said. "The use of 'members only' and other self-imposed devices by business owners to exclude directly or indirectly members of minority races are examples of discriminatory practices."

"These practices," Davison declared, "run counter to good morale and discipline and are totally inconsistent with USAREUR efforts to improve race relations."

Davison directed his commanders and community leaders to work closely with local German officials and business organizations.

The four-star commander pointed out that he has discussed this problem with German Defense Minister Helmut Schmidt and other officials of the Bonn government and also with a number of state minister-presidents. "They have assured me they stand ready to assist," he said.

Schmidt, in a letter to Davison earlier in March, asked Davison to inform him of cases where he had concrete evidence of discrimination.

Any cases documented will be presented during the next meeting of this U.S.-German joint working group on equal opportunity and human relations to be held later in the spring.

Davison told commanders that in places where discrimination is found they should seek an early meeting with the establishment's owner in coordination with city officials.

"The individual soldier must understand that in the past some gasthaus owners have suffered financial loss through repeated misconduct by soldiers," he said.

In this respect, he added, the rate of criminal misconduct has decreased significantly in the past seven months. "On our part, we must assure that this downward trend continues."

"The commander must also give assurance of his full support and assistance in return for the owner's cooperation," Davison said. At the same time he must stress the importance of proper conduct, German social customs, appearance and demeanor, and mutual cooperation to their soldiers, he added.

"Success depends on the full support by all members of this command," he concluded. "I desire that no stone be left unturned."

THE LATE COL. LUKE C. QUINN

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. ROONEY of New York. Mr. Speaker, the recent passing of Col. Luke C. Quinn was a deep, saddening thing to me for Luke and I were close friends for many years and we shared a common goal for those many years—the eventual eradication of cancer. For more than two decades I introduced war on cancer bills and always Luke was there to help and counsel. I knew from personal experience what cancer was, having recovered from it through surgery of the lung—in the end cancer was to kill Luke Quinn.

It was the mark of the man, Mr. Speaker, that Luke delayed treating his own cancer while he was fighting for a bill to get more money for cancer research so that others might be saved. Luke was engaged in many projects. He worked for the creation of a special task force on genetic diseases and was instrumental in the establishment of the National Eye Institute and the Fogarty International Center at the National Institutes of Health.

He was truly a hard and effective worker in a cause that needed just such a man. But above all Luke was a warm, decent human being, a man that I am proud to have called a close friend. He was a man who could compromise, yet not lose sight of the objective. He was a good man and we shall all miss him very much. To his dear sister and her family and his many friends I extend my deepest sympathy.

QUALITY EDUCATION

HON. RALPH H. METCALFE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. METCALFE. Mr. Speaker, confusion seems to be the order of the day when the President of the United States is called upon to utilize the moral power of the Presidency to respond to the terrible tensions which exist in this country.

The people of the United States are quite capable of understanding the issues when these issues are intelligently discussed. Unfortunately, the issue of busing has not been discussed intelligently and adequately. Instead of seizing the initiative, the President formed another high level task force and waited until the results were in from the Florida primary before he announced his position. A courageous Governor in the State of Florida displayed more leadership and courage than the Chief Executive.

The issue is quality education. Busing is a means to an end. Nothing more—nothing less. It is a wonder that the Chief Executive was unable to see before now that the inner city schools were not educating students and that they were totally inadequate to meet their objectives. It took an election year to make him realize this.

But the President refused to address himself to the problems of our urban schools. He chose instead to attack busing without examining the total issue, and without offering a solution.

This country does not need more divisiveness and surely not divisiveness caused by the Chief Executive. Everyone in this country knows about busing. It has been a part of the American school system for years, and I might add, an acceptable part until just recently. Busing is not as alarming as the President and others may make it seem.

What this country does need, from the President and other Americans as well, is a firm commitment to use the most effective means available to achieve quality education and that busing, if necessary, will be used to achieve that goal.

We all agree that quality education is the ultimate objective. The Supreme Court in Brown against Board of Education decided that segregated school systems in reality offered black children an inferior education and that desegregation should be accomplished.

This ended de jure segregation but there was not universal compliance with this decision. In 1964 the Congress passed the Civil Rights Act which gave the Federal Government authority to end funding for those schools which refused to desegregate.

Ten times more desegregation was accomplished between the time of the passage of the Civil Rights Act and 1968 than in the preceeding 10 years.

In the case of Swann against Charlotte-Mecklenburg, the Court held that busing was acceptable to achieve the end of de jure segregation and it also held that busing will only be required when it is reasonable and does not place undue burdens upon the child.

It would seem that busing is reasonable, however, if the students are in one section of a community while adequate schools exist in another section of the community.

Busing must be also approached in a broader context, that of ending racial isolation.

If we are truly committed to providing an equal opportunity for all then we must give every child an opportunity to achieve an education which will place him on an equal footing with all. To speak of a moratorium on busing is to avoid the real issues. We are ill served by those of our leaders who do this.

We must address ourselves to the issue of quality education and how best to achieve this for every citizen.

A start toward a realization of this objective would be to fully fund title I of the Elementary and Secondary Education Act rather than to speak of money already in the budget.

If we do this then we might achieve quality education rather than prolong the discussion about quality education.

In closing I would like to draw your attention to a recent statement of the U.S. Commission on Civil Rights:

> Any legislation that deprives or makes more difficult the process by which American children of all races learn to understand each other—through the kind of creative contacts that can take place in the schools of the Nation—is, in our view, antithetical to the creation of a society with the capacity to provide equal justice to all, and lessens the hope, not only for American education but for American children and our Nation.

ANNIVERSARY OF THE DECLARATION OF INDEPENDENCE OF LITHUANIA

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, as part of their observance of the 54th anniversary of the Declaration of Independence of the Republic of Lithuania, the Brockton Lithuanian Council passed the resolution which follows. I commend this resolution to the attention of my colleagues:

RESOLUTION

We, Lithuanian Americans of Brockton, Mass., assembled this 27th day of February, 1972, at St. Casimir's Parish Hall to commemorate the 54th anniversary of Lithuanian Independence Day, do have unanimously adopted and passed the following resolutions:

Whereas on February 16, 1918, the Lithuanian nation proclaimed its independence as a free democratic republic which act was ratified by its duly elected Constituent Assembly, thereby exercising the right of self-determination to be free and independent for all times; and

Whereas Lithuania was forcibly incorporated into the Soviet Union in June 1940 and since that time Lithuanian people have fought and died for their national independence; and

Whereas so many countries under colonial domination have been given the opportunity to establish their own independent states; on the other hand, the Baltic nations having enjoyed the blessings of freedom for centuries are now subjugated to the most brutal colonial Russian oppression; and

Whereas we express our sincerest gratitude to the Administration and Congress of the United States of America for the continued nonrecognition of the incorporation of the Baltic States into the Soviet Union, but

Whereas the mere denial to recognize the Soviet claims to Lithuania does not and will not bear the slightest effect on the leaders of the Soviet Union; Now, therefore, be it

Resolved, That the leaders of the free world must never be maneuvered into a position where they will become accessories to the crime of Russian enslavement of Lithuania and the other Baltic countries;

Resolved, That the foreign policy of the United States shall include the liberation of Lithuania and the other Baltic countries as an integral part of its European security program;

Resolved, That we request the President of the United States that the issue of Lithuania's Subjugation by the Soviet Union be raised at the forthcoming negotiations in Moscow with the rulers of the Kremlin;

Resolved, That the courageous Lithuanian seaman, Simas Kudirka, who unsuccessfully sought freedom in the United States and is now lingering in a Russian prison camp, be released with his family into the free world;

Resolved, That the copies of these resolutions be forwarded to the President of the United States, to the Secretary of State to the United States Senators and Congressmen from our State and to the press.

MENTAL HEALTH

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. GUBSER. Mr. Speaker, I call to the attention of my colleagues the following article, "Mental Health! Mental Health?" authored by Maurice Rappaport, M.D., chairman of the Santa Clara County Medical Society's Mental Health Committee. Although Dr. Rappaport discusses action taking place in the State of California, I believe his observations regarding care of the mentally ill will be of interest to all concerned with improving our health care systems.

The article follows, and again, I commend it to the attention of readers of the CONGRESSIONAL RECORD:

MENTAL HEALTH! MENTAL HEALTH?

(By Maurice Rappaport, M.D.)

Swirling dervishes that create conditions that outdo the original Bedlam have been let loose upon the community by mental health planners at the Sacramento level. We have the privilege locally of observing this mad show close up. The California Human Resources Agency, through its Department of Mental Hygiene, has in most dramatic fashion—with obviously little study of the impact on mental patients or the community in which they live—decreed that the part of Agnews State Hospital that handles the mentally ill (MI) shall be closed by the end of this fiscal year. (Subsequently other state hospitals that handle MI patients will be closed also.) Two important assumptions have been made. One, the community is ready and able to handle the load; and, two, patients will receive better care. Let us examine these issues.

It has been stated publicly by a key county mental health official that the county cannot handle the load. They do not have adequate funds, facilities or personnel. Neither have they been given time to arrange for a smooth transition so that patients can receive adequate care during the changeover from state-provided mental health services to county-provided services.

As a result of the precipitate and premature decision to phase out the Agnews' MI program, a number of untoward developments involving less-than-adequate patient care are predictable. These developments have both important humanitarian and economic implications. Let me list a few and anyone interested in evaluation can search for evidence to verify or refute these predictions:

1. Some patients will get no care or insufficient interpersonal care. Many will be merely subdued by excessive medication and discharged prematurely.

2. Many patients will be deprived of a therapeutic environment close to their families and will be sent to distant state hospitals. Others will not have access to intermediate levels of care that fall between 24-hour intensive care and long term custodial care.

3. An overload of cases will lead to rapid turnover in local facilities and patients will suffer from "the hot-bed syndrome." For many there will not be adequate time to plan for community placement.

4. The psychological effects on patients have not been carefully weighed. These are serious and can range from death due to "transference shock" (a well documented phenomenon associated with moving certain patients from one facility to another without adequate preparation), suicide associated with premature release from treatment and inadequate follow up care, to slow deterioration in boarding and nursing homes where the only "recreational outlet" is watching T.V. These patients will not have been brought into the mainstream of life and "successfully returned to the community," even though they have been removed from state hospitals.

5. Effective continuity of patient care will become impossible or inadequate primarily because of a lack of staff and facility resources and a lack of a systematic plan that can be implemented. Many well-trained mental health staff people will be lost not only to our local community, but to the state. The state has not provided for, nor does the county have, adequate revenues to support the many mental health people who will have to go elsewhere to support themselves and their families.

6. The cost of care will be more expensive than it need be. The $75-$100 a day care in general hospitals cannot compare with the $25-$35 a day care in a large specialized facility. The argument sometimes put forward, that it is cheaper in the long run to use a general hospital because length of hospitalization is shorter, is a specious argument at best. Length of stay is a matter of law, institutional policy, clinical judgment and appropriate utilization criteria. In addition administrative costs associated with admission, discharge and frequent readmission procedures can be expected to be quite exorbitant.

7. Many individuals will become invisible to the mental health system. They will be dealt with indirectly and less adequately through welfare, public health or law enforcement agencies—another cost consideration that can too easily remain hidden to the burdened taxpayers.

8. Certain programs that have both short and long term benefits for the community-at-large and for patients, such as special research programs, cannot be sustained adequately by local community mental health programs.

It would seem that the current state administration, in its haste to get out of the direct service business in the health area, is following a philosophy that may not be in the best interests of its citizens and its communities. There are certain functions that are best handled by state resources that cannot be dealt with adequately by resources at the county level. A balance of state and county resources is definitely needed to provide an optimum mental health program. Such a balance is not now in the offing.

Because of the above difficulties, exaggerated by a less than adequate state mental health planning process and implementation plan, local mental health people will need all the support they can get to overcome current problems and to foster and develop an effective local mental health program. There is no turning back now. We must build anew and we must build better. An informed medical and lay community can do much to help relieve existing deficiencies in patient care, offset what we may hope are only temporary regressions and deficiencies in the treatment program for the mentally handicapped, and build a much improved mental health care delivery system.

FREEDOM FOR LITHUANIA

HON. HAROLD D. DONOHUE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. DONOHUE. Mr. Speaker, on the occasion of this year's recognition, in the House Chamber, of the 54th anniversary of the Declaration of Lithuanian Independence, I was very happy to join with my colleagues, here, as well as in the ceremonies held within my own congressional district, in publicly emphasizing to the world that Soviet Russia continues to illegally and unjustly occupy and persecute the Lithuanian nation and people and in appeal to the Soviet leaders to restore to Lithuania her rightful independence. At this time, I am pleased to include the resolution adopted, in protest against the Soviet Union's continuing aggression and military occupation of Lithuania, by the Lithuanian Americans of Worcester, Mass. last February 13, 1972, in assembly at the Lithuanian Naturalization and Social Club in the city of Worcester:

RESOLUTION

We, the Lithuanian-Americans of Worcester, Massachusetts, assembled this 13th day of February, 1972, at the Lithuanian Naturalization and Social Club to commemorate the fifty-fourth anniversary of Lithuania's independence.

Firmly protest against the Soviet Union's aggression and military occupation of Lithuania, as well as against the Soviet-spread lies that the Lithuanian nation joined the Soviet Union of its own free will. The truth is that, from the very first days of the Soviet occupation in 1940, the Lithuanian nation determinedly fought and is continuing to fight for the restoration of its independence. This fact is evidenced by the spontaneous national revolt of 1941 and the guerrila warfare of 1944–1952 which took over 30,000 lives. Recent events that shook the world also serve as evidence of this fact. Among these are the flight of Pranas Brazinskas and his son Algirdas from the Soviet Union to Turkey; the tragic attempt by Simas Kudirka to defect to the free world; the attempt of Vytautas and Grazhina Simokaitis to defect to the West; the sentencing of three Lithuanian priests, Antanas Seskevicius, Juozas Zdebskis and Prosperas Bubnys, to terms in hard labor for giving instruction to the children of their parishes.

We also protest against the constant violations of the human rights and fundamental freedoms of the Lithuanian people by the Soviets in occupied Lithuania.

We ask you:

(1) To support the efforts of the Lithuanian nation to regain its freedom and independence;

(2) To protest on every proper occasion against the Soviet aggression against Lithuania, as well as Soviet colonial practices in the occupied country;

(3) To refuse to enter into any international agreements which could tend to recognize the Soviet annexation of Lithuania;

(4) To raise the question of independence and freedom of Lithuania at all international organizations and conferences, as one of the prerequisites for normalization and the establishment of a permanent and just peace in Europe;

(5) To raise before the United Nations the question of universal and mandatory enforcement of the Universal Declaration of Human Rights, especially of the articles which guarantee to nations the right to self-determination.

JOHN F. STEVENS HALL OF FAME COMMITTEE

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. FLOOD. Mr. Speaker, two of the towering figures in modern Panama Canal history were President Theodore Roosevelt, 1858–1919—and Chief Engineer John F. Stevens, 1853–1943—of the Isthmian Canal Commission.

Roosevelt was the strong leader who acquired the Canal Zone and launched the project for constructing the Panama Canal; Stevens, the far-visioned and experienced engineer, who rescued it from disaster, developed the plan adopted by the President and the Congress for its construction, directed the work until success was assured, was honored for his contributions by President Roosevelt with appointment as the first to hold the combined positions of chairman and chief engineer of the Isthmian Canal Commission, and has won lasting fame as the basic architect of the canal. An impressive mural in the Roosevelt Memorial Hall of the American Museum of Natural History in New York shows Stevens presenting the plan for the Panama Canal to President Roosevelt.

A third towering figure in canal history was William Crawford Gorgas, chief sanitary officer of the Isthmus, whose work in tropical and preventive medicine made the construction of the canal possible.

Roosevelt and Gorgas were elected to the Hall of Fame for Great Americans, New York University, in 1950. For sponsoring the election of Stevens to that great honor there has been formed the John F. Stevens Hall of Fame Committee of distinguished membership from various parts of the Nation. John M. Budd, chairman of the finance committee of the Burlington Northern Railway is national chairman and Herbert R. Hands, manager public information services, American Society of Civil Engineers, is secretary.

A recent press release announcing the appointment of Mr. Budd, summarizing the tremendous accomplishments of Stevens, and describing the composition of the committee, follows:

FROM: HERBERT R. HANDS, SECRETARY, COMMITTEE TO ELECT JOHN F. STEVENS TO THE HALL OF FAME FOR GREAT AMERICANS

NEW YORK, N.Y.—Announcement has been made that John M. Budd, former president of the Great Northern Railway, and now Chairman of the Finance Committee, Burlington Northern, will chair a committee of over one hundred eminent persons who are seeking the election of John F. Stevens to the Hall of Fame for Great Americans at New York University.

Largely unrecognized accomplishments of John F. Stevens (1853–1943) include the following: building of the Great Northern and other United States and Canadian railroads (1880–1905); discovery of Marias Pass in Montana (1889) and Stevens Pass in Washington (1890) through which the Great Northern was constructed to the Pacific forming part of the best rail-ship route in the United States to the Orient; development of the plan for building the Panama Canal, bringing about its adoption by the President and the Congress, completely organizing the forces for construction of the canal, and in guiding the project to the point where success was assured (1905–07); and as head of the U.S. Railway Mission to Russia with the rank of Minister Plenipotentiary and later as president, Inter-Allied Technical Board Supervising Siberian Railways, in time of war, revolution and civil strife, the rehabilitation of Russian, Siberian and Manchurian railroads (1917–23).

These tremendous achievements were prime factors in opening the Pacific Northwest of the United States and in the commercial development of the Pacific Basin, affording lasting benefits to the people of many nations.

John M. Budd is the son of the late Ralph Budd (1879–1962), a protege of Stevens and able co-worker with him at Panama and in the Northwest, who, after heading the Great Northern, later became President of the Burlington. John M. Budd followed in his father's footsteps and in 1951 became President of the Great Northern, a position held until 1971. A lifelong association with the traditions of Stevens made John M. Budd the natural leader for the John F. Stevens Hall of Fame Committee.

The committee is composed of recognized leaders in various fields from many parts of the Nation who appreciate the magnitude and significance of the achievements of John F. Stevens as a great American civil engineer and statesman.

The honorary chairmen of the committee are Hon. Maurice H. Thatcher, sole surviving member of the Isthmian Canal Commission; Secretary of Transportation John A. Volpe; Senator Edmund S. Muskie and Governor Kenneth M. Curtis of Maine; Congressman Daniel J. Flood of Pennsylvania; Dr. Melville Bell Grosvenor, editor in chief, National Geographic Magazine; and Admiral Ben Moreell, former Chief of Civil Engineers, U.S. Navy.

The Committee's vice chairmen are Dr. Donald M. Dozer, Professor of History, University of California, Santa Barbara; Captain Miles P. DuVal, Jr., historian of the Panama Canal; Neal FitzSimons, Chairman, American Society of Civil Engineers' Committee on History and Heritage of American Civil Engineering; Dr. Serge A. Korff, President, American Geographical Society; Major General Thomas A. Lane, engineer, military analyst and author; Gregory S. Prince, Executive Vice President, Association of American Railroads; Hon. John H. Reed, Chairman, National Transportation Safety Board; Dr. Ralph A. Sayer, Former Chairman, Governing Board, American Institute of Physics; Captain C. H. Schildhauer, former aviation official; Vice Admiral T. G. W. Settle, former amphibious force commander, U.S. Pacific Fleet; Wm. M. Whitman, Secretary, Panama Canal Company; and Eugene Zwoyer, Executive Director, American Society of Civil Engineers.

Besides Captain DuVal and Mr. FitzSimons, the historical consultants to the committee are Dr. Ford Lewis Battles, Ph. D. program coordinator, University of Pittsburgh; Dr. Raymond Estep, Professor of Latin American History, Air University, Maxwell Air Force Base, Montgomery, Alabama; and Dr. Ralph W. and Muriel W. Hidy, historians of the Great Northern Railway.

QUALITIES AND CHILDREN

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. JACOBS. Mr. Speaker, in the midst of the national preoccupation over schoolbusing and quality education for all children, I think many of us are missing an important point. The point is that the question of equal educational opportunity does not begin at age 6. To overlook the critical importance of comprehensive child development and preschool training is to avoid any genuine solution for the overwhelming majority of Americans, black and white, who want to live in peace as good neighbors.

The first human words a baby hears are building blocks which eventually fall into place and form linguistics. We seem to be like tape recorders. What goes into our ears eventually comes out as heard. Surely no one can doubt that regardless of race if a tiny baby were trained by Mayfair English, he would speak with refined articulation.

We say time and again that as the twig is bent, so grows the tree. Yet, in our educational process we have not applied the enormous wisdom embodied in that single phrase.

Tiny children will not be taught respect for other people and their property by parents who themselves only short years before were tiny children not taught respect for other people and their property. This is what we mean by the cycle of ignorance which produces unemployment and antisocial behavior.

If these qualities were taught in a comprehensive, age zero-to-six nursery school program for poor tots in centers near their homes so that parents could also participate, then that which cannot be accomplished by busing would already have been largely accomplished in time for first grade in well-financed schools, even in poorer neighborhoods, where teachers could work with small groups of children.

Without such a comprehensive program, remedial efforts in grade school and high school—no matter where those schools are located—will continue literally to fall on deaf ears. He who cannot speak and understand his language cannot learn to read it and develop thought patterns necessary for reasoning ability and self-control.

The learning process begins when we do. And if no one is there to put good language and trust and gentle attitudes into that process from the earliest moments of life, these qualities which are indispensible to the safety of society simply will not occur in the deprived individuals.

In short, I do not believe it is enough simply to be against busing—nearly everyone is—and just to say one is for quality education in poor neighborhoods or elsewhere. I don't even think it is enough actually to provide such quality education if it doesn't begin until first grade. To work, it has to begin at the beginning of life. If it does, children can grow up with the grace and ability that will lead them, on their own, to whatever jobs and neighborhoods and way of life they choose.

With unemployment now reaching the disaster stage among qualified school teachers, it is incredible that the billions wasted by unnecessary Government spending—at least $30 billion of it by the Federal Government—and unconscionable tax loopholes—at least $18 billion for holy cows who have lobbied themselves out of paying taxes—would not be partly spent to hire sufficient teachers to reduce class sizes in poor schools to very small numbers and to implement adequate preschool nursery centers of the sort I have indicated. If the loopholes were closed and the conspicuously wasteful spending stopped, there would be enough to conquer this last frontier of ignorance and antisocial behavior in our country and at the same time award to the truly patriotic majority of citizens who are willing to pay their fair share of taxes a justly rewarding tax cut.

Many of those Congressmen who have testified before the House Judiciary Committee in favor of legislation to avoid busing pass quickly over the corresponding concept of quality education in poor neighborhoods. And far from support, their voting records reflect opposition to such quality, especially in the area of preschool training.

Can that be anything but hypocrisy? I think not.

So, yes, I oppose racial balance busing. And yes, I favor drawing fair and ungerrymandered school zones to integrate wherever possible. And yes, I favor protection of the right of every American, regardless of race, to live wherever he can afford to buy or rent. But above all I support the program I have outlined here which is the only way I can think of to bring ourselves together as a nation in a permanent and peaceful and friendly way.

At least one other nation—Israel—has accomplished the miracle of preschool intervention to break the chain of ignorance, poverty, and violence among its historically disadvantaged.

We could do the same—if only we would.

Certainly I was pleased that, at long last, it was this Congress which passed legislation that would have at least created the framework for comprehensive child development and voluntary preschool programs. It is this Nation's misfortune—and the misfortune of thousands of eager children—that the President chose to veto such a sensible and long-overdue measure.

NON-COMMUNIST SHIP ARRIVALS IN NORTH VIETNAM 1972

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. CHAMBERLAIN. Mr. Speaker, during the first 3 months of this year there have been a total of 22 free world flagship arrivals in North Vietnam, according to information made available to me by the Department of Defense.

As I reported in the RECORD of January 24, 1972, the level of this traffic has been gradually declining. For example, in 1968 ships under the registry of nine different free world countries made a total of 149 stops in North Vietnam. Last year, however, the number had dropped to 63 total arrivals, with only two different flags being involved. During the first quarter of 1972, the nature of this traffic remains the same. Namely, that this trade is carried on by vessels owned principally by Hong Kong shipping companies under the effective control of Communist interests and flying the flags of the United Kingdom and the Somali Republic. Particularly in light of the recent Communist offensive in South Vietnam, however, I believe that this traffic should continue to be of concern, and I urge the administration to pursue its efforts to further reduce this seaborne source of supply.

NON-COMMUNIST SHIP ARRIVALS IN NORTH VIETNAM 1972

	United Kingdom	Somalia	Total
January	5	1	6
February	4	3	7
March	6	3	9
Total	15	7	22

CHILE, JACK ANDERSON, AND ITT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. RARICK. Mr. Speaker, a recent report that the Marxist government of Chile is promoting and selling a book called "The Secret Documents of the ITT," reported by gossip columnist Jack Anderson to contain documents taken from ITT's Washington office, reminds us of an earlier news release from the "Chile: La Verdad" newspaper.

"Chile: La Verdad" had sent its April 3 release to all Members raising the question, "Did Jack Anderson receive any money directly or indirectly through a conduit for his attempted compromising of U.S. Government, ITT, and CIA?"

It could just be a coincidence, but the coincidence may well result in the takeover by the Chilean Government of all of ITT's investments in that country. And, of course, the U.S. taxpayers through the Overseas Private Investment Corporation can again be expected to bear the loss.

I include a local news clipping and the "Chile: La Verdad" news release:

[From the Washington Post, Apr. 5, 1972]

CHILE PUTS ITT DOCUMENTS ON SALE

(By Lewis H. Diuguid)

SANTIAGO, April 4.—Chile's government today put on sale a book called "The Secret Documents of the ITT," containing English- and Spanish-language versions of the purloined International Telephone & Telegraph Corp. documents published in the United States by American columnist Jack Anderson.

News vendors declared the government volume an instant best-seller, competing well against the girlie magazines and screaming-headline newspapers that are the kiosks' standard fare. The purple-bound volume sells for 25 escudos—95 U.S. cents at the official rate of exchange or 35 cents at the black-market rate.

The papers, which Anderson said had been taken from ITT's Washington office, describe the international conglomerate as encouraging the U.S. government to prevent Salvador Allende, a Marxist, from assuming Chile's presidency after his popular-vote victory in 1970.

The documents, sent by air from Washington by Chilean Ambassador Orlando Letelier, arrived in Santiago just 10 days ago. A team of army and government translators put a Spanish version of the 26 documents before President Allende, who ordered the recently acquired government printing house to get it on the streets at once.

Several news vendors said they had sold out their first shipments of the book, even though most Santiago newspapers also carried the Spanish version, or parts of it, in their usual editions this morning.

The official newspaper Nacion said that the documents show a relation between "jingo" and "gringo," and spelled out ITT as "Imperialism, Treason and Terror."

For Santiago's highly politicized readers, the ITT papers appeared to offer evidence supporting the spy stories that the Marxist press has bannered—usually without evidence—over the years.

Despite today's publication, President Allende has still not commented on the papers, nor has he indicated whether he plans to move against ITT's investments here, which the company values at about $170 million.

[The head of Chile's Christian Democratic Party, the country's principal opposition party, demanded last night that a forthcoming investigation of reported interference in Chilean affairs by U.S. interests be broadened to cover "all foreign influences to which the country is subjected today," specifically mentioning "many agreements and pacts with Socialist countries and the presence in Chile of 15,000 citizens of Russia, Cuba, East Germany and other countries," the Los Angeles Times reported.]

[From the Chile: La Verdad, April 3, 1972]

Did Jack Anderson receive any money directly or indirectly through a conduit for his attempted compromising of U.S. government, ITT and CIA?

If so, is Mr. Andesron working for the best interests of the United States or in effect aiding or abetting a Marxist government under the guise of the U.S. public's "Right to Know"?

Mr. Wilson C. Lucom, publisher of Chile: La Verdad, (P. O. Box 34421, Washington, D.C. 20034) asks these questions because of a report received through usually reliable sources from Chile as follows: "A Chilean Congressman Victor Carmine stated that Chilean Ambassador to Washington, Orlando Letelier in his recent stay in Santiago, Chile, prepared a plan with communication media experts of Allende's Communist-Socialist government in order to involve the United States government, former President Eduardo Frei and General Roberto Viaux in a supposed conspiracy against President Allende. All this because Allende dramatically needs a foreign target to blame in this moment. Congressman Victor Carmine said that Ambassador Letelier took U.S. $70,000 for the information on the CIA operation, and the money was supposed to be given to Jack Anderson or an alleged Communist Venezuelan who works at the Latin Agency, 617 National Press Building. Congressman Victor Carmine also said that Andres Rojas, press attache of the Chilean Embassy, Washington, D.C., celebrates periodical meetings with Jack Anderson and Rodolfo Schmidt in the National Press Club, Washington, D.C."

The publisher of Chile: La Verdad feels that this matter should be thoroughly investigated by the press, the United States government and Congress.

Also, is the Chilean government employing public relations or law firms to influence the U.S. government to grant or extend loans to Allende's Communist-Socialist government. If so, why are these firms not registered as foreign agents?

TRADE LAG CONTINUES

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. DUNCAN. Mr. Speaker, our increasing trade deficit and how to eliminate it is a matter of great concern to me. As we have seen recently, a devaluation of the dollar alone will not eliminate our trade deficit. This can only be accomplished through the cooperation of government, business, and labor.

I am enclosing an editorial from the

March 6, 1972, Knoxville Journal which identifies the different factors which affect our international balance of trade. This article should be of interest to all who are concerned with improving our international trade posture.

The article follows:

Trade Lag Continues

During January the United States had the third largest trade deficit in the nation's history, a fact which further proves that new monetary policies alone will not correct a deteriorated trade position.

Those monetary policies which resulted in the dollar's devaluation may have helped increase the value of American exports. But the $318.9 million trade deficit for January remains far below an acceptable balance. The administration has said that for the dollar to regain its strength internationally the trade balance will have to be substantially in the black.

Trade shipments during the latter half of January were seriously disrupted again by the dock strike. During the first half of the month, when the docks were operating, the influx of foreign goods was at peak levels. No authoritative estimates have been given on what the January experience would have been had the ports not been seriously hampered by the strike. But it is generally accepted that such disruptions hurt exports more than imports.

If so, February's trade picture may not have been much improved over January. If it was not, the goal of a substantial trade surplus for the year will be in jeopardy.

Contrasting with the trade picture is the domestic economy, which is showing definite signs of revival. The government's composite index of leading economic indicators rose 2.3 percent in January—the largest increase for one month since the fall of 1968.

International trade, whose deficit reflects America's growing inability to compete with foreign producers, thus adversely affects a national economy that otherwise looks rather healthy.